

CURRENT PERIODICAL SERIES

PUBLICATION NO: 2575

TITLE: FEDERAL REGISTER

VOLUME: 44

ISSUES: 222 - 229

Pages: 65729 - 67944

DATE: November 15 - 27, 1979
Reel 14 of 18

NOTICE: This periodical may be copyrighted, in which case the contents remain the property of the copyright owner. The microfilm edition is reproduced by agreement with the publisher. Duplication or resale without permission is prohibited.

University Microfilms International, Ann Arbor, Mich.

MICROFILMED - 1980

Federal Register

Thursday
November 15, 1979

Highlights

Briefings on How to Use the Federal Register—For details on briefings in Washington, D.C. and Dallas, Texas, see announcement in the Reader Aids Section at the end of this issue.

CUMULATIVE LIST OF PUBLIC LAWS—The second cumulative list of public laws for the first session of the 96th Congress will be published in the Reader Aids Section of the issue of Wednesday, November 21, 1979

- 65729 **Blocking Iranian Government Property** Executive order
- 65956 **Government of Iran** Treasury/Foreign Assets Control Office issues rule to block assets; effective 11-14-79 (Part VI of this issue)
- 65777 **Income Tax** Treasury/IRS proposes a rule relating to the withholding of tax on certain payments of gambling winnings; comments by 1-14-80
- 65777 **Income Tax** Treasury/IRS issues a proposed amendment relating to the application of conventions under the Class Life Asset Depreciation Range System (CLADR System); comments by 1-14-80
- 65803 **Ocean Dumping, Monitoring, and Research** Commerce/NOAA announces acceptance of competitive applications for grants; closing date 12-26-79

CONTINUED INSIDE



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Area Code 202-523-5240

Highlights

- 65806 Fisheries Development** Commerce/NOAA announces availability of fiscal year 1980 funds to foster the development and strengthening of the industry; effective 11-15-79; proposals by 1-15-80 and 4-1-80
- 65950 Community Development Block Grants** HUD/CPD clarifies provisions; effective 11-30-79; comments by 1-14-80 (Part V of this issue)
- 65924 Housing Assistance Payments Program** HUD/FHC adopts final rules which sets forth automatic annual adjustment factors and fair market rents; effective 12-17-79 (Part III of this issue)
- 65940 Metric Conversion Guidelines** U.S. Metric Board proposes interim procedures to be utilized in private sector planning; comments by 8-1-80
- 65838 Federal Employee Parking** Executive Office of the President publishes notice redefining the rules as they may apply to handicapped employees
- 65771 Preservation of Consumers' Claims and Defenses** FTC approves substance of proposed trade regulation; comments by 1-14-80
- 65736 National Security Information** SEC establishes new procedures and criteria for classifying, declassifying and protecting
- 65780 Freedom of Information** CIA issues a proposal on public access to documents and records and declassification requests; comments by 1-7-80
- 65862 Improving Government Regulations** USDA/Sec'y publishes semi-annual calendar of significant actions (Part II of this issue)
- 65797 Privacy Act** CIA publishes document affecting systems of records
- 65739 Securities** SEC issues rules regarding relief from certain wholly-owned subsidiaries from portions of annual and quarterly reports required
- 65859 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 65862 Part II, USDA/Sec'y**
65924 Part III, HUD/FHC
65940 Part IV, U.S. Metric Board
65950 Part V, HUD/CPD
65956 Part VI, Treasury/Foreign Assets Control Office

Contents

Federal Register

Vol. 44, No. 222

Thursday, November 15, 1979

- The President**
EXECUTIVE ORDERS
65729 Blocking Iranian Government Property (EO 12170)
- Executive Agencies**
- Agency for International Development**
 See International Development Cooperation Agency.
- Agricultural Marketing Service**
PROPOSED RULES
 Improving Government regulations:
 Regulatory agenda. See entry under Agriculture Department.
- Agricultural Stabilization and Conservation Service**
PROPOSED RULES
 Improving Government regulations:
 Regulatory agenda. See entry under Agriculture Department.
- Agriculture Department**
 See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Economic Statistics and Cooperative Service; Energy Office, Agriculture Department; Farmers Home Administration; Federal Grain Inspection Service; Food and Nutrition Service; Food Safety and Quality Service; Forest Service; Rural Electrification Administration; Science and Education Administration; Soil Conservation Service.
PROPOSED RULES
 Improving Government regulations:
 Regulatory agenda
65862
- Alcohol, Drug Abuse, and Mental Health Administration**
NOTICES
 Meetings:
65818 Advisory committees; December
- Animal and Plant Health Inspection Service**
PROPOSED RULES
 Improving Government regulations:
 Regulatory agenda. See entry under Agriculture Department.
- Army Department**
NOTICES
 Environmental statements; availability, etc.:
65812 Fort George G. Meade, Md.
- Arts and Humanities National Foundation**
NOTICES
 Meetings:
65825 Arts National Council
65825 Media Arts Advisory Panel
- Census Bureau**
NOTICES
 Surveys, determinations, etc.:
65802 Retail sales and inventories
- Central Intelligence Agency**
PROPOSED RULES
65780 Freedom of Information Act; implementation; reading room access
NOTICES
65797 Privacy Act; systems of records
- Civil Aeronautics Board**
NOTICES
 Hearings, etc.:
65798 Cascade Airways, Inc., fitness investigation
65798 Commuter Airlines, Inc.
65798 Eastern Air Lines Caribbean
65799 Intra-Alaska Service investigation et al.
65801 Sky West Aviation, Inc.
- Civil Rights Commission**
NOTICES
 Meetings; State advisory committees:
65801 Alaska (2 documents)
65802 Iowa
65802 Tennessee
- Coast Guard**
RULES
 Drawbridge operations;
65750 Illinois
- Commerce Department**
 See Census Bureau; Foreign-Trade Zones Board; Industry and Trade Administration; National Oceanic and Atmospheric Administration.
- Commodity Futures Trading Commission**
RULES
 National security information program:
65735 Implementation
NOTICES
65859 Meetings; Sunshine Act
- Community Planning and Development, Office of Assistant Secretary**
RULES
 Community development block grants:
 Corrective and remedial actions, grant reductions, etc.; interim rules and inquiry
PROPOSED RULES
 Community development block grants:
65776 Indian tribes and Alaska natives; interim rule; transmittal to Congress
- Conservation and Solar Energy Office**
NOTICES
 Meetings:
65812 Food Industry Advisory Committee

- Defense Department**
See also Army Department.
- NOTICES**
Meetings:
- 65812 Evaluation of Audit, Inspection and Investigative Components of the Department of Defense Task Force
- Economic Regulatory Administration**
NOTICES
Consent orders:
- 65813 Michaelson Producing Co. et al.
- Economic Statistics and Cooperative Service**
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Agriculture Department.
- Energy Department**
See Conservation and Solar Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission.
- Energy Office, Agriculture Department**
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Agriculture Department.
- Environmental Protection Agency**
RULES
Air quality control regions; criteria and control techniques:
- 65751 Attainment status designations; California
- 65751 Water pollution control:
Ocean discharge guidelines, revised; schedule for promulgation; interim guidelines for permits
- PROPOSED RULES**
Air quality control regions; criteria and control techniques:
- 65791 Attainment status designations; Illinois
Air quality implementation plans; approval and promulgation; various States, etc.:
- 65781 Kentucky
65791 Michigan
65790 West Virginia
- Environmental Quality Office, Agriculture Department**
PROPOSED RULES
- 65768 Environmental effects abroad of major USDA actions
- Farmers Home Administration**
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Agriculture Department.
- Federal Aviation Administration**
RULES
Airworthiness directives:
- 65732, 65733 Beech (2 documents)
65734 Transition areas

- PROPOSED RULES**
65770 Restricted areas
65768-65770 Transition areas (3 documents)
- Federal Communications Commission**
RULES
Common carrier services:
- 65761 Telephone companies, uniform system of accounts for Class A and B; property held for future use accounting and waiver requirements
- Radio and television broadcasting:
- 65763 Reregulations; editorial revisions
- Satellite communications:
- 65753 Licensing of domestic satellite receive-only earth stations; report and order
- NOTICES**
65814 Programming report, annual; composite week dates
- Radio services, special:
- 65814 Business radio service; sports events; transmission of running account of games progress to spectators
- Federal Deposit Insurance Corporation**
NOTICES
65859 Meetings; Sunshine Act (2 documents)
- Federal Emergency Management Agency**
RULES
Flood insurance; communities eligible for sale:
- 65752 Nebraska et al.
- Federal Energy Regulatory Commission**
RULES
Electric utilities and natural gas companies:
- 65740 Refund interest rates; rehearing modifying and clarifying prior order
- 65741 Statements and reports (schedules); annual reporting of officers' salaries
- Natural Gas Policy Act of 1978:
- 65744 Incremental pricing; exemption qualifications of gas-fired cogeneration facilities; interim rule
- NOTICES**
65814 Environmental statements; availability, etc.:
Ozark Gas Transmission System; natural gas pipeline in Oklahoma and Arkansas
- Federal Grain Inspection Service**
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Agriculture Department.
- NOTICES**
65796 Grain standards; inspection points:
Nebraska
- Federal Housing Commissioner—Office of Assistant Secretary for Housing**
PROPOSED RULES
Mortgage and loan insurance programs:
- 65776 Home improvement loans and mutual mortgage insurance; termination notifications; transmittal to Congress
- Federal Maritime Commission**
NOTICES
65815 Freight forwarder licenses:
Staudt International Services Corp. et al.

- Federal Reserve System**
RULES
Bank holding companies (Regulation V):
- 65731 Change in Bank Control Act; supervision of foreign banking organizations and Edge corporations; correction
- NOTICES**
Applications, etc.:
- 65815 American Bancorp, Inc.
65816 Century New Orleans Bancshares, Inc.
65816 Colonial-American Bankshares Corp.
65816 Enterprise Bancshares, Inc.
65816 Exchange Holding Co.
65816 First National Corp.
65817 Maxwell Bancorporation
65817 Mercer County Bancshares, Inc.
65817 Montana Bancsystem, Inc.
65817 Rush Springs Bancorporation, Inc.
- Federal Trade Commission**
RULES
Prohibited trade practices; cease and desist orders:
- 65735 Forbes Health System Medical Staff
- PROPOSED RULES**
65771 Consumers' claims and defenses; preservation:
Opening of record; inquiry
- Fish and Wildlife Service**
NOTICES
65820, 65821 Endangered and threatened species permits; applications (4 documents)
- Food and Nutrition Service**
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Agriculture Department.
- Food Safety and Quality Service**
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Agriculture Department.
- Foreign Agricultural Service**
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Agriculture Department.
- Foreign Assets Control Office**
RULES
65956 Iranian assets control regulations
- Foreign-Trade Zones Board**
NOTICES
Applications, etc.:
- 65802 Erie County, N.Y.
- Forest Service**
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. See entry under Agriculture Department.
- NOTICES**
65797 Environmental statements; availability, etc.:
Inyo National Forest, forest plan, Calif. and Nev.

- Geological Survey**
NOTICES
Outer Continental Shelf:
- 65821 Well-control equipment and drilling techniques; personnel training and qualification
- Health, Education, and Welfare Department**
See also Alcohol, Drug Abuse, and Mental Health Administration.
NOTICES
Meetings:
- 65818 Women, Rights and Responsibilities, Secretary's Advisory Committee
- Housing and Urban Development Department**
See also Community Planning and Development, Office of Assistant Secretary; Federal Housing Commissioner—Office of Assistant Secretary for Housing.
RULES
Low income-housing:
- 65924 Fair market rents and contract rent (Section 8) automatic annual adjustment factors
- PROPOSED RULES**
Fair housing:
- 65775 Recognition of substantially equivalent laws, Delaware and South Dakota; transmittal to Congress
- Low income housing:
- 65776 Housing assistance payments (Section 8); State housing agencies; clarification and cost limitations; interim rule; transmittal to Congress
- Indian Affairs Bureau**
RULES
Off-reservation treaty fishing:
- 65747 Great Lakes and connecting waters in Michigan ceded in Treaty of 1836
- NOTICES**
65818 Child custody proceedings; receipt of petition for reassumption of jurisdiction from Yakima Indian Nation
- Industry and Trade Administration**
NOTICES
Meetings:
- 65803 Management Labor Textile Advisory Committee
- Interior Department**
See also Fish and Wildlife Service; Geological Survey; Indian Affairs Bureau; Land Management Bureau; National Park Service.
NOTICES
65822 National Environmental Policy Act; implementation
- Internal Revenue Service**
PROPOSED RULES
Employment taxes:
- 65777 Gambling winnings, withholding of tax on payments
- Income taxes:
- 65777 Class life asset depreciation range system; application of conventions; inquiry and hearing
- International Development Cooperation Agency**
NOTICES
Meetings:
- 65824 Voluntary Foreign Aid Advisory Committee

International Trade Commission**NOTICES**

Import investigations:

- 65824 Nonelectric cooking ware
 65824 Pump top insulated containers
 65825 Surveying devices
 65860 Meetings; Sunshine Act

Interstate Commerce Commission**RULES**

- 65767 Railroad car service orders; various companies:
 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

NOTICES

- 65853 Fourth section applications for relief
 Motor carriers:
 65858 Household goods; used; transportation for DOD
 pack-and-crate operations
 65854 Lease and interchange of vehicles
 65854 Permanent authority applications
 Railroad car service orders; various companies:
 65854 Kansas City Terminal Railway Co. (2 documents)
 Railroad services abandonment:
 65858 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
 65853 Durham & Southern Railway Co.

Land Management Bureau**NOTICES**

- Applications, etc.:
 65820 Colorado (2 documents)
 Coal leases:
 65818 Montana
 65819 Wyoming
 Resource management plans:
 65820 Glenwood Springs Resources Area, Grand
 Junction District, Colo.; correction
 Survey plat filings:
 65819 Nevada

Management and Budget Office**NOTICES**

- 65831 Budget rescissions and deferrals
 65838 Federal employee parking facilities (A-118);
 handicapped employees; parking fee exemption
 Meetings:
 65838 National Agenda for the Eighties, President's
 Commission

Metric Board**PROPOSED RULES**

- 65940 Private sector metric conversion planning
 guidelines; interim voluntary procedures

National Credit Union Administration**RULES**

- 65731 National security information program;
 implementation

National Highway Traffic Safety Administration**RULES**

- 65766 Motor vehicle safety standards:
 Tires, new pneumatic, for passenger cars;
 correction

NOTICES

- Motor vehicle safety standards; exemption,
 petitions, etc.:
 65852 Suzuki Motor Co., Ltd.; glazing materials

National Oceanic and Atmospheric Administration**NOTICES**

- Fishery conservation and development:
 65806 Financial assistance for fisheries development;
 availability
 Grant applications and proposals, closing dates:
 65803 Ocean dumping research program
 Marine mammal permit applications, etc.:
 65805 Ortiz, Dr. Charles L.
 65805 Sea Life, Inc.

National Park Service**NOTICES**

- Meetings:
 65821 Golden Gate National Recreation Area Advisory
 Commission

National Transportation Safety Board**NOTICES**

- 65827 Accident reports, safety recommendations and
 responses, etc.; availability

Navajo and Hopi Indian Relocation Commission**RULES**

- Commission operations and relocation procedures:
 65750 Monthly meeting date changed

Nuclear Regulatory Commission**NOTICES**

- Applications, etc.:
 65826 Arkansas Power Light Co.
 65826 Mark I containment long term program acceptance
 criteria; issuance and availability
 65826 Regulatory guides; issuance and availability

Pension Policy, President's Commission**NOTICES**

- 65838 Staff contacts, reports

Research and Special Programs Administration, Transportation Department**PROPOSED RULES**

- Pipeline safety:
 65792 Natural and other gas; excavation damage
 prevention program

NOTICES

- Pipeline safety:
 65852 Petition for waiver; Barrow Utilities Electric
 Cooperative; plastic pipeline system

Rural Electrification Administration**PROPOSED RULES**

- Improving Government regulations:
 Regulatory agenda. See entry under Agriculture
 Department

Science and Education Administration**PROPOSED RULES**

- Improving Government regulations.
 Regulatory agenda. See entry under Agriculture
 Department

Securities and Exchange Commission**RULES**

- 65739 Equity securities of wholly-owned subsidiaries;
 annual and quarterly reports
 Financial statements:
 65738 Capitalization of interest cost, moratorium
 rescission
 65736 National security information program;
 implementation
PROPOSED RULES
 65774 Bank holding companies and banks, financial
 statement form and content requirements; reporting
 of certain receivables, certificates of deposit and
 other time deposits
NOTICES
 Hearings, etc.:
 65843 Allegheny Power System, Inc., et al.
 65845 Blackstone Valley Electric Co. et al.
 65839 General Electric S & S Long Term Interest Fund
 65846 Middle South Utilities, Inc.
 65847 Monroe & Lemann Retirement Plan
 65848 New York Municipal Trust et al.
 65850 Presley Co. et al.
 65846 Theo. H. Davies & Co., Ltd.
 65842 Western Insurance Securities Co.
 65851 Yankee Atomic Electric Co.
 Self-regulatory organizations; proposed rule
 changes:
 65844 American Stock Exchange, Inc. (2 documents)
 65839 Bradford Securities Processing Service, Inc.
 65850 Philadelphia Stock Exchange, Inc.
 65841 Stock Clearing Corp. of Philadelphia

Small Business Administration**NOTICES**

- Disaster areas:
 65852 Alabama
 65852 Louisiana
 65852 Mississippi
 65852 Texas

Soil Conservation Service**PROPOSED RULES**

- Improving Government regulations:
 Regulatory agenda. See entry under Agriculture
 Department

Tennessee Valley Authority**NOTICES**

- 65860 Meetings; Sunshine Act

Textile Agreements Implementation Committee**NOTICES**

- Cotton Textiles:
 65811 Pakistan

Transportation Department

See Coast Guard; Federal Aviation Administration;
 National Highway Traffic Safety Administration;
 Research and Special Programs Administration,
 Transportation Department; Urban Mass
 Transportation Administration.

Treasury Department

See also Foreign Assets Control Office; Internal
 Revenue Service.

NOTICES

Antidumping:

- 65853 Portable electric typewriters from Japan

Urban Mass Transportation Administration**RULES**

- 65765 Freedom of Information Act; implementation

MEETINGS ANNOUNCED IN THIS ISSUE**ARTS AND HUMANITIES, NATIONAL FOUNDATION**

- 65825 Media Arts (Production Aid) Panel, 12-10 through
 12-12-79
 65825 National Council on the Arts, 11-30 through
 12-2-79

CIVIL RIGHTS COMMISSION

- 65801 Alaska Advisory Committee, 11-29 and 11-30-79
 65802 Iowa Advisory Committee, 12-11-79
 65802 Tennessee Advisory Committee, 12-7-79

COMMERCE DEPARTMENT

- Industry and Trade Administration—
 65803 Management-Labor Textile Advisory Committee,
 11-30-79

DEFENSE DEPARTMENT

- Office of the Secretary—
 65812 Task Force on Evaluation of Audit, Inspection and
 Investigative Components of the Department of
 Defense, 12-3-79

ENERGY DEPARTMENT—

- Conservation and Solar Energy Office—
 65812 Food Industry Advisory Committee and
 Subcommittees, 12-4-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

- Alcohol, Drug Abuse, and Mental Health
 Administration—
 65818 Mental Health National Advisory Council, 12-6 and
 12-7-79
 Office of the Secretary—
 65818 Rights and Responsibilities of Women, Secretary's
 Advisory Committee, 12-5-79

- INTERIOR DEPARTMENT**
National Park Service—
65821 Golden Gate National Recreation Area Advisory
Commission, 12-8-79
- INTERNATIONAL DEVELOPMENT COOPERATION**
AGENCY
Agency for International Development—
65824 Voluntary Foreign Aid Advisory Committee, 11-27
and 11-28-79
- OFFICE OF MANAGEMENT AND BUDGET**
65838 President's Commission for a National Agenda for
the Eighties, 11-26-79

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR	203.....65776
Executive Orders:	204.....65776
12170.....65729	571.....65776
	883.....65776
7 CFR	25 CFR
Proposed Rules:	256.....65747
Subtitle A.....65862	700.....65750
Ch. I.....65862	26 CFR
Ch. II.....65862	Proposed Rules:
Ch. III.....65862	1.....65777
Ch. IV.....65862	31.....65777
Ch. V.....65862	31 CFR
Ch. VI.....65862	535.....65956
Ch. VII.....65862	32 CFR
Ch. IX.....65862	Proposed Rules:
Ch. X.....65862	1900.....65780
Ch. XI.....65862	33 CFR
Ch. XII.....65862	117.....65750
Ch. XIV.....65862	36 CFR
Ch. XV.....65862	Proposed Rules:
Ch. XVI.....65862	Ch. II.....65862
Ch. XVII.....65862	40 CFR
Ch. XVIII.....65862	81.....65751
Ch. XX.....65862	227.....65751
Ch. XXIV.....65862	Proposed Rules:
Ch. XXV.....65862	52 (3 documents).....65781,
Ch. XXVI.....65862	65790, 65791
Ch. XXVII.....65862	81.....65791
Ch. XXVIII.....65862	41 CFR
Ch. XXIX.....65862	Proposed Rules:
3100.....65768	Ch. 4.....65862
9 CFR	44 CFR
Proposed Rules:	64.....65752
Ch. I.....65862	47 CFR
Ch. II.....65862	25.....65753
Ch. III.....65862	31.....65761
Ch. IV.....65862	73.....65763
12 CFR	74.....65763
225.....65731	49 CFR
720.....65731	7.....65765
14 CFR	571.....65766
39 (2 documents).....65732,	601.....65765
65733	1033.....65767
71.....65734	Proposed Rules:
Proposed Rules:	192.....65792
71 (3 documents).....65768-	
65770	
73.....65770	
15 CFR	
Proposed Rules:	
503.....65940	
16 CFR	
13.....65735	
Proposed Rules:	
433.....65771	
17 CFR	
140.....65735	
200.....65736	
210.....65738	
249.....65739	
Proposed Rules:	
210.....65774	
18 CFR	
35.....65740	
141.....65741	
154.....65740	
260.....65741	
292.....65744	
24 CFR	
570.....65950	
888.....65924	
Proposed Rules:	
115.....65775	

V
4
4

N
0

1
5

7
9
U M I

Federal Register
Vol. 44, No. 222
Thursday, November 15, 1979

Presidential Documents

Title 3—
The President

Executive Order 12170 of November 14, 1979
Blocking Iranian Government Property

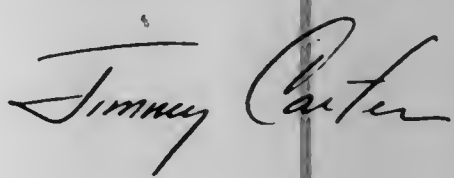
Pursuant to the authority vested in me as President by the Constitution and laws of the United States including the International Emergency Economic Powers Act, 50 U.S.C.A. sec. 1701 *et seq.*, the National Emergencies Act, 50 U.S.C. sec. 1601 *et seq.*, and 3 U.S.C. sec. 301,

I, JIMMY CARTER, President of the United States, find that the situation in Iran constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States and hereby declare a national emergency to deal with that threat.

I hereby order blocked all property and interests in property of the Government of Iran, its instrumentalities and controlled entities and the Central Bank of Iran which are or become subject to the jurisdiction of the United States or which are in or come within the possession or control of persons subject to the jurisdiction of the United States.

The Secretary of the Treasury is authorized to employ all powers granted to me by the International Emergency Economic Powers Act to carry out the provisions of this order.

This order is effective immediately and shall be transmitted to the Congress and published in the Federal Register.



THE WHITE HOUSE,
November 14, 1979.

[FR Doc. 79-35495
Filed 11-14-79; 9:16 am]
Billing code 3195-01-M

Editorial Note: A White House statement of Nov. 14, 1979, on the blocking of Iranian Government property, is printed in the Weekly Compilation of Presidential Documents (vol. 15, no. 46).

Rules and Regulations

Federal Register

Vol. 44, No. 222

Thursday, November 15, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R-0255]

Supervision of Foreign Banking Organizations and Edge Corporations by Federal Reserve Banks; Final Rule; Correction

AGENCY: A Board of Governors of the Federal Reserve System.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a previous Federal Register document (FR Doc. 79-34405) beginning at page 64398 of the issue for Wednesday, November 7, 1979.

DATE: Effective October 24, 1979.

FOR FURTHER INFORMATION CONTACT: C. Keefe Hurley, Senior Counsel (202/452-3269), or Michael L. Kadish, Attorney (202/452-3428), Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: In the third column of page 64398, paragraph "1." of PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL is corrected to read as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. By revising § 225.1(c) to read as follows:

§ 225.1 Authority, scope, and definitions.

(c) *Federal Reserve Bank.* The term "Federal Reserve Bank" as used in this Part with respect to action by, on behalf of, or directed to be taken by a bank holding company or other organization shall mean either the Federal Reserve Bank of the Federal Reserve district in which the operations of the bank

holding company or other organization are principally conducted, as measured by total deposits held or controlled by it in subsidiary banks on the date on which it became or is to become, a bank holding company, or such Reserve Bank as the Board may designate. In the case of a foreign banking organization that is not a bank holding company but which has one or more branches, agencies, or commercial lending companies located in any State of the United States or the District of Columbia "Federal Reserve Bank" shall mean, unless otherwise determined by the Board, the Reserve Bank of the district in which its banking assets are the largest as of the later of January 1, 1980, or the date that it establishes its first branch, agency, or commercial lending company. With respect to notices filed and other actions taken under the Control Act, the term refers to the Federal Reserve Bank for institution to be acquired, as determined by the preceding sentence in the case of bank holding companies and by section 9 of the Federal Reserve Act in the case of State member banks.

Board of Governors of the Federal Reserve System, November 7, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-35208 Filed 11-14-79; 3:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 720

Procedures for Handling National Security Information

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This regulation sets forth NCUA's procedures for handling national security information. This regulation is promulgated in response to E.O. 12065 (43 FR 28949) entitled National Security Information.

The Director of the Office of Administration oversees the agency's national security information procedures. The regulation prescribes procedures the agency must follow when the agency (1) processes declassification requests, (2) handles and safeguards classified data, (3) reproduces classified data, (4) stores

classified data, and (5) educates NCUA employees about these procedures.

EFFECTIVE DATE: December 14, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, NW., Washington, D.C., 20456.

FOR FURTHER INFORMATION CONTACT: Bernard Snelnick, Deputy Director, Office of Administration, National Credit Union Administration, 1375 K Street, NW., Washington, D.C. 20456. Telephone: (202) 633-6771. Barbara A. Burrows, Attorney Advisor, Office of General Counsel, National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION:

1. Background

On June 25, 1978, the President issued Executive Order 12065, for the purpose of making as much information as possible available to the public without threatening national security. This regulation is adopted by the National Credit Union Administration in response to the President's executive order.

2. NCUA's Role With Classified Data

The NCUA neither classifies nor declassifies data; however, NCUA handles data classified by other agencies. This regulation sets forth agency procedures for handling such classified data. It (1) requires the Director of the Office of Administration to refer declassification requests to the agency that classified the data; (2) designates certain agency officials as custodians of all classified data received by NCUA; (3) controls reproduction of classified data; and (4) requires the Director to educate certain agency employees about these security information procedures.

3. Administrative Procedures Act Requirements

The regulation is adopted as a final regulation in accordance with the Administrative Procedures Act which allows an agency to promulgate an internal procedural regulation without prior notice and comment (5 U.S.C. 553(b)(A)). This regulation relates solely to internal agency procedure on matters of classified national security information; therefore, it has no substantial or procedural impact on the credit unions regulated by the NCUA or on the public.

4. E.O. 12044 Procedures

This internal procedural regulation is also outside the scope of the NCUA Final Report, "In Response to E.O. 12044: Improving Government Regulations", which excludes matters that relate to the management of NCUA. (44 FR 17954). The Final Report was designed to increase public participation and to measure the outside impact of new regulations. The new national security information regulation relates solely to internal agency management and procedure and has no impact on credit unions or on the public. The official responsible for this determination is Robert M. Fenner, Assistant General Counsel.

Rosemary Brady,
Secretary of the Board.
November 7, 1979.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1786) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

Accordingly, 12 CFR Part 720 is amended by adding a new § 720.9 to read as follows:

§ 720.9 National security information procedures.

(a) *Program.* (1) The Director of the Office of Administration (Director) is designated as the person responsible for implementation and oversight of information security program procedures. The Director receives questions, suggestions and complaints regarding all elements of this program. The Director is solely responsible for changes to the program and assures that the program is consistent with Executive Order 12065.

(2) The Director is the agency's official contact for declassification requests submitted under the provisions of E.O. 12065, regardless of the point of origin of such requests. The Director is also responsible for assuring that requests submitted under the Freedom of Information Act (5 U.S.C. 552) are handled in accordance with that Act.

(b) *Procedures.*—(1) *Mandatory Review.* All declassification requests made by a member of the public, by a government employee or by an agency shall be handled by the Director or the Director's designee. Under no circumstances shall the Director refuse to confirm the existence or non-existence of a document under the Freedom of Information Act or the Mandatory Review provisions of Executive Order 12065 unless the fact of its existence or non-existence would itself be classifiable under E.O. 12065. NCUA has no authority to classify or declassify data; NCUA, however, occasionally handles data that has been classified by another agency. The

Director shall refer all declassification requests to the agency that originally classified the data. The Director (or the Director's designee) shall notify the requesting person or agency that the request has been referred to the originating agency and that all further inquiries and appeals must be made directly to the other agency.

(2) *Handling & Safeguarding.* All data marked "Top Secret," "Secret," and "Confidential" shall be delivered to the Director or the Director's designee immediately upon receipt. The Director shall advise recipients of such data the name of the current designee. If the Director or the designee is unavailable to receive such documents, the documents shall be turned over to the Freedom of Information Officer who shall lock them, unopened, in the combination safe located in the Office of Administration until the Director is available. If the Freedom of Information Officer is unavailable, the documents shall be delivered to the Director of the Division of Personnel who shall lock them, unopened, in the combination safe in the Division of Personnel. Under no circumstances shall classified materials that cannot be delivered to the director be stored other than in the two designated safes.

(3) *Reproduction.* Reproduction of classified material shall take place only in accordance with E.O. 12065, Section 4-4, and any limitations imposed by the originator. Should copies be made, they are subject to the same controls as the original document. Records showing the number and distribution of copies (except as provided in paragraph (b)(2) of this section) shall be maintained by the Director and the log stored with the original documents.

(4) *Storage.* All classified documents (except as provided in paragraph (b)(2) of this section), shall be stored in the combination safe located in the Director's Office. The combination shall be changed as required by Information Security Oversight Office (ISOO) Directive No. 1, Section IV F 5a. The combination shall be known only to the Director and the Director's designee holding the proper security clearance.

(5) *Employee Education.* The Director shall send a memo to every NCUA employee who (i) has a security clearance and (ii) may handle classified materials. This memo shall describe NCUA procedures for handling, reproducing and storing classified documents. The Director shall require each such employee to review E.O. 12065 and appropriate ISOO Directives. All subsequently hired employees who have the proper security clearance and may handle classified documents shall

be instructed in these procedures at the outset of their employment.

(6) *Agency Terminology.* The National Credit Union Administration's central offices shall use the terms "Top Secret," "Secret," or "Confidential" only in relation to materials classified for national security purposes.

[FR Doc. 79-36175 Filed 11-14-79; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-CE-18-AD; Amdt. 39-3611]

Airworthiness Directives; Beech Model 77 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Beech Model 77 airplanes. The AD requires a one-time inspection of wing main spar to fuselage carry-thru structure attachment bolts and associated nut plates for damage and installation of the correct number of spacer washers. This action is necessary to assure the structural integrity of the attachment of the wings to the fuselage. **EFFECTIVE DATE:** November 19, 1979, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated October 5, 1979. Compliance: Prior to the next flight after the effective date of this AD.

ADDRESSES: Beechcraft Service Instructions No. 1088, applicable to this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. A copy of the Service Instructions is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-3146.

SUPPLEMENTARY INFORMATION: Reports have been received showing that the four NAS1112-11 or -15 bolts which attach the wing main spar to the

fuselage carry-thru structure were improperly installed on Beech Model 77 airplanes. Investigation revealed that an incorrect number of spacer washers were installed on the bolts resulting in insufficient engagement of the bolt threads into their respective part number 108-120010-5 nut plates. This condition can result in a loss of structural integrity of the attachment of the wings to the fuselage. Subsequent to receiving the report the manufacturer has issued Beechcraft Service Instructions No. 1088 recommending inspection of the bolts and nut plates for damage, replacement of any damaged parts and installation of the correct number of washer spacers on each of the four wing attach bolts on certain Beech Model 77 airplanes. The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design. It was also determined that an emergency condition existed, that immediate corrective action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by airmail letter dated October 5, 1979. The AD became effective as to these individuals upon receipt of that letter. Since the unsafe condition described herein may still exist on other Beech Model 77 airplanes, the AD is being published in the Federal Register as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive.

Beech: Applies to Model 77 (S/N's WA-1 through WA-39, WA-41, WA-42, and WA-44 through WA-46) airplanes certified in all categories.

Compliance: Required as indicated unless already accomplished.

To assure structural integrity of the attachment of the left and right wing to the fuselage carry-thru structure, accomplish the following:

(A) Prior to the next flight, in accordance with instructions in (1) Beech Mailgram sent to owners on October 3, 1979 or (2) Beechcraft Service Instructions No. 1088 (whichever is available):

1. Remove the four NAS1112-11 or -15 wing main spar to fuselage carry-thru structure attachment bolts and visually inspect (1) the threads on the bolts and (2) the threads in the Part Number 108-120010-5

internal nut plate for each bolt, for stripped threads or other damage.

2. Replace any damaged NAS1112-11 or -15 bolts or any Part Number 108-120010-5 internal nut plates with new components.

Note.—If new NAS1112 bolts are obtained locally, the heads must have a .093 to .103 inch diameter hole drilled in them to accommodate MS20995-NC32 safety wire. Locate the hole in the bolt head at approximately the same location as the safety wire hole in the bolt removed.

3. Modify, apply zinc chromate primer to, and install the correct number of AN960-1216 washers under the NAS1112-11 or -15 bolts.

Note.—The Beech Part Number 108-120013-1 radius washer must be installed between the AN960-1216 washers and the main spar tube on each of the four NAS1112-11 or -15 bolts. The total shank length of a NAS1112-11 bolt is 1.28 inches and for the NAS1112-15 1.51 inches.

(B) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished provided that inspection of each of the four NAS1112-11 or -15 wing main spar to fuselage carry-thru attachment bolts shows that all four bolts are (1) in place, (2) safety wires in place, and (3) secure when an attempt is made to turn or pull the bolts by hand. This inspection must be accomplished by an FAA certificated aircraft-mechanic or persons authorized under Federal Aviation Regulations 43.3.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective on November 19, 1979, to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated October 5, 1979.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(a)); sec. 11.89 of the Federal Aviation Regulations (14 CFR sec. 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri on November 2, 1979.

Paul J. Baker,
Director, Central Region.

[FR Doc. 79-36180 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-CE-19-AD; Amdt. 39-3615]

Airworthiness Directive; Beech Model 76 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Beech Model 76 airplanes. The AD requires installation of self-locking nuts on the aileron and rudder bell crank stop bolts. This action is necessary to prevent aileron and rudder stop bolts from working loose, thereby assuring controllability during all phases of aircraft operation.

EFFECTIVE DATE: November 23, 1979. Compliance Schedule: As prescribed in the body of the AD.

ADDRESSES: Class I Beechcraft Service Instructions No. 1087, applicable to this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. Copies of these service instructions are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446 or for off-duty hours and weekends (816) 374-3246.

SUPPLEMENTARY INFORMATION: There has been one reported occurrence involving a Beech Model 76 airplane wherein a non self-locking nut backed off the aileron bell crank stop bolt allowing the stop bolt to fall out and jam between the aileron bell crank and the support rib which limited aileron travel. Although this condition was discovered during the preflight inspection, occurrences of this type could have an adverse effect on airplane controllability if not discovered prior to takeoff. Further investigation determined that non self-locking nuts had been installed on the rudder bell crank stop bolts. If the non self-locking nuts loosen and back off, the rudder travel can be reduced to the point where directional control cannot be maintained in the event single engine operation occurs at the same time rudder travel is restricted. In order to correct these conditions, the manufacturer has issued Beechcraft

Service Instructions Number 1087 which recommends inspection and, if necessary, replacement of the stop bolt nuts for the aileron and rudder bell cranks. The manufacturer recommends accomplishment within 25 hours time-in-service after the service instructions are received.

Accordingly, since the condition described herein is likely to exist or develop on other airplanes of the same type design, the FAA is issuing an AD applicable to certain Beech Model 78 airplanes making inspection and, if necessary, replacement of the stop bolt nuts for the aileron and rudder bell cranks, in accordance with Beechcraft Service Instructions 1087, mandatory. The AD compliance time has been set at twenty-five (25) hours in order to allow sufficient time for maintenance personnel to obtain the MS21044N4 or MS20365-428A self-locking nuts that are required for the aileron and rudder bell crank stop bolts. This extended compliance time will reduce the hardship on owners/operators without unduly compromising safety.

Since a situation exists that requires the expeditious adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Beech: Applies to Model 78 (Serial Numbers ME-1 through ME-104, ME-166, ME-168 through ME-181, ME-184 through ME-193, ME-195 and ME-196) airplanes certified in all categories.

Compliance: Required as indicated unless already accomplished.

To prevent possible restriction in aileron and rudder travel, within twenty-five (25) hours time-in-service after the effective date of this AD accomplish the following:

(A) On Serial Numbers ME-1 through ME-149, ME-151 through ME-164, ME-166, ME-168 through ME-181, ME-184 through ME-190, ME-192, and ME-193 visually inspect and, if necessary, replace the stop bolt nuts for the aileron bell cranks with self-locking nuts in accordance with procedures set forth in Beechcraft Service Instructions Number 1087.

(B) On Serial Numbers ME-1 through ME-164, ME-166, ME-168 through ME-181, ME-184 through ME-193, ME-195 and ME-196 visually inspect and, if necessary, replace the stop bolt nuts for the rudder bell crank with self-locking nuts in accordance with procedures set forth in Beechcraft Service Instructions Number 1087.

(C) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This Amendment becomes effective November 23, 1979.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to: FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri on November 6, 1979.

Paul J. Baker,
Director, Central Region.

[FR Doc. 79-35161 Filed 11-14-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-30]

Alteration of Transition Area:
Oklahoma City, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter transition area at Oklahoma City, Okla. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Clarence E. Page Municipal Airport. The circumstance which created the need for the action is the development of an Area Navigation (RNAV) approach to the Clarence E. Page Municipal Airport. In addition, this action changes the name of the airport from Cimarron Airport to Clarence E. Page as described in the Federal Register.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnet, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; Telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On September 13, 1979, a notice of proposed rule making was published in the Federal Register (44 FR 53177) stating that the Federal Aviation Administration proposed to alter the Oklahoma City, Okla., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the Oklahoma City, Okla., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing established and the proposed RNAV instrument approach procedures to the Clarence E. Page Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G § 71.181, of Part 71 of the Federal Aviation Regulations (14 CFR 71) as republished (44 FR 442) is amended, effective 0901 GMT, January 24, 1980, by deleting:

• • • and within a 5-mile radius of the Cimarron, Okla., Municipal Airport (latitude 35°29'15"N., longitude 97°49'00"W.),

and by substituting the following therefor:

• • • and within a 6.5-mile radius of the Clarence E. Page Municipal Airport (latitude 35°29'15"N., longitude 97°49'00"W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 1, 1979.

C. R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 79-35009 Filed 11-14-79; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-2994]

Forbes Health System Medical Staff; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Pittsburgh, Pa. medical association (Medical Staff), among other things, to cease engaging in actions having the purpose or effect of excluding from appointment to Medical Staff applicants who are associated with a Health Maintenance Organization (HMO), or who practice on an other than fee-for-service basis. The association is further prohibited from unreasonably delaying final recommendations on staff privilege applications; and from according discriminatory treatment to HMO-associated members, which may prevent them from providing effective patient care at Forbes. Additionally, Medical Staff is required to change its Bylaws to conform with the terms of the order.

DATES: Complaint and order issued October 15, 1979.

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580 (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Friday, June 29, 1979, there was published in the Federal Register, 44 FR 37957, a proposed consent agreement with analysis in the Matter of Forbes Health System Medical Staff, an association, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Combining or Conspiring; § 13.405 To

¹ Copies of the Complaint and the Decision and Order filed with the original document.

discriminate unfairly or restrictively in general; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.475 To restrain competition in buying. Subpart—Corrective Actions and/or Requirements; § 13.533 Corrective actions and/or requirements; § 13.533-60 Release of general, specific, or contractual constrictions, requirements, or restraints.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

Carol M. Thomas,
Secretary.

[FR Doc. 79-35235 Filed 11-14-79; 8:45 am]
BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Designation of Senior Official To Oversee Commission Use of National Security Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission has designated the Executive Director to oversee the safety of classified information received by the Commission, to chair an agency committee with the authority to act on all suggestions and complaints with respect to the Commission's administration of its information security program, and to ensure that practices for safeguarding information are systematically reviewed and that those practices which are duplicative or are unnecessary are eliminated.

EFFECTIVE DATE: December 17, 1979.

NAME AND ADDRESS: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Budd Hallberg, Office of Personnel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-2375.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission receives, from time to time, information which is classified Top Secret, Secret or Confidential from another agency. Because the Commission handles such information, the Commission has determined to designate the Executive Director to chair a Commission committee with authority to act on all suggestions and complaints with respect to the Commission's

administration of its program designed to guarantee the security of this information. In addition, the Executive Director will actively oversee and review the Commission's practices to ensure the safety of classified information which the Commission receives. The Executive Director will also direct a systematic review of the Commission's practices which are duplicative or unnecessary. The Commission is taking this action in accordance with the policies set forth in Executive Order 12065, Sections 5-404 (a), (b), and (g), 43 FR 28960 (July 3, 1978).

The Commission has established controls and procedures to ensure that classified information is used, processed, stored, produced and transmitted only under conditions that will provide adequate protection and prevent access by unauthorized persons. A member of the staff of the Office of Personnel has been designated Personnel Security Officer. The Personnel Security Officer is responsible for designating and granting clearances to Commission personnel, ensuring custody of classified material and developing access procedure to such material on a need-to-know basis.

The Commission has no original classification authority, nor does it have the authority to declassify or downgrade classified information. However, members of the Commission and its staff who utilize classified information in other documents and who therefore apply derivative classification markings will respect the original classifications assigned to information received from other agencies. Any national security information which the Commission receives from an agency will be cared for and returned in accordance with that particular agency's policy guidelines.

The Commission's Office of Personnel maintains copies of the Executive Order 12065 and reference ISOO Directive No. 1¹ which contain further information on national security matters.

Because this rule deals with internal agency practice, the Commission is satisfied that the notice and comment provisions of the Administrative Procedures Act, 5 U.S.C. 553(d) do not apply to this rule.

This notice of rulemaking is issued under the authority of Section 2(a)(11)

¹ The Information Security Oversight Office ("ISOO") of the General Services Administration has been designated by the President to conduct on-site reviews of information security programs in each agency which handles classified information. The Office may also require each agency to provide reports, information and other cooperation as is necessary to fulfill the ISOO Director's responsibilities.

and 8(a) of the Commodity Exchange Act, 7 U.S.C. 4a(j) and 12(a) (1978).

Based upon the foregoing, the Commission adds Rule 140.20 to Part 140 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

§ 142.20 Designation of senior official to oversee Commission use of national security information.

(a) The Executive Director is hereby designated to oversee the Commission's program to ensure the safeguarding of national security information received by the Commission from other agencies, to chair a Commission committee composed of members of the staff selected by him with authority to act on all suggestions and complaints with respect to the Commission administration of its information security program, and, in conjunction with the Personnel Security Officer of the Commission, to ensure that practices for safeguarding national security information are systematically reviewed and that those practices which are duplicative or unnecessary are eliminated.

(b) The Executive Director may submit any matter for which he has been designated under paragraph (a) of this section to the Commission for its consideration.

Authority: Secs. (2)(a) and 8(a), 42 Stat. 1001, as amended, 49 Stat. 1498, 1499; 86 Stat. 1391; 7 U.S.C. 4a and 12(a).

Issued in Washington, D.C. on November 8, 1979.

By the Commission.

Jane Stuckey,

Secretary, Commodity Futures Trading Commission.

[FR Doc. 79-35187 Filed 11-14-79; 8:45 am]

BILLING CODE 8351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

Classification and Declassification of National Security Information and Material

AGENCY: Securities and Exchange Commission.

ACTION: Final Rule—Establishment of subpart.

SUMMARY: This subpart implements certain provisions of Executive Order 12065 which deals with the classification, declassification and safeguarding of national security information.

EFFECTIVE DATE: November 9, 1979.

FOR FURTHER INFORMATION CONTACT: George A. Fitzsimmons, Office of the Secretary, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549, 202-272-2800.

SUPPLEMENTARY INFORMATION: Executive Order 12065 (43 FR 28949, June 28, 1978) and its implementing directive, Information Security Oversight Directive No. 1 (43 FR 48280, October 5, 1978), establish new procedures and criteria for classifying, declassifying and protecting national security information from unauthorized disclosure. These orders, effective December 1, 1978, require establishment of a new Subpart J under our Organization regulations (17 CFR Part 200).

We are designating the Secretary of the Commission as the senior agency official to oversee compliance with the order and to head the Oversight Committee. This committee will monitor the policies and procedures of the Executive Order and will act on all suggestions and complaints concerning these procedures. It is also charged with establishing the security education program and the controls for preventing unauthorized access that are required by the order.

As adopted, Subpart J requires that the derivative document be marked, at the time it is classified, with the same date or event for declassification as is marked on the source document. The rule provides, however, for source documents that were not assigned a declassification date or were assigned one further in the future than now permitted under Executive Order 12065. In such cases, the derivative document is to be marked with a date for review for declassification 20 years from the date on which the source document was originally classified. If the derivative document contains "foreign government information," (information obtained from a foreign government in confidence), the date for review for declassification should be 30 years from the classification date of the source document.

Although the Commission lacks original classification authority, properly cleared Commission personnel have authority to apply classification markings derived from classified source documents or prescribed by classification guides.

No Commission official has the power to declassify a derivatively classified document. Only the agency that authorized the source document has the power to do that. Also, Commission documents in the control of the Archivist will be systematically

reviewed for declassification in accordance with separate guidelines issued after consultation with the Archivist.

Any person, including Commission employees, may request access to a classified document in the Commission's possession, by filing either a Freedom of Information Act (FOIA) request or a request for mandatory review for declassification. Requests for mandatory review for declassification shall be in writing and shall be sent to the Office of the Secretary, Attn: Mandatory Review Request, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. FOIA requests are processed in accordance with the provisions of the Act and Part 200 of our Regulations. This amendment of Part 200 will govern declassification requests.

Subpart J of Part 200 provides that declassification requests reasonably describe the information sought. If the description of the document is not sufficient, the requester will be notified that no further action will be taken until additional information is provided or the scope of the request is narrowed. If the request is sufficient, but describes a document that is either no longer in the Commission's possession or was derivatively classified by the Commission or originally classified by another agency, the request will be forwarded to the appropriate agency for review together with a copy of the document containing the information requested where practicable, and with the Commission's recommendation to withhold any of the information where appropriate. The requester will be notified of such referrals.

Finally, we are providing for access to classified information by historical researchers and former Commission members. The regulation allows researchers access to classified information if such access would be consistent with the national security and the researcher agrees to protect that information and prevent its unauthorized disclosure. Former Commission members are allowed access under this section only to those classified documents that they originated, reviewed, signed, or received while in public office.

Executive Order 12065 has been in effect since December 1, 1978. Therefore, because this regulation relates solely to agency internal management and procedure and imposes no significant burden on any member of the public, we find that notice and further public procedures are unnecessary, and that an immediate effective date is in the public interest.

Accordingly, the Securities and Exchange Commission adopts Subpart J of Part 200, Classification and Declassification of National Security Information and Material, 17 CFR Part 200, to read as follows:

Subpart J—Classification and Declassification of National Security Information and Material

- 200.500 Purpose.
- 200.501 Applicability.
- 200.502 Definitions.
- 200.503 Senior agency official.
- 200.504 Oversight Committee.
- 200.505 Original classification.
- 200.506 Derivative classification.
- 200.507 Declassification dates on derivative documents.
- 200.508 Requests for mandatory review for declassification.
- 200.509 Challenge to classification by Commission employees.
- 200.510 Access by historical researchers.
- 200.511 Access by former Presidential appointees.

Authority: Sec. 19 of the Securities Act of 1933, as amended, 48 Stat. 84, 15 U.S.C. § 77a. Executive Order 12065, 43 FR 28949, July 3, 1978. Information Security Oversight Office Directive No. 1 (43 FR 48280, October 5, 1978).

Subpart J—Classification and Declassification of National Security Information and Material

§ 200.500 Purpose.

This part establishes general policies and procedures for the classification, declassification and safeguarding of national security information which is generated, processed and/or stored by the Commission, and supplements Executive Order 12065, June 28, 1978 (43 FR 28949), and Information Security Oversight Directive No. 1, October 5, 1978 (43 FR 48280).

§ 200.501 Applicability.

This part applies to the handling of, and public access to, national security information and classified documents in the Commission's possession. Such documents no longer in the Commission's possession will be handled by the agency having possession, or in accordance with guidelines developed in consultation with the Archivist.

§ 200.502 Definition.

As used in this part: "Foreign government information" means either (a) information provided to the United States by a foreign government or international organization in the expectation, express or implied, that the information be kept in confidence, or (b) information requiring confidentiality, produced by the United States under a written joint arrangement with a foreign

government or international organization.

§ 200.503 Senior agency official.

The Secretary of the Commission is designated the senior agency official responsible for conducting an oversight program to ensure effective implementation of Executive Order 12065.

§ 200.504 Oversight Committee.

An Oversight Committee is established, under the chairmanship of the Secretary, with the following responsibilities:

- (a) Establish a security education program to familiarize Commission and other personnel who have access to classified information with the provisions of Executive Order 12065, and encourage Commission personnel to challenge those classification decisions they believe to be improper.
- (b) Establish controls to insure that classified information is used, processed, stored, reproduced, and transmitted only under conditions that will provide adequate protection and prevent access by unauthorized persons.
- (c) Establish procedures which require that a demonstrable need, under Section 4-1 of Executive Order 12065, for access to classified information be established before administrative clearance procedures are initiated, as well as other appropriate procedures to prevent unnecessary access to classified information.

- (d) Act on all suggestions and complaints concerning Commission administration of its information security program.
- (e) Establish procedures within the Commission to insure the orderly and effective referral of requests for declassification of documents in the Commission's possession.
- (f) Review on an annual basis all practices for safeguarding information and to eliminate those practices which are duplicative or unnecessary.
- (g) Recommend to the Executive Director appropriate administrative action to correct abuse or violation of any provision of Executive Order 12065.
- (h) Consider and decide other questions concerning classification and declassification that may be brought before it.

- (i) Review on an annual basis all practices for safeguarding information and to eliminate those practices which are duplicative or unnecessary.
- (j) Recommend to the Executive Director appropriate administrative action to correct abuse or violation of any provision of Executive Order 12065.

- (k) Review on an annual basis all practices for safeguarding information and to eliminate those practices which are duplicative or unnecessary.
- (l) Recommend to the Executive Director appropriate administrative action to correct abuse or violation of any provision of Executive Order 12065.

- (m) Review on an annual basis all practices for safeguarding information and to eliminate those practices which are duplicative or unnecessary.
- (n) Recommend to the Executive Director appropriate administrative action to correct abuse or violation of any provision of Executive Order 12065.

- (o) Review on an annual basis all practices for safeguarding information and to eliminate those practices which are duplicative or unnecessary.
- (p) Recommend to the Executive Director appropriate administrative action to correct abuse or violation of any provision of Executive Order 12065.

§ 200.505 Original classification.

- (a) No Commission Member or employee has the authority to classify any information on an original basis.
- (b) If a Commission employee originates information that appears to require classification, the employee

shall immediately notify the Secretary and protect the information accordingly.

(c) If the Secretary believes the information warrants classification, it shall be sent to an agency with original classification authority over the subject matter, or to the Information Security Oversight Office, for determination.

§ 200.506 Derivative classification.

Any document that includes paraphrases, restatements, or summaries of, or incorporates in new form, information that is already classified shall be assigned the same level of classification as the source, unless the basic information has been so changed that no classification, or a lower classification than originally assigned, should be used.

§ 200.507 Declassification dates on derivative documents.

(a) A document that derives its classification from information classified on or after December 1, 1978, shall be marked with the date or event assigned to that source information for its automatic declassification or for review of its continued need for classification.

(b) A document that derives its classification from information classified before December 1, 1978, shall be marked as follows:

(1) If the source has a declassification date or event 20 years or less from the date of its original classification, that date or event shall also be assigned to the derivative document.

(2) If the source has no declassification date or is marked for declassification beyond 20 years, the derivative document shall be assigned a date for review for declassification 20 years from the date of original classification of the source information.

(3) If the source contains foreign government information having no date or event for declassification, or has a date 30 years or more from the date of original classification, the derivative document shall be assigned a date for review for declassification 30 years from the date of original classification of the source information.

(c) A derivative document that derives its classification from the approved use of the classification guide of another agency shall bear the declassification date required by the provisions of that classification guide.

§ 200.508 Requests for mandatory review for declassification.

(a) Requests for mandatory review of a Commission document for declassification may be made by any person, including Commission

employees. The request shall be in writing and shall be sent to the Office of the Secretary, Attn: Mandatory Review Request, Securities and Exchange Commission, 500 N. Capitol Street, Washington, DC 20549.

(b) The request shall describe the material sufficiently to enable the Commission to locate it. Requests with insufficient description of the material will be returned to the requester for further information.

(c) Within 5 days of receiving a request for declassification, the Commission shall acknowledge its receipt. If the document was derivatively classified by the Commission or originally classified by another agency, the request and the document shall be forwarded promptly to the agency with original classification authority together with the Commission's recommendation to withhold any of the information where appropriate. The requester shall be notified of the referral.

(d) If the request requires the provision of services by the Commission, fair and equitable fees may be charged under Title 5 of the Independent Offices Appropriation Act, 65 Stat. 290, 31 U.S.C. 483a.

§ 200.509 Challenge to classification by Commission employees.

Commission employees who have reasonable cause to believe that information is classified unnecessarily, improperly, or for an inappropriate period of time, may challenge those classification decisions through mandatory review or other appropriate procedures as established by the Oversight Committee. Commission employees who challenge classification decisions may request that their identity not be disclosed.

§ 200.510 Access by historical researchers.

(a) Persons outside the executive branch performing historical research may have access to information over which the Commission has classification jurisdiction for the period requested (but not longer than 2 years unless renewed for an additional period of less than 2 years) if the Secretary determines in writing that access to the information will be consistent with the interests of national security.

(b) The person seeking access to classified information must agree in writing:

(1) To be subject to a national agency check;

(2) To protect the classified information in accordance with the

provisions of Executive Order 12065; and

(3) Not to publish or otherwise reveal to unauthorized persons any classified information.

§ 200.511 Access by former Presidential appointees.

(a) Former Commission Members appointed by the President may have access to classified information or documents over which the Commission has jurisdiction that they originated, reviewed, signed, or received while in public office, if the Secretary determines in writing that access to the information will be consistent with the interest of national security.

(b) The person seeking access to classified information must agree in writing:

(1) To be subject to a national agency check;

(2) To protect the classified information in accordance with the provisions of Executive Order 12065; and

(3) Not to publish or otherwise reveal to unauthorized persons any classified information.

By the Commission.

George A. Fitzsimmons,
Secretary.

November 9, 1979.

[FR Doc. 79-35304 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 210

[Release Nos. 33-6144, 34-16325, AS-272]

Rescission of Moratorium on Capitalization of Interest Cost

AGENCY: Securities and Exchange Commission.

ACTION: Amendment of rules.

SUMMARY: The Commission in Accounting Series Release No. 163, issued in November 1974, imposed a moratorium on the adoption or extension of a policy of capitalization of interest cost by companies other than public utilities. In adopting this moratorium the Commission expressed concern that an alternative to the general practice of expensing interest cost as incurred had developed "without careful consideration of such change by the Financial Accounting Standards Board." Capitalization of interest cost has since been given careful study by the FASB and a standard has been established. In response to the initiatives taken by the FASB in establishing a financial accounting and reporting standard for capitalization of interest cost, the Commission is rescinding the moratorium imposed by

ASR No. 163. In addition, the Commission is amending its disclosure requirements for interest cost under Rule 3-16(r) of Regulation S-X to adopt the disclosures required under the new standard for all periods for which an income statement is presented.

EFFECTIVE DATE: November 8, 1979 with respect to the revision of Rule 3-16(r). Rescission of the moratorium is effective upon adoption by registrants of the FASB standard.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Best or John W. Albert, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2130).

SUPPLEMENTARY INFORMATION: In November 1974, the Commission adopted Accounting Series Release ("ASR") No. 163, entitled "Capitalization of Interest by Companies other than Public Utilities." Under this release, a moratorium was imposed on the adoption or extension of a policy of capitalization of interest cost by companies other than electric, gas, water and telephone utilities and those companies covered by two exceptions which exist in accounting literature.²

The moratorium was adopted in response to a trend in which an increasing number of registrants, other than public utilities and those complying with specialized industry guides, were capitalizing interest costs. The release expressed concern that an alternative to the general practice of expensing interest costs as incurred had developed "without careful consideration of such a change by the Financial Accounting Standards Board." It was further stated that, "at such time as the Financial Accounting Standards Board develops standards for accounting for interest cost, the Commission expects to reconsider this conclusion."

In October, 1979, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 34 "Capitalization of Interest Cost" ("FAS Statement No. 34"), which establishes standards for the capitalization of interest cost as a part of the historical cost of acquiring an asset under certain circumstances. Since the moratorium on interest capitalization under ASR No.

¹ Also Release Nos. 33-5540, 34-11100 (November 14, 1974) [39 FR 43197, December 11, 1974].

² Exceptions to the general rule of recording interest as a period cost are set forth in an Industry Audit Guide for "Savings and Loan Associations" and an Industry Accounting Guide, "Accounting for Retail Land Sales," both issued by the American Institute of Certified Public Accountants.

163 was imposed in response to a proliferation of alternative practices, the establishment of an accounting standard by the FASB satisfies the principal concern expressed in the release and, therefore, eliminates the necessity for continuation of the moratorium.

Accordingly, the Commission is rescinding such moratorium effective upon adoption by registrants of FAS Statement No. 34. This rescission is consistent with the Commission's expressed policy that the initiative for establishing and improving accounting standards should remain in the private sector, subject to Commission oversight.

In ASR No. 163, the Commission also adopted an amendment to Rule 3-16(r) under Regulation S-X which requires certain disclosures for companies which capitalize interest cost. The requirements of Rule 3-16(r) include income statement disclosure of the amount of interest costs capitalized for each period in which an income statement is presented. In addition, companies other than public utilities are required to disclose the effect on net income of capitalizing interest costs as compared with a policy of expensing interest as incurred, the reason for this capitalization policy, and the method of determining the amount capitalized.

The provisions of FAS Statement No. 34 require disclosure of the amount of interest cost incurred and the amount charged to expense or capitalized as appropriate in the circumstances. The disclosures are required for each accounting period in which interest cost was incurred and are to be presented in the financial statements or related notes.

Although the disclosure requirements under FAS Statement No. 34 differ from the requirements under Rule 3-16(r) with respect to prominence and detail, these requirements appear adequate to enable investors and other financial statement users to analyze the impact of the incurrence of interest cost on a company's operations. Since FAS Statement No. 34 is required to be applied prospectively in fiscal years beginning after December 15, 1979, it is necessary for the Commission to retain disclosure requirements for interest cost for coverage of prior years. As a consequence, Rule 3-16(r) is hereby amended to conform the disclosure of interest cost with the requirements under FAS Statement No. 34 for each period in which an income statement is presented. The revised rules shall apply to financial statements and interim financial information filed subsequent to the date of issuance of this release. Prior period disclosure shall be provided on a

consistent basis with the conformed disclosure.

Effective Date

November 8, 1979 with respect to the revision of Rule 3-16(r). Rescission of the moratorium is effective upon adoption by registrants of FAS Statement No. 34.

Commission action: The Commission hereby amends 17 CFR Part 210 by revising paragraph (r) of § 210.3-16 (Interest capitalized) as follows:

§ 210.3-16 General notes to financial statements. (See release No. AS-4.)

(r) *Interest cost.* Disclosure shall be provided for each period for which an income statement is presented of the amount of interest cost incurred and the respective amounts expensed or capitalized.

This amendment is adopted pursuant to authority in Sections 6, 7, 8, 10 and 19(a) [15 U.S.C. 77f, 77g, 77h, 77j, 77s(a)] of the Securities Act of 1933 and Sections 12, 13, 15(d) and 23(a) [15 U.S.C. 78l, 78m, 78o (d), 78w(a)] of the Securities Exchange Act of 1934. Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of this amendment on competition and is not aware of any burden that would be imposed on competition.

Inasmuch as the above described amendment does not impose any additional requirements under § 210.3-16(r), the Commission finds, for good cause, that the thirty-day notice provision specified in the Administrative Procedures Act [5 U.S.C. 553(d)] is unnecessary and, accordingly, the amendment shall be effective as indicated above.

By the Commission.

George A. Fitzsimmons,
Secretary.

November 8, 1979.

[FR Doc. 79-35254 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 249

[Release No. 34-16327]

Relief for certain Wholly-Owned Subsidiaries From Portions of Annual and Quarterly Reports Required Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the effectiveness of amendments to

provide relief from certain portions of the reporting requirements of the annual and quarterly reports filed with the Commission by a registrant whose equity securities are owned either directly or indirectly by a single person which itself is a reporting company under the Securities Exchange Act of 1934 ("Exchange Act"). The amendments had been conditionally adopted by the Commission on September 27, 1979 in Securities Exchange Act Release No. 16226 (44 FR 57374).

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: John J. Heneghan, Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2573).

SUPPLEMENTARY INFORMATION: The Securities Exchange Commission today announced the effectiveness of amendments to the General Instructions to Form 10-K and to the General Instructions to Form 10-Q under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq. (1976)) relating to the disclosure required by certain registrants which are wholly-owned subsidiaries.

These amendments allow omission of certain disclosure items in reports on Form 10-Q and both omission of and substitution for various disclosure items in reports on Form 10-K filed by registrants whose equity securities are owned, either directly or indirectly, by a single parent which is a reporting company under the Exchange Act.

Form 10-K is used for annual reports to the Commission pursuant to section 13 or 15(d) of the Exchange Act where no other report is prescribed. Form 10-Q is used for quarterly reports to the Commission under section 13 or 15(d) of the Exchange Act and is filed pursuant to Rule 13a-13 or Rule 15d-13 thereunder.

On September 27, 1979 the Commission had conditionally adopted the amendments. Interested persons were to have until November 5, 1979 to comment. Only three letters of comment were received and they all supported the amendments. Therefore, such amendments are effective as of November 15, 1979. The text of the amendments appear in the September 27, 1979 release.

Authority: The amendments to Form 10-Q and to Form 10-K are pursuant to Sections 13, 15(d) and 23(a) of the Securities Exchange Act of 1934.

(Secs. 13, 15(d), 23(a), 48 Stat. 894, 895, 901; sec. 203(a), 49 Stat. 705; secs. 3, 8, 49 Stat. 1377, 1379; secs. 4, 6, 78 Stat. 569, 570-574;

sec. 2, 82 Stat. 454; secs. 1, 2, 84 Stat. 1497; secs. 10, 18, 89 Stat. 119, 155; secs. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; (15 U.S.C. 78m, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,
Secretary.

November 8, 1979.

[FR Doc. 79-35290 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35, 154

[Docket No. RM 77-22; Order No. 47-A]

Rate of Interest on Amounts Held Subject to Refund; Order on Rehearing Modifying and Clarifying Prior Order

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order on Rehearing Modifying and Clarifying Prior Order.

SUMMARY: The Federal Energy Regulatory Commission denies the applications for rehearing of Order No. 47, and amends the regulations adopted therein to clarify the Commission's intent that, after October 1, 1979, compounding should apply to interest on refundable amounts which accrued both before and after October 1, 1979.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Dennis Melvin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8572.
Clarence Burris, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8161.

November 8, 1979.

On September 10, 1979, the Federal Energy Regulatory Commission issued Order No. 47 in the above-referenced docket which established (1) a new, self-adjusting, compounded carrying interest rate on refunds, (2) a new, self-adjusting, compounded carrying charge rate on deferred purchased gas costs, and (3) a reduction in the number of required refund reports.

Applications for rehearing of this order were timely filed by Cities Service Gas Company, Indicated Producers, the Interstate Natural Gas Association of America, Michigan Wisconsin Pipe Line Company, Northern Natural Gas Company, Southern Natural Gas Company, Transcontinental Gas Pipe

Line Corporation, United Gas Pipe Line Company, and Tennessee Gas Pipeline Company and Midwestern Gas Transmission Company and East Tennessee Natural Gas Company (jointly).

Most of the arguments raised by applicants were treated adequately in Order No. 47 and need no further discussion in this order. One point requires clarification.

Many parties are unclear as to whether the compounding feature adopted in Order No. 47 is to be applicable only to interest which accumulates from and after October 1, 1979, the effective date of Order No. 47, or is it also to be applied to interest which accumulated before October 1, 1979.

Compounding is intended to apply after October 1, 1979, to all interest, regardless of when it accumulated. In Order No. 47, we found that the purpose of compounding is to reimburse the customer for the use of the accumulated interest on his overpayments (mimeo, p. 15). Consistency requires that we apply this principle to all the interest. Accordingly, clarifying language will be added to our refund regulations consistent with this result.

Order No. 47 made the revised interest rate rule effective as of October 1, 1979. These amendments merely clarify the intent of the regulations adopted in Order No. 47. Therefore, the amendments are hereby made effective as of October 1, 1979.

(Sec. 16, Natural Gas Act, 15 U.S.C. 7170; Section 309, Federal Power Act, 16 U.S.C. 825h; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Parts 35 and 154, of Chapter I, Title 18, of the Code of Federal Regulations are amended as set forth below, effective October 1, 1979.

To the extent not granted in this order, the applications for rehearing are denied.

By the Commission.

Kenneth F. Plumb,
Secretary.

PART 35—FILING OF RATE SCHEDULES

1. Section 35.19a is amended in paragraph (a)(2)(iii)(A) to read as follows:

§ 35.19a Refund requirements under suspension orders.

(a) Refunds. * * *

(2) * * *

(iii) (A) At an average prime rate for

each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates or charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin* for the fourth, third, and second months preceding the first month of the calendar quarter. * * *

PART 154—RATE SCHEDULES AND TARIFFS

2. Section 154.87 is amended in paragraph (d)(2)(iii)(A) to read as follows:

§ 154.87 Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure.

(d) Refunds. * * *

(2) * * *

(iii)(A) At an average prime rate for each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates and charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin* for the fourth, third, and second months preceding the first month of the calendar quarter. * * *

3. Section 154.102 is amended in paragraph (d)(2)(iii)(A) to read as follows:

§ 154.102 Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure.

(d) Refunds. * * *

(2) * * *

(iii)(A) At an average prime rate for each calendar quarter on all excessive rates or charges held (including all interest applicable to such rates or charges) on or after October 1, 1979. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin* for the fourth, third, and second months preceding the first month of the calendar quarter. * * *

[FR Doc. 79-35285 Filed 11-14-79; 8:45 am]

BILLING CODE 8450-01-M

18 CFR Parts 141, 260

[Docket No. RM80-5; Order No. 57]

Revising Annual Reporting of Officers' Salaries; Final Order

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final order.

SUMMARY: The Commission is hereby amending schedule page 104, (entitled "Officers") of its Annual Report Forms No. 1 and No. 2 to increase the floor for annual salary that is presently required to be reported from \$35,000 to \$50,000 for all respondents and in connection therewith, to adopt the term "executive officer." This is being done to reduce reporting burdens and to bring the reporting requirements of the schedule into line with the revised reporting requirements of the Securities and Exchange Commission, adopted by the SEC. In addition, certain instructions are deleted from Schedule page 104.

EFFECTIVE DATE: The changes are effective with respect to Annual Reports submitted for reporting year 1979 and subsequent reporting years.

FOR FURTHER INFORMATION CONTACT:

James Kitchen, Office of Chief Accountant, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 3508-N, Washington, D.C. 20426, (202) 275-4051.

November 8, 1979.

A. Background

Schedule page 104 ("Officers") of the Commission's Annual Report Forms No. 1 and No. 2 requires jurisdictional companies to report the name, title, office address and salary for the report year of each general officer of the respondent company. The requirements of this schedule were last changed by Order No. 503 (Docket No. RM74-5) issued January 29, 1974, (39 FR 4473, February 2, 1974). By that Order the Commission¹ increased the minimum

salary of officers required to be reported annually from \$25,000 to \$35,000 for companies reporting \$50 million or more in annual operating revenues and from \$15,000 to \$25,000 for companies reporting operating revenues less than \$50 million.

Since these changes were made, the data submitted by jurisdictional companies reporting officers' salaries on Forms No. 1 and No. 2 have grown beyond the bounds necessary for the Commission's purposes. The inflationary trends of the past five years, coupled with the current reporting thresholds, means that more and more information is required in order to comply with Schedule page 104. Second, the requirement that an "officer's" salary must be reported leaves open the possibility that personnel who are not in policymaking positions may be listed. The term "officer", without further qualifications, may then be adding to reporting burdens. Finally, the requirement to report the principal business address (column C of Schedule page 104) of personnel listed on Schedule page 104 appears unnecessary. The principal business address of the reporting firm should suffice for the Commission's purposes.

In addition to the reporting burden of Schedule page 104, changes in the requirements of the Securities and Exchange (SEC) respecting management remuneration filings require a revamping of Schedule page 104. Since the SEC no longer accepts Commission Annual Report Forms No. 1 and No. 2 in lieu of SEC Form 10-K, certain instructions to Schedule page 104 are now superfluous.

B. Summary of Revisions

The Commission today revises Schedule page 104 of its Annual Report Forms No. 1 and No. 2 by (1) requiring the reporting of officers' salaries greater than or equal to \$50,000 per year irrespective of the annual operating revenues reported by respondent companies; (2) adopting the term "executive officer" to describe those salaries which should be reported; and (3) deleting column (c) ("Principal Business Address"). The increase of the reporting threshold and the removal of the distinction between the size of

respondents as to reported revenues are made in recognition of inflationary trends since 1974. The adoption of the term "executive officer" will ensure that only the salaries of policymaking personnel are reported.

An "executive officer" includes the president, secretary, treasurer, and vice president in charge of a principal business unit, division or function (such as sales, administration or finance) of the respondent. It also includes any other person who performs similar policymaking functions and who is employed by the respondent.

These changes will reduce the reporting burden of respondents without materially affecting the informational needs of the Commission. In addition, the new threshold reporting requirement of \$50,000 and the adoption of the term "executive officer" are consistent with recent changes made by the SEC for the reporting of management remuneration for fiscal years ending after December 25, 1978.² For this reason, the Commission will accept copies of filings made to the SEC under Item 4 of Regulation S-K in lieu of Schedule page 104 if the substitution of Item 4 is conformed to the size of the Commission's Schedule pages of Annual Report Forms No. 1 and No. 2. This alternative filing option should further reduce reporting burdens by eliminating duplicative reporting.

Finally, instructions 2 through 5 and 7 to Schedule page 104 of Forms No. 1 and No. 2 are deleted. These instructions, keyed to SEC reporting requirements, are no longer appropriate since the SEC no longer accepts the Commission's Forms No. 1 and No. 2 in lieu of their Form 10-K.

C. Effective Date

Because of the minor nature of these revisions and the fact that their immediate adoption will promote an expeditious reduction of unnecessary reporting burdens, and because the

¹ SEC, "Uniform and Integrated Reporting Requirements: Management Remunerations", Release Nos. 33-6003, 34-15380, 35-20611, IC-10505 (issued Dec. 4, 1978), 43 FR 58161 (Dec. 13, 1978).

² Commission refers to the Federal Power Commission with respect to actions taken before October 1, 1977; and to the Federal Energy Regulatory Commission with respect to actions taken thereafter.

prompt adoption of these changes is necessary to provide adequate notice of reporting requirements in time for report year 1979, the Commission finds that there is good cause to dispense with public procedures in adopting the revisions. For the same reasons, and because the prompt adoption of the above described changes to Schedule page 104 will reduce reporting burdens without seriously impairing the Commission's informational needs, the Commission finds that there is good cause to make these changes effective for the reporting year 1979 and following for filings made during 1980 and after.

(Department of Energy Organization Act, Pub. L. No. 95-91, 91 Stat. 565, E.O. 12009, 42 FR 46287 (Sept. 15, 1977); Natural Gas Act as amended, 15 U.S.C. 717, *et seq.*; Federal Power Act, *as amended*, 16 U.S.C. 791)

For the foregoing reasons, Schedule page 104 ("Officers") of Form No. 1 (Annual Report for Electric Utilities, Licensees and Others (Class A and Class B)), prescribed by § 141.1, Chapter I, Title 18 of the Code of Federal Regulations and Form No. 2 (Annual Report for Natural Gas Companies (Class A and Class B)), prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations are revised as set forth in Attachment A hereto. These revisions are effective for reports filed for the 1979 and subsequent reporting years.

The Secretary shall cause prompt publication of this Order to be made in the Federal Register.

By the Commission,
Kenneth F. Plumb,
Secretary.

BILLING CODE 6450-01-M

Docket No. RM80-3

Attachment A
Year ended December 31, 1979

OFFICERS

1. Report below the name, title and salary for the year for each executive officer whose salary is \$50,000 or more. An "executive officer" of a respondent includes its president, secretary, treasurer and vice president in charge of a principal business unit, division or function (such as sales, administration or finance) and any other person who performs similar policy making functions.

2. If a change was made during the year in the incumbent of any position, show name and total remuneration of the previous incumbent and date change in incumbency was made.
3. Utilities which are required to file similar data with the Securities and Exchange Commission, may substitute a copy of item 4 of Regulation S-K, identified as this schedule page. The substituted page(s) should be conformed to the size of this page.

	Title	Name of Office	Salary for Year
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			
34			
35			
36			
37			
38			
39			
40			
41			
42			
43			
44			

[FR Doc. 79-35292 Filed 11-14-79; 8:45 am]

BILLING CODE 6450-01-C

18 CFR Part 292

(Docket No. RM79-54)

Interim Rule for Qualification of Gas-Fired Cogeneration Facilities for Purposes of the Incremental Pricing Program; Interim Rule**AGENCY:** Federal Energy Regulatory Commission, DOE.**ACTION:** Interim rule.

SUMMARY: The Commission gives notice that it has adopted interim rules permitting certain gas-fired cogeneration facilities to be exempt from the incremental pricing provisions of the Natural Gas Policy Act of 1978 (NGPA). The exemption in the NGPA permits cogeneration facilities which qualify under the Commission's rules implementing section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA) to be exempt from the surcharges for natural gas otherwise provided under the incremental pricing provisions of the NGPA. Under the interim rules, cogeneration facilities which meet certain standards may file an affidavit that they are "qualifying cogeneration facilities," and thereby be exempted from incremental pricing.

EFFECTIVE DATE: November 9, 1979.**FOR FURTHER INFORMATION CONTACT:**

Adam Wenner, Executive Assistant to the Associate General Counsel, Federal Energy Regulatory Commission, Room 8104-C, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8171, or
James C. Liles, Office of Regulatory Analysis, Federal Energy Regulatory Commission, Room 3000, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8124.

SUPPLEMENTARY INFORMATION:

November 9, 1979.

Background

On September 28, 1979, the Commission issued final rules implementing the incremental pricing provisions of the Natural Gas Policy Act of 1978 (NGPA).¹ These rules provide, among other things, that natural gas used by "a qualifying cogeneration facility" shall be exempt from the incremental pricing provisions of the NGPA.² A qualifying cogeneration facility is defined in the regulations as a cogeneration facility which meets the requirements prescribed by the Commission pursuant to section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA).³

¹ Order No. 49, Docket No. RM79-14, issued September 28, 1979.

² Sections 282.201(a), and 282.203.

³ Section 282.202(e).

On June 27, 1979, the Commission issued a notice of proposed rulemaking providing requirements for qualification of small power production and cogeneration facilities under section 201 of the PURPA.⁴ At this time, the Commission has not promulgated a final rule establishing criteria for qualifying status.

An operative rule setting forth the requirements for a qualifying natural gas-fired cogeneration facility is necessary for the timely implementation of the Commission's incremental pricing program. Section 282.602 of the incremental pricing regulations requires that on or before December 1, 1979, each interstate pipeline must file with the Commission a tariff sheet reflecting a "reduced PGA" rate for the period January 1, 1980, to the effective date of the pipeline's next normally scheduled PGA filing. In order to calculate this reduced PGA rate, each pipeline must ascertain which of the customers it serves, whether directly or indirectly are wholly or partially exempt from being incrementally priced as to their use of natural gas. This information is to be provided by the filing by individual customers of exemption affidavits, a copy of which must be filed with the facility's natural gas supplier. By filing an affidavit, a customer affirms, under penalty of law, that he belongs to one of the several customer groups which is exempt from incremental pricing. In the case of the exemption for qualifying cogeneration facilities, therefore, an industrial customer cannot certify that his facility is a qualifying cogeneration facility until the Commission issues final rules so specifying.

In order to permit natural gas-fired cogeneration industrial end-users to file exemption affidavits in a timely fashion, and thus provide affected pipelines with the information needed to make accurate calculations as to their reduced PGA rates which will be effective January 1, 1980, the Commission finds good cause to issue interim regulations providing that certain existing gas-fired cogeneration facilities can obtain qualifying status on an interim basis, solely for the purpose of obtaining an exemption from incremental pricing.

The interim qualifying status available to certain existing gas-fired cogeneration facilities will not enable them to obtain any of the benefits set forth pursuant to section 210 of PURPA or to continue to retain the exemption from the incremental pricing of natural gas after final regulations are promulgated in this docket. Those

⁴ Docket No. RM79-54, issued June 27, 1979 (44 FR 38672, July 3, 1979).

benefits will be available only if a facility qualifies under the Commission's final rules in Docket No. RM79-54. The only benefit to be derived from this interim qualification is exemption from the incremental pricing of natural gas pending promulgation of the final regulations in this docket.

The Commission finds it appropriate to adopt for this interim rule certain provisions proposed in Docket No. RM79-54. In addition, the Commission finds it appropriate to make changes in other proposed provisions of that Docket for the purpose of this interim rule. The adoption of this interim rule in this manner does not reflect a final decision by the Commission as to which gas-fired cogeneration facilities will meet the criteria for qualification under the final rule in this docket. Rather, it indicates that the Commission finds these particular standards and procedures appropriate and expedient for use on an interim basis.

Summary of the Interim Rule**§ 292.501 Scope.**

The purpose of the interim rule is limited to establishing an interim exemption from incremental pricing under the Natural Gas Policy Act of 1978.

§ 292.502 Qualifying requirements for cogeneration facilities.

Paragraph (a) provides that, for purposes of Title II of the Natural Gas Policy Act of 1978, a "qualifying cogeneration facility" is a cogeneration facility which was in existence on November 1, 1979, and which used natural gas as a fuel on or prior to that date. In addition, a qualifying cogeneration facility must meet the efficiency standards prescribed in § 292.502 (e) and (f) of this rule.

The fundamental concept behind the provision of benefits to cogeneration facilities is the ability of these facilities to make more efficient use of fuel needed to meet heat and power demands. This more efficient use of fuel is only accomplished when the waste or rejected heat from one power or heating process is used in another heating or power process. Thus, the "combined" or "joint" production of heat and power does not fully define cogeneration; the production must represent the sequential use of the same stream of energy or heat. Such sequential use ordinarily is more energy-efficient than separate production. Section 292.502(a) accordingly requires that a facility must produce electric energy and other forms of useful energy through the sequential use of energy.

Section 3 (18)(B)(ii) of the Federal Power Act provides that a qualifying cogeneration facility must be owned by a person "not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration or small power production facilities)." Section 206(c)(2) of the Natural Gas Policy Act of 1978 provides that incremental pricing of gas shall not apply to the generation of electricity by any electric utility. Section 282.203(d) of the Commission's rules implements this exemption. Section 292.206(b) of the Commission's proposed rules in this docket would provide that a cogeneration facility may not qualify under section 201 of PURPA if more than 50 percent of the facility is owned by electric utilities.

The Commission wishes to ensure that cogeneration facilities which satisfy the technical requirements for qualification, but which, because of majority utility ownership, might not be eligible to be qualifying cogeneration facilities under section 201 of PURPA receive the same exemption available for electric utilities referred to above. Accordingly, this interim rule does not contain the ownership limitations set forth in § 292.206(b) of the proposed rules for qualification under section 201 of PURPA.

As a result, qualification under this interim rule is intended both to implement the exemption for qualifying cogeneration facilities in section 206(c)(3) of the NGPA, and to clarify the applicability of the exemption for electric utilities in section 206(c)(2) of the NGPA. Therefore, a cogeneration facility which meets the technical requirements for qualification under PURPA, but which might be excluded because of utility ownership, is nevertheless eligible to be a "qualifying cogeneration facility" for the purpose of exemption from incremental pricing. The Commission emphasizes that qualification of utility-owned facilities under this interim rule does not reflect qualifying status under section 201 of PURPA, or eligibility for the benefits provided under section 210 of PURPA. It is only intended to ensure that the combined effect of the exemptions for qualifying cogeneration facilities and for electric utilities does not exclude efficient cogeneration facilities.

Section 292.502(b) sets forth definitions used to calculate the efficiency of a facility. Subparagraph (1) defines a "cogeneration facility" as the equipment used to produce electric energy and other forms of useful energy (such as heat or steam) used for industrial, commercial, heating or

cooling purposes, through the sequential use of energy. Subparagraph (1) limits qualification to equipment used for cogeneration. Therefore, although gas may be used for other purposes at the same location, only gas used for qualifying cogeneration is exempt from incremental pricing.

Subparagraph (2) defines the "useful thermal energy output" of a cogeneration facility as the heat made available for use in an industrial process or for use as space or water heating or cooling.

Subparagraph (3) defines the "useful power output" of a cogeneration facility as the electrical or mechanical energy made available for use, exclusive of any use solely in the power production process.

Subparagraph (4) provides that "total energy input" means the total energy of all forms supplied from external sources to the cogeneration facility. In the case of energy in the form of fossil fuel, the energy input is to be measured by the lower heating value of such fuels.

Subparagraph (5) defines "working fluid energy input" to a cogeneration facility as the enthalpy of steam leaving a boiler minus that of the feed water, when the steam is subsequently used in a topping cycle.

Subparagraph (6) defines "overall energy efficiency" as the ratio of the sum of all useful energy outputs to the total energy input of the facility, measured by means of actual data or estimates. The definition provides that any energy used exclusively in the thermal process of a topping-cycle (supplementary firing) facility shall not be included as energy output or energy input for the purpose of determining the cogeneration facility's overall energy efficiency. The definition of "overall energy efficiency" for this rule is different from that initially proposed in Docket No. RM79-54 in that it is based only on the energy output of the heat and power production equipment, without requiring a computation of process heat utilization efficiency. The Commission makes this change in order to simplify the computation of energy efficiency.

Subparagraph (7) defines "internal energy efficiency" as the ratio of the sum of all useful energy outputs to the working fluid energy input, measured by means of actual data or estimates. This definition also provides that any energy used exclusively in the thermal process of any topping-cycle (supplementary firing) facility shall not be included as energy output or energy input for the purpose of determining the cogeneration facility's internal energy efficiency.

Cogeneration facilities can generally be grouped into two distinct classes: "topping" cycles and "bottoming" cycles. In a topping-cycle cogeneration facility, electricity is generated first and the rejected energy is typically used in a thermal process. Examples of topping cycles are backpressure steam turbines and combustion turbines with waste heat recovery boilers. Such systems can produce both electric power and process steam. Subparagraph (8) accordingly defines a "topping-cycle cogeneration facility" as a facility in which the energy input is first used to produce power, and the waste heat from power production is then used to provide useful heat.

Bottoming-cycle cogeneration facilities use high-temperature energy for a thermal process first, with subsequent use of the rejected heat for generating electricity. Subparagraph (9) defines a "bottoming-cycle cogeneration facility" as a facility in which the energy input to the system is first applied to a useful heating process, and the residual heat emerging from the process is then used for power production.

Subparagraph (10) states that "supplementary firing" means natural gas used only in the thermal process of a topping cycle, or only in the electric generation process of a bottoming cycle.

Paragraph (c) sets forth efficiency standards for topping-cycle cogeneration facilities. Only topping-cycle cogeneration facilities are required to meet the efficiency standards set forth in this interim rule. (Complex facilities, with both topping and bottoming generation of electricity or mechanical energy, may be considered bottoming cycles for the purpose of this interim rule). Subparagraph (1) requires that, to qualify, the overall energy efficiency of a cogeneration facility must be no less than 0.55.

An alternative efficiency standard is provided in subparagraph (2) which eliminates boiler efficiency as a standard for qualification. Under this standard, the internal energy efficiency must be not less than 0.70. The alternative efficiency standard is provided to permit qualification of facilities using low-quality fuel burned in association with natural gas, giving rise to low boiler efficiencies.

Paragraph (d) states that a bottoming-cycle cogeneration facility does not have to meet any efficiency standards in order to be a qualifying facility.

Paragraph (e) sets forth the limitation on eligibility for qualification under this interim rule. In order to qualify, a facility must have been in existence on November 1, 1979, and must use natural gas as an energy input. It need not use

gas exclusively, but can combine gas with other fuel sources.

Paragraph (f) provides that the Commission may waive any of the standards for qualification, if it finds that such waiver is necessary to encourage cogeneration.

Paragraph (g)(1) provides that obtaining qualifying status for purposes of this interim rule does not make a facility eligible for the rates and exemptions set forth in section 210 of PURPA.

Paragraph (g)(2) provides that interim qualification does not necessarily assure that a facility will be a qualifying facility under the Commission's final rules in Docket No. RM79-54, which implement section 201 of PURPA.

Interim qualification will terminate upon the issuance of final rules in Docket No. RM79-54. Facilities qualifying under this interim rule will have to qualify under that rule in order to retain their exemption from incremental pricing.

§ 292.503 Procedures for obtaining qualifying status.

Section 292.503 provides that an applicant who meets the standards must indicate on the exemption affidavit provided under the incremental pricing program that it is a qualifying cogeneration facility. Upon filing that affidavit with the Commission, with a copy to the supplying pipeline, such facility shall be exempt from incremental pricing.

Section 553(d) of Title 5, United States Code, provides that a substantive rule need not be published 30 days prior to taking effect if the rule grants or recognizes an exemption. As stated above, the regulations below set forth criteria for the determination of an exemption from the Commission's incremental pricing program. Thus, the 30-day period is not required with respect to these rules. The regulations are being made effective immediately, for the reasons stated above.

In consideration of the foregoing, Subchapter K, Chapter I, Title 18, Code of Federal Regulations, is amended by adding a new Part 292 as set forth below, effective on the issuance of these rules.

By the Commission.
Kenneth F. Plumb,
Secretary.

(1) Subchapter K is amended in the table of contents by adding in the appropriate numerical order a new Part number and heading to read as follows:

SUBCHAPTER K—REGULATIONS UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

PART 292—REGULATION OF SMALL POWER PRODUCTION AND COGENERATION FACILITIES UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

(2) Subchapter K is amended by adding a new Part 292 to read as follows:

PART 292—REGULATION OF SMALL POWER PRODUCTION AND COGENERATION FACILITIES UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Subparts A through D—[Reserved]

Subpart E—Qualification of Cogeneration Facilities for Incremental Pricing Exemption

Sec.

292.501 Scope.

292.502 Qualifying requirements for cogeneration facilities.

292.503 Procedures for obtaining qualifying status.

Authority: Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617; Natural Gas Policy Act of 1978, Pub. L. 95-621; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.

Subparts A through D—[Reserved]

Subpart E—Qualification of Cogeneration Facilities for Incremental Pricing Exemption

§ 292.501 Scope.

This subpart defines qualifying cogeneration facilities for the sole purpose of establishing an interim exemption from incremental pricing under the Natural Gas Policy Act of 1978.

§ 292.502 Qualifying requirements for cogeneration facilities.

(a) *Definition of qualifying cogeneration facility.* For purposes of Title II of the Natural Gas Policy Act of 1978 (NGPA), and Subpart B of Part 282 of the Commission's rules, the term "qualifying cogeneration facility" means a cogeneration facility which:

- (1) Was in existence on November 1, 1979;
- (2) Used natural gas as a fuel on or prior to that date;
- (3) Produces electric energy and another form of useful energy (such as heat or steam), used for industrial, commercial, heating or cooling purposes,

through the sequential use of energy; and

(4) Meets the efficiency standards set forth in this section.

(b) *Definitions.* For purposes of this subpart:

(1) "Cogeneration facility" means equipment used to produce electric energy and another form of useful energy (such as heat or steam), used for industrial, commercial heating or cooling purposes, through the sequential use of energy;

(2) "Useful thermal energy output" of a cogeneration facility means the heat made available for use in an industrial process or for use as space or water heating;

(3) "Useful power output" of a cogeneration facility means the electrical or mechanical energy made available for use, exclusive of any used solely in the power production process;

(4) "Total energy input" means the total energy of all forms supplied from external sources to the cogeneration facility. In the case of energy in the form of fossil fuel, the energy input is to be measured by the lower heating value of such fuel;

(5) "Working fluid energy input" to a cogeneration facility means the enthalpy of steam leaving a boiler minus that of the feed water, when the steam is subsequently used in a topping cycle;

(6) "Overall energy efficiency" means the ratio of the sum of all useful thermal and power outputs to the total energy input of the cogeneration facility, measured by means of actual data or estimates. Any energy used exclusively in the thermal process of a topping-cycle (supplementary firing) facility shall not be included as energy output or energy input for the purpose of determining the cogeneration facility's overall energy efficiency;

(7) "Internal energy efficiency" means the ratio of the sum of all useful thermal and power outputs to the working fluid energy input, measured by means of actual data or estimates. Any energy used exclusively in the thermal process of a topping-cycle (supplementary firing) facility shall not be included as energy output or energy input for the purpose of determining the cogeneration facility's internal energy efficiency;

(8) A "topping-cycle cogeneration facility" means a cogeneration facility in which the energy input to the facility is first used to produce power, and the waste heat from power production is then used to provide useful heat;

(9) A "bottoming-cycle cogeneration facility" means a cogeneration facility in which the energy input to the system is first applied to a useful heating process, and the residual heat emerging from the

process is used then for power production; and

(10) "Supplementary firing" means natural gas used only in the thermal process of a topping-cycle cogeneration facility, or only in the electric generating process of a bottoming-cycle cogeneration facility.

(c) *Efficiency standards for topping-cycle facilities.* For topping-cycle cogeneration facilities using natural gas, with or without any other fuels, the following efficiency standard applies:

- (1) The facility's overall energy efficiency must be not less than 0.55, or
- (2) The internal energy efficiency of the facility must be not less than 0.70.

(d) *Efficiency standards for bottoming-cycle facilities.* For bottoming-cycle cogeneration facilities, there is no efficiency standard for qualification.

(e) *Eligibility.* In order to obtain qualifying status under the interim rule, a cogeneration facility must:

- (1) Have been in existence on November 1, 1979, and
- (2) Have used natural gas as an energy input on or prior to November 1, 1979.

(f) *Waiver.* The Commission may waive any of the provisions of this subpart if it determines that such waiver is necessary to encourage cogeneration.

(g) *Limitations of benefits of interim qualification.* Obtaining qualifying status for purpose of this interim rule does not:

- (1) Constitute qualifying status for purposes of section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), or
- (2) Assure that a facility will be a qualifying facility under the Commission's final rules implementing section 201 of PURPA or Title II of the NGPA.

§ 292.503 Procedures for obtaining qualifying status.

(a) In order to be a qualifying facility for purposes of exemption from incremental pricing, a facility must meet the standards set forth in § 292.502.

(b) If a cogeneration facility meets the standards set forth in § 292.502, the owner or operator of the facility may file an executed exemption affidavit that the facility is a qualifying cogeneration facility, pursuant to the procedures set forth in § 282.204 of the Commission's rules.

(FR Doc. 79-35287 Filed 11-14-79; 8:45 am)

BILLING CODE 6450-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 256.

Off-Reservation Treaty Fishing; Great Lakes and Connecting Waters in Michigan Ceded in Treaty of 1836

AGENCY: Department of the Interior.

ACTION: Interim Rule on which comment is solicited.

SUMMARY: This subpart governs off-reservation fishing in the Michigan waters of Lakes Superior, Michigan and Huron, together the St. Mary's River system connecting Lakes Superior and Huron, ceded in the Treaty of March 28, 1836; 7 Stat. 491. This rule applies to fishing by the members of the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians, which possesses off-reservation fishing rights secured by that treaty. The regulations were prepared and are being promulgated pursuant to a Memorandum of Understanding with the tribes and after consultation with the Michigan Department of Natural Resources. The Secretary has determined that conservation of the fishery resource within the ceded waters will be enhanced by a single set of comprehensive regulations, and that the advent of the fall spawning seasons requires the promulgation of this rule as emergency regulations. They are promulgated pursuant to the regulatory mechanism established in Subpart A of this part. This rule is published as an interim regulation and is effective on the day after publication. Comments on this rule must be received on or before January 14, 1980.

DATES: Effective November 16, 1979; deadline for comments January 14, 1980.
ADDRESS: Send comments to Associate Solicitor for Indian Affairs, Department of the Interior, 18th and C. Sts., NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jim Jannetta, Attorney-Advisor, Department of the Interior, Office of the Solicitor, Division of Indian Affairs, 18th and C. Streets, N.W., Washington, D.C. 20240, (202) 343-8526.

SUPPLEMENTAL INFORMATION: The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. 1457, 25 U.S.C. 2 and 9, and the Reorganization Plan No. 3 of 1950 (64 Stat. 1282), including the protection and implementation of federally reserved treaty fishing rights. The Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians have

off-reservation fishing rights secured by the Treaty of March 28, 1836, 7 Stat. 491, as affirmed in *People v. LeBlanc*, 399 Mich. 31, 248 N.W. 2d 199 (1976) and *United States v. Michigan*, 471 F. Supp. 192 (W.D. Mich. 1979). The fishing right includes the right to take fish for commercial purposes in the Great Lakes and connecting waters ceded by the tribes in that treaty. This area includes the Michigan waters of Lake Superior east of Marquette, of Lake Michigan east of Escanaba and north of the mouth of the Grand River, of Lake Huron north of Alpena, and of the entire St. Mary's River system.

This May in *United States v. Michigan* the court ruled that the authority of State of Michigan to regulate the exercise of the treaty fishing right has been preempted. Subsequently, the Department and the tribes entered into a Memorandum of Understanding governing the regulation of treaty fishing. Under this agreement, the tribes were to develop one joint comprehensive set of regulations governing the fishing of their members. These regulations were to be developed in consultation with the U.S. Fish and Wildlife Service and the Michigan Department of Natural Resources. The Department was to review the joint tribal regulations to see that they met conservation needs, and was to publish them as federal regulations if they did so.

The tribes developed their joint set of regulations as agreed. The Department has reviewed these regulations and has determined that they meet conservation needs, with certain adjustments which are reflected herein. Several suggestions made by the State of Michigan have been incorporated, with the acquiescence of the tribes. In addition, the Secretary has determined that a closure of the Lower St. Mary's River to net fishing is necessary for conservation. This area contains a naturally reproducing lake herring stock which is rare in the American waters of the Great Lakes and which is susceptible to net fishing. The tribes have not included a closure of the Lower St. Mary's in their regulations and have not consented to the inclusion of such a closure in these regulations. Nevertheless, the Secretary is implementing the closure under his authority to act to protect the fishery resource as set forth in 25 CFR Part 256, Subpart A.

A federal-state-tribal biological team has been at work preparing harvestable surplus estimates for various species in each state statistical district within treaty waters. In the Memorandum of Understanding, the tribes and the

Department agreed that when the harvestable surplus of a given species has been taken by all harvesters from a given area, treaty fishing may be closed for that species in that area regardless of the proportion of the harvest taken by treaty fishers. Adjustments to these regulations to provide for additional closures as the season progresses will be made as necessary on this basis.

An environmental assessment has been completed and it has been concluded that this rule is not a major federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(e) of the National Environmental Policy Act of 1969. The Department has also determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Because the fall spawning season has begun and fish stocks are now especially vulnerable to fishing pressure, it is imperative for the protection of the resource that these regulations be implemented immediately. For these reasons, the Secretary has determined hereby and for good cause finds that formal advance notice, public comment procedures and delayed effectiveness procedures of 5 U.S.C. § 553 are impracticable and contrary to the public interest. These regulations are therefore effective immediately as interim regulations which will carry through the short remainder of the current fishing season.

It is proposed that these regulations govern treaty fishing during the 1980 fishing season as well. Comments from interested persons are invited and will be considered in determining whether any changes should be made to these regulations. Interested persons wishing to participate should submit their comments including data and recommendations, to: Associate Solicitor for Indian Affairs, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. Comments received within 60 days of the publication of this notice will be considered.

The primary author of this document is: Jim Jannetta, Attorney-Advisor, Department of the Interior, Office of the Solicitor, Division of Indian Affairs, 18th and C Streets NW., Washington, D.C. 20240, (202) 343-8528.

EFFECTIVE DATE: This rule takes effect on November 16, 1979.

Dated: November 13, 1979.

Cecil D. Andrus,
Secretary.

Part 256 of Chapter 1 of title 25 CFR is hereby amended by adding the following Subpart D.

Subpart D—Great Lakes and Connecting Waters in Michigan Ceded in Treaty of 1836

- 256.40 Purpose of this subpart.
- 256.41 Definition of terms.
- 256.42 Scope and application.
- 256.43 Jurisdiction and enforcement.
- 256.44 Identification.
- 256.45 Reports, inspection and sampling.
- 256.46 Limitations on fishing activity.
- 256.47 Emergency regulations.
- 256.48 Other laws and regulations.
- 256.49 Forcible assault on enforcement officer.
- 256.50 Term of regulations.

Authority: The provisions of Subpart D are issued under the authority of 25 U.S.C. 2, 9; 43 U.S.C. 1457; Reorganization Plan No. 3 of 1950 (64 Stat. 1282); Treaty of March 28, 1836 (7 Stat. 491); and 25 CFR 256, Subpart A.

Subpart D—Great Lakes and Connecting Waters in Michigan Ceded in Treaty of 1836

§ 256.40 Purpose of this subpart.

The purpose of these regulations is to assure the conservation of the fishery resources in the Great Lakes and connecting waterway in the State of Michigan for the present and future use and enjoyment of the members of the Indian tribes regulated hereby and other persons entitled to participate in the fishery, and to prevent the deterioration of the fishery resource. These regulations were developed in fulfillment of a Memorandum of Understanding among the tribes and the Department of the Interior governing the regulation of treaty fishing activity. This subpart is promulgated pursuant to Subpart A and is subject to the provisions contained therein.

§ 256.41 Definition of terms.

(a) "Ad Hoc Technical Working Group" means the group comprised of one biologist each designated by the State of Michigan, the Department of the Interior and the tribes to assemble data and issue reports on the status of fish stocks in the waters in which the fishing activity of the tribes occurs.

(b) "Commercial fishing" means fishing activity engaged in for the purpose of sale or exchange of fish.

(c) "Enforcement officer" means: (1) Any enforcement agent of the Bureau of Indian Affairs, Fish and Wildlife Service, and Coast Guard, and any other person authorized by the Secretary to enforce the provisions of 25 CFR 256 Subpart A or D;

(2) Any tribal enforcement officer authorized by tribal law to enforce tribal conservation regulations; and

(3) Any conservation officer of the Michigan Department of Natural Resources and any other person authorized by the laws of the State of Michigan to enforce State conservation laws and regulations.

(d) "Fishing activity" means fishing for, catching, taking, or attempting to fish for, catch or take any species of fish from treaty waters, and includes all related activities which occur in or on the water, and in the process of loading or unloading fish, nets, or related gear, in or from a boat.

(e) "Pleasure and subsistence fishing" means fishing activity conducted with hook and line, spear, or a single gill net not exceeding 200 feet in length, for personal and family use and not for sale or exchange.

(f) "Secretary" means the Secretary of the Interior.

(g) "Target Fishing" means fishing activity for the purpose of catching or taking a specific species or several specific species of fish.

(h) "Treaty" means the Treaty of March 28, 1836 (7 Stat. 491).

(i) "Tribes" means the Bay Mills Indian Community and the Sault Ste. Marie Tribe of Chippewa Indians.

§ 256.42 Scope and application.

(a) This subpart applies to the fishing activity of members of the tribes in the waters of the Great Lakes and connecting waterway located within the State of Michigan and ceded in the treaty.

(b) Each of the provisions of this subpart applies to the commercial fishing of tribal members.

(c) Each of the provisions of this subpart applies to the pleasure and subsistence fishing of tribal members except the requirements of §§ 256.44 (identification cards), 256.45(a) (catch reporting), and 256.46(c) (target fishing for lake trout). Further regulation of pleasure and subsistence fishing is reserved to the tribes.

§ 256.43 Jurisdiction and enforcement.

(a) Jurisdiction to enforce these regulations on tribal members is vested in tribal courts and the Courts of Indian Offenses of the reservations of the tribes.

(b) Enforcement officers may enforce the regulations in this subpart and further, may exercise the existing enforcement powers of the tribes under tribal law. The tribes will continue to accept and prosecute violations of tribal regulations by tribal members referred to them by the Michigan Department of

Natural Resources, other law enforcement agencies, or private parties.

(c) In accordance with the provisions of 25 CFR 256.6, violations of these regulations may be punished by a fine not to exceed \$500, imprisonment of not to exceed 6 months, or both. In addition, the treaty fishing activity of the violator shall be suspended for not less than 5 days, and the court shall impound the treaty fishing identification card of the violator for the duration of the suspension.

§ 256.44 Identification.

(a) Each member of a tribe engaged in treaty commercial fishing activity shall have in his possession at all times a tribal treaty fishing identification card issued pursuant to 25 CFR 256.3.

(b) No member of a tribe shall allow a person who does not possess an identification card issued pursuant to subsection (a) hereof to aid or assist such member while engaged in any treaty fishing activity.

(c) The identification card issued pursuant to subsection (a) hereto shall be shown on demand to any enforcement officer.

(d) Each net used in a treaty fishing activity shall be clearly marked with a buoy showing the identification card number of the user.

§ 256.45 Reports, inspection and sampling.

(a) Each person to whom a tribal treaty fishing identification card has been issued shall file a report of the catch for each calendar month with such person's tribe not later than the tenth day of the month following. This requirement is satisfied if the identification card holder who is in charge of a fishing vessel files a single report listing the names and identification card numbers of all persons who worked on such vessel. The report shall be made on forms provided for that purpose by the tribes and shall indicate the kind and amount of gear, the species and amount of catch, the location of fishing activity, and such other information as the tribes may require. The report shall be submitted regardless of whether the identification card holder engaged in commercial fishing activity during the month. Catch data obtained from this reporting shall be made available by the tribes to the Michigan Department of Natural Resources, the Michigan Agency of the Bureau of Indian Affairs, and the Regional Director of the U.S. Fish and Wildlife Service.

(b) Each catch is subject to reasonable visual inspection of amount and species by an enforcement officer at the place

where the catch is offloaded from the fishing vessel. The unpacking of packed fish boxes shall not be required. Each catch is subject to reasonable biological sampling as directed by a tribal or federal biologist. If such sampling requires the taking of the fish or impairs the market value thereof, the reasonable value of the loss shall be reimbursed.

(c) Notwithstanding any other provision of this subpart, assessment fishing may be permitted at any time in any location upon the written permission of a tribal or federal biologist, and under the supervision thereof. Direct assessment fishing by the U.S. Fish and Wildlife Service is not limited by these rules.

§ 256.46 Limitations on fishing activity.

(a) The following areas shall be closed to all treaty fishing activity:

- (1) Michigan Fish Management Zone MH-1 in northwestern Lake Huron;
- (2) Grand Traverse Bay of Lake Michigan south of 45° north latitude;
- (3) Little Traverse Bay of Lake Michigan east of a line from Bayshore to the radio tower northeast of Seven Mile Point;
- (4) The Lower St. Mary's River from a line from Point Aux Frenes to the international boundary south and east to Lake Huron, including all of Potagannissing Bay.

(b) The minimum stretched measure mesh size for gill nets shall be as follows:

(1) In Lake Michigan south of a line extending east and west through the Village of Good Hart, 5½ inches for target fishing for whitefish, *Provided, however*, That the minimum size shall be 4½ inches until January 1, 1980.

(2) In Lake Michigan north of the line described in subsection (1) and in Lakes Huron and Superior, 4½ inches for target fishing for whitefish.

(3) In all waters, 2½ inches for target fishing for bloater chubs.

(c) Target fishing activity for various species shall be restricted as follows:

(1) Target fishing for sport species or species listed as threatened or endangered by the Secretary pursuant to the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, is prohibited. Sport species are: Brown Trout, Brook Trout, Rainbow Trout and Atlantic Salmon. Threatened and endangered species include: Longjaw, Deepwater, Shortnose, Blackfin and Shortjaw Ciscos and Lake Sturgeon. Dead sport species incidentally taken in commercial fishing gear during target fishing for other species may be retained for personal or family use but shall not be sold or exchanged. Live sport species and all

threatened and endangered species shall be returned to the water.

(2) All other fish species not identified in subsection (1) are species which may be taken by target commercial fishing.

(3) Notwithstanding the provisions of subsection (2), due to the current condition of the stocks target fishing for Lake Trout is prohibited. Dead Lake Trout incidentally taken in commercial fishing gear during target fishing for other species may be retained and sold. Live Lake Trout taken shall be returned to the water. If the catch of Lake Trout in any net lift shall exceed 20% of the total catch by weight, the individual making the lift shall not set nets in the same grid area for a period of ten days.

(d) All treaty fishing activity is prohibited in Lakes Michigan and Huron from November 1 through November 30, and in Lake Superior from October 25 through November 15, of each year.

(e) Treaty fishing activity with a net within ½ mile of the mouth of a river or stream suitable for spawning purposes is prohibited prior to June 1 and after August 31 of each year.

(f) Upon completion of the report on Lake Superior by the Ad Hoc Technical Working Group, the Secretary and the Joint Emergency Regulatory Committee shall issue such further regulations applicable to Lake Superior as are reasonably necessary for conservation purposes.

§ 256.47 Emergency regulations.

(a) There is hereby established a Joint Emergency Regulatory Committee comprised of three members of each tribe. The membership of the committee shall include the tribal chairpersons, the chairpersons of the tribal conservation committees, and one licensed commercial fisher from each tribe selected by the other two members from the respective tribes. This group shall select a chairperson from within its membership who shall retain the right to vote on all matters. The Committee, on the affirmative vote of four members thereof, may adopt emergency regulations binding on the fishers from both tribes in the following circumstances:

(1) When treaty fishing activity in any State statistical district has exceeded 50 percent of the allowable catch as determined by the Ad Hoc Technical Working Group, the Committee may limit or close the area to treaty fishing, require additional catch reporting or monitoring of catch, or take other steps, as the situation may warrant.

(2) If the State of Michigan closes any area to all non-treaty fishing activity, the Committee shall examine the reasons for such closure and may close

that area or otherwise limit tribal fishing.

(3) If credible information is received indicating that tribal fishing activity may be harvesting fish that exceed the tolerance levels for contaminants set by the Food and Drug Administration, the Committee may take action to assure that the fish are pre-tested before being marketed or may close that portion of the fishing activity which might otherwise bring contaminated fish into the market.

(4) If requested by the Secretary to act in response to any other emergency situation the Committee may promulgate appropriate regulations as required.

(b) The Area Director of the Bureau of Indian Affairs in Minneapolis, Minnesota, is authorized to make emergency changes in these regulations, including closures and restrictions or the relaxation thereof, to meet conditions not foreseen at the time these regulations were issued or when in-season adjustments or closures are necessary for conservation purposes. The tribes shall be consulted before promulgation of emergency regulations, and the Joint Emergency Regulatory Committee shall participate in developing emergency changes to the regulations where practicable. Differences over in-season regulatory adjustments shall be resolved by the tribal chairpersons and the Field Solicitor, Twin Cities, Minnesota. However, such referral shall not be cause for delay in promulgation of in-season regulatory adjustments should such adjustments be required on an emergency basis to meet conservation needs. Emergency regulations are effective upon their issuance or according to their terms and remain effective until modified or rescinded by the Area Director or terminated by their terms.

§ 256.48 Other laws and regulations.

Nothing in this subpart shall be deemed to:

(a) Authorize or accomplish any of the actions set forth in 25 CFR 256.7 (a) through (f);

(b) Deprive a tribe of the power to promulgate separate and different tribal regulations on fishery related matters where for conservation purposes there is no reason for uniformity, provided that such regulations are consistent herewith;

(c) Deprive a tribe of the power to promulgate separate and different regulations of fishing activity which are more restrictive than these joint regulations and consistent herewith;

(d) Authorize any State court to exercise jurisdiction which it does not otherwise possess.

§ 256.49 Forcible assault on enforcement officer.

No person engaged in fishing activity under this subpart shall assault, resist, oppose, impede, intimidate, or interfere with an enforcement officer engaged in enforcing this subpart.

§ 256.50 Term of regulations.

The regulations in this subpart take effect on November 16, 1979 and expire on January 1, 1981.

[FR Doc. 79-35437 Filed 11-14-79; 8:45 am]

BILLING CODE 4310-02-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commissions Operations and Relocation Procedures; Revision of Regulations Regarding Internal Operations

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Final rule.

SUMMARY: The Commission is changing its regular monthly meeting day from the first Thursday of each month to the first Friday of each month. The reasons for the change in meeting dates are to allow more time for preparation and also to make the meeting times more convenient to relocatees and the general public.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, 2717 N. Steves Boulevard, Bldg. A, Flagstaff, AZ 86001, Telephone No.: (602) 779-3311, Extension 1376, FTS: 261-1376.

SUPPLEMENTARY INFORMATION: Section 700.14 is revised to read as follows:

§ 700.14 Internal operations.

The internal operations of the Commission and the duties and regulations of Commission employees shall be governed by management memoranda, passed, amended, or repealed by a majority of the Commission at any regular or special meeting. The Commission shall hold a regular monthly meeting on the first Friday of each month unless said Friday falls on a legal holiday; and in that event, the meeting shall begin on the next regular workday at the main office of the Commission. Said monthly meeting may continue for as many days

thereafter as is necessary to complete the regular affairs of the Commission, and may be adjourned from time to time by the Commission and reconvened at any time designated by the Commission at their regular meeting.

(Pub. L. 93-531, 88 Stat. 1712, 25 U.S.C. 640d-640d-24)

Sandra Massetto,
Chairperson, Navajo and Hopi Indian Relocation Commission.

[FR Doc. 79-35291 Filed 11-14-79; 8:45 am]

BILLING CODE 4310-HB-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 79-157]

Drawbridge Operation Regulations; Quincy Bay, Ill.

AGENCY: Coast Guard, DOT.

ACTION: Final rule—Revocation.

SUMMARY: This amendment revokes the regulations for the Quincy Railroad Bridge Company drawbridge across Quincy Bay opposite Broadway Street, Quincy, Illinois because the drawbridge has been removed. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: This amendment is effective on November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/TP 14), Room 1414, Transpoint Building, 2100 Second Street, S.W., Washington, D.C. 20593 (202-426-0942).

DRAFTING INFORMATION: The principal persons involved in drafting this revocation of regulations are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

§ 117.60 [Revoked]

In consideration of the above, facts, part 117 of Title 33 of the Code of Federal Regulations is amended by revoking § 117.620.

(Sec. 5, 26 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: November 5, 1979.

W. E. Caldwell,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 79-35303 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL 1350-8]

Designation of Areas for Air Quality Planning Purposes; Redesignation of Attainment Status: Humboldt County, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice revises the attainment status designation of Humboldt County, California for total suspended particulates (TSP). The revision is the result of (a) a request from the State Air Resources Board (ARB) to redesignate Humboldt County to attainment for TSP, and (b) the absence of detected violations since 1975. Humboldt County is redesignated from nonattainment (secondary) to attainment for TSP.

DATE: Effective November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Rodney L. Cummins, Chief, Technical Analysis Section (A-4-3), Air Technical Branch, Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105, Phone: (415) 556-2002.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977, Pub. L. 95-95, added to the Clean Air Act (CAA) section 107(d), which directed each State to submit to the Administrator of the EPA a list of the National Ambient Air Quality Standards (NAAQS) attainment status of all areas within the State. The Administrator was required under section 107(d)(2) to promulgate the State lists, with any necessary modifications.

For each NAAQS, areas are classified as either (1) not attaining the standard or, for certain pollutants, projected not to maintain the standard (nonattainment areas), (2) meeting the standard (attainment areas), or (3) lacking sufficient data or information to be classified (unclassified areas). The EPA Published these lists on March 3, 1978 (43 FR 8962). At that time Humboldt County was classified nonattainment (primary) for TSP.

Under section 107(d)(5) of the CAA, as amended, a State may revise its designations of attainment status and submit them to the EPA for promulgation.

On March 19, 1979 (44 FR 16388), the

EPA revised the designation of Humboldt County to nonattainment (secondary) for TSP, as recommended by the State of California, because some data were found by the ARB to be invalid. The remaining data indicated violations of the annual "guideline" to the secondary standard, but no violation of the annual primary standard.

A June 28, 1979 letter from the ARB states that Humboldt County was inadvertently omitted from a list of areas earlier recommended for redesignation to attainment for TSP because of a misunderstanding regarding the "guideline" value of 60 µg/m³ (see 40 CFR 50.7(a)). The ARB therefore requested the redesignation of Humboldt County to attainment for TSP.

On September 11, 1979 (44 FR 52850), the EPA published a Notice of Proposed Rulemaking, proposing to redesignate Humboldt County as attainment for TSP and inviting public comments on that proposal. No comments were received.

Based upon a review of the TSP air quality data for Humboldt County, the EPA finds that the NAAQS for TSP have been attained.

As a result of this redesignation, the State of California is no longer subject to the requirements of Title I, Part D (Plan Requirements for Nonattainment Areas) of the CAA, as amended, for TSP in Humboldt County.

The EPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

(Sections 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7601(a)))

Dated: November 9, 1979.

Douglas M. Costle,

Administrator.

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

§ 81.305 [Amended]

1. In § 81.305—California, the attainment status designation table for TSP is amended as follows:

In the California—TSP table published in the Federal Register on March 19, 1979 (44 FR 16388), the designation of Humboldt County is amended. The amended portion of the TSP table for § 81.305 reads as set forth below:

California—TSP				
Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Humboldt County	*	*	*	*

[FR Doc. 79-35216 Filed 11-14-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 227

[FRL 1360-2]

Announcement of Schedule for Promulgation of Revised Final Ocean Discharge Guidelines; EPA Interim Permitting Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of schedule for promulgation of revised final ocean discharge guidelines; notice of EPA interim guidelines for National Pollutant Discharge Elimination System (NPDES) permitting of ocean dischargers.

SUMMARY: EPA has been ordered by a United States District Court to promulgate revised ocean discharge guidelines, pursuant to section 403(c) of the Clean Water Act (the Act), in accordance with a proposed schedule submitted by the Agency. Under this schedule EPA is to deliver final regulations to the Federal Register by July 30, 1980. Pending promulgation of the revised regulations, EPA writers and reviewers of NPDES permits for discharges subject to section 403(c) are to use the statutory criteria in section 403(c), in all cases, and the ocean dumping criteria in 40 CFR Part 227, wherever appropriate, as interim guidelines.

EFFECTIVE DATE: November 9, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas P. O'Farrell, Office of Water Planning and Standards (WH-551), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, 202-755-6867.

SUPPLEMENTARY INFORMATION: Section 403(c) of the Clean Water Act provides for EPA's promulgation of guidelines "for determining the degradation of the waters of the territorial seas, the contiguous zone, and the oceans," with reference to seven statutory criteria. EPA originally promulgated section

403(c) ocean discharge guidelines on October 15, 1973 (38 FR 28610), but withdrew the guidelines on January 11, 1977 (42 FR 2482). Following that, EPA encountered substantial difficulty in developing revised section 403(c) guidelines; the Agency has not published revised guidelines.

On June 21, 1979, Pacific Legal Foundation filed suit in United States District Court for the Eastern District of California, seeking, among other things, that EPA promulgate revised section 403(c) guidelines within ninety days. *Pacific Legal Foundation v. Costle*, Civ. No. S-79-429-PCW. National Wildlife Federation and California Natural Resources Federation, intervenors in the lawsuit, sought, among other things, that EPA promulgate the revised guidelines "as expeditiously as possible" in accordance with a court-ordered schedule.

In response to separate motions for summary judgment filed by the plaintiff and plaintiff-intervenors, EPA submitted to the Court a proposed schedule, under which the Agency, by July 30, 1980, would deliver final ocean discharge guidelines to the Federal Register for publication. At the same time, EPA stated that in the interim, given the absence of published guidelines, Agency policy on NPDES permitting of ocean dischargers contemplates that the criteria enumerated in section 403(c) will be considered and that, where appropriate, permit writers may look for guidance to the ocean dumping criteria, 40 CFR Part 227, promulgated under the Marine Protection Research, and Sanctuaries Act of 1972, as amended. EPA's statement reflected a July 20, 1977, directive to this effect from the Deputy Assistant Administrator for Water Enforcement to the Regional Enforcement Directors and was consistent, as well, with the October 20, 1978, Decision of the General Counsel No. 72.

Following a hearing on the summary judgment motions, the Court, on October 31, 1979, ordered EPA to promulgate revised ocean discharge guidelines in accordance with the Agency's proposed schedule. The schedule provides that proposed regulations will be published in mid-February 1980.

The Court also ordered EPA to deliver to the Federal Register, by November 9, 1979, interim guidelines which conform to current Agency policy in reviewing, issuing, or denying NPDES permits for

discharges to the territorial seas, the contiguous zone, or the oceans, pending repromulgation of the final ocean discharge guidelines. As discussed above, EPA has used as interim guidelines the policy enunciated in the July 20, 1977, memorandum. In accordance with the Court's order, EPA here reiterates the thrust of that memorandum and makes more explicit the Agency's policy for NPDES permitting of ocean dischargers pending promulgation of revised ocean discharge guidelines.

Until such final regulations are promulgated, it is imperative that discharges into the oceans are in compliance with applicable statutory provisions. Therefore, pending promulgation of final ocean discharge guidelines, the criteria set forth in section 403(c) of the Act are to be considered and applied in the issuance, re-issuance, or review of all NPDES permits for ocean dischargers. In addition, except where circumstances make it inappropriate to do so, the ocean dumping criteria in 40 CFR Part 227 are to be applied to the fullest extent possible before issuing, re-issuing, or reviewing any such NPDES permits.

Dated: November 8, 1979.

Suep T. Davis,
Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 79-35243 Filed 11-14-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5735]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance
Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes

the sale of flood insurance to owners or property located in the communities listed.

EFFECTIVE DATE: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20834, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Nebraska	Saunders	Weston, village of	310205-A	Oct. 24, 1979, emergency.	Oct. 18, 1974 and Feb. 20, 1978.
North Carolina	Anson	Peachland, town of	370285	do	Apr. 7, 1978.
New York	Columbia	Chatham, town of	361314	Oct. 26, 1979, emergency.	Jun. 10, 1977.
Do	Albany	Knox, town of	360011	do	Oct. 22, 1976.
Pennsylvania	Clarion	Beaver, township of	422362	do	Jan. 24, 1975.
Florida	Brevard	Canaveral Port Authority	120619-New	Oct. 29, 1979, emergency.	do
New York	Albany	Ravena, village of	361346	do	Oct. 22, 1976.
North Dakota	Mountrail	White Earth, city of	380074	Oct. 30, 1979, emergency.	Dec. 20, 1974.
Texas	Coryell	Unincorporated areas	480768-A	Oct. 26, 1979, emergency.	Dec. 6, 1977.
Do	Taylor	Tuscola, city of	481017	Oct. 30, 1979, emergency.	Aug. 29, 1975.
Arizona	Mohave	Lake Havasu City, city of	040115	Nov. 1, 1979, emergency	do
Illinois	Macon	Blue Mound, village of	170946-A	do	Nov. 3, 1978.
Indiana	Tipton	Unincorporated areas	180475	do	Mar. 18, 1979.
North Carolina	Duplin	Kenansville, town of	370399	do	Jun. 24, 1977.
Alabama	De Kalb	Fyffe, town of	010355	Nov. 2, 1979, emergency	Jul. 2, 1978.
Florida	Baker	Unincorporated areas	120419	do	Jan. 27, 1976.
Do	Orange	Windermere, town of	120381-A	do	Apr. 22, 1977.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued November 2, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-35218 Filed 11-14-79; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 78-374; FCC 79-665]

Regulation of Domestic Receive-Only Satellite Earth Stations

AGENCY: Federal Communications Commission.

ACTION: First Report and Order in CC Docket No. 78-374, Regulation of Receive-Only Satellite Earth Stations.

SUMMARY: The Commission adopted its First Report and Order in CC Docket No. 78-374. Therein, the Commission altered its policy requiring licenses for all receive-only facilities. Under the new policy, only those operators who wish to be protected from interference need apply for a license. In addition, the Commission waived the requirement that operators seeking a license obtain a construction permit prior to construction of receive-only facilities and lessened the amount of information required from receive-only earth station applicants.

EFFECTIVE DATE FOR POLICIES AND CONDITIONS: October 18, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jané E. Mago, International and Satellite Branch, Common Carrier Bureau, (202) 632-7265.

First Report and Order

Adopted: October 18, 1979.

Released: November 7, 1979.

By the Commission: Chairman Ferris issuing a separate statement.

In the matter of regulation of domestic receive-only satellite earth stations, CC Docket No. 78-374, 44 FR 6755, February 2, 1979.

Introduction

1. This proceeding was instituted by the Commission to explore legal, technical and policy questions associated with the possible deregulation of domestic satellite receive-only earth stations.¹ Our *Notice of Inquiry* (NOI) described the history of receive-only regulation and the current licensing process which requires frequency coordination, construction permit and licensing of receive-only earth terminals. The notice set forth the benefits which accrue from regulation, as well as various criticisms of the present system. We asked that interested parties evaluate the present system and suggest alternative forms of regulatory and/or deregulatory action. In addition, commenting parties were asked to address the specific issues of optional licensing, statutory requirements of regulation, regulatory distinctions based on the type of receive-only operator, the impact of Section 605 of the Communications Act on any regulatory scheme, and the

impact of the international Radio Regulations.

Summary of Decision

2. Based on the record in this proceeding, our review of the present regulatory program for receive-only earth stations, relevant statutes and Commission precedent, we conclude, as discussed below, that the public interest would be served by the following:

- (1) Immediate implementation of a voluntary licensing program for receive-only earth stations;
- (2) Complete deregulation of unlicensed receive-only earth stations;
- (3) Initiation of a rulemaking proceeding to revise existing rules and establish new rule sections in Part 25, including, but not limited to, specific procedures for possible further deregulation and the investigation of possible total deregulation of all receive-only earth stations.

Background

3. Our investigation of the feasibility of developing domestic satellite communications began in 1966 and reached its first procedural plateau in 1970 with the adoption of the *First Report and Order in Docket 16495*.² Relying on our experience with the INTELSAT system we concluded that

¹ *Notice of Inquiry, Common Carrier Docket 78-374*, 44 FR 6755 (February 2, 1979), 70 FCC 2d 1490 (1979).

² 22 FCC 2d 86 (1970). Hereinafter cited as *First Report and Order*.

the public interest would be served by the development of a domestic satellite system. However, we drew no conclusions with regard to the specific types of systems or services which should be developed. Instead, we requested that interested entities submit proposals for system designs, noting from the outset that any system should combine technological efficiency with high quality communications service. Most importantly, however, we stated our belief that multiple entry into the domestic satellite communications market would prove of most benefit to the public interest and that optimal use of the orbital arc could be accomplished through designs which called for reasonably small intersatellite separations.

4. One of the fundamental bases for the development of our regulation of satellite facilities is the existence of interference in shared frequency bands and the effect it might have on the quality of service available to the public.³ In our *Further Notice of Inquiry in Docket No. 16495*, we noted that potentially serious interference problems might arise between satellite earth station facilities and terrestrial systems operating in the 4 and 6 GHz bands and therefore requested public comment on the feasibility of using alternative frequency bands to avoid or ameliorate this problem.⁴ Interference was also addressed in the course of our discussion of specialized common carrier services in *Docket 18920*.⁵ There we concluded that mandatory prior coordination of terrestrial facilities would be beneficial because it would reduce the filing of petitions to deny applications for authorization of new facilities and encourage "various carriers to use the limited frequencies more effectively." * * *⁶ In *Docket No. 19495*, we applied similar reasoning when we determined that prior coordination was an effective means of coordinating transmitting and receiving earth station frequency assignments in shared bands, and adopted flexible engineering standards toward that end.⁷

5. The *Second Report and Order in Docket No. 16495* was adopted in June 1972.⁸ On the basis of the concrete applications filed in response to the

adoption of the *First Report and Order* and the responsive pleadings and oral argument *en banc*, we determined that multiple entry into the domestic satellite field on a competitive basis would best serve the public interest. In addition, we stated our policy objective to have a flexible ground environment which would permit a variety of earth station ownership patterns and afford diversified access to space segments.⁹ The Order recognized that we were developing policies and applying them to a nascent industry in which numerous uncertainties could only be resolved in light of operational experience. Accordingly, we adopted flexible standards designed to be interpreted and modified as experience might dictate.

6. Because we chose to adapt our domestic satellite policies as experience indicated, our regulation of receive-only terminals has been evolutionary. Domestic satellite service was initiated in late December 1973 and grew steadily until early 1977 when the growth in use became explosive. Early, receive-only facilities were very expensive and therefore installed primarily by common carriers to serve multiple users. However, as technology advanced and the equipment market developed, facilities became more affordable and practical for a wider range of users and purposes. In 1975, we authorized Florida Cablevision to construct a receive-only terminal for private use with its CATV system.¹⁰ This was followed by a large influx of similar applications and a series of public notices which set forth procedures designed to streamline the applications process.¹¹

7. This flexible, experience-oriented nature of our satellite policy led to a substantial amount of case development of specific regulatory requirements. For example, in a second Florida Cablevision case, we determined that in light of the increasing diversity of program sources,¹² receive-only station licensees would no longer be required to obtain Commission approval for the reception of specific programming.¹³ We further developed our domestic satellite policy in *American Broadcasting Companies, et. al.*, 62 FCC 2d 901 (1977),

where we determined that the use of small antennas was consistent with our domestic satellite policy objectives if certain technical criteria were met. Some subsequent small antenna authorizations placed the risk of potential degradation of quality reception on the applicant, where the operator was willing to accept that risk.¹⁴

8. The current receive-only licensing process has three steps: frequency coordination, construction permit and license. Frequency coordination is an analytical process designed to resolve potential interference problems and must be performed prior to the filing of an application for construction permit and license. Construction permits and licenses are issued pursuant to the provisions of Title III of the Communications Act of 1934. Both monetary and time costs are associated with this system. Uncontested receive-only applications are generally granted within 45 days of the date public notice of the filing is given. The costs which applicants incur are associated primarily with frequency coordination and application preparation.

9. In addition to filing for initial construction permits and licenses, Title III requires that licensees file formal applications for authority to assign or transfer stations. The proposed controlling party of a receive-only station is required to make all showings required of the initial applicant, except that there is no need to re-coordinate the facility. When an operator holding a non-common carrier authorization seeks to share its facility with an unaffiliated entity, it is required to file an application for a modification of its license setting forth the sharing agreement and affirming the non-profit nature of the proposal. This requirement is patterned after existing cooperative/shared-use provisions in private terrestrial radio services and is designed to avoid conflict with the common carrier provisions of the Act.¹⁵

Comments of Parties

10. Approximately 60 parties responded to our Notice of Inquiry. Both the comments and the type of commentors varied widely. Commenting groups included common carriers, program originators, CATV owners, frequency coordinators, equipment suppliers, government agencies, broadcasters and communications law

firms.¹⁶ There was nearly universal agreement among the commentors that the basic goals which we sought and seek to achieve through receive-only regulation are valuable. The parties differ, however, on the best method to achieve these objectives. Some parties advocate more stringent regulation, some advocate maintenance of the status quo and others believe steps approaching total deregulation are desirable.

11. Those finding fault with the present system focus mainly on two problems which may be characterized generally as monetary costs and administrative delay. Solutions proposed to alleviate the cost of obtaining and operating a receive-only terminal include plans for optional licensing, reducing the amount and type of information to be filed with the Commission and lessening the burden of frequency coordination. To reduce administrative delay, the parties suggest that the Commission adopt a standardized application form, establish a single public notice period for coordination and application, waive the construction permit requirement, and institute an automatic grant system for license applications. Nearly all these proposals were opposed. The proposals and their oppositions are set forth below along with some additional comments.

A. Cost Reduction

12. Many parties addressed the topic of optional licensing of receive-only facilities. Those in favor of the proposal argue that frequency coordination is not necessary in every instance. They assert that for small antennas, particularly where narrowband emissions are to be received, the station can be relocated easily by the operator if interference does occur. Moreover, these parties argue that the frequency coordination requirement imposes unnecessary burdens on the station owner and that the decision to coordinate or not should be left to the individual owner. Finally, the proponents assert that marketplace forces will be sufficient to protect the ultimate consumer from disruptions in service.

13. Two arguments are generally proffered to rebut optional licensing. First, several owners of terrestrial facilities focus, as we did in our early decisions,¹⁷ on the problem of potential

interference in shared bands and suggest this is sufficiently compelling to require continuation of mandatory licensing for receive-only earth stations. These parties argue that any promise to bear the risk of interference is apt to be forgotten when the likelihood that interference will occur increases. They predict that the owners of uncoordinated earth stations will (1) exert pressure on the Commission to deny terrestrial applications which have the potential of creating interference at their sites, thereby delaying service and increasing expenses, or (2) at the very least, attempt to obtain compensation for service disruptions. The second argument, also relying on the language of our earlier orders, is that the public interest will be ill-served by allowing earth station owners to take the risk of offering service to the public over uncoordinated facilities. It is reasoned that the members of the public who will rely on the service offered via these facilities could lose service at any time and may not have a satisfactory means of recourse in such an event. On the other hand, the Justice Department argues that this type of "paternalistic" reasoning is not convincing in light of recent Supreme Court action.¹⁸

14. The commenting parties reached a nearly universal conclusion that there could and should be a reduction in the amount of information required from proposed licensees. Suggestions include the elimination of the need for financial and legal information and the elimination of the need to file detailed frequency coordination reports. The parties arguing that legal and financial information is not necessary when dealing with receive-only terminals point out that there is no waste of valuable spectrum space associated with these devices. Hence, it is urged that the rationale which requires that this type of information be filed with regard to transmitting devices does not apply to receive-only facilities. In addition to initial filings of this information, these commentors argue that the requirement that receive-only licensees apply to transfer control of the facility or to assign the license is unnecessary. They assert that mere notification for the purpose of updating

the Commission's records would be sufficient.

15. Some commentors also argued that the requirement that licensees file frequency coordination reports should be eliminated. Those advancing this argument assert that the Commission should rely upon the professional judgment of the coordinator and allow marketplace forces to account for any problems which might arise from inaccurate coordination. Others argue that the Commission should function as a check on the quality of the coordinators and as a central database for those who wish to access coordination information. Further, it is asserted that the submission of most of this information is only a small burden or the individual licensee since it is already prepared as part of the coordination process.

16. At least one party suggests that there would be a cost savings if the Commission required coordination for only a portion of the orbital arc. This, it argues, would simplify greatly the coordination process. The opponents of this notion suggest that this would prove little better than no coordination at all since it would restrict the Commission's ability to assign and adjust satellite orbital location and deny satellite operators the flexibility of selecting or changing satellites or carriers to satisfy overall requirements best.

B. Administrative Improvements

17. A number of parties suggest methods to reduce administrative delay. Probably the most significant of these might best be described as a blanket waiver of the requirement for construction permits pursuant to Section 319(d) of the Act, 47 U.S.C. 319(d). The proponents of this idea suggest that prior construction, at the risk of the proposed licensee, would enable the individual applicant to begin service immediately upon grant of operational authority even if it were necessary to move the station site, which it is argued, involves little expense. Parties opposed to this suggest that blanket waiver would eliminate the entire purpose of requiring a construction permit since the Commission would be loathe to deny the application where the party has already invested large sums of time, effort and money in the project. They also assert that the cost of relocating and/or shielding an already constructed station is not as minimal as the other parties might suggest.

18. Several parties suggest that the Commission should consider the option of establishing concurrent frequency coordination and public notice periods. This, they assert, will reduce the lead

³ See, for example, fn. 10 of our *First Report and Order*, where we stated: "we think that receive-only stations must be licensed by the Commission if they are to be protected from interference and also to assure the quality of service intended for use by the public."

⁴ 25 FCC 2d 719 (1970).

⁵ 29 FCC 2d 870 (1971).

⁶ *Supra*, at 930.

⁷ 40 FCC 2d 335 (1973).

⁸ 35 FCC 2d 844 (1972).

⁹ *Ibid.* at 855.

¹⁰ 54 FCC 2d 881 (1975).

¹¹ See, 38 FCC 2d 40 (1972); Public Notice of August 8, 1975, FCC 75-832; Public Notice of August 10, 1978, Memo 6044; and Public Notice of January 9, 1979 Memo 11345.

¹² In addition to unregulated television program distributors, such as Home Box Office, we had also authorized a re-sale common carrier to distribute the broadcast signals of an Atlanta television station. See *Southern Satellite Systems*, 62 FCC 2d 153 (1978).

¹³ 67 FCC 2d 339 (1977).

¹⁴ Dekalb Cable TV, application File No. 859-DSE-P/L-79, WJ84 (June 7, 1979).

¹⁵ See public notice on Cost-Sharing, 62 FCC 2d 897 (1978).

¹⁶ Due to the large number of commentors and because many parties raised similar issues, the comments will not normally be identified by commenting party herein. A list of the parties is presented in Attachment 1 and the actual comments are available for inspection in the Commission's record of this proceeding.

¹⁷ See paragraph 4 above.

¹⁸ See Justice Department comments, p. 7. The Department cites *Virginia State Board of Pharmacy v. Virginia Consumers Council, Inc.*, 425 U.S. 748 (1978) and *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977) in support of its argument. In these cases, the Supreme Court rejected the argument that a state should be able to prohibit certain forms of advertising because the ultimate consumer might suffer. The Court found that prohibitions of this kind violated First Amendment protections, at least insofar as the advertisements were not untruthful or misleading.

time required for construction and operation of earth station facilities. Opposing parties urge that this would unduly complicate the coordination process. These parties assert that a single 30 day period is simply insufficient to assure that appropriate coordination is accomplished, and further, there may be instances where the coordination would not be completed within the 30 day public notice period, thus resulting in confusion and delay.

19. Additional administrative improvement suggestions include use of a standardized form, adaption of an auto-grant system for unopposed applications and extension of the renewal period for receive-only licenses from 3 to 5 year. These suggestions are designed merely to promote administrative efficiency and were unopposed. Two parties suggest elimination of the requirement that receive-only earth station licenses be modified when the owner wishes to share the station on a non-profit basis. They propose that owners should be permitted to share simply upon notification to the Commission of the sharer, the program sources to be shared and the owner's intention to share the facility on a non-common carrier basis. No oppositions to this plan were received. Another suggestion, that we increase the time allowed between completion of coordination and filing of applications with the Commission from 6 months to one year, was opposed since, it is argued, there is no justification for the change. The opponents assert that the present time limit is sufficient and a longer period of time would serve only to delay elimination of coordinated earth station sites which will never be used for actual facilities. They also note that the process of extending construction time, under current procedures, if the operator intends to pursue the venture, is certainly a minimal effort.

20. Discussions related to whether or not Section 605 of the Communications Act, 47 U.S.C. 605, requires continued regulation of receive-only earth stations figured prominently in many of the comments received. Some parties argue that licensing is necessary for enforcement of Section 605 since the threat of revocation of the station's license is an effective deterrent to violation. These parties raise the specter of theft of signals and argue that this is a significant problem which any form of deregulation would tend to encourage. Opponents assert that the threat of revocation has little or no deterrent value and note that other means of enforcement, such as the Copyright

Laws and Title III of the Omnibus Crime Control Act, are significantly more effective.

21. In summary, the proposals of the parties were directed primarily to reducing costs and administrative delays which result from the present licensing program. Many parties went further to suggest that our goals could be achieved by a simpler, Commission administered program. Some believe that notification of earth station location and programming to be received would be sufficient. On the other hand, some of the commenting parties felt that more stringent regulation was called for. These parties believe that additional information with regard to the programming which the individual operator had permission to receive would be helpful to enforce Section 605. Finally, some commentators expressed their belief that the present system works quite well and should be maintained.

Discussion—Goals of Receive-Only Regulation

A. Spectrum Management

22. In this proceeding we are evaluating our present regulation of receive-only earth stations with a view towards changes which will result in the least regulation consistent with our domestic satellite policies. If we are to assure the orderly and intensive development of the 4 GHz band by both terrestrial and satellite services, an effective spectrum management scheme must continue to be the basic objective of our receive-only regulatory program. In addition, as recognized in *American Broadcasting Companies, supra*, the technical design of receiving earth station facilities is a vital element in achieving our regulatory objective of maximizing the use of available orbital capacity. Optimum earth station design permits small orbital spacing between satellites and also increases the flexibility of space station operators to reconfigure satellite traffic to satisfy changing service requirements.

23. All parties commenting on this point agree that the present frequency coordination process is the most effective means of insuring the orderly development of the 4 GHz band by both the terrestrial microwave and receiving earth stations where such facilities are to be engineered to a predetermined level of interference. However, many parties believe that it is not necessary to engineer receiving earth stations on an interference-free basis for specialized service applications. In particular, they assert that the relatively low cost of receive-only earth stations makes it

more cost effective for the receiving earth station operator to relocate the station, or make other changes to its earth station, if unacceptable interference actually occurs, than to undertake the costs of frequency coordination needed to engineer the facilities on an interference-free basis from the outset. Such an approach would not undermine the technical integrity of the frequency coordination process as long as it is clear that failure to undertake this process is a waiver of any claim to interference protection and that any risks to an adequate quality of service due to existing or future interference, including all costs to alleviate the situation, shall be borne exclusively by the receiving earth station operator. Under these conditions, the technical basis exists to exempt completely such uncoordinated receive-only earth station facilities from any Title III regulatory program since such facilities would be ignored in future spectrum management decisions.

B. Economic Considerations

24. The maximization of diverse services through multiple entry and competitive marketplace forces is another major regulatory objective of our domestic satellite policies. Such diversity has been particularly demonstrated by the recent rapid development of receive-only earth stations. This diversity covers the nature of services provided, earth station ownership patterns, and technical design of facilities and services. In particular, many parties believe, that greater diversity of services will be stimulated by eliminating technical constraints on receiving earth station design, even if further cost reductions are accomplished by greater risk of lower quality service and increased risk of interference. While we have been flexible in our regulation of the technical characteristics of receive-only terminals, our regulation started from the premise of assuring the high quality of service normally associated with common carrier services provided to the general public and consistency with our spectrum regulation policies. If no protection is to be afforded from interference, elimination of any need for prior Commission approval of receive-only earth station technical characteristics would not undermine our spectrum management responsibilities since the Commission would not consider the impact of spectrum management or earth station design on the nature of services provided over unregulated receiving earth stations. Thus, the maximization of diversity of services which is expected to result

from elimination of our control over the technical characteristics of some receive-only earth stations, can be accomplished without harm to our other regulatory goals.

C. Minimizing Administrative Delays

25. While it is feasible to establish a non-regulated environment for those receive-only earth stations that are not to be protected from interference, it is also desirable to minimize or eliminate administrative delays for those facilities for which interference protection is to be afforded. In particular, many of our present administrative policies are designed to protect the Commission from undue pressure resulting from pre-grant investment in expensive facilities. With the relatively low cost of receive-only earth stations, the likelihood of such pressure is significantly reduced, if not eliminated. Thus, it should be possible to establish a regulatory scheme that does not require Commission approval before construction and operation, yet retains Commission jurisdiction over spectrum regulation issues, provided such construction and operation is at the risk of the receiving earth station operator.

D. Consistency With Other Statutory Requirements

26. While it may be feasible and desirable to exempt individual receive-only earth stations from Title III regulation where no interference protection is to be afforded, certain other regulatory requirements remain. Certain comments in this proceeding suggested that the existing domestic satellites be re-designated as broadcasting satellites. This is not feasible because these satellites operate in the 4 GHz band which is allocated to the Fixed-Satellite Service in both the international and domestic tables of frequency allocations. Thus, transmissions in this service must be between specified fixed points, even though there is no limit in the number of such receiving points. Therefore, the prohibitions of Section 605 and Article 17 of the International Radio Regulations on the unauthorized reception and use of non-broadcasting radio transmissions are applicable. To permit the use of domestic satellites for transmissions intended for reception by the general public, i.e. as broadcasting satellites, would have wide-ranging domestic and international repercussions and is clearly beyond the scope of this proceeding.

Optional Licensing

27. Many of the commenting parties strongly urge the Commission to

implement an optional licensing program for receive-only earth stations. The principal advantage of such a program would be that the expense and administrative delay associated with regulation may be avoided in those situations where the interference protection afforded by coordination and licensing is not desired or needed. In addition, such a plan would allow marketplace forces to function freely in an unregulated arena where basic choices such as the technical design of the system or whether or not to coordinate would be left to the individual operator. In such an environment, customer needs and wants likely will dictate these choices since it is unlikely that ultimate system users will tolerate an interference ridden or unstable system. Moreover, an optional licensing program would enable those who need and/or wish to have protection to obtain an enforceable right to a particular level of interference free reception through the prior coordination process.

28. There are, of course, disadvantages associated with this plan as well. First and foremost, there would be no assurances that an unlicensed facility would be able to maintain the level of interference-free reception which it initially enjoys. It must be emphasized here that if this proposal is to work, we cannot and would not tolerate Petitions to Deny terrestrial facilities applications or other forms of complaint or relief filed by unlicensed facility operators on the basis of experienced or anticipated interference. We also note that there may be significant additional costs associated with modifications necessary to accommodate interference problems at a later date, which would have to be borne by the unlicensed operator. Moreover, as we stated at paragraph 52 of *American Broadcasting Companies, supra*, there is a disadvantage associated with unlicensed receive-only facilities in that the Commission's processes would not be available for the protection of the ultimate users. We find, however, in light of our experience with domestic satellite facilities, that this disadvantage is not as significant as we once believed since, in general, we expect receive-only operators to be responsive to their customers needs, particularly in a competitive marketplace. We believe that consumer interests are best served by direct remedies. In this regard we note that the only remedies which will be removed by our decision herein, are the options to file a petition to deny the earth station's application for renewal of its license or

file a request for revocation of the license. For the most part, the ultimate consumer in this situation is a cable television subscriber to whom other remedies are available and will remain available. For example, the subscriber may seek relief directly from the cable operator, the local franchising authority or even the program distributor.

29. Two additional disadvantages of optional licensing, related to enforcement of Section 605, have been advanced by some parties. These parties argue first that the option of revoking an operator's license must be maintained as a means of enforcement of Section 605 and second, if licensing is made optional, that the Commission must, at the very least, maintain a central list of all station locations and programming. We reject both of these arguments. We note first that Section 605, 47 U.S.C. 605, as amended, which in relevant part prohibits the unauthorized interception and disclosure of radio communications, is applicable to domestic U.S. satellite transmissions except those that may be designated "broadcast for the use of the general public."¹⁹ It is well recognized that the purpose of Section 605 is to "protect the integrity of the telecommunications network." *Nardone v. United States*, 302 U.S. 379, 382 (1937). Domestic satellites are a part of the modern telecommunications network and, as discussed above, all existing satellites have been designated as "fixed" not broadcasting satellites. Signals transmitted over existing domestic satellites are radio communications intended for a specific audience, not for the general public. Hence we conclude that the protections of section 605 remain applicable to existing domestic satellite communications.²⁰ We believe, as a matter of experience, that licensing is not an effective means of enforcing Section 605 because revocation proceedings are time consuming and require a significant investment of Commission resources. Historically, the Commission has employed revocation

¹⁹ This interpretation is generally conceded by the parties. See, e.g. Department of Justice comments, p. 6; Associated Press comments, p. 13.

²⁰ See also, *KMLA v. 20th Century Cigarette Vendors*, 284 F. Supp. 35 (D.C. Cal. 1967) and *Home Box Office, Inc. v. Pay TV of Greater New York, Inc.*, 487 F. Supp. 525 (E.D.N.Y. 1979). Another recent case, *Ortho-Vision, Inc. v. Home Box Office*, 474 F. Supp. 672 (S.D.N.Y. 1979) appears to reach a contrary result with regard to the significance of the intended audience as a determinant of the applicability of Section 605. There the court stated that there is very little to distinguish MDS transmissions from pay TV. (Section 605 is not applicable to pay TV). That case does not affect our decision here since the language is clearly dicta, is not of decisional significance and is limited to the facts before the court at this time.

only in the more extreme circumstances. Moreover, there is not evidence to suggest that the threat of revocation in itself is a significant deterrent. We agree with the Justice Department's contention that other more effective enforcement mechanisms are available. Civil remedies may accrue from violations of Section 605²¹ and Federal Copyright Laws are applicable to much of the material carried via domestic satellite. 17 U.S.C. 501 et. al. (1976). In addition, some provisions of the 1968 Omnibus Crime Control Act make the mere interception of protected communications a federal crime, 18 U.S.C. 2511 et. seq. (1976) and may afford a special civil right of action. Furthermore, our other administrative remedies include imposition of forfeiture or issuance of a cease and desist order. Moreover, we recognize that as an alternative to legal enforcement of Section 605, programming parties have the option of scrambling the signal transmitted and thus making unauthorized reception and use much more difficult.

30. Upon review of the simple notification plan proposed by some parties, we believe that notification per se serves no useful regulatory purpose. It would appear that any party with standing to pursue the available remedies should have access to the necessary information through other means, such as their own records or the carrier's records. Thus we find that there is no substantial public interest in establishing a Title III regulatory program solely to enforce Section 605. We wish to emphasize, however, that we are concerned about illegal interception of common carrier transmissions. However, we do not believe that our objectives of minimizing the regulatory burden in this area should be held hostage to those individuals who may be inclined to commit illegal acts. We will address Section 605 in a proceeding on communications privacy which the staff is preparing.

Conclusions

31. Consequently, based on our evaluation of the record before us in this proceeding and on our experience with the current regulatory scheme, we conclude that the public interest will be served by immediate implementation of voluntary licensing for receive-only earth stations. We note first that this decision is legally correct. The Communications Act of 1934 does not require licensing of receive-only earth stations. The Act states that a license is "that instrument of authorization

²¹ *ibid.*

required by this Act or the rules and regulations of the Commission made pursuant to this Act, for the use or operation of apparatus for transmission of energy, or communications or signals by radio * * * 47 U.S.C. 153(cc), while "transmission of energy by radio" is defined to include "both such transmission and all instrumentalities, facilities, and services incidental to such transmission." 47 U.S.C. 153(d). Similarly, Section 301, defines the Commission's authority over radio as intended "to maintain the control of the United States over all channels of interstate and foreign radio transmission." 47 U.S.C. 301. Section 301 further states that "no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio * * * except under and in accordance with this Act." By definition, receive-only earth stations do not transmit. While it might be argued that receiving facilities are incidental to radio transmission, the full extension of that argument would be unreasonable because it would require that all television and radio receivers be licensed as well as receive-only earth stations. We therefore conclude that licensing of receive-only earth stations is not mandated by the Act.²² However, we continue to believe that the power to regulate receive-only earth stations is ancillary to our other regulatory responsibilities to maximize effective use of satellite communications.²³ It has been our policy to exercise our administrative discretion under the spectrum regulation provisions of Title III. As discussed above, we announced our decision to exercise this discretionary power over receive-only stations in our First Report and Order so that protection from interference might be available; such stations do not transmit radio signals and therefore cannot cause interference to other users of the radio spectrum. We believe that the continued availability of protection from possible interference will be in the public interest. However, that protection need not be mandatory since we conclude that licensing is not necessary to achieve our general regulatory objectives, and benefits are expected from eliminating Title III regulation of those facilities for which no interference protection is to be afforded.

²² All parties commenting on point agree with our conclusion. See, e.g., Associated Press comments, pp. 5-6; Justice Department, p. 2.

²³ The Commission's powers have been interpreted broadly, to include those matters reasonably related to our regulatory purview. *United States v. Southwestern Cable Co.*, 392 U.S. 157 (1968).

32. It is well settled, as a matter of law, that an administrative agency changing a previously held policy "must supply a reasoned analysis indicated that prior policies and standards are being deliberately changed, not casually ignored." "We believe that such a showing has been made herein. We also find that this decision is consistent with requirements of procedural due process since the parties were specifically requested to address these policy issues by our Notice of Inquiry and in fact did so.

33. It is not intended that this decision affect responsibilities imposed upon earth station operators by any other federal or state law. In particular, we remind all receive-only operators that the procedures and standards developed by the Federal Aviation Administration with respect to proposed antenna structures are still applicable regardless of any decision made here.²⁴ In addition, optional licensing does not apply to INTELSAT facilities since additional regulatory responsibilities are imposed by the 1962 Communications Satellite Act on receiving facilities.

34. As a practical matter, we find that non/mandatory licensing of receive-only stations is an advantageous solution to the concerns raised by the parties in the course of this inquiry. The technical concerns which prompted us to adopt the present mandatory licensing scheme, such as control over orbital spacings and establishment of an orderly protection program, will still be met through optional licensing. It has been proven technically feasible for small antennas, less than 4.5 meters, requiring little physical construction, to receive signals of reasonable quality from operational domestic satellites. While use of antennas smaller than 4.5 meters may be desirable for some users, we will only provide protection for such facilities upon a submission of a technical showing that meets those same performance criteria established for the 4.5 meter antenna.²⁵ This in no way diminishes our control over satellite spacing since we will not alter present orbital spacing or inter-satellite interference criteria to accommodate those earth stations. Accordingly, for the

²⁴ See *Greater Boston Television Corporation v. F.C.C.*, 444 F.2d 841, 852 (D.C. Cir. 1970). See also, Section 553 (b)(3)(A) of the Administrative Procedure Act, 5 U.S.C. 553 (b)(3)(A), which specifically exempts general statements of policy from the notice requirements generally imposed in Rulemaking proceedings.

²⁵ See, FAA Rules and Regulations, Part 77, Subpart 13, Objects Affecting Navigable Air Space. Licensed operators are, of course, subject to FCC Rules and Regulations, Part 17, Construction, Marking and Lighting of Antenna Structures.

²⁶ See *American Broadcasting Companies, supra*.

reasons stated above, we find that the public interest will be served by immediate implementation of a policy of non-mandatory licensing for receive-only earth stations. This policy change does not affect our rules set forth in Part 25. Changes in those rules will be made through a rulemaking to be issued in the near future.

35. For the purpose of clarification we emphasize that this action applies solely to domestic satellite receive-only earth stations where licensing has been required in the past, and does not include INTELSAT or INMARSAT facilities. We are required by Section 301 of the Communications Act to license transmitting facilities and we propose no changes whatsoever with regard to procedures for regulating those facilities.²⁷

36. A few specific matters should also be addressed here. First, those stations which have already been licensed and those who choose to seek licenses in the future will be subject to our policies and procedures developed with regard to Title III licenses. However, we find that certain criteria, specifically those related to the financial and legal qualification of the applicant, are not necessary where receive-only facilities are requested. We also find that the public interest will be served if actions taken with regard to receiving facilities are made primarily on the basis of technical characteristics.

37. We agree with the commentors that financial and character information is not relevant to the processing and consideration of receive-only facilities. These criteria were developed for transmitting facilities to insure effective spectrum use in the public interest. Receive-only facilities do not present those same concerns since they do not create interference or significantly reduce spectrum availability in general. Moreover, consideration of these factors

²⁷ Of corollary concern are our treaty obligations under the INTELSAT Agreement recognized in our *First Report and Order* where we explicitly discussed our obligation to insure technical compatibility between our domestic satellites and INTELSAT satellites. We are also bound to consider pursuant to Article XIV (d) of the INTELSAT Agreement potential adverse economic harm to the INTELSAT system when domestic satellites are used for international services. This matter is presently before us in another proceeding. Thus, any deregulation of receive-only earth stations does not imply permission to receive service from non-U.S. domestic satellites or for Domsat carriers to provide service to non-U.S. points. Such permission can be provided only after the discharge of our treaty obligations to INTELSAT. Therefore, until such permission is granted, any reception of non-U.S. signals is unauthorized and subject of the sanctions of Section 605.

is not mandated by the Act,²⁸ and does not have any independent value to achievement of our goals for receive-only regulation. These goals may be achieved primarily by consideration of the technical parameters of the proposed facility. Finally, we find that reduction of the amount of information associated with receive-only applications will serve the public interest in efficient administrative procedure since it will reduce cost, lessen the administrative burden and reduce service delays. Therefore, receive-only applications should no longer contain Form 430, the applicants articles of incorporation or balance sheets.²⁹

38. Several commentors objected to the concept of optional licensing because unlicensed operators might misinterpret their procedural posture. We wish to make it very clear that no interference protection is afforded to unlicensed facilities. An initially uncoordinated facility may later coordinate and qualify for protection on the basis of the existing and planned terrestrial interference environment at the time the coordination process is begun. However, protection from interference due to existing or planned terrestrial systems will not be afforded after the fact. Election not to coordinate is a waiver of any right of objection and acceptance of any existing or future interference. In addition, we specify that signals from non-US domestic satellites may not be received over any domestic receiving terminal unless specifically authorized. Present receive-only licensees shall retain full protection unless otherwise requested.³⁰ Current applications on file shall be processed in due course unless otherwise requested by the applicant. Upon expiration of the current licenses, receive-only earth station operators may file applications for renewal or not, as desired. However, if the license is not renewed, the station shall acquire the status of an unlicensed facility.

39. To further lessen any administrative burden on the applicant, we believe that earth station licenses should be issued for terms of five years instead of three. Since developmental licenses are not eligible for protection, we anticipate that in most

²⁸ Section 308 requires only that we examine "such facts as the Commission by regulation may prescribe * * *"

²⁹ A specific statement concerning the content and format of future applications will be presented in a public notice which we will release in the near future.

³⁰ Licensees shall remain subject to all currently imposed conditions until further order of the Commission including, but not limited to, responses to coordination requests.

circumstances operators will choose not to seek a developmental receive-only license, and we will not require that such application be filed. We will no longer require modifications of license for shared use provided that sharing is done on a non-profit basis in accordance with the standards set forth in our Rules pertaining to CARS service, Section 78.11 as well as any specific restrictions contained in the station license other than general condition which requires license modification for cost-sharing with unaffiliated entities.³¹

40. The second action urged upon us by the parties to this proceeding is to seek ways to eliminate administrative delays in the licensing process. We recognize that inherent delays exist in the licensing process. However, we agree with those parties who contend that some relief may be provided. Therefore, we believe that even where receive-only facilities are to be licensed, there is no practical need, under the new policies we are adopting, for the construction permit stage and its inherent delays. Thus we will waive that requirement under Section 319(d) of the Act for all receive-only facilities.³² The arguments set forth by the parties are summarized above and will not be repeated here except to note that this approach will enable station operators to commence protected operation immediately upon grant of a license provided that they are willing to risk the cost of making any changes required if the submitted coordination is faulty in some way. This solution will permit operators to set firm construction dates and reduce the chance of service delays. However, as indicated above, we will not be influenced by any construction prior to licensing since failure to complete coordination means protection is not available and the station is placed in the category of secondary use. This action is clearly consistent with the public interest and within the scope of our authority under the Act.³³

41. Accordingly, we hereby grant an immediate waiver of the requirements of a construction permit for all domestic satellite receive-only earth stations pursuant to Section 319(d) of the Communications Act.

³¹ Applications presently on file which meet these standards will be granted in due course and future licenses will contain a specific cost-sharing condition instead of conditions 2100, 2101, 2102 or 2103.

³² By instituting the optional licensing procedure we are in effect permitting any receive-only station to operate without protection immediately upon completion of construction.

³³ See discussion *UA-Columbia Cablevision, Inc.*, et al., 55 FCC 2d 656 (1975).

Implementation

42. In the course of this inquiry, we have discerned that even less restrictive regulatory tools might be employed to accomplish our objectives with regard to receive-only earth stations. Among other things, we believe that further deregulatory action which may include a registration program designed to insure orderly development of the 4 GHz band, may be appropriate.³⁴ This could lead to complete marketplace regulation and elimination of the federal role in solely receiving operations. Such a move, or course is not without risk. However, we believe that these matters should be addressed in a further proceeding which we will initiate in the near future.

Order

43. Accordingly, it is ordered that pursuant to the authority contained in Sections 4(i) and 4(j) of the Communications Act of 1934, the policies and conditions set forth herein, are adopted, effective October 18, 1979.

Federal Communications Commission.³⁵
William J. Tricarico,
Secretary.

[CC Docket No. 78-374]

Attachment No. 1

Wometco Communications, Inc. (2)
GTE Service Corporation, GTE Satellite Corporation and Affiliated Companies
American Telephone and Telegraph Company
Spectrum Analysis and Frequency Engineering (SAFE)
Microband Corporation of America
MCI Telecommunications Corporation
Mutual Broadcasting System, Inc.
Comsearch, Inc.
American Satellite Corporation
Scientific Atlanta, Inc.
United Press International, Inc.
Community Antenna Television Association
Robert B. Cooper Jr., Editor-in-Chief, CATJ
Community Antenna Television Journal
Teleprompter Corporation
Cole, Zylstra & Raywid
Eastern Microwave, Inc.
American Television and Communications Corporation
The Commissioner of Baseball
Storer Broadcasting Company
Viacom International Inc.
Midwestern Relay Company
Compucon, Inc.
Comsat General Corporation
Home Box Office, Inc.
The National Cable Television Association, Inc.
Global Cable TV
Fred Hopengarten, Attorney at Law
Telecable Corporation

³⁴ We do not, of course, anticipate affording protection to entities who have not successfully completed frequency coordination.

³⁵ See attached Separate Statement of Chairman Ferris.

National Basketball Association
National Hockey League
RCA Alaska Communications, Inc.
National Broadcasting Company
Motion Picture Association
RCA American Communications, Inc.
National Association of Broadcasters
The Public Service Satellite Consortium
Satellite Telecommunications SEC.,
Communications Div., Electronic Industries Assoc.

National Telecommunications and Information Administration
Corporation for Public Broadcasting, Public Broadcasting Service, National Public Radio

Visions, Ltd
California Microwave, Inc.
Robert Wold Company, Inc., and Satellink, Inc.

Commodity News Services, Inc.
American Newspaper Publishers Association
Forward Communications Corporation (and subsidiaries)

Guarany Broadcasting Corporation
John H. Phipps Broadcasting Stations, Inc.
Plains Television Corporation
Southern Television Corporation
Summit Radio Corporation
WKRG-TV, Inc.

American Broadcasting Companies, Inc.
Associated Press
The United States Department of Justice
Daniel T. Kropt (TV cameraman)
Western Union Telegraph Company
CBN Satellite Services—CBN Cable/Satellite Division

Colony Communications, Inc.
Connorsville Cable TV
Cox Cable Communications, Inc.
Midcontinent Cable Systems Co.
New Channels Corporation
Tri County Cable Television Inc.
Dow Jones & Co. (Wall Street Journal)
Communications Satellite Corporation
Tandy Corporation
Meredith Corporation
Southern Satellite Systems, Inc.
Satellite Communications Systems, Inc.
October 18, 1979.

Separate Statement of Chairman Charles D. Ferris

In Re: Deregulation of Receive-Only Domestic Earth Stations.

The FCC today has authorized a program to eliminate mandatory licensing for receive-only satellite earth stations and reduce regulatory burdens on those who choose to continue to follow the licensing route. This action continues our recent efforts to promote more efficient use of FCC resources, eliminate unnecessary paperwork, simplify application procedures, encourage rapid and wide dissemination of technological innovation, and do away with redundant governmental regulation where the marketplace itself operates in the public interest.

Communications satellites already offer the public tremendous opportunities for receiving diversified programming. They have been used to

distribute the broadcasts of the Public Broadcasting Service and National Public Radio, and the Spanish International Network. Other new networks have been formed to distribute a variety of sports, entertainment and religious programming to cable systems.

The future promises even more varied uses. The major newswire services may be moving to satellite distribution, and other data as well as programming services will be offered. The future also promises rapid proliferation in the number of earth stations as they become less expensive to manufacture.

Receive-only earth stations cause no interference whatsoever. Thus the goal of regulating could only be to avoid subjecting them to interference from others. But for the majority of earth stations, no interference is ever experienced. It is often more costly to undertake FCC licensing and frequency coordination than to relocate an occasional earth station if the need arises.

As the number of stations in a network increases, this tradeoff is more attractive. Frequency coordination, an essential prerequisite to licensing, may cost as much as \$3,000 per station. With the hundreds or thousands of stations necessary, for example, to distribute a national newswire system to the nation's newspapers and broadcast stations, it might make better economic sense to move those few which receive interference than to pay hundreds of thousands of dollars for the frequency coordination of all of these stations.

Many services, such as cable television systems and other television distributors may continue to apply for licenses. In any case, the station operator should be allowed to make the choice for itself. Even as to the voluntary licensing option, we terminate today the requirement of a construction permit and eliminate all non-technical submissions (such as the financial and character qualifications of the operator) from the licensing application.

The benefits of deregulation here are clear. First, we eliminate what could have become in the future a massive administrative burden on the FCC. This enables the agency to more efficiently allocate its future personnel and financial resources future to those areas where governmental intervention remains necessary for the public interest. We also eliminate paperwork costs and time restraints completely for those choosing to operate unlicensed, and we reduce it substantially for those who continue to seek frequency protection.

This lowers the economic and procedural barriers inhibiting

unrestricted competitive entry into the satellite field. And it removes the government from one more area where the marketplace can make its own choices.

[FR Doc. 79-35180 Filed 11-14-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 31

[Docket No. 21230; FCC 79-678]

Uniform System of Accounts for Class A and Class B Telephone Companies; Order for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This order on reconsideration amends the Uniform System of Accounts for Class A and Class B Telephone Companies to clarify the Commission's intent in Docket 21230, FCC 2d (1978), relative to the accounting and waiver requirements for Property Held for Future Use.

DATE: Effective January 1, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert Hood, Compliance and Litigation Task Force, Common Carrier Bureau, (202) 632-4888.

In the matter of Amendment of Part 31, Uniform System of Accounts for Class A and B Telephone Companies, Docket No. 21230.¹

Order on Reconsideration

Adopted: October 25, 1979.

Released: November 6, 1979.

By the Commission: Commissioner Jones not participating.

1. The Final Decision in Docket 21230 was adopted on May 4, 1978 and released on May 11, 1978.² The purpose of this decision was to make certain changes in the accounting rules for Class A and Class B telephone companies (Part 31) so that these rules would be consistent with our earlier decision in Docket 19129.

2. Petitions for Reconsideration of our decision in Docket 21230 were filed by the American Telephone and Telegraph Company (AT&T) on June 12, 1978 and the Public Service Commission of the State of New York (New York) on June 16, 1978. On June 22, 1978 the Federal Executive Agencies (Department of Defense and General Services Administration) filed an Opposition to

¹ See 43 FR 21330, May 17, 1978.

² Published in Federal Register on May 17, 1978 (43 FR 21330).

the Petition for Reconsideration filed by AT&T. On July 5, 1978 AT&T filed its Reply to Federal Executive Agencies' Opposition.

3. AT&T takes issue with the accounting prescribed for Account 100.3 "Property Held for Future Telephone Use." First, AT&T contends that the Docket 21230 accounting change is too restrictive. To support its position, AT&T pointed out that for many years, property eligible for inclusion in Account 100.3 was that property "owned and held for imminent use in telephone service under a definite plan for such use." (Commission Rules § 31.100.3). It also pointed out that the Commission had previously considered a two-year rule but found that it "is too inflexible as a test for applying the imminent use principle . . ." (*Private Line cases*, 34 FCC 217, 220 (1963)). AT&T contends that while the Commission was very careful in Docket 19129 (para. 159), not to adopt an inflexible position which would preclude investors from receiving compensation for funds used in acquiring prudent account 100.3 type assets, the Rules adopted and appearing in the May 11, 1978 Order (Docket 21230) "seem to contain the inflexibility criticized by the Commission in both the Private Line cases and Docket 19129." (AT&T Petition for Reconsideration, para. 5).

4. The question here is whether the revisions to Section 31.100.3 of the Uniform System of Accounts ordered in Docket 21230, exceeded or were otherwise inconsistent with the requirements of Docket 19129 at paras. 159-161. In these paragraphs we instituted the "two year" maximum as the standard for "imminent use," because of abuses apparent on the record and not because the potential for such abuses existed. We found that beginning in calendar 1977, all plant in Account 100.3 which had been there for more than a 2-year period could not reasonably be defined as being under a definite plan for imminent use and should be removed to Account 103 (Miscellaneous Physical Property), unless or until a specific waiver had been granted. We did not intend in Docket 21230 to restrict AT&T or any other telephone company to requests for waivers only to extend the period property may remain in Account 100.3. The waiver provision is intended to apply to any specific property item for which it can be shown that inclusion in Account 100.3 is in the public interest. Decisions on waiver requests will be made on an individual case-by-case basis. In order to more clearly indicate our intent, we shall make appropriate

language changes to § 31.100.3. Under the revised language, the costs of property not initially included in Account 100.3 may be included therein without waiver at such time as the property meets the Section 31.100.3 criteria for inclusion. If such property subsequently has to be removed to Account 103 under our rules, any transfer back to Account 100.3 will have to be through the waiver process. This language change as well as the other changes discussed in paragraphs 5 and 6 following, and set forth in the Appendix, do not change the ratemaking treatment given Account 100.3 in Docket 19129.

5. Another problem raised by A.T. & T. is the provision in § 31.100.3 that property included in Account 100.3 must be "owned and held for no longer than two years under a definite plan for use in telephone service." A.T. & T. maintains that this is contrary to the Commission's intent and ignores transfers of property to be used for construction purposes (Account 100.2). We agree that clarification is needed on this point. We stated in Docket 19129 (at para. 159) that

... we shall presently disallow all property that has remained in this account for more than two years and shall require that such plant be placed in Miscellaneous Physical Property (Account 103) until such time as it is placed in service (Account 100.1) or used for construction purposes (Account 100.2). (Emphasis added.)

Consistent with the intent expressed in Docket 19129, we will revise our definition in § 31.100.3 to take into consideration the transfer of property into the construction accounts.

6. A.T. & T. also questions the Commission's requirement in § 31.100.3 that a request for waiver include an indication of the "precise additional time required for the property to be held in Account 100.3 . . ." as opposed to the language in Docket 19129 (para. 159) requiring A.T. & T. to " . . . specify in the waiver request the additional time required for the property to be held in this account." We did not intend to change the meaning of Docket 19129 in this regard; however, it is to be expected that as precise an estimate of the additional time as possible should be furnished. We will modify the language in § 31.100.3 accordingly.

7. The Public Service Commission of the State of New York seeks reconsideration of our decision to modify § 31.100.2 of the Uniform System of Accounts (USOA) by limiting the accrual of IDC to property taking more than one year to complete. In Docket 19129 we drew a dichotomy between short term plant under construction (i.e. plant taking one year or less to

complete) and long term construction projects which would take more than one year to complete. Investment related to short term projects was to be included in rate base immediately, but no interest during construction was to be accrued. Long term projects would be permitted to continue to accrue IDC but the investment related thereto would enter the rate base only when the project was placed in service. In Docket 21230 we sought to modify our accounting rules to incorporate the conclusions reached in Docket 19129.

8. New York does not deny that § 31.100.2 of our USOA, as now modified, faithfully reflects our intent in Docket 19129. Nevertheless, New York argues that the separate treatment of short term plant under construction now mandated by § 31.100.2 should be reversed because of its "pervasive" impact upon state rate regulation. New York contends that the change ordered in Docket 21230, while purportedly governing only accounting treatment of plant under construction, "may well, as a practical matter, influence, if not control, rate making with respect to the investment involved." Specifically, New York claims that our decision will require carriers subject to our jurisdiction to keep extensive separate records to provide the information needed for state regulation; that keeping such separate books will be duplicative and expensive; and that investors will be misled because the books kept in accordance with this Commission's USOA will be controlling for financial purposes and will show different results from the books kept in conformity with New York's regulatory policies. (New York Petition at pp. 4-6).

9. As our Final Order in Docket 21230 makes clear, we have in no way attempted to influence, or interfere with, the rate making prerogatives of the New York PSC or any other state commission. The states remain free to establish intrastate rates on whatever lawful basis they may choose. The fact that separate accounting information will have to be retained to accomplish this and the fact that the gathering and retention of such information may involve additional cost does not, in our view, involve any significant interference with state control over intrastate rates.

10. In any case, the keeping of separate records here is largely unavoidable. The accounting treatment of plant under construction varies from state to state and, although the majority of states do not allow any plant under construction within rate base, there are significant exceptions. For example, the

following states have allowed utilities subject to their jurisdiction to include plant under construction within rate base, with or without provision for interest during construction: South Carolina (*Re General Telephone Company of the Southeast*, 1 PUR 4th, 499 (1973)); Tennessee (*Re South Central Bell Telephone Company*, 22 PUR 4th, 290 (1978)); Colorado (*Re The Mountain States Telephone and Telegraph Company*, 11 PUR 4th, 1 (1975)); Illinois (*Re Illinois Bell Telephone Company*, 13 PUR 4th, 482 (1978)); Florida (*Re Southern Bell Telephone and Telegraph Company*, 12 PUR 4th, 252 (1975)); Georgia (*Re Southern Bell Telephone and Telegraph Company*, 8 PUR 4th, 188 (1974)); Delaware (*Re The Diamond State Telephone Company*, 8 PUR 4th, 420 (1975)); and Connecticut (*Re The Southern New England Telephone Company*, 9 PUR 4th, 301 (1975)).

Thus, even if such a course were otherwise desirable, there was no way for this Commission to adopt a rule which would follow the accounting treatment of plant under construction in every single state. Of necessity, any decision adopted by us would have required some states to keep separate records to reflect their individual solutions to the problem of handling funds devoted to the construction of plant not yet in service.

11. As for the problem of "financial reporting", there is nothing to prevent New York from insisting that a carrier subject to its jurisdiction provide an alternate or supplementary presentation showing the impact of State ratemaking policy upon the carrier's financial posture. While New York may not insist upon a format which would supersede or in any way obscure the presentation of accounts prescribed by this Commission, it retains ample power to insure that a carrier within its jurisdiction provide a full and accurate picture (for example, by the use of footnotes or supplemental presentations) of its financial affairs to investors and other concerned parties. See, *Appalachian Power Co. v. FPC*, 328 F.2d 237, 249 (4th Cir., 1964) and cases there cited.

12. Any problem of financial reporting would appear to be substantially alleviated here by the agreement of New York Telephone—the largest carrier in New York State—to "keep records to satisfy the requirements of both jurisdictions."² New York Telephone

² Letter from New York State PSC to Chief, Common Carrier Bureau, dated January 12, 1979. At this time, the only other New York State telephone company subject to this Commission's reporting requirements is the Continental Telephone Company of Upstate New York, Inc.

has further promised that "[t]he data required by the New York Commission will be the basis for financial reports, as well as reporting to the New York Commission."

13. New York states that its "only objection" to this arrangement is the "unnecessary additional cost." New York does not believe that such additional cost should be recovered through New York intrastate rates. We cannot accept this position. In our view, the need to keep separate accounts or memoranda must be considered a logical consequence of the bifurcated Federal-State regulatory scheme. Where, as is the case here, no uniformity exists among the different jurisdictions, such duplication should be borne by interstate or intrastate rate payers in the same way that all other costs are borne; that is, in accordance with the provisions of the FCC NARUC Jurisdictional Separations Manual.

14. New York further urges that this Commission consider two additional options which it claims "would reflect the rate policies of both jurisdictions where they diverge." These two options, as set forth by New York in its petition, are:

(1) "Development of an IDC rate for each telephone company to reflect the mix between its less-than one-year plant subject to IDC under State regulation and the plan which is eligible for immediate rate base treatment under FCC regulation; or

(2) Allocation to the telephone plant under construction expected to take less than one year to complete between that subject to federal jurisdiction with the full IDC rate applied to the proportion of that plant which would receive IDC under State regulation."

15. Frankly, we are unable to understand precisely what New York has in mind here or what the impact of either option would be. For example, it is unclear whether the records to be retained pursuant to the options suggested by New York would enable appropriate allocations for plant under construction to be made pursuant to the procedures specified in the FCC NARUC Separations Manual. It is also unclear whether these options would actually result in a reduction in the record keeping burden for the carriers subject to both interstate and intrastate jurisdictions or whether a substantial savings could be accomplished thereby.

16. The answers to these questions and a full understanding necessary to properly consider New York's options cannot be obtained within the confines of this proceeding. New York itself points out that "neither option could be implemented on the existing record" and

recommends that a conference be convened at which the development of an accounting rule of the type specified in the two options could be discussed and refined. (New York Petition at p. 8.) Given the fact that a Final Decision has already been issued in Docket 21230 and given the lack of information concerning New York's "options," we believe it would be more suitable for New York (if it remains interested in implementing either option) to file a petition for a rulemaking fully describing both options proposed, their impact, and how these options could be applied consistent with the existing separations procedures.³ After receiving this additional information we will be better able to evaluate the course proposed by New York.⁴

17. Finally, New York challenges our decision in Docket 19129 on the merits. New York states that it "does not believe that the public interest is served by adopting the ratemaking policy (in Docket 19129) which is the sole underlying basis for the proposed rule." Our reasons for the one year cutoff for interest during construction were carefully explained within Docket 19129 (See, 64 FCC 2d 1, 58-60 (1977)), a proceeding which was terminated by our order issued on February 24, 1978 (67 FCC 2d 1429, 1440, n. 12). Even if we were to reopen Docket 19129 at this late date—a suggestion which seems hardly appropriate at this time—we would adhere to our reasoning and our decision therein.

18. Accordingly, it is ordered, that the Petitions for Reconsideration of AT&T and the Public Service Commission of the State of New York, and the Federal Executive Agencies' Opposition to the Petition for Reconsideration of AT&T are hereby denied except as indicated above.

19. It is further ordered, that under authority contained in Sections 4(i), 4(j) and 220 of the Communications Act of 1934, as amended; Part 31, Uniform System of Accounts for Class A and B

³ We do not know whether New York continues to be interested in pursuing the options mentioned in its Petition given its understanding with the New York Telephone Company as reflected in its letter to the Chief of the Common Carrier Bureau dated January 12, 1979.

⁴ We must also decline New York's suggestion that we establish a rule that whichever agency, either Federal or State, has primary rate jurisdiction over the telephone company in question will establish the accounting for telephone plant under construction. Under the Communications Act this Commission has jurisdiction over the interstate operations of all telephone companies including those which provide interstate service within various States. The Commission may not lawfully surrender its regulatory responsibilities in connection with such interstate operations.

Telephone Companies, of the Commission rules, is amended as set forth in the attached appendix below effective January 1, 1979.

20. It is further ordered, that this Proceeding is terminated. (Secs. 4, 220, 48 Stat., as amended, 1066, 1078; (47 U.S.C. 154, 220)) Federal Communications Commission. William J. Tricarico, Secretary.

Appendix

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, of title 47 CFR is amended as follows:

In § 31.100.3 paragraph (a) is revised to read as follows:

§ 31.100.3 Property held for future telephone use.

(a) This account shall include the original cost of property other than station apparatus, owned and held for no longer than two years under a definite plan for use. If at the end of two years, the property is not in use, i.e., transferable to account 100.1, "Telephone plant in service," or account 100.2, "Telephone plant under construction," the original cost of property shall be transferred to account 103, "Miscellaneous physical property." Should a carrier desire to include property in this account for a period longer than two years, it shall request direction or approval of this Commission according to the circumstances surrounding that property. The request should include the property item in question, demonstrate that the waiver is in the public interest, and indicate, as precisely as possible, the time required for the property to be held in this account. The original cost of property not initially includible in this account may be included herein without waiver, at such time as the property meets the criteria for inclusion. If such property subsequently has to be transferred to account 103 under the provisions of this section, any transfer back to this account shall be through the waiver process.

[FR Doc. 79-35179 Filed 11-14-79; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Parts 73 and 74

Reregulation and Rules Oversight of Radio and TV Broadcasting—Editorial Revisions

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Order, by Chief, Broadcast Bureau, to make editorial amendments in broadcast rules to conform Code of Federal Regulations with the Government Printing Office Editions of FCC rules where minor printing and layout differences appear, to revise certain rule titles to describe more accurately the rule subject, to delete temporary "notes" containing expired dated instructions, to correct typographical errors and rule section cross references, and to redesignate the section numbers of certain rules.

EFFECTIVE DATE: November 16, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Reiser, Philip Cross, Steve Crane, Broadcast Bureau, (202) 632-9600.

SUPPLEMENTARY INFORMATION:

Order

Adopted: November 1, 1979.

Released: November 7, 1979.

In the matter of reregulation and rules Oversight of Radio and TV Broadcasting—Editorial Revisions.

1. This Order accomplishes certain editorial corrections and revisions in the rules for stations in the broadcast and broadcast auxiliary services, and are necessary for the following reasons:

A. To conform section numbers given as cross references to the current rule sections.

B. To correct typographical printing errors which have appeared both in the rules as printed by the Government Printing Office and Title 47 of the Code of Federal Regulations.

C. To remove minor differences in printing or layout style between the rules as printed in the Code of Federal Regulations and as published by the Government Printing Office.

D. To change section headnotes (rule titles) to describe more accurately the subject matter of the rule.

E. To delete temporary "notes" containing dated or obsolete instructions which have expired.

The editorial revisions being made do not change the substantive texts, purpose, or application of the rules, impose any additional burdens, or remove any provision relied upon by licensees or the public.

2. We conclude that adoption of the editorial amendments shown in the attached Appendix below will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C.

553(b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

3. Therefore, it is ordered, That pursuant to Sections 4(i), 303(r), and 5(d)(1) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, Part 73 of the Commission's rules and regulations is amended as set forth in the attached Appendix, effective November 16, 1979.

4. For further information concerning this Order, contact John Reiser, Philip Cross or Steve Crane, Broadcast Bureau, (202) 632-9660.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303))
Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

Appendix

PART 73—RADIO BROADCAST SERVICES

1. In § 73.40, the headnote is amended and the note following paragraph (a)(9) is deleted in its entirety.

§ 73.40 **Transmission system requirements.**

2. In § 73.50, the headnote is amended to read as follows:

§ 73.53 **Requirements for type approval of AM modulation monitors.**

3. In § 73.53, paragraph (a)(2) is corrected to read as follows:

§ 73.53 **Requirements for type approval of antenna monitors.**

(a) * * *

(2) Type approval of a monitor is granted subject to the limitations and requirements described in Subpart J of Part 2 of the FCC rules.

4. In § 73.57, paragraph (c)(1) is amended to read as follows:

§ 73.57 **Remote control operation.**

(c) * * *

(1) The tone shall have a frequency no higher than 30 hertz.

5. Section 73.122 is amended to read as follows:

§ 73.122 **Lotteries.**

See § 73.1211.

6. Section 73.124 is amended to read as follows:

§ 73.124 is amended to read as follows:

See § 73.1205.

7. Section 73.126 is amended to read as follows:

§ 73.126 **Broadcast of telephone conversations.**

See § 73.1206.

8. In § 73.207, the headnote is amended to read as follows:

§ 73.207 **Minimum distance separations between stations.**

§ 73.241 [Redesignated as § 73.231]

9. Section 73.241 is redesignated as § 73.231.

§ 73.231 **Special rules relating to contracts providing for reservation of time upon sale of a station.**

§ 73.299 [Redesignated as § 73.288]

10. Section 73.299 is redesignated as § 73.288 and corrected to read as follows:

§ 73.288 **Fraudulent billing practices.**

See § 73.1205.

§ 73.300 [Redesignated as § 73.291]

11. Section 73.300 is redesignated as § 73.291.

§ 73.291 **Personal attacks, political editorials.**

12. Section 73.292 is amended to read as follows:

§ 73.292 **Lotteries.**

See § 73.1211.

13. Section 73.296 is corrected to read as follows:

§ 73.296 **Broadcast of telephone conversations.**

See § 73.1206.

§ 73.301 [Redesignated as § 73.299]

14. Section 73.301 is redesignated at § 73.299.

§ 73.299 **Equal employment opportunities.**

See § 73.2080.

§ 73.313 [Amended]

15. In paragraph (d)(1) of § 73.313, the section number "73.210(a)" in the sentence following the table is corrected to read "73.310(a)".

16. In § 73.317, the headnote is amended to read as follows:

§ 73.317 **Transmission system requirements.**

§ 73.332 [Amended]

17. § 73.332, the Note following paragraph (d)(6) is deleted in its entirety.

§ 73.503 [Amended]

18. In paragraph (d) of § 73.503, the rule section number "73.289" is corrected to read "73.1212".

19. § 73.507, the headnote is amended to read as follows:

§ 73.507 **Minimum distance separations between stations.**

§ 73.574 [Redesignated as § 73.576]

20. Section 73.574 is redesignated as § 73.576.

§ 73.576 **Extension Meters.**

§ 73.572 [Redesignated as § 73.574]

21. Section 73.572 is redesignated as § 73.574.

§ 73.574 **Remote control authorizations.**

§ 73.573 [Redesignated as § 73.575]

22. Section 73.573 is redesignated as § 73.575.

§ 73.575 **Remote control operation.**

§ 73.561 [Amended]

23. § 73.561, the Note following paragraph (b)(1) is repositioned to follow paragraph (d).

24. Section 73.598 is redesignated as § 73.591 as follows:

§ 73.591 **Personal attacks.**

§ 73.597 [Redesignated as § 73.598]

25. Section 73.597 is redesignated as § 73.598 as follows:

§ 73.598 **Operation during emergency.**

§ 73.596 [Redesignated as § 73.597]

26. Section 73.596 is redesignated as § 73.597 as follows:

§ 73.597 **Stereophonic broadcasting.**

§ 73.592 [Redesignated as § 73.596]

27. Section 73.592 is redesignated as § 73.596 as follows:

§ 73.596 **Broadcast of telephone conversations.**

28. New cross reference rule and § 73.592 is added to read as follows:

§ 73.592 **Lotteries.**

See § 73.1211.

29. In § 73.610, the headnote is amended as follows:

§ 73.610 **Minimum distance separations between stations.**

30. Section 73.633 is amended to read as follows:

§ 73.633 **Fraudulent billing practices.**

See § 73.1205.

31. In § 73.641, the headnote is amended to read as follows:

§ 73.641 **Subscription TV definitions.**

32. In § 73.642, the headnote is amended to read as follows:

§ 73.642 **Subscription TV licensing policies.**

33. In § 73.643, the headnote is amended to read as follows:

§ 73.643 **Subscription TV operating requirements.**

34. In § 73.644, the headnote is amended to read as follows:

§ 73.644 **Subscription TV transmission systems.**

35. Section 73.656 is amended to read as follows:

§ 73.656 **Lotteries.**

See § 73.1211.

36. Section 73.664 is amended to read as follows:

§ 73.664 **Broadcast of telephone conversations.**

See § 73.1206.

§ 73.676 [Amended]

37. In § 73.676, the note following paragraph (f)(5) is deleted in its entirety.

38. In § 73.687, the headnote is amended to read as follows:

§ 73.687 **Transmission system requirements.**

39. In § 73.751, the headnote is amended to read as follows:

§ 73.751 **Operating power.**

40. In § 73.753, the headnote is amended to read as follows:

§ 73.753 **Antenna systems.**

41. In § 73.756, the headnote is amended to read as follows:

§ 73.756 **Transmission system requirements.**

42. In § 73.759, the headnote is amended to read as follows:

§ 73.759 **Modification of transmission systems.**

43. In § 73.765, the headnote is amended to read as follows:

§ 73.765 **Determining operating power.**

44. Section 73.790, including headnote, is amended to read as follows:

§ 73.790 **Rebroadcasts.**

See § 73.1207.

§ 73.3580 [Amended]

45. In the last sentence of paragraph (g) in § 73.3580, the reference to Section number "73.3671" is corrected to read number "73.3571".

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

46. In § 74.21, the headnote is amended to read as follows:

§ 74.21 **Broadcasting emergency information.**

§ 74.402 [Amended]

47. In § 74.402, the Note following paragraph (e) is deleted in its entirety.

§ 74.462 [Amended]

48. In § 74.462, the Note following paragraph (e) is deleted in its entirety.

§ 74.464 [Amended]

49. In § 74.464, the Note at the end of the text is deleted in its entirety.

[FR Doc. 79-35179 Filed 11-14-79; 9:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Parts 7 and 601

Public Availability of Information

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of this document is to revise the regulations dealing with the document inspection facility of the Urban Mass Transportation Administration, the kinds of records which are available for public inspection and copying, and the procedures by which members of the public may make requests for identifiable records. These revisions reflect changes in location of the facility

and the description of the types and sources of information available.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Linda L. Watkins, (202) 426-1936.

SUPPLEMENTARY INFORMATION: Since this is a matter dealing with agency practice and procedure, under 5 U.S.C. 553, notice and comment are not required, and the rules may be made effective less than 30 days after publication.

The Department of Transportation Order for Improving Government Regulations (44 FR 11034) does not apply to this rulemaking.

In addition to revising the UMTA regulations governing public availability of information, this document also revises Appendix G to the Department of Transportation regulations governing public availability of information. This Appendix deals with UMTA. The authority to amend this Appendix is delegated to the UMTA Administrator by 49 CFR 7.1(d).

Accordingly, Title 49 of the Code of Federal Regulations is amended by:

1. Revising Appendix G to Part 7 to read as follows:

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Appendix G—Urban Mass Transportation Administration

1. *General.* This appendix describes the document inspection facility of the Urban Mass Transportation Administration, the kinds of records which are available for public inspection and copying at that facility, and the procedures by which members of the public may make requests for identifiable records.

2. *Document inspection facility.* The document inspection facility of the Urban Mass Transportation Administration is maintained in Room 9330 at the headquarters of the Department of Transportation Building (Nassif Building), 400 Seventh Street, S.W., Washington D.C. 20590. This facility is open to the public from 8:30 a.m. to 5:00 p.m.

3. *Records available through document inspection facility.* a. An index to, and copies of, the internal and external directives of the Urban Mass Transportation Administration. The records and the index may be inspected, at the facility, without charge. Copies of records may be obtained upon payment of the fee prescribed in Subpart I of this part.

b. Any proposed or final regulation issued by the Urban Mass Transportation Administration, and any background information for these regulations.

4. *Requests for identifiable records under Subpart E of this part.* Each person desiring to inspect a record, or to obtain a copy thereof, must submit the request in writing to the Director of Public Affairs, Urban Mass Transportation Administration, Room 9330 of

the Department of Transportation building (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590. Each request must be accompanied by the appropriate fee prescribed in Subpart I of this part.

5. *Reconsideration of determinations not to disclose records.* Any person to whom a record is not made available within the time limits set out in Subpart C of this part, and any person who has been notified that a record that person has requested cannot be disclosed, may apply, in writing, to the Administrator, Urban Mass Transportation Administration, Room 9324 of the Department of Transportation Building (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590, for reconsideration of the request. The decision of the Administrator is administratively final.

2. Revising Subpart C of Part 601 to read as follows:

PART 601—ORGANIZATION, FUNCTIONS, AND PROCEDURES

Subpart C—Public Availability of Information

§ 601.20 Sources of information.

(a) The Urban Mass Transportation Administration has published a series of internal and external directives which contain the history, organization, policy, procedures, criteria, guidelines, interpretations and general regulations formulated and adopted by UMTA as guidance for grant recipients, and the general public. All directives are listed in UMTA Notice N 0000.14 "Directives Checklist."

(b) Single copies of the checklist or any directive may be obtained without charge upon written request either to the Director, Office of Public Affairs, Urban Mass Transportation Administration, Room 9330, 400 Seventh Street, SW., Washington, D.C. 20590, or any Urban Mass Transportation Administration regional office listed in § 601.2.

(c) The Urban Mass Transportation Administration maintains, under the supervision of the Director of Public Affairs, a document inspection facility at the headquarters of the Department of Transportation Building (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590, through which the following UMTA documents may be obtained:

(1) An index to, and copies of, the internal and external directives of the Urban Mass Transportation Administration.

(2) Any proposed or final regulation issued by the Urban Mass

Transportation Administration, and any background information for these regulations.

(d) Any person desiring to inspect any of these records, or obtain a copy thereof, must submit a request in writing, specifying the record to be inspected or copied to the Director, Office of Public Affairs, Urban Mass Transportation Administration, Room 9330, 400 Seventh Street, SW., Washington, D.C. 20590, accompanied by the appropriate fee for copies prescribed in 49 CFR Part 7, Subpart I. (5 U.S.C. 552; 49 U.S.C. 1657; 49 CFR 7.1(d)).

Dated: November 7, 1979.

Lillian C. Liburdi,

Acting Deputy Administrator.

[FR Doc. 79-35264 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-57-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 79-01; Notice 5]

Federal Motor Vehicle Safety Standards; New Pneumatic Tires for Passenger Cars; Correction

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

Table I-LL.—Tire Load Rating, Test Rims, Minimum Size Factors and Section Widths for 'T' Series 60 psi Tires

Tire size ¹ designation	60 psi	Test rim width (inches)	Minimum size factor (inches)	Section ² width (inches)
T145/80D16	2,260 pounds	4	30.38	5.71

¹ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

² Actual section width and overall width shall not exceed the specified width by more than the amount specified in § 4.2.2.2.

Table I-UU.—Tire Load Rating, Test Rims, Minimum Size Factors and Section Widths for 'P/75' Series ISO Type Tires for DL Millimetric Rims

Tire size ¹ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)							Test rim width (mm)	Minimum size factor (mm)	Section ² width (mm)
	120	140	160	180	200	220	240			
P195/75R370	465	500	535	565	595	625	655	135	841	194

¹ The designated cold inflation pressures may be increased to a maximum of 300 kPa to meet special vehicle performance requirements with no increase in load.

² The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

³ Actual section width and overall width shall not exceed the specified section width by more than the amount specified in § 4.2.2.2.

[FR Doc. 79-35086 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-59-M

ACTION: Correction.

SUMMARY: In the Federal Register of September 4, 1979 (44 FR 51603), this agency published a notice amending Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*, by adding seven new tire size designations to Table I of Appendix A of the standard. Some typographical errors appear in those tables, and this notice corrects those errors.

FOR FURTHER INFORMATION CONTACT: John Diehl, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: In a notice published at 44 FR 51603, September 4, 1979, seven new tire size designations were added to Table I of Appendix A of Federal Motor Vehicle Safety Standard No. 109. Typographical errors appeared in Tables I-LL and I-UU. Those tables should read as set forth below.

(Secs. 103, 119, 201 and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421 and 1422); Delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 7, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. Order No. 1404-A]

Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad Co.

Decided: November 7, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1404-A.

SUMMARY: Service Order No. 1404 authorized the MILW to operate over tracks of the RI in Washington, Iowa, due to track embargo east of Columbus Junction, in order to serve shippers located adjacent to these tracks. Since the embargo was lifted and no further emergency exists, Service Order No. 1404 is vacated effective 11:59 p.m., November 7, 1979.

FOR FURTHER INFORMATION CONTACT: A. J. Kenneth Carter, (202) 275-7840.

Decided: November 7, 1979.

Upon further consideration of Service Order No. 1404 (44 FR 62287), and good cause appearing therefore:

It is ordered, § 1033.1404 Chicago, Milwaukee, St. Paul and Pacific Railroad Company Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Company, Service Order No. 1404 is vacated effective 11:59 p.m., November 7, 1979. (49 U.S.C. (10304-10305 and 11121-11126))

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Joel E. Burns not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35199 Filed 11-14-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3100

Environmental Effects Abroad

AGENCY: Office of Environmental Quality (OEQ), United States Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: This action proposes to incorporate a provision in USDA procedures for compliance with the National Environmental Policy Act (NEPA) to ensure USDA agency compliance with Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (January 4, 1979).

DATE: Comments due January 14, 1980.

ADDRESS: Comments should be sent to: Barry R. Flamm, Director, Office of Environmental Quality, USDA, Washington, D.C. 20250, phone (202) 447-3965.

FOR FURTHER INFORMATION CONTACT: Dr. Rado J. Kinzhuber, Chairman, Ad Hoc Working Group, Office of the Secretary, USDA, Washington, D.C. 20250, phone (202) 447-5685.

SUPPLEMENTARY INFORMATION: On January 4, 1979, President Carter signed Executive Order 12114, entitled Environmental Effects Abroad of Major Federal Actions. It is the intent of this proposed rule to set forth a general procedural directive to assist the individual agencies of USDA in complying with the mandates of the Executive Order, NEPA, the Council on Environmental Quality and Department of State. Each USDA agency is responsible for preparing more specific procedures, if necessary, in light of this broad directive. Those agencies whose programs and activities do not come within the types of actions covered by Executive Order 12114 should consult with OEQ regarding the need for developing specific implementation procedures.

Comments on this proposed rule are invited. To be considered in the preparation of a final rule, comments must be received by the date set forth above.

It is therefore proposed to amend 7 CFR Part 3100 as set forth below:

1. By adding to the table of contents for Subpart B—National Environmental Policy Act, a new section heading:

* * * * *

3100.36 Environmental effects abroad.

2. By revising the citation of authority to read as follows:

Authority: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 et seq.; E.O. 11514, 34 FR 4247, as amended by E.O. 11991, 42 FR 26927; E.O. 12114, 44 FR 1957; 5 U.S.C. 301; 40 CFR 1507.3

3. By adding a new § 3100.36 to read as follows:

§ 3100.36 Environmental effects abroad.

In conjunction with the policies and requirements set forth in this subpart, all USDA agencies are required to comply with E.O. 12114, Environmental Effects Abroad of Major Federal Actions, to the extent that their programs and activities come within the scope of the E.O. Agencies shall consult with OEQ as to whether their programs or activities require preparation of separate agency procedures, environmental assessments or impact statements regarding environmental effects abroad. Such environmental documents shall be prepared in accordance with the E.O. which specifies the activities for which environmental documents shall be prepared and the types of documents and review procedures required. When an agency anticipates that its action may cause significant impact abroad it shall consult with OEQ and Department of State and CEQ.

This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, Improving Government Regulations. A determination has been made that this action should not be classified "significant" under those criteria. A final Impact Statement has been prepared and is available from the Office of Environmental Quality, USDA, Room 412-A.

Federal Register

Vol. 44, No. 222

Thursday, November 15, 1979

Dated: November 6, 1979.

Barry R. Flamm,
Director, Office of Environmental Quality.

[FR Doc. 79-35198 Filed 11-14-79; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 79-ASW-50]

Proposed Alteration of Transition Area; Hope, Ark.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Hope, Ark. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Hope Municipal Airport. The circumstance which created the need for the action is the proposed establishment of a nondirectional radio beacon (NDB) locate on the airport.

DATES: Comments must be received on or before December 17, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR)

activity. Alteration of the transition area at Hope, Ark., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 17, 1979 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Hope, Ark. The FAA believes this action will enhance IFR operations at the Hope Municipal Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed NDB located on the airport. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as

republished (44 FR 442) by altering the Hope, Ark., transition area by adding the following:

Hope, Ark.

* * * and within 3 miles each side of the 355° bearing from the NDB (latitude 33°43'06"N., longitude 90°26'N.) extending from the 6-mile radius area to 8.5 miles north of the NDB.

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979.) Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth Texas, November 1, 1979.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 79-35010 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-28]

Transition Area, Oskaloosa, Iowa; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Oskaloosa, Iowa, to provide additional airspace for aircraft executing a new instrument approach procedure to the Oskaloosa, Iowa Municipal Airport which is based on a Nondirectional Radio Beacon (NDB) a navigational aid being installed on the airport by the City of Oskaloosa, Iowa.

DATES: Comments must be received on or before December 23, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations,

Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments, as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before December 23, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Oskaloosa, Iowa. To enhance airport usage, an additional instrument approach procedure is being developed for the Oskaloosa, Iowa Municipal Airport utilizing an NDB being installed on the airport by the City of Oskaloosa, Iowa. The establishment of an instrument approach procedure based on this navigational aid entails alteration of the transition area at Oskaloosa, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to ensure

segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442) by altering the following transition area:

Oskaloosa, Iowa

That airspace extending upward from 700 feet above the surface within a nine (9) mile radius of the Oskaloosa Municipal Airport (latitude 41°13'36" N, longitude 92°29'30" W) excluding the portion that overlies the Ottumwa, Iowa transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on November 5, 1979.

Paul J. Baker,

Director, Central Region.

[FR Doc. 79-35173 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-33]

Transition Area—Bassett, Nebr.; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Bassett, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Rock County Airport, Bassett, Nebraska, utilizing the Rock County Non-Directional Radio Beacon (NDB) as a navigational aid.

DATES: Comments must be received on or before December 23, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation

Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64196, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before December 23, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which described the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Bassett, Nebraska. To enhance airport usage, a new instrument approach procedure is being developed

for the Rock County Airport, Bassett, Nebraska, utilizing the Rock County NDB as a navigational aid. This radio facility provides new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Bassett, Nebraska, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442) by adding the following new transition area:

Bassett, Nebr.
That airspace extending upward from 700 feet above the surface within a 7 mile radius of the Rock County Airport, Bassett, Nebraska (latitude 42° 34' 26" N, longitude 99° 34' 21" W); within 2.5 miles each side of the 129° bearing from the Rock County NDB extending from the 7 mile radius area to 7 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on November 5, 1979.
Paul J. Baker,
Director, Central Region.
[FR Doc. 79-35174 Filed 11-14-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 79-GL-23]

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to slightly increase the time of designation of the Jefferson Proving Ground, Ind., Restricted Area R-3403A to permit additional testing of munitions that require photographic coverage for evaluation. The U.S. Army requested the additional time which it believes is necessary to accomplish its mission.

DATES: Comments must be received on or before December 17, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Great Lakes Region, Attention: Chief, Air Traffic Division, Docket No. 79-GL-23, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 918, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before December 17, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must

identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would change the time of designation of R-3403A from "Daily, 0800 to 2300 local time." to "Daily, 0630 to 2400 local time." An increase in projects requiring maximum utilization of daylight for testing programs requiring photographic coverage, added to the present testing programs, require additional time.

The Department of Army will serve as the lead agency for the purposes of compliance with the National Environmental Policy Act (NEPA) for this airspace proposal. Comments on environmental aspects relating to the proposed restricted area change should be directed to: U.S. Army, Jefferson Proving Ground, Madison, Ind. 47250, Attention: Mr. Gerald B. Matthews.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.34 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 691) as follows:

Under R-3403A Jefferson Proving Ground, Ind., in time of designation, "Daily 0800 to 2300 local time." is deleted and "Daily 0630 to 2400 local time." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on November 7, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-35172 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 433

Amendment to Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses

AGENCY: Federal Trade Commission.

ACTION: Proposed rule.

SUMMARY: On September 21, 1979, the Federal Trade Commission approved in substance the amendment to the trade regulation rule concerning Preservation of Consumers' Claims and Defenses that it proposed on November 14, 1975. The Commission also decided to make certain changes in the text of the amendment. The record of the amendment proceeding will be opened for 60 days for comments on the drafting of certain language changes the Commission made. Comments on other issues will not be considered. Following the close of the comment period the Commission will promulgate the amendment and set an effective date.

DATES: Comments on the drafting of the language changes will be accepted through January 14, 1980.

ADDRESSES: Send comments to Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580. Submissions should be labeled "Holder Amendment Comment."

FOR FURTHER INFORMATION CONTACT: David H. Williams, Sarah Jane Hughes, or Martin B. White, Federal Trade Commission, Washington, D.C. (202) 724-1100.

SUPPLEMENTARY INFORMATION:

Text of Amendment Voted by the Commission

Accordingly, it is proposed to amend Chapter I of 16 CFR by revising Part 433 to read as follows:

PART 433—PRESERVATION OF CONSUMERS' CLAIMS AND DEFENSES

Sec.

433.1 Definitions.

433.2 Preservation of consumers' claims and defenses, unfair or deceptive acts or practices.

433.3 Knowledge or implied knowledge requirement.

Authority: 38 Stat. 717, as amended; 15 U.S.C. 41 et seq.

§ 433.1 Definitions.

(a) *Person*. An individual, corporation, or any other business organization.

(b) *Consumer*. A natural person who seeks or acquires goods or services for personal, family, or household use.

(c) *Creditor*. A person who, in the ordinary course of business, lends purchase money or finances the sale of goods or services to consumers on a deferred payment basis; *Provided*, such person is not acting, for the purposes of a particular transaction, in the capacity of a credit card issuer.

(d) *Purchase Money Loan*. A cash advance which is received by a consumer in return for a "Finance Charge" within the meaning of the Truth in Lending Act and Regulation Z, which is applied in whole or substantial part to a purchase of goods or services from a seller who is affiliated with the creditor by common control or business arrangement.

(e) *Financing a sale*. Extending credit to a consumer in connection with a "Credit Sale" within the meaning of the Truth in Lending Act and Regulation Z.

(f) *Business Arrangement*. Any tacit, oral, or written agreement or understanding, formal or informal, between a creditor and a seller in connection with the sale of goods or services or the financing thereof, including cooperative activity between a creditor and a seller in referring consumers to purchase goods or services or to obtain financing. The term shall not include arrangements, such as inventory financing, maintenance of ordinary checking accounts or joint action engaged in merely to perfect a security interest, which are not directed at the financing of consumer purchases.

(g) *Common Control*. A relationship between creditor and seller where (1) the two are owned by a holding company, or by substantially the same individuals, (2) one is a subsidiary of the other, or (3) the two are functionally part of the same business entity.

(h) *Credit card issuer*. A person who extends to cardholders the right to use a credit card in connection with purchases of goods or services.

(i) *Consumer credit contract*. Any instrument which evidences or embodies a debt arising from a "Purchase Money Loan" transaction or a "financed sale" as defined in paragraphs (d) and (e).

(j) *Seller*. A person who, in the ordinary course of business, sells or leases goods or services to consumers.

Note.—The Commission intends to attach the text of the definitions of "Credit Sale" and "Finance Charge" from § 226.2(t) and (w) of Federal Reserve Board Regulation Z, which are referenced in § 433.1(d) and (e), as an appendix to the rule.

§ 433.2 Preservation of consumers' claims and defenses, unfair or deceptive acts or practices.

(a) In connection with any Purchase Money Loan (as that term is defined in § 433.1) or any sale or lease of goods or services, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of Section 5 of that Act, for a seller or a creditor, directly or indirectly, to take or receive a consumer credit contract which fails to contain the following provision in at least ten point, bold face type:

This credit contract finances a purchase. All legal rights which the buyer has against the seller arising out of this transaction, including all claims and defenses, are also valid against any holder of this contract. The right to recover money from the holder under this provision is limited to the amount paid by the buyer under this contract.

A claim is a legally valid reason for suing the seller. A defense is a legally valid reason for not paying the seller. A holder is anyone trying to collect for the purchase.

(b) In connection with any sale or lease of goods or services to consumers, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice within the meaning of Section 5 of that Act for a seller, directly or indirectly, to accept, as full or partial payment for such sale or lease, the proceeds of any purchase money loan (as purchase money loan is defined herein), unless any consumer credit contract made in connection with such purchase money loan contains the following provision in at least ten point, bold face type:

This credit contract finances a purchase. All legal rights which the buyer has against the seller arising out of this transaction, including all claims and defenses, are also valid against any holder of this contract. The right to recover money from the holder under this provision is limited to the amount paid by the buyer under this contract.

A claim is a legally valid reason for suing the seller. A defense is a legally valid reason for not paying the seller. A holder is anyone trying to collect for the purchase.

(c) In connection with any transaction in which a consumer credit contract is required by law to be written in Spanish, for purposes of subsections (a) and (b), the following provision shall be substituted for the provision specified in subsections (a) and (b):

Este contrato de credito financia una compra. Todos los derechos legales que el comprador pueda tener contra el vendedor que resulten de esta transaccion, incluyendo todas las reclamaciones y defensas, son validos en contra de cualquier tenedor de este contrato. El derecho del comprador a

recobrar dinero de el tenedor del contrato bajo esta disposicion esta limitado a la cantidad pagada por tal comprado bajo el contrato.

Una reclamacion es una razon legalmente valida para demandar a un vendedor. Una defensa es una razon legalmente valida para no pagarle al vendedor. Un tenedor es cualquiera que trata de cobrar por la compra.

(d) If a consumer indicates that all or a substantial portion of the proceeds of a loan will be used to purchase goods or services from a specific seller, and the creditor and that seller are affiliated by common control or business arrangement, then the following may be added to the provision required by paragraphs (a) and (b):

This paragraph is applicable only if the proceeds of this loan are used primarily to purchase goods or services from [insert seller's name] or any other affiliated seller.

§ 433.3 Knowledge or implied knowledge requirement.

The acts and practices defined by § 433.2 to be unfair or deceptive within the meaning of section 5 of the Federal Trade Commission Act are not violations of this rule unless they are engaged in with actual knowledge or knowledge fairly implied on the basis of objective circumstances that they are prohibited by 16 CFR Part 433.

Subjects on Which the Commission Is Soliciting Comment

The record is open for comment on the drafting of the changes in the amendment which are listed below. The Commission is interested in comment on the extent to which the language chosen is suited to achieving the Commission's intentions as set forth below. Suggestions for improvements in drafting that do not alter the intended meaning will also be considered. The record is not being reopened for comment on other issues.

1. Definition of "Purchase Money Loan." The amendment as proposed would not have altered the definitions in the original rule. Section 433.1(d) of the original rule defined "Purchase Money Loan" as:

"A cash advance which is received by a consumer in return for a 'Finance Charge' within the meaning of the Truth in Lending Act and Regulation Z, which is applied, in whole or substantial part, to a purchase of goods or services from a seller who (1) refers consumers to the creditor or (2) is affiliated with the creditor by common control, contract, or business arrangement."

Section 433.1(f) and (g) further defined "Contract" as:

"Any oral or written agreement, formal or informal, between a creditor and a seller, which contemplates or provides for cooperative or concerted activity in

connection with the sale of goods or services to consumers or the financing thereof."

and "Business Arrangement" as:

"Any understanding, procedure, course of dealing, or arrangement, formal or informal, between a creditor and a seller, in connection with the sale of goods or services to consumers or the financing thereof."

The amendment voted by the Commission on September 21, 1979, defines "Purchase Money Loan" as:

"Consumer credit where the proceeds are applied in whole or substantial part to a purchase of goods or services from a seller who is affiliated with the creditor by common control or business arrangement."

The term "Contract" is dropped from the definition of "Purchase Money Loan" and is therefore not defined. The definition of "Business Arrangement" is changed to:

"Any tacit, oral, or written agreement or understanding, formal or informal, between a creditor and a seller in connection with the sale of goods or services or the financing thereof, including cooperative activity between a creditor and a seller in referring consumers to purchase goods or services or to obtain financing. The term shall not include arrangements, such as inventory financing, maintenance of ordinary checking accounts or joint action engaged in merely to perfect a security interest, which are not directed at the financing of consumer purchases."

The new definitions of "purchase money loan" and "business arrangement" are based on language suggested by the staff of the Federal Reserve Board during the amendment proceeding. They are not intended to alter the meaning of the existing definition of "purchase money loan;" rather it is intended to make clear that the text of the rule is consistent with the Commission's interpretation of the definition contained in the Statement of Enforcement Policy issued by the Commission on August 16, 1976 (41 FR 34594). In particular, the revised definitions are intended to clarify that referrals between a seller and a lender only create a "purchase money loan" relationship where the referrals go beyond the mere providing of information—in other words, where there is some arrangement or understanding, express or implied, between seller and creditor. One form of such an arrangement or understanding is cooperative activity between sellers and lenders in referring customers for the purpose of purchasing goods or services or obtaining financing.

2. Modification of "Notice" required to be included in credit contracts. The amendment as proposed required inclusion in credit contracts covered by

the rule of the following language in ten point bold face type:

NOTICE

ALL HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF, RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

The text voted by the Commission is as follows:

This credit contract finances a purchase. All legal rights which the buyer has against the seller arising out of this transaction, including all claims and defenses, are also valid against any holder of this contract. The right to recover money from the holder under this provision is limited to the amount paid by the buyer under this contract.

A claim is a legally valid reason for suing the seller. A defense is a legally valid reason for not paying the seller. A holder is anyone trying to collect for the purchase.

The heading "Notice" is deleted to clarify that the language is not informational but must be included in contracts as a legally binding provision. The remaining changes are intended to make the provision more understandable by consumers without changing its legal significance in any way and without unreasonably increasing its length.

3. Spanish language contract provision. The amendment adopted by the Commission adds to the amendment as proposed a § 433.2(c) as follows:

(c) In connection with any transaction in which a consumer credit contract is required by law to be written in Spanish, for purposes of subsections (a) and (b), the following provision shall be substituted for the provision specified in subsections (a) and (b):

Este contrato de credito financia una compra. Todos los derechos legales que el comprador pueda tener contra el vendedor que resulten de esta transaccion, incluyendo todas las reclamaciones y defensas, son validos en contra de cualquier tenedor de este contrato. El derecho del comprador a recobrar dinero de el tenedor del contrato bajo esta disposicion esta limitado a la cantidad pagada por tal comprador bajo el contrato.

Una reclamacion es una razon legalmente valida para demandar a un vendedor. Una defensa es una razon legalmente valida para no pagarle al vendedor. Un tenedor es cualquiera que trata de cobrar por la compra.

This provision is intended to enhance the ability of Spanish speaking consumers to understand the rights granted by the rule.

4. Designation of seller. The amendment voted by the Commission

adds to the amendment as proposed a § 433.2(d) as follows:

(d) If a consumer indicates that all or a substantial portion of the proceeds of a loan will be used to purchase goods or services from a specific seller, and the creditor and that seller are affiliated by common control or business arrangement, then the following may be added to the provision required by subsections (a) and (b):

This paragraph is applicable only if the proceeds of this loan are used primarily to purchase goods or services from [insert seller's name] or any other affiliated seller.

This provision is based, with some modification, on language suggested by the Federal Reserve Board staff. It is intended to deal with a situation in which a consumer tells a lender that he will spend loan proceeds at an affiliated seller but then spends the proceeds at a different, non-affiliated seller. The provision is intended to allow a lender who includes the required language preserving claims and defenses in the loan contract based on the consumer's representations to avoid liability for claims and defenses generated by non-affiliated sellers. Lender liability for claims and defenses is created only if the loan proceeds are spent at the seller indicated by the borrower or at another "affiliated" seller. It is intended that lenders only be permitted to use the additional language authorized by § 433.2(d) if the name of a specific seller is given to them and written in the designated place. This is to ensure that the consumer does not have to prove the existence of an "affiliation" to assert claims and defenses, so long as the consumer spends loan proceeds where he says he will.

5. Knowledge or implied knowledge requirement. The amendment voted by the Commission adds to the rule § 433.3 as follows:

§ 433.3 Knowledge or implied knowledge requirement.

The acts and practices defined by Section 433.2 to be unfair or deceptive within the meaning of Section 5 of the Federal Trade Commission Act are not violations of this rule unless they are engaged in with actual knowledge or knowledge fairly implied on the basis of objective circumstances that they are prohibited by 16 CFR Part 433.

This language is intended to make it clear that a creditor or seller who is genuinely unable to identify a transaction as being covered by the rule will not be in violation of the rule if he fails to include the provision required by the rule in credit contracts. The language of § 433.3 is taken from Section 5(m)(1)(A) of the FTC Act which sets forth the requirement for obtaining civil penalties for violations of FTC rules.

6. In the interest of clarity, the Commission believes that the phrase "arising out of this transaction" should be incorporated into the required contract provision. It should be noted that the addition of this phrase causes no substantive change to the rule as it has always been the Commission's intention that claims and defenses unrelated to the underlying transaction were outside the scope of the rule. The Staff's Guidelines, which were published on May 4, 1978, evidence the Commission's intent in this regard. The Guidelines state:

The Rule does apply to all claims or defenses connected with the transaction, whether in tort or contract. When, under State law, a consumer would defeat a seller's right to further payments or allow the consumer to recover affirmatively this claim is preserved against the holder. This is, of course, subject to the limitation of recovery under this Rule to the amount paid in.

It is also possible for a consumer to have a claim or defense against a seller because of a separate transaction. The provision required by the Rule would not allow him to assert such a claim or defense against the holder. The holder's obligations are limited to those arising from the transaction which he finances.

By direction of the Commission,
Carol M. Thomas,
Secretary.

[FR Doc. 79-35268 Filed 11-14-79; 8:45 am]
BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33-6145, 34-16326, 35-21284, IC-10932; File No. S7-804]

Bank Holding Companies and Banks—Requirements for Form and Content of Financial Statements

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is requesting comment on amendments to its requirements for form and content of financial statements of bank holding companies and banks. The proposed amendments are a reduction in the schedule reporting details of receivables from nonofficer directors and a revision in the reporting of certificates of deposit and other time deposits in amounts of \$100,000 or more in domestic bank offices and in foreign activities.

DATE: Comments should be submitted on or before December 31, 1979.

ADDRESS: Comments should refer to File S7-804 and should be submitted in

triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Bloch, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 205 (202-272-2130).

SUPPLEMENTARY INFORMATION: In September 1978 the Commission adopted a comprehensive revision of its requirements as to form and content of financial statements for bank holding companies and banks known as Article 9 of Regulations S-X.¹ Subsequently occasion has arisen to consider revision of certain provisions of these requirements.

Disclosure of Loans to Nonofficer Directors

Since the adoption of the revision of Article 9 last year the Commission has been requested to reconsider the requirement of Schedule I of Rule 9-05 which is concerned with reporting amounts due from certain persons including directors, officers and principal holders of equity securities and certain of their associates. The schedule calls for detailed disclosure of indebtedness exceeding the lesser of \$500,000 or 2½% of stockholders' equity which is owed by directors, executive officers and principal holders of equity securities (and their associates) of the registrant bank holding company and its principal subsidiaries.² Required information includes name of debtor, details of terms and balances at beginning and end of the period and amounts of increases and decreases during the period.

We have been requested to reconsider that part of the schedule which calls for disclosure of the names of nonofficer directors and their associates. Approximately 60 letters from registrants and a banking industry association have been received on this matter. Some letters assert that the disclosure involves a loss of privacy and, in small communities, may cause a reluctance on the part of some well-qualified businessmen to serve as directors of local banks.

¹Release Nos. 33-5973, 34-15135, 35-20699, IC-10389, A-254 (43 FR 41022; September 14, 1978)

²For the purpose of this disclosure the term "principal subsidiaries" is defined to include the subsidiary with the greatest amount of depositors of all consolidated bank subsidiaries and any other consolidated subsidiary in which deposits exceed fifteen percent of consolidated deposits. See footnote 1 to paragraph 9-02-5(e) of Article 9.

The Financial Institutions Regulatory and Interest Rate Control Act of 1978³ which was enacted subsequent to the adoption of the revision of Article 9 contains provisions limiting the terms under which banks can make loans to executive officers, directors and certain stockholders. Under the Act a loan or extension of credit to a director or to a company controlled by a director or to a related political or campaign committee which when aggregated with other related loans would exceed \$25,000 must be approved in advance by a majority of the board of directors excluding the interested person. In addition, any loan or extension of credit to a director or related company or committee is required to be made on substantially the same terms as those prevailing at the same time for comparable transactions with others and shall not involve more than normal risk of repayment or present other unfavorable features. Under the Act a bank may not pay an overdraft on the account of a director at the bank. The Act also does not require reporting of amounts due from directors, although it has a requirement for reporting the names and aggregate amount due from executive officers and certain stockholders.

Where a company is engaged in a commercial or industrial activity, loans to insiders cannot be considered as being in the ordinary course of business but rather have a special nature and origin and should be disclosed. In the case of a bank or bank holding company where lending is the principal business activity, a distinction can be drawn between loans to executive officers and principal holders of securities on one hand and nonofficer directors on the other. A distinction can be drawn also between loans made on terms which can be said to be in the ordinary course of business and those not made on such terms.

Ultimately information concerning loans to nonofficer directors made in the ordinary course of business must be assessed from the viewpoint of its value to an investor or potential investor. Such loans are not negative in nature and in fact may be advantageous to a bank. To the extent that they are made in the ordinary course of business, there appears to be little value to an investor in having this information—earnings presumably will not be penalized—the loans are properly collateralized—there is no unusual risk of collection.

After reconsideration of this requirement and in view of related provisions of the Financial Institutions Regulatory Act of 1978, the Commission

³Pub. L. 95-630, approved November 10, 1978.

has determined to request comments whether detailed disclosure of loans to nonofficer directors made in the ordinary course of business continues to be useful in evaluating the financial condition and future prospects of bank holding companies and banks. Therefore, it is proposed to amend the requirement for Schedule I (17 CFR 210.9-05) to provide for aggregate reporting of amounts receivable from nonofficer directors made in the ordinary course of business.⁴

Revision of Reporting of Large Certificates of Deposit and Time Deposits

The requirement of § 210.9-02-11(e) is for note disclosure of time certificates of deposit in denominations of \$100,000 or more. It is proposed to change the disclosure under § 210.9-02-11(e) to time certificates of deposit and other time deposits in amounts of \$100,000 or more in domestic bank offices and to add a note requirement to § 210.9-04(f) for comparable disclosure concerning such items included in deposits under the foreign activities category.

The change in disclosure of large CD's and time deposits in domestic bank offices conforms to requirements of the call reports of the banking regulatory agencies. The proposed disclosure of such items included in foreign activities results from the observed increase in deposits of banks operating outside the United States. In a number of cases the amount of time deposits in foreign offices is a large percentage of total deposits and the increase in such deposits during the period 1974-1978 appears to be substantial in both absolute and relative terms.

Text of Proposed Amendments

The Commission hereby proposes to amend 17 CFR Part 210 (Regulation S-X) as follows:

1. In § 210.9-02, paragraph 11(e) is revised to read as follows:

§ 210.9-02 Balance sheets.

11. . . .

(e) State separately in a note the amount of time certificates of deposit in denominations of \$100,000 or more in domestic bank offices and the amount of other time deposits in amounts of

⁴The proposed amendment would not affect the requirement of Schedule I for reporting of loans to executive officers and principal holders of equity securities whether or not they were made on terms available in the ordinary course of business, nor would it exempt loans to directors made on terms other than those available in the ordinary course of business.

\$100,000 or more in domestic bank offices.

2. The following sentence is added at the end of § 210.9-04(f):

§ 210.9-04 Foreign activities.

(f)

State also in a note the amount of time certificates of deposit in denominations of \$100,000 or more and the amount of other time deposits in amounts of \$100,000 or more.

3. In § 210.9-05, the last sentence of the paragraph under Schedule I is deleted and replaced with the following:

§ 210.9-05 What schedules are to be filed.

Schedule I. . . . It shall not be necessary to disclose amounts related to installment loans as defined in § 210.9-02-5(c)(3) made in the ordinary course of business. Notwithstanding the foregoing and the requirement of Column A of § 210.12-03, indebtedness incurred in the ordinary course of business by all directors (and related persons specified above) who are neither executive officers nor principal holders of equity securities may be stated in the aggregate in Columns B, C, D and E of § 210.12-03. The number of directors for whom indebtedness is stated in the aggregate shall be stated in Column A. For the purpose of this schedule, loans or indebtedness made or incurred in the ordinary course of business shall be those which (i) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions with other persons, and (ii) did not involve more than normal risk of collectibility or present other unfavorable features.

These amendments are being proposed pursuant to authority in sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; Sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78f, 78m, 78o(d), 78w) of the Securities and Exchange Act of 1934; Sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935; and Sections 8, 30, 31(c) and 38(a) (15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a)) of the Investment Company Act of 1940.

Pursuant to Section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these amendments on competition and is not aware of any burden that they would impose.

Letters received since November 1, 1978 and included in public file S7-732 which comment on the disclosure requirements of Schedule I will be considered as comments on the proposal in this release.

By the Commission,
George A. Fitzsimmons,
Secretary.

November 6, 1979.

[FR Doc. 79-35269 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 115

[R-79-740]

Recognition of State and Local Fair Housing Laws of Delaware and South Dakota; Transmittal of Proposed Rule To Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of Proposed Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 115—Recognition of Substantially Equivalent Laws—Delaware and South Dakota

This proposed rule would revise 24 CFR Part 115 to grant recognition of the State and local fair housing laws of the States of Delaware and South Dakota as providing rights and remedies which are substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968.

(Sec. 7(o), Department of HUD Act, 42 U.S.C. 3535(o), Sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 8, 1979.

Moon Landrieu,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-35233 Filed 11-14-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Parts 203, 204

[Docket No. R-79-738]

Change in Notification to HUD of Terminations by Mortgagees and Lenders; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Parts 203 and 204—Change in Notification to HUD of Terminations by Mortgagees and Lenders

This proposed rule would amend 24 CFR Parts 203 and 204 to require the mortgagee or lender to notify HUD of terminations within fifteen (15) calendar days, instead of 30 calendar days, from the occurrence of one of the approved methods of termination.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 7, 1979.

Moon Landrieu,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-35181 Filed 11-14-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 571

[R-79-741]

Community Development Block Grants For Indian Tribes and Alaska Natives; Transmittal of Interim Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410, Telephone No. (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 571—Community Development Block Grants for Indian Tribes and Alaska Natives

This interim rule would revise 24 CFR 571.101, governing allocation of funds to HUD Regional and Field Offices for the Community Development Block Grant Program for Indian Tribes and Alaska Natives. The new funding allocation formula will decrease the weight given to past funding success while increasing the weight given to tribal population. HUD believes that this change would provide a more equitable distribution of funds than the present allocation formula.

(Sec. 7(o) Department of HUD Act, (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. November 8, 1979.

Moon Landrieu,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-35232 Filed 11-14-79; 8:45 am]
BILLING CODE 4210-01-M

24 CFR Part 883

[Docket No. R-79-737]

Section 8 Housing Assistance Payments Program—State Housing Agencies

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Member of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 883—Section 8 Housing Assistance Payments Program—State Housing Agencies

This interim rule would amend 24 CFR Part 883 to: (1) Make the regulation easier to understand and use; (2) clarify recurring questions, reduce and level out Field Office workload and assure coordination of this program with other Section 8 regulations and with HUD mortgage insurance programs; and (3) add rent, cost and amenities limitations and requirements for cost justification of rents in certain cases in order to control and reduce the costs of the program.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. November 8, 1979.

Moon Landrieu,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-35182 Filed 11-14-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-107-8]

Income Tax; Application of Conventions Under Class Life Asset Depreciation Range System

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Income Tax Regulations relating to the application of conventions under the Class Life Asset Depreciation Range System (CLADR System). The amendments affect certain persons who use the CLADR System for the year in which they begin doing business.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 14, 1980. The amendments are proposed to be effective for property placed in service after November 14, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-107-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Benedetta A. Kissel of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-4454, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 167 of the Internal Revenue Code of 1954. These amendments are to be issued under the authority contained in sections 167(m) (85 Stat. 508, 26 U.S.C. 167(m)) and 7805 (68A Stat. 917, 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Under the existing regulations, the CLADR conventions apply to determine when eligible property will be deemed placed in service during the time frame

of a taxable year. The proposed amendments provide that a taxable year, for purposes of applying the conventions, will not include any period before the taxpayer begins engaging in a trade or business or holding property for the production of income.

Comments and Requests for a Public Hearing

Before adopting these proposed amendments, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed amendments is Benedetta A. Kissel of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the amendments, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph (c)(2)(iv) of § 1.167(a)-11 is amended by revising everything after the third sentence to read as set forth below.

§ 1.167(a)-11 Depreciation based on class lives and asset depreciation ranges for property placed in service after December 31, 1970.

(c) Manner of determining allowance.

(2) Conventions applied to additions and retirements.

(iv) Rules of application. . . . For purposes of this subparagraph, for property placed in service after November 14, 1979, the taxable year does not include any period before the person begins engaging in a trade or business or holding depreciable property for the production of income. In the case of a taxable year of other than 12 full calendar months, the first half of such taxable year shall be deemed to expire at the close of the last day of a calendar month which is the closest such last day to the middle of such taxable year and the second half of such taxable year

shall be deemed to begin the day after the expiration of the first half of such taxable year. If a taxable year consists of a period which includes only 1 calendar month, the first half of the taxable year shall be deemed to expire on the first day which is nearest to the midpoint of the month, and the second half of the taxable year shall begin the day after the expiration of the first half of the month. For example, assume that a calendar year corporate taxpayer comes into existence (within the meaning of § 1.6012-2(a)(2)) on July 1, 1980, and begins business September 1, 1981. For purposes of applying the conventions under this section, the 1981 taxable year is treated as consisting of 4 months. The first half of the taxable year ends on October 31, 1981, and the second half begins on November 1, 1981.

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 79-35212 Filed 11-14-79; 8:45 am]
BILLING CODE 4830-01-M

26 CFR Part 31

[LR-264-76]

Withholding of Tax on Certain Payments of Gambling Winnings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the withholding of tax on certain payments of gambling winnings. Changes in the applicable tax law were made by the Tax Reform Act of 1976 and the Tax Reduction and Simplification Act of 1977. These proposed regulations affect both payers and recipients of certain gambling winnings.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 14, 1980. The proposed regulations generally apply to payments of gambling winnings made after January 2, 1977, except that in the case of winnings from a parimutuel pool with respect to horse races, dog races, or jai alai, the proposed regulations apply only to payments made after April 30, 1977.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T (LR-264-76)).

FOR FURTHER INFORMATION CONTACT: John P. MacMaster of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW.,

Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3294.

SUPPLEMENTARY INFORMATION:

Background

This document contains a proposed amendment to the Employment Tax Regulations (26 CFR Part 31) under section 3402 of the Internal Revenue Code of 1954. The amendment is proposed to conform the regulations to section 1207(d) of the Tax Reform Act of 1976 (90 Stat. 1705) and section 405 of the Tax Reduction and Simplification Act of 1977 (91 Stat. 156). The proposed amendment when adopted will supersede § 34.3402-1 of the Temporary Employment Tax Regulations under the Tax Reform Act of 1976 (T.D. 7483). Accordingly, 26 CFR Part 34 will be deleted upon adoption of the proposed amendment.

In General

Section 3402(q) of the Code requires that, under certain conditions, every person making payment of certain gambling winnings deduct and withhold 20 percent of the payment. For purposes of determining whether the winnings are subject to withholding under the proposed regulations, winnings are divided into three categories based on the type of wagering transaction: winnings from State-conducted lotteries, winnings from other lotteries, sweepstakes, or wagering pools, and winnings from other kinds of wagering transactions. Winnings from bingo and keno games and slot machine plays are not subject to withholding under this provision.

Winnings from State-conducted lotteries are generally subject to withholding under this provision if the proceeds from the wager exceed \$5,000.

Winnings from wagering transactions other than State-conducted lotteries are generally subject to withholding under this provision if the proceeds from the wager exceed \$1,000. However, for certain kinds of wagering transactions, for example, wagers in a parimutuel pool with respect to horse races, dog races, or jai alai, withholding is required only if an additional condition is satisfied—that the proceeds from the wager are at least 300 times as large as the amount wagered.

The proposed amendment provides rules to be used in determining the proceeds from the wager. The amount of proceeds is generally the amount of money received less the amount of the wager. Winnings which are not in the form of money are to be taken into account at their fair market value. In addition, installment or other payments expected to be made over a period of

time with respect to a wager are aggregated. Thus, for example, if installments of lottery winnings in the aggregate exceed \$1,000 (\$5,000 for winnings from State-conducted lotteries) then each payment of proceeds from the wager is subject to withholding.

The proposed amendment further provides that the payer of winnings must deduct and withhold the appropriate amount of tax at the time the payment is actually or constructively made. Generally, this will be at the time the winnings are first made available to the winner, even though he or she does not present the winning ticket for payment until a later date. However, the requirement that the payer of the winnings remit the tax and report the winnings is suspended until the winner's identity is known to the payer. Hence, if the winner never collects the winnings there is no obligation to remit the tax or report the winnings.

Statements of Recipient and Payer

Persons receiving payments of winnings subject to withholding must furnish the payer a statement made under the penalties of perjury indicating the person's identity and the identity of each person entitled to any portion of the winnings. The payer must file a return on Form W-2G for each person entitled to a portion of the winnings containing the name, address, and social security number of the person and the amount of entitled winnings.

Drafting Information

The principal author of this regulation was John P. MacMaster of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

Proposed Amendments to the Regulations

The proposed amendment to 26 CFR Part 31 is as follows:

The following new section is added immediately following § 31.3402 (p)-1:

§ 31.3402 (q)-1 Extension of withholding to certain gambling winnings.

(a)(1) *General rule.* Every person, including the Government of the United States, a State, or a political subdivision thereof, or any instrumentality of any of the foregoing making any payment of "winnings subject to withholding" (defined in paragraph (b) of this section) shall deduct and withhold a tax in an amount equal to 20 percent of the

payment. The tax shall be deducted and withheld upon payment of the winnings by the person making such payment ("payer"). See paragraph (c)(5)(ii) of this section for a special rule relating to the time for making deposits of withheld amounts and filing the return with respect to those amounts. Any person receiving a payment of winnings subject to withholding must furnish the payer a statement as required in paragraph (e) of this section. Payers of winnings subject to withholding must file a return as required in paragraph (f) of this section. With respect to reporting requirements for certain payments of gambling winnings not subject to withholding, see section 6041 and the regulations thereunder.

(2) *Exceptions.* The tax imposed under section 3402(q)(1) and this section shall not apply (i) with respect to a payment of winnings which is made to a nonresident alien individual or foreign corporation under the circumstances described in paragraph (c)(4) of this section or (ii) with respect to a payment of winnings from a slot machine play, or a keno or bingo game.

(b) *Winnings subject to withholding.* Winnings subject to withholding means any payment from—

(1) A wager placed in a State-conducted lottery (defined in paragraph (c)(2) of this section) but only if the proceeds from the wager exceed \$5,000;

(2) A wager placed in a sweepstakes, wagering pool, or lottery other than a State-conducted lottery but only if the proceeds from the wager exceed \$1,000; or

(3) Any other wagering transaction (as defined in paragraph (c)(3) of this section) but only if the proceeds from the wager (i) exceed \$1,000 and (ii) are at least 300 times as large as the amount of the wager.

If proceeds from the wager qualify as winnings subject to withholding, then the total proceeds from the wager, and not merely amounts in excess of \$1,000 (or \$5,000 in the case of winnings from a State-conducted lottery), are subject to withholding.

(c) *Definitions; special rules.*—(1) *Rules for determining amount of proceeds from a wager.* (i) The amount of "proceeds from a wager" is the amount paid after January 2, 1977, with respect to the wager, less the amount of the wager. However, for any wagering transaction in a parimutuel pool with respect to horse races, dog races, or jai alai, only amounts paid after April 30, 1977, are taken into account.

(ii) Amounts paid with respect to identical wagers are treated as paid with respect to a single wager, for purposes of calculating proceeds from a

wager. For example, amounts paid on two bets placed on the same horse to win a particular race are treated as paid with respect to the same wager. However, in the case of two bets on the same horse, one to win and one to "place", the wagers are not identical. Amounts paid on two tickets purchased in a lottery are not aggregated, because the designation of each ticket as a winning ticket would not be based on the occurrence of the same event, e.g., the drawing of a particular number.

(iii) In determining the amount paid with respect to a wager, proceeds which are not money shall be taken into account at their fair market value.

(iv) Periodic payments, including installment payments or payments which are to be made periodically for the life of a person, are aggregated for purposes of determining the proceeds from a wager. The aggregate amount of periodic payments to be made for a person's life shall be based on that person's life expectancy. See §§ 1.72-5 and 1.72-9 for rules used in computing the expected return on annuities. For purposes of determining the amount subject to withholding, the first periodic payment shall be reduced by the amount of the wager.

(2) *Wager placed in a State-conducted lottery.* The term "wager placed in a State-conducted lottery" means a wager placed in a lottery conducted by an agency of a State acting under authority of State law provided that the wager is placed with the State agency conducting such lottery or with its authorized employees or agents. This term includes wagers placed in State-conducted lotteries in which the amount of winnings is determined by a parimutuel system.

(3) *Other wagering transaction.* The term "other wagering transaction" means any wagering transaction other than one in a lottery, sweepstakes, or wagering pool. This term includes a wagering transaction in a parimutuel pool with respect to horse races, dog races, or jai alai.

(4) *Certain payments to nonresident aliens or foreign corporations.* A payment of winnings subject to withholding made to a nonresident alien individual or a foreign corporation is not subject to the tax imposed by section 3402 (q) and this section if such payment is subject to withholding of tax under section 1441 (a) (relating to withholding on nonresident aliens) or 1442 (a) (relating to withholding on foreign corporations) and the payer complies with the requirements of those sections. For purposes of this section, a payment is treated as being subject to tax under section 1441 (a) or 1442 (a)

notwithstanding that the rate of such tax is reduced (even to zero) as may be provided by an applicable treaty with another country. However, a reduced or zero rate of withholding of tax shall not be applied by the payer in lieu of the rate imposed by sections 1441 and 1442 unless the person receiving the winnings has completed, signed, and furnished the payer Form 1001 as required by § 1.1441-6. See sections 1441 and 1442 and the regulations thereunder for rules regarding the withholding of tax on nonresident aliens and foreign corporations.

(5) *Gambling winnings treated as payments by employer to employee.* (i) Except as provided in subdivision (ii), for purposes of sections 3403 and 3404 and the regulations thereunder and for purposes of so much of subtitle F (except section 7205) and the regulations thereunder as relate to chapter 24, payments to any person of winnings subject to withholding under this section shall be treated as if they are wages paid by an employer to an employee.

(ii) Solely for purposes of applying the deposit rules under 6302 (c) and the return requirement of section 6011, the withholding from winnings shall be deemed to have been made no earlier than at the time the winner's identity is known to the payer. Thus, for example, winnings from a State-conducted lottery are subject to withholding when actually or constructively paid, whichever is earlier; however, the time for depositing the withheld taxes and filing a return with respect thereto shall be determined by reference to the date on which the winner's identity is known to the State, if such date is later than the date on which the winnings are actively or constructively paid. If a payer's obligation to pay winnings terminates other than by payment, all liabilities and requirements resulting from the requirement that the payer deduct and withhold with respect to such winnings shall also terminate.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A purchases a lottery ticket for \$1 in the state W lottery from an authorized agent of State W. On February 1, 1977, the drawing is held and A wins \$5,001. Since the proceeds of the wager (\$5,001-\$1) are not greater than \$5,000, State W is not required to withhold or deduct any amount from A's winnings.

Example (2). Assume the same facts as in example (1) except that A purchases two \$1 tickets and that A wins \$5,002 when one of the tickets is drawn. State W must deduct and withhold tax at a rate of 20% from \$5,001 (\$5,002 less the \$1 wager), or \$1,000.20.

Example (3). B makes two \$2 bets in a parimutuel pool for a horse race. Each bet is

on the same horse to win a particular race. B wins a total of \$1,300 on those bets. The proceeds of the identical wagers (\$1,300-\$4=\$1,296) exceed \$1,000 and are at least 300 times as great as the amount wagered (\$4×300=\$1,200). Therefore, the payer is required to deduct and withhold tax from B's winnings.

Example (4). C purchases a lottery ticket for \$1. On June 1, 1979, the lottery drawing is held and C wins the grand prize of \$50,000, payable \$500 monthly. The payer must deduct and withhold tax at the rate of 20% from each payment of winnings. Therefore, \$99.80 must be withheld from the first monthly payment to B ((\$500-\$1)×20%=\$99.80) and \$100 (\$500×20%) must be withheld from each monthly payment thereafter.

Example (5). Assume the same facts as in example (4), except that C wins an automobile rather than the grand prize. The fair market value of the automobile on the date on which it is made available to C is \$10,001. The payer must deduct and withhold a tax of \$2,000 ((\$10,001-\$1)×20%). This may be accomplished, for example, if C pays \$2,000 to the payer. Alternatively, if the payer, as part of the prize, pays all taxes required to be deducted and withheld, the payer must deduct and withhold tax not only on the fair market value of the automobile less the wager, but also on the taxes it pays that are required to be deducted and withheld. This results in a pyramiding of taxes requiring the use of an algebraic formula. Under this formula, the payer must deduct and withhold a tax of 25 percent of the fair market value of the automobile less the wager (\$2,500) and, in addition, the payer must indicate on Form W-2G the amount of such winnings as \$12,501 (\$10,001+25%(\$10,001-\$1)).

Example (6). D purchases a ticket for \$1 in the State Y lottery from an authorized agent of State Y. On January 1, 1976, a drawing is held and D wins \$100 a month for the rest of D's life. It is actuarially determined that, on January 3, 1977, D's life expectancy is 5 years. Based on that determination, the proceeds from the wager paid to D on or after January 3, 1977, will exceed \$5,000. Therefore, State Y must deduct and withhold \$20 from each monthly payment made on or after January 3, 1977. (None of such payments is reduced by the amount of the wager because the amount of the wager was offset by the first payment of winnings which was made before January 3, 1977).

Example (7). Assume the same facts as in example (6) except that State Y purchases in its own name, as owner, an annuity of \$100 a month for D's life from E Corporation, in order to fund its own obligation to make the payments. Although State Y remains liable for the withholding of tax, E Corporation as paying agent for State Y, making payments directly to D, should deduct and withhold from each monthly payment in the manner described in example (6).

Example (8). E purchases a sweepstakes ticket for \$1 in a sweepstakes conducted by W. E purchases the ticket on behalf of himself and on behalf of F and G, who have contributed equal amounts toward the purchase of the ticket and who have agreed to share equally in any prizes won. The ticket

which E purchases wins \$1,002. Since the proceeds of the wager (\$1,002—\$1) are greater than \$1,000 W is required to withhold and deduct 20 percent of such proceeds.

Example (9). On February 1, 1977, a drawing is held in the State X lottery in which a winning ticket is selected. The person holding the winning ticket is entitled to proceeds of \$100,000 payable either as a lump sum upon demand or \$10,000 a year for 10 years. Under State law, the winning ticket must be presented to an authorized agent of State X before February 1, 1978. Until the ticket is presented, State X does not know the identity of the winner. On December 1, 1977, H, the winner, presents the winning ticket to an authorized agent of the State X lottery. The winnings are constructively paid to H on February 1, 1977. Since H, has the option of receiving the entire proceeds upon demand, State X is required to deduct and withhold \$20,000 (\$100,000×20%) from the proceeds of H's winnings on February 1, 1977; but for purposes of determining the time at which the deposit and inclusion on Form 941 of these taxes is to be made, the withholding shall be deemed to have been made on December 1, 1977.

Example (10). J purchases a subscription to N magazine, at the regular subscription price. All new subscribers are automatically eligible for a special drawing. The drawing is held and J wins \$50,000. Since J has not paid any more than the regular subscription price, J has not placed a wager or entered a wagering transaction. Therefore, N is not required to deduct and withhold from J's winnings.

(e) *Statement by recipient.* Each person who is to receive a payment of winnings subject to withholding shall furnish the payer a statement on Form W-2G (or, if one or more persons other than the recipient is entitled to a portion of the winnings, on Form 5754) made under the penalties of perjury containing—

(1) When Form W-2G is required to be furnished pursuant to this paragraph (e), the name, address, and taxpayer identification number of the winner accompanied by a declaration that no other person is entitled to any portion of the winnings.

(2) When a Form 5754 is required to be furnished, the name, address, and taxpayer identification number of the recipient and of each person entitled to any portion of such payment.

(f) *Return of payer—(1) In general.* Every person making any payment of winnings subject to withholding shall file a return on Form W-2G with the Internal Revenue Service Center serving the district in which is located the principal place of business of the person making the return on or before February 28 of the calendar year following the calendar year in which the payment of winnings is made. For payments to more than one winner, a separate Form W-2G, which need not be signed by the

winner, shall be filed with respect to each such winner. Each Form W-2G shall contain the following—

- (i) Name, address, and employer identification number of the payer;
- (ii) Name, address, and social security account number of the winner;
- (iii) Date, amount of the payment, and amount withheld;
- (iv) Type of wagering transaction; and
- (v) Except with respect to winnings from a wager placed in a State-conducted lottery, a specific description of two types of identification, e.g., driver's license number and issuing State, social security account number or voter registration number and jurisdiction, furnished to the payer for verification of the recipient's name, address, and social security account number.

(2) *Transmittal form.* Persons making payments of winnings subject to withholding shall use Form W-3G to transmit Forms W-2G to the Internal Revenue Service Centers.

Jerome Kurtz,
Commissioner of Internal Revenue.
[FR Doc. 79-35211 Filed 11-14-79; 8:45 am]
BILLING CODE 4830-01-M

CENTRAL INTELLIGENCE AGENCY

32 CFR Part 1900

Public Access to Documents and Records and Declassification Requests

AGENCY: Central Intelligence Agency.
ACTION: Proposed rule.

SUMMARY: The United States District Court for the district of Columbia on September 27, 1979 ordered the Central Intelligence Agency to publish applicable rules and regulations relating to the Agency's Reading Room and access thereto.

The regulations will establish procedures for the general public to access and review records which have been approved for release in response to freedom of information requests.

DATES: All written comments received by the Central Intelligence Agency will be considered before final notice is promulgated in the Federal Register. These must be received by January 7, 1980.

ADDRESS: Interested persons are invited to participate in this rulemaking by submitting such written data, views, or comments as they may desire to: Chief, Information and Privacy Division, Central Intelligence Agency, Washington, D.C. 20505.

FOR FURTHER INFORMATION CONTACT: Mr. George W. Owens, Chief, Information and Privacy Division, Central Intelligence Agency, Washington, D.C. 20505; phone: (703) 351-7486.

SUPPLEMENTARY INFORMATION: Pursuant to the order of the Court, The Central Intelligence Agency hereby publishes Rules and Regulations for compliance by the general public to access and review records which have been approved for release to the general public in response to Freedom of Information Act requests. This proposed Central Intelligence Agency Rule and Regulation is entered at Title 32 Code of Federal Regulations, Part 1900, paragraph (c) of § 1900.49, Notification and payment: furnishing records. The Court on September 27, 1979 ordered the Agency to comply on or before November 30, 1979. Agency Rules and Regulations previously promulgated can be found in the Federal Register at Vol. 40, No. 34, pp. 7294-7298, February 19, 1975; Vol. 40, No. 113, pg. 24897, June 11, 1975; Vol. 42, No. 92, pg. 24049, May 12, 1977; and, Vol. 43, No. 109, pg. 24527, June 6, 1978.

In consideration of the foregoing, the Central Intelligence Agency proposes amendment to 32 CFR part 1900 by adding a new paragraph (c) to § 1900.49 to read as follows:

§ 1900.49 Notification and payment: furnishing records.

(c) As an alternative to Freedom of Information Act requesters receiving records from the Agency by mail, a requester may arrange to inspect the records at a CIA Reading Room designated by the Information and Privacy Coordinator for that purpose, and select whatever records the requester wishes to purchase at the cost set forth in § 1900.25. Access to the Reading Room will be granted only after the fees that accumulated from the search to produce the requested records have been paid. Upon receipt of a written statement from the requester exercising this option, the Coordinator will advise the requester of the location of the Reading Room and provide directions thereto. Unless otherwise designated, the Reading Room location will be in the metropolitan Washington, D.C., area. Records that will be made available for inspection will be delivered to the Reading Room within seven days after the Agency has completed the processing of a request and assembled and prepared the records for release, or, if already available for inspection, within seven days after receipt of a written request. The Coordinator and the requester will

mutually agree to a date satisfactory to both parties, including an inspection date more than seven days hence if the requester so desires. On the days the Reading Room is open, it will be available to requesters from 9:30 a.m. to 3:30 p.m.

This amendment is proposed under the authority of Section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403), the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.), Executive Order 12065 (3 CFR 190), the Freedom of Information Act, as amended (5 U.S.C. 552), and the Federal Records Management Amendments of 1976 (Sec. 4, Pub. L. 94-575, 90 Stat. 2723).

Clifford D. May, Jr.,
Acting Deputy Director for Administration.
[FR Doc. 79-35121 Filed 11-14-79; 8:45 am]
BILLING CODE 6310-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

(FRL 1359-8)

Approval and Promulgation of Implementation Plans; Kentucky: Proposed 1979 Plan Revisions

AGENCY: U.S. Environmental Protection Agency, Region IV.
ACTION: Proposed rule.

SUMMARY: EPA today proposes approval action on the State Implementation Plan (SIP) revisions which the Kentucky Department of Natural Resources and Environmental Protection submitted pursuant to requirements of Part D of Title I of the Clean Air Act, as amended in 1977, with regard to nonattainment areas. EPA has found the nonattainment revisions to be approvable with the exception of certain portions. EPA intends to disapprove and conditionally approve the latter upon correction of the deficiencies noted. Correction of these deficiencies will not require extensive time or resources from the Commonwealth, and EPA expects no difficulties in receiving the necessary corrections by June 1, 1980. If the deficiencies are not corrected by June 1, 1980, EPA will then disapprove the applicable portions of the revisions except for the inspection and maintenance legislation (see Ozone, Jefferson County (Louisville) discussion). The portions of the SIP which are proposed to be disapproved are, in effect, to be removed from the SIP. As a result those portions of the plan will become approvable and

Sections 176 and 110(a)(2)(I) will not apply. The public is invited to submit written comments on these proposed actions.

DATES: To be considered, comments must be submitted on or before December 17, 1979. A thirty-day comment period is being used to enable publication of final action on the SIP revision as soon as possible after July 1, 1979, because a Notice of Availability was published more than 30 days ago and because the SIP submission and the issues involved are not so complex as to warrant a longer comment period.

ADDRESSES: Written comments should be addressed to Barry Gilbert of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308

Kentucky Division of Air Pollution Control, West Frankfort Office Complex, U.S. 127 South, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Barry Gilbert of EPA Region IV's Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30308. Telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTAL INFORMATION:

Background

In the March 3, 1978 Federal Register (FR 8962 at 8998) and the September 11, 1978 Federal Register (43 FR 40412 at 40425) a number of areas within the Commonwealth of Kentucky were designated as not attaining certain national ambient air quality standards (NAAQS). The areas listed below are considered nonattainment for the primary and secondary standards for total suspended particulate matter (TSP) except Marshall County which is designated nonattainment for the secondary NAAQS only:

- A. Bell County
- B. Boyd County
- C. That portion of Bullitt Co. in Shepherdsville
- D. That portion of Campbell Co. in Newport
- E. That portion of Daviess Co. in Owensboro
- F. That portion of Henderson Co. in Henderson
- G. Jefferson County
- H. That portion of Lawrence Co. in Louisa
- I. McCracken County
- J. Marshall County
- K. That portion of Madison Co. in Richmond
- L. Muhlenberg County
- M. That portion of Perry Co. in Hazard

- N. That portion of Pike Co. in Pikeville
- O. That portion of Whitley Co. in Corbin

The areas designated nonattainment for the primary (P) and secondary (S) standards of sulfur dioxide (SO₂) are:

- A. Boyd County (P)
- B. That portion of Daviess Co. in Owensboro (P&S)
- C. That portion of Henderson Co. in Henderson (P)
- D. Jefferson County (P&S)
- E. McCracken County (P)
- F. Muhlenberg County (P&S)
- G. Webster County (P&S)

Greenup County was designated nonattainment for the primary and secondary sulfur dioxide NAAQS because El duPont de Nemours and Co. sulfuric acid plant was not in compliance. On August 31, 1978, the source was certified to be in compliance. The Commonwealth of Kentucky requested that the area be redesignated attainment and on April 2, 1979, (44 FR 19213) EPA proposed the redesignation. Final rulemaking was published in the July 18, 1979, Federal Register (44 FR 41782) redesignating the area attainment.

The area designated nonattainment (primary and secondary standards are the same) for carbon monoxide (CO) is:

- A. Jefferson County

The areas designated nonattainment (primary and secondary standards are the same) for photochemical oxidants (ozone) are:

- A. Northern Kentucky (Cincinnati Area)—Boone, Kenton, and Campbell Counties
- B. Daviess County
- C. Fayette County
- D. Henderson County
- E. Jefferson County
- F. McCracken County
- G. Boyd County

EPA on June 27, 1979 (44 FR 37515), proposed to redesignate Daviess and McCracken Counties attainment. Revisions for these areas were submitted for EPA approval on March 9, 1979 and are being addressed in separate Federal Register notices.

The Kentucky revisions have been reviewed by EPA in light of the Clean Air Act, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the Federal Register on April 4, 1979, (44 FR 20372) and need not be repeated in detail here. Supplements to the April 4 notice were published on July 2, 1979 (44 FR 38583) and August 28, 1979, (44 FR 50371); these involve, among other things, conditional approval.

EPA proposes to conditionally approve the plan where there are minor deficiencies and the Commonwealth provides assurance that it will submit

corrections by specified deadlines. This notice solicits comment on what items should be conditionally approved, and on the deadlines specified.

A conditional approval will mean that the restrictions on new major source construction will not apply unless the Commonwealth fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

The 1978 edition of 40 CFR Part 52 lists in the subpart for each State the applicable deadlines for attaining ambient standards (attainment dates) required by section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by section 172(a) of the Act, the new deadlines will be added to the attainment date charts. Subsequent editions of the *Code of the Federal Regulations* will list applicable attainment dates for plans under both sections 110(a)(2)(A) and 172(a). The earlier attainment dates under section 110(a)(2)(A) will be listed because sources remain obligated to comply with the plan requirements and deadlines established prior to the 1977 Amendments, as well as the new section 172 plan requirements.

Congress established new deadlines under section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supersede the deadlines established prior to the 1977 Amendments, sources that failed to comply with pre-1977 plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply only to new, additional control requirements and not to earlier requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. I would be a perversion of clear congressional intent to construct Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxations of emission limits were not generally authorized or intended under Part D.

(123 Cong. Rec. H 11958, daily ed. November 1, 1979)

To implement fully, Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. Such variances would impermissibly relax existing requirements beyond the applicable section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments, EPA will not approve a compliance date extension beyond pre-existing 110(a)(2)(A) attainment dates, even though a section 172 plan revision with a later attainment date has been approved.

However, in certain exceptional circumstances, extensions beyond a pre-existing attainment date are permitted. For example, if a section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations, the pre-existing requirements and deadlines may be revised if a state makes a case-by-case demonstration that a relaxation or revocation is necessary. In addition, an extension may be granted if it will not contribute to a violation of an ambient standard or a PSD increment (See General Preamble for Proposed Rulemaking, 44 FR 20373-74 (April 4, 1979)).

General Discussion

Section 172(b) of the Clean Air Act (CAA) contains the requirements for nonattainment State Implementation Plans. The following is a listing of these requirements accompanied by a discussion of the contents and adequacies of the Kentucky submittals.

172(b)(1) [SIP provision shall] be adopted by the State (or promulgated by the Administrator under Section 110(c)) after reasonable notice and public hearing;

Public hearings were held throughout the Commonwealth on the adopted material following 30 days public notice. Public hearings were conducted January 9, 10, and 17, April 16, and June 7, 1979. These SIP provisions were adopted by the Commonwealth on June 6 and 29, 1979, and by the Jefferson County Board on June 18, 1979.

172(b)(2) [SIP provision shall] provide for the implementation of all reasonably available control measures as expeditiously as practicable;

For discussion of reasonably available control measures including Reasonable Available Control Technology (RACT) see the discussion after 172(b)(3) below.

172(b)(3) [SIP provision shall] require, in the interim, reasonable further progress (as defined in section 171(1)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology;

The plan provides for reasonable further progress (RFP) towards attaining and maintaining the NAAQS. RFP for sulfur dioxide nonattainment areas includes reductions in emissions to attain the primary and secondary NAAQS on or before December 31, 1982, except for Jefferson County, which has an attainment date of January 1, 1985 (see discussion of Sulfur Dioxide-Jefferson County included below). RFP for ozone nonattainment areas requires reductions from stationary and mobile sources in order to attain the primary NAAQS on or before December 31, 1982, in all areas except Louisville and Northern Kentucky. The Commonwealth has requested an extension to the end of 1987 for meeting the ozone and carbon monoxide NAAQS in Louisville (Jefferson Co.) and the ozone NAAQS in Northern Kentucky (Boone, Kenton and Campbell Counties). Therefore, a mandatory inspection and maintenance (I/M) program for motor vehicles, other transportation control measures, and a new source review program consistent with Section 172(b)(11) must be implemented. As a requirement for the extension to 1987, the SIP must include:

A. An adequate inspection and maintenance program for motor vehicles; this must include the following:

(1) Certification of adequate legal authority to implement and enforce a mandatory I/M program.

(2) Commitments from the proper agency(ies) to the implementation and enforcement of the I/M program.

(3) An adequate implementation schedule.

(4) Commitments from the proper agency(ies) to obtaining at least a 25% emissions reduction from light-duty vehicles for hydrocarbons and/or carbon monoxide by December 31, 1987. The requirement for the 25% reduction would apply only to the pollutant(s) for which the extension is requested (Ref. also CAA, Section 172(b)(11)(B)).

B. A program for selecting a package of transportation control measures (and any other necessary measures) to attain the emission reductions target ascribed in the SIP. The package should include an adopted schedule for expeditious implementation of currently planned reasonable transportation control measures, and schedules for analysis and adoption of additional transportation control (and other necessary) measures (Ref. CAA Section

110(a)(3)(D), Section 172(b) (2), (7), (10), and (11)(C)).

C. A commitment to establish, expand, or improve public transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and State and local funds (Ref. CAA, Section 110(a)(3)(D), and Section 172(b)(2)).

Reasonable further progress for particulate nonattainment areas includes reductions in emissions to attain the primary and secondary NAAQS on or before December 31, 1982, and December 31, 1987, respectively, except for Marshall County, which will attain the secondary NAAQS on or before December 31, 1982.

A control strategy was not submitted for the attainment of the secondary NAAQS in Owensboro (Davies Co.), Henderson (Henderson Co.), and Jefferson and Boyd Counties. It is proposed to provide an eighteen (18) month extension for the developing and submittal of a control strategy to attain the secondary NAAQS in these areas. Graphs and calculations accompany each explanation of progress toward attainment for each nonattainment area.

The control strategy demonstrates that the TSP nonattainment problem is being caused by non-traditional sources. The statute requires that all traditional sources must be subject to regulations which require RACT. The Commonwealth contends that existing regulations on point source emissions represent RACT. EPA agrees but feels it is necessary to review these permits to determine if the regulations are being applied properly. EPA will review permit conditions on sources significantly affecting nonattainment areas before making a final determination that RACT is in place where needed. Permit conditions are necessary since it is difficult to develop regulations for each type of fugitive emission source within each plant. Additional controls necessary for attaining the NAAQS are confined to fugitive dust from such non-traditional sources as paved and unpaved roads. The Kentucky Department of Natural Resources and Environmental Protection (DNREP) has committed to a comprehensive program to investigate fugitive dust emissions from non-traditional sources and alternative control measures and to develop and implement an effective control program by July 1, 1982, and to provide for attainment by December 31, 1982. Following completion of the fugitive dust study, the Commonwealth will submit a SIP revision to EPA which will include adopted control measures, commitments to implement them and amendments to

the control strategy to reflect such measures.

Each nonattainment area is discussed below by pollutant.

Sulfur Dioxide

Boyd County

The entire county is presently designated nonattainment for the primary sulfur dioxide NAAQS. Recent ambient monitoring indicates the area is also not attaining the secondary NAAQS. Pursuant to the Commonwealth's request, EPA on June 27, 1979 (44 FR 37515), proposed to modify the geographic area to include as nonattainment only the area around the Ashland Oil Plant (Boyd County south of UTM Northing Line 4251 km). The control strategy demonstrates that the short term and annual emission limitations recently adopted for Class VA counties will attain the primary and secondary NAAQS. An ambient and meteorological monitoring study was conducted to evaluate the diffusion model's validity in the complex terrain around the Ashland Oil facility. The contractor's report for the study is the basis of the control strategy demonstration. EPA considers the analysis performed by the contractor to represent a sufficient control strategy demonstration. A major portion of the emission reductions will come from Ashland Oil while the remainder will come from other major sources in southern Boyd County. All sources subject to more stringent or new emission limits shall demonstrate compliance as expeditiously as practicable but in no case later than December 31, 1982.

It is proposed to conditionally approve this portion of the SIP because of the deficiencies listed below:

1. Regulation 401 KAR 61:015, Existing Indirect Heat Exchangers, states in Section 5(4), Standard for Sulfur Dioxide, "In counties classified as VA with respect to sulfur dioxide, for sources having total heat input greater than fifteen hundred million BTU per hour (1500 MMBTU/hr.) as determined by Section 3(1) of this regulation, no owner or operator shall allow the annual average sulfur dioxide emission rate from all existing and new affected facilities combined at the source to exceed 0.60 pounds per million BTU." This regulation (applicable to Ashland Oil) is unenforceable because there is no method specified for continually determining compliance with this annual average emission limit. The usual method of determining compliance by stack test may not be practical since there are over 50 affected emission

sources at Ashland Oil and since it is an annual, not a short-term, limit. Therefore, the method of determining the compliance status of the oil/gas fired units must be clearly specified and should address the frequency of oil sample collections and analyses, the locations of sample collection points, the analytical techniques which are acceptable, the acceptable method for monitoring fuel consumption, and the reporting frequency.

The regulation implies that compliance determination will be made on the basis of a single annual averaging period. If the time averaging basis is consecutive blocks of 365 day periods, there is no way of knowing whether the plant is continually in compliance with this annual average limit. A moving 365 day averaging period which is recalculated each day would enable the plant to demonstrate on a daily basis its compliance status in regard to this annual limit.

2. A legally enforceable compliance schedule with increments of progress must be a part of the SIP (See General Sulfur Dioxide Conclusions).

3. Continuous ambient monitoring should be conducted in the vicinity of the plant because of a history of air quality violations and the lack of reliable modeling techniques for this area.

City of Owensboro

This nonattainment area is located within Davies County and is designated nonattainment for the primary and secondary sulfur dioxide NAAQS. The control strategy demonstrates through modeling that the existing emission limitations will assure attainment of the NAAQS. The nonattainment designation is based upon the noncompliance of Owensboro Municipal Utility Elmer Smith power plant. The source was following Federal Administrative Order #AO-77-235(a) and the Plant demonstrated compliance with the applicable SO₂ emission limit on March 1, 1978. Since compliance has been attained, there is no need for a revision to the emission limitation; however, other nonattainment requirements apply.

City of Henderson

This nonattainment area is located within Henderson County and is designated nonattainment for the primary NAAQS for sulfur dioxide. Measured violations due to noncompliance of Henderson Municipal Power and Light were previously recorded. Since the plant came into compliance during 1977, the ambient monitor has measured acceptable levels.

No revision to the control strategy was necessary. The Commonwealth has requested this area be redesignated attainment and EPA is preparing a Federal Register proposal notice.

Jefferson County

The Louisville area is nonattainment for the primary and secondary sulfur dioxide NAAQS. Ambient monitoring has shown and diffusion modeling predicts violations of the NAAQS due to emissions from power plants and to a lesser degree from area sources. The control strategy demonstration shows that when all sources are in compliance with the present emission limits the NAAQS will be attained.

The three power plants owned by Louisville Gas and Electric Company in Jefferson County are subject to Federal Administrative/Agreed Orders 75-138(a), issued on November 5, 1975, and 76-21(a) issued on February 26, 1976, which specify final compliance for all units prior to December 31, 1982, except for Paddy's Run Unit 5 and Cane Run Units 1, 2, and 3 which must achieve final compliance by July 1, 1983, and January 1, 1985, respectively.

Although the Clean Air Act Amendments of 1977 specifies December 31, 1982, as the date for attainment of the primary NAAQS, Section 113(d)(12) specifically states that such orders as these issued to Louisville Gas and Electric shall remain in effect. Since attainment in Jefferson County requires compliance with these orders by Louisville Gas and Electric, attainment will not be achieved until January 1, 1985. Given the clear Congressional intent to have these orders remain in effect, EPA believes it is appropriate to extend the attainment dates until 1985.

McCracken County

This area is designated nonattainment for the primary sulfur dioxide NAAQS. The control strategy demonstrates that the Shawnee TVA power plant caused the recorded ambient violations. The NAAQS will be attained when the source comes into compliance with the existing emission limitation which the control strategy shows to be adequate. The Shawnee TVA power plant compliance schedule specifies final compliance by October 1, 1981, and should be removed since the existing SO₂ emission limit is not being made more stringent in this SIP revision. It is proposed to disapprove the SO₂ plan for McCracken County due to this deficiency which is further discussed in the General Sulfur Dioxide Conclusions.

Muhlenberg County

This area is designated nonattainment for the primary and secondary sulfur dioxide NAAQS due to non-compliance of two power plants. The control strategy demonstrates by diffusion modeling that the proposed more stringent emission limits for the power plants are adequate to assure attainment of the NAAQS. TVA's Paradise power plant is scheduled to achieve compliance by September 1, 1982. Kentucky Utilities' Green River power plant is also subject to an established compliance schedule achieving final compliance on March 1, 1980.

Webster County

This area is designated nonattainment for the primary and secondary sulfur dioxide NAAQS. The control strategy demonstrates through modeling that the existing emission limitations (which were not revised) are adequate. The area was designated nonattainment because the Big Rivers Electric Corporation-Reid Station power plant was out of compliance. The source is following Federal Administrative/Agreed Orders AO 77-251(a) and 77-252(a) and AO 77-1580-003 and 77-4020-0001 which specify final compliance by January 1, 1980. This compliance schedule was not submitted as part of the plan, but is enforceable by EPA. In addition, it cannot be submitted as part of the SIP since the source is not subject to a more strict emission limit.

General Sulfur Dioxide Conclusions

It is proposed to disapprove a portion of the plan for all SO₂ nonattainment areas due to the following deficiency. Regulation 401 KAR 61:015, Existing Indirect Heat Exchanges, at paragraph (2)(d) of Section 8, Compliance Timetable, requires sources in nonattainment areas to demonstrate compliance "as expeditiously as practicable but in no case later than December 31, 1982". However, only sources which are subject to a more stringent emission limit due to this SIP revision may be allowed time to attain compliance. Section 8(2)(d), as now written allows sources which are not subject to more strict emission limits, time to achieve compliance. EPA proposes to disapprove this portion of the plan as it relates to compliance schedules for sources in the latter category. This disapproval, in effect, removes that unapprovable portion of Section 8(2)(d) from the SIP, thereby enabling the affected part of the SIP to be approved. As a result, Section 176 and 110(a)(2)(I) of the CAA will not

apply. The Commonwealth may remove this deficiency by modifying Section 8(2)(d) such that it applies only to sources subject to more strict emission limits.

EPA proposes to conditionally approve the portion of the SIP relating to regulation 401 KAR 61:015, Section 8(2)(d), as it applies to any SO₂ source in a nonattainment area which is subject to a more stringent emission limit, since there are no increments of progress in the compliance schedule. The Commonwealth may correct the deficiency by modifying the regulation so that sources subject to more strict emission limits have compliance schedules which include increments of progress.

In addition to the deficiency just described, EPA's proposed conditional approval of the plan for Boyd County is due to the deficiency discussed under SO₂ Boyd County.

Section 8(2)(a) allows the TVA Shawnee power plant until October 1, 1981, to achieve compliance. The source was previously required to be in compliance by July 1, 1977, with the emission limits in the presently approved SIP. Since the source is not subject to more strict emission limits, a portion of the plan for attaining the SO₂ NAAQS in McCracken County is proposed to be disapproved. This disapproval, in effect, removes Section 8(2)(a) from the SIP, thereby enabling the affecting part of the SIP to be approved. As a result, Sections 176 and 110(a)(2)(I) of the CAA will not apply. The Commonwealth may remove this deficiency by removing Section 8(2)(a) from the regulations.

It is proposed to approve the compliance schedules for Paradise and Green River power plants in Muhlenberg County as contained in this regulation.

Total Suspended Particulates

Bell County

The entire county is designated nonattainment for the primary and secondary particulate NAAQS. Coal processing and re-entrained road dust account for the majority of the particulate emissions. After several coal tipples achieve compliance, air quality will be improved. The remaining needed reduction will be obtained by the control of non-traditional sources. The plan provides for attainment of the primary NAAQS on or before December 31, 1982, and the secondary NAAQS by December 31, 1987.

Boyd County

This area is designated nonattainment for the primary and secondary

particulate NAAQS. The control strategy demonstrates that industrial fugitive sources, and paved and unpaved roads contribute to the violations of the NAAQS. The control of non-traditional sources such as re-entrained dust and traditional sources of industrial process fugitive particulate emissions (see discussion under TSP Conclusions) are necessary to reduce particulate emissions. The plan provides for attainment of the primary NAAQS on or before December 31, 1982. It is proposed to approve an 18 month extension for submission of a plan to attain the secondary NAAQS.

City of Shepherdsville (Bullitt County) and City of Newport (Campbell County)

These areas are designated nonattainment for the primary and secondary particulate NAAQS. The control strategies demonstrate that paved and unpaved roads contribute to the violations of the NAAQS. The control of non-traditional sources such as re-entrained dust is necessary to reduce particulate emissions. The plan provides for attainment of the primary NAAQS on or before December 31, 1982, and the secondary NAAQS by December 31, 1987.

City of Owensboro (Davies County) and City of Henderson (Henderson County)

These areas are designated nonattainment for the primary and secondary particulate NAAQS. The control strategies demonstrate that paved and unpaved roads, and construction activity contribute to the violations of the NAAQS. The control of these non-traditional sources is necessary to reduce particulate emissions. The plan assumes similar required SIP reductions from Vanderburgh County, Indiana, and provides for attainment of the primary NAAQS on or before December 31, 1982. It is proposed to approve an 18 month extension for submission of a plan to attain the secondary NAAQS.

Jefferson County

This area is designated nonattainment for the primary and secondary particulate NAAQS. The control strategy demonstrates that control of paved and unpaved roads, construction activity and non-traditional sources such as re-entrained dust is necessary to reduce particulate emissions. The plan assumes that similar required SIP reductions will be achieved in Clark and Floyd Counties, Indiana (the plan for these areas has not yet been submitted), and provides for attainment of the primary NAAQS on or before December

31, 1982. It is proposed to approve an 18 month extension for submission of a plan to attain the secondary NAAQS.

McCracken County

This area is designated nonattainment for the primary and secondary particulate NAAQS. The control strategy demonstrates that minerals from agricultural activities and paved and unpaved roads contribute to the violations of the NAAQS. The control of non-traditional sources such as re-entrained dust associated with paved and unpaved roads and agricultural activities is necessary to reduce particulate emissions. The plan provides for attainment of the primary NAAQS on or before December 31, 1982, and secondary NAAQS by December 31, 1987.

City of Richmond

This area is located within Madison County and is designated nonattainment for the primary and secondary particulate NAAQS. The control strategy demonstrates that minerals from paved and unpaved roads, tilling activities and partially combusted coal contribute to the violations of the NAAQS. The plan calls for control on non-traditional sources such as re-entrained dust associated with paved and unpaved roads to reduce particulate emissions. The plan provides for attainment of the primary NAAQS on or before December 31, 1982, and the secondary NAAQS by December 31, 1987.

Marshall County

This area is designated nonattainment for the secondary particulate NAAQS. The control strategy demonstrates that a major point source, SKW Alloys (previously Airco Alloys), is responsible for the violations of the NAAQS. This source is out of compliance with the approved SIP which contains a mass emission limit in the process weight regulations and a visible emission limit. Regulation 401 KAR 61:070, Existing Ferro Alloy Production Facilities, was submitted in this revision to replace the process weight regulation for this source. There are visible emission limits in 401 KAR 61:070, but no mass emission limits. The plan provides for SKW Alloys to attain compliance and the secondary NAAQS to be attained on or before December 31, 1982.

Muhlenberg County and City of Louisville (Lawrence County)

These areas are designated nonattainment for the primary and secondary particulate NAAQS. The control strategies demonstrate that

minerals from paved and unpaved roads, agricultural activities, coal fragments from stockpiles, strip mining and transporting of coal contribute to the violations of the NAAQS. The plan calls for control of non-traditional sources such as re-entrained dust associated with paved and unpaved roads to reduce particulate emissions. The plan provides for attainment of the primary NAAQS on or before December 31, 1982, and the secondary NAAQS by December 31, 1987.

City of Hazard (Perry County), City of Pikeville (Pike County), and City of Corbin (Whitley County)

These areas are designated nonattainment for the primary and secondary particulate NAAQS. The control strategies demonstrate that minerals from unpaved roads; coal fragments from tipples, stockpiles and transporting of coal; and partially combusted coal from home heating contribute to the violations of the NAAQS. The plan calls for the control of non-traditional sources such as re-entrained dust associated with strip mining activities to reduce particulate emissions. The plan provides for attainment of the primary NAAQS on or before December 31, 1982, and the secondary NAAQS by December 31, 1987.

TSP Conclusions

EPA's review of the Kentucky revisions revealed a number of deficiencies related to attainment of the particulate NAAQS. The deficiencies include:

1. Regulation 401 KAR 61:075, Steel Plants and Foundries Using Electric Arc Furnaces, in Section 3(1)(c) 1 and 2; and Regulation 401 KAR 61:080, Steel Plants Using Existing Basic Oxygen Process Furnaces, in Sections 2(8) and 5(1)(e) relate to visible emission limits and must be modified so as to allow opacity determinations to be shorter than six (6) minutes for a non-continuous or intermittent process which discharge emissions for a shorter period of time. EPA has compared these regulations with Federal consent orders on U.S. Steel Corporation, Fairfield Works in Fairfield, Alabama and U.S. Steel plants in Western Pennsylvania, which orders represent RACT. The conclusion was that these regulations do not represent RACT. Reference Method 9 is specified as the test method for these regulations. The Federal Register of November 12, 1974, (page 39873) states, "EPA recognizes that certain types of opacity violations that are intermittent in nature require a different approach in applying the opacity standards than this revision

to Method 9". Opacity observations should taken at fifteen (15) second intervals and each momentary observation that is recorded should be deemed to represent the opacity of emissions for that fifteen (15) second period. Violations of the opacity standard shall be deemed to have occurred when accumulations of momentary observations in excess of twenty (20) percent equal or exceed three (3) minutes in any one hour (i.e., twelve or more such observations) or when one (1) such observation exceeds sixty (60) percent (i.e., one such observation in any one hour).

2. Regulation 401 KAR 61:080, Steel Plants Using Existing Basic Oxygen Furnaces; Section 3(1) (a) and (b) limits emissions to 0.048 gr/dscf and opacity to less than forty (40) percent, respectively. EPA has compared these regulations with Federal consent orders on U.S. Steel Corporation, Fairfield Works in Fairfield, Alabama and U.S. Steel plants in Western Pennsylvania, which orders represent RACT. The conclusion was that these regulations do not represent RACT. The plant (Armco) to which this regulation will apply can achieve a particulate emission limit of at least 0.030 gr/dscf for gases which exit from a control device. The gas should be tested during the primary oxygen blow. The opacity should be limited to twenty (20) percent from any control device. The opacity from charging, tapping, slagging, turn down and any escape from the primary hood should also be limited to twenty (20) percent for all basic oxygen furnace (BOF) vessels in any BCF shop. An exemption for the BOF shop of three (3) minutes in any one hour could be allowed with a restriction that no such exemption should ever have an opacity which exceeds sixty percent (i.e., one momentary observation in any one hour).

3. Regulation 401 KAR 63:010, Fugitive Emissions, is a general regulation in that it does not require specific controls on sources. Therefore, the degree of control is not as definite or as enforceable as mass or visible emission limitations. The Commonwealth must submit, for inclusion in the SIP, permit conditions on all sources subject to this regulation which significantly affect nonattainment areas. In addition, Section 4(3) exempts temporary blasting or construction operations. The construction operations exemption must be removed. This exemption is not included in the presently approved SIP and represents a weakening of the regulation. It is proposed to conditionally approve those portions of the SIP which relate to the

following particulate nonattainment areas:

(a) Boyd, Campbell, Jefferson and Daviess Counties due to deficiency number one (1).

(b) Boyd and Jefferson Counties due to deficiency number two (2).

(c) All particulate nonattainment areas due to deficiency number three (3).

It is proposed to disapprove a portion of the plan for all TSP nonattainment areas due to the following deficiency. Regulation 401 KAR 61:015, Existing Indirect Heat Exchangers, at paragraph (2)(d) of Section 8, Compliance Timetable, requires sources in nonattainment areas to demonstrate compliance * * * "as expeditiously as practicable but in no case later than December 31, 1982". Only sources which are subject to a more stringent emission limit due to this SIP revision may be allowed time to attain compliance. Section 8(2)(d) is deficient since it allows sources, which are not subject to more strict emission limits, time to achieve compliance. This disapproval in effect, removes the unapprovable portion of Section 8(2)(d) from the SIP, thereby enabling the affected part of SIP to be approved. As a result, Section 176 and 110(a)(2)(I) of the CAA will not apply. The Commonwealth may remove this deficiency by modifying Section 8(2)(d) so that it does not apply to TSP sources.

Ozone

Jefferson County (Louisville)

The Commonwealth has calculated that a 39% reduction in hydrocarbon emissions is needed to meet the ozone standard and that the standard cannot be met by the end of 1982. The Commonwealth has requested and EPA is proposing to approve an extension to 1987 to attain the ozone NAAQS. The requirements for this extension are stated in the General Discussion section of this notice.

The Commonwealth has submitted in the SIP an opinion from the Attorney General of the Commonwealth regarding its legal authority to implement and enforce I/M and the ability under Kentucky law of local governments to adopt authority to implement and enforce I/M. Since efforts to adopt legal authority to implement and enforce a mandatory I/M program at the local level have not been successful, the Commonwealth has assumed the responsibility for implementing the program. In the SIP, the Commonwealth committed to implementing an I/M program by including a schedule of future actions which would lead to

implementation of the program by December 31, 1982 and a commitment to use the I/M program to obtain the emission reductions necessary to attain and maintain the ambient standards by 1987. This commitment satisfies the requirement for a commitment to a 25% reduction in hydrocarbon and carbon monoxide exhaust emissions by 1987. However, upon review of the SIP, it was found that the I/M legal authority does not exist. Therefore, to assure themselves and EPA of adequate legal authority, legislative action by the Kentucky Legislature will be required. In response to the deficiency, the Governor of Kentucky on June 29, 1979, committed the Commonwealth to attempting to pass enabling legislation in the regular 1980 General Assembly session. Because the deadline for certification of adequate legal authority was July 1, 1979 for the SIP to be conditionally approved, an extension of the deadline is necessary. In order for the Governor's request to be granted, it must be demonstrated that the legislature had inadequate opportunity to consider the needed legal authority. In a letter dated November 2, 1979, the Secretary of the Kentucky Department of Natural Resources and Environmental Protection reaffirmed the Governor's request for an extension and indicated that the legislative session of 1980 will be the first session at which the Kentucky Legislature can consider legislative action.

It should be noted that the last time that the General Assembly met in regular session was in January-March, 1978. At that time, the Agriculture and Natural Resources Committee tabled enabling I/M legislation, because it was not known at that time if any areas in the Commonwealth would require an I/M program. The Secretary in his letter stated that Kentucky meets only every other year so that the next opportunity for legislative consideration is 1980. While there was a special session called by the Lieutenant Governor for January 8-February 14, 1979, to consider budgetary action, the Secretary pointed out that no legislative action was considered.

Therefore, EPA believes that there has been inadequate opportunity for the Kentucky legislature to consider necessary legal authority for I/M, and proposes to grant an extension for certification of adequate legal authority to June 30, 1980. EPA also proposes to conditionally approve the I/M portion of the SIP, conditioned on the certification of adequate legal authority by June 30, 1980. Should new legal authority change the characteristics of the program in the

SIP, the SIP should be revised accordingly.

If the Commonwealth does not certify adequate I/M legal authority, the SIP will be disapproved and the Commonwealth will be liable to sanctions contained in the Clean Air Act.

EPA reviewed the transportation control plan according to the requirements listed in the CAA and found that the submittal adequately addresses all of those issues except for the following:

1. In Appendix F (Kentuckiana Regional Planning and Development Agency p. 74-78) certain transportation control measures (TCM's) are identified as "adopted but not yet implemented". These projects, must include dates for initial and final construction and any pertinent interim dates, along with commitments from the appropriate agencies to implement and enforce each measure where appropriate.

2. The appropriate agency(s) must examine the air quality benefits from all projects in the long-term as well as short-term to insure a project will continue to have air quality benefits throughout its lifetime. EPA will accept for inclusion into the SIP only those measures meeting this criteria. EPA also requires that the projected emission reductions must be verified through the annual reporting requirements related to the determination of reasonable further progress.

3. Section 108(f) requires EPA to publish and make available information documents on transportation control measures that are reasonably available for implementation in order to reduce emissions from transportation sources. EPA considers all Section 108 (f) measures to be reasonably available. However, if through analysis some measures are found to be infeasible, EPA will allow these measures to be withdrawn. The submittal does not contain the schedule for analysis of packages of all the 108(f) measures with a commitment to implement expeditiously the measures that are found feasible for implementation.

Boone, Kenton, and Campbell Counties (Northern Kentucky)

The Commonwealth has calculated that a 49% reduction in volatile organic compound (VOC) emissions is needed to meet the ozone standard and this will not occur by the end of 1982. The Commonwealth has requested and EPA is proposing an extension to 1987 to attain the ozone NAAQS. The requirements for this extension are stated in the General Discussion section of this notice. The comments relating to

the mandatory I/M program for Jefferson County also apply to these counties. EPA's review of the Northern Kentucky area's transportation control plan has revealed the following deficiencies:

1. In Table 7-4 of Appendix G (Ohio-Kentucky-Indiana Report), certain transportation control measures are identified for implementation during 1980-1983. EPA requirements concerning measures contained in a transportation control plan include the following:

a. A commitment must be made from the responsible agency(s) to the enforcement of measures where appropriate.

b. The appropriate agency(s) must examine the air quality benefits from all projects in the long-term as well as short-term to insure a project will continue to have air quality benefits throughout its lifetime. EPA will accept for inclusion into the SIP only those measures meeting this criteria. EPA also requires that the projected emissions reductions must be verified through the annual reporting requirements related to the determination of reasonable further progress.

2. The SIP (Appendix G) did not contain a commitment to justify the decision not to implement Section 108 alternative measures if found infeasible. OKI has replied to an EPA comment stating that this decision will be justified by the studies. EPA finds this commitment to be sufficient provided that the studies are based upon the procedures and criteria for analysis of alternatives as stated in the EPA/DOT Transportation Air Quality Planning Guidelines.

3. In Appendix G certain TOM's are listed for implementation through the FY 1979 Transit Operating Subsidy and other funding sources. These projects must include dates for initial and final construction and any pertinent interim dates (where appropriate) along with commitments from the appropriate agencies to implement and enforce each measure where appropriate. These requirements have not been met.

Table 7-5 of Appendix G listed completion dates for the study of the Section 108 measures going beyond the June 30, 1980 deadline. OKI has corrected this through the Section 175 grant application which includes a schedule for the analysis to be done by June 30, 1980.

Boyd, Fayette, and Henderson Counties

These ozone nonattainment areas are all classified as non-urban, with metropolitan areas having less than 200,000 population. A demonstration of attainment is not required for non-urban

areas. The SIP includes a VOC inventory and regulations that require control of major stationary VOC sources for which Control Techniques Guidelines have been published. Additional reductions in emissions will be obtained through the Federal Motor Vehicle Control Program.

Daviess and McCracken Counties

These two counties were designated nonattainment due to the more stringent (0.08 ppm) NAAQS in effect at the time of designation. Ambient monitoring data for ozone indicates these areas have not experienced violations of the new (0.12 ppm) NAAQS. The Commonwealth has requested that these areas be redesignated attainment. EPA proposed to redesignate these areas attainment on June 27, 1979 (44 FR 37515).

General Ozone Conclusions

Several counties in Kentucky were designated nonattainment for ozone. As discussed under Ozone Control Strategy in the general preamble of April 4, 1979 (44 FR 41255), EPA requires only that RACT requirements for VOC sources covered by Control Techniques Guidelines (CTGs) be adopted. The Commonwealth of Kentucky has responded and has adopted all the CTGs (applicable Statewide except in attainment areas) which EPA had issued by January, 1978, and committed to adopt additional RACT categories as they are developed by EPA. Categories of sources controlled by presently adopted regulations with compliance schedules include:

(1) Surface coating including, (a) coil coating, (b) paper coating, (c) fabric and vinyl coating and (d) can coating; (2) metal furniture coating; (3) large appliance surface coating; (4) petroleum liquid storage; (5) bulk gasoline plants; (6) bulk gasoline terminals; (7) gasoline dispensing facility (Stage I); (8) solvent metal cleaning; (9) cutback asphalt; (10) automobile and light duty truck manufacturing; (11) magnet wire coating; and (12) petroleum refinery sources.

The CTGs provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the Commonwealth regulations are not supported by the information in the CTGs, and the Commonwealth must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs. EPA's

review of the Kentucky revisions revealed a number of deficiencies related to attainment of the ozone NAAQS in addition to those related to transportation control measures.

Regulations 401 KAR 59:095 and 61:045 apply to new and existing oil-effluent water separators. Sources which handle petroleum products with a Reid vapor pressure less than 0.5 PSIA are exempt from the regulations. This exemption must be removed or justified.

The Commonwealth may show that the stated exemptions have no more than a five (5) percent detrimental impact on expected emission reductions from full RACT control of oil-effluent water separators in refineries. The Commonwealth also has the option of providing that it would not be economically justifiable to control sources of the size that would be exempted under the regulation.

It is proposed to conditionally approve the following nonattainment areas because of deficiencies in the ozone portion of the plan:

1. Jefferson County (Louisville) is deficient due to inadequacies in certain TCM's (see Ozone-Jefferson Co.) and VOC regulations which are listed above.

2. Boone, Kenton and Campbell Counties (Northern Ky.) are deficient due to inadequacies in certain TCM's (see Ozone Boone, Kenton, and Campbell Counties).

3. Boyd County is deficient due to inadequacies in the VOC regulations listed above.

In the remaining nonattainment counties there are no sources to which the VOC regulations listed above apply.

Carbon Monoxide

Jefferson County (Louisville)

The Commonwealth has calculated through use of Linear Rollback that attainment of the carbon monoxide (CO) standard is not possible by the end of 1982. Therefore, an extension to December 31, 1987, is necessary to attain the NAAQS. The transportation control plan to achieve and maintain the CO standard has been incorporated with the ozone control plan. Therefore, EPA's comments on the CO plan for Louisville are the same as in the above section, but exclusive of the comments of the VOC regulations (see Ozone-Jefferson Co.). It is proposed to conditionally approve this portion of the plan.

172(b)(4) [SIP provisions shall] include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area which is revised and resubmitted as

frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under subsection (a);

Appropriate emissions inventories for TSP, SO₂, ozone (the inventory is for hydrocarbons which react with sunlight to form ozone), and CO have been submitted. Future reporting requirements for updating inventories annually are included. EPA proposes to approve this portion of the plan.

172(b)(5) [SIP provision shall] expressly identify and quantify the emissions, if any, of any such pollutant which will be allowed to result from the construction and operation of major new or modified stationary sources for each such area;

Identification and quantification of emissions from major new or modified sources have been provided through an accommodative SIP. The mechanism for tracking these reductions and allowing growth in nonattainment areas is provided in the Kentucky Air Pollution Control Regulations. EPA proposes to approve this portion of the plan.

172(b)(6) [SIP provisions shall] require permits for the construction and operation of new or modified stationary sources in accordance with Section 173 (relating to permit requirement);

The Commonwealth requires permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (Kentucky Regulation 401 KAR 50:035 and 401 KAR 51). EPA proposes to approve this portion of the plan.

172(b)(7) [SIP provisions shall] identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

The Commonwealth has identified and committed adequate financial and manpower resources necessary to carry out the provisions of this SIP revision. In Chapter XI-Resources, the Commonwealth projected the amount of manpower and funding which will be expanded to carry out the requirements of the SIP. EPA proposes to approve this portion of the plan.

172(b)(8) [SIP provisions shall] contain emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section;

This revision package contains the necessary emission limitations and schedules of compliance for stationary sources of TSP, SO₂, VOC, and CO sources where appropriate. These provisions have been incorporated into newly adopted air pollution control regulations. The Commonwealth

submitted Appendix I, *Air Pollution Control Regulations*, (June 6, 1979) of the Commonwealth of Kentucky, Department of Natural Resources and Environmental Protection, as necessary emission limits to attain the NAAQS in all areas of Kentucky. (Additional control strategies will be submitted for non-traditional sources at a later date through a SIP revision). The Commonwealth submitted Appendix N, *Air Pollution Control District of Jefferson County Regulations* (as amended June 13, 1979), to also be effective in Jefferson County with certain exceptions.

Certain regulations of Appendix N were not included in the official submittal, however. These are as follows:

1. Regulation 3.04, Ambient Air Quality Standards; Section 1, Primary Standards, (d)(i), Photochemical Oxidants; Section 2, Secondary Standards, (d) Photochemicals Oxidants; and (h), Hydrogen Sulfide.

2. Regulation 4, Emergency Episodes.

3. Regulation, Existing Affected Facilities, 04, Control of Objectionable Odors in the Ambient Air.

4. Regulation 6, Existing Affected Facilities, 05, Control of Fugitive Particulate Emissions; Section 2, Standard of Fugitive Particulate Matter, (c), concerning an opacity limit, and Section 3 through Section 11, concerning unpaved roads and unpaved parking areas, earth moving activities, etc.

5. Regulation 6, Existing Affected Facilities, 17, Standard of Performance for Existing Automobile and Light Duty Truck Surface Coating Activities.

6. Regulation 6, Existing Affected Facilities, 22, Standard of Performance for Existing Volatile Organic Materials Loading Facilities.

7. Regulation 7, New Affected Facilities, 03, Control of Objectionable Odors in the Ambient Air.

8. Regulation 7, New Affected Facilities, 04, Control of Fugitive Particulate Emissions; Section 2, Standard for Particulate Matter, (c), concerning unpaved roads and unpaved parking areas, earth moving activities, etc.

9. Regulation 7, New Affected Facilities, 22, Standards of Performance for New Volatile Organic Materials Loading Facilities.

Appendix N to the SIP also states, "Those portions of the regulations which are legally adopted by the Air Pollution Control District of Jefferson County [APCD]C and which are at least as stringent as the State regulations applicable to Jefferson County, are made a part of this State Implementation Plan as Appendix N. If the Kentucky

Department for Natural Resources and Environmental Protection determines, that provisions of the local regulations are not as stringent as State regulations the Department for the Natural Resources and Environmental Protection will enforce the State regulations (Appendix I) applicable to Jefferson County which would, by law, preempt the local regulations in such situations. Moreover, if the APCD/C fails to implement any provisions of the SIP applicable to Jefferson County the DNREP will enforce the State regulations applicable to Jefferson County". The following APCD/C regulations were determined by the Commonwealth to be less stringent than DNREP regulations (Appendix I) and are also not submitted as part of the SIP:

1. Regulation 2, Permit Requirements, 02, Registration and Minor Source Exemption; Section 2, Exemptions, exempts some sources from registration which are not exempted by the DNREP regulation 401 KAR 50:030.

2. Regulation 4, Emergency Episodes, 02, Episode Criteria, Section 2, Air Pollution Alerts, (b), Pollutant Alert Levels, does not have an alert level for NO₂ as contained in DNREP regulation 401 KAR 55:010.

3. Regulation 6, Existing Affected Facilities, 05, Control of Fugitive Particulate Emissions; Section 2, Standard for Fugitive Particulate Matter, paragraph (a) and Regulation 7, New Affected Facilities, 04, Control of Fugitive Particulate Emissions; Section 2, Standard for Particulate Matter, paragraph (a) do not prohibit the discharge of fugitive dust beyond the property line as required by DNREP regulation 401 KAR 63:010.

4. Regulation 6, Existing Affected Facilities, 09, Standard of Performance for Existing Process Operations; Section 3(c), Standard for Particulate Matter, contains an exemption which is not contained in DNREP regulation 401 KAR 61:020.

5. Regulation 6, Existing Affected Facilities, 11, Standard of Performance for Existing Iron and Steel Plants; Section 3, Standard for Particulate Matter, for emissions and capacity for steel plants other than basic oxygen process furnaces are less stringent than DNREP regulation 401 KAR 61:075.

6. Regulation 6, Existing Affected Facilities, 11, Standard of Performance for Existing Iron and Steel Plants; does not contain testing and monitoring procedures as are contained in DNREP regulation 401 KAR 61:075.

7. Regulation 7, New Affected Facilities, 05, Control of Open Burning; Section 2, Prohibition of Open Burning, paragraph (e), does not contain an

capacity standard for flares as required in DNREP regulation 401 KAR 63:015.

EPA proposes to approve, except where otherwise noted herein, the regulations of the DNREP for the entire Commonwealth. These regulations (Appendix I) were submitted by DNREP and reviewed by EPA to demonstrate the attainment and maintenance of the NAAQS. Also approved for Jefferson County, except where otherwise noted herein, are those portions of the regulations of the APCD/C which have been officially submitted as part of the plan. These regulations (Appendix N) are supplemental to the DNREP regulations and are not essential to the control strategy; therefore, they have not been reviewed by EPA. EPA will enforce the stricter of the regulations in Jefferson County. EPA proposes to approve this portion of the SIP relating to 172(b)(6), except for those related portions contained in the discussion under 172(b)(3).

Various regulations submitted in the plan allow the DNREP to modify requirements contained in the SIP. The regulations are contained in Appendix I, *Air Pollution Control Regulations*, and pertain to variances, alternative emission reduction options (bubble concept), RACT determinations on a site specific basis, etc. A few specific examples are found within regulations 401 KAR 501:055, 51:015, 59:010, 59:180, 61:015, 61:056, 61:085, and 61:090. If a regulation is modified by the DNREP, the new regulation is considered a revision of the plan and must be submitted for approval by EPA.

172(b)(9) [SIP provisions shall] contain evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (b) a summary of the public comment on such analysis;

Consultation with the public, local governments and commonwealth legislative involvement is evidenced by information presented in Chapter 12 of SIP. The Commonwealth's analysis of the air quality, health, welfare, economic, energy, and social effects determines that the impact of the SIP will be beneficial, and EPA proposes to approve this portion of the SIP.

172(b)(10) [SIP provisions shall] include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute,

regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

In the Commonwealth of Kentucky, the Division of Air Pollution Control of the Department of Natural Resources and Environmental Protection has full statutory authority for enforcing the SIP revisions submitted except for I/M. The Department adopted on June 6, and 29, 1979, the necessary regulatory portion of the SIP submitted. Timetables or compliance are addressed in 172(b)(3) and (80). EPA proposes to approve this portion of the SIP except for I/M legal authority (see discussion under 172(b)(3) above).

172(b)(11) [SIP provisions shall] in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a).

(A) establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis, of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed sources significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(B) establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and

(C) identify other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

Paragraph 11 of subsection 172(b) applies to the Northern Kentucky (Cincinnati) nonattainment area for ozone and the Louisville nonattainment area for carbon monoxide and ozone. The alternatives analysis for new sources required by subparagraph (A) above has been submitted in the SIP as a revision to the State's permitting regulation (401 KAR 51:050).

The schedule for the implementation of an I/M program has been included in the SIP. For necessary legal authority see the discussion in 172(b)(3). EPA proposes to approve this portion of the plan except for those related portions which are proposed to be conditionally approved under 172(b)(3).

In addition to the implementation plan revisions for the nonattainment areas required under Part D of Title I of the CAA, the Commonwealth's submittal contains changes related to other portions of the CAA, including changes in the NSPS regulations, regulations concerning prevention of significant deterioration, and other emission standards. These topics will be dealt

with in a separate Federal Register notice.

Proposed Action

Based on the foregoing, EPA is proposing to disapprove and conditionally approve the Kentucky SIP revisions required under Part D of Title I of the Clean Air Act to attain the NAAQS in certain nonattainment areas. It is EPA's intent to fully approve these revisions when the Commonwealth corrects the deficiencies discussed in this notice. If these corrections are not forthcoming by June 1, 1980, except for I/M which has a separate date (see 172(b)(3)), EPA will act to disapprove the related plan revisions.

Dated: October 18, 1979.

John C. White,
Regional Administrator.

[FR Doc. 79-35215 Filed 11-14-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52.

[FRL 1360-1]

State of West Virginia: Proposed Revision of the West Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On November 9, 1978 (43 FR 52239) the Environmental Protection Agency (EPA) announced its decision on the amended portion of Regulation X of the West Virginia State Implementation Plan. Among other actions taken at that time the Administrator approved an interim SO₂ emission limitation of 5.12 lb SO₂ per million Btu for the Harrison power plant which would apply for one year or until final promulgation of final regulations under Section 123, whichever is the shorter period of time. Final Section 123 regulations have not been issued, and EPA has not yet decided what permanent limitation to approve. EPA is today proposing to extend the interim emission limitation for the Harrison power plant for an additional period of six months, or for such time as a final limitation is adopted, whichever is shorter.

DATE: Comments must be submitted on or before December 17, 1979.

ADDRESSES: Copies of the SIP revision for Regulation X and the accompanying support documentation are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency,
Region III, Air Programs Branch (3AH10),
Curtis Building, 10th floor, Sixth and

Walnut Streets, Philadelphia, PA 19106;
Attn: Mr. Howard R. Heim
West Virginia Air Pollution Control
Commission, 1558 Washington Street East,
Charleston, West Virginia 25311, Attn: Mr.
Carl Beard

Public Information Reference Unit, Room
2922 EPA Library, U.S. Environmental
Protection Agency, 401 M Street, S.W.,
Washington, DC 20460

Comments must be sent to Howard R. Heim, at the EPA, Region III above address.

FOR FURTHER INFORMATION CONTACT:
Mr. Howard R. Heim (3AH10), Air
Programs Branch, U.S. Environmental
Protection Agency, Region III, Curtis
Building, 10th floor, Sixth and Walnut
Streets, Philadelphia, PA 19106, Phone:
215-597-8175.

SUPPLEMENTARY INFORMATION: On January 25, 1978, the Governor of West Virginia submitted to EPA Region III a revision to Regulation X (1973) for the control of sulfur dioxide emissions. On June 23, 1978 (43 FR 27208), the Regional Administrator proposed several actions on the amendments to Regulation X and provided for a 30-day public comment period ending July 23, 1979. The Regional Administrator proposed that the portions of the regulations relating to the Fort Martin and Mitchell power plants and the deletion of § 3.01(b) and § 3.03(b) concerning the protection of the secondary standard for sulfur dioxide be approved. For the portion relating to the Rivesville power plant of Monongahela Power Co., the Regional Administrator proposed disapproval. For the portion relating to the Kammer power plant of the Ohio Power Co., he proposed to delay rulemaking until the results of a wind tunnel study are available. Finally, for the Harrison power plant of Monongahela Power Co., the Regional Administrator invited the State to submit to EPA an interim emission limitation of 5.12 lbs SO₂/10⁶ Btu, approximately a 3.2 percent sulfur-in-fuel requirement, based on an estimated "good engineering practice" stack height which would apply for a short period such as one year or until final promulgation of the Section 123 regulations, whichever is the shorter period of time.

On September 13, 1978, the Governor of West Virginia submitted to EPA, at the invitation of the Regional Administrator (June 23, 1978 43 FR 27208), an interim emission limitation of 5.12 lbs SO₂/10⁶ Btu, approximately 3.2 percent sulfur-in-fuel, for the Harrison facility of Monongahela Power Co. In his letter, Governor Rockefeller advised that the interim limitation had been adopted by the Air Pollution Control Commission on September 7, 1978, to be

effective on October 18, 1978, for a period of one year or until final promulgation of the Section 123 regulations, whichever was the shorter period of time.

On November 9, 1978 (43 FR 52239), the Administrator finalized the action proposed on June 23, 1978 (43 FR 27208).

In the case of the Harrison power plant, as stated above, the final emission limit was to be established by the Administrator when the Section 123 regulations were finalized. The Administrator has not promulgated final regulations for Section 123. Therefore, the interim emission limitation of 5.12 lbs SO₂/10⁶ Btu has remained in effect for the Harrison power plant since November 9, 1978 and will expire on November 9, 1979. On September 11, 1979, West Virginia requested that the Administrator adopt the current interim emission limitation as a permanent limitation.

Since promulgation of the interim limitation, two petitions for review have been filed in the United States Court of Appeals for the Third Circuit. The first was filed by the Commonwealth of Pennsylvania on January 3, 1979 (No. 79-1025) and the second was filed by the Council of Senior West Virginians, et al., on January 5, 1979 (No. 79-1026). Both suits challenge the appropriateness of the emission limits established in Regulation X as they apply to the Harrison and Mitchell power plants. The regulation as it applies to the Harrison and Mitchell plants has been remanded to EPA for reconsideration; not later than November 8, 1979, EPA will propose permanent limits for each plant.

Because of the ongoing litigation, and the absence of final Section 123 regulations, the administrator feels that it is appropriate to extend the present interim emission limit for no more than six months, or until a permanent limit is established.

The Administrator therefore proposes that the interim emission limit of 5.12 lbs SO₂/10⁶ Btu continue to apply for the Harrison facility for an additional period not to exceed 6 months, or until a permanent limitation is approved, whichever is the shorter period of time.

All comments should be addressed to: Mr. Howard R. Heim, Jr. (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th floor, 6th & Walnut Streets, Philadelphia, PA 19106.

The Administrator's decision to approve or disapprove the proposed revision will be based on whether the amendment meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for

Preparation, Adoption, and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7410 and 7601)

Dated: October 29, 1979.

Jack J. Schramm,
Regional Administrator.

[FR Doc. 79-35217 Filed 11-14-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1359-7]

Approval and Promulgation of Implementation Plans-Michigan; Receipt

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Receipt and Availability.

SUMMARY: This notice is to announce receipt and availability for public review of the control strategy for the ozone portion of the Michigan State Implementation Plan (SIP).

Under the requirements of Part D of the Clean Air Act, the State of Michigan on July 25, 1979, submitted to the U.S. Environmental Protection Agency (USEPA) the above mentioned control strategy for demonstrating attainment of the National Ambient Air Quality Standards (NAAQS) for ozone (O₃). Implementation of this control strategy is designed to decrease the ambient concentrations of O₃ in those areas of the State not attaining the NAAQS for O₃.

A Notice of Proposed Rulemaking describing the control strategy and USEPA's intended rulemaking action will be published in the Federal Register at a later date.

DATES: See Supplementary Information.

ADDRESSES: The submittal may be examined during normal business hours at the following USEPA offices:

Public Information Reference Unit, Library
Systems Branch, U.S. Environmental
Protection Agency, 401 M Street, S.W.,
Washington, D.C. 20460.

U.S. Environmental Protection Agency,
Region V, Air Programs Branch, 230 South
Dearborn Street, Chicago, Illinois 60604.

In addition the revisions may be examined at the offices of the Michigan Department of Natural Resources, State Secondary Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan.

WRITTEN COMMENTS SHOULD BE SENT TO: Ms. Maxine Borcharding, State Implementation Plan Coordinator, Region V, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:
Mr. Maxine Borcharding, State Implementation Plan Coordinator, Region V, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-8052, FTS 886-6052.

SUPPLEMENTARY INFORMATION: USEPA is currently reviewing the above mentioned control strategy. At the completion of the review a notice will be published in Federal Register proposing rulemaking action. This rulemaking action will discuss the adequacy of the strategy in attaining the NAAQS for ozone.

All interested persons are advised that the control strategy is available for review at the locations listed above. The proposed rulemaking notice referred to above will announce the last day for public comment. This public comment period will extend through December 17, 1979.

Dated: November 5, 1979.

John McGuire,
Regional Administrator.

[FR Doc. 79-35213 Filed 11-14-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1357-8]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: Illinois

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: This rulemaking proposes to redesignate a portion of the City of Moline located in Rock Island County, Illinois as a nonattainment area for the primary and secondary carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS). This recommendation for a redesignation was submitted on July 19, 1979 by the Illinois Environmental Protection Agency (IEPA) pursuant to the requirements of section 107(d)(5) of the Clean Air Act (Act) and is supported by

monitored air quality data which indicates violations of NAAQS for CO. **DATES:** Comments on this redesignation and on USEPA proposed action on this redesignation are requested by no later than December 17, 1979.

ADDRESS COMMENTS TO: Ms. Maxine Borcharding, SIP Coordinator, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:
Ms. Maxine Borcharding, SIP Coordinator, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-8052, FTS 886-6052.

Copies of the State request and supporting ambient air quality data are available at the address cited above and at:

Public Information Reference Unit, Room
2922, U.S. Environmental Protection
Agency, 401 M Street, S.W., Washington,
D.C. 20460.

Illinois Environmental Protection Agency,
2200 Churchill Road, Springfield, Illinois
62706.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 added section 107(d) to the Act. This section directed each State to submit to the Administrator of the USEPA, within one hundred and twenty days after the date of enactment of the Amendments, a list detailing the air quality status for all areas within a State for each of the five criteria pollutants (CO, ozone, total suspended particulates, sulfur oxides and nitrogen oxides).

Pursuant to the above mentioned requirements, Rock Island County, Illinois was designated as an attainment area for CO. This designation was published in the March 3, 1978 Federal Register (43 FR 8962). Under section 107(d)(5) of the Clean Air Act, an area's designation is subject to revision whenever sufficient data becomes available to warrant such redesignation.

On July 19, 1979, the Illinois EPA submitted a recommendation to redesignate a portion of Rock Island County as a nonattainment area for carbon monoxide. The portion recommended for redesignation is an area within the City of Moline bounded by and including 7th Avenue from 12th Street to 22nd Street on the southeast; 23rd Street from 7th Avenue to 3rd Avenue and continuing along that line to the Mississippi River on the northeast; 12th Street from 7th Avenue to 3rd Avenue and continuing along that line to the Mississippi River on the southwest; the Mississippi River Bank from the 12th street alignment to the 23rd Street alignment on the northwest.

IEPA's recommendation is based upon the occurrence in this area of violations of the maximum allowable 8-hour average CO concentration of 9.0 parts per million.

After reviewing the State's recommendation and the monitored data USEPA proposes to designate the above mentioned area as a nonattainment area for CO. A nonattainment designation will necessitate a revision to the Illinois State Implementation Plan within 9 months of final USEPA action on the designation change. The plan revision will have to contain an assessment of the causes of the nonattainment plus strategies and enforceable regulations adequate to attain the National Ambient Air Quality Standards by the statutory attainment date specified in section 172(a) of the Act.

Interested persons are invited to submit written comments on this proposed action to the above mentioned USEPA, Region V office.

Dated: November 2, 1979.

John McGuire,
Regional Administrator.

[FR Doc. 79-35214 Filed 11-14-79; 9:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS 59; Notice No. 1]

Transportation of Natural and Other Gas by Pipeline; Damage Prevention Program

AGENCY: Materials Transportation Bureau.

ACTION: Notice of proposed rulemaking.

SUMMARY: Excavation is the number one cause of damage to gas pipelines. To reduce the risk of excavation damage, new § 192.614 would require each operator of a gas pipeline in certain populated areas to establish and carry out a damage prevention plan. If adopted as a final rule, this proposal would obviate the need for line marking of buried pipelines in areas where the plan is in effect.

DATE: Interested persons are invited to submit written comments on this proposal. All comments must be filed by February 15, 1980. Late filed comments will be considered so far as practicable. Interested persons should submit as part of their written comments all the

material that is considered relevant to any statement of fact or argument made.

ADDRESS: Communications should be sent to the Docket Branch, Room 8426, between 8:30 a.m. to 5:00 p.m., Materials Transportation Bureau, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Ralph T. Simmons, 202-426-2394.

SUPPLEMENTARY INFORMATION: Need for this proposal.

This rulemaking proposal addresses

Accidents and Casualties Reported by Gas System Operators in Calendar Years 1970-77 Pursuant to 49 CFR, Part 191 (Individual Accident Reports)

	1970	1971	1972	1973	1974	1975	1976	1977
Total Number of Accidents	1,019	1,287	1,293	1,364	1,477	1,873	1,579	1,996
Deaths	22	45	34	35	24	14	63	36
Injuries	218	391	330	352	334	237	366	450
Accidents Resulting from Damage by Outside Forces ¹	643	788	849	874	1,030	981	878	1,168
Deaths	14	20	16	17	17	5	26	12
Injuries	152	168	161	225	131	124	162	

¹Includes some accidents (approximately 20-30 percent) by outside force damage causes other than excavation or similar earthmoving activities.

For several years, the Department of Transportation (DOT) has identified excavation damage as a serious pipeline safety problem. Moreover, the National Transportation Safety Board (NTSB) has, on the basis of accident investigations and special studies, identified a direct relationship between effective excavation damage prevention programs and low excavation damage rates. However, because the large majority of damage to gas pipelines caused by outside forces is the result of activities by persons engaged in excavation and other types of construction who are not under the control of gas pipeline operators, the DOT has to this time sought solutions to the problem of outside force damage largely through non-regulatory efforts.

For example, in January 1972, the Department developed a Model Statute for protection of underground pipelines and other utilities and encouraged States and local governments to enact appropriate laws which would establish effective procedures incorporating its features. In essence, this Model Statute proposed requiring the filing of maps at a central location showing location of underground utilities and requiring that a person could not excavate a street or demolish a building until that person examined the maps to determine whether the proposed excavation or demolition would take place in an area shown on the maps. The person

the need to reduce the number of gas pipeline failures caused by outside forces such as excavation, blasting, demolition, boring, tunneling, backfilling, and other earth moving operations (hereinafter referred to as excavation) which are carried out near underground pipelines. Outside force damage cause by excavation activities is the number one cause of pipeline failure and accidents reported under 49 CFR Part 191. Data supporting that fact for the period 1970-1977 is shown in the following table.

planning the excavation or demolition would be required to obtain a permit to undertake such activity conditioned upon advising the utility operator having underground utilities in the immediate area of the planned excavation to enable the utility operator to mark the location of that utility and provide protection for its utility line. The Model Statute proposed a civil penalty for the excavator who failed to obtain a permit within a certain number of days before the excavation.

The DOT's 1974 revision to this Model Statute deleted the requirement for filing underground utility maps at one location. In its place, the Model Statute proposed that anyone proposing to engage in excavation and other types of construction be required to notify a central agency of this intent. The agency would then advise the utility operators in the general area of the contractor's proposed excavation in order that the utility operator could locate and mark the location of any lines which might be damaged by the excavation. Additional minor revisions were made to the Model Statute in June of 1977. This latest version of the Model Statute was published by the Council of State Governments in their 1978 publication of Suggested State Legislation.

As in the past, the Secretary of Transportation sent a copy of the revised 1974 Model Statute to all State Governors including Puerto Rico and the

Mayor of the District of Columbia, again encouraging State legislatures to enact laws which would require and support pipeline damage prevention programs.

DOT's other nonregulatory efforts included conducting education and training programs in coordination with the States and industry.

In 1975, DOT took regulatory action to reduce incidents of outside force damage to the buried lines by promulgating regulations that encouraged the establishment of State and local excavation damage prevention programs. The Federal gas pipeline safety standards for marking gas mains and transmission lines were amended (Amendment 192-20; 40 FR 13505) by providing an exception from marking buried pipelines located in Class 3 or Class 4 locations where a program for preventing interference with underground pipelines is established by law (§ 192.707(b)(2)(ii)).

DOT's regulatory and non-regulatory efforts have experienced mixed success. Some 23 States now have underground damage prevention legislation or regulations which have statewide applicability. Such States as Michigan, Connecticut, and New York have enacted comprehensive laws which apply to all persons engaged in activities likely to interfere with underground pipelines and require that these persons be provided with line marking or other information necessary to locate the pipeline before such activities are initiated. Many utility companies established a communication system called a "one-call system" in which a city, county, or other local jurisdiction or entity establishes one phone number to be called by all prospective excavators to advise pipeline and utility operators about the location and time of the intended excavation. Also, utility operator established "one-call systems" are now in operation in 35 States. Of these programs, less than half have statewide coverage, and the rest have localized coverage.

Two studies have examined the effectiveness of the damage prevention programs now in operation. A paper entitled "Excavation Damage Prevention Laws, The Challenges We Face," presented at the 1978 "International Public Works Congress", by Barry M. Sweedler and Charles H. Batten of the NTSB, made several observations regarding (1) the effectiveness of one-call notification systems in reducing damage to pipelines by outside forces and (2) the effectiveness of State laws.

Observations regarding State laws were:

While DOT's alternative requirement that gas operators have a damage prevention program mandated by law is having an effect, the effect is not encouraging. Also, while many new laws have been passed in the last two years, these laws are not consistent with one another, although most began with the DOT Model Statute. Further, the law passed by one State contains many exceptions and loopholes, and its existence has been a deterrent to the development of meaningful damage prevention programs, and another State law fails to provide any meaningful benefit, other than to provide a shelter for the gas systems from the DOT line marking requirement.

A DOT study undertaken by IIT Research Institute (IITRI) of Chicago, Illinois, determined that several factors detracted from the effectiveness of existing programs for the prevention of damage to pipelines by outside forces. These included (1) limited geographical coverage of damage prevention programs; (2) spotty enforcement of damage prevention laws; and (3) frequent absence of utility commission jurisdiction over municipal or State-owned facilities.

The above study findings should not detract from what is significant evidence of the effectiveness of certain damage prevention programs in reducing outside force damage incidents. For example, the Connecticut Underground Utility Protection Plan reduced damages to facilities of participating utilities by 38 percent during its first two years of operation; the Washington Utilities Coordinating Council of the State of Washington reduced by 68 percent the number of damage incidents to underground facilities per each 100 excavation notifications it received; the program operating in Tampa, Florida, reported a 65 percent reduction in excavation damages during its first year of operation; a Cleveland, Ohio, system reported a 45 percent reduction in damages from 1971 to 1976; two programs in the State of California, USA North and USA South, report underground damage reductions of 24 percent and 43 percent, respectively; and the Rochester, New York program, one of the first systems implemented, has consistently shown a reduction in the number of damages to underground facilities (from 1974 through 1976, this system showed a 26 percent reduction in damage to underground facilities).

Notwithstanding the increase in damage prevention programs throughout the country and the considerable success of some, MTB generally agrees with the findings of the NTSB paper and the IITRI Study and is specifically concerned with several problem areas in the establishment and implementation

of these programs. Since the issuance of § 192.707(b)(2)(ii) in 1975, many gas pipeline operators have argued that this regulation penalizes those in States or local areas that will not enact appropriate law. In those States or local areas, the operators must mark the pipeline route since an excavation damage prevention program has not been established by law even though the pipeline operator may have advocated or supported such a program. These operators argue that in many states, such legislation may not be enacted for several years, if ever. For various reasons, the number of State or local areas establishing such excavation damage prevention programs by law has slowed in the past couple of years. In the states that have enacted damage prevention programs by law, it is often the case that the enforcement agency of the State lacks jurisdiction over all operators in the states and that enforcement of the law is less than vigorous. Because of these concerns, and the less than enthusiastic response to MTB's past non-regulatory efforts, MTB believes that a new regulatory approach for solving the outside force damage problem is necessary to better ensure the public safety.

MTB proposes to meet this need by establishing a new § 192.614 which would require each operator of a gas pipeline in a class 3 or 4 location to establish and carry out an outside force damage prevention program that meets minimum performance criteria. The proposed criteria are factors that MTB believes are essential for a successful outside force damage prevention program. The proposal would allow a gas pipeline operator to achieve full or partial compliance with the proposed requirements by complying with applicable State or local laws which require action that meets the proposed criteria; or through active participation in a voluntary association which has a program to reduce the incidence of excavation damage to buried pipelines that meets the proposed criteria.

Discussion of Criteria

MTB believes that limiting the scope of the proposed damage prevention program to operators of pipelines in Class 3 or 4 locations will produce the greatest benefits at the least cost because of the high density of population and the larger amount of excavation activities occurring in these areas. For example, the IITRI Study shows that the percentage of reportable leaks that resulted in the rupture of pipe ignition of gas, explosion, or secondary explosions, is much higher in gas distribution systems, which are located

mostly in Class 3 or 4 locations. The study also shows that the probability of injuries and fatalities resulting from reportable leaks is considered higher in gas distribution systems.

The NTSB paper, the ITRI study, and MTB's analysis of successful damage prevention programs (e.g., Connecticut Underground Utility Protection Plan, Washington Utilities Coordinating Council, USA North and USA South, in the State of California, and the Rochester, New York program) show that where an operator has a well defined written damage prevention program which is well publicized, provides a means for an inquirer to receive needed information concerning pipelines at the time of initial contact, and provides quick response in locating and marking his pipeline, that the program is successful in reducing the damage to pipelines by outside forces. From MTB's analysis of accident reports and from NTSB's reports on pipeline accidents, MTB believes that a damage prevention program should have the means of furnishing an inquirer at the initial contact with the following information: if there is a pipeline located in the area of proposed excavation activities; the general location of any pipeline in the area; the approximate depth, size, operating pressure, and type of material of the pipeline; the time frame in which the pipeline will be located and marked; and the type of marking which will be used.

Also, accident reports and NTSB's reports show that in excavation activities, damage can occur to pipelines which may be remote from the actual area of contact with the pipeline, such as pulling a pipeline loose from a joint or coupling, and that disturbing of the soil around the pipeline can lead to future erosion of the soil and remove the supporting bed of the pipeline. Therefore, MTB believes that it is necessary for the operator to inspect the pipeline, during and after excavation activities, to ensure the pipeline's integrity.

By keeping a record of the date of each inquiry, the name and address of each inquirer, and the operator's response, the operator will be able to determine which excavators are cooperating with his program, which ones need further encouragement to cooperate, and by comparing the record with the analysis of the leak reports, be able to determine which excavators are causing the most incidents or damage to his pipelines. MTB believes that an analysis of the leak reports required by 49 CFR Part 191 and correlation of these with the record of inquiries received,

from excavators will provide a basis for determining the effectiveness of the operator's damage prevention program and provide the operator with the information necessary to effect changes in his program to increase its effectiveness.

MTB believes that the adoption of § 192.614 as proposed would obviate the need for the marking requirements of § 192.707 in Class 3 or 4 locations. Since the purpose of marking pipelines is for the purpose of identifying the location of the pipeline to prevent damage to the pipeline by outside forces, and the proposed § 192.614 is considered a better means of accomplishing this, there would be no need to continue the requirements of § 192.707 for Class 3 or 4 locations.

Issue

MTB invites comments on the extent to which the requirements of this proposal should apply to those operators who own or have control over the property traversed by the operator's pipelines. For example, such ownership or control could affect the need to notify excavators about the existence of a damage prevention program since, in most cases, excavators would have to seek the operator's approval to enter the property. Should trailer park owners, liquefied petroleum gas operators, or municipal owned gas distribution systems be required to meet all the requirements of this proposal? If not, to what extent should they be exempt?

MTB is considering making these proposed amendments effective one year from the date the final rule is published in the Federal Register.

Note.—A Draft Evaluation of the impact is in the docket for this proceeding in accordance with Departmental proceeding for improving regulations (44 FR 11034). MTB has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under DOT procedures.

A copy of the Sweedler/Batten paper and the ITRI study is in the docket. Also, a copy of the ITRI Study may be obtained from the National Technical Information Service, Springfield, Virginia 22161.

In consideration of the foregoing, MTB proposes to amend Part 192 of Title 49 of the CFR by

1. Adding a new § 192.614 to read as follows:

§ 192.614 Damage Prevention Program.

(a) Each operator of buried pipelines in Class 3 or 4 locations shall carry out, in accordance with this section, a written program to prevent damage to

those pipelines by excavation and demolition activities. For the purpose of this section, "excavation or demolition activities" include excavation, blasting, demolition, boring, tunneling, backfilling, and other earth moving operations.

(b) Except as provided by paragraph (c), each operator of buried pipelines in Class 3 or 4 locations must do the following under the program required by paragraph (a):

(1) Determine semiannually, through appropriate means including the use of available State and local records, the names of persons who are normally engaged in excavation or demolition activities in the areas in which the pipelines are located.

(2) Prepare a notice that urges persons to telephone or otherwise notify the operator before beginning any planned excavation or demolition activities, regardless of the location of the activities. The notice must, at least semiannually, be sent to each person identified under paragraph (b)(1) of this section and conspicuously published in a newspaper with general circulation in the area in which pipelines are located.

(3) Provide a means of receiving notice of planned excavation or demolition activities.

(4) Upon receiving a notice of planned excavation or demolition activities, provide the following information to the person giving notice:

(i) Whether there are pipelines in the area of planned excavation or demolition activities that could be harmed by the activity; and

(ii) With regard to each pipeline that could be harmed—

(A) The general location, approximate depth, diameter, material, and actual operating pressure of the pipeline; and

(B) The type of temporary marking that will be provided under paragraph (b)(5)(1) of this section and when that marking will be provided.

(5) After receiving notice of planned excavation or demolition activities that could harm buried pipelines:

(i) Temporarily mark the approximate location of the pipelines before the activities begin;

(ii) Inspect the pipeline and its support for damage during and after the activities; and

(iii) Keep a record of the date and time the notice is received, the name and address of the person giving notice, and the operator's response.

(c) An operator of buried pipelines in Class 3 or 4 locations need not meet the requirements of paragraph (b) to the extent that—State law, local law, or participation in a voluntary association requires the operator to participate in a

damage prevention program which essentially meets the requirements of paragraph (b).

(d) Each operator of buried pipelines in Class 3 or 4 locations shall—

(1) Determine annually, based on reports filed under Part 191 of this chapter, whether its damage prevention program carried out under either paragraph (b) or paragraph (c) is reducing the incidence of damage to such pipelines caused by excavation or demolition activities; and

(2) If the damage incidence is increasing, or remaining at an unreasonably high level, take actions to improve the effectiveness of the program.

§ 192.707 [Amended]

2. By revising paragraph (2) of § 192.707(b) to read "In Class 3 or 4 Locations."

AUTHORITY: (49 CFR U.S.C. 1672; 49 CFR, Part 1.53(a), Appendix A of Part 1 and Paragraph (b)(2) of Appendix A to Part 106) Issued in Washington, D.C., on November 7, 1979.

Cesar De Leon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 79-35085 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-60-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Designation of the Omaha Grain Inspection Service, Inc., Omaha, Nebr., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Omaha Grain Inspection Service, Inc., Omaha, Nebraska, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before December 31, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Omaha Grain Inspection Service, Inc. (the "Agency"), 1905 Harney Street, Omaha, Nebraska 68102, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency

was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Omaha Grain Exchange. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by Nebraska State Route 91 from the western Washington County line east to U.S. Route 30; U.S. Route 30 east to the Missouri River; the Missouri River north to Iowa State Route 175; State Route 175 east to State Route 37; State Route 37 southeast to the eastern Monona County line;

Bounded: on the East by the Monona County line south; the southern Monona County line west to State Route 183; State Route 183 south to the northern Pottawattamie County line; the Pottawattamie County line east; the eastern Pottawattamie County south; the southern Pottawattamie County line west to M47; M47 south to State Route 48; State Route 48 south to the southern Montgomery County line;

Bounded: on the South by the Montgomery County line west; the southern Mills County line west to Interstate 29; Interstate 29 north to U.S. Route 34; U.S. Route west to the Missouri River; the Missouri River north to the southern Sarpy County line in Nebraska; the Sarpy County line west; the southern Saunders County line west to U.S. Route 77; and

Bounded: on the West by U.S. Route 77 north to the Platte River; the Platte River southeast to the northern Douglas County line; the Douglas County line east to the western Washington County line; the Washington County line northwest to Nebraska State Route 91.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be

Federal Register

Vol. 44, No. 222

Thursday, November 15, 1979

considered as part of the Agency's geographic area: Murren Grain, Elliot, Iowa, in Montgomery County; Hemphill Feed & Grain and Hansen Feed & Grain, Griswold, Iowa, in Cass County; Fremont Company Coop, McPaul, Iowa, in Fremont County; Lincoln Grain, Murray, Nebraska, in Cass County; Farmers Coop Business Association, Rising City, Nebraska, in Butler County; and Farmers Coop Business Association, Shelby, Nebraska, in Polk County.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by Fremont Grain Inspection Department, Inc., Fremont, Nebraska: Farmers Cooperative and Krumel Grain and Storage, Wahoo, Nebraska, in Saunders County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain

Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than December 31, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on November 9, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-35272 Filed 11-14-79; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Land and Resource Management Plan, Inyo National Forest, Fresno, Inyo, Madera, Mono, and Tulare Counties, Calif., Esmeralda and Mineral Counties, Nev.; Intent To Prepare an Environmental Impact Statement

The USDA-Forest Service will prepare an environmental impact statement for the forest plan for the Inyo National Forest.

This forest plan is one of eighteen currently being developed in the Pacific Southwest Region. The development of these several forest plans and the regional plan is starting simultaneously in order to facilitate the identification of issues to be addressed. Forest planning will be completed after adoption of a regional plan.

This forest plan will provide policy and program direction for all National Forest System lands under the administration of the Forest Supervisor.

The Forest Plan will:

(a) Briefly describe the major public issues and management concerns,

(b) Briefly describe the lands and resources of the Inyo National Forest,

(c) Identify the goals and objectives of management,

(d) Describe the expected types and amounts of goods, services, or uses—by decades,

(e) Identify the proposed vicinity, timing, standards, and guidelines for proposed and probable management activities,

(f) Identify monitoring and evaluation criteria,

(g) Refer to information used in plan development, and

(h) Identify the persons who participated in the development of the plan, including a summary of their qualifications.

The issues expected to be discussed in the development of this plan include but are not limited to:

(a) The kinds and amounts of goods, the services to be produced, and the uses to be permitted on the National Forest Systems lands,

(b) The public costs of providing these goods and services, and

(c) The physical, biological, economic and social effects associated with the production of goods and services.

The Forest plan will be selected from a range of alternatives which will include at least:

(a) A "no action" alternative which represents continuation of the present management direction,

(b) One or more alternatives formulated to respond to major public issues and management concerns.

As an early step in the planning, Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected, by, the adopted plan, will be invited to participate in:

(a) Identification of the issues to be addressed,

(b) Identification of those issues to be analyzed in depth, and

(c) Elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review, or are not within the scope of this Forest Plan.

To accomplish this public meetings will be held: December 5, 1979, Tri County Fairgrounds Home Economics Building, Bishop, California 1:30-4:00 p.m. and 7:30-9:30 p.m.

Written comments and suggestions about these items are encouraged. To be most useful, they should be received by the Forest Supervisor before January 7, 1980. The kind of additional public participation opportunities has not yet been determined. It will vary as the planning progresses and will be responsive to issues and concerns identified during the meetings listed above.

The estimated date for distribution of the draft environmental impact statement is January 1983. Following a three month public review period, a final environmental impact statement will be prepared and distributed in approximately July 1983.

For further information about the planning project, or the availability of the environmental impact statements, or other documents relevant to the planning process, contact:

Oliver F. A. Sapousek, Land Management Planner, Inyo National Forest, 879 North Main Street, Bishop, California 93514, 714-873-5841.

Dated: November 5, 1979.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 79-35164 Filed 11-14-79; 8:45 am]

BILLING CODE 3410-11-M

CENTRAL INTELLIGENCE AGENCY

Privacy Act of 1974; Amended Records Systems

AGENCY: Central Intelligence Agency.

ACTION: Proposed Records Systems Amendment.

SUMMARY: The Central Intelligence Agency proposes to amend three records systems. The Agency's systems of records affected by these proposed amendments were most recently promulgated in the Federal Register at Vol. 42, No. 184, pp. 48050-48074, September 22, 1977.

DATES: All written comments received by the Central Intelligence Agency will be considered before final notice is promulgated in the Federal Register. These must be received by January 7, 1980.

ADDRESS: Interested persons are invited to participate in the formulation of these amendments by submitting such written data, views, or comments as they may desire to: Chief, Information and Privacy Division, Central Intelligence Agency, Washington, D.C. 20505.

FOR FURTHER INFORMATION CONTACT: Mr. George W. Owens, Chief, Information and Privacy Division, Central Intelligence Agency, Washington, D.C. 20505; phone (703) 351-7486.

SUPPLEMENTARY INFORMATION: Adoption of the proposed amendments would permit the correct title identification of the record system manager for Privacy and Freedom of Information Acts Requesters records system, CIA-21. Adoption of an amendment to Applicant Files records system, CIA-30, would permit an anticipated reduction of records in this system. The retention of applications from individuals seeking employment with the Agency would be affected. Implementation of a change in the Psychological Test Data Files, CIA-37, would alter the time unsuccessful applicant files were kept, and would bring this records system into conformity with the Records Control

Schedule as approved by the National Archives and Records Service.
Clifford D. May, Jr.,
Acting Deputy Director for Administration.

1. In CIA-21, the system managers title is revised:

CIA-21

SYSTEM NAME:

Privacy and Freedom of Information Acts Requesters.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Information and Privacy Division, Central Intelligence Agency, Washington, D.C. 20505

2. In CIA-30, the "Retention and disposal" section is revised to read as follows:

CIA-30

SYSTEM NAME:

Applicant Files.

RETENTION AND DISPOSAL:

Applications rejected in the initial review because they do not meet requirements for Agency employment will be returned to the applicant without creating any record. Applications which appear to meet requirements for Agency employment, but which are subsequently rejected, are retained for two years and then destroyed by burning or pulping. Files on applicants who may be of interest at a later date are retained indefinitely.

3. In CIA-37, the "Retention and disposal" section is revised to read as follows:

CIA-37

SYSTEM NAME:

Psychological Test Data Files.

RETENTION AND DISPOSAL:

Files on employees, dependents and detailees are retained in Headquarters until retirement or separation at which time they are retired to the Agency Records Center, where they are retained 30 years and then destroyed by the Records Center by burning. Successful applicants' files are treated the same as employees. Unsuccessful applicant files are retained for a period of three years and then destroyed by burning or pulping.

[FR Doc. 79-35156 Filed 11-14-79; 8:45 am]

BILLING CODE 6310-02-M

CIVIL AERONAUTICS BOARD

[Docket 37019]

Cascade Airways, Inc., Fitness Investigation; Assignment of Proceedings

This proceeding is hereby assigned to Administrative Law Judge Richard M. Hartsock. Future communications should be addressed to Judge Hartsock.

Dated at Washington, D.C., November 8, 1979.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 79-35245 Filed 11-14-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 35936]

Commuter Airlines, Inc., Enforcement Proceeding; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on January 8, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., November 7, 1979.

Elias C. Rodriguez,

Administrative Law Judge.

[FR Doc. 79-35244 Filed 11-14-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-11-71; Docket 37054]

Eastern Air Lines Caribbean Holiday Surcharges; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of November 1979.

Eastern Air Lines, Inc., has filed a tariff, effective December 9, 1979, which would place a \$15.00 surcharge during the upcoming holiday season on peak travel in the New York-San Juan/San Croix/St. Thomas markets. The surcharges would be effective southbound from December 15 to the 26th, and northbound from December 30 to January 8. These surcharges would lift fares outside the applicable zones of reasonableness and suspend free zones established in PS-80.¹

¹ Regulation PS-80, effective September 5, 1978. In four (authorized) carrier markets like New York-San Juan, we permit fares up to 110 percent of the Standard Industry Fare Level to become effective without justification. The PS-80 zones are broader in competitive markets than the statutory suspend

Eastern's move followed a similar filing, effective November 20, 1979, of American Airlines, Inc., covering various Caribbean markets. American justified the surcharges by establishing a need for increased revenue to make economic the running of some 200 extra sections during the holiday peak. Such sections are ordinarily empty on their return leg and, consequently, the highest attainable load factor for them has been 50 percent.² Fares to Puerto Rico and Virgin Islands, however, are based on higher load factor standards.³ Moreover, the fuel to operate these extra sections may be obtainable, if at all, on the spot market where prices are substantially in excess of those built into the current standard industry fare level. Because we would do consumers no favor by making these extra sections uneconomic when consumers are apparently prepared to pay the extra costs of operation, we are permitting the American tariff to become effective. This is consistent with our policy in PS-80 of permitting rates not within our zones of reasonableness to become effective upon proper justification. We are sympathetic to peak pricing in general and will not lightly interfere with a carrier's decision to recognize the demand characteristics of a market and provide services and prices to match.

Eastern's sole justification for matching American is, however, a reference to high fuel costs. We understand that this carrier has not offered extra sections to accommodate peak demands in the past, and the carrier does not contend that it will do so this season. On this showing, we are unable to conclude that the carrier surcharges are reasonable, and the standards of PS-80 require that these fares be suspended.

On November 2, 1979, the Commonwealth of Puerto Rico complained of the Eastern tariffs, though not American's, for essentially the same reasons set forth above. Some informal undocketed protests were also received against both carriers' actions.

The Board finds that the proposed surcharges may be unlawful and should be investigated and pending investigation should be suspended.

Free zones of reasonableness established by the Airline Deregulation Act in section 1002(d) of the Federal Aviation Act.

² It is not entirely clear to us why this capacity has not been utilized for, e.g., cheap charter service.

³ In the New York-San Juan markets, a load factor of 68 percent; in all other mainland-Puerto Rico/Virgin Islands markets, 60 percent. See our supplemental opinion and order in the *Mainland-Puerto Rico/Virgin Island Fares Investigation*, Docket 24353, Order 76-4-100, August 18, 1976.

Accordingly, pursuant to sections 102, 204(a), 403, 404 and 1002 of the Federal Aviation Act of 1958:

1. We institute an investigation to determine whether the provisions set forth in Appendix A⁴ hereof, and rules and regulations or practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful; and if we find them to be unlawful, to act appropriately to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend the tariff provisions specified in Appendix A and defer their use from December 9, 1979, to and including March 7, 1980, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall place copies of this order in the aforesaid tariff and serve them upon Eastern Air Lines, Inc.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.⁵

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-35248 Filed 11-14-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-11-15; Docket 37020, et al.]

Intra-Alaska Service Investigation; Alaska Airlines, Inc.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of November, 1979.

In the matter of Intra-Alaska Service Investigation (Docket 37020); Application of Alaska Airlines, Inc. to amend its certificate of public convenience and necessity for Route 138 (Bethel-Kenai-Anchorage/Fairbanks-Barrow-Prudhoe Bay) (Docket 35868); Application of Northwest Airlines, Inc. for amendment of its certificate of public convenience and necessity (ANC-FAI) (Docket 38131); Application of Sea Airmotive, Inc. for a certificate of public convenience and necessity (Docket 36470); Application of Sea Airmotive, Inc. for an exemption (Docket 36471).

Order

On June 15, 1979, Alaska Airlines filed an application and petition for an order to show cause why its certificate of public convenience and necessity for

⁴ Appendix A filed as part of the original document.

⁵ All Members concurred.

Route 138 should not be amended to allow service between the coterminous points Anchorage and Fairbanks, on the one hand, and the coterminous points Bethel, Kenai, Barrow and Prudhoe Bay, Alaska, on the other hand.

In support of its application, Alaska states that the grant of this authority will increase passenger convenience by providing the first single-carrier service from these points to Portland and San Francisco, and allowing a resumption of jet service between Anchorage and Kenai. In addition, it states that it will extend its "Super Saver" discount fares to each of the four new Alaska points that it is seeking. It further states that this grant of authority is consistent with our multiple permissive entry policy.

On July 13, 1979, Wien Air Alaska filed an answer to Alaska's application and petition. Wien states that the grant of this authority will cause diversion on two subsidy-eligible routes and that the Federal government will be required under the Airline Deregulation Act to increase its subsidy payments so as to make up for the loss caused by the diversion. It further argues that this award, in combination with the grant of pending applications for authority over some of its other routes, will produce such a great loss of revenue as to imperil its ability to discharge its certificate obligations. Wien also argues that the Alaska Airlines application should be denied because Alaska has not supplied the economic data and analysis required of a Subpart Q application. If we do not reject the application, it states that it should be heard by an administrative law judge for an Initial Decision because any proposed grant of Alaska's application would require detailed findings as to the impact upon the Federal Treasury, Wien, and the Alaska transportation system.

On September 28, 1979, Wien filed an amendment to its answer in which it argues that the Alaska application should be set for hearing. It states that Alaska Airlines and its management team have unlawfully acquired more than 20 percent of Wien's outstanding stock, and that this action is sufficiently serious to warrant an investigation into whether Alaska Airlines is fit to receive additional authority. On October 2, 1979, Alaska filed an amendment to its answer in which it argues that its fitness is not put into issue by its prior effort to acquire control of Wien.

On July 13, 1979, Northwest Airlines filed an application and a petition for an order to show cause why its certificate of public convenience and necessity for Route 3 should not be amended to allow service between Anchorage and Fairbanks, and filed a motion to

consolidate its application with Alaska's application.

In support of its application, Northwest states that the grant of the authority that it requests is consonant with the Airline Deregulation Act's objective of placing maximum reliance on competition, which will in turn benefit the traveling public.

We have received no answers in response to Northwest's application, petition or motion to consolidate.

On August 28, 1979, Sea Airmotive filed an application and a petition for an order to show cause under Subpart Q for issuance of a certificate of public convenience and necessity for the routes which it is currently authorized to serve as a Part 298 air taxi and an intra-state carrier. On the same date it filed an application for an exemption for those routes.

In support of its application and petition, Sea Airmotive states that certificate status will enable it to transport interstate passengers and to carry mail, two functions which it claims it is unable to undertake in its current position. It further alleges that with CAB certification it will be able to secure loans more easily, obtain a more favorable listing in the OAG, and develop and expand competitive services to the benefit of the traveling public.⁶ Finally, it states that there are no material issues as to either its fitness or the consistency of its application with the public convenience and necessity which warrant a hearing.

Sea Airmotive states that the award of an exemption pending the outcome of certification proceedings is in the public interest, inferring that under exemption authority it will be able to carry interstate passengers and mail which it is precluded from doing now. It points to its unsuccessful efforts to obtain Federal operating authority—efforts which have been hampered through no fault of its own—such as the *Alaska Service Investigation*, Docket 20826, and apparently regards the award of exemption authority as a first step in securing certificate authority.

On September 25, 1979, Wien filed answers to Sea Airmotive's application, petition and exemption request. Wien requests that a hearing be held on the issues of Sea Airmotive's fitness to receive certificate authority and the consistency of its application with the public convenience and necessity.

In both of its answers, Wien states that certification of Sea Airmotive will not provide it with any greater operating rights than it currently possesses, since

⁶ Sea Airmotive further requests that it be permitted to retain air taxi status after certification.

it can now carry interstate passengers and mail. However, since certification will bring with it the right to transport mail under a service mail rate, Wien states that the diversion which it would experience on its mail routes will cause its subsidy needs to increase, and the competition on its mainline routes—which support its bush operations—will render it unable to carry out its certificate obligations.

Wien further states that, since Sea Airmotive is an uncertificated carrier, its fitness has never been adjudicated before the CAB, and there exist fitness questions which must be dealt with before Sea Airmotive can receive authority.

On October 4, 1979, Sea Airmotive filed replies to Wien's answers in its certification and exemption dockets.² In its replies, it alleges that Wien has not brought forth any issues which warrant a hearing for their resolution; Wien presents pre-deregulation arguments, such as diversion and protectionism, which do not have merit here; Wien is requesting a hearing only in order to delay Sea Airmotive's certification; and there is an immediate public need which the award of exemption authority can satisfy.

On October 5, 1979, the U.S. Postal Service filed a consolidated answer to the applications of Sea Airmotive in which it supports Wien's position that the exemption should be denied and that a hearing should be held. On October 12, 1979, Sea Airmotive filed a reply in which it stated that the Postal Service raised insufficient and incorrect arguments to support its hearing request.³

We have decided to set the applications of Alaska, Sea Airmotive and Northwest for a formal hearing before an administrative law judge, and institute the *Intra-Alaska Service Investigation*, Docket 37020.

Section 102(a)(4) of the new Act directs us to place "maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital." We have held that, as a rule, we will not consider diversion from incumbent carriers to be a significant factor in determining whether to grant route awards. As we noted in the *Oakland*

Service Case, "diversion will not be of decisional significance unless it threatens an affected carrier's ability to perform its certificate obligations, or will necessarily result in termination of essential services which will not be replaced by an applicant or by other carriers."⁴ Wien, the incumbent carrier in most of the markets involved, alleges that the first of these adverse effects will result from the certification of additional carriers in more of its markets. We are also dealing with the state of Alaska, which presents us with circumstances that are not present to the same degree in the Lower 48. As a result, we find that there may be "unusual factual circumstances"⁴ present her which warrant a hearing for their resolution.

We recognize that we have already awarded competitive authority to Alaska and Great Northern for other Wien routes in the *Northwest Alaska Service Investigation*.⁵ In the hearing held before Administrative Law Judge Frank M. Whiting, Wien raised diversion arguments similar to those raised here. Judge Whiting held, however, that Wien did not sustain its burden of proving that diversion would be so great that it would be unable to perform its certificate obligations, and we affirmed that aspect of the Judge's decision.⁶

Here, however, Wien argues that the combination of the awards in that case, plus those sought here and those elsewhere at issue, will result in a level of diversion which rises to a significant factor for decision. These allegations are made against a background of a steadily weakening financial position. For the year ended September 30, 1978, its operating profit without subsidy was \$2,123,585. This figure dropped to \$1,698,169 for the year ended December 30, 1978, and to \$340,142 for the year ended March 31, 1979. For the year ended June 30, 1979, it suffered an operating loss of \$240,117. Its operating profit with subsidy has likewise shown a steady decline from \$4,040,749 for the year ended September 30, 1978, to \$1,451,754 for the year ended June 30, 1979.⁷ Moreover, Wien has experienced difficulties in taking advantage of our liberal route policies not experienced by other carriers. The range of its largest

aircraft, the 737, sharply limits the Alaska-lower U.S. markets it can serve, and in the major Alaska-lower U.S. market it does serve, Anchorage-Seattle, it faces sharp competition from carriers using larger jet equipment, such as the 747, DC-10, 707 and 727.

In light of these special circumstances, we have decided that Wien should be given an opportunity to prove that the award of additional authority in more of its markets will create the results it alleges. Even if Wien's allegations of substantial financial distress are correct and a loss of revenues may prevent Wien from fulfilling its certificate obligations, this should not end the inquiry. Rather, we expect the proceeding to resolve the question of whether the benefits of actual and potential competition outweigh the economic harm which would come to Wien. These benefits may be realized in the form of improved service to the Alaska points, a lowered subsidy bill, as more efficient carriers serve the subsidized routes, and the general benefits of competitive service to the traveling public which may result from multiple awards, not withstanding Wien's decline.

We believe that the question of Sea Airmotive's fitness should be explored in a formal hearing, in line with our policy in cases of initial certification.⁸

Finally, we have decided to deny Sea Airmotive's exemption request. While we recognize the difficulties inherent in providing air service in Alaska, Sea Airmotive has not persuaded us that there is an immediate public need to be satisfied by granting it exemption authority, since it can currently serve all the points named in its application as an air taxi or intra-state carrier.

Sea Airmotive alleges in both its exemption request and petition for an order to show cause that certification will enable it to carry interstate passengers and mail. However, as Wien correctly notes in its answers to both the petition for an order to show cause and the exemption request, Sea Airmotive currently can enter into interline agreements with certificated carriers and can transport persons and property moving in interstate commerce.⁹ Exemption authority will not broaden this right. Nor will exemption authority create any greater entitlement to carry mail than Sea Airmotive currently holds.

⁸ We are interested in reducing the burden of this proceeding on Sea Airmotive, a small carrier, to the necessary minimum and we urge the administrative law judge to exercise his discretion to that end. We note that Sea Airmotive has already filed extensive material going to its fitness and we see no reason why any of this data should be duplicated.

⁹ Section 401(d)(4)(A)(ii).

The Postal Service has statutory authority to contract for the services of an air taxi if it deems the certificated carrier's services to be inadequate.¹⁰ While a certificated carrier may carry mail under a service mail rate (i.e., deliver mail on a piecemeal basis and receive the prescribed rate from the Postal Service) and an air taxi cannot, the award of exemption authority will not place an air taxi in the position of a certificated carrier with respect to the carriage of mail.¹¹

We expect this case to proceed expeditiously. Under the Deregulation Act, applicants are entitled to processing of their applications within eleven months. Consequently, we are invoking the procedural deadlines of Subpart Q of our Procedural Regulations so that an initial decision must be issued within 150 days of the service date of this order.

Accordingly, 1. We institute a proceeding to be known as the *Intra-Alaska Service Investigation*, Docket 37020, to be set down for hearing before an administrative law judge of the Board at a time and place to be designated later;

2. We include the following issues in this proceeding:

(a) Is it consistent with the public convenience and necessity to grant the applications of Alaska Airlines, Northwest Airlines, and Sea Airmotive?

(b) Are the applicants fit, willing and able to receive the certificate authority they seek?

(c) If so, what terms, conditions and/or limitations should be placed on the operations of such carriers?

3. The authority granted in this proceeding shall be ineligible for section 406 subsidy;

4. The following are made parties to this proceeding: Alaska Airlines, Northwest Airlines, Sea Airmotive and Wien Air Alaska;

5. We consolidate the applications of Alaska Airlines in Docket 35868, Northwest Airlines in Docket 36131, and Sea Airmotive in Docket 36470, to the extent that they conform to the scope of the issues as stated above, into Docket 37020; otherwise we dismiss them without prejudice;

6. Applications, motions to consolidate, and petitions for

reconsideration of this order shall be filed 20 days from the date of adoption of this order and answers shall be filed 15 days thereafter;

7. We deny the petitions to Sea Airmotive and Alaska for an order to show cause, in Dockets 6470 and 36868, respectively;

8. We deny Sea Airmotive's application for an exemption in Docket 36471;

9. We deny Northwest's motion to consolidate its application in Docket 36131 into Docket 35868; and

10. We shall serve a copy of this order on the persons listed in the attached appendix.¹²

This order will be published in the Federal Register.

By the Civil Aeronautics Board,¹¹³

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-35247 Filed 11-14-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-11-65]

Sky West; Temporary Subsidy Rate

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 79-11-65 which establishes Sky West's temporary subsidy rate at \$305,000 annually from June 1, 1979, through May 31, 1981, inclusive, and at \$277,150 for the year ending May 31, 1982.

SUMMARY: On July 31, 1979, Sky West petitioned the Board to establish its subsidy rates on both a temporary and final basis. In support of its request, Sky West stated that subsidy was necessary to provide adequate service to its two eligible points—Cedar City, Utah, and Page, Arizona. On October 18, 1979, the Board adopted Order 79-10-92 which proposed to set Sky West's temporary subsidy rate at \$197,345 annually for the three-year period. On October 24, 1979, Sky West objected to Order 79-10-92, claiming that the Board had overlooked certain expenses in computing the proposed temporary subsidy rate. In Order 79-11-65, the Board agreed with the carrier, and revised the subsidy rate accordingly. A final rate will be set at a later date.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson or James M. Craun, Jr., Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5368.

The complete text of Order 79-11-65 is available from our Distribution

¹² Appendix filed as part of the original document.
¹³ All Members concurred.

Section, Room 518, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-11-65 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, November 7, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-35246 Filed 11-14-79; 8:45 am]
BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Alaska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission will convene at 3:00 p.m. and will end at 6:00 p.m., on November 30, 1979, at the Alaska Board Room, United Bank Alaska, 645 G Street, Anchorage, Alaska.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is program planning—employment follow-up.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 9, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-35276 Filed 11-14-79; 8:45 am]
BILLING CODE 6335-01-M

Alaska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission will convene at 12:00 p.m. and will end at 3:00 p.m., on November 29, 1979, at the Sheraton Hotel, 401 East 6th Avenue, Anchorage, Alaska.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is a subcommittee meeting on Fisheries Project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 9, 1979.

John I. Brinkley,
Advisory Committee Management Officer.
[FR Doc. 79-35277 Filed 11-14-79; 8:45 am]
BILLING CODE 6335-01-M

Tennessee Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission will convene at 1:30 p.m. and will end at 5:30 p.m., on December 7, 1979, at the Hyatt Regency Knoxville, James Polk Room, 500 Hill Avenue, Knoxville, Tennessee 37915.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, 75 Piedmont Avenue NE., Atlanta, Georgia 30303.

The purpose of this meeting is to review and discuss the SAC proposal for Affirmative Action Monitoring Project to be conducted in metropolitan Knoxville.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 8, 1979.

John I. Brinkley,
Advisory Committee Management Officer.
[FR Doc. 79-35278 Filed 11-14-79; 8:45 am]
BILLING CODE 6335-01-M

Iowa Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on December 11, 1979, at the University of Iowa, Iowa Memorial Union, Iowa City, Iowa 52242.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to receive reports of the National Chairpersons conference and Regional

Planning conference; and review of current program activity.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 9, 1979.

John I. Brinkley,
Advisory Committee Management Officer.
[FR Doc. 79-35279 Filed 11-14-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Survey of Retail Sales and Inventories; Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1980 the Annual Retail Trade Survey, which has been conducted each year since 1951 (except 1954) under title 13, United States Code, sections 182, 224, and 225. This survey is conducted to collect data covering year-end inventories and annual sales of retail trade establishments. This survey, which would provide data for 1979, is the only continuing source available on a comparable classification and a timely basis for use as a benchmark for developing retail inventory and sales estimates.

Information and recommendations received by the Bureau of the Census indicate that the data will have significant application to the needs of the public, the distributive trades, and governmental agencies, and that the data are not publicly available from nongovernmental or other governmental sources.

Such a survey, if conducted, shall begin not earlier than December 31, 1979.

Reports will be required only from a selected sample of firms operating retail establishments in the United States, with probability of selection based on their sales size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this proposed survey will receive consideration if submitted in writing to the Director of the Bureau of the Census on or before December 17, 1979.

Dated: November 8, 1979.

Vincent P. Barabba,
Director, Bureau of the Census.
[FR Doc. 79-35271 Filed 11-14-79; 8:45 am]
BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Order No. 148]

Approval for Expansion of Foreign-Trade Zone No. 23, Erie County, N.Y.

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the County of Erie, Grantee of Foreign-Trade Zone No. 23, located at the Niagara Frontier Transportation Authority's Buffalo Marine Terminal on Lake Erie, has applied to the Board for authority to expand its zone to include an additional zone site in the Town of Amherst, Erie County, ten miles from the existing zone;

Whereas, the application was accepted for filing on April 23, 1979, and notice inviting public comment was given in the *Federal Register* on April 26, 1979 (44 FR 24616);

Whereas, the additional site is requested in order to provide zone facilities for light industrial users and distributors;

Whereas, an examiner's committee has investigated the application in accordance with the Board's regulations and recommends approval; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's Regulations are satisfied, and that the approval of the application is in the public interest;

Now, therefore, the Board hereby orders that the Grantee is authorized to expand Foreign-Trade Zone No. 23, in conformity with the application filed on April 23, 1979. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operation within the new zone site. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C., this 2nd day of November 1979.

Juanita M. Kreps,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. DaPonte,
Executive Secretary.
[FR Doc. 79-35219 Filed 11-14-79; 8:45 am]
BILLING CODE 3510-25-M

Industry and Trade Administration

Management-Labor Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on November 30, 1979, at 10:30 a.m. in Room 4830, Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world-trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Industry and Trade Administration, Records Inspection Facility Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

Dated: November 8, 1979.

Arthur Garel,
Director, Office of Textiles.
[FR Doc. 79-35170 Filed 11-14-79; 8:45 am]
BILLING CODE 3510-12-M

National Oceanic and Atmospheric Administration

Solicitation of Competitive Applications for Ocean Dumping Grants

AGENCY: Department of Commerce, National Oceanic and Atmospheric Administration, Office of Oceanic and Atmospheric Services, National Ocean Survey.

ACTION: Notice.

SUMMARY: This notice solicits competitive applications for participation in a specific research program involving ocean dumping and following analysts of ecological results. It is anticipated that awards will be made in the form of grants by NOAA; however, should contracts result, they will be awarded by the Office of Procurement and ADP Management, Department of Commerce, in accordance with Federal Procurement Regulations.

DATES: December 26, 1979, is the closing date for receipt of applications at the National Oceanic and Atmospheric Administration (NOAA) at the Rockville, MD, address shown below. It is contemplated that awards of grants can be made by March 1980.

FOR FURTHER INFORMATION CONTACT: NOAA, Grants Management Branch, AD113, 6010 Executive Boulevard, Rockville, MD 20852, (301) 443-8574.

SUPPLEMENTARY INFORMATION: Please see the three specific announcements which follow: (1) Announcement of a program involving waste disposal at the 106 Dumpsite southeast of New York, and the Puerto Rico Dumpsite; (2) Announcement of a program involving ocean dumping and dredged material and environmental monitoring of certain dumping areas (New York Bight, Cape Henry, and the Mississippi Delta), and (3) Announcement of a program involving shallow water ocean dumping at the Philadelphia dumpsite.

Francis J. Balint,
Acting Director, Office of Management & Computer Systems.

Announcement 1.—Ocean Dumping, Monitoring and Research
Announcement of Competitive Grant Applications (Deep Ocean Dumping—106 Dumpsite (southeast of New York) and the Puerto Rico Dumpsite)

The Ocean Dumping and Monitoring Division (ODMD) of the National Ocean Survey, NOAA, announces that competitive applications for Ocean Dumping Grants will be accepted until December 26, 1979. The funds for the grants are appropriated through Title II, Section 201 under Pub. L. 92-532, Marine

Protection, Research, and Sanctuaries Act of 1972.

Scope of this Program Announcement. This is one of several announcements that identify the general objectives and funding priorities of ODMD for Fiscal Year 1980. To the extent possible, data and findings resulting from this announcement will be published rapidly to assist State, municipal, and private parties interested in ocean dumping.

A. Program Purpose. Industrial wastes will be dumped at the 106 Dumpsite and the Puerto Rico Dumpsite during 1981. The purpose of the program is to determine the ecological consequences of using these sites for waste disposal.

B. Eligible Applicants. Any public or private, profit or nonprofit, entity or individual is eligible to apply for a grant under this announcement.

C. Available Funds. The ODMD expects to award \$500,000 in approximately eight new and/or renewal grants pursuant to this announcement in Fiscal Year 1980. A new grant is the initial grant made in support of the project requested in an application. A renewal grant continues a project beyond the period for which the initial grant was made. The range of the funds per grant is expected to be from \$50,000 to \$100,000. Generally, projects will be supported for periods of 1 to 3 years. Support for additional time for a project depends on: (1) Availability of funds, (2) ODMD's assessment of the grantee's satisfactory performance on the project for which the original grant was awarded, and (3) the likelihood of the grantee's continued contribution to the priorities of the ODMD program.

Publication of this announcement does not obligate ODMD to award any specific number of grants, or to obligate the entire amount of funds available or any thereof.

D. Program Objectives are: 1. To determine the consequences of ocean dumping practices on phytoplankton. Use existing and new data generated in the laboratory and in the field.

2. Similar to one (1.) above, with emphasis on members of the Planktonic community other than phytoplankton.

3. To determine rates and directions of advection through dumpsites.

4. To determine rates of cross-pycnocline mixing of industrial wastes.

5. To determine the stability of organic compounds dumped into the marine environment as affected by biotic or abiotic processes.

E. Application Process. Applications which are late, incomplete, or otherwise do not conform to the application kit (Section I) will not be accepted for review, and applicants will be notified accordingly. All other applications will

be subject to a competitive review and evaluation in accordance with the established review process (Section G). If a decision is made to disapprove a competing grant application, or if funds are not available to support all approved competing grant applications, the applicants will be notified.

F. Criteria for Grant Selection. All proposals received as a result of this solicitation will be evaluated by a Grant Evaluation Board (GEB) in accordance with the evaluation factors outlined below. The evaluation factors will be applied in an identical manner to all proposals. The following factors will be given paramount consideration in the awarding of a grant. Scoring values are given to indicate to proposers the relative importance of each of the evaluation factors.

1. Carefully formulated measurable objectives, and the likelihood of meeting those objectives.....	25%
2. The promise of advancing knowledge in the marine sciences, as applied to ocean dumping research and monitoring.....	30%
3. The qualifications, experience, and commitments to the proposal of the principal investigators and supporting staff.....	25%
4. Facilities and experience of applicant.....	15%
5. Cost effectiveness of the cost proposal.....	5%
	100%

G. Application Review Process. All eligible applications submitted by the deadline date (Section H) will be reviewed and ranked by a GEB composed of a minimum of three Federal agency staff members with expertise in ocean sciences. The grant awards will be made by the NOAA Grants Officer approximately 3 months from the closing date for receipt of applications.

H. Closing Date for Receipt of Applications. The closing date for receipt of applications is December 26, 1979. An application will be considered to have arrived if: (1) The application is in the Grants Office or (2) the application is postmarked 5 days prior to the announced closing date.

1. Requests for Grants Application Kits and Inquiries should be made to: NOAA Grants Officer, Attn: AD113, 6010 Executive Boulevard, Rockville, Maryland 20852, 301-443-8574.

Announcement 2.—Ocean Dumping, Monitoring and Research Announcement of Competitive Grant Applications (Dredged Material Ocean Dumping)

The Ocean Dumping and Monitoring Division (ODMD) of the National Ocean Survey, NOAA, announces that competitive applications for Ocean Dumping Grants will be accepted until December 26, 1979. The funds for the grants are appropriated through Title II, Section 201 under Pub. L. 92-532, Marine

Protection, Research, and Sanctuaries Act of 1972.

Scope of this Program Announcement. This is one of several announcements that identify the general objectives and funding priorities of ODMD for Fiscal Year 1980. To the extent possible, data and findings resulting from this announcement will be published rapidly to assist State, municipal, and private parties interested in ocean dumping.

A. Program Purpose. Dredging is an activity that develops and maintains the Nation's nearshore waterways and harbors. The purpose of this study is to implement a comprehensive study of the impact of ocean dumping of dredged material, and to develop a means for environmental monitoring of certain dumping areas (New York Bight, Cape Henry off the Chesapeake Bay, and the region of the Mississippi Delta).

B. Eligible Applicants. Any public or private, profit or nonprofit, entity or individual is eligible to apply for a grant under this announcement.

C. Available Funds: The ODMD expects to award \$280,000 in approximately three new and/or renewal grants pursuant to this announcement in fiscal Year 1980. A new grant is the initial grant made in support of the project requested in an application. A renewal grant continues a project beyond the period for which the initial grant was made. The range of funds per grant is expected to be from \$50,000 to \$90,000. Generally, projects will be supported for periods of 1 to 3 years. Support for additional time for a project depends on: (1) Availability of funds, (2) ODMD's assessment of the grantee's satisfactory performance on the project for which the original grant was awarded, and (3) the likelihood of the grantee's continued contribution to the priorities of the ODMD program.

Publication of this announcement does not obligate ODMD to award any specific number of grants, nor to obligate the entire amount of funds available or any part thereof.

D. Program Objectives are: 1. To determine sediment dispersion patterns at dumping sites. To attempt to estimate rates of vertical and horizontal dispersion of sediment plumes. To measure fractionation of different sized particles in the water column and on the bottom where dumped sediments accumulate.

2. To determine the fate of toxic metals released at the dumpsite.

3. To determine the environmental fate of natural and synthetic organic pollutants contained in dumping dredged material.

4. To determine the nature and duration of gross quality changes

associated with the dumping (by acoustical plume tracking in conjunction with water quality and analysis).

E. Application Process. Application which are late, incomplete, or otherwise do not conform to the application kit (Section I) will not be accepted for review, and applicants will be notified accordingly. All other applications will be subject to a competitive review and evaluation in accordance with the established review process (Section G). If a decision is made to disapprove a competing grant application, or if funds are not available to support all approved competing grant applications, the applicants will be notified.

F. Criteria for Grant Selection. All proposals received as a result of this solicitation will be evaluated by a Grant Evaluation Board (GEB) in accordance with the evaluation factors outlined below. The evaluation factors will be applied in an identical manner to all proposals. The following factors will be given paramount consideration in the awarding of a grant. Scoring values are given to indicate to proposers the relative importance of each of the evaluation factors.

	Percent
1. Carefully formulated measurable objectives, and the likelihood of meeting those objectives.....	25
2. The promise of advancing knowledge in the marine sciences, as applied to ocean dumping research and monitoring.....	30
3. The qualifications, experience, and commitments to the proposal of the principal investigators and supporting staff.....	25
4. Facilities and experience of applicant.....	15
5. Cost effectiveness of the cost proposal.....	5
	100

G. Application Review Process. All eligible applications submitted by the deadline date (Section H) will be reviewed and ranked by a GEB composed of a minimum of three Federal agency staff members with expertise in ocean sciences. The grant awards will be made by the NOAA Grants Officer approximately 3 months from the closing date for receipt of applications.

H. Closing Date for Receipt of Applications. The closing date for receipt of applications is December 26, 1979. An application will be considered to have arrived if: (1) The application is in the Grants Office or (2) the application is postmarked 5 days prior to the announced closing date.

1. Requests for Grants Application Kits and Inquiries should be made to: NOAA Grants Officer, Attn: AD113, 6010 Executive Boulevard, Rockville, Maryland 20852, 301-443-8574.

Announcement 3.—Ocean Dumping, Monitoring and Research Announcement of Competitive Grant Applications (Shallow Water Ocean Dumping—Philadelphia Dumpsite)

The Ocean Dumping and Monitoring Division (ODMD) of the National Ocean Survey, NOAA, announces that competitive applications for Ocean Dumping Grants will be accepted until December 26, 1979. The funds for the grants are appropriated through Title II, Section 201 under Pub. L. 92-532, Marine Protection, Research, and Sanctuaries Act of 1972.

Scope of this Program Announcement. This is one of several announcements that identify the general objectives and funding priorities of ODMD for Fiscal Year 1980. To the extent possible, data and findings resulting from this announcement will be published rapidly to assist State, municipal, and private parties interested in ocean dumping.

A. Program Purpose. Dumping of sewage sludge at the Philadelphia dumpsite was initiated in 1973, and will cease by 1981. A trend of environmental modification and degradation is occurring in and around the dumping area. The purpose of the study is to determine the impact of sludge dumping at the site, and to develop means for environmental monitoring in the dumpsite area.

Monitoring and research will continue following 1981 (after the end of dumping) to study the recovery of the site.

B. Eligible Applicants. Any public or private, profit or nonprofit, entity or individual is eligible to apply for a grant under this announcement.

C. Available Funds. The ODMD expects to award \$85,000 in approximately three new and/or renewal grants pursuant to this announcement in Fiscal Year 1980. A new grant is the initial grant made in support of the project requested in an application. A renewal grant continues a project beyond the period for which the initial grant was made. The range of the funds per grant is expected to be from \$25,000 to \$50,000. Generally, projects will be supported for periods of 1 to 3 years. Support for additional time for a project depends on: (1) Availability of funds, (2) ODMD's assessment of the grantee's satisfactory performance on the project for which the original grant was awarded, and (3) the likelihood of the grantee's continued contribution to the priorities of the ODMD program.

Publication of this announcement does not obligate ODMD to award any specific number of grants, nor to

obligate the entire amount of funds available or any part thereof.

D. Program Objectives are: 1. To determine spatial distribution and depth of sludge beds.

2. To determine the factors controlling sludge distribution and accumulation.

3. To measure ecological changes in the bottom community, with emphasis on developing sampling strategies, and upon statistical manipulation of historical data from multiple biological stations within and away from the site.

4. To relate pathological conditions in mollusks and crustaceans from the site to particular types of pollutants.

Emphasis will be upon necrotic gill and cuticular lesions in crabs and upon localized incidents of mortality in clams.

5. To determine gross levels of pollution by bacteriological analysis of sediments, benthic organisms, and water samples from the site.

E. Application Process. Applications which are late, incomplete, or otherwise do not conform to the application kit (Section I) will not be accepted for review, and applicants will be notified accordingly. All other applications will be subject to a competitive review and evaluation in accordance with the established review process (Section G). If a decision is made to disapprove a competing grant application, or if funds are not available to support all approved competing grant applications, the applicants will be notified.

F. Criteria for Grant Selection. All proposals received as a result of this solicitation will be evaluated by a Grant Evaluation Board (GEB) in accordance with the evaluation factors outlined below. The evaluation factors will be applied in an identical manner to all proposals. The following factors will be given paramount consideration in the awarding of a grant. Scoring values are given to indicate to proposers the relative importance of each of the evaluation factors.

	Percent
1. Carefully formulated measurable objectives, and the likelihood of meeting those objectives.....	25
2. The promise of advancing knowledge in the marine sciences, as applied to ocean dumping research and monitoring.....	30
3. The qualifications, experience, and commitments to the proposal of the principal investigators and supporting staff.....	25
4. Facilities and experience of applicant.....	15
5. Cost effectiveness of the cost proposal.....	5
	100

G. Application Review Process. All eligible applications submitted by the deadline date (Section H) will be reviewed and ranked by a GEB composed of a minimum of three Federal agency staff members with expertise in ocean sciences. The grant awards will be made by the NOAA Grants Officer approximately 3 months

from the closing date for receipt of applications.

H. Closing Date for Receipt of Applications. The closing date for receipt of applications is December 26, 1979. An application will be considered to have arrived if: (1) The application is in the Grants Office or (2) the application is postmarked 5 days prior to the announced closing date.

1. Requests for Grants Application Kits and Inquiries should be made to: NOAA Grants Officer, Attn: AD113, 6010 Executive Boulevard, Rockville, Maryland 20852, 301-443-8574.

[FR Doc. 79-35167 Filed 11-14-79; 8:45 am]
BILLING CODE 3510-12-M

Modification of Permits

Notice is hereby given that, pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Public Display Permit No. 2 issued to Sea Life, Inc., Makapuu Point, Waimanalo, Hawaii 96795, on February 8, 1974, as modified on March 3, 1975 (40 FR 8846), December 31, 1975 (40 FR 60105), October 18, 1977 (42 FR 55631), and December 2, 1977 (42 FR 61296), and Public Display Permit No. 197 issued on August 9, 1977 (40 FR 41466), as modified on October 18, 1977 (42 FR 55031) are modified in the following manner:

The period of the authorized takings has been extended from December 31, 1979 to December 31, 1982, for both permits.

These modifications are effective on November 15, 1979.

The Permits, as modified, and documentation pertaining to these modifications, are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 7, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-35289 Filed 11-14-79; 8:45 am]
BILLING CODE 3510-22-M

Issuance of Permit

On October 4, 1979, Notice was published in the Federal Register (44 FR 57144), that an application had been filed with the National Marine Fisheries Service by Dr. Charles L. Ortiz, University of California at Santa Cruz,

Santa Cruz, California 95064, for a permit to take 1,890 northern elephant seals (*Mirounga angustirostris*) per year for 3 years for the purpose of scientific research.

Notice is hereby given that on November 7, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to conduct tagging and physiological studies on 1,890 northern elephant seals per year on Ano Nuevo Island, California subject to certain conditions set forth therein. The yearly authorized take includes the killing of 50 orphaned pups.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 97031.

Dated: November 7, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-35270 Filed 11-14-79; 8:45 am]
BILLING CODE 3510-22-M

Financial Assistance for Fisheries Development; Availability/Instruction to the Public

AGENCY: National Oceanic and Atmospheric Administration/Dept. of Commerce.

ACTION: Notice of availability/Instructions to the public.

SUMMARY: The National Marine Fisheries Service announces the availability of fiscal year 1980 funds to conduct activities that would foster the development of and strengthen the fishing industry of the United States and increase the supply of wholesome, nutritious fish and fish products available to consumers. Projects will be funded through grants and cooperative agreements. Any person or group may submit a proposal. This notice sets forth conditions under which proposals will be evaluated to determine appropriateness for funding.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Office of Utilization and Development, National Marine Fisheries Service, Washington, D.C. 20235, Phone: 202-634-7252, Attention: Preston Smith.

SUPPLEMENTARY INFORMATION:

Table of Contents

- Sec.
- I Eligible Applicants.
- II Availability and Duration of Funding.
- III Cost Sharing Provisions.
- IV Appropriate Fisheries Development and Utilization Activities.
- V NMFS Priority Areas for Grants and Cooperative Agreements.
 - A. Regional Fishery Specific Programs.
 - B. Technology Development and Transfer.
 - C. Improving Access to Domestic and Foreign Markets.
 - D. Safety, Quality, and Nutritional Value of Fish and Fish Products.
 - E. Infrastructure Development.
 - F. Industry Economic Studies.
 - G. Consumer Education/Consumer Awareness.
- VI Review Criteria.
- VII Review Process.
- VIII Recommended Format.
 - A. Cover Sheet.
 - B. Project Description.
 - C. Consultations.
 - D. Minority Business Enterprise Plan.
 - E. Supporting Documentation.
- IX Administrative Requirements.
 - A. Obligations of the Applicant.
 - B. Obligation of the National Marine Fisheries Service.
 - C. Legal Requirements.
 - D. Reporting Requirements.
- X Application Submission and Deadline.

Section I—Eligible Applicants

Applications for funding of fisheries development projects through either grants or cooperative agreements can be made by any person or group including Federal, State, and local governments, and Department of Commerce Regional Development Commissions in accordance with the procedures set forth in this notice. NMFS encourages minority individuals and groups, including women, to submit proposals for funding.

Section II—Availability and Duration of Funding

For fiscal year 1980, NMFS has available about \$10,000,000 to fund the fishery development and utilization projects solicited herein. Either grants or cooperative agreements will be awarded for a period of 1 year, and may be continued on a non-competing basis for 2 additional years, if originally awarded as a multiyear project. Continuation funding is contingent upon the availability of future year funds, the meeting of project objectives, and the continued relevance of the project to the stated fisheries development policy. Any proposal submitted for multiyear funding shall contain a detailed proposal for the initial year in which funding is requested plus an outline of planned activities and expected costs for the succeeding year(s). A detailed plan of those activities and costs to occur in the succeeding year(s) shall be

submitted within 6 months after an award is made.

Section III—Cost Sharing Provisions

Part of the total costs of each project, which would include in-kind contributions, must be provided from private and other than NMFS sources of financing. The amount of cost sharing will be an important factor in the selection of projects to be funded.

NMFS has determined that the amount of cost sharing should be related to two factors: (1) The relative distribution of the direct benefits from the project among the public at large vis-a-vis defined segments of the fishing industry; and (2) the relative risk of the project in terms of its potential ability to generate private profits. A project which will benefit the general public, such as a research project dealing with the safety of fish and fish products, will have a lower cost sharing requirement than one which directly benefits a specific segment of the industry or an identifiable number of firms. Similarly, industry demonstration projects in relatively risky ventures, such as those which are geared towards the harvesting, processing or marketing of nontraditional U.S. species, i.e., squid, Alaskan Pollock, etc., will be expected to provide lesser amounts of cost sharing than would industry projects directed towards species where strong domestic or foreign markets already exist for a U.S. product.

Specific cost sharing guidelines are still being developed and will be published at a later date. The guidelines will specify minimum cost sharing requirements that will have to be met but which may vary depending on the type of project and the capability of the applicant to share in the costs of the project. In some cases, the minimum cost sharing requirements for the applicant will equal 50 percent or more of the total costs of the project. Prospective applicants should make every effort to provide a significant share of the total costs of the project from in-kind contributions, private sources of funds, and sources of funding other than NMFS. The amount of cost sharing provided will be a significant factor in the evaluation of all proposals and will account for 15 points out of a total of 100 points to be assigned in evaluating the proposals.

In all cost sharing arrangements, including the definition of in-kind contributions, NMFS will determine whether the necessary cost sharing requirements have been met by the applicant.

Section IV—Appropriate Fisheries Development and Utilization Activities

NMFS intends that its funding of fisheries development activities will help remove economic and technological impediments to the development and strengthening of the U.S. fishing industry and increase the supply of wholesome, nutritious fish and fish products available to consumers.

Federal policy on fisheries development has established a number of policy goals. These are:

- (1) To encourage the development and growth of the domestic fishing industry, thereby providing increased employment opportunities, improving the economic well-being of fisheries-dependent communities, and increasing the supply of economically priced fish and fish products to U.S. consumers;
- (2) To lower the foreign trade deficit in fishery products through increased exports of U.S. fish and fish products;
- (3) To provide consumers with fish and fish products that are wholesome and nutritious and to provide the quantity and variety of fish and fish products that the consumer demands;
- (4) To promote a coordinated effort between the fishing industry and Federal, State, and local governments to achieve fisheries development;
- (5) To encourage the development of fish resources which will support growth in the fishing industry and strengthen the long-term viability of the industry; and
- (6) To improve market efficiency, both domestic and foreign, through information transfer and the elimination of any practices that restrict competition.

NMFS is seeking to support fisheries development activities which will contribute to and support these goals. In general, the NMFS will consider funding activities for:

- (1) Fishery specific programs designed to develop a new fishery or expand an existing fishery which has potential for growth. Such programs would describe all the various elements or work tasks in the areas of harvesting, processing, distributing, and marketing which relate to each other and which would be necessary for the development of a fishery. The activities of such a program might include:

- (a) Exploratory fishing and other activities to improve harvest techniques, including efforts to improve efficiency;
- (b) Developing or demonstrating a new or existing technology, including new and more efficient handling, processing, and preservation methods;
- (c) Developing new fish product concepts and/or forms and addressing

problems/questions regarding product quality, safety, and nutritional value; and

- (d) Developing new markets or expanding existing markets, both in the United States and in foreign countries.

(2) Programs which are not fishery specific but are related to more than one fishery or which would have an impact that is more national in scope. Examples of activities in these programs include:

- (a) Infrastructure development planning;
- (b) Technology development and transfer;
- (c) Expansion of exports and improved access to foreign markets;
- (d) Development of information on the safety, quality and nutritional value of fish and fish products;
- (e) Promotion of efficiency in the market and reduction or elimination of adverse impacts resulting from regulations that affect the fishing industry;
- (f) Expansion of consumer awareness and knowledge about fish and fish products; and
- (g) Developing a program of assistance to small and minority businesses to enable them to participate actively in the development of fish resources and utilization of fish and fish products.

For fiscal year 1980, the NMFS seeks to fund fisheries development and utilization activities in 7 areas of interest and concern which are of equal priority. These areas, which are described below, were identified by the Department of Commerce Fisheries Development Task Force and by members of the fishing industry as the most desirable. The final report of this Task Force is available from the office listed at the front of this notice. The topics described within each area are merely illustrative of projects that might be performed and do not exclude other possible projects within the 7 areas of concern.

Applicants having ideas in any of these 7 areas are encouraged to develop them into complete proposals. There is no guarantee that sufficient funds will be available to make awards for all approved proposals even in the solicited areas. All proposals submitted will have to compete with one another within and across areas.

Section V—NMFS Priority Areas for Grants and Cooperative Agreements

A. Regional Fishery Specific Programs. In this area, NMFS is soliciting proposals for (1) projects to identify a specific fishery or group of fisheries capable of supporting further development, plan the development or

expansion of these fisheries, and define those activities which, if undertaken, would lead to development or expansion of the fishery or group of fisheries; (2) projects to identify and plan the removal of impediments which significantly inhibit development or expansion of such fisheries; and (3) projects for effective outreach to small and minority groups involved in those fisheries. A fishery is defined as an interrelated set of elements, from production through consumption, that are related to a specific species or several species which are similar in nature. Examples of fisheries are Alaskan pollock, Pacific whiting, New England whiting, Gulf of Mexico groundfish, etc.

It is anticipated that a regional fisheries specific program will include projects from some or all of the remaining 6 areas of emphasis. Similarly, any proposal that addresses the needs of a particular region should identify how it relates to any regional program to develop a fishery or group of fisheries where such a program exists. Proposals which address regional needs will be considered even though they may not be part of an existing regional fisheries specific program; however, such proposals will be evaluated within the context of the needs of the region as identified in the regional program and will be ranked more favorably if they are closely integrated with the regional plans where such plans exist.

The NMFS is seeking to encourage a regional approach to developing or strengthening fisheries in recognition of the particular characteristics and differing priorities in the various regions. Regional priorities should be identified and established by groups or organizations having an interest in the development of fisheries in the region.

B. Technology Development and Transfer. Projects in this area would include (1) analysis through studies and demonstrations of current technologies being used in the harvesting and processing sectors of specific fisheries by U.S. harvestors and processors, as well as those used by foreign producers, the feasibility of transferring available technology from one fishery to another, and the costs and benefits of such technology transfer; (2) projects to improve storage techniques, improve processing or preservation methods or determine other means which would increase the ability of the industry to utilize available fish resources and provide an increased variety of safe, wholesome, and nutritious fish and fish products to consumers; (3) projects which examine fishing vessel safety, to determine or demonstrate how the

safety of the vessel operations might be improved, and develop programs to teach vessel safety; and (4) projects to determine and reduce energy needs of the harvesting and processing sectors, and to disseminate information on technological advances in energy conservation measures applicable to the fishing industry.

C. Improving Access to Domestic and Foreign Markets. In this area, projects would be designed to (1) identify U.S. fish resources presently or potentially available for export and determine potential foreign markets where U.S. fish and fish products could be introduced or where exports could be increased; (2) organize marketing ventures which demonstrate the existence of export markets, export education activities to inform U.S. producers of export markets, and trade missions to promote acceptance of U.S. fish and fish products; (3) determine fish product forms, styles, etc. required or desired by foreign seafood consumers; (4) determine, compile, and publish fish and fish products safety, quality, and labeling standards and inspection requirements of foreign governments and product specifications of foreign purchasers; (5) determine the impact of imported fish and fish products and of domestic and foreign trade barriers on the American economy and procedures and implications of requiring or removing tariff and non-tariff barriers; (6) develop foreign consumer awareness of American fish and fish products; and (7) expand the use of domestically harvested fish in institutional markets in the United States, with particular emphasis on introducing developing fishery resources into domestic markets.

D. Safety, Quality, and Nutritional Value of Fish and Fish Products. In this area, NMFS is soliciting (1) studies to determine the levels and public health significance of hazardous materials in fish and fish products; (2) studies to identify and measure natural toxins in fish, and research to avoid or remove toxic fish from the market place; (3) studies to determine characteristics, chemical properties, composition, and nutritional qualities of commercial and recreational species; (4) studies to determine the effects of processing, storage, additives, and methods of cooking on the nutritive quality and shelf life of fish and fish products; (5) studies to assist in the development of modern, effective product standards and specifications addressing the safety, quality, nutritional value, fill-of-container, labeling (including nomenclature), and composition of fish and fish products; and (6) studies to

identify and eliminate specific safety, quality, and identity (labeling) problems which are impediments to the development and utilization of nontraditional or underutilized fish resources.

E. Infrastructure Development. NMFS is soliciting proposals for (1) studies, at the regional level, complementing efforts by the Economic Development Administration, Maritime Administration, Minority Business Development Agency, or the U.S. Army Corps of Engineers, to define impediments to fisheries development resulting from lack of ports, harbors, or support facilities; (2) cost/benefit studies to determine the feasibility of public expenditures on such infrastructure; and (3) studies to plan the placement, characteristics, and priorities of such infrastructure required to support regional fisheries development activities.

F. Industry Economic Studies. Studies in this area should be of an applied nature designed to achieve results that could be translated into specific actions by either industry or appropriate Federal, State, or local governments. This would include (1) studies to identify the nature and types of market forces that exist in the seafood market place, how these differ from traditional markets, whether these market forces tend to inhibit the free flow of fish and fish products, and how these forces could be altered to promote an increased flow of fish and fish products to meet consumer demands and promote system efficiency; and (2) studies to determine market structure and the need for government assistance to cooperatives, how the creation of cooperative institutions would affect small minority businesses, the production process, the structure of the market, or prices and quantities of product available to the consumer, and any other impacts of any such cooperative institutions on the industry.

Additional studies would identify the requirements and needs of the investment community and develop methods to help firms within the fishing industry to strengthen their operations to gain needed financing. There is also a need for studies to analyze the effect of existing or proposed Federal and State regulations on fisheries development and utilization, determine the cost impact of such regulations on the fishing industry and on consumers, and investigate ways to minimize or eliminate any unnecessarily adverse impacts; studies to examine the practicability of establishing new fishing businesses around new fisheries

technologies; and projects to develop methods to upgrade existing small and minority businesses through the transfer of appropriate and new technologies to existing businesses and the use of specially designed education programs to assist these businesses to improve their management capabilities as they increase the size of their businesses.

G. Consumer Education/Consumer Awareness. In this area, NMFS is soliciting (1) studies which would determine consumer attitudes toward fish and fish products and measure seafood consumption patterns; (2) projects to develop information to meet consumer needs, including data and information on the safety, quality, and nutritional value of fish and fish products; (3) studies to determine and demonstrate the most effective type of educational materials about fish and fish products and the best system for disseminating these materials to consumers; (4) development of a monitoring system to evaluate consumer education efforts and to encourage consumer participation in both regional and national fisheries development and utilization programs; and (5) activities to educate consumers on the nutritional advantage, economy, and preparation of fish and fish products.

Section VI—Review Criteria

Proposals to conduct fishery development and utilization projects, as solicited by this notice, must meet certain minimum requirements to be considered for funding. These include consistency with the national goals for fisheries development outlined in the Policy and Program Statement on Fisheries Development issued in May 1979 (obtainable from the office listed at the beginning of this notice), provision for the required sharing of costs through other than NMFS sources of funding, and a minority business plan. Proposals which do not satisfy these minimum requirements, as determined by staff review at the Regional or Washington, D.C. Offices of NMFS, shall not be submitted for a formal review and evaluation in accordance with the criteria described below.

In addition to these minimum requirements, proposals addressing needs of a particular region shall give evidence of support by persons or groups within the region directly affected by the proposal or having an interest in the proposal objectives. Proposals must include adequate provision for the evaluation and monitoring of project performance. This is particularly important in the case of proposals for demonstration projects.

Proposals which contain these elements will be given point scores using the following criteria:

(a) The extent to which project objectives and design are consistent with national fishery development goals (20 points).

(b) The technical, regional, and economic feasibility of the project and likelihood of project objectives being obtained (20 points).

(c) Adequacy of the project plan in terms of level of effort, time, costs, organization, and management of the project (15 points).

(d) Extent to which the applicant proposes to obtain greater than the required minimum financial or in-kind contributions from sources other than the NMFS including private sources, taking into account the nature of the applicant and the proposed project (15 points).

(e) Adequacy of the evaluation procedures to monitor the project while it is in progress and to determine the impact of the project once it is complete (10 points).

(f) Qualifications of the management team (10 points).

(g) Relation of the benefits to be received to the costs of the project (10 points).

Section VII—Review Process

Proposals for fisheries development projects that deal with a particular fishery or which would affect a particular Region or area of the country should be submitted to the appropriate Regional Office of the National Marine Fisheries Service. A listing of Regional Offices and the States serviced by each appears at the end of this notice. Projects that do not directly address the development of a particular fishery or region of the country but would address broad national impediments to increased use of fish and fish products, industry efficiency, or consumer welfare should be submitted to the NMFS Washington Office for evaluation.

Proposals submitted to a Regional Office of the NMFS will be reviewed by the Regional Office, in consultation with the NMFS Fishery Research Centers, Regional Fishery Management Councils and others as appropriate. The relationship of the development proposal to fishery management efforts is an important element of the initial screening process. Therefore, the appropriate Regional Fishery Management Council(s) may be asked to review the proposals and advise of real or potential conflicts with the activities of the Council(s).

All proposals will initially be reviewed by the Regional Office or by

the NMFS Washington, D.C. Office of Utilization and Development, as appropriate, to determine whether the minimum requirements of this notice have been met, and whether the proposal is qualified for funding. Decisions concerning minimum requirements by the Region or the NMFS Washington Office of Utilization and Development will be final. Those proposals which have been determined to meet minimum requirements will be further reviewed by the Washington, D.C. Office of Utilization and Development in accordance with the established criteria outlined above. As part of this review all projects will be given point scores based on the aforementioned criteria. Personnel from other Federal agencies and independent experts may also be requested to provide comments that would aid in determining which proposals should be recommended for funding.

The Office of Utilization and Development will then develop and submit its recommendations for project funding to the Assistant Administrator for Fisheries who will make the final determination as to which projects will be funded. The type of funding agreement to be used and the official awarding of funds will be made by the NOAA Grants Officers.

Section VIII—Recommended Format

The format used for project proposals should give a clear presentation of the proposed project and its relation to the specified policy objectives. Each proposal should follow the format outlined below unless there is a compelling reason to do otherwise.

A. Cover Sheet

A Federal Government Standard form 424 shall be used as the cover sheet. In the description of the proposed project called for on this form, the applicant shall indicate the fisheries to be affected either by name, location, or other project identification characteristics, the duration of the project, and a brief indication of the expected results of the project. Standard form 424 may be obtained from the NMFS Regional Offices or the NMFS Washington Office listed at the end of this notice.

B. Project Description

Each proposal shall provide, in fifteen pages or less, a complete and accurate description of the proposed project. This section should provide the basic information to be used in evaluating the proposal to determine its priority for funding.

The information provided in this section must be brief and specific.

Detailed background or financial justification material for any information given in this section must be included as supporting documentation to the proposal.

The following format shall be used for the project description:

(1) **Project Goals and Objectives.** The project's objectives must be clearly and unambiguously stated. To the greatest extent possible, they should be stated in quantitative terms or other descriptors which can be measured. The impediments to development which the project is addressing shall also be articulated and the extent to which the project will eliminate or reduce those impediments should be described.

(2) **Appropriateness and Need for Government Financial Assistance.** The proposal should clearly state why Federal financial assistance is needed and, if relevant, what factors inhibit private industry from undertaking the project without such assistance. All available alternatives to Federal assistance, including State and local government aid, should be listed.

(3) **Participation by non-Government Entities.** The expected or required participation by non-government entities in the proposed project(s) which complement and support the proposal should be described, indicating what benefits, if any, will accrue to those who participate and the process through which non-government entities can take part in the project.

(4) **Federal, State, and Local Government Activities.** All existing Federal, State, or local government comprehensive plans or activities which would be affected by this proposal should be identified, and the relationship between the proposed project(s) and these plans should be explained.

(5) **Project Outline.** The proposal should clearly set out the tasks that are to be performed, the key events or milestones in accomplishing the task schedule, and the feasibility of achieving each of these events or milestones.

(6) **Project Management.** The proposal should describe how the project(s) will be organized and managed and should list those persons or groups who will perform the project(s) along with their qualifications to do so and their level of involvement in the project(s).

(7) **Project Evaluation.** The proposal must describe how the progress of the project will be monitored and evaluated while the project is underway and upon completion. The proposal must also indicate what actions the applicant would undertake in the event project objectives become unattainable. This is

particularly important in the case of demonstration projects where specific tasks and results may be influenced by factors beyond the control of the applicant.

(8) *Project Benefits.* The proposal should indicate the direct and indirect benefits that the project seeks to achieve and to whom these benefits will accrue. These benefits should be described in quantitative terms to the extent possible and practical.

(9) *Dissemination of Project Results.* The proposal should describe (a) how the project results will be distributed to the public, including consumers; (b) who is anticipated to use these results; and (c) how they would be used.

(10) *Project Costs.* The proposal should provide a detailed schedule of project(s) costs, identifying in particular, (a) sub-contracts, (b) salaries, (c) travel cost, and (d) other administrative and technical costs of the project(s).

(11) *Cost Sharing for the Project.* All projects will require some costs to be covered by other sources of funding. All activities which will be undertaken either directly or indirectly by the applicant or by others as a result of participation in the project(s), which will be funded through private and other than NMFS sources of funding including in-kind contributions should be identified and the financial amount of this participation quantified. The portion of the total costs of the project and the timing of availability of contributions which would be accounted for by this non-government involvement should be indicated.

C. Consultations

This section shall describe the extent to which the applicant formulated the proposal and intends to carry it out in coordination with other interested persons (including minorities) or with those who might be directly affected by the project. Specifically, the proposal shall:

(a) Identify those persons or groups directly responsible for producing the proposed project;

(b) Identify those persons or groups who were consulted during the preparation of the proposed project, and their expected involvement in the project; and

(c) Provide the names of persons or groups, if any, who are known to oppose the project or who might oppose the project, setting forth the reasons for the actual or expected opposition.

D. Minority Business Enterprise Plan

It is the policy of the Department of Commerce that recipients of grants or cooperative agreements of \$100,000 or

more shall procure from minority business enterprise reasonable portions of the supplies, equipment, or services purchased with such assistance. Therefore, any applicant seeking financial assistance of \$100,000 or more shall include a plan to promote minority business enterprise which will be implemented if the assistance is awarded. Information concerning the content of a Minority Business Enterprise Plan is available from the NMFS Regional or Washington Offices.

E. Supporting Documentation

The supporting documentation shall contain any further justification for information used in describing the project if the applicant feels such additional documentation would strengthen the proposal. The amount of information given in this section will vary depending on the type of project(s) for which funding is being sought. In preparing this section, the applicant should attempt to present any information which would lend greater credibility to the project. Of particular importance would be the significance of the impediments addressed by the proposal and the methodology used to calculate the costs and benefits of the project. In any instance where the applicant may feel that the merits of the project may not be fully understood or the value of the project to fisheries development may be underestimated, the supporting documentation would provide the means to support the project's value. In the same respect, the lack of adequate supporting documentation may cause reviewers to question assertions which were made in describing the project and may result in the project being ranked lower than if more detailed information had been provided.

Section IX—Administrative Requirements

A. Obligation of the Applicant

It shall be the responsibility of the applicant to satisfy all requirements for submission of a proposal and to provide all information necessary for the evaluation of the proposal. Any omission of information can lead to a lower evaluation of the proposal and a lower priority ranking for funding approval. The applicant or designate shall be available to respond to questions concerning the proposal. In the event a proposal is approved for funding, the applicant shall be responsible for satisfying all administrative and managerial conditions that may be required by NMFS.

B. Obligation of the National Marine Fisheries Service

It shall be the responsibility of the National Marine Fisheries Service (NMFS) to provide all forms and explanatory information necessary for the proper submission of proposals for fisheries development and utilization projects. NMFS shall also provide advice, through the NMFS Office servicing the applicant's area, to insure adequate knowledge on the part of the applicant of NMFS fisheries development policies and goals. In the event a regional proposal is approved for funding, the appropriate NMFS Regional Director shall be responsible for ensuring that all requirements and conditions for the use of such funds are known by the applicant.

NMFS will monitor all projects to ascertain their effectiveness in achieving the stated objectives of the project and in producing measurable results. The monitoring process will compare the actual accomplishments of a project with the specific goals the project was intended to accomplish. Important considerations in this process will be the attainment of the goals described in the project proposal within the time frame specified and the actual measurable accomplishments that can be attributed to the work performed by the project. Conclusions drawn by NMFS in monitoring projects will be used to support funding decisions on multiyear projects and on succeeding or similar projects.

C. Legal Requirements

The applicant shall be required to fulfill any requirements of applicable Federal laws.

The applicant submitting a proposal for which Federal assistance is approved shall manage the day-to-day operations of the project. The applicant shall be responsible for the completion of those actions required in connection with the funding.

D. Reporting Requirements

The applicant for a project approved for funding shall be required to submit quarterly reports concerning the use of funds and progress of the project. These reports shall disclose whether goals, objectives, or planned accomplishments are being achieved within projected time periods, if necessary, reasons why goals and objectives are not being met, and reasons for changes to plans and the resulting redirection of resources and activities. If several projects have been funded, the report should cover each fishery development and utilization project and/or award, whichever is

appropriate. Such quarterly progress reports shall be due within 30 days after the end of the quarter and shall be submitted to the person specified by the funding agreement. The quarterly reports need not be long, but they must be informative in responding to the issues raised above.

A final report shall be submitted within 90 days after the end of the project. The final report shall describe the project and the work that was performed. It shall describe the results that were obtained and shall quantify these results to the extent possible and practical. The project results should relate specifically to the objectives of the project and should be identified as either resulting from the work performed or from external factors over which the project managers exercised no control. The results shall be described in terms of their success in resolving specific impediments to development and/or their potential for being integrated into the efforts of private industry to develop fish resources. Any conditions or requirements that must be met before the project results can be effectively utilized shall be identified and described. The final report shall be made available by the NMFS to Congress, other public agencies, and the public upon request.

The applicant may be required to report on a more frequent basis if the NMFS finds that this is necessary to ensure that NMFS can carry out its responsibilities in project monitoring.

Section X—Application Submission and Deadline

One signed original and two (2) copies of all completed applications must be submitted to the appropriate reviewing official at the address specified below. Proposals must be received not later than January 15, 1980 for projects to be funded in April 1980 and not later than April 1, 1980 for projects to be funded in July 1980. The amount of funding available for the second submission will be contingent upon obligations made in the first.

Proposals submitted by January 15, 1980 which do not rank high enough to receive funding, will be retained for consideration with those being received by the April 1, 1980 cut-off date or will be returned with a request for additional information.

Any person desiring to submit a proposal on April 1, 1980, may submit a letter of intent by January 15, 1980 briefly describing (including probable funding level) the proposed project(s). This will provide NMFS with an indication of possible future funding needs.

Notice of the availability of financial assistance for fisheries development projects will also appear in the *Commerce Business Daily*.

Regional proposals should be submitted to the appropriate Region as specified below:

Northeast Region (Maine, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, Minnesota):

Regional Director, National Marine Fisheries Service, Federal Bldg., 14 Elm Street, Gloucester, MA 01930, Phone: (617) 281-3600.

Southeast Region (North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Oklahoma, Arkansas, Tennessee, Kentucky, Missouri, Kansas, Nebraska, Iowa, Puerto Rico, Virgin Islands):

Regional Director, National Marine Fisheries Service, Duval Bldg., 9450 Koger Blvd., St. Petersburg, Florida 33702, Phone (813) 893-3142.

Southwest Region (California, Hawaii, Nevada, Arizona, American Samoa, Guam, Trust Territory of Pacific Islands):

Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731, Phone (213) 548-2575.

Northwest Region (Washington, Oregon, Idaho, Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota):

Regional Director, National Marine Fisheries Service, 1700 Westlake Ave., North, Seattle, WA 98109, Phone (206) 442-7575.

Alaska Region (Alaska):

Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802, Phone (907) 586-7221.

Proposals that do not directly address the development of a particular fishery or region of the country but do address broad national impediments to increased use of fish and fish products, industry efficiency, or consumer welfare should be sent to: Director, Office of Utilization and Development, National Marine Fisheries Service, Washington, D.C. 20235.

If an applicant is unsure who should review the proposal, it should also be sent to the above address.

Signed at Washington, D.C., this 9th day of November 1979.

Jack W. Gehring,
Deputy Assistant Administrator for Fisheries.

[FR Doc. 79-35281 Filed 11-14-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraint Level for Certain Cotton Textile Products from Pakistan

November 8, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting an increase for swing and carryforward in Category 341 (women's, girls' and infants' woven cotton blouses), produced or manufactured in Pakistan and exported during the agreement year which began on January 1, 1979.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 342), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: The Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan provides for percentage increases in certain specific category ceilings during an agreement year (swing) and for the borrowing of yardage from the succeeding year's levels (carryforward). Pursuant to the terms of the bilateral agreement and at the request of the Government of Pakistan, the import restraint level established for Category 341 is being increased from 137,931 dozen to 155,882 dozen for the twelve-month period which began on January 1, 1979 and extends through December 31, 1979.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 21, 1979 a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the *Federal Register* (44 FR 92), which established import restraint levels for certain specified categories of cotton textile products, produced or manufactured in Pakistan and exported to the United States during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. A further letter dated July 13, 1979 was published in the *Federal Register* on July

18, 1979 (44 FR 41903) which established a level of restraint for Category 341 during the same twelve-month period.

In the letter published below the Commissioner of Customs is directed, in accordance with the provisions of the bilateral agreement, to adjust the level of restraint previously established for Category 341 to 155,862 dozen.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 8, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C.

Dear Mr. Commissioner: On December 27, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, of cotton textile products in certain specified categories, produced or manufactured in Pakistan, in excess of designated levels or restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.¹

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 8, 1977, you are directed, effective on November 15, 1979, to increase the twelve-month level of restraint established for cotton textile products in Category 341 to 155,862 dozen.²

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions fall within the foreign affairs exception to the rule-making provisions of 5

¹ The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, between the Governments of the United States and Pakistan, which provides, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements for adjustments may be made to resolve minor problems arising in the implementation of the agreement.

² The level of restraint has not been adjusted to reflect any imports after December 31, 1978.

U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-35109 Filed 11-14-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Fort George G. Meade, Md.; Filing of Environmental Impact Statement

The Army, on November 9, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the ongoing missions at Fort Meade, Maryland. The alternative of maintaining, discontinuing, or changing missions at Fort Meade are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Environmental and Energy Control Office, Directorate of Facilities Engineering, Fort George G. Meade, MD 20755.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone: (202) 694-3434.

Daniel R. Voss,

Acting Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 79-35253 Filed 11-14-79; 8:45 am]

BILLING CODE 3710-06-M

Office of the Secretary

Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense; Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, as amended, Section 10, 5 U.S.C. app. Section 10 (1976), notice is hereby given that a meeting of the Task Force on Evaluation of Audit, Inspection and Investigative Components of the Department of Defense will be held on December 3, 1979 from 10 a.m. to 12 a.m. in room 3D973, The Pentagon, Washington, D.C.

The mission of the Task Force is to advise Congress and the Secretary of Defense with respect to the effectiveness of the audit, inspection and investigative components of the Department of Defense.

The meeting will be open to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

November 8, 1979.

[FR Doc. 79-35255 Filed 11-14-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

Food Industry Advisory Committee and Subcommittees; Open Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Food Industry Advisory Committee and Subcommittees.

Date and time: December 4, 1979—9:00 a.m.

Place: Dallas Hilton Hotel, 1914 Commerce Street, Dallas, Texas.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G087, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202-252-5187.

Public Participation: The meetings are open to the public. The Chairmen of the Committee and Subcommittees are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or Subcommittees will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should call the Advisory Committee Management Office at the above number at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Purpose of Committee: To provide the Secretary of Energy with recommendations and advice with respect to the development and implementation of policies and programs affecting the food industry.

Tentative Agenda

9:00 a.m. to noon—Sub-Committee Meetings.

• Supply Subcommittee—Room 418.

• Technology Implementation Subcommittee—Room 415.

• Technology Development Subcommittee—Room 419.

• Transportation and Distribution Subcommittee—Room 422.

12:00 to 1:00 p.m.—Lunch.

1:00 to 3:30 p.m.—Full Committee—Room Embassy West.

Special presentations arising out of subcommittee work; subcommittee reports on projects including but not limited to those scheduled for completion in December.

Reports of subcommittees as follows:

Supply Subcommittee—Report on energy emergency contingency plans; report on energy supply technologies using food and non-food sources; report on the status of gasohol.

Technology Development—Review of DOE criteria for technology transfer and commercialization; progress report on energy technology needs within food industry; recommendation regarding equipment manufacturers; Peterkin and Boyd reports on research in progress.

Technology Implementation—Progress report regarding state energy conservation plans and pilot guide for food consumers; status report on projects scheduled for February completion.

Transportation and Distribution—Recommendation on diesel conversion mechanism.

3:30 to 4:00 p.m.—Requests to full Committee for action; any discussion of future work.

4:00 to 4:10 p.m.—Presentation by Nancy Moore, Pacific Northwest Labs.

4:10 to 4:40 p.m.—Trade association reports.

4:40 p.m.—Public Comment (10 minute rule).

Issued at Washington, D.C. on November 9, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-35273 Filed 11-14-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Michaelson Producing Co., et al.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: October 24, 1979.

COMMENTS BY: December 17, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, SW District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, S.W. District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone (214) 767-7745.

SUPPLEMENTARY INFORMATION: On October 24, 1979, the Office of Enforcement of the ERA executed a Consent Order with Michaelson Producing Company, et al (Michaelson, et al) of Midland, Texas. Under 10 CFR 205.199(b). The Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Michaelson, with its office located in Midland, Texas is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Michaelson, et al, entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the Audit was September 1, 1973 through December 31, 1975, and it included all sales of crude oil which were made during that period.

2. Michaelson, et al allegedly applied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and Michaelson, et al have agreed to a settlement in the amount of \$280,000 plus interest. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and Michaelson, et al.

4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with 10 CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Michaelson, et al agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the

transactions specified in I.(1) above, the total sum of \$280,000 plus interest within twenty-four (24) months of the execution of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition. The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, SW District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by

writing to the same address or be calling (214) 767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Michaelson Producing Company, et al, Consent Order." We will consider all comments we received by 4:30 p.m., local time, on December 17, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 2d day of November 1979.

Wayne I. Tucker,
District Manager, Southwest District of Enforcement, Economic Regulatory Administration.

[FR Doc. 79-35274 Filed 11-14-79; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP78-532]

Ozark Gas Transmission System; Availability of Environmental Assessment for Proposed Natural Gas Pipeline in Oklahoma and Arkansas

November 9, 1979.

Notice is hereby given in the above docket that on November 15, 1979, an environmental assessment (EA), prepared by the staff of the Federal Energy Regulatory Commission, was made available.

The EA addresses the application by Ozark Gas Transmission System (Ozark) in Docket No. CP78-532 for a certificate of public convenience and necessity, requested pursuant to Section 7(c) of the Natural Gas Act, to authorize the construction and operation of pipeline facilities. Natural gas would be obtained from presently developed natural gas reserves in the Arkoma Basin in Oklahoma and Arkansas, as well as from reserves which will be developed in the future. The gas would be transported or exchanged through the Ozark System to an existing pipeline system and sold to the applicant's customers or its affiliates.

The Ozark System would consist of 280 miles of 20-inch diameter pipeline extending in a generally easterly direction from Pittsburgh County, Oklahoma, to the proposed point of interconnection with an existing transmission system in White County, Arkansas. In addition to the main pipeline system, there would be approximately 170 miles of 4- to 10-inch

diameter laterals, gas measuring stations, skidmounted dehydration units, and compressor stations located as required along the pipeline system. The pipeline would traverse Pittsburgh, Latimer, Haskell, Sequoyah, and LeFlore Counties in Oklahoma and Crawford, Sebastian, Franklin, Logan, Johnson, Pope, Conway, Faulkner, and White Counties in Arkansas.

The EA concludes that the proposed project would not constitute a major Federal action significantly affecting the quality of the human environment.

This EA has been circulated to Federal, state, and local agencies and all parties to the proceedings. It has been placed in the public files of the Commission and is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426. Copies are available in limited quantities from the Commission's Office of Public Information.

Any person who wishes to do so may file comments on the EA on or before December 17, 1979. All comments must be filed on or before December 14, 1979. Any person who wishes to present evidence on environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to section 1.8 of the Commission's Rules of Practice and Procedure (18 CFR 1.8). All testimony addressing environmental matters must be filed on or before November 30, 1979, and must be accompanied by a petition to intervene unless intervention was previously granted. If environmental testimony cannot be completed before November 30, permission to file later must be obtained from the administrative law judge prior to the hearing on December 5, 1979.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35275 Filed 11-14-79; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 79-732]

Composite Week Dates for the Annual Programming Report

November 7, 1979.

The following dates will constitute the composite week for use in the preparation of the Annual Programming Report (FCC Form 303-A) for all commercial television licensees and permittees who must file this report by February 1, 1980.

Sunday, March 4, 1979
Monday, April 2, 1979
Tuesday, September 18, 1979
Wednesday, August 22, 1979
Thursday, June 21, 1979
Friday, February 9, 1979
Saturday, May 19, 1979

Composite Week for Program Log Analysis for Commercial TV Licensees and Certain Other Applicants

Licensees of commercial television stations with license expiration dates of June 1, and thereafter during calendar year 1980, will also use the composite week dates set forth above in answering Question Nos. 5, 11 and 12 of Section IV of the television license renewal application (FCC Form 303).

Additionally, the above dates will constitute the composite week for use by television applicants in preparing assignment of license and transfer of control applications filed on or after January 1, 1980.

Action by the Commission November 6, 1979. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-35176 Filed 11-14-79; 8:45 am]
BILLING CODE 6712-01-M

[Docket No. 20661; FCC 79-674]

Inquiry Into the Need for a Radio Service To Transmit to Spectators in Sports Events a Running Account of the Progress of the Game and How That Need Should Be Accommodated

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: This Memorandum Opinion and Order declines to make available of the Business Radio Service frequencies to accommodate a new radio service for the transmission to spectators in sports events a running account of the progress of the game.

EFFECTIVE DATE: Non-Applicable.

FOR FURTHER INFORMATION CONTACT: Emmett H. Pritchard, Private Radio Bureau (202) 632-6497.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

Memorandum Opinion and Order—(Proceeding Terminated)

Adopted: October 25, 1979.

Released: November 6, 1979.

In the matter of inquiry into the need for a radio service to transmit to spectators in sports events a running

account of the progress of the game and how that need should be accommodated, Docket No. 20661.

1. On October 30, 1975, we released a Notice of Inquiry (FCC 75-1191) (40 FR 51090) on the need for a radio service to transmit to spectators in sports events a running account of the progress of the game and how that need, if it exists, should be accommodated. Comments were specifically requested on whether a "sports casting" service should be accommodated in the Business Radio Service.

2. Comments and replies were filed.¹ The commenters generally opposed the idea of placing a "sports casting" service in the Business Radio Service, because the service would be incompatible with the radio system uses of co-channel operators in the Business Radio Service and cause extensive interference with their operations.

3. In conjunction with this proceeding, we did authorize the granting of short-term, limited authorizations under our developmental rules (47 CFR 90.501 et. seq.) for testing of a "sports casting" service. Authorization for testing purposes was granted to two entities—Professional Golf Broadcast System (PGBS) and Fore/Caster, Inc. PGBS did not submit any data from testing at actual sports events and Fore/Caster has not tested a system at a professional sports event.

4. In view of the foregoing, we find that no substantial need for the service has been demonstrated and we are unable to find that the public interest would be served by providing for such service.

5. Accordingly, it is ordered pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, That this proceeding is terminated.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Parties Filing Comments and Reply Comments

Appendix

Comments

1. Andrew Corporation.
2. Dow Chemical Telecommunications Corporation.
3. Special Industrial Radio Service Association, Inc.
4. National Association of Manufacturers.
5. Broad Street Communications Corporation.
6. Aisignal International, Inc.
7. Communitronics, Inc.

¹ Appendix, "Parties Filing Comments and Reply Comments."

8. National Association of Business and Educational Radio, Inc.
9. American Petroleum Institute.
10. Broadcast Engineering Standards, Inc.
11. Professional Golf Broadcast System.
12. Forest Industries Telecommunications.

Reply Comments

1. National Association of Business and Educational Radio, Inc.
2. Communitronics, Inc.

[FR Doc. 79-35177 Filed 11-14-79; 8:45 am]

BILLING CODE 6712-01

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Staudt International Services Corp., 7614 Melrose Avenue, Los Angeles, CA 90046. Officers: Arthur B. Staudt, President, Gloria M. Staudt, Secretary.

Gray International Forwarding, Inc., 1290 South Pearl Street, P.O. Box 10096, Denver, CO 80210. Officers: David R. Gray, II, President, Vayann D. Gray, Vice President, David R. Gray, Secretary/Treasurer.

Hilton Freight Systems Corporation, 425 Shatto Place, Suite 400, Los Angeles, CA 90020. Officers: Michael Bromgren, President, Jorge E. Rivera, Chairman, Fujimi Mudge, Secretary, George J. Bailey, Financial Officer, Jaime Palafox, Vice President.

Jagron Customs Brokers and International Freight Forwarders, Inc., 170 Broadway, Room 1812, New York, NY 10038. Officers: Gerhard Grob, President/Director, Rene Perret, Secretary/Treasurer.

Golden Eagle International Forwarding, Inc., 9695 NW 13th Street, Miami, FL 33172. Officers: Gary Mitchell Goldfarb, President, Carlos A. Eapinosa, Vice President, Nancy Danziger, Secretary/Treasurer/Director.

Equipsa Incorporated, 7701 SW Ct., Miami, FL 33183. Officers: Ramon Usategui, President, Grace Rappaccoli, Treasurer, Nicelio Sanchez, Secretary.

Mar-Ocean (Marina Perez, d.b.a.), 1204 16th Avenue, San Francisco, CA 94122.

Pantrac Shipping Co. (Benjamin Hamalian, d.b.a.), 260 Fifth Avenue, Room 1201, New York, NY 10001.

Holders Overseas Shipping & Crating Services Corporation, 360 Sumner Avenue, Brooklyn, NY 11221. Officers: Madeline E. Holder, President/Treasurer, Almous E. Holder, Vice President, Peter A. Clarke, Secretary.

Lion Forwarding Co. (Larry W. LaGorio, d.b.a.), 22633 La Rochelle, Saugus, CA 91350.

American Kings, Inc., 9854 SW 26th Terrace, Miami, FL 33165. Officers: Vicente C. Mendez, President, Jorge M. Espinosa, Vice President, Enrique J. Venta, Secretary, Orlando Almanza, Treasurer.

Pronto Cargo Corporation, 4850 SW 92nd Avenue, Miami, FL 33165. Officers: Jorge Veitia, President, Eduardo Fandino, Vice President.

Beam Shipping, Inc., 29 East Madison Street, Suite 508, Chicago, IL 60602. Officers: Desmond Patterson, President, Eva Maria M. Patterson, Secretary, Barrie E. Mathews, Director.

California Customs Brokers (Laurie J. Peach, d.b.a.), 17625 Cranshaw Blvd., Torrance, CA 90504.

Oxford Shipping Co. (Percy Jones, Jr., d.b.a.), 303 E. Fayette Street, Suite 100, Baltimore, MD 21202.

Adelo Jose Gugliatto, 9950 SW 11th Terrace, Miami, FL 33174.

Shamrock International, Inc., P.O. Box 30748, Maritime Bldg., Suite 1001, New Orleans, LA 70190. Officers: Don M. Alexander, Sole Stockholder, M. T. Gordy, Secretary, Kathryn Cockerham Mouney, Secretary/Treasurer.

Sina International Forwarders, Inc., 7614 Melrose Avenue, Hollywood, CA 90046. Officer: Joseph Sinagaglia, President.

Crossworld Services Unlimited, Inc., 7100 N.W. 12th Street, Miami, FL 33126. Officers: Vincent G. Kessler, Jr., President/Treasurer, Stella M. Kessler, Secretary.

Castle International Co. (Alberto Llona, d.b.a.), 5140 W. 104th Street, Inglewood, CA 90304.

Continental Forwarding Company (Victoria Genero, d.b.a.), 4844 Sierra Madre Drive, New Orleans, LA 70127.

Dunnington and Arnold International, Inc., 74 Trinity Place, New York, NY 10006. Officers: Alfred H. Arnold, President, Guy A. Dunnington, Vice President.

Gedenk of Panatlantic, Inc., 17 Battery Place, Suite 1824, New York, NY 10004. Officers: Gerhard Gedenk, President/Treasurer/Director, Waltraut Gedenk, Secretary/Vice President/Director.

All International Freight Forwarders, Inc., 8101 N.W. 60th Street, P.O. Box 522005, Miami, FL 33152. Officers: Jorge Marquet, President, Mercedes Fernandez, Secretary, Zenaida Guevara, Treasurer, Aurelio Gonzalez, Asst. Secretary.

By the Federal Maritime Commission.
Dated: November 9, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 79-35261 Filed 11-14-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

American Bancorp, Inc.; Formation of Bank Holding Company

American Bancorp, Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(1) of the

Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of The American Bank, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 30, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 1, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35195 Filed 11-14-79; 8:45 am]

BILLING CODE 6210-01-M

Century New Orleans Bancshares, Inc.; Formation of Bank Holding Company

Century New Orleans Bancshares, Inc., New Orleans, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Century National Bank in New Orleans, New Orleans, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 5, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35192 Filed 11-14-79; 8:45 am]

BILLING CODE 6210-01-M

Colonial-American Bankshares Corp.; Acquisition of Bank

Colonial-American Bankshares Corporation, Roanoke, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the Mountain National Bank of Clifton Forge, Clifton Forge, Virginia, the successor by merger to Colonial American National Bank-Clifton Forge. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 5, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35193 Filed 11-14-79; 8:45 am]

BILLING CODE 6210-01-M

Enterprise Bancshares, Inc.; Formation of Bank Holding Company

Enterprise Bancshares, Inc., Mount Enterprise, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80-99.87 percent, less directors' qualifying shares, of the voting shares of Merchants & Planters State Bank, Mount Enterprise, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the

application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 2, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35194 Filed 11-14-79; 8:45 am]

BILLING CODE 6210-01-M

The Exchange Holding Co.; Formation of Bank Holding Company

The Exchange Holding Company, Mound City, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.5 percent or more of the voting shares of Exchange Bank, Mound City, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 30, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 2, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35190 Filed 11-14-79; 8:45 am]

BILLING CODE 6210-01-M

First National Corp.; Acquisition of Bank

First National Corporation, Appleton, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of Farmers & Merchants Bank, Menomonee Falls, Wisconsin. The factors that are considered in acting on the application

are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The Application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 5, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35196 Filed 11-14-79; 8:45 am]

BILLING CODE 6210-01-M

Maxwell Bancorporation; Formation of Bank Holding Company

Maxwell Bancorporation, Maxwell, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Maxwell State Bank, Maxwell, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 5, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35188 Filed 11-14-79; 8:45 am]

BILLING CODE 6210-01-M

Mercer County, Bancshares, Inc.; Formation of Bank Holding Company

Mercer County Bancshares, Inc., Princeton, Missouri has applied for the

Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95.22 percent of the voting shares (less directors' qualifying shares) of Princeton State Bank, Princeton, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 30, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 5, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc. 79-35197 Filed 11-14-79; 8:45 am]

BILLING CODE 6210-01-M

Montana Bancsystem, Inc.; Formation of Bank Holding Company

November 6, 1979.

Montana Bancsystem, Inc., Billings, Montana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85 percent or more of the voting shares of Montana Bank of Belgrade, Belgrade, Montana; Montana Bank of Circle, Circle, Montana; First National Montana Bank of Missoula, Missoula, Montana; Montana Bank of South Missoula, Missoula, Montana; Baker Bancorporation, Inc., Bozeman Bancorporation, Inc., Butte Insurance Agency, Inc., Mineral County Bancorporation, Inc., Red Lodge Bancorporation, Inc., Roundup Insurance Agency, Inc., and Sidney Holding Company, Inc., all of Billings, Montana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

to be received no later than December 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 5, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35191 Filed 11-14-79; 8:45 am]

BILLING CODE 6210-01-M

Rush Springs Bancorporation, Inc.; Formation of Bank Holding Company

Rush Springs Bancorporation, Inc., Rush Springs, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank, Rush Springs, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Rush Springs Bancorporation, Inc., Rush Springs, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire indirectly voting shares of Rush Springs Insurance Agency, Rush Springs, Oklahoma.

Applicant states that the proposed subsidiary would engage in the activities of selling credit life and credit accident and health insurance directly related to extensions of credit by Bank. These activities would be performed from offices of Applicant's subsidiary in Rush Springs, Oklahoma, and the geographic areas to be served are Grady County, Oklahoma. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any

request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 5, 1979.

Board of Governors of the Federal Reserve System, November 5, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35189 Filed 11-14-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

National Advisory Mental Health Council; Meeting

In accordance with Section (a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of December, 1979.

National Advisory Mental Health Council

December 6-7, 9:30 A.M.—Open meeting, Conference Room, "C" Wing, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014.

Contact: Mrs. Zelia Diggs, Room 11-101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301)443/4333

Purpose. The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.

Agenda. The entire meeting will be devoted to discussion of NIMH policy issues and will be open to the public. Discussions will include current administrative, legislative, and program developments.

Substantive information may be obtained from the contact person listed above. Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the Council members is Mr. Paul Sirovatka, Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15-105, 5600 Fishers Lane, Rockville, Maryland 20857, (301)443-4536.

Dated: November 8, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-35168 Filed 11-14-79; 8:45 am]

BILLING CODE 4110-88-M

Office of the Secretary

Meeting of the Secretary's Advisory Committee on the Rights and Responsibilities of Women

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs and activities of the Department on the status of women will hold its Health Task Force meeting on Wednesday, December 5, 1979 from 10:00 a.m. to 3:00 p.m. The meeting will be held in Room 624-D, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. The agenda will include discussion on reproductive technology, adolescent pregnancy, and National Health Insurance.

Further information on the Committee may be obtained from: Cheryl Yamamoto, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: November 7, 1979.

Cheryl Yamamoto,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 79-35258 Filed 11-14-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Receipt of Petition for Reassumption of Jurisdiction—Confederated Tribes and Bands, Yakima Indian Nation

November 6, 1979.

This notice is published in exercise of authority delegated by the Secretary of

the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

The Indian Child Welfare Act of 1978 provides, subject to certain specified conditions, that Indian tribes may petition the Secretary of the Interior for reassumption of jurisdiction over Indian child custody proceedings.

This is notice that a petition has been received by the Secretary from the Confederated Tribes and Bands of the Yakima Indian Nation, for the tribal reassumption of jurisdiction over child custody proceedings. The petition is under review, and may be inspected and copied at the Yakima Agency Office, Bureau of Indian Affairs, Toppenish, Washington.

Rick C. Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 79-35220 Filed 11-14-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[M 35736]

Montana; Coal Lease Offering by Sealed Bid

November 6, 1979.

U.S. Department of the Interior, Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107. Notice is hereby given that at 2 p.m., Wednesday, December 12, 1979, in the Conference Room on the 6th Floor of the Granite Tower Building, the coal resources in the tracts described below will be offered for competitive lease by sealed bid to the qualified bidder of the highest cash amount per acre or fraction thereof. No bid will be considered which is less than \$5,523.63/acre. This offering is being made as a result of an application filed by Decker Coal Company in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101).

Bids received after 2 p.m. on the day of the sale will not be considered. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received at the above address before 2 p.m., December 12, 1979. The successful bidder is obligated to pay for the newspaper publication of this Notice.

Coal offered. The tract is located approximately 4 miles northeast of Decker in Big Horn County, Montana, and contains 530.085 acres:

T. 8 S., R. 40 E., P.M.M.,
Sec. 34: N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
W $\frac{1}{2}$.

T. 9 S., R. 40 E., P.M.M.,
Sec. 3: W $\frac{1}{2}$ Lot 2, NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$.

The coal resources offered are limited to all strippable reserves of the Anderson-Dietz #1 (D-1) and the Dietz #2 (D-2) beds. Geological Survey has reported that the tract contains an estimated total of 14.8 million tons of recoverable reserves, 3.2 million tons of D-1 coal and 11.6 million tons of D-2 coal. The D-1 bed averages about 25 feet thick and the D-2 bed averages about 20 feet thick. The coal is subbituminous B and averages (as-received) about 9700 Btu/lb. for the D-1 and about 9400 Btu/lb. for the D-2 with about .4 percent sulfur and about 5 percent ash. The coal resources are within the Powder River Basin Known Recoverable Coal Resource Area.

Rental and royalty. The lease issued as a result of this offering will provide for payment of an annual rental of \$3.00 per acre or fraction thereof and a royalty payable to the United States at the rate of 12.5 percent of the value of coal mined by strip mining methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Detailed statement of sale. A detailed statement of the sale, including bidding instructions and the terms of the lease, is available at the office listed above. All case file documents and written comments submitted by the public on fair market value or royalty rates, except those portions identified as proprietary which meet the exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management Office at the address given above.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-35223 Filed 11-14-79; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Notice of Filing of Plats of Survey and Order Providing for Opening of Lands

1. The Plat of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on December 28, 1979:

Mount Diablo Meridian, Nevada

T. 14 S., R. 48 E.

A portion of the subdivisional lines—West and North boundaries of Section 36.

2. The portion of the township surveyed is an arid desert region and is located on the southeast tip of Yucca

Mountain. The soil is sandy, with volcanic ash. The vegetation consists of creosote bush and shadscale, with scattered cactus.

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby opened to such applications and petitions as may be permitted. All such valid applications received at or prior to 10 a.m. on December 28, 1979, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, Reno, Nevada 89509.

Date Signed: November 8, 1979

Lloyd C. Miller,

Chief, Branch of Records and Data Management.

[FR Doc. 79-35224 Filed 11-14-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 48330]

Coal Lease Offering by Sealed Bid

Public notice is hereby given that at 2:00 P.M. on December 5, 1979 the following described tract in Carbon County, near Hanna, Wyoming, will be offered for coal lease by the Bureau of Land Management, United States Department of the Interior.

Sixth Principal Meridian, Wyoming

Township 23 North, Range 81 West
Section 20: E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
NE $\frac{1}{4}$ SE $\frac{1}{4}$.

Containing 130.00 acres, more or less. The lease will be for the coal recoverable by surface mining methods from only bed #80, as defined by the U.S. Geological Survey, and any overlying coal beds. The estimated recoverable reserves are 1.6 million tons. The bed averages about 28 feet thick, and the coal is expected to average about 11,400 Btu/lb. with 6.7% ash and 0.8% sulfur. This would classify the coal as high volatile C Bituminous.

The coal lease will be issued to the qualified bidder of the highest cash amount per acre or fraction thereof. Minimum bids of \$25.00 per acre are required for consideration. The sale will be held in the third floor conference room of the Bureau of Land Management office building located at 2515 Warren Avenue in Cheyenne, Wyoming.

Offers to lease need not be in any prescribed form but must be submitted as sealed bids which will be opened and publicly announced at the specified time of sale. No bids received after 1:00 P.M. on December 5, 1979 will be considered. The Bureau of Land Management

reserves the right to reject any and all bids and to issue the lease to the next highest bidder if the otherwise successful bidder fails to qualify or obtain the lease for any other reason. All money deposits submitted with offers to lease which are not accepted will be returned to the unsuccessful bidders within a few days of the sale. The successful bidder will be obligated to pay for the advertising costs associated with this coal lease sale.

Payment of the bonus bids will be on a deferred basis, one-fifth due on the day of the sale, and the balance due in equal annual installments on the first four anniversary dates of the lease. The lease issued as a result of this offering will provide for payment of annual rentals of three dollars (\$3.00) per acre or fraction thereof for the duration of the lease and a production royalty of 12.5 percent of the value of the coal produced from surface mining. The value of the coal shall be determined in accordance with 30 CFR 211.63.

All bidders must meet the requirements set out in Subpart 3472 of Title 43 of the Code of Federal Regulations. In addition, all bidders must meet the emergency leasing criteria required by 43 CFR 3425.1-4 and 3425.4(b)(2). A lease will not be issued to any bidder who holds or controls more than 46,080 acres under federal coal lease within any one state or 100,000 acres under federal coal lease within the United States. In accordance with the Federal Coal Leasing Amendments Act of 1975, the successful bidder, as a prospective lessee, will be required to disclose the nature and extent of its coal holdings and other information to the Department of Justice for review.

All documents and written comments concerning this lease offering, except those identified as proprietary information and which meet exemptions stated in the Freedom of Information Act, will be available for public examination on the fourth floor of the Bureau of Land Management office building located at 2515 Warren Avenue in Cheyenne, Wyoming.

Persons or companies desiring to submit bids or make comments concerning this sale are invited to write to the State Director, Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001, in order to obtain a detailed statement about this coal lease offering.

Nyles L. Humphrey,

Acting State Director.

[FR Doc. 79-35222 Filed 11-14-79; 8:45 am]

BILLING CODE 4310-84-M

Preplanning Activities for Resource Management Plan, Glenwood Springs Resource Area, Grand Junction District, Colo.; Correction

Correction to Federal Register Notice "Preplanning Activities for Resource Management Plan, Glenwood Spring Resource Area, Grand Junction District, Colorado", Federal Register/Vol. 44, No. 209/Friday, October 26, 1979, (FR Doc. 33266), page 61664.

Last Paragraphs reads: If you wish to discuss, review, or obtain copies preplanning documents for the Glenwood Springs Resource Area you may write, call, or visit BLM offices at the addresses below:

Correct last paragraph to read: If you wish to review or obtain copies of preplanning documents for the Glenwood Springs Resource Area you may write, call or visit BLM offices at the addresses below after January 15, 1980.

David A. Jones,
District Manager.

(FR Doc. 79-35226 Filed 11-14-79; 8:45 am)
BILLING CODE 4310-84-M

[Colorado 25379K]**Northwest Pipeline Corp.; R/W Application for Pipeline**

November 2, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way, No. 79430, for a 6 $\frac{3}{4}$ " o.d. natural gas pipeline 0.972 miles long, across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 3 S., R. 100 W.,
Sec. 20: N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$,
Sec. 29: NW $\frac{1}{4}$ NW $\frac{1}{4}$,
Sec. 30: E $\frac{1}{2}$ NE $\frac{1}{4}$.

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicant's customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the

proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corporation. Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

John R. Bernick,
Acting Leader, Craig Team, Branch of Adjudication.

(FR Doc. 79-35162 Filed 11-14-79; 8:45 am)
BILLING CODE 4310-84-M

[Colorado 25122 BD]**Northwest Pipeline Corp.; R/W Application for Pipeline**

November 2, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way, #79424, for a 4 $\frac{1}{4}$ " o.d. natural gas pipeline for the Foundation Creek Gathering System well hookup approximately 1.025 miles long, across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 3 S., R. 102 W.,
Sec. 35: N $\frac{1}{2}$ NE $\frac{1}{4}$,
Sec. 36: NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$.

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corporation. Any comment, claim or objections must be filed with the Chief, Branch of Adjudication,

Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

John R. Bernick,
Acting Leader, Craig Team, Branch of Adjudication.

(FR Doc. 79-35163 Filed 11-14-79; 8:45 am)
BILLING CODE 4310-84-M

Fish and Wildlife Service**Endangered Species Permit; Receipt of Applications**

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Alan Harmata, PRT 2-4164, Montana State University, Bozeman, Montana 59714.

The applicant requests an amendment to his valid endangered species permit for nestling Blad eagles (*Haliaeetus leucocephalus*) to capture, band and radio-track adult bald eagles in Montana and Colorado for scientific research on the winter ecology and migration habits of Rocky Mountain bald eagles.

Applicant: Henry Doorly Zoo, PRT 2-4884, Omaha, Nebraska 68107.

The applicant requests a permit to import in foreign commerce two captive-bred cheetahs (*Acinonyx jubatus*) from the Metropolitan Toronto Zoo, Ontario, Canada for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications on or before December 17, 1979, by submitting written data, views, or arguments to the Director at the above address.

Dated: November 8, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

(FR Doc. 79-35153 Filed 11-14-79; 8:45 am)
BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified

activity with the indicated Endangered Species:

Applicant: Kansas City Zoological Gardens, PRT 2-4807, Swope Park, Kansas City, Missouri 64132.

The applicant requests a permit to import in foreign commerce one Asian Wild Ass (*Equus hemionus*) from the Foundation for Research of Animal and Plant World Institute in Oberwil, Switzerland for enhancement of propagation and survival.

Applicant: Henry R. Bose, Jr., PRT 2-4800, 221 River Hills Road, Austin, Texas 78746.

The applicant requests a permit to purchase in interstate commerce two Nene geese (*Branta sandvicensis*) from the Denver City Zoo, Denver, Colorado for enhancement of propagation.

Applicant: Henry Doorly Zoo, PRT 2-4882, Riverview Park, Omaha, Nebraska 68107.

The applicant requests a permit to import during the course of a commercial activity one Bactrian camel (*Camelus bactrianus*) from the Calgary Zoo, Calgary, Alberta, Canada for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications on or before December 17, 1979, by submitting written data, views, or arguments to the Director at the above address.

Dated: November 8, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish & Wildlife Service.

(FR Doc. 79-35154 Filed 11-14-79; 8:45 am)
BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Thomas A. Griffiths, Department of Zoology, University of Massachusetts, Amherst, Massachusetts 01003.

The applicant requests a permit to salvage Indiana bat (*Myotis sodalis*) skeletal materials and to capture and release live specimens for scientific purposes.

Humane care and treatment during transport has been indicated by the applicant.

Geological Survey**Training and Qualification of Personnel in Well-Control Training**

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Clarification of U.S. Geological Survey policy relative to Well-Control classes conducted outside the United States.

SUMMARY: The Federal Register Notice, Vol. 42, No. 251, published by the U.S. Geological Survey on December 30, 1977, set forth the U.S. Geological Survey Outer Continental Shelf (OCS) Training Standard No. T 1 (GSS-OCS-T 1), "Training and Qualification of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations." The purpose of this Notice is to set forth the U.S. Geological Survey policy regarding Well-Control classes conducted outside the United States.

FOR FURTHER INFORMATION CONTACT: Mr. R. B. Krah, U.S. Geological Survey, National Center, Reston, Virginia 22092 (703/860-7531).

SUPPLEMENTARY INFORMATION: The U.S. Geological Survey has recently reassessed the scope of the Well-Control classes conducted outside the United States. The U.S. Geological Survey policy regarding Well-Control classes conducted outside the United States is as follows:

As of December 1, 1979, only Well-Control training classes conducted inside the United States by approved Well-Control training schools in accordance with GSS-OCS-T 1 and applicable Federal Register Notices will be recognized as having met the requirements of GSS-OCS-T 1.

The U.S. Geological Survey has adopted the above policy due to the inherent difficulty and expense with scheduling and monitoring Well-Control training conducted outside the United States.

Dated: November 7, 1979.

J. S. Cragwall, Jr.,
Acting Director.

(FR Doc. 79-35166 Filed 11-14-79; 8:45 am)
BILLING CODE 4310-31-M

National Park Service**Golden Gate National Recreation Area Advisory Commission; Notice of Meeting**

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 9:30 a.m.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4871. Interested persons may comment on this application on or before December 17, 1979, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: November 8, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

(FR Doc. 79-35155 Filed 11-14-79; 8:45 am)
BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Corps of Engineers, St. Louis District, ED-BA, 210 N. 12th Street, Rm. 853, St. Louis, Missouri 63101.

The applicant requests a permit to capture and release the following species for scientific purposes: Indiana bat (*Myotis sodalis*), grey bat (*Myotis grisescens*), Curtis pearly mussel (*Epioblasma florentina curtisi*), Fat pocketbook pearly mussel (*Potamilus capax*), Pink mucket pearly mussel (*Lampsilis orbiculata*), and Higgins' eye pearly mussel (*Lampsilis higginsii*) and to take voucher specimens of mussels.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4857. Interested persons may comment on this application on or before December 17, 1979, by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: November 7, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

(FR Doc. 79-35156 Filed 11-14-79; 8:45 am)
BILLING CODE 4310-55-M

(PDT) on Saturday, December 8, 1979 at Fort Mason Visitor Center, Golden Gate National Recreation Area Headquarters, San Francisco, CA.

The Advisory Commission was established by Public Law 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service system in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Secretary
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Ms. Jimmy Park Li
Mr. Joseph Mendoza
Mr. John Mitchell
Mr. Merritt Robinson
Mr. Jack Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The major agenda items will be the review of public testimony on the General Management Plan for Golden Gate National Recreation Area and Point Reyes National Seashore, and an update from the Education/Recreation Committee.

This meeting is open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Lynn H. Thompson, General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123, telephone (415) 556-2920.

Minutes of the meeting will be available for public inspection by January 8, 1980 in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123.

Dated: November 2, 1979.

John H. Davis,

Acting Regional Director, Western Region.

[FR Doc. 79-35221 Filed 11-14-79; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

[516 DM 1-6]

National Environmental Policy Act Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of proposed revised instructions for the Fish and Wildlife Service.

SUMMARY: This notice proposes an appendix to the Department's NEPA procedures for the Fish and Wildlife Service. The proposed Departmental procedures were published in the Federal Register on July 10, 1979 (44 FR 40436).

DATE: Comments due December 10, 1979.

ADDRESS: Comments to: Larry E. Meierotto, Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-3891.

For Fish and Wildlife Service, contact Steven Taub, Telephone (202) 343-5685.

SUPPLEMENTARY INFORMATION: This proposed appendix to the Departmental Manual (516 DM 6) provides more specific NEPA compliance guidance to the Fish and Wildlife Service (Appendix 2). In particular it provides information about Service organizational responsibilities for NEPA compliance, advice to applicants, actions normally requiring the preparation of an environmental statement, and categorical exclusions. The appendix should be taken in conjunction with the proposed Departmental procedures (516 DM 1-6) which were published in the Federal Register on July 10, 1979 (44 FR 40436). In addition, the service will prepare a handbook(s) or other technical guidance on how to apply these procedures to its principal programs.

Previously published proposed appendices include the Bureau of Reclamation (Appendix 9) (44 FR 47827) and the Heritage Conservation and Recreation Service (44 FR 49523). Appendices for other bureaus will be published as notices during the next few weeks for 30-day public comment.

Comments on this proposed appendix (516 DM 6, Appendix 2) are invited. To be considered in the preparation of the final appendix, comments must be received by December 10, 1979.

Dated: November 7, 1979.

James Rathlesberger,
Special Assistant to Assistant Secretary of the Interior.

2.1 Responsibilities for NEPA matters.

A. *Washington, D.C. Office.* The Director is responsible for overall management and guidance of FWS NEPA-related involvement. Each Associate Director (Wildlife Resources, Fishery Resources, Research, Federal Assistance and Environment) is responsible for general guidance and compliance in their respective areas of responsibility. In addition the Associate Director—Environment has been delegated oversight responsibility for FWS NEPA compliance. The Office of Environmental Coordination, which reports to the Associate Director—Environment, is responsible for internal control of both environmental reviews of documents prepared by other agencies, and environmental statements prepared by the various FWS divisions. The Office of Environmental Coordination is also responsible for preparing FWS NEPA procedures, guidelines and instructions, and for supplying technical assistance in NEPA matters to FWS entities.

B. *Regional Offices.* An individual in each Regional Office and the Alaska Area Office, named by title and reporting to the Regional or Alaska Area Director, will have NEPA coordination duties at the regional level similar to those of the Office of Environmental Coordination. In addition each Area Office will have an individual with similar responsibilities. The Regional Offices addresses are listed below.

Region 1: U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1892, 500 N.E. Multnomah Street, Portland, Oregon 97232.

Region 2: U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., Room 10102, Post Office Box 1306, Albuquerque, New Mexico 87103.

Region 3: U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Region 4: U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303.

Region 5: U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

Region 6: U.S. Fish and Wildlife Service, Denver Federal Center, Post Office Box 25466, Denver, Colorado 80225.

Alaska: U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503.

2.2 Permit Regulations and Guidance for Applicants.

A. *Permits and Licenses Reviewed by FWS under the Fish and Wildlife Coordination Act (FWCA).* Under provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661-667e; 48 Stat. 401, as amended), the U.S. Fish and Wildlife Service investigates and reports on all proposals for work and/or other activities in or affecting the waters of the United States that are sanctioned, permitted, assisted or conducted by the Federal Government. The non-Federal works and activities reviewed under the authority of the Fish and Wildlife Coordination Act include:

(1) Works and activities in navigable waters of the United States, permitted by the

Corps of Engineers (Corps) or the Coast Guard (CG) under Sections 9 and 10 of the River and Harbor Act of March 3, 1899 (1899 Act).

(2) Works secondarily permitted by the Corps, such as mineral exploration and development on the Outer Continental Shelf (OCS) and other public lands, rights-of-way on public lands and activities in wetlands in Guam, the Virgin Islands and American Samoa.

(3) Discharge of pollutants and the disposal of materials, including:

(a) Discharge of pollutants permitted by the Environmental Protection Agency (EPA) under Section 402 of the Clean Water Act (CWA).

(b) Disposal of dredged and fill material permitted by the Corps under Section 404, CWA.

(c) Ocean dumping of dredged material permitted by EPA under Section 102 of the of the Marine Protection, Research and Sanctuaries Act of 1972.

(d) Disposal of sewage sludge permitted by EPA under Section 405, CWA.

(4) Construction of powerplants and related facilities permitted or licensed by the Federal Energy Regulatory Commission or the Nuclear Regulatory Commission.

(5) Other federally sanctioned works that affect streams or other water bodies and therefore require a permit from the Corps, CG or EPA. These include most channels, highways, airports, and transmission lines, and dredging, filling, discharge, or disposal related to hydro, steam, and nuclear electric generating plants. It also includes OCS and public lands leases for oil and mineral exploration and development, permits for drilling and other mineral developments, and rights-of-way and other permits issued for works involving Federal lands.

B. *FWS Permits.* The FWS also has responsibility for issuing certain permits to Federal and State agencies and private parties for actions which would involve certain wildlife species and/or use of FWS-administered lands.

(1) *FWS Permits for the Taking, Possession, Transportation, sale, Purchase, Barter, Exportation, or Importation of Certain Wildlife Species.* The Code of Federal Regulations, part 13, Title 50 (50 CFR 13) contains regulations for General Permit Procedures. Section 13.3 lists types of permits and the pertinent Parts of 50 CFR. These include: Import and Marking (part 14), Feather Imports (Part 15), Injurious Wildlife (part 16), Endangered Species (Part 17), Marine Mammals (Part 18), Migratory Birds (Part 21), eagles (Part 22), and Endangered Species Convention (Part 23). Potential applicants should request information from the Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

(2) *Federal Lands Managed by the FWS.* The Refuge Administration Act (Administration of National Wildlife Refuge System, 16 U.S.C. 668dd-668ee) allows the granting of easements and rights-of-way across lands in the National Wildlife Refuge System only when the Regional Director, FWS, determines that such use is compatible with the purposes for which the area was

established. Detailed procedures an applicant must adhere to are contained in the Code of Federal Regulations, Title 50, Part 29 (50 CFR 29). These rules and regulations apply to all FWS-administered lands.

C. *Federal Aid to States.* The FWS administers funds to States under the Anadromous Fish and Conservation Act (CFDA #15.600), Fish Restoration Act (CFDA #15.600), Wildlife Restoration Act (CFDA #15.611), and the Endangered Species Conservation Act (CFDA #18.612). Information on how States may request funds through the FWS under these Acts is contained in the Federal Aid Manual. Copies of this Manual have been provided to all State fish and wildlife agencies and are regularly updated. Current copies are also available for inspection in each FWS Regional Office as well as the Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

2.3 Major Decision Points Normally Requiring an EIS

In accordance with 516 DM 2.3E, following is a list of proposed FWS actions that will normally require the preparation of an EIS:

A. Establishment of new refuges, fish hatcheries, or research stations and major additions to existing installations.

B. Master plans for major new installations.

C. Master plans for established installations where major new developments or substantial changes in management practices are proposed.

2.4 *Categorical Exclusions.* Listed below are Categorical Exclusions specific to FWS programs. This list was developed pursuant to 516 DM 2.3A, and supplements those exclusions listed by the Department in Appendix 1 to 516 DM 2. These exclusions replace those listed in Federal Register, Vol. 44, No. 112, June 8, 1979, pp. 33160-33162.

A. *Surveys, Inventories and Monitoring Activities.* These excluded activities are undertaken to determine the numbers and conditions of fish and wildlife, endangered plants, their habitats, or the harvest or other uses of these resources. Surveys range from direct observation of animals or measures of habitat conditions to indirect determinations relying on proven sampling procedures. While most surveys will employ direct or indirect counts of fish or wildlife, some may require capture for more complete identification or examination for age, condition, productivity, health and general fitness. Population estimates may require the capture, tagging and release of some animals. Monitoring activities include sampling fish and wildlife to determine contaminant residue trends as part of the Toxic Substances Control Act. Surveys of wildlife users to determine their desires and needs may further show economic, sociological, aesthetic, or scientific values. The data acquired from surveys and inventories generally form the basis for management recommendations. While the actual surveys and inventories are categorically excluded, the recommended management actions will be separately subject to environmental analysis to evaluate the possible need for further environmental documentation.

B. *Routine Operation and Maintenance.* Routine maintenance is defined as the repair,

renovation, and upkeep of facilities and improvements at the same location for the same purpose. Excluded activities include work on existing drainage ditches, roads, bridges, small dams, water control structures, dikes, and levees unless such activities would alter or expand the existing capacity, use or purpose. Routine maintenance of habitat conditions to include minor, short-term modifications in vegetative cover is excluded, unless management activities would substantially alter the dominant vegetation on substantial acreage over a longer period of time. Also excluded are maintenance of fish cultural raceways, nesting structures, parking lots, building, target ranges, picnic and camping areas, fences, signs, trails, boat ramps, and major equipment items.

C. *Service Training Activities, Conservation and Hunter Education, and Public Information and Interpretation Activities.* Excluded are training activities for FWS personnel, and activities to make the public more knowledgeable about fish and wildlife resources and their values, and which will promote fuller and safer outdoor experiences without unnecessarily detracting from the enjoyment of others. Not excluded are activities that involve a significant long-term commitment of environmental resources.

D. *Research Studies.* Research studies are excluded except:

(1) Studies which involve significant animal mortality or experimental introduction of nonindigenous plants and/or animals; and
(2) Studies that require significant disruption of the physical environment or the introduction of significant amounts of pesticides or other contaminants into the environment.

E. *Consultation and Technical Assistance.* Excluded are consultation and technical guidance and assistance, including reports or recommendations provided to other Federal and State agencies, public corporations or individuals to assist them in their planning actions to either benefit or minimize harm to fish and wildlife resources.

F. *Migratory Bird Banding Projects.* Banding activities undertaken or funded by the FWS to obtain information on waterfowl and other migratory birds are excluded.

G. *Removal of Non-Valuable, Recent Structures and Materials.* Removing discarded or abandoned materials and structures, including dumps, automobiles, fences, and building to restore a natural appearance is excluded, after establishing that the materials or structures have no significant historical, archeological, or architectural value.

H. *Annual Issuance of Public Use Rules.* Promulgation of routine annual special regulations for hunting, fishing, and public use are excluded, unless they involve a significant change from the previous year, in which case appropriate environmental documents will be prepared.

I. *Federally-Aided Planning Projects.* State Planning Projects funded by FWS for future actions are categorically excluded. However, when the plan is submitted to Federal officials for approval, the program proposed by that plan must be in compliance with NEPA and be accompanied by appropriate NEPA documentation.

J. Coordination Projects. Coordination projects provided for administrative and clerical services over the States' Federal Aid projects are categorically excluded. This administrative function involves the development of work plans and provisions for technical direction of program employees, correlating Federal Aid-financed activities with other State operations, and maintaining records essential to the program.

[FR Doc. 79-35225 Filed 11-14-79; 8:45 am]
BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on November 27 and 28, 1979, from 9:00 a.m. to 5:00 p.m., at the El Tropicano Hotel, 110 Lexington Avenue, San Antonio, Texas 78205.

The Advisory Committee will discuss the role of small, new, and minority-based voluntary agencies in overseas development. Also under discussion will be the Committee's Agenda for 1980 and related matters.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Mr. John A. Ulinski will be the A.I.D. representative at the meeting. It is suggested that those desiring further information contact Mr. Ulinski at 202-632-8937, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Calvin H. Raulerson,
Assistant Administrator, Bureau for Private and Development Cooperation.

November 5, 1979.
[FR Doc. 79-35165 Filed 11-14-79; 8:45 am]
BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-59]

Pump Top Insulated Containers; Commission Determination, Order, and Opinion

The U.S. International Trade Commission conducted an investigation

under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the unauthorized importation into or sale in the United States of pump top insulated containers¹ by reason of the infringement of U.S. Letters Patent No. 4,113,147, the unlawful copying of trade dress, and the failure to indicate the country of origin.² On November 1, 1979, the Commission unanimously determined that there was a violation of section 337 and ordered that pump top insulated containers which infringe U.S. Letters Patent No. 4,113,147 be excluded from entry into the United States for the term of that patent (until September 25, 1995) unless the importation is licensed by the patent owner.

The purpose of the Commission determination and order which follow is to provide for the final disposition of the Commission's investigation of pump top insulated containers.

Determination

Having reviewed the record compiled in this investigation, the Commission on November 1, 1979, determined—

1. That with respect to Apollo Limited, a respondent in this investigation, there is a violation of section 337 of the Tariff Act of 1930, as amended, in the importation into and sale in the United States of pump top insulated containers by the owner, importer consignee, or agent of either, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States;

2. That the appropriate remedy for such violation is to direct that pump top insulated containers manufactured abroad which infringe U.S. Letters Patent No. 4,113,147 be excluded from entry into the United States for the term of said patent, except where such importation is licensed by the owner of said patent;

3. That, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, such pump top insulated containers should be excluded from entry; and

4. That the bond provided for in subsection (g)(3) of section 337 of the Tariff Act of 1930, as amended, be in the

¹ Pump top insulated containers are vacuum bottles fitted with a pumping mechanism which allows the user to pump the liquid from inside the container without opening it. This helps to keep the liquid at the desired temperature and to eliminate most spills. These containers are known as "air pots" within the industry.

² This last allegation was withdrawn by Aladdin.

amount of 63 percent ad valorem (ad valorem to be determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a)) of the imported article.

Order

Accordingly, it is hereby ordered that:

1. That pump top insulated containers which infringe U.S. Letters Patent No. 4,113,147 are excluded from entry into the United States for the term of said patent, except where such importation is licensed by the owner of said patent;

2. That pump top insulated containers ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 63 percent ad valorem (ad valorem to be determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a)) from the day after this order is received by the President pursuant to section 337(g) of the Tariff Act of 1930, as amended, until such time as the President notifies the Commission that he approves or disapproves this action, but, in any event, not later than 60 days after such date of receipt;

3. That this order be published in the Federal Register and that this order and the opinion in support thereof be served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and Welfare, the U.S. Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury; and

4. That the Commission may amend this order at any time.

By the order of the Commission.

Issued: November 9, 1979.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-35284 Filed 11-14-79; 8:45 am]
BILLING CODE 7020-02-M

[TA-201-39]

Report to the President

November 5, 1979.

To The President:

In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the United States International Trade Commission herein reports the results of an investigation relating to nonelectric cooking ware.

The investigation to which this report relates (Investigation No. TA-201-39) was undertaken to determine whether—

Nonelectric cooking ware, provided for in items 533.77, 546.38, 546.56, 546.59, 653.85, 653.93, 653.94, 653.97, 654.05, 654.10, and 654.15 of the Tariff Schedules of the United States (TSUS),

is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

The Commission instituted the investigation under the authority of section 201(b) of the Trade Act of 1974 on May 15, 1979, following receipt of a petition on May 4, 1979, filed on behalf of the General Housewares Corp., Terre Haute, Ind. The investigation as originally instituted concerned only cooking ware of steel, enameled or glazed with vitreous glasses, provided for in item 653.97 of the TSUS. On June 25, 1979, the Commission expanded the scope of its investigation by adding to it nonelectric cooking ware, provided for in items 533.77, 546.38, 546.56, 546.59, 653.85, 653.93, 653.94, 654.05, 654.10, and 654.15 of the TSUS.

Notice of the institution of the porcelain-on-steel cooking ware investigation and the public hearing to be held in connection therewith was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register of May 22, 1979 (44 FR 29740). The notice expanding the scope of the investigation and changing the hearing date was published in the Federal Register of July 5, 1979 (44 FR 39316). A third notice postponing the hearing date from August 14, 1979, to September 6, 1979, was published in the Federal Register of August 9, 1979 (44 FR 46955).

The Commission held a public hearing in connection with the investigation on September 6 and 7, 1979, in the Commission's Hearing Room in Washington, D.C. All interested parties were afforded an opportunity to be present, to present evidence, and to be heard at the hearing. A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.¹

The information in this report was obtained from fieldwork and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's questionnaires, from information presented at the public hearing, from

¹ Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

briefs submitted by interested parties, and from the Commission's files.

By order of the Commission.

Issued: November 5, 1979.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-35283 Filed 11-14-79; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-68]

Certain Surveying Devices; Change of Commission Investigative Attorney

Mr. Robert M. M. Seto is designated Commission Investigative Attorney for Investigation No. 337-TA-68, Certain Surveying Devices, replacing Mr. David J. Dir. The service of all papers on the Commission investigative attorney should henceforth be served upon Mr. Seto, effective Tuesday, November 6, 1979.

The Secretary is requested to publish this notice in the Federal Register.

Dated: November 6, 1979.

Earl Levy,

Deputy Director, Office of Legal Services.

[FR Doc. 79-35282 Filed 11-14-79; 8:45 am]
BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Panel (Production Aid); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Production Aid) to the National Council on the Arts will be held December 10, 1979, from 9:00 a.m.-6:00 p.m.; December 11, 1979, from 9:00 a.m.-6:00 p.m.; and December 12, 1979, from 9:00 a.m.-6:00 p.m. in the 12th Floor Screening Room, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to

this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.
November 9, 1979.

[FR Doc. 79-35256 Filed 11-14-79; 8:45 am]
BILLING CODE 7537-01-M

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held on November 30, 1979, from 9:00 a.m.-5:30 p.m.; December 1, 1979, from 9:00 a.m.-5:30 p.m.; and December 2, 1979, from 9:00 a.m.-1:00 p.m. at the Four Seasons Hotel, 2800 Pennsylvania Avenue, N.W., Georgetown, Washington, D.C.

A portion of this meeting will be open to the public on Fri., Nov. 30, 1979, from 9:00 a.m.-4:00 p.m. and Sat., Dec. 1, 1979, from 9:00 a.m.-3:00 p.m. Topics for discussion will include Guidelines for Expansion Arts, Media Arts, Literature, Visual Arts, and Jazz Programs; proposed research plan for FY 1980; reports from the Council's Policy/Planning Committee and the joint National Council/National Assembly of State Arts Agencies Committee; and a special report by the National Association of Community Arts Agencies. The remaining sessions of this meeting on Fri., Nov. 30, 1979, from 4:00 p.m.-5:30 p.m.; Sat., Dec. 1, 1979, from 3:00 p.m.-5:30 p.m.; and Sun., Dec. 2, 1979, from 9:00 a.m.-1:00 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions may be closed to the public pursuant to subsections (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,
Director, Office of Council and Panel
Operations, National Endowment for the Arts.
November 9, 1979.

[FR Doc. 79-35257 Filed 11-14-79; 8:45 am]
BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR-51, issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 1 (the facility) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment modifies the Technical Specifications to incorporate limiting conditions for operation, surveillance requirements and associated bases for the Reactor Building Purge Filtration System.

This application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application for amendment dated March 28, 1977, (2) Amendment No. 44 to License No. DPR-51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon

request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 7th day of November 1979.

For the Nuclear Regulatory Commission.

Morton B. Fairtile,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-35250 Filed 11-14-79; 8:45 am]
BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, OH 905-4, is entitled "Calibration and Error Limits of Air Sampling Instruments for Total Volume of Air Sampled" and is intended for Division 8, "Occupational Health." It identifies methods for calibrating air sampling instruments used to assess the air concentration of radioactive materials and provides guidance for measuring within certain limits the volume of air sampled. This proposed guide endorses and supplements a manual, "Air Sampling Instruments for Evaluation of Atmospheric Contaminants," 5th Edition, 1978, published by the American Conference of Governmental Industrial Hygienists.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555, Attention: Docketing and Service Branch, by January 7, 1980.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 6th day of November 1979.

For the Nuclear Regulatory Commission.

Karl R. Goller,
Director, Division of Siting, Health and
Safeguards Standards, Office of Standards
Development.

[FR Doc. 79-35252 Filed 11-14-79; 8:45 am]
BILLING CODE 7590-01-M

(Dockets Nos.: 50-219, 50-220, 50-237, 50-245, 50-249, 50-254, 50-259, 50-260, 50-263, 50-265, 50-271, 50-277, 50-278, 50-293, 50-296, 50-298, 50-321, 50-324, 50-325, 50-331, 50-333, 50-341, 50-354, 50-355, and 50-366)

Issuance of Criteria for the Mark I Containment Long-Term Program

The Nuclear Regulatory Commission (NRC) staff has completed its review of the proposed suppression pool hydrodynamic load assessment criteria submitted by the General Electric Company on behalf of the licensees of Boiling Water Reactor (BWR) facilities with the Mark I pressure-suppression containment design. As a result of this review, the staff has developed requirements by which the proposed criteria are to be implemented, and has issued these requirements to the affected utilities. This action represents a key milestone in the NRC's Generic Technical Activity A-7 (Mark I Containment Long Term Program), which has been designated an "Unresolved Safety Issue" pursuant to

Section 210 of the Energy Reorganization Act of 1974.

This generic study originated from concerns raised during the course of the NRC staff's review of test results for an advanced pressure-suppression containment design (Mark III) and operating experience related to the pressure-suppression concept. The specific concern was the capability of the containment structure (i.e., suppression chamber) to withstand the effects of suppression pool hydrodynamic loads which had not been explicitly considered in the original design of the structure.

A short-term assessment was conducted, from which the NRC staff concluded that continued operation of the licensed BWR/Mark I facilities would not jeopardize the public health and safety. However, the containment design safety margins were found to be less than that required by the commission's regulations in General Design Criterion 50 of Appendix A to 10 CFR Part 50. Accordingly, exemptions from this requirement were issued to the licensed BWR/Mark I facilities in March and April 1978, which permitted continued plant operation until a more comprehensive long-term program could be completed. The bases for these exemptions are described in NUREG-0408, "Mark I Containment Short Term Program Safety Evaluation Report," dated December 1977. The purpose of the long-term program is to restore the original intended containment design safety margins.

The NRC staff's requirements for the long-term program define the generic methodology that is to be used by the affected utilities to design any additional structural and/or operational modifications which will restore the margins of safety, as determined by a plant-specific analysis. These criteria were issued to the affected utilities in letters dated October 31, 1979, to commence the implementation of this program. Copies of the criteria are available for public inspection at the NRC Public Document Room 1717 H Street, NW., Washington, D.C. and the Commission's Local Public Document Room located in the vicinity of the affected nuclear power plants. In addition, these criteria will be appended to the NRC staff's generic Safety Evaluation Report for the Mark I Containment Long Term Program, which is currently scheduled to be issued in December 1979.

For further information, contact Mr. Christopher Grimes, A-7 Task Manager, Division of Operating Reactors, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 31st day of October, 1979

For the Nuclear Regulatory Commission.

Darrell G. Eisenut,

Acting Director, Division of Operating
Reactors, Office of Nuclear Reactor
Regulation.

[FR Doc. 79-35251 Filed 11-14-79; 8:45 am]
BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

(N-AR 79-46)

Reports, Safety Recommendation Letters and Responses; Availability

Pipeline Accident Report

Philadelphia Gas Works Natural Gas Pipeline Rupture, Explosion, and Fire, Philadelphia, Pennsylvania, May 11, 1979 (NTSB-PAR-79-3).—Seven persons, including a Philadelphia Gas Works employee, were killed, 19 persons were injured, and several adjacent rowhouses were damaged when, at 3:05 p.m. last May 11, two almost simultaneous explosions and an ensuing fire destroyed three buildings near the intersection of Tacony and Margaret Streets in Philadelphia. The explosion also caused a section of Margaret Street to cave in, exposing a large cavern under the paved surface. The National Transportation Safety Board's report issued November 6.

The Safety Board determined that the probable cause of the accident was the sagging and breaking of an 8-inch, cast-iron gas main, due to the undetected erosion of the soil support under it, resulting in the migration of leaking gas into adjacent buildings where it was ignited by an undetermined source.

As a result of its investigation of this accident, the Safety Board on October 4 recommended that the American Gas Association advise its member companies of the circumstances of this accident and of the prompt and effective coordination between the gas company and the fire department and urge them to review their emergency practices and procedures, particularly those concerning evacuation and liaison with fire and police departments to insure that coordination is planned adequately for similar accidents. (See also 44 FR 60183, October 18, 1979.)

Railroad Safety Report

Progress of Safety Modification of Railroad Tank Cars Carrying Hazardous Materials (NTSB-SR-79-2).—This report, made available to the public November 2, indicates that despite significant progress in improving

the safety of transportation of hazardous materials by rail, serious safety problems remain. As a direct result of Safety Board efforts, the Department of Transportation in 1978 adopted an accelerated schedule for retrofitting tank cars carrying hazardous materials with safety equipment to protect against tank-head puncture and thermal rupture in accidents. One of the Board's safety objectives during FY 1979 was to monitor the retrofit program to see that the safety modifications are completed as soon as possible. Review and monitoring of the tank car safety retrofit program indicate that:

1. The shelf coupler retrofit for DOT 112/114 tank cars was virtually completed within 6 months of the announcement of the accelerated schedule.
2. Headshields are not being retrofitted as rapidly as possible.
3. As a result of retrofit problems and the structure of the regulations, headshield installations on more than 1,000 tank cars may be delayed up to 1 year.
4. Shelf couplers and/or headshields performed effectively in protecting against tank-head puncture in two derailments investigated by the Safety Board in FY 1979.
5. On one recommendation, the Department of Transportation has exceeded the statutory time limit on responding to Safety Board recommendations.
6. The Federal Railroad Administration agrees that DOT 105 tank cars should also be equipped with shelf couplers, but is unnecessarily delaying rulemaking action.

In light of the problems revealed in the course of its review, the Safety Board has concluded that until all tank cars which are subject to shelf coupler and headshield requirements are so equipped, trains transporting these tank cars should be operated at reduced speeds in order to reduce the risk of a potentially catastrophic accident. The Department of Transportation has failed to act on or to respond to the Safety Board's recommendation in this area.

The Board also concludes that the rate of completion of tank car headshield installations in the T retrofit continues to be unacceptably slow. Because many tank car owners have changed their plans from the T to the J retrofit, the number of tank cars which are not required to have tank head protection until December 31, 1980, has increased by 1,100 to more than 4,400 tank cars. With installation of shelf couplers on all DOT 112/114 tank cars virtually complete, the Safety Board states that this safeguard should now be applied to DOT 105 tank cars.

In view of these conclusions, the Safety Board on October 18 issued three new recommendations to the Secretary, Department of Transportation. (For recommendations R-79-65 through 67,

see 44 FR 62973, November 1, 1979.) With respect to recommendation R-79-28 issued last March 20 (44 FR 18749, March 29, 1979), the subject safety report notes that the Department of Transportation exceeded the 90-day statutory time limit established by the Independent Safety Board Act of 1974 for responding to the Board's recommendations. The Safety Board believes the time limits established in the law are reasonable and that its recommendations warrant reasonably timely review and a response indicating the Department of Transportation's intent to either implement or not implement the recommendations and their reasons therefor. The Safety Board will keep the Congress advised should this problem not improve in the near future.

This railroad safety progress report is one of the first three in a new reporting category which enhances the reporting of the Board's safety oversight and accident prevention activities, such as its safety objective efforts. A marine safety report and a pipeline safety report were released to the public in late October; see 44 FR 64930, November 8, 1979. Safety reports will be issued periodically to provide the public, as well as public and private officials, information on significant transportation problems, issues, and activities.

Railroad Accident Report and Recommendation Letters

National Railroad Passenger Corporation (Amtrak) Head-end Collision of Train No. 111 and Plasser Track Machine Equipment, Edison, New Jersey, April 20, 1979 (NTSB-RAR-79-10).—The Safety Board's formal investigation report on this accident was released on November 7. As a result of the collision, the track machine was destroyed and the locomotive was heavily damaged. The lead truck of the passenger car behind the locomotive derailed. Seventy-one persons were treated for minor injuries, and one passenger and one onboard attendant were admitted to the hospital. Total property damage was about \$353,600.

The Safety Board determined that the probable cause of the accident was the failure of (1) the train dispatcher to issue proper orders and to secure the route for the movement of the track machine and (2) a block operator to secure the traffic direction and route for the movement of the track machine. Contributing to the accident was the failure of several block operators to comply with operating instructions by permitting the track machine to proceed without securing proper authority. Also contributing to the accident was the operation of a

passenger train with an inoperative radio.

Investigation showed that this accident occurred when the passenger train was permitted to enter a signaled block of track No. 3 that was occupied by the track machine. The track machine was not insulated; therefore, it could not shunt the track circuits and activate the signal system.

As a result of its investigation, the Safety Board on November 1 issued the following safety recommendation letters:

R-79-68 through 72 to the National Railroad Passenger Corporation:

Conduct an audit of its train operations to determine the extent of noncompliance with its operating rules and instructions, and provide the Board with a report of its findings. (R-79-68)

Provide adequate supervision to arrange and monitor the movement of insulated track machines which eliminate the protection of the automatic block signal system on the Northeast Corridor. (R-79-69)

Establish procedures to require that pilots employed in the movement of track machines are fully experienced with all rules and instructions relating to such movements. (R-79-70)

Require that all trains operating on a main track be equipped with an operable radio. (R-79-71)

Require that the seats of all Amfleet equipment are maintained in proper condition to insure that the seats are locked securely in place. (R-79-72)

R-79-73 to the Federal Railroad Administration:

Establish regulations that would require all trains operating on a main track to be equipped with an operable radio. (R-79-73)

R-79-74 to the Association of American Railroads:

Promote the use by all railroad systems of operable radios for the operation of trains as an additional safety requirement. (R-79-74)

Responses to Safety Recommendations Aviation

A-79-61.—Letter of October 26 from the Federal Aviation Administration is in response to a recommendation issued July 30 following investigation of the crash of an Allegheny Airlines BAC 1-11 accident at Rochester, N.Y., on July 9, 1978. The recommendation asked FAA to amend 14 CFR 61.3 to include an implied consent clause as a condition for issuing Class I and Class II airman medical certificates, such clause to require the holder to submit to any nonpsychiatric medical evaluation included in 14 CFR Part 67 deemed necessary by the Safety Board following any accident/incident and to biochemical testing essential to establish the absence of alcohol, drugs,

or suspected metabolic disorders; medical examination should be performed by a Regional Flight Surgeon or by an Aviation Medical Examiner designated by a Regional Flight Surgeon. (See 44 FR 46963, August 9, 1979.)

FAA does not concur with this recommendation. Under the Federal Aviation Act of 1958, as amended, FAA requires that an individual possess a valid airman medical certificate to act as pilot-in-command or as a required pilot flight crewmember of civil aircraft. The medical examination required for issuance of an airman medical certificate is to determine that the applicant is physically able to perform the applicable duties and will not constitute an aviation safety hazard because of medical deficiencies. FAA has neither the primary statutory responsibility for investigating aircraft accidents nor the authority to demand medical examinations of airmen for the sole purpose of determining accident causation.

Further, FAA states that when the continued medical qualification of an airman is reasonably questioned, FAA can and does ask that an appropriate reexamination be conducted by a physician who is chosen and paid by the airman (§ 67.31). Medical certificates are revoked if the reexamination reveals that the airman is no longer medically qualified. FAA notes that under current Safety Board precedent, the Administrator's authority to reexamine an airman's medical qualification is limited to cases in which a "reasonable basis" exists to question such qualifications (*Administrator v. Mayfield*, NTSB Order No. EA-606 (September 28, 1974)). An airman contesting FAA's determination that a reasonable basis exists may appeal that issue to the Safety Board. FAA states, "If we were to require reexamination of an airman upon a request by the Board (as proposed) and that airman appealed our action, this would pose a clear-cut conflict between the Board's investigatory and adjudicatory functions. In effect, the Board would be adjudicating the reasonableness of its own request."

While FAA agrees that the medical investigation of surviving crewmembers involved in aircraft accidents may be of value in determining the accident cause and in developing possible preventive measures, FAA does not believe that it has authority to order medical examinations of airmen for the sole purpose of Safety Board accident investigation or to make prior consent to such examinations a prerequisite for airman medical certification. FAA

states, "If considered necessary, it would appear more appropriate that the Board seek such authority through the legislative process."

Highway

H-79-12.—On October 22 the National Highway Traffic Safety Administration provided the Safety Board with a prepublication copy of its Evaluation Plan for Safety Standard 208 (Occupant Crash Protection). The Plan was published at 44 FR 60771 on October 22. NHTSA states that its evaluation program addresses all aspects of automatic restraints, including the issues raised in the Safety Board's recommendation H-79-12. The Plan addresses the time before, as well as after, September 1981, thereby providing continuity for the evaluation activities. NHTSA points to Chapter 5 for a projection of resources needed to accomplish the evaluation, although these are not yet part of any formal budget. H-79-12 was issued last March 20 in connection with the Board's safety effectiveness evaluation of NHTSA's "Passive Restraint Evaluation Program." (See 44 FR 18749, March 29, 1979.)

H-79-32.—Federal Highway Administration's letter dated August 8, 1979 (received by the Safety Board on October 11) provides a response to a recommendation issued May 25 following investigation of the 8,000-gallon gasoline tank semitrailer tire fire which occurred last November 30 while the truck was stopped in the right curb lane of Interstate 95 on the Woodrow Wilson Memorial Bridge over the Potomac River. (See 44 FR 31331, May 31, 1979.)

The recommendation asked FHWA and NHTSA to cooperate in the promulgation of vehicle safety regulations to require, over the wheels of trailers transporting hazardous materials subject to adverse actions of heat or fire, fenders or other devices that are fabricated of fire-resistant materials and that are designed in such a way as to resist any wheel or tire fire. FHWA received the recommendation on June 29 and will act as the lead agency for the Department of Transportation.

FHWA states that it has studied in detail the subject recommendation in conjunction with accident reports submitted to the Bureau of Motor Carrier Safety by motor carriers performing transportation in interstate of foreign commerce. The accident reports numbered 30,563 in 1977 and 34,877 in 1978. There were 700 incidents involving fire in 1977 and 789 in 1978. Of the 700 fires in 1977, 45 involved tank vehicle tires or wheels. The reports do not indicate whether the fires were on

the semitrailer. For 1978, 58 of the 789 fires involved tank vehicle tires and wheels; it was not possible to determine whether or not the tire or wheel fires were on the towed vehicle.

According to FHWA, protection of the tank from tire fires would require enclosing most of the wheel, which would give rise to overheating of brakes and improper tire maintenance. FHWA presented cost figures of an estimated \$500 per vehicle for retrofit plus further costs for added weight and reduction of payload. While rulemaking action is not justified at this time, FHWA said it will monitor commercial vehicle fires to ensure that the tire fire problem is not expanding.

Marine

M-79-49.—Ocean Drilling & Exploration Company (ODECO) on October 18 responded to the Safety Board's October 2 inquiry as to status of implementation of this recommendation, issued April 17, 1979, following investigation of the capsizing and sinking of the self-elevating mobile offshore drilling unit OCEAN EXPRESS in the Gulf of Mexico on April 15, 1976. The recommendation asked ODECO to review and revise the operating manuals for its existing self-elevating mobile offshore drilling units to include guidance regarding: (1) the stability of the unit for the complete range of mat-platform separations; (2) the number of tugs and the horsepower required for arrangements and equipment; (3) contingency plans for emergencies afloat, including towing mishaps and severe weather; (4) transit preparations, including an appropriate checklist; (5) the expected results of exceeding the design limits for jacking operations; and (6) the minimum wind speeds, sea conditions, and unit motions which would result in instability or structural failure. (See 44 FR 24657, April 28, 1979.)

In response, ODECO reports that for the past 13 months it has been involved in a comprehensive program of stability analysis and review and revision of operations manuals for its drilling units. ODECO notes that the operations manuals for the Bethlehem mat supported jack-ups such as OCEAN EXPRESS were prepared by Bethlehem Steel Corporation as a part of the initial purchase of the units. Bethlehem has advised ODECO that certain modifications to the manuals are recommended. As to the specific points in the recommendation, ODECO has:

(1) Included an analysis of the effects of mat separation on the unit's intact stability and a determination of the direction of the unit's weakest intact stability in their stability study.

(2) Revised the number of tugs and horsepower requirements shortly after April 15, 1976. This information has and will be included in the revised operations manuals.

(3) and (4) Included this information in the revised operations manuals.

(5) Provided in the revised manuals an absolute prohibition on exceeding the design limitations of the unit in question. (ODECO believes it would be impossible to foresee and provide for all contingencies which might call for exceeding the design limitations in a given situation. The interest of safety would be served by the prohibition. Drilling unit operation supervisors have full and ready access to ODECO staff experts for guidance in emergencies.)

(6) Provided in the revised manuals maximum limits on wind speeds, sea conditions, and critical motions as established by the stability and structural limitations, the maximum limits to be those beyond which instability or structural failure might be encountered.

ODECO reports that other safety precautions which it has taken are the use of private meteorologists and the provision of a full time safety representative on board each drilling unit.

Railroad

R-77-13.—The Federal Railroad Administration on October 12 responded to the Safety Board's letter of March 19 which commented on FRA's previous response of last January 19 (44 FR 8046, February 8, 1979). The recommendation, issued following investigation of the rear-end collision of Conrail commuter trains at New Canaan, Conn., on July 13, 1976, asked FRA to promulgate regulations for railroad commuter lines that will (1) establish standards for the interior design of commuter cars to prevent and reduce injuries from accidents; (2) insure that when the cars' power source fails, emergency lighting is adequate and doors can be operated easily from inside and outside; (3) establish standards for the evacuation of passengers; and (4) prevent a passenger train from entering an occupied block.

With respect to parts (1), (2), and (3) of this recommendation, the Safety Board's March 19 letter noted that on December 5, 1975, the Board was advised of FRA's research in rail passenger vehicle crashworthiness as well as crash injury protection for passengers. The final report of occupant protection was expected in September 1977, and the final report of vehicle structure integrity was expected in June 1978. The Board noted with some concern that still more research and testing is contemplated, possibly extending to the first quarter of 1981.

The Board said that FRA's approach in addressing numerous

recommendations in a single comprehensive program may ultimately offer overall remedial action; however, interim developments, such as luggage retention, emergency lighting, and other passenger protection information should be promulgated into regulatory form when the data becomes known. The Board said it would retain these parts of R-77-13 in an open status, awaiting issuance of passenger protection regulations, but urged FRA to consider the building block approach in appropriate areas.

Regarding (4), concerning the prevention of a passenger train from entering an occupied block, the Safety Board said it is not inflexible in the method used to fulfill the objective of this part of the recommendation. While an automatic train stop installation has definite merits, the Board is willing to consider other approaches to prevent collisions, particularly those collisions involving passenger trains.

The Board's March 19 letter particularly noted FRA's statement of intention to initiate efforts in developing minimum training and testing programs for operating employees. This remedial intent was expressed in FRA responses to several recommendations: letters of July 26, 1976, and May 13 and August 22, 1977, commenting on R-76-3, R-76-50, and R-76-29 and 30. Additionally, employee training and testing were discussed in the FRA/NTSB Quarterly Meeting of October 27, 1977, at which time the Board was advised that FRA's target date for analyzing carrier responses addressing this subject was the second half of 1978. The Board also asked FRA about its present schedule of proposed rulemaking for employee training and testing, and said that this part, (4), of R-77-13 would also remain in an open status.

In its October 12 response, directed to part (4) of R-77-13, FRA states that the role of Government is not to promulgate forced training standards but to work cooperatively with rail unions and rail companies in identifying training needs, developing quality training curricula and assisting in the delivery of such training. In light of this approach, FRA encourages the Board to reconsider its recommendations regarding regulations while FRA works toward the same end but in a different manner.

R-79-42 through 52.—On October 15 the Bay Area Rapid Transit District (BART) provided a response to the Safety Board's recommendations issued August 2 following investigation of the fire which occurred last January 17 on two cars of a seven-car train while the train was moving through the tunnel between Oakland and San Francisco,

Calif. The recommendations sought review or revision of BART emergency procedures and improved equipment which would permit uncoupling of cars from within a train in an emergency. (See 44 FR 46964, August 9, 1979.)

BART's response included a 40-page attachment, "Transbay Tube Emergency Plan," and a 39-page attachment, "Berkeley Hills Tunnel Emergency Plan," which spell out the responsibilities of key personnel in the event of a Transbay Tube fire or tunnel emergency. Duties are specified for the Control Center, Train Operators, Police Services, Central Supervisor, Power Controller, Train Controller, Power and Way Coordinator, Communication Specialist, Trouble Desk, and Vehicle Desk. BART notes that the San Francisco, Oakland, and Orinda Fire Departments and the California Public Utilities Commission have concurred with these plans.

Upon knowledge of a report of smoke/ fire on a train in or entering the Transbay Tube, provision is made to immediately notify both the San Francisco and Oakland Fire Departments, using the fire department direct telephone (red phone). At the request of local fire departments, BART plans to participate in a test program to assess the limitations existing regarding portable radios when used on the scene. Also, BART police officers are presently being trained in the use of 4-hour closed circuit breathing apparatus, and it is BART's intention to provide six such units in the police van for emergency response. All emergency vehicle operators have been trained in the use of demand breathing apparatus and such equipment has been placed on the emergency vehicle for their use.

BART further reports that a second train radio frequency has been approved by the Federal Communications Commission for use on the BART system. BART is presently working on designs and cost estimates for modification of all train radio equipment to use this second frequency. BART is now testing seat materials to determine which materials provide the most acceptable flame-retardant/toxicity characteristics. A decision on the design of the placement seat cushions was to have been made in October 1979, with replacement to proceed shortly thereafter. Concurrent with the seat replacement, a program to coat or replace interior fiberglass liners and coat critical underside floor areas with fire retardant coatings is in the design/test stage with implementation to follow seat replacement. Undercar equipment has been reviewed and evaluated to

determine which areas are most likely to produce enough heat to cause fires. In some cases, plans are to modify electronic circuitry to preclude the buildup of heat. In others, heat shields will be installed. Finally, BART plans to coat areas along the sidewall floor juncture with fire retardant materials to slow fire progress through this location.

BART engineers have designed and tested on one car a modification which will allow vehicle uncoupling circuitry to be electrically isolated from other vehicles in the consists. This modification is presently undergoing design review to make sure that it does not pose a safety problem during normal operations. California Public Utilities Commission approval of the final design will then be sought.

R-79-53.—Also as a result of the BART fire investigation, the Safety Board recommended that the American Public Transit Association (APTA) review and revise as necessary vehicle inspection procedures and emergency evacuation guidelines for Association members to correct deficiencies noted in this investigation.

APTA's response letter, dated October 30, speaks of reviews and revisions made to its publication, *Moving People Safely*, which provides safety guidelines for rail transit, including vehicle inspections, emergency evacuation procedures, and related safety measures. APTA notes that this publication can only suggest what safety-related areas should be considered. It is the responsibility of each rail transit system to interpret guidelines as they deem appropriate.

Further, APTA notes that there are several means through which each transit system can avail itself of improved vehicle maintenance and emergency evacuation procedures. One is a system safety program plan. Through this a transit can document all safety-related procedures and implement a comprehensive safety program. The Transportation Safety Institute (TSI) in Oklahoma City is currently developing safety training courses for FY 1980, one of which is an emergency procedures seminar. APTA is cooperating with TSI in this effort. Transit system personnel will participate in this. Also, transit industry representatives communicate individually or collectively through APTA in areas of mutual interest.

R-79-54 and 55.—These recommendations were also directed on August 2 to the Urban Mass Transportation Administration (UMTA), U. S. Department of Transportation, as a result of the BART fire investigation. Recommendation R-79-54 called on

UMTA to promulgate regulations establishing minimum fire safety standards for the design and construction of Rapid Transit Vehicles, and R-79-55 to establish overview of Bay Area Rapid Transit District procedures to ensure that the emergency deficiencies noted in this investigation received appropriate remedial action.

In response to R-79-54, UMTA reports working to establish such requirements and planning to officially promulgate its fire safety design standards early in 1980. A preliminary set of UMTA sponsored guidelines has already been in widespread use in rail car specifications on a voluntary basis. All rail cars currently being procured will comply with these guidelines. In a related activity, UMTA is establishing standard specifications for both rapid rail and light rail vehicles. These specifications will be completed by early 1980 and will contain UMTA's fire safety design standards.

With respect to R-79-55, UMTA says it has already taken action on this recommendation. On September 11, 1979, the UMTA Director of Safety and Product Qualification met with BART's General Manager and the Director of Safety for a preliminary review of all of their fire safety improvement actions. These include the Safety Board's recommendations. UMTA will maintain close surveillance over this program, including on-site reviews, to ensure that the safety improvements are promptly and satisfactorily enacted. UMTA's monitoring will continue until all these safety actions are closed out.

UMTA suggests that both of these activities be placed on the agenda for the next quarterly meeting between the Safety Board and UMTA.

Note.—Single copies of the Safety Board's reports are available without charge, as long as limited supplies last. Copies of recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of reports issued by the Safety Board may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA, 22151.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,
Federal Register Liaison Officer.
November 9, 1979.

[FR Doc. 79-35263 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

November 1, 1979.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of November 1, 1979 of one rescission proposal and 31 deferrals contained in the first special message of FY 1980. This message was transmitted to the Congress on October 1, 1979.

Rescission (Attachment A)

Attachment A reflects the rescission proposal of \$114 thousand contained in the first special message for FY 1980.

Deferrals (Table A and Attachment B)

As of November 1, 1979, \$587.0 million in 1980 budget authority was being deferred from obligation and another \$2.0 million in 1980 obligations was being deferred from expenditure. Table A summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during FY 1980.

Information From Special Messages

The special message containing information on the rescission and the deferrals covered by the cumulative report is printed in the *Federal Register* of Friday, October 5, 1979 (Vol. 44, No. 195, Part IX).

Table A.—Status of 1980 Deferrals

	Amount (in millions of dollars)
Deferrals proposed by the President.....	\$1,003.2
Routine Executive releases (—21.0 million) and adjustments (—\$393.1 million) through November 1, 1979.....	—414.1
Overtaken by the Congress.....	0
Currently before the Congress.....	589.1 ¹

¹This amount includes \$2.0 million in outlays for a Department of the Treasury deferral (D80-23).

James T. McIntyre, Jr.,
Director.

BILLING CODE 3110-01-M

V
4
4
N
0
1
5
7
9
U
M
I

PAGE 1	ATTACHMENT A	STATUS OF DEFERRALS	FISCAL YEAR 1980	AS OF 11/02/79 14 36
AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED PREVIOUSLY BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR
OTHER INDEPENDENT AGENCY				
International Communication Agency				
Special International Exhibitions	RA		114	10 1 79
	DRQ- 1			
TOTAL RA			114	

END OF REPORT

PAGE 1	ATTACHMENT B	STATUS OF DEFERRALS	FISCAL YEAR 1980	AS OF 11/05/79 10 48
AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT				
International Security Assistance				
Economic support fund	RA DRQ- 1	100.000		10 1 79
DEPARTMENT OF AGRICULTURE				
Forest Service				
Timber salvage sale	RA DRQ- 2	9.298		10 1 79
Expenses, brush disposal	RA DRQ- 3	32.060		10 1 79
Restoration of forest lands	RA DRQ- 4	38		10 1 79
DEPARTMENT OF AGRICULTURE TOTAL RA		41.396		41.396
DEPARTMENT OF COMMERCE				
National Oceanic and Atmospheric Administration				
Construction	RA DRQ- 5	7.000		10 1 79
Coastal zone management	RA DRQ- 6	20.000		10 1 79
Promote and develop fishery products and research	RA DRQ- 7	2.400	-2.400	10 1 79
Fisheries loan fund	RA DRQ- 8	5.300		10 1 79

PAGE 2	AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	ATTACHMENT B STATUS OF DEFERRALS - FISCAL YEAR 1980	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	AS OF 11/05/79 10.48
	DEPARTMENT OF COMMERCE			34,700			-2,400		32,300
	TOTAL PA								
	DEPARTMENT OF DEFENSE-MILITARY								
	Military Construction								
	Military construction, all services			31,386		10 1 79	-12,000		19,386
	PA D80-9								
	DEPARTMENT OF DEFENSE-CIVIL								
	Wildlife Conservation, Military Reservations								
	Wildlife Conservation, all services			595		10 1 79			595
	PA D80-10								
	DEPARTMENT OF ENERGY								
	Energy Programs								
	Fossil energy construction			50,000		10 1 79			50,000
	PA D80-11								
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
	Alcohol, Drug Abuse & Mental Health Administration								
	Construction & renovation, St. Elizabeths Hospital			23,314		10 1 79			23,314
	PA D80-12								
	Human Development Services								
	White House Conference on Aging			4,649		10 1 79			4,649
	PA D80-13								
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE			27,963					27,963
	TOTAL PA								

PAGE 3	AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	ATTACHMENT B STATUS OF DEFERRALS - FISCAL YEAR 1980	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	AS OF 11/05/79 10.48
	DEPARTMENT OF THE INTERIOR								
	Heritage Conservation and Recreation Service								
	Land and water conservation fund			30,000		10 1 79			30,000
	PA D80-14								
	Geological Survey								
	Payments from proceeds, sale of water			39		10 1 79			39
	PA D80-15								
	Bureau of Mines								
	Drainage of anthracite mines			1,137		10 1 79			1,137
	PA D80-16								
	DEPARTMENT OF THE INTERIOR			31,176					31,176
	TOTAL PA								
	DEPARTMENT OF JUSTICE								
	Federal Prison System								
	Buildings and facilities			22,853		10 1 79			22,853
	PA D80-17								
	DEPARTMENT OF STATE								
	Other								
	Emergency, refugee and migration assistance fund			5,650		10 1 79	-5,000		650
	PA D80-18								
	DEPARTMENT OF TRANSPORTATION								
	Federal Aviation Administration								
	Civil supersonic aircraft development termination			5,004		10 1 79			5,004
	PA D80-19								
	Facilities & equip (airport & airway trust fund)			138,211		10 1 79			138,211
	PA D80-20								

PAGE 4				ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980				AS OF 11/05/79 10:48			
AMOUNTS IN THOUSANDS OF DOLLARS				DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB / AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-79
AGENCY/BUREAU/ACCOUNT											
Urban Mass Transportation Administration											
Urban mass transportation fund				BA D80-21	393,076		10 1 79			-393,076	
DEPARTMENT OF TRANSPORTATION											
TOTAL BA					536,291					-393,076	143,215
DEPARTMENT OF THE TREASURY											
Office of Revenue Sharing											
State and local government fiscal assistance fund				BA D80-22	79,548		10 1 79	-5			79,543
TOTAL BA											
TOTAL BA					2,735		10 1 79	-686			2,049
Bureau of the Mint											
Construction of mint facilities				BA D80-24	3,230		10 1 79				3,230
DEPARTMENT OF THE TREASURY											
TOTAL BA					82,778			-5			82,773
TOTAL BA					2,735			-686			2,049
OTHER INDEPENDENT AGENCIES											
Federal Emergency Management Agency											
Emergency planning, preparedness, and mobilization				BA D80-25	80		10 1 79				80
Foreign Claims Settlement Commission											
Payment of Vietnam prisoner of war claims				BA D80-26	1,800		10 1 79	-940			860
International Communication Agency											
Acquisition & construction of radio facilities				BA D80-27	10,973		10 1 79				10,973

PAGE 5				ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980				AS OF 11/05/79 15:41			
AMOUNTS IN THOUSANDS OF DOLLARS				DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB / AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 11-01-79
AGENCY/BUREAU/ACCOUNT											
National Alcohol Fuels Commission											
Salaries and expenses				BA D80-28	250		10 1 79				250
National Commission on Social Security											
Salaries and expenses				BA D80-29	250		10 1 79				250
Navajo & Hopi Indian Relocation Commission											
Salaries and expenses				BA D80-30	5,300		10 1 79				5,300
Tennessee Valley Authority											
Tennessee Valley Authority fund				BA D80-31	17,000		10 1 79				17,000
OTHER INDEPENDENT AGENCIES											
TOTAL BA					35,653			-940			34,713
TOTAL BA					1,000,441			-20,345			980,096
TOTAL BA					2,735			-686			2,049

FOOTNOTES

- a. Congressional action on the 1980 Transportation and Related Agencies Appropriation Bill (H.R. 4420) provides for the rescission of these funds.

[FR Doc. 79-35207 Filed 11-14-79; 8:45 am]

BILLING CODE 3110-01-C

Meeting; President's Commission for a National Agenda for the Eighties**AGENCY:** Office of Management and Budget.**ACTION:** Notice of meeting

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given that the first meeting of the President's Commission for a National Agenda for the Eighties is scheduled to be held from 9 a.m. to 6 p.m., November 26, 1979, in the 6th Floor Conference Room, Federal Home Loan Bank Building, 17th and G Streets, Northwest, Washington, D.C.

The purpose of the initial meeting is to begin formulation of a preliminary agenda identifying issues for further study by the Commission.

Because of limited space, those interested in attending are asked to call the Commission's office beforehand. Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Cramer, President's Commission for a National Agenda for the Eighties, 744 Jackson Place, NW, Washington, D.C., (202) 275-0616.

David R. Leuthold,
Budget and Management Officer.

[FR Doc. 79-35266 Filed 11-14-79; 8:45 am]

BILLING CODE 3110-01-M

Federal Employee Parking Facilities

ACTION: Circular A-118, Transmittal Memorandum No. 1, dated November 8, 1979.

SUMMARY: The definition of those handicapped personnel exempt from a fee for parking at Federal facilities has been modified based on consultation with the President's Committee on Employment of the Handicapped and the Architectural and Transportation Barriers Compliance Board. The previous definition would have had the unintended effect of excluding some severely handicapped individuals.

November 8, 1979.

Circular No. A-118,
Transmittal Memorandum No. 1.

To the Heads of Executive Departments and Establishments

Subject: Amendments to Circular A-118—
Federal Employee Parking Facilities

1. Purpose. This transmittal memorandum provides several changes to definitions or requirements contained in Circular A-118.

2. Handicapped personnel. In lieu of paragraph 5(i), substitute the following new definition:

5(i). *Handicapped Employees:* Employees who have a severe, permanent physical or mental impairment which, for all practical purposes precludes use of public transportation, and employees unable to operate a car as a result of a permanent impairment (e.g., the blind) and are driven to their place of employment by someone else, shall receive a parking space assignment without charge. Individuals who temporarily qualify for a handicapped parking space (e.g., due to a strained back, during convalescence from an illness or a broken leg) are not exempt. Personnel who qualify for handicapped parking are encouraged to sponsor and participate in a carpool which could use the space assigned. Agency heads may exercise discretion in the application of this provision to special circumstances.

Any parking payments collected after November 1, 1979, from personnel who qualify under this definition should be refunded.

3. *Reporting.* The reporting requirement of section (3) in paragraph 14 is rescinded. Other reporting requirements remain in effect.

4. *Parking Control Devices.* The procurement and installation by agencies of parking area control devices such as fences, guard rails, electronically-actuated gates and similar devices is to be discouraged pending several months experience with the fee parking policy. Premature actions are to be avoided because such devices may not be needed, or may be inappropriately located if installed without the benefit of experience. Administrative techniques of permit issuance and spot enforcement are preferred control methods.

James T. McIntyre, Jr.,
Director.

[FR Doc. 79-35265 Filed 11-14-79; 8:45 am]

BILLING CODE 3110-01-M

PRESIDENT'S COMMISSION ON PENSION POLICY**Report of Staff Contacts**

The President's Commission on Pension Policy has directed its staff to maintain and publish for the public record a listing of contacts of a substantive nature made with individuals, organizations, and groups interested in the activities of the Commission.

The following is the staff report of such contacts for the month of October.

Hay Associates, Inc.
Jack Carroll, Social Security Administration
Malcolm Morrison, U.S. Department of Labor
Arnold Strasser, Office of Management and Budget

Mike Romig, U.S. Chamber of Commerce
American Society of Pension Actuaries
(annual conference)

Dan Halperin, U.S. Department of the Treasury

John Magruder, Office of Management and Budget

Andrea Ball and Al Ehrbar, *Fortune Magazine*

Don Hodgman and Bob Shriner, Chase Econometrics

Claudia Chesler, National Association of Manufacturers

National Commission on Social Security
Joe Anderson, Scientific Time Sharing Corporation

Teamsters Pension Fund (Western Conference)

Paul Fisher, independent consultant
Al Fischer, Hay Associates

Market Facts, Inc.

SRI International, Inc.

Peat, Marwick and Mitchell

Martha Yohalem and Lois Alexander, Social Security Administration

Mathematica Policy Research, Inc.

Urban Institute

Emerson Beier, Pension Benefit Guaranty Corporation

Joe Stahl and Robert Moore, Alexander and Alexander

Michigan Chapter, Midwest Pension Conference

Judith Selvidge, Universal Coverage Study Group

Dave Mathieson, Office of Management and Budget

Employee Benefit Group

Paul Wachtel, Federal Reserve Bank, New York City

Edith Fierst, White House Task Force on Women

Brad Schiller, American University

Tom Borozelli, National Association of Retired Persons

Bryant Robeley, editor of *Demographics*

Nelson McClung, U.S. Department of the Treasury

Dallas Salisbury, Employee Benefit Research Institute

Linda Taylor, United Mine Workers Pension Fund

Vince Cicconi, Pension Benefit Guaranty Corporation

Randy Barber, Peoples Business Commission

Elsie Hoexter, Pension Benefit Guaranty Corporation

Karen Ferguson, Pension Rights Center

Judy Wolfson, Connecticut General Life Assurance

Ron Timms, U.S. League of Savings Associations

Chuck Genrich, Genrich Corp.

Rick Cooper, Coopers & Lybrand

Doug Sorenson, U.S. Department of the Treasury

Tom Hickey, attorney.

Signed at Washington, D.C., this 9th day of November 1979.

Thomas C. Woodruff,

Executive Director.

[FR Doc. 79-35302 Filed 11-14-79; 8:45 am]

BILLING CODE 6820-99-M

SECURITIES AND EXCHANGE COMMISSION**Bradford Securities Processing Service, Inc. ("BSPS"); Order Approving Proposed Rule Change**

(SR-BSPS-79-2; Release No. 16324)

November 6, 1979.

On August 28, 1979, BSPS filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change establishing a rule defining the term "participant."

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-16204, September 14, 1979) and by publication in the *Federal Register* (44 FR 54654, September 20, 1979). No written comments were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35186 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

General Electric S & S Long-Term Interest Fund; Notice of Filing of Application for Exemption From the Act as Employees' Securities Company

[613-48; Rel. No. 10929]

Notice is hereby given that General Electric Company ("Applicant") filed an application on August 17, 1979, for an order of the Commission pursuant to Section 6(b) of the Investment Company Act of 1940 ("Act"), exempting the General Electric S & S Long Term Interest Fund ("LT Fund") 112 Prospect Street, Stamford, Conn. 06904, to be organized under the General Electric Savings and Security Program ("Program"), from certain provisions of the Act. Specifically, Applicant requests that LT Fund be exempted from the following sections of the Act and the

Rules and Regulations promulgated thereunder: Section 8(b); Section 10(a); Section 13(a)(4), with the proviso that termination of LT Fund by Applicant shall not deprive participants in the Program of Applicant's contributions which have been credited to their account but which have not then vested; Section 15; Section 16(a); Section 18(i); Sections 22(e) and (f); Section 24; Section 30(d) to the extent that a report to participants more than once a year may be required; and Section 32(a)(1). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Program was instituted on January 1, 1959, in order to provide employees of Applicant and its participating affiliates an opportunity for regular personal savings.

The Program applies, in addition to Applicant itself, to any corporation 50% or more of whose voting stock is owned directly or indirectly by Applicant, and to Electric Mutual Liability Insurance Company and any of its affiliates, if such company or corporation elects to participate and such participation is approved by Applicant. Applicant states that Electric Mutual Liability Insurance Company is a mutual insurance company organized under the laws of Massachusetts, and that Applicant is the principal policy holder in that company. Applicant undertakes not to approve participation in the Program by any affiliate of Electric Mutual unless that company is an affiliate of Electric Mutual within the meaning of Sections 2(a)(2) and 2(a)(3) of the Act.

Employees, other than an officer or director, may enroll in the Program by contributing, through payroll deductions, up to 7 percent of earnings. Union-represented employees are eligible only if an agreement with the Union permits Applicant to offer the Program to such employees. For certain employees (primarily non-exempt salaried and hourly-rated employees to whom general pay raises apply) there are differences in pay rates depending on whether the employee elects to participate in the Program. Applicant makes a proportionate payment for the account of the employee equal to fifty percent of the employee's contribution. An employee presently has investment choices permitting the total amount credited to his account to be invested in (i) United States Savings Bonds, (ii) units of participation in the General Electric S & S Program Mutual Fund (the "Mutual Fund"), (iii) General Electric Common Stock and (iv) Life Insurance.

Securities credited to a participating employee are retained by the Savings and Security Trust, which has been organized to implement the Program, for a period which ends on the first day of January three years after the end of the year in which such securities are initially credited ("Holding Period"). At the end of the Holding Period, such securities are distributed to the employee. Prior to the expiration of a particular Holding Period, an employee may elect to leave all securities and cash, or only a portion thereof relating to the proportionate payment by Applicant, in a Retirement Option Account in the Savings and Security Trust ("Retirement Option Account") until termination of employment. Amounts in the Retirement Option Account may be withdrawn in certain cases specified under the Program prior to termination of employment. The Savings and Securities Trust has qualified under Section 401(a) of the Internal Revenue Code of 1954 as exempt from federal income taxes under Section 501(a) of the Code. Thus, the Savings and Security Trust is excepted from the definition of an "investment company" by virtue of the provisions of Section 3(c)(11) of the Act.

Applicant states that on August 3, 1979, pursuant to negotiations with the labor unions representing its employees, certain principal changes in the Program were approved, as of July 1, 1979. Applicant further states that these changes will go into effect on January 1, 1980 and will be made available to non-represented employees as well as union employees. Applicant states that one of the principal modifications is the following: two additional investment media have been established for Program participants: (a) The General Electric S & S Holding Period Interest Fund ("HP Fund"), and (b) LT Fund. Applicant states that HP Fund will, as a separate investment medium within the Savings and Security Trust, be operative only during the Holding Period. Applicant further states that upon expiration of the Holding Period, units of participation in HP Fund ("HP Fund Units") will automatically be converted into an equivalent number of units of participation in LT Fund and either distributed to the participating employee or held in the Retirement Option Account pursuant to a previous election of such employee.

LT Fund will be a trust created pursuant to the Program by an agreement between Applicant and the LT Fund Trustees. It is intended that LT Fund come within the definition of an "employees' securities company" as

defined in Section 2(a)(13) of the Act. Specifically, units of participation in LT Fund ("LT Fund Units") (i) shall be acquired at the expiration of the Holding Period with respect to amounts previously invested in HP Fund Units, and (ii) may be acquired in the Retirement Option Account under the Program through certain other features of the Program more fully described in the application.

With respect to LT Fund Units converted from HP Fund Units at the expiration of the Holding Period, such LT Fund Units will be distributed to the participating employee at the expiration of the correlative Holding Period. LT Fund Units elected for retention in the Retirement Option Account will be distributed to the participating employee upon termination of employment unless such participating employee has elected to have amounts in the Retirement Option Account distributed in cash installments or in the form of an annuity distribution. LT Fund Units will be transferable only to members of the participating employee's immediate family. LT Fund Units will only be made available to eligible employees who have elected to participate in the Program and to the immediate families of such employees. Like the Mutual Fund, LT Fund will not qualify as an exempt trust under the Code because employees may receive distributions of LT Fund Units from the Savings and Security Trust prior to retirement and may retain such units after retirement, thereby continuing their interest in the LT Fund outside of the Savings and Security Trust (which is qualified under Section 401 of the Code). Applicant states that, absent this feature, LT Fund would be exempt from the Act pursuant to Section 3(c)(11). The principal purpose of the proposed new LT Fund is to broaden the investment opportunities available to Applicant's employees under the Savings and Security Program by offering them the possibility of achieving in a fund holding debt securities, a high rate of return on their investment over a long-term period.

In accordance with the investment objectives of LT Fund and various restrictions on investments by it, as set forth in the Rules of the Funds ("Rules"), LT Fund may invest in a portfolio consisting generally of debt securities, including contracts with insurance companies, corporate bonds, preferred stock, real estate mortgages, U.S. Government obligations and other types of fixed income investments. Applicant will attempt to qualify LT Fund as a "regulated investment company" within the definition of the Code. Dividends of

net investment income from the LT Fund will be declared and allocated each day and distributed as of the last day of each month. Distributions of net capital gains realized from the sale of LT Fund portfolio securities will be distributed early in the year following the year in which such amounts are realized. Distributions from LT Fund to the Savings and Security Trust will be in the form of additional LT Fund Units; the Savings and Security Trust is exempt from Federal income taxes on these distributions. Distributions to persons holding LT Fund Units outside of the Savings and Security Trust ("Holders") will be in the form of additional LT Fund Units unless the Holder elects to receive cash.

The LT Fund Trustees will be employees of Applicant designated by the General Electric Benefit Plan Investment Committee, which consists of senior officers of Applicant selected by Applicant's Board of Directors. It is expected that initially the LT Fund Trustees will be the same persons now serving as Trustees of the Savings and Security Trust, which persons have extensive experience in investment and financial affairs. The LT Fund Trustees are expected to meet monthly and will provide review of LT Fund's investment program.

It is expected that LT Fund Trustees will contract with General Electric Investment Corp. ("GEIC"), a registered investment adviser and a wholly-owned subsidiary of Applicant, to provide investment management services for LT Fund. Except with respect to custodial services which will be arranged by the LT Fund Trustees, the investment manager will also perform investment administrative services for LT Fund.

As indicated, Applicant contends that LT Fund meets the definition of an "employees' securities company" contained in Section 2(a)(13) of the Act and should, as such, be exempted from certain provisions of the Act pursuant to Section 8(b). Section 2(a)(13) provides that, "Employees' securities company" means any investment company or similar issuer all of the outstanding securities of which (other than short-term paper) are beneficially owned (A) by the employees or persons on retainer of a single employer or of two or more employers each of which is an affiliated company of the other, (B) by former employees of such employer or employees, (C) by members of the immediate family of such employees, persons on retainer, or former employees, (D) by any two or more of the foregoing classes of persons, or (E) by such employer or employers together

with any one or more of the foregoing classes of persons." Section 8(b) of the Act provides that, "Upon application by any employees' securities company, the Commission shall by order exempt such company from the provisions of the Act and of the rules thereunder, if and to the extent that such exemption is consistent with the protection of investors. In determining the provisions to which such an order shall apply, the Commission shall give due weight, among other things, to the form of organization and the capital structure of such company, the persons by whom its voting securities, evidences of indebtedness, and other securities are owned and controlled, the prices at which securities issued by such company are sold and the sales load thereon, the disposition of the proceeds of such sales, the character of the securities in which such proceeds are invested, and any relationship between such company and the issuer of any such security."

In support of the requested exemptions, Applicant points to the safeguards for employee interests inherent in the Program, the Rules and the LT Fund Trust Agreement. Applicant notes, for example, that the Program, one part of which will be LT Fund, is one of Applicant's principal employee benefit plans. Applicant emphasizes that it makes a contribution equal to one-half of the amount of each participating employee's contributions under the Program, and states that in 1978 Applicant's contribution under the Program amounted to approximately \$88,000,000. Applicant states that when implemented, a significant portion of the amounts invested in LT Fund will be attributable to Applicant's contributions. Applicant thus asserts that the success of the Program and of LT Fund is of great importance to Applicant to assure that its contributions provide maximum benefit to participating employees. Applicant further states that in general there are no conflicts of interest between Applicant and employees participating in the Program. Applicant states in particular that (1) LT Fund will not be permitted to purchase securities of Applicant or its affiliates, or of GEIC; and (ii) will not, unless otherwise permitted by law, purchase from or sell directly to any of its officers or Trustees, or to GEIC or the officers or directors of GEIC, or any other affiliate of LT Fund or any affiliate of such affiliate, portfolio securities or other property of LT Fund.

Applicant further notes that there are no sales or redemption charges imposed upon employees with respect to the

Program, nor will any such charges be imposed by LT Fund. It is further stated that the investment management fee which will be paid by LT Fund will consist only of reimbursement of the investment manager's pro-rata costs of managing LT Fund and, together with the operational expenses of LT Fund, will be the only charges to be paid out of LT Fund assets. All other costs of Program administration (as distinguished from those costs relating exclusively to LT Fund operation), Applicant states, will be borne by Applicant.

Applicant points out, in addition, that the persons who will serve as LT Fund Trustees are experienced employees assigned to that segment of Applicant's business which involves the investment of assets held by Applicant's several employee benefit plans. Thus, Applicant states, such persons have extensive investment and financial experience. It is further noted that LT Fund Trustees will receive no compensation for their service as LT Fund Trustees. Applicant maintains that although GEIC, LT Fund's investment manager, is a wholly-owned subsidiary of Applicant and the prospective LT Fund Trustees are officers of GEIC, the LT Fund Trustees would, in exercising their fiduciary obligations with respect to LT Fund, review objectively and thoroughly the performance of GEIC on a monthly basis. Applicant further represents that the performance of the investment manager will be subject to annual review by LT Fund Trustees.

As additional safeguards for employee interests in LT Fund, Applicant cites the fact that the investment policies of LT Fund cannot be modified, except by a vote of the participating employee-investors; that units of participation in the Program, including the LT Fund Units, will continue to be registered under the Securities Act of 1933 ("Securities Act"), and a Securities Act prospectus describing the Program, including the investment policies of LT Fund, will be distributed annually to Applicant's employees; that Applicant will publish reports of LT Fund Unit valuations in plant newspapers, or through other media of communication, on a monthly basis; that the accounts maintained by the LT Fund Trustees will be subject to examination by Applicant and to annual audit by independent public accountants appointed by Applicant; and that the LT Fund Trustees will be required to submit an annual report, which will be distributed to all participating employees having LT Fund Units credited to their accounts, and to

individual Holders of LT Fund Units. Finally, Applicant notes that participating employee-investors will have the protections afforded by Section 17 of the Act, the investment manager will not be promoting the sale of LT Fund Units and that neither Applicant nor GEIC stand to realize any profit as a result of the operation of LT Fund.

Notice is further given that any interested person may, not later than November 30, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-35184 Filed 11-14-79; 6:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16323; File No. SR-SCCP 79-3]

Stock Clearing Corp. of Philadelphia; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 29, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadelphia (SCCP) proposes a Rule change establishing special clearing arrangements for C.O.D. purchases at a higher clearance charge than for CNS processing. The fee for this service is the regular \$1.00 per item for trade recording plus a settlement charge of \$0.75 per hundred shares. There is a minimum settlement charge of \$4.50 and a maximum of \$75.00 per item.

Statement of Basis and Purpose

The purpose of the proposed Rule change is to amend an existing fee schedule to make it more cost related.

The proposed Rule change provides equitable allocation of fees and other charges among members in accordance with standards set forth in section 17A(b)(3)(D) of the Act.

Formal comments were not solicited.

No burden on competition will be imposed by the proposed Rule change. The proposed rate schedule does not discriminate between marketplaces nor does it inhibit clearing interfaces.

The foregoing Rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed Rule change, the Commission may summarily abrogate such Rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 6, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

November 6, 1979.

[FR Doc. 79-35185 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

[812-4538; Rel. No. 10933]

The Western Insurance Securities Co.; Notice of Application Pursuant to Section 3(b)(2)(B) of the Act for an Order Declaring That Company Is Not an Investment Company

November 7, 1979.

Notice is hereby given that The Western Insurance Securities Company ("Applicant"), 916 Walnut Street Building, Kansas City, Missouri 64106, a corporation incorporated under the laws of Delaware in October, 1925, filed an application on October 4, 1979, for an order of the Commission pursuant to Section 3(b)(2)(B) of the Investment Company Act of 1940 ("Act"), finding and declaring the Applicant to be primarily engaged, through controlled companies conducting similar types of business, in a business other than that of investing, reinvesting, owning, holding or trading in securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, approximately 99.7% of the assets of the Applicant consists of its investment in the capital stock of Western Casualty and Surety Company (the "Casualty Company"). The Casualty Company and its two (directly and indirectly) wholly-owned subsidiaries are engaged in the property and casualty insurance business. The balance of the Applicant's assets (approximately .3 of 1%) consists of cash and commercial paper. According to the application, the Applicant owns 1,671,120 shares out of 3,975,600 shares of capital stock of the Casualty Company outstanding, or approximately 42.03% of the Casualty Company's outstanding capital stock. For the year ended December 31, 1978, the equity of the Applicant in the earnings of the Casualty Company was \$12,775,380 and all other income of the Applicant consisted of interest from other sources in the amount of \$27,834.

Applicant indicates that except as stated below, it has no knowledge of any person holding as much as 5% of the outstanding common stock of the Casualty Company. Officers and directors of the Applicant and members

of their families and affiliated entities own an aggregate of approximately 44,233 shares or 1.1% of the outstanding capital stock of the Casualty Company, which, it is asserted, reinforces the dominant stock ownership position of the Applicant.

As of September 4, 1979, there were 364,532 shares of the capital stock of the Casualty Company held in the name of Cede & Co., a central depository for financial organizations.

Occidental Life Insurance Company of California ("Occidental") has filed a Schedule 13D and amendments thereto with the Commission with respect to the ownership by it and its affiliated persons of capital stock of the Casualty Company. According to its most recent amendment dated October 20, 1977, to its Schedule 13D, Occidental and its affiliates at that time owned an aggregate of 358,700 shares of capital stock of the Casualty Company. The application indicates that Occidental has stated that its purchases of Casualty Company capital stock were made solely as an investment and not for the purposes of changing or influencing the control of the Casualty Company. Occidental has no representation on the board of directors of or similar arrangements with the Casualty Company and pursuant to Kansas insurance regulations has filed a Disclaimer of Affiliation with respect to the Casualty Company.

The Applicant states that its principal asset has historically consisted of the stocks of the Casualty Company and its subsidiaries. At the annual meeting of the stockholders of the Applicant on November 7, 1928, it was reported that all of the outstanding stocks of the Casualty Company and of The Western Fire Insurance Company were owned by the Applicant. (Subsequently, The Western Fire Insurance Company became a wholly-owned subsidiary of the Casualty Company.) The percentage of ownership by the Applicant of the outstanding capital stock of the Casualty Company was gradually reduced over the decades, primarily by reason of underwritten public offerings of Casualty capital stock in 1954, 1959 and 1962, which were made in order to provide working capital funds for Casualty's expanding business. The Applicant states that its control and domination of the Casualty Company and its subsidiaries and their operations has not diminished over the past 50 years.

The application states that the President of the Applicant is the Chairman of the Board of the Casualty Company and its two subsidiaries (hereinafter sometimes collectively

referred to as the "Western Insurance Companies"); the Secretary of the Applicant is the Secretary of the Western Insurance Companies; the Treasurer of the Applicant is the Assistant Secretary, Financial, of the Western Insurance Companies. The Applicant states that all three of these executives are engaged virtually fulltime in directing the operations of the Western Insurance Companies and devote only a minimal amount of time to the affairs of the Applicant. The other officer of the Applicant is a director and the retired Secretary of the Casualty Company. Applicant states that it does not pay its officers for their services rendered to Applicant. The President, the Secretary and one other director of the Applicant comprise three of the five members of the Executive Committee of the Casualty Company. Of the ten directors of the Applicant, seven are active officers of one or more of the Western Insurance Companies and two of the remaining directors are retired officers of the Casualty Company. Five directors of the Applicant comprise one-half of the directors of the Casualty Company.

According to the application, the capital stock of the Applicant consists of 7,000 shares of authorized and issued 6% Cumulative Preferred Stock, 35,000 shares of authorized and issued Class A Stock and 500,000 shares of authorized and issued Common Stock. All voting powers are at present vested in the holders of Common Stock. The Applicant has approximately 166 Preferred stockholders, 243 Class A stockholders and 329 Common stockholders. No shares of any class of capital stock have been issued by the Applicant since 1929 except for a ten-for-one stock split of the Common Stock effected in 1964. Directors and officers of the Applicant and members of their families and affiliated entities own an aggregate of approximately 54.43% of the outstanding Common Stock of the Applicant.

The definition of an investment company as set forth in Section 3(a)(3) of the Act includes any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Investment securities are defined to include all securities except Government securities, securities issued by employee's securities companies, and securities

issued by majority-owned subsidiaries of the owner which are not investment companies.

Section 3(b) of the Act excepts from the definition of investment company set forth in Section 3(a)(3) of the Act any issuer which the Commission finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries, or (B) through controlled companies conducting similar types of business.

Section 2(a)(9) of the Act defines control to mean the power to exercise a controlling influence over the management or policies of a company, and states that any person who owns beneficially, either directly or through one or more controlled companies, more than 25 per centum of the voting securities of a company shall be presumed to control such company.

Because the Casualty Company is not a majority-owned subsidiary of the Applicant, its securities owned by the Applicant are deemed for the purposes of Section 3(a)(3) of the Act to be investment securities. Securities of the Casualty Company held by the Applicant have a value exceeding 40% of the value of the Applicant's total assets so that the Applicant owns and holds "investment securities" which exceed in value more than 40% of the value of the Applicant's total assets.

Applicant requests that the Commission issue an order pursuant to Section 3(b)(2)(B) of the Act finding and declaring it to be primarily engaged, through controlled companies conducting similar types of business, in a business other than that of investing, reinvesting, owning, holding or trading in securities. Applicant asserts that it and its management are primarily engaged, through the Western Insurance Companies, in conducting a property and casualty insurance business. According to the Applicant, the Western Insurance Companies are presumed by the Act to be controlled companies of the Applicant by reason of stock ownership. It is stated that the interlocking directorates and substantially similar executive staffs of the Applicant and the Western Insurance Companies illustrate the extent to which the Applicant, historically and at present, has controlled and controls the Western Insurance Companies and their operations and through them is primarily engaged in the property and casualty insurance business.

Notice is further given that any interested person may, not later than

December 3, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35183 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21292; 70-6358]

Allegheny Power System, Inc.; et al.

November 9, 1979.

In the matter of ALLEGHENY POWER SYSTEM, INC., 320 Park Avenue, New York, New York 10022; ALLEGHENY PITTSBURGH COAL COMPANY, Cabin Hill, Greensburg, Pennsylvania 15601; MONONGAHELA POWER COMPANY, 1310 Fairmont Avenue, Fairmont, West Virginia 26554; THE POTOMAC EDISON COMPANY, Downsville Pike, Hagerstown, Maryland, 21740; and WEST PENN POWER COMPANY, Cabin Hill, Greensburg, Pennsylvania 15601; Notice of proposal to reorganize a wholly owned coal company subsidiary and to make open account advances to such subsidiary.

Notice is hereby given that Allegheny Power System, Inc. ("Allegheny"), a registered holding company, and its three electric utility subsidiaries, Monongahela Power Company ("Monongahela"), The Potomac Edison

Company ("Potomac") and West Penn Power Company ("West Penn"), and Allegheny Pittsburgh Coal Company ("AP Coal"), a jointly owned subsidiary of Monongahela, Potomac and West Penn, have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10 and 12 of the Act as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

AP Coal was organized under the laws of the Commonwealth of Pennsylvania in 1918 for, among other things, the purpose of developing, mining and selling coal.

AP Coal is authorized to issue 10,000 shares of \$0.05 par value common stock. Since 1974 AP Coal's common shares have been owned as follows:

Monongahela—2,500 shares
Potomac—2,500 shares
West Penn—2,500 shares

The principal assets of AP Coal are a coal reserve acquired in 1971 and the Cowen coal mine acquired in 1974. Its principal liabilities are the amounts remaining to be paid pursuant to the long-term installment purchase agreement for the Cowen Mine, about \$2.4 million each year for the next 6 years, and the interest bearing, open account cash advances which Monongahela, Potomac and West Penn have made primarily to enable AP Coal to finance the acquisition of the Cowen Mine. As of June 30, 1979, Monongahela, Potomac and West Penn have made open account advances aggregating \$5,077,550, \$5,077,550 and \$10,155,100 respectively. Except for the coal reserves which it holds, AP Coal is an inactive company.

It is proposed that Monongahela, Potomac and West Penn, prior to December 31, 1979, transfer their respective shares of AP Coal stock to Allegheny either by sale or as a dividend payment by each of the companies to Allegheny. The value of the shares to be transferred on behalf of each company, would be equal to the transferring company's equity investment in AP Coal on the transfer date. After the proposed reorganization, Allegheny would own 100% of the common stock of AP Coal.

Monongahela, Potomac and West Penn would indemnify Allegheny for any claims arising out of past operations of AP Coal in excess of the reserve for such claims on the books of AP Coal on the stock transfer date. After AP Coal's

reorganization, its liabilities would continue to include the obligation for the open account advances made by Monongahela, Potomac and West Penn unless they have been repaid or until such time as they are repaid from the proceeds of the open account advances described below or such other source of funds as may be available. The proposed transactions will have no effect on AP Coal's status as an inactive company.

It is further proposed that Allegheny make interest-bearing, open account cash advances to AP Coal from time to time as funds may be required, in an aggregate amount not to exceed \$35 million outstanding at any one time. Such advances would be prepayable at any time without premium or penalty and would bear interest at any annual rate equal to the actual cost to Allegheny of short-term borrowings.

The proceeds of the open account advances will be used for installment payments of about \$2.4 million each for the Cowen Mine, due on the first business day of January of each year through January 1985, to repay the open account advances from Monongahela, Potomac and West Penn, which as of August 31, 1979 total about \$20,300,000 and to provide AP Coal with funds necessary to pay real estate taxes, licensing fees and other expenses. The open account advances will not be used to provide funds for equipment or other purposes necessary to commence mining operations if in the future it should prove necessary or desirable for AP Coal to commence operations.

Allegheny proposes to obtain the additional funds necessary to make open account advances to AP Coal from internal cash generation and other funds available to APS including short-term borrowings. As of August 31, 1979, Allegheny had approximately \$1.1 million of short-term debt outstanding.

The fees, commissions and expenses to be incurred in connection with the proposed transactions are estimated at \$3,000. Various aspects of the proposed transactions are subject to the jurisdiction of the Pennsylvania Public Utility Commission, the Virginia State Corporation Commission and the West Virginia Public Service Commission. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 4, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires

to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.
George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35296 Filed 11-14-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 16333; SR-Amex-79-18]

American Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

November 9, 1979.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on October 29, 1979, the American Stock Exchange, Inc. filed with the Commission copies of a proposed rule change which amends the definition of spread and straddles orders, defines combination orders, and accords to combination orders the same limited priority which is accorded to spread and straddle orders.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Amex-79-18.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Commission, by publication of a Commission Release (Securities Exchange Act Release No. 16114, August 16, 1979) and by publication in the Federal Register (44 FR 49538, August 23, 1979) gave notice and opportunity to comment upon a similar rule proposal by the Chicago Board Options Exchange, Incorporated (SR-CBOE-79-8), which the Commission subsequently approved. No comments were received on the CBOE rule filing.¹

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35299 Filed 11-14-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16334/November 9, 1979; SR-Amex-79-19]

American Stock Exchange, Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 1, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

¹ See Securities Exchange Act Release No. 16127 (September 21, 1979), 44 FR 56413 (October 1, 1979).

Exchange's Statement of Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex") proposes to amend Exchange Rule 959.01 relating to accommodation trading of options. The Amendment to Rule 959.01 is set forth below (brackets indicate material deleted):

Rule 959. (a) No Change.
(b) No Change.

Commentary

.01 [In the event any part of a closing sell order which has been placed in the cabinet pursuant to paragraph (a) of this rule cannot be immediately executed, such order shall be filed in time sequence with any order(s) to sell at 1/16.]

[.02] No change.

Exchange's Statement of Basis and Purpose

The purpose of the proposed rule change is to delete Rule 959.01 which presently requires that closing sell orders which have been placed in the cabinet (and which cannot be immediately executed) also need to be filed in time sequence with orders to sell at 1/16 in the regular-way auction market.

Exchange Rule 959 permits the establishment of a cabinet to accommodate closing transactions in options series in which there is no auction market due to the absence of bids or offers at the lowest fractional price, 1/16 (\$.25), per contract. Only closing orders with a limit price of \$1 per contract are acceptable in the cabinet. Although specialists have the obligation to supervise the operation of the cabinet in their specialty options, cabinet trading does not involve any of the principles of the regular-way Exchange auction market other than time priority.

No opening orders may be entered or executed in the cabinet; therefore, such orders may not be "matched" against closing cabinet bids or offers. Consequently, the lowest price at which an opening buy order can be executed is at a price of 1/16 in the auction market. In 1977, Rule 959 was amended in order to give cabinet sell orders an opportunity to participate in this auction market. (See SR-Amex-77-15). The amendment provided for closing sell orders which could not be immediately executed in the cabinet to be elevated from the cabinet and filed in time sequence with any order(s) to sell at 1/16.

However, the Exchange has found that, in practice, this procedure is

confusing and operationally cumbersome. Until a closing sell order is executed—either in the cabinet or by its elevation to the auction market—it must be filed in time sequence in both places. During periods of heavy trading, the burden on the specialist to serve these orders does not appear justified by the execution of orders in the auction market at 1/16.

Cabinet trading was intended to be merely an accommodation to customers who wished to close out option positions and Exchange specialists have never charged any commissions for servicing such orders. Further, it was never intended that cabinet orders be part of the auction market. In addition, customers may always cancel their cabinet orders and enter them in the "regular way" auction market.

The Exchange has noted that the CBOE has filed comparable rule changes with the SEC so that cabinet orders no longer need to be elevated to the auction market. (See SR-CBOE-78-4).

The basis for the proposed rule change is found in Section 6(b)(5) of the Act, as amended, which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and protect investors and the public interest.

No comments on this proposed rule change have been solicited or received from members.

The Amex has determined that the proposed amendment will not impose any burden on competition.

On or before December 20, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-

mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 6, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

November 9, 1979.

[FR Doc. 79-35301 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21293; 70-6378]

Blackstone Valley Electric Co., et al.; Proposed Short-Term Borrowing

November 9, 1979.

In the matter of Blackstone Valley Electric Co., Washington Highway, P.O. Box 1111, Lincoln, Rhode Island 02865; Eastern Edison Co., 36 Main Street, Brockton, Massachusetts 02403; and Montaup Electric Co., P.O. Box 391, Fall River, Massachusetts 02722.

Notice is hereby given that Blackstone Valley Electric Company ("Blackstone"), Eastern Edison Company ("Eastern Edison") and Montaup Electric Company ("Montaup"), electric utility subsidiary companies of Eastern Utilities Associates, a registered holding company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a)(1), 7 and 12(c) of the Act and Rules 42(b)(2) and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Declarants propose to make borrowings from banks in the following maximum amounts to be outstanding at any one time during the period December 24, 1979, to December 31, 1980: Blackstone, \$3,200,000; Eastern Edison, \$19,700,000; and Montaup, \$63,500,000.

The borrowings will be evidenced by promissory notes dated the respective dates of issue, will have maximum maturities of nine months, will bear interest at the prime rate or at the prime rate plus a fraction thereof, will be issued no later than December 31, 1980 and will provide for prepayment at anytime without premium. Declarants have established credit lines with a number of banks and arrangements under such credit lines include, (1) borrowing at the prime rate with no formal compensating balances; (2) borrowing at the prime rate with

compensating balances not exceeding 20%; and (3) borrowing at the prime rate or the prime rate times a percentage thereof with a commitment fee based on a fraction of the prime rate. Assuming a prime rate of 15% and the maximum balance requirements of 20%, the effective interest rate would be 18.75%.

Proceeds of the borrowings are to be applied to (1) the renewal of notes payable as they become due, (2) finance their respective 1980 construction programs, which are estimated to be approximately \$4,700,000 in the case of Blackstone, \$10,600,000 in the case of Eastern Edison and \$50,200,000 in the case of Montaup; and (3) provide funds to meet certain sinking fund requirements in the case of Eastern Edison. It is stated that the proposed issuance of notes is exempted from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(2) thereof.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at 3,200. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 4, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.
George A. Fitzsimmons,
Secretary.
[FR Doc. 79-35295 Filed 11-14-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 21291; 31-772]

Theo. H. Davies & Co., Ltd.; Application for Exemption

November 9, 1979.

Notice is hereby given that Theo. H. Davies & Company, Limited ("Davies"), 841 Bishop Street, Honolulu, Hawaii 96813, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 2(a)(3)(A) of the Act as applicable. All interested persons are referred to the application, which is summarized below, for a complete statement.

Davies, a wholly-owned subsidiary of Jardine, Matheson & Co., Ltd. ("Jardine"), engages through its Davies Hamakua Sugar Company ("Plantation") division in the business of planting, cultivating, growing and harvesting sugar cane and processing the same to produce raw sugar and molasses. As a necessary incident to its factory operations, the company owns and operates facilities for burning sugar cane trash and bagasse to produce steam and generate electricity. The company consumes a part of the electric energy produced in its factory operations and sells the rest to a local public utility, Hawaii Electric Light Company, Inc. ("Helco").

Davies now has two boilers installed at its Plantation factories for burning cane trash and bagasse and expects that all components of the related electric generating equipment will be fully operational in 1981. The company estimates that, when operated to capacity, about 20% of the electricity it generates will be used in its sugar cane plant operations and the balance sold to Helco under a power purchase agreement. On this basis, Davies anticipates that sales to Helco in 1981 will amount to 83,500,000 Kwh, producing revenue of \$4,491,000 or about 4.4% of Davies' estimated operating revenue.

In the absence of an exemption, Davies would be deemed an "electric utility company" with the definition contained in Section 2(a)(3) of the Act. Davies states, however, that it is entitled to an exemption under clause (A) of Section 2(a)(3), inasmuch as it is primarily engaged in a business other than the business of a public utility

company and sells only a small amount of electric energy to a single purchaser for resale.

Notice is further given that any interested person may, not later than December 7, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including notice of the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.
George A. Fitzsimmons,
Secretary.
[FR Doc. 79-35297 Filed 11-14-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 21289; 70-6304]

Middle South Utilities, Inc.; Post-Effective Amendment Regarding Increase of Short-Term Borrowings

November 9, 1979.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed with this Commission a first post-effective amendment to the declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transaction. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transaction.

By order in this proceeding dated June 7, 1979, (HCAR No. 21093), Middle South entered into a revolving credit

agreement ("Credit Agreement") providing for the issuance and sale by Middle South of its unsecured short-term promissory notes to a group of banks headed by Manufacturers Hanover Trust Company. Under the terms of the Credit Agreement, Middle South is authorized to borrow and reborrow from the participating banks until June 27, 1980 up to an aggregate principal amount of \$174,800,000 outstanding at any one time, to be evidenced by its unsecured promissory notes payable June 27, 1980 ("Notes"). As of October 31, 1979, the principal amount of Middle South's Notes issued and outstanding under the Credit Agreement aggregated \$164,000,000.

Middle South now proposes to amend the Credit Agreement so as to increase from \$174,800,000 to \$226,820,000 the aggregate principal amount of Notes which Middle South may issue and sell to the participating banks thereunder. The reason for the proposed increase is to provide Middle South with the necessary financial flexibility in the event that proposed long-term financings are not obtainable by the company at planned dates due to unforeseen market conditions. Under the Credit Agreement, as proposed to be so amended, the Notes will be issued to participating banks to the extent of their revised commitments (collectively, the "Commitments") as follows:

Name of bank	Maximum principal amount authorized to be borrowed under present commitments	Maximum principal amount proposed to be borrowed under revised commitments
Manufacturers Hanover Trust Company	\$49,040,000	\$49,100,000
The First National Bank of Chicago	28,000,000	40,000,000
Bank of America National Trust and Savings Association	20,000,000	29,000,000
Continental Illinois National Bank and Trust Company of Chicago	16,000,000	24,000,000
The First National Bank of Boston	12,000,000	17,000,000
The Northern Trust Company	8,880,000	10,000,000
Irving Trust Company	8,800,000	15,000,000
Morgan Guaranty Trust Company of New York	8,000,000	13,000,000
North Carolina National Bank	8,000,000	8,000,000
First Pennsylvania Bank, N.A.	4,000,000	5,720,000
The Fidelity Bank	4,000,000	5,000,000
Crocker National Bank	4,000,000	6,000,000
Hartford National Bank and Trust Company	4,000,000	5,000,000
Total	174,800,000	226,820,000

In connection with the increase in the Commitments set forth above, Middle South will agree to pay to each of the participating banks a commitment fee on the proposed additional amounts of their respective Commitments for the period from November 1, 1979 to and including June 27, 1980 (or any earlier

date of termination of the Commitments) computed at the rate set forth in the Credit Agreement, which is one-half of 1% per annum on the average daily unused portion of such Commitments in effect during the period for which payment is made.

Except as set forth above the terms and conditions of the borrowings by Middle South from the banks under the Credit Agreement, including the interest rate on and maturity date of the Notes, and right of prepayment, remain unchanged.

Based upon the prime commercial loan rate of Manufacturers Hanover Trust Company, 15% per annum in effect on October 31, 1979, the effective interest cost of borrowings by Middle South under the Credit Agreement as of the date would be 16.5% per annum.

It is stated that no special or separate expenses are anticipated in connection with the proposed transactions and that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 5, 1979, request in writing that a hearing be held on such a matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.
George A. Fitzsimmons,
Secretary.
[FR Doc. 79-35298 Filed 11-14-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 6146; 18-61]

Monroe & Lemann Retirement Plan; Application

November 8, 1979.

Notice is hereby given that Monroe & Lemann (hereinafter the "Firm" or "Applicant"), 1424 Whitney Building, New Orleans, LA 70130, a law firm organized as a partnership under the laws of the State of Louisiana, has by letter dated August 27, 1979, applied for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with the Monroe & Lemann Retirement Plan (the "Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

Applicant's Plan provided that all employees and partners of the Firm are eligible to participate in the Plan as of the first day of any month following or coinciding with the completion of three consecutive years of employment. Applicant states that participation in the Plan by eligible partners and employees of the Firm is mandatory, except in the case of partners having a 10% or more interest in the Firm. The Plan is of the type commonly referred to as a "Keogh" Plan, which covers Applicant's partners and employees, some of whom are "employees" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "Code"). As a result, the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefits plans of corporate employers is not available to the Plan.

In relevant part, Section 3(a)(2) of the Act provides that the Commission may exempt from the provisions of Section 5 of the Act any interests or participations issued in connection with a pension plan that covers employees, some or all of whom are "employees" within the meaning of Code Section 401(c)(1), if and to the extent that the Commission determines such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes

fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

Applicant represents that the Plan was originally established effective November 1, 1974, as a defined contribution plan for all employees and partners of the Firm. The Plan was originally written to conform with the requirements of the Employee Retirement Income Security Act of 1974 ("ERISA") to which the Plan is subject, and the Plan has been amended from time to time to comply with regulations interpreting ERISA. The Internal Revenue Service ("IRS") has issued a favorable determination letter to the effect that the Plan and its related trust agreement meet the requirements of Code Section 401(a). An Application will be filed with the IRS for a determination that the (2) amendments to the Plan are such that the Plan as amended continues to be qualified under Code Section 401(a). The Applicant has requested that the Commission assume, in considering the application, that the IRS will rule favorably as to the continued qualification of the Plan.

Applicant states that contributions to the Plan are made by the Applicant based on a percentage of each participant's annual compensation. The Plan is integrated with Social Security. Applicant states that a participant may make voluntary additional contribution to the Plan for the account of the participant, subject to limitations on the amount of voluntary contributions that are set forth in the Plan. No solicitation of voluntary contributions has been or is intended to be made and voluntary contributions may be withdrawn by a participant.

Applicant further states the Plan assets are invested in one of two funds maintained by the Plan trustee, Whitney National Bank of New Orleans. Each participant may designate annually whether contributions made by and on behalf of the participant are to be invested entirely in the equity fund, entirely in the fixed income fund, or split evenly between the two funds. In addition, each participant may elect annually to transfer all or a part of the participant's in one investment fund to the other investment fund. Plan assets are not commingled with the assets of any other plan.

Applicant represents that the Plan is subject to the fiduciary standards and reporting and disclosure requirements of ERISA. A summary plan description has been distributed to each participant and this practice will continue. The Applicant states that certain annual

reporting forms must be filed with the IRS with respect to the Plan each year, and copies of these forms are available to the Department of Labor and to all Plan participants. Semi-annual reports of the Plan are also distributed to Plan participants each year.

Applicant represents that it is engaged in the provision of legal services involving sophisticated and complex financial matters and that it can adequately represent its own and its employees' interests in such matters.

Applicant further states that the Plan is administered by a committee consisting of four individuals, each of whom may be a participant in the Plan. The committee has overall responsibility and authority for administering the Plan, and has appointed an investment adviser registered under the Investment Advisers Act of 1940 to manage the investments of both funds. The committee has retained the responsibility for the day-to-day administration of the Plan, including the making and enforcement of rules and interpreting and construing the Plan with regard to all questions of eligibility, the status and rights of participants, beneficiaries, and other persons affected thereunder, and the disbursement of benefits.

The Applicant contends that if the Firm were a corporation, rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under Section 3(a)(2) of the Act and that merely because the Firm is unincorporated is no reason to subject such interests or participations in the registration requirements of the Act.

Applicant concludes that since the Plan assets are not commingled in collective investment funds with the assets of any other plan; since the Plan is subject to the fiduciary standards and reporting and disclosure requirements of ERISA; since the Applicant has retained substantial administrative control of the Plan; since the Applicant is engaged in providing legal services involving sophisticated and complex financial matters and can adequately represent its and its employees' interests; and since no solicitation of voluntary contributions has been or will be made, granting the requested exemptive order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 3, 1979, at 5:30 p.m., submit to the Commission in writing a request for

a hearing on the matter accompanied by a statement of the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address above stated. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following December 3, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35293 Filed 11-14-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 10936; 812-4362]

New York Municipal Trust, Series 4 (and Subsequent Series) and Bear, Stearns & Co.; Application

November 7, 1979.

Notice is hereby given that New York Municipal Trust, Series 4 (and Subsequent Series) ("Trust"), registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and its sponsor, Bear, Stearns & Co. ("Sponsor") (collectively, "Applicants"), 55 Water Street, New York, New York 10041, filed an application on May 29, 1979, requesting an order amending a prior order of the Commission (Investment Company Act Release No. 10475, November 8, 1978) ("Prior Order"), pursuant to Section 6(c) of the Act, to exempt Applicants from the provisions of Section 22(d) of the Act to enable them to offer holders of units of series of the Trust ("Certificateholders"), who have elected to receive distributions from the Trust annually, the opportunity to reinvest such distributions at a reduced sales charge in units of series of the Trust pursuant to Applicants' Total Reinvestment Plan

("Plan"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On November 8, 1978, the Commission issued the Prior Order exempting Applicants from the provisions of Sections 14(a) and 22(d) of the Act and Rules 19b-1 and 22c-1 thereunder. According to the application, the exemption from Section 22(d) of the Act enabled Applicants to offer Certificateholders, who elected to receive distributions from the Trust semi-annually, the opportunity to automatically reinvest such distributions at a reduced sales charge in units of series of the Trust. Applicants state that, although they originally contemplated offering Certificateholders monthly and semi-annual distribution plans, in Series 4 and subsequent series the Sponsor commenced offering an optional annual distribution plan. According to the application, such annual distribution plan will increase the estimated current return to Certificateholders electing to receive distributions on an annual basis ("Annual Certificateholders") due to the lower Trustee's fees and expenses associated with annual distributions.

Applicants propose to afford Annual Certificateholders the option to automatically reinvest interest and principal distributions at a reduced sales charge in units of series of the Trust to be offered in the future ("Future Series") or, if no Future Series is available, in units of a previously formed series which have been purchased by the Sponsor in the secondary market and with respect to which a registration statement is currently effective ("Secondary Series") (Future Series and Secondary Series are collectively referred to as "Available Series"). Under the proposal, an Annual Certificateholder will be able to join the Plan at any time by delivering an authorization form to the Trustee and may withdraw from the plan at any time upon written notice. The Plan provides for the purchase of fractional units ("Plan Units") from the Sponsor at a price equal to the aggregate offering price per unit of the debt obligations in the Available Series portfolio divided by 100, plus a sales charge equal to 3.627 percent of the offering side evaluation of such debt obligations (3 1/2 percent of the offering price per Plan Unit), plus accrued interest. Applicants state that the customary sales charge applicable to all primary and secondary sales of units of series of the Trust (including Available Series) is 4 1/2 percent.

Applicants anticipate that the entire amount of a participating Annual Certificateholder's distributions will be reinvested.

Applicants state that Annual Certificateholders will have interest and principal distributions reinvested on each December 15 ("Annual Payment Date") in units of the Available Series. Available Series will be unit investment trusts similar to the other series of the Trust. Applicants further state that if the Sponsor does not have an Available Series on an Annual Payment Date, or if the Available Series materially differs in the Sponsor's opinion from the then outstanding series of the Trust, the Sponsor intends to suspend the Plan and to distribute to participating Annual Certificateholders their regular annual distributions. If the Plan is so suspended, Applicants represent that the Plan will resume on the next Annual Payment Date. The application states that on or about December 1 of each year ("Annual Record Date"), the Sponsor intends to offer an Available Series to Annual Certificateholders, and that on or about each Annual Record Date, a current prospectus relating to an Available Series will be mailed to each participating Annual Certificateholder with a letter stating that Plan Units will be purchased unless the Trustee is notified by the Annual Payment Date that such Certificateholder no longer wishes to participate in the Plan or in the particular transaction. Applicants state that Certificateholders may withdraw from the Plan: (1) as to any particular distribution; (2) as to less than all Series of the Trust in which the Certificateholder might own units; and (3) as to the reinvestment of distributions declared on Plan Units. Applicants further state that when an Annual Certificateholder elects to participate in the Plan, the Trustee will open an account for such Certificateholder who will then receive a confirmation of the opening of the account and confirmation statements of any other transactions which occur in the account.

According to the application, once delivered to the Trustee, an authorization form constitutes a valid election to participate in the Plan with respect to all subsequent distributions on all units of the fourth and subsequent series of the Trust held by the Certificateholder (and with respect to all Plans Units purchased pursuant to the Plan). However, should material change occur in the policies of the Trust which adversely affects participating Annual Certificateholders, the application states that authorizations will be voided and

that participants will be provided with a notice of the policy change and a new authorization form which would have to be returned to the Trustee before the Annual Certificateholder could again participate in the Plan. The Sponsor anticipates that inclusion in the portfolio of the Available Series of a debt obligation which was not rated "A" or better by Standard & Poor's Corporation or Moody's Investors Services, Inc., would be a material change which would result in authorizations being voided. The Trustee and the Sponsor reserve the right to suspend, modify or terminate the Plan at any time.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus.

Section 6(c) of the Act, provides, in pertinent part, that the Commission, by order upon application, may exempt any person, security or transaction, or any class of persons, securities, or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants request an order pursuant to Section 6(c) of the Act amending the Prior Order to exempt from the provisions of Section 22(d) of the Act their proposal to offer the Plan to Annual Certificateholders. In support of their request, Applicants assert that applying a sales charge for Plan purchases of less than the customary 4 1/2 percent sales charge is beneficial to Plan participants and warranted in light of cost savings. Applicants state that approximately 3 percent of the customary 4 1/2 percent sales charge is attributable to the efforts initial soliciting brokers. They submit that because each Available Series will be substantially similar to the series of the Trust initially purchased by participants, selling and counseling efforts are reduced with respect to purchase pursuant to the Plan. Applicants state

that although a participant may seek professional advice from his broker with respect to participation in any particular Available Series, a charge of 1½ percent would be a reasonable and justifiable expense to be allocated by the Sponsor to the soliciting broker for his professional assistance. Applicants state that a participant may designate the broker entitled to receive such commission; if no broker is so designated, the Sponsor will retain the commission.

Applicants assert that the implementation and continuation of the Plan will also create special out-of-pocket costs which should be borne by Plan participants, and that the Sponsor believes such out-of-pocket expenses will amount to 1 percent of the price per Plan Unit. In addition, Applicants state that prior experience indicates that the out-of-pocket costs of establishing each Available Series will represent approximately 1 percent of the public offering price of the Units of such series. Applicants represent that all of the costs discussed above will be covered by the proposed 3½ percent sales charge that will be applicable to purchases of Plan Units. Thus, Applicants submit that the proposed reduced sales charge for Plan purchases not only passes through certain cost savings to Plan participants, but also charges such participants for the expenses related to the Plan.

Notice is further given that any interested person may, not later than November 29, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including

the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35260 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16332; SR-Phlx-79-9]

**Philadelphia Stock Exchange, Inc.;
Filing of Proposed Rule Change and
Order Approving Proposed Rule
Change**

November 9, 1979.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on October 31, 1979, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Commission copies of a proposed rule change which deletes a provision contained in Phlx Rule 1014, Commentary .15 regarding the permissible bid/ask differentials for expiring options which are in-the-money.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Phlx-79-9.

Copies of the submission, all subsequent amendments, all written statements, with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof

because the proposed rule change deletes a provision which is no longer necessary in view of the Commission's approval of a previous Phlx rule proposal to increase the bid/ask spread parameters.¹

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35308 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

**Presley Cos. and R B Industries, Inc.;
Applications To Withdraw From Listing
and Registration**

November 8, 1979.

In the matter of The Presley Companies Common Stock, \$.1875 Par Value File No. 1-6694 and R B Industries, Inc. Common Stock, \$1.00 Par Value File No. 1-7528.

The above issuers have filed applications with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the applications for withdrawing these securities from listing and registration include the following:

1. The Presley Companies' ("Presley's") common stock was listed and registered for trading on the Amex on August 20, 1971.
2. R B Industries, Inc.'s ("RBI's") common stock was listed and registered for trading on the Amex on July 9, 1975.
3. Presley's common stock became listed and registered for trading on the New York Stock Exchange, Inc. ("NYSE") on August 20, 1979; RBI's common stock became listed and registered for trading on the NYSE on October 9, 1979. Simultaneously, Amex suspended trading in both issues pursuant to Rule 12d2-1 of the Act.
4. Presley and RBI have determined that the direct and indirect costs as well as the possibility of market fragmentation does not justify maintaining their respective common stock listings on both the Amex and NYSE.

¹ See Securities Exchange Act Release No. 15886 (May 30, 1979), 44 FR 32500 (June 6, 1979).

These applications relate solely to withdrawal of the applicants' common stocks from listing and registration on the Amex and shall have no effect upon the continued listing of those common stocks on the NYSE. The Amex has posed no objections in these matters.

Any interested person may, on or before November 27, 1979 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the individual applications have been made in accordance with the Amex rules and what terms, if any should be imposed by the Commission for the protection of investors. An order granting each application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35259 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21288; 70-6379]

**Yankee Atomic Electric Co.; Proposed
Issuance and Sale of Short-Term
Promissory Notes to a Bank and a
Dealer in Commercial Paper and
Request for Exemption From
Competitive Bidding**

November 8, 1979.

Notice is hereby given that Yankee Atomic Electric Company ("Yankee Atomic"), 20 Turnpike Road, Westborough, Massachusetts 01581, an electric utility subsidiary company of New England Electric System and Northeast Utilities, registered holding companies, has filed an application-declaration with this commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7 and 9(a) of the Act and Rules 42(b)(2), 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Yankee Atomic proposes to issue and sell from time to time, but not later than December 31, 1980, short-term promissory notes in order to finance the cost of nuclear fuel or for other corporate purposes. The notes are expected to be sold to the First National Bank of Boston, Massachusetts, or to A.

G. Becker & Company, Inc. ("Becker"), a dealer in commercial paper, or to both, up to a maximum aggregate principal amount of \$21,000,000 to be outstanding at any one time. Yankee Atomic now has borrowing authority aggregating \$16,000,000 through December 31, 1979 (File No. 70-6226) and expects to have about \$14,000,000 of short-term debt outstanding at the end of 1979. During 1980 Yankee Atomic expects to spend approximately \$8,600,000 for nuclear fuel and to make capital expenditures of approximately \$8,100,000 for plant improvements.

The proposed short-term borrowing will be repaid from time to time in part from internally generated funds and the balance will be refinanced either through additional short-term borrowings or permanent financing.

The proposed borrowings from the First National Bank of Boston will be evidenced by notes payable maturing in less than one year from the date of issuance and will provide for prior payment in whole or in part without premium. The notes will bear interest at not in excess of 110% of the prime rate (plus a commitment fee of ½ of 1% of the line of credit). Based on a rate of 110% of prime rate and a commitment fee of ½ of 1%, the effective cost to Yankee Atomic would be approximately 17.125% per annum assuming borrowings at the maximum amount of the lines of credit based on the current prime rate of 15%.

Yankee Atomic also proposes to issue and sell its commercial paper during the period through December 31, 1980, directly to Becker. Becker, as a principal, will reoffer such commercial paper to not more than 200 of its customers whose names appear on a nonpublic list prepared by Becker in advance. No additions will be made to such list of customers. It is expected that such commercial paper will be held to maturity by the purchasers, but, if any such purchaser wishes to resell prior to maturity, Becker, pursuant to an oral repurchase agreement, will repurchase the paper for resale to others on said list of customers. The commercial paper so issued and sold will be in the form of unsecured promissory notes having varying maturities of not in excess of 270 days. Actual maturities will be determined by market conditions, the effective interest cost to Yankee Atomic, and Yankee Atomic's cash requirements at the time of issuance. The commercial paper will be denominations of not less than \$50,000 and not more than \$1,000,000 and will not by its terms be prepayable prior to maturity. The commercial paper will be purchased by

Becker from Yankee Atomic at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for the particular maturity at which prime commercial paper of comparable quality is sold by public utility issuers to commercial paper dealers. Becker will initially reoffer the commercial paper at a discount rate not more than ½ of 1% per annum less than the prevailing discount to Yankee Atomic.

No commercial paper notes having a maturity of more than 90 days will be issued at an effective interest cost which exceeds the effective interest cost at which Yankee Atomic could borrow from the First National Bank of Boston.

Yankee Atomic claims an exemption from the competitive bidding requirements of Rule 50 with respect to proposed issuance and sale of notes to a bank pursuant to paragraph (a)(2) and requests an exemption with respect to the proposed issuance and sale of commercial paper pursuant to paragraph (a)(5) thereof.

The fees and expenses to be incurred with the proposed transaction are \$3,000. Incidental services will be performed by New England Power Service Company at actual cost. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 7, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in

this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35294 Filed 11-14-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1694; Amendment No. 1]

Alabama; Declaration of Disaster Loan Area

The above numbered Declaration (see 44 FR 61716) is amended by extending the filing date for physical damage until the close of business on December 13, 1979, and for economic injury until the close of business on July 14, 1980.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: November 2, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35227 Filed 11-14-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1729]

Louisiana; Declaration of Disaster Loan Area

Calcasieu Parish and adjacent Parishes within the State of Louisiana constitute a disaster area as a result of damage caused by tornado, which occurred on October 22, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 7, 1980, and for economic injury until the close of business on August 6, 1980 at: Small Business Administration, District Office, Plaza Tower—17th Floor, 1001 Howard Avenue, New Orleans, Louisiana 70113, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59022 and 59008)

Dated: November 6, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35228 Filed 11-14-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1695; Amendment No. 1]

Declaration of Disaster Loan Area; Mississippi

The above numbered Declaration (See 44 FR 61719), is amended by extending the filing date for physical damage until the close of business on December 13, 1979, and for economic injury until the close of business on July 14, 1980.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008.)

Dated: November 6, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35229 Filed 11-14-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1730]

Texas; Declaration of Disaster Loan Area

Coryell County and adjacent counties within the State of Texas constitute a disaster area as a result of damage caused by tornadic winds, hail and rain which occurred on October 15, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 6, 1980, and for economic injury until the close of business on August 6, 1980, at: Small Business Administration, District Office, 1100 Commerce Street, Dallas, Texas 75242, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: November 6, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35230 Filed 11-14-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP79-7; Notice 2]

Suzuki Motor Co., Ltd.; Grant of Petition for Inconsequential Noncompliance

This notice grants the petition of Suzuki Motor Co., Ltd. of Santa Fe Springs, California to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.205, *Glazing Materials*,

on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published in the Federal Register on July 12, 1979, and an opportunity afforded for comment (44 FR 40756).

Paragraph S6.4 of Standard No. 205 requires that each manufacturer who cuts a section of glazing material for use in a motor vehicle shall mark the material to identify it. Suzuki manufactured 700 windshields in February and April 1979 for its Model GS1000S motorcycle that were not marked AS-6 in accordance with the standard. Suzuki argues that the noncompliance is inconsequential as the windshields are certified as meeting Standard No. 205 and, in fact, other than the omitted marking, comply with all requirements.

No comments were received on the petition. The NHTSA concurs with Suzuki's views that the failure to mark the windshields has no consequential effect since the glazing materials meet all appropriate performance requirements. Accordingly, petitioner has met its burden of persuasion that the noncompliance with Standard No. 205 herein described is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 7, 1979.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[FR Doc. 79-35148 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

[Docket No. 79-2W; Notice 2]

Transportation of Natural and Other Gas by Pipeline; Grant of Waiver

The Department of the Army, Alaska District, Corps of Engineers (Corps), petitioned the Materials Transportation Bureau (MTB) for a waiver from compliance with the low temperature limitation of minus 20 degrees Fahrenheit in 49 CFR 192.123(b)(1) to permit operation of a proposed plastic pipeline system down to minus 40 degrees Fahrenheit. The Corps is designing a buried gas distribution system to replace the present system in the community of Barrow, Alaska, for the Bureau of Indian Affairs. The completed gas distribution system is to be operated by the Barrow Utilities and Electric Cooperative.

The Corps is planning to use Driscopipe 7000 high density

polyethylene pipe manufactured by Phillips Products Company, Incorporated, for both mains and services that will be buried in permafrost in this gas distribution system. The petition contained evidence that Driscopipe 7000 will perform safely at temperatures far below those anticipated in the area.

In Notice 1 of this docket (44 FR 38693), interested persons were invited to submit comments on the proposed waiver before August 13, 1979. No comments have been received nor were there any requests for a public hearing on this petition. Therefore, for the reasons set forth in Notice 1 and the petition, MTB finds that:

1. While plastic pipe may not be used where operating temperatures are under minus 20 degrees Fahrenheit under § 192.123(b)(1), such a limitation does not appear appropriate for certain plastic pipe such as Driscopipe 7000, a polyethylene plastic pipe having unique high strength at such temperatures.

2. The Driscopipe 7000 material provides a safe, economic solution to the freeze-thaw condition anticipated for gas distribution systems buried in permafrost.

3. Unlike many other thermoplastic materials, ultra-high density polyethylene increases in strength with a decrease in temperature.

In consideration of the foregoing, effective immediately, the Barrow Utilities and Electric Cooperative is hereby granted a waiver from compliance with 49 CFR 192.123(b)(1) for operation of the replacement gas distribution pipeline system in the community of Barrow, Alaska.

(49 U.S.C. 1672; 49 CFR 1.53(a), Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington, D.C., on November 7, 1979.

Cesar De Leon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 79-35087 Filed 11-14-79; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Portable Electric Typewriters From Japan; Antidumping; Extension of Investigatory Period

AGENCY: United States Treasury Department.

ACTION: Extension of Antidumping Investigatory Period.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury

has concluded that a tentative determination as to whether sales at less than fair value of portable electric typewriters from Japan have occurred cannot reasonably be made within 6 months. The investigatory period therefore will be extended.

Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Trade Analysis Division, U.S. Customs Service 1301, Constitution Ave., NW., Washington, D.C. 20229; telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On April 9, 1979, information was received in proper form pursuant to § 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of the Smith-Corona Group, Consumer Products Division, S.C.M. Corporation, New Canaan, Connecticut, alleging that portable electric typewriters from Japan are being sold at less than fair value within the meaning of the Antidumping Act 1921, as amended (19 U.S.C. 160 et seq.) (the "Act"). On the basis of this information, an "Antidumping Proceeding Notice" was published in the Federal Register on May 18, 1979 (44 FR 29191).

Pursuant to section 201(b)(2) of the Act (19 U.S.C. 160 (b)(2)), notice is hereby given that the Secretary concludes that the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160 (b)(1)) cannot reasonably be made within six months. The investigatory period will therefore be extended by three months, although it is expected that the tentative determination will be reached before the end of 1979. However, because a three-month extension would make applicable section 102(b)(1) of the Trade Agreements Act of 1979 (Pub. L. 96-39, 93 Stat. 144, 189), if it becomes effective January 1, 1980, the statutory date for a tentative determination may be May 20, 1980.

This extension is based primarily on the complications created by the number and type of circumstance of sales adjustments requested by each of the three Japanese manufacturers being investigated. Furthermore, there are many calculations to be done, given the numerous models of typewriters being compared for fair value purposes.

This notice is published pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)).

Robert H. Mundheim,
General Counsel of the Treasury.
November 8, 1979.

[FR Doc. 79-35237 Filed 11-14-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[AB 148 (SDM)]

Durham and Southern Railway Co.; Amended System Diagram Map

Notice is hereby given that pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Durham and Southern Railway Company, has filed with the Commission its amended color-coded system diagram map in docket No. AB 148 (SDM). The Commission on October 22, 1979, received a certificate of publication as required by said regulations which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets, by requesting docket No. AB 148 (SDM).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35207 Filed 11-14-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

November 8, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 30, 1979.

FSA No. 43766, Trans-Continental Freight Bureau, Agent's No. 543, rates on lumber and related articles (including shakes and shingles), in carloads, from stations in Oregon, Washington, Idaho, Montana, Northern California, also Canada, to stations in Arkansas, Louisiana, Oklahoma, Texas, Memphis, Tenn. and Natchez, Miss. Rates to be published in its Tariffs ICC TCFB 4517, 4518 and 4520. Grounds for relief-rate relationship.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35204 Filed 11-14-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Authorization Order No. 9

Decided: November 6, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. § 11125 over the lines of Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R. I. & P.*, I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979).

RI owns a Pettibone crane (shop No. 76513) which is in need of repair. Supplemental Order No. 4 to DSO No. 1398 required the DRC to obtain prior Commission approval for all rehabilitation for freight cars and other non-locomotive equipment which exceeds \$1,200 per unit. See Supplemental Order No. 4 (served October 15, 1979) [44 FR 61127, Oct. 23, 1979]. Accordingly, the DRC submitted an urgent request for authority to repair the crane, which is used in the heavy repair car program shop at Little Rock, AR, and is requiring repairs costing more than \$1,200. See wire to A. Daniel O'Neal, dated October 31, 1979.

The DRC seeks Commission authorization to repair this on the following grounds: (1) it is needed to lift rail cars to allow truck removal, and truck work; (2) it is used to unload wheels and decking, and to hold metal sheets for welding; (3) it is used to unload program cars from flat cars (requiring two cranes); and (4) it is used to load wreck damaged cars to home shop or to scrap dealers when sold. The Pettibone crane is considered more reliable than other cranes in use and has greater lifting capacity.

The cost of materials and labor for repair of this crane to \$1,847.35. This consists of \$400 for labor and \$1,447.35 for material, the largest single item being a broken pinion shaft which will cost \$759 to replace. The KCT estimates that the crane can be repaired in seven days.

We find: 1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

It is ordered: 1. The DRC is authorized to make repairs to the Pettibone crane (shop No. 76513) located at Little Rock, Arkansas, at the maximum cost of \$1,847.35.

2. The repairs authorized above shall be completed within 45 days or by the end of the directed-service period (whichever comes first) unless otherwise authorized by the Commission. See DSO No. 1398, 360 I.C.C. at 310 [44 FR 56350, columns 1 & 2].

3. This decision shall be effective on its service date.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael. Joel E. Burns not participating.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35200 Filed 11-14-79; 8:45 am]
BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

November 6, 1979.

This notice is being issued to clarify the "effective" and "expiration" dates of the initial 60-day directed service period under DSO No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R. I. & P.*, 360 I.C.C. 289 (1979) and 44 FR 56343 (October 1, 1979).

Pursuant to Supplemental Order No. 3 (decided and served October 5, 1979), the directed service order's "effective" date was 12:01 a.m. (central time) *Friday October 5, 1979*—the date upon which KCT commenced directed-service operations.

Further, the "expiration" date of the initial 60-day directed-service period shall be midnight (central time) *Tuesday December 4, 1979*—the 60th day after the decision's effective date. See Supplemental Order No. 3 and 49 CFR § 1100.19(a).

Any questions regarding the effective or expiration dates of Directed Service Order No. 1398 should be addressed to Deputy Director Erenberg, Section of Finance (Room 5417), Office of Proceedings, Interstate Commerce Commission, 12th and Constitution Avenue, NW, Washington, DC 20423.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35202 Filed 11-14-79; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: October 23, 1979.

Keller Transfer Line, Inc., (MC-82079)

and Capital Express, Inc., commonly controlled, (MC-114808) have filed a petition for waiver of paragraph 1057.12(c) of the Lease and Interchange of Vehicles Regulations (49 CFR 1057).

Findings: 1. Petitioners are commonly controlled and jointly administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater efficiency and economy would result with the waiver.

It is ordered: The petition of Keller Transfer Line, Inc., and Capital Express, Inc., for waiver of paragraph 1057.12(c), is granted with respect to equipment leased between them.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, and W. F. Sibbald, Jr.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35201 Filed 11-14-79; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 192]**Permanent Authority; Decisions—Notice**

Decided: October 5, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected*. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon,

including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience

and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right. Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

By the Commission, Review Board Number 2, Members, Boyle, Liberman, and Eaton.
Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 57697 (Sub-17F), filed May 5, 1979. Applicant: LESTER SMITH TRUCKING, INC., 2645 East 51st Avenue, Denver, CO 80216. Representative: David J. Lister, 3841 North Columbia Boulevard, P.O.

Box 17039, Portland, OR 97217. Transporting (1) *lumber, lumber mill products, wood products, and forest products*, from points in Davis County, UT, to those points in the United States in and west of OH, KY, TN and AL (except AK, HI, and UT), and (2) *lumber, lumber mill products, and forest products*, from points in ID and MT, to points in Davis County, UT. (Hearing site: Salt Lake City, UT, or Portland, OR.)

MC 95336 (Sub-11F), filed May 15, 1979. Applicant: J. B. WILLIAMS EXPRESS, INC., P.O. Box V, Williamsburgh Station, Brooklyn, NY 11211. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CT, on the one hand, and, on the other, points in MA and RI. (Hearing site: New York, NY, or Washington, DC.)

Note.—Dual operations may be involved.

MC 110686 (Sub-60F), filed May 1, 1979. Applicant: McCORMICK DRAY LINES, INC., Avis, PA 17721. Representative: David A. Sutherland, 1150 Connecticut Avenue NW., Suite 400, Washington, DC 20036. Transporting *general commodities* (except explosives, commodities in bulk, and those requiring special equipment), between points in Clinton, Lycoming and Northumberland Counties, PA, and Philadelphia, PA, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Scranton, PA.)

MC 110817 (Sub-28F), filed April 17, 1979. Applicant: E. L. FARMER & COMPANY, P.O. Box 3512, Odessa, TX 79260. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. Transporting *petroleum products and paints*, in containers, from the facilities of Mobil Oil Corporation at Houston and Beaumont, TX, to points in TX, LA and MS. (Hearing site: Dallas or Houston, TX.)

MC 113666 (Sub-166F), filed May 10, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: R. Scott Mahood (same address as applicant). Transporting *borate rock*, in bulk, from Dunn, CA, to points in OH. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 114457 (Sub-504F), filed May 7, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St.

Paul, MN 55114. Representative: James H. Wills (same address as applicant). Transporting *Ground clay* (except in bulk, in tank vehicles), from the facilities of Waverly Mineral Products Company in Thomas County, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Philadelphia, PA, or St. Paul, MN.)

MC 114457 (Sub-511F), filed May 7, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Transporting (1) *electric ranges and microwave ovens*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Litton Microwave Cooking Products, Litton Systems, Inc., at Sioux Falls, SD, on the one hand, and on the other, points in the United States (except AK and HI). (Hearing site: Minneapolis, or St. Paul, MN.)

MC 116947 (Sub-71F), filed May 10, 1979. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street SW., Atlanta, GA 30310. Representative: Wm. Addams, P.O. Box 720434, Atlanta, GA 30328. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal containers, and metal container ends*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of the National Can Corporation at or near Rockford, IL, on the one hand, and, on the other, points in AL, AR, FL, GA, IN, KY, KS, MD, MS, MO, LA, NC, OK, OH, SC, TN, TX, VA, and WV, under continuing contract(s) with National Can Corporation of Chicago, IL. (Hearing site: Atlanta, Ga.)

Note.—Dual operations may be involved.

MC 117686 (Sub-270F), filed May 18, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). Transporting *meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk), from the facilities of John Morrell & Co., at or near (1) Sioux Falls, SD, to points in FL, GA, NC, and SC, (2) Sioux City, IA, to points in FL, NC, and SC, (3) Estherville, IA, to points in FL, and (4)

Worthington, MN, to points in FL, GA, NC, and SC, restricted in each to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Chicago, IL, or Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 117686 (Sub-2F), filed May 15, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at (a) Albert Lea, MN, and (b) Cedar Rapids, IA, to points in NC and SC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 119767 (Sub-358F), filed May 10, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr. 915 Pennsylvania Building, 425, 13th Street NW, Washington, DC 20004. Transporting *such Commodities* as are dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, CT, FL, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, MN, OH, PA, SC, SD, TN, TX, VT, VA and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 119777 (Sub-375F), filed May 10, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., HIGHWAY 85, East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *salt and salt products*, from Manistee, MI, to points in IN, IL, OH, KY, PA, IA, MD, MO, NJ, NY, TN, WI, NC, VA and WV. (Hearing site: St. Louis, MO.)

MC 123387 (Sub-18F), filed May 10, 1979. Applicant: E.E. HENRY, 1923 Sparrow Road, Chesapeake, MD 23320. Representative: Dwight L. Koerber, Jr., 666 Eleventh Street NW., Suite 805, Washington, DC 20001. Transporting *malt beverages*, from points in the United States (except AK and HI) to Macon, GA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 124887 (Sub-79F), filed May 10, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *fertilizer* (except in bulk), from Pascagoula, Meridian, and Yazoo City, MS, and Donaldsonville, LA, to points in AL, FL, and GA. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 124887 (Sub-80F), filed May 10, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *iron and steel articles and pipe* (except commodities in bulk), between Conroe, TX, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK and TX. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 126327 (Sub-9F), filed May 15, 1979. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *paper, paper products, and wood pulp*, from Wallula, WA, to points in AZ and CA. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 128327 (Sub-11F), filed May 15, 1979. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *foodstuffs* (except frozen, and commodities in bulk), from the facilities of Nabisco, Inc., at (1) Buena Park and Oakland, CA, to points in ID, NV, OR, and WA, and (2) at Portland, OR, to points in CA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 136786 (Sub-159F), filed May 15, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, IA 50321. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Blvd., Minneapolis, MN 55418. Transporting *foodstuffs* (except frozen), from Middleboro, MA, Bordentown, NJ, and Northeast, PA, to points in AR, CO, IA, IL, IN, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, TN, TX, and WI. (Hearing site: Minneapolis, MN, or Boston, MA.)

MC 138157 (Sub-150F), filed May 10, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC. d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412.

Representative: Patrick E. Quinn (same address as applicant). Transporting *fruit juice and juice concentrate* (except in bulk), from Yakima, WA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Portland, OR.)

Note.—Dual operations may be involved.

MC 138157 (Sub-151F), filed May 10, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC. d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). Transporting *dehydrated noodles and soup* (except in bulk), from City of Industry, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138627 (Sub-72F), filed May 15, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Transporting (1) *material handling equipment and material storage equipment*, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, between Stevens Point and New London, WI, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, and TN. (Hearing site: Chicago, IL, or Omaha, NE.)

MC 139917 (Sub-8F), filed April 13, 1979. Applicant: SEARAIL, INC., P.O. Box 909, Mobile, AL 36601. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), between Pensacola, FL, on the one hand, and, on the other those points in FL west of the Apalachicola River, restricted to the transportation of traffic having an immediately prior or subsequent movement by water or rail. (Hearing site: Mobile, AL.)

MC 141197 (Sub-38F), filed May 15, 1979. Applicant: FLEMING-BABCOCK, INC. 41406 Mattox Road, Riverside, MO 64151. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *coke*, in dump vehicles, from Kansas City, MO, to points in IA. (Hearing site: Kansas City, MO.)

MC 141947 (Sub-4F), filed May 10, 1979. Applicant: GEORGE HALL, an individual d.b.a. GEORGE HALL TRUCKING CO., 8260 Berry Avenue,

Sacramento, CA 95828. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass bottles and knocked-down cartons*, from the facilities of Thatcher Glass Manufacturing Company in Los Angeles County, CA, to Reno and Sparks, NV, under continuing contract(s) with Thatcher Glass Manufacturing Company. (Hearing site: San Francisco, CA, or Reno, NV.)

MC 143276 (Sub-14F), filed May 10, 1979. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, GA 30080. Representative: James L. Brazee, Jr., 3355 Lenox Road #795, Atlanta, GA 30326. Transporting *roofing materials* (except in bulk), (1) from the facilities of Warrior Sales and Distributors of Alabama, Inc., in Gwinnett County, GA, to points in NC, SC and TN, and (2) from the facilities of Warrior Sales and Distributor of Alabama, Inc., in Tuscaloosa County, AL, to points in GA and TN. (Hearing site: Atlanta, GA.)

MC 143818 (Sub-18F), filed May 18, 1979. Applicant: M & S TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ink, ink ingredients, pulp wallpaper, and chemicals* (except commodities in bulk), from Woodlawn, OH, to points in TX and CA, under continuing contract(s) with Borden Chemical Division Borden Inc. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 143846 (Sub-8F), filed May 10, 1979. Applicant: P. POSA, INC., 50 Van Kueren Avenue, Jersey City, NJ 07417. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail department stores (except commodities in bulk), between New York, NY, on the one hand, and, on the other, Miami and Tampa, FL, Chicago and Oak Brook, IL, Indianapolis, IN, Troy, MI, Minneapolis, MN, Nashville, TN, Dallas, Houston, and San Antonio, TX, Seattle, WA, and points in Suffolk County, NY, under continuing contract(s) with Allied Stores Marketing Corp., of New York, NY. (Hearing site: New York, NY.)

MC 144117 (Sub-40F), filed May 18, 1979. Applicant: TLC LINES, INC. 16668 Fabick Drive, P.O. Box 1090, Fenton, MO 63026. Representative: Warren W. Wallin, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. Transporting (1) *raw iron castings*, from Kohler, WI, to Los Angeles, CA, and (2) *crankshafts and machined castings*, in the reverse direction. (Hearing site: Milwaukee, WI, or St. Louis, MO.)

MC 145636 (Sub-6F), filed May 16, 1979. Applicant: BOB BRINK, INC., 165 Stueben Street, Winona, MN 55987. Representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. Transporting (1) *iron chains and steel chains, and rubber chain tighteners*, and (2) *commodities* the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6), when moving in mixed loads with the commodities named in (1) above, from Winona, MN, to points in AZ, CA, ID, MT, NV, NM, OR, UT, WA, and WY. (Hearing site: Minneapolis or St. Paul, MN.)

MC 146538 (Sub-3F), filed May 16, 1979. Applicant: WALTER SHORT AGENCY, INC., 500 Wyoming Avenue, Dearborn, MI 48126. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *tractors* (except truck tractors), from the facilities of Ford Motor Company at Romeo, MI, to points in AL, FL, GA, KY, NC, SC, TN, and MS, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations (except traffic moving in foreign commerce). (Hearing site: Detroit, MI, or Chicago, IL.)

MC 146847 (Sub-1F), filed May 7, 1979. Applicant: PETER P. MARTINOVICH, d.b.a. L. M. TRUCKING, P.O. Box 28, Babcock, WI 54413. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Transporting (a) *such commodities* as are manufactured, dealt in, or used by manufacturers, converters and printers of paper and paper products (except commodities in bulk), from the facilities of Riverside Paper Corporation at or near Appleton, WI, to points in IL, IA, MN, MI, IN and MO, and (b) *scrap paper*, in the reverse direction. (Hearing site: Madison or Milwaukee, WI.)

MC 146938 (Sub-3F), April 13, 1979. Applicant: WALT'S DRIVE-AWAY SERVICE, INC., Frank Hitchcock Road, Cairo, NY 12413. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *truck bodies*, between

Athens, NY, on the one hand, and, on the other, points in AL, CT, DC, FL, GA, ME, MD, MA, NH, NJ, NC, OH, PA, RI, SC, VT, VA and NY, under continuing contract(s) with Olson Bodies, Inc., of Athens, NY. (Hearing site: Albany or New York, NY.)

MC 146967F, filed April 13, 1979. Applicant: WILLIAMS TRUCK & TRAILER, INC., 451 U.S. 41-A South, Henderson, KY 42420. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *commodities*, in bulk, in dump vehicles, between the facilities of Henderson County Riverport Authority in Henderson County, KY, on the one hand, and, on the other, points in AL, AR, IL, IN, KY, MO, OH, TN, VA and WV. (Hearing site: Louisville, KY or Evansville, IN.)

MC 147157F, filed April 18, 1979. Applicant: MARTIN TRANSFER AND STORAGE, INC., 305 Broad St., East Dublin, GA 31021. Representative: C. E. Walker, P.O. Box 1085, Columbus, GA 31902. To operate as a *contract carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting (1) *newsprint paper*, from the facilities of Southeast Paper Manufacturing Company in Laurens County, GA, to points in AL, FL, KY, LA, MS, NC, SC, TN, VA, TX, AR, MO, IL, IN, OH, WV, PA, OK, KS and MD, and (2) *materials, equipment, and supplies* used in the manufacture of newsprint paper, in the reverse direction, under continuing contract(s) with Southeast Paper Manufacturing Company, of Dublin, GA. (Hearing site: Atlanta, GA.)

MC 148047F, filed March 8, 1979. Applicant: JAMES E. JARBOE, d.b.a. FLOORCO DISTRIBUTING CO., 8507 Brownsboro Road, Louisville, Ky 40222. Representative: Fredrick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. Transporting *carpeting*, from points in GA, to points in KY and IN. (Hearing site: Louisville, KY.)

[FR Doc. 79-35205 Filed 11-14-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-7 (Sub-60F)]

Stanley E. G. Hillman, Trustee, of the Property of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Debtor, Abandonment Near Iron Ridge and Fond du Lac, in Dodge and Fond du Lac Counties, WI; Correction

The above captioned proceeding published at 44 FR 62676 on October 31, 1979, should be disregarded. This document was prematurely published,

as an exception to the decision served September 17, 1979, was timely filed.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35206 Filed 11-14-79; 8:45 am]
BILLING CODE 7035-01-M

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC-115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before December 5, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the *Federal Register*, subject to its tariff publication effective date.

HG-33-79 (special certificate—used household goods), filed November 7, 1979. Applicant: TEXAS FIREPROOF STORAGE CO., INC., 11th St. and Mary Avenue, P.O. Box 369, Waco, TX 76703. Representative: M. E. Davis, Secretary-Treasurer (address same as applicant). Authority sought: Between points in Brown, Comanche, and Falls Counties, TX, serving Fort Hood, TX.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35203 Filed 11-14-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 222

Thursday, November 15, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Federal Deposit Insurance Corporation	2, 3
International Trade Commission	4
Tennessee Valley Authority	5

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, November 23, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2224-79 Filed 11-13-79; 9:51 am]
BILLING CODE 6351-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 19, 1979, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of title 5, United States Code, to consider the following matters:

Recommendation with respect to payment of expenses incurred by Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,079-L—American Bank & Trust, Orangeburg, South Carolina.
Case No. 44,123-L—Northern Ohio Bank, Cleveland, Ohio.
Case No. 44,124-L—First State Bank & Trust Co., Rio Grande City, Texas.
Memorandum re: Watkins Banking Company, Faunsdale, Alabama.

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier partial denial of a request for records.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8) and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 9, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-2222-79 Filed 11-9-79; 4:52 pm]
BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on

Monday, November 19, 1979, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for report on the competitive factors involved in a proposed consolidation of Hickory National Bank of Michigan, Fawn River Township (P.O. Sturgis), Michigan, and Branch County Bank, Coldwater, Michigan.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Strasburger & Price, Dallas, Texas, in connection with the receivership of American Bank & Trust Company, New York, New York.

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the receivership of American Bank & Trust Company, New York, New York.

Memorandum and Resolution proposing the publication of the final amendments to Part 335 of the Corporation's rules and regulations governing securities of insured State nonmember banks (compliance with Section 12(i) of the Securities Exchange Act of 1934 and miscellaneous amendments).

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 9, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-2223-79 Filed 11-14-79; 4:52 pm]
BILLING CODE 6714-01-M

4

[USITC SE-79-44A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To FR November 7, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, November 20, 1979.

CHANGES IN THE MEETING: By action jacket SE-79-41, Commissioners Parker, Alberger, Moore, Bedell, and Stern determined by recorded vote that Commission business requires the addition of the following item to the agenda for the meeting of Tuesday, November 20, 1979:

4. Petitions and complaints, if necessary: b. Calcium pantothenate (Docket No. 604).

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-2225-79 Filed 11-13-79; 1:57 pm]

BILLING CODE 7020-02-M

5

[Meeting No. 1231]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 9:30 a.m., EST, Tuesday, November 20, 1979.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

DISCUSSION ITEM.

1. Preliminary rate review.

ITEMS FOR ACTION.

Old Business

1. Req. No. 585383—Indefinite quantity term contract for contemporary steel office furniture for any TVA project.

New Business

A—Personnel Action

1. Change of status for Bevan W. Brown, Jr., from Director, Division of Natural Resources Services, to Deputy Manager of Natural Resources, Office of Natural Resources, Norris, Tennessee.¹

B—Consulting and Personal Services Contracts

1. Renewal of consulting contract with Mine Reclamation Consultants, Inc., Laramie, Wyoming, for services in connection with the environmental assessment of uranium mining and milling projects, requested by the Office of Natural Resources.

C—Purchase Awards

1. Amendment to contract 75P-81-T11 with

¹ This item was approved by individual Board members. This would give formal ratification to the Board's action.

Old Ben Coal Company for reduction in contract commitment.

2. Req. No. 163340—Management services for coal washing plant at Fabius Mine located in Jackson County, Alabama.

3. Req. No. 590466—Indefinite quantity term contract for word processing equipment and software for Computing Operations Branch.

F—Power Items

1. License agreement with Electric Power Research Institute covering arrangements for licensing to TVA of a computer code for analyses of nuclear reactor system transients.

G—Real Property Transactions

1. Deed of exchange of land rights among TVA, State of Tennessee, and Fort Loudoun Association for preservation of Fort Loudoun.
2. Filing of condemnation suits.

H—Unclassified

1. Designation of Maureen H. Dunn as an Assistant Secretary of TVA.

2. Designation of James O. Ford and Jacqueline B. Jenkins as certifying officers.

3. New TVA policy code on adjustment contracts relating to highway, railroad, and bridge facilities affected by TVA projects.

CONTACT PERSON FOR MORE

INFORMATION: Lee C. Sheppard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: November 13, 1979.

[S-2226-79 Filed 11-13-79; 3:27 pm]

BILLING CODE 8120-01-M

Federal Register

Thursday
November 15, 1979

Part II

**Department of
Agriculture**

Office of the Secretary

Improving Government Regulations;
Semiannual Agenda of Regulations

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR, Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR, Chs. I-IV

36 CFR, Ch. II

41 CFR, Ch. 4

Semiannual Calendar of Significant Actions and Regulation Review Activity Pending and Planned for December 1979 Through May 1980

AGENCY: U.S. Department of Agriculture, Office of the Secretary.

ACTION: Semi-Annual Agenda of Regulations and Other Actions.

SUMMARY: This calendar provides a summary of significant regulations and other actions being developed in all agencies of the U.S. Department of Agriculture in the next 6 months under the procedures described in the report "Improving USDA Regulations" (published at 43 FR 50988 on November 1, 1978). The purpose of this calendar is to inform the public of all significant actions and regulation review activities so interested individuals or groups may plan to provide comments and identify new information to be used as part of the basis for Departmental decisionmaking.

FOR FURTHER INFORMATION CONTACT:

The name of an individual who can answer questions and provide further information about specific decisions listed in this Agenda is identified for each decision in its individual listing. Suggestions or inquiries of a general nature about this Agenda should be directed to: Mr. Linley E. Juers, OBPE, Office of the Secretary, Room 117-A, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6667

SUPPLEMENTARY INFORMATION: This decision calendar is an update of the calendar published in the Federal Register on May 15, 1979. The calendar contains a listing of each significant action under development or expected to be initiated between December, 1979, and May, 1980, as well as those which have been completed in the last 6 months. All regulations under review are also identified, whether significant or not, so that interested parties can see the full picture of items being reviewed.

The purpose of publication of the decision calendar is to provide the public with an overview of pending major actions under consideration by

USDA. This provides an overall context for Departmental decisionmaking. The projected schedules shown for each action under development makes it possible for interested individuals or groups to prepare to provide inputs to decisionmaking at the appropriate stages (i.e., when proposals are published for comment, or when pre-notices are published).

To facilitate public understanding of the status of USDA decisions the calendar is organized into 4 sections including:

- A list of actions completed, withdrawn or redesignated not significant since publication of the last calendar;
- A list of actions under development organized under headings identifying the USDA agency responsible and including descriptions, projected schedules, etc. for each action;
- A list of regulations scheduled for review by each USDA agency including all regulations for which review is ongoing or will be initiated between now and May, 1980; and
- A list of regulations proposed for review by each USDA agency on which public comment is solicited as to the appropriateness of reviewing the listed regs during the next calendar period.

USDA encourages the public to review each of these sections to identify entries made by agencies of interest to them. If additional information is desired on specific entries the USDA contacts identified in those entries should be queried. Inquiries of a general nature or suggestions as to how the utility of this calendar could be improved should be addressed to Mr. Linley E. Juers as indicated in "Contact for Further Information", above.

This decision calendar is published and is updated every 6 months as part of USDA's response to Executive Order 12044, signed by President Carter on March 23, 1978, "Improving Government Regulations" (43 FR 12661, March 24, 1978). The Executive Order directs all executive branch departments and agencies to "adopt procedures to improve existing and future regulations." A description of USDA's overall Departmental Decision System was described in a report required by OMB and published at 43 FR 50988 on November 1, 1978.

In this calendar we have attempted to list all significant actions pending at the time of the calendar, but some may have been inadvertently missed. There is no legal significance to an item not appearing on this listing.

The dates shown for the various stages of each action are estimated and are not commitments to act on or by the date shown. The "pre-notice" date, when given, is an indication the agency intends to seek public input prior to the "notice of proposed rulemaking." Anyone desiring further information on an action should write or call the agency contact listed for the action.

Addition information on this calendar or on USDA regulation and decisionmaking procedures may be obtained from Mr. Linley E. Juers, OBPE, Office of the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6667.

Dated: November 8, 1979.

Jim Williams,
Acting Secretary.

Summary of Actions Completed, Withdrawn, or Redesignated Not Significant Since the Last Calendar

AMS 1081; Completed; Beef Pricing Investigation.
AMS 1089; Completed; Proposed Revisions of U.S. Grade Standards for Feeder Cattle.
AMS 10814; Completed; Proposed New England Apple Marketing Agreement and Order.
AMS 12857; Completed; California Ruby Seedless Grapes Marketing Agreement and Order.
AMS 12859; Completed; Amendment of Indiana Milk Order.
AMS 12860; Completed; Changing License Fees and Requirements Under Perishable Agricultural Commodities Act.
AMS 4921; Withdrawn; Marketing Policy for California Dried Prunes.
AMS 4922; Completed; Marketing Policy Statement—1979-80 Crop Year—Olives Grown in California.
AMS 4923; Completed; Proposed Termination of Marketing Order 925 covering Idaho-Oregon Fresh Prunes.
AMS 4926; Completed; Marketing Policy Statement—1979-80 Crop Year—Lemons Grown in California and Arizona.
AMS 4927; Withdrawn; Marketing Policy Statement—1979-80 Crop Year—Tart Cherries Grown in Selected States.
AMS 4928; Completed; Marketing Policy Tomatoes Grown in Florida.
AMS 4929; Completed; Marketing Policy for Florida Celery.
AMS 4930; Withdrawn; Marketing Policy for California Almonds.
AMS 109-99; Redesignated; Proposed Free and Restricted Percentages for the 1979-80 Marketing Policy Year.
APHIS 10815; Completed; Revised Bird Quarantine Regulation.
APHIS 3911; Withdrawn; Revised Voluntary Inspection Regulations.
ASCS 1086; Completed; 1980 Crop Wheat.
ASCS 10819; Withdrawn; Emergency Feed Program.
ASCS 492; Completed; 1979 Crop Sugar Loan Program.
ASCS 497; Completed; 1980 Feed Grain Program.

ASCS 498; Completed; 1980 Feed Grain Program.
ASCS 499; Completed; 1980 Soybean Price Support Program.
ASCS 4922; Completed; Price Support Level for Milk, 1979-80 Marketing Year.
ENG 1082; Redesignated; Industrial Hydrocarbons and Alcohols, Pilot Projects.
ESCS 1082; Completed; Cost of Product—Methods, Procedures and Format.
ESCS 10824; Completed; Review of Cooperative Program.
ESCS 492; Completed; 1979 Rice 5-Month Price Computation.
FGIS 1082; Withdrawn; Weighing Handbook.
FGIS 1087; Withdrawn; Subpart J, Safety and Health Standards, Regulation Under the U.S. Grain Standards Act.
FMHA 1087; Completed; Procedure to Implement Section 525 of the Housing Act of 1949.
FMHA 10827; Completed; Assistance to Energy Impacted Areas.
FMHA 10828; Withdrawn; Small Communities Conferences.
FMHA 10842; Completed; Joint Memorandum of Agreement between FMHA and the Appalachian Regional Commission.
FMHA 10847; Completed; Rural Development Goals Report.
FMHA 10848; Completed; Refine Data Gathering to Aid State Directors in Development Strategy.
FMHA 108-53; Withdrawn; Business and Industrial Guaranteed Loan Program Evaluation.
FMHA 108-58; Withdrawn; Weatherization Program—A change in emphasis.
FNS 1188; Redesignated; State Plan for School Lunch Program (7 CFR 210).
FNS 11815; Redesignated; Especially Needy School Breakfast Program (7 CFR 220).
FNS 11852; Completed; Special Supplemental Food Program Regulations.
FNS 118-75; Completed; Food Stamp Program: Regulations concerning the participation of Indians.
FNS 6910; Completed; Emergency Rulemaking—Allotment Reduction Procedures.
FS 1081; Completed; National Forest System Land and Resource Management Planning.
FS 10814; Completed; Amendment to Regulation 36 CFR 222, Grazing and Livestock Use on the National Forest System.
FS 10816; Redesignated; Forest Service Manual 2351 Off-road Vehicle Management.
FSQS 10822; Completed; Antibiotic Residues.
FSQS 10834; Completed; Nitrates and Nitrites Regulation.
FSQS 10835; Completed; Standard for Turkey Ham.
OGSM 1082; Completed; Intermediate Credit Program for Breeding Stock.
OGSM 492; Completed; Pub. L. 480—CCC Docket.
REA 7910; Completed; Issuance by REA of Interim Regulations for Financing CATV Services or Facilities.
SCS 1083; Completed; Compliance with NEPA.
SCS 10810; Completed; Landrights, Water Rights and Construction Permits.
SCS 10818; Completed; Formulation of SCS Wetlands Protection Policy.

SCS 10819; Completed; Formulation of SCS Flood Plain Management Policy.
SCS 099-19; Completed; Black Creek Watershed, Mississippi.
SEA 392; Completed; Department's Position on Research Facility Program.
SEC 049-1; Completed; Enhancement, Protection and Management of Cultural Resources.
SEC 592; Completed; Departmental NEPA Regulations, Policies and Procedures.
BILLING CODE 3410-01-M

AGRICULTURAL MARKETING SERVICE

1. Calendar No: AMS 108-5
2. Title: Implementation of the Wheat and Wheat Foods Research and Nutrition Education Act.
3. Description: (Formal Rulemaking) A series of steps coordinated by the Dept. will be required to develop an appropriate Wheat and Wheat Foods Research and Nutrition Education order. A referendum of end product manufacturers (primarily wholesale bakers) would determine if the order is approved.
4. Authority: Wheat and Wheat Foods Research and Nutrition Education Act P. L. 95-113, Sections 1701-1719, 91 Stat. 1031 (1977).
5. Projected Schedule
 - a. Date of pre-notice: 11/78
 - b. Public hearing: 3/79
 - c. Recommend Decision: 9/79
 - d. Final Decision: 11/79
6. Contacts:

Agency: Ralph Tapp, Ext. (202) 447-3970
USDA, AMS, Room 2610S, Washington, D.C. 20250

1. Calendar No: AMS 108-7
2. Title: Amendments to regulations under the Federal Seed Act. 7 CFR Part 201
3. Description: Update and clarify provisions such as definition of variety rules for assigning variety names, add new kinds, add new rules for testing, amend standards for certified seed, and amend rules for sampling unusual containers. Last major revision of regulations was in 1973.
4. Authority: Federal Seed Act, 7 U.S.C. 1551 et seq.
5. Projected Schedule
 - a. Date of pre-notice: Summer 1980
 - b. Date of proposal: Fall 1980
 - c. Final Decision: Early 1981
6. Contacts:

Agency: Clyde Edwards, Ext. (202) 447-9340
USDA, AMS, Room 2611S, Washington, D.C. 20250

1. Calendar No: AMS 108-6
2. Title: Implementation of the amended Beef Research and Information (BRI) Act.
3. Description: (Formal Rulemaking) A series of steps coordinated by the Dept. will be required to develop an appropriate BRI order. A referendum would determine if beef producers wish to assess themselves for the purpose of carrying out a BRI program.
4. Authority: Beef Research and Information Act (P.L. 94-294, Sections 2-21, 90 Stat. 529 (1976)) as amended by the Agricultural Credit Act of 1978, P.L. 95-334, Section 302, 92 Stat. 433 (1978)
5. Projected Schedule
 - a. Date of pre-notice: 3/79
 - b. Date of Hearing: 6/79
 - c. Recommend Decision: 9/79
 - d. Final Decision: 12/79
6. Contacts:

Agency: Ralph Tapp, Ext. (202) 447-3970
USDA, AMS, Room 2610S, Washington, D.C. 20250

1. Calendar No: AMS 108-43
2. Title: Amendment of Greater Kansas City Milk Order
3. Description: Key proposals would change the pooling standards for supply plants.
4. Authority: Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.); 7 CFR Part 1064
5. Projected Schedule
 - a. Date of pre-notice: 7/78
 - b. Date of proposal: 1/79
 - c. Final Decision: 11/79
6. Contacts:

Agency: Maurice Martin, Ext. (202) 447-7183
USDA, AMS, Room 2751S, Washington, D.C. 20250

1. Calendar No: AMS 108-44
2. Title: Amendment of Nebraska-Western Iowa Milk Order
3. Description: Key proposals would change the pooling standards for supply plants and increase the Class I price at certain locations.
4. Authority: Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.); 7 CFR Part 1065
5. Projected Schedule
 - a. Date of pre-notice: 7/78
 - b. Date of proposal: 7/79
 - c. Date of revised proposal: 1/80
 - d. Final Decision: 4/80
6. Contacts:

Agency: Maurice Martin, Ext. (202) 447-7183
USDA, AMS, Room 2751S, Washington, D.C. 20250

1. Calendar No: AMS 019-4
2. Title: California Grapefruit Marketing Agreement and Order. 7 CFR Part 909 (Pending)
3. Description: Assess proposed program to regulate grapefruit grown in California.
4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601 et seq.
5. Projected Schedule
 - a. Date of Hearing: 3/8/79
 - b. Recommend Decision: 7/79
 - c. Final Decision: 8/79
 - d. Final Order: 11/79
6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975
USDA, AMS, Room 2532S, Washington, D.C. 20250

1. Calendar No: AMS 108-49
2. Title: New Federal Milk Order for Boise, Idaho, Area 7 CFR Part (Pending)
3. Description: Establish a new Federal milk order covering 18 southwestern Idaho and 5 eastern Oregon counties. The principal cities in the proposed marketing area are Boise, Nampa, and Twin Falls, Idaho. The provisions of the order would be patterned after those commonly used in most other Federal orders.
4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. (7 U.S.C. 601 et seq.); 7 CFR Part (Pending).
5. Projected Schedule
 - a. Date of pre-notice: 9/78
 - b. Date of proposal: 8/79
 - c. Final Decision: 12/79
6. Contacts:

Agency: Maurice Martin, Ext. (202) 447-7183
USDA, AMS, Room 2751S, Washington, D.C. 20250

1. Calendar No: AMS 019-5
2. Title: Arizona Grapefruit Marketing Agreement and Order 7 CFR Part 909 (Pending)
3. Description: Assess proposed program to regulate grapefruit grown in Arizona
4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601 et seq.
5. Projected Schedule
 - a. Date of Hearing:
 - b. Recommend Decision:
 - c. Final Decision: 11/79
6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975
USDA, AMS, Room 2532S, Washington, D.C. 20250

1. Calendar No: AMS 049-25
2. Title: Marketing Policy Statement - 1979-80 Crop Year - Navel Oranges Grown In Arizona and California. 7 CFR Part 907
3. Description: The committee's marketing policy sets forth basis for regulations for 1979-80 year beginning November 1, 1979, and ending October 31, 1980.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. The order requires the Committee to consider marketing policy each crop year. 7 U.S.C. 601 et seq.

5. Projected Schedule

- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision: 11/79

6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975
USDA, AMS, Room 2532S, Washington, D.C. 20250

1. Calendar No: AMS 049-32
2. Title: Marketing Policy for California Raisins Under M.O. No. 989. 7 CFR Part 989
3. Description: To set the volume regulation for California raisins for the 1979-80 crop year beginning August 1, 1979, and ending July 31, 1980.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. Recommended by Raisin Administrative Committee. 7 U.S.C. 601 et seq.

5. Projected Schedule

- a. Date of pre-notice:
- b. Date of proposal: 11/79
- c. Final Decision: 12/79

6. Contacts:

Agency: William J. Higgins, Ext. (202) 447-5053
USDA, AMS, Room 2525S, Washington, D.C. 20250

1. Calendar No: AMS 049-31
2. Title: Marketing Policy for California Walnuts under M.O. No. 984. 7 CFR Part 984
3. Description: To set the volume regulation for California walnuts for the 1979-80 marketing year beginning August 1, 1979, and ending July 31, 1980.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. Recommended by the Walnut Marketing Board 7 U.S.C. 601 et seq.

5. Projected Schedule

- a. Date of pre-notice:
- b. Date of proposal: 9/79
- c. Final Decision: 11/79

6. Contacts:

Agency: William J. Higgins, Ext. (202) 447-5053
USDA, AMS, Room 2525S, Washington, D.C. 20250

1. Calendar No: AMS 099-88
2. Title: Proposed Marketing Agreement and Order for Spearmint Oil Produced In the Far West
3. Description: The proposed program would regulate the handling of spearmint oil produced in the Far West production area. Seasonal regulations would limit the quantity of oil handlers may purchase from or handle on behalf of producers and provide for necessary expenses and administration.

4. Authority: Authorized by the Agricultural Marketing Agreement Act. 7 U.S.C. Sections 601-674; Rules of Practice and Procedure Governing Proceedings to Formulate Marketing Agreements and Marketing Orders, 7 CFR, Sections 900.1-900.1f; requested by a Committee of Spearmint Growers.

5. Projected Schedule

- a. Date of pre-notice: 7/10/79
- b. Date of proposal: 10/79
- c. Final Decision: 3/80

6. Contacts:

Agency: William J. Higgins, Ext. (202) 447-5057
USDA, AMS, Room 2525S, Washington, D.C. 20250

1. Calendar No: AMS 099-90
2. Title: Regulatory Treatment of Reconstituted Milk in all Federal Milk Orders
3. Description: If a hearing is found to be warranted, a public hearing would be held on a proposal to have reconstituted fluid milk products removed from the Class I pricing provisions of all milk orders.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.); 7 CFR Parts 1001, 1002, 1004, 1006, 1007, 1011-1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1062, 1064, 1065, 1068, 1071, 1073, 1075, 1076, 1079, 1094, 1096-1099, 1102, 1104, 1106, 1108, 1120, 1124-1126, 1131-1134, 1136-1139.

5. Projected Schedule

- a. Date of pre-notice: Undetermined
- b. Date of proposal: Undetermined
- c. Final Decision: Undetermined

6. Contacts:

Agency: Robert F. Groene, Ext. (202) 447-4824
USDA, AMS, Room 2753S, Washington, D.C. 20250

1. Calendar No: AMS 109-100
2. Title: Set Annual Marketing Policy for Valencia Oranges Grown in California and Arizona
3. Description: The marketing policy includes an analysis of the supply and demand outlook for California-Arizona Valencia oranges. The marketing policy sets forth the basis for regulation of the 1980 crop of Valencia oranges.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601-674; 7 CFR Part 908

5. Projected Schedule

- a. Date of pre-notice: None
- b. Date of proposal: None
- c. Final Decision: 3/80

6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975
USDA, AMS, Room 2532S, Washington, D.C. 20250

1. Calendar No: AMS 099-92
2. Title: Proposed California Desert Grape Marketing Agreement and Order, 7 CFR Part (Pending)

3. Description: Assess proposed program covering desert grapes grown in California.

4. Authority: Agricultural Marketing Agreement Act of 1937, as amended, 7 U.S.C. 601 et seq.

5. Projected Schedule

- a. Invite Proposals: 8/17/79
- b. Public Hearing: 12/15/79
- c. Recommend Decision: 2/15/80
- d. Final Decision: 4/1/80
- e. Final Order: 5/1/80

6. Contacts:

Agency: M. E. McGaha, Ext. (202) 447-5975
USDA, AMS, Room 2532S, Washington, D.C. 20250

1. Calendar No: AMS 109-101
2. Title: Marketing Policy for Hops of Domestic Production
3. Description: To set the volume regulation for hops of domestic production for the 1980-81 marketing year beginning August 1, 1980 and ending July 31, 1981. Recommended by the Hop Administrative Committee.

4. Authority: Agricultural Marketing Agreement Act of 1937, U.S.C. 601-674, as amended; 7 CFR Part 991. Recommended by Hop Administrative Committee.

5. Projected Schedule

- a. Date of pre-notice:
- b. Date of proposal: None
- c. Final Decision: 3/80

6. Contacts:

Agency: William J. Higgins, Ext. (202) 447-5053
USDA, AMS, Room 2525S, Washington, D.C. 20250

1. Calendar No: AMS 109-102
2. Title: Set Annual Marketing Policy for Cranberries Grown in 10 Designated States
3. Description: The marketing policy includes an analysis of the supply and demand outlook for cranberries. The marketing policy sets forth the basis for regulation of the 1980 crop of cranberries.
4. Authority: Agricultural Marketing Agreement Act of 1937, as amended. 7 U.S.C. 601-674; 7 CFR Part 929
5. Projected Schedule
- a. Date of pre-notice: None
- b. Date of proposal: None
- c. Final Decision: 3/80
6. Contacts:
- Agency: M. E. McGaha, Ext. (202) 447-5975
USDA, AMS, Room 2532S, Washington, D.C. 20250

1. Calendar No: AMS 109-105
2. Title: Amendment of Southern Michigan Federal Milk Order
3. Description: Producers propose that the shipping percentages for pooling supply plants be reduced and that a second advance payment during a month be provided for producers and cooperative associations.
4. Authority: Agricultural Marketing Agreement Act of 1937, 7 U.S.C. 601-674, as amended; 7 CFR Part 1040
5. Projected Schedule
- a. Date of pre-notice: 10/79
- b. Date of proposal: 4/80
- c. Final Decision: 6/80
6. Contacts:
- Agency: Martin Dunn, Ext. (202) 447-7311
USDA, AMS, Room 2761S, Washington, D.C. 20250

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

1. Calendar No: AMS 109-106
2. Title: Proposed suspension of some provisions of the Iowa Federal Milk Order
3. Description: A proprietary handler proposed that some of the diversion provisions of the order be suspended during the period October 1979 through August 1980, pending a hearing to amend the order.
4. Authority: Agricultural Marketing Agreement Act of 1937, 7 U.S.C. 601-674, as amended; 7 CFR Part 1079
5. Projected Schedule
- a. Date of pre-notice: 10/79
- b. Date of proposal: 11/79
- c. Final Decision: 11/79
6. Contacts:
- Agency: Martin Dunn, Ext. (202) 447-7311
USDA, AMS, Room 2761S, Washington, D.C. 20250

1. Calendar No: APHIS 108-1
2. Title: Revise Gypsy Moth and Brown-Tail Moth Quarantine and Regulations
3. Description: Would redirect Gypsy Moth and Brown-Tail Moth programs by adopting a pest management concept based on pest risk.
4. Authority: 7 U.S.C. 161, 162, 150ee. To change regulatory program. This would amend 7 CFR 301.45 et. seq.
5. Projected Schedule
- a. Date of pre-notice: None
- b. Date of proposal: 5/4/79
- c. Final Decision: 12/21/79 Estimated
6. Contacts:
- Agency: H. Autry, Ext. (301) 436-8247 USDA, APHIS
Room 635, Federal Bldg., Hyattsville, Md. 20782

1. Calendar No: APHIS 108-9
2. Title: Revised Bird Quarantine Regulation
3. Description: Would add "smuggled birds" to definitions, and would provide for release when determined to be free of disease
4. Authority: 21 U.S.C. 111, 134a-c, and 134f. Provide method for quarantining "smuggled" birds. This would amend 9 CFR 92.1 and 92.2.
5. Projected Schedule
- a. Date of pre-notice: None
- b. Date of proposal: 3/30/79
- c. Final Decision: 11/30/79 Estimated
6. Contacts:
- Agency: Dr. E. Sherman, Ext. (301) 436-8530 USDA, APHIS
Room 821, Federal Bldg., Hyattsville, Md. 20782

1. Calendar No: APHIS 108-10
2. Title: Revision of Export Livestock Handling Requirements
3. Description: Amendments would delete specific maximum length requirements for container pens for animals on ocean vessels and would relax restrictions on the type of roof which may be used to cover pens carrying animals on exposed decks aboard ocean vessels.
4. Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612-614, 618; 46 U.S.C. 466a, 466b. Research studies performed indicate that certain modifications in shipping practices would not result in relaxed humane handling standards or disease control measures. This would amend 9 CFR 91.8 through 91.32
5. Projected Schedule
- a. Date of pre-notice: None
- b. Date of proposal: 2/15/80 Estimated
- c. Final Decision: 6/15/80 Estimated
6. Contacts:
- Agency: Dr. Harold Waters, Ext. (301) 436-8383 USDA, APHIS, Room 815A, Federal Bldg., Hyattsville, Md. 20782

1. Calendar No: APHIS 039-12
2. Title: Revised Cattle Scabies Regulations (Docket 78-76)
3. Description: Revision would propose standards for approved facilities for the treatment of cattle required to be dipped before moving interstate, and would clarify conditions under which cattle may be moved interstate.
4. Authority: 21 U.S.C. 111-113, 115, 117, 120-1, 123-6/Revision would give added support to the State-Federal cooperative cattle scabies eradication efforts. This would revise 9 CFR 73.
5. Projected Schedule
- a. Date of pre-notice: 1/26/78
- b. Date of proposal: 12/1/79 Estimated
- c. Final Decision: 5/1/80 Estimated
6. Contacts:
- Agency: Dr. J. Hourigan, Ext. (301) 436-8321, USDA, APHIS, Room 735, Federal Bldg., Hyattsville, Md. 20782

1. Calendar No: APHIS 039-15
2. Title: Amendment to TB Indemnity Rates (Docket 78-107)
3. Description: This proposed amendment would raise the maximum indemnity rate for livestock destroyed because of tuberculosis. On tuberculin reactors and exposed animals the indemnity would be the difference between the appraised value and residual salvage value up to the new maximum.
4. Authority: 21 U.S.C. 111-113, 114, 114a, 114a-1, 120, 121, 125, 134b/To maintain a reasonable incentive for livestock owners to voluntarily cooperate in the TB Eradication Program, the indemnity would be raised to a level which will minimize the owner's loss for agreeing to depopulate the infected herd. This would amend 9 CFR 50.1 et. seq.
5. Projected Schedule
- a. Date of pre-notice: 11/30/79 Estimated
- b. Date of proposal: 3/1/80 Estimated
- c. Final Decision: 3/1/80 Estimated
6. Contacts:
- Agency: Dr. R. Bennett, Ext. (301) 436-8715, USDA, APHIS, Room 802, Federal Bldg., Hyattsville, Md. 20782

1. Calendar No: APHIS 039-25
2. Title: Revise Brucellosis Regulations to Parallel Uniform Methods and Rules
3. Description: To consider revision of the regulations to conform to the Uniform Methods and Rules as administered within the States.
4. Authority: 21 U.S.C. 111-114a-1, 115, 120, 121, 125, 134b, 134f/This action would be responsive to the Secretary's Brucellosis Technical Commission's Report recommending changes to the Uniform Methods and Rules. The recommended changes were adopted as Resolutions by the Brucellosis Committee of the USAHA. This would amend 9 CFR 78.1 et. seq.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 2/1/80 Estimated
- c. Final Decision: 6/1/80 Estimated
6. Contacts:
- Agency: Dr. A. D. Robb, Ext. (301) 436-8713, USDA, APHIS, Room 805, Federal Bldg., Hyattsville, Md. 20782

1. Calendar No: APHIS 039-29
2. Title: Imported Fire Ant (IFA) Revocation
3. Description: Proposal to revoke the Imported fire ant quarantine and regulations which regulate the movement of articles to prevent artificial, long-range spread of the ant to noninfested areas. Federal regulatory activities would be terminated.
4. Authority: 7 U.S.C. 161, 162, 150ee/Control chemicals will soon be unavailable. No acceptable alternatives appear to exist. This would revoke 7 CFR 301.81 et. seq.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 1/4/80 Estimated
- c. Final Decision: 4/4/80 Estimated
6. Contacts:
- Agency: H. Autry, Ext. (301) 436-8247, USDA, APHIS, Room 635, Federal Bldg., Hyattsville, Md. 20782

1. Calendar No: APHIS 039-26
2. Title: Revise Brucellosis Indemnity Regulations
3. Description: Would authorize surveys of market values of cattle to determine flat rate indemnity maximums for each class and type. The combination of State indemnity/Federal indemnity and salvage value should give the producer a total return great enough to insure his participation in disease eradication, but not so great that he would live with the disease in order to collect indemnities.
4. Authority: 21 U.S.C. 111-113, 114, 114a-1, 120, 121, 125, 134b/This action is responsive to recommendations made by USAHA, the Secretary's Brucellosis Technical Commission and the National Cattlemen's Association. The recommendations ask APHIS to evaluate the possibility of adopting an indemnity system keyed to replacement value which moves with the market. This would amend 9 CFR 51.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/1/79 Estimated
- c. Final Decision: 4/1/80 Estimated
6. Contacts:
- Agency: Dr. A. D. Robb, Ext. (301) 436-8713, USDA, APHIS, Room 805, Federal Bldg., Hyattsville, Md. 20782

1. Calendar No: APHIS 049-35
2. Title: Quarantine 37 - Nursery Stock, Plants and Seeds (Docket 77-308)
3. Description: Complete revision of provisions relating to prohibition and restrictions on the importation of certain classes of nursery stock and certain other classes of plant roots, bulbs, seeds, and other plant products.
4. Authority: 7 U.S.C. 154, 159, 160, 162, and 150ee/Cyclical revision of entire subpart. This would amend 7 CFR 319.37 et. seq.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 6/15/79
- c. Final Decision: 1/4/80 Estimated
6. Contacts:
- Agency: H. Autry, Ext. (301) 436-8247 USDA, APHIS, Room 635, Federal Bldg., Hyattsville, Md. 20782

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

1. Calendar No: ASCS 049-45
2. Title: Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry (Docket #79-95)
3. Description: This document amends the regulations to set forth Veterinary Services policy and procedures for the control and eradication of exotic Newcastle disease from populations of poultry and birds including the release of areas quarantined after the disease has been eliminated.
4. Authority: 21 U.S.C. 111-113, 114a, 115, 117, 120, 123-126, 134b, 134f. Amends regulations in 9 C.F.R. Part 87.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 1/1/80 Estimated
- c. Final Decision: 4/1/80 Estimated
6. Contacts:
- Agency: Dr. W. Rulisch, Ext. (301) 436-8091 USDA, APHIS, Room 746, Federal Bldg. Hyattsville, Md. 20782
1. Calendar No: ASCS 049-4
2. Title: 1980 Upland Cotton Program Provisions
3. Description: Announce the target price, national program acreage, voluntary reduction percentage, set-aside requirement, voluntary diversion requirement, and limitation on planted acreage.
4. Authority: Section 103(f) of the Agriculture Act of 1949, as amended, and Section 1001 of the Food and Agriculture Act of 1977, as amended. 7 U.S.C. 1444(a) 7 U.S.C. 1309, 7 CFR Part 713, 7 CFR Part 797
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 9/14/79
- c. Final Decision: 12/15/79
6. Contacts:
- Agency: Charles V. Cunningham, Ext. (202) 447-7873 USDA, ASCS, Room 3629S, Washington, D.C. 20250

1. Calendar No: ASCS 049-11
2. Title: 1980 Rice Set-Aside and Land Diversion Payment Program
3. Description: Announce the national acreage allotment and the set-aside and the land diversion payment program determinations.
4. Authority: Section 101(h) of the Agricultural Act of 1949, as amended, and Section 1001 of the Food and Agriculture Act of 1977 as amended. 7 U.S.C. 1441. 7 U.S.C. 1309, 7 CFR Part 730, 7 CFR Part 792
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 10/19/79
- c. Final Decision: 12/31/79
6. Contacts:
- Agency: George H. Schaefer, Ext. (202) 447-8480 USDA, ASCS, Room 3619S, Washington, D.C. 20250
1. Calendar No: ASCS 049-12
2. Title: 1980 Rice Loan, Purchase and Payment Program
3. Description: Determine and announce the loan and purchase rate and the target price for rough rice. Basically, the determinations are mathematical calculations specified by statute.
4. Authority: Section 101(h) of the Agricultural Act of 1949, as amended and Section 1001 of the Food and Agriculture Act of 1977 as amended. 7 U.S.C. 1441(h) 7 U.S.C. 1309, 7 CFR Section 1421.300 et. seq. 7 CFR Part 730
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 10/19/79
- c. Final Decision: 12/31/79
6. Contacts:
- Agency: George H. Schaefer, Ext. (202) 447-8480 USDA, ASCS, Room 3619S, Washington, D.C. 20250

1. Calendar No: ASCS 049-13
2. Title: 1979 Crop Wheat
3. Description: Proclaim final national program acreage for 1979 crop of wheat.
4. Authority: Section 107A of the Agricultural Act of 1949, as amended. 7 U.S.C. 1449b. 7 CFR Part 713
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision: 12/1/79
6. Contacts:
- Agency: Bruce R. Weber, Ext. (202) 447-6688
USDA, ASOS, Room 3617S, Washington, D.C. 20250

1. Calendar No: ASCS 049-21
2. Title: 1980 Crop Peanuts - National Acreage Allotment and National Poundage Quota.
3. Description: Establish for 1980 crop peanuts a national acreage allotment which determines maximum planted acres, and a national poundage quota which determines the quantity of peanuts eligible for loans at the domestic edible support level.
4. Authority: Section 358 of the Agricultural Adjustment Act of 1938, as amended by the Food and Agriculture Act of 1977. 7 U.S.C. 1358. 7 CFR Part 729
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 9/28/79
- c. Final Decision: by 12/1/79
6. Contacts:
- Agency: Dalton Ustynik, Ext. (202) 447-6733
USDA, ASOS, Room 3758S, Washington, D.C. 20250

1. Calendar No: ASCS 049-20
2. Title: 1980 Crop Peanuts -- National Average Price Support Levels and General Program Provisions.
3. Description: Establish a 1980 national average support level for quota peanuts at not less than \$420 a ton; a national average support level for additional peanuts; and CCC sales policy for sales of additional peanuts for edible export use.
4. Authority: Section 108 of the Agricultural Act of 1949, as amended. 7 U.S.C. 1445c. 7 CFR Part 1446. Section 358 of the Agricultural Act of 1938, as amended. 7 U.S.C. 1359
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/1/79
- c. Final Decision: 2/15/80
6. Contacts:
- Agency: Dalton Ustynik, Ext. (202) 447-6733
USDA, ASOS, Room 3758S, Washington, D.C. 20250

1. Calendar No: ASCS 109-2
2. Title: 1981- Crop Wheat
3. Description: Proposed notice of determination and final determination of national program acreage, set-aside and diversion levels, voluntary acreage adjustment, target price, loan levels, special wheat acreage grazing and hay program and acreage limitations for the 1981 crops of wheat.
4. Authority: Section 107A of the Agricultural Act of 1949, as amended, and Section 1001 of the Food and Agriculture Act of 1977, as amended. 7 U.S.C. 1449b. 7 CFR Part 713. 7 CFR 1309. 7 CFR Part 792.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 5/15/80
- c. Final Decision: 8/15/80
6. Contacts:
- Agency: Randy Weber, Ext. (202) 447-6688
USDA, ASOS, Room 3617S, Washington, D.C. 20250

OFFICE OF ENERGY

1. Calendar No: ERS 109-3
2. Title: Natural Gas Policy Act of 1978, Proposed Amendment to Certification of Essential Agricultural Uses and Requirements
3. Description: A proposed rule to include SIC No. 3466 Metal Crowns and Closures (food related only) as essential agricultural use for purposes of protection from curtailment of interstate natural gas under Section 401 of the Natural Gas Policy Act of 1978.
4. Authority: P. L. 95-621, Natural Gas Policy Act of 1978; 7 CFR Part 2900, Essential Agricultural Uses and Requirements.
5. Projected Schedule
- a. Date of pre-notice: None
- b. Date of proposal: 10/19/79
- c. Final Decision: 12/79
6. Contacts:
- Agency: Weldon V. Rarion, Ext. (202) 447-2455
USDA, Room 226E, Washington, D.C. 20250

1. Calendar No: ASCS 109-13
2. Title: Farmer-Owned Grain Reserve Program
3. Description: Propose amending regulations pertaining to following program provisions: Release level, call level, timing of release, timing of call, payment of storage and conversion of old agreements if program is revised.
4. Authority: Section 110 of the Agricultural Act of 1949, as amended. 7 U.S.C. 1445e. 7 CFR 1421-530 et. seq.
5. Projected Schedule
- a. Date of pre-notice: None
- b. Date of proposal: 11/16/79
- c. Final Decision: 2/29/80
6. Contacts:
- Agency: Leslie Fredrickson, Ext. (202) 447-4208
USDA, ASOS, Room 3740S, Washington, D.C. 20250

ECONOMICS, STATISTICS & COOPERATIVE SERVICE

1. Calendar No: ESCS 108-1
2. Title: RLS Data Series
3. Description: The decision involves our adjustment to the new data series and evaluating its impact on our work in margins and cost components. Includes other possible sources of retail price data.
- Need: Bureau of Labor Statistics has dropped certain individual retail commodity price series and replaced them by composites series.
4. Authority: Agricultural Marketing Act of 1946, Section 203, 7 U.S.C. 1622
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: Fall 1978
- c. Final Decision: 12/79
6. Contacts:
- Agency: Bob Rohall, Ext. (202) 447-8666
USDA, ESCS, Room 200 GH, Washington, D.C. 20250

1. Calendar No: ESCS 108-9
2. Title: Futures Trading In Potatoes
3. Description: Conduct a study of potato marketing and futures trading. Submit a report to the Secretary of Agriculture for response to requirements of P.L. 95-405, Sec. 27. The report is due to each House of Congress October 1, 1979.
4. Authority: The Futures Trading Act of 1978, P.L. 95-405, Section 27, 92 Stat. 877 (1978)
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision: 11/15/79
6. Contacts:
- Agency: Allen Paul, Ext. (202) 447-8168
USDA, ESCS, Room 245 GH, Washington, D.C. 20250

FOREIGN AGRICULTURAL SERVICE

1. Calendar No: FAS 108-3
2. Title: Proposed Establishment of Selected Area Agricultural Trade Offices
3. Description: On-the-spot surveys are being made where necessary; and financial, personnel and overseas position limitations are being explored with a view to developing proposals for opening additional trade offices during 1980.
4. Authority: Agricultural Trade Act of 1978, P.L. 95-501, Section 401, 92 Stat. 1688 (1978). Amended Title VI of the Agricultural Act of 1954.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision: by 9/30/80
6. Contacts:
- Agency: Jimmy Minyard, Ext. (202) 447-4761
USDA, FAS, Room 5089A, South Bldg., Washington, D.C. 20250

1. Calendar No: ESCS 108-14
2. Title: Standby Authority for Mandatory Reporting of Data
3. Description: Determine possible ways industry could be required to submit monthly food sales, costs, profits, and related data and what legislation to propose
4. Authority: This is proposed legislation. GAO Report to Congress "What Causes Food Prices to Rise" CED-78-170, 9/7/78 recommends USDA develop legislation requiring firms to report data on margins.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 1/79
- c. Final Decision: 12/79
6. Contacts:
- Agency: Harry Harp, Ext. (202) 447-8489
USDA, ESCS, Room 112 GH, Washington, D.C. 20250

1. Calendar No: FAS 108-35
2. Title: Implementation of Public Law 88-482 Meat Import Law
3. Description: To estimate CY 1980 U.S. Imports of meats subject to the Meat Import Act.
4. Authority: The Meat Import Act, P.L. 88-482, Section 2(b)(2), 78 Stat. 594 (1964).
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision: 12/31/79
6. Contacts:
- Agency: Lloyd Fleck, Ext. (202) 447-7199
USDA, FAS, Room 6616S, Washington, D.C. 20250

FEDERAL GRAIN INSPECTION SERVICE

1. Calendar No: FAS 108-38
2. Title: Proposed designation of Agricultural Counselors
3. Description: Identify those positions in the field which should be upgraded from Attache to Counselor and submit to Department of State for concurrence. Select foreign country attache posts which will be upgraded during 1980.
4. Authority: Agricultural Trade Act of 1978, P.L. 95-501, Section 301, 92 Stat. 1687 (1978); Amended Title VI of the Agricultural Act of 1954.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision: 10/1/80
6. Contacts:
- Agency: Alexander Bernitz, Ext. (202) 447-3253
USDA, FAS, Room 5092S, Washington, D.C. 20250
1. Calendar No: FGIS 108-1
2. Title: Export Shiplading Inspection Plans (Cu-Sum)
3. Description: Review present export shiplading inspection plans and develop an alternative. The current "Uniform Shiplading Plan" is complicated and difficult to apply. The "10 Percent Plan" allows too much off grade grain to be loaded aboard ship.
4. Authority: U.S. Grain Standards Act, Section 5, 7 and 16 (7 U.S.C. 77, 79, 87e).
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 6/15/79
- c. Final Decision: 12/1/79
6. Contacts:
- Agency: John Marshall, Ext. (202) 447-8497
USDA, FGIS, Room 0624S, Washington, D.C. 20250
1. Calendar No: FGIS 108-3
2. Title: Dust Particle Size Standards
3. Description: Establish dust particle size standards as guidelines on the grain dust that should be removed from grain and the size dust particles that may be allowed to remain within the grain.
4. Authority: U.S. Grain Standards Act, Section 4 and 24 (7 U.S.C. 76, 76 Note)
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 2/80
- c. Final Decision: 7/80
6. Contacts:
- Agency: George Lipscomb, Ext. (202) 447-4851
USDA, FGIS, Room 3117 Auditors Bldg. Washington, D.C. 20250
1. Calendar No: FGIS 108-4
2. Title: Regulations Under the United States Grain Standards Act
3. Description: Regulations to implement new and amended provisions of the Act which was extensively amended by Congress in Oct 1976 and Sept 1977. Subpart A for administering and enforcing the Act; Subparts C & D contain performance requirements for inspection and weighing equipment and handling systems respectively. (Other subparts to be drafted separately)
4. Authority: U.S. Grain Standards Act of 1976 Sections 4, 7, 7A and 16. (7 U.S.C. 76, 79, 79a, 16).
5. Projected Schedule
- a. Date of pre-notice: 7/31/78
- b. Date of proposal: 3/2/79
- c. Final Decision: 12/1/79
6. Contacts:
- Agency: J. T. Abshier, Ext. (202) 447-8262
USDA, FGIS, Room 2405 Auditors Bldg. Washington, D.C. 20250

1. Calendar No: FGIS 108-5
2. Title: Expansion of Duties of Official Inspection Agencies
3. Description: A proposed rulemaking requiring all official inspection agencies to provide, upon request, official protein testing services for all classes of wheat using only FGIS approved protein testing equipment effective 5/1/79. However, on 5/1/80 FGIS will specify that only NIR equipment will be approved for protein testing. Exemptions provided for agencies where little or no wheat is marketed.
4. Authority: U.S. Grain Standards Act, Section 7(b) and 7(f) (7 U.S.C. 79(b), 79(f))

5. Projected Schedule

- a. Date of pre-notice: 3/8/79
- b. Date of proposal: 3/8/79
- c. Final Decision: Undetermined

6. Contacts:

Agency: Neil Porter, Ext. (202) 447-8262
USDA, FGIS, Room 2405 Auditors Bldg, Washington, D.C. 20250

1. Calendar No: FGIS 049-6
2. Title: Eliminate Analysis for Dark, Hard, and Vitreous Kernels in Hard Red Winter Wheat
3. Description: Elimination of quality analysis for Dark, Hard, and Vitreous (DHW) Kernels in Hard Red Winter (HRW) Wheat effective May 1, 1980. Provide for quicker, more reliable objective testing (protein content) as a better indicator of baking quality.
4. Authority: U.S. Grain Standards Act, Section 7(b) (7 U.S.C. 79(b)).

5. Projected Schedule

- a. Date of pre-notice: 1/24/79
- b. Date of proposal: 1/24/79
- c. Final Decision: Undetermined

6. Contacts:

Agency: John Marshall, Ext. (202) 447-8497
USDA, FGIS, Room 06245, Washington, D.C. 20250

1. Calendar No: FGIS 108-6
2. Title: Proposed Amendment to the Official U.S. Standards for Grain (Weevily)
3. Description: Presently the standards for various grains require varying sizes of samples used for determining infestation. We propose to provide uniform requirements as to sample size and procedures used; and to establish a zero tolerance on live insect infestation before certificates identify involved grain as infested.
4. Authority: Section 4 of U.S. Grain Standards Act. (7 U.S.C. 76)

5. Projected Schedule

- a. Date of pre-notice: November 1979
- b. Date of proposal: Undetermined
- c. Final Decision: Undetermined

6. Contacts:

Agency: James L. Driscoll, Ext. (202) 447-9329
Richards-Gebaur AFB, Bldg. 221, Grandview, Mo. 64030

1. Calendar No: FGIS 109-61
2. Title: Review of Regulations Under the Agricultural Marketing Act of 1946
3. Description: Review and propose amendments or revisions as necessary to the regulations governing inspection of commodities which include the grading of rice, pulses and hay/straw; factor analysis of hops, and the certification of processed grain products for contract compliance.
4. Authority: 7 U.S.C. 1621 et. seq.; 7 CFR Part 68

5. Projected Schedule

- a. Date of pre-notice: 3/31/80
- b. Date of proposal: 9/30/80
- c. Final Decision: 12/31/80

6. Contacts:

Agency: Edith Christensen, Ext. (202) 447-6801
USDA, FGIS, Room 06375, Washington, D.C. 20250

FARMERS HOME ADMINISTRATION

1. Calendar No: FmHA 108-1
2. Title: Review of thermal insulation standards for masonry construction
3. Description: Review of technical and economic data on the effect of building mass upon energy consumption to determine the optimum level of thermal performance which should be required in FmHA financed masonry homes.
4. Authority: Action by House-Senate conference committee on FY 79 Agriculture Appropriations Act. The Housing Act of 1949, Section 510, 42 U.S.C. 1480; 7 CFR 1804, Subpart A, Exhibit D (proposed redesignation as 7 CFR 1924, Exhibit D, published at 44 F.R. 39432 (1979))

5. Projected Schedule

- a. Date of pre-notice: 11/13/78
- b. Date of proposal: 12/79
- c. Final Decision: 2/80

6. Contacts:

Agency: Daniel J. Ball, Ext. (202) 447-3394
USDA, FmHA, Room 6309S, Washington, D.C. 20250

1. Calendar No: FmHA 108-3
2. Title: Solar Demonstration Retrofit
3. Description: Select 2 FmHA inventory houses in each of six regions for retrofit utilizing Wilke Solar collector and monitor system over 2 heating seasons. Houses similar in design and orientation - one as control, other for solar. Audio-visual aids for training and demonstration are planned.
4. Authority: Departmental Initiative to offset high cost of heating Sec. 502 housing through application of low-cost solar energy hardware. The Housing Act of 1949, Section 506, 42 U.S.C. Section 1476.

5. Projected Schedule

- a. Date of pre-notice:
- b. Date of proposal: 4/81
- c. Final Decision: 6/81

6. Contacts:

Agency: Carl Larson, Ext. (202) 447-7595
USDA, FmHA, Room 5420S, Washington, D.C. 20250

1. Calendar No: FmHA 108-2
2. Title: Planning and Performing Site Development Work in FmHA Instruction 424.5.(1924-D)
3. Description: Revision of requirements for site development in areas which have steep slopes. Standards apply to streets, grading, drainage, and other aspects of residential site development.
4. Authority: Requests by Appalachian Regional Commission, State agencies and FmHA field staff for more flexibility in standards. The Housing Act of 1949, Section 510, 42 U.S.C. 1480; 7 CFR 1804, Subpart D.

5. Projected Schedule

- a. Date of pre-notice:
- b. Date of proposal: 2/80
- c. Final Decision: 5/80

6. Contacts:

Agency: Frank Colon, Ext. (202) 447-4295
USDA, FmHA, Room 5343S, Washington, D.C. 20250

1. Calendar No: FmHA 108-4
2. Title: Change in FmHA 430.2 Exhibit F - Rural Rental Housing "Rent Increase."
3. Description: Change FmHA Procedure to require that before granting rent increases to RRH owners that are receiving interest credit, the owner must request Rental Assistance when a substantial number of tenants are paying more than 25% of their income for rent.
4. Authority: Departmental Initiative to enable RRH tenants who are paying more than 25% of their income for rent to receive Rental Assistance. The Housing Act of 1949, Section 510, 42 U.S.C. 1480.

5. Projected Schedule

- a. Date of pre-notice:
- b. Date of proposal: 6/79
- c. Final Decision: 3/80

6. Contacts:

Agency: Thomas Maxwell, Ext. (202) 447-7207
USDA, FmHA, Room 5323S, Washington, D.C. 20250

1. Calendar No: FmHA 108-6
2. Title: Revision of Rural Rental Housing (RRH) Procedures (FmHA 444.5)
3. Description: Clarify application and preapplication requirement for RRH projects, including requirements for previous participation, evaluation of the market survey of demand and need, and to make other policy changes to shore up possible misuse of the program. Also, this action will incorporate the Rural Cooperative Housing program.
4. Authority: Departmental Initiative to clarify procedure and to curb possible misuse of the program. The Housing Act of 1949, Sections 510 and 515, 42 U.S.C. 1480 and 1485.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 7/79
- c. Final Decision: 11/79
6. Contacts:
- Agency: Lynn Voight, Ext. (202) 447-7207
USDA, FmHA, Room 5327S, Washington, D.C. 20250

1. Calendar No: FmHA 108-12
2. Title: Home Ownership Assistance Program
3. Description: Development and promulgation of instructions to implement a Home Ownership Assistance subsidy program as requested by the Administration and passed by Congress.
4. Authority: Housing and Community Development Amendments of 1978. The Housing Act of 1949, Sections 510 (j) and 521 (a)(1)(c); 42 U.S.C. 1480(j) and 1490a(a)(1)(c).
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 3/80
- c. Final Decision: 8/80
6. Contacts:
- Agency: Matt Felber, Ext. (202) 447-4295
USDA, FmHA, Room 5339S, Washington, D.C. 20250

1. Calendar No: FmHA 108-10
2. Title: Consideration of Limited Assistance Self Help Housing Approach
3. Description: Review the policy and procedure concerning the minimum hours of participation on self help projects. Ask public interest groups for comment concerning the advisability of limiting the family's labor contribution.
4. Authority: Housing Act of 1949, Section 510(j), 42 U.S.C. 1480(j).
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/79
- c. Final Decision: 3/80
6. Contacts:
- Agency: John Pentecost, Ext. (202) 447-7207
USDA, FmHA, Room 5323S, Washington, D.C. 20250

1. Calendar No: FmHA 108-14
2. Title: Coordinated Use of Loan and Grant Programs to Meet Low-Income Needs
3. Description: Deny community program assistance in prescribed circumstances, and to accelerate repayment in certain instances when communities arbitrarily prohibit or restrict low-income housing.
4. Authority: Consolidated Farm and Rural Development Act, Section 339; 7 U.S.C. Section 1989; Housing Act of 1949, Section 510(j), 42 U.S.C. Section 1480(j); 7 CFR 2.23; 7 CFR 2.70.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/79
- c. Final Decision: 3/80
6. Contacts:
- Agency: Art Collings, Ext. (202) 447-8448
USDA, FmHA, Room 5303S, Washington, D.C. 20250

1. Calendar No: FmHA 108-18
2. Title: Review of Present Priorities for B&I Loans
3. Description: Review will include consideration of lines of credit, small loans, limited partnerships, interim financing and other matters.
4. Authority: Consolidated Farm and Rural Development Act, Section 310B, Public Law 92-419, 7 U.S.C. 1932. May affect 7 CFR 1980, Subpart E.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 11/79
- c. Final Decision: 2/80
6. Contacts:
- Agency: Robert Butler, Ext. (202) 447-5243
USDA, FmHA, Room 5420S, Washington, D.C. 20250

1. Calendar No: FmHA 108-23
2. Title: Revise FmHA Instructions to permit certain energy producing projects to be funded under B&I Program
3. Description: Departmental Initiative to amend B&I regulations to permit certain energy projects to be approved.
4. Authority: Consolidated Farm and Rural Development Act, Section 310B, Public Law 92-419; 7 U.S.C. 1932. May affect 7 CFR 1980.411.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/79
- c. Final Decision: 2/80
6. Contacts:
- Agency: Robert Butler, Ext. (202) 447-5243
USDA, FmHA, Room 5420S, Washington, D.C. 20250

1. Calendar No: FmHA 108-22
2. Title: Proposed change in B&I Program to broaden eligibility for foreign-owned applicants.
3. Description: Completed survey of states to determine significance of impact, published proposed change to permit foreign applicants if 85% of employees are U.S. citizens, and prepared option paper for decision.
4. Authority: Consolidated Farm and Rural Development Act, Section 310B; Public Law 92-419, 7 U.S.C. 1932. May affect 7 CFR 1980.403.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 5/79
- c. Final Decision: 11/79
6. Contacts:
- Agency: Robert Butler, Ext. (202) 447-5243
USDA, FmHA, Room 5420S, Washington, D.C. 20250

1. Calendar No: FmHA 108-26
2. Title: Community Facility loans for electric and telephone facilities
3. Description: Consider making FmHA loans for electric and telephone facilities to communities not eligible for REA assistance.
4. Authority: To provide a complete spectrum of loan assistance to rural communities in need. Consolidated Farm and Rural Development Act, as amended, Section 306(a)(14), 7 U.S.C. 1926.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 1/80
- c. Final Decision: 3/80
6. Contacts:
- Agency: John Bowles, Ext. (202) 447-7667
USDA, FmHA, Room 6304S, Washington, D.C. 20250

1. Calendar No: FmHA 108-44
2. Title: Phase II, National Rural Community Facilities Assessment Study.
3. Description: Major feasibility study currently underway with ABT Assoc. to determine the data requirements, collection and analysis plans for making the assessments. Performance criteria and types of communities to be included will be presented to FmHA prior to the initiation of Phase II. Supplemental study to be conducted by Agency.
4. Authority: The Consolidated Farm and Rural Development Act, as amended, Section 331(c), 7 U.S.C. 1981(c). Agency initiative to develop national and state assessments of the current status of community facilities relative to acceptable performance standards.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision: 11/79
6. Contacts:
- Agency: Vince Rock, Ext. (391) 436-7725, USDA, FmHA, Presidential Bldg., Hyattsville, Md. 20852

1. Calendar No: FmHA 108-66
2. Title: Section 502 Loans Income Limitations
3. Description: To adjust current limits for inflation.
4. Authority: The Housing Act of 1949, Section 510(j); 42 U.S.C. 1480(j).
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision:
6. Contacts:
- Agency: Byron Fischer, Ext. (202) 447-4295
USDA, FmHA, Room 5351S, Washington, D.C. 20250

1. Calendar No: FmHA 108-56
2. Title: Needs Assessment Capability Study
3. Description: The Needs Assessment Component will be designed to be nationally applicable, to be used at the national level in assessing the relative needs of States, and within assessing the relative needs of counties. Center for Census Use Studies has contracted to develop a Needs Assessment Component to help FmHA assess relative levels of need for its loan programs.
4. Authority: Rural Development Act of 1972, P.L. 92-419, Section 603, 86 Stat. 1675 (1972).
5. Projected Schedule
- a. Date of pre-notice: Completed
- b. Date of proposal: Completed
- c. Final Decision: 3/80
6. Contacts:
- Agency: Mark Nestle, Ext. (301) 436-7748, USDA, FmHA, Room 539A, Presidential Bldg., Hyattsville, Md. 20852

1. Calendar No: FmHA 108-83
2. Title: Small Business Enterprise Loans
3. Description: Issue regulations for implementation of program.
4. Authority: Section 304 (b) of the Consolidated Farm and Rural Development Act, 7 U.S.C. Section 1924 (b).
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 4/80
- c. Final Decision: 7/80
6. Contacts:
- Agency: Carl Opstad, Ext. (202) 447-4572
USDA, FmHA, Room 5330S, Washington, D.C. 20250

1. Calendar No: FmHA 128-91
2. Title: Demonstration Program to improve coordination and upgrade the water and sewer assistance FmHA and FmHA provide rural communities.
3. Description: Implement six month pilot program led by the EPA in the states of Iowa, Nebraska, Kansas, Missouri, Oklahoma, Arkansas, Louisiana and Texas. Joint program involves needs assessment, new screening procedures, single application for assistance, contract in engineering fees, and other streamlined features.
4. Authority: Interagency agreement, (EPA, FmHA, FDA, CSA, and HUD) Initiated by White House. The Consolidated Farm and Rural Development Act, as amended, Section 331(h), 7 U.S.C. 1981(h) and Section 347, 7 U.S.C. 1995.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision: 11/79
6. Contacts:
- Agency: Glenn F. Walden, Ext. (202) 447-4307
USDA, FmHA, Room 6320S, Washington, D.C. 20250

1. Calendar No: FmHA 069-37
2. Title: Instruction for Floodplain Management and Wetlands Protection
3. Description: Initial procedure FmHA 1040 M was published in the Federal Register on September 14, 1978, for public comment. This is the final rule.
4. Authority: This procedure has been written to comply with Executive Order 11988, 42 F.R. 26951 (1977) and Executive Order 11990.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision: 11/79
6. Contacts:
- Agency: Cecil W. Rose, Ext. (202) 447-3394
USDA, FmHA, Room 6305S, Washington, D.C. 20250

1. Calendar No: FmHA 059-78
2. Title: That part of Operating Loan Policies, Procedures and Authorization covering Youth Loans
3. Description: This action will insure that loan amounts that are larger than necessary for program purposes are not approved which can result in unnecessary reduction in the total number of eligible applicants served with limited loan funds.
4. Authority: Administrative change made because the Youth Loan Program needs to be revised to limit the size of individual loans. Authority to issue administrative changes found in the Consolidated Farm and Rural Development Act, Section 339, 7 U.S.C. 1949.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 6/79
- c. Final Decision: 1/80
6. Contacts:
- Agency: Leroy Jones, Ext. (202) 447-4669
USDA, FmHA, Room 5317S, Washington, D.C. 20250

1. Calendar No: FmHA 079-44
2. Title: Lender Eligibility and Qualifications for R&L Loans
3. Description: Revised FmHA regulation, Section 1980.13 (h) (1) and (2) to reclassify insurance companies as eligible lenders and eliminate certain lenders under present regulations which do not have the expertise or resources available to handle complex commercial loans.
4. Authority: The Consolidated Farm and Rural Development Act, Section 310R, 7 U.S.C. 1932. Agency experience with lenders which require approval indicates need to be more restrictive. Also insurance companies should be reclassified as eligible lenders.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 9/30/79
- c. Final Decision: 2/80
6. Contacts:
- Agency: Darryl H. Evans/Dean R. Moore, Ext. (202) 447-4150, USDA, FmHA, Room 5432S, Washington, D.C. 20250

1. Calendar No: FmHA 070-45
2. Title: Fees and Charges for R&I Loans
3. Description: Revise FmHA regulation, Section 1980.22 to provide for specific limits of fees, charges or yields that would be permitted for the R&I loan. Requirement for full disclosure at application and loan closing time would be established.
4. Authority: The Consolidated Farm and Rural Development Act, Section 310R, 7 U.S.C. 1932. Considerable experience at this time indicates that lenders and other interested parties are charging expensive fees on R&I loans.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 10/30/79
- c. Final Decision: 4/80
6. Contacts:
- Agency: Dean Moore/Darryl H. Evans Ext. (202) 447-4150, USDA, FmHA, Room 5432S, Washington, D.C. 20250

1. Calendar No: FmHA 079-47
2. Title: Loan Policy Pertaining to Local Lender for R&I Loans.
3. Description: To revise FmHA regulations, Section 1980.13 (a) and (f). Such revision would establish certain parameters for lender eligibility, e.g. define local area, and set forth specific exemptions when a local lender cannot provide the required expertise or funding.
4. Authority: The Consolidated Farm and Rural Development Act, Section 310R, 7 U.S.C. 1932. To provide more definitive rules in handling lenders for the R&I program. Considerable administrative problems have developed over the past year and one half on this issue.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 8/30/79
- c. Final Decision: 12/19/79
6. Contacts:
- Agency: Darryl H. Evans, Ext. (202) 447-4150, USDA, FmHA, Room 5432S, Washington, D.C. 20250

1. Calendar No: FmHA 070-46
2. Title: Restricting the Sale of the Unguaranteed Portion of Loans
3. Description: Revised FmHA regulations 1980-A&F, and Form FmHA 440-35, Lender's Agreement to set specific conditions for selling the unguaranteed portion of a loan.
4. Authority: The Consolidated Farm and Rural Development Act, Section 310R, 7 U.S.C. 1932. Many lenders do not have the interest in servicing loans when they are permitted to sell the entire loan off in the secondary market. Also we expect shortly policy decisions from the Comptroller of the Currency on this matter.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 11/79
- c. Final Decision: 5/80
6. Contacts:
- Agency: Darryl H. Evans Ext. (202) 447-4150, USDA, FmHA, Room 5432S, Washington, D.C. 20250

1. Calendar No: FmHA 080-53
2. Title: Review of Minimum Property Standards to assess applicability to rural housing.
3. Description: Conduct study of standards for housing in rural areas to determine if changes can be made which would permit the use of lower cost innovative technologies.
4. Authority: Housing Act of 1949, Sections 506 (a) and 510 (j), 42 U.S.C. Sections 1476(a), and 1480(j)
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/1/79
- c. Final Decision: 4/1/80
6. Contacts:
- Agency: Dan Ball, Ext. (202) 447-3304, USDA, FmHA, Room 6309S, Washington, D.C. 20250

1. Calendar No: FmHA 090-50
2. Title: Develop improved loan servicing regulations and procedures.
3. Description: After the R&I division has analyzed a sampling of State Office operations and consolidated current administrative procedures, the division will develop procedures designed to more effectively monitor the program and provide for more contact with lenders and borrowers. This action will formalize and codify servicing procedures.
4. Authority: The Consolidated Farm and Rural Development Act, Section 310R, 7 U.S.C. 1932
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/79
- c. Final Rule: 3/1/80
6. Contacts:
- Agency: Leigh Malley, Ext. (202) 447-4924, USDA, FmHA, Room 5428S, Washington, D.C. 20250

1. Calendar No: FmHA 090-65
2. Title: Study of "Utilization of Fee Appraiser in conjunction with present Agency designated authorized appraisers for the rural rental housing (RRH) program."
3. Description: The evaluation will examine the issues involved in using fee appraisers and in continuing the present appraisal system. Issues to be considered are qualifications and selection of appraisers and the cost of appraisals. Other issues to be evaluated are training, cost data, and conflict of interest in being the appraiser and the loan processor at the same time. The possibility of a pilot program will be considered.
4. Authority: Housing Act of 1949, Section 510(j); 42 U.S.C. 1480(j)
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision:
6. Contacts:
- Agency: M. J. Pena, Ext. (202) 447-7207, USDA, FmHA, Room 5331S, Washington, D.C. 20250

1. Calendar No: FmHA 090-63
2. Title: Review and Strengthen R&I Program Operations
3. Description: Revise procedures to strengthen the loan making, including such areas as equity, Personal/corporate guarantees and refinancing.
4. Authority: The Consolidated Farm and Rural Development Act, as amended, Section 310R, 7 U.S.C. 1932.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 11/30/79
- c. Final Decision: 3/1/80
6. Contacts:
- Agency: Darryl Evans, Ext. (202) 447-4150, USDA, FmHA, Room 5432S, Washington, D.C. 20250

1. Calendar No: FmHA 090-66
2. Title: Revision of Community Programs Loan and Grant approval authorities, FmHA Instruction 1901-A, Exhibit R
3. Description: Exhibit R will be revised to increase the loan limits for community facility loans requiring National Office concurrence, from \$500,000 to \$1,000,000.
4. Authority: 7 U.S.C. Section 1980, 7 CFR 2.23; 7 CFR 2.70
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal:
- c. Final Decision: 11/79
6. Contacts:
- Agency: L. K. Pangma, Ext. (202) 447-7667, USDA, FmHA, Room 5433S, Washington, D.C. 20250

1. Calendar No: FmHA 099-67
2. Title: Implementation of the President's Water Policy Message to Congress
3. Description: This proposed action will result in additions to FmHA Instruction 1942-A. The proposal includes: (1) the discouragement of luxury consumption of water by assuring equitable rate structures; (2) requiring recipients to educate users in regards to water conservation; (3) reduce water loss on existing systems; and (4) incorporate water conservation measure in the design and operation of facilities when feasible.
4. Authority: 7 U.S.C. Section 1989, 7 CFR 2.23; 7 CFR 2.70
5. Projected Schedule
 - a. Date of pre-notice:
 - b. Date of proposal: 10/1/79
 - c. Final Decision: 1/1/80
6. Contacts:

Agency: Byron F. Ross, Ext. (202) 447-5717
USDA, FmHA, Room 6316S, Washington, D.C. 20250

1. Calendar No: FmHA 099-74
2. Title: Limit time span during which subsequent FM annual production and major adjustment loans can be made.
3. Description: Change the law to limit the time span during which present and future FM borrowers can be eligible for subsequent annual production and major adjustment loans. The time span for additional assistance will be limited to two full calendar years after the disaster.
4. Authority: The Consolidated Farm and Rural Development Act, Section 330, 7 U.S.C. Section 1971. Reduce amount of additional FM loan funds an applicant/borrower can receive.
5. Projected Schedule
 - a. Date of pre-notice:
 - b. Date of proposal:
 - c. Final Decision: 12/30/79
6. Contacts:

Agency: James E. Vollmer, Ext. (202) 447-6257
USDA, FmHA, Room 5336S, Washington, D.C. 20250

1. Calendar No: FmHA 099-73
2. Title: Establish Emergency Loan Ceiling
3. Description: Establish insured and guaranteed actual loss ceiling at \$750,000 per disaster. Insured major adjustment and annual production ceiling of \$500,000 principal balance outstanding of which a further limitation of \$300,000 on major adjustment funds to refinance real estate is set. Guaranteed loans would be double the above \$500,000 and \$300,000 ceilings.
4. Authority: Administrative change under the Consolidated Farm and Rural Development Act, Section 330, 7 U.S.C. Section 1989. Reduce amount of additional FM loan funds an applicant/borrower can receive.
5. Projected Schedule
 - a. Date of pre-notice:
 - b. Date of proposal:
 - c. Final Decision: 12/30/79
6. Contacts:

Agency: James E. Vollmer, Ext. (202) 447-6257
USDA, FmHA, Room 5336S, Washington, D.C. 20250

1. Calendar No: FmHA 099-75
2. Title: Eliminate the requirement that the FmHA County Committee must certify to the amount of each FM loan.
3. Description: Change the law to provide that the FmHA County Committee need certify only to each FM applicant's eligibility and not also the amount of each loan. This change is to be sought simultaneously with FmHA's legislative proposal to introduce credit ceilings on FM loans.
4. Authority: The Consolidated Farm and Rural Development Act, Section 333(h), 7 U.S.C. Section 1983(h). Eliminate a processing step and conform processing procedure with OL and FO loans.
5. Projected Schedule
 - a. Date of pre-notice:
 - b. Date of proposal:
 - c. Final Decision: 12/30/79
6. Contacts:

Agency: James E. Vollmer, Ext. (202) 447-6257
USDA, FmHA, Room 5336S, Washington, D.C. 20250

1. Calendar No: FmHA 099-76
2. Title: Limits uses of FF loan funds.
3. Description: Restrict insured FF funds from being used for totally refinancing an applicant's existing debt. This restriction would not apply to guaranteed FF loans.
4. Authority: Administrative change under the Emergency Agricultural Credit Adjustment Act of 1978, P.L. 95-334, Title II, Section 209(c), 92 Stat. 432 (1978).
5. Projected Schedule
 - a. Date of pre-notice:
 - b. Date of proposal:
 - c. Final Decision: 12/30/79
6. Contacts:

Agency: James E. Vollmer, Ext. (202) 447-6257
USDA, FmHA, Room 5336S, Washington, D.C. 20250

1. Calendar No: FmHA 099-79
2. Title: Establish negotiated interest rates for guaranteed FM annual production and major adjustment loans.
3. Description: Change the law to allow FM annual production and major adjustment guaranteed loans to be made at a negotiated rate of interest agreed upon by the applicant and the lender.
4. Authority: The Consolidated Farm and Rural Development Act, Section 324, 7 U.S.C. Section 1964. Make FM guaranteed loans more attractive to lenders.
5. Projected Schedule
 - a. Date of pre-notice:
 - b. Date of proposal:
 - c. Final Decision: 12/30/79
6. Contacts:

Agency: James E. Vollmer, Ext. (202) 447-6257
USDA, FmHA, Room 5336S, Washington, D.C. 20250

1. Calendar No: FmHA 099-77
2. Title: Extension of FF loan program beyond May 15, 1980
3. Description: Conclude a study and submit a recommendation to the Program Budget Review Board on whether to continue the FF loan program beyond May 15, 1980, and, if so, under what conditions.
4. Authority: The Emergency Agricultural Credit Adjustment Act of 1978, P.L. 95-334, Title II, 92 Stat. 429-433 (1978). To place recommendation before the Program Budget Review Board for evaluation.
5. Projected Schedule
 - a. Date of pre-notice:
 - b. Date of proposal:
 - c. Final Decision: 12/30/79
6. Contacts:

Agency: James E. Vollmer, Ext. (202) 447-6257
USDA, FmHA, Room 5336S, Washington, D.C. 20250

1. Calendar No: FmHA 099-R1
2. Title: Tighten "credit elsewhere" test for insured and guaranteed emergency loans.
3. Description: Requires applicants to present a written rejection from 3 or more conventional credit sources documenting to FmHA the unavailability of credit. This may be in the form of a new questionnaire the lending sources would complete. Also requires all assets of the applicant to be pledged as security before approval of the loan.
4. Authority: Administrative change under the Consolidated Farm and Rural Development Act, Section 339, 7 U.S.C. Section 1989. To strengthen documentation requirements of lenders and FmHA officials.
5. Projected Schedule
- a. Date of pre-notice: 9/1/79
- b. Date of proposal: 12/30/79
- c. Final Decision: 12/30/79
6. Contacts:
- Agency: James F. Volmer, Ext. (202) 447-6257
USDA, FmHA, Room 5336S, Washington, D.C. 20250

FOOD AND NUTRITION SERVICE

1. Calendar No: FNS 11A-2
2. Title: Proposed and Final Regulations Part 226 - Child Care Food Program
3. Description: The proposed rule provides for: administrative payments to sponsors of day care homes, a food service rate for family day care providers, start-up and advance payments, and alternative licensing procedures. Final rule will reflect comments received on proposed rule.
4. Authority: Child Nutrition Amendments of 1978, P.L. 95-627, Section 2, 92 Stat. 3603-3611 (1978).
5. Projected Schedule
- a. Date of pre-notice: 7/79
- b. Date of proposal: 12/79
- c. Final Decision: 12/79
6. Contacts:
- Agency: Jordan Penderly, Ext. (202) 447-8711
USDA, FNS, Room 644 GH1, Washington, D.C. 20250

1. Calendar No: FmHA 099-R1
2. Title: Change in FM major adjustment type loan terms
3. Description: Require that the terms of FM major adjustment loans for real estate purposes normally not exceed 30 years; however, in justifiable cases the terms may exceed 30 years but cannot exceed a maximum term of 40 years.
4. Authority: Administrative change under the Consolidated Farm and Rural Development Act, Section 339, 7 U.S.C. Section 1989. Restrict use of 40 year term to make terms more compatible with other local lenders.
5. Projected Schedule
- a. Date of pre-notice: 12/30/79
- b. Date of proposal: 12/30/79
- c. Final Decision: 12/30/79
6. Contacts:
- Agency: James F. Volmer, Ext. (202) 447-6257
USDA, FmHA, Room 5336S, Washington, D.C. 20250

1. Calendar No: FNS 11A-R
2. Title: School Breakfast Program: Grain-Fruit Product - Withdrawal of Approval, Part 220 to use the product in the School Breakfast Program.
3. Description: Elimination of formulated grain/fruit products from the Breakfast Program to promote development of good food habits in the furtherance of nutrition education through a well-balanced diet of conventional foods.
4. Authority: Child Nutrition Amendments of 1978, P.L. 95-627, Section 6(d), 92 Stat. 3621 (1978).
5. Projected Schedule
- a. Date of pre-notice: None
- b. Date of proposal: 1/80
- c. Final Decision: 5/80
6. Contacts:
- Agency: Margaret Glavin, Ext. (202) 447-8130
USDA, FNS, Room 4122 Auditors Bldg., Washington, D.C. 20250

1. Calendar No: FNS 11B-13
2. Title: Assessment, Improvement and Monitoring System for School Nutrition Programs
3. Description: A series of regulatory amendments for management, evaluation and monitoring designed to improve accountability. To assist State agencies, additional SAE funds will be provided. Removes Part 245 amendments from the PARS proposal and makes them a separate proposal.
4. Authority: Child Nutrition Amendments of 1978, P.L. 95-627, Section 7(a), 92 Stat. 3622 (1978).
5. Projected Schedule
- a. Date of pre-notice: None
- b. Date of proposal: 10/79
- c. Final Decision: 4/80
6. Contacts:
- Agency: Margaret Glavin, Ext. (202) 447-8130
USDA, FNS, Room 4122 Auditors Bldg., Washington, D.C. 20250

1. Calendar No: FNS 11B-26
2. Title: Food Distribution Program: Review and republication of regulations (7 CFR Part 250)
3. Description: FDD to make a systematic review of regulations and recommend restructuring and consolidation
4. Authority: Executive Order No. 12044, 43 F.R. 50988 (1978).
5. Projected Schedule
- a. Date of pre-notice: 5/79
- b. Date of proposal: 2/80
- c. Final Decision: 6/80
6. Contacts:
- Agency: Darrel Gray, Ext. (202) 447-8362
USDA, FNS, Room 610 GH1, Washington, D.C. 20250

1. Calendar No: FNS 11B-24
2. Title: Control on the Sales of Competitive Foods in Schools
3. Description: Regulations to implement that Section of P. L. 95-166 which requires that the Secretary approve those foods which may be sold in competition with the lunch and breakfast served under the National School Lunch and School Breakfast Programs, thereby placing controls on the sale of competitive foods at State and local levels.
4. Authority: National School Lunch Act and Child Nutrition Amendments of 1977, P.L. 95-166, Section 17, 91 Stat. 1345 (1977).
5. Projected Schedule
- a. Date of pre-notice: 12/78
- b. Date of proposal: 7/79
- c. Final Decision: 1/80
6. Contacts:
- Agency: Margaret Glavin, Ext. (202) 447-8130
USDA, FNS, Room 4122 Auditors Bldg., Washington, D.C. 20250

1. Calendar No: FNS 11B-42
2. Title: School Feeding Program: Definition of authorized milk products for use in food service.
3. Description: Develop definition for authorized milk products. This would clarify FNS policy pertaining to use of milkshakes. States are not interpreting requirement for "fluid" milk consistently as being synonymous with Class I dairy products.
4. Authority: National School Lunch Act, Section 9, 42 U.S.C. 1758; Child Nutrition Act of 1966, Section 4(e), 42 U.S.C. 1773.
5. Projected Schedule
- a. Date of pre-notice: None
- b. Date of proposal: 3/80
- c. Final Decision: 7/80
6. Contacts:
- Agency: Jane Ross, Ext. (202) 447-6993
USDA, FNS, Room 790 GH1, Washington, D.C. 20250

1. Calendar No: FNS 118-69
2. Title: Food Stamp Program: Regulations concerning administrative cost allocations for States
3. Description: Regulations concern the reimbursement to States for administrative costs incurred in operating the Food Stamp Program.

4. Authority: Food Stamp Act of 1977, 91 Stat. 958.

5. Projected Schedule

- a. Date of pre-notice: None
- b. Date of proposal: 11/79
- c. Final Decision: 4/80

6. Contacts:

Agency: Alberta Frost, Ext. (202) 447-8982
USDA, FNS, Room 650 GHI, Washington, D.C. 20250

1. Calendar No: FNS 118-73

2. Title: Food Stamp Program: Regulations concerning the Performance Reporting System

3. Description: Regulations require that the existing system be continued and further refined to ensure that States assess themselves at the local level and report to the Department on their efficiency and effectiveness.

4. Authority: Food Stamp Act of 1977, 91 Stat. 988; 7 U.S.C. 2011-2026

5. Projected Schedule

- a. Date of pre-notice: None
- b. Date of proposal: 4/79
- c. Final Decision: 12/79

6. Contacts:

Agency: Alberta Frost, Ext. (202) 447-8982
USDA, FNS, Room 650 GHI, Washington, D.C. 20250

1. Calendar No: FNS 118-70

2. Title: Food Stamp Program: Work Registration Joint Rulemaking

3. Description: Defines and assigns the responsibility for administering the food stamp work registration requirement, including job search activities, to the appropriate agencies within the Departments of Labor and Agriculture. Additionally the responsibilities and penalties for failure to comply with work requirements by participating households will be delineated.

4. Authority: The Food Stamp Act of 1977, P.L. 95-113, Section 6(d), 91 Stat. 958 (1977).

5. Projected Schedule

- a. Date of pre-notice: None
- b. Date of proposal: 1/80
- c. Final Decision: 7/80

6. Contacts:

Agency: Alberta Frost, Ext. (202) 447-8982
USDA, FNS, Room 650 GHI, Washington, D.C. 20250

1. Calendar No: FNS 039-1

2. Title: Changes in WIC Food Packages

3. Description: Proposed regulations - Part 246.8 - changing the food packages for the WIC participants. Current research of the nutritional needs of the target population indicate some changes should be made in the nutrients and levels provided.

4. Authority: Child Nutrition Amendments of 1978, P.L. 95-627, Section 3, 92 Stat. 3616, (1978).

5. Projected Schedule

- a. Date of pre-notice: None
- b. Date of proposal: 11/79
- c. Final Decision: 4/80

6. Contacts:

Agency: Jane McNeil, Ext. (202) 447-8206
USDA, FNS, Room 4301 Auditors Bldg., Washington, D.C. 20250

FOREST SERVICE

1. Calendar No: FS 108-2

2. Title: Title V Regulations of Federal Land Policy and Management Act of 1976

3. Description: Revise 36 CFR 251 regulations governing "Special Uses" to incorporate provisions of P.L. 94-579.

4. Authority: Federal Land Policy and Management Act of 1976, P.L. 94-579, Section 310, 90 Stat. 2743. (This section requires that regulations be promulgated.)

5. Projected Schedule

- a. Date of pre-notice: 11/4/77
- b. Date of proposal: 5/1/79
- c. Final Decision: 1/1/80

6. Contacts:

Agency: Gerald Van Gilst, Ext. (703) 235-8212
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 108-5

2. Title: Implementation of P.L. 95-313, The Cooperative Forestry Assistance Act of 1978

3. Description: Update and clarify Forest Service Manual program guidelines and existing regulations.

4. Authority: The Cooperative Forestry Assistance Act of 1978, P.L. 95-313, 92 Stat. 365 (1978).

5. Projected Schedule

- a. Date of pre-notice:
- b. Date of proposal: 11/1/79
- c. Final Decision: 2/1/80

6. Contacts:

Agency: John C. Barber, Ext. (202) 447-3331
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 108-3

2. Title: Cost Recovery Policy Issue

3. Description: No uniform policy among Federal agencies on collecting costs incurred in processing applications for use of Federal lands. Upon advice of OMB, a uniform policy between FS/RM will be developed for costs incurred in processing applications for use of Federal lands.

4. Authority: Federal Land Policy and Management Act of 1976, P.L. 94-579 Sections 304 and 504(q); 90 Stat. 2743. (1976).

5. Projected Schedule

- a. Date of pre-notice: 4/1/80
- b. Date of proposal: 7/1/80
- c. Final Decision: 10/1/80

6. Contacts:

Agency: Gerald Van Gilst, Ext. (703) 235-8212
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 108-6

2. Title: Draft 1980 RPA Assessment and Program

3. Description: The decision to release draft documents that assess the Nation's renewable resource situation and that describe Alternative Program Directions for the Forest Service for the next 50 years.

4. Authority: Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, P.L. 94-588, 90 Stat. 2949 (1976).

5. Projected Schedule

- a. Date of pre-notice: 2/79
- b. Date of proposal: 3/27/79
- c. Final Decision: 11/13/79
- d. Transmit to Congress: 1/80

6. Contacts:

Agency: Tom Hamilton, Ext. (202) 447-5440
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 108-9
2. Title: Regulations for Administering Forest Highways
3. Description: Update existing regulations required by Title 23 U.S.C. to reflect changed definitions for forest highways and to improve eligibility and selection criteria for projects. No change in cost, state cooperation, distribution of program, or funds. Change is related to non-federal aid highway eligibility for funding and RPA coordination.
4. Authority: The Surface Transportation Assistance Act of 1978, P.L. 95-590, 92 Stat. 2689 (1978). GAO Audit Report GAO-77-130 B164497(3).
5. Projected Schedule
- a. Date of pre-notice: 11/78
b. Date of proposal: 10/28/79
c. Final Decision: 1/1/80
6. Contacts:
- Agency: Mike Howlett, Ext. (703) 235-8035
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 108-11
2. Title: Secretary Review of Rate Redetermination for Alaska Lumber and Pulp Co. Sale
3. Description: Review, report, and recommendations from Board regarding rates for Alaska Lumber and Pulp Co. long-term timber sale contract.
4. Authority: Request to Secretary by purchaser to appoint special Board to review rates redetermined by the Forest Service.
5. Projected Schedule
- a. Date of pre-notice:
b. Date of proposal: 11/15/79
c. Final Decision: 1/1/80
6. Contacts:
- Agency: Norm Gould, Ext. (702) 447-6893
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 108-9
2. Title: Public Participation Procedures
3. Description: Establishment by regulation to give the Federal, State & local governments and the public adequate notice and opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.
4. Authority: Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, P.L. 94-588, Section 14(a), 90 Stat. 2958 (1976).
5. Projected Schedule
- a. Date of pre-notice:
b. Date of proposal: 4/17/79
c. Final Decision: 11/15/79
6. Contacts:
- Agency: Robert M. Lake, Ext. (202) 447-7013
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 108-13
2. Title: Amendment to Regulation 36 CFR 222, Management of Wild Free-Roaming Horses and Burros
3. Description: Amendments in Regulations are needed to implement provisions of the Act including: inventories, research, disposal of unadoptable animals, assigning of title of adopted animals. Regulations must be coordinated with efforts by U.S. Department of the Interior.
4. Authority: Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901
5. Projected Schedule
- a. Date of pre-notice: 12/15/78
b. Date of proposal: 8/10/79
c. Final Decision: 2/15/80
6. Contacts:
- Agency: William Evans, Ext. (703) 235-8130
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 128-17
2. Title: Shawnee Hills National Recreation Area
3. Description: Study area for possible designation as a National Recreation Area
4. Authority: An Act to authorize the study of certain areas by the Secretary of Agriculture and the Interior, Section 502, 90 Stat. 2450 (1976). P.L. 94-518.
5. Projected Schedule
- a. Date of pre-notice: 9/79
b. Date of proposal: 1/15/80
c. Final Decision: 11/1/80
6. Contacts:
- Agency: Rex Hartgraves, Ext. (202) 447-6697
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 049-3
2. Title: Cultural Resources Procedures
3. Description: Publish procedures to implement regulations as required by President's Water Resource Memorandum of July 12, 1978, ACHP regulations 36 CFR 800, and draft Secretary's regulation 7 CFR 3100, published July 9, 1979, in Federal Register.
4. Authority: Executive Order No. 12044, 36 CFR 800.10
5. Projected Schedule
- a. Date of pre-notice:
b. Date of proposal: 9/18/79
c. Final Decision: 2/1/80
6. Contacts:
- Agency: Roy Feuchter, Ext. (202) 447-3706
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 049-2
2. Title: Evaluation of Forest Pest Management Programs
3. Description: Review the rationale for our present program direction and recommend program adjustments where appropriate. Will concentrate on examining operating procedures including: policy, decisionmaking processes, program management, adequacy of analysis, and program coordination.
4. Authority: Requested by Assistant Secretary M. Rupert Cutler.
5. Projected Schedule
- a. Date of pre-notice:
b. Date of proposal: 5/1/80
c. Final Decision: 7/1/80
6. Contacts:
- Agency: Tom Roederer, Ext. (202) 447-2775
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 109-5
2. Title: 1980 Spruce Budworm Suppression Project
3. Description: The primary means of suppressing budworm populations in the past has been chemical insecticides and chemical insecticides will probably play a role in the 1980 project.
4. Authority: Cooperative Forestry Assistance Act of 1978, P.L. 95-313, 92 Stat. 365 (1978).
5. Projected Schedule
- a. Date of pre-notice: 9/6/79
b. Date of proposal: 12/1/79
c. Final Decision: 2/1/80
6. Contacts:
- Agency: Jim Stewart, Ext. (703) 235-1560
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FS 100-6
2. Title: 1980 Cooperative Gypsy Moth Suppression & Regulatory Activities
3. Description: Involves aerial treatment using insecticides.
4. Authority: Federal Insecticide Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136, 86 Stat. 975 (1947).
5. Projected Schedule
- a. Date of pre-notice: 10/10/79
b. Date of proposal: 12/31/79
c. Final Decision: 3/31/80
6. Contacts:
- Agency: Jim Stewart, Ext. (703) 235-1560
USDA, FS, Box 2417, Washington, D.C. 20013

1. Calendar No: FSOS 108-4
2. Title: Poultry Chiller Water Regulation
3. Description: New regulation would permit operators of poultry establishments to reduce volume of replacement water in poultry chilling tanks by 50 percent providing chlorine is added to the water in the amount of 20 parts per million. Due to the nature of comments received on the proposal, a protocol is being prepared to restudy the issue. This must be accomplished before further action can be taken on the final regulation.
4. Authority: 21 U.S.C. 463. Additional Information: This regulation will conserve water, reduce the energy necessary for chilling, and reduce waste water pollution. This would amend 9 CFR 381.66.
5. Projected Schedule
- a. Date of pre-notice: 4/4/78
b. Date of proposal: 4/4/78
c. Final Decision: Undetermined
6. Contacts:
- Agency: V. H. Perry, Ext. (202) 447-3473
USDA, FSOS, Room 347E, Washington, D.C. 20250

FOOD SAFETY AND QUALITY SERVICE

1. Calendar No: FSOS 108-3
2. Title: Voluntary Quality Control Regulations - Sanitation and Carcass Cleanliness
3. Description: This proposal would permit firms to implement company-operated quality control programs regarding sanitation and carcass cleanliness. This would permit FSOS to shift more responsibility to industry with FSOS monitoring industry performance.
4. Authority: 21 U.S.C. 601 et seq.; 21 U.S.C. 451 et seq. Additional Information: To supplement system of inspection while holding down costs as outlined in report on Strengthening Meat and Poultry Inspection. Would amend 9 CFR Parts 301-335 and 9 CFR Part 381.
5. Projected Schedule
- a. Date of pre-notice: 4/1/81
b. Date of proposal: 4/1/81
c. Final Decision: 12/15/81
6. Contacts:
- Agency: V. H. Perry, Ext. (202) 447-3473
USDA, FSOS, Room 347E, Washington, D.C. 20250

1. Calendar No: FSOS 108-6
2. Title: Revise \$18,000 Limit on Retail Store Exemption from Routine Inspection
3. Description: A retail store is currently exempt from routine meat and poultry inspection provided, among other things, that its sales of meat items to consumers other than household consumers does not exceed \$18,000 per year. The proposed amendment to the regulations would raise the \$18,000 limit to account for the inflation that has transpired since 1973, when this limit became effective.
4. Authority: 21 U.S.C. 621; 21 U.S.C. 463. Additional Information: This action is in response to a petition from retail stores, and would propose to amend section 303.1(d)(2)(III) of the federal meat inspection regulations (9 CFR 303.1(d)(2)(III)) and section 381.10(d)(2)(III) of the poultry products inspection regulations (9 CFR 381.10(d)(2)(III)).
5. Projected Schedule
- a. Date of pre-notice: 12/30/79
b. Date of proposal: 12/30/79
c. Final Decision: 7/1/80
6. Contacts:
- Agency: V. H. Perry, Ext. (202) 447-3473
USDA, FSOS, Room 347E, Washington, D.C. 20250

1. Calendar No: FSOS 108-7
2. Title: Regulatory Plan for Cured Pork Products
3. Description: Cured pork products contain varying amounts of water introduced with the curing agents. The amount of added water is limited by regulation. The new regulatory plan would establish a standard for these products based on protein content rather than added water, and establish more effective enforcement procedures. The protein content standard should provide useful information to consumers.
4. Authority: 21 U.S.C. 601 et seq. Additional Information: Better method to enforce added water requirements. Would amend 9 CFR Part 310.
5. Projected Schedule
- a. Date of pre-notice:
b. Date of proposal: 3/31/80
c. Final Decision: 9/30/80
6. Contacts:
- Agency: L. L. Gast, Ext. (202) 447-AR03
USDA, FSOS, Room 344E, Washington, D.C. 20250

1. Calendar No: FSOS 108-12
2. Title: Studies on Uniform Grade Nomenclature
3. Description: The Department is considering options to obtain information on the usefulness of the present grading system and nomenclature including an extensive educational/informational campaign involving hearings, demonstrations, and exhibits.
4. Authority: 7 U.S.C. 1621 et seq. 7 CFR Part 28.53
5. Projected Schedule
- a. Date of pre-notice: 4/1/80
b. Date of proposal: 10/1/80
c. Final Decision: Undetermined
6. Contacts:
- Agency: F. F. Kimbrell, Ext. (202) 447-5231
USDA, FSOS, Room 350E, Washington, D.C. 20250

1. Calendar No: FSOS 108-8
2. Title: Work Week Proposal
3. Description: This would propose to provide for uniform requirements and procedures in establishments operating under federal meat or poultry inspection relative to the days and hours inspectors may be engaged in the performance of duty, schedules of operations, number of shifts, overtime and holiday inspection service and charges, and billing.
4. Authority: 21 U.S.C. 621; 21 U.S.C. 463. Additional Information: This would propose to amend Sections 307.4, 307.5 and 307.6, and to add a new Section 307.7 to the federal meat inspection regulations (9 CFR 307.4-307.7). This would also propose to amend Sections 381.37, 381.38 and 381.39 and to add a new Section 381.40 to the poultry products inspection reqs. (9 CFR 381.37-381.40)
5. Projected Schedule
- a. Date of pre-notice:
b. Date of proposal: 12/18/79
c. Final Decision: 3/15/80
6. Contacts:
- Agency: V. H. Perry, Ext. (202) 447-3473
USDA, FSOS, Room 347E, Washington, D.C. 20250

1. Calendar No: FSOS 108-18
2. Title: Establish Microbiological Criteria for Meat & Poultry Products
3. Description: This proposal will establish guidelines and standards for microbiological agents that may be present in selected meat and poultry products and will describe enforcement procedures.
4. Authority: 21 U.S.C. 601 et seq.; 21 U.S.C. 451 et seq. Would amend 9 CFR Parts 301-335 and 9 CFR Part 381.
5. Projected Schedule
- a. Date of pre-notice:
b. Date of proposal: 4/1/80
c. Final Decision: 10/80
6. Contacts:
- Agency: R. F. Engel, Ext. (202) 447-2326
USDA, FSOS, Room 402 Annex Bldg., Washington, D.C. 20250

1. Calendar No: FSOS 10A-30
2. Title: Proteolytic Enzyme Proposal
3. Description: This document would propose two regulatory changes. One to permit the use of certain proteolytic enzymes to tenderize the muscle tissue of mature poultry; the other to extend current permission for the use of such enzymes to tenderize the muscle tissue of beef to other cuts of red meat species.
4. Authority: 21 U.S.C. 463 and 621. Additional Information: Request from poultry industry to use papain in fowl as tenderizer. Already permitted in beef. This would amend 9 CFR 317.8(b)(25) 318.7, 381.120 and 381.147.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 6/17/79
- c. Final Decision: 2/15/80
6. Contacts:
- Agency: L. L. Gast, Ext. (202) 447-8803
USDA, FSOs, Room 344F, Washington, D.C. 20250

1. Calendar No: FSOS 10A-37
2. Title: U.S. Ungraded Proposal
3. Description: The Department is considering a survey to determine consumer perceptions of USDA quality grades and the possible use of a meaningful term on meat that is inspected but not graded. The survey would include alternative terms and would provide the basis for decisions on whether to withdraw the proposal requiring the use of the term "ungraded," substituting some other more meaningful term.
4. Authority: 21 U.S.C. 601 et seq. Additional Information: A previous proposal on the "ungraded" designation was published on January 23, 1978. The comments raised significant questions concerning consumer perception of this term. This would amend 9 CFR 316.17, 317.20.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 1/21/79
- c. Final Decision: Undetermined
6. Contacts:
- Agency: L. L. Gast, Ext. (202) 447-8803
USDA, FSOs, Room 344F, Washington, D.C. 20250

1. Calendar No: FSOS 10A-32
2. Title: Mechanically Processed Poultry Product
3. Description: A study on the safety of this product is now in the final stages of evaluation. Following this evaluation, the results of the study and a pre-notice will be published and the public's views will be solicited. A proposal, if necessary, will be published to establish standards and labeling requirements for the product that results from the mechanical separation of poultry tissue from bones.
4. Authority: 21 U.S.C. 451 et seq. This would amend 9 CFR Part 381.
5. Projected Schedule
- a. Date of pre-notice: 6/29/79
- b. Date of proposal: Undetermined
- c. Final Decision: Undetermined
6. Contacts:
- Agency: L. L. Gast, Ext. (202) 447-8803
USDA, FSOs, Room 344F, Washington, D.C. 20250

1. Calendar No: FSOS 10A-42
2. Title: Revise Meat Grade Standards and Regulations
3. Description: This action would improve the system of grading determinations by making it more accurate and uniform and less subject to fraudulent practices. The rules for deciding upon quality and yield grades would be more objective.
4. Authority: Agricultural Marketing Act of 1946, 7 U.S.C. 1621 et seq. Additional Information: Proposal will make major revisions in grading proposal as published in the January 23, 1978, Federal Register. 7 CFR 2853.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 10/16/79
- c. Final Decision: 3/4/80
6. Contacts:
- Agency: H. Connor Kennett, Ext. (202) 447-4727
USDA, FSOs, 2nd Floor Mezzanine, Annex, Wash. D.C. 20250

1. Calendar No: FSOS 10A-45
2. Title: Final Net Weight Regulation
3. Description: This action would make changes in net weight regulations to require that the net weight statements on meat and poultry products be accurate at all points in the distribution chain from processing plant to retail store.
4. Authority: Federal Meat Inspection Act, Sections 1(n)(5) and 21, 21 U.S.C. 601 (n)(5), 621; Poultry Products Inspection Act, Sections 4(n)(5) and 14, 21 U.S.C. 453(h)(5), 463. Would amend 9 CFR Parts 317.2, 317.1A, 381.121, and 381.121a. Additional Information: Proposal was in response to petition from State Weights and Measures Officials.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/77
- c. Solicitation of Information on ESCS Study: 10/30/79
- d. Reproposal: 11/30/79
- e. Final Decision: 9/30/80
6. Contacts:
- Agency: V. H. Perry, Ext. (202) 447-3473
USDA, FSOs, Room 347F, Washington, D.C. 20250

1. Calendar No: FSOS 019-11
2. Title: Humane Slaughter Regulations
3. Description: This document would issue regulations implementing the Humane Methods of Slaughter Act of 1978. This Act requires all livestock slaughtered in slaughtering establishments inspected under the Federal Meat Inspection Act and all livestock whose products shall be imported into the U.S. to be handled and slaughtered humanely at the slaughter establishments.
4. Authority: Federal Meat Inspection Act (21 U.S.C. 601 et seq.). Would amend 9 CFR Parts 301, 304, 305, 313, 327, 335. See also The Humane Methods of Slaughter Act of 1978.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 6/29/79
- c. Final Decision: 11/9/79
6. Contacts:
- Agency: V. H. Perry, Ext. (202) 447-3473
USDA, FSOs, Room 347F, Washington, D.C. 20250

1. Calendar No: FSOS 029-4
2. Title: U.S. Standards for Grades of Major Canned Fruits
3. Description: This document would revise the standards for the major canned fruits. The purpose would be to improve the standards by including sampling plans based on attributes in order to make them equally applicable to lot or on-line inspection.
4. Authority: 7 U.S.C. 1622, 1624
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: Indetermined
- c. Final Decision: 4/1/81
6. Contacts:
- Agency: F. F. Kiehl, Ext. (202) 447-5231
USDA, FSOs, Room 350F, Washington, D.C. 20250

1. Calendar No: FSOS 019-13
2. Title: Change in Reporting Frequency (MP Form 404) from Weekly to Annually of Processing Operations at Official Establishments.
3. Description: This document would change the reporting frequency of meat processing operations at official establishments from weekly to annually. This proposal is based on an internal assessment of the Government's need for information, and is in support of the President's program to reduce the paperwork burden on the public and industry.
4. Authority: 21 U.S.C. 677; 15 U.S.C. 46; 9 CFR Part 320
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 11/30/79
- c. Final Decision: 1/80
6. Contacts:
- Agency: J. A. Powers, Ext. (202) 447-4425
USDA, FSOs, Room 341F, Washington, D.C. 20250

1. Calendar No: FSOS 059-20
2. Title: Voluntary Meat and Poultry Plant Quality Control Systems
3. Description: To permit official meat and poultry establishments to implement their own total or partial plant quality control systems, providing such quality control programs are USDA approved.
4. Authority: Federal Meat Inspection Act (21 U.S.C. 601 et. seq.) would amend 9 CFR Part 318 and Poultry Products Inspection Act (21 U.S.C. 451 et. seq.) would amend 9 CFR Part 381.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 9/14/79
- c. Final Decision: 2/28/80
6. Contacts:
- Agency: V. H. Perry, Ext. (202) 447-3473
USDA, FSOS, Room 347F, Washington, D.C. 20250

1. Calendar No: FSOS 079-27
2. Title: Sale, Transportation and Marking of Products
3. Description: This would propose to relieve certain certification requirements for the sale and transportation of both edible and inedible meat products and to modify certain labeling requirements for inedible meat products and pet foods.
4. Authority: Federal Meat Inspection Act, Section 21, 21 U.S.C. 621 (To reduce unnecessary paperwork and labeling burdens on the affected industry.)
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 1/31/80
- c. Final Decision: 7/1/80
6. Contacts:
- Agency: V. H. Perry, Ext. (202) 447-3473
USDA, FSOS, Room 347F, Washington, D.C. 20250

1. Calendar No: FSOS 059-22
2. Title: Interchange of Meat Ingredients Labeling Declaration
3. Description: Propose to permit names of meat ingredients to be interchanged in an ingredient statement if the names are separated by the word "and" (in lieu of a comma), if an appropriate parenthetical statement is included in the ingredient statement, if the two meat ingredients comprise at least 70 percent of the meat and meat byproducts used, and if neither of the two meat ingredients is less than 10 percent by weight of the total meat and meat byproducts used.
4. Authority: Federal Meat Inspection Act, Section 21, 21 U.S.C. 621 (Industry request due to beef shortage.)
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: Undetermined
- c. Final Decision: Undetermined
6. Contacts:
- Agency: L. L. Gast, Ext. (202) 447-8803
USDA, FSOS, Room 344F, Washington, D.C. 20250

1. Calendar No: FSOS 089-32
2. Title: Standards for Cooked Poultry Sausage
3. Description: This would reopen the comment period for a proposal of July 27, 1976 (41 FR 31226) to establish standards for cooked poultry sausage.
4. Authority: Poultry Products Inspection Act, Section 14, 21 U.S.C. 463. (To assure uniformity and consistency in such products.)
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 11/9/79
- c. Final Decision: 1/15/80
6. Contacts:
- Agency: Irwin Fried, Ext. (202) 447-6142
USDA, FSOS, Room 202 Annex Bldg., Washington, D.C. 20250

1. Calendar No: FSOS 089-33
2. Title: Certified Laboratory Program
3. Description: This would propose to establish standards for the certification of private chemistry laboratories with respect to the testing of meat and poultry products under the FSOS Certified Laboratory Program.
4. Authority: Federal Meat Inspection Act, Section 21, 21 U.S.C. 621; Poultry Products Inspection Act, Section 14, 21 U.S.C. 463. (To offer public comment on proposed standards for certifying private laboratories.)
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 11/30/79
- c. Final Decision: 6/80
6. Contacts:
- Agency: R. F. Engel, Ext. (202) 447-2326
USDA, FSOS, Room 402 Annex Bldg., Washington, D.C. 20250

OFFICE OF EQUAL OPPORTUNITY

1. Calendar No: OEO 089-1
2. Title: Age Discrimination
3. Description: Regulations to implement the Age Discrimination Act as it pertains to USDA programs.
4. Authority: Age Discrimination Act of 1975, 42 U.S.C. 6101 and 45 CFR 90
5. Projected Schedule
- a. Date of pre-notice: 10/79
- b. Date of proposal: 12/79
- c. Final Decision: 4/80
6. Contacts:
- Agency: William C. Payne, Jr., Ext. (202) 447-7327
USDA, OEO, Room 4119 Auditors Bldg., Wash. D.C. 20250

OFFICE OF BUDGET, PLANNING AND EVALUATION

1. Calendar No: ORPE 039-1
2. Title: To establish USDA policies and procedures relating to reimbursement for public participation in Department rulemaking proceedings.
3. Description: Proposed regulations provide procedures for application, processing, and criteria for eligibility for those individuals or groups to be considered for reimbursement in a given rulemaking proceeding.
4. Authority: 5 U.S.C. 301 and implied authority in specific USDA program statutes.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 3/72/79
- c. Final Decision: 12/79
6. Contacts:
- Agency: Elizabeth Webber, Ext. (202) 447-2113
USDA, ORPE, Room 117A, Washington, D.C. 20250

OFFICE OF GENERAL SALES MANAGER

1. Calendar No: OGS 039-1
2. Title: Intermediate Credit for Market Facility Projects
3. Description: Develop program concept; draft OGC Board Dockets and obtain approval; develop and announce program rules and regulations.
4. Authority: Agricultural Trade Act of 1978, P.L. 95-501, Section 101, 92 Stat. 1685 (1978), as amended. Section 4 of the Food for Peace Act of 1966.
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 1/1/80
- c. Final Decision: 4/1/80
6. Contacts:
- Agency: Fred Mangum, Ext. (202) 447-5693
USDA, OGS, Room 4085S, Washington, D.C. 20250

RURAL ELECTRIFICATION ADMINISTRATION

1. Calendar No: REA 108-3
2. Title: Part 2 to Exhibit A of Bulletin 20-21; 320-21: Floodplain and Wetlands Procedures
3. Description: Addendum to REA Bulletin 20-21; 320-21, providing procedures with respect to protecting Floodplains and Wetlands.
4. Authority: Rural Electrification Act of 1936, 7 U.S.C. Section 901 et. seq.; National Environmental Policy Act of 1969, 42 U.S.C. Section 4321 et seq.; Executive Order 11988, 42 F.R. 26951 (1977) and 11990, 42 F.R. 26961 (1977).
5. Projected Schedule
 - a. Date of pre-notice: 8/29/78
 - b. Date of proposal: 12/79
 - c. Final Decision: 12/79
6. Contacts:

Agency: Joseph R. Binder, Ext. (202) 447-5755
USDA, REA, Room 3863S, Washington, D.C. 20250

1. Calendar No: REA 049-2
2. Title: Endangered Species Procedures
3. Description: Addendum to REA Bulletin 20-21; 320-21, providing procedures with respect to protecting Endangered Species.
4. Authority: Endangered Species Act of 1973, 16 U.S.C. Section 1531 et seq.
5. Projected Schedule
 - a. Date of pre-notice: 5/80
 - b. Date of proposal: 6/80
 - c. Final Decision: 8/80
6. Contacts:

Agency: Joseph R. Binder, Ext. (202) 447-5755
USDA, REA, Room 3863S, Washington, D.C. 20250

1. Calendar No: REA 108-9
2. Title: Environmental Policies and Procedures, Bulletin 20-21; 320-21
3. Description: Revision of REA Bulletin providing REA policy and procedures implementing National Environmental Policy Act, Council on Environmental Quality Regulations, and related environmental statutes, Executive Orders, regulations and guidelines.
4. Authority: Rural Electrification Act of 1936; 7 U.S.C. Section 901 et. seq.; National Environmental Policy Act of 1969, 42 U.S.C. Section 4321 et seq.; Council on Environmental Quality Regulations 43 F.R. 55978 (1978); and other Federal environmental statutes, regulations and Executive Orders.
5. Projected Schedule
 - a. Date of pre-notice: 1/79
 - b. Date of proposal: 5/79
 - c. Final Decision: 11/79
6. Contacts:

Agency: Joseph R. Binder, Ext. (202) 447-5755
USDA, REA, Room 3863S, Washington, D.C. 20250

1. Calendar No: REA 049-4
2. Title: Protection of Historic and Cultural Properties
3. Description: Addendum to REA Bulletin 20-21; 320-21, providing procedures with respect to protecting Historic and Cultural Resources.
4. Authority: National Historic Preservation Act of 1966, 16 U.S.C. Section 470 et seq., Advisory Council on Historic Preservation Regulations, 36 CFR 800; Executive Order 11593, 36 F.R. 8921 (1971).
5. Projected Schedule
 - a. Date of pre-notice: 1/80
 - b. Date of proposal: 2/80
 - c. Final Decision: 4/80
6. Contacts:

Agency: Joseph R. Binder, Ext. (202) 447-5755
USDA, REA, Room 3863S, Washington, D.C. 20250

SOIL CONSERVATION SERVICE

1. Calendar No: SCS 108-1
2. Title: 7 CFR Chapter VI, Part 624, and Watershed Memorandum No. 124, Emergency Flood Protection
3. Description: Review rules and regulations for Emergency Flood Protection under authority of Section 216, Public Law 81-516, 64 Stat 184.
4. Authority: Requested by the Secretary. The Flood Control Act of 1950, Section 216, 33 U.S.C. 701 b-1, 7 C.F.R. 620, 624, 654.
5. Projected Schedule
 - a. Date of pre-notice: 12/13/78
 - b. Date of proposal: 9/6/79
 - c. Final Decision: 12/1/79
6. Contacts:

Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 108-4
2. Title: SCS Public Participation Plan
3. Description: SCS will adopt the policy plan that will guide public participation activities related to making decisions.
4. Authority: Required by Secretary's Memorandum 1955 The Watershed Protection and Flood Prevention Act of 1954, as amended Section 3, 40 FR 12475 (1975), 7 C.F.R. 622.10(3); Soil and Water Resources Conservation Act of 1977, Section 4 (c) (3), 5 (c), 16 U.S.C. 2003, 04.
5. Projected Schedule
 - a. Date of pre-notice: 7/18/79
 - b. Date of proposal: 1/1/80
 - c. Final Decision: 4/1/80
6. Contacts:

Agency: Victor H. Barry, Jr., Ext. (202) 447-7245
USDA, SCS, P.O. Box 2870, Washington, D.C. 20013

1. Calendar No: SCS 108-2
2. Title: 7 CFR Chapter VI, Part 622, Watershed Projects
3. Description: Review rules and regulations for Watershed projects carried out under authority of Public Law 83-566, 68 Stat. 666, as amended
4. Authority: Selected pursuant to F.O. 12044, Improving Government Regulations. The Watershed Protection and Flood Prevention Act of 1954, as amended, Sections 1-12, 16 U.S.C. 1001-1009, F.O. 12044, 7 C.F.R. 622.1, et seq. (Improving Government Regulations)
5. Projected Schedule
 - a. Date of pre-notice: 5/80
 - b. Date of proposal: 10/80
 - c. Final Decision: 4/81
6. Contacts:

Agency: James W. Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 108-13
2. Title: Plan for Completing Soil Mapping Nationwide
3. Description: Evaluate workload remaining to complete the on-going soil mapping and set target date for completing. Evaluate soil survey publication needs in survey areas having few individual landowners with the objective of reducing publication costs.
4. Authority: Soil mapping nationwide is about 67% completed. Need a plan for orderly completion of remaining areas. The Soil Erosion Act of 1935, P.L. No. 74-46, 16 U.S.C. 590a-g; Soil Surveys, P.L. 80-560; 39 C.F.R. 7415 (1974).
5. Projected Schedule
 - a. Date of pre-notice: 11/15/78
 - b. Date of proposal: 9/80
 - c. Final Decision: 3/81
6. Contacts:

Agency: V. C. Link, Ext. (202) 447-4931
USDA, SCS, Room 5203, Washington, D.C. 20250

1. Calendar No: SCS 108-10
2. Title: Revision of SCS policy relating to Endangered Species.
3. Description: The current SCS policy 7 CFR 650.22 will be revised.
4. Authority: Compliance with NEPA, National Environmental Policy Act, 42 U.S.C. Section 4332 (2) (c); Endangered Species Act of 1973, 16 U.S.C. 1531, *et seq.*, as amended in 1978; 50 C.F.R. 81; 7 C.F.R. 650.22 (Revision).
5. Projected Schedule
- a. Date of pre-notice: 6/79
- b. Date of proposal: 9/79
- c. Final Decision: 12/79
6. Contacts:
- Agency: T. W. Shiflet, Ext. (202) 447-2587
USDA, SCS, Room 61435, Washington, D.C. 20250

1. Calendar No: SCS 069-1
2. Title: 7 CFR Chapter VI, Subchapter E - Resource Conservation and Development
3. Description: SCS will publish final rules for the Resource Conservation and Development Program.
4. Authority: Need published rules for the RC&D Program Resource Conservation and Development Act, Sec. 102 Food and Agriculture Act of 1962, P.L. 87-703, 7 U.S.C. 1010, 1011; and 16 U.S.C. 590(a-f)
5. Projected Schedule
- a. Date of pre-notice: 12/1/79
- b. Date of proposal: 3/1/80
- c. Final Decision: 8/31/80
6. Contacts:
- Agency: John Miner, Ext. (202) 447-4554
USDA, SCS, P. O. Box 2890, Washington, D.C. 20013

1. Calendar No: SCS 108-20
2. Title: Revision to comply with new Historic Preservation Regulations
3. Description: Current SCS rules will be revised to comply with new regulations to be published March 1, 1979.
4. Authority: Compliance with NEPA and National Historic Preservation Act, 42 U.S.C. Section 4332 (2) (c), Executive Order No. 11514, 35 FR 4247; 16 U.S.C. Section 470 *et seq.*, Sec. 1 (3); Executive Order 11593; 7 C.F.R. 2.62; 36 FR 89211; 3 C.F.R. 1971, p. 154; 7 C.F.R. 656.
5. Projected Schedule
- a. Date of pre-notice: 6/79
- b. Date of proposal: 8/79
- c. Final Decision: 1/80
6. Contacts:
- Agency: Gary A. Margheim, Ext. (202) 447-3649
USDA, SCS, Room 61035, Washington, D.C. 20250

1. Calendar No: SCS 069-2
2. Title: Elk Creek Watershed, Kansas
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 2/26/79
- c. Final Decision: 3/1/80
6. Contacts:
- Agency: James W. Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 52295, Washington, D.C. 20250

1. Calendar No: SCS 069-3
2. Title: Grasshopper-Coal Creeks, Kansas
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 6/23/78
- c. Final Decision: 3/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 52295, Washington, D.C. 20250
1. Calendar No: SCS 069-4
2. Title: Little Calumet River Watershed, Illinois
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 3/23/79
- c. Final Decision: 3/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 52295, Washington, D.C. 20250

1. Calendar No: SCS 069-5
2. Title: Mazingo Creek Watershed, Missouri
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 2/26/79
- c. Final Decision: 3/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 52295, Washington, D.C. 20250
1. Calendar No: SCS 069-6
2. Title: Sabanna River Watershed, Texas
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/18/78
- c. Final Decision: 3/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 52295, Washington, D.C. 20250

1. Calendar No: SCS 069-7
2. Title: South Branch Little Nemaha, Nebraska
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/7/78
- c. Final Decision: 3/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 069-9
2. Title: Soak Creek Watershed, West Virginia
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 2/14/79
- c. Final Decision: 12/1/79
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 069-8
2. Title: South Zumbro Watershed, Minnesota
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 2/26/79
- c. Final Decision: 2/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 069-10
2. Title: Southeast Choctawhatchee River Watershed, Alabama
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/1/79
- c. Final Decision: 4/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 069-11
2. Title: Hacklebarney Watershed, Iowa
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/1/79
- c. Final Decision: 4/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 069-13
2. Title: Blind Brook Watershed, New York
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 10/4/79
- c. Final Decision: 4/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 069-12
2. Title: Indian-Van Buren Watershed, Iowa
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 11/1/79
- c. Final Decision: 3/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 069-14
2. Title: Limestone-Muddy Creek Watershed, North Carolina
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice:
- b. Date of proposal: 12/1/79
- c. Final Decision: 4/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 069-15
2. Title: San Bois Creek Watershed, Oklahoma
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice: 12/1/79
- b. Date of proposal: 12/15/79
- c. Final Decision: 4/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 109-20
2. Title: Nonstructural Measures for Flood Damage Reduction
3. Description: Interim policy and procedures to integrate nonstructural measures, including financial assistance, into applicable programs.
4. Authority: President's Water Policy, Water Resources Development Act of 1974, Public Law 93-251, Section 73, 88 Stat. 12
5. Projected Schedule
- a. Date of pre-notice: None
- b. Date of proposal: 11/1/79
- c. Final Decision: 4/81
6. Contacts:
- Agency: Joe Haas, Ext. (202) 447-4527
USDA, SCS, Room 5111, Washington, D.C. 20250

1. Calendar No: SCS 069-16
2. Title: Calapooya Watershed, Oregon
3. Description: Transmit watershed plan to the Office of Management and Budget
4. Authority: Public Law 83-566, 16 USC 1001-1008
5. Projected Schedule
- a. Date of pre-notice: 12/15/79
- b. Date of proposal: 12/15/79
- c. Final Decision: 4/15/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 109-21
2. Title: Upper Mud Creek Watershed, West Virginia
3. Description: Transmit the watershed plan to the Office of Management and Budget
4. Authority: Watershed Protection and Flood Prevention Act of 1954, as amended, Public Law 83-566, Section 5(3), 68 Stat. 667, 16 U.S.C. 1001-1008
5. Projected Schedule
- a. Date of pre-notice: 8/31/79
- b. Date of proposal: 8/31/79
- c. Final Decision: 2/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3465
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 109-22
2. Title: South Fork Licking River Watershed, Ohio
3. Description: Transmit the watershed plan to the Office of Management and Budget
4. Authority: Watershed Protection and Flood Prevention Act of 1954, as amended, Public Law 83-566, Section 5(3), 68 Stat. 667, 16 U.S.C. 1001-1008
5. Projected Schedule
- a. Date of pre-notice: 1/1/80
- b. Date of proposal: 1/1/80
- c. Final Decision: 5/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 109-24
2. Title: Douglas Watershed, Wyoming
3. Description: Transmit watershed plan to Office of Management and Budget
4. Authority: Watershed Protection and Flood Prevention Act of 1954, as amended, Public Law 83-566, Section 5(3), 68 Stat. 667, 16 U.S.C. 1001-1008
5. Projected Schedule
- a. Date of pre-notice: 7/3/79
- b. Date of proposal: 7/3/79
- c. Final Decision: 3/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250

1. Calendar No: SCS 109-23
2. Title: Steward Creek Watershed, Kentucky
3. Description: Transmit the watershed plan to the Office of Management and Budget
4. Authority: Watershed Protection and Flood Prevention Act of 1954, as amended, Public Law 83-566, Section 5(3), 68 Stat. 667, 16 U.S.C. 1001-1008
5. Projected Schedule
- a. Date of pre-notice: 11/1/79
- b. Date of proposal: 11/1/79
- c. Final Decision: 3/1/80
6. Contacts:
- Agency: James Mitchell, Ext. (202) 447-3527
USDA, SCS, Room 5229S, Washington, D.C. 20250
1. Calendar No: SCS 109-25
2. Title: CFR, Chap. VI Conservation Operation, Part 612, Snow Survey and Water Supply Forecasting
3. Description: SCS will make an indepth study of alternative ways to handle the program ranging from continuation of the program as now operated to a transfer of management and/or financing of some or all of the program activities to non-Federal entities. The public will be involved in helping to develop alternatives, and by comments on the selected alternative.
4. Authority: Departmental recommendation that SCS develop a plan for the phased and orderly transfer of the program to non-Federal control.
5. Projected Schedule
- a. Date of pre-notice: 11/1/79
- b. Date of proposal: 6/1/80
- c. Final Decision: 9/30/80
6. Contacts:
- Agency: Neil Rogner, Ext. (202) 447-2520
USDA, SCS, Room 5242S, Washington, D.C. 20250

1. Calendar No: SCS 109-26
2. Title: Plant Materials Centers
3. Description: SCS will prepare an in depth study of alternative ways of operating the PMC program. Alternatives will range from continuing the on-going program to a transfer of management and/or financing of some or all of the PMC program activities to non-Federal entities.
4. Authority: 7 CFR Agriculture, Chapter VI, Soil Conservation Service, Subchapter-R, Conservation Operations, Part 613. The Department has instructed SCS to develop a plan for the phased & orderly transfer of Plant Materials Center (PMC's) to non-Federal control.

5. Projected Schedule

- a. Date of pre-notice: 1/1/80
b. Date of proposal: 4/1/80
c. Final Decision: 7/1/80

6. Contacts:

Agency: Thomas N. Shiflet, Ext. (202) 447-2587
USDA, SCS, Room 6143S, Washington, D.C. 20250

1. Calendar No: SFA 039-3
2. Title: National Comprehensive Nutrition Research and Extension Program
3. Description: Development steps to implement National Comprehensive Nutrition Research and Extension Program as based on the February 1, 1979 report to Congress.
4. Authority: Food and Agriculture Act of 1977, P.L. 95-113, Sections 1421-1427, 91 Stat. 999 (1977)

5. Projected Schedule

- a. Date of pre-notice:
b. Date of proposal: Uncertain
c. Final Decision: Uncertain

6. Contacts:

Agency: Audrey Cross, Ext. (202) 447-4119
USDA, SFA, Room 419A, Admin. Bldg., Washington, D.C. 20250

SCIENCE AND EDUCATION ADMINISTRATION

1. Calendar No: SFA 039-1
2. Title: National Agricultural Research Award
3. Description: Develop guidelines for making the award. The Executive Committee of the Joint Council has determined that major revisions of the guidelines submitted by the National Agricultural Research Awards Committee of the Joint Council were necessary. The revisions are under way and will be presented to the Executive Committee at its Nov. 16 meeting.
4. Authority: Food and Agriculture Act of 1977, P.L. 95-113, Section 1418, 91 Stat. 997 (1977)

5. Projected Schedule

- a. Date of pre-notice:
b. Date of proposal: 11/16/79
c. Final Decision: 1/16/80

6. Contacts:

Agency: James Nielson, Ext. (202) 447-4462
USDA, SFA, Room 304A, Admin. Bldg., Washington, D.C. 20250

1. Calendar No: SFA 039-4
2. Title: Nutrition Status Monitoring Program
3. Description: Develop steps to implement the Nutrition Status Monitoring Program submitted to Congress in 1978.
4. Authority: Food and Agriculture Act of 1977, P.L. 95-113, Section 1429, 91 Stat. 1001 (1977)

5. Projected Schedule

- a. Date of pre-notice:
b. Date of proposal: Uncertain
c. Final Decision: Uncertain

6. Contacts:

Agency: Donald Therrault, Ext. (202) 447-7854
USDA, SFA, Room 421A, Admin. Bldg., Washington, D.C. 20250

1. Calendar No: SFA 039-5
2. Title: Implement Solar Energy Research and Development
3. Description: Develop steps for implementing authorized research and development on Solar Energy.
4. Authority: Food and Agriculture Act of 1977, P.L. 95-113, Sections 1449-1457, 91 Stat. 1012 (1977)

5. Projected Schedule

- a. Date of pre-notice:
b. Date of proposal: 1980
c. Final Decision: 1980

6. Contacts:

Agency: Landy Altman, Ext. (301) 344-2740 USDA, SFA-PM, Room 219, Bldg. 005, BARC-WFST, Beltsville, Md. 20705

1. Calendar No: SFA 039-7
2. Title: Green Thumb Project
3. Description: Evaluate Green Thumb project for expansion beyond pilot counties. It would provide more specific local weather, market, and other agricultural information to farmers through communicating computers, phones, and home TV sets.
4. Authority: Smith-Lever Act, as amended, 7 U.S.C. 341 et seq.

5. Projected Schedule

- a. Date of pre-notice:
b. Date of proposal: 8/80
c. Final Decision: 9/80

6. Contacts:

Agency: Howard Lehnert, Ext. (202) 447-4681
USDA, SFA, Room 5533S, Washington, D.C. 20250

1. Calendar No: SFA 039-6
2. Title: Extension Evaluation
3. Description: Prepare report to Secretary on the Extension Evaluation for transmittal to Congress.
4. Authority: Food and Agriculture Act of 1977, P.L. 95-113, Section 1459, 91 Stat. 1016 (1977)

5. Projected Schedule

- a. Date of pre-notice: Preliminary Report
b. Date of proposal: 3/31/79
c. Final Report: 1/15/80

6. Contacts:

Agency: Fred Woods, Ext. (202) 447-4465
USDA, SFA, Room 332A, Admin. Bldg., Washington, D.C. 20250

1. Calendar No: SFA 039-8
2. Title: Renewable Resources Extension Plan and Program
3. Description: Implement the Renewable Resources Extension Program. Five year Renewable Resources Extension Plan due to Congress by March 31, 1980.
4. Authority: Renewable Resources Extension Act of 1978, P.L. 95-513, Section 5, 92 Stat. 349 (1978)

5. Projected Schedule

- a. First Draft of Plan 10/1/79
b. Preparation of Supplemental Appropriation 12/1/79
c. Final Draft Plan 1/10/80
d. National Workshop 1/24-25/80

6. Contacts:

Agency: M. L. Petoskey, Ext. (202) 447-7947; D. Nelson 447-5119; A. Weber, 447-5468, Rm. 5925S, Wash. D.C. 20250

OFFICE OF THE SECRETARY

1. Calendar No: SFC 059-3
2. Title: Implementation of the Resources Conservation Act of 1977.
3. Description: Develop: (1) An appraisal of the resource base; and (2) a program establishing the direction of future soil and water conservation efforts of the Department.
4. Authority: P.L. 95-192 - The Soil and Water Resources Conservation Act of 1977.
5. Projected Schedule
- a. Date of pre-notice: 6/1/79
b. Date of proposal: 9/79 and 1/80
c. Final Decision: 6/80
6. Contacts:
- Agency: Ernest Todd, Ext. (202) 447-2771
ISRA, SFC, Room 5123S, Washington, D.C. 20250

1. Calendar No: SFC 059-4
2. Title: Tax Treatment of Certain Federal/State Payments
3. Description: Payments may be excluded from gross income for federal income tax purposes if they are determined by the Secretary of Agriculture to be made primarily for specific purposes and are determined by the Secretary of the Treasury as not substantially increasing income.
4. Authority: Revenue Act of 1978 (P.L. 95-600, Section 543)
5. Projected Schedule
- a. Date of pre-notice: 6/29/79
b. Date of proposal: 8/22/79
c. Final Decision: 11/15/79
6. Contacts:
- Agency: Arnold Miller, Ext. (202) 447-3465
USDA, ORPF, Room 117A, Washington, D.C. 20250

LIST OF REGULATIONS SCHEDULED FOR REVIEW

The following list of regulations provides the public an overview of all regulations for which USDA plans to initiate review activity in the next 6 months or has already initiated review under the procedures described in "Improving USDA Regulations," (43 FR 50988; November 1, 1978).

All significant regulation review actions are listed first, with each entry shown under the name of the responsible USDA agency along with the CFR parts affected, a brief description, and an agency contact. Following the significant items, all not significant items are listed in a similar fashion. The public is invited to use this information as an early warning device to identify all actions about to undergo review so that input may be provided at appropriate stages of the review.

SIGNIFICANT REGULATIONS SCHEDULED			
Parts Affected	Subject	Description	Contact
Agriculture Marketing Service - Significant			
7 CFR 201 (AMS 108-7)	Amendments to regulations under the Federal Seed Act	Update and clarify provisions such as definition of variety rules for assigning variety names and adding new kinds, add new rules for testing, amend standards for certified seed, and amend rules for sampling unusual containers. Last major revision of regulations was in 1973.	Clyde Edwards, AMS USDA, Room 2603S Washington, D.C. 20250 202-447-9340
Animal and Plant Health Inspection Service - Significant			
9 CFR 51 (APHIS 039-26)	Cattle Destroyed Because of Brucellosis	Regulation provides for cooperation with States in eradicating brucellosis, a contagious disease of cattle, swine and bison; for payment to owners, at specified rates, for animals destroyed because of brucellosis; procedures and requirements under which indemnities may be paid; and for disinfection of premises, conveyances and materials.	A.D. Robb, APHIS USDA, Room 805 Federal Building Hyattsville, Md. 20782 301-436-8321
Federal Grain Inspection Service - Significant			
7 CFR 68.1 through 7 CFR 68.54 (FGIS 109-61)	Regulations under the Agricultural Marketing Act of 1946, as amended.	FGIS will formally review and propose amendments or revisions as necessary to the regulations governing FGIS inspection of commodities under the Agricultural Marketing Act of 1946, as amended. Commodity activities covered by these regulations include the grading of rice, pulses and hay/straw; factor analysis of hops; and the certification of processed grain products for contract compliance.	J.T. Abshier, FGIS USDA, Room 2405 Auditors Building Washington, D.C. 20250 202-447-8262
Farmers Home Administration - Significant			
7 CFR 1804 (FHA 108-2)	Planning and Performing Site Development Work	Prescribes the policies, methods and responsibilities with respect to planning and performing site development work in connection with all types of loans and grants authorized by Title V of the Housing Act of 1949.	Ronnie Tharrington FHA, USDA Room 5309S Washington, D.C. 20250 202-447-3766
Food and Nutrition Service - Significant			
7 CFR 246.8 (FNS 039-1)	Changes in WIC Food Package	Proposed regulations - changing the food packages for the WIC participants. Current research on the nutritional needs of the target population indicate some changes should be made in the nutrients and levels provided.	Jane McNeil, FNS USDA, Room 4301 Auditors Building Wash., D.C. 20250 202-447-8206

Parts Affected	Subject	Description	Contact
Food and Nutrition Service - Significant			
7 CFR 226 (FNS 118-2)	Child Care Food Program	The proposed rule provides for administrative payments to sponsors of day care homes, a food service rate for family day care providers, start-up and advance payments, and alternative licensing procedures.	Jordan Benderly FNS, USDA Room 644 GH Washington, D.C. 20250 202-447-8211
7 CFR 220 (FNS 118-8)	School Breakfast Program: Grain-Fruit Product	This entails elimination of formulated grain/fruit products from the School Breakfast Program to promote development of good food habits in the furtherance of nutrition education through a well-balanced diet of conventional foods.	Margaret Glavin FNS, USDA Room 4122 Auditors Building Wash., D.C. 20250 202-447-8130
7 CFR 245 (FNS 118-13)	Assessment, Improvement and Monitoring System for School Nutrition Programs	A series of regulatory amendments for management, evaluation and monitoring designed to improve accountability. To assist State agencies, additional State Administrative Expense funds will be provided. Removes Part 245 amendments from the Program Analysis and Review System proposal and makes them a separate proposal.	Margaret Glavin FNS, USDA Room 4122 Auditors Building Wash., D.C. 20250 202-447-8130
7 CFR 250 (FNS 118-26)	Food Distribution Program	The Food Distribution Division will make a systematic review of regulations and recommend restructuring and consolidation.	Darrel Gray, FNS USDA, Room 610 GH Wash., D.C. 20250 202-447-8362
7 CFR 210 7 CFR 225 7 CFR 226 (FNS 118-42)	School Feeding Programs: Definition of Authorized Milk Products for Use in Food Service	Develop definition for authorized milk products. This would clarify FNS policy pertaining to use of milkshakes. States are not interpreting requirement for "fluid" milk consistently as being synonymous with Class I dairy products.	Audrey Maretzki, FNS, USDA, Room 556 GH Wash., D.C. 20250 202-447-9081
7 CFR 210 & 220 (FNS 118-24)	Control on the Sales of Competitive Foods in Schools	Regulations to implement that Section of P.L. 95-166 which requires that the Secretary approve those foods which may be sold in competition with the lunch and breakfast served under the National School Lunch and School Breakfast Programs, thereby placing controls on the sale of competitive foods at State and local levels.	Margaret Glavin FNS, USDA Room 4122 Auditors Building Wash., D.C. 20250 202-447-8130
7 CFR 277 (FNS 118-69)	Food Stamp Program: Regulations Concerning Administrative Cost Allocations for States	Those regulations concern the reimbursement to States for administrative costs incurred in operating the Food Stamp Program.	Alberta Frost, FNS USDA, Room 650 GH Wash., D.C. 20250 202-447-8982
7 CFR 273.7 (FNS 118-70)	Food Stamp Program: Work Registration Joint Rulemaking	Those regulations define and assign the responsibility for administering the food stamp work registration requirement, including job search activities, to the appropriate agencies within the Departments of Labor and Agriculture. Additionally, the responsibilities and penalties for failure to comply with work requirements by participating households will be delineated.	Alberta Frost, FNS USDA, Room 650 GH Wash., D.C. 20250 202-447-8982

Parts Affected	Subject	Description	Contact
Food and Nutrition Service - Significant			
7 CFR 275 (FNS 118-73)	Food Stamp Program: Regulations Concerning the Performance Reporting System	These regulations require that the existing system be continued and further refined to ensure that States assess themselves at the local level and report to the Department on their efficiency and effectiveness.	Alberta Frost, FNS USDA, Room 650 GH Wash., D.C. 20250 202-447-8982
7 CFR 281 & 283 (FNS 118-75)	Food Stamp Program: Regulations Concerning the Participation of Indians	These regulations allow Indian participation in the Food Distribution Program and the Food Stamp Program; they also will allow, in certain cases, capable tribes to operate those programs.	Alberta Frost, FNS USDA, Room 650 GH Wash., D.C. 20250 202-447-8982
Rural Electrification Administration - Significant			
Bulletin 20-21: 320-21 (REA 108-9)	National Environmental Policy Act	REA policy and procedure on the implementation of the National Environmental Policy Act as it relates to the REA program.	Joseph Zoller, REA USDA, Room 4056S Washington, D.C. 20250 202-447-6237

NOT SIGNIFICANT REGULATIONS SCHEDULED			
Parts Affected	Subject	Description	Contact
Agricultural Marketing Service - Not Significant			
9 CFR Part 33 (AMS 079-77)	Regulations Under the Export Apple and Pear Act	These regulations require that prior to shipment, any person shipping or offering for shipment, apples or pears to any foreign destination, must have the fruit inspected by the Federal or Federal-State Inspection Service and certified as meeting specified quality and other requirements. Copies of the "Export Form Certificate" or Memorandum of Inspection issued by the Inspector must be retained by the export carrier for a period of not less than three years after the date of export.	M. E. McGaha, AMS USDA, Room 2532S Washington, D.C. 20250 202-447-5975
7 CFR Part 28 Subpart D	Cotton Classification and Market News Services for Organized Groups of Producers	The Smith-Doxey Amendment to the Cotton Statistics and Estimates Act authorizes and directs the Secretary of Agriculture to furnish cotton classification and market news services, without charge, to groups of producers organized to promote the improvement of cotton. The regulations in Subpart D implement this Amendment by defining organized groups and giving requirements for filing applications with USDA to receive the classing and market news services. The regulations also contain requirements and details governing the sampling and classing of cotton for producers, and the distribution of market news.	Robert Brown, AMS USDA, Room 3074S Washington, D.C. 20250 202-447-3817
7 CFR Part 29	Official Standard Grades for Dark Air-Cured Tobacco, (U.S. Types 35, 36, and 37) Subsections 3501-4656	Dark air-cured tobacco consists of Type 35, One-Sucker, grown in Kentucky and Tennessee; Type 36, Green River, grown in Kentucky; and Type 37, sun-cured, grown in Virginia.	Robert Brown, AMS USDA, Room 3074S Washington, D.C. 20250 202-447-3817
7 CFR Part 30	Tobacco Stocks and Standards, (Class 3, air-cured types and groups) Section 38(b) and (c); Type 31-V	Type 31-V tobacco has the general visual characteristics of Type 31, Burley tobacco, but is a low-nicotine strain or variety. Production is under contract between grower and dealer and such tobacco neither receives price support nor is sold at auction.	Robert Brown, AMS USDA, Room 3074S Washington, D.C. 20250 202-447-3817
Animal and Plant Health Inspection Service - Not Significant			
9 CFR 52 (APHIS 109-55)	Dourine in Horses and Asses	Regulation provides for cooperation with States in eradicating dourine, an infectious and communicable disease of horses and asses; and for appraisal of animals and payment to owners at specified rates for animals destroyed because of dourine.	J. Hourigan, APHIS USDA, Room 735 Federal Building, Hyattsville, Md. 20782 301-436-8321
9 CFR 53 (APHIS 109-54)	Foot-and-Mouth Disease, Pleuro- pneumonia, Rinder-pest, and Certain other Communicable Diseases of Livestock or Poultry	Regulation provides for the determination of the existence of exotic or foreign animal and poultry diseases and for agreements to cooperate with States; for payment to owners, at specified rates, for animals and materials destroyed because of specific exotic diseases; procedures and requirements under which payments to owners for animals or materials destroyed may be made; for disinfection or destruction of materials; and disinfection of premises and conveyances.	D. King, APHIS USDA, Room 743 Federal Building, Hyattsville, Md. 20782 301-436-9065

Parts Affected	Subject	Description	Contact
Animal and Plant Health Inspection Service - Not Significant			
9 CFR 56 (APHIS 109-53)	Swine Destroyed because of Hog Cholera	Regulation provides for cooperation with States in eradicating hog cholera, a contagious, infectious and communicable disease of swine; for payment to owners, at specified rates, for swine destroyed; and procedures and requirements under which such payment may be made.	L. Schnurmanberger APHIS, USDA, Room 713, Federal Building, Hyattsville, Md. 20782 301-436-8438
7 CFR 319.59 (APHIS 109-56)	Flag Smut	The regulation prohibits the importation from certain countries of wheat, wheat straw, hulls and chaff; wheat products of the milling process other than wheat flour; and certain seeds. This quarantine protects the United States from the entry of flag smut disease of wheat, an injurious plant disease caused by a fungus.	H. V. Autry, APHIS USDA, Room 635 Federal Building Hyattsville, Md. 20782 301-436-6247
7 CFR 318.60 (APHIS 109-57)	Sand, Soil, or Earth with Plants	The regulation restricts the movement of sand, soil or earth around the roots of plants between Guam, Hawaii, Puerto Rico, the Virgin Islands or the Continental United States due to the possible presence of plant pests in that soil.	H. V. Autry, APHIS USDA, Room 635 Federal Building Hyattsville, Md. 20782 301-436-6247
Federal Crop Insurance Corporation - Not Significant			
7 CFR 401.101	Insurance Offer	Insurance offers for these commodities are currently complex and verbose. Purpose of review will be to bring about conformance with current FCIC policies to modernize and simplify the insurance offer, placing it on an equitable basis for all producers.	Peter Cole, FCIC USDA, Room 4088S Washington, D.C. 20250 202-447-3325
7 CFR 401.127	Dry Beans		
7 CFR 401.128	Flax		
7 CFR 401.132	Rice		
7 CFR 401.134	Soybeans		
7 CFR 401.137	Canning & Processing Tomatoes		
7 CFR 401.138	Peanuts		
7 CFR 401.141	Tobacco (Dollar Amount)		
7 CFR 401.144	Combined Crop		
7 CFR 401.145	Tobacco (Guarantee in pounds per acre)		
7 CFR 401.148	Burley Tobacco (Poundage Quota)		
7 CFR 401.150	Flue Cured Tobacco (Poundage Quota)		
7 CFR 401.152	Sunflowers		
7 CFR 401.154	Corn (Grain - Grain and Silage)		
7 CFR 401.155	Potatoes		
7 CFR 401.156	Canning & Freezing Sweet Corn		
7 CFR 403	Peaches		
7 CFR 404	Western U.S. Apples		
7 CFR 406	California Oranges		
7 CFR 408	Eastern U.S. Apples		
7 CFR 409	Arizona-Desert Valley Citrus		
7 CFR 410	Florida Citrus		
7 CFR 411	Grapes		
7 CFR 413	Texas Citrus		
7 CFR 414	Forage Seeding		
7 CFR 415	Forage Production		

Parts Affected	Subject	Description	Contact
Farmers Home Administration - Not Significant			
7 CFR 1924-n (FmHA 099-72)	Management Assistance to Individual Borrowers and Applicants	Sets forth policies for providing management assistance to individual applicants and borrowers. It pertains to all insured loans that depend on farm income for loan repayment, and also provides for the necessary supervision and appropriate credit counseling for Rural Housing loans not dependent on farm income for loan repayment.	Jim Lee, FmHA USDA, Room 5310S Washington, D.C. 20250 202-447-4597
Title V, Housing Act of 1949, As Amended. (FmHA 108-71)	Servicing Monthly Payment - Single Family Housing Borrowers	Outlines policies, procedures and authorizations for servicing accounts of active Single Family Housing borrowers who (1) have signed notes, rescheduled payment agreements or assumption agreements which specify monthly payments or (2) have agreed to pay annual installments in equal monthly payments.	Jim Lee, FmHA USDA, Room 5310S Washington, D.C. 20250 202-447-4597
FmHA has scheduled the following regulations for review for which the significance was not yet determined as of the publication deadline for this calendar.			
7 CFR 1809	Voluntary Debt Adjustment	Prescribes the policies, responsibilities, and procedures in the voluntary adjustment of debts of applicants for loans from the Farmers Home Administration, borrowers, and other persons who request such services.	Jim Lee, FmHA USDA, Room 5310S Washington, D.C. 20250 202-447-4597
7 CFR 1855	Real Estate Tax Servicing	Prescribes that each borrower with a Farm Ownership, Rural Housing, Rural Rental Housing, Rural Cooperative Housing, Labor Housing, Other Real Estate, Soil and Water, Recreation Loan or Operating Loan, Economic Opportunity, and Emergency Loan secured by real estate will be responsible for paying taxes on the real estate security to the proper taxing authorities.	Ronnie Tharrington FmHA, USDA, Room 5309S Washington, D.C. 20250 202-447-3766
7 CFR 1876	National Flood Insurance	Prescribes the policies and procedures to be followed in implementing the National Flood Insurance Act of 1968, as amended by the Flood Disaster Act of 1973.	Jennings Orr, FmHA USDA, Room 5308S Washington, D.C. 20250 202-447-4295
7 CFR 1807	Title Clearance and Loan Closing	Contains the real estate title clearance and loan, transfer, or credit sale, closing authorities, policies, and procedures for all Farm Ownership, Non-farm Enterprise, Recreation, Rural Housing, Labor Housing, Rural Rental Housing, Other Real Estate, Loan Conservation and Development, and Individual Soil and Water Loans.	Eugene Carnette FmHA, USDA, Room 5347S Washington, D.C. 20250 202-447-4295
7 CFR 1873	Association Loans for Shift-In Land	Outlines the policies and authorizations for making insured and direct loans or Shift-In-land Use projects and for facilities and soil and water conservation related thereto.	Jim Lee, FmHA USDA, Room 5310S Washington, D.C. 20250 202-447-4597

Parts Affected	Subject	Description	Contact
Farmers Home Administration - Continued			
FmHA has scheduled the following regulations for review for which the significance was not yet determined as of the publication deadline for this calendar.			
7 CFR 1823	Loans to Timber Development Organizations	Prescribes the policies, authorizations, and procedures for making loans to timber development organizations which are permitted by the Appalachian Regional Development Act of 1965.	Jim Lee, FmHA USDA, Room 5310S Washington, D.C. 20250 202-447-4597
7 CFR 1873	Association Loans for Irrigation and Drainage and Other Soil and Water Conservation Measures	Outlines the policies and authorizations for making insured and direct loans to associations for irrigation, drainage, and other soil and water conservation and use projects.	Jim Lee, FmHA USDA, Room 5310S Washington, D.C. 20250 202-447-4597
7 CFR 1823	Processing Loans to Associations (Except for Domestic Water and Waste Disposal)	Sets forth the procedure for processing insured and direct loans for Shift-In-land Use and for facilities and soil and water conservation practices related thereto; and association loans for irrigation and drainage and other soil and water conservation measures.	Jim Lee, FmHA USDA, Room 5310S Washington, D.C. 20250 202-447-4597
7 CFR 1861	Servicing Accounts of Borrowers Entering the Armed Forces	Prescribes the authorities, policies and routines for servicing borrowers who have entered or who are entering military service.	Jim Lee, FmHA USDA, Room 5310S Washington, D.C. 20250 202-447-4597
7 CFR 1872-A	Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases.	Delegates authority and prescribes policies and procedures for and liquidation of real estate security for Farmers Home Administration loans to individuals including loans on leasehold interests, and certain note-only cases, except Rural Rental Housing and Labor Housing loans to individuals operating under a loan agreement, or to Business and Industry loans. It does not apply to loans subject to a Farmers Home Administration guarantee.	Jim Lee, FmHA USDA, Room 5310S Washington, D.C. 20250 202-447-4597
7 CFR 1980-A	Guaranteed Loan Programs- General	Prescribes the forms that are applicable to the Farmers Home Administration guaranteed loan program.	Reed Peterson, FmHA USDA, Room 5349S Washington, D.C. 20250 202-447-4295
7 CFR 1980-D	Rural Housing Program Loans	Contains regulations for unsubsidized Single Family Rural Housing loans to above-moderate income families guaranteed by the Farmers Home Administration and applies to lenders, holders, borrowers, and other parties involved in making, guaranteeing, servicing, holding, or liquidating such loans.	Reed Peterson, FmHA USDA, Room 5349S Washington, D.C. 20250 202-447-4295
Title V Housing Act of 1949, As Amended	Appraisal of Non-farm Tracts and Small Farms for Rural Housing	Prescribes the policies and procedures for the appraisal of real property serving as security for individual Rural Housing loans which are made on non-farm tracts and small farms and leasehold interests on non-farm tracts and small farms.	Wesley Harris, FmHA USDA, Room 5307S Wash., D.C. 20250 202-447-3766

Parts Affected	Subject	Description	Contact
Food and Nutrition Service - Not Significant			
7 CFR 272 (FNS 049-71)	Food Stamp Program: Regulations Concerning Program Administration in Certain Rural Areas of Alaska	Regulations modify certain regulatory provisions implementing P.L. 95-113 to ensure efficient and effective operation of the Program in designated rural areas of Alaska	Alberta Frost, FNS USDA, Room 650 GH Wash., D.C. 20250 202-447-8982
7 CFR 272 (FNS 11A-74)	Food Stamp Program: Regulations Concerning Points and Hours, Outreach and State Complaints	Regulations establish requirements for State outreach activities, locations and hours of certification and issuance offices, and for State handling of complaints.	Alberta Frost, FNS USDA, Room 650 GH Wash., D.C. 20250 202-447-8982
7 CFR 273 (FNS 11A-76)	Food Stamp Program: Regulations Concerning SSI Joint Processing	Regulations allow SSI households and applicants to apply for food stamps at Social Security Offices.	Alberta Frost, FNS USDA, Room 650 GH Wash., D.C. 20250 202-447-8982
7 CFR 272 (FNS 11A-77)	Food Stamp Program: Regulations Concerning State Plan of Operation	Regulations establish requirements for the State agency preparation and submission of the State Plan of Operation which is the contract between States and the Department.	Alberta Frost, FNS USDA, Room 650 GH Wash., D.C. 20250 202-447-8982
7 CFR 280 (FNS 11A-78)	Food Stamp Program: Regulations Concerning FNS and State Steps to be Taken in the Case of Natural Disasters	Regulations describe how FNS and the States will react to natural disasters to insure continued benefits to participants and to the new group of people who may be eligible in the States following disasters.	Alberta Frost, FNS USDA, Room 650 GH Wash., D.C. 20250 202-447-8982
7 CFR 225 (FNS 11A-31)	Summer Food Service Program for Children	Proposed Regulations are essentially similar to the 1978 regulations; provisions are made to stabilize administrative funding to States and contractual payments to food vendors. State responsibilities for training are expanded, and the eligibility of migrant children is clarified.	Jordan Randerly FNS, USDA Room 644 GH Wash., D.C. 20250 202-447-8211
Forest Service			
FS has scheduled the following regulation for review for which the significance was not yet determined as of the publication deadline for this calendar.			
36 CFR 251.23	Experimental Areas and Research - Natural Areas	Establishment of areas to be known as experimental forests or experimental ranges to provide for the research necessary for the management of forest and range land in each forest region.	Robert Buckman, FS USDA, Room 3007S Washington, D.C. 20250 202-447-6665
Food Safety and Quality Service			
FSQR has scheduled the following regulation for review for which the significance was not yet determined as of the publication deadline for this calendar.			
9 CFR 312, 316, 317, 319 and 9 CFR 381 Subparts M, N, P	Meat Inspection Regulations Poultry Products Inspection Regulations	Regulations relating to official markers, the marking of products and their containers, the standards of composition and identity of meat and poultry products and labelling of such products.	Irwin Fried, FSQS USDA, Room 202-A Cotton Annex Washington, D.C. 20250 202-447-6042

Parts Affected	Subject	Description	Contact
Rural Electrification Administration - Not Significant			
Bulletin 5-1305-1 (REA 10A-8)	Joint Use of REA Borrowers' Facilities by Electric and Telephone Systems	REA policy and procedure for the joint use of REA borrowers' facilities by other electric and telephone systems.	Joseph Zoller, REA USDA, Room 4056S Wash., D.C. 20250 202-447-6237
Bulletin 40-6 (REA 049-6)	Construction Methods and Purchase of Materials and Equipment	The requirements of REA on construction of distribution, transmission, generation, and headquarters facilities, and the purchase of materials and equipment by REA electric borrowers.	Joseph Zoller, REA USDA, Room 4056S Wash., D.C. 20250 202-447-6237
Bulletin 105-5	Financial Forecast - Electric Distribution Systems	Guidelines for the preparation of long range financial forecasts by electric distribution borrowers.	Joseph Zoller, REA USDA, Room 4056S Wash., D.C. 20250 202-447-6237
Bulletin 105-7 (REA 10A-11)	Long Range System and Financial Planning - Power Supply Borrowers	Policy and recommendations of REA for its power supply borrowers with respect to the preparation of long-range system and financial plans.	Joseph Zoller, REA USDA, Room 4056S Wash., D.C. 20250 202-447-6237
Bulletin 108-2 (REA 10A-10)	Operating Reports - Power-Type Borrowers and Distribution Borrowers with Generating Facilities	The requirements of REA on the preparation and submission of operating reports by power-type borrowers and distribution borrowers with generating facilities.	Joseph Zoller, REA USDA, Room 4056S Wash., D.C. 20250 202-447-6237
Bulletin 112-3 (REA 049-3)	Area Coverage Service	The policy of REA concerning the extension of electric service to rural users by borrowers on an area coverage basis.	Joseph Zoller, REA USDA, Room 4056S Wash., D.C. 20250 202-447-6237
Bulletin 344-3: 43-9	"Buy American" Requirement	REA requirements with respect to the "Buy American" provision of the Rural Electrification Act.	John Arnesen, REA USDA, Room 4048S Wash., D.C. 20250 202-447-4305
Bulletin 345-18 (REA 10A-23)	REA Specification for Plastic-Insulated, Plastic-Jacketed Station Wire	REA requirements on plastic-insulated, plastic-jacketed station wire installed on REA-financed telephone systems.	John Arnesen, REA USDA, Room 4048S Wash., D.C. 20250 202-447-4305
Bulletin 345-19 (REA 10A-20)	REA Specification for Figure 8 One-Pair Distribution Wire	REA requirements on figure 8 one-pair distribution wire installed on REA-financed telephone systems.	John Arnesen, REA USDA, Room 4048S Wash., D.C. 20250 202-447-4305
Bulletin 345-20 (REA 10A-14)	REA Specification for Figure 8 Multipair Distribution Wire	REA requirements on figure 8 multipair distribution wire installed on REA-financed telephone systems.	John Arnesen, REA USDA, Room 4048S Wash., D.C. 20250 202-447-4305

Parts Affected	Subject	Description	Contact
Rural Electrification Administration - Not Significant			
Bulletin 345-21 (RFA 10A-19)	RFA Specification for Polyethylene Raw Material	RFA requirements on polyethylene raw material installed on RFA-financed telephone systems.	John Arnesen, RFA USDA, Room 4048S Wash., D.C. 20250 202-447-4305
Bulletin 345-36 (RFA 10A-19)	RFA Specification for Parallel Conductor Drop Wire	RFA requirements on parallel conductor drop wire installed on RFA-financed telephone systems.	John Arnesen, RFA USDA, Room 4048S Wash., D.C. 20250 202-447-4305
Bulletin 345-39 (RFA 10A-25)	RFA Specification for Telephone Station Protectors.	RFA requirements on telephone station protectors installed on RFA-financed telephone systems.	John Arnesen, RFA USDA, Room 4048S Wash., D.C. 20250 202-447-4305
Bulletin 345-52	RFA Standard for Station Installation	Provides details on telephone installations, including mobile home installations, and an emphasis on buried plant.	John Arnesen, RFA USDA, Room 4048S Wash., D.C. 20250 202-447-4305
Bulletin 345-64 (RFA 10A-24)	RFA Specification for Ringers	RFA requirements and guidelines on ringers installed on RFA-financed telephone systems.	John Arnesen, RFA USDA, Room 4048S Wash., D.C. 20250 202-447-4305
Bulletin 340-3	Weekly Progress Report of Telephone Construction and Engineering Services	Report by the borrowers' engineer to the telephone borrower and RFA on the progress of engineering services and construction activities.	John Arnesen, RFA USDA, Room 4048S Wash., D.C. 20250 202-447-4305
Soil Conservation Service			
SCS has scheduled the following regulation for review for which the significance was not yet determined as of the publication deadline for this calendar.			
7 CFR 660 (SCS 109-27)	Cooperative Relationships and Arrangements	SCS enters into cooperative arrangements and memoranda of understanding with State and local governmental units and other non-Federal participants in the furtherance of authorized SCS programs of mutual benefit and interest. Such arrangements and memoranda cover conservation operations, space, equipment, soil surveys, watershed agreements, river basin studies, personnel, etc.	Leo Link, SCS USDA, Room 2101, Auditors Building Washington, D.C. 20250 202-447-2177
Science and Education Administration - Not Significant			
7 CFR 500 (SEA 079-12)	Conduct on National Arboretum Property	Regulations apply to the buildings and grounds of the National Arboretum, Washington, D.C., and to all persons entering in or on such property.	Eugene Hahn, SEA USDA, Room 513 Federal Building Hyattsville, Md. 20782 301-436-8217

Parts Affected	Subject	Description	Contact
Science and Education Administration - Not Significant			
7 CFR 501 (SEA 079-16)	Conduct on Roman L. Hruska Meat Animal Research Center (H.S. Meat Animal Research Center), Clay Center, Nebraska	Regulations apply to all property of or under the charge or control of the Roman L. Hruska Meat Animal Research Center, Clay Center, Nebraska, and to all persons entering in or on such property.	Eugene Hahn, SEA USDA, Room 513 Federal Building Hyattsville, Md. 20782 301-436-8217
7 CFR 502 (SEA 079-14)	Conduct on Agricultural Research Center Property, Beltsville, Md.	Regulations apply to the buildings and grounds of the Agricultural Research Center, Beltsville, Md., and to any persons entering in or on such property.	Eugene Hahn, SEA USDA, Room 513 Federal Building Hyattsville, Md. 20782 301-436-8217
7 CFR 503 (SEA 079-15)	Conduct on Plum Island Animal Disease Center	Regulations cover the buildings, grounds and vessels of the Plum Island Animal Disease Center, Orient Point, N.Y., and apply to all persons entering in or on such properties both on the mainland, Orient Point, N.Y. and on Plum Island.	Eugene Hahn, SEA USDA, Room 513 Federal Building Hyattsville, Md. 20782 301-436-8217
7 CFR 510 (SEA 079-13)	Public Information	The regulations in this part govern the availability of records of the Agricultural Research Service (now SEA-AR) to the public.	Robert Nelson, SEA USDA, Room 3143S Washington, D.C. 20250 202-447-2076

LIST OF REGULATIONS PROPOSED FOR REVIEW

The following USDA regulations are proposed for review to be initiated between June and November of 1980 and are published under procedures described in "Improving USDA Regulations" (43 FR 50988; Nov. 1, 1978). They are listed by USDA agency, along with the CFR parts affected, a brief description, and an agency contact. Public comments are being sought as to whether these regulations should be reviewed in the June-November time period or whether other regulations deserve higher priority and should be reviewed then. Suggestions regarding meaningful groupings of regulations or emphasis on specific aspects of a regulation would be particularly helpful. Comments should be sent to the individual shown as the "contact" on the list no later than January 31, 1980.

Parts Affected	Subject	Description	Contact
Agriculture Marketing Service			
9 CFR Chap. 11 Part 201, Part 203	General Regulations Statements of General Policy	This is a proposed review of existing regulations and policy statements.	John Sands AMS, USDA Rm. 3422S, Washing- ton, D.C. 20250 202-447-6771 and Harry Williams AMS, USDA Rm. 3408S, Washing- ton, D.C. 20250 202-447-6951
Animal and Plant Health Inspection Service			
9 CFR 76	Hog Cholera and Other Communicable Swine Diseases	Regulation provides for cooperation with States in eradicat- ing hog cholera and other communicable diseases of swine; for quarantine of affected areas; for requirements regarding interstate movement of swine and swine products from quarantined areas; for approval of livestock markets; and for cleaning and disinfection of means of conveyance, markets and facilities.	L. Schnurrenberger APHIS, Room 713, Federal Building Hyattsville, Md. 20782 301-436-8438
9 CFR 89	Statement of Policy under the Twenty-Eight Hour Law	This part is a statement of policy relating to amount of feed, feeding, watering, and resting of livestock moved under provisions of the 28-hour law, which specifies that animals being shipped by boat or rail must be fed, watered, and rested at 28-hour intervals.	F. Mackery, APHIS Room 870, Federal Building, Hyatts- ville, Md. 20782 301-436-8695
9 CFR 94	Rinderpest, Foot-and-Mouth Disease, Fowl Pest (Fowl Plague), Newcastle Disease (avian pneu- moencephalitis), African Swine Fever, and Hog Cholera: Prohibited and Restricted Importations.	Regulation designates countries where rinderpest or foot- and-mouth disease or other exotic diseases of livestock exist and either prohibits or restricts the importation of animals, animal products, and materials from such countries.	J. Atwell, APHIS Room 750, Federal Building, Hyatts- ville, Md. 20782 301-436-8093
7 CFR 301.52	Pink Bollworm	The Federal Pink Bollworm Quarantine and regulations are designed to prevent the artificial spread of the pink bollworm, a dangerous insect injurious to cotton, okra, and kenaf, across State lines. The quarantine regulates the movement of cotton and cotton products, used bagging, used cotton harvesting and processing equipment, and okra and kenaf from the regulated areas to other parts of the United States.	H. V. Autry, APHIS Room 635, Federal Building, Hyatts- ville, Md. 20782 301-436-8247

Parts Affected	Subject	Description	Contact
Animal and Plant Health Inspection Service			
7 CFR 301.85	Golden Nematode	The Federal Golden Nematode Quarantine and regulations are designed to prevent the artificial spread of the golden nematode, which causes a dangerous disease of potatoes and certain other plants, across State lines. The quarantine regulates the movement of soil, various types of plants, used farm tools, used mechanized cultivating, harvesting, and soil-moving equipment from regulated areas to other parts of the United States.	H. V. Autry, APHIS Room 635, Federal Building, Hyatts- ville, Md. 20782 301-436-8247
Agricultural Stabilization and Conservation Service			
Section 407 of the Agricultural Act of 1949, as amended; CCC Charter Act, as amended; E. O. 11336	Indian Acute Distress Donation Program	The Commodity Credit Corporation donates feed grain to Indian tribes when the Secretary of Agriculture determines that the economic distress of a needy Indian tribe is materially increased by a severe drought, flood, hurricane, blizzard, or other uncontrollable catastrophe affecting land utilized by members of such tribe for grazing livestock. Such donations must not displace or interfere with normal marketing of agricultural commodities.	Robert Cook, ASCS USDA, Room 3095S Washington, D.C. 20250 202-447-7997
Federal Grain Inspection Service			
7 CFR 26.351 through 7 CFR 26.353 and 7 CFR 26.901, 904, and 905	U.S. Standards for Corn	FGIS will formally review and propose amendments or revisions as necessary to the U.S. Standards.	J. T. Abshier, FGIS Room 2405, Auditors Bldg., Washington, D.C. 20250 202-447-8262
7 CFR 26.601 through 7 CFR 26.603 and 7 CFR 26.903	U.S. Standards for Soybeans	FGIS will formally review and propose amendments or revisions as necessary to the U.S. Standards.	J. T. Abshier, FGIS Room 2405, Auditors Bldg., Washington, D.C. 20250 202-447-8262
Farmers Home Administration			
7 CFR 1822 Subpart B	Section 502 Rural Housing Weatherization Loans	This regulation provides the policies and procedures and authorizes Public Utilities to process and service Section 502 Rural Housing Loans to utility consumers. This program is committed to assisting rural homeowners in improving their homes to reduce energy consumption and provide a more comfortable and efficient living environment.	Reed Peterson, FmHA USDA, Room 5349S Washington, D.C. 20250 202-447-4296
Forest Service			
36 CFR 251.4	Disposal of Materials	Discusses disposal of minerals not subject to U.S. mining laws; defines appraisal values of such minerals; defines disposal methods, including bid procedures.	Howard E. Banta, FS USDA, Room 803 RP-E Washington, D.C. 20013 703-235-8103

Parts Affected	Subject	Description	Contact
Forest Service			
36 CFR 251.15	Conditions, rules, and regulations to govern exercise of mineral rights reserved by private parties on lands conveyed to the United States.	Describes mineral rights that must be made part of the deed of conveyance to the United States.	G.W. Van Gilst, FS USDA, Rm. 1010 RP-E Washington, D.C. 2001335-8212 703-235-8212
36 CFR 251.18	Rights-of-way reserved by the grantor on lands conveyed to the United States.	Describes the use, occupancy, and operation of rights-of-way reserved by grantors on said land.	G.W. Van Gilst, FS USDA, Rm. 1010 RP-E Washington, D.C. 20013 703-235-8212
36 CFR 251.19	Exercise of water rights reserved by the grantor on lands conveyed to the United States.	Concerns use of water rights by grantors on certain lands.	G.W. Van Gilst, FS USDA, Rm. 1010 RP-E Washington, D.C. 20013 703-235-8212
36 CFR 272	Use of Woodsy Owl Symbol	Description of Woodsy Owl term and authorization for public use.	Robert Lake, FS USDA, Room 3219S Washington, D.C. 20250 202-447-3760
36 CFR 292.11-.13 Subpart B	Whiskeytown-Shasta-Trinity National Recreation Area	Outlines the administration by USDA of the Shasta and Clair Engle-Lewiston Units with the Central Valley Project of the Bureau of Reclamation.	Roy Feuchter, FS USDA, Room 4241S Washington, D.C. 20250 202-447-3706
Rural Electrification Administration			
7 CFR 1700 Appendix A	Index of Bulletins describing the policies and procedures for administering the REA electric and telephone loan programs.	All bulletins listed in Appendix A are being screened to determine whether they (a) impose requirements on REA loan applicants, (b) impose requirements on REA, (c) state guidelines, or (d) simply provide information. Following this screening, bulletins falling into categories (a) and (b) above will be proposed/scheduled for review and reviewed for need, clarity and appropriateness of approach.	Harlan Severson, REA USDA, Room 4043S Washington, D.C. 20250 202-447-5606
Soil Conservation Service			
7 CFR 612	Snow Survey and Water Supply Forecasting	SCS collects data on snowpack and available water supply. Forecasts are provided to individuals and groups involved in water management, including agricultural water users. More than 10 million acres benefit from water supply forecasts, as do reservoir storage management, hydro power generation scheduling, water quality management, municipal and industrial water supply determination, etc.	Nell Bogner, SCS USDA, Room 5242S Washington, D.C. 20250 202-447-2520

[FR Doc. 79-35157 Filed 11-14-79; 8:45 am]
BILLING CODE 3410-01-C

Thursday
November 15, 1979

Part III

Department of Housing and Urban Development

Office of Assistant Secretary for
Housing—Federal Housing Commissioner

Fair Market Rents and Automatic Annual
Adjustment Factors

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-79-739]

Section 8 Housing Assistance Payments Program—Fair Market Rents and Automatic Annual Adjustment Factors, Schedule C; Automatic Annual Adjustment Factors

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner/Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This Final Rule sets forth Automatic Annual Adjustment Factors which are used to adjust rents under the Section 8 Housing Assistance Payments Program.

EFFECTIVE DATE: December 17, 1979, retroactive to November 8, 1979.

FOR FURTHER INFORMATION CONTACT: Nancy S. Chisholm, Economic and Market Analysis Division, PD&R, HUD, Washington, D.C. 20410. (202) 755-4977. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: These Adjustment Factors are being published pursuant to 24 CFR § 888.202 which requires the publication of the Factors in the Federal Register at least annually. The revised Automatic Annual Adjustment Factors supersede those published for effect at 44 FR 3912 on January 18, 1979, effective November 8, 1978. Different adjustment factor schedules are provided for 24 Standard Metropolitan Statistical Areas (SMSAs) and for the four Census Regions. The Factors are based on changes in the Consumer Price Index (CPI) for rents and utilities.

It is in the public interest to dispense with prior Notice and Public procedure and to make this Rule effective as soon as possible because the governing regulations (24 CFR § 888.202) require publication of updated Annual Adjustment Factors "at least annually", and the last publication of these Factors was effective November 8, 1978. Also, the current Annual Adjustment Factors are no longer realistic in light of economic trends over the past year and their continued application will be a hardship on owners and will create the potential for tenant evictions.

HUD has determined that this Rule does not constitute a major Federal

action significantly affecting the quality of the human environment. A Finding of Inapplicability of Environmental Impact has been prepared and is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, Title 24, Part 888, is amended by publishing updated Schedule C Factors for effect as set forth below:

(Section 7(d) Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C. on November 7, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal Housing Commissioner.

BILLING CODE 4210-01-M

**SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS**

NORTHCENTRAL CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.066	1.066	1.065	1.065	1.065
100 - 124	1.066	1.066	1.065	1.065	1.065
125 - 149	1.066	1.066	1.066	1.065	1.065
150 - 174	1.066	1.066	1.066	1.066	1.065
175 - 199	1.066	1.066	1.066	1.066	1.065
200 - 224	1.066	1.066	1.066	1.066	1.065
225 - 249	1.066	1.066	1.066	1.066	1.066
250 - 274	1.066	1.066	1.066	1.066	1.066
275 - 299	1.066	1.066	1.066	1.066	1.066
300 - 324	1.066	1.066	1.066	1.066	1.066
325 - 349	1.066	1.066	1.066	1.066	1.066
350 - 374	1.066	1.066	1.066	1.066	1.066
375 - 399	1.066	1.066	1.066	1.066	1.066
400 - 424	1.066	1.066	1.066	1.066	1.066
425 - 449	1.066	1.066	1.066	1.066	1.066
450 - 474	1.066	1.066	1.066	1.066	1.066
475 - 499	1.066	1.066	1.066	1.066	1.066
500 OR MORE	1.066	1.066	1.066	1.066	1.066

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.067

NOTE: THE NORTHCENTRAL CENSUS REGION INCLUDES THE FOLLOWING STATES:

ILLINOIS
INDIANA
IOWA
KANSAS
MICHIGAN
MINNESOTA
MISSOURI
NEBRASKA
NORTH DAKOTA
OHIO
SOUTH DAKOTA
WISCONSIN

NORTHEAST CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.066	1.069	1.074	1.078	1.083
100 - 124	1.064	1.067	1.070	1.074	1.077
125 - 149	1.063	1.065	1.068	1.071	1.074
150 - 174	1.063	1.064	1.067	1.069	1.072
175 - 199	1.062	1.063	1.066	1.068	1.070
200 - 224	1.062	1.063	1.065	1.067	1.069
225 - 249	1.061	1.062	1.064	1.066	1.067
250 - 274	1.061	1.062	1.064	1.065	1.067
275 - 299	1.061	1.062	1.063	1.065	1.066
300 - 324	1.061	1.062	1.063	1.064	1.065
325 - 349	1.061	1.061	1.063	1.064	1.065
350 - 374	1.060	1.061	1.062	1.063	1.064
375 - 399	1.060	1.061	1.062	1.063	1.064
400 - 424	1.060	1.061	1.062	1.063	1.064
425 - 449	1.060	1.061	1.062	1.063	1.063
450 - 474	1.060	1.061	1.061	1.062	1.063
475 - 499	1.060	1.060	1.061	1.062	1.063
500 OR MORE	1.060	1.060	1.061	1.062	1.063

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.053

NOTE: THE NORTHEAST CENSUS REGION INCLUDES THE FOLLOWING STATES:

CONNECTICUT
MAINE
MASS.
NEW HAMPSHIRE
NEW JERSEY
NEW YORK
PENNSYLVANIA
PUERTO RICO
RHODE ISLAND
VERMONT
VIRGIN ISLANDS

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS

SOUTH CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.068	1.065	1.060	1.055	1.050
100 - 124	1.070	1.068	1.064	1.059	1.056
125 - 149	1.071	1.069	1.066	1.062	1.060
150 - 174	1.072	1.070	1.067	1.065	1.062
175 - 199	1.073	1.071	1.069	1.066	1.064
200 - 224	1.073	1.072	1.070	1.067	1.065
225 - 249	1.073	1.072	1.070	1.068	1.067
250 - 274	1.074	1.073	1.071	1.069	1.068
275 - 299	1.074	1.073	1.071	1.070	1.068
300 - 324	1.074	1.073	1.072	1.070	1.069
325 - 349	1.074	1.073	1.072	1.071	1.069
350 - 374	1.074	1.074	1.072	1.071	1.070
375 - 399	1.075	1.074	1.073	1.071	1.070
400 - 424	1.075	1.074	1.073	1.072	1.071
425 - 449	1.075	1.074	1.073	1.072	1.071
450 - 474	1.075	1.074	1.073	1.072	1.071
475 - 499	1.075	1.074	1.073	1.072	1.072
500 OR MORE	1.075	1.074	1.073	1.073	1.072

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.070

NOTE: THE SOUTH CENSUS REGION INCLUDES THE FOLLOWING STATES:

ALABAMA
ARKANSAS
DELAWARE
D.C.
FLORIDA
GEORGIA
KENTUCKY
LOUISIANA
MARYLAND
MISSISSIPPI
N. CAROLINA
OKLAHOMA
S. CAROLINA
TENNESSEE
TEXAS
VIRGINIA
W. VIRGINIA

WEST CENSUS REGION

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.067	1.065	1.061	1.057	1.053
100 - 124	1.069	1.067	1.064	1.061	1.058
125 - 149	1.069	1.068	1.065	1.063	1.061
150 - 174	1.070	1.069	1.067	1.064	1.063
175 - 199	1.071	1.069	1.067	1.066	1.064
200 - 224	1.071	1.070	1.068	1.067	1.065
225 - 249	1.071	1.070	1.069	1.067	1.066
250 - 274	1.071	1.070	1.069	1.068	1.067
275 - 299	1.071	1.071	1.070	1.068	1.067
300 - 324	1.072	1.071	1.070	1.069	1.068
325 - 349	1.072	1.071	1.070	1.069	1.068
350 - 374	1.072	1.071	1.070	1.069	1.068
375 - 399	1.072	1.071	1.070	1.070	1.069
400 - 424	1.072	1.071	1.071	1.070	1.069
425 - 449	1.072	1.072	1.071	1.070	1.069
450 - 474	1.072	1.072	1.071	1.070	1.070
475 - 499	1.072	1.072	1.071	1.070	1.070
500 OR MORE	1.072	1.072	1.071	1.070	1.070

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.086

NOTE: THE WEST CENSUS REGION INCLUDES THE FOLLOWING STATES:

ALASKA
ARIZONA
CALIFORNIA
COLORADO
HAWAII
IDAHO
MONTANA
NEVADA
NEW MEXICO
OREGON
UTAH
WASHINGTON
WYOMING

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: ATLANTA, GA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.055	1.052	1.048	1.043	1.039
100 - 124	1.057	1.055	1.051	1.047	1.044
125 - 149	1.058	1.056	1.053	1.050	1.047
150 - 174	1.058	1.057	1.054	1.052	1.050
175 - 199	1.059	1.058	1.055	1.053	1.051
200 - 224	1.059	1.058	1.056	1.054	1.053
225 - 249	1.060	1.059	1.057	1.055	1.054
250 - 274	1.060	1.059	1.057	1.056	1.054
275 - 299	1.060	1.059	1.058	1.056	1.055
300 - 324	1.060	1.059	1.058	1.057	1.056
325 - 349	1.060	1.060	1.058	1.057	1.056
350 - 374	1.061	1.060	1.059	1.058	1.057
375 - 399	1.061	1.060	1.059	1.058	1.057
400 - 424	1.061	1.060	1.059	1.058	1.057
425 - 449	1.061	1.060	1.059	1.058	1.058
450 - 474	1.061	1.060	1.059	1.059	1.058
475 - 499	1.061	1.060	1.060	1.059	1.058
500 OR MORE	1.061	1.061	1.060	1.059	1.058

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.051

SMSA: BALTIMORE, MD

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.056	1.053	1.048	1.044	1.040
100 - 124	1.058	1.055	1.052	1.048	1.045
125 - 149	1.059	1.057	1.054	1.051	1.048
150 - 174	1.059	1.058	1.055	1.053	1.050
175 - 199	1.060	1.058	1.056	1.054	1.052
200 - 224	1.060	1.059	1.057	1.055	1.053
225 - 249	1.060	1.059	1.058	1.056	1.054
250 - 274	1.061	1.060	1.058	1.057	1.055
275 - 299	1.061	1.060	1.059	1.057	1.056
300 - 324	1.061	1.060	1.059	1.058	1.056
325 - 349	1.061	1.060	1.059	1.058	1.057
350 - 374	1.061	1.061	1.059	1.058	1.057
375 - 399	1.061	1.061	1.060	1.059	1.058
400 - 424	1.062	1.061	1.060	1.059	1.058
425 - 449	1.062	1.061	1.060	1.059	1.058
450 - 474	1.062	1.061	1.060	1.059	1.059
475 - 499	1.062	1.061	1.060	1.060	1.059
500 OR MORE	1.062	1.061	1.061	1.060	1.059

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.065

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: BOSTON, MA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.058	1.062	1.069	1.076	1.082
100 - 124	1.056	1.059	1.065	1.070	1.075
125 - 149	1.054	1.057	1.061	1.066	1.070
150 - 174	1.053	1.056	1.059	1.063	1.066
175 - 199	1.053	1.055	1.058	1.061	1.064
200 - 224	1.052	1.054	1.057	1.060	1.062
225 - 249	1.052	1.053	1.056	1.058	1.060
250 - 274	1.051	1.053	1.055	1.057	1.059
275 - 299	1.051	1.052	1.054	1.056	1.058
300 - 324	1.051	1.052	1.054	1.056	1.057
325 - 349	1.051	1.052	1.053	1.055	1.057
350 - 374	1.050	1.051	1.053	1.055	1.056
375 - 399	1.050	1.051	1.053	1.054	1.056
400 - 424	1.050	1.051	1.052	1.054	1.055
425 - 449	1.050	1.051	1.052	1.054	1.055
450 - 474	1.050	1.051	1.052	1.053	1.054
475 - 499	1.050	1.050	1.052	1.053	1.054
500 OR MORE	1.050	1.050	1.052	1.053	1.054

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.038

SMSA: BUFFALO, NY

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.043	1.050	1.061	1.072	1.082
100 - 124	1.039	1.045	1.053	1.062	1.070
125 - 149	1.037	1.041	1.049	1.056	1.062
150 - 174	1.035	1.039	1.045	1.051	1.056
175 - 199	1.034	1.037	1.043	1.048	1.052
200 - 224	1.033	1.036	1.041	1.045	1.049
225 - 249	1.033	1.035	1.039	1.043	1.047
250 - 274	1.032	1.034	1.038	1.042	1.045
275 - 299	1.031	1.034	1.037	1.040	1.043
300 - 324	1.031	1.033	1.036	1.039	1.042
325 - 349	1.031	1.032	1.035	1.038	1.041
350 - 374	1.030	1.032	1.035	1.037	1.040
375 - 399	1.030	1.032	1.034	1.037	1.039
400 - 424	1.030	1.031	1.034	1.036	1.038
425 - 449	1.030	1.031	1.033	1.036	1.038
450 - 474	1.030	1.031	1.033	1.035	1.037
475 - 499	1.029	1.031	1.033	1.035	1.036
500 OR MORE	1.029	1.030	1.032	1.034	1.036

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.048

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: CHICAGO, IL

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.061	1.065	1.070	1.075	1.079
100 - 124	1.060	1.062	1.066	1.070	1.073
125 - 149	1.059	1.061	1.064	1.067	1.070
150 - 174	1.058	1.060	1.062	1.065	1.067
175 - 199	1.057	1.059	1.061	1.064	1.066
200 - 224	1.057	1.058	1.060	1.062	1.064
225 - 249	1.057	1.058	1.060	1.061	1.063
250 - 274	1.056	1.057	1.059	1.061	1.062
275 - 299	1.056	1.057	1.059	1.060	1.061
300 - 324	1.058	1.057	1.058	1.060	1.061
325 - 349	1.056	1.057	1.058	1.059	1.060
350 - 374	1.056	1.056	1.058	1.059	1.060
375 - 399	1.056	1.056	1.057	1.059	1.060
400 - 424	1.055	1.056	1.057	1.058	1.059
425 - 449	1.055	1.056	1.057	1.058	1.059
450 - 474	1.055	1.056	1.057	1.058	1.059
475 - 499	1.055	1.056	1.057	1.058	1.058
500 OR MORE	1.055	1.056	1.057	1.057	1.058

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.067

SMSA: CINCINNATI, OH-KY-IN

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.041	1.035	1.025	1.016	1.007
100 - 124	1.044	1.039	1.032	1.024	1.018
125 - 149	1.046	1.042	1.036	1.030	1.025
150 - 174	1.048	1.044	1.039	1.034	1.029
175 - 199	1.049	1.046	1.041	1.037	1.033
200 - 224	1.049	1.047	1.043	1.039	1.036
225 - 249	1.050	1.048	1.044	1.041	1.038
250 - 274	1.051	1.049	1.045	1.042	1.039
275 - 299	1.051	1.049	1.046	1.043	1.041
300 - 324	1.051	1.050	1.047	1.044	1.042
325 - 349	1.052	1.050	1.048	1.045	1.043
350 - 374	1.052	1.050	1.048	1.046	1.044
375 - 399	1.052	1.051	1.049	1.046	1.045
400 - 424	1.052	1.051	1.049	1.047	1.045
425 - 449	1.053	1.051	1.049	1.047	1.046
450 - 474	1.053	1.052	1.050	1.048	1.046
475 - 499	1.053	1.052	1.050	1.048	1.047
500 OR MORE	1.053	1.052	1.050	1.049	1.047

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.084

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: CLEVELAND, OH

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.050	1.050	1.050	1.049	1.049
100 - 124	1.050	1.050	1.050	1.050	1.049
125 - 149	1.050	1.050	1.050	1.050	1.050
150 - 174	1.050	1.050	1.050	1.050	1.050
175 - 199	1.050	1.050	1.050	1.050	1.050
200 - 224	1.050	1.050	1.050	1.050	1.050
225 - 249	1.050	1.050	1.050	1.050	1.050
250 - 274	1.050	1.050	1.050	1.050	1.050
275 - 299	1.050	1.050	1.050	1.050	1.050
300 - 324	1.050	1.050	1.050	1.050	1.050
325 - 349	1.050	1.050	1.050	1.050	1.050
350 - 374	1.050	1.050	1.050	1.050	1.050
375 - 399	1.050	1.050	1.050	1.050	1.050
400 - 424	1.050	1.050	1.050	1.050	1.050
425 - 449	1.050	1.050	1.050	1.050	1.050
450 - 474	1.050	1.050	1.050	1.050	1.050
475 - 499	1.050	1.050	1.050	1.050	1.050
500 OR MORE	1.050	1.050	1.050	1.050	1.050

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.083

SMSA: DALLAS-FORT WORTH, TX

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.130	1.128	1.125	1.122	1.120
100 - 124	1.131	1.129	1.127	1.125	1.123
125 - 149	1.131	1.130	1.128	1.127	1.125
150 - 174	1.132	1.131	1.129	1.128	1.126
175 - 199	1.132	1.131	1.130	1.129	1.127
200 - 224	1.132	1.132	1.130	1.129	1.128
225 - 249	1.132	1.132	1.131	1.130	1.129
250 - 274	1.133	1.132	1.131	1.130	1.129
275 - 299	1.133	1.132	1.131	1.130	1.130
300 - 324	1.133	1.132	1.132	1.131	1.130
325 - 349	1.133	1.133	1.132	1.131	1.130
350 - 374	1.133	1.133	1.132	1.131	1.131
375 - 399	1.133	1.133	1.132	1.131	1.131
400 - 424	1.133	1.133	1.132	1.132	1.131
425 - 449	1.133	1.133	1.132	1.132	1.131
450 - 474	1.133	1.133	1.132	1.132	1.131
475 - 499	1.133	1.133	1.132	1.132	1.132
500 OR MORE	1.133	1.133	1.133	1.132	1.132

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.091

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: DENVER-Boulder, CO

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.101	1.100	1.098	1.096	1.094
100 - 124	1.102	1.101	1.099	1.097	1.096
125 - 149	1.102	1.101	1.100	1.099	1.098
150 - 174	1.102	1.102	1.101	1.100	1.099
175 - 199	1.103	1.102	1.101	1.100	1.099
200 - 224	1.103	1.102	1.101	1.101	1.100
225 - 249	1.103	1.102	1.102	1.101	1.100
250 - 274	1.103	1.103	1.102	1.101	1.101
275 - 299	1.103	1.103	1.102	1.102	1.101
300 - 324	1.103	1.103	1.102	1.102	1.101
325 - 349	1.103	1.103	1.102	1.102	1.101
350 - 374	1.103	1.103	1.103	1.102	1.102
375 - 399	1.103	1.103	1.103	1.102	1.102
400 - 424	1.103	1.103	1.103	1.102	1.102
425 - 449	1.104	1.103	1.103	1.102	1.102
450 - 474	1.104	1.103	1.103	1.103	1.102
475 - 499	1.104	1.103	1.103	1.103	1.102
500 OR MORE	1.104	1.103	1.103	1.103	1.102

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.073

SMSA: DETROIT, MI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.078	1.075	1.070	1.064	1.060
100 - 124	1.080	1.078	1.073	1.069	1.066
125 - 149	1.081	1.079	1.076	1.072	1.069
150 - 174	1.082	1.080	1.077	1.075	1.072
175 - 199	1.083	1.081	1.079	1.076	1.074
200 - 224	1.083	1.082	1.080	1.077	1.075
225 - 249	1.083	1.082	1.080	1.078	1.077
250 - 274	1.084	1.083	1.081	1.079	1.078
275 - 299	1.084	1.083	1.081	1.080	1.078
300 - 324	1.084	1.083	1.082	1.080	1.079
325 - 349	1.084	1.083	1.082	1.081	1.080
350 - 374	1.085	1.084	1.082	1.081	1.080
375 - 399	1.085	1.084	1.083	1.081	1.080
400 - 424	1.085	1.084	1.083	1.082	1.081
425 - 449	1.085	1.084	1.083	1.082	1.081
450 - 474	1.085	1.084	1.083	1.082	1.081
475 - 499	1.085	1.084	1.083	1.082	1.082
500 OR MORE	1.085	1.084	1.084	1.083	1.082

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.070

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: HONOLULU, HI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.088	1.085	1.080	1.075	1.070
100 - 124	1.089	1.087	1.083	1.079	1.076
125 - 149	1.090	1.088	1.085	1.082	1.079
150 - 174	1.091	1.089	1.087	1.084	1.082
175 - 199	1.092	1.090	1.088	1.086	1.084
200 - 224	1.092	1.091	1.089	1.087	1.085
225 - 249	1.092	1.091	1.089	1.088	1.086
250 - 274	1.093	1.091	1.090	1.088	1.087
275 - 299	1.093	1.092	1.090	1.089	1.088
300 - 324	1.093	1.092	1.091	1.089	1.088
325 - 349	1.093	1.092	1.091	1.090	1.089
350 - 374	1.093	1.092	1.091	1.090	1.089
375 - 399	1.093	1.093	1.091	1.090	1.089
400 - 424	1.093	1.093	1.092	1.091	1.090
425 - 449	1.093	1.093	1.092	1.091	1.090
450 - 474	1.094	1.093	1.092	1.091	1.090
475 - 499	1.094	1.093	1.092	1.091	1.091
500 OR MORE	1.094	1.093	1.092	1.092	1.091

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.047

SMSA: HOUSTON, TX

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.077	1.089	1.109	1.128	1.145
100 - 124	1.071	1.080	1.095	1.110	1.123
125 - 149	1.067	1.075	1.087	1.099	1.110
150 - 174	1.064	1.071	1.081	1.091	1.100
175 - 199	1.062	1.068	1.077	1.086	1.093
200 - 224	1.060	1.065	1.073	1.081	1.088
225 - 249	1.059	1.064	1.071	1.078	1.084
250 - 274	1.058	1.062	1.069	1.075	1.081
275 - 299	1.057	1.061	1.067	1.073	1.078
300 - 324	1.057	1.060	1.065	1.071	1.075
325 - 349	1.056	1.059	1.064	1.069	1.073
350 - 374	1.058	1.058	1.063	1.068	1.072
375 - 399	1.055	1.058	1.062	1.066	1.070
400 - 424	1.055	1.057	1.061	1.065	1.069
425 - 449	1.054	1.057	1.061	1.064	1.068
450 - 474	1.054	1.056	1.060	1.064	1.067
475 - 499	1.054	1.056	1.059	1.063	1.066
500 OR MORE	1.054	1.056	1.059	1.062	1.065

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.059

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: KANSAS CITY, MO-KS

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.077	1.084	1.095	1.105	1.115
100 - 124	1.074	1.079	1.087	1.096	1.103
125 - 149	1.071	1.076	1.082	1.089	1.095
150 - 174	1.070	1.073	1.079	1.085	1.090
175 - 199	1.069	1.072	1.077	1.082	1.086
200 - 224	1.068	1.070	1.075	1.079	1.083
225 - 249	1.067	1.069	1.073	1.077	1.081
250 - 274	1.066	1.069	1.072	1.076	1.079
275 - 299	1.066	1.068	1.071	1.075	1.077
300 - 324	1.066	1.067	1.070	1.073	1.077
325 - 349	1.065	1.067	1.070	1.073	1.076
350 - 374	1.065	1.067	1.069	1.072	1.075
375 - 399	1.065	1.066	1.069	1.071	1.074
400 - 424	1.064	1.066	1.068	1.070	1.073
425 - 449	1.064	1.066	1.068	1.070	1.072
450 - 474	1.064	1.065	1.067	1.069	1.071
475 - 499	1.064	1.065	1.067	1.069	1.071
500 OR MORE	1.064	1.065	1.067	1.069	1.070

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.070

SMSA: LOS ANGELES-LONG BEACH, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.062	1.065	1.070	1.076	1.080
100 - 124	1.060	1.063	1.067	1.071	1.075
125 - 149	1.059	1.061	1.064	1.068	1.071
150 - 174	1.058	1.060	1.063	1.068	1.068
175 - 199	1.058	1.059	1.062	1.064	1.066
200 - 224	1.057	1.059	1.061	1.063	1.065
225 - 249	1.057	1.058	1.060	1.062	1.064
250 - 274	1.057	1.058	1.059	1.061	1.063
275 - 299	1.056	1.057	1.059	1.061	1.062
300 - 324	1.056	1.057	1.059	1.060	1.061
325 - 349	1.056	1.057	1.058	1.060	1.061
350 - 374	1.056	1.057	1.058	1.059	1.060
375 - 399	1.056	1.056	1.058	1.059	1.060
400 - 424	1.056	1.056	1.057	1.059	1.059
425 - 449	1.055	1.056	1.057	1.058	1.059
450 - 474	1.055	1.056	1.057	1.058	1.059
475 - 499	1.055	1.056	1.057	1.058	1.059
500 OR MORE	1.055	1.056	1.057	1.058	1.058

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.113

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: MINNEAPOLIS-ST. PAUL, MN-WI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.058	1.050	1.038	1.026	1.016
100 - 124	1.062	1.056	1.047	1.037	1.029
125 - 149	1.064	1.059	1.052	1.044	1.038
150 - 174	1.066	1.062	1.055	1.049	1.043
175 - 199	1.067	1.064	1.058	1.053	1.048
200 - 224	1.068	1.065	1.060	1.055	1.051
225 - 249	1.069	1.066	1.062	1.057	1.054
250 - 274	1.069	1.067	1.063	1.059	1.056
275 - 299	1.070	1.068	1.064	1.060	1.057
300 - 324	1.070	1.068	1.065	1.062	1.059
325 - 349	1.071	1.069	1.066	1.063	1.060
350 - 374	1.071	1.069	1.066	1.064	1.061
375 - 399	1.071	1.070	1.067	1.064	1.062
400 - 424	1.072	1.070	1.068	1.065	1.063
425 - 449	1.072	1.070	1.068	1.066	1.064
450 - 474	1.072	1.071	1.068	1.066	1.064
475 - 499	1.072	1.071	1.069	1.067	1.065
500 OR MORE	1.072	1.071	1.069	1.067	1.065

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.065

SMSA: MILWAUKEE, WI

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.067	1.075	1.087	1.099	1.110
100 - 124	1.063	1.069	1.079	1.088	1.096
125 - 149	1.061	1.066	1.073	1.081	1.088
150 - 174	1.059	1.063	1.070	1.076	1.082
175 - 199	1.058	1.061	1.067	1.073	1.077
200 - 224	1.057	1.060	1.065	1.070	1.074
225 - 249	1.056	1.059	1.063	1.068	1.072
250 - 274	1.055	1.058	1.062	1.066	1.069
275 - 299	1.055	1.057	1.061	1.064	1.068
300 - 324	1.054	1.057	1.060	1.063	1.066
325 - 349	1.054	1.056	1.059	1.062	1.065
350 - 374	1.054	1.056	1.058	1.061	1.064
375 - 399	1.053	1.055	1.058	1.061	1.063
400 - 424	1.053	1.055	1.057	1.060	1.062
425 - 449	1.053	1.054	1.057	1.059	1.061
450 - 474	1.053	1.054	1.056	1.059	1.061
475 - 499	1.053	1.054	1.056	1.058	1.060
500 OR MORE	1.052	1.054	1.056	1.058	1.060

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.043

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: NEW YORK CITY, NY-NJ

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.052	1.057	1.065	1.073	1.079
100 - 124	1.050	1.054	1.060	1.066	1.071
125 - 149	1.048	1.051	1.056	1.061	1.065
150 - 174	1.047	1.050	1.054	1.058	1.062
175 - 199	1.046	1.048	1.052	1.056	1.059
200 - 224	1.046	1.048	1.051	1.054	1.057
225 - 249	1.045	1.047	1.050	1.053	1.055
250 - 274	1.045	1.046	1.049	1.051	1.054
275 - 299	1.044	1.046	1.048	1.051	1.053
300 - 324	1.044	1.045	1.048	1.050	1.052
325 - 349	1.044	1.045	1.047	1.049	1.051
350 - 374	1.044	1.045	1.047	1.049	1.050
375 - 399	1.043	1.045	1.046	1.048	1.050
400 - 424	1.043	1.044	1.046	1.048	1.049
425 - 449	1.043	1.044	1.046	1.047	1.049
450 - 474	1.043	1.044	1.045	1.047	1.048
475 - 499	1.043	1.044	1.045	1.047	1.048
500 OR MORE	1.043	1.044	1.045	1.046	1.047

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.055

SMSA: PHILADELPHIA, PA-NJ

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.056	1.064	1.077	1.090	1.101
100 - 124	1.051	1.058	1.068	1.078	1.087
125 - 149	1.049	1.054	1.062	1.070	1.078
150 - 174	1.047	1.051	1.058	1.065	1.071
175 - 199	1.045	1.049	1.055	1.061	1.067
200 - 224	1.044	1.048	1.053	1.058	1.063
225 - 249	1.043	1.046	1.051	1.056	1.060
250 - 274	1.043	1.045	1.050	1.054	1.058
275 - 299	1.042	1.045	1.049	1.053	1.056
300 - 324	1.042	1.044	1.048	1.051	1.054
325 - 349	1.041	1.043	1.047	1.050	1.053
350 - 374	1.041	1.043	1.046	1.049	1.052
375 - 399	1.041	1.042	1.045	1.048	1.051
400 - 424	1.040	1.042	1.045	1.048	1.050
425 - 449	1.040	1.042	1.044	1.047	1.049
450 - 474	1.040	1.041	1.044	1.046	1.049
475 - 499	1.040	1.041	1.044	1.046	1.048
500 OR MORE	1.040	1.041	1.043	1.045	1.047

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.056

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: PITTSBURGH, PA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.061	1.059	1.055	1.051	1.048
100 - 124	1.062	1.061	1.058	1.055	1.052
125 - 149	1.063	1.062	1.059	1.057	1.055
150 - 174	1.064	1.063	1.061	1.058	1.057
175 - 199	1.064	1.063	1.061	1.060	1.058
200 - 224	1.064	1.064	1.062	1.060	1.059
225 - 249	1.065	1.064	1.062	1.061	1.060
250 - 274	1.065	1.064	1.063	1.062	1.061
275 - 299	1.065	1.064	1.063	1.062	1.061
300 - 324	1.065	1.065	1.064	1.062	1.062
325 - 349	1.065	1.065	1.064	1.063	1.062
350 - 374	1.065	1.065	1.064	1.063	1.062
375 - 399	1.066	1.065	1.064	1.063	1.063
400 - 424	1.066	1.065	1.064	1.064	1.063
425 - 449	1.066	1.065	1.064	1.064	1.063
450 - 474	1.066	1.065	1.065	1.064	1.063
475 - 499	1.066	1.065	1.065	1.064	1.063
500 OR MORE	1.066	1.065	1.065	1.064	1.064

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.093

SMSA: SAN DIEGO, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.077	1.075	1.071	1.068	1.065
100 - 124	1.078	1.076	1.074	1.071	1.069
125 - 149	1.078	1.077	1.075	1.073	1.071
150 - 174	1.079	1.078	1.076	1.074	1.073
175 - 199	1.079	1.078	1.077	1.075	1.074
200 - 224	1.079	1.079	1.077	1.076	1.075
225 - 249	1.080	1.079	1.078	1.077	1.075
250 - 274	1.080	1.079	1.078	1.077	1.076
275 - 299	1.080	1.079	1.078	1.077	1.077
300 - 324	1.080	1.080	1.079	1.078	1.077
325 - 349	1.080	1.080	1.079	1.078	1.077
350 - 374	1.080	1.080	1.079	1.078	1.078
375 - 399	1.080	1.080	1.079	1.078	1.078
400 - 424	1.080	1.080	1.079	1.079	1.078
425 - 449	1.081	1.080	1.079	1.079	1.078
450 - 474	1.081	1.080	1.080	1.079	1.078
475 - 499	1.081	1.080	1.080	1.079	1.079
500 OR MORE	1.081	1.080	1.080	1.079	1.079

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.097

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: SAN FRANCISCO-OAKLAND, CA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.046	1.043	1.038	1.032	1.028
100 - 124	1.048	1.045	1.041	1.037	1.034
125 - 149	1.049	1.047	1.044	1.040	1.037
150 - 174	1.050	1.048	1.045	1.042	1.040
175 - 199	1.051	1.049	1.047	1.044	1.042
200 - 224	1.051	1.050	1.047	1.045	1.043
225 - 249	1.051	1.050	1.048	1.046	1.044
250 - 274	1.052	1.050	1.049	1.047	1.045
275 - 299	1.052	1.051	1.049	1.048	1.046
300 - 324	1.052	1.051	1.050	1.048	1.047
325 - 349	1.052	1.051	1.050	1.049	1.047
350 - 374	1.052	1.052	1.050	1.049	1.048
375 - 399	1.052	1.052	1.051	1.049	1.048
400 - 424	1.053	1.052	1.051	1.050	1.049
425 - 449	1.053	1.052	1.051	1.050	1.049
450 - 474	1.053	1.052	1.051	1.050	1.049
475 - 499	1.053	1.052	1.051	1.050	1.049
500 OR MORE	1.053	1.052	1.051	1.051	1.050

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.074

SMSA: SEATTLE-EVERETT, WA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.117	1.116	1.114	1.111	1.109
100 - 124	1.118	1.117	1.115	1.113	1.112
125 - 149	1.119	1.118	1.116	1.115	1.113
150 - 174	1.119	1.118	1.117	1.116	1.115
175 - 199	1.119	1.119	1.118	1.116	1.115
200 - 224	1.120	1.119	1.118	1.117	1.116
225 - 249	1.120	1.119	1.118	1.117	1.117
250 - 274	1.120	1.119	1.119	1.118	1.117
275 - 299	1.120	1.120	1.119	1.118	1.117
300 - 324	1.120	1.120	1.119	1.118	1.117
325 - 349	1.120	1.120	1.119	1.118	1.118
350 - 374	1.120	1.120	1.119	1.119	1.118
375 - 399	1.120	1.120	1.119	1.119	1.118
400 - 424	1.120	1.120	1.119	1.119	1.118
425 - 449	1.120	1.120	1.119	1.119	1.119
450 - 474	1.120	1.120	1.120	1.119	1.119
475 - 499	1.120	1.120	1.120	1.119	1.119
500 OR MORE	1.120	1.120	1.120	1.119	1.119

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.107

SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS
ANNUAL ADJUSTMENT FACTORS
SMSA: ST LOUIS, MO-IL

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.075	1.075	1.074	1.073	1.072
100 - 124	1.075	1.075	1.074	1.074	1.073
125 - 149	1.076	1.075	1.075	1.074	1.074
150 - 174	1.076	1.075	1.075	1.075	1.074
175 - 199	1.076	1.076	1.075	1.075	1.074
200 - 224	1.076	1.076	1.075	1.075	1.075
225 - 249	1.076	1.076	1.075	1.075	1.075
250 - 274	1.076	1.076	1.076	1.075	1.075
275 - 299	1.076	1.076	1.076	1.075	1.075
300 - 324	1.076	1.076	1.076	1.075	1.075
325 - 349	1.076	1.076	1.076	1.075	1.075
350 - 374	1.076	1.076	1.076	1.076	1.075
375 - 399	1.076	1.076	1.076	1.076	1.075
400 - 424	1.076	1.076	1.076	1.076	1.076
425 - 449	1.076	1.076	1.076	1.076	1.076
450 - 474	1.076	1.076	1.076	1.076	1.076
475 - 499	1.076	1.076	1.076	1.076	1.076
500 OR MORE	1.076	1.076	1.076	1.076	1.076

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.058

SMSA: WASHINGTON, DC-MD-VA

MONTHLY GROSS RENT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4+BEDROOMS
UNDER \$100	1.061	1.055	1.045	1.035	1.027
100 - 124	1.064	1.060	1.052	1.044	1.038
125 - 149	1.066	1.062	1.056	1.050	1.045
150 - 174	1.068	1.065	1.059	1.054	1.049
175 - 199	1.069	1.066	1.061	1.057	1.053
200 - 224	1.070	1.067	1.063	1.059	1.056
225 - 249	1.070	1.068	1.064	1.061	1.058
250 - 274	1.071	1.069	1.066	1.062	1.059
275 - 299	1.071	1.069	1.066	1.063	1.061
300 - 324	1.072	1.070	1.067	1.064	1.062
325 - 349	1.072	1.070	1.068	1.065	1.063
350 - 374	1.072	1.071	1.068	1.066	1.064
375 - 399	1.072	1.071	1.069	1.067	1.065
400 - 424	1.073	1.071	1.069	1.067	1.065
425 - 449	1.073	1.072	1.070	1.068	1.066
450 - 474	1.073	1.072	1.070	1.068	1.066
475 - 499	1.073	1.072	1.070	1.068	1.067
500 OR MORE	1.073	1.072	1.070	1.069	1.067

ANNUAL ADJUSTMENT FACTOR FOR CONTRACT RENT (EXCLUDING UTILITIES) IS 1.058

•BRKPT PRINT\$

[FR Doc. 79-35209 Filed 11-14-79; 8:45 am]
BILLING CODE 4210-01-C

Thursday
November 15, 1979

Part IV

U.S. Metric Board

Private Sector Metric Conversion;
Proposed Interim Planning Guidelines

Federal Register

UNITED STATES METRIC BOARD

15 CFR Part 503

Proposed Interim Private Sector Metric Conversion Planning Guidelines

AGENCY: United States Metric Board.

ACTION: Proposed voluntary guidelines.

SUMMARY: This notice proposes interim procedures to be followed in complying with section 6(2) of the Metric Conversion Act of 1975 (Pub. L. 94-168) which directs the United States Metric Board to "provide for appropriate procedures whereby various groups, under the auspices of the Board, may formulate, and recommend or suggest, to the Board specific programs for coordinating conversion in each industry and segment thereof * * *"

The USMB is publishing these procedures for operational testing and trial use. Interested organizations and individuals are invited to make comment.

DATE: Comments should be filed by August 1, 1980.

ADDRESSES: Send comments to: United States Metric Board, Planning Guidelines, 1815 North Lynn Street, Suite 600, Arlington, Virginia 22209

FOR FURTHER INFORMATION CONTACT: Mr. Charles Danner, Private Sector Coordinator, (703) 235-2583.

SUPPLEMENTARY INFORMATION: The Metric Conversion Act of 1975 (Pub. L. 94-168) recognized that metric conversion is taking place in the private sector, and created the U.S. Metric Board (USMB) to "coordinate the voluntary conversion to the metric system." The Act further states that "it shall be the function of the Board to devise and carry out a broad program of planning, coordination * * *"

There is no compulsion for any person or group in the U.S. to convert to the metric system. The decision whether or not to make the change is completely voluntary.

This supplementary information has been prepared by the USMB to clarify the intent and purpose of the accompanying proposed guidelines. It briefly provides planning principles to groups addressing metric conversion and explains why certain kinds of data, information, and procedures are needed when conversion plans are voluntarily submitted to the USMB for review. It also delineates the principles of organization and planning which the USMB will look for in appraising the value and completeness of any plan submitted to the USMB for acceptance.

The supplementary information covers six of the more important aspects to be considered when anticipating the change to metric measurements. The six areas are: 1. Identifying Benefits to Conversion, 2. Developing a Plan, 3. Assistance by the USMB, 4. Reaching General Agreement, 5. United States Metric Board Plan Review, and 6. Response by the USMB.

For more detailed instructions on such matters as organizing and operating a conversion committee, developing a conversion plan or establishing and maintaining liaison with the United States Metric Board, the reader should follow the more detailed instructions provided in the accompanying proposed guidelines.

Metric Conversion in the United States

Metric conversion means changing from our "customary" system of measurement units to the units adopted by essentially all of the world: the modernized metric system of measurement designated "SI", standing for "Système Internationale." Aside from the effect on relationships with other countries, regarding such matters as international trade and mutual defense, conversion of the U.S. to the metric system involves change throughout the entire structure of our society. While the USMB will offer assistance and coordinate planning in all segments of the economy, this supplementary information and the accompanying guidelines are designed to provide guidance for the conversion activities of private business and industry groups.

1. Identifying Benefits to Conversion

Metric conversion has been generally recognized, by those who have experienced it, as an opportunity for simplifying procedures and rationalizing product sizes. Admittedly, such rationalization—the reduction of unnecessary variety—could be accomplished without a change in measurement systems. However, human nature normally does not undertake such alterations to the status-quo without the stimulus provided by an event such as metric conversion.

There are numerous reasons for converting to metric units other than the simplicity and logic of the system. For example, the selection of the new metric series of threaded fasteners developed by American technology, and now adopted internationally, substantially reduces the number of items to be inventoried without sacrificing an adequate choice of sizes. In the process, a new standard was developed which

reduces the cost of manufacturing without sacrificing strength and utility.

The rationalization and simplification referred to above will have long-range benefits. During the transition to preferred metric sizes there may be some offsetting redesign, duplicate manufacturing set up, and dual system inventory costs. Well-planned and well-timed conversions have minimized these costs and maximized the benefits.

In developing a sector conversion plan it is important to identify and document the available rationalization and design-improvement opportunities in going metric, not only as an aid to the promulgation of that particular plan, but as contribution to other sectors in the process of plan development.

2. Developing a Plan

Of primary importance is the establishment of scope of the metric conversion objectives. The description of conversion objectives should be very specific and should establish, insofar as it is possible at the outset, the common agreement on what is to be done.

A plan should address all recognizable opportunities and potential obstacles to conversion, in terms of both subject and timing, to the extent such items are relevant to the conversion plans.

Obstacles to metric usage may include the need for revision of laws and regulations and the unavailability of necessary standards. Regardless of the USMB efforts to identify and remove such barriers to conversion for all sectors (without mandating conversion), there undoubtedly will be certain barriers or problems which are common to a particular industry or sector. Sector planners will identify such impediments and provide recommendations for their solution. Significant in this category is the need to prepare metric standards and specifications before proceeding with metric purchases.

Timing of conversion is important within a specific sector. The timing should, whenever possible, take advantage of normal redesign and replacement schedules to minimize the cost of conversion to metric. Because there is frequently an interdependency of activity between sectors, it is necessary to identify other sectors with which a sector is interdependent and carefully coordinate plans with such sectors before finalizing the conversion plan. To enable individual members of the sector as well as other sectors to plan their conversions, it is important that a specific schedule be established. It is desirable to have a specific schedule and particular calendar dates for planned events to transpire or

commence; however, in some cases the conversion committee may indicate a preference for "time intervals" required, rather than a specific calendar time.

The documentation associated with a plan must demonstrate to the USMB in its review, that a well thought out and agreed upon process has been followed which can produce the desired end result—an orderly metric transition with maximum benefits and minimum cost and disruption.

It should be the common goal of any sector and its members to generate a conversion plan, if metrication in the sector is to occur, which will include a desire to minimize the cost of conversion and maximize the off-setting longer range benefits. Both rapidity of conversion and timing may have a significant impact on costs and benefits.

3. Assistance offered by the USMB

The USMB will respond to the needs of a sector and can provide assistance in various ways.

One of the areas of continuing concern to metric conversion planners is possible violation of antitrust laws. A sector committee should be circumspect about the subjects of discussion and avoid any matters which might be construed as in violation of the statutes. Committee activity should be an open process and should permit participation by representatives of all reasonably related members of the industry and other interested groups. It is also desirable to encourage those with differing opinions to attend sector committee meetings, including those who wish not to convert, and to invite their input and concerns into the planning process as well as provide them with an opportunity to be aware of activity under way. Such viewpoints are an aid to the proper development of an acceptable plan.

Regardless of measures taken to avoid antitrust implications, there are occasions when the agenda items that must be addressed by the committee may be sensitive enough, in the view of the committee chairman or any participant, to warrant having the presence and advice of the USMB staff or legal counsel.

In addition to providing guidance and assistance in antitrust and other legal and regulatory matters, the USMB will consider providing assistance to sectors in the following ways:

- Obtaining State and Federal participation and input through the USMB State and Federal committee structure.
- Carrying out research and providing other technical assistance including

development of economic and other data bearing on the conversion.

- Assistance in public information and awareness about planned and ongoing conversion activity.

Throughout the development of a sector plan, it should be recognized that there are areas in which the USMB may be in a unique position to assist. It is hoped that in these cases the plan developers will call on the USMB for such assistance.

4. Reaching General Agreement

Any plan should have as one of its essential elements the development of a sense of agreement with the conversion program specified by those in the business community or industry who are affected by it.

Agreement is not necessarily unanimity, nor on the other hand is it simply a "majority vote." It does imply a general acceptance among the parties concerned, but it also presumes that there is ample and fair opportunity for those who are in general or partial disagreement to be heard and their positions considered.

Ample and fair opportunity to participate or be heard is really the keystone of a process that is open and voluntary. Therefore, there must be evidence of wide participation throughout the entire planning process, with discussion and resolution of differences where possible and with adequate recognition and consideration of differing viewpoints, even though held by a minority of the participants.

The opportunity to express such divergent viewpoints must exist continually throughout the process, in order that such individuals feel that they have had a fair opportunity to present their views and that they have been given adequate attention, whether they have changed the judgment of the majority or not.

In metrication planning particularly, "those who are affected" covers a very wide range of individuals and organizations. It stretches horizontally to other activities which are closely and only partially related to the activity of the sector, i.e., through packaging, similar transportation or distribution patterns and common sources of supply. It also stretches vertically through the economic chain, from suppliers of materials and components to customers and ultimate consumers. Most importantly it presumes the consideration and involvement of various sizes and types of businesses and organizations whose activities are similar or partially dependent upon any decision by the sector as a whole.

Any sector plan submitted to the USMB must be supported by those available records, data and documentation which provide convincing proof that a board general agreement has been achieved or will be achieved before specific facets of the plan are implemented. The accompanying proposed regulations cover in greater detail the types of records, data and documentation that should be maintained available for review.

5. U.S. Metric Board Plan Review

The USMB has recognized the past and future contributions to the metric conversion planning process of the American National Metric Council (ANMC), and has formally declared "that the continued contribution of the American National Metric Council is a necessary ingredient of an effective total program in the United States." Since there are obvious benefits of intersector coordination for a sector group working through ANMC, the USMB believes that most sector plans will be developed under the auspices of and within the procedures developed by the ANMC.

Whether a plan is submitted directly to the USMB or through ANMC or a similar organization, it should be recognized that certain specific requirements exist for documenting the plan preparation process. It is imperative that any plan submitted have complete and thorough documentation including records of activities and identification of the individuals involved and the organizations they represent. This essential documentation includes minutes of meetings, names and addresses of individuals and organizations organizing and coordinating the sector's planning activities. In addition, the conceptual purposes and methodology of plan development and plan implementation must be clearly described.

6. Response by USMB

The initial screening of a plan submitted to the USMB will likely result in dialogue between the USMB and the sector committee, and suggestions for revision will be made if appropriate.

If the USMB believes the plan is ready for public review and comment, it will then support and arrange its publication in the *Federal Register* and through other appropriate means for public comment.

After a proper interval, comments received will be transmitted to the sector committee. After resolution of comments it will be submitted to the USMB for final acceptance. Such acceptance is by no means a mandate to

proceed since the USMB does not have such powers, but only a recognition by the USMB that the plan has had adequate exposure, that affected individuals and groups have had an opportunity for comment, and that the USMB believes significant differences have been properly considered and resolved. The implementation of the plan is now an individual decision by individual companies, organizations and persons, but with the recognition that maximum possible coordination has been addressed.

Conclusion

During the life cycle of the metric transition in the United States, everyone will in some way be touched by the conversion process. While the role of the USMB is primarily coordination and public education, the USMB desires to be of assistance to those who wish to undertake the process of metric conversion.

While it is anticipated that most metric conversion programs will reflect the complex and interdependent nature of large economic sectors, the USMB's metric conversion planning guidelines are in no way intended to exclude or limit individual or unilateral initiatives which warrant USMB assistance and coordination.

The planning concepts and principles outlined herein are, in the view of the United States Metric Board, the essential elements of sound conversion planning. To put these principles into practice it is important to read the accompanying proposed guidelines prior to commencement of formal organization and conversion planning activity.

Title 15, Chapter V of the Code of Federal Regulations is proposed to be amended by adding part 503 to read as follows:

PART 503—PRIVATE SECTOR METRIC CONVERSION PLANNING GUIDELINES

Subpart A—General

- Sec.
503.1 Introduction.
503.3 Purpose.

Subpart B—Organizing for a Conversion Plan

- 503.7 Getting started.
503.9 Forming a working group.
503.11 Establishing conversion objectives.
503.13 Anticipated problems and opportunities.
503.15 Desired representational pattern.

Subpart C—The Conversion Planning Committee

- 503.21 General.
503.23 Establishing a secretariat.
503.25 Records maintenance and files.

- Sec.
503.27 Committee communication responsibilities.
503.29 Committee operations—general procedural recommendations.

Subpart D—Developing and Submitting a Plan

- 503.33 Status reporting during plan development.
503.35 Developing the plan.
503.37 Evidence of general agreement.
503.39 Review elements of a plan.
503.41 Plan submission to USMB.

Authority: Sec. 6, Pub. L. 94-168, 89 Stat. 1008 (15 U.S.C. 205e).

Subpart A—General

§ 503.1 Introduction.

(a) "Metric Conversion" means changing from "customary" inch-pound units of measure to the modernized and internationally adopted system called "SI", standing for "Système International d'Unités", as developed by the general conference of Weights and Measures, of which the United States is a member. The metric system is not "new" in that the United States was one of the original signatories of the "Treaty of the Meter" and U.S. customary units have been defined in terms of metric standards since the last century. The history of metric measurements is set forth in documents and references which may be obtained from the United States Metric Board (USMB) Office of Public Awareness and Education.

(b) It is not the intention of this regulation to provide technical information on the metric system itself. Suffice it to say that there are only seven base units, two supplementary units, about 18 derived units, and a series of multiplier prefixes. Complete information is available from many sources, including the published American National Standard number Z210.11976 from the American National Standards Institute, which is the U.S. representative to the International Organization for Standardization (ISO).

(c) In Public Law 94-168, known as the "Metric Conversion Act of 1975", the United States declared a national policy of "coordinating the increasing use of the metric system" and established a "United States Metric Board to coordinate the voluntary conversion to the metric system." Sec. 5(d) of the Act states that the USMB "shall have no compulsory powers," but that the function of the USMB is to "devise and carry out a broad program of planning, coordination, and public education * * *". (Sec. 6) More specifically, Sec. 6(2) directs the Board to: "provide for appropriate procedures whereby various groups, under the auspices of the Board, may formulate,

and recommend or suggest, to the Board specific programs for coordinating conversion in each industry and segment thereof * * *".

(d) In accordance with the provisions of the Metric Conversion Act, the United States Metric Board has developed this publication for the guidance of groups initiating metrication programs for sectors of the national economy. These sectors may relate to engineering, business, education, government or to a wide variety of other fields.

(e) This document is in part informational and in part prescriptive. It is informational regarding the law and how the USMB executes its responsibilities in cooperation with sector groups. It is prescriptive in the sense of suggesting how to organize and establish operating procedures that will contribute to an open, cooperative planning environment which can culminate in an orderly, well-managed national conversion to the metric system.

§ 503.3 Purpose.

(a) The USMB recognizes that the question of whether or not to undertake metric conversion activity is a voluntary decision. Once a decision is made, however, the USMB may make a significant contribution in becoming an active coordinating agency. In accordance with the intention of the metric Conversion Act, the USMB has developed this regulation.

(b) The procedural and planning guidelines outlined in this regulation are provided to assist conversion committees to:

(1) Establish acceptable criteria for the development of conversion plans which are sufficiently flexible to accommodate the wide range of differences to be found in U.S. business communities. A degree of consistency in individual conversion plans submitted to the USMB for review is particularly desirable because staff and USMB time is not available to provide an expert on each industry in the country. Consistency is also helpful because the USMB is called upon by the Act to " * * * submit annually to the Congress and to the President, a status report on the conversion process * * *".

(2) Provide steps which can be followed in establishing a productive, open and lawful collective planning environment for committed groups meeting to carry out the process of an orderly, planned metric conversion.

(3) Identify areas in which the USMB can provide helpful Federal assistance for voluntary private sector conversion planning programs.

Subpart B—Organizing for a Conversion Plan

§ 503.7 Getting started.

(a) An organization which has determined that it wants to initiate metric conversion activity is free to undertake conversion unilaterally, in which case management would establish necessary planning responsibilities to support that initiative.

(b) In the larger (and more frequent) perspective, the organization does not choose to "go it alone" but establishes an internal responsibility to involve the organization in ongoing conversion activity or to provide a stimulating force to coalesce the desired interorganization planning and scheduling that will lead to an industry-wide conversion. Since the process of conversion to a new system of measurement, for any part of the U.S. economy, is so interdependent on multitudinous activities and decisions outside that sector or part of the economy, coordination is not only necessary but is the "essential element" of conversion planning. Recognizing this, the Congress passed the Metric Act establishing the U.S. Metric Board.

(c) Any individual who has any interest in "metrication" for his company, organization, industry, sector, trade association, etc., can initiate an investigation of the conversion process. The first step, therefore, is to find out what is going on elsewhere. Among sources of ongoing metric activity are the USMB, the American National Metric Council (ANMC) (especially the "Metric Reporter", mailed to ANMC subscribers), parts of the National Bureau of Standards, public education programs sponsored by the Department of Education through the U.S. Office of Education (including curriculum development), American National Standards Institute (ANSI) which is the U.S. representative to the International Organization for Standardization (ISO), many consumer organizations, and trade and professional associations. Addresses of such groups or organizations are available from USMB.

(d) Even without an "exhaustive" search or analysis, an investigation of what is going on in metrication should assist in discovering what other individuals or types of individuals with similar interests might be contacted. If no industry related groups or committees exist and the need to begin the conversion planning process is great, the next step would be to form a working group to examine the issues.

§ 503.9 Forming a working group.

This might be done under the auspices of a trade association or other

organization (which can act as the secretariat) under the aegis of ANMC or independently. This nucleus group should meet and discuss the subject of metrication as it concerns the industry or sector of which it is representative.

§ 503.11 Establishing conversion objectives.

(a) The next phase of preliminary committee activity is examining what should be expected if conversion, in fact proceeds. This involves defining the written collective metric usage objectives and reaches agreement on what the collective interests are in order that these interests can be kept in perspective and accommodated throughout the conversion planning and implementation process. These decisions assist further in definition of other potentially interested parties and help establish the possible reasons for their interest. This step is supportive of consistent conversion procedure as well as an open productive and legal planning and scheduling environment.

(b) Of primary importance is the establishment of scope of objectives. This determines the breadth or narrowness of the collective interest and thus establishes the mutual commitment at the outset. The description of conversion objectives should be very specific, and distinguish, insofar as is possible at the outset, the common agreement on what is to be done. For example, is the objective to convert just containers and labels—or does it extend to billing documents, secondary packaging, and processing equipment? (Does it aim for dual labeling or is 100% hard conversion intended to be the outcome?) These objectives can be reviewed and modified at any time with resultant changes provided through status reports explained in Chapter III of this title.

(c) The written objectives must serve to frame the universe of parties potentially interested in the anticipated conversion, for it is necessary to solicit the opinions as to who will be affected by any potential conversion. This fragment of the economy or "sector" must be clearly, albeit tentatively, identified and defined. A sector may be an industry, a segment of an industry, a research and development area or subarea, an educational field or specialties or segments of such areas. The definition of a sector should serve to articulate how far-ranging the particular conversion should extend with respect to the vertical and horizontal extension of the industrial and service organizations typical in the sector. If a sector cannot be so defined, it raises serious questions relative to the

written conversion objectives established at the outset, and review and rework of those objectives may be a necessity.

(1) The sector—as it becomes better defined—is clearly a creature of the scope of the conversion objectives and will be large if the objectives are broad (or unclear) and will be smaller if the objectives are narrow.

(2) The issues that will assist or impede the collective conversion effort will stem from the inherent characteristics of the sector and its products. The sector's job may be better predicted by considering the following characteristics associated with a sector:

(i) *Industrial.* The industry's stages of marketing, standards, employees, and concentration, including possible impact on small business.

(ii) *Consumer.* The end users of products produced in a sector hasten or impede increased metric usage through their understanding and willingness to accept the conversion process.

(iii) *International Environment.* Overseas opportunities or trade barriers may have dramatic impact on export efforts of various sectors, industries, firms and small businesses.

(iv) *Economic.* Forecasting or predicting the various materials, services, and other cost elements and patterns of this dynamic element which impact metric planning activities.

(v) *Technological.* Changes in technology could occasion obsolescence that might simultaneously facilitate metrication planning and innovation.

(vi) *Regulation.* Federal, state and local government regulations of products and/or processes can accommodate or inhibit increased metric usage.

§ 503.13 Anticipated problems and opportunities.

Among the many important startup activities associated with conversion plan development is an assessment of the outlook of the committee with regard to anticipated problems and opportunities that may accompany plan development and implementation. It would be very useful if, at this point, the committee could describe the "strategy" that will or could guide their effort. A conversion strategy would stem from an experienced review or analysis of any one or all of the characteristics of economic change, technological change, legislative and regulatory trends, international events and other qualitative information about the sector and its products and services which are discussed above. This information is intended to convey the basic business reasons of why the potential conversion is happening.

§ 503.15 Desired representational pattern.

When preliminary organizing has been completed, the initial working group should be able to target the desired representation in a potential conversion committee. It is anticipated that the committee would do all it could to eventually achieve this representational goal by category and extent even though continuation of the planning effort is not predicated on actually making the goal.

Subpart C—The Conversion Planning Committee**§ 503.21 General.**

Once the task of getting a committee started is complete, the work of detailed planning may begin. Included in this section are some administrative and procedural suggestions which have proven helpful to other conversion committees. It is not the intent of this section to prescribe committee operations in detail—that guidance and experience is already in existence and well known. The American National Metric Council is one organization that has developed suitable procedures for committee operations. Section 503.21 of this title is provided as a convenient reference for special requirements or services that USMB has determined as critical to insuring an open, productive, and legal collective planning effort through proper committee procedure.

§ 503.23 Establishing a secretariat.

(a) The secretariat serves as the focal point for committee administration, providing an official contact point where information may be obtained by interested parties and distributed to the committee and its constituency.

(b) The secretariat is responsible to the members of the committee for maintaining a complete and accurate historical record of proceedings.

(c) Should a committee decide to establish a secretariat, the following list of duties are provided as potential responsibilities. These are not intended to be an all-inclusive checklist, but merely a guide which should be adjusted to the particular needs of the sector:

- (1) Making necessary meeting arrangements.
- (2) Mailing notice of meeting and agenda announcements.
- (3) Preparing accurate and complete minutes of meetings.
- (4) Publishing and mailing draft minutes to meeting attendees.
- (5) Providing final minutes to meeting attendees and interested parties.
- (6) Maintaining record of correspondence.

(7) Distributing conversion plan status reports.

(8) Maintaining accurate historical files of all phases of sector conversion plan development, distribution and comments.

§ 503.25 Records maintenance and files.

Regardless of who assumes the recordkeeping responsibilities for the committee, certain minimum requirements exist for documenting meeting activities. Documentation is essential, particularly when voting on critical issues has taken place. It is also important for activities in which groups with related or similar business and professional interests meet. To satisfy these objectives, and to ensure that sufficient historical documentation of a plan's development process is available at the time of USMB review, the following recordkeeping practices are recommended:

(a) *Notice and Agenda of Meeting.* Written notice of the time, place and agenda of each meeting must be prepared and sent to each member of the committee conveniently ahead of time and to any other person who has made written request to be included on the mailing list for notification of meetings for that body. Copies of meeting notices may be mailed to the USMB at the decision of the committee.

(b) *Minutes.* One of the most important records of committee activity is the minutes. The secretariat has the responsibility for keeping accurate minutes of all meetings unless the responsibility has been specifically assigned to others. Accurate minutes maintained over the life of a committee are the best means of verifying the open, representative, and deliberative nature of the proceedings.

(1) The introductory information in the minutes should include at least the following:

- (i) Name of committee.
- (ii) Date of meeting.
- (iii) Location of meeting.
- (iv) Presiding chairman.
- (v) Point of contact or author of the minutes.

(2) The recommended contents of the minutes are:

- (i) A complete record of those attending and their affiliations.
- (ii) A summary of the committee discussion, as well as factors considered relevant to each item. All minutes should include adequate information concerning motions, decisions or votes, recommendations or conclusions reached, and should include details as to what actions are to be taken. Dissenting positions taken by individual members or groups of members will be

recorded if requested by those dissenting, and when it will serve a constructive purpose by explaining the alternatives considered by the committee.

(iii) Next proposed meeting date (if any).

(3) All minutes should show finalization by signature of the approving authority.

(c) *Distribution.* The draft minutes should be promptly distributed to all attendees following the meeting. The first order of business at the next meeting should be to review and formally approve and correct the minutes of the previous meeting. Upon approval by the committee and signature of the approving authority, the minutes should be filed and retained by the secretariat. Events deemed significant may be brought to the attention of the USMB. The secretariat should be prepared to accommodate requests for copies of minutes from the public.

§ 503.27 Committee communication responsibilities.

(a) A committee has a continuing responsibility to communicate a proposed conversion plan's scope and objectives to all potentially interested and affected parties. Early communication of intent and announced willingness to consider all legitimate viewpoints can be of great value in demonstrating that an evolving conversion plan has been developed in an open and lawful environment which is free of any anti-competitive aspects.

(b) Communication with the constituency the Committee represents can be accomplished in a wide variety of ways, including trade and professional media, news releases and broad distribution of committee minutes or conclusions.

(c) The USMB will assist and supplement these public information activities upon request and through regular receipt of committee minutes or status reports.

(d) The purpose and content of status reports is explained in Chapter III of this title. However, there may be instances, particularly in the early stages of committee operation, when the group determines a need to transmit specific information to the USMB. In these initial status reports, information in addition to that which is outlined in Chapter III of this title may be helpful in advising the USMB on the success of committee organizational activities. In these initial status reports, the following additional items would be of interest to the USMB:

(1) *Initial Participants.* This includes the initial organizing agents, any other

participants in the preliminary organizing process and the business interests they represent.

(2) *Objectives of conversion* (see Subpart B of these guidelines).

(3) *Description of sector.* This is a brief analysis of the business and functional areas impacted by the objectives of conversion, and any other unique characteristics of the sector. (See Subpart B of these guidelines.)

(4) *Time required to develop plan.* This is an estimate of the time required to develop a final sector conversion plan and the projected date (month and year) it will be available to be submitted to USMB.

(5) *Potential information requests.* This item would describe those information needs that may be of help at the outset to aid the beginnings of a plan. The USMB (or any other recipients of the status report) could be expected to respond to these requests if the information was known to be available. In some cases, USMB may consider provisions of limited research assistance to overcome some information barriers.

§ 503.29 Committee operations—general procedural recommendations.

Committees vary as to scope of objectives, size and outlook. Nevertheless, all committees must be aware of considerations in order to minimize the potential antitrust implications of collaborative activity among groups with similar and related business interests. The following general safeguards should apply to all committee activities:

(a) Committee activity should be on a voluntary basis.

(b) All activity should be an open process and should permit participation by all reasonably related members of the industry or group.

(c) Committees should operate with agreed upon rules, including such commonly addressed items as notices, voting status limitations, quorum rules, designation/election of officers, and their responsibilities.

(d) Minutes should be available to interested parties upon request.

(e) A desired representational pattern should be developed which covers predictably impacted business areas which are listed in paragraphs (e)(1) through (e)(7) of this section:

- (1) Trade and professional associations.
- (2) Suppliers of raw materials, products and services.
- (3) Small business—if not otherwise adequately represented.
- (4) Government agencies including state associations.

(5) Customer companies and consumers.

(6) Retailers and distributors.

(7) Labor and other employee groups.

(f) The committee should involve the USMB to the fullest extent possible in reviewing committee procedures and participating in meetings where agenda items may be of a "sensitive" nature. The following two practices are recommended in establishing and maintaining committee operations which are open, productive and legal:

(1) *Registration of procedures.* After a committee has had sufficient time to meet the organize, but early in the organizational process, the parliamentary rules or procedures that impinge on representation, voting, and the consensus process should be reviewed to insure their adequacy. The USMB invites committees to submit their procedures for review.

(i) USMB will review the committee's procedures at the time of submission and will provide the committee with corrective recommendations, if any. This will enable the committee to modify any procedural shortcomings which might expose the participants to antitrust review, and it will provide for due process to protect dissenting interests.

(ii) For committees that choose to operate independently, it is recommended that they review their own procedures by comparing them with the procedures of ANSI, ANMC or other organizations involved in similar activities.

(2) *Provisions for sensitive meetings.*

Regardless of measures taken to avoid antitrust implications, there are occasions when the agenda items that must be addressed by the committee may be sensitive enough in the view of the committee chairman, or any participant, to warrant having the presence and advice of USMB staff or legal counsel. In this case, sensitive agenda items should be grouped or deferred to a subsequent agenda and handled, if possible, at one time when appropriate representation by USMB is available to monitor the discussion and provide on-the-spot advice. When this procedure is deemed necessary, notice of a sensitive meeting should be made to the USMB several weeks prior to the scheduled meeting, accompanied by the identified issue or agenda items to be discussed.

Subpart D—Developing and Submitting a Plan**§ 503.33 Status Reporting during plan development.**

(a) The USMB's duty to keep informed and to coordinate developments in

converting segments of the economy with other contiguous areas can benefit everyone affected. But the USMB cannot attend each meeting and, therefore, must rely on timely reports to gather the information necessary to do its job. The Metric Conversion Act specifically requires that the USMB shall:

"* * * submit annually to the Congress and to the President a report on its activities. Each such report may include recommendations covering any legislation or executive action needed to implement the programs of conversion accepted by the Board * * *."

(b) Status reports will be of greatest advantage if received by the USMB on or before September 1 and March 1 of each year. The September 1 reporting date will provide the data for the annual report to Congress. The March 1 report is primarily for continuity and planning purposes.

(c) The following information should be included in reports submitted to the USMB:

(1) Name or other identification of the potential conversion.

(2) Current description of conversion objectives and sector definition—or changes since last report.

(3) Changes in the committee structure or procedure since last report.

(4) Progress of plan development—a commentary including:

(i) Current status.

(ii) Resolution of problems noted on past report.

(iii) New or potential problems that could affect plan development.

(5) Problems or observations that could require USMB assistance (such as a potential "sensitive meeting" or State/Federal coordination).

(6) Dates and locations of tentative or scheduled meetings.

(7) A copy of draft or approved minutes since last report.

(d) Status reports submitted to the Board may be accompanied by any other information that the committee may wish to include.

§ 503.35 Developing the plan.

There are numerous ways to develop plans, probably as many as there are industries in the U.S. economy. It is not the business of the USMB to prescribe the exact planning procedure to be used by each industry segment. Whatever planning methodology is employed, the USMB will review plans which are submitted to determine if they meet certain minimum specifications which demonstrate that a comprehensive and representative planning process has transpired.

§ 503.37 Evidence of general agreement.

(a) Any plan should have as one of its essential elements the development of a sense of general agreement to the conversion program specified by all those who might be affected. Agreement is not necessarily unanimity, nor on the other hand is it simply a "majority vote." It does imply "a general acceptance" among the parties concerned, but it also presumes that there is ample and fair opportunity for those who are in general or partial disagreement to be heard and their positions considered.

(b) Ample and fair opportunity to participate or be heard is really the keystone of a process that must be open and voluntary. Therefore, there must be evidence of wide participation throughout the entire planning process, with discussion and resolution of differences where possible, and with adequate recognition and consideration of differing viewpoints, even if representative of a very small minority of the participants.

§ 503.39 Review elements of a plan.

(a) Every plan document submitted to USMB will be reviewed for having complete and thorough documentation and a record of committee activities leading to the development of the conversion plan. The USMB will pay particular attention to documentation in the following areas:

- (1) Conversion impact.
- (2) Conversion timetable/estimated timeframe.
- (4) Monitoring the increase in metric usage.
- (5) Conversion highlights.

(b) *Conversion impact.* In Subpart B of these guidelines (Organizing for a Conversion Plan), the organizers of a potential conversion were advised to establish the prospective "objectives of conversion". This, at the outset, served the purpose of defining the scope and extent of the impact of increased metric usage. By the time a conversion plan approaches its final phases, a better appreciation of the task will probably result in modifications to the original objectives. Recognizing these changes and understanding their significance is an important facet to be documented in the final conversion plan. Therefore, the first required element in plan review is the restatement of the conversion objectives—but in the retrospective sense (i.e., what, after all, will this conversion plan accomplish if implemented) with some supporting information which conveys what modifications were made from the original objectives—and why. The level of detail used in describing these final

objectives (as well as the original objectives) must be sufficient to convey the real impact of the plan if implemented as written. The conveyed information should distinguish between hard and soft conversions, label or "billing only" conversions, and whether the conversion extends through secondary packaging and involves materials handling ramifications. Potential product rationalizations and possible resultant decreases in product lines should be delineated. In short, the final conversion objectives should indicate the full range of the plan's impact.

(c) *Conversion timetable/estimated timeframe.* (1) There is no typical conversion planning committee. Each will have a different set of concerns, problems, and possibly different scheduling approaches for a potential conversion. USMB has set objectives to promote "national consistency," and establish "a productive, open, and lawful collective planning environment." Both of these objectives can be met and still allow a planning committee sufficient flexibility in designing its own conversion time intervals and plan timetable to suit the uniqueness inherent in its industrial environment.

(2) In commencing a conversion timetable, the processes which constitute the operating system of the sector must be identified and understood. Experienced managers can readily describe many of the details and peculiarities of the industries involved and establish a reasonable collective understanding of the support systems and functional organization of the sector.

(3) After examining the manner in which the sector and its industries conduct business, the conversion committee must identify functional areas which are affected by a potential change in measurement. For instance, if a sector receives and processes raw materials (as opposed to assembling finished components), shipping, billing and possibly tariff documents will probably be affected. In some cases, dials and gauges on processing equipment will require new face plates, computer programs may need to be converted, and customers or consumers will require information and assistance during a transition period. New catalogs will have to be prepared in advance. This analysis should lead to assessing the logical order in which conversion events can take place, identifying which events can be performed simultaneously and which will require extensive as compared to minimal preparation. Eventually, the analysis should show

who is being relied upon to accomplish what and when. In other words, the detailed conversion timetable is a roadmap showing how this particular conversion is to be handled.

(4) The conversion timetable submitted with the plan may be, but is not required to be, the detailed conversion timetable based on the systematic analysis of the functional, service, or business areas of the sector. The conversion timetable that is submitted with the plan must be supported with adequate backup file documentation showing steps taken in analyzing the sector and appropriate rationale in justifying the selection of recommended event dates and time intervals. The support documentation must demonstrate to USMB, in its review, a well-thought-out and agreed-upon process which allows comparison and coordination with other contiguous sectors and produces the desired end result: an orderly metric transition with the least cost and disruption.

(d) *Monitoring the increase in metric usage.* (1) A conversion plan represents a massive investment of committee time and resources. This investment warrants the creation of a means of ensuring that the plan accomplishes what it was designed to do, and that implementation is not impeded or halted without remedy.

(2) The USMB suggests the development of a monitoring and implementation outline which indicates who has steering responsibility for the conversion plan, especially if it is not the original conversion committee. Most importantly, the outline should establish a feasible means to measure the performance of the sector as it moves toward and through the metric transition. This may be accomplished in a variety of ways including survey reports or any other data gathering system proposed by the committee.

(e) *Committee highlights.* The document which comprises the plan itself will not stand as an independent source of information describing the overall effort represented by the committee without this summary. It is intended to provide to any interested reader or reviewer an abbreviated version of the full process which led to the final conversion timetable for this specific planned conversion. The notice, minutes, and reports submitted over the life of the committee and development would be too voluminous to include in their entirety. Therefore, the summary should cover those significant highlights of the committee's history which have not been previously submitted to the USMB by way of status reports or planning documents.

§ 503.41 Plan submission to USMB.

(a) Before a plan is considered complete and ready for submission to USMB for review, there must have transpired a complete and effective period of circulation for comment. When this is complete, one copy of the document which represents the plan, and any material not previously included in the planning package which will aid the USMB in review, should be sent to the Executive Director, USMB, with a letter of transmittal.

(b) Following this submission, the USMB will contact the secretariat to coordinate the initiation of the review process and discuss the feasibility of and possible schedule for various review mechanisms such as public hearings on the plan or surveys of the affected sector.

Dated at Arlington, Virginia, the 2nd day of November, 1979.

For United States Metric Board.

Malcolm E. O'Hagan,

Executive Director.

[FR Doc. 79-35234 Filed 11-14-79; 8:45 am]

BILLING CODE 6820-94-M

V
4
4

N
O

1
5

7
9
U M I

Federal Register

Thursday
November 15, 1979

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for
Community Planning and Development

Community Development Block Grants
Technical Amendments; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

(Docket No. R-79-730)

Community Development Block Grants Technical Amendments; Interim Rule

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule serves to clarify provisions of § 570.910 Corrective and remedial actions, § 570.911 Reduction of annual grant, and § 570.913 Other remedies for noncompliance, of Subpart O, Program Management, of the Community Development Block Grant (CDBG) regulations. These amendments are technical in nature and only serve to clarify the present rules.

EFFECTIVE DATE: December 17, 1979.

COMMENT DUE DATE: January 14, 1980.

ADDRESS: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of HUD, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: William Thomas, Entitlement Cities Division, Office of Community Planning and Development, Department of HUD, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5977. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On January 27, 1977, HUD published final rules (at 42 FR 5312) relating to program management of the CDBG program, which established under § 570.910 a flexible range of administrative actions authorized to correct or remedy program deficiencies determined on the basis of performance reviews under § 570.909. On March 1, 1978, (at 43 FR 8474), paragraph (b)(11) of § 570.910, authorizing the adjustment, reduction or withdrawal of a discretionary grant, was added to the list to implement an amendment to section 104(d) of the block grant statute. Since § 570.910 is intended to reflect administrative actions not based on specific statutory sanctions (which are covered by §§ 570.911-570.913), the discretionary grant funding sanction has been moved to § 570.911, which implements section 104(d) of the statute. To further clarify the administrative nature of the actions covered by § 570.910, paragraph (a) has been modified to delete the reference to §§ 570.911-570.913.

The January 27, 1977, final rule also amended paragraph (b) of § 570.913,

other remedies for noncompliance, of the CDBG regulations to indicate that the Secretary may take appropriate administrative action if the Secretary finds that a recipient has failed to comply substantially with any provision of the CDBG program, including the performance standards set forth in § 570.909. Secretarial review of a recipient's performance. Paragraph (a) of § 570.913, which relates to Secretarial referral to the Attorney General for civil remedies, implies but does not specifically state that the Secretary may recommend appropriate civil action if the Secretary has reason to believe that a recipient has failed to comply substantially with the performance criteria of § 570.909 or any other program provision. Section 570.909 already refers to § 570.913 as one of the appropriate remedial actions as a result of performance reviews. Therefore, this interim rule clarifies that action under either § 570.913(a) or (b) may be initiated based on the performance reviews authorized in § 570.909.

Section 570.913(a) and (b) implement Section 111(a) and (b) of the Housing and Community Development (HCD) Act of 1974, as amended. Since the statutory basis for either civil or administrative remedies are the same, this amendment will clarify the similarity of the implementing regulations. In addition, the term "performance criteria" has been substituted for "performance standards" to avoid confusion with the designation of § 570.900. Thus, either the civil or administrative remedies under paragraphs (a) and (b) of § 570.913 may be instituted when a recipient has failed to comply substantially with any provision, including the performance criteria, of this part. For example, a recipient's failure to provide assisted housing in accordance with the Housing Assistance Plan (HAP) may constitute such noncompliance as to lead to the imposition of civil and/or administrative remedies outlined in § 570.913(a) and (b). Other examples include the failure of a recipient to provide housing specifically required for relocation of displaced persons covered by the Uniform Relocation Act, or failure to carry out the approved program in a timely manner.

Finally, as presently drafted § 570.913 contains references to "this title," "part" or "subpart" in instances where it should refer to "section." Appropriate changes have been made to § 570.913 in this regard.

Because these amendments are technical in nature, and only serve to clarify the present rules, the Secretary

has determined that it is unnecessary to invite public comment on these amendments before the effective date. However, interested persons are invited to participate in this rulemaking by filing data, comments and suggestions with the Rules Docket Clerk at the above address, on or before the comment due date. Each comment should include the commentor's name and address, and must refer to the docket number indicated in the heading to this document. All relevant comments will be considered before adoption of a final rule. Copies of all comments received will be available for copying and inspection in the Office of the Rules Docket Clerk at the above address.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for inspection and copying during regular business hours in the Office of the Rules Docket Clerk at the above address.

Accordingly, the Department is amending Part 570 by:

1. Revising § 570.910, corrective and remedial actions, as follows:

§ 570.910 Corrective and remedial actions.

(a) *General.* When the Secretary determines on the basis of a review of a recipient's performance under § 570.909, that the objectives set forth in § 570.909(a) have not been met, the Secretary will take one or more of the actions authorized in paragraph (b) of this section. In each instance, the action taken will be designed to, first, prevent a continuance of the deficiency (lack of progress, nonconformance, noncompliance, lack of continuing capacity); second, mitigate any adverse effects or consequences of the deficiency to the extent possible under the circumstances; and third, prevent a recurrence of the same or similar deficiencies.

(b) *Actions authorized.* The following is a listing of actions that HUD may take in response to review of a recipient's performance. Such actions may be taken with regard to either an entitlement recipient or a discretionary recipient and may be taken either singly or in combination, as appropriate to the circumstances.

(1) Request the recipient to submit additional information:

(i) Concerning the administrative, planning, budgeting, management and evaluation functions to determine any reasons for lack of progress;

(ii) Explaining any actions being taken to correct or remove the causes for delay;

(iii) Documenting that activities undertaken were not in conformance with the approved program or in noncompliance with applicable laws or regulations; or

(iv) Demonstrating that the recipient has a continuing capacity to carry out the approved program in a timely manner.

(2) Request the recipient to submit progress schedules for completing approved activities.

(3) Issue a letter of warning that advises the recipient of the deficiency and puts the recipient on notice that more serious sanctions will be taken if the deficiency is not corrected or is repeated.

(4) Advise the recipient that a certification will no longer be acceptable and that additional information or assurances will be required, as provided in § 570.311(b)(1).

(5) Advise the recipient to suspend, discontinue or not incur costs for the affected activity.

(6) Advise the recipient to reprogram funds from affected activities to other eligible activities: *Provided*, That such action shall not be taken in connection with any substantial violation of § 570.603 and 24 CFR Part 58.

(7) Advise the recipient to reimburse the recipient's program account or letter of credit in any amounts improperly expended.

(8) Change the method of payment from a letter of credit basis to a reimbursement basis.

(9) Condition the approval of a succeeding year's application if there is substantial evidence of a lack of progress, nonconformance, noncompliance, or a lack of continuing capacity. In such cases, the reasons for the conditional approval and the actions necessary to remove the condition shall be as specified, as provided in § 570.311(f)(3).

(10) Reduce the recipient's annual grant by up to the amount conditionally approved pursuant to § 570.311(f)(3) where such condition or conditions have not been satisfied.

2. Revising § 570.911, Reduction or withdrawal of grant, as follows:

§ 570.911 Reduction or withdrawal of grant.

(a) *General.* A reduction or withdrawal of a grant pursuant to paragraph (b) or (c) will not be made until at least one of the corrective or remedial actions specified in § 570.910(b) have been taken, and only then if the recipient has not made an

appropriate and timely response. Prior to making such grant reduction or withdrawal, the recipient shall also be notified and given an opportunity within a prescribed time for an informal consultation regarding the proposed action.

(b) *Entitlement Grants.* When the Secretary determines, on the basis of a review of an entitlement recipient's performance, that the objectives set forth in § 570.909(a) have not been met, the Secretary may make an appropriate reduction in the entitlement grant amount for the succeeding program year. The reduction may be down to zero.

(c) *Discretionary Grants.* In the case of a discretionary grant made under Subpart F, when the Secretary determines, on the basis of a review of the recipient's performance, that the objectives set forth in § 570.909(a) have not been met, the Secretary may reduce or withdraw the grant, except for funds already expended on otherwise eligible activities which may not be recaptured or deducted from future grants.

3. Revising § 570.913, Other remedies for noncompliance, as follows:

§ 570.913 Other remedies for noncompliance.

(a) *Secretarial referral to the Attorney General.* In lieu of, or in addition to the actions authorized in paragraph (b) of this section, if there is reason to believe that a recipient has failed to comply substantially with any provision of this part, including the performance criteria set forth in § 570.909, the Secretary may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted. Upon such a referral the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this Part which was not expended in accordance with it, or for mandatory or injunctive relief.

(b) *Secretarial actions on payments.* If the Secretary finds a recipient has failed to comply substantially with any provision of this part, including the performance criteria set forth in § 570.909, the Secretary may, provided the findings of failure to comply is made after reasonable notice and opportunity for hearing:

(1) Terminate payments to the recipient; or

(2) Reduce payments to the recipient by an amount equal to the amount of such payments which were not

expended in accordance with this part; or

(3) Limit the availability of payments to programs, projects, or activities not affected by such failure to comply. *Provided, however,* That the Secretary may on due notice revoke the recipient's letter of credit in whole or in part at any time after the initial finding of failure to comply, pending such hearing and a final decision of the Department, to the extent the Secretary determines such action necessary to preclude the further expenditure of funds for activities affected by such failure to comply. The following regulations govern the procedures and practice requirements involving adjudications where the Secretary desires to take action requiring reasonable notice and opportunity for hearing. The regulations in this section shall be liberally construed to secure just, expeditious, and efficient determination of the issues presented. The Administrative Procedures Act (5 U.S.C. 551 et seq.) where applicable shall be a guide in any situation not provided for or controlled by this section, but shall be liberally construed or relaxed when necessary.

(c) *Reasonable notice and opportunity for hearing.* (1) Whenever the Secretary has reason to believe that a recipient has failed to comply substantially with any section of the Act or of the provisions of this part, and that termination, reduction, or limiting the availability of payments is required, he shall give reasonable notice and opportunity of hearing to such recipient prior to the invocation of any sanction under the Act.

(2) Except in proceedings involving willfulness or those in which the public interest requires otherwise, a proceeding under this section will not be instituted until such facts or conduct which may warrant such action have been called to the attention of the chief executive officer of the recipient in writing and he has been accorded an opportunity to demonstrate or achieve compliance with the requirements of the Act and of this part. If the recipient fails to meet the requirements of the Act and regulations within such reasonable time as may be specified by the Secretary, a proceeding shall be initiated. Such proceeding shall be instituted by the Secretary by a complaint which names the recipient as the respondent.

(3) A complaint shall give a plain and concise description of the allegations which constitute the basis for the proceeding. A complaint shall be deemed sufficient if it fairly informs the respondent of the charges against it so that it is able to prepare a defense to the charges. Notification shall be given in

the complaint as to the place and time within which the respondent shall file its answer, which time shall be not less than 30 days from the date of service of the complaint. The complaint shall also contain notice that a decision by default will be rendered against the respondent in the event it fails to file its answer as required.

(4)(i) *Service of complaint.* The complaint or a true copy therefor may be served upon the respondent registered or by certified mail, return receipt requested; or it may be served in any other manner which has been agreed to in writing by the respondent. Where the service is by certified mail, the return Postal Service receipt duly signed on behalf of the respondent shall be proof of service.

(ii) *Service of papers other than complaint.* Any paper other than the complaint may be served upon the respondent or upon its attorney of record by registered or certified mail, return receipt requested. Such mailing shall constitute complete service.

(iii) *Filing of papers.* Whenever the filing of a paper is required or permitted in connection with a proceeding under this section, and the place of filing is not specified in this subpart, or by rule or order of the administrative law judge, the paper shall be filed with the Secretary, Washington, D.C. 20410. All papers shall be filed in duplicate.

(iv) *Motions and requests.* Motions and requests shall be filed with the designated administrative law judge, except that an application to extend the time for filing an answer shall be filed with the Secretary pursuant to § 570.913(c)(4)(iii).

(5)(i) *Filing.* The respondent's answer shall be filed in writing within the time specified in the complaint, unless on application the time is extended by the Secretary. The respondent's answer shall be filed in duplicate with the Secretary.

(ii) *Contents.* The answer shall contain a statement of facts which constitute the grounds of defense, and it shall specifically admit or deny each allegation set forth in the complaint, except that the respondent shall not deny a material allegation in the complaint which it knows to be true; nor shall a respondent state that it is without sufficient information to form a belief when in fact it possesses such information. The respondent may also state affirmatively special matters of defense.

(iii) *Failure to deny or answer allegation in the complaint.* Every allegation in the complaint which is not denied in the answer shall be deemed to be admitted and may be considered as proved, and no further evidence in

respect of such allegation need be adduced at a hearing.

(iv) *Failure to file answer.* Failure to file an answer within the time prescribed in the complaint, except as the time for answer is extended under paragraph (c)(5)(i) of this section, shall constitute an admission of the allegations of the complaint and a waiver of hearing, and the administrative law judge shall make his findings and decision by default without a hearing or further procedure.

(v) *Reply to answer.* No reply to the respondent's answer is required unless the administrative law judge so requests. Otherwise, the Secretary may file a reply in his discretion, but in any event within 10 days from his receipt of respondent's answer.

(vi) *Referral to administrative law judge.* Upon receipt of the answer by the Secretary or upon filing a reply if one is deemed necessary, or upon failure of the respondent to file an answer within the time prescribed in the complaint or as extended under paragraph (c)(5)(i) of this section, the complaint (an answer, if one is filed) shall be referred to the administrative law judge. Where an answer has been filed, the administrative law judge shall set a time and place for hearing and shall serve notice thereof upon the parties at least 15 days in advance of the hearing date.

(6)(i) If it appears to the Secretary that the respondent in its answer falsely and in bad faith, denies a material allegation of fact in the complaint or states that it has no knowledge sufficient to form a belief, when in fact it does possess such information, or if it appears that the respondent has knowingly introduced false testimony during the proceedings, the Secretary may thereupon file supplemental charges against the respondent. Such supplemental charges may be tried with other charges in the case, provided the respondent is given due notice thereof and is afforded an opportunity to prepare its defense thereto.

(ii) In the case of a variance between the allegations in a pleading and the evidence adduced in support of the pleading, the administrative law judge may order or authorize amendment of the pleading to conform to the evidence: *Provided*, The party that would otherwise be prejudiced by the amendment is given reasonable opportunity to meet the allegation of the pleading as amended. The administrative law judge shall make findings on any issue presented by the pleadings as so amended.

(iii) A respondent may appear in person through its chief executive officer and must be represented by counsel.

Respondent's counsel may also appear as a witness in the proceeding. The Secretary shall be represented by the General Counsel of HUD.

(d) *Administrative law judge; powers.* (1) *Appointment.* An administrative law judge, appointed as provided by Section 11 of the Administrative Procedure Act (5 U.S.C. 3105), shall conduct proceedings upon complaints filed under this section.

(2) *Powers of administrative law judge.* Among other powers provided by law, the administrative law judge's authority, in connection with any proceeding under this subpart, shall include authority to:

(i) Administer oaths and affirmations;

(ii) Make ruling upon motions and requests. Prior to the close of the hearing no appeal shall lie from any such ruling except, at the discretion of the administrative law judge, in extraordinary circumstances;

(iii) Determine the time and place of hearing and regulate its course and conduct. In determining the place of hearing the administrative law judge may take into consideration the requests and convenience of the respondent or its counsel;

(iv) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;

(v) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(vi) Take or authorize the taking of dispositions;

(vii) Receive and consider oral or written arguments on facts or law;

(viii) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;

(ix) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and

(x) Make initial findings and decision.

(e) *Hearings.* (1) In general: The administrative law judge shall preside at the hearing on a complaint. Testimony of witnesses shall be given under oath or affirmation. The hearing shall be stenographically recorded and transcribed. Hearings will be conducted pursuant to section 7 of the Administrative Procedure Act (5 U.S.C. 556).

(2) *Failure to appear.* If, after proper service and notice, a respondent fails to appear at the hearings, it shall be deemed to have waived the right to a hearing and the administrative law judge shall make his findings and decision against the respondent by default.

(3) *Waiver of hearing.* A respondent may waive the hearing by informing the administrative law judge, in writing on or before the date set for hearing, that it desires to waive hearing. In such event the administrative law judge shall make his findings and decision based upon the pleadings before him. The decision shall plainly show that the respondent waived hearing.

(4) The administrative law judge shall prior to or at the beginning of the hearing require that the parties attempt to arrive at such stipulations as will eliminate the necessity of taking evidence with respect to allegations of facts concerning which there is no substantial dispute. The administrative law judge shall take similar action, where it appears appropriate, throughout the hearing and shall call and conduct any conferences which he deems advisable with a view to the simplification, clarification, and disposition of any of the issues involved.

(f) *Evidence.* (1) Any evidence which would be admissible under the rules of evidence governing proceedings in matters not involving trial by jury in the Courts of the United States, shall be admissible and controlling as far as possible. Provided that, the administrative law judge may relax such rules in any hearing when in his judgment, such relaxation would not impair the rights of either party and would more speedily conclude the hearing, or would better serve the ends of justice. Evidence which is irrelevant, immaterial or unduly repetitious shall be excluded by the administrative law judge.

(2) *Depositions.* The deposition of any witness may be taken pursuant to § 570.913(g) and the deposition may be admitted.

(3) *Proof of documents.* Official documents, records and papers of a respondent shall be admissible as evidence without the production of the original provided that such documents, records and papers are evidenced as the original by a copy attested to or identified by the chief executive officer of the respondent or the custodian of the document, and contain the seal of the respondent.

(4) *Exhibits.* If any document, record, paper, or other tangible or material thing is introduced in evidence as an exhibit, the administrative law judge may authorize the withdrawal of the exhibit subject to any conditions he deems proper. An original document, paper or record need not be introduced and a copy duly certified (pursuant to paragraph (b) of this section) shall be deemed sufficient.

(5) *Objections.* Except as requested by counsel or the administrative law judge, oral or written objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include subsequent argument thereon, except as permitted by the administrative law judge. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the right of either party to the proceeding.

(g) *Depositions—(1) In general.*

Depositions for use at a hearing may, with the written approval of the administrative law judge, be taken by either the Secretary or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories, upon not less than 15 days written notice to the other party, before any officer duly authorized to administer an oath for general purposes. Such written notice shall state the names of the witnesses and the time and place where the depositions are to be taken. The requirement of 15 days written notice may be waived by the parties in writing, and depositions may then be taken from the persons and at times and places mutually agreed to by the parties.

(2) *Written interrogatories.* When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogatories shall be mailed by first class mail or delivered to the opposing party at least 10 days before the date of taking the depositions, unless the parties mutually agree otherwise. A party upon whose behalf a deposition is taken must file with the administrative law judge and serve one copy upon the opposing party. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

(h) *Stenographic record; oath of reporter, transcript—(1) In general.* A stenographic record shall be made of the testimony and proceedings, including stipulations and admissions of fact in all proceedings. Arguments of counsel may be heard on request. A transcript of the proceedings (and evidence) at the hearing shall be made in all cases.

(2) *Oath of reporter.* The reporter making the stenographic record shall subscribe an oath before the administrative law judge, to be filed in the record of the case, that he (or she) will truly and correctly report the oral testimony and proceedings at such hearing and accurately transcribe the same to the best of his (or her) ability.

(3) *Transcript.* Copies of the transcript may be obtained from the reporter at rates not to exceed the actual cost of duplication. Copies of exhibits introduced at the hearings or at the taking of depositions will be supplied to the parties upon the payment of a reasonable fee (31 U.S.C. 483(a)).

(i) *Proposed findings and conclusions.* Except in cases where a respondent has failed to appear to answer the complaint or has failed at the hearings, or has waived the hearing, the administrative law judge, prior to making his initial decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor.

(j) *Initial decision of the Administrative Law Judge.* Within 30 days after the conclusion of a hearing, the administrative law judge shall make his initial decision. However, where proposed findings and conclusions are timely submitted by the parties, such decision shall be made within 30 days after receipt of the findings and conclusions. The initial decision shall include a statement of the findings of fact and the conclusions therefrom, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion preserved on the record and may provide for one of the following orders:

(1) An order that the respondent's payments be terminated, or

(2) An order that the respondent's payments be reduced, or

(3) An order that the Secretary limit the availability of payments to activities not affected by respondent's failure to comply, or

(4) An order in favor of respondent. After reaching his initial decision the administrative law judge shall certify to the complete record, together with a certified copy of his initial decision, to the Secretary. The administrative law judge shall serve also a copy of the initial decision upon the Secretary and the respondent. The administrative law judge shall serve also a copy of the initial decision by certified mail to the chief executive officer of the respondent or to its attorney of record.

(k) *What constitutes record.* The transcript of testimony, pleadings and exhibits, all papers and requests filed in the proceeding together with all findings, decisions and orders, shall constitute the exclusive record in the matter.

(l) *Procedure on review of decision of administrative law judge—(1) Appeal to the Secretary.* Within 30 days from the date of the initial decision and order of the administrative law judge, the respondent may appeal to the Secretary

and file his exceptions to the initial decision and his reasons therefor. The respondent shall transmit a copy of this appeal and reasons therefor to the HUD counsel who may, within 30 days from receipt of the respondent's appeal, file a reply brief, in opposition to the appeal. A copy of the reply brief, if one is filed, shall be transmitted to the respondent or its counsel of record. Upon the filing of an appeal and a reply brief, if any, the Secretary shall make the final agency decision on the record of the administrative law judge submitted to him.

(2) *Absence of appeal.* In the absence of exceptions by the respondent within the time set forth in paragraph (1)(1) of this section or a review initiated by HUD counsel within 45 days after the initial decision, such initial decision of the administrative law judge shall constitute the final decision of the Department.

(m) *Decision of the Secretary.* On appeal from or review of the initial decision of the administrative law judge, the Secretary will make the final agency decision. In making his decision the Secretary will review the record or such portions thereof as may be cited by the parties to permit limiting of the issues. The Secretary may affirm, modify, or revoke the findings and initial decision of the administrative law judge. A copy of the Secretary's decision shall be transmitted immediately to the chief executive officer of the respondent or its counsel of record.

(n) *Publicity of proceedings—(1) In general.* A proceeding conducted under this section shall be open to the public and to elements of the news media provided that in the judgment of the administrative law judge, the presence of the media does not detract from the decorum and dignity of the proceeding.

(2) *Availability of record.* The record established in any proceeding conducted under this section shall be made available to inspection by the public as provided for and in accordance with regulations of the Department of HUD pursuant to 24 CFR Part 15.

(3) *Decisions of the administrative law judge.* The statement of findings and the initial decision of the administrative law judge in any proceedings, whether or not on appeal or review shall be indexed and maintained by the Secretary and made available for inspection by the public at the public documents room of the Department. If practicable, the statement of findings and the decisions of the administrative law judge shall be published periodically by the Department and

offered for sale through the Superintendent of Documents.

(4) Based on written advice from the Department of Justice that publicity of the proceedings or public release of the record pursuant to paragraph (n) (1), (2), and (3) of this section would adversely affect criminal prosecution, the Secretary may deem the applicability of paragraph (n) (1), (2), and (3) stayed.

(o) *Judicial review.* (1) Actions taken under administrative proceedings pursuant to this section shall be subject to judicial review pursuant to Section 111(c) of the Act. If a respondent desires to appeal a decision of the administrative law judge which has become final, or a final order of the Secretary for review of appeal, to the U.S. Court of Appeals, as provided by law, the Secretary, upon prior notification of the filing of the petition for review, shall have prepared in triplicate, a complete transcript of the record of the proceedings, and shall certify to the correctness of the record. The original certificate together with the original record shall then be filed with the Court of Appeals which has jurisdiction.

(2) Any recipient which receives the final agency decision of the termination, reduction or limitation of payments under this section may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who, shall represent the Secretary in the litigation.

(3) The Secretary shall file in the court the record of the proceeding on which he based his action, as provided in Section 2112 of Title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(4) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if

supported by substantial evidence on the record considered as a whole, and shall also file his recommendations, if any, for the modification or setting aside of his original action.

(5) Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in Section 1254 of Title 28, United States Code.

(Title I, Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 et seq.); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., October 18, 1979.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 79-35286 Filed 11-14-79; 8:45 am]

BILLING CODE 4210-01-M

Federal Register

Thursday
November 15, 1979

Part VI

Department of the Treasury

Office of Foreign Assets Control

Iranian Assets Control Regulations

DEPARTMENT OF THE TREASURY

Foreign Assets Control Office

31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control.

ACTION: Final rule.

SUMMARY: The office of Foreign Assets Control is issuing the Iranian Assets Control Regulations. The purpose of the Regulations is to block assets of the Government of Iran or its instrumentalities or controlled entities. The need for the Regulations is to implement the provisions of Executive Order No. 12170, and to meet the threat to the national security, foreign policy and economy of the United States with respect to which the President declared a national emergency in the Executive Order. The effect of the Regulations is that transactions in property subject to the jurisdiction of the United States or which is in the possession or control of persons subject to the jurisdiction of the United States in which Iran or its instrumentalities or controlled entities has or has had any interest on or after the effective date of these Regulations are prohibited in the absence of a license from the Treasury Department. The Regulations do not block assets of nationals of Iran unless such nationals are substantially owned or controlled by the state or Government of Iran.

EFFECTIVE DATE: 8:10 a.m., e.s.t., November 14, 1979.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, 202-376-0236.

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation and a delay in effective date are inapplicable.

The Iranian Assets Control Regulations are issued as follows:

Accordingly, 31 CFR Chapter V is amended by adding a new Part 535 to read as follows:

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

535.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

535.201 Transactions involving Iran; effective date.

535.202 Transactions with respect to securities registered or inscribed in the name of Iran.

535.203 Effect of transfers violating the provisions of this part.

Subpart C—General Definitions

535.301 Iran; Iranian Entity.

535.311 Property; property interests.

535.329 Person subject to the jurisdiction of the United States.

Subpart D—Reserved

Subpart E—Licenses

535.531 Payment of certain checks and drafts.

535.532 Completion of certain securities transactions.

Subpart F—Reserved

Subpart G—Penalties

535.701 Penalties

Subpart H—Reserved

Subpart I—Miscellaneous Provisions

535.901 Dollar Accounts at banks abroad. Authority: Secs. 201-207, 91 Stat. 1626; 50 U.S.C. 1701-1706; E.O. No. 12170; 44 FR 65729.

Subpart A—Relation of This Part to Other Laws and Regulations.

§ 535.101 Relation of this part to other laws and regulations.

(a) This part is independent of Parts 500, 505, 515, 520 and 530 of this chapter. Those parts do not relate to Iran. No license or authorization contained in or issued pursuant to such parts shall be deemed to authorize any transaction prohibited by this part, nor shall any license or authorization issued pursuant to any other provision of law (except this part) be deemed to authorize any transaction so prohibited.

(b) No license or authorization contained in or issued pursuant to this part shall be deemed to authorize any transaction to the extent that it is prohibited by reason of the provisions of any law or any statute other than the International Emergency Economic Powers Act, as amended, or any proclamation order or regulation other than those contained in or issued pursuant to this part.

Subpart B—Prohibitions

§ 535.201 Transactions involving Iran; effective date.

(a) No property subject to the jurisdiction of the United States or which is in the possession of or control of persons subject to the jurisdiction of the United States in which on or after the effective date Iran has any interest of any nature whatsoever may be transferred, paid, exported, withdrawn or otherwise dealt in except as authorized;

(b) Any transaction for the purpose or which has the effect of evading or avoiding any of the prohibitions set forth in paragraph (a) of this section is hereby prohibited;

(c) The term effective date means with respect to Iran, 8:10 a.m., eastern standard time, November 14, 1979.

§ 535.202 Transactions with respect to securities registered or inscribed in the name of Iran.

Unless authorized by a license expressly referring to this section, the acquisition, transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on or otherwise dealing in any security (or evidence thereof) registered or inscribed in the name of any Iranian entity is prohibited irrespective of the fact that at any time (either prior to, on, or subsequent to the effective date) the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of any such security.

§ 535.203 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date which is in violation of any provision of this part or of any regulation, ruling, instruction, license, or other direction or authorization thereunder and involves any property in which Iran has or has had an interest since such effective date is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property in which Iran has or has had an interest since the effective date unless the person with whom such property is held or maintained had written notice of the transfer or by any written evidence had recognized such transfer prior to such effective date.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Secretary of the Treasury before, during or after a transfer shall validate such transfer or render it enforceable to the same extent as it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act and this part and any ruling, order, regulation, direction or instruction issued hereunder.

(d) Transfers of property which otherwise would be null and void, or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void, or unenforceable pursuant to such provisions, as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to the provision of this part and was not so licensed or authorized or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that: (i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license or other direction or authorization thereunder, or (ii) Such transfer was not licensed or authorized by the Secretary of the Treasury, or (iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; the person with whom such property was held or maintained filed with the Treasury Department, Washington, D.C., a report in triplicate setting forth in full the circumstances relating to such transfer. The filing of a report in accordance with the provisions of this paragraph shall not be deemed to be compliance or evidence of compliance with paragraphs (d) (1) and (2) of this section.

(e) Unless licensed or authorized pursuant to this part any attachment, judgment, decree, lien, execution,

garnishment, or other judicial process is null and void with respect to any property in which on or since the effective date there existed an interest of Iran.

Subpart C—General Definitions

§ 535.301 Iran; Iranian Entity.

(a) The term "Iran" and "Iranian Entity" includes:

(1) The state and the Government of Iran as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof;

(2) Any partnership, association, corporation, or other organization substantially owned or controlled by any of the foregoing;

(3) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date acting or purporting to act directly or indirectly on behalf of any of the foregoing;

(4) Any territory which on or since the effective date is controlled or occupied by the military, naval or police forces or other authority of Iran; and,

(5) Any other person or organization determined by the Secretary of the Treasury to be included within paragraph (a) hereof.

(b) A person specified in paragraph (a)(2) of this section shall not be deemed to fall within the definition of Iran solely by reason of being located in, organized under the laws of, or having its principal place of business in, Iran.

§ 535.311 Property; property interests.

Except as defined in § 535.203(f) for the purposes of that section, the terms "property" and "property interest" or "property interests" shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, debentures, stocks, bonds, coupons, any other financial securities, bankers' acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, grounds rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents,

trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 535.329 Person subject to the jurisdiction of the United States.

The term "person subject to the jurisdiction of the United States" includes:

(a) Any person wheresoever located who is a citizen or resident of the United States;

(b) Any person actually within the United States;

(c) Any corporation organized under the laws of the United States or of any state, territory, possession, or district of the United States; and

(d) Any partnership, association, corporation, or other organization wheresoever organized or doing business which is owned or controlled by persons specified in paragraphs (a), (b), or (c) of this section.

Subpart D—[Reserved]

Subpart E—Licenses

§ 535.531 Payment of certain checks and drafts.

(a) Any banking institution within the United States is hereby authorized to make payments from blocked accounts with such banking institution:

(1) Of checks and drafts drawn or issued prior to the effective date, *Provided*, that:

(i) The amount involved in any one payment, acceptance, or debit does not exceed \$500; or

(ii) The check or draft was within the United States in process of collection by a domestic bank on or prior to the effective date and does not exceed \$50,000; and

(2) Of documentary drafts drawn under irrevocable letters of credit issued or confirmed by a domestic bank prior to the effective date.

(b) This section does not authorize any payment to Iran or an Iranian entity except payments into a blocked account in a domestic bank unless Iran or the Iranian entity is otherwise licensed to receive such payment.

(c) The authorization contained in this section shall expire at the close of business on December 14, 1979.

§ 535.532 Completion of certain securities transactions.

(a) Banking institutions within the United States are hereby authorized to complete, on or before November 21,

1979, purchases and sales made prior to the effective date of securities purchased or sold for the account of Iran or an Iranian entity provided the following terms and conditions are complied with, respectively.

(1) The proceeds of such sale are credited to a blocked account in a banking institution in the name of the person for whose account the sale was made; and

(2) The securities so purchased are held in a blocked account in a banking institution in the name of the person for whose account the purchase was made.

(b) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a sub-account thereof, to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities were held.

Subpart F—[Reserved]

Subpart G—Penalties

§ 535.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act which provides in part:

(a) A civil penalty of not to exceed \$10,000 may be imposed on any person who violates any license, order, or regulation issued under this title.

(b) Whoever willfully violates any license, order, or regulation issued under this title shall, upon conviction be fined not more than \$50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment or both.

This section of the International Emergency Economic Powers Act is applicable to violations of any provision of this part and to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act.

(b) Attention is also directed to 18 U.S.C. 1001 which provides

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more

than \$10,000 or imprisoned not more than five years, or both.

Subpart H (Reserved)

Subpart I—Miscellaneous Provisions

§ 535.901 Dollar Accounts at banks abroad.

Any domestic bank is hereby authorized to effect withdrawals or other transfers from any account held in the name of a non-Iranian bank located in a foreign country, provided such non-Iranian foreign bank is not a person subject to the jurisdiction of the United States.

November 14, 1979.

G. William Miller,

Secretary of the Treasury.

[FR Doc. 79-35524 Filed 11-14-79; 11:44 am]

BILLING CODE 4810-25-M

Reader Aids

Federal Register

Vol. 44, No. 222

Thursday, November 15, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

- 202-783-3238 Subscription orders (GPO)
- 202-275-3054 Subscription problems (GPO)
- "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
 - Washington, D.C. 202-523-5022
 - Chicago, Ill. 312-663-0884
 - Los Angeles, Calif. 213-688-6694
- 202-523-3187 Scheduling of documents for publication
- 523-5240 Photo copies of documents appearing in the Federal Register
- 523-5237 Corrections
- 523-5215 Public Inspection Desk
- 523-5227 Finding Aids
- 523-5235 Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

- 523-3419
- 523-3517
- 523-5227 Finding Aids

Presidential Documents:

- 523-5233 Executive Orders and Proclamations
- 523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S.
- 5282 Statutes at Large, and Index
- 275-3030 Slip Law Orders (GPO)

Other Publications and Services:

- 523-5239 TTY for the Deaf
- 523-5230 U.S. Government Manual
- 523-3408 Automation
- 523-4534 Special Projects
- 523-3517 Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

- 62879-63076.....1
- 63077-63508.....2
- 63509-64058.....5
- 64059-64396.....6
- 64397-64780.....7
- 64781-65024.....8
- 65025-65378.....9
- 65379-65580.....13
- 65581-65728.....14
- 65729-65958.....15

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR	Ch. II.....	65862
485.....	Ch. III.....	65862
	Ch. IV.....	65862
3 CFR	Ch. V.....	65862
Executive Orders:	Ch. VI.....	65862
12170.....	Ch. VII.....	65862
65729	Ch. IX.....	65862
Administrative Orders:	Ch. X.....	65862
Presidential Determinations:	Ch. XI.....	65862
No. 80-1 of	Ch. XII.....	65862
October 15, 1979.....	Ch. XIV.....	65862
63077	Ch. XV.....	65862
No. 80-2 of	Ch. XVI.....	65862
October 23, 1979.....	Ch. XVII.....	65862
64059	Ch. XVIII.....	65862
No. 80-3 of	Ch. XXI.....	65862
October 23, 1979.....	Ch. XXIV.....	65862
64061	Ch. XXV.....	65862
Proclamations:	Ch. XXVI.....	65862
3279 (Amended by	Ch. XXVII.....	65862
Proc. 4702).....	Ch. XXVIII.....	65862
65581	Ch. XXIX.....	65862
4698.....	210.....	63107
63509	235.....	63107
4699.....	271.....	63496, 65077
63511	272.....	63496, 65318
4700.....	273.....	63496
4701.....	274.....	65318
4702.....	276.....	65318
65581	277.....	65318
5 CFR	278.....	63496
177.....	318.....	65080
213.....	910.....	64839
63079, 64064-64067,	959.....	65592
65025-65031	982.....	63547
65031	989.....	62901
293.....	1049.....	65594
297.....	1133.....	64087
315.....	1464.....	63107
351.....	3100.....	65768
733.....	8 CFR	
1201.....	214.....	65726, 65727
1206.....	9 CFR	
1312.....	1.....	63488
64783	2.....	63488
Proposed Rules:	3.....	63488
531.....	92.....	63082
65077	113.....	63083
6 CFR	160.....	63488
705.....	161.....	63488
706.....	Proposed Rules:	
64276	Ch. I.....	65862
64284	Ch. II.....	65862
7 CFR	Ch. III.....	65862
272.....	Ch. VI.....	65862
273.....	318.....	65403
401.....	381.....	65403
427.....	10 CFR	
429.....	0.....	62880
62879		
62879		
64786		
64786		
63081		
64838		
63081, 65049		
63082, 65379		
64397		
64069		
62880		
64794		
64797		
Proposed Rules:		
Subtitle A.....		
65862		
65862		

2.....65049
20.....63515
21.....63515
71.....63083
73.....63515
212.....65722
211.....63515
436.....64776, 65700
450.....63519, 64797
455.....63519, 64797
456.....64602
1023.....64270
Proposed Rules:
Ch. II.....63108, 64094, 65274
Ch. III.....63108, 64094, 65274
Ch. X.....63108, 64094, 65274
51.....65598
221.....63109
470.....64839

11 CFR
107.....63036
114.....63036
9008.....63036
9032.....63756
9033.....63756
9034.....63756
9035.....63756
Proposed Rules:
100.....64773
110.....64773
114.....64773
9033.....63753

12 CFR
4.....65379
5.....65380
27.....63084
28.....65381
225.....64398, 65051, 65731
262.....64398
264b.....64399
265.....64398
720.....65731
Proposed Rules:
211.....62902, 62903
561.....64840
563.....65599

13 CFR
101.....64401

14 CFR
13.....63720
39.....62881, 62882, 63519-
63521, 64797, 65387, 65732,
65733
71.....62883, 62884, 65388-
65391, 65734
75.....62884
91.....62884
95.....65391
97.....62885
311.....65583
322.....65398
325.....65399
385.....64401
398.....65583, 65584
399.....65052
Proposed Rules:
Ch. I.....65104
23.....62906
25.....62906
39.....62907, 63547
61.....65550

71.....62908, 63548, 63549,
64840-64842, 65403, 65768-
65770
73.....65403, 65770
97.....62909
107.....63048, 64843
108.....63048, 64843
121.....63048, 64843, 65550
129.....63048, 64843
135.....62906, 63048, 64843
223.....64429
225.....64429
296.....65599

15 CFR
Proposed Rules:
503.....65940

16 CFR
3.....62887
13.....64803, 65735
460.....64402
Proposed Rules:
13.....63114, 63550, 64432,
64434
433.....65771
451.....65599
454.....62911

17 CFR
140.....65735
200.....64069, 65736
210.....62888, 65738
249.....65739
230.....64070
Proposed Rules:
210.....65774
250.....62912
259.....62912

18 CFR
2.....65055
35.....65740
141.....65741
154.....65740
157.....65055
260.....65741
292.....65744
271.....62889
281.....65585
292.....63114

19 CFR
Proposed Rules:
4.....64434
144.....64434
151.....64434
159.....64434

20 CFR
416.....64402
675.....64290, 64326
684.....64290
688.....64326
Proposed Rules:
Ch. I.....65556
Ch. IV.....65556
Ch. V.....65556
Ch. VI.....65556
Ch. VII.....65556
208.....62912
260.....62912, 63096
614.....65406

21 CFR
520.....63096
522.....63097
1002.....65352
1040.....65352

Proposed Rules:
145.....65080
353.....63270
864.....64095
868.....63292-63426, 65081

22 CFR
506.....63098
Proposed Rules:
51.....65600

23 CFR
658.....63680
Proposed Rules:
659.....63682

24 CFR
201.....64072
203.....64073
205.....64073, 64403
207.....64073, 65580
213.....64073
220.....64073
221.....64073
232.....64073
234.....64073
235.....64073
236.....64073
241.....64073
242.....64073
244.....64073
250.....64073
570.....65950
805.....64204
841.....64405
868.....64196
880.....65060
882.....65061, 65360
888.....65924
Proposed Rules:
115.....65775
203.....65776
204.....65776
208.....65081
571.....65776
883.....65776
886.....64095

25 CFR
31g.....65008
256.....65747
700.....65750

26 CFR
1.....64405, 65061
5.....63522
Proposed Rules:
1.....65777
31.....65777

29 CFR
Proposed Rules:
Subtitle A.....65556
Ch. II.....65566
Ch. IV.....65566
Ch. V.....65566
Ch. XVII.....65566
Ch. XXV.....65566
1440.....65407

1601.....65082
1904.....65082
1910.....64095

30 CFR
Proposed Rules:
Ch. I.....65566
Ch. VII.....65601
870.....63737, 65407
871.....63737, 65407
872.....63737, 65407
873.....63737, 65407
874.....63737, 65407
875.....63737, 65407
876.....63737, 65407
877.....63737, 65407
878.....63737, 65407
879.....63737, 65407
880.....63737, 65407
881.....63737, 65407
882.....63737, 65407
883.....63737, 65407
884.....63737, 65407
885.....63737, 65407
886.....63737, 65407
887.....63737, 65407
888.....63737, 65407

31 CFR
535.....65956

32 CFR
625.....63099
881.....64075
2600.....64077

Proposed Rules:
169.....65601
169a.....65601
169b.....65601
1900.....65780

33 CFR
117.....65750
124.....63672
126.....63672
160.....62891
161.....63672
164.....63672
183.....63523
Proposed Rules:
82.....64843

36 CFR
Ch. VI.....64406
51.....62893
60.....64405
219.....65587
222.....64406
1202.....64407, 65066

Proposed Rules:
Ch. II.....65862

37 CFR
Proposed Rules:
202.....62913

38 CFR
Proposed Rules:
21.....65083

39 CFR
775.....63524
952.....65399

40 CFR
6.....64174
51.....65066, 65069
52.....63102, 65066
53.....65066
58.....65066, 65069
60.....65066
61.....65399
65.....63102
80.....62897
81.....63102, 64078, 65751
87.....64266
116.....65400
117.....65401
162.....63749
227.....65751
409.....64078
418.....64080
424.....64082
434.....64082
Proposed Rules:
Ch. I.....63552, 65601, 65612
51.....65084
52.....63114, 64439, 65084,
65408, 65613, 65614, 65781,
65790, 65791
60.....62914
65.....65410, 65411, 65615
81.....65791
85.....62915
230.....63552
713.....64844
257.....65615

41 CFR
14-1.....63529
14-7.....63529
15-7.....65587
105-54.....65071
105-62.....64805
Proposed Rules:
Ch. 4.....65862
3-1.....63115
3-7.....63115
101-39.....65411

42 CFR
50.....65072

43 CFR
3100.....64085
Proposed Rules:
34.....64095

44 CFR
55.....64082
64.....63529, 64808, 65752
65.....63530
67.....63531-63534, 64421
65074
205.....64809
Proposed Rules:
67.....63117-63120, 63553-
63557, 64096, 64444, 64451,
64460, 64466, 64472, 65093-
65104
205.....63058

45 CFR
Proposed Rules:
Ch. X.....65412
405.....63120
1152.....63120
1501.....64097

1067.....64815
1069.....64836

46 CFR
401.....64836
402.....64836
502.....62898
Proposed Rules:
1.....64844
61.....62915
254.....65616
512.....65417
514.....65417

47 CFR
21.....63105
22.....63105
25.....65753
31.....65761
73.....64408, 65763
74.....65763
83.....64409
87.....64409

Proposed Rules:
31.....64440
33.....64440
42.....64440
43.....64440
64.....63558
73.....62917, 64441
90.....64442
97.....64442

49 CFR
7.....65765
571.....65766
601.....65765
1033.....62899, 63105, 64410,
65075, 65400, 65767
1034.....65075
1047.....65588
1201.....65401
1240.....65401
1241.....65401

Proposed Rules:
Ch. X.....64845, 65420
172.....65020
192.....65792
173.....65020
213.....64844
666.....62918
1001.....64846
1011.....64846
1056.....63121
1100.....64846
1131.....64846
1131a.....64846
1301.....63121, 64851

50 CFR
17.....64246, 64247, 64250,
64730, 64736, 64738, 64741,
64744, 65002
32.....63106
33.....62899
285.....62900
611.....64410, 64421, 65590
672.....64410, 64421

Proposed Rules:
Ch. VI.....63558, 65616
17.....63474
32.....63496
410.....64097
652.....65372
661.....64443

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- FEDERAL RESERVE SYSTEM

59464 10-15-79 / Electronic fund transfer; definitions exemption, special requirements

59474 10-15-79 / Electronic fund transfer; special requirements
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development, Office of Assistant Secretary—

61591 10-26-79 / Community development block grants; closeout procedures
- LABOR DEPARTMENT

Mine Safety and Health Administration—

48490, 8-17-79 / Metal and nonmetal mine safety

48535
- SECURITIES AND EXCHANGE COMMISSION

57374 10-4-79 / Relief for certain wholly owned subsidiaries for portions of annual and quarterly reports

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing November 14, 1979

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

- FOR:

Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:

The Office of the Federal Register.
- WHAT:

Free public briefings (approximately 2½ hours) to present:
 1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between Federal Register and the Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:

To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

- WHEN:

Nov. 30; Dec. 14; at 9 a.m. (identical sessions)
- WHERE:

Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.
- RESERVATIONS:

Call Mike Smith, Workshop Coordinator, 202-523-5235 or Gwendolyn Henderson, Assistant Coordinator, 202-523-5234.

DALLAS, TEXAS

- WHEN:

December 8, 1979 at 9:30 a.m.
- WHERE:

Dunfey Dallas Hotel
3800 West Northwest Highway
Dallas, Texas
- RESERVATIONS:

Call Mary Peters (214) 445-0855

V
4
4
N
0
1
5
7
9
I M



Enclosed is \$ _____ ☐ check, ☐ money order, or charge to my



Total charges \$ _____. Fill in the boxes below:

Card No.

Month/Year

Interbank No. _____



FOR OFFICE USE ONLY		
	Quantity	Charges
	Enclosed	
	To be mailed	
	Subscriptions	
Postage		
Foreign handling		
MMOB		
OPNR		
	UPNS	
	Discount	
	Refund	

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY

STATE

ZIP CODE

1(or) COUNTRY

PLEASE PRINT OR TYPE

Estimated Federal Budget

Friday
November 16, 1979

Highlights

- 65992 **Housing** HUD/Asst. Sec'y/FHC proposes regulations on tenant participation in multifamily housing projects; comments by 1-15-80
- 65969 **Energy** DOE/NRC establishes regulations on the requirements for the physical protection of nuclear power plants; effective 11-16-79
- 66069 **Home Health Services** HEW/HSA solicits applications for project grants; comments by 2-1-80
- 65997 **Veterans** VA proposes amending regulations on holder's acceptance of partial payments on VA guaranteed and insured home, mobile home and vendee loans; comments by 12-17-79
- 66069 **Maternal and Child Health and Crippled Children** HEW/HSA solicits applications for services project grants to institutions of higher learning; comments by 1-4-80
- 65988 **Iranian Assets Control** Treasury/Office of Foreign Assets Control issues amending regulations licensing U.S.-owned or controlled foreign firms
- 66086, 66087 **Privacy Act** Justice publishes documents affecting the systems of records (2 documents)

CONTINUED INSIDE



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202-523-5240

Highlights

- 65970 Financial Reporting Requirements** CFTC provides amending regulations for futures commission merchants; effective 11-16-79
- 66088 Indian and Native American Programs** Labor/ETA issues a notice designation fiscal year 1980 grantees funded under the Comprehensive Employment and Training Act
- 66125 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 66130 Part II, Labor/ESA**
66150 Part III, Interior/BLM

Contents

Federal Register
Vol. 44, No. 223
Friday, November 16, 1979

- ACTION**
PROPOSED RULES
65999 VISTA trainee deselection and volunteer early termination procedures
66003 VISTA volunteer grievance procedures
- Agricultural Marketing Service**
RULES
65963 Lemons grown in Ariz. and Calif.
65964 Lettuce grown in Tex.
65962 Oranges, grapefruit, tangerines, and tangelos grown in Fla.
65963 Oranges (navel) grown in Ariz. and Calif.
PROPOSED RULES
65989 Milk marketing orders:
All areas; advance notice
NOTICES
66008 Stockyards; posting and deposting:
Cow Town Auction, Colo., et al.
- Agricultural Stabilization and Conservation Service**
RULES
65962 Cotton; marketing quotas and acreage allotments
- Agriculture Department**
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Farmers Home Administration; Food and Nutrition Service.
- Animal and Plant Health Inspection Service**
RULES
65969 Livestock and poultry quarantine:
Brucellosis
NOTICES
66008 Environmental statements; availability, etc.:
Rangeland grasshopper cooperative control program
- Antitrust Division**
NOTICES
Competitive impact statements and proposed consent judgments:
66082 Jos. Schlitz Brewing Co. et al.
- Army Department**
See Engineers Corps.
- Arts and Humanities, National Foundation**
NOTICES
Meetings:
66113 Special Projects Advisory Panel
- Blind and Other Severely Handicapped, Committee For Purchase From**
NOTICES
66010 Procurement list, 1979; additions and deletions (2 documents)
- Bonneville Power Administration**
NOTICES
Meetings:
66018 Southwest Oregon Area Service, Buckley-Summer Lake 500-kV Line Draft Facility Location Supplement
- Census Bureau**
NOTICES
Surveys, determinations, etc.:
66009 Distributors stocks of canned foods
- Civil Aeronautics Board**
NOTICES
66125 Meetings; Sunshine Act (3 documents)
- Commerce Department**
See Census Bureau; Industry and Trade Administration.
- Commodity Credit Corporation**
RULES
Loan and purchase programs:
65965-65967 Tobacco (3 documents)
- Commodity Futures Trading Commission**
RULES
65970 Financial reporting requirements for futures commission merchants
NOTICES
Futures contracts, proposed; availability:
66010 Chicago Board of Trade; silver futures
66126 Meetings; Sunshine Act (2 documents)
- Consumer Product Safety Commission**
NOTICES
Meetings:
66011 Flammable Fabrics Act National Advisory Committee
66011 Poison Prevention Packaging Technical Advisory Committee
66011 Product Safety Advisory Council
- Defense Department**
See Engineers Corps.
- Economic Regulatory Administration**
NOTICES
Consent orders:
66024 Adams Resources & Energy Inc.
66018 Crescent Service Station
66022 Hanover Management Co.
66023 Leo's Chevron, et al.
66023 Petroleum Heat & Power Co., Inc.
66024 Tipperary Oil and Gas Corp.
Floodplains/wetlands environmental review determinations:
66019 Basin Electric Power Cooperative
Meetings:
66021 Gasoline Marketing Advisory Committee

- Remedial orders:
 66019 Anderson Service Center
 66020 B & L Texaco Service
 66020 Cipoletti's Exxon
 66020 De Luc Service Station
 66021 Edwards Producing Co.
 66021 Haine's Gulf
 66021 Pace, Edward
 66023 Pinkoske, William
 66023 Pricewagon Auto Services, Inc.
 66023 Warwick Oil Corp.
- Education Office**
NOTICES
 Meetings:
 66071 Extension and Continuing Education National Advisory Council
- Employment and Training Administration**
NOTICES
 Comprehensive Employment and Training Act Programs:
 66098 Displaced homemakers program; training and employment opportunities; extension of time
 66088 Indian and native American programs; prime sponsors fund allocations; 1980 FY
 66098 Employment transfer and business competition determinations; financial assistance applications
- Employment Policy National Commission**
NOTICES
 66112 Meetings
- Employment Standards Administration**
NOTICES
 66130 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions. (Ala., Calif., Ga., Ky., Mont., N.Y. and Tenn.)
- Energy Department**
See also Bonneville Power Administration; Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
 Environmental statements; availability, etc.:
 66013 Noble County, Ohio; pipeline gasification plant, high Btu;
 66015 Perry County, Ill.; pipeline gasification plant, high Btu;
 66016 Interpretation requests filed with General Counsel's Office
 Meetings:
 66018 National Petroleum Council
- Energy Research Office**
NOTICES
 Meetings:
 66050 Energy Research Advisory Board
- Engineers Corps**
RULES
 65977 Fishing and hunting; revocation of certain regulations

- NOTICES**
 Environmental statements; availability, etc.:
 66012 East Cape Girardeau, Ill.; flooding investigation study
 66012 Plattin Creek, Mo.; flood control
- Environmental Protection Agency**
RULES
 Air quality control regions; criteria and control techniques:
 65986 Attainment status designations
NOTICES
 Meetings:
 66061 Biscayne aquifer as sole source aquifer
- Farmers Home Administration**
RULES
 65968 Property and supply; procurement, sales, and leasing authority
PROPOSED RULES
 Loan and grant making:
 65991 Emergency loan borrowers; recordkeeping
- Federal Communications Commission**
NOTICES
 66062 Television broadcast applications ready and available for processing
- Federal Deposit Insurance Corporation**
NOTICES
 66126 Meetings; Sunshine Act
- Federal Election Commission**
NOTICES
 66126 Meetings; Sunshine Act
- Federal Emergency Management Agency**
NOTICES
 Disaster and emergency areas:
 66062 Canal Zone
- Federal Energy Regulatory Commission**
NOTICES
 Hearings, etc.:
 66025 Colorado Interstate Gas Co.
 66026 Columbia Gulf Transmission Corp. et al. (2 documents)
 66027 Connecticut Light & Power Co.
 66028 East Tennessee Natural Gas Co.
 66030 El Paso Natural Gas Co.
 66031 Gulf States Utilities Co.
 66028 Hatch, Edwin I.
 66031 Kansas-Nebraska Natural Gas Co., Inc.
 66032 Michigan Wisconsin Pipe Line Co.
 66032 Michigan Wisconsin Pipe Line Co. et al.
 66033 Midwestern Gas Transmission Co.
 66033 Missouri Utilities Co.
 66034, 66035 Montana-Dakota Utilities Co. (2 documents)
 66036 Municipal Electric Utilities Association of New York et al.
 66042 National Fuel Gas Supply Corp.
 66043 North Penn Gas Co.
 66043, 66044 Northern Natural Gas Co. (2 documents)
 66044 Panhandle Eastern Pipe Line Co.
 66045 Potomac Electric Power Co.
 66045 Sea Robin Pipeline Co.
 66046 South Texas Natural Gas Gathering Co. (2 documents)

- 66046 Southern Natural Gas Co.
 66047 Southwest Gas Corp.
 66047 Texas Eastern Transmission Corp.
 66048 Transcontinental Gas Pipe Line Corp.
 66048 Transcontinental Gas Pipe Line Corp. et al.
 66048 Transwestern Pipeline Co.
 66049 Trunkline Gas Co. (2 documents)
 66050 U-T Offshore System
 66025 Woonsocket, R.I.
- Federal Housing Commissioner—Office of Assistant Secretary for Housing**
PROPOSED RULES
 Mortgage and loan insurance programs:
 65992 Multifamily housing; tenant participation in projects
- Federal Maritime Commission**
NOTICES
 66126 Meetings; Sunshine Act (2 documents)
- Federal Mine Safety and Health Review Commission**
NOTICES
 66126, 66127 Meetings; Sunshine Act (2 documents)
- Federal Reserve System**
NOTICES
 Applications, etc.:
 66063 Callao Bancshares, Inc.
 66063 Carthage Holding Co., Inc.
 66063 Control Union Corp.
 66062 Mellon National Corp., et al.
 66064 First Tennessee National Corp.
 66064 Lindsay State Co.
 66064 NCNB Corp.
 66064 Sullivan County Bancshares, Inc.
 66127 Meetings; Sunshine Act (2 documents)
- Fish and Wildlife Service**
NOTICES
 Environmental statements; availability, etc.:
 66079 Federal aid in wildlife restoration projects; Mich. and Wis.
- Food and Drug Administration**
RULES
 Animal drugs, feeds, and related products:
 65975 Chloramphenicol and tetracycline hydrochloride capsules
 65976 Dichlorvos
 65976 Procaine penicillin G in oil
 65975 Sulfadimethoxine tablets and injections
 Color additives:
 65974 Silver in externally applied cosmetics; exemption from certification
PROPOSED RULES
 Human drugs:
 65992 Over-the-counter drugs; antacid drug products containing calcium and magnesium; monograph amendment; correction
 65992 Over-the-counter drugs; nighttime sleep-aid and stimulant products; reopening of administrative record; correction
 Medical devices, general hospital and personal use; classification:
 65992 Spinal fluid pressure manometer; correction

- NOTICES**
 Animal drugs, feeds, and related products:
 66068 Diethylstilbestrol (DES); approval withdrawn; correction
 Food additives, petitions filed or withdrawn:
 66068 Betz Laboratories, Inc.
 66068 Lonza, Inc.
 GRAS status, petitions:
 66065 Selenium in feeds for chickens producing eggs; correction
 Human drugs:
 66067 Bacitracin zinc-polymyxin B sulfate topical ointment; exemption from certification
 Meetings:
 66065 Advisory committees, panels, etc.
- Food and Nutrition Service**
PROPOSED RULES
 Food stamp program:
 65989 Food Stamp Act of 1977; social security numbers, fraud disqualification and recoupment, and group living arrangements; correction
NOTICES
 Meetings:
 66009 Maternal, Infant and Fetal Nutrition National Advisory Council
- Foreign Assets Control Office**
RULES
 65988 Iranian assets control regulations; set-offs by U.S. owned or controlled firms abroad
- Health, Education, and Welfare Department**
See Education Office; Food and Drug Administration; Health Resources Administration; Health Services Administration; National Institutes of Health.
- Health Resources Administration**
NOTICES
 Advisory committee reports annual; availability
 66069 Advisory committee reports, annual; availability; correction
- Health Services Administration**
NOTICES
 Grants; availability:
 66069 Home health services
 66069 Maternal and child health and crippled children's services
- Hearings and Appeals Office, Energy Department**
NOTICES
 Applications for exception:
 66053, 66057 Cases filed (2 documents)
 66051, 66060 Decisions and orders (2 documents)
- Housing and Urban Development Department**
See Federal Housing Commissioner—Office of Assistant Secretary for Housing.
- Indian Affairs Bureau**
NOTICES
 Irrigation projects, operation and maintenance charges:
 66072 Wapato, Wash.

- Industry and Trade Administration**
NOTICES
Meetings:
66009 President's Export Council (2 documents)
- Interior Department**
See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Reclamation Bureau.
NOTICES
66080 Environmental statements; availability, etc.: Salt-Gila Aqueduct, Ariz and N.M.
- Internal Revenue Service**
PROPOSED RULES
Employment taxes:
65995 Withholding exemption certificates: submission of copies to IRS; hearing
- International Trade Commission**
NOTICES
66080 Import investigations: Benzenoid chemicals
- Interstate Commerce Commission**
RULES
Motor carriers:
65987 Baggage, checked; liability provisions
NOTICES
66118 Fourth section applications for relief
Motor carriers:
66119 Permanent authority applications
66117 Railroad car service rules, mandatory; exemptions
Railroad operation, acquisition, construction, etc.:
66118 Norfolk & Western Railway Co.
Rerouting of traffic:
66117, All railroads (3 documents)
66119,
66124
Water carriers:
66124 Willamette Leasing Co.; operating authority application
- Justice Department**
See also Antitrust Division.
NOTICES
66086, Privacy Act; systems of records (2 documents)
66087
- Labor Department**
See also Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment assistance:
66109 Airo Speer Electronics
66107 Bishop Coal Co.
66108 Cherokee Mining Co.
66108 Dell Knitwear, Inc.
66108 Ideal Outerwear Co., Inc.
66110 King Powellton Mining, Inc.
66110 Magnavox Consumer Electronics Co.
66110 Outboard Marine Corp.
66110 Peach Creek Processing
66111 Uniroyal Tire Co.
66111 Woodstock Shoe Co.
- Land Management Bureau**
NOTICES
Applications, etc.:
66074- New Mexico (11 documents)
66075,
66077,
66078
66076 Wyoming
Closure of public lands:
66074 California
Coal leases:
66078 Colorado
Meetings:
66076 Deep Creek Mountains, Utah; future management proposals
Outer Continental Shelf:
66150 Oil and gas lease sales; North Atlantic
Wilderness areas; characteristics, inventories, etc.:
66077 Nevada
Withdrawal and reservation of lands, proposed, etc.:
66073, Alaska (2 documents)
66078
- Management Improvement, President's Council**
NOTICES
66115 Meetings
- Mine Safety and Health Administration**
NOTICES
Petitions for mandatory safety standard modifications:
66098 Maben Energy Corp.
- National Aeronautics and Space Administration**
NOTICES
Meetings:
66112 Space Systems and Technology Advisory Committee
- National Credit Union Administration**
NOTICES
66127 Meetings; Sunshine Act
- National Institutes of Health**
NOTICES
Meetings:
66070 Advisory Committee to the Director
66071 Arthritis National Advisory Board
66071 Digestive Diseases Education and Information National Center; conference
66070 General Clinical Research Centers Committee; agenda change
66071 Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee
66071 Scientific Counselors Board
- Nuclear Regulatory Commission**
RULES
65969 Nuclear power plants; physical protection requirements
NOTICES
Applications, etc.:
66113 Philadelphia Electric Co.
66114 Tennessee Valley Authority
66115 Worcester Polytechnic Institute

- 66114 Boiling water reactor coolant pressure boundary piping, material selection and processing guidelines; technical report issuance and availability
Meetings:
66113 Reactor Safeguards Advisory Committee
66127 Meetings; Sunshine Act (2 documents)
66113 Radiological emergency response plans and preparedness; State and local government support; report; availability; correction
- Occupational Safety and Health Administration**
NOTICES
State plans; development, enforcement, etc.:
66099 California
66099 North Carolina
66100, Tennessee (2 documents)
66101
66101 Utah
66102 Wyoming
- Pension and Welfare Benefit Programs Office**
NOTICES
Employee benefit plans:
66103- Prohibition on transactions; exemption
66106 proceedings, applications, hearings, etc. (5 documents)
66103 Prohibition on transactions; exemption proceedings, applications, hearings, etc.; correction
- Personnel Management Office**
RULES
Excepted service:
65959 Federal Labor Relations Authority
65959 Merit Systems Protection Board (2 documents)
65959 National Mediation Board
65960 National Transportation Safety Board
65960 Personnel Management Office (2 documents)
65960 Selective Service System
65960, Transportation Department (6 documents)
65961
- Postal Service**
RULES
International mail:
65986 Articles mailed abroad by or in behalf of senders in U.S.; payment of U.S. postage
- Railroad Retirement Board**
NOTICES
66116 Unemployment insurance account; balance and contribution rate
- Reclamation Bureau**
NOTICES
Contract negotiations:
66079 P.P.R.T. Water Systems, Inc., Idaho
- Securities and Exchange Commission**
NOTICES
66128 Meetings; Sunshine Act (2 documents)
- Social Security National Commission**
NOTICES
66113 Meetings
- State Department**
NOTICES
Meetings:
66116 International Intellectual Property Advisory Committee
66116 International Radio Consultative Committee
- Treasury Department**
See Foreign Assets Control Office; Internal Revenue Service.
- Veterans Administration**
PROPOSED RULES
Loan guaranty:
65997 Home, mobile home, and vendee insured loans; holders' acceptance of partial payments
65995 National Service Life Insurance; lump sum payment
Vocational rehabilitation and education:
65996 Tutorial assistance
NOTICES
Environmental statements availability, etc.:
66116 Portland, Oreg., replacement medical center
- White House Conference on Library and Information Services**
NOTICES
66128 Meetings; Sunshine Act
- MEETINGS ANNOUNCED IN THIS ISSUE**
- AGRICULTURE DEPARTMENT**
Food and Nutrition Service—
66009 Maternal, Infant, and Fetal Nutrition National Advisory Council, 12-2-79
- ARTS AND HUMANITIES, NATIONAL FOUNDATION**
Special Projects Panel, 12-6 and 12-7-79
- COMMERCE DEPARTMENT**
Industry and Trade Administration—
66009 Export Expansion Subcommittee of the President's Export Council, 12-5-79
66009 Export Promotion Subcommittee of the President's Export Council, 11-26-79
- CONSUMER PRODUCT SAFETY COMMISSION**
Flammable Fabrics Act National Advisory Committee, 12-17 and 12-18-79
66011 Product Safety Advisory Council, 12-3 and 12-4-79
66011 Technical Advisory Committee on Poison Prevention Packaging, 12-10 and 12-11-79
- ENERGY DEPARTMENT**
66018 National Petroleum Council, 12-12-79
Bonneville Power Administration—
66018 Southwest Oregon Area Service, Buckley-Summer Lake 500-kV Line Draft Facility Location Supplement, 12-11 and 12-13-79
Economic Regulatory Administration—
66021 Gasoline Marketing Advisory Committee, 12-5-79
Office of Energy Research—
66050 Geothermal Energy Subpanel of the Energy Research Advisory Board, 12-7-79

- ENVIRONMENTAL PROTECTION AGENCY**
66061 Designation of Biscayne Aquifer as Sole Source Aquifer, 12-10 and 12-11-79
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
Food and Drug Administration—
66065 December meetings
National Institute of Health—
66070 Advisory Committee to the Director, 12-4 and 12-5-79
66071 Board of Scientific Counselors, NICHD, 12-3-79
66071 Directions for the proposed National Digestive Diseases Education and Information Center Conference, 1-21-80
66071 National Arthritis Advisory Board, 12-5 and 12-6-79
66071 Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee, 1-7-80
Office of Education—
66071 Extension and Continuing Education National Advisory Council, 12-4 through 12-7-79
- NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
66112 NASA Advisory Council, Space Systems and Technology Advisory Committee, 12-4 and 12-5-79
- NATIONAL COMMISSION FOR EMPLOYMENT POLICY**
66112 Formal meeting, 12-7-79
- NATIONAL COMMISSION ON SOCIAL SECURITY**
66113 Meeting, 12-7 through 12-9-79
- NUCLEAR REGULATORY COMMISSION**
66113 Reactor Safeguards Advisory Committee, Reactor Operations Subcommittee, 12-3-79
- PRESIDENT'S MANAGEMENT IMPROVEMENT COUNCIL**
66115 Meeting, 12-3-79
- STATE DEPARTMENT**
66116 International Intellectual Property Advisory Committee, 12-4-79
66116 International Radio Consultative Committee, 12-7-79
- CHANGED MEETING**
HEALTH, EDUCATION, AND WELFARE DEPARTMENT
National Institutes of Health—
66070 General Clinical Research Centers Committee, 11-19 and 11-20-79

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR		522	65975
213 (14 documents)	65959-65961	540	65976
		558	65976
7 CFR		Proposed Rules:	
722	65962	331	65992
905	65962	338	65992
907	65963	340	65992
910	65963	880	65992
971	65964		
1464 (3 documents)	65965-65967	24 CFR	
2024	65968	Proposed Rules:	
		402	65992
Proposed Rules:		26 CFR	
273	65989	Proposed Rules:	
1001	65989	31	65995
1002	65989		
1004	65989	31 CFR	
1006	65989	535	65988
1007	65989	33 CFR	
1011	65989	206	65977
1012	65989		
1013	65989	38 CFR	
1030	65989	Proposed Rules:	
1032	65989	8	65995
1033	65989	21	65996
1036	65989	36	65997
1040	65989		
1044	65989	39 CFR	
1046	65989	10	65986
1049	65989		
1050	65989	40 CFR	
1062	65989	81	65986
1064	65989		
1065	65989	45 CFR	
1068	65989	Proposed Rules:	
1071	65989	1210	65999
1073	65989	1211	66003
1075	65989		
1076	65989	49 CFR	
1079	65989	1064	65987
1094	65989		
1096	65989		
1097	65989		
1098	65989		
1099	65989		
1102	65989		
1104	65989		
1106	65989		
1108	65989		
1120	65989		
1124	65989		
1125	65989		
1126	65989		
1131	65989		
1132	65989		
1133	65989		
1134	65989		
1135	65989		
1136	65989		
1137	65989		
1138	65989		
1139	65989		
1924	65991		
9 CFR			
78	65969		
10 CFR			
73	65969		
17 CFR			
1	65970		
145	65970		
147	65970		
21 CFR			
73	65974		
510	65975		
520 (2 documents)	65975, 65976		

Rules and Regulations

Federal Register
Vol. 44, No. 223
Friday, November 16, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Federal Labor Relations Authority

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The following positions are excepted from the competitive service under Schedule C because they are confidential in nature: One position of Executive Assistant to the Chairman and one position of Secretary (Steno) to a Member. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATES: Secretary (Steno)—July 20, 1979; Executive Assistant—August 17, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533. *On position content:* Gil Miller, Federal Labor Relations Authority, (202) 632-6880.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3392(a)(1) is amended and (a)(2) is added as set out below:

§ 213.3392 Federal Labor Relations Authority.

(a) *Office of the Chairman.*

(1) One Confidential Secretary and one Executive Assistant to the Chairman. * * *

(2) One Secretary (Steno) to a Member.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)
[FR Doc. 79-35029 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Merit Systems Protection Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Merit Systems Protection Board from Attorney-Advisor (General) to Special Assistant to the Chair to more appropriately reflect the duties of the position.

EFFECTIVE DATE: April 18, 1979.

FOR FURTHER INFORMATION:

On position authority contact: William Bohling, Office of Personnel Management, 202-632-4533. *On position content contact:* Pat Ealey, Merit Systems Protection Board, 202-632-5370. Office of Personnel Management.

Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3390(a) is amended as set out below:

§ 213.3390 Merit Systems Protection Board.

(a) One Attorney-Advisor (General), one Special Assistant and one Staff Assistant to the Chairperson.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

* * * * *
[FR Doc. 79-35030 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Merit Systems Protection Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to reflect a title change from Staff Assistant (Steno) to the Vice Chairperson to Administrative Assistant to the Vice Chairperson. The new title more accurately describes the duties of the position.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3390(b) is amended as set out below:

§ 213.3390 Merit Systems Protection Board.

* * * * *

(b) One Policy Advisor and one Administrative Assistant to the Vice Chairperson.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

[FR Doc. 79-35031 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; National Mediation Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant to each of two Members of the Board and one Confidential Assistant to the Chairman because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533. *On position content:* Mary Pricci, National Mediation Board, 202-523-5950.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3389(a) (3) and (4) are added as set out below:

§ 213.3389 National Mediation Board.

* * * * *

(3) One Confidential Assistant to each of two Members of the Board.

(4) One Confidential Assistant to the Chairman.

* * * * *

V
4
4
N
O
1
6
7
9
U M I

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)
[FR Doc. 79-35032 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; National Transportation Safety Board

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the National Transportation Safety Board from Administrative Assistant to the Chairman to Special Assistant and Counsel to the Chairman to more appropriately reflect the duties of the position.

EFFECTIVE DATE: April 20, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority contact: William Bohling, Office of Personnel Management, 202-632-4533. *On position content contact:* Larry Upson, National Transportation Safety Board, 202-472-6166.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3396(a)(1) is amended as set out below:

§ 213.3396 National Transportation Safety Board.

(a) *Office of the Chairman.*

(1) One Special Assistant and Counsel to the Chairman and one Administrative Assistant to each of four Board Members.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)
[FR Doc. 79-35033 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Office of Personnel Management

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two positions at the Office of Personnel Management: One Special Assistant to the General Counsel and one Assistant for Congressional Liaison because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 4, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533. *On position content:* Janet Cope, Office of Personnel Management, 202-632-6118.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3391 (h) and (i) are added as set out below:

§ 213.3391 Office of Personnel Management.

(h) One Special Assistant to the General Counsel.

(i) One Assistant for Congressional Liaison.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35034 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Office of Personnel Management

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Deputy Director is excepted from the competitive service under Schedule C because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: July 18, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533. *On position content:* Shelya White, Office of Personnel Management, (202) 632-6118.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3391(b) is amended as set out below:

§ 213.3391 Office of Personnel Management.

(b) One Policy Advisor, one Administrative Assistant and one Special Assistant to the Deputy Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35035 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Selective Service System

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Selective Service System from Administrative Assistant to the Director to Executive Staff Assistant to the Director because this new title more accurately describes the duties of the position.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533. *On position content:* Margaret Kimbro, Selective Service System, 202-724-0419.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3346(a) is amended as set out below:

§ 213.3346 Selective Service System.

(a) One Executive Staff Assistant to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35036 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Transportation

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Transportation from Public Information Assistant to the Director to Public Information Specialist to the Director to more accurately describe the duties of the position.

EFFECTIVE DATE: April 19, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533. *On position content:* Thomas McKenna, Department of Transportation, 202-426-4122.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3394(a)(26) is amended as set out below:

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* * * *

(26) One Public Information Specialist and one Secretary (Steno) to the Director, Office of Public and Consumer Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35037 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Transportation

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Transportation from Confidential Secretary to the Secretary to Personal Assistant to the Secretary to more appropriately reflect the duties of the position.

EFFECTIVE DATE: May 23, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533. *On position content:* Thomas McKenna, Department of Transportation, 202-426-4122.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3394(a)(3) is amended as set out below:

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.*

(3) One Confidential Secretary and one personal Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)
[FR Doc. 79-35038 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Transportation

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Secretary (Steno) to the Special Assistant to the Secretary for Urban Affairs, because it is confidential in nature. Appointments may be made to these positions without

examination by the Office of Personnel Management.

EFFECTIVE DATE: June 14, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533. *On position content:* Thomas McKenna, Department of Transportation 202-426-4122.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3394 (a)(1) is added as set out below:

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* * * *

(1) One Secretary (Steno) to the Special Assistant to the Secretary for Urban Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35039 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Transportation

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Administrator of the National Highway Traffic Safety Administration is excepted from the competitive service under Schedule C because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: July 24, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533. *On position content:* Tom McKenna, Department of Transportation, 202-426-4122.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3394(i)(8) is added as set out below:

§ 213.3394 Department of Transportation.

(i) *National Highway Traffic Safety Administration.* * * *

(8) One Special Assistant to the Administrator.

* * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35040 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Transportation

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Secretary (Steno) to the Inspector General, Department of Transportation because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533. *On position content:* Thomas McKenna, Department of Transportation, 202-426-4122.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3394(a)(5) is added as set out below:

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* * * *

(5) One Secretary (Stenography) to the Inspector General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)
[FR Doc. 79-35041 Filed 11-15-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Transportation

AGENCY: Office of Personnel Management.
ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Messenger for the Assistant Secretary for Governmental and Public Affairs and one Special Assistant to the Secretary for Urban Affairs because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATES: Messenger—June 7, 1979; Special Assistant—June 11, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533. On position content: Thomas McKenna, Department of Transportation, 202 462-4122.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3394(a) (19) and (20) are added as set out below:

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* * * *

(19) One Messenger for the Assistant Secretary for Governmental and Public Affairs.

(20) One Special Assistant to the Secretary for Urban Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35042 Filed 11-15-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 722**1980 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas**

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to establish State reserves, allocate State reserves to counties and establish county acreage allotments for the 1980 crop of extra long staple cotton (referred to as "ELS" cotton). The need for this rule is to satisfy the statutory requirements of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: November 15, 1979.

ADDRESS: Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham (ASCS) 202-447-7873.

SUPPLEMENTARY INFORMATION: A notice that the Secretary of Agriculture was preparing to establish 1980 State and county ELS cotton acreage allotments was published in the Federal Register on August 14, 1979, (44 FR 47543) in accordance with 5 U.S.C. 553. No comments or recommendations were received concerning these determinations.

Determinations with respect to 1980 State reserves and allocation of State reserves to counties were made initially by the respective State committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (35 FR 19798, 36 FR 6907, 37 FR 624, 3845, 22008, 40 FR 18815, and 43 FR 51434).

In order that farmers may be informed of 1980 farm acreage allotments as soon as possible so that they may make plans accordingly, it is essential that these provisions be made effective as soon as possible. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest.

Therefore, this amendment to 7 CFR 722.562 shall become effective upon the filing of this document with the Director, Office of the Federal Register, with respect to the 1980 crop of ELS cotton. The material previously appearing in this section as "Subpart—1979 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas" remains in full force and effect as to the crop to which it was applicable.

Final Rule

Accordingly, 7 CFR 722.562 is amended to read as follows:

§ 722.562 State reserves and county allotments for the 1980 crop of extra long staple cotton.

(a) *State reserves.* The State reserves for each State shall be established and allocated among uses for the 1980 crop of extra long staple cotton pursuant to § 722.508. It is hereby determined that no State reserve is required for abnormal conditions, inequities and hardships, or small farms. A reserve of 5.8 acres was held for trend adjustments in Arizona. The amount of the State reserve held in each State and the amount of allotment in the State productivity pool resulting from productivity adjustments under § 722.529, (c) and (d) is available for inspection at each State ASCS office.

(b) *County allotments.* County allotments are established for the 1980 crop of extra long staple cotton in accordance with § 722.509. The amount of the State allotment apportioned to counties is available for inspection at the respective State and county ASCS offices.

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 675, as amended, 52 Stat. 66, as amended; (7 U.S.C. 1344, 1347, 1375))

Note: This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A

determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Charles V. Cunningham, ASCS, 202-447-7873.

Signed at Washington, D.C., on November 9, 1979.

Ray Fitzgerald,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-35288 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service**7 CFR Part 905**

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 3, Amdt. 1]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Minimum Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment lowers the minimum diameter (size) requirements for Dancy tangerines for domestic shipments from 2 1/8 inches to 2 1/16 inches for the period November 12 through November 18, 1979. This action recognizes current market demand for smaller sizes of Dancy tangerines and is consistent with the size composition of the available crop in the interest of growers and consumers.

EFFECTIVE DATE: November 12, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Findings.

(1) This regulation is issued under the marketing agreement and Order No. 905, both as amended (7 CFR Part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation of the committee established under the marketing agreement and order, and upon other information. It is hereby found that the regulation of shipments of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The minimum size requirement, herein specified, for domestic shipments of Dancy tangerines reflects the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller sizes based on current and prospective demand conditions. Relaxation of the

minimum size requirement for Dancy tangerines will make additional supplies available to meet market needs and will tend to promote orderly marketing.

It is concluded that the amendment of the size requirement, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers, and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida Dancy tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, F&V, AMS, USDA, Washington, D.C., 20250, phone 202-447-5975.

Accordingly, it is found that the provisions of § 905.303 (Orange, Grapefruit, Tangerine, and Tangelo Regulation 3; 44 FR 59195) should be and are hereby amended by revising Table I, paragraph (a) applicable to domestic shipments, to read as follows:

§ 905.303 Orange, Grapefruit, Tangerine, and Tangelo Regulation 3.

(a) * * *

Table I

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
Tangerines:			
Dancy	11/12/79-11/16/79.	U.S. No. 1	2-4/16
	11/19/79-10/12/80.	U.S. No. 1	2-6/16

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated: November 9, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-35481 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Reg. 466]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period November 16-22, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on November 13, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges has not yet stabilized.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days

after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given the opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, phone (202) 447-5975.

§ 907.766 Navel Orange Regulation 466.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period November 16, through November 22, 1979, are established as follows:

- (1) District 1: 810,000 cartons;
- (2) District 2: unlimited movement;
- (3) District 3: 90,000 cartons;
- (4) District 4: unlimited movement.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", "District 4", and "carton" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 14, 1979.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-35551 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 226]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market

during the period November 18-24, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: November 18, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on November 13, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is somewhat improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202-447-5975.

§ 910.526 Lemon Regulation 226.

Order. (a) The quantity of lemons grown in California and Arizona which

may be handled during the period November 18, 1979, through November 24, 1979, is established at 215,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 15, 1979.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable
Division,
Agricultural Marketing Service.

[FR Doc. 79-35657 Filed 11-15-79; 12:02 am]

BILLING CODE 3410-02-M

7 CFR Part 971

Lettuce Grown in Lower Rio Grande Valley in South Texas; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation imposes container, pack, and inspection requirements on shipments of lettuce grown in the Lower Rio Grande Valley in South Texas. Standardizing trading practices improves marketing efficiency, promotes orderly marketing of such lettuce, and helps provide better quality lettuce at reasonable prices to consumers.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Peter G. Chapogas (202) 447-5432.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 144 and Marketing Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The South Texas Lettuce Committee, established under the order, is responsible for its local administration.

This regulation is based upon the recommendations made by the committee at its public meeting in McAllen, Texas, on November 1, 1979. It is designed to provide orderly marketing of South Texas lettuce during the period November 19 through December 31, 1979, by imposing inspection and minimum container and pack requirements.

The container and pack requirements are in accord with the generally accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers limited to those found acceptable to the trade for safe

transportation of the lettuce, and will prevent deceptive practices.

In addition the South Texas lettuce industry is accustomed to operating on a six day shipping week. A six day shipping week has proven adequate for five days distribution in terminal markets, therefore "packaging holidays" on Sundays will promote more efficient and orderly marketing. However, handlers will be permitted, with the approval of the committee, to package lettuce on Sunday whenever the committee finds that distribution is inadequate, or that crop damage is imminent.

No purpose would be served by regulating the containers or pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore, each person is exempt from such requirements for up to two cartons or equivalent of lettuce per day.

Provisions with respect to special purpose shipments, including export, are designed to meet the different requirements for export and noncommercial domestic trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market. These buyers use lettuce which fails to meet the pack and container requirements. Inasmuch as such shipments have a negligible effect on the domestic market, they are permitted if certain safeguard requirements are met.

Findings

Pursuant to Order No. 971 regulating the handling of lettuce grown in South Texas and after consideration of all relevant matters it is hereby found that the handling regulation will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the Federal Register (5 U.S.C. 553) because shipments of lettuce from the production area are expected to begin on or about the effective date hereof. The recommendation and supporting information for regulation were submitted to the Department after an open meeting of the South Texas Lettuce Committee; said meeting was held to consider recommendations for regulation, after giving due notice of the meeting, and interested persons were afforded an opportunity to submit their views at this meeting; and handlers registered under the order as required in § 971.104 have been informed of the requirements. It is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during

the period hereinafter set forth so as to provide for the regulation of the handling of such lettuce, and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective date of the regulation.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Peter G. Chapogas (202) 447-5432.

Section 971.319 is hereby terminated and § 971.320 is added as follows:

§ 971.320 Handling regulation.

During the period November 19, 1979, through December 31, 1979, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b) and (c) of this section, or unless such lettuce is handled in accordance with paragraphs (d) or (e) of this section. Further, no person may package lettuce during the above period on any Sunday, or on Christmas Day, unless approved in accordance with paragraph (f) of this section.

(a) *Containers.* Containers may be only the following depth, width and length respectively:

(1) Cartons with inside dimensions of 10 inches x 14 1/4 inches x 21 1/2 inches (designated as carrier container No. 7303, or

(2) Cartons with inside dimensions of 9 3/4 inches x 14 inches x 21 inches (designated as carrier container No. 7306), or

(3) Cartons with inside dimensions of 14 inches x 9 3/4 inches x 21 inches (designated as carrier container No. 7313), or

(4) Cartons with inside dimensions of 10 3/4 inches x 16 1/2 inches x 21 1/2 inches (designated as carrier container No. 7312—flat pack).

(b) *Pack.* (1) Lettuce heads, packed in containers No. 7303, 7306, or 7313; if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 7312 may be packed only 24 or 30 heads per container.

(c) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued for it, except when relieved of such

requirement by paragraphs (d) or (e) of this section.

(2) No handler may transport by motor vehicle, or cause such transportation of, any shipment of lettuce for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI-23) furnished by the inspection service verifying that such shipment meets the pack and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(d) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons or the equivalent of lettuce a day without regard to inspection, assessment, container and pack requirements. This exception shall not be applied to any shipment of over two cartons of lettuce.

(e) *Special purpose shipments.* The container, pack, and inspection requirements of this section shall not be applicable to shipments as follows:

(1) For relief, charity, experimental purpose, or export to Mexico, if a handler presents a Certificate of Privilege for such lettuce prior to handling it, pursuant to §§ 971.120-971.125; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it in a vehicle bearing Mexican registration (license).

(f) *Suspensions of packing holidays.* Upon approval of the committee, the prohibition against packaging lettuce on Christmas or on any Sunday may be modified or suspended to permit the handling of lettuce provided such handling complies with the procedures and safeguards specified by the committee.

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated November 13, 1979, to become effective November 19, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[FR Doc. 79-35489 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1464

Tobacco Loan Program; 1979 Crop Grade Loan Rates—Sun-Cured (Type 37) Tobacco

AGENCY: Commodity Credit Corporation.
ACTION: Final rule.

SUMMARY: This rule establishes the loan rates to be applied to the various grades of 1979-crop sun-cured (type 37) tobacco so as to provide the level of price support required by the Agricultural Act of 1949, as amended. Eligible sun-cured (type 37) tobacco can be delivered for price support at the specified rates.

EFFECTIVE DATE: November 15, 1979.

ADDRESS: U.S. Department of Agriculture, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dalton J. Ustynik, ASCS, (202) 447-6733.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of Section 106 of the Agricultural Act of 1949, as amended ("the Act"), the 1979 crop of sun-cured (type 37) tobacco is required to be supported at the level of 80.4 cents per pound. It is expected that price support will be provided through loans to a producer cooperative marketing association which will receive eligible tobacco from producers and make price support advances to the producers through auction warehouses. The tobacco received will serve as collateral for the loan. Price support advances will be based on the loan rates for each grade. These loan rates average the required level of support when weighted by the anticipated grade percentages as authorized by Section 403 of the Act. Price support advances to producers will be the amounts determined by multiplying the pounds of each grade received by the applicable loan rate for that grade less 1 cent per pound which the producers' association is authorized to deduct and to apply against overhead costs.

Final Rule

Accordingly, 7 CFR Part 1464 is amended by revising § 1464.20 to read as follows effective for the 1979 crop of sun-cured tobacco, type 37. The material previously appearing under § 1464.20 remains applicable to the crop to which it refers.

§ 1464.20 1979 Crop Virginia Sun-Cured Tobacco, Type 37, Grade Loan Schedule¹
[Dollars per hundred pounds, farm sales weight]

Loan Rate

Grade	Length 46	Length 45	Length 44
A1F.....	125	126	115
A2F.....	119	120	114
A3F.....	115	109	111
A1R.....	119	120	115
A2R.....	117	118	110
A3R.....	111	111	109
B1F.....	124	125	110
B2F.....	117	118	118
B3F.....	110	110	106
B4F.....	102	103	98
B5F.....	80	81	79
B1R.....	118	117	110
B2R.....	113	114	110
B3R.....	106	107	105
B4R.....	98	99	93
B5R.....	81	82	78
B1D.....	110	110	100
B2D.....	108	108	103
B3D.....	100	100	96
B4D.....	87	88	84
B5D.....	77	80	75
B3M.....	89	89	88
B4M.....	81	82	79
B5M.....	73	73	70
B3G.....	91	91	89
B4G.....	81	82	75
B5G.....	74	75	74
C1L.....	128	125	116
C2L.....	120	120	101
C3L.....	103	104	99
C4L.....	94	94	91
C5L.....	78	79	78
C1F.....	126	126	128
C2F.....	119	120	108
C3F.....	108	109	103
C4F.....	96	100	97
C5F.....	80	81	80
C1R.....	95	95	90
C2R.....	89	90	89
C3R.....	83	84	78
C4R.....	74	75	74
C5R.....	68	67	65
C3M.....	84	85	81
C4M.....	75	79	74
C5M.....	73	74	71
C3G.....	74	75	71
C4G.....	69	71	69
C5G.....	64	66	64

Grade	Grade	Grade
T3F.....	69	X1L..... 90
T4F.....	67	X2L..... 88
T5F.....	61	X3L..... 82
		X4L..... 77
		X5L..... 75
T3R.....	70	X3G..... 75
T4R.....	67	X4G..... 73
T5R.....	62	X5G..... 67
		X1F..... 90
		X2F..... 88
		X3F..... 84
		X4F..... 79
		X5F..... 75
		X1R..... 85
		X2R..... 83
		X3R..... 78
		X4R..... 73
		X5R..... 68
T3G.....	69	X3D..... 70
T4G.....	67	X4D..... 68
T5G.....	61	X5D..... 58

¹ Only the original producer is eligible to receive advances. Tobacco graded "no-G" (no grade), "U" (unsound), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Cooperatives are authorized to deduct \$1 per hundred pounds to apply against overhead costs.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044 "Improving Government Regulations". A determination has been made that this action should not be classified as "significant" under those criteria. This regulation contains necessary operating provisions and loan rates for sun-cured tobacco needed to implement the 1979 Tobacco Loan Program which was approved by the Secretary on September 13, 1979 and publicly announced the following day. A Final Impact Statement has been prepared and is available from Robert L. Tarczy, Price Support and Loan Division, Room 3741—South Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C. on November 7, 1979.

John W. Goodwin,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-35399 Filed 11-15-79; 8:45]

BILLING CODE 3410-05-M

7 CFR Part 1464

Tobacco Loan Program; 1979 Crop Grade Loan Rates—Burley Tobacco

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: This rule sets forth the schedule of loan rates applicable to the various grades of 1979 crop burley tobacco so as to provide the level of support required by the Agricultural Act of 1949, as amended. Eligible burley tobacco can be delivered for price support at the specified rates.

EFFECTIVE DATE: November 15, 1979.

ADDRESS: U.S. Department of Agriculture, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, ASCS, (202) 447-6733.

SUPPLEMENTARY INFORMATION: On September 20, notice was published in the Federal Register (44 FR 5416) inviting written comments, not later than October 22, on a proposed schedule of grade loan rates for providing price support for 1979 burley tobacco at the statutory level.

Section 106 of the Agricultural Act of 1949, as amended, prescribes a formula for computing, in cents per pound, the level of price support for each crop of tobacco for which marketing quotas are in effect or have not been disapproved by producers. Application of this formula requires that the 1979 crop of burley tobacco be supported at the level of 133.3 cents per pound.

Price support will be provided through loans to producer associations which

will receive eligible tobacco from the producers and make price support advances to the producers for the tobacco received. The price support advances will be based on the grade loan rates, which average the required level of support when weighted by estimated grade percentages, in accordance with section 403 of the Act. The price support advances for burley tobacco will be the amounts determined by multiplying the pounds of each grade received by the respective grade loan rate less 1 cent per pound which the producers' association is authorized to deduct and to apply against overhead costs.

Discussion of Comments

Two comments were received with respect to the schedule of loan rates proposed. One respondent concurred with the schedule as proposed. The other respondent objected to the tobacco program because of health reasons. Considering the comments, it has been decided to adopt the schedule without change.

Final Rule

Accordingly, 7 CFR Part 1464 is amended by revising § 1464.21 to read as set forth below, effective for the 1979 crop of burley tobacco. The material previously appearing under § 1464.21 remains applicable to the crop to which it refers.

(Secs. 4, 5, 62 Stat. 1020, as amended, (15 U.S.C. 714b, 714c), secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, (7 U.S.C. 1441, 1425, 1421, 1423))

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations". A determination has been made that this action should not be classified as "significant" under those criteria. This regulation contains necessary operating provisions and loan rates for burley tobacco needed to implement the 1979 Tobacco Loan Program which was approved by the Secretary on September 13, 1979, and publicly announced the following day. A Final Impact Statement was prepared and is available from Robert L. Tarczy, Price Support and Loan Division, ASCS, Room 3741—South Building, P.O. Box 2415, Washington, D.C. 20013.

Signed at Washington, D.C. on November 7, 1979.

John W. Goodwin,

Acting Executive Vice President, Commodity Credit Corporation.

§ 1464.21 1979 crop burley tobacco, type 31, loan schedule.¹

[In dollars per hundred pound, farm sales weight]

Grade	Loan rate	Grade	Loan rate
B1F.....	149	T5GF.....	109
B2F.....	147	T4GR.....	112
B3F.....	145	T5GR.....	107
B4F.....	142	C1L.....	149
B5F.....	138	C2L.....	147
B1FR.....	148	C3L.....	145
B2FR.....	146	C4L.....	142
B3FR.....	144	C5L.....	138
B4FR.....	141	C1F.....	149
B5FR.....	137	C2F.....	147
B1R.....	145	C3F.....	145
B2R.....	143	C4F.....	142
B3R.....	141	C5F.....	138
B4R.....	138	C3K.....	131
B5R.....	132	C4K.....	126
B4D.....	122	C5K.....	120
B5D.....	117	C3M.....	140
B3K.....	133	C4M.....	138
B4K.....	131	C5M.....	128
B5K.....	125	C3V.....	134
B3M.....	139	C4V.....	130
B4M.....	131	C5V.....	124
B5M.....	121	C4G.....	120
B3VF.....	139	C5G.....	112
B4VF.....	132	X1L.....	148
B5VF.....	129	X2L.....	146
B3VR.....	134	X3L.....	144
B4VR.....	128	X4L.....	138
B5VR.....	123	X5L.....	134
B3GF.....	125	X1F.....	148
B4GF.....	123	X2F.....	146
B5GF.....	119	X3F.....	144
B3GR.....	121	X4F.....	139
B4GR.....	119	X5F.....	133
B5GR.....	116	X4M.....	132
T3F.....	140	X5M.....	120
T4F.....	134	X4G.....	117
T5F.....	126	X5G.....	108
T3FR.....	138	M1F.....	123
T4FR.....	133	M2F.....	122
T5FR.....	122	M3F.....	121
T3R.....	131	M4F.....	119
T4R.....	128	M5F.....	117
T5R.....	122	M3FR.....	119
T4D.....	117	M4FR.....	117
T5D.....	113	M5FR.....	113
T4K.....	117	N1L.....	109
T5K.....	112	N2L.....	102
T4VF.....	125	N1F.....	105
T5VF.....	117	N1R.....	104
T4VR.....	118	N2R.....	98
T5VR.....	114	N1G.....	96
T4GF.....	112	N2G.....	88

¹ The loan rates listed are applicable to burley tobacco which is tied in hands or packed in bales and which is eligible tobacco as defined by the regulations. Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), "W" (wet), "No-G" (no grade), or scrap will not be accepted. Cooperatives are authorized to deduct \$1 per hundred pounds to apply against overhead costs.

[FR Doc. 79-35397 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1464

Puerto Rican Tobacco Purchase Program

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth operating details concerning the dealer purchase program for Puerto Rican Tobacco. This rule is needed in order to provide price support to

producers of Puerto Rican tobacco who have delivered their tobacco to eligible dealers.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Dalton Ustynik, ASCS (202) 447-6733.

SUPPLEMENTARY INFORMATION: This regulation is being amended in order to provide that: (1) the Producer Associations Division will administer the program, (2) provide that tobacco which has had toxaphene or endrin used on the tobacco in the field or after harvest is not eligible for loan, and (3) change references from the Consumer and Marketing Service to the Agricultural Marketing Service.

Final Rule

7 CFR 1464.51-1464.60 are amended to read as follows effective for the 1979 and subsequent crops.

§ 1464.51 General statement.

This subpart sets forth the terms and conditions of a price support program under which Commodity Credit Corporation (referred to in this subpart as CCC) will purchase eligible Puerto Rican tobacco from eligible dealers.

§ 1464.52 Administration.

This program will be administered by the Producer Associations Division, ASCS, under the general direction and supervision of the Executive Vice President, CCC.

§ 1464.53 Definitions.

(a) The term "Puerto Rican regulation" refers to the regulation issued by the Commonwealth of Puerto Rico Department of Agriculture entitled "Regulation to Govern Commercial Relations Between Tobacco Growers and Dealers".

(b) The term "loan program regulation" refers to the price support regulation issued by Commodity Credit Corporation, U.S. Department of Agriculture, entitled "Tobacco Loan Program" (Subpart A of this part).

(c) The term "eligible tobacco" means type 48 tobacco, of the current crop at the time of the offer to sell, of which not less than 85 percent is of grades for which price support is available under the loan program regulations and which is held by an eligible dealer, pursuant to the Puerto Rican regulation, for and on behalf of producers who have certified on Form MQ-38, "Certification of DDT, TDE, Toxaphene, of Endrin, Used on Tobacco," that pesticides containing DDT, TDE, toxaphene and endrin, as defined in Parts 724 and 725 of Chapter VII of this title, were not used on the tobacco in the field or after harvest.

(d) The term "eligible dealer" means a dealer who is licensed under, and who is in compliance with, the Puerto Rican regulation.

§ 1464.54 Offer to sell tobacco to Commodity Credit Corporation.

Each year, upon being informed by the Commonwealth of Puerto Rico Department of Agriculture of an eligible dealer who, after July 1, has eligible tobacco which he/she is unable to sell commercially at acceptable prices, CCC shall mail to such dealer Form No. PR-1 "Offer and Acceptance for Sale and Purchase of Puerto Rican Tobacco". If the dealer decides to offer tobacco to CCC, the dealer shall arrange to have the tobacco graded and weighed by inspectors of the Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture. The dealer shall furnish all labor and equipment necessary to facilitate the grading and weighing. Charges for inspectors will be paid by CCC. The dealer shall then complete the offer portion of the form, including the weight of each grade offered, shall execute that portion of the form in triplicate and shall airmail the executed copies of the form to the Director, Producer Associations Division, U.S. Department of Agriculture, Washington, D.C. 20013. A copy of the Grade and Weight Certificate, Form PR-2, signed by the inspector, shall accompany each offer. The dealer may submit more than one offer to sell, but no offer postmarked later than September 30 of the year in which executed will be accepted unless, for reasons beyond the control of the dealer, the grade and weight certificate could not be obtained by that date. The tobacco covered by each offer shall constitute a "lot".

§ 1464.55 Acceptance of offer—Title and risk of loss.

CCC shall promptly accept each properly executed offer on Form No. PR-1 by filling out and executing the acceptance portion of the form, and shall promptly airmail a copy to the dealer. Upon the execution of the acceptance form by CCC, the offer and acceptance shall constitute a valid and binding contract and title and risk of loss or damage to the tobacco shall pass to CCC.

§ 1464.56 Delivery and temporary storage.

The dealer shall deliver all tobacco sold to CCC f.o.b. trucks at dealer's warehouse when and as directed by CCC. Pending delivery the dealer shall furnish free storage for a period up to 45 days from the date of acceptance.

§ 1464.57 Purchase price for tobacco.

The purchase price for each lot of tobacco offered by the dealer shall be the sum of (a) the grade purchase rate designated in the Offer and Acceptance form for each grade multiplied by the number of pounds in each grade as shown on the acceptance form and on the applicable grade and weight certificate, totaled for all grades (hereinafter called the lot settlement value), and (b) a handling charge at the rate of \$11 per hundredweight of tobacco purchased. The grade purchase rate designated in the Offer and Acceptance form for each grade shall be the grade loan rate for the then current crop as announced by CCC for Puerto Rican tobacco pursuant to the loan program regulation, less 1 cent per pound, converted to a sweated-weight basis by multiplying by the factor 1.19. For Scrap and No Grade tobacco for which there is no grade loan rate under the loan program regulation, the grade purchase rate will be the grade loan rate for N grade, less 3 cents per pound, converted to a sweated-weight basis by multiplying by the factor 1.19.

§ 1464.58 Payment for tobacco.

CCC shall promptly pay the dealer for tobacco purchased following acceptance of an offer.

§ 1464.59 Dealer settlement with producers.

Within 30 days from the date the dealer receives payment from CCC for any lot of tobacco, he/she shall pay or credit to the account of all producers from whom he/she received tobacco an amount which, except for any minor difference resulting from the computation of each producer's share, is equal to the lot settlement value of the tobacco sold to CCC. Each producer's share of such payment shall be determined on the basis of all tobacco delivered to the dealer by all producers, including any tobacco sold commercially and the tobacco sold to CCC, in accordance with the following computation: The total loan value of all grades of tobacco received from all producers shall be determined on the basis of the announced CCC grade loan rates, or, in the case of Scrap and No Grade tobacco, for which there are no announced grade loan rates, on the basis of the grade loan rate for N grade, less 2 cents per pound. The lot settlement value of the tobacco sold to CCC shall be divided by the total loan value of all tobacco received. Each grade loan rate shall be multiplied by this factor to determine a grade settlement rate for each grade of tobacco received from producers. Each

producer from whom the dealer received tobacco during the year shall be paid or credited for each pound of tobacco of each grade the producer delivered at the grade settlement rate for that grade. Within 35 days from the date of receiving payment from CCC, the dealer shall execute and transmit to CCC, Form PR-3, "Certification of Payments to Producers".

§ 1464.60 Records and books.

The dealer shall keep complete and accurate records with respect to all transactions relating to the tobacco of any crop year during which tobacco is sold to CCC. Such records shall, at all times, show the name and address of each producer from whom tobacco was received, the number of pounds of each U.S. Government grade of tobacco received from each producer, the date and place received, the amounts advanced to each producer in money, material, or services, the date of such advances and description of services or materials charged as advances, quantities of tobacco sold, name and address of purchaser, grades and prices of tobacco sold, and amount paid to each producer or credited to each producer's account in settlement for the tobacco delivered.

The dealer shall keep such records for a period of 3 years after delivery of tobacco to CCC and shall make them available upon request to representatives of CCC or the General Accounting Office for examination and audit.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations". A determination has been made that this action should be classified as not "significant" under those criteria. This regulation contains necessary operating provisions and loan rates for Puerto Rican tobacco needed to implement the 1979 Tobacco Loan Program which was approved by the Secretary on September 13, 1979, and publicly announced the following day. A Final Impact Statement has been prepared and is available from Robert L. Tarczy, Price Support and Loan Division, Room 3754-South Building, P.O. Box 2415, Washington, D.C. 20013.

Effective date: November 15, 1979.

Signed at Washington, D.C. on November 7, 1979.

John W. Goodwin,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-35398 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration**7 CFR Part 2024****Property and Supply; Procurement, Sales and Leasing Authority; Amendment**

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations concerning delegations of procurement authority. This action is taken as a result of an administrative decision and its effect is to clarify limitations, in delegations, correct the title of a procurement official and reflect new positions having procurement authority.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Geiger, (202) 447-5777.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends Exhibit A to Subpart A, Part 2024, Chapter XVIII, Title 7 in the Code of Federal Regulations. This action is taken because a clarification is needed concerning limitations imposed on procurement authority, to reflect the change in the title of the head of the FmHA Training Center, and to insert the delegation of procurement authority to the State Director and the Administrative Officer in Hawaii to acquire equipment, supplies, and services, and printing and duplicating services.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is administrative in nature and will have no effect on the general public.

Therefore, in exhibit A of Subpart A of Part 2024, as amended, the introductory language, number 4 in the table, and the language after the table is amended to read as follows:

Exhibit A.—Delegation of Purchasing Authority (Small Purchases)

In accordance with *Agriculture Procurement Regulations* 4-3.602-50, the authority to purchase with redelegation power is delegated to these positions: (The delegation applies to equipment, supplies, and services that are not personal. They also are not normally or regularly obtained from established sources of Agency procurement. (This latter limitation does not apply to Puerto Rico)).

4. Training Centers:

Director—For emergency supplies and services for ongoing training, 200.

Authority to purchase with redelegation power is delegated to:

State Office—Hawaii, State Director; Equipment, Supplies, and Services, \$1,000; Printing and duplicating, \$500.

Administrative Officer, \$1,000, \$500.

This delegation replaces all others and is valid until changed or canceled. People in these positions, or those acting for them, can use this authority.

Use *Federal Procurement Regulations, Subpart 1-3.6; Agriculture Procurement Regulations, Subpart 4-3.6;* and Agency regulations that apply to using this authority. (7 U.S.C. 1939; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Note: This document has been reviewed in accordance with FmHA Instruction 1901-G "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969 Pub. L. 91-190 an Environmental Impact is not required.

Note.—This final rule has been reviewed for applicability of the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this rule involves agency management and Federal Government procurement only and is therefore exempt from those procedures. A determination has also been made that this action should not be classified "significant" under the USDA criteria.

Dated: October 25, 1979.

James E. Thornton,
Associate Administrator, Farmers Home Administration.

[FR Doc. 79-35521 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service**9 CFR Part 78****Miscellaneous Amendments (Effective Date Corrected)**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Correction of effective date.

SUMMARY: This document corrects the effective date for amendments to the brucellosis regulations. This action is needed to correct an administrative oversight which incorrectly stated the

*The authority granted herein will not be used for construction expenditures or for alterations of space or real property facilities except for items 7 and 8 above.

effective date as September 28, 1979, instead of October 28, 1979.

EFFECTIVE DATE: October 28, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, Staff Veterinarian, National Brucellosis Eradication Program, Federal Building, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8713.

SUPPLEMENTARY INFORMATION: On September 28, 1979, there was published in the *Federal Register* (44 FR 55805-55808) a final rulemaking document amending the brucellosis regulations in 9 CFR Part 78. Through an administrative oversight, the effective date was published as September 28, 1979. It should have been October 28, 1979.

In order to correct this error, the effective date of the final regulations concerning Part 78, Title 9, Code of Federal Regulations, published in the *Federal Register* on September 28, 1979, at 44 FR 55805-55808 is changed to October 28, 1979.

Done at Washington, D.C., this 8th day of November 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-35149 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY**Nuclear Regulatory Commission****10 CFR Part 73****Physical Protection of Plants and Materials; Requirements for the Physical Protection of Nuclear Power Plants**

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The date when pat-down searches of regular employees at nuclear power plants, two-man rule procedures and additional compartmentalization have to be implemented for protection against insider sabotage is being changed from November 1, 1979 to November 1, 1980. The delay is being granted to allow the Commission time to evaluate the effectiveness of alternative means for protecting against the insider threat. It was noted in 44 FR 47758 (August 15, 1979) that the Commission was considering the Hearing Board's recommendations (and other alternatives) on a program to assure trustworthiness of individuals at nuclear power plants before a final decision on

the need for pat-down searches of regular employees, two-man rule procedures and additional compartmentalization is made; the Commission is still evaluating these alternatives.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. T. S. Michaels, Safeguards Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301/443-5903.

SUPPLEMENTARY INFORMATION: On July 13, 1979, the Commission changed the date from August 1, 1979, to November 1, 1979, when pat-down searches of regular employees of nuclear power plant licensees, two-man rule procedures and compartmentalization to provide protection against insider sabotage at nuclear power plants had to be implemented. The rationale for this extension was developed in the *Federal Register* notice on this subject, 44 FR 47758, August 15, 1979.

It was noted in 44 FR 47758 that the Commission was considering the Hearing Board's recommendations (and other alternatives) on a program to assure trustworthiness of individuals at nuclear power plants before a decision on the need for pat-down searches of regular employees, two-man rule procedures and additional compartmentalization could be made; the Commission is still evaluating these and other alternatives. Accordingly, the date when pat-down searches of regular employees at nuclear power plants, two-man rule procedures, and additional compartmentalization for protection against insider sabotage become effective is being changed from November 1, 1979 to November 1, 1980.

In the meantime, all licensees have met all the other requirements of 10 CFR 73.55, and the Commission is satisfied that these other measures, combined with search procedures presently being followed and other actions taken to assure more positive access control of type I vital areas, will in total, for the interim, provide an acceptable level of protection against sabotage by an insider at nuclear power plants.

The Commission had determined that this action is consistent with the common defense and security and the protection of public health and safety. The Commission has, for good cause, found that notice and public procedure on this amendment are unnecessary because of the earlier public participation in the rulemaking proceeding leading to 10 CFR 73.55. The amendment is also made effective immediately on November 16, 1979

because it serves to relieve a restriction that would otherwise be imposed on affected licensees of the Commission on November 1, 1979.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10 Chapter I, Code of Federal Regulations, Part 73 is published as a document subject to codification.

§ 73.55 [Amended]

1. Section 73.55 of 10 CFR Part 73 is amended to change the date of November 1, 1979 to November 1, 1980, in the second to last sentence of the unnumbered prefatory paragraph of this section.

Effective date: November 16, 1979.

(Sec. 161i, Pub. L. 83-703, 68 Stat. 948, Pub. L. 93-377, 88 Stat. 475; Sec. 201, Pub. L. 93-438, 88 Stat. 1242-1243, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 2201, 5841).)

Dated at Washington, D.C., this 13th day of November 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 79-35619 Filed 11-15-79; 8:45 am]
BILLING CODE 7590-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 145, and 147

General Regulations Under the Commodity Exchange Act, Freedom of Information Act, and Government in the Sunshine Act; Financial Reporting Requirements for Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is adopting amendments to its financial reporting requirements for futures commission merchants (FCMs). The amendments to §§ 1.10, 1.12, 1.16, 1.18 and 1.52 of the regulations will allow those FCMs, or applicants therefor, which are registered with the Securities and Exchange Commission ("SEC") as securities brokers or dealers to comply with the Commission's financial reporting requirements by filing copies of the SEC's FOCUS Report,¹ Part II, in

¹ Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934. A copy of the FOCUS Report, Part II can be found at 3 Fed. Sec. L. Rep. (CCH) ¶33,928.

lieu of the Commission's Form 1-FR. The amendments will also allow FCM/broker-dealers to use the FOCUS Report, Part II, when computing adjusted net capital for purposes of the required monthly capital computations. In addition, the Commission is amending its rules under the Freedom of Information Act ("FOIA") (5 U.S.C. 552) concerning those portions of the FOCUS Report, Part II, that generally will not be made public or released. Finally, the Commission is amending its rules under the Government in the Sunshine Act (5 U.S.C. 552b) with respect to closing Commission meetings to the public and withholding from the public certain information concerning the portions of the FOCUS Report, Part II, that generally will not be made public or released.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Daniel A. Driscoll, Chief Accountant, Division of Trading and Markets, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-8955.

SUPPLEMENTARY INFORMATION: The Commission adopted new minimum financial requirements on August 29, 1978,² which, among other things, amended the reporting requirements for FCMs and changed the criteria used to determine whether an FCM meets the Commission's minimum financial requirements. To implement the provisions of the revised minimum financial regulations, the Commission adopted a revised Form 1-FR, the basic financial reporting form for FCMs, on March 6, 1979.³

When the Commission adopted the new minimum financial requirements, it stated that the Commission staff and representatives of the SEC had initiated cooperative efforts in connection with their respective financial regulations to eliminate duplicative financial regulation of FCMs which are also registered brokers or dealers.⁴ When the Commission adopted the revised Form 1-FR, it noted that the SEC had proposed for comment⁵ amendments to its uniform net capital rule (17 CFR 240.15c3-1). The Commission also stated

² The regulations were published on September 8, 1978 at 43 FR 39956.

³ The revised Form 1-FR was published on March 12, 1979 at 44 FR 13435. At the same time, the Commission amended its regulations under the FOIA and Government in the Sunshine Act to reflect the changes being made in Form 1-FR and to give nonpublic treatment to certain portions thereof.

⁴ 43 FR 39956, at 39957-39958 (September 8, 1978). The Commission had also publicly announced this cooperation in its Federal Register releases proposing changes in the minimum financial requirements. 42 FR 27168, at 27168 (May 26, 1977) and 43 FR 15072, at 15076 (April 10, 1978).

⁵ 44 FR 1754 (January 8, 1979).

that the SEC amendments, if adopted as proposed, could provide the requisite uniformity to permit the Commission to allow those FCMs which are also registered with the SEC as securities broker-dealers to comply with the Commission's financial reporting requirements by simply filing copies of the SEC's FOCUS report with self-regulatory organizations and the Commission.⁶

On June 5, 1979, the SEC adopted the amendments to its uniform net capital rule in substantially the same form as they were proposed.⁷ The effect of the amendments is to conform the SEC's uniform net capital rule to the provisions of the Commission's minimum financial requirements relating to various aspects of the commodities business of an FCM (or applicant therefor) which is also a registered broker or dealer.

The few computational differences that remain between the Commission's minimum financial rules and the SEC's net capital rule impact primarily on those FCM/broker-dealers which are also cash commodity merchants, cooperatives, or manufacturers. Very few FCM/broker-dealers engage in these types of businesses. In the case of each such computational difference of which the Commission is aware, the SEC's net capital treatment is more stringent than that of the Commission. Therefore, an FCM/broker-dealer's adjusted net capital computed pursuant to the Commission's rules would always be the same as or greater than its net capital computed in accordance with the SEC Rule.⁸ If an FCM wishes to use the Commission's computational criteria, it must utilize Form 1-FR. If an FCM/broker-dealer chooses to file a copy of its FOCUS Report, Part II, in lieu of Form 1-FR, it must use the SEC's computational criteria when preparing such report.

In addition to adopting the proposed amendments to its uniform net capital rule, the SEC also added on June 5, 1979 another schedule to its FOCUS Report entitled "Schedule of Segregation Requirements and Funds in Segregation."⁹ This schedule is identical to the Schedule with the same title

⁶ 44 FR 13435, at 13436.

⁷ The amended rule was published on June 15, 1979 at 44 FR 34884 and became effective on July 23, 1979.

⁸ FCM/broker-dealers should, however, be aware that the SEC's rule sets lower minimum capital requirements for certain classes of broker-dealers than the Commission has set for FCM's. Consequently an FCM broker-dealer could meet the SEC requirements but fail to meet the Commission's minimum capital requirements.

⁹ 44 FR 34889 (June 15, 1979). This addition to the FOCUS reporting system was proposed at 44 FR 1759 (January 8, 1979).

contained in Form 1-FR. With this additional Schedule, Part II of the FOCUS Report provides, with one exception, substantively identical information to that provided on Form 1-FR.¹⁰ For those FCM/broker-dealers which carry commodity options accounts for customers, the information set forth in the Schedule in footnote 10 must be provided along with Part II of the FOCUS Report (the required information need not necessarily be furnished in exactly the form set out in footnote 10). All FCM/broker-dealers are reminded of their continuing obligation under § 1.16(c)(5) of the Commission's regulations (17 CFR 1.16(c)(5)) to file the independent accountant's supplemental report on material inadequacies concurrently with the annual audit report.

Consistent with current practice regarding such schedules filed as part of the Form 1-FR, information regarding segregated funds submitted as part of the FOCUS Report, Part II will be treated as public information under the FOIA, and the Government in the Sunshine Act and Commission regulations promulgated thereunder.

At present, the only information included on the Form 1-FR which is not included on the FOCUS Report, Part II is in the schedule set forth in footnote 10.¹¹

To take into account the possibility that the Commission might in the future require additional information in Form 1-FR and the SEC did not amend its financial reporting system accordingly, the amended regulations will be worded so that an FCM/broker-dealer will be permitted to file a copy of the FOCUS Report, Part II, in lieu of Form 1-FR, so long as such filing provides the Commission with the same information that would be furnished if a Form 1-FR were to be filed.

¹⁰ The one exception is the "Schedule of Segregation Requirements and Funds in Segregation", which is as follows:

FCM: _____ Firm Employer Id. No. _____

FORM 1-FR.—Schedule of Segregation Requirements and Funds in Segregation as of _____

Commodity Options Accounts

1. Amount required to be segregated in accordance with Commission regulation 32.6. \$ _____
2. Funds in Segregation:
 - A. Cash. \$ _____
 - B. Securities (at market). \$ _____
 - C. Total of A and B. \$ _____
3. Excess funds in segregation (2 minus 1). \$ _____

¹¹ There are three other schedules which are part of the FOCUS Report but which have no equivalent in the Form 1-FR. These schedules are discussed below.

Amendments to Commission Rule 145.5

The Freedom of Information Act ("FOIA"), 5 U.S.C. 552, basically requires that upon request, the Commission must make its records available to the public unless the records fall within the exemptions set forth in the FOIA. Section 552(b)(4) of the FOIA provides that "trade secrets and commercial or financial information obtained from a person and privileged or confidential" are exempt from mandatory public disclosure. Section 145.5(d)(1)(i) of the Commission's regulations under the FOIA, 17 CFR 145.5(d)(1)(i), provides that certain of the information submitted to the Commission on and with Form 1-FR is to be treated as nonpublic. The Commission is now amending Section 145.5(d)(1)(i) to take account of the change in the regulations which will permit those FCMs, or applicants therefor, which are registered broker-dealers to file copies of the FOCUS Report, Part II.¹²

Under 145.5(d)(1)(i)(C) of the amended rule, the following portions, and related footnote disclosures thereof, of the FOCUS Report, Part II which an FCM/broker-dealer may file in lieu of Form 1-FR pursuant to § 1.10(h) of the Commission's regulations will be treated as nonpublic provided that the procedure set forth in 1.10(g)¹³ of the Commission's regulations is followed: the Statement of Income (Loss), the Statement of Changes in Financial Position, the Computation for Determination of Reserve Requirements for Broker-Dealers under [SEC] Rule 15c3-3, the Statement of Ownership Equity and Subordinated Liabilities maturing or proposed to be withdrawn within the next six months and accruals, which have not been deducted in the computation of net capital, and the Recap thereof, the Statement of Changes in Ownership Equity, the Statement of

¹² In certain instances, some of the information on the nonpublic portions of the FOCUS Report, Part II, may also be subject to general protection from public disclosure under Section 8(a) of the Commodity Exchange Act if it "would separately disclose the business transactions or market positions of any person and trade secrets or names of customers." As such, that information would be entitled to be withheld from disclosure under the FOIA pursuant to the exemption for matters specifically exempted from disclosure by a statute which requires withholding from the public. See Section 552(b)(3) of the FOIA, 5 U.S.C. 552(b)(3), and Section 145.5(c) of the Commission's regulations thereunder, 17 CFR 145.5(c).

¹³ Section 1.10(g) requires that the other portions of the Form 1-FR be bound separately in order that nonpublic treatment be accorded to the portions listed in Section 145.5(d)(1)(i)(B). Section 1.10(g) is being amended to add a similar requirement regarding nonpublic treatment of the portions of the FOCUS Report, Part II, listed in the text.

Changes in Liabilities Subordinated to the Claims of General Creditors, the Statement of Financial and Operational Data, and the accountant's report on material inadequacies filed under § 1.16(c)(5) of the Commission's regulations.

The Commission will, therefore, generally make available under the FOIA the Statement of Financial Condition, the Computation of Net Capital, and the Schedule of Segregation Requirements and Funds in Segregation of the FOCUS Report, Part II. By doing so, the Commission will preserve parity of treatment for all FCMs, since the Commission generally makes available comparable portions of the Form 1-FR. The SEC generally treats as nonpublic all of the FOCUS Report, Part II, except for the Statement of Financial Condition, and accompanying footnotes, from the certified report filed as of the fiscal year-end. One of those footnotes reports the firm's net capital position; thus, the release of the Computation of Net Capital will merely serve to give the details of that reported position. The Schedule of Segregation Requirements and Funds in Segregation on the FOCUS Report, Part II is identical to the schedule with the same name on the Form 1-FR. The Commission generally has made that schedule available under the FOIA, and it will do the same regarding that schedule on the FOCUS Report, Part II. The above considerations will also be reflected in the Commission's treatment of the FOCUS Report, Part II under the Government in the Sunshine Act.

The schedules Computation for Determination of Reserve Requirements for Broker-Dealers under [SEC] Rule 15c3-3 and Statement of Financial and Operational Data reflect information about the business of FCM/broker-dealers which relates principally to their securities-related activities. Therefore, there are no corresponding schedules on the Form 1-FR, since such information is not applicable to FCMs which are not broker-dealers. The schedule Statement of Ownership Equity and Subordinated Liabilities maturing or proposed to be withdrawn within the next six months and accruals, which have not been deducted in the computation of net capital, and the Recap thereof, compiles in tabular form information which is currently contained in the Commission's records and generally accorded nonpublic treatment, although there is no similar schedule filed with Form 1-FR.

The instructions to Form 1-FR inform the applicant or registrant of his rights and the Commission's responsibilities

under the FOIA and the Commission's regulations promulgated thereunder,¹⁴ and every FCM or applicant therefor which is a registered broker-dealer should be familiar with those instructions. The Commission's policy is that exempt records generally will be withheld from disclosure under the FOIA; however, irrespective of this policy and of whether a person petitions the Commission for confidential treatment, the Commission has an obligation to determine whether its records are publicly available. A person who has submitted information and has accompanied the submission with a petition for confidential treatment has the right to notice and appeal of a decision by the Commission staff and the Commission itself as to the disclosure or withholding of materials pursuant to the FOIA. See 17 CFR 145.9.¹⁵ Those considering filing a petition for confidential treatment are reminded of the requirement in Rule 145.9(i) that a petitioner intend in good faith to aid the Commission in any proceeding that might be brought to compel the Commission to disclose the information.

Amendments to Commission Rule 147.3

The Government in the Sunshine Act, 5 U.S.C. 552b, basically requires that Commission meetings be open to public observation and certain information pertaining to meetings be disclosed to the public unless a meeting is likely to focus on a specifically exempted matter. One such exemption is provided in Section 552b(c)(4) of that Act which provides that Commission meetings or portions of meetings which are likely to "disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential" may be closed and that certain information with respect thereto may be withheld from the public.

Section 147.3(b)(4)(i)(A) of the Commission's regulations under that Act, 17 CFR 147.3(b)(4)(i)(A), permits the closing of Commission meetings or portions of meetings and the withholding from the public of certain information with respect thereto when such meetings or portions of meetings are likely to involve discussions of certain nonpublic information submitted to the Commission with Form 1-FR's. The Commission is now amending Rule

147.3(b)(4)(i)(A) to take account of the change in the regulations which will permit those FCMs, or applicants therefor, which are registered broker-dealers to file copies of the FOCUS Report, Part II.¹⁶

Under § 147.3(b)(4)(i)(A)(3) of the amended rule, the following portions, and related footnote disclosures thereof, of the FOCUS Report, Part II which an FCM/broker-dealer may file in lieu of Form 1-FR pursuant to 1.10(h) of the Commission's regulations will constitute a basis for closing Commission meetings or portions of meetings and withholding from the public information pertaining thereto provided that the procedure set forth in § 1.10(g) of the Commission's regulations¹⁷ is followed: the Statement of Income (Loss), the Statement of Changes in Financial Position, the Computation for Determination of Reserve Requirements for Broker-Dealers under [SEC] Rule 15c3-3, the Statement of Ownership Equity and Subordinated Liabilities maturing or proposed to be withdrawn within the next six months and accruals which have not been deducted in the computation of net capital, and the Recap thereof, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors, the Statement of Financial and Operational Data, and the accountant's report on material inadequacies filed under § 1.16(c)(5) of the Commission's regulations.

Effective Date

The foregoing rule amendments shall be effective immediately. The Commission finds that the amendments are merely interpretive of existing practice and procedure of which the public has previously been informed and that these rule changes will not have a

¹⁴In certain instances, some of the information on the nonpublic portions of the FOCUS Report, Part II, may also be subject to general protection from public disclosure under Section 5(a) of the Commodity Exchange Act if it "would separately disclose the business transactions or market positions of any person and trade secrets or names of customers." As such, that information would constitute a basis for closing Commission meetings or portions of meetings and withholding from the public certain information with respect thereto pursuant to the exemption for matters specifically exempted from disclosure by a statute which requires withholding from the public. See Section 552b(c)(3) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(3), and Section 147.3(b)(3) of the Commission's regulations thereunder, 17 CFR 147.3(b)(3).

¹⁵A conforming amendment to Section 1.10(g) is being made to make clear that nonpublic treatment will generally be accorded to appropriate portions of the Form 1-FR and the FOCUS Report, Part II under the Government in the Sunshine Act, as well as FOIA, provided the separate binding procedure is followed.

substantial impact on the public. Therefore, any further public procedures and publication prior to the effective date of the rules, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required. The amendments to Sections 1.10, 1.12, 1.16, 1.18 and 1.52 of the Commission's regulations are procedural in nature and do not affect any substantive rights since they merely provide those FCMs, or applicants therefor, which are registered as brokers or dealers with the option of filing copies of the FOCUS Report, Part II, in lieu of Form 1-FR.¹⁸ The conforming amendment in § 1.10(g) to reference the Government in the Sunshine Act is also a matter of procedure.

The amendments to Parts 145 and 147 are also being made effective immediately to provide that nonpublic treatment now accorded to certain information required to be contained on the Form 1-FR is accorded to the same information if provided on the FOCUS Report, Part II. This merely carries over existing procedures.

In consideration of the foregoing and pursuant to the authority in 5 U.S.C. 552, 5 U.S.C. 552b, and Sections 2(a)(11), 4b, 4f, 4g, 5a, 8a, and 17 of the Commodity Exchange Act, 7 U.S.C. 4a(j), 6b, 6f, 6g, 7a, 12a, and 21, as amended, 92 Stat. 865 *et seq.*, the Commission hereby amends Parts 1, 145 and 147 of Chapter I of Title 17 of the Code of Federal Regulations as follows (> < indicate additions, [] indicate deletions):

PART I—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.10 is amended by adding the following sentence in paragraph (g) thereof and a new paragraph (h) thereto:

§ 1.10 Application for registration and financial reports of Futures Commission Merchants.

(g) *Nonpublic treatment of reports.* All of the forms 1-FR filed pursuant to this

¹⁶In anticipation of the changes made by the SEC, the Commission's Division of Trading and Markets issued a "no-action" letter on December 22, 1978 to permit FCM/broker-dealers to file copies of the FOCUS Report, Part II, in lieu of Form 1-FR. That no-action position was subsequently extended in letters dated March 26, 1979, May 3, 1979, and August 6, 1979. It should, therefore, be unnecessary for any firm to change its present practices solely as a result of the instant rule changes. Those first three "no-action" letters also extended to FCM/broker-dealers who failed to meet the Commission's minimum financial requirements if they could affirmatively demonstrate that they met the SEC's net capital rule. That portion of the "no-action" position expired on July 15, 1979. All FCM/broker-dealers were required to meet the Commission's minimum financial requirements beginning July 16, 1979.

section will be public: *Provided, however, That if the statement of financial condition, the computation of the minimum capital requirements pursuant to § 1.17, and the schedule of segregation requirements and funds on deposit in segregation are bound separately from the other financial statements (including the statement of income (loss)), footnote disclosures and schedules of form 1-FR, trade secrets and certain other commercial or financial information on such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act [and the Government in the Sunshine Act] and part [s] 145 [and 147] of this chapter. [All of the copies of the FOCUS Report, Part II, filed pursuant to paragraph (h) of this section will be public: *Provided, however, That if the statement of financial condition, the computation of net capital, and the schedule of segregation requirements and funds on deposit in segregation are bound separately from the other financial statements (including the statement of income (loss)), footnote disclosures and schedules of the FOCUS Report, Part II, trade secrets and certain other commercial or financial information on such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act and the Government in the Sunshine Act and parts 145 and 147 of this chapter.] All information on such other statements, footnote disclosures and schedules will, however, be available for official use by any official or employee of the United States or any State, by any self-regulatory organization of which the person filing such report is a member, and by any other person to whom the Commission believes disclosure of such information is in the public interest. Nothing in this paragraph (g) will limit the authority of any self-regulatory organization to request or receive any information relative to its members' financial condition. The independent accountant's opinion filed pursuant to this § 1.10 will be deemed public information.**

[(h) *FCM/broker-dealer filing option.* Any applicant or registrant which is registered with the Securities and Exchange Commission as a securities broker or dealer may comply with the requirements of this section by filing (in accordance with subparagraph (a)(2) and paragraphs (b) and (c) of this section) a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1-FR; *Provided, however, That all information*

which is required to be furnished on and submitted with Form 1-FR is provided with such Report.]

2. In § 1.12, paragraph (b) is amended to read as follows:

§ 1.12 Maintenance of minimum financial requirements by Futures Commission Merchants.

(b) * * * Such applicant or registrant must also file a Form 1-FR [(or, if such applicant or registrant is registered with the Securities and Exchange Commission as a securities broker or dealer, it may file (in accordance with § 1.10(h)) a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1-FR)] or such other financial statement designated by the Commission and/or the designated self-regulatory organization, if any, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three (3) successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in excess of the minimums set forth in this paragraph (b) which are applicable to such applicant or registrant. Each financial statement required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

3. In § 1.16, paragraph (c) is amended to read as follows:

§ 1.16 Qualifications and Reports of Accountants.

(c) * * *

(5) * * * An applicant must file concurrently with the audit report a supplemental report by the accountant describing any material inadequacies found to exist as of the date of the form 1-FR being filed [.] [.] *Provided, however, that if such applicant is registered with the Securities and Exchange Commission as a securities broker or dealer, and it files (in accordance with § 1.10(h)) a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1-FR, the accountant's supplemental report must indicate any corrective action taken or proposed by the applicant or registrant in regard thereto. If the audit did not disclose any*

material inadequacies, the supplemental report must so state.

4. In § 1.18, paragraphs (a) and (b) are amended to read as follows:

§ 1.18 Records for and relating to financial reporting and monthly computation.

(a) No person shall be registered as a futures commission merchant under the Act unless, commencing on the date his application for such registration is filed, he prepares and keeps current ledgers or other similar records which show or summarize, with appropriate references to supporting documents, each transaction affecting his asset, liability, income, expense and capital accounts, and in which (except as otherwise permitted in writing by the Commission) all his asset, liability and capital accounts are classified into either the account classification subdivisions specified on Form 1-FR [or, if such person is registered with the Securities and Exchange Commission as a securities broker or dealer and he files (in accordance with § 1.10(h)) a copy of his Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1-FR, the account classification subdivisions specified on such Report.] or categories that are in accord with generally accepted accounting principles. Each person so registered shall prepare and keep current such records.

(b) Each applicant or registrant must make and keep as a record in accordance with § 1.31, formal computations of its adjusted net capital and of its minimum financial requirements pursuant to § 1.17 or the requirements of the designated self-regulatory organization to which it is subject as of the close of business each month. [An applicant or registrant which is also registered as a securities broker or dealer with the Securities and Exchange Commission may meet the computation requirements of this paragraph by completing the Statement of Financial Condition and Computation of Net Capital portions of the Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II.] * * *

5. In § 1.52, paragraph (a) is amended to read as follows:

§ 1.52 Self-regulatory organization adoption and surveillance of minimum financial requirements.

(a) * * * Such requirements must be the same as, or more stringent than, those contained in §§ 1.10 and 1.17, and

the definition of adjusted net capital must be the same as that prescribed in § 1.17(c): *Provided, however*, A designated self-regulatory organization may determine the number of form 1-FR's it receives from its member registrants so long as it requires at least semiannual Form 1-FR's, one of which must be certified in accordance with § 1.16 for each such registrant (.) [; *Provided, further*, A designated self-regulatory organization may permit its member registrants which are registered with the Securities and Exchange Commission as securities brokers or dealers to file (in accordance with Section 1.10(h)) a copy of their Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1-FR.]

PART 145—COMMISSION RECORDS AND INFORMATION

6. In § 145.5, paragraph (d)(1)(i) is amended to read as follows:

§ 145.5 Nonpublic matters.

- (d) * * *
- (i) * * *
- (i) * * *

[(C) The following portions, and footnote disclosures thereof, of the Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, filed pursuant to 17 CFR 1.10(h): *Provided*, The procedure set forth in 17 CFR 1.10(g) is followed: The Statement of Income (Loss), the Statement of Changes in Financial Position, the Computation for Determination of Reserve Requirements for Broker-Dealers under [SEC] Rule 15c3-3, the Statement of Ownership Equity and Subordinated Liabilities maturing or proposed to be withdrawn within the next six months and accruals, which have not been deducted in the computation of net capital, and the Recap thereof, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors, the Statement of Financial and Operational Data, and the accountant's report on material inadequacies filed under 17 CFR 1.16(c)(5).]

PART 147—OPEN COMMISSION MEETINGS

7. In § 147.3, paragraph (b)(4)(i)(A) is amended to read as follows:

§ 147.3 General requirements of open meetings; grounds upon which meetings may be closed.

- (b) * * *
- (4) * * *
- (i) * * *
- (A) * * *

[(3) The following portions, and footnote disclosures thereof, of the Financial and Operational Combined Uniform Single Report under the Securities and Exchange Act of 1934, Part II, filed pursuant to 17 CFR 1.10(a): *Provided*, The procedure set forth in 17 CFR 1.10(g) is followed: The Statement of Income (Loss), the Statement of Changes in Financial Position, the Computation for Determination of Reserve Requirements for Broker-Dealers under [SEC] Rule 15c3-3, the Statement of Ownership Equity and Subordinated Liabilities maturing or proposed to be withdrawn within the next six months and accruals, which have not been deducted in the computation of net capital, and the Recap thereof, the Statement of Changes in Ownership Equity, the Statement of Changes in Liabilities Subordinated to the Claims of General Creditors, the Statement of Financial and Operational Data, and the accountant's report on material inadequacies filed under 17 CFR 1.16(c)(5).]

Issued in Washington, D.C. on November 6, 1979 by the Commission.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 79-34725 Filed 11-15-79; 8:45 am]
BILLING CODE 8351-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 73

[Docket No. 78C-0041]

Silver; Listing of Color Additives Exempt From Certification

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: This document "permanently" lists silver for use in externally applied cosmetics and exempts that color additive from certification. Kirker Chemical Co. filed a petition for such use.

DATES: Effective December 17, 1979; objections by December 17, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and

Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A petition (CAP 800137) to provide for the safe use of crystalline silver metal (silver) as a color additive in fingernail polish was filed by Kirker Chemical Co., 1 East 11th St., P.O. Box 365, River Street Station, Paterson, NJ 07524. A notice of filing was published in the Federal Register of March 17, 1978 (43 FR 11288). The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376).

The Food and Drug Administration has evaluated the data in the petition and other relevant material and concludes that silver is safe, under the conditions set forth below, for use in coloring fingernail polish and that certification is not necessary for the protection of the public health. The agency also concludes that the name silver is preferable to the name given in the filing notice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 73 is amended in Subpart C by adding new § 73.2500 to read as follows:

§ 73.2500 Silver.

(a) *Identity*. (1) The color additive, silver, is a crystalline powder of high purity silver prepared by the reaction of silver nitrate with ferrous sulfate in the presence of nitric, phosphoric and sulfuric acids. Polyvinyl alcohol is used to prevent the agglomeration of crystals and the formation of amorphous silver.

(2) Color additive mixtures of silver may contain only those diluents listed in § 73.1001(b) and, in addition, nitrocellulose.

(b) *Specifications*. Silver shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by good manufacturing practice:

Lead (as Pb), not more than 10 parts per million.
Arsenic (as As), not more than 5 parts per million.
Mercury (as Hg), not more than 1 part per million.
Silver (as Ag), not less than 99.9 percent.

(c) *Uses and restrictions*. The color additive silver may be safely used for

coloring fingernail polish at a level not to exceed 1 percent of the final product.

(d) *Labeling*. The color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any other information required by law, labeling in accordance with the provisions of § 70.25 of this chapter.

(e) *Exemption from certification*. Certification of this color additive is not necessary for the protection of the public health and therefore batches thereof are exempt from the certification requirements of section 706(c) of the act.

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 17, 1979 file written objections with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Objections should show how the person filing them will be adversely affected by the regulation, specify with particularity the provisions of the regulation thought to be objectionable, and state the grounds for each objection. Objections are to be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections must state the issues for the hearing, be supported by grounds factually and legally sufficient to justify the relief sought, and include a detailed description and analysis of the factual information intended to be presented in support of each objection in the event that a hearing is held. Four copies of all documents should be filed and identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the office of the Hearing Clerk, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective December 17, 1979, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the Federal Register.

(Sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d)))

Dated: November 7, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-35002 Filed 11-15-79; 8:45 am]
BILLING CODE 4110-05-M

21 CFR Part 510

New Animal Drugs; Federal Pharmacal, Inc.; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect the change of sponsor for chloramphenicol capsules and tetracycline hydrochloride capsules from Pierrel America, Inc., to Federal Pharmacal, Inc. Two supplemental new animal drug applications (NADA's) filed by Federal Pharmacal, Inc., provide for this change.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Federal Pharmacal, Inc., filed supplemental new animal drug applications (NADA 65-345 and 65-467) providing for the change of sponsor for chloramphenicol capsules and tetracycline hydrochloride capsules, respectively.

This intercorporate transfer of NADA's does not involve changes in facilities, equipment, procedures, or production personnel. Under the bureau's supplemental approval policy (42 FR 64367, December 23, 1977), this is a category I change; therefore, this action does not require a reevaluation of the safety and effectiveness data in the parent applications.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 510.600 is amended in paragraph (c)(1) by deleting the entry for "Pierrel America, Inc." and by alphabetically adding a new sponsor entry, and in paragraph (c)(2) by deleting the sponsor entry for "000345" and by numerically adding a new sponsor entry to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

Firm name and address	Drug labeler code
* * * * *	
Federal Pharmacal, Inc., P.O. Box Q, Kingshill, St. Croix, U.S. Virgin Islands 00850.	000345
* * * * *	
(2) * * *	

Drug labeler code	Firm name and address
* * * * *	
000345	Federal Pharmacal, Inc., P.O. Box Q, Kingshill, St. Croix, U.S. Virgin Islands 00850.
* * * * *	

Effective date. This regulation is effective November 16, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 7, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-35000 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 520 and 522

Sulfadimethoxine Tablets and Injection; Change of Sponsor

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations to reflect the change of sponsor for two sulfadimethoxine products from Affiliated Laboratories, Division of Whitmoyer Laboratories, Inc., to Beecham Laboratories, Division of Beecham, Inc. Supplemental new animal drug applications (NADA's) filed by Beecham Laboratories provide for this change.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Division of Beecham, Inc., Bristol, TN 37620, filed supplemental NADA's 13-526 and 13-527 providing for the change of sponsor for sulfadimethoxine tablets and sulfadimethoxine injection, respectively.

Approval of these supplemental applications does not adversely affect the safety or effectiveness of the products because it provides only for an intercorporate transfer of NADA's, and no changes in manufacturing, packaging, or quality control. Accordingly, the Director of the Bureau of Veterinary Medicine concludes that these approvals do not require a reevaluation of the safety and effectiveness data in the parent applications.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner

of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 522 are amended as follows:

§ 520.2220b [Amended]

1. In Part 520, § 520.2220b *Sulfadimethoxine tablets and boluses* is amended in paragraph (b)(2) by deleting the number "011825" and inserting in its place the number "000029."

§ 522.2220 [Amended]

2. In Part 522, § 522.2220 *Sulfadimethoxine injection*, is amended in paragraph (b)(2) by deleting the number "011825" and inserting in its place the number "000029."

Effective date: November 16, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 7, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-35001 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 520 and 558

**New Animal Drug Applications;
Change of Sponsor**

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect the change of sponsor for several new animal drug applications (NADA's) from Shell Chemical Co. to Diamond Shamrock Corp. Supplemental NADA's filed by Diamond Shamrock Corp. provide for this change.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Diamond Shamrock Corp., Nutrition and Animal Health Div., 1100 Superior Ave., Cleveland, OH 44114, submitted several supplemental NADA's to provide for the change of sponsor. The regulations are amended to reflect the change.

Under the Bureau of Veterinary Medicine's proposed supplemental approval policy for NADA's (December 23, 1977; 42 FR 64367), this is a category I

change. Accordingly, approval of this action did not require a reevaluation of the safety and effectiveness data in the parent applications.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 558 are amended as follows:

§ 520.600 [Amended]

1. In Part 520, § 520.600 *Dichlorvos* is amended in paragraph (c) by deleting "011461" and inserting in its place "025001."

§ 558.205 [Amended]

2. In Part 558, § 558.205 *Dichlorvos* is amended in paragraph (b) by deleting "011461" and inserting in its place "025001."

Effective date. This amendment is effective November 16, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))).

Dated: November 9, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-35324 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Procaine Penicillin G in Oil

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The agency amends the regulations to reflect approval of a new animal drug application (NADA) filed by Philips Roxane, Inc., providing for safe and effective intramammary use of procaine penicillin G in oil for treating mastitis in lactating cows. This product is similar to one reviewed by the National Academy of Sciences—National Research Council (NAS/NRC) Drug Efficacy Study Group and found to be effective for its labeled uses. Approval of identical or similar products may require submission of bioequivalence or similar data in lieu of other effectiveness data.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: Philips Roxane, Inc., 2621 North Belt Highway,

St. Joseph, MO 64502, filed an NADA (65-466) providing for intramammary use of a single-dose, 10-milliliter, disposable syringe containing 100,000 units of procaine penicillin G for treating mastitis in lactating cows. This product is similar to Hanford's, which was the subject of a NAS/NRC evaluation published in the Federal Register of July 22, 1970 (35 FR 11710). The product was classified as probably effective for the above-mentioned use and was later declared effective in the Federal Register of October 26, 1973 (38 FR 29578); it is codified in 21 CFR 540.874a. The two products differ in that Philips Roxane uses soybean oil as its inactive ingredient/vehicle, whereas Hanford uses sesame oil. Notwithstanding the different vehicles, Philips Roxane has demonstrated bioequivalency between the products through submission of adequate and well-controlled studies. This application is approved on the basis of generic equivalence to the reviewed drug.

This document amends 21 CFR 540.874a to add the new approval and to specify in the existing Hanford approval the conditions of use for which approval for an identical or similar product need not include certain types of effectiveness data as specified by § 514.1(b)(8)(ii) (21 CFR 514.1(b)(8)(ii)) or § 514.111(a)(5) (21 CFR 514.111(a)(5)).

Instead, approval may require a demonstration of bioequivalence as discussed in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs. The guideline is available from the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the Freedom of Information regulations in § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA-305) from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended in § 540.874a by redesignating paragraph (c)(2)(ii) as paragraph (c)(2)(iii), by revising newly designated paragraph (c)(2)(iii)(a), and

by adding new paragraph (c)(2)(ii) and (5) to read as follows:

§ 540.874a Procaine penicillin G in oil.

(c) * * *

(2) * * *

(ii) *NAS/NRC status.* The conditions specified in paragraph (c)(2)(iii)(a)(2) of this section have been reviewed by NAS/NRC and are effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

(iii) *Conditions of use.* * * *

(a) *Three dose regimen.* Administer by intramammary infusion in each infected quarter as follows:

(1) *6-milliliter dose (peanut oil).* Treatment may be repeated at 12-hour intervals. Milk that has been taken from animals during treatment and for 84 hours (7 milkings) after the latest treatment must not be used for food. Animals must not be slaughtered for food during treatment or within 4 days after the latest treatment.

(2) *10-milliliter dose (sesame oil).* Treatment may be repeated at 12-hour intervals. Milk that has been taken from animals during treatment and for 60 hours (5 milkings) after the latest treatment must not be used for food. Animals must not be slaughtered for food during treatment or within 3 days after the latest treatment.

(5)(i) *Sponsor.* See in § 510.600(c) of this chapter.

(ii) *Conditions of use.* It is used as an aid in the treatment of mastitis caused by *Streptococcus agalactiae*, *S. dysgalactiae*, and *S. uberis* in lactating cows as follows:

(a) *Three dose regimen.* After milking, infuse each infected quarter with a single 10-milliliter syringe (soybean oil vehicle).

(b) *Limitations.* Repeat procedure at 12-hour intervals for not more than 3 doses. Milk that has been taken from animals during treatment and for 60 hours (5 milkings) after the latest treatment must not be used for food. Animals must not be slaughtered for food during treatment or within 3 days after the latest treatment.

Effective date. This regulation is effective November 16, 1979.

(Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n)))

Dated: November 9, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-35323 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 206

Fishing and Hunting Regulations

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is revoking certain fishing and hunting regulations in 33 CFR Part 206 which have been identified as being obsolete or unnecessary and amending certain other regulations in Part 206 to eliminate extraneous information. This action is taken as part of the Corps' continuing program to review all regulations for possible elimination or consolidation in accordance with the President's Order on Improving Government Regulations (EO 12044).

EFFECTIVE DATE: November 30, 1979.

ADDRESS: Office of the Chief of Engineers: Attn: DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION, CONTACT: Mr. Ralph T. Eppard (202) 272-0200.

SUPPLEMENTARY INFORMATION: On 19 July 1977, the Corps of Engineers published final regulations to revise and reorganize the Corps permit program to make the policies and procedures more understandable to a person desiring to perform work in the waters of the United States and to enable a person to get a quicker decision on an application. These regulations also authorized certain small structures by a nationwide permit where those structures have a minimal impact on the environment, and in the case of marine life harvesting devices; provided there is no interference with navigation. Accordingly, it is no longer necessary to submit an application to the Corps District Engineers and/or to comply with detailed specifications for pound nets, crab traps, eel pots and lobster traps if they do not interfere with navigation.

On 24 January 1978, a Notice of Proposed Rulemaking was published in the Federal Register (43 FR 3287) soliciting comments on the Corps' proposal to revoke 33 CFR Part 206 (Fishing and Hunting Regulations) in its entirety. The response to that proposal

was generally light. However, some of the commentors expressed concern about the potential hazards to navigation created by a proliferation of fishing structures, if the geographical limits for those structures were removed by revoking the regulations. We received comments from the following: Congressman G. William Whitehurst (on behalf of R. Patrick Deans), Chesapeake Bay Yacht Clubs Association, U.S. Coast Guard, State of Virginia, Marine Resources Commission, Mr. John E. Kennedy, Mr. R. Patrick Deans.

Based on all of the comments received we re-evaluated each of the fishing and hunting regulations with a view toward revoking certain regulations where state and local controls are sufficient to regulate these structures and to amend other regulations to delete requirements not specifically addressing the geographic areas for marine life harvesting devices. Requirements currently exist in 33 CFR Part 206 for fishing structure buoys to be placed to mark the boundaries of certain fishing areas in the Chesapeake Bay. In view of the comments received on the need for markers, the revocation of these requirements is being held in abeyance to allow time to determine future requirements and jurisdictional parameters.

Accordingly, 33 CFR Part 206 is amended as set forth below:

1. The following regulations are revoked in their entirety:

33 CFR Sec. and Location

- 206.5 Navigable waters on coast of Maine and New Hampshire.
- 206.15 Coastal waters of Massachusetts and Rhode Island and the waters of Fishers Island and Gardiners Point, New York; fishing.
- 206.20 Narragansett Bay and its tributaries, Rhode Island; oyster grounds.
- 206.25 Navigable waters of State of Connecticut; oyster grounds.
- 206.30 Gardiner and Great and Little Peconic Bays, New York; oyster grounds.
- 206.35 Atlantic Ocean between Montauk Point, New York, and Cape Charles, Virginia; fishing.
- 206.46 Hudson River, New York, north of Stoney Point, Stoney Point, New York; fishing.
- 206.55 Chesapeake Bay, Maryland and Virginia, and its tributary waters; Assawoman, Isle of Wight and Sinepuxent Bays, Maryland, and Chincoteague Bay, Maryland and Virginia; and their tributary waters; duck blind.
- 206.75 Green Bay, between Menominee and Cedar Rivers, Michigan; fishing.
- 206.80 Lake Erie, between Marblehead Light, Ohio and Barcelaria, New York; fishing.
- 206.85 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisan Bay, New York

Slough, San Joaquin River, Sacramento River and their navigable tributaries and connecting waterways, California, floating or drifting fish nets.

- 206.90 Coastal waters of Oregon and Washington and the navigable waters tributary thereto, including Columbia River, Oregon, Washington; and Idaho and all its navigable tributaries; fishing.
- 206.95 Coastal waters of Alaska and navigable waters thereto; fishing.

2. Section 206.40 is amended by deleting all paragraphs and application and by adding new paragraphs (a) and (b). The maps will remain in this section.

§ 206.40 Bays and estuaries tributary to the Atlantic Ocean between Montauk Point, New York, and Cape Charles, Virginia, and in the State of New York, tributary to Long Island Sound; fishing.

(a) The placing of fishing structures in the waters of the bays and estuaries tributary to the Atlantic Ocean between Montauk Point, New York, and Cape Charles, Virginia, and of the bays and estuaries in the State of New York tributary to Long Island Sound, will hereafter be governed by the following regulations:

(b) Regulations:

(1) Subject to the provisions of this section the placing of fishing structures is authorized by the Secretary of the Army in the waters of the bays and estuaries tributary to the Atlantic Ocean between Montauk Point, New York, and Cape Charles, Virginia, and of the bays and estuaries in the State of New York tributary to Long Island Sound within areas previously approved by the Secretary of the Army provided there is no interference with navigation.

(2) Any person desiring to place and operate fish traps, weirs or pounds in areas other than the approved areas shown on the following maps, in the bays and estuaries tributary to the Atlantic Ocean between Montauk Point, New York, and Cape Charles, Virginia, and of the Bays and estuaries in the State of New York tributary to Long Island Sound shall apply to the District Engineer having jurisdiction.

3. Section 206.45 is amended by revising paragraph (a) in its entirety, deleting paragraph (b) in its entirety, revising paragraph (c) and redesignating it as paragraph (b), and by redesignating subparagraphs (c)(1) through (c)(25) as paragraphs (b)(1) through (b)(25). Also, the "Application", and "Permit" section is deleted. As amended § 206.45 reads as follows.

§ 206.45 Hudson River, New York and New Jersey, south of Stony Point, Stony Point, New York; fishing.

(a) *Regulations.* Subject to the provisions of this section the placing and maintenance of shad nets and poles are authorized by the Secretary of the Army (see 33 CFR 322.4), in the Hudson River, New York and New Jersey, south of Stony Point, New York, within the following designated areas approved by the Secretary of the Army.

(b) *Approved fishing areas.* The areas described in this paragraph are approved as areas within which shad nets, poles, and other fishing structures are permitted, pursuant to the regulations contained in 33 CFR 320-329.

(1) *Area No. A.* An area in the westerly portion of the river between West 59th and West 129th Streets, Manhattan, New York City, and bounded by straight lines between the following points:

Point No.	Latitude	Longitude
a.....	40 46 33.3	74 00 04.8
b.....	40 46 35.8	74 00 10.4
c.....	40 47 39.0	73 59 20.0
d.....	40 48 25.7	73 58 44.9
e.....	40 49 14.9	73 58 14.8
f.....	40 49 13.0	73 58 09.2
g.....	40 48 23.8	73 58 40.4
h.....	40 47 37.8	73 59 14.2

(2) *Area No. 1.* An area in the westerly portion of the river between West 140th Street, Manhattan, New York City, and the George Washington Bridge, and bounded by straight lines between the following points:

Point No.	Latitude	Longitude
1.....	40 49 36.1	73 57 56.4
2.....	40 49 43.0	73 58 09.8
3.....	40 51 00.0	73 57 37.3
4.....	40 50 56.2	73 57 19.2
5.....	40 50 15.1	73 57 31.7

(3) *Area No. 2.* An area in the westerly portion of the river, between the George Washington Bridge and Dyckman Street, Manhattan, New York City, and bounded by straight lines between the following points:

Point No.	Latitude	Longitude
6a.....	40 51 14.7	73 57 07.8
7a.....	40 51 17.2	73 57 20.2
8.....	40 51 49.5	73 57 01.1
9.....	40 52 19.2	73 56 43.8
10.....	40 52 13.5	73 56 25.9
11.....	40 51 43.5	73 56 42.8

(3a) *Area No. 2A.* An area in the westerly portion of the river, between Area No. 2 and Area No. 3 and bounded by straight lines between the following points:

Point No.	Latitude	Longitude
10.....	40 52 13.5	73 56 25.9
9.....	40 52 19.2	73 56 43.8
13.....	40 52 36.9	73 56 32.4
12.....	40 52 31.8	73 56 14.4

(4) *Area No. 3.* An area in the westerly portion of the river, between Inwood Hill Park, north of Dyckman Street, Manhattan, New York City, and south of Ashburton Avenue, City of Yonkers, New York, and bounded by straight lines between the following points:

Point No.	Latitude	Longitude
12.....	40 52 31.8	73 56 14.4
13.....	40 52 36.9	73 56 32.4
14.....	40 53 56.4	73 55 54.0
15.....	40 55 04.8	73 55 28.2
16.....	40 56 29.8	73 55 02.8
17.....	40 56 26.0	73 54 43.9
18.....	40 55 00.8	73 55 09.0
19.....	40 53 53.0	73 55 35.0

(5) *Area No. 4.* An area in the westerly portion of the river between Glenwood, City of Yonkers, New York, and Hastings on Hudson, New York, and bounded by straight lines between the following points:

Point No.	Latitude	Longitude
20.....	40 45 45.7	73 54 37.6
21.....	40 56 49.1	73 54 57.0
22.....	40 57 35.6	73 54 37.0
23.....	40 58 09.5	73 54 18.5
24.....	40 58 53.0	73 54 4.8
25.....	40 58 47.8	73 53 59.2
28.....	40 59 45.3	73 53 39.8
29.....	40 56 50.8	73 53 45.2
30.....	40 58 05.0	73 53 59.8
31.....	40 57 31.8	73 54 18.0

(5a) *Area No. 4A.* An area in the westerly portion of the river, between Hastings on Hudson, New York, and Dobbs Ferry, New York, described as follows: North of a line passing through Points Nos. 25 and 28 and extending to the westerly shore line; east of the westerly shoreline; south of a line passing through Points Nos. 26 and 27 and extending to the westerly shore line; and west of a line passing through Points Nos. 27 and 28:

Point No.	Latitude	Longitude
25.....	40 59 47.8	73 53 59.2
26.....	41 00 55.2	73 53 46.7
27.....	41 00 52.3	73 53 21.2
28.....	40 59 45.3	73 53 39.8

(6) *Area No. 5.* An area in the westerly portion of the river, between Dobbs Ferry, N.Y., and Irvington, N.Y., described as follows: North of a line passing through points Nos. 32 and 33 and extending to the westerly shoreline; east of the westerly shoreline; south of a line passing through points Nos. 34 and 35 and extending due west from point 34 to the westerly shoreline; and west of a line passing through points Nos. 32 and 35.

Point No.	Latitude	Longitude
32.....	41 01 09.2	73 53 17.0
33.....	41 01 12.8	73 53 47.0
34.....	41 02 24.0	73 53 43.5
35.....	41 02 09.0	73 53 03.0

(7) *Area No. 6.* An area in the westerly portion of the river, between Piermont Pier, New York, and Lower Nyack Landing, New York, described as follows: North of a line passing through Points Nos. 36 and 37 and extending to the westerly shoreline; east of the westerly shoreline; south of a line passing through Points Nos. 38 and 39 and extending to the westerly shore line; and west of a line passing through Points Nos. 36 and 39.

Point No.	Latitude	Longitude
36.....	41 02 55	73 53 18
37.....	41 02 52	73 54 39
38.....	41 05 13	73 54 44
39.....	41 04 52	73 53 22

(8) *Area No. 7.* An area in the westerly portion of the river between Nyack, New York, and Rockland Lake Landing, New York, described as follows: North of a line passing through Points Nos. 40 and 41 and extending to the westerly shore line; east of the westerly shore line; south of a line passing through Points Nos. 45 and 46 and extending to the westerly shore line; and west of lines joining Points Nos. 46 and 47 and Points Nos. 40 and 47.

Point No.	Latitude	Longitude
40.....	41 05 12	73 53 22
41.....	41 05 33	73 54 45

Point No.	Latitude	Longitude
45.....	41 08 43	73 54 27
46.....	41 08 47.5	73 54 17
47.....	41 07 24	73 53 25

(9) *Area No. 8.* An area along the westerly side of the river, between Rockland Lake Landing, New York, and Bowline Point, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
48.....	41 08 56	73 54 22.5
49a.....	41 09 53	73 55 08
50.....	41 11 12	73 56 45
51b.....	41 12 18	73 57 12
51b.....	41 12 14.2	73 57 16.2
51.....	41 12 15	73 57 28

(10) *Area No. 9.* An area along the westerly side of the river between Bowline Point, New York, and Grassy Point, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
51.....	41 12 15	73 57 28
51b.....	41 12 14.2	73 57 19.2
51b.....	41 12 18	73 57 12
51a.....	41 13 29	73 57 42
51a.....	41 13 27	73 57 49

(11) *Area No. 10.* An area along the westerly side of the river between Grassy Point, New York, and Stony Point, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
51a.....	41 13 27	73 57 49
51a.....	41 13 29	73 57 42
52.....	41 14 27	73 58 09

(12) *Area No. 11.* An area along the easterly side of the river between Croton Point, New York, and Montrose Point, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
64.....	41 10 05	73 53 57
64A (Hudson River, Buoy No. 10).....	41 10 08	73 54 43
65 (Hudson River, Buoy No. 12).....	41 10 50	73 55 20
66A (Hudson River, Buoy No. 14).....	41 11 43	73 56 10
67.....	41 14 14	73 57 04

(13) *Area No. 12.* An area along the easterly side of the river between Phillipse Manor, New York, and Croton Point, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
60.....	41 05 25	73 52 35
61A (Hudson River, Buoy No. 4).....	41 08 47.5	73 52 37.5
62 (Hudson River, Buoy No. 6).....	41 08 17	73 52 46
63 (Hudson River, Buoy No. 8).....	41 09 01	73 53 09
64A (Hudson River, Buoy No. 10).....	41 10 08	73 54 43
64.....	41 10 05	73 53 57

(14) *Area No. 13.* An area along the easterly side of the river between Kingsland Point, New York and Tarrytown, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
56.....	41 04 35	73 52 18
57.....	41 04 25	73 52 37
58.....	41 04 57	73 52 40
59.....	41 04 48	73 52 18

(15) *Area No. 14.* An area along the easterly side of the river between Tarrytown, New York, and Irvington, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
53.....	41 02 40	73 52 32
54A (Hudson River, Buoy No. 2).....	41 03 35	73 52 32
55.....	41 04 14	73 52 35

(16) *Area No. 15.* An area along the easterly side of the river between Irvington, New York, and Dobbs Ferry, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
69.....	41 02 06.5	73 52 35.0
70.....	41 01 46.8	73 52 41.0
71.....	41 01 09.0	73 52 47.3

(17) *Area No. 16.* An area along the easterly side of the river between Dobbs Ferry, New York, and Hastings on Hudson, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
72	41 01 0.5	73 52 48.5
73	41 00 40.5	73 52 58.0
74	41 00 18.9	73 53 05.2
75	40 59 46.8	73 53 12.5

(18) *Area No. 17.* An area along the easterly side of the river between Hastings on Hudson, New York, and Glenwood Avenue, Yonkers, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
76	40 59 10.8	73 53 14.0
77	40 58 28.0	73 53 26.9
78	40 57 49.0	73 53 36.0
79	40 57 27.0	73 53 51.4
80	40 57 07.2	73 54 00.5

(19) *Area No. 18.* An area along the easterly side of the river between Point Street, Yonkers, New York, and Glenwood Avenue, Yonkers, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
81	40 57 04.3	73 54 01.2
82	40 56 53.3	73 54 04.5

(20) *Area No. 19.* An area along the easterly side of the river between Glenwood Avenue, Yonkers, New York, and Babcock Place, Yonkers, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
83	40 56 49.5	73 54 05.2
84	40 56 30.8	73 54 10.8

(21) *Area No. 20.* An area along the easterly side of the river between Babcock Place, Yonkers, New York, and the Municipal Pier, Yonkers, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
85	40 56 28.0	73 54 11.8
86	40 56 06.5	73 54 18.9

(22) *Area No. 21.* An area along the easterly side of the river between the National Sugar Company, Yonkers, New York, and the north pier of the Federal

Sugar Works, Yonkers, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
87	40 55 59.0	73 54 19.0
88	40 55 50.3	73 54 22.0

(23) *Area No. 22.* An area along the easterly side of the river between the north pier of the Federal Sugar Works, Yonkers, New York, and Ludlow, Yonkers, New York, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
88	40 55 50.3	73 54 22.0
89	40 55 20.3	73 54 31.8

(24) *Area No. 23.* An area along the easterly side of the river between Ludlow, Yonkers, New York, and Spuyten Duyvil, New York City, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
90	40 55 17.5	73 54 32.8
91	40 55 00.5	73 54 40.0
92	40 54 51.0	73 54 43.7
93	40 54 36.5	73 54 49.0
94	40 54 24.2	73 54 51.0
95	40 54 15.6	73 54 54.8
96	40 54 03.5	73 54 59.0
97	40 53 44.9	73 55 06.2
98	40 53 35.3	73 55 09.5
99	40 53 25.8	73 55 12.3
100	40 53 15.3	73 55 17.0
101	40 53 00.8	73 55 23.0
102	40 52 51.0	73 55 28.2

(25) *Area No. 24.* An area along the easterly side of the river between the South Ferry Rack, Dyckman Street ferry, New York City, and Fort Washington Point, New York City, shoreward of straight lines joining the following points:

Point No.	Latitude	Longitude
103	40 52 07.0	73 56 00.0
104	40 51 52.2	73 56 07.5
105	40 51 39.8	73 56 15.8
106	40 51 19.8	73 56 31.1
107	40 51 11.0	73 56 40.0
108	40 51 02.7	73 56 50.5

4. Section 206.47 is amended by revising paragraph (a), deleting paragraphs (b), (d), and (e), by revising paragraph (c) and redesignating it as

paragraph (b), and by adding a new paragraph (c) as follows:

§ 206.47 Delaware Bay, New Jersey; fish pounds.

(a) *Authority.* The approval of the Secretary of the Army is given for the erection of fish pounds, traps, and nets in Delaware Bay, in the State of New Jersey, within the following designated areas.

(b) *The areas.* The pounds, traps and nets shall be within an area extending generally southerly from Egg Island Point as follows: Beginning at Egg Island Point (latitude 39°10'30", longitude 75°08'07") and following the shoreline to North Highlands Beach (latitude 39°01'12", longitude 74°56'52"), thence following the outer limit of the oyster grounds area northwesterly to latitude 39°03'30", longitude 75°01'30", southwesterly to a point near Brandywine Shoal Light (latitude 38°59'10", longitude 75°06'50") and north-northwesterly to a point near Miah Maull Shoal Light (latitude 39°07'33", longitude 75°12'38"), and thence northeasterly along a line to the point of beginning.

(c) Fishing structure buoys or any other aids to navigation shall be as required by the U.S. Coast Guard.

5. Section 206.50 is amended as by revising paragraph (a)(1), deleting the note following (a)(1), revising paragraph (a)(2) and the note following it, deleting paragraphs (a)(3), (b) and (c), revising paragraph (d) and redesignating it as paragraph (b) and redesignating paragraphs (e) and (f) as (c) and (d) respectively. As amended, § 206.50 reads as follows:

§ 206.50 Chesapeake Bay, Maryland and Virginia, and its navigable tributaries; fishing structures.

(a) *Authority.* (1) Fishermen, oystermen, and crabbers operating under authority granted by either of the States of Maryland or Virginia are hereby authorized to construct and maintain fishing structures in Chesapeake Bay and its navigable tributaries, within areas designated by the Secretary of the Army provided there is no interference with navigation.

(2) Nothing in this section shall supersede any danger zone or restricted areas established in Chesapeake Bay and its navigable tributaries by regulations prescribed by the Secretary of the Army.

Note: Regulations governing the use of danger zones and restricted areas are contained in Parts 204 and 207 of this chapter. Copies can be secured from the district engineer, Corps of Engineers, in charge of the locality or from the commanding officer of the using agency.

(b) *Location—fishing structure limits.*

The geographic positions of control points marking the established fishing structure limits are given in paragraphs (c) and (d) of this section, and the limits are shown on United States National Ocean Survey charts. Positions of intermediate points marking the fishing structure limits which are not given may be found by referring to the charts. The points listed are connected by straight lines unless otherwise indicated. Fishing structure buoys, which are special buoys painted with horizontal black and white stripes, have been placed to mark the fishing structure limits, and regular aids to navigation are used in conjunction with the fishing structure buoys where possible. Aids to navigation used as control points may be renumbered or shifted by the Coast Guard. In such cases the fishing structure limits do not change, and the location of the control point remains fixed at the geographic position indicated. The fishing structure buoys are identified by a series of letters and numbers. The first letter preceding a number indicates the body of water, as "J2" for James River and "H2" for Hampton Roads, for buoys in the Norfolk District. The letter "B" following a number, as "1B" and "2B", indicate buoys in the Baltimore District. In localities where fishing structure limits are established, fishing structures shall not be placed outside or channelward of such limits. In localities where fishing structure limits are not established, such structures shall not be placed in dredged or natural channels or other lanes used by watercraft, or within 200 feet of the edge of any dredged channel. A clear fairway at least 200 feet wide shall be maintained from navigable channels to established boat landings. The approach to the mouth of any navigable tributary or to the mouth of any navigable branch of any tributary shall be left unobstructed. Where fishing structure limits are not established, this unobstructed approach shall lie along the channel usually followed by boats and shall have a width of not less than one-third of the width of the mouth of the tributary or branch. Within the navigable tributaries where fishing structure limits are not established, a channel in deep water of at least one-third of the total width of the waterway at the locality shall be left unobstructed.

(c) *Baltimore District—(1) West side of Chesapeake Bay north from Cove Point to Middle River.*

	Latitude	Longitude	Latitude	Longitude
Unmarked Point	38 23 09.8	76 22 33.8	"38B"	" " " "
Following line of 30-foot depth.			C 5	" " " "
"1B"	38 26 33.6	76 26 00.0	"37B"	" " " "
"3B"	38 31 07.6	76 26 58.8	"36B"	39 09 23.5 76 20 21.0
"5B"	38 35 43.2	76 28 43.2	"17B"	" " " "
"8B"	38 38 39.0	76 29 12.0	Thence to point of beginning.	
"7B"	38 41 24.0	76 30 06.0		
C "6B"	38 43 34.8	76 29 57.6		
"8B"	38 45 12.0	76 30 00.0		
No limit line.				
"9B"	38 46 06.7	76 29 43.1		
"10B"	38 48 18.6	76 28 24.0		
"32B"	38 49 56.4	76 27 45.6		
"73"	38 51 50.1	76 27 01.1		
"1"	38 52 11.7	76 28 54.2		
No limit line.				
(F. I. R) "4"	38 54 04.6	76 28 38.4		
N 2	38 53 43.9	76 27 53.4		
"11B"	38 53 13.9	76 28 13.6		
C "75"	38 53 39.0	76 25 53.4		
Following line of 25-foot depth to point 1,700 yards northerly of Sandy Point Light. (No limit line for a distance of 200 feet on either side of approach channel to Severn River.)				
No limit line.				
Baltimore Light.				
Unmarked Point	39 04 06.5	76 24 24.0		
Do	39 06 42.0	76 24 24.0		
Do	39 08 28.0	76 25 04.0		
No limit line.				
Point bearing 329°45' true, 1,000 yards, from (Ok. F. I. R) "28C".				
"18B"				
"21B"	39 14 16.7	76 19 33.8		
"40B"	39 15 00.0	76 18 15.0		
"2B"	39 16 15.6	76 20 02.4		

(2) *Fishing area southeast of mouth of Patapsco River.*

	Latitude	Longitude
Unmarked Point	39 04 39.0	76 23 17.0
Do	39 07 36.7	76 23 17.0
"34B"	39 09 59.0	76 25 02.0
"16B"		
"15B"	39 08 49.0	76 21 07.5
"14B"	39 08 03.0	76 20 22.0
"13B"	39 05 43.0	76 20 54.0
"12B"	39 04 39.0	76 22 24.0
Thence to point of beginning.		

(3) *Fishing area east of mouth of Patapsco River.*

	Latitude	Longitude
"35B"	39 10 46.0	76 25 00.0
"18B"		
"20B"		
N 2		
N "2A"	39 14 45.0	76 17 49.2
"22B"	39 16 13.5	76 14 23.0
"25B"	39 14 52.0	76 14 46.5
"26B"	39 12 45.0	76 15 48.0
"39B"		
"26B"	39 12 45.0	76 15 46.0

(4) *Vicinity of Pooles Island.* (i) No fishing structure shall be placed or maintained within 1,000 yards of Pooles Island.

(ii) During the period from October 2 to May 19, inclusive, fishing structures will be permitted in the following-described area southwest and west of Pooles Island: Beginning at the southernmost tip of Pooles Island; thence to Pooles Island Bar Light; thence to "41B" (latitude 39°18'28.0", longitude 76°18'25.2"); thence to N 2 (latitude 39°17'14.0", longitude 76°20'15.0"); thence to N 4 (latitude 39°17'56.0", longitude 76°19'54.0"); and thence to the point of beginning; excluding all waters within 1,000 yards of Pooles Island. During the period from May 20 to October 1, inclusive, no fishing structures shall be placed or maintained in this area.

(5) *Upper Chesapeake Bay and tributaries within Harford and Cecil Counties.* (i) Within Harford and Cecil Counties no fishing structures shall be placed or maintained more than 800 yards from shore or in water exceeding 18 feet in depth.

(ii) North of Rocky Point no fishing structure shall be placed or maintained within 200 feet of the buoyed channel to and in Northeast River.

(6) *Eas. side of Chesapeake Bay south from Howell Point to Maryland-Virginia boundary line.*

	Latitude	Longitude
Howell Point Light	39 22 16.8	76 06 40.9
N "20"	39 20 23.2	76 10 45.6
Bell (F. I. R) "18"	39 19 46.2	76 11 33.0
"42B"		
"23B"	39 16 35.0	76 13 25.0
"24B"	39 14 54.5	76 13 59.0
Following line of 20-foot depth.		
"58B"	39 11 00.0	76 16 47.4
"59B"	39 09 37.2	76 18 11.4
"60B"	39 07 37.2	76 18 47.6
"27B"	39 05 00.0	76 16 18.0
No limit line.		
Point on line of 25-foot depth in vicinity of Bell R "2" northeast of Love Point Light.		
Following line of 25-foot depth to its intersection with north range line of measured nautical mile course at Brickhouse Bar.		

[illegible]

Latitude	Longitude	Latitude	Longitude	Latitude	Longitude
Unmarked Point 45.	37 00 30.0	76 18 05.0	"C19"	37 00 38.0	76 16 11.0
Unmarked Point 46.	37 00 38.0	76 17 42.0	"B2"		
Unmarked Point 47.	37 01 00.0	76 17 15.0	"B4"		
"B1"	37 01 00.0	76 16 19.5	"B6"	37 05 29.8	76 14 43.0
"B3"			"B11"	37 04 40.0	76 11 53.3
"B5"			"C25"	37 02 21.8	76 12 24.4
"B7"			"C23"	37 00 51.7	76 14 25.1
Bell (Fl. W) "1"	37 05 33.9	76 14 57.0	Thimble Shoal Light		
"B9"	37 05 45.8	76 15 37.0	Thence to "C19".		
(Fl. W) "9"	37 06 21.9	76 16 17.1			
(Fl. W) "11"	37 06 30.2	76 18 37.8			
Unmarked Point 48.	37 06 35.8	76 17 26.8			
Unmarked Point 49.	37 06 32.7	76 17 34.2			
Unmarked Point 50.	37 06 21.8	76 17 16.0			
No limit line.					
Unmarked Point 51.	37 06 22.8	76 17 43.8			
(Fl. W) "13"	37 06 29.3	76 17 42.4			
Unmarked Point 52.	37 06 19.1	76 18 12.6			
Unmarked Point 53.	37 06 18.1	76 18 24.8			
Unmarked Point 54.	37 06 13.4	76 18 48.7			
Unmarked Point 55.	37 06 10.6	76 19 05.8			
Unmarked Point 56.	37 06 09.8	76 19 41.0			
Unmarked Point 57.	37 05 21.3	76 20 01.8			
(Fl. G) "23"	37 04 35.6	76 20 24.7			
Unmarked Point 57.	37 04 06.9	76 20 57.9			
No limit line.					
Unmarked Point 58.	37 05 11.0	76 20 21.9			
Unmarked Point 59.	37 05 17.6	76 20 11.0			
Unmarked Point 60.	37 05 23.1	76 20 07.5			
Unmarked Point 61.	37 05 58.3	76 19 52.5			
Unmarked Point 62.	37 05 54.2	76 20 12.1			
Unmarked Point 63.	37 05 38.1	76 20 35.0			
No limit line.					
Unmarked Point 64.	37 05 41.8	76 20 39.1			
Unmarked Point 65.	37 06 09.2	76 20 00.1			
Unmarked Point 66.	37 06 14.7	76 19 41.3			
Unmarked Point 67.	37 06 18.1	76 19 49.2			
Unmarked Point 68.	37 06 27.7	76 19 06.9			
No limit line.					
Unmarked Point 69.	37 06 37.0	76 19 00.0			
Unmarked Point 70.	37 06 20.4	76 18 30.4			
Unmarked Point 71.	37 06 23.8	76 18 14.5			
(Fl. R) "10"	37 06 40.4	76 17 27.9			
Unmarked Point 72.	37 06 35.5	76 16 34.5			
Unmarked Point 73.	37 06 27.2	76 16 13.8			
Unmarked Point 74.	37 06 05.6	76 15 46.8			
"B13"	37 05 58.2	76 14 53.6			
"B15"					
"B17"					
"B19"					
"B21"					
"Y3"	37 12 20.6	76 17 26.5			
"Y5"	37 13 27.8	76 19 21.9			
"Q1"	37 12 33.8	76 20 17.7			
"Q3"	37 11 41.1	76 21 12.2			
"Q5"	37 10 48.3	76 22 06.7			
Poquoson River					
Entrance					
Light 11	37 09 53.0	76 23 03.0			
Unmarked Point					
74A	37 09 44.5	76 22 38.0			
No limit line.					
Bennett Creek Light					
2	37 09 30.8	76 22 37.0			
Poquoson River					
Daybeacon 13	37 09 58.0	76 23 28.0			
Poquoson River					
Light 15	37 10 06.5	76 24 08.0			
No limit line.					
Poquoson River					
Light 14	37 10 07.5	76 23 35.0			
Poquoson River					
Entrance Lighted					
Buoy 10	37 10 02.0	76 23 06.5			
Poquoson River					
Entrance					
Buoy 8	37 10 53.0	76 22 13.8			
Poquoson River					
Entrance Lighted					
Buoy 6	37 11 45.8	76 21 19.3			
Poquoson River					
Entrance					
Buoy 4	37 12 38.5	76 20 24.8			
Poquoson River					
Entrance Lighted					
Buoy 2	37 13 31.3	76 19 30.3			
"Y9"	37 13 56.5	76 21 10.4			

(4) Chesapeake Bay, fishing area southeast of mouth of Back River.

(7) Chesapeake Bay, fishing area southeast of mouth of York River.

(10) West side of Chesapeake Bay north from Wolf Trap Light to Maryland-Virginia State border.

Latitude	Longitude
"C51B"	37 23 29.6
"C53"	37 23 29.6
"C55"	37 23 29.6
"C57"	37 23 29.6
"C59"	37 23 29.6
"C61"	37 23 29.6
"R1"	37 32 15.8
Piankatank River	
Lighted Buoy 1	37 33 34.8
"P1"	37 33 34.8
C "3"	37 31 46.9
No limit line	
Unmarked Point	
81	37 32 05.1
"P4"	37 32 05.1
Piankatank River	
Lighted Buoy 4	37 33 54.9
"R3"	37 33 54.9
"R5"	37 33 54.9
Rappahannock	
River Daybeacon	
7	37 35 10.0
No limit line	
N "2"	37 36 06.8
Rappahannock	
River Entrance	
Buoy 8	37 34 49.6
Unmarked Point 83.	37 34 49.6
Unmarked Point	37 37 19.0
84	37 37 19.0
"C67"	37 40 46.7
"C69"	37 40 46.7
"F1"	37 40 46.7
Unmarked Point 85.	37 40 23.3
Unmarked Point 88.	37 39 19.7
Following line of	
18-foot depth	37 38 45.4
Unmarked Point 87.	37 38 45.4
No limit line	
Unmarked Point 88.	37 38 51.0
Following line of	
18-foot depth	37 39 13.9
Unmarked Point 89.	37 39 13.9
No limit line	
Unmarked Point 90.	37 39 19.8
Following line of	
18-foot depth	37 40 07.2
Unmarked Point 91.	37 40 07.2
No limit line	
Unmarked Point 92.	37 40 18.0
Following line of	
18-foot depth	37 40 51.1
Unmarked Point 93.	37 40 51.1
Dividing Creek Light	37 42 53.0
3	37 42 53.0
No limit line	
Unmarked Point 94.	37 42 45.4
Unmarked Point	37 40 52.4
95	37 40 52.4
"F2"	37 41 18.5
"C71"	37 41 18.5
"C73"	37 41 18.5
"C75"	37 46 58.2
C "3"	37 47 45.8
No limit line	
Great Wicomico	
River Light	37 48 15.0
"C77"	37 48 24.7
"C79"	37 50 51.3
Smith Point Light	37 52 47.1
C "1" on Maryland-	
Virginia State	
border	37 54 09.7

(11) Chesapeake Bay, fishing area east of mouth of Rappahannock River.

Latitude	Longitude	Latitude	Longitude
Rappahannock		"C32"	37 43 24.0
River Entrance		"C30"	37 43 40.8
Buoy 4	37 34 45.7	"R2A"	37 38 23.2
"R7"	37 38 58.3	Unmarked Point	37 38 23.4
"C65"	37 38 58.3	109	37 38 23.4
Rappahannock		No limit line	
River Entrance		Unmarked Point	
Buoy 2	37 34 12.8	110	37 37 36.0
Thence to		Unmarked Point	37 37 23.9
Rappahannock		"C26"	37 32 55.2
River Entrance		Unmarked Point	27 32 55.2
Buoy 4.		111	27 32 55.2
		No limit line	
		Unmarked Point	
		112	37 32 10.2
		"C22"	37 31 38.6
		"C20"	37 28 30.7
		Unmarked Point	37 28 15.0
		113	37 28 15.0
		No limit line	
		Unmarked Point	
		114	37 27 40.2
		"C18"	37 27 26.4
		"C18"	37 24 11.3
		Unmarked Point	37 23 58.8
		115	37 23 58.8
		No limit line	
		Unmarked Point	
		116	37 23 07.2
		"C14"	37 23 05.5
		"C12"	37 15 04.2
		"C10"	37 14 02.4
		"C8"	37 14 02.4
		Unmarked Point	37 14 27.1
		117	37 14 27.1
		No limit line	
		Unmarked Point	37 14 07.4
		118	37 13 35.1
		"C6"	37 13 35.1

(12) Rappahannock River in vicinity of Tappahannock.

(13) Chesapeake Bay, fishing area in vicinity of Tangier Island.

(14) East side of Chesapeake Bay south from Onancock Creek to Cape Charles.

6. Section 206.60 is revised in its entirety to read as follows:

§ 206.60 Winyah Bay, S.C.; fishing.

No weir, trap, pound, or sturgeon sets shall be located or built in such a manner as to obstruct or interfere with navigation or constructed or placed closer than 100' from the navigation channel.

7. Section 206.93 is reprinted without change.

§ 206.93 Puget Sound Area, Wash.; gill nets.

(a) Restricted fishing area. (1) The regulations in this paragraph shall govern fishing with gill nets within the waters of Puget Sound, Hood Canal, Possession Sound, Strait of Juan de Fuca, San Juan Archipelago, Georgia Strait, Rosario Strait, and adjacent waters north of latitude 47°39'42" (passing through West Point Light), and east of longitude 123°24'30" (passing through Ediz Point Light); exclusive of the waters lying within the Tulalip, Swinomish and Lummi Indian Reservations.

(2) A tug with tow, whose intended course will take it through waters occupied by gill net gear, shall sound one long blast, followed by one short blast, of a whistle or horn, and during darkness or fog shall, in addition,

indicate its intended course by directing a searchlight beam on such course. Gill net fishermen operating within the indicated course of the tug shall draw in their gear or otherwise maneuver to permit passage of the tug and its tow without hindrance or unreasonable delay.

(3) A tug without tow or any other vessel, if unable to determine the lay of the nets and doubt exists aboard the tug or vessel as to the best course to take, may request assistance of the nearest gill net boat which shall, without delay, drop its net and pilot the tug or vessel through. If assistance of a pilot boat is not obtainable or if nets are so concentrated as to make it impracticable to lay a course through the nets, the tug or vessel shall proceed as indicated in paragraph (a)(2) of this section for a tug with tow, and nets shall be lifted or maneuvered out of the way to permit passage of the tug or vessel without hindrance or unreasonable delay.

(4) A boat with at least one man in it capable of controlling the net shall be in constant attendance upon each net while it is laid out, except when providing pilot service as provided in paragraph (a)(3) of this section.

(b) Prohibited fishing area in Possession Sound between Mukilteo and Columbia Beach. Fishing with gill nets is prohibited within 440 yards on each side of a straight line connecting the ferry landings at Mukilteo and Columbia Beach.

Dated: October 4, 1979.

Michael Blumenfeld,
Assistant Secretary of the Army (Civil Works).

[FR Doc. 79-34999 Filed 11-15-79; 8:45 am]

BILLING CODE 3710-92-M

POSTAL SERVICE

39 CFR Part 10

Articles Mailed Abroad by or on Behalf of Senders in the United States

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends Part 661 of Postal Service Publication 42, *International Mail*, which specifies the conditions under which items for delivery in the United States mailed in another country by or on behalf of senders resident in the United States are subject to the payment of United States postage. Prior to this change Part 661 provided that such items mailed within a 30-day period were subject to the payment of United States postage if (a) in excess of 200 items when the foreign

postage rate was lower than the comparable U.S. domestic rate, or (b) in excess of 5,000 items regardless of the foreign postage rate. This provision was intended to waive, with respect to such mailings below these levels, the rights of the Postal Service under article 20 of the Universal Postal Convention to collect postage on such items.

The Postal Service recently discovered that certain domestic mailers and mailing services were exploiting Part 661 by using its limits to make large volume mailings from Mexico, often disguised as mail originating in Mexico. In order to facilitate identification of such mailings and collection of United States postage, the Postal Service has amended Part 661 by adopting language which generally conforms to article 20 of the Universal Postal Convention.

EFFECTIVE DATE: December 16, 1979.

FOR FURTHER INFORMATION CONTACT: Bruce S. Hirt (202) 245-4518.

SUPPLEMENTARY INFORMATION: On August 14, 1979, the Postal Service published in the Federal Register 44 FR 47556-47557, proposed changes to Part 661 of Postal Service Publication 42, *International Mail*, as described above. Interested persons were invited to submit written comments concerning the proposed changes by September 12, 1979.

Comments were received from one individual. The commenter opposed the rule change on the ground that the proposed amendments would require both foreign and domestic postage to be paid by individuals traveling abroad as tourists and in certain other situations where only the foreign postage should be applicable.

It appears that the commenter has generally misunderstood the purpose of the amendments. The August 14 notice of proposed rulemaking explained that the intent of the change is to facilitate the identification of and the collection of postage on large volume mailings which certain domestic bulk mailers have been mailing from foreign countries in order to avoid payment of domestic postage. The amendment is not intended to and would not affect legitimate international mailings such as those of U.S. citizens traveling abroad, or those of foreign subsidiaries of U.S. companies making mailings on their own behalf rather than on behalf of the U.S. parent.

For these reasons, and after careful consideration of the comments received, the Postal Service hereby adopts, without change, the following revision of Postal Service Publication 42:

SUBCHAPTER 660—ARTICLES MAILED ABROAD BY OR ON BEHALF OF SENDERS IN THE UNITED STATES

PART 661—SCOPE AND APPLICABILITY

Revise §§ 661.1 and 661.2 to read as follows:

§ 661.1 Mailings affected.

The special conditions described in this subchapter apply to items of mail posted in foreign countries by or on behalf of persons or firms whose residence or place of business is in the United States.

§ 661.2 Postage payment requirement.

Payment of United States postage is required to secure delivery of items of mail described in § 661.1 under the following circumstances:

(a) When the foreign rate of postage applied to such items is lower than the comparable United States domestic rate of postage.

(b) When 1000 or more such items are mailed, regardless of whether the foreign postage rate is lower than the comparable United States domestic rate.

A transmittal letter making these changes in the pages of Postal Service Publication 42, *International Mail*, will be published and will be transmitted to subscribers automatically. These changes will be published in the Federal Register as provided in 39 CFR 10.3.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,
Associate General Counsel, General Law and Administration.

[FR Doc. 79-35325 Filed 11-15-79; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL 1351-1]

Designation of Areas for Air Quality Planning Purposes; Redesignation of Attainment Status: Tulare County, Calif.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rulemaking.

SUMMARY: This notice revises the attainment status designation of Tulare County, California for carbon monoxide (CO). The revision is the result of the absence since 1975 of detected violations of the National Ambient Air Quality Standard (NAAQS) for CO in Tulare County. Tulare County is

redesignated from nonattainment to attainment for CO.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Rodney L. Cummins, Chief, Technical Analysis Section (A-4-3), Air Technical Branch, Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105, Phone: (415) 556-2002.

SUPPLEMENTARY INFORMATION: The Clean Air Act (CAA) Amendments of 1977, Pub. L. 95-95, added to the CAA section 107(d), which directed each State to submit to the Administrator a list of the NAAQS attainment status of all areas within the State. The Administrator was required under section 107(d)(2) to promulgate the State lists, with any necessary modifications. For each NAAQS, areas are classified as either (1) not attaining the standard or, for certain pollutants, projected not to maintain the standard (nonattainment areas), (2) meeting the standard (attainment areas), or (3) lacking sufficient data or information to be classified (unclassified areas). The EPA published these lists on March 3, 1978 (43 FR 8962). At that time Tulare County was classified nonattainment for CO.

Under section 107(d)(5) of the CAA, as amended, a state may revise its designations of attainment status and submit them to the EPA for promulgation. On March 19, 1979, the State of California requested redesignation of Tulare County as attainment for CO. The State noted that since 1975 no violations of the NAAQS for CO have been detected in Tulare County.

On August 15, 1979 (44 FR 47778), the EPA published a Notice of Proposed Rulemaking, proposing to redesignate Tulare County as attainment for CO and inviting public comments on that proposal. No comments were received.

Based upon a review of the CO air quality data for Tulare County, the EPA finds that the NAAQS for CO have been attained.

As a result of this redesignation, the State of California is no longer subject to the requirements of Title I, Part D (Plan Requirements for Nonattainment Areas) of the CAA, as amended, for CO in Tulare County.

The EPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

Authority: Sections 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7601(a)).

Dated: November 13, 1979.

Douglas M. Costle,
Administrator.

Subpart C of part 81 of Chapter I, Title 40 of the Code of Federal Regulations, is amended as follows:

§ 81.305 [Amended]

1. In § 81.305—California, the attainment status designation table for CO is amended as follows:

A. In the California—CO table published in the Federal Register on March 19, 1979 (44 FR 18388), the designation of Tulare County is amended. The amended portion of the CO table for § 81.305 reads as set forth below:

California—CO		
Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *		
Tulare County		X
* * * * *		

[FR Doc. 79-35420 Filed 11-15-79; 8:45 am]
BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1064

[Ex Parte MC 95 (Sub-2)]

Practices of Motor Common Carriers of Passengers—Checked Baggage Liability Provisions

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: A final rule is being adopted, which is an amendment of the present regulations at 49 CFR 1064.1. It requires that motor common carriers of passengers provide excess value insurance coverage on checked baggage of excess value at added costs to passengers, in addition to the regular free baggage allowance included in the passenger fare. The regulations are ambiguous in this respect and the carriers have taken advantage of this ambiguity in many instances in order not to provide for declarations of excess value.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Harvey Gobetz (202) 275-7656.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by notice of proposed rulemaking, published in the

Federal Register on September 28, 1978 (43 FR 44558), to determine whether the regulations in part 1064 need to be amended to more clearly reflect the intent of the proceeding in which they were prescribed, No. MC-C-6829, that passenger carriers should provide for the declaration of value on baggage in excess of the free allowance of \$250.

The regulations are ambiguous in this respect and the carriers have taken advantage of this ambiguity in many instances in order not to provide for declarations of excess value.

After review of the four comments filed in response to the above notice and of the No. MC-C-6829 proceeding, it was decided that the regulations should be amended.

Complete copies of the decision in this proceeding can be obtained from the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Accordingly, Chapter X of Title 49 of the Code of Federal Regulations is amended by substituting the following part 1064.1 for the current regulation in that part:

§ 1064.1 Minimum permissible limitations for baggage liability.

Motor common carriers of passengers and baggage subject to 49 U.S.C. 10521 may not publish tariff provisions limiting their liability for loss or damage to baggage checked by a passenger transported in regular route or special operations unless:

(1) The amount for which liability is limited is \$250 or greater per adult fare, and

(ii) the provisions permit the passenger, for an additional charge, to declare a value in excess of the limited amount, and allow the passenger to recover the increased amount (but not higher than the actual value) in event of loss or damage. The carriers may publish a maximum value for which they will be liable, but that maximum value may not be less than \$2,000. Appropriate identification must be attached securely by the passenger to each item of baggage checked, indicating in a clear and legible manner the name and address to which the baggage should be forwarded if lost and subsequently recovered. Identification tags shall be made immediately available by the carriers to passengers upon request.

Issued under the authority in 49 U.S.C. 101-119 and 5 U.S.C. 553.

Decided: September 12, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum,

Gaskins, and Alexis, Commissioner Alexis not participating.
Agatha L. Mergenovich,
Secretary.
[FR Doc 79-35430 Filed 11-15-79; 8:45 am]
BILLING CODE 7035-01-M

Dated: November 14, 1979.
Stanley Sommerfield,
Director.
Approved:
Richard J. Davis,
Assistant Secretary.
[FR Doc. 79-35836 Filed 11-15-79; 10:40 am]
BILLING CODE 4810-25-M

DEPARTMENT OF THE TREASURY

Foreign Assets Control Office

31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control.
ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations (44 FR 65956, Nov. 15, 1979) by the addition of new § 535.902. The purpose of the amendment is to license U.S.-owned or controlled foreign firms such as overseas branches or subsidiaries of domestic banks, to set-off their claims against blocked accounts held by them for Iran or Iranian entities. The need for the amendment is that section 535.201 of the Regulations prohibits any debit to a blocked account, including set-offs. The effect of the amendment is that U.S.-owned or controlled firms abroad are licensed to set-off their claims against Iran or Iranian entities by debiting blocked accounts held by them for Iran or Iranian entities.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, DC., 20220 (202) 376-0236.

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation and a delay in effective date are inapplicable.

The Iranian Assets Control Regulations are amended by the addition of § 535.902 as follows:

§ 535.902 Sets-Offs by U.S. owned or controlled firms abroad.

Branches and subsidiaries in foreign countries of persons subject to the jurisdiction of the United States are licensed to set-off their claims against Iran or Iranian entities by debit to blocked accounts held by them for Iran or Iranian entities.

(Secs. 201-207, 91 Stat. 1626; 50 U.S.C. 1701-1706; E.O. No. 12170; 44 FR 65729)

Proposed Rules

Federal Register
Vol. 44, No. 223
Friday, November 16, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amdt. No. 154]

1979 Amendments to the Food Stamp Act of 1977: Provision of Social Security Numbers; Fraud Disqualification and Recoupment, and Group Living Arrangements

Correction

In FR Doc. 79-33694 published on page 62862 in the issue of Wednesday, October 31, 1979 and republished on Friday, November 2, 1979 (page 63496), paragraph (b)(2)(i) of § 273.6 appeared incorrectly. It should have read as set forth below:

§ 273.6 Social security numbers.

* * * * *

(b) * * *

(2) * * *

(i) In a State where an agreement exists between the State agency and SSA which allows the State agency to complete the application for an SSN, Form SS-5, the State agency shall offer to and shall complete this form at the household's request. To complete the form, the State agency must document the verification of identity, age, and citizenship or alien status as required by SSA and forward the SS-5 to SSA. The State agency can complete the SS-5 only when this agreement between SSA and the State exists.

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Parts 1001, 1002, 1004, 1006, 1007, 1011-1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1062, 1064, 1065, 1068, 1071, 1073, 1075, 1076, 1079, 1094, 1096-1099, 1102, 1104, 1106, 1108, 1120, 1124-1126, 1131-1139

Handling of Milk in Federal Milk Marketing Areas; Prenotice of Request for Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders and Invitation To Submit Additional Proposals

7 CFR Parts	Marketing areas
1001	New England
1002	New York-New Jersey
1004	Middle Atlantic
1006	Upper Florida
1007	Georgia
1011	Tennessee Valley
1012	Tampa Bay
1013	Southeastern Florida
1030	Chicago Regional
1032	Southern Illinois
1033	Ohio Valley
1036	Eastern Ohio-Western Pennsylvania
1040	Southern Michigan
1044	Michigan Upper Peninsula
1046	Louisville-Lexington-Evansville
1049	Indiana
1050	Central Illinois
1062	St. Louis-Ozarks
1064	Greater Kansas City
1065	Nebraska-Western Iowa
1068	Upper Midwest
1071	Neosho Valley
1073	Wichita, Kansas
1075	Black Hills, S. Dakota
1076	Eastern South Dakota
1079	Iowa
1094	New Orleans-Mississippi
1096	Greater Louisiana
1097	Memphis, Tenn.
1098	Nashville, Tenn.
1099	Paducah, Kentucky
1102	Fort Smith, Ark.
1104	Red River Valley
1106	Oklahoma Metropolitan
1108	Central Arkansas
1120	Lubbock-Plainview, Texas
1124	Oregon-Washington
1125	Puget Sound, Washington
1126	Texas
1131	Central Arizona
1132	Texas Panhandle
1133	Inland Empire
1134	Western Colorado
1135	Southwestern Idaho-Eastern Oregon
1136	Great Basin
1137	Eastern Colorado
1138	Rio Grande Valley
1139	Lake Mead

A final decision on whether or not to adopt a proposed new order for this marketing area is pending before the Department.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Pre-notice of request for hearing and invitation to submit additional proposals or comments.

SUMMARY: This document gives notice to interested parties that the Department has been asked through a petition for rule-making to hold a public hearing to consider changes in the regulatory treatment of reconstituted milk under all Federal milk orders. It also invites interested parties to submit additional proposals relating to this issue as well as comments on whether or not such a hearing should be held. The hearing was requested by the Community Nutrition Institute (a non-profit organization specializing in food and nutrition issues), a fluid milk processor, and three individual consumers.

DATE: Proposals and comments should be submitted by January 15, 1980, to assure their consideration in this matter.

ADDRESS: Proposals and comments (four copies) should be mailed to: Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Greene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (telephone: 202-447-4824).

SUPPLEMENTARY INFORMATION:

I. Request for Public Hearing

The Community Nutrition Institute (1146 19th Street NW., Washington, D.C. 20036), a fluid milk processor, and three individual consumers have requested that a public hearing be held on proposed changes in all Federal milk marketing orders. The proposals relate to the regulatory treatment of reconstituted milk products.

The petition states that the proposed changes in the current orders are necessary in that the existing regulations that relate to the pricing of reconstituted milk:

(1) Eliminate from commerce an equally nutritious but lower-cost alternative to fluid milk, thus aggravating the effects of food price inflation, especially for the poor, by adding millions of dollars to the nation's annual food bill;

(2) Are unnecessary to protect producers of fresh milk from ruinous

competition from reconstituted milk products;

(3) Are contrary to the Agricultural Marketing Agreement Act policy to protect against unreasonable fluctuations in supplies and prices;

(4) Create a barrier to the marketing of nonfat dry milk in violation of section 8c of the Agricultural Marketing Agreement Act; and

(5) Extend beyond the authority of the Secretary to regulate the price of milk substitutes made from powdered milk.

Petitioners describe "reconstituted milk products" as "dairy-derived substitutes for fluid milk." They state that such substitutes include the following products:

(1) "Reconstituted milk—manufactured by combining powdered whole milk or nonfat powder (often with butterfat or oil added) with water,"

(2) "Filled milk—manufactured by combining water with powdered milk and adding nondairy fats such as coconut oil or soybean oil."

Petitioners have requested that all orders be amended to (1) remove reconstituted milk products from the definition of "other source milk" for the purpose of eliminating the "down-allocation" of milk ingredients used in such products and (2) eliminate the requirement that processors of reconstituted milk products make a "compensatory payment" on such products assigned to Class I.

Petitioners indicate that under their proposal the reconstituted portion of fluid milk products would not be subject to the pricing provisions of the orders, except for the pricing of producer milk used to make powder. They indicate that it is their intent that a regulated handler's cost of making a reconstituted fluid skim milk product, for example, could be the following: (1) If the handler buys nonfat dry milk from another source, his cost of making the reconstituted product would be the cost of the powder, plus the cost of transporting the powder to his distributing plant, plus the cost of reconstituting the skim milk. (2) If the handler makes his own powder from producer milk, he would be required to pay producers only the lowest-class price for the milk. The handler would incur the additional costs of drying the skim milk and then reconstituting it.

Petitioners also indicate that if a handler blends reconstituted milk with fresh fluid milk, their proposed pricing would apply only to that portion of the blended product represented by the reconstituted milk. The remainder of the blended product would be priced as Class I milk. Petitioners state, however, that blended products should be adequately labeled as such so that they

cannot be sold as fresh fluid milk products.

II. Current Treatment of Reconstituted Milk Under Federal Milk Orders

Federal milk marketing orders regulate the handling of milk in the areas they cover. They are issued by the Secretary of Agriculture in accordance with the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Each order includes provisions for a classified price plan and minimum prices that a handler must pay producers based on the way milk is used. Usually, milk used in fluid products is placed in Class I, the highest-priced class. Many of the orders have a middle class (Class II) that includes milk used in cream, cottage cheese, yogurt, and ice cream. Milk used to produce butter, cheese, nonfat dry milk, and evaporated milk is placed in Class III, the lowest-priced class. In some markets, the latter two groups of non-fluid products are included in a single, lower-priced class. Producers receive a uniform or average price based on the utilization value of milk in all classes.

Presently, each order defines reconstituted milk or skim milk that is used for fluid consumption as a "fluid milk product" and includes it in Class I, the same as fluid milk products made from raw milk. This assures that all milk products used for fluid consumption are priced at least at the minimum Class I price level.

Under each order, milk from producers is followed to its ultimate use by a plant and priced according to that use. If a handler obtains his entire supply of milk from producers and has only Class I sales, all of the milk is priced in Class I even if the handler first dries his producer milk before using it in reconstituted fluid milk products. However, a handler may use powder processed from producer milk in a prior month or powder from other Federal order markets or from unregulated sources. In this case, the orders assure that reconstituted skim milk made from such other source powder is priced on an equal basis with the price charged the handler making reconstituted skim milk from current receipts of producer milk.

Federal orders accomplish this by assigning reconstituted milk made from powder to the lower-valued uses of a handler. This process is commonly referred to as "down-allocation." If the handler does not have sufficient Class II

of Class III utilization in his plant to cover the quantity of reconstituted milk, the remainder is assigned to Class I. In that event, the handler is required to make a "compensatory payment" with respect to the quantity assigned to Class I. The payment is equal to the difference between the order's Class I and Class III prices (or Class I and Class II prices in a two-class market) and is distributed to producers supplying the Federal order market.

III. Invitation To Submit Proposals and Comments

Before deciding whether a hearing should be held on the proposal that has been submitted, the Department is providing interested parties an opportunity to submit (1) other proposals for changing the present regulatory treatment of reconstituted milk, including conforming changes that may relate to this issue, and (2) comments on whether or not a hearing should be held on the reconstituted milk issue. Proposals and comments should be directed to, but need not be limited to, the proposal previously set forth plus the following issues that have been identified as possibly being related to such proposal:

1. Is the proposal consistent with the requirement in the Agricultural Marketing Agreement Act that milk in similar uses be priced uniformly to handlers and, if not, what order changes would be consistent with such requirement and still carry out the intent of the proposal?

2. Does the pricing of reconstituted products made entirely from powder and the pricing of blended products that contain a mixture of reconstituted milk and fresh milk present separate and distinguishable issues? If so, is there a need to consider different regulatory techniques for wholly reconstituted products versus blended products?

3. What are current State legal requirements on the processing, distribution, and labeling of wholly reconstituted products and blended products and do these requirements raise any important factors that need to be considered in conjunction with the proposal?

4. Would the adoption of the proposal result in a need for substantive or conforming changes in the various order definitions, e.g., route disposition, distributing plant, supply plant, pool plant, other source milk, and fluid milk product?

5. Would the adoption of the proposal require substantive or conforming changes in the classification provisions, e.g., classes of utilization, classification of transfers and diversions, general

classification rules, and classification of producer milk?

6. Would the adoption of the proposal require changes in either the order obligations or scope of regulation with respect to partially regulated distributing plants and producer-handlers?

7. Does the adoption of the proposal also raise the issue of the appropriateness of the current Class I differentials and location adjustments under the orders? If so, what should such Class I differentials and location adjustments be?

8. Would the adoption of the proposed pricing for reconstituted milk require a change in the classification and pricing of condensed skim milk or condensed whole milk if the condensed product is used to reconstitute milk for fluid uses?

The following additional questions have been developed in connection with the Department's efforts to analyze the potential impact of the proposed changes in the regulatory treatment of reconstituted milk. Any comments on these questions would be welcome.

1. What effect would the adoption of the proposal have on the achievement of the goals of the Agricultural Marketing Agreement Act?

2. Would the adoption of the proposal result in major adjustment costs for dairy farming and in processing facilities? Would this impact be different in different regions? How might the adjustment costs be minimized?

3. What implications would adoption of the proposal have on energy use in the processing, distribution, and transportation of all dairy products?

4. How would the adoption of the proposal affect the aggregate consumption of dairy products? Would adoption of the proposal substantially alter the utilization of milk in different products and among different income groups? What are the nutritional implications of adopting the proposal?

5. What regional implications does adoption of the proposal have for dairy farmers? What implications for producers of Grade A milk versus Grade B milk?

6. What economic implications, including those of a regional nature, does the adoption of the proposal have for consumers? What implications for fluid milk consumers versus consumers of manufactured dairy products?

7. Would the adoption of the proposal affect the dairy industry's ability to balance seasonal patterns of milk production and consumption? Would the needed reserve requirements for fluid markets be changed?

Interested parties are also invited to comment on whether a public hearing on

the reconstituted milk issue should be conducted at a single location or at several locations, and where. Such comments will be taken into consideration in deciding upon a hearing location if it is decided that a hearing should be held.

IV. Procedures

Interested parties desiring to submit proposals or comments should mail four copies to: Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. The material should be mailed by January 15, 1980, to assure that it will be considered.

Proposals should be stated in specific terms so that the issues would be clearly set forth in a hearing notice. Also, each proposal should be accompanied by a brief but comprehensive statement on the need for the proposal. The statement will be used in deciding whether the proposal should be considered at a hearing.

If the Department concludes that a hearing should be held, all known interested parties will be mailed a copy of the hearing notice. Anyone who desires to present evidence on proposals set forth in the hearing notice will have an opportunity to do so at the hearing.

Once a hearing notice is issued and until the issuance of a final decision, Department employees involved in the decisional process may not discuss the merits of a proceeding on an ex parte basis with any person having an interest in the proceeding. For this purpose, market administrators and their staffs are considered to be involved in the decisional process. Thus, it is suggested that any discussions that interested parties may wish to have with Department personnel regarding hearing proposals and issues be initiated soon. Procedural matters may be discussed at any time.

Signed at Washington, D.C., on: November 13, 1979.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-35493 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1924

Construction and Repair; Management Assistance to Individual Borrowers and Applicants; Recordkeeping Requirements

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) is considering amending its regulations pertaining to recordkeeping requirements for emergency loan borrowers. This revision will require borrowers receiving emergency loans of \$100,000 or more to use a recordkeeping system that provides a monthly cash flow statement, a change in financial position statement, balance sheets and an income statement. This action is taken because of the importance of such financial statements for loan servicing and for the borrower to better manage the farming operation. The intended effect is to improve and expedite loan servicing.

DATES: Comments must be received on or before January 15, 1980.

ADDRESSES: Submit an original and conformed copy of all written comments to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Roger H. Witt, Emergency Loan Division, FmHA, 14th and Independence Avenue SW., Washington, D.C. 20250. Phone: 202-447-6257.

SUPPLEMENTARY INFORMATION: FmHA is considering revising § 1924.58(b)(3) of Subpart B, Part 1924, Chapter XVIII, Title 7 in the Code of Federal Regulations to require borrowers receiving emergency loans of \$100,000 or more to use a recordkeeping system or accounting service which provides a monthly cash flow statement, a change in financial position statement, balance sheets and an income statement. This section presently requires such a recordkeeping system or accounting service to be used by borrowers receiving emergency loans of \$250,000 or more and does not require the preparation of a change in financial position statement. The proposed revision will also encourage affected borrowers to use a computer recordkeeping system when available. Accordingly, as proposed § 1924.58(b)(3) reads as follows:

§ 1924.58 Recordkeeping.

*(b) Responsibilities. * * *

(3) The system selected must provide, as a minimum, a record of the annual cash flow, beginning and end of year balance sheets, and an income statement. Borrowers receiving EM

loans of \$100,000 or more will be required to use a recordkeeping system or accounting service which provides, as a minimum, a monthly cash flow statement, a change in financial position statement, beginning and end of year balance sheets, and an income statement. Such borrowers will be encouraged to use a computer recordkeeping system when available.

Note.—This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A draft Impact Analysis has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850)

Dated: November 6, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home
Administration.

[FR Doc. 79-35488 Filed 11-15-79; 8:45 am]
BILLING CODE 3410-07-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 331

[Docket No. 79N-0152]

Antacid Drug Products for Over-the-Counter Human Use; Proposed Amendment of Monograph

Correction

In FR Doc. 79-31971 appearing at page 60328 in the issue for Friday, October 19, 1979, on page 60329, in the third column, in the third full paragraph in that column, in the last line, "(Ref. 30)" should read "(Ref. 20)".

BILLING CODE 1505-01-M

21 CFR Parts 338 and 340

[Docket No. 75N-0244]

Nighttime Sleep-Aid and Stimulant Products for Over-the-Counter Human Use; Reopening of the Administration Record

Correction

In FR Doc. 79-33168 appearing at page 61610 in the issue for Friday, October 26, 1979, on page 61611, first column, seventh line from the bottom, "(D.C.C., July 16, 1979)." should read "(D.D.C., July 16, 1979)."

BILLING CODE 1505-01-M

21 CFR Part 880

[Docket No. 78N-1273]

Medical Devices; Classification of Spinal Fluid Pressure Manometers

Correction

In FR Doc. 79-26040 appearing at page 49858 in the issue for Friday, August 24, 1979, on page 49859, first column, first line paragraph (b) of § 880.2500, "Class I" should read "Class II".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 402

[Docket No. R-79-731]

Tenant Participation in Multifamily Housing Projects

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This rule is proposed to implement the requirement of the Housing and Community Development Amendments of 1978 for tenant participation in multifamily housing projects. The rule requires that mortgagors of specified insured multifamily housing projects give tenants notice of and an opportunity to comment upon major actions on which mortgagors are required to request HUD's review and approval.

The rule reflects the Department's view that tenant involvement in decisions affecting their housing environment can be beneficial.

The new part 402 implements Section 202(b)(1) of the Housing and Community Development Amendments of 1978.

DATE: Comments due: January 15, 1980.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James J. Tahash, Director, Occupancy, Division, Office of Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-5756. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Recognizing that the cooperation and participation of tenants are essential to the successful operation of a multifamily project, the Department is establishing regulations for obtaining tenant input on project mortgagors' requests for HUD approval of major actions that would affect day-to-day operations of these projects (e.g., change in project managers, change in ownership, major physical improvement programs). It is hoped that these regulations will enable tenants to obtain a greater understanding of the operations of multifamily projects, improve communications between tenants and management, and improve the social and physical environment at these projects.

Inapplicability of NEPA

A finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, the Department proposes to add a new part to Chapter IV, 24 CFR PART 402 to read as follows:

Part 402—TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

Sec.

- 402.1 Purpose.
- 402.2 Applicability.
- 402.3 Scope of participation.
- 402.4 Procedures.
- 402.5 Mortgagor's notice to tenants.
- 402.6 Materials to be made available to tenants for comment.
- 402.7 Mortgagor's certification of compliance.
- 402.8 HUD review.
- 402.9 Waivers.

Authority: Sec. 236(b) of the National Housing Act, 12 U.S.C. 1715 2-1 (b).

§ 402.1 Purpose.

The purpose of this regulation is to recognize the importance of tenant participation in the management of multifamily housing projects and to establish regulations that will encourage tenant input and eliminate obstacles to tenant participation in major decisions related to the operation of these projects.

§ 402.2 Applicability.

The procedures in this part apply to mortgagors of all multifamily housing projects, except cooperative housing projects, which:

(a) Have mortgages which have received final endorsement on behalf of the Secretary and are insured under the National Housing Act, or are held by the Secretary, and which are assisted under Section 236 or the proviso of Section 221(d)(5) of the National Housing Act or under Section 101 of the Housing and Urban Development Act of 1965;

(b) Were assisted under one or more of the above sections prior to acquisition by the Secretary and have been sold subject to a mortgage insured or held by the Secretary and an agreement which provides that the low- and moderate-income character of the project will be maintained.

§ 402.3 Scope of participation.

Whenever a mortgagor is required to request HUD approval of one of the actions listed below, the mortgagor must complete all of the actions required by §§ 402.4 through 402.7.

(a) Change in project manager (the individual or entity—not the resident manager—ultimately responsible to the owner for overall project management);

(b) Approval of a management plan or management agreement, or changes to either of these documents;

(c) Transfer of Physical Assets (i.e., change in ownership entity or change in the controlling interest of the present ownership entity or merger of projects);

(d) Major physical alterations or improvements;

(e) Conversion of residential units to commercial use;

(f) Partial release of security;

(g) Prepayment of the mortgage.

§ 402.4 Procedures.

(a) At the same time the mortgagor submits a request for HUD approval of one of the actions listed in § 402.3, the mortgagor must notify the tenants that such a request is being made. The notice must be written in the format prescribed in § 402.5 and distributed as directed in that section.

(b) The mortgagor must provide tenants access to the materials specified in § 402.6 for a period of thirty calendar days commencing with the date the mortgagor submits the request to HUD or the date of distribution of the notice, whichever is later. The materials must be located in a place reasonably convenient to tenants in the project during normal business hours.

(c) At the expiration of the 30-day period specified in § 402.4(b), the mortgagor must transmit all tenant comments and an evaluation of those comments to the HUD field office. The tenant comments must be accompanied by the owner's certification as specified in § 402.7.

(d) After receipt of HUD's final decision on the request, the mortgagor shall notify the tenants of the decision using one of the methods specified in § 402.5(a).

(e) In the event the field office returns the request for further information, the mortgagor may submit the required information without notifying the tenants: *Provide*, That the information requested is not among the materials which § 402.6 requires be made available to the tenants. If it is required, then it shall be made available to the tenants for a thirty-day comment period as if it were part of the original request, pursuant to paragraph (b) of this section.

§ 402.5 Mortgagor's notice to tenants.

(a) The Notice required to be distributed to the tenants must be either: (1) Delivered by hand or by mail directly to each tenant; or (2) posted in common areas within the project, including but not limited to: The project office; laundry rooms; all dining, recreation and community rooms; and common entry ways. If posting is the method selected, the mortgagor shall take reasonable steps to assure that the notices remain intact and legible for 30 days.

(b) The Notice must be prepared in the following, or substantially equivalent, format:

Notice to Tenants of Request for HUD Approval of (Specify the Action)

This is to notify you that we are today requesting that the Department of Housing and Urban Development (HUD) approve (describe nature and specifics of request). Federal regulations provide that all tenants of (name of apartment complex) have a right to review and comment upon our request.

Materials required to be made available to you will be available for your inspection and copying during normal office hours (specify days and hours) for a period of 30 calendar days from the date of this Notice. Materials may be examined at [insert address]. If you wish, legal or other representatives may assist you in reviewing the materials and in preparing your comments on our request. If

you wish to be represented by someone other than a legal resident of this apartment complex, you must provide us with a written statement authorizing that individual or agency to represent you.

You or your authorized representatives may submit written comments on our proposed (repeat nature of request) directly to us at (address). At the end of the 30-day comment period, we will forward all comments received to HUD. You may, however, also submit your comments directly to HUD at the address shown below:

HUD
Attn: Loan Management Branch Chief
[Address of HUD Office]

Include name of your apartment complex
[] and the project's FHA case number
[] in your letter.

HUD will review your comments and the supporting material we submitted and will approve or disapprove our request. When HUD advises us in writing of its decision on our request, we will notify you of the decision.

Name of Mortgagor or Management Agent/
Date

§ 402.6 Materials to be made available to tenants for comment.

(a) The mortgagor shall assure that the materials specified in § 402.6(b) are available for review and copying by tenants and their authorized representatives. The materials must be available for a period of 30 calendar days commencing with the date of the Notice required by § 402.5.

(b) When requesting HUD approval of any of the actions described in § 402.3, the mortgagor must make available to the tenants for review at least the materials specified in the following paragraphs for the various actions as listed:

(1) When requesting HUD approval of a change in project manager, the mortgagor must make available to tenants the following materials:

(i) Name of the proposed project manager and a brief resume of the project manager's qualifications, including a list of other housing projects (at least projects located in the same SMSA) operated by the project manager; (ii) Proposed Management Agreement to be executed by the mortgagor and project manager, if applicable; and (iii) Proposed Management Plan;

(2) When requesting HUD approval of a management plan or agreement or an amendment to an existing plan or agreement, the mortgagor must make a copy of the proposed changes and an explanation of the reasons for such changes available to the tenants.

(3) When requesting HUD approval of a change in owner entities or change in the principals of the present owner

entity or a merger of projects, the mortgagor must make available to the tenants the following:

(i) Name and resume of the new owner entity of the new principal of existing owner entity such as the president of a corporation or the general partner of a limited partnership;

(ii) A copy of the new management plan and the project rules and regulations proposed by the new owner entity/principal, if applicable.

(iii) The materials specified in subparagraph 402.6(b)(1) when a change in owner entity is accompanied by a change of managers;

(iv) Description of any physical changes the new owner entity proposes to make, a statement whether the work will be financed by project revenues, mortgagor contribution, loans or some other form of HUD-approved financing and the effect, if any, the method of financing will have on the tenants;

(v) Description of any subsidies or mortgage relief the new owner entity/principal intends to request from HUD;

(vi) Statement as to the amount of security deposits on hand, the form in which they are held and the name of the depository;

(vii) Statement as to the proposed increase in or use of the Reserve for Replacement or Residual Receipt Funds.

(viii) In addition, if a cooperative form of ownership is proposed, the following additional information must be made available to the tenants:

(A) Estimate of the demand for cooperative housing, including an estimate of the number of existing tenants interested in cooperative housing;

(B) Estimates of downpayments and carrying charges that will be required;

(C) Copies of proposed organizational documents, including By-Laws, Articles of Incorporation, Subscription Agreement, Occupancy Agreement, and Sales Documents.

(4) Whenever the mortgagor requests HUD approval of major changes in the physical structure of the project, including capital improvements, changes in the size or design of dwelling units and/or changes in the number of units available for occupancy, the mortgagor must make available to the tenants:

(i) The general plans and sketches of the alterations;

(ii) A statement as to the effect the physical alterations will have on the number of dwelling units available for occupancy, the amount of subsidy available to the project, the project

income and expenses, and the project rent schedule; and

(iii) A statement as to how the physical alterations will be financed and the effect, if any, of that method of financing on the tenants.

(5) Whenever the mortgagor requests HUD approval of a conversion of residential units to commercial use, the mortgagor shall make the following materials available to the tenants:

(i) A statement as to the types of commercial enterprise to be conducted in the premises, the name of the lessor and the period covered by the lease;

(ii) A statement as to the effect of the conversion on the number of dwelling units available for occupancy, the amount of subsidy available to the project, the project income and expenses and the project rent schedule.

(6) Whenever the mortgagor requests HUD approval of a partial release of the mortgage security, the mortgagor must make the following available to the tenants:

(i) A statement detailing what portion of the property is being released;

(ii) A statement of the mortgagor's evaluation of how the release will affect the value of the project; the project's income and expenses (including property taxes) and rental schedule;

(iii) A statement as to how the released portion will be used and who will have responsibility for the operation and maintenance of the released portion; and

(iv) A statement as to the proposed use of any remuneration received as a result of the release.

(7) Whenever a mortgagor requests HUD approval of prepayment of the mortgage, the mortgagor must make the following available to the tenants:

(i) A statement that there are vacant units in like projects in the area which have the same rental schedule for like units and that are available for immediate occupancy to tenants who might be displaced at no increase in rental costs.

(ii) A statement which gives the supporting information and reasons for the Area Office to make a determination that an overabundance of subsidized housing exists in the area and that no additional subsidized housing needs to be built until the market conditions change.

(iii) A statement to what the mortgagor intends to do with the project after the mortgage is prepaid in full, e.g., change of use.

(iv) If a condominium or cooperative

type of homeownership is proposed after prepayment, then the following information is to be made available for comment:

(a) The refinancing costs, downpayments and monthly carrying charges, as well as estimated cost of insurance and taxes, are to be provided;

(b) The proposed incorporation papers;

(c) The proposed by-laws;

(d) Other proposed legal and organizational papers;

(e) The proposed budget;

(f) The proposed promotional and sales documents.

§ 402.7 Mortgagor's certification of compliance.

(a) Upon expiration of the 30-day period required by § 402.4(b), the mortgagor must submit the following to the HUD field office:

(1) Copy of the Notice provided to the tenants;

(2) Copies of all tenant comments received;

(3) An evaluation of those comments with respect to the request under review by HUD;

(4) Copies of all materials that were made available to tenants; and

(5) A written statement certifying that the mortgagor:

(i) Has taken reasonable steps to assure that the substance of the Notice has been conveyed to each resident household or, in cases where the Notice was posted, that the mortgagor exercised reasonable efforts to assure that the Notices were maintained intact and in legible form for the specified thirty (30) days; and

(ii) Has made copies of all materials required by § 402.6 available at a site reasonably convenient to tenants during normal business hours and that requests by tenants to inspect such materials as provided for in the Notice were honored; and

(iii) Has considered all comments received from the tenants and is transmitting all comments to HUD; and

(iv) In addition, the mortgagor must certify that "under the penalties and provisions of Title 18, United States Code, Section 1001, the statements contained in the request and this letter have been examined by me and, to the best of my knowledge and belief, are true, correct and complete."

§ 402.8 HUD review.

When the 30 day tenant review period has expired and the mortgagor has

transmitted the materials specified in § 402.7, the HUD field office shall review the tenants' comments and will either approve, modify or disapprove the mortgagor's request. No final action may be taken with regard to the mortgagor's request prior to the end of the tenant review period and until receipt of the mortgagor's certification of compliance prepared in accordance with these regulations. The HUD field office shall notify the mortgagor in writing of its decision, and shall include in the notification the reasons for its decision in light of the tenant comments.

§ 402.9 Waivers.

Waivers to these regulations may be granted in the following circumstances:

(a) *Change in management.* If the Department has ordered the mortgagor to replace the management for cause, or the management agent cancels the contract, ceases to exist as a management corporation, or terminates its management precipitously and such act requires immediate action on the part of the owner to replace management, the mortgagor is

authorized to hire a managing agent for an interim period without following the procedures of this part in advance. The mortgagor must provide tenant input into the final selection approval process in the same manner as prescribed by this regulation for a normal change in project management. The HUD Field Office may authorize this waiver.

(b) *Any other major actions.* If the Field Office finds that it is in the best interest of the Department to waive the requirements of these regulations in a proposed transaction, then the Field Office shall make its recommendation along with supporting documentation to the Assistant Secretary for Housing-Federal Housing Commissioner. Upon completion of a determination and finding of good cause by the Assistant Secretary for Housing-Federal Housing Commissioner or his or her designee, HUD may waive any provision of this Part in any particular case subject only to statutory limitations. Each waiver shall be in writing supported by documentation of the facts and reasons which formed the basis for the waiver.

(Section 7d, Department of Housing and Urban Development Act; 42 U.S.C. 3535(d).)

Issued in Washington, D.C., October 18, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal
Housing Commissioner.

[FR Doc. 79-35283 Filed 11-15-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[LR-81-78]

Submission of Copies of Certain Withholding Exemption Certificates to the Internal Revenue Service Public Hearing on Proposed Employment Tax Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed Employment Tax Regulations which related to requiring an employer to submit copies of certain employee withholding exemption certificates to the Internal Revenue Service.

DATES: The public hearing will be held on January 4, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by December 10, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-81-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 3401 and 3402 of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Tuesday, October 9, 1979, at page 57940 (44 FR 57940).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by December 10, 1979. Each speaker will be limited to 10 minutes for an oral

presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79-35431 Filed 11-15-79; 8:45 am]
BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 8

National Service Life Insurance; Insurance Payable in One Sum

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: The proposed amendments will allow National Service Life Insurance to be payable in one sum when selected by the insured in his or her last will and testament. They will be in addition to the present portion of the regulations which allow the issuance to be payable in one sum only when selected by the insured. This amendment is proposed to eliminate hardships to beneficiaries who are limited to installment options selected by the insured many years prior to his or her death.

DATES: Comments must be received on or before December 17, 1979. It is proposed to make these amendments effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until December 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Murray Zuckerman, Veterans Administration Center (290B), P.O. Box 8079, Philadelphia, Pa. 19101 (215-951-5733).

SUPPLEMENTARY INFORMATION: A one-sum payment for United States Government Life Insurance can be made when selected by the insured in his or her last will and testament. The governing laws are similar for United States Government Life Insurance and National Service Life Insurance. The regulation changes will allow one-sum payment in related situations for National Service Life Insurance. Often there are real hardships in which beneficiaries are limited to installment options selected by the insured many years prior to his or her death. Favorable results have been obtained in settling United States Government Life Insurance in lump sums by using the last will and testament of the insured. The proposed regulation changes should also bring favorable results.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 27, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 8, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

§ 8.77 [Amended]

1. Section 8.77 is amended by adding the words "or her" after the word "his" in the second sentence of paragraph (b)(1).

2. In § 8.79, Option 1 is revised to read as follows:

§ 8.79 Optional settlements on participating National Service Life Insurance and nonparticipating Insurance issued under section 602(c)(2) of the National Service Life Insurance Act, as amended, on which the requirements of good health were waived.

Option 1; insurance payable in one sum. Settlement under this option will be made only when selected by the insured during his or her lifetime or by

his or her last will and testament. When such selection has been made, the face amount (less any indebtedness) will be payable in one sum upon the death of the insured. (38 U.S.C. 717)

3. In § 8.80, Option 1 is revised to read as follows:

§ 8.80 Optional settlements on Insurance issued under the provisions of section 620 or 621 of the National Service Life Insurance Act, as amended, and section 722(a) of Title 38, United States Code.

Option 1; insurance payable in one sum. Settlement under this option will be made only when selected by the insured during his or her lifetime or by his or her last will and testament. When such election has been made, the face amount (less any indebtedness) will be payable in one sum upon the death of the insured. (38 U.S.C. 717)

4. In § 8.80c, Option 1 is revised to read as follows:

§ 8.80c Optional settlements on Insurance issued under the provisions of section 723(b) of Title 38, United States Code.

Option 1; insurance payable in one sum. Settlement under this option will be made only when selected by the insured during his or her lifetime or by his or her last will and testament. When such election has been made, the face amount (less any indebtedness) will be payable in one sum upon the death of the insured. (38 U.S.C. 717)

5. In § 8.81, Option 1 is revised to read as follows:

§ 8.81 Optional settlements on Insurance issued under the provisions of section 725 of Title 38, United States Code.

Option 1; insurance payable in one sum. Settlement under this option will be made only when selected by the insured during his or her lifetime or by his or her last will and testament. When such election has been made, the face amount (less any indebtedness) will be payable in one sum upon the death of the insured. (38 U.S.C. 717)

(38 U.S.C. 210(c))

[FR Doc. 79-35422 Filed 11-15-79; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

Veterans' Education; Tutorial Assistance

AGENCY: Veterans Administration.

ACTION: Proposed Regulation.

SUMMARY: The proposed regulation states specifically that the Veterans Administration will not pay tutorial assistance to a veteran or eligible person if he or she is being tutored by a parent, sibling or spouse. In preventing abuse of tutorial assistance the Veterans Administration has for many years disapproved applications for tutorial assistance if the assistance was being given by a parent, sibling or spouse. The Veterans Administration's statement of this policy in the Code of Federal Regulations will better inform the public as to how the Veterans Administration determines whether a veteran or eligible person is entitled to tutorial assistance.

DATES: Comments must be received on or before December 17, 1979. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until December 27, 1979.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.4236 is reorganized to show clearly the conditions which will preclude approval of an application of a veteran or eligible person for tutorial assistance. Approval is prohibited when the tutoring is being done by a parent, sibling or spouse.

This proposed regulation does not meet the Veterans Administration's established criteria for significant regulations. It will affect some veterans; since it will make fraud more difficult. The proposal will have no effect on educational institutions. There will be no costs to businesses or to educational institutions caused by this proposal. The proposal will affect neither the other programs administered by the Veterans Administration nor other Federal agencies.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received

will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until December 27, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 8, 1979.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

In § 21.4236, paragraphs (b) through (d) are revised as paragraphs (b) through (e) as follows:

§ 21.4236 Special supplemental assistance (tutorial).

(b) *Certification.* The educational institution will certify:

(1) That the individualized tutorial assistance is essential to correct a deficiency in a specified subject or subjects;

(i) Required as part of an approved program of education; or

(ii) Which is prerequisite to the satisfactory pursuit of an approved program of education; or

(iii) Which is indispensable to the satisfactory pursuit of an approved program of education;

(2) That the tutor selected:

(i) Is qualified, and

(ii) Is not the parent, sibling or spouse of the veteran or eligible person; and

(3) That the charges for such assistance do not exceed the customary charges for such tutorial assistance. (38 U.S.C. 1690, 1692, 1693)

(c) *Approval.* The Veterans Administration will approve tutorial assistance for a veteran or eligible person only if it determines that:

(1) The educational institution's certification is correct; and

(2) The tutorial assistance will be furnished on an individualized basis. (38 U.S.C. 1690, 1692, 1693)

(d) *Educational assistance allowance.* In addition to payment of educational assistance allowance at the monthly rates specified in § 21.4136 or 21.4137 the costs of such tutorial assistance in an amount not to exceed \$69 per month will be authorized. (38 U.S.C. 1692(b))

(e) *Entitlement charge.* No charge will be made against the period of the veteran's entitlement as computed under

§ 21.1041 or the eligible person's entitlement as computed under § 21.3044. Special supplemental assistance provided under this section will not exceed a maximum of \$828. (38 U.S.C. 1690, 1692, 1693)

(38 U.S.C. 210(c))

[FR Doc. 79-35423 Filed 11-15-79; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 36

Loan Guaranty; Holders' Acceptance of Partial Payments on VA Guaranteed and Insured Home, Mobile Home, and Vendee Loans

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: The VA (Veterans Administration) is proposing to amend its regulations to define circumstances in which holders of VA loans (guaranteed and insured home loans, mobile home loans, and sold vendee loans) will be required to accept partial payments when such loans are in default. The proposed regulations are necessary to give holders of VA loans guidelines which will govern their actions upon receipt of partial payments from obligors. These proposed regulations, if adopted, should allow veterans and other obligors in certain circumstances to eventually bring their loans current through the making of partial payments on their loans for a period of time. The proposed amendments will give holders specific requirements for the acceptance or refusal of partial payments dependent upon the circumstances of the defaults and related aspects.

DATES: Comments must be received on or before December 17, 1979. It is proposed to make this amendment effective on the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420.

Comments will be available for public inspection at the address shown above until December 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond L. Brodie, Assistant Director for Loan Management (261), Loan Guaranty Service, Veterans Administration, Washington, DC 20420 (202-389-3668).

SUPPLEMENTARY INFORMATION: The VA is proposing to amend its mobile home § 36.4200 series, home § 36.4300 series, and vendee loan § 36.4600 regulations by inserting a new requirement in each part governing holders' acceptance of

partial payments. A partial payment is a payment remitted by an obligor in any amount less than the full amount due under the terms of the loan and security instruments in effect at the time the payment is tendered. A loan default is a failure of the obligor to comply with the terms of the loan agreement. Generally, a default occurs because of the obligor's failure to make loan payments in accordance with the loan agreement. However, a default can also occur through failure of the obligor to fulfill other obligations such as the proper payment to the lender of funds sufficient to cure an escrow shortage.

Holders presently are not required to accept partial payments. However, throughout the history of the VA Loan Guaranty Program, holders have been encouraged to work with obligors and attempt to cure loan defaults if at all possible. One of the methods most encouraged is the holder's acceptance for a period of time of an obligor's partial payments until the obligor is able to resume normal loan payments.

The proposed regulations, if adopted, would require holders to accept partial payments under certain circumstances, while allowing holders the discretion to accept or return partial payments in other instances. In general, on loans which are less than 30 days in default, a holder may continue to return an obligor's monthly payment if the amount received is less than a full installment of principal, interest, taxes, and insurance, plus late charges, if applicable. On loans which are more than 30 days in default, the holder will be required when certain conditions exist, to accept a partial payment which is more than one full monthly installment but less than the total amount then due under the terms of the security instruments. However, the proposed amendments will give holders the option of accepting or returning partial payments which are less than the amount the holder would be required to accept.

Specifically, the proposed amendments will require the holder to accept a partial payment on a loan which is in default unless one or more of the following conditions exist:

(1) The property is wholly or partially tenant-occupied, and rental payments are not being remitted to the holder for application to the loan account;

(2) The payment is less than one full monthly installment, including escrows and late charge, if applicable, unless the lesser payment amount has been agreed to under an oral or written repayment plan;

(3) The payment is less than 50 percent of the total amount then due, unless the lesser payment amount has

been agreed to under an oral or written repayment plan;

(4) The payment is less than the amount agreed to in an oral or written repayment plan;

(5) The amount tendered is in the form of a personal check and the holder has previously notified the mortgagor in writing that only cash or certified remittances are acceptable;

(6) A delinquency of any amount has continued for at least 6 months since the account first became delinquent, and no oral or written repayment plan has been arranged;

(7) Foreclosure and/or repossession has been commenced by the taking of the first action required for foreclosure/repossession under local law, or a claim for repurchase of the vendee loan has been submitted to VA;

(8) The holder's lien position would be jeopardized by acceptance of the partial payment.

If one or more of the above conditions exist, the holder could properly return a partial payment at any time within 10 days of the payment's receipt. A holder also may seek the express waiver of the Administrator to return partial payments if none of the above conditions exist. A holder, who failed to accept a partial payment on a VA vendee loan in accordance with the proposed regulation, could face a deduction in the VA repurchase price under § 36.4600(e)(1).

A holder who failed to accept a partial payment on a guaranteed or insured home or mobile home loan in accordance with the proposed regulations, could face a partial or total loss of guaranty under § 36.4325 (home loans) or § 36.4286 (mobile home loans).

The amendments are proposed under authority of sections 210(c), 1803(c)(1), 1819(g), and 1820 of title 38, United States Code.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 27, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and

furnished the address and the above room number.

Approved: November 8, 1979.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

1. In § 36.4275, the headnote is amended and paragraph (f) is added so that the amended and added material reads as follows:

§ 36.4275 Events constituting default and acceptability of partial payments.

(f) A partial payment is a remittance on a loan in default (as defined in § 36.4202(c)) of any amount less than the full amount due under the terms of the loan and security instruments at the time the remittance is tendered.

(1) Except as provided in paragraph (f)(2) of this section, or upon the express waiver of the Administrator, the holder shall accept any partial payment and either apply it to the obligor's account or identify it with the obligor's account and hold it in a special account pending disposition. When partial payments held for disposition aggregate a full monthly installment, including escrow, they shall be applied to the obligor's account.

(2) A partial payment may be returned to the obligor within 10 calendar days from date of receipt of such payment, with a letter of explanation only if one or more of the following conditions exist:

(i) The property is wholly or partially tenant-occupied and rental payments are not being remitted to the holder for application to the loan account;

(ii) The payment is less than one full monthly installment, including escrows and late charge, if applicable, unless the lesser payment amount has been agreed to under an oral or written repayment plan;

(iii) The payment is less than 50 percent of the total amount then due, unless the lesser payment amount has been agreed to under an oral or written repayment plan;

(iv) The payment is less than the amount agreed to in an oral or written repayment plan;

(v) The amount tendered is in the form of a personal check and the holder has previously notified the obligor in writing that only cash or certified remittances are acceptable;

(vi) A delinquency of any amount has continued for at least 6 months since the account first became delinquent and no oral or written repayment plan has been arranged;

(vii) Foreclosure and/or repossession has been commenced by the taking of

the first action required for foreclosure/repossession under local law;

(viii) The holder's lien position would be jeopardized by acceptance of the partial payment.

(3) A failure by the holder to comply with the provisions of this paragraph may result in a partial or total loss of guaranty or insurance pursuant to § 36.4286(b), but such failure shall not constitute a defense to any legal action to terminate the loan. (38 U.S.C. 1819(g))

2. Section 36.4315 is revised to read as follows:

§ 36.4315 Notice of default and acceptability of partial payments.

(a) *Reporting of defaults.* The holder of any guaranteed or insured loan shall give notice to the Administrator within 45 days after any debtor:

(1) Is in default by reason of nonpayment of any installment for a period of 60 days from the date of first uncured default (see § 36.4301(f)); or

(2) Is in default by failing to comply with any other covenant or obligation of such guaranteed or insured loan which failure persists for a continuing period of 90 days after demand for compliance therewith has been made, except that if the default is due to nonpayment of real estate taxes, the notice shall not be required until the failure to pay when due has persisted for a continuing period of 180 days.

(b) *Partial payments.* A partial payment is a remittance on a loan in default (as defined in § 36.4301(g)) of any amount less than the full amount due under the terms of the loan and security instruments at the time the remittance is tendered.

(1) Except as provided in paragraph (b)(2) of this section, or upon the express waiver of the Administrator, the mortgage holder shall accept any partial payment and either apply it to the mortgagor's account or identify it with the mortgagor's account and hold it in a special account pending disposition. When partial payments held for disposition aggregate a full monthly installment, including escrow, they shall be applied to the mortgagor's account.

(2) A partial payment may be returned to the mortgagor, within 10 calendar days from date of receipt of such payment, with a letter of explanation only if one or more of the following conditions exist:

(i) The property is wholly or partially tenant-occupied and rental payments are not being remitted to the holder for application to the loan account;

(ii) The payment is less than one full monthly installment, including escrows and late charge, if applicable, unless the lesser payment amount has been agreed

to under an oral or written repayment plan;

(iii) The payment is less than 50 percent of the total amount then due, unless the lesser payment amount has been agreed to under an oral or written repayment plan;

(iv) The payment is less than the amount agreed to in an oral or written repayment plan;

(v) The amount tendered is in the form of a personal check and the holder has previously notified the mortgagor in writing that only cash or certified remittances are acceptable;

(vi) A delinquency of any amount has continued for at least 6 months since the account first became delinquent and no oral or written repayment plan has been arranged;

(vii) Foreclosure has been commenced by the taking of the first action required for foreclosure under local law;

(viii) The holder's lien position would be jeopardized by acceptance of the partial payment.

(3) A failure by the holder to comply with the provisions of this paragraph may result in a partial or total loss of guaranty or insurance pursuant to § 36.4325(b), but such failure shall not constitute a defense to any legal action to terminate the loan. (38 U.S.C. 1803(c)(1))

3. In § 36.4316, paragraph (a) is revised (gender changes only) as follows:

§ 36.4316 Continued default.

(a) In the event any failure of the debtor to discharge the debtor's obligations under the loan continues for a period of 3 months, or for more than 1 month on an extended loan or on a term loan, the holder may at the holder's option then or thereafter, submit a claim for payment of the guaranty. The holder may also then or thereafter give the notice prescribed in § 36.4317.

§ 36.4318 [Amended]

5. Section 36.4318 is amended by deleting the words "by him" and inserting the words "by the Administrator" in the first sentence of paragraph (a).

§ 36.4319 [Amended]

5. Section 36.4319 is amended by deleting the words "his behest" and "he has" and inserting the words "the holder's behest" in the first sentence and "the holder has" in the last sentence of paragraph (b) and by deleting the words "his appearance" and inserting the words "the Administrator's appearance" in paragraph (c).

6. Section 36.4600 is amended as follows:

(a) By deleting the words "his discretion" and inserting the words "the holder's discretion" in the first sentence of paragraph (c)(3) and by deleting the words "he may" and "his determination" and inserting the words "the Administrator may" and "Administrator's determination" in paragraph (c)(11).

(b) By adding paragraph (c)(15) to read as follows:

§ 36.4600 Sale of loans, guarantee of payment.

(c) The holder of each loan sold subject to guaranty shall be deemed to have agreed with the Administrator as follows:

(15) To dispose of partial payments in accordance with the provisions of this subparagraph. A partial payment is a remittance on a loan in default of any amount less than the full amount due under the terms of the loan and security instruments at the time the remittance is tendered; a default is a failure of a borrower to comply with the terms of a loan agreement.

(i) Except as provided in paragraph (c)(15)(ii) of this section, or upon the express waiver of the Administrator, the mortgage holder shall accept any partial payment and either apply it to the mortgagor's account or identify it with the mortgagor's account and hold it in a special account pending disposition. When partial payments held for disposition aggregate a full monthly installment, including escrow, they shall be applied to the mortgagor's account.

(ii) A partial payment may be returned to the mortgagor, within 10 calendar days from date of receipt of such payment, with a letter of explanation only if one or more of the following conditions exist:

(a) The property is wholly or partially tenant-occupied and rental payments are not being remitted to the holder for application to the loan account;

(b) The payment is less than one full monthly installment, including escrows and late charge, if applicable, unless the lesser payment amount has been agreed to under an oral or written repayment plan;

(c) The payment is less than 50 percent of the total amount then due, unless the lesser payment amount has been agreed to under an oral or written repayment plan;

(d) The payment is less than the amount agreed to in an oral or written repayment plan;

(e) The amount tendered is in the form of a personal check and the holder has previously notified the mortgagor in writing that only cash or certified remittances are acceptable;

(f) A delinquency of any amount has continued for at least 6 months since the account first became delinquent and no oral or written repayment plan has been arranged;

(g) The loan has been submitted to the Veterans Administration for repurchase;

(h) The lien position of the security instrument would be jeopardized by acceptance of the partial payment.

(iii) A failure by the holder to comply with the provisions of this subparagraph may result in a deduction from the repurchase price pursuant to paragraph (e)(1) of this section. (38 U.S.C. 1820)

(38 U.S.C. 210(c), 1803(c)(1), 1819(g), 1820)

[FR Doc. 79-35432 Filed 11-15-79; 8:45 am]

BILLING CODE 8320-01-M

ACTION

45 CFR Part 1210.

VISTA Trainee Deselection and Volunteer Early Termination Procedures

AGENCY: ACTION.

ACTION: Proposed rule.

SUMMARY: This proposed rule codifies and revises existing procedures for deselection of VISTA Trainees and early termination of VISTA Volunteers by the ACTION agency, and procedures for appealing such deselections and terminations. In addition, the procedure has been revised to include a section dealing with VISTA Volunteers serving in ACTION's National Grant Program.

DATES: Written comments must be received on or before December 17, 1979, in order to be assured of consideration.

ADDRESS: Interested persons are invited to submit written comments to: Ellen Reath, Assistant General Counsel, ACTION, Room 607; 806 Connecticut Ave., NW., Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Angelo Traficanti; Chief, VISTA Policy Unit, 202-254-6880, toll-free 800-424-8580, ext. 82.

SUPPLEMENTARY INFORMATION: ACTION's procedures for deselection of VISTA Trainees and terminating VISTA Volunteers and providing an opportunity to appeal such deselections and early terminations are presently contained in ACTION Order 4002.6 published in 1974. The early termination procedure also appears in the VISTA Volunteer Handbook distributed to all Volunteers.

Five years experience with the procedure has indicated a need for revision as well as codification in the Code of Federal Regulations. In August 1979, all Regional and State ACTION Offices as well as the National VISTA Volunteer Forum were asked for suggestions as to changes in the early termination procedures. A proposed rule was drafted incorporating these ideas and making editorial revisions in the existing procedures.

The major changes are summarized below and pertain to the VISTA Volunteer Early Termination Procedure.

1. The person with the final decision making authority has been changed from the Deputy Director of the Agency to the Deputy Associate Director for VISTA, since that position has direct responsibility for the VISTA program.

2. The procedure has been altered slightly regarding the appointment of a Hearing Examiner. The current regulations provide that if a Volunteer is dissatisfied with the decision of the State Director, he or she may appeal to the Regional Director who must immediately appoint a Hearing Examiner. The Hearing Examiner makes recommendations to the Regional Director, who then issues a decision. This decision may be further appealed to the Deputy Director of the agency. The proposed regulation provides that a Volunteer who is dissatisfied with the decision of the State Director may appeal directly to the Regional Director who will issue a decision on the merits. This permits the Regional Director an opportunity to resolve the appeal before going to the Hearing Examiner. If the Volunteer is dissatisfied with this decision, a Hearing Examiner will be appointed who will make recommendations to the Deputy Associate Director for VISTA. The Deputy Associate Director's decision is final.

3. The proposed rule also includes a specific procedure for Volunteers serving under the VISTA National Grant Program. The National Grant Program uses a mechanism whereby ACTION awards a grant to a national organization for the support of VISTA Volunteers assigned to the grantee's local offices or affiliates. The grantee assumes administrative responsibility for payment of the Volunteers, and the grant is monitored by ACTION through its National Headquarters rather than through Regional and State Offices. Because of this difference in structure from the standard VISTA program, the levels of appeal for Volunteers under the National Grant Program have been changed but not the substantive rights.

The person to initiate the termination action will be the VISTA Project manager in ACTION/Headquarters, who will discuss the proposed action with the State Director. The VISTA Project Manager will issue the decision to terminate. If the Volunteer wishes to appeal, he or she may so to the Chief of the VISTA Program Development Branch, not to the Regional Director. The Program Development Chief will decide on the merits and if the Volunteer is still dissatisfied he or she may request the appointment of a Hearing Examiner. The Hearing Examiner will make recommendations to the Deputy Associate Director for VISTA who will issue the final agency decision.

Accordingly, it is proposed to amend 45 CFR Ch. XII by adding a new Part 1210 to read as follows:

PART 1210—VISTA TRAINEE DESELECTION AND VOLUNTEER EARLY TERMINATION PROCEDURES

Subpart A—General Sec.

- 1210.1-1 Purpose.
- 1210.1-2 Applicability.
- 1210.1-3 Definitions.

Subpart B—VISTA Trainee Deselection

- 1210.2-1 Grounds for deselection.
- 1210.2-2 Procedure for Deselection.

Subpart C—VISTA Volunteer Early Termination

- 1210.3-1 Grounds for Termination.
- 1210.3-2 Suspension.
- 1210.3-3 Initiation of Termination.
- 1210.3-4 Preparation for Appeal.
- 1210.3-5 Appeal of Termination.
- 1210.3-6 Inquiry by Hearing Examiner.
- 1210.3-7 Termination File and Examiner's Report.
- 1210.3-8 Decision by Deputy Associate Director for VISTA.
- 1210.3-9 Reinstatement of Volunteer.
- 1210.3-10 Removal from Project.
- 1210.3-11 Disposition of Termination and Appeal Files.

Subpart D—National Grant Volunteers

- 1210.4 Early Termination Procedures for National Grant Volunteers.

Appendix A—Standard for Examiners

Authority: Secs. 103(c), 402(14), 420, Pub. L. 93-113, 87 Stat. 397, 407 and 414.

Subpart A—General

§ 1210.1-1 Purpose.

"This part establishes procedures under which certain trainees and volunteers serving in ACTION programs under Pub. L. 93-113 will be deselected from training or terminated from service and may appeal their deselection or termination.

§ 1210.1-2 Applicability.

This part applies to all Volunteers enrolled under Part A of Title I of the Domestic Volunteer Service Act, Pub. L. 93-113, (42 U.S.C. 4951 *et seq.*) and full time volunteers serving under Part C of Title I of the Act.

§ 1210.1-3 Definitions.

(a) "Trainee" means a person enrolled in a program under Part A of Title I of the Domestic Volunteer Service Act or a full time volunteer under Part C of Title I of the Act who has reported to training but has not yet completed training and been placed on a project.

(b) "Volunteer" means a person enrolled and currently serving as a full-time Volunteer under Part A of Title I of the Domestic Volunteer Service Act of 1973, or as a full-time volunteer under Part C of Title I of the Act.

(c) "Sponsor" means a public or private non-profit agency to which ACTION has assigned volunteers.

(d) "Hearing Examiner" or "Examiner" means a person having the qualifications described in Appendix A appointed to conduct an inquiry with respect to a grievance.

(e) "National Grant Program" means a program operated under Part A, Title I of the Domestic Volunteer Service Act in which ACTION gives a grant to operate a VISTA Volunteer program on a national or multi-regional basis. VISTA volunteers are assigned to local offices or project affiliates. The national grantee provides overall training, technical assistance and management support for the projects operations.

(f) "Local component" means a local office or project affiliate of a national grantee which has VISTA Volunteers assigned to it under the VISTA National Grants Program.

(g) "Termination" means the removal of a volunteer from VISTA service by ACTION, and does not refer to removal from a particular project, which may be requested by a sponsor or Governor under § 1210.3-10.

Subpart B—VISTA Trainee Deselection

§ 1210.2-1 Grounds for Deselection.

ACTION may deselect a trainee out of a training program for any of the following reasons:

- (a) Failure to meet training or selection standards;
- (b) Conviction of any criminal offense under Federal, State, or local statute or ordinance;
- (c) Violation of any provision of the Domestic Volunteer Service Act of 1973 (Pub. L. 93-113), or any ACTION policy, regulation, or instruction;

(d) Intentional false statement, omission, fraud, or deception in obtaining selection as a volunteer;

§ 1210.2-2 Procedure for deselection.

(a) The Regional Director or designee shall notify the trainee in writing that ACTION intends to deselect the Trainee. The Notice must contain the reasons for the deselection and indicate that the Trainee has 5 days to appeal.

(b) The Trainee is placed on Administrative Hold at the time of the notice of Deselection.

(c) The Trainee has 5 days after receipt of the Notice to appeal to the Regional Director, furnishing any supportive documentation. If there is a substantial disputed question of fact, the Trainee may request an opportunity to present his or her case in person.

(d) If the Trainee does not respond to the Notice, deselection becomes effective at the expiration of the Trainee's time to appeal.

(e) Within 5 days after receiving the Trainee's appeal, if no personal presentation is requested, the Regional Director or designee must issue a decision. If a personal presentation is requested, the Regional Director must schedule it within 5 days, and must issue a decision 5 days after the presentation. In either case, the decision of the Regional Director or designee is final.

Subpart C—VISTA Volunteer Early Termination

§ 1210.3-1 Grounds for termination.

ACTION may terminate or suspend a Volunteer for any of the following reasons:

- (a) Conviction of any criminal offense under Federal, State, or local statute or ordinance;
- (b) Violation of any provision of the Domestic Volunteer Service Act of 1973 (Pub. L. 93-113), or any ACTION policy, regulation, or instruction;
- (c) Failure, refusal or inability to perform prescribed project duties as outlined in the Project Narrative and/or volunteer job description and directed by the sponsoring organization to which the Volunteer is assigned;
- (d) Involvement in activities which substantially interfere with the Volunteer's performance of project duties;
- (e) Intentional false statement, omission, fraud, or deception in obtaining selection as a Volunteer;
- (f) Any conduct on the part of the Volunteer which substantially diminishes his or her effectiveness as a VISTA Volunteer;

(g) Lack of a viable job for which the Volunteer is qualified, if the initial job assignment ends or is terminated prior to completion of a period of service;

(h) Unsatisfactory job performance.

§ 1210.3-2 Suspension.

(a) The ACTION State Director may suspend a Volunteer for up to 30 days in order to determine whether sufficient evidence exists to start termination proceedings against the Volunteer. Suspension is not warranted if the State Director determines that sufficient grounds already exist for the initiation of termination. In that event, the termination procedures contained in § 1210.3-3 will be followed.

(b) Within 3 days after initiation of the suspension, the Volunteer will receive a written notice of suspension setting forth in specific detail the reason for the suspension. During the suspension period the Volunteer may not engage in project activities, but will continue to receive all allowances, including stipend.

(c) At the end of the suspension period, the Volunteer must either be reassigned to a project, or termination proceedings must be initiated.

§ 1210.3-3 Initiation of termination.

(a) *Opportunity for Resignation.* In instances where ACTION has reason to believe that a Volunteer is subject to termination for any of the grounds cited in § 1210.3-1 an ACTION staff member will discuss the matter with the Volunteer. If, after the discussion, the staff member believes that grounds for termination exist, the Volunteer will be given an opportunity to resign. If the Volunteer chooses not to resign, the administrative procedures outlined below will be followed.

(b) *Notice of Proposed Termination.* The Volunteer will be notified, in writing, of ACTION's intent to terminate him or her by the ACTION State Director or Program Officer for the project to which the Volunteer is assigned, at least 15 days in advance of the proposed termination date. The notice shall notify the Volunteer that he or she has 10 days within which to answer the notice in writing and to furnish any affidavits or written material. This answer must be submitted to the ACTION State Director/Program Officer.

(c) *Review and Notice of Decision.* (1) Within 5 working days after the date of receipt of the Volunteer's answer, the State Director/Program Officer will send a written Notice of Decision to the Volunteer by certified mail. (If no answer is received from the Volunteer within the time specified, the State

Director/Program Officer will send such notice within 5 days after the expiration of the Volunteer's time to answer.)

(2) If the decision is to terminate the Volunteer, the Notice will set forth the reasons for the decision, the effective date of termination (which, if the Volunteer has filed an answer, may not be earlier than 10 days from the date of the Notice), and the fact that the Volunteer has 10 days in which to submit a written appeal to the Regional Director.

(3) A Volunteer who has not filed an answer pursuant to the procedures outlined above is not entitled to appeal the decision or request a hearing and may be terminated on the date of the Notice.

(d) *Continuation of Allowances.* (1) If the Volunteer files an answer with the State Director/Program Officer following receipt of the notice of proposed termination, the Volunteer will be placed in Administrative Hold status, and will continue to receive regular allowances, but not stipend, in accordance with ACTION policy until the appeal is finally decided. The Volunteer will not engage in any project related activities during this time.

(2) In the event that the proposed termination is reversed, the Volunteer's stipend and any other allowances lost during the period of review will be reinstated retroactively.

§ 1210.3-4 Preparation for Appeal.

(a) *Entitlement to Representation.* A Volunteer may be accompanied, represented and advised by a representative of the Volunteer's own choice at any stage of the appeal. A person chosen by the Volunteer must be willing to act as representative and not be disqualified because of conflict of position.

(b) *Time for Preparation and Presentation.* (1) A Volunteer's representative, if a Volunteer or an employee of ACTION, must be given a reasonable amount of time off from assignment to present the appeal. (2) ACTION will not pay travel expenses or per diem travel allowances for either a Volunteer or the Volunteer's representative in connection with the preparation of the appeal, except to attend the hearing as provided in § 1210.3-6(c)(5).

(c) *Access to Agency Records.* (1) A Volunteer is entitled to review any material in his or her official Volunteer folder and any relevant agency documents to the extent permitted by the Privacy Act and the Freedom of Information Act, 5 U.S.C. 552a, 5 U.S.C. 552. Examples of documents which may be withheld from Volunteers include

references obtained under a pledge of confidentiality, official Volunteer folders of other Volunteers and privileged intra-agency memoranda.

(2) A Volunteer may review relevant documents in the possession of a sponsor to the same extent ACTION would be entitled to review them.

§ 1210.3-5 Appeal of Termination.

(a) *Appeal to Regional Director.* A Volunteer has 10 days from the Notice of Decision issued by the State Director/Program Officer in which to submit a written appeal to the Regional Director. The appeal must be in writing and specify the reasons for the Volunteer's disagreement with the decision. The Regional Director has 10 days in which to render a written decision on the Volunteer's appeal, indicating the reason for the decision. The Regional Director must also notify the Volunteer that he or she has 5 days in which to request the appointment of a Hearing Examiner as provided below.

(b) *Referral to Hearing Examiner.* If the Volunteer is dissatisfied with the decision of the Regional Director, the Volunteer has 5 days in which to request the appointment of a Hearing Examiner. The Regional Director must act on that request within 5 days. The Hearing Examiner must possess the qualifications specified in Appendix A to this part, and may not be an employee of ACTION unless his or her principal duties are those of Hearing Examiner.

§ 1210.3-6 Inquiry by Hearing Examiner.

(a) *Scope of Inquiry.* (1) The Examiner shall conduct an inquiry of a nature and scope appropriate to the issues involved in the termination. If the Examiner determines that the termination involves relevant disputed issues of fact, the Examiner must hold a hearing unless it is waived by the Volunteer. If the termination does not involve relevant disputed issues of fact, the Hearing Examiner need not hold a hearing, but must provide the parties an opportunity for oral presentation of their respective positions. At the Examiner's discretion, the inquiry may include:

- (i) The securing of documentary evidence;
- (ii) Personal interviews, including telephone interviews;
- (iii) Group meetings;
- (iv) Affidavits, written interrogatories or depositions;

(2) The Hearing Examiner's inquiry shall commence within 7 days after referral by the Regional Director. The Examiner shall issue a report as soon as possible, but within 30 days after referral, except when a hearing is held.

If hearing is held the Examiner shall issue a report within 45 days after the referral.

(b) *Conduct of Hearing.* If a hearing is held, the conduct of the hearing and production of witnesses shall conform with the following requirements:

(1) The hearing shall be held at a time and place determined by the Hearing Examiner who shall consider the convenience of parties and witnesses and expense to the Government in making the decision.

(2) Ordinarily, attendance at the hearing will be limited to persons determined by the Examiner to have a direct connection with it. If requested by the Volunteer, the Examiner must open the hearing to the public.

(3) The hearing shall be conducted so as to bring out pertinent facts, including the production of pertinent records.

(4) Rules of evidence shall not be applied strictly, but the Examiner may exclude irrelevant or unduly repetitious testimony or evidence.

(5) Decisions on the admissibility of evidence or testimony shall be made by the Examiner.

(6) Testimony shall be under oath or affirmation, administered by the Examiner.

(7) The Examiner shall give the parties an opportunity to present oral and written testimony that is relevant and material, and to cross-examine witnesses who appear to testify.

(8) The Examiner may exclude any person from the hearing for conduct that obstructs the hearing.

(c) *Witnesses.* (1) All parties are entitled to produce witnesses.

(2) Volunteers, employees of a sponsor, and employees of ACTION shall be made available as witnesses when requested by the Examiner. The Examiner may request witnesses on his or her own initiative. Parties shall furnish to the Examiner and to opposing parties a list of proposed witnesses, and an explanation of what the testimony of each is expected to show, at least ten days before the date of the hearing. The Hearing Examiner may waive the time limit in appropriate circumstances.

(3) Employees of ACTION shall remain in a duty status during the time they are made available as witnesses.

(4) Volunteers, employees and any other persons who serve as witnesses shall be free from coercion, discrimination, or reprisal for presenting their testimony.

(5) The Hearing Examiner must authorize payment of travel expense and per diem at standard government rates for the Volunteer and a representative to attend the hearing.

(6) The Hearing Examiner may authorize payment of travel expense and per diem at standard government rates for other necessary witnesses to attend the hearing if he or she determines that the required testimony cannot be satisfactorily obtained by affidavit, written interrogatories or deposition at less cost.

(d) *Report of Hearing.* (1) The Examiner shall determine how any hearing shall be reported and shall have either a verbatim transcript or written summary of the hearing prepared, which shall include all pertinent documents and exhibits submitted and accepted. If the hearing is reported verbatim, the Examiner shall make the transcript a part of the record of the proceedings.

(2) If the hearing is not reported verbatim, a suitable summary of pertinent portions of the testimony shall be made part of the record of proceedings. When agreed to in writing, the summary constitutes the report of the hearing. If the Examiner and the parties fail to agree on the hearing summary, the parties are entitled to submit written exceptions to any part of the summary, and these written exceptions and the summary constitute the report of the hearing and shall be made part of the record of proceedings.

(3) An appellant Volunteer may make a recording of the hearing at the Volunteer's own expense if no verbatim transcript is made.

§ 1210.3-7 Termination File and Examiner's Report.

(a) *Preparation and Content.* The Examiner shall establish a Termination File containing all documents related to the termination, including statements of witnesses, records or copies thereof, and the report of the hearing when a hearing was held. The Examiner shall also prepare a report of findings and recommendations which shall be made part of the Termination File.

(b) *Review of Volunteer.* On completion of the Termination File, the Examiner shall make it available to the Volunteer and representative for review and comment before submission to the Deputy Associate Director for VISTA. The comments should be submitted to the Hearing Examiner for inclusion in the Termination File not later than five days after the file is made available. The comments should identify those parts of the Examiner's report which support the appeal.

(c) *Submission of Termination File.* Immediately upon receiving the comments from the Volunteer the Hearing Examiner shall submit the Termination File to the Deputy Associate Director for VISTA.

§ 1210.3-8 Decision by Deputy Associate Director for VISTA.

The Deputy Associate Director for VISTA shall issue a written decision, including a statement of the basis for the decision, within 10 days after receipt of the Termination File. The decision of the Deputy Associate Director is final.

§ 1210.3-9 Reinstatement of Volunteer.

(a) If the Regional Director or Deputy Associate Director, VISTA reinstates the Volunteer, the Regional Director may at his or her discretion reassign the Volunteer to the Volunteer's previous project or to another project within the Region.

(b) If the Volunteer's termination is reversed, stipend and other allowances lost during the appeal period will be paid retroactively.

§ 1210.3-10 Removal from Project.

(a) Removal of a Volunteer from the project assignment may be requested and obtained by: (1) The Governor or chief executive office of the state or similar jurisdiction in which the Volunteer is assigned or (2) the sponsoring organization. The sole responsibility for terminating or transferring a Volunteer rests with the ACTION Regional Office.

(b) A request for removal of a Volunteer must be submitted in writing to the ACTION State Director, who will in turn notify the Volunteer of the request. The State Director, after discussions with the Volunteer and in consultation with the Regional Director if necessary, has 15 days to attempt to resolve the situation with the sponsor or the Governor's office.

(c) If the situation is not resolved at the end of the 15 day period, the Volunteer will be removed from the project and placed on Administrative Hold, pending a decision as set forth in paragraph (d) of this section.

(d) The State Office will take one of the following actions concerning a Volunteer who has been removed from the project assignment:

- (1) Accept the Volunteer's resignation
- (2) If removal was requested for reasons other than those listed in § 1210.3-1 ACTION will attempt to place the Volunteer on another project. If reassignment is not possible, the Volunteer will be terminated for lack of suitable assignment. If the Volunteer's job performance has been satisfactory, he or she will be given special consideration for reinstatement.
- (3) If removal from the project is requested based on any of the grounds for early termination as set forth in § 1210.3-1, ACTION will follow the procedures in § 1210.3-3 to determine

whether termination of the Volunteer is warranted. If ACTION determines that there are no grounds for termination, then the Volunteer will be reassigned if possible under the provisions of § 1210.3-10(d)(2).

(e) A Volunteer's removal during a term of service may also occur as a result of the termination of, or refusal to renew, the Memorandum of Agreement between ACTION and the sponsoring organization. In such cases the Regional Office will attempt to reassign the Volunteer to another project as quickly as possible. If reassignment is not possible immediately, the Volunteer may have to leave VISTA service, but will receive special consideration for reinstatement as soon as an appropriate assignment becomes available.

§ 1210.3-11 Disposition of Termination and Appeal Files.

All termination and appeal files shall be forwarded to the Deputy Associate Director for VISTA after a final decision has been made. No part of a termination or appeal file may be made part of or included in a Volunteer's official folder.

Subpart D—National Grant Volunteers

§ 1210.4 Early Termination Procedures for National Grant Volunteers.

Volunteers serving in the National Grant Program as defined in § 1210.1-3(e) will be subject to the same termination procedure as standard VISTA Volunteers with the following exceptions:

(a) The Initiation of Termination, see § 1210.3-3 (a) and (b) will be handled by the VISTA Project Manager in ACTION/Headquarters, after discussion with the appropriate State Director. The Review and Notice of Decision, see § 1210.3-3(c) will be handled by the VISTA Project Manager in ACTION/Headquarters.

(b) The Appeal of Termination, see § 1210.3-5(a) will be handled by the chief of the VISTA Program Development Branch and not the Regional Director.

(c) The final decision on a volunteer appeal will be made by the Deputy Associate Director, VISTA as provided in § 1210.3-8.

Appendix A—Standard for Examiners

(a) An Examiner must meet the requirements specified in either (1), (2), (3), or (4) below:

(1) (a) Current employment in Grade GS-12 or equivalent, or above.

(b) Satisfactory completion of a specialized course of training prescribed by the Civil Service Commission for Examiners.

(c) At least four years of progressively responsible experience in administrative, managerial, professional, investigative, or

technical work which has demonstrated the possession of:

(i) The personal attributes essential to the effective performance of the duties of an Examiner, including integrity, discretion, reliability, objectivity, impartiality, resourcefulness, and emotional stability.

(ii) A high degree of ability to:

- identify and select appropriate sources of information; collect, organize, analyze and evaluate information; and arrive at sound conclusions on the basis of that information;

- Analyze situations; make an objective and logical determination of the pertinent facts; evaluate the facts; and develop practicable recommendations or decisions on the basis of facts;

- Recognize the causes of complex problems and apply mature judgment in assessing the practical implications of alternative solutions to those problems;

- Interpret and apply regulations and other complex written material;

- Communicate effectively orally and in writing, including the ability to prepare clear and concise written reports; and

- Deal effectively with individuals and groups, including the ability to gain the cooperation and confidence of others.

(iii) A good working knowledge of:

- The relationship between volunteer administration and over-all management concerns; and

- The principles, systems, methods, and administrative machinery for accomplishing the work of an organization.

(2) Designation as an arbitrator on a panel of arbitrators maintained by either the Federal Mediation and Conciliation Service or the American Arbitration Association.

(3) Current or former employment as, or current eligibility on the Civil Service Commission's register for, Hearing Examiner, GS 935-0.

(4) Membership in good standing in the National Academy of Arbitrators.

(b) A former Federal employee who, at the time of leaving the Federal service, was in Grade GS-12 or equivalent, or above, and who meets all the requirements specified for an Examiner except completion of the prescribed training course, may be used as an Examiner upon satisfactory completion of the training course.

Signed at Washington, D.C., this 7th day of November 1979.

Sam Brown,
Director.

[FR Doc. 79-35312 Filed 11-15-79; 8:45 am]
BILLING CODE 6050-01-M

45 CFR Part 1211

VISTA Volunteer Grievance Procedure

AGENCY: ACTION.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises ACTION's regulations on VISTA Volunteer Grievance procedures in response to suggestions from Volunteers and program staff. In addition, the procedure has been revised to include a

section dealing with VISTA Volunteers serving in ACTION's National Grant Program.

DATES: Written comments must be received on or before December 17, 1979 in order to be assured of consideration.

ADDRESS: Interested persons are invited to submit written comments to: Louise Maillett, Assistant General Counsel; ACTION, Room 607; 806 Connecticut Ave., NW., Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Angelo Traficanti; Chief, VISTA Policy Unit, 202-254-6880. toll-free 800-424-8580, ext. 82.

SUPPLEMENTARY INFORMATION: The existing VISTA Volunteer Grievance Procedure was published in 1974, pursuant to Section 104(d) of the Domestic Volunteer Service Act (42 U.S.C. 4954(d)). It also appears in the VISTA Volunteer Handbook which is distributed to all Volunteers. Five years experience with the procedure has indicated a need for revision. In August 1979, all Regional and State Offices as well as the National VISTA Volunteer Forum were asked for suggestions as to changes in the procedure. A proposed rule was drafted incorporating these ideas and making minor editorial revisions in the existing procedure.

The major changes are summarized below:

1. The definition of grievance has been rewritten to make clear what types of issues are grievable, and specific situations have been added to clarify the scope of the definition. The main requirement is that the grievance must relate to a matter that is personal to the Volunteer.

2. The procedure for determining whether an issue is grievable has been changed slightly. Under the existing procedure, a Regional Director may reject a grievance if he or she determines that a complaint falls outside the definition of grievable matter. A Volunteer who disagrees with this determination may appeal to the Deputy Director of the Agency on the issue of grievability. The proposed regulation provides that the appeal on the issue of grievability will go to the Office of General Counsel for a determination as to whether the subject matter falls within the definition of a grievance. If the Office of General Counsel rules that it is excluded, there is no further appeal. If the Office of General Counsel rules that the issue is grievable, it will be returned to the Regional Director for a decision on the merits.

3. The person with the final decision making authority has been changed from the Deputy Director of the Agency to the Deputy Associate Director for VISTA,

since that position has direct responsibility for the VISTA program.

4. The procedure has been altered slightly regarding the appointment of a Hearing Examiner. The current regulations provide that if a Volunteer is dissatisfied with the decision of the State Director, he or she may appeal to the Regional Director who must immediately appoint a Hearing Examiner. The Hearing Examiner makes recommendations to the Regional Director, who then issues a decision. This decision may be further appealed to the Deputy Director of the agency. The proposed regulation provides that a Volunteer who is dissatisfied with the decision of the State Director may appeal directly to the Regional Director who will issue a decision on the merits. This permits the Regional Director an opportunity to resolve the grievance before going to the Hearing Examiner. If the Volunteer is dissatisfied with this decision, a Hearing Examiner will be appointed who will make recommendations to the Deputy Associate Director for VISTA. The Deputy Associate Director's decision is final.

5. The proposed rule also includes a specific procedure for Volunteers serving under the VISTA National Grant Program. The National Grant Program uses a mechanism whereby ACTION awards a grant to a national organization for the support of VISTA Volunteers assigned to the grantee's local offices or affiliates. The grantee assumes administrative responsibility for payment of the Volunteers, and the grant is monitored by ACTION through its National Headquarters rather than through Regional and State Offices. Because of this difference in structure from the standard VISTA program, the levels of appeal for Volunteers under the National Grant Program have been changed but not the substantive rights.

Instead of filing an informal grievance with the chief executive officer of the sponsor, the National Grant Volunteer files it with the local component of the grantee. (If the matter is in the control of the State Office both the standard volunteer and the National Grant Volunteer begin the grievance there.) If the local component cannot resolve the issue, it goes to the National Grantee. If a Volunteer is still not satisfied, he or she may submit a formal grievance to the Chief of the VISTA Program Development Branch or designee, in place of the Regional Director. The Program Development Chief makes a decision and the Volunteer may ask for a Hearing Examiner who will make recommendations to the Deputy

Associate Director for VISTA. The Deputy Associate Director's decision is final.

Accordingly, it is proposed to amend 45 CFR Chapter XII by revising Part 1211 to read as follows:

PART 1211—VOLUNTEER GRIEVANCE PROCEDURE

Sec.

- 1211.1-1 Purpose.
 - 1211.1-2 Applicability.
 - 1211.1-3 Definitions.
 - 1211.1-4 Policy.
 - 1211.1-5 Matters not Covered.
 - 1211.1-6 Freedom to initiate grievances.
 - 1211.1-7 Entitlement to representation.
 - 1211.1-8 Time for preparation and presentation.
 - 1211.1-9 Access to agency records.
 - 1211.1-10 Informal grievance procedure.
 - 1211.1-11 Initiation of formal grievance procedure.
 - 1211.1-12 Inquiry by hearing examiner.
 - 1211.1-13 Grievance file and examiner's report.
 - 1211.1-14 Final Determination by Director of VISTA.
 - 1211.1-15 Disposition of Grievance and Appeals files.
 - 1211.1-16 Grievance Procedure for National Grant Volunteers.
- Appendix A: Standard for Examiners.
- Authority: Secs. 104(d), 402(14), 420, Pub. L. 93-113, 87 Stat. 398, 407 and 414.

§ 1211.1-1 Purpose.

This part establishes procedures under which certain volunteers under Pub. L. 93-113 may present and obtain resolution of grievances.

§ 1211.1-2 Applicability.

This part applies to all volunteers enrolled under Part A of Title I of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, (42 U.S.C. 4951 *et seq.*) and all full-time volunteers serving under Part C of Title I of the Act.

§ 1211.1-3 Definitions.

(a) "Volunteer" means a person enrolled and currently serving as a full-time volunteer under Part A of Title I of the Domestic Volunteer Service Act of 1973, or as a full-time volunteer under Part C of Title I of the Act. For the purpose of this part, a Volunteer whose service has terminated shall be deemed to be a Volunteer for a period of 90 days thereafter.

(b) "Grievance" means a matter arising out of, and directly affecting, the Volunteer's work situation, or those regulations governing the terms and conditions of service. The relief requested must be directed toward the correction of the matter involving the individual Volunteer. Requests for relief by more than one Volunteer arising from a common cause within one region may

be treated as a single grievance. The term includes complaints of discrimination by ACTION on account of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation. The following are examples of grievable matters:

(1) A Volunteer is assigned to an area of harsh climate where special clothing is necessary. A request for an allotment for such clothing is refused.

(2) A Volunteer submits a request for reimbursement for transportation costs incurred while on emergency leave which is denied.

(3) The project sponsor fails to provide adequate support to the Volunteer necessary for that Volunteer to perform the assigned work. An example is the sponsor's failure to supervise the Volunteer which materially harms the Volunteer's effectiveness.

(c) "State Program Officer" means that ACTION official who is directly responsible at the first level, for the project in which the Volunteer is serving.

(d) "Sponsor" means a public or private nonprofit agency to which ACTION has assigned Volunteers.

(e) "Hearing Examiner" or "Examiner" means a person having the qualifications described in Appendix A appointed to conduct an inquiry with respect to a grievance.

(f) "National Grant Program" means a program operated under Part A, Title I of the Domestic Volunteer Service Act in which ACTION gives a grant to operate a VISTA Volunteer program on a national or multiregional basis of the national grantee. The national grantee provides overall training, technical assistance and management support for the project's operations.

(g) "Local component" means a local office or project affiliate of a national grantee which has VISTA Volunteers assigned to it under the VISTA National Grants Program.

(h) The "Act" means the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, (42 U.S.C. 4951 *et seq.*) as amended.

§ 1211.1-4 Policy.

It is ACTION's policy to provide Volunteers the widest latitude to present their grievances and concerns to appropriate officials of ACTION and of sponsoring organizations. This regulation is designed to assure that the rights of individual Volunteers are recognized and to provide formal ways for them to seek action with confidence that they will obtain just treatment.

§ 1211.1-5 Matters not covered.

The following matters are excluded from the definition of a grievance, and are not eligible for processing under this Part:

(a) The establishment of a project, its continuance or discontinuance, the number of volunteers assigned to it, increases or decreases in the level of support provided to a project, suspension or termination of a project, or selection of project staff.

(b) Matters for which a separable appeals procedure is provided.

(c) The provisions of any law, published rule, regulation, policy or procedure, or actions taken in compliance therewith.

(d) Matters which are, by law, subject to final administrative review outside ACTION.

(e) Actions taken in compliance with the terms of a contract, grant, or other agreement.

(f) Matters affecting the curriculum, program of instruction, administration or personnel of any educational institution or school system.

(g) The internal management of the ACTION agency unless such management is shown to individually and directly affect the Volunteer's effectiveness at the assigned work.

§ 1211.1-6 Freedom to initiate grievances.

The initiation of a grievance shall not be construed as reflecting on a Volunteer's standing, performance or desirability as a Volunteer. ACTION intends that each supervisor and sponsor maintain a healthy atmosphere in which a Volunteer can speak freely and have frank discussions of problems. A Volunteer who initiates a grievance shall not be subjected to restraint, interference, coercion, discrimination or reprisal.

§ 1211.1-7 Entitlement to representation.

A Volunteer may be accompanied, represented and advised by a representative of the Volunteer's own choice at any stage of the proceeding. A person chosen by the Volunteer must be willing to act as representative and not be disqualified because of conflict of position.

§ 1211.1-8 Time for preparation and presentation.

(a) Both a Volunteer and a Volunteer's representative, if a Volunteer or an employee of ACTION, must be given a reasonable amount of time off from their assignments to present a grievance or appeal.

(b) ACTION will not pay travel expense or per diem travel allowances for either a Volunteer or representative

in connection with the preparation of a grievance or appeal, except in connection with the hearing and the examination of the grievance file provided in § 1211.1-12(c).

§ 1211.1-9 Access to agency records.

(a) A Volunteer is entitled to review any material in his or her official Volunteer folder and any relevant agency documents to the extent permitted by the Freedom of Information Act and the Privacy Act, 5 U.S.C. 522, U.S.C. 552a. Examples of documents which may be withheld from Volunteers include references obtained under a pledge of confidentiality, official Volunteer folders of other Volunteers, and privileged intra-agency document.

(b) A Volunteer may review relevant documents in the possession of a sponsor to the same extent ACTION would be entitled to review them.

§ 1211.1-10 Informal grievance procedure.

(a) *Initiation of grievance.* A Volunteer may initiate a grievance within 15 days after the event giving rise to the grievance occurs, or within 15 days after becoming aware of the event. A grievance arising out of a continuing condition or practice, that individually affects the Volunteer may be brought at any time. A Volunteer initiates a grievance by presenting it in writing to the chief executive officer of the sponsor, or the representative designated to receive grievances from Volunteers. The designated representative may not be the immediate supervisor of Volunteers assigned to sponsor. The chief executive officer of the sponsor or the designated representative shall respond in writing to the grievance within 5 working days after receipt. The chief executive officer or designee may not refuse to respond to a complaint on the basis that it is not a grievance as defined in § 1211.1-3(b), or that it is excluded from coverage under § 1211.1-5, but may, in the response, refuse to grant the relief requested on either of these grounds.

(b) *Consideration by ACTION State program officer.* If the matter is not resolved to the Volunteer's satisfaction by the sponsor's chief executive officer, the Volunteer may submit the grievance in writing to the ACTION State Program Officer who has responsibility for the project within 5 working days after receipt of the decision of the sponsor's chief executive officer. If the grievance involves a matter over which the sponsor has no control, or if the chief executive officer is the immediate supervisor of the volunteer, the procedures described in paragraph (a) of

this section may be omitted, and the Volunteer may present the grievance in writing directly to the State Program Officer within the time limits specified in paragraph (a) of this section. The State Program Officer may not refuse to receive a complaint, even if he or she believes it does not constitute a grievance, and shall respond to it in writing within 5 working days after receipt.

(c) *Discussion.* All parties to the informal grievance procedure must be prepared to participate in full discussion of the grievance, and to permit the participation of others who may have knowledge of the circumstances of the grievance in the discussion. State Program Officers and other ACTION employees may participate in discussions, and give interpretations of ACTION policies and procedures, at the request of any party, even prior to submission of a grievance to them.

(d) *Sponsor grievance procedure.* A sponsor may substitute their own grievance procedure for the procedure described in paragraph (a) of this section. Any such procedure must provide the Volunteer with an opportunity to present a grievance at least as comprehensive as that contained in this section, must meet the time limits of this section, and must be provided in writing to all Volunteers. In order to utilize their own grievance procedures, sponsor must obtain approval of the procedure from the ACTION State Director and file a copy of this approved procedure with the State Office.

§ 1211.1-11 Initiation of formal grievance procedure.

(a) *Submission of grievance to regional director.* If a Volunteer is dissatisfied with the response of the State Program Officer required by § 1211.1-10(b) he or she may present the grievance in writing to the Regional Director. To be eligible for the formal grievance procedure, the volunteer must have completed action under the informal procedure contained in § 1211.1-10.

(b) *Contents of grievance.* The Volunteer's grievance must be in writing, contain sufficient detail to identify the grievance, specify the relief requested, and be signed by the Volunteer or a person designated by the Volunteer to be the representative for the purpose of the grievance.

(c) *Time limit.* The Volunteer must submit the grievance to the Regional Director within 15 days after receipt of the informal response from the State Program Officer.

(d) Within ten working days of the receipt of the grievance, the Regional Director shall, in whole or in part, either reject or decide the grievance. Any such action by the Regional Director shall be in writing and specify the basis for the determination.

(e) A grievance may be rejected in whole or in part, by the Regional Director for the following reasons:

(1) It was not filed within the time limit specified in paragraph (c) of this section, or

(2) The grievance consists of matters not contained within the definition of a grievance.

Rejection of a grievance by the Regional Director may be appealed by the Volunteer within 10 days of receipt of the notice to the Office of General Counsel. The Office shall within 5 working days of receipt of the grievance file determine the appropriateness of the rejection. The notice of the Office's determination shall be final and in writing. If the Office determines that the grievance was improperly rejected it shall return the grievance to the Regional Director for a determination on its merits by the Regional Director within 5 working days of such notification. The Regional Director's decision shall be in writing and specify the grounds for the decision.

(f) If a Volunteer is dissatisfied with the decision of the Regional Director he or she shall notify the Regional Director within 5 days from receipt of the decision and request the appointment of a Hearing Examiner. Upon receipt of this request, the Regional Director shall within 5 days appoint a Hearing Examiner who shall possess the qualifications specified in Appendix A to this part.

§ 1211.1-12 Inquiry by hearing examiner.

(a) *Scope of inquiry.* The examiner shall conduct an inquiry of a nature and scope appropriate to the issues involved in the grievance. Unless waived by the Volunteer, a hearing must be held if the Hearing Examiner finds that the grievance involves relevant disputed issues of fact. If the grievance does not involve relevant disputed issues of fact, or if the Volunteer waives a hearing, the Hearing Examiner need not hold a hearing but must provide the parties an opportunity for oral presentation of their respective positions. At the Examiner's discretion, the inquiry may include:

(1) The securing of documentary evidence,

(2) Personal interviews, including telephone interviews,

(3) Group meetings,

(4) Affidavits, written interrogatories or depositions.

(b) *Conduct of Hearing.* If a hearing is held, the conduct of the hearing and production of witnesses shall conform with the following requirements:

(1) The hearing shall be held at a time and place determined by the Hearing Examiner who shall consider the convenience of parties and witnesses and expense to the Government in making the decision.

(2) Ordinarily, attendance at the hearing will be limited to persons determined by the Examiner to have a direct connection with the grievance. If requested by the Volunteer, the hearing examiner must open the hearing to the public.

(3) The hearing shall be conducted so as to bring out pertinent facts, including the production of pertinent records.

(4) Rules of evidence shall not be applied strictly, but the Examiner may exclude irrelevant or unduly repetitious testimony or evidence.

(5) Decisions on the admissibility of evidence or testimony shall be made by the Examiner.

(6) Testimony shall be under oath or affirmation, administered by the Examiner. (7) The Examiner shall give the parties an opportunity to present oral and written testimony that is relevant and material, and to cross-examine witnesses who appear to testify.

(8) The Examiner may exclude any person from the hearing for conduct that obstructs the hearing.

(c) *Witnesses.* (1) All parties are entitled to produce witnesses.

(2) Volunteers, employees of a sponsor, and employees of ACTION shall be made available as witnesses when requested by the Examiner. The Examiner may request witnesses on his or her own initiative. Parties shall furnish to the Examiner and to opposing parties a list of proposed witnesses, and an explanation of what the testimony of each is expected to show, at least ten days before the date of the hearing. The Hearing Examiner may waive the time limit in appropriate circumstances.

(3) Employees of ACTION shall remain in a duty status during the time they are made available as witnesses.

(4) Volunteers, employees and any other persons who serve as witnesses shall be free from coercion, discrimination or reprisal for presenting their testimony.

(5) The Hearing Examiner must authorize payment of travel expenses and per diem at standard government rates for the Volunteer and the representative to attend the hearing. Payment of travel expenses and per

diem at standard government rates for other witnesses to attend the hearing are authorized only after the Hearing Examiner determines that the required testimony cannot be satisfactorily obtained by affidavit, written interrogatories, or deposition, at a lesser cost.

(d) *Recording of Hearing.* A grievant may make a recording of the hearing at his or her own expense if no verbatim transcript is made.

(e) *Report of Hearing.* The Examiner shall determine how any hearing shall be reported and shall have either a verbatim transcript or written summary of the hearing prepared, which shall include all documents and exhibits submitted to and accepted by the Hearing Examiner during the course of the grievance. If the hearing is reported verbatim, the Examiner shall make the transcript a part of the record of the proceedings. If the hearing is not reported verbatim, a suitable summary of pertinent portions of the testimony shall be made part of the record of proceedings. When agreed to in writing, the summary constitutes the report of the hearing. If the Examiner and the parties fail to agree on the hearing summary, the parties are entitled to submit written exceptions to any part of the summary, and these written exceptions and the summary constitute the report of the hearing and shall be made a part of the record of proceedings.

§ 1211.1-13 Grievance file and examiner's report.

(a) *Preparation and content.* The Examiner shall establish a grievance file containing all documents related to the grievance, including statements of witnesses, records or copies thereof, and the report of the hearing when a hearing was held. The file shall also contain the Hearing Examiner's report of findings and recommendations.

(b) *Review by volunteer.* On completion of the inquiry, the Examiner shall make the grievance file available to the Volunteer and the representative for review and comment. Their comments, if any, shall be submitted to the Hearing Examiner within 5 days after the file is made available and shall be included in the file.

(c) *Examiner's report.* After the volunteer has been given an opportunity to review the grievance file, the Examiner shall submit the complete grievance file to the Director of VISTA.

§ 1211.1-14 Final Determination by Director of VISTA.

The Director of VISTA shall issue a written decision on the appeal to the

Volunteer within ten days after receipt of the appeal file. The decision shall include a statement of the basis for the determination. The Director's decision is final.

§ 1211.1-15 Disposition of Grievance and Appeals Files.

All grievance and appeals files shall be retained by the Director of VISTA after the grievance has been settled, or a final decision has been made and implemented. No part of a grievance or appeal file may be made part of, or included in, a Volunteer's official personnel folder.

§ 1211.1-16 Grievance Procedure for National Grant Volunteers.

The grievance procedure for national grant Volunteers shall be the same as that provided in this part with the following substitutions of officials:

(a) *Informal Grievance Procedure.* (1) The initiation of an informal grievance for a National Grant VISTA, see § 1211.1-10, shall normally be to the sponsor of the local component. If the grievance involves a matter solely within the control of the ACTION State Office, the Volunteer may present the grievance to the State Program Officer in lieu of the local component sponsor.

(2) If the Volunteer is not satisfied with the response of the appropriate official (sponsor of local component, or State Program Officer), the Volunteer may submit the grievance to the chief executive of the national grantee.

(b) *Formal grievance procedure.* The Chief, VISTA Grants Branch shall replace the Regional Director as the official in § 1211.1-11.

Appendix A—Standard for Examiners

An examiner must meet the requirements specified in either (1), (2), (3), or (4) below:

(1)(a) Current employment in grade GS-12 or equivalent, or above.

(b) Satisfactory completion of a specialized course of training prescribed by the Civil Service Commission for examiners.

(c) At least four years of progressively responsible experience in administrative, managerial, professional, investigative, or technical work which has demonstrated the possession of:

(i) The personal attributes essential to the effective performance of the duties of an examiner, including integrity, discretion, reliability, objectivity, impartiality, resourcefulness, and emotional stability.

(ii) A high degree of ability to: Identify and select appropriate sources of information; collect, organize, analyze, and evaluate information; and arrive at sound conclusions on the basis of that information; Analyze situations; make an objective and logical determination of the pertinent facts, evaluate the facts; and develop practicable recommendations or decisions on the basis of facts;

Recognize the causes of complex problems and apply mature judgment in assessing the practical implications of alternative solutions to those problems;

Interpret and apply regulations and other complex written material;

Communicate effectively orally and in writing, including the ability to prepare clear and concise written reports; and

Deal effectively with individuals and groups, including the ability to gain the cooperation and confidence of others.

(iii) A good working knowledge of: The relationship between volunteer administration and over-all management concerns; and

The principles, systems, methods, and administrative machinery for accomplishing the work of an organization.

(2) Designation as an arbitrator on a panel of arbitrators maintained by either the Federal Mediation and Conciliation Service or the American Arbitration Association.

(3) Current or former employment as, or current eligibility on the Civil Service Commission's register for, Hearing Examiner, GS-935-0.

(4) Membership in good standing in the National Academy of Arbitrators.

(5) A former Federal employee who at the time of leaving the Federal service was in grade GS-12 or equivalent, or above, and who meets all the requirements specified for an examiner except completion of the prescribed training course, may be used as an examiner upon satisfactory completion of the training course.

Signed at Washington, D.C., this 7th day of November 1979.

Sam Brown,

Director of ACTION.

[FR Doc. 79-35313 Filed 11-15-79; 8:45 am]

BILLING CODE 6050-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Cow Town Auction, Colorado Springs, Colo., et al.; Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., Name, and Location of Stockyard; Date of Posting

- CO—107 Cow Town Auction, Colorado Springs, Colorado; April 12, 1961.
- CO—109 Craig Sales Barn, Craig, Colorado; March 21, 1957.
- CO—124 Haxtun Sale Barn, Haxtun, Colorado; October 7, 1959.
- CO—131 Longmont Livestock Commission Co., Longmont, Colorado; October 2, 1959.
- GA—117 Columbus-Muskogee Livestock Auction, Inc., Columbus, Georgia; May 18, 1959.
- MT—109 Bitter Root Livestock Market, Hamilton, Montana; April 9, 1959.
- NM—114 Penasco Area Development Association, Vadito, New Mexico; November 25, 1969.
- OH—144 Woodsfield Livestock Sales, Inc., Woodsfield, Ohio; July 8, 1959.
- UT—108 Ranchers and Dairyman Auction, Inc., St. George, Utah; July 31, 1969.
- UT—110 Beehive Horseshow and Sale Corporation, Salt Lake City, Utah; October 8, 1969.
- UT—114 Vernal Livestock Auction, Incorporated, Vernal, Utah; October 23, 1959.
- WY—113 Star Valley Livestock, Freedom, Wyoming; June 6, 1974.
- WY—103 Lander Livestock Auction, Lander, Wyoming; June 27, 1957.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal

justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the Federal Register. This notice shall become effective upon publication in the Federal Register.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 13th day of November, 1979.

Edward L. Thompson,

Chief, Registrations, Bonds and Reports Branch, Livestock Marketing Division.

[FR Doc. 79-35484 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

Rangeland Grasshopper Cooperative Control Program; Draft Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of intent to prepare a revision of the Rangeland Grasshopper Cooperative Control Program Environmental Impact Statement; and notice public meeting.

SUMMARY: In order to reflect proposed program changes, the Department intends to revise the Rangeland Grasshopper Cooperative Control Program Environmental Impact Statement. This gives notice that a draft revised Environmental Impact Statement is under preparation pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, by the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service. The draft is scheduled for completion January 1, 1980.

To provide opportunity for participation in the development of the revised draft environmental impact statement, comments are invited from all interested members of the public, from State and local agencies which administer plant pest control regulatory programs or are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any national program,

Federal Register

Vol. 44, No. 223

Friday, November 16, 1979

issue, or environmental impact involved. Additionally, a meeting will be held to provide for public participation to discuss the proposed revised Draft Environmental Impact Statement and the future direction of the grasshopper control program.

DATE: Comments must be received on or before December 14, 1979. The public meeting will be held on December 4, 1979, from 10 a.m. to 5 p.m.

ADDRESS: Public meeting will be held in the Denver Federal Center, Building 56, Denver, CO 80225. Written comments concerning matters pertaining to the proposed revised Draft Environmental Impact Statement should be addressed to the Pest Program Development Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture Federal Building, Hyattsville, MD 20782 by December 14, 1979.

FOR FURTHER INFORMATION CONTACT: Shannon W. Wilson, 301-436-8745.

Interested persons are invited to submit written comments concerning the proposed revised Draft Environmental Impact Statement. Comments should bear a reference to the date and page numbers of this issue of the Federal Register. All written comments made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 630 Hyattsville, MD 20782, during regular hours of business, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

Grasshoppers are destructive native pests on rangeland, forage, and crops mainly in the States west of the Mississippi River. Infestations are often of such an extent as to be beyond the capability of individuals to handle. Additionally, the migratory and widespread nature of the pests makes coordination of cooperative control efforts across State boundaries essential. Therefore, the Department has, in conjunction with cooperating State Departments of Agriculture, provided direct supervision and leadership of grasshopper control programs. In 1979 widespread grasshopper infestations and subsequent Federal-State-rancher cooperative control programs were the basis for extensive public and cooperator involvement.

Done at Washington, D.C., this 13th day of November 1979.

Thomas G. Darling,

Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-35483 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-34-M

Food and Nutrition Service

National Advisory Council on Maternal, Infant and Fetal Nutrition; Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Council meeting:

Name: National Advisory Council on Maternal, Infant and Fetal Nutrition.

Date and time: 11:00 a.m., December 2, 1979.

Place: Sheraton—Old Town Inn, 800 Rio Grande Boulevard, N.W., Albuquerque, New Mexico 87104.

Purpose of meeting: The Council will continue its study of the Special Supplemental Food Program for Women, Infants and Children (WIC) and the Commodity Supplemental Food Program (CSFP).

Proposed agenda: The Council will discuss the information to be included in its 1980 report to the President and Congress.

This meeting will be open to the public. As time permits, members of the public may participate in the meeting.

Persons wishing additional information about the meeting should contact Lindy Dahnk, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-8421.

Dated: November 8, 1979.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 79-35092 Filed 11-15-79; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Survey of Distributors Stocks of Canned Foods; Determination

In conformity with title 13, United States Code, sections 182, 224, and 225, and due Notice of Consideration having been published October 9, 1979 (44 FR 57954), I have determined that year-end data on stocks of 30 canned and bottled products, including vegetables, fruits, juices, and fish, are needed to aid the efficient performance of essential government functions, that the data

have significant application to the needs of the public and industry, and that they are not publicly available from non-governmental or other governmental sources. This is a continuation of the survey conducted in previous years.

All respondents will be required to submit information covering their December 31, 1979 inventories of 30 canned and bottled vegetables, fruits, juices, and fish. Reports will not be required from all firms, but will be limited to a scientifically selected sample of wholesalers and retail multiunit organizations handling canned foods in order to provide, with measurable reliability, year-end inventories of the specified canned food items. These stocks will be measured in terms of actual cases, with separate data requested for "all sizes smaller than No. 10" and for "sizes No. 10 or larger." (In addition, multiunit firms reporting separately by establishment will be requested to update the list of their establishments maintaining canned food stocks.)

Report forms will be furnished to firms covered by the survey. Copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting these data.

Dated: November 9, 1979.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 79-35363 Filed 11-15-79; 8:45 am]

BILLING CODE 3510-07-M

Industry and Trade Administration

Export Promotion Subcommittee of the President's Export Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Export Promotion Subcommittee of the President's Export Council will be held on Monday, November 26, at 8:30 a.m. in the San Francisco Airport Hilton Hotel, San Francisco, California. The Council was initially established by Executive Order 11753 of December 20, 1973, subsequently extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976, and Executive Order 12100 of December 28, 1978. The Council was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President

on matters relating to United States export trade. The Subcommittee has been formed to make recommendations to the Council regarding programs to promote U.S. exports and to create greater export awareness in the U.S. The Subcommittee is composed solely of members of the Council.

This meeting is being called on short notice to accommodate the schedule of the participants and in order for the Subcommittee to report on its progress at the Executive Committee Meeting planned for December 5.

The purpose of the meeting is to obtain the views of export multiplier organizations on export promotion activities of the Council and to continue work on ongoing projects of the Subcommittee.

The agenda for the meeting will be as follows:

Introduction by the Chairman on the functions of the Subcommittee and the need for assistance from private organizations.

Solicitation of comments and suggestions from invited guests on how private associations and other groups can help in export promotion efforts.

Break for lunch.

Discussion on recommendations arising from morning meeting.

Reports from Subcommittee members on ongoing projects: Export advertising campaign. Trade intermediary concept.

Discussion, other general business, announcements.

A limited number of seats at the meeting will be available to the public on a first-come basis. The public may file written statements with the subcommittee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent that time is available.

Copies of the minutes of the meeting and further information concerning the President's Export Council may be obtained from Ms. Wendy Haimes, Room 3814, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5719.

Dated: November 9, 1979.

Peter G. Gould,

Deputy Assistant Secretary for Export Development.

[FR Doc. 79-35499 Filed 11-15-79; 8:45 am]

BILLING CODE 3510-25-M

Subcommittee on Export Expansion of the President's Export Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5

U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on Export Expansion of the President's Export Council will be held on Wednesday, December 5, 1979, at 10:00 a.m. in Room 4830, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The President's Export Council (PEC) was established by Executive Order 11753 of December 20, 1973, extended by Executive Order 11827 of January 4, 1975, Executive Order 11948 of December 20, 1976 and Executive Order 12110 of December 28, 1978. The PEC was reconstituted by Executive Order 12131 of May 4, 1979, to advise the President on matters relating to United States export trade, including the implementation of the President's National Export Policy. The Subcommittee has been formed to make recommendations to the PEC on matters related to U.S. policies, practices and procedures which assist or inhibit the expansion of U.S. exports in the areas of finance, taxation, disincentives, transportation and documentation, as well as broader economic policies affecting the competitiveness of U.S. exports. The Subcommittee is composed solely of members of the Council.

The Subcommittee meeting agenda is as follows:

1. Opening remarks of the Chairman.
2. Presentation of task force findings on taxation of Americans working aboard.
3. Discussion of the DISC export tax incentive.
4. Discussion of Eximbank competitiveness.
5. Discussion of measures to improve productivity.
6. Determination of future work program.

The meeting is open to the public at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee.

Written statements may be submitted at any time before or after the meeting.

For further information, contact Mr. Brant W. Free, PEC Subcommittee on Export Expansion, Room 4312, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-3575. Minutes of the meeting may be obtained from Mr. Free.

Dated: November 8, 1979.

David Biltchik,

Acting Deputy Assistant Secretary for International Economic Policy and Research, U.S. Department of Commerce.

[FR Doc. 79-35370 Filed 11-15-79; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1979 a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 19, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1979, November 15, 1978 (43 FR 53151):

SIC 7349

Janitorial Service, Leo W. O'Brien Federal Building, Clinton Avenue & N. Pearl Street, Albany, New York 12207.

C.W. Fletcher,
Executive Director.

[FR Doc. 79-35425 Filed 11-15-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 16, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On August 27, 1979 the Committee for

Purchase from the Blind and Other Severely Handicapped published notice (44 F.R. 50080) of proposed addition to Procurement List 1979, November 15, 1978 (43 F.R. 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1979:

Class 7530

Pad, Writing Paper
7530-00-285-3083 (GSA Regions 3, 4)
7530-00-285-3088 (GSA Regions 9, 10)
7530-00-239-8479 (GSA Regions 3, 9, 10)
7530-00-286-6173 (GSA Regions 1, 5, 7)

C. W. Fletcher,

Executive Director.

[FR Doc. 79-35426 Filed 11-15-79; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Publication of and Request for Comment on Proposed Contract Market Rules; Amendment and New Regulation of the Chicago Board of Trade, Pertaining to Trading in Silver Futures Contracts

The Commodity Futures Trading Commission ("Commission"), is requesting public comment on an amendment to regulation 1412.01 and new regulation 1412.02 submitted by the Chicago Board of Trade for Commission approval; pursuant to section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12) (1976). These proposed rules, which impose position limits on the trading of silver futures contracts, provide as follows:

1412.01. Position Limits.

(a) *The limit on the maximum net long or net short position which any person may hold or control in Silver, either alone or in conjunction with any other person, is 600 contracts of 5,000 troy ounces each in only one future or in all futures combined. The word "person" shall be construed to import the plural or singular, and shall include individuals, associations, partnerships, corporations and trusts, and shall also include any omnibus account except to the extent that the carrying member, registered partnership or registered corporation maintains books and records in the United States, available to the Association upon request, which disclose the identity and positions held by the customers comprising such omnibus accounts.*

On and after the effective date of this provision, the Board may direct any member, registered partnership or registered corporation holding, controlling or carrying a position in excess of the limits set herein to liquidate or otherwise reduce the position in conformity with this provision.

The foregoing limit on positions shall not apply to bona fide hedging transactions.

1412.02. Effective Date of Position Limits.

The position limits established in Regulation 1412.01(a) shall be effective immediately as to any person (as defined therein) not presently holding or controlling an amount of Silver Futures in excess of such position limits, and no person presently in excess of such position limits shall cause his or its position to increase further. With respect to persons holding or controlling positions in excess of the position limits established in Regulation 1412.01(a) such persons shall come into compliance with such limits not later than April 1, 1980.

Any person interested in submitting written data or views on these proposed rules should send his comments by December 17, 1979 to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581.

Issued in Washington, D.C., on November 6, 1979.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79-35318 Filed 11-15-79; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

National Advisory Committee for the Flammable Fabrics Act; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: National Advisory Committee for the Flammable Fabrics Act.

SUMMARY: This notice announces a meeting of the National Advisory Committee on Monday, December 17, 1979, from 10:00 a.m. to 4:00 p.m., and Tuesday, December 18, 1979, from 9:30 a.m. to 12:30 p.m. On Monday, the meeting will be held at the National Bureau of Standards, Gaithersburg, Maryland. On Tuesday, the meeting will be held at 1111 18th Street, N.W., Washington, D.C. 20207, Third Floor Conference Room.

FOR FURTHER INFORMATION CONTACT: Catherine Bolger, Office of the

Secretary, Suite 300, 1111 18th Street, N.W., Washington, D.C. 20207 (202) 634-7700.

SUPPLEMENTARY INFORMATION: The National Advisory Committee provides advice and recommendations on Commission proposals and plans to reduce the frequency and severity of burn injuries involving flammable fabrics. The meeting on Monday morning, December 17, 1979, will be devoted to an introduction and orientation to CPSC textile flammability programs. In the afternoon, the Committee will tour the National Bureau of Standards facilities where textile flammability tests are conducted.

On Tuesday, December 18, 1979, the meeting will be devoted to an evaluation of flammable fabrics standards, upholstered furniture and a documentary film on burn patient care. The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the National Advisory Committee should notify the Office of the Secretary (see address above) by December 12, 1979. The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Committee may be allowed by the presiding officer.

Dated: November 9, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-35491 Filed 11-15-79; 8:45 am]

BILLING CODE 6355-01-M

Product Safety Advisory Council; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council on Monday, December 3, 1979, and Tuesday, December 4, 1979. The meeting will be held at 1111 18th Street, NW., Washington, D.C. 20207, Third Floor Conference Room.

FOR FURTHER INFORMATION CONTACT: Catherine Bolger, Office of the Secretary, Suite 300, 1111 18th Street, NW., Washington, D.C. 20207, 202/634-7700.

SUPPLEMENTAL INFORMATION: The Product Safety Advisory Council was established by section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

The agenda for the December 3-4 meeting has not yet been finalized; however, the topics of discussion will probably include issues relating to recall effectiveness and labeling. For further information on the agenda topics and times of the meeting, contact Ms. Bolger at the address and telephone number noted above.

The meeting is open to the public; however, space is limited. Persons who wish to make oral written presentation to the Product Safety Advisory Council should notify the Office of the Secretary (see address above) by November 28, 1979. The notification should list the name of the individual who will make the presentation, the person, the company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Council may be allowed by the presiding officer.

Dated: November 9, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-35490 Filed 11-15-79; 8:45 am]

BILLING CODE 6355-01-M

Technical Advisory Committee on Poison Prevention Packaging; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting: Technical Advisory Committee on Poison Prevention Packaging.

SUMMARY: This notice announces a meeting of the Technical Advisory Committee on Monday, December 10, 1979 from 9:00 a.m. to 4:30 p.m., and Tuesday, December 11, 1979 from 9:00 a.m. to 1:30 p.m. The meeting will be held at 1111 18th Street, N.W., Washington, D.C., Third Floor Conference Room.

FOR FURTHER INFORMATION CONTACT: Catherine Bolger Office of the Secretary, Suite 300, 1111 18th Street, N.W., Washington, D.C. 20207, (202) 634-7700.

SUPPLEMENTARY INFORMATION: The Technical Advisory Committee provides advice and recommendations on the types and kinds of products which require special packaging that will protect children from injury or illness resulting from handling or ingestion of

household substances. The Monday morning session will be devoted to an orientation for the members on the Committee. The afternoon session will be devoted to a discussion of an exemption of oral contraceptives from prescription drug regulations. The Tuesday session will include discussions of exemptions for acetaminophen from special packaging regulations, the home usage of special packaging, and reversible and convertible issues related to child-resistant packaging. The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the Technical Advisory Committee should notify the Office of the Secretary (see address above) by December 5, 1979. The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter and the approximate time requested. Time permitting, these presentations and other statements from the audience to the Committee may be allowed by the presiding officer.

Dated: November 9, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety
Commission.

[FR Doc. 79-35492 Filed 11-15-79; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for East Cape Girardeau, Ill. (Big Five)

AGENCY: St. Louis District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement for East Cape Girardeau et al, Illinois (Big Five).

SUMMARY: 1. *Proposed Action:* The proposed action is to prepare a Draft Environmental Impact Statement for the East Cape Girardeau, Illinois, (Big Five) general Investigation Study concerning flooding and related land use improvements. Nonstructural measures will address controlling the existing and future land use as well as future development which may be located on floodprone land. Structural measures will provide a means for preventing or reducing flood damage to existing development. Environmental quality measures will be combined with

nonstructural and structural measures to enhance fish and wildlife resources and preserve significant archeological sites.

2. *Alternatives:* Alternatives studied will include applicable structural and nonstructural measures such as: residential relocation, flood proofing, converting to nondamagable land use, hillside reservoirs, ponding areas, diversion ditches, pumping stations, additional gravity drains, and no action.

3. *Scoping Process:* a. *Public Involvement Program:* The public involvement program began with the initial public meeting which was held on 17 February 1971. Input in the form of problems and concerns was formally received from interested individuals and organizations at this meeting, and also informally received from individuals interviewed during the problem identification phase of the study. A second public meeting was held on 8 March 1979 to present the plans which had been developed during the preliminary stages of the study. In a major portion of this meeting, attendants were placed in small groups to afford a better exchange of ideas and insure that everyone had an opportunity to express their opinion. The scoping process, as outlined by the Council of Environmental Quality (29 November 1978), will be incorporated into our existing planning process. Public meetings will be scheduled throughout the remainder of the study as plans become better defined through more detailed studies and incorporation of the public's impact.

b. *Significant Issues:* Significant issues addressed in the Draft Environmental Impact Statement will include a description of recreation, natural, social, and cultural resources, enhancement of fish and wildlife habitat, endangered species, groundwater geology of selected wetlands, and an analysis of the impact on the environment regarding the proposed action.

c. *Lead Agency and Cooperating Agency Responsibilities:* The St. Louis District, Army Corps of Engineers, is the lead agency responsible for the preparation of the Draft Environmental Impact Statement. The U.S. Fish and Wildlife Service will be requested to participate as a cooperating agency.

d. *Environmental Review and Consultation Requirements:* The completed Draft Environmental Impact Statement will be distributed to the appropriate Federal, state and local agencies, representatives of environmental groups, and other interested individuals. The Draft Environmental Impact Statement will contain records of compliance with

designated comments found applicable during the course of this study.

4. *Scoping Meeting:* Separate scoping meetings will not be scheduled because of the project's advanced planning stage. Public meetings and meetings with Federal, state and local agencies, as well as with representatives of environmental groups, have been an integral part of the planning process. Public information meetings will continue throughout the duration of the study.

5. *Draft Environmental Impact Statement Preparation:* The Draft Environmental Impact Statement is tentatively scheduled to be completed in the second quarter of fiscal year 1980 (January, 1980).

ADDRESS: Questions about the proposed action and the Draft Environmental Impact Statement can be answered by: Mr. Jack F. Rasmussen, Chief, Planning Branch, U.S. Army Corps of Engineer District, St. Louis, 210 N. 12th Street, St. Louis, Missouri 63101.

Dated: November 6, 1979.

Robert J. Dacey,
Colonel, CE, District Engineer.
[FR Doc. 79-35493 Filed 11-15-79; 8:45 am]
BILLING CODE 3710-GS-M

To Prepare a Draft Environmental Impact Statement for Plattin Creek, Mo.

AGENCY: St. Louis District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement for Plattin Creek, Missouri.

SUMMARY: 1. *Proposed Action:* The proposed action is to prepare a Draft Environmental Impact Statement for the Plattin Creek, Missouri, General Investigation Study regarding flood control and related water resource improvements. These measures will address controlling the existing and future land use and will provide varying degrees of flood control.

2. *Alternatives:* Alternatives will include applicable structural and nonstructural measures such as: levee, gravity drain, pumping station, ponding areas, retention reservoirs, floodplain zoning, floodproofing, channel straightening, and channel enlarging. Various mixes of the structural measures will provide higher degrees of flood protection and opportunities for wildlife enhancement.

3. *Scoping Process:* a. *Public Involvement Program:* The public involvement program began with a public meeting held on 20 January 1975. Statements concerning flood damages

and flood control improvements, as well as support for a levee solution, were received at this meeting. The public meeting resulted in interviews with local officials and property owners. The interviews were useful in sharing information among all concerned with the study. The scoping process, as outlined by the Council of Environmental Quality (29 November 1978), will be incorporated into the existing planning process. Public meetings will be scheduled to present alternative solutions prior to selection of a plan of improvement, and to present the recommended plan of improvement.

b. *Significant Issues:* Significant issues addressed in the Draft Environmental Impact Statement will include archeological considerations, fish and wildlife resources, rare and endangered species, and an analysis of the impact on the environment regarding the proposed action and the economically justified alternatives.

c. *Lead Agency:* The St. Louis District, Corps of Engineers, is the lead agency responsible for the preparation of the Draft Environmental Impact Statement. Coordination will be maintained with the U.S. Fish and Wildlife Service, Environmental Protection Agency, Heritage Conservation and Recreation Service, Missouri Department of Natural Resources, Missouri Department of Conservation, and elected officials of both communities.

d. *Environmental Review and Consultation Requirements:* The completed Draft Environmental Impact Statement will be distributed to the appropriate Federal, state, and local agencies; representatives of environmental groups; and other interested individuals. The Draft Environmental Impact Statement will contain records of compliance with designated comments found applicable during the course of this study.

4. *Scoping Meeting:* Separate scoping meetings will not be scheduled because of the project's advanced planning stage. Public meetings have been a part of the planning process and will continue in the form of informational meetings throughout the duration of the study.

5. *Draft Environmental Impact Statement Preparation:* The Draft Environmental Impact Statement is tentatively scheduled to be completed in the second quarter of FY 80 (January-March).

ADDRESS: Questions about the proposed action and the Draft Environmental Impact Statement can be answered by: Mr. Jack F. Rasmussen, Chief, Planning Branch, U.S. Army Engineer District, St.

Louis, 210 N. 12th Street, St. Louis, Missouri 63101.

Dated: November 9, 1979.

Robert J. Dacey,
Colonel, CE, District Engineer.
[FR Doc. 79-35434 Filed 11-15-79; 8:45 am]
BILLING CODE 3710-GS-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act Intent To Prepare Environmental Impact Statement and Conduct a Public Scoping Meeting

AGENCY: Department of Energy.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS) for a high Btu pipeline gasification plant in Noble County, Ohio and to conduct a public scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare a DEIS in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA), to assess the environmental implications of a proposed DOE action to cost-share the construction and operation of a proposed Clean Pipeline Gas Demonstration Plant to be located in Noble County, Ohio (near Caldwell, Ohio). The applicant, the Continental Oil Company, proposed a facility which would convert 1,243 tons per day (942 TPD MAF) of high sulfur coal into clean pipeline gas for pipeline distribution.

Interested agencies, organizations, and the general public desiring to submit comments or suggestions for consideration in connection with the preparation of this DEIS are invited to do so. Upon completion of the DEIS, its availability will be announced in the Federal Register, at which time comments will be solicited. Interested agencies, organizations and the general public are also invited to attend a public scoping meeting which will be held on December 4, 1979 in order to assist DOE in identifying significant environmental issues and their potential impacts.

All comments may be expressed in writing to: Mr. R. A. Verner, Program Manager, CONOCO Demonstration Plant, Mail Station F-308, Germantown, U.S. Department of Energy, Washington, DC 20545, Phone: (301) 353-5988.

For the general information on the EIS process contact: Ms. Mary Shaughnessy, NEPA Affairs Division, Office of the Assistant Secretary for Environment, U.S. Department of Energy, 1000 Independence Avenue, SW, Room 4G-064, Washington, DC 20585, Phone: (202) 252-4610.

Background Information

On October 3, 1975, DOE published a Request for Proposal RFP-E(49-180-2012) entitled "Pipeline Gas Demonstration Plant." From the respondents to this RFP, two competing proposals were accepted. Contracts have been signed with the Continental Oil Company (CONOCO) for this project in Noble County, Ohio, and with Illinois Coal Gasification Group (ICGG) for a proposed project at Perry County, Illinois (a Notice of Intent to prepare a DEIS on the ICGG facility is also being issued) to carry these proposals through the preliminary design stage. This work is currently underway.

Process Description

Raw high sulfur coal is crushed, washed, and screened to be fed to a high pressure, fixed-bed, countercurrent, oxygen-blown slagging gasifier identified as the British Gas/Lurgi slagging gasifier. Here coal is gasified with steam and oxygen introduced into the bottom of the gasifier. Molten slag falls through a tap hole into a water quench vessel. It immediately solidifies and is removed by means of conveyor system. Crude synthesis gas leaves the top of the gasifier and enters a scrubber. The scrubber cools the gas and removes aqueous gas liquor which consists of the condensibles, primarily water mixed with tars, oils, dust, phenols, and ammonia.

Gas is cooled further to remove additional condensible liquids and to recover waste heat. Cooled gas is treated in a Rectisol acid gas absorption unit, which uses cold methanol as the absorbent.

The purified gas from the Rectisol unit is processed through a CO shift conversion unit to increase the hydrogen-to-carbon monoxide ratio prior to methanation.

Shifted gas is then processed through a CO₂ removal unit where the majority of the CO₂ is removed by contact with a circulating hot potassium carbonate stream.

Purified gas from the CO₂ removal unit is fed to a fixed-bed methanation unit which primarily converts carbon monoxide into methane and water.

Product gas from methanation, after compression, is further processed through a conventional tri-ethylene glycol (TEG) unit to reduce the moisture to meet pipeline gas moisture specifications.

Dried gas leaving the TEG drying unit is introduced into a natural gas pipeline system.

By-product processing units are provided for gas liquor separation.

phenol recovery, ammonia recovery, and sulfur recovery. All of these units are

and the effects of the resulting labor

Community Center, Caldwell, Ohio at

Nevada Operations Office, 2753 South

All comments may be expressed in

phenol recovery, ammonia recovery, and sulfur recovery. All of these units are based on commercially-proven processes or concepts.

The specific objective of the CONOCO demonstration plant is to:

- Demonstrate the technical, environmental and economic feasibility of producing a clean pipeline gas from coal using a fixed bed gasifier developed by Lurgi and British Gas.

General objectives of the High BTU coal gasification program are to:

- Make technical improvements in the demonstration plant to advance the present state-of-the-art in the field of coal gasification for pipeline gas.
- Encourage commercial applications of the process for clean pipeline gas production from coal.

Products expected from the CONOCO plant are:

Products of Process

	lbs/hr	wt. pct.
Gas Product.....	33,811	32.1 (19.0 MMSCF/D)
Naphtha 30 API.....	1,852	1.8 (145 B/D)
Oil 20 API.....	2,696	2.7 (198 B/D)

The preliminary design phase is being funded by the Government for this project while the detail design, procurement, construction, and operation phases for the project will be co-funded, 50 percent from Government and 50 percent from industry. At the end of a successful demonstration phase, the industrial partner would return the Government interest for the facility with product revenues.

The purpose of this Notice is to present pertinent background information regarding the proposed scope and content of the Statement and to solicit comments and suggestions for consideration in its preparation. The environmental and socioeconomic impacts of the proposed CONOCO facility will be assessed in the DEIS. The DEIS will examine; to the extent practical, effects of possible construction and operation by private industry alone of an expanded commercial facility of this process at this site or elsewhere. In addition, the DEIS will discuss other similar projects which may bear on the proposed action including the proposed ICGG facility.

Identification of Environmental and Socioeconomic Issues

The following issues will be analyzed during the preparation of the EIS. The list is not intended to be all inclusive, nor is it intended to be a predetermination of impacts.

(1) The competition for labor among the proposed project and local activities,

and the effects of the resulting labor immigration on the local infrastructure.

(2) The effects of the proposed action on the community of Noble County, Ohio.

(3) An evaluation of the tax assessment procedures and distribution with attention to state and local tax jurisdictions.

(4) The exposure of the public to noise and odors.

(5) The effects of coal and ash storage and plant runoff on surface water and ground water quality and aquatic ecology.

(6) The effects of the proposed facility on air quality including the combined effects with other major or planned emission sources in the area.

(7) The effects of potential accidents and product releases on human health.

(8) The effects of potential accidents and product releases on water supply and ecology.

(9) The effects of construction on present and future land use and terrestrial ecology.

(10) The effects of the project on local water resources including Senecaville Lake (water source) and Duck Creek (water effluent).

Alternatives

The DEIS for the proposed action will examine the environmental effects of the action and compare them to the environmental effects of reasonable alternatives. The action will be considered from the standpoint of demonstration plant construction and operation and, to the extent possible, the future options of commercialization, mothballing, and decommissioning. The EIS will examine the following alternatives to the proposed action: alternative fossil energy development and demonstration programs; alternate fates for this project, including no action and delayed action; alternative plant sites and alternative plant designs.

Comments and Scoping Meeting

All interested parties are invited to attend a scoping meeting and submit comments or suggestions in connection with the preparation of the EIS. Written comments or suggestions may be submitted in lieu of or in addition to participation at the scoping meeting. Those desiring to submit comments or suggestions for issues to be addressed in the Draft EIS should submit them to the following address: U.S. Department of Energy, Office of Project Management, Mail Stop F-308, Germantown, Attn: R. A. Verner, Program.

Those wishing to participate in the scoping process may attend a public meeting to be held at Noble County

Community Center, Caldwell, Ohio at 7:00 p.m. the evening of December 4, 1979.

The meeting will not be conducted as an evidentiary hearing and those who choose to make statements may not be cross-examined by other speakers. To provide the Department of Energy with as much pertinent information as possible and as many views as can reasonably be obtained, and to provide interested persons with equitable opportunities to express their views:

1. Speakers will be called on to testify in the order they sign in expressing their intent to speak.

2. Should any speaker desire to provide further information for the record, it may be submitted in writing within ten days subsequent to the meeting. Written comments will be considered and given equal weight to oral comments.

3. A transcript of the meeting will be retained by DOE and made available for inspection at the Freedom of Information Library, Room GA-152, Forrestal Bldg., 1000 Independence Ave., NW., Washington, D.C. 20585 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Upon completion of the Draft EIS, its availability will be announced in the Federal Register and public comments will again be solicited.

Those not desiring to submit comments or suggestions at this time but who would like to receive a copy of the Draft EIS for review and comments when it is issued should also notify the above contact. Those seeking further information may inquire with the above contact or to: Ms. Mary Shaughnessy, NEPA Affairs Division, Office of the Assistant Secretary for Environment, U.S. Department of Energy, Room 4G-064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4610.

Copies of the documents currently planned to be used in the preparation of the Draft EIS are available for public inspection at: Courthouse Annex (Chamber of Commerce Room), Caldwell, Ohio 43724.

In addition, a copy of the bibliography of these documents is available for inspection at the following DOE locations:

Public Reading Room, FOI, Room GA-152, 1000 Independence Ave., SW, Washington, D.C. 20585.

Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill. 60639.

Chicago Operations and Regional Office, 175 West Jackson Boulevard, Chicago, Ill. 60604.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho 83401.

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev. 89114.

Albuquerque Operations Office National Atomic Museum Kirkland Air Force Base East Albuquerque, N. Mex. 87715.

Oak Ridge Operations Office Federal Building Oak Ridge, Tenn. 37830.

Richland Operations Office, Federal Building, Richland, Wash. 99352.

Energy Information Center, 215 Fremont Street, San Francisco, Calif. 94105.

Savannah River Operations Office, Savannah River Plant, Aiken, S.C. 29801.

Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway Operations Office, Denver, Colo. 80210.

All suggestions, comments and questions submitted to R. A. Verner prior to December 31, 1979, will be carefully considered in the environmental impact statement.

Dated at Washington, D.C., November 14, 1979.

For the United States Department of Energy.

Ruth C. Clusen,

Assistant Secretary for Environment.

(FR Doc. 35525 Filed 11-14-79; 8:45 am)

BILLING CODE 6450-01-M

Compliance With the National Environmental Policy Act Intent To Prepare Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS) for a high Btu pipeline gasification plant in Perry County, Illinois.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare a DEIS in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA), to assess the environmental implications of a proposed DOE action to cost-share the construction and operation of a proposed Clean Pipeline Gas Demonstration Plant to be located in Perry County, Illinois (near Cutler, Illinois). The applicant, the Illinois Coal Gasification Group proposed a facility which would convert 2330 tons per day of high sulfur coal into clean pipeline gas for pipeline distribution.

Interested agencies, organizations, and the general public desiring to submit comments or suggestions for consideration in connection with the preparation of this DEIS are invited to do so. Upon completion of the DEIS, its availability will be announced in the Federal Register, at which time comments will be solicited.

All comments may be expressed in writing to: Mr. J. Malcolm, Program Manager, ICGG Demonstration Plant, Mail Station F-308, Germantown, U.S. Department of Energy, Washington, DC 20545, Phone: (301) 353-5987.

For the general information on the EIS process contact: Ms. Mary Shaughnessy, NEPA Affairs Division, Office of the Assistant Secretary for Environment, U.S. Department of Energy, 1000 Independence Avenue, SW, Room 4G-064, Washington, DC 20585, Phone: (202) 252-4810.

Background Information

On October 3, 1975, DOE published a Request for Proposal RFP-E(49-180-2012) entitled "Pipeline Gas Demonstration Plant." From the respondents to this RFP, two competing proposals were accepted. Contracts have been signed with the Continental Oil Company (CONOCO) for this project in Noble County, Ohio, and with Illinois Coal Gasification Group (ICGG) for a proposed project at Perry County, Illinois, (a Notice of Intent to prepare a DEIS on the CONOCO facility is also being issued) to carry these proposals through the preliminary design stage. This work is currently underway.

Process Description:

The COGAS process for the ICGG demonstration plant is a low pressure process which incorporates multi-stage (3 to 4 stages) pyrolysis units and a fluidized bed gasifier. Pyrolysis is carried out in fluidized bed vessels to complete the coal drying, evolve oil and gas fractions, and produce a low volatile char for gasification. The gasification section produces a synthesis gas by stream gasification of char produced in pyrolysis.

Char fines are fired with air in a slagging cyclone combustor to produce the flue gas and the combustor rejects the molten ash into a slag lock-hopper. The flue gas stream contains approximately half the heat generated in the combustor and sufficient kinetic energy to supply the combustion air compression requirements. The flue gases flow to a flue gas oxidizer where the combustion is recovered as steam and the carbon monoxide content is reduced to meet emission standards by combustion with air. Flue gas continues through expander turbines which provide shaft horsepower to compress combustion air. The flue gas goes through feedwater heaters and then to SO₂ removal.

The specific objective of the ICGG demonstration plant is to:

- Demonstrate the technical, environmental and economic feasibility

of producing a clean pipeline gas from coal using the staged fluidized bed pyrolysis system (COGAS) developed by the COGAS Development Company.

General objectives of the High BTU coal gasification program are to:

- Make improvements in the demonstration plant to advance the present state-of-the-art in the field of coal gasification for pipeline gas.
- Encourage commercial applications of the process for clean pipeline gas production from coal.

Products expected from the ICG plant are:

Products of Process

Product and Daily Production

Gas Product: 23.2 MMSCF/D (950 Btu/SCF)
Naphtha: 360 B/D
No. 2 Fuel Oil: 1115 B/D
No. 6 Fuel Oil: 428 B/D
Ammonia: 8.7 T/D
Sulfur: 70.0 T/D

The preliminary design phase is being funded by the Government for this project while the detailed design, procurement, construction, and operation phases for the project are proposed to be co-funded, 50 percent from Government and 50 percent from industry. At the end of a successful demonstration phase, the industrial partner would return the Government interest for the facility with product revenues.

The purpose of this Notice is to present pertinent background information regarding the proposed scope and content of the Statement and to solicit comments and suggestions for consideration in its preparation. The environmental and socioeconomic impacts of the proposed CONOCO facility will be assessed in the DEIS. The DEIS will also examine; to the extent practical, effects of possible construction and operation by private industry alone of an expanded commercial facility of this type at this site, or elsewhere. In addition, the DEIS will discuss other similar projects which may bear on the proposed action including the proposed CONOCO project.

Identification of Environmental and Socioeconomic Issues

The following issues will be analyzed during the preparation of the EIS. This list is not intended to be all inclusive, nor is it intended to be a predetermination of impacts.

(1) The competition for labor among the proposed project and local activities, and the effects of the resulting labor immigration on the local infrastructure.

(2) The effects of the proposed action on the community of Perry County, Illinois.

(3) An evaluation of the tax assessment procedures and distribution with attention to state and local tax jurisdictions.

(4) The exposure of the public to noise and odors.

(5) The effects of coal and ash storage and plant runoff on surface water and ground water quality and aquatic ecology.

(6) The effects of the proposed facility on air quality including the combined effects with other major or planned emission sources in the area.

(7) The effects of potential accidents and product releases on human health.

(8) The effects of potential accidents and product releases on water supply and ecology.

(9) The effects of construction on present and future land use and terrestrial ecology.

(10) The effects of the project on local water resources including the Mississippi River.

Alternatives

The DEIS for the proposed action will examine the environmental effects of the action and compare them to the environmental effects of reasonable alternatives. The action will be considered from the standpoint of demonstration plant construction and operation and, to the extent possible, the future options of commercialization, mothballing, and decommissioning. The EIS will examine the following alternatives to the proposed action: alternative fossil energy development and demonstration programs; alternate rates for this project, including no action and delayed action; alternative plant sites and alternative plant design.

Comments

All interested parties are invited to submit comments or suggestions in connection with the preparation of the EIS. Those desiring to submit comments or suggestions for issues to be addressed in the Draft EIS should submit them to the following address: U.S. Department of Energy Office of Project Management Mail Stop F-308, Germantown, Washington, DC 20545, Attn: J. Malcolm, Program Manager.

A meeting on the subject of the environmental issues of the demonstration plant was held on August 15, 1979, in Cutler, Illinois. A transcript of the meeting will be retained by DOE and made available for inspection at the Freedom of Information Library, Room GA-152, Forrestal Bldg., 1000 Independence Ave., NW, Washington,

DC 20585 between the hours of 8:00 AM and 4:30 PM, Monday through Friday.

Upon completion of the Draft EIS, its availability will be announced in the Federal Register and public comments will again be solicited.

Those not desiring to submit comments or suggestions at this time but who would like to receive a copy of the Draft EIS for review and comments when it is issued should also notify the above contact. Those seeking further information may inquire with the above contact or to: Ms. Mary Shaughnessy, NEPA Affairs Division, Office of the Assistant Secretary for Environment, U.S. Department of Energy, Room 4G-064, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252-4610.

Copies of the documents currently planned to be used in the preparation of the Draft EIS are available for public inspection at: Government Documents Room, Perry County Courthouse, Pinckneyville, Illinois 62274, (Mr. W. Bigham, County, Clerk).

In addition, a copy of the bibliography of these documents is available for inspection at the following DOE locations:

Public Reading Room, FOI, Room GA-152, 1000 Independence Ave., SW, Washington, DC 20585.

Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill. 60639.

Chicago Operations and Regional Office, 175 West Jackson Boulevard, Chicago, Ill. 60604.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho 83401.

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev. 89114.

Albuquerque Operations Office, National Atomic Museum, Kirkland Air Force Base East, Albuquerque, N. Mex. 87715.

Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn. 37830.

Richland Operations Office, Federal Building, Richland, Wash. 99352.

Energy Information Center, 215 Fremont Street, San Francisco, Calif. 94105.

Savannah River Operations Office, Savannah River Plant, Aiken, S.C. 29801.

Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway Operations Office, Denver, Colo. 80210.

All suggestions, comments and questions submitted to J. Malcolm prior to December 15, 1979, will be carefully considered in the environmental impact statement.

Dated at Washington, D.C., this day of November 14, 1979.

For the United States Department of Energy.

Ruth C. Clusen,
Assistant Secretary for Environment.

[FR Doc. 79-35523 Filed 11-14-79; 8:45 am]

BILLING CODE 6450-01-M

Requests for Interpretation Filed With the Office of General Counsel; Months of August and September 1979

Notice is hereby given that during the months of August and September 1979, the requests for interpretation listed in the Appendix to this notice were filed pursuant to 10 CFR Part 205, Subpart F with the Office of General Counsel, Department of Energy (DOE). Notice of subsequently received requests will be published at the end of each calendar month. Copies of the requests for interpretation listed herein are on file in and should be obtained from the DOE's Public Reading Room, Information Access Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-5969.

The statement of issue that follows each request for interpretation listed in the Appendix is not intended to be definitive or final. Rather, the issue statement should be regarded as the initial restatement by the DOE of the question that appears to have been presented for resolution. The issue may, of course, be refined and modified during the interpretive process.

Interested parties may submit written comments on the listed interpretation requests on or before December 17, 1979. Comments should be identified on the outside envelope and on documents submitted with the file number of the interpretation request and all comments should be filed with the Assistant General Counsel for Interpretations and Rulings, Office of General Counsel, Department of Energy, Room 1111, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Any comments submitted should be served on the requesting parties as identified in the Appendix below. When appropriate, aggrieved parties, as defined in 10 CFR 205.2, will continue to receive actual notice of pending interpretation requests in accordance with the current practice of the Office of General Counsel.

For further information contact Diane Stubbs, Office of General Counsel, 12th and Pennsylvania Avenue, NW., Room

1111, Washington, D.C. 20461, (202) 633-9070.

Everard A. Marseglia, Jr.,
Assistant General Counsel for Interpretations and Rulings.

November 8, 1979.

Appendix—List of Requests for Interpretation Received by the Office of General Counsel

(Months of August and September 1979)

Date received	Name and location of requestor	File No.
August 1	Allied Chemical Corporation, C. Thomas Biddle, Jr., Esq., Baker & Botts, 1701 Pennsylvania Avenue, NW., Washington, D.C. 20006. Issue: May a natural gas processor determine its maximum lawful selling prices for NGLP's pursuant to 10 CFR 212.162, 212.164(e) and 212.165 by including as increased processing costs and as qualifying incentive investments the capital investment for and operating cost of various gathering and related facilities of its processing plants even though the gas processor has an ownership interest in the residue gas from such plants?	A-454
August 6	Gulf Oil Corporation, Jeffrey G. Shrader, Esq., The Gulf Companies, P.O. Box 3725, Houston, Texas 77001. Issue: Where a contract was entered into prior to January 1, 1973, for the sale of crude oil, and the purchaser took title to a specified quantity of crude oil in the ground when the contract was entered into, does 10 CFR 211.63 establish a supplier/purchaser relationship, and if such a relationship existed, was it terminated in accordance with § 211.63(d)?	A-456
August 8	Basin Petroleum, Inc., Thomas J. Bouchoux, Vice President Regulatory Affairs, Basis Petroleum, Inc., 666 East Ocean Boulevard, P.O. Box 2560—Suite 2208, Long Beach, California 90801. Issue: Under 10 CFR 211.106(b)(1), may a refiner exclude from its allocable supply motor gasoline sold to its crude oil suppliers?	A-458
August 13	Basin, Inc., L. E. Sawyer, Jr., Esq., Cotton, Bledsoe, Tighe, Morrow & Dawson, First National Bank Building, Suite 2000, Midland, Texas 79701. Issue: Do 10 CFR 211.63(d)(1)(ii) and (iii) grant to an existing purchaser of stripper well crude oil the right of first refusal to meet higher bona fide written offers of a prospective purchaser of that crude oil?	A-459
August 20	Williams Exploration Company, J. Kevin Hayes, Esq., Hall, Estill, Hardwick, Gable, Collingsworth & Nelson, 4100 Bank of Oklahoma Tower, One Williams Center, Tulsa, Oklahoma 74172. Issue: Does crude oil produced from wells on a property in 1978, which were not completed for commercial production until 1979, qualify as newly discovered crude oil pursuant to the provisions of 10 CFR 212.79?	A-461
August 20	National Association of Texaco Wholesalers, Inc., Fred B. Causey, Esq., National Association of Texaco Wholesalers, Inc., P.O. Box 95265, Atlanta, Georgia 30347.	A-462

Appendix—List of Requests for Interpretation Received by the Office of General Counsel—Continued

(Months of August and September 1979)

Date received	Name and location of requestor	File No.
August 20	San Jose Police Officers Association, Russell L. Richeda, Esq., Carroll, Burdick, & McDonough, One Ecker Building, Suite 400, Ecker & Stevenson Streets, San Francisco, California 94105. Issue: Does the Association qualify as an end-user, bulk purchaser and/or wholesale purchaser-consumer of motor gasoline under 10 CFR 211.51?	A-463
August 29	Parker & Parseley, Inc., Joe M. Parseley, President, Parker & Parseley, Inc., P.O. Box 3178, One Marianfield Place—Suite 333, Midland, Texas 79702. Issue: Where crude oil was recovered from a property in 1978 in the course of testing, was crude oil "produced" from that property for purposes of the "newly discovered crude oil" provisions of 10 CFR 212.79(b)?	A-464
September 4	Basin, Inc., Robert G. Szabo, Esq., G. William Frick, Esq., Van Ness, Feldman & Sutcliffe, 1220—19th Street, NW., Washington, D.C. 20036. Issue: Does 10 CFR 210.62 prohibit a joint venture between a crude oil producer and reseller in which crude oil is refined pursuant to a processing agreement and the refined products are marketed by the joint venture?	A-465
August 31, September 5	Marshall Oil Corporation, Marshall Oil Weir, President, Marshall Oil Corporation, 3233 NW., 63rd, Oklahoma City, Oklahoma 73116. Issue: Are certain premises described in particular oil and gas leases separate properties under 10 CFR 212.72?	A-466, A-467
August 20	Air Products and Chemicals, Inc., Raymond H. Schenk, Esq., Air Products and Chemicals, Inc., Box 538, Allentown, Pennsylvania 18105. Issue: Do changes in the burner and airflow systems of a major fuel-burning installation alter its design capability under the Powerplant and Industrial Fuel Use Act Section 103(a)(10)?	A-468
September 4	Dow Chemical, U.S.A., Martha Priddy Patterson, Esq., O'Connor & Hannan, 1919 Pennsylvania Avenue, NW., Washington, D.C. 20006. Issue: (1) May a supplier deduct surplus product delivered to a purchaser in prior months from the purchaser's allocation entitlement in the current month under 10 CFR 211.25(c), 211.10(g) and 211.66(g)? (2) Does 10 CFR 211.10(g)(5) supersede a private contract between a supplier and a purchaser regarding the sale of surplus product?	A-469
September 7	Charles Hohl & Sons, Inc., Douglas W. Biser, Esq., 814 Bosley Avenue, Towson, Maryland 21204.	A-470

Appendix—List of Requests for Interpretation Received by the Office of General Counsel—Continued

(Months of August and September 1979)

Date received	Name and location of requestor	File No.
September 14	The Superior Oil Company, Charles E. Remy, Esq., The Superior Oil Company, P.O. Box 1521, Houston, Texas 77007. Issue: Is the right to receive an allocation transferred when a substantial, but not the entire, interest in the business of a firm is transferred to a successor firm under 10 CFR 211.11?	A-471
September 17	W.R. Childress Oil Co., Inc. Donald H. Grissom, Esq., 701 West 15th Street, Austin, Texas 78701. Issue: Does operation of an automated fueling outlet from which only preselected purchasers may obtain motor gasoline violate the provisions of 10 CFR 210.62(b)?	A-472
September 21	Leede Exploration, Robert C. Bledsoe, Esq., Cotton, Bledsoe, Tighe, Morrow, & Dawson, Suite 2000, First National Bank Building, Midland, Texas 79701. Issue: Under 10 CFR 210.62, Part 211, and Part 212, may a producer enter into a processing agreement with the refiner that formerly purchased its crude oil, where the producer would market the covered products refined from the crude oil?	A-473
September 17	Rick Buck Oil & Gas Investments, Rick Buck, Oil & Gas Investments, 2525 N.W. Expressway, Suite 606, Oklahoma City, Oklahoma 73112. Issue: Where crude oil was recovered from a property in 1978 in the course of testing, was crude oil "produced" from that property for purposes of the "newly discovered crude oil" provisions of 10 CFR 212.79(b)?	A-474
September 24	Finders Oil & Gas Company, Lee S. Gill, Esq., Woods, Aston, Mays, Harmon & Watt, 1100 Milam Building, Suite 3300, Houston, Texas 77002. Issue: Where crude oil was recovered from a property in 1978 in the course of testing, was crude oil "produced" from that property for purposes of the "newly discovered crude oil" provisions of 10 CFR 212.79(b)?	A-475
September 24	International Carwash Association, R. R. Gus Trantham, CAE, Executive Director, 4415 West Harrison Street, Suite 545, Hillside, Illinois 60162. Issue: Under 10 CFR 211.106(b)(3)(ii) a firm that owns two or more retail outlets may reassign up to 30 percent of the "allocation entitlement" from one station to another—what is the volume of this "allocation entitlement," the base period volume or the volume supplied to the station in the current month?	A-476
September 17	Crown Central Petroleum Corporation, William J. Rubin, Esq., Cable, McDaniel, Bowie & Bond, The Blaustein Building, Baltimore, Maryland 21201. Issue: Is a supplier obligated by 10 CFR 210.62 to treat the new operator of a service station site as a branded dealer?	A-477

Appendix—List of Requests for Interpretation Received by the Office of General Counsel—Continued

(Months of August and September 1979)

Date received	Name and location of requestor	File No.
September 26.	Union Oil Company of California, Maureen A. McGarr, Esq., Union Oil Company of California, 1650 East Golf Road, Schaumburg, Illinois 60196. Issue: May total duties paid for all imported crude oil and products be offset against total import fees incurred on all imported crude and refined petroleum products under 10 CFR 213.35(a)(9)?	A-478
September 24.	BTA Oil Producers, Bob K. Newland, BTA Oil Producers, 104 South Pecos, Midland, Texas 79701. Issue: What is the scope of a crude oil producing property for purposes of determining whether certain crude oil is newly discovered under 10 CFR 212.79?	A-480
September 28.	Public Service Electric and Gas Company, James R. Lacey, General Solicitor, Public Service Electric and Gas Company, 80 Park Place, Newark, New Jersey 07101. Issue: Are auxiliary boilers associated with electric powerplants separate major fuel burning installations subject to the prohibitions in the Powerplant and Industrial Fuel Use Act?	A-481
September 28.	Gulf States Utilities Company, Philip J. Mause, Esq., Kadison, Pfaltzer, Woodard, Quinn & Rossi, 707 Wilshire Boulevard, Los Angeles, California 90017. Issue: (1) Are powerplants which burned 100 percent natural gas during the 1974 through 1976 base period or other applicable base period subject to the prohibitions in Section 301 of the Powerplant and Industrial Fuel Use Act? (2) Did powerplants which used oil during the base period because natural gas curtailments made such use necessary to avoid interruptions in service use such oil as a "primary source" as that term is defined under Section 103(a)(15)?	A-482
September 29.	Ernest J. Panasci, Esq., Rothgerber, Appel & Powers, 1800 Broadway, Denver, Colorado, 80202. Issue: Does a firm that contracts with a producer to purchase crude oil reserves in the ground qualify as a producer for purposes of the tertiary incentive regulations in 10 CFR Part 212?	A-483

[FR Doc. 79-35390 Filed 11-15-79; 8:45 a.m.]

BILLING CODE 6450-01-M

Resource Applications, National Petroleum Council; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Petroleum Council.
Date, Time, and Place: December 12, 1979, 9:00 a.m., Department of Energy, James Forrestal Building Auditorium, 1000 Independence Avenue SW., Washington, D.C.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G087, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202-252-5187.

Purpose of Committee: The Committee was established to provide advice, information and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative Agenda:

- Open remarks.
- Reports on the National Petroleum Council.
- Subcommittee on Materials and Manpower Requirements.
- Subcommittee on Refinery Flexibility (Interim Report).
- Subcommittee on Unconventional Gas Sources (Progress Report).
- Subcommittee on U.S. Petroleum Inventories, and Storage and Transportation Capacities.
- Consideration of any administrative matters.
- Discussion of any other business properly brought before the National Petroleum Council.
- Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Council is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152 Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. between 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on November 7, 1979.

Georgia Hildreth,
Director, Advisory Committee Management.

[FR Doc. 79-35375 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Southwest Oregon Area Service, Buckley-Summer Lake 500-kV Line Draft Facility Location Supplement to Final Environmental Statement; Public Meetings

The Bonneville Power Administration (BPA) hereby gives notice of public meetings to be held to discuss and

solicit comments on the Southwest Oregon Area Service, Buckley-Summer Lake 500-kV Line, Draft Facility Location Supplement. This environmental statement supplements BPA's Final Fiscal Year 1979 Proposed Program EIS (DOE/EIS-0005) and was prepared pursuant to DOE's implementation of the National Environmental Policy Act of 1969. This supplemental statement assesses the anticipated impacts associated with the construction of 156 miles (250 km) of 500-kV transmission line and two new substations. Buckley Substation would be about 10 miles east of Maupin, and Summer Lake Substation would be about 10 miles south of the intersection of the AC Intertie lines and Oregon State Highway 31. Alternatives to the proposal, including nonconstruction, are also discussed.

Public information meetings to be held as follows:

Tuesday, December 11, 1979, City Hall, Maupin, Oregon, 7:00 p.m.
Thursday, December 13, 1979, City Hall, Prineville, Oregon, 7:00 p.m.

All interested parties are urged to attend. All comments are welcome in order to fully assist the agency in evaluating the environmental factors pertinent to this proposal. Comments will be considered in the preparation of the Southwest Oregon Area Service, Buckley-Summer Lake 500-kV Line Final Facility Location Supplement.

For those who cannot attend the meetings, written comments will be accepted until the close of comment date, December 31, 1979. Copies of the draft environmental statement, as well as additional or clarifying information, may be obtained by writing or calling the Environmental Manager's Office, Bonneville Power Administration, P.O. Box 3621-SJ, Portland, Oregon 97208, 503-234-3361, extension 5137.

Dated at Portland, Oregon, this 8th day of November 1979.

Sterling Munro,
Administrator.

[FR Doc. 79-35373 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into

between the Office of Enforcement, ERA, and the firms listed below during the month of September 1979. The Consent Orders represent Resolutions of outstanding compliance investigations or proceedings by the DOE and the firms which involve a sum of less than \$500,000 in the aggregate, excluding penalties and interest. For Consent Orders involving sums of \$500,000 or more, Notice will be separately published in the Federal Register. These Consent Orders are concerned

exclusively with payment of the refunded amounts to injured parties for alleged overcharges made by the specified companies during the time periods indicated below through direct refunds or rollbacks of prices.

For further information regarding these Consent Orders, please contact Mr. Herbert M. Heitzer, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, telephone number (215) 597-3870.

Firm name and address	Refund amount	Product	Period covered	Recipients of refund
Crescent Service Station.....	\$37,500	Motor Gasoline.....	11/1/73 to 12/31/78.....	General Rollback

Issued in Philadelphia on the 2nd day of November 1979.

Herbert M. Heitzer,
District Manager of Enforcement.

[FR Doc. 79-35381 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

Anderson Service Center; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Harry Anderson d.b.a. Anerson Service Ctr., Georgetown, Pa. This Proposed Remedial Order charges Anderson Service Ctr. with pricing violations in the amount of \$2,400, connected with the retail sale of gasoline during the time period August 1, 1979 through September 28, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. On or before December 3, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania, on the 2nd day of November 1979.

Herbert M. Heitzer,
District Manager, Office of Enforcement, Northeast District.

[FR Doc. 79-35387 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

Basin Electric Power Cooperative; Findings and Determination on Location of Proposed Action in a Floodplain

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Findings and Determination Regarding Location of Proposed Action in a Floodplain

SUMMARY: The Department of Energy (DOE) proposes to issue to Basin Electric Power Cooperative (BASIN) a Presidential Permit for the construction of an electrical facility at the U.S.-Canadian International Boundary. A final environmental impact statement (FEIS) on this project has been prepared by the RURAL Electrification Administration and adopted by DOE. Notice of availability was published on September 25, 1979 (44 FR 55221).

The proposed and alternate corridors for the proposed 230 kV—135 mile transmission line cross the 100-year floodplain of the White Earth River and require placing two transmission line supporting structures therein. The overall length of the proposed transmission line would have to be increased by approximately 100 miles if a corridor were selected which would circumvent the White Earth River Floodplain. The Secretary of Energy does not consider this to be a practicable alternative, and has found that no practicable alternative exists to this course of action. Notice is hereby given of such findings and determination.

FOR FURTHER INFORMATION CONTACT: James M. Brown, Jr., System Reliability and Emergency Response Branch,

Department of Energy, Room 4110E, 2000 M St., N.W., Washington, D.C. 20461 (202) 254-8247.

Lise Courtney M. Howe, Office of General Counsel, Department of Energy, room 5116, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633-9380.
Susan Walker, Office of Environment, Department of Energy, Room 4G057, Forrestal Building, Washington, D.C. 20461, (202) 252-4610.

SUPPLEMENTARY INFORMATION:

- Background.
- Reasons for Location of Proposed Action
- Alternatives Considered
- Conformance to Applicable State or Local Floodplain Protection Standards
- Steps to be Taken to Minimize Potential Harm to or Within Floodplain.

I. Background

This notice of findings and determination regarding the location of a proposed action within the 100-year floodplains is issued pursuant to the requirements of the Executive Order 11988—Floodplain Management.

Basin Electric Power Cooperative (BASIN) applied to the Department of Energy (DOE) for a Presidential Permit, pursuant to Executive Order 10485, as amended by Executive Order 12038, for authority to construct, connect, operate and maintain an electrical interconnection facility at the U.S.-Canadian border. BASIN proposes to construct 135 miles of 230 kV transmission line from BASIN's Logan Substation to a point on the U.S.-Canadian border approximately 45 miles due north of Tioga, North Dakota.

A final environmental impact statement (FEIS) has been prepared on this project by the Rural Electrification Administration (REA) with input from DOE. The FEIS was adopted by DOE and issued by REA. Notice of availability was published on September 25, 1979 (44 FR 55221).

II. Reasons for Location of Proposed Action in Floodplains

One segment of the proposed transmission line runs west from the Logan Substation to the Tioga Substation. The proposed and alternative corridors for this segment cross the White Earth River where the river runs north-south. In this area the White Earth River has a noticeable valley which is mostly within the 100-year floodplains. The width of the valley between the 100-year floodplain levels is too wide to be crossed by a single span of transmission line. A corridor routed to the north, where the floodplains could be spanned, would add approximately 100 miles to the 135 mile length of the

proposed line. Assuming a cost of \$100,000 per mile for 230 kV wood pole transmission line, this would add approximately \$10 million to the cost of the project. The new corridor would also impact 100 miles of additional land that is comprised of mostly range and wetlands.

Based upon the Floodplains Assessment set forth in the FEIS the Secretary of Energy has determined that there is no practicable alternative to the construction of two transmission line support structures within the 100-year floodplain of the White Earth River.

III. Alternatives Considered

The environmental impact statement for this project included an analysis of alternatives to construction of the line. The alternatives were: (1) No action; (2) construction of additional generating capacity within the area such as base load oil, coal and nuclear; (3) peaking units; (4) other technologies such as wind, solar, geothermal, and hydro-electric power; (5) alternative voltages; (6) power purchased from a U.S. source; (7) the effect of conservation and rate schedule strategies on electrical demand; and (8) alternative routes for the line.

The staff concluded that a transmission intertie with Canada appeared to be the best alternative from an environmental viewpoint and that the particular route selected appeared to be the best alternative for the intertie.

IV. Conformance to Applicable State and Local Floodplain Protection Standards

Under North Dakota law (North Dakota Energy Conversion and Transmission Facility Siting Act), a proposed transmission line must undergo a two stage siting process. The first stage reviews alternative corridors and the second stage reviews a route within an approved corridor. The North Dakota Public Service Commission approved the "preferred" corridor submitted by BASIN on August 14, 1978, and approved the route selected on June 8, 1979. The route application contained information on the environmental changes expected due to the construction, operation and maintenance of the proposed facility. BASIN has received all required State permits.

No other state or local standards apply.

V. Steps Taken to Minimize Potential Harm to or Within the Floodplain

Two transmission line construction activities may have potential impacts to the floodplain: the location of the

facilities in the floodplain and clearing of vegetation in the floodplain. Once installed, the structures will be flood-proofed to prevent any damage during a flood, and will have minimal effects on the floodplains.

BASIN and its contractors will comply with the following precautions and restrictions in order to minimize the environmental effect of the proposed line on the floodplains.

a. Where practicable, trucks or other mechanical equipment will not cross drainages. Where crossing is necessary, the contractor will cross in such a manner as to minimize damage to stream banks.

b. Clearing and trimming within 50 feet of any drainage will be performed by hand. The use of heavy equipment will not be permitted.

c. Oil and fuel storage will not be permitted within 200 feet of a stream or pothole.

d. Oil and fuel will not be used in any manner or disposed of in any manner that would permit it to drain into a stream or river or enter into the groundwater.

e. Structures will be located to avoid the banks of any body of water when practicable. Any necessary permits will be obtained for structures to be located in bodies of water.

f. Clearing of vegetation on the banks of streams and rivers will be kept to a minimum.

Issued in Washington, D.C., November 9, 1979.

Howard F. Perry,
Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-35372 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

B & L Texaco Service; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to B & L Texaco Service, 805 South Manheim Road, Westchester, Illinois 60153. This Proposed Remedial Order charges B & L Texaco Service with pricing violations in the amount of \$1286.32, in sales of the motor gasoline during the time period August 1, 1979, through October 4, 1979, in the State of Illinois.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from William D. Miller, District Manager of Enforcement, 324 East 11th Street, Kansas City, Missouri 64106. On or

before December 3, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri, on the 8th day of November 1979.

William D. Miller,
District Manager, Central Enforcement District.

[FR Doc. 79-35382 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

Cipoletti's Exxon; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Charles C. Cipoletti d.b.a. Cipoletti's Exxon, Wellsburg, W. Va. This Proposed Remedial Order charges Cipoletti's Exxon with pricing violations in the amount of \$3992, connected with the retail sale of gasoline during the time period August 1, 1979 through September 27, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. On or before December 3, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania, on the 2nd day of November 1979.

Herbert M. Heitzer,
District Manager, Office of Enforcement, Northeast District.

[FR Doc. 79-35388 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

De Luc Service Station; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Mr. Domingo d.b.a. De Luc Service Station, Bronx, N.Y. This Proposed Remedial Order charges De Luc Service Sta. with pricing violations in the amount of \$402, connected with the retail sale of gasoline during the time period August 1, 1979 through September 28, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. On or before December 3, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania, on the 2nd day of November 1979.

Herbert M. Heitzer,
District Manager, Office of Enforcement, Northeast District.

[FR Doc. 79-35389 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

Edward Pace; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Edward Pace, 549 Broadway, Buffalo, N.Y. This Proposed Remedial Order charges Edward Pace with pricing violations in the amount of \$868, connected with the retail sale of gasoline during the time period August 1, 1979 through September 28, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. On or before December 3, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, NW., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in Philadelphia, Pennsylvania, on the 2nd day of November, 1979.

Herbert M. Heitzer,
District Manager, Office of Enforcement, Northeast District.

[FR Doc. 79-35384 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

Edwards Producing Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order (PRO) which was issued to Edwards Producing Company, Inc., 1755 Lelia Drive, Suite 301, Jackson,

Mississippi, 39216, on November 1, 1979. An earlier PRO issued to Edwards on September 6, 1979, was rescinded on September 26, 1979, due to an omission of appropriate language with respect to distribution of refunded overcharges. The November 1, 1979, PRO charges Edwards Producing Company, Inc. with pricing violations in the amount of \$125,587.47 connected with the sale of crude oil during the period September 1, 1973, through December 31, 1977, in the State of Mississippi.

A copy of the November 1, 1979 PRO, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, NE., Atlanta, Georgia 30309, Phone: (404) 881-2661. On or before December 3, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia, on the 5th day of November 1979.

James C. Easterday,
District Manager of Enforcement, Southeast District.

[FR Doc. 79-35379 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

Gasoline Marketing Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Title: Gasoline Marketing Advisory Committee.

Date and Time: December 5, 1979—9:00 a.m. to 5:00 p.m.

Place: Peachtree Plaza Hotel, Peachtree at International, Spanish Room, Atlanta, Georgia.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy—Room 8C087, 1000 Independence Avenue, SW., Washington, D.C. 20585. Telephone: 202-252-5187.

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Purpose of Committee: To provide the Department of Energy with expert and technical advice concerning the wholesale and retail selling of gasoline.

Tentative Agenda

- Old Business
- Title III (Petroleum Marketing Practices Act)
- Gasoline Supply and Allocation
- State Set-Aside Programs
- Downward Certification
- Retail and Reseller Margin Situations
- New Business
- Public Comment (10 minute rule)

Issued at Washington, D.C., on November 9, 1979.

Georgia Hildreth,
Director, Advisory Committee Management.
[FR Doc. 79-35376 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

Haine's Gulf; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Gerald Haine's d.b.a. Haine's Gulf, Innwood, W.Va. This Proposed Remedial Order charges Haine's Gulf with pricing violations in the amount of \$29,146, connected with the retail sale of gasoline during the time period August 1, 1979 through September 28, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. On or before December 3, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, NW., Washington, D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in Philadelphia, Pennsylvania, on the 2nd day of November, 1979.

Herbert M. Heitzer,
District Manager, Office of Enforcement, Northeast District.

[FR Doc. 79-35385 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

Hanover Management Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: November 2, 1979.
COMMENTS BY: December 3, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, Phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On November 2, 1979, the Office of Enforcement of the ERA executed a Consent Order with Hanover Management Company of Dallas, Texas. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Hanover Management Company wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Hanover Management Company effective as of the date of its execution by the DOE and Hanover Management Company.

I. Consent Order

Hanover Management Company with its home office in Dallas, Texas is a firm engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Part 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and Hanover Management Company entered into a Consent Order to resolve certain civil actions which could be brought by ERA as a result of its audit of the crude oil

sales by Hanover Management Company. This Consent Order settles those matters relative to Hanover Management Company's production and sale of crude during the period September 1, 1973 through December 31, 1977.

The significant terms of the Consent Order with Hanover Management Company are as follows:

1. Hanover Management Company allegedly misapplied the provisions of 10 CFR 212.73 and its predecessor, 6 CFR § 150.353 when determining the prices to be charged for certain domestic crude oil.

2. Hanover Management Company understands and agrees to refund \$175,000.00 to the DOE by certified check. This amount is in full settlement of any and all civil liability within the jurisdiction of the DOE in regard to actions that might be brought by the DOE arising out of the specified transactions for the following properties:

Burke
Cain
Rex Clark
Cross
Fruin
Fruin A
Knoxville Unit
Willmot

Mainard
Mobil
Mobil A
Mobil B
Schaefer
Sentell Unit
Whittenburg L.

3. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

Refunded overcharges as described in 2. above will be made in six equal installments of \$29,166.66 each. The first payment is due 90 days after the effective date of the Consent Order and each 90 days thereafter until the total refund has been completed. Delivery of such payments shall be to the Assistant Administrator for Enforcement, Economic Regulatory Administration, in the form of a certified check made payable to the United States Department of Energy.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "person" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the

overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected person, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established.

Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on the Hanover Management Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on or before December 3, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 2nd day of November 1979.

Herbert F. Buchanan,
Deputy District Director Enforcement,
Southwest District Office, Economic
Regulatory Administration.

[FR Doc. 79-35378 Filed 11-15-79; 8:45 am]
 BILLING CODE 6450-01-M

Petroleum Heat & Power Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of final action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) as the successor to the Federal Energy Administration (FEA) announces final action of a Consent Order.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: James J. Dowd, Audit Director, Enforcement, Department of Energy, Northeast District, (Economic Regulatory Administration), Room 700, 150 Causeway Street, Boston, MA 02114, 617-223-3728.

SUPPLEMENTARY INFORMATION: On July 31, 1979, the DOE executed a proposed Consent Order with Petroleum Heat & Power Co., Inc. (Petro) of Stamford, CT. Under 10 CFR 205.199(c) a proposed Consent Order becomes effective only after the ERA has published notice of its execution and solicits and considers public comments with respect to its terms. Therefore, the ERA published a Notice of Proposed Consent Order and invited interested persons to comment on the proposed Order.

At the conclusion of the thirty-day comment period, the ERA had received no public comments.

Accordingly, the ERA had concluded that the Consent Order as executed between the DOE and Petro is an appropriate resolution of the compliance proceedings which it described, and it shall become effective as proposed, without modification, November 16, 1979.

Issued in Philadelphia, PA on November 2, 1979.

Herbert M. Heitzer,
District Manager of Enforcement, Northeast District.

[FR Doc. 79-35380 Filed 11-15-79; 8:45 am]
 BILLING CODE 6450-01-M

Pricewagon Auto Services, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Sam Price d.b.a. Pricewagon Auto Services, Inc., Aliquippa, Pa. This Proposed Remedial Order charges Sam Price with pricing violations in the amount of \$1,740, connected with the retail sale of gasoline during the time

period August 1, 1979 through September 28, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. On or before December 3, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania, on the 2nd day of November 1979.

Herbert M. Heitzer,
District Manager, Office of Enforcement,
Northeast District.

[FR Doc. 79-35386 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

Warwick Oil Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Warwick Oil Corporation, P.O. Box 52745 OCS, 1101 Pinhook Road, Lafayette, Louisiana 70505. This Proposed Remedial Order charges Warwick Oil Corporation (Warwick) with pricing violations in the amount of \$89,250.85, relative to Warwick's sale of certain crude oil at free market prices which the firm characterized as "stripper well" crude oil in excess of those permitted by 10 CFR Part 212, Subpart D during the period January 1, 1976 through November 30, 1977, in the State of Louisiana.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, or by Calling (214) 767-7745. On or before December 3, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 6th day of November 1979.

Herbert F. Buchanan,
Deputy District Manager, Southwest District Enforcement.

[FR Doc. 79-35377 Filed 11-15-79; 8:45 am]
 BILLING CODE 6450-01-M

William Pinkoske; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to William Pinkoske D/B/A 3735 S. Park Street, Blasdel, N.Y. This Proposed Remedial Order charges William Pinkoske with pricing violations in the amount of \$833, connected with the retail sale of gasoline during the time period August 1, 1979 through September 28, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. On or before December 3, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania, on the 2nd day of November 1979.

Herbert M. Heitzer,
District Manager, Office of Enforcement,
Northeast District.

[FR Doc. 79-35383 Filed 11-15-79; 8:45 am]
 BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of October, 1979. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than one and one-half inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact Bob Jones, Program Manager, Department of Energy, Economic Regulatory Administration, Rocky Mountain District, 1075 South Yukon Street, Lakewood, CO 80226, telephone number 303-234-3195.

Firm name, address, and audit date

Leo's Chevron, 105 E. Cedar, Rawlins, WY 82301; October 2, 1979.

Anderson's Sinclair, 303 N. 1st, Saratoga, WY 82311; October 3, 1979.

Madsen's Conoco, 500 Edison, Brush, CO 80723; October 5, 1979.

Walden Conoco, 609 Main, Walden, CO 80480; October 2, 1979.

Larry's Gas & Oil, 507 Main, Walden, CO 80480; October 2, 1979.

Mountain View Garage, 1242 Colorado Highway 74, Evergreen, CO 80439; October 2, 1979.

Alameda & Downing, 1121 E. Alameda Avenue, Denver, CO; October 4, 1979.

Arapahoe Exxon, 9138 E. Arapahoe, Englewood, CO; September 28, 1979.

Harrison Road Texaco, I-25 and Harrison Road, Colorado Springs, CO; October 3, 1979.

Courthouse Chevron, 304 S. Nevada, Colorado Springs, CO; October 2, 1979.

Ron-Robin Texaco, 2316 Mt. Rushmore Road, Rapid City, SD 57701; October 1, 1979.

Needles County Store, Silverton Star Route, Box 180, Durango, CO; October 11, 1979.

Bud's "66," 1st and Grand, Delta, CO 81418; October 12, 1979.

G. B. Caster, Jr., Vail Exxon, 2154 S. Frontage Road, Vail, CO; October 9, 1979.

Robert A. Sewart, Village 66, 27885 Meadow Drive, Evergreen, CO; October 8, 1979.

Rick's Mobil, Box 317, Watford City, ND 58854; October 17, 1979.

Smith Bros. 66, Glenwood Springs, CO 81601; October 16, 1979.

Mountain Valley Market, P.O. Box 1059, Evergreen, CO 80439; October 15, 1979.

Econa-Car International, Inc., 6960 Smith Road, Denver, CO; October 15, 1979.

Henry's 66, 1304 Grand, Glenwood Springs, CO 81601; October 18, 1979.

Hilltop Standard, 10th East & 1st North, St. George, UT; October 15, 1979.

Eastside Exxon, 815 E. St. George Blvd., St. George, UT; October 15, 1979.

West Conoco, 311 W. St. George Blvd., St. George, UT; October 15, 1979.

Ruckman's Monarch, Canyon Service, Box 872, Monarch, MT 59463; October 16, 1979.

B & E Service, Box 645 Townsend, MT 59644; October 15, 1979.

Yacht Basin Marina, 7035 Canyon Ferry Road, Helena, MT 59601; October 16, 1979.

Kims Marina & Resort, 8015 Canyon Ferry Road, Helena, MT 59601; October 17, 1979.

Howard's Husky & General Store, Box 325, Glendo, WY 82212; October 18, 1979.

Kal's Exxon, R. R. No. 1, Tioga, ND 58802; October 16, 1979.

Happy John's Exxon, Box 915, Williston, ND 58801; October 16, 1979.

Mr. G's Gas & Goodies, 320 E 300 S. Kanab, UT 84741; October 12, 1979.

Nick's Amoco, 41 East Center, Kanab, UT 84741; October 12, 1979.

Parker's Exxon, 110 South 100 East, Kanab, UT 84741; October 12, 1979.

Goodan's Conoco, 104 East Main, Lewistown, MT 59457; October 11, 1979.

Farmers Union Grain Terminal Assn., Box 178, Stanford, MT 59479; October 12, 1979.

North Hill Texaco, 2005 N. Broadway, Minot, ND; October 12, 1979.

Issued in Lakewood, Colorado on this 7th day of November, 1979.

Kenneth E. Merica,

District Manager, Rocky Mountain Enforcement District.

[FR Doc. 79-35480 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

Adams Resources & Energy Inc.; Corrections to Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Corrections to Notice of Action Taken and Opportunity for Comment on Consent Order.

SUMMARY: This corrects the document that appeared in the Federal Register on November 2, 1979 beginning on page 44 FR 63138. The following corrections should be made:

Paragraphs 2 through 5 read as follows:

"2. Adams Resources & Energy Inc. improperly applied the provisions of 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil, and as a consequence, charged prices in excess of the maximum lawful sales price resulting in overcharges to its customers.

"3. In order to expedite resolution of the disputes involved, the DOE and Adams Resources & Energy, Inc. have agreed to a settlement in the amount of \$80,000.00. The refund will be made in three quarterly payments beginning September 30, 1970 and ending March

31, 1980. A detailed schedule of the refund payments is contained in the Consent Order.

"4. The sales of crude oil determined to be in violation were made to several refiners and because the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with 10 CFR Part 205, Subpart V as provided below.

"5. The provisions of 10 CFR 205.199] including the publication of this Notice, are applicable to the Consent Order."

The revisions are contained in paragraphs 2 through 6 and should read as follows:

"2. The ERA has alleged violations by Adams of the ceiling price for crude oil set forth in 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subpart D.

"3. The Consent Order constitutes neither an admission by Adams that DOE regulations have been violated nor a finding by DOE that Adams has violated DOE regulations.

"4. In order to expedite resolution of the disputes involved, the DOE and Adams Resources & Energy, Inc. have agreed to a settlement in the amount of \$80,000.00. The refund will be made in three quarterly payments beginning November 1, 1979 and ending March 31, 1980. A detailed schedule of the refund payments is contained in the Consent Order.

"5. The sales of crude oil alleged to be in violation were made to several refiners and because the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with 10 CFR Part 205, Subpart V as provided below.

"6. The provisions of 10 CFR 205.199] including the publication of this Notice, are applicable to the Consent Order."

Issued in Dallas, Texas on the 9th day of November 1979.

Herbert F. Buchanan,

Deputy Director, Southwest District, Enforcement Division, Economic Regulatory Administration.

[FR Doc. 79-35477 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

Tipperary Oil & Gas Corp.; Corrections to Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Corrections to Notice of Action Taken and Opportunity for Comment on Consent Order.

SUMMARY: This corrects the document that appeared in the Federal Register on October 19, 1979 on page 44 FR 60389.

The following corrections should be made:

The first sentence in Section II read as follows:

In this Consent Order, Tipperary agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the total sum of \$213,533.00 twenty-four (24) months from the date of the execution of the Consent Order.

The sentence should be corrected to read as follows:

In this Consent order, Tipperary agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the total sum of \$213,533 to be paid over a twenty-four (24) month period from the date of the execution of the Consent Order.

Issued in Dallas, Texas on the 9th day of November 1979.

Herbert F. Buchanan,

Deputy Director, Southwest District, Enforcement, Economic Regulatory Administration.

[FR Doc. 79-35479 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2972]

City of Woonsocket, R.I.; Application for Preliminary Permit

November 9, 1979.

Take notice that the City of Woonsocket, Rhode Island, filed September 19, 1979, an application for preliminary permit (pursuant to the Federal Power Act 16 U.S.C. Section 791(a)-825(r)) for a proposed water power project to be known as the Woonsocket Falls Hydroelectric Project, FERC No. 2972, located on the Blackstone River in Providence County, Rhode Island. The proposed project would utilize Federal lands and a Federal dam under the jurisdiction of the U.S. Army Corps of Engineers. Correspondence with the applicant should be directed to: Marcel A. Valois, Director, Department of Planning and Development, 169 Main Street, Woonsocket, Rhode Island 02895.

Purpose of Project: Project energy would be supplied to a water pumping station and a regional sewage treatment plant, both owned by the City.

Proposed Scope and Cost of Studies Under Permit: Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would arrange for the purchase of

project turbines and generators, perform site evaluations and test borings, develop preliminary designs, negotiate an agreement for the transmission of project energy, acquire the necessary state and local permits, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be \$100,000.

Project Description: The proposed project would utilize the U.S. Army Corps of Engineers' existing Woonsocket Falls Dam, a facility of the Upper Woonsocket Flood Control project. The project would consist of: (1) An intake structure to be constructed on the east Bank of the river on municipal-owned land, approximately 100 feet upstream of the dam; (2) two 8-foot-diameter concrete penstocks; (3) a powerhouse to be located approximately 300 feet downstream from the dam; (4) a 13.8 kV transmission line approximately 1,200 feet long; and (5) appurtenant works. The installed capacity would be 1,100 kW; with an estimated average annual output of 7,000,000 kilowatt-hours.

Purpose of Preliminary Permit: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments: Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene: Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely

files a protest does not become a party to the proceeding. To become a party to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before January 11, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35345 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-40]

Colorado Interstate Gas Co.; Application

November 8, 1979.

Take notice that on October 22, 1979, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80-40 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities to increase the winter-day design delivery capacity of its existing Wyoming transmission pipeline in the 1980-1981 heating season and thereafter, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to:

(a) Construct and operate approximately 51.8 miles of 24-inch pipeline as a loop to a portion of the existing 22-inch main line. The proposed loop would extend westward from the point where Applicant's Desert Springs field supply enters the main line to the Kanda Compressor Station owned and operated by Mountain Fuel Supply Company (Mountain Fuel).

(b) Construct and operate a 3,830 horsepower addition to its existing Wamsutter Compressor Station.

(c) Upgrade the existing compressors at Wamsutter from the presently authorized level of 9,300 horsepower to 11,490 horsepower for the three units in total.

(d) Acquire from Mountain Fuel and operate approximately 2.2 miles of existing 12-inch pipeline and reimburse Mountain Fuel for the relocation of its Kanda Meter Station.

The estimated cost of the proposed facilities is stated by Applicant to be

\$14,310,567 and would be financed from funds on hand, internally generated cash from operations and such additional funds from external sources as may be required.

Applicant states that the proposed facilities are necessary to provide additional gas transmission capacity during the 1980-1981 heating season. It projects that an additional 128,800 Mcf of natural gas per day would be available from the area on its Wyoming system west of its Wamsutter compressor station.

Applicant further states that the acquisition of Mountain Fuel's 12-inch line would change the location of Mountain Fuel's delivery point to Applicant to Mountain Fuel's Kanda Compressor Station. It is stated the cost of this relocation is approximately \$14,200.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to Intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35346 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP78-544]

Columbia Gulf Transmission Co. & Transcontinental Gas Pipe Line Corp.; Amendment to Petition To Amend

November 8, 1979.

Take notice that on October 18, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and Columbia Gulf Transmission Company (Columbia), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP78-544 pursuant to Section 7(c) of the Natural Gas Act, a joint amendment to their petition to amend filed October 1, 1979, in the instant docket so as to authorize Columbia to transport for Transco daily quantities of gas up to the quantities which are tendered to Columbia by Transco, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Petitioners state that by order issued March 21, 1979, in the subject docket, Columbia was authorized to transport for Transco up to 50,000 Mcf of gas per day from the terminus of a pipeline system owned by Sea Robin Pipeline Company near Erath, Louisiana, to Columbia's Rayne, Louisiana, compressor station and, by exchange, to redeliver thermally equivalent quantities to Transco in Terrebonne Parish, Louisiana.

On October 1, 1979, Petitioners filed a joint petition to amend the order of March 21, 1979, requesting authorization to add an additional point of delivery (Carson Dome) where Transco would receive gas from Columbia pursuant to an amended transportation and exchange agreement dated September 5, 1979.

Petitioners state that the September 5, 1979, amendment provides that with the express written consent of Columbia, Transco may tender quantities of gas in excess of the contract demand of 50,000 Mcf per day for transportation and exchange. Petitioners assert that Transco's gas which originates in Block 263, East Cameron Area, offshore Louisiana, has increased above 50,000 Mcf per day. Petitioners, therefore, request authorization for Columbia to transport for Transco daily quantities of gas up to the quantities which are tendered to Columbia by Transco.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35347 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP74-204]

Columbia Gulf Transmission Co. & Natural Gas Co. of America; Petition To Amend

November 8, 1979.

Take notice that on October 5, 1979, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001 and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago Illinois 60603, filed in Docket No. CP74-204 a petition to amend the order issued March 3, 1977, as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act by authorizing additional points of delivery for the exchange of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

By joint application filed February 11, 1974, as amended, Natural and Columbia Gulf requested authorization, to transport and exchange gas under an arrangement whereby Natural was to make available up to 75,000 Mcf per day of pipeline capacity from its entitlement in the pipeline system operated by the Stingray Pipeline Company (Stingray), thereby enabling Columbia Gulf to transport gas available to it in the West Cameron area, off-shore Louisiana. Natural would deliver up to 75,000 Mcf per day of gas available to it into the Blue Water Project which is owned jointly by Columbia Gulf and Tennessee

¹This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

Gas Pipeline Company, a Division of Tenneco Inc.

Pursuant to an order issued March 3, 1977, Columbia Gulf and Natural were authorized to construct facilities and transport and exchanged volumes of natural gas. On November 12, 1976, Columbia Gulf and Natural petitioned for authorization to provide for the transportation of up to 10,000 Mcf per day of additional volumes to be transported by each party for the other in the Blue Water Project and the pipeline system of Stingray.

From time to time thereafter Columbia Gulf and Natural were authorized to modify their gas exchange agreement, dated October 12, 1973, to include the addition of several delivery points on the Stingray pipeline system.

By letter agreement dated July 1, 1979, Columbia Gulf and Natural have agreed to modify further the gas exchange agreement to add additional points of delivery on the Stingray system at West Cameron Blocks 537 and 550, offshore Louisiana.

The petition indicates that Columbia Gas Transmission Corporation (Columbia Gas) has purchased the gas reserves of Canso Oil and Gas, Inc. in West Cameron Blocks 525 and 540. Such gas would be produced from a platform located in West Cameron Block 540 and would be transported to the Stingray system through a pipeline which Natural and others proposed to construct from said platform to an underwater valve located on the Stingray system in Block 550.

Columbia Gas has purchased the gas reserves of Koch Industries from Blocks 537, 551, 552 and 560, West Cameron, it is said. The gas reserves would be delivered to the Stingray system at an underwater valve located in west Cameron Block 537.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 6, 1979, file with the Federal Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35348 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2576]

Connecticut Light & Power Co.; Application for Major License

November 8, 1979.

Take notice that an application for major license was filed pursuant to the Federal Power Act, 16 U.S.C. 791a-825r, on June 19, 1978, and revised on June 14 and August 13, 1979, by Connecticut Light and Power Co. for its constructed Housatonic River Project No. 2576 located on the Housatonic River, a navigable waterway of the United States, in Fairfield, New Haven, and Litchfield Counties, Connecticut. Correspondence concerning the application should be addressed to: Mr. W. G. Council, Vice President, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut 06101.

The project has installed capacity of 106,100 kW and consists of four developments:

A. Stevenson Development—A run-of-river development consisting of: (1) A 1,250-foot-long concrete gravity dam (crest elevation 98.3 feet m.s.l.) with a maximum height of 124 feet, with a 520-foot-long overflow spillway surmounted by 3-foot-high flashboards; (2) a reservoir (Lake Zoar) having a surface area of about 1,063 acres and a gross storage capacity of 26,900 acre-feet at normal pool elevation 101.3 feet m.s.l. and a usable storage capacity of 5,038 acre-feet with a normal drawdown of 5 feet; (3) two 14-foot wide taintor gates; (4) an intake structure approximately 158 feet with trash racks and motor-operated gates; (5) four 15-foot diameter steel penstocks; (6) a powerhouse containing four units with a total rated capacity of 30,500 kW; (7) a transmission switch yard; and (8) appurtenant facilities.

B. Shepaug Development—A run-of-river development consisting of: (1) A 1,412-foot-long concrete dam (crest elevation 170.28 m.s.l.) with a maximum height of 140 feet impounding; (2) a reservoir (Lake Lillinonah) having a surface area of about 1,870 acres and gross storage capacity of 74,000 acre-feet at full pond elevation 198.28 feet m.s.l. and a usable storage capacity of 5,038 acre-feet with a normal drawdown of 3 feet; (3) a 293-foot-long spillway with two 35-foot by 28-foot taintor gates; (4) trash racks and motor-operated control

gates; (5) a 25-foot-diameter steel penstock; (6) a powerhouse containing one unit rated at 37,200 kW; (7) a transmission switch yard; and (8) appurtenant facilities.

C. Rocky River Development—A seasonal pumped-storage development consisting of: (1) A 952-foot-long earth-filled main dam (crest elevation of 440.14 feet m.s.l.) having a maximum height of 100 feet which, along with four dikes, forms Candlewood reservoir. The four dikes are: (a) North Lanesville dike—a concrete gravity structure about 11 feet high and 181 feet long including a 57-foot-long spillway section; (b) Middle Lanesville dike—an earth structure about 45 feet high and 167 feet long; (c) South Lanesville dike—a concrete and earth structure about 15 feet high and 391 feet long; (d) Danbury dike—an earth-filled structure built in two sections with lengths of 644 feet and 229 feet and having heights of 42 and 19 feet, respectively; (2) Candlewood reservoir having a surface area of 5,600 acres and a gross storage capacity of 172,000 acre-feet at normal pool elevation 428.14 m.s.l.; (3) a 3,190-foot-long canal-forebay varying in width from 260 to 320 feet, extending northeast from the main dam's east abutment; (4) a circular intake structure located at the northern end of the canal-forebay approximately 35 feet in diameter and about 84 feet high, containing six intake bays with trash racks located at the top of the structure and 16-foot-diameter outlet located at the bottom of the structure; (5) a 105-foot-long, 16-foot-diameter concrete and steel penstock connecting the intake structure to; (6) a 15-foot-diameter 943-foot-long wood stave penstock which extends to; (7) a 20-foot-diameter, 76-foot-high steel surge tank which is in turn connected to; (8) a 670-foot-long steel penstock varying in diameter from 13 to 12 feet; (9) a powerhouse containing a conventional unit rated at 24,000 kW and two reversible pump-generators rated at 3,000 kW each; (10) transmission switch yard; and (11) appurtenant facilities.

D. Bulls Bridge Development—A run-of-river development consisting of: (1) Bulls Bridge Dam (Horseshoe Dam)—a concrete gravity overflow structure about 203 feet long having a maximum height of 24 feet (crest elevation of 354 feet m.s.l.) spanning the main river channel; (2) Spooner Dam—a rock filled concrete-capped overflow structure about 158 feet long having a maximum height of 17 feet (crest elevation 351.23 feet m.s.l.) surmounted by 3-foot-high flashboards located across an auxiliary channel; (3) a reservoir having a gross storage capacity of 1,800 acre-feet at full

pond elevation 354 feet m.s.l.; (4) a 600-foot-long canal connecting the reservoir with a headgate structure which includes a concrete spillway, two flood gates, and intake gates; (5) a canal of varying width extending 7,700 feet from the canal headgate structure; (6) an intake-forebay structure consisting of an intake with two trash racks, two motor-operated gates and an emergency spillway about 43 feet wide (crest elevation 354.8 m.s.l.); (7) 8-foot and 13-foot-diameter steel penstocks, each 400 feet long; (8) a concrete powerhouse containing 6 units having a total rated capacity of 8,400-kW; a transmission switch yard; and (9) appurtenant facilities.

Applicant stated that there are extensive recreational facilities at the project including hiking trails, fishing accesses, picnic grounds, boat launch areas, and parking. Applicant proposes to construct recreation facilities such as overlooks, canoe access, trail and fishing access, and parking areas.

The energy generated at the project is incorporated into the Applicant's transmission system for distribution in its service area.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests.

In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before January 14, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35326 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-22]

East Tennessee Natural Gas Co.; Tariff Filing Pursuant to Order No. 49

November 9, 1979.

Take notice that on November 1, 1979, East Tennessee Natural Gas Company (East Tennessee), tendered for filing tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1, to be effective December 1, 1979, consisting of the following:

Original Sheet Nos. 74F, 74G, 74H and 74I.
First Revised Sheet Nos. 59, 60 and 74E.
Third Revised Sheet Nos. 7, 14, 25, 28 and 74C.

Fourth Revised Sheet Nos. 6, 66 and 68.
Fifth Revised Sheet Nos. 5, 9, 12, 67 and 69A.
Sixth Revised Sheet No. 27.
Seventh Revised Sheet No. 69.
Ninth Revised Sheet No. 23.

East Tennessee states that these tariff sheets reflect the modifications and additions to its tariff resulting from the Commission's Regulations adopted in Order No. 49 to implement incremental pricing. Specifically, East Tennessee states that it is adding a new Section 26 to the General Terms and Conditions of its tariff to establish the mechanism for calculating and billing the Incremental Pricing Surcharges. East Tennessee further states that it has revised the Purchased Gas Cost Adjustment provision in Section 22 to reflect the changes in the calculation of its PGA rate adjustment flowing from Order No. 29. Finally, East Tennessee states that it has made a number of minor changes to the notice provisions of its tariff rate adjustment provisions, modified its basic sales rate schedules to incorporate appropriate references to the new incremental pricing provisions of its tariff, and modify the dates for billing and payment to accommodate to the requirements of incremental pricing.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional and direct customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35336 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1424; Opinion No. 67]

Edwin I. Hatch; Opinion and Order Denying Application To Maintain Certain Directorates

Issued: November 6, 1979.

Edwin I. Hatch, Docket No. ID-1424, Opinion No. 67, Appearances.

David W. Cohen, Marc S. Koplik and Melvyn Freeman for Edwin I. Hatch
Adam Wenner and Jon Alper for the Staff of the Federal Energy Regulatory Commission

Background

This proceeding stems from an application filed by Mr. Hatch pursuant to sections 305(b) and 309 of the Federal Power Act¹ ("Power Act"), and Part 45 of the Commission's regulations.² It concerns interlocking directorships held by Mr. Hatch in Georgia Power Company ("Georgia"), City Investing Company ("City") and City's wholly owned subsidiary, The Home Insurance Company ("Home"). At the time of filing³ Mr. Hatch held, and sought approval for, positions as chief executive officer and director of Georgia, a jurisdictional electric utility,⁴ together with directorships of City and Home.⁵ Subsequently⁶ he reached the mandatory retirement age of 65 for Georgia. Since that time, he serves as an "honorary director" with that company and continues as a director of City and Home.

City, through subsidiaries, engages in diversified manufacturing, housing, insurance and financial enterprises. Questions of the applicability of section 305(b) to Mr. Hatch arose in 1971 when

¹16 U.S.C. § 825 d(b) and 825 h.

²18 CFR Part 45. Also, references to the "Commission" used in the context of action taken after October 1, 1977, refer to the Federal Energy Regulatory Commission. With respect to periods prior to October 1, 1977, however, the word "Commission" means the Federal Power Commission. See 10 CFR 1000.1.

³July 28, 1976, as amended January 6, 1977.

⁴He became a director of Georgia in 1965 and its chief executive officer in 1966. He also became a director of Southern Company ("Southern") in 1965. Southern is a registered holding company and Georgia's parent. His section 305(b) filing of July 28, 1976, requested authorization for this Southern directorship, but this was deleted by the January 6, 1977, amendment. He continued to hold this position with Southern until his retirement in 1978.

⁵He became a director of Home in 1966 and of City in 1968.

⁶April 1, 1978.

Home, an insurance subsidiary of City, formed a subsidiary, Home Capital Services, Inc. Home Capital participates in underwriting securities and is authorized to underwrite public utility securities.

Mr. Hatch was not aware of Home Capital's existence until 1975, when counsel for Southern advised him of it. By letter of April 28, 1978, Mr. Hatch requested the Securities and Exchange Commission's ("S.E.C.") advice as to whether his officer and directorship status contravened section 17(c) of the Public Utility Holding Company Act of 1935⁷ ("Holding Company Act"). That section, analogous to section 305(b) of the Power Act, prohibits interlocks between officers and/or directors of registered holding companies or their operating subsidiaries and investment bankers. The S.E.C. responded that Home Capital was an investment banker and its activities must be attributed to its parent. It concluded that Mr. Hatch is precluded from continuing to serve as board chairman and chief executive officer of Georgia and as a director of Southern while concurrently serving as director of City and Home.

Prompted by an exception to section 17(c),⁸ Mr. Hatch made the instant application. On February 8, 1978, the administrative law judge issued an initial decision which held, with apparent misgivings, that the application should be approved on the condition that City, Home, and Home Capital divest their holdings of all securities of Georgia and Southern. Divestiture is to be accomplished by requiring Mr. Hatch to file a modification of an existing agreement among City, Home, and Home Capital which presently provides that so long as Mr. Hatch sits on the boards of both City or Home and Southern or Georgia, neither Home nor Home Capital will buy or underwrite any securities of Southern or Georgia. As the decision was written prior to Mr. Hatch's retirement as board chairman and chief executive officer of Georgia, and as neither staff nor applicant raised the point,⁹ the issue of his honorary directorship status was not addressed therein.

Issues

From the foregoing, we must decide whether an "honorary director" of a jurisdictional utility may concurrently hold directorships of two corporations having a subsidiary which is authorized

⁷15 U.S.C. 79 q(c).

⁸Rule 70(a)(5), 17 CFR 250.70(a)(5), allows a registered holding company or its subsidiaries to have as officers or directors persons specifically authorized by this Commission hold such positions.

⁹Nor do they raise it on exceptions.

to underwrite public utility securities. This raises three issues, the first two of which are jurisdictional: (1) Is an "honorary director" a "director" within the purview of section 305(b)? and (2) Are Home Capital's investment activities attributable to Home and/or City so as to bring these entities within the ambit of section 305(b)? If we answer yes to these, the third issue is whether Mr. Hatch has shown that neither public nor private interests will be adversely affected, as required by section 305(b).

Discussion

1. Is an "honorary director" a "director" within the purview of section 305(b)?

Section 305(b) provides, in pertinent part:

" * * it shall be unlawful for any person * * to hold the position of officer or director of a public utility and the position of officer or director of any * * firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility. * * unless the holding of such positions shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby.

Part 45, *supra*, of the Commission's regulations prescribes the form and manner for the filing of an application seeking authority to hold interlocking positions. Section 42.5, "Positions requiring authorization," provides that:

(a) The positions subject to this part shall include those of any person elected or appointed in perform the duties or functions ordinarily performed by a * * director * * , or to perform any other similar executive duties or functions, in any corporation within the purview of section 305(b) of the act.¹⁰

Mr. Hatch's testimony was that he would retire as board chairman and as chief executive officer on April 1, 1978.¹¹ Thereafter, he may attend the board meetings as an honorary member, but not participate in the voting. He added that only an inside director of Georgia can become "an honorary non-participating non-voting member", and that he was not paid to attend.¹² As we have not been advised otherwise, we presume that Mr. Hatch actually does attend the Georgia meetings. We find that as a former chief executive with the opportunity to attend board meetings, he is in the position to affect or influence the voting directors.

S.E.C. precedent suggests that we, as does the S.E.C., have control over Mr.

¹⁰18 CFR 45.2.

¹¹Transcript ("Tr."), p. 21.

¹²Tr., pp. 127-128.

Hatch's status as an honorary director. In *Reynolds Securities, Inc.* (S.E.C. 1972), 72-73 C.C.H. Dec. ¶79,202, p. 82,642, a former Southern chief executive and board chairman who, like Mr. Hatch, continued as an "advisory director," sought an S.E.C. opinion that he could also serve as a director of an investment banking firm. That executive's duties as an advisory director were identical to Mr. Hatch's. The S.E.C. held that he was within the prohibitions of section 17(c) and rule 70(c)(2)¹³ promulgated thereunder.

The S.E.C. rule defines director as "any director * * or any individual who performs similar functions * * ." They reasoned that although an advisory director does not cast a vote, he:

" * * is not a figurehead. In general, his function is to make his knowledge, experience, and judgment available to the [board], and while he does not command, he certainly is in position to affect or influence the judgments and decisions of the directors who vote."¹⁴

They added that although an advisory director is not literally "a director," he is an "individual who performs similar functions" under their rule.

We reach the same conclusion as the S.E.C. on this issue. We have found that Mr. Hatch, as past board chairman and chief executive officer of Georgia, is in a position as honorary director to affect or influence the present voting directors. We find Mr. Hatch performs functions similar to those of a director and therefore he is within the purview of section 305(b) of the Power Act and our regulation 45.2, *supra*: "any person * * appointed to perform the duties or functions ordinarily performed by a * * director * * or to perform any other similar executive duties or functions."¹⁵

2. Are Home Capital's investment activities attributable to Home and/or City so as to bring these entities within the ambit of section 305(b)?

The initial decision held¹⁶ that such attribution was proper, and Mr. Hatch has filed exceptions thereto. We agree with the initial decision. The S.E.C. has held that attribution applies in Mr. Hatch's case under their statute and rules, which are similar to ours. He has shown us nothing more on this issue than he did before the S.E.C. Moreover, were we to hold that attribution does not apply, we would be ignoring the standards underlying parallel regulation of the holding companies by the S.E.C. Rather, it has been our policy to strive for consistent

¹³17 CFR 250.70(c)(2).

¹⁴*Reynolds, supra*, at p. 82643.

¹⁵Pp. 11-12.

treatment under the Power Act and Holding Company Act.¹⁶

Additionally, the facts here present the potential for evil which was to be remedied by the Power Act's section 305(b) and the Holding Company Act's section 17(c). Congressional intent was to insulate the holding company and its subsidiary utility companies from the influence of investment firms. Home Capital is an investment firm under both the S.E.C.'s rule and our regulations.¹⁷ Home Capital acts as an agent for and is a wholly owned subsidiary of Home and City, where Mr. Hatch is a director. By virtue of Mr. Hatch's positions on the boards of City and Home, the potential is created for improper influence over Home Capital's issuance of, or dealing in, Georgia's securities. Also, Home and City have, respectively, \$2.5 billion and \$4.2 billion in consolidated assets, which could influence the marketability of the utility's securities. The 1935 Act legislation was designed to eliminate any such potential for harm to public or private interests. We therefore affirm the initial decision on this issue.

3. Has Mr. Hatch shown neither public nor private interests will be adversely affected by his holding of these positions?

As we recently held in unaffiliated public utility cases,¹⁸ which denied authorization under section 305(b), an applicant must establish justification for exemptions from the statute's general prohibition against interlocks. Mr. Hatch has failed to show any clear, overriding benefit as required by section 305(b). We assume that there are some benefits that may accrue to Georgia by virtue of Mr. Hatch's remaining as an honorary director. Nevertheless, Congress directed this Commission to examine proposed interlocks and deny those where it cannot be shown "that neither public nor private interests will be adversely affected thereby". The Congress thus established a very stringent standard reflective of their concern for the potential harm inherent in such interlocks. We are unable to conclude from the record that sufficient benefit is reasonably anticipated to accrue from the position such that the

¹⁶ *Western Light & Telephone Company, Inc.* 33 F.P.C. 1147 (1965); and *Commonwealth Edison Company and Central Illinois Electric and Gas Company* 36 F.P.C. 927 (1966).

¹⁷ Under the SEC's rule 70(c)(4), an "investment banker" is a person engaged in business as an underwriter or dealer. Our regulation 45.2(b) provides "Corporations within the purview of section 305(b) of the act include: (2) Any . . . firm that is authorized by law to underwrite or participate in the marketing of public utility securities . . ."

¹⁸ *Willis C. Fitkin, William C. McInnes*, ID-1709 and ID-1710. (June 25, 1979).

potential for benefit overrides any potential harm to either Georgia, its consumers and shareholders, or to the shareholders of City and Home.

Mr. Hatch's status changed subsequent to issuance of the initial decision from that of a "director" to that of an "honorary director." The record does not fully detail Mr. Hatch's current obligations, responsibilities, or practices as an honorary director. If Mr. Hatch believes that his status as an honorary director is sufficiently different from that of a director as to warrant different treatment, he is free to file a new application with the Commission.

A final matter concerns whether it is necessary to require divestiture of the Georgia and Southern securities held by Home. The ALJ recommended divestiture of these securities as a condition to Mr. Hatch's authorization. Because we reject the application, we do not reach the issue presented by the initial decision.

The Commission Orders

(A) The application of Mr. Hatch to hold interlocking positions pursuant to section 305(b) of the Federal Power Act is hereby denied.

(B) Mr. Hatch is hereby directed to remove himself from his position as a director of City and Home or as director or honorary director of Georgia within seventy-five (75) days from the effective date of a final order in this proceeding and is further directed, unless otherwise authorized by this Commission, to refrain henceforth from maintaining any interlocking position, direct or indirect, between these companies.

(C) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission, Commissioner Sheldon, concurring, filed a separate statement appended hereto.

Kenneth F. Plumb,
Secretary.

Sheldon, Commissioner, concurring:
Issued: November 6, 1979.

The application, filed by Edwin I. Hatch in July 1976, was a request for authorization to hold interlocking directorships in Georgia Power Company, City Investing Company and The Home Insurance Company, subsidiary of City Investing.¹ In April 1978, while the application was pending, Mr. Hatch retired as the Chairman and Chief Executive Officer of Georgia Power Company. As was the customary practice of Georgia Power Company,

¹ The application was filed pursuant to Section 305(b) and 309 of the Federal Power Act. 16 U.S.C. 825d(b) and 825h.

they appointed Mr. Hatch as an "honorary director" which allowed him to be a nonparticipating, nonvoting and nonpaid member of the Board. It is at this stage of the proceeding that Mr. Hatch's application should have been denied for being moot. As such, I concur with my colleagues in the denial, but I do not wish to proceed down the road of addressing answers to questions that are not before the Commission.

My fellow Commissioners believe it to be important in their decision to determine (1) whether an "honorary director" is a director,² and (2) should the Commission adopt the Security Exchange Commission's definition of director.³ By adopting this very broad SEC definition, the Commission decided that an "honorary director," regardless of his actual duties, is a director. Moreover, this definition would also require the filing of a Section 305(b) application by all outside advisors and consultants working for a public utility and holding a position of "officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or officer or director or any company supplying electric equipment to such public utility * * *"

I was under the belief that my colleagues were concerned that as an "honorary director," Mr. Hatch could affect or influence the decisions of the other voting directors. A show cause proceeding would have been a simple solution to resolve whether Mr. Hatch has any influence as an "honorary director."⁴ By addressing issues that were not before the Commission my colleagues may not be able to retreat from this untenable decision. Thus, I would support their result but not their reasoning.

Georgiana H. Sheldon,
Commissioner.

[FR Doc. 79-35337 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP72-155]

El Paso Natural Gas Co.; Tariff Filing

November 8, 1979.

Take notice that on October 26, 1979, El Paso Natural Gas Company ("El

² Majority Opinion at page 5.

³ *Ibid.*

⁴ 16 U.S.C. 825d(b).

⁵ The Majority Opinion at page 4, "presumes" that Mr. Hatch attends the Board of Directors meetings. Further, since there is a presumption of attendance, my colleagues also "presumed" that Mr. Hatch influences the other voting members. The Show Cause Proceeding, if it had been established, would have resolved these basic factual issues.

Paso") filed, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, Fifth Revised Sheet Nos. 67-D and 1-I to its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 2A, respectively.

El Paso states that the tendered tariff sheets have been modified to conform El Paso's Purchased Gas Cost Adjustment ("PGAC") and PGAC—Clean, High Pressure Gas ("PGAC—CHPG") provisions contained in its FERC Gas Tariff, Original Volume No. 1 and Original Volume No. 2A, respectively, to the directives and amended Regulations set forth in the Commission's Order No. 47 issued September 10, 1979, at Docket No. RM77-22. Order No. 47, *inter alia*, amended the Commission's regulations, effective October 1, 1979, to tie the rate for computation of carrying charges on the deferred balances in Account 191, Unrecovered Purchased Gas Costs, to the rate of interest on pipeline refunds computed in the manner set forth in § 154.67(d)(2)(iii) of the regulations. El Paso states that to implement such modification, it tendered Fifth Revised Sheet No. 67-D to its PGAC provision and Fifth Revised Sheet No. 1-I to its PGAC—CHPG provision.

El Paso has requested that the Commission grant such waiver of its Regulations as may be necessary in order to accept the tendered tariff sheets for filing and permit them to become effective as of October 1, 1979, inasmuch as the new rule on computing carrying charges on Account 191 balances became effective on such date. El Paso states that grant of such waiver will modify the PGAC and PGAC—CHPG provisions of El Paso's FERC Gas Tariff in a manner consistent with said Order No. 47.

El Paso states that copies of the filing were served upon all parties of record in Docket No. RP72-155 and, otherwise, upon all of El Paso's interstate transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before November 23, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to

intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35327 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES79-62]

Gulf States Utilities Co.; Application

November 8, 1979.

Take notice that on October 23, 1979, Gulf States Utilities Company (Applicant) filed a request seeking authorization, pursuant to Section 204 of the Federal Power Act, to negotiate the placement of up to \$75 million of First Mortgage Bonds. Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas, and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the City of Baton Rouge, Louisiana and vicinity.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35328 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. TC80-31]

Kansas Nebraska Natural Gas Co.; Tariff Filing Pursuant to Order No. 29

November 8, 1979.

Take notice that on October 31, 1979, Kansas Nebraska Natural Gas Company (KN) tendered for filing pursuant to Order No. 29 and Section 281.204 of the Commission's Regulations, in Docket TC

80-31, the following sheets to its FERC Gas Tariff, Third Revised Volume No. 1:

Second Revised Sheet No. 24
Second Revised Sheet No. 24A
First Revised Sheet No. 24B
First Revised Sheet No. 24C
Original Sheet No. 24D
Original Sheet No. 24E
Second Revised Sheets No. 33 through No.

37
Original Sheets No. 38 through No. 49

The sheets are proposed to be effective December 1, 1979.

In addition to the tariff sheets, K-N filed (1) a Statement of the Nature, the Reasons and the Basis for the Proposed Tariff Provisions and (2) copies of the Data Verification Committee (DVC) report prepared in accordance with § 281.213 of the Commission's regulations. K-N states that because delivery reductions are made on a day-to-day basis, the use of "entitlements" would be misleading. Accordingly, K-N's Index included in Second Revised Sheet No. 33 and the sheets which follow is entitled an Index of Requirements. It includes consumers in Priority 2 and in Steps 1 through 7 of Priority 3.

Acceptance of the tendered sheets will establish the following Allocation of Delivery Capability:

Priority 1

Category 1(a): Requirements of persons using natural gas in a dwelling for residential purposes, including apartment buildings and other multi-unit buildings, and requirements of small commercial consumers (including public and private institutions and local, state and Federal Government agencies) having requirements on a peak day of less than 50 Mcf for purposes other than those involving manufacturing or electric power generation.

Category 1 (b): Requirements for the following purposes:

1. In a school, defined as a facility the primary function of which is to deliver instruction to regularly enrolled students in attendance at such facility.

2. In a hospital, defined as a facility the primary function of which is delivering medical care to patients who remain at the facility, including nursing and convalescent homes.

3. For police and/or fire protection and in sanitation and correctional facilities.

Priority 2

Any use of natural gas which has been certified by the Secretary of Agriculture as an essential agricultural use under Section 401(b) of the Natural Gas Policy Act unless the Commission, in consultation with the Secretary of

Agriculture, determines, by rule or order, that the use of an alternate fuel is economically practicable and reasonably available. The definition of "alternate fuel" shall be that stated in 18 CFR 281.203(a)(16).

Priority 3

(i) All deliveries of requirements not specified in Priority 1 or Priority 2, shall be reduced uniformly to consumers of Seller and for consumers served by Buyer as follows:

Step 1: Boiler fuel use by industrial consumers having a requirement for such use on a peak day of more than 10,000 Mcf.

Step 2: Boiler fuel use by industrial consumers having a requirement for such use on a peak day of more than 3,000 Mcf but not more than 10,000 Mcf.

Step 3: Boiler fuel use by industrial consumers having a requirement for such use on a peak day of more than 1,500 Mcf but not more than 3,000 Mcf.

Step 4: Boiler fuel use by industrial and commercial consumers having a requirement for such use on a peak day of more than 300 Mcf but not more than 1,500 Mcf.

Step 5: Industrial use not specified in Steps 1, 2, 3, 4, and 7 having a peak day requirement for such use of more than 500 Mcf.

Step 6: Requirements of all consumers not specified in Priority 1, Priority 2, and Steps 1, 2, 3, 4, 5, and 7 of this Priority 3.

Step 7: All uses by commercial consumers having requirements on a peak day of 50 Mcf or more except for boiler fuel use by commercial consumers having requirements on a peak day of more than 300 Mcf, and requirements of all industrial consumers for feedstock and process needs.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1979. Protests will be considered by the Commission in determining the appropriate action to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35329 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP74-157]

Michigan Wisconsin Pipe Line Co.; Petition to Amend

November 8, 1979.

Take notice that on October 24, 1979, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP74-157 a petition to amend the order issued September 6, 1974,¹ as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize a change in service from Rate Schedule SGS-1 to Rate Schedule CD-1 for City Gas Company (City Gas), effective September 1, 1979, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Mich Wis states that City Gas has informed Mich Wis that it desires to change its presently effective service agreement under Rate Schedule SGS-1, having a contract demand of 5,300 Mcf and an annual contract quantity of 1,022,925 Mcf, to a service agreement pursuant to Rate Schedule CD-1, with corresponding volume specifications. Mich Wis asserts that such change would be permitted under the provisions of Section 8 of the general terms and conditions of its FERC Gas Tariff, Original Volume Number 1. Mich Wis further states that such service would commence upon approval by the Commission.

Mich Wis states that the requested changes would not result in any increase in peak day or annual entitlement, and that it would not interfere with Mich Wis' ability to meet the needs of its other customers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

¹ This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35349 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CP78-545, CP78-527]

Michigan Wisconsin Pipe Line Co. and Great Lakes Gas Transmission Co.; Petition To Amend

November 8, 1979.

Take notice that on October 17, 1979, Michigan Wisconsin Pipe Line Company (Mich Wisc), One Woodward Avenue, Detroit, Michigan 48226, and Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket Nos. CP78-545 and CP78-527, respectively, a joint petition to amend the order issued July 23, 1979, in the instant dockets pursuant to Section 7(c) of the Natural Gas Act for authorization to provide a gas transportation service for United Cities Gas Company (United Cities) incident to a storage service that United Cities has contracted to receive from ANR Storage Company (ANR), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that the transportation service provided by Mich Wisc would entail taking receipt during the Summer Period (April-October) of up to 100,000 Mcf of natural gas which United Cities would cause Panhandle Eastern Pipe Line Company (Panhandle) to deliver to Mich Wisc in Defiance County, Ohio, for its account. Mich Wisc would deliver such volumes less 0.2 percent retained as compressor fuel to Great Lakes at Farwell, Michigan, which would in turn make deliveries to ANR. Conversely, during the Winter Period (November-March) Petitioners further provide that the service would entail United Cities' causing ANR to redeliver to Great Lakes such quantities that ANR has stored, with Mich Wisc in turn causing Great Lakes to redeliver such quantities to it. Petitioners assert that Mich Wisc would then transport and redeliver equivalent volumes to Panhandle for the account of United Cities.

Mich Wisc asserts that it would provide its portion of the transportation service pursuant to a transportation agreement between it and United Cities dated June 12, 1979. Mich Wisc further states that said transportation agreement is for fifteen years commencing on April 1, 1980, or such

later date as ANR shall inform United Cities that storage facilities are complete and ready for service. Mich Wisc states that United Cities has agreed to pay it a rate of \$1,828 per month as consideration for providing the transportation service.

Petitioners state that in order to implement the proposed transportation service, they would utilize a previously authorized arrangement between Petitioners as set forth in the gas transportation and exchange contract dated May 30, 1978. Petitioners assert that the proposed transportation and exchange service is completely within the contemplation of the aforementioned contract.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35350 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-23]

Midwestern Gas Transmission Co.; Tariff Filing Pursuant to Order No. 49

November 9, 1979.

Take notice that on November 1, 1979, Midwestern Gas Transmission Company (Midwestern) tendered for filing tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective December 1, 1979, consisting of the following:

Original Sheet Nos. 95J, 95K and 95L.
First Revised Sheet Nos. 7, 12, 13, 17, 18 and 95L.
Third Revised Sheet No. 79.
Fourth Revised Sheet No. 83.
Fifth Revised Sheet Nos. 80, 81, 82, 84, 86 and 94.
Sixth Revised Sheet Nos. 85 and 95G.

Midwestern states that these tariff sheets reflect the modifications and additions to its tariff resulting from the

Commission's regulations adopted in Order No. 49 to implement incremental pricing. Specifically, Midwestern states that it is adding a new Article XXII to the General Terms and Conditions of its tariff to establish the mechanism for calculating and billing the Incremental Pricing Surcharges to its southern system customers. Midwestern further states that it has revised the Purchased Gas Cost Adjustment provision for the Southern system in Article XVII to reflect the changes in the calculation of its PGA rate adjustment flowing from Order No. 49. Finally, Midwestern states that it has made a number of minor changes to the notice provisions of its tariff rate adjustment provisions and modified its basic sales rate schedules to incorporate appropriate references to the new incremental pricing provisions of its tariff.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules and practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35358 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER79-642, ER78-14 and ER77-354]

Missouri Utilities Co.; Order Accepting for Filing and Suspending Proposed Service Agreement and Consolidating Proceedings

November 5, 1979.

On April 29, 1977 in Docket No. ER77-354, Missouri Utilities Company (MU) tendered for filing a proposed increase in its SFR-1 rate for the cities of Kennett, Jackson and Malden, Missouri (cities). The proposed rate applied to Kennett under a tariff and an executed service agreement. It was intended to apply to Jackson and Malden under their

respective fixed-rate contracts. By order dated June 1, 1977, the Commission¹ accepted for filing and suspended the proposed rate as it relates to Kennett, and set the rate for hearing pursuant to Sections 205 and 206 of the Federal Power Act.

The Commission interpreted MU's contracts with Jackson and Malden as requiring the existence of a negotiation impasse before MU could unilaterally request an investigation of the existing rate under Section 206 of the Federal Power Act. After finding that such an impasse existed, the rate as it relates to Jackson was set for investigation, with any rate increase to that customer to become effective at the conclusion of Docket No. ER77-354. However, the Commission found that no impasse had been reached in contract negotiations with Malden and, therefore, MU's filing was rejected as to that city without prejudice to subsequent refiling if an impasse in negotiations developed.

On October 5, 1977 in Docket No. ER78-14 MU resubmitted its proposed SFR-1 rate increase to the City of Malden stating that it had complied with the rate redetermination section of the fixed-rate contract and that an impasse in negotiations had been reached. By order issued November 4, 1977, the Commission conditionally accepted the rate for filing under Section 206 and deferred its use pending the determination of the rate's lawfulness. The Commission consolidated Docket No. ER78-14 with Docket No. ER77-354.

Malden intervened and actively participated in the Commission's investigation. An initial decision has been reached in the consolidated dockets.² MU's SFR-1 rate, as modified by the initial decision, was found to be just, reasonable and otherwise lawful. The decision also held that Malden and Jackson would be served under the SFR-1 rate after their respective fixed-rate contracts expire. Presently, the consolidated dockets are pending final Commission decision.

Present Filing

On September 28, 1978, MU notified Malden of its intention to terminate their fixed-rate contract effective October 1, 1979. This was done pursuant to the contract's one-year notice provision. On September 9, 1979 MU tendered for filing

¹ The term "Commission" refers to the Federal Power Commission regarding actions taken prior to October 1, 1977, and otherwise to the Federal Energy Regulatory Commission.

² Missouri Utilities Company, Docket Nos. ER77-354 and ER78-14, initial decision issued February 26, 1979.

an unexecuted service agreement³ which would apply to Malden and would incorporate the proposed SFR-1 rate in accordance with §§ 35.1(c) and 35.13 of the Commission's regulations.⁴

Section 1 of the agreement⁵ provides that Malden will take electric service "for its own use and for distribution and resale to its customers in Purchaser's service area described as follows: The City of Malden, Missouri, and its future annexed areas." The City of Kennett has a corresponding provision in its service agreement. These clauses effectively restrict the Cities from reselling electric power and energy except at the retail level. The Commission has established a *per se* rule against such resale prohibitions, finding them to be unduly restrictive and anticompetitive. *Gulf States Utilities Co.*, Docket No. ER 76-816, issued October 20, 1978. Accordingly, we will direct MU to remove its restrictive language from section 1 of the service agreements with Kennett and with Malden. However, recognizing MU's need for orderly power supply planning we will declare this restrictive position null and void and of no legal effect 90 days from the issuance date of this order. This period will allow MU to file substitute service agreement provisions with the Commission.

Section 8 of the service agreement specifies an initial term of twenty years. This clause corresponds to section 7(2) of MU's SFR-1 tariff which states, "Customers receiving service under this schedule shall sign a contract effective for twenty (20) years."⁶ Section 9 of the

³ Designated as: "Missouri Utilities Company, Service Agreement under FPC Electric Tariff, Original Volume No. 1, (Supersedes Rate Schedule FPC No. 7 as supplemented)"

⁴ Notice of the filing was issued on September 14, 1979, with comments due by October 5, 1979. Malden filed its comments with the Commission on October 9, 1979, criticizing portions of the tariff and service agreement as unduly restrictive and stating that the twenty year initial term is unnecessary. The City has neither petitioned to intervene nor has it requested any specific Commission action. Malden's statement has been considered by the Commission and will be treated as a protest under § 1.10 of the Commission's rules of practice and procedure.

⁵ Section 1 of Malden's unexecuted service agreement provides:

"Company agrees to sell and deliver and Purchaser agrees to take and pay for all electric service required by Purchaser for its own use and for distribution and resale to its customers in Purchaser's service area described as follows:

The City of Malden, Missouri and its duly future annexed areas,

provided, however, that the purchaser may use at his sole discretion, the generating capabilities of the City of Malden's Municipal Electrical Generating Plant and any improvements thereto subject to Section 7 of this Agreement."

A similar provision is contained in Kennett's service agreement.

⁶ Section 8. *Effective Date and Term.* This agreement shall take effect on October 2, 1979, and

filed tariff also specifies a 20-year term for customers receiving service under the SFR-1 rate schedule. With regard to Malden's comment (note 4, *supra*) the Commission notes that under certain circumstances, which could be present in this case, a 20-year initial term may be excessive and anti-competitive. However, Malden does not appear to consider itself to be presently aggrieved by this provision and has not requested an investigation of it. The Commission will therefore take no action at this time but notes that Malden has available to it a Section 206 complaint proceeding if in the future it finds this clause to be restrictive.

MU has requested waiver of the Commission's notice requirements under § 35.3 of the regulations. This would permit Malden to be served under the proposed SFR-1 rate, subject to refund, upon termination of the fixed rate contract. Under § 35.11 of the Commission's Regulations, the Commission may, upon application and for good cause shown, waive the notice requirement. MU's one-year notice of its intention to terminate the fixed-rate contract with Malden apprised the City of the prospective filing of a new rate. Moreover, Malden participated in the consolidated hearing concerning the justness and reasonableness of the proposed SFR-1 rate schedule.⁷ Therefore, a waiver of the notice requirement in the present docket will not prejudice or deny due process to the city.

MU's proposed service agreement with the City of Malden has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The tendered filing should be accepted for filing and suspended for one day, to become effective as of October 2, 1979, subject to the outcome of these proceedings. Pursuant to § 1.20(b) of the Commission's regulations Docket No. ER79-642 will be consolidated with MU's original filings in Docket NOs. ER77-354 and ER78-14 due to the common questions of law and fact.

The Commission Orders

(A) MU's request for waiver of the Commission's sixty day notice requirement is hereby granted.

shall continue in effect for an initial term of twenty years, and shall continue thereafter for successive terms of five years each, subject to termination at the end of the initial or any renewal term by the giving of notice in writing by either party to the other at least two years prior to the expiration of the initial or any renewal term.

⁷ Docket Nos. ER 77-354 and ER 78-14.

(B) MU's proposed service agreement with Malden, as modified by this order is hereby accepted for filing and suspended for one day to become effective as of October 2, 1979, subject to refund.

(C) Docket No. ER79-642 is hereby consolidated with and made dependent on the decision reached in Docket Nos. ER78-14 and ER77-354.

(D) The restrictive clauses contained in Section 1 of the Service Agreements are hereby null, void and of no legal effect 90 days from the issuance of this order.

(E) MU shall file substitute service agreement provisions with the Commission within 90 days from the issuance of this order.

(F) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35399 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP75-227]

Montana-Dakota Utilities Co.; Petition to Amend

November 8, 1979.

Take notice that on October 17, 1979, Montana-Dakota Utilities Co. (Petitioner), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP75-227 a petition to amend the order issued pursuant to Section 7(c) of the Natural Gas Act on February 25, 1977, so as to remove the intrastate supply condition prescribed therein, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it applied in the instant Docket for authorization to sell up to 6,000 Mcf of natural gas per day to Northern Gas Company (Northern Gas) as the initial step in a plan whereby Northern Utilities, Inc. (Northern Utilities), an affiliate of Northern Gas, would sell an equivalent amount of gas each day to Petitioner for use in meeting the requirements of its Sheridan System which serves the Towns of Sheridan, Kaycee and Buffalo, Wyoming. Petitioner states that Petitioner's authorization granted by the order of February 25, 1977, resulted from Northern Utilities' termination of a long-term contract to sell Petitioner approximately 6,000 Mcf of gas per day for the Sheridan System. The contract termination arose, it is stated, because of serious reductions in Northern Gas'

gas supply. Petitioner asserts that it supported the aforementioned authorization in order to allow it, in effect, to serve the Sheridan System from its integrated system.

Petitioner states that in the course of hearings regarding the propriety of the authorization, it informed the Commission that it had recently signed an intrastate contract with a producer for a significant supply of casinghead gas which was expected to meet almost all of the needs of the Sheridan System, at least in the initial years. As a result, Petitioner accepted, it is stated, an order dated February 25, 1977, which basically approved its certificate application, but included the following conditional language:

(1) The service authorized herein will be utilized only to the extent necessary to offset supply deficiencies up to a maximum of 6,000 Mcf of gas per day available to MDU (Petitioner) from all intrastate sources in the State of Wyoming.

Petitioner asserts that it has treated the Sheridan System as part of its integrated system as of the date commencement of service from interstate supplies was authorized. Petitioner states that in accordance with that approach, it filed on December 1, 1977, in Docket No. RP74-97 (PGS 78-1) its semiannual purchased gas adjustment (PGA) which contemplated, *inter alia*, the allocation of the costs of intrastate supplies for the Sheridan System on a system-wide basis. The filing, it is stated, was suspended for one day and hearings instituted to determine, *inter alia*, the propriety of the inclusion of Powell II costs. By order of July 11, 1979, the Commission affirmed the Law Judge's holding that the Sheridan System was not a part of Petitioner's integrated system and that, therefore, Petitioner's tariff does not permit the inclusion of Powell II gas costs in its PGA adjustments; and that even if the Sheridan System was a part of the integrated system, the lack of sufficient benefits from the Powell II gas to the jurisdictional customers precluded the utilization of the rolled-in method of cost allocation. The holding went on to direct, it is stated, that refunds should be made by Petitioner to its jurisdictional customers of all sums collected from them for the cost of gas from the Powell II Unit.

Petitioner states that the Commission's order of September 10, 1979, denying rehearing, suggested that if Petitioner "believes that the certificate needs amending in light of recent developments in both the law and its system operations, it is free to seek to initiate proceedings in order to

demonstrate that the certificate should be amended." Petitioner states that the instant petition is the direct result of that suggestion.

In conjunction with this filing, Petitioner states that it is presently preparing a petition to amend its Bowdoin Exchange arrangements with Kansas-Nebraska Natural Gas Company, Inc. (K-N) in Docket No. CP75-154. Petitioner states that pursuant to an August 9, 1979, agreement with K-N, it would use excess Powell II volumes as redelivery volumes under the Bowdoin exchange, thus freeing up volumes currently delivered and augmenting Petitioner's general system supply by an equivalent amount.

Petitioner states that removing the intrastate supply condition would serve the public interest for several reasons. First, it is asserted that a certificate condition based upon strict separation of interstate and intrastate gas supplies has become unreasonable in light of the passage of the Natural Gas Policy Act of 1978 which, it is stated, has ended the system of dual markets. Second, the policy enunciated in Arkansas Louisiana Gas Company, Docket Nos. CP 76-221 and CP 76-251, whereby diversion of gas from the interstate to the intrastate market was disallowed as increasing curtailment on the interstate system, is stated to be inapplicable to Petitioner's situation since Petition has applied its FERC curtailment plan to Sheridan System deliveries; thus, actually reducing the volumes of gas required to be taken from the interstate system.

Third, given the current disparity between intrastate and interstate gas prices, the recent escalation of gas rates, coupled with assignment of all Powell II costs to Sheridan, would, it is stated, produce an inequitable result. Fourth, Petitioner states that, in the face of the PGA orders determining that the Sheridan System is not a part of Petitioner's integrated system, the Wyoming Public Service Commission has ruled that Petitioner's interstate curtailment plan should not apply thereto. Fifth, the amendment to the Bowdoin Agreement would, it is asserted, make more gas available to Petitioner's certificated system. For these reasons, Petitioner requests removal of the intrastate supply condition attached to the authorization in the instant docket.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance

with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35351 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP75-154]

Montana-Dakota Utilities Co.; Petition to Amend

November 8, 1979.

Take notice that on October 22, 1979, Montana-Dakota Utilities Company (Petitioner), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP75-154 a petition to amend the order issued May 11, 1977¹ in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional delivery point under an existing authorized exchange, and in connection therewith to use in interstate commerce certain existing facilities which have previously been used solely in intrastate commerce, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it entered into a gas sales, transportation, and exchange agreement (Bowdoin Exchange Agreement) with Kansas-Nebraska Natural Gas Company, Inc. (KN) on May 10, 1974, knowingly for the transportation of volumes of gas from the Bowdoin fields, in the Bowdoin area of Phillips and Valley Counties, Montana, to Petitioner's general system. Petitioner states that by order issued May 11, 1977, the Commission authorized the Bowdoin exchange. Petitioner asserts that pursuant to its gas purchase contract with W. A. Moncrief, Grand Woods Petroleum Corporation dated July 7, 1976, Petitioner acquired interest in gas produced from the Powell II Unit in Converse County, Wyoming. Petitioner states that it entered into a precedent agreement with KN on August 9, 1979,

¹ This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

providing for the amendment of the Bowdoin exchange agreement, so as to add as a new delivery point, the existing interconnection between Northern Utilities, Inc.'s (Northern) intrastate North line and KN's Casper, Wyoming, compressor plant, to enable it to transport the Powell II unit gas into its system. Petitioner further states that this would allow the use of excess Powell II gas to help satisfy its redelivery obligation under the Bowdoin exchange agreement. Petitioner estimates that such amendment would free up a portion of its current general system supply up to 1,127,000 Mcf.

Petitioner states that under the proposed amendment, Northern would transport the Powell II gas or volumes equivalent thereto from its point of receipt to a point at or near KN's Compressor Plant pursuant to Section 311 of the Natural Gas Policy Act of 1978. Petitioner further states that the transportation charge which it would pay to Northern for delivery of the Powell II volumes would be passed through directly to KN, as provided in the precedent agreement between Petitioner and KN dated August 9, 1979.

Petitioner further seeks authorization to use in interstate commerce its six-inch pipeline, which connects the Powell II Unit with the facilities of Northern and which has previously been used solely to transport gas in intrastate commerce, to deliver the Powell II gas to Northern for the account of KN.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35352 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. EL78-24, EL78-37]

Municipal Electric Utilities Association of the State of New York v. Power Authority of the State of New York and Village of Iliion, New York v. Power Authority of the State of New York; Order Granting in Part and Denying in Part Motions for Summary Disposition, Providing for Expedited Hearing, and Consolidating Proceedings

November 2, 1979.

The Municipal Electric Utilities Association of the State of New York (MEUA), the Village of Iliion, New York, and the Connecticut Municipal Electric Energy Cooperative (CMEEC) have filed complaints or petitions for declaratory orders concerning certain of the Power Authority of the State of New York's (PASNY) acts and practices related to Articles 20 and 21 of the license issued to PASNY for the Niagara Project No. 2216.¹ These articles concern the preference to be given to public and non-profit entities in allocating project power. Both articles were included in the license at the express direction of Congress in the Niagara Redevelopment Act ("NRA")² and are essentially verbatim restatements of the statutory provisions.³ Because the complaints and

¹ 19 F.P.C. 186 (1954).

² 16 U.S.C. 836(b) (1) and (2) (1976).

³ Articles 20 and 21 provide:

Article 20. In order to assure that at least 50 per centum of the project power shall be available for sale and distribution primarily for the benefit of the people as consumers, particularly domestic and rural consumers, to whom such power shall be made available at the lowest rates reasonably possible and in such manner as to encourage the widest possible use, the Licensee in disposing of 50 per centum of the project power shall give preference and priority to public bodies and non-profit cooperatives within economic transmission distance. In any case in which project power subject to the preference provisions of this article is sold to utility companies organized and administered for profit, the Licensee shall make flexible arrangements and contracts providing for the withdrawal upon reasonable notice and fair terms of enough power to meet the reasonably foreseeable needs of the preference customers.

Article 21. The Licensee shall make a reasonable portion of the project power subject to the preference provisions of Article 20 available for use within reasonable economic transmission distance in neighboring States, but this article shall not be construed to require more than 20 per centum of the project power subject to such preference provisions to be made available for use in such States. The Licensee shall cooperate with the appropriate agencies in such States to insure compliance with this requirement. In the event of disagreement between the Licensee and the power-marketing agencies of any of such States, the Federal Power Commission may, after public hearings, determine and fix the applicable portion of power to be made available and the terms applicable thereto: *Provided*, That if any such State shall have designated a bargaining agency for the procurement of such power on behalf of such State, the Licensee shall deal only with such agency in that State. The arrangements made by the Licensee for the sale of power to or in such States shall include observance of the preferences in Article 20.

petitions of MEUA and Iliion raise related questions of law and fact, we are consolidating them for consideration in a single proceeding.

In addition, CMEEC has filed a Protest, Petition to Intervene, Petition for Declaratory Order, and Motion for Consolidation. CMEEC is concerned with allocation of project preference power to out-of-state preference customers. We have concluded that the relief CMEEC requests is not yet ripe for Commission action. In any event, the issues CMEEC presses are sufficiently distinct from the matters raised by MEUA and Iliion that they should be treated in a separate proceeding, if necessary. By this order, however, we are requiring PASNY to take action on out-of-state power allocations by the end of this year.

Complaints of MEUA and Iliion

MEUA identifies itself as an organization of New York municipalities and rural electric cooperatives entitled to preference under Article 20 of the Project No. 2216 license and Section 1(b)(1) of the NRA. Iliion is a member of MEUA. Their complaints are founded upon the contentions that preference entities are entitled to at least 50 percent of project power under Article 20, and that PASNY's contracts for sale of project power to its non-preference customers must provide for withdrawals sufficient to meet the needs of preference entities, as those needs develop, up to that 50 percent "floor." They further contend that PASNY is making available to preference entities a total of only 600 MW of project power, including the power that PASNY has withdrawn from non-preference customers, which is far less than the required 50 percent.⁴

PASNY has now withdrawn and allocated to preference entities all of the project power explicitly withdrawable under its contracts with non-preference customers, which do not expire until 1990, and contends that those contracts comply with Article 20 and no more project power may be allocated to preference customers until they expire. MEUA and Iliion ask us to declare that PASNY must continue withdrawing power from its non-preference

⁴ In State of Vermont Public Service Board v. PASNY, Docket No. E-8748, Order Affirming Initial Decision (March 12, 1979), the Federal Power Commission found that "project power" means not just firm power, but includes all of the various categories of power marketed by PASNY from the Niagara Project (*mimeo*) at 13-15). In its complaint, MEUA states that according to PASNY, the nameplate rating of Project No. 2216 is 2180 MW, the normal peak net capability is 2615 MW, the dependable capacity is 2400 MW, and 1800 MW is allocated as firm power.

customers as necessary to meet the developing needs of preference entities, until preference entities are receiving 50 percent. MEUA also states that PASNY has announced its intention to meet additional preference customer load growth from its Fitzpatrick nuclear power plant and to begin charging on that basis on October 28, 1979. For that reason, MEUA requests expedited consideration and summary disposition of its complaint and petition.⁵

As an additional matter, MEUA and Iliion assert that PASNY has been refusing to allocate any additional available project power to preference entities for the purpose of serving certain industrial loads.⁶ Iliion specifically requests that we require PASNY to allocate sufficient power to Iliion to meet all of its needs, including about 7,000 kW to serve the Remington Arms Company,⁷ until the combined preference loads reach the 50 percent level. MEUA and Iliion argue that PASNY's determination to withhold allocations for new industrial load violates the NRA and Article 20 of its license. They also maintain that this determination violates federal antitrust laws because it constitutes an illegal conspiracy with its transmission agents⁸ in restraint of trade and an illegal refusal to deal by PASNY, which has monopoly control over hydroelectric projects on the Niagara River and the St. Lawrence Seaway.

Preference and Withdrawals Under Article 20

Article 20 of the license and 18 U.S.C. 836(b)(1) provide:

[I]n disposing of 50 per centum of the project power (PASNY) shall give preference and priority to public bodies and non-profit cooperatives within economic transmission distance. In any case in which project power subject to (these) preference provisions . . .

⁵ MEUA also requests that we issue an order "restraining PASNY from charging nuclear rates for preference customers." Inasmuch as the Commission does not regulate PASNY's rates, this request for relief will be denied.

⁶ Those loads comprise industrial customers within a preference entity's service area currently generating their own power or served by another utility and new industrial customers which are annexed to the preference entity's franchise area solely for the purpose of acquiring additional industrial load.

⁷ Remington is currently served by Niagara Mohawk Power Corporation.

⁸ Niagara Mohawk, New York State Electric and Gas Corporation, and Rochester Gas and Electric Corporation, all intervenors in this proceeding. Other parties granted intervention are CMEEC; the Massachusetts Municipal Wholesale Electric Company; Consolidated Edison Company; the Borough of Lansdale, Pennsylvania; the Carborundum Company; and the City of New York. In addition, the Public Service Commission of the State of New York and the Public Service Board of Vermont filed notices of intervention.

is sold to utility companies organized and administered for profit, (PASNY) shall make flexible arrangements and contracts providing for the withdrawal upon reasonable notice and fair terms of enough power to meet the *reasonably foreseeable* needs of the preference customers. [Emphasis added.]

PASNY is not currently allocating 50 percent of project power to preference customers, nor do its contracts with non-preference utilities explicitly provide for withdrawal of any more project power to meet preference customer needs.⁹ Nonetheless, PASNY contends that its contracts with non-preference customers fully accord with Article 20 and are justifiable under the "reasonably foreseeable" clause. It maintains that during the 1960-62 period when it was negotiating long-term contracts for power sales, provisions were made for the withdrawal of enough power to meet preference customers' needs reasonably foreseeable *at that time* as developing over the lives of the contracts. PASNY argues that although later events (citing especially the more recent precipitous rise in the costs of alternative power sources) have resulted in preference customer needs for project power beyond what was reasonably foreseeable in 1960-62, that does not mean that PASNY violated Article 20 or that the long-term contracts it entered into are inconsistent with the license or the NRA.¹⁰ In contrast, MEUA asserts that Article 20 requires PASNY to

⁹ Although PASNY's contracts with non-preference customers for Niagara Project power do not expire until January 1, 1990, PASNY maintains that it will be able to provide additional preference power to preference customers in 1985, when its contracts with non-preference customers for sale of power from the St. Lawrence Project No. 2000 expire. PASNY stated that the rates for Niagara and St. Lawrence power are identical, suggesting that St. Lawrence power can therefore be substituted for Niagara power to meet the needs of preference customers in the 1985-1990 period.

¹⁰ PASNY also argues that we should dismiss this matter for the same reasons expressed in our June 8, 1979, order dismissing its petition for declaratory order interpreting a contract that incorporated Article 22 of the Project No. 2216 license by reference. In that proceeding we deferred to the courts where proceedings were pending to interpret that contract, because the interpretation did not involve our special technical expertise, any need for uniformity of interpretation, or a matter important to our regulatory responsibilities. Here, we are faced with an allegation that a licensee is violating the terms of its license, and the resolution necessarily demands interpretation of license Article 20. This is a matter central to our responsibilities under the Federal Power Act to see that the licensee observes the terms and conditions of its license and to investigate complaints of violations. Moreover, factual determinations concerning the technical questions of what power needs of preference customers may have been reasonably foreseeable at particular times come within our special expertise. Consequently, our June 8 order is inappropriate and we reject PASNY's request for dismissal based upon it.

structure its non-preference power sales contracts to permit the withdrawal of enough power to meet whatever preference customers' needs have become reasonably foreseeable *at the time of withdrawal*, until a total allocation of 50 percent of project power to preference customers is reached. In other words, MEUA urges that at all times 50 percent of project power must be allocated or withdrawable for allocation to preference customers. We conclude that PASNY's interpretation of Article 20 and the statute correctly reflects the intent of Congress.

The preference provisions of the NRA, incorporated into the license for the Niagara Project as Articles 20 and 21, represent a compromise between two conflicting positions on preference policies. On the one hand, Congress was being urged in 1957 to include in the NRA what has been termed a "federal type" preference provision. As exemplified in S. 512, 85th Cong., 1st Sess. (1957), the provision required PASNY to

make flexible arrangements and contracts for the disposition of project power to utility companies organized and administered for profit, with suitable provisions in such contracts for the withdrawal upon reasonable notice and fair terms of enough power to meet the needs of the foregoing classes of preference customers.

The legislative history cited in the pleadings shows that it was generally accepted that incorporation of the federal type preference provision of S. 512 would have required PASNY to keep all project power available to meet preference entities' needs as they arose. Any power sales contracts with non-preference customers would have had to have been subject to withdrawal as necessary to meet the continuing needs of preference customers as they arose.

PASNY opposed the preference provision of S. 512. PASNY argued that the provision would adversely affect its ability to sell bonds to finance the Niagara Project, because non-preference utilities would be unwilling to contract for withdrawable power at a price that would support payments on the bonds. PASNY was also clearly concerned that an unlimited federal type preference provision would have required it to sell a large share of the project power to preference entities outside the State of New York. S. 512 was sponsored by Senator Clark of Pennsylvania and supported by other congressmen and senators from Pennsylvania and Ohio, who, throughout the seven years when legislation concerning the Niagara Project was under consideration by Congress, sought to secure as large a share of project power for their states as

possible. They favored the broad preference provisions of S. 512, for it was known that the needs of New York preference entities were then small relative to the size of the proposed project and the needs of out-of-state preference entities.¹¹

PASNY favored the preference language included in another bill before Congress introduced by Senators Ives and Javits of New York, S. 1037, 85th Cong., 1st Sess. (1957). The preference provision of S. 1037, § 3(f), merely directed the Federal Power Commission to include in a license for the Niagara Project

a provision that a reasonable amount of the power " . . . be allocated for the present and reasonably foreseeable future needs of rural electric cooperatives and municipalities in the project's economic market area. [Emphasis added.]

This provision, with quite general standards like "reasonable amount" and "in the project's economic market area", was clearly designed to give PASNY maximum discretion to limit the amount of power it would be required to deliver out-of-state. By its terms, the provision could have been met by a one-time determination of the "reasonable amount" to be allocated to preference entities. By implication, PASNY would have been able to sell all the rest of the project power to non-preference utilities with no provisions for withdrawal. The part of the "reasonable amount" that represented "reasonably foreseeable future needs" of preference customers when the one-time determination was made implicitly could be sold to non-preference entities on a withdrawable basis subject to the developing needs of preference customers.

The disagreements over the applicability of Federal preference policy and the availability of Niagara power outside of New York threatened to continue to delay construction of the Niagara Project. Therefore, following hearings on S. 512 and S. 1037, the Senate Committee on Public Works reported out a compromise bill, S. 2046, S. Rep. No. 539, 85th Cong., 1st Sess. (1957). H.R. 8643, identical to S. 2046, was then introduced and thereafter enacted by Congress.

PASNY and MEUA, while agreeing that the preference provisions of the Act represent a compromise, disagree over where Congress struck the balance. PASNY complains that MEUA's interpretation deprives the phrase "reasonably foreseeable" in Article 20 of all meaning. MEUA alleges that PASNY's interpretation ignores the

¹¹E.g., 103 Cong. Rec. 13152 (1957) (remarks of Senator Clark).

compromise and follows the terms of S. 1037, which was not enacted.

As part of the compromise, Congress plainly gave PASNY discretion to sell 50 percent of the project power to non-preference customers with no provisions for withdrawal, regardless of the needs of preference customers. The other 50 percent of project power just as clearly was made subject to a preference for public bodies and non-profit cooperatives within economic transmission distance. The question remains, however, whether the preference for 50 percent of project power is the "absolute 'federal type' preference" that MEUA maintains it is. We think not.

MEUA's support for its position consists of references to several statements in the House and Senate reports on the compromise bill. Those statements, however, go to the amount of project power that was subject to the bill's preference provision—i.e., 50 percent—and shed no light on the time when and manner in which preference power that preference customers could not use at any particular time would subsequently be made available to them.

MEUA also suggests that the "reasonably foreseeable" language simply means that, when PASNY gives a notice of withdrawal to a non-preference customer, the amount to be withdrawn should be that amount "reasonably foreseeable" at the time of the notice to be needed when the withdrawal actually occurs. We believe this interpretation to be unduly strained. When a notice of withdrawal is given, it obviously would be based upon the anticipated preference customer needs at the time the actual withdrawal would occur. We see no difference between MEUA's interpretation and language which would simply say:

the licensee shall make flexible arrangements and contracts providing for the withdrawal upon reasonable notice and fair terms of enough power to meet the needs of the preference customers.

That would be the same as the language of the "absolute federal type preference" in the rejected S. 512, which provided for "withdrawal upon reasonable notice and fair terms of enough power to meet the needs of the . . . preference customers." ¹²MEUA's interpretation

¹²Similarly, in statutes where Congress has provided an absolute "federal type" preference, requiring that preference power contracted to be sold to non-preference customers be continuously withdrawable to meet preference customer needs, it has not used the qualifying phrase "reasonably foreseeable." Instead, it has used relatively simple language typified by section 5 of the Flood Control Act of 1944: "Preference . . . shall be given to public bodies and cooperatives." 16 U.S.C. § 825a.

thus trivializes the words "reasonably foreseeable" and renders them surplusage.

We believe that by including the words "reasonably foreseeable" Congress intended them to have real meaning. And because these words are taken from S. 1037, the bill drafted to minimize PASNY's preference power obligations, we conclude that they were intended to further the purpose of improving PASNY's ability to market project power to non-preference customers on a non-withdrawable basis, in order to enhance its financing capability for the project. As we view section 1(b)(1) of the NRA and Article 20, the natural reading is that PASNY must assess the reasonably foreseeable needs of preference customers at the time that it contracts to sell preference power to a non-preference customer. Then it is only obliged to provide for withdrawal of enough power to meet those needs. The preference power that is not reasonably foreseen to be necessary for preference customers during the life of the contract can then be sold to the non-preference customer on a non-withdrawable basis, thus improving the price that PASNY can command for that power.

Congress was apparently unwilling, however, to go as far as S. 1037 would have in simply making a one-time determination of the "reasonably foreseeable" needs of preference customers. Instead, the compromise bill enacted struck a balance which provided greater protection to preference customers for unanticipated future demand growth. Thus, as we read the Niagara Redevelopment Act in Article 20 of PASNY's license, they contemplate that "in any case" in which PASNY contracts for sale of preference power to non-preference customers, it must estimate what needs of preference entities are then "reasonably foreseeable" over the life of the contract; determine what amount of power is already withdrawable to meet the anticipated growth; and provide in the contract for withdrawal of any incremental amount of preference power necessary to meet the estimated preference needs. This preference provision, re-operative every time power sales contracts expire and new contracts are entered into, is a far different requirement from the single allocation called for by S. 1037. Contrary to MEUA's argument, therefore, PASNY's interpretation of the statute and Article 20, which we conclude is correct, does not "result in a statute no different in operative effect than S. 1037."

If PASNY's contracts with non-preference customers for Niagara Project power did provide for withdrawal of enough power to meet the needs of preference customers reasonably foreseeable when the contracts were entered, then it is not in violation of Article 20 of its license and preference entities must wait until those contracts expire to gain access to more preference power from the project. Public bodies and non-profit cooperatives will then have an opportunity to exercise their preference for up to 50 percent of project power. At the same time, PASNY will have to reassess how much of the remaining preference power (if there is any) would be necessary to meet the then reasonably foreseeable needs of preference customers over the lives of contracts to sell that remaining preference power.

We grant MEUA's motion for summary disposition of this matter to the extent that it requires interpretation of the Niagara Redevelopment Act and Article 20. Our determination, however, does not dispose of the entire question of compliance with Article 20 because there are factual matters in dispute. PASNY contends that its contracts with non-preference customers adequately provided for withdrawal of enough power to meet the needs of preference customers that were reasonably foreseeable in 1960-1962. MEUA and Ilion (by reference to MEUA's pleadings) contest PASNY's position. This factual issue cannot be disposed of summarily,¹³ and will be set for an expedited evidentiary hearing. The hearing should consider what needs of preference customers were reasonably foreseeable over the lives of the contracts with non-preference customers when they were entered; and, if the several contracts do not provide for withdrawals sufficient to meet those needs, how each should be reformed to provide for the additional withdrawals needed to comply with Article 20 and the Niagara Redevelopment Act.¹⁴ The hearing need not consider how any necessary additional withdrawals should be allocated among the various preference customers, since that is a

¹³Although MEUA has requested summary disposition of this issue, Ilion and intervenors claiming to be preference customers, whose interests parallel MEUA's, have not joined in that request. Ilion has requested an evidentiary hearing. Therefore, we cannot simply assume the facts to be as PASNY has stated.

¹⁴PASNY's ability to contract for the sale of Niagara Project power is circumscribed by the terms of its license, the Federal Power Act, and the Niagara Redevelopment Act.

matter generally subject to PASNY's reasonable discretion.¹⁵

There is another issue, not raised by any of the parties, but related to the questions of statutory construction and reasonable foresight discussed above, that we wish to have addressed in this first phase of the hearing. That issue concerns the reasonableness of the term or duration of the contracts between PASNY and the investor-owned utilities. For example, if PASNY has signed contracts whose terms were coincident with the useful life of the projects, and has reserved the right to withdraw something less than all the power covered by the preference clause, PASNY would have implemented by contract the one-time estimate provision embodied in S. 1037 and rejected by the Congress. On the other hand, a holding that contracts with withdrawal clauses covering less than all preference power could be for no longer than a utility's planning horizon in 1960—which presumably would be the primary basis for determining a fair and reasonable notice provision for the withdrawal of contract power—would effectively implement the provisions of S. 512 in this regard. This approach was also rejected by the Congress. In between these two extremes, however, is considerable territory that we believe deserves exploration. Specifically, was it necessary or at least highly desirable that PASNY contract for 30 years without complete withdrawal rights in order for PASNY to get favorable prices for project power, in turn enabling PASNY to market its bonds at a favorable price? Did PASNY know or should it have known in 1960 (without the dubious benefit of the experience of the 1970's) that it was impossible to forecast power demands for 25 or 30 years, particularly in light of the unpredictability of the creation of new municipal systems in New York? If so, why? In short, we believe that the term of PASNY's contracts deserves consideration in light of both the statutory interpretation adopted in this order and the requirement that preference power for which there was a reasonably foreseeable need be

¹⁵Of course, the Commission has general authority under Parts I and III of the Federal Power Act to ascertain whether PASNY's actions comply with its license and the provisions of the Federal Power Act. In addition, the Commission has authority under Article 21 of the license to determine the amount of power to be allocated to out-of-state preference customers, if there is a dispute between PASNY and an out-of-state power marketing agency. See State of Vermont Public Service Board v. Power Authority of the State of New York, Docket No. E-8748, Order Affirming Initial Decision (issued Mar. 12, 1976) (*mimeo* at 15-16).

reserved as withdrawable "in all cases" where such power was sold under contract with investor-owned utilities.

We will leave the specific procedures for most effectively and fairly expediting this phase of the hearings to the sound discretion of the presiding administrative law judge, who is directed to convene a prehearing conference within 10 days of this order. The presiding judge is also directed to commence the actual evidentiary hearing no later than 60 days from the date of this order, but should make every effort to commence it as soon as practicable before that date. If it becomes apparent to the presiding judge that this 60-day deadline cannot be met, the judge should immediately report to the Commission, stating the reasons why the time cannot be met and a recommendation for the earliest practicable hearing date consistent with those reasons. Unless the Commission then acts to move the hearing date forward, the hearing shall commence on the recommended date. In any event, every effort should be made to resolve any outstanding issues in this expedited phase of the proceeding as soon as possible, consistent with the dictates of due process.

Allocations to Preference Customers for New Industrial Load

As explained above, MEUA and Ilion allege that PASNY refuses to allocate project preference power to preference customers to serve new industrial load. They contend that this practice violates the Niagara Redevelopment Act and Article 20 and is also an illegal conspiracy in restraint of trade and refusal to deal. PASNY's responses to these allegations characterize the problem as one of deciding how a limited supply of preference power should be allocated among preference customers. PASNY cites *City of Santa Clara v. Andrus*, 572 F.2d 660 (9th Cir.), *Cert. denied*, 99 S. Ct. 176 (1978). The court there held that there was nothing in the applicable reclamation statutes limiting the discretion of the Secretary of the Interior to discriminate against some preference entities in favor of others in allocating power from a Federal reclamation project. 572 F.2d at 666-68. PASNY argues that the Act's preference provisions are similar to those in the reclamation statutes considered in *Santa Clara*, and that PASNY's allocation decisions among preference entities are similarly unreviewable, by a court or by the Commission.

We believe PASNY does have reasonable discretion, within the limits of its license, the Niagara

Redevelopment Act, and the Federal Power Act, in allocating available preference power among preference customers. Moreover, since the stated purposes of Article 20 and Section 1(b)(1) of the Niagara Redevelopment Act is to assure the availability of project power to "the people as consumers, particularly domestic and rural consumers," it may well be reasonable for PASNY to subordinate preference customers seeking additional preference power only to serve new industrial load already served by power from another source. But licenses under the Federal Power Act are issued on condition that anticompetitive combinations and arrangements are forbidden, 16 U.S.C. 803(h). If the purpose of PASNY's marketing practice can be shown to be anticompetitive, then PASNY is in violation of its license condition under Section 10(h) of the Federal Power Act.

We do not read *Santa Clara* as precluding our investigation of this matter. *Santa Clara* was based on the court's finding that there was no law to apply in evaluating the Secretary of the Interior's decisions, so there was in effect nothing for a court to review. *Id.* Whether or not the Niagara Redevelopment Act's preference provisions are similar to those in *Santa Clara*, PASNY's argument ignores the fact that the license for the Niagara Project is not based merely on that Act, but also on the Federal Power Act. Section 10(h) of the latter act provides the necessary statutory standard against which PASNY's practice may be judged, unlike the circumstances in *Santa Clara*.

These matters cannot be resolved, however, without the development of a factual record, and thus the Commission will not grant summary relief. Here, MEUA and Ilion have sufficiently defined their allegations so that the issue should not be dismissed without affording them an opportunity to lay the factual predicate for those allegations; but their pleadings are still relatively general, and they must go beyond generalizations and carry the burden of proof to support their contentions.¹⁸ In

¹⁸ See *Indiana & Michigan Electric Company*, Docket No. E-7740, 49 F.P.C. 1232 (1973). We also note that, although MEUA's and Ilion's allegations are couched in terms of violations of the antitrust laws, the Commission has no power to adjudicate antitrust violations as such. See, e.g., *Pacific Gas & Electric Co., Projects Nos. 2735 and 1688*, Order Granting Intervention and Providing for Hearing (issued Apr. 1, 1978) (*mimeo* at 11 n. 21), citing *California v. FPC*, 369 U.S. 482, 486 (1962). In considering matters before us, such as compliance with Section 10(h) of the Federal Power Act, however, we have the responsibility to take into account the public policies expressed in the antitrust laws. *Id.* at 10 n. 17 and accompanying text.

this respect, we believe this proceeding would be facilitated by a procedure like that prescribed by the Presiding Administrative Law Judge in *Pacific Gas & Electric Company, Projects Nos. 2735 and 1688* (transcript at 58-59, Aug. 10, 1976). Accordingly, we are requiring MEUA and Ilion to file preliminary statements setting forth in greater detail their specific allegations of anticompetitive behavior, the evidence intended to be adduced to prove the allegations, the specific sections or parts of any statute, regulation, order, or other provision (in addition to Section 10(h) of the Federal Power Act) with which the alleged behavior is inconsistent, the specific relief that is requested,¹⁷ and the precise authority under which the Commission may grant that relief. (PASNY or other participants may move for summary disposition, if they believe it warranted, after those statements have been filed.) Because proceedings involving allegations of anticompetitive behavior can be very complex and time consuming, however, the Presiding Administrative Law Judge should conduct the hearings on this matter as a separate phase of this proceeding. And, while the separate phases may proceed concurrently, priority should be given to resolution of the phase involving the reasonably foreseeable needs of preference customers. The anticompetitive behavior phase should not be permitted to interfere with expeditious resolution of the reasonably foreseeable needs phase.

CMEEC's Pleading

Section 1(b)(2) of the Niagara Redevelopment Act and Article 21 of PASNY's Project No. 2216 license require it to make a "reasonable portion" of the 50 percent preference portion of project power available for use outside of New York. These provisions also state, however, that this requirement "shall not be construed to require more than 20 percent of the project power subject to such preference provisions to be made available for use in [other] States." Article 21 and the Act also provide that, in the event of a disagreement between PASNY and an out-of-state power marketing agency, the Commission may determine the amount and terms of out-of-state preference power allocations.

Prior to 1976, PASNY had been allocating only 180 MW of Niagara Project power to out-of-state preference

¹⁷ To the extent that available preference power has already been fully allocated among preference customers, this may require withdrawal of project power allocated to some preference customers as a result of anticompetitive behavior and reallocation to others.

customers. That amount represented 10 percent (*i.e.*, 20 percent of 50 percent) of 1800 MW of firm power that PASNY maintained was the only portion of project power subject to the preference provisions of Article 20. In Docket No. E-8746,¹⁸ the Commission affirmed an initial decision determining that all categories of project power and energy—not just the 1800 MW that PASNY designated as firm power—were subject to the preference provisions in Articles 20 and 21 and the Niagara Redevelopment Act.¹⁹ In affirming the Presiding Judge, the Commission ordered PASNY to make a reasonable portion of all kinds of project power, up to 10 percent, available to out-of-state customers.

Subsequently, PASNY solicited applications from out-of-state preference entities for project power, held hearings on proposed contracts and, on December 6, 1977, submitted the proposed contracts to the Governor of New York for approval under the New York Public Authorities Law § 1009 (McKinney 1970 & Supp. 1978-79). In the meantime, CMEEC, which is a non-profit body designated by the State of Connecticut to seek power from PASNY, had filed an application for allocation of power from both the Niagara Project and PASNY's St. Lawrence Power Project No. 2000. In September of 1977, CMEEC had also filed with the Commission a complaint that PASNY was improperly refusing to allocate Niagara and St. Lawrence power to CMEEC. The complaint asked the Commission to determine the total amount of power (capacity and energy) available from each project; the allocation of each kind of power to out-of-state preference entities; the definition of "preference customer" for each project; and the terms and conditions of sales to out-of-state preference customers. In February of 1978, the Governor of New York disapproved PASNY's proposed contracts and remanded the matter to PASNY for reconsideration. Shortly thereafter, CMEEC petitioned to withdraw its complaint, citing the

¹⁸ *State of Vermont Public Service Board v. Power Authority of the State of New York*, Order Affirming Initial Decision (issued Mar. 12, 1976).

¹⁹ The additional categories for project power and energy PASNY was then marketing included 80 MW of firm power made possible by load diversity of New York preference customers; 200 MW of firm peaking power; 200 MW of peaking power delivered on an "as available" basis and withdrawable; and "peaking interchange" power made available in peak hours by diverting into a storage reservoir in off-peak hours. Docket No. E-8746, Presiding Administrative Law Judge's Initial Decision in Complaint Proceeding (May 15, 1975) (*mimeo* at 21-31, 37).

Governor's action, and on April 5, 1978, the Commission granted the petition and terminated the proceeding (Docket No. E-9609).

Along with its petition to intervene in Docket No. EL78-24, CMEEC has submitted a petition for declaratory order and a motion to consolidate that petition with MEUA's complaint. CMEEC's petition for declaratory order asks us to decide: the total amount of Project No. 2216 power; how much of the total is "assignable" to preference customers within economic transmission distance; what is a "bonafide preference customer" under the Niagara Redevelopment Act; and how preference power should be allocated among "bonafide" in-state and out-of-state preference customers. The essence of CMEEC's concerns on these matters is that PASNY is not allocating enough project preference power to out-of-state customers in the aggregate; and that PASNY has not allocated any project power to CMEEC in particular. We shall deny CMEEC's petition and motion for several reasons.

Initially, we note that CMEEC has shown no relationship of the question of what is a "bonafide" preference customer to any issue in these dockets, or even any reason why this question should be decided at all. On its face, this question appears to be one which is not well-suited to decision on a generic basis in a declaratory order, but rather on the basis of particular analysis of a particular customer.²⁰ Moreover, none of the three other general questions CMEEC raises in its petition appears to be related to the phase of this proceeding concerning allegations that PASNY has engaged in anticompetitive behavior by refusing to allocate power to preference customers to serve new industrial load. We turn then to their relationship to the other phase.

The central question in the expedited phase of this proceeding is what needs of preference customers were reasonably foreseeable when PASNY made its contracts for sales to nonpreference customers. The total amounts of various categories²¹ of

²⁰ See, e.g., *City of Bountiful*, Docket No. EL78-43, Order Granting Interventions and Setting Briefing Schedule (issued May 3, 1979) (*mimeo* at 2). At one point in its pleading, CMEEC expresses its belief that PASNY has been selling preference power to persons in Vermont other than "bonafide" preference customers. PASNY's sales of project power to Vermont have been to the Vermont Public Service Board, which the Commission has previously found to be a proper preference customer. *Vermont PSB v. PASNY*, *supra*, *mimeo* at 6.

²¹ As *Vermont PSB v. PASNY* recognized, it is the various categories of project power that are meaningful, not any overall measure of project power.

project power—and thus the 50 percent of each that would constitute preference power²²—may be relevant and material in litigating the specific relief sought in the expedited phase. Those amounts define the "ceilings" on the portions of the various categories of power that must be withdrawable to meet the reasonably foreseeable needs of the preference customers, and thus might affect the relief available. It is not clear that those amounts have been sufficiently determined for that purpose by the Initial Decision the Commission adopted in *Vermont PSB v. PASNY*, *supra*. To the extent that they have not been, but prove relevant and material to the specific relief sought in the expedited phase, CMEEC will have the opportunity as an intervenor to protect any interests it may have in determining those amounts. We conclude, however, that we should not introduce any unnecessary delay in that expedited phase by consolidating matters, like CMEEC's questions about total and preference power in the various power categories, that may not need to be litigated there.

Finally, the question of how preference power should be allocated among preference customers both within New York and outside the state is not sufficiently related to the issue of reasonably foreseeable needs in this proceeding. This proceeding's expedited phase may have to explore how project power may need to be reallocated from the various non-preference customers to preference customers *as a class*, or to in-state preference customers as a subclass and out-of-state customers as a subclass.²³ Questions about allocations to particular preference customers, however, are normally matters for PASNY's reasonable discretion, subject to the Commission's authority to review compliance with the terms and conditions of the license and the Federal Power Act and to resolve disputes between PASNY and out-of-state preference customers. If, as a result of the expedited phase of this proceeding, we determine that certain amounts of project power must be reallocated from non-preference to preference customers, PASNY will then have to reallocate the prescribed amounts among the preference customers. At this point, whether there will have to be any

²² In context, we read CMEEC's reference to the amount of project power "assignable to the preference customers" to mean the 50 percent for which public bodies and non-profit cooperatives have preference under Article 20.

²³ Again, CMEEC, as an intervenor, will have an opportunity to participate in the hearing on these questions, to the extent that they need to be litigated here.

reallocation and whether any PASNY-proposed distribution among preference customers would be disputed are entirely speculative. Consequently, we shall not consolidate with this proceeding CMEEC's request for a declaratory order on allocations among preference customers, which could only delay resolution of the central issue.

We have also concluded that CMEEC's petition for declaratory order with respect to amounts of various categories of project power, amounts of preference power for those categories, and allocations among preference customers should be dismissed as premature. Although styled as a request for a declaratory order, CMEEC's petition is in essence both a complaint that PASNY has not complied with Article 21 of its license and the Commission's March 12, 1976, order in Docket No. E-8746 requiring PASNY to make available to out-of-state preference customers a reasonable portion of all project power up to 10 percent; and a request for the Commission to resolve under Article 21 a disagreement between PASNY and CMEEC over allocation of out-of-state preference power. It is true that PASNY has not yet complied with the terms of the March 12, 1976, order and thus has not yet fulfilled the requirements of Article 21. The 1976 order, however, did not set a deadline for compliance, and PASNY did make one subsequent attempt to allocate out-of-state preference power that was disapproved and remanded by the governor. PASNY has not yet recommended any new allocation to the governor; but it has submitted and held hearings on proposed contracts for a new allocation pursuant to New York Public Authorities Law § 1009 (McKinney 1970 & Supp. 1978-79).

CMEEC acknowledges that resolution of the questions it raises and its anticipated dispute with PASNY over out-of-state allocations could wait until PASNY's "second determination" has been made (subject, of course, to action by the governor). PASNY notes in response that there may be no dispute between it and CMEEC, depending upon its and the governor's actions on out-of-state allocations. CMEEC, however, argues that a dispute over the out-of-state allocation is "virtually inevitable."

We reject PASNY's additional argument that there can be no "disagreement" within the meaning of Article 21 between it and a power marketing agency until it and the governor have finally acted to allocate out-of-state preference power. Such an interpretation would render Article 21

and Section 1(b)(2) of the Niagara Redevelopment Act meaning

fact and law, consistent with the provisions of this order

percent, to out-of-state preference

become a party must file a petition to

(3) Large commercial requirements (50 Section 3 of the Natural Gas Act for

and Section 1(b)(2) of the Niagara Redevelopment Act meaningless, because PASNY and the governor could simply avoid our jurisdiction over out-of-state allocations by an endless series of proposals, disapprovals, and remands. We conclude that the licensee's inaction on out-of-state allocations can give rise to a "disagreement" within the meaning of Article 21, just as its action can. PASNY has not taken final action on an out-of-state preference power allocation in the three and one-half years since our order in Docket No. E-8746 or in the 20 months since the governor's remand. Nonetheless, the Commission's order did not set a time certain for PASNY's action. PASNY did develop an out-of-state allocation once, and there are no allegations that it has been acting in bad faith. Moreover, we believe it would be preferable if the governor had approved a definite allocation plan, if possible without undue delay, because it might moot CMEEC's "virtually inevitable" dispute and would better focus any proceeding before this Commission under Article 21.

For these reasons we will dismiss CMEEC's petition for declaratory order and order PASNY to submit to the governor its proposed contracts and recommendations for sale of a reasonable portion of all categories of preference power, up to 10 percent, to out-of-state preference customers, no later than December 31, 1979. Under New York Public Authorities Law § 1009(3) (McKinney 1970 & Supp. 1978-79), the governor must then act on PASNY's proposals within 60 days. If PASNY fails to act within the time prescribed, or if the governor should either fail to act within an additional 60 days or disapprove or remand PASNY's proposals for allocations, then we would entertain an appropriate petition for relief under Article 21 of the license for Project No. 2216 and Section 1(b)(2) of the Niagara Redevelopment Act.

The Commission Orders

(A) The joint motion of MEUA and Ilion for consolidation of Dockets Nos. EL78-24 and EL78-37 is granted.

(B) MEUA's motions for immediate summary relief are granted in part and denied in part in accordance with the provisions of this order.

(C) Pursuant to the authority contained in the Department of Energy Organization Act and in the Federal Power Act (particularly Sections 4(g), 10(h), 306, 307(a), 308, and 309), and the license for Project No. 2216, a public hearing shall be held in conformance with the Commission's Rules of Practice and Procedure to consider all matters of

fact and law, consistent with the provisions of this order, concerning those issues in Dockets Nos. EL78-24 and EL78-37 not summarily decided in this order.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose, shall preside at the hearing in this proceeding, and shall convene a prehearing conference on the expedited phase of this proceeding, to be held within 10 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D. C. 20426. The conference shall be held for the purposes of clarification of the positions of the parties, delineation of the specific issues to be litigated, discussion of procedures for expediting the hearing, and establishment by the presiding judge of any procedural dates necessary for the expedited hearing.

Subject to the discussions above in this order, the presiding judge shall commence the evidentiary hearing in the expedited phase of this proceeding no later than 60 days from the date of this order.

(E) No later than 30 days from the date of this order, MEUA and Ilion shall file preliminary statements setting forth in detail: their specific allegations concerning anticompetitive behavior by PASNY with respect to provision or refusal of power to preference customers for serving new industrial load; the evidence intended to be produced to prove the allegations; the specific sections or parts of any statute, regulation, order, or other provision of law with which that behavior is alleged to be inconsistent; the specific relief requested; and the precise authority under which the Commission may grant that relief. The presiding judge shall convene a prehearing conference on this phase of the proceeding after those preliminary statements have been filed.

(F) The motion for consolidation filed by CMEEC in this proceeding is denied and the petition for declaratory order incorporated in CMEEC's petition to intervene in this proceeding is dismissed.

(G) In compliance with ordering paragraph (C) of the Commission's order of March 12, 1976, in Docket No. 3-8746, no later than December 31, 1979, PASNY shall report to the Governor of the State of New York, under New York Public Authorities Law § 1009, its proposed contracts, together with its recommendations and record of public hearings on them, for sales of a reasonable portion of all categories of project preference power up to 10

percent, to out-of-state preference customers.

(H) The Secretary shall promptly publish this order in the Federal Register.

By the Commission,

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35340 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-31]

National Fuel Gas Supply Corp.; Proposed Changes in Gas Tariff

November 9, 1979.

Take notice that on November 1, 1979, National Fuel Gas Supply Corporation (National Supply) tendered for filing the following proposed changes in its Gas Tariff, to be effective December 1, 1979:

Original Volume No. 1

Sixth Revised Sheets Nos. 35, 36, Third Revised Sheet No. 36A and Original Sheets Nos. 36B, 36C, 36D, 43, 44 and 45, superseding Fifth Revised Sheets Nos. 35 and 36 and Second Revised Sheet No. 36A, respectively.

These tariff sheets are issued to comply with the order of the Federal Energy Regulatory Commission, Docket No. RM79-14, dated September 28, 1979, to implement the incremental pricing provisions of the Natural Gas Policy Act of 1978, such that unless otherwise exempted large industrial facilities which burn natural gas as a boiler fuel will be priced for that gas at a level equivalent to the price they would pay for fuel oil which they could burn as an alternative to natural gas.

A copy of this filing was served on the following:

Mercer Gas Company, National Fuel Gas Distribution Corporation, Cook Gas Company, North East Heat & Light Company, The Peoples Natural Gas Company, Public Service Commission of the State of New York, Pennsylvania Public Utility Commission, Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35341 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. TC80-39]

North Penn Gas Co.; Tariff Filing Pursuant to Order No. 29

November 8, 1979.

Take notice that on November 2, 1979, North Penn Gas Company (North Penn) tendered for filing pursuant to Order No. 29 and Section 281.204 of the Commission's regulations, in Docket No. TC80-39, the following sheets to its FERC Gas Tariff, First Volume No. 1:

Second Revised Sheet No. 12A
Second Revised Sheet No. 12B
Second Revised Sheet No. 12C
Second Revised Sheet No. 12D
Second Revised Sheet No. 12E
Second Revised Sheet No. 12F
First Revised Sheet No. 12G
First Revised Sheet No. 12H
Fourth Revised Sheet No. 12I
Original Sheet No. 12J
Original Sheet No. 12K
Original Sheet No. 12L
Original Sheet No. 12M
Original Sheet No. 12N
Original Sheet No. 12O

The tendered sheets are proposed to be effective December 1, 1979.

North Penn states the purpose of the filing is to conform North Penn's existing curtailment tariff provisions with the Commission's Regulations promulgated by Order No. 29, issued May 2, 1979, implementing Section 401(a) of the Natural Gas Policy Act of 1978 (NGPA). North Penn also filed copies of the final Report of its Data Verification Committee (DVC). Second Revised Sheet No. 12E provides the definition for "High Priority User" to include any person who uses natural gas in a residence; in a small commercial establishment; in a school or hospital; or for police protection, for fire protection, in a sanitation facility or a correctional facility. "Essential Agricultural Use" is defined as any use of natural gas which is certified by the Secretary of Agriculture as an essential agricultural use under Section 401(c) of the Natural Gas Act of 1978, as identified in 7 CFR Part 2900, *et. seq.* Acceptance of North Penn's sheets would establish the following order of priorities:

(1) High priority users. (See subsection H., "Definition of Terms").
(2) Essential agricultural users. (See subsection H., "Definition of Terms").

(3) Large commercial requirements (50 Mcf or more on a peak day); firm industrial requirements for plant protection, feedstock and process needs; Buyers' storage injection requirements; firm industrial requirements up to 300 Mcf per day.

(4) All industrial requirements not specified in (2), (3), (5), (6), (7), (8), (9), or (10).

(5) Firm industrial requirements for boiler fuel use at less than 3,000 Mcf per day, but more than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(6) Firm industrial requirements for large volumes (3,000 Mcf or more per day) boiler fuel use where alternate fuel capabilities can meet such requirements.

(7) Interruptible requirements of more than 300 Mcf per day, but less than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(8) Interruptible requirements of intermediate volumes (from 1,500 Mcf per day through 3,000 Mcf per day), where alternate fuel capabilities can meet such requirements.

(9) Interruptible requirements of more than 3,000 Mcf per day, but less than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

(10) Interruptible requirements of more than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before November 19, 1979. Protests will be considered by the Commission in determining the appropriate action to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35330 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-22]

Northern Natural Gas Co.; Application

November 8, 1979.

Take notice that on October 11, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-22 an application pursuant to

Section 3 of the Natural Gas Act for authorization to import up to 200,000 Mcf of natural gas per day and 73,000,000 Mcf of gas per year on a best-efforts basis which gas would be purchased from Consolidated Natural Gas Limited (Consolidated), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a gas sales contract dated February 24, 1979, with Consolidated of Calgary, Alberta, Canada, it would import up to 200,000 Mcf of natural gas per day and 73,000,000 Mcf per year and daily volumes in excess thereof if available on a best-efforts basis commencing November 1, 1980, and continuing through October 31, 1994.

Applicant states that the gas would be delivered by Trans Canada Pipe Lines Limited (Trans Canada) to Great Lakes Gas Transmission Company (Great Lakes) at an existing point of interconnection on the international boundary near Emerson, Manitoba, Great Lakes, it is stated, would redeliver such gas to Applicant at a point of interconnection near Carlton, Minnesota, and/or by mutual agreement of the parties at the points of interconnection between the facilities of Great Lakes and Michigan Wisconsin Pipeline Company near Fortune Lake, Michigan, and Farewell, Michigan. It is further stated that alternate delivery points would be at the point of interconnection of Great Lakes' and Applicant's facilities near Grand Rapids, Minnesota, and Wakefield, Michigan.

Applicant states that the price of the gas would be the international border price, which price currently is \$2.80 (U.S.) per MMBTU.

Applicant requests that it be permitted to include a surcharge in its 1980 PGA rate filing to be effective only during the year 1981 to recover the estimated cost of the purchases from Consolidated to be incurred during November and December 1980. Applicant states that the surcharge is necessary in order for it to avoid the substantial delay until 1982 in collecting approximately \$21 million in purchase gas costs to be incurred during those months as would result under the normal operations of Applicant's Purchase Gas Adjustment Clause.

It is asserted that Consolidated has contracted to purchase the subject gas from Trans Canada which has received authority from the Energy Resources Conservation Board of Alberta concerning Applicant's proposal herein, and Consolidated has filed an application with the National Energy

Board of Canada requesting authority to sell and export gas to Applicant.

Northern states that its Egan Station, consisting of one 1,250 horsepower

application if no petition to intervene is filed within the time required herein, if

procedure (18 CFR 1.8 or 1.10) and the

According to Pepco, based on the

Commission in determining the

Board of Canada requesting authority to sell and export gas to Applicant.

Applicant states that the subject gas would enable it to provide adequate and reliable service to its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35353 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-38]

Northern Natural Gas Co.; Application

November 8, 1979.

Take notice that on October 19, 1979, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-38 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of one 1,140 horsepower turbine compressor unit at the Egan, Louisiana, Compressor Station, located in Acadia Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that an estimated 130,000 Mcf of natural gas per day of its Gulf Coast volumes are transported through the "Blue Water System" and delivered onshore by Columbia Gulf Transmission Company. Northern asserts that such volumes are delivered to Trunkline Gas Company (Trunkline) either by compression through Northern's Egan Compressor Station, or by transportation by Tennessee Gas Transmission Company, a Division of Tenneco Inc. (Tennessee) to Trunkline. Northern further states that the present contract maximum with Tennessee for such transportation is 70,000 Mcf per day.

Northern states that its Egan Station, consisting of one 1,250 horsepower single speed electric drive compressor unit which has been in operation since August 1978, is designed strictly for operation at stable suction pressure. Northern asserts that since commencement of operation, irregular suction pressures have occurred occasionally which have caused throughput surge and shut-down of the unit. Northern further states that although Tennessee has been able to assist Northern during periods of shut-down by transporting volumes in excess of 70,000 Mcf per day on a best-efforts basis and although thus far station shut-downs have been of short duration, such efforts cannot be relied upon in the event of an extended outage. Northern asserts that time requirements for the replacement of major components of the electric motor drive, gear box and centrifugal compressor would be excessive, and that such extended outage would expose Northern to considerable production loss from its Gulf Coast reserves.

Northern states that because of these factors, it proposes to install one 1,140 horsepower compressor unit and to operate such facilities as back-up to the 1,250 horsepower electric drive unit, to be utilized in the event of a shut-down of the existing Egan Station unit.

Northern estimates the cost of the proposed additional compressor to be \$1,020,400, which would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this

application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35354 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-37]

Panhandle Eastern Pipe Line Co.; Application

November 8, 1979.

Take notice that on October 19, 1979, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1842, Houston, Texas 77001, filed in Docket No. CP80-37 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(g) of the regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon during the 12-month period commencing April 28, 1980, and operation of field compression and related metering appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of proposed construction and abandonment under § 157.7(g) would not exceed \$3,000,000, and no single project would exceed \$500,000. Applicant states that said costs would be financed from funds available to the company.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and

procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35355 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-62]

Potomac Electric Power Co.; Proposed New Rates and Charges, and Filing of Proposed Settlement Agreement

November 8, 1979.

The filing company submits the following:

Take notice that Potomac Electric Power Company (Pepco) on October 31, 1979, tendered for filing a new rate schedule to replace in its entirety the expiring fixed-rate agreement between Pepco and its sole resale customer, Southern Maryland Electric Cooperative, Inc. (Smeco). Pepco states that the tendered rate schedule would provide for full requirements service to Smeco after December 31, 1979, when the present agreement expires, and would continue indefinitely subject to change at any time pursuant to Section 205 of the Federal Power Act.

According to Pepco, based on the twelve months ending December 31, 1979 the tendered rate schedule would have provided an \$8,974,000 increase in revenues. Pepco designates January 1, 1980 as the effective date of the new rate schedule.

Pepco and Smeco have concurrently filed a Joint Motion for Acceptance of Settlement Agreement in the same docket, which motion requests the Commission to permit the rates and terms of a new fixed-rate contract executed by Pepco and Smeco and approved by the Rural Electrification Administration to become effective for the three year period commencing January 1, 1979. Pepco and Smeco submit that the new contract represents settlement and compromise of all issues outstanding between the parties in the proceeding commenced by Pepco's concurrent rate filing; that the Settlement Agreement is in the public interest and is a just and reasonable accommodation of the interests of the parties, and that the settlement rates are just and reasonable rates if the Settlement Agreement is made effective in its entirety without suspension; but that the Settlement Agreement is deemed withdrawn, null and void if not permitted to become effective in its entirety without suspension by the Commission.

According to Pepco, based on the twelve months ended December 31, 1979, the Settlement Agreement would have provided a \$4,117,000 increase in revenues, based on present rates and the proposed 1980 rate level. The Settlement Agreement provides a 12% increase in calendar year 1977 plus an additional 4% increase in calendar year 1978 and an additional 2% increase in calendar year 1979. This would produce an 18% cumulative increase in revenues in the third year over what would have been produced by present rates if extended.

Pepco has no similar resale customers or rate schedules. No facilities are to be installed, or modified in order to initiate service under this rate schedule.

A copy of this filing has been served upon Southern Maryland Electric Cooperative and Maryland Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the

Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35331 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP72-118]

Sea Robin Pipeline Co.; Petition To Amend

November 8, 1979.

Take notice that on October 22, 1979, Sea Robin Pipeline Company (Petitioner), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP72-118 a petition to amend the Commission's order issued February 7, 1974¹, pursuant to Section 7(c) of the Natural Gas Act in the instant docket so as to authorize the establishment of a new delivery point under an existing gas transportation agreement between Petitioner and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that, under a September 29, 1971, gas transportation agreement with Tennessee, Petitioner transports contract demand volumes of up to 15,000 Mcf per day for the account of Tennessee. Petitioner further states that under an amendatory agreement dated June 28, 1979, it would continue to accept for Tennessee's account up to 14,000 Mcf of gas per day at an existing point of receipt located in East Cameron Block 261 (EC 261) and up to 1,000 Mcf per day at a new point of receipt located in South Marsh Island Block 235 (SMI 235), offshore Louisiana, where Tennessee has acquired a new gas supply from production attributable to the interests of Pelto Oil Company. Petitioner states that it would redeliver equivalent volumes to the existing point of redelivery located at the terminus of its system near Erath, Vermilion Parish, Louisiana.

Petitioner states that it would use existing facilities to receive and to make redeliveries of gas hereunder and that, therefore, no new facilities would be required to implement the proposal herein.

¹ This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.0), it was transferred to the Commission.

Petitioner asserts that the proposed new point of receipt would enable Tennessee to take delivery of new supplies of gas for which it has contracted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35356 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP7858 (3rd PGA-1)]

South Texas Natural Gas Gathering Co.; Purchased Gas Cost Adjustment Filing

November 8, 1979.

Take notice that on October 31, 1979, South Texas Natural Gas Gathering Company (South Texas) tendered for filing Original Supplement No. 26 (purchased gas cost adjustment) to Rate Schedule 1 superseding previous purchased gas cost adjustments. South Texas stated that Exhibit A to Original Supplement No. 26 reflected the annualized change in purchased gas costs based on the twelve months ended August 31, 1979. South Texas requested waiver of any Commission regulation which would prohibit implementation of Supplement No. 26. The change in rate provided in Exhibit A to Original Supplement No. 26 includes a decrease in purchased gas costs of 3.14¢/Mcf and a surcharge of negative 22.89¢/Mcf designed to eliminate the balance in the deferred purchased gas account.

The proposed effective date for Original Supplement No. 26 is December 1, 1979. South Texas states that copies of the filing have been served to the only customer served under Rate Schedule 1, Natural Gas Pipeline Company of America.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35332 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP7858 (3rd PGA-2)]

South Texas Natural Gas Gathering Co.; Purchased Gas Cost Adjustment Filing

November 8, 1979.

Take notice that on October 31, 1979, South Texas Natural Gas Gathering Company (South Texas) tendered for filing Original Supplement No. 98 (purchased gas cost adjustment) to Rate Schedule 2 superseding previous purchased gas cost adjustments. South Texas stated that Exhibit A to Original Supplement No. 98 reflected the annualized change in purchased gas costs based on the twelve months ended August 31, 1979. South Texas requested waiver of any Commission regulation which would prohibit implementation of Supplement No. 98. The change in rate provided in Exhibit A to Original Supplement No. 98 includes an increase in purchased gas costs of 5.10¢/Mcf and a surcharge of 2.23¢/Mcf.

The proposed effective date for Original Supplement No. 98 is December 1, 1979. South Texas states that copies of the filing have been served to the only customer served under Rate Schedule 2, Transcontinental Gas Pipe Line Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35333 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-493]

Southern Natural Gas Co.; Amendment to Application

November 8, 1979.

Take notice that on October 12, 1979, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79-493 pursuant to Section 7(c) of the Natural Gas Act an amendment to its initial application filed September 20, 1979, in said docket which application proposes to construct and operate approximately 7.8 miles of 8½-inch O.D. pipeline with a wall thickness of .312 inches, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it originally requested authorization for the construction and operation of approximately 7.8 miles of 8½-inch O.D. steel pipeline with a wall thickness of .312 inches and necessary appurtenances to connect Gulf Oil Exploration and Production Company's well located in Block 51, Chandealeur Sound Area, St. Bernard Parish, Louisiana, to Applicant's existing 6½-inch Elo Bay pipeline in St. Bernard Parish, Louisiana.

Applicant proposes herein to construct and operate approximately 7.8 miles of 8½-inch O.D. pipeline with a wall thickness of .250 inches. The amendment submits a revised page 2 to the application and revised Exhibits F, G, G-II and K reflecting the changed wall thickness.

Applicant states that the estimated cost of the proposed pipeline and appurtenant facilities based on a wall thickness of .250 inches is \$1,516,360 rather than the estimate of \$1,559,460. Applicant states that such cost would be financed by short-term borrowing.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the

Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35357 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. TC80-32]

Southwest Gas Corp.; Tariff Filing Pursuant to Order No. 29

November 8, 1979.

Take notice that on October 29, 1979, Southwest Gas Corporation (Southwest) tendered for filing pursuant to Order No. 29 and § 281.204 of the Commission's regulations, in Docket No. TC80-32, the following sheets to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 25B
Original Sheet No. 25C
First Revised Sheet No. 23
First Revised Sheet No. 24
First Revised Sheet No. 25A
Second Revised Sheet No. 25

The sheets are proposed to be effective December 1, 1979.

Southwest states that the filing is being made in accordance with the FERC's permanent curtailment rule adopted by Order No. 29, issued May 2, 1979 establishing a system of priorities for high-priorities and essential agricultural use requirements pursuant to the provisions of Section 401 of the Natural Gas Policy Act of 1978. Southwest's tariff sheets would arrange the Priority of Service Categories as follows:

1(a) Residential, small commercial (less than 50 Mcf on a peak day), schools, hospitals, police protection, fire protection, sanitation facility, or correctional facility.

2(a) Essential agricultural users.

2(b) To be designated as essential industrial process and feedstock uses when certified by the Secretary of Energy in accordance with Section 402(c) of the Natural Gas Policy Act.

2(c) Large commercial requirements (50 Mcf or more on a peak day); firm industrial requirements for plant protection, feedstock and process needs

not specified in 2(b) and pipeline customer storage injection requirements.

3. All industrial requirements not specified in 2(a), 2(b), 2(c), 4, 5, 6, 7, 8, and 9.

4. Firm industrial requirements for boiler fuel use at less than 3,000 Mcf per day, but more than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

5. Firm industrial requirements for large volume (3,000 Mcf or more per day) boiler fuel use where alternate fuel capabilities can meet such requirements.

6. Interruptible requirements of more than 300 Mcf per day, but less than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

7. Interruptible requirements of intermediate volumes (from 1,500 Mcf per day through 3,000 Mcf per day), where alternate fuel capabilities can meet such requirements.

8. Interruptible requirements of more than 3,000 Mcf per day, but less than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

9. Interruptible requirements of more than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

The tendered tariff sheets also define: (1) Residential, (2) Commercial, (3) Schools, (4) Hospital, (5) Industrial, (6) Plant Protection Gas, (7) Feedstock Gas, (8) Process Gas, (9) Boiler Fuel, (10) Alternate Fuel Capabilities, (11) Alternate Fuel Available for Essential Agricultural Use, and (12) Essential Agricultural Use. Finally, Original Sheet No. 25C sets forth Southwest's Index of End Use Volumes for priority 1 and 2(a) users.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before November 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35334 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-15]

Texas Eastern Transmission Corp.; Proposed Changes In FERC Gas Tariff

November 9, 1979.

Take notice that Texas Eastern Transmission Corporation on November 1, 1979 tendered for filing proposed changes in its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Second Revised Sheet No. 106
Third Revised Sheet No. 107
Third Revised Sheet No. 108
Third Revised Sheet No. 109
Third Revised Sheet No. 110
Third Revised Sheet No. 111
Fifth Revised Sheet No. 112
Second Revised Sheet No. 113

The above tariff sheets are being filed in compliance with § 282.601 of the Commission's regulations consisting of Texas Eastern's revised PGA provision and Incremental Pricing Surcharge provision. In that connection, Texas Eastern has also changed its filing date from 45 days to 30 days prior to the proposed effective date. Texas Eastern also proposes with this filing to correctly reflect the rate and procedure for computing carrying charges on the PGA account balance pursuant to Commission revisions to § 154.38(d)(4)(iv)(c) of the regulations as prescribed in Order No. 47 issued September 10, 1979 in Docket No. RM77-22.

The proposed effective date of the above tariff sheets is December 1, 1979 as required by the Commission.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35342 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. RP73-3, etc.]

Transcontinental Gas Pipe Line Corp.; Filing of Pipeline Refund Reports and Refund Plans

November 8, 1979.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 23, 1979. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
9/4/79	Transcontinental Gas Pipe Line Corp.	RP73-3	Plan.
9/17/79	Southern Natural Gas Company.	G-9279, et al.	Report.
9/26/79	Lawrenceburg Gas Transmission Corp.	RP78-37	Report.
9/27/79	Texas Eastern Transmission Corp.	G-12706	Report.
10/1/79	Transcontinental Gas Pipe Line Corp.	RP75-3	Report.
10/1/79	Peoples Natural Gas Division of Northern Natural Gas Co.	RP73-48	Plan.
10/5/79	Southern Natural Gas Co.	RP72-91	Report.
10/19/79	El Paso Natural Gas Co.	RP78-18	Report.

[FR Doc. 79-35335 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. CP79-407, CP77-566]

Transcontinental Gas Pipe Line Corp. and Michigan Wisconsin Pipe Line Co.; Petition To Amend

November 8, 1979.

Take notice that on October 15, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1398, Houston, Texas 77001, and Michigan Wisconsin Pipe Line Company (Mich Wisc), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket Nos. CP79-407 and CP77-566, respectively, a joint petition to amend the order issued September 10, 1979, in Docket No. CP79-407 and the order issued March 22, 1979, in Docket No. CP77-566 pursuant to Section 7(c) of the Natural Gas Act so as to authorize Mich Wisc to own and

operate jointly with Transco, an offshore pipeline and appurtenant facilities, which Transco has been authorized to construct and operate individually, and to authorize the addition of an exchange point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued September 10, 1979, in Docket No. CP79-407, Transco was authorized to construct and operate 8.77 miles of 4-inch pipeline and related facilities extending from a producer owned platform in West Cameron Block 22, offshore Louisiana, to Transco's existing system. Petitioners further state that to assist Mich Wisc in assuring the receipt of gas supplies committed to it in West Cameron Block 22, Petitioners have signed a construction, ownership, operation and maintenance agreement dated June 8, 1979, by which Petitioners agreed to share the ownership and operation of such facilities in the proportions of 80 percent for Transco and 20 percent for Mich Wisc. Petitioners state that the total cost of these facilities would be an estimated \$2,192,500, of which Mich Wisc's share, to be paid out of cash on hand, would be \$438,500.

Petitioners further state that by order issued on March 22, 1979, in Docket No. CP77-566, Petitioners were authorized to exchange natural gas, pursuant to a gas exchange agreement dated July 11, 1979. Petitioners state that such agreement provides that Transco would deliver, or would cause to be delivered, gas to Mich Wisc at two delivery points, and Mich Wisc would deliver gas to Transco at one point. Petitioners further state that any imbalance of exchange gas deliveries incurred at the proposed exchange points would be alleviated by appropriate adjustment of gas delivered at the tailgate of Mobil Oil Corporation's Cameron Meadows Processing Plant, Cameron Parish, Louisiana, or at such other points of interconnection on Petitioners' pipeline system as mutually agreed upon.

Petitioners further state that by agreement dated August 8, 1979, they propose to add a new delivery point at which Mich Wisc would deliver gas to Transco. Petitioners assert that such delivery point, the West Cameron Block 225 delivery point, would be located in Cameron Parish, Louisiana, and would be used by Mich Wisc to take its West Cameron Block 22 gas reserves. Petitioners state that the maximum quantity which Mich Wisc would be

permitted to deliver at such point would be 800 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35358 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-14]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that Transwestern Pipeline Company (Transwestern) on November 1, 1979 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

First Revised Sheet No. 73.
Fourth Revised Sheet No. 74.
Second Revised Sheet No. 75.
Third Revised Sheet No. 76.
Original Sheet No. 76A.
Original Sheet No. 76B.
Original Sheet No. 76C.

The above tariff sheets are being filed in compliance with Section 282.601 of the Commission's Regulations consisting of Transwestern's revised PGA provision and Incremental Pricing Surcharge provision. Transwestern also proposes with this filing to correctly reflect the rate and procedure for computing carrying charges on the PGA account balance pursuant to Commission revisions to § 154.38(d)(4)(iv)(c) of the regulations as prescribed in Order No. 47 issued September 10, 1979 in Docket No. RM77-22.

The proposed effective date of the above tariff sheets is December 1, 1979 as required by the Commission.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35343 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-17]

Trunkline Gas Co.; Change in Tariff

November 9, 1979.

Take notice that on November 1, 1979 Trunkline Gas Company (Trunkline) tendered for filing the following Revised Tariff Sheets to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 3-B.
Third Revised Sheet No.21-D.
Third Revised Sheet No.21-E.
Sixth Revised Sheet No.21-F.
Third Revised Sheet No.21-G.
Third Revised Sheet No.21-H.
Second Revised Sheet No.21-I.
Third Revised Sheet No.21-J.
Original Sheet No. 21-O.
Original Sheet No. 21-P.
Original Sheet No. 21-Q.

An effective date of December 1, 1979 is proposed. Trunkline states that such revised tariff sheets are filed pursuant to Section 282.601 of the Commission's Regulations.

On September 28, 1979 the Commission issued Order No. 49 in subject docket establishing the Final Rule implementing the incremental pricing provisions of the National Gas Policy Act of 1978. Section 282.601 of the Commission's regulations as established under Order No. 49 require interstate pipelines to revise its current PGA tariff provisions and establish Incremental Pricing Surcharge tariff provisions in accordance with the Incremental Pricing Regulations.

Trunkline states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35344 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-36]

Trunkline Gas Co.; Application

November 8, 1979.

Take notice that on October 19, 1979, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-36 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition, retention in place and operation of a 12.33 per cent interest in one 2,160 horsepower compressor to be installed by Mobil Oil Exploration & Producing Southeast, Inc. (Mobil) in Vermilion Block 23, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into a long term gas purchase contract with Mobil dated April 2, 1976, to purchase gas from Vermilion Block 23 in the offshore Louisiana area. Mobil has received Commission authorization to make such sale to Applicant in Docket No. CI76-494.

Pursuant to the terms of said gas purchase contract, Applicant maintains it is obligated to reduce its pipeline operating pressure to 600 psig, or to provide compression from 600 psig to its pipeline operating pressure. It is stated that the contract delivery pressure is 1,000 psig; however, Mobil delivers gas to Applicant at pressures above 1,200 psig in order for gas to enter Applicant's pipeline. Applicant states it has elected to provide compression instead of reducing its pipeline operating pressure. Mobil, as owner of one-third of the gas, would provide compression of its share of the gas up to 600 psig, and would own

21 percent of the compressor. Gulf Oil Corporation (Gulf) and Amoco Production Company (Amoco), each the owner of the one-third of the gas, would each own one third of the compressor.

According to the Applicant, it is contractually obligated to provide such compression and the fuel required for this operation, at no cost to Mobil, for compression of gas from 600 psig to pipeline operating pressure. Because Mobil, Gulf and Amoco would purchase and install such compressor, Applicant is obligated to purchase 12.33 percent thereof from Mobil. Mobil would maintain and operate the compression facilities.

Applicant states that the continued level of gas production to be attained through the use of such compression facilities is important to its gas supply because the deliverability of Applicant's firm long-term gas supply is less than adequate to meet its customer's requirements under present levels of authorized service. It is stated that approximately 8,000,000 Mcf of gas reserves would ultimately be produced.

Applicant's share of the cost of the compressor installation is approximately \$185,000, and would be met from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if

the Commission, on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35359 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-118]

U-T Offshore System; Amendment to Petition to Amend

November 8, 1979.

Take notice that on October 17, 1979, U-T Offshore System (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP76-118 pursuant to Section 7(c) of the Natural Gas Act, an amendment to its February 5, 1979, petition to amend its certificate of public convenience and necessity in said docket so as to revise the proposed levels of firm transportation service for its shippers, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Petitioner states that the purpose of its February 5, 1979, petition is to request authorization for the construction and operation of additional onshore facilities which would increase the capacity of its system to approximately 1,200,000 Mcf per day. Such additional capacity is required to enable Petitioner to transport the additional volumes of natural gas that its shippers anticipate making available to it from the High Island Offshore System (HIOS), it is asserted.

Petitioner seeks to amend its February 5, 1979, petition to amend, as follows:

(1) To revise the proposed levels of firm transportation service for its shippers on a basis consistent with the August 21, 1979, petition to amend filed by HIOS in its Docket No. CP75-104, et al.;

(2) To furnish reserves and deliverability information relating to its shippers' reserves, based upon the information relating to its shippers' reserves, based upon the information contained in HIOS's aforementioned petition to amend;

(3) To propose a change in the method of computing depreciation from the current straight-line rate of 7.14 percent to a unit-of-production method;

(4) To furnish a cost and revenue study demonstrating its cost of service under the expansion as proposed; and

the derivation of the indicated transportation rates resulting therefrom.

Regarding the revision described in (1) above, Petitioner proposes, in order to conform its shippers' contract demands to those reflected in HIOS' August 21, 1979, filing, to revise its shippers' currently effective contract demands as follows:

Shipper	Currently effective contract demand (Mcf per day)	Proposed effective contract demand (Mcf per day)
Natural Gas Pipeline Company of America	131,530	185,730
Transcontinental Gas Pipe Line Corporation	131,530	185,730
United Gas Pipe Line Company	143,500	202,640
Columbia Gas Transmission Corporation	40,620	57,330
Consolidated Gas Supply Corporation	24,950	35,230
Tennessee Gas Pipeline Company, a Division of Tenneco Inc.	15,270	21,600
El Paso Natural Gas Company	17,560	30,320
Trunkline Gas Company	133,130	188,010
Northern Natural Gas Company	88,420	122,130
National Fuel Gas Supply Corporation	5,490	7,760
Total	730,000	1,036,480

Respecting reserves and deliverability, Petitioner states that a study by Ralph E. Davis Associates, Inc. (The Davis Report) reflects an estimate of 3,448,000 Mcf of proved and probable reserves available for transportation through the HIOS system as of January 1, 1979. Petitioner further states that the portion of such reserves available for transportation through Petitioner, after reflecting 1979 production and the estimated fuel use on the HIOS system, is estimated to be 2,480,000 Mcf.

Petitioner states that the 7.14 percent depreciation rate assumes that the production life of the reserves in the HIOS supply area would be approximately 14 years. Petitioner asserts that the Davis Report demonstrates that the assumption is invalid and that delivery of reserves will occur at a rate substantially higher than that assumed by the Commission. The unit-of-production proposal uses the 2,480,000 Mcf figure reflected in the Davis Report; thus, insuring that the capital invested in facilities would be recovered at the same average depreciation cost per Mcf, it is asserted.

Petitioner further states that due to the proposed increase in firm transportation service and the change in depreciation to a unit-of-production basis, one of the conditions contained in the Commission's December 22, 1978, order in the instant docket authorizing Petitioner to render interruptible transportation service must be modified. Specifically, Petitioner requests that, insofar as it applies to Petitioner the

conditions in Ordering Paragraph (A)(3) be modified to reflect the changed circumstances, as follows.

A supplemental charge for depreciation and concurrent credit to accumulated provision for depreciation shall be recovered in an amount equal to all revenues less the applicable charge to depreciation on a unit-of-production basis attributable to annual volumes transported by U-TOS in excess of 378,315,200 Mcf.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules or practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons having heretofore filed need not do so again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35360 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Geothermal Energy Subpanel of the Energy Research Advisory Board; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Geothermal Energy Subpanel of the Energy Research Advisory Board.
Date and Time: December 7, 1979, 8:30 a.m. to 3:30 p.m.

Place: Republic Geothermal, Inc., 11823 East Slauson Avenue, Santa Fe Springs, California.

Contact: Eudora Taylor, Office of Energy Research, Department of Energy, Room 538, 1111 20th Street, N.W., Washington, D.C. 20036. Telephone: 202-254-0782.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department. The Subpanel on Geothermal Energy will make recommendations to the parent Board.

Tentative Agenda:

- Administration and Organization
- Discussion of Terms of Reference

- Discussion of Relative Priorities of Geothermal Projects
- Public Comment

Public Participation: The meeting is open to the public. Written statements may be filed with the Subpanel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the program office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Subpanel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on November 7, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-35374 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of July 9 Through July 13, 1979

Notice is hereby given that during the week of July 9 through July 13, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Data Technology Industries, Riverdale, Md., DFA-0435, Freedom of Information

Data Technology Industries (DTI) filed an Appeal from a partial denial by the Deputy Director of the DOE Office of Procurement Operations of a Freedom of Information Request. In its Appeal, DTI sought the release of a document which was withheld pursuant to 5 U.S.C. 552(b) (4) and (6). In considering the Appeal, the DOE found that the Deputy Director's Order did not provide specific reasons for withholding the document. Accordingly, the DOE remanded the matter for further consideration.

O'Connor & Hannon, Washington, D.C., DFA-0464, Freedom of Information

O'Connor & Hannon filed an Appeal from a denial by the Director of the ERA Petroleum Price Regulations Division of a Freedom of Information Act request. In its Appeal, the firm contended that the Order was

ambiguous and did not conform to the requirements of 10 CFR 1004.7(b) and that the search for the requested documents was too limited. In considering the Appeal, the DOE agreed with the firm's contentions and remanded the matter for further consideration.

Wind Energy Report, New York, N.Y., DFA-0449, Freedom of Information

Wind Energy Report filed an Appeal from a denial by the DOE Chief of Wind Systems of a Freedom of Information Act request. In considering the Appeal, the DOE concluded that certain documents should be released by the Chief of Wind Systems. With respect to other documents, the DOE remanded the matter with instructions to release the documents or to provide an adequate explanation for withholding them. An important issue discussed in the Decision is whether research reports prepared for the DOE by consultants but not yet approved for publication might nevertheless be required to be released under the FOIA.

Remedial Orders

Glenn Martin Heller, Boston, Mass., DRO-0184, Motor Gasoline

Glenn Martin Heller filed a Statement of Objections to a Proposed Remedial Order which the Northeast District Office of Enforcement of the ERA issued to him on March 6, 1979. In the PRO, the ERA found that Heller had sold motor gasoline at prices that exceeded the maximum prices permitted under 10 CFR 212.93. In considering the objection, the DOE found that Heller was bound by the provisions of 212.93 since he had acquired a retail gasoline station which was in existence on May 15, 1973. The DOE also determined that the Statement of Policy concerning the auditing of small retailers which the ERA issued on June 23, 1978 does not have the force and effect of law and does not bar enforcement actions against individual members of the specified class. Accordingly, the PRO was issued as a Remedial Order.

Lakes Gas Co., Forest Lake, Minn., DRO-0040, Propane

Lakes Gas Company filed a Statement of Objections to a Proposed Remedial Order which DOE Region V issued to the firm on April 12, 1978. The PRO alleged that during the period November 1973 through June 1975 Lakes sold propane at prices which exceeded those permitted under 6 CFR 150.359 and 10 CFR 212.93 and that Lakes failed to maintain records to demonstrate its compliance with the price regulations as required by 6 CFR 150.363(c) and 10 CFR 210.92. In considering Lakes' objection, the DOE determined that Lakes did not calculate its increased product costs in a manner consistent with 10 CFR 212.92. The DOE rejected Lakes' argument that its increased product costs should be determined by reference to its cost of sales. The DOE further determined that the Regional Office's use of a FIFO accounting method was reasonable. In addition, the DOE rejected Lakes' argument that the firm historically maintained separate inventories for each of its bulk plants. The DOE also concluded that demurrage charges which Lakes incurred during the audit period could

be included in the calculation of the firm's cost of product in inventory. Accordingly, the DOE determined that the overcharges reflected in the PRO should be reduced by the amount of the demurrage charges incurred. The PRO, as modified, was issued as a Remedial Order.

Requests for Exception

Caribbean Gulf Refining Co., Houston, Tex., DPI-0033, Crude Oil

Caribbean Gulf Refining Company filed an Application for Exception from the provisions of 10 CFR 213.35(c) in which the firm sought a refund of license fees which it paid on crude oil imported between December 20, 1978 and March 31, 1979. In addition, the firm requested exception relief from the provisions of the Equal Application Rule, 10 CFR 212.83(h). In considering the request, the DOE found that exception relief from Section 213.35(c) was necessary in order to alleviate a cost disadvantage which Gulf was experiencing in Puerto Rico. The DOE also concluded that Gulf was entitled to exception relief from the provisions of the Equal Application Rule in order to enable it to recover unrecouped costs incurred in its Puerto Rican operations. Accordingly, Gulf's Application for Exception was granted in part.

Chevron U.S.A., Inc., San Francisco, Calif., DEE-2004, crude oil

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. In its Application, Chevron requested that the working interest owners be allowed to sell the crude oil produced from the Vickers 1-Aggregated Vickers Rindge property at upper tier ceiling prices. In considering the request, the DOE found that exception relief was necessary to provide the working interest owners with an incentive to continue production. Accordingly, the Application for Exception was granted.

Consolidated Edison Co. of New York, New York, N.Y., DEE-6311, motor gasoline

The Consolidated Edison Company of New York, Inc. (ConEd) filed an Application for Exemption from the provisions of 10 CFR 211.103(c) in which the firm sought to be classified as an "energy production" concern for purposes of 10 CFR 211.51. In considering the request, the DOE found that the Application for Exemption was improperly filed, since 10 CFR 205.70 states that an applicant cannot seek an exemption from "less than an entire part, or subpart thereof" of the DOE Regulations. Accordingly, exemption relief was denied.

Rex Monahan, Sterling, Colo., DXE-2804, crude oil

Rex Monahan filed an Application for Exception from the provisions of 10 CFR 212.73 in which the firm sought permission to sell the crude oil produced from the Springen Ranch Muddy Unit at prices which were in excess of the ceiling prices. In considering the request, the DOE found that exception relief was necessary to provide the firm with an incentive to continue crude oil production operations. Accordingly, exception relief was granted to the working interest owners.

Pennzoil Producing Co., Yazoo County, Miss., DXE-5523, crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm sought an extension of exception relief previously granted. In considering the request, the DOE found that an extension of exception relief was necessary to provide the working interest owners with an economic incentive to continue crude oil production at the McGraw Stevens Waterflood Unit. Accordingly, exception relief was granted.

Pennzoil Producing Co., Yazoo County, Miss., DXE-5524, crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm sought an extension of exception relief previously granted. In considering the request, the DOE found that an extension of exception relief was necessary to provide the working interest owners with an economic incentive to continue crude oil production at the Woodruff Sand Waterflood Unit. Accordingly, exception relief was granted.

Phillips Petroleum Co., Bartlesville, Okla., FEE-3592, crude oil

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm sought to sell the crude oil produced from the Bridger Lake Unit located in Summit County, Utah, at market price levels. In considering the request, the DOE found that exception relief was necessary to provide Phillips with an economic incentive to undertake an enhanced recovery program. Accordingly, exception relief was granted.

Phillips Petroleum Co., Bartlesville, Okla., DXE-2171, crude oil

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR 212.73 in which the firm sought permission to sell the crude oil produced from the Foote Lease located in Oklahoma County, Oklahoma, in excess of ceiling prices. In considering the request, the DOE found that exception relief was necessary to provide the firm with an incentive to continue crude oil production operations. Accordingly, exception relief was granted.

Prudential Insurance Co. of America, Los Angeles, Calif., DEE-6080, motor gasoline

The Western Home Office of the Prudential Insurance Company of America filed an Application for Exception from the motor gasoline allocation regulations. In its Application, Prudential requested an increased allocation of gasoline for the vans in its van pool program. In considering the request, the DOE found that an exception was appropriate on gross inequity grounds. Accordingly, Prudential's monthly allocation was increased by an amount sufficient to enable it to maintain its van pool program at an expanded level. The DOE also stated that similar exception relief would be available to other firms which have implemented or wish to implement programs similar to the Prudential van pool program.

Union Oil Co. of California, San Francisco, Calif., DEE-2102, Crude Oil

Union Oil Company of California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. In its Application, Union requested that the working interest owners be allowed to sell the crude oil production from the Pacific Electric Pool property located in the Las Cienegas Field in Los Angeles County, California, at upper tier ceiling prices. In considering Union's request, the DOE found that Union had failed to demonstrate that the operating costs incurred by the firm at the Pacific Pool had increased to the point where Union no longer had an economic incentive to continue crude oil production. Accordingly, exception relief was denied.

Request for Modification and/or Rescission
Marathon Oil Co., Murphy Oil Co., Washington, D.C., DMR-0057, DMR-0058, Motor Gasoline

Marathon Oil Company and Murphy Oil Company filed Applications for Rescission of a Stay which the DOE issued to the U.S. Oil Company on May 22, 1979. In their Applications, Marathon and Murphy claimed that the Stay was improper because it granted affirmative relief, in considering the Applications, the DOE found that the Stay had been properly granted. The Applications for Rescission were therefore denied.

Requests for Stay
BP Oil Inc., Cleveland, Ohio, DES-0219, Motor Gasoline

BP Oil Inc. filed an Application for Stay of a Temporary Assignment Order which directed the firm to supply Petroleum Combustion International, Inc. with motor gasoline. In considering the BP request, the DOE concluded that ERA Region II had failed to provide BP with adequate notice or a fair opportunity to submit comments. Accordingly, the DOE granted a Stay of the Temporary Assignment Order for five business days.

Macmillan Ring-Free Oil Co., Inc., New York, N.Y., DRS-0221, Crude Oil

Macmillan Ring-Free Oil Company, Inc. filed an Application for Stay of the provisions of an Interim Remedial Order for Immediate Compliance which the Office of Special Counsel issued to Tenneco Oil Company on May 24, 1979. In considering the Application, the DOE determined that Macmillan had failed to show that implementation of the IROIC would cause irreparable harm to the firm or that Macmillan was likely to succeed on the merits of its objection to the IROIC. Accordingly, Macmillan's Application for Stay was denied.

Sun Oil Co., Philadelphia, Pa., DES-0370, DST-0370, motor gasoline

Sun Oil Company filed an Application for Stay of the provisions of a Redirection Order issued by the Office of Fuels Regulation on March 20, 1979. In considering the Application, the DOE determined that Sun

had demonstrated a likelihood of success on the merits of its Appeal of the Redirection Order, since the Order appeared to be defective on its face and since Sun had not been given sufficient time in which to comment in the proceeding. Accordingly, Sun's Application for Stay was granted.
Sun Oil Co., Philadelphia, Pa., DST-0226, DES-0226, motor gasoline; No. 2 diesel fuel; No. 2 heating oil

Sun Oil Company filed an Application for Stay of a Temporary Assignment Order which would require it to supply Landmark, Inc. with petroleum products. In considering the Application, the DOE found that Sun had not received adequate notice or a fair opportunity to comment on the Temporary Assignment Order prior to its issuance. Accordingly, Sun's Application for Stay was granted.

Petition for Refund
Office of special counsel, Washington, D.C., DFF-0001, refund

In response to a petition filed by the Office of Special Counsel, the Office of Hearings and Appeals issued a Decision and Order implementing the Special Refund Procedures set forth in 10 CFR, Part 205, Subpart V. The decision sets forth procedures that the DOE will use in distributing the funds that the Gulf Oil Corporation will pay pursuant to a Consent Order. More specific procedures for the filing of refund applications will be announced in a future order.

Supplemental Order
Acomi Corp., DEX-0188, motor gasoline

On July 12, 1979, a Proposed Decision and Order was issued to Acomi Corporation in which the DOE tentatively determined that Acomi's Application for Exception should be denied because the firm may have materially misrepresented the factual basis underlying its request. On the same date, the DOE issued an Order to show cause why relief granted in prior stay proceedings should not be revoked.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception, Stay, Temporary Stay, and/or Interim Order of the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company name	Location	Case No.
Walter's North	North Bellmore, NY	DXE-6662
West Broward Phillips	FL Lauderdale FL	DXE-6257
66 Service.		
Joe Emerson	Jonesboro, AR	DEN-6610
Land O'Lakes, Inc.	Washington, D.C.	DST-6972
Parker Oil Company	Des Moines, IA	DEN-3117
Midland Energy Corp.	Kansas City, MO	DEN-3188
People's Amoco	Washington, D.C.	DEN-4932
Yousef Safedine	Detroit, MI	DEN-3828
Auto-Brite Car Wash	Framingham, MA	DEN-4641

Company name	Location	Case No.
Chevron Car Wash	New Canaan, CT	DEN-5767
San-Ann Service, Inc.	Washington, D.C.	DEN-2330
R-J Enterprises, Inc.	Scottsdale, AZ	DEN-3425
Kerr-McGee Corp.	Oklahoma City, OK	DEN-2244
"L" Street Car Wash	Livermore, CA	DEN-3750
Glenn Oil Company	Lawton, OK	DEN-6061
Jones & Brown	Sallisaw, OK	DEN-3274
Enterprises, Inc.		
L. S. Riggins Oil Co.	Millville, NJ	DEN-3603
Malone Oil Company	Memphis, TN	DEN-3018
McMurrough	Dobbin, TX	DEN-6113
Mercantile		
Mini-Serve, Inc.	Beaumont, TX	DEN-5314
Red Bluff Mobil	Padena, TX	DEN-6230
Service Center.		

The following firm filed an Application for Stay of the provisions of the Motor Gasoline Allocation Regulations. The stay request, if granted, would result in an increase in the base period allocation of motor gasoline pending determination of the Application for Exception. The DOE issued a Decision and Order which determined that the stay request be denied:

Company name	Location	Case No.
Douglas Gulf & Mower Service.	Deftes, TX	DES-2996

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company name	Case No.
Blue Water Shrimp Co.	DEE-3841
Edmond Street Oil Corp.	DEE-3911; DES-3911
Laurence C. Walker	DFA-0451
McColl's Dairy Products Company	DEE-4617
Sunset Service	DEE-5258
Ledy-Hall Brake & Wheel Service	DEE-3953
Wade's Service Station	DEE-5259

Company name	Case No.
People's Amoco	DES-4932
C&J Self Service	DEE-6788
Campbell Oil Co., Inc.	DEE-2727; DST-2727
Cascade Metals Corp.	DEE-5814; DST-5814
H. R. Stasney & Sons Company	DEE-7075
Hardy Turquoise Co., Inc.	DEE-4887
Hester Oil Company	DEE-5591
Kleth Freeman	DEE-6812
Larry Barrett Truck & Auto Service	DEE-6142
Morris Johnson Chevron	DEE-6109
Nick & Paul's Auto Service	DEE-4527
Northern Petroleum, Inc.	DEE-5429
Plett Music Corp.	DEE-5336
Power Test Corp.	DEE-4068; DES-4068; DST-4068
Southern States Cooper Cooperative, Inc.	DEE-3454
Steve's Service Center	DEE-6801
Travelers Petroleum, Inc.	DXE-6287
Yousef Safedine	DES-6328
Cubs Park Service Station	DEE-7016
Stinson Grocery	DEE-5122; DES-5122
Cub Park Service Station	DEE-7016
Front Range Exxon Service	DEE-6484
Humphrey's Service	DEE-5562; DES-5562; DST-5562
Raro Automotive	DEE-4731
Thomas' Service Station & Grocery	DEE-6571; DES-5571
Stinson Grocery	DXE-5122; DES-5122
Tom's Mobil	DEE-4335
Castro Petroleum Co.	DEE-2276
Johnson Oil Company	DXE-6580
Union Oil Company of California	DEE-2352
University Gulf	DEE-5553
Wiley's Express, Inc.	DEE-6766

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are

List of Cases Received by the Office of Hearings and Appeals

[Week of July 13, 1979, through July 20, 1979]

Date	Name and location of applicant	Case No.	Type of submission
July 13, 1979	Harvey J. Bean, Erie, Pa.	DRT-0274	Request for Temporary Stay. If granted: The July 2, 1979, Interim Remedial Order for Immediate Compliance issued by the Economic Regulatory Administration Region III would be stayed pending the final determination of Harvey J. Bean's Statement of Objections.
Do	Coastal States Gas Corp., Houston, Tex.	DMR-0063	Request for modification/rescission. If granted: The DOE's June 27, 1979 Decision and Order granting the appeals of Exxon Co., U.S.A., Mobil Oil Corp., Tosco Corp., Union Oil Co. of California, and Shell Oil Co. from Redirection Orders issued by Economic Regulatory Administration Region IX on April 6, 1978 regarding Coastal States Gas Corporation's supply obligations to Tosco Corporation and Union Oil Co. of California would be modified.
Do	Hollowell Oil Co., Inc., Hertford, N.C.	DEE-7227	Allocation exception. If granted: Hollowell Oil Co. would receive an exception from the provisions of 10 CFR 211.103 with respect to an increased allocation of unleaded gasoline for the purposes of blending gasoline.
Do	U.S. Oil Co., Washington, D.C.	DEX-0183	Supplemental Order. If granted: The DOE would issue a Decision and Order directing Marathon Oil Co. to supply U.S. Oil Co. motor gasoline.
July 16, 1979	Acomi Corp., Marblehead, Mass.	DEX-0191	Supplemental Order. If granted: The DOE's Mar. 7, 1979 and Apr. 4, 1979 Decision and Order regarding the assignment of motor gasoline to Acomi Corp. would be rescinded.
Do	Akin, Gump, Hauer & Feld, Washington, D.C.	DFA-0498	Appeal of Information Request Denial. If granted: The DOE's June 13, 1979 Information Request Denial, issued by the Director of the Division of Freedom of Information and Privacy Act Activities, would be rescinded and the firm would receive access to certain DOE data.
Do	Aminol USA, Inc., Houston, Tex.	DXE-7276	Extension of relief granted in Aminol USA, Inc., 2 DOE Par. 81,114 (Oct. 24, 1978). If granted: Aminol USA, Inc., would be permitted to continue to sell the crude oil produced from the California State Lease 392, located in Huntington Beach, California, at upper tier ceiling prices.

also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Malvin Goldstein,
Director, Office of Hearings and Appeals.
November 9, 1979.

(FR Doc. 79-35476 Filed 11-15-79; 8:45 am)
BILLING CODE 6450-01-M

Notice of Cases Filed With the Office of Hearings and Appeals; Week of July 13, 1979, through July 20, 1979

Notice is hereby given that during the week of July 13, 1979 through July 20, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461, October 31, 1979.

Malvin Goldstein,
Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of July 13, 1979, through July 20, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Do	Amoco Oil Co., Chicago, Ill.	DEA-0528 DES-0528 DST-0528	Appeal of ERA Assignment Order, Request for Stay, Request for Temporary Stay. If granted: The June 29, 1979, Assignment Order issued by the Economic Regulatory Administration Region V regarding Amoco Oil Company's supply obligations of middle distillates to Farmland Industries, Inc., would be rescinded.
Do	Amoco Oil Co., Chicago, Ill.	DEA-0497 DES-0497 DST-0497	Appeal of ERA Assignment Order, Request for Stay, and Request for Temporary Stay. If granted: The June 29, 1979, Assignment Order issued by the Economic Regulatory Administration Region V regarding Amoco Oil Company's supply obligations of motor gasoline to Farmland Industries, Inc., would be rescinded.
Do	Cato Fuel Co., Inc., Aiken, S.C.	DEE-7252	Allocation Exception. If granted: Cato Fuel Company, Inc., would receive an exception from the provisions of 10 CFR Part 211, with respect to an allocation of gasoline, kerosene, and fuel oil.
Do	Chevron U.S.A., Inc., San Francisco, Calif.	DEA-0537 DES-0537 DST-0537	Appeal of Temporary Assignment Order; Request for Stay; Request for Temporary Stay. If granted: The June 21, 1979, Temporary Assignment Order issued by the Economic Regulatory Administration Region IV to Chevron U.S.A., Inc., regarding its supply obligations to Publix Oil Company, Inc., would be rescinded. Chevron U.S.A., Inc., would be granted a Stay and Temporary Stay pending final determination of its Appeal.
Do	John M. Davis, Stephens, Ark.	DEE-7364	Price Exception (section 212.73). If granted: John M. Davis would be permitted to sell the crude oil produced from the J. P. Davis No. 1 Well at stripper well prices.
Do	Dixie Oil Co., Washington, D.C.	DEL-0001	Request for Temporary Exception. If granted: The Dixie Oil Co. would receive a temporary exception from the provisions of 10 CFR Part 211 pending a decision on an Application for Exception, which Dixie Oil Company indicated it will file in the near future.
Do	F. L. Roberts & Co., Inc., Springfield, Mass.	DSG-0058	Petition for Special Redress. If granted: F. L. Roberts & Co., Inc., would be assigned a new supplier to furnish the May and June 1979 base period volumes of motor gasoline for eight retail sales outlets.
Do	Gulf Oil Co., St. Martin Parish, La.	DEE-7350	Price Exception (section 212.73). If granted: Gulf Oil Co. would be permitted to continue to sell crude oil produced at the Rycade Oil Corp. et al. lease, located in St. Martin Parish, La., at upper tier ceiling prices.
Do	Jones & Brown Enterprises, Inc., Sallisaw, Okla.	DEX-0194	Supplemental Order. If granted: The DOE's July 12, 1979 Interim Decision and Order issued to Jones & Brown Enterprises, Inc., regarding a change of supplier, would be modified.
Do	Koch Industries, Inc., Wichita, Kans.	DXE-7272	Extension of relief granted in Koch Industries, Inc. DOE Par. (June 27, 1979). If granted: Koch Industries, Inc. would be permitted to continue to sell the crude oil produced from the Sink Draw #1 lease, located in Tuchesne County, Utah, at upper tier ceiling prices.
Do	Louisiana Land and Exploration Co., Washington, D.C.	DRD-0199	Motion for Discovery. Washington, D.C. If granted: Discovery would be grant Louisiana Land and Exploration Company regarding the Statement of Objections to the Proposed Remedial Order issued to Texaco, Inc. (Case No. DRO-0199).
Do	Marathon Oil Co., Findlay, Ohio	DEA-0508, through DEA-0518 DST-0508 through DST-0518 DST-0518	Appeal of Temporary Assignment Orders; Request for Temporary Stay. If granted: The nine Temporary Assignment Orders issued May 1, 1979 by the Economic Regulatory Administration Region IV to Marathon Oil Company regarding Marathon's supply obligations to nine American Petrofina branded jobbers would be rescinded. The firm would receive a Temporary Stay pending a final determination on its Appeal.
Do	Mobil Oil Corp., AMF O'Hare, Ill.	DST-0067	Request for Temporary Stay. If granted: Mobil Oil Corporation would be granted a Temporary Stay of the June 21, 1979 Temporary Assignment Order issued by Economic Regulatory Administration Region V regarding Mobil's supply obligations to Farmland Industries, pending a decision on Mobil's Appeal of the Order.
Do	David G. Palamara, Atlantic Highlands, N.J.	DRT-0062 through DRT-0064	Request for Temporary Stay. If granted: David G. Palamara would receive a Temporary Stay of the three Interim Remedial Orders for Immediate Compliance issued by the Economic Regulatory Administration Region II.
Do	Southern Bell Telephone & Telegraph Co., Fort Lauderdale, Fla.	DEL-0002	Request for Temporary Exception. If granted: The Southern Bell Telephone and Telegraph Co. would receive a temporary exception from the provisions of 10 CFR 211.9(a), and a new supplier would be assigned to replace PDS.
Do	Standard Oil Co. of Indiana, Chicago, Ill.	DRS-7003 DRT-7003	Request for Stay and Request for Temporary Stay of Ancillary Order. If granted: Standard Oil Co. of Indiana would receive a Stay and a Temporary Stay of the June 29, 1979 Ancillary Order issued to the firm by the Economic Regulatory Administration Region VI pending a final determination of the appeal which the firm intends to file.
Do	Union Oil Co. of California, Los Angeles, Calif.	DEE-7357	Price Exception (section 212.72). If granted: Union Oil Company of California would be permitted to sell the crude oil produced from the Pacific Electric Pool, Las Cienegas Field, located in Los Angeles County, California, at upper tier ceiling prices.
Do	Vickers Petroleum Corp., Wichita, Kans.	DEA-0515 DES-0515 DST-0068	Appeal of Redirection Order; Request for Stay; Request for Temporary Stay. If granted: The June 18, 1979, Redirection Order issued to Vickers Petroleum Corp. by the Economic Regulatory Administration Region VI regarding Vickers supply obligations to Gible Oil Co. would be rescinded. Vickers Petroleum Corp. would receive a Stay and Temporary Stay from the Redirection Order pending final determination of its Appeal.
Do	Vickers Petroleum Corp., Wichita, Kans.	DEA-0522 through DEA-0527 DES-0522 DES-0527	Appeal of five Redirection Orders and one Temporary Assignment Order; Request for Stay of these Orders. If granted: The five May 8, 1979 Redirection Orders, issued to Saweway Oil Co., Sheets Oil Co., Quest Petroleum Co., Inc., Stephen Oil Co., Inc., and Fentress Oil Co. and the Temporary Assignment Order issued to Marcum Oil Co. regarding Vickers Petroleum Corp. supply obligations to them would be rescinded. Vickers Petroleum Corp. would receive a stay of the Orders pending final determination on its appeals.
Do	William Acuft, Washburn, Tenn.	DRA-0507	Appeal of Information Request Denial. If granted: The DOE's June 8, 1979, Information Request Denial issued by the Inspector General of the Department of Energy would be rescinded and William Acuft would receive access to certain DOE documents.
July 17, 1979.	Ashland Oil Co., Ashland, Ky.	DES-0230 DST-0230	Request for Stay and Temporary Stay. If granted: Ashland Oil Co. would receive a stay and temporary stay of the Assignment Order issued by the Economic Regulatory Administration Region V regarding Ashland's supply obligations to Landmark, Inc.
Do	Hawkie's Service Station, Malden, Mass.	DRS-0281	Request for Stay. If granted: Hawkie's Service Station would be granted a stay of the July 8, 1979 Interim Remedial Order for Immediate Compliance issued by the Economic Regulatory Administration Region III regarding change of normal business practices.
Do	Sidney E. Pinkston, Jr., Dallas, Tex.	DXE-7310	Extension of relief granted in Sidney E. Pinkston, Jr., 4 DOE Par. (Mar. 18, 1979). If granted: Sidney E. Pinkston Jr. would be permitted to continue to sell the crude oil produced from the USA wells 1, 5, and 7 located in Adams County, Mississippi at upper tier ceiling prices.
Do	Publicker Industries, Inc., Greenwich, Conn.	DEE-7356	Allocation Exception. If granted: Publicker Industries, Inc., would receive an exception from the provisions of 10 CFR Part 211; permitting the assignment of unleaded gasoline for use in the blending of gasoline.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of July 13, 1978, through July 20, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Do	Standard Oil Co., of Indiana Chicago, Ill.	DRT-0065	Request for Temporary Stay of Ancillary Order. If granted: The Standard Oil Company of Indiana would be granted a Temporary Stay of the June 29, 1979 Ancillary Order issued by Economic Regulatory Administration Region V regarding refunds of over-charges.
July 18, 1979.	Belcher Oil Co., Washington, D.C.	DRD-0097	Motion for Discovery. If granted: Discovery would be granted with respect to the Statement of Objections to a Proposed Remedial Order issued to Belcher Oil Company (Case No. DRO-0192).
Do	Derby Refining Co., Wichita, Kans.	DEE-7366	Price Exception. If granted: Derby Refining Co. would receive an exception from the provisions of 10 CFR 212.83 permitting the firm to pass through incremental expenses relating to the blending, storage, distribution and marketing of gasoline.
Do	The District of Columbia, Washington, D.C.	DEL-0003	Request for Temporary Exception. If granted: The District of Columbia would receive a Temporary Exception from the provisions of 10 CFR Part 211 pending a decision on an Application for Exception which the District of Columbia has indicated it will file in the near future.
Do	Florida Power & Light Co., Miami, Fla.	DRD-0192	Motion for Discovery. If granted: Discovery would be granted with respect to the Statement of Objections to a Proposed Remedial Order issued to Belcher Oil Co. (Case No. DRO-0192).
Do	Gulf Oil Corp., Houston, Tex.	DRX-0196	Supplemental Order. If granted: An escrow account established under DOE's Decision and Order dated Feb. 5, 1978 (Case No. FES-0733) issued to Gulf Oil Corp. would be disbursed.
Do	Pennzoil Producing Co., Houston, Tex.	DMR-0062	Request for Modification/Rescission. If granted: The DOE's June 27, 1979, Decision and Order (Case No. DXE-2189) issued to Pennzoil Producing Co. would be modified with respect to sales of new crude oil.
Do	Standard Oil Co. of Indiana, Kenia Peninsula Borough, Alaska.	DEE-7370	Price Exception (section 212.72). If granted: Standard Oil Co. of Indiana would be permitted to sell the crude oil produced from the South Middle Ground Shoal Unit, located in Kenia Peninsula Borough, Alaska, at upper tier ceiling prices.
Do	Standard Oil Co. of Indiana, Chicago, Ill.	DRS-0229	Request for Stay. If granted: The June 29, 1979 Ancillary Order issued by the Economic Regulatory Administration Region III to Standard Oil Co. of Indiana, regarding over-charges by R. Lacy, Inc., for sales of crude oil, would be stayed.
Do	Texaco, Inc., White Plains, N.Y.	DRD-0098	Motion for Discovery. If granted: Discovery would be granted with respect to the Statement of Objections to a Proposed Remedial Order issued to Texaco, Inc. (Case No. DRO-0199).
July 19, 1978.	Alfredo Perez, Jr., Elizabeth, N.J.	DRT-0289	Request for Temporary Stay. If granted: The July 5, 1978, Interim Remedial Order for Immediate Compliance issued by the Economic Regulatory Administration Region II, would be stayed pending DOE's review of the Alfredo Perez, Jr.'s Statement of Objections (Case No. DRO-0289).
Do	Atlantic Richfield Co., Los Angeles, Calif.	DRD-0229 DRH-0229	Motion for Discovery and Motion for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened with respect to Atlantic Richfield Company's Statement of Objections to an Interim Remedial Order for Immediate Compliance.
Do	George Alexiades Elizabeth, N.J.	DRT-0290	Request for Temporary Stay. If granted: George Alexiades would receive a temporary stay of July 5, 1979, Interim Remedial Order for Immediate Compliance issued by the Economic Regulatory Administration Region II.
Do	Kirschner Brothers Oil Co., Washington, D.C.	DEE-7408	Allocation Exception. If granted: Kirschner Brothers Oil Co. would receive an exception from the provisions of 10 CFR 211.103 permitting the assignment of an unleaded gasoline supply to be used in the blending of gasoline.
Do	Monsanto Co., Houston, Tex.	DXE-7417	Extension of relief granted in Monsanto Co. 4 Par. (Feb. 9, 1979). If granted: Monsanto Company would be permitted to continue to sell the crude oil produced from Hendrick "A" Field, located in Winkler County, Texas, at stripper well prices.
Do	Monsanto Co. (Hendrick "C" Lease) Winkler County, Tex.	DXE-7821	Extension of Relief granted in Monsanto Co., 4 DOE Par. (Feb. 9, 1979) If granted: Monsanto Company would be permitted to continue to sell the crude oil from the Hendrick "C" Lease, located in Winkler County, Texas, at upper tier ceiling prices.
Do	Oregon State Board of Bar Examiners, Portland, Ore.	DEE-7396	Exception from the provisions of 10 CFR Part 490. If granted: The Oregon State Board of Bar Examiners would receive an exception from the provisions of 10 CFR Part 490, with respect to the Emergency Temperature Building Restrictions.
Do	Soules & McCamish, San Antonio, Tex.	DFA-0518	Appeal of an Information Request Denial. If granted: The DOE's July 2, 1979 Information Request Denial issued by the Director of Military Application would be rescinded, and Soules & McCamish would receive access to a document entitled "A History of the Nuclear Weapons Stockpile."
July 20, 1979.	Dalton J. Woods, Shreveport, La.	DRD-0222	Motion for Discovery. If granted: Discovery would be granted with respect to Dalton J. Wood's Statement of Objections to a Proposed Remedial Order (Case No. DRO-0222).
Do	Textel Petroleum Corp., Washington, D.C.	DRD-0200 DRH-0200	Motion for Evidentiary Hearing; Motion for Discovery. If granted: An evidentiary hearing would be convened and Discovery would be granted with respect to the Statement of Objections submitted by Textel Petroleum Corporation and RJ International Oil & Gas, Inc., to a Proposed Remedial Order.

Notices of Objection Received

[Week of July 13, through July 20, 1979]

Date	Name and Location of Applicant	Case No.
7/13/79	Kenwood Texaco, Duluth, Minn.	DEO-0276
7/16/79	Big K Oil Co. Hattiesburg, Miss.	DEE-2494
7/16/79	Ron's Shell Service, Inc., Martinez, Calif.	DEE-5912
7/18/79	Wally's Oil Co., Wilton, Minn.	DEE-1291
7/17/79	Norm's MFA, Highland, Ill.	DEO-0280
7/15/79	Ferguson Service, Ferguson, Mo.	DEE-2511
7/16/79	Bayside Exxon, Virginia Beach, Va.	DEO-0285
7/19/79	Navin's Service, Inc., Allentown, Wis.	DEO-0267
7/20/79	Town & Country Food Markets, Wichita, Kans.	DEE-2863

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of July 13 through July 20, 1979]

If granted: the following firms would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

July 13, 1979

Bretton Shell, DEE-7210, Michigan.
Bighton Auto Body & Repair Inc., DEE-7235, Massachusetts.
Bubber's Exxon, DEE-7241, Tennessee.
Burton Gulf, DEE-7212, New Jersey.

Catheys Valley Co., DEE-7216, California.
City or Port Clinton, DEE-7234, Ohio.
Colburn's Shell service, DEE-6137, Michigan.
Cove Exxon, DEE-7229, Oregon.
Dollar Rent-A-Car, DEE-7215, Colorado.
Dunston Enterprises, Inc., DEE-7236, Virginia.
Eagle's Chevron Service, DEE-7233, Montana.
Fina Jobbers Association, Inc., DEE-5568, Virginia.
Grasso, Albert A., DEE-7221, California.
Jo Mao Car Wash, DEE-7230, California.
McBrayer, D.L., DEE-7240, California.
Mr. Clean Car Wash, Inc., DEE-7224, Louisiana.

Nome Quick Stop, DEE-7232, Texas.
 Perry Alexander Construction, DEE-7225, North Carolina.
 Polanco Service Station, Inc., DEE-7228, New York.
 Quincy Oil, Inc., DEE-7213, Massachusetts.
 Refiner's Oil Company, DEE-7238, North Dakota.
 Santa Cruz Fina Station #25, DEE-7242, Florida.
 Spandau Certified Auto Repairs, DEE-7222, New York.
 Spangler Oil Co., DEE-7223, Pennsylvania.
 Steve Lane Sunoco, DEE-7243, Ohio.
 Wayne Tipton Grocery, DEE-7231, North Carolina.
 Winther Chevron, DEE-7211, California.
 Wolfe's Arco, DEE-7226, Pennsylvania.
 July 16, 1979
 Airport "68" Service, DEE-7248, Utah.
 Armstrong, Tom, DEE-7264, California.
 Ballentine Gulf, DEE-7244, South Carolina.
 Bro Len Service Center, DEE-7255, Massachusetts.
 Car Shine Auto Wash, DEE-7374, Ohio.
 Centerville Oil Company, Inc., DEE-7278, Alabama.
 Chiles Oil, Inc., DEE-6812, Tennessee.
 Christy's Market, Inc., DEE-7389, Massachusetts.
 Chuck Diehl Oil Service, Inc., DEE-7381, Indiana.
 Cumberland Parkway Standard, DEE-7257, Kentucky.
 Cundiff Oil Company, Inc., DEE-7375, New Jersey.
 David Steward's Arco Service, DEE-7194, California.
 Dillon Falls Store, DEE-7261, Ohio.
 E & B Oil Co., Inc., DEE-7260, North Carolina.
 Economy Oil Co., DEE-7373, North Carolina.
 Forrest General Chevron Service, DEE-7274, Mississippi.
 Fort Peck Super Service, DEE-7458, Montana.
 Garland Brothers Pet. Products, DEE-7253, Texas.
 Gary Hanson's Exxon Station, DEE-7251, Colorado.
 Geiger's Sunoco, DEE-7258, Pennsylvania.
 Harbor Service Center, DEE-7245, California.
 Hawthorne Lane Shell Service, DEE-7403, North Carolina.
 Hughes Tool Company, DEE-7382, Texas.
 Kar Clinic, DEE-7277, Pennsylvania.
 Ketzenberg Oil Co., DEE-7378, New Jersey.
 Ladysmith Gulf, DEE-7283, Virginia.
 Lowry's Gulf, DEE-7269, Georgia.
 Lynn Smith's Arco Mini Mart DEE-7250, California.
 Malone-Cook Gulf Station, DEE-7266, Arkansas.
 Mid-County Distributors, DEE-7270, California.
 Miller, Edford C., DEE-7268, Oregon.
 North Miami Beach Fina, DEE-7249, Florida.
 Perdue, Franklin P., DEE-7380, Maryland.
 Plainfield Auto Sales & Service, DEE-7265, Connecticut.
 Pocono Airlines, Inc., DEE-7450, Pennsylvania.
 Ray's Standard, DEE-7460, Montana.
 Reeves, Ray W., DXE-7409, Georgia.
 Rodgers Oil Co., DEE-7390, Montana.

Ron's Interstate Chevron, DEE-7256, Colorado.
 Rucker, Joe, DEE-7247, Alabama.
 S & E Oil Co., Inc., DEE-7379, Louisiana.
 Schmidt, John, DEE-5268, Colorado.
 South College Chevron, DEE-7246, Colorado.
 The Market Basket, DEE-7360, Tennessee.
 Tommy's Standard, DEE-7459, Montana.
 Turner, R.E., DEE-7259, Texas.
 V & Y Garage, Inc., DEE-7262, Massachusetts.
 Vantage Petroleum Corp., DEE-7275, New York.
 Williston Standard, DEE-7271, North Dakota.
 July 17, 1979
 Aetna Life and Casualty, DEE-7289, Connecticut.
 Bar Mills Market, 7288, Maine. DEE-7288, Maine.
 Beal's Car Wash, DEE-7308, Maine.
 Budget Rent-A-Car of Boston, DEE-7285, Massachusetts.
 Butch Taylor's Exxon, DEE-7372, South Carolina.
 Caton Amoco Service Station, DEE-7381, Maryland.
 Cedar Stock Resort, DEE-7189, California.
 Chuck's Exxon, DEE-7362, Alabama.
 City of Haverhill, DEE-7287, Massachusetts.
 City of Murray, DEE-7352, Kentucky.
 Crossroads Service, DEE-7281, North Dakota.
 Darcy Automotive Service, DEE-7349, Massachusetts.
 Estrellita Estates Co., DEE-7398, California.
 Fairview Marina, DEE-7384, California.
 Fischer's Service Station, Inc., DEE-7418, Rhode Island.
 Fredette Chevrolet, Inc., DEE-7307, Vermont.
 Grasso's Olneyville Gulf, Inc., DEE-7299, Rhode Island.
 Jim's Service Station, Inc., DEE-7291, Massachusetts.
 John's Gulf Service, DEE-7305, Massachusetts.
 Johnson's Texaco, DEE-7394, New Jersey.
 Ken's Exxon, DEE-7309, Connecticut.
 M & M Redemption Center, DEE-7283, Vermont.
 Mac's Exxon, DEE-7298, Vermont.
 Main Street Shell, DEE-7295, Massachusetts.
 Main Street Texaco, DEE-7292, Massachusetts.
 Maranatha Exxon, U.S.A., DEE-7344, Rhode Island.
 Marty's Amoco, DEE-7354, Maryland.
 Marty's Service, DEE-7280, California.
 McKenney's Tire Center, DEE-7290, Maine.
 Mityas, Mousa, DEE-7304, Connecticut.
 Montpelier Amoco, DEE-7346, Vermont.
 Nick's Gulf, DEE-7308, Massachusetts.
 North of the Border Shell, DEE-7286, Vermont.
 Pawcatuck Chevron, DEE-7341, Connecticut.
 Pitstop #3 Gas & Food Mart, DEE-7376, Illinois.
 Recreation Plus, Inc., DEE-7164, California.
 Red Clay Creek Exxon, DEE-7347, Delaware.
 Roadrunner Food Mart, Inc., DEE-7393, Louisiana.
 Run's Amoco Service Station, DEE-7355, Massachusetts.
 Rose's Oil Service, Inc., DEE-7293, Massachusetts.

Rousseau's Texaco, DEE-7348, Connecticut.
 Sittard Service Station, DEE-7300, Massachusetts.
 Stockbridge Gulf Station, DEE-7284, Massachusetts.
 Telly's Arco, DEE-7306, Massachusetts.
 Terry's Gulf Service, DEE-7351, Arkansas.
 The Brewer Co. of Florida, Inc., DEE-7282, Florida.
 The Lighthouse Mobil, DEE-7353, California.
 Warton, Clyde Sr., DEE-7302, Vermont.
 Wesco, Inc., DEE-7297, Vermont.
 White River Shell, DEE-7321, Vermont.
 Winnie's Auto Service, DEE-7296, Massachusetts.
 July 18, 1979
 Ah Tye Brothers Shell, DEE-7367, California.
 Al's Mobile Service Station, DEE-7868, Michigan.
 Borders Summit Market, DEE-7369, Kentucky.
 Center 66 Service, DEE-7588, Nebraska.
 Emil's Arco, DEE-7385, California.
 Jacob, Vahid S., DEE-7343, Massachusetts.
 Nick's Marina, DEE-7388, New York.
 South Hill Inc., DEE-7342, Connecticut.
 Wilsey Auto Service, Inc., DEE-7358, Florida.
 July 19, 1979
 Abraham Oil Company, DEE-7397, Texas.
 Calfee Company of Dalton, Inc., DEE-7383, Georgia.
 Dedham Servicenter, Inc., DEE-7294, Massachusetts.
 Harvey's Arco & Mini-Mart, DEE-7407, California.
 Linke Brothers, Inc., DEE-7399, New Jersey.
 Malcolm Black Associates, Inc., DEE-7401, Connecticut.
 Palm Oil Company, Inc., DEE-7461, California.
 Pomperaug Shell, DEE-7462, Connecticut.
 River Oaks Amoco, DEE-7400, Virginia.
 S. Nuccio & W. H. Gebhardt, DEE-7406, Illinois.
 White Petroleum, DEE-7395, Indiana.
 Yarber's Marathon Service, DEE-7405, Indiana.
 July 20, 1979
 Borrelli Chevron Service, DEE-7416, California.
 Davis Gulf Station, DEE-7410, Arkansas.
 Discount Texaco, DEE-7411, California.
 Harvey Company, DEE-7413, Connecticut.
 Kentwood Spring Water, Inc., DEE-7413, Louisiana.
 Lyman, W. H., DEE-7412, Massachusetts.
 July 22, 1979
 Murphy's Red Horse Service Sta. DEE-7345, Massachusetts.
 July 23, 1979
 Anlee Service Station, DEE-7432, New York.
 Atso Service Center, DEE-7431, Virginia.
 Baden Texaco, DEE-7464, Maryland.
 Beisaw's Garage, DEE-7422, Maine.
 Brien Oil Co., DEE-7444, Massachusetts.
 Burke Auto Service, Inc., DEE-7419, Massachusetts.
 C.L. Butler Garage & Service Sta, DEE-7465, Pennsylvania.
 Central Delivery Service Mass., DEE-7423, Massachusetts.

Chateau Oil Company, DEE-7637, Texas.
 Development Service, DEE-7287, Pennsylvania.
 Dick's Texaco Service, DEE-7438, California.
 East Street Gulf, DEE-7484, Massachusetts.
 Economy Amoco, DEE-7448, Massachusetts.
 Gengarely's Hillcrest, DEE-7421, Connecticut.
 Gozzos Service Center S.Windso, DEE-7445, Connecticut.
 Hamner Oil Company, DEE-7430, Texas.
 Hampton Park Exxon, DEE-7440, South Carolina.
 John's Getty, DEE-7427, Massachusetts.
 Malco Products, Inc., DEE-7455, Ohio.
 Malco Products, Inc., DEE-7456, Ohio.
 Malco Products, Inc., DEE-7457, Ohio.
 McKoon Oil Co., Inc., DEE-7434, Alabama.
 Norman E. Whitney, Inc., DEE-7428, Maine.
 Olen's Texaco, DEE-7446, Louisiana.
 Plasticrete Block & Supply Cor, DEE-7420, Connecticut.
 Plymouth Gas House, DEE-7435, North Carolina.
 Porter Citgo, DEE-7425, Massachusetts.
 Smather's & Company, DEE-7441, Kentucky.
 SPC Service Co., Inc., DEE-7426, Massachusetts.
 The Village Market, DEE-7442, Maine.
 Vernon Auto Wash, Inc., DEE-7447, Connecticut.
 Winsted Arco, DEE-7424, Connecticut.
 Wright & Wright Auto Repair, DEE-7437, California.
 July 24, 1979
 Arnold Shell, DEE-7478, Nevada.
 Augusta Road Exxon, DEE-7471, South Carolina.
 Beckham and Sons Phillips 66 Ser, DEE-7404, Kentucky.
 Bell Meade Shell, DEE-7474, South Carolina.
 Bohannon, Lewis, DEE-7451, Florida.
 Bolin, Louie B., DEE-7472, South Carolina.
 Briarwood Gulf, DEE-7454, Mississippi.
 Bryson's Gulf Service, DEE-7443, North Carolina.
 Charles Brown Oil Company, DEE-7107, Florida.
 Enriquez, Servando, DEE-7475, California.
 Grove Auto Service Center, DEE-7436, New Jersey.
 Holtz Service, DEE-7479, Wisconsin.
 Joe and Bill's, DEE-7483, Alabama.
 Kellett, T.C., DEE-7470, South Carolina.
 Kobeissi Automotive, DEE-7477, California.
 Mat Hurwitz & Sons, DEE-7482, Massachusetts.
 Mr. K Exxon, DEE-7463, South Carolina.
 New Orleans Steveorinf, Co., DEE-5583, Louisiana.

P & W Oil Company, Inc., DEE-7439, Virginia.
 Power Test Corporation, DEE-7481, District of Columbia.
 Reves, Bobby, DEE-7469, South Carolina.
 Scott's Mini-Market, DEE-7480, Pennsylvania.
 Smith's Gulf Station, DEE-7476, Arkansas.
 South Bay Shell, DEE-7489, California.
 Sue Shelton's Texaco, DEE-7488, Alabama.
 Wells Fargo Armored Service, DEE-7501, Louisiana.
 Whipple 17 Mobil, DEE-7414, California.
 William L. Gibbs Shell, DEE-7473, South Carolina.
 July 25, 1979
 Amber Lubricant Company, Inc., DEE-7505, California.
 Deitrick, Lewis E., DEE-7502, Ohio.
 Don's Jiffy Store, DEE-7500, Florida.
 Lin Park Grocery & Hardware, DEE-7508, Louisiana.
 Loden Oil Company, DEE-7491, Mississippi.
 Minit Mart, DEE-7462, Kentucky.
 Navy Yard Shell, DEE-7499, District of Columbia.
 Oils Incorporated, DEE-7486, Illinois.
 P B C Inc., DEE-7503, Kansas.
 Pollock-Collins Oil Co., Inc., DEE-7497, Alabama.
 Pratt Texaco Service, DEE-7498, Ohio.
 Saxon Oil Company, Inc., DEE-7504, Alabama.
 Sligo General Store, DEE-7487, Pennsylvania.
 Thorton, Roger, DEE-7492, Montana.
 Tony's Texaco, Inc., DEE-8341, Florida.
 Tri-City Rentals, Inc., DEE-7494, Tennessee.
 Vermont Morgan Corp., DEE-7618, Vermont.
 Willis Gap General Store, DEE-7493, Virginia.
 July 26, 1979
 Ball Shell Service, DEE-6156, North Carolina.
 Bill's Service Center, DEE-7509, Minnesota.
 City of Ann Arbor, Michigan, DEE-1980, Michigan.
 Clark's Automotive Service, DEE-7512, Arkansas.
 Dixie Oil Co. of Al. Inc., DEE-7513, Mississippi.
 Enka Shell Service, DEE-7516, North Carolina.
 Frank Greiner Welding & Fabricat, DEE-7466, Pennsylvania.
 J.A. Nere Company, Inc., DEE-7515, Virginia.
 Len's Self service & Mini Shop, DEE-7490, Illinois.
 Limehouse Gulf Station, DEE-7511, South Carolina.
 Monk's Shoppette, DEE-7514, Georgia.
 Rich's Shell Service, DEE-7510, California.
 Ron's Skelly Service, DEE-7641, Iowa.

Wise Oil & Fuel, Inc., DEE-7564, Maryland.
 Yellow Cab Co., DEE-7538, Illinois.
 July 27, 1979
 Bullock's Exxon, DEE-7541, Ohio.
 City of Ely, Minnesota, DEE-7737, Minnesota.
 City of Santa Fe Springs, DEE-7531, California.
 Gas N Groceries, DEE-7523, North Carolina.
 Gas N Groceries, DEE-7524, North Carolina.
 Gas N Groceries, DEE-7525, North Carolina.
 Gas N Groceries, DEE-7526, North Carolina.
 Hearn Circle Shell, DEE-7522, South Carolina.
 Hess Gulf Service Station, DEE-7521, Maryland.
 John's Standard Service, DEE-7520, Georgia.
 Murphy's Service, DEE-7529, Kansas.
 Purser Oil Company, DEE-7530, Georgia.
 Ray's Auto Station, DEE-7528, Rhode Island.
 Ruscon Big C Stores, DEE-7532, Alabama.
 Ruscon Big C Stores #2, DEE-7587, Alabama.
 Steamboat Springs Station #1, DEE-7534, Colorado.
 Items Retrieved 266
 [FR Doc. 79-34855 Filed 11-15-79; 8:45 am]
 BILLING CODE 6450-01-M

Notice of Cases Filed With the Office of Hearings and Appeals; Week of August 24, 1979, through August 31, 1979

Notice is hereby given that during the week of August 24, 1979 through August 31, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.
Melvin Goldstein,
Director, Office of Hearings and Appeals.
 October 31, 1979.

List of Cases Received by the Office of Hearings and Appeals

(Week of Aug. 24, 1979, through Aug. 31, 1979)

Date	Name and location of applicant	Case No.	Type of submission
Aug. 24, 1979	H & H Manhattan, New York, N.Y.	DEE-7971	Price Exception. If granted: H & H Manhattan would be granted an exception from the provisions of 10 CFR 430; therefore, the firm would be permitted to sell motor gasoline above the applicable ceiling price.
Do	Marathon Oil Co., Findlay, Ohio	DED-6387	Motion for Discovery. If granted: Discovery would be granted to Marathon Oil Co. in regard to U.S. Oil Co. Application for Exception.
Do	Texaco (Saber), White Plains, N.Y.	DEA-0609	Appeal of Allocation Order. If granted: The June 29, 1979 Allocation Order issued to Saber Refining Co. by the Economic Regulatory Administration regarding its application for an Emergency Supplemental Allocation under the Buy/Sell Program would be rescinded.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Aug. 24, 1979, through Aug. 31, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Do	Texaco (Tipperary), White Plains, N.Y.	DEA-0611	Appeal of Allocation Order. If granted: The June 29, 1979, Allocation Order issued by the Economic Regulatory Administration to Tipperary Refining Co. regarding its application for Emergency Supplemental Allocation under the Buy/Sell Program would be rescinded.
Do	Texaco (United Refining Co.), White Plains, N.Y.	DEA-0608	Appeal of Allocation Order. If granted: The June 29, 1979, Allocation Order issued by the Economic Regulatory Administration to United Refining Co. regarding the firm's application for an Emergency Supplemental Allocation under the Buy/Sell Program would be rescinded.
Do	Texaco (Western Refining Co.), White Plains, N.Y.	DEA-0610	Appeal of Allocation Order. If granted: The June 29, 1979 Allocation Order issued by the Economic Regulatory Administration to Western Refining Co. regarding the firms application for Emergency Supplemental Allocation under the Buy/Sell Program would be rescinded.
Aug. 27, 1979	Akin, Gump, Hauer, Feld, Washington, D.C.	DFA-0615	Appeal of Denial of Information Request. If granted: The July 27, 1979 denial of a Request for Information would be rescinded, and requested information would be released to Akin, Gump, Hauer, Feld.
Do	Chevron USA, Inc. (Kingsport Fuels), San Francisco, Calif.	DEA-0606 DES-0606 DST-0606	Appeal, Stay, Temporary Stay of Temporary Assignment Order. If granted: The June 28, 1979 Assignment Order issued by ERA Region IV to Kingsport Fuels, Inc. increasing Chevron USA, Inc.'s supply obligations to the firm would be rescinded. Chevron, USA would be granted a stay and temporary stay pending a final determination on its appeal.
Do	Chevron USA, Inc. (Mountain), San Francisco, Calif.	DEA-0605 DES-0605 DST-0605	Appeal of Assignment Order, Request for Stay and Temporary Stay. If granted: The June 28, 1979 Assignment Order issued by the ERA Region IV to Mountain Empire Oil Co., increasing Chevron USA, Inc.'s supply obligations to the firm, would be rescinded. Chevron USA would be granted a stay and temporary stay pending a final determination of its Appeal.
Do	Cortlandt Servicenter, East Bronx, N.Y.	DEE-7996	Price Exception. If granted: Cortlandt Servicenter would be granted an exception from the provisions of 10 CFR 212; therefore, the firm would be permitted to sell motor gasoline above the applicable selling price.
Do	Edwin L. Cox, Jefferson Davis Parish, La.	DXE-7976	Price Exception (section 212.73). If granted: Edwin L. Cox would be permitted to continue to sell crude oil from the Seward LeJueune Lease in Jefferson Davis, La. at higher prices than permitted by 10 CFR Section 212.73.
Do	Arthur Destelano, Miami, Fla.	DEE-7970	Exception to Emergency Building Temperature Restrictions. If granted: Arthur Destelano would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Do	Exxon Co. USA, Washington, D.C.	DEA-0614	Appeal of Assignment Order. If granted: The July 25, 1979, Assignment Order, issued by the Economic Regulatory Administration, to Exxon Co., USA, increasing its supply obligations to Triangle Refining Corp. would be rescinded.
Do	Gulf Oil Corp., Houston, Tex.	DEA-06145	Appeal of Assignment Order. If granted: The July 13, 1979 Assignment Order issued to Gulf Oil Corp. by ERA Region V increasing Gulf Oil Corporation's supply obligations to Safedine, Inc. would be rescinded.
Do	Shell Oil Co. (Rudy Brother), Houston, Tex.	DEA-0612	Appeal of Assignment Order. If granted: The Aug. 2, 1979 Assignment Order issued by Economic Regulatory Administration to Rudy Brother increasing its supply of motor gasoline from Orting Feed and Supply would be modified.
Do	Shell Oil (Maury Island), Houston, Tex.	DEA-0631	Appeal of an Assignment Order. If granted: The Aug. 2, 1979, Assignment Order issued by Economic Regulatory Administration Region X, to Williams Heating Oil, a Shell jobber, increasing its supply obligations to Maury Island Farming Co. would be rescinded.
Do	Shell Oil (Modern Valley Dairy), Houston, Tex.	DEA-0517	Appeal of an Assignment Order. If granted: The Aug. 3, 1979, Assignment Order issued by Economic Regulatory Administration Region X to Orting Feed & Supply, a Shell distributor, increasing its supply obligations to Modern Valley Dairy would be rescinded.
Do	True Oil Purchasing Co., Casper, Wyo.	DRH-0070	Evidentiary Hearing. If granted: An evidentiary hearing would be convened with respect to the Statement of Objections submitted by True Oil Purchasing Co. in response to a Proposed Remedial Order (DRO-0264) issued to Mexico Oil Co.
Aug. 28, 1979	33rd Street Amoco, Orlando, Fla.	DEA-0618	Appeal of Assignment Order. If granted: The July 26, 1979, Assignment Order issued by the Economic Regulatory Administration Region IV, regarding the firm's base period assignment of motor gasoline would be rescinded.
Do	Champlin Petroleum, Fort Worth, Tex.	DEE-7989	Price Exception. If granted: Champlin Petroleum would be permitted to continue to sell crude oil produced from the State of New Mexico 18 leases, located in Lea County, N. Mex. at higher prices than permitted by 10 CFR 212.
Do	Demorex U.S. Oil Co. Dallas, Tex.	DEE-7994	Exception to the Filing Requirement. If granted: Demorex US Oil Co. would not be required to file Form EIA-149.
Do	Hawaii Automotive, Honolulu, Hawaii	DEE-3882	Price Exception. If granted: Hawaii Automotive would be granted an exception from the provisions of 10 CFR 212, permitting the firm to sell motor gasoline at a higher price than the applicable ceiling price.
Do	S & S Gulf Service, Upper Nyack, N.Y.	DEE-7958	Price Exception. If granted: S & S Gulf Service would be granted an exception from the provisions of 10 CFR 212, permitting the firm to sell motor gasoline at a higher price than the applicable ceiling price.
Do	Site Oil Co./Flash Oil Corp. Washington, D.C.	DST-0062	Petition for Special Redress. If granted: The DOE would review a denial by the Chief of the Crude Products Management Branch, Central Enforcement District, Region VII, of a request on behalf of Site Oil Co./Flash Oil Corp. for a 30 Day Extension to respond to a Notice of Probable Violation.
Do	Texas Independent Producers, Houston, Tex.	DEE-7997	Price Exception. If granted: The Texas Independent Producers would receive an exception from the provisions of 10 CFR 212 regarding the certificate provisions of the Mandatory Petroleum Price Regulations.
Do	Vantage Petroleum Corp., Bohemia, N.Y.	DEE-7988	Allocation Exception. If granted: Vantage Petroleum Corp. would receive an exception from the provisions of 10 CFR 211 to permit it to obtain an increased allocation of unleaded motor gasoline for the purposes of blending gasoline.
Aug. 29, 1979	Atlantic Richfield Co., Los Angeles, Calif.	DRZ-0006	Interlocutory Order. If granted: The DOE would issue an interlocutory order setting forth further discovery proceedings involving the firm.
Do	Braintree Electric Light, Braintree, Mass.	DFA-0574	Appeal of Information request denial. If granted: The Aug. 9, 1979 Denial of an Information Request issued by the Office of Enforcement NE District, ERA, would be rescinded and requested information would be released to Braintree Electric Light.
Do	C. J. Associates, Walnut Creek, Calif.	DEE-8002	Allocation Exception: If granted: C. J. Associates would be granted an exception from the provisions of 10 CFR 211; therefore, the firm would receive an increased allocation of unleaded motor gasoline for the purpose of blending gasoline.
Do	Gulf Oil Corp., Houston, Tex.	DRZ-0007	Interlocutory Order. If granted: The DOE would issue an interlocutory order setting forth further discovery proceedings involving the firm.
Do	Louisiana Land & Exploration Co., New Orleans, La.	DRZ-0005	Interlocutory Order. If granted: The Office of Hearings and Appeals would issue an interlocutory order setting forth further discovery proceedings involving the firm.
Do	Marathon Oil Co. Findlay, Ohio	DRZ-0008	Interlocutory Order. If granted: The DOE would issue an interlocutory order setting forth further discovery proceedings involving the firm.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Aug. 24, 1979, through Aug. 31, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Do	Marathon Oil Co., Washington, D.C.	DEA-0621 thru DEA-0624	Appeal of Four Assignment Orders. If granted: The four July 30, 1979, Assignment Orders issued by the Economic Regulatory Administration Region IV to Marathon Oil Co. increasing the firm's supply obligation to William Pitts Oil Co., Inc., Powell Oil Co., and Gilreath Oil Co. would be rescinded.
Do	Miller & Chevalier, Washington, D.C.	DRA-0617	Appeal of Information request denial. If granted: The Aug. 6, 1979 Denial of an Information Request issued by the General Council of DOE to Miller and Chevalier would be rescinded, granting the firm access to documents in connection with Interpretation 1977-53, issued to Union Oil Co.
Do	Mobil Oil Corp., Dallas, Tex.	DES-0577	Request for Stay. If granted: The June 26, 1979 Assignment Order issued by Economic Regulatory Administration Region VII to Mobil Oil Corp. increasing its supply obligations to Onyx Corp. would be stayed.
Do	San Joaquin Refining Co., Newport Beach, Calif.	DEX-0201	Supplemental Order. If granted: The DOE would review the level of exception relief granted in a Decision and Order issued to San Joaquin Refining Co. (Case No. DXE-1977) to determine whether the relief accorded the firm was appropriate.
Do	Standard Oil Co. of California, San Francisco, Calif.	DRZ-0009	Interlocutory Order. If granted: The DOE would issue an interlocutory order setting forth further discovery proceedings involving the firm.
Do	Standard Oil Co. of Indiana, Chicago, Ill.	DRZ-0011	Interlocutory Order. If granted: The DOE would issue an interlocutory order authorizing further discovery proceedings involving the firm.
Do	Standard Oil Co. of Ohio, Cleveland, Ohio	DRZ-0010	Interlocutory Order. If granted: The DOE would issue an interlocutory order authorizing further discovery proceedings involving the firm.
Do	Standard Oil Co. of Ohio, Cleveland, Ohio	DRZ-0025	Interlocutory Order. If granted: Sohio would be permitted to depose Mr. Robert G. Rives, Team Leader in the Office of Special Counsel's Crude Production Audit Division.
Do	Texaco, Inc., White Plains, N.Y.	DRZ-0004	Interlocutory Order. If granted: The DOE would issue an interlocutory order setting forth further discovery proceedings involving the firm.
Do	Union Carbide Caribe, Inc., New York, N.Y.	DMR-0070	Request for Modification/Rescission. If granted: The DOE Aug. 15, 1979, Decision and Order (Case Nos. DEE-2245, DEE-2213, and DEE-3148) would be modified regarding the Naphtha Entitlements Rule, 10 CFR 211.67(d)(5).
Aug. 30, 1979	Crown Oil & Wax Co., Frederick, Md.	DEE-8029	Price Exception. If granted: Crown Oil & Wax Co. would be allowed to discontinue a prior practice of accepting Shell Oil Co. credit cards from its various dealers as a form of immediate cash for the Dealer's purchase of gasoline.
Do	Lehigh Oil Co. Inc., Norwich, Conn.	DST-0069	Request for Temporary Stay. If granted: The Aug. 22, 1979 Assignment Order issued by Economic Regulatory Administration Region I to Lehigh Oil Co., Inc. increasing its supply obligations to retail outlets would be stayed.
Aug. 31, 1979	Exxon Co., Washington, D.C.	DEA-0616 DES-0616	Request for Stay, Appeal of Assignment Order. If granted: The June 30, 1979, Assignment Order, issued by the Economic Regulatory Administration to Exxon Co. increasing the firm's supply obligations to Newman Oil Co. would be rescinded. The firm would receive a stay pending a final determination on its Appeal.

Notices of Objection Received

[Week of Aug. 24, through Aug. 31, 1979]

Date	Name and Location of Applicant	Case No.
8/27/79	Ball Shell Service, Asheville, N.C.	DEE-6156
9/27/79	Baldwin, Ray B., Region VI	DEO-0353
9/27/79	Double B Oil, Inc., Wichita, Kans.	DEE-5070
8/27/79	West Tire Corp., Mechanicsville, Va.	DEO-0354
8/27/79	Lake Wright Texaco, Richmond, Va.	DEE-2685
8/28/79	B & L Friendly Services, Brooklawn, N.J.	DEO-0359
8/29/79	Raypek, Inc., Westlake Village, Calif	DEE-3439
8/29/79	Stothard Corporation, Washington, D.C.	DEE-3990
8/29/79	Teledyne Lears, Westlake Village, Calif	DEE-3950

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of August 24 through August 31, 1979

If Granted: The following firms would receive an exception from the product allocation regulations with respect to motor gasoline.

Aug. 24, 1979

Amerada Hess Corp., DEE-7999, District of Columbia.
Seymour Volunteer Fire Depart., DEE-7958, Tennessee.
Skee's Exxon, DEE-7960, North Carolina.

Aug. 27, 1979

Crossroads Gulf Service Station, DEE-7619, Virginia.
Domingo Quevedo, DEE-7979, Texas.
Golden Cross Ambulance, DEE-7962, New Hampshire.
Halifax County, DEE-7984, North Carolina.
Jim Quinn's Texaco, DEE-7985, Pennsylvania.
Owl Construction Co., DEE-7980, California.
Pop's Country Store, DEE-7981, Georgia.
Robert Winston Sunoco, DEE-7961, Massachusetts.
Telacu, DEE-7982, California.

Aug. 28, 1979

Bill Johnson's Chevron Service, DEE-7992, California.
C & G Grocery Co., DEE-7987, Georgia.
Carol Davis Mini-Market, DXE-7977, California.
E. J. Letard Distributors, DEE-8005, Louisiana.
Empire Container Corp., DEE-7991, California.
Geesey, James E. Jr., DEE-8001, Pennsylvania.
Navy Exchange, DEE-7990, Connecticut.
Pembek Oil Corporation, DEE-7986, Connecticut.
Union Oil Co. of Calif., DEE-8021, District of Columbia.
Union Oil of CA, DEE-8000, District of Columbia.
Village Blacksmith Chevron, DEE-7949, Massachusetts.
White's Exxon, DEE-7995, Kentucky.

Aug. 29, 1979

Four "C" Fuels, DEE-8003, Wyoming.
Herb's Amoco, DEE-8063, District of Columbia.
Ralph Watson Oil Co., Inc., DEE-8006, Texas.
Tindal Aviation, DEE-8004, Mississippi.
Aug. 30, 1979
Burke, John P., DEE-8047, Massachusetts.
Dailey's Service Station, DEE-8009, Georgia.
Donabedian Brothers, DEE-8011, New Hampshire.
Empire Pipe & Development, Inc., DEE-8010, Florida.

Green Front Service Station, DEE-8013, North Carolina.
John Chevron Service, DEE-8008, California.
Minit Man Auto Wash, DEE-8048, Michigan.
Tamarack Lodge, DEE-8012, California.

Aug. 31, 1979

Bayside Marine Corp., DEE-7689, Massachusetts.
Donahue's Country Store, DEE-8014, Pennsylvania.
Fred & Joe's ARCO, DEE-8059, California.
Joe's Auto Service Center, DEE-7626, Florida.
Merced Taxi, DEE-8060, California.
Tillman's Plumbing Corp., DEE-8058, Florida.
Warner Hot Springs Resort, DEE-8016, California.

Items retrieved 43
[FR Doc. 79-34957 Filed 11-15-79; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 24 Through September 28, 1979

Notice is hereby given that during the week of September 24 through September 29, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Akin, Gump, Hauer & Feld, Washington, D.C., DFA-0615, freedom of information

Akin, Gump, Hauer & Feld filed an Appeal from a partial denial by the Assistant Administrator of Regulations and Emergency Planning of the DOE Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE upheld the Assistant Administrator's determination and rejected the requester's claims that (i) the DOE should have sent the firm's request to other authorizing officials, (ii) not all responsive documents were identified, and (iii) the determination erroneously concluded that portions of the request were not reasonably described.

Braintree Electric Light Department, Braintree, Mass., DFA-0574, freedom of information

Braintree Electric Light Department filed an Appeal from a partial denial by the Deputy District Manager of the Northeast District of the DOE Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that portions of one of the documents which were initially withheld under Exemption 4, relating to the amount of overcharges specified in a Notice of Probable Violation, should be released to the public. In all other respects, the Appeal was denied.

Miller & Chevalier, Washington, D.C., DFA-0617, freedom of information

Miller & Chevalier filed an Appeal from a partial denial by the DOE Assistant General Counsel for Interpretations and Rulings of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE determined that three of the withheld documents, which properly qualified under Exemption 3, should nevertheless be released because their disclosure would not be contrary to the public interest. The DOE also determined that the Assistant General Counsel had properly withheld a fourth document under Exemption 5.

Requests for Exception

Chevron U.S.A., Inc., San Francisco, Calif., DEE-4507, crude oil

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Chevron to sell at upper tier ceiling prices 58.58 percent of the crude oil produced from the Vickers 1-Moynier Pool property.

Commercial Bottle Gas, Charlotte, N.C., DEE-0968, propane

Commercial Bottle Gas filed an Application for Exception from the provisions of 10 CFR, Part 212.83 in which the firm sought permission to classify the labor costs that it attributes to services provided by its owner as non-product costs eligible for inclusion in calculating the firm's price for propane. In considering the request, the DOE found that the firm was not suffering a hardship by excluding these costs from the calculation of non-product costs. Accordingly, Commercial's Application for Exception was denied.

Keystone Propane Service, Inc., Throop, Pa., DEE-2038, propane

Keystone Propane Service, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211.9 in which the firm sought the assignment of a new, lower-priced supplier of propane to replace its base period supplier, Pargas, Inc. In considering the request, the DOE found that Keystone was currently able to purchase sufficient quantities of surplus propane from other, lower-priced suppliers. The DOE therefore concluded that Keystone was not currently suffering a hardship or inequity and that the firm's allegations of hardship were speculative and therefore not grounds for exception relief. Accordingly, exception relief was denied.

Rex Monahan, Sterling, Colo., DXE-7862, crude oil

Rex Monahan filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Basin Unit at upper tier ceiling prices. Rex Monahan, 3 DOE Par. . . . (September 14, 1979). In considering the exception application, the DOE found that Rex Monahan continued to incur increased operating expenses at the Basin Unit and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that property. In view of this determination and on the basis of the operating data which Rex Monahan had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Rex Monahan to sell at upper tier ceiling prices 86.28 percent of the crude oil produced from the Basin Unit for the benefit of the working interest owners for a six-month period.

Universal Mineral Corp., Dallas, Tex., DXE-6938, crude oil

Universal Mineral Corporation filed an Application for Exception from the provisions of 10 CFR 212.73 in which the firm sought permission to sell the crude oil produced from the Humble-Dowdy Fee Lease located in Duval County, Texas at prices in excess of the ceiling prices permitted by the Mandatory Petroleum Price Regulations. In considering the request, the DOE found that at the applicable ceiling prices the firm would incur an operating loss on the lease and exception relief was necessary to provide the firm with an incentive to continue to produce crude oil. Accordingly, exception relief to the working interest owners was granted.

Request for Temporary Exception

Cities Service Co., Tulsa, Okla., DEL-8088, gasoline

The Cities Service Company filed an Application for Temporary Exception from the provisions of 10 CFR 211.83 in which the firm sought a temporary exception in order to allow the firm to market Gasohol as a separate grade of gasoline for cost passthrough purposes. In considering the request, the DOE found that temporary exception relief was warranted based on several strong public policy objectives encouraging the use of Gasohol. Accordingly, temporary exception relief was granted.

Request for Stay

Lakes Gas Co., Forest Lake, Minn., DRS-0262, propane

Lakes Gas Company filed an Application for Stay of a Remedial Order pending judicial review. In considering the stay request, the DOE concluded that because the propane that the firm sold remained under price controls, the DOE could make provision for the return of refunds made by Lakes to the marketplace and thus prevent irreparable injury in the event the Remedial Order were set aside. The DOE further found that any delay in implementing the refund provisions of the Remedial Order would adversely affect injured customers. Finally, the DOE concluded that because the issues raised in the judicial proceeding had already been considered by the DOE several times during the course of the administrative enforcement proceeding, there was not a substantial likelihood that Lakes would succeed in having the Remedial Order set aside. The Lakes Application for Stay was therefore denied.

Request for Temporary Stay

Lehigh Oil Co., Norwich, Conn., DST-0069, motor gasoline

Lehigh Oil Company filed an Application for Temporary Stay which, if granted, would stay an Assignment Order issued to the firm by the Economic Regulatory Administration, Region I, on August 22, 1979. In considering the Lehigh temporary stay request, the DOE concluded that the Assignment Order does not impose a burden upon either Lehigh or its customers which would cause either to incur an irreparable injury or severe hardship. Accordingly, Lehigh's temporary stay application was denied.

Supplemental Order

Conoco, Inc., Stamford, Conn., DEX-0207, Heating Oil, motor gasoline

The DOE issued a Supplemental Order which directs Conoco, Inc. to enter into a prescribed escrow agreement with Bankers Trust Company by a specified date. The Order was found to be appropriate because of Conoco's actions in response to a previous Supplemental Order issued on August 30, 1979.

Interim Order

The following firm was granted Interim Exception Relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company name	Location	Case No.
Fields Field Company	Houston TX	DEN-0003

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Company name	Location	Case No.
Marathon Oil Company	Washington, DC	DED-5462
Murphy Oil Corp.	Washington, DC	DED-0023

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception, Interim Order, and/or Temporary Exception of the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company name	Location	Case No.
Bolduc Service Centers	Ludlow, MA	DEN-4670
Sparkle Car Wash	San Bernardino, CA	DEN-2761
Monarch Products, Ltd.	Milwaukee, WI	DEN-3686
Weekley's Exon	Covina, CA	DEX-0205
Home Oil, Inc.	Washington, D.C.	DEN-4544
Lyon Oil Company	Charleston, WV	DEN-2684
G & G Oil Company	Flagstaff, AZ	DEN-4989
Robo of Dayton, Inc.	Dayton, OH	DXE-7451
Shaw's Gulf	Wallingford, VT	DEN-4316
Abernathy's Exon	La Grange, GA	DEN-4327
Ruscon Big/C Stores	Talladega, AL	DEN-7587
No. 1 and No. 2	Newark, NJ	DEL-8279
State of New Jersey (NJ Highway Auth.)		
West Texas Gas, Inc.	Midland, TX	DEN-3521

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor

gasoline. The DOE issued Decisions and Orders which determined that the requests be denied:

Company name	Location	Case No.
Basic Properties	Bakersfield, CA	DEE-4259
Ron's Shell	San Francisco, CA	DEE-5912

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company name	Case No.
Airline Petroleum Co.	DEE-4854
Arthur Desormoir	DEE-4339
Barnick's Gulf	DEE-5402
Chamber Heights Exon	DEE-4778
Fruitridge Arco	DEE-3767
Mr. Pooletto	DEE-3767
Oaks Texaco	DEE-5726
Robert Duncan Gulf	DEE-4874
Saenz Service	DEE-6652
Westgate Service	DEE-5238
Dixie Oil Co. of Alabama	DEE-4328
Coronado Heights Mobil	DEE-7513
Fifth Wheel Truck Stop	DEL-0001
Dunaway, McCarthy, Dye & Steward	DEE-6615
Kerr-McGee #6589	DEE-3309
Ware Oil Co., Inc.	DSG-0064
Yousef Safedine	DEE-4232
Joe's Gulf Service	DEE-8086
Emilio's U.S. Gas	DST-3628
Bar Mills Market	DEE-6773
Pete's Exon Service	DEE-5287
Robert Sliger	DEE-7288
Town of Mansfield, Massachusetts	DEE-6601
Tripp's Service	DEE-5172
Western Montana Cooperative	DEE-6115
Charles Wells	DEE-4632
Al Park Distributing	DEE-7003
Blacksburg Exon	DEE-4746
Cooper's Hess	DEE-5372
Coast Circle Arco	DEE-4911
Corbo's Mini-Market	DEE-7188
D.b.a. Ridgefield Mobil	DEE-5612
Farmers Union Oil	DEE-6093
Fisher Shell	DEE-3357
Freeway Texaco	DEE-7636
Gov. Francis Mobil	DRS-0302
H. C. Thomason, Jr.	DRS-0293
Holloway's Texaco	DEE-4007
Knox Oil of Texas	DEE-6193
Mahoning Farm Bureau Cooperative	DEE-6702
Phipps Pet., Inc.	DEE-6008
Port Oil Corp.	DEE-6333
Auth Road Texaco	DEE-5148
Auto-Brite Car Wash	DEE-5120
Barry L. Fisher, M.D.	DES-6725
Besche Oil Company	DES-4641
C & S Chemical Company	DEE-8271
City of Haverhill	DEE-4058
Corner Food Stores	DEE-6121
Cory's Gas. Stations	DEE-7287
Danby's Holiday Gulf	DEE-5087
Demick's, Inc.	DEE-1908
Duncan Oil Company	DEE-5651
Frank E. Kraemer	DEE-6343
Gene's Market	DEE-5111
General Electric Co.	DEE-6795
Groveland Community Services District	DEE-6364
James R. Carroll	DEE-3711
Jerry's Service & Auto Parts	DEE-6902
Jim Herald	ORO-0236
Jim's 41 Shell	DEE-7137
Marvel Heat Corp.	DEE-4472
McKoon Oil Company	DEE-7682
Monger Coal & Oil	DEE-1988
Nursery Park Gulf	DEE-7434
Onyx Corporation	DST-7434
Pawcatuck Chevron	DEE-4807
Royal Farm Dairy	DEE-7660
Salem Oil Company	DEE-3280
Swindle Brothers Oil	DEE-7341
T & V Auto Service	DEE-2700
Terry W. Vincent, M.D.	DEE-2018
	DEE-7960
	DRS-0268
	DEE-6120

Company name	Case No.
Time Oil Co., Inc.	DEE-6611;
	DEE-6611
Typhoon Car Washes	DEE-2790
A. Valle, D.D.S.	DEE-8270
Allen M. Sakier, M.D.	DEE-8194
Arlington Towers Exon	DEE-5086
Arthur B. Kramer	ORF-0290
Boortown, Inc.	DEE-4583
Brusly Exon	DEE-6561
Cal's Chevron	DEE-3017
Charter Way Arco	DEE-7171
D. S. Simms Oil	DEE-6925;
	DEE-6926
Evans Oil Company	DEE-8089
Fulbright & Jaworski	ORO-0129;
	ORF-0129
Gulf Oil Corp.	DEE-3272
Landmark, Inc.	DEE-3515;
	DEE-3515
Lewis E. Delbrick	DEE-7502
Maguire Inc.	DEE-3423
McKelvey Oil Company	DEE-3068;
	DEE-3068
Mike's Tire & Super Service	DEE-4191
Sunset Oil Co., Ltd.	DEE-2809
Val J. Deuterive & Son	DEE-3796
Waters Oil Company	DEE-3958
Davis Oil Company	DEE-6316
Dedham Servicenter	DEE-7294
Discount Texaco	DEE-7411
Highlander Center	DEE-6560
Krikor Chouchanian	DEE-3564
Lee's Shell	DEE-4065
Stroud's Fuel Oil	DEE-6471
Wolverine Western	DEE-5072
Young Oil Company	DEE-3171

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

November 9, 1979.

[FR Doc. 79-35478 Filed 11-15-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1360-3]

Designation of Biscayne Aquifer as Sole Source Aquifer; Meeting

The Environmental Protection Agency (EPA) has designated the Biscayne Aquifer of southeastern Florida as a sole source aquifer under Section 1424(e) of the Safe Drinking Water Act.

Section 1424(e) of the Act provides that, from the date of designation, no commitment for Federal financial assistance (through grants, contracts, loan guarantees, etc.) may be entered into for any project which EPA determines may contaminate the aquifer through a recharge zone so as to create a significant hazard to the public health.

To discuss the impact of this designation on the citizens of southeastern Florida, EPA will hold public meetings in the Miami and Sebring area as listed below:

December 10, 1979	December 11, 1979
2:00 pm-4:00 pm	2:00-4:00 pm.
7:00 pm-9:00 pm	7:00-9:00 pm, Ramada Inn.
Agricultural Building	16905 NW 12th
Highway 27 (South of Sebring),	Avenue, Miami,
Sebring, Florida	Florida.

Further information may be obtained from Don Guinyard, Water Supply Branch, 345 Courtland Street, NE, Atlanta, GA, 30308, (404) 881-3781.

Dated: October 29, 1979.

John A. Little,
Acting Regional Administrator.
[FR Doc. 79-35402 Filed 11-15-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B-2]

TV Broadcast Application Accepted for Filing and Notification of Cutoff Date

Released: November 13, 1979.
Cut-Off Date: December 31, 1979.

Notice is hereby given that the application listed below is hereby accepted for filing. Because the application listed below is in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with the application listed below will be accepted for filing.

Petitions to deny the application listed below and minor amendments thereto must be on file with the Commission not later than the close of business on December 31, 1979. Any application previously accepted for filing and in conflict with the application listed below may also be amended as a matter of right not later than the close of business on December 31, 1979.

Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Commission's rules.

BPCT-790622KE, Houma, Louisiana, The Way of Life TV Network, Inc., Channel 11, ERP: Vis. 316 kW; HAAT: 470 feet

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 79-35306 Filed 11-15-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Eligibility for Disaster Assistance Under Public Law 93-288

AGENCY: Federal Emergency Management Agency.
ACTION: Notice.

SUMMARY: The area formerly known as the Canal Zone is no longer eligible for disaster assistance under Public Law 93-288.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION PLEASE CONTACT: Sewall H. E. Johnson, Federal Emergency Management Agency (202) 834-7825.

NOTICE: The area formerly known as the Canal Zone is no longer eligible for disaster assistance under the Disaster Relief Act of 1974. Assistance under that Act may go to States and local governments. The "Canal Zone" has been included in the definition of a "State" under Section 102(4) of Public Law 93-288 because of the relationship between that area and the United States. With the ratification of the Panama Canal treaties this area became territory within the Republic of Panama on October 1, 1979, and is, therefore, excluded from assistance under the Disaster Relief Act of 1974.

William H. Wilcox,
Acting Director, Disaster Response and Recovery.

[FR Doc. 79-35361 Filed 11-15-79; 8:45 am]
BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their

views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 7, 1979.

A. *Federal Reserve Bank of Cleveland*, 1455 East Sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Robinson Township, Pennsylvania, (leasing activities; international) to engage, through a subsidiary known as Mellon International Aircraft Leasing Corporation #1, in leasing real or personal property or acting as agent, broker, or advisor in leasing such property, where the lease serves as the functional equivalent of an extension of credit to the lessee, and the transaction provides a sufficient return to compensate the lessor for the full investment in the property plus the estimated cost of financing the property over the term of the lease; making or acquiring for its own account or the account of others, loans or other extensions of credit to be secured by real or personal property; and servicing leases on real or personal property and loans secured by real or personal property for its own account or the account of others. These activities will be conducted at offices in Pittsburgh, Pennsylvania, and serve one foreign air carrier.

B. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

Colorado National Bankshares, Inc., Denver, Colorado, (insurance activities; Colorado): to engage, through its subsidiary, Colorado National Insurance Agency, in the sale, as agent, of credit life and credit accident and health

insurance in connection with extensions of credit by Applicant's subsidiaries. Such activities will be conducted at the following offices of Applicant's subsidiaries: Bank of Orchard Mesa, Grand Junction, Colorado; Colorado Bank—Tech Center, Denver, Colorado; East Industrial Bank, Denver, Colorado; and Bank of Glenwood, Glenwood Springs, Colorado. These offices will serve, respectively, the cities and suburban areas of Grand Junction and Orchard Mesa; the southeastern portion of the City and County of Denver, and the western portion of Arapahoe County; the southeastern portion of the City and County of Denver; and the eastern portion of Garfield County, and the western portion of both Eagle County and Pitkin County, Colorado.

C. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, November 7, 1979.

William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-35396 Filed 11-15-79; 8:45 am]
BILLING CODE 6210-01-M

Callao Bancshares, Inc.; Formation of Bank Holding Company

Callao Bancshares, Inc., Callao, Missouri, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 95 per cent of the voting shares of Callao Community Bank, Callao, Missouri. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Callao Bancshares, Inc., Callao, Missouri, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 25.4(b)(2)), for permission to acquire A. H. Allen Insurance Agency, Callao, Missouri.

Applicant states that the proposed subsidiary would engage in the sale, as agent, of credit life, and credit accident and health insurance in connection with the extension of credit by Callao Community Bank. These activities would be performed from offices of Applicant's subsidiary in Callao, Missouri, and the geographic areas to be served are Macon County and the western portion of Shelby County, Missouri. Such activities have been specified by the Board in 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in

accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 7, 1979.

Board of Governors of the Federal Reserve System, November 7, 1979.

William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-35424 Filed 11-15-79; 8:45 am]
BILLING CODE 6210-01-M

Carthage Holding Co., Inc.; Formation of Bank Holding Company

Carthage Holding Company, Inc., Carthage, South Dakota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 93.8 per cent of the voting shares of Farmers State Bank, Carthage, South Dakota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 8, 1979.

William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-36304 Filed 11-15-79; 8:45 am]
BILLING CODE 6210-01-M

Control Union Corp.; Formation of Bank Holding Company

Control Union Corporation, Stillwater, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank and Trust Company of Stillwater, Stillwater, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Control Union Corporation, Stillwater, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of First Union Corporation, Stillwater, Oklahoma.

Applicant states that the proposed subsidiary would engage in insurance, finance company, and mortgage banking activities. These activities would be performed from offices of Applicant's subsidiary in Stillwater, Oklahoma, and the geographic areas to be served are Logan, Lincoln, Pawnee, and Noble Counties, Oklahoma. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 7, 1979.

Board of Governors of the Federal Reserve System, November 7, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35392 Filed 11-15-79; 8:45 am]

BILLING CODE 6210-01-M

First Tennessee National Corp.; Proposed Retention of Norlen Life Insurance Co., Phoenix, Ariz.

First Tennessee National Corporation, Memphis, Tennessee, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulations Y (12 CFR § 225.4(b)(2)), for permission to retain voting shares of Norlen Life Insurance Company, Phoenix, Arizona.

Applicant states that the subsidiary would engage in the activities of underwriting, as reinsurer, credit life, accident and health, and disability insurance related to extensions of credit by Applicant's banking subsidiaries. These activities would be performed in Phoenix, Arizona, and the geographic area to be served is Tennessee. Such activities have been specified by the Board in § 225.4 (a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 8, 1979.

Board of Governors of the Federal Reserve System, November 6, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35421 Filed 11-15-79; 8:45 am]

BILLING CODE 6210-01-M

Lindsay State Co.; Formation of Bank Holding Company

Lindsay State Company, Lindsay, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Bank of Lindsay, Lindsay, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 8, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35391 Filed 11-15-79; 8:45 am]

BILLING CODE 6210-01-M

NCNB Corp.; Proposed Retention of Superior Insurance Co.

NCNB Corporation, Charlotte, North Carolina, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to retain voting shares of its indirect subsidiary, Superior Insurance Company, Florence, South Carolina.

Applicant states that the proposed subsidiary would engage *de novo* in the activities of underwriting credit accident and health insurance directly related to extensions of credit by certain of Applicant's credit granting subsidiaries. These activities would be performed from offices of Applicant's subsidiary in Florence, South Carolina, and the geographic areas to be served are the States of South Carolina and North Carolina. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 6, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35393 Filed 11-15-79; 8:45 am]

BILLING CODE 6210-01-M

Sullivan County Bancshares, Inc.; Formation of Bank Holding Company

Sullivan County Bancshares, Inc., Winigan, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens Bank of Winigan, Winigan, Missouri. The factors that are considered in acting on the application

are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 7, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35395 Filed 11-15-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76G-0367]

American Feed Manufacturers Association, Inc.; Petition for Affirmation of GRAS Status

Corrections

In FR Doc. 79-34165 appearing at page 64117 in the issue for Tuesday, November 6, 1979, second column, the comments due date should read "January 7, 1980"; and in the third column, second line, "921" should read "(21"; and in the second line of the last paragraph, "January 7, 1979" should read "January 7, 1980".

BILLING CODE 1505-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 [5 U.S.C. App. I]), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Technical Electronic Product Radiation Safety Standards Committee.	December 5, 9 a.m., Rm. 416, 12720 Twinbrook Pkwy., Rockville, MD.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Zorach R. Glaser (HFX-460), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

General function of the Committee. The Committee advises on technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation under 42 U.S.C. 263(f)(1)(A).

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the

contact person before November 21, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Committee will discuss the proposed amendment to the diagnostic X-ray standard dealing with computed tomography (CT) X-ray systems; receive an update on activities under the

Medical Device Amendments involving the Bureau of Radiological Health; Interagency Regulatory Liaison Group Radiofrequency/Microwave committee activities relating to radiofrequency sealers; review Joint Bureau of Radiological Health/Occupational Safety and Health public workshop on radiofrequency sealers, and discuss the Bureau of Radiological Health's proposed reporting requirements on radiofrequency sealers.

Committee name	Date, time, and place	Type of meeting and contact person
2. Endocrinologic and Metabolic Drugs Advisory Committee	December 6 and 7, 9 a.m., Conference room G and H, Parklawn Bldg., Rockville, MD 20857.	Open public hearing December 6, 9 a.m. to 10 a.m.; open committee discussion December 6, 10 a.m. to 4:30 p.m., December 7, 9 a.m. to 4:30 p.m.; A. T. Gregoire (HFD-130), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3520

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open Committee discussion. The Committee will discuss clinical and chemical considerations of the new class of purified insulins, and prepublication review of thyroid drugs class labeling.

Committee name	Date, time, and place	Type of meeting and contact person
3. Miscellaneous Internal Drug Products Panel	December 8 and 9, 9 a.m., Holiday Inn, 8120 Wisconsin Ave., Bethesda, MD.	Open public hearing December 8, 9 a.m. to 10 a.m.; open committee discussion December 8, 10 a.m. to 4:30 p.m., December 9, 8:30 a.m. to 3:30 p.m.; John R. Short (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-6156

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the

committee. Those who desire to make such a presentation should notify the contact person before November 30, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted under the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
4. Miscellaneous External Drug Products Panel	December 9 and 10, 9 a.m., Howard Johnson's Motor Lodge, Wheaton, MD.	Open committee discussion December 9, 9 a.m. to 4:30 p.m.; open public hearing December 10, 9 a.m. to 10 a.m.; open committee discussion December 10, 10 a.m. to 4:30 p.m.; John T. McElroy, (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-1430

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the

committee. Those who desire to make such a presentation should notify the contact person before December 4, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication to the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted under the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, place	Type of meeting and contact person
5. Physical Medicine Devices Section of the Surgical and Rehabilitation Devices Panel.	December 12 and 13, 9 a.m., room 1813, 200 C St. SW., Washington, DC.	Open public hearing December 12, 9 a.m. to 10 a.m.; open committee discussion December 12, 10 a.m. to 5 p.m.; December 13, 9 a.m. to 5 p.m.; Johnnie W. Bailey, (HFK-410), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7516.

General function of the Committee. The Committee reviews and evaluated available data concerning the safety and effectiveness of devices currently in use and makes recommendation for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the agenda in this notice. Submission of

data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Johnnie W. Bailey by November 28, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of

the approximate time required to make their comments.

Open committee discussion. The Committee will discuss comments received in response to the proposed regulations for physical medicine devices, which were published in the Federal Register of August 28, 1979 (44 FR 50458). The Committee will also discuss the scoliosis screening device.

Committee name	Date, time, place	Type of meeting and contact person
6. Oral Cavity Panel	December 12, 13, and 14, 9 a.m., Conference Rm. 1, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing December 12, 9 a.m. to 10 a.m.; open committee discussion December 12, 10 a.m. to 4:30 p.m.; December 13, 9 a.m. to 4:30 p.m.; December 14, 9 a.m. to 4:30 p.m.; John T. McElroy, (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-1430.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views orally or in writing, on issues pending before the

Committee. Those who desire to make such a presentation should notify the contact person before December 7, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted under the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, place	Type of meeting and contact person
7. Dermatology Subcommittee of the Anti-Infective and Topical Drugs Advisory Committee.	December 13 and 14, 9 a.m., Conference rooms G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing December 13, 9 a.m. to 10 a.m.; open committee discussion December 13, 10 a.m. to 4:30 p.m.; December 14, 9 a.m. to 4:30 p.m.; Mary K. Bruch, (HFD-140), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4310.

General function of the Committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in infectious diseases, dermatological disorders, and ocular disease.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

rather than a maximum time for public participation, and open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

[Docket No. 79P-0078]
Bacitracin Zinc-Polymyxin B Sulfate; Topical Ointment Exemption From Certification
AGENCY: Food and Drug Administration.
ACTION: Notice.

Open committee discussion. The Committee will discuss Oxsoralen (NDA 9-048) with ultraviolet light in treating psoriasis; consideration of adrenal suppression studies as part of guidelines for testing topical corticosteroids; discussion of labeling changes for Dapsone that will include the added indication "Dermatitis Herpetiformis"; Clindomycin solution for topical use in acne vulgaris; and discussion of labeling requirements for topical hydrocortisone preparations for OTC use.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the Burroughs-Wellcome Company's petition requesting that its antibiotic drug product Polysporin Topical Ointment (bacitracin zinc-polymyxin B sulfate) be exempted from the batch certification requirements for antibiotic drugs. FDA has reviewed pertinent information and has concluded that the petitioner meets the conditions for exemption specified in the antibiotic drug regulations. FDA has notified the petitioner by letter that the petition has been approved and is issuing this notice in compliance with the regulations.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

EFFECTIVE DATE: November 16, 1979.
ADDRESS: A copy of the petition may be seen at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

FOR FURTHER INFORMATION CONTACT: Nathan M. Kight, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

Dated: November 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-35319 Filed 11-15-79; 8:45 am]
BILLING CODE 4110-03-M

SUPPLEMENTARY INFORMATION: Section 507(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357(a)) requires batch certification of all antibiotic drugs and their derivatives. To be certified, the drug must have the characteristics of identity, strength, quality, and purity as have been prescribed by regulation as necessary to ensure the safety and efficacy of the drug. Under section 507(c) of the act, the Commissioner of Food and Drugs may issue regulations exempting an antibiotic drug from

certification if the Commissioner concludes that certification is not necessary to ensure the safety and efficacy of use. The antibiotic drug regulations in § 433.1 (21 CFR 433.1) establish procedures for obtaining exemption from batch certification of topical antibiotic drugs.

On March 15, 1979, Burroughs-Wellcome Co., Greenville, NC, filed a petition requesting that Polysporin Topical Ointment (bacitracin zinc-polymyxin B sulfate) be exempt from the batch certification requirements of § 448.513a (21 CFR 448.513a). A copy of the petition is on file at the office of the Hearing Clerk, Food and Drug Administration (address above).

The agency has reviewed the data submitted as part of the petition, as well as the certification history of the drug. Based on authority provided in section 507 of the act, and under the conditions of § 433.1, the agency has concluded that batch certification of Polysporin Topical Ointment, manufactured by Burroughs-Wellcome, is not necessary to ensure the safety and efficacy of the drug.

In accordance with section 507(e) of the act and § 433.1(f), any antibiotic-containing drug for human use exempted under § 433.1 is considered subject to section 505 of the act (21 U.S.C. 355). This action also constitutes an approval of an abbreviated new drug application under § 314.1(f) (21 CFR 314.1(f)) for the exempted antibiotic-containing drug.

The agency has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)) and, therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

The petitioner has been notified that the petition is granted and batch certification of Polysporin Topical Ointment, manufactured at the Burroughs-Wellcome Co., Greenville, NC, facility, is no longer required.

Dated: November 8, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-35322 Filed 11-15-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 76N-0002]

**Diethylstilbestrol; Withdrawal of
Approval of New Animal Drug
Applications; Commissioner's Decision
Correction**

In FR Doc. 79-29114 appearing on page 54852 in the issue of Friday, September 21, 1978, make the following changes:

(1) In the first column of page 54853, three lines up from the bottom, "... 95 F. 2d, ..." should have read "... 495 F. 2d, ...".

(2) In the third column of page 54868, third paragraph, 13th line, "(G-212: ..." should have read "(G-102: ...".

(3) In the middle column of page 54870, in the third complete paragraph, the ninth line should have read as follows: "... above, in Dr. Williams' analysis of the residues detected in the radioisotope tests of DES."

(4) In the third columns of page 54870, second full paragraph, second line, "... Kilman attacked ..." should have read "... Kilman attached ...".

(5) In the first column of page 54876, the nineteenth line from the bottom of the page, should have read as follows: "... group are inconsistent with a dose response curve based upon results at higher levels."

(6) On page 54882, third column, the last line of the first complete paragraph should have read "... the concept of safety * * *".

(7) On page 54883, middle column, second line of the second full paragraph, "... nontherapeutic ..." should have read "... nontherapeutic human ...". Also, in the third column, the first line of paragraph (d), "... Proprietary ..." should have read "... Propriety ...".

(8) In the first column of page 54886, in both the second and eleven lines from the bottom of the page, change "1969" to read "1968".

(9) In the third column of page 54891, in the 27th line from the top of the page, change "... (id. at 8)." to read "... (id. at 26)."

BILLING CODE: 1505-01-M

[Docket No. 79F-0394]

**Betz Laboratories, Inc.; Filing of
Petition for Food Additive Permitted in
Feed and Drinking Water of Animals**

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Betz Laboratories, Inc., Trevose, PA, has filed a petition proposing that the regulations concerning food additives in animal feeds be amended to provide for revised specification for acrylamide-acrylic acid resin as a thickener and suspending agent in nonmedicated aqueous suspensions for animal feeds.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP-2175) has been filed by Betz Laboratories, Inc., 4636 Somerton Road, Trevose, PA 19047, proposing that Part 573—Food Additives Permitted in Feed and Drinking Water of Animals be amended in § 573.120 *Acrylamide-acrylic acid resin* to provide that the specification in paragraph (b)(1) for molecular weight be revised from a range of 3 to 6 million to minimum of 3 million.

The environmental impact analysis report and other relevant material are being reviewed to determine whether the proposed use of the additive will have a significant environmental impact. In accordance with the provisions of § 25.25(b) (21 CFR 25.25(b)) of the environmental impact regulations, an environmental impact consideration of the final action on this petition will be addressed in a future publication.

Dated: November 5, 1979

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-34993 Filed 11-15-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79F-0354]

**Lonza, Inc.; Filing of Petition for Food
Additive Permitted in Feed and
Drinking Water of Animals**

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Lonza, Inc., Fair Lawn, NJ, has filed a petition proposing that the regulations be amended to provide for safe use of a hydrogenated corn syrup as a humectant and plasticizer in pet food.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP-2170) has been filed by Lonza, Inc., 22-10 Route 208, Fair Lawn, NJ 07410, proposing that 21 CFR Part 573—Food Additives Permitted in Feed and Drinking Water of Animals be amended to provide for safe use of a hydrogenated corn syrup as a humectant and plasticizer in preparation of semi-moist dog and cat food.

The environmental impact analysis report and other relevant material are being reviewed to determine whether the proposed use of the additive will have a significant environmental impact. In accordance with the provisions of 21 CFR 25.25(b) of the environmental impact regulations, an environmental impact consideration of the final action on this petition will be addressed in a future publication.

Dated November 6, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-34992 Filed 11-15-79; 8:45 am]
BILLING CODE 4110-03-M

Health Resources Administration

**Filing of Annual Reports of Federal
Advisory Committees**

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources Administration Federal Advisory Committee has been filed with the Library of Congress:

**National Advisory Council on Health
Professions Education**

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, Telephone (202) 245-6791. Copies may be obtained from Mr. Robert Belsley, Bureau of Health Manpower, Room 4-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6564.

Dated: November 9, 1979.

James A. Walsh,
Associate Administrator for Operations and
Management.

[FR Doc. 79-35316 Filed 11-15-79; 8:45 am]
BILLING CODE 4110-03-M

**Filing of Annual Reports of Federal
Advisory Committees; Correction**

In Federal Register Document 79-34162 appearing at page 64119 in the issue for Tuesday, November 6, 1979, the report filed for public inspection at the Library of Congress should read "National Advisory Council on Nursing Training" instead of the "National Advisory Council on Health Professions Education." All other information is correct as it appears.

Dated: November 9, 1979.

James A. Walsh,
Associate Administrator for Operations and
Management.

[FR Doc. 79-35317 Filed 11-15-79; 8:45 am]
BILLING CODE 4110-03-M

Health Services Administration

**Maternal and Child Health and Crippled
Children's Services Project Grants to
Institutions of Higher Learning;
Announcement of Availability of
Grants**

The Bureau of Community Health Services, Health Services Administration, announces that competitive applications are now being accepted for grants in fiscal year 1980 for specialized training in maternal and child health of several categories of health professionals. The grants are offered under the authority of sections 503(2), 504(2), and 511 of the Social Security Act (42 U.S.C. 703(2), 704(2), and 711) which authorize the Secretary of Health, Education, and Welfare to make grants to institutions of higher learning for that purpose. Regulations for the program appear at 42 CFR Part 51a, Subpart D.

"Institution of higher learning" is defined as any college or university accredited by a recognized body or bodies approved for such purpose by the U.S. Commissioner of Education, and any teaching hospital which has higher learning among its purposes and functions and which has a formal affiliation with an accredited school of medicine and a full-time academic medical staff holding faculty status in such school of medicine.

Grants to eligible applicants may be made by the Secretary for projects which will best promote the purposes of sections 503, 504, and 511 of the Act, taking into account:

1. The relative extent to which the project will contribute to a nationwide distribution of needed services and training with special emphasis on how the applicant will place graduates in State and local health departments and the extent to which the applicant has been successful in recruiting trainees or fellows from minority groups.
2. The capability of the applicant to provide training of high quality and effectiveness.
3. The relative extent to which the project will provide more effective utilization of personnel currently providing health services to mothers and children.
4. The extent to which the project will assist in the development of new information or innovative methods

relating to the provision of maternal and child health and crippled children's services.

5. The degree to which the project would meet the requirements as set forth in the regulations (See 42 CFR 51a.405).

A document regarding intended disbursement of funds is available to applicants from: Research and Training Services Branch, Office for Maternal and Child Health, Bureau of Community Health Services, Health Services Administration, Parklawn Building, Room 7-15, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: 301-443-2340.

Consultation and technical assistance relative to the development of an application is also available upon request to that address.

Completed applications must be received by January 4, 1980, and will be subject to competitive, objective review. They should be sent to: Grants Management Branch, Bureau of Community Health Services, Health Services Administration, Parklawn Building, Room 6-49, 5600 Fishers Lane, Rockville, Maryland 20857.

The amount available for new and competing renewal maternal and child health training applications under this announcement is \$3,600,000. Approximately 25 grants will be awarded.

Dated: November 5, 1979.

George I. Lythcott,
Administrator, Health Services
Administration.

[FR Doc. 79-35435 Filed 11-15-79; 8:45 am]
BILLING CODE 4110-04-M

**Project Grants for Home Health
Services; Announcement of
Availability of Grants**

Notice is hereby given that competitive applications are now being accepted for project grants to develop and expand home health services ("service grants") and for grants for demonstrating the training of home health personnel ("training grants") under the authority of Section 339 of the Public Health Service (PHS) Act (42 U.S.C. 255). It is estimated that \$4,000,000 will be available for service grants and \$1,000,000 for training grants in fiscal year 1980. Approximately 80 service grants and 24 training grants, including continuation and new projects, will be awarded.

Development and Expansion of Services

Section 339(a) of the PHS Act authorizes the Secretary to make grants to public and nonprofit private entities

for support of the development and expansion of home health services as defined in Section 1861(m) of the Social Security Act in areas in which such services are not otherwise available. Regulations applicable to these grants, published in the Federal Register on June 3, 1977 (42 FR 28692), state that the Secretary will give preference to approvable applications for projects that will serve catchment areas in which a high percentage of the populations is elderly, medically indigent, or both (referred to below as "preference areas"). See 42 CFR 51e.107.

Applicants which propose to serve preference areas, as defined in the regulations, will receive priority consideration for funding during the first of two funding cycles. However, it is anticipated that funds will be available for both the funding of projects which propose to serve preference areas, and those which propose to serve nonpreference areas in the second funding cycle. For the first funding cycle, February 1, 1980, is the deadline for the receipt of completed applications at the appropriate Regional Office (listed below). For the second funding cycle, the deadline for receipt of completed applications is June 6, 1980. Applications for both funding cycles must be received by the appropriate Health Systems Agency(s) and A-95 clearinghouse(s) at least 60 days before the date applications are due at the Regional Office.

Training of Personnel

Section 339(b) of the PHS Act authorizes the Secretary to make grants to public and nonprofit private entities to demonstrate the training of professional and paraprofessional personnel to provide home health services. Regulations applicable to these grants were published in the Federal Register on July 20, 1979 (44 FR 42685). See 42 CFR Part 51e, Subpart B.

Applications will be accepted for the training of home health aides or administrative personnel as described in the regulations. April 1, 1980, is the deadline for receipt of grant applications at the appropriate Regional Office. Applications must be received by the appropriate Health Systems Agency(s) and A-95 clearinghouse(s) at least 60 days before the date applications are due at the Regional Office.

Information may be obtained from and completed applications returned to, the representative of the Home Health Services Grant Program at the appropriate Regional Office. The representative may be contacted for consultation and technical assistance relative to development of an

application for a services or training grant.

Dated: November 5, 1979.

George I. Lythcott, M.D.,
Administrator, Health Services
Administration.

Public Health Service

Regional Health Administrators

Edward J. Montminy, Regional Health Administrator, PHS—Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223-6827, (FTS: 8-223-6827).

Nicholas J. Galluzzi, M.D., Regional Health Administrator, PHS—Region II, 26 Federal Plaza, New York, New York 10007, (212) 264-2580, (FTS: 8-264-2580).

H. McDonald Rimple, M.D., M.P.H., Regional Health Administrator, PHS—Region III, P.O. Box 13718, Philadelphia, Pennsylvania 19101, (215) 596-6637, (FTS: 8-596-6637).

George A. Reich, M.D., Regional Health Administrator, PHS—Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323, (404) 221-2316, (FTS: 8-242-2316).

E. Frank Ellis, M.D., Regional Health Administrator, PHS—Region V, 300 South Wacker Drive, Chicago, Illinois 60606, (312) 353-1385, (FTS: 8-353-1385).

James A. Buford, Regional Health Administrator, PHS—Region VI, 1200 Main Tower Building, Dallas, Texas 75202, (214) 655-3879, (FTS: 8-729-3879).

Youn Bock Rhee, Regional Health Administrator, PHS—Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-3291, (FTS: 8-758-3291).

Hilary H. Connor, M.D., Regional Health Administrator, PHS—Region VIII, 1961 Stout Street, Denver, Colorado 80294, (303) 837-4461, (FTS: 8-327-4461).

Sheridan L. Weinstein, M.D., Regional Health Administrator, PHS—Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 558-5810, (FTS: 8-558-5810).

Ms. Dorothy H. Mann, Regional Health Administrator, PHS—Region X, 1321 Second Avenue, Seattle, Washington 98101, (206) 442-0430, (FTS: 8-399-0430).

[FR Doc. 79-35210 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-04-M

National Institutes of Health

Advisory Committee to the Director, NIH; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, on December 4-5, 1979, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place from 9:00 a.m. to 5:00 p.m. on December 4, and from 9:00 a.m. to 1:00 p.m. on December 5, in Building 31, Conference Room 10, C Wing. The entire meeting will be open to the public.

The meeting purpose will be to continue the Committee's examination

of the HEW health research planning process and its application to NIH programs. The Committee will examine the HEW health research planning process as it relates to "stabilizing" support for research project and program project grants, the largest component in NIH support for the Science Base. (At its May meeting the Committee examined the NIH budget according to the "SATT" model; i.e., Science Base, Applications, Technology Transfer, and Training.)

At this meeting stabilizing research projects grants will be examined in terms of possible impact on other NIH programs. Also, in the light of approved HEW Health Research Principles, the Committee will examine issues in longer-range planning, including the need to provide through the NIH dual system of review both for scientific excellence and public participation in policy and priority setting.

The Executive Secretary, Joseph G. Perpich, M.D., J.D., National Institutes of Health, Building 1, Room 137, Bethesda, Maryland 20205, 301-496-3152, will furnish summaries of the meeting, rosters of Committee members and guests, and substantive program information.

Dated: November 6, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-35396 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-08-M

General Clinical Research Centers Committee; Meeting

Notice is hereby given of a change in the agenda of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, November 19-20, 1979, which was published in the Federal Register on October 5, 1979, 44 FR 57501.

This meeting was to have convened November 19, 1979, in open session from 9:00 a.m. to 11:00 a.m., and in closed session from 11:00 a.m. to adjournment but has been changed to a closed meeting November 19, 1979 for 9:00 a.m. to recess, open to the public November 20, 1979, from 9:00 a.m. to 11:00 a.m., and closed to the public from 11:00 a.m. to adjournment for the further review, discussion, and evaluation of individual grant applications.

Dated: November 8, 1979.

(Catalog of Federal Assistance Program No. 13.333, National Institutes of Health)

Suzanne L. Freneau,

Committee Management Officer, National
Institutes of Health.

[FR Doc. 79-35364 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-08-M

Board of Scientific Counselors, NICHD; meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, December 3, 1979, in Building 31, Room 2A-52. This meeting will be open to the public from 8:30 a.m. to 3:00 p.m. on December 3 for the review of the Endocrinology and Reproduction Research Branch of the Intramural Research Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 3:00 p.m. to adjournment on December 3 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NICHD, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1848, will provide a summary of the meeting and a roster of Board members. Dr. James Sidbury, Scientific Director, NICHD, Building 31, Room 2A-50, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-2133, will furnish substantive program information.

Dated: November 8, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-35365 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-08-M

National Arthritis Advisory Board; Amended Notice of Meeting

Notice is hereby given of cancellation of the Private Sector, the Data, and the Research Work Groups meeting, National Arthritis Advisory Board, which were to have met on December 5, as published in the Federal Register on October 16, 1979, 44 FR 59653.

The full Board meeting on December 6, and the previously published Work Groups meeting on December 5 remain the same; that is, 9:00 a.m. to 5:00 p.m. on December 6, the Board meets at the National Institutes of Health, Building 31, Conference Room 7, Bethesda, Maryland. The times and meeting locations of the Work Groups may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20014, (301-496-1991).

The entire meeting remains open to the public. Attendance is limited to space available.

Dated: November 8, 1979.

Suzanne L. Freneau,
Committee Management Officer, National
Institutes of Health.

[FR Doc. 79-35367 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-08-M

Directions for the Proposed National Digestive Diseases Education and Information Center Conference; Meeting

Notice is hereby given of a Conference, Directions for the Proposed National Digestive Diseases Education and Information Center, sponsored by the National Institute of Arthritis, Metabolism, and Digestive Diseases, National Institutes of Health, Building 1, Wilson Hall, Bethesda, Maryland, January 21, 1980, 9:00 a.m. to 5:00 p.m. The meeting will be open to the public and attendance is limited to space available.

The need for a National Digestive Diseases Education and Information Center (Clearinghouse) was described in the report of the National Commission on Digestive Diseases. The objective of this Conference will be to provide background information in order to prepare an implementation plan for a Center (Clearinghouse).

Interested parties are invited to respond in a two-page typewritten statement of interests, goals, and plans, as well as current and past activities or organizations involved in patient and public education in the area of digestive diseases. These statements, copies of publications, a history of the organization, a summary of media programs for the past year, and a list of educational material including audiovisuals may be sent to Dr. Kirt J. Vener, Health Science Administrator, National Institute of Arthritis, Metabolism, and Digestive Diseases, NIH, Building 31, Room 9A23, Bethesda, Maryland 20205, telephone (301-496-1333) before December 4, 1979.

Further information concerning the Conference may be obtained from the address above.

(Catalog of Federal Domestic Assistance Program No. 13.484, National Institutes of Health)

Dated: November 9, 1979.

Suzanne L. Freneau,
Committee Management Officer, National
Institutes of Health.

[FR Doc. 79-35368 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-08-M

Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee, National Institutes of Health, on January 7, 1980, in Building 31, Conference Room 9, National Institutes of Health, Bethesda, MD 20205.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. for the discussion and review of the Institute's scientific information programs and activities, attendance by the public will be limited to space available.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, building 31, Room 8A03, NINCDS, NIH, Bethesda, MD 20205, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Mr. Alfred Weissberg, Executive Secretary, NINCDS, NIH, Building 31, Room 8A07, Bethesda, MD 20205, telephone 301/496-9271, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.854, National Institutes of Health)

Dated: November 9, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-35369 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-08

Office of Education

National Advisory Council on Extension and Continuing Education; Meetings

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of Meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of meetings of the National Advisory Council on Extension and Continuing

Education and its four ad hoc committees. It also describes the functions of the Council. Notice of meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meetings.

DATE: December 4-7, 1979.

ADDRESS: Tucson Marriott Hotel, 180 West Broadway, Tucson, Arizona 85701.

FOR FURTHER INFORMATION: Dr. William G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, N.W., Suite 529, Washington, D.C. 20004, Telephone: (202) 376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I, (HEA), including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning Activities) of the title.

Meetings of the Council are open to the public. However, because of limited space, those interested in attending any meeting are asked to write or call the Council's office beforehand. Available seats will be assigned on a first-come basis. The agenda for the Council meeting is summarized as follows:

A. Tuesday, December 4 (6:00 P.M.-8:00 P.M.)

Meetings of Ad Hoc Committees on:

1. The Media in Continuing Education
2. Federal/State Relations in Continuing Education
3. Title I of the Higher Education Act
4. International Dimensions of Continuing Education

B. Wednesday, December 5 (8:30 A.M.-4:30 P.M.)

Meetings of Ad Hoc Committees with consultants and site visitations

C. Full Council Meeting

The full Council will convene on Wednesday evening, December 5, meeting from 7:30 P.M. to 9:30 P.M. The meeting will be continued on Thursday, December 6, from 9:00 A.M. to 9:30 P.M.; and conclude on Friday, December 7, meeting from 7:30 A.M. to 11:00 A.M.

On Thursday, December 6, individual speakers and panels will address the

following topics with primary emphasis on continuing education for older persons:

Life Transition Education (especially for women)
State Perspectives and Programs
Workers Education
Training Needs of Business and Industry
Education Needs of Minority Adults

The University of Arizona is serving as co-host for the Council meeting and is sponsoring a reception for the Council and guests on Thursday afternoon, December 6:

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, N.W., Washington, D.C.

Dated: November 9, 1979.

William G. Shannon,
Executive Director.

[FR Doc. 79-35403 Filed 11-15-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Wapato Irrigation Project, Washington

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information on the Wapato Irrigation Project for Calendar Year 1980 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583) and March 7, 1938 (45 Stat. 210).

The purpose of this notice is to announce an increase in the assessment rates commensurate with actual operation and maintenance costs on the Wapato Irrigation Project. The proposed assessment increases for 1980 amount to \$1.50 per acre on the Wapato-Satus Unit, \$0.80 per acre on the Toppenish-Simcoe Unit, and \$1.00 per acre on the Ahtanum Unit.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views or arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, no later than December 17, 1979.

Wapato Irrigation Project—General Administration

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 1 to September 30 each year. These dates may be varied as much as 15 days when weather conditions and the necessity for doing maintenance work warrants doing so.

Request for Water Delivery and Changes

Requests for water delivery and changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditch rider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Time for Payment of Water Charges

The assessments fixed by these regulations shall become due April 1 of each year and are payable on or before that date. To all charges assessed against lands in patent in fee ownership, and those paid by lessees of Indian lands direct to the project office, remaining unpaid on July 1 following the

due date, there shall be added a penalty of one and one-half percent for each month, or fraction thereof, from the due date until the charges are paid.

Charges for Special Services

Charges will be collected for various special services requested by the general public, waterusers and other organizations during the Calendar Year 1980 and subsequent years until further notice, as detailed below:

(1) Requests for Irrigation Accounts and Status Reports, Per Report.....	\$15.00
(2) Requests for Verification of Account Delinquency Status, Per report.....	10.00
(3) Requests for Splitting of Operation and Maintenance Bills (in addition to minimum billing fee) Per Bill.....	10.00
(4) Requests for Billing of Operation and Maintenance to Other than Owner or Lessee of Record (in addition to minimum billing fee), Per Bill.....	10.00
(5) Requests for Other Special Services Similar to the above, when appropriate, Per Report.....	10.00

Ahtanum Unit

Charges

(a) The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1980 and subsequent years until further notice, is fixed at \$6.25 per acre per annum for land to which water can be delivered from the project works.

(b) In addition to the foregoing charges there shall be collected a minimum charge of \$5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus \$5.

Toppenish-Simcoe Unit

Charges

(a) The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar Year 1980 and subsequent years until further notice, is fixed at \$6.25 per acre per annum for land for which an application for water is approved by the Project Engineer.

(b) In addition to the foregoing charges there shall be collected a minimum charge of \$5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus \$5.

Wapato-Satus Unit

Charges

(a) The basic operation and maintenance rates on assessable lands under the Wapato-Satus Unit are fixed for the Calendar Year 1980 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts.....	\$15.50
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands.....	18.50
(3) Rate per assessable acre for all lands with a storage water right, known as "B" lands, in addition to other charges per acre.....	2.20
(4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works lands.....	19.80

(b) In addition to the foregoing charges there shall be collected a minimum charge of \$5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus \$5.

Assessable Lands

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior, except land which has never been cultivated if in the opinion of the Project Engineer the cost of preparing such land for irrigation is so high as to preclude its being leased at this time for agricultural purposes.

(b) All Indian trust (A and B) land not designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of the Project Engineer and upon the payment of charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

Vincent Little,

Area Director.

November 8, 1979.

[FR Doc. 79-35436 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[F-54854]

Alaska; Proposed Withdrawal and Reservation of Lands

November 8, 1979.

The Department of the Army, Corps of Engineers, on July 11, 1979, filed application, serial No. F-54854, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, subject to valid existing rights:

Fairbanks Meridian

T. 2 S., R. 3 E.,

Sec. 33, NE¼NW¼. All that portion of the NE¼ lying southerly of the southerly right-of-way line of the Richardson Highway; N¼SE¼NW¼; SE¼SE¼NW¼; E¼SW¼SE¼NW¼; N¼NE¼NE¼; SW¼; N¼NW¼SE¼;

Sec. 34, all that portion of the SW¼NW¼ lying southerly of the southerly right-of-way line of the Richardson Highway. Containing 245.00 acres, more or less.

The applicant agency desires that the lands be withdrawn and reserved for use in conjunction with the Chena River Lakes Flood Control Project.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management on or before December 17, 1979.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513, on or before December 17, 1979. Notice of the public hearing will be published in the Federal Register giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary of the application will be published in the Federal Register. The Secretary's determination shall, in a proper case, be subject to the provisions of section

204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of 2 years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Alaska State Office, Bureau of Land Management, Department of the Interior, 701 C Street, Box 13, Anchorage, Alaska 99513.

Mary Jane Clawson,
Acting Chief, Branch of Lands and Minerals Operations.

District Recorder,
604 Barnette Street,
Fairbanks, Alaska 99701.

Public Service (941).
Public Service (220).

U.S. Post Office, Central, Alaska 99730.
U.S. Post Office, Circle, Alaska 99733.

U.S. Post Office, College, Alaska 99701.
U.S. Post Office, Dot Lake Branch, Delta

Junction, Alaska 99737.

U.S. Post Office, Curry L. Corner Branch,
Fairbanks, Alaska 99701.

U.S. Post Office, Fairbanks, Alaska 99701.

U.S. Post Office, Ft. Wainwright Branch,
Fairbanks, Alaska 99703.

U.S. Post Office, Minto, Alaska 99758.

U.S. Post Office, Healy, Alaska 99743.

U.S. Post Office, McKinley Park, Alaska
99755.

U.S. Post Office, Pearson River Branch, Delta
Junction, Alaska 99737.

U.S. Post Office, University Branch,
Fairbanks, Alaska 99701.

U.S. Post Office, Chatanika, Alaska 99731.

U.S. Post Office, Delta Junction, Alaska
99737.

U.S. Post Office, Clear Mountain, Alaska
99704.

U.S. Post Office, Eilesen A.F.B. Branch,
Fairbanks, Alaska 99702.

U.S. Post Office, Federal Station, Fairbanks,
Alaska 99707.

U.S. Post Office, Cakona, Alaska 99741.

U.S. Post Office, Hogatza, Alaska 99744.

U.S. Post Office, Manley Hot Springs, Alaska
99765.

U.S. Post Office, Nenana, Alaska 99760.

U.S. Post Office, North Pole, Alaska 99705.

U.S. Post Office, Rampart CPO, Via

Fairbanks, Alaska 99767.

U.S. Post Office, Stevens Village, Alaska
99774.

[FR Doc. 79-35482 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-84-M

California Desert; Temporary Closure of Two Areas; Amendment

Amendment to notice of closure
(Federal Register Vol. 44, No. 213,
published November 1, 1979, page
62963).

The boundaries of two areas of public lands in the California Desert to be temporarily closed November 21 through November 28, 1979 have been changed. The new boundaries are:

Area A (San Bernardino Meridian)

T. 11 N., R. 4 E.

That part of Secs. 12 and 24 lying north of the Interstate 15 right-of-way.

T. 11 N., R. 5 E.

Those portions of Secs. 2, 4, 6, 8, 10, 18, and 20 lying north of the Interstate 15 right-of-way.

T. 12 N., R. 4 E.

That part of Sec. 25 lying south of the powerline road associated with rights-of-way LA 052174 and LA 053634.

T. 12 N., R. 5 E.

Those portions of Secs. 1-3, 9-15, 17, 19-30, 32, 34, and 35 lying south of the powerline road associated with rights-of-way LA 052174 and LA 053634.

T. 12 N., R. 6 E.

All of Secs. 1-15, 18, 20, 22-24, 26, 28, 30, 32, and 34.

T. 12 N., R. 7 E.

All public lands in Secs. 3-10, 15, 17-22, and 27-34

(This portion of the amendment reduces the area of closure)

Area B (San Bernardino Meridian)

T. 17 N., R. 12 E.

Secs. 11, 12, 14, 15, 21-24, 27, and 28.

T. 17 N., R. 12½ E.

Secs. 1 and 13.

T. 17 N., R. 13 E.

Secs. 8 and 18.

(This portion of the amendment adds Sec. 6 of T. 17 N., R. 13 E. to the area to be closed.)

The closure only will affect the public lands within the described boundaries.

The original notice of closure is also amended to except from the closure vehicular traffic on the entire length of the powerline road associated with LA 052174 and LA 053634, including where this road passes through Area B.

These amendments do not change any other portion of the original notice.

Gerald E. Hillier,

Riverside District Manager.

[FR Doc. 79-35429 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38795]

New Mexico; Gas Pipeline Right-of-Way Application

November 8, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 28 N., R. 8 W.,

Sec. 14, SE¼NW¼.

This pipeline will convey natural gas across 0.130 of a mile of public land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35470 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38796 and 38797]

New Mexico; Right-of-Way Applications

November 8, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has filed two right-of-way applications for 6-inch and 4-inch pipelines across the following lands:

New Mexico Principal Meridian, New Mexico

T. 18 S., R. 27 E.,

Sec. 22, SE¼SE¼;

Sec. 27, N¼N¼;

Sec. 28, N¼NE¼.

T. 20 S., R. 29 E.,

Sec. 7, NE¼SW¼, W¼SE¼ and

SE¼SE¼;

Sec. 18, NE¼NE¼.

These pipelines will convey natural gas across 2.316 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35468 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38800]

New Mexico; Right-of-Way Application

November 8, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has filed a right-of-way application for two 4½-inch pipelines across the following land:

New Mexico Principal Meridian, New Mexico

T. 20 S., R. 29 E.,

Sec. 16, SE¼NW¼ and NE¼SW¼.

These pipelines will convey natural gas across 0.197 of a mile of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35467 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38819 and 38845]

New Mexico; Natural Gas Pipeline Rights-of-Way Applications

November 8, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for two 4-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 28 N., R. 10 W.,

Sec. 7, lot 5.

T. 28 N., R. 11 W.,

Sec. 12, SE¼SE¼;

Sec. 25, N¼NE¼, SW¼NE¼, SE¼NW¼

and NE¼SW¼.

These pipelines will convey natural gas across 1.147 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35468 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38848, 38849 and 38850]

New Mexico; Natural Gas Pipeline Rights-of-Way Applications

November 9, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for two 4-inch and one 2-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 9 W.,

Sec. 27, SE¼SW¼ and SW¼SE¼.

Sec. 34, NE¼NW¼.

T. 31 N., R. 9 W.,

Sec. 11, lots 3, 6, 10 and 11.

T. 30 N., R. 11 W.,

Sec. 13, lot 3.

These pipelines will convey natural gas across 1.208 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35471 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38854]

New Mexico; Natural Gas Pipeline Right-Of-Way Application

November 9, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for one 4½ inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 20 S., R. 34 E.,

Sec. 28, NE¼SE¼.

This pipeline will convey natural gas across 0.183 of a mile of public land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35465 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38855]

New Mexico; Natural Gas Pipeline Right-Of-Way Application

November 9, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for on 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 19 S., R. 25 E.,

Sec. 34, SE¼NW¼, NE¼SW¼ and

W¼SE¼.

T. 20 S., R. 25 E.,

Sec. 2, W¼SW¼;

Sec. 3, lots 1, 2, SE¼NE¼ and NE¼SE¼.

This pipeline will convey natural gas across 1.818 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35409 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

[W-69198]

Wyoming; Natural Gas Pipeline Right-Of-Way Application

November 7, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Mountain Fuel Supply Company of Salt Lake City, Utah filed an application for a right-of-way to construct two buried lateral pipelines (one 3½ inch and one 4½ inch) for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 23 N., R. 103 W.,
Sec. 6, lot 7 and SE¼SW¼.
T. 23 N., R. 104 W.,
Sec. 1, S½S½;
Sec. 2, SE¼SE¼.

The proposed pipelines will transport natural gas from the Winston-Federal No. 1 well located in the SE¼SE¼ of Section 2, and the Jamieson "A" No. 1 well located in the N½SE¼ of Section 1, all within T. 23 N., R. 104 W., to a point of connection with an existing pipeline located in the SE¼SW¼ of Section 6, T. 23 N., R. 103 W., all within Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-35473 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

Utah; Deep Creek Mountains: Future Management Proposals; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: Notice is hereby given that the following public meeting will be held to discuss three options for future management of the Deep Creek Mountains in Juab and Salt Lake Counties, Utah. The meeting will be held December 5, 1979, 7:30 p.m. at the Salt Palace, Room 127, 100 South West Temple, Salt Lake City, Utah.

DATE: Comments by January 15, 1980.

CONTACT: Donald L. Pendleton, District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 (801) 896-8221, or Tom Jensen, Area Manager, House Range Resource Area, Fillmore, Utah 84631 (801) 743-6811.

Background: As early as 1973, the Deep Creek Mountains in western Utah were identified as containing resource values worthy of protection. Primitive and outstanding natural area designations were proposed in 1975; however, no action was taken for protection prior to passage of the Federal Land Policy and Management Act of 1976 (FLPMA). Mineral activity in the area heightened the concern for protective management of the resources in the Deep Creek Mountains and led to the emergency withdrawal of 26,927 acres under Section 204 of the FLPMA on May 2, 1977. As a result of the withdrawal, the BLM has a three-year period to inventory the resource values found in the area and determine whether the withdrawal should be made permanent. The Bureau of Land Management's proposed action therefore, is to determine whether the existing 26,927 acre withdrawal should be made permanent or whether the resource values can be more adequately protected and/or managed by other available means.

The Bureau of Land Management was assisted by other federal agencies, state and local government in identifying endangered, threatened and rare plant and animal species, off road vehicle use, mineral and geological resources, archaeological and historical values, and water quality. The Richfield and Salt Lake Districts have completed an accelerated intensive wilderness inventory of units UT-020-060 and UT-050-020 in Juab and Salt Lake Counties. The presence of the Giant Stonefly outside of its recognized distribution and the possible existence of bristlecone pine trees in excess of 3,000 years old

are additional unique resource values of the Deep Creek Mountains.

BLM is now seeking public comment on three management options which are based on the inventory findings during the past three years. The three options are as follows:

1. *Make application for a permanent withdrawal on the 26,927 acre Emergency Withdrawal before its expiration on May 2, 1980.*

Subject to valid existing rights, the permanent withdrawal, would afford the protection outlined in the emergency withdrawal: no settlement, sale, location, or entry, under the general laws, including the mining law, would be allowed on the 26,927 acre area.

2. *Modify the Emergency withdrawal and make application for a permanent withdrawal.*

This option is to consider modification of the existing withdrawal boundary to include the additional significant resource values that have been identified during the three-year emergency withdrawal period.

3. *Permit the Emergency Withdrawal to expire and propose the Deep Creek Mountains as a Wilderness Study Area.*

The Bureau of Land Management is mandated under Section 603 of the FLPMA to review public land roadless areas of 5,000 acres or more having wilderness characteristics and report to Congress on the suitability or non-suitability of these lands for wilderness designation.

The Initial Wilderness Inventory indicated that the 213,868 acres of the Deep Creek Mountain roadless area within the Richfield and Salt Lake Districts contained sufficient naturalness to warrant further review under the "Intensive" Wilderness Inventory.

An accelerated Wilderness Inventory was completed in November. A 68,910 acre area of public land (38,170 acres in Salt Lake BLM District and 30,740 acres in the Richfield District), has been identified as having sufficient naturalness and outstanding opportunities for solitude and primitive types of recreation for recommendation as a Wilderness Study Area (WSA). The boundaries of the entire inventory units and the proposed WSA are designated on the map.

If the Deep Creeks are recommended as a Wilderness Study Area, the Bureau could not permit actions to take place on the lands which would permanently impair the area's suitability for preservation as wilderness.

Existing mining, mineral leasing, and grazing uses may continue in the same manner and degree as they were being

conducted when FLPMA was enacted on October 21, 1976, but will be regulated to afford environmental protection and prevent undue and unnecessary degradation of the land and resources. All other activities on their existing claims and activity on new mining claims would exceed the "manner and degree" of October 21, 1976, and would, therefore, be subject to regulation to prevent permanent "impairment" of wilderness characteristics.

As mandated by FLPMA, the 68,910 acre area would still be under consideration for wilderness study regardless of which option is chosen.

Written comments on the future management of the Deep Creek Mountains will be accepted until January 15, 1980 by Donald L. Pendleton, District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

Donald L. Pendleton,
District Manager.

[FR Doc. 79-35472 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Land Management

BLM Nevada Conducts Special Inventory on Pueblo Mountain Area of Humboldt County, Nev.

A public meeting will be conducted by the Winnemucca District BLM office to discuss the results of the special wilderness inventory conducted on the Pueblo Mountains area of northwestern Nevada. The meeting will be held on Dec. 6, 1979 from 1:30 to 4:30 P.M. at the Winnemucca BLM office, 705 E. Fourth St., Winnemucca, NV 89445.

The area involves Nevada public land split into two wilderness inventory units: NV-020-642a (10,180 acres) and NV-020-642b (4,480 acres in Nevada and contiguous acreage in Oregon).

NV-020-642a was found to lack wilderness characteristics, specifically a lack of naturalness and no outstanding opportunities for primitive and unconfined recreation.

NV-020-642b was found to possess wilderness characteristics and is recommended to be designated a wilderness study area.

Public comments on the BLM's recommendation will be accepted until Jan. 4, 1980. Comments should be sent to the Winnemucca or the Reno (300 Booth St., Room 3008, 89509) BLM offices.

Dated: November 7, 1979.

Wm. J. Malencik,
Acting State Director, Nevada.
[FR Doc. 79-35460 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

[NM 38761]

New Mexico; Notice of Application

November 6, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico
T.30 N., R. 7 W.,
Sec. 21, SW¼SW¼.

This pipeline will convey natural gas across 0.213 of a mile of public land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35461 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

[NM 38732, 38785, 38786, 38787, 38788 and 38789]

New Mexico; Applications

November 6, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for five 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico
T. 28 N., R. 6 W.,
Sec. 9, S½SW¼;
Sec. 15, NW¼NW¼;
Sec. 16, N½N½;
Sec. 20, E½SE¼ and NW¼SE¼;
Sec. 21, SW¼SW¼.
T. 30 N., R. 7 W.,
Sec. 29, E½SE¼ and SW¼SE¼;
Sec. 30, SE¼SE¼.
T. 29 N., R. 9 W.,
Sec. 34, NE¼NW¼.

These pipelines will convey natural gas across 2.386 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35462 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

[NM 38799, 38801, 38815, 38816 and 38851]

New Mexico; Applications

November 8, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for five 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico
T. 25 N., R. 6 W.,
Sec. 9, NE¼NE¼.
T. 28 N., R. 8 W.,
Sec. 32, N½NE¼.
T. 29 N., R. 8 W.,
Sec. 28, SE¼NE¼.
T. 29 N., R. 9 W.,
Sec. 29, SW¼NE¼.
T. 28 N., R. 11 W.,
Sec. 22, NW¼ and E½SW¼.

These pipelines will convey natural gas across 1.056 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35463 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

[NM 38769 and 38771]

New Mexico; Applications

November 6, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

New Mexico Principal Meridian, New Mexico
T. 25 S., R. 33 E.,

Sec. 22, NE¼SW¼ and S¼SW¼;
Sec. 23, N¼S¼;
Sec. 24, NW¼SW¼;
Sec. 27, NW¼NW¼;
Sec. 28, NE¼NE¼, S¼NE¼, SE¼SW¼
and W¼SE¼;
Sec. 33, N¼NW¼ and SW¼NW¼.

These pipelines will convey natural gas across 3.575 miles of public land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,
Chief Lands Section.

[FR Doc. 79-35484 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

[AA-5964]

Alaska; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

The U.S. Department of Agriculture, Forest Service filed application, Serial number AA-5964, on June 24, 1970, for a withdrawal in relation to the following described lands:

Kenai River Area

T. 5 N., R. 4 W., Seward Meridian, within Secs. 27, 28, 33, 34, 35 and 36, a strip of land from the forest boundary on the west to the Cooper Creek Campground withdrawal (Public Land Order 829) on the east, lying between Sterling Highway (Alaska State Highway No. 1) and Kenai River; and a roadside zone 400 feet in width on the northside of the highway west of the Schooner Bend Bridge, to the forest boundary and 400 feet on the southside of the highway east of said bridge to the Cooper Creek Campground withdrawal (Public Land Order 829), containing 350 acres more or less.

Six-mile Creek Area

A strip of land lying between the east bank of Six-mile Creek and a line 200 feet west of the centerline of the Hope Highway and between the east bank of the east fork of Six-mile Creek and a line 200 feet west of the centerline of the Seward-Anchorage Highway extending from the center of the east fork bridge at approximately mile 61.6 on the Seward-Anchorage Highway to the south boundary of the Sunrise Townsite elimination at approximately mile 7.0 on the Hope Highway; excluding the area withdrawn under Public Land Order 1094, dated March 15, 1955, containing 839 acres more or less.

The applicant desires that the land be maintained in a near-natural state for the recreation and scenic enjoyment of the traveling public. A notice of the proposed withdrawal was published in the Federal Register on March 25, 1971, Volume 36, No. 58, page 5624, Document No. 71-4033. Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2754), notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513 on or before December 18, 1979. Notice of the public hearing will be published in the Federal Register, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of, or in addition to, attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before December 18, 1979.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless

sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Alaska State Office, Bureau of Land Management, Department of the Interior, 701 C Street, Box 13, Anchorage, Alaska 99513.

Willa May Shore,
Acting Chief, Branch of Lands, and Minerals Operations.

[FR Doc. 79-35308 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

[C-25948]

Coal Lease Offering by Sealed Bid

U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Notice is hereby given that certain resources in the lands hereinafter described in Moffat County, Colorado will be offered for lease by sealed bid of \$25 or more per acre to the qualified bidder submitting the highest bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). The sale will be held at 2:00 p.m., December 18, 1979, in Room 708, Colorado State Bank Building, Denver, Colorado. No bids received after 2:00 p.m., December 18, 1979, will be considered.

Coal Offered: The coal resource to be offered is limited to all strippable reserves of the "Q" coal bed and any overlying coal beds in the following described lands located approximately seven miles southwest of Craig, Colorado:

T. 5 N., R. 91 W., 6th P.M.
Sec. 5: Lots 5 and 6 (Containing 85.26 acres).

The "Q" Bed contains approximately 400,000 tons of coal recoverable by surface mining methods. The "Q" coal bed has an average thickness of 9 feet in the lands and has an average analysis as follows:

Moisture—16.1 percent, Ash—7.5 percent,
Volatile Matter—38.0 percent, Sulfur—0.3 percent,
Fixed Carbon—38.0 percent, Btu—9,997 per pound.

The coal is classified as high volatile C bituminous.

Rental and Royalty: A lease issued as a result of this offering will provide for payment of an annual rental of \$3 per acre or fraction thereof and a royalty

payable to the United States at the rate of 12.5 percent of the value of coal mined by surface methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, are available for public inspection in Room 701.

Andrew W. Heard, Jr.,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 79-35309 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation**Contract Negotiations With P.P.R.T. Water Systems, Inc., Idaho; Intent To Begin Repayment Contract Negotiations**

The Department of the Interior, through the Bureau of Reclamation, intends to begin negotiations to amend the September 30, 1977, repayment contract with P.P.R.T. Water Systems, Inc., Carey, Blaine County, Idaho. That contract was executed under the authority of the Emergency Drought Act of April 7, 1977 (91 Stat. 36), as amended. The proposed amendment will defer the time for payment of installments under that contract, pursuant to the Act of September 21, 1959 (73 Stat. 584).

Pursuant to the Emergency Drought Act and the 1977 contract, funds in the amount of \$249,289.69 were expended to construct emergency water supply facilities that were needed to alleviate the effects of the severe drought of 1977. The 1977 contract provided that those funds would be repaid by the contractor in annual installments beginning in 1979.

Blaine County has suffered a serious drought in 1979. In addition, a damaging hailstorm struck the area on August 15, 1979. As a result of the drought and hailstorm, Blaine County was described a disaster area. P.P.R.T. Water Systems, Inc., requested deferment of the annual installment due December 1979 due to significant crop losses.

The public may observe any negotiating sessions. Advance notice of such meetings, if any, will be furnished

on request. Requests must be in writing and submitted at least 1 week prior to any session. Requests must specify that the requesting party is interested in the proposed contract with P.P.R.T. Water Systems, Inc. Inquiries should be addressed to the Regional Director, attention code 440, Bureau of Reclamation, 50 West Fort Street, Box 043, Boise, Idaho 83724.

A proposed draft contract will be made available for public review following completion of contract negotiations. Thereafter, a 30-day period will be allowed for receipt of written comments from the public.

All written correspondence concerning the proposed contract will be made available pursuant to the Freedom of Information Act (80 Stat. 383), as amended.

For further information on scheduled negotiating sessions and copies of the proposed contract form, please contact: Mr. Richard M. Rigby, Bureau of Reclamation, Repayment and Statistics Branch, Division of Water, Power, and Lands, 550 West Fort Street, Box 043, Boise, Idaho 83724, telephone (208) 384-9503.

Dated: November 6, 1979.

Aldon D. Nielsen,
Acting Assistant Commissioner of Reclamation.

[FR Doc. 79-35094 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-09-M

Fish and Wildlife Service**Availability of Environmental Assessments for Wildlife Restoration Projects**

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of Availability for Inspection and Public Comment.

SUMMARY: This notice provides a listing of Environmental Assessments available for public review to supplement those previously listed in the Federal Register July 20, August 3, September 6, and October 5, 1979. The Assessments and Findings of No Significant Impact were prepared on certain projects conducted by State fish and wildlife agencies under the Federal Aid in Wildlife Restoration program. The public is invited to comment, and information is provided on the locations at which the documents may be reviewed.

DATE: Comments must be received at the locations indicated by December 17, 1979.

ADDRESSES: The assessments are available for inspection at the following locations:

FWS Federal Aid Office, 1000 N. Glebe Road, Arlington, Virginia 22201
Region 1, FWS, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.
Region 2, FWS, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103.
Region 3, FWS, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.
Region 4, FWS, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303.
Region 5, FWS, 1 Gateway Center, Suite 700, Newton Corners, Massachusetts 02158.
Region 6, FWS, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.
Alaska Area Office, FWS, 1011 E. Tudor Road, Anchorage, Alaska 99507, Central headquarters office of the State fish and wildlife agency.

Interested persons are invited to submit comments to the appropriate Regional Director at the above regional addresses within 30 days. Copies of the assessment may be obtained at the Regional Offices upon payment of reasonable reproduction costs pursuant to 43 CFR, Part 2, Appendix A. Copies of any Finding of No Significant Impact will be provided free of cost.

FOR FURTHER INFORMATION CONTACT: Mr. Charles K. Phenice, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-1526.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the U.S. District Court for the District of Columbia issued an order dismissing Civil Action No. 78-430 involving the Federal Aid in Wildlife Restoration program. The dismissal effected an agreement by plaintiffs and defendants which included a provision that the Fish and Wildlife Service would publish in the Federal Register a notice of availability of certain Environmental Assessments for inspection and public comment. Pursuant to the stipulated agreement, this notice lists Environmental Assessments prepared to date and will be supplemented as other assessments are prepared.

The principal author of this notice is Dr. Robert J. Sousa, U.S. Fish and Wildlife Service, Division of Federal Aid, Washington, D.C. 20240, telephone 703-235-1526.

Notice is hereby given of availability for inspection and comment of environmental assessments for the following Federal Aid projects funded in part by the U.S. Fish and Wildlife Service (FWS) under the Pittman-Robertson Federal Aid in Wildlife Restoration Act, 16 U.S.C. 669 et seq. (Activities listed are not exclusive.)

Region 3

Michigan W-36-D

The goal of this project is to produce and maintain optimum wildlife habitat diversity on approximately 306,000 acres of state-owned land in the southern one-third of Michigan. Management activities designed to maintain and improve existing habitat diversity include: planting of trees and shrubs; herbaceous seeding for food; roosting and nesting cover; creation and maintenance of clearings; edge development; building brush piles; control of vegetation through prescribed burning, chemical spraying and cutting; and marsh management.

Wisconsin W-151-D

The purpose of this project is to protect and enhance breeding habitat and migration stopover areas used by waterfowl. This project includes, among other activities: erecting boundary fencing and signs; construction of a parking area; demolishing buildings; planting food plots and dense nesting cover; vegetation control; project administration; and cooperation with research.

Dated: November 13, 1979.

Robert S. Cook,
Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-35321 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-55-M

Office of the Secretary

[INT FES 79-60]

**Authorized Salt-Gila Aqueduct;
Availability of Final Environmental
Statement**

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental statement for the Salt-Gila Aqueduct feature of the Central Arizona Project, Arizona-New Mexico.

This statement describes the environmental impacts resulting from the construction and operation of the Salt-Gila Aqueduct and associated electrical transmission system. The aqueduct would convey Colorado River water from the terminus of the Granite Reef Aqueduct in southeastern Maricopa County to the beginning of the authorized Tucson Aqueduct in south-central Pinal County, Arizona. Construction of the feature is scheduled to begin in mid-1980, with project completion scheduled for 1985.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs,
Room 7622, Bureau of Reclamation,
Department of the Interior, Washington,
D.C. 20240, Telephone No. 202-343-4991.
Engineering and Research Center, Library
Branch, Code D-950, Denver Federal
Center, Denver, Colorado 80225, telephone
No. 303-234-3019.

Office of the Regional Director, Lower
Colorado Region, Bureau of Reclamation,
Boulder City, Nevada 89005, Telephone No.
702-293-8464.

Arizona Projects Office, Bureau of
Reclamation, Suite 2200, Valley Center, 201
North Central Avenue, Phoenix, Arizona
85073, Telephone No. 602-261-3577.

Upon request, single copies of the
final statement may be obtained from
the Commissioner of Reclamation or the
Regional Director. Please refer to the
statement number above.

Dated: November 13, 1979.

James H. Rathlesberger,
Special Assistant to Assistant Secretary of
the Interior.

[FR Doc. 79-35405 Filed 11-15-79; 8:45 am]

BILLING CODE 4310-09-M

**INTERNATIONAL TRADE
COMMISSION**

[225-1]

**Competitive Status of Certain
Benzenoid Chemical Imports From
Switzerland and the European
Community**

AGENCY: United States International
Trade Commission.

ACTION: Notice is hereby given that the
United States International Trade
Commission has made its preliminary
determinations with respect to lists of
benzenoid chemicals and products
notified to the United States by
Switzerland and the European
Community for the purpose of reviewing
the U.S. customs treatment accorded
each chemical or product during 1976,
1977, and 1978, pursuant to investigation
No. 225-1, initiated September 18, 1979
(44 FR 55442, September 28, 1979).

The Annex to this notice lists the
chemicals and products which the
Commission has preliminarily
determined were not valued for customs
proposes on the basis of American
selling price upon entry into the United
States during the period determined by
it to be representative, and for which a
more appropriate and representative
rate of duty exists in section 223 of the
Trade Agreements Act of 1979 than the
rate of duty that would apply but for
section 225 of that Act.

WRITTEN SUBMISSIONS: Interested
parties are invited to comment on all
aspects of the Commission's preliminary

determinations including the
Commission's methodology in
eliminating articles from further
consideration, the representativeness of
the representative periods selected by
the Commission, and the
appropriateness of the "more
appropriate and representative" rates of
duty chosen by the Commission. Written
comments should be submitted by
November 27, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Ed Cappuccilli, Office of Industries
((202) 523-0490) or Mr. Holm Kappler,
Office of Nomenclature, Valuation, and
Related Activities ((202) 523-0362),
United States International Trade
Commission, 701 E Street, NW.,
Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: The
Trade Agreements Act of 1979 contains
a new tariff nomenclature for benzenoid
chemicals with rates of duty adjusted to
reflect the adoption by the United States
of a revised system of customs valuation
based principally upon transaction
value. Under section 225 of the Trade
Agreements Act of 1979 the President is
authorized to proclaim a modification of
the article descriptions in subpart B and
C of part 1 of Schedule 4 of the Tariff
Schedules of the United States in order
to transfer articles within those
provisions. The President may not make
any such modification unless the
Commission determines that—

(1) the chemical or product was not valued
for customs purposes on the basis of
American selling price upon entry into the
United States during a period determined by
the Commission to be representative, and

(2) a rate of duty provided for in such
subparts, other than the rate of duty that
would apply but for this section, is more
appropriate and representative for such
chemical or product.

The Commission has reviewed lists of
certain benzenoid chemicals notified to
the United States by Switzerland and
the European Community with regard to
the U.S. customs treatment accorded
each chemical or product during 1976,
1977, and 1978.

For the 428 chemicals and products in
the combined lists, the Commission
tabulated the available data for each
customs entry of each chemical or
product, including its customs valuation
treatment. Approximately 299 of those
chemicals and products have been
tentatively eliminated because (a) it was
impossible to locate customs entry data
from the information supplied, (b) the
chemicals were valued on the basis of
American selling price by Customs
during the representative period
determined by the Commission, (c) the
supplied name or description of the

product is inappropriate or insufficient
for customs nomenclature and
classification purposes, (d) no other
classification provision is applicable or
(e) no more appropriate and
representative rate of duty exists in
section 223 of the Trade Agreements Act
of 1979 than the rate of duty that would
apply but for section 225 of that Act.

There are 129 chemicals and products
which the Commission has identified as
not having been valued on the basis of
American selling price and for which
more appropriate and representative
rate of duty exists in section 223 of the
Trade Agreements Act of 1979 than the
rate of duty that would apply but for

section 225 of that Act. These chemicals
and products are listed in the Annex to
this notice and are eligible articles for
duty modification to be proclaimed by
the President pursuant to the authority
in section 225 of the Trade Agreements
Act of 1979.

The "representative period" shown for
each item is the most recent 12-month
period during which imports are known
to have entered the United States from
the European Community and
Switzerland.

By Order of the Commission.

Issued November 9, 1979.

Kenneth R. Mason,
Secretary.

Annex.—Chemicals or Products Which Were Not Valued on the Basis of American Selling Price and for Which a More Appropriate and Representative Rate of Duty Exists in Section 223 of the Trade Agreements Act of 1979

Chemical name/product	Representative period (month/year)	TSUS item number and column 1 rate of duty in section 223			
		Existing rate		More appropriate rate	
		TSUS item	Rate	TSUS item	Rate
Acid Black 177	11/77-11/78	409.66	30.7%	409.62	23.0%
Acid Black 188	10/77-10/78	409.66	30.7%	409.62	23.0%
Acid Black 199	2/76-2/77	409.66	30.7%	409.62	23.0%
Acid Blue 1	6/77-6/78	409.66	30.7%	409.62	23.0%
Acid Blue 175	4/77-4/78	409.66	30.7%	409.62	23.0%
Acid Blue 252	5/77-5/78	409.66	30.7%	409.62	23.0%
Acid Blue 284	11/77-11/78	409.66	30.7%	409.62	23.0%
Acid Blue 318	1/77-1/78	409.66	30.7%	409.62	23.0%
Acid Brown 85	6/77-6/78	409.66	30.7%	409.62	23.0%
Acid Brown 357	12/77-12/78	409.66	30.7%	409.62	23.0%
Acid Brown 384	8/77-8/78	409.66	30.7%	409.62	23.0%
Acid Green 89	10/77-10/78	409.66	30.7%	409.62	23.0%
Acid Orange 107	8/77-8/78	409.66	30.7%	409.62	23.0%
Acid Orange 144	3/77-3/78	409.66	30.7%	409.62	23.0%
Acid Red 183	8/77-8/78	409.66	30.7%	409.62	23.0%
Acid Red 215	8/76-8/77	409.66	30.7%	409.62	23.0%
Acid Red 330	8/76-8/77	409.66	30.7%	409.62	23.0%
Acid Red 359	4/77-4/78	409.66	30.7%	409.62	23.0%
Acid Red 360	8/77-8/78	409.66	30.7%	409.62	23.0%
Acid Yellow 70	11/77-11/78	409.66	30.7%	409.62	23.0%
Acid Yellow 199	1/78-1/79	409.66	30.7%	409.62	23.0%
Acid Yellow 221	10/77-10/78	409.66	30.7%	409.62	23.0%
Basic Blue 70	2/77-2/78	409.74	30.9%	409.70	22.6%
Basic Orange 48	1/77-1/78	409.74	30.9%	409.70	22.6%
Basic Red 22	5/77-5/78	409.74	30.9%	409.70	22.6%
Basic Red 75	8/76-8/77	409.74	30.9%	409.70	22.6%
Direct Black 114	11/77-11/78	409.82	28.6%	409.78	23.8%
Direct Red 221	11/77-11/78	409.82	28.6%	409.78	23.8%
Direct Yellow 27	4/77-4/78	409.82	28.6%	409.78	23.8%
Disperse Blue 35	12/77-12/78	409.90	27.8%	409.86	22.5%
Disperse Blue 73	11/77-11/78	409.90	27.8%	409.86	22.5%
Disperse Blue 126	8/77-8/78	409.90	27.8%	409.86	22.5%
Disperse Blue 148	9/77-9/78	409.90	27.8%	409.86	22.5%
Disperse Blue 289	5/77-5/78	409.90	27.8%	409.86	22.5%
Disperse Brown 1	7/76-7/77	409.90	27.8%	409.86	22.5%
Disperse Orange 54	8/77-8/78	409.90	27.8%	409.86	22.5%
Disperse Orange 60	1/77-1/78	409.90	27.8%	409.86	22.5%
Disperse Orange 139	10/77-10/78	409.90	27.8%	409.86	22.5%
Disperse Red 46	10/77-10/78	409.90	27.8%	409.86	22.5%
Disperse Red 169	8/76-8/77	409.90	27.8%	409.86	22.5%
Disperse Red 277	8/77-8/78	409.90	27.8%	409.86	22.5%
Disperse Red 288	6/77-6/78	409.90	27.8%	409.86	22.5%
Disperse Red 303	10/77-10/78	409.90	27.8%	409.86	22.5%
Disperse Violet 33	12/77-12/78	409.90	27.8%	409.86	22.5%
Disperse Violet 35	11/77-11/78	409.90	27.8%	409.86	22.5%
Disperse Violet 48	10/77-10/78	409.90	27.8%	409.86	22.5%
Disperse Violet 57	11/77-11/78	409.90	27.8%	409.86	22.5%
Disperse Yellow 85	11/77-11/78	409.90	27.8%	409.86	22.5%
Disperse Yellow 182	7/77-7/78	409.90	27.8%	409.86	22.5%
Disperse Yellow 183	7/77-7/78	409.90	27.8%	409.86	22.5%
Disperse Yellow 202	11/77-11/78	409.90	27.8%	409.86	22.5%
Pigment Brown 32	5/77-5/78	410.32	31.3%	410.28	20.4%
Pigment Red 68	10/76-10/77	410.32	31.3%	410.28	20.4%
Pigment Red 216	7/77-7/78	410.32	31.3%	410.28	20.4%
Pigment Violet 32	1/77-1/78	410.32	31.3%	410.28	20.4%
Pigment Yellow 16	11/77-11/78	410.32	31.3%	410.28	20.4%
Pigment Yellow 24	12/77-12/78	410.32	31.3%	410.28	20.4%
Pigment Yellow 62.1	12/77-12/78	410.32	31.3%	410.28	20.4%
Pigment Yellow 93	12/77-12/78	410.32	31.3%	410.28	20.4%
Pigment Yellow 95	10/77-10/78	410.32	31.3%	410.28	20.4%
Pigment Yellow 108	3/77-3/78	410.32	31.3%	410.28	20.4%
Pigment Yellow 138	11/77-11/78	410.32	31.3%	410.28	20.4%

Annex.—Chemicals or Products Which Were Not Valued on the Basis of American Selling Price and for Which a More Appropriate and Representative Rate of Duty Exists in Section 223 of the Trade Agreements Act of 1979—Continued

Chemical name/product	Representative period (month/year)	TSUS item number and column 1 rate of duty in section 223			
		Existing rate		More appropriate rate	
		TSUS item	Rate	TSUS item	Rate
Reactive Blue 19	12/77-12/78	410.08	27.8%	410.04	20.5%
Reactive Blue 21	12/77-12/78	410.08	27.8%	410.04	20.5%
Reactive Blue 27	10/77-10/78	410.08	27.8%	410.04	20.5%
Reactive Blue 63	11/77-11/78	410.08	27.8%	410.04	20.5%
Reactive Blue 73	11/77-11/78	410.08	27.8%	410.04	20.5%
Reactive Blue 99	3/77-3/78	410.08	27.8%	410.04	20.5%
Reactive Blue 137	12/77-12/78	410.08	27.8%	410.04	20.5%
Reactive Blue 139	3/77-3/78	410.08	27.8%	410.04	20.5%
Reactive Blue 162	11/77-11/78	410.08	27.8%	410.04	20.5%
Reactive Blue 163	3/77-3/78	410.08	27.8%	410.04	20.5%
Reactive Brown 7	12/77-12/78	410.08	27.8%	410.04	20.5%
Reactive Brown 16	1/77-1/78	410.08	27.8%	410.04	20.5%
Reactive Brown 26	3/77-3/78	410.08	27.8%	410.04	20.5%
Reactive Green 19	1/77-1/78	410.08	27.8%	410.04	20.5%
Reactive Orange 41	2/77-2/78	410.08	27.8%	410.04	20.5%
Reactive Orange 68	3/76-3/77	410.08	27.8%	410.04	20.5%
Reactive Red 24	1/76-1/77	410.08	27.8%	410.04	20.5%
Reactive Red 32	12/77-12/78	410.08	27.8%	410.04	20.5%
Reactive Red 85	9/76-9/77	410.08	27.8%	410.04	20.5%
Reactive Red 118	9/76-9/77	410.08	27.8%	410.04	20.5%
Reactive Red 141	12/77-12/78	410.08	27.8%	410.04	20.5%
Reactive Red 179	10/77-10/78	410.08	27.8%	410.04	20.5%
Reactive Violet 6	12/77-12/78	410.08	27.8%	410.04	20.5%
Reactive Yellow 2	9/77-9/78	410.08	27.8%	410.04	20.5%
Reactive Yellow 5	8/77-8/78	410.08	27.8%	410.04	20.5%
Reactive Yellow 37	3/77-3/78	410.08	27.8%	410.04	20.5%
Reactive Yellow 39	4/77-4/78	410.08	27.8%	410.04	20.5%
Solvent Black 29	8/77-8/78	410.00	28.0%	409.96	19.9%
Solvent Black 35	3/77-3/78	410.00	28.0%	409.96	19.9%
Solvent Blue 45	3/77-3/78	410.00	28.0%	409.96	19.9%
Solvent Brown 43	12/77-12/78	410.00	28.0%	409.96	19.9%
Solvent Orange 59	10/77-10/78	410.00	28.0%	409.96	19.9%
Solvent Orange 62	1/77-1/78	410.00	28.0%	409.96	19.9%
Solvent Red 7	12/77-12/78	410.00	28.0%	409.96	19.9%
Solvent Red 127	12/77-12/78	410.00	28.0%	409.96	19.9%
Solvent Yellow 30	8/77-8/78	410.00	28.0%	409.96	19.9%
Vat Blue 5	2/77-2/78	410.16	32.8%	410.12	20.9%
Vat Blue 16	11/77-11/78	410.16	32.8%	410.12	20.9%
Vat Brown 50	11/77-11/78	410.16	32.8%	410.12	20.9%
Vat Red 10	11/76-11/77	410.16	32.8%	410.12	20.9%
p-Acetacetotoluidide	1/77-1/78	405.32	1.7¢/lb + 18.1%	405.28	1.7¢/lb + 12.4%
1-Amino-4-bromo-2-methylanthraquinone	12/77-12/78	405.08	1.7¢/lb + 18.1%	404.92	1.7¢/lb + 12.2%
3-Amino-4-chlorobenzamide	5/76-5/77	405.32	1.7¢/lb + 18.1%	405.28	1.7¢/lb + 12.4%
2-Amino-6-chloro-4-nitrophenol	8/76-8/77	405.08	1.7¢/lb + 18.1%	404.92	1.7¢/lb + 12.2%
2-(p-Aminophenyl)-6-methylbenzothiazole (Dehydrothio-p-toluidine)	11/77-11/78	406.40	1.7¢/lb + 16.2%	406.36	1.7¢/lb + 12.4%
Amino-J-pyrazolone	8/77-8/78	406.40	1.7¢/lb + 16.2%	406.36	1.7¢/lb + 12.4%
Benzoic-tetrahydropranyl ether	9/77-9/78	406.40	1.7¢/lb + 16.2%	406.36	1.7¢/lb + 12.4%
1,1'-Binaphthyl-8,8'-dicarboxylic acid	12/77-12/78	404.36	1.7¢/lb + 22.7%	404.32	1.7¢/lb + 11.6%
Bismuth tribromophenolate	4/77-4/78	411.94	1.7¢/lb + 18.7%	411.90	1.7¢/lb + 12.8%
3-Chloro-o-toluidine	7/77-7/78	404.88	1.7¢/lb + 18.8%	404.84	1.7¢/lb + 12.4%
4-Chloro-a,a,-trifluoro-o-toluidine	12/77-12/78	404.88	1.7¢/lb + 18.8%	404.84	1.7¢/lb + 12.4%
Cinnamoyl chloride	7/76-7/77	404.28	1.7¢/lb + 17.9%	404.24	1.7¢/lb + 12.6%
Citrate	12/77-12/78	412.10	1.7¢/lb + 18.0%	412.06	1.7¢/lb + 13.1%
2-Cyano-4-nitroaniline	8/76-8/77	404.88	1.7¢/lb + 18.8%	404.84	1.7¢/lb + 12.4%
N,N-Diethylmetanilic acid, sodium salt	2/77-2/78	404.88	1.7¢/lb + 18.8%	404.84	1.7¢/lb + 12.4%
2-Ethylamino-5-sulfobenzoic acid	10/77-10/78	406.40	1.7¢/lb + 16.2%	406.36	1.7¢/lb + 12.4%
N-Ethyl-o-toluidine	9/77-9/78	404.88	1.7¢/lb + 18.8%	404.84	1.7¢/lb + 12.4%
Formyl phenylacetic acid, methyl ester	6/76-6/77	404.46	1.7¢/lb + 17.9%	404.40	1.7¢/lb + 12.5%

[FR Doc. 79-35280 Filed 11-15-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Consent Judgment in United States v. Jos. Schlitz Brewing Co., et al., and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed consent judgment and a competitive impact statement as set forth below have been filed with the United States District Court for the District of Hawaii in *United States v. Jos. Schlitz Brewing Company, et al.*, Civil No. 77-0202.

The Complaint alleges that beginning at least as early as 1973 and continuing through December of 1974, the defendants and unnamed co-conspirators conspired to fix the price of beer sold to retailers and to consumers in the State of Hawaii.

The proposed judgment applies to four of the five defendants named in the Complaint. Defendant Jos. Schlitz Brewing Company is scheduled to be tried in February, 1980.

The proposed judgment would enjoin the four consenting beer wholesaler defendants for a period of 10 years from

entering into any agreement or arrangement to fix, raise or stabilize retail or consumer prices of beer in Hawaii. It also enjoins them from fixing, reducing or eliminating discounts on beer sold in Hawaii and from directly or indirectly discussing with each other or with any other wholesale seller of beer the wholesale or consumer price, discounts or other terms and conditions of sale such for beer in Hawaii. By the terms of the judgment, each wholesaler defendant also agrees that if it should sell all or substantially all of the assets of its beer operations to another beer wholesaler or prospective beer wholesaler while the judgment is in effect, the purchaser will agree to be bound by the provisions of the judgment.

Public comment is invited within the statutory 60-day comment period. Such comment and response thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Anthony E. Desmond, Chief, San Francisco Office, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102.

Dated: November 2, 1979.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court, District of Hawaii

United States of America, Plaintiff, v. Jos. Schlitz Brewing Company; Muller & Phipps (Hawaii), Ltd.; Eagle Distributors, Inc.; Paradise Beverages, Inc.; and Foremost-McKesson, Inc., Defendants.

Civil Action No. 77-0202

Filed: November 2, 1979

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding. Dated: November 2, 1979

For the Plaintiff, John H. Shenefield,
Assistant Attorney General, Joseph H. Widmar, Director of Operations, Charles

F. B. McAleer, Special Assistant for Judgment Negotiations, Anthony E. Desmond, Christopher S. Crook, John F. Young,
For the Defendants, Frank D. MacDowell, Esq., Attorney for Muller & Phipps (Hawaii), Ltd., James S. Campbell, Esq., Attorney for Eagle Distributors, Inc., Vernon F. L. Char, Esq., Attorney for Paradise Beverages, Inc., Bruce Bigelow, Esq., Attorney for Foremost-McKesson, Inc.

United States District Court, District of Hawaii

United States of America, Plaintiff, v. Jos. Schlitz Brewing Company; Muller & Phipps (Hawaii), Ltd.; Eagle Distributors, Inc.; Paradise Beverages, Inc.; and Foremost-McKesson, Inc., Defendants.
Civil No. 77-0202

Final Judgment

Filed: November 2, 1979

Plaintiff, United States of America, having filed its complaint herein on June 8, 1977, and plaintiff and defendants Muller & Phipps (Hawaii), Ltd., Eagle Distributors, Inc., Paradise Beverages, Inc., and Foremost-McKesson, Inc., by their respective attorneys, having each consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue.

Now therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto,

It is hereby ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, or other business or legal entity;

(B) "Wholesale Price" means the price of beer charged by a beer wholesaler to a beer retailer; and

(C) "Consumer Price" means the price of beer charged by a beer retailer to consumers.

III

This Final Judgment applies to the consenting defendants and to their subsidiaries, successors, assigns, officers, directors, employees, and agents, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each consenting defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of its assets of its beer business or beer operations in Hawaii, to an acquiring party who is, at the time of

such sale or disposition, (1) a beer wholesaler in Hawaii, or (2) the successor franchisee of the beer franchise then held by the consenting defendant, that the acquiring party agree to be bound by the provisions of this Final Judgment. An acquiring party subject to this provision shall file with the Court, and serve upon the plaintiff, its consent to be bound by this Final Judgment.

V

Each consenting defendant is enjoined and restrained from entering into or maintaining any agreement, understanding, plan or program with any other person:

(1) To fix, raise, stabilize or maintain the wholesale price or consumer price of beer in Hawaii;

(2) To fix, reduce or eliminate discounts on the sale of beer in Hawaii; and

(3) To fix the terms or conditions of sale of beer in Hawaii.

VI

Defendants consenting hereto are enjoined and restrained from directly or indirectly discussing, with each other or with any other wholesaler of beer, the wholesale or consumer prices, discounts or other terms or conditions of sale each such defendant charges, or proposes to have charged for beer sold in Hawaii.

VII

(A) Each defendant shall:

(1) Serve within sixty (60) days after entry of this Final Judgment a copy of this Final Judgment upon each of its officers and directors and upon each of its employees and agents who have any responsibility for establishing prices, discounts or other terms or conditions of sale of beer in Hawaii; and
(2) Serve a copy of this Final Judgment upon each successor to an officer, director, employee or agent described in Paragraph (A) (1) of this Section VII within Sixty (60) days after the succession occurs.

(B) Within ninety (90) days after entry of this Final Judgment, each defendant shall file with this Court and serve upon plaintiff an affidavit concerning the fact and manner of compliance with Paragraph (A) of this Section VII, such affidavit to include the names, addresses and, where applicable, job titles of all persons served with a copy of this Final Judgment.

VIII

The injunctions contained in this Final Judgment shall not apply to relations between a defendant and a parent or subsidiary of, or corporations under common control with, such defendant or between the officers, directors, agents and employees thereof.

IX

(A) For the purpose of determining or securing compliance with this Final Judgment:

(1) Fully authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(a) Access during the office hours of such defendant to inspect and copy all books,

ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant relating to any matters contained in this Final Judgment; and

(b) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, servants or employees of the defendant, who may have counsel present, regarding any such matters.

(2) Any defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to its principal office, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

(B) No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under the Federal Rules of Civil Procedure," then twenty (20) days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or the carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance herewith, or for the punishment of violations hereof.

XI

This Final Judgment shall be in full force and effect for a period of ten (10) years from the date of entry.

XII

Entry of this Final Judgment is in the public interest.

United States District Judge.

United States District Court, District of Hawaii

United States of America, Plaintiff, v. Jos. Schlitz Brewing Company; Muller & Phipps (Hawaii), Ltd.; Eagle Distributors, Inc.; Paradise Beverages, Inc.; and Foremost-McKesson, Inc., Defendants.

Civil No. 77-0202

Filed: November 2, 1979.

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)), the United States hereby submits this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I

Nature of Proceeding

On June 8, 1977, a single count indictment was returned in the District of Hawaii against the five defendants named herein. The indictment charged a conspiracy to fix the retail and wholesale price of beer sold in Hawaii. On the day the indictment was filed, the Department of Justice also filed this companion civil case, *United States v. Jos. Schlitz Brewing Company, et al.*, Civ. No. 77-0202, against the same corporations named in the indictment alleging a conspiracy to fix the retail and wholesale price of beer sold in Hawaii.

The complaint asks the court to find that the defendants have violated Section 1 of the Sherman Act (15 U.S.C. 1) and further requests the court to enjoin the continuance of the conspiracy. Specifically, the complaint requests the court to enjoin the defendants from in any manner, directly or indirectly, conspiring to set the price of beer sold in Hawaii.

The criminal case and the companion civil case each named as defendants four wholesale beer distributors and one brewing company. The brewing company is Jos. Schlitz Brewing Company of Wisconsin. The wholesale beer distributors named were Muller & Phipps (Hawaii), Ltd., Eagle Distributors, Inc. of Hawaii, Paradise Beverages, Inc. of Hawaii, and Foremost-McKesson, Inc. of Maryland.

In the criminal case, defendants Muller & Phipps (Hawaii), Ltd., Eagle Distributors, Inc., Paradise Beverages, Inc., and three of the four individual defendants pleaded *nolo contendere* on July 19, 1977, and the remaining three defendants, including Foremost-McKesson, Inc., pleaded *nolo contendere* on September 10, 1977. On that day, Muller & Phipps was fined \$25,000, Eagle was fined \$15,000, and Paradise and Foremost-McKesson were each fined \$50,000.

The proposed consent decree does not include defendant Jos. Schlitz Brewing Company. As of this time, the government and defendant Schlitz have been unable to agree upon a consent decree, and trial is set for February 1980. The proposed consent decree is the result of negotiations and agreement among the government and the four wholesale beer distributors.

II

Practices Giving Rise to the Alleged Violation

The wholesale distributor defendants sell or sold beer to retail outlets in the State of Hawaii. Defendant Jos. Schlitz Brewing Company operated a brewery in Honolulu, Hawaii. Muller & Phipps (Hawaii), Ltd. was the wholesale distributor of Schlitz beer products. The other wholesale distributors sold many lines of beer and liquor and were distributors for the following major domestic brands of beer: Eagle Distributors distributed

Anheuser-Busch products, Paradise Beverages distributed Olympia products, and Foremost-McKesson, Inc. distributed Miller products. At the time of the alleged violation, the wholesaler defendants were the designated posting agents for the above-described brands of beer. As the designated agents, the defendants submitted to the respective county liquor commissions minimum consumer beer prices and their own wholesale prices to be charged to retailers. These prices were the prices at which the defendants were to sell their beer to retailers and the minimum prices at which retail outlets could sell beer to consumers pursuant to Hawaii State law.

The government contends and was prepared to show at trial that beginning at least as early as 1973 and continuing through December of 1974 the defendants combined and conspired to fix the price of beer sold to retailers and sold to consumers in the State of Hawaii. The government would show that the defendants and their representatives met and agreed upon prices prior to posting those prices with the county liquor commissions. The government was further prepared to show that the defendants posted prices in accord with their agreement and charged the prices as they had agreed to at their earlier meetings.

III

Explanation of the Proposed Consent Judgment

The United States and the four consenting defendants have agreed that the consent judgment in a form negotiated by the parties may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed judgment provides that there has been no admission by anybody with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the consent judgment by the court is conditioned upon a determination of the court that the proposed judgment is in the public interest.

The proposed judgment will prohibit the wholesaler defendants from entering into any agreement or arrangement with any other person to fix, raise, or stabilize retail or consumer prices of beer in Hawaii. The proposed consent judgment also enjoins the four wholesaler defendants from fixing, reducing or eliminating discounts on beer sold in Hawaii and from fixing the terms or conditions of sale of beer sold in Hawaii. Further, the judgment will prohibit the defendants from directly or indirectly discussing with each other or with any other wholesale seller of beer the wholesale or consumer price, discounts or other terms or conditions of sale that each such defendant charges or proposes to have charged by the retailers for beer sold in Hawaii. By the terms of the decree, each wholesaler defendant also agrees that during the ten-year period of the decree if it should sell all or substantially all of the assets of its beer operations to another beer wholesaler or prospective beer wholesaler that the purchasing beer wholesaler will agree to be bound by the provisions of this judgment.

The proposed judgment is designed to prevent any recurrence of the activities

alleged in the complaint. The prohibitions in judgment are intended to insure that future price actions of the defendants will be independently determined without the restraining and artificial influences which result from communication and agreements among competitors.

The judgment provides methods for determining the defendants' compliance with the terms of the judgment. Officers, employees, and agents of each defendant may be interviewed by duly authorized representatives of the Department of Justice regarding the defendants' compliance with the judgment. The government, on reasonable notice, is entitled to examine the records of the defendants for possible violations of the judgment. In addition, upon written request, the government may require defendants to submit reports on matters contained in the judgment. Finally, the defendants are required to serve a copy of the judgment upon successors of the officers, directors, and employees of defendants who have responsibility for making beer pricing decisions.

IV

Exemptions or Modifications in the Decree

Section VIII provides that the prohibitions in the proposed judgment do not apply to relations between a defendant and its parent or subsidiary which are under common control. The government did not object to this provision because the decree is not to limit communications between a parent and its subsidiary concerning prices to be charged by the parent or subsidiary but rather to limit communications among competitors concerning the prices to be charged for beer in Hawaii.

Counsel for defendant Muller & Phipps (Hawaii), Ltd. has requested a modification of the provisions of Section VII(A)(2) for just their company, which request will be honored by the government. Section VII(A)(2) of the proposed judgment requires the service of copies of the judgment on all future officers, directors, and employees. In November of 1975, Muller & Phipps ceased all beer business activities in the State of Hawaii. The modification is requested in order to alleviate the unnecessary burden of continued service of the decree on corporate officials while the firm remains out of the beer business. Muller & Phipps requested that they not be required to serve the decree until they re-enter the beer business. Muller & Phipps has agreed to implement several corporate resolutions which insure that, upon the corporation's resumption of activity in the beer business in Hawaii, it will begin serving copies of the decree upon their officers and directors. The corporate resolutions also provide that Muller & Phipps will give notice to the United States of their re-entry into the beer business. Copies of the pertinent correspondence, including the proposed corporate resolutions are attached to this competitive impact statement.

V

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been

injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damage such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist bringing of any such private antitrust action. Under the provisions of Section 5(a) (15 U.S.C. 16(a)), this consent judgment has no *prima facie* effect in the lawsuits which have or may be brought against these defendants.

VI

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed consent judgment should be modified may send written comments to Anthony E. Desmond, Department of Justice, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102, within sixty days. These comments and responses to them will be filed with the court and published in the Federal Register. All comments will be given due consideration by the Department of Justice which remains free to withdraw its consent to the proposed consent judgment at any time prior to entry if it should determine that some modification is necessary. The proposed judgment provides that the court retains jurisdiction. The parties may apply to the court for such orders as may be necessary or appropriate for modification of the judgment.

VII

Alternatives to the Proposed Consent Judgment Considered by the United States

An alternative to the proposed judgment considered by the Department of Justice was a full trial on the merits. It was determined that such a trial involved substantial expense to the United States and was not warranted since the equitable remedies set forth in the proposed consent judgment will be effective to restore competition among these consenting defendants in the wholesale beer industry in Hawaii.

VIII

Determinative Documents

Other than the correspondence referred to in Paragraph IV herein, there are no materials or documents which were determinative in formulating a proposal for a consent judgment and, therefore, none are being filed by the government pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)).

Dated: November 2, 1979.

Christopher S. Crook,

John F. Young,

Attorneys, Department of Justice.

September 28, 1978.

Re United States vs. Jos. Schlitz Brewing Co., et al., Civ. No. 77-0202 (D. Hawaii)—Consent Decree.

Christopher S. Crook, Esq.,

Triol Attorney, United States Department of Justice, Antitrust Division, Federal Building, 450 Golden Gate Avenue, San Francisco, California.

Dear Mr. Crook: This letter is written to request Department of Justice approval for an alternative method of compliance with the provisions of the proposed consent judgment in the above-captioned case.

In November, 1975, Muller & Phipps (Hawaii) Ltd. ceased all business activities in the wholesale distribution and sale of beer (hereinafter "the beer business") following the termination of the company's distributorship franchise by the Jos. Schlitz Brewing Company earlier in that year. Thus while as a defendant in the above-captioned case the company is technically subject to the proposed judgment, Muller & Phipps (Hawaii) Ltd. is not at present engaged in any activities covered by the judgment.

Section VII(a) (2) of the proposed judgment requires Muller & Phipps (Hawaii) Ltd. to serve copies of the judgment on all future officers and directors, whether or not the firm is engaged in the beer business. To alleviate the unnecessary burdens of continued service of the decree on corporate officials while the firm remains out of the beer business, we request on behalf of our client that the Department agree to accept the following proposal as an alternative means of complying with the letter and spirit of Section VII of the judgment. The alternative compliance procedure proposed is as follows:

1. Muller & Phipps (Hawaii) Ltd. will serve upon each present director and officer of the corporation a copy of the consent decree as required by Section VII(A) (1).

2. The Board of Directors of Muller & Phipps (Hawaii) Ltd. will pass corporate resolutions requiring Board approval before the corporation can re-enter the beer business in Hawaii and providing that the corporate secretary will annually survey the corporation's activities to ensure that the corporation has not re-entered the beer business without Board approval, and will report the results of his survey to the Board. (A copy of the proposed corporate resolutions is attached to this letter.)

3. In the event the corporation re-enters the beer business in Hawaii, the proposed corporate resolutions require the corporation to report such re-entry to government counsel. At such time Muller & Phipps (Hawaii) Ltd. will re-institute service of the consent decree on all directors, officers, employees and agents as required by Section VII of the decree.

Please advise me whether the proposed alternative method of compliance is acceptable to the Government.

Sincerely yours,

Thelen, Marrien Johnson & Bridge
By Frank D. MacDowell,
Attorneys for Muller & Phipps (Hawaii) Ltd.

Proposed Corporate Resolutions

Whereas, prior to December 1975, this Company ceased to be engaged in the business of distributing and selling beer (hereinafter "the beer business") and presently has no plan or intention of re-entering the business; and

Whereas, this Company is a defendant in an action entitled "United States of America, Plaintiff, vs. Jos. Schlitz Brewing Company; Muller & Phipps (Hawaii) Ltd., Eagle

Distributors, Inc.; Paradise Beverages, Inc.; and Foremost-McKesson, Inc., Civil No. 77-0202," pending in the United States District Court for the District of Hawaii, in which action a Final Judgment by consent of parties will be entered; and

Whereas, the Antitrust Division of the United States Department of Justice has advised counsel of record for this Company in that action that after filing the initial report to be required by said Final Judgment, this Company need not file any further report required by said Final Judgment unless or until this Company re-enters the beer business in the State of Hawaii, at which time all of the provisions of such Final Judgment would apply to this Company;

Therefore, Resolved, that this Company shall not re-enter the beer business in the State of Hawaii within ten (10) years from the date of entry of said Final Judgment without (1) specific authorization of this Board of Directors and (2) written notice thereof at the earliest practicable time to the Antitrust Division of the United States Department of Justice.

Further Resolved that the Secretary of this Company be, and he hereby is, instructed to determine at the time of the annual meeting of the Board of Directors of this Company each year that this Company has not re-entered the beer business in the State of Hawaii other than in compliance with the provisions of the foregoing resolution, and to prepare and file a certificate to that effect with the minutes of each such annual meeting prior to the annual meeting in 1990.

November 30, 1978.

Re *U.S. v. Jos. Schlitz Brewing Co., et al., Civ. No. 77-0202 (D. Hawaii)*—Consent Decree.

Frank MacDowell, Esq.,
Thelen, Marrin, Johnson & Bridges, Two
Embarcadero Center, San Francisco,
California.

Dear Mr. MacDowell: The Department has received your letter dated September 28, 1978. In light of Muller & Phipps' absence from the wholesale beer business in Hawaii, no purpose is met by serving the proposed judgment, which only affects sales of beer in Hawaii, on future officers and directors until such time as Muller & Phipps re-enters the Hawaii beer business. Your proposal, as explained in your letter of September 28, 1978, is acceptable to the Government as a means of ensuring compliance with Section VII(A)(2) should Muller & Phipps re-enter the Hawaii beer business.

Your letter and this letter will be attached to the Competitive Impact Statement to be filed in this case and published pursuant to the Antitrust Procedures and Penalties Act.

Sincerely yours,

Christopher S. Crook,
Trial Attorney, Antitrust Division.
July 7, 1979.

Re *United States vs. Jos. Schlitz Brewing Company, et al. Civ. No. 77-0202 (D. of Hawaii)*.

Christopher S. Crook, Esq.,
Trial Attorney, Antitrust Division,
Federal Building, 450 Golden Gate Avenue,
San Francisco, CA.

Dear Chris: Pursuant to our conversation of July 5, I enclose a revised set of corporate resolutions on one sheet, undated, entitled "Proposed Corporate Resolutions." As we discussed, this sheet is to be attached to my letter to you of September 28, 1978 in substitution of the earlier attachment to that letter dated 9/28/78.

The sole purpose of the revised resolutions, the language of which we have previously agreed upon, is to embody the ten-year limitation now incorporated in the proposed Final Judgment.

On reviewing your files you will find that my September 28, 1978 letter and attachment, together with your reply dated November 30, 1978 and your interpretive letter dated April 12, 1979, constitute the alternative compliance procedure for defendant Muller & Phipps (Hawaii) Ltd.

I stress this because in your November 30, 1978 letter you informed me that my letter of September 28, 1978 (with attachment) and your November 30, 1978 letter will be attached to the Competitive Impact Statement to be filed in this case and published pursuant to the Antitrust Procedures and Penalties Act. Therefore, to complete our records, will you kindly acknowledge receipt of these new enclosed resolutions and advise me when they have been substituted for the old set as the attachment to my said letter of September 28, 1978.

Very truly yours,

Frank D. MacDowell

Proposed Corporate Resolutions

Whereas, prior to December 1975, this Company ceased to be engaged in the business of distributing and selling beer (hereinafter "the beer business") and presently has no plan or intention of re-entering the business; and

Whereas, this Company is a defendant in an action entitled "United States of America, Plaintiff, vs. Jos. Schlitz Brewing Company; Muller & Phipps (Hawaii) Ltd., Eagle Distributors, Inc.; Paradise Beverages, Inc.; and Foremost-McKesson, Inc., Civil No. 77-0202," pending in the United States District Court for the District of Hawaii, in which action a Final Judgment by consent of parties will be entered; and

Whereas, the Antitrust Division of the United States Department of Justice has advised counsel of record for this Company in that action that after filing the initial report to be required by said Final Judgment, this Company need not file any further report required by said Final Judgment unless or until this Company re-enters the beer business in the State of Hawaii, at which time all of the provisions of such Final Judgment would apply to this Company;

Therefore, Resolved, that this Company shall not re-enter the beer business in the State of Hawaii within ten (10) years from the date of entry of said Final Judgment without (1) specific authorization of this Board of Directors and (2) written notice thereof at the earliest practicable time to the Antitrust Division of the United States Department of Justice.

Further Resolved, that the Secretary of this Company be, and he hereby is, instructed to

determine at the time of the annual meeting of the Board of Directors of this Company each year that this Company has not re-entered the beer business in the State of Hawaii other than in compliance with the provisions of the foregoing resolution, and to prepare and file a certificate to that effect with the minutes of each such annual meeting prior to the annual meeting in 1990.

[FR Doc. 79-35310 Filed 11-15-79; 8:45 am]

BILLING CODE 4410-01-M

Office of the Attorney General

[AAG/A Order No. 35-79]

Privacy Act of 1974; Amended System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes a major modification of a system of records maintained by the Drug Enforcement Administration (DEA).

The DEA Training Files (JUSTICE/DEA-015) is a system of records for which public notice was most recently published at 42 FR 53306, September 30, 1977 (See also, Vol. III, Privacy Act Issuances, 1978 Compilation at page 19). DEA proposes to amend the system to include the categories of records set forth in the attached notice as categories (A) through (G). In addition the system will be modified by storing this data on magnetic tape. Other data now in the system, categories of records identified as (H) through (K) in the attached notice, will continue to be maintained on index cards and in file folders.

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget, which has oversight responsibility under the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, the Office of Management and Budget (OMB), and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Room 1214, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress on or before January 15, 1980, the system will be implemented without further notice in the Federal Register. No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate and to the Speaker of the House of Representatives.

Dated: November 6, 1979.

Kevin D. Rooney,
Assistant Attorney General for
Administration.

Justice/DEA-015

SYSTEM NAME:

Training Files.

SYSTEM LOCATION:

Drug Enforcement Administration,
1405 I Street N.W., Washington, D.C.
20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have attended training programs sponsored by the Drug Enforcement Administration National Training Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) Student names; (B) Dates and locations of schools; (C) Class average and individual student grades; (D) Locations of student's employers; (E) Number of years experience in general law enforcement and drug law enforcement; (F) Classification of student's employers by State, local, county, or Federal; (G) Type of school attended; (H) Class rosters; (I) Biographic data; (J) Evaluation reports; (K) Application and attendance records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is maintained to provide educational and training programs on drug abuse and controlled substances law enforcement pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is maintained to assist in performing the administrative functions of the National Training Institute and is used to prepare Class Directories, Class Rosters, Program Evaluation Reports and Statistical Reports. In addition, information from this system is provided to Federal, State and local law enforcement and regulatory agencies employing former students and to students enrolled in the program.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: The manual records in this system are maintained on index cards and in file folders and the automated portion is maintained on magnetic tape.

RETRIEVABILITY:

Data may be retrieved by the student's last name, school location code, or by beginning course dates.

SAFEGUARDS:

This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, access is limited to National Training Institute personnel on a need-to-know basis.

RETENTION AND DISPOSAL:

Records in this system are currently maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Training, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Unit, Drug Enforcement Administration, 1405 I Street N.W., Washington, D.C. 20537. Inquiries should contain name; date and place of birth; and dates of attendance at courses sponsored by the National Training Institute.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

A) Students; B) Instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-35439 Filed 11-15-79; 8:45 am]

BILLING CODE 4410-08-M

[AAG/A Order No. 36-79]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice, Office of Legal Counsel (OLC), has established a system of records.

The Office of Legal Counsel Central File (JUSTICE/OLC-003), is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the Federal Register.

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to the Administrative Counsel, Justice Management Division, Room 1214, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. However, a waiver of the 60-day waiting period has been requested of OMB. If the waiver is granted, the system will continue operating. If the waiver is not granted, the system will cease operating for 60 days. If no comments are received from either the public or the Congress on or before January 15, 1980, the system will be implemented without further notice in the Federal Register. No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB; to the President of the Senate; and to the Speaker of the House of Representatives.

Dated: November 6, 1979.

Kevin D. Rooney,
Assistant Attorney General for
Administration.

Justice/OLC-003

SYSTEM NAME:

Office of Legal Counsel Central File

SYSTEM LOCATION:

U.S. Department of Justice; Office of Legal Counsel; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will permit name retrieval of information concerning persons mentioned in the legal opinions, memoranda, correspondence, testimony and other writings of the Office of Legal Counsel. These will include:

(A) Addressees, authors and employees of the Office of Legal Counsel whose name appears in memoranda, opinions, correspondence, testimony and other writings of the Office;

(B) Individuals who are the subject of opinions, particularly on such subjects as conflict of interest, employee standards of conduct, and immigration;

(C) Attendees at meetings described in a memorandum included in the file;

(D) Litigants and judges identified in connection with reported court decisions and pending cases described in memoranda; and

(E) Other individuals identified in connection with questions presented to the Office of Legal Counsel for resolution or comment.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of memoranda, opinions, correspondence, testimony and other writings of the Office of Legal Counsel from 1945 to the present.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained pursuant to the responsibilities of the Office of Legal Counsel set forth in 28 CFR § 0.25.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system is provided to the following categories of users for the purposes stated:

(A) Access to the computerized files of the Office of Legal Counsel will be confined to employees of the Office of Legal Counsel and other employees of the department of Justice with specific permission, but the records will be available initially to the contractor preparing the records for computerization;

(B) With the approval of the addressees, selected recent opinions of the Office of Legal Counsel will be published for general use, but normally personal information about individuals will be deleted;

(C) Unpublished opinions of the Office of Legal Counsel are ordinarily made available upon request only with the

approval of the addressee of the opinion.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

The indices are maintained on 5 x 7 cards in a master subject-matter index on all Office of Legal Counsel memoranda, opinions, correspondence, testimony and other writings. In addition, to facilitate Freedom of Information Act/Privacy Act searches, an alphabetical assortment of cards has been established within the immigration and conflict of interest opinion indices which contain the names of individuals who are the subject of these opinions. These are, in effect, cross-indices to a small portion of the Office of Legal Counsel's overall opinions that are otherwise indexed and retrieved according to subject matter. These indices are maintained to assist in the retrieval of opinions and memoranda from chronological files. However, because the system is undergoing gradual conversion to a computerized system to facilitate legal research, some opinions are also now stored on magnetic disks. Even though the software design creates the capability for name retrieval, the purpose of the design is to facilitate retrieval by legal subject matter and the Office of Legal Counsel will continue to utilize the system in this manner.

RETRIEVABILITY:

The alphabetical card index on conflict of interest and immigration opinions will be retrieved by name. In addition, while that information which has been entered into the computer to date may be retrieved by name, all information, except that on conflict of interest and immigration opinions, will ordinarily continue to be retrieved by legal subject matter since the Office seldom has the need to focus on a name in legal research.

SAFEGUARDS:

Index cards and chronological files are kept in locked offices when unattended. Access is restricted to those personnel with a need to know.

The compilation of Office of Legal Counsel opinions available on magnetic tape is subject to three access limitations designed to insure that only authorized attorneys of the Office of Legal Counsel have access. First, the opinions in the computer system can be retrieved only by those persons having a specified identification number, and numbers are assigned only to attorneys of the Office of Legal Counsel. Second,

there is an access code word in addition to the identification number required for access to the opinions, and the code word is made known only to the Office of Legal Counsel attorneys. Third, with the limited exception noted below, the opinions can be retrieved only on the terminal located in the Office of Legal Counsel, and the terminal is in a locked room to which only Office of Legal Counsel personnel (and building maintenance personnel) have keys.

During the period in which the opinions are being computerized an exception to these access restrictions has been made so that the contracting assistant in the Justice Management Division who is overseeing the computerization also has access to the opinions. Once computerization is complete, this access will cease.

RETENTION AND DISPOSAL:

The records will be maintained indefinitely.

SYSTEM MANAGER AND ADDRESS:

Administrative Officer, Office of Legal Counsel; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the Assistant Attorney General, Office of Legal Counsel, at the above address.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORDS PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

General legal research sources and individuals and agencies requesting opinions from the Office of Legal Counsel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-35436 Filed 11-15-79; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR**Employment and Training Administration****Indian and Native American Programs; Native American Grantees Under Section 302 of the Comprehensive Employment and Training Act**

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this Notice is to inform the public of the designation of Fiscal Year 1980 Native American Grantees funded under the Comprehensive Employment and Training Act (CETA). Their Fiscal Year 1980 allocations, and the demographic data used as the basis for those allocations, are also listed.

FOR FURTHER INFORMATION CONTACT: William J. McVeigh, Manpower Development Specialist, Division of Indian and Native American Programs, Office of National Programs, 601 D Street, N.W., Room 6414, Washington, D.C. 20213. Telephone (202) 376-7282.

SUPPLEMENTARY INFORMATION: Indian and Native American Programs under the Comprehensive Employment and Training Act are administered nationally by the Division of Indian and Native American Programs (DINAP), Office of National Programs, Employment and Training Administration, Department of Labor,

601 D Street, N.W., Room 6402, Washington, D.C. 20213. Telephone (202) 376-6102. Mr. Alexander S. MacNabb is the Director, DINAP.

Attached is a listing of Native American Grantees, their Fiscal Year 1980 allocations and the demographic data used as the basis for those allocations. Using 1970 Bureau of the Census data, 25 percent of the Title III allocation is based on the number of unemployed in the area, and 75 percent is based on the number of low-income persons in the area. All the remaining titles' funds are allocated proportionately on the basis of the number of unemployed persons in the areas as determined in 1979 by the Bureau of Indian Affairs.

Signed at Washington, D.C., this 24th day of October 1979.

Alexander S. MacNabb,
Director, Division of Indian and Native American Programs, Office of National Programs.

U.S. Department of Labor—Employment and Training Administration Office of National Programs, Division of Indian and Native American Programs

[Fiscal year 1980 native American allocations]

October 1, 1979.

	Title III	Title II D	Title VI	YCCIP	YETP	Total
Mr. Eddie Leon Tullis, Chairman, Creek Nation East of Mississippi Inc., Route 3, Box 243A, Atmore, Ala. 36502.....	198,410	0	0	0	0	198,410
Mr. Morris Thompson, President, Alaska Federation of Natives, Inc., 1577 C Street, Suite 304, Anchorage, Alaska 99501.....	191,646	313,874	324,168	23,258	120,116	973,062
Mr. Patrick Pietnikoff, Executive Director, Aleutian/Pribilof Islands Association, 1689 C Street, Anchorage, Alaska 99501.....	158,937	157,703	162,875	11,686	60,351	551,552
Mr. Fred Angason, Executive Director, Bristol Bay Native Association, P.O. Box 179, Dillingham, Alaska 99576.....	262,897	300,400	310,253	22,260	114,960	1,010,770
Mr. Jake Lesterikof, Executive Director, Cook Inlet Native Association, 1057 West Fireweed Lane, Anchorage, Alaska 99503.....	380,166	784,225	809,947	58,111	300,115	2,332,564
Mr. Robert Marshall, President, Copper River Native Association, Drawer H, Copper Center, Alaska 99573.....	55,104	41,033	42,379	3,041	15,703	157,260
Mr. Woodrow Morrison, President, Dena AKA Corporation, 200 N. Cushman Street, Suite 5, Fairbanks, Alaska 99701.....	577,771	764,015	789,073	56,613	292,380	2,479,852
Mr. Charles H. Johnson, Executive Vice President, Kawerak Incorporated, P.O. Box 948, Nome, Alaska 99762.....	415,672	394,103	407,029	29,203	150,819	1,396,826
Mr. Frank Peterson, Executive Director, Kodiak Area Native Association, P.O. Box 172, Kodiak, Alaska 99615.....	126,889	138,105	142,634	10,233	52,851	470,712
Mr. Dennis Tiepelman, President, Mauneluk Association, P.O. Box 256, Kotzebue, Alaska 99752.....	258,023	302,850	312,783	22,441	115,897	1,011,994
Mr. Solomon O. Atkinson, Mayor, Metlakatla Indian Community, P.O. Box 8, Metlakatla, Alaska 99926.....	178,957	81,148	83,809	6,013	31,054	378,981
Mr. Derenty Tabios, Executive Director, North Pacific Rim, 903 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 98503.....	101,214	108,708	112,273	8,055	41,601	371,851
Mr. Hank Cavallera, Sitka Community Association, 132 Lincoln Street, P.O. Box 4360, Mt. Edgecombe, Alaska 99835.....	66,716	118,425	123,342	8,849	45,703	364,035
Mr. Raymond Paddock, President, Tlihit and Haida Council, One Sealaska Plaza, Suite 200, Juneau, Alaska 99801.....	512,030	864,781	883,123	64,078	330,935	2,664,927
Mr. Carl Jack, President, Yupiklak Bista, Inc., P.O. Box 848, Bethel, Alaska 99559.....	107,667	1,242,634	1,283,390	92,079	475,543	4,201,513
Mr. Arnold Taylor, Chairman, American Indian Association of Tucson, Inc., 375 S. Stone Avenue, Tucson, Ariz. 85701.....	354,311	0	0	0	0	354,311
Mr. Donald Holroyd, Chairman, Affiliation of Arizona Indian Centers, Inc., 2721 N. Central Avenue, Suite 906, Phoenix, Ariz. 85004.....	788,426	0	0	0	0	788,426

U.S. Department of Labor—Employment and Training Administration Office of National Programs,
Division of Indian and Native American Programs—Continued

[Fiscal year 1980 native American allocations]

	Title III	Title II D	Title VI	YCCIP	YETP	Total
Mr. Franklin McCabe, Chairman, Colorado River Indian Tribes, Route 1, Box 23-B, Parker, Ariz. 85344	98,281	97,990	101,204	7,261	37,500	342,236
Mr. Alexander Lewis, Governor, Gila River Indian Community, Box 97, Sacaton, Ariz. 85247	706,988	256,305	264,711	18,992	98,085	1,345,081
Mr. Abbott Sekaquapewa, Chairman, Hopi Tribal Council, Box 123, Oraibi, Ariz. 86039	471,605	358,888	370,659	25,593	137,343	1,365,088
Mr. Mellon Campbell, Chairman, Indian Development District of Arizona, Inc., 1777 W. Camelback Road, Suite A-108, Phoenix, Ariz. 85015	193,799	212,518	219,486	15,747	81,327	722,875
Mr. Joe W. Washington, Executive Director, Native Americans for Community Action, 15 North San Francisco, P.O. Box 572, Flagstaff, Ariz. 86002	450,863	0	0	0	0	450,863
Mr. Peter McDonald, Chairman, Navajo Nation, Window Rock, Ariz. 86515	7,619,466	8,738,862	9,025,480	647,546	3,344,269	29,375,623
Mr. Cecil Williams, Chairman, the Papago Tribe of Arizona, P.O. Box 837, Sells, Ariz. 85634	596,467	615,193	635,370	45,586	235,428	2,128,044
Mr. Leon Ben, Chairman, Phoenix Indian Center, Inc., 3302 N 7th Street, Phoenix, Ariz. 85014	480,242	0	0	0	0	480,242
Mr. Gerald Anton, Chairman, Salt River Pima-Maricopa Indian Community, Route 1, Box 216, Scottsdale, Ariz., 85256	163,912	82,469	64,517	4,629	23,906	319,433
Mr. Ned Anderson, Chairman, San Carlos Apache Tribe, P.O. Box "O", San Carlos, Ariz. 85550	455,848	244,362	252,377	18,107	93,515	1,064,209
Mr. Ronnie Lupe, Chairman, White Mountain Apache Tribe, P.O. Box 700, White River, Ariz. 85941	594,873	275,597	284,636	20,422	105,468	1,280,996
Mr. Maxwell Dyer, Chairman, American Indian Center of Arkansas, Inc., 4318 West Markham St., Little Rock, Ark. 72205	156,105	0	0	0	0	156,105

This Data is Entered for the Record Only. No Grantee Has Yet Been Designated for the San Diego Area for Fiscal Year 1980

San Diego, California	370,926	0	0	0	0	370,926
Mr. Lawrence Blackfoot, Chairman, California Indian Manpower Consortium, 4411 Auburn Boulevard, Suite J, Sacramento, Calif. 95841	2,147,701	565,279	583,819	41,8870	216,326	3,555,012
Mr. Robert F. Musgrove, Chairman, Candelaria American Indian Council, 301 N. A Street, Oxnard, Calif., 93030	289,147	0	0	0	0	289,147
Ms. Allene Goddard, Chairperson, Consortium of United Indian Nations, 229 Valencia Street, San Francisco, Calif. 94103	909,316	0	0	0	0	909,316
Mr. Beverly McComb, Chairperson, Fresno American Indian Council, 5150 N 6th Street, Suite 162, Fresno, Calif. 93710	357,789	0	0	0	0	357,789
Mr. Dale Rising, Chairman, Hoopa Valley Business Council, P.O. Box 815, Hoopa, Calif. 95546	113,471	124,631	126,719	9,235	47,695	423,751
Mr. David Rambeau, Executive Director, Indian Centers, Inc., 1111 W. Washington Blvd., Los Angeles, Calif. 90015	1,841,186	0	0	0	0	1,841,186
Mr. Jay Wise, Chairman, Indian Center of San Jose, Inc., 3485 East Hill Drive, San Jose, Calif. 95127	311,780	0	0	0	0	311,780
Mr. Sam A. Pinto, President, Board of Directors, Orange County Indian Center, Inc., 12511 Brookhurst Street, Suite No. 1, Garden Grove, Calif. 92640	267,763	0	0	0	0	267,763
Mr. George Eifman, Chairman, Sacramento Indian Center, Inc., 1929 V Street, Sacramento, Calif., 95818	225,585	0	0	0	0	225,585
Mr. Thomas Phillips, Executive Director, San Bernardino Indian Center, 800 N. F. Street, San Bernardino, Calif. 92401	236,272	0	0	0	0	236,272
Mr. Milton Marks, Chairman, Tri-County, Indian Development Council, Inc., 324 7th Street, Eureka, Calif. 95501	378,886	37,052	38,268	2,746	14,180	471,132
Mr. David Perl, Chairman, YA-KA-AMA Indian Education and Development, Inc., 6215 Eastside Road Healdsburg, Calif. 95448	192,944	0	0	0	0	192,944
Mr. Robert Ore, Executive Director, Colorado Department of Labor and Employment, 251 E. 12th Avenue, Denver, Colo. 80203	57,511	85,435	88,237	6,331	32,695	270,209
Mr. Mike Adams, Chairman, Denver Native American United, 1580 Gaylord Street, Denver, Colo. 80206	424,144	0	0	0	0	424,144
Mr. Scott Jacket, Chairman, Ute Mountain Indian Tribe, General Delivery, Towaoc, Colo. 81334	93,119	105,033	108,478	7,783	40,195	354,608
Mr. Alton Smith, Chairman, American Indians for Development, Inc., 21 Cooke Avenue, P.O. Box 117, Menden, Conn. 06450	174,804	0	0	0	0	174,804

U.S. Department of Labor—Employment and Training Administration Office of National Programs,
Division of Indian and Native American Programs—Continued

[Fiscal year 1980 native American allocations]

	Title III	Title II D	Title VI	YCCIP	YETP	Total
Mr. Donald P. Whiteley, Secretary of Labor, Office of CETA Planning and Administration, Department of Labor, State of Del., 701 Shipley Street Wilmington, Del. 19801	38,956	0	0	0	0	38,956
Mr. Joe A. Quetone, Executive Director, Florida Government Council on Indian Affairs, 105 1/2 E. College Avenue, Tallahassee, Fla. 32301	380,063	0	0	0	0	380,063
Mr. Buffalo Tiger, Chairman, Miccosukee Corp., CETA Department, Star Route 49, Ochopee, Fla. 33943	105,554	15,311	15,813	1,135	5,859	143,672
Mr. James E. Billie, Chairman, Seminole Tribe of Florida, CETA Department, 6073 Sterling Road, Hollywood, Fla. 33024	118,107	84,516	87,268	6,263	32,343	328,517
Mr. Bill Hammack, Executive Director, Georgia Department of Community Affairs, Georgia State Commission of Indian Affairs, 210 William Oliver Building, 32 Peachtree Street, Atlanta, Ga. 30303	145,298	0	0	0	0	145,298
Mr. Myron Thompson, Chairman, Alii Like, Inc., 2828 PAA Street, Suite 3035, Honolulu, Hawaii 96818	3,425,227	0	0	27,524	142,147	3,594,898
Mr. Gordon Oldshield, Executive Director, Hawaii Council of American Indian Nations, American Indian Service Center, 677 Ala Moana Boulevard, Suite 718, Honolulu, Hawaii 96817	61,893	0	0	0	0	61,893
Mr. Lonnie Rechehorse, Executive Director, Idaho Inter-Tribal Policy Board, 910 Main Street, Suite 214, Boise, Idaho 83702	193,917	9,493	9,804	703	3,633	217,550
Mr. Wilfred A. Scott, Chairman, Nez Perce Tribe, P.O. Box 305, Lapwai, Idaho 83540	132,135	64,306	66,415	4,765	24,609	292,230
Mr. Gilbert Teton, Tribal Chairman, Shoshone-Bannock Tribes, Fort Hall Indian Reservation, P.O. Box 306, Fort Hall, Idaho 83203	179,559	171,482	177,107	12,707	65,624	606,479
Mr. Edward A. Miller, American Indian Business Association Training and Employment Program, 1124 West Granville Street, Chicago, Ill. 60660	623,448	0	0	0	0	623,448

Note.—Funds for Indiana will be given to the American Indian Business Association (listed above) to operate programs in Indiana.

Indiana	223,398	0	0	0	0	223,398
Mr. Randy Greenfeather, Executive Director, Mid America All Indian Center, 650 N. Seneca, Wichita, Kans. 67203	230,679	0	0	0	0	230,679
Ms. Vestina Durham, Chairperson, Prairie Band Potawatomi Tribe, 111 E. 5th Street, P.O. Box 8, Holton, Kans. 66436	1,356	46,239	47,756	3,426	17,695	116,472
Mr. Howard Simmons, Chairman, United Tribes of Kansas and Southeast Nebraska, P.O. Box 147, Horton, Kans. 66439	477,505	3,981	4,111	295	1,523	487,415
Mr. Ernest Sickey, Chairman, Inter-Tribal Council of Louisiana, Inc., 263 Riverside Mall, Suite 208, Baton Rouge, La. 70801	415,000	5,818	8,009	431	2,227	429,485
Mr. Wilfred Peterson, Tribal Governor, Penobscot Nation Community Building, Indian Island, Maine 04468	49,584	37,052	38,268	2,746	14,180	141,830
Ms. Mary F. Isaacs, President, Tribal Governors, Inc., 93 Main Street, Orono, Maine 04473	115,694	79,617	82,228	5,900	30,468	313,907
Ms. Marion Pines, Director, Mayors Office of Manpower Resources, City of Baltimore, 701 St. Paul Street, Baltimore, Md. 21202	292,369	0	0	0	0	292,369
Mr. Cliff Saunders, Executive Director, Boston Indian Council, Inc., 105 S. Huntington Avenue, Jamaica Plains, Mass. 02130	312,237	0	0	0	0	312,237
Mr. Russell Peters, Mashpee-Wampapaog Indian Tribal Council, RFD No. 2, Box 1048, Mashpee, Mass. 02649	73,819	0	0	0	0	73,819
Mr. George Martin, President, Grand Rapids Inter-Tribal Council, 756 Bridge, NW, Grand Rapids, Mich. 49504	143,739	0	0	0	0	143,739
Mr. Fredrick Dakota, Chairman, Inter-Tribal Council of Michigan, Inc., 405 East Easterday Avenue, Sault Ste. Marie, Mich. 49783	135,865	169,951	175,525	12,593	65,039	558,973

U.S. Department of Labor—Employment and Training Administration Office of National Programs,
Division of Indian and Native American Programs—Continued

[Fiscal year 1980 native American allocations]

	Title III	Title II D	Title VI	YCCIP	YETP	Total
Mr. Rick Andrews, Chairperson, Michigan Indian Manpower Consortium, 820 W. Saginaw, Lansing, Mich. 48915.....	654,548	0	0	0	0	654,548
Mr. Vince Adams, Chairman, North American Indian Association of Detroit, 360 John R, Detroit, Mich. 48226.....	420,792	0	0	0	0	420,792
Mr. Joseph K. Lumsden, President, Sault Ste. Marie Tribe of Chippewa Indians, 206 Greenough St., Sault Ste. Marie, Mich. 49783.....	110,258	49,807	51,234	3,676	18,984	233,759
Mr. Michael Lind, Acting Chairman, American Indian Fellowship Assn., 2 E. Second St., Duluth, Minn. 55802.....	82,973	24,191	24,985	1,793	9,258	143,200
Mr. Gary Donald, Chairman, Bois Forte R. B. C., P.O. Box 698, Nett Lake, Minn. 55772.....	70,841	87,578	90,451	8,490	33,515	288,875
Mr. William J. Houle, Chairman, Fond Du Lac R.B.C., 105 University Rd., Cloquet, Minn. 55720.....	116,454	38,890	40,165	2,882	14,883	213,274
Mr. Hartley White, Chairman, Leech Lake R.B.C., Box 308, Cass Lake, Minn. 56633.....	349,430	223,233	230,555	16,541	85,429	905,188
Mr. Arthur W. Gahbow, Chairman, Mille Lacs R.B.C., Star Route, Onamia, Minn. 56359.....	67,004	58,957	58,825	4,220	21,797	208,803
Ms. Elaine Stately, Chairman, Minneapolis Regional Native American Ctr., 1530 East Franklin Avenue, Minneapolis, Minn. 55404.....	864,281	34,603	35,738	2,564	13,242	950,428

No grantee has been designated at this time for the Red Lake area

Red Lake, Minn.	258,040	250,180	258,388	18,538	95,741	878,885
Mr. Darrell Wadena, Chairman, White Earth R.B.C., Box 274 C/O White Earth C.A.P., White Earth, Minn. 56591.....	250,208	434,830	449,092	32,221	166,405	1,332,758
Mr. Phillip Martin, Chairman, Mississippi Band of Choctaw Indians, Route 7, Box 21, Philadelphia, Miss. 39350.....	678,133	157,703	162,875	11,686	60,351	1,068,748
Mr. George Barta, Chairman, Region VII American Indian Council, Inc., 310 Armour Rd., Suite 212, Kansas City, Mo. 64118.....	414,085	0	0	0	0	414,085
Mr. Norman Hollow, Chairman, Assiniboine & Sioux Tribes, Fort Peck Indian Reservation, P.O. Box 1027, Poplar, Mont. 59255.....	431,658	208,841	215,891	15,475	79,921	951,586
Mr. Daniel Boggs, Chairman, Blackfeet Tribal Business Council, Blackfeet Indian Reservation, Browning, Mont. 59417.....	655,793	759,422	784,329	56,273	290,623	2,546,440
Mr. John Windy Boy, Chairman, Chippewa Cree Tribe, Rocky Boys Reservation, Rocky Boy Route, Box Elder, Mont. 59521.....	171,803	139,636	44,215	10,347	53,437	519,438
Mr. Thomas Swaney, Chairman, Confederated Salish & Kootenai Tribes, P.O. Box 278, Pablo, Mont. 59855.....	338,190	206,085	212,844	15,271	78,867	851,257
Mr. Forest Horn, Tribal Chairman, Crow Indian Tribe, P.O. Box 580, Crow Agency, Mont. 59022.....	242,817	321,836	332,391	23,848	123,163	1,044,055
Mr. Charles D. Plummage, President, Ft. Belknap Agency, Box 249, Harlem, Mont. 59528.....	179,170	119,119	123,026	8,827	45,586	475,728
Mr. Eddie Barbeau, Executive Director, Montana United Indian Association, 1622 Custer Ave., East, Helena, Mont. 59601.....	694,727	0	0	0	0	694,727
Mr. Allen Rowland, Chairman, Northern Cheyenne Tribe, P.O. Box 128, Lame Deer, Mont. 59043.....	252,191	141,779	146,429	10,506	54,257	605,162
Mr. Art May, Director, Nebraska Indian Inter-Tribal Development Corp., P.O. Box 682, Winnebago, Nebr. 68071.....	185,568	140,860	145,480	10,438	53,906	536,252
Mr. Edward Cline, Tribal Chairman, Omaha Tribe of Nebraska, P.O. Box 13, Macy, Nebr. 68760.....	86,601	98,602	101,836	7,306	37,734	332,079
Mr. Roger Trudell, Tribal Chairman, Santee Sioux Tribe of Nebraska, Route 2 Santee, Niobrara, Nebr. 68760.....	67,413	33,990	35,105	2,519	13,008	152,035
Ms. Jan Searcey, Executive Director, United Indians of Nebraska, 1270 So. 119th Ct. Omaha, Nebr. 68144.....	262,897	0	0	0	0	262,897
Mr. Les Blossom, Chairman, Inter-Tribal Council of Nevada, 650 South Rock Blvd., Reno, Nev. 89502.....	613,557	342,048	353,264	25,345	130,897	1,465,109

U.S. Department of Labor—Employment and Training Administration Office of National Programs,
Division of Indian and Native American Programs—Continued

[Fiscal year 1980 native American allocations]

	Title III	Title II D	Title VI	YCCIP	YETP	Total
Mr. Emmett Knight, Chairman, Las Vegas Indian Center, 215 East Bonanza Rd., Las Vegas, Nev. 89158.....	61,198	0	0	0	0	61,198
Mr. John Horn, Acting Commissioner, New Jersey Department of Labor and Industry, John Fitch Plaza, Trenton, N.J. 08620.....	329,596	0	0	0	0	329,596
Mr. Delfin J. Lovato, Chairman, All Indian Pueblo Council, P.O. Box 6507, 1015 Indian School Rd., NW., Albuquerque, N. Mex. 87197.....	868,907	782,388	808,049	57,975	299,412	2,816,731
Mr. Wendell Chino, President, Mescalero Apache Tribe, P.O. Box 176, Mescalero, N. Mex. 88340.....	174,897	161,071	166,354	11,935	61,640	575,897
Mr. Gerald Wilkinson, Executive Director, National Indian Youth Council, 201 Hermosa, NE., Albuquerque, N. Mex. 87107.....	824,645	0	0	0	0	824,645
Mr. Raymond J. Concho, Jr., Governor, Pueblo of Acoma, P.O. Box 309, Pueblo of Acoma, N. Mex. 87034.....	189,188	121,569	125,556	9,008	46,523	491,844
Floyd R. Correa, Chairman, Pueblo of Laguna, P.O. Box 194, Laguna, N. Mex. 87026.....	244,088	115,138	118,914	8,532	44,062	530,734
Mr. Pete Concha, Governor, Pueblo of Taos, P.O. Box 1846, Taos, N. Mex. 87571.....	79,481	85,129	87,921	6,308	32,578	291,417
Mr. Robert E. Lewis, Governor, Pueblo of Zuni, Zuni Tribal Council, P.O. Box 339, Zuni, N. Mex. 87327.....	443,854	316,630	327,015	23,462	121,171	1,232,132
Mr. Norman Ration, Executive Director, Ramah Navajo School Board, Inc., P.O. Box 248, Ramah, N. Mex. 87321.....	118,581	142,698	147,378	10,574	54,609	473,840
Mr. Valentino Garcia, Governor, Santo Domingo Tribe, Santo Domingo, N. Mex. 87052.....	174,456	88,497	91,400	6,558	33,867	394,778
Mr. Michael Bush, Executive Director, American Indian Community House, Inc., 10 E. 38th St., New York City, N.Y. 10016.....	859,271	24,191	24,985	1,793	9,258	919,498
Miss Iza Brant, Chairperson, Native American Manpower, Inc., 250 Summer St., Buffalo, N.Y. 14222.....	364,705	0	0	0	0	364,705
Ms. Ginny Doctor, Executive Director, The North Am. Ind. Club of Syracuse and Vicinity, Inc., P.O. Box 851, Syracuse, N.Y. 13201.....	82,499	22,966	29,720	1,702	8,789	139,676
Mr. Leonard Garrow, Principal Chief, St. Regis Mohawk Tribe, Hogsburg, N.Y. 13655.....	193,079	115,138	118,914	8,532	44,062	479,725
Mr. Calvin Lay, President, Seneca Nation of Indians, Manpower Office, Box No. 344, Salamanca, N.Y. 14779.....	859,052	597,738	617,343	44,292	228,748	2,347,173
Mr. Eddie Maynor, Chairman, Cumberland County Association for Indian People, Route 2, Box 2-B, Downing Rd., Fayetteville, N.C. 28301.....	180,517	0	0	0	0	180,517
Mr. John Crow, Principal Chief, Eastern Band of Cherokee Indians, Cherokee Ceta, P.O. Box 481, Cherokee, N.C. 28719.....	523,929	308,056	318,159	22,827	117,890	1,290,861
Mr. Kenneth Meynor, Executive Director, Lumbee Regional Development Association, P.O. Box 68, Pembroke, N.C. 28372.....	2,976,745	0	0	0	0	2,976,745
Mr. A. Bruce Jones, Executive Director, North Carolina Commission of Indian Affairs, P.O. Box 27228, Raleigh, N.C. 27611.....	803,030	0	0	0	0	803,030
Mr. Carl McKay, Chairman, Devils Lake Sioux Tribe, Manpower Programs, Box 276, Fort Totten, N. Dak. 58335.....	252,455	188,324	194,501	13,955	72,070	721,305
Mr. Pat McLaughlin, Chairman, Standing Rock Sioux Tribe, Fort Yates, N. Dak. 58538.....	431,395	339,290	350,418	25,141	129,843	1,276,087
Mr. Austin Gillette, Tribal Chairman, Three Affiliated Tribes, Box 497, New Town, N. Dak. 58763.....	174,253	153,722	158,763	11,391	58,828	556,957
Mr. Wayne Keplin, Tribal Chairman, Turtle Mountain Band of Chippewa Indians, Box 758, Belcourt, N. Dak. 58335.....	635,476	247,425	255,540	18,334	94,687	1,251,462
Mr. David Gipp, Executive Director, United Tribes—Educational Technical Center, 3315 S. Airport Road, Bismarck, N. Dak. 58501.....	193,248	0	0	0	0	193,248
Mr. Phillip S. Hamilton, Deputy Director, Governors Grant Office, 30 E. Broad Street, 29th Floor, Columbus, OH 43215.....	445,287	0	0	0	0	445,287
Mr. Doyle R. Edge, Chairman, Caddo Tribe, P.O. Box 487, Binger, Okla. 73009.....	137,780	39,808	41,114	2,950	15,234	236,886

U.S. Department of Labor—Employment and Training Administration Office of National Programs,
Division of Indian and Native American Programs—Continued
[Fiscal year 1980 native American allocations]

	Title III	Title II D	Title VI	YCCIP	YETP	Total
Mr. Lawrence Murray, Chairman, Central Tribes of the Shawnee Area, Inc., P.O. Box 2427, Shawnee, Okla. 74802.....	156,012	111,157	114,803	8,237	42,539	432,748
Mr. Ross O. Swimmer, Principal Chief, Cherokee Nation of Oklahoma, P.O. Box 948, Tahlequah, Okla. 74464.....	2,696,382	343,271	354,529	25,438	131,366	3,550,984
Mr. Joe Pedro, Chairman, Cheyenne-Arapaho Tribes, P.O. Box 38, Concho, Okla. 73022.....	403,389	744,111	768,516	55,138	284,763	2,255,917
Mr. Overton James, Governor, Chickasaw Nation of Oklahoma, P.O. Box 1548, Ada, Okla. 74820.....	638,839	153,109	158,131	11,345	58,593	1,020,017
Mr. Hollis Roberts, Principal Chief, Choctaw Nation of Oklahoma, Drawer 1201, Durant, Okla. 74701.....	1,088,448	248,649	256,805	18,425	95,155	1,707,482
Mr. Paul E. Schmidtkefer, Tribal Chairman, Citizen Band Potawatomi Indians of Oklahoma, Rt. 5, Box 151, Shawnee, Okla. 74801.....	233,399	168,583	172,048	12,344	63,749	648,121
Mr. James Cox, Tribal Chairman, Comanche Tribe of Oklahoma, Comanche Tribal Office, Fort Sill Indian School Building, Room 382, Lawton, Okla. 73502.....	379,487	130,143	134,411	9,644	49,804	703,489
Mr. Claude Cox, Principal Chief, Creek Nation of Oklahoma, P.O. Box 1114, Okmulgee, Okla. 74447.....	1,252,665	708,283	731,514	52,483	271,052	3,015,997
Mr. Lee Cusher, Executive Director, Inter-Tribal Council of Northeast Oklahoma, P.O. Box 1308, Miami, Okla. 74354.....	167,400	26,947	27,831	1,997	10,312	234,487
Mr. Jacob Ashlone, Tribal Chairman, Kiowa Tribe of Oklahoma, P.O. Box 1028, Anadarko, Okla. 73005.....	423,765	182,200	188,178	13,501	69,726	877,366
Mr. Victor E. Childers, Chairman, Oklahoma Tribal Assistance Program, Inc., P.O. Box 2481, Tulsa, Okla. 74101.....	696,088	0	0	0	0	696,088
Mr. Sylvester J. Tinker, Principal Chief, Osage Tribal Council, P.O. Box 178, Pawhuska, Okla. 74056.....	248,834	259,061	267,557	19,198	99,140	891,788
Mr. Dwayne Pratt, Director, Pawnee Indian Tribal Business Community, Pawnee Tribal Business Building, Pawnee, Okla. 74058.....	27,599	29,703	30,677	2,201	11,367	101,547
Mr. Leonard Biggoose, Chairman, Ponca Tribe of Indians, P.O. Box 11, White Eagle, Ponca City, Okla. 74601.....	293,436	149,435	154,336	11,073	57,187	665,467
Mr. Richard Tiger, Principal Chief, Seminole Nation of Oklahoma, P.O. Box 745, Wewoka, Okla. 74884.....	276,811	65,531	67,680	4,856	25,078	439,758
Mr. Henry L. Allen, President, Tonkawa Tribe of Oklahoma, P.O. Box 86, Tonkawa, Okla. 76453.....	32,743	17,761	18,343	1,318	6,797	76,960
Mrs. Connie Halfmoon, Chairman, United Urban Indian Club, Inc., 1212 N. Hudson, Oklahoma City, Okla. 73102.....	784,502	0	0	0	0	784,502
Mr. Ken Smith, General Manager, Confederated Tribes of Warm Springs, Warm Springs, Oreg. 97761.....	734,062	117,282	121,128	8,691	44,882	1,026,045
Mr. Richard Thierolf, Executive Director, Organization of Forgotten Americans, 3949 So. 6th Street, P.O. Box 1257, Klamath Falls, Oreg. 97601.....	156,852	0	0	0	0	156,852
Ms. Ruth Lyon, Chairwoman, Urban Indian Council, 2326 N.W. Westover Road, Portland, Oreg. 97210.....	415,350	0	0	0	0	415,350
Mr. Anthony Mendonca, Chairman, Council of Three Rivers, 200 Charles Street, Dorseyville, Pa. 15238.....	245,080	0	0	0	0	245,080
Mr. Linquest Clark, President, United American Indians of the Delaware Valley, 225 Chestnut Street, Philadelphia, Pa. 19106.....	203,479	0	0	0	0	203,479
Mr. Garrison L. Parker, Executive Director, Rhode Island Indian Council, 56 Washington Street, Room 300, Providence, R.I. 02903.....	137,949	0	0	0	0	137,949
The Hon. Richard W. Riley, Governor, Office of the Governor, CETA Division, 1800 St. Julian Place, Columbia, S.C. 29204.....	186,975	0	0	0	0	186,975
Mr. Melvin Garneau, Tribal Chairman, Cheyenne River Sioux Tribe, Box 590, Eagle Butte, S. Dak. 57625.....	406,094	282,946	292,228	20,966	108,280	1,112,512

U.S. Department of Labor—Employment and Training Administration Office of National Programs,
Division of Indian and Native American Programs—Continued
[Fiscal year 1980 native American allocations]

	Title III	Title II D	Title VI	YCCIP	YETP	Total
Mr. Robert Fillbrick, Chairman, Crow Creek Sioux Tribe, P.O. Box 658, Fort Thompson, S. Dak. 57338.....	152,478	110,545	114,171	8,191	42,304	427,689
Mr. Michael B. Jandreau, Tribal Chairman, Lower Brule Sioux Tribe, Lower Brule, S. Dak. 57548.....	63,342	59,713	61,671	4,425	22,851	212,002
Mr. Elijah Whinwind Horse, Tribal Chairman, Ogala Sioux Tribe, Box 468, Pine Ridge, S. Dak. 57770.....	952,662	1,124,434	1,161,313	83,320	430,309	3,752,038
Mr. Ed Drivinhawk, Chairman, Rosebud Sioux Tribe, Box 38, Rosebud, S. Dak. 57570.....	721,161	723,900	747,643	53,641	277,029	2,523,374
Mr. Gerald Flute, Tribal Chairman, Sisseton-Wahpeton Sioux Tribe, RR #2, Box 144, Sisseton, S. Dak. 57262.....	222,440	146,985	151,806	10,892	56,250	588,373
Mr. Clarence Skye, Executive Director, United Sioux Tribes of South Dakota Development Corp., P.O. Box 1193, Pierre, S. Dak. 57501.....	680,052	0	0	0	0	680,052
Mr. Larry Courmoyer, Chairman, Yankton Sioux Tribe, Route 3, Wagner, S. Dak. 57380.....	129,991	215,884	222,965	15,997	82,616	667,453
Mr. Fritz R. Niggeier, Executive Director, Tennessee Indian Council, Inc., 1104 18th Ave. So., Nashville, Tenn. 37203.....	117,225	0	0	0	0	117,225
Mr. Rex J. Evans, Executive Director, USET Inc., 1101 Kermit Drive, Suite 800, Nashville, Tenn. 37217.....	169,617	0	0	0	0	169,617
Mr. Fulton Battise, Principal Chief, Alabama-Coushatta Indian Reservation, Route 3, Box 640, Livingston, Tex. 77351.....	479,368	20,823	21,506	1,543	7,969	531,209
Mr. Ray Johnson, Board Chairman, Dallas Inter-Tribal Center, Carter Plaza, 334 Centre Street, Dallas, Tex. 75201.....	548,458	0	0	0	0	548,458
Mr. Antonio G. Silvas, Sr., Tribal Governor, Tigua Indian Tribe, 119 S. Old Pueblo Road, P.O. Box 17579, El Paso, Tex. 79917.....	298,598	19,598	20,241	1,452	7,500	347,389
Mrs. Ruby Black, Tribal Chairwoman, Ute Indian Tribe, P.O. Box 190, Fort Duchesne, Utah 84028.....	161,277	108,401	111,957	8,032	41,484	431,151
Ms. Thelma Pinnecoase, Chairperson, Utah Native American Consortium, Inc., 120 W. 1300 South, Salt Lake City, Utah 84115.....	313,609	1,225	1,265	91	469	316,659
Mr. Maurice B. Rowe, Chairman, Governor of Virginia Manpower Services Council, POB 1314, Richmond, Va. 23210.....	314,567	16,536	17,078	1,225	6,328	355,734
Mr. Clyde Hertlein, President, American Indian Community Center, 1007 N. Columbus Street, Spokane, Wash. 99202.....	163,446	0	0	0	0	163,446
Mr. Joseph Dela Cruz, Tribal Chairman, Che-Ho-Qui-Sho, P.O. Box 1228, Taholah, Wash. 98587.....	161,335	152,191	157,182	11,277	58,242	540,227
Mr. Al Aubertin, Chairman, Colville Confederated Tribes, P.O. Box 150, Nespelem, Wash. 99155.....	299,040	476,476	492,103	35,307	182,342	1,485,268
Mr. Cliff Sijohn, Executive Director, Eastern Washington Indian Consortium, P.O. Box 223, Wellpinit, Wash. 99040.....	1,047,335	742,274	766,619	55,002	284,060	2,895,290
Mr. William E. Jones, Chairman, Lummi Indian Business Council, 2616 Kwina Road, Bellingham, Wash. 98225.....	63,690	219,252	226,443	16,247	83,906	609,538
Ms. Linda Day, Executive Director, Northwest Inter-Tribal Council, 1619 Pacific, Everett, Wash. 98201.....	123,396	123,712	127,770	9,167	47,343	431,388
Mr. Don Matheson, Chairman, Puyallup Tribe, 2215 East 32nd, Tacoma, Wash. 98404.....	201,038	321,836	332,391	23,848	123,163	1,002,276
Mr. Woodrow Deloane, Executive Director, Seattle Indian Center, 121 2nd and Stewart Streets, Seattle, Wash. 98101.....	617,017	0	0	0	0	617,017
Mr. Gary Johnson, Director, Western Washington Indian Employment and Training Program, 11006 Pacific Avenue, Suite 1 & 2, Keller Professional Building, Tacoma, Wash. 98444.....	672,919	492,399	508,549	36,487	186,436	2,098,790
Mr. Rick St. Germaine, Chairman, Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Route 2, Hayward, Wis. 54843.....	145,748	125,856	129,984	9,326	48,164	459,076
Mr. William Wildcat, Sr., Tribal Chairman, Lac du Flambeau Consortium, P.O. Box 24, Lac du Flambeau, Wis. 54538.....	105,825	74,105	76,535	5,491	28,359	290,315
Mr. Gordon Dickie, Sr., Chairman, Menominee Indian Tribe of Wisconsin, P.O. Box 397, Keshena, Wis. 54135.....	223,330	155,559	160,661	11,527	59,531	610,608

U.S. Department of Labor—Employment and Training Administration Office of National Programs,
Division of Indian and Native American Programs—Continued
[Fiscal year 1980 native American allocations]

	Title III	Title II D	Title VI	YOCIP	YETP	Total
Ms. Josephine Bigler, Chairperson, Milwaukee Area American Indian Manpower Council, 3701 Lisbon Avenue, Milwaukee, Wis. 53208.	319,043	0	0	0	0	319,043
Mr. Purcell Powless, Chairman, Oneida Tribe of Indians of Wisconsin, Inc., Route 4, Depere, Wis. 54115.	363,993	73,799	76,219	5,468	28,242	547,721
Mr. E. W. Taylor, Chairman, St. Croix Tribal Council, Star Route, Webster, Wis. 54893.	60,249	129,530	133,779	9,598	49,570	382,726
Mr. Robert E. Miller, Tribal Chairman, Stockbridge-Munsee Community, Route 1, Bowler, Wis. 54418.	79,930	50,832	52,499	3,787	19,453	206,481
Mr. Richard Gurnoe, Chairman, Wisconsin Tri-Band Consortium, P.O. Box 45, Ashland, Wis. 54801.	247,335	189,549	195,766	14,046	72,538	719,234
Mr. Calvin Whiteagle, Chairman, Wisconsin Winnebago Business Committee, Rt. 1, Creamery Rd., Nekeosha, Wis. 54457.	159,191	162,296	167,619	12,026	62,109	583,241
Mr. Robert Harris, Shoshone Chairman, Mr. Arthur Headley, Arapahoe Chairman, Shoshone/Arapahoe Joint Business Council, P.O. Box 217, Fort Washakie, Wyo. 82514.	511,080	224,152	231,504	16,6102	85,781	1,068,127
National Total	78,565,500	35,798,162	36,972,271	2,680,160	13,841,720	187,857,813

U.S. Department of Labor—Employment and Training Administration, Office of Administration and Management, Native American Data Base

	1970 census unemployed	1970 census low income	1970 BIA unemployed
--	------------------------	------------------------	---------------------

Creek Nation East of Mississippi Incorporated, Atmore, Ala. 36502.	66	242	0
Alaska Federation of Natives, Inc., Anchorage, Alaska 99501.	82	212	1,025
Aleutian/Philiot Islands Association, Anchorage, Alaska 99501.	114	121	515
Bristol Bay Native Association, Dillingham, Alaska 99576.	88	320	981
Cook Inlet Native Association, Anchorage, Alaska 99503.	268	295	2,561
Copper River Native Association, Copper Center, Alaska 99573.	42	39	134
Dena Aka Corporation, Fairbanks, Alaska 99701.	322	550	2,495
Kawerak Incorporated, Nome, Alaska 99762.	197	437	1,287
Kodiak Area Native Association, Kodiak, Alaska 99615.	89	99	451
Mauneluk Association, Kotzebue, Alaska 99752.	73	330	989
Metlakatla Indian Community, Metlakatla, Alaska 99928.	99	168	265
North Pacific Rim, Anchorage, Alaska 99503.	78	73	355
Sitka Community Association, P.O. Box 4360, Mt. Edgecombe, Alaska 99835.	46	53	390
Tingit and Haida Council, Juneau, Alaska 99801.	279	495	2,824
Yupiklak Bista, Inc., Bethel, Alaska 99559.	284	1,452	4,058
American Indian Association of Tucson, Inc., Tucson, Ariz. 85701.	71	488	0
Affiliation of Arizona Indian Centers, Inc., Phoenix, Ariz. 85004.	194	1,043	0
Colorado River Indian Tribes, Parker, Ariz. 85344.	20	135	320
Gila River Indian Community, Sacaton, Ariz. 85247.	198	909	637
Hopi Tribal Council, Oraibi, Ariz. 86039.	100	643	1,172
Indian Development District of			

U.S. Department of Labor—Employment and Training Administration, Office of Administration and Management, Native American Data Base—Continued

	1970 census unemployed	1970 census low income	1970 BIA unemployed
--	------------------------	------------------------	---------------------

Arizona, Inc., Phoenix, Ariz. 85015.		48	256	694
Native Americans for Community Action, P.O. Box 572, Flagstaff, Ariz. 86002.		66	650	0
Navajo Nation 86515.	1,690	10,300	28,538	
The Papego Tribe of Arizona, Selfs, Ariz. 85634.	125	815	2,009	
Phoenix Indian Center, Inc., Phoenix, Ariz. 85014.	105	651	0	
Salt River Pima-Maricopa Indian Community, Scottsdale, Ariz. 85256.	38	222	204	
San Carlos Apache Tribe, San Carlos, Ariz. 85550.	108	608	798	
White Mountain Apache Tribe, White River, Ariz. 85941.	122	818	900	
American Indian Center of Arkansas, Inc., Little Rock, Ark. 72205.	38	207	0	
San Diego, Calif. 92108.	138	435	0	
California Indian Manpower Consortium, Sacramento, Calif. 95841.	855	2,452	1,848	
Candalaria American Indian Council, Oxnard, Calif. 93030.	85	368	0	
Cent. of United Indian Nations, San Francisco, Calif. 94103.	441	944	0	
Fresno American Indian Council, Fresno, Calif. 93710.	215	322	0	
Hoopa Valley Business Council, Hoopa, Calif. 95548.	75	94	407	
Indian Centers, Inc., Los Angeles, Calif. 90015.	754	2,077	0	
Indian Center of San Jose, Inc., San Jose, Calif. 95127.	161	312	0	
Orange County Indian Center, Inc., Garden Grove, Calif. 92640.	129	279	0	
Sacramento Indian Center, Inc., Sacramento, Calif. 95818.	78	274	0	
San Bernardino Indian Center, San Bernardino, Calif. 92401.	79	278	0	

U.S. Department of Labor—Employment and Training Administration, Office of Administration and Management, Native American Data Base—Continued

	1970 census unemployed	1970 census low income	1970 BIA unemployed
--	------------------------	------------------------	---------------------

Tri-County Indian Development Council, Inc., Eureka, Calif. 95501.	252	312	121	
Ya-Ka-Ama Indian Education and Development, Inc., Healdsburg, Calif. 95448.	119	170	0	
Colorado Dept. of Labor and Employment, Denver, Colo. 80203.	31	56	279	
Denver Native American United, Denver, Colo. 80206.	170	598	0	
Ute Mountain Indian Tribe, Towaoc, Colo. 81334.	13	135	343	
American Indians for Development, Inc., P.O. Box 117, Meriden, Conn. 06450.	60	211	0	
Department of Labor, State of Delaware, 701 Shipley Street, Wilmington, Del. 19801.	5	57	0	
Florida Government Council on Indian Affairs, Tallahassee, Fla. 32301.	142	445	0	
Wiccosukee Corporation, Star Route 49, Ochopee, Fla. 33943.	50	111	50	
Seminole Tribe of Florida, 6073 Sterling Road, Hollywood, Fla. 33024.	15	173	276	
Georgia Department of Community Affairs, 210 William Oliver Bldg., 32 Peachtree Street, Atlanta, Ga. 30303.	46	180	0	
Alu Like, Inc., Honolulu, Hawaii 96819.	1,213	4,090	1,213	
American Indian Service Center, Honolulu, Hawaii 96817.	21	75	0	
Idaho Inter-Tribal Policy Board, Boise, Idaho 83702.	49	255	31	
Nez Perce Tribe, Lapwai, Idaho 83540.	55	148	210	
Shoshone-Bannock Tribes, P.O. Box 306, Fort Hall, Idaho 83203.	74	202	560	
American Indian Bus. Assn., Training and Employment Program, Chicago, Ill. 60660.	222	743	0	
Indians, Inc., Chicago, Ill. 60608.	68	280	0	
Mid America All Indian Center, Wichita, Kans. 67203.	71	287	0	
Prairie Band Potawatomi Tribe, P.O. Box 8, Holton, Kans. 66436.	1	1	151	
United Tribes of Kansas and Southeast Nebraska, Horton, Kans. 66439.	181	558	13	
Inter-Tribal Council of Louisiana, Inc., Suite 208, Baton Rouge, La. 70801.	61	598	19	
Penobscot Nation, Indian Island, Maine 04468.	11	63	121	
Tribal Governors, Inc., Orono, Maine 04473.	2	171	260	
City of Baltimore, Baltimore, Md. 21202.	133	314	0	
Boston Indian Council, Inc., Jamaica Plains, Mass. 02130.	144	333	0	
Indian Tribal Council, Mashpee, Mass. 02649.	12	105	0	
Grand Rapids Inter-Tribal Council, Grand Rapids, Mich. 49504.	85	131	0	
Inter-Tribal Council of Michigan, Inc., Sault Ste. Marie, Mich. 49783.	76	129	555	
Michigan Indian Manpower Consortium, Lansing, Mich. 48915.	312	688	0	

U.S. Department of Labor—Employment and Training Administration, Office of Administration and Management, Native American Data Base—Continued

	1970 census unemployed	1970 census low income	1970 BIA unemployed
--	------------------------	------------------------	---------------------

North American Indian Association of Detroit, Detroit, Mich. 48226.	261	369	0	
Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, Mich. 49783.	74	80	162	
American Indian Fellowship Assn., Duluth, Minn. 55802.	37	80	79	
Bois Forte R. B. C., Nett Lake, Minn. 55772.	20	80	286	
Fond Du Lac R.B.C., Cloquet, Minn. 55720.	48	131	127	
Leech Lake R.B.C., Cass Lake, Minn. 56633.	155	380	720	
Mille Lacs R.B.C., Onamia, Minn. 56359.	38	63	186	
Minneapolis Regional Native American Ctr., Minneapolis, Minn. 55404.	317	1,019	113	
Red Lake, Minn. 56520.	98	297	817	
White Earth R.B.C., White Earth, Minn. 56591.	101	284	1,420	
Mississippi Band of Choctaw Indians, Philadelphia, Miss. 39350.	82	995	515	
Region VII American Indian Council, Inc., Kansas City, Mo. 64118.	95	556	0	
Assiniboine & Sioux Tribes, Fort Peck Indian Reservation, Poplar, Mont. 59255.	217	439	682	
Blackfeet Tribal Business Council, Browning, Mont. 59417.	286	719	2,480	
Chippewa Cree Tribe, Rocky Boys Reservation, Box Elder, Mont. 59521.	68	199	456	
Confederated Salish & Kootenai Tribes, Pablo, Mont. 59855.	102	425	673	
Crow Indian Tribe, Crow Agency, Mont. 59022.	70	309	1,051	
Fl. Belknap Agency, Harlem, Mont. 59528.	102	168	389	
Montana United Indian Association, Helena, Mont. 59601.	515	509	0	
Northern Cheyenne Tribe, Lame Deer, Mont. 59043.	78	317	463	
Nebraska Indian Inter-Tribal Development Corp., Winnebago, Nebr. 68071.	36	257	460	
Omaha Tribe of Nebraska, Macy, Nebr. 68760.	5	134	322	
Santee Sioux Tribe of Nebraska, Niobrara, Nebr. 68780.	0	34	111	
United Indians of Nebraska, Omaha, Nebr. 68144.	88	320	0	
Inter-Tribal Council of Nevada, Reno, Nev. 89502.	269	671	1,117	
Las Vegas Indian Center, Las Vegas, Nev. 89158.	36	58	0	
New Jersey Department of Labor and Industry, Trenton, N.J. 08620.	113	398	0	
All Indian Pueblo Council, 1015 Indian School Road, NW., Albuquerque, N. Mex. 87197.	210	1,154	2,555	
Mescalero Apache Tribe, Mescalero, N. Mex. 88340.	66	204	526	
National Indian Youth Council, Albuquerque, N. Mex. 87107.	202	1,092	0	
Pueblo of Acoma, Acoma, N. Mex. 87034.	30	270	397	
Pueblo of Laguna, Laguna, N. Mex. 87028.	39	348	378	
Pueblo of Taos, Taos, N. Mex. 87571.	18	107	278	
Pueblo of Zuni, P.O. Box 339, Zuni, N. Mex. 87327.	106	591	1,034	
Ramah Navajo School Board, Inc., Ramah, N. Mex. 87321.	19	169	468	

U.S. Department of Labor—Employment and Training Administration, Office of Administration and Management, Native American Data Base—Continued

	1970 census unemployed	1970 census low income	1970 BIA unemployed
--	------------------------	------------------------	---------------------

Santo Domingo Tribe 87052.	31	245	289	
American Indian Community House, Inc., New York City, N.Y. 10018.	260	1,055	79	
Native American Manpower, Inc., Buffalo, N.Y. 14222.	169	388	0	
The North Am. Ind. Club of Syracuse and Vicinity, Inc., Syracuse, N.Y. 13201.	33	94	75	
St. Regis Mohawk Tribe 13655.	68	231	378	
Seneca Nation of Indians, Box #344, Salamanca, N.Y. 14779.	372	945	1,952	
Cumberland County Association for Indian People, Downing Road, Fayetteville, N.C. 28301.	58	225	0	
Eastern Band of Cherokee Indians, P.O. Box 481, Cherokee, N.C. 28719.	202	606	1,006	
Lumbee Regional Development Association, Pembroke, N.C. 28372.	458	4,265	0	
North Carolina Commission of Indian Affairs, Raleigh, N.C. 27611.	145	1,125	0	
Devils Lake Sioux Tribe, Fort Totten, N. Dak. 58335.	146	234	815	
Standing Rock Sioux Tribe 58538.	220	435	1,108	
Three Affiliated Tribes, New Town, N. Dak. 58763.	71	197	502	
Turtle Mountain Band of Chippewa Indians, Belcourt, N. Dak. 58335.	266	710	808	
United Tribes—Educational Technical Center, Bismarck, N. Dak. 58501.	59	242	0	
Governor of Ohio Grant Office, 29th Floor, Columbus, Ohio 43215.	165	523	0	
Caddo Tribe, Binger, Okla. 73009.	40	175	130	
Central Tribes of the Shawnee Area, Inc., Shawnee, Okla. 74802.	32	214	363	
Cherokee Nation of Oklahoma, Tahlequah, Okla. 74464.	583	3,851	1,121	
Cheyenne-Arapaho Tribes, Concho, Okla. 73022.	130	497	2,430	
Chickasaw Nation of Oklahoma, Ada, Okla. 74820.	164	837	500	
Choctaw Nation of Oklahoma, Durant, Okla. 74701.	209	1,510	812	
Citizen Band Potawatomi Indians of Oklahoma, Shawnee, Okla. 74601.	48	320	544	
Comanche Tribe of Oklahoma, Fort Sill Indian School Building, Room 382, Lawton, Okla. 73502.	158	425	425	
Creek Nation of Oklahoma, Okmulgee, Okla. 74447.	258	1,717	2,313	
Inter-Tribal Council of Northeast Oklahoma, Miami, Okla. 74354.	37	202	88	
Kiowa Tribe of Oklahoma, Anadarko, Okla. 73005.	114	649	595	
Oklahoma Tribal Assistance Program, Inc., Tulsa, Okla. 74101.	198	889	0	
Osage Tribal Council, Pawhuska, Okla. 74056.	83	300	846	
Pawnee Indian Tribal Business Community, Pawnee, Okla. 74058.	24	16	97	
Ponca Tribe of Indians, White Eagle, Ponca City, Okla. 74601.	69	392	488	
Seminole Nation of Oklahoma, Wewoka, Okla. 74884.	88	366	214	

U.S. Department of Labor—Employment and Training Administration, Office of Administration and Management, Native American Data Base—Continued

	1970 census unemployed	1970 census low income	1970 BIA unemployed
--	------------------------	------------------------	---------------------

Tonkawa Tribe of Oklahoma, Tonkawa, Okla. 78453.	10	41	58	
United Urban Indian Club, Inc., Oklahoma City, Okla. 73102.	187	1,045	0	
Confederated Tribes of Warm Springs 97781.	299	830	383	
Organization of Forgotten Americans, P.O. Box 1257, Klamath Falls, Oreg. 97601.	86	151	0	
Urban Indian Council, Portland, Oreg. 97210.	236	390	0	
Council of Three Rivers, Dorseyville, Pa. 15238.	63	321	0	
United American Indians of the Delaware Valley, Philadelphia, Pa. 19106.	67	249	0	
Rhode Island Indian Council, Room 300, Providence, R.I. 02903.	31	186	0	
Office of the Governor, CETA Division, Columbia, S.C. 29204.	27	270	0	
Cheyenne River Sioux Tribe, Eagle Butte, S. Dak. 57625.	154	476	824	
Crow Creek Sioux Tribe, Fort Thompson, S. Dak. 57339.	70	163	361	
Lower Brule Sioux Tribe 57548.	28	69	195	
Oglala Sioux Tribe, Pine Ridge, S. Dak. 57770.	337	1,138	3,672	
Rosebud Sioux Tribe, Rosebud, S. Dak. 57570.	305	802	2,364	
Sisseton-Wampeton Sioux Tribe, Sisseton, S. Dak. 57262.	86	257	480	
United Sioux Tribes of South Dakota Development Corporation, Pierre, S. Dak. 57501.	261	788	0	
Yankton Sioux Tribe, Wagner, S. Dak. 57380.	63	135	705	
Tennessee Indian Council, Inc., Nashville, Tenn. 37203.	18	168	0	
USET Incorporated, Suite 800, Nashville, Tenn. 37217.	58	205	0	
Alabama-Coushatta Indian Reservation, Livingston, Tex. 77351.	82	677	68	
Dallas Inter-Tribal Center, 334 Centre Street, Dallas, Tex. 75201.	148	710	0	
Tigua Indian Tribe, P.O. Box 17579, El Paso, Tex. 79917.	76	392	64	
Ute Indian Tribe, Fort Duchesne, Utah 84026.	82	151	354	
Utah Native American Consortium, Inc., Salt Lake City, Utah 84115.	93	396	4	
Governor of Virginia, POB 1314, Richmond, Va. 23210.	75	419	54	
American Indian Community Center, Spokane, Wash. 99202.	79	170	0	
Che-Ho-Qui-Sho, Taholah, Wash. 98587.	58	194	487	
Colville Confederated Tribes, Nespelem, Wash. 99155.	184	264	1,556	
Eastern Washington Indian Consortium, Wellpinit, Wash. 99040.	556	1,030	2,424	
Lummi Indian Business Council, Bellingham, Wash. 98225.	57	35	718	
Northwest Inter-Tribal Council, Everett, Wash. 98201.	70	116	404	
Puyallup Tribe, Tacoma, Wash. 98404.	109	195	1,051	
Seattle Indian Center, Seattle, Wash. 98101.	392	530	0	
Western Washington Indian Employment and Training Program, Keller Professional Building, Tacoma, Wash. 98444.	395	940	1,608	

U.S. Department of Labor—Employment and Training Administration, Office of Administration and Management, Native American Data Base—Continued

	1970 census unem- ployed	1970 census low income	1970 BIA unem- ployed
Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Hayward, Wis. 54843	55	170	411
Lac Du Flambeau Consortium, Lac Du Flambeau, Wis. 54538	21	146	242
Menominee Indian Tribe of Wisconsin, Keshena, Wis. 54135	57	293	508
Milwaukee Area American Indian Manpower Council, Milwaukee, Wis. 53208	144	344	0
Oneida Tribe of Indians of Wisconsin, Inc., Depere, Wis. 54115	163	394	241
St. Croix Tribal Council, Webster, Wis. 54893	26	64	423
Stockbridge-Munsee Community, Bowler, Wis. 54416	27	97	186
Wisconsin Tri Band Consortium, Ashland, Wis. 54861	155	215	619
Wisconsin Winnebago Business Committee, Nekeosha, Wis. 54457	64	181	530
Shoshone/Arapahoe Joint Business Council, Fort Washakie, Wyo. 82514	271	503	732
National total	26,545	95,209	118,117

[FR Doc. 79-34917 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-30-M

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that

it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20013.

Signed at Washington, D.C., this 7th day of November 1979.

Earl T. Klein,
Director, Office of Program Services.

Applications Received During the Week Ending November 10, 1979

Name of applicant and location of enterprise—Principal product or activity

Ben Snyder, Inc., Bowling Green Ky.—Retail department store.
Magnolia Health Associates, Inc., Ellisville, Miss.—Nursing home.
Goldmine Ski Associates, Inc., Big Bear Lake, San Bernardino County, Calif.—Winter ski and summer recreational facilities.

Kirkwood Associates, Inc., Kirkwood, Calif.—Ski resort.
Gowanda Nursing Home, Gowanda, N.Y.—Nursing home.

Terry Manufacturing Co., Inc., Roanoke, Ala.—Manufacture apparel—uniforms, career apparel, and related items.
Land & Offshore Services, Inc., Gueydan, La.—Labor and equipment contracting.
Warner Ethanol Corp., Milan, Ripley County, Ind.—Anhydrous alcohol producing plant.
Camping World of California, Inc., Valencia, Calif.—Wholesale and installation of recreational vehicle accessories.

[FR Doc. 79-35017 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-30-M

National Displaced Homemakers Program Under the Comprehensive Employment and Training Act; Extension of Deadline for Grant Applications

On Friday, October 26, 1979, the Department of Labor published a notice in the Federal Register (44 FR 61932) to solicit grant applications in connection with the National Displaced Homemakers Program. This notice stated that the deadline for filing grant applications was 4:30 p.m., December 10, 1979. Because the Department of Labor has experienced delays in reproducing printed materials that are needed by interested organizations to prepare the grant applications, the deadline is being extended. Accordingly, completed applications will be accepted if postmarked no later than December 21, 1979.

Signed at Washington, D.C., this 7th day of November 1979.

Ernest G. Green,
Assistant Secretary for Employment and Training.

[FR Doc. 79-35441 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration [Docket No. M-79-142-C]

Maben Energy Corp.; Petition for Modification of Application of Mandatory Safety Standard

Maben Energy Corporation, 19 Mallard Court, Beckley, West Virginia 25801, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its Maben No. 1, Maben No. 3, Maben No. 4, and Maben No. 5 Mines, located in Wyoming County, West Virginia. The petition is filed under section 101(d) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the illumination of underground working

places in which self-propelled mining equipment is operated.

2. Mining heights in each of the petitioner's mines range from 29 to 60 inches.

3. The petitioner states that lighting on the scoops in its mines would be blinding to miners in the vicinity of the scoop, causing a diminution of safety.

4. For this reason, the petitioner requests relief from the application of the standard to its mines.

Request for Comments

Persons interested in this petition may furnish written comments on or before December 17, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: November 5, 1979.

Ekkehard Muessig,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-35442 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

California Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator OSHA), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 1, 1973, notice was published in the Federal Register (38 FR 10717) of the approval of the California plan and the adoption of Subpart K to Part 1952 containing the decision.

The California plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Accordingly, California has revised these standards in accordance with Part 1953 and promulgated them as well as State initiated changes in accordance with applicable State procedures. By letter dated August 27,

1979, from Dorothy H. Fowler, Assistant Program Manager, California Occupational Safety and Health Administration to Gabriel J. Gillotti, Regional Administrator, OSHA, and incorporated as part of the plan, the State submitted proof documents concerning standard revisions equivalent to Federal standards for Walking-Working Surfaces of 29 CFR 1910.21(a)(6), 1910.23(c)(1), 1910.23(c)(2), 1910.24(j), 1910.24(k), 1910.27(d)(1)(iii) and 1910.29(a)(4); Means of Egress of 29 CFR 1910.37(k); Powered Platforms, Manlifts, and Vehicle Mounted Work Platforms of 29 CFR 1910.66(b)(3) and 1910.67(b)(1); Hazardous Materials of 29 CFR 1910.104(b)(3) 1910.106(b)(Table H-6) and 1910.106(c); Personal Protective Equipment of 29 CFR 1910.132, 1910.133, 1910.135 and 1910.136; Fire Protection of 29 CFR 1910.157(a)(1), 1910.157(a)(2) and 1910.157(d)(2); Compressed Gas and Compressed Air Equipment of 29 CFR 1910.166(a); Handling Materials and Storage of 29 CFR 1910.178(a)(2), 1910.178(k)(1), 1910.178(l), 1910.178(m)(1)-(7), 1910.178(n)(1), 1910.178(n)(3), 1910.178(n)(4), 1910.178(n)(5), 1910.178(n)(6), 1910.178(n)(7), 1910.178(n)(12), 1910.178(n)(13), 1910.178(o), 1910.178(p)(l), (1) and 1910.178(p)(4); Machinery and Machine Guarding of 29 CFR 1910.211(b), 1910.215(a), 1910.215(b), 1910.215(d), and 1910.219(o)(3)(iii); Hand and Portable Powered Tools and Other Hand-Held Equipment of 29 CFR 1910.241(b); Welding, Cutting, and Brazing of 29 CFR 1910.252(a)(2), 1910.252(a)(4), 1910.252(d)(2), 1910.252(e)(4), and 1910.252(f)(4); Commercial Diving Standard of 29 CFR 1910.401-441; 1, 2 Dibromo-3-Chloropropane (DBCP) of 29 CFR 1910.1044; Ship Repairing of 29 CFR 1915.2(m), 1915.10, 1915.11, 1915.12, 1915.13(a), 1915.14, 1915.31(b), 1915.46(b), 1915.82(b) and 1915.82(c); Shipbuilding of 29 CFR 1916.2(m); Shipbreaking of 29 CFR 1917.2(m); and Construction Safety Orders of 29 CFR 1926.21(b) and 1926.400(a). The State initiated standard changes with no comparable Federal Standard concerned definitions of "suitable", glass and glazing, design configurations-permanent roof top installations, hot pipes and hot surfaces, warning signs, machinery and equipment, railroad ramping and deramping yards, airless spray guns, power lawn mowers, mounted wheels, storage-abrasive wheels, performance ratings, seatbelts, order pickers and stock picker, elevating employees with life trucks, operator platforms, operating rules—industrial trucks, industrial trucks, tractors, haulage vehicles and

earthmoving equipment, open tanks, vats and other containers containing corrosive liquids, and 4, 4'-Methylenebis (2-chloroaniline) MBOCA. These standards, which are contained in Title 8, Chapter 4 of the California Administrative Code, were promulgated (date filed with the Secretary of State) between the dates of July 25, 1978 and May 25, 1979.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator—OSHA, 450 Golden Gate Avenue, Room 11349, San Francisco, California, 94102; California Occupational Safety and Health Administration, Room 3052, 455 Golden Gate Avenue, San Francisco, California, 94102; and Office of the Directorate of Federal Compliance and State Programs, Room N3619, 200 Constitution Avenue, N.W., Washington, D.C., 20210.

4. *Public Participation.* Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the California plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious. This decision is effective November 16, 1979.

(Sec. 18, Pub. L. 91-956, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at San Francisco, Calif., this 19th day of September 1979.

Gabriel J. Gillotti,
Regional Administrator.

[FR Doc. 79-35443 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-26-M

Approval of North Carolina Standards

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the

Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On February 1, 1973, notice was published in the *Federal Register* (38 FR 3041) of the approval of the North Carolina plan and the adoption of Subpart I to Part 1952 containing the decision.

The North Carolina Plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20 of 29 CFR provides that "where an alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State Plan shall be required." In response to Federal standard changes, the State has submitted by letter, dated June 25, 1979 from John C. Brooks, Commissioner, North Carolina Department of Labor, to Robert A. Wendell, Regional Administrator, and incorporated as a part of the State plan, State standards comparable to the following Federal standards: 29 CFR Part 1910 Selected General and Special (Cooperage and Laundry Machinery and Bakery Equipment) Industry Safety and Health Standards revocations, dated October 24, 1978 and November 7, 1978; § 1910.19 Special Provisions for Air Contaminants, § 1910.1000 Air Contaminants, § 1910.1025 Lead, dated November 14, 1978; § 1910.1046 Cotton Dust correction, dated December 5, 1978; § 1910.1000 Toxic and Hazardous Substances correction § 1910.1500 amended, dated December 8, 1978; § 1910.1025 Lead corrections, § 1910.1043 Cotton Dust, dated January 26, 1979; 29 CFR Parts 1910 and 1926 Enforcement Policy and Republication of Standards and corrections, dated April 8, 1979.

These Standards were promulgated by filing with the North Carolina Attorney General on November 3, 1978, November 29, 1978, December 12, 1978, December 14, 1978, April 20, 1979, and May 3, 1979, respectively, pursuant to the North Carolina Occupational Safety and Health Act of 1973 (Chapter 295, General Statutes).

2. *Decision.* Having reviewed the State submission in comparison with Federal standards, it has been

determined that the State standards are identical to the Federal standards and are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, North Carolina Department of Labor, 11 West Edenton, Raleigh, North Carolina 27611; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309; and Office of the Director of Federal Compliance and State Programs, Room N3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the North Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective November 16, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 2nd day of August 1979.

R. A. Wendell,

Regional Administrator.

[FR Doc. 79-35444 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-26-M

Approval of Tennessee Standards

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in

the *Federal Register* (38 FR 17838) of the approval of the Tennessee plan and the adoption of Subpart P to Part 1952 containing the decision. The Tennessee plan provides for the adoption of Federal Standards as State standards by reference. Section 1953.20 of 29 CFR provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required." In response to Federal standard changes, the State has submitted by letter dated August 7, 1978 from James G. Neeley, Commissioner of Labor, Tennessee Department of Labor, to R. A. Wendell, Regional

Administrator, and incorporated as a part of the plan, amended State standards comparable to amendments to Federal standards: 29 CFR 1910.20 Preservation of Records, dated July 19, 1978; 29 CFR 1910.1043 Cotton Dust corrections, dated August 8, 1978; 29 CFR 1928.1046 Cotton Dust in Cotton Gins, dated August 8, 1978; 29 CFR 1928.113 Cotton Dust in Cotton Gins, dated August 8, 1978; 29 CFR 1910.19 Special Provisions for Air Contaminants, dated October 3, 1978; 29 CFR 1910.1000 Toxic and Hazardous Substances, dated October 3, 1978; 29 CFR 1910.1045 Acrylonitrile, dated October 3, 1978; 29 CFR 1910 Standards Deletion, dated October 24, 1978; 29 CFR Part 1910 Standards Deletion, dated November 7, 1978; 29 CFR Part 1910.19 Special Provisions for Air Contaminants, dated November 14, 1978; 29 CFR Part 1910.1000 Toxic and Hazardous Substances, dated November 14, 1978; 29 CFR Part 1910.1025 Lead, dated November 14, 1978; 29 CFR Part 1910.1000 Toxic and Hazardous Substances, dated December 8, 1978; 29 CFR Part 1910.1500 References, dated December 8, 1978; 29 CFR Part 1910.1043 Cotton Dust, dated January 26, 1978; 29 CFR Part 1910.1025 Lead, dated January 26, 1978.

These standards were promulgated by filing with the Tennessee Secretary of State on August 15, 1978; November 15, 1978; December 15, 1978; February 15, 1979; and March 15, 1979, respectively, pursuant to the Tennessee Occupational Safety and Health Act of 1972 (Title 50, Chapter 5, Tennessee Code annotated as amended July 1, 1977).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the updated standards are identical to Federal Standards. The standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the

standard supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, 501 Union Building, Nashville, Tennessee 37219; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309; Office of the Director of Federal Compliance and State Programs, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the Tennessee State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further public participation would be unnecessary.

This decision is effective November 16, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 30th day of July 1979.

R. A. Wendell,

Regional Administrator.

[FR Doc. 79-35445 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-26-M

Approval of Tennessee Standards

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the *Federal Register* (38 FR 17838) of the approval of the Tennessee plan and the adoption of Subpart P of Part 1952 containing the decision. The Tennessee plan provides for the adoption of

Federal Standards as State standards by reference. Section 1953.20 of 29 CFR provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required." In response to Federal standard changes, the State has submitted by letter dated August 7, 1978 from James G. Neeley, Commissioner of Labor, Tennessee Department of Labor, to R. A. Wendell, Regional Administrator, and incorporated as a part of the plan, amended State standards comparable to amendments to Federal standards: 29 CFR 1910.19 Special Provisions for Air Contaminants, dated May 5, 1978; 29 CFR 1910.1000 Air Contaminants, dated May 5, 1978; 29 CFR 1910.1018 Inorganic Arsenic, dated May 5, 1978; 29 CFR 1910.19 Special Provisions for Air Contaminants, dated June 23, 1978; 29 CFR 1910.1000 Air Contaminants, dated June 23, 1978; 29 CFR 1910.1043 Cotton Dust, dated June 23, 1978; 29 CFR 1910.1046(a) Exposure to Cotton Dust in Cotton Gins, dated June 23, 1978; 29 CFR 1910.1018 Corrections to Inorganic Arsenic, dated June 30, 1978; 29 CFR 1910.19 Corrections to Special Provisions for Air Contaminants, dated June 30, 1978; 29 CFR 1910.1043 Corrections to Cotton Dust in Cotton Gins, dated June 30, 1978; 29 CFR 1910.1046(a) Corrections to Cotton Dust in Cotton Gins, dated June 30, 1978; 29 CFR 1928.21 amended, dated June 30, 1978; 29 CFR 1928.113 a new Subpart I Toxic and Hazardous Substances, dated June 30, 1978.

These standards were promulgated by filing with the Tennessee Secretary of State of June 8, 1978 and July 10, 1978, respectively, pursuant to the Tennessee Occupational Safety and Health Act of 1972 (Title 50, Chapter 5, Tennessee Code annotated as amended July 1, 1977).

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the updated standards are identical to Federal Standards. The standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, 501 Union Building, Nashville, Tennessee 37219; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309; Office of the Director of Federal Compliance and

State Programs, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the Tennessee State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further public participation would be unnecessary.

This decision is effective November 16, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 15th day of September 1978.

R. A. Wendell,

Regional Administrator.

[FR Doc. 79-35446 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-26-M

Approval of Utah State Standards

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribed procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under the delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On January 10, 1973, notice was published in the *Federal Register* (38 FR 1178) of the approval of the Utah Plan and the adoption of Subpart E to Part 1952 containing the decision.

The Utah Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee recommendation.

2. Publication in newspapers of general/major circulation with a 30-day waiting period for public comment and hearing(s).

3. Commission order adopting the standards and designating an effective date.

4. Providing certified copies of Rules and Regulations or Standards to the Office of the State Archivist.

Section 1952.113 of Subpart E sets forth the States schedule for revocation and amendment of Federal Standards. By letter dated December 8, 1978 and letter dated March 13, 1979, from Ronald L. Joseph, Administrator, Utah Occupational Safety and Health Division, to Curtis A. Foster, Regional Administrator, vacated as part of the Plan, the State submitted rules and regulations concerning "Selected General Industry Safety and Health Standards; Revocation", which was published in Federal Register (43 FR 49726), Tuesday, October 24, 1978 and "Revocation of Selected General Industry Safety and Health Standards; Corrections", (43 FR 51759), Tuesday, November 7, 1978.

These standards, which were a part of the Utah Occupational Safety and Health Rules and Regulations for General Industry, revoked and amended per the requirements of Utah Code annotated 1953, Title 63-46-1, and in addition, published in newspaper of general/major circulation throughout the State. No public comment was received and no hearings held.

The "Selected General Industry Safety and Health Standards; Revocation", were vacated by the Industrial Commission of Utah, Archives File Number 3139 on January 26, 1979, pursuant to Title 35-9-6 Utah Code annotated 1953.

2. *Decision.* The State submission was reviewed in comparison with the Federal Standards Revocation and Amendments, and has been determined to be identical to the Federal Standards, and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1554, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; Utah State Industrial Commission, UOSHA Offices at 448 South 400 East, Salt Lake City, Utah 84111; and the Technical Data Center, Room N2439R, 3rd Constitution Avenue NW., Washington, D.C. 20210.

4. *Publication participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists

for not publishing the supplement to the Utah State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The Standards were adopted in accordance with the procedural requirements of State law which permitted public comments, and further public participation would be repetitious.

This decision is effective November 16, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colorado, this 7th day of June 1979.

Curtis A. Foster,
Regional Administrator.

[FR Doc. 79-35447 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-26-M

Approval of Wyoming State Standards

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) 29 CFR 1953.4 will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the Federal Register (39 FR 15394) of the approval of the Wyoming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming Plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that whenever a Federal standard is promulgated, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within six months of the Federal promulgation or change. In response to Federal standard changes, the State has submitted by letter dated February 21, 1979 and May 7, 1979, from Donald D. Owsley, Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, and incorporated as part of the plan, State Rules and Regulations comparable to the 29 CFR 1910.1025 Occupational Exposure to Lead which was published in Federal Register (43 FR 52952),

Tuesday, November 14, 1978 and (44 FR 5446), Friday, January 26, 1979. These standards, which are contained in the Wyoming Occupational Safety and Health Rules and Regulations for General Industry, were heard at Public Hearing on March 16, 1979 and were adopted by the WOHHS Commission on that date and filed in the State Registry of the Office of the Secretary of State on May 7, 1979, and became effective on May 24, 1979, pursuant to Section 27-278 Wyoming Status 1957 as amended 1973.

2. *Decision.* Having reviewed the State submission in comparison with the Federal Regulations and Procedures, it has been determined that the State Rules of Practice and Procedures are at least as effective as the comparable Federal Regulations and Procedures.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Building, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyoming 82001; and the Technical Data Center, Room N2439R, 3rd and Constitution Avenue, NW., Washington, D.C. 20210.

4. *Publication participation.* Under Section 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

This decision is effective November 16, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colorado, this eighth day of June, 1979.

Curtis A. Foster,
Regional Administrator.

[FR Doc. 79-35448 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs [Application No. D-156]

Proposed Exemption for Certain Transactions Involving the Mead Retirement Auxiliary Trust

Correction

In FR Doc. 79-34057 appearing on page 64154 in the issue for Tuesday, November 6, 1979, make the following correction:

On page 64155, in the third column, the fourth line of paragraph "b." should have read "... any time after 1990, for a fixed price increasing each year. The price for the interests of both is fixed at \$100,000 for 1990, and increases to . . .".

BILLING CODE 1505-01-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-67]

Exemption From the Prohibitions for Certain Transactions Involving Victoria Machine Works, Inc. Thrift Retirement Trust Plan (Exemption Application No. D-1383)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the loan of funds by Victoria Machine Works, Inc. Thrift Retirement Trust Plan (the Plan) to Victoria Industrial Equipment, Inc. (the Borrower), which is related to Victoria Machine Works, Inc. (the Employer), the Plan sponsor.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4528, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 21, 1979 notice was published in the Federal Register (44 FR 54793) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the loan of funds by the Plan to the Borrower. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a

complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department. The notice also stated that notice of the pending exemption was to be given to all interested persons within 10 days of the publication of the pending exemption in the Federal Register. The applicant represents that it has fully complied with this notice provision.

The notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative

exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations: (a) The exemption is administratively feasible; (b) It is in the interests of the Plan and of its participants and beneficiaries; and (c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the loan of \$223,335 by the Plan to the Borrower for the purchase of an SMT Numerically Controlled Lathe, as more fully described in the proposed exemption (44 FR 54793).

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 6th day of November 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-35238 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-69]

Exemption From the Prohibitions for Certain Transactions Involving the Leo J. Bolles, M.D., Inc. Pension Plan (Exemption Application No. D-1146)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the cash sale by the Leo J. Bolles, M.D. Inc. Pension Plan (the Plan) of real property in Bellevue, Washington to Dr. Leo Bolles and his wife, Margaret Bolles (the Bolles) or the Bolles and another partner.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4528, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 7, 1979 notice was published in the Federal Register (44 FR 52367) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the sale for cash by the Plan of real property located on Bellevue-Redmond Road and East of 156th Street, NE. in Bellevue, Washington for \$343,000 to the Bolles or to the Bolles and a partner provided that this amount is not less than the fair market value of the real property at the time of sale. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a

plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale for cash by the Plan of real property located on Bellevue-Redmond Road and East of 156th Street, N.E. in Bellevue, Washington for \$343,000 to the Bolles or to the Bolles and a partner provided that this amount is not less than the fair market value of the real property at the time of sale.

The availability of this exemption is subject to the express condition that the

material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 6th day of November 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-35239 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-70]

Exemption From the Prohibitions for Certain Transactions Involving the Oregon Builders, Inc. Pension and Profit Sharing Plan (Exemption Application No. D-1380)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of five parcels of real property by the Oregon Builders, Inc. Pension and Profit Sharing Trust (the Plan) to the Oregon Builders, Inc. (the Employer), the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4528, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On Aug. 31, 1979 notice was published in the Federal Register (44 FR 51380) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, to the cash sale of one parcel of real property in Bliss Park in Lane County, Oregon for \$15,300 and to the cash sale of four parcels of real property in the Brentwood Homes section of Lane County, Oregon for \$34,000 provided that these amounts are not less than the fair market value of the parcels of real property at the time of the sales. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and

representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the

transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations: (a) The exemption is administratively feasible; (b) It is in the interests of the Plan and of its participants and beneficiaries; and (c) It is protective of the rights of the participants and beneficiaries of Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of one parcel of real property in Bliss Park in Lane County, Oregon for \$15,300 and to the cash sale of four parcels of real property in the Brentwood Homes section of Lane County Oregon for \$34,000 to the Employer by the Plan provided that these amounts are not less than the fair market value of the parcels of real property at the time of the sales.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 6th day of November 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-35240 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-68]

Exemption From the Prohibitions for Certain Transactions Involving the DCA Food Industries, Inc., Employees' Retirement Plan (Exemption Application No. D-1258)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits certain past and proposed sales for cash by the DCA Food Industries Inc. Employees' Retirement Plan (the Plan) of 5 percent cumulative preferred stock (Preferred Stock) of DCA Food Industries Inc. (the Employer) to the Employer.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-456, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 7, 1979 notice was published in the Federal Register (44 FR 52368) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for (1) the cash sale in 1975 of 800 shares of the Preferred Stock at \$50 per share by the Plan to the Employer provided that \$50 per share was greater than the fair market value of the Preferred Stock at the time of the sale and (2) the proposed cash sales of 11,048.8 shares of the Preferred Stock at \$50 per share by the Plan to the Employer provided that \$50 per share is greater than the fair market value of the Preferred Stock at the time of the sales. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. No public comments were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions

of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedures 75-1 (40 FR 18471, Apr. 28, 1975), and based upon the entire record, the Department makes the following determinations: (a) The exemption is administratively feasible; (b) It is in the interests of the Plan and of its participants and beneficiaries; and (c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to (1) the cash sale in 1975 of 800 shares of the Preferred Stock at \$50 per share by the Plan to the Employer provided that \$50 per share was greater than the fair market value of the Preferred Stock at the time of the sale and (2) the proposed cash sales of 11,048.8 shares of the Preferred Stock at \$50 per share by the Plan to the Employer provided that \$50 per share is greater than the fair market value of the Preferred Stock at the time of the sales. The availability of this exemption is subject to the express condition that the

material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 6th day of November 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-35241 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-29-M

Proposed Exemption for Certain Transactions Involving the United Precision Machine and Engineering Company Profit Sharing Plan (Application No. D-1061)

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the loan of \$120,000 from the United Precision Machine and Engineering Company Profit Sharing Plan (the Plan) to United Precision Machine and Engineering Company (the Employer), a party in interest. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before Dec. 14, 1979.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-1061. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department of Labor, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan proposes to loan the Employer the sum of \$120,000, receiving in return a promissory note collateralized with a perfected security interest in two lathes, a milling machine and a tracer (the equipment) owned by the Employer. The loan is to be repaid in 48 equal monthly installments of \$3,310.29, at an interest rate of 14½% per annum.

2. The equipment, except for the tracer, was appraised for \$237,500 on August 13, 1979 by an independent appraiser. On July 20, 1978, the same appraiser valued one of the lathes and the milling machine for \$179,000. Their value had increased by \$27,000. The appraiser had noted the fact that demand for the equipment is high and therefore the market is good. The Employer represents that the tracer has a value of \$4,500. Thus, the loan represents approximately 49.6% of the value of the equipment which will secure the loan. The Employer represents that the market value of the collateral will at all times be kept to at least twice the outstanding loan balance due at any time. Thus, in the event the value of the present collateral falls below the above ratio, additional collateral will be offered as security. The Employer will maintain adequate insurance against loss on the equipment during the period the loan is outstanding.

3. As of March 31, 1978, Plan assets totaled \$790,097. The proposed loan, in conjunction with prior transactions with the Employer, represents approximately 19.1% of the Plan's assets.

4. A local bank has represented that it would lend \$120,000 to the Employer, secured by machinery, for a term of four years at 13½% interest, provided the loan to collateral value was 50% or less.

5. The Employer will appoint the Valley Bank and Trust Company to be an independent custodial manager for the Plan assets involved in the proposed transaction. The custodial manager will, among other responsibilities and duties, oversee the repayment of the loan by the Employer and will enforce the terms of the agreement, including making demand for payment, bringing suit or otherwise proceeding on behalf of the Plan in the event of default by the Employer under the terms of the agreement.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because (1) the Plan will receive 14½% interest on its investment which is greater than the rate the Employer would pay to an unrelated party, (2) the loan is secured by equipment with an appraised value which is more than twice the amount of the loan, (3) a perfected security agreement will be filed on behalf of the Plan on the equipment, (4) the loan will be administered by an independent custodial manager, and (5) the trustee has determined that the transaction is appropriate for the Plan and is in the best interest of the Plan's participants and beneficiaries.

Notice to Interested Persons

Within 10 working days after the notice of pendency is published in the Federal Register, notice will be mailed to all Plan participants, beneficiaries and other interested persons and will be posted at the usual places for notices to employees.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a

fiduciary to discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act, and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to a loan of

\$120,000 by the Plan to the Employer. *Provided*, That the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of the transaction. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 6th day of November 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-35242 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-5721]

Bishop Coal Co., McDowell County, W. Va.; Negative Determination Regarding Application for Reconsideration

By an application dated October 9, 1979, the petitioning union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing metallurgical coal at Bishop Coal Company, Bishop, West Virginia. The determination was published in the Federal Register on September 18, 1979, (44 FR 54133).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioning union claims that in meeting the increased import criterion of Section 222 of the Trade Act, it is irrelevant whether imports increased or decreased during the period in question so long as they were significant.

The Department's review of the investigative case file revealed that workers at Bishop Coal were denied

eligibility because they did not meet the "contributed importantly" test of the Trade Act. No customers reported purchases of imported metallurgical coal, and the only customer purchasing imported coke decreased its purchases of imported coke in 1978 compared to 1977 and in the first seven months of 1979 compared to the same period in 1978.

The Department sees no validity in the petitioning union's contention that it is irrelevant whether imports increase or decrease during the period in question so long as they are significant. Section 222 of the Trade Act specifically states that in order for a group of workers to become certified eligible for trade adjustment assistance there must be an increase of imports of articles like or directly competitive with the articles produced by the workers' firm or appropriate subdivision and that these increased imports must contribute importantly to the workers' total or partial separations. Accordingly, the Department found that although U.S. aggregate imports of coke increased they did not contribute importantly to worker separations or to a decrease in sales or production at Bishop Coal.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 7th day of November 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-35450 Filed 11-15-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6050]

Cherokee Mining Co., Verner, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 14, 1979 which was filed on behalf of workers and former workers mining steam coal at Cherokee Mining Company, Logan, West Virginia. The investigation revealed that the mine is located at Verner, West Virginia in Logan County. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increase of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Cherokee Mining Company mines primarily steam coal. U.S. imports of steam coal are negligible and declining.

The metallurgical coal mined at Cherokee Mining is sold to a coal processing company which exports all of its coal.

Conclusion

After careful review, I determine that all workers of Cherokee Mining Company, Verner, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic
Research.

[FR Doc. 79-35451 Filed 11-15-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6015]

Dell Knitwear, Inc.; Bronx, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 12, 1979 in response to a worker petition received on September 6, 1979 which was filed on behalf of workers and former workers producing children's sweaters at Dell Knit,

Incorporated, Bronx, New York. It is concluded that all requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production was 115 percent or greater in 1978, 1977 and 1976.

The Office of Trade Adjustment Assistance conducted a survey of major customers of Dell Knitwear. Customers representing a significant proportion of Dell's 1977 sales reported that they reduced purchases of children's sweaters from Dell and increased purchases of imported children's sweaters in 1978 compared to 1977 and in the first eight months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's sweaters produced at Dell Knitwear, Incorporated, Bronx, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Dell Knitwear, Incorporated, Bronx, New York who became totally or partially separated from employment on or after September 28, 1978 and before October 30, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic
Research.

[FR Doc. 79-35452 Filed 11-15-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6007]

Ideal Outerwear Co., Inc.; East Newark, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification

of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 11, 1979, in response to a worker petition received on September 4, 1979, which was filed on behalf of workers and former workers producing men's leather and suede coats at Ideal Outerwear Company, Incorporated, East Newark, New Jersey. The investigation revealed that Ideal Outerwear produces men's cloth and leather jackets and coats. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' nontailored outer jackets increased absolutely and relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production increased from 32.3 percent in 1977 to 39.4 percent in 1978. U.S. imports of leather coats and jackets—men's, boys', women's, misses', juniors' and children's—increased absolutely and relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production increased from 85.3 percent in 1977 to 139.9 percent in 1978.

The Department of Labor surveyed customers of Ideal Outerwear concerning their purchases of men's leather and cloth coats. Some customers indicated that they decreased orders of coats with Ideal Outerwear and increased orders of coats with foreign sources in 1979 compared to 1978.

Imports of leather and cloth coats and jackets by Ideal Outerwear increased in the first quarter of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude

that increases of imports of articles like or directly competitive with the men's cloth and leather jackets and coats produced at Ideal Outerwear Company, Incorporated, East Newark, New Jersey, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Ideal Outerwear Company, Incorporated, East Newark, New Jersey, who became totally or partially separated from employment on or after June 15, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic
Research.

[FR Doc. 79-35453 Filed 11-15-79; 8:45 am]
BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers'

firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing. *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 26, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 26, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 8th day of November 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment
Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Airco Speer Electronics (company)	Bradford, Pa.	11/5/79	11/2/79	TA-W-6,343	Warehousing of electronic resistors.
Allied Chemical Corp., Semet-Solvay Division (Oil Chemical & Atomic Workers Union)	Ashland, Ky.	11/2/79	10/26/79	TA-W-6,344	Metallurgical coke.
Crest Container Corp. (UAW)	Milville, N.J.	11/2/79	10/24/79	TA-W-6,345	Disposable food containers.
E. R. Moore Co. (company)	Osceola, Ark.	11/5/79	10/23/79	TA-W-6,346	Ladies' fashions, adult and children's warm-up shorts.
Exxel Corp. (IAM)	Elkhart, Ind.	10/18/79	10/8/79	TA-W-6,347	Push out windows for automotive industry.
H. W. Gossard, Inc. (workers)	Malden, Mo.	10/23/79	9/25/79	TA-W-6,348	Lingerie.
Huntingdon Apparel Manufacturing Co. (ACTWU)	Huntingdon, Pa.	11/3/79	10/31/79	TA-W-6,349	Men's trousers.
Jo-Jo Manufacturing (workers)	Port Jervis, N.Y.	11/3/79	10/26/79	TA-W-6,350	Children's clothing.
Lebow Brothers, Inc. (ACTWU)	Baltimore, Md.	11/3/79	10/31/79	TA-W-6,351	Men's tailored clothing.
Luzerne Outerwear Manufacturing Co. (ACTWU)	Elysburg, Pa.	11/3/79	10/31/79	TA-W-6,352	Outerwear.
Luzerne Outerwear Manufacturing Co. (ACTWU)	Benwick, Pa.	11/3/79	10/31/79	TA-W-6,353	Outerwear.
Roller Fabrics, Inc. (ACTWU)	Milwaukee, Wis.	11/3/79	10/31/79	TA-W-6,354	Knitted pile fabrics.
Weiss Shirt Co., Inc. (company)	New York, N.Y.	11/2/79	10/22/79	TA-W-6,355	Ladies' shirts.

[FR Doc. 79-35449 Filed 11-15-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6126]

King Powellton Mining, Inc., Hansford, W. Va.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 1, 1979 in response to a worker petition received on September 26, 1979 which was filed on behalf of workers and former workers mining metallurgical coal at King Powellton Mining, Incorporated, Hansford, West Virginia. The petition alleges that imports caused layoffs May 4, 1979.

On July 17, 1979, all workers of King Powellton Mining, Incorporated were denied eligibility to apply for adjustment assistance (TA-W-5458). The petition alleged that imports had caused layoffs May 4, 1979. That investigation revealed no evidence that indicated that increased imports of coke or coal had contributed importantly to the May 4, 1979 layoffs.

Since an investigation has already been conducted pursuant to the facts and statements presented in the current petition (TA-W-6126) and since the current petition presents no additional information pursuant to the previous determination (TA-W-5458) that would change the previous determination, another investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 7th day of November 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-35454 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5771 and 5780]

Magnavox Consumer Electronics Co., Morristown, Tenn., Johnson City, Tenn.; Affirmative Determination Regarding Application for Reconsideration

On October 4 and 8, 1979, workers and former workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment

Assistance in the case of workers and former workers of Magnavox Consumer Electronics Company, Morristown and Johnson City, Tennessee. This determination was published in the *Federal Register* on September 25, 1979 (44 FR 55249).

The workers and former workers claim in their application for reconsideration that foreign competition was the reason for the consolidation of the Morristown and Johnson City, Tennessee, plants into Magnavox's Greenville and Jefferson City, Tennessee, plants and that these plants should be considered separately. The workers further claim that (1) had the Department used a different measure, units instead of value, then the sales criterion would have been met; (2) many of the parts (transistors, resistors, etc.) used in the production of printed circuit boards and other components of color televisions were imported; and (3) rubber molds were made at Morristown and sent overseas for tuner production.

Conclusion

After review of the application, I conclude that the claims of the workers are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 9th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-35455 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5926]

Outboard Marine Corp., Milwaukee, Wis.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 29, 1979 in response to a worker

petition received on August 27, 1979 which was filed on behalf of workers and former workers producing outboard motors at the Milwaukee, Wisconsin plant of Outboard Marine Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

From 1977 to 1978, company domestic sales of outboard motors and parts, total company domestic production of outboard motors, and plant production of outboard motors increased. In the first half of 1979, compared with the same period in 1978, U.S. imports of outboard motors decreased absolutely. Outboard Marine Corporation sells outboard motors through company authorized dealers which sell directly to consumers. Recent shortages of gasoline, increasing oil prices, and accelerating inflation resulting in less disposable income of the general public have contributed to the reduction in demand for outboard motors.

Conclusion

After careful review, I determine that all workers at the Milwaukee, Wisconsin plant of Outboard Marine Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-35456 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6154]

Peach Creek Processing, Logan, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 4, 1979 in response to a worker petition received on October 1, 1979 which was filed on behalf of workers and former workers mining metallurgical coal at Peach Creek Processing, Logan, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation revealed that all metallurgical coal mined by the Deep Ford mine of Peach Creek Processing has been exported to Italy. Since the declines in sales was due to a decrease in exports, increased imports of coal or coke into the United States could not affect sales and production levels at Peach Creek Processing.

Conclusion

After careful review, I determine that all workers of Peach Creek Processing, Logan, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-35457 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5922]

Uniroyal Tire Co., Opelika, Ala.; Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility

requirements of Section 222 of the Act must be met.

The investigation was initiated on August 27, 1979 in response to a worker petition received on August 22, 1979 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing tires at the Opelika, Alabama plant of Uniroyal Tire Company. The investigation revealed that the plant produces primarily passenger car and truck tires. In the following determinations, with respect to the production of truck tires and without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey conducted by the Department of the major customers of Uniroyal revealed that most customers did not purchase imported truck tires. Those customers which did purchase imported truck tires either increased purchases of truck tires from Uniroyal or from other domestic suppliers, in 1978 compared to 1977 and in the first nine months of 1979 compared to the same period of 1978. Customers which decreased purchases from Uniroyal and increased purchases of imported truck tires represented an insignificant proportion of Uniroyal's truck tire sales during the first nine months of 1979. With respect to the production of passenger car tires, all of the criteria have been met.

U.S. imports of passenger car tires increased relative to domestic production in 1978 compared to 1977, and increased both absolutely and relative to domestic production in the first six months of 1979 compared to the same period in 1978.

Total Uniroyal imports of passenger car tires increased substantially in 1978 compared to 1977 and increased in the first eight months of 1979 compared to the same period in 1978.

The workers at the Opelika, Alabama plant of Uniroyal Tire Company are engaged in employment related to the production of passenger car tires and truck tires. Workers are not separately identifiable by product line.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with passenger car tires produced at the Opelika, Alabama Plant of Uniroyal Tire

Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Opelika, Alabama Plant of Uniroyal Tire Company, engaged in employment related to the production of passenger car tires, who became totally or partially separated from employment on or after March 25, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-35458 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6014]

Woodstock Shoe Co., Woodstock, Va.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 11, 1979, in response to a worker petition received on September 6, 1979, which was filed on behalf of workers and former workers producing youth's shoes at Woodstock Shoe Company, Woodstock, Virginia. The investigation revealed that the plant produces primarily uppers for children's sandals and infant's shoes. It is concluded that all of the requirements have been met.

Woodstock Shoe Company was owned by Kinney Shoe Corporation. While it was in operation (from June 1977 through July 1979), Woodstock produced uppers for children's sandals and infants' shoes which were used only by Kinney in the manufacture of these shoes.

U.S. imports of children's nonrubber footwear, except athletic increased absolutely and relative to domestic production in the first six months of 1979 compared to the like period of 1978. U.S. imports of infant's and babies' nonrubber footwear increased absolutely and relative to domestic

production in the first six months of 1979 compared to the like period of 1978.

Woodstock Shoe Company, owned by Kinney Shoe Corporation, produced uppers for children's sandals and infants' shoes for a Kinney Shoe Corporation plant in Sutton, West Virginia. A large customer of the Sutton plant reduced purchases of sandals from Sutton and increased its purchases of imports in the first eight months of 1979 compared to the like period of 1978. Woodstock Shoe Company closed in July 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with uppers for children's sandals and infants' shoes produced at Woodstock Shoe Company, Woodstock, Virginia contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Woodstock Shoe Company, Woodstock, Virginia who became totally or partially separated from employment on or after July 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of November 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-35459 Filed 11-15-79; 8:45 am]
BILLING CODE 4510-28-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-94]

NASA Advisory Council (NAC); Space Systems and Technology Advisory Committee; Meeting

The Informal Ad Hoc Advisory Subcommittee on Technology for Energy Storage will meet on December 4 and 5, 1979 in Room 215, Administration Building, NASA Lewis Research Center, Cleveland, Ohio. The meeting will be open to the public up to the seating capacity of the room (about 45 persons including Subcommittee members and participants).

The Subcommittee was established to review technology needs for energy storage in space activities and to evaluate the adequacy of current Office of Aeronautics and Space Technology and other research and technology efforts to meet those needs. The

Chairperson is Mr. Fred H. Esch, and there are six members of the Subcommittee.

Agenda

December 4, 1979

9:00 a.m.—Welcome.

9:15 a.m.—Introductory Remarks—

Chairperson.

—Objective,

—Process,

—Schedule.

9:45 a.m.—Current Programs and Problems of Space Energy Storage.

—NASA—Overview,

—DOE—Overview,

—DOD—Overview,

—Technology and Application Status

Reports.

4:00 p.m.—Identification of Critical Issues.

December 5, 1979

9:00 a.m.—Subgroup Discussion of Critical Issues.

1:00 p.m.—Report of Subgroup Discussion, Tasks Assignment, and Action Items.

4:00 p.m.—Adjourn.

For further information contact Mr. Jerome P. Mullin, Executive Secretary of the Informal Ad Hoc Advisory Subcommittee on Technology for Energy Storage, Code RTS-6, NASA Headquarters, Washington, DC 20546. Telephone 202/755-3278.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

November 13, 1979.

[FR Doc. 79-35427 Filed 11-15-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Employment Policy will hold its next formal meeting on December 7, 1979, in Mount Vernon Room of the Sheraton Carlton Hotel, located at 16th and K Streets, NW, Washington, D.C. The meeting will begin at 9:00 a.m. and adjourn at 5:00 p.m.

The National Commission for Employment Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973, as amended, (Pub. L. 93-203 and Pub. L. 95-524). The Act charges the Commission with the broad responsibility of advising the President, the Congress, the Secretary of Labor, and other Federal agency administrators on national employment and training issues. The Commission is specifically charged with reporting annually to the

President and the Congress on its findings and recommendations with respect to the Nation's employment and training policies and programs.

The Commission will discuss its 1980 agenda which is likely to center around one or more of the following issues: The impact of economic development programs on the structurally unemployed; energy and employment; responding to a recession; equal employment opportunity; and the status of women in the labor market.

Members of the general public or other interested individuals may attend this meeting. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so provided such statements are in reproducible form and are submitted to the Director not later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written publication must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: The name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation will not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the meeting will be available for public inspection ten working days after the conference at the Commission's headquarters located at 1522 K Street, NW, Suite 300, Washington, D.C.

Signed at Washington, D.C., this 8th day of November, 1979.

Isabel V. Sawhill,
Director, National Commission for
Employment Policy.

[FR Doc. 79-35440 Filed 11-15-79; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Special Projects Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Special Projects Panel to the National Council on the Arts will be held December 8, 1979, from 9:00 a.m.—5:30 p.m. and December 7, 1979, from 9:00 a.m.—5:30 p.m. in Room 1426, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.
November 8, 1979.

[FR Doc. 79-35475 Filed 11-15-79; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL COMMISSION ON SOCIAL SECURITY

Meeting; Discussion of Interim Report

November 8, 1979.

The National Commission on Social Security will hold a public meeting in the Thoroughbred Room of the Washington Hilton, 1919 Connecticut Avenue N.W., Washington, D.C. on December 7, 8, and 9, 1979. The purpose of the meeting is to discuss the Commission's January 1980 Interim Report.

The meeting will begin each day at 9:00 a.m. and continue until Commission business is completed, but no later than 5:00 p.m. The meeting will be open to the public, in accordance with the Federal Advisory Committee Act.

Additional information about the meeting may be obtained from the Commission office:

Room 125-Penslon Building, 440 G Street, N.W., Washington, D.C. 20218. Phone: (202) 376-2822.

Francis J. Crowley,

Executive Director.

[FR Doc. 79-35474 Filed 11-15-79; 8:45 am]

BILLING CODE 6820-AC-M

NUCLEAR REGULATORY COMMISSION

[NUREG-0553]

Cost and Funding of State and Local Government Radiological Emergency Response Plans; Report of NRC Office of State Programs of Funding of State and Local Government Radiological Emergency Response Plans; Issuance and Availability of Report for Public Comment.

Correction

On page 64929, in the issue of Thursday, November 8, 1979, make the following corrections:

(1) The agency NUREG number is corrected to read as found in the heading above.

(2) The word "commercial" was misspelled in the following cites: The first column, first paragraph, the seventh line; the same column, the same paragraph, the seventeenth line; and the first column, the second paragraph, the sixth line.

(3) In the last column, the first full paragraph, the second line, correct "Stephens" to read "Stephen".

(4) In bracketed file line, appearing immediately below the signature, "FR Doc. 79-34507" is corrected to read "FR Doc. 79-34597".

BILLING CODE 1505-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Reactor Operations; Meeting

The ACRS Subcommittee on Reactor Operations will hold a meeting on December 3, 1979, in Room 1046, 1717 H Street, N.W., Washington, DC 20555 to review the status of various generic items contained in the Committee's March 21, 1979, "Status of Generic Items Relating to Light-Water Reactors: Report No. 7."

In accordance with the procedures outlined in the Federal Register on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its

consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Monday, December 3, 1979, 8:30 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, pertinent to this review.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92-463) that, should such sessions be required, it is necessary to close these sessions to protect proprietary information, see 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Richard K. Major, (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Dated: November 13, 1979.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 79-35418 Filed 11-15-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-352 and 50-353]

Philadelphia Electric Co.; Correction and Clarifications to Director's Decision Under 10 CFR 2.206

In the matter of Philadelphia Electric Co., Limerick Nuclear Generating Station, Units 1 and 2.

The "Director's Decision Under 10 CFR 2.206" dated October 9, 1979 is amended to reflect the following corrections and clarification:

1. On Page 1, in the twelfth line of the first paragraph replace "April 14, 1978" with "April 14, 1978 r"

2. The following footnote is added to the bottom of page 1: "Mr. Romano's May 14, 1979 letter makes reference to an April 11, 1979 letter from 'Mr. Karl Kneil' (sic) to Mr. V. Bauer of PECO. MRC files indicate that the only letter Mr. Kneil sent to PECO in April 1978 was the letter dated April 14, 1978 discussed above."

3. The footnote on page 2 is renumbered as footnote 2.

4. On Page 5, in the fifth line, the sentence "PECO's response was submitted on August 1, 1979" is replaced with the following: "PECO's response is anticipated by the first week in November 1979."

5. On Page 6 the sentence, "Based on the reanalysis, PECO found that some of the gaps which would be unacceptable under the original analysis were acceptable; the balance of the insufficient gaps were increased to meet the PSAR commitment." is replaced by: "Based on the reanalysis, PECO found that with the exception of two areas, the constructed gaps met the PSAR commitment. The factor of safety for the two areas was 1.7 and PECO found this to be acceptable. The reanalysis was also used to evaluate gaps that had not been constructed; the gaps which had a safety factor less than 2.0 were increased. The NRC has not completed its review of PECO's final report on the matter of separation gaps."

7. The following sentence replaces the final sentence in the first paragraph on page 6:

"Again our review of PECO's final report on the separation gaps and our review of the FSAR for the Limerick plant must conclude that the design of the plant is acceptable before the plant can go into operation."

Dated at Bethesda, Maryland this 9th day of November 1979.

Harold R. Denton,
Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-35417 Filed 11-15-79; 8:45 am]
BILLING CODE 7590-01-M

[NUREG-0313, Rev. 1]

Technical Report on Material Selection and Processing Guidelines for BWR Coolant Pressure Boundary Piping; Issuance and Availability

A task force with members from the Nuclear Regulatory Commission (NRC)

has prepared a report entitled "Technical Report on Material Selection and Processing Guidelines for BWR Coolant Pressure Boundary Piping" (NUREG-0313, Rev. 1), dated October 1979. This report constitutes the resolution of the NRC's Generic Activity A-42, "Pipe Cracks in Boiling Water Reactors," which was an "Unresolved Safety Issue" pursuant to Section 210 of the Energy Reorganization Act of 1974.

This generic study was initiated because of the recent publication of NUREG-0531, "Investigation and Evaluation of Stress-Corrosion Cracking in Piping of Light Water Reactor Plants," by the NRC 1978 Pipe Crack Study Group (PCSG). The new Study Group was specifically chartered among others to reexamine the conclusions and recommendations of the 1975 PCSG report (NUREG-75/067) in view of cracks recently discovered in large diameter pipes, and to evaluate the significance of safe end cracking at Duane Arnold relative to similar material and design aspects at other facilities. Because of the new ideas and issues addressed in NUREG-0531, the implementation document NUREG-0313, which is based on the 1975 PCSG report, needs to be updated to incorporate the latest recommendations made by the 1978 PCSG.

NUREG-0313, Rev. 1 sets forth the NRC staff's revised acceptable methods to reduce the intergranular stress corrosion cracking susceptibility of BWR ASME Code Class 1 & 2 pressure boundary piping and safe end. For plants that cannot fully comply with the material selection, testing, and processing guidelines of this report, varying degrees of augmented inservice inspection and leak detection requirements are presented.

Public comments are being solicited from interested organizations, groups, and individuals. These comments will have bearing on final Commission action, particularly with regard to implementation.

Copies of the report will be available after October 1979. Copies will be sent directly to utilities, utility industry groups and associations, and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C. and the Commission's local public document room located in the vicinity of existing nuclear power plants.

Addresses of these local public document rooms can be obtained by contacting the Chief, Local Public Document Room Branch, Mail Stop 309, Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301)

492-7356. A single copy of NUREG-0313, Rev. 1 will be provided free of charge, while the supply lasts, upon written request of a full participant in an ongoing NRC proceeding. This request must identify the requester as a participant and should be addressed to Director, Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, D.C. 20555.

Comments should be forwarded to Dr. Stephen H. Hanauer, Director, Unresolved Safety Issues Program, Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 17th day of October 1979.

For the Regulatory Commission.

Darrell G. Eisenhut,
Acting Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 79-35418 Filed 11-15-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260 and 50-296]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 54 to Facility Operating License No. DPR-33, Amendment No. 49 to Facility Operating License No. DPR-52 and Amendment No. 26 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to increase the high drywell pressure trip level setting from 2.0 psig to 2.5 psig to reduce the likelihood of unnecessary reactor trip and ECCS initiation signals.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant

to 10 CFR Section 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 27, 1979, (2) Amendment No. 54 to License No. DPR-33, Amendment No. 49 to License No. DPR-52, and Amendment No. 26 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of November 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,
Chief, Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc. 79-35418 Filed 11-15-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-134]

Worcester Polytechnic Institute; Proposed Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R-61, issued to Worcester Polytechnic Institute (the licensee), for operation of the pool-type research reactor located on the licensee's campus at Worcester, Massachusetts.

The renewal would extend the expiration date of Facility License No. R-61 to November 23, 1999, in accordance with the licensee's timely application for renewal dated July 16, 1979, as supplemented September 27, 1979.

Prior to renewal of the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 17, 1979, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of

Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with

the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. By the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 324-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert W. Reid: (petitioner's name and telephone number); (date petition was mailed); (Worcester); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated July 16, 1979, as supplemented September 27, 1979, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Maryland this 7th day of November, 1979.

For the Nuclear Regulatory Commission.

Morton B. Fairtile,
Acting Chief, Operating Reactors Branch #4, Division of Operating Reactors.

[FR Doc. 79-35249 Filed 11-15-79; 8:45 am]
BILLING CODE 7590-01-M

THE PRESIDENT'S MANAGEMENT IMPROVEMENT COUNCIL

Management Improvement Projects; Council Meeting

AGENCY: The President's Management Improvement Council.

ACTION: Notice of Meeting.

SUMMARY: The purpose of this notice is to announce a meeting of the President's

Done at Chicago, Illinois, this 8th day of November, 1979.

Dated: November 8, 1979.

outmoded veterans Administration

from provisions of Car Service Rules 1.

New Orleans Public Belt Railroad Reporting

SUMMARY: The purpose of this notice is to announce a meeting of the President's Management Improvement Council, as required by the Federal Advisory Committee Act.

DATE, TIME, AND PLACE: December 3, 1979, 10:00 a.m., 6th Floor Board Room, Federal Home Loan Bank Board, 17th and G Streets, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: The Council will devote most of the meeting to a review and discussion of management improvement projects that it has undertaken in Federal agencies and programs and additional projects and activities that have been proposed for its consideration.

ADDRESS: Members of the public are invited to submit material in writing to the Executive Director of the Council concerning specific management improvement matters felt to be deserving of the Council's attention. Material should be addressed to: Executive Director, the President's Management Improvement Council, Room 5315, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Joni Bellis 202-632-6104.

The President's Management Improvement Council.

Charles F. Birzman,
Executive Director.

November 13, 1979.

[FR Doc. 79-35371 Filed 11-15-79; 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Proclamation Regarding Railroad Unemployment Insurance Account

Pursuant to section 8(a) of the Railroad Unemployment Insurance Act, the Railroad Retirement Board has determined, and hereby proclaims, that the balance to the credit of the railroad unemployment insurance account as of the close of business September 30, 1979, was \$113,690,614.02. Based on this balance and pursuant to the table in section 8(a) of the finance the railroad unemployment insurance program for calendar year 1980 shall be 5.5 percent.

In Witness Whereof the members of the Railroad Retirement Board have hereunto set their hands and caused its seal to be affixed.

Done at Chicago, Illinois, this 8th day of November, 1979.

William P. Adams,
Chairman.

Earl Oliver,
Member.

C. J. Chamberlain,
Member.

By the Railroad Retirement Board:

R. F. Butler,

Secretary of the Board.

[FR Doc. 79-35311 Filed 11-15-79; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF STATE

[CM-8/245]

Advisory Committee on International Intellectual Property; Meeting

The International Industrial Property Panel of the Department of State's Advisory Committee on International Intellectual Property will meet in open session on December 4, 1979, at the Department of State in Conference Room 1205 from 9:30 a.m. to 3:30 p.m.

The meeting will be open to the general public and will be divided into two sessions. The first session from 9:30 a.m. until 1:00 p.m. will be devoted to the following topics:

1. The September 1979 meeting of the WIPO Governing Bodies;
2. Revision of the Paris Industrial Property Convention.

The afternoon session from 2:00 p.m. to 3:30 p.m. will review other multilateral negotiations related to industrial property.

The public attending may, as time permits and subject to the instructions of the Chairman, participate in the discussions or may submit their views in writing to the Chairman prior to or at the meeting for later consideration by the Committee.

Members of the public who plan to attend the meeting will be admitted up to the limits of the conference room's capacity. Entrance to the Department of State is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Members of the general public who plan to attend the meeting are requested to provide their name, affiliation, and address to Mr. Steven Brattain, Office of Business Practices, Department of State, telephone (202) 632-0889 prior to November 30, 1979. All non-government attendees at the meeting should use the C Street Entrance to the Building.

Dated: November 8, 1979.

Harvey J. Winter,
Executive Secretary.

[FR Doc. 79-35315 Filed 11-15-79; 8:45 am]

BILLING CODE 4710-01-M

[CM-8/244]

Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on December 7, 1979 from 9:30 a.m. until 3:30 p.m., in the Forum Room of the National Telecommunications and Information Administration, 1325 G Street, N.W., Washington, D.C.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting will be a review of preparations for the international meeting of Study Group 5 in 1980.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: November 8, 1979.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 79-35314 Filed 11-15-79; 8:45 am]

BILLING CODE 4710-07-M

VETERANS ADMINISTRATION

Replacement Medical Center; Portland, Ore.; Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement for the Veterans Administration Replacement Medical Center, Portland, Oregon," dated November 1979 has been prepared as required by the National Environmental Policy Act of 1969.

The two viable alternate locations for the Medical Center at the present 25 acre Portland VA Medical Center site and the Emanuel site, and 18 acre parcel adjacent to the Emanuel Hospital, Portland, Oregon. The Medical Center will have 600 hospital beds and the necessary outpatient and support functions. The facility will replace the

outmoded veterans Administration Medical center on TERWILLIGER Boulevard, Portland, Oregon.

The Draft Statement discussed the environmental impact of the Replacement Medical Center for the viable alternatives including "No Action". The Final Statement contains comments received by the Veterans Administration during the public review period plus at the Public Hearing on July 21, 1979. The Final Statement also contains appropriate responses to the comments. The Final Statement is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sittler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Final Environmental Impact Statement may be addressed to the above office.

Dated: November 9, 1979.

By direction of the Administration.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-35404 Filed 11-15-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 241; Rule 19; 73rd Revised Exemption No. 50]

Aberdeen & Rockfish Railroad Co., et al.; Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410-B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt

from provisions of Car Service Rules 1, 2(a) and 2(b).

Aberdeen and Rockfish Railroad Company Reporting Marks: AR
Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator Reporting Marks: AA
Apalachicola Northern Railroad Company Reporting Marks: AN
Atlanta & Saint Andrews Bay Railway Company Reporting Marks: ASAB
Bath and Hammondsport Railroad Company Reporting Marks: BH
Cadiz Railroad Company Reporting Marks: CAD
Camino, Placerville & Lake Tahoe Railroad Company Reporting Marks: CPLT
City of Prineville Reporting Marks: COP
The Clarendon and Pittsford Railroad Company Reporting Marks: CLP
Columbus and Greenville Railway Company Reporting Marks: CAGY
Delta Valley & Southern Railway Company Reporting Marks: DVS
*Detroit, Toledo and Ironton Railroad Company Reporting Marks: DT&I-DTI
Duluth, Missabe and Iron Range Railway Company Reporting Marks: DMIR
East Camden & Highland Railroad Company Reporting Marks: EACH
East St. Louis Junction Railroad Company Reporting Marks: ESLJ
Galveston Wharves Reporting Marks: GWF
Genesee and Wyoming Railway Company Reporting Marks: GNWR
Greenville and Northern Railway Company Reporting Marks: GRN
The Hutchinson and Northern Railway Company Reporting Marks: HN
Helena Southwestern Railroad Company Reporting Marks: HSW
Illinois Terminal Railroad Company Reporting Marks: ITC
Indiana Eastern Railroad and Transportation, Inc. D/B/A The Hoosier Connection Reporting Marks: HOSC
Lake Erie, Franklin & Clarion Railroad Company Reporting Marks: LEF
Lake Superior & Ishpeming Railroad Company Reporting Marks: LSI
Lenawee County Railroad Company, Inc. Reporting Marks: LCRC
Longview, Portland & Northern Railway Company Reporting Marks: LPN
Louisiana Midland Railway Company Reporting Marks: LOAM
Louisville and Wadley Railway Company Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company Reporting Marks: LNAC
Manufacturers Railway Company Reporting Marks: MRS
Maryland and Delaware Railroad Company Reporting Marks: MDDE
McCloud River Railroad Company Reporting Marks: MR
Middletown and New Jersey Railway Company, Inc. Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad Company Reporting Marks: MKT-BKTY
Moscow, Camden & San Augustine Railroad Reporting Marks: MCSA
New Hope and Ivyland Railroad Company Reporting Marks: NHIR

*Addition.

New Orleans Public Belt Railroad Reporting Marks: NOPB
New York, Susquehanna and Western Railroad Company Reporting Marks: NYSW
Ocatararo Railway, Inc. Reporting Marks: OCTR
Oregon & Northwestern Railroad Co. Reporting Marks: ONW
Pearl River Valley Railroad Company Reporting Marks: PRV
Peninsula Terminal Company Reporting Marks: PT
Port Huron and Detroit Railroad Company Reporting Marks: PHD
Port of Tillamook Bay Railroad Reporting Marks: POTB
Providence And Worcester Company Reporting Marks: PW
Raritan River Rail Road Company Reporting Marks: RR
St. Lawrence Railroad Reporting Marks: NSL
St. Louis Southwestern Railway Company Reporting Marks: SSW
St. Marys Railroad Company Reporting Marks: SM
Savannah State Docks Railroad Company Reporting Marks: SSDK
Sierra Railroad Company Reporting Marks: SERA
Southern Pacific Transportation Company Reporting Marks: SP
Terminal Railway, Alabama State Docks Reporting Marks: TASD
The Texas Mexican Railway Company Reporting Marks: TM
Toledo, Peoria & Western Railroad Company Reporting Marks: TPW
Union Railroad of Oregon Reporting Marks: UO
Vermont Railway, Inc. Reporting Marks: VTR
Wabash Valley Railroad Company Reporting Marks: WVR
WCTU Railway Company Reporting Marks: WCTR
Youngstown & Southern Railway Company Reporting Marks: YS
Yreka Western Railroad Company Reporting Marks: YW

Effective November 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., October 29, 1979.

Interstate Commerce Commission.

Joel E. Burns,
Agent.

[FR Doc. 79-35412 Filed 11-15-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 56 Under Service Order No. 1344]

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; Rerouting Traffic

To: All Railroads—In the opinion of Joel E. Burns, Agent, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company is unable to transport

***Virginia & Maryland Railroad deleted.

promptly all traffic offered for movement via its lines, because of an embargo of a substantial portion of its line.

It is ordered, (a) Rerouting traffic. The Chicago, Milwaukee, St. Paul and Pacific Railroad Company, being unable to transport promptly all traffic offered for movement via its lines, because of an embargo of a substantial portion of its lines that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Acceptance of traffic in interchange. In the event the Chicago, Milwaukee, St. Paul and Pacific Railroad Company cannot accept traffic in interchange from a connecting carrier, the delivering carrier, after establishing such condition, may reroute or divert the traffic via any available route.

(c) Concurrence of receiving roads to be obtained. The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(d) Notification to shippers. Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(e) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates which were applicable to traffic diverted or rerouted by said Agent shall be the rates applicable at the time of shipment on the shipments as originally routed.

(f) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(g) Effective date. This order shall become effective at 10:00 a.m., November 1, 1979.

(h) Expiration. This order shall remain in effect until modified or vacated by order of this Commission.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 1, 1979.

Interstate Commerce Commission.

Joel E. Burns,
Agent.

[FR Doc. 79-35415 Filed 11-15-79; 8:45 a.m.]

BILLING CODE 7035-01-M

Fourth Section Applications for Relief

November 9, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 3, 1979.

FSA No. 43765, Trans Freight Lines, Inc., No. 1, intermodal rates on general commodities, in containers, between ports in Europe, The United Kingdom, and South Africa, on the one hand, and on the other, rail terminals on the United States Gulf and Pacific Coasts, by way of interchange points on the United States Atlantic Coast, in its Tariffs ICC TFEI 301 and 302, which became effective July 15, 1979. Grounds for relief—water competition.

FSA No. 43767, Southwestern Freight Bureau, Agent's No. B-36, rates on cement and related articles, in carloads, from TXI, Tex., to stations in Eastern, Southern, and Southwestern Territories, in Supps. 148 and 6 to its Tariffs ICC SWFB 4740 and 4741-A, respectively, effective December 11, 1979. Grounds for relief—market competition.

FSA No. 43768, Southwestern Freight Bureau, Agent's No. B-37, rates on empty shipping containers, carload, between stations in Southwestern and Southern Territory, in Supp. 260 to its Tariff ICC SWFB 2007-H, to become effective December 13, 1979. Grounds for relief—need for additional revenue.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35409 Filed 11-15-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 28986 (Sub-No. 1F)]

Norfolk & Western Railway Co.— Construction and Operation in Martin County, Ky., and Mingo County, W. Va.

Norfolk and Western Railway Company (NW), 6 North Jefferson Street, Roanoke, Va. 24042, represented by John S. Shannon, Vice President-Law, Norfolk and Western Railway Company, Roanoke, Va. 24042, hereby give notice that on the 2nd day of November, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing the construction and operation by applicant of 1,285 feet of connecting track and bridge on its Wolf Creek Branch in Martin County, Ky., and Mingo County, W. Va.

Applicant proposes to construct and operate a section of line 1,285 feet in length, including a bridge 405 feet in length, which will constitute a westward switch connection from applicant's Wolf Creek Branch to its main line. The route and termini of the proposed new line are as follows: Beginning at the point of switch connection of the proposed new section with the Wolf Creek Branch of the Kenova District, Scioto Division of the Norfolk and Western Railway Company, said point being on the west side of the Tug Fork of the Big Sandy River in Martin County, Ky., at milepost WC-0.23 as measured from the junction of the existing Wolf Creek Branch connection with the main line of the Kenova District; thence in a general northeasterly direction, crossing said Tug Fork of the Big Sandy River, at the point of confluence of Wolf Creek, for a distance of 1,285 feet, at which point the proposed section will connect to the existing main line of the Kenova District by means of a switch connection, said point being on the east side of the Tug Fork of the Big Sandy River in Mingo County, W. Va., at milepost Na-4.25 as measured from Naugatuck, W. Va.

The total number of miles of track proposed to be constructed and operated is 0.24 miles, all of which will constitute a westward switch connection from applicant's Wolf Creek Branch to its main line.

In accordance with the Commission's regulations (49 CFR 1108.6) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 I.C.C. 451 (1978), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with

specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969*, supra at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35410 Filed 11-15-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 55 Under Service Order No. 1344]

Michigan Northern Railway Co., Inc.; Rerouting Traffic

To: All Railroads.—In the opinion of Robert S. Turkington, Agent, the Michigan Northern Railway Company, Incorporated is unable to transport promptly all traffic offered for movement between Walton Junction, Michigan, and Traverse City, Michigan, because of track conditions.

It is ordered, (a) Rerouting traffic. The Michigan Northern Railway Company, Incorporated being unable to transport promptly all traffic offered for movement between Walton Junction, Michigan, and Traverse City, Michigan, because of track conditions, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained. The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) Notification to shippers. Each carrier rerouting cars in accordance with this order, shall notify each shipper at

the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date. This order shall become effective at 2:00 p.m., October 26, 1979.

(g) Expiration date. This order shall expire at 11:59 p.m., January 31, 1980, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 26, 1979.

Interstate Commerce Commission.

Robert S. Turkington,
Agent.

[FR Doc. 79-35413 Filed 11-15-79; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 203]

Permanent Authority Decisions; Decision-Notice

Decided: October 24, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days

after the date notice of the application is published in the *Federal Register*.

Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication* (November 16, 1979).

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed on or before December 19, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly

noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before December 19, 1979, or the application shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Hill not participating.
Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 6096 (Sub-5F), filed April 16, 1979. Applicant: BRUNO ALBERT MALUCCHI d.b.a. A. M. DEVINCENZI CO., 1598 Carroll Avenue, San Francisco, CA 94124. Representative: John Paul Fischer, 256 Montgomery Street, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Modesto, CA and junction CA Hwy 99 and CA Hwy 198, over CA Hwy 99, (2) between CA Hwy 99 and junction interstate Hwy 5 and Interstate Hwy 205, over Interstate Hwy 5, (3) between junction Interstate Hwy 5 and CA Hwy 198 and Salinas, CA; from junction Interstate Hwy 5 and CA Hwy 198 over CA Hwy 198 to U.S. Hwy 101, then over U.S. Hwy 101 to Salinas, and return over the same route, (5) between Sacramento, CA, and Placerville, CA, over U.S. Hwy 50, (6) between Placerville, CA, and junction CA Hwy 49 and Interstate Hwy 80, over CA Hwy 49, (7) between Sacramento, CA, and Yuba City, CA, over CA Hwy 99, (8) between Yuba City, CA, and Marysville, CA, over CA Hwy 20, (9) between Marysville, CA, and junction CA Hwy 65 and Interstate Hwy 80 at or near Roseville, CA, over CA Hwy 65, (10) between Sacramento, CA, and junction Interstate Hwy 80 and CA Hwy 174 at or near Colfax, over Interstate Hwy 80, (11) between junction Interstate Hwy 80 and CA Hwy 49, and Grass Valley, CA, over CA Hwy 49, (12) between Grass Valley, CA, and junction CA Hwy 174 and Interstate Hwy 80 at or

near Colfax, CA, over CA Hwy 174, (13) between Santa Rosa, CA, and Cloverdale, CA, over U.S. Hwy 101, and (14) between junction U.S. Hwy 101 and CA Hwy 128 at or near Geyserville, CA, and Napa, CA; from junction U.S. Hwy 101 and CA Hwy 128 at or near Geyserville over CA Hwy 128 to Calistoga, CA, then over CA Hwy 29 to Napa, and return over the same route, serving all intermediate points in (1) through (14) and the off route points in Monterey, San Benito, Merced, Kings, Stanislaus, San Joaquin, Sacramento, Eldorado, Placer, Nevada, Sutter, Yolo, Colusa, Napa, Yuba, Solano and Sonoma Counties, CA, and those points in Fresno, CA, west of an unnumbered Hwy beginning at the Madera County line north of Auberry, CA, then over unnumbered Hwys via Tollhouse, Trimmer, Dunlap, and Miramonte to the Tulare County line, those in Tulare County, CA, west of the General Grant Grove section of Kings Canyon National Park, Sequoia National Park, and the Kern River, and those in Madera County, CA, west of CA Hwy 41 beginning at the Mariposa County line at or near Yosemite Forks, CA to junction of unnumbered Hwy west of O'Neals, then over unnumbered Hwy to North Fork, and then over unnumbered Hwy to the Fresno County line at or near Auberry, CA. (Hearing site: San Francisco, CA)

Note.—Applicant indicates its intention to tack with existing authority.

MC 6557 (Sub-5F), filed April 30, 1979. Applicant: PARK MOTOR CARRIER, INC., 232 Dey Street, Jersey City, NJ 07308. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Transporting *musical instruments, books, and clothing*, from New York, NY, to points in CT, NJ, NY, and those points in PA on and east of a line beginning at the MD-PA State line then over PA Hwy 34 to junction U.S. Hwy 15, then over U.S. Hwy 15 to the PA-NY State line, restricted to the transportation of import traffic originating at the named origin. (Hearing site: New York)

MC 2188 Sub 120F, filed May 11, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Avenue, Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Transporting *fertilizer* (except in bulk), from the facilities of Wegro Division of Old Fort Industries, Inc., at Grand Rapids, OH, to points in CT, IL, IN, KY, MA, ME, MI, MO, NC, NH, RI, SC, TN, VT, and WI. (Hearing site: Washington, DC, or Philadelphia, PA)

MC 29886 (Sub-366F), filed May 18, 1979. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington, Building, Washington, DC 20005. Transporting (1) *construction and earth moving equipment*, and (2) *parts, accessories, and attachments* for the commodities named in (1) above, from Toccoa, GA, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, TN, VT, VA, WV, and J. WI. (Hearing site: Washington, DC, or Atlanta, GA)

MC 31367 (Sub-36F), filed May 11, 1979. Applicant: H. F. CAMPBELL & SON, INC., P.O. Box 260, Millerstown, PA 17062. Representative: John M. Musselman, 410 North Third Street, Harrisburg, PA 17108. Transporting *such commodities* as are dealt in by chain grocery and food business houses (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between points in GA, IL, IN, MA, MI, NC, NY, OH, PA, and VA, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL)

MC 41406 (Sub-143F), filed May 14, 1979. Applicant: ARTIM TRANSPORTATION SYSTEMS, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (Same address as applicant). Transporting (1) *such commodities* as are dealt in or used by manufacturers and dealers of agricultural equipment and machinery, industrial equipment and machinery, and lawn and leisure products (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) (a) between the facilities of Deere & Company, Plow Planter Works, at points in Rock Island County, IL, and the facilities of Deere & Company, at points in Dodge County, WI, on the one hand, and, on the other, points in CT, DE, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, and WV, (b) between the facilities of Deere & Company, at points in Dodge County, WI, on the one hand, and, on the other, points in IN, and (c) between points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, OH, PA, RI, VT, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Deere & Company in the above named counties, and restricted in part (c) to traffic originating at or destined to the facilities of Deere & Company dealers. (Hearing site: Chicago, IL, or St. Paul, MN)

MC 42146 (Sub-23F), filed May 11, 1979. Applicant: A. G. BOONE CO., a corporation, 1812 W. Morehead Street, Charlotte, NC 28208. Representative: Floyd C. Hartsell (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in Hamilton County, OH, NC, SC, GA, VA, TN, KY, and WV, under continuing contract(s) with The Kroger Company of Cincinnati, OH. (Hearing site: Charlotte, NC, or Atlanta, GA)

MC 42487 (Sub-910F), filed April 30, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Lansing, MI, and Muskegon, MI; from Lansing over Business Interstate Hwy 96 to junction Interstate Hwy 96, then over Interstate Hwy 96 to junction Business Interstate Hwy 96 at or near Muskegon Heights, MI, then over Business Interstate Hwy 96 to Muskegon, and return over the same route, serving the intermediate point of Grand Rapids, MI, (2) between Battle Creek, MI, and Muskegon, MI; from Battle Creek over MI Hwy 89 to Allegan, MI, then over MI Hwy 40 to Holland, MI, then over U.S. Hwy 31 to Muskegon, and return over the same route, serving the intermediate points of Holland and Grand Haven, MI, (3) between Kalamazoo, MI, and Grand Rapids, MI, over U.S. Hwy 131, (4) between Grand Rapids, MI, and Holland, MI; from Grand Rapids over Interstate Hwy 196 to junction Business Interstate Hwy 196, then over Business Interstate Hwy 196 to Holland, and return over the same route, (5) between junction U.S. Hwy 20 and Interstate Hwy 94 at or near Michigan City, IN, and Holland, MI; from junction U.S. Hwy 20 and Interstate Hwy 94 at or near Michigan City over Interstate Hwy 94 to junction Interstate Hwy 196, then over Interstate Hwy 196 to junction Business Interstate Hwy 196, then over Business Interstate Hwy 196 to Holland, and return over the same route, and (6) between Battle Creek, MI, and Grand Rapids, MI, over MI Hwy 37, serving all intermediate and off-route points in

connection with routes (1)–(6) in Allegan, Barry, Ionia, Kent, Montcalm, Muskegon, Mewaygo, Oceana, and Ottawa Counties, MI. (Hearing site: Grand Rapids or Lansing, MI)

Note.—Applicant indicates intention to tack this authority with existing authority.

MC 42487 (Sub-911F), filed April 29, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lake Charles and Leesville, LA, over U.S. Hwy 171, serving the intermediate point of De Ridgde, LA, and the off-route point of Fort Polk, LA, in connection with applicants authorized regular route operations. (Hearing site: De Ridder or Lake Charles, LA)

Note.—Applicant indicates intention to tack with existing authority.

MC 42487 (Sub-919F), filed May 17, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: H. P. Strong, P.O. Box 3062, Portland, OR 97028. Transporting *general commodities* (except those of unusual value, classes A and B explosives, green hides, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Firestone Steel Products Co., Division of Firestone Tire and Rubber Co., at Henderson, KY, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Akron, OH)

MC 59367 (Sub-141F), filed April 9, 1979. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *Such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, (except commodities in bulk), (1) from points in WI to points in AZ, CA, CO, IL, IA, KS, MO, NE, OR, SD, and WA, and (2) from points in WA to points in IL, IA, MN, NE, and WI. (Hearing site: Milwaukee, WI, or Chicago, IL)

MC 59806 (Sub-15F), filed April 30, 1979. Applicant: GROSS & HECHT

TRUCKING, INC., 35 Brunswick Avenue, Edison, NJ 08817. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), from points in ME, NH, MA, VT, CT, RI, NY, PA, MD, VA, and DC to Secaucus, NJ, under continuing contract(s) with White Rose Frozen Food Corporation of Secaucus, NJ. (Hearing site: New York, NY)

MC 59957 (Sub-8F), filed May 14, 1979. Applicant: MOTOR FREIGHT EXPRESS, a corporation, P.O. Box 1029, York, PA 17405. Representative: Walter M. F. Neugebauer (same address as applicant). Transporting *iron and steel articles*, serving the facilities of Franklin Steel Company at or near Franklin, PA, as an off-route point in connection with carrier's authorized regular-route operations. (Hearing site: Youngstown, OH, or Pittsburgh, PA)

MC 63417 (Sub-210F), filed May 11, 1979. Applicant: BLUE RIDGE TRANSFER, CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, (same address as applicant). Transporting *chemicals*, (except in bulk), from DeLisle, MS, to points in AL, DE, FL, GA, IL, IN, KY, LA, MD, MI, MS, NJ, NY, NC, OH, PA, SC, TN, TX, VA, WV, and DC. (Hearing site: Roanoke, VA or Washington, DC)

MC 69118 (Sub-238F), filed May 17, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEMS, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Joel H. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *such commodities* as are dealt in or used by manufacturers and dealers of agricultural equipment and machinery, industrial equipment and machinery, and lawn and leisure products (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities described in part (1) above, (except commodities in bulk), (a) between the facilities of Deere & Company, in Dodge County, WI, on the one hand, and, on the other, points in CT, DE, GA, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, VA, VT, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Deere & Company, in Dodge County, WI, and (b) between points in CT, GA, DE, IN, KY, ME, MD, MA, MI, NH, NJ,

NY, NC, OH, PA, RI, SC, VA, VT, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Deere & Company dealers. (Hearing site: Chicago, IL, St. Paul, MN.)

MC 102616 (Sub-991F), filed April 5, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). Transporting *petroleum and petroleum products, petrochemicals, and chemicals*, in bulk, between the facilities of Ashland Oil, Inc., at points in Boyd County, KY, Lawrence County, OH, and Wayne County, WV, on the one hand, and on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Louisville, KY, or Washington, DC.)

MC 105568 (Sub-491F), filed May 11, 1979. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Transporting *such commodities* as are dealt in or used by manufacturers, converters, and distributors of (1) paper and paper products, (2) cellulose and synthetic materials and products, and (3) consumer, service, and specialty products, (except commodities in bulk), between the facilities of Kimberly-Clark Corporation at or near Corinth, MS, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to transportation of traffic originating at or destined to the facilities of Kimberly-Clark Corporation at or near Corinth, MS. (Hearing site: Washington, DC.)

MC 105457 (Sub-97F), filed May 17, 1979. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Rd., P.O. Box 10638, Charlotte, NC 28206. Representative: Roland Rice, Suite 501, Perpetual Bldg., 1111 E St., NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Memphis, TN, and Natchez, MS, over US Hwy 61, (2) between Memphis, TN, and McComb, MS, (a) over US Hwy 51, and (b) over US Interstate Hwy 55, (3) between Clarksdale, MS, and Gulfport, MS; from Clarksdale, over US Hwy 49 to junction US Hwy 49E and 49W at or near Tulwiler, MS, then over US Hwy 49E

and 49W to junction US Hwy 49 at or near Yazoo City, MS, then over US Hwy 49 to Gulfport, and return over the same route, (4) between Clarksdale, MS, and Tupelo, MS, over MS Hwy 6, (5) between Cleveland, MS, and Houston, MS, over MS Hwy 8, (6) between Houston, MS, and Meridian, MS; from Houston over MS Hwy 15 to junction MS Hwy 19 at or near Philadelphia, MS, then over MS Hwy 19 to Meridian and return over the same route, (7) between Greenville, MS, and Columbus, MS, over US Hwy 82, (8) between Aberdeen, MS, and Mobile, AL, over US Hwy 45, (9) between Okolona, MS, and Brookville, MS, over Alternate US Hwy 45, (10) between Macon, MS, and Durant, MS; from Macon over MS Hwy 14 to Kosciusko, MS, then over MS Hwy 12 to Durant and return over the same route, (11) between Meridian, MS and Vicksburg, MS; (a) over US Hwy 80, and (b) over US Interstate 20, (12) between Memphis, TN, and the Benton-Union County, MS line, over US Hwy 78, (13) between Natchez, MS, and Mobile, AL, over US Hwy 98, (14) between Meridian, MS and the MS-LA state line; (a) over US Hwy 11, and (b) over Interstate Hwy 59, (15) between Mobile, AL, and the LA-MS state line; (a) over US Hwy 90, and (b) over Interstate Hwy 10, (16) between Birmingham, AL, and Meridian, MS; (a) over US Hwy 11, and (b) over Interstate Hwy 59, (17) between Nashville, TN, and Mobile, AL, over US Hwy 31 to Columbus, TN, then over US Hwy 43 to Mobile, and return over the same route, (18) between Pell City, AL, and Panama City, FL, over US Hwy 231, (19) between Columbus, MS, and US Hwy 17, over US Hwy 82, (20) between Natchez, MS, and Brunswick, GA, over US Hwy 84, (21) between Corinth, MS, and Humboldt, TN, over US Hwy 45 to junction US Hwy 45W, then over US Hwy 45W to Humboldt, and return over the same route, (22) between Birmingham, AL, and Mobile, AL; (a) over US Hwy 31, and (b) over Interstate Hwy 65, (23) between Meridian, MS and Savannah, GA, over US Hwy 80, (24) between Mobile, AL, and Jacksonville, FL; (a) over US Hwy 90, and (b) over Interstate Hwy 10, (25) between Dothan, AL, and US Hwy 78, over US Hwy 431, (26) between Columbus, GA, and Birmingham, AL, over US Hwy 280, (27) between Opelika, AL, and Montgomery, AL, over Interstate Hwy 85, (28) between Tupelo, MS, and Birmingham, AL, over US Hwy 78, (29) between Columbus, GA, and LaGrange, GA; (a) over US Hwy 27, and (b) over Interstate Hwy 185, (30) between Chattanooga, TN, and Florence, AL, over US Hwy 72, (31) between Augusta, GA, and

Nettleton, MS, over US Hwy 278, (32) between Opelika, AL, and Pensacola, FL, over US Hwy 29, (33) between Cartersville, GA, and Chattanooga, TN; (a) over US Hwy 41, and (b) over Interstate Hwy 75, (34) between Atlanta, GA, and Miami, FL; (a) over US Hwy 41, and (b) over Interstate Hwy 75 to Tampa, then over US Hwy 41, (35) between Cumming, Ga, and Sarasota, FL, over US Hwy 19, (36) between Athens, GA, and West Palm Beach, FL, over US Hwy 441 to Okeechobee, FL, then over US Hwy 98 to West Palm Beach and return over the same route, (37) between Savannah, GA, and Punta Corda, FL, over US Hwy 17, (38) between Augusta, GA, and Homestead, FL, over US Hwy 1, (39) between Savannah, GA, and Miami, FL, over Interstate Hwy 95, (40) between Daytona Beach, FL, and Tampa, FL, over Interstate Hwy 4, (41) between Sarasota, FL and Ft. Pierce, FL, over FL Hwy 20 to junction FL Hwy 70, then over FL Hwy 70 to Ft. Pierce, and return over the same route, (42) between Chattanooga, TN, and Miami, FL, over US Hwy 27, (43) between Allendale, SC, and Bradenton, FL, over US Hwy 301, (44) between Clearwater, FL, and Vero Beach, FL, over FL Hwy 60, (45) between Titusville, FL, and Weeki Wachee, FL, over FL Hwy 50, (46) between Holly Hill, FL, and Ocala, FL, over FL Hwy 40, (47) between Bunnell, FL, and Lake City, FL, over FL Hwy 100, (48) between Brunswick, GA, and Perry, GA, over US Hwy 341, (49) between Columbus, GA, and US Hwy 80, over US Hwy 280, (50) between Statesboro, GA, and Augusta, GA, over US Hwy 25, (51) between Bronson, FL, and Gainesville, GA, over US Hwy 129, (52) between Perry, FL, and Greenwood, SC, over US Hwy 221, (53) between Perry, FL, and Pensacola, FL, over US Hwy 98, (54) between Nashville, TN, and Louisville, KY; (a) over US Hwy 31W, and (b) over Interstate Hwy 65, (55) between Knoxville, TN, and Louisville, KY; (a) over US Hwy 25W to junction US Hwy 25, then over US Hwy 25 to Lexington, KY, then over US Hwy 60 to Louisville, and (b) over Interstate Hwy 75 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Louisville and return over the same route, serving intermediate points between Richmond, KY, and Louisville, KY, (56) between Elizabethtown, KY, and Lexington, KY, over US Hwy 62, (57) serving all points in AL, FL, GA, and MS as off-route points in connection with routes (1) through (53), (58) serving all points in Allen, Anderson, Barren, Bourbon, Bullitt, Butler, Clark, Edmonson, Fayette, Franklin, Hardin, Hart, Jefferson,

Jessamine, Larue, Logan, Nelson, Oldham, Scott, Shelby, Simpson, Spencer, Warren, Woodford counties, KY and Clark, Floyd and Harrison counties, IN as off-route points in connection with routes (54) through (56), (59) serving all intermediate points in (1) through (54), and (56). (Hearing site: Charlotte, NC, or Birmingham, AL.)

Note.—Applicant intends to tack this authority with its existing authority.

MC 107496 (Sub-1202F), filed March 14, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paint and paint products*, in bulk, in tank vehicles, from East Moline, IL, to points in CO and TX. (Hearing site: Des Moines, IA, or St. Paul, MN.)

MC 107496 (Sub-1210F), filed April 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Transporting *chemicals*, in bulk, in tank vehicles, from Lawrence, KS, to points in the United States (except AK and HI). (Hearing site: Kansas City, MO, or Des Moines, IA.)

MC 107496 (Sub-1211F), filed April 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Transporting *resins*, in bulk, in tank vehicles, from Burlington, IA, to points in OK, KY, and TN. (Hearing site: Chicago, IL, or Des Moines, IA.)

MC 112266 (Sub-12F), filed April 30, 1979. Applicant: CRAYCRAFT TRUCKING, INC., U.S. Route 30, Route 2, Upper Sandusky, OH 43351. Representative: James M. Burtch, 100 E. Broad Street, Suite 1800, Columbus, OH 43215. Transporting *clay products*, from the facilities of Galena Brick Company at or near Galena, OH, to points in MI. (Hearing site: Toledo, OH, or Detroit, MI.)

MC 113866 (Sub-167F), filed May 11, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: R. Scott Mahood (same address as applicant). Transporting *precast and prestressed concrete units*, from Monongahela, PA, to points in MD, VA, and WV. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 116806 (Sub-8F), filed April 30, 1979. Applicant: HUTTON TRANSPORT, LIMITED, R.R. No. 1,

Lakeside, Ontario, Canada NOM 2GO. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Transporting (1) *cement, concrete, clay, brick and block, and prestressed and precast concrete products*, and (2) *materials and supplies* used in the manufacture, installation, and distribution of the commodities named in (1) above, between ports of entry on the international boundary line between the United States and Canada at points in MI and NY, on the one hand, and, on the other, points in IL, IN, MD, MI, NY, OH, PA, WV, and DC. (Hearing site: Buffalo, NY.)

MC 117686 (Sub-268F), filed May 14, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 768, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Albert Lea, MN, and Cedar Rapids and Cherokee, IA, to points in CA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 117686 (Sub-269F), filed May 18, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). Transporting *paper, paper products, plastic bags, plastic film, and plastic sheeting*, (1) from Hodge, LA, to points in NC and SC, (2) from Jacksonville, AR, to Rock Island, IL and points in IA, KS, MN, MO, NE, ND, SD, and WI, and (3) between Jacksonville, AR, and Hodge, LA. (Hearing site: Omaha, NE, or Des Moines, IA.)

Note.—Dual operations may be involved.

MC 118377 (Sub-8F), filed May 18, 1979. Applicant: RICHARD R. JOHNCOX, Route 104, Williamson, NY 14589. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Transporting (1) *foodstuffs*, from points in Wayne, Ontario, Seneca, and Cayuga Counties, NY, to points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of foodstuffs, in the reverse direction. (Hearing site: Rochester or Buffalo, NY.)

MC 145817 (Sub-1F), filed April 17, 1979. Applicant: RECREATIONAL

irregular routes, transporting *such*

other than carriers subject to the act, to

MC 145817 (Sub-1F), filed April 17, 1979. Applicant: RECREATIONAL PRODUCT TRANSPORT, INC., Uxbridge Road, Mendon, MA 01756. Representative: Samuel L. Watts, TDS, Inc., 1050 Waltham Street, Lexington, MA 02173. Transporting *such commodities* as are dealt in or used by the recreational marine industry (except commodities in bulk), between points in CT, MA, ME, NH, NY, RI, and VT, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Springfield or Boston, MA.)

MC 146497 (Sub-3F), filed May 11, 1979. Applicant: BURNHAM TRUCKING CO., 52 Fletcher Street, Ayer, MA 01432. Representative: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fruits and fruit products, berries and berry products, and juices*, and (2) *materials and supplies* used in the manufacture and distribution of juices, fruit products, and berry products, (except commodities in bulk), between the facilities of the New England Apple Products Co., at Littleton, Harvard, and Ayer, MA, on the one hand, and, on the other, points in CT, DE, FL, GA, IA, IL, IN, KY, MA, MD, ME, MI, MO, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI, WV, and DC, under continuing contract(s) with New England Apple Products Co., Inc., of Littleton, MA. (Hearing site: Boston, MA.)

MC 146587 (Sub-1F), filed May 11, 1979. Applicant: J & D TRUCKING, INC., P.O. Box 183, Littleton, PA 17340. Representative: John M. Musselman, 410 North Third Street, Harrisburg, PA 17108. Transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk), from (1) Chambersburg, PA, and points in Adams County, PA (except Conewago Township and Inwood) and WV, and (2) the facilities of W. E. Bittinger Co., Inc., Hanover Brands, Inc., and The Hanover Klondike Co., Inc., at Hanover, PA, Musselman Fruit Products Div., Pet, Inc., at Biglerville, PA, and Knouse Foods, Inc., at Peach Glen, PA, to points in AL, FL, GA, NC, SC, TN, and VA. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 146826 (Sub-5F), filed April 30, 1979. Applicant: SOUTHWEST FREIGHT, INC., 1305 Rye Street, Houston, TX 77029. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting *such commodities* as are dealt in by retail department stores, between points in TX, LA, MS, and AL, under continuing contract(s) with F. W. Woolworth Co., of New York, NY. (Hearing site: Houston, TX.)

[FR Doc. 79-35408 Filed 11-15-79; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. 52-A Under Service Order No. 1344]

Rerouting Traffic

To: All Railroads.
Upon further consideration of I.C.C. Order No. 52, and good cause appearing therefor:

It is ordered:
I.C.C. Order No. 52 is vacated.
This order shall become effective October 29, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 29, 1979.

Interstate Commerce Commission.
Joel E. Burns,
Agent.

[FR Doc. 79-35414 Filed 11-15-79; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29118F]

Willamette Leasing Co.; Finance Application

November 13, 1979.

Applicant: Willamette Leasing Company, Paul Sause and Curtis Sause, doing business as, Suite 1480, Lloyd Building, 700 N. E. Multnomah Street, Portland, OR 97232.

Applicant's Attorney: Norman E. Sutherland, 1200 Jackson Tower, Portland, OR 97205. Alan F. Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006.

Application filed August 28, 1979 for authority to acquire the operating authority of Portland Shipbuilding Company and Charles M. Nelson, Trustee in Liquidation of Portland Shipbuilding Company, 3106 S. E. Hawthorne Blvd., Portland, OR 97214. Operating rights sought to be acquired: Permit W-423 which authorizes the transportation as a contract carrier, in interstate or foreign commerce, in furnishing for compensation (under charter, lease, or other agreement) non-self-propelled dock scows (including those equipped with bins) to persons

other than carriers subject to the act, to be used by them in the transportation of their own property. (Hearing site: Portland, OR.)

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35411 Filed 11-15-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

Member, Gloria Schaffer
[S-2243-79 Filed 11-14-79; 3:48 pm]
BILLING CODE 6320-01-M

CONTENTS

	Item
Civil Aeronautics Board.....	1, 2, 3
Commodity Futures Trading Commission.....	4, 5
Federal Deposit Insurance Corporation.....	6
Federal Election Commission.....	7
Federal Maritime Commission.....	8, 9
Federal Mine Safety and Health Review Commission.....	10, 11
Federal Reserve System (Board of Governors).....	12, 13
National Credit Union Administration.....	14
Nuclear Regulatory Commission.....	15, 16
Securities and Exchange Commission.....	17, 18
White House Conference on Library and Information Services.....	19

1

[M-255, Amdt. 1; Nov. 13, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the November 15, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., November 15, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 29a. Docket 36741, *Limitation of Excess Baggage Allowance in Certain Caribbean Markets Proposed by Eastern*. (Memo No. 9286, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: November 15, 1979 Board Meeting is the only remaining meeting before the effective date of the tariff, November 17. The reason for the staff being late is that (1) an alternative draft order was added at a late date, and (2) review by the Legal Division necessitated additions to the memorandum and one draft order. Accordingly, the following Members have voted that Item 29a be added to the November 15, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

2

[M-255, Amdt. 2; Nov. 14, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition and closure of item to the November 15, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m. (Open)—3 p.m. (Closed)—November 15, 1979.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 32. Recommended Negotiating Position for U.S.-Peru Talks Scheduled to Begin November 19, 1979 in Washington. (Memo No. 9288, BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: There are upcoming negotiations with Peru and in order to formulate a coordinated U.S. Government position, the Board Members have voted that agency business requires that the Board meet on this item on less than seven days' notice because staff work was not completed at this time and that no earlier announcement of the meeting was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

This memo concerns strategy and positions that have been or may be taken by the United States in ongoing negotiations with Peru. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that any meeting on this item should be closed:

Federal Register

Vol. 44, No. 223

Friday, November 16, 1979

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Ricard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Office of the General Director.—Mr. Michael E. Levine and Mr. Steven A. Rotenberg.
Bureau of International Aviation.—Mr. Sanford Rederer, Ms. Carolyn Coldren, Mr. Vance Fort, and Mr. Douglas Leister.
Office of the General Counsel.—Ms. Mary Schuman, Mr. Gary Edles, Mr. Peter B. Schwarzkopf, and Mr. Michael Schopf.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Robert Preece.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson and Ms. Patricia J. Kennedy.
Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting may be closed to the public observation:

Gary J. Edles,
Deputy General Counsel.
[S-2244-79 Filed 11-16-79; 3:48 pm]
BILLING CODE 6320-01-M

3

[M-255, Amdt. 3; Nov. 14, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the November 15, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m. (Open)—3 p.m. (Closed)—November 15, 1979.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 19. Dockets 36971 and 36811; Sixty Day Notice of Air New England for suspension of nonstop or single plane service in eight markets; application of Air New England for an exemption from the notice requirement. (BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 19 is being deleted from the November 15, 1979 agenda in order to allow the staff additional time to consider and prepare its recommendations in this case. Accordingly, the following Members have voted that Item 19 be deleted from the November 15, 1979 agenda and that no earlier announcement of this deletion was possible.

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2245-79 Filed 11-14-79; 3:48 pm]
BILLING CODE 6320-01-M

4 COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., November 16, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2236-79 Filed 11-14-79; 2:57 pm]
BILLING CODE 6351-01-M

5 COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., November 20, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Proposed amendment to Section 1.12 of the Commission's regulations (Financial Early Warning System).

Treatment under the Freedom of Information Act of an exchange application for designation as a contract market prior to a decision by the Commission to grant or deny designation when the application is subject to an exchange petition for confidentiality.

The Regulation of Gold and Silver Leverage Transactions as Contracts for Future Delivery.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2231-79 Filed 11-14-79; 1:50 pm]
BILLING CODE 6351-01-M

6 FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Tuesday, November 13, 1979, the Corporation's Board of Directors determined, on motion of Director William M. Issac (Appointive), seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Chairman Irvine H. Sprague, that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a proposed amendment to Part 329 of the Corporation's rules and regulations entitled "Interest on Deposits" which would require notice to depositors of maturing time deposits.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: November 13, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-2239-79 Filed 11-14-79; 2:57 pm]
BILLING CODE 6714-01-M

7 FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO. 2203.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, November 15, 1979 at 10:00 a.m.

CHANGE IN MEETING: The following item has been added to the agenda:

Reconsideration of Nonqualified Campaign Expenses of the 1976 Democratic Presidential Campaign Committee, Inc.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-2242-79 Filed 11-14-79; 3:41 pm]
BILLING CODE 6715-01-M

8 FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: November 9, 1979, 44 FR 65235.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: November 13, 1979, 10 a.m.

CHANGES IN THE MEETING:

Addition of the following item to the open session:

12. Filing of Financial Data by Non-Vessel Operating Common Carriers in the Domestic Offshore Trades.

Addition of the following item to the closed session:

1. Outstanding section 21 orders issued against various independent ocean freight forwarders.

[S-2228-79 Filed 11-14-79; 10:11 am]
BILLING CODE 6730-01-M

9 FEDERAL MARITIME COMMISSION.

TIME AND DATE: November 21, 1979, 10 a.m.

PLACE: Room 12126 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Report on Notation Items disposed of during October 1979.

2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during October 1979.

3. Report of the Secretary on Applications for Admission to Practice approved during October 1979, pursuant to delegated authority.

4. Assignment of Informal Dockets by the Secretary during October 1979.

5. Agreement No. 8891-7: Application for renewal of the term of approval of the Unigulf Sailing and Ratemaking Agreement.

6. Agreement No. T-3323-1: Amendment to lease agreement providing for its cancellation and settlement of proceedings in Docket No. 78-44.

7. Docket No. 79-12: Improvements in Prehearing and Discovery Procedures—Proposed order of discontinuance.

8. Docket No. 79-50: Notice of Inquiry Regarding the United Nations Convention on Code of Conduct for Liner Conferences—Review of comments received in response to notice of inquiry.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-2240-79 Filed 11-14-79; 2:57 pm]
BILLING CODE 6730-01-M

10

November 13, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., Thursday, November 8, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Partially closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTER TO BE CONSIDERED: 1. Disciplinary Proceeding, D 79-3.

VOTE: Voting to Close the meeting: Commissioners Waldie (Chairman), Backley, Jestrab, Lawson and Nease. It was determined by this vote that Commission business required that this portion of the meeting be closed.

CONTACT PERSON FOR MORE INFO: Jean Ellen, 202-653-5632.

[S-2236-79 Filed 11-14-79; 2:57 pm]
BILLING CODE 6620-12-M

11

November 13, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., Thursday, November 8, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Items 1, 2, & 3, open; Item 4 closed (Pursuant to 5 U.S.C. 552(c)(10)).

MATTERS CONSIDERED: The Commission considered and acted upon the following cases. Items 1, 2, & 4 were previously announced. Item 3 was brought up at the meeting with no previous announcement.

1. Mid-Continent Coal and Coke Co., DENV 79-29-P (Petition for Discretionary Review)

2. Stash Brothers, Inc., PITT 79-44-P

3. Kerr-McGee Nuclear Corporation, DENV 79-201-PM

4. Disciplinary Proceeding, D 79-3

CONTACT PERSON FOR MORE INFO: Jean Ellen, 202-653-5632.

[S-2235-79 Filed 11-14-79; 2:57 pm]

BILLING CODE 6620-12-M

12

FEDERAL RESERVE SYSTEM. (Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, November 21, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed purchase of computer equipment by the Federal Reserve Bank of New York.

2. Proposed amendments to Regulation F (Securities of Member State Banks) to maintain substantial similarity with rules of the Securities and Exchange Commission. (Proposed earlier for public comment; docket no. R-0235).

Discussion Agenda

1. Board's regulatory improvement program; consideration of Subpart C of Regulation J (Collection of Checks and Other Items and Transfers of Funds) concerning the handling of automated clearing house payments. (Proposed earlier for public comment; docket no. R-0013).

2. Any agenda items carried forward from a previously announced meeting.

Note. This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: November 14, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-2229-79 Filed 11-14-79; 1:05 pm]
BILLING CODE 6210-01-M

13

FEDERAL RESERVE SYSTEM. Board of Governors.

TIME AND DATE: Approximately 12 noon, Wednesday, November 21, 1979

(following a recess at the conclusion of an open meeting to be held earlier the same day).

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request by the General Accounting Office for Board comment on a draft report on Federal supervision of bank holding companies.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: November 14, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[S-2230-79 Filed 11-14-79; 1:50 pm]
BILLING CODE 6210-01-M

14

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 10 a.m., Tuesday, November 20, 1979.

PLACE: 1776 G Street NW., Washington, D.C., 6th Floor Conference Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility lending rates.

2. Designation of officers with access to Central Liquidity Facility safety deposit vault.

3. Central Liquidity Facility repayment agreements.

4. Federal credit unions' use of compensating balances.

5. Experimental pilot program: shared automatic teller machines.

6. Applications for charters, amendments to charters, bylaw amendments, mergers, conversions and insurance as may be pending at that time.

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady, Secretary of the Board, telephone (202) 254-9800.

[S-2241-79 Filed 11-14-79; 3:24 pm]
BILLING CODE 7535-01-M

15

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: November 14 (Changes) and November 19, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Wednesday, November 14, 1:30 p.m.

1. Briefing by NRR on TMI Lessons Learned Report (approximately 2 hours, public meeting), replaces proposed amendments to Part 50.

Monday, November 19, 10:30 a.m.

Discussion of Citizen's Advisory Committee (approximately 1 hour, public meeting).

Monday, November 19, 1:30 p.m.

1. Briefing on Proposed New 10 CFR Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories—Procedural Aspects (tentative) (approximately 1 hour, public meeting).

2. Discussion of Personnel Matter (approximately 2 hours, closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Roger M. Tweed,
Office of the Secretary.

November 9, 1979.

[S-2233-79 Filed 11-14-79; 2:57 pm]
BILLING CODE 7590-01-M

16

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: November 19 and 20, 1979.

PLACE: Commissioner's Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Monday, November 19, 10:30 a.m.

Discussion of Citizen's Advisory Committee (approximately 1 hour, public meeting) as announced.

Monday, November 19, 1:30 p.m.

1. Briefing on Proposed New 10 CFR Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories—Procedural Aspects (approximately 1 hour, public meeting) as announced.

2. Discussion of Proposed Amendments to 10 CFR Part 50, Section 50.33, 50.54 and Appendix E: Plans for Coping with Emergencies at Production and Utilization Facilities (approximately 2 hours, public meeting) rescheduled from 11/13—replaces personnel matter.

Tuesday, November 20, 9:30 a.m.

1. Briefing by IE on TMI Lessons Learned (approximately 2 hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Walter Magee,

Office of the Secretary.

November 13, 1979.

[S-2234-79 Filed 11-14-79; 2:57 pm]

BILLING CODE 7590-01-M

17

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 19, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Tuesday, November 20, 1979, at 2:30 p.m., immediately followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.42(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, November 20, 1979, at 2:30 p.m., will be:

1. Consideration of whether to adopt amendments to Regulation 14A and Schedule 14A which would require issuers to use a form of proxy that (a) permits security holders to withhold authority to vote for director nominees, individually; (b) provides a means for security holders to specify a choice to abstain with respect to each matter

to be acted upon; and (c) indicates whether the proxy is solicited on behalf of the board of director. Another amendment would require disclosure to shareholders of prior year election results under certain circumstances. For further information, please contact Amy Goodman at (202) 272-3098, G. Michael Stakias at (202) 272-2589 or Gregory H. Mathews at (202) 272-2844.

2. Consideration of whether to: (1) adopt Form 20-F, which replaces Forms 20 and 20-K, (2) amend Form 6-K and Rules 3a12-3, 13a-18 and 15d-18 under the Securities Exchange Act of 1934 and Form S-18 under the Securities Exchange Act of 1933; and (3) to publish Guide 63. These amendments would increase the disclosure by certain foreign private issuers and enable them to use a simplified registration form for rights offerings to shareholders in the United States. For further information, please contact Carl T. Bodolus at (202) 272-3246 or Ronald Adee at (202) 272-3250.

3. Consideration of whether to: (1) adopt proposed amendments to Regulation 14D, Rule 434(b), and Schedule 13D, as well as proposed Regulation 14E, relating to tender offers, which amendments were published for comment in Securities Exchange Act Release No. 15548 (February 5, 1979) (44 FR 9956); and (2) publish for additional comment proposed amendments to Regulations 14D and 14E. For further information, please contact John Huber or John Granda at (202) 272-2589.

4. Consideration of whether to adopt Rule 17Ad-8 requiring clearing agencies to furnish a securities position listing to issuers and certain non-issuers. For further information, please contact Jerry R. Marlatt at (202) 272-2792.

5. Consideration of whether to publish a draft plan of voluntary compliance with Executive Order 12160, entitled "Providing for Enhancement and Coordination of Federal Consumer Programs." For further information, please contact Ann C. Stansbury at (202) 523-3952.

The subject matter of the closed meeting scheduled for Tuesday, November 20, 1979, following the 2:30 p.m. open meeting, will be:

Authorization to discuss settlement of possible enforcement action.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Ketels at (202) 272-2468.

November 13, 1979.

[S-2227-79 Filed 11-13-79; 4:52 pm]

BILLING CODE 8010-01-M

18

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 65236 11/9/79].

STATUS: Open Meeting/Closed Meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, November 9, 1979.

CHANGES IN THE MEETING: Additional items.

The following additional item will be considered at an open meeting scheduled for Thursday, November 15, 1979, at 10:00 a.m.

Consideration of whether to send a letter to the Office of Management and Budget commenting on the Justice Department's proposed amendments to the Right to Financial Privacy Act of 1978. For further information, please contact Alan Rosenblatt at (202) 272-2428.

The following additional item will be considered at a closed meeting scheduled for Thursday, November 15, 1979, immediately following the open meeting.

Administrative proceeding.

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich at (202) 272-2178.

November 13, 1979.

[S-2232-79 Filed 11-14-79; 1:50 pm]

BILLING CODE 8010-01-M

19

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES.

Advisory Committee Meeting.

TIME: 9 a.m. to 5 p.m. daily.

DATE: December 6-7, 1979.

PLACE: Washington Hilton Hotel, 1919 Connecticut Avenue NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: Recommendations and Resolutions of Delegates to the White House Conference on Library and Information Services held December 15-19, 1979.

CONTACT PERSON FOR MORE INFORMATION: Marilyn K. Gell, Director, (202) 634-1530.

Marilyn K. Gell,

Director.

November 12, 1979.

[S-2237-79 Filed 11-14-79; 2:57 pm]

BILLING CODE 7527-01-M

Friday
November 16, 1979

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and
Federally Assisted Construction; General
Wage Determination Decisions

Federal Register

DEPARTMENT OF LABOR
Employment Standards Administration
Wage and Hour Division
Minimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register

without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas
Decisions to General Wage
Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate

information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination
Decisions.

None.

Modifications to General Wage
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State:

Alabama:		
AL79-1133.....	Oct. 19, 1979.	
AL79-1066.....	Apr. 13, 1979.	
California:		
CA78-5123.....	Aug. 18, 1978.	
Georgia:		
GA79-1014.....	Jan. 5, 1979.	
GA79-1122.....	Aug. 31, 1979.	
Kentucky:		
KY79-1034.....	Feb. 9, 1979.	
KY79-1031.....	Feb. 9, 1979.	
KY79-1108.....	July 6, 1979.	
Montana:		
MT79-5106.....	July 27, 1979.	
Tennessee:		
TN79-1104.....	June 29, 1979.	
TN78-1091.....	Oct. 20, 1978.	
TN78-1090.....	Oct. 20, 1978.	

Supersedeas Decisions to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded:

Georgia:		
GA78-1088 (GA79-1148).....	Oct. 13, 1978.	
Kentucky:		
KY79-1033 (KY79-1144).....	Feb. 9, 1979.	
KY79-1032 (KY79-1145).....	Feb. 9, 1979.	
New York:		
NY78-3079 (NY79-3042).....	Oct. 27, 1978.	
Tennessee:		
TN78-1060 (TN79-1146).....	July 7, 1978.	

Cancellation of General Wage
Determination Decision

None.

Signed at Washington, D.C., this 9th day of November 1979.
Dorothy P. Come,
Assistant Administrator Wage and Hour
Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 2

MODIFICATION PAGE 1

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
DECISION NO. CA78-5123 - Mod. #8 (43 FR 36839 - August 18, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California CHANGE: PAINTERS: San Luis Obispo, Santa Barbara and Ventura Counties: Brush; Pot Tender Paperhangers; Paste Machine Operators; Iron and Steel Spray; Taper; Sandblaster Steeplejack OMIT: PAINTERS: San Luis Obispo, Santa Barbara and Ventura Counties: Sign Painter	1.25 1.25 1.25 1.25 1.07	1.30 1.30 1.30 1.30 1.30			.03 .03 .03 .03 .03
DECISION #CA79-1014 - Mod. #14 (44 FR 1632 - January 5, 1979) Clayton, DeKalb, & Fulton Counties, Georgia CHANGE: Asbestos workers Bricklayers & Stone masons Cement masons Marble, Tile, & Terrazzo workers Plasterers Sprinkler fitters	\$11.45 10.40 9.45 10.40 9.92 11.94	.55 .65 .60 .65 .80 1.05	.75 .50 .80 .50 .80 1.05		.10 .10 .08
DECISION #GA79-1122 - Mod. #1 (44 FR 51491 - August 31, 1979) DeKalb & Fulton Counties, Georgia CHANGE: Brick masons Cement masons/finishers Electricians Waterproofers (Roofers)	\$10.40 9.45 12.05 7.75	.65 .80 9% .35	.50 .80 11% .20		.10 1/2 of 1% .02

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
Decision #AL79-1133 - Mod. #1 (44 FR 60513 - October 19, 1979) Tuscaloosa County, Alabama CHANGE: Bricklayers Tile setters	\$10.35 10.10	.40 .40			.05 .05
Decision #AL79-1066-Mod. #3 (44 FR 22307-April 13, 1979) Madison County, Alabama Change: Bricklayers Cement masons Plumbers & Pipefitters	11.00 10.25 11.50	.60 .60			.15

MODIFICATION PAGE 8

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$11.70	.55	.70			.06
10.13	.55	.60			.08
10.20					
11.20	.70	10%			1%
11.45	.70	10%			1%
10.36	.70	.65			1%
7.10	.25	.30			
7.20	.25	.30			
7.30	.25	.30			
7.40	.25	.30			
7.45	.25	.30			
7.75	.25	.30			
7.80	.25	.30			
7.50	.25	.30			
7.65	.25	.30			
7.90	.25	.30			
10.25					
11.20	.70	10%			1/2 of 1%
11.45	.70	10%			1/2 of 1%
9.65	.70	10%			1/2 of 1%
8.00	.55	.60			.08
10.58	.55	.60			.08
10.255					
10.55					
10.00	.35	.35			.10
9.20	.35	.35			.10
8.60	.35	.35			.10
8.30	.35	.35			.10
11.94	.75	1.05			.08

DECISION #TNT9-1104 - Mod. #2
(44 FR 36137 - June 29, 1979)
Hamilton, Marion, Polk, & Rhea
Counties, Tennessee

CHANGE:

Asbestos workers
Carpenters, Carpet layers, &
Floor layers
Cement masons:
Hamilton, Marion, Rhea
Counties
Electricians:
Wiremen
Ironworkers
Laborers:
Group A
Group B
Group C
Group D
Group E
Group F
Group G
Group H
Group I
Group J
Lathers
Line Construction:
Linemen & Operators of hole
digging equipment, tractor
with winch
Cable splicers
Truck without winch
Groundmen
Millwrights
Piledrivers
Plasterers:
Hamilton, Marion, & Rhea
Counties
Power Equipment Operators:
Class A
Class B
Class C
Class D
Sprinkler fitters

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$12.50	.65	1.00			.05
7.445	.30	.40			.05
7.545	.30	.40			.05
7.595	.30	.40			.05
7.795	.30	.40			.05
7.995	.30	.40			.05
8.15	.35	.40			.05
12.13	.90	3% + .50			8/8 of 1%
12.23	.90	3% + .50			8/8 of 1%
9.10	.90	3% + .50			8/8 of 1%
6.25	.90	3% + .50			8/8 of 1%
9.41	.53	.36			.05
10.375	.55	.50			.10
10.625	.55	.50			.10
13.17	.75	.50			.10
10.375	.50	.50			.20
9.945	.50	.50			.20
9.245	.50	.50			.20
8.845	.50	.50			.20
12.47	1.21	.25			.06
11.94	.75	1.05			.08

Asbestos workers
Laborers:
Group A
Group B
Group C
Group D
Group E
Group F
Line Construction:
Linemen
Cable splicers
Special equipment operators
Groundmen
Marble, Tile, & Terrazzo
Workers
Painters:
Commercial
Industrial, spray, & sand-
blasting
Plumbers
Power Equipment Operators:
Class A
Class B
Class C
Class D
Sheet metal workers
Sprinkler fitters

DECISION #TNT8-1091 - Mod. #5
(43 FR 43207 - October 20, 1978)
Shelby County, Tennessee

CHANGE:

MODIFICATION PAGE 9

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$10.56	.55	3% + .50			1/2 of 1%
11.06	.55	3% + .50			1/2 of 1%
9.90		.20			.01
10.56	.55	3% + .50			1/2 of 1%
8.32	.55	3% + .50			1/2 of 1%
7.92	.55	3% + .50			1/2 of 1%
7.82	.55	3% + .50			1/2 of 1%
8.85	.40	.45			
10.10					
10.75	.60	.70	.35		.05
11.05	.60	.70	.35		.05
8.77	.75	1.05			.08
11.94					

DECISION #TNT8-1090 - Mod. #4
(43 FR 43205 - October 20, 1978)
All of Knox & Monroe Counties,
and that portion of Anderson &
Roane Counties which comprise
the Oak Ridge Energy Research &
Development Administration site,
Tennessee

CHANGE:

Electricians:
Knox & Monroe Counties:
Wiremen & technicians
Cable splicers
Lathers
Line Construction:
Knox & Monroe Counties:
Linemen, heavy equipment
Operators, & hole diggers
Truck drivers with winch
Groundmen
Truck drivers without winch
Painters
Plasterers
Plumbers & Pipefitters:
Knox County
Remaining Counties
Roofers
Sprinkler fitters

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$10.39	.45	1.00			.02
10.70	1.05	1.10			
9.55	.40	.45			.01
9.70	.55				.05
8.25					1/5 of 1%
10.55	.60	3% + .75			1/5 of 1%
10.80	.60	3% + .75			1/5 of 1%
9.62	.895	.69	a + b		.03
6.73	.895	.69	a + b		.03
10.30	.70	.90			.03
7.65					.05
10.30	.55				
9.10					
9.35					
9.60					
9.85	.55				.05
9.95					.05
7.25					.05
10.90	.60	.60			.04
11.55	.60	.60			.08
5.50	.50				
10.18	.75	1.05			
11.94					

ASBESTOS WORKERS
ROILERMAKERS
BRICKLAYERS, STONE MASONS,
MARBLE MASONS, TILE SETTERS,
& TERRAZZO WORKERS
CARPENTERS & SOFT FLOOR LAYERS
CEMENT MASONS
ELECTRICIANS:
Wiremen
Cable splicers
ELEVATOR CONSTRUCTORS:
Mechanics
Helpers
IRONWORKERS - Structural,
Reinforcing, & Ornamental
LATHERS
MILLWRIGHTS
PAINTERS:
Brush & roller
Paperhangers, drywall tapers,
& paint burners
Window jacks, steel brush, &
steel roller
Sandblasting, paint spraying,
paint mitts & gloves, &
power tools (no roller lar-
ger than 9")
PILEDRIVERS
PLASTERERS
PLUMBERS & PIPEFITTERS:
Contracts \$15,000.00 or less
Contracts over \$15,000.00
ROOFERS
SHEET METAL WORKERS
SPRINKLER FITTERS
WELDERS: Receive rate
prescribed for craft
performing operation
to which welding is
incidental.

SUPERSEDES DECISION

STATE: GEORGIA
COUNTY: CHATHAM
DECISION NUMBER: CAT9-1148
DATE: DATE OF PUBLICATION
Supercedes Decision Number CAT8-1088, dated October 13, 1978, in 43 FR 47426.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single
family homes and apartments up to and including four stories).

DECISION NO. GA79-1118

POWER EQUIPMENT OPERATORS:	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
Cranes, derricks, draglines, side booms, cherry pickers, mechanics, piledrivers, crawlers, backhoes (3/4 cv. & up), concrete pumps, clam shells, drill operators, concrete mixer plants, locomotives, two-drum hoists, shovels, generators (250 KW & UP), and hydraulic cranes over 10 tons, and finish motor graders;	\$10.83	.55	.50		.02
Bulldozers, hydraulic boom trucks (10 tons & Under), scrapers, end loaders, fork tractors, one drum hoists, air compressors (600 CFM & OVER), tuggers, rollers, plain tractors, fireman, rubber tired backhoes (less than 3/4 cv.), push dozer, and trenching machine;	9.40	.55	.50		.02
Oilier, pump operators (over 1/2" diameter), air compressors under 600 CFM;	8.46	.55	.50		.02
Mechanics' tenders, servicing welding machines, and pumps (up to 1/2" diameter).	6.18	.55	.50		.02

FOOTNOTES:

- a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.
- b. Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service as Vacation Pay Credit.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (e) (1) (ii)).

DECISION NO. GA79-1118

LABORERS:	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
General laborers, traffic flagmen, track spotters; Operators of jack hammer, tamp, paving breaker, chip-ping hammer, spade, chain saw, vibrator, motorized buggy, mason tender, terrazzo helper, railroad or track laborers, walk behind compactor or roller, plasterer & carpenter tenders;	\$ 5.57	.15	.13		.10
Mortar mixers (hand or machine) pipelayers (harnet, potman, etc.), flagmen (cranes, derricks, etc.);	5.72	.15	.13		.10
Burner (torch) on demolition work, track or wagon drills used in blasting;	5.82	.15	.13		.10
Powderman or blaster.	6.07	.15	.13		.10
	6.57	.15	.13		.10

SUPERSEDES DECISION

STATES: KENTUCKY & TENNESSEE

LOCATION: Fort Campbell (Located in Christian County, Ky. and Montgomery County, Tenn.)

DECISION NUMBER: KY79-1114

DATE: Date of Publication

Supersedes Decision Number KY79-1033, dated February 9, 1979, in 44 FR 8501.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$12.10	.65	.75		.05
BOILERMAKERS	10.70	1.05	1.10		.02
BRICKLAYERS					
MARBLE MASONS, TILE SETTERS, TERRAZZO WORKERS, CEMENT MASONS, & PLASTERERS	9.70	.45	.35		
CARPENTERS & SOFT FLOOR LAYERS	10.60	.45	.25		.02
ELECTRICIANS:					
Wiremen:					
Kentucky portion	11.45	.50	13%		1/2 of 1%
Tennessee portion	11.40	.60	3% + .25		1/2 of 1%
Cable splicers:	11.70	.50	13%		1/2 of 1%
Kentucky portion	11.65	.60	3% + .25		1/2 of 1%
Tennessee portion					
ELEVATOR CONSTRUCTORS:	10.13	1.045	.69	a + b	.03
Mechanics	7.09	1.045	.69	a + b	.03
Helpers	5.065	.50	.50		.02
Probationary helpers	8.05	.75	.70	.65	.12
GLAZIERS	11.20	.45	.25		.01
LATHERS	8.90	.45	.25		.02
MILLWRIGHTS & PIPELAYERMEN	11.10	.45	.25		.10
PAINTERS:					
Brush & roller	9.80	.40	.50		.10
Spray work, drywall finishing	10.05	.40	.50		.10
Structural steel, swing stage & chair, & motor stage	10.15	.40	.50		.10
Paperhangers	10.30	.40	.50		.10
Sandblasting	10.55	.40	.50		.10
PLUMBERS & PIPEFITTERS	11.44	.70	.40	.20	.07
ROOFERS	8.45	.55	.32		.07
SHEET METAL WORKERS	12.00	.53	.32		.07
SPRINKLER FITTERS:					
Kentucky portion	13.33	.75	1.05		.08
Tennessee portion	11.94	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

- FOOTNOTES:
- a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.
- b. Vacation Pay Credit - employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.

DECISION NO. KY79-1114

LABORERS:

	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
Group 1	\$ 7.73	.35	.47		
Group 2	7.88	.35	.47		
Group 3	8.23	.35	.47		

LABORERS' CLASSIFICATION DEFINITIONS

Group 1 - General laborers; wrecking labor on buildings, clearing right-of-way and building site; carpenter tenders; truck spotters and dumpers; axe and cross cut saw filer; concrete pullers and form strippers.

Group 2 - All power driven tools; hod carriers; mason tenders; finisher tenders; mortar mixers; jack hammers; vibrators; wagon drill; core drill; test drill; well drill; concrete pump machine; tunnel boring machine; men in tunnel and crib ditch work; signal men; riptap rock setters and handlers; asphalt rakers; tampers and smoothers; pipelayers; grout pump men; chain saw; pipe clearing; checkers machine excavating; batch plant scale hooking; cement guns; grade bog compressed air; cutting torch man on salvage work; road form setters; brick slingers; hand spikers; power buggy; handling of creosote material; sandblasters; curing of concrete and apply hardener; air and gas tamper; concrete saw; power posthole diggers and green cut men on concrete work.

Group 3 - Powdermen; blasters

DECISION NO. KY79-1144

POWER EQUIPMENT OPERATORS:

(Tennessee Portion)

CLASS A
CLASS B
CLASS C
CLASS D

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$10.23	.50	.45		.10
9.65	.50	.45		.10
9.07	.50	.45		.10
8.61	.50	.45		.10

CLASS A:

Shovels, backhoes, draglines, cranes, derricks, gantries, gradall, winches with boom, motor patrol, trenching machines (18" or over), pile driver, tug boat operator, mechanic, forklift, central mixing plant, locomotive engineers, straddle carrier, core drills, tower cranes, hydro-cranes, Austin Western and all similar type cranes, drilling of piling (all types), tugger, hoist more than one drum, earth freezing equipment, sideboom, dredge operator & engineer, hopper, pump crane, mucking machine, cableway, finishing machine, central compressor, derrick boat, concrete pump, welders, helicopters, de-watering system (all types) sweeper, bulldozers, pans, pulls, scrapers, excavators, front end loaders, concrete placing machines, two tower cranes requiring three operators.

CLASS B:

Trenching machines (18" or smaller), tandem rollers, pavers, mixer mobiles, backfillers, blade graders, dinky operators, elevating graders, winches operated from trucks and tractors without booms, distributors bituminous surfaces, hoist (1) drum, mixers, grout pumps, motor boat, switchman, brake man, elevator earth compactors, tractors, conveyors.

CLASS C:

Locomotive fireman on boilers, air compressor (stationary), earth drills, scale operators, motor crane driver and oiler, pumps 4" and larger, oilers on gantries, greasers, drill helpers.

CLASS D:

Air compressor, mechanic helper, firemen (low pressure pumps under 4") oilers, welding machine operators, deckhand.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (e) (1) (ii)).

DECISION NO. KY79-1144

POWER EQUIPMENT OPERATORS:

(Kentucky Portion)

CLASS A
CLASS B
CLASS C

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$11.60	.50	.80		.05
8.86	.50	.80		.05
8.09	.50	.80		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orange-peel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hoist, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyter, pumpcrete, Rose carrier, boom, tall boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gullies, sub-grader;

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, truck on-board motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractor and road widening trencher and farm tractor with attachment except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling-equipment, deckhand-steelman, hydraulic post-driver, drill-helper;

SUPERSEDES DECISION

STATE: KENTUCKY
DECISION NUMBER: KY79-1145
Supersedes Decision Number KY79-1032, dated February 9, 1979, 44 FR 8499.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

COUNTY: WARREN

DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$12.10	.65	.75		.05
BOILERMAKERS	10.70	1.05	1.10		.02
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	9.70	.45	.35		.05
CARPENTERS & SOFT FLOOR LAYERS	9.30	.55	.55		.01
CEMENT MASONS & PLASTERERS	10.50	.50	3%		1/2 of 1%
ELECTRICIANS & CABLE SPLICERS	11.00				
ELEVATOR CONSTRUCTORS:					
Mechanics	12.57	1.045	.69	a + b	.03
Helpers	8.80	1.045	.69	a + b	.03
Probationary helpers	6.285				
GLAZIERS	8.05	.50	.50		.02
IRONWORKERS	11.20	.75	.70		.12
LATHERS	8.90		.20	.65	.01
LINE CONSTRUCTION:					
Linenmen, line truck, hole digger, & cable splicers	11.50		3%		1/2 of 1%
Groundmen - truck drivers with winch	9.775		3%		1/2 of 1%
Groundmen - truck drivers	9.20		3%		1/2 of 1%
MARBLE, TERRAZZO, & TILE FINISHERS	9.65				
PAINTERS:	12.75	.55	.85		.05
Brush & roller	9.80	.40	.50		.10
Spray work, drywall finishers	10.05	.40	.50		.10
Structural steel, swing stage & chair, & motor stage					
Paperhangers	10.15	.40	.50		.10
Sandblasting	10.30	.40	.50		.10
PIPERLAYERS	10.55	.40	.50		.10
PIPEFITTERS	9.55	.55	.55		.05
PLUMBERS	13.77	.75	1.40		.10
ROOFERS	13.83	.80	1.24		.15
SHEET METAL WORKERS	8.45	.55	.40		.16
SPRINKLER FITTERS	12.88	1.563	1.47	.20	.08
WELDERS:	13.33	.75	1.05		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

LABORERS' CLASSIFICATION DEFINITIONS

Group 1 - General laborers; wrecking labor on buildings, clearing right-of-way and building site; carpenter tenders; truck spotters and dumpers; axe and cross cut saw filer; concrete puffers and form strippers.

Group 2 - All power driven tools; hod carriers; mason tenders; finisher tenders; mortar mixers; jack hammers; vibrators; wagon drill; core drill; test drill; well drill; concrete pump machine; tunnel boring machine; men in tunnel and crib ditch work; signal men; xirap rock setters and handlers; asphalt takers; tampers and smoothers; pipelayers; grout pump men; chain saw; pipe clearing; dopping and wrapping; swamper and straight cable hooking; cement guns; grade checkers machine excavating; batch plant scale man; sand hog free air; sand hog compressed air; cutting torch man on salvage work; road form setters; brick alingers; hand spikers; power buggy; handling of creosote material; sandblasters; curing of concrete and apply hardener; air and gas tampers; concrete saw; power posthole diggers and green cut men on concrete work.

Group 3 - Powdermen; blasters

a. Seven Paid Holidays: New Year's Day, Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day; Vacation Pay Credit - employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service.

DECISION NO. KY79-1145

LABORERS:

Group 1
Group 2
Group 3

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 7.73	.35	.47		
7.88	.35	.47		
8.23	.35	.47		

Page 4

DECISION NO. NY79-1115

TRUCK DRIVERS:

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$ 8.86	.525c	.50c	d	
8.98	.525c	.50c	d	
9.09	.525c	.50c	d	
9.16	.525c	.50c	d	
9.26	.525c	.50c	d	

Truck tender;

Driver, 3 tons and under, greaser, tire changer, & mechanic helper;

Driver, over 3 tons, semi-trailer or pole trailer, dump trucks, tandem axle, farm tractor when used to pull building material or equipment;

Driver, concrete mixer trucks (all types, hauling only on jobsites);

Driver, Buick A other heavy earth moving equipment and low boy, winch truck and A-frame & monorail truck when used to transport building materials.

FOOTNOTES:

o. Employer contribution to employees whose names appear on the payroll and have been employed a minimum of 20 work days within any 90 consecutive day period.

d. Vacation and pay equal to 40 hours to any employee who has been regularly employed on a project for one year and who has worked a minimum of 1200 hours during the year.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

DECISION NO. NY79-1115

POWER EQUIPMENT OPERATORS:

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$11.60	.50	.80		.05
8.86	.50	.80		.05
8.09	.50	.80		

CLASS A
CLASS B
CLASS C

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orange peel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopper, tow or push boat, A-frame winch truck, concrete paver, grader, hoist, lyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, truck spreader attached to equipment, scoopmobile, Macal loader, tower cranes (French, German and other types), hydrocranes, backfiller, furries, sub-grader;

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, truck outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractor and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

STATE: New York

SUPERSEDES DECISION

COUNTIES: Nassau and Suffolk

DECISION NO. NY79-3042
Supersedes Decision No. NY78-3079 dated October 27, 1978 in 43 FR 50351

DESCRIPTION OF WORK: Building construction (excluding single family homes and apartments up to and including 4 stories), Heavy and Highway construction projects.

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$8.78	a	.60	b	
12.38	1.02	1.82	7%	.02
13.19	5%	15%		
11.50	1.28	3.38		
12.20	1.50	1.49	.95	.06
12.25	1.50	1.49	.95	.06
12.48	1.70	1.78	1.01	.04
12.20	1.33	1.71	.90	.06
12.25	1.33	1.71	.90	.06
11.70	1.74	1.19		.03
14.82	1.725	1.78	1.03	.05
10.10	1.75		1.35	.01
7.17	2.30	17%	8%	5/8%
13.50	7%+.60		e+f	.02
11.52	.745	.35+d		
8.64	.745	.35+d	e+f	.02
5.76				

AIR CONDITIONING MECHANIC
ASBESTOS WORKERS
BOILERMAKERS
BRICKLAYERS
CARPENTERS
Nassau County (except that part south of the southern state Parkway, West of Seaford Creek also Smith town, Islip Island on the east, Long Island Sound on the north, and Middle Island Railroad track on the south);
Building
Heavy and Highway
Nassau County (remainder of County);
Building, Heavy, Highway
Suffolk County;
Building
Heavy and Highway
CEMENT MASONS
DIVERS
DRYWALL PLASTERERS:
Building
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use
ELECTRICIANS & LINEMEN
ELEVATOR CONSTRUCTORS
ELEVATOR CONSTRUCTORS HELPERS
ELEVATOR CONSTRUCTORS HELPERS (PROBATIONARY)

DECISION NO. NY79-3042

Page 2

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
\$9.70	.745	.32+d	e+f	.02
7.275	.745	.32+d	e+f	.02
10.55	.745	.32+d	e+f	.02
7.91	.745	.32+d	e+f	.02
12.85	.66	1.91	.67	.01
11.23	1.48	3.05	.83	.14
12.25	1.78	3.58	1.80+g	.11
10.75	1.325	1.985	.75+h	.03
9.84	1.14	1.33	1.00	.03
10.79	1.325	1.985	.75+h	.03
11.35	.94	.20	1	.01
10.75	.40	.25	j	
10.45	1.21	1.71	j	
10.25	1.21	1.71	j	
10.93	1.21	1.71	j	
9.55	1.21	1.71	j	.04
12.48	1.70	1.78	1.01	
9.20	3.00	.60		.18
11.60	3.00	.60		.18
10.40	3.00	.60		.18
10.92	9%	1.04+k	3%	

ELEVATOR CONSTRUCTORS
REPAIR
ELEVATOR CONSTRUCTORS
REPAIR HELPERS
ELEVATOR CONSTRUCTORS
MODERNIZATION
ELEVATOR CONSTRUCTORS
MODERNIZATION HELPERS
GLAZIERS
IRONWORKERS, ORNAMENTAL
FINISHER
IRONWORKERS, STRUCTURAL
IRONWORKERS, REINFORCING
LABORERS, BUILDING
LATHERS, METALLIC
LATHERS, NAIL-ON
LEADWORKERS
MARBLE CARVERS & SETTERS
MARBLE POLISHERS
MARBLE FINISHERS, CRANE
OPERATORS & DERRICKMEN
MILLWRIGHTS
PAINTERS:
Suffolk County:
Brush and drywall
finishers
Structural steel
Spray and scaffold
Nassau County:
Inwood, Lawrence, Cedarhurst, Woodmere, Hewlett, Hewlett Bay, Hewlett Neck, Hewlett Park, East Rockaway, part of Oceanside, part of Lynbrook, part of Rockville Center, Atlantic Beach, Long Beach, Lido Beach, Point Lookout, Gibson and part of Valley Stream:
Painters

PAINTERS (Contd.)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.26 12.48	9½ 9½	1.04+k 1.04+k	3½ 3½	-
11.68 12.68	11½ 11½	1.4½ 1.4½		
8.91 10.23 11.70	1.29 10½ 1.50	1.60 1.8½ 1.78	.50 .91+c	.03 .04
11.85	1.00	1.34	1.10	.25
8.50	.76	.96	.75	.15
11.25	1.47	1.95	1.30	.235
10.17 11.27 10.42	1.10 1.10 1.10	1.87 1.87 1.87		.05 .05 .05
11.13 11.07 12.135	1.21 .55 3½+.90	2.55 1.40 4½+1.20	1.50 2.00 3½+.75	.01 2.00 1½+.03
12.83	2.75	1.12	1.00	.07

Spray and Scaffold
Fire escapes
West of Port Washington Blvd. and north on the shore and west of Long Beach Road and south of Sunrise Highway on the South Shore:
Structural steel
Structural steel spray
Remainder of County:
Painters
PAPERHANGERS
PILEDRIERS & DOCKBUILDERS
PLUMBERS:
Nassau County:
Building, Heavy & Highway
Jobbing (repairs to pre-sent plumbing systems that does not change the existing roughing or any other minor alterations job where the change to the existing roughing does not have a labor cost in excess of \$1,500,000)
Suffolk County:
Building, Heavy & Highway
POINTERS, CAULKERS & CLEANERS:
Painters, Caulkers & Cleaners
Sandblasters
Steamcleaners
ROOFERS:
Composition, Damp & Water-proofers
Slate & Tile
SHEET METAL WORKERS
SPRINKLER FITTERS & STEAM-FITTERS

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.62 11.00 9.84	.50 1.21 1.21	1.00 1.50 1.50		.01
9.99 11.18 10.95 9.31	1.21 1.21 1.15 .68	1.50 1.50 .75 .77	.50	
8.87 8.725	1.2125 1.2125	1.8525 1.8525	1+m	
8.825	1.2125	1.8525	1+m	
9.44	1.2125	1.8525	1+m	

STONE DERRICKMEN & RIGGERS
STONEMASONS
TERRAZZO FINISHER
TERRAZZO FINISHER MACHINE OPERATOR
TERRAZZO WORKERS
TILE SETTERS
TILE SETTERS FINISHERS
TRUCK DRIVERS:
Building:
Ready-mix concrete, Sand gravel, asphalt & bulk cement
Euclids & Turnapulls
Heavy:
Euclids & Turnapulls
High-rise:
Truck drivers
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- Employer contributes \$102.83 per month to Health and Welfare.
- For 0-6 months of service one week paid vacation; 6-12 months service 2 weeks paid vacation.
- Employees employed on the last working day before Christmas Day and New Years Day and who report to work on such days shall receive 3 hours pay without working the afternoon.
- Employer contributes \$8.00 per day to Annuity Fund.
- Paid Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Columbus Day, Armistice Day and Election Day.
- Employer contributes 6.4% of basic hourly rate for 5 years or more of service or 4.2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- Paid Holidays: Christmas Eve and New Years Eve: If employee works a full ½ day on the working day immediately preceding Christmas Day and New Years Day, they shall receive a full day's pay.
- Work on Christmas Eve and New Years Eve shall terminate at noon, but employees will receive a full day's pay.
- Paid Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regularly scheduled work days immediately preceding and following the holiday.
- Paid Holiday: ½ day's pay for Labor Day.
- Employer contributes \$5.00 per day to an Annuity Fund.
- Employer contributes \$4.00 per day to a Security Fund.
- For each 15 days worked with the contract year an employee will receive one day's vacation with pay, with a maximum vacation of 3 weeks per year.

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
12.28 12.555	8½+.25 8½+.25	2.00 2.00	a a	.15 .15
12.455 11.105	8½+.25 8½+.25	2.00 2.00	a a	.15 .15

Building Construction
POWER EQUIPMENT OPERATORS:
Asphalt spreader
Backhoe, dragline, gradall
Piledriver, shovel
Batching plant (on site of job), power winch (used for stone or steel), power winch truck mounted (used for stone or steel) pump (concrete)
Bending machine, generator (small), vibrator (1 to 5 dinky locomotive
Boiler, bulldozer, compressor (on crane) compressor (pile work), compressor (stone setting), concrete breaker, conveyor, generator (pilework), loading machine (front end), maintenance engineer, mechanical compactors (machine drawn), power-house, power winch truck mounted (used for other than steel or stone), pulvi-mixer, power winch (used for other than stone or steel), pump (double action diaphragm).

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (CONTD.):				
pump (gypsum), pump (hydraulic pump (jet), pump (single action - 1 to 3), pump (well point), welding and burning, welding machine (pilework)	\$12.105	88+.25	2.00	a
Boom truck, crane (crawler or truck), conveyor-multi plant engineer, stone spreader (self-propelled) Compressor, compressor (2 or more in battery), generator, mulch machine, pin puller, portable heaters, pump (4 inch or over), trac tamper, welding machine	12.305	88+.25	2.00	a
Crane and boom truck (setting structural or stone)	11.855	88+.25	2.00	a
Bulldozer (use for excavation), fireman, loading machine, powerboom, scoop (carry-all, scraper)	12.68	88+.25	2.00	a
vac-all	11.73	88+.25	2.00	a
CMI or maxim spreader, concrete spreader, derrick, sideboom tractor Compressor (structural steel)	12.655	88+.25	2.00	a
Concrete saw or cutter, mixer (2 small, with or without skip), pump (up to 3 inches), tractor caterpillar or wheel	12.255	88+.25	2.00	a
Crane with clam shell bucket	11.355	88+.25	2.00	a
Crane, crawler or truck: Boom lengths of 100' (including jib) but less than 150'	12.555	88+.25	2.00	a
Boom lengths of 150' (including jib) but less than 250'	12.805	88+.25	2.00	a
	13.055	88+.25	2.00	a

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (CONTD.):				
Boom lengths of 250' (including jib) but less than 350'	\$13.305	88+.25	2.00	a
Boom lengths of 350' Curb machine (asphalt or concrete), curing machine, pump (submersible), tower crane maintenance man	13.805	88+.25	2.00	a
Dredge	12.055	88+.25	2.00	a
Elevator, forklift, hoist (1 drum)	12.43	88+.25	2.00	a
Forklift (walk-behind, power operated)	12.48	88+.25	2.00	a
Grader	12.27	88+.25	2.00	a
Hoist (2 and drum)	11.88	88+.25	2.00	a
Hoist (multiple platform)	12.53	88+.25	2.00	a
Mechanical compactors (hand operated), trench machine (hand)	15.15	88+.25	2.00	a
Hoist tandem platform	10.73	88+.25	2.00	a
Hydra-hammer, ridge cutter	13.53	88+.25	2.00	a
Lead engineer	11.27	88+.25	2.00	a
Loading machine (with capacity of 10 yds. or over)	13.755	88+.25	2.00	a
Oiler, stump chipper, Power buggies	11.98	88+.25	2.00	a
Roller, trench machine	10.755	88+.25	2.00	a
Scoop, carry-all, scraper in tandem	12.355	88+.25	2.00	a
Sideboom tractor (used in tank work)	12.73	88+.25	2.00	a
Stripping machine	12.815	88+.25	2.00	a
Tank work	11.78	88+.25	2.00	a
Tower crane (engineer)	12.58	88+.25	2.00	a
Tower crane (oiler)	13.11	88+.25	2.00	a
Welding machine, structural steel	10.605	88+.25	2.00	a
	12.33	88+.25	2.00	a

PAID HOLIDAY:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.
FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day and Veterans' Day.

Heavy and Highway Construction				
POWER EQUIPMENT OPERATORS:				
Asphalt spreader, boom truck, boring machine (other than post holes), CMI or maxim spreader, crane (crawler or truck), conveyor (multi), plant engineer, concrete spreader, sideboom tractor, stone spreader, (self-propelled), cherry picker Backhoe, crane (structural steel), dragline, gradall piledriver, road paver, shovel	\$12.28	88+.25	2.00	a
Batching plant (on site of job), crane (on barge), derrick, sideboom tractor (used in tank work), tank work	12.65	88+.25	2.00	a
Bending machine, mechanical compactors (hand operated), pump (centrifugal, up to 3 inches), trench machine (hand)	12.505	88+.25	2.00	a
Boiler	10.03	88+.25	2.00	a
Boring machine (post holes)	11.78	88+.25	2.00	a
Bulldozer, concrete finishing machine, conveyor, curb machine (asphalt or concrete), curing machine dinky locomotive, fireman, forklift, hoist (1 drum), loading machine, maintenance engineer, pulvi-mixer, pump (4 in. or over), pump (hydraulic), pump (jet), pump (submersible), pump (well point), roller (5 tons and over), scoop (carry-all, scraper), maintenance man (tower crane), vacuum, welding & burning	12.22	88+.25	2.00	a
	11.47	88+.25	2.00	a

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (CONTD.):				
Compressor (on crane), generator (pile work), welding machine (pile work), power winch (used for other than stone or structural steel), power house loading machine (front end), compressor (pile work), power winch (truck mounted, used for other than stone or steel), hoist (2 drum) Compressor (2 or more in battery) Compressor (stone setting) compressor (structural steel), welding machine (structural steel)	\$12.005	88+.25	2.00	a
Compressor, mulch machine, pin puller, pump (double action diaphragm), pump (gypsum), pump (single action 1 to 3), stripping machine, welding machine Loading machine, with bucket capacity of 10 yds. or over	11.70	88+.25	2.00	a
Concrete breaker, concrete saw or cutter, forklift (walk-behind, power operated), hydra-hammer, mixer (with skip), mixer (2 small with without skips), mixer (2 bag or over with or without skip), power buggies, power grippers, ridge cutter Dredge	12.165	88+.25	2.00	a
Generator (small) Grader	11.905	88+.25	2.00	a
Hoist (3 drum), power winch (truck mounted, used for stone or steel), power winch (used for stone setting & structural	11.72	88+.25	2.00	a
	10.38	88+.25	2.00	a
	12.115	88+.25	2.00	a
	10.065	88+.25	2.00	a
	11.685	88+.25	2.00	a

DECISION NO. NY79-3042

Page 12

HEAVY AND HIGHWAY
CONSTRUCTION

LABORERS:

Concrete and curb form
setters, asphalt rakers
Asphalt workers and roller
boys, asphalt top shovel-
ers and smoothers, asph-
alt tamers
Jackhammers, and drill men
hoppers, carpenters
tenders, pipe joiners &
setters, concrete laborers
(structures), stone sprea-
ding laborers, trackmen,
grading and excavating
laborers, yard laborers,
puddlers on concrete
pavement, laborers (other
than above) on concrete
pavement, asphalt plant
(batcher & hopper men),
all other unskilled
laborers

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$12.495	8%+.25	2.00	a		.15
10.08	8%+.25	2.00	a		.15
11.82	8%+.25	2.00	a		.15
10.07	8%+.25	2.00	a		.15
11.645	8%+.25	2.00	a		.15
10.52	8%+.25	2.00	a		.15
11.74	8%+.25	2.00	a		.15
12.905	8%+.25	2.00	a		.15
9.855	8%+.25	2.00	a		.15

FOOTNOTES:

a. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's
Birth Day; Memorial Day; Independence Day; Labor Day; Columbus
Day; Election Day; Veteran's Day; Thanksgiving Day and
Christmas Day provided employee is employed the day after
the holiday.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor
Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, Columbus Day, Lincoln's Birthday,
Washington's Birthday, Veterans' Day; Election Day, provided
employee works or shows up the scheduled day before and the
schedule day after the holiday.

Unlisted classifications
needed for work not included
within the scope of the
classifications listed may
be added after award only as
provided in the labor
standards contract clauses
(29 CFR, 5.5 (a) (1) (ii)).

DECISION NO. NY79-3042

Page 11

POWER EQUIPMENT OPERATORS
(CONTD.)

steel), trench machine
Mechanic
Mechanical compactors
(machine drawn), roller
(over 5 tons)
Oiler, root cutter, stump
chipper, tower crane
(oiler), track tamper
(2 engineers, each)
Portable heaters
Powerboom
Pump (concrete)
Scoop (carry-all, scraper
in tandem), tower crane
(engineer)
Tractor (caterpillar or
wheel)

FOOTNOTES:

a. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's
Birth Day; Memorial Day; Independence Day; Labor Day; Columbus
Day; Election Day; Veteran's Day; Thanksgiving Day and
Christmas Day provided employee is employed the day after
the holiday.

SUPERSEDES DECISION

STATE: TENNESSEE COUNTY: DAVIDSON
DECISION NUMBER: TN79-1146 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN78-1060, dated July 7, 1978, in 43 FR 29467.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single
family homes and apartments up to and including 4 stories).

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$12.10	.65	.75			.05
10.70	1.05	1.10			.02
8.40		.25			
7.09	.25				
11.40	.60	3% + .25			1/2 of 1%
10.13	1.045	.69	a + b		.03
7.09	1.045	.69	a + b		.03
8.05	.50	.50			.02
8.35	.45	.35			.10
4.24					
5.00					
7.90		.20	.40		.01
11.77		.25			.01
5.35		.25			.01
10.85	.40	.20			.01
7.90	.70	.70			.07
11.00	.70	.25			.02
7.15	.40	.31	.15		.08
8.60	.44	1.05			
11.94	.75				
5.47					
4.97					
5.93					
5.55					
8.30	.30	.35			
5.65					
5.23					
5.15					
6.12					

WELDERS - Rate for craft.

POWER EQUIPMENT OPERATORS:

Backhoe
Bulldozer
Crane, derrick, dragline
Driller
Front end loader
Mixer
Oiler

Page 2

DECISION NO. TN79-1146

FOOTNOTES:

a. Seven Paid Holidays: New
Year's Day; Memorial Day;
Independence Day; Labor
Day; Thanksgiving Day;
Friday after Thanksgiving
Day; Christmas Day.

b. Vacation Pay Credit: Employ-
er contributes 5% of the
basic hourly rate for employ-
ees with 5 years or more of
service, or 6% for employees
with 6 months to 5 years of
service.

Unlisted classifications needed
for work not included within the
scope of the classifications
listed may be added after award
only as provided in the labor
standards contract clauses (29
CFR, 5.5 (a) (1) (ii)).

[FR Doc. 79-3222 Filed 11-15-79; 8:46 am]

BILLING CODE 4810-27-C

V
4
4

N
O

1
6

7
9
U M I

federal register

Friday
November 16, 1979

Part III

Department of the Interior

Bureau of Land Management

Outer Continental Shelf, North Atlantic
Oil and Gas Lease Sale No. 42

DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Outer Continental Shelf, North Atlantic
Oil and Gas Lease Sale No. 42

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343), as amended, and the regulations issued thereunder (43 CFR Part 3300).
2. Filing of Bids. Sealed bids will be received by the Manager, New York Outer Continental Shelf (OCS) Office, Bureau of Land Management, at the Biltmore Plaza Hotel, Kennedy Plaza, Providence, Rhode Island 02903. Bids may be delivered in person to the Bureau at that address (State Suite C) from 1:00 p.m., to 5:00 p.m., e.s.t., December 17, 1979 or to that address (Grand Ballroom) from 8:30 a.m., e.s.t., to 9:30 a.m., e.s.t., December 18, 1979. Bids may also be delivered to the address in paragraph 14 until 4:45 p.m., e.s.t., Friday, December 14, 1979. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., e.s.t., December 18, 1979. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 44 FR 60416, as corrected at 44 FR 61263.
3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., e.s.t., December 18, 1979", must be submitted for each tract.

A suggested form appears in 43 CFR Part 3300 (44 FR 38289) Appendix A. Bidders are advised that tract numbers are assigned solely for administrative purposes and are not the same as block numbers found on official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300 (44 FR 38289) Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bonus Bidding With a Fixed Sliding Scale Royalty. Bids on 42-18, 42-19, 42-20, 42-26, 42-27, 42-28, 42-78, 42-79, 42-80, 42-81, 42-89, 42-97, 42-98, 42-111, 42-112, 42-113, 42-117, 42-118, 42-119, 42-122, 42-123, 42-124, 42-125, 42-126, 42-127, 42-128, 42-130, 42-131, 42-132, 42-133, 42-134, 42-135, 42-136, 42-137, 42-138, 42-139, 42-140, 42-141, 42-142, 42-143, 42-144, 42-145, 42-146, 42-150, 42-151, 42-152, 42-153, 42-154, 42-155, 42-156, 42-157, 42-158, 42-162, 42-163, and 42-164 must be submitted on a cash bonus bid basis with the percent royalty due in

amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining percent royalty due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64 and Sec. 6 (b) of the lease form.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than \$15.929026 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$15.929026 million, but less than or equal to \$3423.822697 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b (\ln (V_j/S))$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$b = 9.0$

$\ln$ = natural logarithm

V_j = the value of production in quarter j , adjusted for inflation, in millions of dollars

$S = 2.5$

Figure 1
Form of the Sliding Royalty Schedule

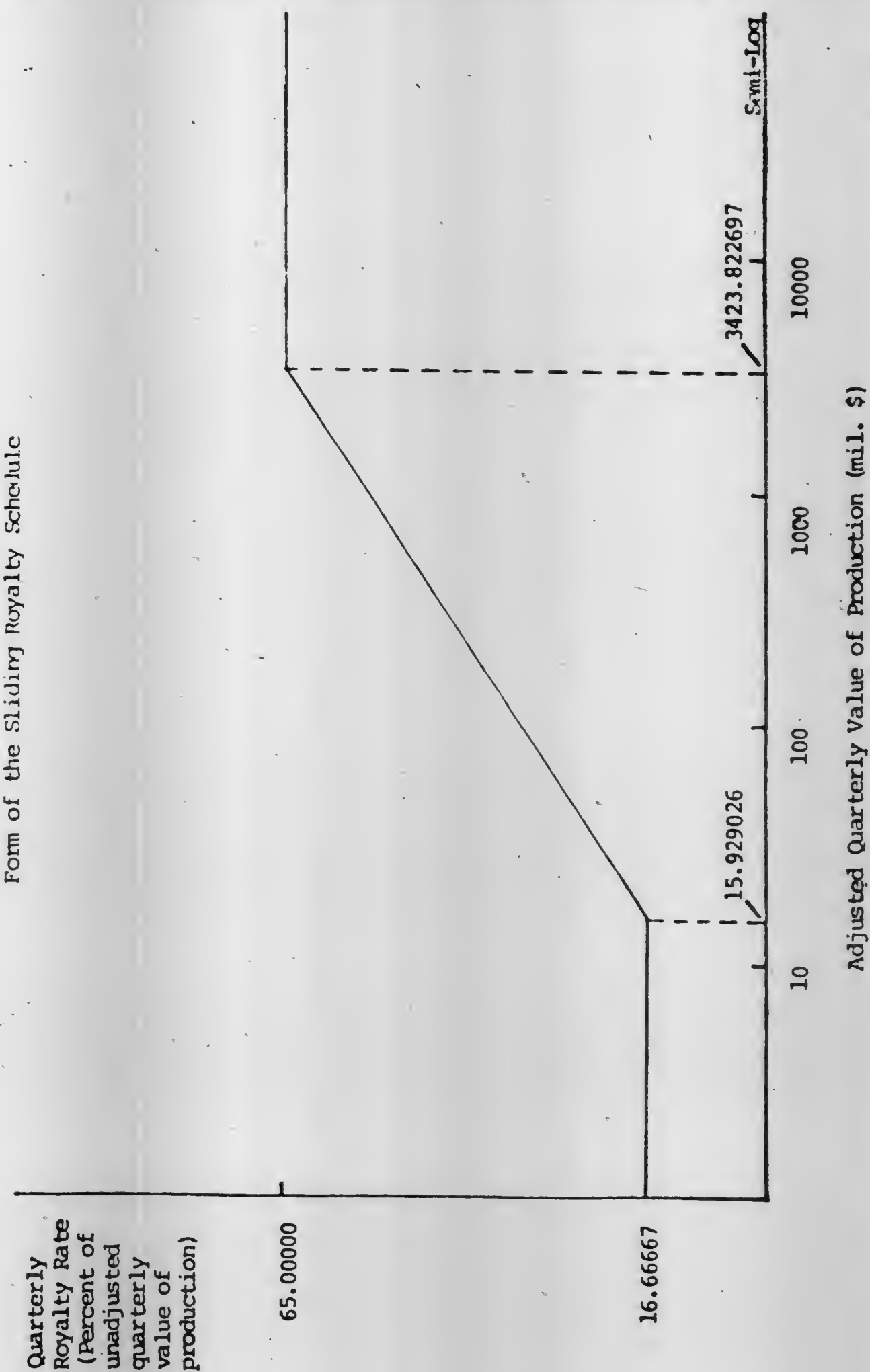


TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor ¹	(D) Adjusted Value of Quarterly Production ² (Vj, Millions of \$)	(E) Percent Royalty Rate (Rj)	(F) Royalty Payment ³ (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	19.77502	5.932506
90.000000	200.0	4/3	67.500000	29.66253	26.696277
270.000000	200.0	4/3	202.500000	39.55004	106.785108
810.000000	200.0	4/3	607.500000	49.43755	400.444155
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	17.76673	5.330019
90.000000	250.0	5/3	54.000000	27.65424	24.888816
270.000000	250.0	5/3	162.000000	37.54175	101.362725
810.000000	250.0	5/3	486.000000	47.42926	384.177006

- 1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).
 2 Column (A) divided by Inflation Factor.
 3 Column (A) times Column (E) divided by 100.

When the adjusted quarterly value of production is greater than \$3423.822697 million, a royalty of 65.00000 percent in amount or value of production saved, removed, or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be rounded to five decimal places (for example, 18.59859 percent). This calculation will incorporate the adjusted quarterly value of production, Vj in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 19.743026 millions of dollars).

The form of sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable

on the actual amount or value of production saved, removed, or sold as

7. Bid Opening. Bids will be opened on December 18, 1979, beginning

on the actual amount or value of production saved, removed, or sold as determined pursuant to 30 CFR 250.64 and Sec. 6 (b) of the lease form. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

Leases awarded on the basis of cash bonus bid with fixed sliding scale royalty will provide for a yearly rental or minimum royalty payment of \$8 per hectare or fraction thereof.

Bidders for these tracts should recognize that the Department of Energy is authorized, under Section 302 (b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal Oil and Gas leases.

5. Bonus Bidding With a Fixed Constant Royalty. Bids on the remaining tracts to be offered at this sale must be on a cash bonus basis with fixed royalty of 16 2/3 percent. Leases which may be issued will provide for a yearly rental payment or minimum royalty payment of \$8 per hectare or fraction thereof.

6. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., e.s.t., December 18, 1979 the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

7. Bid Opening. Bids will be opened on December 18, 1979, beginning at 10 a.m., e.s.t., at the address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, December 18, 1979, that bid will be returned unopened to the bidder, as soon thereafter as possible.

8. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank draft, submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for that tract.

10. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

- (a) The bidder has complied with all requirements of this notice and applicable regulations;
- (b) The bid is the highest valid cash bonus bid; and
- (c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of \$62 or more per hectare or fraction thereof.

11. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR 3318.1 within the time provided in 43 CFR 3316.5.

12. Protraction Diagram. Tracts offered for lease may be located on the following protraction diagrams which are available from the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Suite 32-120, New York, New York 10007, at \$2 each.

(a) Outer Continental Shelf Official Protraction Diagram No. NK 19-8, Chatham (Approved April 18, 1979).

(b) Outer Continental Shelf Official Protraction Diagram No. NK 19-9, (Approved March 20, 1975).

(c) Outer Continental Shelf Official Protraction Diagram No. NK 19-11 (Approved October 31, 1974).

(d) Outer Continental Shelf Official Protraction Diagram No. NK 19-12 (Approved April 29, 1975).

13. Tract Descriptions. The tracts offered for bid are as follows:

Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice.

OCS OFFICIAL PROTRACTION DIAGRAM NK 19-8, CHATHAM
(Approved April 18, 1979)

Tract	Block	Description	Hectares
42-3	643	All	2304
42-6	916	"	2304
42-7	917	"	2304
42-8	961	"	2304
42-9	962	"	2304
42-10	1006	"	2304

OCS OFFICIAL PROTRACTION DIAGRAM NK 19-9
(Approved March 20, 1975)

Tract	Block	Description	Hectares
42-11	883	All	2304
42-12	884	"	2304
42-15	926	"	2304
42-16	927	"	2304
42-17	928	"	2304
42-18	930	"	2304
42-19	931	"	2304
42-20	932	"	2304
42-24	970	"	2304
42-25	971	"	2304
42-26	974	"	2304
42-27	975	"	2304
42-28	976	"	2304

OCS OFFICIAL PROTRACTION DIAGRAM NK 19-11
(Approved October 31, 1974)

Tract	Block	Description	Hectares
42-38	38	All	2304
42-39	39	"	2304
42-40	80	"	2304
42-41	81	"	2304
42-42	82	"	2304
42-43	83	"	2304
42-44	84	"	2304
42-45	123	"	2304
42-46	124	"	2304
42-47	125	"	2304
42-48	128	"	2304
42-49	167	"	2304
42-50	168	"	2304
42-51	169	"	2304
42-52	171	"	2304
42-53	172	"	2304
42-54	214	"	2304
42-55	215	"	2304
42-56	216	"	2304
42-57	258	"	2304
42-58	259	"	2304
42-59	260	"	2304

OCS OFFICIAL PROTRACTION DIAGRAM NK 19-12
(Approved April 29, 1975)

Tract	Block	Description	Hectares
42-76	1	All	2304
42-77	2	"	2304
42-78	6	"	2304
42-79	7	"	2304
42-80	8	"	2304
42-81	12	"	2304
42-88	45	"	2304
42-89	56	"	2304
42-90	57	"	2304
42-96	89	"	2304
42-97	99	"	2304
42-98	100	"	2304
42-99	101	"	2304
42-105	133	"	2304
42-106	134	"	2304
42-107	135	"	2304
42-108	136	"	2304
42-109	137	"	2304
42-110	138	"	2304
42-111	142	"	2304
42-112	143	"	2304
42-113	144	"	2304
42-114	145	"	2304
42-115	146	"	2304
42-116	177	"	2304
42-117	186	"	2304
42-118	187	"	2304
42-119	188	"	2304
42-120	189	"	2304
42-121	190	"	2304
42-122	226	"	2304
42-123	227	"	2304
42-124	228	"	2304
42-125	229	"	2304
42-126	230	"	2304
42-127	231	"	2304
42-128	232	"	2304
42-129	233	"	2304
42-130	266	"	2304
42-131	267	"	2304
42-132	269	"	2304
42-133	270	"	2304

V
4
4
N
O
1
6
7
9
U M I

OCS OFFICIAL PROTRACTION DIAGRAM NK 19-12 (cont'd)
(Approved April 29, 1975)

Tract	Block	Description	Hectares
42-134	271	All	2304
42-135	272	"	2304
42-136	273	"	2304
42-137	274	"	2304
42-138	310	"	2304
42-139	311	"	2304
42-140	312	"	2304
42-141	313	"	2304
42-142	314	"	2304
42-143	315	"	2304
42-144	316	"	2304
42-145	317	"	2304
42-146	318	"	2304
42-147	322	"	2304
42-148	323	"	2304
42-149	324	"	2304
42-150	353	"	2304
42-151	354	"	2304
42-152	355	"	2304
42-153	356	"	2304
42-154	357	"	2304
42-155	358	"	2304
42-156	359	"	2304
42-157	360	"	2304
42-158	361	"	2304
42-159	365	"	2304
42-160	366	"	2304
42-161	367	"	2304
42-162	397	"	2304
42-163	398	"	2304
42-164	399	"	2304
42-169	409	"	2304
42-170	410	"	2304

14. Lease Terms and Stipulations. All leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, New York Outer Continental Shelf Office, Federal Building, Suite 32-120, 26 Federal Plaza, New York, New York 10007. Section 6 of the lease form will be amended for tracts offered on a cash bonus basis with a fixed sliding scale royalty, listed in paragraph 4 as follows:

Sec. 6 Royalty on Production. (a) To pay the lessor a royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than \$15.929026 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$15.929026 million, but less than or equal to \$3423.822697 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b (\ln (V_j/S))$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$$b = 9.0$$

$\ln$ = natural logarithm

V_j = the value of production in quarter j , adjusted for inflation, in millions of dollars

$$S = 2.5$$

When the adjusted quarterly value of production is greater than \$3423.822697 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, Rj, the calculation will be rounded to five decimal places (for example, 18.59859 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 19.743026 millions of dollars). Gas of all kinds (except Helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations the term Supervisor refers to the Atlantic Area Oil and Gas Supervisor for Operations of the Geological Survey and the term Manager refers to the Manager of the New York OCS Office of the Bureau of Land Management.

Stipulation No. 1

If the Supervisor having reason to believe that a site, structure or object of historical or archeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archeologist shall be submitted by the lessee to the Supervisor and to the Manager for review.

If such cultural resource indicators are present the lessee shall:

(1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archeological investigation conducted by a qualified marine survey archeologist or underwater archeologist using such survey equipment and technique as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archeologist shall be submitted to the Supervisor and the Manager for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its preservation.

Stipulation No. 2

If biological populations or habitats which may require additional protection are identified by the Supervisor in the leasing area, the Supervisor will require the lessee to conduct environmental surveys or studies, including sampling as, approved by the Supervisor, to characterize existing environmental conditions in an identified zone prior to oil and gas operations, and to determine the extent and composition of biological populations or habitats, and the effects of proposed or existing operations on the populations or habitats which might require additional protective measures. The Supervisor shall provide written notice to the lessee of his decision to require such surveys or studies. The nature and extent of any surveys or studies will be determined by the Supervisor on a case-by-case basis.

Based on any surveys or studies which the Supervisor may require of the lessee, the Supervisor may require the lessee to: (1) relocate the site of operations so as not to affect adversely the significant biological populations or habitats deserving protection; (2) modify operations in such a way as not to affect adversely the significant biological populations or habitats deserving protection; or (3) establish to the satisfaction of the Supervisor that such operations will not adversely affect the significant biological populations or habitats deserving protection. Based on any surveys or studies which the Supervisor may also require of the lessee, the Supervisor may require the lessee to provide for periodic sampling of environmental conditions during operations.

The lessee shall submit all data obtained in the course of such surveys or studies to the Supervisor, with the locational information for drilling or other activity. The lessee may take no action that might result in any effect on the biological populations or habitats surveyed, until the Supervisor provides written directions to the lessee, with regard to permissible actions.

In the event that important biological populations or habitats are identified subsequent to commencement of operations, the lessee shall make every reasonable effort to preserve and protect all biological

populations and habitats within the lease area, until the Supervisor provides written instructions to the lessee with regard to the biological populations or habitats identified.

Stipulation No. 3

Pipelines will be required, (1) if pipeline rights-of-way can be determined and obtained, (2) if laying such pipelines is technically feasible and environmentally preferable, and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local government and industry. Where feasible and environmentally preferable, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries' trawling gear, and other factors as determined on a case-by-case basis. All valves, taps, or other irregular surfaces that might be vulnerable or might damage fishing gear will be buried to a minimum of one foot or to a depth suitable for adequate protection or covered with an approved protective dome which will allow commercial trawl gear to pass over the structure without snagging or damaging the structure or fishing gear.

Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Supervisor. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels pursuant to the Ports and Waterways Safety Act of 1972 as amended (46 U.S.C. 391a).

Stipulation No. 4

The Supervisor may require the lessee to dispose of drill cuttings and drilling muds by shunting the material to a depth and location below the ocean surface as specified by the Supervisor, or by transporting the material to disposal sites approved by the Environmental Protection Agency. The Supervisor shall determine the method of disposal based upon review of the data obtained from the surveys and studies established pursuant to stipulation No. 2, and from other relevant sources of information.

Based upon the composition of produced formation waters, the site-specific environmental conditions in a leasing area, and the data obtained from the surveys and studies established pursuant to stipulation No. 2, as well as data from other relevant sources, the Supervisor may require the lessee to reinject formation waters. The Supervisor shall provide written notice to the lessee of a decision to require reinjection of such formation waters.

Stipulation No. 5

(The lease for the following tract will include this stipulation, which will apply only to operations within the designated portion of this tract: 42-43, NW 1/4, N 1/2 SW 1/4).

Portions of this tract may contain a shallow "bright spot" seismic amplitude anomaly which may be indicative of a shallow gas deposit. Surface occupancy above this anomaly and drilling through the anomaly will not be allowed unless or until the lessee has demonstrated to the Supervisor's satisfaction that a potentially hazardous accumulation of shallow gas does not exist or that exploratory drilling operations, structures (platforms), casing, and wellheads can be placed, or drilling plans designed to assure safe operations in the area above the anomaly. This may necessitate all exploration for and development of oil and gas be performed from locations outside the area of concern, either within or outside this lease block.

Stipulation No. 6

The lessee shall include in his exploration and development plans submitted under 30 CFR 250.34 a proposed fisheries training program for review and approval by the Supervisor pursuant to this stipulation. The training program shall be for the personnel involved in vessel operations (related to offshore exploration and development and production operations); and platform and shorebased supervisors. The purpose of the training program shall be to familiarize persons working on the project of the value of the commercial fishing industry and the methods of offshore fishing operations and the potential hazards, conflicts and impacts resulting from offshore oil and gas activities. The program shall be formulated and implemented by qualified and experienced instructors in the kinds of fishing activities, methods of communication and navigational safety.

Stipulation No. 7

(To be included in any leases resulting from this sale for the sliding scale royalty tracts listed in paragraph 4 of this notice).

- (a) The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.12(e)). The Director, Geological Survey, may grant a reduction for only one year at a time. Reduction of royalty rates will not be approved unless production has been underway for one year or more.

- (b) Although the royalty rate specified in Sec. 6 (a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16 2/3 percent of the production saved, removed or sold from the lease area may be taken as royalty on amount, except as provided in Sec. 15 (d) of this lease; the royalty on any portion of the production saved, removed or sold from the lease in excess of 16 2/3 percent may only be taken in value of the production saved, removed or sold from the lease area.

Stipulation No. 8

(To be included only in the lease resulting from this sale for tract 42-3).

- (a) The lessee agrees that prior to operating or causing to be operated on its behalf boat or aircraft traffic into individual, designated warning areas, the lessee shall coordinate and comply with instructions from the Commander, Submarine Squadron Two, Naval Submarine Base, New London, Connecticut. Such coordination and instruction will provide for positive control of boats and aircraft operating into the warning areas at all times.
- (b) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors, or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of Commander, Submarine Squadron Two, Naval Submarine Base, New London, Connecticut or other appropriate military agency.

Notwithstanding any limitations of the lessee's liability in Section 14 of the lease, the lessee assumes the risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims

- for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations and agencies whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.
- (c) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual, designated defense warning areas in accordance with requirements specified by the Commander, Submarine Squadron Two, Naval Submarine Base New London, Connecticut, to the degree necessary to prevent damage to, or unacceptable interference with Department of Defense flight, testing or operational activities conducted within individual designated warning areas. Necessary monitoring control and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be affected by the commander of the appropriate onshore military installation conducting operations in the particular warning area: Provided however, that control of such electromagnetic emissions shall permit at least one continuous channel of communication between a lessee, its agents employees, invitees, independent contractors or subcontractors and onshore facilities.

15. Information to Lessees. On September 18, 1978, Congress passed amendments to the OCS Lands Act of 1953. Some sections of current regulations applicable to OCS leasing operations are inconsistent with this new legislation, and the legislation requires the issuance of some new regulations. The inconsistencies will be corrected by rulemakings and the new regulations will be issued as soon as possible. Nevertheless, bidders are notified that provisions of the new OCS Lands Act Amendments shall apply to all leases offered at this lease sale and shall supersede all inconsistent provisions in current regulations applicable to OCS leasing operations.

Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf Lands in accordance with Section 4(e) of the Outer Continental Shelf Lands Act, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are also advised that in accordance with Sec. 16 of each lease offered at this sale the lessor may require a lessee to operate under a unit, pooling or drilling agreement and that the lessor will give particular consideration to requiring unitization in instances where one or more

reservoirs underlie two or more leases with either a different royalty rate or a royalty rate based on a sliding scale.

A Biological Task Force (BTF) has been established to advise the Supervisor on those aspects of oil and gas operations resulting from lease Sale #42 that affect biological resources on Georges Bank and their habitats. The BTF is composed of designated representatives of the Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Geological Survey, NOAA, and the Environmental Protection Agency. Representatives of the affected coastal States may participate in activities of the BTF, but will not be formal members. It is intended that this BTF will remain in existence throughout the operating life of the field. The Supervisor will consult with the BTF in identifying areas or resources of biological importance, on the conduct of the biological surveys or studies, including periodic sampling of environmental conditions by lessees, and on the appropriate course of action after the surveys have been conducted.

In applying safety, environmental, and conservation laws and regulations the Supervisor, in accordance with Sec. 21(b) of the OCS Lands Act, as amended, will require the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies. To the extent practical, the Supervisor will consult with the relevant Federal agencies and the affected State(s) in the execution of these responsibilities.

Bidders are advised that the Secretary of the Interior has directed that a development phase Environmental Impact Statement (EIS) be prepared

for the North Atlantic lease sale area. The content of this EIS will be in accordance with the rules and regulations promulgated by the Department.

If significant biological populations or habitats are identified by the lessee subsequent to commencement of operations, the Supervisor will provide written instructions to the lessee within 15 working days with regard to the biological populations or habitats identified.

Each lessee shall, soon after the award of the lease, submit to the Supervisor the name(s) of individual(s) who will be responsible for preparing an exploration plan. The Supervisor shall provide these names to the affected States.

It will be required that in the immediate vicinity of drilling operations an open sea skimming unit equivalent to Clean Atlantic Associate Fast Response Unit Model II and 1000 feet of open sea oil containment boom be maintained. In addition, a suitable deployment vessel and personnel trained in deployment and use of this equipment should be immediately available. As part of the approval of development and production plans, suitable pollution prevention equipment will be required in the immediate vicinity of development and production operations.

Bidders are advised that the Intergovernmental Planning Program for OCS Oil and Gas Leasing, Transportation and Related Facilities (IPP) is being implemented nationwide. The post-sale procedures of the IPP will be applicable to lease sale 42. The North Atlantic Regional Technical Working Group Committee of the OCS Advisory Board has been established as the organizational component of the IPP for the North Atlantic.

16. *OCS Orders.* Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Outer Continental Shelf Atlantic Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

Dated: November 13, 1979.

Ed Hastey,
Associate Director, Bureau of Land
Management.

Approved:
Cecil D. Andrus,
Secretary of the Interior.
[PR Doc. 79-35429 Filed 11-15-79; 8:45 am]
BILLING CODE 4310-84-M

V
4
4
N
0
1
6
7
9
U
M
I

Reader Aids

Federal Register
Vol. 44, No. 223
Friday, November 16, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

- 202-783-3238 Subscription orders (GPO)
- 202-275-3054 Subscription problems (GPO)
- "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
 - 202-523-5022 Washington, D.C.
 - 312-663-0884 Chicago, Ill.
 - 213-688-6694 Los Angeles, Calif.
- 202-523-3187 Scheduling of documents for publication
- 523-5240 Photo copies of documents appearing in the Federal Register
- 523-5237 Corrections
- 523-5215 Public Inspection Desk
- 523-5227 Finding Aids
- 523-5235 Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

- 523-3419
- 523-3517
- 523-5227 Finding Aids

Presidential Documents:

- 523-5233 Executive Orders and Proclamations
- 523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S.
- 5262 Statutes at Large, and Index
- 275-3030 Slip Law Orders (GPO)

Other Publications and Services:

- 523-5239 TTY for the Deaf
- 523-5230 U.S. Government Manual
- 523-3408 Automation
- 523-4534 Special Projects
- 523-3517 Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

62879-63076.....	1
63077-63508.....	2
63509-64058.....	5
64059-64396.....	6
64397-64780.....	7
64781-65024.....	8
65025-65378.....	9
65379-65580.....	13
65581-65728.....	14
65729-65958.....	15
65959-66174.....	16

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR	1980.....	64797
485.....	2024.....	65968
3 CFR	Proposed Rules:	
Executive Orders:	Subtitle A.....	65862
12170.....	Ch. I.....	65862
Administrative Orders:	Ch. II.....	65862
Presidential Determinations:	Ch. III.....	65862
No. 80-1 of	Ch. IV.....	65862
October 15, 1979.....	Ch. V.....	65862
No. 80-2 of	Ch. VI.....	65862
October 23, 1979.....	Ch. VII.....	65862
No. 80-3 of	Ch. IX.....	65862
October 23, 1979.....	Ch. X.....	65862
Proclamations:	Ch. XI.....	65862
3279 (Amended by	Ch. XII.....	65862
Proc. 4702).....	Ch. XIV.....	65862
4698.....	Ch. XV.....	65862
4699.....	Ch. XVI.....	65862
4700.....	Ch. XVII.....	65862
4701.....	Ch. XVIII.....	65862
4702.....	Ch. XIX.....	65862
5 CFR	Ch. XX.....	65862
177.....	Ch. XXI.....	65862
213.....	Ch. XXIV.....	65862
63079, 64064-64067,	Ch. XXV.....	65862
65025-65031, 65959-65961	Ch. XXVI.....	65862
293.....	Ch. XXVII.....	65862
297.....	Ch. XXVIII.....	65862
315.....	Ch. XXIX.....	65862
351.....	210.....	63107
733.....	235.....	63107
1201.....	271.....	63496, 65077
1206.....	272.....	63496, 65318
1312.....	273.....	63496, 65989
Proposed Rules:	274.....	65318
531.....	276.....	65318
6 CFR	277.....	65318
705.....	278.....	63496
706.....	318.....	65080
7 CFR	910.....	64839
272.....	959.....	65592
273.....	982.....	63547
401.....	989.....	62901
427.....	1001.....	65989
429.....	1002.....	65989
431.....	1004.....	65989
722.....	1006.....	65989
724.....	1007.....	65989
905.....	1011.....	65989
907.....	1012.....	65989
910.....	1013.....	65989
959.....	1030.....	65989
971.....	1032.....	65989
989.....	1033.....	65989
1464.....	1036.....	65989
1701.....	1040.....	65989
1942.....	1044.....	65989
1962.....	1046.....	65989
	1049.....	65594, 65989
	1050.....	65989
	1062.....	65989
	1064.....	65989
	1065.....	65989
	1068.....	65989

1071.....65989
1073.....65989
1075.....65989
1076.....65989
1079.....65989
1094.....65989
1096.....65989
1097.....65989
1098.....65989
1099.....65989
1102.....65989
1104.....65989
1106.....65989
1108.....65989
1120.....65989
1124.....65989
1125.....65989
1126.....65989
1131.....65989
1132.....65989
1133.....64087, 65989
1134.....65989
1135.....65989
1136.....65989
1137.....65989
1138.....65989
1139.....65989
1464.....63107
1924.....65991
3100.....65768

8 CFR

214.....65726, 65727

9 CFR

1.....63488
2.....63488
3.....63488
78.....65969
92.....63082
113.....63083
160.....63488
161.....63488
Proposed Rules:
Ch. I.....65862
Ch. II.....65862
Ch. III.....65862
Ch. VI.....65862
318.....65403
381.....65403

10 CFR

0.....62880
2.....65049
20.....63515
21.....63515
71.....63083
73.....63515, 65969
212.....65722
211.....63515
436.....64776, 65700
450.....63519, 64797
455.....63519, 64797
456.....64602
1023.....64270
Proposed Rules:
Ch. II.....63108, 64094, 65274
Ch. III.....63108, 64094, 65274
Ch. X.....63108, 64094, 65274
51.....65598
221.....63109
470.....64839

Proposed Rules:

Ch. II.....63108, 64094, 65274
Ch. III.....63108, 64094, 65274
Ch. X.....63108, 64094, 65274
51.....65598
221.....63109
470.....64839

11 CFR

107.....63036

114.....63036
9008.....63036
9032.....63756
9033.....63756
9034.....63756
9035.....63756

Proposed Rules:

100.....64773
110.....64773
114.....64773
9033.....63756

12 CFR

4.....65379
5.....65380
27.....63084
28.....65381
225.....64398, 65051, 65731
262.....64398
264b.....64398
265.....64398
720.....65731

Proposed Rules:

211.....62902, 62903
561.....64840
563.....65599

13 CFR

101.....64401

14 CFR

13.....63720
39.....62881, 62882, 63519,
63521, 64797, 65387, 65732,
65733

71.....62883, 62884, 65388,
65391, 65734
75.....62884
91.....62884
95.....65391
97.....62885
311.....65583
322.....65398
325.....65399
385.....64401
398.....65583, 65584
399.....65052

Proposed Rules:

Ch. I.....65104
23.....62906
25.....62906
39.....62907, 63547
61.....65550
71.....62908, 63548, 63549,
64840-64842, 65403, 65768,
65770

73.....65403, 65770
97.....62909
107.....63048, 64843
108.....63048, 64843
121.....63048, 64843, 65550
129.....63048, 64843
135.....62906, 63048, 64843
223.....64429
225.....64429
296.....65599

15 CFR

Proposed Rules:
503.....65940

16 CFR

3.....62887
13.....64803, 65735
460.....64402

Proposed Rules:

13.....63114, 63550, 64432,
64434
433.....65771
451.....65599
454.....62911

17 CFR

1.....65970
140.....65735
145.....65970
147.....65970
200.....64069, 65736
210.....62888, 65738
249.....65739
230.....64070

Proposed Rules:

210.....65774
250.....62912
259.....62912

18 CFR

2.....65055
35.....65740
141.....65741
154.....65740
157.....65055
260.....65741
292.....65744
271.....62889
281.....65585
292.....63114

19 CFR

Proposed Rules:
4.....64434
144.....64434
151.....64434
159.....64434

20 CFR

416.....64402
675.....64290, 64326
684.....64290
688.....64326

Proposed Rules:

Ch. I.....65556
Ch. IV.....65556
Ch. V.....65556
Ch. VI.....65556
Ch. VII.....65556
208.....62912
260.....62912, 63096
614.....65406

21 CFR

73.....65974
510.....65975
520.....63096, 65975, 65976
522.....63097, 65975
540.....65976
558.....65976
1002.....65352
1040.....65352

Proposed Rules:

145.....65080
331.....65992
338.....65992
340.....65992
353.....63270
864.....64095
868.....63292-63426, 65081
880.....65992

22 CFR

506.....63098

Proposed Rules:

51.....65600

23 CFR

658.....63680

Proposed Rules:

659.....63682

24 CFR

201.....64072
203.....64073
205.....64073, 64403
207.....64073, 65580
213.....64073
220.....64073
221.....64073
232.....64073
234.....64073
235.....64073
236.....64073
241.....64073
242.....64073
244.....64073
250.....64073
257.....65950
805.....64204
841.....64405
868.....64196
880.....65060
882.....65061, 65360
888.....65924

Proposed Rules:

115.....65775
203.....65776
204.....65776
208.....65081
402.....65992
571.....65776
883.....65776
886.....64095

25 CFR

31g.....65008
256.....65747
700.....65750

26 CFR

1.....64405, 65061
5.....63522

Proposed Rules:

1.....65777
31.....65777, 65995

29 CFR

Proposed Rules:
Subtitle A.....65556
Ch. II.....65566
Ch. IV.....65566
Ch. V.....65566
Ch. XVII.....65566
Ch. XXV.....65566
1440.....65407
1601.....65082
1904.....65082
1910.....64095

30 CFR

Proposed Rules:
Ch. I.....65566
Ch. VII.....65601
870.....63737, 65407
871.....63737, 65407

872.....63737, 65407

873.....63737, 65407

874.....63737, 65407

875.....63737, 65407

876.....63737, 65407

877.....63737, 65407

878.....63737, 65407

879.....63737, 65407

880.....63737, 65407

881.....63737, 65407

882.....63737, 65407

883.....63737, 65407

884.....63737, 65407

885.....63737, 65407

886.....63737, 65407

887.....63737, 65407

888.....63737, 65407

31 CFR

535.....65956, 65988

32 CFR

625.....63099

881.....64075

2600.....64077

Proposed Rules:

169.....65601
169a.....65601
169b.....65601
1900.....65780

33 CFR

117.....65750

124.....63672

126.....63672

160.....62891

161.....63672

164.....63672

183.....63523

206.....65977

Proposed Rules:

82.....64843

36 CFR

Ch. VI.....64406

51.....62893

60.....64405

219.....65587

222.....64406

1202.....64407, 65066

Proposed Rules:

Ch. II.....65862

37 CFR

Proposed Rules:
202.....62913

38 CFR

Proposed Rules:
8.....65995
21.....65083, 65996
36.....65997

39 CFR

10.....65986

775.....63524

952.....65399

40 CFR

6.....64174

51.....65066, 65069

52.....63102, 65066

53.....65066

58.....65066, 65069

60.....65066

61.....65399

65.....63102

80.....62897

81.....63102, 64078, 65751,
65986

87.....64266

116.....65400

117.....65401

162.....63749

227.....65751

409.....64078

418.....64080

424.....64082

434.....64082

Proposed Rules:
Ch. I.....63552, 65601, 65612
51.....65084
52.....63114, 64439, 65084,
65408, 65613, 65614, 65781,
65790, 65791

60.....62914

65.....65410, 65411, 65615

81.....65791

85.....62915

230.....63552

713.....64844

257.....65615

41 CFR

14-1.....63529

14-7.....63529

15-7.....65587

105-54.....65071

105-62.....64805

Proposed Rules:

Ch. 4.....65862

3-1.....63115

3-7.....63115

101-39.....65411

42 CFR

50.....65072

43 CFR

3100.....64085

Proposed Rules:

34.....64095

44 CFR

55.....64082

64.....63529, 64808, 65752

65.....63530

67.....63531-63534, 64421,
65074

205.....64809

Proposed Rules:

67.....63117-63120, 63553-
63557, 64096, 64444, 64451,
64460, 64466, 64472, 65093-
65104

205.....63058

45 CFR**Proposed Rules:**

Ch. X.....65412

405.....63120

1152.....63120

1210.....65999

1211.....66003

1501.....64097

1067.....64815

1069.....64836

46 CFR

401.....64836

402.....64836

502.....62898

Proposed Rules:

1.....64844

61.....62915

254.....65616

512.....65417

514.....65417

47 CFR

21.....63105

22.....63105

25.....65753

31.....65761

73.....64408, 65763

74.....65763

83.....64409

87.....64409

Proposed Rules:

31.....64440

33.....64440

42.....64440

43.....64440

64.....63558

73.....62917, 64441

90.....64442

97.....64442

49 CFR

7.....65765

571.....65766

601.....65765

10

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 14, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- FEDERAL COMMUNICATIONS COMMISSION
- 60532 10-19-79 / Domestic public fixed radio services and public mobile radio services; recodification of regulations
- 58912 10-12-79 / Florence, Ky; TV frequency allocation
- 58723 10-11-79 / FM broadcast service in Fordyce, Ark.; table assignment
- 58724 10-11-79 / FM broadcast service in Haynesville, La.; frequency allocation
- 58735 10-11-79 / Stations on shipboard in the maritime services; provision of specifications of portable radio equipment for use in totally enclosed boats
- FEDERAL HOME LOAN BANK BOARD
- 59895 10-17-79 / Real property transactions with affiliated persons

List of Public Laws

Last Listing November 14, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 4955 / Pub. L. 96-110 To authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia. (Nov. 13, 1979; 93 Stat. 843) Price \$.75.

CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1979)

Quantity	Volume	Price	Amount
_____	Title 29—Labor (Part 1920 to End)	\$7.50	\$_____
_____	Title 32—National Defense (Parts 40 to 399)	8.50	_____
_____	Title 32—National Defense (Parts 700 to 799)	7.50	_____
_____	Title 33—Navigation and Navigable Waters (Parts 1 to 199)	8.50	_____
_____	Title 33—Navigation and Navigable Waters (Part 200 to End)	7.00	_____
_____	Title 38—Pensions, Bonuses, and Veterans Relief	9.00	_____
Total Order			\$_____

[A Cumulative checklist of CFR issuances for 1979 appears in the first issue of the Federal Register each month, under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

PLEASE DO NOT DETACH

MAIL ORDER FORM To:

Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Enclosed find \$_____ (check or money order) or charge to my Deposit Account No. _____

Please send me _____ copies of:

PLEASE FILL IN MAILING LABEL
BELOW

Name _____
Street address _____
City and State _____ ZIP Code _____

FOR USE OF SUPT. DOCS.

Enclosed _____
To be mailed _____
later _____
Subscription _____
Refund _____
Postage _____
Foreign Handling _____

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW, INCLUDING YOUR ZIP CODE

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE
375
SPECIAL FOURTH-CLASS RATE
BOOK

Name _____
Street address _____
City and State _____ ZIP Code _____

V
4
4
N
O
1
6
7
9
U M I

Federal Register

Monday
November 19, 1979

Highlights

Briefings on How to Use the Federal Register—For details on briefings in Washington, D.C. and Dallas, Texas, see announcement in the Reader Aids Section at the end of this issue.

66175 Refugee Assistance for Kampuchea Presidential determination

66253 - Bilingual Education HEW/OE invites grant applications for its Fellowship Program, Elementary and Secondary Program, Training Program and the Desegregation Assistance Program; varied application receipt dates (4 documents)

66466 Labeling and Advertising FTC issues a rule for using energy costs and consumption information for consumer appliances; effective dates vary (Part IV of this issue)

66324 Certain General Aviation Airplanes DOT/FAA proposes regulations to upgrade the level of safety; comments by 2-19-80 (Part II of this issue)

66534 Noninflationary Pay and Price Behavior CWPS adopts new reporting forms; effective 11-19-79 (Part VI of this issue)

66534 Anti-Inflationary Pay Standard CWPS publishes questions and answers of general applicability; effective 11-13-79 (Part VI of this issue)

CONTINUED INSIDE



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202-523-5240

Highlights

- 66194 Mobile Home Construction** HUD/NVACP sets forth safety standards to eliminate unnecessary weld slag removal requirements which increase cost and to reduce the potential for fire hazards near heat-producing appliances; effective 12-19-79
- 66183 Mandatory Petroleum Allocation** DOE/ERA issues a final rule to include additional petroleum substitutes in the Entitlements Program; effective 6-1-79
- 66208 Natural Gas Policy** DOE/FERC proposes to establish procedures by which requirements of a bona fide offer and right of first refusal shall be satisfied; comments by 12-19-79; hearing on 12-14-79
- 66179 Cultural Environment** USDA/Office of Environmental Quality sets forth policy and procedural direction for enhancement and protection; effective 11-19-79
- 66500 Inert Gas System** DOT/CG requires certain tankships and product tankships to be fitted; effective 1-1-80 (Part V of this issue)
- 66502, 66528 Vessels** DOT/CG adopts rules to reduce the probability of collisions through preventative measures (2 documents) (Part V of this issue)
- 66239 Energy Information** DOE/EIA issues statement concerning reduction of reporting burden to industry and individuals
- 66186 Crude Oil Pricing** DOE/ERA adopts an amendment to its rules in order to implement the President's decision to remove price controls from domestic crude oil; effective 1-1-80
- 66205 Interlocking Positions** DOE/FERC proposes reporting requirements
- 66193 Federal-Aid Highway Programs** DOT/FHWA seeks to implement certain provisions of the Clean Air Act; effective 11-19-79; comments by 1-18-80
- 66279 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 66324 Part II, DOT/FAA**
66356 Part III, Commerce/NOAA
66466 Part IV, FTC
66500 Part V, DOT/CG
66534 Part VI, CWPS
66558 Part VII, EPA

Contents

Federal Register
 Vol. 44, No. 224
 Monday, November 19, 1979

- The President**
ADMINISTRATIVE ORDERS
66175 Kampuchea, refugee assistance (Presidential Determination No. 80-4 of October 24, 1979)
- Executive Agencies**
Aging, Federal Council
NOTICES
66247 Meetings
- Agricultural Marketing Service**
RULES
66178 Lettuce grown in Tex.
- Agriculture Department**
See also Agricultural Marketing Service; Environmental Quality Office, Agriculture Department; Federal Crop Insurance Corporation; Federal Grain Inspection Service.
RULES
 Authority delegations by Secretary and General Officers:
66177 Natural Resources and Environment, Assistant Secretary et al.; protection of environmental policies and natural resources
- Army Department**
See also Engineers Corps.
NOTICES
 Meetings:
66235 Army Science Board (2 documents)
- Arts and Humanities, National Foundation**
NOTICES
 Meetings:
66266 Special Projects Panel
- Civil Aeronautics Board**
NOTICES
66223 Certificates of public convenience and necessity and foreign air carrier permits
 Hearings, etc.:
66224 Former large irregular air service investigation
66224 Intra-Alaska service investigation
- Civil Rights Commission**
NOTICES
 Meetings, State advisory committees:
66226 Wisconsin
- Coast Guard**
RULES
 Drawbridge operations:
66195 Florida
 Navigation safety regulations:
66528 Steering gear standards for tank vessel
 Pollution:
66502 Tank vessels carrying oil in bulk; ballast tanks and washing systems standards
 Tank vessels:
66500 Inert gas and deck foam systems
- PROPOSED RULES**
66218 Vessel inspections:
 Tailshaft requirements and examination procedures; correction
- Commerce Department**
See also Foreign-Trade Zones Board; Maritime Administration; National Oceanic and Atmospheric Administration.
NOTICES
 Organization and functions:
66229 Export Development Bureau
66229, 66232 Industry and Trade, Assistant Secretary (3 documents)
66229, 66230 Minority Business Development Agency (2 documents)
- Defense Department**
See Army Department; Engineers Corps.
- Economic Regulatory Administration**
RULES
 Petroleum allocation and price regulations:
66186 Crude oil, upper tier; phased deregulation
66183 Petroleum substitutes; solid municipal waste and derivatives, shale oil used for nonrefining purposes, and methane from municipal sewage and landfill; inclusion in entitlements program
NOTICES
 Consent orders:
66239 Capitol Hill Exxon et al.
 Powerplant and industrial fuel use; prohibition orders:
66235 Public Service Co. of New Hampshire
66237 Savannah Electric & Power Co.
 Remedial orders:
66239 Wallies Penzoil
- Education Office**
NOTICES
 Grant applications and proposals, closing dates:
66253-66255 Bilingual education programs (4 documents)
 Meetings:
66252 Adult Education National Advisory Council
 Vocational Education National Advisory Council
- Energy Department**
See Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
- Energy Information Administration**
NOTICES
66239 Energy information reporting burden reduction; statement
- Engineers Corps**
PROPOSED RULES
 Danger zones:
66213 Small arms range, Great Lakes, Illinois

- Environmental Protection Agency**
RULES
 Waste management, solid:
 66196 State plans; development and implementation; correction
PROPOSED RULES
 Air quality implementation plans; approval and promulgation; various States, etc.:
 66214 Michigan
 Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
 66217 Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate
 66216 Thiabendazole
NOTICES
 Environmental statements; availability, etc.:
 66242 Agency statements, weekly receipts
 66246 Fayetteville wastewater treatment facility, Ark.
 Pesticide registration, cancellation, etc.:
 66558 Dimethoate
- Environmental Quality Office, Agriculture Department**
RULES
 66179 National Environmental Policy Act; implementation
- Federal Aviation Administration**
RULES
 Airworthiness directives:
 66188 Boeing
 66189 Gates Learjet
 66190 Standard instrument approach procedures
 66190 Transition areas
PROPOSED RULES
 Air carriers certification and operation:
 66324 Large general aviation airplanes, safety requirements; replacement of commercial operator and air travel club regulations
 66204, 66205 Transition areas (2 documents)
- Equal Employment Opportunity Commission**
NOTICES
 66279 Meetings; Sunshine Act
- Federal Crop Insurance Corporation**
RULES
 Crop insurance; various commodities:
 66178 Soybeans; correction
- Federal Energy Regulatory Commission**
RULES
 Natural Gas Policy Act of 1978:
 66192 Deregulated high-cost natural gas; definitions for gas produced from geopressured brine, coal seams, and Devonian shale; interim rule; hearing
PROPOSED RULES
 Natural Gas Policy Act of 1978:
 66208 Bona fide offers and right of first refusal
 Public Utility Regulatory Policies Act:
 66205 Interlocking positions, reporting requirements
- Federal Grain Inspection Service**
NOTICES
 Grain standards; inspection points:
 66220 Connecticut et al.
 66221 Illinois
 66220 Iowa

- 66221 Kansas
 66223 Kentucky
- Federal Highway Administration**
RULES
 Right-of-ways and environment:
 66193 Federal-aid highway programs; air quality guidelines; interim rule and inquiry
PROPOSED RULES
 Right-of-way and environment:
 66213 National Environmental Policy Act; implementation; correction
NOTICES
 66272 Indian reservation roads and bridges construction; memorandum of agreement with BIA
- Federal Home Loan Bank Board**
NOTICES
 66279 Meetings; Sunshine Act (3 documents)
- Federal Maritime Commission**
NOTICES
 66247 Agreements filed, etc.
- Federal Reserve System**
NOTICES
 Applications, etc.:
 66248 Cary/Grove Bancorp., Inc.
 66248 Central Bancorporation, Inc.
 66249 Central Colorado Co. and C.C.B., Inc.
 66249 Citibank Interamerica
 66249 Crested Butte Bankshares, Inc.
 66249 Delano State Agency, Inc.
 66250 Financial Services Corporation of the Midwest
 66250 First Howard Bankshares, Inc.
 66250 General Bancorporation, Inc.
 66250 Hoffman Bancorp., Inc.
 66250 Hoffman Bancshares, Inc.
 66251 New England Merchants Bank International
 66247 Old Stone Corp.
 66251 Planters Bancshares, Inc.
 66251 Security Bancorps, Inc. (2 documents)
- Federal Trade Commission**
RULES
 66466 Appliances, consumer; energy cost and consumption information in labeling and advertising
- Foreign-Trade Zones Board**
NOTICES
 Applications, etc.:
 66226 Bangor, Me.
 66226 Burlington, Vt.
- General Services Administration**
NOTICES
 Public utilities; hearings, etc.:
 66251 Ohio Public Utility Commission; correction
- Health, Education, and Welfare Department**
 See Education Office.
- Hearings and Appeals Office, Energy Department**
NOTICES
 Applications for exception:
 66241 Decisions and orders

- Housing and Urban Development Department**
 See Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary.
- 66264 Federal consistency requirements:
 Lowell National Historical Park, Mass.
- Indian Affairs Bureau**
NOTICES
 66256 Indian reservation roads and bridges construction; memorandum of agreement with Federal Highway Administration.
- Interior Department**
 See Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Office.
- Interstate Commerce Commission**
NOTICES
 66276 Hearing assignments
 Railroad car service orders; various companies:
 66277 Kansas City Terminal Railway Co.
- Land Management Bureau**
RULES
 Public land orders:
 66196 New Mexico
NOTICES
 Coal leases:
 66256 Utah
 Environmental statements; availability, etc.:
 66257 Uinta-Southwestern Utah Coal Production Region, Utah; meetings
 Motor vehicles, off-road, etc.; area closures:
 66258 Oregon; correction
- Management and Budget Office**
NOTICES
 66267 Agency forms under review
- Maritime Administration**
NOTICES
 Applications, etc.:
 66228 Ogden Leader Transport, Inc., et al.
- Materials Transportation Bureau**
 See Research and Special Programs Administration, Transportation Department.
- National Oceanic and Atmospheric Administration**
PROPOSED RULES
 Fishery conservation and management:
 66356 Bering Sea and Aleutian Islands groundfish
NOTICES
 Meetings:
 66228 Mid-Atlantic Fishery Management Council
- National Park Service**
NOTICES
 Boundary establishment, descriptions, etc.:
 66259 Adams National Historic Site, Mass.
 66258 Cumberland Island National Seashore, Ga.
 66262 Dorchester Heights, Mass.
 66259 Fort Caroline National Memorial, Fla.
 66259 Gulf Islands National Seashore, Miss.-Fla.
 66259 Lowell National Historical Park, Mass.
 Committees; establishment, renewals, terminations, etc.:
 66259 San Antonio Missions Advisory Commission
- 66267 National Transportation Safety Board
NOTICES
 Organization and functions:
 Los Angeles Field Office, Calif.; relocation
- Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary**
RULES
 66194 Mobile home construction and safety standards; frame construction and prevention of storage near heat-producing appliances
- Nuclear Regulatory Commission**
NOTICES
 Applications, etc.:
 66266 Florida Power Corp., et al.
 66266 Sacramento Municipal Utility District
 Meetings:
 66266 Reactor Safeguards Advisory Committee
 66279 Meetings; Sunshine Act
- Occupational Safety and Health Review Commission**
NOTICES
 66280 Meetings; Sunshine Act
- Research and Special Programs Administration, Transportation Department**
RULES
 Hazardous materials:
 66197 Explosives Bureau; authority delegations withdrawn
PROPOSED RULES
 Hazardous materials:
 66219 Shipment; descriptions for emergency response; correction
- Small Business Administration**
NOTICES
 Disaster areas:
 66270 Kansas (2 documents)
 66270 New Hampshire (2 documents)
 66270, 66271 New York (2 documents)
 66271 Ohio (2 documents)
 66271 Pennsylvania (2 documents)
 66269 - 66272 Puerto Rico (5 documents)
 66272 Wisconsin (4 documents)
- Surface Mining Office**
RULES
 Surface coal mining and reclamation operations:
 66195 Permanent regulatory program; correction
- Textile Agreements Implementation Committee**
NOTICES
 Cotton textiles:
 66234 Pakistan
 Cotton and man-made textiles:
 66233 Macau
 Wool and man-made textiles:
 66232 Macau

Transportation Department

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Research and Special Programs Administration, Transportation Department; Urban Mass Transportation Administration.

Treasury Department**NOTICES**

Boycotts, international:

- 66272 Tax Reform Act of 1976; denial of certain tax benefits for participation or cooperation

Notes, Treasury:

- 66274 Z-1981 series

Urban Mass Transportation Administration**PROPOSED RULES**

- 66213 National Environmental Policy Act; implementation; correction

Wage and Price Stability Council**RULES**

Procedural rules:

- 66534 Quarterly reporting form; Form PM-1; adoption of addendum and alternative form PM-1-A

Wage and price guidance; anti-inflation program:

- 66534 Questions and answers

NOTICES

Meetings:

- 66235 Pay Advisory Committee

MEETINGS ANNOUNCED IN THIS ISSUE**ARTS AND HUMANITIES, NATIONAL FOUNDATION**

- 66266 Special Projects Panel (Folk Arts Section), 12-6 through 12-8-79

CIVIL RIGHTS COMMISSION

- 66226 Wisconsin Advisory Committee, 12-11-79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

- 66228 Mid-Atlantic Fishery Management Council, 12-12 through 12-14-79

COUNCIL ON WAGE AND PRICE STABILITY

- 66235 Pay Advisory Committee, 11-28 and 12-7-79

DEFENSE DEPARTMENT

Army Department—

- 66235 Army Science Board, 12-11 through 12-13-79 and 12-18 and 12-19-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Federal Council on the Aging, 12-10 through 12-12-79

Office of Education—

- 66252 National Advisory Council on Adult Education, 12-6 through 12-8-79

- 66252 National Advisory Council on Vocational Education, 12-1 and 12-3-79

INTERIOR DEPARTMENT

Bureau of Land Management—

- 66257 Uinta-Southwestern Utah Coal Production Region, 12-3 through 12-6-79

NUCLEAR REGULATORY COMMISSION

- 66266 Advisory Committee on Reactor Safeguards Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident Implications Re Nuclear Power Plant Design, 12-4-79

HEARINGS**ENERGY DEPARTMENT**

Federal Energy Regulatory Commission—

- 66192 Interim Rules Involving High-Cost Natural Gas, 12-4-79

- 66208 Natural Gas Sales, 12-14-79

INTERIOR DEPARTMENT

Bureau of Land Management—

- 66256 Uinta-Southwestern Utah Coal Region, 12-3 through 12-6-79

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:

Presidential Determination:

No. 80-4 of October

24, 1979.....66175

6 CFR

705 (2 documents).....66534

706.....66534

707.....66534

7 CFR

2.....66177

431.....66178

971.....66178

3100.....66179

10 CFR

211.....66183

212.....66186

14 CFR

39 (2 documents).....66188,

66189

71.....66190

97.....66190

Proposed Rules:

43.....66324

65.....66324

71 (2 documents).....66204,

66205

91.....66324

121.....66324

123.....66324

125.....66324

135.....66324

145.....66324

16 CFR

305.....66466

18 CFR

272.....66192

Proposed Rules:

46.....66205

277.....66208

23 CFR

770.....66193

Proposed Rules:

771.....66213

24 CFR

3280.....66194

30 CFR

788.....66195

33 CFR

117.....66195

157.....66502

164.....66528

Proposed Rules:

204.....66213

40 CFR

256.....66196

Proposed Rules:

52.....66214

180 (2 documents).....66216,

66217

43 CFR

Public Land Orders:

4520 [Revoked by

PLO 5685].....66196

5685.....66196

46 CFR

30.....66500

32.....66500

34.....66500

V
4
4

N
O

1
9

7
9
U M I

Federal Register
Vol. 44, No. 224
Monday, November 19, 1979

Presidential Documents

Title 3—
The President

Presidential Determination No. 80-4 of October 24, 1979

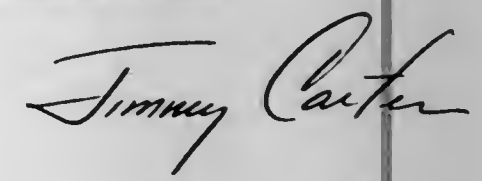
Determination pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, ("the Act") authorizing the use of \$3 million of the funds made available from the United States Emergency Refugee and Migration Assistance Fund

Memorandum for the Secretary of State

In order to strengthen our contribution to the Joint Appeal of the United Nations Children's Fund and the International Committee of the Red Cross for the establishment of a Relief Program within Kampuchea, I hereby determine because of widespread famine and disease resulting from wholesale dislocation and other causes that the general population within Kampuchea constitutes a class of refugees eligible for assistance under the Act. Therefore, I determine that it is important to the national interest that up to \$3 million from the United States Emergency Refugee and Migration Assistance Fund be made available through the Department of State for transfer to the United Nations Children's Fund and the International Committee of the Red Cross for these purposes. —

The Secretary of State is requested to inform the appropriate Committees of Congress of the Determination and the obligation of funds under this authority.

This Determination shall be published in the Federal Register.



THE WHITE HOUSE,
Washington, October 24, 1979.

[FR Doc. 79-35706
Filed 11-15-79; 3:31 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 44, No. 224

Monday, November 19, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: The delegations of authority of the Department of Agriculture are amended to specifically delegate to the Assistant Secretary for Natural Resources and Environment, responsibilities relating to environmental quality, and to make delegations of authority to a new Office of Environmental Quality which will plan and monitor departmental policies and programs related to the protection of environmental policies and natural resources.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Barry R. Flamm, Director, Office of Environmental Quality, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3965.

SUPPLEMENTARY INFORMATION:

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget and the Director, Office of Governmental and Public Affairs

1. Section 2.19 is revised by adding a new paragraph (b) to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Natural Resources and Environment.

* * * * *

(b) *Related to environmental quality.*

(1) Administer the implementation of the National Environmental Policy Act for the Department of Agriculture.

(2) Administer the implementation of the National Historic Preservation Act of 1966, E.O. 11593, and regulations of the Advisory Council on Historic Preservation, 36 CFR Part 800, for the Department of Agriculture with authority to name the Secretary's designee to the Advisory Council on Historic Preservation.

(3) Coordinate Departmental policies under the Toxic Substances Control Act.

(4) Provide representation for the Department on the Natural Response Team on hazardous spills pursuant to Pub. L. 92-500 and Section 4 of E.O. 11735.

(5) Represent the Department in contacts with the U. S. Environmental Protection Agency, the Council on Environmental Quality and other organizations or agencies on matters related to assigned responsibilities.

(6) Coordinate USDA policy relative to the Federal Insecticide, Fungicide, and Rodenticide Act and coordinate the Department's integrated pest management program and the pesticide assessment program.

(7) Formulate and promulgate Departmental policy relating to environmental activities and natural resources.

(8) Provide staff support for the Secretary in the review of environmental impact statements.

(9) Provide leadership in the Department for general land use activities including implementation of Executive Orders 11988, Flood Plain Management, and 11990, Protection of Wetlands.

* * * * *

Subpart G—Delegations of Authority by the Assistant Secretary for Natural Resources and Environment.

2. A new § 2.58 is added to read as follows:

§ 2.58 Director, Office of Environmental Quality.

(a) Pursuant to § 2.19(b), the following delegations of authority are made by the Assistant Secretary for Natural Resources and Environment to the Director, Office of Environmental Quality:

(1) Monitor and coordinate the implementation of the National Environmental Policy Act by Agencies of the Department of Agriculture.

(2) Monitor and coordinate the implementation of the National Historic Preservation Act of 1966, E.O. 11593, and regulations of the Advisory Council on Historic Preservation, 36 CFR Part 800, by Agencies of the Department of Agriculture and serve as the Secretary's designee to the Advisory Council on Historic Preservation.

(3) Coordinate Departmental policies under the Toxic Substances Control Act.

(4) Represent the Department on the National Response Team on hazardous spills pursuant to Pub. L. 92-500 and Section 4 of E.O. 11735.

(5) Represent the Department in contacts with the U.S. Environmental Protection Agency, the Council on Environmental Quality and other organizations or agencies on matters related to assigned responsibilities.

(6) Coordinate USDA policy relative to the Federal Insecticide, Fungicide, and Rodenticide Act; administer the Department's pesticide assessment program; and monitor and coordinate the Department's integrated pest management program.

(7) Identify needs for Department-wide environmental policies; coordinate response to policy initiatives from other Departments and Agencies; and initiate and coordinate USDA policy for the President's Environmental Message.

(8) Provide staff support for the Secretary in the review of environmental impact statements.

(9) Monitor actions and progress of the Department in complying with Executive Orders 11988 and 11990 regarding management of floodplains and protection of wetlands; monitor Agency efforts on protection of important agricultural, forest and rangelands; and provide staff assistance to the USDA Land Use Committee.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

For Subpart C:

Dated: November 14, 1979.

Jim Williams,
Acting Secretary of Agriculture.

For Subpart G:

Dated: November 14, 1979.

M. Rupert Cutler,
Assistant Secretary for Natural Resources
and Environment.

[FR Doc. 79-35820 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-01-M

Federal Crop Insurance Corporation

7 CFR Part 431

Soybean Crop Insurance Regulations; Corrections

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; corrections.

SUMMARY: The final rulemaking published in the Federal Register on Thursday, November 1, 1979 (44 FR 64786-64794), on the Soybean Crop Insurance Regulations, contained several typographical errors. This notice is being published to correct those errors.

EFFECTIVE DATE: November 19, 1979.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

The corrections are as follows:

PART 431—SOYBEAN CROP INSURANCE

1. The last sentence of § 431.1, found in the center column on page 64787 (44 FR 64787), is corrected to read as follows:

§ 431.1 Availability of soybean insurance.

* * * Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which soybean insurance will be offered.

2. Section 431.5(b)(1), found in the right column on page 64787 (44 FR 64787), is hereby corrected to read as follows:

§ 431.5 Good faith reliance on misrepresentation.

(b) * * *
(1) That an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice.

3. Section 5(d) of the Soybean Crop Insurance Policy, found in the left column on page 64791 (44 FR 64791), is hereby corrected in the last sentence thereof to read as follows:

(d) * * * If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

4. Section 3(b) of the Appendix (Additional Terms and Conditions), found in the center column on page 64792 (44 FR 64792), is hereby corrected in the last sentence thereof to read as follows:

(b) * * * The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

5. In Appendix "B", listing counties designated for soybean crop insurance, the word "Nansemond", found under the subheading "Virginia" in the right column on page 64794 (44 FR 64794), is hereby deleted and the word "Suffolk" is substituted therefor.

6. The reporting requirement footnote, found in the right column on page 64794 (44 FR 64794), at the end of the document, is corrected to read as follows:

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942, and OMB Circular A-40.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

Issued in Washington, D.C., on November 13, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: November 13, 1979.

Approved by:

George F. Vohs,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 79-35868 Filed 11-16-79; 8:45 am]
BILLING CODE 3410-06-M

Agricultural Marketing Service

7 CFR Part 971

Lettuce Grown in Lower Rio Grande Valley in South Texas; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the South Texas Lettuce Committee. It will

enable the committee to collect assessments from first handlers of lettuce grown in the Lower Rio Grande Valley in South Texas and to use the resulting funds for its expenses.

EFFECTIVE DATE: During fiscal period ending July 31, 1980.

FOR FURTHER INFORMATION CONTACT: Peter G. Chapogas (202) 447-5432.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to Marketing Order No. 971 (7 CFR Part 971), regulating the handling of lettuce grown in Cameron, Hidalgo, Starr and Willacy Counties in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date until 30 days after publication (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable lettuce handled from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee on November 1, 1979, at McAllen. No objections were offered. To effectuate the declared purposes of the act, it is necessary to make these provisions effective as specified.

The budget and rate of assessment has not been determined significant under USDA criteria for implementing Executive Order 12044.

7 CFR Part 971 is hereby amended to add a new § 971.219 as follows:

§ 971.219 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1980, by the South Texas Lettuce Committee for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate amount to \$35,000.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be two and one-half cents (\$0.025) per carton of assessable lettuce

handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 971.43(a)(2).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: November 9, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[FR Doc. 79-35867 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-02-M

Office of Environmental Quality

7 CFR Part 3100

Enhancement, Protection, and Management of the Cultural Environment; Final Rulemaking

AGENCY: Office of Environmental Quality, United States Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The Office of Environmental Quality (OEQ), Office of the Secretary, U.S. Department of Agriculture, is publishing these regulations to set forth general policy and procedural direction pertaining to the management, enhancement and protection of the cultural environment, and to implement the regulations of the Advisory Council on Historic Preservation (ACHP) which prescribe procedures for compliance with Section 106 of the National Historic Preservation Act (NHPA). This Department adopts the regulations of the ACHP and sets forth in the following regulations general directives to assist USDA agencies in fulfilling their responsibilities under NHPA, Executive Order 11593, and the ACHP regulations.

DATE: Effective November 19, 1979.
ADDRESS: A copy of these final rules may be obtained from: Barry R. Flamm, Director, Office of Environmental Quality, USDA, Washington, D.C. 20250 (202-447-3965).

FOR FURTHER INFORMATION CONTACT: Dr. Janet Friedman, Cultural Resource Management Specialist Coordinator, Box 2417, Room 4236 South Building, USDA Forest Service, Washington, D.C. 20013 (202-447-2309).

Introduction

The cultural environment of our nation includes historic and prehistoric sites and properties which comprise a nonrenewable resource relating to past

human life. Although the people of this nation have long shown an interest in the protection of their heritage, that interest has increased dramatically in recent years. Public awareness of the irreversible loss of important historic and prehistoric resources, concern for all environmental values, growing interest in our past as reflected in the bicentennial celebration and "roots" phenomenon, economic and energy advantages of adaptive reuse of historic structures, and growing attachment to history and neighborhood have resulted in increasing recognition of the value of the reminders of our historic and prehistoric past. This concern has led to laws, regulations and Executive orders intended to protect our country's cultural environment.

The USDA is concerned with the management of the cultural environment in two principal ways: (1) Identification, protection, preservation, and interpretation of properties on lands administered by the Department (such as experiment stations, administrative sites and 188 million acres of National Forest land); (2) Identification, evaluation, and protection of properties on lands which may be affected by such USDA activities as watershed improvement, electrification projects, and developments built through USDA loan and loan guarantee programs.

The Office of Environmental Quality (OEQ), Office of the Secretary, U.S. Department of Agriculture, is publishing these regulations to set forth general policy and procedural direction pertaining to the management, enhancement and protection of the cultural environment, and to implement the regulations of the Advisory Council on Historic Preservation (ACHP) which prescribe procedures for compliance with Section 106 of the National Historic Preservation Act (NHPA). This Department adopts the regulations of the ACHP and sets forth in the following regulations general directives to assist USDA agencies in fulfilling their responsibilities under NHPA, Executive Order 11593, and the ACHP regulations. Each USDA agency whose programs and activities may affect the cultural environment will be responsible for promulgating more specific procedures, consistent with these broad directives, which are tailored to the specific programs and activities of that agency. All agencies shall consult with the OEQ regarding the need for developing specific implementation procedures. In addition to the above, this rule sets forth the role of the OEQ with regard to the ACHP process and procedures. Further, it explains the coordination between the

National Environmental Policy Act (NEPA) and NHPA processes.

This proposal has been reviewed under USDA criteria to implement Executive Order 12044 and has been determined to be significant. An approved Environmental Assessment and Impact Analysis Statement is available from Dr. Janet Friedman at the address provided above.

Richard H. Jenrette, Chairman, Advisory Council on Historic Preservation, approved these Final Rules on November 8, 1979.

Background

This document sets forth Departmental policies and procedures for compliance with the National Historic Preservation Act (NHPA) as amended and Executive Order 11593, and for implementing the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800). It creates Subpart C of 7 CFR, Chapter XXXI, Part 3100 which was published in draft form in the Federal Register on July 9, 1979, as "Enhancement, Protection and Management of Cultural Resources". The subject has been changed from "cultural resources" to "cultural environment" to recognize the broad scope of the program. In the proposed rules, the sections were numbered as §§ 3102.1 through 3102.5, consecutively. These final rules have been renumbered as §§ 3100.40 through 3100.46 as set forth below.

Public Comment

Comment from the public was solicited through a Public Meeting (May 1, 1979), publication of draft regulations in the Federal Register (July 9, 1979), and distribution of 650 copies to individuals and organizations throughout the country. There were twenty-eight public responses, all of which are on file for review in the Office of Environmental Quality.

The response to the regulations was supportive. Most respondents felt that the regulations are a positive step by USDA which provide welcome and essential protection for vital resources.

Table one is a summary of distribution of respondents; Table two is a list of organizations which submitted comment.

Table 1.—Distribution of Public Comment

Federal agency	9
State agency	8
Organization	6
Individual	2
Total	26

Table 2.—List of Organizations Which Submitted Comment

Federal Government

Advisory Council on Historic Preservation (Robert Garvey, Bert Fireman).
Department of the Interior:
Bureau of Land Management (Darrell Lewis).
Bureau of Mines (J. Morgan).
Bureau of Reclamation (Ward Weakley).
Heritage Conservation and Recreation Service (Chris De-la-porte).
General Services Administration (David Dittner).
Smithsonian Institution (Paul Perrot, Michael Collins).

State Government

National Conference of State Historic Preservation Officers (SHPO) (Thomas Merlan).
Arkansas SHPO (Joan Williams Bakridge).
Colorado SHPO (Arthur Townsend).
Florida SHPO (L. Ross Morrell).
Georgia SHPO (Elizabeth Lyon).
Illinois Department of Conservation (Alan Downer).
Louisiana SHPO (Bernard Carrier).
Montana SHPO (Ken Kone).
New Hampshire SHPO (Linda Ray Wilson).

Organizations

American Indian Law Center (Philip S. Deloria).
Arizona State Museum (Ray Thompson).
Federal Timber Purchasers Association (James Craine).
National Association of Conservation Districts (Charles Boothby).
National Trust for Historic Preservation (Douglas Wheeler).
Society for the Protection of New Hampshire Forests (Jan McClure).
University of New Hampshire (Billee Hornbeck).
University of South Carolina (William Marquardt).

Individuals

W. R. Chapline, USFS (Retired), Washington, D.C.
Herbert Snyder, Grand Junction, Colorado.

Summary of public comment and responses follows:

• Comment:

Several respondents reacted positively to the emphasis in the Implementation Section, § 3100.44, on balancing all resources in the decisionmaking process. Others expressed concern that this section provides a loophole through which noncompliant agencies can escape their responsibilities for protection of the cultural environment.

Response:

USDA is indeed committed to the protection of the cultural environment, recognizing that cultural resource protection must be balanced with such other needs as food and fiber production, environmental protection, natural resource and energy conservation, and rural development. The section remains unchanged from the draft.

• Comment:

There are no deadlines by which agencies must have completed their procedures.

Response:

Deadlines were established by the President's Memorandum of July 12, 1978. On Environmental Quality and water Resources Management, and

reiterated in 36 CFR Part 800. Although those deadlines have passed, USDA can hardly establish new and different ones.

• Comment:

Suggested a firmer role for OEQ in coordination of program development by USDA agencies.

Response:

Changed § 3100.45(a) to require consultation with OEQ in the development of agency procedures.

• Comment:

Suggested changing terms "primary" and "secondary" to "direct" and "indirect."

Response:

Change made in § 3100.45 (a)(4) and (e).

• Comment:

The requirement to develop plans to mitigate the adverse effect of a proposed undertaking is too general. It does not discuss how mitigation efforts will be funded, funding levels, and other specifics.

Response:

Some wording changes have been made in § 3100.45(a)(10) to clarify the funding of mitigation. However, the specific level of direction will be developed by each individual agency to enable it to deal with its own programs.

• Comment:

No standards are included which will be used to determine competence of professional staff to guide the management of cultural programs.

Response:

A sentence was added to § 3100.45(b) encouraging agencies to use Department of the Interior standards (36 CFR 61.5) as guidelines in meeting the staffing requirement.

• Comment:

Positive response was received to direction in § 3100.45(b) to hire professionals with expertise in various disciplines.

Response:

Section remains unchanged.

• Comment:

A few respondents objected to direction in § 3100.45(f) which was interpreted as USDA's adding responsibilities to the State Historic Preservation Offices. Preparation of State plans and inventories, and collection of data are seen as requirements on SHPO by USDA. An equal number of comments applauded the direction for close cooperation between USDA and the States.

Response:

The rules were intended not to burden the SHPO with additional

responsibilities and expense, but to accept for USDA a portion of the responsibility already required by legislation and regulation. The rules are intended to foster intergovernmental cooperation and provide protection for the resource in the most efficient manner. Only by working together will it be possible to successfully reach common goals without duplication of effort and expense. The rule does not direct the work of the State, but directs USDA personnel to cooperate with the State.

• Comment:

One respondent noted that the rule concentrates on implementation of ACHP regulations to the exclusion of reference to requirements of Executive Order 11593.

Response:

Requirements to inventory lands and nominate sites have been made more explicit in Direction to Agencies, § 3100.45(a).

• Comment:

Suggested requiring assessment of mineral potential prior to closure of any site for protection of the cultural environment.

Response:

Regulations do not close any area, only require identification and consideration of the resource. Rules stress a balancing of goals and resources.

• Comment:

Suggested reference to American Indian Religious Freedom Act.

Response:

Recognition of Department of Agriculture responsibilities to consider the American Indian Religious Freedom Act was added in several sections, specifically: Authorities (3100.41(1)), Policy (3100.43(d)), Implementation (3100.44(d)), and Direction to Agencies (3100.45(a)(7)).

• Comment:

Three commentors expressed fear that the agencies would not be required to write specific direction, to hire personnel, or to comply with the rule as proposed by USDA.

Response:

Although the rule does not set specific direction for agency programs, it does clearly and strongly require each agency to set its own direction.

Comments on the final rule are invited.

Dated: November 7, 1979.

Jim Williams,

Acting Secretary of Agriculture.

Accordingly, a new Subpart C to Part 3100 of Title 7 CFR will read as follows:

Subpart C—Enhancement, Protection, and Management of the Cultural Environment

Sec.

3100.40 Purpose.
3100.41 Authorities.
3100.42 Definitions.
3100.43 Policy.
3100.44 Implementation.
3100.45 Direction to agencies.
3100.46 Responsibilities of the Department of Agriculture.

Authority: Sec. 106, National Historic Preservation Act, as amended (16 U.S.C. 470f); National Environmental Policy Act, as amended (42 U.S.C. 4321 et seq.); E.O. 11593, 36 FR 8921, May 13, 1971.

Subpart C—Enhancement, Protection and Management of the Cultural Environment

§ 3100.40 Purpose.

(a) This subpart establishes USDA policy regarding the enhancement, protection, and management of the cultural environment.

(b) This subpart establishes procedures for implementing Executive Order 11593, and regulations promulgated by the Advisory Council on Historic Preservation (ACHP) "Protection of Historical and Cultural Properties" in 36 CFR Part 800 as required by Section 800.10 of those regulations.

(c) Direction is provided to the agencies of USDA for protection of the cultural environment.

§ 3100.41 Authorities

These regulations are based upon and implement the following laws, regulations, and Presidential directives:

(a) *Antiquities Act of 1906* (Pub. L. 59-209; 34 Stat. 225; 16 U.S.C. 431 et seq.) which provides for the protection of historic or prehistoric remains or any object of antiquity on Federal lands; establishes criminal sanctions for unauthorized destruction or appropriation of antiquities; and authorizes scientific investigation of antiquities on Federal lands, subject to permit and regulations. Paleontological resources also are considered to fall within the authority of this Act.

(b) *Historic Sites Act of 1935* (Pub. L. 74-292; 49 Stat. 666; 16 U.S.C. 461 et seq.) which authorizes the establishment of National Historic Sites and otherwise authorizes the preservation of properties of national historical or archeological significance; authorizes the designation

of National Historic Landmarks; establishes criminal sanctions for violation of regulations pursuant to the Act; authorizes interagency, intergovernmental, and interdisciplinary efforts for the preservation of cultural resources; and other provisions.

(c) *Reservoir Salvage Act of 1960* (Pub. L. 86-521; 74 Stat. 220; 16 U.S.C. 469-469c.) which provides for the recovery and preservation of historical and archeological data, including relics and specimens, that might be lost or destroyed as a result of the construction of dams, reservoirs, and attendant facilities and activities.

(d) *The National Historic Preservation Act of 1966* as amended (16 U.S.C. 470), which establishes positive national policy for the preservation of the cultural environment, and sets forth a mandate for protection in Section 106. The purpose of Section 106 is to protect properties on or eligible for the National Register of Historic Places through review and comment by the ACHP of Federal undertakings that affect such properties. Properties are listed on the National Register or declared eligible for listing by the Secretary of the Interior. As developed through the ACHP's regulations, Section 106 establishes a public interest process in which the Federal agency proposing an undertaking, the State Historic Preservation Officer, the ACHP, interested organizations and individuals participate. The process is designed to insure that properties, impacts on them, and effects to them are identified, and that alternatives to avoid or mitigate an adverse effect on property eligible for the National Register are adequately considered in the planning process.

(e) *The National Environmental Policy Act of 1969* (NEPA) (Pub. L. 91-190; 83 Stat. 852; 42 U.S.C. 4321 et seq.) which declares that it is the policy of the Federal Government to preserve important historic, cultural, and natural aspects of our national heritage. Compliance with NEPA requires consideration of all environmental concerns during project planning and execution.

(f) *Executive Order 11593, "Protection and Enhancement of the Cultural Environment"*, which gives the Federal Government the responsibility for stewardship of our nation's heritage resources and charges Federal agencies with the task of inventorying historic and prehistoric sites on their lands. E.O. 11593 also charges agencies with the task of identifying and nominating all historic properties under their jurisdiction, and exercising caution to insure that they are not transferred,

sold, demolished, or substantially altered.

(g) *Historical and Archeological Data Preservation Act of 1974* (Pub. L. 93-291; 88 Stat. 174.) which amends the Reservoir Salvage Act of 1960 to extend its provisions beyond the construction of dams to any alteration of the terrain caused as a result of any Federal construction project or Federally licensed activity or program. In addition, the Act provides a mechanism for funding the protection of historical and archeological data.

(h) *Presidential memorandum of July 12, 1978, "Environmental Quality and Water Resource Management"* which directs the ACHP to publish final regulations, implementing Section 106 of the National Historic Preservation Act (NHPA), and further directs each agency with water and related land resources responsibilities to publish procedures implementing those regulations.

(i) *36 CFR Part 800, "Protection of Historic and Cultural Properties"* which establishes procedures for the implementation of Section 106 of the NHPA, and directs publication of agency implementing procedures.

(j) *Land use policy of the USDA (Secretary's Memorandum No. 1827 Revised, with Supplement)* which establishes a commitment by the Department to the preservation of farms, rural communities, and rural landscapes.

(k) *Public Buildings Cooperative Use Act of 1976* (40 U.S.C. 611) and *Executive Order 12072 (Federal Space Management)*. The Act encourages adaptive use of historic buildings as administrative facilities for Federal agencies and activities; the Executive Order directs Federal agencies to locate administrative and other facilities in central business districts.

(l) *American Indian Religious Freedom Act of 1978* (42 U.S.C. 1996) which declares it to be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians.

§ 3100.42 Definitions.

All definitions are those which appear in 36 CFR Part 800. In addition, the following apply in this rule:

Cultural resources (heritage resources) are the remains or records of districts, sites, structures, buildings, networks, neighborhoods, objects, and events from the past. They may be historic, prehistoric, archeological, or architectural in nature. Cultural resources are an irreplaceable and

nonrenewable aspect of our national heritage

Cultural environment is that portion of the environment which includes reminders of the rich historic and prehistoric past of our nation.

§ 3100.43 Policy.

(a) The nonrenewable cultural environment of our country constitutes a valuable and treasured portion of the national heritage of the American people. The Department of Agriculture is committed to the management—identification, protection, preservation, interpretation, evaluation and nomination—of our prehistoric and historic cultural resources for the benefit of all people of this and future generations.

(b) The Department supports the cultural resource goals expressed in Federal legislation. Executive orders, and regulations.

(c) The Department supports the preservation and protection of farms, rural landscapes, and rural communities.

(d) The Department is committed to consideration of the needs of American Indians, Eskimo, Aleut, and Native Hawaiians in the practice of their traditional religions.

(e) The Department will aggressively implement these policies to meet goals for the positive management of the cultural environment.

§ 3100.44 Implementation.

(a) It is the intent of the Department to carry out its program of management of the cultural environment in the most effective and efficient manner possible. Implementation must consider natural resource utilization, must exemplify good government, and must constitute a noninflationary approach which makes the best use of tax dollars.

(b) The commitment to cultural resource protection is vital. That commitment will be balanced with the multiple departmental goals of food and fiber production, environmental protection, natural resource and energy conservation, and rural development. It is essential that all of these be managed to reduce conflicts between programs. Positive management of the cultural environment can contribute to achieving better land use, protection of rural communities and farm lands, conservation of energy, and more efficient use of resources.

(c) In reaching decisions, the long-term needs of society and the irreversible nature of an action must be considered. The Department must act to preserve future options; loss of important cultural resources must be avoided except in the face of overriding

national interest where there are no reasonable alternatives.

(d) To assure the protection of Native American religious practices, traditional religious leaders and other native leaders (or their representatives) should be consulted about potential conflict areas in the management of the cultural environment and the means to reduce or eliminate such conflicts.

§ 3100.45 Direction to agencies.

(a) Each agency of the Department shall consult with OEQ to determine whether its programs and activities may affect the cultural environment. Then, if needed, the agency, in consultation with the OEQ, shall develop its own specific procedures for implementing Section 106 of the national Historic Preservation Act, Executive Order 11593, the regulations of the ACHP (36 CFR Part 800), the American Indian Religious Freedom Act of 1978 and other relevant legislation and regulations in accordance with the agency's programs, mission and authorities. Such implementing procedures shall be published as proposed and final procedures in the Federal Register, and must be consistent with the requirements of 36 CFR Part 800 and this subpart. Where applicable, each agency's procedures must contain mechanisms to insure:

(1) Compliance with Section 106 of NHPA and mitigation of adverse effects to cultural properties on or eligible for the National Register of Historic Places;

(2) Clear definition of the kind and variety of sites and properties which should be managed;

(3) Development of a long-term program of management of the cultural environment on lands administered by USDA as well as direction for project-specific protection;

(4) Identification of all properties listed on or eligible for listing in the National Register that may be affected directly or indirectly by a proposed activity;

(5) Location, identification and nomination to the Register of all sites, buildings, objects, districts, neighborhoods, and networks under its management which appear to qualify (in compliance with E.O. 11593);

(6) The exercise of caution to assure that properties managed by USDA which may qualify for nomination are not transferred, sold, demolished, or substantially altered;

(7) Early consultation with, and involvement of, the State Historic Preservation Officer(s), the ACHP, Native American traditional religious leaders and appropriate tribal leaders,

and others with appropriate interests or expertise;

(8) Early notification to insure substantive and meaningful involvement by the public in the agency's decisionmaking process as it relates to the cultural environment;

(9) Identification and consideration of alternatives to a proposed undertaking that would mitigate or minimize adverse effects to a property identified under paragraph (a)(4) of this section;

(10) Funding of mitigation measures where required to minimize the potential for adverse effects on the cultural environment. Funds for mitigation shall be available and shall be spent when needed during the life of the project to mitigate the expected loss; and

(11) Development of plans to provide for the management, protection, maintenance and/or restoration of Register sites under its management.

(b) Each agency of the Department which conducts programs or activities that may have an effect on the cultural environment shall recruit, place, develop, or otherwise have available, professional expertise in anthropology, archeology, history, historic preservation, historic architecture, and/or cultural resource management (depending upon specific need). Such arrangements may include internal hiring, Intergovernmental Personnel Act assignments, memoranda of agreement with other agencies or Departments, or other mechanisms which insure a professionally directed program. Agencies should use Department of the Interior professional standards (36 CFR 61.5) as guidelines to insure Departmentwide competence and consistency.

(c) Compliance with cultural resource legislation is the responsibility of each individual agency. Consideration of cultural resource values must begin during the earliest planning stages of any undertaking.

(d) Agency heads shall insure that cultural resource management activities meet professional standards as promulgated by the Department of the Interior (e.g., 36 CFR Parts 60, 63, 66, 1208).

(e) Cultural resource review requirements and compliance with Section 106 of NHPA and Executive Order 11593 shall be integrated and run concurrently, rather than consecutively, with the other environmental considerations under NEPA regulations. As such, direct and indirect impacts on cultural resources must be addressed in the environmental assessment for every agency undertaking. In meeting these requirements, agencies shall be guided by regulations implementing the

procedural provisions of NEPA (40 CFR Parts 1500-1506) and Department of Agriculture regulations (7 CFR Part 3100, Subpart B).

(f) Each agency shall work closely with the appropriate State Historic Preservation Officer(s) in their preparation of State plans, determination of inventory needs, and collection of data relevant to general plans or specific undertakings in carrying out mutual cultural resource responsibilities.

(g) Each agency shall, to the maximum extent possible, use existing historic structures for administrative purposes in compliance with Public Buildings Cooperative Use Act of 1976 and Executive Order 12072, "Federal Space Management".

(h) Each agency should consult with Native American traditional religious leaders or their representatives and other native leaders in the development and implementation of cultural resource programs which may affect their religious customs and practices.

§ 3100.46 Responsibilities of the Department of Agriculture.

(a) Within the Department, the responsibility for the protection of the cultural environment is assigned to the Office of Environmental Quality (OEQ). The Office is responsible for reviewing the development and implementation of agency procedures and insuring Departmental commitment to cultural resource goals.

(b) The Director of the OEQ is the Secretary's Designee to the ACHP.

(c) In order to carry out cultural resource responsibilities, there will be professional expertise within the OEQ to advise agencies, aid the Department in meeting its cultural resource management goals, and to insure that all Departmental and agency undertakings comply with applicable cultural resource protection legislation and regulations.

(d) The OEQ will be involved in individual compliance cases only where resolution cannot be reached at the agency level. Prior to the decision to refer a matter to the full Council of the ACHP, the OEQ will review the case and make recommendations to the Secretary regarding the position of the Department. The agency also will consult with the OEQ before reaching a final decision in response to the Council's comments. Copies of correspondence relevant to compliance with Section 106 shall be made available to OEQ.

[FR Doc. 79-35591 Filed 11-16-79; 6:45 am]
BILLING CODE 3410-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-28]

Mandatory Petroleum Allocation Regulations; Amendments To Include Additional Petroleum Substitutes in the Entitlements Program

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Final Rule and Notice of Further Consideration.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the Mandatory Petroleum Allocation Regulations (10 CFR Part 211) to provide for the automatic inclusion in the crude oil entitlements program of solid municipal waste and solid derivatives thereof used as fuel, shale oil used for non-refining purposes, and methane derived from municipal sewage or landfills. The amendments will also permit solid fuels derived from non-municipal solid waste, as well as gaseous fuels derived from any solid-waste sources, to receive the same treatment as liquid solid-waste derivatives, which are currently eligible on a case-by-case basis for inclusion in the entitlements program. The purpose of the amendments is to offset the regulatory bias in favor of petroleum and against non-petroleum fuel sources which would otherwise continue until the total deregulation of crude oil prices on September 30, 1981. We are continuing this rulemaking in order to give further consideration as to whether action should be taken in this proceeding regarding those aspects of the June 1979 proposal pertaining to wood and coal used to supplement petroleum.

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

Norman Breckner (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7477.

David A. Welsh (Entitlements Program), Economic Regulatory Administration, Room 6125, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-3336.

Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6739.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Amendments Adopted
- III. Reporting Requirements
- IV. Effective Date
- V. Continuation of Rulemaking Proceeding
- VI. Procedural Matters

I. Background

On May 12, 1978, we issued a final rule (43 FR 21429, May 18, 1978) which amended the mandatory Petroleum Allocation Regulations to provide for the inclusion in the crude oil entitlements program of shale oil produced from domestic sources and used in a refinery. In addition, the final rule provides that other synthetic liquid fuels (as well as shale oil used other than in a refinery) produced from domestic sources may also earn entitlement benefits, following a review procedure whereby we determine the eligibility of an applicant on a case-by-case basis. On January 19, 1979, we adopted guidelines setting forth the procedures and criteria under which we review each application and determine an applicant's eligibility to participate in the entitlements program (44 FR 6895, February 5, 1979).

The May 1978 final rule permits certain synthetic fuels to receive the same treatment under the entitlements program as crude oil not subject to price regulation. Our purpose in adopting the rule was to eliminate the disincentive to the production and use of these fuels created by our regulatory scheme for petroleum which, through the combined operations of the price regulations and the entitlements program, results in the effective price of all crude oil used in the United States being lower than the world market price for crude oil.

Our decision to limit eligibility for inclusion in the entitlements program under the May 1978 final rule to those fuels which are in liquid form was based on our understanding at that time that fuels which can be substituted for petroleum are generally in liquid form. However, based on the comments received in response to the May 1978 notice, we concluded that certain additional synthetic fuels in gaseous and solid form, while not necessarily suitable for burning in traditional oil burners, are nevertheless in direct competition with petroleum and represent a significant substitute for crude oil. In addition we determined in view of our experience since adoption of the May 1978 rule that certain other fuels currently restricted to inclusion in the entitlements program on a case-by-case basis should automatically qualify for entitlements.

On May 27, 1979, we issued a notice of proposed rulemaking (44 FR 32225, June

5, 1979) to provide for the automatic inclusion in the entitlements program of solid municipal waste and solid derivatives thereof used as fuel, the coal component of a slurry of coal and petroleum, alcohol derived from biomass when mixed with gasoline to produce gasohol, shale oil used other than in a refinery, the wood component of mixtures of processed wood and petroleum product, and methane derived from municipal sewage or landfills. We also proposed amendments to permit gaseous fuels derived from solid-waste materials, as well as solid fuels derived from non-municipal solid-waste sources, to be included in the entitlements program on a case-by-case basis.

Comments on the proposed amendments were requested through August 1, 1979. In addition, a hearing on the proposal was held in Washington, D.C. on July 17, 1979. Prior to the close of the public comment period, we received oral and written comments from fifty-four separate respondents, including two public utilities, six governmental bodies, as well as three U.S. Congressmen, three producers of fuel derived from municipal waste, three producers of methane derived from landfills, two paper recycling companies, three agricultural and wood industries, an association of small and independent petroleum refiners, twenty-two firms representing the petroleum industry, an association of solid waste management companies, a steel mill, a developer of a coal and petroleum slurry, a developer of wood for use in supplementing petroleum, and four interested private citizens.

The comments on the June 1979 proposal and our response thereto are discussed in the final rule we issued on October 31, 1979 to provide for the automatic inclusion in the entitlements program of ethyl alcohol mixed with gasoline (44 FR 63515, November 5, 1979). Our decision to issue a final rule with respect to ethyl alcohol was based on our determination after considering the comments that it would be administratively feasible and otherwise appropriate to significantly increase the opportunities for participation by petroleum substitutes in the entitlements program. In view of this determination, we announced our intent to issue another final rule in this proceeding if we determined after further consideration that such action would be appropriate and necessary to eliminate any disincentive to the use of other petroleum substitutes which might be resulting from our petroleum regulations.

In accordance with our announced intentions, we are today adopting amendments to provide for automatic

inclusion in the entitlements program of municipal solid waste and solid derivatives thereof used as fuel, methane derived from municipal sewage and landfills, and shale oil used for non-refining purposes. Today's amendments will also permit solid fuels derived from non-municipal solid-waste materials, as well as gaseous fuels derived from any solid-waste sources, to receive the same treatment as liquid solid-waste derivatives, which are currently eligible on a case-by-case basis for inclusion in the entitlements program.

II. Amendments Adopted

1. *Solid waste.* We are adopting today amendments to provide for the automatic inclusion in the entitlements program of municipal solid waste and solid derivatives thereof used domestically as fuel. To ensure that entitlements will be issued only with respect to solid-waste materials ultimately used as fuel, the final rule provides that entitlements will be issuable only upon certification to the ERA by the processor of the municipal solid waste that the processor has (1) actually used the solid-waste material domestically to produce useful energy and that the energy thus produced has actually been used as fuel or (2) sold the solid-waste material or useful energy produced therefrom for domestic use as fuel.

As indicated in the June 1979 proposal, we believe that the issuance of entitlements with respect to a petroleum substitute should reflect the comparative heating value of the petroleum substitute relative to that of crude oil, which has an accepted heating value of 5.7 million BTU's per barrel. After reviewing the comments received in this proceeding, we have determined that municipal solid waste represents a potential heating value averaging approximately 8.0 million BTU's per ton. Therefore, today's final rule provides that a person who processes municipal solid waste for use as fuel will earn 1.40 run's credits for each ton of municipal solid waste processed and certified in accordance with the provisions discussed above. We believe that using this method for computing entitlements will ease the administrative burden of the entitlements program in that processors will not have to calculate the BTU content of each ton of municipal solid waste in order to determine its heating value relative to that of crude oil.

Non-municipal solid waste and solid and gaseous derivatives thereof, as well as gaseous derivatives of municipal waste, will be eligible under today's amendments for inclusion in the

entitlements program on a case-by-case basis. The person to whom entitlements will be issuable with respect to such fuels will be designated in an order issued by the ERA. The number of entitlements issuable to the designated recipient will be calculated in accordance with the manner determined by the ERA to appropriately reflect the heating value of the petroleum substitute relative to that of crude oil.

2. *Shale oil used for non-refining purposes.* Entitlements are currently issuable to refiners on an automatic basis with respect to shale oil used domestically for refining purposes. Today's rule provides for the automatic inclusion in the entitlements program of all shale oil used as fuel in the United States. Entitlements will be issuable to the producer of shale oil in those cases where the producer certifies that the shale oil has been used or sold for use domestically other than in a refinery. Entitlements for all shale oil used as feedstock or fuel in a domestic refinery will be issuable to the refiner. In all instances, the number of entitlements issuable with respect to shale oil will be calculated on the same basis as entitlements are issued with respect to crude oil.

3. *Methane derived from municipal sewage and landfills.* Today's final rule also provides for the issuance of entitlements on an automatic basis to collectors of methane from municipal sewage and landfills. Based on the comments received in this proceeding, we believe that the energy content of methane derived from these sources varies greatly, from as little as 200 BTU's per cubic foot to as much as 1,000 BTU's per cubic foot, depending on degree of processing. Therefore, today's rule provides that a collector of methane will earn one run's credit for each unit of methane containing 5.7 million BTU's potential heating value. Since the comments indicate that current methane collection operations generally involve analysis to determine the energy content of the methane collected, we believe the method provided for calculating entitlements will ease administrative burdens on the ERA without placing any undue burdens on collectors of methane from municipal sewage and landfills. In order to insure that the methane will be used domestically as fuel, the final rule provides that in no event will entitlements be issuable with respect to methane prior to certification by the collector that the methane has been used or sold for use domestically as fuel.

III. Reporting Requirements

In the October 31, 1979 final rule providing for the automatic inclusion in

the entitlements program of ethyl alcohol mixed with gasoline, we adopted reporting requirements generally applicable to petroleum substitutes for purposes of the entitlements program. Pursuant to these provisions, any person or firm seeking entitlements with respect to a petroleum substitute will be required to make available to the ERA any information we deem necessary to demonstrate both the energy value of the petroleum substitute relative to that of crude oil and the ultimate use of the petroleum substitute as fuel.

IV. Effective Date

We indicated in the June 1979 proposal that, in the event we determined to issue a final rule in this proceeding, it was our tentative determination that any amendments adopted thereby should be made effective June 1, 1979. This determination was based both on our belief that any action to remove the regulatory bias against synthetic fuels should be made effective as soon as possible and to ensure that production and use of these fuels as crude oil alternatives would not be interrupted pending our final determinations with regard to the proposals. In view of these considerations, the October 31, 1979 final rule pertaining to ethyl alcohol was made effective June 1, 1979, as proposed. For these same reasons, today's amendments are being made effective June 1, 1979.

V. Continuation of Rulemaking Proceeding

We are continuing this rulemaking proceeding in order to give further consideration to those aspects of the June 1979 proposal pertaining to wood and coal used to supplement petroleum. In the event we determine to issue another final rule in this proceeding concerning these fuels, we may determine, for the reasons discussed in Section IV above, to make any amendments adopted by such final rule effective June 1, 1979. As part of our further consideration of coal used as a petroleum substitute, we will be evaluating late comments received in this proceeding which indicate that it may be appropriate to initiate further rulemaking action to remove a regulatory bias against the use of coal by certain electric utilities which may be resulting from the operation of our regulatory scheme for petroleum.

VI. Procedural Matters

We stated in the June 1979 notice of proposed rulemaking the reasons for our preliminary conclusion that the

preparation of a regulatory analysis was not required for the proposals under Executive Order No. 12044, entitled "Improving Government Regulations" (43 FR 1266, March 24, 1978), or DOE's implementing Order 2030 (44 FR 1032, January 3, 1979). In the October 31, 1979 final rule issued in this proceeding with respect to ethyl alcohol, we announced our final decision after reviewing all comments received that the preparation of a regulatory analysis is not required with respect to any or all of the petroleum substitutes proposed in this proceeding. This decision is based on the following determinations:

(1) The proposals would not be likely to have a substantial effect on any of the objectives of national energy policy or energy statutes;

(2) The regulations would not be likely to impose:

(a) Gross economic costs of \$100 million per year; or

(b) A major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups;

(3) The regulations would not be likely to have an adverse impact on competition; and

(4) Neither the Secretary, Deputy Secretary, or Under Secretary of the DOE considers the regulations likely to have a major impact for any other reason.

In the October 31, 1979 notice, we also stated our final conclusion after reviewing the comments that the June 1979 proposals would not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act and, therefore, that the preparation of an Environmental Impact Statement for the proposal would not be required under 10 CFR Part 208.

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*, Pub. L. 95-91), a copy of the June 1979 proposal was referred, concurrently with the issuance thereof, to the Federal Energy Regulatory Commission for its review. The Commission informed us of its determination that the proposed rule would not significantly affect any matter within the Commission's jurisdiction.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and

Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91, Pub. L. 95-509, Pub. L. 95-619, Pub. L. 95-620, and Pub. L. 95-621; EO 11790, 39 FR 23185; EO 12009, 42 FR 46287.)

In consideration of the foregoing, Part 211 of Chapter II, of Title 10 of the Code of Federal Regulations, is amended as set forth below, effective June 1, 1979.

Issued in Washington, D.C., November 12, 1979.

David J. Bardin,
Administrator, Economic Regulatory
Administration.

1. Section 211.62 is amended to revise the definition of "petroleum substitute" to read as follows:

§ 211.62 Definitions.

"Petroleum substitute" means, when certified in accordance with the provisions of § 211.67(a)(5) of this Part, any of the following: (a)(1) A liquid produced from domestic oil shale; (2) Ethyl alcohol derived from domestic biomass when mixed with gasoline; (3) Domestically found municipal solid waste or a solid derivative thereof; or (4) Methane derived from domestic municipal sewage or landfills; or (b). As designated in orders issued by ERA following review of applications submitted under Subpart G of Part 205 of this Chapter, (1) Any other fuel derived from domestically found solid-waste materials; or (2) Any other fuel in a liquid form which is derived from domestic biomass, coal, or tar sands. Designation as a petroleum substitute may be denied with respect to any fuel eligible for review under section (b)(1) or (b)(2) of this definition, if ERA determines that the fuel in question does not result in a net gain of energy, considering the fuel consumption involved in its production, or requires the consumption of substantial quantities of a relatively scarce fuel for its production.

2. Subparagraph (a)(5) of § 211.67 is amended to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements.*

(5)(i) For each month, commencing with the month of June 1979, entitlements shall be issued with respect to a petroleum substitute as follows:

(A) In the case of a shale oil used as a feedstock or fuel in a domestic refinery, the refiner shall be issued, upon

certification to ERA that the shale oil has been used as a feedstock or fuel in a domestic refinery, that number of entitlements that would be received by the refiner if each barrel of the shale oil were a barrel of crude oil;

(B) In the case of a shale oil used or sold for use domestically as fuel other than in a refinery, the producer of the shale oil shall be issued, upon certification to ERA that the shale oil has been used or sold for use domestically as fuel other than in a refinery, that number of entitlements that would be received by a refiner if each barrel of the shale oil were a barrel of crude oil.

(C) In the case of ethyl alcohol derived from domestic biomass and mixed with gasoline, the producer of the ethyl alcohol shall be issued that number of entitlements that would be received by a refiner if a barrel of ethyl alcohol were equal to 0.8189 barrels of crude oil; *provided that*, entitlements will be issuable to a producer of ethyl alcohol only upon written certification by the producer to ERA that: (1) The producer has actually mixed the ethyl alcohol with gasoline and used the resulting mixture domestically as fuel or sold the mixture for domestic use as fuel; or (2), In any case where the producer sells the ethyl alcohol prior to mixing with gasoline, the producer has received written certification from a subsequent purchaser that such person: (i) Has been the first person to actually mix the ethyl alcohol with gasoline; (ii) Has used the resulting mixture domestically as fuel or sold the mixture for domestic use as fuel; (iii) Has based certification as to such use or sale upon documentation; and (iv) Will maintain such documentation in a manner so as to be available for inspection at any time by the ERA within five years.

(D) In the case of municipal solid waste, the person who first processes the municipal solid waste to produce a solid fuel shall be issued that number of entitlements that would be received by a refiner if each ton of municipal solid waste processed were equal to 1.40 barrels of crude oil; *provided that*, entitlements will be issuable to the processor of the municipal solid waste only upon written certification by the processor to ERA that the processor has (1) actually used the solid waste or solid derivative thereof domestically to produce useful energy and that the energy thus produced has actually been used as fuel; or (2) sold the solid waste or solid derivative thereof or useful energy produced from either the solid waste or its derivative for domestic use as fuel.

(E) In the case of methane derived from municipal sewage or domestic landfills, the collector of the methane shall be issued, upon certification to ERA that the methane has been used or sold for use domestically as fuel, that number of entitlements that would be received by a refiner if each unit of methane having a gross heating value of 5.7 million BTU's were a barrel of crude oil.

(F) In the case of solid waste or a solid or gaseous derivative thereof which has been designated as a petroleum substitute by ERA in an order issued pursuant to § 205.95 of Part 205 of this chapter, that person designated by ERA as eligible to participate in the entitlements program with respect to such petroleum substitute shall be issued that number of entitlements that would be received by a refiner if the unit of measurement established by ERA for that petroleum substitute were a barrel of crude oil.

(G) In the case of a liquid petroleum substitute which has been designated as a petroleum substitute by ERA in an order issued pursuant to § 205.95 of Part 205 of this Chapter and which has a gross heating value of 5.7 million or more BTU's per barrel, that person designated by ERA as eligible to participate in the entitlements program with respect to the petroleum substitute shall be issued that number of entitlements that would be received by a refiner if a barrel of the petroleum substitute were a barrel of crude oil.

(H) In the case of a liquid petroleum substitute which has been designated as a petroleum substitute by ERA in an order issued pursuant to § 205.95 of Part 205 of this Chapter and which has a gross heating value of less than 5.7 million BTU's per barrel, that person designated by ERA as eligible to participate in the entitlements program with respect to the petroleum substitute shall be issued that number of entitlements that would be received by a refiner if a barrel of the petroleum substitute were equal to a fraction of a barrel of crude oil, the numerator of which would be the gross heating value in BTU's per barrel of the petroleum substitute, and the denominator of which would be 5.7 million BTU's. An order issued by ERA to designate a petroleum substitute shall also designate the firm to which entitlements will be issued and the manner in which the use of the petroleum substitute by that firm shall result in entitlement issuances.

(i) Each firm shall in its initial report to ERA for purposes of receiving entitlements pursuant to the provisions of subparagraph (a)(5)(i) of this section submit written certification that all

local, state, or federal permits or licenses required with respect to the production, distribution or any other use of the petroleum substitute have been obtained and provide copies of such permits and licenses and, as required by ERA, any information submitted to a governmental body for the purpose of obtaining any applicable permit or license. Each such firm shall in its initial report and each month thereafter submit any information required by ERA to be submitted by such firm on forms adopted by ERA for purposes of determining the entitlements issuable to such firm. A firm shall provide written certification in any submission that the information set forth therein is accurate and based upon documentation, and, further, that such firm will maintain such records in a manner so as to be available for inspection at any time by the ERA within five years. Records required to be kept under this subparagraph shall be made available for inspection at any time upon the request of a representative of ERA.

[FR Doc. 79-35615 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

10 CFR Part 212

[Docket No. ERA-R-79-41]

Mandatory Petroleum Price Regulations; Phased Deregulation of Upper Tier Crude Oil

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is adopting an amendment to the crude oil pricing regulations to implement the President's decision to remove price controls from domestic crude oil. Beginning January 1, 1980 market prices will be permitted for first sales of a specified percentage of what would otherwise be upper tier crude oil produced from each property. This percentage will increase at a rate such that by October 1, 1981 market prices will be permitted for all crude oil production subject to the upper tier ceiling price. Today's action is intended to ease the transition to an unregulated market.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 222-A, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-5201. William L. Webb (Office of Public Information), Economic Regulatory

Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.

William Carson (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7477.

Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. (202) 252-6739.

SUPPLEMENTARY INFORMATION:

I. Introduction and Amendment Adopted

II. Procedural Requirements

I. Introduction and Amendment Adopted

On April 5, 1979, the President announced his intention to deregulate all domestic crude oil. Several steps have already been taken to implement the President's decision. As a result of these steps, producers may currently charge market prices for all production from properties which qualify as newly discovered properties (44 FR 25828, May 2, 1979) or heavy oil properties (Executive Order No. 12153, 44 FR 48949, August 21, 1979). Market prices may also be received for the incremental production resulting from a tertiary project (43 FR 33679, August 1, 1978). In addition, we have provided for the gradual conversion of most lower tier crude oil to upper tier crude oil by October 1, 1981 (44 FR 25168, April 27, 1979).

As the final step in the President's program, we proposed amendments to the price regulations which provided for the gradual removal of ceiling prices for upper tier crude oil between January 1, 1980 and October 1, 1981 (44 FR 50605, August 29, 1979). Under this proposal, beginning January 1, 1980, market prices would be permitted for first sales of a specified percentage of the crude oil produced from a property that would otherwise be subject to the upper tier ceiling price. This percentage would increase at a rate such that by October 1, 1981 market prices would be permitted for all crude oil production subject to the upper tier ceiling price. For January 1980 the specified percentage would be 4.6 percent (approximately one twenty-second), and in each succeeding month the specified percentage would be increased by an additional 4.6 percent. The crude oil which could be sold pursuant to this proposal would be known as market level new crude oil.

On October 9, 1979, we issued a notice that expanded the scope of the rulemaking proceeding on upper tier deregulation to include consideration of the treatment under the supplier/purchaser rule of any crude oil for which

market price was permitted as a result of action taken in this proceeding (44 FR 59240, October 15, 1979). In order to permit full discussion of the supplier/purchaser rule aspect of the rulemaking, we provided for a comment period through December 10, 1979 on that aspect of the rulemaking. The comment period with respect to the proposed amendment to the pricing regulations, however, was not extended beyond the original closing date of October 31, 1979.

On October 23, 1979, we held a public hearing in Washington, D.C. to consider the proposed changes both to the pricing regulations and to the supplier/purchaser rule. Although several of the participants expressed concern over the proposed changes to the supplier/purchaser rule, no one expressed any disagreement with the President's decision to deregulate domestic crude oil prices. In general, the participants in the hearing favored the proposed approach for gradually decreasing the volume of crude oil subject to the upper tier price ceiling. We received thirty-six written comments on the pricing aspect of the rulemaking prior to November 1, 1979. Thirty-three favored the proposed approach of decreasing the volume of crude oil subject to upper tier price ceilings, while three believed that deregulation should be accomplished by means of adjustments to the upper tier price ceiling. No written comments opposed the concept of phased deregulation.

In light of these comments and our further analysis, we have decided to amend the pricing regulations as proposed in the August 29 Notice. Thus, in January 1980 market prices will be permitted for 4.6 percent of the crude oil produced from a particular property that would otherwise be subject to the upper tier ceiling price. In February 1980 this percentage will increase to 9.2 and will continue to increase at the same rate through September 1981, at which time the percentage will reach 96.6. In calculating the amount of crude oil subject to the upper tier ceiling price for a particular month, the volume of crude oil converted from lower tier status to upper tier status for that month should be included.

Today's action does not address those aspects of the rulemaking concerning the supplier/purchaser rule. We will continue to receive written comments on those aspects through December 20, 1979.

II. Procedural Requirements

A. Section 404 of the DOE Act—In accordance with section 404 of the Department of Energy Organization Act ("DOE Act", 42 U.S.C. 7101 *et seq.*), the

Federal Energy Regulatory Commission received a copy of the proposed rule and has declined to determine that the rule may significantly affect any of its functions under sections 402(a)(1), (b), or (c)(1) of the DOE Act.

B. Executive Order 12044—Pursuant to Executive Order 12044, entitled "Improving Governmental Regulations" (43 FR 12661, March 23, 1978), and DOE's implementing procedures, set forth in DOE Order 2030 (44 FR 1032, January 3, 1979), we have prepared a regulatory analysis with respect to the phased deregulation program being adopted today. A copy of that regulatory analysis may be obtained from the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

In view of the President's decision concerning deregulation, the regulatory analysis compared the effects of phased deregulation to those of one-step deregulation on October 1, 1981. The analysis projects that during the period January 1980 through September 1981 the phased deregulation of upper tier crude oil could result in cumulative increased costs for domestic crude oil of between \$14.6 billion and \$24.8 billion. As a result of phased deregulation, petroleum product prices will increase between 6.5 cents per gallon and 11.0 cent per gallon by September 1981. Complete deregulation in October 1981 will add another 1.0 to 1.5 cents per gallon.

The analysis indicates that the effects of one-step deregulation on October 1, 1981 would be to inhibit crude oil producers from undertaking some oil producing activities until that date. With respect to phased deregulation, the analysis found the expected production response to be uncertain. However, the analysis estimated that domestic production in October 1981 would be between 50,000 and 100,000 barrels per day greater as a result of our adopting a program of phased deregulation for upper tier crude oil.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-81; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code

of Federal Regulations is amended as set forth below, effective January 1, 1980.

Issued in Washington, D.C., November 12, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

§ 212.72 [Amended]

1. Section 212.72 is revised by the addition between the definitions of "Marginal property" and "New crude oil" of the following new definition of "Market level new crude oil":

"Market level new crude oil" means, with respect to a particular property during a particular month, the product of the market level factor for that month and the volume of new crude oil produced and sold from that property during that month. The market level factor for January 1980 shall be four and six-tenths percent (4.6%) and shall be increased by four and six-tenths percent (4.6%) in each succeeding month.

§ 212.74 [Amended]

2. Section 212.74(a) is revised to read as follows:

(a) Notwithstanding the provisions of § 212.73(a), a producer may in any month charge a price not to exceed the upper tier ceiling price in first sales of new crude oil, except that first sales of market level new crude oil are not subject to the ceiling price limitations of this subpart.

(FR Doc. 79-35517 Filed 11-16-79; 8:45 am)
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-NW-19-AD; Amdt. 39-3617]

Airworthiness Directives; Boeing 707-100, 707-100B, 707-200, 720, 720B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment requires a repetitive inspection of the 707-100/-100B, -200 and 720/720B series airplane horizontal stabilizer center section rear spar upper chord. This inspection is required since, if a rear spar failure should occur, the front spar can carry fail-safe loads for only approximately 500 landings in the case of the 720/720B and 700 landings in the case of 707-100/-100B/-200 airplanes. In addition, if the front spar should fail, the horizontal

stabilizer would separate from the airplane.

DATES: Effective date: November 27, 1979.

ADDRESSES: Boeing Service Bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, P.E., Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION:

History

The horizontal stabilizer front spar of 707-100, 707-100B, 707-200, 720 and 720B series airplanes will carry the fail-safe loads if the rear spar should fail. A damage tolerance analysis made by the manufacturer indicates that, for the upper rear spar center section chord, the time from crack initiation to failure is short; furthermore, the analysis indicates that the front spar is capable of carrying the stabilizer loads for approximately 500 additional landings. If the front spar fails, the horizontal stabilizer will separate from the airplane. To date service experience has been very good for the rear spar center section. However, should a crack occur in the upper rear spar chord for whatever reason, the time interval from crack initiation to stabilizer failure does not accommodate routine maintenance intervals. For this reason, mandatory inspections were considered necessary. This Amendment is based upon Notice of Proposed Rulemaking (NPRM) (44 FR 40650, July 12, 1979). It was proposed that an Airworthiness Directive (AD) be issued which would require a repetitive inspection of the horizontal stabilizer of the 707-100/-100B/-200 and 720/720B series airplanes each 250 landings.

Public Participation

All interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all matters presented. The Boeing Commercial Airplane Company commented, and the Air Transport Association of America (ATA) commented on behalf of the principal U.S. operators. A private citizen also commented.

Discussion of Comments

The commenters agree that an inspection of the 707-100/-100B/-200 and 720/720B series airplanes is required but both Boeing and the ATA disagree with the inspection intervals as proposed by the NPRM. They point out the proposed 250 landing interval, was based on 720/720B operating loads which are higher than those for the 707-100/-100B/-200 airplanes. When the corresponding loads for the 707 were used, and inspection interval of 350 landings was substantiated by a damage tolerance analysis conducted by the manufacturer subsequent to issuance of the NPRM. Service Bulletin 3332 was revised (Rev. 2) to specify an inspection interval of 250 landings for the 720/720B airplanes and 350 landings for the 707-100/-100B/-200 airplanes as a result of the analysis.

The private citizen concurred with the NPRM as written.

Conclusions

As Boeing and the ATA correctly point out, when appropriate operating loads are used in the damage tolerance analysis, the results indicated the need for different intervals between 720 and 707 airplanes. After a review of all comments the FAA agrees with the change in inspection intervals since such intervals should be based on the load environment experienced by the airplane model in question.

The rule will, therefore, require inspection of the 707-100/-100B/-200 airplanes at an interval of 350 landings and the 720/720B airplanes at an interval of 250 landings.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator Sec. 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

Boeing: Applies to all Boeing 707-100, 707-100B, 707-200, and Boeing 720, 720B series airplanes. Within the next number of landings shown in Table 1, if not already accomplished within the last same number of landings, and at repeat intervals not to exceed those specified, visually inspect the horizontal stabilizer center section rear spar upper chord in accordance with page 9 paragraph IIIB Boeing Service Bulletin 3332, Rev. 2, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If cracks are found, repair prior to further flight in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, except that airplanes may be flown to a maintenance base for repairs or replacement in accordance with FAR 21.197.

Table 1

	720/720B	707-100/-100B/-200
Initial inspection interval.....	125 landings.....	175 landings.....
Repetitive inspections.....	250 landings.....	350 landings.....

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). (Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended 49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a rule which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on November 7, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

(FR Doc. 79-35562 Filed 11-16-79; 8:45 am)
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-CE-11-AD; Amendment 39-3614]

Airworthiness Directives; Gates Learjet 24 and 25 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 79-12-05, Amendment 39-3488, applicable to Gates Learjet 24 and 25 series airplanes equipped with Century III wings, by adding Gates Learjet Airplane Accessory Kit AAK 79-10A as an alternate means of complying with certain portions of the AD and correctly referring to 24 and 25 series airplanes in lieu of Models 24 and 25 airplanes. This revision is necessary because the wing aerodynamic improvements associated with the installation of Kit AAK 79-10A eliminates the need for readjustment of the stall warning system in accordance with AD 79-12-05. In addition an editorial change is needed to clarify the applicability of the AD.

EFFECTIVE DATE: November 6, 1979.

ADDRESSES: Gates Learjet Airplane Accessory Kit Installation Instructions

Number AAK 79-10A, applicable to this AD, may be obtained from Gates Learjet Corporation, Mid-Continent Airport, P.O. Box 7707, Wichita, Kansas 67277, Telephone Number (316) 946-2000. A copy of the Accessory Kit Installation Instructions is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City Missouri 64106; Telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION:

Amendment 39-3488, AD 79-12-05 requires revision of the FAA Approved Airplane Flight Manual and inspection and readjustment of the stall warning system on certain Gates Learjet 24 and 25 series airplanes. Subsequent to this action the manufacturer has developed and the FAA has approved Gates Learjet Airplane Accessory Kit AAK 79-10A consisting of wing aerodynamic modifications and associated FAA Approved Flight Manual changes which, when installed, lowers the stall speed and improves roll characteristics at stall. These improvements eliminate the need to (1) revised airplane flight manual performance information as required by paragraphs A) 7. through A) 11. of AD 79-12-05 and (2) readjust the stall warning system and inspect other systems as required by paragraph B) of the AD. In addition, it has been brought to our attention that the AD refers to Gates Learjet Model 24 and 25 airplanes but calls out serial numbers for various models of 24 and 25 series airplanes. The intent is for the AD to apply to 24 and 25 series airplanes having the serial numbers shown in the AD. Therefore, the agency is revising Amendment 39-3488 by adding installation of Gates Learjet Airplane Accessory Kit AAK 79-10A as an alternate means of compliance with paragraph A) 7. through A) 11. and B) in AD 79-12-05. Also, the existing note following paragraph C) in the AD is amended and relocated, and the applicability statement is amended to clarify which models and serial numbers are covered by the AD. Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days after the date of publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Amendment 39-3488 (44 FR 33392 through 33396), AD 79-12-05 of § 39-13, of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows:

(1) Delete the existing applicability statement and in its place add the following new applicability statement:

Learjet: Applies to the following (1) model and serial number airplanes on which "reduced approach speed system kit" AAK 78-4 has been installed and, (2) model and serial number 24E, 24F, 24F-A, 25D and 25F airplanes, certificated in all categories:

Models	Serial Numbers
24, 24A, 24B, 24B-A.....	24-100 through 24-180, 24-181 through 24-217, 24-219 through 24-229
24C, 24D, 24D-A.....	24-218, 24-230 through 24-328
24E, 24F, 24F-A, 25, 25A.....	24-329 through 24-357, 25-003 through 25-060, 25-062 through 25-066
25B, 25C.....	25-061, 25-067 through 25-201, 25-204, 25-205
25D, 24F.....	25-206 through 25-218

(2) Reidentify existing paragraph C) as paragraph D).

(3) Add the following new paragraph C).

(C) When Gates Learjet Airplane Accessory Kit Number AAK 79-10A (including insertion of the applicable Airplane Flight Manual changes in FAA Approved Airplane Flight Manual) is installed, paragraphs A) 7. through A) 11. and paragraph B) of this AD are no longer applicable.

(4) Delete the existing "NOTE" following existing paragraph C) and add the following new "NOTE" between paragraph A) and B).

Note.—In order to comply with the requirements of paragraph A) of this AD, this airworthiness directive, or a duplicate thereof, may be used as a temporary amendment to the Airplane Flight Manual and carried in the aircraft as part of the Airplane Flight Manual until replaced by the permanent revisions to the Airplane Flight Manual provided by the manufacturer and approved by the FAA.

This amendment becomes effective November 6, 1979.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64108, Telephone (816) 374-3146.

Issued in Kansas City, Missouri on November 6, 1979.

Paul J. Baker,
Director, Central Region.

[FR Doc. 79-35407 Filed 11-16-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-37]

Alteration of Transition Area; Bowie, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Bowie, Tex. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Bowie Municipal Airport. The circumstance which created the need for the action is the establishment of a nondirectional radio beacon (NDB) on the airport.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 16889, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On September 20, 1979, a notice of proposed rule making was published in the *Federal Register* (44 FR 54491) stating that the Federal Aviation Administration proposed to alter the Bowie, Tex., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Bowie, Tex., transition area. This action provides controlled airspace from 700 feet above

the ground for the protection of aircraft executing established and proposed instrument approach procedures to the Bowie Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, January 24, 1980, as follows.

In Subpart G, 71.181 (44 FR 442), the following transition area is altered as follows:

Bowie, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Bowie Municipal Airport (latitude 33°38'06"N., longitude 97°46'30"W.) and within 3 miles each side of the 351° bearing from the NDB (latitude 33°38'19"N., longitude 97°46'23"W.) extending from the 8.5-mile radius area to 8.5 miles north of the NDB. (Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979). Since this regulatory action involves and established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 2, 1979.

F. E. Whitfield,
Acting Director, Southwest Region.

[FR Doc. 79-35406 Filed 11-16-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 19759; Amdt. No. 1151]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new

or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is \$135.00.

FOR FURTHER INFORMATION CONTACT: Gary W. Wirt, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA

Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the *Federal Register* expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard

Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

*** Effective January 24, 1980

Bettles, AK—Bettles, VOR Rwy 1, Amdt. 3

*** Effective December 27, 1979

Jacksonville, FL—Jacksonville Intl, VOR Rwy 31, Amdt. 4

Miami, FL—Miami Intl, VOR Rwy 30, Amdt. 2

New Port Richey, FL—West Pasco, VOR-A, Amdt. 1

St. Petersburg, FL—Albert Whitted, VOR Rwy 18, Amdt. 5

St. Petersburg-Clearwater, FL—St. Petersburg-Clearwater Intl, VOR Rwy 17L, Amdt. 10

Tampa, FL—Tampa Intl, VOR Rwy 8, Amdt. 7

Cedartown, GA—Cornelius-Moore Field, VOR-A, Amdt. 9

Dixon, IL—Dixon Muni-Charles R. Walgreen Field, VOR-A, Amdt. 6

Topeka, KS—Philip Billard Muni, VOR Rwy 22, Amdt. 17

Greenville, KY—Muhlenberg County, VOR/DME-A, Amdt. 1

Big Rapids, MI—Roben-Hood, VOR/DME-A, Amdt. 3

Grand Rapids, MI—Kent County Intl, VOR Rwy 18, Amdt. 3

Grand Rapids, MI—Kent County Intl, VOR Rwy 36, Amdt. 7

Ely, NV—Ely Airport/Yelland Field/, VOR-A, Amdt. 4

Cortland, NY—Cortland County—Chase Field, VOR Rwy 8, Original

Cortland, NY—Cortland County—Chase Field, VOR/DME Rwy 24, Amdt. 1

Livingston, TN—Livingston Muni, VOR/DME Rwy 21, Original

Morristown, TN—Moore-Murrell, VOR Rwy 5, Amdt. 3

Delta, UT—Delta Muni, VOR/DME Rwy 16, Amdt. 1

Delta, UT—Delta Muni, VOR Rwy 34, Amdt. 2

Chesapeake, VA—Chesapeake Muni, VOR/DME Rwy 4, Amdt. 1

*** Effective December 13, 1979

McCook, NE—McCook Muni, VOR Rwy 12, Amdt. 6

McCook, NE—McCook Muni, VOR Rwy 30, Amdt. 5

*** Effective November 29, 1979

Houston, TX—William P. Hobby, VOR/DME or TACAN Rwy 22, Amdt. 18

*** Effective October 29, 1979

Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, VOR Rwy 1, Amdt. 5

Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, VOR Rwy 19, Amdt. 4

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

*** Effective January 24, 1980

Bettles, AK—Bettles, LOC/DME Rwy 1, Amdt. 2

*** Effective December 27, 1979

San Diego, CA—Montgomery Field, LOC Rwy 28R, Amdt. 1

Jacksonville, FL—Jacksonville Intl, LOC BC Rwy 31, Amdt. 3

Tampa, FL—Tampa Intl, LOC (BC) Rwy 36R, Amdt. 18

Waukegan, IL—Waukegan Memorial, LOC Rwy 23, Amdt. 4

Valparaiso, IN—Porter County Muni, LOC Rwy 27, Amdt. 3

Topeka, KS—Phillip Billard Muni, LOC BC Rwy 31, Amdt. 16

Grand Rapids, MI—Kent County Intl, LOC BC Rwy 8R, Original, cancelled

Amarillo, TX—Amarillo International, LOC BC Rwy 22, Amdt. 13

*** Effective November 29, 1979

Richland, WA—Richland, LOC Rwy 19, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

*** Effective January 24, 1980

Bettles, AK—Bettles, NDB-A, Amdt. 7

Flemingsburg, KY—Fleming-Mason, NDB Rwy 25, Amdt. 1

*** Effective December 27, 1979

Oakland, CA—Metropolitan Oakland Intl, NDB Rwy 29, Amdt. 9

Miami, FL—Miami Intl, NDB Rwy 9L, Amdt. 15

Miami, FL—Miami Intl, NDB Rwy 27L, Amdt. 14

Tampa, FL—Peter O. Knight, NDB Rwy 3, Amdt. 8

Tampa, FL—Tampa Intl, NDB Rwy 36L, Amdt. 12

Cairo, GA—Cairo-Grady County, NDB Rwy 12, Original

Calhoun, GA—Tom B. David Field, NDB Rwy 35, Amdt. 1

Waukegan, IL—Waukegan Memorial, NDB Rwy 23, Amdt. 4

Valparaiso, IN—Porter County Muni, NDB Rwy 27, Amdt. 3

Iola, KS—Allen County, NDB Rwy 35, Original

Topeka, KS—Phillip Billard Muni, NDB Rwy 13, Amdt. 26

Ulysses, KS—Ulysses, NDB Rwy 12, Amdt. 1

Grand Rapids, MI—Kent County Intl, NDB Rwy 26L, Amdt. 13

Oxford, NC—Henderson-Oxford, NDB Rwy 6, Original

Winnsboro, SC—Fairfield County, NDB Rwy 4, Original

Lawrenceburg, TN—Lawrenceburg Muni, NDB-A, Amdt. 5

Morristown, TN—Moore-Murrell, NDB Rwy 5, Amdt. 4

Amarillo, TX—Amarillo International, NDB Rwy 4, Amdt. 13

Amarillo, TX—Tradewind, NDB-A, Amdt. 11

Castroville, TX—Castroville Muni, NDB Rwy 33, Original

Presidio, TX—Presidio Lely Intl, NDB-A, Original

Spokane, WA—Spokane Intl, NDB Rwy 21, Amdt. 14

*** Effective November 29, 1979

Flora, IL—Flora Muni, NDB Rwy 21, Original

Pittsburgh, PA—Greater Pittsburgh Intl., NDB Rwy 10L, Amdt. 9
 Richland, WA—Richland, NDB Rwy 19, Original

* * * Effective October 29, 1979

Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, NDB-A, Amdt. 5

Note.—The FAA published an Amendment in Docket No. 19635, Amdt. No. 1149 to Part 97 of the Federal Aviation Regulations (Vol. 44 FR No. 205 page 60725; dated October 22, 1979) under section 97.27 effective November 29, 1979, which is hereby amended as follows: Newport, VT—Newport State, NDB Rwy 23, Amdt. 5 cancellation is rescinded. Newport, VT—Newport State, NDB Rwy 23, Amdt. 5 remains in effect.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective December 27, 1979

Santa Rosa, CA—Sonoma County, ILS Rwy 32, Amdt. 7

Miami, FL—Miami Intl., ILS Rwy 9L, Amdt. 24

Miami, FL—Miami Intl., ILS Rwy 27L, Amdt. 19

Miami, FL—Miami Intl., ILS Rwy 27R, Amdt. 9

Tampa, FL—Tampa Intl., ILS Rwy 36L, Amdt. 9

Kahului, HI—Kahului, ILS Rwy 2, Amdt. 14

Topeka, KS—Phillip Billard Muni, ILS Rwy 13, Amdt. 27

Grand Rapids, MI—Kent County Intl., ILS Rwy 8R, Original

Grand Rapids, MI—Kent County Intl., ILS Rwy 26L, Amdt. 14

Raleigh, NC—Raleigh-Durham, ILS Rwy 5, Amdt. 21

Crossville, TN—Crossville Memorial, ILS Rwy 25, Amdt. 4

Amarillo, TX—Amarillo International, ILS Rwy 4, Amdt. 17

Corpus Christi, TX—Corpus Christi Intl., ILS Rwy 35, Amdt. 3

Charlotte Amalie, St. Thomas, VI—Harry S. Truman, ILS Rwy 9, Amdt. 3

Spokane, WA—Spokane Intl., ILS Rwy 21, Amdt. 18

Green Bay, WI—Austin-Straubel Field, ILS Rwy 36, Original

* * * Effective November 29, 1979

Dayton, OH—James M. Cox Dayton International, ILS Rwy 24R, Amdt. 1

Pittsburgh, PA—Greater Pittsburgh Intl., ILS Rwy 10L, Amdt. 19

Pittsburgh, PA—Greater Pittsburgh Intl., ILS Rwy 28L, Original

Rhineland, WI—Rhineland-Oneida County, ILS Rwy 9, Original

* * * Effective October 31, 1979

Winona, MN—Winona Municipal-Max Conrad Field, MLS Rwy 29 (Interim), Amdt. 1, cancelled

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective December 27, 1979

Birmingham, AL—Birmingham Muni, RADAR-1, Amdt. 14

Grand Rapids, MI—Kent County Intl., RADAR-1, Amdt. 4

Amarillo, TX—Amarillo International, RADAR-1, Amdt. 11
 Corpus Christi, TX—Corpus Christi Intl., RADAR-1, Amdt. 6
 Salt Lake City, UT—Salt Lake City Muni #2, RADAR-2, Original

* * * Effective November 29, 1979

Dayton, OH—James M. Cox Dayton International, RADAR-1, Amdt. 2

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective December 27, 1979

Topeka, KS—Phillip Billard Muni, RNAV Rwy 17, Amdt. 4

New Braunfels, TX—New Braunfels Muni, RNAV Rwy 13, Original

New Braunfels, TX—New Braunfels Muni, RNAV Rwy 31, Original

* * * Effective December 13, 1979

McCook, NE—McCook Muni, RNAV Rwy 12, Amdt. 1

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on November 9, 1979.

James M. Vines,
 Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 79-35485 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-13-M

Federal Energy Regulatory Commission

18 CFR Part 272

[Docket No. RM79-44]

Interim Rules Involving High-Cost Natural Gas; Public Hearings

November 14, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Public Hearing.

SUMMARY: On October 24, 1979, the Commission issued interim rules involving high-cost natural gas described in section 107(c) (1), (2), (3), and (4) of the Natural Gas Policy Act

(NGPA) in Docket No. RM79-44 (44 FR 61950, October 29, 1979). In that rule the Commission stated that it intended to hold public hearings on the interim rule. That hearing will be held at 10:00 a.m. on Tuesday, December 4, 1979, at 825 North Capitol Street, NE., Washington, D.C. 20426.

DATES: The hearing will be held on December 4, 1979. Requests to participate should be received no later than November 27, 1979.

ADDRESS: Requests to participate should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Requests should reference Docket No. RM79-44 and should indicate the amount of time required for the oral presentation and telephone number at which the person making the presentation can be reached. The hearing will be held at the same location as stated above.

FOR FURTHER INFORMATION CONTACT: Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8151.

SUPPLEMENTARY INFORMATION: Section 502(b) of the NGPA requires, to the maximum extent practicable, an opportunity for the oral presentation of data, views, and arguments prior to the effective date of any order (with certain exceptions) issued under the NGPA. In order to comply with this requirement, a public hearing on the interim rules for high-cost natural gas described in section 107(c) (1), (2), (3), and (4) of the NGPA will be held in Washington, D.C. on Tuesday, December 4, 1979. The hearing will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., and will begin at 10:00 a.m. The room will be announced on the day of the hearing.

Persons participating in the public hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information three days before the hearing and will be available at the Commission on the morning of the hearing.

The hearing will not be a judicial or evidentiary-type hearing, and there will be no cross-examination of persons presenting statements. However, staff may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the

time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be available in the public file for this proceeding, Docket No. RM79-44, in the Commission's Office of Public Information.

Kenneth F. Plumb,
 Secretary.

[FR Doc. 79-35626 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Highway Administration

23 CFR Part 770

[FHWA Docket No. 79-25]

Air Quality Guidelines for Use in Federal-Aid Highway Programs; Interim Conformity Procedures

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Interim final rule and request for comments.

SUMMARY: The Department of Transportation (DOT) is consulting with the Environmental Protection Agency (EPA) to develop procedures to implement the provisions of the Clean Air Act Amendments of 1977 (CAAA) that are applicable to Federal-aid highway programs. Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)), added by section 129(b) of the CAAA, provides that no Federal agency may engage in or approve any activity which does not conform to an approved State implementation plan (SIP) for the attainment of air quality. This issuance provides that the consistency procedures in 23 CFR Part 770 will be interpreted as satisfying the conformity requirement of section 176(c) of the Clean Air Act pending the issuance of final conformity procedures.

DATES: This amendment is effective November 19, 1979. Comments must be received on or before January 18, 1979.

ADDRESS: Anyone wishing to submit written comments may do so. Comments should be sent, preferably in triplicate, to FHWA Docket No. 79-25, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Harter Rupert, Environmental

Quality Division, 202-426-4836, or Mr. Reid Alsop, Office of the Chief Counsel, 202-426-0800; Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1977 constituted a comprehensive revision of much of the Clean Air Act. They required that revised SIPs for the attainment of air quality be prepared for all "nonattainment" areas. New section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) provides that "[n]o department, agency, or instrumentality of the Federal Government shall (1) engage in, (2) support in any way or provide financial assistance for, (3) license or permit, or (4) approve any activity which does not conform to a plan after it has been approved or promulgated under section 110," and that "[n]o metropolitan planning organization . . . shall give its approval to any project, program, or plan which does not conform to a plan approved or promulgated under section 110."

The FHWA is already operating under similar requirements that were established pursuant to 23 U.S.C. 109(j). Section 109(j) directs FHWA to assure that Federal and federally assisted highway projects are consistent with any approved SIP. Regulations implementing 23 U.S.C. 109(j) are contained in 23 CFR Part 770 and provide detailed procedures designed to assure that the planning, location, and construction of highway improvements are consistent with approved SIPs.

The DOT is consulting with EPA to develop procedures for implementing section 176(c) and other applicable provisions of the CAAA. Revisions to the FHWA's air quality guidelines (Part 770) will be required as a result of these procedures and will be the subject of a notice of proposed rulemaking.

The FHWA has been advised that the SIPs from 45 States need to be revised in order to comply with various provisions of the Clean Air Act, as amended. Forty-four SIPs have been revised and submitted to EPA. The EPA has completed its review of approximately 33 revised SIPs and published its conclusions in the Federal Register for public comment. It is anticipated that most of these revised SIPs will receive either full or conditional approval in the near future (see 44 FR 37679, June 28, 1979). Although proposed revisions to FHWA's air quality guidelines may be issued for notice and comment prior to that date, it is not anticipated that final conformity procedures will be issued for some time.

The FHWA has determined that conformity procedures should be in effect at the time the revised SIPs are approved by EPA in order to avoid unnecessary and costly delays in the processing of Federal-aid highway projects. Accordingly, FHWA intends to utilize its current consistency procedures in Part 770 to satisfy the conformity requirement of section 176(c).

These interim conformity procedures are intended to apply only until more comprehensive revisions to Part 770 have been developed in conjunction with EPA, published for notice and comment, and issued in final form. Because revised SIPs may be approved at any time by EPA, the authority to use the existing consistency procedures for the section 176(c) requirement is being issued without a 30-day delay in effective date.

The only alternative to issuance of these interim procedures would be to do nothing now and await development of a final rule containing comprehensive revisions to existing regulations. Faced with this limited choice and in light of the delay anticipated in issuance of a final rule, the FHWA has determined that publication of the interim procedure for notice and comment could not reasonably be anticipated to result in the receipt of useful information. Although the agency sees no meaningful opportunity for public comment, those who disagree with this view or wish to comment on the action taken herein are invited to submit their views to the public docket as soon as possible. All comments must be received within 60 days from the date this document appears in the Federal Register.

In consideration of the foregoing, Part 770 of Chapter I, Title 23, Code of Federal Regulations, is amended as follows:

1. The table of sections is amended by adding a new section to read:

Sec. 770.207 Interim conformity procedures.

2. Section 770.207 is added to the body of the regulation to read as follows:

§ 770.207 Interim conformity procedures.

The procedures described in §§ 770.204 through 770.206 shall be followed to assure that Federal-aid highway programs and projects conform to State implementation plans (pursuant to Section 176(c) of the Clean Air Act Amendments of 1977).

Note.—The Federal Highway Administration has determined that this document contains interim procedures which relate to a significant proposal to be issued according to the criteria established by the

Department of Transportation pursuant to EO 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Harter Rupert of the program office at the address specified above.

(42 U.S.C. 7401 *et seq.*; 23 U.S.C. 315; 49 CFR 1.48(b))

Issued on: November 8, 1979.

Karl S. Bowers,
Federal Highway Administrator.

[FR Doc. 79-35519 Filed 11-19-79; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

24 CFR Part 3280

[Docket No. R-79-641]

Mobile Home Construction and Safety Standards; Frame Construction and Prevention of Storage Near Heat-Producing Appliances

AGENCY: Department of Housing and Urban Development, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends 24 CFR Part 3280, Mobile Home Construction and Safety Standards, to set requirements dealing with: (1) The removal of weld slag or flux from welded connections of mobile home frames; and (2) prevention of storage in areas around heat-producing appliances. The amendments are needed to eliminate unnecessary weld slag removal requirements which increase the costs of mobile home construction and to reduce the potential for fire hazards near heat-producing appliances.

EFFECTIVE DATE: December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Richard A. Mendlen, Director, Standards Division, Office of Mobile Home Standards, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Room 4224, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 426-1872 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Department published separate interim rules—Frame Construction on June 15, 1978 (43 FR 25964) and Prevention of Storage Near Heat-Producing Appliances on August 7, 1978 (43 FR 35265) in order to eliminate unnecessary weld slag removal requirements and to clarify requirements relating to the

prevention of storage in areas surrounding heat-producing appliances. These amendments, when published as interim rules, were cited as 24 CFR 280.350, Structural Design Requirements, and 280.709(e), Installation of Appliances. On April 6, 1979 (44 FR 20674), the Department redesignated Part 280, Mobile Home Construction and Safety Standards, as Part 3280, Mobile Home Construction and Safety Standards.

Frame Construction

The Department received several comments, one of which did not deal with the subject matter of the interim rule. Some commentators felt that there was no need to remove slag or foreign matter from any welded joint. While the Department accepts the argument that the cost of removing the slag from all welds is not justified, there are welds which are critical for transporting the mobile home and essential for long term durability. Therefore, the Department has retained the requirement to remove slag and flux on specified welds to assure inspection of those welds and for prevention of corrosion. The welds the Department considers to be critical are specified in the rule. These are critical because serious damage to the mobile home could result should they fail.

The interim rule indicated that metal frames could be protected against corrosion by painting and specified two types of paint which could be utilized for that purpose. Five of the comments stated that to apply either type of paint would require mobile home manufacturers to install costly paint facilities to comply with Occupational Safety and Health Administration (OSHA) regulations because of the volatile and toxic nature of the paints specified by the rule.

The interim rule permitted paints other than asphaltic base or zinc chromate to be used to protect metal frames if those paints offered equivalent levels of protection against corrosion. Two commentators were correct in pointing out that there is no performance standard or test procedure to determine equivalency for certification of other types of paint, including those non-hazardous type paints presently utilized by mobile home manufacturers. The Department recognizes that non-hazardous paints have previously been utilized by mobile home manufacturers to protect metal frames against corrosion. Therefore, until such time as valid criteria for evaluation of paints utilized to protect mobile home frames from corrosion can be established, the Department has eliminated the

requirement that particular types of paint must be used.

Prevention of Storage Near Heat-Producing Appliances

Three comments were received in response to this interim rule published on August 7, 1978 (43 FR 35265).

The interim rule concerning storage prevention permitted a warning label to be used in place of installing guards or barriers. Two of the comments supported the use of the warning label alone as a means of effectively informing consumers of the hazard of storing combustibles near heat-producing appliances. One of those comments indicated that the type of label specified by the rule was unnecessarily restrictive.

Another comment stated that the rule should require manufacturers to provide both a barrier and a warning label. The comment made the argument that manufacturers' claims that consumers would not re-install the barrier or guard after maintenance of an appliance is not supported by any evidence. Further, that comment also claimed that the interim rule increased the potential for a serious safety hazard.

After review of the comments, the Department has decided to publish the rule as final without any changes from the interim rule. The Department has concluded that: (1) A warning label is adequate to warn consumers not to store combustible materials near heat-producing appliances; (2) the durability of a plastic laminate or equivalent label is necessary to assure that the label remains attached and legible throughout the useful life of the mobile home. The question of the continued acceptability of a guard or barrier by itself without a warning label to prevent storage, as now permitted, will be considered in future rulemaking by the Department.

A Finding of Inapplicability of Section 102(2)(C) of the National Environmental Policy Act of 1969 was made in accordance with "Procedures for Protection and Enhancement of Environmental Quality" for each of the interim rules and remains applicable to these final rules. They are available for public inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, during normal business hours.

Accordingly, 24 CFR Part 3280 is amended as follows:

1. By adding a new paragraph (i) to § 3280.305, to read as follows:

§ 3280.305 Structural design requirements.

(i) *Frame construction.* The frame shall be capable of transmitting all design loads to stabilizing devices without exceeding the allowable load and deflections of this section. The frame shall also be capable of withstanding the effects of transportation shock and vibration without degradation as required by Subpart J.

(1) *Welded connections.* (i) All welds shall be made in accordance with the applicable provisions of the Manual of Steel Construction as published by the AISC-1973, the specification for the design of cold-formed steel structural members as published by the AISI-1968, and the specification for the design of light gage cold-formed stainless steel structural members as published by the AISI-1972.

(ii) Regardless of the provisions of any reference standard contained in this subpart, deposits of weld slag or flux shall be required to be removed only from welded joints at the following locations:

- (A) Drawbar and coupling mechanisms;
- (B) Main member splices, and
- (C) Spring hanger to main member connections.

(2) Protection of metal frames against corrosion. Metal frames shall be made corrosion resistant or protected against corrosion. Metal frames may be protected against corrosion by painting.

2. By revising paragraph (c) of § 3280.709 to read as follows:

§ 3280.709 Installation of appliances.

(c) Clearances surrounding heat producing appliances shall not be less than the clearances specified in the terms of their listings.

(1) Prevention of storage. The area surrounding heat producing appliances installed in areas with interior or exterior access shall be framed-in or guarded with noncombustible material such that the distance from the appliance to the framing or guarding material is not greater than three inches unless the appliance is installed in compliance with paragraph (c)(2), of this section. When clearance required by the listing is greater than three inches, the guard or frame shall not be closer to the appliance than the distance provided in the listing.

(2) Clearance spaces surrounding heat producing appliances are not required to be framed-in or guarded when:

(i) A space is designed specifically for a clothes washer or dryer;

(ii) Dimensions surrounding the appliance do not exceed three inches; or

(iii) The manufacturer affixes either to a side of an alcove or compartment containing the appliance, or to the appliance itself, in a clearly visible location, a 3"x5" adhesive backed plastic laminated label or the equivalent which reads as follows:

"Warning"

This compartment is not to be used as a storage area. Storage of combustible materials or containers on or near any appliance in this compartment may create a fire hazard. Do not store such materials or containers in this compartment.

(Secs. 604, 625, National Mobile Home Construction and Safety Standards Act of 1974. (42 U.S.C. 5403 and 5424); and sec. 7(d), department of HUD Act, (42 U.S.C. 3535(d)))

Issued at Washington, D.C., November 9, 1979.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 79-35509 Filed 11-19-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 788

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program; Corrections

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C.

ACTION: Corrections.

SUMMARY: This document corrects the Regulations to the Permanent Regulatory Program that begin on page 15312 of Volume 44 of the Federal Register of Tuesday, March 13, 1979, Part II, Book 3 of 3.

EFFECTIVE DATE: November 19, 1979.

ADDRESS: Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director for State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343-4225.

The following corrections of nonsubstantive errors are made:

On page 15354, § 778.16(b), column 2, line 2, "applicant" is corrected to read "application".

On page 15383, § 788.12(b)(2), column 3, line 12 is corrected to read "782, 783, 784, or 785 or in the condi-".

On page 15384, § 788.14(b)(2), column 1, line 12 is corrected to read "783, 784, 786, 787, 788, and applicable portions of 785."

Dated: November 9, 1979.

Walter N. Heine,
Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 79-35534 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 78-172]

Drawbridge Operation Regulations; Halifax River, Fla.

AGENCY: Coast Guard, DOT.

ACTION: final rule.

SUMMARY: At the request of the Public Affairs Council of the Daytona Beach Area Chamber of Commerce, the Coast Guard is revising the regulations for the Seabreeze and Memorial bridges across the Halifax River (AIWW), miles 829.1 and 830.6 respectively, to allow periods during peak vehicular traffic when the draws need not open. This action should relieve vehicular traffic during the morning and evening rush hours while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on December 24, 1979.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590(202-426-0942).

SUPPLEMENTARY INFORMATION: On February, 8 1979, the Coast Guard published a proposed rule (44 FR 7981) concerning this amendment. The Commander, Seventh Coast Guard District, also published these proposals as a Public Notice dated February 9, 1979. Interested persons were given until March 12, 1979 to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr. Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Fourteen comments were received. Ten supported the proposal or had no

objection. Three opposed its adoption on the grounds that further restrictions were not needed or that the restrictions were not restrictive enough. The Coast Guard considered these objections, however, it is felt that these regulations as proposed will provide for the reasonable needs of navigation while adequately providing for vehicular traffic. The remaining comment suggested changes in the opening periods be made. This suggestion was considered but was rejected as being too restrictive for navigation.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.433 to read as follows:

§ 117.433 *Halifax River, AIWW, Volusia County, FL.*

The draws of each bridge from Ormond Beach through Port Orange shall open on signal except that:

(a) *Ormond Beach*, Halifax River, AIWW, mile 824.9, Granada Avenue bridge, Ormond Beach, FL. From 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8:00 a.m. and 5:00 p.m. to pass any accumulated vessels. The draw shall open on signal on Federal and Florida State holidays.

(b) *Seabreeze*, Halifax River, AIWW, mile 829.1, Seabreeze bridge, Seabreeze Boulevard, Daytona Beach, FL. From 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8:00 a.m. and 5:00 p.m. to pass any accumulated vessels. The draw shall open on signal on Federal and Florida State holidays.

(c) *Memorial*, Halifax River, AIWW, mile 830.8, Memorial bridge, Orange Avenue to Silver Beach Street, Daytona Beach, FL. From 7:45 a.m. to 8:45 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8:15 a.m. and 5:15 p.m. to pass any accumulated vessels. The draw shall open on signal on Federal and Florida State holidays.

(d) *Port Orange*, Halifax River, AIWW, mile 835.5, Port Orange bridge, State Road A-1A (Dunlawton Avenue), Port Orange FL. From 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8:00 a.m. and 5:00 p.m. to pass any accumulated vessels. The draw shall

open on signal on Federal and Florida State holidays.

(e) The opening signal for each bridge is three blasts of a whistle, horn, or other sound-producing device or by shouting.

(f) Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time. The opening signal from these vessels is four blasts of a whistle, horn, or other sound-producing device or by shouting.

(g) During periods when storm signals are displayed in the Daytona Beach area, the draws shall open on signal. Storm signals are displayed upon notification by the National Weather Service that winds of up to 33 knots or more and/or sea conditions considered dangerous to small craft are expected.

(h) The owners of or agencies controlling these bridges shall post signs on both the upstream and downstream sides of the bridges or adjacent to the bridges, that can be easily read at any time from an approaching vessel, stating the provisions of the regulations in this section as they apply to each bridge.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

Dated: November 13, 1979.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 79-35522 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 256

[FRL 1360-7]

Guidelines for Development and Implementation of State Solid Waste Management Plans; Correction

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction to final rule.

SUMMARY: On July 31, 1979, EPA issued a final rule (44 FR 45066) under Sections 4002(b) and 4003 of the Resource Conservation and Recovery Act. The following corrections should be made to that rule.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Absher, Office of Solid Waste (WH-564), Environmental Protection Agency, Washington, D.C. 20460; telephone 202-755-9145.

Corrections

In FR Doc. 79-23471 make the following changes:

Page	Column	Correction
45070	3	In line 29, change "legal authority" to "regulatory powers".
45086	1	Under § 256.64(c), the citation "§ 256.22(a)" should be changed to "§ 256.23(a)".

Dated: November 13, 1979.

Steffen W. Plehn,

Deputy Assistant Administrator for Solid Waste.

[FR Doc. 79-35564 Filed 11-16-79; 8:45 am]

BILLING CODE 6560-07-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5685

[New Mexico 32965]

New Mexico; Revocation of Public Land Order No. 4520

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This order revokes a withdrawal which withdrew public lands for use of the Department of Agriculture, Forest Service, for the protection of public use values and as a recreation site. Upon promulgation of this order, the lands will be disposed of to the New Mexico State Park and Recreation Commission.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Louis B. Bellesi, 202-343-8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4520 of August 29, 1968, which withdrew the following described public lands for use by the Department of Agriculture, Forest Service, for protection of public use values and as a recreation site is hereby revoked in its entirety:

New Mexico Principal Meridian

T. 18 S., R. 10 E.,

Sec. 18, S½NE¼NE¼, N½SE¼NE¼, SE¼NW¼NE¼, and NE¼SW¼NE¼.

The area described contains 60 acres in Otero County.

2. This revocation is in furtherance of the disposal of the above described lands pursuant to application NM-13135 filed by the New Mexico State Park and Recreation Commission under the Recreation and Public Purposes Act of

June 14, 1928, as amended, 43 U.S.C. 869; 869-4.

Guy R. Martin,

Assistant Secretary of the Interior.

November 8, 1979.

[FR Doc. 79-35616 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 178

[Docket No. HM-163B; Amdt. No. 178-59]

Withdrawal of Certain Bureau of Explosives Delegations of Authority

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Department's Hazardous Materials Regulations is to withdraw or cancel the remaining delegations of authority to the Bureau of Explosives (B of E) in Part 178 of 49 CFR.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590, phone 202-472-2726.

SUPPLEMENTARY INFORMATION: On May 7, 1979, the Materials Transportation Bureau (MTB) published a Notice of Proposed Rulemaking, Docket HM-163B; Notice 79-7 (44 FR 26772) which proposed these amendments. The background and the basis for incorporating these amendments into the regulations were discussed in that notice. Interested persons were invited to give their views prior to the closing date of June 30, 1979.

The Bureau received only four comments on Notice 79-7, all of which were favorable to the proposed changes.

One commenter, in addition to expressing his approval of the format used for Notice 79-7, recommended the deletion of the last portion of proposed § 178.236-2(e), § 178.237-2(e), § 178.238-2(e), and § 178.239-2(e) which reads, "in accordance with your former freight classification (UFC) Rule 40, or National Motor Freight Classification (NMFC) item 200." The commenter further stated that the strength of the bags is already well-covered in the specifications mentioned, and the tests required are all performance tests which will adequately

prove the performance of the bag without reference to the freight classification data. In view of the above, and upon further considerations, the Bureau agrees that reference to Rule 40 of the Uniform Freight Classification or Item 200 of the National Motor Freight Classification is unnecessary.

The second commenter suggested that the reference to the Associate Director for HMR and Associate Director for OE be changed to the Director, MTB because of frequent organizational changes within MTB. The Bureau agrees that the possibility of an organizational change affecting the Associate Director for HMR and Associate Director for OE is greater than a change affecting the Director, MTB. However, the Bureau maintains that our regulations should specify the office within the Bureau that is charged with a particular function. For this reason, the rule change is being incorporated as proposed in Notice 79-7.

The third comment received was a brief statement expressing approval of the format in which HM-163B and HM-168A notices of proposed rulemaking were prepared.

The last commenter stated that there appears to be a contradiction between §§ 178.118-6(a)(2) and 178.118-8(b). Docket HM-140 revised footnote 3 of § 178.118-6(a) to authorize the use of a 18-gauge removable head on 55-gallon DOT Specification 17H steel drums under certain specified conditions. The change being adopted by this rulemaking, in § 178.118-8(b), does not authorize the use of an 18-gauge head unless specifically approved by the Associate Director for OE. On the other hand, when a 14-gauge or 16-gauge head is used, other types of closing devices are authorized if they perform without failure under the tests required by §§ 178.118-12 and 178.118-13, and a record of such tests is retained during the period the closure is in use.

Although these amendments do not add anything that was not proposed in the notice, it is anticipated that there may be questions regarding the sentence "Equally efficient means of testing may be authorized upon approval by the Associate Director for OE" which appears in most of the paragraphs entitled "Leakage test." Prior to these amendments the B of E was authorized to approve alternate methods of testing. Two fairly well known methods approved by the B of E are identified as the T-Zone test and the Pocket tester. Use of the Pocket tester is limited to drums of approximately 5-gallons capacity. These previously approved test methods will continue in effect until December 31, 1984, in accordance with 49 CFR 171.19. However, this does not

mean that the Associate Director for OE will approve these same test methods in the future. For test methods other than those required in the regulations or approved earlier by the B of E, an approval must be obtained in writing from the Associate Director for OE.

The MTB intends to publish a notice of proposed rulemaking at a later date requesting comments on the best way to incorporate into the regulations those approvals and authorizations that were issued by the B of E for alternate leakage test methods. The MTB intends to complete action on the proposed rulemaking in sufficient time to avoid further extension of the December 31, 1984 deadline.

Primary drafters of these amendments are Darrell L. Raines, Office of Hazardous Materials Regulation, Exemption and Regulations Termination Branch, and George W. Tenley, Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, 49 CFR Part 178 is amended as follows:

1. In § 178.1, § 178.1-9 paragraph (a) and the introductory text of paragraph (d) are revised; § 178.1-10 the heading and the introductory text of paragraph (a) is revised, paragraph (a)(2) is revised, paragraphs (a)(3), (a)(4) and (a)(5) are deleted as follows:

§ 178.1 Specification 1A; boxed carboys.

§ 178.1-9 Tests.

(a) *Apparatus.* Standard required. Detailed prints may be obtained from the Associate Director for HMR.

(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests are required for:

§ 178.1-10 Boxes of veneer, plywood and laminated wood.

(a) Boxes of veneer, plywood, laminated wood, or any combination thereof, which comply with this section (except § 178.1-7 (a), (c), and (d)), are authorized provided:

(2) That these boxed carboys pass the regular test prescribed in § 178.1-9. A copy of the most recent test report must be retained until further tests are made or for five years from the date of test.

(3) [Deleted]

(4) [Deleted]

(5) [Deleted]

2. In § 178.4, § 178.4-8 paragraphs (a), and (g) and the introductory text of paragraph (d) are revised as follows:

§ 178.4 Specification 1D; boxed glass carboys.

(1) Specifications for each size container must be kept on file by each

must be examined by the Bureau of Explosives and approved by the

§ 178.4 Specification 1D; boxed glass carboys.**§ 178.4-8 Tests.**

(a) *Apparatus.* Standard required. Detailed prints may be obtained from the Associate Director for HMR.

(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests are required for:

(g) *Internal pressure test.* Bottles shall be capable of withstanding a sustained internal pressure of 20 psig for a 15-day period.

3. In § 178.5, § 178.5-9 paragraph (a) and the introductory text of paragraph (d) are revised as follows:

§ 178.5 Specification 1X; boxed carboys, 5 to 6½ gallons, for export only.

§ 178.5-9 Tests.

(a) *Apparatus.* Standard required. Detailed prints may be obtained from the Associate Director for HMR.

(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests are required for:

4. In § 178.6, § 178.6-7 is deleted; § 178.6-10 paragraphs (a) and (d) are revised to read as follows:

§ 178.6 Specification 1EX; glass carboys in plywood drums.

§ 178.6-7 [Deleted].**§ 178.6-10 Tests.**

(a) *Apparatus.* Standard required. Detailed prints may be obtained from the Associate Director for HMR.

(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests are required for:

5. In § 178.13, § 178.13-3 paragraph (a) the first sentence is amended; § 178.13-4 paragraph (a)(1) is revised as follows:

§ 178.13 Specification 1H; polyethylene carboys in low carbon steel or other equally efficient metal crates.

§ 178.13-3 Polyethylene carboys.

(a) Carboys shall be made of polyethylene with no plasticizers or additives and have a maximum melt index value of 2.5 grams.

§ 178.13-4 Outside containers.

(a) * * *

(1) Specifications for each size container must be kept on file by each manufacturer.

6. In § 178.14, § 178.14-8 paragraph (a) and the introductory text of paragraph (d) are revised as follows:

§ 178.14 Specification 1K; glass carboys cushioned with expandable polystyrene in wooden wirebound box outside containers.

§ 178.14-8 Tests.

(a) *Apparatus.* Standard required. Detailed prints may be obtained from the Associate Director for HMR.

(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests required for:

7. In § 178.21, § 178.21-3 paragraph (a) Note 1 is revised as follows:

§ 178.21 Specification 2T; polyethylene container.

§ 178.21-3 Material.

(a) * * *

Note 1.—Other materials may be added if they do not affect the properties specified in paragraph (a) of this section.

8. In § 178.24, § 178.24-2, paragraph (a) Note 1 is revised as follows:

§ 178.24 Specification 2U; molded or thermoformed polyethylene containers having rated capacity of over one gallon. Removable head containers or containers fabricated from film not authorized.

§ 178.24-2 Material.

(a) * * *

Note 1.—Other materials may be added if they do not affect the properties specified in paragraph (a) of this section.

9. In § 178.27, § 178.27-1 paragraph (a) Note 1 is revised as follows:

§ 178.27 Specification 2TL; polyethylene container.

§ 178.27-1 Material requirements.

(a) * * *

Note 1.—Other materials may be added if they do not affect the properties specified in paragraph (a) of this section.

10. In § 178.59, § 178.59-16 paragraph (a) the last sentence is amended and the first sentence of paragraph (b); § 178.59-21 is deleted as follows:

§ 178.59 Specification 8; steel cylinders with approved porous filling for acetylene.

§ 178.59-16 Porous filling.

(a) * * * In all cases, the filling material as installed in the cylinder

must be examined by the Bureau of Explosives and approved by the Associate Director for OE.

(b) Porosity of filling to be 80 percent or less except that filling with a porosity in excess of 80 percent but not in excess of 92 percent, may be used when tested with satisfactory results under the supervision of the Bureau of Explosives and approved by the Associate Director for OE.

§ 178.59-21 [Deleted]

11. In § 178.60, § 178.60-20 paragraph (a) the last sentence is amended and the first sentence of paragraph (b) as follows:

§ 178.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.

§ 178.60-20 Porous filling.

(a) * * * In all cases, the filling material as installed in the cylinder must be examined by the Bureau of Explosives and approved by the Associate Director for OE.

(b) Porosity of filling to be 80 percent or less except that filling with a porosity in excess of 80 percent but not in excess of 92 percent, may be used when tested with satisfactory results under the supervision of the Bureau of Explosives and approved by the Associate Director for OE.

12. In § 178.80, § 178.80-7 paragraph (a) Table footnote 1 is revised; § 178.80-9 the last sentence of paragraph (d) is amended; § 178.80-14 paragraph (a) is revised as follows:

§ 178.80 Specification 5; steel barrels or drums.

§ 178.80-7 Parts and dimensions.

(a) * * *

¹Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

§ 178.80-9 Closures.

(d) * * * Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

§ 178.80-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for

OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

13. In § 178.81, § 178.81-7 paragraph (a) Table footnote 1 is revised; § 178.81-9 paragraph (e) is revised; § 178.81-14 paragraph (a) is revised as follows:

§ 178.81 Specification 5A; steel barrels or drums.

§ 178.81-7 Parts and dimensions.

(a) * * *

¹Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

§ 178.81-9 Closures.

(e) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

§ 178.81-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

14. In § 178.82, § 178.82-7(a) Table footnote 1 is revised; § 178.82-9 paragraph (c) is revised and the last sentence of paragraph (d) is amended; § 178.82-14 paragraph (a) is revised as follows:

§ 178.82 Specification 5B; steel barrels or drums.

§ 178.82-7 Parts and dimensions.

(a) * * *

¹Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

§ 178.82-9 Closures.

(c) For closure with threaded plug or cap, the seat (flange, etc.) for plug or cap, must have 3 or more complete threads; two drainage holes of not over

5/16-inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when tightened with gasket in place. Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

(d) * * * Other types of closures are authorized if they perform without failure under the tests required by this section and a record of such tests is retained during the period the closure is in use.

§ 178.82-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

15. § 178.83, § 178.83-7 paragraph (a) Table footnote 1 is revised; § 178.83-9 paragraph (e) is revised; § 178.83-14 paragraph (a) is revised as follows:

§ 178.83 Specification 5C; steel barrels or drums.

§ 178.83-7 Parts and dimensions.

(a) * * *

¹Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

§ 178.83-9 Closures.

(e) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

§ 178.83-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon

approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

16. In § 178.84, § 178.84-7 paragraph (a) Table footnote 1 is revised; § 178.84-14 paragraph (a) is revised as follows:

§ 178.84 Specification 5D; steel barrels or drums, lined.

§ 178.84-7 Parts and dimensions.

(a) * * *

¹Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

§ 178.84-14 Leakage test.

(a) Each container, with lining material applied, shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

17. In § 178.85, § 178.85-13 paragraph (a) is revised as follows:

§ 178.85 Specification 5F; steel drums.

§ 178.85-13 Leakage test.

(a) Each drum shall be tested with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 100 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

18. In § 178.87, § 178.87-7 paragraph (a) Table footnote 1 is revised; § 178.87-13 paragraph (a)(3) is revised; § 178.87-14 paragraph (a) is revised as follows:

§ 178.87 Specification 5H; steel barrels or drums, lead lined.

§ 178.87-7 Parts and dimensions.

(a) * * *

¹Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

§ 178.87-13 Type tests.

(a) * * *

(3) Periodic drop tests are not required after initial drop tests at start of manufacture, on containers of a construction in excess of minimum specification requirements approved by the Associate Director for OE. Any change in construction of drum, lining, or closure must be approved by the Associate Director for OE.

§ 178.87-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

19. In § 178.88, § 178.88-6 paragraph (a) Table footnote 1 is revised; § 178.88-8 paragraph (e) is revised; § 178.88-13(a) is revised as follows:

§ 178.88 Specification 5K; nickel barrels or drums.

(a) * * *

¹Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

§ 178.88-8 Closures.

(e) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

§ 178.88-13 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

20. In § 178.89, § 178.89-5 paragraph (c) is revised; § 178.89-12 paragraph (a) is revised as follows:

§ 178.89 Specification 5L; steel barrels or drums.**§ 178.89-5 Seams.**

(c) Flanged spout for filling and emptying container welded in place or

attached in a manner approved by the Associate Director for OE.

§ 178.89-12 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 5 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE.

21. In § 178.90, § 178.90-6 paragraph (a) Table footnote 1 is revised; § 178.90-8 paragraph (e) is revised; § 178.90-13 paragraph (a) is revised as follows:

§ 178.90 Specification 5M; monel drums.**§ 178.90-6 Parts and dimensions.**

(a) * * *

¹Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

§ 178.90-8 Closures.

(e) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

§ 178.90-13 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

22. In § 178.91, § 178.91-7 paragraph (a) Table footnote 1 is revised; § 178.91-14 paragraph (a) is revised as follows:

§ 178.91 Specification 5X; steel drums, aluminum lined.**§ 178.91-7 Parts and dimensions.**

(a) * * *

¹Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

§ 178.91-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for

OE. Leakers shall be rejected or repaired and retested without failure.

23. In § 178.92, § 178.92-9 paragraph (a) is revised as follows:

§ 178.92 Specification 5P; lagged steel drums.**§ 178.92-9 Safety devices.**

(a) Each drum must have safety devices approved as to type and location by the Associate Director for OE. See § 173.124 (a)(4) of this subchapter.

24. In § 178.97, § 178.97-12 paragraph (a) is revised as follows:

§ 178.97 Specification 6A; steel barrels or drums.**§ 178.97-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken in random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

25. In § 178.98, § 178.98-12 paragraph (a) is revised as follows:

§ 178.98 Specification 6B; steel barrels or drums.**§ 178.98-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

28. In § 178.99, § 178.99-12 paragraph (a) is revised as follows:

§ 178.99 Specification 6C; steel barrels or drums.**§ 178.99-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

27. In § 178.101, § 178.101-12 paragraph (a) is revised as follows:

§ 178.101 Specification 6K; steel barrels or drums.**§ 178.101-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

28. In § 178.107, § 178.107-12 paragraph (a) is revised as follows:

§ 178.107 Specification 42B; aluminum drums.**§ 178.107-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

29. In § 178.108, § 178.108-12 paragraph (a) is revised as follows:

§ 178.108 Specification 42C; aluminum barrels or drums.**§ 178.108-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with

soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

30. In § 178.109, § 178.109-7 paragraph (a) is revised; § 178.109-12 paragraph (a) is revised as follows:

§ 178.109 Specification 42D; aluminum drums.**§ 178.109-7 Closures.**

(a) Of screw-thread type or secured by screw-thread device; openings over 2.3 inches not authorized; suitable gaskets required. Vented closing devices must be approved by the Associate Director for OE.

§ 178.109-12 Leakage test.

(a) Each drum shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 10 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

31. In § 178.110, § 178.110-11 paragraph (a) is revised as follows:

§ 178.110 Specification 42F; aluminum barrels or drums.**§ 178.110-11 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

32. In § 178.115, § 178.115-8 the introductory text of paragraph (c) is revised; paragraph (c)(1) is deleted; the last sentence of paragraph (d) is amended; § 178.115-13 paragraph (a) is revised as follows:

§ 178.115 Specification 17C; steel drums.**§ 178.115-8 Closures.**

* * *

(c) For closure with threaded plug or cap, the seat (flange, etc.) for plug or cap, must have 3 or more complete threads; two drainage holes of not over 5/16-inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when tightened with gasket in place. Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

(1) [Deleted]

(d) * * * Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

§ 178.115-13 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

33. In § 178.116, § 178.116-8 paragraph (d) is revised; § 178.116-13 paragraph (a) is revised as follows:

§ 178.116 Specification 17E; steel drums.**§ 178.116-8 Closures.**

* * *

(d) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

§ 178.116-13 Leakage test.

(a) Each drum shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch for containers over 12 gallons capacity and at least 5 pounds for others. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

34. In § 178.117, § 178.117-14 paragraph (a) is revised as follows:

§ 178.117 Specification 17F; steel drums.

§ 178.117-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

35. In § 178.118, § 178.118-8 paragraph (b) the last sentence is amended; paragraph (c)(1) is revised; § 178.118-13 paragraph (a) is revised as follows:

§ 178.118 Specification 17H; steel drums.

§ 178.118-8 Closures.

(b) * * * Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

(c) * * *
(1) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

§ 178.118-13 Leakage test.

(a) Each drum shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch for containers over 12 gallons capacity and at least 5 pounds for others. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Drums need not be tested with heads in place, except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

36. In § 178.119, § 178.119-13 paragraph (a) is revised as follows:

§ 178.119 Specification 17X; steel barrels or drums.

§ 178.119-13 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch. Equally efficient means of testing

may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected and retested without failure.

37. In § 178.131, § 178.131-6 paragraph (a) Table footnote 2 is revised as follows:

§ 178.131 Specification 37A; steel drums.

§ 178.131-6 Capacities, weights, type, and gauges.

(a) * * *

²Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

38. In § 178.132, § 178.132-7 paragraph (a) is revised as follows:

§ 178.132 Specification 37B; steel drums.

§ 178.132-7 Closures.

(a) Closures shall be of any type that will withstand prescribed drop tests without leakage, see § 178.132-11 of this section. Openings shall not exceed 9 inches in diameter in containers of 16-gallon capacity and larger nor 6½ inches in diameter in containers less than 16-gallon capacity. Larger openings may be used when approved by the Associate Director for OE.

39. In § 178.133, § 178.133-6 paragraph (b)(1) is revised as follows:

§ 178.133 Specification 37P; steel drums with polyethylene liner.

§ 178.133-6 Liner.

(b) * * *

(1) Resin should have maximum melt index value of 1.8 plus 0.4 per 10 minutes, and shall have a minimum average molecular weight of 21,000.

40. In § 178.136, § 178.136-7 paragraph (a) is revised as follows:

§ 178.136 Specification 42E; aluminum drums.

§ 178.136-7 Closures.

(a) Of screw-thread type or secured by screw-thread device; openings over 2.3 inches not authorized; suitable gaskets required; head openings only permitted. Vented closing devices must be approved by the Associate Director for OE.

41. In § 178.182, § 178.182-2 paragraph (b) is deleted; § 178.182-3 paragraph (b) is added as follows:

§ 178.182 Specification 15P; glued plywood, or wooden box for inside containers.

§ 178.182-2 Construction requirements.

(b) [Deleted]

§ 178.182-3 Tests.

(b) Records of tests performed under this specification must be retained by the manufacturer for a period of one year following discontinuance of production.

42. In § 178.205, § 178.205-37 paragraph (d) is revised as follows:

§ 178.205 Specification 12B; fiberboard boxes.

§ 178.205-37 Special box; authorized polyethylene or other suitable plastic bags for packaging of electrolyte (acid) or alkaline corrosive battery fluid only.

(d) Tests to be conducted by or for each plant assembling and filling boxes at the initial start of production and at intervals of four months thereafter. Samples last tested must be dated with date of test and must be retained until further tests are made.

43. In § 178.211, § 178.211-3 paragraph (a)(1)(v) is revised as follows:

§ 178.211 Specification 12P; fiberboard boxes. Nonreusable containers for one inside plastic container greater than 1-gallon capacity, as prescribed in Part 173 of this chapter.

§ 178.211-3 Design limitations.

(a) * * *

(1) * * *

(v) Other perforated or die cut areas of a size and location may be used when approved by the Associated Director for OE.

44. Section 178.214, § 178.214-8 paragraph (a) the last sentence is amended as follows:

§ 178.214 Specification 23F; fiberboard boxes.

§ 178.214-8 Type authorized.

(a) * * * Boxes having handholes may be used when approved by the Associate Director for OE.

45. In § 178.218, § 178.218-8 is deleted as follows:

§ 178.218 Specification 23G; special cylindrical fiberboard box for high explosives.

§ 178.218-8 [Deleted].

46. In § 178.224, § 178.224-3 is deleted as follows:

§ 178.224 Specification 21C; fiber drum.

§ 178.224-3 [Deleted].

47. In § 178.236, § 178.236-2 the introductory text of paragraph (e) is revised as follows:

§ 178.236 Specification 44B; multiwall paper bags.

§ 178.236-2 Paper.

(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the different walls of the sack.

48. In § 178.237, § 178.237-2 the introductory text of paragraph (e) is revised as follows:

§ 178.237 Specification 44C; multiwall paper bags.

§ 178.237-2 Paper.

(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the respective papers specified for the different walls of the sack.

49. In § 178.238, § 178.238-2 the introductory text of paragraph (e) is revised as follows:

§ 178.238 Specification 44D; multiwall paper bags.

§ 178.238-2 Paper.

(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the respective papers specified for the different walls of the sack.

50. In § 178.239, § 178.239-2 the introductory text of paragraph (e) is revised as follows:

§ 178.239 Specification 44E; multiwall paper bags.

§ 178.239-2 Paper.

(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the respective papers specified for the different walls of the sack.

51. In § 178.255, § 178.255-8 paragraph (a) is revised as follows:

§ 178.255 Specification 60; steel portable tanks.

§ 178.255-8 Safety devices.

(a) Safety devices must be approved by the Associate Director for OE.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on November 13, 1979.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 79-35562 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-60-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 79-ASW-47]

Proposed Alteration of Transition Area: Canadian, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of the action being taken is to propose an alteration of a transition area at Canadian, Tex. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Hemphill County Airport. The circumstances which created the need for the action are the proposed establishment of a new instrument approach procedure using the nondirectional radio beacon (NDB) located on the airport and a change to incorporate a more accurate airport geographical point and location of the NDB.

DATES: Comments must be received on or before December 19, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnet, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O.

Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Alteration of the transition area at Canadian, Tex., will necessitate an amendment to this subpart.

Comments Invited

Interested person may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 19, 1979, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14

Federal Register

Vol. 44, No. 224

Monday, November 19, 1979

CFR Part 71) to alter the transition area at Canadian, Tex. The FAA believes this action will enhance IFR operations at the Hemphill County Airport by providing controlled airspace for aircraft executing the published and proposed instrument approach procedures using the NDB located on the airport. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Canadian, Tex., transition area as follows:¹

Canadian, Tex.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Hemphill County Airport, Canadian, Tex. (latitude 35°53'42" N., longitude 100°24'13" W.), and within 3 miles each side of the 056° and 218° bearings to the NDB (latitude 35°53'28" N., longitude 100°24'18" W.), extending from the NDB to 8.5 miles southwest and northeast.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on November 1, 1979.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 79-35486 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-13-M

¹Map filed as part of the original document.

14 CFR Part 71

[Airspace Docket No. 79-ASW-52]

Proposed Alteration of Transition Area: Follett, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of the action being taken is to propose an alteration of the transition area at Follett, Tex. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Follett-Lipscomb County Airport. The circumstance which created the need for the action is the proposed establishment of a nondirectional radio beacon (NDB) located on the airport.

DATES: Comments must be received on or before December 19, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnet, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at Follett, Tex., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received within 30 days after publication of this notice in the Federal Register will be considered

before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Follett, Tex. The FAA believes this action will enhance IFR operations at the Follett-Lipscomb County Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed NDB located on the airport. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Follett, Tex., transition area as follows:¹

Follett, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Follett-Lipscomb County Airport (latitude 36°28'28" N., longitude 100°07'24" W., and within 4 miles each side of the 189° bearing from the NDB (latitude 36°20'37" N., longitude 100°07'16.5" W.), extending from the 7-mile radius area to 8.5 miles south of the NDB.

¹Map filed as part of the original document.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on November 1, 1979.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 79-35487 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 46

[Docket No. RM80-9]

Interlocking Positions Under Section 211 of the Public Utility Regulatory Policies Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Notice is hereby given that the Federal Energy Regulatory Commission (Commission) proposed to implement section 211 of the Public Utilities Regulatory Policies Act of 1978 (PURPA) which amends section 305 of the Federal Power Act. This rulemaking proposes reporting requirements for a person holding interlocking positions with a public utility and with any other business entity described in the proposed rulemaking. The Commission also proposes to impose a requirement that each public utility publish a list of its twenty largest purchasers, as mandated by section 211 of PURPA.

DATE: Written comments by December 10, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Reference No. RM80-9.

FOR FURTHER INFORMATION CONTACT: Colette Bohatch, Office of the General Counsel, Regulatory Development Branch, Room 8113, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8079.

Issued: November 14, 1979.

I. Background

This proposed rule, when issued in final form, will implement section 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Section 211 amends section 305 of the Federal Power Act by adding a new subsection (c) which imposes a reporting requirement upon a person holding interlocking positions involving a public utility and any other business entity identified in section 211. The proposed rule, set forth below, describes procedures for reporting by written statement to the Federal Energy Regulatory Commission (Commission) and describes the contents of the written statement.

Certain interlocking positions involving two or more public utilities or a public utility and "any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility" or "any company supplying electrical equipment to such public utility" are unlawful under subsection (b) of section 305 unless authorized by the Commission. A person desiring to hold such an interlocking position must file an application with the Commission and make a showing that neither public nor private interests will be adversely affected.

Section 305, as amended by section 211, contains a new subsection (c) which imposes reporting requirements upon a larger class of persons than encompassed by subsection (b), both in terms of the categories of interlocking positions and categories of business entities. Positions within the purview of section 305(c) are officer and director of a public utility and officer, director, partner, appointee, and representative of any business entity listed therein, including another public utility. The business entities within the scope of section 305(c) are the following entities, when interlocked with a public utility:

- (1) Any other public utility;
- (2) Any bank, trust company, banking association, or any company, firm, or organization that is authorized by law to underwrite or participate in the marketing of securities of a public utility;
- (3) Any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the

United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(4) Any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

(5) Any company, firm, or organization which during any one of the three (3) calendar years immediately preceding the filing date was one of the twenty (20) purchasers of electric energy which purchased (for purposes other than for resale) one of the twenty (20) largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three (3) calendar years; and

(6) Any company, firm, or organization which is controlled by any company, firm, or organization listed above.

The proposed rule, when issued in final form, requires a written statement be filed with the Commission by a director or an officer of a public utility who, also, holds an interlocking position, as described in the rule, with any of the above business entities. Although the statute gives the Commission a measure of latitude in propounding reporting requirements, the Commission proposes to impose a minimum of requirements for purposes of public comment on this notice of proposed rulemaking.

In addition to the reporting requirements, this proposed rule, when issued in final form, will implement the section 305(c) mandate that each public utility publish on or before January 31 of each year, commencing in 1980, a list of the purchasers who purchased (for purposes other than for resale) one of the twenty (20) largest annual amounts of electric energy during any one of the three (3) years immediately preceding the publication date.

II. Issues for Comment

The Commission requests comments from the public specifically with regard to several sections of the proposed rule.

Section 46.3 identifies those who must report. Paragraph (a) concerns a director or an officer, including any person who performs any similar duties or functions, in a public utility. Paragraph (b) concerns these same positions held in any business entity described in § 46.4 and further includes partner, appointee, and representative of such business entity. The Commission understands

these terms to include, for example, the following: persons who are appointed on a temporary or permanent basis to perform the duties or functions ordinarily performed by a director or an officer; and persons who act as representatives, such as consultants, of a business entity interlocked with a public utility. With an objective of further refining § 46.3, the Commission requests comments on paragraphs (a) and (b) specifically discussing the terms "appointee" and "representative."

In addition, several definitions require special consideration by the public. "Controlled" is used in section 305(c)(2)(F) in the following context: "any company, firm, or organization which is controlled by any company, firm, or organization" listed in section 305(c). Although "control" is defined qualitatively by § 46.2(b), the Commission believes that the definition should set forth quantitative parameters in order to better serve the intent of Congress as articulated in the Statement of Managers.¹

The definition of the word "controlled" in paragraph (2)(F) of new subsection (c) is, the conferees intend, to be defined by the Commission. The conferees were reluctant to establish a single arbitrary percentage of stock ownership as the yardstick for measuring control. Rather, it is anticipated that after appropriate consideration the Commission will arrive at a definition that takes into account the nature and extent of control of one firm by another.

Before incorporating quantitative parameters, however, the Commission requests comments regarding the definition of "control" with the above discussion as a guide to the nature of comments solicited. The Commission is interested particularly in public comment on parameters setting out the kind of control and level of control.

Also, "electrical equipment" is defined in § 46.2(d) to describe the term as it is used in section 305(c). The definition, by footnote, cites sections of the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, Part 101, Subchapter C, Chapter I, Title 18 of the Code of Federal Regulations to serve as examples. The Commission similarly requests comments on this definition.

Finally, this proposed rulemaking requires disclosure by a reporting person of his interest in, and compensation from, a § 46.4 business entity to the extent that either exceeds \$10,000. Comments are sought as to the appropriateness of this amount.

¹ Conf. Rep. No. 95-1750, p. 99.

III. Comment Procedures

Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM80-9. An original and fourteen (14) copies should be filed. All comments received prior to 4:30 p.m. E.S.T., December 10, 1979, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established for this rulemaking and which is available for public inspection during regular business hours in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

(Federal Power Act, as amended, 16 U.S.C. 792-828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645; Department of Energy Organization Act, 42 U.S.C. 7101-7352)

In consideration of the foregoing, the Commission proposes to add Part 46 to Subchapter B, Chapter I, Title 18 Code of Federal Regulations, as set forth below.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.

Subchapter B is amended by adding the following new Part 46 after Part 45:

PART 46—WRITTEN STATEMENT REQUIREMENTS FOR PERSONS HOLDING INTERLOCKING POSITIONS

Sec.

- 46.1 Purpose.
- 46.2 Definitions.
- 46.3 General rule.
- 46.4 Business entities under this part.
- 46.5 Contents and procedures for filing the written statement.
- 46.6 Identification of the twenty largest purchasers.

Authority: This part issued under the Federal Power Act, as amended, 16 U.S.C. 792-828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645; Department of Energy Organization Act, 42 U.S.C. 7101-7352.

§ 46.1 Purpose.

The purpose of this part is to monitor interlocking positions involving public utilities and certain other business entities described in this part for purposes of implementing section 305(c) of the Federal Power Act as amended by section 211 of the Public Utility Regulatory Policies Act of 1978.

§ 46.2 Definitions.

For the purpose of this part:

(a) "Public utility" has the same definition as that used in section 201(e) of the Federal Power Act.

(b) "Control" (including the term "controlled") means the possession, directly or indirectly, of the power to direct management or policies of a business entity whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, common directors, officers, or stockholders, voting trusts, holding trusts, associated business entities, contract, or any other direct or indirect means.

(c) "Business entity" means any firm, company, or organization including any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing and any parent and subsidiary of any corporation but does not include "municipalities" as defined in the Federal Power Act (section 3, 49 Stat. 838, 16 U.S.C. 296).

(d) "Electrical equipment" is any apparatus or device, or component part thereof, that is used in a function which is either mechanically or by legal prescription necessary to the process of generating, transmitting, or distributing electrical energy, including any electrically powered or electronic apparatus or device, or component part thereof, that is directly used in connection with the process of generating, transmitting, or distributing electrical energy.¹

§ 46.3 General rule.

A person must file a written statement in accordance with this part if he:

¹ This definition includes, but is not limited to, those items (with the exception of vehicles, structures, foundations, settings, services and other non-equipment items such as permit and inspection costs) in the following accounts described in Part 101, Title 18 of the Code of Federal Regulations: Boiler/Reactor plant equipment (Accounts 312 and 322); Engines and engine driven generators (313); Turbogenerator units (314 and 323); Accessory electrical equipment (315, 324, 334 and 345); Miscellaneous power plant equipment (316, 325, 335 and 348); Water wheels, turbines and generators (333); Fuel holders, producers, and accessories (342); Prime movers (343); Generators (344); Station equipment (353 and 362); Poles, towers and fixtures (354, 355 and 364); Overhead conductors and devices (356 and 365); Underground conduit (357 and 366); Underground conductors and devices (358 and 367); Storage battery equipment (363); Line transformers (368); Services (369); Meters (370); Installation on customer's premises (371); Street lighting and signal systems (373); and Communication equipment (397).

(a) Serves as a director or a Chief Executive Officer, President, Vice President, Secretary, Treasurer, General Manager, Comptroller, Chief Purchasing Agent, or performs any other similar duties or functions, in a public utility; and

(b) Serves in any of the positions described in paragraph (a) for a business entity identified in § 46.4 or is a partner, appointee, or representative of any such business entity.

§ 46.4 Business entities under this part.

Business entities within the purview of section 305(c) of the Act are the following:

(a) Any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(b) Any business entity authorized by law to underwrite or participate in the marketing of securities of public utilities;

(c) Any business entity which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel or other fuel for the use of any public utility;

(d) Any business entity which during any one of the three (3) calendar years immediately preceding the filing date was one of the twenty (20) purchasers of electric energy which purchased (for purposes other than for resale) one of the twenty (20) largest annual amounts of electric energy measured in kilowatt hours sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three (3) calendar years;

(e) Any business entity referred to in subsection (b) of section 305 of the Federal Power Act; and

(f) Any business entity which is controlled by any business entity described or referred to in this section.

§ 46.5 Contents and procedures for filing the written statement.

(a) Each written statement shall provide the following information:

(1) Full name, business address, and place of residence of the person reporting;

(2) Name and principal place of business of each of the business entities described in § 46.4 in which the person holds an interlocking position; the interlocking positions held and the duties and functions pertinent to each position; and a brief description of the nature of the business relationship, if any, between a public utility and the

subject entity, (e.g., equipment supplier, securities underwriter, creditor, fuel supplier, and major purchaser of electricity); and

(3) The nature of any interest (e.g., stock ownership, partnership, and annuity) and the basis for any compensation to the person (e.g., dividends, salary, and fees for services rendered) if the amount of interest in or compensation received from an entity listed in § 48.4 exceeds \$10,000 in the preceding calendar year.

(b) The written statement shall be filed with the Commission on or before April 30 of each year immediately following the calendar year in which the person held, for any part of the calendar year the interlocking positions. An original and two (2) copies of each written statement shall be filed with the Commission. Each original shall be dated, signed by the person, and verified under oath in accordance with § 1.31.60 of this chapter. Each copy shall bear the date and signature that appeared on the original and shall be complete in itself, but the signature on the copies may be stamped or typed and the notarial seal may be omitted. Such statement shall be available to the public through the Commission's Office of Public Information.

§ 46.6 Identification of the twenty largest purchasers.

(a) On or before January 31 of each calendar year, each public utility shall identify purchasers who have purchased (for purposes other than for resale) from the public utility the twenty (20) largest annual amounts of electric energy measured in kilowatt hours in each one of the three (3) calendar years immediately preceding each January 31.

(b) Each public utility shall file with the Commission by January 31 of each year the list of purchasers identified under paragraph (a). The list shall contain the following information for each purchaser:

(1) Name and address of the purchaser; and

(2) Total kilowatt hours of electric energy purchased by the purchaser during the subject year.

(c) Each public utility shall notify by January 31 of each year each purchaser which has been identified under paragraph (a).

[FR Doc. 79-35632 Filed 11-19-79 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 277

[Docket No. RM80-8]

Regulation of Natural Gas Sales Under the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed rule would implement sections 315(b) and 315(c) of the Natural Gas Policy Act of 1978 (NGPA). Section 315(b) establishes that the purchaser of natural gas which is subject to deregulation under section 601(a)(1)(B) of the NGPA has the right to a bona fide offer to buy such natural gas and the right of first refusal to buy such natural gas under the terms of an offer made by the purchaser and accepted by a third party. The proposed rule in section 315(b) establishes the procedures by which the requirements of the bona fide offer and right of first refusal shall be satisfied. Under the authority granted in section 315(c), the Commission has prescribed record keeping requirements pertaining to sales of natural gas under section 315 of the NGPA.

DATES: Written comments are due December 19, 1979. Public Hearing December 14, 1979; requests to participate by December 8, 1979.

ADDRESSES: Send comments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 9310, Washington, D.C. 20426. Request to participate should be sent to the same location. The location and room designation of the hearing will be specified at a later date.

FOR FURTHER INFORMATION CONTACT: MaryJane Reynolds, Office of the General Counsel, Room 8000, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8455.

Bona Fide Offers; Right of First Refusal; Notice of Proposed Rulemaking and Public Hearing

November 14, 1979.

Background

This proposed rule would implement section 315(b) of the Natural Gas Policy Act of 1978 ("NGPA"). The statute imposes the duty upon a seller to make a bona fide offer for the continued sale of certain categories of deregulated natural gas upon the expiration of the contract. If the bona fide offer is rejected, the statute creates a right of first refusal which permits the original purchaser to match the terms of any third party offer to purchase the natural gas.

Under the Natural Gas Act (NGA), natural gas became dedicated to interstate commerce upon the commencement of sales for resale in interstate commerce. Once the natural gas was dedicated, its sale could not be terminated until the seller had obtained abandonment authorization from the Commission under section 7(b) of the NGA. Frequently, producers would sell natural gas under limited term contracts. However, even if the sales contract covering the dedicated volumes expired or terminated, the gas had to continue to flow in interstate commerce absent abandonment authorization.

Section 601(a)(1)(B) of the NGPA exempts from NGA regulation natural gas which was committed or dedicated to interstate commerce on November 8, 1978, if a final determination has been made by a jurisdictional agency that the natural gas qualifies as:

- (1) High-cost natural gas (section 107(c) (1), (2), (3), and (4));
- (2) New natural gas (section 102(c)); or
- (3) New onshore production gas. (section 103(c)).

However, the seller in any first sale of natural gas which qualifies for deregulation under section 601(a)(1)(B) (except certain Outer Continental Shelf ("OCS") gas) must comply with the bona fide offer/right of first refusal requirements of Section 315(b). The bona fide offer/right of first refusal does not apply to natural gas committed or dedicated to interstate commerce solely because it is produced from the Outer Continental Shelf (section 2(18)(A) (i) natural gas). In either case, the transportation of OCS gas remains subject to the Commission's transportation certificate authority under section 7(c) of the Natural Gas Act. Section 315(b) requirements do apply to OCS gas which comes within the scope of both sections 2(18)(A) (i) and (ii).

Section 315(b) assures to a degree, that natural gas supplies will continue to flow to the interstate market despite the removal of certain categories of natural gas from the abandonment jurisdiction of the Commission under the Natural Gas Act. Section 315(b) requires the seller to make a bona fide offer to the original purchaser, that is, the purchaser who was entitled to receive the natural gas under section 2(18)(A)(ii) of the NGPA on November 8, 1978, or his successor. The section further grants the original purchaser the right of first refusal of the first offer to sell such natural gas which offer has been substantially accepted in principle by another party in an arms-length transaction. The bona fide offer must be made every time the contract with the

original purchaser expires or terminates. If the bona fide offer is rejected, the original purchaser's right of first refusal arises. In other words, the bona fide offer and right of first refusal flow with the natural gas for as long as the original purchaser continues to be the purchaser of the natural gas. Assume a contract was formed as a result of negotiation between the seller and original purchaser, but the negotiations had followed a rejection of a bona fide offer and preceded offer substantially accepted in principle with a third party and presented to the original purchaser for exercise of its right of first refusal. Then the right of first refusal would arise upon termination of the contract negotiated following rejection of the bona fide offer. This interpretation assures an original purchaser, who is willing to meet market conditions, continued access to the natural gas. The Commission believes this result is essential to meet the legislative intent of section 315(b). With a contrary interpretation of section 315(b), the seller could eliminate the obligations concerning the right of first refusal by accepting a counter offer to the bona fide offer.

A. Bona Fide Offers

The statute does not define a bona fide offer. According to the Statement of Managers, however, at the minimum, it must contain terms a purchaser could lawfully accept under the Natural Gas Act.¹ However, the intent of section 601(a)(1)(B) is deregulation of nonprice terms except that the Commission has specifically been granted authority to prescribe minimum contract duration for section 601(a)(1)(B) natural gas. See, section 315(a). In light of these provisions, the Commission does not believe it is proper to prescribe the precise terms and conditions of the bona fide offer required under section 315(b).

B. Right of First Refusal

The statute provides that an offer for the first sale of these certain categories of natural gas which has been substantially accepted in principle by another person in an arms-length transaction must be offered to the original purchaser. If the original purchaser is willing to meet the terms and conditions of the offer accepted by the third party, the original purchaser shall be entitled to purchase such natural gas.

The statute requires that the offer substantially accepted in principle by a third party in an arms-length transaction

be presented to the original purchaser for the right of first refusal. In implementing this provision, the Commission must balance the interests of both the original purchaser and the seller, which Congress intended to protect. As stated previously, section 601(a)(1)(B) indicates Congress wished to remove the gas from non-price regulation under the Natural Gas Act. As a result, the seller, by negotiating an arms-length transaction may negotiate a sale which reflects the economic conditions of the market place—up to the maximum price per MMBtu established by Title I. However, Congress was also concerned that pipeline (original) purchasers, which made advanced payments or invested capital in facilities to receive gas, relying on the NGA which provided that such gas was committed and dedicated to them until abandonment, have an opportunity to continue to purchase such natural gas if they are willing to meet the economic market conditions for the purchase of such natural gas. It is possible that an offer substantially accepted by a third party may contain conditions—e.g., delivery point, pressure and rate of take—which the original purchaser would be unable to accept because of situations prevailing on its own system or those of its customers. Thus, the Commission believes that the right of first refusal should allow the original purchaser who accepts the "offer substantially accepted in principle by a third party" to receive the natural gas at the delivery point and under the physical conditions of delivery specified in the previous contract with the original purchaser.

It is possible that some natural gas which would be subject to this subpart has been sold to third parties in the absence of a Commission rule under section 315(b) of the NGPA. To the extent such sales have been made the Commission intends to allow the original purchaser to seek appropriate relief from the Commission. See § 277.208.

The Commission intends to make this regulation effective as of the date the proposed rule is issued, except in those cases where the purchaser has waived his rights under § 315(b) of the NGPA, or where the seller can establish substantial compliance with the provisions of § 315(b) which the Commission's rule must implement.

Summary of Proposed Regulation

§ 277.201. The purpose of Subpart B of Part 277 is to implement section 315(b) of the NGPA concerning bona fide offers and rights of first refusal.

§ 277.202. This subpart would apply only to natural gas (1) which was committed or dedicated to interstate commerce on November 8, 1978 under section 2(18)(A)(ii) of the NGPA; (2) for which a final determination has been made by a jurisdictional agency that the natural gas is high cost natural gas under section 107, new natural gas under section 102 or new, onshore production under section 103; and (3) which would be subject to the Natural Gas Act but for the provisions of section 601(a)(1)(B) of the NGPA. However, the requirements of this subpart would not apply to natural gas committed or dedicated to interstate commerce solely because it is OCS gas.

§ 277.203. The definition of "subject contract" reflects the variety of circumstances which result in natural gas being "committed or dedicated to interstate commerce" by reason of section 2(18)(A)(II). First, any gas purchase contract between the seller and the original purchaser (unless there has been a lawful intervening sale to a third party) is a "subject contract." Second, even if no gas purchase contract presently covers the natural gas after the effective date of section 601(a)(1)(B), an earlier contract could still qualify as a subject contract. Finally, the flow of natural gas in interstate commerce without a purchase contract can result in a service obligation under the Natural Gas Act and render the natural gas "committed or dedicated to interstate commerce." In such a case, the contract implied in law between the seller and the purchaser is a subject contract. Any contract which implied in law arises after the termination date of a subject contract as a result of the requirements of § 277.207 is excluded from the definition.

The definition of "expiration date of a subject contract" is defined as the expiration or termination date of the contract. In addition, in the case of an implied contract arising from a Natural Gas Act service obligation, the date of the final determination which removes the obligation by operation of section 601(a)(1)(B) is defined as being the expiration date.

The "original purchaser" is the beneficiary of the rights afforded by section 315. The definition incorporates by reference case law under the Natural Gas Act which determines which person would be entitled to receive the natural gas.

§ 277.204. This section of Subpart B would prohibit the sale of natural gas which is subject to this subpart in a first sale to a third person until the bona fide offer and right of first refusal obligations have been met. Once the original

¹H. Report No. 95-1752, 95th Cong. 2d Sess. at 111 (1978).

purchaser has rejected both the bona fide offer and the offer substantially accepted in principle, the seller's obligations under section 315 would be satisfied.

§ 277.205. Bona Fide Offer. The proposed rule requires that the seller make a bona fide offer to the original purchaser. Until such a bona fide offer is made, the natural gas must continue to be sold to the original purchaser.

The bona fide offer must be made, during the time frame established, upon the expiration or termination of the original contract for sale of natural gas between the seller and original purchaser, or any subsequent contract between the seller and the original purchaser or a successor in interest thereto.

Where a final determination has been made that natural gas qualifies for this subpart at least 45 days before the contract (other than a contract implied in law) expires or terminates, the proposed rule would require that the bona fide offer for the sale of the natural gas be made no later than 20 days before expiration of the contract. In all other cases—where final determination is made less than 45 days prior to expiration or termination of the contract or the contract is a contract implied in law—the bona fide offer would have to be made within 20 days after the final determination. See § 277.205(b). The Commission recognizes that there will be cases where a final determination is not made simultaneously on all the dedicated acreage covered by the subject contract. However, because the 20 days is only an outside time limit, a single bona fide offer may be made which covers all wells for which a determination has been made as well as those for which a final determination may be made subsequently. Thus, sellers are not required to make bona fide offers every time a well, not subject to an existing contract, is determined to qualify as new natural gas, high cost natural gas or new, onshore production.

The bona fide offer, § 277.203(b), would be required, at the minimum, to meet the terms and conditions which the interstate pipeline (original purchaser) could accept under the Natural Gas Act. Moreover, the bona fide offer must be sufficiently definite that if it is accepted by the original purchaser, it will result in a contract binding on both the seller and the purchaser. The Commission believes that a less firm offer would not achieve the statutory purpose—an opportunity for the original purchaser to enter into a contract to continue to purchase the natural gas. Other requirements for bona fide offers, e.g., how made and how

accepted or rejected, are set forth in proposed § 277.205(c).

§ 277.206. Right of first refusal. As stated above, the proposed rule provides that the right of first refusal runs with the natural gas until such time as the natural gas has been sold to a third party by virtue of the original purchaser's failure to exercise its right of first refusal. See proposed § 277.206(b).

Proposed paragraph (b) of § 277.206 requires that the offer subject to the right of first refusal shall be made when the offer has been substantially accepted in principle by another person in an arms-length transaction. However, offers made prior to the rejection of a bona fide offer would not trigger this statutory right. The seller would not be required to find a third party purchaser. Rather, the seller could decide to shut-in the production, or to take the natural gas for its own use.

An offer substantially accepted in principle is defined in proposed § 277.203(g). It requires a written offer to sell natural gas and written acceptance thereof. The offer must be sufficiently firm that a binding contract with the new purchaser will result if the right of first refusal is not exercised. Unlike the bona fide offer, the offer substantially accepted in principle would not be required to meet the minimum requirements of the Natural Gas Act.

Other procedural requirements governing the right of first refusal are found in proposed paragraph (c) of § 277.205.

Proposed paragraph (d) would allow the original purchaser to accept an offer substantially accepted in principle without changing the delivery point for the natural gas. In many cases, the seller and a third party will agree to a different delivery point with corresponding changes in delivery pressures. However, in the Commission's view, the original purchaser would retain the right to receive the natural gas at the delivery point specified in the subject contract.

§ 277.207 Interim protective sales. Proposed § 277.207 requires that gas subject to section 315(b) of the NGPA which was produced and sold on December 1, 1978, must continue to flow to the original purchaser until the bona fide offer requirements of § 277.205 have been fulfilled, unless the natural gas has been subsequently sold to a third party purchaser. Such gas is to be sold under the terms and conditions existing in the contract on the last day the contract was in effect. Thereafter, pending exercise of right of first refusal—that time during which the seller may be negotiating a third party offer

substantially accepted in principle—the seller could either negotiate an interim sale with the original purchaser, at a price acceptable to both parties, or shut-in the natural gas. The Commission recognizes that those sellers subject to this subpart and which are not producers may not have the ability to discontinue sales pending resolution of negotiations with a third party. To the extent this proposed rule causes a person special hardship, inequity, or unfair distribution of burdens, the person may seek an adjustment to the regulations, pursuant to section 502(c) of the NGPA.

§ 277.208 Intervening third party sales. When the seller and a third party purchaser have entered into a contract to sell natural gas subject to this subpart, prior to the effective date of the final rule, the bona fide offer/right of first refusal requirements are deferred until the contract with the third party expires or is terminated. In addition, the original purchaser may seek other relief from the Commission.

Other provisions. The Commission recognizes that this proposed rule may be particularly troublesome to a captive seller—one whose production is connected only to the facilities of the original purchaser. The proposed rule allows the bona fide offer to be made at any time, including a time significantly prior to the expiration of the contract with the original purchaser. The original purchaser has 20 days from presentation to accept or reject the bona fide offer. At any time after rejection of the bona fide offer, the offer for first refusal may be presented. Therefore, a captive seller could negotiate the contracts in sufficient time to allow for new facilities of a third purchaser to be in place at expiration of the contract with the original purchaser which has chosen not to enter into a new contract with the seller.

Section 315(b) is intended, in part, to protect the ability of the original purchaser to continue to purchase the natural gas previously committed or dedicated to it. If an original purchaser determines such supplies are not necessary or is otherwise not interested in continuing to purchase such natural gas, the Commission believes the original purchaser should be entitled to waive its rights under section 315(b). Waiver would release the seller from unnecessary obligation under this subpart. Proposed § 277.209 so provides.

In lieu of exercising its right to require the filing of contracts, as allowed in section 315(c) of the NGPA, the Commission proposes to prescribe a record keeping requirement, propose § 277.210. It assures availability of

records necessary for determination of compliance with section 315(b).

Written Comment Procedures

Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received within 30 days of publication of this notice in the Federal Register will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM80-8.

Public Hearing Procedures

A public hearing concerning this proposal will be held in Washington, D.C. on December 14, 1979, beginning at 9:30 a.m., and will continue if necessary on the following day. A hearing room will be designated on December 10, 1979, and will be posted in the Office of Public Information, Room 1000. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m., December 6, 1979.

Requests to participate in the hearing should include a reference to Docket No. RM80-8, as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m., on December 10, 1979. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 20 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit

questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, 15 U.S.C. § 3301, et seq.)

In consideration of the foregoing, the Commission proposes to amend (effective November 14, 1979) Part 277, Subchapter H, Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.

1. Part 277 is amended by adding a Table of Contents to read as follows:

PART 277—OTHER PROVISIONS

Subpart A—Contract Duration

Sec.
277.101 Duration of new contracts for first sale of certain OCS gas.

Subpart B—Bona Fide Offers; Right of First Refusal

277.201 Purpose.
277.202 Applicability.
277.203 Definitions.
277.204 General rule.
277.205 Bona fide offers.
277.206 Right of first refusal.
277.207 Interim protective sales.
277.208 Intervening third party sales.
277.209 Waiver of rights under this subpart.
277.210 Recordkeeping requirements.

Authority: This part is issued under the Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301, et seq. [formerly cited as Pub. L. 95-621, 92 Stat. 3350].

2. Part 277 is further amended in the text of the regulations by adding the title *Subpart A—Contract Duration* immediately preceding the text of § 277.101.

3. Part 277 is further amended by adding a new Subpart B to read as follows:

Subpart B—Bona Fide Offers; Right of First Refusal

§ 277.201 Purpose.

The purpose of this subpart is to implement section 315(b) of the NGPA. This subpart requires a seller, prior to making a first sale of certain categories

of natural gas to a person other than the original purchaser:

(a) To make a bona fide offer to sell natural gas to the original purchaser; and

(b) Upon rejection of a bona fide offer or upon expiration or termination of any contract for the sale of natural gas subject to this subpart, to give the original purchaser the right of first refusal of the first offer to sell such natural gas, if such offer has been substantially accepted in principle by another person in an arms-length transaction.

§ 277.202 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to natural gas which:

(1) Was committed or dedicated to interstate commerce on November 8, 1978; and

(2) Has been determined to be high-cost natural gas, or new natural gas or natural gas produced from any new onshore production well; and

(3) Would be subject to the provisions of the Natural Gas Act and the jurisdiction of the Commission thereunder but for the provisions of section 601(a)(1)(B) of the NGPA; and

(4) Is produced on or after December 1, 1978.

(b) This subpart does not apply to any natural gas committed or dedicated to interstate commerce solely by reason of its being natural gas from the OCS under section 2(18)(A)(i) of the NGPA.

§ 277.203 Definitions.

For purposes of this subpart:

(a) "Arms-length transaction" means a transaction between parties with adverse economic interests. Arms-length transactions exclude transactions between affiliates or family members.

(b) "Bona fide offer" means a written offer by the seller to the original purchaser which would be legal for such purchaser to accept under the Natural Gas Act and which is sufficiently firm that if accepted by the original purchaser would result in a binding contract enforceable by the seller and the purchaser.

(c) "Final determination" means an eligibility determination which has become final within the meaning of § 273.102(b) of this chapter.

(d) "High-cost natural gas" means natural gas for which there has been a final determination by a jurisdictional agency, in accordance with Parts 274 and 275 of this chapter that it is high cost natural gas described in section 107(c)(1), (2), (3) or (4) of the NGPA.

(e) "Natural gas produced from any new, onshore production well" means

natural gas for which there has been a final determination by a jurisdictional agency, in accordance with Parts 274 and 275 of this chapter, that it is produced from any new, onshore production well described in section 103(c) of the NGPA.

(f) "New natural gas" means natural gas for which there has been a final determination by a jurisdictional agency, in accordance with Parts 274 and 275 of this chapter, that it is new natural gas described in section 102(c) of the NGPA.

(g) "Offer substantially accepted in principle" means a written acceptance by a purchaser (other than the original purchaser) of a written offer to sell the natural gas. The written offer and acceptance must be:

(1) Subject to the right of first refusal; and

(2) Sufficiently firm such that if the original purchaser rejects the written offer, the written offer and acceptance by a purchaser (other than the original purchaser) would result in a contract which is binding on the seller and that purchaser.

(h) "Subject contract" means a contract for the sale of natural gas subject to this subpart which:

(1) Was in effect on or after December 1, 1978; and

(2)(i) Is between the seller and the original purchaser unless there has been an intervening sale to a third party which followed the rejection of a bona fide offer and a rejection by the original purchaser of an offer substantially accepted in principle in accordance with § 277.206(d); or

(ii) Is implied in law as arising from the seller's service obligation under the Natural Gas Act (excluding any interim service obligation arising from this subpart or section 315 of the NGPA).

(i) "Expiration date of a subject contract" means:

(1) In the case of a contract implied in law, the date of a final determination that the natural gas covered by the subject contract qualifies as high cost natural gas, natural gas produced from any new, onshore production well, or new natural gas;

(2) In all other cases, the expiration or termination date of the subject contract.

(j) "Original purchaser" means the person who would be entitled to receive natural gas under the Natural Gas Act but for the provisions of section 601(a)(1)(B) of the NGPA. (The original purchaser may be a successor in interest to the person which had the right to receive the natural gas on November 8, 1978).

(k) "Third party purchaser" means a person that purchases the natural gas subject to this subpart from the seller, who has economic interests adverse from those of the seller and who is not:

- (i) The original purchaser, or
- (ii) An affiliate of the seller, or
- (iii) A member of the seller's family.

§ 277.204 General rule.

(a) Except as provided in § 277.208, no seller shall make a first sale of natural gas subject to this subpart to any purchaser other than the original purchaser until the original purchaser has both rejected a bona fide offer in accordance with § 277.205(c) and has rejected an offer substantially accepted in principle in accordance with § 277.206(c).

(b) Once the original purchaser has both rejected a bona fide offer in accordance with § 277.205(c) and has rejected an offer substantially accepted in principle in accordance with § 277.206(c), and the sale to a third party purchaser has been made under the offer substantially accepted in principle and rejected by the original purchaser, the requirements of this subpart no longer apply to the first sale of the natural gas.

§ 277.205 Bona fide offers.

(a) *General rule.* Except as provided in § 277.208, deliveries of natural gas to an original purchaser under a subject contract may not be discontinued unless a bona fide offer which complies with this section has been rejected by the original purchaser under paragraph (c) of this section.

(b) *Time for making the bona fide offer.* (1) *Determination more than 45 days before contract expiration.* With respect to the natural gas subject to this subpart and for which the final determination that the natural gas qualifies as high-cost natural gas, new natural gas or new, onshore production was made 45 days or more before the expiration date of the subject contract (other than a contract implied in law) the bona fide offer shall be made no later than 20 days prior to the expiration date of the subject contract.

(2) *Determination less than 45 days before contract expiration.* In all other cases, the offer shall be made no later than 20 days after a final determination is made that the natural gas qualifies as high-cost natural gas, new natural gas or natural gas produced from any new, onshore production well.

(c) *Offer; acceptance; rejection.* The

written bona fide offer shall be made by sending it to the original purchaser by U.S. mail, certified, and return receipt requested. The original purchaser shall have 20 days from receipt to accept the bona fide offer. The bona fide offer shall be rejected by a written refusal to accept it. Any counteroffer to the bona fide offer made by the original purchaser shall constitute a rejection of the bona fide offer. If the bona fide offer is not accepted or rejected within 20 days, it shall be deemed rejected. The bona fide offer, if accepted, shall be accepted in writing. It shall be deemed accepted when signed and placed in the U.S. mail, certified, return receipt requested.

§ 277.206 Right of first refusal.

(a) *General rule.* The seller shall present any offer substantially accepted in principle by a third person in an arms-length transaction to the original purchaser for exercise of its right of first refusal. The offer shall be presented in accordance with the provisions of this section.

(b) *Time for making the offer.* Except as provided in § 277.208, the seller shall present the offer described in paragraph (a) of this section to the original purchaser, for the exercise of its right of first refusal at the later of:

- (1) The time when the offer is substantially accepted in principle; or
- (2) The time when the bona fide offer is rejected.

(c) *Offer; acceptance; rejection.* The offer described in paragraph (b) of this section shall be made by sending it to the original purchaser by U.S. mail, certified, return receipt requested. The original purchaser shall have 20 days from receipt to accept the offer. The offer shall be rejected by a written refusal to accept it. Any counteroffer to the offer made by the original purchaser, except as provided in paragraph (d) of this section, shall constitute a rejection. If the offer is not accepted or rejected within 20 days, it shall be deemed rejected. The offer, if accepted, shall be accepted in writing. It shall be deemed accepted when it is signed and placed in the U.S. mail, certified, return receipt requested.

(d) *Delivery point under an accepted offer.* Notwithstanding any contrary provision of an offer substantially accepted in principle, the original purchaser that accepts the offer shall (at its option) have the right to receive the natural gas at the delivery point and under the physical conditions of

delivery specified in the subject contract.

§ 277.207 Interim protective sales.

(a) *General rule.* Except as provided in § 277.208, after the expiration date of a subject contract, any natural gas subject to the provisions of this subpart shall continue to be sold to the original purchaser until the requirements of § 277.205 (concerning bona fide offers) have been met.

(b) *Conditions of sale.* Natural gas sold to the original purchaser under paragraph (a) of this section shall be sold under the terms and conditions prevailing in the subject contract on the last day the contract was in effect, except that the seller may charge no more than the price paid by the original purchaser on the day before the final determination was made.

§ 277.208 Intervening third party sales.

(a) *Applicability.* This section applies to natural gas to which this subpart applies if:

(1) The applicable subject contract has expired, and

(2) Such gas is covered by a first sale contract between the seller and a third party purchaser, entered into after the final determination and prior to the date this rule was issued as a proposed rule.

(b) *Relief.* The original purchaser may apply not later than January 15, 1980, to the Commission for such relief as the Commission may determine appropriate.

§ 277.209 Waiver of rights under this subpart.

(a) *General rule.* The original purchaser may voluntarily waive its right to a bona fide offer under § 277.205 or its right of first refusal under § 277.206 or both rights.

(b) *Method of waiver.* Waiver under paragraph (a) of this section must be in writing and signed by the original purchaser.

§ 277.210 Recordkeeping requirements.

All sellers of natural gas which is subject to this subpart must retain copies of all bona fide offers under § 277.205 and offers to the original purchasers to satisfy the original purchaser's right of first refusal under § 277.206. The sellers and purchasers of natural gas which is subject to this subpart must also retain all other documents created in the ordinary course of business and which relate to this subpart.

[FR Doc. 79-35667 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION Federal Highway Administration

Urban Mass Transportation Administration

23 CFR Part 771

49 CFR Part 662

[FHWA Docket No. 79-26]

Environmental Impact and Related Procedures

AGENCIES: Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Extension of Comment Period.

SUMMARY: In the Federal Register of October 15, 1979 (44 FR 59438), FHWA and UMTA issued a notice of proposed rulemaking concerning the coordinated responses of the two agencies to the Council on Environmental Quality (CEQ) regulations implementing the procedural provisions of the National Environmental Policy Act and to the implementing procedures issued by the Department of Transportation. Interested parties were given until November 14, 1979 to submit comments. Because of extensive interest in this action, a new closing date for comments has been established and is set out below.

DATE: Comments must be received on or before December 3, 1979.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 79-28, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: FHWA: Dale Wilken, Office of Environmental Policy, 202-426-0106, or Irwin Schroeder, Office of the Chief Counsel, 202-526-0791. Office hours for FHWA are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday. UMTA: Peter Benjamin, Office of Transit Assistance, 202-472-2435, or John Collins, Office of the Chief Counsel, 202-426-1906. Office hours for UMTA are from 8:30 a.m. to 5 p.m. ET, Monday through Friday.

Dated: November 13, 1979.

John S. Hassell, Jr.,
Acting Administrator, Federal Highway Administration.
Lillian C. Liburdi,
Acting Deputy Administrator, Urban Mass Transportation Administration.
[FR Doc. 79-35520 Filed 11-16-79 8:45 am]
BILLING CODE 4910-57-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 204

Small Arms Range, Great Lakes, Ill.; Danger Zone

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Proposed Rule.

SUMMARY: The Corps of Engineers proposes to revise the regulations which establish a danger zone at the small arms range adjacent to the U.S. Naval Training Center, Great Lakes, Illinois. The revision is necessary to accommodate the current training and practice routine at the range.

DATE: Comments must be received by December 20, 1979.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, Telephone (202)272-0200.

SUPPLEMENTARY INFORMATION: Regulations have been promulgated by the Department of the Army in 33 CFR 204.175 on 30 January 1951 to establish a danger zone for a small arms range on Lake Michigan approximately 2 miles south of the entrance to Waukegan Harbor, Illinois. These amendments affect paragraph (b) by eliminating the buoys used on the north and south points on the eastern limits of the range and to delete the requirement for streamers to be displayed when firing is in progress. Red warning flags will be flown when firing is conducted at the range. When firing rifles at the range, spotters will be employed on the lake shore to observe the impact area and suspend shooting if any craft enters the danger zone. It should be noted that all fire is intended to impact into the berms and not impact into the lake. Only an errant round or ricochet would impact into the lake.

Accordingly, the U.S. Army Corps of Engineers proposes to amend 33 CFR 204.175(b) as set forth below:

§ 204.175 Lake Michigan: Small arms range adjacent to U.S. Naval Training Center, Great Lakes, Ill.

(b) *The regulations.* (1) When firing affecting the danger zone is in progress, the enforcing agency will post guards at such locations that the waters in the danger zone may be observed and arrange signals whereby these guards may stop the firing should any person or vessel be seen in the waters of the danger zone. When firing is in progress, the enforcing agency will cause red flags to be displayed on shore near the rifle butts, which may be readily discernible to a person in a vessel within the danger zone.

(3) If such flags are displayed it will indicate that firing is in progress, and that the waters in the danger zone are subject to impact by rounds missing or ricocheting off the impact berm and should not be entered until the flags are lowered.

(5) Deleted.

Authority.—(40 Stat. 266; 33 U.S.C. 1) and (40 Stat. 892; 33 U.S.C. 3).

Notes.—The Chief of Engineers has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and therefore, is not significant for the purposes of E.O. 12044. A regulatory analysis is not required.

Dated: November 7, 1979.

Forrest T. Gay III,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 79-35515 Filed 11-19-79; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1361-2]

State and Federal Administrative Orders Revising the Michigan State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule: Proposed Approval of Revision.

SUMMARY: U.S. Environmental Protection Agency (USEPA) proposes to approve Michigan Air Pollution Control Commission's request for a revision to the Michigan State Implementation Plan (SIP). The revision is a Final Order issued by the Michigan Air Pollution Control Commission (MAPCC). The Final Order was the result of the

Stipulation and Consent Order entered into by the Consumers Power Company and the Air Quality Division of the Michigan Department of Natural Resources. The Order extends the date by which the Company is required to bring sulfur dioxide emissions from coal-fired boilers at its J.H. Campbell Plant located in the Township of Port Sheldon, Ottawa County, Michigan, into compliance with certain regulations contained in the federally approved Michigan State Implementation Plan (SIP). The Order extends the date for compliance from January 1, 1980 to January 1, 1985. Any Order which has been issued to a major source and extends the SIP compliance date for meeting the sulfur dioxide emission limitations must be approved by USEPA before it becomes effective as a SIP revision under the Clean Air Act. 42 U.S.C. 7410. If approved by USEPA, the extension will constitute a revision to the SIP. The purpose of this Notice is to invite public comment on USEPA's proposed approval of the MAPCC Order dated June 25, 1979.

DATE: Written comments must be received by December 19, 1979.

ADDRESSES: Please send comments to: Steve Rothblatt, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

The State Order, supporting material and public comment received in response to this notice may be inspected and copied (for appropriate charges) during normal business hours at the above address or at: Michigan Department of Natural Resources, Air Quality Division, State Secondary Complex, General Office Building, 7150 Harris Drive, P.O. Box 30028, Lansing, Michigan 48909.

FOR FURTHER INFORMATION CONTACT: Joel Morbito, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6059.

SUPPLEMENTARY INFORMATION: Consumers Power Company uses coal as fuel in its electrical generating facility, commonly known as the Campbell Plant, in the township of Port Sheldon, Ottawa County, Michigan.

On January 17, 1978 the Michigan Air Pollution Control Commission (Commission) received Consumers Power Company's (Consumers) request to defer compliance with the sulfur dioxide emission standards specified in Tables 3 and 4 of Rule 336.49 of the Commission's Rules and Regulations for Air Pollution Control. Consumers

requested that compliance be deferred from January 1, 1980 to January 1, 1985.

Rule 336.49 sets sulfur dioxide emission limitations for power plants in the State of Michigan. Rule 336.49(1) allows for deferred compliance if power plant emissions do not create or contribute to an ambient level of sulfur dioxide in excess of the applicable air quality standards. Rule 336.49(2) prohibits exceptions to the limitations of Table 3 beyond January 1, 1980 unless authorization is granted by the Commission.

In accordance with Rule 336.49(2) Consumers applied for an extension of the January 1, 1980 compliance date for sulfur dioxide emissions. In its application Consumers requested that the compliance date be extended to January 1, 1985, and provided information and demonstrations which were required by Rules 336.141-147.

As a result of Consumers' application a public hearing was held May 15, 1979 on proposed Consent Order APC No. 05-1979 entered into by Consumers and the Air Quality Division of Michigan's Department of Natural Resources. There was testimony that the proposed Order did not appear to contain any interim reduction for the twenty-four hour average of sulfur dioxide emissions, and that the air quality models and meteorological data did not take into account the gradient onshore and lake breeze fumigation effects. The Commission authorized the entrance of the Order with the provision that the problem with the air quality modeling study be resolved.

The Order extended the compliance date for meeting sulfur dioxide emission limitations to January 1, 1985. The Commission stated in the Order that if Consumers complied with the terms of the proposed Order, the extension would not interfere with the attainment or maintenance of the National Ambient Air Quality Standards for any pollutant. The proposed Order was thereafter stipulated on June 22, 1979 as a Consent Order between Consumers and the Air Quality Division of Michigan's Department of Natural Resources. On June 25, 1979 the Consent Order was issued by the Michigan Air Pollution Control Commission as the Commission's Final Order.

The Final Order rescinds and supersedes Performance Contract No. 973-10 and extends the compliance date for meeting the sulfur dioxide emission limitations of Commission Rule 336.49 to January 1, 1985. The Order also contains provisions by which it may be modified or revoked. Under the Order Consumers must comply with the following program and time schedule for the control of

sulfur dioxide emissions from the Campbell Plant:

A. Sulfur Dioxide Emission Limitations

(1) Beginning on January 1, 1980 and continuing to January 1, 1985, fuel burned at the Campbell Plant shall not:

(a) On an annual average exceed 3.05 percent sulfur content by weight at 12,000 Btu/pound of coal.

(b) Result in sulfur dioxide emissions greater than 490 tons on any calendar day. This emission limitation is the equivalent of burning coal which averages 3.82 percent sulfur content by weight at 12,000 Btu/pound of coal and 650 megawatts net load for 24 hours.

(c) On a daily average result in emissions of sulfur dioxide greater than a rate of 7.0 pounds per million Btu heat input.

(2) After January 1, 1985, emissions of sulfur dioxide from the Campbell Plant shall not exceed the levels prescribed in Tables 3 and 4 of Rule 336.49, unless an alternative date for compliance with the levels is established by the Commission.

B. Sulfur Dioxide Control Program

(1) By January 1, 1980, the Company shall submit to the Commission an acceptable control strategy which shall provide for compliance with Section A(2) of this Order.

(2) If the Company elects to burn low sulfur coal as the method of control, the Company shall be January 1, 1981, and by each January 1 for the following three (3) years:

(a) Notify the Commission that it has under contract or contract option the low sulfur coal necessary to meet the requirements of Section A(2) of this Order; or

(b) Notify the Commission, with acceptable explanation, that adequate quantities of low sulfur coal are available for acquisition for use in the Campbell Plant by January 1, 1985.

(3) If low sulfur coal is chosen as the method of control the Company shall notify the Commission of the signing of any contracts for such coal within thirty (30) days of their signing.

(4) If the Company elects a control strategy other than low sulfur coal burning, a report on the method of control (including increments of progress) shall be provided to the Commission by January 1, 1980. If a control strategy other than low sulfur coal burning is submitted, it is the intent of the Company and the Commission to incorporate the elements of the control strategy into either a new or amended order.

(5) By January 1, 1981, and by each January 1 for the following three (3) years, the Company shall submit to the

Commission a report of the Company's progress toward complying with the order. Any developments which would preclude compliance with any provision of this Order shall be immediately reported in writing to the Commission.

C. Monitoring and Data Reporting

(1) The Company shall operate two (2) ambient sulfur dioxide monitors around the Campbell Plant in such manner and at such locations as reasonably specified by the Chief of the Air Quality Division of the Department of Natural Resources (hereinafter "Staff"). To measure the air quality impact of the Campbell Plant under lake breeze fumigation conditions, the Company shall operate an additional six (6) ambient sulfur dioxide monitors at such locations around the Campbell Plant as reasonably specified by the Staff.

(2) The Company shall perform a weekly sulfur analysis of fuel burned in the Campbell Plant in accordance with the procedures specified in Appendix A.

(3) The Company shall by January 1, 1980, install and place in operation stack gas emission monitor(s) for measuring sulfur dioxide that meets the performance specifications of Appendix B of 40 CFR Part 60 (1977).

(4) The Company shall demonstrate the adequacy of the stack gas sulfur dioxide monitor(s) in accordance with the procedures specified in Appendix B of 40 CFR Part 60 (1977).

(5) For each calendar day during which the stack gas sulfur dioxide monitor(s) has been inoperative for 12 consecutive hours, the Company shall conduct a daily analysis of the coal burned at the Campbell Plant according to the procedures specified in Appendix A. This daily analysis shall be discontinued only after the stack gas sulfur dioxide monitor(s) has operated acceptably for 12 consecutive hours during a calendar day.

(6) The Company shall report to the Staff sulfur dioxide emissions in terms of pounds of sulfur dioxide per million Btu heat input in accordance with the procedures specified in Appendix B of 40 CFR Part 60 (1977).

(7) The Company shall submit to the Staff data from the aforementioned ambient air quality monitors, stack gas monitor(s) and fuel sulfur analysis in such format and at such intervals as reasonably specified.

(8) During 1979 and at approximately 18-month intervals thereafter, the Company shall conduct periodic particulate emission tests for each unit of the Campbell Plant. The tests shall be conducted in accordance with Commission approved procedures.

(9) The monitoring and reporting requirements specified in or pursuant to subsections C(1) through (8) shall be, upon request of the Company, reviewed by the Commission and modified if the Commission finds such modifications are justified.

D. Lake Breeze Fumigation Study

The Company shall conduct a lake breeze fumigation study to determine the effects of onshore wind flow upon ambient sulfur dioxide concentrations resulting from operation of the Campbell Plant. The study shall cover the period of April through September 1980, and shall be conducted in accordance with the scope description in Appendix B of this Order. A report of the preliminary results of the study shall be submitted to the Staff by April 1, 1981. A report of the final results of the study shall be submitted to the Staff by August 1, 1981.

Appendix A—Fuel Analysis Procedures

1. Weekly Fuel Analysis

a. A minimum of three equally spaced grab samples of the coal burned at the Campbell Plant shall be taken each calendar day.

b. A composite coal sample shall be prepared from the grab samples according to ASTM or equivalent methods for each calendar day that the daily fuel analysis is required.

c. The weekly composite coal sample shall be analyzed for sulfur and heat (Btu) content according to ASTM or equivalent procedures approved by the Chief of the Air Quality Division.

2. Daily Fuel Analysis

a. In the event the stack gas sulfur dioxide monitor(s) has been inoperative for a period of 12 consecutive hours, a minimum of two equally spaced grab samples of the coal burned at the Campbell Plant shall be taken during each eight hour work shift. This sampling procedure shall continue until the monitor has operated acceptably for a period of 12 consecutive hours.

b. A composite coal sample shall be prepared from the grab samples according to ASTM or equivalent methods for each calendar day that the daily fuel analysis is required.

c. The composite coal sample shall be analyzed for sulfur and heat (Btu) content according to ASTM or equivalent methods approved by the Chief of the Air Quality Division.

Appendix B—Lake Breeze Fumigation Study—Scope Description

The lake breeze fumigation study shall consist of five phases as follows:

I. Meteorological Data Collection—Data shall be collected with an on-site

meteorological tower and an acoustic sounder. Descriptions of the data to be collected are included in Attachment I to this Appendix. This phase shall include meteorological data from June 1977 to September 1980.

II. Ambient Monitor Site Selection— The meteorological data collected in Phase I shall be used in conjunction with appropriate modeling studies to determine the location of the six ambient sulfur dioxide monitors required to measure maximum impact of the Campbell Plant during lake breeze fumigation conditions. The locations of the monitors shall be approved by the Air Quality Division.

III. Ambient Data Collection— Following the installation of the sulfur dioxide monitors, concurrent meteorological and ambient sulfur dioxide data shall be collected. Data collection shall begin, weather and equipment availability permitting, by April 1, 1980, and shall continue through September 30, 1980. Meteorological data shall consist of the data specified in Phase I above as well as the data obtained from an acoustic sounder located inland from the Campbell Plant site. Ambient sulfur dioxide data shall be obtained on a continuous basis from those sites identified in Phase II.

IV. Model Validation— The concurrent meteorological and ambient data collected in Phase III shall be used to validate the lake breeze fumigation model used in the site selection phase. If necessary, modifications based on this validation shall be made to the model to assure it is representative of lake breeze dispersion conditions existing in the vicinity of the Campbell Plant site.

V. Impact Assessment— The validated model shall be used in conjunction with the meteorological data of Phase III and any other pertinent information to determine the impact of the Campbell Plant on ambient sulfur dioxide levels during lake breeze fumigation conditions.

The Company shall review each phase of the above program with the staff of the Air Quality Division and advise the staff of the progress of the study. Hourly meteorological data collected during the study as well as the data summaries described in Attachment I shall be provided to the Air Quality Division.

Attachment 1 to Appendix B Data Descriptions

1. Meteorological Tower Data

A. Wind direction and speed at heights of 10, 60 and 90 meters;

B. Temperature and dew point temperature at 10 meters; and

C. Differential temperature between the heights of 10 and 60 meters and between 10 and 90 meters.

2. Acoustic Sounder Data

A. Mixing height

B. Stability class

C. Degree of turbulence

Data Summaries

1. The following summaries are made of the meteorological tower data on a quarterly basis:

A. Wind frequency distribution at each height and among 16 wind direction sectors;

B. Stability wind roses for each of the seven Pasquill stability categories; and

C. Persistence of wind speed among 16 wind direction sectors.

2. The following summaries are made of acoustic sounder data on a quarterly basis:

A. Hourly values of mixing height;

B. Stability class (in a general classification scheme consisting of stable, unstable and neutral); and

C. Degree of turbulence (qualitative as to weak, moderate, strong).

The Final Order was formally submitted on June 26, 1979 as a proposed revision to the Michigan State Implementation Plan (SIP). USEPA reviewed the Order as a proposed SIP revision and concluded that the proposed revision meets notice and hearing procedural requirements of CFR 51.4 and 51.6 and will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards. Pursuant to Section 110 of the Clean Air Act, the Administrator of the United States Environmental Protection Agency must approve the Final Orders which extend compliance dates as revisions to the State Implementation Plans before they may become effective. 42 U.S.C. 7410. Today's action proposes approval of the Michigan Air Pollution Control Commission's Final Order dated June 26, 1979, as a revision to the Michigan SIP.

All interested persons are invited to submit written comments on the proposed SIP revision. Written comments received by the date specified above will be considered in determining whether EPA will approve the revision. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the proposed SIP revision.

Attachment A

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures, USEPA labels proposed regulations, "specialized." I

have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044. (42 U.S.C. 7410)

Dated: October 2, 1979.

John McGuire,
Regional Administrator.

[FR Doc. 79-35561 Filed 11-16-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[PP 6F1860/P122; FRL 1360-5]

Proposed Tolerances for the Pesticide Chemical Thiabendazole

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).
ACTION: Proposed Rule.

SUMMARY: This notice proposes that tolerances be established for residues of the fungicide thiabendazole on sugar beets at 6 parts per million (ppm) and in eggs and the meat, fat, and meat byproducts of poultry at 0.1 ppm. The proposal was submitted by Merck & Co. This amendment would establish maximum permissible levels for residues of thiabendazole in or on sugar beets; eggs; and the meat, fat, and meat byproducts of poultry.

DATE: Comments must be received on or before December 19, 1979.

ADDRESS: Send comments to: Mr. Henry Jacoby, Product Manager (PM) 21, EPA, Office of Pesticide Programs, Registration Division (TS-767), 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Henry Jacoby, PM 21, at the above address (202/755-2562).

SUPPLEMENTARY INFORMATION: On October 7, 1976, notice was given (41 FR 44213) that Merck & Co., Inc., Rahway, NJ 97965, had filed a petition (PP 6F1860) with the EPA. This petition proposed to amend 40 CFR 180.242 by increasing the established tolerance for residues of the fungicide thiabendazole (2-(4-thiazolyl)benzimidazole) in or on the raw agricultural commodity sugar beets without tops (preharvest) from 0.25 ppm to 4 ppm. No comments were received in response to this notice of filing.

Subsequently, the petitioner amended the petition by increasing the proposed tolerance from 4 ppm (preharvest) to 6 ppm (pre- and postharvest) and by expanding the proposed tolerance to include combined residues of thiabendazole and its metabolite 5-hydroxythiabendazole in eggs and the

meat, fat, and meat byproducts of poultry at 0.1 ppm. Because of the potential increase in exposure of humans to residues of thiabendazole as a result of the higher tolerance and additional raw agricultural commodities, the tolerances are being proposed at this time to provide an opportunity for public comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included two-year rat and dog-feeding studies; rat and mouse reproduction studies; and subacute studies on rats, sheep, and other farm animals. Based on a rat study, the no-observed-effect level is 10 milligrams (mg)/kilogram (kg) of body weight (bw)/day. This results in an acceptable daily intake (ADI) of 0.1 mg/kg bw/day and a maximum permissible intake (MPI) of 6 mg/day. Existing and proposed tolerances result in a maximum theoretical exposure of 1 mg/day. Tolerances have previously been established for residues of thiabendazole in or on a variety of raw agricultural commodities, ranging from 10 ppm to 0.1 ppm. An adequate analytical method (spectrophotofluorometry) is available for enforcement purposes.

The existing meat and milk tolerances are adequate to cover any residues from the proposed use as delineated in 40 CFR 180.6(a)(2).

The data supporting this petition do not include a second carcinogenicity study (mouse). However, the chronic feeding study in the rat was performed under a protocol considered adequate for carcinogenic potential evaluation. This study did not provide any evidence that thiabendazole would be considered a presumptive carcinogenic risk. Thus, the Agency considers that the 6 ppm tolerance on sugar beets and the 0.1 ppm in eggs and the fat, meat, and meat byproducts of poultry are adequate to protect the public health. The requirement for mutagenicity testing is not waived, and the mutagenicity studies will be requested when suitable test protocols have been determined. The requirement for carcinogenic potential evaluation in a second mammalian species (mouse) is not waived, and the petitioner will be required to submit results of such a study to the Agency within 12 months of final issuance of this regulation. Should oncogenic effects be found in the study when submitted, the petitioner has

agreed not to contest revocation of the subject regulation (Merck letter of August 23, 1979).

No actions are currently pending against continued registration of thiabendazole, nor are any other considerations involved in establishing the proposed tolerances.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 6 ppm on sugar beets and 0.1 ppm in eggs and the meat, fat, and meat byproducts of poultry established by amending 40 CFR 180.242 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before December 19, 1979 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 6F1860/P122". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of PM 21, Room 305, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: November 9, 1979.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)])

Douglas D. Campit,

Director, Registration Division.

It is proposed that Part 180, Subpart C, § 180.242 be amended by alphabetically inserting sugar beets at 6 ppm in paragraph (a) and eggs and the meat, fat, and meat byproducts of poultry in paragraph (b), as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) * * *

Commodity	Parts per million
Beets, sugar, without tops (pre- and post-h)	6

(b) * * *

Commodity	Parts per million
Eggs	0.1
Poultry, fat	0.1
Poultry, mbypr	0.1
Poultry, meat	0.1

[FR Doc. 79-35540 Filed 11-16-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[PP 7E2008/P114; FRL 1360-6]

Proposed Tolerance for the Pesticide Chemical Dimethyl (2,2,2-Trichloro-1-Hydroxyethyl) Phosphonate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).
ACTION: Proposed rule.

SUMMARY: This notice proposed that a tolerance be established for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate on birdsfoot trefoil hay at 90 parts per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This regulation would establish a maximum permissible level for residues of the subject insecticide on birdsfoot trefoil hay, including chaff.

DATE: Comments must be received on or before December 19, 1979.

ADDRESS: Send comments to: Mrs. Patricia Critchlow, Office of Pesticide Programs, Registration Division (TS-767), EPA, East Tower, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow at the above address (202/426-0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of New York and Vermont, has submitted a pesticide petition (PP 7E2008) to the EPA. This petition requests that the administrator propose that 40 CFR 180.198 be amended

by the establishment of a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity birdsfoot trefoil hay, including its byproduct chaff at 90 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The toxicology data considered in support of the proposed tolerance were 2 two-year rate feeding studies with no-observed-effect-levels (NOEL) of 250 ppm and 500 ppm, a one-year dog feeding study with an NOEL of 50 ppm, and a negative oncogenicity study.

The acceptable daily intake (ADI) for this chemical is calculated to be 0.0125 milligram (mg)/kilogram (kg) of body weight (bw)/day based on the one-year dog feeding study NOEL using a 100-fold safety factor. The maximum permissible intake is calculated to be 0.75 mg/day for a 60 kg-man. The theoretical maximum residue contribution (TMRC) from existing tolerances is calculated to be 0.0628 mg/day for a 1.5-kg daily diet. Therefore, existing tolerances use up approximately 8.4 percent of the ADI. There is no reasonable expectation of residues in eggs, meat, milk or poultry as delineated in 40 CFR 180.6(a)(3). The nature of the residue is adequately understood and an adequate analytical method (gas chromatography) is available for enforcement purposes. Tolerances have been established for residues of the subject pesticide on a variety of raw agricultural commodities at levels ranging from 0.05 ppm to 240 ppm. There currently exists a tolerance for residues in or on alfalfa at 90 ppm.

Currently, the subject insecticide is a candidate for a rebuttable presumption against continued registration since data are available that indicate it might exceed the risk criteria described in 40 CFR 162.11(a)(3)(ii)(A) for possible oncogenic effects and 40 CFR 162.11(a)(3)(ii)(B) for possible teratogenic and mutagenic effects. Additional studies in these areas should be initiated in order to clarify the questions raised concerning the hazard of this chemical. However, based on: (1) The above information considered by the Agency, (2) the fact that birdsfoot trefoil is not a human food item and that the proposed use on trefoil will not result in residues in meat and milk which exceed the already established tolerances for these commodities, and

(3) the determination that the use falls into 40 CFR 180.6(a)(3) for poultry tissues and eggs, it is concluded that the tolerance of 90 ppm should be established. The amount of residues added to the human diet, if any, from the establishment of this tolerance is considered to pose a negligible increment in risk.

The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that the tolerance of 90 ppm on birdsfoot trefoil hay (including chaff) established by amending 40 CFR 180.198 will protect the public health. To be consistent with the alfalfa tolerance, the tolerance should be expressed in terms of "birdsfoot trefoil hay." It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before December 19, 1979 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP7E2008/P114." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in Room 107, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: November 9, 1979.

(Sec. 408(e), Federal Food, Drug and Cosmetic Act (21 U.S.C. 348a(e)))

Douglas D. Camp,

Director, Registration Division.

It proposed that Part 180, Subpart C, § 180.198 be revised by editorially reformatting the section into an

alphabetized columnar listing and alphabetically inserting birdsfoot trefoil hay at 90 ppm as follows:

§ 180.198 Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate; tolerances for residues.

Tolerances are established for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the following raw agricultural commodities:

Commodity	Parts per million
Alfalfa	60
Alfalfa, hay	90
Artichokes	0.1 (N)
Bananas (NMT 0.2 ppm will be present after the peel is removed)	2
Barley, forage	50
Barley, grain	0.1 (N)
Barley, straw	1
Beans, dried	0.1 (N)
Beans, lima (reflecting 0.1 ppm (N) in or on the shelled beans)	12
Beans, lima vine hay	12
Beans, lima vines	12
Beans, snap	0.1 (N)
Beans, vines	1
Beets	0.1 (N)
Beets, sugar	0.1 (N)
Beets, sugar, tops	12
Birdsfoot trefoil, hay	90
Brussels sprouts	0.1 (N)
Cabbage	0.1 (N)
Carrots	0.1 (N)
Cattle, fat	0.1 (N)
Cattle, mby	0.1 (N)
Cattle, meat	0.1 (N)
Cauliflower	0.1 (N)
Citrus fruit	0.1 (N)
Clover	60
Clover, hay	90
Collards	0.1 (N)
Corn, fodder	30
Corn, forage	30
Corn, fresh (including sweet K + CWHF)	0.1 (N)
Corn, grain	0.1 (N)
Cottonseed	0.1 (N)
Cowpeas	0.1 (N)
Cowpeas, vines	1
Flax, straw	1
Flaxseed	0.1 (N)
Goats, fat	0.1 (N)
Goats, mby	0.1 (N)
Goats, meat	0.1 (N)
Grass, pasture	60
Grass, pasture, hay	90
Grass, range	240
Grass, range, hay	240
Horses, fat	0.1 (N)
Horses, mby	0.1 (N)
Horses, meat	0.1 (N)
Lettuce	0.1 (N)
Milk	0.01 (N)
Oats, forage	50
Oats, grain	0.1 (N)
Oats, straw	1
Peanuts	0.05 (N)
Peanuts, vine hay	4
Peanuts, vine hulls	4
Peppers	0.1 (N)
Pumpkins	0.1 (N)
Safflower seed	0.1 (N)
Sheep, fat	0.1 (N)
Sheep, mby	0.1 (N)
Sheep, meat	0.1 (N)
Tomatoes	0.1 (N)
Wheat, forage	50
Wheat, grain	0.1 (N)
Wheat, straw	1

[FR Doc. 79-35590 Filed 11-19-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 61

[CGD 78-153]

Tailshaft Examination

Correction

In FR Doc. 79-33888, appearing at page 62915 in the issue for Thursday, November 1, 1979, make the following corrections:

(1) On page 62916, in the first column, in the last paragraph, in the fourth line, the reference to "§ 61.20-15(a)" should read "§ 61.20-15".

(2) On page 62916, in the middle column, in § 61.20-15 make the following corrections:

- Delete the paragraph designation "(a)" at the beginning of the text.
- Delete the five asterisks at the end of text of § 61.20-15.

BILLING CODE 1505-01-M

Research and Special Programs Administration

49 CFR Part 172

[Docket No. HM-126B; Notice No. 79-14]

Improved Descriptions of Hazardous Materials for Emergency Response

Correction

In FR Doc. 79-34612 appearing at page 65020 in the issue for Thursday, November 8, 1979, the two tables on pages 65023 and 65024, should be inserted on page 65021, in the third column, in the third paragraph, under the heading of § 172.101 Hazardous materials table.

BILLING CODE 1505-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Assignment of Official Agency Geographic Area to Nine State Departments of Agriculture

AGENCY: Federal Grain Inspection Service, USDA.
ACTION: Notice.

SUMMARY: This notice announces assignment of geographic areas to the Connecticut, Georgia, Louisiana, Maine, Missouri, Montana, North Carolina, Oregon, and Wyoming State Departments of Agriculture for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The Connecticut Department of Agriculture, 165 Capitol Avenue, Hartford, CT 06115; Georgia Department of Agriculture, Capitol Square, Atlanta, GA 30334; Louisiana Department of Agriculture, P.O. Box 44458, Baton Rouge, LA 70804; Maine Department of Agriculture, State Office Building, Augusta, ME 04330; Missouri Department of Agriculture, P.O. Box 630, Jefferson City, MO 65101; Montana Department of Agriculture, 821 17th Street North, Great Falls, MT 59401; North Carolina Department of Agriculture, P.O. Box 27647, Raleigh, NC 27611; Oregon Department of Agriculture, Agriculture Building, Salem, OR 97310; and Wyoming Department of Agriculture, 2219 Carey Avenue, Cheyenne, WY 82001 were designated as official agencies under the United States Grain Standards Act, as amended

(7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on the following dates all in 1978: Connecticut, September 30; Georgia, October 20; Louisiana, November 18; Maine, October 31; Missouri, November 20; Montana, October 25; North Carolina, November 10; Oregon, November 5; and Wyoming, November 20. The designations also included assignments of geographic areas, on an interim basis, within which these agencies would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act. The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic areas assigned to these nine Departments of Agriculture were announced in the February 12, 1979, issue of the Federal Register (44 FR 8918). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic areas assigned to these agencies are as follows: Connecticut, the entire State; Georgia, the entire State; Louisiana, the entire State except those export port locations within the State; Maine, the entire State; Missouri, the entire State; Montana, the entire State; North Carolina, the entire State; Oregon, the entire State except those export port locations within the State; and Wyoming, the entire State excluding Goshen County and Platte County, and the following locations in Laramie County: Albin Elevator, Albin; Farmers Coop, Burns; Carpenter Elevator, Carpenter; Pillsbury Company, Egbert; and Pine Bluffs Feed & Grain, Pine Bluffs, all to be serviced by the Denver Grain Exchange Association, Inc.

Description of exceptions to the geographic area for the Wyoming Department of Agriculture have been restated to more accurately describe the locations by listing the elevator sites rather than by general reference to the city, town, or area in which situated as was published in the February 12, 1979, issue of the Federal Register.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In

Federal Register

Vol. 44, No. 224

Monday, November 19, 1979

addition to the specified service points within the assigned geographic areas, the agencies will provide official inspection services not requiring a licensed inspector to all other areas within their geographic areas.

Interested persons may obtain maps of the assigned geographic areas and lists of specified service points by contacting the agencies or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

(Secs. 8, 9, Pub. L. 94-582, 90 Stat. 2870, 2875 (7 U.S.C. 79, 79a))

Done in Washington, D.C. on November 13, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-35552 Filed 11-16-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Designation of A. V. Tischer & Son, Inc., Fort Dodge, Iowa, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the A. V. Tischer and Son, Inc., Fort Dodge, Iowa, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 3, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: A. V. Tischer and Son, Inc. (the "Agency"), 137 10th Street, NW., P.O. Box 339, Fort Dodge, Iowa 50501, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the Iowa-Minnesota State line from U.S. Route 59 east to U.S. Route 169;

Bounded: on the East by U.S. Route 169 south to State Route 9; State Route 9 west to U.S. Route 169; U.S. Route 169 south to the northern Humboldt County line; the Humboldt County line east to State Route 17; State Route 17 south to C54; C54 east to U.S. Route 89; U.S. Route 69 south to the northern Hamilton County line; the Hamilton County line west to R38; R38 south to U.S. Route 20; U.S. Route 20 west to the eastern Webster County line; the Webster County line south; the southern Webster County line to U.S. Route 169; U.S. Route 169 south to E18 west; E18 west to the eastern Greene County line; the Greene County line to U.S. Route 30.

Bounded: on the South by U.S. Route 30 west to E53; E53 west to N44; N44 north to U.S. Route 30; U.S. Route 30 west to U.S. Route 71; and

Bounded: on the West by U.S. Route 71 north to the southern Clay County line; the Clay County line west; the western Clay County line north to B24; B24 west to U.S. Route 59; U.S. Route 59 north to the Iowa-Minnesota State line.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Cargill, Inc., Algona, Iowa, in Kossuth County; Farmers Coop Elevator, Boxholm, Iowa, in Boone County; Big Six Elevator, Burt, Iowa, in Kossuth County; Farmers Elevator, Goldfield, Iowa, in Wright County; and Farmers Coop Elevator, Holmes, Iowa, in Wright County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

D. R. Schaal, Belmond, Iowa; Farmers Coop Company, Eagle Grove, Iowa, in Wright County; and
Sioux City Inspection & Weighing Agency, Inc., Sioux City, Iowa; Gooch Seed Mill and Ernie's Seed & Field Service, Storm Lake, Iowa, in Buena Vista County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 3, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note)).

Done in Washington, D.C. on November 13, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-35556 Filed 11-16-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Designation of the Kankakee Grain Inspection Bureau, Inc., Kankakee, Ill., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Kankakee Grain Inspection Bureau, Inc., Kankakee, Illinois, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 3, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Kankakee Grain Inspection Bureau, Inc. (the "Agency"), 500 North Fifth Avenue, P.O. Box 102, Kankakee, Illinois 60901, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 14, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall

be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Bureau County line from State Route 88; the northern LaSalle and Grundy County lines; the northern Will County line east-southeast to Interstate 57;

Bounded: on the East by Interstate 57 south to U.S. Route 52; U.S. Route 52 south to the southern Kankakee County line;

Bounded: on the South by the southern Kankakee and Grundy County lines; the southern LaSalle County line west to State Route 17; State Route 17 west to U.S. Route 51; U.S. Route 51 north to State Route 18; State Route 18 west to State Route 26; State Route 26 north to Interstate 180; Interstate 180 west to State Route 29; State Route 29 south to the southern Bureau County line; the southern Bureau County line west to State Route 88; and

Bounded: on the West by State Route 88 north to the northern Bureau County line.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by Illinois Department of Agriculture, Springfield, Illinois: Leland Farmers Company, Leland, Illinois, in LaSalle County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public

affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 3, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on November 13, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-35554 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation of the Kansas State Grain Inspection Department, Topeka, Kans., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Kansas State Grain Inspection Department, Topeka, Kansas, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 3, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Kansas State Grain Inspection Department (the "Agency"), 535 Kansas Avenue, 8th Floor, Topeka, Kansas 66603, an existing official agency, made application pursuant to Section 7 of the United

States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on March 31, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is the entire State of Kansas.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the

geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 3, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on November 13, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-35553 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation of the Louisville Grain Inspection Services, Inc., Louisville, Ky., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Louisville Grain Inspection Services, Inc., Louisville, Kentucky, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 3, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Louisville Grain Inspection Services, Inc. (the "Agency"), 1400 Oldham Street, Louisville, Kentucky 40210, made application pursuant to section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on April 15, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Louisville Board of Trade. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

In Kentucky, the area shall include the following counties: Allen, Anderson, Barren, Breckinridge, Bullitt, Butler, Carroll, Edmonson, Fayette, Franklin, Grayson, Hardin, Hart, Henry, Jefferson, Jessamine, Larue, Meade, Nelson, Oldman, Scott, Shelby, Simpson, Spencer, Trimble, Warren, and Woodford.

In Indiana, the area shall include the following counties: Clark, Crawford, Floyd, Harrison, Jackson, Jennings, Jefferson, Lawrence, Martin, Orange, Scott, and Washington.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publications of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since April 1979. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 3, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on November 14, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-35555 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Docket No. 37061]

Air Midwest, Inc.; Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended November 9, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original

application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are

in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
Nov. 9, 1979	37061	Air Midwest, Inc., c/o Nathaniel P. Breed, Jr., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036. Application of Air Midwest, Inc. pursuant to section 401(a)(7) and 401(g) of the Act and Subpart Q of the Board's Procedural Regulations requesting amendment of its certificate of public convenience and necessity for Route 175, in the following respects: a. To redesignate the terminal point "Kansas City, Mo." to read "Kansas City, Mo. (to be served through Kansas City International Airport)", and b. To modify Condition (3) of said certificate to read as follows: "(3) The holder shall schedule a minimum of one intermediate point stop on all flights between Wichita, Kansas and Kansas City, Mo., Denver, Colo. and Kansas City, Mo., and Denver, Colo. and Wichita, Kans.: Provided, however, That if the holder has scheduled at least two daily round trips to a given point on its route, it may omit such point or points on any additional trip scheduled over all or part of said route." Conforming answers and applications are due December 7, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-35612 Filed 11-16-79; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33361, 32643, and 32644]

Former Large Irregular Air Service Investigation (Application of Peninsular Air Transport, Inc.); Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 8, 1980, at 9:30 a.m. (local time), in Hearing Room 1003B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 13, 1979.

Marvin H. Morse,
Administrative Law Judge.

[FR Doc. 79-35611 Filed 11-16-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-11-15; Docket 37020, et al.]

Intra-Alaska Service Investigation

Adopted by the Civil Aeronautics

Board at its office in Washington, D.C. on the 1st day of November, 1979. Application of Alaska Airlines, Inc., Docket 35868, to amend its certificate of public convenience and necessity for Route 138 (Bethel-Kenai-Anchorage/Fairbanks-Barrow-Prudhoe Bay). Application of Northwest Airlines, Inc., Docket 36131, for amendment of its certificate of public convenience and necessity (ANC-FAI). Application of Sea Airmotive, Inc., Docket 36470, for a certificate of public convenience and necessity. Application of Sea Airmotive, Inc., Docket 36471, for an exemption.

Order

On June 15, 1979, Alaska Airlines filed an application and petition for an order to show cause why its certificate of public convenience and necessity for Route 138 should not be amended to allow service between the coterminal points Anchorage and Fairbanks, on the one hand, and the coterminal points Bethel, Kenai, Barrow and Prudhoe Bay, Alaska, on the other hand.

In support of its application, Alaska states that the grant of this authority will increase passenger convenience by providing the first single-carrier service from these points to Portland and San Francisco, and allowing a resumption of jet service between Anchorage and Kenai. In addition, it states that it will extend its "Super Saver" discount fares

to each of the four new Alaska points that it is seeking. It further states that this grant of authority is consistent with our multiple permissive entry policy.

On July 13, 1979, Wien Air Alaska filed an answer to Alaska's application and petition. Wien states that the grant of this authority will cause diversion on two subsidy-eligible routes and that the Federal government will be required under the Airline Deregulation Act to increase its subsidy payments so as to make up for the loss caused by the diversion. It further argues that this award, in combination with the grant of pending applications for authority over some of its other routes, will produce such a great loss of revenue as to imperil its ability to discharge its certificate obligations. Wien also argues that the Alaska Airlines application should be denied because Alaska has not supplied the economic data and analysis required of a Subpart Q application. If we do not reject the application, it states that it should be heard by an administrative law judge for an Initial Decision because any proposed grant of Alaska's application would require detailed findings as to the impact upon the Federal Treasury, Wien, and the Alaska transportation system.

On September 28, 1979, Wien filed an amendment to its answer in which it argues that the Alaska application should be set for hearing. It states that Alaska Airlines and its management team have unlawfully acquired more than 20 percent of Wien's outstanding stock, and that this action is sufficiently serious to warrant an investigation into whether Alaska Airlines is fit to receive additional authority. On October 2, 1979, Alaska filed an amendment to its answer in which it argues that its fitness is not put into issue by its prior effort to acquire control of Wien.

On July 13, 1979, Northwest Airlines filed an application and a petition for an order to show cause why its certificate of public convenience and necessity for Route 3 should not be amended to allow service between Anchorage and Fairbanks; and filed a motion to consolidate its application with Alaska's application.

In support of its application, Northwest states that the grant of the authority that it requests is consonant with the Airline Deregulation Act's objective of placing maximum reliance on competition, which will in turn benefit the traveling public.

We have received no answers in response to Northwest' application, petition or motion to consolidate.

On August 28, 1979, Sea Airmotive filed an application and a petition for an order to show cause under Subpart Q for issuance of a certificate of public convenience and necessity for the routes which it is currently authorized to serve as a Part 298 air taxi and an intra-state carrier. On the same date it filed an application for an exemption for those routes.

In support of its application and petition, Sea Airmotive states that certificate status will enable it to transport interstate passengers and to carry mail, two functions which it claims it is unable to undertake in its current position. It further alleges that with CAB certification it will be able to secure loans more easily, obtain a more favorable listing in the OAG, and develop and expand competitive services to the benefit of the traveling public.¹ Finally, it states that there are no material issues as to either its fitness or the consistency of its application with the public convenience and necessity which warrant a hearing.

Sea Airmotive states that the award of an exemption pending the outcome of certification proceedings is in the public interest, inferring that under exemption authority it will be able to carry interstate passengers and mail which it is precluded from doing now. It points to its unsuccessful efforts to obtain Federal operating authority—efforts which have been hampered through no fault of its own—such as the *Alaska Service Investigation*, Docket 20826, and apparently regards the award of exemption authority as a first step in securing certificate authority.

On September 25, 1979, Wien filed answers to Sea Airmotive's application, petition and exemption request. Wien requests that a hearing be held on the issues of Sea Airmotive's fitness to receive certificate authority and the consistency of its application with the public convenience and necessity.

In both of its answers, Wien states that certification of Sea Airmotive will not provide it with any greater operating rights than it currently possesses, since it can now carry interstate passengers and mail. However, since certification will bring with it the right to transport mail under a service mail rate, Wien states that the diversion which it would experience on its mail routes will cause its subsidy needs to increase, and the competition on its mainline routes—which support its bush operations—will render it unable to carry out its certificate obligations.

¹ Sea Airmotive further requests that it be permitted to retain air taxi status after certification.

Wien further states that, since Sea Airmotive is an uncertificated carrier, its fitness has never been adjudicated before the CAB, and there exist fitness questions which must be dealt with before Sea Airmotive can receive authority.

On October 4, 1979, Sea Airmotive filed replies to Wien's answers in its certification and exemption dockets.² In its replies, it alleges that Wien has not brought forth any issues which warrant a hearing for their resolution; Wien presents pre-deregulation arguments, such as diversion and protectionism, which do not have merit here; Wien is requesting a hearing only in order to delay Sea Airmotive's certification; and there is an immediate public need which the award of exemption authority can satisfy.

On October 5, 1979, the U.S. Postal Service filed a consolidated answer to the applications of Sea Airmotive in which it supports Wien's position that the exemption should be denied and that a hearing should be held. On October 12, 1979, Sea Airmotive filed a reply in which it stated that the Postal Service raised insufficient and incorrect arguments to support its hearing request.³

We have decided to set the applications of Alaska, Sea Airmotive and Northwest for a formal hearing before an administrative law judge, and institute the *Intra-Alaska Service Investigation*, Docket 37020.

Section 102(a)(4) of the new Act directs us to place "maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital." We have held that, as a rule, we will not consider diversion from incumbent carriers to be a significant factor in determining whether to grant route awards. As we noted in the *Oakland Service Case*, "diversion will not be of decisional significance unless it threatens an affected carrier's ability to perform its certificate obligations, or will necessarily result in termination of essential services which will not be replaced by an applicant or by other carriers."⁴ Wien, the incumbent carrier in most of the markets involved, alleges that the first of these adverse effects

will result from the certification of additional carriers in more of its markets. We are also dealing with the state of Alaska, which presents us with circumstances that are not present to the same degree in the Lower 48. As a result, we find that there may be "unusual factual circumstances" present here which warrant a hearing for their resolution.

We recognize that we have already awarded competitive authority to Alaska and Great Northern for other Wien routes in the *Northwest Alaska Service Investigation*.⁵ In the hearing held before Administrative Law Judge Frank M. Whiting, Wien raised diversion arguments similar to those raised here. Judge Whiting held, however, that Wien did not sustain its burden of proving that diversion would be so great that it would be unable to perform its certificate obligations, and we affirmed that aspect of the Judge's decision.⁶

Here, however, Wien argues that the combination of the awards in that case, plus those sought here and those elsewhere at issue, will result in a level of diversion which rises to a significant factor for decision. These allegations are made against a background of a steadily weakening financial position. For the year ended September 30, 1978, its operating profit without subsidy was \$2,123,585. This figure dropped to \$1,698,169 for the year ended December 30, 1978, and to \$340,142 for the year ended March 31, 1979. For the year ended June 30, 1979, it suffered an operating loss of \$240,117. Its operating profit with subsidy has likewise shown a steady decline from \$4,040,749 for the year ended September 30, 1978, to \$1,451,754 for the year ended June 30, 1979.⁷ Moreover, Wien has experienced difficulties in taking advantage of our liberal route policies not experienced by other carriers. The range of its largest aircraft, the 737, sharply limits the Alaska-lower U.S. markets it can serve, and in the major Alaska-lower U.S. market it does serve, Anchorage-Seattle, it faces sharp competition from carriers using larger jet equipment, such as the 747, DC-10, 707 and 727.

In light of these special circumstances, we have decided that Wien should be given an opportunity to prove that the award of additional authority in more of

⁴ *Improved Authority to Wichita Case, et al.*, Order 78-12-106, December 14, 1978.

⁵ Order 79-8-132, August 24, 1979.

⁶ Order 79-8-132, August 24, 1979, affirming the Initial Decision of Administrative Law Judge Frank M. Whiting, *Northwest Alaska Service Investigation*, Docket 31571, October 26, 1978, pp. 48-49.

⁷ CAB Form 41.

its markets will create the results it alleges. Even if Wien's allegations of substantial financial distress are correct and a loss of revenues may prevent Wien from fulfilling its certificate obligations, this should not end the inquiry. Rather, we expect the proceeding to resolve the question of whether the benefits of actual and potential competition outweigh the economic harm which would come to Wien. These benefits may be realized in the form of improved service to the Alaska points, a lowered subsidy bill, as more efficient carriers serve the subsidized routes, and the general benefits of competitive service to the traveling public which may result from multiple awards, not withstanding Wien's decline.

We believe that the question of Sea Airmotive's fitness should be explored in a formal hearing, in line with our policy in cases of initial certification.⁸ Finally, we have decided to deny Sea Airmotive's exemption request. While we recognize the difficulties inherent in providing air service in Alaska, Sea Airmotive has not persuaded us that there is an immediate public need to be satisfied by granting it exemption authority, since it can currently serve all the points named in its application as an air taxi or intra-state carrier.

Sea Airmotive alleges in both its exemption request and petition for an order to show cause that certification will enable it to carry interstate passengers and mail. However, as Wien correctly notes in its answers to both the petition for an order to show cause and the exemption request, Sea Airmotive currently can enter into interline agreements with certificated carriers and can transport persons and property moving in interstate commerce.⁹ Exemption authority will not broaden this right. Nor will exemption authority create any greater entitlement to carry mail than Sea Airmotive currently holds. The Postal Service has statutory authority to contract for the services of an air taxi if it deems the certificated carrier's services to be inadequate.¹⁰ While a certificated carrier may carry mail under a service mail rate (*i.e.*, deliver mail on a piecemeal basis and receive the prescribed rate from the Postal Service) and an air taxi cannot, the award of exemption authority will

not place an air taxi in the position of a certificated carrier with respect to the carriage of mail.¹¹

We expect this case to proceed expeditiously. Under the Deregulation Act, applicants are entitled to processing of their applications within eleven months. Consequently, we are invoking the procedural deadlines of Subpart Q of our Procedural Regulations so that an initial decision must be issued within 150 days of the service date of this order.

Accordingly,

1. We institute a proceeding to be known as the *Intra-Alaska Service Investigation*, Docket 37020, to be set down for hearing before an administrative law judge of the Board at a time and place to be designated later;

2. We include the following issues in this proceeding:

(a) Is it consistent with the public convenience and necessity to grant the applications of Alaska Airlines, Northwest Airlines, and Sea Airmotive?

(b) Are the applicants fit, willing and able to receive the certificate authority they seek?

(c) If so, what terms, conditions and/or limitations should be placed on the operations of such carriers?

3. The authority granted in this proceeding shall be ineligible for section 406 subsidy;

4. The following are made parties to this proceeding: Alaska Airlines, Northwest Airlines, Sea Airmotive and Wien Air Alaska;

5. We consolidate the applications of Alaska Airlines in Docket 35868, Northwest Airlines in Docket 36131, and Sea Airmotive in Docket 36470, to the extent that they conform to the scope of the issues as stated above, into Docket 37020; otherwise we dismiss them without prejudice;

6. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed 20 days from the date of adoption of this order and answers shall be filed 15 days thereafter;

7. We deny the petitions of Sea Airmotive and Alaska for an order to show cause, in Dockets 36470 and 35868, respectively;

8. We deny Sea Airmotive's application for an exemption in Docket 36471;

¹¹ Sea Airmotive cites Altair's exemption in the Norfolk-Washington, D.C. market as an example of a commuter receiving exemption authority in a market which it can serve in its commuter status. We granted the exemption in Altair's case because the carrier felt that certification will help it gain access to National Airport and, since the market in issue had recently lost significant service, we decided to do all in our power to encourage new entry.

9. We deny Northwest's motion to consolidate its application in Docket 36131 into Docket 35868; and

10. We shall serve a copy of this order on the persons listed in the attached appendix.

This order will be published in the Federal Register.¹²

By the Civil Aeronautics Board.

Phyllis T. Kaylor,¹³
Secretary.

[FR Doc. 79-35614 Filed 11-16-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Wisconsin Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wisconsin Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12:00 p.m., on December 11, 1979, at the Madison-Northwest, Holiday Inn, 4402 East Washington Avenue, Highway 152 North, Madison, Wisconsin 53704.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss pending Vocational Education Project; set meetings for next FY '79-80; and discuss assessment of Bilingual Program in Wisconsin Sub-Committee Report.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 14, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-35621 Filed 11-16-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 12-79]

Foreign-Trade Zone—Burlington, Vt.; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Burlington Industrial

¹² Appendix filed as part of the original document.
¹³ All Members concurred.

Corporation (G.B.I.C.), a non-profit development corporation, Burlington, Vermont, requesting authority to establish a general-purpose foreign-trade zone at the Burlington International Airport in South Burlington, within the Burlington Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 8, 1979. G.B.I.C. is authorized to make this proposal under Section 4122, Chapter 111, Title 9 of the Vermont State Acts, effective March 3, 1976.

The proposal calls for the establishment of a general-purpose foreign-trade zone within the 104-acre Airport Industrial Park being developed at the airport. The zone will cover 12.7 acres of land which the applicant has leased from the City of Burlington for zone development. An existing warehouse facility on the site would be the zone's first operation. Cynosure, Inc., a sister corporation of G.B.I.C., will serve as operator and developer of the zone. The site is readily accessible to the areas's interstate highway system and rail terminals.

The application contains economic data and information concerning the need for providing zone services for firms in the Burlington area. Several firms have indicated their intention to use the zone for warehousing, manipulation, and distribution activities on various products including medical equipment, sporting goods, bobbins, and hardware items.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets, N.W., Washington, D.C. 20230; Donald F. Kelly, Assistant Regional Commissioner (Operations), U.S. Customs Service, Region I, Suite 1819, 100 Summer Street, Boston, Massachusetts 02110; and Colonel Clark H. Benn, District Engineer, U.S. Army Engineer District New York, 26 Federal Plaza, New York, N.Y. 10007.

As part of its investigation of the proposal, the Examiners Committee will hold a public hearing on December 12, 1979, beginning at 9:00 a.m., in the R. A. Contois Council Room, Main Floor, City Hall, located at Church and Main Streets in Burlington, Vermont. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their

expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. Such persons should, by December 5, notify the Board's Executive Secretary of their desire to be heard either in writing at the address below or by phone (202) 377-2862. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through January 11, 1980. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Greater Burlington Industrial Corporation,
135 Church Street, Room 201, Burlington,
Vermont 05401.

Office of the Executive Secretary, Foreign-
Trade Zones Board, U.S. Department of
Commerce, Room 6886-B, 14th and E
Streets, N.W., Washington, D.C. 20230.
Dated: November 9, 1979.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones
Board.

[FR Doc. 79-35508 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-25-M

[Docket No. 13-79]

Proposed Foreign-Trade Zone— Bangor, Maine; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Bangor, Maine, a municipal corporation, requesting authority to establish a general-purpose foreign-trade zone in Bangor, within the Bangor Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. Section 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 9, 1979. The City is authorized to make this application under S.P. 128, adopted May 27, 1977, as an amendment to Chapter 114, Section 1, Private and Special Laws of the State of Maine, giving municipalities the authority to apply for foreign-trade zones with the approval of the State's Department of Transportation. Such approval was given by letter dated July 11, 1979.

The proposal calls for the establishment of a foreign-trade zone at the Bangor International Airport, a former Air Force Base transferred to the City in 1978. The zone would consist of two parcels of 1.7 and 24.6 acres within the airport facility. The 1.7 acre parcel contains a dual hangar with 21,800 square feet of warehouse/processing space. Initial zone activities would be confined to the south hangar, with the remainder being used for general air cargo operations and administration. The larger zone parcel is planned for development as part of the City's industrial development efforts. Bangor Airport Civic Development Corporation, a nonprofit corporation established by the City to manage and develop airport properties, would be designated as operator. The airport sites have direct access to the interstate highways and major rail services of the area.

The application contains economic data and information concerning the need for zone services in the Bangor area. Several firms have indicated their intention to use the zone for storage, repackaging and processing on a range of products including leather, seafood, and various souvenir items. Zone procedures are also being requested for operations involving the manufacture of imported footwear machinery to meet certain customer specifications and the manufacturing of clothespins from imported wire and domestic wood materials. Interest in the zone has been expressed by various airlines and freight forwarders because of the services it can provide for their customers.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets, NW, Washington, D.C. 20230; Donald F. Kelly, Assistant Regional Commissioner (Operations), U.S. Customs Service, Region I, 100 Summer Street, Suite 1819, Boston, Massachusetts 02110; and Colonel Max B. Scheider, Division Engineer, U.S. Army Engineer Division New England, 424 Trapelo Road, Waltham, Massachusetts 02154.

As part of its investigation of the proposal, the Examiners Committee will hold a public hearing on December 13, 1979, beginning at 9:00 a.m., in the Bangor City Council Chambers at City Hall, 73 Harlow Street, Bangor, Maine. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for

⁸ We are interested in reducing the burden of this proceeding on Sea Airmotive, a small carrier, to the necessary minimum and we urge the administrative law judge to exercise his discretion to that end. We note that Sea Airmotive has already filed extensive material going to its fitness and we see no reason why any of this data should be duplicated.

⁹ Section 401(d)(4)(A)(ii).

¹⁰ 39 U.S.C. 5402(c). See also 14 CFR 298.35.

their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. They should notify the Board's Executive Secretary by December 6 of their desire to be heard in writing at the address below or by phone (202) 377-2862. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through January 14, 1980. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing.

A copy of the application and accompanying exhibits will be available for public inspection during the comment period at each of the following locations:

Economic Development Department, Bangor City Hall, 73 Harlow Street, Bangor, Maine 04401.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230.

Dated: November 9, 1979.

John J. Da Ponte, Jr.,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 79-35507 Filed 11-16-79; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

Agency: National Marine Fisheries Service, NOAA.

Summary: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss fishery management plans, fishery management matters, as well as administrative matters.

Dates: The meetings will convene on Wednesday, December 12, 1979, at 1 p.m., and will adjourn on Friday, December 14, 1979, at approximately 1 p.m. The meetings are open to the public.

Address: The meetings will take place at the Best Western Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

For Further Information Contact: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901.

Dated: November 13, 1979.

Jack W. Gehringer,
Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 79-35500 Filed 11-16-79; 8:45 am]
BILLING CODE 3510-22-M

Maritime Administration

[Docket No. S-652]

Ogden Leader Transport, Inc., Rio Grande Transport, Inc.; Applications by Bulk Vessel Operators for Section 805(a) Approvals

Notice is hereby given that the affiliated companies, Ogden Leader Transport Inc. (Leader) and Rio Grande Transport, Inc. (Rio Grande), have filed applications under the Merchant Marine Act, 1936, as amended (the Act) for operating-differential subsidy to engage in bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics (U.S.S.R.), to expire on December 31, 1979, unless extended. Inasmuch as Leader and Rio Grande, and/or related persons or firms, employ or may employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Act will be required if the applications for operating-differential subsidy are to be approved.

Leader and Rio Grande request written permission under section 805(a) to own, charter and/or operate the *Ogden Leader* (formerly the *Eagle Leader*) and the *Ogden Charger* (formerly the *Eagle Charger*), respectively, in the domestic intercoastal or coastwise service. It will be necessary to extend to the affiliates of Leader and Rio Grande who are holders of operating-differential subsidy contracts in the grain trade to the U.S.S.R. the written permission requested by Leader and Rio Grande. These affiliates are as follows:

Connecticut Transport, Inc. (Connecticut)
Wabash Transport, Inc. (Wabash)
Willamette Transport, Inc. (Willamette)
Empire Transport, Inc. (Empire)
Ogden Merrimac Transport, Inc. (Merrimac)
Ogden Sea Transport, Inc. (Ogden Sea)
Penn Tanker Company (Penn)

Conversely, it will be necessary to extend to Leader and Rio Grande the section 805(a) written permission previously granted to the above affiliates. This permission is as follows:

For the following vessels to engage in domestic intercoastal or coastwise service:

Vessel and Owner

Connecticut (Connecticut)
Ogden Wabash (Wabash)
Ogden Willamette (Willamette)
Potomac (Empire)
Merrimac (Merrimac)
Columbia (Ogden Sea)
Ogden Champion and Ogden Challenger (Penn)

The foregoing written permissions for Leader, Rio Grande, and the affiliates are required notwithstanding the fact that a grain voyage would not be eligible for subsidy if the vessel engaged in the domestic trade on that voyage.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such applications and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the applications must, by close of business on December 13, 1979 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretary for Maritime Affairs.

Dated: November 13, 1979.

Robert J. Patton, Jr.,
Secretary.

[FR Doc. 79-35622 Filed 11-16-79; 8:45 am]
BILLING CODE 3510-15-M

Office of the Secretary

[Department Organization Order 10-3; Transmittal 467; Amdt. 4]

Assistant Secretary For Industry and Trade; Delegation of Authority.

Effective date: October 1, 1979.

This order effective October 1, 1979 further amends the materials appearing at 42 FR 64721 of December 28, 1977, 43 FR 27224 of June 23, 1978, 43 FR 35523 of August 10, 1978, and 44 FR 55026 of September 24, 1979.

Department Organization Order 10-3 dated December 4, 1977 is hereby further amended as shown below. The purpose of this amendment is to transfer certain delegated authorities from the Assistant Secretary for Tourism to the Assistant Secretary for Industry and Trade.

In Section 4. Delegation of Authority, a new subparagraph .01il. is added to read as follows:

"ii. The Act of May 27, 1970 (Pub. L. 91-269, 22 U.S.C. 2801 *et seq.*) relating to participation of the United States in international expositions."

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration

[FR Doc. 79-35545 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 10-7; Amdt. 1; Transmittal]

Assistant Secretary for Tourism; Delegation of Authority

Effective date: October 1, 1979.

This order effective October 1, 1979 amends the material appearing at 41 FR 5856 of February 10, 1976.

Department Organization Order 10-7 dated January 16, 1976 is hereby amended as shown below. The purpose of this amendment is to transfer certain delegated authorities from the Assistant Secretary for Tourism to the Assistant Secretary for Industry and Trade.

1. In Section 3. Delegation of Authority, in pen and ink subparagraph .01c. is deleted, and subparagraphs .01d. and .01e. are relettered .01c. and .01d., respectively.

2. In Section 4. Functions, in pen and ink subparagraph k.(1) is deleted, and subparagraphs k.(2) and k.(3) are renumbered as k.(1) and k.(2), respectively.

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 79-35546 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-17-M

[Department Organization Order 40-1; Amdt. 5; Transmittal 470]

Industry and Trade Administration; Delegation of Authority

Effective date: October 1, 1979.

This order effective October 1, 1979 further amends the material appearing at 42 FR 64724 of December 28, 1977, 43 FR 35522 of August 10, 1978, of 43 FR 38614 of August 29, 1978, of 44 FR 24618 of April 26, 1979, and 44 FR 49005 of August 21, 1979.

Department Organization Order 40-1 dated December 4, 1977 is hereby further amended as shown below. The purpose of this amendment is to transfer the international expositions functions of the United States Travel Service to the Office of Export Promotion, Bureau of Export Development.

In Section 5. Bureau of Export Development, Paragraph .02 is revised to read as follows:

".02 The Office of Export Promotion shall implement the Bureau's overseas trade promotion programs; be responsible for recruitment of participants in all overseas trade events; provide logistical, design, and operations support for all overseas trade promotion events; conduct market promotion activities at all U.S. trade fairs and marketing centers; develop and carry out special trade promotion techniques, such as trade seminar missions and other selective marketing techniques; and carry out the international expositions functions under Pub. L. 91-269."

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 79-35550 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-17-M

[Department Organization Order 25-4A; Transmittal 465]

Minority Business Development Agency; Delegation of Authority

Effective date: November 1, 1979.

This order effective November 1, 1979 supersedes the material appearing at 37 FR 5650 of March 17, 1972.

Section 1. Purpose

.01 This Order assigns functions to the Minority Business Development agency, as prescribed by Executive Order 11625, dated October 13, 1971, as amended, entitled "Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise."

.02 The purpose of this revision is to change the title of the Office of Minority

Business Enterprise to the Minority Business Development Agency, and to prescribe the functions of the Agency.

Section 2. Status and Line of Authority

The Minority Business Development Agency ("MBDA") is hereby established as a primary operating unit of the Department of Commerce. MBDA shall be headed by a Director who shall report and be responsible to the Secretary.

Section 3. Delegation of Authority

.01 Pursuant to the authority vested in the Secretary by law and subject to such policy and directives as may be prescribed, the Director is hereby delegated the following authorities of the Secretary insofar as they apply to performing the functions assigned in this Order:

a. The authority under Executive Order 11625, as amended.

b. Other authorities of the Secretary pertinent to such functions.

.02 The Director may delegate these authorities to any employee of MBDA subject to such conditions in the exercise of such authority as may be prescribed by the Director.

Section 4. Functions

The MBDA shall assist the Secretary in carrying out the functions under Executive Order 11625, as amended, by performing the following functions:

a. Facilitate the coordination, as consistent with law, of the plans, programs, and operations of the Federal Government which affect or may contribute to the establishment, preservation, and strengthening of minority business enterprise. For this purpose, it shall:

1. With the participation of other departments and agencies as appropriate, develop comprehensive plans and specific program goals for the minority enterprise program; establish regular performance monitoring and reporting systems to assure that goals are being achieved; and evaluate the impact of Federal support in achieving the objectives established by Executive Order 11625, as amended.

2. Propose to the Secretary the convening, for purposes of coordination, of meetings of the heads of such departments and agencies or their designees, whose programs or activities may affect or contribute to the purposes of Executive Order 11625, as amended.

3. Assist the Secretary in securing necessary action by such departments and agencies to discharge their responsibilities under Section 3 of Executive Order 11625, as amended.

4. Establish arrangements for reviewing, on a coordinated basis with the departments and agencies involved, all proposed Federal training and technical assistance activities in direct support of the minority enterprise program, to assure consistency with program goals and to avoid duplication.

b. Promote the mobilization of activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations, and volunteer and other groups towards the growth of minority business enterprises, and facilitate the coordination of the efforts of these groups with those of Federal departments and agencies. As deemed necessary and appropriate to carry out these responsibilities, it shall:

1. Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of minority business enterprise or who could contribute to its development, for the purpose of proposing, evaluating and coordinating governmental and private activities in furtherance of the objectives of Executive Order 11625, as amended.

2. Confer with and advise officials of State and local governments.

c. Operate a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the Nation in undertaking or promoting the establishment and successful operation of minority business enterprise.

d. Within constraints of law and appropriations therefor, provide financial assistance to public and private organizations so that they may render technical and management assistance to minority business enterprises, and defray all or part of the costs of pilot or demonstration projects conducted by public or private agencies or organizations which are designed to overcome the special problems of minority business enterprises or otherwise to further the purposes of the minority business enterprise program.

e. Establish policies, standards, definitions, criteria, and procedures appropriate and incident to the functions herein assigned to MBDA, and propose for the Secretary's consideration such additional measures as determined to be necessary for the implementation, interpretation, and application of Executive Order 11625, as amended, or for otherwise achieving the purposes and carrying out the provisions of that Order.

f. After the close of each fiscal year, prepare (for the Secretary to transmit to

the President) a full report of the Department's activities under Executive Order 11625, as amended, during that year, and, from time to time, submit to the Secretary MBDA's recommendations for legislation or other actions deemed desirable to promote the purposes of that Order.

Section 5. Support Services

The Office of the Assistant Secretary for Administration shall perform personnel, procurement, accounting and payroll services for MBDA.

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 79-35548 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-17-M

[Department Organization Order 25-4B; Transmittal 466]

Minority Business Development Agency; Delegation of Authority

Effective date: November 1, 1979.

This order effective November 1, 1979 supersedes the material appearing 41 FR 21209 of May 24, 1976, 41 FR 22291 of June 2, 1976 and 43 FR 43537 of September 28, 1978.

Section 1. Purpose

.01 This Order prescribes the internal organization, management structure, and assignment of major functions within the Minority Business Development Agency (MBDA). The scope of authority and functions of MBDA are set forth in Department Organization Order 25-4A.

.02 The purpose of this revision is to change the title of the Office of Minority Business Enterprise to the Minority Business Development Agency, and to prescribe the organizational structure and functions of MBDA.

Section 2. Organization Structure

The organization structure of MBDA and principal lines of authority shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Office of the Director

.01 The Director shall formulate policies and programs for, and direct and manage all activities of MBDA (hereinafter, "the Agency").

.02 The Deputy Director is the principal assistant to the Director and acts for the Director in the latter's absence. The Deputy is responsible for coordinating Departmental and Agency development of policies, goals, and

objectives, providing day-to-day direction of Agency operations, and awarding Agency grants and cooperative agreements.

.03 The Executive Secretariat provides secretarial support and coordinates and controls executive correspondence for the Director and Deputy Director.

Section 4. Staff Offices

.01 The Office of Chief Counsel.

a. Provides legal support to the Director and legal services for all components of the Agency; prepares or clears all legislative proposals initiated by any component of the Agency; and reviews and analyzes proposed legislation related to or affecting minority enterprise development. The Office provides legal review of Agency interagency agreements, grants, and cooperative agreements.

b. Assesses the impact of proposed Federal regulations on minority business, and, if appropriate, prepares Agency positions.

c. These activities are carried out subject to the overall authority of the General Counsel of the Department as provided for in Department Organization Order 10-8.

.02 The Office of Congressional Affairs.

a. Serves as the focal point for liaison with Congress on all Agency activities; provides counsel on all Agency activities which involve Congressional testimony, briefings, and other matters of Congressional interest; coordinates and controls responses to Congressional inquiries and requests for information and assistance; and informs Agency management on Congressional matters of interest.

b. These activities shall be carried out in collaboration with the Departmental Office of Congressional Affairs.

.03 The Office of Public Affairs.

a. Serves as the focal point for all public affairs activities; plans, develops, and implements a coordinated public information program throughout the Agency; assigns, edits, and publishes Agency articles and official publications; and provides technical assistance and support to the Agency for publications, speeches, printing, graphics, and audio-visual displays and presentations.

b. These activities shall be carried out in collaboration with the Departmental Office of Public Affairs.

Section 5. Office of Policy and Market Development

.01 The Office shall be headed by an Associate Director for Policy and Market Development, who is

responsible for formulating Agency policy and advising the Director and key Agency officials on policy matters, issues, new directions and interests in minority business development; providing a major market development and promotional program on behalf of minority businesses through expanded private and public sector support; and serving as the Executive Director of the Interagency Council for Minority Business Enterprise (IAC). The Associate Director shall be assisted by:

a. The Deputy Associate Director for Market Development, who is the principal assistant to and acts for the Associate Director, and coordinates the interpretation of Agency policies, goals, and objectives for market and other resource development.

b. The Deputy Associate Director for Policy, who is the principal assistant to the Associate Director on all matters relating to the development of Agency policies, and is responsible for overall Agency policy formulation and review.

.02 The functions of the Office shall be carried out through its principal organizational elements as prescribed below:

a. The Industry and Trade Market Development Division is responsible for developing Agency programs for, and promoting the development of private sector markets for minority businesses.

b. The Governmental Resources Development Division is responsible for overall program development and implementation within the public sector. The Division focuses its activities on two levels:

1. In the area of Federal agency coordination, the Division provides staff support to the Associate Director for Interagency Council activities, formulates Agency policies and develops programs to increase minority business participation in Federal programs and initiatives in support of minority business enterprise.

2. In the area of State and local resources development, the Division formulates Agency policies and develops programs to: promote State and local government participation in minority business development and promotion of market opportunities; promote minority business participation in Federally-sponsored, intergovernmental programs and initiatives; and to promote private sector and community support for minority business development.

c. The Capital Development Division formulates Agency programs to: develop sources of an increase the availability of equity capital and other forms of financing to minority firms; promote and assist in the establishment and growth

of and deposits with minority-owned financial institutions; promote and assist in the establishment and growth and activities of Minority Enterprise Small Business Investment Corporations (MESBICs), provide specialized assistance to minority persons and firms, regarding mergers and acquisitions. The Division provides an Agency focal point for an coordinates with other Commerce and Federal agencies programs designed to increase capital resources available to minority business persons and firms.

d. The Management Development Division develops programs for developing management skills of minority business managers and entrepreneurs; develops programs for and promotes professional development opportunities; administers comprehensive and centralized programs of formal management and entrepreneurial development; and promotes participation of minority students in business and management courses of study.

Section 6. Office of Enterprise Development.

.01 The Office shall be headed by an Assistant Director for Enterprise Development, who is responsible for overall direction and development of policies and programs to provide effective, long-term technical assistance to eligible firms; provides intensive developmental assistance to a selected number of medium-sized and larger minority firms, and special developmental support to minority firms involved in growth sectors of the economy to enable minority firms to exploit the potential of technology-based business opportunities. The Assistant Director also provides overall planning, direction and support to Regional and an Agency-funded network of enterprise development activities. Serves as the focal point to coordinate Headquarters activities which are to be carried out in the field and/or which have Regional impact.

.02 The Assistant Director shall be assisted by the Deputy Assistant Director for Native American Programs, who shall be the principal advisor to the Assistant Director on Agency policies, program initiatives, goals, and funding plans which would affect Native Americans; designs Agency policies, programs, and plans which meet specific requirements of Native Americans, and serves as a focal point and liaison to promote interests of Native American groups.

.03 The functions of the Office shall be carried out through its principal

organizational elements as prescribed below:

a. The Client Services Support Division identifies the need for, designs, and develops programs, policies, and priorities for the delivery of specialized management and technical assistance and services to client minority firms; designs and develops program requirements, structures and procedures to integrate the implementation of new and revised Agency policies; analyzes performance data for enterprise development activities and coordinates the preparation of regular status reports; and develops and manages contracts, grants and cooperative agreements which have a national or multi-Regional scope, to include Specialized Consultant Services.

b. The Field Operations Support Division provides a liaison between Headquarters and Regional Offices; acts as "ombudsman" for the field to Headquarters in the areas of program development and implementation, financial management, and technical and administrative problems.

c. The Industry and Technology Division provides mechanisms for the entry of minority businesses into technology-based, emerging industries and sectors of the economy exhibiting long-term growth potential; and provides overall direction, and coordinates technology commercialization activities.

Section 7. Office of Planning, Budget and Evaluation

.01 The Office, shall be headed by an Assistant Director for Planning, Budget and Evaluation, who is responsible for long and short-range Agency planning and programming, all aspects of financial management, the establishment of program performance goals and objectives, evaluation of Agency programs, the development and improvement of management systems and operations, administrative support, and the administrative management of Agency grants and cooperative agreements.

.02 The functions of the Office shall be carried out through its principal organizational elements as prescribed below:

a. The Planning and Programming Division develops annual and long-range Agency program goals and objectives, allocation of financial resources among program activities, and assists Agency managers in all aspects of program and financial planning.

b. The Financial Management Division develops and administers the comprehensive budget and financial management program for the Agency to include ongoing budget and financial

planning, analysis, control and reporting, and, budget proposal preparation, justification and execution.

c. The *Program Evaluation Division* develops and conducts a comprehensive, ongoing evaluation program designed to assess and improve the impact and performance effectiveness of Agency programs, projects and related activities.

d. The *Management Systems Division* provides, for the Director and other Agency managers, a comprehensive program of management, organization, and operations analysis, planning and control; manpower, human resource development and productivity, performance measurement and evaluation, work systems and procedures, management improvement programs; and Agency directives.

e. The *Grants Administration Division* is responsible for the administration of Agency and Departmental policies and procedures pertaining to the awarding and administration of Agency grants and cooperative agreements.

f. The *Administrative Support Division* coordinates Agency requests and serves as the focal point for actions concerning the administrative services specifically provided by the Assistant Secretary for Administration under Department Organization Order 25-4A, and is responsible for providing other such services as are required, including: property management, supply, reference library, occupational safety and health, forms and records management, and reproduction.

Section 8. Office of Research and Information

.01 The Office shall be headed by an *Assistant Director for Research and Information*, who is responsible for providing research and information concerning national and international economic conditions that may impact on minority business; problems of an opportunities for minority business development and growth; minority business policies and programs of the Agency; and systematically processing and disseminating this information in support of minority business enterprise and market development activities of the Agency.

.02 The functions of the Office shall be carried out through its principal organizational elements as prescribed below:

a. The *Research Division* conducts research, gathers and analyzes business and economic data, and formulates recommendations to improved existing or proposed Agency policies, programs, goals and objectives in the areas of minority enterprise and market

development; and conducts research tailored to the specific needs of Agency programs and activities and minority businesspersons and firms.

b. The *Information Management Division* is responsible for the collection, processing, and assembly of ongoing and special data and reports; planning for, developing and maintaining information systems designed to satisfy management requirements, and developing standards for and maintaining documentation and quality of information systems.

c. The *Information Clearinghouse* is responsible for developing and maintaining a comprehensive inventory of publications related to minority business enterprise and market development, and Agency programs and services; and distributes information and publications in support of Agency programs and outreach activities to the minority business community.

Section 9. Field Structure

The *Field Structure*, as shown in Exhibit 2., shall consist of the following organizational elements. A copy of the Field Structure is on file with the original of this document in the Office of The Federal Register.

a. The *Regional Offices*, shall be headed by Regional Directors who shall report and be responsible to the Director. The Offices shall represent the Agency within the geographic area of the Region, and are responsible for the implementation of its policies and programs within the Region. In cooperation with appropriate Headquarters offices, and in accordance with the policies, program guidance, and procedures established by the Agency, the Regional Offices plan, organize and administer Regional programs; in minority business enterprise development, implement client services of generalized and specialized management and technical assistance to minority firms; in market development, promote and coordinate public and private sector opportunities, and the capabilities of minority firms; and plan, develop, and manage contracts, grants and cooperative agreements proposed for or entered into by the Agency in support of minority business enterprise and market development policies and programs in the Region.

b. The *District Offices* shall be headed by District Officers who shall report and be responsible to the Regional Directors, as appropriate. The Offices shall represent the Agency and the appropriate Regional Office within the geographic area of the District for Agency policies and programs to include: coordination and promotion of

Inter-governmental and Minority Business Opportunity Committee programs and activities, information and referral services to the minority enterprise and market development resources for minority businesspersons and firms.

Guy W. Chamberlin, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-35549 Filed 11-16-79; 8:45 am]
BILLING CODE 3510-17-M

[Department Organization Order 25-1; Amendment 1; Transmittal 469]

U.S. Travel Service; Delegation of Authority

Effective date: October 1, 1979.

This order effective October 1, 1979 amends the material appearing at 43 FR 57174 of December 6, 1978.

Department Organization Order 25-1 dated May 23, 1978 is hereby amended as shown below. The purpose of this amendment is to reflect the transfer of the international expositions functions of the United States Travel Service to the Industry and Trade Administration.

1. In Section 7. Expositions Staff. In pen and ink delete this Section, and renumber the current Sections 8. through 11. as 7. through 10., respectively.

2. In pen and ink delete the Expositions Staff from the organization chart dated May 23, 1978.

Guy W. Chamberlin, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-35547 Filed 11-16-79; 8:45 am]
BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Levels for Certain Wool and Man-Made Fiber Textile Products From Macau

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Applying swing to the import level established for man-made fiber trousers in Category 647/648, produced or manufactured in Macau, and controlling imports at that increased level (201,564 dozen) during the agreement year which began on January 1, 1979. (2) Applying swing and carryforward to wool sweaters in Category 445/446 and reducing the import level for the current agreement year by virtue of a charge of 9,907 dozen for 1977 over shipments. The adjusted level of restraint is 64,732 dozen.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal provides for percentage increases in certain specific ceilings during an agreement year (swing) and for the borrowing of yardage from the succeeding year's levels (carryforward). Pursuant to the terms of the bilateral agreement, the import levels for Categories 445/446 and 647/648 are being adjusted for the twelve-month period which began on January 1, 1979.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 2, 1979, there was published in the *Federal Register* (44 FR 91) a letter dated December 27, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, which may be entered into the United States for consumption or withdrawal from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to reduce the level of restraint established for wool textile products in Category 445/446 to 64,732 dozen during the twelve-month period which began on January 1, 1979 and to control imports in Category 647/648 at a level of 201,564 dozen during that same period. The level of restraint for Category 647/648 has not been adjusted to account for any imports after December 31, 1978. Imports in Category 647/648 have amounted to 104,378 dozen during the period which began on January 1 and extended through August 31, 1979 and will be charged. When the data become available, additional charges will be

made to account for the period which began on September 1, 1979 and extends through the effective date of this action.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.
November 14, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: On December 27, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979 of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint subject to adjustment.¹

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 19, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 445/446, produced or manufactured in Macau, in excess of 64,732 dozen.

Under the previously cited authorities, this directive also amends, but does not cancel, the directive of December 27, 1978 to prohibit, effective on November, 1979 and for the twelve-month period which began on January 1, 1979 and extends through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 647/648, produced or manufactured in Macau, in excess of 201,564 dozen.

The levels of restraint established for Category 445/446 and 647/648 have not been adjusted to reflect any imports after December 31, 1978. Imports during the period,

¹ The terms "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal which provide, in part, that: (1) Within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) These levels may also be increased for carryover and carry forward up to 11 percent of the applicable category limits; and (3) Administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

January-August 1979, have amounted to 104,378 dozen in Category 647/648.

Textile products in Category 647/648 which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Textile products in Category 647/648 which have been released from the custody of the U.S. Customs Service under the Provisions of 19 U.S.C. 1448(b) of 1484 (1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Portugal and with respect to imports of man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,

Paul T. O'Day

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-35557 Filed 11-16-79; 8:45 am]
BILLING CODE 3510-25-M

Amending the Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products from Macau

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending the bilateral agreement with Portugal to establish specific ceilings at increased levels for men's and boys' woven cotton shirts in Category 340, women's, girls' and infants' woven cotton blouses in Category 341, and women's, girls' and infants' woven blouses of man-made fibers in Category 641, produced or manufactured in Macau and exported during the agreement year which began on January 1, 1979.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 864), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978

(43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

SUMMARY: The Governments of the United States and Portugal have exchanged notes amending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, to establish specific ceilings at increased levels for cotton and man-made fiber apparel products in Categories 340, 341 and 641, produced or manufactured in Macau and exported to the United States during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 2, 1979, there was published in the Federal Register (44 FR 91) a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain specified categories of cotton and man-made fiber textile products which have been produced or manufactured in Macau and exported to the United States during the twelve-month period which began on January 1, 1979. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry of cotton and man-made fiber textile products in Categories 340, 341, and 641, produced or manufactured in Macau at the designated, increased levels during the agreement year which began on January 1, 1979. The level for Category 340 includes an overshipment charge of 2,292 dozen resulting from the 1977 agreement year.

Paul T. O'Day

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 27, 1978 from the Chairman, Committee for the Implementation of Textile Agreements, which directed you to prohibit entry during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979 of cotton and man-made fiber textile products in certain

specified categories, produced or manufactured in Macau, in excess of designated levels of restraint.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to a further amendment to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975 as amended, between the Governments of the United States and Portugal, you are directed to prohibit, effective on November 19, 1979, and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Macau, in excess of the indicated levels of restraint:

Category	Amended twelve-month level of restraint ¹
340.....	99,666 dozen.
341.....	62,069 dozen.
641.....	62,069 dozen.

¹ The level of restraint has not been adjusted to reflect any imports after December 31, 1978.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman Committee for the Implementation of Textile Agreements.

[FR Doc. 79-35559 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-25-M

Charging Overshipments of Certain Cotton Textile Products from Pakistan

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Charging an additional 4 million square yards of 1978 overshipments in Category 315 (cotton printcloth) from Pakistan to the level of restraint established for the category during the agreement year which began on January 1, 1979. The adjusted level will be 26,500,000 square yards.

Note.—A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 28773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

SUMMARY: Pursuant to consultations between the Governments of the United States and Pakistan under the terms of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, the Government of Pakistan has requested the United States Government to deduct a further increment of 1978 overshipments amounting to 4 million square yards from the level of restraint established for Category 315 during the twelve-month period which began on January 1, 1979.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 2, 1979, there was published in the Federal Register (44 FR 92) a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton textile products, produced or manufactured in Pakistan, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. At the request of the Government of Pakistan, the United States is charging an additional 4 million square yards of 1978 overshipments to the ceiling established for Category 315 during the twelve-month period which began on January 1, 1979. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption or withdrawal from warehouse for consumption of textile products in Category 315 in excess of the adjusted twelve-month level of restraint of 26,500,000 square yards.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 14, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 27, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber

textile products, produced or manufactured in Pakistan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 16, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 315, produced or manufactured in Pakistan, in excess of the following level of restraint:

Category	Adjusted 12-mo level of restraint ¹
315.....	26,500,000 square yards.

¹ The level of restraint has not been adjusted to reflect any imports after December 31, 1978.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton, wool and man-made fiber textile products from the Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-35558 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-25-M

COUNCIL ON WAGE AND PRICE STABILITY

Pay Advisory Committee; Notice of Meetings

AUTHORITY OF COMMITTEE: The Pay Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

TIME OF PLACE OF MEETINGS: The Pay Advisory Committee will meet on November 28 and December 7, 1979, at 10:00 a.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20506. Each of these meetings may be recessed at 12:00 noon to be reconvened at 2:00 p.m. the same day and/or be recessed at the end of the day to be reconvened the following day.

PURPOSE OF MEETINGS: The purpose of these meetings is to finish unfinished business from the November 13 (announced October 26, 1979; 44 FR 61626) and earlier meetings (see 44 FR 59583).

PUBLIC PARTICIPATION: The meetings of the Pay Advisory Committee will be open to the public. Public attendance may be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Any interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.

ADDITIONAL INFORMATION: For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Dated: November 13, 1979.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 79-35496 Filed 11-14-79; 12:02 pm]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of the Committee: Army Science Board.
Dates of Meeting: December 11-13, 1979.
Place: Fort Leavenworth, Kansas (except location can be determined by contacting LTC Sweeney at 202 697-9703).
Time: 0800 to 1700 hours, December 11-13, 1979. (Closed)

Proposed Agenda: The ASB Counter Command, Control, and Communications (C-C³) Workshop will hold classified discussions and receive briefings on the threat and other issues and programs which relate to the offensive and defensive posture of the U.S. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting.

Robert F. Sweeney,

Lieutenant Colonel, GS, Executive Secretary, Army Science Board.

[FR Doc. 79-35514 Filed 11-16-79; 8:45 am]

BILLING CODE 3710-06-M

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of the Committee: Army Science Board.
Dates of Meeting: 18-19 December 1979.
Place: The Pentagon, Washington, D.C. (exact location can be determined by contacting LTC Sweeney at 202 697-9703).
Time: 0900-1700 hours, December 18, 1979 (Open), 0800-1400 hours, December 19, 1979 (Open)

Proposed Agenda: The ASB Human Issues Study Groups will hold discussions and receive briefings to review current action to improve the integration of manpower and personnel planning and advise the Army on ways and means of improving the quality of human issues research and coupling it to high level Army policy-making. Specifically, Group I will investigate what major tasks should be included as part of the Army Personnel Advisory Council (APAC); what directives, organizational structure, or procedures would facilitate APAC efficiency; identify other task forces/special committees working in the personnel area and determine how they can be organized to provide a more integrated approach to solving personnel related issues.

18 December 1979

0900—Organizational Meeting
0915—Overview, Human Issues Committee
0930—Plans for conducting group
1000—Army Personnel Systems Committee
1100—Personnel Program Review Committee
1300—DCSPER—Director, Human Resources Development
1400—Deputy for Human Systems and Resources
1500—Manning the Force, DCSPER
1600—Task Force Delta, TRADOC

19 December 1979

0800—Organizational Meeting
0815—DA Drug and Alcohol Review Board
0845—Human Dimensions, Division 86
0945—Human Dimensions Institute, TRADOC
1045—Quality of Life Office, DCSPER
1245—Executive Session

Robert F. Sweeney,

Lieutenant Colonel, GS, Executive Secretary, Army Science Board.

[FR Doc. 79-35513 Filed 11-16-79; 8:45 am]

BILLING CODE 3710-06-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Cases Nos. 52411-2367-04-82, and 52411-2367-05-82, 52411-2367-06-82]

Public Service Co. of New Hampshire, Manchester, N.H.; Notice and Issuance of Proposed Prohibition Orders

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant

to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, of the issuance of the following proposed prohibition orders which would prohibit the powerplants named below from burning natural gas or petroleum as their primary energy source.

Proposed Prohibition Orders

Pursuant to the authority granted it by Section 301(b) of FUA, ERA issues these proposed prohibition orders to the following powerplants owned by Public Service Company of New Hampshire, Manchester, New Hampshire (P.S.Co.N.H.).

ERA No.	Generating station	Powerplant No.	MW	Location
52411-2367-04-82	Schiller	4	50	Portsmouth, N.H.
52411-2367-05-82	Schiller	5	50	Do.
52411-2367-06-82	Schiller	6	50	Do.

Statement of Basis and Rationale for Proposed Prohibition Order

ERA has issued regulations applicable to existing facilities, 10 CFR Part 504 (Regulations), to implement the prohibitions contained in Section 301(b) of Title III of FUA. Section 504.5 of the regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a powerplant where ERA finds that the powerplant has or previously had the technical capability to use an alternate fuel as a primary energy source.

P.S.Co.N.H. reported to the Federal Energy Regulatory Commission (FPC Form 67), for the year ending December 31, 1978, that Schiller Powerplants Nos. 4, 5 and 6 burned 1,620 barrels of oil per day (591,000 barrels annually). The potential oil displacement in converting Schiller Powerplants Nos. 4, 5 and 6 to an alternate fuel (coal) assuming a capacity factor of 70 percent is 4,700 barrels of oil per day (1,700,000 barrels annually).

Finding of Technical Capability

In accordance with Section 301(b) of Title III of FUA, these proposed orders are based on a finding by ERA that P.S.Co.N.H.'s Schiller Powerplants Nos. 4, 5 and 6 have or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon P.S.Co.N.H.'s Engineering Department Drawing No. R-6521-12.1 dated July 31, 1979, and confirmed by actual inspection by ERA staff during site visits on August 28, 1979, and September 2, 1979.

The technical capability finding is made in accordance with the requirements of § 504.5(d) of the Regulations, taking into consideration the ability of the unit, from the point of fuel intake, to physically sustain combustion of coal and maintain heat

transfer as evidenced by the existing equipment and shown on the Engineering Department drawing, identified above, and observed by ERA staff during its site visit. This finding also recognizes, in accordance with § 504.5(d), that the Schiller Powerplants Nos. 4, 5 and 6 are capable of burning coal, notwithstanding the fact that refurbishment and addition of equipment must be made to the powerplants before they may burn an alternate fuel (coal) as their primary energy source or that pollution control equipment may be necessary to meet air quality requirements.

Other Required Findings

Section 301(b) of FUA states that prior to the issuance of final prohibition orders ERA must also find that (1) the powerplants have the technical capability to use coal or another alternate fuel as a primary energy source, or they could have capability without (A) substantial modification of the powerplants or (B) substantial reduction in the rated capacity of the powerplants; and (2) it is financially feasible for the powerplants to use coal or another alternate fuel as the primary energy source in such powerplants.

Proposed Prohibition Order Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit P.S.Co.N.H.'s Schiller Powerplants Nos. 4, 5 and 6 from burning petroleum or natural gas as their primary energy source.

Description of Prohibition Order Proceedings

Pursuant to Section 301 of FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuel (coal) and has informed P.S.Co.N.H. that it is considering issuance of the proposed prohibition orders. ERA has also had informal discussions with P.S.Co.N.H. concerning the issuance of the proposed prohibition orders.

(2) ERA has made a finding that P.S.Co.N.H.'s Schiller Powerplants Nos. 4, 5 and 6 have or previously had the technical capability of using coal as their primary energy source. ERA is publishing these findings and proposed prohibition orders in the Federal Register as required by Section 701(b) of FUA. In accordance with Section 301(b) of FUA, the proposed prohibition orders are not required to contain, at this point in the proceeding, the other pertinent findings that ERA must make before final prohibition orders can be issued. These are (1) that the powerplants have the technical capability to use coal or another alternate fuel as their primary energy source, or they could have such capability without (A) substantial physical modification of the powerplants, or (B) substantial reduction in the rated capacity of the powerplants; and (2) that it is financially feasible for P.S.Co.N.H. to use coal or another alternate fuel as the primary energy source in such powerplants.

(3) In accordance with § 501.51(b)(3) of the Regulations, a comment period of at least three months is to commence after publication of the proposed prohibition orders, during which period P.S.Co.N.H. will be given an opportunity to challenge ERA's initial findings of technical capability contained in these proposed prohibition orders. During this three month comment period, P.S.Co.N.H. is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be made by ERA prior to issuance of final prohibition orders. P.S.Co.N.H. will also be required, during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the Schiller Powerplants Nos. 4, 5 and 6 may qualify.

(4) Subsequent to the end of the three-month comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition orders proceeding. Within three months of the issuance of the notice of intention to proceed with the prohibition orders, the owner or operator of the powerplants that may be subject to the orders may demonstrate prior to issuance of the

final prohibition orders that the powerplants would qualify for an exemption if the prohibitions had been established by rule.

(5) Subsequent to the end of the second three-month period, ERA will, if it intends to issue the final prohibition orders, prepare and publish a notice of availability of the tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition orders and tentative staff decision. Interested persons wishing a hearing must request a hearing within 45 days after publication of the notice of availability of the tentative staff decision. If a hearing is requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed orders and tentative staff decision, P.S.Co.N.H.'s showing on exemptions and rebuttal of ERA's proposed orders, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and the second three-month comment period, ERA shall determine whether the final prohibition orders will be issued, based upon ERA's review of the entire administrative record. Copies of the final prohibition orders, if issued, together with a summary of the basis therefor, will be published in the Federal Register. Such orders shall not take effect earlier than sixty days after publication.

Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding these proposed prohibition orders. Comments need not be limited to ERA's technical capability findings, but may include a discussion of all three statutory findings. The initial comment period shall remain open for a period of three months after publication of these proposed orders in the Federal Register, unless reduced at the request of the recipient of the proposed prohibition orders pursuant to 10 CFR 501.51(b)(8). Notice of any such change during the time for public comment will be published in the Federal Register. Comments should make reference to the

docket numbers set forth in this notice and proposed orders. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed prohibition orders believed to be relevant. Written comments on the proposed prohibition orders should be directed to Public Hearing Management (Case Nos. 52411-2367-04-82, 52411-2367-05-82 and 52411-2367-06-82), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, and should be received before 4:30 p.m. on February 12, 1980.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed orders. The request must include a description of the person's interest in the proposed prohibition orders, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone number where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Orders for the Schiller Powerplants Nos. 4, 5 and 6." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

ERA No.	Generating station	Powerplant No.	Megawatt	Location
52588-6124-01-82	Effingham	1	163	Effingham, Ga.

Statement of Basis and Rationale for Proposed Prohibition Order

ERA has issued regulations applicable to existing facilities 10 CFR Part 504 (Regulations), to implement the prohibitions contained in Section 301(b) of Title III of FUA. Section 504.5 of the Regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a

For further information contact:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C., 20461, (202) 634-2170.

Robert L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128L, Washington, D.C., 20461, (202) 634-6557.

G. Randolph Comstock (Office of General Counsel), Department of Energy, 1000 Independence Avenue S.W., Room 6G-087, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C., November 13, 1979.

Robert L. Davies, Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-35618 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 52588-6124-01-82]

Savannah Electric & Power Co.; Notice and Issuance of Proposed Prohibition Order

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, of the issuance of the following proposed prohibition order which would prohibit the powerplant named below from burning natural gas or petroleum as its primary energy source.

Proposed Prohibition Order

Pursuant to the authority granted it by Section 301(b) of FUA, ERA issues this proposed prohibition order to the following powerplant owned by the Savannah Electric and Power Company (SEPCO).

powerplant where ERA finds that the powerplant has or previously had the technical capability to use an alternate fuel as a primary energy source.

SEPCO has reported to ERA that it estimates the potential oil displacement in converting the Effingham unit to an alternate fuel (coal) is approximately 3,056 barrels of oil per day or 1,115,600 barrels annually assuming a utilization factor of 50 percent.

Finding of Technical Capability

In accordance with Section 301(b) of Title III of FUA, this proposed order is based on a finding by ERA that SEPCO's Effingham Powerplant No. 1 has or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon information received by ERA from SEPCO that the unit is technically capable of burning coal as an alternate fuel, including a study completed for SEPCO by Reynolds, Smith and Hills, an engineering firm located in Jacksonville, Florida, in August 1979, entitled "Report on Alternative Cases for Coal Conversion of Effingham Generating Unit No. 1, Savannah Electric and Power Company."

The technical capability finding is made in accordance with the requirements of § 504.5(d) of the Regulations, taking into consideration the ability of the unit, from the point of fuel intake, to physically sustain combustion of coal and maintain heat transfer as evidenced by the existing equipment. This finding also recognizes, in accordance with § 504.5(d), that the Effingham unit is capable of burning coal, notwithstanding the fact that minor adjustments must be made to the powerplant before it may burn coal as its primary energy source or that pollution control equipment may be required to meet air quality requirements.

Other Required Findings

Section 301(b) of FUA states that prior to the issuance of a final prohibition order ERA must also find that: (1) The powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) It is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source in such powerplant.

Proposed Prohibition Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit SEPCO's Effingham Powerplant No. 1 from burning petroleum or natural gas as its primary energy source.

Description of Prohibition Order Proceedings

Pursuant to Section 301 of FUA, ERA has promulgated Regulations applicable

to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuels (coal) and has informed SEPCO that it is considering issuance of a proposed prohibition order. ERA has also had informal discussions with SEPCO concerning the issuance of a proposed prohibition order.

(2) ERA has made a finding that the Effingham unit has or previously had the technical capability of using coal as its primary energy source. ERA is publishing this finding and proposed prohibition order in the Federal Register as required by Section 701(b) of FUA. In accordance with Section 301(b) of FUA, the proposed prohibition order is not required to contain, at this point in the proceeding, the other pertinent findings that ERA must make before a final prohibition order can be issued. These are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant, or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for SEPCO to use coal or another alternate fuel as a primary energy source in such powerplant.

(3) In accordance with Section 501.51(b)(3) of the Regulations, a public comment period of at least three months is to commence after publication of the proposed prohibition order, during which period SEPCO will be given an opportunity to challenge ERA's initial finding of technical capability contained in this proposed prohibition order. During this three month comment period, under Section 501.51(b)(3) of the Regulations, SEPCO is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be made by ERA prior to issuance of a final prohibition order. SEPCO will also be required, during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the Effingham unit may qualify.

(4) Subsequent to the end of the three month comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition order proceeding. Within three months of the issuance of the notice of intention to proceed with the prohibition order, the owner or operator of a powerplant that may be subject to an order may demonstrate prior to issuance of a final

prohibition order that the powerplant would qualify for an exemption if the prohibition had been established by rule.

(5) Subsequent to the end of the second three month period, ERA will, if it intends to issue a final prohibition order, prepare and publish a notice of availability of a tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must request a hearing within 45 days after publication of the notice of availability of the tentative staff decision. If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed order and tentative staff decision, SEPCO's showing on exemptions and rebuttal of ERA's proposed order, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and the second three month period, ERA shall determine whether a final prohibition order will be issued based upon ERA's review of the entire administrative record. Copies of the final prohibition order, if issued, together with a summary of the basis therefore, will be published in the Federal Register. A final order shall not take effect earlier than sixty days after publication.

Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding this proposed prohibition order. Comments need not be limited to ERA's technical capability finding, but may include a discussion of all three statutory findings.

The initial comment period shall remain open for a period of three months after publication of this proposed order in the Federal Register, unless reduced at the request of the recipient of the proposed prohibition order pursuant to § 501.51(b)(8). Notice of any such change during the time for public comment will be published in the Federal Register. Comments should make reference to the docket number set forth in this notice and proposed order. Comments should address the adequacy and validity of the findings and any other

aspects or impacts of the proposed prohibition order believed to be relevant.

Written comments on the proposed prohibition order should be directed to Public Hearing Management (Case No. 52588-6124-01-82), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, and should be received before 4:30 p.m. on February 12, 1980.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed order. The request must include a description of the person's interest in the proposed prohibition order, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone number where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for Effingham Powerplant No. 1." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

For further information contact:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C., 20461, (202) 634-2170.
Robert L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128L, Washington, D.C., 20461, (202) 634-6557.

G. Randolph Comstock (Office of General Counsel), Department of Energy, 1000 Independence Avenue, N.W., Room 6G-087, Washington, D.C., 20585, (202) 252-2967.

Issued in Washington, D.C., November 14, 1979.

Robert L. Davies,
Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-35617 Filed 11-16-79; 8:45 am]
BILLING CODE 6450-01-M

Wallies Penzoli; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Wallace Mays, Jr. D/B/A Wallies Penzoli, Point Marion, Pa. This Proposed Remedial Order charges Wallies Penzoli with pricing violations in the amount of \$4,277, connected with the retail sale of gasoline during the time period August 1, 1979 through September 28, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. On or before December 4, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in Philadelphia, Pennsylvania, on the 2nd day of November 1979.

Herbert M. Heitzer,
District Manager, Office of Enforcement, Northeast District.

[FR Doc. 79-35627 Filed 11-16-79; 8:45 am]
BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of October. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on each pump used to dispense gasoline, facing each direction from which the pumps are generally viewed by customers, in numbers or letters not less than one-half (1/2) inch high, or (b) post the maximum lawful selling price for each grade of gasoline in a prominent location elsewhere at the retail outlet which is visible to a customer purchasing gasoline in letters not less than four (4) inches high, or (c) post a certification that the current selling price is equal to or less than the maximum allowed in a prominent location elsewhere at the retail outlet which is visible to a customer purchasing gasoline in letters not less than one and one-half (1 1/2) inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations. For further information regarding these Consent Orders, please contact Leon Snead, Program Manager for Product Retailers, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street, N.W., Washington, D.C. 20461, telephone number 202-254-5907.

Firm Name, Firm Address, and Audit Date
Capitol Hill Exxon, 339 Pennsylvania Ave., SE., Washington, D.C. 20003—10-03-79
Johnny's Exxon, 1545 Wisconsin Avenue, Washington, D.C. 20007—10-15-79
Taylor's Arco, 12871 Gordon Blvd., Woodbridge, VA 22191—10-23-79
New Town Shell, South Dakota Ave. & V St., NE., Washington, D.C. 20018—9-10-79
Issued in Washington, D.C. on the 9th day of November, 1979.

Robert D. Gerrig,
Director, Enforcement Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-35504 Filed 11-16-79; 8:45 am]
BILLING CODE 6450-01-M

Energy Information Administration**Reduction of Reporting Burden**

AGENCY: Energy Information Administration, Department of Energy
ACTION: Statement by the Energy Information Administration (EIA) concerning the Department of Energy's (DOE) continuing program to reduce energy information reporting burden on industry, small businesses, and the public.

SUMMARY: The Department of Energy is committed to reducing the burden it places on private industry and individuals to submit information about their businesses or holdings. The Department uses the information it collects to review the domestic energy situation, analyze policy and program alternatives, and enforce compliance with the Department's regulations. The Energy Information Administration collects most of this energy information, and publishes much of it in periodic statistical data reports. Because the EIA collects or maintains this information on behalf of other DOE offices, including the Federal Energy Regulatory Commission and Economic Regulatory Administration, the EIA is responsible for coordinating DOE's program to eliminate unnecessary reporting burden. This program is consistent with the goals of the President's Paperwork Reduction Program, initiated in February 1978, and the Department's Regulatory Reform Task Force, begun January 1978, and chaired by the DOE Deputy Secretary. It should be noted that both the DOE and the President's Paperwork Reduction Programs concentrate on those data collection instruments that are filed on an occasional or recurring basis. DOE also collects information on short-term, single-time studies, which, under normal circumstances, constitute less than one percent of the annual burden hours of reporting imposed on the public. Unless otherwise noted, all the figures in this notice pertain to the annual recurring reporting burden.

This statement is intended to familiarize the public with the progress in reducing respondent burden in FY 1979. It is issued in accordance with initiative number nine of a Notice (44 FR 1032, January 3, 1979) in which DOE proposed 16 new Regulatory Reform Initiatives and updates information contained in a previous Notice (44 FR 27471, May 10, 1979) in which DOE described the specific programs it has to reduce reporting burden and the policies that underlie those programs.

TO COMMENT ON THIS NOTICE OR FOR FURTHER INFORMATION CONTACT: Dr. Irene C. Montie, Director, Survey and Statistical Design Division, Office of Energy Data Standards and Statistical Design, Energy Information Administration, Mail Station 4148, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, D.C. 20461, telephone: (202) 633-9464.

SUPPLEMENTARY INFORMATION:

- I Background
- II Elimination/Systems Consolidation
- III Statistical Design and Forms Clearance Process

I. Background

The Department of Energy (DOE) has made substantial progress in reducing the energy information reporting burden on industry, small businesses, and the public. In its first year of existence, October 1977 through September 1978, DOE reduced the total annual reporting burden on persons who fill out DOE forms by nearly one-fourth, from 4.9 million person hours to 3.7 million person hours. In FY 1979, due in large measure to the five separate statutes which comprise the National Energy Act (NEA), signed by President Carter on November 9, 1978, new informational requirements were imposed on the Department. The informational requirements dictated by the NEA, as well as previously mandated collections of information concerning verifiable oil and gas reserves and financial and operational information about major energy companies, have increased the overall reporting burden by nearly 50 percent from the 3.7 million person hours in FY 1978 to 5.4 million person hours in FY 1979.

These new reporting systems currently comprise 43 percent of DOE's total annual reporting burden. When the new reporting systems are subtracted from the total FY 1979 annual burden, the reporting burden requirements on previously existing forms are 3.1 million person hours, a 16-percent decrease from FY 1978, and a 37-percent decrease from the burden at DOE's inception. This decrease occurred in spite of the new forms developed and implemented to satisfy the increased demand in FY 1979 for information on supplies of crude oil, petroleum, and natural gas.

As mentioned above, single-time studies normally constitute less than one percent of the annual responding burden DOE imposes on the public. However, late in FY 1979, building energy conservation forms and pilot energy consumption studies caused the burden for single-time forms to take a short-term quantum leap from approximately 13,000 to 2.3 million person hours. This increased burden is not expected to continue throughout FY 1980.

II. Elimination/Consolidation Process

Periodically EIA reviews selected, related information systems and reporting forms to determine if they should be integrated, modified or eliminated. Each form or system proposed for review is analyzed by the EIA staff to determine: (a) Its underlying legislative authority and policy justification, (b) the information being collected, (c) the usefulness of reports

based on this information, and (d) the impact its integration, modification or elimination would have on the continued utility of related historical data. If the analysis reveals a significant increase in consolidation cost or adverse impact on the integrity of the data, the proposed consolidation may be reconsidered.

In calendar year 1978 sixteen forms were eliminated or consolidated through this process, and thirteen forms reduced in scope. Fourteen forms were eliminated and an additional fourteen forms reduced in scope in the remainder of FY 1979.

III. Statistical Design and Forms Clearance Process

In accordance with the Federal Reports Act, every DOE data collection instrument that is used to gather identical information from ten or more non-government entities is approved for official use by the Office of Management and Budget (OMB). The clearance of any such DOE instrument that proposes to collect energy information is first reviewed within the Department to ensure that the form is properly designed from a statistical and programmatic point of view, fully justified, and sufficiently clear to prevent respondent confusion. The EIA manages this review process in the Department, conducts the element-by-element justification of all elements on the data collection instrument, and offers statistical and survey design, forms design, other types of technical assistance to other DOE offices.

Sampling is one of the primary techniques used by EIA to reduce respondent burden. When selected on the basis of appropriate statistical methodology, sample units may be considered representative of all units eligible to be included in a survey. Thus, sampling techniques help reduce burden, especially on small businesses where the size or volume of a business is a major determinant in the survey selection process. In FY 1979 EIA reviewed or designed well over 100 statistical samples. Despite the overall increase in burden due to the previously mentioned mandated requirements, the number of respondents filing DOE forms has been reduced by approximately 25,000 from FY 1978. Excluding new reporting requirements, the number of respondents has been reduced by more than 100,000.

In addition to duplication searches conducted by program offices and task forces, EIA searches current, past and proposed DOE forms to minimize the possibility of duplication of DOE data collection efforts. To aid in these

searches a comprehensive computerized forms clearance management data set was developed and is now being redesigned to provide more flexibility in obtaining outputs. In addition to the EIA forms review and clearance process, other DOE offices employ similar review procedures for energy forms developed for their use. Excluding the new reporting requirements of NEA, the Economic Regulatory Administration reduced its reporting burden on previously existing requirements by 52 percent in FY 1979. FERC is proposing to eliminate 20 forms, totaling 281,600 hours of respondent burden as a result of efforts made in FY 1979.

Issued in Washington, D.C., November 13, 1979.

Lincoln E. Moses,
Administrator, Energy Information
Administration.

[FR Doc. 79-35503 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of August 27 Through August 31, 1979

Notice is hereby given that during the week of August 27 through August 31, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

William Acuff, Washburn, Tenn.; DFA-0507, freedom of information

William Acuff filed an Appeal from a partial denial by the Inspector General of the Department of Energy of a Request for Information which he had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that information initially withheld under exemptions 552(b)(6) and 552(b)(7)(D) should not be released. The requested information consisted of the names of witnesses and identifying detail in Acuff's personnel file.

Amdahl Corp., Sunnyvale, Calif.; DFA-0569, freedom of information

Amdahl Corporation appealed from a partial denial of its Freedom of Information Act request. In its Appeal, Amdahl requested that the DOE release portions of documents which had been withheld under Exemption 4 of the FOIA. In considering the Appeal, the DOE determined that the official who had withheld the information had not provided Amdahl with a sufficient explanation for his decision. Therefore, the DOE remanded the

matter with instructions either to release the requested material or to provide Amdahl with specific reasons why the requested material falls within Exemption 4.

Request for Exception

Amerado Hess Corp., New York, N.Y.; DEE-6417, crude oil

Amerada Hess Corporation (Amerada Hess) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Ives Stenbak Silurian Unit (Ives-Stenbak Unit) located in Williams County, North Dakota. In considering the Application, the DOE found that the cost of producing crude oil from the Ives-Stenbak Unit had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Amerada Hess had no economic incentive to continue to produce crude oil from the Ives-Stenbak Unit and that it was unlikely that the crude oil in the reservoir underlying the Ives-Stenbak Unit could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Amerada Hess and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Amerada Hess to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Ives-Stenbak Unit for the benefit of the working interest owners for the period June 11, 1979 through December 31, 1979.

American Agri-Fuels Corp.; Kansas City, Mo.; DEE-2179, gasohol

American Agri-Fuels Corporation filed an Application for Exception from the provisions of 10 CFR, Part 211. In its Application, the firm sought the assignment of a supplier and an allocation of unleaded motor gasoline. In considering the request, the DOE found that exception relief was necessary to enable the firm to produce and market gasohol. In determining that the Application for Exception should be granted, the DOE discussed the following important issues: (i) whether the inability of American Agri-Fuels to obtain an assured supply of unleaded gasoline was directly attributable to the DOE regulatory program; (ii) the importance of encouraging market entry by new, independent firms; and (iii) the importance of encouraging the development of alternative domestic energy sources.

Cooper and Brain, Inc., Wilmington, Calif.; DEE-1405, crude oil

Cooper and Brain, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm sought retroactive relief that would permit the firm to retain certain revenues realized during 1974 as a result of its alleged improper certification of the Brea Canyon Fee Lease near Wilmington, California, as a stripper well property. In considering the request, the DOE found that the firm failed to establish compelling reasons why retroactive relief

was warranted or to demonstrate that it would experience a severe and irreparable injury in the absence of such relief. Accordingly, exception relief was denied.

James and Williams Orthopaedic Shoes, Los Angeles, Calif.; DEE-7562, temperature restrictions

James and Williams Orthopaedic Shoes (James and Williams) filed an Application for Exception from the provisions of 10 CFR Part 490 in which the firm requested that it be allowed to cool its office to 70°F, which is 8° lower than the prescribed level. In considering the request, the DOE found that exception relief was necessary because James and Williams have a disproportionately high number of seriously ill customers who require its health services and whose health might be impaired unless temperatures could be lowered to 70°F. Accordingly, exception relief was granted.

Phillips Petroleum Co., Bartlesville, Okla.; DXE-7866, crude oil

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR 212.73 in which the firm sought permission to sell the crude oil produced from the Foote Lease located in Oklahoma County, Oklahoma at prices in excess of the ceiling prices permitted by the Mandatory Petroleum Price Regulations. In considering the request the DOE found that at the applicable ceiling prices the firm would incur an operating loss on the lease and exception relief was necessary to provide the firm with an incentive to continue crude oil production operations. Accordingly, exception relief to the working interest owners was granted in part.

The Shell Co. (Puerto Rico) Limited, P.R.; DEE-2541, motor gasoline

On March 16, 1979, the Shell Company (Puerto Rico) Limited filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought relief from the economic hardship it was experiencing because its base period supplier had increased the price of its motor gasoline. The DOE found that the Shell Company (Puerto Rico) Limited was suffering a gross inequity since its competitors could "roll in" their costs into sales throughout the United States but it had no mainland business and was required to recover all of the costs of its Puerto Rican operations in Puerto Rico. Accordingly, exception relief was granted. The Shell Oil Company was directed to supply the applicant with its base period use of motor gasoline, through the purchase of motor gasoline from a Puerto Rican refiner or through the execution of an exchange or processing agreement with such a refiner.

Request for Stay

Mobil Oil Corp., Valley Forge, Pa.; DES-0565, motor gasoline

Mobil Oil Corporation filed an Application for Stay which, if granted, would stay the effectiveness of an Assignment Order until a determination is issued concerning Mobil's Appeal from the Order, which the ERA Region III issued to Home Oil Company on June 22, 1979. In that Order, Home Oil was designated as the sole base period supplier of

motor gasoline to B&O Mobil Service and Home Oil was permitted to upward certify the assigned volumes to its supplier, Mobil. In considering the Mobil application, the DOE found that the firm would not suffer an irreparable injury if a stay was denied. The DOE also concluded that Mobil had not shown that there was a likelihood of success on the merits of its Appeal. Accordingly, the Application for Stay was denied.

Shell Oil Co., Houston, Tx., DES-2541, motor gasoline

Shell Oil company filed an Application for Stay pending judicial review of a Decision and Order which the DOE issued to The Shell Company (Puerto Rico) Limited on August 28, 1979. In considering the Application, the DOE determined that Shell had failed to satisfy any of the criteria for approval of a stay. Accordingly, the stay request pending judicial review was denied. However, the DOE did stay one aspect of the August 28 Order pending the filing of an Application for Modification by Shell.

Request for Temporary Stay

Fina Jobbers Association, Inc., Forest Park Ga., DST-5568, motor gasoline

Fina Jobbers Association, Inc. filed a Motion for Class Certification and an Application for Temporary Stay in which the firm sought additional supplies of motor gasoline for all branded jobbers of American Petrofina, Inc. (Fina). In considering the Motion for Class Certification, the DOE concluded that Fina Jobbers should be tentatively and conditionally certified as the class representative for all branded Fina jobbers that purchased at least 75 percent of their total supplies of motor gasoline from Fina during the period November 1, 1977 through October 31, 1978. In considering the request for stay, the DOE determined that Fina Jobbers has failed to show that the class would incur an irreparable injury if a temporary stay were denied. Accordingly, the Application for Temporary Stay was denied.

Motions For Discovery

Amoco Oil Co., Chicago, Ill. DEH-2179. DED-2179, gasoline

Amoco Oil Company filed a Motion for Evidentiary Hearing and a Motion for Discovery in connection with the Proposed Decision and Order that had been issued to American Agri-Fuels Corporation (Case No. DEE-2179). In considering the Motion for Evidentiary Hearing, the DOE found that a hearing previously held in this matter afforded Amoco a sufficient opportunity to present its position with respect to the factual issues raised in the Motion for Evidentiary Hearing. In considering the Motion for Discovery, the DOE found that the Amoco Motion did not fulfill the requirements of 10 CFR 205.66. Accordingly, the Amoco Motions for Evidentiary Hearing and Discovery were denied.

Standard Oil Co. of Ohio, Cleveland, Ohio, DRZ-0025, discovery

The Standard Oil Company of Ohio requested that it be permitted to take the deposition of Robert G. Rives, Team Leader in the Office of Special Counsel's Crude

Production Audit Division. In granting the request, the DOE noted that the Office of Special Counsel had agreed to allow Sohio to take Mr. Rives's deposition.

Supplemental Orders

Crown Central Petroleum Corp., Baltimore, Md., DRX-0200 Motor gasoline and distillate

Office of Special Counsel, Washington, D.C.

Crown Central Petroleum Corporation and the Office of Special Counsel jointly requested that the DOE extend a previously issued stay of enforcement proceedings against Crown. In considering the request, the DOE determined that the considerations which led the DOE to grant the previous stay request were still present and therefore determined that any administrative action should be stayed for a period of 60 days.

Office of Special Counsel (Re Conoco, Inc.), Washington, D.C. DEX-0208, supplemental order

This Supplemental Order was issued in connection with proceedings initiated under Part 205, Subpart V, of the DOE regulations. In the Order the DOE required Conoco, Inc. to negotiate an escrow agreement with a banking institution approved by the DOE. The escrow account would contain funds that Conoco agreed to pay to the United States in a Consent Order Dated August 11, 1978.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception and/or Interim Order from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company Name, Location, and Case No.

Amerada Hess Corp., Washington, D.C.; DEN-7736

Village Mobil, Medway, Mass.; DEN-4744

Auto Row Texaco, San Jose, Calif.; DEE-4290

Todisco Amoco, E. Boston, Mass.; DEN-4644

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Temporary Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied:

Company Name, Location, and Case No.

Steamboat Springs Station No. 1,

Washington, D.C.; DEL-7534

Machardy Oil Co., Danville, Va.; DEO-0117

Dismissals

The following submissions were dismissed without prejudice to refile at a later date:

Company Name and Case No.

Dick's Pump & Electric, DEE-6897

Park Caldwell & Sons, Inc., DEE-3233; DES-0193

Pete's Sunoco, DEE-7094

Briarvista Chevron, DXE-6125

Jack's Texaco, DEE-4176

Newton American Service Station, DEE-5711

Ward's Service Center, DEE-7611

Blarney Castle Oil Co., DEE-2239; DST-2239

American Air Filter, DEE-3070

Atkinson Oil Co., DEE-2659

Dekalb County School System, DEE-7820

Robert E. Pleasant, DEE-3680

Interstate 84 & Route 6, DEE-3353

Naegele Outdoor Advertising Co., DEE-7174

Patriot Gas & Sales, DEE-5945

The "Corner", DEE-3471

Western Exchange Corporation, DEE-5099

Apollo Oil Co., DES-3338; DST-3338

D. J. Trucking Co., DEE-7123

Daniell E. Wright, DEE-5073

Delta Pet. Corp., DEE-2368; DST-2368

Fancy Gap Gulf, DEE-4759; DST-4759

In-N-Out Car Wash, DRO-0289

Edward H. Spencer, DEE-7705

James Cotton & Grain, DEE-6582

Murphy Grimmer & Co., DEE-5924

Robert Law, DEE-4189; DES-4189

Shell Oil Co., DEE-4640

Smith-Cranford Barber Shop, DEE-7629

Suburban Oil Co., DEE-4612

Thomas F. Ventura, DEE-7088

Trends Publishing, DFA-0334

Wilson Oil & Chemical Inc., DEE-7845

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein, Director, Office of Hearings and Appeals, November 9, 1979.

[FR Doc. 79-35505 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1361-6]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), US Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of November 5 to November 9, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from November 16, 1979 and will end on December 31, 1979. The 30-day review period for final EIS's as calculated from November 16, 1979 will end on December 17, 1979.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS's: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction:

Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

For hard copy reproduction or microfiche:

Information Resources Press, 2100 M Street, NW, Suite 318, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to § 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of November 5, 1979 to November 9, 1979 the 30-day review period will be calculated from November 16, 1979. The review period will end on December 17, 1979.

Appendix I sets forth a list of EIS's filed with EPA during the week of November 5, 1979 to November 9, 1979. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing statue of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV set forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: November 14, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I.—EIS's Filed With EPA during the Week of November 5 to 9, 1979

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Belle River Power Plant, St. Clair County, Mich., November 7: Proposed is the construction and operation of a 1,328 mega-coal-fired electrical generation facility on the St. Clair River, St. Clair County, Michigan, at the existing St. Clair Power Plant site. Water for the proposed once-through cooling system would be supplied from, and discharged into, the Clair River via pipeline. Land designated for the facilities consists of approximately 942 acres in China and East China townships. In addition to the two generating units, the project will require two 665-foot stacks, air pollution control equipment, coal and material storage areas, ash basins, a waste material storage area and river intake and discharge facilities. (Detroit district.) (EIS Order No. 91143)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

National Oceanic and Atmospheric Administration

Final

Precious coral fisheries, Western Pacific, FMP, Pacific Ocean, November 9: Proposed is the implementation of a fishery management plan for three species of precious corals in the western Pacific region. The management measures will include: 1) catch quotas, 2) a minimum size for pink coral colonies, 3) establishment of closed beds or refugia, 4) requirement that all coral harvesting be done under permit, and 5) requirement of extensive reporting of operations by permit holders. Comments made by: COE, DOI, State and local agencies, groups, individuals, and businesses. (EIS Order No. 91152.)

Draft Supplement

Atlantic groundfish fishery, FMP (DS-4), Atlantic Ocean, November 6: This statement supplements a final EIS, #70722, filed 6-9-77. Proposed is an amendment to the Atlantic groundfish fishery management plan. The amendment: 1) establishes annual optimum yields for cod from the gulf of Maine, cod from Georges Bank and south, haddock and yellowtail flounder for the fishing year beginning October 1, 1979; 2) Establishes a minimum revised mesh size for groundfish fishing by vessels carrying federal fisheries permits for groundfish; 3) establishes a minimum legal fish size limitation for cod and haddock; and 4) recommends that appropriate regulations be established in state waters. (EIS order No. 91140)

DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E876, Pentagon, Washington, D.C. 20310, (202) 694-4269.

Draft

Fort George G. Meade, ongoing activities, Anne Arundel, Howard, and Prince Georges Counties, Md., November 9: Proposed is a description of beneficial and adverse environmental effects that result from existing activities and conditions at Fort George G. Meade, Maryland. The description of environmental effects is based upon an analysis of interactions between the existing activities and conditions and the natural and man-made environments within the boundaries of Fort Meade. Anne Arundel, Howard and Prince George's counties were identified as a primary area of influence of Fort Meade for purposes of the social, economic and land use analyses. (EIS Order No. 91150.)

DELAWARE RIVER BASIN COMMISSION

Contact: Mr. Brinton Whitall, Secretary, Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628, (609) 883-9500.

Draft

Delaware River Basin, level B study, several counties, November 9: Proposed is a management plan for the Delaware River Basin in Delaware, New Jersey, New York and Pennsylvania. The plan would manage

the water resources of the basin by identifying policies, programs and projects in the areas of water conservation; water quality; water supply; flow maintenance; flood loss reduction; fish, wildlife and recreation; energy and navigation. (EIS Order No. 91151.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, DC 20585, (202) 252-4600.

Bonneville Power Administration

Draft

Buckley-Summer Lake 500-KV line and substations, several counties, Oregon, November 5: Proposed is the construction of the Buckley-Summer Lake 500-KV transmission line and related facilities in Wasco, Jefferson, Crook, Deschutes, Lake and Klamath Counties, Oregon. The project will include the construction of the Buckley substation near Maupin and the Summer Lake substation near Silver Lake. The length of the line would be 158 miles. The alternatives considered include: (1) local generation, (2) underground, and (3) methods of locating the transmission facilities. (DOE/EIS-0050-DS.) (EIS Order No. 91132.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), Environmental Protection Agency, Washington, D.C. 20460, (202) 245-3051.

Draft

Hawaiian Ocean Disposal Sites, Designation, several sites in Pacific Ocean, October 7: Proposed is the designation of five Hawaiian Ocean disposal sites for continuing use for the disposal of maintenance dredged material. The proposed sites are off the islands of Oahu, Kauai, Maui, and Hawaii. The counties involved include Honolulu, Kauai, Maui and Hawaii. The Oahu site would be used by the COE and Navy for the disposal of material from Honolulu and Pearl Harbors. The other sites would be used by the COE as disposal sites for the adjacent harbor. The alternatives considered are no action and use of other sites. (EIS order No. 91141.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Barbara Taylor, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2307.

Draft

Otter Tail Lake Waste Treatment System, Study No. 5, Otter Tail County, Minn., October 8: Proposed is a facility plan for the Otter Tail Lake Waste Treatment Systems located in Otter Tail County, Minnesota. The plan includes extensive sewerage to correct malfunctioning on-site wastewater disposal systems and to protect water quality. The preferred alternative involves: (1) the repair and upgrading of existing on-site systems such as septic tanks and filter fields, (2) grey water/black water separation along problem high groundwater flow segments, (3) creation

of an on-site wastewater management district, and (4) site-specific environmental and engineering analyses of existing on-site systems. (EIS order No. 91148.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755-6306.

Draft

Countrywood South Subdivision, Memphis, Shelby County, Tenn., Oct. 8: The proposed action is the issuance of mortgage insurance for the Countrywood South Subdivision located in Shelby County, Tennessee. Countrywood South is a residential development of an approximately 1,153 acre tract of land located northeast of Memphis. The development plan includes approximately 2,511 single family lots, 85 acres of open space which includes a county school and park, and a greenbelt system which will allow unrestricted access to the park and school from various sections of the development. Also included are sites for multi-family and commercial development. (HUD-R04-EIS-79-030) (EIS order No. 91146.)

Final

Concord Planned Development in Montbello, Denver, Denver County, Colo., Oct. 6: Proposed is the issuance of HUD Home Mortgage Insurance for the Concord planned development in Montbello in the city and county of Denver, Colorado. The completed development will contain 8,565 single family units and 4,000 multi-family units. At this time, 2,234 single family units and 2,820 multi-family units remain to be constructed. (HUD-R08-EIS-79-XVF.) Comments made by: DOI, HEW, USDA, AHP, State and Local Agencies Groups. (EIS order No. 91136.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4258, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Bureau of Land Management

Final

Aravaipa Canyon Wilderness, Graham and Pinal Counties, Ariz., Oct. 6: Proposed is the inclusion of the Aravaipa Canyon Wilderness Primitive Area, located in Graham and Pinal Counties, Arizona, in the national wilderness preservation system. The area encompasses 4,044 acres, and will be managed for the retention of primitive and wilderness values and the regulation of public use. The alternatives consider: (1) no action and (2) the increase of the size of the proposed wilderness area. (FES-INT-79-59) Comments made by: COE, DOI, State Agencies, groups, individuals and businesses. (EIS order No. 91137.)

National Park Service

Draft

Chickasaw National Recreation Area, Murray County, Okla., Oct. 7: Proposed is a

General Management Plan Chickasaw National Recreation Area in Murray County, Oklahoma. The plan would provide coordinated facility development, visitor use programs, and resource management actions. The facilities include a visitor center/headquarters adjacent to the city of Sulphur, a 9.5 mile biking/hiking trail, a 6.5 mile hiking trail, a net of 32 additional campsites, and other facilities. A shallow overflow channel will be constructed to provide a floodwater bypass around Taverline Nature Center. (DES-79-59) (EIS order No. 91142.)

Final

Sequoia and Kings Canyon Nat'l Parks Plan, Tulare County, Calif., November 6: Proposed is a development concept plan for the Giant Forest/Lodgepole Area of Sequoia and Kings Canyon National Parks, Tulare County, California. The plan includes provisions for converting Giant Forest to a day use area, redesigning the campground and the employee community at Lodgepole, developing Clover Creek for visitor lodging and associated services, developing Red Fir for maintenance facilities and a sewage disposal spray field, a public transportation system, and expanding the Dorst Creek Campground for group camping. Comments made by: AHP, USDA, DOI, EPA, State and local agencies, groups, individuals and businesses. (EIS Order No. 91135.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

Federal Highway Administration

Draft

MD-410 extension, B/W Parkway to Pennsy Drive, Prince Georges County, Md., November 5: Proposed is the extension of MD-410 from the Baltimore/Washington Parkway to Pennsy Drive in Prince Georges County, Maryland. The facility would be extended for 2.6 miles and would be constructed as a four-lane, divided highway. The alternatives consider: (1) No build, (2) three at-grade channelized "T" intersections at Riverdale Road, (3) two at-grade intersections and a "diamond" interchange with MD-450, (4) two interchange configurations combining the US 50/MD-410 interchange with the New Carrollton Metro access interchange, (5) a "T" intersection with Pennsy Drive, and (6) alternate typical sections, "open" or "closed" type, for the mainline. (FHWA-MD-EIS-79-04-D.) (EIS Order No. 91133.)

Final

I-78, I-78/Haafsville to I-78/Still Valley, Warren County, N.J., Leigh and Northampton Counties, Pa., November 5: This statement finalizes the following EIS's concerning the construction of I-78 in New Jersey and Pennsylvania: No. 20040D, filed 6-30-71; No. 20086D, filed 7-7-71; No. 21662F, filed 1-19-72; No. 21928F, filed 2-15-72; No. 31397D, filed 8-22-73; No. 31747D, filed 11-05-73; and No. 60866D, filed 8-10-78. The portion of I-78 under consideration begins at existing I-78 near Haafsville in Leigh County.

Pennsylvania, extends through Northampton County, Pennsylvania and terminates at existing I-78, near Still Valley in Warren County, New Jersey. (FHWA-PA-EIS-73-06-F.) Comments made by: USDA, HUD, DOC, EPA, DOT, DOI, State and local agencies, groups and individuals. (EIS Order No. 91139.)

SW 89th Avenue to I-5, Nyberg Road Bypass, Washington County, Oregon, November 5: Proposed is the improvement of the local street connection to I-5, which is presently SW 89th Avenue, in the city of Tualatin, Washington County, Oregon. The alternatives considered are: (1) No build, (2) the extension and realignment of SW Nyberg Road, and (3) the construction of the SW Tualatin Sherwood Bypass. Both build alternatives would provide four 12-foot travel lanes, two in each direction, paved shoulders, sidewalks, bicycle paths, a median, and a coordinated signal system. (FHWA-OR-EIS-79-02-F.) Comments made by: USDA, COE, DOI, State and local agencies, businesses. (EIS Order No. 91134.)

Draft Supplement

Freemont Northwest Bypass, US 77 to US

30, Dodge County, Nebr., November 8: This statement supplements a final EIS, No. 30763, filed on 5-4-73. The supplement concerns the Freemont Northwest Bypass from US 77 to US 30 in Dodge County, Nebraska. The construction will include grading, structures, high type surfacing and surfaced shoulders. The facility is designed as an ultimate four-lane roadway. Two alignment alternatives are considered. (FHWA-NEBR-EIS-72-02-F-DS.) (EIS Order No. 91149.)

Final Supplement

US 550, Shiprock to Fruitland, San Juan County, N. Mex., November 6: This statement supplements a final EIS, No. 31178, filed 7-16-73 concerning the improvement of US 550 between Shiprock and Farmington, San Juan County, New Mexico. This statement addresses completion of a portion of the project beginning 13 miles east of Shiprock and terminating at Fruitland. The length of this portion is 2.8 miles which would be widened from the existing two-lanes to four-lanes. Five alternatives were considered. (FHWA-NM-EIS-71-10-FS.) Comments

made by: USDA, DOI, EPA, AHP, State and local agencies. (EIS Order No. 91138.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Stitler, Director, Office of Environmental Activities (004A), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389-2528.

Final

VA Medical Center, Hospital Replacement, Portland, Multnomah County, Oregon, November 8: Proposed is the construction of a replacement hospital for the VA Medical Center located in Portland, Multnomah County, Oregon. The plan is to construct a new 600-bed facility either at the existing site adjacent to a university medical school or at a nearby site adjacent to a private hospital. The proposed expansion would double the size of the existing facility and increase the number of beds to 600. The sites considered are at Marquam Hill or adjacent to Emanuel Hill. Comments made by: DOI, EPA, HUD, AHP, USDA, State and local agencies, individuals and businesses. (EIS Order No. 91144.)

EIS's Filed During the Week of Nov. 5 to 9, 1979

Statement title index—by State and County

State	County	Status	Statement title	Accession No.	Date filed	Orig. agency No.
Arizona	Graham	Final	Aravaipa Canyon Wilderness	91137	11-06-79	DOI
	Pinal	Final	Aravaipa Canyon Wilderness	91137	11-06-79	DOI
Atlantic Ocean		Supple	Atlantic Groundfish Fishery, FMP, (DS-4)	91140	11-06-79	DOC
California	Tulare	Final	Sequoia & Kings Canyon Nat'l Parks Plan	91135	11-06-79	DOI
Colorado	Denver	Final	Concord Planned Development in Montbello, Denver	91136	11-06-79	HUD
Hawaii	Several	Draft	Hawaiian Ocean Disposal Sites, Designation	91141	11-07-79	EPA
Maryland	Anne Arundel	Draft	Fort George G. Meade, Ongoing Activities	91150	11-09-79	USA
	Howard	Draft	Fort George G. Meade, Ongoing Activities	91150	11-09-79	USA
	Prince Georges	Draft	MD-410 Extension, B/W Parkway to Pennsy Drive	91133	11-05-79	DOT
		Draft	Fort George G. Meade, Ongoing Activities	91150	11-09-79	USA
Michigan	St. Clair	Draft	Belle River Power Plant	91143	11-07-79	COE
Minnesota	Otter Tail	Draft	Otter Tail Lake Waste Treatment System, Study #5	91146	11-08-79	EPA
Nebraska	Dodge	Supple	Freemont Northwest Bypass, US 77 to US 30	91149	11-08-79	DOT
New Jersey		Final	I-78, I-78/Haafsville to I-78/Still Valley	91139	11-05-79	DOT
	Northampton	Final	I-78, I-78/Haafsville to I-78/Still Valley	91139	11-05-79	DOT
New Mexico	San Juan	Final supp	US-550 Shiprock to Fruitland	91138	11-06-79	DOT
Oklahoma	Nurray	Draft	Chickasaw National Recreation Area	91142	11-07-79	DOI
Oregon	Several	Draft	Buckley-Summer Lake 500 KV Line and Substations	91132	11-05-79	DOE
	Multnomah	Final	VA Medical Center, Hospital Replacement, Portland	91144	11-08-79	VA
Pacific Ocean	Washington	Final	SW 89th Avenue to I-5, Nyberg Road Bypass	91134	11-05-79	DOT
		Draft	Hawaiian Ocean Disposal Sites, Designation	91141	11-07-79	EPA
Pennsylvania		Final	Precious Coral Fisheries, Western Pacific, FMP	91152	11-09-79	DOC
Several	Several	Draft	I-78, I-78/Haafsville to I-78/Still Valley	91139	11-05-79	DOT
Tennessee	Shelby	Draft	Delaware River Basin, Level B Study	91151	11-09-79	ORBC
		Draft	Countrywood South Subdivision, Memphis	91146	11-08-79	HUD

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
ENVIRONMENTAL PROTECTION AGENCY					
Mr. Eugene Wojcik, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2157.	O'Hare Water Reclamation Plant, Des Plaines.	Draft suppl. 90998	Sept. 28, 1979	Extension	Nov. 30, 1979.
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6306.	Watson Island Theme Park, Udag	Draft 91057	Oct. 19, 1979 (see app. V).	Extension	Dec. 31, 1979.
DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.	Freemont Northwest Bypass US 77 to US 30.	Draft suppl. 91149	Nov. 16, 1979 (see app. I).	Extension	Jan. 2, 1980.

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA—Continued

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
DEPARTMENT OF COMMERCE Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.	Atlantic Groundfish Fishery, FMP.	Draft suppl. 91140.	Nov. 18, 1979 (see app. I).	Waiver.	Dec. 17, 1979.

Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
None.					

Appendix IV.—Notice of Official Retraction

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
None.					

Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA

Federal agency contact	Title of report	Date made available to EPA	Accession No.
U.S. ARMY CORPS OF ENGINEERS Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Rochester Harbor Maintenance, Monroe County, New York.	Nov. 8, 1979	91145
DEPARTMENT OF TRANSPORTATION Mr. Martin Comvisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street S.W., Washington, D.C. 20590, (202) 426-4357.	North Las Vegas Boulevard Interchange.	Nov. 8, 1979	91147
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT Mr. Richard H. Brown, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street S.W., Washington, D.C. 20410, (202) 755-6306.	Watson Island Theme Park, Udag, Traffic Analysis.	Nov. 5, 1979 (see app. II)	91157

Appendix VI.—Official Correction

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
None.					

[FR Doc. 79-35810 Filed 11-18-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1361-1]

Intent To Prepare a Draft Environmental Impact Statement

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of Intent to prepare a draft Environmental Impact Statement (EIS).

PURPOSE: In accordance with Section 102(2)(c) of the National Environment Policy Act, EPA has identified a need to prepare an EIS and therefore publishes this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. Clinton B. Spotts, Regional EIS

Coordinator, U.S. Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

SUMMARY: Description of action: The City of Fayetteville, Washington County, Arkansas, has received a grant (C-05-0366-01) from the U.S. EPA for wastewater treatment facilities planning

in accordance with Section 201 of the Clean Water Act.

Based on the evaluations to be developed in the EIS, EPA will determine whether to award additional funds for detailed design and construction of any wastewater treatment facilities.

2. Public and private participation in the EIS process: Full participation by interested Federal, State or local agencies, public groups, public officials and individuals is invited. The public will be involved to the maximum extent possible and is encouraged to participate in the planning process. Public meetings and workshops will be held during the development of the EIS and facility plan.

3. Scoping: For the purpose of gathering information on significant, environmental issues and to determine the scope of the EIS, EPA will hold:

A Public Meeting, Central Fire Station, 303 W. Center Street, Fayetteville, Arkansas, December 11, 1979 (Tuesday) 7:00 p.m.

4. Timing: EPA estimates the draft EIS will be available for public review and comment about August 1980.

5. Request for copies of draft EIS: Interested parties are encouraged to submit their name and address to the person indicated above for inclusion on the distribution list for the draft EIS and related public notices.

Dated: November 7, 1979.

William N. Hedeman, Jr.,
Director, Office of Environmental Review (A-104).

[FR Doc. 79-35583 Filed 11-18-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COUNCIL ON THE AGING

Meeting

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1, sec. 10, 1978) that the Council will hold a meeting on December 10 from 9:00 a.m. to 5:00 p.m. in Room 703-705A, Hubert Humphrey Building; December 11 and 12 from 9:00 a.m. to 5:00 a.m. and 9:00 a.m. to 12:30 p.m., respectively in Room 303-305A, Hubert Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

The agenda will include orientation of new members, a discussion/review on the procedures in geriatric medicine and the energy conference co-convened by the Administration on Aging, National Institutes of Health and the Federal Council. Progress reports will be given by the standing committees of the Council on the Congressionally mandated study; proposed recommendations for a national policy on long term care; employment of older workers; the needs and concerns of the rural and urban elderly, as well as the final disposition of the minority elderly report.

Other issues pertinent to the quality of life of the aged will also be discussed.

Further information on the Federal Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245-0441. FCA meetings are open for public observation.

Dated: November 13, 1979.

Nelson H. Cruikshank,
Chairman, Federal Council on the Aging.

[FR Doc. 79-35536 Filed 11-18-79; 8:45 am]

BILLING CODE 4110-92-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 10, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the

commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 8900-12.

Filing Party: Stanley O. Sher, Esq., Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Summary: Agreement No. 8900-12 amends the basic provisions of the Eighty-Nine Hundred Rate Agreement by establishing comprehensive decision making procedures.

Agreement No. 9548-19.

Filing Party: Marc J. Fink, Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Summary: Agreement No. 9548-19, among the member lines of the North Atlantic Mediterranean Freight Conference (Agreement No. 9548-19), would amend the basic agreement to give the Italian and French Rate Committees exclusive jurisdiction over all rate matters within their respective trade areas.

Dated: November 14, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 79-35571 Filed 11-18-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of

the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 10, 1979.

A. Federal Reserve Bank of Boston, 30 Pearl Street, Boston, Massachusetts 02106:

Old Stone Corporation, Providence, Rhode Island (mortgage banking and insurance activities; Ohio): To engage, through a proposed de novo indirect subsidiary, DAC Corporation of Ohio, in the origination, sale and servicing of first and second mortgage loans; and the sale of life and accident health insurance directly related to its extension of credit. These activities would be conducted from an office in Columbus, Ohio, serving the general metropolitan area of Columbus and Franklin County, Ohio.

B. Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045:

Manufacturers Hanover Corporation, New York, New York (commercial finance activities; Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio and Wisconsin): To engage, through a direct subsidiary, Manufacturers Hanover Commercial Corporation (Del.), in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance company; and arranging or servicing such loans and other extensions of credit for any person. Such activities will be conducted from an office located in Chicago, Illinois servicing the seven states mentioned above.

C. Federal Reserve Bank of Cleveland, 1455 East Sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Pittsburgh, Pennsylvania (consumer finance and credit-related insurance activities; Florida, Indiana and Oregon): To engage, through a subsidiary, Freedom Financial Services Corporation in the following activities; General consumer finance activities including acting as insurance agent with respect to the sale of credit life insurance, credit accident and health insurance, and

credit property insurance. These activities will be conducted from offices in: Tampa, Florida, servicing Western Hillsborough County; Terre Haute, Indiana, serving Virgo County; and Pendleton, Oregon, serving Umatilla County. Comments on this application must be received by December 7, 1979.

D. Federal Reserve Bank of Richmond, 701 East Byrd Street, Richmond, Virginia 23261:

NCNB Corporation, Charlotte, North Carolina (acquiring and liquidating property acquired from nonbanking subsidiaries; North Carolina, South Carolina, Georgia and Florida): To engage, through a subsidiary MAR, Inc., in the following activities: Acquiring and liquidating real estate and other property presently owned, directly and indirectly, by NCNB Corporation's subsidiaries, NCNB Mortgage Corporation and TransSouth Financial Corporation; which property has previously been obtained by said subsidiaries through foreclosure or otherwise acquired in connection with debts previously contracted. These activities will be conducted from an office in Charlotte, North Carolina, and the area to be served includes the States of North Carolina, South Carolina, Georgia and Florida.

E. Federal Reserve Bank of Kansas City, 925 Grand Avenue, Kansas City, Missouri 64198:

1. American Bancorporation, Inc., Kansas City, Missouri (mortgage banking activities; Missouri): To engage, through its subsidiary, American Mortgage Company, in lending secured by real estate mortgages and deeds of trust. These activities will be conducted from an office in Kansas City, Missouri, serving metropolitan Kansas City, Missouri.

2. Century Bancorporation, Inc., Tulsa, Oklahoma (financing and mortgage banking activities; Oklahoma): To engage, through a de novo subsidiary, Action Financial Corporation, in making direct cash installment loans to individuals; Purchasing installment paper arising from retail sales of consumer goods; financing of business accounts receivable and sales of commercial and industrial equipment by small business; making first mortgage real estate loans to finance the purchase of residential commercial property; and making second mortgage loans for various purposes such as home improvement, consolidation of debts, and temporary and long-term working capital. These activities will be conducted from an office in Tulsa, Oklahoma, serving the Tulsa SMSA.

F. Other Federal Reserve Banks:
None.

Board of Governors of the Federal Reserve System, November 8, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35500 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

Cary/Grove Bancorp., Inc.; Formation of Bank Holding Company

Cary/Grove Bancorp., Inc., Cary, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of Suburban Bank of Cary/Grove, Cary, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 13, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35594 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

Central Bancorporation, Inc.; Formation of Bank Holding Company

Central Bancorporation, Inc., Denver, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank of Glenwood Springs, Glenwood Springs, Colorado; First National Bank in Grand Junction, Grand Junction, Colorado; First National Bank in Aspen, Aspen, Colorado; First National Bank-North in Grand Junction, Grand Junction, Colorado; First National Bank in Craig, Craig, Colorado; Rocky Ford National Bank, Rocky Ford, Colorado; Central Bank of Denver, Denver, Colorado; Central Bank of Aurora, Aurora, Colorado; Central Bank of North Denver, Denver, Colorado; Central Bank of Colorado Springs,

Colorado Springs, Colorado; Central Bank of Academy Boulevard, Colorado Springs, Colorado; Central Bank of Greeley, Greeley, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35507 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

Central Colorado Co., and C.C.B., Inc.; Formation of Bank Holding Company

Central Colorado Company and C.C.B., Inc., Denver, Colorado, have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring 80 per cent or more of the voting shares of Central Bancorporation, Inc., Denver, Colorado, and by indirectly acquiring the voting shares of First National Bank of Glenwood Springs, Glenwood Springs, Colorado; First National Bank in Grand Junction, Grand Junction, Colorado; First National Bank in Aspen, Aspen, Colorado; First National Bank-North in Grand Junction, Grand Junction, Colorado; First National Bank in Craig, Craig, Colorado; Rocky Ford National Bank, Rocky Ford, Colorado; Central Bank of Denver, Denver, Colorado; Central Bank of Aurora, Aurora, Colorado; Central Bank of North Denver, Denver, Colorado; Central Bank of Colorado Springs, Colorado Springs, Colorado; Central Bank of Academy Boulevard, Colorado Springs, Colorado; Central Bank of Greeley, Greeley, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in

writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35508 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

Citibank Interamerica; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Citibank Interamerica, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Los Angeles, California; San Francisco, California; Atlanta, Georgia; Chicago, Illinois; Boston, Massachusetts; Minneapolis, Minnesota; St. Louis, Missouri; Cleveland, Ohio; Houston, Texas; and Seattle, Washington. Citibank Interamerica operates as a subsidiary of Citibank, N.A., New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than December 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 7, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35599 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

Crested Butte Bankshares, Inc.; Formation of Bank Holding Company

Crested Butte Bankshares, Inc., Crested Butte, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Crested Butte State Bank, Crested Butte, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35600 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

Delano State Agency, Inc.; Formation of Bank Holding Company

Delano State Agency, Inc., Delano, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 69.1 per cent of the voting shares of State Bank of Delano, Delano, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35801 Filed 11-16-79; 8:45 am]
BILLING CODE 6210-01-M

Hoffman Bancorp, Inc.; Formation of Bank Holding Company

Hoffman Bancorp, Inc., Hoffman Estates, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring up to 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Suburban Bank of Hoffman-Schaumburg, Schaumburg, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 13, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35595 Filed 11-16-79; 8:45 am]
BILLING CODE 6210-01-M

Financial Services Corp. of the Midwest; Proposed Acquisition of Financial Services Life Insurance Co. and Second Financial Services Life Insurance Co.

Financial Services Corporation of the Midwest, Rock Island, Illinois, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 C.F.R. 255.4(b)(2)), for permission to acquire voting shares of Financial Services Life Insurance Company, and Second Financial Services Life Insurance Company, Phoenix, Arizona.

Applicant states that the proposed subsidiaries would engage in the activities of underwriting as reinsurer credit life insurance and credit accident and health insurance directly related to

extensions of credit by Applicant's credit granting subsidiaries and initially underwritten by an unaffiliated insurance company. These activities would be performed from offices of Applicant's subsidiaries in Phoenix, Arizona, and the geographic areas to be served are the States of Illinois, Iowa, Minnesota, and Wisconsin, and the northeastern portion of North Dakota. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 10, 1979.

Board of Governors of the Federal Reserve System, November 9, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35602 Filed 11-16-79; 8:45 am]
BILLING CODE 6210-01-M

First Howard Bankshares, Inc.; Formation of Bank Holding Company

First Howard Bankshares, Inc., Howard, Kansas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Howard, Howard, Kansas. The factors that are considered in acting on the application

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 13, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35603 Filed 11-16-79; 8:45 am]
BILLING CODE 6210-01-M

General Bancorporation, Inc.; Formation of Bank Holding Company

General Bancorporation, Inc., Broomfield, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Broomfield State Bank, Broomfield, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 30, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35604 Filed 11-16-79; 8:45 am]
BILLING CODE 6210-01-M

Hoffman Bancshares, Inc.; Formation of Bank Holding Company

Hoffman Bancshares, Inc., Hoffman, Minnesota, has applied for the Board's approval under section 3(a)(1) of the

Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81.4 percent of the voting shares of Farmers State Bank, Hoffman, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 9, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35805 Filed 11-16-79; 8:45 am]
BILLING CODE 6210-01-M

New England Merchants Bank International; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

New England Merchants Bank International, Boston, Massachusetts, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Miami, Florida. New England Merchants International Bank operates as a subsidiary of New England Merchants National Bank, Boston, Massachusetts.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than December 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize

the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 8, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35806 Filed 11-16-79; 8:45 am]
BILLING CODE 6210-01-M

Planters Bancshares, Inc.; Formation of Bank Holding Company

Planters Bancshares, Inc., Opelousas, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Planters Trust and Savings Bank, Opelousas, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 13, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35807 Filed 11-16-79; 8:45 am]
BILLING CODE 6210-01-M

Security Bancorp, Inc.; Acquisition of Bank

Security Bancorp, Inc., Southgate, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by consolidation to Security Bank of Richmond, Richmond, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in

writing to the Reserve Bank to be received not later than December 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 8, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35808 Filed 11-16-79; 8:45 am]
BILLING CODE 6210-01-M

Security Bancorp, Inc.; Acquisition of Bank

Security Bancorp, Inc., Southgate, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by consolidation to Keatington State Bank, Lake Orion, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 10, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 8, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35809 Filed 11-16-79; 8:45 am]
BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 94; Case No. 78-92-EL-AIR]

Dayton Power & Light Co., the Public Utility Commission of Ohio; Proposed Intervention in Electric Rate Increase Proceeding; Correction

In FR Doc. 79-23484 appearing at page 44937 in the Federal Register of July 31, 1979, the case number appearing in the heading after Intervention Notice 94 is

corrected to read Case No. 79-510-EL-AIR.

Dated: November 8, 1979.

Hayden J. Price,
Acting General Counsel.

[FR Doc. 79-35501 Filed 11-18-79; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-483, Sec. 10(a)(2)).

DATE: December 8, 1979; 10 a.m. to 1 p.m., Program Effectiveness and Evaluation Committee Meeting; 3 p.m. to 5 p.m., Program Liaison Committee Meeting; 5 p.m. to 7 p.m., Governmental Relations and Legislation Committee Meeting; 7:30 p.m. to 10 p.m., Executive Committee Meeting. December 7, 1979, 9 a.m. to 5 p.m. and December 8, 1979, 8:30 a.m. to 1 p.m., Full Council Meeting.

ADDRESS: The Hotel Washington, 15th at Pennsylvania Ave., NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and

other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Committee Reports.
Committee Budgets.
Council Goals, FY-80.
Election of Officers, 12/7/79, 4:30 p.m.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on November 13, 1979.

Gary A. Eyre,

Executive Director, National Advisory
Council on Adult Education.

[FR Doc. 79-35518 Filed 11-16-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act, (5 U.S. Code, Appendix I section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATE: December 3, 1979.

ADDRESS: Disneyland Hotel, 1150 West Cerritos, Anaheim, California, Santa Cruz Room, Bonita Tower

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is directed to:

(A) advise the President, the Congress, and the Commissioner concerning the administration of, preparation of general regulations for, and operation of vocational education programs supported with assistance under this title;

(B) review the administration and operation of vocational education programs under this title, including the

effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

On December 3, 1979, the National Advisory Council on Vocational Education will meet in regular session from 8:30 A.M. to 2:00 P.M. in the Santa Cruz Room of the Bonita tower, Disneyland Hotel, Anaheim, California. The following agenda will be included in this meeting:

8:30 A.M.—Report on the National Institute of Education's.

2:00 P.M.—Vocational Education Study—
Report from the Bureau of Occupational and Adult Education, U.S. Office of Education.

Report from the National Commission for Employment Policy.

Report from the Vice President's Task Force on Youth Employment.

Other Council Business.

On Saturday, December 1, from 7:30 A.M. to 8:30 A.M. a joint meeting of NACVE Special Populations Committee and the Vocational Education Equity Council of the American Vocational Association will be held in Magnolia Room B, Disneyland Hotel. The following Agenda will be discussed:

Sex equity in vocational education: assessing current and future support activities in order to assist equity coordinators in carrying out their responsibilities.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Vocational Education, located at 425—13th Street, N.W., Suite 412, Washington, D.C. 20004. For further information call Virginia Solt: (202) 376-8873.

Signed at Washington, D.C. on November 14, 1979

Raymond C. Parrott, Executive Director,
National Advisory Council on Vocational
Education.

[FR Doc. 79-35535 Filed 11-18-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Bilingual Education; Desegregation Programs

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Transmittal of Applications for Renewal Grants.

Applications are invited for renewal awards for Desegregation Assistance Programs under the Bilingual Education Act.

Authority for this program is contained in section 751 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 3261)

Eligible applicants are current recipients under section 708(c) of the Emergency School Aid Act. Section 751 continues current projects for FY '80.

The Purpose of this program is to continue financial assistance to successful applicants to establish and operate bilingual education programs incident to desegregation that meet the educational needs of children of limited English proficiency.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, applications for renewal grants should be mailed or hand delivered by January 11, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other renewal applications and may decline to accept it.

Applications Delivered By Mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403A, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly

provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered By Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m.

(Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays.

Available Funds: Funds are available for 19 renewal grants at the level of funding each received for FY '79. The total amount available for all renewals is \$8,600,000.

Application Forms: Application forms and program information packages are expected to be ready for mailing by November 20, 1979. They will be mailed to the eligible applicants. Additional copies may be obtained by writing to the Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner urges that applicants not submit information that is not requested.

Applicable Regulations: The regulations applicable to this program are:

(a) General Provisions Regulations for Office of Education Programs (45 CFR parts 100 and 100a), and

(b) Section 751 of the Elementary and Secondary Education Act of 1965, as amended.

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under the program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further Information: For further information contact Mr. Charles E. Hansen, Acting Deputy Director, Office of Bilingual Education, U.S. Office of

Education, (Reporters Building, Room 421), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-2600.

(20 U.S.C. 3261)

Dated: November 15, 1979.

(Catalog of Federal Domestic Assistance Program No 13.403, Bilingual Education)

John Ellis,

Education Deputy Commissioner for
Educational Programs.

[FR Doc. 79-35643 Filed 11-16-79; 8:45 am]

BILLING CODE 4110-02-M

Bilingual Education; Elementary and Secondary Program

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Transmittal of Applications for Noncompeting Continuation Projects.

Applications are invited for basic noncompeting continuation awards under the Bilingual Education Act.

Authority for this program is contained in sections 703-722 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 3223-3232)

Eligible applicants are current recipients of basic grants who are operating bilingual education projects with an approved project period in excess of one year, and are proposing to continue their present projects.

The purpose of this program is to continue financial assistance to successful applicants to establish and operate bilingual education programs that meet the educational needs of children of limited English proficiency.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by January 11, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered By Mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403C, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building, 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8 a.m. and 4:30 p.m.

(Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays.

Available Funds: It is anticipated that funds will be available for 405 continuation projects and that the total amount awarded for all projects will be \$74,500,000.

Application Forms: Application forms and program information packages are expected to be ready for mailing by November 20, 1979. They will be mailed to each eligible applicant for noncompeting continuations. Additional copies may be obtained by writing to the Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner urges that applicants not submit information that is not requested.

Applicable Regulations: The regulations applicable to this program are:

(a) General Provisions Regulations for Office of Education Programs (45 CFR parts 100 and 100a), and

(b) The interim final regulations governing the Bilingual Education Program (45 CFR Part 123). The interim final regulations were published in the *Federal Register* on March 29, 1979 (44 FR 18906).

Note.—The proposed Education Division General Administrative Regulations

(EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under the program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further Information: For further information contact Mr. Charles E. Hansen, Acting Deputy Director, Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-2600.

(20 U.S.C. 3231)

Dated: November 15, 1979.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-35642 Filed 11-16-79; 8:45 am]

BILLING CODE 4110-02-M

Bilingual Education; Training Program

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date For Transmittal of Applications for Noncompeting Continuation Projects.

Applications are invited for noncompeting continuation training projects under the Bilingual Education Act.

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 3233)

Eligible applicants are current recipients of training grants who are operating projects with an approved project period in excess of one year, and are proposing to continue their present projects.

The purpose of this program is to continue financial assistance to successful applicants to establish and operate bilingual education training programs for persons participating in, or preparing to participate in, the conduct of bilingual education programs.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, applications

for noncompeting continuation awards should be mailed or hand delivered by January 11, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered By Mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered By Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building, 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m.

(Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays.

Available Funds: It is anticipated that funds will be available for 103 noncompeting continuation projects and that the total amount awarded for all projects will be \$12,840,000.

Application Forms: Application forms and program information packages are expected to be ready for mailing by November 20, 1979. They will be mailed to each eligible applicant for noncompeting continuations. Additional copies may be obtained by writing to the Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the

regulations, instructions, and forms included in the program information packages. The Commissioner urges that applicants not submit information that is not requested.

Applicable Regulations: The regulations applicable to this program are:

(a) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a), and

(b) The interim final regulations governing the Bilingual Education Program (45 CFR Part 123). The interim final regulations were published in the *Federal Register* on March 29, 1979 (44 FR 18906).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under the program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further Information: For further information contact Mr. Charles E. Hansen, Acting Deputy Director, Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-2600.

(20 U.S.C. 3233)

Dated: November 15, 1979.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-35644 Filed 11-16-79; 8:45 am]

BILLING CODE 4110-02-M

Bilingual Education; Fellowship Program

AGENCY: Office of Education, HEW.

ACTION: Notice of Closing Date for Transmittal of Applications for Continuing Participation in the Fellowship Program.

Applications are invited for continuing participation in the fellowship program under the Bilingual Education Act.

Authority for this program is contained in section 723 of the

Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 3233)

Eligible applicants are institutions of higher education whose programs have been previously approved by the Commissioner for a period in excess of one year.

The purpose of this program is to provide financial assistance to fulltime graduate students who are preparing to become trainers of bilingual education personnel.

Closing Date for Transmittal of Applications: To be assured of consideration for participation, applications for continuing participation in the fellowship program should be mailed or hand delivered by February 15, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other applications for continuing participation and may decline to accept it.

Applications Delivered By Mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403F, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered By Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building, 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m.

(Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays.

Available Funds: It is anticipated that funds will be available for 12 continuing participation projects serving 210 Fellows with an average fellowship award of \$7,500 for a total cost for all continuing participation projects of \$1,575,000. In calculating the Fellowship stipend, applicants should be guided by 123c.42-43 of the notice of proposed rulemaking (*Federal Register*, June 29, 1979) which includes the method of calculating stipends.

Application Forms: Application forms and program information packages are expected to be ready for mailing by November 20, 1979. They will be mailed to each eligible applicant for continuing participation. Additional copies may be obtained by writing to the Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner urges that applicants not submit information that is not requested.

Applicable Regulations: The regulations applicable to this program are:

(a) General Provisions Regulations for Office of Education Programs (45 CFR parts 100 and 100a), and

(b) Regulations governing the Bilingual Education Program (45 CFR Part 123). Applicants should base their applications on the notice of proposed rulemaking published in the *Federal Register* on June 29, 1979 (44 FR 38416). When these regulations are published as final regulations and become effective, they will govern awards under this program.

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under the program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further Information: For further information contact Mr. Charles E. Hansen, Acting Deputy Director, Office

of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-2600.

(20 U.S.C. 3233)

Dated: November 15, 1979.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-35641 Filed 11-16-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Reservation Roads

Cross Reference: For a document announcing Notice of Memorandum of Agreement between this agency and the Federal Highway Administration, see FR Doc. 79-35494 appearing in the Notices Section of this issue.

BILLING CODE 4310-02-M

Bureau of Land Management

Utah and Colorado; Intent To Hold Public Hearings and To Open a 30-Day Comment Period on the Federal Coal Leasing Target for the Uinta-Southwestern Utah Coal Production Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of public hearings and opening of a 30-day comment period.

SUMMARY: This notice advises the public that, pursuant to 43 CFR 3420.3-2(d), the regional coal team for the Uinta-Southwestern Utah Coal Region will hold public hearings and will accept written comments on a Federal coal leasing target to be established for this production region. The information received during the comment period and

Place	Date	Time	Address
Escalante, UT	December 3, 1979	7 p.m.	Gymnasium, Escalante High School, Escalante, UT.
Richfield, UT	December 4, 1979	7 p.m.	Auditorium, Sevier County Court House, 250 North Main, Richfield, UT.
Price, UT	December 5, 1979	7 p.m.	Conference Room, BLM Price River Resource Area Office, 900 North 7th East, Price, UT.
Salt Lake City, UT	December 6, 1979	7 p.m.	Salt Palace, Room 224, 100 South West Temple, Salt Lake City, UT.

Written comments on the leasing target will also be accepted from those

at the public hearings will assist the Secretary in establishing the final Federal coal leasing target for the region which covers portions of Utah and Colorado.

DATES: Written comments will be received through December 19, 1979. Public hearings will be held on December 3, 4, 5, and 6, 1979.

ADDRESSES: Comments should be addressed to Edward F. Spang, Nevada State Director, Bureau of Land Management, Chairman, Regional Coal Team, Federal Building, Room 3008, 300 Booth Street, Reno, Nevada 89509. The locations of the public hearings are listed below under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Edward F. Spang, (702) 784-5451.

SUPPLEMENTARY INFORMATION: As part of his announcement of a new Federal coal management program on June 4, 1979, the Secretary of the Interior set a tentative Federal coal leasing target of 109 million tons for the Uinta-Southwestern Utah Coal Production Region with proposed lease sales to occur over a 2-year period beginning in mid-1981. In addition, the Secretary directed that public comment be received on the tentative leasing target prior to his establishing a final leasing target for the region.

In accordance with the Secretary's direction, the public is invited to present comments at a series of public hearings on the tentative leasing target. Those individuals wishing to speak at the public hearings are asked to provide written copies of their remarks.

The public hearings to obtain comments on the Federal coal leasing target for the region are being combined with the public meetings that are being held to receive comments on the scope of the regional environmental impact statement (EIS) for the region. Accordingly, each general session will consist of a leasing target public hearing followed by a regional EIS scoping meeting. These combined sessions will be held as follows:

unable to attend the public hearings. These comments should be sent to the

regional coal team chairman, at the address provided above, by December 19, 1979.

The tentative coal leasing target of 109 million tons for the Uinta-Southwestern Utah Region, which was announced by the Secretary on June 4, 1979, was derived from the Department of Energy's (DOE) coal production goals for 1985 and 1990. The goals set by DOE are tentative and likely to be revised. Therefore, public comment is being sought on DOE's production goals as well as the Secretary's preliminary leasing target to assist the Secretary in establishing an appropriate target for this region.

The tentative coal leasing target was derived in the following manner. DOE projected high, medium, and low demand levels for a supply region encompassing Utah and portions of southern and western Colorado. The Department of the Interior (DOI) apportioned the DOE projections to areas of coal production within the DOI-designated Uinta-Southwestern Utah Region based on estimated reserves in both the DOI and DOE coal regions. This process resulted in a minor reallocation of the DOE Production goals to conform to the DOI region. The production goals for the DOI region are stated below for 1985 and 1990:

	1985 (million tons)	1990 (million tons)
Low demand	14.4	16.0
Medium demand	14.5	17.3
High demand	13.9	20.6

*DOE's high demand scenario is premised on national, not regional, factors. Increased production in this case would be coming from outside the Uinta-Southwestern Utah Region.

Production in the DOI region in 1978 amounted to 10.1 million tons; those same mines are expected to continue at that level through 1990. Excess capacity to meet demand through 1986 is expected to exist for Federal coal leases on which mining plans have been filed and for Federal coal leases for which no mining plans have been filed and where there is no production. It is uncertain, however, at what level production from these sources will contribute to achieving the overall leasing target because leases not in production by 1986 will be cancelled where the diligence requirements found in the Federal coal management regulations are not met, thereby eliminating excess capacity to a significant degree. Also preference right lease applications (PRLA's) have not been considered in the calculation of the

Federal coal leasing target because of the many uncertainties concerning the processing of PRLA's in this region.

In the Secretary's June 4, 1979, announcement, the tentative target was chosen to meet 1990 medium level demand. The tentative target assumed the difference between current production and the interpolated 1986 production goal of 15.1 million tons was to be met from existing excess capacity. It was also assumed that there would be no excess capacity beyond the 1986 date when diligence requirements are expected to eliminate nonproductive leases.

Therefore, the preliminary leasing target for Federal coal in the Uinta-Southwestern Utah Region is based on the difference between the expected 1986 production of 15.1 million tons and the 1990 medium demand goal of 17.3 million tons, a predicted annual shortfall of 2.2 million tons. The portion of the shortfall to be met by Federal coal, based on a sampling of ownership patterns within known recoverable coal resource areas (KRCRA's) in the region, is 82.9 percent of 2.2 million or 1.8 million tons. Since underground mining is the most likely method of coal extraction within the region, applying the normal recovery factor of 50 percent for underground mining techniques yields a total of 3.65 million tons of in-place Federal coal that would be needed annually by 1990. With an assumed 30-year mine life, the Federal coal leasing target is 30 x 3.65 or approximately 109 million tons of in-place Federal coal. The calculations are shown below.

1990 production goal	17.3 million tons, minus
1986 production estimate	15.1 million tons, equals
New annual production needed	2.2, times
Federal ownership proportion	.829, equals
Annual production needed from Federal leasing	1.83, divided by
Underground recovery factor	0.5, equals
Annual tonnage required (in-place coal)	3.65, times
Estimated mine life (years)	30, equals
Federal coal leasing target	109 million tons.

Other factors which could also affect any final leasing decisions in the Uinta-Southwestern Coal Production Region include:

1. The Secretary of the Interior has been granted authority by Public Law 95-554 (92 Stat. 2073) to consider the exchange of coal preference right lease applications held by Utah Power & Light Company located in the Kaiparowits Plateau area for unleased coal lands of equal value. The lands identified for the exchange are located in the Wasatch Plateau. Should the Secretary elect to proceed with the exchange, up to 25,342 acres of coal lands in the Wasatch Plateau could be involved in the

exchange and would not be available for future competitive leasing.

2. No consideration was given to any production potential from the 30 PRLA's (25 in Utah and 5 in Colorado) within the Uinta-Southwestern Utah Region because of the current uncertainty of timing and quantity of such production. Should this uncertainty lessen as the PRLA's are processed, the leasing target or tract scheduling would be adjusted accordingly.

3. The leasing target assumes that a significant portion of leased coal will be in production by 1985—a four-year lead time—and that a six-year lead time applies to the balance of the leasing target. Should these estimates of lead time be altered prior to tract scheduling, the target could be adjusted accordingly.

4. Coal lease applications that have been filed that meet production maintenance or by-pass situations do not count against the leasing target.

5. The 83 percent Federal coal ownership proportion could be revised after examination of ownership patterns in mining units associated with specific tracts.

6. The assumption of a 50 percent recovery factor for underground mining techniques will be adjusted as more tract specific information is developed during coal activity planning.

Reviewers are encouraged to comment on all aspects of the derivation of the preliminary leasing target, on the lead time between lease sale and peak production, and on any margin of error which might be considered in setting final leasing targets. In addition, comments are solicited concerning any information relating to the demand for coal from the region for production of synthetic fuels.

The agenda that will be followed at the target public hearings is as follows:

I. Introduction

a. Purpose of holding the public hearing and of obtaining comments on the leasing target.

b. Description of the relationship of this process with the National Environmental Policy Act.

c. Brief description of the Federal coal management program.

d. Description of the role of the regional coal team in the leasing process.

e. Description of the derivation of the preliminary or tentative leasing target.

2. Obtain public comments and recommendations on the Federal coal leasing target for the Uinta-Southwestern Utah Coal Production Region.

3. Close.

Dated: November 14, 1979.

Ed Hastey,

Associate Director.

[FR Doc. 79-35592 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-04-M

Utah and Colorado; Intent To Hold Public Meetings and To Prepare a Regional Environmental Impact Statement for the Proposed Leasing of Federal Coal in the Uinta-Southwestern Utah Coal Production Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of public meetings and notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: This notice advises the public that the Bureau of Land Management intends to hold public meetings to gather information and seek assistance in defining the range of issues and concerns for the preparation of a regional EIS for the proposed leasing of Federal coal beginning in mid-1981 in the Uinta-Southwestern Utah Coal Production Region. The proposed leasing will be carried out in accordance with the Federal coal management program as announced by the Secretary of the Interior on June 4, 1979, and is needed to meet the Department of Energy's regional production goal. This notice is made in accordance with the National Environmental Policy Act (NEPA) and the regulations (40 CFR 1501.7) of the Council on Environmental Quality.

DATES: Written comments will be received through December 19, 1979. The public scoping meeting will be held on December 3, 4, 5, and 6, 1979.

ADDRESSES: Comments should be addressed to Ron Bolander, Regional Coal EIS Team Leader, Bureau of Land Management (921), 136 East South Temple, Salt Lake City, Utah 84111. The locations of the public meetings are listed below under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Ron Bolander, (801) 524-4527.

SUPPLEMENTARY INFORMATION: The tracts proposed for leasing are within the BLM Utah Planning Units of Wattis, Huntington, Muddy, and Last Chance and within the Forest Service Fernon-Price Planning Unit located within the Manti-LaSal National Forest in Utah. The following general descriptions are being provided to identify the approximate location of the areas that, as a result of preliminary investigation, will most likely contain the specific tracts for possible leasing. Information

is not yet available on the precise boundaries, acreage, or tonnage of the tracts being considered for possible leasing in 1981. More specific information will be available at the public scoping meetings. If leases are issued in these areas, mining will be by underground methods. The areas described below may contain more than one possible lease tract.

1. Gordan Creek area About 3 miles southwest of Scofield, Utah.
2. Monument Peak area About 6 miles south of Scofield, Utah.
3. Gandland Mountain area About 10 miles north and northwest of Hiawatha, Utah.
4. Crandall Canyon area Near State Highway 31, about 12 miles northwest of Huntington, Utah.
5. Meetinghouse Canyon, Lower Cottonwood Canyon, and Trail Mountain areas. For 8 to 15 miles east of Huntington, Utah.
6. North Horn Mountain area About 10 miles east of Orangeville, Utah.
7. Castle Valley area From the proximity of Emery, Utah, southward to about 4 miles south of Interstate Highway 70.
8. Muddy Creek area About 6 miles northeast of Emery, Utah.

An information may be obtained at the Utah State Office at the address listed above. This map will also be available at the scoping meetings. Information depicted on the map includes known recoverable coal resource areas, lands under lease, land that may be leased through exchange, and the location of the delineated tracts (to the extent that the information is available).

Certain lands in the Forest Service Ferron-Price and BLM San Rafael Planning Areas are presently being studied for possible leasing, by exchange, to Utah Power and Light Company as authorized by Public Law 95-554 (92 Stat. 2073). Tracts in the area identified for possible exchange are being delineated and may be offered for possible competitive leasing sometime in the future. However, if the proposed exchange is approved, some or all of the tracts may be eliminated from consideration for competitive leasing.

The alternatives that have been tentatively identified to be analyzed in the EIS include the following: modify the scheduling of lease tracts within a 2-year period beginning in mid-1981; modify the combination of tracts considered as the proposed action and alternatives; delay or defer tracts sales; and not offer Federal coal lease tracts for competitive sale. If further coal development in the Uinta-Southwestern Utah Region does occur, possible major issues will generally be social and economic in nature.

Prior to the preparation of the EIS, the tracts identified in accordance with Federal coal management regulations will be ranked, selected, and scheduled

by a regional coal team (43 CFR 3420.4) for possible sale, and recommendations will be made through the Director of the Bureau of Land Management to the Secretary of the Interior.

The public scoping meetings to assist in defining significant environmental issues and concerns for the preparation of a regional EIS for proposed Federal coal leasing are being combined with the public hearings to obtain comments

Place	Date	Time	Address
Escalante, UT	December 3, 1979	7 p.m.	Gymnasium, Escalante High School, Escalante, UT.
Richfield, UT	December 4, 1979	7 p.m.	Auditorium, Sevier County Court House, 250 North Main, Richfield, UT.
Price, UT	December 5, 1979	7 p.m.	Conference Room, BLM Price River Resource Area Office, 900 North 7th East, Price, UT.
Salt Lake City, UT	December 6, 1979	7 p.m.	Salt Palace, Room 224, 100 South West Temple, Salt Lake City, UT.

The agenda for scoping meeting will be as follows:

1. Introduction
 - a. Purpose and intent of the meeting.
 - b. Description of previously defined issues identified during pre-analysis to be considered in the EIS.
 - c. Alternatives which will include, among others, the proposed action as presently considered in the EIS process and not offering Federal coal lease tracts for competitive sale.
 - d. Information available from the BLM offices for the use of the public in commenting, including names and addresses where information and comments can be submitted.

2. Solicitation of public comment, recommendations, and issues of major concern to be considered and addressed in the ranking, selection, scheduling, and EIS impact analysis process.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality regulations, other required Federal laws and regulations, and Department of the Interior policies and procedures for compliance with those regulations.

Dated: November 14, 1979.

Ed Hastey,
Associate Director, Bureau of Land Management.

[FR Doc. 79-35593 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-44-M

Medford District Office, Oregon; Designation of Public Lands for Off-Road Vehicle Use

Correction

In FR Doc. 79-30478 appearing on page 56747 in the issue of Tuesday,

on the Federal leasing target for the Uinta-Southwestern Utah Region. Accordingly, each general session will consist of a public hearing on the leasing target followed by a scoping meeting. A separate Federal Register notice discusses the public hearings concerning the regional leasing target. The combined sessions will be held as follows:

October 2, 1979, at the top of the second column, change "Section 31, NE $\frac{1}{4}$ N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$," to read "Section 31, NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$,".

BILLING CODE 1505-01-M

National Park Service

Cumberland Island National Seashore; Georgia; Designation of Boundary

Section 323 of the Act of November 10, 1978, (92 Stat 3467) authorized a revision of the boundaries of the Cumberland Island National Seashore.

Notice is given that the boundary of the Cumberland Island National Seashore has been revised pursuant to the above act, to include the lands depicted on boundary map numbered CUIS 40,000-D dated January 1978, prepared by the Denver Service Center of the National Park Service.

This map is on file and available for inspection in the administrative office of the Cumberland Island National Seashore, P.O. Box 806, St. Marys, Georgia 31558, and in the offices of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: November 5, 1979.

Joe Brown,
Regional Director, Southeast Region,
National Park Service.

[FR Doc. 79-35527 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-70-M

Fort Caroline National Memorial; Florida; Designation of Boundary

Section 301 of the Act of November 10, 1978, (92 Stat 3467) authorized a revision of the boundaries of the Fort Caroline National Memorial. The Act

provided that within twelve months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a detailed map or other detailed description of the lands added or excluded from the area.

Notice is given that the boundary of the Fort Caroline National Memorial has been revised pursuant to the above act, to include the lands depicted on boundary map numbered 5310/80,000A dated April 1978, prepared by the Land Acquisition Division of the Southeast Region of the National Park Service.

This map is on file and available for inspection in the administrative office of the Fort Caroline National Memorial, 12713 Fort Caroline Road, Jacksonville, Florida 32225, and in the offices of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: November 5, 1979.

Joe Brown,
Regional Director, Southeast Region,
National Park Service.

[FR Doc. 79-35528 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-70-M

Publication of Federal Consistency Requirements Lowell National Historical Park, Lowell, Mass.

Notice is hereby given to all federal agencies of the following provisions of Sec. 102 of Pub. L. 95-290, 92 Stat. 290, authorizing the establishment of Lowell National Historical Park:

Cooperation of Federal Agencies

Section 102. (a) Any Federal entity conducting or supporting activities directly affecting the park or preservation district shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary and with the Commission; and

(2) conduct or support such activities in a manner which (A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to section 302 (a) of this Act, and (B) will not have an adverse effect on the resources of the park or preservation district.

(b) No Federal entity may issue any license or permit to any person to conduct an activity within the park or preservation district unless such entity determines that the proposed activity will be conducted in a manner consistent with the standards and criteria established pursuant to section 302(e) of this Act and will not have an adverse effect on the resources of the park or preservation district.

The boundaries of the park and preservation district herein referred to are depicted on a map entitled "Lowell National Historical Park,

Massachusetts", dated March, 1978, and numbered LOWE-80, 008A, and published in the Federal Register on November 19, 1979.

The standards and criteria to be established pursuant to section 302(e) of the Act which are referred to in Section 102 have not been established as of the date of this notice. Until such time as these standards and criteria are established and are published in the Federal Register, federal entities are requested to consult with the Superintendent of Lowell National Historical Park and the Director of the Lowell Historic Preservation Commission regarding proposed actions.

To implement Section 102 of the Act federal entities shall coordinate and consult the National Park Service and the Lowell Historic Preservation Commission. All communications should be directed to both of the following: Superintendent, Lowell National Historical Park, 171 Merrimack Street, P.O. Box 1098, Lowell, Massachusetts 01853; and Director, Lowell Historic Preservation Commission, 194 Middle Street, Lowell, Massachusetts 01852.

Dated: September 28, 1979.

Larry J. Hovig,
Acting Regional Director North Atlantic Region.

[FR Doc. 79-35526 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-70-M

Gulf Islands National Seashore; Mississippi and Florida; Designation of Boundary

Section 301 of the Act of November 10, 1978, (92 Stat. 3467) authorized a revision of the boundaries of the Gulf Islands National Seashore. The Act provided that within twelve months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a detailed map or other detailed description of the lands added or excluded from the area.

Notice is given that the boundary of the Gulf Islands National Seashore has been revised pursuant to the above act, to include the lands depicted on boundary map numbered 20,006 dated April 1978, prepared by the Denver Service Center of the National Park Service.

This map is on file and available for inspection in the administrative offices of the Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, Florida 32561 or 4000 Hanley Road, Ocean Springs, Mississippi 39564, and in the offices of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: November 5, 1979.

Joe Brown,
Regional Director, Southeast Region,
National Park Service.

[FR Doc. 79-35533 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-70-M

San Antonio Missions Advisory Commission; Establishment

This notice is issued in accordance with the provisions of Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). The Secretary of the Interior is establishing a San Antonio Missions Advisory Commission to render advice to the Secretary of the Interior and officers and employees of the National Park Service on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park, established pursuant to Pub. L. 95-629 (92 Stat. 3636). The San Antonio Missions Advisory Commission is being established after consultation with the General Services Administration. The certification of establishment is published below. Further information regarding the San Antonio Missions Advisory Commission may be obtained from Shirley M. Luikens, Advisory Boards and Commission, National Park Service, Department of the Interior, Washington, D.C. (202-343-2012).

Certification

The act establishing the San Antonio Missions National Historical Park places responsibility for development and management of that area in the Secretary of the Interior. In view of these responsibilities and the need to obtain advice and recommendations to meet these responsibilities, I hereby certify that establishment of the San Antonio Missions Advisory Commission is in the public interest.

Dated: November 5, 1979.

Cecil D. Andrus,
Secretary of the Interior.

[FR Doc. 79-35529 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-70-M

Publication of a Boundary Map; Adams National Historic Site, Quincy, Mass.

There is hereby published a boundary map which details the land associated with the Adams Birthplaces which is being added to the Adams National Historic Site in Quincy, Massachusetts, pursuant to Sec. 312, Pub. L. 95-625, 92 Stat. 3479. Comments on the map should

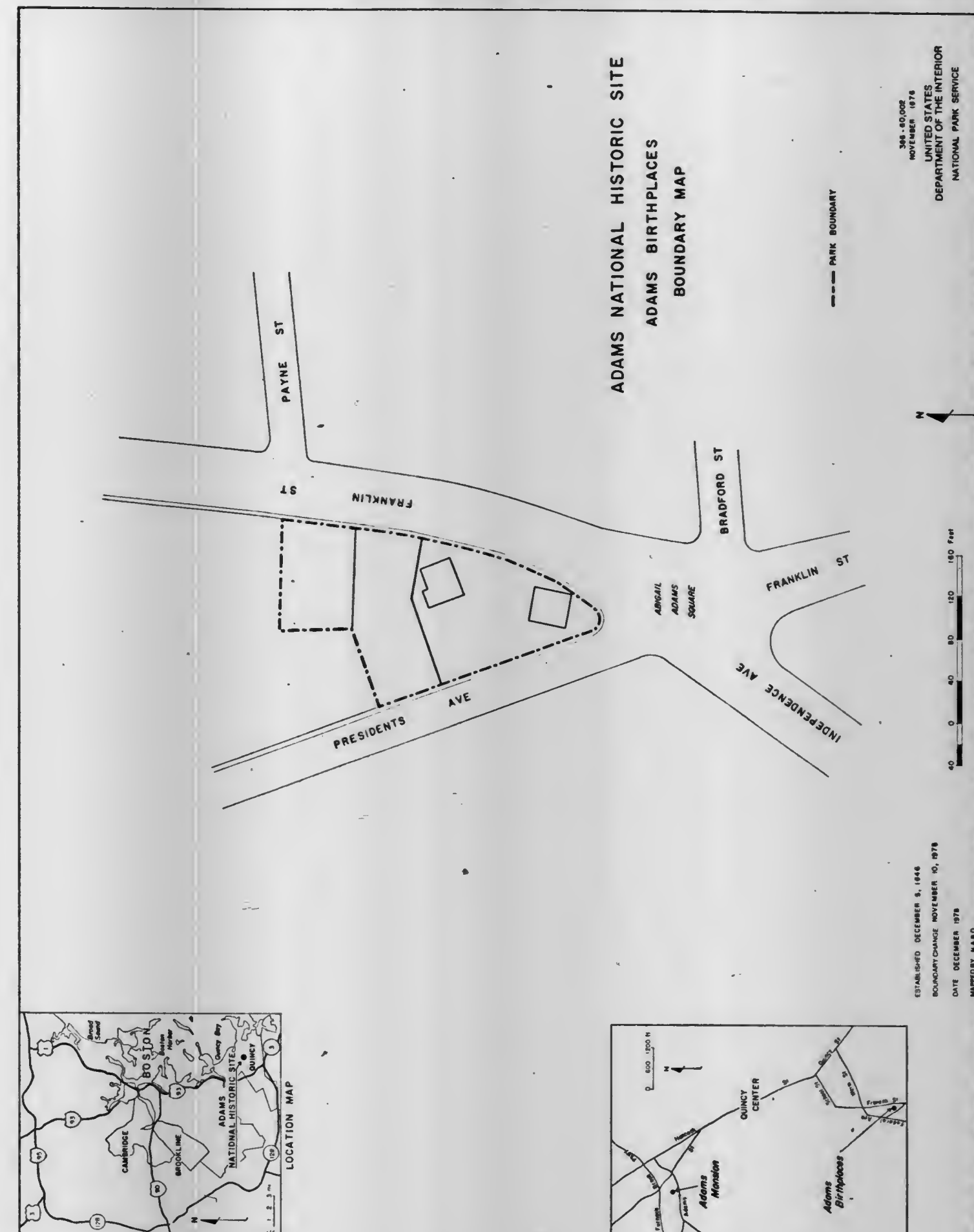
be addressed to Planning and Design
Section, North Atlantic Region, National
Park Service, 15 State Street, Boston,
Massachusetts 02109.

Dated: September 24, 1979.

Gilbert W. Calhoun,

Acting Regional Director, North Atlantic
Region.

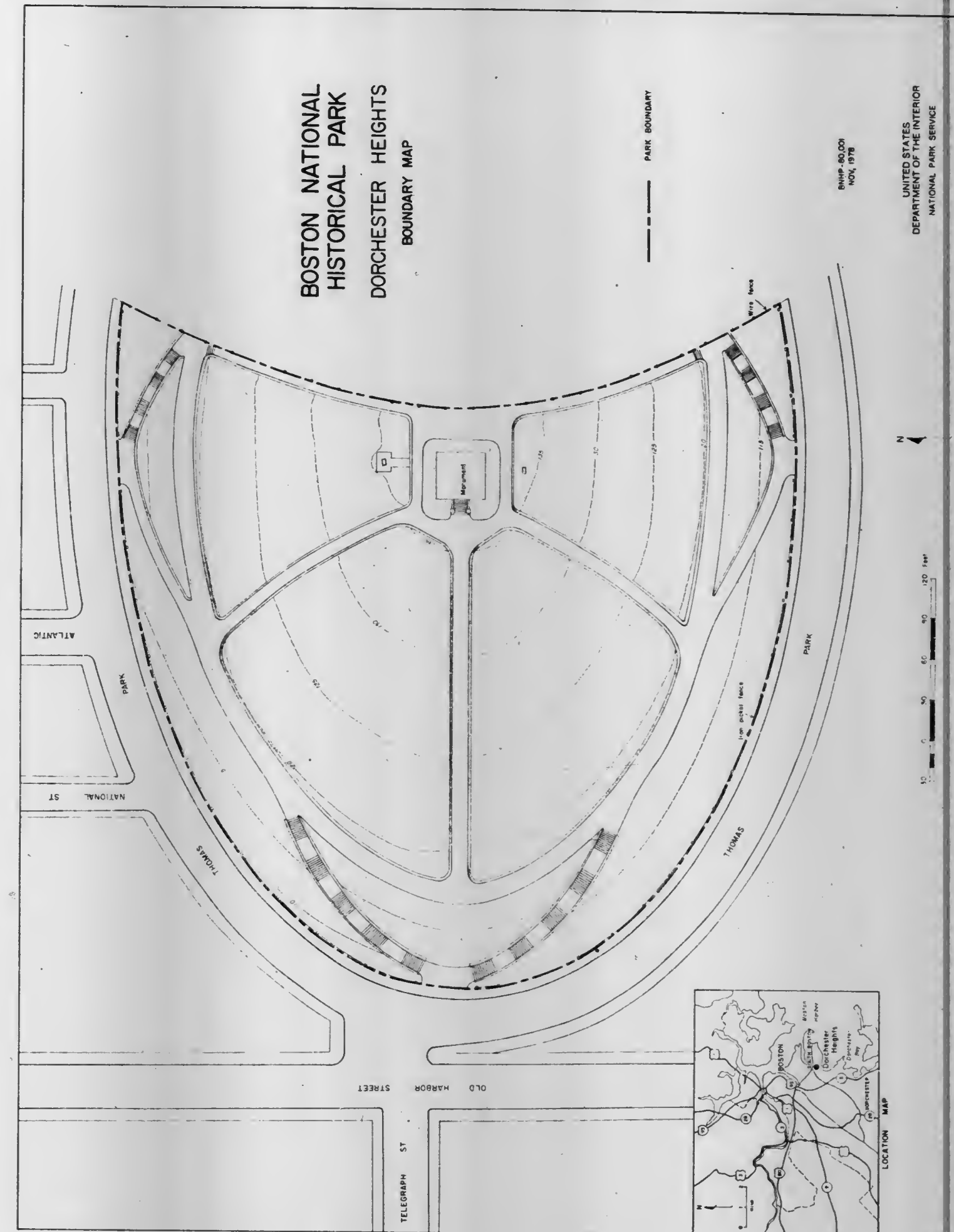
BILLING CODE 4310-70-H



**Publication of a Boundary Map;
Dorchester Heights, Boston, Mass.,
Boston National Historical Park**

There is hereby published a boundary map which details the land associated with Dorchester Heights which is being added to the Boston National Historical Park in Boston, Massachusetts, pursuant to Sec. 310, Pub. L. 95-625, 92 Stat. 3478. (16 U.S.C. 410 z (a)) and to Sec. 2 (c), Pub. L. 93-431, 88 Stat. 1184. Comments on the map should be addressed to Planning and Design Section, North Atlantic Region, National Park Service, 15 State Street, Boston, Massachusetts 02109.

Dated: September 24, 1979.
Gilbert W. Calhoun,
Acting Regional Director, North Atlantic
Region.
BILLING CODE 4310-70-M



Publication of a Boundary Map; Lowell National Historical Park, Lowell, Mass.

There is hereby published a boundary map which details the boundary of Lowell National Historical Park as well as the Preservation District associated with the National Historical Park in Lowell, Massachusetts. This map is published pursuant to Sec. 101 (a) (2), Pub. L. 95-290, 92 Stat. 290 (16 U.S.C. 410 cc-11(a)(2)). Maps at a scale of one inch to 200 feet which show this boundary in greater detail are on file and available for public inspection at the following locations:

1. Office of the City Clerk, City Hall, Lowell, Massachusetts, Hours: 9:00 a.m.-5:00 p.m.
2. Office of Lowell National Historical Park, 171 Merrimack Street, Lowell, Massachusetts, Hours: 8:00 a.m.-5:00 p.m.
3. National Park Service, Department of Interior Building, Washington, D.C., Hours: 8:00 a.m.-4:30 p.m.

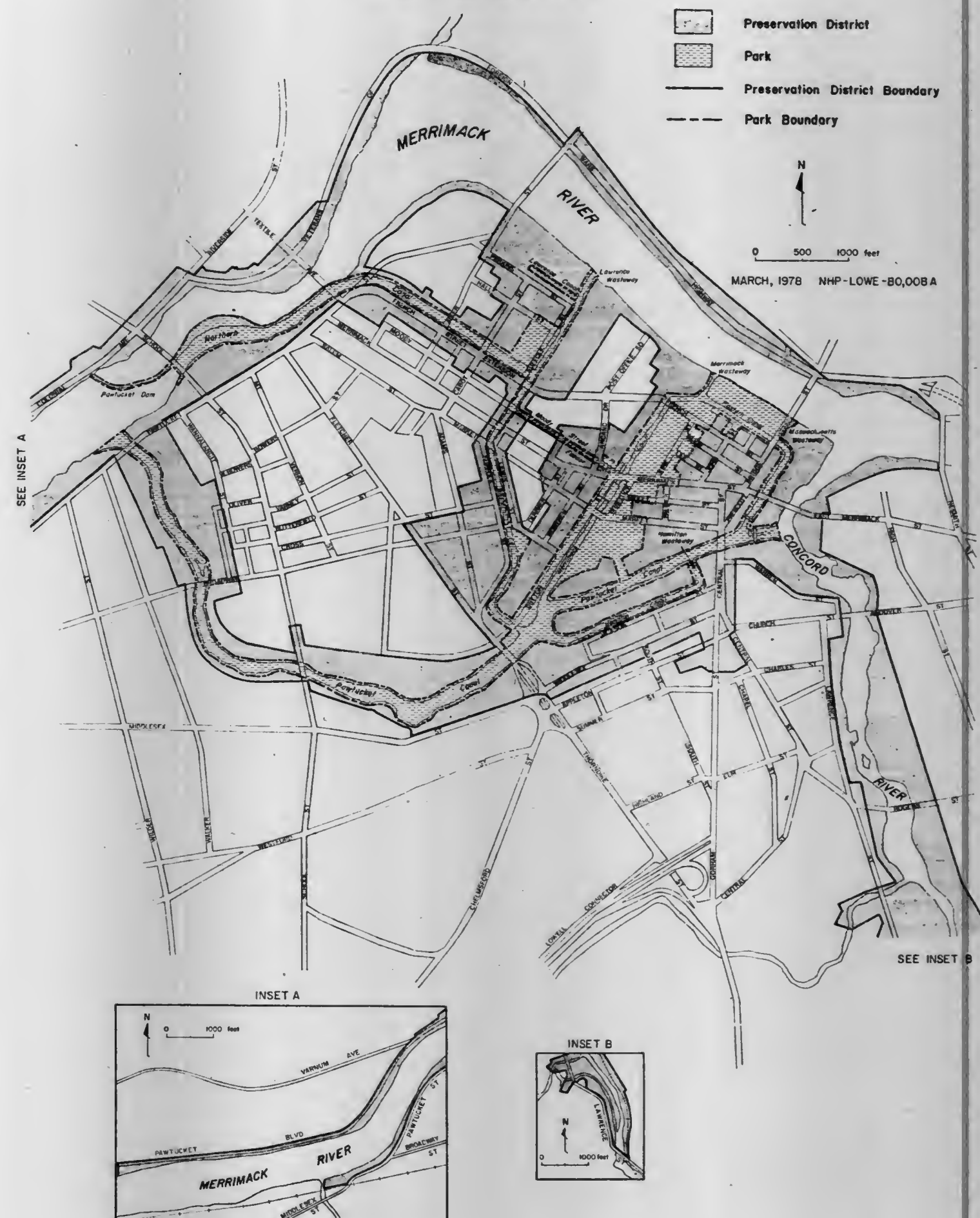
Comments on the map should be addressed to Planning and Design Section, North Atlantic Region, National Park Service, 15 State Street, Boston, Massachusetts 02109.

Dated: September 24, 1979.

Gilbert W. Calhoun,
Acting Regional Director, North Atlantic Region.

BILLING CODE 4310-70-M

LOWELL NATIONAL HISTORICAL PARK BOUNDARY MAP LOWELL, MASSACHUSETTS



NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Special Projects Panel (Folk Arts Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Special Projects Panel (Folk Arts Section) to the National Council on the Arts will be held December 6, 1979, from 9:00 a.m.-5:30 p.m.; December 7, 1979, from 9:00 a.m.-5:30 p.m.; and December 8, 1979, from 9:00 a.m.-5:30 p.m. in Room 1422, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on December 8, 1979, from 9:00 a.m.-1:00 p.m. for the discussion of policy and guidelines.

The remaining sessions of this meeting on December 6, 1979, from 9:00 a.m.-5:30 p.m.; December 7, 1979, from 9:00 a.m.-5:30 p.m.; and December 8, 1979, from 1:00 p.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subsections(c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment of the Arts, Washington, D.C. 20506, or call (202) 634-6070. November 8, 1979.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-35502 Filed 11-16-79; 8:45 am]
BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Ad Hoc Subcommittee on the Three Mile Island, Unit 2, Accident Implications re Nuclear Power Plant Design; Meeting

The ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design will hold a meeting on December 4, 1979 in Room 1046, 1717 H St., NW,

Washington, DC 20555. Notice of this meeting was published October 18, 1979.

In accordance with the procedures outlined in the Federal Register on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, December 4, 1979

8:30 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, and other interested persons, regarding the implications of the TMI-2 Accident.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/834-1414) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be discussed at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Government Publications Section,

State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126.

Dated: November 14, 1979.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 79-35543 Filed 11-16-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District, (Rancho Seco Nuclear Generating Station); Order Postponing Evidentiary Session

The evidentiary sessions scheduled to begin on November 27, 1979 are hereby canceled. A revised schedule is presently being considered.

Dated at Bethesda, Md., this 13th day of November 1979.

For the Atomic Safety and Licensing Board.

Richard F. Cole,
Member.

Frederick J. Shon,
Member.

[FR Doc. 79-35541 Filed 11-16-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment modifies the Technical Specifications to indicate a modified offsite organization, clarify the functions of the Nuclear General Review Committee in environmental matters, and change the units for the high rate of power increase reporting requirement.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The

Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 21, 1977, September 22, 1978, and May 23, 1979 (2) Amendment No. 25 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Crystal River Public Library, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 7th day of November 1979.

For the Nuclear Regulatory Commission.

Morton B. Fairtile,
Acting Chief, Operating Reactors Branch #4,
Division of Operating Reactors.

[FR Doc. 79-35542 Filed 11-16-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Relocation of Los Angeles Field Office

Notice is hereby given that the Los Angeles Field Office of the National Transportation Safety Board was moved to new quarters on November 5, 1979. The office is now located at 15000 Aviation Boulevard (P.O. Box 6117), Lawndale, California 90261.

New telephone numbers for the Los Angeles Field Office are:

Commercial: 213-536-6041, 213-536-6045.
(Administrative Law Judges).

Federal Telecommunications: 966-6041 (Aviation), 966-6038 (Railroad, Highway), 966-6045 (Administrative Law Judges).

William L. Lamb,
Chief, Field Investigation Division.

November 14, 1979.

[FR Doc. 79-35565 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

November 14, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements.

Each entry contains the following information:

The name and telephone number of the agency clearance officer;
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201.

New forms

Food and Nutrition Service
Evaluation of the Child Care Food Program—Questionnaires
Single time
Child care officials, providers, and recipients, 3,604 responses; 2,397 hours
Charles A. Eilett, 395-5080

Revisions

Agricultural Stabilization and Conservation Service
Report of Purchase of Noninspected Peanuts and Inspection Certificate and Sales Memorandum
MQ-95, 94, & 94VC
On occasion
Peanut handlers, 600,150 responses; 150,026 hours
Charles A. Eilett, 395-5080
Economics, Statistics, and Cooperatives
Service Cost of Production Survey
Annually
Selected Crop Producers, 4,580 responses; 4,482 hours
Office of Federal Statistical Policy & Standard, 673-7974

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New forms

Bureau of the Census
Post Enumeration Survey, Housing Unit Coverage Check Listing Book
D-862
Single time
Households in the U.S., 250,000 responses; 17,500 hours
Office of Federal Statistical Policy & Standard, 673-7974
Patent Office

Flexitime Effectiveness Questionnaire
Single time
Patent practitioners, 600 responses; 60 hours
Richard Sheppard, 395-3211

Revisions

Bureau of Economic Analysis
Expenditures of United States Travelers in Mexico
BE-575
Quarterly
U.S. residents visiting Mexico, 10,000 responses; 500 hours
Office of Federal Statistical Policy & Standard, 673-7974

Bureau of Economic Analysis
Survey of U.S. Travelers Visiting Canada
BE-538
Quarterly
U.S. residents visiting Canada, 30,000 responses; 2,000 hours
Office of Federal Statistical Policy & Standard, 673-7974

Bureau of Economic Analysis
*Survey of Visitor's Travel Expenses in the United States

BE-572-GFS
Quarterly
Foreign visitors, 4,000 responses; 267 hours
Office of Federal Statistical Policy & Standard, 673-7974

Bureau of Economic Analysis
*Travel Questionnaire for U.S. Residents
BE-574

Quarterly
U.S. residents who traveled abroad 40,000 responses; 3,333 hours
Office of Federal Statistical Policy & Standard, 673-7974

Bureau of Economic Analysis
*Plant and Equipment Expenditures, and Plant and Equipment Expenditures Supplement

BE-452, BE-452S
Quarterly
Manufacturing and utilities, 24,000 responses; 12,000 hours
Office of Federal Statistical Policy & Standard, 673-7974

Bureau of the Census
*Construction Project Report (Multifamily Residential)
C-700(R)

Monthly
Owners of multifamily residential buildings, 30,000 responses; 7,500 hours

Office of Federal Statistical Policy & Standard, 673-7974

Maritime Administration
*Director of Minority and Women Contractors With a Capability To Service the Maritime Industry
MA-801

Annually
Minority/women's business firms, 500 responses; 125 hours
Richard Sheppard, 395-3211

Extensions

Bureau of Economic Analysis
*Plant and Equipment Expenditures Survey (Expansion Industries)
BE456
Quarterly
Professional & nonprofit organizations expansion Ind., 24,000 responses; 12,000 hours
Office of Federal Statistical Policy & Standard, 673-7974

Bureau of Economic Analysis
*Receipt and Shipment of United States and Mexican Currency Between U.S. Banks and Foreigners

FR465
Monthly
Banks in FR Dist. 11 & 12 Deai. in Mexican currency transac., 80 responses; 40 hours

Office of Federal Statistical Policy & Standard, 673-7974

Bureau of Economic Analysis
*Plant and Equipment Expenditures Survey Annual Supplement (Facturers Only)

BE-452A
Annually
Manufacturing and utilities, 3,000 responses; 1,500 hours
Office of Federal Statistical Policy & Standard, 673-7974

Bureau of Economic Analysis
*Plant and Equipment Expenditures Survey

BE-456
Quarterly
Nonmanufacturing, 24,000 responses; 12,000 hours
Office of Federal Statistical Policy & Standard, 673-7974

Bureau of Economic Analysis
*Plant and Equipment Expenditures Survey Annual Supplement

BE 456A
Annually
Nonmanufacturing, 5,000 responses; 2,500 hours
Office of Federal Statistical Policy & Standard, 673-7974

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderote—697-1195.

Revisions

Departmental and Other Comsec Material Report
SF-153
Other (see SF-83)
Description not furnished by agency
Richard Sheppard, 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488.

New forms

Office of the Secretary
Self-Evaluation Requirement of Government-Wide Age Discrimination Act Regulations
OS-21-79
Single time
Fed. fund recipients employ. 15 or more on a full-time basis
Laverne V. Collins, 395-3214

Revisions

Social Security Administration
Application for Wife's or Husband's Insurance Benefits
SSA-2-F6
On occasion
Wives or Husb. Elig. for monthly benefits, 700,000 responses; 116,667 hours

Barbara F. Young, 395-6132
Social Security Administration
Application for Lump-Sum Death Payment
SSA-8-F5
On occasion

Indiv. apply. for lump-sum Allow. payable under title II, 1,360,000 responses; 226,667 hours
Barbara F. Young, 395-6132

Social Security Administration
Application for Child's Insurance Benefits
SSA-4-F6
On occasion
Completed by or on behalf of child of liv. wage earn. to SS, 925,000 responses; 154,167 hours
Barbara F. Young, 395-6132

Extensions

Food and Drug Administration
*Application for Exemption for Manufacturing Use
FD-1674
On occasion
Antibiotic manufacturers, 77 responses; 39 hours

Richard Eisinger, 395-3214

Food and Drug Administration
*Application for Exemption for Repackaging

FD-1678
On occasion
Antibiotic manufacturers, 22 responses; 11 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Office—Robert G. Masarsky—755-5184.

New forms

Community Planning and Development
Section 312 Questionnaire to Localities
Single time
City staff, 369 responses; 554 hours
Arnold Strasser, 395-5080

Government National Mortgage Association
*Liquidation Schedule
HUD-1710 E
Monthly
Mortgage originators, 9,600 responses; 960 hours
Arnold Strasser, 395-5080

Revisions

Government National Mortgage Association
*Issuers Monthly Summary Report
HUD-1710 D
Monthly
Mortgage originators, 9,600 responses; 960 hours

Arnold Strasser, 395-5080
Government National Mortgage Association
*Issuers Monthly Accounting Report
HUD-1710 A
Monthly
Mortgage originators, 9,600 responses; 960 hours

Arnold Strasser, 395-5080
Government National Mortgage Association
*Project Mortgage Pool Report
HUD-1710 C
Monthly
Mortgage originators, 9,600 responses; 960 hours

Arnold Strasser, 395-5080
Government National Mortgage Association
*Issuers Monthly Serial Notes Accounting Schedule
HUD-1710 B
Monthly
Mortgage originators, 9,600 responses; 960 hours
Arnold Strasser, 395-5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341.

New forms

Employment Standards Administration
Impact of Age Discrimination in Employment Act: Institution Form, Faculty Form
ESA 99C and 99D
Single time
Tenured faculty members and higher education institutions, 2,900 responses; 1,360 hours

Arnold Strasser, 395-5080

Reinstatements

Employment Standards Administration
41 Code of Federal Regulations 60-1¹
CC-60-1
Other (see SF-83)
Fed contr. & Fed. assisted const. contr. & sue.
Arnold Strasser, 395-5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887.

New forms

Research and Special Programs Administration
Motor Carrier PU&D Operating Data
Single time
Common motor carriers with Baltimore area terminals, 65 responses; 130 hours
Steed, Diane K., 395-3176

Revisions

Federal Aviation Administration
*Report of Eye Evaluation
FAA 8500-7
On occasion
Certain applicants for airman medical certificates, 12,000 responses; 3,000 hours

Edward H. Clarke, 395-5867
Federal Aviation Administration
Application for Airman Medical Certificate of Airman Medical and Student Pilot Certificate
FAA 8500-8
Annually
Applicant for airman medical certificates, 572,000 responses; 286,000 hours
Edward H. Clarke, 395-5867

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd I. Sandlin—376-0436.

Revisions

Bureau of the Mint
Anthony Dollar Coin Use Survey
Questions
Single time
Cross section of U.S. population, 1,500 responses; 128 hours
Marsha D. Traynham, 395-6140

¹ Continued use of this recordkeeping requirement has already been approved. By administrative oversight, the Department of Labor allowed clearance for this report to expire. However, because it is the foundation for the Equal Employment Opportunity program outlined in E.O. 11246, OMB has extended clearance for one year.

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—566-1164.

New forms

Repository Information Form (and Accompanying Instructions and Cover Letters)
On occasion
Archival & manuscript repositories, 12,000 responses; 12,000 hours
Laverne V. Collins, 395-3214

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—634-4070.

Extensions

Industrial Panel on Science and Technology
On occasion
R&D performing companies, 250 responses; 250 hours
Laverne V. Collins, 395-3214

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Reidy—653-6081.

New forms

Small Business Opinion leader
Single time
Business owners, 10,000 responses; 1,666 hours
Richard Sheppard, 395-3211

U.S. INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523-0267.

New forms

Importers Questionnaire for Inv. No. AA1921-212
Single time
Importers of spun acrylic piled yarn, 35 responses; 560 hours
Marsha D. Traynham, 395-6140
Producers Questionnaire for Inv. No. AA1921-212
Single time
Producers of spun acrylic piled yarn, 20 responses; 480 hours
Marsha D. Traynham, 395-6140
Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-35613 Filed 11-16-79; 8:45 am]

BILLING CODE 3110-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1687; Amdt. No. 2]

Commonwealth of Puerto Rico;
Declaration of Disaster Loan Area

The above numbered Declaration (see this issue), and Amendment No. 1 (see

this issue), are amended in accordance with the President's declaration of September 2, 1979, to include Aguada, Barranquitas, Caguas, Comerio, Lares, Orocovis, Rincon, San Sebastian, Vieques, Ciales, Corozal, Gurabo, Juncos, Las Piedras, Loiza, Naranjito, Rio Grande, San Juan, San Lorenzo and Yabucoa Municipalities and adjacent municipalities within the Commonwealth of Puerto Rico. The Small Business Administration will accept applications for disaster relief loans from victims in the above named municipalities and adjacent municipalities within the commonwealth of Puerto Rico. All other information remains the same; i.e., the termination dates for filing applications for physical damage until close of business on November 5, 1979, and for economic injury until the close of business on June 4, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 28, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35572 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1687, Amdt. No. 3]

Commonwealth of Puerto Rico; Declaration of Disaster Loan Area

The above numbered Declaration (See this issue), Amendment No. 1 (See this issue) and Amendment No. 2 (See this issue), are amended in accordance with the President's declaration of September 2, 1979, to include Albonito Municipality and adjacent municipalities within the Commonwealth of Puerto Rico. The Small Business Administration will accept applications for disaster relief loans from victims in the above named municipality and adjacent municipalities within the commonwealth of Puerto Rico. All other information remains the same; i.e., the termination dates for filing applications for physical damage until close of business on November 5, 1979, and for economic injury until the close of business on June 4, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 12, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35573 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1679] Kansas; Declaration of Disaster Loan Area

The area of West side of 600 Block of North Broadway, in the City of Pittsburg, Crawford County, Kansas, constitutes a disaster area because of damage resulting from a fire which occurred on June 27, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 22, 1979, and for economic injury until close of business on May 22, 1980, at:

Small Business Administration, District Office, 12 Grande Building, 5th Floor, 1150 Grande Avenue, Kansas City, Missouri 64108.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 22, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35574 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1679, Amdt. 1]

Kansas; Declaration of Disaster Loan Area

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,
Acting Administrator.

[FR Doc. 79-35575 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1685]

New Hampshire; Declaration of Disaster Loan Area

Rockingham County and adjacent counties within the State of New Hampshire constitute a disaster area as a result of damage caused by a storm, wind and tornado which occurred on August 27, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 2, 1979, and for economic injury until the close of business on June 2, 1980 at:

Small Business Administration, District Office, 55 Pleasant Street, Concord, New Hampshire 03301.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 31, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35576 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1685, Amdt. #1]

New Hampshire; Declaration of Disaster Loan Area

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,
Acting Administrator.

[FR Doc. 79-35577 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1676]

New York; Declaration of Disaster Loan Area

Chautauqua County and adjacent counties within the State of New York constitute a disaster area as a result of damage caused by wind, storms and flooding which occurred on August 7-8, 1979. Applications will be processed under the provisions of Pub. L. 96-38. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 15, 1979, and for economic injury until the close of business on May 15, 1980, at:

Small Business Administration, District Office, Federal Building, Room 1071, 100 South Clinton Street, Syracuse, New York 13260.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 15, 1979.

William H. Mauk, Jr.,
Acting Administrator.

[FR Doc. 79-35578 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1676; Amdt. No. 1]

New York; Declaration of Disaster Loan Area

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,
Acting Administrator.

[FR Doc. 79-35579 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1682]

Ohio; Declaration of Disaster Loan Area

Butler County and adjacent counties within the State of Ohio constitutes a disaster area as a result of damage caused by heavy rains and flooding which occurred on August 1, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business October 29, 1979, and for economic injury until the close of business on May 29, 1980, at:

Small Business Administration, District Office, Federal Building, U.S. Court House 85, Columbus, Ohio 43215. Small Business Administration, Branch Office, Federal Building, Room 5028, Cincinnati, Ohio 45202.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 29, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35580 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1682; Amdt. No. 1]

Ohio; Declaration of Disaster Loan Area

The above numbered Declaration (See preceding document), is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,
Acting Administrator.

[FR Doc. 79-35581 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1680]

Pennsylvania; Declaration of Disaster Loan Area

Bucks County and adjacent counties within the State of Pennsylvania constitute a disaster area as a result of damage caused by severe storms and flooding which occurred on July 29, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 25, 1979, and for economic injury until the close of business on May 26, 1980, at:

Small Business Administration, District Office, East Lobby, Suite 400, One Bala Cynwyd Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pa., 19004.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 24, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35582 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1680, Amdt. 1]

Pennsylvania; Declaration of Disaster Loan Area

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,
Acting Administrator.

[FR Doc. 79-35583 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1687]

Commonwealth of Puerto Rico; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration I find that Arecibo, Arroyo, Barceloneta, Canovanas, Carolina, Dorado, Guayanilla, Guanica, Humacao, Jayuya, Juana Diaz, Manati,

Ponce, Toa Baja and Vega Baja Municipalities and adjacent Municipalities within the Commonwealth of Puerto Rico, constitute a disaster area because of damage resulting from Hurricane David beginning on or about August 29, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 5, 1979, and for economic injury until close of business on June 4, 1980, at:

Small Business Administration, District Office, Chardon and Bolivia Streets, P.O. Box 1915, Hato Rey, Puerto Rico 00919.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 5, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35584 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1687, Amdt. No. 1]

Commonwealth of Puerto Rico; Declaration of Disaster Loan Area

The above numbered Declaration (See preceding document) is amended in accordance with the President's declaration of September 2, 1979, to include the following municipalities in the Commonwealth of Puerto Rico.

Adjuntas, Anasco, Cabo Rojo, Catano, Cayey, Ceiba, Cidra, Coamo, Culebra, Fajardo, Guayama, Hormigueros, Lajas, Luquillo, Maricao, Maunabo, Mayaguez, Morovis, Naguabo, Patillas, Penuelas, Sabana Grande, Salinas, San German, Santa Isabel, Utuado, Yauco.

The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named municipalities and adjacent municipalities within the Commonwealth of Puerto Rico. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on November 3, 1979, and for economic injury until the close of business on June 4, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 18, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35585 Filed 11-16-79; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1687, Amdt. #4]**Commonwealth of Puerto Rico; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document), Amendment #1 (See preceding document), Amendment #2 (See preceding document), and Amendment #3 (See preceding document) are amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,

Acting Administrator.

[FR Doc. 79-35586 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1674]**Wisconsin; Declaration of Disaster Loan Area**

Chippewa County and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by rainstorm and flooding which occurred on June 29, 1979. Applications will be processed under the provisions of Pub. L. 96-38. Eligible persons, firms and organizations may file applications for loans for physical damage until close of business on October 15, 1979, and for economic injury until the close of business on May 14, 1980, at:

Small Business Administration, District Office, 212 East Washington Ave., 2nd Floor, Madison, Wisconsin 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 24, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-35587 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1674; Amdt. #1]**Wisconsin; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,

Acting Administrator.

[FR Doc. 79-35588 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1683]**Wisconsin; Declaration of Disaster Loan Area**

Douglas County and adjacent counties within the State of Wisconsin constitutes a disaster area as a result of damage caused by heavy rains and flooding which occurred on July 2, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 29, 1979, and for economic injury until the close of business on May 29, 1980, at:

Small Business Administration, District Office, 212 East Washington Ave., 2nd Floor, Madison, Wisconsin 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 29, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-35589 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1683; Amdt. No. 1]**Wisconsin; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,

Acting Administrator.

[FR Doc. 79-35590 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Indian Reservation Roads**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Memorandum of Agreement between the Bureau of Indian Affairs and the Federal Highway Administration.

SUMMARY: Pursuant to 23 U.S.C. 208, the Federal Highway Administration (FHWA) is responsible for approving the location, type, and design, as well as for supervising the construction, of Indian Reservation Roads and Bridges projects. The responsibilities and procedures for coordination between FHWA and the Bureau of Indian Affairs in connection with these projects had been set out in a 1974 interagency Memorandum of Agreement. This document has now been updated and revised in a new Memorandum of Agreement executed by the agencies and taking effect as of July 11, 1979. The most significant revisions are those eliminating provisions for FHWA's formal approval and/or concurrence in system actions and in the contract award process.

FHWA has also published a revised section of its Federal-Aid Highway Program Manual (Volume 8, Chapter 9, Section 17) to incorporate its responsibilities under the Memorandum of Agreement into that format.

Copies of the Memorandum of Agreement and Federal-Aid Highway Program Manual section are available for public inspection and copying. Copies of these documents will be made available on request by contacting Mr. George J. Hutzelmann, Federal Highway Projects Division, at the address provided.

FOR FURTHER INFORMATION CONTACT: Mr. George J. Hutzelmann, Federal Highway Projects Division, 202-426-0460, or Mr. James R. Dann, Office of the Chief Counsel, 202-426-0788, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

(23 U.S.C. 208, 315; 49 CFR 1.48(b))

Issued on November 9, 1979.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 79-35494 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY**Office of the Secretary****Issuance of Additional Boycott Guidelines**

November 14, 1979.

The Treasury Department today issued additional guidelines, consisting of questions and answers, relating to the provisions of the Tax Reform Act of

1978 which deny certain tax benefits for participation in or cooperation with international boycotts.

Guideline H-17 is a revision of the existing guideline while the other guidelines are additions to those issued on January 20, 1978 (Treasury News Release B-653). The guidelines issued today generally are effective for operations occurring after, requests received after, and agreements made after November 3, 1978. However, guidelines M-10 and M-11 are effective for operations occurring after, requests received after, and agreements made after November 23, 1979. In addition, in the case of binding contracts entered into before November 24, 1979, guidelines M-10 and M-11 will not be effective until January 1, 1980.

For purposes of applying the rules in guidelines M-12 and M-13, an explanation offered by Country X is deemed to retroactively interpret and be effective for shipping and insurance certificates required by Country X prior to the date on which the official explanation is given. The Kingdom of Saudi Arabia has offered such an explanation.

All of the guidelines issued today elaborate on principles reflected in the guidelines issued on January 20, 1978. Nonetheless, guidelines M-10 and M-11 are made effective prospectively to avoid a hardship on taxpayers who have misunderstood the applicability of existing guidelines to the facts of guidelines M-10 and M-11.

The principal author of these guidelines was Leonard E. Santos of the Office of the Secretary of the Treasury. Donald C. Lubick,

Assistant Secretary (Tax Policy).

D-6. Q: Company C is a partner in foreign or domestic Partnership P. The total partnership interest in Partnership P held directly, indirectly, or constructively by:

1. Company C,
2. All members of the controlled group of corporations of which Company C is a member, and
3. All persons that control (within the meaning of section 304(c)) Company C or a member of the controlled group of corporations of which Company C is a member,

is equal to or less than 50 percent. Partnership P enters into an agreement that constitutes participation in or cooperation with an international boycott. Will that agreement trigger the application of the sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F) to Company C and the other members of Partnership P? Will that agreement give rise to the presumption that all the

operations in boycotting countries of Company C, of each person that controls or is controlled by (within the meaning of section 304(c)) Company C, and of each member of the controlled group of corporations of which Company C is a member, are operations in connection with which there is participation in or cooperation with an international boycott?

A: The sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F) will apply to Company C and each member of Partnership P. However, Partnership P's agreement will not give rise to the presumption that all the operations in boycotting countries of Company C and of each person that controls or is controlled by (within the meaning of section 304(c)) Company C are operations in connection with which there is participation in or cooperation with an international boycott. Nor will Partnership P's agreement give rise to the presumption that all the operations in boycotting countries of each member of the controlled group of corporations of which Company C is a member are operations in connection with which there is participation in or cooperation with an international boycott. The answers in the first two sentences would be the same if Company C were an individual and the partnership interest held directly, indirectly, or constructively by the individual did not exceed 50 percent.

H-17. Q: Company C receives an inquiry from Country X about certain goods that Company C manufactures. The inquiry also requests Company C to furnish information about the following matters: whether it does business with Country Y and whether it does business with any United States person engaged in trade in Country Y. Company C furnishes the requested information to Country X. Later, Company C signs a contract with Country X to export goods to Country X. Does Company C's action constitute an agreement under section 999(b)(3)?

A: No. By furnishing such information Company C has not agreed to take any action, as a condition of doing business with Country X, that is described in section 999(b)(3). The answer would be the same if Company C had furnished the information in the form of a certificate, and if the certificate instead stated that neither Company C nor companies from which it purchased goods were blacklisted. See also Answer H-32. However, the furnishing of boycott-related information in response to a prior commitment which is not contemporaneous with the furnishing of the information would

constitute an agreement within the meaning of section 999(b)(3). Information (in a certificate or otherwise) will be considered to be furnished in response to a commitment that is not contemporaneous if, between the time of the commitment and the delivery of the information, conduct to which the information relates could be altered to conform to that information. See Answer H-35.

An agreement under section 999(b)(3) could be inferred from an overall course of conduct that includes the furnishing of information that is not in response to a prior commitment in addition to other factors. An example of another factor which could give rise to such an inference is any concomitant termination or lessening in Company C's relationships with Country Y or with U.S. persons engaged in trade with Country Y, for no valid business reasons. On the other hand, the repeated furnishing of such information would not give rise to such an inference.

H-35. Q: Company C signs a contract with Country X to export goods manufactured by Company C to Country X. The contract provides that Company C will provide Country X with a certificate at the time the goods are shipped indicating that the goods were not manufactured by a blacklisted company. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: Yes. Company C's contract requiring the presentation of the blacklist certificate constitutes an agreement by Company C to refrain from engaging in activities which will lead to the blacklisting of Company C (with the result that Company C cannot present the requisite certificate). See Answer H-17. The answer would be the same whether the blacklist certificate given by Company C concerns its blacklist status only or the blacklist status of those trading with Company C, and whether Company C itself executes the certificate or transmits a certificate executed by those with whom it trades. The answer would also be the same if the certificate were instead required by the terms of a letter of credit by which payment to Company C is to be made.

H-38. Q: Company C signs a contract with Country X to export goods to Country X. The contract provides that Company C will provide Country X with a certificate in connection with the shipment of goods indicating the country or countries in which the goods originated and the name(s) of the manufacturer(s) of the goods. Company C complies with this requirement and provides the certificate. Does Company

C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: No. Company C's agreement to provide a certificate identifying the origin and manufacturer of goods exported does not constitute an agreement by Company C to refrain from doing business with any person. See guideline M-9. However, an overall course of conduct which includes providing such certificates in addition to other factors could give rise to such an inference. Repeatedly furnishing such certificates does not constitute such a course of conduct.

M-10. Q: Company C signs a contract to export goods to Country X. The contract requires that Company C provide Country X with a certificate stating that the vessel on which the goods are shipped is eligible to enter into the ports of Country X in conformity with the laws and regulations of Country X. The laws and regulations of Country X prohibit, *inter alia*, blacklisted vessels from calling at its ports. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: Yes. In the absence of additional circumstances, Company C's contract is deemed to be an agreement to provide a certificate stating that the vessel on which the goods are shipped is not blacklisted. See Answers H-35, M-1, and M-7. The answer is the same whether the shipowner makes the certification which Company C transmits to Country X or Company C makes the certification on behalf of the shipowner. The answer would be the same if the certificate were instead required by the terms of a letter of credit by which Company C is to receive payment.

M-11. Q: The facts are the same as in Question M-10, except that Company C's contract with Country X requires a certificate stating that the insurer of the goods has a duly qualified and appointed agent or representative in Country X. Country X's laws and regulations prohibit, *inter alia*, blacklisted insurance companies from qualifying or appointing an agent in Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: Yes. In the absence of additional circumstances, Company C's contract is deemed to be an agreement to certify that the insurance company insuring the goods is not blacklisted. See Answers H-35, M-1 and M-7. The answer is the same whether the insurance company provides the certificate which Company

C transmits to Country X or Company C makes the certification on behalf of the insurance company. The answer would be the same if the certificate were instead required by the terms of a letter of credit by which Company C is to receive payment.

M-12. Q: Company C signs a contract to export goods to Country X. The contract requires that Company C provide Country X with the certificate described in guideline M-10. In an explanation of this shipping certificate, Country X states that eligibility, in the context of the certificate, relates to maritime matters such as the age and condition of the ship. Country X's explanation notes that, in addition, Country X applies a number of laws and regulations to the entry of ships into its ports. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: No. Country X's explanation of the general language contained in the certificate indicates that the certificate relates to matters other than the boycott. Accordingly Company C's contractual obligation to provide the shipping certificate does not place Company C in the position of certifying to the non-blacklisted status of ships which it uses, or of selecting ships on the basis of their owners' ability to certify that the ships are not blacklisted. The answer would be the same if the certificate were instead required by the terms of a letter of credit by which Company C is to receive payment.

M-13. Q: Company C signs a contract to export goods to Country X. The contract requires that Company C provide Country X with the certificate described in guideline M-11. In an explanation of this insurance certificate, Country X states that the insurance certification is required to facilitate dealings with insurers by Country X importers in the event of damage to insured goods. Country X's explanation notes that, in addition, Country X applies a number of laws and regulations to the appointment by companies of agents or representatives in Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: No. Country X's explanation of the general language contained in the insurance certificate indicates that the certificate relates to matters other than the boycott. Accordingly, Company C's contractual obligation to provide the insurance certificate does not place Company C in the position of certifying to the non-blacklisted status of its insurers, or of selecting insurers on the

basis of the insurers' ability to certify that they are not blacklisted. The answer would be the same if the certificate were instead required by the terms of a letter of credit by which Company C is to receive payment.

[FR Doc. 79-35539 Filed 11-19-79; 8:45 am]
BILLING CODE 4810-25-M

[Dept. Circular Public Debt Series—No. 28-79]

Treasury Notes of November 30, 1981; Series Z-1981

November 14, 1979.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$4,300,000,000 of United States securities, designated Treasury Notes of November 30, 1981, Series Z-1981 (CUSIP No. 912827 KD 3). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated November 30, 1979, and will bear interest from that date, payable on a semiannual basis on May 31, 1980, and each subsequent 6 months on November 30 and May 31, until the principal becomes payable. They will mature November 30, 1981, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, November 21, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 20, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings

on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks

will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Friday, November 30, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, November 27, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Monday, November 26, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Gerald Murphy,
Acting Fiscal Assistant Secretary.

[FR Doc. 79-35570 Filed 11-16-79; 8:45 am]

BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 146]

Assignment of Hearings

November 13, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 129537 (Sub-40F), Reeves Transportation Company, now assigned for hearing on December 3, 1979 at New Orleans, LA is postponed to February 11, 1980 at New Orleans, LA. Location of hearing room will be by subsequent notice.

MC 138550 (Sub-1F), W. Smith Cartage Company, Inc. transferred to Modified Procedure.

MC 134906, Cape Air Freight, Inc., now assigned for hearing on December 3, 1979 (5 days) at Nashville, TN will be held in room 651, Federal Building, 801 Broad Street.

MC 89884 (Sub-49, 54, 57, 58, 63, 74, 78, 81, 85, 91, 92, 100, 103 and M1F), Wycoff Company, Incorporated, now being assigned for hearing on December 15, 1980 at Salt Lake City, UT, location of hearing room will be by subsequent notice.

MC 142703 (Sub-13F), Intermodal Transportation Services, Inc. now assigned for hearing on December 10, 1979 at Columbus, OH will be held (5 days) instead of (3 days).

MC 31389 (Sub-267F), McLean Trucking Company, transferred to Modified Procedure.

MC 26396 (Sub-223F), Popkelda Trucking, Co. d/b/a the Waggoners now assigned for hearing on February 5, 1980 (1 day) at Billings, MT location of hearing room will be by subsequent notice.

MC 129631 (Sub-63F), Pack Transport, Inc., now assigned for hearing on February 8, 1980 (3 days) at Billings, MT location of hearing room will be designated later.

MC 136605 (Sub-93F), Davis Bros. Dist., INC., now assigned for hearing on February 11, 1980 (1 week) at Billings, MT location of hearing room will be designated later.

MC C-8619 Transport of New Jersey, ET AL Investigation of Operations and Practices, No. 36745, Petition for Investigation—Bus Terminal of the Port Authority of New York and New Jersey, now assigned for continued Prehearing Conference on December 2, 1980 (1 day) at New York, NY in a hearing room to be later designated.

MC 56679 (Sub-109F), Brown Transport Corporation, now assigned for hearing on December 11, 1979 (9 days) at Atlanta, GA will be held in Room No. 882, Federal Building, 75 Spring Street.

MC 112991 (Sub-4F), Livingston Transportation Limited, now being assigned for hearing on January 15, 1980 (4 days), at Detroit, MI. in a hearing room to be designated later.

MC 112908 (Sub-9F), Kingsway Transports Limited., now being assigned for hearing on January 21, 1980 (1 week), at Detroit, MI. in a hearing room to be designated later.

MC 77016 (Sub-19F), Budig Trucking Company, transferred to Modified Procedure.

MC 2484 (Sub-54F), E & L Transport Company, transferred to Modified Procedure.

MC 126679 (Sub-9F), Dennis Truck Line, Inc., now assigned for hearing on December 3, 1979, at Atlanta, GA. is canceled and transferred to Modified Procedure.

MC 32967 (Sub-3F), Atlantic Coast Express, Inc., now assigned for hearing on November 26, 1979 at New York, NY. will be held at the Federal Building, Room No. E-2222, 26 Federal Plaza, New York, NY.

MC 133937 (Sub-28F), Carolina Cartage Company, Inc., a South Carolina Corporation, now assigned for hearing on November 15, 1979 at Atlanta, GA. will be held at the State Court Building, Room No. 216, 180 ployor Street, NW., Atlanta, GA.

MC 144957 (Sub-3F), Petercliff, Ltd., now assigned for hearing on December 12, 1979 at Los Angeles, CA. is postponed to January 23, 1980 (3 days), at Los Angeles, CA. in a hearing room to be designated later.

MC 144963 (Sub-1F), W. E. Battles, d/b/a Jobbers Freight Services, now being assigned for hearing on January 21, 1980 (2 Days), at Boise, Idaho in a hearing room to be designated later.

MC 144957 (Sub-5F), Petercliff, Ltd., now being assigned for hearing on January 23, 1980 (3 Days), at Los Angeles, CA. in a hearing room to be designated later.

MC 96878 (Sub-3F), Consolidated Transfer & Warehouse Company, Inc. now being assigned for hearing on January 23, 1980 (3 Days), at Oklahoma City, OK, in a hearing room to be designated later.

MC 112184 (Sub-65F), The Manfredi Motor Transit Co., a corporation, now assigned for hearing on November 27, 1979 at Cincinnati, OH, will be held at the Federal Building, Room No. 8017, 550 Main Street, Cincinnati, OH.

MC 123685 (Sub-24F), Peoples Cartage, Inc., now assigned for hearing on November 29, 1979, at Cincinnati, OH, will be held at the Federal Building, Room 8017, 550 Main Street, Cincinnati, OH.

MC 128616 (Sub-26F), Gelco Courier Services, Inc., now assigned December 3, 1979 at Cincinnati, OH will be held in Room No. 9017, Federal Building, 550 Main Street and December 4, 1979, in Room No. 4022, Federal Building, 550 Main Street, Cincinnati, OH.

MC 145808 (Sub-2F), Red Arrow Delivery Service Co., Inc., now assigned for continued hearing on December 10, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 51018 (Sub-11F), the BESL Transfer Company, an Ohio corporation, now assigned for hearing on December 5, 1979, (2 Days) at Cincinnati, OH will be held in Room 9017, Federal Building, 550 Main Street and December 7, 1979 in Room No. 3026, Federal Building, 550 Main Street, Cincinnati, OH.

MC 112963 (Sub-82F), Roy Bros., Inc., now assigned for continued hearing on December 10, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 143594 (Sub-6F), National Bulk Transport, Inc., now being assigned for hearing on February 6, 1980 (3 Days), at New Orleans, LA, in a hearing room to be designated later.

MC 142703 (Sub-14F), Intermodal Transportation Services, Inc., now assigned for hearing on December 17, 1979 (5 Days), at Frankfort, KY, is cancelled and advanced to December 10, 1979 (5 Days) at Columbus, OH, in a hearing room to be designated later.

MC 87103 (Sub-31F), Miller Transfer and Riggering Company, transferred to Modified Procedure.

MC 138627 (Sub-52F), Smithway Motor Xpress, Inc., now being assigned for hearing on February 7, 1980 (2 Days) at Omaha, NE, in a hearing room to be designated later.

MC 126118 (Sub-105F), Crete Carrier Corporation, now being assigned for hearing on February 11, 1980 (5 Days) at Lincoln, NE, in a hearing room to be designated later.

MC 141033 (Sub-49F), Continental Contract Carriers Corp., now assigned for hearing on December 8, 1979, at San Francisco, CA, is cancelled and application dismissed.

I & S No. 9228, now assigned for Prehearing Conference on November 27, 1979 at Washington, DC is cancelled.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35538 Filed 11-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Kansas City Terminal Railway Co. Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Corrected Supplemental Order No. 10

Decided: November 13, 1979.

On September 28, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See *Kansas City Term. Ry. Co.—Operate—Chicago, R. I & P.*, 360 I.C.C. 289 (1979), 4 FR 45343 (October 1, 1979).

This Corrected Supplemental Order is being issued to clarify the issue of contracting-out minor track work where there are not sufficient qualified RI employees to perform that work.

Under the section of DSO No. 1398 entitled "Hiring of RI Employees—Rosters," we established a three-level general approach to hiring. See DSO No. 1398, 360 I.C.C. at 302 [44 FR 56347, 1st and 2nd columns]. The DRC was required first to offer available jobs to RI employees in the appropriate crafts or seniority districts. If there were an inadequate number of such employees, the DRC would offer the jobs to RI employees in other seniority districts or crafts. Finally, if there were an insufficient number of RI employees qualified, willing or able to fill particular positions, the DRC could contract-out for the performance of those tasks or, alternatively, provide personnel from its own labor force as if under contract with the directed operation. (Such contracted employees would not be considered "RI employees" for directed-service or other purposes and thus were not to be added to RI employment rosters.)

However, in the section of the decision dealing with "minor" rehabilitation to RI lines and related facilities, we imposed an unqualified ban on contracting-out. See DSO No.

¹ On November 5, 1979, a Commission decision purporting to be "Supplemental Order No. 10" was erroneously released and served on the parties to this proceeding [44 FR 65231, Nov. 9, 1979] authorizing KCT to hire temporary maintenance-of-way employees. So-called "Supplemental Order No. 10" had no legal force and effect, as it was not properly cleared in accordance with Commission procedures. KCT was immediately notified of this fact and informed that it did not have Commission authorization to hire temporary maintenance-of-way employees unless and until properly authorized in a "Corrected Supplemental Order No. 10." This decision—"Corrected Supplemental Order No. 10"—is the only authoritative Commission action dealing with KCT's request to hire temporary maintenance-of-way employees.

1398, 360 I.C.C. at 304 [44 FR 56348, 1st and 2nd columns]. This was motivated by our belief that such track work could adequately be performed by existing RI maintenance-of-way (or other RI) employees, and by our desire to deter the performance of excessive minor track work unnecessary to the provision of directed service.

Since the time DSO No. 1398 was issued, certain problems have developed which cause us to believe we should modify our treatment of contracting-out in the area of minor track work.

In a telegram from KCT (filed October 29, 1979), the DRC informs us that it is critically short of maintenance-of-way forces to perform normal inspection and maintenance work to track. Unless it is authorized to hire temporary maintenance-of-way employees, the DRC believes it will not be able to perform adequate directed-service operations.

The shortage of RI employees to perform this maintenance work results from the unexpected failure of approximately 174 RI maintenance-of-way employees to return to work following the institution of directed service. In addition, the DRC informs us that there are no extra RI workers in other departments available to perform the requisite maintenance work. Accordingly, the DRC requests authority "to hire new temporary employees for the maintenance-of-way department for not to exceed 59 days, to bring the work force to the pre-directed service level of 1,385 employees."

There are several persuasive reasons why the RI's maintenance-of-way department should be brought up to strength at this time. While, in the first few weeks of directed service, it was possible to perform necessary maintenance-of-way work with reduced forces (since less than 50% of RI lines were then being operated), KCT is now operating approximately 88% of the RI system and anticipates operating approximately 96% of the system during November 1979.

Moreover, minor maintenance-of-way work is presently necessary for track inspections required by FRA track-safety waivers (now covering about 600 miles of RI track), for snow removal, for selected track repair to reduce operating costs, to prevent track from falling out of compliance with track safety standards, and to remove certain cumbersome limitations contained in FRA track-safety waivers. In particular, the temporary maintenance-of-way employees are needed for: (1) Necessary track maintenance for the commuter operations in Chicago, IL; and (2) Essential track repair between Des

Moines and Allerton, IA, and between Omaha, NE, and Limon, CO.

In view of the foregoing, we believe there is just cause to modify our prohibition on contracting-out minor track work. However, we shall only permit the DRC to hire temporary maintenance-of-way employees for the duration of the directed service period, not for the 59 days requested by the DRC. Moreover, our modification of the contracting-out prohibition shall be subject to two conditions: (1) No temporary maintenance-of-way employees may be hired by the DRC until after it has obtained written notice from RI labor representatives that no qualified RI employees are presently available to perform the necessary work; and (2) The DRC may not hire more temporaries than are necessary to bring the maintenance-of-way department up to its August 1979 level of 1,385 contract employees.

Moreover, in accordance with our general contracting-out provisions, *supra*, 360 I.C.C. at 302 [44 FR 56317, 1st and 2nd columns], these temporaries shall not be considered permanent "RI employees" for directed-service or any other purposes and thus may not be added to RI employment rosters.

We find: 1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108 (1978).

It is ordered: 1. DSO No. 1398's prohibition against contracting out minor track work, *supra*, 360 I.C.C. at 304 [44 FR 56348, 1st and 2nd columns], is modified as indicated above.

2. This decision shall be effective on its service date.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioners Gresham and Trantum dissenting. Vice Chairman Stafford not participating.

Agatha L. Mc genovich,
Secretary.

Commissioner Gresham (dissenting)

There are only three weeks remaining in the directed service period. I see no need for this decision.

Commissioner Trantum (dissenting)

As I emphasized in my vote on Supplemental Order No. 9, we are still analyzing which Rock Island lines meet the "essentiality" test for directed service after December 4. At this time, hiring temporary employees in order to operate 96% of the system is simply inappropriate.

[FR Doc. 79-35537 Filed 11-16-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 224

Monday, November 19, 1979

66279

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Home Loan Bank Board	2, 3, 4
Nuclear Regulatory Commission	5
Occupational Safety and Health Review Commission	6

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. Tuesday, November 20, 1979.

PLACE: Commission Conference Room 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

MATTERS TO BE CONSIDERED:

1. Proposed Regulations for Implementing Section 504 of the Rehabilitation Act of 1973.
2. Staff Report on Pilot Project for Investigating Federal Employee Complaints for publication in the Federal Register.
3. Revision to the Handicap Regulations.
4. Two proposed Sole Source Contracts for services in support of Litigation.
5. A proposed change to EEOC Order 110, involving revised mission and function statements for the Office of Systemic Program and the Office of the General Counsel.
6. Freedom of Information Act Appeal No. 79-8-FOIA-278, concerning the release of EEO-1 reports.
7. Report on Commission Operations by the Executive Director.

Closed
Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

Closed

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued November 13, 1979.

[S-2248-79 Filed 11-15-79; 9:07 am]

BILLING CODE 6570-06-M

2

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: November 14, 1979, 4:15 p.m.

PLACE: 1700 G Street, NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Holding Company Acquisition: Far West Financial Corporation, Newport Beach, California—State Mutual Savings & Loan Association, Newport Beach, California—Acquisition and Merger into Bell Savings & Loan Association, San Mateo, California.

The above item is being withdrawn from the bank board meeting of November 15, 1979. Announcement is being made at the earliest practicable time.

No. 291, November 14, 1979.

[S-2246-79 Filed 11-14-79; 4:08 pm]

BILLING CODE 6720-01-M

3

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44 FR 65697, November 14, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 1:00 p.m., November 15, 1979.

PLACE: 1700 G Street, NW., Sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting.

Loans in Excess of 80 Percent of Value; Three-Family and Four-Family Dwellings.

Announcement is being made at the earliest practicable time.

No. 292, November 15, 1979.

[S-2249-79 Filed 11-15-79; 3:01 pm]

BILLING CODE 6720-01-M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44 FR 65697, November 14, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 1:00 p.m., November 15, 1979.

PLACE: 1700 G Street, NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting. This item is continued from the meeting of November 14, 1979.

Application for Holding Company Acquisition: Far West Financial Corporation, Newport Beach, California—State Mutual Savings & Loan Association, Newport Beach, California—Acquisition and Merger into Bell Savings & Loan Association, San Mateo, California.

Announcement is being made at the earliest practicable time.

No. 293, November 15, 1979.

[S-2250-79 Filed 11-15-79; 3:01 pm]

BILLING CODE 6720-01-M

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of November 19.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed (Changes).

MATTERS TO BE CONSIDERED:

Monday, November 19; 10:30 a.m.

Briefing on Proposed New 10 CFR Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories—Procedural Aspects (approximately 1½ hours, public meeting) (rescheduled from 1:30 p.m.).

Monday, November 19; 1:30 p.m.

1. Discussion of Proposed Amendments to 10 CFR Part 50, Sections 50.33, 50.54 and Appendix E; Plans for Coping with Emergencies at Production and Utilization Facilities (approximately 2 hours, public meeting) (rescheduled from 2:30 p.m.).
2. Discussion of Citizen's Advisory Committee (approximately 1 hour, public meeting) (rescheduled from 10:30 a.m.).

Tuesday, November 20; 9:30 a.m.

Continuation of Briefing by NRR on TMI Lessons Learned Report (approximately 2½ hours, public meeting), replaces IE Lessons Learned which is postponed.

Wednesday, November 21; 10:30 a.m.

Briefing on Research and Technical Assistance Projects in Waste Management (approximately 1 hour, public meeting).

Wednesday, November 21; 2:30 p.m.

Discussion of Personnel Matter
(approximately 1½ hours, closed—exemption
6).

CONTACT PERSON FOR MORE

INFORMATION: Roger Tweed, (202) 634-
1410.

Dated: November 14, 1979.

Walter Magee,

Office of the Secretary.

[S-2251-79 Filed 11-15-79; 3:46 pm]

BILLING CODE 7590-01-M

6

**OCCUPATIONAL SAFETY AND HEALTH
REVIEW COMMISSION.**

"FEDERAL REGISTER" CITATION OF

PREVIOUS ANNOUNCEMENT: 44 FR 63184,
November 2, 1979.

**PREVIOUSLY ANNOUNCED TIME AND DATE
OF THE MEETING:** 10 a.m. on November
15, 1979.

CHANGES IN THE MEETING: This meeting
has been rescheduled for November 16,
1979, at 10 a.m.

Dated: November 14, 1979.

[S-2247-79 Filed 11-14-79; 4:20 pm]

BILLING CODE 7600-01-M

Rescheduled
Federal Register

Monday
November 19, 1979

Part II

**Department of
Transportation**

Federal Aviation Administration

**Proposal To Upgrade Regulation of
Certain Large General Aviation Airplanes
and Replace Commercial Operator and
Air Travel Club Regulations**

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 43, 65, 91, 121, 123, 125, 135, and 145]

[Docket No. 19779; Notice No. 79-19]

Proposal To Upgrade Regulation of Certain Large General Aviation Airplanes and Replace Commercial Operator and Air Travel Club Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to substantially upgrade the level of safety required by regulations governing the operation of U.S. registered airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds provided the airplane would not otherwise be operated under Part 121, 135 or 137. The proposed Part 125 would govern large airplanes, other than when engaged by U.S. operators in common carriage. It would include operations of airplanes by lease and aviation service firms, airplane manufacturers with airplanes listed in the general aviation category, air travel clubs, corporations for company transport, and air carriers conducting non revenue operations. The new Part would also apply to certain foreign operators of U.S. registered airplanes. The proposed regulations are part of a continual effort to increase aviation safety and the proposals are a significant step in the FAA's efforts to bring about regulatory simplification.

Airplanes classified as large airplanes that would not be covered by new Part 125 and, therefore, would continue to be governed by the existing general operating rules of Subpart D of Part 91 include the smaller turbojet airplanes used in General Aviation. Airplanes that would continue to be covered by Subpart D include the Lear 23/24/25/35/36, Cessna 500/501/550, Grumman G-73, Falcon 10/20; North American 265, Jet Commander, Hansa HFB 320 and the DH-125.

DATE: Comments must be received on or before February 19, 1980.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 19779, 800 Independence Avenue, S.W., Washington, D.C. 20591; or to be delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591. Comments delivered must be marked: Docket No.

19779. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Chief, Regulatory Projects Branch, Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone (202) 755-8718.

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before February 19, 1980, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with the FAA personnel concerned with this rule making will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 19779." The postcard will be date and time stamped and returned to the commenter.

II. Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of

Advisory Circular No. 11-2 which describes the application procedures.

III. Background

A. The Commercial Operator Certification and Operating Rules

In 1949 the Civil Aeronautics Board adopted Part 45 of the Civil Air Regulations and established, for the first time, certification and operating rules for "commercial operators." The term encompasses a classification of operators who engage in non air carrier operations. In other words, these operators engage in contract operations involving the carriage by aircraft of persons or property for compensation or hire but avoid holding out their services as "common carriers." It is the absence of common carriage that primarily serves to distinguish commercial operators from those common carriers defined as "air carriers" under the Federal Aviation Act of 1958.

Generally "air carriers" are identified as operators who hold appropriate economic authority from the CAB. However, an operator also becomes a common carrier when it "holds itself out" to the public to furnish transportation, even when it holds no authority from the Civil Aeronautics Board. Such an operator would be ineligible for certification under this proposal and would be required to obtain certification as an air carrier.

In prescribing safety regulations and certificate requirements for air carriers, Section 601(b) of the Federal Aviation Act requires full consideration to be given to the duty resting upon air carriers to perform their services with the highest degree of safety in the public interest. The Act also requires classifications of such regulations and certificates to be appropriate to the differences between air transportation and other air commerce. In addition, Section 604 of the Act requires a finding that an air carrier is able to conduct a safe operation and is properly and adequately equipped in order to engage in air transportation.

The Act does not impose on persons engaged in other air commerce, such as commercial operators and air travel clubs, a duty to perform their services with the highest degree of safety. However section 601 of the Act does impose on the FAA the "duty to promote safety of flight of civil aircraft in air commerce by prescribing and revising * * * equipment and operating standards. Experience indicates that many regulations adopted for air carrier operations are necessary for all large airplane operations in today's operating environment.

In 1970, the Secretary of Transportation directed the Assistant Secretary for Safety and Consumer Affairs, Office of the Secretary of Transportation, to conduct an in-depth study of charter operations utilizing large airplanes. The task force that conducted the investigation under the direction of the Assistant Secretary made several recommendations which were adopted by the Secretary and submitted to the Administrator. One of these recommended the establishment of new regulations governing the operation of large airplanes, pressurized airplanes, and turbine-powered airplanes engaged in private carriage. It was recommended that the new regulations require these airplanes to be operated and maintained in a condition for safe operation appropriate to transport category airplanes, and include requirements for crew proficiency, operations and continued airworthiness. It was also recommended that the regulations require a level of safety comparable to Part 121 of the Federal Aviation Regulations (FAR), but without the detailed administrative and financial requirements for the issuance of a commercial operator certificate prescribed in FAR Part 121. These recommendations were partially implemented by the FAA in 1972 through the adoption of a new Subpart D in FAR Part 91.

The FAA has now had a great deal of experience with Subpart D operations as well as with air carrier operations using the same airplanes. (A detailed analysis of this point is set forth in the economic analysis filed in this Docket.)

Pursuant to its obligations under Section 601 (a) and (b) of the Act, the FAA has extensively reviewed the existing requirements levied upon all non air carrier operators of airplanes certificated to carry 20 or more passengers or more than 5,000 pounds maximum payload. This review has led the FAA to the conclusion that there is a need to upgrade the safety requirements for this group of operators. The FAA has also tentatively concluded that it is no longer possible nor necessary to distinguish between the types of operators covered by Subpart D of Part 91, commercial operators under Part 121, and Air Travel Clubs under Part 123 when they are operating these large airplanes.

In short if the proposed regulations are adopted, all operations of airplanes with 20 or more passengers or more than 5,000 pounds maximum payload will be conducted under Parts 121, (new) 125, 135 or 137. This will greatly simplify the FAA's regulatory structure while substantially increasing the minimum

level of safety. In this connection, it should be noted that the 1970 Task Force recognized the need for a consolidation of the regulations in the following recommendation:

"Upon implementing the requirement that all large airplanes, pressurized airplanes and turbine powered airplanes be raised to an acceptable level of safety, commercial operator certification should no longer be required. The regulations should then require that only scheduled and supplemental air carriers engaged in common carriage will be governed by FAR 121 and meet the highest possible degree of safety as required by Section 601(b) of the Federal Aviation Act of 1958. Operators of large or complex airplanes engaged in private carriage should no longer be burdened with economic requirements, but could continue to meet under the new part an acceptable level of safety. FAA field inspectors would no longer be required to make an economic determination of what constitutes operation "for compensation or hire." As air travel club airplanes would also be required by the new regulation to meet the acceptable level of safety, there would no longer be a requirement for FAR 123.

FAA experience has borne out this need.

IV. Scope of the Proposed Part 125

Based upon an analysis of airplanes on the U.S. registry as of September 1978, the FAA estimates that approximately 1,200 airplanes would be covered if the proposed regulations were in effect as of that date. These airplanes are operated in non common carriage operations by aircraft lease and aviation service firms, airlines and aircraft manufacturers with certain airplanes registered in the general aviation category, Air Travel Clubs and corporations for business and other miscellaneous transport purposes.

As a basic premise, the proposed regulation eliminates the "compensation or hire" test. The definition of a "commercial operator" set forth in the current Federal Aviation Regulations is essentially the same as that initially adopted by the Civil Aeronautics Board in 1949. As defined, a commercial operator is a person "who, for compensation or hire, engages in the carriage of persons or property, other than as an air carrier * * *." Where it is doubtful whether the operations are "for compensation or hire," the test applied since 1949 has been "whether the air carriage is merely incidental to the operator's other business or is, in and of itself, major enterprise for profit."

The "compensation or hire" test, which originated with the regulation of ground transportation under the Interstate Commerce Act, is based upon economic considerations and requires a determination to be made as to the type of "compensation or hire" operation

involved before one can identify the applicable rules. This is a test that members of the public have had considerable difficulty applying. It has likewise proved to be a difficult test for FAA surveillance personnel to readily administer. Furthermore, the complexity and vagueness of the compensation or hire concept has encouraged certain operators to resort to subterfuge, frequently involving sham aircraft leasing techniques, to avoid compliance with the commercial operator certification and operating rules. As a result, enforcement of the current regulatory scheme necessitates time-consuming and costly investigations by the FAA and frequent legal reviews. The difficulties in applying the compensation or hire concept have also burdened operators with the necessity of asking the FAA for a large volume of clarifying legal opinions to ensure their compliance with the regulations. In the judgment of the FAA, the inordinate amounts of time spent trying to administer this basic economic test could be far better spent dealing with actual questions of aviation safety.

It further appears that in this era of airline deregulation that "compensation or hire" test is outmoded. In addition to the public benefits of increased safety and ease of understanding and administration, abolition of this test will cause an immediate benefit to Air Travel Clubs, for example, by allowing them increased revenues. Similar revenue gains are also possible for corporate transport and aircraft lease and aviation service firm operators.

The impact of the proposed regulations will of course depend upon the operator's current level of sophistication. The most substantial safety increases will be in the areas of "Certification Rules and Miscellaneous Requirements (Subpart B), which includes changes in operating specifications and imposes duty time limitations; Manual Requirements (Subpart C); Instrument and Equipment Requirements (Subpart F), which includes requirements for weather radar and emergency equipment; Maintenance and Inspections (Subpart G), which is calculated to be the most costly of the upgrades (See below) and Flight Crewmember Requirements (Subpart I).

By far the greatest impact of the proposed regulation will be on the 275 aircraft leasing companies and aviation service firms that operate approximately 635 of the 1,200 airplanes covered by the proposed regulations. A large number of these airplanes have, in the past, been used in operations that were designed to avoid the more strict requirements of

Part 121. The proposed regulations will end these types of subterfuges to the public benefit.

V. Summary of Rules Proposed in Subparts of Part 125

The regulations proposed for Part 125 are designed to establish a level of safety at least equivalent to that which air travel clubs must currently meet under the provisions of Parts 121 and 123. The following is a summary of significant regulations proposed.

Subpart A—General

Applicability. This subpart contains an applicability provision which would make the certification and operating rules of Part 125 applicable to operators of U.S.-registered civil airplanes that are certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds. However, Part 125 would not apply when those airplanes were required to be operated under Part 121 or 135 governing air carrier and commercial operators or Part 137 governing agricultural operations. Furthermore, it should be noted that Part 125 would not apply to any rotorcraft operation.

Part 125 would apply to foreign air carriers and other foreign citizens when they undertake the operation of U.S.-registered airplanes governed by the Part. However, when operating the airplanes outside of the United States a foreign citizen would have to comply with only the requirements that the airplane must be inspected in accordance with an FAA-approved inspection program. Compliance with these requirements will enable the FAA to fulfill international obligations to ensure the airworthiness of U.S.-registered airplanes being operated in foreign countries.

Certificate and Operations Specifications. In addition, the subpart would require an operator to hold an operating certificate and operations specifications issued under Part 125. The operations specifications will be sufficiently flexible to enable them to be fitted to the operator's particular operations.

These requirements are considered appropriate since a majority of the airplanes governed by Part 125 were originally manufactured for certificated commercial operations. Experience also indicates that these requirements will greatly assist the FAA to effectively carry out its safety surveillance and enforcement responsibilities and will remove burdens previously imposed on operators by economic considerations.

It will be noted that under the proposal an operator must apply for a

Part 125 operating certificate and appropriate operations specifications within 120 days after the effective date of the new rule. Applicants who make timely application may continue to operate under the rules formerly applicable to their operations until the application has been denied or certificate authority has been issued.

Exclusions. The Administrator is aware that several hundred airplanes exclusively utilized in private carriage for the purpose of providing transportation in furtherance of a business are included within the proposal as published. These operators have no desire or need to enter into commercial aircraft operations, as would be permitted by the proposal, and the safety record of the corporate fleet indicates that operations under existing Subpart D have provided an acceptable level of safety for these operators.

The FAA recognizes these facts and has considered ways to provide appropriate relief. Such relief could be provided by either a form of deviation authority or an outright exclusion. Deviation authority provides greater flexibility in administration but requires a case by case justification, review, and decision. A specific exclusion in the rule, on the other hand, would be consistent with the recommendation of the Assistant Secretary for Safety and Consumer Affairs, but has the disadvantage of unduly rigid application. Commenters are requested, therefore, to provide information, views, or arguments on how particular needs would be served by either of these approaches or by another appropriate mechanism. These comments should explain what criteria or standards should be used in providing the necessary relief and suggest specific regulatory language to show how this objective could be achieved.

Subpart B—Certification Rules and Miscellaneous Requirements

This subpart contains a number of administrative provisions, including procedures governing applications for and the issuance of operating certificates and operations specifications.

In addition, under the rules proposed in this subpart an applicant for a Part 125 certificate would have to show that it had enough qualified management personnel, including a director of operations, to assure that its operations are conducted in accordance with the Part. One qualified person would have to be designated as responsible for scheduling required airplane inspections and for updating approved weight and balance systems for all airplanes.

These management requirements are not extensive and are based upon those currently prescribed for air travel clubs in Part 123. Experience indicates they are the minimum required to ensure an adequate level of safety for operations Part 125 would govern.

Under this proposal a Part 125 operating certificate would remain in effect until surrendered to, or suspended or revoked by, the Administrator.

Duty time limitations are proposed for flight crewmembers that are the same as those currently prescribed for air travel clubs under Part 123. The proposal would require each flight crewmember to be relieved from all duty for at least 8 consecutive hours during any 24-hour period. Experience gained in operations conducted under Part 123 indicates that these duty time limitations have not imposed an undue burden on air travel clubs and have provided an acceptable level of safety. They are, therefore, considered adequate for operations to be governed by Part 125.

The rules proposed in this subpart would prohibit, with certain exceptions, operations over any route that did not have appropriate navigational facilities available. The proposals would also require each certificate holder to have procedures established for locating each flight for which an FAA flight plan is not filed. These requirements will ensure safe en route operations and facilitate search and rescue operations in the event an airplane is overdue or missing. The combination of these rules and the requirements proposed in Subpart K will provide a safe alternative to the flight following system currently prescribed in Part 121.

Subpart C—Manual Requirements

It is proposed to require each certificate holder to prepare and keep current a manual of procedures and policies for use by the certificate holder's flight, ground, and maintenance personnel. The manual requirements select a methodology for ensuring that procedures and policies essential for the conduct of safe operations are readily available for the guidance of flight, ground, and maintenance personnel.

Subpart D—Airplane Requirements

The proposed rules would require airplanes operated under Part 125 to have appropriate airworthiness certificates and meet applicable airworthiness requirements. In addition, the proposal would require each airplane to be initially weighed prior to being operated under Part 125 and to be weighed every 3 years thereafter to establish its empty weight. This requirement is currently applicable

under Parts 121 and 123. The majority of airplanes governed by proposed Part 125 are of the same or similar type as those now operated under Parts 121 and 123 and will be operated under conditions similar to those involving operations under these Parts. Therefore, the same requirement should apply to Part 125 airplanes.

Subpart E—Special Airworthiness Requirements

This subpart prescribes special airworthiness requirements that airplanes governed by Part 125 would have to meet. These requirements are currently prescribed in Parts 121 and 123. They establish minimum standards of airworthiness to ensure that there is adequate protection against the occurrence of fires, suitable ventilation for passengers and crewmembers, and that cargo is carried safely on board the airplane. In addition, the proposal would require a certificate holder to demonstrate emergency evacuation procedures for each type and model of airplane with a seating capacity of more than 44 passengers.

Subpart F—Instrument and Equipment Requirements

This subpart prescribed instrument and equipment requirements and provides for use of an approved minimum equipment list (MEL) which authorizes the operation of airplanes when certain instruments and equipment are in an inoperable condition, thereby allowing an operator a measure of operational flexibility. Experience gained in years of operations under Part 121 and its predecessor regulations has established the benefits of an MEL for transport category aircraft with no adverse impact on safety.

Airborne weather radar, currently prescribed in Part 121, is included among the equipment requirements proposed in the interest of safety. This radar equipment facilitates the early detection and location by the pilot of certain areas of turbulence and enables the pilot to avoid such areas or to take such other action as may be necessary in the interest of safety. Operations within the states of Alaska and Hawaii and within certain areas of Canada are excluded from the rule because similar hazardous meteorological conditions rarely occur in those areas.

Subpart G—Maintenance and Inspections

This subpart proposes requirements for an FAA-approved maintenance and inspection program. Many proposed requirements are similar to those currently prescribed for air travel clubs

in Part 123. However, an additional requirement is proposed which would require a certificate holder to establish an airplane engine overhaul program that is recommended by the engine manufacturer, or obtain FAA approval of an overhaul program based upon operating experience or accepted industry maintenance practices. Presently, several operators who would be required to operate airplanes under proposed Part 125 have established maintenance programs for their airplane engines that include overhaul times recommended by the manufacturers or approved by the FAA. The performance of periodic overhauls, either using manufacturers' recommended times or a program approved by the FAA, is effective in establishing the reliability of airplane engines and necessary for assuring the airworthiness of airplanes operated under proposed Part 125.

Subpart H—Airman and Crewmember Requirements

This subpart proposes rules to ensure that airmen are appropriately certificated and that the composition of the crew complies with the minimum required by the airplane airworthiness certificate or the airplane flight manual.

The proposal would require a flight navigator or approved specialized navigation equipment for any airplane being operated outside the 48 contiguous states when its position cannot be fixed for a period of more than 1 hour. The capability of making a reliable determination of the position of the airplane during international flight is essential to ensuring a safe operation.

Subpart I—Flight Crewmember Requirements

This subpart proposes pilot qualifications, including recent experience requirements, initial and recurrent testing requirements, and instrument proficiency check requirements. Under this proposal both the pilot in command and the second in command would have to hold at least a commercial pilot certificate with appropriate category and class ratings and an instrument rating. In addition, the pilot in command would have to have a type rating. For flight under IFR, both of them would have to meet the recent instrument experience requirements prescribed for a pilot in command in Part 61 of the Federal Aviation Regulations.

However, the pilot in command would also have to meet additional flight time requirements, including cross-country flight time, night flight time involving takeoffs and landings, and actual and simulated instrument flight time.

Finally, instrument proficiency check requirements are proposed for each person serving as a pilot in command.

These proposals do not require the pilot in command to hold an airline transport pilot certificate, nor do they prescribe detailed training program requirements. In this respect the proposals differ from the airman qualification and training rules prescribed in Parts 121 and 123. Many of these requirements are not contained in current Subpart D, Part 91.

Under this regulatory scheme great reliance would be placed upon required tests and checks to ensure that airmen are proficient in the performance of their airman functions. These tests and checks are considered adequate to ensure an acceptable level of safety for operations to be governed by Part 125.

Subpart J—Flight Operations

This subpart contains rules governing when flight crewmembers may leave their duty stations on the flight deck, who may manipulate the controls, and who may be admitted to the flight deck. Other rules pertain to entering mechanical irregularities in the maintenance log of the airplane by the pilot in command and briefing passengers.

In addition, there are rules that require an FAA inspector be given access to the pilot compartment when the inspector presents the pilot in command with Form FAA 110A, Aviation Safety Inspector's Credentials, in the performance of inspection duties and require that a seat on the flight deck be made available to the FAA inspector suitable for use in conducting en route inspections.

These proposals are based on regulations currently prescribed in Parts 121 and 123 and are necessary to enable the FAA to adequately monitor airplane operations of this type.

Subpart K—Flight Release Rules

This subpart proposes requirements for a flight release system and specifies when a flight release is required for a flight and the conditions (such as fuel supply, communication and navigation facilities, and weather minimums) which must be met in order to execute a flight release. These requirements are based on some of those currently prescribed in Parts 121 and 123 for commercial operators and air travel clubs.

The rules require the certificate holder to designate a person who is to exercise operational control over each flight and execute a flight release setting forth the conditions under which the flight will be conducted. A certificate holder may authorize the pilot in command to

exercise such control and execute the flight release without the approval of any other person.

These flight release requirements ensure that responsible personnel carefully consider important factors bearing on the safety of a flight before its release and release it only when they are satisfied that it can be completed safely in accordance with the regulations.

Subpart L—Records and Reports

This subpart proposes requirements for preparing crewmember records, flight releases, load manifests, maintenance logs, alteration and repair reports, and airplane airworthiness releases and log entries.

Among other things, these proposals would require certificate holders to report defects or unairworthy conditions to the FAA. Reliable reporting of service difficulties is essential to the analysis and evaluation of maintenance effectiveness and will assure the maintenance of an adequate level of safety.

These proposals are based upon similar requirements currently prescribed in Parts 121, 123, and 135.

VI. Amendments Proposed for Parts 91, 121, 123, and 135

A. Part 91

Section 91.54—Truth in leasing. Section 91.54 currently excludes Part 121 and 135 certificate holders from the truth in leasing requirements prescribed in that section, since those operators maintain full operational control and the FAA is confident they are fully cognizant of their safety responsibilities under the Federal Aviation Regulations. For the same reasons, Part 125 certificate holders would not be required to comply with the truth in leasing requirements in § 91.54.

Subpart D—Large and Turbine-Powered Multiengine Airplanes

Under this notice it is proposed to amend the applicability of § 91.181(a) in Subpart D to exclude from its coverage those airplanes that proposed Part 125 would govern.

B. Part 121—Commercial Operators

Applicability. The rules proposed for new Part 125 consist of a consolidation of many of the rules currently prescribed in Part 123 for air travel clubs and in Part 121 for commercial operators, and will establish a sufficiently high level of safety for commercial operations not involving common carriage.

Accordingly, this notice proposes to amend the applicability of the

commercial operator certification and operating rules in Part 121 so that those rules would only apply, in the case of airplane operations, to a commercial operator conducting common carriage operations solely between places within any state of the United States with airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds. Commercial operations conducted with those airplanes, but not involving common carriage, would be governed by proposed Part 125.

Substitution of Part 125 operating certificate for Part 121 commercial operator certificate. In addition, it is proposed to amend the certificate provisions in § 121.53 and provide for the termination of Part 121 operating certificates that authorize operations as a commercial operator with large airplanes. The certificate held would terminate, unless the certificate holder applies to the FAA within 120 days after the effective date of this amendment for authority to conduct only common carriage operations solely between points entirely within any state with airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds; or for authority to conduct its operations under the rules of Part 121 governing air carriers.

Under this proposal the operator whose Part 121 certificate terminates would have to obtain a Part 125 operating certificate and comply with the rules in that Part.

C. Part 123—Air Travel Clubs

As previously pointed out, the rules proposed for new Part 125 consist of a consolidation of many of the rules currently prescribed in Part 123 for air travel clubs and in Part 121 for commercial operators. Furthermore, the applicability of proposed Part 125 would be broad enough to encompass the airplanes operated by currently certificated air travel clubs.

The FAA believes proposed Part 125 will establish a sufficiently high level of safety for air travel club operations, as well as for other commercial operations not involving common carriage. Accordingly, this notice proposes to revoke Part 123 and regulate air travel club operations under Part 125.

D. Part 135—Air Taxi and Commercial Operators

Under this proposal conforming

amendments would be made to the applicability of Part 135 to make it consistent with proposed Part 125.

VII. Availability of Regulatory Evaluation

The FAA has determined that this document involves a proposed regulation which is significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to: Raymond E. Ramakis, Chief, Regulatory Projects Branch, Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, S.W., Washington, D.C. 20591.

VIII. Cost Impact Analysis of Proposed Part 125

A. Availability of Impact Report

In keeping with the agency's policy of making a comprehensive analysis of cost impacts of proposed regulations, the FAA contracted with the Aerospace Corporation to estimate the expected costs that would be incurred by the industry should proposed Part 125 be adopted. The Aerospace Corporation prepared a report dated January 31, 1979, which sets forth an industry cost impact assessment of Part 125. After that report was prepared, certain additional regulatory proposals were developed for which separate industry cost impacts were assessed. A draft economic impact assessment covering all regulatory changes in the final proposed Part 125 is also provided. Copies of those reports are available in the FAA Rules Docket for examination by interested persons.

B. Summary of Report

In the conduct of the initial industry cost assessment, a data base was developed that identified those specific airplanes and operators that could be affected, along with the nature of the cost impact. The total population was segmented into a number of categories with similar cost impacts. Representative data and actual anticipated costs were gathered and extrapolated to the total population for these categories for each of the proposed rule changes incorporated in Part 125 at the time the assessment was made. For those proposed changes added subsequently, estimates were developed of the number of specific

airplanes that would be subject to a cost impact and representative cost factors were applied to the identified population to determine the likely industry cost impact.

As shown in Tables 1 and 2, the analyses resulted in an estimated initial cost to the industry of \$63.59 million and a recurring annual net cost of \$19.13 million, for a total first year cost of \$82.72 million. The proposed rules that would produce the largest industry cost impacts include "Certification Rules and Miscellaneous Requirements" (Subpart B), "Instrument and Equipment Requirements" (Subpart F), "Maintenance and Inspections" (Subpart G), and "Flight Crewmember Requirements" (Subpart I), with Subpart G producing the preponderant cost impact. These rules would mandate obtaining an operating certificate, the preparation of operations specifications and manuals, weather radar equipment, operation under an approved airworthiness inspection program, limited flightcrew duty time, and certain recurrent testing of flight crewmembers.

As indicated by reference to Table 3, the category of operator that would be most affected in absolute terms would be the 275 aircraft leasing companies and aviation service firms with \$55.95 million of initial cost and \$15.32 million in annual recurring costs. The 258 corporate transport operators would be the next most impacted with \$4.50 million of initial cost and \$4.07 million in annual recurring costs. Air travel clubs would have increased revenues as a result of the new rules lifting the prohibition of operation of their airplanes for compensation and hire as long as common carriage is not involved. This annual revenue gain of \$2.46 million for the 11 active air travel clubs would be far more than the minimal costs estimated for their compliance with the remaining proposed rule changes. Similar revenue gains are also possible for corporate transport and aircraft lease-aviation service firm operators but these benefits are not reflected in these industry impact estimates.

Relationship to Part 91 Subpart E

Part 91, Subpart E prescribes operating noise requirements for operations of aircraft under Parts 91, 121, 123, and 135. This notice does not propose to alter the requirements applicable to any particular aircraft under that rule even though it would be included in a new class for purposes of Part 125. Accordingly, necessary editorial changes will be made to Subpart E on the basis of the proposal.

Table 1.—Total Part 125 Industry Cost Impact Summary

(In millions of dollars)

Aircraft type	Type cost ¹	Operator category					Total
		Corporate transport	Lease-service firms	Museum education miscellaneous	Aircraft manufacturers	Travel clubs	
Piston.....	I = 3.33 R = 2.50	32.44	0.99	0	0	0.01	36.77
Turboprop.....	I = 0.88 R = 0.72	12.22	0.08	0	0	0	14.79
Turbojet.....	I = 0.31 R = 0.86	5.20	0.10	0	0	0	6.18
All Aircraft.....	I = 4.50 R = 4.07	18.32	0	0.56	0.38	0.02	19.19
		1.09	0	0.38	0	0	2.32
		55.95	1.10	0.56	0.03	0	62.14
		15.32	0.08	0.38	0.46	0	17.39
Total First Year Cost.....	C =	8.57	71.27	1.18	0.94	(2.43)	79.53
Total Industry Cost ²	I = R = C =	63.59 19.13 82.72					

¹I=Initial Cost; R=Annual recurring Cost; C=Total First Year Cost (I+R).

²Revenue Gain of \$2.46 million. Aircraft mix precludes engine type breakout.

³Includes unallocated costs attributable to aircraft whose registration status is in transition.

Table 2.—Part 125 Cost Impact by Subpart

(In millions of dollars)¹

Subpart	Title	Operator category					Total ²
		Corporate transport	Lease-service firms	Museum education miscellaneous	Aircraft manufacturers	Air travel clubs	
A	General.....	0.0	0.0	0.0	0.0	0.0	0.0
B	Cert. Rules.....	0.0	0.0	0.0	0.0	0.0	(2.41)
C	Manual Reqs.....	2.51	3.36	0.08	0.32	0.01	6.29
D	Aircraft Reqs.....	2.04	8.83	0.0	0.02	0.02	10.91
E	Airworth Reqs.....	0.09	2.25	0.0	0.20	0.0	2.54
F	Equip. Reqs.....	0.51	0.69	0.0	0.0	0.01	1.21
G	Maint. & Inspect.....	0.57	1.26	0.0	0.0	0.02	2.02
H	Crew Reqs.....	0.19	0.37	0.06	0.0	0.01	0.63
I	Pit. Crew Qualif.....	0.0	0.24	0.03	0.0	0.0	0.27
J	Flight Operations.....	0.0	0.0	0.0	0.0	0.0	0.0
K	Flight Release.....	0.98	1.87	0.81	0.0	0.0	3.66
L	Record & Reports.....	0.0	0.21	0.08	0.0	0.0	0.29
		0.06	46.91	0.0	0.20	0.0	47.17
		0.01	0.78	0.0	0.0	0.01	0.80
		0.25	0.0	0.0	0.0	0.0	0.25
		0.04	0.0	0.0	0.0	0.0	(0.1)
		0.03	0.02	0.0	0.0	0.0	0.05
		0.83	2.46	0.0	0.29	0.0	3.58
		0.0	0.0	0.0	0.0	0.0	0.0
		0.0	0.02	0.0	0.0	0.0	0.02
		0.00	1.00	0.0	0.00	0.0	2.00
		0.15	1.78	0.0	0.10	0.0	2.03
		0.0	0.05	0.0	0.0	0.0	0.05
		0.50	0.55	0.0	0.05	0.0	1.10

¹Upper Number is Initial Cost, Lower Number is Annual Recurring Cost.

²Does not include unallocated cost attributable to aircraft whose registration status was in transition.

³Added revenue, shown as cost savings.

⁴Cost savings due to deletion of Part 123 training requirements.

Table 3.—Aircraft and Operators With Cost Impacts From Proposed Part 125 (as of Sept. 30, 1978)

	Piston		Turboprop		Turbojet		Total	
	Number aircraft	Number operators	Number aircraft	Number operators	Number aircraft	Number operators	Number aircraft	Number operators ¹
Corporate Transport.....	217	181	66	50	43	39	326	258
Aircraft Lease & Service Firms.....	554	257	43	24	38	11	635	275
Museums, Exhibition, Education, Misc..	87	48	13	4	0	0	100	48
Aircraft Manufacturer.....	0	0	0	0	16	3	16	3
Air Travel Clubs.....	3	3	2	2	12	11	17	11
Unknown Operators ²	97		3		8		108	
Total.....	958		127		117		1,202	

¹The total data reflects the absolute number of operators even though the same operator may be included in more than one aircraft type.

²Identified aircraft listed as "sale reported" or "registration pending" on FAA Aircraft Registration Master File, adjusted for proportional representation of impacted aircraft in total data base.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend 14 CFR Chapter 1 as follows:

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION**§ 43.15 [Amended]**

1. By amending § 43.15(a) by deleting the words "Part 123" and substituting in lieu thereof the words "Part 125".

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

2. By revising the last sentence of § 65.85 (paragraphs (a) and (b)) to read as follows:

§ 65.85 Airframe rating; additional privileges.

* * * In addition, that person may:

(a) Perform the 100-hour inspection required by Part 91 of this chapter on an airframe, or any related part or appliance, and approve it for return to service and

(b) Perform the airframe inspections required under Part 125 of this chapter in accordance with applicable inspection procedures.

3. By revising the last sentence of § 65.87 (paragraphs (a) and (b)) to read as follows:

§ 65.87 Powerplant rating; additional privileges.

* * * In addition, that person may:

(a) Perform the 100-hour inspection required by Part 91 of this chapter on a powerplant or propeller, or any part thereof, and approve it for return to service; and

(b) Perform the powerplant and propeller inspections required under Part 125 of this chapter in accordance with applicable inspection procedures.

PART 91—GENERAL OPERATING AND FLIGHT RULES**§ 91.54 [Amended]**

4. By amending § 91.54(b)(1) (i) and (ii) by deleting the number "123" and substituting in lieu thereof the number "125".

5. By adding a new paragraph (c) to § 91.161 to read as follows:

§ 91.161 Applicability

(c) Sections 91.165, 91.169, 91.171, and subpart D of this Part do not apply to an aircraft inspected in accordance with Part 125 of this chapter.

§ 91.181 [Amended]

6. By amending the second sentence of § 91.181(a) by deleting Part number "123" and substituting in lieu thereof number "125".

7. In § 91.181(b) by deleting the Part number "123" from the introductory paragraph.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

8. By revising § 121.1(a)(5) to read as follows:

§ 121.1 Applicability

(a) * * *

(5) Each commercial operator when it engages in the carriage of persons or property in air commerce for compensation or hire—

(i) With large aircraft other than airplanes; or

(ii) As a common carrier solely between places entirely within any state of the United States, with large airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds.

9. By adding a paragraph (f) to § 121.53 to read as follows:

§ 121.53 Duration of certificate

* * *

(f) Each operating certificate with commercial operator authority for the operation of airplanes issued under this Part and in effect (effective date of amendment) terminates (120 days after effective date of amendment), unless the certificate holder applies prior to that date for authority to:

(1) Conduct its operations in accordance with the Air Carrier rules of Part 121; or

(2) Conduct common carriage operations solely between points entirely within any state of the United States using airplanes certificated to carry 20 or more passengers or a payload of more than 5,000 pounds.

If the certificate holder makes timely application in accordance with this paragraph, a certificate continues in effect until final FAA action is taken on the application.

PART 123—CERTIFICATION AND OPERATIONS: AIR TRAVEL CLUBS USING LARGE AIRPLANES [REVOKED]

10. By Revoking Part 123

PART 135—AIR TAXI AND COMMERCIAL OPERATORS

11. By amending § 135.1(a)(3) to read as follows:

§ 135.1 Applicability.

(a) * * *

(3) The carriage in air commerce of persons or property for compensation or hire as a commercial operator (not an air carrier) in aircraft certificated to carry less than 20 passengers or a maximum payload of 5,000 pounds or less.

PART 145—REPAIR STATIONS

12. In § 145.2 by amending the title of that section, by designating the existing paragraph as (a), and by adding a new paragraph (b) to read as follows:

§ 145.2 Performance of maintenance, preventive maintenance, alterations and required inspections for an air carrier or commercial operator under the continuous airworthiness requirements of Parts 121 and 127, and for airplanes under the inspection program required by Part 125.

(a) * * *

(b) Each repair station that performs inspections on airplanes governed by Part 125 of this chapter shall do that work in accordance with the inspection program approved for the operator of the airplane.

New Part 125

13. By adding to Subchapter G of 14 CFR Chapter 1 a new Part 125 to read as follows:

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES CERTIFICATED TO CARRY 20 OR MORE PASSENGERS OR MORE THAN 5000 POUNDS MAXIMUM PAYLOAD**Subpart A—General**

Sec.

- 125.1 Applicability.
- 125.3 Operating certificate and operations specifications required.
- 125.5 Display of certificate.
- 125.7 Definitions.

Subpart B—Certification Rules and Miscellaneous Requirements

- 125.21 Application for operating certificate.
- 125.23 Rules applicable to operations subject to this Part.
- 125.25 Management personnel required.
- 125.27 Issue of certificate.
- 125.29 Duration of certificate.
- 125.31 Contents of certificate and operations specifications.
- 125.33 Operations specifications not a part of certificate.
- 125.35 Amendment of operations specifications.
- 125.37 Emergency evacuation.
- 125.39 Duty time limitations.

Sec.

- 125.41 Carriage of narcotic drugs.
- 125.43 Availability of certificate and operations specifications.
- 125.45 Use of operations specifications.
- 125.47 Inspection authority.
- 125.49 Change of address.
- 125.51 Airport requirements.
- 125.53 En route navigational facilities.
- 125.55 Flight locating requirements.

Subpart C—Manual Requirements

- 125.71 Preparation.
- 125.73 Contents.
- 125.75 Airplane flight manual.

Subpart D—Airplane Requirements

- 125.91 Airplane requirements: general.
- 125.93 Airplane limitations.

Subpart E—Special Airworthiness Requirements

- 125.111 General.
- 125.113 Cabin interiors.
- 125.115 Internal doors.
- 125.117 Ventilation.
- 125.119 Fire precautions.
- 125.121 Proof of compliance with § 125.119.
- 125.123 Propeller deicing fluid.
- 125.125 Pressure cross-feed arrangements.
- 125.127 Location of fuel tanks.
- 125.129 Fuel system lines and fittings.
- 125.131 Fuel lines and fittings in designated fire zones.
- 125.133 Fuel valves.
- 125.135 Oil lines and fittings in designated fire zones.
- 125.137 Oil valves.
- 125.139 Oil system drains.
- 125.141 Engine breather lines.
- 125.143 Firewalls.
- 125.145 Fire-wall construction.
- 125.147 Cowling.
- 125.149 Engine accessory section diagram.
- 125.151 Powerplant fire protection.
- 125.153 Flammable fluids.
- 125.155 Shutoff means.
- 125.157 Lines and fittings.
- 125.159 Vent and drain lines.
- 125.161 Fire-extinguishing systems.
- 125.163 Fire-extinguishing agents.
- 125.165 Extinguishing agent container pressure relief.
- 125.167 Extinguishing agent container compartment temperature.
- 125.169 Fire-extinguishing system materials.
- 125.171 Fire-detector systems.
- 125.173 Fire detectors.
- 125.175 Protection of other airplane components against fire.
- 125.177 Control of engine rotation.
- 125.179 Fuel system independence.
- 125.181 Induction system ice prevention.
- 125.183 Carriage of cargo in passenger compartments.
- 125.185 Carriage of cargo in cargo compartments.
- 125.187 Landing gear: aural warning device.
- 125.189 Demonstration of emergency evacuation procedures.

Subpart F—Instrument and Equipment Requirements

- 125.201 Inoperable instruments and equipment.

Sec.

- 125.203 Radio and navigational equipment.
- 125.205 Equipment requirements: airplanes under IFR.
- 125.207 Emergency equipment requirements for airplanes having a passenger seating configuration of more than 19 passengers.
- 125.209 Emergency equipment: extended overwater operations.
- 125.211 Seat and safety belts.
- 125.213 Miscellaneous equipment.
- 125.215 Operating information required.
- 125.217 Passenger information.
- 125.219 Oxygen for medical use by passengers.
- 125.221 Icing conditions: operating limitations.
- 125.223 Airborne weather radar equipment requirements.

Subpart G—Maintenance and Inspection

- 125.241 Applicability.
- 125.243 Responsibility for airworthiness.
- 125.245 Maintenance, preventive maintenance, and alteration organization.
- 125.247 Inspection program.
- 125.249 Maintenance manual requirements.
- 125.251 Required inspection personnel.

Subpart H—Airman and Crewmember Requirements

- 125.261 Airman: limitations on use of services.
- 125.263 Composition of flightcrew.
- 125.265 Flight engineer requirements.
- 125.267 Flight navigator and specialized navigation equipment.
- 125.269 Flight attendants.
- 125.271 Emergency and emergency evacuation duties.

Subpart I—Flight Crewmember Requirements

- 125.281 Pilot in command qualifications.
- 125.283 Second in command qualifications.
- 125.285 Pilot qualifications: recent experience.
- 125.287 Initial and recurrent pilot testing requirements.
- 125.289 Initial and recurrent flight attendant crewmember testing requirements.
- 125.291 Pilot in command: instrument proficiency check requirements.
- 125.293 Crewmember: tests and checks, grace provisions, accepted standards.
- 125.295 Check pilot authorization: application and issue.
- 125.297 Approval of airplane simulators and other training devices.

Subpart J—Flight Operations

- 125.311 Flight crewmembers at controls.
- 125.313 Manipulation of controls when carrying passengers or cargo.
- 125.315 Admission to flight deck.
- 125.317 Inspector's credentials: admission to pilots' compartment; forward observer's seat.
- 125.319 Emergencies.
- 125.321 Reporting potentially hazardous meteorological conditions and irregularities of ground and navigation facilities.

- Sec.
125.323 Reporting mechanical irregularities.
125.325 Instrument approach procedures and IFR landing minimums.
125.327 Briefing of passengers before flight.
125.329 Minimum altitudes for use of autopilot.
125.331 Carriage of persons without compliance with the passenger-carrying requirements of this Part.

Subpart K—Flight Release Rules

- 125.351 Flight release authority.
125.353 Facilities and services.
125.355 Airplane equipment.
125.357 Communication and navigation facilities.
125.359 Flight release under VFR.
125.361 Flight release under IFR or over-the-top.
125.363 Flight release over water.
125.365 Alternate airport for departure.
125.367 Alternate airport for destination: IFR or over-the-top.
125.369 Alternate airport weather minimums.
125.371 Continuing flight in unsafe conditions.
125.373 Original flight release or amendment of flight release.
125.375 Fuel supply: nonturbine and turbopropeller-powered airplanes.
125.377 Fuel supply: turbine-engine-powered airplanes, other than turbopropeller.
125.379 Landing weather minimums: IFR.
125.381 Takeoff and landing weather minimums: IFR.
125.383 Load manifest.

Subpart L—Records and Reports

- 125.401 Crewmember record.
125.403 Flight release form.
125.405 Disposition of load manifest, flight release, and flight plans.
125.407 Maintenance log: airplanes.
125.409 Reports of defects or unworthy conditions.
125.411 Airworthiness release or airplane log entry.

Appendix A—Additional emergency equipment.

Appendix B—Criteria for demonstration of emergency evacuation procedures under § 125.189.

Subpart A—General**§ 125.1 Applicability.**

(a) Except as provided in paragraphs (b) and (c) of this section, this Part prescribes rules governing the operation of U.S.-registered civil airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5000 pounds.

(b) The rules of this Part do not apply to the operation of airplanes specified in paragraph (a) when they are required to be operated under Parts 121, 135, or 137 of this chapter.

(c) The rules of this Part, except § 125.247, do not apply to the operation of airplanes specified in paragraph (a) when they are operated outside the

United States by a person who is not a citizen of the United States.

§ 125.3 Operating certificate and operations specifications required.

(a) After (* a date to be specified which will be 120 days after the effective date of Part 125), no person may engage in operations governed by this Part unless an application for an operating certificate and appropriate operations specifications is made on a form and in a manner prescribed by the Administrator and filed with the FAA Flight Standards district office that has jurisdiction over the area in which the applicant's home base of operations is located. Applicants who file an application before (see * above) may continue to operate under the rules formerly applicable to their operations until the application for an operating certificate required by this Part has been denied or the operating certificate and operations specifications required by this Part have been issued.

(b) The rules of this Part which apply to a certificate holder also apply to any person who engages in any operation governed by this Part without an appropriate certificate and operations specifications required by this Part.

§ 125.5 Display of certificate.

The certificate holder must display a facsimile of the certificate in each of its aircraft.

§ 125.7 Definitions.

(a) For the purposes of this Part, "maximum payload means:

(1) For an airplane for which a maximum zero fuel weight is prescribed in FAA technical specifications, the maximum zero fuel weight, less empty weight, less all justifiable airplane equipment, and less the operating load (consisting of minimum flightcrew, foods and beverages and supplies and equipment related to foods and beverages, but not including disposable fuel or oil);

(2) For all other airplanes, the maximum certificated takeoff weight of an airplane, less the empty weight, less all justifiable airplane equipment, and less the operating load (consisting of minimum fuel load, oil, and flightcrew). The allowance for the weight of the crew, oil, and fuel is as follows:

(i) Crew—200 pounds for each crewmember required under this chapter.

(ii) Oil—350 pounds.

(iii) Fuel—the minimum weight of fuel required under this chapter for a flight between domestic points 174 nautical miles apart under VFR weather

conditions that does not involve extended overwater operations.

(b) For the purposes of this Part, "empty weight" means the weight of the airframe, engines, propellers, rotors, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.

(c) For the purposes of this Part, "maximum zero fuel weight" means the maximum permissible weight of an airplane with no disposable fuel or oil. The zero fuel weight figure may be found in either the airplane type certificate data sheet or the approved Airplane Flight Manual, or both.

(d) For the purposes of this section, "justifiable airplane equipment" means any equipment necessary for the operation of the airplane. It does not include equipment or ballast specifically installed, permanently or otherwise, for the purpose of altering the empty weight of an airplane to meet the maximum payload capacity.

Subpart B—Certification Rules and Miscellaneous Requirements**§ 125.21 Application for operating certificate.**

(a) Each applicant for the issuance of an operating certificate must submit an application in a form and manner prescribed by the Administrator to the FAA Flight Standards district office in whose area the applicant proposes to establish or has established its principal operations base. The application must be submitted at least 60 days before the date of intended operations.

(b) Each application submitted under paragraph (a) of this section must contain a signed statement showing the following:

(1) The name and address of each director and each officer or person employed or who will be employed in a management position described in § 125.25.

(2) A list of flight crewmembers with the type of airman certificate held, including ratings and certificate numbers.

§ 125.23 Rules applicable to operations subject to this Part.

Each person operating an Airplane in operations under this Part shall—

(a) While operating inside the United States, comply with the applicable rules in Part 91 of this chapter; and

(b) While operating outside the United States, comply with Annex 2, Rules of the Air, to the Convention on International Civil Aviation or the

regulations of any foreign country, whichever applies, and with any rules of Parts 61 and 91 of this chapter and this Part that are more restrictive than that Annex or those regulations and that can be complied with without violating that Annex or those regulations. Annex 2 is incorporated by reference in § 91.1(c) of this chapter.

§ 125.25 Management personnel required.

(a) Each applicant for a certificate under this Part must show that it has enough qualified management personnel, including at least a director of operations, to assure that its operations are conducted in accordance with the requirements of this Part.

(b) Each applicant shall—

(1) Set forth the duties, responsibilities, and authority of each of its management personnel in the general policy section of its manual;

(2) List in the manual the names and addresses of each of its management personnel;

(3) Designate one qualified person as responsible for the scheduling of inspections required by the manual and for the updating of the approved weight and balance system on all airplanes.

(c) Each certificate holder shall notify the FAA Flight Standards district office charged with the overall inspection of the certificate holder of any change made in the assignment of persons to the listed positions within 10 days, excluding Saturdays, Sundays, and Federal holidays, of such change.

§ 125.27 Issue of certificate.

(a) An applicant for a certificate under this subpart is entitled to a certificate if the Administrator finds that the applicant is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this Part and the operations specifications provided for in this Part.

(b) The Administrator may deny an application for a certificate under this subpart if the Administrator finds—

(1) That an operating certificate required under this Part or Parts 121, 123, or 135 of this chapter previously issued to the applicant was revoked; or

(2) That a person who was employed in a management position under § 125.25 of this Part with (or has exercised control with respect to) any certificate holder under Parts 121, 123, 125, or 135 of this chapter whose operating certificate has been revoked, will be employed in any of those positions or a similar position with the applicant and that the person's employment or control contributed materially to the reasons for revoking that certificate.

§ 125.29 Duration of certificate.

(a) A certificate issued under this Part is effective until surrendered, suspended, or revoked.

(b) The Administrator may suspend or revoke a certificate under section 609 of the Federal Aviation Act of 1958 and the applicable procedures of Part 13 of this chapter for any cause that, at the time of suspension or revocation, would have been grounds for denying an application for a certificate.

(c) If the Administrator suspends or revokes a certificate or it is otherwise terminated, the holder of that certificate shall return it to the Administrator.

§ 125.31 Contents of certificate and operations specifications.

(a) Each certificate issued under this Part contains the following:

(1) The holder's name.

(2) A description of the operations authorized.

(3) The date it is issued.

(b) The operations specifications issued under this Part contain the following:

(1) The kinds of operations authorized.

(2) The types and registration numbers of airplanes authorized for use.

(3) Special en route authorizations and limitations.

(4) Special airport authorizations and limitations.

(5) Approval of the provisions of the operator's manual relating to airplane inspections, together with necessary conditions and limitations.

(6) Registration numbers of airplanes that are to be inspected under an approved airplane inspection program under § 125.247.

(7) Procedures for control of weight and balance of airplanes.

(8) Any other item that the Administrator determines is necessary to cover a particular situation.

§ 125.33 Operations specifications not a part of certificate.

Operations specifications are not a part of an operating certificate.

§ 125.35 Amendment of operations specifications.

(a) The FAA Flight Standards district office charged with the overall inspection of the certificate holder may amend any operations specifications issued under this Part if—

(1) It determines that safety in air commerce requires that amendment; or

(2) Upon application by the holder, that district office determines that safety in air commerce allows that amendment.

(b) The certificate holder must file an application to amend operations

specifications at least 15 days before the date proposed by the applicant for the amendment to become effective, unless a shorter filing period is approved. The application must be on a form and in a manner prescribed by the Administrator and be submitted to the FAA Flight Standards district office charged with the overall inspection of the certificate holder.

(c) Within 30 days after a notice of refusal to approve a holder's application for amendment is received, the holder may petition the Director, Flight Standards Service, to reconsider the refusal to amend.

(d) When the FAA Flight Standards district office charged with the overall inspection of the certificate holder amends operations specifications, that district office gives notice in writing to the holder of a proposed amendment to the operations specifications, fixing a period of not less than 7 days within which the holder may submit written information, views, and arguments concerning the proposed amendment. After consideration of all relevant matter presented, that district office notifies the holder of any amendment adopted, or a rescission of the notice. The amendment becomes effective not less than 30 days after the holder receives notice of the adoption of the amendment, unless the holder petitions the Director, Flight Standards Service, for reconsideration of the amendment. In that case, the effective date of the amendment is stayed pending a decision by the Director. If the Director finds there is an emergency requiring immediate action as to safety in air commerce that makes the provisions of this paragraph impracticable or contrary to the public interest, the Director notifies the certificate holder that the amendment is effective on the date of receipt, without previous notice.

§ 125.37 Emergency evacuation.

Each passenger-carrying landplane emergency exit (other than over-the-wing) that is more than 6 feet from the ground with the airplane on the ground and the landing gear extended must have an approved means to assist the occupants in descending to the ground. The assisting means for a floor level emergency exit must be a slide or equivalent approved device suitable for rapid evacuation of passengers. During flight the slide, or equivalent approved device, must be kept readily accessible for immediate installation and use. This paragraph does not apply to the rear window emergency exits of DC-3 airplanes operated with less than 36 occupants, including crewmembers, and

less than five exits authorized for passenger use.

§ 125.39 Duty time limitations.

Each flight crewmember must be relieved from all duty for at least 8 consecutive hours during any 24-hour period.

§ 125.41 Carriage of narcotic drugs.

If the holder of a certificate issued under this Part permits any airplane owned or leased by that holder to be engaged in any operation that the certificate holder knows to be in violation of § 91.12(a) of this chapter, that operation is a basis for suspending or revoking the certificate.

§ 125.43 Availability of certificate and operations specifications.

Each certificate holder shall make its operating certificate and operations specifications available for inspection by the Administrator at its principal operations office.

§ 125.45 Use of operations specifications.

(a) Each certificate holder shall keep each of its employees informed of the provisions of its operations specifications that apply to the employee's duties and responsibilities.

(b) Each certificate holder shall maintain a complete and separate set of its operations specifications. In addition, each certificate holder shall insert pertinent excerpts of its operations specifications, or reference thereto, in its manual in such a manner that they retain their identity as operations specifications.

§ 125.47 Inspection authority.

(a) Each certificate holder shall allow the Administrator, at any time or place, to make any inspections or tests to determine its compliance with the Federal Aviation Act of 1958, the Federal Aviation Regulations, its operating certificate and operations specifications, or its eligibility to continue to hold its certificate.

§ 125.49 Change of address.

Each certificate holder shall notify the FAA Flight Standards district office charged with the overall inspection of its operations, in writing, at least 30 days in advance, of any change in the address of its principal business office, its principal operations base, or its principal maintenance base.

§ 125.51 Airport requirements.

(a) No certificate holder may use any airport unless it is adequate for the proposed operation, considering such items as size, surface, obstructions, and lighting.

(b) No pilot of an airplane carrying passengers at night may takeoff from, or land on, an airport unless—

(1) That pilot has determined the wind direction from an illuminated wind direction indicator or local ground communications, or, in the case of takeoff, that pilot's personal observations; and

(2) The limits of the area to be used for landing or takeoff are clearly shown by boundary or runway marker lights.

(c) For the purposes of paragraph (b) of this section, if the area to be used for takeoff or landing is marked by flare pots or lanterns, it must be approved by the Administrator.

§ 125.53 En route navigational facilities.

(a) Except as provided in paragraph (b) of this section, no certificate holder may conduct any operation over a route unless nonvisual ground aids are—

(1) Available over the route for navigating airplanes within the degree of accuracy required for ATC; and

(2) Located to allow navigation to any airport of destination, or alternate airport, within the degree of accuracy necessary for the operation involved.

(b) Nonvisual ground aids are not required for—

(1) Day VFR operations that can be conducted safely by pilotage because of the characteristics of the terrain;

(2) Night VFR operations on routes that the Administrator determines have reliable landmarks adequate for safe operation; or

(3) Operations where the use of celestial or other specialized means of navigation, such as an inertial navigation system, is approved.

(c) Except for those aids required for routes to alternate airports, the nonvisual ground navigational aids that are required for approval of routes outside of controlled airspace are specified in the operator's operations specifications.

§ 125.55 Flight locating requirements.

(a) Each certificate holder must have procedures established for locating each flight for which an FAA flight plan is not filed that—

(1) Provide the certificate holder with at least the information required to be included in a VFR flight plan;

(2) Provide for timely notification of an FAA facility or search and rescue facility, if an airplane is overdue or missing; and

(3) Provide the certificate holder with the location, date, and estimated time for reestablishing radio or telephone communications, if the flight will operate in an area where communications cannot be maintained.

(b) Flight locating information shall be retained at the certificate holder's principal place of business, or at other places designated by the certificate holder in the flight locating procedures, until the completion of the flight.

(c) Each certificate holder shall furnish the representative of the Administrator assigned to it with a copy of its flight locating procedures and any changes or additions, unless those procedures are included in a manual required under this Part.

Subpart C—Manual Requirements

§ 125.71 Preparation.

(a) Each certificate holder, other than one who is the only pilot used in the certificate holder's operations, shall prepare and keep current a manual setting forth the certificate holder's procedures and policies acceptable to the Administrator. This manual must be used by the certificate holder's flight, ground, and maintenance personnel in conducting its operations. However, the Administrator may authorize a deviation from this paragraph if the Administrator finds that, because of the limited size of the operation, all or part of the manual is not necessary for guidance of flights, ground, or maintenance personnel.

(b) Each certificate holder shall maintain at least one copy of the manual at its principal operations base.

(c) The manual must not be contrary to any applicable Federal regulations, foreign regulation applicable to the certificate holder's operations in foreign countries, or the certificate holder's operating certificate or operations specifications.

(d) A copy of the manual, or appropriate portions of the manual (and changes and additions) shall be made available to maintenance and ground operations personnel by the certificate holder and furnished to—

(1) Its flight crewmembers; and

(2) The FAA Flight Standards district office charged with the overall inspection of its operations.

(e) Each employee of the certificate holder to whom a manual or appropriate portions of it are furnished under paragraph (d)(1) of this section shall keep it up to date with the changes and additions furnished to them.

(f) Except as provided in paragraph (g) of this section, each certificate holder shall carry appropriate parts of the manual of each airplane when away from the principal operations base. The appropriate parts must be available for use by ground or flight personnel. If a certificate holder carries aboard an airplane all or any portion of the

maintenance part of its manual in microfilm, it must also carry a reading device that provides a legible facsimile image of the microfilmed maintenance information and instructions.

(g) If a certificate holder conducts airplane inspections or maintenance at specified stations where it keeps the approved inspection program manual, it is not required to carry the manual aboard the airplane en route to those stations.

§ 125.73 Contents.

Each manual shall have the date of the last revision on each revised page. The manual must include—

(a) The name of each management person who is authorized to act for the certificate holder, the person's assigned area of responsibility, and the person's duties, responsibilities, and authority;

(b) Procedures for ensuring compliance with airplane weight and balance limitations;

(c) Copies of the certificate holder's operations specifications or appropriate extracted information, including area of operations authorized, category and class of airplane authorized, crew complements, and types of operations authorized;

(d) Procedures for complying with accident notification requirements;

(e) Procedures for ensuring that the pilot in command knows that required airworthiness inspections have been made and that the airplane has been approved for return to service in compliance with applicable maintenance requirements;

(f) Procedures for reporting and recording mechanical irregularities that come to the attention of the pilot in command before, during, and after completion of a flight;

(g) Procedures to be followed by the pilot in command for determining that mechanical irregularities or defects reported for previous flights have been corrected or that correction has been deferred;

(h) Procedures to be followed by the pilot in command to obtain maintenance, preventive maintenance, and servicing of the airplane at a place where previous arrangements have not been made by the operator, when the pilot is authorized to so act for the operator;

(i) Procedures for the release for, or continuation of, flight if any item of equipment required for the particular type of operation becomes inoperative or unserviceable en route;

(j) Procedures for refueling airplanes, eliminating fuel contamination, protecting from fire (including electrostatic protection), and supervising

and protecting passengers during refueling;

(k) Procedures to be followed by the pilot in command in the briefing under § 125.217;

(l) Flight locating procedures, when applicable;

(m) Procedures for ensuring compliance with emergency procedures, including a list of the functions assigned each category of required crewmembers in connection with an emergency and emergency evacuation;

(n) En route qualification procedures for pilots;

(o) The approved airplane inspection program;

(p) Procedures and instructions to enable personnel to recognize hazardous materials, as defined in Title 49 CFR, and if these materials are to be carried, stored, or handled, procedures and instructions for—

(1) Accepting shipment of hazardous material required by Title 49 CFR, to assure proper packaging, marking, labeling, shipping documents, compatibility of articles, and instructions on their loading, storage, and handling;

(2) Notification and reporting hazardous material incidents as required by Title 49 CFR; and

(3) Notification of the pilot in command when there are hazardous materials aboard, as required to Title 49 CFR;

(q) Procedures for the evacuation of persons who may need the assistance of another person to move expeditiously to an exit if an emergency occurs; and

(r) Other procedures and policy instructions regarding the certificate holder's operations, that are issued by the certificate holder.

§ 125.75 Airplane flight manual.

(a) Each certificate holder shall keep a current approved Airplane Flight Manual for each type of transport category airplane that it operates.

(b) In each transport-category airplane, the certificate holder shall carry either the manual required by § 125.71, if it contains the information required for the applicable flight manual and this information is clearly identified as flight manual requirements, or an approved Airplane Flight Manual. If the certificate holder elects to carry the manual required by § 125.71, it may revise the operating procedures sections and modify the presentation of performance data from the applicable flight manual if the revised operating procedures and modified performance data presentation are approved by the Administrator.

Subpart D—Airplane Requirements

§ 125.91 Airplane requirements: General.

(a) No certificate holder may operate an airplane governed by this Part unless it—

(1) Carries an appropriate current airworthiness certificate issued under this chapter; and

(2) Is in an airworthy condition and meets the applicable airworthiness requirements of this chapter, including those relating to identification and equipment.

(b) Each airplane operated by a certificate holder shall be initially weighed prior to being placed in service and shall be reweighed every 3 calendar years thereafter to establish its empty weight. A certificate holder may use an approved weight and balance control system based on average, assumed, or estimated weight to comply with applicable airworthiness requirements and operating limitations.

§ 125.93 Airplane limitations.

No certificate holder may operate a land airplane (other than a DC-3, C-46, CV-240, CV-340, CV-440, CV-580, CV-600, CV-640, or Martin 404) in an extended overwater operation unless it is certificated or approved as adequate for ditching under the ditching provisions of Part 25 of this chapter.

Subpart E—Special Airworthiness Requirements

§ 125.111 General.

(a) Except as provided in paragraph (b) of this section, no certificate holder may use an airplane powered by airplane engines rated at more than 600 horsepower each for maximum continuous operation unless that airplane meets the requirements of §§ 125.113 through 125.181.

(b) If the Administrator determines that, for a particular model of airplane used in cargo service, literal compliance with any requirement under paragraph (a) of this section would be extremely difficult and that compliance would not contribute materially to the objective sought, the Administrator may require compliance with only those requirements that are necessary to accomplish the basic objectives of this Part.

(c) This section does not apply to any airplane certificated under—

(1) Part 4b of the Civil Air Regulations in effect after October 31, 1948;

(2) Part 25 of this chapter; or

(3) Special Civil Air Regulation 422, 422A, or 422B.

§ 125.113 Cabin interiors.

(a) Upon the first major overhaul of an airplane cabin or refurbishing of the cabin interior, all materials in each compartment used by the crew or passengers that do not meet the following requirements must be replaced with materials that meet these requirements:

(1) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, § 25.853 in effect on April 30, 1972.

(2) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the materials requirement under which the airplane was type certificated.

(b) Except as provided in paragraph (a) of this section, each compartment used by the crew or passengers must meet the following requirements:

(1) Materials must be at least flash resistant.

(2) The wall and ceiling linings and the covering of upholstery, floors, and furnishings must be flame resistant.

(3) Each compartment where smoking is to be allowed must be equipped with self-contained ash trays that are completely removable and other compartments must be placarded against smoking.

(4) Each receptacle for used towels, papers, and wastes must be of fire-resistant material and must have a cover or other means of containing possible fires started in the receptacles.

§ 125.115 Internal doors.

In any case where internal doors are equipped with louvres or other ventilating means, there must be a means convenient to the crew for closing the flow of air through the door when necessary.

§ 125.117 Ventilation.

Each passenger or crew compartment must be suitably ventilated. Carbon monoxide concentration may not be more than one part in 20,000 parts of air, and fuel fumes may not be present. In any case where partitions between compartments have louvres or other means allowing air to flow between compartments, there must be a means convenient to the crew for closing the flow of air through the partitions when necessary.

§ 125.119 Fire precautions.

(a) Each compartment must be designed so that, when used for storing cargo or baggage, it meets the following requirements:

(1) No compartment may include controls, wiring, lines, equipment, or accessories that would upon damage or

failure, affect the safe operation of the airplane unless the item is adequately shielded, isolated, or otherwise protected so that it cannot be damaged by movement of cargo in the compartment and so that damage to or failure of the item would not create a fire hazard in the compartment.

(2) Cargo or baggage may not interfere with the functioning of the fire-protective features of the compartment.

(3) Materials used in the construction of the compartments, including tie-down equipment, must be at least flame resistant.

(4) Each compartment must include provisions for safeguarding against fires according to the classifications set forth in paragraphs (b) through (f) of this section.

(b) *Class A.* Cargo and baggage compartments are classified in the "A" category if a fire therein would be readily discernible to a member of the crew while at that crewmember's station, and all parts of the compartment are easily accessible in flight. There must be a hand fire extinguisher available for each Class A compartment.

(c) *Class B.* Cargo and baggage compartments are classified in the "B" category if enough access is provided while in flight to enable a member of the crew to effectively reach all of the compartment and its contents with a hand fire extinguisher and the compartment is so designed that, when the access provisions are being used, no hazardous amount of smoke, flames, or extinguishing agent enters any compartment occupied by the crew or passengers. Each Class B compartment must comply with the following:

(1) It must have a separate approved smoke or fire detector system to give warning at the pilot or flight engineer stations.

(2) There must be a hand fire extinguisher available for the compartment.

(3) It must be lined with fire-resistant material, except that additional service lining of flame-resistant material may be used.

(d) *Class C.* Cargo and baggage compartments are classified in the "C" category if they do not conform with the requirements for the "A", "B", "D", or "E" categories. Each Class C compartment must comply with the following:

(1) It must have a separate approved smoke or fire detector system to give warning at the pilot or flight engineer station.

(2) It must have an approved built-in fire-extinguishing system controlled from the pilot or flight engineer station.

(3) It must be designed to exclude hazardous quantities of smoke, flames, or extinguishing agents from entering into any compartment occupied by the crew or passengers.

(4) It must have ventilation and draft controlled so that the extinguishing agent provided can control any fire that may start in the compartment.

(5) It must be lined with fire-resistant material, except that additional service lining of flame-resistant material may be used.

(e) *Class D.* Cargo and baggage compartments are classified in the "D" category if they are so designed and constructed that a fire occurring therein will be completely confined without endangering the safety of the airplane or the occupants. Each Class D compartment must comply with the following:

(1) It must have a means to exclude hazardous quantities of smoke, flames, or noxious gases from entering any compartment occupied by the crew or passengers.

(2) Ventilation and drafts must be controlled within each compartment so that any fire likely to occur in the compartment will not progress beyond safe limits.

(3) It must be completely lined with fire-resistant material.

(4) Consideration must be given to the effect of heat within the compartment on adjacent critical parts of the airplane.

(f) *Class E.* On airplanes used for the carriage of cargo only, the cabin area may be classified as a Class "E" compartment. Each Class E compartment must comply with the following:

(1) It must be completely lined with fire-resistant material.

(2) It must have a separate system of an approved type smoke or fire detector to give warning at the pilot or flight engineer station.

(3) It must have a means to shut off the ventilating air flow to or within the compartment and the controls for that means must be accessible to the flightcrew in the crew compartment.

(4) It must have a means to exclude hazardous quantities of smoke, flames, or noxious gases from entering the flightcrew compartment.

(5) Required crew emergency exits must be accessible under all cargo loading conditions.

§ 125.121 Proof of compliance with § 125.119.

Compliance with those provisions of § 125.119 that refer to compartment accessibility, the entry of hazardous quantities of smoke or extinguishing agent into compartment occupied by the

crew or passengers, and the dissipation of the extinguishing agent in Class "C" compartments must be shown by tests in flight. During these tests it must be shown that no inadvertent operation of smoke or fire detectors in other compartments within the airplane would occur as a result of fire contained in any one compartment, either during the time it is being extinguished, or thereafter, unless the extinguishing system floods those compartments simultaneously.

§ 125.123 Propeller deicing fluid.

If combustible fluid is used for propeller deicing, the certificate holder must comply with § 125.153.

§ 125.125 Pressure cross-feed arrangements.

(a) Pressure cross-feed lines may not pass through parts of the airplane used for carrying persons or cargo unless there is a means to allow crewmembers to shut off the supply of fuel to these lines or the lines are enclosed in a fuel and fume-proof enclosure that is ventilated and drained to the exterior of the airplane. However, such an enclosure need not be used if those lines incorporate no fittings on or within the personnel or cargo areas and are suitably routed or protected to prevent accidental damage.

(b) Lines that can be isolated from the rest of the fuel system by valves at each end must incorporate provisions for relieving excessive pressures that may result from exposure of the isolated line to high temperatures.

§ 125.127 Location of fuel tanks.

(a) Fuel tanks must be relocated in accordance with § 125.153

(b) No part of the engine nacelle skin that lies immediately behind a major air outlet from the engine compartment may be used as the wall of an integral tank.

(c) Fuel tanks must be isolated from personnel compartments by means of fume- and fuel-proof enclosures.

§ 125.129 Fuel system lines and fittings.

(a) Fuel lines must be installed and supported so as to prevent excessive vibration and so as to be adequate to withstand loads due to fuel pressure and accelerated flight conditions.

(b) Lines connected to components of the airplane between which there may be relative motion must incorporate provisions for flexibility.

(c) Flexible connections in lines that may be under pressure and subject to axial loading must use flexible hose assemblies rather than hose clamp connections.

(d) Flexible hoses must be of an acceptable type or proven suitable for the particular application.

§ 125.131 Fuel lines and fittings in designated fire zones.

Fuel lines and fittings in each designated fire zone must comply with § 125.157.

§ 125.133 Fuel valves.

Each fuel valve must—

(a) Comply with § 125.155;

(b) Have positive stops or suitable index provisions in the "on" and "off" position; and

(c) Be supported so that loads resulting from its operation or from accelerated flight conditions are not transmitted to the lines connected to the valve.

§ 125.135 Oil lines and fittings in designated fire zones.

Oil line and fittings in each designated fire zone must comply with § 125.157.

§ 125.137 Oil valves.

(a) Each oil valve must—

(1) Comply with § 125.155;

(2) Have positive stops or suitable index provisions in the "on" and "off" positions; and

(3) Be supported so that loads resulting from its operation or from accelerated flight conditions are not transmitted to the lines attached to the valve.

(b) The closing of an oil shutoff means must not prevent feathering the propeller, unless equivalent safety provisions are incorporated.

§ 125.139 Oil system drains.

Accessible drains incorporating either a manual or automatic means for positive locking in the closed position must be provided to allow safe drainage of the entire oil system.

§ 125.141 Engine breather lines.

(a) Engine breather lines must be so arranged that condensed water vapor that may freeze and obstruct the line cannot accumulate at any point.

(b) Engine breathers must discharge in a location that does not constitute a fire hazard in case foaming occurs and so that oil emitted from the line does not impinge upon the pilots' windshield.

(c) Engine breathers may not discharge into the engine air induction system.

§ 125.143 Firewalls.

Each engine, auxiliary power unit, fuel-burning heater, or other item of combusting equipment that is intended for operation in flight must be isolated from the rest of the airplane by means of firewalls or shrouds, or by other equivalent means.

§ 125.145 Fire-wall construction.

Each fire wall and shroud must—

(a) Be so made that no hazardous quantity of air, fluids, or flame can pass from the engine compartment to other parts of the airplane;

(b) Have all openings in the fire wall or shroud sealed with close-fitting fireproof grommets, bushings, or firewall fittings;

(c) Be made of fireproof material; and

(d) Be protected against corrosion.

§ 125.147 Cowling.

(a) Cowling must be made and supported so as to resist the vibration, inertia, and air loads to which it may be normally subjected.

(b) Provisions must be made to allow rapid and complete drainage of the cowling in normal ground and flight attitudes. Drains must not discharge in locations constituting a fire hazard. Parts of the cowling that are subjected to high temperatures because they are near exhaust system parts or because of exhaust gas impingement must be made of fireproof material. Unless otherwise specified in these regulations, all other parts of the cowling must be made of material that is at least fire resistant.

§ 125.149 Engine accessory section diaphragm.

Unless equivalent protection can be shown by other means, a diaphragm that complies with § 125.145 must be provided on air-cooled engines to isolate the engine power section and all parts of the exhaust system from the engine accessory compartment.

§ 125.151 Powerplant fire protection.

(a) Designated fire zones must be protected from fire by compliance with §§ 125.153 through 125.159.

(b) Designated fire zones are—

(1) Engine accessory sections;

(2) Installations where no isolation is provided between the engine and accessory compartment; and

(3) Areas that contain auxiliary power units, fuel-burning heaters, and other combustion equipment.

§ 125.153 Flammable fluids.

(a) No tanks or reservoirs that are a part of a system containing flammable fluids or gases may be located in designated fire zones, except where the fluid contained, the design of the system, the materials used in the tank, the shutoff means, and the connections, lines, and controls provide equivalent safety.

(b) At least one-half inch of clear airspace must be provided between any tank or reservoir and a firewall or shroud isolating a designated fire zone.

§ 125.155 Shutoff means.

(a) Each engine must have a means for shutting off or otherwise preventing hazardous amounts of fuel, oil, deicer, and other flammable fluids from flowing into, within, or through any designated fire zone. However, means need not be provided to shut off flow in lines that are an integral part of an engine.

(b) The shutoff means must allow an emergency operating sequence that is compatible with the emergency operation of other equipment, such as feathering the propeller, to facilitate rapid and effective control of fires.

(c) Shutoff means must be located outside of designated fire zones, unless equivalent safety is provided, and it must be shown that no hazardous amount of flammable fluid will drain into any designated fire zone after a shutoff.

(d) Adequate provisions must be made to guard against inadvertent operation of the shutoff means and to make it possible for the crew to reopen the shutoff means after it has been closed.

§ 125.157 Lines and fittings.

(a) Each line, and its fittings, that is located in a designated fire zone, if it carries flammable fluids or gases under pressure, or is attached directly to the engine, or is subject to relative motion between components (except lines and fittings forming an integral part of the engine), must be flexible and fire-resistant with fire-resistant, factory-fixed, detachable, or other approved fire-resistant ends.

(b) Lines and fittings that are not subject to pressure or to relative motion between components must be of fire-resistant materials.

§ 125.159 Vent and drain lines.

All vent and drain lines, and their fittings, that are located in a designated fire zone must, if they carry flammable fluids or gases, comply with § 125.157, if the Administrator finds that the rupture or breakage of any vent or drain line may result in a fire hazard.

§ 125.161 Fire-extinguishing systems.

(a) Unless the certificate holder shows that equivalent protection against destruction of the airplane in case of fire is provided by the use of fireproof materials in the nacelle and other components that would be subjected to flame, fire-extinguishing systems must be provided to serve all designated fire zones.

(b) Materials in the fire-extinguishing system must not react chemically with the extinguishing agent so as to be a hazard.

§ 125.163 Fire-extinguishing agents.

Only methyl bromide, carbon dioxide, or another agent that has been shown to provide equivalent extinguishing action may be used as a fire-extinguishing agent. If methyl bromide or any other toxic extinguishing agent is used, provisions must be made to prevent harmful concentrations of fluid or fluid vapors from entering any personnel compartment either because of leakage during normal operation of the airplane or because of discharging the fire extinguisher on the ground or in flight when there is a defect in the extinguishing system. If a methyl bromide system is used, the containers must be charged with dry agent and sealed by the fire-extinguisher manufacturer or some other person using satisfactory recharging equipment. If carbon dioxide is used, it must not be possible to discharge enough gas into the personnel compartments to create a danger of suffocating the occupants.

§ 125.165 Extinguishing agent container pressure relief.

Extinguishing agent containers must be provided with a pressure relief to prevent bursting of the container because of excessive internal pressures. The discharge line from the relief connection must terminate outside the airplane in a place convenient for inspection on the ground. An indicator must be provided at the discharge end of the line to provide a visual indication when the container has discharged.

§ 125.167 Extinguishing agent container compartment temperature.

Precautions must be taken to ensure that the extinguishing agent containers are installed in places where reasonable temperatures can be maintained for effective use of the extinguishing system.

§ 125.169 Fire-extinguishing system materials.

(a) Except as provided in paragraph (b) of this section, each component of a fire-extinguishing system that is in a designated fire zone must be made of fireproof materials.

(b) Connections that are subject to relative motion between components of the airplane must be made of flexible materials that are at least fire-resistant and be located so as to minimize the probability of failure.

§ 125.171 Fire-detector systems.

Enough quick-acting fire detectors must be provided in each designated fire zone to assure the detection of any fire that may occur in that zone.

§ 125.173 Fire detectors.

Fire detectors must be made and installed in a manner that assures their ability to resist, without failure, all vibration, inertia, and other loads to which they may be normally subjected. Fire detectors must be unaffected by exposure to fumes, oil, water, or other fluids that may be present.

§ 125.175 Protection of other airplane components against fire.

(a) Except as provided in paragraph (b) of this section, all airplane surfaces aft of the nacelles in the area of one nacelle diameter on both sides of the nacelle centerline must be made of material that is at least fire resistant.

(b) Paragraph (a) of this section does not apply to tail surfaces lying behind nacelles unless the dimensional configuration of the airplane is such that the tail surfaces could be affected readily by heat, flames, or sparks emanating from a designated fire zone or from the engine from a designated fire zone or from the engine compartment of any nacelle.

§ 125.177 Control of engine rotation.

(a) Except as provided in paragraph (b) of this section, each airplane must have a means of individually stopping and restarting the rotation of any engine in flight.

(b) In the case of turbine engine installations, a means of stopping the rotation need be provided only if the Administrator finds that rotation could jeopardize the safety of the airplane.

§ 125.179 Fuel system independence.

(a) Each airplane fuel system must be arranged so that the failure of any one component does not result in the irrecoverable loss of power of more than one engine.

(b) A separate fuel tank need not be provided for each engine if the certificate holder shows that the fuel system incorporates features that provide equivalent safety.

§ 125.181 Induction system ice prevention.

A means for preventing the malfunctioning of each engine due to ice accumulation in the engine air induction system must be provided for each airplane.

§ 125.183 Carriage of cargo in passenger compartments.

(a) Except as provided in paragraph (b) or (c) of this section, no certificate holder may carry cargo in the passenger compartment of an airplane.

(b) Cargo may be carried aft of the foremost seated passengers if it is

carried in an approved cargo bin that meets the following requirements:

(1) The bin must withstand the load factors and emergency landing conditions applicable to the passenger seats of the airplane in which the bin is installed, multiplied by a factor of 1.15, using the combined weight of the bin and the maximum weight of cargo that may be carried in the bin.

(2) The maximum weight of cargo that the bin is approved to carry and any instructions necessary to ensure proper weight distribution within the bin must be conspicuously marked on the bin.

(3) The bin may not impose any load on the floor or other structure of the airplane that exceeds the load limitations of that structure.

(4) The bin must be attached to the seat tracks or to the floor structure of the airplane, and its attachment must withstand the load factors and emergency landing conditions applicable to the passenger seats of the airplane in which the bin is installed, multiplied by either the factor 1.15 or the seat attachment factor specified for the airplane, whichever is greater, using the combined weight of the bin and the maximum weight of cargo that may be carried in the bin.

(5) The bin may not be installed in a position that restricts access to or use of any required emergency exit, or of the aisle in the passenger compartment.

(6) The bin must be fully enclosed and made of material that is at least flame resistant.

(7) Suitable safeguards must be provided within the bin to prevent the cargo from shifting under emergency landing conditions.

(8) The bin may not be installed in a position that obscures any passenger's view of the "seat belt" sign, "no smoking" sign, or any required exit sign, unless an auxiliary sign or other approved means for proper notification of the passenger is provided.

(c) All cargo may be carried forward of the foremost seated passengers and carry-on baggage may be carried alongside the foremost seated passengers if the cargo (including carry-on baggage) is carried either in approved bins as specified in paragraph (b) of this section or in accordance with the following:

(1) It is properly secured by a safety belt or other tie down having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions.

(2) It is packaged or covered in a manner to avoid possible injury to passengers.

(3) It does not impose any load on seats or the floor structure that exceeds

the load limitation for those components.

(4) Its location does not restrict access to or use of any required emergency or regular exit, or of the aisle in the passenger compartment.

(5) Its location does not obscure any passenger's view of the "seat belt" sign, "no smoking" sign, or required exit sign, unless an auxiliary sign or other approved means for proper notification of the passenger is provided.

§ 125.185 Carriage of cargo in cargo compartments.

When cargo is carried in cargo compartments that are designed to require the physical entry of a crewmember to extinguish any fire that may occur during flight, the cargo must be loaded so as to allow a crewmember to effectively reach all parts of the compartment with the contents of a hand fire extinguisher.

§ 125.187 Landing gear: Aural warning device.

(a) Each large airplane must have a landing gear aural warning device that functions continuously under the following conditions:

(1) For airplanes with an established approach wing-flap position, whenever the wing flaps are extended beyond the maximum certificated approach climb configuration position in the Airplane Flight Manual and the landing gear is not fully extended and locked.

(2) For airplanes without an established approach climb wing-flap position, whenever the wing flaps are extended beyond the position at which landing gear extension is normally performed and the landing gear is not fully extended and locked.

(b) The warning system required by paragraph (a) of this section—

(1) May not have a manual shutoff;

(2) Must be in addition to the throttle-actuated device installed under the type certification airworthiness requirements; and

(3) May utilize any part of the throttle-actuated system including the aural warning device.

(c) The flap position sensing unit may be installed at any suitable place in the airplane.

§ 125.189 Demonstration of emergency evacuation procedures.

(a) Each certificate holder must show, by actual demonstration conducted in accordance with paragraph (a) of Appendix B to this Part, that the emergency evacuation procedures for each type and model of airplane with a seating capacity of more than 44 passengers, that is used in its passenger-carrying operations, allow the

evacuation of the full seating capacity, including crewmembers, in 90 seconds or less, in each of the following circumstances:

(1) A demonstration must be conducted upon the initial introduction of a type and model of airplane into passenger-carrying operations. However, the demonstration need not be repeated for any airplane type or model that has the same number and type of exits, the same cabin configuration, and the same emergency equipment as any other airplane used by the certificate holder in successfully demonstrating emergency evacuation in compliance with this paragraph.

(2) A demonstration must be conducted—

(i) Upon increasing by more than 5 percent the passenger seating capacity for which successful demonstration has been conducted; or

(ii) Upon a major change in the passenger cabin interior configuration that will affect the emergency evacuation of passengers.

(b) Each certificate holder operating or proposing to operate one or more landplanes in extended overwater operations, or otherwise required to have certain equipment under § 125.209, must show, by a simulated ditching conducted in accordance with paragraph (b) of Appendix B to this Part, that it has the ability to efficiently carry out its ditching procedures.

Subpart F—Instrument and Equipment Requirements**§ 125.201 Inoperable instruments and equipment.**

(a) No person may take off an airplane unless the following instruments and equipment are in an operable condition:

(1) Instruments and equipment that are either specifically or otherwise required by the airworthiness requirements under which the airplane is type certificated and which are essential for safe operations under all operating conditions.

(2) Instruments and equipment required by an airworthiness directive to be in operable condition unless the airworthiness directive provides otherwise.

(b) No person may take off any airplane with inoperable instruments or equipment installed, other than those described in paragraph (a) of this section, unless the following conditions are met:

(1) An approved Minimum Equipment List exists for the airplane type.

(2) The airplane has within it a letter of authorization, issued by the FAA

Flight Standards district office having certification responsibility for the certificate holder, authorizing operation of the airplane under the Minimum Equipment List. The letter of authorization may be obtained by written request of the certificate holder. The Minimum Equipment List and the letter of authorization constitute a supplemental type certificate for the airplane.

(3) The approved Minimum Equipment List must provide for the operation of the airplane with the instruments and equipment in an inoperable condition.

(4) The airplane records available to the pilot must include an entry describing the inoperable instruments and equipment.

(5) The airplane is operated under all applicable conditions and limitations contained in the Minimum Equipment List and the letter authorizing the use of the list.

(c) Without regard to the requirements of paragraph (a)(1) of this section, an airplane with inoperable instruments or equipment may be operated under a special flight permit under §§ 21.197 and 21.199 of this chapter.

§ 125.203 Radio and navigational equipment.

(a) No person may operate an airplane unless it has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.

(b) No person may operate an airplane over-the-top unless it has radio navigational equipment able to receive radio signals from the ground facilities to be used.

(c) No person may operate an airplane carrying passengers under IFR or in extended overwater operations unless it has at least the following radio communication and navigational equipment appropriate to the facilities to be used which are capable of transmitting to, and receiving from, at any place on the route to be flown, at least one ground facility:

(1) Two transmitters, (2) two microphones, (3) two headsets or one headset and one speaker, (4) a marker beacon receiver, (5) two independent receivers for navigation, and (6) two independent receivers for communications.

(d) For the purposes of paragraphs (c)(5) and (c)(6) of this section, a receiver is independent if the function of any part of it does not depend on the functioning of any part of another receiver. However, a receiver that can receive both communications and navigational signals may be used in place of a separate communications

receiver and a separate navigational signal receiver.

§ 125.205 Equipment requirements: Airplanes under IFR.

No person may operate an airplane under IFR unless it has—

(a) A vertical speed indicator;
(b) A free-air temperature indicator;
(c) A heated pitot tube for each airspeed indicator;

(d) A power failure warning device or vacuum indicator to show the power available for gyroscopic instruments from each power source;

(e) An alternate source of static pressure for the altimeter and the airspeed and vertical speed indicators;

(f) At least two generators each of which is on a separate engine, or which any combination of one-half of the total number are rated sufficiently to supply the electrical loads of all required instruments and equipment necessary for safe emergency operation of the airplane; and

(g) Two independent sources of energy (with means of selecting either), of which at least one is an engine-driven pump or generator, each of which is able to drive all gyroscopic instruments and installed so that failure of one instrument or source does not interfere with the energy supply to the remaining instruments or the other energy source. For the purposes of this paragraph, each engine-driven source of energy must be on a different engine.

(h) For the purposes of paragraph (f) of this section, a continuous inflight electrical load includes one that draws current continuously during flight, such as radio equipment, electrically driven instruments, and lights, but does not include occasional intermittent loads.

(i) An airspeed indicating system with heated pitot tube or equivalent means for preventing malfunctioning due to icing.

(j) A sensitive altimeter.

(k) Instrument lights providing enough light to make each required instrument, switch, or similar instrument, easily readable and installed so that the direct rays are shielded from the flight crewmembers' eyes and that no objectionable reflections are visible to them. There must be a means of controlling the intensity of illumination unless it is shown that nondimming instrument lights are satisfactory.

§ 125.207 Emergency equipment requirements for airplanes having a passenger seating configuration of more than 19 passengers.

(a) No person may operate an airplane having a passenger seating configuration, excluding any pilot seat,

of more than 19 seats unless it is equipped with the following emergency equipment:

(1) One approved first aid kit for treatment of injuries likely to occur in flight or in a minor accident, which meets the following specifications and requirements:

(i) Each first aid kit must be dust and moisture proof and contain only materials that either meet Federal Specifications GGG-319a, as revised, or as approved by the Administrator.

(ii) Required first aid kits must be readily accessible to the cabin flight attendants.

(iii) At time of takeoff, each first aid kit must contain at least the following or other contents approved by the Administrator:

Contents:	Quantity
Adhesive bandage compressors, 1 in.	16
Antiseptic swabs	20
Ammonia inhalants	10
Bandage compressors, 4 in.	6
Triangular bandage compressors, 40 in.	5
Burn compound, 1/2 oz or an equivalent of other burn remedy	6
Arm splint, noninflatable	1
Leg splint, noninflatable	1
Roller bandage, 4 in.	4
Adhesive tape, 1-in standard roll	2
Bandage scissors	1

(2) A crash axe carried so as to be accessible to the crew but inaccessible to passengers during normal operations.

(3) Signs that are visible to all occupants to notify them when smoking is prohibited and when safety belts should be fastened. The signs must be so constructed that they can be turned on and off by a crewmember. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

(4) The additional emergency equipment specified in Appendix A of this Part.

(b) *Megaphones.* Each passenger-carrying airplane must have a portable battery-powered megaphone or megaphones readily accessible to the crewmembers assigned to direct emergency evacuation, installed as follows:

(1) One megaphone on each airplane with a seating capacity of more than 60 and less than 100 passengers, at the most rearward location in the passenger cabin where it would be readily accessible to a normal flight attendant seat. However, the Administrator may grant a deviation from the requirements of this subparagraph if the Administrator finds that a different location would be more useful for evacuation of persons during an emergency.

(2) Two megaphones in the passenger cabin on each airplane with a seating

capacity of more than 99 and less than 200 passengers, one installed at the forward end and the other at the most rearward location where it would be readily accessible to a normal flight attendant seat.

(3) Three megaphones in the passenger cabin on each airplane with a seating capacity of more than 199 passengers, one installed at the forward end, one installed at the most rearward location where it would be readily accessible to a normal flight attendant seat, and one installed in a readily accessible location in the mid-section of the airplane.

(c) Each item of equipment must be inspected regularly under inspection periods established in the operations specifications to ensure its condition for continued serviceability and immediate readiness to perform its intended emergency purposes.

§ 125.209 Emergency equipment: Extended overwater operations.

(a) No person may operate an airplane in extended overwater operations unless it carries, installed in conspicuously marked locations easily accessible to the occupants if a ditching occurs, the following equipment:

(1) An approved life preserver equipped with an approved survivor locator light, or an approved flotation means, for each occupant of the aircraft. The life preserver or other flotation means must be easily accessible to each seated occupant. If a flotation means other than a life preserver is used, it must be readily removable from the airplane.

(2) Enough life rafts (with proper buoyancy) to carry all occupants of the airplane, and at least the following equipment for each raft clearly marked for easy identification—

(i) One canopy (for sail, sunshade, or rain catcher);

(ii) One radar reflector (or similar device);

(iii) One life raft repair kit;

(iv) One bailing bucket;

(v) One signaling mirror;

(vi) One police whistle;

(vii) One raft knife;

(viii) One CO₂ bottle for emergency inflation;

(ix) One inflation pump;

(x) Two oars;

(xi) One 75-foot retaining line;

(xii) One magnetic compass;

(xiii) One dye marker;

(xiv) One flashlight having at least two size "D" cells equivalent;

(xv) At least one approved pyrotechnic signaling device;

(xvi) A 2-day supply of emergency food rations supplying at least 1,000 calories a day for each person;

(xvii) One sea water desalting kit for each two persons that raft is rated to carry, or two pints of water for each person the raft is rated to carry;

(xviii) One fishing kit; and

(xix) One book on survival appropriate for the area in which the airplane is operated.

(b) No person may operate an airplane in extended overwater operations unless there is attached to one of the life rafts required by paragraph (a) of this section, a survival type emergency locator transmitter that meets § 37.200 of this chapter. Batteries used in this transmitter must be replaced (or recharged, if the batteries are rechargeable) when the transmitter has been in use for more than 1 cumulative hour, and also when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer under § 37.200(g)(2) of this chapter, has expired. The new expiration date for the replacement or recharged batteries must be legibly marked on the outside of the transmitter. The battery useful life or useful life of charge requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

(c) Each item of equipment must be inspected regularly under inspection periods established in the operations specifications to ensure its condition for continued serviceability and immediate readiness to perform its intended emergency purposes.

§ 125.211 Seat and safety belts.

(a) No person may operate an airplane unless there are available during the takeoff, en route flight, and landing—

(1) An approved seat or berth for each person on board the airplane who is at least 2 years old; and

(2) An approved safety belt for separate use by each person on board the airplane who is at least 2 years old, except that two persons occupying a berth may share one approved safety belt and two persons occupying a multiple lounge or divan seat may share one approved safety belt during en route flight only.

(b) During the takeoff and landing of an airplane, each person on board shall occupy an approved seat or berth with a separate safety belt properly secured about that person. However, a person who is not at least 2 years old may be held by an adult who is occupying a seat or berth. A safety belt provided for the occupant of a seat may not be used during takeoff and landing by more than one person who is at least 2 years old.

(c) Each sideward facing seat must comply with the applicable

requirements of § 25.785 (c) of this chapter.

(d) No certificate holder may take off or land an airplane unless each passenger seat back is in the upright position. Each passenger shall comply with instructions given by a crewmember in compliance with this paragraph. This paragraph does not apply to seats on which cargo or persons who are unable to sit erect for a medical reason are carried in accordance with procedures in the certificate holder's manual if the seat back does not obstruct any passenger's access to the aisle or to any emergency exit.

(e) Each occupant of a seat equipped with a shoulder harness must fasten the shoulder harness during takeoff and landing, except that, in the case of crewmembers, the shoulder harness need not be fastened if the crewmember cannot perform his required duties with the shoulder harness fastened.

§ 125.213 Miscellaneous equipment.

No person may conduct any operation unless the following equipment is installed in the airplane:

(a) If protective fuses are installed on an airplane, the number of spare fuses approved for the airplane and appropriately described in the certificate holder's manual.

(b) A windshield wiper or equivalent for each pilot station.

(c) A power supply and distribution system that meets the requirements of §§ 25.1309, 25.1331, 25.1351 (a) and (b) (1) through (4), 25.1353, 25.1355, and 25.1431(b) or that is able to produce and distribute the load for the required instruments and equipment, with use of an external power supply if any one power source or component of the power distribution system fails. The use of common elements in the system may be approved if the Administrator finds that they are designed to be reasonably protected against malfunctioning. Engine-driven sources of energy, when used, must be on separate engines.

(d) A means for indicating the adequacy of the power being supplied to required flight instruments.

(e) Two independent static pressure systems, vented to the outside atmospheric pressure so that they will be least affected by air flow variation or moisture or other foreign matter, and installed so as to be airtight except for the vent. When a means is provided for transferring an instrument from its primary operating system to an alternative system, the means must include a positive positioning control and must be marked to indicate clearly which system is being used.

(f) A placard on each door that is the means of access to a required passenger emergency exist to indicate that it must be open during takeoff and landing.

(g) A means for the crew, in an emergency, to unlock each door that leads to a compartment that is normally accessible to passengers and that can be locked by passengers.

§ 125.215 Operating information required.

(a) The operator of an airplane must provide the following materials, in current and appropriate form, accessible to the pilot at the pilot station, and the pilot shall use them:

(1) A cockpit checklist.

(2) An emergency cockpit checklist containing the procedures required by paragraph (c) of this section, as appropriate.

(3) Pertinent aeronautical charts.

(4) For IFR operations, each pertinent navigational en route, terminal area, and approach and letdown chart.

(5) One engine-inoperative climb performance data and, if the airplane is approved for use in IFR or over-the-top operations, that data must be sufficient to enable the pilot to determine that the airplane is capable of carrying passengers over-the-top or in IFR conditions at a weight that will allow it to climb, with the critical engine inoperative, at least 50 feet a minute when operating at the MEA's of the route to be flown or 5,000 feet MSL, whichever is higher.

(b) Each cockpit checklist required by paragraph (a)(1) of this section must contain the following procedures: (1) Before starting engines; (2) Before takeoff; (3) Cruise; (4) Before landing; (5) After landing; (6) Stopping engines.

(c) Each emergency cockpit checklist required by paragraph (a)(2) of this section must contain the following procedures, as appropriate:

(1) Emergency operation of fuel, hydraulic, electrical, and mechanical systems.

(2) Emergency operation of instruments and controls.

(3) Engine inoperative procedures.

(4) Any other emergency procedures necessary for safety.

§ 125.217 Passenger information.

(a) No person may operate an airplane carrying passengers unless it is equipped with passenger information signs that meet the requirements of § 25.791 of this chapter. The signs must be constructed so that the crewmembers can turn them on and off. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot command.

(b) No passenger or crewmember may smoke while the no smoking sign is lighted and each passenger shall fasten that passenger's seat belt and keep it fastened while the seat belt sign is lighted.

§ 125.219 Oxygen for medical use by passengers.

(a) Except as provided in paragraphs (d) and (e) of this section, no certificate holder may allow the carriage or operation of equipment for the storage, generation or dispensing of medical oxygen unless the unit to be carried is constructed so that all valves, fittings, and gauges are protected from damage during that carriage or operation and unless the following conditions are met—

(1) The equipment must be—

(i) Of an approved type or in conformity with the manufacturing, packaging, marking, labeling, and maintenance requirements of Title 49 CFR Parts 171, 172, and 173, except § 173.24(a)(1);

(ii) When owned by the certificate holder, maintained under the certificate holder's approved maintenance program;

(iii) Free of flammable contaminants on all exterior surfaces; and

(iv) Appropriately secured.

(2) When the oxygen is stored in the form of a liquid, the equipment must have been under the certificate holder's approved maintenance program since its purchase new or since the storage container was last purged.

(3) When the oxygen is stored in the form of a compressed gas as defined in Title 49 CFR § 173.300(a)—

(i) When owned by the certificate holder, it must be maintained under its approved maintenance program; and

(ii) The pressure in any oxygen cylinder must not exceed the rated cylinder pressure.

(4) The pilot in command must be advised when the equipment is on board and when it is intended to be used.

(5) The equipment must be stowed, and each person using the equipment must be seated so as not to restrict access to or use of any required emergency or regular exit or of the aisle in the passenger compartment.

(b) When oxygen is being used, no person may smoke and no certificate holder may allow any person to smoke within 10 feet of oxygen storage and dispensing equipment carried under paragraph (a) of this section.

(c) No certificate holder may allow any person other than a person trained in the use of medical oxygen equipment to connect or disconnect oxygen bottles

or any other ancillary component while any passenger is aboard the airplane.

(d) Paragraph (a)(1)(i) of this section does not apply when that equipment is furnished by a professional or medical emergency service for use on board an airplane in a medical emergency when no other practical means of transportation (including any other properly equipped certificate holder) is reasonably available and the person carried under the medical emergency is accompanied by a person trained in the use of medical oxygen.

(e) Each certificate holder who, under the authority of paragraph (d) of this section, deviates from paragraph (a)(1)(i) of this section under a medical emergency shall, within 10 days, excluding Saturdays, Sundays, and Federal holidays, after the deviation, send to the FAA Flight Standards district office charged with the overall inspection of the certificate holder a complete report of the operation involved, including a description of the deviation and the reasons for it.

§ 125.221 Icing conditions: Operating limitations.

(a) No pilot may take off an airplane that has—

(1) Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings or stabilizing or control surfaces; or

(3) Any frost adhering to the wings, or stabilizing or control surfaces, unless that frost has been polished to make it smooth.

(b) Except for an airplane that has ice protection provisions that meet § 34 of Appendix A of Part 121 or those for transport category airplane type certification, no pilot may fly—

(1) Under IFR into known or forecast light or moderate icing conditions; or

(2) Under VFR into known light or moderate icing conditions; unless the airplane has functioning deicing or anti-icing equipment protecting each rotor blade, propeller, windshield, wing, stabilizing or control surface, and each airspeed, altimeter, rate of climb, or flight attitude instrument system.

(c) Except for an airplane that has ice protection provisions that meet § 34 of Appendix A of Part 121 or those for transport category airplane type certification, no pilot may fly an airplane into known or forecast severe icing conditions.

(d) If current weather reports and briefing information relied upon by the pilot in command indicate that the forecast icing condition that would

otherwise prohibit the flight will not be encountered during the flight because of changed weather conditions since the forecast, the restrictions in paragraphs (b) and (c) of this section based on forecast conditions do not apply.

§ 125.223 Airborne weather radar equipment requirements.

(a) No person may operate an airplane governed by this Part in passenger-carrying operations unless approved airborne weather radar equipment is installed in the airplane.

(b) No person may begin a flight under IFR or night VFR conditions when current weather reports indicate that thunderstorms, or other potentially hazardous weather conditions that can be detected with airborne weather radar equipment, may reasonably be expected along the route to be flown, unless the airborne weather radar equipment required by paragraph (a) of this section is in satisfactory operating condition.

(c) If the airborne weather radar equipment becomes inoperative in route, the airplane must be operated under the instructions and procedures specified for that event in the manual required by § 125.71.

(d) This section does not apply to airplanes used solely within the State of Hawaii, within the State of Alaska, within that part of Canada west of longitude 130 degrees W, between latitude 70 degrees N, and latitude 53 degrees N, or during any training, test, or ferry flight.

(e) Without regard to any other provision of this part, an alternate electrical power supply is not required for airborne weather radar equipment.

Subpart G—Maintenance and Inspection

§ 125.241 Applicability.

This subpart prescribes rules, in addition to those prescribed in other Parts of this chapter, for the maintenance of airplanes (including the airframe, airplane engines, propellers, appliances and each item of emergency and survival equipment) operated under this Part.

§ 125.243 Responsibility for airworthiness.

The certificate holder is primarily responsible for—

(a) The airworthiness of its airplanes, including airframes, airplane engines, propellers, appliances, and parts thereof;

(b) The performance of the maintenance, preventive maintenance, and alteration of its airplanes, including airframes, airplane engines, propellers, appliances, emergency equipment, and parts thereof, in accordance with its

manual and the regulations of this chapter;

(c) The performance and scheduling of inspections required by this Part; and

(d) Ensuring that maintenance personnel make appropriate entries in the airplane and maintenance records indicating the airplane has been approved for return to service after maintenance has been performed.

§ 125.245 Maintenance, preventive maintenance, and alteration organization.

(a) Each person with whom the certificate holder arranges for the performance of its maintenance (other than required inspections), preventive maintenance, or alterations must have an organization adequate to perform that work.

(b) Each person with whom the certificate holder arranges for the performance of any inspection required by its manual in accordance with paragraph 125.249(b)(2) must have an organization adequate to perform that work.

(c) Each person with whom the certificate holder arranges for the performance of any inspection required by its manual in accordance with paragraph 125.249(b)(2) must have an organization adequate to perform that work.

(d) Each person with whom the certificate holder arranges for the performance of any inspection required by its manual in accordance with paragraph 125.249(b)(2) must have an organization adequate to perform that work.

(e) Each person with whom the certificate holder arranges for the performance of any inspection required by its manual in accordance with paragraph 125.249(b)(2) must have an organization adequate to perform that work.

(f) Each person with whom the certificate holder arranges for the performance of any inspection required by its manual in accordance with paragraph 125.249(b)(2) must have an organization adequate to perform that work.

(g) Each person with whom the certificate holder arranges for the performance of any inspection required by its manual in accordance with paragraph 125.249(b)(2) must have an organization adequate to perform that work.

(h) Each person with whom the certificate holder arranges for the performance of any inspection required by its manual in accordance with paragraph 125.249(b)(2) must have an organization adequate to perform that work.

perform maintenance under Part 43 of this chapter.

(e) No person may operate any airplane unless the installed engines have been maintained in accordance with the overhaul periods recommended by the manufacturer or a program approved by the Administrator. Engine overhaul periods will be specified in the inspection program required by § 125.247(b).

(f) Maintenance inspection programs that may be approved for use under this Part include, but are not limited to, the following:

(1) A continuous inspection program that is part of a current continuous airworthiness maintenance program approved for use by a certificate holder under Part 121 or 135 of this chapter.

(2) A current inspection program recommended by the manufacturer of airplane, airplane engine, propeller, or appliance.

(3) An inspection program developed by the certificate holder and approved by the Administrator.

§ 125.249 Maintenance manual requirements.

(a) Each certificate holder shall put in its manual the chart or description of the certificate holder's organization required by § 125.25 and a list of persons with whom it has arranged for the performance of any of its inspections.

(b) Each certificate holder shall put in its manual the programs required by § 125.247 that must be followed in performing inspections of that certificate holder's airplane(s), including airframes, airplane engines, propellers, rotors, appliances, emergency equipment, and parts, and must include at least the following:

(1) The method of performing routine and nonroutine inspections (other than required inspections).

(2) A designation of the items that must be inspected (required inspections), including at least those that could result in a failure, malfunction, or defect endangering the safe operation of the airplane if not performed properly or if improper parts or materials are used.

(3) The method of performing required inspections.

(4) Procedures for the reinspection of work performed under previous required inspection findings ("buy-back procedures").

(5) Procedures, standards, and limits necessary for required inspections and acceptance or rejection of the items required to be inspected.

(6) Instructions to prevent any person who performs any item of work from

performing any required inspection of that work.

(7) Procedures to ensure that required inspections, as a result of work interruptions, are properly completed before the airplane is released to service.

(c) Each certificate holder shall put in its manual a suitable system (which may include a coded system) that provides for the retention of the following information—

(1) A description (or reference to data acceptable to the Administrator) of the work performed;

(2) The name of the person performing the work; and

(3) The name or other positive identification of the individual approving the work.

§ 125.251 Required inspection personnel.

(a) No person may use any person to perform required inspections unless the person performing the inspection is appropriately certificated, properly trained, qualified, and authorized to do so.

(b) No person may perform a required inspection if that person performed the item of work required to be inspected.

Subpart H—Airman and Crewmember Requirements

§ 125.261 Airman: Limitations on use of services.

(a) No certificate holder may use any person as an airman nor may any person serve as an airman unless that person—

(1) Holds an appropriate current airman certificate issued by the FAA;

(2) Has any required appropriate current airman and medical certificates in that person's possession while engaged in operations under this Part; and

(3) Is otherwise qualified for the operation for which that person is to be used.

(b) Each airman covered by paragraph (a) of this section shall present the certificates for inspection upon the request of the Administrator.

§ 125.263 Composition of flightcrew.

(a) No certificate holder may operate an airplane with less than the minimum flightcrew in the airworthiness certificate or the Airplane Flight Manual approved for that type airplane and required by this Part for the kind of operation being conducted.

(b) In any case in which this Part requires the performance of two or more functions for which an airman certificate is necessary, that requirement is not satisfied by the performance of multiple

functions at the same time by one airman.

(c) On each flight requiring a flight engineer, at least one flight crewmember, other than the flight engineer, must be qualified to provide emergency performance to the flight engineer's functions for the safe completion of the flight if the flight engineer becomes ill or is otherwise incapacitated. A pilot need not hold a flight engineer's certificate to perform the flight engineer's functions in such a situation.

§ 125.265 Flight engineer requirements.

(a) No person may operate an airplane for which a flight engineer is required by the type certification requirements without a flight crewmember holding a current flight engineer certificate.

(b) No person may serve as a required flight engineer on an airplane unless, within the preceding 6 calendar months, that person has had at least 50 hours of flight time as a flight engineer on that type airplane, or the Administrator has checked that person on that type airplane and determined that person is familiar and competent with all essential current information and operating procedures.

§ 125.267 Flight navigator and specialized navigation equipment.

(a) No certificate holder may operate an airplane outside the 48 contiguous States and the District of Columbia when its position cannot be reliably fixed for a period of more than 1 hour, without—

(1) A flight crewmember who holds a current flight navigator certificate; or

(2) Specialized means of navigation approved which enables a reliable determination to be made of the position of the airplane by each pilot seated at that person's duty station.

(b) Operations where a flight navigator or special navigation equipment, or both, are required are specified in the operations specifications of the operator.

§ 125.269 Flight attendants.

(a) Each certificate holder shall provide at least the following flight attendants on each passenger-carrying airplane used:

(1) For airplanes having more than 19 but less than 51 passengers—one flight attendant.

(2) For airplanes having more than 50 but less than 101 passengers—two flight attendants.

(3) For airplanes having more than 100 passengers—two flight attendants plus one additional flight attendant for each

unit (or part of a unit) of 50 passengers above 100 passengers.

(b) The number of flight attendants approved under paragraphs (a) and (b) of this section are set forth in the certificate holder's operations specifications.

(c) During takeoff and landing, flight attendants required by this section shall be located as near as practicable to required floor level exits and shall be uniformly distributed throughout the airplane to provide the most effective egress of passengers in event of an emergency evacuation.

§ 125.271 Emergency and emergency evacuation duties.

(a) Each certificate holder shall, for each type and model of airplane, assign to each category of required crewmember, as appropriate, the necessary functions to be performed in an emergency or a situation requiring emergency evacuation. The certificate holder shall show those functions are realistic, can be practically accomplished, and will meet any reasonably anticipated emergency including the possible incapacitation of individual crewmembers or their inability to reach the passenger cabin because of shifting cargo in combination cargo-passenger airplanes.

(b) The certificate holder shall describe in its manual the functions of each category of required crewmembers under paragraph (a) of this section.

Subpart I—Flight Crewmember Requirements

§ 125.281 Pilot in command qualifications.

No certificate holder may use any person, nor may any person serve, as pilot in command of an airplane unless that person—

(a) Holds at least a commercial pilot certificate, an appropriate category, class, and type rating, and an instrument rating;

(b) Has had at least 1,200 hours of flight time as a pilot, including 500 hours of cross-country flight time, 100 hours of night flight time, including at least 10 night takeoffs and landings, and 75 hours of actual or simulated instrument flight time, at least 50 hours of which were actual flight; and

(c) For flight under IFR, meets the recent instrument experience requirements prescribed for a pilot in command in Part 61 of this chapter.

§ 125.283 Second in command qualifications.

No certificate holder may use any person, nor may any person serve, as second in command of an airplane unless that person—

(a) Holds at least a commercial pilot certificate with appropriate category and class ratings, and an instrument rating; and

(b) For flight under IFR, meets the recent instrument experience requirements prescribed for a pilot in command in Part 61 of this chapter.

§ 125.285 Pilot qualifications: recent experience.

(a) No certificate holder may use any person, nor may any person serve, as a required pilot flight crewmember unless within the preceding 90 days that person has made at least three takeoffs and landings in the type airplane in which that person is to serve. The takeoffs and landings required by this paragraph may be performed in a visual simulator approved under § 125.287 to include takeoff and landing maneuvers. However, any person who fails to qualify for a 90-consecutive-days period following the date of that person's last qualification under this paragraph must reestablish recency of experience as provided in paragraph (b) of this section.

(b) A required pilot flight crewmember who has not met the requirements of paragraph (a) of this section may reestablish recency of experience by making at least three takeoffs and landings under the supervision of a check airman, in accordance with the following:

(1) At least one takeoff must be made with a simulated failure of the most critical powerplant.

(2) At least one landing must be made from an ILS approach to the lowest ILS minimums authorized for the certificate holder.

(3) At least one landing must be made to a complete stop.

(c) A required pilot flight crewmember who performs the maneuvers prescribed in paragraph (b) of this section in a visual simulator must—

(1) Have previously logged 100 hours of flight time in the same type airplane in which the pilot is to serve;

(2) Be currently qualified in another airplane of the same group; and

(3) Be observed on the first two landings made in operations under this Part by an approved check airman who acts as pilot in command and occupies a pilot seat. The landings must be made in weather minimums that are not less than those contained in the certificate holder's operations specifications for Category I Operations and must be made within 45 days following completion of simulator training.

(d) A check airman who observes the takeoffs and landings prescribed in paragraphs (b) and (c)(3) of this section shall certify that the person being

observed is proficient and qualified to perform flight duty in operations under this Part, and may require any additional maneuvers that are determined necessary to make this certifying statement.

§ 125.287 Initial and recurrent pilot testing requirements.

(a) No certificate holder may use any person, nor may any person serve as a pilot, unless, since the beginning of the 12th calendar month before that service, that person has passed a written or oral test, given by the Administrator or an authorized check pilot, on that person's knowledge in the following areas—

(1) The appropriate provisions of Parts 61, 91, and 125 of this chapter and the operations specifications and the manual of the certificate holder;

(2) For each type of airplane to be flown by the pilot, the airplane powerplant, major components and systems, major appliances, performance and operating limitations, standard and emergency operating procedures, and the contents of the approved Airplane Flight Manual or equivalent, as applicable;

(3) For each type of airplane to be flown by the pilot, the method of determining compliance with weight and balance limitations for takeoff, landing and en route operations;

(4) Navigation and use of air navigation aids appropriate to the operation or pilot authorization, including, when applicable, instrument approach facilities and procedures;

(5) Air traffic control procedures, including IFR procedures when applicable;

(6) Meteorology in general, including the principles of frontal systems, icing, fog, thunderstorms, and windshear, and, if appropriate for the operation of the certificate holder, high altitude weather;

(7) Procedures for avoiding operations in thunderstorms and hail, and for operating in turbulent air or in icing conditions; and

(8) New equipment, procedures, or techniques, as appropriate.

(b) No certificate holder may use any person, nor may any person serve, as a pilot in any airplane unless, since the beginning of the 12th calendar month before that service, that person has passed a competency check given by the Administrator or an authorized check pilot in that class of airplane to determine that person's competence in practical skills and techniques in that airplane or class of airplane. The extent of the competency check shall be determined by the Administrator or authorized check pilot conducting the competency check. The competency

check may include any of the maneuvers and procedures currently required for the original issuance of the particular pilot certificate required for the operations authorized and appropriate to the category, class and type of airplane involved. For the purposes of this paragraph, type, as to an airplane, means any one of a group of airplanes determined by the Administrator to have a similar means of propulsion, the same manufacturer, and no significantly different handling or flight characteristics.

(c) The instrument proficiency check required by § 125.291 may be substituted for the competency check required by this section for the type of airplane used in the check.

(d) For the purposes of this Part, competent performance of a procedure or maneuver by a person to be used as a pilot requires that the pilot be the obvious master of the airplane with the successful outcome of the maneuver never in doubt.

(e) The Administrator or authorized check pilot certifies the competency of each pilot who passes the knowledge or flight check in the certificate holder's pilot records.

(f) Portions of a required competency check may be given in an airplane simulator or other appropriate training device, if approved by the Administrator.

§ 125.289 Initial and recurrent flight attendant crewmember testing requirements.

No certificate holder may use any person, nor may any person serve, as a flight attendant crewmember, unless, since the beginning of the 12th calendar month before that service, the certificate holder has determined by appropriate initial and recurrent testing that the person is knowledgeable and competent in the following areas as appropriate to assigned duties and responsibilities:

(a) Authority of the pilot in command;

(b) Passenger handling, including procedures to be followed in handling deranged persons or other persons whose conduct might jeopardize safety;

(c) Crewmember assignments, functions, and responsibilities during ditching and evacuation of persons who may need the assistance of another person to move expeditiously to an exit in an emergency;

(d) Briefing of passengers;

(e) Location and operation of portable fire extinguishers and other items of emergency equipment;

(f) Proper use of cabin equipment and controls;

(g) Location and operation of passenger oxygen equipment;

(h) Location and operation of all normal and emergency exits, including evacuation chutes and escape ropes; and

(i) Seating of persons who may need assistance of another person to move rapidly to an exit in an emergency as prescribed by the certificate holder's operations manual.

§ 125.291 Pilot in command: Instrument proficiency check requirements.

(a) No certificate holder may use any person, nor may any person serve, as a pilot in command of an airplane under IFR unless, since the beginning of the sixth calendar month before that service, that person has passed an instrument proficiency check and the Administrator or an authorized check pilot has so certified in a letter of competency.

(b) No pilot may use any type of instrument approach procedure under IFR unless, since the beginning of the sixth calendar month before that use, the pilot has satisfactorily demonstrated at least one instrument approach procedure using an ILS, a VOR and an NDB facility, and has been issued a letter of competency under paragraph (h) of this section. These instrument approach procedures must include at least one straight-in approach, one circling approach in conjunction with a VOR or an NDB, and one missed approach. Each approach procedure demonstrated must be conducted to the published minimum for that procedure.

(c) The instrument proficiency check required by paragraph (a) of this section consists of an oral or written equipment test and a flight check under simulated or actual IFR conditions. The equipment test includes questions on emergency procedures, engine operation, fuel and lubrication systems, power settings, stall speeds, best engine-out speed, propeller and supercharger operations, and hydraulic, mechanical, and electrical systems, as appropriate. The flight check includes navigation by instruments, recovery from simulated emergencies, and standard instrument approaches involving navigational facilities which that pilot is to be authorized to use.

(1) For a pilot in command of an airplane, the instrument proficiency check must include the procedures and maneuvers for a commercial pilot certificate with an instrument rating and, if required, for the appropriate type rating.

(2) The instrument proficiency check must be given by an authorized check airman or by the Administrator.

(d) If the pilot in command is assigned to pilot only one type of airplane, that pilot must take the instrument

proficiency check required by paragraph (a) of this section in that type of airplane.

(e) If the pilot in command is assigned to pilot more than one type of airplane, that pilot must take the instrument proficiency check required by paragraph (a) of this section in each type of airplane to which that pilot is assigned, in rotation, but not more than one flight check during each period described in paragraph (a) of this section.

(f) Portions of a required flight check may be given in an airplane simulator or other appropriate training device, if approved by the Administrator.

(g) The Administrator or authorized check pilot issues a letter of competency to each pilot who passes the instrument proficiency check. The letter of competency authorizes the use of instrument approach procedures and facilities under Part 97 of this chapter and, if the pilot passes the autopilot check, authorizes the use of an autopilot system in place of a second in command.

§ 125.293 Crewmember: Tests and checks, grace provisions, accepted standards.

(a) If a crewmember who is required to take a test or a flight check under this Part completes the test or flight check in the calendar month before or after the calendar month in which it is required, that crewmember is considered to have completed the test or check in the calendar month in which it is required.

(b) If a pilot being checked under this subpart fails any of the required maneuvers, the person giving the check may give additional training to the pilot during the course of the check. In addition to repeating the maneuvers failed, the person giving the check may require the pilot being checked to repeat any other maneuvers that are necessary to determine the pilot's proficiency. If the pilot being checked is unable to demonstrate satisfactory performance to the person conducting the check, the certificate holder may not use the pilot, nor may the pilot serve, as a flight crewmember in operations under this Part until the pilot has satisfactorily completed the check.

§ 125.295 Check pilot authorization: Application and issue.

Each certificate holder desiring FAA approval of a check pilot shall submit a request in writing to the FAA Flight Standards district office charged with the overall inspection of the certificate holder. The Administrator may issue a letter of authority to each check pilot if that pilot passes the appropriate oral and flight test. The letter of authority

lists the tests and checks in this Part that the check pilot is qualified to give, and the category, class and type airplane, where appropriate, for which the check pilot is qualified.

§ 125.297 Approval of airplane simulators and other training devices.

(a) Airplane simulators and other training devices approved by the Administrator may be used in checks required in this subpart.

(b) Each airplane simulator and other training device that is used in checks required under this subpart must meet the following requirements:

(1) It must be specifically approved for—

(i) The certificate holder;

(ii) The type airplane and, if applicable, the particular variation within type for which the training or check is being conducted; and

(iii) The particular maneuver, procedure, or crewmember function involved;

(2) It must maintain the performance, functional, and other characteristics that are required for approval.

(3) It must be modified to conform with any modification to the airplane being simulated that changes the performance, functional, or other characteristics required for approval.

Subpart J—Flight Operations

§ 125.311 Flight crewmembers at controls.

(a) Except as provided in paragraph (b) of this section, each required flight crewmember on flight deck duty must remain at the assigned duty station with seat belt fastened while the airplane is taking off or landing and while it is en route.

(b) A required flight crewmember may leave the assigned duty station—

(1) If the crewmember's absence is necessary for the performance of duties in connection with the operation of the airplane;

(2) If the crewmember's absence is in connection with physiological needs; or

(3) If the crewmember is taking a rest period and relief is provided—

(i) In the case of the assigned pilot in command, by a pilot qualified to act as pilot in command.

(ii) In the case of the assigned second in command, by a pilot qualified to act as second in command of that airplane during en route operations. However, the relief pilot need not meet the recent experience requirements of § 125.285.

§ 125.313 Manipulation of controls when carrying passengers or cargo.

No pilot in command may allow any person to manipulate the controls of an airplane while carrying passengers

during flight, nor may any person manipulate the controls while carrying passengers during flight, unless that person is—

(a) A qualified pilot of the certificate holder operating that airplane;

(b) An authorized pilot safety representative of the Administrator or of the National Transportation Safety Board who has the permission of the pilot in command, is qualified in the airplane, and is checking flight operations;

(c) A pilot of another certificate holder who has the permission of the pilot in command and is qualified in the airplane; or

(d) A pilot in training status under the instruction of a qualified pilot of the certificate holder operating that airplane.

§ 125.315 Admission to flight deck.

(a) No person may admit any person to the flight deck of an airplane unless the person being admitted is—

(1) A crewmember;

(2) An FAA inspector or an authorized representative of the National Transportation Safety Board who is performing official duties; or

(3) Any person who has the permission of the pilot in command.

(b) No person may admit any person to the flight deck unless there is a seat available for the use of that person in the passenger compartment, except—

(1) An FAA inspector or an authorized representative of the Administrator or National Transportation Safety Board who is checking or observing flight operations; or

(2) A certificated airman employed by the certificate holder whose duties require an airman certificate.

§ 125.317 Inspectors credentials: Admission to pilots' compartment: Forward observer's seat.

(a) Whenever, in performing the duties of conducting an inspection, an FAA inspector presents an Aviation Safety Inspector credential, FAA Form 110A, to the pilot in command of an airplane operated by the certificate holder, the inspector must be given free and uninterrupted access to the pilot compartment of that airplane. However, this paragraph does not limit the emergency authority of the pilot in command to exclude any person from the pilot compartment in the interest of safety.

(b) A forward observer's seat on the flight deck, or forward passenger seat with headset or speaker, must be provided for use by the Administrator while conducting en route inspections. The suitability of the location of the seat

and the headset or speaker for use in conducting en route inspections is determined by the Administrator.

§ 125.319 Emergencies.

(a) In an emergency situation that requires immediate decision and action, the pilot in command may take any action considered necessary under the circumstances. In such a case, the pilot in command may deviate from prescribed operations, procedures and methods, weather minimums, and this chapter, to the extent required in the interests of safety.

(b) In an emergency situation arising during flight that requires immediate decision and action by appropriate management personnel in the case of operations conducted with a flight following service and which is known to them, those personnel shall advise the pilot in command of the emergency, shall ascertain the decision of the pilot in command, and shall have the decision recorded. If they cannot communicate with the pilot, they shall declare an emergency and take any action that they consider necessary under the circumstances.

(c) Whenever emergency authority is exercised, the pilot in command or the appropriate management personnel shall keep the appropriate ground radio station fully informed of the progress of the flight. The person declaring the emergency shall send a written report of any deviation, through the operator's director of operations, to the Administrator within 10 days, exclusive of Saturdays, Sundays, and Federal holidays, after the flight is completed or, in the case of operations outside the United States, upon return to the home base.

§ 125.321 Reporting potentially hazardous meteorological conditions and irregularities of ground and navigation facilities.

Whenever the pilot in command encounters a meteorological condition or an irregularity in a ground or navigational facility in flight, the knowledge of which the pilot in command considers essential to the safety of other flights, the pilot in command shall notify an appropriate ground station as soon as practicable.

§ 125.323 Reporting mechanical irregularities.

The pilot in command shall ensure that all mechanical irregularities occurring during flight are entered in the maintenance log of the airplane at the next place of landing. Before each flight, the pilot in command shall ascertain the status of each irregularity entered in the log at the end of the preceding flight.

§ 125.325 Instrument approach procedures and IFR landing minimums.

No person may make an instrument approach at an airport except in accordance with IFR weather minimums and instrument approach procedures set forth in the certificate holder's operations specifications.

§ 125.327 Briefing of passengers before flight.

(a) Before each takeoff, each pilot in command of an airplane carrying passengers shall ensure that all passengers have been orally briefed on—

(1) Smoking;

(2) Use of seat belts;

(3) The placement of seat backs in an upright position before takeoff and landing;

(4) Location and means for opening the passenger entry door and emergency exits;

(5) Location of survival equipment;

(6) If the flight involves extended overwater operation, ditching procedures and the use of required flotation equipment;

(7) If the flight involves operations above 12,000 feet MSL, the normal and emergency use of oxygen; and

(8) Location and operation of fire extinguishers.

(b) Before each takeoff, the pilot in command shall ensure that each person who may need the assistance of another person to move expeditiously to an exit if an emergency occurs and that person's attendant, if any, has received a briefing as to the procedures to be followed if an evacuation occurs. This paragraph does not apply to a person who has been given a briefing before a previous leg of a flight in the same airplane.

(c) The oral briefing required by paragraph (a) of this section shall be given by the pilot in command or a member of the crew. It shall be supplemented by printed cards for the use of each passenger containing—

(1) A diagram and method of operating the emergency exits; and

(2) Other instructions necessary for the use of emergency equipment on board the airplane.

Each card used under this paragraph must be carried in the airplane in locations convenient for the use of each passenger and must contain information that is appropriate to the airplane on which it is to be used.

(d) The certificate holder shall describe in its manual the procedure to be followed in the briefing required by paragraph (a) of this section.

(e) If the airplane proceeds directly over water after takeoff, the briefing

required by paragraph (a) of this section must be done before takeoff.

(f) If the airplane does not proceed directly over water after takeoff, no part of the briefing required by paragraph (a) of this section has to be given before takeoff but the entire briefing must be given before reaching the overwater part of the flight.

§ 125.329 Minimum altitudes for use of autopilot.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, no person may use an autopilot at an altitude above the terrain which is less than 500 feet or less than twice the maximum altitude loss specified in the approved Airplane Flight Manual or equivalent for a malfunction of the autopilot, whichever is higher.

(b) When using an instrument approach facility other than ILS, no person may use an autopilot at an altitude above the terrain that is less than 50 feet below the approved minimum descent altitude for that procedure, or less than twice the maximum loss specified in the approved Airplane Flight Manual or equivalent for a malfunction of the autopilot under approach conditions, whichever is higher.

(c) For ILS approaches when reported weather conditions are less than the basic weather conditions in Section 91.105 of this chapter, no person may use an autopilot with an approach coupler at an altitude above the terrain that is less than 50 feet above the terrain, or the maximum altitude loss specified in the approved Airplane Flight Manual or equivalent for the malfunction of the autopilot with approach coupler, whichever is higher.

(d) Without regard to paragraphs (a), (b), or (c) of this section, the Administrator may issue operations specifications to allow the use, to touchdown, of an approved flight control guidance system with automatic capability, if—

(1) The system does not contain any altitude loss (above zero) specified in the approved Airplane Flight Manual or equivalent for malfunction of the autopilot with approach coupler; and

(2) The Administrator finds that the use of the system to touchdown will not otherwise adversely affect the safety standards of this section.

§ 125.331 Carriage of persons without compliance with the passenger-carrying provisions of this part.

The following persons may be carried aboard an airplane without complying with the passenger-carrying requirements of this Part:

(a) A crewmember.

(b) A person necessary for the safe handling of animals on the airplane.

(c) A person necessary for the safe handling of hazardous materials (as defined in Subchapter C of Title 49 CFR).

(d) A person performing duty as a security or honor guard accompanying a shipment made by or under the authority of the U.S. Government.

(e) A military courier or a military route supervisor carried by a military cargo contract operator if that carriage is specifically authorized by the appropriate military service.

(f) An authorized representative of the Administrator conducting an en route inspection.

(g) A person authorized by the Administrator.

Subpart K—Flight Release Rules

§ 125.351 Flight release authority.

(a) No person may start a flight without authority from the person authorized by the certificate holder to exercise operational control over the flight.

(b) No person may start a flight unless the pilot in command or the person authorized by the certificate holder to exercise operational control over the flight has executed a flight release setting forth the conditions under which the flight will be conducted. The pilot in command may sign the flight release only when both the pilot in command and the person authorized to exercise operational control believe the flight can be made safely, unless the pilot in command is authorized by the certificate holder to exercise operational control and execute the flight release without the approval of any other person.

(c) No person may continue a flight from an intermediate airport without a new flight release if the airplane has been on the ground more than 6 hours.

§ 125.353 Facilities and services.

During a flight, the pilot in command shall obtain any additional available information of meteorological conditions and irregularities of facilities and services that may affect the safety of the flight.

§ 125.355 Airplane equipment.

No person may release an airplane unless it is airworthy and is equipped as prescribed.

§ 125.357 Communication and navigation facilities.

No person may release an airplane over any route or route segment unless communication and navigation facilities

equal to those required by § 125.53 are in satisfactory operating condition.

§ 125.359 Flight release under VFR.

No person may release an airplane for VFR operation unless the ceiling and visibility en route, as indicated by available weather reports or forecasts, or any combination thereof, are and will remain at or above applicable VFR minimums until the airplane arrives at the airport or airports specified in the flight release.

§ 125.361 Flight release under IFR or over-the-top.

Except as provided in § 125.363, no person may release an airplane for operations under IFR or over-the-top unless appropriate weather reports or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the authorized minimums at the estimated time of arrival at the airport or airports to which released.

§ 125.363 Flight release over water.

(a) No person may release an airplane for a flight that involves extended overwater operation unless appropriate weather reports or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the authorized minimums at the estimated time of arrival at any airport to which released or to any required alternate airport.

(b) Each certificate holder shall conduct extended overwater operations under IFR unless it shows that operating under IFR is not necessary for safety.

(c) Each certificate holder shall conduct other overwater operations under IFR if the Administrator determines that operation under IFR is necessary for safety.

(d) Each authorization to conduct extended overwater operations under VFR and each requirement to conduct other overwater operations under IFR will be specified in the operations specifications.

§ 125.365 Alternate airport for departure.

(a) If the weather conditions at the airport of takeoff are below the landing minimums in the certificate holder's operations specifications for that airport, no person may release an airplane from that airport unless the flight release specifies an alternate airport located within the following distances from the airport of takeoff:

(1) *Airplanes having two engines.* Not more than 1 hour from the departure airport at normal cruising speed in still air with one engine inoperative.

(2) *Airplanes having three or more engines.* Not more than 2 hours from the departure airport at normal cruising

speed in still air with one engine inoperative.

(b) For the purposes of paragraph (a) of this section, the alternate airport weather conditions must meet the requirements of the certificate holder's operations specifications.

(c) No person may release an airplane from an airport unless that person lists each required alternate airport in the dispatch or flight release.

§ 125.367 Alternate airport for destination: IFR or over-the-top.

(a) Except as provided in paragraph (b) of this section, each person releasing an airplane for operation under IFR or over-the-top shall list at least one alternate airport for each destination airport in the flight release.

(b) An alternate airport need not be designated for IFR or over-the-top operations where the airplane carries enough fuel to meet the requirements of §§ 125.375 and 125.377 for flights outside the 48 contiguous States and the District of Columbia over routes without an available alternate airport for a particular airport of destination.

(c) For the purposes of paragraph (a) of this section, the weather requirements at the alternate airport must meet the requirements of the operator's operations specifications.

(d) No person may release a flight unless that person lists each required alternate airport in the flight release.

§ 125.369 Alternate airport weather minimums.

No person may list an airport as an alternate airport in the flight release unless the appropriate weather reports or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the alternate weather minimums specified in the certificate holder's operations specifications for that airport when the flight arrives.

§ 125.371 Continuing flight in unsafe conditions.

(a) No pilot in command may allow a flight to continue toward any airport to which it has been released if, in the opinion of the pilot in command, the flight cannot be completed safely, unless, in the opinion of the pilot if command, there is no safer procedure. In that event, continuation toward that airport is an emergency situation.

§ 125.373 Original flight release or amendment of flight release.

(a) A certificate holder may specify any airport authorized for the type of airplane as a destination for the purpose of original release.

(b) No person may allow a flight to continue to an airport to which it has

been released unless the weather conditions at an alternate airport that was specified in the flight release are forecast to be at or above the alternate minimums specified in the operations specifications for that airport at the time the airplane would arrive at the alternate airport. However, the flight release may be amended en route to include any alternate airport that is within the fuel range of the airplane as specified in § 125.375 or § 125.377.

(c) No person may change an original destination or alternate airport that is specified in the original flight release to another airport while the airplane is en route unless the other airport is authorized for that type of airplane.

(d) Each person who amends a flight release en route shall record that amendment.

§ 125.375 Fuel supply: Nonturbine and turbopropeller-powered airplanes.

(a) Except as provided in paragraph (b) of this section, no person may release for flight or takeoff, a nonturbine or turbopropeller-powered airplane unless, considering the wind and other weather conditions expected, it has enough fuel—

(1) To fly to and land at the airport to which it is released;

(2) Thereafter, to fly to and land at the most distant alternate airport specified in the flight release; and

(3) Thereafter, to fly for 45 minutes at normal cruising fuel consumption.

(b) If the airplane is released for any flight other than from one point in the contiguous United States to another point in the contiguous United States, it must carry enough fuel to meet the requirements of subparagraphs (1) and (2) of paragraph (a) of this section and thereafter fly for 30 minutes plus 15 percent of the total time required to fly at normal cruising fuel consumption to the airports specified in subparagraphs (1) and (2) of paragraph (a) of this section, or fly for 90 minutes at normal cruising fuel consumption, whichever is less.

(c) No person may release a nonturbine or turbopropeller-powered airplane to an airport for which an alternate is not specified under § 125.367(b) unless it has enough fuel, considering wind and other weather conditions expected, to fly to that airport and thereafter to fly for 3 hours at normal cruising fuel consumption.

§ 125.377 Fuel supply: Turbine-engine-powered airplanes other than turbopropeller.

(a) Except as provided in paragraph (b) of this section, no person may release for flight or takeoff a turbine-

powered airplane (other than a turbopropeller-powered airplane) unless, considering the wind and other weather conditions expected, it has enough fuel—

(1) To fly to and land at the airport to which it is released;

(2) Thereafter, to fly to and land at the most distant alternate airport specified in the flight release; and

(3) Thereafter, to fly for 45 minutes at normal cruising fuel consumption.

(b) For any operation outside the 48 contiguous United States and the District of Columbia, unless authorized by the Administrator in the operations specifications, no person may release for flight or take off a turbine-engine powered airplane (other than a turbopropeller-powered airplane) unless, considering wind and other weather conditions expected, it has enough fuel—

(1) To fly and land at the airport to which it is released;

(2) After that, to fly for a period of 10 percent of the total time required to fly from the airport of departure and land at the airport to which it was released;

(3) After that, to fly to and land at the most distant alternate airport specified in the flight release, if an alternate is required; and

(4) After that, to fly for 30 minutes at holding speed at 1,500 feet above the alternate airport (or the destination airport if no alternate is required) under standard temperature conditions.

(c) No person may release a turbine-engine-powered airplane (other than a turbopropeller airplane) to an airport for which an alternate is not specified under § 125.367(b) unless it has enough fuel, considering wind and other weather conditions expected, to fly to that airport and thereafter to fly for at least 2 hours at normal cruising fuel consumption.

(d) The Administrator may amend the operations specifications of a certificate holder to require more fuel than any of the minimums stated in paragraph (a) or (b) of this section if the Administrator finds that additional fuel is necessary on a particular route in the interest of safety.

§ 125.379 Landing weather minimums: IFR.

(a) If the pilot in command of an airplane has not served 100 hours as pilot in command in operations under this Part in the type of airplane being operated, the MDA or DH and visibility landing minimums in the certificate holder's operations specification are increased by 100 feet and one-half mile (or the RVR equivalent). The MDA or DH and visibility minimums need not be

increased above those applicable to the airport when used as an alternate airport, but in no event may the landing minimums be less than 300 and 1.

(b) The 100 hours of pilot-in-command experience required by paragraph (a) may be reduced (not to exceed 50 percent) by substituting one landing in operations under this Part in the type of airplane for 1 required hour of pilot-in-command experience if the pilot has at least 100 hours as pilot in command of another type airplane in operations under this Part.

(c) Category II minimums, when authorized in the certificate holder's operations specifications, do not apply until the pilot in command subject to paragraph (a) of this section meets the requirements of that paragraph in the type of airplane the pilot is operating.

§ 125.381 Takeoff and landing weather minimums: IFR.

(a) Regardless of any clearance from ATC, if the reported weather conditions are less than that specified in the certificate holder's operations specifications, no pilot may—

(1) Take off an airplane under IFR; or

(2) Except as provided in paragraph (c) of this section, land an airplane under IFR.

(b) Except as provided in paragraph (c) of this section, no pilot may execute an instrument approach procedure if the latest reported visibility is less than the landing minimums specified in the certificate holder's operations specifications.

(c) If a pilot initiates an instrument approach procedure when the latest weather report indicates that the specified visibility minimums exist, and a later weather report indicating below minimums conditions is received after the airplane—

(1) Is on an ILS final approach and has passed the outer marker,

(2) Is on final approach using a radio range station or comparable facility, has passed the appropriate facility, and has reached the authorized MDA, or

(3) Is on PAR final approach and has been turned over to the final approach controller,

the approach may be continued and a landing may be made if the pilot in command finds, upon reaching the authorized MDA or DH, that actual weather conditions are at least equal to the minimums prescribed in the operations specifications.

§ 125.383 Load manifest.

(a) Each certificate holder is responsible for the preparation and accuracy of a load manifest in duplicate containing information concerning the

loading of the airplane. The manifest must be prepared before each takeoff and must include—

(1) The number of passengers;

(2) The total weight of the loaded airplane;

(3) The maximum allowable takeoff weight for that flight;

(4) The center of gravity limits;

(5) The center of gravity of the loaded airplane, except that the actual center of gravity need not be computed if the airplane is loaded according to a loading schedule or other approved method that ensures that the center of gravity of the loaded airplane is within approved limits. In those cases, an entry shall be made on the manifest indicating that the center of gravity is within limits according to a loading schedule or other approved method;

(6) The registration number of the airplane or flight number;

(7) The origin and destination; and

(8) Identification of crewmembers and their crew position assignments.

(b) The pilot in command of an airplane for which a load manifest must be prepared shall carry a copy of the completed load manifest in the airplane to its destination. The certificate holder shall keep copies of completed load manifests for at least 30 days at its principal operations base, or at another location used by it and approved by the Administrator.

Subpart L—Records and Reports

§ 125.401 Crewmember record.

(a) Each certificate holder shall—

(1) Maintain current records of each crewmember that shows whether or not that crewmember complies with this chapter (e.g., proficiency and route checks, airplane and route qualifications, any required physical examinations, and flight time records); and

(2) Record each action taken concerning the release from employment or physical or professional disqualification of any flight crewmember and keep the record for at least 6 months thereafter.

(b) Each certificate holder shall maintain the records required by paragraph (a) of this section at its principal operations base, or at another location used by it and approved by the Administrator.

(c) Computer record systems approved by the Administrator may be used in complying with the requirements of paragraph (a) of this section.

§ 125.403 Flight release form.

(a) Except as provided in paragraph (c) of this section, the flight release may

be in any form but must contain at least the following information concerning each flight:

(1) Company or organization name.

(2) Make, model, and registration number of the airplane being used.

(3) Number and date of flight.

(4) Name of each flight crewmember, flight attendant, and pilot designated as pilot in command.

(5) Departure airport, destination airports, alternate airports, and route.

(6) Minimum fuel supply (in gallons or pounds).

(7) A statement of the type of operation (e.g., IFR, VFR).

(b) The airplane flight release must contain, or have attached to it, weather reports, available weather forecasts, or a combination thereof.

§ 125.405 Disposition of load manifest, flight release, and flight plans.

(a) The pilot in command of an airplane shall carry in the airplane to its destination the original or a signed copy of the—

(1) Load manifest required by

§ 125.383;

(2) Flight release;

(3) Airworthiness release;

(4) Pilot route certification; and

(5) Flight plan.

(b) If a flight originates at the principal operations base of the certificate holder, it shall retain at that base a signed copy of each document listed in paragraph (a) of this section.

(c) Except as provided in paragraph (d) of this section, if a flight originates at a place other than the principal operations base of the certificate holder, the pilot in command (or another person not aboard the airplane who is authorized by the operator) shall, before or immediately after departure of the flight, mail signed copies of the documents listed in paragraph (a) of this section to the principal operations base.

(d) If a flight originates at a place other than the principal operations base of the certificate holder and there is at that place a person to manage the flight departure for the operator who does not depart on the airplane, signed copies of the documents listed in paragraph (a) of this section may be retained at that place for not more than 30 days before being sent to the principal operations base of the certificate holder. However, the documents for a particular flight need not be further retained at that place or be sent to the principal operations base, if the originals or other copies of them have been previously returned to the principal operations base.

(e) The certificate holder shall:

(1) Identify in its operations manual the person having custody of the copies of documents retained in accordance with paragraph (d) of this section; and

(2) Retain at its principal operations base either the original or a copy of the records required by this section for at least 30 days.

§ 125.407 Maintenance log: Airplane.

(a) Each person who takes action in the case of a reported or observed failure or malfunction of an airframe, engine, propeller, or appliance that is critical to the safety of flight shall make, or have made, a record of that action in the airplane's maintenance log.

(b) Each certificate holder shall have an approved procedure for keeping adequate copies of the record required in paragraph (a) of this section in the airplane in a place readily accessible to each flight crewmember and shall put that procedure in the certificate holder's manual.

§ 125.409 Reports of defects or unairworthy conditions.

Each certificate holder shall report the occurrence or detection of each failure, malfunction, or defect in a form and manner prescribed by the Administrator.

§ 125.411 Airworthiness release or airplane log entry.

(a) No certificate holder may operate an airplane after maintenance, preventive maintenance, or alterations are performed on the airplane unless the person with whom the certificate holder arranges for the performance of the maintenance, preventive maintenance, or alterations, prepares or causes to be prepared—

(1) An airworthiness release; or

(2) An appropriate entry in the airplane log.

(b) The airworthiness release or log entry required by paragraph (a) of this section must—

(1) Be prepared in accordance with the procedures set forth in the certificate holder's manual;

(2) Include a certification that—

(i) The work was performed in accordance with the requirements of the certificate holder's manual;

(ii) All items required to be inspected were inspected by an authorized person who determined that the work was satisfactorily completed;

(iii) No known condition exists that would make the airplane unairworthy; and

(iv) So far as the work performed is concerned, the airplane is in condition for safe operation; and

(3) Be signed by an authorized certificated mechanic or repairman

except that a certificated repairman may sign the release or entry only for the work for which that person is employed and certificated.

Notwithstanding subparagraph (3) of this paragraph, after maintenance, preventive maintenance, or alterations performed by a repair station certificated under the provisions of Subpart C of Part 145, the airworthiness release or log entry required by paragraph (a) of this section may be signed by a person authorized by that repair station.

(c) When an airworthiness release form is prepared, the certificate holder must give a copy to the pilot in command and must keep a record thereof for at least 2 months.

(d) Instead of restating each of the conditions of the certification required by paragraph (b) of this section, the certificate holder may state in its manual that the signature of an authorized certificated mechanic or repairman constitutes that certification.

Appendix A—Additional Emergency Equipment.

(a) Means for emergency evacuation. Each passenger-carrying landplane emergency exit (other than over-the-wing) that is more than 6 feet from the ground with the airplane on the ground and the landing gear extended, must have an approved means to assist the occupants in descending to the ground. The assisting means for a floor level emergency exit must meet the requirements of § 25.809(f)(1) of this chapter in effect on April 30, 1972, except that, for any airplane for which the application for the type certificate was filed after that date, it must meet the requirements under which the airplane was type certificated. An assisting means that deploys automatically must be armed during taxiing, takeoffs, and landings. However, if the Administrator finds that the design of the exit makes compliance impractical, the Administrator may grant a deviation from the requirement of automatic deployment if the assisting means automatically erects upon deployment and, with respect to required emergency exits, if an emergency evacuation demonstration is conducted in accordance with § 125.207. This paragraph does not apply to the rear window emergency exit of DC-3 airplanes operated with less than 36 occupants, including crewmembers, and less than five exits authorized for passenger use.

(b) Interior emergency exit marking. The following must be complied with for each passenger-carrying airplane:

(1) Each passenger emergency exit, its means of access, and its means of opening must be conspicuously marked. The identity and location of each passenger emergency exit must be recognizable from a distance equal to the width of the cabin. The location of each passenger emergency exit must be indicated by a sign visible to occupants approaching along the main passenger aisle. There must be a locating sign—

(i) Above the aisle near each over-the-wing passenger emergency exit, or at another

ceiling location if it is more practical because of low headroom;

(ii) Next to each floor level passenger emergency exit, except that one sign may serve two such exits if they both can be seen readily from that sign; and

(iii) On each bulkhead or divider that prevents fore and aft vision along the passenger cabin, to indicate emergency exits beyond and obscured by it, except that if this is not possible the sign may be placed at another appropriate location.

(2) Each passenger emergency exit marking and each locating sign must meet the following:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, each passenger emergency exit marking and each locating sign must be manufactured to meet the requirements of § 25.812(b) of this chapter in effect on April 30, 1972. On these airplanes, no sign may continue to be used if its luminescence (brightness) decreases to below 100 microlamberts. The colors may be reversed if it increases the emergency illumination of the passenger compartment. However, the Administrator may authorize deviation from the 2-inch background requirements if the Administrator finds that special circumstances exist that make compliance impractical and that the proposed deviation provides an equivalent level of safety.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, each passenger emergency exit marking and each locating sign must be manufactured to meet the interior emergency exit marking requirements under which the airplane was type certificated. On these airplanes, no sign may continue to be used if its luminescence (brightness) decreases to below 250 microlamberts.

(c) Lighting for interior emergency exit markings. Each passenger-carrying airplane must have an emergency lighting system, independent of the main lighting system. However, sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system. The emergency lighting system must—

(1) Illuminate each passenger exit marking and locating sign; and

(2) Provide enough general lighting in the passenger cabin so that the average illumination, when measured at 40-inch intervals at seat armrest height, on the centerline of the main passenger aisle, is at least 0.05 foot-candles.

(d) Emergency light operation. Except for lights forming part of emergency lighting subsystems provided in compliance with § 25.812(g) of this chapter (as prescribed in paragraph (h) of this section) that serve no more than one assist means, are independent of the airplane's main emergency lighting systems, and are automatically activated when the assist means is deployed, each light required by paragraphs (c) and (h) must comply with the following:

(1) Each light must be operable manually and must operate automatically from the independent lighting system—

(i) In a crash landing; or
(ii) Whenever the airplane's normal electric power to the light is interrupted.

(2) Each light must—
(i) Be operable manually from the flightcrew station and from a point in the passenger compartment that is readily accessible to a normal flight attendant seat;
(ii) Have a means to prevent inadvertent operation of the manual controls; and
(iii) When armed or turned on at either station, remain lighted or become lighted upon interruption of the airplane's normal electric power.

Each light must be armed or turned on during taxiing, takeoff, and landing. In showing compliance with this paragraph, a transverse vertical separation of the fuselage need not be considered.

(3) Each light must provide the required level of illumination for at least 10 minutes at the critical ambient conditions after emergency landing.

(e) *Emergency exit operating handles.*

(1) For a passenger-carrying airplane for which the application for the type certificate was filed prior to May 1, 1972, the location of each passenger emergency exit operating handle and instructions for opening the exit must be shown by a marking on or near the exit that is readable from a distance of 30 inches. In addition, for each Type I and Type II emergency exit with a locking mechanism released by rotary motion of the handle, the instructions for opening must be shown by—

(i) A red arrow with a shaft at least $\frac{3}{4}$ inch wide and a head twice the width of the shaft, extending along at least 70 degrees of arc at a radius approximately equal to $\frac{3}{4}$ of the handle length; and

(ii) The word "open" in red letters 1 inch high placed horizontally near the head of the arrow.

(2) For a passenger-carrying airplane for which the application for the type certificate was filed on or after May 1, 1972, the location of each passenger emergency exit operating handle and instructions for opening the exit must be shown in accordance with the requirements under which the airplane was type certificated. On these airplanes, no operating handle or operating handle cover may continue to be used if its luminescence (brightness) decreases to below 100 microlamberts.

(f) *Emergency exit access.* Access to emergency exits must be provided as follows for each passenger-carrying airplane:

(1) Each passageway between individual passenger areas, or leading to a Type I or Type II emergency exit, must be unobstructed and at least 20 inches wide.

(2) There must be enough space next to each Type I or Type II emergency exit to allow a crewmember to assist in the evacuation of passengers without reducing the unobstructed width of the passageway below that required in paragraph (f)(1) of this section. However, the Administrator may authorize deviation from this requirement for an airplane certificated under the provisions of Part 4b of the Civil Air Regulations in effect before December 20, 1951, if the Administrator finds that special circumstances exist that provide an equivalent level of safety.

(3) There must be access from the main aisle to each Type III and Type IV exit. The access from the aisle to these exits must not be obstructed by seats, berths, or other protrusions in a manner that would reduce the effectiveness of the exit. In addition—

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the access must meet the requirements of § 25.813(c) of this chapter in effect on April 30, 1972; and

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the access must meet the emergency exit access requirements under which the airplane was certificated.

(4) If it is necessary to pass through a passageway between passenger compartments to reach any required emergency exit from any seat in the passenger cabin, the passageway must not be obstructed. However, curtains may be used if they allow free entry through the passageway.

(5) No door may be installed in any partition between passenger compartments.

(6) If it is necessary to pass through a doorway separating the passenger cabin from other areas to reach any required emergency exit from any passenger seat, the door must have a means to latch it in open position, and the door must be latched open during each takeoff and landing. The latching means must be able to withstand the loads imposed upon it when the door is subjected to the ultimate inertia forces, relative to the surrounding structure, listed in § 25.561(b) of this chapter.

(g) *Exterior exit markings.* Each passenger emergency exit and the means of opening that exit from the outside must be marked on the outside of the airplane. There must be a 2-inch colored band outlining each passenger emergency exit on the side of the fuselage. Each outside marking, including the band must be readily distinguishable from the surrounding fuselage area by contrast in color. The markings must comply with the following:

(1) If the reflectance of the darker color is 15 percent or less, the reflectance of the lighter color must be at least 45 percent. "Reflectance" is the ratio of the luminous flux reflected by a body to the luminous flux it receives.

(2) If the reflectance of the darker color is greater than 15 percent, at least a 30 percent difference between its reflectance and the reflectance of the lighter color must be provided.

(3) Exits that are not in the side of the fuselage must have the external means of opening and applicable instructions marked conspicuously in red or, if red is inconspicuous against the background color, in bright chrome yellow and, when the opening means for such an exit is located on only one side of the fuselage, a conspicuous marking to that effect must be provided on the other side.

(h) *Exterior emergency lighting and escape route.*

(1) Each passenger-carrying airplane must be equipped with exterior lighting that meets the following requirements:

(i) For an airplane for which the application for the type certificate was filed prior to May

1, 1972, the requirements of § 25.812 (f) and (g) of this chapter in effect on April 30, 1972.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the exterior emergency lighting requirements under which the airplane was type certificated.

(2) Each passenger-carrying airplane must be equipped with a slip-resistant escape route that meets the following requirements:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the requirements of § 25.803(e) of this chapter in effect on April 30, 1972.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the slip-resistant escape route requirements under which the airplane was type certificated.

(i) *Floor level exits.* Each floor level door or exit in the side of the fuselage (other than those leading into a cargo or baggage compartment that is not accessible from the passenger cabin) that is 44 or more inches high and 20 or more inches wide, but not wider than 46 inches, each passenger ventral exit (except the ventral exits on M-404 and CV-240 airplanes) and each tail cone exit must meet the requirements of this section for floor level emergency exits. However, the Administrator may grant a deviation from this paragraph if the Administrator finds that circumstances make full compliance impractical and that an acceptable level of safety has been achieved.

(j) *Additional emergency exits.* Approved emergency exits in the passenger compartments that are in excess of the minimum number of required emergency exits must meet all of the applicable provisions of this section except paragraph (f), (1), (2), and (3) and must be readily accessible.

(k) On each large passenger-carrying turbojet powered airplane, each ventral exit and tailcone exit must be—

(1) Designed and constructed so that it cannot be opened during flight; and

(2) Marked with a placard readable from a distance of 30 inches and installed at a conspicuous location near the means of opening the exit, stating that the exit has been designed and constructed so that it cannot be opened during flight.

Appendix B—Criteria for Demonstration of Emergency Evacuation Procedures Under § 125.189

(a) Aborted takeoff demonstration.

(1) The demonstration must be conducted either during the dark of the night or during daylight with the dark of the night simulated. If the demonstration is conducted indoors during daylight hours, it must be conducted with each window covered and each door closed to minimize the daylight effect. Illumination on the floor or ground may be used, but it must be kept low and shielded against shining into the airplane's windows or doors.

(2) The airplane must be in a normal ground attitude with landing gear extended.

(3) Stands or ramps may be used for descent from the wing to the ground. Safety equipment such as mats or inverted life rafts may be placed on the ground to protect

participants. No other equipment that is not part of the airplane's emergency evacuation may be used to aid the participants in reaching the ground.

(4) The airplane's normal electrical power sources must be deenergized.

(5) All emergency equipment for the type of passenger-carrying operation involved must be installed in accordance with the certificate holder's manual.

(6) Each external door and exit and each internal door or curtain must be in position to simulate a normal takeoff.

(7) A representative passenger load of persons in normal health must be used. At least 30 percent must be females. At least 5 percent must be over 60 years of age with a proportionate number of females. At least 5 percent, but not more than 10 percent, must be children under 12 years of age, prorated through that age group. Three life-size dolls, not included as part of the total passenger load, must be carried by passengers to simulate live infants 2 years old or younger. Crewmembers, mechanics, and training personnel who maintain or operate the airplane in the normal course of their duties may not be used as passengers.

(8) No passenger may be assigned a specific seat except as the Administrator may require. Except as required by item (12) of this paragraph, no employee of the certificate holder may be seated next to an emergency exit.

(9) Seat belts and shoulder harnesses (as required) must be fastened.

(10) Before the start of the demonstration, approximately one-half of the total average amount of carry-on baggage, blankets, pillows, and other similar articles must be distributed at several locations in the aisles and emergency exit access ways to create minor obstructions.

(11) The seating density and arrangement of the airplane must be representative of the highest capacity passenger version of that airplane the certificate holder operates or proposes to operate.

(12) Each crewmember must be a member of a regularly scheduled line crew, must be seated in that crewmember's normally assigned seat for takeoff, and must remain in that seat until the signal for commencement of the demonstration is received.

(13) No crewmember of passenger may be given prior knowledge of the emergency exits available for the demonstration.

(14) The certificate holder may not practice, rehearse, or describe the demonstration for the participants nor may any participant have taken part in this type of demonstration within the preceding 6 months.

(15) The pretakeoff passenger briefing required by § 125.327 may be given in accordance with the certificate holder's manual. The passengers may also be warned to follow directions of crewmembers, but may not be instructed on the procedures to be followed in the demonstration.

(16) If safety equipment as allowed by item (3) of this section is provided, either all passenger and cockpit windows must be blacked out or all of the emergency exits must have safety equipment to prevent disclosure of the available emergency exits.

(17) Not more than 50 percent of the emergency exits in the sides of the fuselage of

an airplane that meet all of the requirements applicable to the required emergency exits for that airplane may be used for the demonstration. Exits that are not to be used in the demonstration must have the exit handle deactivated or must be indicated by red lights, red tape or other acceptable means, placed outside the exits to indicate fire or other reason that they are unusable. The exits to be used must be representative of all of the emergency exits on the airplane and must be designated by the certificate holder, subject to approval by the Administrator. At least one floor level exit must be used.

(18) All evacuees, except those using an over-the-wing exit, must leave the airplane by a means provided as part of the airplane's equipment.

(19) The certificate holders approved procedures and all of the emergency equipment that is normally available, including slides, ropes, lights, and megaphones, must be fully utilized during the demonstration.

(20) The evacuation time period is completed when the last occupant has evacuated the airplane and is on the ground. Evacuees using stands or ramps allowed by item (3) above are considered to be on the ground when they are on the stand or ramp: *Provided*, That the acceptance rate of the stand or ramp is no greater than the acceptance rate of the means available on the airplane for descent from the wing during an actual crash situation.

(b) *Ditching demonstration.* The demonstration must assume that daylight hours exist outside the airplane and that all required crewmembers are available for the demonstration.

(1) If the certificate holder's manual requires the use of passengers to assist in the launching of liferafts, the needed passengers must be aboard the airplane and participate in the demonstration according to the manual.

(2) A stand must be placed at each emergency exit and wing with the top of the platform at a height simulating the water level of the airplane following a ditching.

(3) After the ditching signal has been received, each evacuee must don a life vest according to the certificate holder's manual.

(4) Each liferaft must be launched and inflated according to the certificate holder's manual and all other required emergency equipment must be placed in rafts.

(5) Each evacuee must enter a liferaft and the crew members assigned to each liferaft must indicate the location of emergency equipment aboard the raft and describe its use.

(6) Either the airplane, a mockup of the airplane, or a floating device simulating a passenger compartment must be used.

(i) If a mockup of the airplane is used, it must be a life-size mockup of the interior and representative of the airplane currently used by or proposed to be used by the certificate holder and must contain adequate seats for use of the evacuees. Operation of the emergency exits and the doors must closely simulate those on the airplane. Sufficient wing area must be installed outside the over-the-wing exits to demonstrate the evacuation.

(ii) If a floating device simulating a passenger compartment is used, it must be representative, to the extent possible, of the passenger compartment of the airplane used in operations. Operation of the emergency exits and the doors must closely simulate operation on that airplane. Sufficient wing area must be installed outside the over-the-wing exits to demonstrate the evacuation. The device must be equipped with the same survival equipment as is installed on the airplane, to accommodate all persons participating in the demonstration.

(Sections 313, 601 through 610, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421-1430 and 1502); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Washington, D.C. on Nov. 9, 1979.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 79-35231 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-13-M

V
4
4

N
O

1
9

7
9
U M I

federal register

Monday
November 19, 1979

Part III

Department of Commerce

National Oceanic and Atmospheric
Administration

Bering Sea and Aleutian Islands
Groundfish Fishery; Proposed
Implementation of Fishery Management
Plan

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

Bering Sea and Aleutian Islands Groundfish Fishery; Notice of Preliminary Approval of Fishery Management Plan and Proposed Implementing Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/Commerce.

ACTION: Proposed regulations.

SUMMARY: Preliminary approval has been given to the Bering Sea and Aleutian Islands Area Groundfish Fishery Management Plan (FMP). Regulations to implement the FMP are proposed. The proposed regulations are applicable to vessels of the United States and foreign nations fishing for groundfish in the fishery conservation zone (FCZ) of the Bering Sea and Western Aleutian Islands. Portions of the proposed regulations also apply to U.S. fish processors who process fish harvested in the management area.

DATE: Comments on the FMP and proposed implementing regulations will be received until January 18, 1980.

ADDRESS: Comments may be submitted to: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska 99802, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION:

A. History and Scope of the FMP

The Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands area was prepared by the North Pacific Fishery Management Council (Council) pursuant to the Fishery Conservation and Management Act of 1976, as amended (16 U.S.C. 1801 et seq., "the Act"). The FMP contains conservation and management measures applicable to foreign and U.S. vessels fishing for pollock, yellowfin sole, turbot (Arrowtooth flounder, Greenland turbot), other flatfishes, Pacific cod, Atka mackerel, sablefish, Pacific ocean perch, other rockfishes, squid, and other species in the FCZ of the Bering Sea and Aleutian Island area (management area).

The FMP does not pertain to vessels fishing for Pacific halibut, salmon and steelhead, Tanner crab, horseshair crab, lyre crab, dungeness crab, King crab, shrimp, snails, herring, coral, and clams. Retention of these species by foreign vessels is prohibited under the Act unless species allocations are held under other management plans. Retention by U.S. vessels is permitted unless prohibited by other applicable law.

The FMP and proposed implementing regulations will supersede those portions of 50 CFR 611.93 (Bering Sea and Aleutian Islands Trawl and Herring Gillnet Fishery) which pertain to species other than herring. Within the next month, NOAA intends to propose amendments to the herring regulations for 1980. These regulations will be coordinated with any final regulations implementing the groundfish FMP.

The Council approved the draft FMP and draft environmental impact statement on July 27, 1978. Public hearings were held in Seattle, Washington, and in Kodiak, Unalaska and Anchorage, Alaska. Following the close of the public comment period on January 10, 1979, the FMP was revised and subsequently approved by the Council on March 27, 1979. The FMP, except for a reserved section, was submitted to the Secretary of Commerce (Secretary) on April 23, 1979. The reserved section was submitted on June 4, 1979. On July 17, 1979, the Council requested an extension of the Secretarial review period to review the results of the 1979 processor survey, and consider possible amendments to the FMP. On September 10, 1979, an amendment to the FMP was submitted to the Secretary for review. On October 19, 1979, the Assistant Administrator, acting pursuant to a delegation of authority from the Secretary of Commerce, gave preliminary approval to the FMP (including the reserved section) and the amendment under the authority of section 305(a) of the Act. The FMP, as amended, and proposed implementing regulations are published for public comment.

B. Major Provisions of the FMP and Proposed Implementing Regulations

The management measures established in the FMP were developed by the Council in accordance with the national standards (section 301(a) of the Act), and the following conservation and management objectives: (1) allow rebuilding of halibut and other depressed groundfish stocks; (2) reduce gear conflicts between mobile and stationary gear users; (3) provide an opportunity for U.S. fishing industry

involvement in the fishery limited only by the optimum yield (OY) of individual species and objective (1); and (4) allow foreign participation consistent with objectives (1) and (3).

The FMP establishes an OY for each species (or species group) in the fishery. Where a species is comprised of discrete stocks, separate OY's are specified. When the combined U.S. and foreign catch in the fishery reaches the OY for any species, all fishing by vessels harvesting that species in the management area (or appropriate sub-area) is prohibited.

The FMP considers most fish stocks to be healthy. However, the need for further information and research about individual species and the dynamics of the fishery is recognized. To assure that lack of information will not have an adverse impact on fishery resources, the FMP generally uses conservative estimates of MSY and allowable biological catch (ABC). OY's have been set so that the level of abundance is at or above the level required to produce MSY. The FMP also establishes vessel reporting requirements to monitor the level of catch and to provide further information about the resource.

The basis and purpose of specific management measures are set out in the FMP. Generally stated, the policy objectives of the FMP are furthered by a combination of area closures, harvest limitations and reporting requirements. Objective one of the FMP is to be achieved by (1) prohibiting foreign fishing and limiting fishing by U.S. vessels in designated areas during the winter months when the incidence of juvenile halibut is high; (2) requiring immediate return to the sea of all halibut taken (except by permitted U.S. longliners during halibut season) to avoid covert targeting on this species; and (3) imposing catch limitations on depressed stocks (sablefish and Pacific ocean perch) at a level designed to allow rebuilding rather than maintenance of these stocks. Prohibition of foreign trawling and limitation of U.S. trawling in areas heavily utilized by set gear (pot) fishermen is a measure designed to further objective two.

Objectives three and four are to be achieved by making available to vessels of foreign nations only that amount of fish which will not be harvested by U.S. vessels. The FMP makes initial estimates of domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP) and total allowable level of foreign fishing (TALFF). However, because of the uncertainties involved in estimating the amounts of fish which will be harvested or processed by U.S. vessels

and processors, the FMP also establishes a reserve amount of fish (approximately 5 percent of the total OY) as a hedge against uncertainty. The FMP and proposed regulations require periodic in-season reassessment of these initial estimates, and apportionment of reserve amounts between U.S. and foreign fishing according to the standards and procedures stated in the regulations. The regulations also authorize direct transfer to TALFF of any portion of the DAH which will not be harvested by vessels of the United States. Apportionments from the reserve are authorized at periodic intervals throughout the season so that foreign nations will have a reasonable opportunity to harvest any increased allocations. Transfers from DAH to TALFF are scheduled so that accurate forecasts can be made while providing ample opportunity for foreign nations to harvest any additional allocations.

These reassessment procedures, which include provision for public comment, when combined with the vessel and processor reporting requirements are intended to further the objectives of national standards one, two, and six, by: (1) providing flexibility to meet in-season contingencies; (2) allowing incorporation of the most recent information available; and (3) allowing adjustments to assure full utilization of available resources.

The FMP and proposed regulations contain two other provisions of particular interest.

(1) *Non specified species.* The FMP creates a category of "non-specified species". This category is comprised of species and species groups of no current or foreseeable economic value, which are taken by the groundfish fishery only as an incidental by-catch to target fisheries. This class includes invertebrates such as starfish, sea urchins, and jelly fish, and miscellaneous non-commercial finfish such as hagfish, rattails, and lumpsuckers. The OY for non-specified species is defined as "The catch whether retained or discarded." Thus, the OY is limited only by limits on target species. Because the catch of these species is so small, the MSY is considered to be equal to, or higher than, the OY. No foreign fee would be charged, and records will be kept only by observers on foreign vessels.

The purpose of this provision is to take into account and monitor catch of little-known species, without imposing record-keeping requirements which, in view of the number of species involved, would be complex and unduly burdensome. Observers will keep records on the status of these species.

The FMP states that the Council will consider an appropriate plan amendment should foreign nations target on these species or abundance appear reduced. Retention of non-specified species by U.S. vessels can be monitored under the reporting requirements proposed.

(2) *Reporting Requirements.* The proposed regulations require reporting by owners or operators of fishing vessels and by U.S. processors of fish harvested in the management area. The vessel reporting requirements for U.S. vessels include a requirement that non-processed fish, (i.e., fish transferred, sold or consumed at sea) harvested in the management area be reported. The purpose of this requirement is to monitor the "non-processed fish" component of the OY, and to develop better information on which to base future estimates of domestic annual harvest.

The FMP states that reporting requirements imposed on U.S. vessels "should" be of the same degree of specificity as the foreign fishing regulations (FMP, section 14.3.1.5). NOAA agrees that more precise record-keeping is desirable for evaluating the status of stocks and the effects of fishing effort on these stocks. However, development of an effective U.S. vessel reporting system will require considerable expense, and extensive consultation and coordination between the National Marine Fisheries Service (NMFS), the State of Alaska, and owners and operators of fishing vessels. NOAA intends to consider this matter during 1980, and will propose amendments to the regulations when a proposal has been developed.

The proposed regulations require U.S. processors who process fish harvested in the management area to report the amount of fish they have processed and expect to process during certain specified periods. Processor reports are required by the Act, as amended (see P.L. 95-354). The quarterly report is considered the minimum which can be required and still receive the information necessary to derive reasonable estimates of domestic annual processing.

C. Other Applicable Law

(1) *Marine Mammal Protection Act*

After the comment period on the draft plan, the Council expanded the sections of the FMP relating to marine mammals. The FMP emphasizes the paucity of scientific information on the relationship between marine mammals and changes in commercial fishing levels or strategies. However, the Council concluded that the FMP was consistent

with the Requirements of the Marine Mammal Protection Act principally because (1) the best available information indicates that the marine mammals most likely to be affected by commercial fishing in the management area are at or above the level of optimum sustainable population; and (2) the total amount of fishing authorized by the FMP is less than the average amount harvested during the last five years.

(2) *Endangered Species Act*

Several species of endangered whales and two species of endangered birds occur in the Bering Sea and Aleutian Islands area. The Council concluded that the fishing activities authorized by the FMP are not likely to jeopardize the continued existence of any endangered species or result in the destruction or adverse modification of a critical habitat. The National Marine Fisheries Service concurs in the conclusion of the Council, but has sought a consultation under section 7 of the Endangered Species Act in relation to endangered whales. Copies of the consultation request are available from the Regional Director, Alaska Region, NMFS at the address previously stated.

(3) *Coastal Zone Management Act*

After submission of the FMP by the Council to the Secretary for review, a Coastal Zone Management Program for the State of Alaska was approved by the Department of Commerce. The NMFS has therefore submitted the FMP and amendment to the State of Alaska for determination of consistency with the Alaska Coastal Zone Management Program. It is anticipated that a determination will be made during the comment period on these proposed regulations. The final environmental impact statement will be revised to indicate this submission and the section 7 consultation under the Endangered Species Act.

D. Other Matters

The Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has made an initial determination that the FMP, as amended, is necessary and appropriate for conservation and management of the groundfish fishery, and is consistent with the national standards, the other provisions of the Act and other applicable law. A draft regulatory analysis under Executive Order 12044 has been prepared. Copies may be obtained from the Regional Director, Alaska Region, NMFS (address stated previously). A revised environmental impact statement will be filed with EPA.

Signed this 2nd day of November 1979 in Washington, D.C.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

Authority: 16 U.S.C. 1801 *et seq.*

1. It is proposed to delete 50 CFR § 611.93 and substitute a new § 611.93 as follows:

§ 611.93 Bering Sea and Aleutian Islands fishery.

(a) *Purpose.* (1) This section regulates foreign fishing for squid, octopus, and all species of finfishes except salmon, Pacific halibut, steelhead, and herring within that portion of the Bering Sea, and that portion of the North Pacific Ocean adjacent to the Aleutian Islands west of 170° W. longitude, over which the United States exercises exclusive fishery management authority under the

Act (hereinafter referred to in this section as the "management area").

(2) For regulations governing fishing in the Bering Sea and Aleutian Islands groundfish fishery by vessels of the United States, see 50 CFR Part 675. Regulations governing foreign fishing for Tanner crab, snails, and herring are set forth in 50 CFR §§ 611.91, 611.94, and 611.95, respectively.

(3) The specifications of total allowable level of foreign fishing (TALFF) and reserves in this section are effective from January 1 through December 31, unless amended.

(b) *Authorized fishery.*—(1) *TALFF's and Reserves.* (i) The optimum yields (OY's), initial estimates of domestic annual harvest (DAH), total allowable levels of foreign fishing (TALFF's), and the amounts of fish set aside in a reserve are specified in Table I of this section.

Table I.—Bering Sea and Aleutian Islands Fishery Optimum Yields, TALFF's, and Reserves
(In metric tons)

Reference Species group	Sub-area ¹	ABC = OY	Reserve	Initial DAH	Initial TALFF
Pollock	Bering Sea	1,000,000	50,000	19,550	930,450
Pollock	Aleutian	100,000			100,000
Yellowfin sole		117,000	5,850	2,050	109,100
Turbots		90,000	4,500	1,075	84,425
Other flatfishes ²		61,000	3,050	1,300	56,650
Pacific cod		58,700	2,935	24,265	31,500
Pacific ocean perch	Bering Sea	3,250	162	1,380	1,708
Pacific ocean perch	Aleutian	7,500	375	1,380	5,745
Other rockfish		7,727	386	1,550	5,677
Sablefish	Bering Sea	3,500	350	700	2,450
Sablefish	Aleutian	1,500	150	700	650
Atka mackerel ³		24,800	1,240	100	23,460
Squid		10,000	500	50	9,450
Others		74,249	3,712	2,000	68,537
Total		1,559,226	73,324	56,100	1,429,802

¹BS = Bering Sea (Statistical Areas I, II, III combined); AL = Aleutian Island Area (Statistical Area IV). Includes territorial waters.

²Excluding Pacific halibut.

(ii) *Species definitions.* (A) The term "unallocated species" means for purposes of this section the following: shrimps (*Pandalidae*); scallops (*Pectinidae*); snails (*Gastropoda*); Pacific herring (*Clupea harengus pallasi*); salmonids (*Salmonidae*); Pacific halibut (*Hippoglossus stenolepis*); king crab (*Paralithodes spp.*); Tanner crab (*Chionoecetes opilio*, *C. bairdi*); Dungeness crab (*Cancer magister*); corals (*Colenterata*); surf clam (*Spisula solidissima*); horsehair crab (*Erimacrus isenbeckii*); and lyre crab (*Hysa lyra*). Foreign allocations for these species exist, if at all, only under other fishery management plans.

(B) The term "other species" means for purposes of this section the following: sculpins; sharks; skates; eulachon; smelts; capelin; and octopus.

(C) The term "non-specified species" means for purposes of this section all finfishes and marine invertebrates except pollock; cod; flounders; Atka mackerel; sablefish; rockfishes; squids; other species; and unallocated species.

(2) *Apportionment to TALFF of Reserves and Initial DAH.* (i) *Apportionment of Reserves.* As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Regional Director shall apportion to TALFF up to one-fourth (¼) of each reserve amount set forth in Table I, in accordance with paragraph (b)(2)(iii) of this section: February 2, April 2, June 2, and August 2.

(ii) *Apportionment of Initial DAH.* As soon as practicable after each of the

following dates, and after consultation with the North Pacific Fishery Management Council, the Regional Director shall reassess each DAH amount set forth in Table I and apportion to TALFF such parts thereof as he determines to be appropriate in accordance with paragraph (b)(2)(iii) of this section: June 2 and August 2.

(iii) *Standards and Procedure for Apportionment.* (A) *General.* The Regional Director shall apportion under paragraphs (b)(2)(i) and (b)(2)(ii) of this section such amounts as he determines will not be harvested by vessels of the United States during the remainder of the fishing year. The amount of reserve which the Regional Director determines will be harvested by vessels of the United States may, in the discretion of the Regional Director, be either apportioned to the estimate of domestic annual harvest (DAH) or retained in the reserve as eligible for later apportionment under paragraph (b)(2)(iii)(F) of this section.

(B) *Factors.* In determining whether or not amounts proposed to be apportioned under paragraphs (b)(2)(i) and (b)(2)(ii) of this section will be harvested by vessels of the United States during the remainder of the fishing year, the Regional Director shall consider the following factors, although he shall not be limited to these factors:

(1) Reported United States catch and effort by species and area compared to previously projected United States harvesting capacity;

(2) Projected United States catch and effort by species and area for the remainder of the fishing year;

(3) Amounts of fish, particularly United States harvested fish, already purchased or processed by United States fish processors during the fishing year, compared to previously projected processing capacity of United States fish processors;

(4) Projected processing capacity, and utilization of that capacity for the processing of United States harvested fish, by United States fish processors for the remainder of the fishing year;

(5) Amounts of United States harvested fish already purchased or processed by foreign fishing vessels, compared to previously projected levels of such purchase or processing.

(C) *Allocation of increases and decreases in DAH among DAP, JVP, and DNP.* The Regional Director shall allocate any increases or decreases in DAH amounts resulting from apportionments under paragraphs (b)(2)(i) and (b)(2)(ii) of this section among the three components of DAH: the estimates of domestic annual

processing (DAP); joint venture processing (JVP); and domestic non-processed fish (DNP).

(D) *Public comment.*

(1) Comments may be submitted to the Regional Director concerning:

(i) Whether and the extent to which vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year; and

(ii) Whether and the extent to which United States harvested groundfish can or will be processed by United States fish processors or by foreign processing vessels.

Comments should be addressed to Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, and must be received by the Regional Director no later than 5 days before the relevant date specified in paragraph (b)(2)(i) or (b)(2)(ii) of this section.

(2) The Regional Director shall consider any timely comments submitted in accordance with this paragraph in determining whether and to what extent vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (b)(2)(i) and (b)(2)(ii) of this section.

(3) The Regional Director shall compile, in aggregate form, the most recent available reports on (i) level of catch and effort by vessels of the United States fishing for ground fish in the Bering Sea and Aleutian Islands fishery; and (ii) amounts of United States harvested groundfish taken in the Bering Sea and Aleutian Islands fishery and processed by United States fish processors or delivered at sea to foreign fishing vessels. These data shall be available for public inspection during business hours (8:00 a.m.—4:30 p.m., Monday–Friday) at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(E) *Procedure.* As soon as practicable after each of the dates specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this section, the Regional Director shall publish in the Federal Register:

(1) any reserve amounts to be apportioned to TALFF or DAH;

(2) any DAH amounts to be apportioned to TALFF;

(3) the distribution of amounts apportioned to or from DAH among DAP, JVP, and DNP;

(4) the reasons for any apportionments and their distribution; and

(5) responses to any comments received.

(F) *Add-on.* If, following any of the four dates specified in paragraph (b)(2)(i) of this section, the Regional Director apportions less than 25 percent of any reserve amount to TALFF and DAH, the nonapportioned part of that 25 percent shall be added to the reserve amounts available for apportionment on the next date specified in paragraph (b)(2)(i) of this section.

(3) *Fishing permitted.* (i) The catching in the management area and retention of any groundfish for which a nation has an allocation is permitted, except as provided in this section.

(ii) The Regional Director shall issue a notice of closure, pursuant to the procedures of § 611.15(c), prohibiting fishing with specified gear types for any groundfish species or species group in the management area or the appropriate portion thereof when he determines that one or more of the following catch limitations will be reached:

(A) Optimum yield (OY) for the groundfish species or species group: The Regional Director shall issue a notice prohibiting fishing using trawl gear for groundfish in the management area or portion thereof by vessels subject to this section, until January 1 *except* that if the optimum yield for sablefish, turbot, Pacific cod or "other species" will be reached, the Regional Director shall prohibit fishing for groundfish in that management area or portion thereof by all vessels subject to this section until January 1;

(B) Total allowable level of foreign fishing (TALFF) for any groundfish species or species group: The Regional Director shall issue a notice prohibiting fishing using trawl gear for groundfish in the management area or portion thereof, *except* that if the TALFF for sablefish, Pacific cod, turbot or "other species" will be reached, the Regional Director shall prohibit fishing for groundfish in that management area or portion thereof by all vessels subject to this section.

(C) The allocation of a nation for any groundfish species, or species group: The Regional Director shall issue a notice prohibiting fishing using trawl gear for groundfish in the management area or portion thereof, *except* that if the allocation of sablefish, Pacific cod, turbot, or "other species" will be reached, the Regional Director shall prohibit fishing for groundfish in that management area or portion thereof by all vessels of that nation.

(iii) On the effective date of a notice of closure issued by the Regional Director pursuant to the procedures of § 611.15(c), fishing by vessels of that nation is prohibited for the groundfish

species or species groups, in the areas and during the periods stated in the notice. A notice of closure issued pursuant to paragraph (b)(3) of this section shall not apply to any receipt or processing by foreign vessels of United States harvested fish which is authorized by permit issued by the Department of Commerce under the Act. Foreign receipt and processing of U.S. harvested fish may continue until specifically prohibited under the procedures prescribed in the applicable permit.

(iv) A notice issued pursuant to this paragraph shall expire (A) on the effective date of a notice issued pursuant to 611.15(c) rescinding that previous notice; or (B) when the time period stated in that notice expires.

(4) *Fishing prohibited.* Whether or not a nation receives a notice issued under paragraph (b)(3) of this section, fishing for groundfish by trawl vessels of a nation is prohibited when that nation's national allocation for any groundfish species is reached; and fishing for groundfish by all vessels of a nation is prohibited when that nation's national allocation for sablefish, Pacific cod, turbot or "other species" is reached.

(c) *Closed areas.* (1) *General.* (i) Except as provided elsewhere in this section, all foreign fishing is prohibited between 3 and 12 nautical miles from the baseline used to measure the territorial sea.

(ii) Foreign fishing vessels holding permits to receive United States harvested fish may receive only United States harvested fish in the management area between 3 and 12 nautical miles from the baseline from which the United States territorial sea is measured. Except as may be authorized elsewhere in this part, the receipt of foreign-caught fish by foreign vessels in such 3 to 12 mile area is prohibited.

(2) *Trawling.* Trawling by foreign vessels is prohibited in the areas and during the periods which follow:

(i) At all times in the Bristol Bay "Pot Sanctuary" which is the area enclosed by straight lines from Cape Sarichef light at 54°36' N. latitude, 164°55'42" W. longitude; to 55°18' N. latitude, 166°10' W. longitude; to 56°20' N. latitude, 163°00' W. longitude; to 57°10' N. latitude, 163°00' W. longitude; to 58°10' N. latitude, 160°00' W. longitude; then due south along 160°00' W. longitude to the Alaska Peninsula.

(ii) At all times in the area between 172° W. longitude and 178°30' W. longitude south of a line connecting the following coordinates in the order listed: 53°14' N. latitude, 172°00' W. longitude; 52°13' N. latitude, 176°00' W. longitude; 52°00' N. latitude, 178°00' W. longitude;

and 52°00' N. latitude, 178°30' W. longitude.

(iii) From December 1 to June 1, in the following two areas:

(A) The area bounded by straight lines connecting the following coordinates in the order listed: 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light); 52°40' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 166°47' W. longitude; 56°00' N. latitude, 167°45' W. longitude; 56°00' N. latitude, 166°00' W. longitude; 56°30' N. latitude, 163°00' W. longitude; 56°20' N. latitude, 163°00' W. longitude; 55°16' N. latitude, 166°10' W. longitude; 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light).

(B) The area bounded by straight lines connecting the following coordinates in the order listed: 56°18' N. latitude, 170°24' W. longitude; 56°20' N. latitude, 169°03' W. longitude; 56°12' N. latitude, 168°46' W. longitude; 55°56' N. latitude, 169°10' W. longitude; 55°56' N. latitude, 170°24' W. longitude; 56°18' N. latitude, 170°24' W. longitude.

(iv) From January 1 to June 30 landward of 12 nautical miles from the baseline from which the territorial sea is measured in the area bounded by straight lines connecting the following coordinates in the order listed between 178°30' W. longitude and 179°00' E. longitude: 52°51' N. latitude, 178°30' W. longitude; 52°51' N. latitude, 179° E. longitude; 51°15' N. latitude, 179° E. longitude; 51°15' N. latitude, 178°30' W. longitude; 52°51' N. latitude, 178°30' W. longitude. Trawling is permitted in this area and seaward of three nautical miles from the baseline from which the territorial sea is measured from July 1–December 31.

(v) From January 1 to April 30 in the area west of 178°30' W. longitude, except that trawling is permitted in this area and seaward of three nautical miles from the baseline from which the territorial sea is measured from May 1 to December 31.

(3) *Longlining.* (i) Longlining by foreign vessels is permitted in the area west of 172°00' W. longitude and seaward of three nautical miles from the baseline from which the territorial sea is measured.

(ii) Longlining by foreign vessels is prohibited from December 1 to June 1 in water less than 500 meters deep in the following two areas:

(A) The area bounded by straight lines connecting the following coordinates in the order listed: 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light); 52°40' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 166°47' W. longitude; 56°00' N. latitude, 167°45' W. longitude; 56°00' N. latitude, 166°00' W. longitude; 56°30' N. latitude, 163°00' W. longitude; 56°20' N. latitude, 163°00' W. longitude; 55°16' N. latitude, 166°10' W. longitude; 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light).

W. longitude; 55°30' N. latitude, 166°47' W. longitude; 56°00' N. latitude, 167°45' W. longitude; 56°30' N. latitude, 166°00' W. longitude; 56°30' N. latitude, 163°00' W. longitude; 56°20' N. latitude, 163°00' W. longitude; 55°16' N. latitude, 166°10' W. longitude; 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light).

(B) The area bounded by straight lines connecting the following coordinates in the order listed: 56°18' N. latitude, 170°24' W. longitude; 56°20' N. latitude, 169°03' W. longitude; 56°12' N. latitude, 168°46' W. longitude; 55°56' N. latitude, 169°10' W. longitude; 55°56' N. latitude, 170°24' W. longitude; 56°18' N. latitude, 170°24' W. longitude.

(d) *Open areas.* Except for the closed areas set forth in paragraph (c) of this section, foreign fishing may be conducted beyond 12 nautical miles from the baseline used to measure the territorial sea in the entire management area.

(e) *Additional Statistical Report.* Each nation whose vessels fish for groundfish in the management area shall report, by May 30 of the following year, annual catch and effort statistics as follows:

(1) Effort in hours trawled, number of longline units (300 fathoms of longline or groundline per unit) and number of hooks per unit, number of pots, duration of soaking time for longlines and pots, and number of days fished, by vessel class, by gear type, by month, by 1/2° (latitude) x 1° (longitude) statistical area; and

(2) Catch in metric tons, by vessel class, by gear type, by month, by 1/2° (latitude) x 1° (longitude) statistical area, by the following species categories: yellowfin sole; rock sole; flathead sole; arrowtooth flounder; greenland turbot; other flounders; Pacific Ocean perch; Pacific cod, sablefish (blackcod); walleye (Alaska) pollock; Atka mackerel; any other species taken in excess of 1,000 metric tons; and "other species."

2. It is proposed to add 50 CFR 675 as follows:

PART 675—GROUND FISH OF THE BERING SEA

Subpart A—General

- Sec.
- 675.1 Purpose and scope.
 - 675.2 Definitions.
 - 675.3 Relation to other laws.
 - 675.4 Permits.
 - 675.5 Reporting requirements.
 - 675.6 [Reserved].
 - 675.7 General prohibitions.
 - 675.8 Enforcement.
 - 675.9 Penalties.

Subpart B—Management Measures

- 675.20 General limitations.
- 675.21 [Reserved].
- 675.22 Time and area closures.
- 675.23 [Reserved].
- 675.24 [Reserved].
- 675.25 [Reserved].

Authority: 16 USC 1801, et seq.

Subpart A—General

§ 675.1 Purpose and scope.

(a) Regulations in this part govern fishing for groundfish by vessels of the United States within that portion of: (1) the Bering Sea and (2) the North Pacific Ocean adjacent to the Aleutian Islands west of 170° W. longitude, over which the United States exercises exclusive fishery management authority under the Act.

(b) For regulations governing fishing in the Bering Sea and Aleutian Islands Groundfish fishery by fishing vessels other than vessels of the United States, see 50 CFR § 611.93.

(c) These regulations implement the Bering Sea and Aleutian Islands groundfish fishery management plan developed by the North Pacific Fishery Management Council.

§ 675.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this part shall have the following meanings (some definitions in the Act have been repeated here to aid understanding of the regulations):

Act means the Fishery Conservation and Management Act of 1976, 16 USC §§ 1801–1882, Public Law 94–265, as amended.

ADFG means the Alaska Department of Fish and Game.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, United States Department of Commerce, or an individual to whom the Assistant Administrator for Fisheries has delegated appropriate authority.

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any certified enforcement or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(d) Any Coast Guard personnel accompanying and acting under the

direction of any person described in paragraph (a) of this definition.

Bering Sea and Aleutian Islands management area means the fishery conservation zone (FCZ) in the Bering Sea, and that portion of the FCZ in the North Pacific Ocean that is adjacent to the Aleutian Islands and west of 170° W. longitude.

(a) The Bering Sea sub-area of the management area means that portion of the FCZ contained in areas I, II, and III of Figure 2.

(b) The Aleutian Islands sub-area of the management area means that portion of the FCZ contained in area IV of Figure 2.

BILLING CODE 3510-22-M

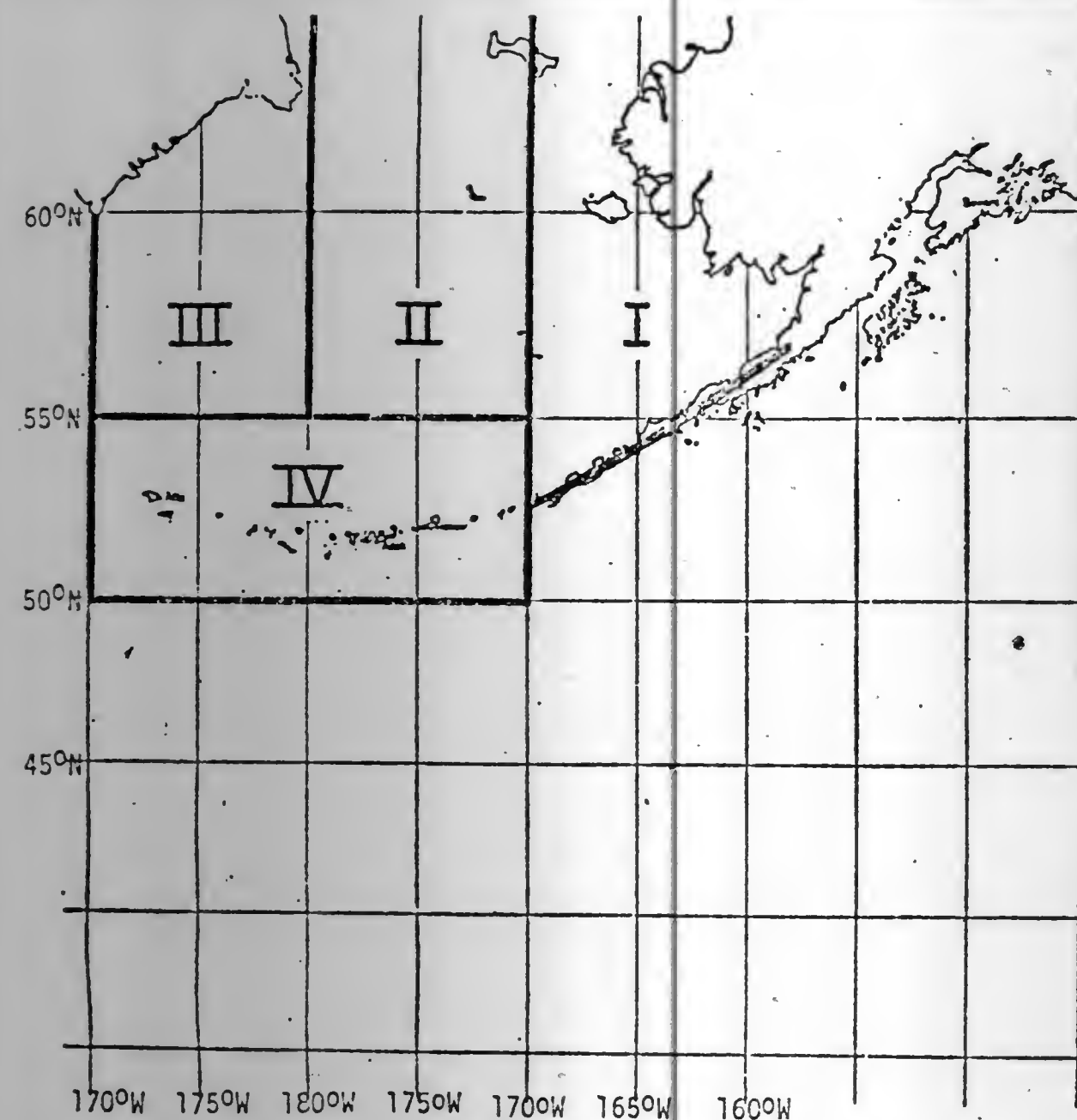


Figure 2.--Major statistical areas in the Bering Sea.

BILLING CODE 3510-22-C

Fishery, for the purposes of this part, means all fishing for groundfish which is conducted in the Bering Sea and Aleutian Islands management area and adjacent territorial waters.

(a) The Bering Sea sub-area of the fishery means areas I, II, and III of Figure 2.

(b) The Aleutian Islands sub-area of the fishery means area IV of Figure 2.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

- (a) The catching, taking or harvesting of fish;
- (b) The attempted catching, taking or harvesting of fish;
- (c) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or
- (d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation or processing.

Groundfish means pollock, cod, any species of flounder and sole, Pacific ocean perch, other rockfish, sablefish, Atka mackerel, squid, octopus; all other marine invertebrates except shrimp, scallops, snails, king crab, Tanner crab, Dungeness crab, horseshair crab, lyre crab, coral, and clams; and all other finfish except salmonids, herring, and Pacific halibut. The scientific means of these species are as follows:

- Pollock means *Theragra chalcogrammus*;
- Cod means *Gadus macrocephalus*;
- Arrowtooth flounder means *Atheresthes stomias*;
- Other flounder means *Pleuronectiformes* (order) not specifically defined;
- Yellowfin sole means *Limanda aspera*;
- Rock sole means *Lepidopsetta bilineata*;
- Flathead sole means *Hippoglossoides elassodon*;
- Pacific ocean perch means *Sebastes alutus*;
- Atka mackerel means *Pleurogrammus monopterygius*;

Other rockfish means *Scorpaenidae* (family) not specifically defined;

Sablefish means *Anoplopoma fimbria*;

Squid means *sepioid* and *teuthoid* squid;

Octopus means *Octopoda*, not specifically defined;

Salmonids means of the family

Salmonidae;

Pacific halibut means *Hippoglossus*

stenolepis;

Herring means *Clupea harengus pallasii*.

Landing means off-loading fish.

Longline means a stationary, buoyed,

and anchored line with hooks or pots

(other than king or Tanner crab pots)

attached, or the taking of fish by means

of such a device.

Operator, with respect to any vessel,

means the master or other individual on

board and in charge of that vessel.

Owner, with respect to any vessel,

means:

(a) Any person who owns that vessel

in whole or in part;

(b) Any character of the vessel,

whether bareboat, time, or voyage;

(c) Any person who acts in the

capacity of a charterer, including but not

limited to parties to a management

agreement, operating agreement, or any

similar agreement that bestows control

over the destination, function or

operation of the vessel; or

(d) Any agent designated as such by

any person in paragraphs (a), (b), or (c)

of this definition.

Person means any individual (whether

or not a citizen or national of the United

States), corporation, partnership,

association, or other entity (whether or

not organized or existing under the laws

of any State), and any Federal, State,

local, or foreign government or any

entity of any such government.

Regional Director means Director,

Alaska Region, National Marine

Fisheries Service, P.O. Box 1666, Juneau,

Alaska 99802, or an individual to whom

the Alaska Regional Director has

delegated appropriate authority.

Trawl means a bag shaped net

dragged through the water to capture

fish.

Vessel of the United States means

(a) A vessel documented or numbered

by the Coast Guard under United States

law; or

(b) A vessel which is registered under

the laws of any State.

United States fish processors means

facilities located within the United

States for, and vessels of the United

States used or equipped for, the

processing of fish for commercial use or

consumption.

United States harvested fish means

fish caught, taken, or harvested by

vessels of the United States within any

fishery regulated by a fishery

management plan or preliminary fishery management plan implemented under the Act.

§ 675.3 Relation to other laws.

(a) **Federal law.** For other regulations governing fishing by vessels of the United States for halibut see the regulations of the International Pacific Halibut Commission. For regulations governing fishing for Tanner crab, see 50 CFR 671; for those governing fishing for groundfish in the Gulf of Alaska, see 50 CFR 672; for those governing salmon fishing, see 50 CFR 674; for those governing permits and certificates of inclusion for the taking of marine mammals, see 50 CFR 216.24.

(b) **State law.** Certain responsibilities relating to the issuance of permits, data collection, and enforcement may be performed by personnel of the State of Alaska under an agreement with NOAA/NMFS and the United States Coast Guard.

(c) **Delegations of authority.** The Assistant Administrator has delegated to the Regional Director authority to take actions pursuant to §§ 675.20(b) and 675.22 of this Part, and to apportion reserves and release portions of the DAH pursuant to § 675.20(d) of this Part.

§ 675.4 Permits.

(a) **General.** No vessel of the United States may fish for groundfish in the Bering Sea and Aleutian Islands management area without first obtaining a permit issued under this Part. Such permits shall be issued without charge.

(b) **Application.** A vessel owner may obtain a permit required under the preceding subsection by submitting to the Regional Director a written application containing the following information:

- (1) The applicant's name, mailing address, and telephone number;
- (2) The name of the vessel;
- (3) The vessel's U.S. Coast Guard documentation number or State registration number;
- (4) The home port of the vessel;
- (5) The length of the vessel;
- (6) The type of fishing gear to be used; and
- (7) The signature of the applicant.

The Regional Director may accept a completed State of Alaska commercial fishing license application in satisfaction of the requirements of this subsection.

(c) **Issuance.** (1) Upon receipt of a properly completed application, the Regional Director shall issue a permit required by paragraph (a) of this section.

(2) Upon receipt of an incomplete or improperly completed application, the Regional Director shall notify the

applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application shall be considered abandoned.

(d) *Notification of change.* Any person who has applied for and received a permit under this section shall give written notification of any change in the information provided under paragraph (b) of this section to the Regional Director within 30 days of the date of that change.

(e) *Duration.* A permit issued under this section shall authorize the permitted vessel to fish for groundfish in the Bering Sea and Aleutian Islands management area during a single specified year, and shall continue in full force and effect until December 31 of the year for which it was issued, or until it is revoked, suspended, or modified pursuant to 50 CFR Part 621 (Civil procedures).

(f) *Alteration.* No person shall alter, erase, or mutilate any permit issued under this section. Any such permit that has been intentionally altered, erased, or mutilated shall be invalid.

(g) *Transfer.* Permits issued under this section are not transferable or assignable. Each such permit shall be valid only for the vessel for which it is issued.

(h) *Inspection.* Any permit issued under this section must be carried aboard the vessel whenever the vessel is fishing for groundfish in the Bering Sea and Aleutian Islands management area. The permit shall be presented for inspection upon request of any authorized officer.

(i) *Sanctions.* Subpart D of 50 CFR 621 (Civil procedures) shall govern the imposition of permit sanctions against a permit issued under this section. As specified in that subpart D, a permit may be revoked, modified, or suspended if the permitted vessel is used in the commission of an offense prohibited by the Act or these regulations; and such a permit shall be revoked if a civil penalty or criminal fine imposed under the Act and pertaining to a permitted vessel is not paid.

§ 675.5 Reporting requirements.

(a) Fishing vessel reporting requirements.

(1) *Port of Landing in Alaska.* The operator of any fishing vessel regulated under this part whose port of landing is in the State of Alaska shall, for each sale or delivery on land of groundfish taken in the Bering Sea and Aleutian Islands management area, be responsible for the submission to

ADF&G of an accurately completed State of Alaska fish ticket.

(i) At the election of the vessel operator, the fish ticket required under paragraph (a)(1) of this section shall be either

(A) Submitted by the vessel operator directly to the ADF&G within one week after such fish are sold or delivered; or

(B) Prepared, at the request of the operator, by the purchaser and submitted by the purchaser to ADF&G within one week after such fish are received by the purchaser. For purposes of this paragraph, a "purchaser" is any person who receives on land groundfish taken from the Bering Sea and Aleutian Islands management area for a commercial purpose from a fishing vessel regulated under this part.

(ii) In addition to the requirements of paragraph (a)(1)(i) of this section, each operator (or purchaser, if the fish ticket is submitted in accordance with paragraph (a)(1)(i)(B) of this section) shall accurately state on each fish ticket:

(A) The quantity and types of gear used;

(B) The total time fished with each gear type; and

(C) The total number of hauls for each gear type.

(2) *Port of Landing outside Alaska.* The operator of any fishing vessel regulated under this part whose port of landing is outside the State of Alaska shall submit a completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket, together with the additional information required by paragraph (a)(1)(ii) of this section, to the ADF&G within one week after the date of each sale or delivery of any groundfish taken in the Bering Sea and Aleutian Islands management area. The address to which these documents must be sent is: Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, Subpart Building, Juneau, Alaska 99801.

(3) *Sale, delivery, or consumption at sea.*

(i) The operator of any fishing vessel regulated under this part shall, for each sale, delivery or consumption at sea of unlanded groundfish taken in the Bering Sea and Aleutian Islands management area, submit the following information to ADF&G:

(A) A completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket;

(B) The additional information specified in paragraph (a)(1)(ii) of this section; and

(C) A statement indicating whether or not the vessel to which any sale or delivery was made was a vessel of the United States.

(ii) The information required by paragraph (a)(3)(i) of this section shall be submitted to ADF&G within one week of the first return of that vessel to port following such sale, delivery, or consumption.

(b) *Processor Reporting Requirements.* On March 31, June 30, September 30, and December 31, each United States fish processor who has, during the six months preceding the date in question, processed United States harvested groundfish taken in the Bering Sea and Aleutian Islands management area, shall report to the Regional Director the following information:

(1) The quantity of United States harvested groundfish from the Bering Sea and Aleutian Islands management area that the processor has processed during the three-month period since the previous reporting date specified above in paragraph (b) of this section;

(2) The quantity of groundfish that the processor has the capacity to process during the six-month period following the current reporting date; and

(3) The quantity of United States harvested groundfish from the Bering Sea and Aleutian Islands management area that the processor expects to process during the six-month period following the current reporting date.

§ 675.6 [Reserved]

§ 675.7 General prohibitions.

It shall be unlawful for any person to:

(a) Fish for groundfish in the Bering Sea and Aleutian Islands management area with a vessel of the United States which does not have aboard a valid permit issued pursuant to this part;

(b) Possess, have custody or control of, ship, transport, import, export, offer for sale, sell or purchase any fish taken or retained in violation of the Act, this part, or any other regulation or permit issued under the Act;

(c) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this part, or any other regulation or permit issued under the Act;

(d) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (c) of this section;

(e) Resist a lawful arrest for any act prohibited by this part;

(f) Interfere with, delay, or prevent, by any means, the apprehension or arrest

of another person knowing that such other person has committed any act prohibited by this part;

(g) Violate any other provision of this part, the Act, or any other regulation or permit issued under the Act.

§ 675.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel regulated under this part shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the fishing vessel, its gear, equipment, and catch for purposes of enforcing the Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you,"

(3) "RY CY" meaning "You should proceed at slow speed, a boat is coming to you," and

(4) "AA AA AA etc." which is the call to an unknown station.

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his party to come aboard;

(2) If requested, provide a safe ladder for the authorized officer and his party;

(3) When necessary to facilitate the boarding, provide a man rope, safety

line, and illumination for any ladder, and

(4) Take such other actions as necessary to ensure the safety of the authorized officer and his party and to facilitate the boarding.

§ 675.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, in 50 CFR Parts 620 (Citations) and 621 (Civil procedures), and in other applicable law.

Subpart B—Management Measures

§ 675.20 General limitations.

(a) *Optimum yield.* The optimum yield (OY), initial estimates of domestic annual harvest (DAH), initial estimates for total allowable level of foreign fishing (TALFF), and reserves for the fishery are set forth in Table I of this section. These specifications are for a fishing year beginning on January 1 and ending on December 31. When the combined catch by foreign and United States vessels in the fishery or applicable sub-area of the fishery reaches the OY amount for a species, further fishing which involves the catching or taking of that species is prohibited in the management area or applicable sub-area for the remainder of the fishing year.

(b) *Winter Halibut-Saving Areas catch limit.*

(1) *Area defined.* The two winter halibut-saving areas consist of all

waters encompassed by straight lines connecting the following points, in the order listed:

(i) 54°36' N latitude—164°55'42" W longitude (Cape Sarichef Light)
56°40' N latitude—170°00' W longitude;
55°30' N latitude—170°00' W longitude;
55°30' N latitude—166°47' W longitude;
56°00' N latitude—167°45' W longitude;
56°00' N latitude—166°00' W longitude;
56°30' N latitude—166°00' W longitude;
56°30' N latitude—163°00' W longitude;
56°20' N latitude—163°00' W longitude;
55°16' N latitude—166°10' W longitude;
54°36' N latitude—164°55'42" W longitude (Cape Sarichef Light); and

(ii)

56°16' N latitude—170°24' W longitude;
56°20' N latitude—169°03' W longitude;
56°12' N latitude—168°46' W longitude;
55°56' N latitude—169°10' W longitude;
55°56' N latitude—170°24' W longitude; and
56°16' N latitude—170°24' W longitude.

(2) *Trawl.* During the period from December 1 to May 31, no more than 2,000 metric tons of groundfish may be taken by trawl gear in the two Winter Halibut Saving Areas combined.

(3) *Longline.* During the period from December 1 to May 31, no more than 2,000 metric tons of groundfish may be taken with longline gear in water less than 500 meters deep in the two Winter Halibut Saving Areas.

(c) *Field orders.* (1) If the Regional Director determines that any OY set forth in Table I will be reached, he shall issue a field order pursuant to § 675.22(b) prohibiting fishing for all groundfish species in the management area or sub-area to which that OY applies, except that the Regional Director shall not prohibit, under this section, fishing for sablefish by fishing vessels using longline gear unless he determines that an OY for sablefish will be reached.

(2) If the Regional Director determines that the catch limit specified in § 675.20(b)(2) will be reached, he shall issue a field order pursuant to § 675.22(b) prohibiting trawling in the winter halibut-savings areas until June 1.

(3) If the Regional Director determines that the catch limit specified in § 675.20(b)(3) will be reached he shall issue a field order pursuant to § 675.22(b) prohibiting longlining in waters less than 500 meters deep in the winter halibut-savings areas until June 1.

(4) Fishing for groundfish in the Bering Sea and Aleutian Islands management area contrary to any field order issued under this subsection is prohibited from the effective date of such field order.

(d) *Apportionment to TALFF of Reserves and Initial DAH.*—(1)

Table 1.—Bering Sea and Aleutian Islands Fishery Optimum Yields, TALFF's, and Reserves

[In metric tons]					
Reference: Species group	Sub-area ¹	ABC=OY	Reserve	Initial DAH	Initial TALFF
Pollock	Bering Sea	1,000,000	50,000	19,550	930,450
Pollock	Aleutian	100,000			100,000
Yellowfin sole		117,000	5,850	2,050	109,100
Turbots		90,000	4,500	1,075	84,425
Other flatfishes ²		61,000	3,050	1,300	56,650
Pacific cod		58,700	2,935	24,265	31,500
Pacific ocean perch	Bering Sea	3,250	162	1,380	1,708
Pacific ocean perch	Aleutian	7,500	375	1,380	5,745
Other rockfish		7,727	500	1,550	5,677
Sablefish	Bering Sea	3,500	350	700	2,450
Sablefish	Aleutian	1,500	150	700	650
Alaska mackerel		24,800	1,240	100	23,460
Squid		10,000	500	50	9,450
Others		74,249	3,712	2,000	68,537
Total		1,559,226	73,324	56,100	1,429,802

¹BS=Bering Sea (Statistical Areas I, II, III combined). AL=Aleutian Island Areas (Statistical Area IV). Includes territorial waters.

²Excluding Pacific halibut.

Apportionment of Reserves. As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Regional Director shall apportion to TALFF up to one fourth (¼) of each reserve amount set forth in Table I, in accordance with paragraph (d)(3) of this section. February 2, April 2, June 2, and August 2.

(2) **Apportionment of Initial DAH.** As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Regional Director shall reassess each DAH amount set forth in Table I and apportion to TALFF such parts thereof as he determines to be appropriate in accordance with paragraph (d)(3) of this section: June 2 and August 2.

(3) **Standards and procedure for apportionment.**—(i) **General.** The Regional Director shall apportion under paragraphs (d)(1) and (d)(2) of this section such amounts as he determines will not be harvested by vessels of the United States during the remainder of the fishing year. The amount of reserve which the Regional Director determines will be harvested by vessels of the United States may, in the discretion of the Regional Director, be either apportioned to the estimate of domestic annual harvest (DAH) or retained in the reserve as eligible for later apportionment under paragraph (d)(3)(vi) of this section.

(ii) **Factors.** In determining whether or not amounts proposed to be apportioned under paragraphs (d)(1) and (d)(2) of this section will be harvested by vessels of the United States during the remainder of the fishing year, the Regional Director shall consider the following factors, although he shall not be limited to these factors:

(A) Reported United States catch and effort by species and area compared to previously projected United States harvesting capacity;

(B) Projected United States catch and effort by species and area for the remainder of the fishing year;

(C) Amounts of fish, particularly United States harvested fish, already purchased or processed by United States fish processors during the fishing year, compared to previously projected processing capacity of United States fish processors;

(D) Projected processing capacity, and utilization of that capacity for the processing of United States harvested fish, by United States fish processors for the remainder of the fishing year;

(E) Amounts of United States harvested fish already purchased or processed by foreign fishing vessels,

compared to previously projected levels of such purchase or processing.

(iii) **Allocation of increases and decreases in DAH among DAP, JVP, and DNP.** The Regional Director shall allocate any increases or decreases in DAH amounts resulting from apportionments under paragraphs (d)(1) and (d)(2) of this section among the three components of DAH: the estimates of domestic annual processing (DAP); joint venture processing (JVP); and domestic non-processed fish (DNP).

(iv) **Public comment.** (A) Comments may be submitted to the Regional Director concerning:

(1) Whether and the extent to which vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year; and

(2) Whether and the extent to which United States harvested groundfish can or will be processed by United States fish processors or by foreign processing vessels.

Comments should be addressed to Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, and must be received by the Regional Director no later than 5 days before the relevant date specified in paragraph (d)(1) or (d)(2) of this section.

(B) The Regional Director shall consider any timely comments submitted in accordance with this paragraph in determining whether and to what extent vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (d)(1) and (d)(2) of this section.

(C) The Regional Director shall compile, in aggregate form, the most recent available reports on (1) level of catch and effort by vessels of the United States fishing for groundfish in the Bering Sea and Aleutian Islands fishery; and (2) amounts of United States harvested groundfish taken in the Bering Sea and Aleutian Islands fishery and processed by United States fish processors or delivered at sea to foreign fishing vessels. These data shall be available for public inspection during business hours (8:00 a.m.-4:30 p.m., Monday-Friday) at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(v) **Procedure.** As soon as practicable after each of the dates specified in paragraphs (d)(1) and (d)(2) of this section, the Regional Director shall publish in the Federal Register.

(A) any reserve amounts to be apportioned to TALFF or DAH;

(B) any DAH amounts to be apportioned to TALFF;

(C) the distribution of amounts apportioned to or from DAH among DAP, JVP, and DNP;

(D) the reasons for any apportionments and their distribution; and

(E) responses to any comments received.

(vi) **Add-on.** If, following any of the four dates specified in paragraph (d)(1) of this section, the Regional Director apportions less than 25 percent of any reserve amount to TALFF and DAH, the nonapportioned part of that 25 percent shall be added to the reserve amounts available for apportionment on the next date specified in paragraph (d)(1) of this section.

(e) **Prohibited species.** (1) Prohibited species, for the purpose of this part, means any species of fish caught while fishing for groundfish in the Bering Sea and Aleutian Islands management area, the retention of which is prohibited by other applicable law. Any catch of Pacific halibut by fishing vessels regulated under this part is catch of prohibited species, unless retention is authorized by regulations of the International Pacific Halibut Commission. Any catch of Tanner crab or salmon by vessels regulated under this part is catch of a prohibited species.

(2) The operator of each vessel regulated under this part shall minimize its catch of prohibited species.

(3) The operator of each vessel regulated under this part shall sort its catch as soon as possible after retrieval of the catch and, after allowing for sampling by an observer (if any), shall return any catch of prohibited species or parts thereof to the sea immediately with a minimum of injury regardless of its condition.

(4) It shall be a rebuttable presumption that any prohibited species found onboard a fishing vessel regulated under this part was caught and retained in violation of this subsection.

§ 675.21 [Reserved]

§ 675.22 Time and area closures.

(a) **Field Orders.**—(1) **Contents.** Field Orders issued by the Regional Director under this part shall include the following information: (i) the reason for the opening or closure; (ii) a description of the area to be opened or closed; and (iii) the effective date of such opening or closure.

(2) **Public Notice.** No field order issued under this section shall be effective until:

(i) it is filed for publication in the Federal Register;

(ii) it has been posted for 48 hours, and otherwise made available to the public, in accordance with procedures customarily used by the ADF&G for posting and publicizing of similar notices of closure; and

(iii) it has been broadcast for 48 hours at those time intervals, channels and frequencies customarily used by the ADF&G to broadcast similar notices of closure.

(3) **Effectiveness.** A field order issued pursuant to this subsection shall remain in effect until (i) any expiration date stated in a field order or a notice published by the Regional Director pursuant to this section; or (ii) December 31 of the year in which the field order was issued, whichever is earlier.

(b) **Open area.** Except as provided in paragraph (c) of this section, or in any field order issued under § 675.20(c) of this part, the Bering Sea and Aleutian Islands management area is open to fishing for groundfish year-round.

(c) **Closed area trawl.** Trawling is prohibited from June 15 to October 31 in the Bristol Bay Pot Sanctuary which consists of all waters encompassed by straight lines connecting the following points, in the order listed:

54°36'N latitude-164°55'42"W longitude (Cape Sarichef Light);
55°16'N latitude-166°10'W longitude;
56°20'N latitude-163°00'W longitude;
57°10'N latitude-163°00'W longitude;
58°10'N latitude-160°00'W longitude; and
Intersection of 160°00'W longitude with the Alaska Peninsula.

§ 675.23 [Reserved]

§ 675.24 [Reserved]

§ 675.25 [Reserved]

3. It is proposed to amend 50 CFR 611.20, Total allowable level of foreign fishing, by deleting all species lines under the Bering Sea and Aleutian Islands heading except the line for "Herring, Pacific."

Fishery Management Plan and Final Environmental Impact Statement for the Groundfish Fishery in the Bering Sea/Aleutian Island Area

March 23, 1979.

Final

North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510. The North Pacific Fishery Management Council has prepared a Fishery Management Plan and Final Environmental Impact Statement for the Groundfish Fishery in the Bering Sea/Aleutian Island Area as directed by the Fishery Conservation and Management Act of 1976 (P.L. 94-265).

The NPFMC approved this combined DFIS/DEMP on July 27, 1979, as a draft for

distribution during the public comment period. It was offered for public review and comment as follows:

Seattle, October 7, 1978

Kodiak, October 10, 1978

Unalaska, October 12, 1978

Anchorage, October 31, 1978

Additional opportunity for public comment was offered in:

Anchorage, November 31, 1978

during the regular monthly meeting of the Council. At the close of the public comment period on January 10, 1979, the draft was revised with respect to comments received during the review period.

Final Council review and acceptance was conducted March 23, 1979, in Juneau, Alaska, during the regular monthly meeting of the Council.

This Fishery Management Plan is herewith forwarded to the Secretary of Commerce as the official recommendation for the conduct of the groundfish fishery in the Bering Sea/Aleutian Island area.

Jim H. Branson,
Executive Director,
North Pacific Fishery Management Council.

1.0 Table of Contents.

3.0 Executive Summary [Reserved].

4.0 Introduction to the Plan.

4.1 Description of the Management Unit.

4.2 Goals for Management Plan.

4.3 Operational Definitions of Terms.

5.0 Description of the Fishery.

5.1 Areas and Stocks Involved.

5.1.1 Description of Areas.

5.1.2 Description of Stocks.

5.2 History of Exploitation.

5.2.1 Domestic Fishery.

5.2.2 Foreign Fishery.

6.0 History of Management.

6.1 Domestic.

6.1.1 Measures Employed to Regulate Fishery.

6.1.2 Purposes of Regulatory Measures.

6.2 Foreign.

6.2.1 Measures Employed to Regulate the Fishery.

6.2.2 Purposes of Regulatory Measures.

6.3 Effectiveness of Management Measures.

7.0 History of Research.

7.1 United States.

7.2 Foreign.

8.0 Socio-Economic Characteristics of the Domestic Fishery.

8.1 Commercial Fishery.

8.1.1 Commercial Fishing Fleet.

8.1.2 Commercial Processing Industry.

8.1.3 Products and Markets.

8.2 Recreational Fishery.

8.3 Subsistence Fishery.

8.4 Indian Treaty Fishery.

8.5 Area Community Characteristics.

8.6 Interaction Between User Groups.

8.6.1 Trawl vs. Halibut.

8.6.2 Trawl vs. Crabs.

8.6.3 Trawl vs. Salmon.

8.6.4 Trawl vs. Sablefish Longline and Pots.

8.6.5 Foreign vs. domestic trawling.

8.7 Revenues Derived from the Fishery.

8.7.1 Federal Revenues.

8.7.2 State Revenues.

9.0 Biological and Environmental Characteristics of the Fishery.

9.1 Life History Features.

9.2 Stock Units.

9.3 Data Sources.

9.3.1 Catch and Effort Data.

9.3.2 Biological Data.

9.4 Quality of Data.

9.5 Ecological Relationships.

9.5.1 Environmental Characteristics.

9.5.2 Biological Characteristics.

9.5.3 Ecosystem Characteristics.

9.6 Current Status of Stocks.

9.7 Estimate of Future Stock Conditions.

10.0 Other Considerations Which May Affect the Fishery.

10.1 International Pacific Halibut Commission.

10.2 Marine Mammal Protection Act of 1972.

10.2.1 Endangered Species Act.

10.3 Offshore Petroleum Production.

10.4 Bio-Economic Factors.

10.5 Crab-bait Trawl Fishery.

11.0 Optimum Yield.

12.0 Catch and Capacity Characteristics.

12.1 Domestic Annual Capacity and Expected Harvest.

12.1.1 Domestic Commercial Processing Characteristics.

12.1.2 Commercial Fishing Fleet.

12.2 Expected Domestic Annual Harvest/Processing Capacity.

13.0 Allocation Between Foreign and Domestic Fishermen.

13.1 Reserve.

13.2 Total Allowable Level of Foreign Fishing.

14.0 Proposed Management Regime.

14.1 Specific Management Objectives.

14.2 Areas, Fisheries, and Stocks Involved.

14.3 Management Measures and Their Rationale.

14.3.1 Domestic.

14.3.2 Foreign.

14.4 Operations Needs and Costs.

14.5 Effects of the Management Regime on Availability, Cost and Quality of Fishery Products.

15.0 Relationship of Recommended Management Measures to FCMS National Standards or Other Applicable Laws.

16.0 Research Needs.

17.0 Plans for Council Review and Monitoring of the Plan.

18.0 References.

19.0 Appendices.

Appendix I—Sample Community Profiles.

Appendix II—Pollock Cohort Analyses.

Appendix III—Description of Closed Areas.

Annex I—Derivation of Allowable Biological Catch (ABC).

Annex II—Derivation of Expected Domestic Annual Processing and Capacity Intent (DAP) and Harvest (DAH).

Annex III—Derivation of Total Allowable Level of Foreign Fishing (TALFF).

Annex IV—Catch Statistics of the Bering Sea/Aleutian Groundfish Fishery.

Annex V—Information on Marine Mammal Populations.

Annex VI—Species Categories Which Apply to the Bering Sea/Aleutian Groundfish Fishery.

List of Tables

1. Commercially Utilized Demersal Fishes in the Eastern Bering Sea and Aleutian Island Region.

2. Number of U.S. and Canadian Vessels Over 5 Net Tons that Fished Halibut in the Bering Sea, 1930-1977.
3. Estimated Catches of Pacific Cod in the Eastern Bering Sea, 1864, 1882-1950.
4. Catch of Halibut by Canadian and U.S. Vessels in the Bering Sea and Aleutian Areas, 1930-1977.
5. Number of Japanese Vessels Operating in the Eastern Bering Sea and Their Catches, 1933-1937 and 1940-41.
6. Number of Fleets in the Japanese Mothership Fishery and Number of Vessels in the Japanese North Pacific Trawl and Longline-Gillnet Fisheries and Landbased Trawl Fishery.
7. Monthly Range in Number of USSR Vessels Operating in the Eastern Bering Sea and Aleutian Islands in 1966-77.
8. Number of Vessels Operating in the Korean Groundfish Fishery in the Eastern Bering Sea, Aleutian Islands and Gulf of Alaska, 1968-1974.
9. Range of Size of Catcher Boats in the Japanese Mothership Fishery and Typical Trawl Gear Used Based on a Sample of the Fleets in 1970 and 1975.
10. Range in Size of Vessels in the North Pacific Trawl Fishery and Typical Gear Used for Principal Target Species From a Sample of the Fleet in 1974 and 1976.
11. Range in Size of Longline Vessels and Typical Gear Used in the North Pacific Longline-Gillnet Fishery From a Sample of the Fleet in 1969, 1972 and 1976.
12. Typical Trawl Dimensions Used on Soviet BMRT Factory Stern Trawlers for Pollock and Atka Mackerel Based on Data of U.S. Observers in 1976 and 1977.
13. Vessel Size and Fishing Gear Dimensions of Three ROK Independent Stern Trawlers Boarded by U.S. Observers in 1977.
14. Historical Summary of Alaska Groundfish Regulations.
15. Catch Quotas Applicable to Japanese and Soviet Fisheries in the Eastern Bering Sea and Aleutian Island Areas in 1973-1976.
16. 1977 Groundfish and Squid Catch Limitations for Foreign Fisheries in the Eastern Bering Sea and Aleutian Islands Region.
17. Relative Abundance of Juvenile Halibut by Age Groups From the Bering Sea Index Stations.
18. 1975 World and Northeast Pacific Production of Selected Groundfish.
- 18a. U.S. Groundfish Utilization and Prices (continued).
19. The Average Incidence and Weight of Halibut in Japanese Trawls in the Bering Sea, By Month and Area, 1969-1974.
20. Life History Characteristics of Principal Groundfish Species in the Eastern Bering Sea and Aleutians.
21. Biomass, Annual Consumption, Annual Turnover Rate and Relative Monthly Consumption of Different Species and/or Ecological Groups in the Eastern Bering Sea as Computed With DYNUMES II.
22. Annual Consumption by Marine Birds and Mammals in the Eastern Bering Sea as Computed with DYNUMES II.
23. Hold Capacity of Combination Crabber-Trawlers.
24. Changes in Number of Registered Shellfish Vessels, Western Alaska 1975-1977.

25. Number of Additional Fishing Trips Available by Comingation Vessel Class and Trip Length for 1978.
26. Harvest Capacity of Groundfish Based on Utilization of Unused Fishing Time, Estimated From 1976 Landing Times.

List of Figures

1. Bottom Features in the Bering Sea and Aleutian Island Region.
2. Geographical Locations in the Eastern Bering Sea and Aleutian Islands.
3. Average Annual Catches of Groundfish in the Aleutian Island Area and Eastern Bering Sea.
4. Average Annual Catches of Groundfish in the Aleutian Island Area and Eastern Bering Sea.
5. Areas Fished by the Japanese Mothership Fleets in 1972.
6. Areas Fished by the Japanese North Pacific Trawl Fishery in 1974.
7. Areas Fished by the Japanese North Pacific Longline Vessels in 1974.
8. USSR Fishing Area For Flounders in the Eastern Bering Sea in 1971.
9. USSR Fishing Area For Pacific Ocean Perch in 1971.
10. USSR Fishing Area in the Eastern Bering Sea Targeting Mainly on Pollock.
11. Korean Fishing Areas.
12. Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180 Degrees) and By Species or Species Group, 1954-1976.
13. Catch Trends of Flounders by Foreign Fisheries in the Eastern Bering Sea, 1954-1976.
14. Catch Trends of Roundfish (Other Than Pollock) by Foreign Fisheries in the Eastern Bering Sea.
15. Foreign Catches of Groundfish in the Aleutian Island Area (170 Degrees West-170 Degrees East), by Nation and By Species or Species Group.
16. Foreign Catches of Commercially Important Species of Roundfish (Other than POP) in the Aleutian Island Area, 1962-1976.
17. Catch Trends of Flounders by Foreign Fisheries in the Aleutian Island Area, 1962-1976.
- 18a. Area/Time Closures and Restrictions for Japanese Trawl Fisheries in the Southeastern Bering Sea Effective Through Dec. 31, 1976.
- 18b. Area/Time Closures and Restrictions for Soviet Trawl Fisheries in the Southeastern Bering Sea Effective Through Dec. 31, 1976.
19. Area/Time Closures and Restrictions for Fisheries of the Polish People's Republic in the Gulf of Alaska and Bering Sea Effective Through Dec. 31, 1976.
20. Provisions of the U.S.-ROK Fisheries Agreement Effective Through Dec. 12, 1977.
21. Distribution of Biomass and Numbers of Walleye Pollock Within Different Year Classes.
22. Distribution of "Consumption" with Age of Walleye Pollock, as Percent of Total Biomass.
23. Distribution of Group 3 Pollock (35cm long) in August, Computed with DYNUMES II.
24. Distribution of Group 1 Pollock (Juvenile) in August, Computed with DYNUMES II.

25. Areas Under Consideration for Oil Leasing.
26. Fishery Management Plan Area.
27. Location of "Winter Halibut Savings Areas" and the "Bristol Bay Pot Sanctuary."

4.0 Introduction to the Plan

This Fishery Management Plan (FMP) has been developed by the North Pacific Fishery Management Council and is for the groundfish fishery, excluding halibut and herring, of the Bering Sea/Aleutian Island area. It is intended to replace all of the current Preliminary Fishery Management Plan (PFMP) for the Trawl and Herring Gillnet Fisheries of the Bering Sea and Aleutians except that portion dealing with herring, and that portion of the PFMP for the Sablefish Fishery of the Bering Sea and Northeastern Pacific Ocean which covers the Bering Sea/Aleutian Region. Both of those PFMP's were developed by the National Marine Fisheries Service and implemented by the Secretary of Commerce in early 1977.

One feature of the format of this FMP is that such items as Allowable Biological Catch, Expected Domestic Annual Harvest, Total Allowable Level of Foreign Fishing, and annual catch statistics which are likely to change from time to time have been arranged in Annexes. This should facilitate both the drafting and review process when such changes are made in the future.

4.1 Description of the Management Unit

The geographical extent of this Management Unit is the entire Fishery Conservation Zone (FCZ) of the Bering Sea, including Bristol Bay and Norton Sound, and that portion of the FCZ of the North Pacific Ocean which is adjacent to the Aleutian Islands west of 170°W.

In terms of both the fishery and the groundfish resource, the Bering Sea/Aleutian groundfish fishery (excluding halibut) forms a distinct management unit. The history of fishery development, target species and species composition of the commercial catch, bathymetry, and oceanography are all much different in that Region than in the adjacent Gulf of Alaska. Although many species occur over a broader range than the Bering Sea/Aleutian Region, with only a few exceptions (e.g. halibut and perhaps sablefish) stocks of common species in this Region are believed different from those in the adjacent Gulf of Alaska.

Even though the International Pacific Halibut Commission is responsible for management of the North American Pacific halibut fishery, the potential adverse impact on halibut of a fishery for other groundfish species is so great that it must be taken into account in the management of the groundfish fishery. Therefore, certain pertinent aspects of the halibut resource and the directed fishery it supports are described in this Fishery Management Plan. Throughout this document, the terms "groundfish" and "bottomfish" exclude Pacific halibut unless otherwise noted.

This Fishery Management Plan follows almost exactly the "Outline for Fishery Management Plans" adopted by the North Pacific Council and forms the major component of an Environmental Impact Statement which assesses the effect that

implementation of this Plan is expected to have on the environment of the region which encompasses the eastern Bering Sea and Aleutian Island archipelago.

4.2 Goals for Management Plan

The North Pacific Fishery Management Council has determined that all its fishery management plans should, in order to meet the requirements of its constituency, the resources and FCMA, achieve the following goals:

1. Promote conservation while providing for the optimum yield from the Region's groundfish resource in terms of: providing the greatest overall benefit to the nation with particular reference to food production and recreational opportunities; avoiding irreversible or long-term adverse effects on fishery resources and the marine environment; and insuring availability of a multiplicity of options with respect to the future uses of these resources.
2. Promote, where possible, efficient use of the fishery resources but not solely for economic purposes.
3. Promote fair and equitable allocation of identified available resources in a manner such that no particular group acquires an excessive share of the privileges.
4. Base the plan on the best scientific information available.

In accomplishing these broad objectives a number of secondary objectives have been considered:

- a. Conservation and management measures have taken into account the unpredictable characteristics of future resource availability and socio-economic factors influencing the viability of the industry.
- b. Where possible, individual stocks of fish are managed as a unit throughout their range, but such management is in due consideration of other impacted resources.
- c. In such instances when stocks have declined to a level below that capable of producing MSY, management measures promote rebuilding the stocks. In considering the rate of rebuilding, factors other than biological considerations have been taken into account.
- d. Management measures, while promoting efficiency where practicable, are designed to avoid disruption of existing social and economic structures where fisheries appear to be operating in reasonable conformance with the Act and have evolved over a period of years as reflected in community characteristics, processing capability, fleet size and distribution. These systems and the resources upon which they are based are not static, but change in the existing regulatory regime should be the result of considered action based on data and public input.
- e. Management measures should contain a margin of safety in recommending allowable biological catches when the quality of information concerning the resource and ecosystem is questionable. Management plans should provide for accessing biological and socio-economic data in such instances where the information base is inadequate to effectively establish the biological parameters of the resource or to reasonably establish optimum yield. This plan has identified information and research required for further plan development.

f. Fishing strategy has been designed in such a manner as to have minimal impact on other fisheries and the environment.

4.3 Operational definitions of Terms

1. Determinants of catch levels.
 - a. Maximum sustainable yield (MSY) is an average over a reasonable length of time of the largest catch which can be taken continuously from a stock under current environmental conditions. It should normally be presented with a range of values around its point estimate. Where sufficient scientific data as to the biological characteristics of the stock do not exist or the period of exploitation or investigation has not been long enough for adequate understanding of stock dynamics, the MSY will be estimated from the best information available.
 - b. Equilibrium yield (EY) is the annual or seasonal harvest which allows the stock to be maintained at approximately the same level of abundance (apart from the effects of environmental variation in successive seasons or years).
 - c. Acceptable biological catch (ABC) is a seasonally determined catch that may differ from MSY for biological reasons. It may be lower or higher than MSY in some years for species with fluctuating recruitment. It may be set lower than MSY in order to rebuild overfished stocks.
 - d. Optimum yield (OY) may be obtained by a plus or minus deviation from ABC for purposes of promoting economic social or ecological objectives as established by law and public participation processes. Ecological objectives where they primarily relate to biological purposes and factors, are included in the determination of ABC. Where biological objectives relate to resolving conflicts and accommodating competing uses and values, they are included as appropriate with economic and/or social objectives. OY may be set higher than ABC in order to produce higher yields from other more desirable species in a multispecies fishery. It might be set lower than ABC in order to provide larger sized individuals or a higher average catch per unit effort.
2. Determination of domestic annual fishing capacity, expected harvest, and fishing capacity.
 - a. Domestic annual fishing capacity (DAC) is the total potential physical capacity of the fleets, modified by logistic factors. The components of the concept are:
 - (1) An inventory of total potential physical capacity, defined in terms of appropriate vessel and gear characteristics (e.g. size, horsepower, hold capacity, gear design, etc.).
 - (2) Logistic factors determining total annual fishing capacity (e.g., variations in vessel and gear performance, trip length between fishing locations and landing points, weather constraints, etc.).
 - b. Expected domestic annual fisheries harvest (DAH) is the domestic annual fishing capacity modified by other factors which will determine estimates of what the fleets will harvest (e.g., how fishermen will respond to price changes in the subject species and other species, etc.).
 - c. Expected domestic annual processing capacity (DAP) includes an estimation of the processors as well as the amount of harvest they intend to process in any given plan year.

In this management plan, DAH is equal to DAP. These concepts should be placed in a dynamic context of past trends and future projections. For example, physical fleet capacity should not simply be last season's inventory of vessels and hold measurements (although this is appropriate for present interim planning), but also next year's projected movement into and out of the fishery. Vessels under construction should be included and attrition should be estimated. The determination of domestic annual fishing capacity, expected harvest and processing capacity and intent should be made on the best available information.

3. Determination of total allowable level of foreign fishing (TALFF). The foreign allowable catch is determined by deducting the expected domestic annual expected harvest from the optimum yield.

5.0 Description of Fishery

5.1 Areas and Stocks Involved

5.1.1 Description of areas

The Bering Sea/Aleutian Island region with respect to U.S. extended jurisdiction is defined as those waters lying south of the Bering Strait, east of the U.S.-U.S.S.R. convention line of 1867, and extending south of the Aleutian Islands for 200 miles between the convention line and 170°W (Figures 1 and 2). Waters lying south of lines joining headlands in the eastern Aleutian Islands, east of 170°W, are considered a part of the Gulf of Alaska management area. The most prominent and unique feature of the Bering Sea is the extensive continental shelf in the eastern and northern portion of the sea. It constitutes approximately 80% of the total shelf area in the Bering Sea (Hood and Kelly 1974) and is one of the world's largest. For the Bering Sea as a whole, 44% of its 2.3 million km² area is continental shelf, 13% continental slope, and 43% deepwater basin. A number of large bays, including Bristol and Kuskokwim Bays and Norton Sound on the Alaska coast, makes the coast line of the Bering Sea highly irregular. The area of all bays in the Bering Sea makes up 11.1% of the total area of the sea (Gershanovich 1963).

BILLING CODE 3510-22-M

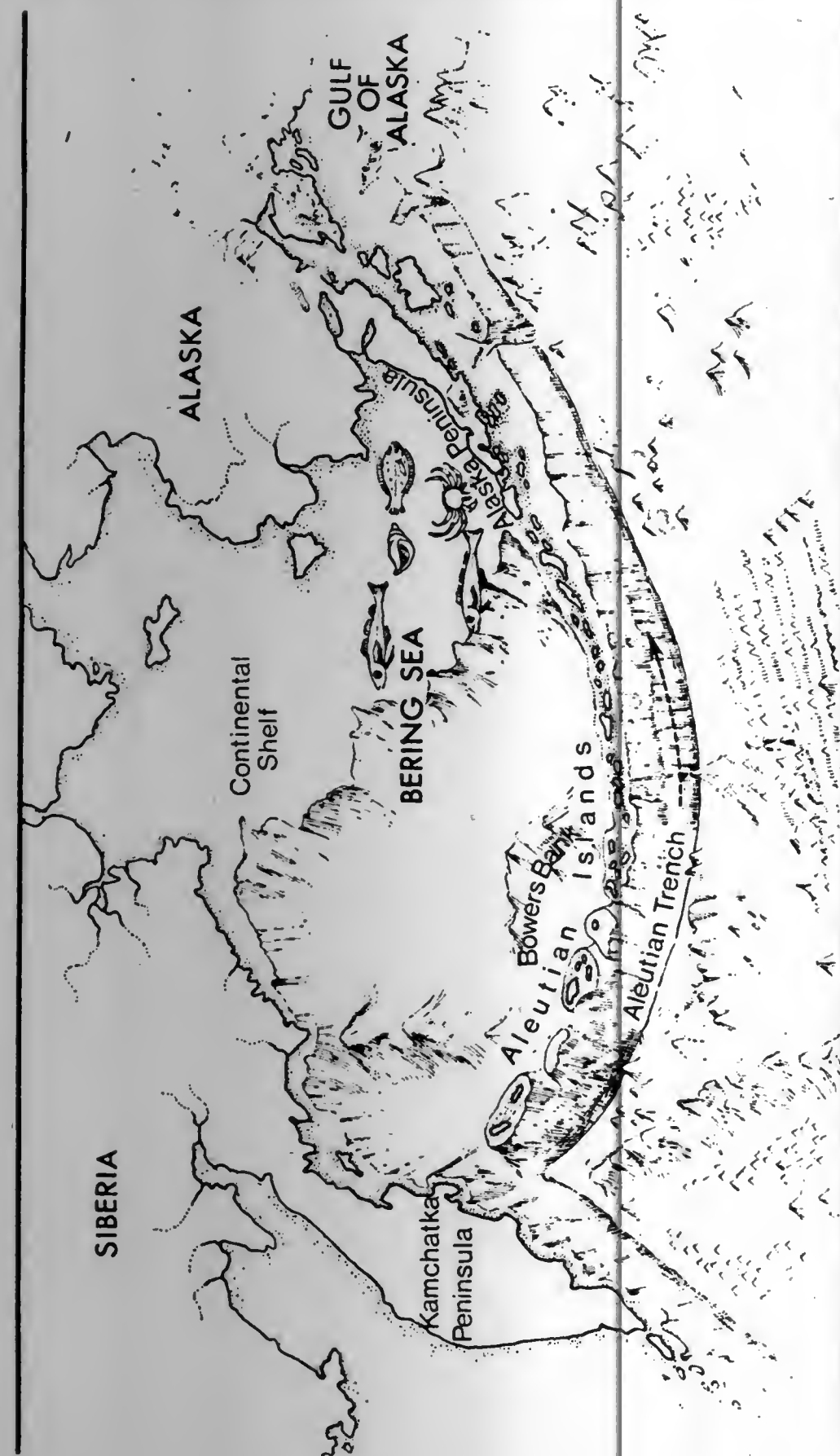


Figure 1.--Bottom features of Bering Sea and Aleutian Islands regions

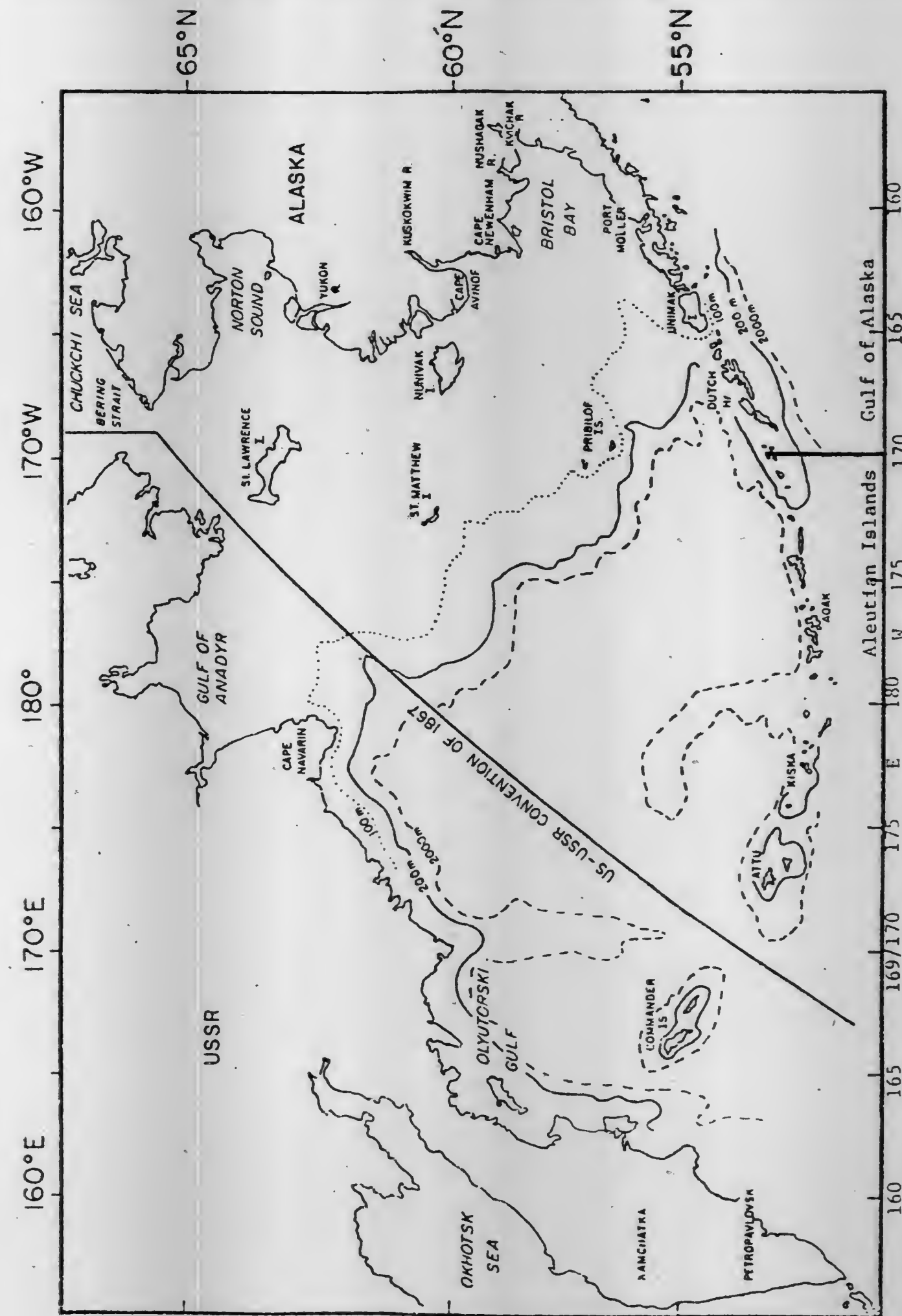


Figure 2.--Geographical locations in the eastern Bering Sea and Aleutian Islands.

BILLING CODE 3510-12-C

The broad eastern Bering Sea shelf is extremely smooth and has a gentle uniform gradient resulting from sediment deposits (Sharma 1974). The sediments, originating along the coast and transported offshore in graded suspension by storm waves, are predominantly sands over the inner shelf and silt and clay sediments on the outer shelf and slope.

The continental slope bordering the eastern Bering Sea shelf is abrupt and very steep and is scoured by valleys and large submarine canyons (Sharma 1974).

Forming a partial barrier to the exchange of Bering Sea and Pacific Ocean water is the Aleutian-Commander Islands arc. This chain is made up of more than 150 islands and has a total length of approximately 2260 km (Gershanovich 1963). Shelf areas throughout most of the Aleutians portion of the chain are narrow (and frequently discontinuous between islands) ranging in width on the north and south sides of the island from about 4 km or less to 42-46 km. The shelf broadens in the eastern Aleutians.

An additional geographical feature of the Aleutian Island region of fishery interest is Bowers Ridge. The submerged ridge, forming an arc off the west-central Aleutian Islands, is about 550 km long and 75-110 km wide, becoming even wider in the vicinity of the Rat Islands (Gershanovich 1963). The southern portion of the ridge summit is 150-200 m deep, the central portion is 800-700 m deep, and the northern portion 800-1000 m deep.

Exchange of water between the Bering Sea and the Pacific Ocean occurs through the various Aleutian Island passes with an estimated 14% of the Pacific water remaining in the Bering Sea (Sharma 1974). The net gain from Pacific water and surface runoff from rivers is lost to the Arctic Ocean through the Bering Strait, creating a net movement of water northward.

The dominant water movement on the eastern Bering Sea continental shelf originates from Pacific waters entering the Bering Sea in the vicinity of Unimak Island. These waters move northward toward St. Matthews Islands and eastward toward Bristol Bay. The northward stream divides near St. Matthews Island before joining again and passing through the Bering Strait.

The eastward flowing current along the Alaska Peninsula upon reaching the head of Bristol Bay is deflected westward by waters from Kvichak and Nushagak Rivers (Sharma 1974). These westward flowing waters are mixed with Kuskokwim River water near the mouth of Kuskokwim Bay and directed southward, forming a cyclonic gyre in the southeastern Bering Sea.

The Bering Sea is influenced mainly by subarctic climate, except for the southernmost part, which can be included in the temperate zone (Sharma 1974). It lies in a region of moderate to strong atmospheric pressure gradients and is subject to numerous storms. A major environmental feature of the Bering Sea is the pack ice which covers most of the continental shelf in the eastern and northern sections of the sea in winter and spring. The ice edge begins to intrude into the northern Bering Sea in November, and normally reaches its maximum in late March

(Potocsky 1975). At its maximum the ice pack may cover the continental shelf south to the Pribilof Islands and extend from the Pribilof Islands eastward to the vicinity of Port Moller. The areas of the outer shelf between the Pribilof Islands and Unimak Island and deeper waters of the Bering Sea are generally ice free throughout the year because of the intrusion of warmer Pacific Ocean water. In April and May the ice edge begins to retreat and by early summer the Bering Sea is normally free of ice.

The physical, climatic, and oceanographic features in the eastern Bering Sea combine to create conditions highly favorable for primary biological productivity. These conditions are only surpassed by some of the upwelling regions in the eastern Pacific and Atlantic Oceans (Hood and Kelly 1974). This productivity supports some of the largest fish, marine mammal, and bird populations in the world. Although the processes for this high productivity are not fully understood, they probably originate from the upwelling of nutrient-rich water along the Aleutian Island chain (Sharma 1974), the mixing of Pacific Ocean and Bering Sea waters, the seasonable extremes in climate with a buildup of nutrients during the winter months (Gershanovich, et al 1974) and the expansive nature of the continental shelf.

5.1.2 Description of stocks

The Bering Sea supports about 300 species of fishes, the majority of which are found near or on the bottom (Wilimovsky 1974). Among the pelagic species are the commercially important, or potentially important groups such as the salmon (*Oncorhynchus*), herring (*Clupea*), smelts (*Osmerus*), and capelin (*Mallotus*). The fish groups of primary concern in this plan are the bottom or near-bottom dwelling forms—the flounders, rockfish, sablefish, cod, pollock, and Atka mackerel. Although not bottom-dwelling, squids (*Cephalopoda*) are also included in the plan.

There is a general simplification in the diversity of bottomfish species in the Bering Sea compared to the more southern regions of the Gulf of Alaska and Washington to California. As a result, certain species inhabiting the Bering Sea are some of the largest bottomfish resources found anywhere in the world. In terms of biomass, the bottomfish community in the Bering Sea is much larger than its counterparts in other areas of the northeastern Pacific. The commercial production by all nations from the eastern Bering Sea/Aleutians has ranged from 1.6 to 2.3 million mt during the five year period of 1971-1975, representing 69 to 86 percent of the groundfish catch for the entire region from the Bering Sea to California.

Relatively few groundfishes form aggregations in the eastern Bering Sea and Aleutian Islands areas large enough to attract target, or occasional target fisheries: Pacific cod, Pacific ocean perch, sablefish, Atka mackerel, and rattails (Table 1). A number of other rockfishes are taken while fishing for Pacific ocean perch, the most common of which are listed in Table 1.

Table 1.—Commercially Utilized Demersal Fishes in the Eastern Bering Sea and Aleutian Island Region

Common name and scientific name

Target species:

Pollock, *Theragra chalcogramma*
Pacific ocean perch, *Sebastes alutus*
Atka mackerel, *Pleuragrammus monopterygius*
Sablefish, *Anoplopoma fimbria*
Yellowfin sole, *Limanda aspera*
Greenland turbot, *Reinhardtius hippoglossoides*

Pacific halibut, *Hippoglossus stenolepis*

Occasional target species:

Pacific cod, *Gadus morhua macrocephalus*
Rock sole, *Lepidopsetta bilineata*
Flathead sole, *Hippoglossoides elassodon*
Arrowtooth flounder, *Atheresthes stomias*
Rattails, *Coryphoenoides* sp.

Minor commercial species:¹

Rougheye rockfish, *Sebastes aleutianus*
Dusky rockfish, *Sebastes ciliatus*
Northern rockfish, *Sebastes polyspinis*
Shortspine thornyhead, *Sebastolobus alascanus*

Shortraker rockfish, *Sebastes borealis*
Dark blotched rockfish, *Sebastes crameri*

Yelloweye rockfish, *Sebastes ruberrimus*
Blue rockfish, *Sebastes mystinus*

Alaska plaice, *Pleuronectes quadrituberculatus*

Rex sole, *Glyptocephalus zachirus*
Butter sole, *Isopsetta isolepis*

Longhead dab, *Limanda proboscidea*
Dover sole, *Microstomus pacificus*

Starry flounder, *Platichthys stellatus*
Skates, *Rajidae*

In contrast to the relatively few species of commercially exploited roundfishes, the flatfish community of the Bering Sea is very diverse. Yellowfin sole dominates this group and has the longest history of intense exploitation by foreign fisheries. Other flounder species that are known to occur in aggregations large enough to form target species or occasional target species are Greenland turbot, Pacific halibut, rock sole, flathead sole, and arrowtooth flounder. Alaska plaice is also relatively abundant, but has not been intensively fished, apparently because of their low market value. A number of other flounders having commercial importance in regions to the south, also occur in the eastern Bering Sea (Table 1), but their abundance is low.

Elasmobranchs (sharks and rays) which commonly occur off Washington to California, are relatively scarce in the eastern Bering Sea. Only skates (*Rajidae*) occur in significant quantities, but less so than in waters south of the Bering Sea.

Commercial catches illustrate the much greater magnitude of groundfish stocks in the eastern Bering Sea compared to the Aleutian Island region (Figure 3). For the five-year period of 1971 to 1975, the all-nation commercial catch in the eastern Bering Sea averaged 2.0 million mt compared to only 59,000 mt in the Aleutian Islands. The major share of the catch in the eastern Bering Sea from 1971 to 1975 (1.6 million mt or 81%) was

¹Includes species that may be marketable, but have low abundance.

made up of pollock. Other roundfish contributed 8% to the average catch and flounders 11%. Roundfish also contributed the major share of the catch in the Aleutian Island area (84%), but the principal roundfish species in the Aleutian region was Pacific ocean perch rather than pollock. Pollock catches in the Aleutians averaged only about 10,000 mt annually in 1971-1975.

BILLING CODE 3510-22-M

ALEUTIAN ISLANDS AREA

59,000 mt



EASTERN BERING SEA

2,032,000 mt

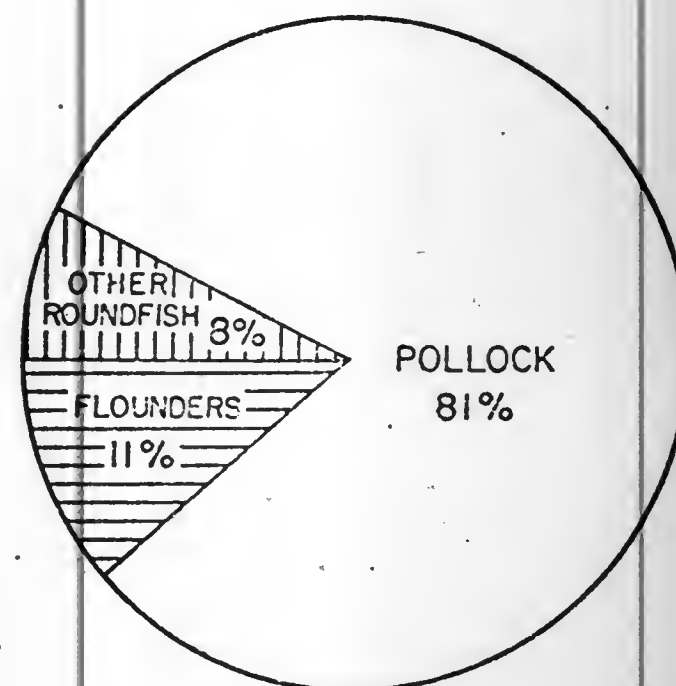


Figure 3.--Average annual catches of groundfish in the Aleutian Island area and the eastern Bering Sea, 1971-75.

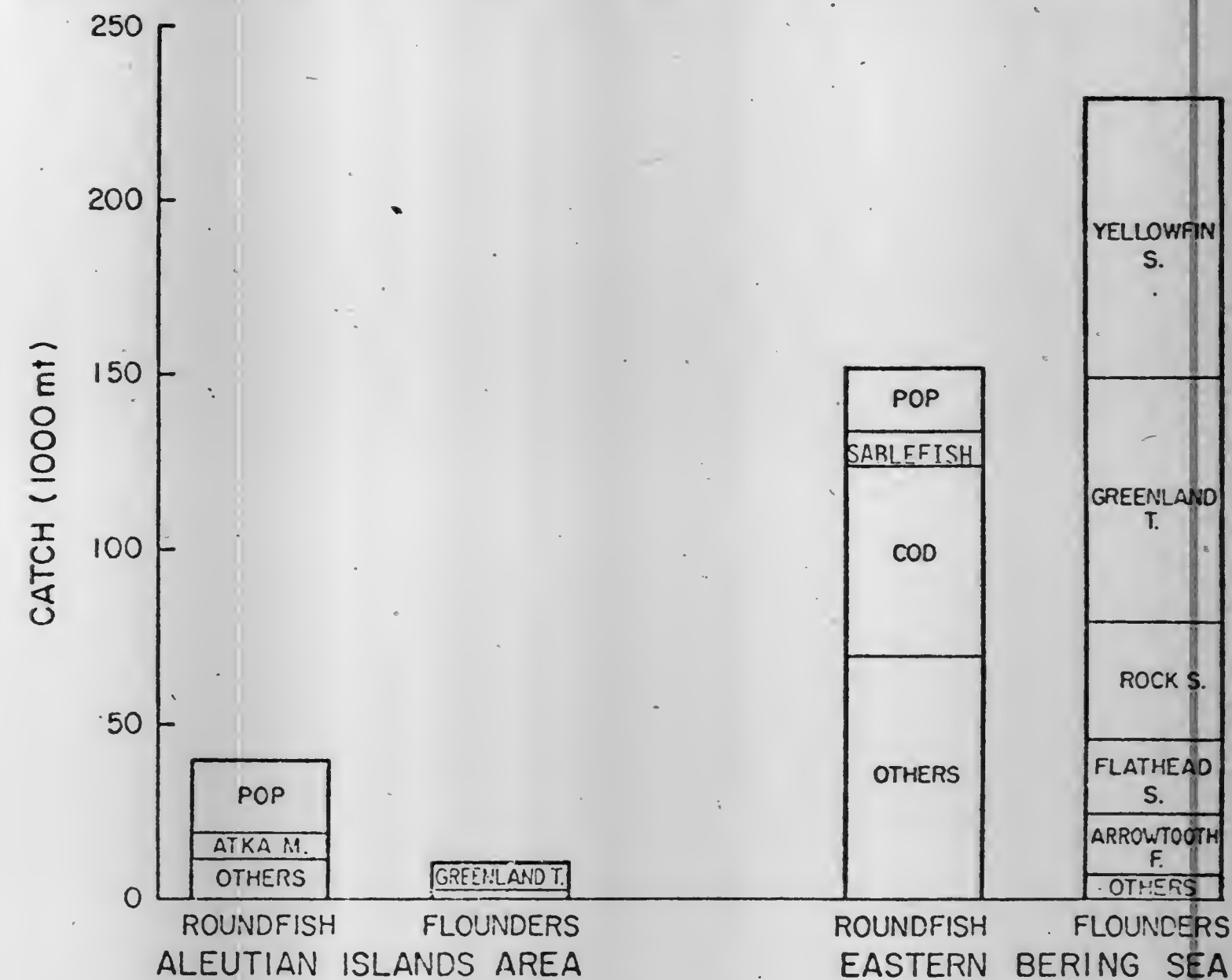


Figure 4.--Average annual catches of groundfish (excluding pollock) in the Aleutian Island area and eastern Bering Sea, 1971-75.

BILLING CODE 3510-22-C

The species make-up of catches in the two regions exclusive of pollock are illustrated in Figure 4. The data demonstrate that catches of both roundfish (other than pollock) and flounders were much greater in the eastern Bering Sea than in the Aleutians. Catches of flounders in the eastern Bering Sea were predominated by yellowfin sole (79,000 mt), but catches of Greenland turbot (71,000 mt) in this recent period has approached those of yellowfin sole. Rock sole, flathead sole, and arrowtooth flounders were other principal species of flounders taken in the eastern Bering Sea. Flounders form only an incidental part of the catch in the Aleutian Islands area with Greenland turbot the principal species in that area.

The principal roundfish in eastern Bering Sea catches after pollock was Pacific cod with an annual average catch in 1971-75 of 55,000 mt. The next most abundant species were Pacific ocean perch (17,000 mt) and sablefish (9,000 mt). The catch of "other groundfish" was also relatively high, averaging 69,000 mt annually, and forming 5.6% of the overall catch in the eastern Bering Sea. Although the species in this category were not identified, they most likely consist primarily of sculpins (Cottidae), eelpouts (Zoarcidae), skates (Rajidae), poachers (Agonidae) and rattails.

Pacific ocean perch have been the principal species of roundfish in Aleutian Island catches and in 1971-75 annual catches have averaged 22,000 mt. Other than pollock (10,000 mt), the next most abundant species in catches were Atka mackerel (4,000 mt), sablefish (2,700 mt), and cod (1,500 mt).

Little is known about the extent of the squid resource in the eastern Bering Sea and Aleutian Islands area. The Japanese apparently target on squid to a limited degree. They took 4,300 mt and 5,900 mt in 1975 and 1976. Fishing was mainly in the Aleutian Islands area in 1975 and mainly in the eastern Bering Sea in 1976.

The depth distribution of principal commercial species varies by species and by season. Species of flounders that occupy the shallowest depths on the continental shelf (generally shallower than 100 m during summer) are yellowfin sole, Pacific halibut, rock sole, and Alaska plaice. The distribution of flathead sole is centered in deeper water than the above species, mainly occupying waters on the outer shelf (100-200 m), but also ranging onto the continental slope. The large flounders (Greenland turbot and arrowtooth flounder) occupy the deepest water with adults mainly located on the continental slope; they also occupy shelf waters, but mainly only the juvenile portion of the population.

In winter most of the flounders retreat to waters of the outer shelf and upper slope to avoid the sub-zero temperatures that extend over much of the eastern Bering Sea shelf in winter and early spring. These bathymetric migrations are most extensive for those flounders occupying the inter shelf in summer such as yellowfin sole, rock sole, Alaska plaice, and Pacific halibut. The migrations of Pacific halibut result in their occupying the greatest depth range of all flounders, extending from shallow bays to slope waters of over 500 m in depth.

Major commercial species of groundfish are mainly found on the outer shelf and slope. The distributions of pollock and Pacific cod are centered on the outer shelf in summer with some shifting to upper slope water in winter. Pacific ocean perch and other rockfishes are residents of the relatively deep water of the outer shelf and upper continental slope. Sablefish inhabit the deepest waters occurring to depths of perhaps over 1000 m.

5.2 History of Exploitation

5.2.1 Domestic fishery

5.2.1.1 General description of fishery

The earliest fisheries for groundfish in the eastern Bering Sea and Aleutian Islands were the Native subsistence fisheries. They were an important part of the life of Native people, and dependence on demersal species of fish may have been critical to their survival in periods of the year when other sources of food were scarce or lacking. Fishing was in near-shore waters utilizing such species as cod, halibut, rockfish, and other species. These small-scale subsistence fisheries have continued to the present time.

The first commercial venture for bottomfish occurred in 1864 when a single schooner fished for Pacific cod in the Bering Sea (Cobb 1927). The cod fishery did not commence on a regular annual basis until 1882. This domestic fishery continued until 1950 when demand for cod declined and economic conditions caused the fishery to be discontinued (Alverson et al. 1964). Fishing areas in the eastern Bering Sea were from north of Unimak Island and the Alaska Peninsula to Bristol Bay (Cobb 1927). Vessels operated from home ports in Washington and California and from shore stations in the eastern Aleutian Islands. Canadian vessels also participated in the cod fishery to a limited extent.

The cod fishery reached its peak during WWI when the demand for cod was high. Numbers of schooners operating in the fishery ranged from 1-16 up to 1914 and increased to 13-24 in the period 1915-20. Estimated catches during the peak of the fishery ranged annually from 12,000-14,000 mt (Pereyra et al. 1976). Numbers of vessels in the fishery declined following 1920 until the fishery was terminated in 1950.

Halibut were reported as being present in the Bering Sea by United States cod vessels as early as the 1800's. However, halibut from the Bering Sea did not reach North American markets until 1928 (Thompson and Freeman 1930). Small and infrequent landings of halibut were made by United States and Canadian vessels between 1928 and 1950, but catches were not landed every year until 1952 (Dunlop et al. 1964). The catch by North American setline vessels increased sharply between 1958 and 1963 and then declined steadily until 1972. Since 1972, the catch has remained stable at a relatively low level. The decline in the catch was a result of reduced abundance which led to severe restriction on the fleet. The reduction in abundance was caused by a combination of factors: the North American setline fishery, the Japanese setline fishery, incidental catches of juvenile halibut in foreign trawl fisheries, and adverse environmental conditions. The relative importance of each of these factors is not clear at this time.

In the Aleutians, exploitation by the North American setline fishery is relatively low. There was no fishing before 1960 and since then catches have been less than 200 mt. However, stocks in this area are relatively small, and tagging studies indicate that they are an intermingling component of stocks in the Gulf of Alaska. Consequently, fish from this area should not be considered unexploited.

The number of Canadian and U.S. vessels is shown in Table 2, and the units of fishing effort have been summarized by Myhre et al. (1977) and IPHC (1977). In general, fishing effort in the Bering Sea was meager before 1958, increased sharply during the late 1950's and early 1960's, and then declined steadily until the early 1970's. Effort during the 1970's has been relatively low although a modest increase did occur in 1976 and 1977. The low effort during the 1970's is the result of reduced abundance and restrictions on the North American fleet.

Table 2.—Number of U.S. and Canadian Vessels Over 5 Net Tons That Fished Halibut in the Bering Sea, 1930-1977

Year	United States	Canada
1930	3	
1931	8	
1933	1	
1945	1	
1950	1	
1952	9	
1953	6	
1954	2	
1955	1	
1956	3	2
1957	1	
1958	7	14
1959	19	20
1960	35	31
1961	34	27
1962	43	33
1963	51	53
1964	36	32
1965	19	15
1966	4	11
1967	17	19
1968	11	17
1969	7	16
1970	6	13
1971	4	13
1972	8	9
1973	7	3
1974	6	1
1975	8	3
1976	10	1
1977	19	1

Fishing effort in the Aleutians is very low because halibut stocks are relatively small and the distance to major ports is long.

Present participation by North American nationals in commercial fisheries for bottomfish in the Bering Sea and Aleutian Islands is confined mainly to the relatively small longline fishery for halibut by United States and Canadian fishermen. Some crab vessels may also fish bottomfish occasionally for use as crab bait. A brief, one-vessel exploratory effort occurred for sablefish in the southeastern Bering Sea in 1977. The native subsistence fishery mainly utilizes non-demersal species such as herring and salmon.

5.2.1.2 Description of vessels and gear

The domestic cod fishery was carried out mainly to sailing schooners ranging in length from 30-46 m and equipped for dory fishing

(Alverson et al. 1964). The dories were approximately 4 m in length and operated by a single fisherman using handlines to take cod.

Most of the halibut fishing vessels are schooners or seine-type vessels that are over 30 net tons and land their catch in major ports. Smaller vessels out of Unalaska and Adak also fish halibut but these vessels account for less than 10% of the total landings. There is also a small subsistence fishery in the Pribilof Islands and a few other locations, but little is known about the vessels or catch involved.

The halibut vessels use setline gear which consists of a longline on which branchlines (gangions), each with a hook, are attached at regular intervals, usually about every 6-8 meters. A unit of setline gear is called a "skate" and is about 550 m in length. The gear is left on the bottom for periods from 4 to 30 hours (soaking time). Fishing usually is conducted at depths between 90 and 275 m, but may take place as shallow as 27 m or as deep as 550 m.

The vessels and gear used in the Aleutians are similar to those in the Bering Sea although the amount of effort is much less.

5.2.1.3 Catch trends

The numbers of vessels used and estimated catches in the eastern Bering Sea during the history of the domestic cod fishery are given in Table 3. The catches shown in Table 3 are estimates for the Bering sea in metric tons roundweight as given by Pereyra et al. (1976). The estimates are based on weights of processed products from Cobb (1927) and Bower (1927-53). As indicated by Pereyra et al. (1974) the catches should be considered as approximations because of some uncertainty about the conversion factors used and some portion of the catches may have originated from the Gulf of Alaska.

Numbers of vessels in the cod fishery and estimated catches reached their peak during World war I when the demand for cod was high. During the period of 1915-19, estimated catches ranged from about 12,000 to 14,000 mt. Following this period, catches declined until termination of the fishery in 1950.

Estimated peak catches of cod in the domestic fishery are relatively small when contrasted with those from the recent foreign fisheries in the eastern Bering Sea which have ranged over 50,000 mt in some years.

Table 4 shows the annual catch of halibut in the Bering Sea and Aleutian areas by Canadian and U.S. fishermen from 1930 to 1977. In the Bering Sea, the annual catch was less than 200 mt before 1958, but then rose sharply to about 4,900 mt in 1963. The catch then declined steadily to a low of 173 mt in 1973. Since then, the catch has increased slightly and was about 450 mt in 1977. The decline in catch since 1963 was the result of reduced abundance and restrictions on the fishery. In years of high production, the catch was split about evenly between Canadian and U.S. vessels although since 1972 the U.S. share has been larger.

Table 3.—Estimated Catches of Pacific Cod in the Eastern Bering Sea, 1864, 1882-1950 (From Pereyra et al. 1976)

Year	Number vessels	Estimated catch (mt)
1864	1	23
1882	2	673
1883	5	1,944
1884	3	1,867
1885	3	1,510
1886	2	1,219
1887	1	944
1888	2	1,500
1889	0	0
1890	1	245
1891	6	2,102
1892	8	3,318
1893	4	1,658
1894	5	2,899
1895	5	2,638
1896	7	3,633
1897	8	4,337
1898	4	1,745
1899	7	3,995
1900	8	4,168
1901	7	4,015
1902	12	6,270
1903	10	6,116
1904	11	6,400
1905	16	8,654
1906	11	7,758
1907	9	6,216
1908	11	7,643
1909	12	8,511
1910	9	6,589
1911	10	7,867
1912	9	5,485
1913	9	8,180
1914	13	8,817
1915	13	12,016
1916	13	13,947
1917	16	13,946
1918	17	12,719
1919	17	12,140
1920	24	6,576
1921	8	3,102
1922	10	5,923
1923	17	8,951
1924	15	9,889
1925	14	10,489
1926	7	9,924
1927	7	6,887
1928	8	7,083
1929	9	7,851
1930	8	7,674
1931	4	4,314
1932	5	4,692
1933	5	5,779
1934	7	6,361
1935	5	5,713
1936	5	5,008
1937	4	4,885
1938	3	3,963
1939	3	3,960
1940	4	4,129
1941	3	2,940
1942	1	814
1943	0	0
1944	1	656
1945	1	639
1946	2	997
1947	2	1,041
1948	1	1,006
1949	1	850
1950	1	568

¹Original catch data in numbers of fish for 1864, 1882-1925 from Cobb (1927) and weight of cured products for 1926-50 from Bower (1927-1953) are converted to round weight in metric tons from conversion factors provided by Cobb (1927).

²Catches for 1918 to 1925 also include offshore catches from the North Pacific Ocean.

Table 4.—Catch of Halibut by Canadian and U.S. Vessels in the Bering Sea and Aleutian Areas, 1930-77. Catch in Metric Tons, Round Weight

Year	Bering Sea			Aleutian		
	Canada	U.S.	Total	Canada	U.S.	Total
1930		62	62			
1931		62	62			
1933		11	11			
1945		3	3			
1952		152	152			
1953		137	137			
1954		24	24			
1955		27	27			
1958	51	107	158			
1957		24	24			
1958	731	582	1,313			
1959	1,442	1,065	2,507			
1960	2,016	1,392	3,408	10		10
1961	1,163	1,231	2,394			
1962	2,113	2,304	4,417		12	12
1963	2,886	2,022	4,908	38		38
1964	758	647	1,605		1	1
1965	356	449	805			
1966	385	336	721	45		45
1967	668	776	1,444		9	9
1968	402	395	797	5		5
1969	404	340	744		53	53
1970	536	148	684	33	32	65
1971	440	83	523		1	1
1972	148	293	442	7	12	19
1973	58	115	173	28		28
1974	101	162	263	60	3	63
1975	102	215	317		3	3
1976	37	278	315	56	11	67
1977*	84	366	450	162	16	178

*Preliminary.

There was no catch reported in the Aleutian area before 1960. Until 1976, annual catches fluctuated between 1 and 67 mt; in 1977 preliminary data indicate a catch of 178 mt.

5.2.2 Foreign Fishery

5.2.2.1 General description of fisheries

Nationals from six foreign countries have conducted groundfish fisheries in the eastern Bering Sea and Aleutian Islands. One of these, the Canadian halibut fishery, was previously described under the domestic fishery because of its small size and similarity to the U.S. fishery for halibut. Of the other foreign fisheries, Japan has had the longest history of exploitation in region and has mounted the greatest effort over the years. The first documented fishery for demersal species by the Japanese in the eastern Bering Sea dates back to an exploratory effort in 1930. This was followed by a relatively small-scale fishery which had its origin in 1954. Excluding Canada, the second foreign nation to send demersal fishing fleets to the eastern Bering Sea and the nation having the second largest removals of groundfish in the region has been the USSR. Their fisheries commenced in 1958.

In 1966 a trawler from the Republic of Korea (ROK) exploring fishing grounds in the eastern Bering Sea and Aleutian Islands. A commercial operation followed in 1967 but the number of vessels and magnitude of the catch by ROK fishermen has remained much smaller than that by Japan and the USSR. The Republic of China (Taiwan) has also had a fishery in the eastern Bering Sea since late 1974, but involving only one or two trawlers.

Polish vessels fished briefly in the eastern Bering Sea in 1973 (Law Enforcement Division 1975). Since then, Poland has agreed to abstain from further fishing in the eastern Bering Sea. Although allowed to fish in certain waters of the Aleutian Islands, Polish vessels have not operated there.

5.2.2.1.1 Japanese fishery

Following the initial exploratory effort by two trawlers in 1930, the Japanese returned to the eastern Bering Sea with a mothership-catcher boat operation in 1933 (Forrester, et al. 1974). The fleet was composed of an 8,000 ton mothership and several catcher boats including 400 gross ton side-trawlers and 88 gross ton pair trawlers. Fishing was off Bristol Bay with the emphasis on pollock for the production of fish meal. The catch was processed aboard the mothership and transported back to Japan aboard transport vessels. This fishery continued to operate until 1937 when prices of fish meal declined causing the fisheries to terminate. Catches in this period ranged up to 43,000 mt with pollock the major species taken.

A second mothership-type operation was conducted in the eastern Bering Sea by Japan in 1940-41 (Forrester, et al. 1974). Target species was yellowfin sole that were frozen for human consumption. Catches in the two-year period ranged from 9,600 to 12,200 mt (Table 5).

With the signing of the peace treaty between the United States and Japan in 1952, restrictions on Japanese distant-water fisheries were removed, and in 1954, fishing in the eastern Bering Sea was resumed. The Japanese post-war fishery for groundfish developed into several components, the four principal ones being the mothership fishery, North Pacific trawl fishery, North Pacific longline-gillnet fishery, and the landbased trawl fishery.

The number of mothership fleets and number of vessels in the other fisheries are given in Table 6 along with a description of each type of fishery in the accompanying footnotes. As shown in Table 6, the mothership fishery can be divided into four additional types depending on the target species and processing methods. These are the freezing fleets which targeted on flounders in the period 1954-60; the freezing fleets operating since 1960 that continued to target on flounders, but also targeted on other species; the meal and minced fish fleets which originally took flounders for fish meal, but since 1964 have targeted on pollock for the production of minced fish, as well as fish meal and the longline-gillnet fleet which took halibut, cod, sablefish and herring for freezing.

The mothership fishery has accounted for the largest share of the Japanese catch in the Bering Sea since 1954. In the recent period of 1971-76 the mothership fishery took 64% of the total catch, the North Pacific trawl fishery 31%, the land-based fishery 5%, and North Pacific longline-gillnet fishery 0.3% (Sasaki 1977).

Mothership fishery.—Forrester et al. (1974) divided the history of the mothership fishery into three periods based on target species, methods of processing catches, and expansion of fishing grounds.

In the first period (1954-57), the fishery was relatively small involving two to four 8,000 gross ton motherships of the freezer-factoryship type and trawlers of the 200-300 ton class as catcher boats. The fleets operated for about one month between August and October between the salmon driftnet and Antarctic whaling seasons. Fishing was off Bristol Bay and the catch, consisting of flounders (primarily yellowfin sole) was frozen.

In the second period (1958-63), the fishery expanded throughout the Bering Sea with diversification of fishing methods and target species (Table 6). Fish meal operations were initiated in 1958 utilizing flounders in the eastern Bering Sea which were processed by 9,000 gross ton motherships operating from April to September. Each mothership was supplied with fish by 20 Danish seiners and pair trawlers. The freezing fleets described in the previous period also continued to fish and catches of yellowfin sole reached their peak in this period, ranging between 420,000 and 554,000 mt annually in 1960-62 including catches by the USSR.

Another mothership operation beginning in the 1958-63 period was the longline-gillnet fishery consisting of 500 gross ton motherships and 100 gross ton longliners. These vessels fished for halibut and sablefish for freezing along the continental slope off Cape Navarin starting in 1958. In 1960 they began fishing operations for Pacific ocean perch along the continental slope between the Pribilof Islands and Cape Navarin and in 1963 expanded their area of operations to Bowers Banks off the Aleutian Islands.

The fleets involved in the yellowfin sole fishery for freezing also extended their operations to include halibut, sablefish, and Pacific ocean perch and together with the longline-gillnet fleets expanded their area of operations to the continental slope in the central and northern Bering Sea and to Aleutian Island waters. The fishing season which had previously been about one month was lengthened to four to nine months and winter fishing was initiated in 1961-62.

The third period (1964 to present) is characterized by the development of the pollock fishery. With the decline in abundance of yellowfin sole (due to overfishing in the early 1960's), and the development in 1964 of techniques for processing minced fish (surimi) on-board motherships, the main Japanese effort shifted to pollock. Fish meal and frozen products became a by-product of these operations. Pollock has dominated Japanese catches since 1962 and from 1971-76 has formed over 80% of the total Japanese groundfish catch in

Table 5.—Number of Japanese Vessels Operating in the Eastern Bering Sea and Their Catches, 1933-37 and 1940-41 (From Forrester et al., 1974)

Year	Number of fleets	Number of catcher boats			Catch (metric tons)			
		Total	Trawl	Pair trawl	Total	Flat fishes	Pacific pollock	Other fishes
1933	1	5	5		3,300	?	?	?
1934	1	5	5		14,953	1,385	11,645	1,923
1935	1	11	3	8	28,629	2,869	23,553	2,207
1936	1	8	4	4	26,622	1,003	23,000	2,610
1937	1	13	3	10	43,383	9,310	31,316	2,757
1940	1	8		8	9,577	6,941	24	2,612
1941	1	12	4	6	12,226	9,839	1,287	1,100

Table 6.—Number of Fleets in the Japanese Mothership Fishery and Number of Vessels in the Japanese North Pacific Trawl and Longline-Gillnet Fisheries and Land-Based Trawl Fishery (Data From Forrester et al. 1974; Yamaguchi 1974, 1975; Sasaki 1977)

Year	Number of mothership fleets				Number of independent vessels		
	Freezing fleet ¹ (for flounders only)	Freezing fleet ² (including other than flounders)	Meal and mince fleet ³	Longline gillnet fleet ⁴	Total	North Pacific Trawl fishery ⁵	North Pacific longline gillnet fishery ⁶
1954	2				2	2	
1955	2				2	3	
1956	4				4	1	
1957	4				4		
1958	2		1	1	4		
1959	4		1	1	6	2	
1960	3	1	5	4	13		
1961		13	5	14	32	3	54
1962		11	5	5	21	2	70
1963		10	2	5	17	2	93
1964		8	4	2	12	2	103
1965		6	4	2	12	2	126
1966		8	4	1	13	2	172
1967		7	5	2	14	42	173
1968		8	5	1	12	42	184
1969		5	5	1	11	42	182
1970		3	6	1	10	42	182
1971		5	6	1	12	42	182
1972		4	8	(⁷)	10	42	182
1973		4	8		10	42	182
1974		4	8		10	42	182
1975		4	8		10	42	182
1976		3	5		8	35	182
		3	5		8	54	182

¹Flounder fleet: The fleets, each composed of a mothership of 7,000-9,000 tons, equipped with freezing facilities and having several 300-ton class trawlers attached to it, caught mainly yellowfin sole for freezing off Bristol Bay.

²Freezing fleet: The fleets, each composed of a mothership of 5,000-10,000 tons with freezing equipment, accompanied by trawlers as well as Danish seiners, which also fished longlines and gillnets, caught halibut, blackcod, herring, Pacific ocean perch, etc. The fleets operated along the continental slope between Unimak Pass and Cape Navarin, in the Gulf of Olyutorskii, and in Aleutian waters.

³Fish meal (minced fish) fleet: The fleets, each composed of a mothership of 9,000-14,000 tons, equipped with fish-meal plants, accompanied by 20-30 pair trawlers and Danish seiners, caught yellowfin sole on the eastern Bering Sea flats, and turbot along the continental slope in the eastern Bering Sea for production of fish meal. From 1964, the fleet switched to production of minced fish with a minced-fish plant, utilizing pollock caught in the eastern Bering Sea. The fleet also has freezing facilities and produces frozen fish.

⁴Longline-gillnet fleet: The fleets, each composed of a small mothership of 200-2,500 tons, accompanied by gillnetters and longliners, caught halibut, cod, blackcod, and herring to be frozen. The fishing grounds were along the continental slope from the Pribilof Islands and Cape Navarin-Gulf of Olyutorskii.

⁵North Pacific trawl fishery: This fishery is conducted by independent large trawlers, and the catch is frozen on board. The number of trawlers larger than 3,000 tons engaged in the fishery, on board which minced fish and fish meal are produced, has increased since 1968. Transport vessels were not used in this fishery until 1966. However, since 1967 a considerable number of transport ships have been used to carry the products of this fishery. The figures for 1967 and thereafter indicate the numbers of vessels licensed for this fishery.

⁶North Pacific longline-gillnet fishery: This fishery is conducted by independent longline-gillnetters, and the catch is processed on board. When filled with frozen products they return to their bases in Japan. The numbers of vessels in this table are the numbers licensed annually for this fishery.

⁷Land-based trawl fishery: This fishery consists of independent operations by Danish seiners and stern trawlers of 100-350 tons. The vessels process the catch on board, produce frozen goods, and return to Japan when they are filled. Extensive areas, including the Okhotsk Sea and waters around the northern Kurile Islands, are permitted for their operation. The number of vessels operated in the Bering Sea is not known. The figures in this table indicate the number of vessels licensed.

⁸From 1972-76 these fleets are included in the freezing fleets.

the eastern Bering Sea and Aleutian Islands area. The pollock fishery has become a year-around effort while the flounder fishery principally for yellowfin sole became a winter fishery in 1969-70 with the season generally lasting from October to March. Catcher boats in the mothership fishery have been pair trawlers, Danish seiners, side-trawlers, and stern trawlers. Side-trawlers have been phased out of the fishery and the number of Danish seiners has declined with pair trawlers becoming the mainstay of the fleet.

The winter fishing grounds for flounders were mainly north of Unimak Island and occasionally west and east of the Pribilof Islands. The major fishing grounds for pollock have been along the outer continental slope and upper slope from Unimak Pass northwestward toward Cape Navarin. Typical fishing areas of the mothership fishery are shown in Figure 5.

North Pacific trawl fishery.—This second major type of Japanese fishery consists of independent factory trawlers larger than 500 tons that both fish and process their own catch (Forrester et al. 1974). Products are minced fish, frozen fish, and fish meal. The products are transhipped to Japan by refrigerated transport.

In the initial period of this fishery (1954-59), one to three independent trawlers fished in the eastern Bering Sea for yellowfin sole. Since 1961 they have also exploited (for freezing) halibut, sablefish, Pacific ocean perch, and other species along the continental slope in the central and northern Bering Sea and in Aleutian Island waters. In 1967 the number of licenses issued for independent trawlers was increased to 42 and has ranged from 35 to 54 in later years (Table 6). Greater numbers of larger trawlers in the 3,000-5,000 ton class (equipped with machinery for producing surimi) resulted in a rapid increase in the pollock catch by this fishery. By 1970, 80% of the total groundfish catch by these vessels was pollock.

The main effort by the independent trawlers is in the eastern Bering Sea where year-around operations are conducted for pollock. Other species taken are cod and various flounders. The number of vessels generally increase from a low in mid-winter to a peak in summer involving from 20 to 40 trawlers (Enforcement and Surveillance Division 1971 and 1973; Law Enforcement Division 1974, 1975, and 1977).

In the Aleutian Islands the trawlers target on Pacific ocean perch and take lesser amounts of pollock and various other groundfish. Fishing in the Aleutians is concentrated along the shelf edge in the central and western part of the chain with some effort in the eastern Islands. Maximum effort is in summer or early fall with the number of vessels reaching 7 to 18 in peak

months (Enforcement and Surveillance Division 1971 and 1973; Law Enforcement Division 1974, 1975, and 1977).

Areas of the fishery are illustrated in Figure 6.

North Pacific longline-gillnet fishery.—Herring and sablefish are the principal species taken by this fishery. The vessels operate independently, and when filled with fresh fish or frozen products, return to Japan. From 1963 to 1968 there were 18-19 vessels licensed in this fishery to operate north of 50°N and between 170°E and 170°W, but records of the number of vessels actually operating, the areas of operation, and the species taken are not available (Forrester et al. 1974).

In 1967 the number of longline-gillnet vessels licensed was increased to 22. Fishing by these 200-500 gross ton vessels has mainly been in the northeastern Pacific ocean where the catch was almost exclusively sablefish with some rockfish taken. The vessels operate year-around and normally remain on the grounds for two to four month periods until their hold capacity of about 400 mt is reached (Law Enforcement Division 1974).

Fishing for sablefish in the eastern Bering Sea and along the Aleutian Islands by the North Pacific longline vessels has been sporadic with only a few vessels fishing briefly each year. The areas of fishing in these regions as well as in the Gulf of Alaska in 1974 are shown in Figure 7.

Landbased trawl fishery.—This fishery, conducted by independent trawlers of 100-350 tons are prohibited by regulation from transshipping their catch in offshore waters (Forrester et al. 1974) and therefore return to Japan when storage capacity is filled. Their catches are chiefly flounders, Pacific ocean perch, and sablefish. When initiated in the early 1960's, the fishery was restricted to waters north of 48°N and between 153°E and 170°E. In June 1963 the area was expanded eastward to 175°W and in September 1967 to 170°W. Major fishing grounds are along the continental slope from Cape Olyutorskii to Cape Navarin and off the Pribilof Islands. Gear consisted mainly of Danish seines early in the fishery but stern trawls became the major gear in later years. From the 54 vessels licensed to operate in the fishery in 1961, the number grew to 184 in 1968 and has been 182 since 1969 (Table 6). The number of licensed vessels actually operating in this fishery is unknown.

BILLING CODE 3510-22-M

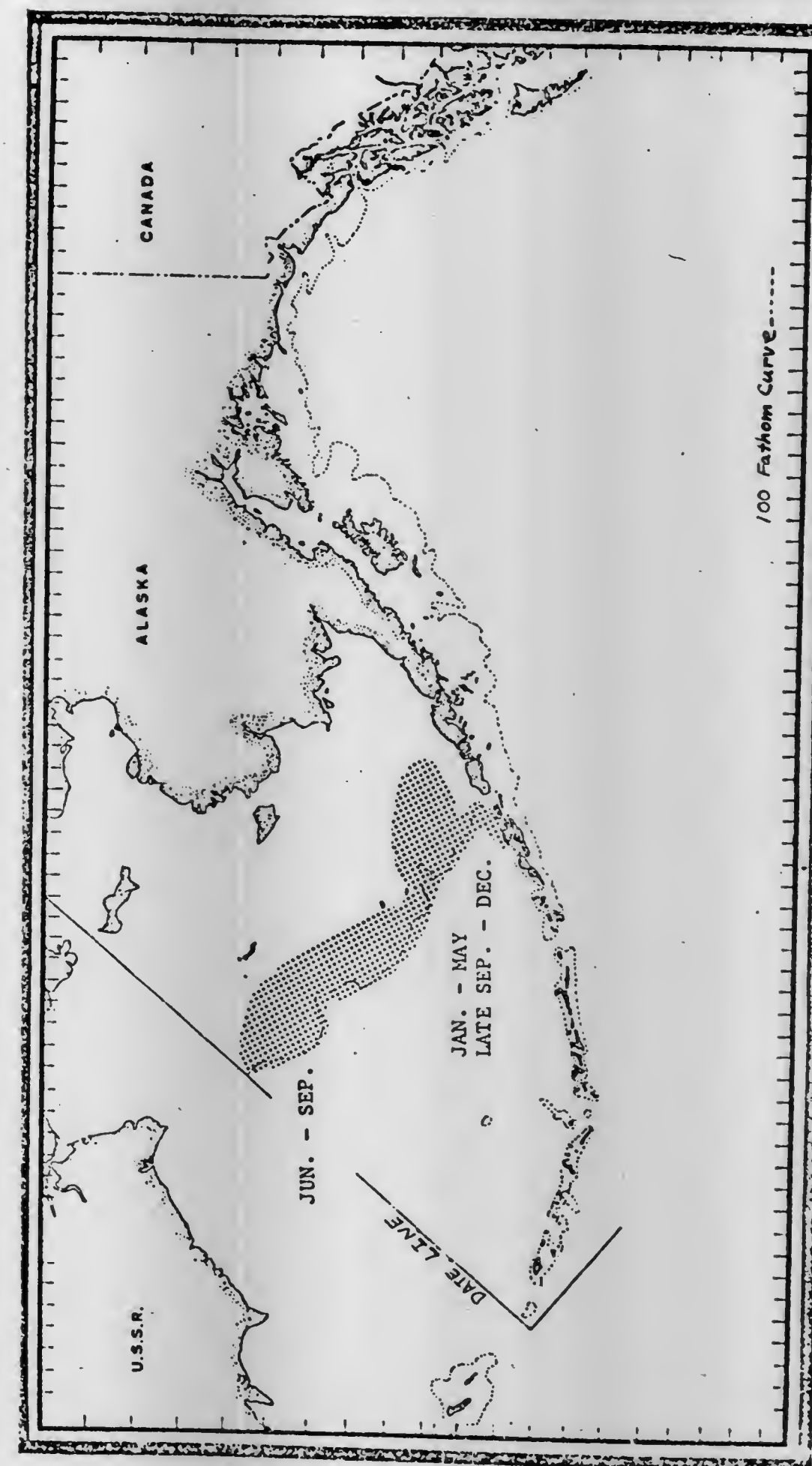


Figure 5.--Areas fished by the Japanese mothership fleets in 1972 (from Law Enforcement Division 1974).

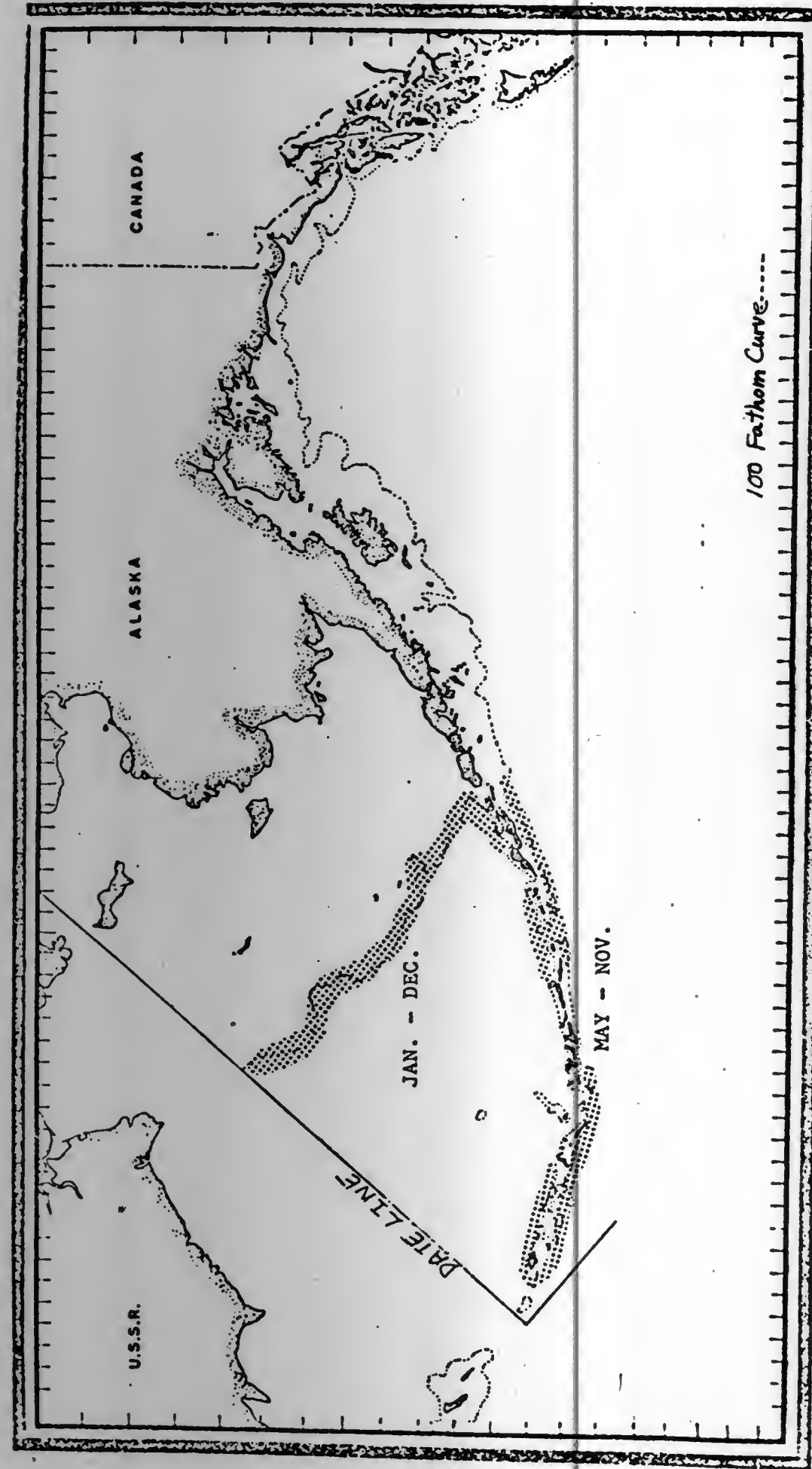


Figure 6.--Areas of the eastern Bering Sea and Aleutian Islands fished by the Japanese North Pacific trawl fishery (Law Enforcement Division 1974).

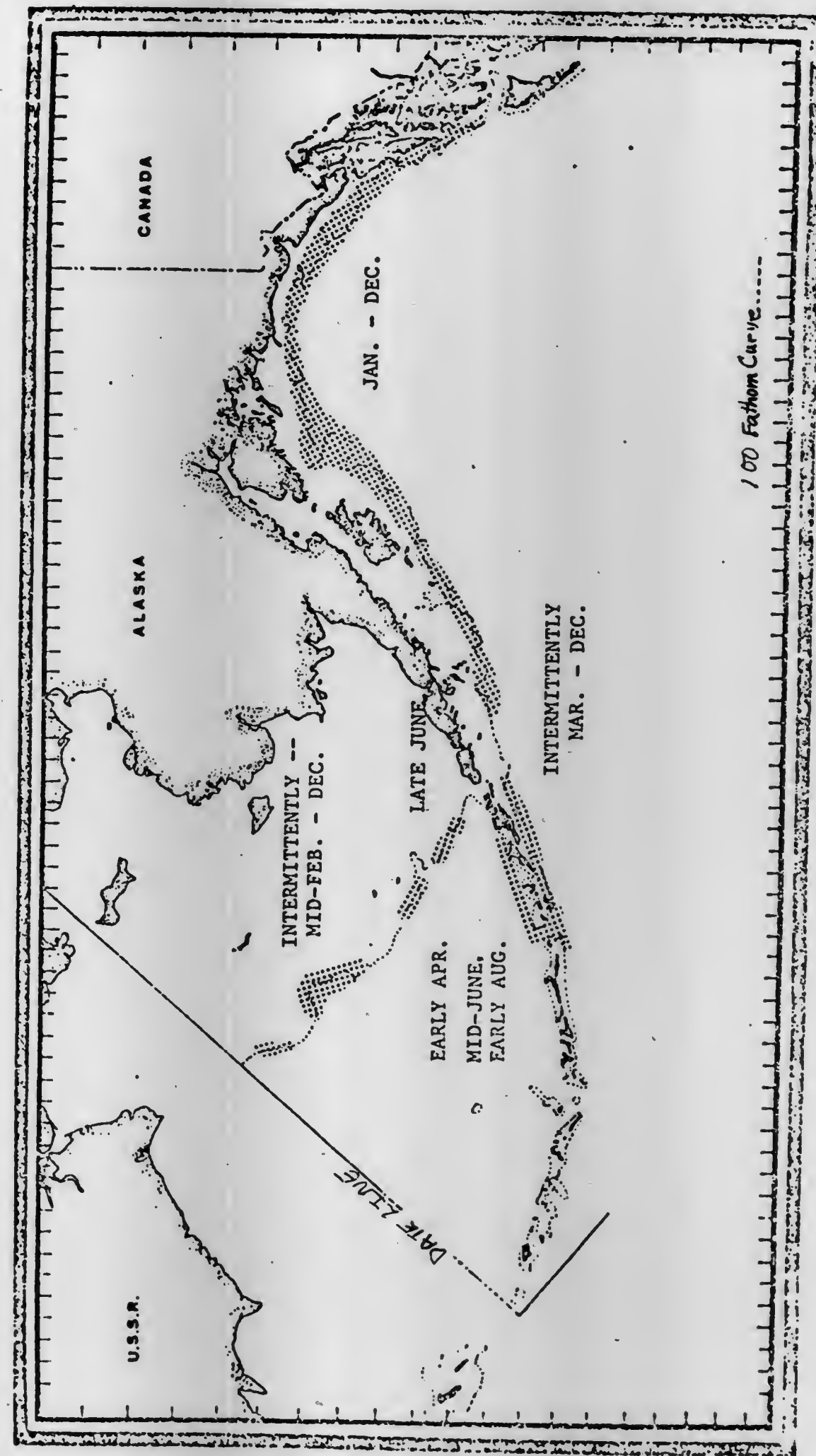


Figure 7.--Areas fished by Japanese North Pacific longline vessels in 1974 (Law Enforcement Division 1977).

BILLING CODE 3510-22-C

5.2.2.1.2 Soviet fishery

The first commercial-scale operations by the USSR off Alaska, following exploratory work in 1957-58, was a fishery for flounders in the eastern Bering Sea starting in 1959 (Chitwood 1969). Like the Japanese, the Soviets have expanded their fisheries since its inception in terms of effort, target species, and fishing areas. There have been three major groundfish fisheries in the eastern Bering Sea and Aleutian Islands: a flounder fishery in the southeastern Bering Sea, a rockfish fishery primarily in the Aleutian Islands, and a pollock fishery along the other continental shelf from Unimak Pass to northwest of the Pribilof Islands. In describing these fisheries, information is used from Chitwood (1969), Forrester et al. (1974), Haskell (1964), Office of Enforcement and Surveillance (1965, 1967-70), Enforcement and Surveillance Division (1971, 1973), and Law Enforcement Division (1974, 1975, 1977).

Flounder fishery.—The Soviet flounder fishery was a winter operation throughout its history extending usually from November to April and peaking in February or March. The fishing grounds (Figure 8) were in areas where aggregations of yellowfin sole and other flounders form in winter after migrations from shallower waters of the inner shelf. The primary target species was yellowfin sole which comprised a high proportion of the catches with other flounders such as rock sole, flathead sole, Alaska plaice, starry flounder, and arrowtooth flounder making up most of the remainder. Vessels participating in this fishery have ranged from smaller side trawlers (SRT) to medium (SRTM) and large independent stern trawlers (BMRT) and support vessels (see Section 5.2.2.2 for description of vessel types). Side trawlers delivered their catches to factory ships or processing refrigerated transports, which froze the fish for later transport to the Soviet Union. The larger trawlers freeze their own catches.

The first few years of the Soviet flounder fishery (1959-63) involved about 30 trawlers supported by a factory ship and refrigerated transport vessels. Catches in that period probably ranged between 60,000 and 155,000 mt. In the next three years effort was increased in this fishery with the number of trawlers rising to 40 in 1964, 50-60 in 1965, and 70-100 in 1966. The fishery peaked in terms of numbers of trawlers from 1966 and 1968 with the maximum number reaching 70-100 in the peak months of fishing in January, February or March. In those peak years, the flounder fishery represented the largest effort by the Soviets in Alaskan waters.

Starting in 1969, the Soviet effort for flounders generally declined, presumably because abundance of yellowfin sole was lower than in previous years. The numbers of vessels in peak months decreased to between 50 and 80 in 1969-72. Although a peak of 70 vessels fished in 1972, there was a sharp drop in catches of flounders to about 13,000 mt from over 70,000 mt or more in the previous three years. In 1973 the flounder fishery failed to develop. Effort was limited to a two-week period by four trawlers. The Soviets have not resumed this fishery to the present time.

Pacific ocean perch fishery.—The Soviet fishery for Pacific ocean perch and other

rockfish began in 1960 when 25 to 30 trawlers fished along the edge of the continental shelf in the eastern and central Bering Sea. In subsequent years the fishery became centered in the Aleutian Islands and Gulf of Alaska (Figure 9). The Aleutian Island fishery has been mainly by larger BMRT factory trawlers fishing along the continental shelf edge at depths of about 15-280 m. Catches were headed, eviscerated, and frozen until transferred to refrigerated transport vessels for delivery to the Soviet Union.

Following concentration of effort for Pacific ocean perch in the Aleutians and Gulf of Alaska in 1963, directed effort to Pacific ocean perch in the eastern Bering Sea decreased and was eventually eliminated. Catches from this region in later years were a by-catch of the pollock fishery. The early years of the Aleutian Island fishery were the most productive with reported catches of 61,000 mt in 1974 and 71,000 in 1965. Although the catch increased in 1965, the catch per trawler declined and search time for concentrations of perch increased substantially.

Whereas the fishery was continuous through 1965, effort in 1966 was sporadic, apparently because of reduced abundance of rockfish. The effort in 1967 and 1968 was approximately the same as in 1966 with fishing starting in spring months and continuing through the end of the year. In 1969 there was further reduction in effort with only one-half to two-thirds the number of vessels fishing compared to 1968. This level of effort generally continued in the next few years with relatively few vessels targeting on Pacific ocean perch, and then for relatively short periods in widely separated areas of the Aleutian Islands. By 1973 and 1974 the fishery was at an extremely low level with catches of only about 3,000 mt in 1973 and 800 mt in 1974. Catches in 1975 and 1976 were somewhat higher, ranging from 7,000-8,000 mt.

Pollock fishery.—The fishery that eventually developed into the pollock fishery began in 1967, but initially targeted on sablefish and large flounders (arrowtooth flounder and Greenland turbot) in the region immediately north of the eastern Aleutian Islands. Fishing was at depths of about 550 to 730 m on the fairly extensive deep-water plateau in the area immediately north of Dutch Harbor in the eastern Aleutian Islands. This fishery was continued in 1968, but the area of fishing was extended north along the edge of the continental shelf to the central Bering Sea. Sablefish and arrowtooth flounder were the principal species taken just north of Dutch Harbor, but farther north, pollock, cod, rockfish, and various flatfish were principal species. In 1969, this fishery became a year-around operation and took on the general appearance that has characterized the fishery to the present time. Vessels utilized in the fishery changed from primarily medium-sized SRTM trawlers to also include the smaller SRT trawlers and large BMRT trawlers. The two larger type trawlers processed their own catches and periodically off-loaded to refrigerated transports for shipment to the USSR. The SRT side trawlers off-loaded their catches to factory ships and other support ships for

processing. The fishing area became relatively standardized (Figure 10) with two principal areas used, the first immediately north of the eastern Aleutian Islands and the other northwest of the Pribilof Islands. Effort normally peaked in later winter when fishing vessels from the herring and and flounder fishery joined the pollock fleet.

In 1969 and 1970 the fishery targeted on arrowtooth flounder, sablefish, and pollock with incidental catches of cod, rockfish, and other bottomfish. Emphasis of the fishery shifted mainly to pollock in 1971 with catches rising from about 36,000 mt in 1970 to 234,000 mt in 1971. Pollock has remained the predominant species in the catch to the present time. Peak catches of pollock occurred in 1974 when almost 310,000 mt was taken. Catches of other species since 1972 have not exceeded 20,000 mt annually with the exception of rockfish in 1974 at 32,000 mt and rattails at 48,000 in 1972. Large catches of rattails were taken in 1972.

The USSR has continued to trawl along the Aleutians in recent years, but at a relatively low level of effort. Major species in the catches besides rockfish have been pollock and Atka mackerel. Atka mackerel has become a target species of this fishery in winter and spring months.

The monthly range in numbers of vessels employed in the USSR fishery in the eastern Bering Sea and Aleutian Island is given in Table 7. Peak periods of fishing the eastern Bering Sea have been in winter, usually in February. In the Aleutian Islands the peak period of fishing has varied, reflecting apparent changes in target species or other factors.

5.2.2.1.3 Korean (ROK) fishery

Fisheries by the Republic of Korea in the eastern Bering Sea and Aleutian Islands have been much smaller than those of Japan and the USSR (Office of Enforcement and Surveillance 1968, 1969 and 1970; Enforcement and Surveillance Division 1971 and 1973; Law Enforcement Division 1974, 1975 and 1977). Following exploratory fishing in these regions in 1966, an ROK fleet returned to Alaskan waters in September-November 1967 with a commercial operation consisting of a refrigerated transport vessel and eight pair trawlers. The operation was plagued by bad weather and tragedy. Crew members and two of the pair trawlers were lost enroute to the fishing grounds in a storm south of the Aleutian Islands. Continued stormy weather permitted only five days of fishing, two of which were south of Unimak Island and the remainder in the Gulf of Alaska.

The ROK expedition was more successful in 1968 conducting operations around the eastern Aleutian Islands and west of the Pribilof Islands from May to July. The fleet, targeting on pollock, consisted of a processor, six pair trawlers, and a refrigerated transport vessel. An independent stern trawler also operated in the eastern Bering Sea in 1968, but the purpose of their fishing activity is not known; it may have been exploratory in nature.

BILLING CODE 3510-22-4

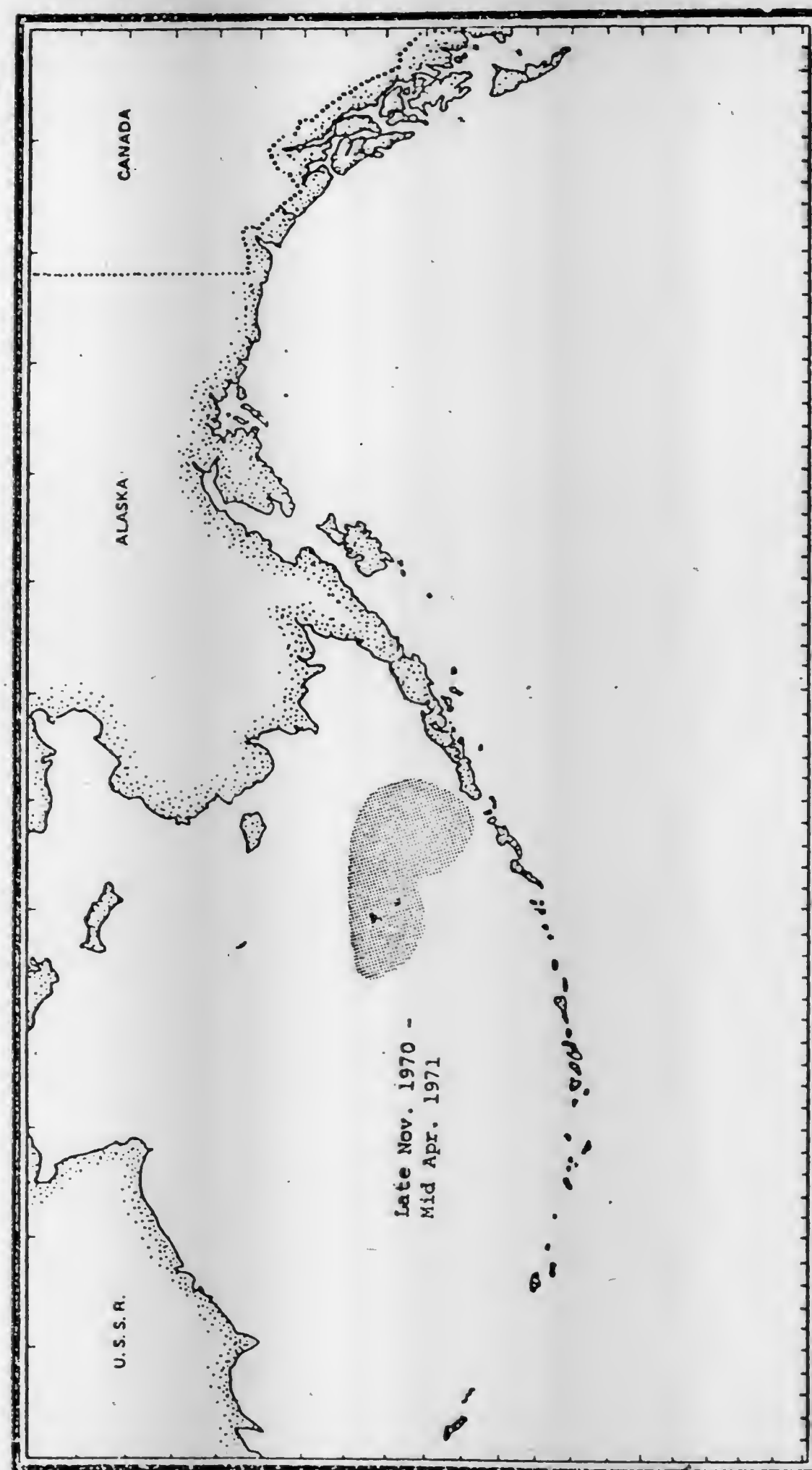


Figure 8.—USSR fishing area for flounders in the eastern Bering Sea in 1971 (Enforcement and Surveillance Division 1973).

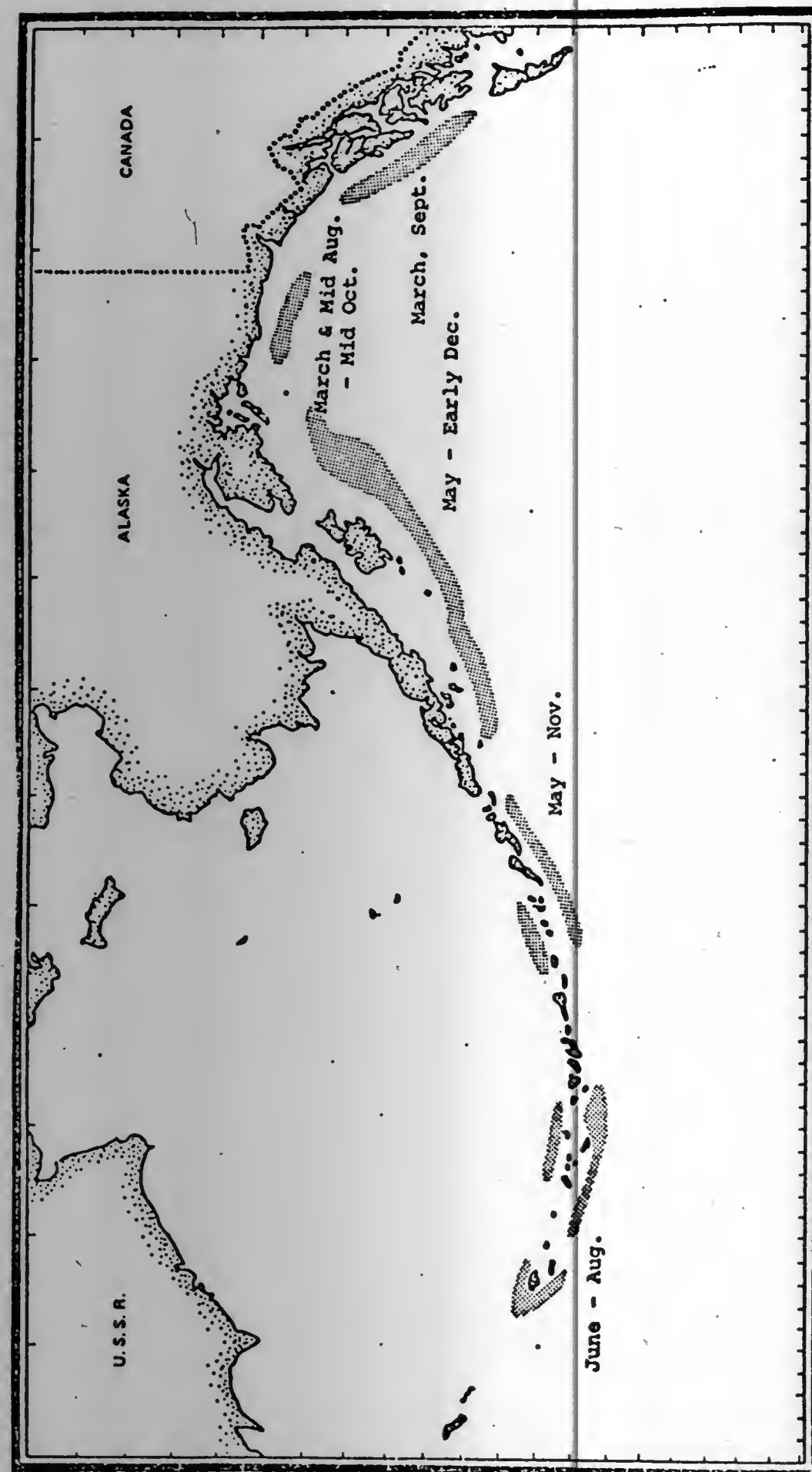


Figure 9 .--Areas fished for Pacific ocean perch by the USSR in 1971 (Enforcement and Surveillance Division, 1973).

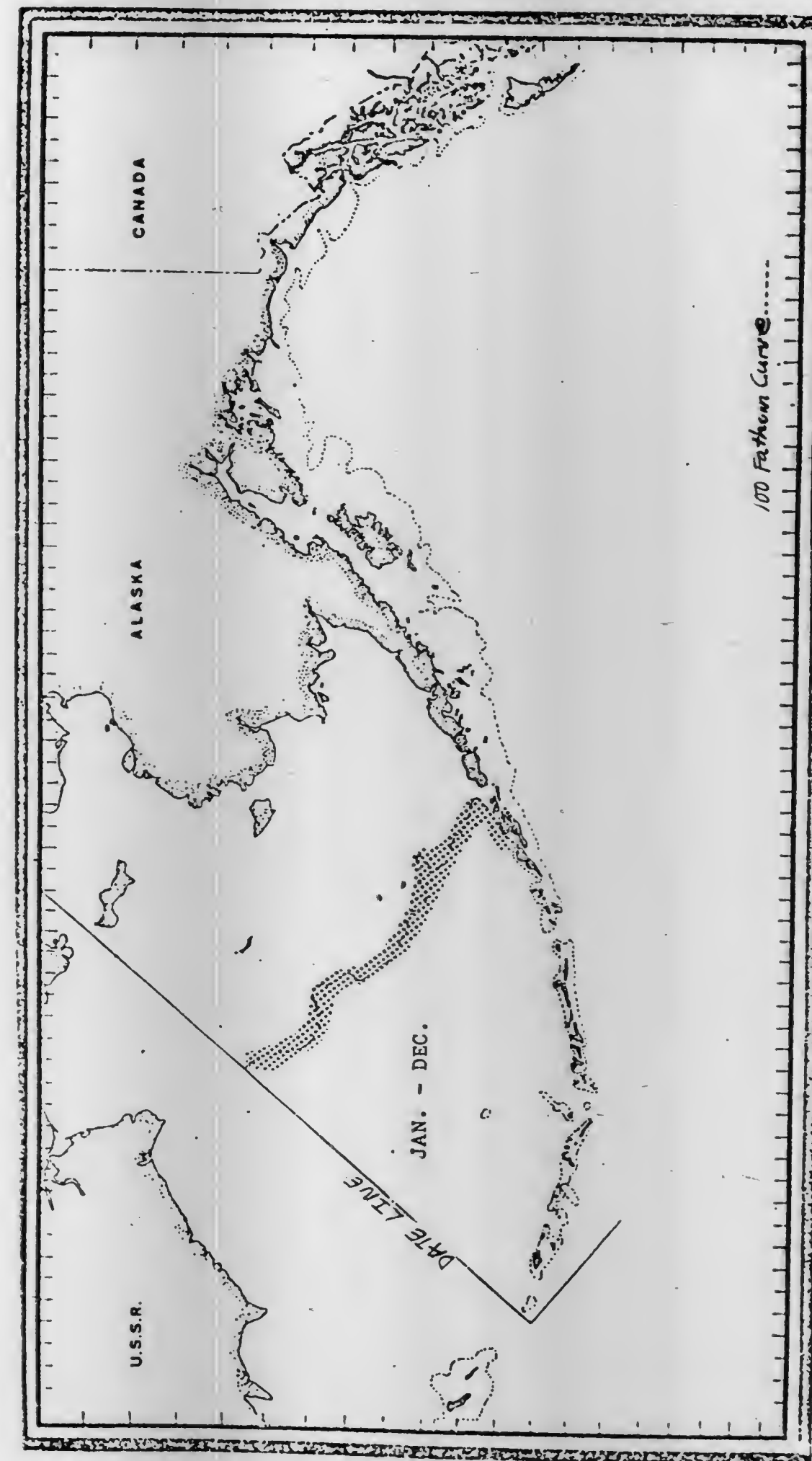


Figure 10. --Fishing areas in the eastern Bering Sea for the USSR fishery targeting mainly on pollock (Law Enforcement Division 1974).

BILLING CODE 3510-22-C

Table 7.—Monthly Range in Number of U.S.S.R. Vessels Operating in the Eastern Bering Sea and Aleutian Islands in 1966-77 (Office of Enforcement and Surveillance 1967-70; Enforcement and Surveillance Division 1971 and 1973; Law Enforcement Division 1974, 1975, and 1977)

	Range in monthly number				Month of maximum number	
	Factory ships ¹	Factory stern travelers	Other trawlers	Support ²	Total	
Eastern Bering Sea						
Year:						
1966	0-14	0-15	0-40	0-3	0-72	March.
1967	0-15	0-12	0-60	0-3	0-90	February and March.
1968	0-13	0-25	2-60	0-2	2-99	February.
1969	0-8	0-50	6-67	1-23	7-147	February.
1970	0-7	0-52	8-92	0-22	9-173	February.
1971	0-8	0-65	5-87	0-21	6-171	February.
1972	0-8	0-39	1-89	0-21	3-155	February.
1973	0-6	1-27	6-60	0-6	7-82	February.
1974	0-5	4-30	6-51	1-10	14-79	February and April.
1975	0-4	4-13	5-36	1-7	13-51	June.
1976	0-5	2-30	7-48	0-6	13-86	April.
Aleutian Islands						
Year:						
1966	0-3	0-10	0-10	0-1	0-24	August.
1967	0-6	0-12	0-21	0-3	0-42	June.
1968	0-4	0-14	0-23	0-1	7-28	March.
1969	0	0-7	0-13	0-1	3-14	January and December.
1970	0	0-5	0-14	0-1	1-15	January.
1971	0	0-6	2-15	0-1	6-17	May.
1972	0-1	0-5	3-19	0-1	4-21	December.
1973	0	0-4	6-17	0-3	6-20	April.
1974	0	0-2	0-19	0-5	0-24	March.
1975	0-1	0-30	0-10	0-4	2-33	September.
1976	0	0-27	0-4	0-5	0-32	May.

²Including tankers, tugs, cargo, and repair ships.

³ Including tankers, tugs, cargo, and repair ships

In later years the ROK fishing fleet was enlarged to include factory ships and additional pair trawlers and independent stern trawlers, and eventually longliners and a Danish seiner (Table 8). Based on the number of vessels in the fishery, ROK effort reached its maximum in 1976. The number of vessels shown in Table 8 includes those fishing for herring in the eastern Bering Sea and for other species in the Gulf of Alaska. The principal target species along the edge of the continental shelf in the eastern Bering Sea has continued to be pollock. Some of the trawlers have also fished in the Aleutian Islands for rockfish and pollock. Until 1972, fishing was limited to spring and summer months, but by 1973 the independent stern trawlers had begun to fish in winter months as well. By 1974 the areas of fishing by the trawl fleet had become fairly extensive (Figure 11). Estimates by U.S. surveillance of the ROK fishery indicated that pollock catches ranged between 1,200 and 26,000 mt from 1968 to 1975. The pollock catch reported by the Koreans for 1976 was 85,000 mt in the eastern Bering Sea and 500 mt in the Aleutian Islands area.

An ROK longline fleet, which has mainly fished sablefish in the Gulf of Alaska, began fishing sablefish for brief periods in the Aleutian Islands in 1974. The effort by longliners in Aleutian waters has apparently increased in more recent years.

5.2.2.1.4 Taiwanese (ROC) fishery

The Taiwanese fishery, which began in December 1974, has involved only one or two independent stern trawlers. The trawlers have fished in winter and spring months along the continental shelf edge west and southwest of the Pribilof Islands. The vessels are believed to have targeted on pollock and flounders.

5.2.2.2. Description of vessels and gear

5.2.2.2.1 Japanese fishery

As outlined in Section 5.2.2.1, the Japanese employ two types of operations in their groundfish fishery, fleet operations involving a factory mothership and catcher boats and vessels that operate independently and process their own catch. Vessels used in each of these fisheries are discussed separately.

BILLING CODE 3510-22-M

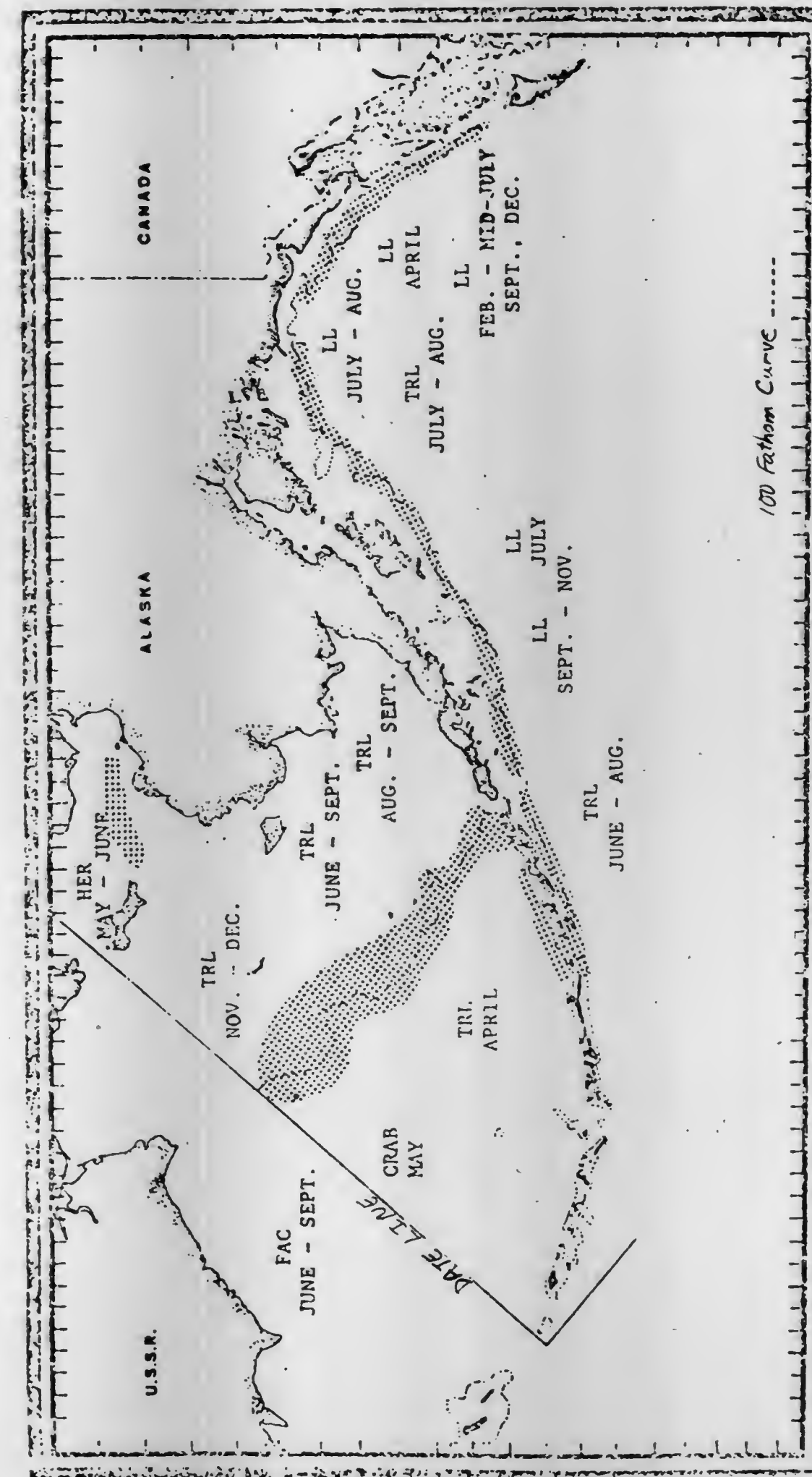


Figure 11.--Fishing areas of the Republic of Korea fisheries in 1974 (Law Enforcement: Division 1977).

BILLING CODE 3510-22-C

Table 8.—Number of Vessels Operating in the Korean Groundfish Fishery in the Eastern Bering Sea, Aleutian Islands, and Gulf of Alaska, 1968-74 (Office of Enforcement and Surveillance 1969, 1970; Enforcement and Surveillance Division 1971, 1973; Law Enforcement Division 1974, 1975, and 1977).

Year	Pair trawlers	Stern trawlers	Long-liners	Danish seiners	Factory ships	Processors and/or transport vessels	Total
1968	6	1	0	0	0	2	9
1969	7	4	0	0	1	3	15
1970	11	2	0	0	2	2	17
1971	10	3	0	0	1	3	17
1972	0	6	0	0	0	0	6
1973	8	10	1	0	3	0	22
1974	22	5	8	1	2	3	41
1975	0	13	9	1	0	0	23
1976	29	18	12	0	1	0	58

Types of mothership fleets and the range in size of motherships as reported by Forrester et al. 1974 are as follows:

Type of fleet	Size of motherships (gross tons)
Flounder freezing fleets	7,000 to 9,000.
General freezing fleets	5,000 to 10,000.
Minced fish and fish-meal fleets	9,000 to 27,000.
Longline-gillnet fleets	200 to 2,500.

The motherships are equipped to process catches into such products as frozen fish for human consumption, minced fish (surimi), and meal and oil. Catcher boats supplying the motherships with fish have been of five major types: Longline-gillnetters, side trawlers, pair trawlers, Danish seiners, and stern trawlers. Side trawlers have been phased out of the fishery and the number of Danish seiners have declined. Pair trawlers have become the principal vessel type in the freezing and minced fish and fish-meal fleet.

Table 9.—Range in Size of Catcher Boats in the Japanese Mothership Fishery and Typical Trawl Gear Used Based on a Sample of the Fleets in 1970 and 1975 (Data for 1969 From Forrester et al., 1974 and for 1975 From Fisheries Agency of Japan 1975)

Vessels		Typical gear type				
Year and type	Range in gross tons	Range in horsepower	Head-rope length (m)	Ground-rope length (m)	Cod-end mesh size (cm)	Otter board size (m)
1970 Danish seine	85 to 300	440 to 850	93	101	7.3	
1975 Danish seine	96 to 125	450 to 1,350	115	130	9.0	
1970 Pair trawl	88 to 195	310 to 1,200	139	152	9.1	
1975 Pair trawl	115 to 215	650 to 1,400	146	162	9.0	
1975 Stern trawl	297 to 349	1,200 to 2,500	48	57	9.0	1.9 x 3.2

Table 10.—Range in Size of Vessels in the North Pacific Trawl Fishery and Typical Gear Used for Principal Target Species From a Sample of the Fleet in 1974 and 1976 (Fisheries Agency of Japan 1974 and 1976)

Target species	Year	Range in vessel size		Gear			
		Gross tons	Horsepower	Head-rope length (m)	Ground-rope length (m)	Cod-end mesh size (cm)	Otter board size (m)
Pollock	1974	3,037-5,460	4,000-5,900	66	65	10	3.2 x 5.0
	1976	2,455-5,470	3,500-5,700	66	89	10	2.6-4.3
Yellowfin sole	1974	349-499	2,100-2,500	53	60	9	2.1-3.3
	1976	349-3,500	1,600-4,000	57	69	10	2.4 x 3.0
Rockfish	1974	499-3,608	1,500-4,400	50	64	9	2.4 x 3.8
	1976	349-3,314	1,420-4,400	60	73	10	2.2 x 3.3

Pair trawlers work in two-boat teams, one vessel setting the trawl and the second vessel securing its warp to one wing of the net. When the tow is completed, the net is hauled until one wing can be passed to the other vessel to complete the haul. Detachable cod-ends are used on pair trawlers. Older pair trawlers are 27 to 46 m in length and 100 to 150 gross tons with crews of 15 to 20 (Dickinson 1973). Newer pair trawlers are 37 m in length and 185 gross tons with crews of 14 to 16 men. Typical trawl dimensions used by pair trawlers are observed from sampling the fleet in 1970 and 1975 are shown in Table 9. These data indicate that the average size of vessels and gear increased between 1970 and 1975.

Stern trawlers operating as catcher boats in the mothership fishery are mainly of the 300-350 ton class (Table 9). These smaller stern trawlers average 43 to 50 m in length and carry 20 to 30 men (Dickinson 1973).

Vessels in the Japanese groundfish fishery operating independently of the motherships and processing their own catches consist of stern trawlers and longliners. The independent stern trawlers range in size from about 350 gross tons to over 5,000 gross tons (Table 10). The smaller of these trawlers have operated in the flounder and rockfish fisheries while those targeting on pollock in 1974 and 1976 were larger than 2,000 gross tons. Trawl dimensions were greatest for the larger vessels operating in the pollock fishery (Table 10).

An example of a smaller independent stern trawler is a 500 gross ton vessel averaging 52 to 58 m in length and carrying a crew of 20 to 35 men (Dickinson 1973). The vessels are usually equipped with limited processing equipment, ship freezing units, and refrigerated holds. A medium sized independent stern trawler is 1,500 gross tons, averages 70 to 82 m in length, and carries 70 to 90 men. They normally have a large processing area with modern machinery for washing, heading, gutting and filleting the catch. Plate freezers and refrigerated holds are standard equipment along with reduction plants for producing fish meal. The larger stern trawlers of 2,500 to over 5,000 gross tons range in length from 88 m to over 120 m and carry crews of from 90 to 135. These vessels have equipment for heading, gutting, filleting, and skinning the catch and freezing facilities. Most have reduction plants for producing meal and oil and the larger vessels have equipment for producing minced fish.

Independent longline vessels are 36 to 52 m long and 200 to 500 gross tons with crews of 25 to 30 (Dickinson 1973). Their primary target species is sablefish. Some rockfish are taken incidentally. Individual vessels fish about 23 km of longline with approximately 8,000 hooks. The gear is allowed to soak for 12 hours. Frozen squid is used for bait. Typical dimensions of fishing gear is given in Table 11. The vessels are equipped with sharp freezers and refrigerated holds. The longlines remain on the fishing grounds from two to four months until the maximum hold

capacities of about 400 mt is reached, after which they return to home ports (Law Enforcement Division 1974).

5.2.2.2.2 Soviet fishery

Similar to the Japanese groundfish operations, the USSR fishery also employ catcher boats that deliver their catches to factory ships or to processing and freezing transport vessels and vessels that operate independently of factoryships and process their own catches. The USSR has perhaps utilized the flotilla concept of fishing operations to a greater degree than any other nation (Pruter 1976). To allow the fishing vessels to operate at sea for long periods,

they are closely supported by numerous other types of vessels including base ships that carry fleet administrators and staff and provide logistic support, factoryships for processing catches, refrigerator transports to replenish stores on the catcher vessels and to receive, freeze, and transport their catches to home ports, and oil tankers, passenger ships, tugs, patrol vessels and occasionally even hospital ships. Refrigerated transports are the mainstays of the support operations. They are of various sizes ranging from 46 to 151 m and from 650 to almost 9,700 gross tons (Law Enforcement Division 1977). Base and factory ships are 110 to 174 m and 5,000 to 18,000 gross tons.

Table 11.—Range in Size of Longline Vessels and Typical Fishing Gear Used in the North Pacific Longline-Gillnet Fishery From a Sample of the Fleet in 1969, 1972, and 1976 (Fishery Agency of Japan 1969, 1973, and 1976)

Bait	Year	Vessels		Groundline			Gangion		
		Range in gross tons	Range in horsepower	Length of hachi (m)	Gear diameter (mm)	Number hooks per hachi	Length (m)	Diameter (mm)	Size of hook (mm) or size number
Frozen squid	1969	275-499	510-1230	75	9.0	40	1.5	2.0	63 x 14
Frozen squid	1972	300-500	710-1800	75	8.0	35	1.3		20
Frozen squid	1976	382-500	540-1110	75	8.0	42	1.3		20

Table 12.—Typical Trawl Dimensions Used on Soviet BMRT Factory Stern Trawlers for Pollock and Atka Mackerel Based on Data of U.S. Observers in 1976 and 1977

Target species	Range in vessel size			Typical gear dimensions				
	Length (m)	Gross tons	Horsepower	Head-rope length (m)	Ground-rope length (m)	Cod-end mesh size (cm)	Cod-end liner mesh size (cm)	Otter boards (kgs.)
Pollock	76-87	2657-3837	2000-2320	77.4	77.4	5.0-6.0	3	1600-1800
Atka mackerel	76-87	2581-3510	2000	31.0	44.0	5.0	3	1200

¹ Round to oval variable in size.
² Round to oval.

Two basic kinds of fishing vessels have been used by the Soviets, side trawlers and factory stern trawlers (Pruter 1976). Three size classes of side trawlers have been used. Smallest and oldest of the side trawlers is the SRT of 265-335 gross tons, 38 m in length with crews of 22-26 men. The next larger of the side trawlers is the SRTM class of refrigerated medium trawlers of 505-630 gross tons and about 52 m, carrying crews of 26-28. Largest of the refrigerated side trawlers is the SRTM class of about 700 gross tons and 54 m with a crew of about 30. The larger of the side trawlers, particularly the SRTM's frequently operate independently processing and freezing their own catches, but some may

transship their catches to factoryships for processing. A new class of trawler designated as SRTK's have appeared in the fishery in more recent years and are apparently an improvement on the SRTM's. The SRTK's are about 775 gross tons, have stern ramps for more efficient trawling over the stern.

The largest of the Soviet fishing vessels are the factory stern trawlers, the most common of which is the BMRT of 3,170 gross tons, 85 m in length, and carrying a crew of about 90 (Pruter 1976). The factory trawlers usually process and freeze their own catch. A newer class of factory stern trawler, the RTM has come into increasing use in recent years.

They are somewhat smaller than the BMRT's, the most common of which is 2,657 gross tons and 82 m long, but has the advantage of a larger deck area aft for handling gear and fish.

Dimensions of typical gear used on Soviet BMRT trawlers fishing for pollock and Atka mackerel are given in Table 12. Data from U.S. observer reports indicate that vertical openings on trawls used for pollock may range from 5-30 m.

5.2.2.2.3 Korean and Taiwanese fisheries

Information on vessels and gear used in the ROK groundfish fisheries is not as well documented as that for the Japanese and the USSR fisheries. Methods of operation are similar to those of the Japanese and Soviets in that they also use factoryship-catcher boat operations as well as stern trawlers, longliners and Danish seiners operating independent of factoryships. The number and size of vessels has increased since the fishery began. Initially, the Koreans used pair trawlers of about 33 m and 133 gross tons and processed the catch aboard vessels ranging in size from 628-957 gross tons (Office of Enforcement and Surveillance 1969). In 1969 they employed a 9,400 gross ton factoryship, 142 m long to process catches of the pair trawl fleet. Independent stern trawlers also entered the fishery in 1969 ranging in size from 131-1,518 gross tons and 35 to 77 m in length (Office of Enforcement and Surveillance 1970).

The subsequent modernization of the Korean fleet is illustrated by information from U.S. Observer reports in 1977 (Table 13). These data indicate that independent stern trawlers in the ROK fleet are comparable in size to the largest trawlers in the Japanese and Soviet fleets with some exceeding 5,000 gross tons. The three vessels observed were targeting on pollock and gear dimensions given in Table 13 may be representative of trawls used by ROK independent trawlers in the pollock fishery.

The Taiwanese have used 1 or 2 independent stern trawlers in their small scale fishery in the eastern Bering Sea. The size of the vessels and dimensions of the gear used are unknown.

5.2.2.3 Catch trends

Complete catch statistics for groundfish taken by foreign fisheries in the eastern Bering Sea and Aleutian Islands regions have not been available throughout the history of the fishery. Japan has provided the longest and most detailed series of catch data. However, even the Japanese have not always identified some of the flounders to species in their catch data (INPFC 1976). Beginning in 1964, Japan has submitted detailed statistics for their groundfish fisheries to the United

States and Canada through INPFC. The identification of catches and reporting of all principal commercial species has probably improved since then. The USSR began to report catch statistics to the United States through bilateral agreement in 1967. Not until 1972 was there a reasonably good breakdown of catches to individual species and even then a detailed area breakdown of their catches was not available. The ROK did not report their catch statistics in detail until 1976. Prior to the reporting of statistics by the USSR and the ROK, their catches have been

estimated through U.S. surveillance of the fisheries. Because of the lack of statistics from some nations and the irregular method of reporting certain species, available catch data for foreign fisheries may not reflect actual exploitation of all species. Statistics for primary target species such as pollock, yellowfin sole, rockfish and sablefish are assumed to be relatively accurate. Since 1970 the catch data for most other commercially important species has probably improved.

Table 13.—Vessel Size and Fishing Gear Dimensions of Three ROK Independent Stern Trawlers Boarded by U.S. Observers in 1977

Name	Vessels				Gear				
	Length (m)	Gross tons	Horsepower	Number in crew	Head-rope length (m)	Ground-rope length (m)	Vertical opening (m)	Cod-end mesh size (cm)	Otter board size (m)
Salvia	84	2,285	3,200	58	59	76	6	10	2.5 x 3.8
Shin An Ho	106	5,680	6,000	157	80	75	7	10	3.0 x 5.0
Heung Yang Ho	104	5,377	5,800	92	74	105	38	10	3.0 x 4.8

Eastern Bering Sea.—Historical trends in total groundfish catches by foreign fisheries in the eastern Bering Sea since 1954 are illustrated in Figure 12; catch statistics by individual species and nation are given in Annex IV. Total catches of groundfish in the eastern Bering Sea have reached two peaks. The first and smaller of these peaks occurred between 1959 and 1963 when Japan and the USSR were targeting on yellowfin sole. Total estimated catches of yellowfin sole and other species reached a maximum of 715,000 mt in 1961. Catches dropped sharply in the succeeding two years, because of a decline in abundance of yellowfin sole, ranging between 300,000 and 400,000 mt during 1963–65. With the development of the Japanese pollock fishery, total groundfish catches rose rapidly after 1965 and by 1971 exceeded 2 million mt. The total catches of groundfish peaked at 2.2 million mt in 1972 and then declined as catch restrictions were placed on pollock and other species through bilateral agreements between the United States and Japan and the USSR. These catch restrictions stemmed from evidence of deterioration of the various resources. By 1976 total catches had been reduced to less than 1.5 million mt. Throughout the history of foreign exploitation of groundfish in the eastern Bering Sea, Japan has been by far the major user nation (Figure 12). In the early years of the fishery, when yellowfin sole was the major target species, Japan accounted for 68–90% of the total annual groundfish catch in the eastern Bering Sea. This proportion has remained high in later years as pollock became the major target species, ranging from 76–89% annually. Japanese catches peaked at 1.8 million mt in 1972.

Through 1970, the USSR fished primarily for flounders in the eastern Bering Sea and until that year their total catches of groundfish remained less than 200,000 mt

(Figure 12). In subsequent years, as their pollock fishery developed, catches of groundfish increased, peaking at 410,000 mt in 1974.

Catches by the ROK have apparently been relatively small. Estimated catches based on U.S. surveillance of their fisheries were no larger than 26,000 mt through 1975 (Annex IV). In 1976, however, the ROK reported a total groundfish catch in the eastern Bering Sea of 88,000 mt. Pollock accounted for 85,000 mt of this total.

Flounders (primarily yellowfin sole) were the major species in the eastern Bering Sea catches until 1964, after which pollock predominated (Figure 12). The proportions of pollock in foreign catches generally increased between 1965 and 1970 ranging from 57–79%. From 1971 to 1976 they formed 81–85% of the total groundfish catch. Species of roundfish, other than pollock, have been less abundant than pollock and flounders in catches.

Catch trends of individual species of flounders in the eastern Bering Sea are illustrated in Figure 13. Catches of yellowfin sole reached extremely high levels from 1960 to 1962 with removals of over 1.4 million mt by Japan and the USSR. Catches of this magnitude were more than the stock could sustain and abundance of yellowfin sole declined. Following this deterioration of the resource, catches fell to about 100,000 mt or less, but increased again to reach the 160,000–170,000 mt level in some years between 1967 and 1971. Since 1971, catches have fallen well below 100,000 mt, in part due to the absence of a directed fishery on flounders by the USSR and perhaps to winter area closures in the southeastern Bering Sea which may have reduced catches of yellowfin sole by Japan.

As discussed previously, rock sole, flathead sole, and Alaska plaice have not always been identified in catches, particularly prior to about 1970. Reported

catch statistics may therefore inaccurately reflect actual catch trends for these species. Catches of flathead sole apparently peaked in 1971 at 51,000 mt and those for rock sole in 1972 at 61,000 mt (Figure 13). Catches have declined substantially in more recent years which may have resulted to some degree from the reduction in the yellowfin sole fishery where these species are taken incidental to yellowfin sole. There have been no indications of recent substantial reductions in abundance of these species (Bakkala and Wakabayashi 1977).

Catches of Alaska plaice have not shown major fluctuations (Annex IV). This species is also taken incidentally in the yellowfin sole fishery and may not always have been identified in catches. The largest reported catch for this species was about 8,900 mt in 1969. Catches since 1969 have ranged from about 300 mt to 3,400 mt.

Catches of turbot (arrowtooth flounder and Greenland turbot) were relatively high in early years of the eastern Bering Sea fishery ranging over 50,000 mt in 1961 and 1962. Japanese fisheries targeted on arrowtooth flounder in this period for the production of fish meal (Takahashi 1976). Catches dropped below 40,000 mt in 1963–70 as these species were only taken incidentally in the pollock and other directed fisheries. Catches of Greenland turbot increased markedly after 1970 in both the Japanese and the USSR fisheries (Annex IV). Total catches of Greenland turbot reached almost 70,000 mt in 1974 and since 1972 have approached or exceeded catches of yellowfin sole.

Reported catches of Pacific halibut in the eastern Bering Sea were relatively small compared to those of other principal flounders. Largest annual catches were made in 1960 (6,900 mt), 1962 (7,900 mt), and 1963 (7,500 mt), and 1971 (4,900 mt). Catches have declined in subsequent years reaching a low of 145 mt in 1976.

Not shown in Annex IV are incidental catches of halibut taken by Japanese trawl fisheries targeting on other species. Japan is prohibited from retaining trawl-caught halibut in the eastern Bering Sea, but most released fish die from injuries received during capture. Estimates from observer data indicate that the incidental catch in the eastern Bering Sea increased from about 50 mt in 1954 to over 2,000 mt in 1961; after declining during 1962–63, the catch again increased and peaked at about 3,000 mt in 1971–72 (Hoag and French 1976). Since then, the incidental catch has declined as a result of reduced fishing effort and time/area closures, designed to protect halibut.

Before 1977, Soviet trawlers retained trawl-caught halibut in the Bering Sea. Their catch of halibut, however, was included with other species and not reported separately until 1972. The reported catch since then declined from 490 mt in 1972 to 58 mt in 1976 (Annex IV). The reported catch, however, may be too low. Hoag and French (1976) estimated that the Soviet halibut catch averaged about 750 mt during 1959–1970 and then increased sharply to about 2,000 mt during 1971–1974. The catch has probably declined since then due to restrictions on the Soviet fishery.

With the concentration of Japanese fishing effort on pollock starting in 1964, catches of

this species rose rapidly to reach 700,000 mt in 1968 (Figure 12). With the entry of the USSR and the ROK into the pollock fishery and greater effort by the Japanese, catches continued to increase reaching a peak of over 1.8 million mt in 1972. With the implementation of catch limitations stemming from evidence of overfishing on pollock, catches declined, falling to about 1.2 million mt in 1976.

Catch trends of demersal roundfish, other than pollock, are illustrated in Figure 14. Peak catches of sablefish and Pacific ocean perch were taken rather early in the fishery. Maximum harvests of sablefish occurred in 1961 and 1962 when 26,000 and 28,500 mt were taken. Catches were relatively stable at a lower level of 9,500–16,000 mt from 1966 to 1972, but declined thereafter falling to 2,700 mt in 1976. Following the peak catch of Pacific ocean perch in 1961 of 47,000 mt, catches dropped to a level of 17,000–29,000 mt from 1962 to 1968 and then declined to 3,600 mt in 1973. A second peak of 39,000 mt was reached in 1974 which was followed by another decline to 16,000 mt in 1976.

Catches of Pacific cod increased steadily in earlier years of the fishery to reach levels of more than 50,000 mt by 1968. Annual catches have been relatively stable since then, ranging around 50,000 mt with the largest catch of 70,000 mt taken in 1970.

The "other groundfish" category represents catches of various species of non-or low commercial value that are taken incidental to target species. Major species groups in this category are probably sculpins, poachers, eelpouts, skates and rattails. Reported catches of this group increased sharply after 1970. A large catch of rattails (48,500 mt) by the USSR mainly accounted for the exceptionally large total catch of "other groundfish" in 1972. The recent general increase in catches of this species category may stem from better reporting rather than an actual increase in catches.

Aleutian Island.—Characteristics of the foreign fisheries in the Aleutian Island region differ from those in the eastern Bering Sea in a number of respects. Overall catches have been much lower in the Aleutians, trends in catches and major species in catches have differed in the two regions, and the USSR rather than Japan has taken the greatest share of the catches in the Aleutians (Figure 15, Annex IV). Total catches of groundfish reached their peak early in the history of foreign exploitation of the Aleutian Island resources (Figure 15). Due almost entirely to catches of Pacific ocean perch and other rockfish, catches of all groundfish reached a peak of 114,000 mt in 1965. Since then, total catches have fluctuated at a lower level and shown a general overall decline. In 1975 and 1976, catches were in the range of 55,000–60,000 mt. The USSR has taken the largest share of the catches in the Aleutians with the exception of some recent years. Rockfish (mainly Pacific ocean perch) has been the primary target species in the Aleutians of both Japan and the USSR. Catches of demersal roundfish have increased markedly since 1973, perhaps due in part to better reporting of these species, but also because the USSR has had a target fishery on Atka mackerel in this period. Catches of Atka

mackerel reached 20,000 mt in 1976. Catches of "other roundfish" have exceeded those of rockfish since 1973 because of the decline in abundance of Pacific ocean perch (Low et al. 1977) and the increase in catches of Atka mackerel and better reporting or actual increases in catches of such species as pollock and Pacific cod.

BILLING CODE 3510-22-M

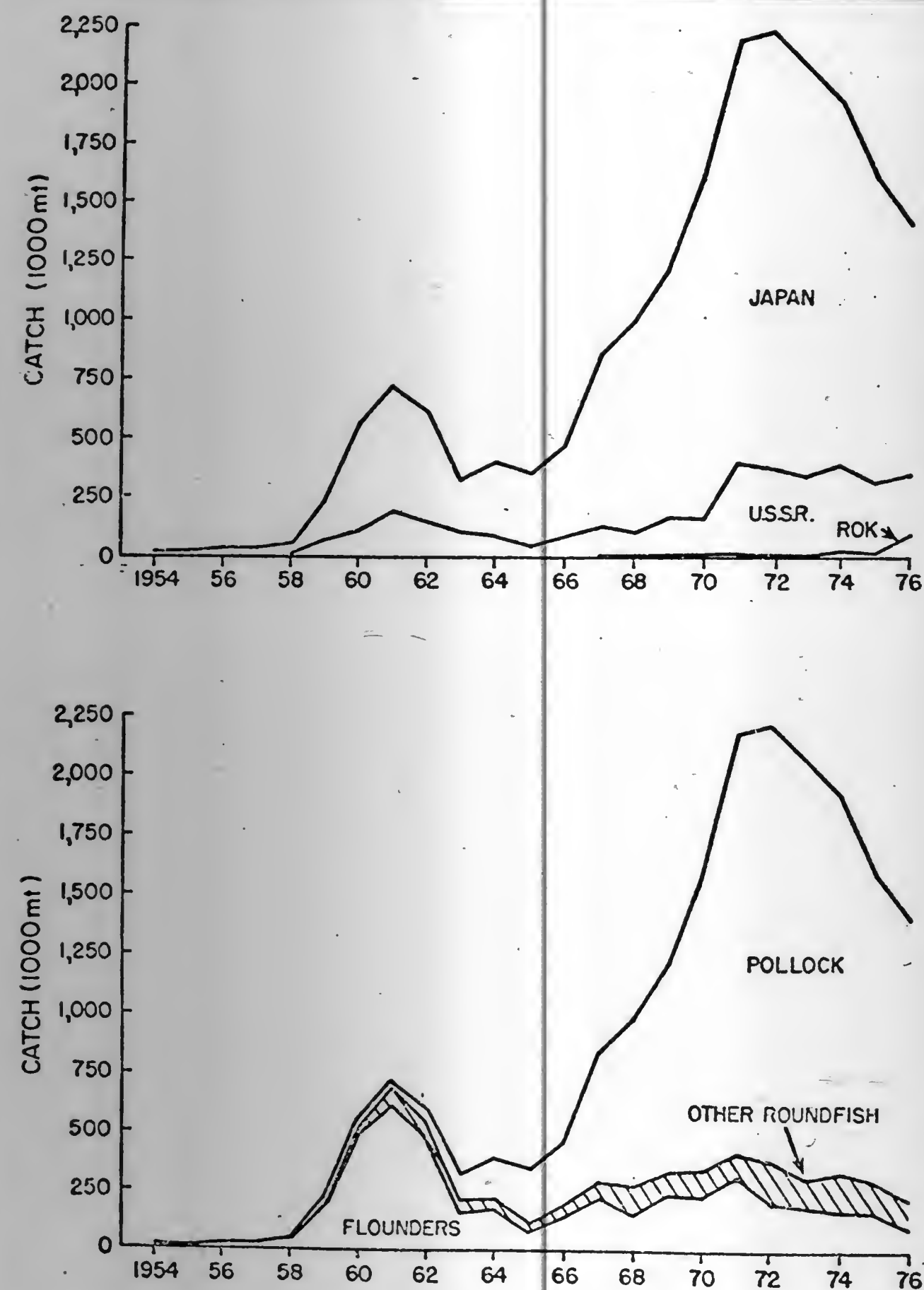


Figure 12.--Foreign catches of groundfish in the eastern Bering Sea (east of 180°) by nation (upper panel) and by species or species group (lower panel), 1954-76.

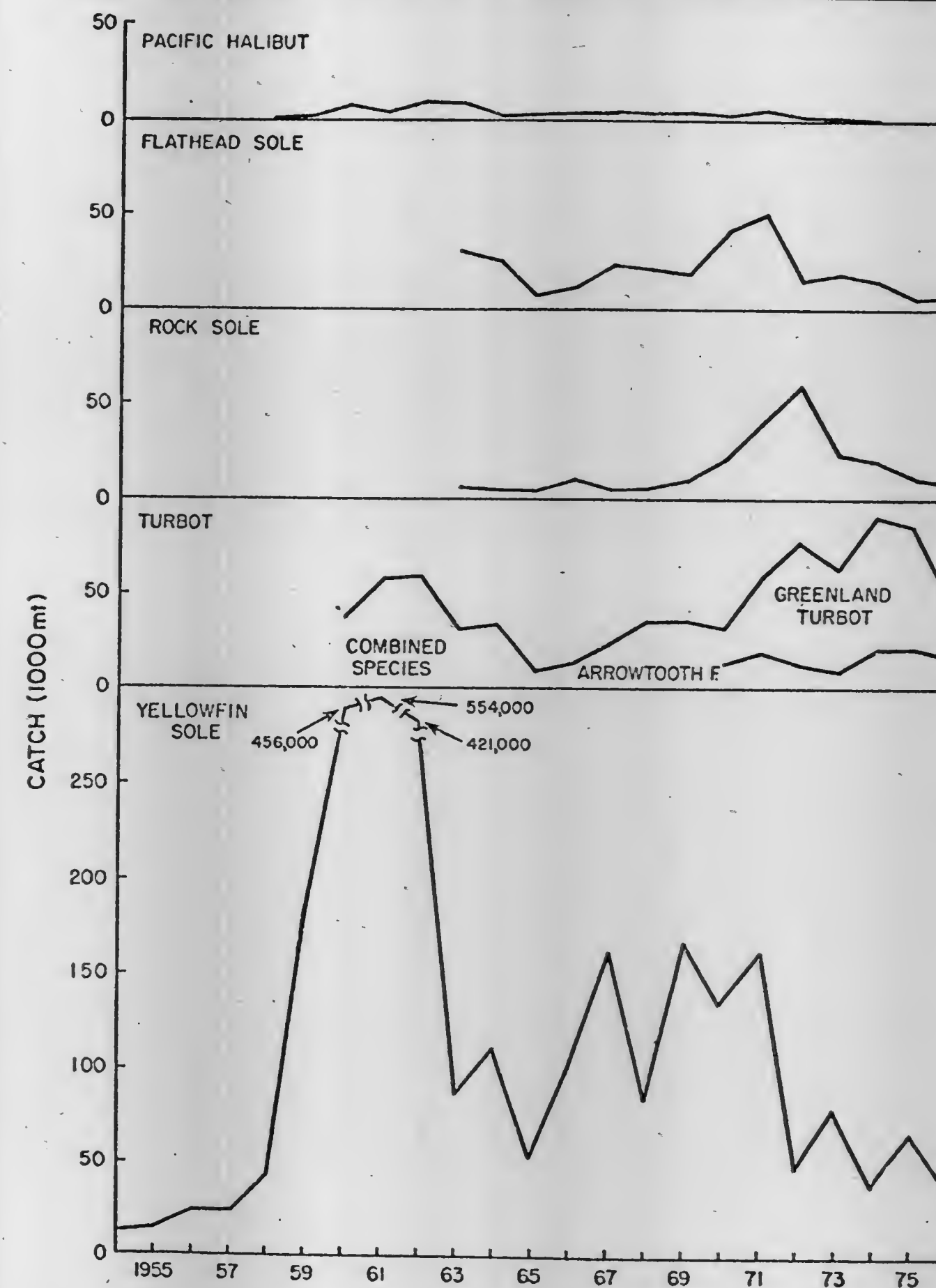


Figure 13.--Catch trends of flounders by foreign fisheries in the eastern Bering Sea, 1954-76.

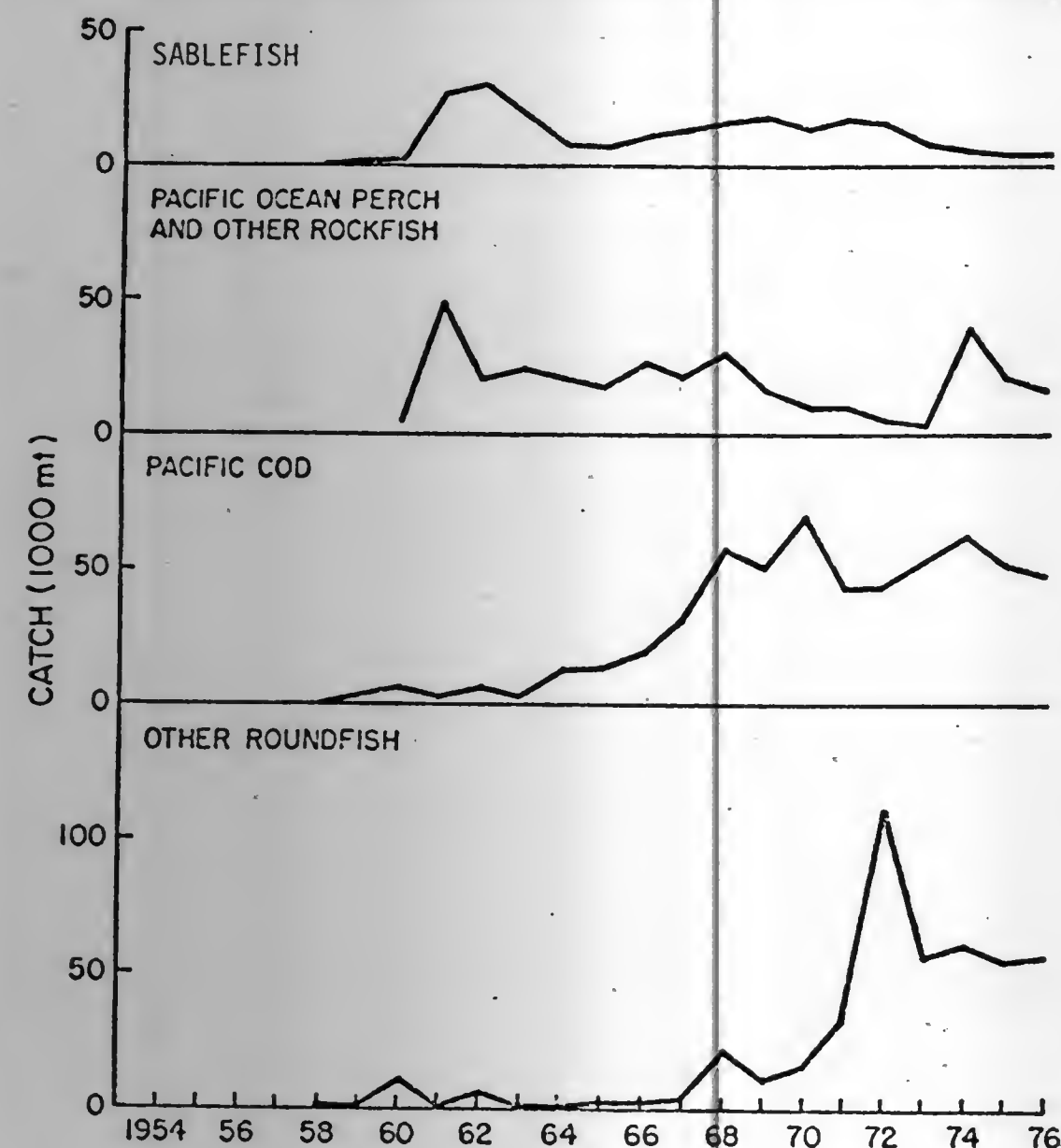


Figure 14.--Catch trends of roundfish (other than pollock) by foreign fisheries in the eastern Bering Sea, 1954-76.

BILLING CODE 3510-22-C

Flounders have formed a relatively small proportion of the total catches in the Aleutians. The small flounders (yellowfin sole, rock sole, flathead sole, and Alaska plaice) occupy this region in low abundance based on catch statistics (Annex IV). The main species of flounders taken have been Greenland turbot and arrowtooth flounder.

Catches of Pacific ocean perch and other rockfish reached their peak in 1965 at 109,000 mt (Figure 15). Since then they have shown an almost continual decline with minor increases in 1970, 1972, and 1974. Catches fell again following 1974 to range from about 17,000-18,000 mt in 1975 and 1976.

Catch trends for individual species of roundfish, other than rockfish are illustrated in Figure 16. Catches of Pacific cod have been small, showing some increases in recent years with a peak catch of 3,800 mt in 1976. This increase may simply reflect better identification and reporting of cod in the fisheries. Catches of sablefish have remained relatively stable at a low level throughout the period of foreign fishing in the Aleutians. The largest catch of 3,600 mt was taken in 1972. Sable fish have been a target species of longline fisheries by Japan and the ROK in Aleutian Island waters.

The USSR began to report significant catches of Atka mackerel in 1972. From 1974 to 1976 catches rose rapidly as the Soviets concentrated effort on this species, reaching 20,000 mt in 1976 and exceeding catches of any other groundfish species in the Aleutians in the year. Reported catches of pollock have also increased in recent years reaching a peak of 23,000 mt in 1974. Almost all of the catch in 1973-76 was taken by USSR fisheries. It is unknown whether the Soviets directed some effort to pollock in the Aleutian region in these years or whether they were an incidental part of catches in other fisheries.

Catches of "other groundfish" have shown fluctuations from year to year, but no definite trend. This category probably consists mainly of non-commercial species or species of low commercial value such as sculpins and rattails. Fluctuations in this catch category may result partially from methods of recording and reporting these species. In 1972, when the largest catch of "other groundfish" occurred, the USSR reported 5,300 mt of rattails and 9,700 mt of sculpins. In later years the Soviets did not identify these species in their catch statistics and their total annual catches of "other roundfish" ranged from only about 200-1,600 mt. The reported Japanese catches of "other groundfish" increased from 1968 reaching 8,000 mt in 1974 and 1975.

responsible for this rise in catches of turbot (Annex IV).

Flounders have in most years formed only a minor part of the total groundfish catch in the Aleutian Islands area (Figure 17). Reported annual catches of small flounders have usually been less than 100 mt. After reaching a peak of almost 1,300 mt in 1975, annual catches of Pacific halibut have ranged from about 400 mt to less than 150 mt. Reported catches of arrowtooth flounder and Greenland turbot were also low until 1970, after which they increased sharply, with Greenland turbot the primary species taken. Catches in 1972-75 ranged from about 12,000 to 14,000 mt. Japanese fisheries were

BILLING CODE 3510-22-M

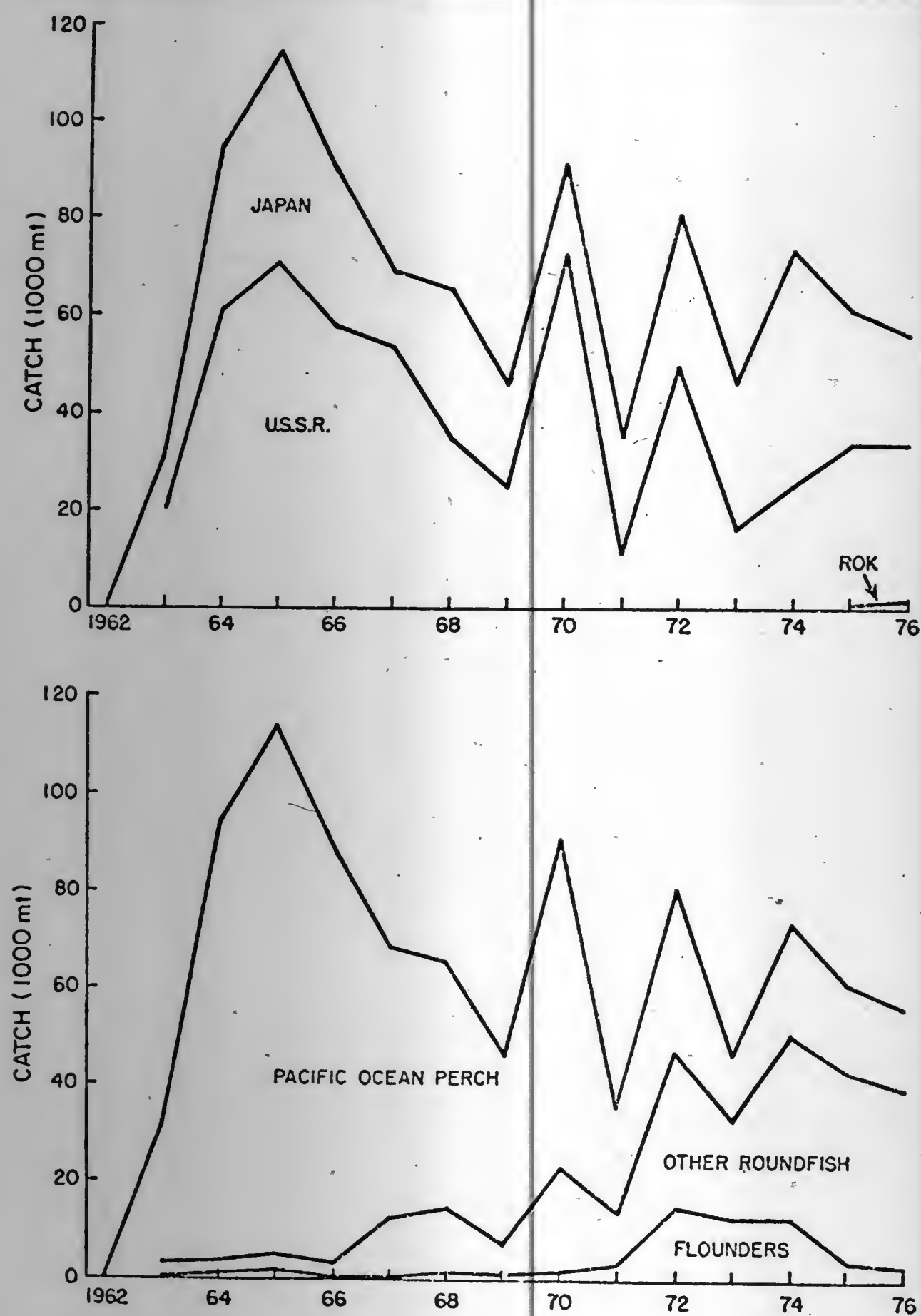


Figure 15.--Foreign catches of groundfish in the Aleutian Island area (170°W - 170°E) by nation (upper panel) and by species or species group (lower panel), 1962-76.

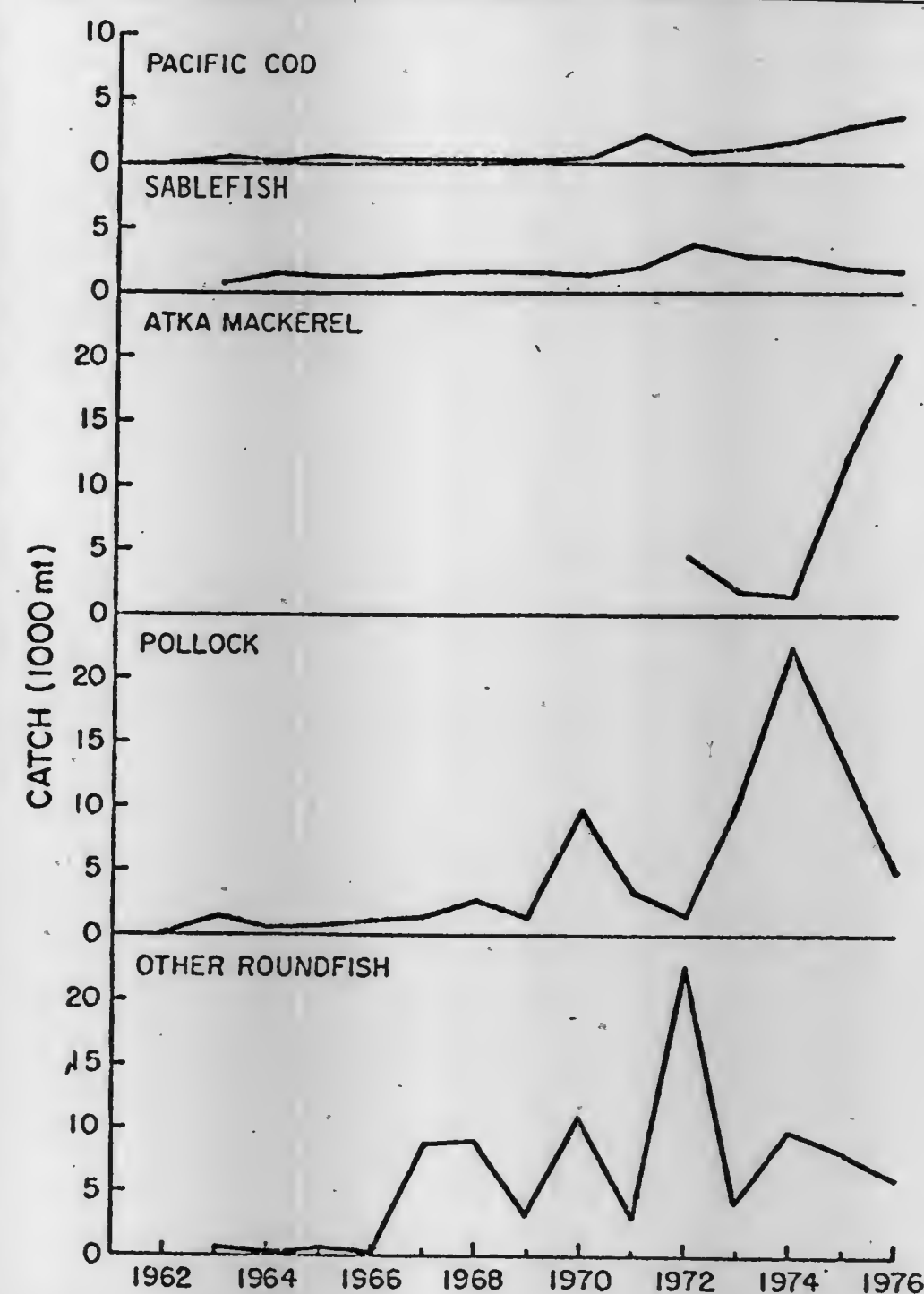


Figure 16.--Foreign catches of commercially-important species of roundfish (other than Pacific ocean perch) in the Aleutian Island area, 1962-76.

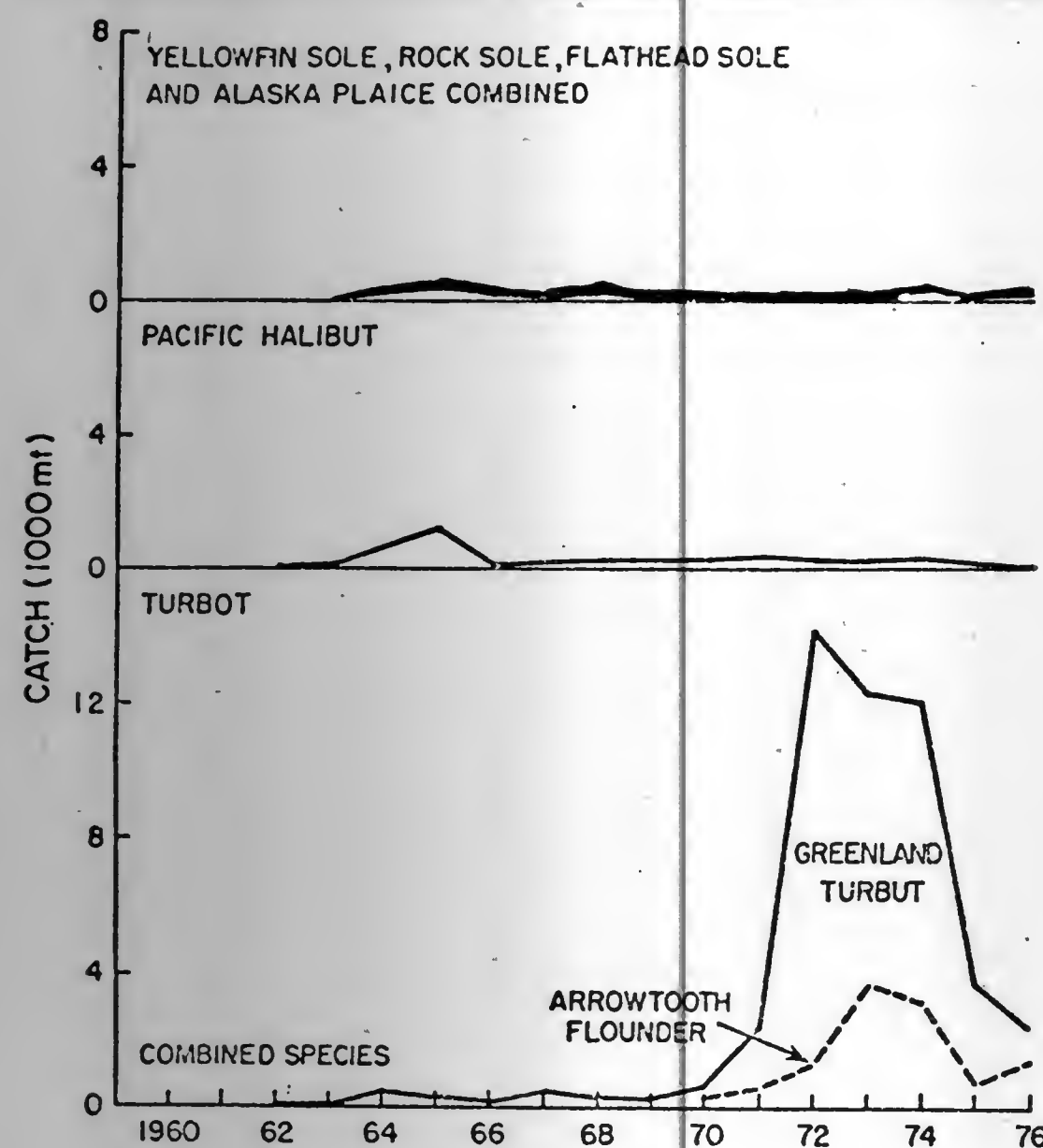


Figure 17.--Catch trends of flounders by foreign fisheries in the Aleutian Island area, 1962-76.

BILLING CODE 3510-22-C

6.0 History of Management

6.1 Domestic

6.1.1 Measures employed to regulate fishery

Fishery restrictions on U.S. Nationals have been established by the U.S. Bureau of Commercial Fisheries (the predecessor of the National Marine Fisheries Service), the State of Alaska and the International Pacific Halibut Commission. The BCF was responsible for both research and management of domestic fisheries in Alaska before statehood in 1958. The BCF imposed restrictions on the size, character, and operation of trawls to be used to capture groundfish (Table 14). In 1959 the State of Alaska assumed responsibility for regulating the groundfish fisheries of Alaska. A history of the state's groundfish regulations is included in Table 14. Many of the regulations were specific to the Gulf of Alaska where domestic fisheries have been more active.

In addition to regulations given in Table 14, the State of Alaska requires all commercial fishermen landing any species of fish or shellfish in Alaska to possess a commercial fishing license, and the captain or owner of all fishing vessels are required to license their

vessels and the fishing gear employed. Buyers are required to keep records of each purchase and show the number and name of the vessel, the State license number of the vessel, date of landing, pounds purchased of each species, statistical area in which the fish was caught, and the kind of gear used in taking the fish.

The chronology of different regulatory measures for the Pacific halibut fishery as well as their rationale are discussed by Dunlop et al. (1964), Bell (1967) and Skud (1977). Before 1963, the North American halibut fishery in the Bering Sea was managed by the International Pacific Halibut Commission (IPHC). From 1963 to 1977, IPHC recommended regulations, but these had to be approved by the International North Pacific Fisheries Commission (INPFC). Since the onset of regulations in 1932, several changes have occurred in the boundaries defining regulatory areas in the Bering Sea and Aleutians. Some of the changes were in response to tagging studies that indicated a relationship between halibut stocks in the Aleutians and the Gulf of Alaska. However, most of the changes were designed to obtain a desired distribution of fishing effort and to facilitate enforcement.

Table 14.—Historical Summary of Alaska Groundfish Regulations

Year	Legal gear, Definitions, and Other Regulations
.....	Earlier records not available.
1940.....	Use of trawls prohibited except for shrimp, flounders when not capturing, injuring or destroying other food fish, and spider and King crab west of 150° W. longitude exclusive of Cook Inlet.
1942.....	Trawls prohibited in fishing for salmon, herring, and Dungeness crab.
1948.....	Gear restrictions: Trawls. The size, character, and operation of otter trawls in Alaskan waters are limited as follows: (a) Otter trawls having mesh smaller than 5 inches stretched measure between knots in the bag and 6 inches stretched measure between knots in the wings are prohibited: Provided, that otter trawls now in use having mesh smaller than that specified may be used through the calendar year 1949 if registered with the Regional Director, Fish and Wildlife Service, Juneau, Alaska. (b) The use of any devices attached to the footrope or elsewhere, such as chain "ticklers", which may cause undue disturbance or destruction of the bottom, is prohibited. (c) The use of otter trawls in any area which the International Fisheries Commission has found to be populated by small immature halibut and accordingly has closed to all halibut fishing, is prohibited. (d) All operators of otter trawls shall maintain a running log on forms furnished showing date, type and size of mesh of trawl used, each locality fished, the time and duration of each tow and the estimated poundage and number or average weight of each species caught. Such logs shall be available for inspection by representatives of the Fish and Wildlife Service at any reasonable time, and the duplicate sheets shall be transmitted to the Fish and Wildlife Service at periodic intervals. On or before December 15 of each year complete statistics of operation shall be submitted to the Fish and Wildlife Service on forms provided for the purpose. (e) The use of any trawl in commercial fishing for salmon, herring, and Dungeness crabs is prohibited.
1949.....	The following species besides salmon were defined as commercial fish: - Albacore (<i>Germo alalunga</i>) tuna - Cod (<i>Gadus macrocephalus</i>) codfish, true cod, grey cod - Eulachon (<i>Thaleichthys pacificus</i>) smelt, hooligan - Halibut (<i>Hippoglossus stenolepis</i>) - Herring (<i>Clupea pallasii</i>) - Lingcod (<i>Ophiodon elongatus</i>) - Rockfish (all species of genus <i>Sebastes</i> also known as rockcod and sea bass) - Sablefish (<i>Anoplopoma fimbria</i>) black cod - Sheefish (<i>Stenodus mackenzii</i>) inconnu - Sole and flounder (all species of family Pleuronectidae)
1958.....	Trawl fishermen no longer required to fill out log books.
1959.....	Alaska Statehood
.....	Trawls illegal for taking crab.
1960.....	Longlines and trawls may be used to take groundfish. Longlines are the only legal gear with which to take sablefish within S.E. Alaska. Halibut are to be regulated according to IPHC regulations 5AAC 39.390.
1961.....	All defined legal gear became legal for the taking of groundfish excepting S.E. sablefish.
1967.....	S.E. sablefish: A 2½", #20 threaded or less gillnet may be aboard vessel for taking bait.
1968.....	S.E.: Sablefish taken incidentally by longline or otter trawl may be retained in an amount not to exceed ten percent, by weight, of each landing.
1970.....	Pots became legal sablefish gear within S.E.
1972.....	Incidental allowable catch of sablefish increased to 20%.
.....	1962 regulation (5 AAC 39.390) referring to IPHC management of halibut repealed.

Table 14.—Historical Summary of Alaska Groundfish Regulations—Continued

Year	Legal gear, Definitions, and Other Regulations
1976	An untreated cotton escape for sablefish pots required within S.E. Also under General Provisions, Groundfish Fishery, Gear for Groundfish. (a) Groundfish may be taken by trawls, hand troll gear, seines, longlines and pots except as legal gear may be further restricted by groundfish gear regulations of chs. 03-39 of this title and except as follows: (1) king and tanner crab pots as defined in chs 34 and 35 of this title may not be used to take groundfish in the areas where the regulations define those pots. (2) groundfish taken by power gurdy troll gear being fished for salmon consistent with applicable state laws and regulations are legally taken and possessed. (3) All commercial longline or scale gear buoys or kegs shall be marked with the permanent department registration number of the vessel fishing this gear. Crab pots are not defined for all areas. The most restrictive definitions are as follows: A king crab pot is a pot with rigid tunnel eye openings and which individually are a minimum of five inches in one dimension, and tunnel eye opening perimeters which individually are larger than 30 inches. A tanner crab pot is a pot with rigid tunnel eye openings which individually are a maximum of five inches in one dimension, and tunnel eye opening perimeters which individually are larger than 30 inches; or a pot which tapers from its base to a top consisting of one horizontal opening of undescended size. Same as 1976 except that sunken or diving gillnets may be used for groundfish upon issuance of a permit by the commissioner (ADF&G).
1977	

Except for a period in the late 1940's and early 1950's and again in 1963-64, quotas have not been used to manage Bering Sea halibut stocks. Instead, restrictions have been based on the length of the season. Until the late 1950's, the Bering Sea season coincided with that of IPHC Area 3 (the Gulf of Alaska west of Cape Spencer), but by the early 1960's, the opening of the Bering Sea often was a month earlier than in Area 3. The earlier opening was established to encourage fishermen to exploit Bering Sea stocks. Since 1965, the fishing time has been limited to three weeks or less in the spring and fall or both. This curtailment was necessary because of the drastic decline in abundance of halibut.

Other regulations include licensing requirements, gear restrictions, minimum size limits, and closed areas. IPHC requires that all setline vessels over 5 net tons be licensed; there is no fee and annual renewal is not required. Licensed vessels must maintain a log book showing the daily catch, effort, and the fishing area. From 1932 to 1973, vessels also were required to "clear" for fishing a particular area and submit a "statistical return" at the completion of each trip. These requirements have since been deleted.

In 1938, the regulations prohibited the use of set nets for catching halibut. Nets of any kind were prohibited in 1944, and this restriction has continued to the present day. The definition of nets was expanded to include pots in 1972. IPHC's justification of trawl prohibition was based on evidence that halibut caught by trawls usually are below the optimum harvesting size.

The size limit of halibut was introduced into the regulations in 1940. The minimum size at that time was 5 pounds, head-off, dressed. The purpose of the size limit was to reduce the catch of halibut that were below the optimum harvest size, but there also was an economic reason. The industry favored the regulation because small halibut were often

of poorer shipping quality and of lower value. In 1973, the minimum size limit was increased and expressed in terms of length: 32 inches from the tip of the lower jaw to the end of the middle of the tail. The increase was justified based on an increase in growth rate.

In 1967, IPHC Area 4E in southeastern Bering Sea was declared a nursery area and a year-round closure was instituted that still is in effect.

6.1.2 Purposes of regulatory measures

The limited number of groundfish regulations implemented by the State of Alaska were primarily designed for the protection of species of high commercial value such as salmon, herring, juvenile halibut, and shellfish. Examples of such regulations were the restrictions on use of pot gear, gillnets, otter trawls, and seines (Table 14).

With regard to halibut, IPHC is restricted by the present convention to manage for MSY and cannot consider other goals or economic factors. Regulations in the Bering Sea and Aleutians were designed to accomplish this goal. Specifically, season and quota restrictions controlled fishing mortality; minimum size limits, gear restrictions, and closed areas reduced the mortality on suboptimum sized halibut; the timing of the seasons and the area designations affected the distribution of fishing effort and facilitated enforcement; licensing, and statistical requirements provided scientific information on stock condition.

6.2 Foreign

6.2.1 Measures employed to regulate the fishery

A number of regulatory measures affecting groundfish fisheries have been implemented through public laws and international agreements prior to enactment of the U.S. Fishery Conservation and Management Act of 1976. Initial regulatory measures originated from the International Convention for the High Seas Fisheries of the North Pacific

Ocean involving Canada, Japan, and the United States, which was brought into force in 1953. The Convention provided for establishment of the International North Pacific Fisheries Commission (INPFC) to provide and coordinate scientific studies necessary to ascertain and recommend conservation measures required to ensure maximum sustained productivity of fishery resources in the Convention area (Forrester et al. 1974). One of the provisions of the Convention prohibited Japan from fishing halibut in certain areas and, starting in 1958 Japan agreed to abstain from fishing halibut providing that stocks of halibut continued to meet qualifications for abstention, e.g., that the stocks were under substantial exploitation by two or more of the contracting parties.

In 1962 member nations of INPFC agreed that halibut east of 175° W in the Bering Sea no longer continued to qualify for abstention (Forrester et al. 1974). Following the removal of halibut from the abstention list, joint conservation measures were implemented by member nations of INPFC in 1963 which included a catch quota of 5,000 mt in a triangular area east of 170° W. Following a catch of 5,000 mt in the quota area in 1963, catches dropped abruptly and Japan withdrew her longline fleet from the quota area after 1964. Although agreement between INPFC member nations was never reached to return halibut to the abstention list, Japan has not chosen to conduct a target fishery on halibut east of 175° W since 1964.

U.S. Public Law 88-308, enacted in May 1964, made it unlawful for foreign vessels to fish within the 3-mile territorial waters of the United States or to fish for designated fishery resources of the adjacent U.S. Continental Shelf. In October 1966, U.S. Public Law 89-658 established a 9-mile contiguous fishery zone adjacent to the U.S. 3-mile territorial sea. The law provided that the United States would have the same jurisdiction over fisheries within this newly created zone as it had within its 3-mile territorial waters subject to the continuation of traditional fisheries by foreign nations.

In 1964, the U.S. initiated bilateral agreements with Japan and the USSR to allow continuation of their traditional fisheries within the contiguous zone in certain areas of Alaska (Office of Enforcement and Surveillance 1968). One provision of the 1964 agreements was the establishment of a king crab pot sanctuary adjacent to the north side of Unimak Island and the western Alaska Peninsula that prohibited trawling year-round. The purpose of the sanctuary was to prevent gear conflicts between mobile foreign gear and domestic fixed gear. An adjacent area, closed to trawling during winter, in order to reduce incidental catches of juvenile halibut, was added in later bilateral agreements.

BILLING CODE 3510-22-M

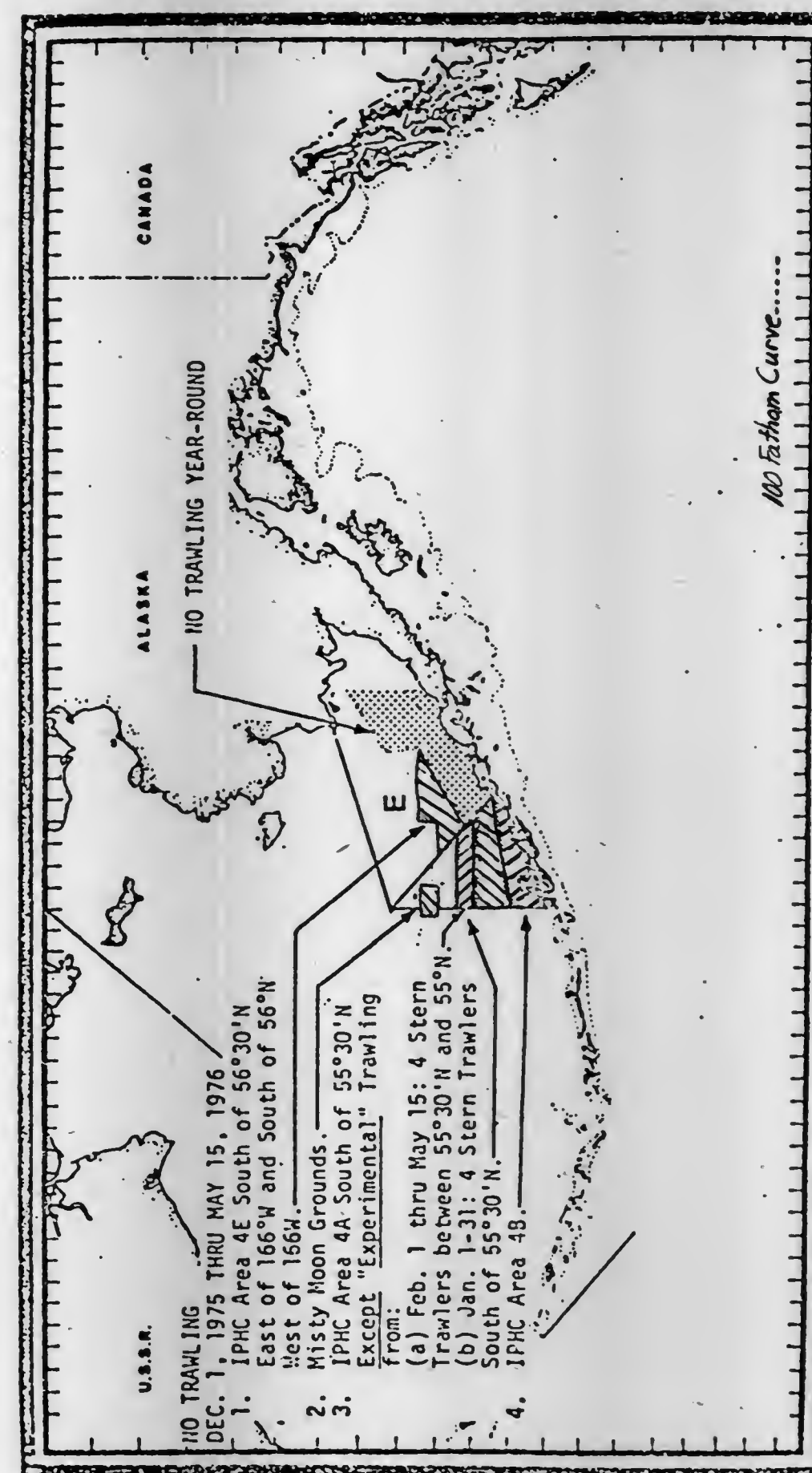


Figure 18a—Area-time closures and restrictions for Japanese trawl fisheries in southeastern Bering Sea, effective through December 31, 1976.

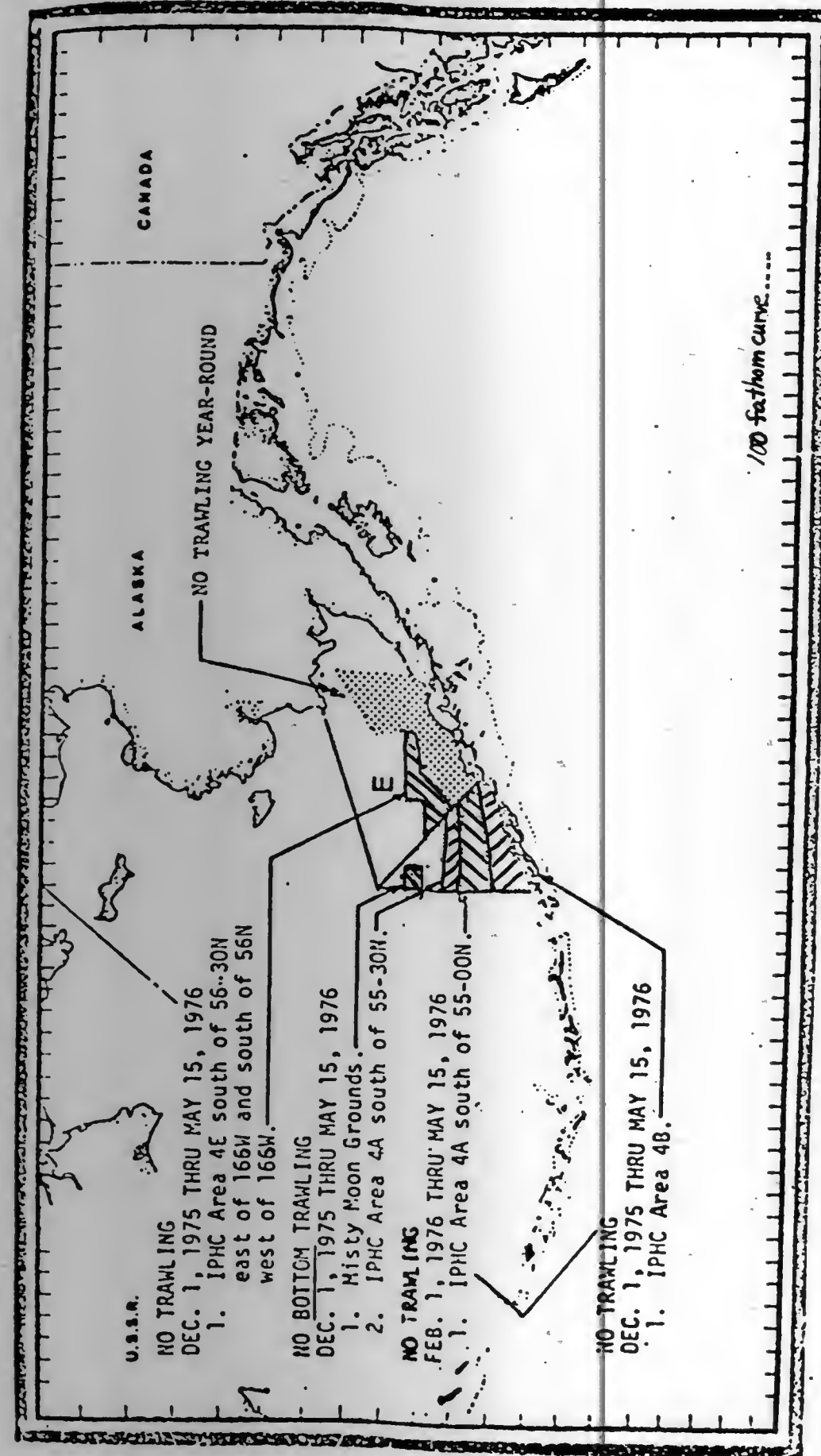


Figure 18b--Area-time closures and restrictions for Soviet trawl fisheries in southeastern Bering Sea, effective through December 31, 1976.

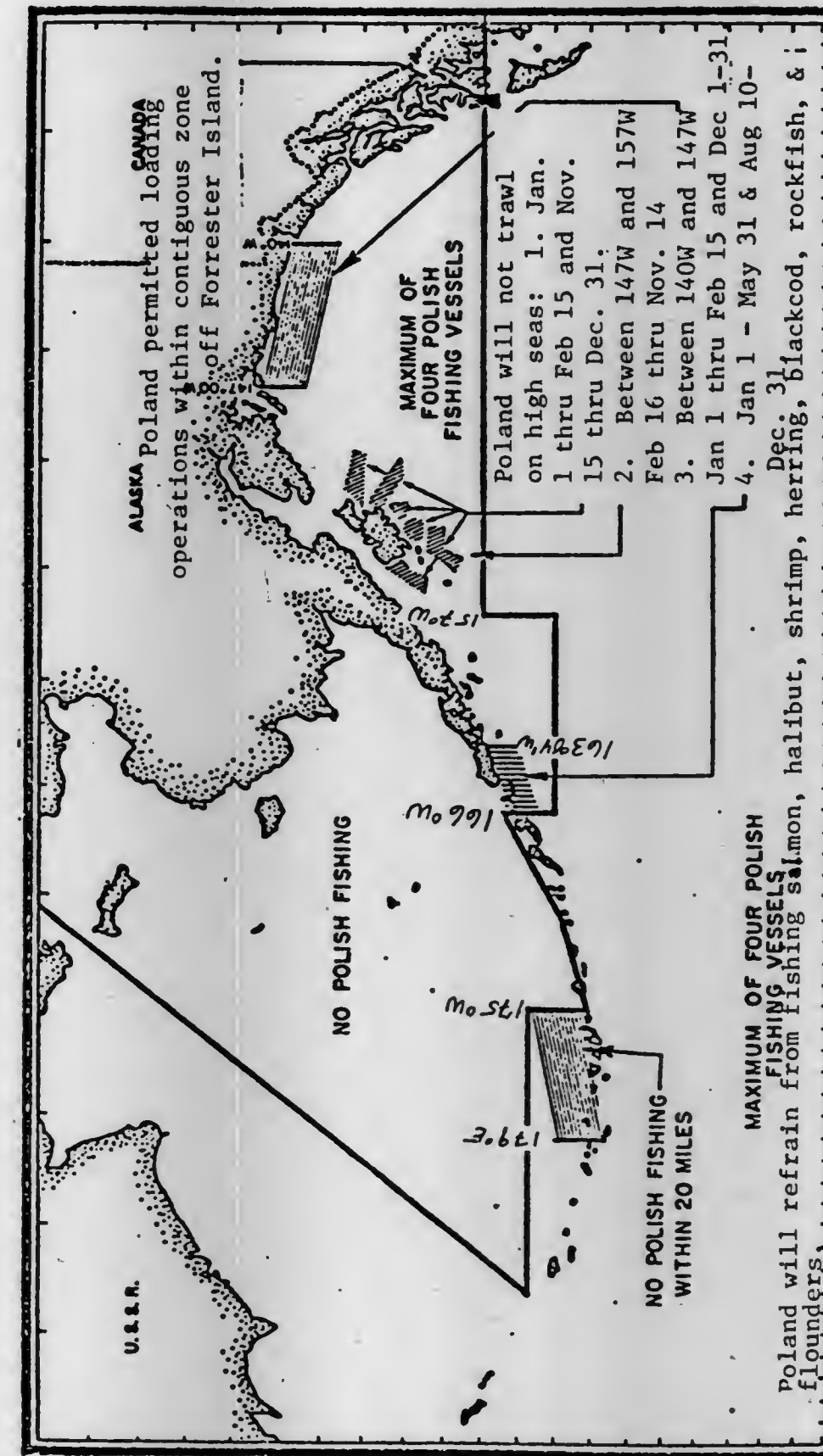


Figure 19--Area-time closures and restrictions for fisheries of the Polish People's Republic in the Gulf of Alaska and Bering Sea, effective through December 31, 1976.

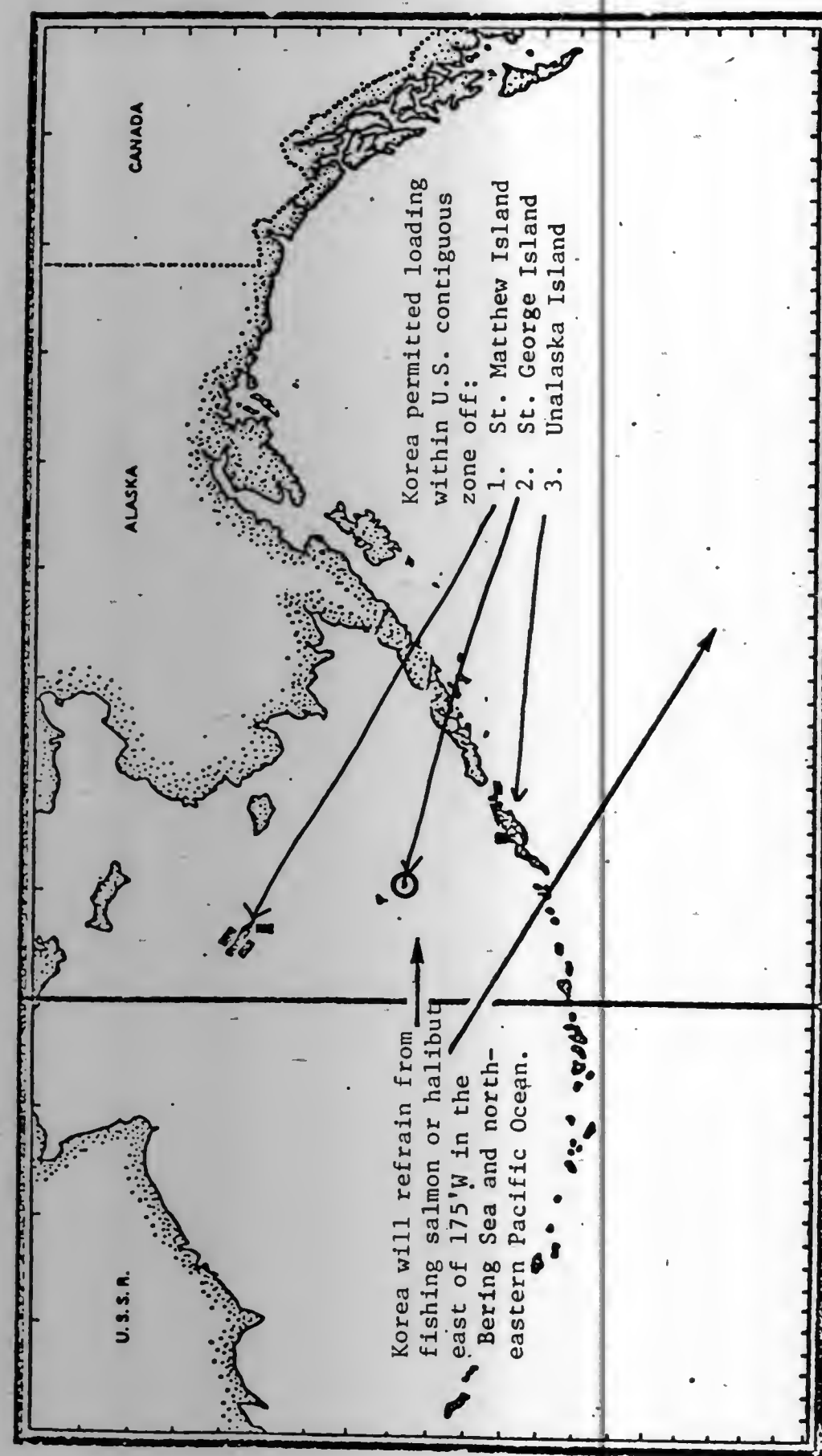


Figure 20.--Provisions of the United States-Republic of Korea Fisheries Agreement effective through December 12, 1977.

BILLING CODE 3510-22-C

The agreements with Japan and the USSR were renegotiated at two-year intervals. Subsequent agreements created some changes in areas of fishing within the U.S. contiguous zone, and provided areas within the zone for transshipment of cargo between foreign fishing and support vessels. This series of agreements was expanded to include Canada in 1970, allowing for reciprocal fishing privileges within the contiguous fishing zone. Agreements were also signed with the ROK in November 1972, and with Poland in May 1975. No fishery agreements have been signed with Taiwan.

Starting in 1973, the bilateral agreements between the United States and Japan and the USSR begin to include catch quotas for these nations in the eastern Bering Sea and Aleutian Island regions. Annual quotas for the years 1973-76 are given in Table 15.

In addition to the crab pot sanctuary, the bilateral agreements have provided other

area-time closures to Japanese and Soviet trawl fisheries for the protection of halibut. These closures are designed to reduce the incidental catch of halibut by trawl fisheries in areas and time periods that halibut form concentrations. Area-time closures currently in effect for these fisheries are shown in Figures 18a and 18b.

Restrictions on Polish and ROK fishing vessels in the eastern Bering Sea and Aleutian Island regions are shown in Figures 19 and 20.

Current regulations pertaining to foreign groundfish fisheries are found in Section V-A of the Preliminary Fishery Management Plan for the Trawl Fishery of the Bering Sea and Aleutian Islands, and include catch limitations, prohibition on the retention of certain species of importance to the United States, and time-area closures to prevent gear conflicts and provide protection to halibut. Catch limitations imposed on foreign fisheries in 1977 are listed in Table 16.

Table 15.—Catch Quotas Applicable to Japanese and Soviet Fisheries in the Eastern Bering Sea and Aleutian Island Region in 1973-76 (MT)

Area/fishery	Species	1973	1974	1975-76
Japan				
Eastern Bering Sea mothership-North Pacific trawl	Pollock	1,500,000	1,300,000	1,100,000
	Groundfish other than Pollock			160,000
North Pacific longline-gillnet	Herring	¹ (33,000)	¹ (33,000)	15,000
	Groundfish (all species)	² (4,600)	² (4,600)	3,000
Land-based dragnet	Groundfish (all species)			35,000
Aleutian region mothership-North Pacific trawl and longline-gillnet	Pacific Ocean perch			8,600
	Sablefish			1,200
Land-based dragnet	Groundfish (all species)			8,500
Union of Soviet Socialist Republics				
Eastern Bering Sea	Flatfish		100,000	(⁷)
	Pollock			210,000
	Herring			30,000
	Other species			120,000
Aleutian region	Rockfish			12,000
	Other species			16,000

¹1969 level.

²1971 level.

⁷Included in other species.

Table 16.—1977 Groundfish and Squid Catch Limitations (1,000 Metric Tons) for Foreign Fisheries in the Eastern Bering Sea and Aleutian Islands Region

Species and area	Nation				Total assigned	Unassigned ¹	Total foreign allocation
	Japan	U.S.S.R.	ROK	Taiwan			
Pollock:							
Bering Sea/Aleutians	792.3	112.7	40.0	5.0	950.0	0	950.0
Sablefish:							
Bering Sea	² 3.8	² 0.8	² 0.4	² 0.2	4.8	0.2	5.0
Aleutians	² 2.0	² 0.2	² 0.2	0	2.4	0	2.4
Pacific cod:							
Bering Sea/Aleutians	38.1	17.2	0	0	55.3	2.7	58.0
Yellowfin sole:							
Bering Sea/Aleutians	62.1	40.8	0	0	102.9	3.1	106.0
Other flounders:							
Bering Sea/Aleutians	61.5	40.4	0	0	101.9	3.1	105.0
Pacific ocean perch:							
Bering Sea	2.8	3.5	0	0	6.3	0.2	6.5
Aleutians	8.5	8.1	0	0	14.6	0.4	15.0
Other groundfish:							
Bering Sea	40.4	17.4	1.8	0.2	59.8	0	59.8
Aleutians	23.1	9.9	0.89	0.11	34.0	0	34.0
Squid:							
Bering Sea/Aleutians	10.0	0	0	0	10.0	0	10.0

¹Portion of total foreign allocation unassigned for possible use by a domestic fishery.

²Includes incidental trawl catch.

³Incidental catch only.

6.2.2 Purposes of regulatory measures

Most of the regulatory measures pertaining to foreign groundfish fisheries in the eastern Bering Sea and Aleutian Islands were implemented for conservation of halibut stocks and to prevent gear conflicts between foreign trawlers and domestic fixed gear (crab pots and halibut setlines). In negotiating these restrictions on foreign fisheries in international waters, certain concessions were provided the fisheries involved in terms of fishing and loading privileges within the U.S. contiguous fishing zone.

With the decline in abundance of halibut in the eastern Bering Sea in the mid-1960's, negotiations were directed toward reducing or preventing foreign fisheries from targeting on halibut. When it became apparent that these measures were not creating the desired improvement in the condition of the halibut stock, other measures involving time-area closures were negotiated to reduce the incidental catch of halibut by foreign trawl fleets. The retention of trawl-caught halibut was also prohibited.

As evidence became available of deterioration in the condition of other bottomfish stocks in the eastern Bering Sea and Aleutian Islands, negotiations were initiated to limit or reduce foreign catches of these species in an attempt to arrest these declines and restore the resources to higher productivity. Catch quotas for Japanese and Soviet fisheries were first implemented in 1973 and were carried forward, with some modifications, until 1977 when foreign fisheries came under jurisdiction of the U.S. Fishery Conservation and Management Act.

6.3 Effectiveness of Management Measures (foreign and domestic)

Closures to foreign trawling of crab and halibut fishing areas have undoubtedly reduced conflicts between the foreign trawlers and U.S. fixed gear. Gear losses have continued, but recent losses have occurred outside areas closed to foreign trawling.

Restrictions on the North American setline fishery have reduced fishing mortality on stocks of adult halibut, but the primary problem appears to be a reduction in the number of young halibut entering the fishery. Recent time-area closure have reduced the incidental catch by foreign trawlers and the abundance of young has increased since 1972 (Table 17). Although the increase is encouraging, it will not improve conditions in the setline fishery for several years, and abundance is still well below that in the 1960's. The present poor condition of the resource probably is a result of several factors: excessive setline removals in the early 1960's, high incidental catches of juvenile halibut by foreign trawlers in the 1960's and early 1970's, and reduced productivity from adverse environmental conditions (Hoag, 1976). Because halibut are a long-lived species, rehabilitation of the resource will be a lengthy process regardless of present management measures.

Regulations in the form of catch quotas implemented in 1973 and later years to mitigate the deterioration in condition of

other groundfish species in the eastern Bering Sea and Aleutians have perhaps begun to show some benefit for certain species while not for others. Other factors such as year-class strength, time-area closures designed to protect halibut but also beneficial to other species, and the reduction of effort on some species, may have also influenced the current status of some stocks.

Catch limitations have reduced the catch of pollock from over 1.8 million mt in 1972 to 950,000 mt in 1977. Based on analysis of catch and effort data from the commercial fishery the abundance of pollock declined through 1975 (Low et al. 1977). Preliminary evidence that abundance in 1976 was similar to that in

1975 (INPFC 1977) offers some indication of an arrest in the decline of pollock abundance in the eastern Bering Sea. Lower fishing mortality, stemming from the catch limitations, have probably helped to lessen the decline in the pollock stock and may be contributing to a halt in this decline.

For species such as Pacific ocean perch and sablefish there has been, as yet, no evidence that catch restrictions have improved the poor condition of these stocks. In the case of long-lived and slow growing species like Pacific ocean perch and sablefish several years will be required before evidence is available to judge the effectiveness of current management policies.

Table 17.—Relative Abundance of Juvenile Halibut by Age Groups from the Bering Sea Index Stations, 1966–1977

Year	Number per hour trawled						
	Age 2	Age 3	Age 4	Age 5	Age 6	Age 7	Total
1966	0.2	17.2	4.9	7.6	0.9	0.2	31.0
1967	.6	4.3	4.6	6.0	.5	.6	16.6
1968	.3	6.4	1.8	3.1	.5	.4	12.5
1969	2.7	4.1	4.7	4	.7	.2	12.8
1970	.4	8.8	2.0	7	.2		14.2
1971	3.7	2.6	7.8	3			14.2
1972	.1	2.0	.5	4	.1		3.1
1973	.1	3.7	1.9	7	.2		6.6
1974	.1	1.2	3.7	6	.3		6.1
1975	.5	3.2	5.3	2.0	.7	.1	11.8
1976	.3	6.5	4.5	1.2	.3	.1	12.9
1977	.4	5.4	9.5	2.1	1.4	.1	18.9

There is evidence that the condition of stocks of yellowfin sole, rock sole, flathead sole and Alaska plaice have improved or remained relatively stable in recent years (Wakabayashi and Bakkala 1977; Bakkala and Wakabayashi 1977). Their condition has benefited from a series of relatively strong year-classes originating in the late 1960's. Winter time-area closures in the southeastern Bering Sea, designed for the protection of halibut, also benefit these species because they form winter concentrations in this area as well. The absence of a directed Soviet fishery on these species of flounders since 1972 may have additionally benefited the stocks. Thus, factors other than management measures directly applicable to the four small flounder species may be responsible for their current status. Catch limitations, however, are designed to maintain and improve their productivity.

For other principal species considered in

the plan (Pacific cod, Atka mackerel, arrowtooth flounder, Greenland turbot, and squid) information is lacking to adequately assess the current condition of the stocks relative to the recent past. There is no evidence to suggest that the stocks are depressed and catch limitations are designed to maintain the population at current levels.

7.0 History of research

Investigations of groundfish resources of the eastern Bering Sea have been conducted by the United States, Canada, Japan, and USSR. U.S. research efforts have been of the longest duration (1880 to present) and were initiated to assist the development of U.S. cod and halibut fisheries. As these and other fishery resources of the eastern Bering Sea became increasingly utilized, and in some cases overfished in the decades of the 1960's and 1970's, investigations became more directed towards providing guidelines for resource management and conservation.

7.1 United States¹

The first major study of the demersal fishery resources of any consequence occurred in 1890 when the U.S. Fish Commission's steamer *Albatross* was directed into the southeastern Bering Sea to determine the locations and characteristics of important cod-fishing grounds (Rathbun 1894). Later in 1911, the *Albatross* also investigated halibut banks just north of Unimak Island (Alexander 1913). In 1930 the International Pacific Halibut Commission (IPHC) conducted exploratory setline fishing along the Aleutian Islands and tagging of halibut in Makushin Bay on the north side of Unalaska Island (Dunlop et al. 1964).

The first extensive and systematic survey of demersal fishery resources of the eastern Bering Sea was conducted in 1941 by the U.S. Fish and Wildlife Service (Fishery Market News 1942). Bottom trawling was conducted in the southeastern Bering Sea north to St. Lawrence Island, and in Norton Sound. Although the primary purpose of the survey was to locate areas of king crab abundance, information was also collected on the quantities and types of demersal fish encountered.

Continued interest in the commercial potential of crab and groundfish of the eastern Bering Sea resulted in further investigations after World War II. There were cooperative U.S. Government-industry ventures in the northeastern Bering Sea in 1947 (King 1949) and in 1948 (Wigutoff and Carlson 1950). The IPHC resumed exploratory setline fishing and tagging of halibut in the eastern Bering Sea in the 1950's (Dunlop et al. 1964).

With the development and intensification of fisheries in the eastern Bering Sea in the 1950's and 1960's, U.S. and IPHC research surveys began to be conducted in a more systematic and standardized manner. These investigations initially sought improved information on changes in abundance and recruitment of king crab and halibut, but other species were also later included. The U.S. Bureau of Commercial Fisheries (now the National Marine Fisheries Service) began systematic annual bottom trawl surveys in the southeastern Bering Sea in 1955 to obtain information on the distribution, abundance, biology, and recruitment of king crab. These surveys were interrupted for the period 1962–1965, but were continued in 1966. In 1966, Tanner crab was included in these surveys and received special study, and in 1971

¹ Includes Canadian research done in cooperation with the U.S. within the framework of the International Pacific Halibut Commission.

biological studies of important groundfish species were also added. These annual crab-groundfish surveys are a continuing activity by the NMFS. In the late summer of 1975 and spring of 1978, NMFS conducted multivessel groundfish and shellfish surveys in the eastern Bering Sea to provide baseline environmental information to the Bureau of Land Management's Outer Continental Shelf Environmental Assessment Program.

Beginning in 1963 and annually since 1965, the IPHC has been systematically monitoring by means of bottom trawl surveys the distribution and abundance of young halibut in the eastern Bering Sea (Best 1969 a and b; 1970; 1974).

In recent years, U.S. observers have been placed aboard foreign fishing and processing vessels to examine catches of target species (primarily pollock), and incidentally-caught halibut.

7.2 Foreign

Japanese research investigations in the eastern Bering Sea began in the mid-1950's, although there had been some experimental trawl fishing on bottomfish by Japanese commercial interests in this region in the early 1930's (Kibesake 1965). In 1958 the *Oshoro Maru* engaged in limited exploratory trawl fishing in the eastern Bering Sea. The *Oshoro Maru* has continued investigations from the 1950's to present time (Hokkaido University 1957, 1960, 1964–66). Other limited trawling investigations were conducted in 1961 through 1964 (Shimonoseki University of Fisheries 1968; Tsuruta et al. 1962).

Extensive and systematic surveys of eastern Bering Sea groundfish by the Japanese were begun in 1963 by the Japan Fishery Agency (JFA), and have continued annually with the exception of 1972 (Japan Fishery Agency 1975b). These surveys have covered broad areas of the continental shelf, and in some years the shelf edge and upper continental slope. Included in the Japanese investigations have been tagging studies on halibut, sablefish, pollock, and yellowfin sole.

The Japanese have been collecting catch and effort statistics and biological information from their groundfish fisheries since 1964, and providing these data to the U.S. through the International North Pacific Fisheries Commission.

Although the Soviet Union conducted limited exploratory surveys in the eastern Bering Sea in the early 1930's and early 1950's (Moiseev 1963), their first extensive investigations of demersal fish and shellfish resources in the eastern Bering Sea were during 1957–63. The main purpose of these surveys was the determination of the extent and potential uses of resources prior to commercial exploitation by the Soviet fleet. Information was also gathered on the biology of important species populations and environmental features associated with their distributions (Moiseev 1963–64; 1970).

Since 1963, the Soviet Union has continued its research on eastern Bering Sea fishery resources, which have included pollock and other demersal fishes.

8.0 Socio-Economic Characteristics of the Domestic Fishery

8.1 Commercial Fishery

8.1.1 Commercial fishing fleet

In 1977 less than 100,000 pounds of groundfish was landed and sold for human consumption. The number of vessels operating in the fishery has been so small that specific information cannot be disclosed without violating the confidentiality of individual reports. There is a slightly larger groundfish fishery for bait for use by crab boats operating in the area, although fish tickets are not made out systematically when the groundfish are caught or sold. Alaska Department of Fish and Game biologists, extrapolating from a similar bait fishery operating in the Gulf of Alaska, and considering the size of the crab fishery and number of boats known to be catching groundfish for bait in the Bering Sea area, have estimated the harvest for this purpose at about 450 mt in 1977, and as high as 1,300 mt in 1978.

In all, the total domestic commercial groundfish catch in the Bering Sea/Aleutian region (excluding halibut) is believed to have been no more than 1,500 mt in any recent year.

8.1.2 Domestic commercial processing industry

Although substantial freezing and transshipping facilities are located at Dutch Harbor, with the exception of very small amounts of groundfish frozen for crab bait no groundfish processing (except halibut) has occurred in this region in recent years.

8.1.3 Products and Markets

The viability of a domestic Bering Sea groundfish fishery will ultimately depend on the ability of U.S. industry to market products at prices which cover their production costs. An understanding of these market conditions will be important for the accurate determination of DAH. Although the U.S. and world groundfish markets are not fully understood, it appears that there are not at present significant opportunities to market Bering Sea groundfish at prices which will cover U.S. costs of production. For at least the near term, the domestic groundfish fishery in the Bering Sea will be limited to local markets for bait and to demonstration projects. The market for fishery products is in a state of change, however, and it is entirely possible that new markets could open up in the near future. One possible change might come from management actions taken to deliberately influence market conditions.

It is at least theoretically possible that the determination of OY could influence markets and prices. For any commodity a reduction in supply from one source, such as foreign groundfish landings, may improve market opportunities for other suppliers, such as U.S. fishermen. At present there is no information on whether this relationship is significant for Bering Sea stocks, or whether it might be sufficient to overcome costs of U.S. operations.

Table 18 illustrates the importance of the Northeast Pacific (FAO area 67, including the Pacific Coast above California) in production of pollock, flounders, and cod. In 1975 the Northeast Pacific produced 20% of the world's pollock, 16% of the world's flounders, and 3% of the world's cod. For these groundfish species the likelihood of influencing world price through manipulation of OY is low due to the relatively small share

of world production coming from the northeastern Pacific. For example, if the pollock OY for the eastern Bering Sea was to be set 30 percent below ABC in an attempt to increase the world price for that species, world pollock supply would be reduced by something less than 6 percent ($30\% \times 20\% = 6\%$). However, for particular markets (e.g., the Japanese market for "surimi", it might be possible for reductions in foreign allocations to have an influence on either price offered for U.S. products or the willingness of customers to consider buying such specific products from U.S. processors.

If it were found that such a relationship did exist, its exploitation would present an additional set of tradeoffs between the management objectives of domestic industry development, consumer interest and price, full utilization of the resource and U.S. foreign policy interests. No such relationship has yet been identified; therefore, no adjustments to OY for this purpose have been made.

Table 18.—1975 World and Northeast Pacific Production of Selected Groundfish (Metric Tons)

	World total	Northeast Pacific (FAO area 67)	Percentage produced in Northeast Pacific
Pollock and Saithe	5709117	1117858	20
Flounders	1146276	179145	16
Atlantic and Pacific cod	2589086	70815	3

Published information on U.S. groundfish utilization and prices is reported in Table 18a. Apparent consumption for any period is a derived figure; the sum of beginning stocks, domestic productions and imports, less ending stocks and exports.

In 1977 U.S. apparent groundfish consumption was 803.4 million pounds, 364 million pounds of fresh and frozen fillets and 438.9 million pounds of sticks and portions. Eighty percent of fillets and essentially all the frozen blocks used in sticks and portions were imported.

1977 retail prices for groundfish fillets ranged from \$3.32 per pound for fresh flat fillets to \$1.68 per pound for frozen ocean perch fillets. An average price for all sticks and portions was \$1.77 per pound. Historically groundfish prices have risen at a greater rate than general inflation, while prices of substitutes such as beef, pork and poultry have not kept pace.

The distribution of groundfish consumption by region and market type is not available from published sources. However, approximations were obtained by consultation with industry. Over half the stick and portion production is sold to institutions; the remainder is sold to households. Within the institutional category, most fish sticks are sold to such public institutions as schools, hospitals, and military installations, whereas restaurants are the major institutional buyers of fish portions.

Institutions buy an even greater proportion of frozen fish fillets. Within the institutional category, most fillets are sold to restaurants.

On a geographic basis, frozen groundfish consumption is higher in the midwest and south where alternate fish products are not as readily available.

Table 18a.—U.S. Groundfish Utilization and Prices

Product and species	Supplies and Utilization (Millions pounds product weight)					Apparent consumption
	Beginning stocks	Domestic production	Imports	Total	Ending stocks	
Fresh and frozen fillets	53.2	70.7	303.9	427.8	63.3	364.5
Cod	16.2	25.4	122.2	163.8	27.2	136.6
Flatfish (Flounder and Turbot)	17.6	24.2	95.6	137.4	18.9	118.5
Haddock	5.1	10.5	40.9	56.5	7.7	48.8
Ocean perch	14.3	10.6	45.2	70.1	9.5	60.6
Sticks and portions	31.1	*(437.8)	.6	469.4	30.5	438.9
Sticks, cooked						
Cod						
Haddock						
Pollock						
Whiting						
Portions, raw breaded						
Cod						
Haddock						
Pollock						
Whiting						
Blocks	61.1	4.6	385.1	450.8	73.2	** (377.6)
Cod						
Cod minced						
Flounder						
Haddock						
Pollock						
Pollock, Alaska						
Whiting						
Wolfish						
Total	145.4	*75.3	689.6		167.0	**803.4

Table X 1977 U.S. Groundfish Supplies, Utilization and Prices.
Source: National Marine Fisheries Service, NOAA, *Foodfish Market Review and Outlook*, December 1977.

*Excludes production of sticks and portions from imported blocks.

**Excludes blocks but includes sticks and portions.

Product and species	Prices (cents per pound 1977 dollar)				
	Wholesale ^a			Retail	
	Exvessel	Fresh	Frozen	Fresh	Frozen
Fresh and frozen fillets					
Cod		25.5	162.3	91.1	253.1
Flatfish (Flounder and Turbot)		47.6		116.7	331.5
Haddock		33.6	161.6	104.9	253.7
Ocean perch		15.3		93.1	168.0
Sticks and Portions					177.0
Sticks, cooked					
Cod			109.1		
Haddock			111.3		
Pollock			74.9		
Whiting			72.3		
Portions, raw breaded					
Cod			109.7		
Haddock			111.7		
Pollock			73.7		
Whiting			70.3		
Blocks					
Cod			97.8		
Cod minced			36.1		
Flounder			95.6		
Haddock			101.4		
Pollock			60.4		
Pollock, Alaska			60.7		
Whiting			54.4		
Wolfish			87.9		

8.2 Recreational Fishery

Historically, there was no recreational fishing in the Bering Sea/Aleutian area; presently, the effort is small, if indeed it exists, and is conducted in inshore waters.

8.3 Subsistence Fishery

Subsistence fishing activities of Native Alaskans in the Bering Sea/Aleutian area pre-dated history. To what extent the subsistence effort was conducted in offshore waters can be based only on scant historical reference and oral tradition. The vast majority of these efforts were concentrated on salmon, anadromous char and river herring, taken for the most part by various methods in inshore waters.

Additional efforts were conducted offshore on halibut and cod. One example of the cod fishery is that of the village of Mekoryuk, on Nunivak Island, where fishing activity offshore was conducted until the late 1940's, when, for reasons unknown, the cod failed to appear in their accustomed waters. As a consequence, that fishery does not exist at the present time. The bulk of the subsistence effort offshore was directed against otter, seal, sea lion, walrus, polar bear and birds and eggs inhabiting islands and rocks.

8.4 Indian Treaty Fishery

No Indian (Native Aleut-Indian-Eskimo) treaty fishing rights are reserved in the Fishery Conservation Zone.

8.5 Area Community Characteristics

Profiles for over 100 Alaskan coastal communities, several of which are located in or near the Bering Sea/Aleutian region, are available for reference at the following sites:

North Pacific Fishery Management Council headquarters, Anchorage, AK.

National Marine Fisheries Service, Alaska Regional Office, Juneau, AK.

National Marine Fisheries Service, Northwest Regional Office, Seattle, WA.

Alaska Department of Fish and Game headquarters, Juneau, AK.

A sample community profile is shown in Appendix I.

8.6 Interaction Between User Groups

8.6.1 Trawl vs. halibut

The halibut fishery in the Bering Sea and Aleutians is affected by domestic fisheries for crab and shrimp and by foreign fisheries for groundfish. The kind of impacts include destruction of gear, preemption of fishing grounds, and a reduction in abundance that results from the incidental capture of halibut. The North American setline catch peaked in 1963 at 4,900 mt but has been below 500 mt since 1972.

The effects of current domestic operations on both the halibut fishery and resource are less than those of foreign fisheries. Gear conflicts are minimal, and the annual incidental catch of halibut by domestic trawlers is probably less than 100 mt (however, domestic king crab and shrimp fisheries may take incidentally up to 1,000 mt of halibut). A greater impact on the halibut fishery could occur if domestic effort toward groundfish increases.

Regarding foreign fisheries, halibut fishermen occasionally report instances of gear destruction or preemption of grounds. The most important effect of foreign fishing is that of incidental catches. Foreign vessels target on species other than halibut but halibut are taken incidentally in substantial numbers; although regulations require that halibut be released, most die from injuries received during capture.

Hoag and French (1976) used data collected by observers on Japanese trawlers to examine the incidental catch of halibut. The average incidence and size during 1969-1974 is shown by area and month in Table 19. The incidence was highest in the southeastern Bering Sea in the winter and spring. The majority of the halibut were 3 to 7 years old and less than 5 kg. More recent data from observers (Hoag and French, ms.) show a similar seasonal picture, although the rate of incidence is lower because critical areas have been closed to trawling. In February and March 1978, observers were, for the first time, aboard two Japanese longline vessels fishing the southeastern Bering Sea. Their data show that when the longliners fished in shallow water (220-320m) for Pacific cod the incidence of halibut became extremely high (30 halibut per mt of catch; about 14% by weight). The incidence was much lower (1.5 halibut per mt) when the vessels fished in deeper water (500-620 meters) and the target species were Greenland turbot and sablefish. The average weight of halibut was about 5 kg and the observers reported that most of the halibut were released alive.

Table 19.—The Average Incidence and Weight of Halibut in Japanese Trawls in the Bering Sea, by Month and Area, 1969-1974.

Month	Area					
	A	B	C	De	Dw	E
Incidence (Number per metric ton)						
January			0.054		0.070	25.437
February	0.163		2.787		0.196	2.629
March	5.779	4.930	0.476		0.720	8.073
April	2.935	1.341	1.465		0.012	2.518
May	7.145	6.978	1.022		0.131	3.062
June		0.000	1.155		1.114	1.987
July			0.040	0.013	0.066	0.000
August	0.021		0.157	0.013	0.103	
September	0.008	0.000	0.187		0.007	
October	0.018	0.000	0.023		0.037	0.022
November	0.064				0.049	1.268
December	0.014		0.249		0.074	27.643
Average size (kg)						
January			3.20		2.28	0.39
February	0.69		1.14		5.90	1.07
March	0.90	0.81	1.48		2.66	0.48
April	0.93	0.80	1.00		0.68	1.33
May	0.64	0.41	1.22		1.59	1.153
June			2.76		6.11	1.94
July			3.01	3.50	7.45	
August	17.73		7.42	3.50	2.03	
September	7.30		3.68		4.44	
October	3.55		8.70		4.70	2.38
November	1.33				5.15	2.17
December	0.66		5.37		2.57	0.85

Hoag and French (1976) estimated the annual incidental catch of halibut by the Japanese and Soviet trawl fisheries from 1954 to 1974. Their estimates show that the total incidental catch in the Bering Sea peaked in 1971 at 11,500 mt but then dropped to about 5,800 mt in 1974. However, about one-third to one-half of this catch occurs in the western Bering Sea and may have only limited effect on the North American fishery. Since 1974, foreign trawling has been prohibited in specific areas of the southeastern Bering Sea during the winter and spring to reduce the incidental catch of halibut. These closures along with a reduction in fishing effort have sharply reduced the incidental catch. Preliminary projections indicate that the incidental trawl catch in the eastern Bering Sea has declined from about 7,000 mt in 1971 to less than 2,000 mt in 1976.

The incidental catch of halibut in the Aleutians is much less than in the Bering Sea, probably around 500 mt.

Hoag (1978) used estimates of the incidental halibut catch and assessed the effect of trawling on the North American setline fishery. The results showed that trawling reduced the survival of juvenile halibut and, therefore, recruitment to the setline fishery. Because the incidental catch consists of juvenile halibut, the yield loss to the setline fishery occurs for many years after a given incidental catch, i.e. over the projected lifetime of the fish in the setline fishery. Also, the magnitude of the eventual loss is about 20 percent greater than the magnitude of the incidental trawl catch itself because growth exceeds natural mortality at young age. In the eastern Bering Sea, the estimated annual yield loss in recent years has been about 5,000 mt and represents over 95 percent of the total potential catch (i.e. of the total potential production, setlines take less than 5 percent). The recent reductions in the incidental catch will not significantly benefit the setline fishery for several years.

In 1977, the average incidence rate for halibut in all foreign trawl fisheries is estimated to have been 0.267 individuals per metric ton of total groundfish catch; average weight of incidentally caught halibut was 8.99 kg.

8.6.2 Trawl vs crabs

U.S. observers aboard Foreign trawlers sample the catch prior to sorting by species and count the number of crabs in each sample per unit weight of the entire sample. This provides an incidence rate, expressed as number of crabs per metric ton of total catch. Average incidence rates for particular statistical areas and quarters are then multiplied by the corresponding total catch of each country, and summed over quarters to arrive at an estimate of total incidental crab catch, by nation, for the year.

Before 1977, U.S. observers were only aboard Japanese independent stern trawlers (large trawlers) and groundfish motherships. No valid technique was available for

extrapolating incidence rates observed in those two fleets over the Japanese landbased dragnet (small trawlers), Soviet, or Korean trawl fleets. In 1977, however, all fleets were observed and estimated incidental catches of crabs are as follows (number of crabs):

Country	King crab	Tanner crab
Japan	583,400	17,448,000
USSR	1,200	3,500
ROK	11,200	54,000
Total	595,800	17,503,500

Between 65 and 70 percent of the incidental Tanner crab catch was *C. opilio*. Incidence rates for both king and Tanner crabs were highest in the Japanese landbased dragnet fleet.

To provide some insight into recent trends, estimates of incidental crab catches by the Japanese mothership and independent stern trawl fleets during 1973-77 are (number of crabs):

Year	King crab	Tanner crab
1973	465,800	112,000,000
1974	489,900	155,000,000
1975	155,900	60,000,000
1976		26,000,000
1977	297,300	8,600,000

In 1977, the average incidence rate for king crabs in all foreign trawl fisheries is estimated to have been 0.481 individuals per metric ton of total groundfish catch; average weight of incidentally caught king crabs was 1.15 kg. Comparable values for Tanner crabs are estimated to have been 12.970 individuals/mt and 0.33 kg average weight.

8.6.3 Trawl vs salmon

Using the same sampling methods as for halibut and crabs, data collected by U.S. observers produced the following estimates of incidental salmon catches in 1977:

Country	Total number of salmon
Japan	23,890
ROK	23,788
USSR	42
Total	47,730

Of this total, 91 percent were chinook salmon (*O. tshawytscha*) and 9 percent chum salmon (*O. keta*).

In 1977, the average incidence rate for salmon in all foreign trawl fisheries is estimated to have been 0.030 individuals per metric ton of total groundfish catch; average weight of incidentally caught salmon was 4.0 kg.

8.6.4 Trawl vs. sablefish longlines and pots

Japanese longline fishermen report that the trawl fishery has expanded geographically and bathymetrically to the point where traditional sablefish longline grounds have been pre-empted. If the condition of sablefish

stocks in this region improve to the point where they could support a viable domestic fishery (see Section 9.6), the stated interest of U.S. fishermen for developing a longline and pot fishery for that species could be thwarted by the risk of gear conflicts with trawlers unless gear separation measures are affected.

8.6.5 Foreign vs domestic trawling

With the exception of a very small crab bait fishery, no domestic trawling has taken place in the region. Many U.S. fishing interests perceive the presence of fleets of large foreign trawlers as a de facto impediment to the development of a domestic groundfish trawl fishery in the Bering Sea because of the possibility of: (1) preemption of favored grounds by concentrations of foreign vessels that are 2-3 times the size of

the largest U.S. trawlers, and (2) competition for fish by foreign vessels that can apparently operate successfully at levels of abundance and average fish sizes that are less than that required for economic operation of domestic trawlers. (See also Section 10.4.)

8.7 Revenues derived from fishery

Federal revenues are based on charges placed on foreign fisheries, while state (Alaska) revenues are based on fees and taxes placed on the domestic fishery.

8.7.1 Federal revenues

A summary of U.S. revenues expected in 1978 from charges placed on foreign nations fishing for groundfish within the FCMA zone in the Bering Sea/Aleutians area is presented below:

Expected Revenue From Foreign Nations, Bering Sea/Aleutians, Groundfish, 1978

Type of revenue	Total dollars	Source of dollars			
		Japan	U.S.S.R.	R.O.K.	Taiwan
Income—vessel fee	566,700	228,000	269,500	65,800	4,800
Income—poundage fee	7,230,600	4,995,400	2,012,900	202,400	19,900
Reimbursable income (U.S. observer cost)	294,100	224,900	54,500	14,700	
Fines and penalties					
Total	8,090,800	5,446,300	2,336,900	282,900	24,700

Revenues from vessel and poundage fees total \$7,796,700 for 1978. Reimbursable income (to cover the cost of placing U.S. observers aboard foreign fishing vessels in the Bering Sea/Aleutians area) is tentatively estimated at \$294,100. Fines and penalties are tied to violations and are, therefore, variable income items. The expected total federal revenue for 1978 is around \$8,090,800.

8.7.2 State revenues

Aside from the halibut fishery, virtually no domestic groundfish fishery has existed in the Bering Sea/Aleutians area in recent times. The approximate state revenues derived from the fishery in 1977 are presented below:

Type of revenue	Statewide total, 1977 ¹	Bering Sea-Aleutians groundfish fishery	
		Halibut	Other
Raw fish tax	\$3,830,280	\$5,000	(?)
Cold storage tax (including freezer ship)	2,372,785	5,000	(?)
Vessel and gear license	654,220	200	(?)
Commercial fish licenses	430,836	50	(?)
Total	7,288,121	10,250	(?)

¹ Source: Alaska State Department of Revenue.
² Negligible to none.

9.0 Biological and Environmental Characteristics of the Fishery

9.1 Life History Features

Most of the principal groundfish species

spawn either in the winter or early spring. Cod, sablefish, and the large flounders, Pacific halibut, arrowtooth flounder, and Greenland turbot, spawn during the winter months in deep water. Most other groundfish species reproduce during the spring (March-June). Atka mackerel is a summer spawner.

The principal groundfish species can be placed into three groups based on their reproduction. Cod, rock sole, and Atka mackerel lay adhesive demersal eggs. Pollock, sablefish, and most flatfish have pelagic eggs. Pacific ocean perch have internal fertilization and release pelagic larvae.

There is considerable variation between species in the amount of eggs or young produced (Table 20). Upon reaching maturity, cod may release over 1,000,000 eggs. Halibut and sablefish are also highly fecund. Pacific ocean perch and Atka mackerel are the least fecund of the groundfish group. Fecundity of all species is generally directly related to size of the female, a characteristic which, among vertebrates, is unique.

Among the principal groundfish species are the long-lived fishes which reach sexual maturity late in life, such as the Pacific ocean perch and the large flounders, Pacific halibut and Greenland turbot. Mortality due to natural causes is relatively low in these species. In contrast, pollock, cod, and Atka mackerel are short-lived and mature at an early age (3-4). Both pollock and cod have relatively high natural mortality and growth rates. Sablefish, Alaska plaice, and the various species of sole mature at ages intermediate to those species groups mentioned above.

Table 20.—Life History Characteristics of Principal Groundfish Species in the Eastern Bering Sea and Aleutians¹

Life history characteristics	Species					
	Pollock	Cod	Sablefish	Ocean perch	Halibut	Arrowtooth flounder
Bottom depths of common occurrence (fathom)	30-200	10-150	50-450	50-250	10-250	30-300
Depths of high availability by season (fathom)	100-200 (winter), 50-150 (summer)	50-150 (winter), less than 100 (summer)	200-250 (winter), 100-450 (summer)	150-250 (winter), 80-150 (summer)	50-225 (winter), 10-100 (summer)	150-300 (winter), 80-200 (summer)
Spawning period	March to July	January to May	December to April	March to June	November to March	December to February
Maximum age	17 years	12 years	20 years	30 years	42 years	22 years
Average age at maturity (female)	3 years	4 years	7 years	7 years	12 years	9-11 years
Average size at maturity (female)	30 cm	73 cm	71 cm	27 cm	125 cm	55 cm
Instantaneous natural mortality rate, M ²	0.43	0.30-0.45	0.22	0.27	0.17	0.2
Growth completion rate, K (female)	0.28	0.30	0.14 ³	0.11	0.10	0.10
Fecundity at average size at maturity	100,000	1,000,000 to 2,000,000	400,000	10,000	700,000	?

Life history characteristics	Species					
	Greenland turbot	Flathead sole	Rock sole	Yellow fin sole	Alaska plaice	Atka mackerel
Bottom depths of common occurrence (fathom)	50-350	30-200	10-100	10-300	20-80	Coastal and open sea
Depths of high availability by season (fathom)	300-500 (winter), 60-400 (summer)	100-200 (winter), 50-150 (summer)	20-100 (winter), 20-50 (summer)	50-150 (winter), 20-50 (summer)	50-70 (winter), 20-50 (summer)	Offshore (winter), inshore (summer)
Spawning period	October to December	March to June	March to June	June to August	May to June	June to September
Maximum age	25 years	21 years	16 years	21 years	19 years	?
Average age at maturity (female)	13-14 years	6 years	4-5 years	9 years	8 years	3-4 years
Average size at maturity (female)	70 cm	29 cm	22 cm	26 cm	30 cm	33-35 cm
Instantaneous natural mortality rate, M ²	?	0.2	0.26	0.25	0.2	?
Growth completion rate, K (female)	0.10	0.11	0.15	0.11-0.18	0.1	?
Fecundity at average size at maturity	25,000	50,000	200,000	800,000	100,000	9,000

¹ Values and time periods given to this table are approximations.

² Sexes combined.

³ Many of the biological and population parameters shown in this table are being reevaluated with ecosystem modeling techniques and, therefore, are subject to change.

Squid is made up of several species where life history features are poorly known. They live at midwater and near surface depths as compared to the near or on-bottom habitat of groundfish. The season of spawning for at least some species may extend from spring to fall. Sexual maturity may be reached in two years or less. Like Pacific ocean perch, fertilization is internal for squid. The fertilized eggs are released enmeshed in a gelatinous material, and the number of eggs spawned per individual is low compared to that of groundfish species.

9.2 Stock units.

The groundfish and squid resources considered in this Plan consist of species that are wide ranging in their general distribution, occurring in the eastern Bering Sea, Aleutian waters, and in the Gulf of Alaska. Within each of these major geographical regions separate stocks or populations of these species may exist, but our state of knowledge is such that we cannot be certain of this possibility for most species. Research results and fisheries information indicate that for most species resident stocks exist in each

major region (E. Bering Sea, Aleutians, and Gulf of Alaska). For other species, such as Pacific halibut and those of squid, this may not be the case.

Those species that are generally considered to have separate stocks residing in the Aleutians as well as the eastern Bering Sea are pollock, yellowfin sole, sablefish, Atka mackerel, Pacific ocean perch, Pacific cod, Greenland turbot, arrowtooth flounder and various species of sole.

For pollock the eastern Bering Sea stock is larger than that of the Aleutians. There has also been some speculation that in the eastern Bering Sea proper, this species may be further subdivided into a northern and a southern stock, primarily because spawning concentrations have been found north as well as south of the Pribilof Islands. (Japan Fishery Agency 1974 b). However, it is difficult to confirm such a separation since there apparently is a considerable amount of mixing of fish through seasonal north-south movements as evidenced from tagging studies.

Tagging studies indicate the existence of separate spawning stocks for eastern Bering

Sea yellowfin sole, one of which resides in waters north of a line between the Pribilof Islands and Cape Arino and another south of this line, with only a limited exchange between them (Wakabayashi 1974). Studies of differences in growth rate, meristic features, and genetic characters, however, have not been conclusive (Wakabayashi et al. 1977). Furthermore, U.S. researchers estimate that about 80% of the total yellowfin sole biomass of the eastern Bering Sea lies in the southern stock area, making the question of less practical importance. Therefore, until more definitive results are obtained, all yellowfin sole of the eastern Bering Sea will be considered as belonging to one stock.

Adult sablefish live mainly in offshore waters at bottom depths of 200 meters and greater throughout their geographical range. Their movements appear to be localized from tagging studies which show that most recovered fish have been taken in the same general area where they had been tagged and released (Low 1977). A few tagged fish, however, have been recovered a considerable distance from their area of release, and some of these movements have been between major geographical areas, such as the Gulf of Alaska and Bering Sea. These extensive movements, although few, demonstrate that some exchange of fish between major areas does occur, and that separate stocks, if they do exist, may be biologically closely related. At this stage of our knowledge it may be best to consider sablefish as being comprised of separate stocks throughout its geographical range, but that minor intermixing of the stocks does occur. For managing fisheries on these stocks, it may be convenient to treat these stocks as four major and distinct groups: an eastern Bering Sea group, an Aleutian group, a Gulf of Alaska group, and a U.S. west coast group.

There is some circumstantial evidence that Atka mackerel may be comprised of localized stocks throughout its geographical range which includes waters off Kamchatka and the Aleutians, and the eastern Bering Sea and western Gulf of Alaska. The species seeks certain bottom areas for spawning and will return to these areas year after year to reproduce (Rass 1970). Only a few of these areas have been determined, but it is likely that more exist and the spawning concentrations associated with each probably should be considered to be discrete stocks. Until more precise evidence of the location of specific spawning areas becomes available, concentrations in the Aleutian area, the eastern Bering Sea area, and the western Gulf of Alaska will be assumed to comprise separate stocks.

For Pacific ocean perch, differences in biological features (e.g., growth rate) between eastern Bering Sea and Aleutian fish suggest that each of these areas has its own unique stock (Chikuni 1974).

Evidence for the separation of other principal groundfish species (cod, turbot, flathead sole, rock sole, and plaice) is not available but as a conservative measure, each of these species will be considered to be comprised of separate stocks in the Aleutians and eastern Bering Sea.

Available evidence suggests significant movement of halibut between the eastern and western Bering Sea and between the eastern Bering Sea and the northeastern Pacific Ocean (Best 1977, Dunlop et al. 1984). Circulation patterns indicate that eggs and larvae spawned in the eastern Bering Sea should remain within the Bering Sea. However, the cyclonic circulation in the area will transport eggs and larvae in a northwesterly direction and the current is sufficient to transport larvae to the Asian Coast. It is also likely that larvae originating in the Gulf of Alaska are transported into the Bering Sea.

Large numbers of juvenile halibut inhabit the eastern Bering Sea, and this region may serve as a nursery ground for other regions. Recoveries of tagged juveniles are meager but indicate a movement into the Gulf of Alaska. One juvenile tagged west of the Pribilof Islands was recovered in southeastern Alaska five years later. Tagging data are more extensive for adult halibut and show movements as far south as northern California; Dunlop et al (1984) estimated an emigration rate of 24% over a 7-year period. Tagging also indicates movements from the Gulf into the Bering Sea and between eastern and western Bering Sea, but these movements appear to be relatively infrequent.

In the Aleutians, tagging and other studies indicate that the halibut in the region are an intermingling component of stocks in the Gulf of Alaska and British Columbia (Bell 1967). The total amount of bottom area suitable for halibut in the Aleutians is small and the overall productivity of the region is much less than in the Bering Sea and other regions of the northeast Pacific. Nevertheless, halibut are sufficiently concentrated in local areas to provide good catches for a few vessels.

Squid resources of the eastern Bering Sea and Aleutian waters are believed to be mainly comprised of five species that are wide ranging in their distribution in northern waters. Four of these species (*Gonatus fabricii*, *Gonatus magister*, *Gonotopsis borealis*, and *Moroteuthis robustus*) inhabit the near surface and mid-waters of the outer continental shelf and beyond the shelf. The other species (*Rossia pacifica*) prefers inshore waters where it forages throughout the water column. All these squid species are, therefore, much more mobile than most of the groundfishes and apparently roam quite freely throughout their range. Because of this capability, it is assumed that there is considerable intermingling of individuals from different regions; hence, each squid species may be considered as having one interbreeding population common to the Bering Sea, Aleutians, and the western Gulf of Alaska.

9.3 Data Sources

9.3.1 Catch and effort data

Catch and effort statistics are collected on a continuing basis from two main sources: from the commercial fishery and from research surveys. Commercial fishery data are used mainly to compute CPUE trends to monitor the relative abundance of stocks under exploitation. In addition to CPUE computation, trawl survey information can also be used to estimate standing stocks.

Commercial fishery data of sufficient detail and precision for Bering Sea/Aleutian stock assessment studies are:

- (1) Catch and effort statistics of the Japanese mother ship, longline-gillnet, and North Pacific trawl and land-based trawl fisheries as provided through INPFC;
- (2) Catch and effort statistics collected by U.S. observers stationed aboard foreign vessels.

Under the FCMA, similar type of rather precise catch and effort statistics will soon become available from all nations participating in this region's groundfish fishery.

Catch and effort statistics are also obtained from research trawl surveys conducted by the United States' National Marine Fisheries Service, Fishery Agency of Japan, and the International Pacific Halibut Commission. Data from the Fishery Agency of Japan are made available to the U.S. in publications, the INPFC and during bilateral scientific meetings. The International Pacific Halibut Commission conducts an annual assessment of juvenile halibut abundance in the Bering Sea which provides catch and effort information concerning not only halibut but many other groundfish species as well.

Statistics from Japanese fishing operations have been among the most detailed and complete of any nation in the world. In general, they are by species, $\frac{1}{2}^{\circ}$ Latitude by 1° Longitude statistical areas, month, gear type, and vessel class. An exception however, has been Japan's land-based trawl fishery from which the available statistics have been less timely and in less detail. This appears to reflect the fact that they have been collected at the provincial level in Japan rather than by the Fishery Agency of Japan, as has been the case for the other fisheries.

Although improving since the early 1970's, statistics provided by the U.S.S.R. have generally reflected only gross catches of imprecise species groupings for very large statistical areas. Until very recently, effort information has either been lacking entirely or in a form that had little utility for assessing relative abundance (e.g., catch per tow without reference to tow duration).

As regards other nations fishing for bottomfish in the Bering Sea/Aleutian Region, Poland has provided statistics in detail comparable to those of Japan for its very limited fishery. Since 1968, South Korea has conducted a growing groundfish fishery in the Region but no statistics concerning it are available for the period prior to 1976 and those acquired since have been incomplete. Operations by Taiwanese vessels have been few and no statistics have yet been reported.

For status of stock evaluations, the catch and effort data bases generally relied upon are those of the Japanese fisheries, and research surveys conducted by Japan, the United States, and INPFC.

9.3.2 Biological data

Biological data concerning Bering Sea/Aleutian groundfish resources are collected on a continuing basis from the commercial fishery and from research surveys. Those from the commercial fisheries have generally been limited to length-frequency samples from the Japanese fisheries until U.S.

observers were placed aboard foreign vessels to sample the catch. The observer program covers a significant portion of the several foreign fishing fleets and has been constructing an extensive data base on length, weight, age and sex of the principal species taken by foreign fisheries.

The most comprehensive source of biological information is that collected during trawl surveys conducted by the United States' National Marine Fisheries Service. In these surveys, length, weight, age, and sex information and at times, sexual maturity and stomach content data, are collected for all species encountered during the surveys. Annual research surveys conducted by the Fishery Agency of Japan and the Soviet Pacific Scientific Research Institute of Fisheries and Oceanography have also provided excellent sources of information on life history, abundance, and distribution of principal species.

9.4 Quality of data

To be most useful in the evaluation of stock condition and sustainable yield, data from the commercial fisheries should include the catch by species and the quality and quantity of effective effort expended to take this catch; they should be provided for relatively small geographical areas and time periods. In this way trends in catch and standardized catches-per-unit-of-effort (CPUE) can be monitored by precise time-area units so reliable inferences may be drawn concerning stock abundance. In addition, biological sampling should be adequate to estimate size and age composition of the catch, by time and area. These basic fisheries data (catch, effective effort, age and size composition) provide much of the input for determining mortality rates, relative year class strength, changes in stock density, recruitment, and other population characteristics upon which the condition of stocks can be measured.

Japan provides very detailed statistics on her fisheries (see Section 9.3), but even these are deficient in terms of fishing effort, age and size data, and completeness in reporting catches by species. The fishing power of the Japanese fleet has increased because of increases in vessel horsepower, improvements in fish detecting and harvesting gears, and experience acquired by the fishermen of the grounds, making difficult (perhaps impossible) adjustments to the reported nominal effort to reflect true fishing power. There is also the problem of determining what proportion of the total fishing effort was expended on each major species.

Until recent years data on size composition of the principal species harvested by Japan were insufficient because of incomplete areal and seasonal coverages, and the lack of associated age data to accompany the size information.

The U.S.S.R. has had a very poor history of reporting on her fisheries. There was virtually no breakdown of the catch by statistical areas that is useful in stock assessment nor were there data on the age and size composition of the catch. Likewise, data provided by other nations have virtually no utility for stock assessment purposes.

The problem of inadequate detail of commercial fishery information has been

partially solved as the U.S. observer program has expanded in scope to sample the foreign commercial catch. This program is also addressing the question of the accuracy and precision of reported catch data.

In addition to the observer program which provides a reliable source of catch, effort, and biological data, research vessel surveys provide an independent and, at times, less biased means of estimating the condition of groundfish stocks. The surveys are conducted in such a manner that estimates of age and size composition and other population characteristics can be obtained for the resource complex as a whole within the survey area, whereas commercial fisheries often concentrate on certain species, sizes of fish, and specific areas. Since research surveys can be done in a standardized manner, CPUE from the surveys serves as a very meaningful indicator of changes in fish density by time and area. Furthermore, surveys of juvenile or pre-recruit fish can best be done by means of research surveys; such surveys provide one of the few means by which predictions of incoming year class strengths can be obtained. There is also the relatively new approach of assessing stock size by acoustical sounding.

The main deficiency in existing survey data is the lack of areal coverage. Because of limitations in budget and physical aspects of the gear and vessels, the deeper waters (greater than 200 m) are generally not surveyed. Therefore, portions of the stocks of deep water flounders (arrowtooth flounder and Greenland turbot), sablefish, Pacific ocean perch and even pollock are not fully sampled. What the research surveys lack in coverage, however, is made up in detail which augments the broader but less precise data base obtained from the commercial fisheries.

9.5 Ecological relationships

9.5.1 Environmental characteristics

The Bering Sea shelf, with an area of some 1 million km², is about twice the size of that of the Barents Sea or the North Sea. On the average, it is slightly deeper than the North Sea but shallower than the Barents Sea. The bottom is trawlable over most of the shelf. The Aleutian Island shelves are relatively narrow and rocky, similar to that of the Gulf of Alaska.

Relatively weak tidal currents dominate the Bering Sea shelf. The permanent flow is sluggish and, therefore, the exchange of water masses between shallow and deep areas is very slow. On the other hand, the tidal currents around the Aleutian Islands are relatively strong and strong semi-permanent currents flow through the passes between the islands, effecting the water exchange between the deeper part of the Bering Sea and the central North Pacific.

Central and northern parts of the Bering Sea shelf are ice covered part of the year. Due to the absence of temperature and salinity stratification in the waters over the shelf during autumn and winter, cold water (0°C) is formed there under the ice from surface to bottom. This cold water on the bottom can persist until mid-summer and affects the distribution and migrations of demersal fish.

The annual range of temperature change over the Bering Sea continental shelf (from surface to about 150 m depth) can exceed 10°C. Over deep water near the Aleutian chain this annual change is less than 5°C. There is a subsurface temperature maximum of about 3.5°C, with associated high salinity, at a depth of about 150 m in the whole region under consideration. The areas along the continental slope, where this warmer subsurface layer intercepts the slope, are important overwintering areas for many demersal and even some pelagic fish (e.g. herring).

Of the oceanographic processes and their year-to-year variations, the following are the most significant in respect to the biota; 1) year-to-year variation of ice cover in the central and south-central part of the Bering Sea shelf; 2) the autumnal turnover of water masses on the shelf (returning nutrients from deeper layers and near the bottom to surface layers); 3) considerable monthly surface layer temperature anomalies (up to 3°C) in the central and southern Bering Sea; 4) formation of subzero bottom temperatures on the Bering Sea shelf; and 5) rapid flushing of the Aleutian Island shelves.

9.5.2 Biological characteristics

The Bering Sea is a typical high latitude area, with relatively few species, among which some dominate quantitatively to a high degree over the others. In scarcely any other ocean region is one fish species quantitatively so dominant as pollock in the Bering Sea. Rather pronounced cannibalism occurs in dominant species in general and cannibalistic interactions cause long-term quantitative changes in the ecosystem complex.

The most pronounced biological characteristic of the Bering Sea and Aleutian Islands are the presence of large numbers of marine mammals (e.g. 1.4 million fur seals alone) and birds (ca. 10 million shearwaters arriving each summer), which consume together at least as many fish as the commercial catch of all nations from this region.

Another basic biological characteristic of the Bering Sea is the presence of benthos on the extensive continental shelf, providing a food source (and support) for flatfish communities and for commercially exploitable crabs. The abundant benthos in the northern half of the Bering Sea contains, however, little "fish food"; most of it is made up of large, hard shelled clams. This northern benthos is similar to other high-latitudes benthos, where a phenomenon called "successive accumulation of generations" occurs.

A fourth general biological characteristic of the Bering Sea/Aleutian region is the relatively high basic organic productivity. This high productivity is largely caused by deep autumn/winter turnover which returns regenerated nutrients to the surface layers. This high organic production (combined with relatively slow decomposition rate of organic detritus in colder waters) causes the presence of a high standing crop of larger zooplankters (euphausiids) and boreal squids (gonatid squids), which in turn serve as an important food source for fish (and partly for mammals and birds). Thus, several semi-demersal fish

species (e.g. pollock, rockfishes, etc.) are less dependent upon benthic food and can live a pelagic life over deep water in the Bering Sea/Aleutian region.

9.5.3 Ecosystem characteristics

In the marine ecosystem there are intensive interactions between different species, their prey items, and environmental factors. Changes in abundance and distribution of one species (e.g. caused by fishery) affect the abundance and distribution of other species as well. Therefore, wise fisheries management requires the quantitative knowledge of all of these interactions; single species population dynamics' approaches are no longer fully adequate for modern fisheries management.

The quantitative processes in the marine ecosystem are beginning to be simulated and studied with numerical, dynamic, deterministic marine ecosystem reproduction models. A few results, pertinent to management of the Bering Sea groundfish fishery are presented briefly in this section. These results originate from the Dynamical Numerical Marine Ecosystem Model (DYNUMES III), currently in use at the Northwest and Alaska Fisheries Center, Seattle.

The DYNUMES III model permits the determination of equilibrium biomasses of individual species and groups of species (Table 21). Individual biomasses have also been calculated for both the juvenile and exploitable portions of populations (Figure 21). It is of interest to note that the total biomass of, for instance, all finfish varies but little from one year to another in a given region, but individual species can have considerable long/period fluctuations (periods usually larger than 10 years) in abundance, whereby some species incline and others decline in abundance.

The DYNUMES model permits the computation of the main component of "natural mortality"—i.e. grazing and the determination of the portions grazed, for instance, by mammals and by other fish (Figure 22). Grazing (consumption) is computed in trophodynamic computations. The results also allow the computation of annual turnover rates of the biomasses (Table 21).

In ecosystem sense, there is no "surplus" production in the sea for man to take. The question is mainly one of balance between ecosystem components, i.e. changes in target species biomasses and the resultant changes in the biomasses of prey, predator, and competitor species. The determination of such fishery-induced changes is one of the major objectives of the DYNUMES model.

Table 21.—Biomass, annual consumption, annual turnover rate, and relative monthly consumption of different species and/or ecological groups in the eastern Bering Sea, as computed with DYNUMES II

Species/ecological group	Mean biomass (B) 10 ³ tons	Annual consumption 10 ³ tons	Annual turnover rate C/B	% of biomass consumed per month
Pollock.....	8,235	5,820	0.7	5.8
Herring.....	3,260	2,970	0.9	7.7
Other pelagic fish.....	8,870	8,595	1.0	8.7

Species/ecological group	Mean biomass (B) 10 ³ tons	Annual (C) consumption 10 ³ tons	Annual turnover rate C/B	% of biomass consumed per month
Yellowfin sole	1,475	866	0.6	4.9
Other flatfish	2,030	1,630	0.8	6.7
Other gadids	2,340	2,580	0.9	8.1
Other demersal fish	2,550	2,790	1.1	9.0
Total finfish	27,260	23,850	0.86	
Squids	4,050	3,020	0.75	6.4
Benthos	25,600	19,730	0.77	6.3
Zooplankton		83,970		
Phytoplankton		(52,500)		

The results of conservative computations of the consumption of fish and other ecological groups by marine mammals and birds in the eastern Bering Sea are given in Table 22 (the computations are conservative in the sense that the lowest estimates of the number of mammals and their food requirements were used). The results show that mammals consume more than twice as much finfish as is taken in the total commercial catch. This strongly implies that finfish yield is at least as much a function of marine mammal abundance as it is a function of the finfish fishery itself.

The DYNUMES model shows that an intensive fishery can be, in some cases, beneficial to the production of biomass. Adult pollock are cannibalistic on juvenile pollock. The growth rate of juvenile fish, which feed mainly on euphausiids, is considerably higher than the growth rate of older fish. When an intensive fishery removes older, cannibalistic pollock, the grazing pressure on juveniles is relieved and productivity of the pollock biomass, at large, is enhanced. The model also indicates that in an underexploited population, cannibalistic interaction would result in a self-generating cycle of pollock abundance with a period of about 12 years.

Intraspecific cannibalism, as well as interspecific predator-prey relations cause a partial spatial separation of juveniles and adults (see Figures 23 and 24).

BILLING CODE 3510-22-M

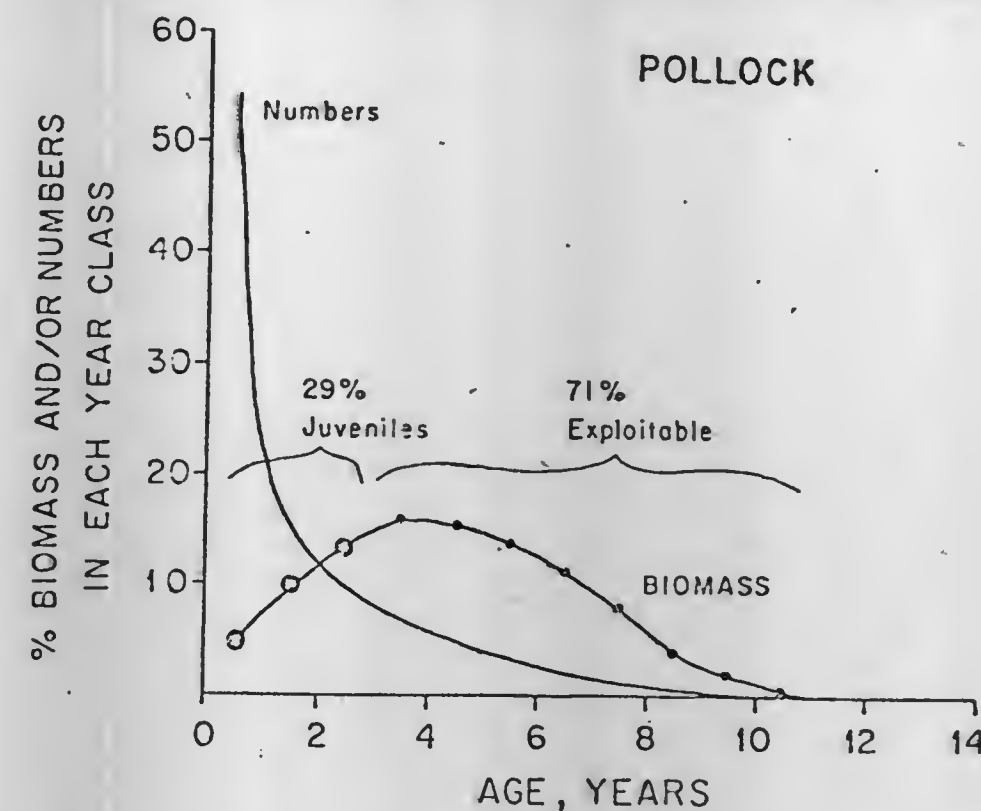


Figure 21--Distribution of biomass and numbers of walleye pollock within different year classes (% of total).

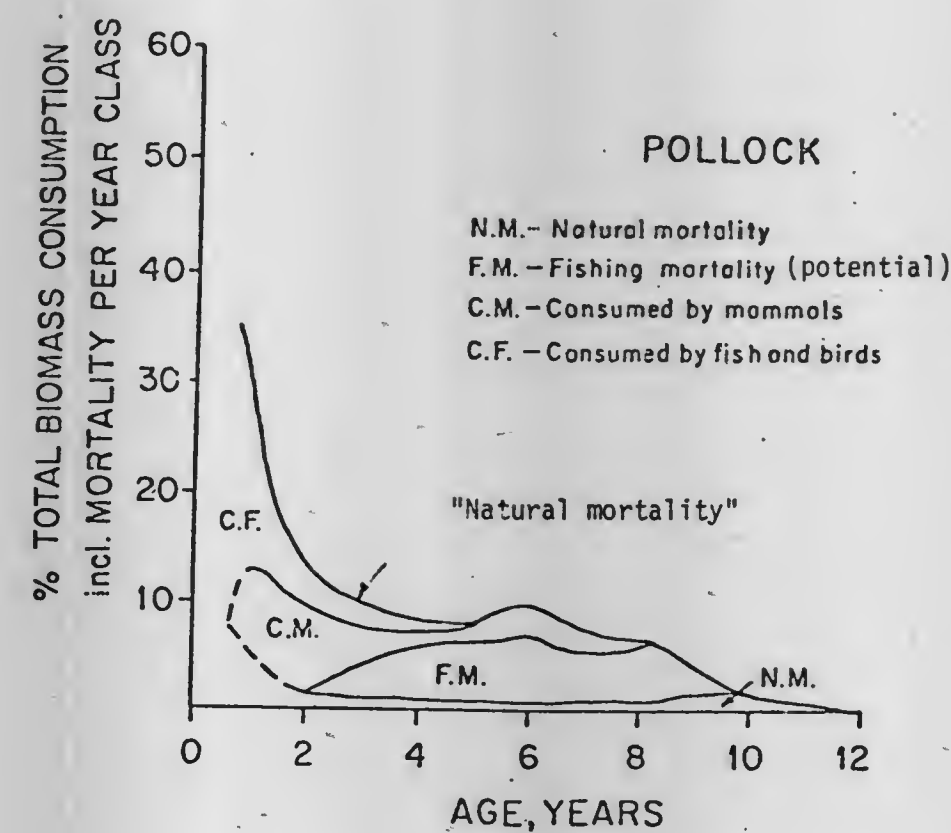


Figure 22.--Distribution of "consumption" with age of walleye pollock, as percent of total biomass.

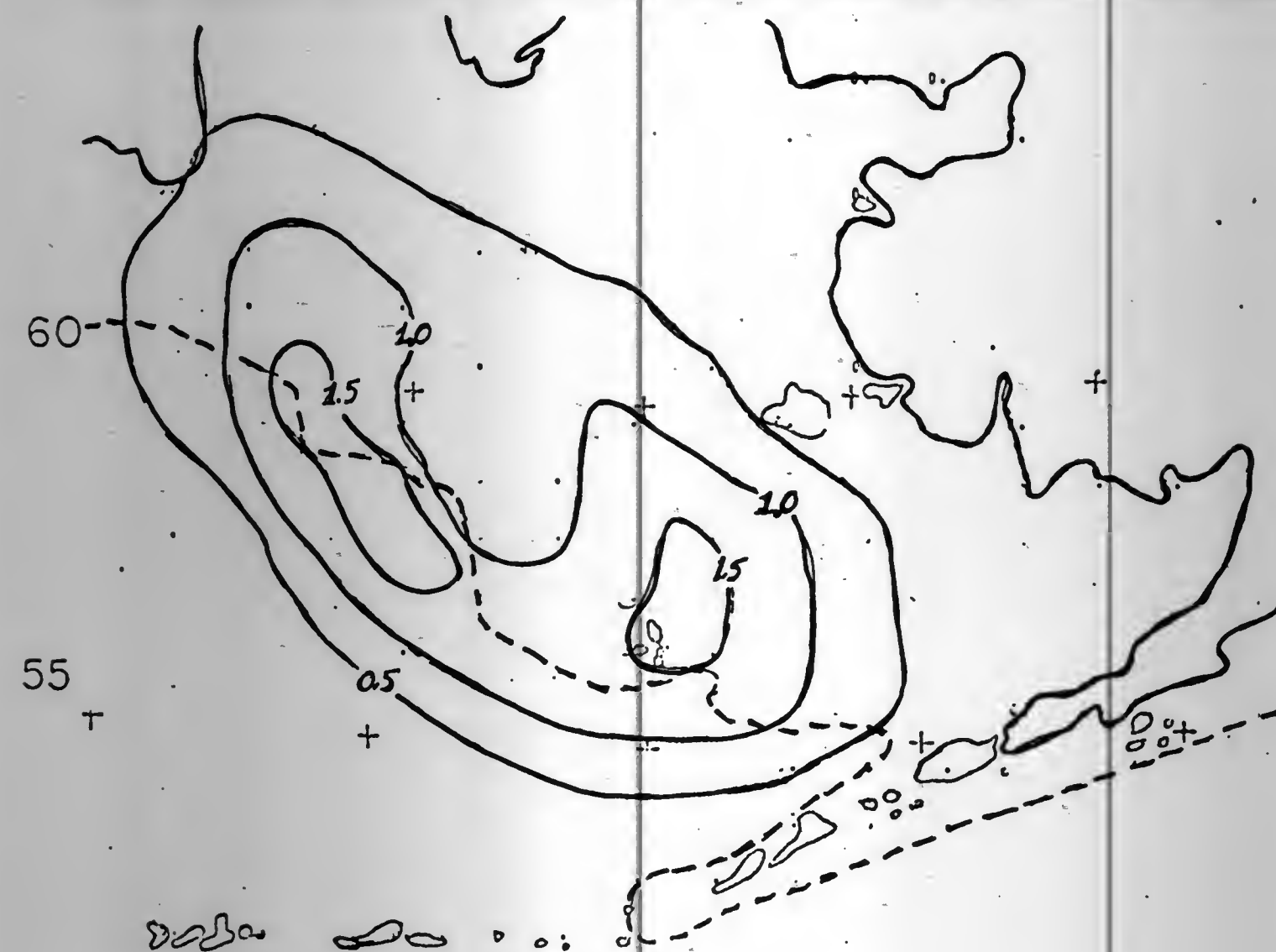


Figure 23 --Distribution of group 3 pollock (35 cm long) in August, computed with DYNAMES II (isopleths in mt/km²).



Figure 24 --Distribution of group 1 pollock (juvenile) in August, computed with DYNAMES II (isopleths in mt/km²).

BILLING CODE 3510-22-C

V
4
4
N
O
1
9
7
9
U
M
I

Table 22—Annual Consumption by Marine Birds and Mammals in the Eastern Bering Sea (in 10³ tons), as Computed with DYNUMES II ("Conservative" Inputs).

Species/group of species	Species/group of species consumed									
	Herring	Other pelagic	Salmon	Pollock	Other gadids	Flatfish	Total finfish	Zooplankton	Squids	Benthos
Marine birds.....	11.7	40.3	1.5	26.3	+	1.0	81.7	105.2	13.2	2.8
Fur seal.....	26.5	8.8	8.8	322.3	22.1	.....	386.5	.....	44.2	8.8
Sea lion.....	16.8	11.2	22.4	182.2	19.8	.....	252.2	.....	+	+
Bearded seal.....	25.0	25.0	8.3	83.5	41.7	41.7	225.2	.....	66.8	509.2
Harbor seal.....	66.9	31.2	6.7	89.2	13.4	6.9	216.3	.....	89.2	104.8
Ringed/ribbon seal.....	24.2	47.5	3.0	84.7	30.3	.....	189.7	.....	30.3	0.1
Walrus.....	+	+	1.6	6.8	+	4.8	13.1	.....	+	311.4
Total pinnipeds.....	159.4	123.7	50.8	766.5	127.1	55.5	1,285.0	.....	230.5	925.4
Baleen whales.....	20.7	27.7	.....	13.8	6.9	.....	89.1	1,189.3	124.5	+
Toothed whales.....	231.5	408.5	0.5	340.4	68.1	88.1	1,117.1	.....	.....	245.1
Total, whales, porpoises, dolphins.....	252.2	436.2	0.5	354.2	74.0	88.1	1,186.2	1,189.3	124.5	245.1
Total by birds and mammals.....	423.3	600.2	52.8	1,149.0	201.1	125.5	2,552.9	1,294.5	479.5	928.2

9.6 Current Status of Stocks

Stock assessment studies leading to determination of OY have been conducted on the following Bering Sea/Aleutian groundfish species categories:

Alaska pollock
Pacific halibut
Yellowfin sole
Turbot (arrowtooth flounder, Greenland turbot)
Other flatfishes
Pacific cod
Rockfishes (primarily Pacific ocean perch)
Sablefish
Atka mackerel
Squid
Others

Results of those studies, including the determination of maximum sustainable yield, current equilibrium yield, and acceptable biological catch are contained in Annex I to this Plan.

The approach used in Bering Sea groundfish assessment is to (1) determine statistical trends that relate to stock condition and/or (2) apply applicable population dynamics theories and models to determine stock characteristics and their dynamics, and finally (3) assess the overall condition of the stock, often-times empirically, by taking into account statistical trends and population dynamics theories and models. The techniques used to analyze the data vary considerably from species to species depending on the quality and completeness of the available data bases. For each of the above species or species groups, the biological production potential, in terms of maximum sustainable yield (MSY), current equilibrium yield (EY), and acceptable biological catch (ABC), has been determined. The units for which these biological potentials have been derived are species or

species groupings rather than the broader multiple species or ecosystems.

Maximum sustainable yield (MSY) is the largest average catch which can be taken from a stock over a period of years (in this case, generally since the development of significant fisheries in the 1960's) under the environmental conditions which persisted during that same period. This assumes an equilibrium in the population associated with a degree of stability in the environment during the time period considered. Even for such a relatively short time period neither the environment nor the dynamics of many fish populations can be expected to have been constant. The concept of MSY, therefore, is more applicable to longer-lived species in which variations in biomass are buffered by the presence of many year classes. Any long term stability in survival and recruitment, even in these populations is probably exceptional. As a general rule, therefore, MSY cannot be directly applied as a goal for fisheries management without proper evaluation of statistical trends in stock condition, such as can be inferred from current CPUE and age composition. In some instances, recent changes in environmental conditions may constrain current population growth to level far below historic levels of MSY. Under such circumstances the population would be at a lower level of equilibrium which may permit only a correspondingly low level of harvest, and even the most drastic of management measures may not restore a stock to some former level of productivity.

The present state of the science is inadequate to predict the capacity of environment for the production of fishery resources, ascertain with any certainty whether the depletion was a consequence of natural factors of overfishing, or to predict with confidence the consequences of

remedial management action. The complicated interaction processes associated with the productivity of marine fish populations in an ecosystem are not very well understood and even such fundamental assumptions as the association between stock size and recruitment strength, which are implicit in manipulation of harvest to achieve MSY, have not been verified or quantified. In fact, it is generally recognized by fisheries scientists that the existing theories and models pertaining to fishery resources management suffer some fundamental inadequacies, and concepts and theories must be developed to answer present and future management demands. Until such new concepts supersede the old, the latter can still serve as a useful basis for deriving management decisions, providing their limitations and underlying assumptions are recognized and evaluated with the best available information. This is the philosophy and approach used throughout this plan.

In contrast to MSY, equilibrium yield (EY) is based on the best estimates of the current condition of stocks. It is the annual or seasonal harvest which, theoretically, will maintain a stock at approximately the same level of abundance (apart from the effects of environmental variation) in succeeding seasons or years. In both under- and overexploited stocks, EY is less than MSY. When, on the basis of statistical trends, survey data, or other information, there is reason to believe that the abundance of stock is below that required to produce MSY, EY is then the maximum production that can be sustained under current population conditions. To rebuild such stocks to more productive levels, the annual or seasonal catch would have to be set below EY. This leads to the concept of acceptable biological catch (ABC).

By definition, ABC is a seasonally determined catch that may differ from MSY

for biological reasons. It may be lower or higher than MSY in some years for species with fluctuating recruitment. It may be set lower than MSY in order to rebuild overfished stocks. Operationally, ABC is the final, biologically-based estimate in the process leading to the determination of optimum yield (OY). The determination of OY is accomplished through the following steps: MSY to EY to ABC and, considering socio-economic elements of the fishery, to OY.

An important factor in determining ABC is an appraisal of the biological data base to evaluate its quality and completeness. If it is found lacking, a conservative approach to exploitation may be called for until evidence is produced to support a contention that higher yields can be sustained. In the absence of such evidence only catch levels which are equal to or less than the low end of the MSY-EY ranges can be considered relatively free from the risk of overexploitation. This concept acknowledges the possibility of overexploitation but, in the biological sense, overexploitation can lead to reduced abundance or undesirable ecosystem imbalance that might prevail for years while underexploitation leaves the resource base in a healthy condition, need only have a temporary effect on user groups, and, to some extent, the temporary loss to the users may be made up the following year.

In instances where a reasonably firm data base indicates that a stock is "healthy" in the context of current environmental and ecosystem conditions—i.e., is capable of producing the maximum equilibrium yield that then prevailing environmental conditions will allow—ABC may appropriately be set well into (rather than at the low end of) the current EY range, even though EY is believed to be lower than MSY. Similarly, next year's ABC may be set higher than this year's EY if higher than average recruitment is predicted (for instance, from prerecruit surveys).

9.7 Estimate of Future Stock Conditions

With the exception of Pacific ocean perch, Pacific halibut, and sablefish all other groundfish species in the Bering Sea/Aleutian Region are believed to be at levels of abundance equal to or greater than those that would produce MSY. The management regime described in Section 14.0 is designed to keep those healthy stocks at or somewhat above the level of abundance required for MSY, while providing sufficient relief to halibut, ocean perch, and sablefish so that their stocks can rebuild.

With particular regard to halibut, winter trawl closures of the past several years (which are continued in this Plan) appear to have been responsible for reversing the downward trend in juvenile halibut abundance.

In addition, there is no evidence of natural phenomena that could be expected to cause either serious biological or socio-economic consequences, although the possibility of undetected year class failures, declines in growth rate, or other adverse symptoms cannot be completely discounted. On the other hand, unforeseen enhancements of stocks condition are equally likely.

With the implementation of this plan, the short-term outlook for stock conditions is good.

In the context of long-term expectations, we are just now beginning to understand and quantify the complex relations among species and between the biota and the environment of this ecosystem (see Section 9.5). Until this understanding is much further developed, we are unable to predict the long-term effect on the ecosystem of the current, single species management strategies or of subtle environmental changes.

10.0 Other considerations which may affect the fishery

10.1 International Pacific Halibut Commission (IPHC)

The fishery for Pacific halibut, a species that is part of this region's groundfish community, remains under the jurisdiction of IPHC and is, therefore, exempt from the provisions of this Plan. A major source of the fishing mortality on this species—that by incidental trawl catches—is, however, beyond IPHC control. As long as Council and IPHC objectives concerning halibut utilization remain identical, coordination between the two organizations is easily affected. Should halibut management philosophies diverge—for example, because the broader-based Council constituency objects to constraints on trawl fishery developed caused by overriding halibut-saving measures—a major social, political, and, perhaps, diplomatic (because of Canadian involvement in IPHC and in the halibut fishery) confrontation could be precipitated. Furthermore, management actions taken in the Bering Sea that adversely affect halibut are likely to have a significant impact on the Gulf of Alaska halibut stock and fishery because of the interchange of halibut between the two regions.

10.2 Marine Mammal Protection Action of 1972

The FCMA of 1976 specifies that FMP's must be "consistent with . . . any other applicable law." The Marine Mammal Protection Act of 1972 is one that has a most serious impact on this FMP. There are large populations of many marine mammal species in the Bering Sea which are covered by the 1972 Act. The Act declares that marine mammals have "esthetic and recreational, as well as economic" value. To further these values, it provides that the "primary objective" of marine mammal management "should be to maintain the health and stability of the marine ecosystem." The Act further provides that "whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population (of marine mammals) keeping in mind the optimum carrying capacity of the environment."

Pursuant to provisions of both Acts, this FMP is cognizant of the ecosystem and mammal population requirements. As reported in an earlier section on "Ecosystem Characteristics," a dynamic numerical marine ecosystem model is currently in use to study ecosystem interactions, including those by marine mammals. The Plan Development Team of this FMP is acutely aware and is striving for an "ecosystem approach" for managing the marine resources. It will, however, be some time (3-5 years) before an appropriate ecosystem model has become far

enough developed, and empirically tested, to begin to be relied upon for resource management. Until that time, single species models will be applied to the fishery resources, but in a manner that will retain balance among the various fish components, be generally conservative, and be determined to be not detrimental to current marine mammal populations. The manner in which MSY, EY, and ABC were derived for each fish stock in Annex I has indirectly taken into consideration the volume of fish needed by marine mammals for their sustenance. For example, natural mortality of fish stocks is taken into consideration in stock assessments and in its present application, includes the predation component by marine mammals.

Concerning marine mammal populations in the Bering Sea/Aleutian region, the Team has solicited expert advice from the Marine Mammal Division of the Northwest and Alaska Fisheries Center and summarized information on their distribution and migration, abundance and trends, feeding habits, and any problems induced by fisheries. Accounts of seven important species that are affected by the fisheries are given in Annex V. These species are the northern sea lion, northern fur seal, bearded seal, ringed seal, harbor seal, large seal, and ribbon seal. Although specific ranges of optimum sustainable population has not been clearly determined for these species, the impact of fisheries can be inferred from marine mammal population trends. The Final Environmental Impact Statement on Consideration of a Waiver of the Moratorium and Return of Management of Certain Marine Mammals to the State of Alaska (DOC and DOI, 1977) considered the population of six species, other than fur seals, to be at levels above the lower level of optimum sustainable population. Northern fur seals are managed for maximum productivity and may also be at or above the lower level of optimum sustainable population.

Of the seven species, the seal lions and fur seals might be significantly affected by groundfish harvest levels. Although the northern sea lion population in Alaska has generally increased since the early 1900's and is now at a relatively high level, a 50% decline in seal lion population has been noted since the late 1950's in the eastern Aleutian Islands. The factors that may have caused this decline are not certain but probably include (1) a westward shift in distribution since population abundance to the western Aleutians appears to be high; (2) commercial fisheries interaction since groundfish (primarily pollock) forms a significant portion of their diet; (3) disease such as leptospirosis; and (4) other unknown population control factors. This decline in abundance is of concern and should be watched more closely. The proposed total groundfish OY for 1980 for the Aleutian region is below past catch levels and if the abundance of fish is limiting for sea lions in this region, this FMP should leave more fish for sea lion consumption.

The northern fur seal is the other species that may be significantly impacted by groundfish fisheries in that fur seals compete with Man for groundfish for their sustenance. Fishes are estimated to constitute about 80%

of their diet and pollock is the only groundfish species covered by this FMP which forms a dominant portion of their diet. The average size pollock observed in fur seal stomachs is 20 cm indicating that the pollock utilized by fur seals have not yet been subjected to the commercial fishery which take pollock larger than 25 cm. The actual impact of diet on the fur seal population is, however, more intricate and has not yet been quantified. Based on population size trends which became stable during the period of highest fish harvest and the proposal that pollock catches remain below historical high levels, it appears that measures in this FMP should also leave more pollock for fur seal consumption. The ecosystem modelling studies have shown that the removal of larger sized pollock from the population may actually increase the abundance of juvenile pollock as effects of cannibalism is reduced.

The other five species of marine mammals do not seem to be adversely impacted by the groundfish fishery in that these mammals feed primarily on pelagic fish, cephalopods, benthos, and crustaceans. Four of these seal (bearded, ringed, harbor, and large) populations are known to be high and stable. The ribbon seal population is believed to be relatively low, which has been attributed to commercial hunting by the Soviet sealing fleet. In recent years, this species has been afforded increased protection by Soviet sealing regulations and its numbers may be increasing again. Some groundfish eaten by ribbon seals but little direct competition is known to exist between ribbon seals and Man for fishery resources.

Although direct competition for food fish is one of many factors that affect marine mammal populations, the other factors are not readily quantifiable. Some of these mammals may be sensitive to disturbances created by fishing activities and may leave the area under such harassments. Harbor seals and ribbon seals are known to display such sensitivity, but it is difficult to quantify the effect of fishing on their behavior and abundance. It is noted that some harassments take place, such as the use of explosives to scare away mammals during fishing operations. It is also important to note that the groundfish fishery covered by this FMP account for some marine mammal mortality by the fishing gear. Preliminary estimates of marine mammal incidental mortality due to foreign fishing vessels in 1978 (Marine Mammal Division, George Harry, pers. comm.) were 8.57 animals per 10,000 metric tons of groundfish by the Japanese fishing fleet, 1.69 by the Soviet fleet, and 9.84 in the Korean fleet. Assuming an overall incidental mortality rate of 8.57 animals per 10,000 mt of groundfish, the total incidental mortality on marine mammals, most of which are expected to be northern (stellar) sea lions, is estimated to be 1,237 animals based on a total OY of 1,443,500 mt of groundfish proposed by this FMP.

Overall, the proposed groundfish FMP should reduce competition with marine mammals for fish when compared to the past decade. The proposed total groundfish OY is about 25 percent below the average catch of 1969-76, thereby leaving more fish for marine mammal consumption.

On the other hand, restrictions on killing or harassing seals and sea lions according to the Marine Mammal Protection Act results in an unknown but probably significant economic loss to the fishermen. First, in the setline fishery, some of these seals and sea lions mutilate or remove part of the catch before it can be taken aboard. Second, large numbers of the animals often gather around trawlers and attack halibut, salmon, and crabs which, as a conservation measure, are required to be returned to the sea. Third, and of greatest import, the maintenance of large populations of marine mammals—seals, sea lions, porpoises, and whales—has a profound impact on the abundance of commercial fish species. This impact is both direct, through predation on commercial species, and indirect, through grazing on the same food organisms utilized by commercial fish species.

The effect of such interaction is being studied by an ecosystem simulation model. In order to develop the model to encompass the ecosystem approach for managing the marine resources of the region, better information on the mammals and their interactions with other components of the ecosystem must be obtained. It will take time to refine and test this management for management purposes.

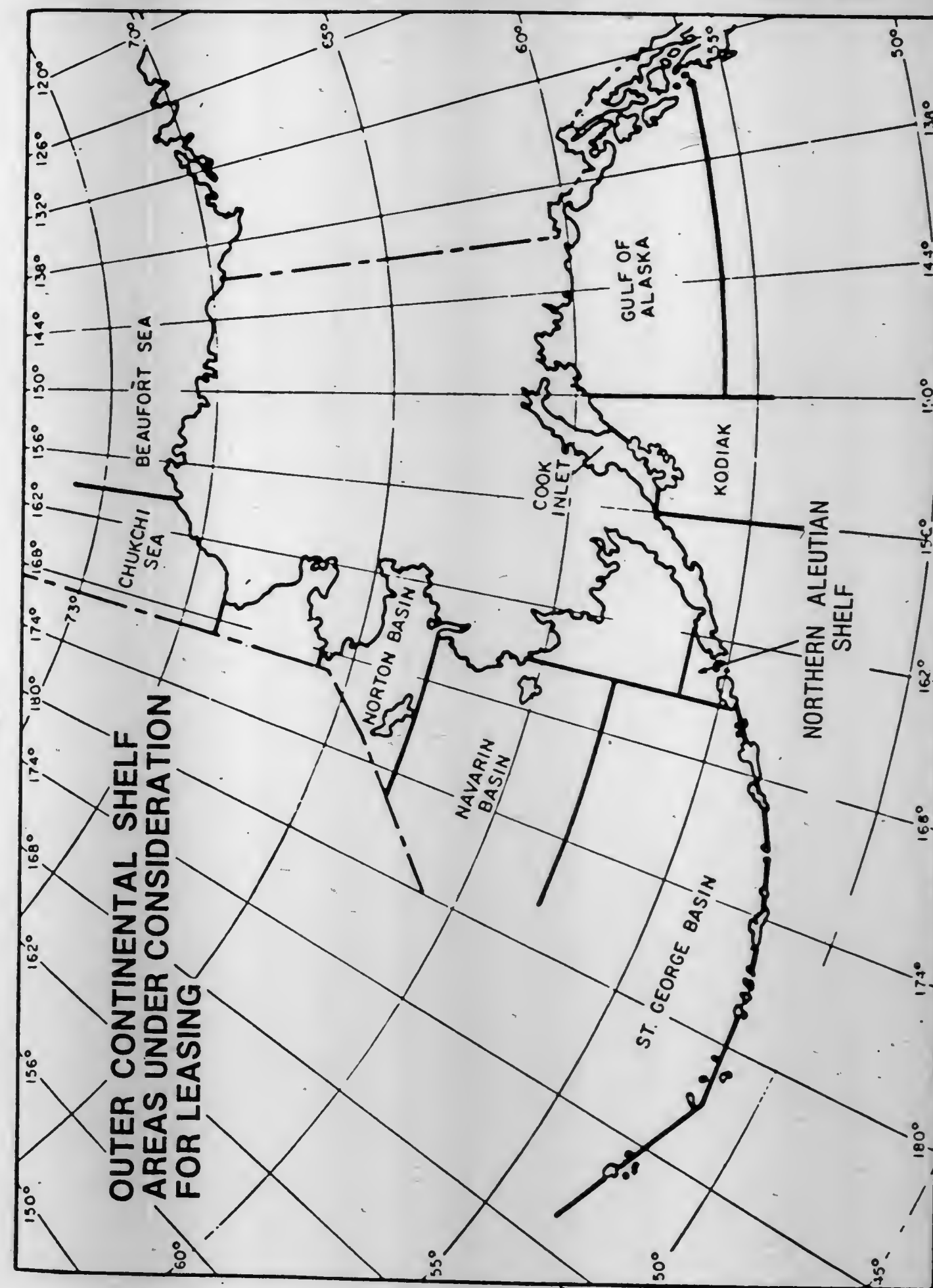
All fishermen, foreign and domestic, are required under the provisions of the Marine Mammal Protection Act of 1972 to obtain a marine mammal certificate of inclusion if any marine mammals might be taken incidental to the conduct of their fishing operation.

10.2.1 Endangered Species Act

The Federal action proposed in this fishery management plan is not likely to jeopardize the continued existence of endangered or threatened species, or result in the destruction or modification of habitat critical to those species.

BILLING CODE 3510-22-M

Figure 25



U.S. Department of the Interior Map

BILLING CODE 3510-22-C

10.3 Offshore Petroleum Production

Large areas of the eastern Bering Sea Continental Shelf have been identified as proposed sites for the production of oil and gas (Figure 25). Once drilling and production begin, there will arise a potential for oil pollution and physical hazards to fishing, such as sea-floor well heads and tanker traffic.

10.4 Bio-economic Factors

U.S. fishery interests have suggested that development of a domestic groundfish fishery in the Bering Sea will be based on the production of fillets and that the size of fish necessary to economically produce fillets is greater than that needed for such products as fish sausage and meal which form a large part of the output of the foreign fisheries.

The average size of pollock caught in the Bering Sea has decreased through the history of the fishery. During the early years (1964-69), the average size of fish taken by Japan varied between 42 and 44 cm (16.5 and 17.3 inches). Subsequently, average size decreased to 40 cm (15.7 inches) in 1972 and as low as 31 cm (12.2 inches) in 1975 before recovering to 33 cm (13 inches) in 1976. Current average size may be too small for efficient machine filleting.

The cohort analysis technique has been used to quantify the growth of a pollock year-class to its maximum biomass and subsequent decay as mortality overtakes growth. In theory, a year-class of pollock is subject to natural death (which reduces the number) and growth (which increases individual weight). The combined effect of these factors is that the cohort biomass will increase to a maximum and then decrease thereafter. Utilizing these concepts one can determine the age when a pollock cohort is maximized and what gain or loss in biomass from the theoretical maximum occurs from restructuring the population. In this analysis, species interactions are not taken into consideration; the analysis is concerned only with material change to the pollock population.

In order to explore the growth and decay phases of a pollock cohort, the equation (Alverson & Carney, 1975) is used:

$$P_t = (N_0 e^{-Mt}) W_{\infty} (1 - e^{-Kt})^b$$

where P_t is the population weight at any specific time,

N_0 is the beginning number of individuals, W_{∞} is the maximum weight at the maximum average theoretical size where $W_{\infty} = aL^b$

(a = constant, L_{∞} = maximum length, b = exponent),

M is the instantaneous natural mortality rate, K is the Von Bertalanffy growth factor, and t is time.

The sources of data used in the equation are as follows:

Von Bertalanffy growth parameters—
Yamaguchi and Takahashi (1972)

Male L_{∞} = 75.40 K = -0.165 t_0 = 0.273
Female L_{∞} = 76.20 K = -0.163 t_0 = 0.291

Length-weight relationship parameters—

Male a = 0.00952 b = 2.918
Female a = 0.00820 b = 2.958

Other Input Parameters

N_0 = 10,000 (any assumed number)

M = 0.43 (best estimate of M) (M = 0.35, 0.375, 0.4, 0.45, 0.5, 0.6 were also investigated)

ratio of male to female = 1:1

Results of the cohort analysis (Appendix II) show that a pollock cohort (both sexes combined) maximizes its biomass at about age 4 (average size = 38 cm or 15 inches, average weight = 393 gm or 0.9 lbs) when M = 0.43. If that cohort is exploited at later ages, the exploitable biomass will decrease as follows:

Age	Biomass (% of maximum)	Average length (inches)	Average weight (lbs)
4	100	15.1	0.9
5	98	17.3	1.3
6	86	19.2	1.8
7	71	20.8	2.2
8	58	22.2	2.7
9	42	23.3	3.1
10	31	24.3	3.5

Exploitable biomass will, theoretically, decrease to about 50% of the maximum if average length is maintained at 22.2 inches (average age = 8; average weight = 2.7 pounds) instead of at 15 inches (the average length when yield is maximized).

Two other factors which appear to bear on this matter have been tentatively identified in a developing, numerical ecosystem model (Laevastu et al. 1976). A major source of natural mortality within the pollock population is cannibalism. Therefore, maintenance of large numbers of large fish would result in a high rate of cannibalism of young which would, in turn, decrease recruitment and exploitable biomass, and ultimately lead to violent, self-generating cycles in total abundance and size structure of the population.

10.5 Crab-bait Trawl Fishery

The only domestic trawl fishery which occurs in the Bering Sea/Aleutian region at present is a relatively small effort for crab bait. This activity is pursued by a few crab vessels, using very small (as required by State of Alaska regulation) trawl nets and by 1-3 other trawlers which sell their catches directly to crab vessels on the grounds. Total trawl catches for bait are estimated to have been about 450 mt in 1977 and 900 mt in 1978. Although a groundfish fishery, this trawl operation is more properly considered as an adjunct of the U.S. Bering Sea king and Tanner crab fishery. Because of this close relationship, the potential for gear conflicts—which is high when mobile (trawl) and fixed (crab pot) gear is used on the same grounds—is negligible in this unique situation.

11.0 Optimum Yield (OY)

There are four categories of species and species groups (Annex VI) that are likely to be taken by the groundfish fishery of this region, to each of which the optimum yield concept is applied somewhat differently:

1. *Prohibited Species*—those species and species groups which must be immediately

¹Laevastu, T. F. Favorite and B. McAllister. 1976. A dynamic numerical marine ecosystem model for evaluation of marine resources in eastern Bering Sea. Northwest & Alaska Fisheries Center, Natl. Mar. Fish. Serv. Processed report, 69 p.

returned to the sea by vessels operating in the groundfish fishery. Records of catch of each species must be maintained.

2. *Target Species*—species and species groups which are commercially important, targeted upon by the groundfish fishery, and for which a sufficient data base exists that allows each to be managed on the basis of its own biological, social, economic, and ecological merits. A specific OY applies to each species or species group. Records of catch of each species must be maintained.

3. *Other Species*—species and species groups which currently are on only slight economic value and not generally targeted upon. This category, however, contains species with economic potential or are important ecosystem components, but sufficient data is lacking to manage each separately. Accordingly, a single OY, equal to 5 percent of the combined OY's for the "Target Species", applies to this category as a whole. Records of catch of this category as a whole must be maintained.

4. *Non-specified Species*—species and species groups of no current or foreseeable economic value and which are taken by the groundfish fishery only as an accidental bycatch to target fisheries. Virtually no data exists which would allow population assessments, but occasional records from U.S. observers aboard foreign vessels and from U.S. research vessels shown no noticeable decline in abundance. The OY for this category is that amount which is taken incidentally while fishing for target species, whether retained or discarded. No record of catch is necessary. (Note: If observer or enforcement records show that any species in this category is being actively targeted upon or that the abundance of any species is becoming substantially reduced, that species will be transferred to either the Target Species or Other Species category and subject to an absolute OY.)

With the expectation over the near term of only a modest domestic involvement in this fishery (see Section 12.0 below), and having identified no social or economic reasons for reducing the yield of stocks in this fishery below ABC, Optimum Yield for all but the "Non-specified" species will be considered equal to ABC, as shown in Annex I.

It should be noted, especially by foreign participants in the fishery, that such economic factors as higher catch rates or greater average size than can be expected when production is at the level of ABC, or limited seasonal availability to this fishery by domestic fishing vessels could be introduced as OY considerations if they are considered necessary for U.S. fishery development, and can be shown to not have an unreasonable impact on the U.S. consumer.

12.0 Catch and capacity descriptors

12.1 Domestic Annual Capacity

12.1.1 Domestic commercial processing characteristics

Since the domestic groundfish fishery in the Bering Sea and Aleutians consists of a part time trawl operation for king and Tanner crab bait, and a few weeks of longlining for halibut each year, there essentially is not industry to describe. The information presented is more of a description of the

latent groundfish capacity of the current shellfish industry including some expansion plans.

A survey was made of the majority of the companies which process shellfish in the eastern Aleutian Islands (Unalaska and Akutan) and the western end of the Alaska Peninsula. The central and northeastern Alaska Peninsula and Bristol Bay plants, except as they might represent investment and contribute to gross sales of the parent companies with operations further west, were not considered because of their inability to be operated year round either because of ice or specialization for summer salmon processing.

Representatives of ten companies with 16 operations in the Aleutians and western Alaska Peninsula were contacted. Responses to all questions were not obtained due to the tentative nature and lack of completeness of plans of groundfish operations in 1979, or because company policy precluded divulging certain information.

Seven of the companies with operations in the area indicate gross annual sales of a total of 192.5 million dollars. This amounts to 43% of the total first wholesale value of all fisheries products processed in Alaska in 1976, the latest year for which data are available.

Since several of Alaska's major processing companies are represented in the relatively small number of companies with operations in the area, an average gross expanded to include all operators is not included in this section because it would likely provide an inflated representation of the size of the marketing structure of the westward processors.

Of the fifteen companies known to have operations in the western Alaska Peninsula-Aleutian Islands, nine indicated current plant investments totalling 61.5 million dollars. As in the case of total sales, this is considered atypical since almost all the major companies operating in Alaska are represented in the sample.

It should be noted however, that the companies with operations in the area are heavily involved in the fish processing business in Alaska through plant investment, and account for a substantial portion of the resources processed in the state.

The processing industry in westward Alaska is highly dependent upon transient labor. The small villages of Unalaska and Akutan have inadequate workforces to handle the catches of the large, modern Bering Sea crab fleet. In the early period of the fishery, workers from the Pribilof Islands and the coastal Eskimo villages were recruited for processing work. While the industry still depends on Alaskan help to a considerable extent, the expansion of processing capacity as a result of the growing Tanner crab fishery and the displacement of the Japanese and Russian king crab fisheries in the Bering Sea have necessitated increased recruitment from the other states.

One of the problems processors have had to cope with is processing the crabs, especially king crab, fast enough to get the catcher boats turned around and back to the fishing grounds. As the fleet grows in size and efficiency, the processor is faced with a

shorter season in which to get enough product to make a profit, while keeping the "turn around" time for the vessels delivering crab short so that the skippers do not find it in their best interest to seek markets elsewhere.

The solution to these particular problems has been to create a large transient work force and the facilities to house it. Shoreside and shipboard bunkhouse facilities in the eastern Aleutians currently have the capacity to house approximately 2,400 workers.

To the extent that the current and planned capacity would be suitable for groundfish, the daily freezing and holding capacity has been used as an indication of the domestic processor's groundfish capacity.

Plans for 1979 include some processing capacity at Unalaska which will be dedicated entirely to groundfish. There are indications that such plans are being considered, by several companies, but target dates are indefinite. Several of the company representatives interviewed believed that groundfish and crab operations are not compatible, i.e., groundfish cannot be processed in a vacant corner of a crab plant, nor can crab processing lines be torn out or modified for short periods of time to convert a plant to finfish processing. The consensus seemed to be that if there were to be a serious attempt to process groundfish on a production basis, the plant would have to be planned and built from the ground up in order to provide for the efficiency necessary to profit from a high volume-low priced product. None of the shellfish processors indicated that groundfish could be handled while the crab season is open, for reasons discussed above.

Estimates of freezing and holding capacities, and the percentage of time a plant would be available for processing groundfish were obtained from seven companies involving eleven operators. Estimates of from 20% to 50% were made of the plants' annual capacity that would be available for diversification.

The seven companies represent a cumulative daily freezing capacity of 520 metric tons. This capacity would be available 37 percent of the year, on the average. Therefore, if it is assumed, as it was for the Gulf of Alaska groundfish fishery, that a processing plant can operate 250 days a year, then

$$520 \text{ mt} \times .37 \times 250 = 46,100 \text{ mt}$$

would represent the estimated annual capacity of the processors in the area during the crab off-season. Since there is some question as to the ability to process and freeze groundfish during crab seasons, no

attempt has been made to estimate capacity during those periods of time.

In addition to the estimated off-season capacity in the shellfish fishery, there are plans to have 6,250 mt of capacity exclusively designed for groundfish. Total estimated capacity would then be 54,350 mt.

Nine processors indicated a cumulative holding capacity of 13,900 mt. This would hold about a twenty day run of the off-season freezing capacity in the area.

12.1.2 Commercial fishing fleet

A projection of domestic annual capacity for groundfish in the Bering Sea is limited by the fact that to date there has been virtually no effort directed at the harvesting of groundfish in the Bering Sea by U.S. fishermen. Since a domestic trawl fishery has yet to be developed, an estimate of domestic capacity must rely upon a determination of the types of existing vessels that are likely to succeed in the fishery and how much fishing time will be available to them.

NORFISH, a Sea Grant program at the University of Washington, has been involved in an analysis of the shellfish fleet in the state of Alaska, with reference to the future development of a domestic trawl fishery. A classification system was developed for characterizing shellfish vessels on the basis of such characteristics as length, horsepower, hull type and gear types employed.¹ Certain types of shellfish vessels are likely candidates for entry into a trawl fishery, based on their trawling capability and other features. In particular, combination crabber-trawler type vessels (classes 8.1 to 8.5) have the largest potential fishing power of the existing shellfish vessels for the harvesting of groundfish. Subsequent estimates of capacity are based on these vessel classes, since they are expected to provide most of the initial future capacity.

An initial estimate of domestic harvest capacity can be obtained by examining the hold capacity of the combination vessels, shown in Table 23. This estimate assumes a packing factor of 40 pounds of iced fish per cubic foot of space. Also included are the number of vessels in each class which have made shrimp landings and provide a minimum estimate of the number of combination vessels currently equipped to trawl. Table 24 indicates the change in number of combination vessels between 1975 and 1977. The net increase in number of combination vessels has resulted in an overall increase in total hold capacity of 10 per cent over the past two years.

¹NORFISH Technical Report #61. The Classification, Enumeration, Characteristics and Economic Performance of Alaskan Fishing Vessels. NEPAC Progress Report II. 1976. 23 pp.

Table 23.—Hold Capacity of Combination Crabber-Trawler Vessels

NORFISH class	No. of registered vessels	Keel length (feet)	Ave. hold capacity (cu. ft.) ¹	Total capacity (40 lbs./cu. ft.)	Class total (lbs.)	Number to trawl shrimp
8.1	30	59.1-70	2800	112,000	3,360,000	11
8.2	65	70.1-82	3000	120,000	7,800,000	24
8.3	38	82.1-90	3500	140,000	5,320,000	8
8.4	32	90.1-100	5500	220,000	7,040,000	1
8.5	14	100.1-120	7500	300,000	4,200,000	0
	179				27,720,000 (or 12,375 MT)	

¹Revised figures provided from shellfish research group sessions held by Alaska Commercial Fisheries Entry Commission, 1977.

Table 24.—Changes in Number of Registered Shellfish Vessels, Western Alaska, 1975–77

Class	No. regis-tered 1975	No. boats gained	No. boats lost	Net gain	No. regis-tered 1977	No. regis-tered ¹ SE Alaska 1977
8.1	25	5	1	4	29	1
8.2	65	9	10	-1	64	1
8.3	31	4	0	4	35	3
8.4	28	4	0	4	32	0
8.5	13	3	2	1	14	0

¹Southeast Alaska vessels were tabulated separately since the 1975 survey did not include them.

Another factor affecting capacity is the amount of fishing time available. If it can be assumed that the domestic trawl fishery will begin primarily as an off-season fishery for shellfish fishermen, currently unused fishing time within the fleet would provide an estimate of time available for harvest of groundfish. To determine if there is unused capacity within the combination vessel classes, an analysis of the landing record of each vessel was performed.² The frequency distribution of interlanding times was used to derive an estimate of maximum trip length for each species fished. The maximum trip length was adjusted to take into consideration the limitation of holding time on board for various species. Allowing for a layup of 60 days per vessel, the number of additional fishing trips available by vessel class and trip length were calculated. Table 25 summarizes these results.

Given the current limitations in holding catches on board, particularly in the case of pollock, a 4 to 7 day trip length seems reasonable to expect. If 20 to 30 metric tons per day is a realistic catch rate in the Bering Sea, then the domestic annual capacity could be expected to be about 157 thousand metric tons, as indicated in Table M. This estimate was calculated by ignoring 1 to 3 day intervals and adding in the appropriate number of 4 to 7 day trips which could be made from within the longer time intervals listed in Table 26.

It should be noted that this estimate of domestic annual capacity assumes that all combination vessels are currently equipped to trawl. In fact, perhaps half of the fleet would require extensive modification beforehand. This figure is also high considering unused effort that might be directed towards Gulf of Alaska groundfish fisheries instead of the Bering Sea. Conversely, if trawling for groundfish in the Bering Sea proves to be more profitable than participating in alternative fisheries, the estimate of domestic annual capacity would need to be adjusted upward.

²Methods used are detailed in NORFISH Paper NPB3, Pragmatic Approaches to Fisheries Management for Optimum Yield—Determination of Supply Curve for a Domestic Alaska Pollock Fishery, 1977, 7 pp. and in Technical Report #79 (In prep.).

Table 25.—Number of Additional Fishing Trips Available by Combination Vessel Class and Trip Length for 1976¹

Potential trip length	Vessel class				
	8.1	8.2	8.3	8.4	8.5
1–3 days	20	108	22	21	8
4–7 days	24	78	25	23	10
8–14 days	19	47	23	25	8
15–21 days	9	28	14	12	4
22–30 days	5	40	13	13	8
31–60 days	11	31	8	5	3
>60 days	23	74	38	40	11
No. of ² vessels	21	65	31	28	10

¹These figures allow for 60 days layup per vessel.

²These totals vary from Tables 1 and 2 because they are based on the actual number of vessels which made landings.

Table 26.—Harvest Capacity of Groundfish Based on Utilization of Unused Fishing Time, Estimated From 1976 Landing Times

	Vessel class				
	8.1	8.2	8.3	8.4	8.5
Number of 4–7 day trips available	302	1007	433	426	139
Number of vessels available	21	65	31	28	10
Number of trips per vessel	14	15	14	15	14
Number of days to fill boat at catch rate of 24MT/day	2	2.5	3	4.5	6
Annual Capacity in 10 ⁴ pounds	33.8	120.8	60.6	93.7	41.7
Total: 156,518 M.T.					

12.2 Expected Domestic Annual Harvest (DAH)

Expected domestic annual harvest (DAH) is the estimated portion of the U.S. groundfish harvest which will be utilized by domestic processors (DAP), the estimated portion, which will enter non-processed markets (DNP) and the estimated portion, if any, delivered to foreign processors (JVP) which are permitted to receive U.S. harvested groundfish in the Fishery Conservation Zone.

U.S. groundfish processing capacity is currently estimated to be 54,350 metric tons annually (Section 12.1.1.). U.S. commercial fishing fleet capacity is currently estimated to be 156,518 metric tons (Section 12.1.2.). Neither of these estimates, however, allow a projection of the domestic intent to catch and process except to define physical maximums. In order to estimate DAP all processors located in or adjacent to this region were surveyed to determine their specific plans for handling groundfish during the plan year. The results of this survey are given in Annex II.

Non-processed fish (DNP) is derived from estimates of the quantities and species of groundfish that enter non-processed fish markets. The principal utilization is for pot bait in the crab fisheries with lesser quantities used as bait in the longline

fisheries. Minor quantities are used in this region for direct household consumption (subsistence fisheries). Determination of DNP is based on reported sales, interviews with fishermen who utilize groundfish catches for bait and surveys of communities in the region whose inhabitants utilize groundfish for direct consumption. Projected utilization in the plan year takes account of changing demands related to changes in magnitude of the crab fisheries, the primary users in this category.

JVP is the U.S. harvested portion of the OY in excess of the capacity and intent of U.S. processors to utilize or for which actual domestic markets are not available that will be delivered to foreign processors who are authorized to receive such U.S. harvested fish in the Fishery Conservation Zone. Estimates of utilization in this category are derived from surveys of the companies who intend to have joint venture operations in the Bering Sea during the plan year. The results of that survey are given in Annex II.

Since estimates of future production by processors are made without benefit of any previous processing or harvesting experience in this fishery it is difficult, if not impossible, for them to be completely accurate. It is generally recognized by those processors making the estimates that their figures are optimal and based on assumptions that frequently may not materialize. Machinery or installation delays, changes in markets, better than normal alternative fisheries for the fishing fleets (or processors) may all affect their actual production. Therefore, a DAH reassessment system and release mechanism is established through this plan and by regulation to allow adjustments in DAH during the plan year.

Production by U.S. fishermen and processors shall be reassessed periodically based on:

1. production to date during the year;
2. current fishing and production activity; and
3. projections for additional production during the remainder of the year based on demonstrated capacity, both in processing and harvesting sectors.

Releases from DAH to TALFF shall be made by the NMFS Regional Director after consultation with the Council. No release or transfer shall be made if such release is likely to have an adverse biological, economic, or social consequence.

13.0 Allocations between foreign and domestic fishermen

13.1 Reserve

As mentioned in Section 12.2 and Annex II, U.S. participation in the fishery in the near future is expected to consist of a relatively modest catch for crab bait and limited pilot efforts for foodfish production.

In order to prevent OY's from being exceeded without preventing unexpected domestic fishery development; i.e. an unanticipated increase in U.S. catching capability and intent, 500 mt or 5 percent of

the OY (whichever is the greater) of each species will be held in reserve for allocation late in the year on the basis of domestic need. Specific reserve amounts are shown in Annex III.

Unless specifically withheld by the NMFS Regional Director acting with the advice of the Council, up to 25 percent of the reserve of each species will be released to TALFF every two months, beginning with the end of the second month of the fishing year, with the intention that by the end of the eighth month of the fishing year, all of the reserve will either be made available to foreign fishermen or reserved for domestic use.

13.2 Total Allowable Level of Foreign Fishing (TALFF)

The initial TALFF for each species shall be determined by the equation TALFF=OY-DAH-Reserve. TALFF may increase during the year as reserves are apportioned between domestic and foreign fishermen, or if after reassessment during the year it is found that not all of it will be used by U.S. processors and harvesters, DAH may be released to TALFF. Initial TALFF's are shown in Annex III. The estimation of DAH is shown in Annex II.

14.0 Proposed Management Regime

14.1 Specific Management Objectives

A. Continue rebuilding the halibut resource so that a viable halibut setline fishery is again available to American fishermen.

B. Rebuild depleted groundfish stocks to, and maintain healthy groundfish stocks at levels of abundance that will produce MSY.

C. Provide an opportunity for U.S. involvement in the Bering Sea/Aleutian groundfish fishery, limited only by the OY of individual species and objectives A and B above.

D. Allow foreign participation in the fishery, consistent with objectives A, B, and C above.

Objective A will be accomplished by winter restrictions on fishing in areas where juvenile halibut are known to concentrate. Objective B, as it pertains to Pacific ocean perch and sablefish, will be accomplished by setting OY below current equilibrium yield (see Section 9.8.2. and Annex I) so that abundance can rebuild to the level necessary to produce MSY. Objectives C and D will be accomplished as provided for under Sections 12.2, 13.1, and 13.2.

14.2 Area, Fisheries, and Stocks Involved

This Fishery Management Plan and its Management Regime applies:

A. To the U.S. Fishery Conservation Zone of that portion of the North Pacific Ocean adjacent to the Aleutian Islands which is west of 170°W, and of the entire Bering Sea (see Figure 26).

B. To all foreign and domestic fishing vessels operating in the area described in A above, except:

1. U.S. and Canadian fishermen when they are operating under IPHC regulations;

2. Those U.S. vessels which are operating legally in any fishery for shellfish

C. To all stocks of finfish and squid except salmon, steelhead trout, Pacific halibut, and herring which are distributed or are exploited predominantly in the area described in A, above.

14.3 Management Measures and Their Rationale

14.3.1 Domestic

14.3.1.1 Permit requirements

All U.S. vessels operating in that part of the Bering Sea/Aleutian groundfish fishery which is under Council jurisdiction must have on board a current permit issued by the Secretary of Commerce or, if considered acceptable by the Secretary, a State of Alaska vessel license.

14.3.1.2 Prohibited species

In accordance with existing state and federal statutes.

14.3.1.3 Area closures

A. General. None

B. Trawl

1. "Bristol Bay Pot Sanctuary" (as described in Appendix III and Figure 27)—domestic trawling will only be permitted during open seasons of the U.S. Bering Sea crab fisheries.

2. "Winter Halibut-savings Areas" (as described in Appendix III and Figure 27):

(i) December 1–May 31—domestic trawling will be permitted only until the total U.S. trawl catch from this area exceeds 2,000 mt;

(ii) June 1–November 30—no closures.

3. Other areas—no closures

Rationale:

To prevent high incidental catches and mortality of juvenile halibut which are known to occur in winter concentrations in the "Bristol Bay Pot Sanctuary" and the "Winter Halibut-savings Areas" while allowing for some expansion in primarily the traditional crab-bait trawl fishery and the initial development of a human consumption fishery.

BILLING CODE 3510-22-M

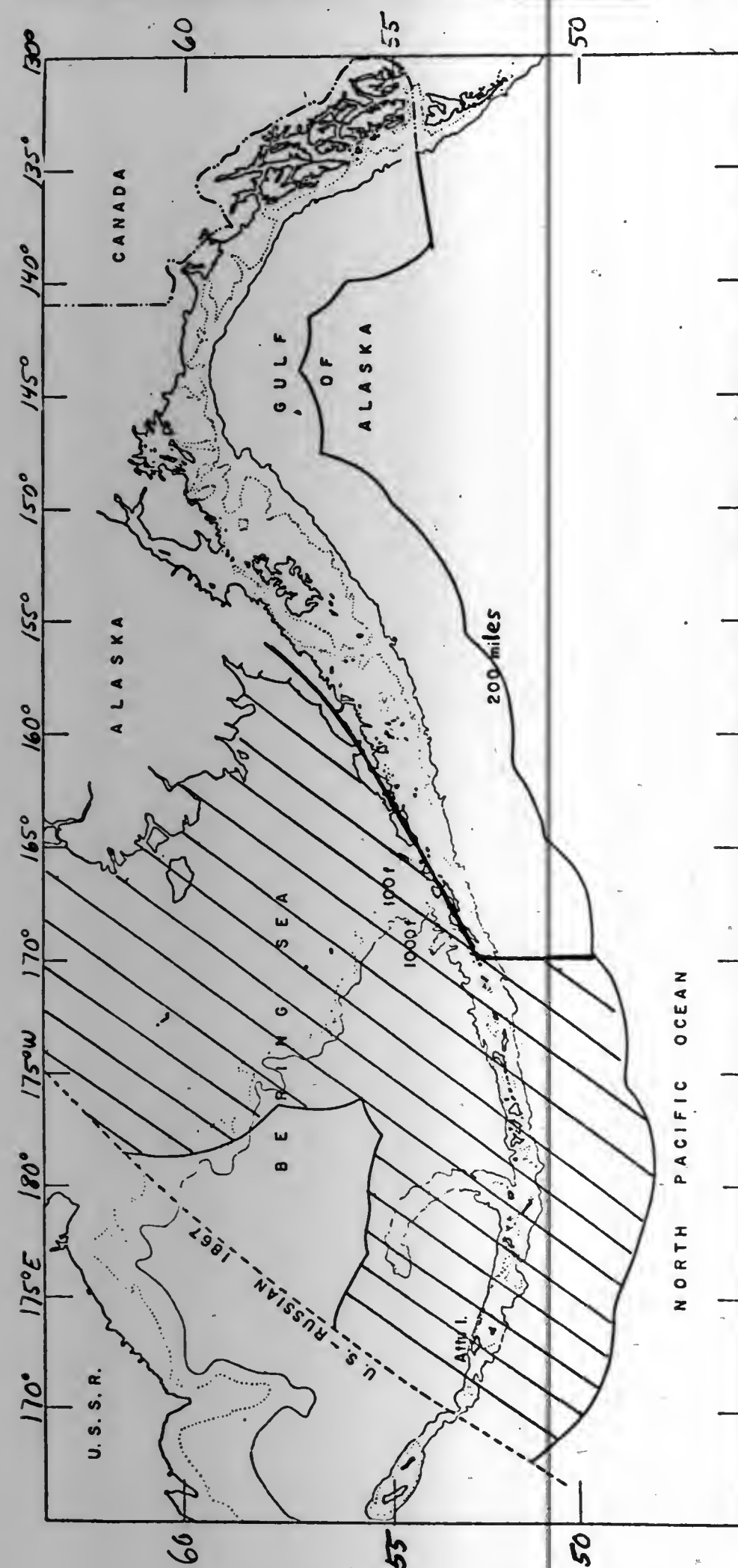


Figure 26.--Area (diagonal lines) over which this Fishery Management Plan applies.

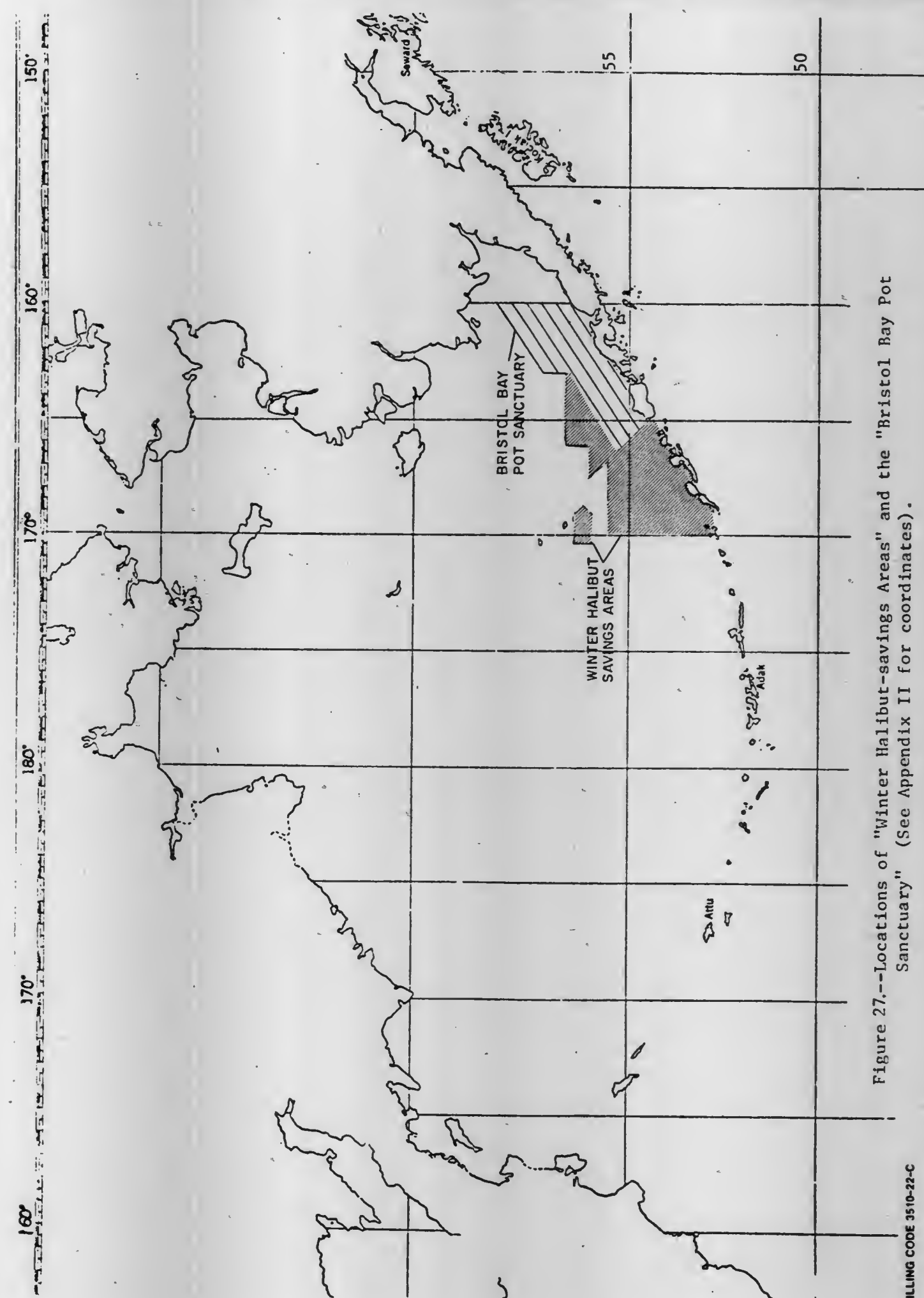


Figure 27.--Locations of "Winter Halibut-savings Areas" and the "Bristol Bay Pot Sanctuary" (See Appendix II for coordinates).

C. Longline

1. "Winter Halibut-savings Areas" (as described in Appendix III, and Figure 27):

(i) December 1-May 31—domestic longlining will be permitted landward of the 500 m isobath until the total U.S. longline catch (excluding halibut) from this area exceeds 2,000 mt.

(ii) June 1-November 30—no closures.
2. Other areas—no closures.

Rationale:

To prevent high incidental catch and mortality of juvenile halibut which are known to occur in winter concentrations in the "Winter Halibut-savings Areas" while allowing for some expansion in the domestic setline fishery for species other than halibut.

14.3.1.4 Gear restrictions

None.

14.3.1.5 Statistical Reporting Requirements

(A) Fishermen Reports

Fishery data compiled for the domestic groundfish fishery should be of the same general degree of precision as those required of foreign fishermen: catch by species, by ½° Lat. x 1° Long. Areas, by gear type and vessel class, and by month; effort (e.g., hours towed, # hooks, # pots) by ½° Lat. x 1° long. areas, by gear type and vessel class, and by month.

In order to compile such data sets, the performance of individual vessels must be made available. To do so will probably require, in addition to fish sales tickets made out for each delivery, one or a combination of the following: logbooks; port sampling; interviews with fishermen.

In addition to collecting this information from domestic vessels which land their catches at Alaskan ports, it must also be collected from those vessels which sell or use their catch for bait on the fishing grounds, from vessels which land their catches in other states, and from vessels which deliver their catches to foreign processing vessels.

Annual data compilations, in the above format, should be available to the Secretary by May 31 of the following year. In addition, preliminary catch data—by species and by major statistical area (i.e. Areas I, II, III, IV)—should be compiled by month and made available to the Secretary by the end of the following month.

Arrangements, including financing and schedule of implementation, for the collection, compilation, and summarization of these fishery data will be developed through consultations between officials of NMFS, State of Alaska, and other states in which landings of catch from this fishery are likely.

(B) Processor Reports

All processors of groundfish shall report information necessary for the periodic reassessment of DAP. The regulation implementing this plan specify the information to be reported and the time schedule for reporting.

(C) Joint Venture Reports

Persons delivering U.S. caught groundfish to foreign processing vessels shall report information required for periodic reassessment of that portion of the DAP to be delivered to foreign processors (JVP). The regulations implementing this plan specify the information to be reported and the time schedule for reporting.

(D) Non Processed Fish

Persons catching or delivering non-processed fish for use as bait or for direct consumption shall report information necessary for periodic reassessment of DNP. The regulations implementing this plan specify the information to be reported and the time schedule for reporting.

14.3.1.6 Limited Entry

Implementation of a limited entry program will not be necessary for this fishery during the first few years that it operates under this plan. However, a limited entry program should be designed by the Council during the early stages of domestic fishery development so that it can be implemented well before the time that the fishery becomes fully or over-capitalized.

14.3.2 Foreign

14.3.2.1 Permit requirements

All foreign vessels operating in this Management Unit must have on board a permit issued by the Secretary of Commerce. Required by FCMA.

14.3.2.2 Prohibited species

No retention of salmon, steelhead trout, halibut, or Continental Shelf Fishery Resources to prevent covert targeting on species of special importance to U.S. fishermen.

14.3.2.3 Area closures

A. General

(i) No harvesting year-round within 12 miles of the baseline used to measure the territorial sea, except in the western Aleutian Islands as described in Appendix III. To prevent conflicts with U.S. fixed gear and small inshore fishery vessels and to prevent catch of localized inshore species important to U.S. commercial and subsistence fishermen. If joint venture operations are permitted foreign ships receiving fish from American fishermen may operate to within three miles of the baseline used to measure the territorial sea. However, when operating within that area between 3 and 12 miles of the baseline used to measure the territorial sea such foreign processors may not receive fish from foreign fishing vessels.

(ii) This management unit (or individual sub-area where specific quotas apply) will be closed to all fishermen of a nation for the remainder of the calendar year when that nation's allocation of any species or species group listed in Annex III is exceeded, except that such closures will affect longline fishing only if the national allocation of any of the following species is exceeded: sablefish; Pacific cod; Greenland turbot; and, "others" to discourage foreign fleets from covertly targeting on depleted species/stocks and to prevent damaging by-catches after the allowed catch has been taken; this provision places the burden of responsibility on the foreign fleets to avoid taking such species/stocks and to develop fishing gear and fishing practices which will minimize or eliminate their incidental capture.

B. Trawl

(i) No trawling year-round in the "Bristol Bay Pot Sanctuary", (as described in Appendix III and Figure 72) to prevent conflicts between foreign mobile gear and concentrations of U.S. crab pots; to prevent

incidental catch of juvenile halibut which are known to concentrate in this area.

(ii) No trawling from December 1 to May 31 in the "Winter Halibut-savings Areas" (as described in Appendix II and Figure 27) to protect winter concentrations of juvenile halibut, to protect spawning concentrations of pollock and flounders.

(iii) No trawling year-round in that part of the FCZ adjacent to the Aleutian Islands between 172 degrees West longitude and 178 degrees 30 minutes West longitude south of a line drawn between the following coordinates:

53-14' N—172-00' W
52-13' N—176-00' W
52-00' N—178-30' W

to provide a sanctuary for foreign and domestic longline fishing in recognition of the situation in which highly developed trawl fisheries in both the Bering Sea/Aleutian area and the Gulf of Alaska have tended to preempt grounds from the traditional longline fishing method.

Prior to 1977, no Danish seiners, side trawlers, or pair trawlers operated in this area, and less than one percent of the foreign stern trawl effort occurred in this area. Because of the displacement of the Japanese land-based dragnet fleet from the Soviet 200-mile zone that fleet has, since 1977, increased its utilization of the trawl grounds surrounding the Aleutian archipelago. As a result, during the first 7 months of 1978, of the total foreign stern trawl effort in the Bering Sea/Aleutian region, about three percent (3%) occurred in this longline sanctuary area.

(iv) No trawling January 1-June 30 in the area known as Petrel Bank on the north side of the Aleutian Islands comprising those waters bounded by lines drawn to include the following coordinates:

52-51' N—178-30' W
51-15' N—178-30' W
51-15' N—179-00' E
52-51' N—179-00' E
52-51' N—178-30' W

between 178-30' W and 179-00' E landward of 12 nautical miles. Trawling is permitted seaward of the three nautical miles from July 1-December 31.

To avoid gear conflicts during the conduct of the domestic king crab fishery and to avoid the incidental catch of king crab by trawling. Data available from the fishery in the Petrel Bank area indicates a substantial incidental trawl catch of red, blue and golden king crab. The crab savings effected by the trawl closure is a direct benefit to the domestic fleet in terms of potential catch and of long-range benefit in terms of conservation of crabs not subject to the rigors of a trawl effort during the softshell or moulting period.

(v) No trawling January 1-April 30 in other areas west of 178-30' W Except trawling is permitted seaward of three nautical miles from May 1-December 31. To avoid gear conflicts during the conduct of the domestic king crab fishery and the development of the domestic bottomfish effort and to avoid the adverse effects of the incidental catch of king crabs by trawl.

C. Longline

(1) "Winter Halibut-savings Areas" (as described in Appendix III and Figure 27):

(i) December 1-May 31—no longlining landward of the 500 m isobath.

(ii) June 1-November 30—no closures.

To prevent high incidental catch and mortality of juvenile halibut which are known to occur in winter concentrations in the "Winter Halibut-savings Areas".

(2) Other areas—no closures.

(3) Throughout the area west of 172-00' W, longlining is permitted seaward of three nautical miles.

14.4 Operational Needs and Costs (1000's dollars)

114 man-months of foreign fishery observer coverage.....	1,370
NWAFS allocation compliance analyses.....	10
MMFS computerized foreign fishery information system.....	36
NMFS Alaska Regional Office Management Division..	435
NOAA/Justice administration of penalties.....	12
800 Coast Guard ship patrol days.....	2,800
2500 Coast Guard aerial patrol hours.....	1,900
State of Alaska fishery data collection.....	11

Total..... 5,574

* Reimbursed by foreign governments to the U.S. Treasury.

Costs of federal, state, and IPHC biological research are not included inasmuch as they would be financed in the absence of this management plan.

14.5 Effects of the Management Regime on Availability, Cost, and Quality of Fishery Products

Except where necessary to restore depleted stocks (Pacific Ocean perch, Pacific halibut, and sablefish), optimum yields have been set equal to maximum biological production. The total OY for the Bering Sea-Aleutian groundfish fishery during 1979 is 1,409,400 mt. some 34,000 mt greater than that allowed by the Preliminary Management Plan for 1978—hence, availability of fishery products will not be reduced.

Although any management measure is likely to add expense to a fishery, the fishery restrictions proposed by the FMP are the minimum necessary to assure healthy stocks of all species, and most are carry-overs from the past several years—therefore, costs of fishery products should neither be unreasonably inflated nor significantly increased as a result of implementation of this FMP.

The management regime of this FMP is not expected to have any effect on the quality of commodities produced from Bering Sea/Aleutian groundfishes.

As has been discussed earlier in Section 8.1.3, it seems highly unlikely that management actions taken in the Bering Sea will have any significant effect on the availability, cost, or quality of groundfish products to U.S. consumers. Therefore, specific management actions including the determination of optimum yield, have not been taken for the express purpose of addressing consumer interests. However, in future years this situation may change. At that time it will be necessary to more explicitly take into account consumer interests. Several studies are currently under way to provide the information upon which such decisions can be based. The largest of these is a contract let by the U.S. Department of Commerce to examine both international and national opportunities for the

development of underutilized species in the U.S. fisheries conservation zone. Although primarily focused on opportunities for domestic industry development, this study should provide a good deal of useful information on patterns of groundfish consumption and prices. Particularly, it will fill important gaps in our understanding of foreign groundfish markets.

Other studies funded by the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, and the Pacific and North Pacific Councils will provide further useful information. The proper orientation of near term research efforts to reflect consumer interests is probably the most important thing that can be done at this stage. If accomplished, it will insure that the information is available upon which decisions representative of consumer interests can be made when they are required in future Bering Sea and Aleutian groundfish management plans.

15.0 Relationship of recommended management measures to FCMA national standards and other applicable laws

This management plan can be considered an extension of the Preliminary Fishery Management Plan (PFMP) for the Bering Sea and Aleutian Trawl Fishery and portions of the PFMP for the Sablefish Setline/Trap Fishery, both prepared and implemented by the Secretary of Commerce, and which are superseded by this plan.

The management regime described in Section 14.0 is considered to be in conformance with the seven national standards set forth in Section 301 of the FCMA.

The U.S. is party to the following international conventions which directly or indirectly address conservation and management needs of groundfish in the Bering Sea/Aleutian Region: The International Convention for the High Seas Fisheries of the North Pacific Ocean (INPFC), and the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (IPHC).

This plan has a most significant relationship to the management of the Pacific halibut fishery which continues to be vested in the International Pacific Halibut Commission. Many of the management measures contained herein are for the expressed purpose of mitigating a severe crisis in the domestic halibut fishery by recognizing a situation in which the trawl fishery (and possibly the sablefish setline fishery) could be a major contributor to declining halibut abundance.

There are no Indian treaty fishing rights for groundfish in the fishery conservation zone in the Bering Sea/Aleutian region.

The Constitution of the State of Alaska states the following in Article XIII:

Section 2. General Authority. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

Section 4. Sustained Yield. Fish, forest, wildlife, grasslands, and all other

replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

Section 15. No Exclusive Right of Fishery. has been amended to provide the State the power "to limit entry into any fishery for purposes of resource conservation" and "to prevent economic distress among fishermen and those dependent upon them for a livelihood".

16.0 Research needs

Research will be required to (1) find means of improving the accuracy of commercial catch statistics, (2) refine estimates of abundance and biological characteristics of stocks through research resource surveys, (3) improve the capability for predicting changes in resource abundance, composition, and availability, (4) develop means of reducing the incidental catch of non-target species, and (5) identify subpopulations.

Catches reported by the foreign fishing fleets provide a means of monitoring the progress of the fisheries towards catch quotas. Later these catch statistics are examined with associated fishing effort to compute CPUE, an index of stock abundance. Discrepancies have been found between reported catches by foreign vessel skippers and those estimated by U.S. observers aboard these vessels. Observer's estimates have been generally greater than those reported by the vessel's master, suggesting under-reporting of catches by the foreign fleets. This problem needs to be examined and steps taken to improve the accuracy of reported catch statistics.

Estimates of biomass of specific groundfish resources have been obtained through resource surveys using bottom trawls. For such semi-demersal species as pollock and cod, biomass estimates through research vessel trawl surveys have so far been underestimated because of the lack of knowledge of the portion of the stocks in the water column that lie above the stratum sampled by the trawl. Studies are required to determine the efficiency at which research trawls capture pollock, cod, and other semi-demersal forms in order to improve the accuracy of biomass estimates of these species.

Long-term fisheries management requires reliable forecasting of stock conditions. Until now forecasts have been based mainly on past events, such as trends in abundance indices (CPUE's) and size and age composition of specific resources without any consideration of the interactions of these resources with each other and the environment. Studies need to be continued to determine for predictive purposes those factors that have major influences on the abundance, composition, and distribution of resources, and there is a critical need for annual pre-recruit surveys (i.e., of young fish before they enter the fisheries) so that a measure of their abundance can be used to forecast later contributions to the exploitable stock.

For purposes of conservation and harvesting efficiency, fishing gear should be modified or developed which will reduce the by-catch of halibut, crabs, and other important species in the trawl fisheries.

Although these species are immediately returned to the sea after capture, they still suffer an added source of mortality from their capture and handling.

Within the eastern Bering Sea-Aleutian region there undoubtedly exist subpopulations of species that, because of their unique biological features (e.g. growth and mortality) should be managed as separate stocks. Research, therefore, is required to provide a firm basis for the identification and delineation of specific stock units.

The paucity of specific information concerning sablefish, Pacific Ocean perch, Atka mackerel, arrowtooth flounder, and Greenland turbot has required an empirical approach to management. Although some information on these species has recently been gathered by U.S. observers aboard foreign fishing vessels and from foreign fisheries statistics, direct assessment of abundance and stock condition has not been accomplished. In the past, surveys have essentially been restricted to the Continental Shelf of the eastern Bering Sea with very little effort directed to the Continental Slope where these and other species are known to concentrate. No assessment surveys have been conducted in the Aleutian region where important stocks of Pacific ocean perch, sablefish, and Atka mackerel occur. Geographic and bathymetric extensions of research surveys to these areas should be considered.

The several squids which are present in the region form another resource for which very little information is available. The squid fishery is presently of small magnitude but, because of intuitive indications of very large abundances, exploitation is expected to increase substantially. If the sustainable potential of this resource is to be realized, basic taxonomic, distributional, biological, and abundance studies will soon have to be initiated.

Finally, but in the long run most importantly, the complex ecosystem will have to be accurately modelled so that bio-environmental processes can be understood and inter-species—including birds and marine mammals—relationships can be quantified and relied upon in determining optimum yields.

17.0 Statement of council intentions to review the plan after approval by the Secretary of Commerce

The North Pacific Fishery Management Council will, after approval and implementation of this plan by the Secretary, maintain a continuing review of the fisheries managed under this plan through the following methods:

1. Maintain close liaison with the management agencies involved, usually the Alaska Department of Fish and Game and the National Marine Fisheries Service, to monitor the development of the fisheries and the activity in the fisheries.
2. Promote research to increase their knowledge of the fishery and the resource, either through Council funding or by recommending research projects to other agencies.
3. Conduct public hearings at appropriate times and in appropriate locations, usually at

the close of a fishing season and in those areas where a fishery is concentrated, to hear testimony on the effectiveness of the management plans and requests for changes.

4. Consideration of all information gained from the above activities and development if necessary, of amendments to the management plan. The Council will also hold public hearings on proposed amendments prior to forwarding them to the Secretary for possible adoption.

18.0 References

- Alexander, A. B. 1913. Preliminary examination of halibut fishing grounds of the Pacific Coast. U.S. Bureau Fish., Doc. No. 763: 13-56.
- Alverson, D. L., A. T. Pruter, and L. L. Ronholt. 1964. A study of demersal fishes and fisheries of the northeastern Pacific Ocean. H. R. MacMillan Lectures in Fisheries, Univ. British Columbia, Inst. Fish., Vancouver, B.C., Canada, 190 p.
- Alverson, D. C. and M. J. Carney. 1975. A graphic review of the growth and decay of population cohorts. J. Cons. Int. Explor. Mer. 36(2): 133-143.
- Bakkala, R. and K. Wakabayashi. 1977. Status of Bering Sea stocks of Pacific cod, rock sole, flathead sole, and turbot in 1976. U.S. Dep. Commer., NOAA, Natl. Mar. Fish. Serv., Northwest and Alaska Fisheries Center, Seattle, Wash. Unpubl. manuscript.
- Bell, F. Heward. 1967. The halibut fishery, Shumagin Islands and westward not including Bering Sea. Int. Pac. Halibut Comm., Rep. No. 45, 34 p.
- Best, E. A. 1969a. Recruitment investigations: trawl catch records Bering Sea, 1967. Int. Pac. Halibut Comm., Tech. Rep. 1, 23 p.
- 1969b. Recruitment investigations: trawl catch records eastern Bering Sea, 1968 and 1969. Int. Pac. Halibut Comm., Tech. Rep. 3, 24 p.
- 1970. Recruitment investigations: trawl catch records eastern Bering Sea, 1963, 1965, and 1966. Int. Pac. Halibut Comm., Tech. Rep. 7, 52 p.
- 1974. Juvenile halibut in the eastern Bering Sea: trawl surveys, 1970-1972. Int. Pac. Halibut Comm., Tech. Rep. 11, 32 p.
- Bower, W. Y. 1927-53. Alaska fishery and fur seal industries in 1926-50. U.S. Dep. Commer., Bur. Fish. App. to Rep. Comm. Fish. for the years 1926-1939, Stat. Digest for the years 1940-50: various pagination.
- Chitwood, P. E. 1969. Japanese, Soviet, and South Korean fisheries off Alaska: development and history through 1968. U.S. Fish Wildl. Serv., Circ. 310, 34 p.
- Cobb, J. N. 1927. Pacific cod fisheries. Rep. U.S. Comm. Fish. for 1929, App. VII (Doc. No. 1014): 385-499.
- Dickinson, William R. 1973. Japanese fishing vessels off Alaska. Mar. Fish. Rev. 35 (1-2): 6-18.
- Dunlop, H. A., F. H. Bell, R. J. Myhre, W. H. Hardman, and G. M. Southward. 1964. Investigation, utilization and regulation of the halibut in southeastern Bering Sea. Int. Pac. Halibut Comm., Rep. No. 35, 72 p.
- Ellison, J. G., D. E. Powell, and H. H. Hildebrand. 1950. Exploratory fishing expedition to the northern Bering Sea in June and July, 1949. U.S. Fish. Wildl. Ser., Fish. Leaflet 369, 56 p.
- Enforcement and Surveillance Division. 1971, 1973. Foreign fishing activities Bering Sea

- and Gulf of Alaska, 1970, 1971. U.S. Dep. Commer., NOAA, Natl. Mar. Fish. Serv., Juneau, Alaska. Unpubl. manuscripts.
- Fishery Agency of Japan. 1968, 1973, 1974, 1975a, 1976a, 1976b. Vessel and gear specifications of the Japanese fishery operated in the northeast Pacific Ocean in 1968, 1972, 1974, 1975, 1976. Fishery Agency of Japan, Tokyo. Unpubl. manuscripts.
- 1975b. Groundfish research in the Bering Sea. Int. N. Pac. Fish. Comm., Annu. Rep. 1973: 65-68.
- Fishery Market News. 1942. Pre-World War II king crab investigations May 1942. Fish. Market News 4(5a), 107 p.
- Forrester, C. R., A. Beardley and Y. Takahashi. 1974. Groundfish, shrimp, and erring fisheries in the Bering Sea and northeast Pacific—historical catch statistics through 1970. Int. N. Pac. Fish. Comm., Vancouver B.C., Canada. Unpubl. manuscript.
- Gershonovich, D. E. 1963. Bottom relief of the main fishing grounds (shelf and continental slope) and some aspects of the geomorphology of the Bering Sea. Tr. Vses. Nauchno-issled. Inst. Morsk. Rybn. Khoz. Okeanogr. 48 (Izv. Tikhookean. Nauchno-issled. Inst. Morsk. Rybn. Khoz. Okeanogr. 50). (Transl. in Soviet Fisheries Investigations in the Northeast Pacific, Part I, p. 9-78 by Israel Program Sci. Transl., 1968. Avail. Natl. Tech. Inf. Serv., Springfield, VA as TT67-51203.)
- Gershonovich, D. E., N. S. Fadeev, T. G. Lyubimova, P. A. Moiseev, and V. V. Natanov. 1974. Principal results of Soviet oceanography investigations in the Bering Sea. In D. W. Hood and E. J. Kelley (eds.): Oceanography of the Bering Sea. Inst. Mar. Sci., Univ. Alaska, pp. 363-370.
- Haskell, Winthrop H. 1964. Foreign fishing activities Bering Sea and Gulf of Alaska, 1963. Fish and Wildl. Serv., Bur. Comm. Fish., Office of Resource Management, Juneau, Alaska, unpubl. manuscript.
- Hoag, Stephen H. 1976. The effect of trawling on the setline fishery for halibut. I.P.H.C., Sci. Rep. No. 61, 20 p.
- Hoag, Stephen H. and Robert R. French. 1976. The incidental catch of halibut by foreign trawlers. Int. Pac. Halibut Comm., Sci. Rep. No. 60, 24 p.
- Hokkaido University. 1957, 1960, 1964, 1965, 1966a, 1966b, 1968. Data record of oceanographic observations and exploratory fishing of the *Oshoro Maru* cruises to the Bering Sea in 1956, June-July 1959, May-July 1963, June-August 1964, May-August 1965, June-August 1966, and June-August 1967. Hokkaido Univ., Fac. Fish. Publ. 1, 4, 8, 9, 10, 11, and 12. Various pagination.
- Hood, D. W. and E. J. Kelley. 1974. Introduction. In D. W. Hood and E. J. Kelley (eds.): Oceanography of the Bering Sea. Inst. Mar. Sci., Univ. Alaska, pp. XV-XXI.
- INPFC (International North Pacific Fisheries Commission). 1976. Report of the subcommittee on Bering Sea groundfish. In Proceedings of the 23rd annual meeting, 1976. Int. N. Pac. Fish. Comm., Vancouver, B.C., Canada, App. 2: 147-235.
- 1978. Report of the subcommittee on Bering Sea groundfish. In Proceedings of the 24th annual meeting, 1977. Int. N. Pac.

- Fish. Comm., Vancouver, B.C., App. 2. In Press.
- IPHC (International Pacific Halibut Commission). 1977(a). Annual Report 1976. Int. Pac. Halibut Comm., 40 p.
- 1977(b). Items of information on the halibut fishery in the Bering Sea and the northeastern Pacific Ocean requested by INPFC. Int. Pac. Halibut Comm., Seattle, Wash. Unpubl. manuscript.
- Kibesaki, O. 1965. Demersal fish resources in the northern Pacific. Japanese Fish. Res. Conser. Assoc., Fish. Res. Serv. No. 11: 1-45. (Prelim. transl., 1964, by U.S. Joint Publications Res. Serv. for Bur. Comm. Fish., Seattle.)
- King, J. E. 1949. Experimental fishing trips to the Bering Sea. U.S. Fish Wildl. Serv., Fish. Leaflet 330, 13 p.
- Law Enforcement Division. 1974, 1975, and 1977. Foreign fishery activities Bering Sea and Gulf of Alaska, 1972-1974. U.S. Dep. Commer., NOAA, Natl. Mar. Fish. Serv., Juneau, Alaska. Unpubl. manuscripts.
- Low, Loh-Lee, Sally A. Mizroch, and Robert J. Wolotira, Jr. 1977. Status of Pacific ocean perch stocks in the eastern Bering Sea and the Aleutian region through 1975. U.S. Dep. Commer., NOAA, Natl. Mar. Fish. Serv., Northwest and Alaska Fisheries Center, Seattle, Wash. Unpubl. manuscript.
- Moiseev, P. A. 1963. Some scientific prerequisites for the organization of a Bering Sea fishery research expedition. Tr. Vses. Nauchno-issled. Inst. Morsk. Rybn. Khoz. Okeanogr. 48 (Izv. Tikhookean. Nauchno-issled. Inst. Morsk. Rybn. Khoz. Okeanogr. 50): 7-12. (Transl. in Soviet Fisheries Investigations in the Northeastern Pacific Pt. I, p. 1-8, by Israel Program Sci. Transl., 1968. Avail. Natl. Tech. Inf. Serv., Springfield, VA as TT67-51203.)
- 1964. Some results of the work of the Bering Sea expedition. Tr. Vses. Nauchno-issled. Inst. Morsk. Rybn. Khoz. Okeanogr. 53 (Izv. Tikhookean. Nauchno-issled. Inst. Morsk. Rybn. Khoz. Okeanogr. 52): 7-29. (Transl. in Soviet Fisheries Investigations in the Northeastern Pacific, Pt. III, p. 1-21, by Israel Program Sci. Transl., 1968. Avail. Natl. Tech. Inf. Serv., Springfield, VA as TT67-51205.)
- 1970. Some problems of estimating biological resources of the oceans in the light of the results of the Bering Sea expedition. Tr. Vses. Nauchno-issled. Inst. Morsk. Rybn. Khoz. Okeanogr. 70 (Izv. Tikhookean. Nauchno-issled. Inst. Rybn. Khoz. Okeanogr. 72): 8-14. (Transl. in Soviet Fisheries Investigations in the Northeastern Pacific, art V, p. 1-6 by Israel Program Sci. Transl., 1972. Avail. Natl. Tech. Inf. Serv., Springfield, VA, as TT71-50127.)
- Myhre, Richard J., Gordon J. Peltonen, Gilbert St. Pierre, Bernard E. Skud, and Raymond E. Walden. 1977. The Pacific halibut fishery: catch, effort and CPUE, 1920-1975. Int. Pac. Halibut Comm., Tech. Rep. No. 14, 94 p.
- Office of Enforcement and Surveillance. 1965, 1967-1970. Foreign fishing activities Bering Sea and Gulf of Alaska, 1964-1969. U.S. Dep. Commer., NOAA, Natl. Mar. Fish. Serv., Juneau, Alaska. Unpubl. manuscripts.
- Pereyra, Walter T., Jerry E. Reeves, and Richard G. Bakkala (Principal

- Investigators). 1976. Demersal fish and shellfish resources of the eastern Bering Sea in the baseline year 1975. U.S. Dep. Commer., NOAA, Natl. Mar. Fish. Serv., Northwest Fish. Center, Seattle, Wash. Proc. Rep. in two parts: Narrative report, 619 p.; Data appendices, 534 p. (Processed.) Various portions of the two parts are written by various authors.
- Potocky, G. J. 1975. Alaska area 15- and 30-day ice forecasting guide. Naval Ocean. Office, Spec. Publ. 263: 190 p.
- Pruter, A. T. 1978. Soviet fisheries for bottomfish and herring off the Pacific and Bering Sea coasts of the United States. Mar. Fish. Rev. 38(12): 1-14.
- Rathbun, R. 1894. Summary of the fishery investigations conducted in the North Pacific Ocean and Bering Sea from July 1, 1888 to July 1, 1892, by the U.S. Fisheries Commission steamer *Albatross*. U.S. Fish Comm. Bull. 12: 127-201.
- Sasaki, Takashi. 1976. Data on the Japanese blackcod fishery in the Bering Sea and the northeastern Pacific Ocean—IV (Development and history of the Japanese blackcod fishery through 1975, and status of the blackcod resource). Far Seas Fish. Res. Lab., Shimizu, Japan. Unpubl. manuscript.
- 1977. Outline of the Japanese groundfish fishery in the Bering Sea, 1976 (November 1975-October 1976). Fishery Agency of Japan, Tokyo. Unpubl. manuscript.
- Sharma, G. D. 1974. Contemporary depositional environment of the eastern Bering Sea. Part I. Contemporary sedimentary regimes of the eastern Bering Sea. In D. W. Hood and E. J. Kelley (eds.): Oceanography of the Bering Sea. Inst. Mar. Sci., Univ. Alaska, pp. 119-136.
- Shimonoseki University of Fisheries. 1966. Fisheries oceanography and exploratory trawl fishing in the Bering Sea. Data. Shimonoseki Univ. Fish., Oceanogr. Obs. Explor. Fish. 2, 109 p.
- Skud, Bernard E. 1977. Regulations of the Pacific halibut fishery, 1924-1976. Int. Pac. Halibut Comm., Tech. Rep. 15, 47 p.
- Takahashi, Yoshiya. 1976. Resources of rock sole, flathead sole, Pacific cod, turbot and Pacific herring in the Bering Sea. Far Seas Fisheries Research Laboratory, Shimizu, Japan. Unpubl. manuscript.
- Thompson, William F. and Norman L. Freeman. 1930. History of the Pacific halibut fishery. Int. Pac. Halibut Comm., Rep. No. 5, 61 p.
- Tsuruta, A., A. Hirano and A. Kataoka. 1962. Test trawling in the northeast Bering Sea. J. Shimonoseki Coll. Fish. 11(3): 1-18.
- Wakabayashi, K. and R. Bakkala. 1977. Estimated catches of flounders by species in the Bering Sea. U.S. Dep. Commer., NOAA, Natl. Mar. Fish. Serv., Northwest and Alaska Fisheries Center, Seattle, Wash. Unpubl. manuscript.
- Wigutoff, N. B. and C. B. Carlson. 1950. Pacific Explorer's fishing and processing operations in 1948. U.S. Fish. Wildl. Serv., Fish. Leaflet 361, 161 p.
- Wilimovsky, N. J. 1974. Fishes of the Bering Sea: the state of existing knowledge and requirements for future effective effort. In D. W. Hood and E. J. Kelley (eds.): Oceanography of the Bering Sea. Univ. Alaska, Inst. Mar. Sci., pp. 243-256.

- Yamaguchi, Hirotsune. 1974. Outline of the Japanese groundfish fishery in the Bering Sea, 1973. Fishery Agency of Japan, Tokyo. Unpubl. manuscript.
- 1975. Outline of Japanese fishery in the Bering Sea, 1974. Fishery Agency of Japan, Tokyo. Unpubl. manuscript.

19.0 Appendices

- I—Sample community profile.
- II—Pollock cohort analyses.
- III—Descriptions of closed areas.

Appendix I. Aleutian Subregion Community Profile (Ref. Sec. 8.5)

Water

Settled areas in the subregion are accessible only by air or water transport. Even these modes are severely limited by weather conditions. Communities are small and far apart, making the feasibility of waterborne commercial transportation systems marginal.

Passenger service by water is limited. The Alaska Marine Highway does not serve this area. Residents wishing to travel by water depend primarily on unscheduled service provided by fishing boats. A Dutch Harbor resident provides scheduled passenger and freight service with the M/V ISLANDER between Amaknak and Unalaska Islands and is considering expanding to a ferry system serving Umnak, Unalaska, Amaknak, Akutan, and Akun Islands.

Deep water occurs along the south shores of the Aleutian Islands. Unimak Pass is the most frequently used passage between the North Pacific and Bering Sea. Although sheltered harbors and coves capable of handling deep-draft vessels occur frequently throughout the Chain, improved harbor facilities are few.

Monthly waterborne freight service is provided from Seattle to Captains Bay on Unalaska Island, to Unalaska and to Adak, service to Sand Point and Dutch Harbor is twice monthly. The vessel carries containerized cargo, some of which comes from Anchorage. Atka has no airport but is served monthly by a tug from Adak Naval Station. Attu and Shemya receive the major portion of their supplies annually through a military-contracted private operation. The M/V PRIBILOF, operated by the Aleutian Pribilof Island Association, provides waterborne freight service to St. Paul and St. George, Pribilof Islands, and the M/V North Star III, operated by the Bureau of Indian Affairs, services certain communities on an annual basis.

Air

The Cold Bay International Airport, constructed by the U.S. Army Corps of Engineers in the early 1940's, is a major transportation hub for the Aleutian Chain and a key refueling station for trans-Pacific flights between the Far East and the continental United States. Flight time through Cold Bay is an hour or more shorter to the San Francisco and Los Angeles area than by way of Anchorage. Sixteen major air carriers or charter airlines used this airport during the past two years.

Many smaller air taxi services and charter airlines use the Cold Bay Airport and, while

the volume is not great, the service to the people in the area is most significant. Local service is available by Reeve Aleutian Airways serving the Alaska Peninsula, the Aleutian Chain, and St. Paul in the Pribilof Islands. This airline provides access to all military sites and many of the smaller communities. Although St. George Island in the Pribilofs lacks facilities for handling large commercial aircraft, National Marine Fisheries has inaugurated a charter service from King Salmon and Dillingham to

St. George approximately once a week.

Land

With the minor exception of a few local roads within the communities, no highway system exists in the Aleutian Subregion.

Appendix II. (Ref. Section 10.4)

Cohort analyses which show growth and decay of a pollock biomass under different instantaneous rates of natural mortality (Tables A-G).

Table A.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.350 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	344	15	5.8	.0	344	15	5.7	.0	344	15	5.7	.0
2	1,047	47	9.3	.2	1,051	46	9.3	.2	1,049	46	9.3	.2
3	1,711	77	12.4	.5	1,731	76	12.5	.5	1,721	76	12.4	.5
4	2,114	95	15.0	.9	2,154	94	15.1	.9	2,134	94	15.1	.9
5	2,231	100	17.2	1.3	2,286	100	17.3	1.3	2,258	100	17.3	1.3
6	2,129	95	19.1	1.7	2,193	96	19.2	1.8	2,161	96	19.2	1.8
7	1,897	85	20.7	2.2	1,962	86	20.9	2.3	1,930	85	20.8	2.2
8	1,609	72	22.1	2.6	1,670	73	22.2	2.7	1,639	73	22.2	2.7
9	1,315	59	23.3	3.1	1,369	60	23.4	3.2	1,342	59	23.3	3.1
10	1,045	47	24.2	3.5	1,091	48	24.4	3.6	1,068	47	24.3	3.5
11	812	36	25.1	3.8	850	37	25.2	4.0	831	37	25.2	3.9
12	620	28	25.8	4.1	651	28	26.0	4.3	636	28	25.9	4.2
13	467	21	26.4	4.4	491	21	26.6	4.6	479	21	26.5	4.5
14	348	16	26.9	4.7	366	16	27.1	4.9	357	16	27.0	4.8
15	257	12	27.3	4.9	271	12	27.5	5.2	264	12	27.4	5.0
16	188	8	27.7	5.1	199	9	27.9	5.4	193	9	27.8	5.2

Table B.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.375 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	336	17	5.8	.0	336	17	5.7	.0	336	17	5.7	.0
2	996	51	9.3	.2	1000	50	9.3	.2	998	50	9.3	.2
3	1587	81	12.4	.5	1606	80	12.5	.5	1596	80	12.4	.5
4	1913	97	15.0	.9	1949	97	15.1	.9	1931	97	15.1	.9
5	1969	100	17.2	1.3	2017	100	17.3	1.3	1993	100	17.3	1.3
6	1833	93	19.1	1.7	1887	94	19.2	1.8	1860	93	19.2	1.8
7	1593	81	20.7	2.2	1647	82	20.9	2.3	1620	81	20.8	2.2
8	1317	67	22.1	2.6	1367	68	22.2	2.7	1342	67	22.2	2.7
9	1050	53	23.3	3.1	1093	54	23.4	3.2	1072	54	23.3	3.1
10	814	41	24.2	3.5	850	42	24.4	3.6	832	42	24.3	3.5
11	617	31	25.1	3.8	648	32	25.2	4.0	631	32	25.2	3.9
12	460	23	25.8	4.1	482	24	26.0	4.3	471	24	25.9	4.2
13	338	17	26.4	4.4	355	18	26.6	4.6	346	17	26.5	4.5
14	245	12	26.9	4.7	258	13	27.1	4.9	252	13	27.0	4.8
15	177	9	27.3	4.9	186	9	27.5	5.2	181	9	27.4	5.0
16	126	6	27.7	5.1	133	7	27.9	5.4	130	7	27.8	5.2

Table C.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.400 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	328	19	5.6	.0	327	18	5.7	.0	327	19	5.7	.0
2	947	55	9.3	.2	951	53	9.3	.2	949	54	9.3	.2
3	1,472	85	12.4	.5	1,490	84	12.5	.5	1,481	84	12.4	.5
4	1,731	100	15.0	.9	1,763	99	15.1	.9	1,747	99	15.1	.9
5	1,737	100	17.2	1.3	1,780	100	17.3	1.3	1,759	100	17.3	1.3
6	1,577	91	19.1	1.7	1,624	91	19.2	1.8	1,601	91	19.2	1.8
7	1,337	77	20.7	2.2	1,383	78	20.9	2.3	1,360	77	20.8	2.2
8	1,079	62	22.1	2.6	1,119	63	22.2	2.7	1,099	62	22.2	2.7
9	839	48	23.3	3.1	873	49	23.4	3.2	855	49	23.3	3.1
10	634	36	24.2	3.5	662	37	24.4	3.6	648	37	24.3	3.5
11	469	27	25.1	3.8	490	28	25.2	4.0	480	27	25.2	3.9
12	341	20	25.8	4.1	357	20	26.0	4.3	349	20	25.9	4.2
13	244	14	26.4	4.4	256	14	26.6	4.6	250	14	26.5	4.5
14	173	10	26.9	4.7	182	10	27.1	4.9	177	10	27.0	4.8
15	121	7	27.3	4.9	128	7	27.5	5.2	125	7	27.4	5.0
16	85	5	27.7	5.1	89	5	27.9	5.4	87	5	27.8	5.2

Table D.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.430 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	318	21	5.6	.0	318	20	5.7	.0	318	21	5.7	.0
2	892	58	9.3	.2	896	57	9.3	.2	894	58	9.3	.2
3	1346	88	12.4	.5	1362	87	12.5	.5	1354	87	12.4	.5
4	1535	100	15.0	.9	1564	100	15.1	.9	1549	100	15.1	.9
5	1495	97	17.2	1.3	1532	98	17.3	1.3	1514	98	17.3	1.3
6	1318	86	19.1	1.7	1357	87	19.2	1.8	1337	86	19.2	1.8
7	1084	71	20.7	2.2	1121	72	20.9	2.3	1102	71	20.8	2.2
8	848	55	22.1	2.6	881	56	22.2	2.7	864	56	22.2	2.7
9	640	42	23.3	3.1	666	43	23.4	3.2	653	42	23.3	3.1
10	470	31	24.2	3.5	490	31	24.4	3.6	480	31	24.3	3.5
11	337	22	25.1	3.8	353	23	25.2	4.0	345	22	25.2	3.9
12	238	15	25.8	4.1	249	16	26.0	4.3	243	15	25.9	4.2
13	165	11	26.4	4.4	174	11	26.6	4.6	169	11	26.5	4.5
14	114	7	26.9	4.7	120	8	27.1	4.9	117	8	27.0	4.8
15	77	5	27.3	4.9	82	5	27.5	5.2	79	5	27.4	5.0
16	52	3	27.7	5.1	55	4	27.9	5.4	54	3	27.8	5.2

Table E.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.450 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	312	22	5.6	.0	311	22	5.7	.0	311	22	5.7	.0
2	857	60	9.3	.2	861	60	9.3	.2	859	60	9.3	.2
3	1267	89	12.4	.5	1282	89	12.5	.5	1275	89	12.4	.5
4	1417	100	15.0	.9	1444	100	15.1	.9	1430	100	15.1	.9
5	1353	95	17.2	1.3	1386	96	17.3	1.3	1370	96	17.3	1.3
6	1169	82	19.1	1.7	1203	83	19.2	1.8	1186	83	19.2	1.8
7	942	66	20.7	2.2	974	67	20.9	2.3	958	67	20.8	2.2
8	723	51	22.1	2.6	750	52	22.2	2.7	737	52	22.2	2.7
9	535	38	23.3	3.1	557	39	23.4	3.2	546	38	23.3	3.1
10	384	27	24.2	3.5	401	28	24.4	3.6	393	27	24.3	3.5
11	270	19	25.1	3.8	283	20	25.2	4.0	277	19	25.2	3.9
12	187	13	25.8	4.1	196	14	26.0	4.3	191	13	25.9	4.2
13	127	9	26.4	4.4	134	9	26.6	4.6	131	9	26.5	4.5
14	86	6	26.9	4.7	90	8	27.1	4.9	88	6	27.0	4.8
15	57	4	27.3	4.9	60	4	27.5	5.2	59	4	27.4	5.0
16	38	3	27.7	5.1	40	3	27.9	5.4	39	3	27.8	5.2

Table F.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.500 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	297	26	5.6	.0	296	25	5.7	.0	296	25	5.7	.0
2	776	67	9.3	.2	779	66	9.3	.2	777	66	9.3	.2
3	1091	94	12.4	.5	1104	93	12.5	.5	1097	94	12.4	.5
4	1160	100	15.0	.9	1182	100	15.1	.9	1171	100	15.1	.9
5	1054	91	17.2	1.3	1080	91	17.3	1.3	1067	91	17.3	1.3
6	868	75	19.1	1.7	891	75	19.2	1.8	879	75	19.2	1.8
7	664	57	20.7	2.2	687	58	20.9	2.3	675	58	20.8	2.2
8	485	42	22.1	2.6	503	43	22.2	2.7	494	42	22.2	2.7
9	341	29	23.3	3.1	355	30	23.4	3.2	348	30	23.3	3.1
10	233	20	24.2	3.5	243	21	24.4	3.6	238	20	24.3	3.5
11	156	13	25.1	3.8	163	14	25.2	4.0	160	14	25.2	3.9
12	103	9	25.8	4.1	108	9	26.0	4.3	105	9	25.9	4.2
13	66	6	26.4	4.4	70	6	26.6	4.6	68	6	26.5	4.5
14	43	4	26.9	4.7	45	4	27.1	4.9	44	4	27.0	4.8
15	27	2	27.3	4.9	28	2	27.5	5.2	28	2	27.4	5.0
16	17	1	27.7	5.1	19	2	27.9	5.4	18	1	27.8	5.2

Table G.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.600 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in.)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in.)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in.)	Weight (lb)
4	778	96	15.0	.9	792	97	15.1	.9	785	97	15.1	.9
5	639	79	17.2	1.3	655	80	17.3	1.3	647	80	17.3	1.3
6	475	59	19.1	1.7	489	60	19.2	1.9	482	59	19.2	1.8
7	330	41	20.7	2.2	341	42	20.9	2.3	335	41	20.8	2.2
8	218	27	22.1	2.8	226	28	22.2	2.7	222	27	22.2	2.7
9	139	17	23.3	3.1	144	18	23.4	3.2	141	17	23.3	3.1
10	86	11	24.2	3.5	90	11	24.4	3.6	88	11	24.3	3.5
11	52	6	25.1	3.8	54	7	25.2	4.0	53	7	25.2	3.9
12	31	4	25.8	4.1	32	4	26.0	4.3	32	4	25.9	4.2
13	18	2	26.4	4.4	19	2	26.6	4.6	19	2	26.5	4.5
14	11	1	26.9	4.7	11	1	27.1	4.9	11	1	27.0	4.8
16	6	1	27.3	4.9	6	1	27.5	5.2	6	1	27.4	5.0
16	3	0	27.7	5.1	4	0	27.9	5.4	4	0	27.8	5.2

Appendix III (Ref. Sections 14.3.1 and 14.3.2)

Bristol Bay Pot Sanctuary

The portion of the Fishery Conservation Zone encompassed by straight lines connecting the following points, in the order listed:

Cape Sarichef Light (54°36'—164°55'42"W)
55°16'N—166°10'W
56°20'N—163°00'W
57°10'N—163°00'W
58°10'N—160°00'W
Intersection of 160°00'W with the Alaska Peninsula

Winter Halibut-Savings Areas

That portion of the Fishery Conservation Zone encompassed by straight lines connecting the following points, in the order listed:

Cape Sarichef Light (54°36'N—164°55'42"W)
52°40'N—170°00'W
55°30'N—170°00'W
55°30'N—166°44'W
56°00'N—167°45'W
56°00'N—166°00'W
56°30'N—166°00'W
56°30'N—163°00'W
56°20'N—163°00'W
55°16'N—166°10'W
55°16'N—166°10'W
Cape Sarichef Light (54°36'N—164°55'42"W)
and
56°18'N—170°24'W
56°20'N—169°03'W
56°12'N—168°46'W
55°56'N—169°10'W

Trawl Area Closures

A. Foreign trawling is prohibited in the area between 172°00'W and 178°30'W within the ECZ south of a line drawn to connect the following coordinates:

53°14'N—172°00'W
52°13'N—176°00'W
52°00'N—178°30'W

B. Foreign trawling is prohibited from January 30—June 1 in the area known as Petrel Bank on the north side of the Aleutian Islands between the following coordinates:

52°51'N—178°30'W
51°15'N—178°30'W
51°15'N—179°00'E
52°51'N—179°00'E
52°51'N—178°30'W

Except that foreign trawling is permitted seaward of three nautical miles from the baseline from which the Territorial Sea is measured from July 1—December 31.

C. Foreign trawling is prohibited from January 1—April 30 in other areas west of 178°30'W except that foreign trawling is permitted from May 1—December 31 seaward of three nautical miles from the baseline from which the Territorial Sea is measured in other areas west of 178°30'W which are otherwise not described in (B) of this section.

Annex I.—Derivation of Acceptable Biological Catch

Stock assessment studies leading to determinations of acceptable biological catch (ABC) are reported in this Annex for the following Bering Sea/Aleutian groundfish species categories:

- 1.1 Alaska pollock
- 1.2 Yellowfin sole
- 1.3 Turbot (Arrowtooth flounder and Greenland turbot)
- 1.4 Other flatfishes
- 1.5 Pacific cod
- 1.6 Pacific ocean perch and other rockfishes
- 1.7 Sablefish (Blackcod)
- 1.8 Atka mackerel
- 1.9 Squid
- 1.10 Pacific halibut
- 1.11 Other included species

A summary of those determinations is

The fishery for pollock began in earnest after 1964, and took eight years to reach a peak catch of almost 1.9 million metric tons in 1972 (Table I.1). The decline in catch thereafter was due partially to fishery restrictions on the amount of catch and on declining stock abundance. Although there may be more than one stock of pollock in the Bering Sea, the estimation of maximum sustainable yield is made for the entire resource customarily fished by Japan, the U.S.S.R., and other nations in the eastern Bering Sea.

Table I.1—MSY, EY, and ABC Values for Groundfish in the Bering Sea/Aleutian Region During 1979 (1000's mt)

Species	Sub-area ¹	MSY	EY	ABC=OY	(1978 OY)	(1978-79 change)
Pollock	BS	1,100-1,600	1,000	1,000	(950)	(+50)
	AL	?	?	100		
Yellowfin sole		169-260	117	117	(106)	(+11)
Turbots		100	90-95	90		
Other Flatfishes		44.3-76.8	= MSY	61	(139)	(+12)
Cod		58.7	= MSY	58.7	(58)	(+0.7)
Pacific ocean perch	BS	32	6.5	3.25	(8.5)	
	AL	75	15	7.5	(15)	
Other rockfish		?	?	7.7		(²)
Sablefish	BS	11.35	3.5	3.5	(5)	(-1.5)
	AL	1.85	1.5	1.5	(1.5)	(0)
Atka mackerel		33	Unknown	24.8	(24.8)	(0)
Squid		≥ 10	≥ 10	10	(10)	(0)
Pacific halibut		5	0.3	(³)		
Other included species		89.4	89.4	74.2	(93.6)	(-19.4)
Total ⁴		1,702.2	1,446.5	1,559.23	(1,409.4)	(+149.83)
		2,325.7	1,484.0			

¹BS=Eastern Bering Sea Area (Statistical Areas I, II, III combined).

AL=Aleutian Area (Statistical Area IV).

²Subject to separate FMP.

³Excluding Pacific halibut.

⁴Included under "others" in 1978.

Based on fisheries statistics that indicated declining stock abundance, it is believed that catch levels, which ranged from 1.58 to 1.87 million mt between 1971 and 1974, cannot be sustained. Maximum sustainable yield has been estimated by two methods: the general production model of Pella and Tomlinson (1967) and the method of Alverson and Pereyra (1967) for obtaining first approximations of yield per exploitable biomass. Estimates thus derived, from data available prior to 1974, ranged from 1.11 to 1.58 million mt (Low 1974). Incorporation of 1974-76 data and using the procedure of Rivard and Bledsoe (1977) results in an MSY estimate of 1.5 million mt, within the 1.1-1.8 million mt range determined by Low (1974).

I.1.2 Equilibrium Yield

Overall Abundance

The relative abundance of the exploitable portion of the stock is generally measured by catch-per-unit-of-effort (CPUE) indices. Since the Bering Sea groundfish fishery is multi-nation, multi-vessel class, multi-gear and multi-species, there is considerable uncertainty as to the best use of CPUE data to measure pollock abundance. For some time, it has been felt that the CPUE of Japanese pair trawlers is more indicative of stock abundance than that of other vessel types because those vessels seek out pollock as the primary target species and consistently account for a large proportion of the pollock harvest. There is also considerable uncertainty as to which way the data should be organized and statistically analyzed. Factors such as time, area, and fishing power can influence CPUE and must be accounted for when computing CPUE. After years of considerable debate and refinement of CPUE procedures among scientists at International North Pacific Fisheries Commission (INPFC) meetings, the following CPUE indices have come to be relied upon.

Table I.2.—Annual Catch (metric tons) of Pollock in the Eastern Bering Sea, 1964-77 (INPFC Proceedings, 1977)

Year	Nation			
	Japan ^a	U.S.S.R. ^b	ROK ^c	Total
1964	174,792			174,792
1965	230,551			230,551
1966	261,678			261,678
1967	550,362			550,362
1968	700,981			700,981
1969	830,494	27,295	5,000	862,789
1970	1,231,145	20,420	5,000	1,256,565
1971	1,513,923	219,840	10,000	1,743,763
1972	1,651,438	213,896	9,200	1,874,534
1973	1,475,814	280,005	3,100	1,758,919
1974	1,252,777	309,813	26,000	1,588,590
1975	1,136,731	216,567	3,438	1,356,736
1976	989,670	179,212	85,331	1,254,213
1977	868,732	63,467	45,227	997,426

^aFrom Japan Fisheries Agency (Conservation areas A, B, C, D, E, & F).

^bUSSR trawl fishery east of 180° longitude in the Bering Sea.

^cEstimates based on U.S. surveillance of ROK fishing activities.

Procedures by U.S. Scientists

(A) Catch per horsepower-hour of trawling by Japanese pair trawlers as described by Low et al. (1977). Effort, in this case has been adjusted for horse-power changes and CPUE's are weighted by caught of all vessels and area.

(B) Catch per hour of trawling by research vessels used by the U.S. National Marine Fisheries Service in annual surveys of the Bering Sea as described by Alton and Bakkala (1976). Standard survey pattern, area, and gear type are used in the surveys and changes in fishing power of different vessels used are adjusted for.

Procedure by Japanese Scientists

(C) Catch per hour of trawling of different tonnage classes of fishing vessels and gear types which are eventually standardized to catch per standard pair trawling hour (Ikeda et al. 1977).

Procedure Developed by INPFC Working Group

(D) Catch per standardized pair trawl effort as described in a special INPFC working group document.¹ In this procedure, CPUE's of selected tonnage categories of fishing vessels and gear types within four standard area-time periods are standardized to pair trawl CPUE.

Using the above mentioned procedures the following CPUE values are derived:

Year	Procedure A ¹	Procedure B ²	Procedure C ³	Procedure D ⁴
1964	9.5			
1965	18.3			
1966	23.8			
1967	21.3			
1968	23.8			194
1969	31.5			154
1970	18.7			175
1971	14.2			172
1972	14.2			189
1973	8.6	46.5	12.4	166
1974	10.4	34.2	10.9	118
1975	9.3	21.5	9.5	100
1976	9.4	58.4	9.3	103
1977			9.3	

¹Mt per hour (pair trawl).

²Kg per km trawled in comparative area standardized to catch rates by R/V Oregon.

³Mt per hour (pair trawl).

⁴Expressed as percentage of 1975-pair trawl CPUE.

By assuming CPUE to be proportional in abundance, one may infer that the exploitable biomass of pollock declined from the late 1960's to an historic low in 1975, then increased slightly in 1976 and 1977. Additional information on year class strength (see later section) however, indicates that the exploitable biomass will probably increase slightly in 1978.

Age Structure and Year Class Strength

Although this species may live longer than 12 years, the fishery is generally dependent on three age groups. Without the buffering effect of an accumulation of year-classes distributed over a wide range of age groups, productivity of the stock can be expected to respond very rapidly to variations in recruitment.

Trawl survey information by NMFS shows that in 1971, age 2 to 8 fish were rather abundant in the stock (Figure I.1). Since then, the fishery has taken most of the older, larger fish and by 1976 the dominant age groups were 2, 3, and 4 year olds. The information also indicates that the fishery in 1975, 1976, and possibly 1977, depended heavily on the strong 1972 year class (age 3 fish in 1975, age 4 fish in 1976, and age 5 fish in 1977). Analyses of commercial fishery data, by size groups, tend to confirm that indication (Table I.3). Age 3 fish correspond to sizes below 28 cm, age 3 fish are from 28-34 cm, and age 4 fish from 34-40 cm. Japanese scientists

¹Report of the working group on average density index computation for pollock in the eastern Bering Sea to the INPFC Biology and Research Committee, June 30, 1977, 31 p.

(Anon. 1978) have presented preliminary size composition data from the 1976 and 1977 fisheries which show that two groups of pollock, 22-34 cm and 42-50 cm, were of higher relative abundance in the catch during

1977 than in 1976 (Figure 1.2). This has been interpreted as a reflection of stronger than normal 1972 and 1975 year classes. If the 1975 year class is strong, it will persist as age 3 in 1978 and age 4 in 1979.

EASTERN BERING SEA POLLOCK (SURVEY DATA)

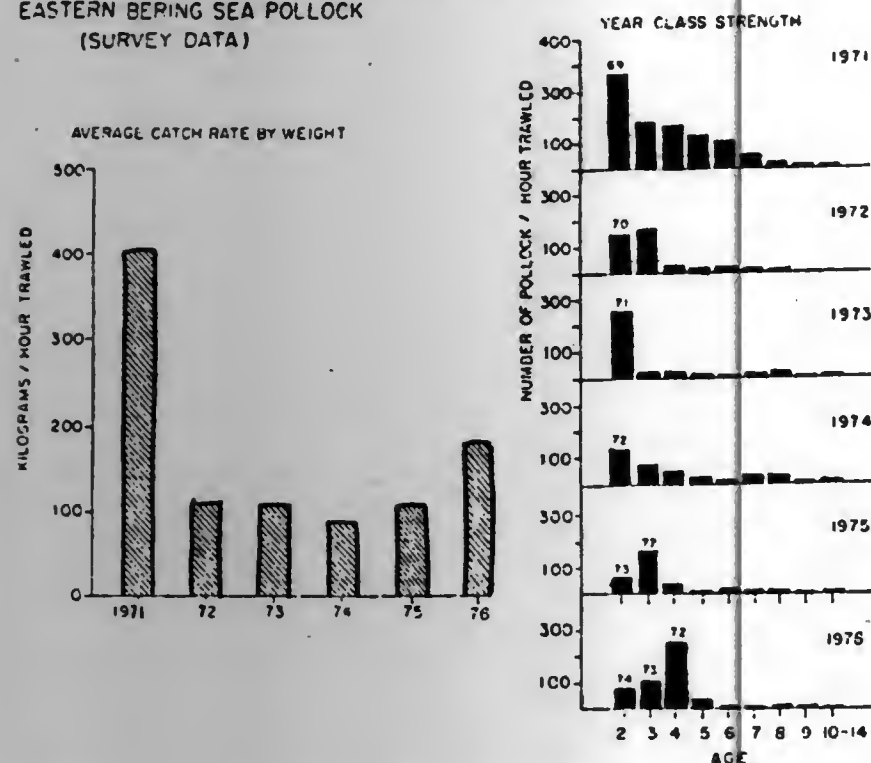


Figure 1.1.—Catch rates and age composition depicting year class strength of pollock determined by NMFS research surveys, 1971-1976.

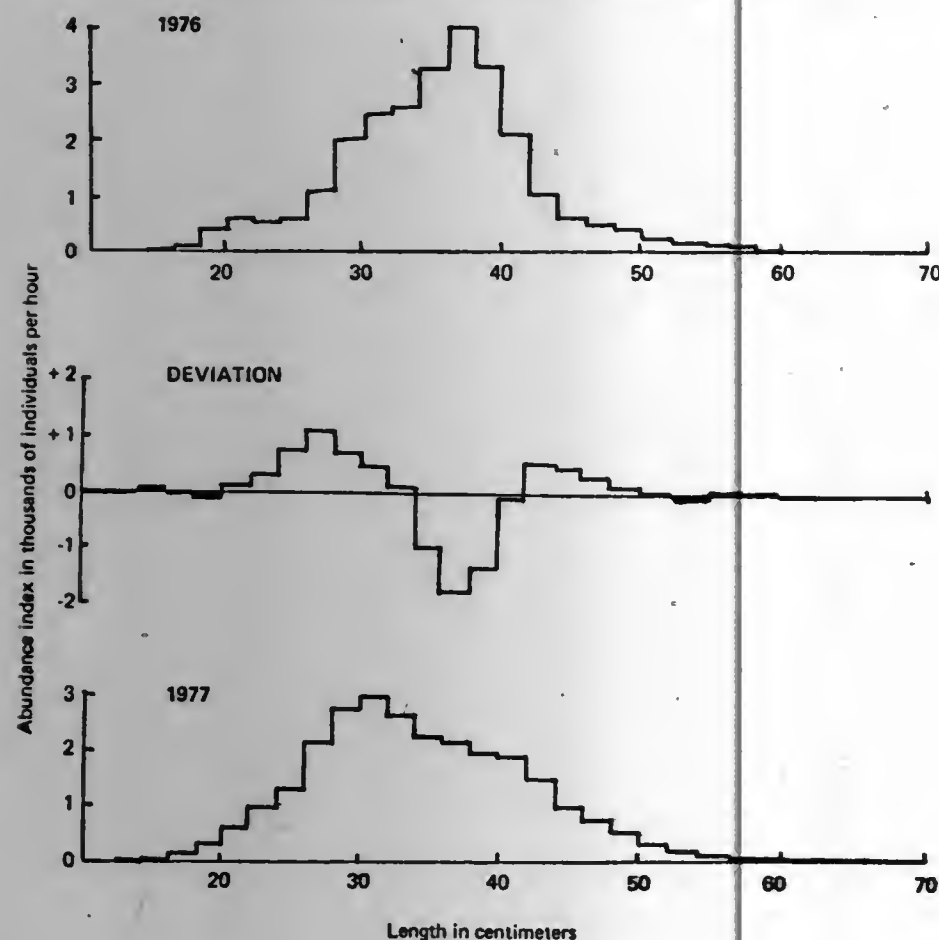


Figure 1.2.—Size frequency distribution of pollock in the eastern Bering Sea determined by Fishery Agency of Japan, 1975-1976.

Table 1.3.—Contribution of Various Size Groups of Pollock to the Total Catch of Pollock in Numbers and Weight Taken in the Japanese Eastern Bering Sea Pollock Fisheries, 1964-76

Year	Numbers (percent) (cm)				Weight (percent) (cm)			
	<28	28-34	34-40	≥40	<28	28-34	34-40	≥40
1964	0.3	5.8	21.7	72.2	0.2	1.9	13.0	84.9
1965	0.3	1.8	13.8	84.3	0.0	0.6	7.8	91.8
1966	0.8	10.1	23.4	65.7	0.2	3.7	13.1	83.0
1967	0.1	2.7	21.8	75.4	0.0	0.9	13.2	85.9
1968	0.3	5.8	24.0	70.1	0.1	2.1	13.8	84.2
1969	0.4	3.0	21.3	75.4	0.1	1.0	13.0	85.9
1970	1.2	6.9	30.3	61.6	0.2	2.9	20.8	76.3
1971	1.9	11.9	26.9	59.3	0.4	5.0	17.8	76.7
1972	2.4	18.0	27.0	52.5	0.5	7.6	18.4	73.5
1973	5.8	15.6	39.3	39.4	1.5	7.7	32.2	58.5
1974	8.6	28.4	15.0	47.0	4.0	25.4	23.7	46.9
1975	8.1	47.5	29.7	14.7	2.6	25.3	35.7	36.4
1976	8.2	32.9	39.3	19.6	2.0	20.2	41.9	35.9

Although nothing is yet known about the 1976 year class, if it is of average strength the exploitable biomass of pollock should continue to increase from the low level in 1975 as the 1975 year class becomes fully recruited to the fishery. Japanese scientists, relying on projected CPUE calculations by age group, believe that pollock abundance will continue to increase through 1980 (Anon. 1978). In relation to 1976, their calculations show that exploitable abundance in 1977 dropped to 84 percent but will increase to 118 percent in 1978, 137 percent by 1979 and 133 percent by 1980.

Given annual removals averaging 1.3 million mt during 1975-78, the fact that 1975-77 CPUE trends were stable or slightly upward and average size of pollock in the commercial catch increased (Table 1.4; in 1976, average size was near that where yield per recruit is maximized—see Section 10.4), it appears that the catch was very close to EY. The strong 1972 year class was an important contributor to the catch during that period.

In 1977-78, the 1972 year class would have been of declining but still significant importance to the exploitable stock. That decline, however, should have been more than balanced by a reduced average annual catch of no more than 965,000 mt (978,300 mt catch in 1977; OY of 950,000 mt in 1978). Therefore, during this period, catch would probably have been somewhat less than EY.

In 1979, the 1972 year class will no longer be a significant factor in the pollock fishery. Except for a weak 1974 year class, other succeeding year classes (1973, 1975, 1978) appear to be of at least average strength but none show signs of being as abundant as that of 1972. The 1977-78 catches are likely to be slightly below the EY for that period resulting in some carry-over to 1979 that, in turn, should balance the final phase-out of the 1972 year class. EY in 1979 is expected to be close to that of 1977-78, or about 1,000,000 mt.

1.1.3. Acceptable Biological Catch

The exploitable pollock biomass has been demonstrably subject to wide fluctuations in abundance caused by naturally induced variations in recruitment. As long as catch is maintained near EY—i.e. not permitted to aggravate a natural decline in abundance leading to an adverse spawner-recruit effect—significant changes in standing stock will be determined by environmental and ecosystem factors rather than fishing. Even

though EY is currently below MSY, "rebuilding" to the level of abundance that can produce MSY will have to await natural increases in recruitment. Setting OY 50,000 or 100,000 mt below EY will have little rebuilding effect because: (1) the high rate of natural mortality exhibited by this species will result in only part of that surplus accruing to the standing stock; and (2) at reasonably healthy levels of adult abundance, more spawners will probably not result in any significant enhancement of recruitment three or four years later.

Table 1.4.—Average Size of Pollock Taken in the Japanese Eastern Bering Sea Pollock Fisheries (1964-76)

Year	Average size (cm)		
	U.S. Fisheries Agency of Japan*	U.S. observers aboard Japanese vessels*	U.S. observers aboard Soviet vessels*
1964	42.7		
1965	44.3		
1966	42.8		
1967	43.2		
1968	42.7		
1969	42.8		
1970	40.8		
1971	40.3		
1972	39.8		
1973	37.7	36.8	
1974	35.3	32.0	
1975		31.7	30.0
1976		33.4	37.0

* Mean size based on size and catch data provided by the Fisheries Agency of Japan through INPFC.

* Mean size based on size composition data collected by U.S. observers aboard foreign vessels.

Inasmuch as the decline in abundance noted during the late 1960's and 1970's has been arrested and current recruitment appears to be at least of average strength, ABC is considered equivalent to EY—1,000,000 mt

The Occurrence of Pollock in Deep Water

During June-July 1978, the Japanese R/V *Tomi Moru 52* conducted a hydroacoustic-midwater trawl-handline survey of that portion of the Bering Sea which is beyond the Continental Shelf to investigate the occurrence of a deep-water component of the pollock population. The survey track is

shown in Figure 1-3. Mr. E. Nunnallee of the NWAFC participated in part of the cruise.

A total trackline distance of approximately 6000 nm was surveyed hydroacoustically. Sampling was conducted at 78 midwater trawl and 18 handline stations; 76 of the hauls were 1 hour in duration and 2 were approximately ½ hour.

Pollock Distribution/Behavior and Abundance

The most notable feature of the survey was that it revealed pollock were present in essentially all parts of the survey area; pollock echo sign was detected almost continuously. Although what could be considered commercially important concentrations were found at only a few locations, it was clearly evident that the aggregate biomass was significant. Pollock occurred in 72 of the 78 hauls; most catches were less than 200 fish (100 kg).

In general, the highest abundance, as indicated by both echogram records and trawl sampling, was within 50-150 miles of the Aleutian Chain in waters deeper than 1000 meters. Abundance was relatively low adjacent to the shelf areas; the lowest densities appeared to be in the northwestern part of the survey region from the shelf edge to about 75-100 miles south. In the eastern part of the region, moderate densities were observed to within about 50 miles of the shelf.

There was little evidence of significant quantities of fish at depths greater than 200 meters and the occurrence of echo sign normally dropped off rapidly at depths greater than about 125-150m. During the day fish were generally concentrated between 50 and 150 m. At night this "band" of fish became more dispersed and rose in the water column. There was a difference between day and night trawl catch rates, with the average day catch rate being significantly higher. This can be attributed mainly to the less dense night time aggregations.

A very rough, and probably conservative, estimate of the biomass of the off-shelf component of the pollock population was made using the mean catch per 1 hour haul to calculate an average density, assuming the trawl caught all fish in its path. Other assumptions were:

Trawl mouth opening 900m² (30 x 30 m)
Ave. thickness of pollock layer 100m
Mean weight per fish 0.5 kg

The mean fish density estimate was 1.06 x 10⁻⁵ kg/m³ and the resulting biomass estimate was 840,000 metric tons.

Pollock Size Composition

A total of approximately 16,000 trawl caught pollock were measured from off-shelf trawl stations. The mean length was 48.9 cm. There was an unusually symmetric and narrow distribution of lengths, and a pronounced lack of young fish. Over 99% of the fish were from 39 to 55 cm; 82% were between 44 and 50 cm. As shown in Figure 1-4, the size distribution of this deep-water component of the pollock population differs significantly from that typically found in commercial catches taken over the shelf.

BILLING CODE 3510-22-M



Figure I-3 Trackline covered by the R/V Tomi Maru 52 during June-July, 1978 pollock survey.



Figure I-4 Composition of length frequency distribution of pollock caught by midwater trawl by the Tomi Maru 52 during the 1978 deep water survey of the Bering Sea and those caught by commercial fishing operations during 1977. Commercial catch data were collected by U.S. observers aboard Japanese, Soviet and South Korean vessels and weighted by nation.

Catches of Non-target Species

Species other than pollock were usually a small fraction of the catch from each trawl haul. "Lumpfish" (smooth lumpfish, *Aptocyclus ventriosus*) were by far the most frequently occurring non-target species. It occurred in 45 (56%) of the hauls and the average catch/haul for these hauls was 11 fish.

Squid were the second most frequently occurring incidental "species" but they were taken in only 10 hauls. The squid catches included several large specimens which were probably *Moroteuthis robusta*.

Relatively dense scattering layers were sometimes observed and occasionally sampled with the trawl when it appeared pollock were present in them. However, hauls made in the layers were not productive and they accounted for most of the catches with no pollock.

The degree to which the composition of the nontarget species (and possibly the size composition of the pollock) was influenced by the codend mesh size of the trawl is unknown. The codend consisted of inner and outer bags, each of which had approximately 2 inch mesh (stretched measure), and chafing gear (further information on the mesh size of the codend is being requested).

Hook and Line Catches

At most hook and line stations, fishing took place for approximately ½ hour and about 100–200 pollock were usually captured for tagging. Since the tagging is being done only to obtain information on movements and migrations, the fish would be released even if their physical condition was marginal.

Research by the Japan Fishery Agency during the summer of 1978 identified a widely dispersed but substantial body of pollock in midwater beyond the continental shelf of the central Bering Sea (Nunnallee, 1978). Midwater trawl samples from that deep-water area produced a conservative biomass estimate of 840,000 mt (swept-area technique, $q=1.0$) and a size composition which is much different from that of the commercial fishery which operates over the continental shelf and slope.

This difference in size composition leads to the speculation that pollock distribution changes with size, with the larger individuals tending to a pelagic existence beyond the continental slope and beyond the commercial fisheries as they currently operate.

The discovery of this deep-water component of the Bering Sea pollock population raises questions about the size of the exploitable biomass and estimates of MSY, EY and ABC/OY of the population as a whole.

Assuming that the deep-water and shallow-water i.e., those available to the commercial fishery, pollock are both components of the same spawning population and that recruitment to the deep-water component is via the exploited, shallow-water component, three interrelated considerations are germane:

(1) Once recruited to the deep-water component, pollock will no longer be subjected to exploitation by the slope/shelf fishery. Therefore, in any one year abundance of the deep-water component has

no direct bearing on the ABC/OY of the exploitable portion of the population. If, however, the commercial fishery develops techniques for harvesting the deep-water component, a separate ABC/OY for that component might be appropriate (subject to consideration 3, below).

(2) If, prior to their recruitment to the deep-water component, individual pollock passed through the exploitable portion of the population, a higher fishing rate on the exploitable component might be considered in order to reduce the number of fish which would otherwise survive, move offshore, and be lost of further exploitation (subject to consideration 3, below).

(3) Although no longer available to the fishery, the deep-water component presumably represents a substantial spawning potential for the population as a whole (especially in light of the exponential increase in fecundity which accompanies increases in length). Maintenance of a deep-water component (by not permitting all of the exploitable component to be taken and by limiting the development of fishing directly on the deep-water component) would seem desirable to assure adequate spawning potential regardless of fluctuations in the abundance of the exploitable component of the population. Such a reproductive "buffer" should allow utilization of the exploitable component without undue concern about the possibility of an adverse spawner-recruit relationship being caused or aggravated by the shelf/slope fishery.

Until: (1) it has been determined that the deep-water pollock are, in fact, a component of the same population which is exploited (at younger ages) over the continental shelf and slope; (2) it is clear that the deep-water component is made up only of older fish that are no longer available to the slope/shelf fishery; and (3) an empirically-derived model has been developed in which the relation between slope/shelf exploitation and abundance of the deep-water component can be demonstrated, the only change that will be considered in the Bering Sea pollock ABC/OY because of the discovery of the deep-water component is that of a separate ABC/OY for fishing in deep water.

During 1979, in addition to the 1,000,000 mt ABC/OY for pollock in the traditional fishing areas (i.e., statistical areas I, II, and III), a separate ABC/OY of 100,000 mt is designated for statistical Area IV. This special ABC/OY should be more than sufficient to support exploratory or experimental fishing operations in this new fishing area, will provide a substantial but controlled opportunity to expand the pollock fishery to an apparently unused segment of the population, and, if utilized, will produce further information about the deep-water component that can be used for future population evaluations and management decisions.²

¹ The construction of such a model was begun by the NMFS Northwest and Alaska Fisheries Center, Seattle.

² Records of the Japanese research survey which identified the deep-water component of the pollock population showed highest concentrations within 50/150 miles of the Aleutian chain in water depths greater than 1,000 m. Most of that described region lies within statistical Area IV.

1.2 Yellowfin sole

1.2.1 Maximum Sustainable Yield

The history of exploitation of yellowfin sole in the eastern Bering Sea (Table 1.5) can be summarized as follows:

Period	Number of years	Total catch	Average annual catch
1954–58.....	5	120,247	24,049
1959–62.....	4	1,615,869	403,967
1963–68.....	6	599,567	99,928
1969–71.....	3	460,612	153,537
1972–75.....	5	300,453	60,091

Prior to 1963 virgin (or near virgin) biomass was estimated to be about 1.3 to 3 million mt (Wakabayashi 1976). The results of cohort analyses (Table 1.6) indicate that exploitable biomass reached a historic low in 1969 but then rose to 910,000 mt by 1975.

Applying the Alverston-Pereyra yield equation ($MSY = 0.5 MB_0$, where B_0 = virgin biomass and M = natural mortality) to the pre-1963 biomass estimate results in the following approximation: $MSY = 0.5 \times 0.26 \times 1,300,000$ to $2,000,000 = 169,000$ – $260,000$ mt.

1.2.2 Equilibrium Yield

The above determination of MSY was based on the assumption that a single stock of yellowfin sole occupies the eastern Bering Sea. There may, however, be separate northern and southern stocks. If so, the larger of the two is the southern stock that winters south and east of the Pribilof Islands. U.S. research vessels surveys in May 1976, a season when intermixing of fish from the areas is minimal, indicate that about 93% of the fish were located in the southern stock area.

Catch, effort and CPUE values since the beginning of the Japanese winter flounder fishery are given in Table 1.7. If two stocks exist, these data are indicative of only the southern (larger) one. There are two CPUE trends shown: that of pair trawlers and of stern trawlers.

Table 1.5.—Annual Catch (Metric Tons) of Yellowfin Sole in the Eastern Bering Sea (East of 180° and North of 54°N). (INPFC Proceedings, 1977)

Year	Japan	U.S.S.R.	Total
1954.....	12,582	0	12,582
1955.....	14,890	0	14,890
1956.....	24,897	0	24,897
1957.....	24,145	0	24,145
1958.....	39,153	5,000	44,153
1959.....	128,121	82,200	210,321
1960.....	360,103	96,000	456,103
1961.....	399,542	154,200	553,742
1962.....	281,103	136,600	417,703
1963.....	20,504	65,306	85,810
1964.....	48,880	62,297	111,177
1965.....	28,039	27,771	55,810
1966.....	45,423	56,930	102,353
1967.....	60,429	101,799	162,228
1968.....	40,834	43,355	84,189
1969.....	31,448	85,685	117,133
1970.....	59,851	73,228	133,079
1971.....	82,179	78,220	160,399
1972.....	34,848	13,010	47,858
1973.....	75,724	2,518	78,242
1974.....	37,847	4,288	42,135
1975.....	59,715	*16,060	*75,775
1976.....	*61,082	*5,133	*66,215

* Preliminary data.

* Fishing year data from mothership, North Pacific longline-gillnet, and North Pacific trawl fisheries. Calendar year data for land-based dragnet fishery.

* Included catches of all small flounders.

Table 1.6.—Biomass of Age 6 and Older Yellowfin Sole and Numbers of Age 6 Fish (as an Index of Recruitment) in the Eastern Bering Sea as Estimated by Cohort Analysis. (INPFC Proceeding, 1977)

Year	Biomass ($\times 10^3$ mt)				Number age 6 fish ($\times 10^3$)	Year class of age 6 fish
	Southern stock area	Northern stock area	Total of estimates by stock area	Estimate for data combined over stock areas		
1963.....					2,941	1957
1964.....	840.3	132.0	972.3	912.5	2,276	1958
1965.....	868.0	144.2	1,012.2	960.7	1,765	1959
1966.....	867.8	145.0	1,012.8	969.0	1,507	1960
1967.....	774.9	140.2	915.1	879.0	921	1961
1968.....	567.5	102.9	670.4	635.4	1,266	1962
1969.....	508.3	103.8	612.1	604.0	1,026	1963
1970.....	593.2	135.0	728.2	720.8	928	1964
1971.....	551.8	102.8	654.6	648.2	980	1965
1972.....	580.9	83.9	664.8	660.0	1,420	1966
1973.....	739.0	112.7	851.7	849.1	2,407	1967
1974.....	654.8	108.4	763.0	761.4	2,345	1968
1975.....	778.9	131.8	911.7	910.2	2,169	1969

Table 1.7.—Catch, Effort, and CPUE for Yellowfin Sole by the Japanese Trawl Fisheries in the Southern Stock Area for ½ by 1° Statistical Blocks and Months in Which Yellowfin Sole Made up 50 Percent or More of Total Catch of Groundfish.

Gear type	Fishing year	Catch (mt)	Hours	Average hp	Thousands of hp hours	CPUE (mt per thousand hp-hours)
Pair trawl.....	1969–70	14,250	1,925	1,200	2,310	6.17
	1970–71	26,766	1,762	1,200	2,114	12.66
	1971–72	25,873	2,937	1,400	4,112	6.29
	1972–73	32,354	2,788	1,400	3,903	8.29
	1973–74	27,234	1,853	1,400	2,594	10.50
	1974–75	32,456	833	1,400	1,166	27.84
	1975–76	41,206	1,002	1,400	1,403	29.37
	1969–70	8,559	1,997	1,650	3,295	1.99
	1970–71	2,266	558	1,400	781	2.94
	1971–72	8,479	2,176	1,325	2,883	2.94
Stern trawl.....	1972–73	11,319	5,030	1,400	7,042	1.61
	1973–74	3,765	2,814	1,400	3,940	0.96
	1974–75	3,078	3,515	1,250	4,394	0.70
	1975–76	12,331	2,109	1,250	2,636	4.68

Table 1.8.—Catch Rates From Comparative Area Sampled by the U.S. National Marine Fisheries Service Since 1973 in the Eastern Bering Sea. Catch Rates (Metric Tons Per km Trawled) Have Been Standardized to That of the Research Vessel Oregon

Species	1973	1974	1975	1976
Pollock.....	46.54	34.22	21.54	56.36
Yellowfin sole.....	54.05	86.65	80.49	80.35
Pacific cod.....	4.50	4.20	8.68	4.47
Rock sole.....	9.99	12.94	14.74	22.72
Flathead sole.....	4.94	9.94	7.02	8.75
Alaska plaice.....	3.88	3.38	9.67	12.81
Greenland turbot.....	1.17	2.17	1.47	1.84
Arrowtooth flounder.....	1.09	1.12	1.42	2.98
Pacific halibut.....	0.27	0.51	1.11	0.88

There are differences in trends in the two gear types, but since stern trawlers are usually employed as scout vessels to locate concentrations of yellowfin sole, their CPUE may not reflect relative abundance as well as do CPUE trends of pair trawlers. Pair trawl

CPUE cannot be directly compared for the period before and after the 1974–75 season because of changes in fishing strategy (from 24 hours operation prior to the 1974–75 winter season to daylight hour fishing after that) and gear improvements (anchored reflectors have recently been used by the vessels to stay on fish concentrations). Therefore the large increase between 1973–74 and 1974–75 is partially an artifact of increased fishing power. Standardized CPUE data from NMFS trawl surveys in a comparative area fished each year since 1973 also indicate a substantial increase in yellowfin sole abundance between 1973 and 1974 (Table 1.8). Two of the NMFS surveys (one in late summer 1975 and the other in spring 1976) covered an expanded survey area which is believed to encompass the major part of the distribution of yellowfin sole. Using the area-swept technique of Alverson and Pereyra (1969), standing stock estimates for age groups available to the commercial fishery (age 6 and older) were as follows:

Month(s) and year	Biomass estimate (mt)	95% Confidence interval
August–October 1975.....	991,917	831,226–1,152,608
June 1976.....	1,099,731	610,131–1,589,331

Based on the 1975 research survey, equilibrium yield was calculated by Bakkala and Hirschhorn (1976) to be 128,000 mt with a confidence interval of 106,000 to 147,000 mt. Wakabayashi (1976) estimated that equilibrium yield in the same period was 117,000 mt. On the basis of data through 1975 Wakabayashi, Bakkala, and Low (1977) inferred that a conservative approximation of equilibrium yield would be the low end of the above range—106,000 mt.

A cohort analysis was conducted to determine population age structure and abundance. The procedure used was developed by Pope (1972) and specific details of the calculations are given by Wakabayashi et al. (1977).

Results of the cohort analysis (Table 1.6) indicate that the biomass of age 6 and older fish increased from 1971 to 1975. Although details of the analysis demonstrated variations in year class strength (Figure 1.5 and 1.6), it is evident that the many year classes included in the population buffered much of the variation in recruitment. Projected estimates of biomass from cohort analysis also suggest that the improvement of yellowfin sole resource, which started in 1973 or earlier, continued at least through 1976 and into 1977. Preliminary information from both the 1977 NMFS trawl survey and from observers sampling the 1977–78 Japanese fishery indicates that abundance is remaining high. Moreover, because of operational factors (not reduced availability), the total allowable catch was not taken in 1977 and may not be achieved in 1978.

Considering the conservative nature of the estimate of EY based on data through 1975 and the positive trends indicates since then, EY is believed to have increased by perhaps 10 percent, to 117,000 mt.

1.2.3 Acceptable Biological Catch

This resource has rebounded surprisingly well from a state of depletion in mid-1960's. Current abundance is high (55–85% of the estimated virgin biomass) and all fishery and biological indicators are positive. Furthermore, the average catch in 1977–78 was well below the conservative estimate of EY which, considering the low natural mortality of the species, should provide additional enhancement to the population in 1979. Accordingly, ABC is considered equivalent to current EY—117,000 mt.

1.3 Turbot (arrowtooth flounder and Greenland turbot)
Under the Preliminary Fishery Management Plans for 1977 and 1978, the management of all flatfishes, other than Pacific halibut and yellowfin sole, was grouped under an "other flounders" category consisting of arrowtooth flounder, Greenland turbot, flathead sole, rock sole, Alaska plaice, and a few other minor species. However, the species within this category may be separated into two main complexes by virtue of their biology and bathymetric distribution.

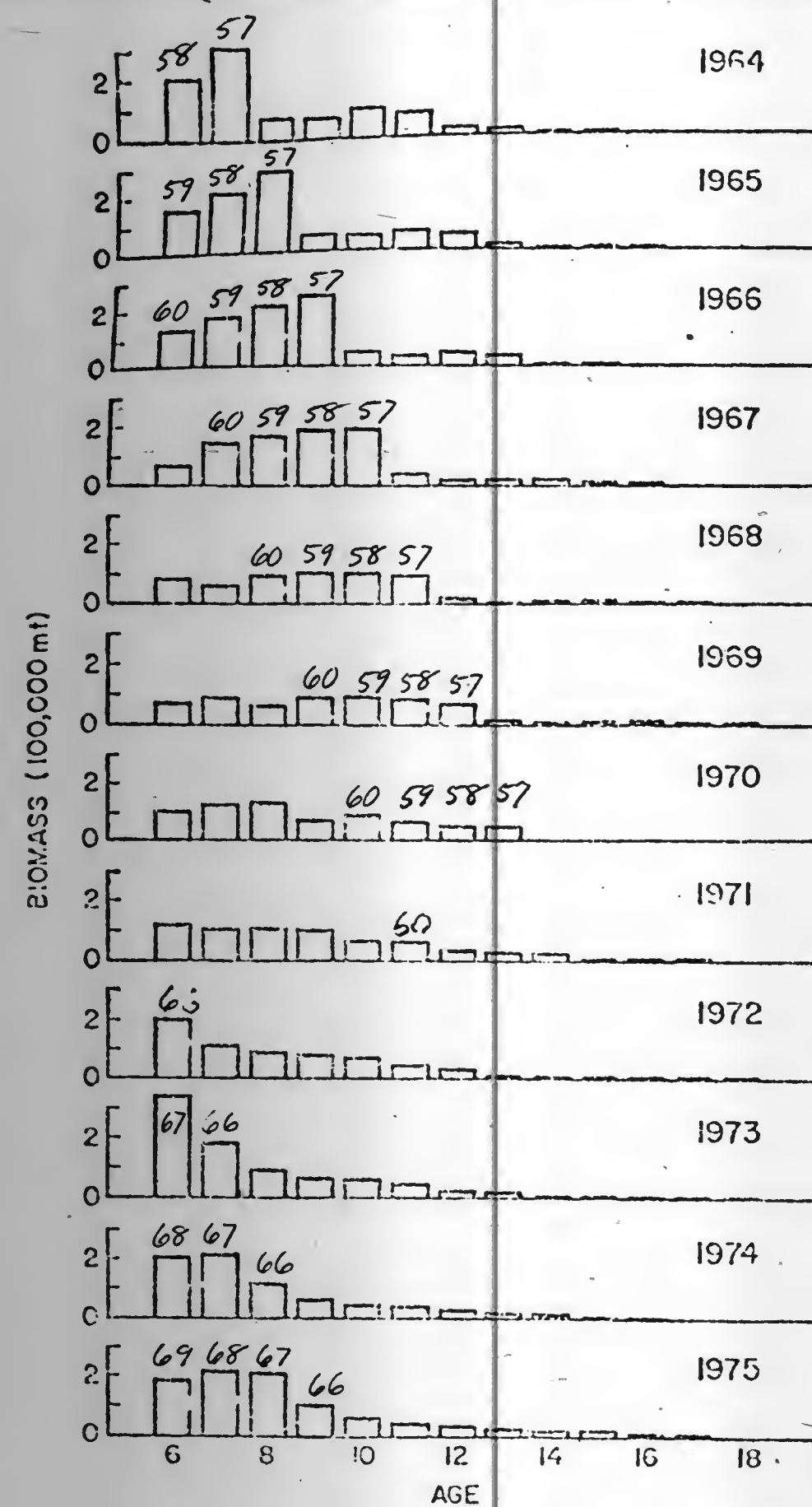


Figure 1.5.--Estimated biomass of yellowfin sole from cohort analysis for age groups available to the fishery.

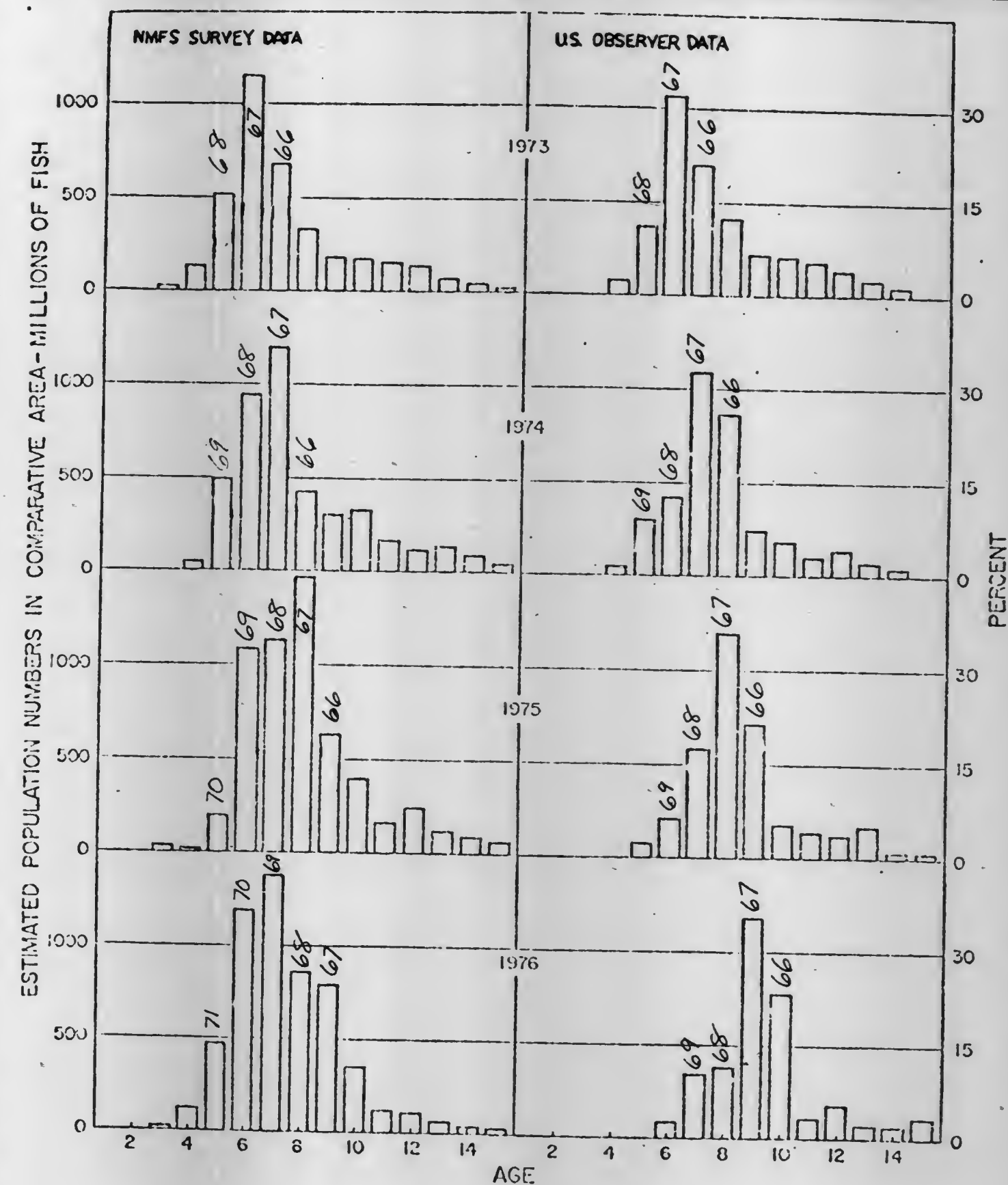


Figure 1.6.--Age composition of yellowfin sole as shown by data from U.S. research vessel surveys in June-August and by U.S. observer samples from the Japanese flounder fishery in October-November. Year classes for certain age groups are shown in appropriate bars.

BILLING CODE 3510-22-C

The turbot (arrowtooth flounder and Greenland turbot) are large flatfishes which are distributed along the continental slope in deep water; the "other flatfishes" are small in size and are generally found well up on the continental shelf in shallow water. Furthermore, the fisheries for these two flounder complexes are quite distinct.

I.3.1 Maximum Sustainable Yield

After a long period of relatively small catches, turbot production increased substantially in the early 1970's and continues at a high level (Table I.9). Of the two species in this complex Greenland turbot has accounted for 80 percent of the catch.

Since turbot are secondary or only occasional target species taken in the fisheries for pollock, sablefish, and yellowfin sole, it is difficult to estimate the MSY of this complex with standard production models which rely on commercial catch-effort statistics.

Table I.9.—Annual Catch of Greenland Turbot and Arrowtooth Flounders in the Eastern Bering Sea in Metric Tons (INPFC proceedings, 1977)

Year	Japan ^a		Total	U.S.S.R.	ROK	Total all nations
	MS-LG-NPT ^b	LBD ^c				
Turbots (Greenland turbot and arrowtooth flounder)						
1960	36,843	0	36,843	—	0	36,843
1961	57,348	2	57,350	—	0	57,350
1962	58,226	84	58,310	—	0	58,310
1963	31,585	69	31,654	—	0	31,654
1964	34,493	49	34,542	—	0	34,542
1965	7,970	307	8,277	1,800	0	10,077
1966	10,836	87	11,035	2,200	0	13,235
1967	20,741	1,733	22,474	2,639	0	25,113
1968	17,808	4,789	22,597	15,252	—	37,849
1969	13,582	9,674	23,256	16,798	—	40,054
1970	14,509	16,003	30,512	8,220	—	38,732
1971	30,890	20,801	51,691	17,460	—	69,151
1972	27,038	59,823	86,861	24,265	—	111,126
1973	33,485	39,568	73,053	15,576	—	88,629
1974	42,096	43,170	85,266	29,509	—	114,775
1975	36,368	37,364	73,732	31,928	—	105,660
1976	43,162	35,620	78,782	25,111	—	103,893
Greenland turbot						
1970	5,188	15,896	20,884	4,978	—	25,862
1971	24,409	12,561	36,970	10,271	—	47,241
1972	25,583	54,898	80,481	14,858	—	95,339
1973	30,778	31,924	62,702	12,265	—	74,967
1974	39,334	37,549	76,883	10,862	—	87,745
1975	37,941	34,890	72,831	12,194	—	85,025
1976	42,885	27,904	70,789	8,979	—	79,768
Arrowtooth flounder						
1970	9,321	307	9,628	3,244	—	12,872
1971	8,281	8,240	16,521	7,189	—	23,710
1972	1,455	4,825	6,280	9,407	—	15,787
1973	2,707	7,644	10,351	4,311	—	14,662
1974	2,762	5,621	8,383	18,650	—	27,033
1975	445	2,474	2,919	19,734	—	22,653
1976	277	3,858	4,135	16,132	—	20,267

^aCatches are from data on file with the Japanese and U.S. National Sections.

^bMothership, North Pacific longline-gillnet, and North Pacific trawl fisheries.

^cLandbased dragnet fishery.

^dCatch for fishing year, November of previous year to October.

^ePreliminary.

^fDash denotes fishing but no reported catch.

Although catches averaging 105,000 mt have been sustained during the period 1972–76, catch rates of Greenland turbot in one foreign fleet have decreased substantially during the same period (see section I.3.2, following). Accordingly, MSY for the turbot complex is believed to be in the order of 100,000 mt.

I.3.2 Equilibrium Yield

Commercial catch-effort statistics are of little use for stock assessment of turbot because they are not primary target species. In the case of such secondary species, it is extremely difficult to determine data points that are indicative of stock abundance. Catch rates for these species tend to vary more in response to fishing strategy for primary target species than to turbot abundance. The problem is compounded because data from individual vessels that do target on turbot are often merged and summarized with data of all other vessels.

Given the difficulty in using commercial CPUE data for non-target species and the lack of research survey coverage of the depth strata where adult turbot reside, the only quantitative information bearing on current stock condition is that for juveniles which occur in shallow water and were sampled by research vessels. In one area sampled since 1973, catch rates for young arrowtooth flounder increased from 1.1 kg per km² trawled to 3 kg per km² trawling in 1976 (Table I.8); the preliminary value for 1977 was almost identical to that for 1976. Therefore, the current catch level of about 21,000 metric tons (Table I.9) does not appear to be detrimental to recruitment.

Catch rates of juvenile Greenland turbot have been relatively stable since 1974 also indicating that fishery removals have not impacted Greenland turbot recruitment in recent years.

As mentioned above, it is difficult to evaluate the condition of individual species using catch rates of mixed species fisheries. Nonetheless, it may be significant that during the period 1972–76 when the total annual Greenland turbot catch decreased about 18 percent (from 95,300 to 79,800 mt), the catch rate of that species in the Japanese landbased dragnet fishery decreased from 32 percent (from 40 to 27 mt/100 hours). This fleet accounted for 44 percent of the total Greenland turbot catch.

In summary, recognizing the lack of adequate stock assessment information, but considering the downward trend in catch and CPUE for Greenland turbot, the equilibrium yield for this complex is believed to be about 5–10 percent below MSY, or 90,000–95,000 mt.

I.3.3 Acceptable Biological Catch

The inadequate data base available for evaluating stock condition and the downward trend in CPUE for one of the species in one fleet are cause for slight concern. Accordingly, ABC for the turbot complex is considered equivalent to the low end of the EY range—90,000 mt.

I.4 Other Flatfishes

This species complex is made up of the following smaller shallow water species; flathead sole, rock sole, Alaska plaice, and trace amounts of rex sole, Dover sole, starry flounder, longhead dab, butter sole, and lefteye flounders.

I.4.1 The catch history for this species complex shows a general increase of catches up to a peak of 95,000 mt in 1971 followed by a drastic decline through 1975 (Table I.10). It is difficult to discern whether that decline was due to declining abundance or to changing patterns of fishing activities. Commercial catch rates are not necessarily indicative of stock abundance and together with a lack of biological information on these

Table I.10.—All Nation Catches of Other Flatfishes in the Bering Sea in Metric Tons

Year	East of 180 (INPFC area 1 + 2)				West of 180 (INPFC area 3 + 4)				Aleutians (INPFC area 5)				Total—all areas			
	Rock sole	Flathead sole	Alaska plaice	Total	Rock sole	Flathead sole	Alaska plaice	Total	Rock sole	Flathead sole	Alaska plaice	Total	Rock sole	Flathead sole	Alaska plaice	Total
1963	5,002	29,825	975	35,802	1,640	74	4	1,718	27	14	—	41	5,669	29,713	979	37,361
1964	3,238	25,288	1,898	30,364	1,308	1,287	10	2,603	152	43	45	240	4,696	26,616	1,893	33,207
1965	3,678	6,713	879	11,370	38	26	—	62	147	128	41	316	3,861	6,867	1,020	11,748
1966	9,104	11,020	4,833	24,957	—	—	—	—	82	25	—	107	9,186	11,106	4,633	24,927
1967	4,762	23,437	3,853	32,052	154	594	—	748	25	32	—	57	4,941	24,063	3,853	32,857
1968	5,250	21,575	2,619	29,444	261	586	—	847	17	186	—	203	5,528	22,347	2,619	30,494
1969	9,240	18,563	6,942	34,745	774	435	—	1,209	2	2	—	4	10,016	19,000	6,942	35,958
1970	20,123	41,152	3,402	64,677	900	932	79	1,911	2	11	—	13	21,025	42,095	3,481	66,601
1971	40,419	51,024	992	92,435	1,962	540	31	2,533	1	16	—	17	42,382	51,580	1,023	94,985
1972	60,824	15,690	290	76,804	1,714	511	40	2,265	5	4	—	9	62,543	16,205	330	79,078
1973	23,835	18,141	1,917	43,893	1,862	472	59	2,393	2	24	—	26	25,699	18,637	1,876	46,212
1974	19,975	14,917	2,388	37,280	655	234	—	889	36	41	—	77	20,666	15,192	2,388	38,246
1975	11,145	5,545	2,614	19,304	507	112	1	620	3	1	—	4	11,655	5,558	2,615	19,828

Source: Wakabayashi, K. and R. Bakkala. 1977. Estimated Catches of Flounders by species in the Bering Sea. U.S. Natl. Mar. Fish. Serv., Northwest Fish. Center. Document submitted to Int'l. North Pac. Fish. Comm. 27 p. (Document 1964)

species, MSY is difficult to determine. Because declines in catches in 1973 and 1975 are believed to be due, at least in part, to operational changes in the Soviet fishery and to winter area closures in the southeastern Bering Sea, the recent average catch level may have little bearing on MSY.

By assuming that the complex had been fully utilized prior to 1975, the average catch (1963–74) of 44,300 mt should approximate MSY. Furthermore, if the complex had been fully utilized prior to 1975, the Schaefer model indicates that by 1975 biomass would be about half of its virgin level. A NMFS trawl survey in 1975 (swept area technique) indicated a standing stock of 232,000–334,100 mt of flathead and rock sole (Table I.11) implying a virgin biomass of 462,000–668,200 mt. Inasmuch as plaice and dab are virtually unutilized by the fisheries, they are excluded from the following computations. If $m = 0.23$ for this complex (Section 9.1; flathead sole 0.2, rock sole 0.26), the Alverson-Pereyra yield equation produces an estimated of MSY of 53,200–76,800 mt ($0.5 \times 0.23 \times 462,400 - 668,200$).

Table I.11.—Estimated Biomass of the "Other Flatfish" Complex in the Eastern Bering Sea by the U.S. National Marine Fisheries Service in 1975

Species	Mean CPUE ¹	Estimated biomass ²	Percent frequency of occurrence
Rock sole	5.73	138,300–202,000	86
Alaska plaice	4.11	101,800–152,800	41
Flathead sole	3.89	93,900–132,100	69
Longhead dab	0.37	8,000–14,200	19

¹Mean catch per unit effort, kg/kg trawled.

²95% confidence limits in metric tons.

Source: Pereyra et al. (1976). Table IX-26.

Therefore, estimates of MSY range from a low of 44,300 mt (as described on page I-27) to 76,800 mt (the high end of the above range).

I.4.2 Equilibrium Yield

There is no evidence to suggest that the MSY for this species complex is unattainable.

I.4.3 Acceptable Biological Catch

This species complex appears healthy and a significant portion of it (plaice and longhead dab) are yet to come under

exploitation. Therefore, ABC is considered equivalent to the mid-point of the MSY range—61,000 mt.

I.5 Pacific Cod

I.5.1 Maximum Sustainable Yield

Pacific cod are distributed widely over the Bering Sea continental shelf and slope and have a distributional pattern similar to that of pollock. During the early 1960's, when a fairly large Japanese longline fishery operated on the continental slope, cod were harvested by longliners for the frozen fish market. Beginning in 1964, the Japanese North Pacific trawl fishery for pollock expanded and cod became an important incidental catch in the pollock fishery. At present, cod are believed to be an occasional target species when high concentrations are detected during pollock fishing operations.

The annual catch of Pacific cod by Japan increased from 19,100 mt in 1974 to about 74,600 mt in 1976; since then, catches have varied between 40,000 and 50,400 mt (Table I.12). Catches by the USSR have only been reported since 1971 and have increased from 4,000 mt in 1971 to 18,500 mt in 1975. Since 1973, the total cod catch has varied between 55,000–67,000 mt.

Table I.12.—Pacific Cod Catches by Nation in the Bering Sea* 1964–76 (Source: INPFC Proceedings 1977)

Year	Japan		Total	U.S.S.R.	ROK	Total all nations
	MS-LG-NPT ^b	LBD ^c				
1964	19,078	— ^d	19,078	— ^d	0	19,078
1965	15,710	1,636	17,346	—	0	17,346
1966	17,347	1,693	19,040	—	0	19,040
1967	30,728	2,780	33,508	—	0	33,508
1968	52,309	11,426	63,735	—	— ^e	63,735
1969	45,078	8,221	53,299	—	—	53,299
1970	61,335	13,276	74,613	—	—	74,613
1971	33,076	13,281	46,357	4,139	—	50,496
1972	34,776	5,158	39,934	7,028	—	46,962
1973	39,489	6,099	45,588	12,980	—	58,568
1974	44,364	6,058	50,422	16,592	—	67,014
1975	33,089	3,448	36,537	18,486	49	55,072
1976	34,975	4,754	39,730	16,912	306	56,948

* Catches are from data on file with the Japanese and U.S. National Sections.

^bMothership, North Pacific longline-gillnet, and North Pacific trawl fisheries.

^cLandbased dragnet fishery.

^dCatch for fishing year, November of previous year to October.

^ePreliminary.

^fDash denotes fishing but no reported catch.

Few biological data concerning cod are available, and their incidental occurrence in the trawl catch makes questionable the use of CPUE trends for evaluating stock condition. Considering that the cod catch grew very quickly in the mid-1960's and then became rather stable thereafter, the average catch since 1968 should reflect at least a minimal estimate of MSY. That average is 58,700 mt.

I.5.2 Equilibrium Yield

The MSY of 58,700 mt is believed to be achievable.

I.5.3 Acceptable Biological Catch

The above estimate of MSY is considered to be minimal. Therefore, ABC is considered equivalent to MSY—58,700 mt.

I.6 Pacific Ocean Perch and Other Rockfishes

I.6.1 Maximum Sustainable Yield

Pacific ocean perch is the most abundant rockfish species in the North Pacific. Chikuni (1975) identified to main stocks in the Bering Sea: an Eastern Slope stock along the southern part of the eastern Bering Sea continental slope and an Aleutian stock along both sides of the Aleutian Islands.

Table I.13.—Annual Catch of Pacific Ocean Perch in the Bering Sea in Metric Tons

Year	Japan ^a			U.S.S.R. ^b			Total		
	Eastern slope	Aleutian	Total	Eastern slope	Aleutian	Total	Eastern slope	Aleutian	Total
1960	1.1		1.1	5.0		5.0	6.1		6.1
1961	13.0		13.0	34.0		34.0	47.0		47.0
1962	12.9	0.2	13.1	7.0		7.0	19.9	0.2	20.1
1963	17.5	0.8	18.3	7.0	20.0	27.0	24.5	20.8	45.3
1964	14.4	29.3	43.7	11.5	81.0	92.5	25.9	90.3	116.2
1965	7.8	38.1	45.9	9.0	71.0	80.0	16.8	109.1	125.9
1966	17.5	28.2	45.7		57.7	57.7	20.2	85.9	106.1
1967	19.6	9.3	28.9	2.7	46.8	49.5	19.6	55.9	75.5
1968	28.4	18.3	46.7	3.1	28.6	31.7	31.5	44.9	76.4
1969	14.5	15.6	30.1	0.0	23.2	23.2	14.5	38.6	53.1
1970	9.9	13.6	23.5	0.0	53.3	53.3	9.9	66.9	76.8
1971	9.8	14.6	24.4	0.0	7.2	7.2	9.8	21.8	31.6
1972	5.5	8.6	14.1	0.2	24.6	24.8	5.7	33.2	38.9
1973	2.7	8.3	11.0	1.0	2.5	3.5	3.7	11.8	15.5
1974	6.6	21.7	28.3	7.4	0.8	8.2	14.0	22.4	36.5
1975	3.2	8.5	11.7	5.4	8.1	13.5	8.8	18.6	27.4
1976	2.8	10.3	13.1						

^a Figures are compiled from both statistics for the mothership-longline North Pacific trawl fishery and the land-based dragnet fishery.

^b Including some amounts of rockfishes, *Sebastes*, spp. other than Pacific ocean perch, except for 1975.

Table I.14.—Pacific Ocean Perch Catch and Effort Data of Stern Trawlers in the Japanese Mothership-Longline North Pacific Trawl Fishery by Vessel Class in the Eastern Bering Sea Slope Region, 1968–1976

Year	Vessel class ^a						
	3	4	5	6	7	8	9
(A) Catch in metric tons							
1968	895	3,847	695	1,938	378	10,012	1,778
1969	361	3,709	102	258	94	4,037	2,103
1970	77	215	78	55	301	3,188	1,495
1971	96	1,558	35	203	992	1,855	459
1972	0	1,005	317	7	410	313	1,278
1973		351	0	199	487	146	242
1974		416	90	520	700	609	442
1975		552	204	343	784	171	248
1976		257	188	148	704	70	434
(B) Fishing effort in hundred hours trawled							
1968	104	298	26	19	1	87	46
1969	95	264	17	15	12	95	125
1970	103	293	16	2	34	122	139
1971	125	411	21	19	35	146	268
1972	120	348	29	13	49	140	198
1973		163	13	16	35	118	297
1974		147	27	39	37	171	310
1975		303	55	41	38	158	263
1976		286	34	4	11	135	227
(C) Percentage composition in total ocean perch catch by vessel class category							
1968	4	19	3	10	2	49	9
1969	3	31	1	2	1	34	18
1970	1	4	1	1	6	58	27
1971	2	30	1	4	19	35	9
1972	0	29	9	7	12	9	37
1973		21	0	12	28	9	14
1974		12	3	15	21	18	13
1975		22	8	14	32	7	10
1976		13	10	8	36	4	22
(C) CPUE in mt per hour trawled							
1968	.08	.13	.26	1.10	2.55	1.50	.39
1969	.03	.14	.06	.16	.08	.42	.17
1970	.01	.01	.04	.23	.09	.26	.11
1971	.01	.04	.02	.11	.28	.13	.02
1972		.03	.10	.01	.07	.02	.05
1973		.02		.12	.14	.01	.01
1974		.03	.03	.13	.19	.04	.01
1975		.02	.04	.08	.21	.01	.01
1976		.01	.05	.4	.62	.01	.02

^a No data for classes 1 and 2. 1973 and 1974 data converted to pre-1973 gross tonnage classification of 1 = 71–100, 2 = 101–200, 3 = 201–300, 4 = 301–500, 5 = 501–1000, 6 = 1001–1500, 7 = 1501–2500, 8 = 2501–3500, 9 = 3501 and above.

Of these two, commercial catch records (Table I.13) indicate that the Aleutian stock is much larger than that of the Eastern Slope. Catches peaked at about 47,000 mt in the Eastern Slope Region in 1961, whereas they peaked at 109,000 mt in the Aleutian Region in 1965. Since then, catches have declined drastically in both regions. This decline is attributed mainly to lower stock abundance caused by the removal of larger, older fish.

Under ideal resource conditions, MSY for the Eastern Slope stock was estimated to be as high as 32,000 mt while that for the Aleutian stock may be as high as 75,000 mt (Chikuni 1975). Whether or not the ecosystem could again support a population large enough to sustain catches of that magnitude is unknown.

No information is available bearing on the MSY of the other rockfish species.

I.6.2 Equilibrium Yield

Since 1960, the Eastern Slope region has produced perch catches in excess of 30,000 mt only twice (1961 and 1968). Following each such instance, catches fell substantially (Table I.13); after the large 1968 catch, catch and catch rate both dropped to very low levels. An inspection of catch (Table I.13) and catch rate (I.14) indicates that perch stocks of the Eastern Slope Region must not have been able to support a fishery of 10,000–15,000 mt annually without detrimental effects to the already low level of stock abundance.

In the Aleutian Region, there were more obvious signs of overexploitation in the early stages of the fishery when amounts in excess of 90,000 mt were taken consecutively from 1964 through 1968. Since then, except for a high catch in 1970, production has dropped and during the period 1971–75 averaged only 21,200 mt. It is evident that the sustained annual catch of 75,000 mt estimated by Chikuni cannot now be realized.

It was the consensus of Japanese, U.S., and Canadian scientists at the 1975 INPFC meeting, that Pacific ocean perch stocks are at a relatively low level of abundance and generally not in good condition. The opinion is derived from various state of stock indicators including (i) a continuous decline in CPUE after 1968; (ii) drastic reductions in the availability of all sizes of ocean perch through the period 1969–72; (iii) a heavy dependence in the fishery after 1968 on young-small fish; and (iv) the lack of any evidence of strong year, incoming classes.

In the Eastern Slope Region, catch, fishing effort, and CPUE data indicate that stock abundance has declined severely from the 1960's and has fluctuated at a low level in the 1970's (Table I.14). Although most effort in the Eastern Slope Region is not directed specifically at Pacific ocean perch, and CPUE may not be the best index of abundance, continuing low ocean perch harvests despite high effort levels do suggest relatively low abundance. Also, catch rates have declined to very low levels since the early 1970's at depths beyond 125 m where most of the Pacific ocean perch grounds are found (Figure L7). The spawning stocks of Pacific ocean perch in the Eastern Slope Region is also considered to be substantially reduced from earlier levels. It is believed that the early extensive ocean perch harvests by Japan and the USSR had removed most of the larger and

older fish from the stock, dramatically affecting its reproductive potential. Chikuni (1975) reported that the fecundity of ocean perch in this region (number of eggs) was as follows: 10,000 at age 7, 29,000 at age 10, 75,000 at age 15, 122,000 at age 20, and 182,000 at age 25. Extensive harvests of older, more fecund fish must have severely reduced larval production in later years, but reduced recruitment as yet has not been directly related to a decline in larval production.

In the Aleutian Region, the stock has also declined in abundance. CPUE data from both the Japanese independent stern trawl fishery (Table I.15) and the land-based dragnet

fishery (Table I.16) show that abundance has been fluctuating at a very low level relative to earlier years since 1971. For example, class 4 and 7 stern trawlers (301–500 gross tons and 1500–2500 gross tons, respectively), which accounted for the majority of annual ocean perch catches by stern trawlers, suffered severe declines in CPUE from 1968 to 1974 (Table I.15). In both cases, catch rates in 1976 were less than 30% of levels attained in 1968, and, on the basis of catch trends, it is believed that stock abundance in 1968 was already reduced considerably from earlier years.

Table I.15.—Pacific Ocean Perch Catch and Effort Data for Stern Trawlers of the Japanese Mothership-Longline North Pacific Trawl Fishery by Vessel in the Aleutian Region, 1968–1976

Year	Vessel class ^a					
	4	5	6	7	8	9
(A) Catch in metric tons						
1968	12,157	280	32	2,711	6,787	532
1969	7,290	440	0	4,839	1,125	144
1970	2,384	1,227	0	7,741	249	82
1971	3,322	889	1,038	4,984	2,249	449
1972	3,527	1,318	645	2,035	168	135
1973	4,581	0	995	1,881	0	0
1974	10,196	1,564	1,326	2,507	25	16
1975	3,720	972	764	1,815	666	0
1976	3,978	784	392	1,462	45	0
(B) Fishing effort in number of hours trawling						
1968	8,575	115	8	218	759	772
1969	1,952	333	0	910	178	38
1970	1,755	600	0	976	161	25
1971	4,543	634	383	720	795	174
1972	6,533	546	492	388	114	56
1973	3,592	0	658	530	36	0
1974	12,249	1,816	964	529	70	22
1975	11,170	1,233	543	521	509	0
1976	8,926	866	629	499	244	0
(C) Percentage composition of total ocean perch catch by vessel class ^b						
1968	54	1	+	12	30	2
1969	51	3	0	34	8	1
1970	20	10	0	66	2	1
1971	26	7	6	38	17	3
1972	45	17	8	26	2	2
1973	61	0	13	25	0	0
1974	63	10	8	16	0	+
1975	46	12	9	22	8	0
1976	59	12	6	22	1	0
(D) Catch (in metric tons) per hour trawled						
1968	1.4	2.4	4.0	12.6	8.9	0.7
1969	3.7	1.3		5.3	6.3	3.8
1970	1.4	2.0		7.9	1.5	3.3
1971	0.7	1.4	2.7	6.9	2.9	2.6
1972	0.5	2.4	1.3	5.2	1.6	2.4
1973	1.3		1.5	3.5		
1974	0.8	0.9	1.4	4.7	0.4	0.7
1975	0.3	0.8	1.4	3.5	1.3	
1976	0.4	0.9	0.6	3.3	0.2	

^a No data for classes 1, 2, and 3 which are mainly side and pair trawls. 1973 and 1974 data converted to pre-1973 gross tonnage classification of 1 = 71–100, 2 = 101–200, 3 = 201–300, 4 = 301–500, 5 = 501–1000, 6 = 1001–1500, 7 = 1501–2500, 8 = 2501–3500, 9 = 3501 and above.

^b Totals may fall short of 100% because of rounding method.

Table 1.16.—Catch and effort data of stern trawlers of the Japanese land-based dragnet fishery in the Aleutian Region, 1969-76.

Year	Catch of all species in mt	Catch of Pacific ocean perch in mt	Percentage of POP in total catch	Total effort in hours	CPUE of POP in mt per hour
1969	5,478	1,246	23	3,850	.32
1970	4,550	1,956	43	5,040	.39
1971	5,977	1,664	28	6,567	.25
1972	17,801	651	4	17,169	.04
1973	16,230	1,873	12	12,792	.15
1974	24,851	5,571	22	22,593	.25
1975	8,067	1,268	16	8,593	.15
1976	8,514	2,663	31	9,597	.27

Notation: POP is Pacific ocean perch; mt is metric tons.

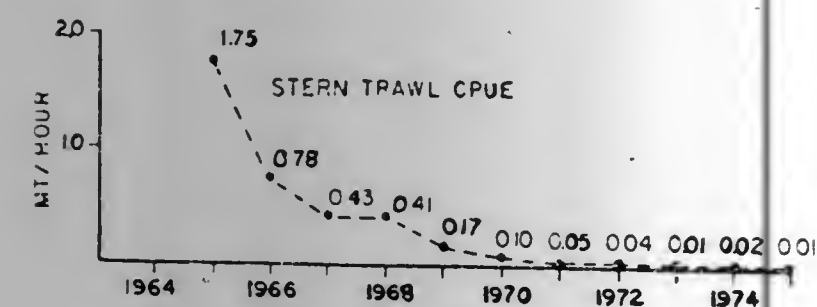
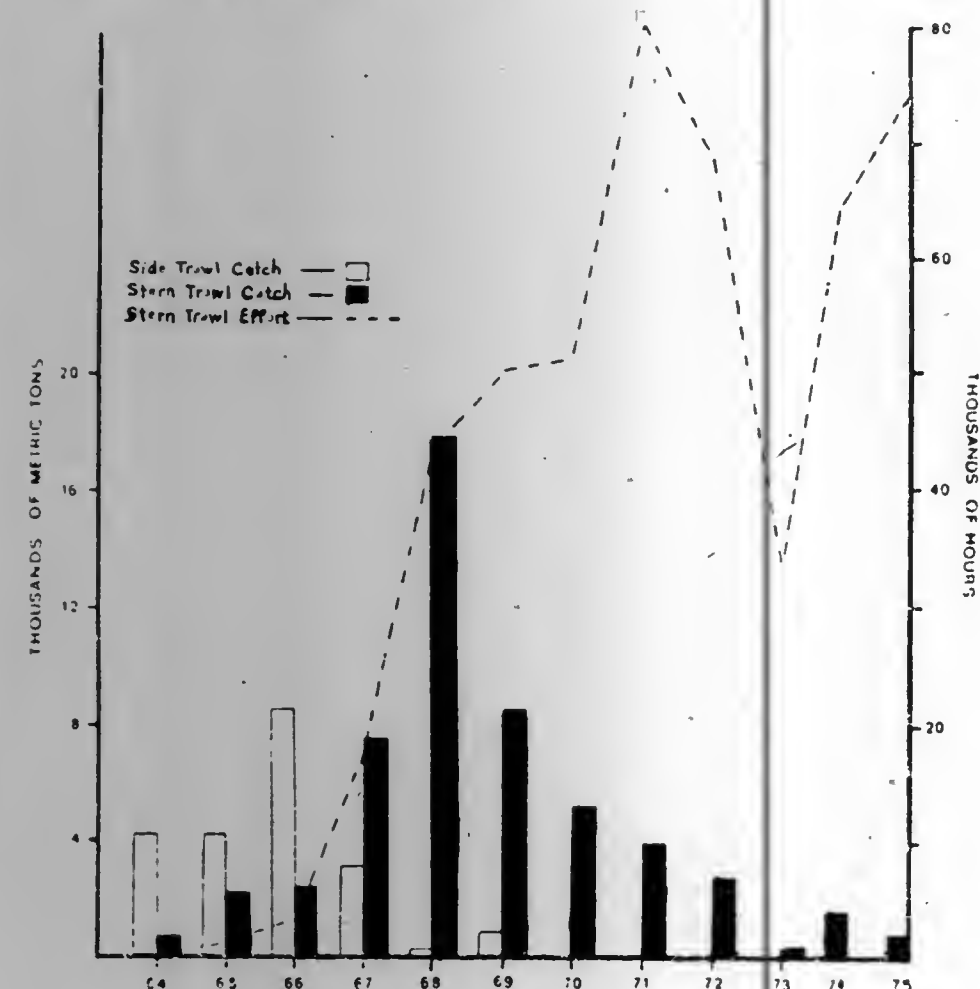


Figure 1.7.—Annual catches of Pacific ocean perch by side and stern trawlers, and stern trawl effort by the Japanese mothership, longline, and North Pacific trawl fisheries, in areas of the Eastern Slope Region where depths exceed 125 meters.

BILLING CODE 3510-22-M

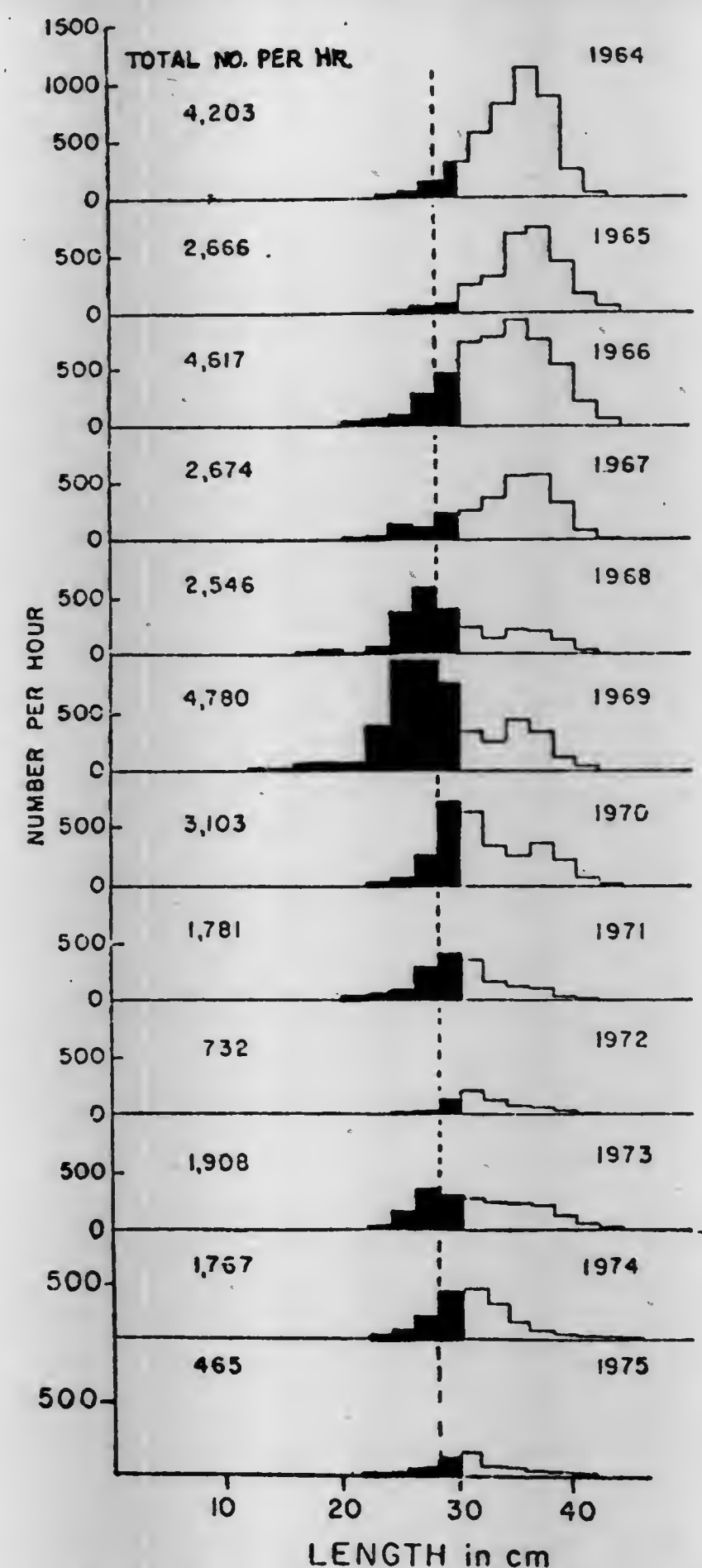


Figure 1.8.—Catch per unit effort by size increment for Pacific ocean perch harvested by stern trawlers of the Japanese mothership-longline North Pacific trawl fishery in the Aleutian Region, 1964-75.

BILLING CODE 3510-22-C

Current length-frequency information also indicates a poor condition of ocean perch stocks in the Aleutian Region. In the early years of the fishery (1964-67), the size composition in the Japanese catches was relatively stable and dominated by fish greater than 28 cm (Figure I.8). After that time, there was a large increase in the proportion of fish smaller than 28 cm, due in part to recruitment into the fishery of the strong year-classes of 1961 and 1962 and in part because of a considerable reduction in abundance of the larger perch after 1967. The abundance of these older fish remained low through 1975. Inasmuch as most annual yields since 1967 have consisted of large numbers of fish less than 28 cm and dwindling numbers of older, more fecund fish, the reproductive potential of Aleutian Region ocean perch stocks must also have been reduced. Additionally, recruitment of ocean perch to the fishery occurs at about 6-8 years of age. Thus, year-classes spawning during the peak years of fishing (1964-1966) would have appeared in catches beginning in 1970. As shown by CPUE values for small fish (less than 28 cm) in 1970-75, recruitment was relatively low. Indeed, the 1975 catch rates, measured in terms of number of fish caught per hour trawled, was the lowest on record (Figure I.8).

In summary, it appears clearly evident that Pacific ocean perch stocks from the eastern Bering Sea and the Aleutian regions are at an extremely low level of abundance with no evidence of strong recruitment in recent years. On the basis of fishery information through 1974, it was estimated in the 1977 PMP for the Trawl Fishery of the Bering Sea that equilibrium yield for Pacific ocean perch was 6,500 mt in the eastern Bering Sea and 15,000 mt in the Aleutians. Based on fishery information available since then, no increase in exploitable biomass has occurred.

No information is available which bears on the EY of the other rockfish species.

I.6.3 Acceptable Biological Catch

The Pacific ocean perch stocks of the Bering Sea/Aleutian Region are badly depleted—current equilibrium yield is believed to be no more than 20 percent of MSY. Therefore, as was the case in the Gulf of Alaska, the ABC of Pacific ocean perch will be set at half of the current EY in order to balance the need for rebuilding against severe economic dislocation in the foreign trawl fisheries—3,250 mt in the eastern Bering Sea sub-area (Statistical Areas I, II, and III combined) and 7,500 mt in the Aleutian sub-area (Statistical Area IV).

The lack of biological data concerning Other Rockfish requires a more pragmatic consideration of ABC. For this species category, there is virtually no information available bearing on stock abundance or condition. Furthermore, the catch record for this category is incomplete and believed to suffer from past misidentifications or misreportings among the POP and Other Rockfish categories.

The Japanese trawl industry reports that in 1977 the Japanese catch of Other Rockfish in the Bering Sea/Aleutian Region was 11,747 mt and that if the other foreign fisheries in the Region had a similar species composition the total catch of Other Rockfish would have

been about 19,000 mt. Species composition data collected by U.S. observers, however, lead to the following estimates of Other Rockfish catches during 1977 (mt):

	Japan	U.S.S.R.	ROK	Total
Eastern Bering Sea (Stat. areas I, II, III)	47	0	0	47
Aleutian (stat. area IV)	6,084	1,596	0	7,680
Total	6,131	1,596	0	7,727

Until additional, accurate fishery information becomes available, the ABC of Other Rockfishes in the Bering Sea/Aleutian Region will be held at the estimated level of the 1977 catch—7,727 mt.

I.7 Sablefish (Blackcod)

I.7.1 Maximum Sustainable Yield

The sablefish resource is found in waters off California, northward to the Gulf of Alaska, westward to the Aleutian Region, and into the Bering Sea. The sablefish found in these wide geographical regions are apparently genetically related in the sense that some migrations have been noted to occur between the regions. However, the degree of interchange between regions is noted to be small in relation to the stock size within each region which led Low et al. (1976) and Weststad et al. (1977) to suggest that management of the resource be conducted by discrete geographical regions. These geographical regions are the eastern Bering Sea, the Aleutian Region, the Gulf of Alaska, waters off Canada, and waters off Washington to California.

Table I.17.—Sablefish Landings in Metric Tons by Nation in the Bering Sea and Aleutians and the Northeastern Pacific Ocean, 1958-76

Year	Northeastern Pacific Ocean					Bering Sea and Aleutians			Grand total
	United States	Canada	Japan	U.S.S.R.	Republic of Korea	Japan	U.S.S.R.	Subtotal	
1958	2,586	383				2,969	32	32	3,001
1959	3,989	362				4,351	383	393	4,744
1960	5,136	705				5,841	1,861	1,861	7,702
1961	3,040	306				3,346	26,182	26,182	29,528
1962	4,017	428				4,445	28,521	28,521	32,966
1963	2,932	396	1,881			5,009	18,404	18,404	23,413
1964	3,659	637	1,041			5,337	9,237	9,237	14,574
1965	3,304	649	2,107			6,060	8,600	8,600	14,660
1966	3,142	970	3,514			7,626	13,088	13,088	20,714
1967	3,208	591	5,660			9,459	14,840	274	24,523
1968	2,027	577	17,592			20,196	18,258	4,256	40,710
1969	2,762	391	22,808			25,961	18,813	1,579	46,353
1970	2,935	327	26,632	980		32,874	10,904	2,874	46,652
1971	2,887	328	29,293	762		33,270	14,961	3,000	51,251
1972	5,636	1,104	38,714	834	308	46,596	18,538	2,406	65,540
1973	5,710	966	32,519	230	58	39,483	9,270	1,354	50,107
1974	8,998	504	26,595	202	2,431	33,715	7,587	91	41,393
1975	8,629	927	26,370	113	8,000	36,621	4,922	117	43,660
1976			26,802				4,840		

¹Includes some catch from the Bering Sea and Aleutian Regions.

Source: INPFC Docs. 1776, 1831, 1883, and pers. comm. T. Sasaki, Far Seas Fishery Research Lab., Shimizu, Japan. ROK and USSR data for 1974 and 1975 from data submitted to the U.S. through bilateral agreements. U.S. and Canadian data from PPMC Data Series, Groundfish Section, and from Fishery Statistics of the U.S., Technical Digests 49-67.

To further separate this regional MSY to the Bering Sea and Aleutian subareas, a similar calculation was made (using the

period 1964-76, Table I.18). Resulting percentages and tonnages are: Bering Sea—86% and 11,600 mt; Aleutian—14% and 1,900 mt.

In order to apportion the overall MSY to individual management regions, the all-nation catch (Table I.17) was averaged over the obvious periods of full fishery development in each: 1961-75 for the Bering Sea/Aleutian Region; 1970-75 for the Northeastern Pacific Ocean (which actually encompasses the Gulf of Alaska, British Columbia, and Washington-California management regions). The resulting percentages of the total MSY and tonnages (percent x 46,500 mt) are: Northeastern Pacific Ocean—71% and 33,000 mt; Bering Sea/Aleutian Region—29% and 13,500 mt.

86% and 11,600 mt; Aleutian—14% and 1,900 mt.

I.7.2 Equilibrium Yield

Catch and CPUE trends clearly indicate that sablefish stocks in the eastern Bering Sea/Aleutian Region are considerably reduced in abundance when compared to earlier years of the fishery. CPUE data analyzed by different procedures by U.S. and Japanese scientists both show declining trends in catch rates (Table I.19) but the trends in the U.S. analysis are much more severe.

The main difference in CPUE computation was the selection of appropriate fishing effort. Without detailed fishing operation

data available to them, U.S. scientists attributed all longline fishing effort towards catching sablefish since that is the target species of the fishery. Japanese scientists selected only that portion of the time spent fishing by excluding time spent for travelling, loading, weathering storms, repairs, and other activities not considered to be associated with production fishing. Differences in resultant CPUE's can not yet be rectified but it is important to note that even though the sablefish catch in the Region during 1973-75 was only 43 percent of the average for the preceding five years (7,800 vs 18,300 mt), averages for eight of the nine CPUE indicators shown in Table I.19 were lower (some substantially so) during the

latter period than during the former. Furthermore, all CPUE indicators continued downward during 1976-77. In other words, even though average annual catch has been reduced more than 50 percent since 1972, abundance (as reflected by CPUE) has continued to decline.

Clearly, an average catch of 7,800 mt cannot currently be sustained by the standing stock of sablefish in the Bering Sea/Aleutian Region.

Considering that the declines in CPUE trends appear to have been less severe in 1976 and 1977, catch levels during that period may be close to the current equilibrium yield. The average catch was about 5,000 mt, 3,500 mt in the Bering Sea Area and 1,500 mt in the Aleutian Area.

I.7.3 Acceptable Biological Catch

Sablefish stocks in this Region have been overfished and are not now capable of producing MSY. Although the source of recruitment to these stocks is not known, neither eggs nor larvae of sablefish have been detected in the Region. It is possible, therefore, that recruitment comes from spawning in the Gulf of Alaska. If so, rebuilding of abundance will be a function of healthy spawning stocks in the Gulf rather than in the Bering Sea/Aleutian Region. Therefore, ABC is considered equivalent to EY—3,500 mt in the Bering Sea Area, 1,500 mt in the Aleutian Area.

I.8 Atka Mackerel

I.8.1 Maximum Sustainable Yield

The fishery for Atka mackerel is relatively new and is conducted primarily by the USSR. The main fishing area is the western Aleutian Islands, with small amounts taken in the eastern Bering Sea. The entire catch history of Soviet catches is as follows:

Year and Catch

1970, 949; 1971, 0; 1972, 5,907; 1973, 1,712; 1974, 1,377; 1975, 13,328; 1976, 13,126; 1977, 20,975.

From the fishery data, it is difficult to approximate MSY. The only source of information that would suggest an MSY level greater than the maximum catch to date of 21,000 mt in 1977 is that provided verbally by Soviet scientists: several large concentrations of Atka mackerel were noted in the Aleutian Region, and from hydroacoustic and trawl samples were estimated to total at least 100,000 mt. From this biomass figure, it was inferred that MSY would equal one-third of the standing stock, or 33,000 mt. Because neither the Soviet data nor the analytical procedures used to estimate biomass and sustainable yield have been made available to scientists of other countries, those estimates must be considered provisional.

I.8.2 Equilibrium Yield

Annual catches of this species have increased from less than 1,000 mt to over 21,000 mt since 1970. Catch rate information

Table I.18.—Historical Catches of Sablefish in Metric Tons by Area and Nation, 1958-76

Year	Bering Sea			Aleutian Region		
	Total	Japan ¹	USSR	Total	Japan ¹	USSR
1958	32	32		(?)	(?)	
1959	393	393		(?)	(?)	
1960	1,861	1,861		(?)	(?)	
1961	26,182	26,182		(?)	(?)	
1962	28,521	28,521		(?)	(?)	
1963	18,404	18,404		(?)	(?)	
1964	8,262	8,262		975	975	
1965	8,240	8,240		360	360	
1966	11,981	11,981		1,107	1,107	
1967	13,731	13,457	274	1,383	1,383	
1968	18,853	14,597	4,256	1,661	1,661	
1969	18,588	17,009	1,579	1,804	1,804	
1970	12,501	9,627	2,874	1,277	1,277	
1971	15,240	12,410	2,830	2,741	2,571	170
1972	15,368	13,231	2,137	3,576	3,307	269
1973	7,615	8,395	1,220	3,008	2,875	134
1974	5,158	5,081	77	2,520	2,506	14
1975	3,422	3,384	38	1,617	1,538	79
1976	3,411	3,267	29	1,705	1,573	61

¹Japanese catch is reported by fishing year (November-October); all other catches are reported by calendar year.

²Included in the Bering Sea catch totals.

³Includes catches by ROK, 115 mt in Bering Sea and 71 mt in Aleutian.

Source: INPFC Document 1883 and pers. comm., T. Sasaki, Far Seas Fishery Research Lab., Shimizu, Japan. USSR 1975 data from U.S.-USSR fishery statistic exchange.

Table I.19.—Sablefish Catch per Unit Effort Trends in the Eastern Bering Sea and Aleutian Region

Year	Eastern Bering Sea					Aleutian Region				
	CPUE 1	CPUE 2	CPUE 3	CPUE 5	CPUE 1	CPUE 2	CPUE 3	CPUE 4	CPUE 5	
1964	61	93	2.4		139	141	3.1			
1965	54	105	3.0		110	183	4.1			
1966	139	166	4.5		229	233	6.3			
1967	210	216	8.2	151	277	275	7.1			154
1968	143	140	5.1	134	165	161	5.9			259
1969	189	187	6.9	142	184	183	7.1			318
1970	231	241	8.7	50	189	241	9.4			112
1971	120	185	5.6	76	165	202	8.4	4.5		222
1972	50	117	3.3	62	203	208	11.6	11.8		123
1973	47	148	6.0	41	182	204	7.7	4.6		115
1974	141	164	7.4	24	187	208	7.8	4.4		44
1975	68	131	4.9	13	96	168	6.0	1.8		30
1976	71	147	5.6	6	78	114	4.5			7
1977			5.4			108	4.0	1.1		

CPUE 1: U.S. estimate, kg per 10 hachi longline units.

CPUE 2: Japanese estimate, kg per 10 hachi longline units.

CPUE 3: Japanese estimate, mt per vessel-day fishing by longliners.

CPUE 4: U.S. estimate, mt per vessel-day fishing by longliners.

CPUE 5: U.S. estimate, kg per hour trawling by land-based stern trawlers.

Data Sources: CPUE 1, CPUE 4, and CPUE 5 from Low (1977)—U.S. document on sablefish submitted to INPFC; CPUE 2 and CPUE 3 from Anonymous (1978)—Report of U.S.-Japan meeting on status of stocks.

is available only for 1977 and 1978 (from U.S. observers aboard Soviet trawlers); catch per hour, for vessels on which Atka mackerel was the target species, averaged 3.9 and 4.1 mt, respectively. By itself, this information could be interpreted to indicate no substantial change in abundance from 1977 to 1978 when annual catches were in excess of 20,000 mt. Two factors, however, must be evaluated before this indication can be considered conclusive.

First, size and age data taken by U.S. observers aboard Soviet vessels in both 1977 and 1978 show the bulk of the catch to have been 2-3 year-olds, whereas Soviet research off Kamchatka indicates that this species lives to at least 11 years of age. The lack of older fish in this developing fishery is of concern.

Second, observations of Soviet commercial fisheries and U.S. trawl surveys indicate that Atka mackerel occur in rather large concentrations. The sparse catch per hour information available provides some insight into the density of such concentrations but does not necessarily reflect the size or number of concentrations and, therefore, might not necessarily be indicative of overall abundance.

In light of the above, it is neither possible to estimate EY nor to determine whether current EY is equal to or less than MSY.

1.8.3 Acceptable Biological Catch

In the PMP for 1977 and 1978, the allowable catch of this species was set at 24,800 mt, 75 percent of the unverified Soviet estimate of MSY of 33,000 mt. The information currently available provides no biological basis for changing the allowable catch in 1979; accordingly ABC is considered equivalent to the 1977-78 total allowable catch of 24,800 mt.

1.9 Squid

1.9.1 Maximum Sustainable Yield

Virtually nothing is known about the status of the squid resource except that the current catch of about 10,000 mt does not seem large for a resource that occupies a low trophic level in the food chain and is known to be very abundant throughout the world's oceans. Therefore, it is assumed that this resource is in very good condition and that MSY is at least 10,000 mt.

1.9.2 Equilibrium Yield

Catches of 10,000 mt are believed to be sustainable.

1.9.3 Acceptable Biological Catch

ABC is equivalent to the minimal estimate of MSY—10,000 mt.

1.10 Pacific Halibut

1.10.1 Maximum Sustainable Yield

Dunlop et al. (1964) estimated that MSY was about 3,000 mt (round weight) in the southeastern Bering Sea (IPHC Areas 4A and 4B).

Historically, this area has been the most productive for the North American setline fishery, and the MSY for the entire eastern Bering Sea (east of 175°W) probably is no more than 5,000 mt. Estimates of MSY are not available for the western Bering Sea as the North American setline catch in this area has been minor (less than 300 mt). Relatively large catches of halibut (over 3,000 mt) in the

western Bering Sea were reported by the Japanese setline fishery in the early 1960s. MSY has not been estimated for the Aleutian area; stocks are small relative to those in the Bering Sea and are considered to be a component of stocks in the Gulf of Alaska.

1.10.2 Equilibrium Yield

Halibut stocks have declined sharply in the eastern Bering Sea since the early 1960's. This is indicated by a decline in CPUE in the North American setline fishery (IPHC 1977) and by IPHC surveys of juvenile halibut (Best 1977). Since 1970, stocks of adult halibut appear to have stabilized at a low level and the North American setline catch has averaged about 300 mt. The incidental catch of juvenile halibut in the eastern Bering Sea peaked in 1971 at about 7,000 mt but has declined since then. Recent surveys indicate an increase in the abundance of juveniles, but abundance is still below that in the early 1960's and the increase will not benefit the setline fishery for several years. Therefore, the equilibrium yield available to the North American setline fishery probably is about the same as the present level of catch, and is well below MSY.

The EY in the western Bering Sea and Aleutians is unknown but probably substantially below MSY.

1.10.3 Acceptable Biological Catch

ABC and OY for Pacific halibut are not applicable to this Plan.

1.11.1 Other Included Species ("Others")

This category includes all species of finfishes taken by trawls and setlines except: pollock, rockfishes, soles and flounders, sablefish, cod, Atka mackerel, herring, and salmon.

Virtually nothing is known of the population structure, biological attributes, or potential yield of the individual components of this category; therefore, only a pragmatic appraisal of "MSY" is possible.

During the last 5 years of record, the catch of this category has averaged about 4 percent with highs of 5-to-8 percent of the combined catch of the other, specified groundfish species. During that period, no indication of declining abundance has been noted; accordingly, it is assumed that the aggregation of stocks in the "others" category can sustain removals equal to at least 4 percent of the total catch of the specified species as long as that catch remains less than the 1972 peak of 2,234,500 mt.

Accordingly, "MSY" of this category is considered to be $-0.04 \times 2,234,500 = 89,400$ mt.

1.11.2 Equilibrium Yield

"MSY" is believed attainable.

1.11.3 Acceptable Biological Catch

ABC is considered equal to 5 percent of the combined ABC of specified species which will be: $0.05 \times 1,484,977 = 74,248$ metric tons.

Annex I: Literature Cited

Alton, M. and R. Bakkala. 1976. Status of Alaska pollock in the eastern Bering Sea. (Doc. 1884 of the INPFC.)

Alverson, D. L. and M. J. Carney. 1975. A graphic review of the growth and decay of population cohorts. J. Cons. Int. Explor. Mers., 36(2): 133-143.

Alverson, D. L. and W. T. Pereyra. 1969. Demersal fish explorations in the northeastern Pacific Ocean—an evaluation of exploratory fishing methods and analytical approaches to stock size and yield forecasts. J. Fish. Res. Bd. Canada 26: 1985-2001.

Anonymous. 1978. Report of the meeting between U.S. and Japanese scientists for the exchange of information on the condition of fishery stocks in the Bering Sea and northeastern Pacific. U.S. Dept. of Commerce, NOAA, NMFS, NWAFC, Seattle, WA (unpubl.)

Best, E. A. 1977. Distribution and abundance of juvenile halibut in the northeastern Bering Sea. Int. Pacific Halibut Comm. Scient. Rept. No. 62. 23 p.

Chikuni, S. 1975. Biological study on the population of the Pacific Ocean perch in the North Pacific. Bull. Far Seas Fish. Res. Lab. 12: 1-119.

INPFC. 1977. Proceedings of the 24th (1977) annual meeting. Int. North Pac. Fish. Comm.

IPHC. 1977. The Pacific Halibut Fishery: catch, effort, and CPUE, 1929-75. Int. Pacific Halibut Comm. Tech. Rept. No. 14. 95 p.

Ikeda, I., H. Yamaguchi, T. Sasaki, and K. Wakabayashi. 1977. Condition of groundfish stocks in the Bering Sea and northeast Pacific Ocean. Fishery Agency of Japan. (Doc. submitted to INPFC.)

Laevastu, T. and F. Favorite. 1976. Dynamics of pollock and herring biomasses in the eastern Bering Sea. U.S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle WA. (Processed Rept.) 50p.

Low, L. L. 1974. A study of four major groundfish fisheries of the Bering Sea. Ph.D. Dissertation. Univ. Wash., Seattle, WA.

Low, L. L. 1976. Status of major demersal fishery resources of the northeastern Pacific: Bering Sea and Aleutian Islands. U.S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle, WA. Processed Rept. 115 p.

Low, L. L., S. A. Mizroch, and M. Alton. 1977. Status of Alaska pollock stocks in the eastern Bering Sea. U.S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle WA. (Doc. submitted to INPFC.)

Low, L. L., G. K. Tanonaka, and H. H. Shippen. 1976. Sablefish of the northeastern Pacific Ocean and Bering Sea. U.S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle, WA. (Processed Rept.) 115 p.

Pereyra W. T., J. E. Reeves, and R. G. Bakkala. 1976. Demersal fish and shellfish resources of the eastern Bering Sea in the baseline year 1975. U.S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle, WA. (Processed Rept.) 618 p.

Pella, J. J. and P. K. Tomlinson. 1969. A generalized stock production model. Inter. Amer. Inp. Tuna Comm. Bull. 13(3): 5-22.

Pope, J. G. 1972. An investigation of the accuracy of virtual population analysis using cohort analysis. Int. Comm. Northwest Atl. Fish. Res. Bull. 9: 65-74.

Rivard, D. and L. J. Bledsoe. 1977. Parameter estimation for the generalized stock production model under nonequilibrium conditions. Univ. Washington, Center for Quant. Science. (Accepted for publi. by Fishery Bulletin).

Wakabayashi, K. 1976. Studies on resources of yellowfin sole in the eastern Bering Sea. Fishery Agency of Japan. (Submitted to INPFC.)

Wakabayashi, K. and R. G. Bakkala. 1977. Estimated catches of flounders by species in the Bering Sea. U. S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle, WA. (Doc. submitted to INPFC). 27 p.

Wakabayashi, K., R. Bakkala, and L. Low. 1977. Status of the yellowfin sole resource in the eastern Bering Sea through 1976. U. S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle, WA. (Doc. submitted to INPFC) 45 p.

Wespestad, V. and L. Ronholt. 1978. Atka mackerel resource in the northeastern Pacific Ocean and Bering Sea. U. S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle, WA. (Doc. to be submitted to INPFC).

Wespestad, V., K. Thorson, and S. Mizroch. Movement of sablefish in the northeastern Pacific Ocean and the Bering Sea. U. S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle, WA. (Unpubl.)

Wolotira, R. J. 1975. Status of Pacific Ocean perch, Pacific cod, and several flatfish stocks in the Bering Sea. U. S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle, WA. (Doc. submitted to INPFC).

Annex II

Derivation of Expected Domestic Annual Harvesting Capacity

Annex II.1 Expected Domestic Annual Processing Capacity (DAP)

The western Alaska Peninsula and the Aleutian Islands are two of the more expensive locations for business to be conducted in Alaska. It was not surprising to learn during the survey that most of the plant owners in the area either had no firm plans to commence groundfish operations, or were developing in-house experience and expertise at other locations on the coast where costs are considerably less.

Perhaps even more surprising was the magnitude of the amount of product anticipated by the three processors who indicated that they planned to process groundfish. Their combined ¹ estimate of expected domestic annual harvest of Bering Sea/Aleutian groundfish is as follows:

	Metric tons
Pollock.....	10,000
Pacific cod.....	7,000
Rockfishes (eastern Bering Sea).....	1,100
(Aleutian).....	1,100
Yellowfin sole.....	1,000
Turbots.....	1,000
Other flounders.....	1,000
Sablefish (eastern Bering Sea).....	500
(Aleutian).....	500
Others.....	1,400
Total.....	24,600

II.2 Estimate of U.S. Harvest of Fish for Non-Processed Markets (DNP)

Surveys of the needs for bait and subsistence fish were made through interviews with fishermen, processors and

¹ Individual company projections are not given here because of the proprietary nature of that data.

villagers. The expected catch is approximately 1,500 metric tons in the following categories:

	Metric tons
Pollock.....	500
Pacific cod.....	200
Yellowfin sole.....	200
Other flatfishes 200.....	400
Total.....	1,500

II.3 Derivation of Expected U.S. Harvest Delivered to Foreign Processors (JVP)

Testimony at the June, 1979 Council meeting indicated an interest by both domestic fishermen and foreign at-sea processors for developing a "joint venture" fishery for groundfish in the Bering Sea/Aleutian region during the plan year. A subsequent telephone canvass of those operators expressing and interest in buying fish from American fishermen for foreign processors at-sea developed the following estimates:

Annex III.—Derivation of Total Allowable Level of Foreign Fishing (TALFF)

Reference: Species group	Subarea ¹	Annex I, ABC=OY	Section 13.1 reserve	Annex II, initial DAH	Initial TALFF
Pollock.....	Bering Sea.....	1,000,000	50,000	19,550	930,450
Pollock.....	Aleutian.....	100,000	(²)		100,000
Yellowfin sole.....		117,000	5,850	2,050	109,100
Turbots.....		90,000	4,500	1,075	84,425
Other flatfishes ³		61,000	3,050	1,300	56,650
Pacific cod.....		58,700	2,935	24,265	31,500
Pacific ocean perch.....	Bering Sea.....	3,250	162	1,380	1,708
Pacific ocean perch.....	Aleutian.....	7,500	375	1,380	5,745
Other rockfish.....		7,727	500	1,550	5,677
Sablefish.....	Bering Sea.....	3,500	350	700	2,450
Sablefish.....	Aleutian.....	1,500	150	700	650
Atka mackerel.....		24,800	1,240	100	23,460
Squid.....		10,000	500	50	9,450
Others.....		74,249	3,712	2,000	68,537
Total.....		1,559,226	73,324	56,100	1,429,802

¹ BS=Bering Sea (Statistical Areas I, II, III combined). AL=Aleutian Island Area (Statistical Area IV). (Includes territorial waters.)

² Excluding Pacific halibut.

³ This OY calculated for the offshore pollock population in deep water is discussed in Annex I (p. A-13). No reserve is considered necessary at this time since there is little U.S. capability for a pelagic trawl fishery and resource abundance on the continental shelf is expected to keep any U.S. effort on that component identified as "B.Sea."

Annex IV-A.—All-Nation Catches in the Bering Sea/Aleutian Region, by Major Species Groups, for the Last 10 Years of Record (1,000 Metric Tons)¹

Species	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978 ²
Pollock.....	702	863	1,257	1,744	1,875	1,759	1,588	1,357	1,238	888.2	921.3
Pacific cod.....	63.7	53.3	74.6	50.5	47.0	58.6	67.0	55.1	57.8	36.5	37.3
Pacific Ocean perch.....	76.4	53.3	76.8	31.6	38.9	15.5	36.5	25.2	32.6	10.6	7.4
Sablefish.....	20.5	20.4	13.8	18.0	19.0	10.6	7.7	5.0	8.2	4.6	1.6
Halibut.....	7.1	8.3	7.7	8.6	5.9	4.3	2.2	1.6	1.2	0.6	(³)
Flounders.....	149.9	236.2	234.9	323.4	237.7	207.1	196.3	200.4	187.2	121.9	208.3
Atka mackerel.....	(⁴)	(⁴)	1.0	(⁴)	4.7	1.7	1.4	13.3	20.7	21.0	22.4
Others.....	31.5	14.4	25.9	41.5	134.7	62.3	79.9	61.9	45.6	57.3	73.9
All species.....	1,051.1	1,247.1	1,691.7	2,216.8	2,362.9	2,119.1	1,979.0	1,719.5	1,591.3	1,140.9	1,272.2

¹ Values in this table may differ slightly from those used elsewhere in this document because of differences in apportioning between species not clearly listed in foreign statistical reports or differences in treating estimates based on U.S. surveillance when catches were not reported.

² Preliminary.

³ Catch, if any, included under "Others".

⁴ Unknown at this time.

The amount established for JVP is therefore:

	Metric tons
Pollock	9,050
Cod	17,065
Yellowfin sole	850
Turbots	75
Other flatfish	100
Pacific ocean perch	1,860
Other rockfish	450
Sablefish	400
Atka mackerel	100
Squid	50
Others	200
Total	30,000

Section 12.0 Catch and Capacity Descriptors, estimates U.S. commercial

fishing fleet capacity at 156,518 metric tons (Section 12.1.2). Since that survey was done there has been a considerable amount of new construction capable of entering the groundfish fishery, some of it developed specifically for that fishery, that could increase that capacity figure. The DAH (DAP+DNP+JVP), as estimated in this Annex, is 56,100 mt, well below estimated fleet capacity. The performance of joint venture operations during 1979 in the Gulf of Alaska, while below expectations, clearly revealed the potential for rapid expansion. In recognition of this potential and the probable expansion of joint ventures to the Bering Sea in 1980, and consistent with the provisions of P.L. 95-354, the plan provides an initial JVP

amount of 30,000 metric tons of all species combined for the 1980 plan year. January 1-December 31, 1980. Should the performance of joint ventures fail to meet expectations or the demands of DAP exceed expectations, the JVP will be reduced accordingly. The JVP and DAP surpluses not required in the DAH will be made available to the TALFF during the plan year as indicated in Section 12.2.

Annex IV

A. All-nation catch in the Bering Sea/Aleutian Region, by major species groups, for the last 10 years of record.

B. Detailed statistics of the foreign fisheries in the Aleutian area, 1962-77.

C. Detailed statistics of the foreign fisheries in the eastern Bering Sea, 1954-77.

Annex IV-B.—Foreign Catches of Groundfish in the Aleutian Island Region (170° W. to 170° E.) by Calendar Year, 1962-76^{1,2}

Species and nation	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976 ³
Pollock:															
Japan	6	1,359	543	663	1,102	1,359	2,680	512	178	624	571	948	1,318	1,519	551
U.S.S.R.	—	—	—	—	—	—	—	726	8,490	2,535	866	9,828	21,346	12,262	3,673
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	344
Total	6	1,359	543	663	1,102	1,359	2,680	1,238	9,668	3,159	1,437	10,478	22,664	13,781	4,568
Pacific cod:															
Japan	26	601	241	451	154	274	289	220	283	425	435	566	1,334	2,581	3,475
U.S.S.R.	—	—	—	—	—	—	—	—	—	1,653	—	411	45	257	312
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	16
Total	26	601	241	451	154	274	289	220	283	2,078	435	977	1,379	2,838	3,803
Pacific ocean perch and other rockfish:															
Japan	214	7,636	29,377	38,204	28,733	10,285	23,889	15,641	14,173	14,809	8,789	9,793	22,317	9,526	9,808
U.S.S.R.	—	20,000	61,000	71,000	57,700	45,720	26,584	23,172	53,274	7,190	24,595	3,017	824	8,147	6,951
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	33
Total	214	27,636	90,377	109,204	86,433	56,005	50,473	38,813	64,447	21,999	33,384	12,810	23,141	17,675	16,792
Blackcod:															
Japan	—	639	1,496	1,224	1,321	1,608	1,676	1,667	1,246	2,700	3,308	2,490	2,451	1,624	1,424
U.S.S.R.	—	—	—	—	—	—	—	—	—	170	289	162	14	79	61
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	71
Total	—	639	1,496	1,224	1,321	1,608	1,676	1,667	1,246	2,870	3,577	2,652	2,465	1,703	1,556
Atka mackerel:															
Japan	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ROK	0	0	0	0	0	—	—	—	—	—	—	4,515	1,604	1,377	12,078
Total	—	—	—	—	—	—	—	—	—	—	—	4,515	1,604	1,377	20,092
Yellowfin sole:															
Japan	—	2	61	92	98	18	6	20	9	1	—	—	—	—	15
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	—
Total	—	2	61	92	98	18	6	20	9	1	—	—	—	—	15
Rock sole:															
Japan	—	27	152	147	92	25	17	2	2	1	5	2	36	3	21
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ROK	0	0	0	0	—	—	—	—	—	—	—	—	—	—	—
Total	—	27	152	147	92	25	17	2	2	1	5	2	36	3	21
Flathead sole:															
Japan	—	14	43	128	25	32	186	2	11	16	4	24	41	1	8
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ROK	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Total	—	14	43	128	25	32	186	2	11	16	4	24	41	1	8

Annex IV-B.—Foreign Catches of Groundfish in the Aleutian Island Region (170° W. to 170° E.) by Calendar Year, 1962-76^{1,2}—Continued

Species and nation	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976 ³
Alaska plaice:															
Japan	—	—	45	41	—	—	—	—	—	—	—	—	—	—	—
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	—
Total	—	—	45	41	—	—	—	—	—	—	—	—	—	—	—
Halibut:															
Japan	1	87	681	1,268	163	215	333	331	350	387	357	245	363	145	15
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	1	4	4	3	2
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	—
Total	1	87	681	1,268	163	215	333	331	350	387	358	249	367	148	17
Arrowtooth flounder:															
Japan	—	—	—	—	—	—	—	—	—	274	581	1,323	3,705	3,195	784
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	59
ROK	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1,285
Total	—	—	—	—	—	—	—	—	—	274	581	1,323	3,705	3,195	1,350
Greenland turbot:															
Japan	—	7	504	300	63	394	213	228	285	1,750	12,874	8,666	8,788	2,970	1,113
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	112
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	5
Total	—	7	504	300	63	394	213	228	285	1,750	12,874	8,666	8,788	2,970	1,230
Other groundfish:															
Japan	—	513	68	768	131	563	318	2,361	1,181	2,753	3,028	2,630	7,998	8,110	5,630
U.S.S.R.	—	—	—	—	—	7,979	8,630	727	9,480	220	19,419	1,614	1,726	178	326
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	241
Total	—	513	68	768	131	8,542	8,948	3,088	10,671	2,973	22,447	4,244	9,724	8,288	6,197
All groundfish total:															
Japan	247	10,865	33,209	43,296	31,872	14,773	29,608	20,964	17,992	24,047	30,694	29,169	47,841	27,265	22,119
U.S.S.R.	—	20,000	61,000	71,000	57,700	53,699	35,214	24,625	72,254	11,768	49,665	16,440	25,336	33,004	32,814
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	716
All nations total	247	30,865	94,209	114,296	89,572	68,472	64,821	45,609	90,246	35,815	80,359	45,609	73,177	60,269	55,649

¹Catch statistics up to 1963 from Forrester et al. 1974 and for 1964-76 from data on file, Northwest and Alaska fisheries center, with the following exceptions: Pacific ocean perch and other rockfish—U.S.S.R. catches for 1963-66 from Chikuni 1975; all flounders except halibut—all national catches, 1963-75 from Wakabayashi and Bakula 1977.

²0 indicates no fishing, — indicates fishing, but no catch reported.

³Japanese catches for November and December 1976 not included; 1976 catches of flounders (except halibut) by U.S.S.R. and ROK prorated to species based on species composition in Japanese catch.

Annex IV-B.—Foreign Catches of Groundfish in the Aleutian Island Region (170° W. to 170° E.) by Calendar Year, 1976-77^{1,2}—Continued

Species and nation	1976	1977 ³	Species and nation	1976	1977 ³
Pacific ocean perch and other rockfish:			Yellowfin sole:		
Japan	11,204	12,708	Japan	14	100
U.S.S.R.	6,951	786	U.S.S.R.	110	—
ROK	33	87	ROK	—	—
ROC	0	2	ROC	0	—
Total	18,188	13,583	Total	124	100
Blackcod:			Rock sole:		
Japan	1,569	1,768	Japan	23	75
U.S.S.R.	61	—	U.S.S.R.	71	3
ROK	71	86	ROK	—	—
ROC	0	—	ROC	0	—
Total	1,701	1,854	Total	94	78
Atka mackerel:			Flathead sole:		
Japan	5	585	Japan	7	97
U.S.S.R.	20,092	20,971	U.S.S.R.	55	1
ROK	—	—	ROK	—	—
ROC	0	—			
Total	20,097	21,566			

Annex IV B.—Foreign Catches of Groundfish in the Aleutian Island Region (170° W. to 170° E.) by Calendar Year, 1976-77.¹—Continued—Continued

Species and nation	1976	1977 ²	Species and nation	1976	1977 ²
ROC	0	—	ROC	0	21
Total	62	38	Total	58,933	69,033
Alaska plaice:			All groundfish total:		
Japan	—	—	Japan	26,452	40,307
U.S.S.R.	—	—	U.S.S.R.	31,765	28,207
ROC	—	—	ROC	716	498
ROC	0	—	ROC	0	21
Total	—	—	All nation total	58,933	69,033
Pacific halibut:					
Japan	15	1			
U.S.S.R.	2	—			
ROC	—	—			
ROC	0	—			
Total	17	1			

Annex IV-C.—Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180°) by Calendar Year, 1954-76^{1,2} Metric Tons

Species and nation	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
Pollock:												
Japan	—	—	—	—	6,924	32,793	26,097	24,216	58,765	103,353	171,957	229,275
U.S.S.R.	0	0	0	0	—	—	—	—	—	—	—	—
ROC	0	0	0	0	—	—	—	—	—	—	—	—
Total	—	—	—	—	6,924	32,793	26,097	24,216	58,765	103,353	171,957	229,275
Pacific cod:												
Japan	—	—	—	—	171	2,864	5,679	2,448	6,054	3,879	13,408	14,722
U.S.S.R.	0	0	0	0	—	—	—	—	—	—	—	—
ROC	0	0	0	0	—	—	—	—	—	—	—	—
Total	—	—	—	—	171	2,864	5,679	2,448	6,054	3,879	13,408	14,722
Pacific Ocean perch and other rockfish:												
Japan	—	—	—	—	—	—	—	—	—	—	—	—
U.S.S.R.	0	0	0	0	—	—	—	—	—	—	—	—
ROC	0	0	0	0	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—	—	—	—	—
Blackcod:												
Japan	—	—	—	—	32	393	1,861	26,183	28,521	18,404	6,165	5,001
U.S.S.R.	0	0	0	0	—	—	—	—	—	—	—	—
ROC	0	0	0	0	—	—	—	—	—	—	—	—
Total	—	—	—	—	32	393	1,861	26,183	28,521	18,404	6,165	5,001
Yellowfin sole:												
Japan	12,562	14,690	24,697	24,145	39,153	123,121	360,103	399,542	281,103	20,504	48,880	26,039
U.S.S.R.	0	0	0	0	5,000	62,200	96,000	154,200	139,500	65,306	62,297	27,771
ROC	0	0	0	0	—	—	—	—	—	—	—	—
Total	12,562	14,690	24,697	24,145	44,153	185,321	456,103	553,742	420,703	85,810	111,177	53,810
Rock sole:												
Japan	—	—	—	—	—	—	—	—	—	1,198	1,432	1,780
U.S.S.R.	0	0	0	0	—	—	—	—	—	3,806	1,806	1,898
ROC	0	0	0	0	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—	—	5,002	3,238	3,678
Flathead sole:												
Japan	—	—	—	—	—	—	—	—	—	7,079	11,121	3,287
U.S.S.R.	0	0	0	0	—	—	—	—	—	22,546	14,167	3,428
ROC	0	0	0	0	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—	—	29,625	25,288	6,713
Alaska plaice:												
Japan	—	—	—	—	—	—	—	—	—	233	808	474
U.S.S.R.	0	0	0	0	—	—	—	—	—	742	1,030	505
ROC	0	0	0	0	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—	—	975	1,838	979
Pacific halibut:												
Japan	—	—	—	—	—	—	—	—	—	—	—	—
U.S.S.R.	0	0	0	0	196	874	6,931	3,480	7,865	7,452	1,271	1,369
ROC	0	0	0	0	—	—	—	—	—	—	—	—
Total	—	—	—	—	196	874	6,931	3,480	7,865	7,452	1,271	1,369

Annex IV-C.—Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180°) by Calendar Year, 1954-76^{1,2} (Metric Tons)—Continued

Species and nation	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
Arrowtooth flounder:												
Japan												
U.S.S.R.												
ROK												
Total												
Greenland turbot:												
Japan	0	0	0	0	—	—	36,843	57,348	58,226	31,565	33,729	7,947
U.S.S.R.	0	0	0	0	—	—	—	—	—	—	—	1,800
ROK	0	0	0	0	0	0	0	0	0	0	0	0
Total	—	—	—	—	—	—	36,843	57,348	58,226	31,565	33,729	9,747
Other groundfish:												
Japan	—	—	—	—	147	380	10,260	554	5,931	1,102	736	2,218
U.S.S.R.	0	0	0	0	—	—	—	—	—	—	—	—
ROK	0	0	0	0	0	0	0	0	0	0	0	0
Total	—	—	—	—	147	380	10,260	554	5,931	1,102	736	2,218
All groundfish total:												
Japan	12,562	14,690	24,697	24,145	46,623	180,225	448,874	526,771	459,365	212,267	303,095	300,635
U.S.S.R.	0	0	0	0	5,000	62,200	101,000	188,200	146,800	99,400	86,300	44,400
ROK	0	0	0	0	0	0	0	0	0	0	0	0
All nation total	12,562	14,690	24,697	24,145	51,623	222,425	549,874	714,971	605,965	311,667	389,395	345,235

Species and nation	1968	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976 ³
Pollock:											
Japan	261,894	550,152	701,124	830,525	1,231,347	1,514,030	1,816,532	1,471,189	1,250,654	1,065,078	812,728
U.S.S.R.	—	—	—	33,571	35,590	233,511	213,895	280,005	309,613	216,567	175,539
ROK	0	0	1,200	5,000	5,000	10,000	9,200	3,100	26,000	3,438	84,987
Total	261,894	550,152	702,324	869,096	1,271,937	1,757,541	1,839,627	1,754,294	1,586,267	1,285,083	1,173,254
Pacific cod:											
Japan	18,200	31,982	57,915	50,487	70,078	40,555	35,877	40,817	45,915	33,322	29,086
U.S.S.R.	—	—	—	—	—	2,486	7,028	12,568	16,547	18,229	17,756
ROK	0	0	—	—	—	—	—	—	—	—	716
Total	18,200	31,982	57,915	50,487	70,078	43,041	42,905	53,386	62,462	51,551	47,558
Pacific Ocean perch and other rockfish:											
Japan	16,786	20,598	26,214	16,150	10,392	10,368	5,837	3,147	8,811	3,716	3,163
U.S.S.R.	9,000	—	3,087	—	—	—	150	475	31,877	16,465	12,124
ROK	0	0	—	—	—	—	—	—	—	—	578
Total	25,786	20,598	29,301	16,150	10,392	10,369	5,987	3,622	38,688	20,181	15,865
Blackcod:											
Japan	9,502	10,330	10,143	14,454	8,897	12,304	10,643	4,768	4,189	2,776	2,569
U.S.S.R.	—	1,237	4,256	1,579	2,874	2,830	2,137	1,192	77	38	29
ROK	0	0	—	—	—	—	—	—	—	—	115
Total	9,502	11,567	14,399	16,033	11,771	15,134	12,780	5,961	4,266	2,814	2,713
Yellowfin sole:											
Japan	45,423	60,429	40,834	81,449	59,851	82,179	34,846	75,724	37,947	59,715	33,328
U.S.S.R.	56,930	101,799	43,355	85,885	73,228	78,220	13,010	2,518	4,288	6,060	3,343
ROK	0	0	—	—	—	—	—	—	—	—	635
Total	102,353	162,228	84,189	167,134	133,079	160,399	47,856	78,240	42,235	65,775	37,306
Rock sole:											
Japan	4,037	1,990	2,633	4,285	9,816	20,159	43,055	22,840	17,311	9,682	7,828
U.S.S.R.	5,067	2,872	2,817	4,955	10,507	20,260	17,769	995	2,664	1,463	785
ROK	0	0	—	—	—	—	—	—	—	—	150
Total	9,104	4,862	5,450	9,240	20,325	40,419	60,824	23,835	19,975	11,145	8,763
Flathead sole:											
Japan	4,995	10,621	11,851	9,168	20,088	25,538	9,850	17,190	12,000	4,873	6,911
U.S.S.R.	6,024	12,816	9,724	9,395	21,064	25,486	5,840	951	2,028	672	692
ROK	0	0	—	—	—	—	—	—	—	—	132
Total	11,020	23,437	21,575	18,563	41,152	51,024	15,690	18,141	14,017	5,545	7,735
Alaska plaice:											
Japan	2,054	1,340	1,223	3,127	1,326	517	171	1,082	2,168	2,407	2,064
U.S.S.R.	2,579	2,513	1,396	3,815	2,078	475	119	35	220	207	207
ROK	0	0	—	—	—	—	—	—	—	—	40
Total	4,633	3,853	2,619	6,942	3,402	992	290	1,117	2,388	2,614	2,311
Pacific halibut:											
Japan	2,199	3,756	2,775	2,764	1,735	4,861	955	844	81	137	87
U.S.S.R.	—	—	—	—	—	—	480	296	123	137	58
ROK	0	0	—	—	—	—	—	—	—	—	—
Total	2,199	3,756	2,775	2,764	1,735	4,861	1,445	940	204	274	145

Annex IV-C—Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180°) by Calendar Year, 1954-76^{1,2} (Metric Tons)—Continued—Continued

Species and nation	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976 ³
Arrowtooth flounder:											
Japan.....					9,354	11,603	3,823	4,929	2,823	1,241	1,652
U.S.S.R.....					3,244	7,189	9,301	4,288	18,850	19,591	16,132
ROC.....					—	—	—	—	—	—	32
Catches of Arrowtooth flounder and Greenland turbot combined until 1970											
Total.....					12,598	18,792	13,124	9,217	21,473	20,832	17,816
Greenland turbot:											
Japan.....	10,842	21,230	19,980	19,231	14,715	30,193	49,813	43,954	58,834	52,625	17,583
U.S.S.R.....	2,200	2,639	15,252	16,798	4,976	10,271	14,697	11,826	10,820	12,194	8,867
ROC.....	0	0	—	—	—	—	—	—	—	—	335
Total.....	13,042	23,869	35,232	36,029	19,691	40,464	64,510	55,780	69,654	64,819	26,785
Other groundfish:											
Japan.....	2,239	4,378	2,984	4,182	9,227	29,617	32,370	39,911	47,491	42,531	44,504
U.S.S.R.....	—	—	19,074	6,277	8,068	3,879	78,523	15,915	12,770	12,314	12,294
ROC.....	0	0	—	—	—	—	—	—	—	—	322
Total.....	2,239	4,378	22,058	10,459	15,295	33,496	110,893	55,826	60,261	54,845	57,120
All groundfish total:											
Japan.....	377,972	716,706	877,878	1,035,822	1,446,626	1,761,825	1,843,772	1,725,596	1,487,113	1,278,103	1,061,503
U.S.S.R.....	81,800	123,878	88,761	162,075	159,627	384,807	362,958	331,163	409,877	303,937	247,828
ROC.....	0	0	1,200	5,000	5,000	10,000	9,200	3,100	26,400	3,438	88,042
All nation total.....	459,772	840,582	977,837	1,202,897	1,611,253	2,176,532	2,215,931	2,059,859	1,922,790	1,585,478	1,397,371

Annex IV C.—Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180°) by Calendar Year, 1976-77.^{1,2} Continued

Species and nation	1976	1977	Species and nation	1976	1977
Yellowfin sole:			Arrowtooth flounder:		
Japan.....	52,673	58,139	Japan.....	1,717	6,758
U.S.S.R.....	2,908	284	U.S.S.R.....	16,132	6,669
ROC.....	655	—	ROC.....	2	—
ROC.....	0	55	ROC.....	0	4
Total.....	56,236	58,478	Total.....	17,851	7,431
Rock sole:			Greenland turbot:		
Japan.....	8,598	4,906	Japan.....	51,677	31,942
U.S.S.R.....	1,328	805	U.S.S.R.....	8,967	3,082
ROC.....	107	—	ROC.....	425	—
ROC.....	0	5	ROC.....	0	18
Total.....	10,033	5,716	Total.....	60,969	35,042
Flathead sole:			Other groundfish:		
Japan.....	7,379	7,025	Japan.....	13,527	26,950
U.S.S.R.....	795	1,069	U.S.S.R.....	12,294	814
ROC.....	90	—	ROC.....	322	1,445
ROC.....	0	8	ROC.....	0	—
Total.....	8,264	8,100	Total.....	26,143	29,009
Alaska plaice:			All groundfish total:		
Japan.....	3,519	3,118	Japan.....	1,183,898	958,991
U.S.S.R.....	102	516	U.S.S.R.....	247,932	70,690
ROC.....	44	—	ROC.....	88,041	41,827
ROC.....	0	3	ROC.....	0	1,482
Total.....	3,665	3,637	All nation total.....	1,499,971	1,070,990
Pacific halibut:					
Japan.....	88	—			
U.S.S.R.....	58	—			
ROC.....	—	—			
ROC.....	0	2			
Total.....	146	2			

¹ Catch statistics up to 1963 from Forrester et al., 1974, and for 1964-76 from data on file, Northwest and Alaska Fisheries Center, Seattle, with the following exceptions: Pacific Ocean perch and other rockfish—Japanese catches 1960-63 and U.S.S.R. catches 1960-66 from Chikuni 1975; blackcod—Japanese catches 1958-63 from Sasaki 1978; and all flounders except halibut—all nation catches, 1954-75 from Wakabayashi and Bakula 1977.

² 0 means no fishing, — means fishing, but no reported catch.

³ Japanese catches for November and December 1976 not included; U.S.S.R. and ROC catches of flounders (except halibut) prorated to species based on species composition of Japanese catches.

Annex IV C.—Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180°) by Calendar Year, 1976-77.^{1,2} Continued—Continued

Species and nation	1976	1977
--------------------	------	------

¹ Catch statistics up to 1963 from Forrester et al. 1974 and for 1964-76 from data on file, Northwest and Alaska Fisheries Center, with the following exceptions: Pacific ocean perch and other rockfish—U.S.S.R. catches for 1963-66 from Chikuni 1975; all flounders except halibut—all national catches, 1963-76 from Wakabayashi and Bakula, 1978.

² 0 indicates no fishing, — indicates fishing, but no catch reported.

³ Catches of flounders by U.S.S.R. and ROC are preliminary.

Annex V

Information on Marine Mammal Populations

Information on distribution and migration, abundance and trends, feeding habits, and any problems induced by fisheries on seven marine mammal populations in the Bering Sea/Aleutian Region was provided by the Marine Mammal Division of the Northwest and Alaska Fisheries Center and included in this annex. The information is summarized mainly from the annual report of the Department of Commerce on the Administration of the Marine Mammal Protection Act of 1972 for the period of April 1, 1977 through March 31, 1978 (DOC, 1978) and the Final Environmental Impact Statement on Consideration of a Waiver of the Moratorium and Return of Management of Certain Marine Mammals to the State of Alaska, Volumes I and II (DOC and DOI, 1977).

Northern Sea Lion (*Eumetopias jubatus*)

Distribution and Migration: The northern (stellar) sea lion is found in continental shelf water from the Sea of Japan and northern Honshu, Japan, northward around the North Pacific Ocean rim to Okhotsk and Bering Sea and southward to the California Channel Islands. Some seasonal movements occur in parts of its range.

Abundance and Trends: Mate (1976) estimated a world population of 250,000 to 325,000 animals. Alaska has 202 known rookeries and hauling grounds. The Alaska population has increased since exploitation diminished in the early 1900's and now exceeds 200,000 according to a 1973 ADFG estimate. However, recent studies in the eastern Aleutian Islands indicate a 50% decline in population sizes since the late 1950's (Braham et al. 1977). Factors which may have caused this decline include (1) a westward shift in distribution, (2) commercial fisheries interaction, (3) leptospirosis and/or (4) unidentified population control factors.

Feeding Habits: Northern sea lions eat a variety of fish and cephalopods. Based on frequency of occurrence, one study revealed that fish composed 74.2% of the diet, cephalopod—17.2%, and decapod crustaceans—8.6%. Analysis based on percentage of total individuals provided a somewhat different picture. Fishes completely dominated the diet at 97.6% of total individuals. Cephalopods followed at 2.0% and decapod crustaceans at 0.6%. Groundfishes constituted 57.7% of the sea lion diet based on frequency of occurrence and 90.8% based on percentage of total

individuals (Calkins and Pitcher, 1977). Pollock was the dominate groundfish. Details of the diet are summarized as follows:

Area.—Cape Spencer to Scotch Cap on Unimak Island Northern Sea Lions—68 Samples

Prey item	No. of occurrences	% occurrences	No. of individuals	% of total individuals
Gadidae.....	57	49.1	1135	89.2
Pollock.....	47	40.5	1072	84.3
Pacific cod.....	8	5.2	33	2.6
Other Gadidae.....	4	3.4	30	2.3
Scorpaenidae:				
Rockfishes.....	2	1.7	8	0.5
Pleuronectidae.....	8	6.9	14	1.1
Starry flounder.....	1	0.9	1	0.2
Rock sole.....	1	0.9	1	0.1
Yellowfin sole.....	1	0.9	2	0.2
Flathead sole.....	2	1.7	2	0.2
Other				
Pleuronectidae.....	3	2.5	8	0.4
Total Groundfish.....	67	57.7	1155	90.8

Problems: Northern sea lions have damaged gear and destroyed fish in halibut longline, salmon purse seine, gillnet, and troll fisheries. Because groundfish make up such a large part of the sea lion's diet, this species will probably be one of the marine mammals most impacted by the ground fish fisheries and will be the species which should bear close watching as groundfish policies are considered. This is important in light of recent declines in populations in the eastern Aleutian Islands.

Northern Fur Seal (*Callorhinus ursinus*)

Distribution and Migration: Northern fur seals are found at sea along the continental shelf from the Bering Sea south along both sides on the North Pacific Ocean to latitude 32°N. Most animals are on their breeding grounds from May through November to bear young and to breed.

Abundance and Trends: A program of reducing the population of Pribilof Island fur seals was begun in 1956 with the expectation that the rate of survival would improve and result in an increased yield of pelts. By 1968, the population had been reduced below levels which would yield the maximum sustainable yield. Thus female fur seals were excluded from harvest in expectation that there would be an increase in pup production. However, expected increases have not been observed. The population level of the northern fur seal is estimated to be 1,765,000. There are in excess of 700,000 adults in the eastern Bering Sea in summer.

Feeding Habits: The northern fur seal is an opportunistic feeder, taking squid and a variety of fishes including herring, anchovy, salmon, capelin, saury, walleyed pollock, and mackerel. Fishes are estimated to constitute about 80% of the fur seal diet. Average size of pollock (the dominant food item) observed in fur seal stomachs is 20 cm. Some figures, from McAlister and Perez (1977) indicated the following consumption of groundfish by northern fur seals.

	In the Aleutians	In the Bering Sea
--	------------------	-------------------

Walleye pollock.....	9.4%	39.4%
Sablefish.....	4.8%	1.0%
Other Gadidae.....	—	5.7%
Pleuronectidae.....	—	1.4%
% Groundfish.....	14.2%	47.5%
% Other fish.....	75.0%	31.5%
Total fish.....	89.2%	79.3%
Total Squid.....	10.8%	20.7%

Problems: Fur seals and commercial fisheries may compete for the same species of fish.

Bearded Seal (*Erignathus barbatus*)

Distribution and Migration: The bearded seal is found in the North Pacific region in the Bering, Okhotsk, and northern Japan Seas. Bearded seals migrate seasonally in association with the advance and retreat of the ice packs. These seals do not normally come ashore.

Abundance and Trends: No satisfactory method of accurately censusing bearded seals has been attempted to date. A 1971 Soviet estimate places the level of the bearded seal populations of the East-Siberian, Chukchi, Bering, Okhotsk, and Japan Seas at 45,000. The Alaska Department of Fish and Game (1973) estimated a population of 300,000 animals in the Bering, Chukchi, East-Siberian, and Beaufort Seas. The population appears to be high and stable (DOC, 1978).

Feeding Habits: The bearded seal consumes several species of invertebrates, primarily crabs, shrimps, clams, and amphipods, and some demersal fishes. One study indicates that fishes constitute about 10% of the bearded seal's diet and another study, performed in the Beaufort Sea, stated that about 25% of this animal's diet is fishes, in this case primarily polar cod.*

Problems: None at the present. Bearded seals consume commercially important pandalid and crangoid shrimps and lithods crabs; however, they do not compete directly for commercial fish nor do they damage fishing gear.

Ringed Seal (*Phoca hispida*)

Distribution and Migration: The ringed seal is circumpolar in distribution throughout the ice pack. In the North Pacific Ocean it is found in the Bering, Chukchi, and Okhotsk Seas and in the permanent ice pack of the

*Lowry, Frost, and Burns, *Trophic Relationships Among Ice Inhabiting Seals*. Environmental Assessment of the Alaska Continental Shelf. PI Annual Report, March 77, Vol. 1, p. 228.

Area: North and east of Pt. Barrow

Bearded seals: 3 samples

Of the three samples, one consisted of only one shrimp. One of the seals was taken in November and 64% of the contents were invertebrates and 36% of the contents were fish, mostly saffron cod, but also polar cod, sea snail and eelpout. The third seal was taken in August and it contained 83% invertebrates, mostly isopods. Of the fish in the stomach, 53% were polar cod, 38% were sculpins, and 5% were sea snails. The authors concluded that bearded seals eat a diverse diet but the bulk of it is bivalve mollusk, crabs, shrimps, and sculpins.

Polar Basin. In winter, most ringed seals occupy areas of land-fast ice, but nonbreeding adults and juveniles may be found wherever ice occurs. Apparently, animals wintering in the Bering and Chukchi Seas moved northward in spring as the ice recedes and southward in autumn as it advances again. In western Alaska, the ringed seal is the dominant nearshore seal during ice-free months.

Abundance and Trends: No satisfactory method of accurately censusing ringed seals, throughout their range, has been attempted to date. The Alaska Department of Fish and Game (1973) estimated the ringed seal population in the Bering and Chukchi Seas to be about 250,000. Annual harvest by both Soviets and Americans in this area are between 12,000 and 16,000 animals per year. Overall, the population in the Bering and Chukchi Seas appears to be high and is probably stable.

Feeding Habits: In western Alaska, this seal feeds mainly on mysids, amphipods, euphausiids, shrimps, saffron cod, polar cod, and sculpin. A recent stomach analysis of ringed seals in the Beaufort Sea reported that about 83% of the ringed seal's diet was invertebrates and about 17% was fish, almost exclusively polar cod.*

Problems: None at present. Little competition is known to exist between ringed seals and man for fishery resources.

Harbor Seal (*Phoca vitulina*)

Distribution and Migration: The harbor seal is found in the North Pacific Ocean from the Bering Sea south to Baja California and southern Japan and Korea. The harbor seal is the predominant nearshore seal in ice-free waters north of latitude 35°N.

Abundance and Trends: Overall, the world population of harbor seals appears to be high and stable. A 1976 estimate indicated a population of 312,500 to 317,500 in the Pacific (Adv. Comm. Mar. Resour. Res., 1976).

Feeding Habits: The diet of the harbor seal, which varies according to season and location of specific populations, includes primarily pelagic, demersal, and anadromous fishes, cephalopods, and crustaceans. About half of this seal's diet is fish.

Problems: These seals damage commercial fishing gear and compete with man for such fish as herring, salmon, smelt, and whitefish. These animals are extremely sensitive to disturbance and may leave an area after continual harassment by people, equipment, or aircraft.

* Lowry, Frost, and Burns. *Trophic Relationships Among Ice Inhabiting Seals*. Environmental Assessment of the Alaska Continental Shelf, PI Annual Report, March 1977, Vol. 1, p. 226.

Large Seal (*Phoca largho*)

Distribution and Migration: The large seal is found in the Bering, Chukchi, Western Beaufort, Okhotsk, northern Sea of Japan, and the Po Hai Seas. These seals are seasonally dependent upon sea ice for the birth and nurture of their pups. During winter and early spring the entire population is concentrated along the southern edge of the seasonal pack ice, usually in central Bering Sea. These seals move northward and toward the coasts as the seasonal retreat and disintegration of sea ice progresses. During ice-free summer and early fall they occur along the entire coast of northern Alaska.

Abundance and Trends: No satisfactory method of accurately censusing large seals has been attempted to date. Indirect methods and relative indices of abundances indicate that the population level of this species is high and probably stable. In 1976, the Bering Sea large seal population was estimated to contain from 135,000 to 200,000 animals. The Okhotsk Sea population estimate is 135,000 to 200,000 animals (DOC, 1978).

Feeding Habits: The diet of these seals, which varies with the season and location, includes primarily pelagic, demersal and anadromous fishes, cephalopods and crustaceans.

Ecological Problems: Competition presently exists between these seals and man with respect to commercially important fishes (i.e., herring, smelt, whitefish, and salmon) and with respect to fishing gear. These seals are extremely responsive to disturbance and will leave a hauling area after only minor harassment.

Ribbon Seal (*Phoca fasciata*)

Distribution and Migration: Geographically, the ribbon seal is separable into Okhotsk and Bering and Chukchi Sea populations and interchanges between the two groups are not known to occur. During winter and spring, the entire population is concentrated along the southern edge of the seasonal ice pack. Only a few ribbon seals remain with the ice edge of the seasonal ice pack. Only a few ribbon seals remain with the ice edge as it retreats northward through the Bering Strait. In summer and autumn, ribbon seals are believed to be pelagic, mainly in the ice-free Bering Sea.

Abundance and Trends: The population of ribbon seals is relatively low, having been markedly reduced by commercial sealers of the Soviet Union during the 1960s. In recent years the species has been afforded increased protection by Soviet sealing regulations and its numbers may be increasing again. U.S. citizens harvest very few ribbon seals. The Alaska Department of Fish and Game (1973) estimated that the

population probably numbers between 90,000 and 100,000 animals. Soviet estimates indicate a population of 133,000 in the Okhotsk in 1969 (Popov, 1978). Soviet sealers took less than 3,000 ribbon seals in 1973 from Bering and Okhotsk Seas. In Alaska, the native harvest is usually less than 250 per year.

Food Habits: The diet of the ribbon seal during late winter and early spring (in the ice edge zone) includes mainly pelagic and demersal fishes, cephalopods, and small crustaceans. About 40% of this animal's summer diet is fishes and about 90% of its winter diet is fishes.

Problems: Little competition is known to exist between ribbon seals and man for fishery resources.

Annex V: Literature Cited

- Advisory Committee on Marine Resource Research. 1978. Mammals in the seas: ad hoc group III on seals and marine otters. Food Agric. Organ. U.N., adv. Comm. Mar. resour. Res. RAO ACMRR/MM/SC/4, P. 182.
- Alaska Department of Fish and Game. 1973. Marine Mammal status reports. Unpubl. Rept., Juneau, Alaska.
- Braham, Everitt and Rugh. 1977. Preliminary evidence of a northern sea lion decline in the eastern Aleutian Islands. U.S. Dept. Commerce, NOAA, NMFS, NWAFC, Processed Rept. Nov. 1977.
- Calkins and Pitcher. 1977. Population assessment, ecology and trophic relationships of stellar sea lions in the Gulf of Alaska. Environmental Assess. of the Alaska Continental Shelf, PI Annual Rept. (March 1977), Vol. 1, p. 433.
- Department of Commerce (1978). The Marine Mammal Protection Act of 1972—Annual Report (April 1, 1977 to March 31, 1978). U.S. Dept. Commerce. 203 p.
- Department of Commerce and Department of Interior (1977). Final Environmental Impact Statement on Consideration of a Waiver of the Moratorium and Return of Management of Certain Marine Mammals to the State of Alaska. Vols. I and II. Oct. 1977.
- Mate, B. R. 1976. History and present status of the northern (stellar) sea lion. *Eumetopias jubatus*. Food Agric. Organ. U.N., Adv. Comm. Mar. Resour. Res. FAO ACMRR/MM/SC/66, 6p.
- McAllister and Perez. 1977. Marine mammal ecosystem model for the Bering Sea. U.S. Dept. Commerce, NOAA, NMFS, NWAFC. Unpubl. Rept. Dec. 1977.
- Wakabayashi, K., and R. Bakkala. 1978. Estimated catches of flounder by species in the Bering Sea—Updated through 1976. U.S. Dept. Commerce, NOAA, NMFS, NWAFC, Seattle, Wa. (Doc. submitted to INPEC). 14 p.

Annex VI.—Species Categories Which Apply to the Bering Sea/Aleutian Groundfish Fishery

Prohibited species ¹	Target species ²	"Other" species ³	Nonspecified species ⁴
FINFISHES			
Salmonids	Pollock	Sculpins	Eelpouts (family Zoarcidae).
Pacific Halibut	Cod	Sharks	Poachers (family Agonidae) and alligator fish.
	Flounders	Skates	Snailfish, Lumpfishes, Lumpfishes (family Cyprinodontidae).
	Herring	Eulachon	Sandfishes (<i>Trachodon</i> sp.).
	Atka mackerel	Smelts	Rattails (family Macrouridae).
	Sablefish	Capelin	Ronquils, Searchers (family Bathymasteridae).
	Rockfishes		Lancetfish (family Alepisauridae).
			Pricklebacks, Cockscombs, Warbonnets, Shanny (family Stichaeidae).
			Prowfish (<i>Zaprora silenus</i>).
			Hagfish (<i>Eptatretus</i> sp.).
			Lampreys (<i>Lampetra</i> sp.).
			Blennys, Gurnells (Various small bottom dwelling fishes of the family Stichaeidae and Pholidae).
INVERTEBRATES			
King crab	Squids	Octopus	Anemones
Tanner crab			Jellyfishes.
Coral			Starfishes
Shrimp			Egg cases
Clams			Sea cucumber.
Horseshoe crab			Sea mouse
Lyra crab			Sea slug
Dungeness crab			Isopods.
			Sea potato
			Sand dollar
			Polychaetes.
			Hermit crab
			Crinoids.
			Mussels
			Crab—unidentified.
			Sea urchins
			Miscellaneous—unidentified.
			Sponge—unidentified.

¹ Must be returned to the sea, no fee.

² OY for each item; fee as in fee schedule.

³ Aggregate OY for group equal to 5 percent of total OY of line items.

⁴ List not exclusive; includes any species not listed under Prohibited, Target, or "Other" categories; no fee charged.

[FR Doc. 79-34464 Filed 11-14-79; 2:03 pm]

BILLING CODE 3510-22-M

V
4
4

N
O

1
9

7
9
U M I

Federal Register

Monday
November 19, 1979

Part IV

Federal Trade Commission

Rule for Using Energy Costs and
Consumption Information Used in
Labeling and Advertising for Consumer
Appliances Under the Energy Policy and
Conservation Act

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule for Using Energy Costs and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule

SUMMARY: The Federal Trade Commission issues a final rule which requires the disclosure, for seven categories of appliances, of energy efficiency ratings or energy costs, and related information, in labeling and in retail sales catalogs; mandates that the energy costs or energy efficiency ratings be based on standardized test procedures; requires a general disclosure on certain point-of-sale promotional materials of the availability of energy cost or energy efficiency rating information; and requires that any claims concerning energy consumption made in writing or in broadcast advertisements be based on the results of standardized test procedures.

The Energy Policy and Conservation Act, passed in December 1975, required the Federal Trade Commission to consider these labeling requirements. The rule is intended to insure that consumers will have information necessary to compare the energy costs or energy efficiency ratings of competing products before they purchase the appliances covered by the rule.

EFFECTIVE DATE: The effective dates for various provisions of the rule are specified in § 305.18 of the rule.

FOR FURTHER INFORMATION CONTACT: Andrew I. Wolf, 202-724-1453, Lucerne D. Winfrey, 202-724-1560, or Kent C. Howerton, 202-724-1514, Attorneys, Federal Trade Commission, 414-11th Street, NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:**Statement of Basis and Purpose****I. Introduction**

A. Overview of the Rule. In 1975, the United States Congress enacted the Energy Policy and Conservation Act (EPCA) (1) to encourage innovative national energy conservation measures. Among other things, Congress recognized that home appliances account for a sizable portion of American energy consumption. As a result, Title III of the statute required the Federal Trade Commission to consider labeling rules prescribing disclosure of the estimated annual energy cost or

another "useful measure of energy consumption" for products within thirteen specific categories of residential consumer appliances. To ensure their reliability and comparability, these disclosures must be predicated on standard test procedures prescribed by the United States Department of Energy (DOE). (2).

Following rulemaking proceedings as required by EPCA (3), the Commission has adopted labeling rules for seven appliance categories: [1] Refrigerators and refrigerator-freezers; [2] freezers; [3] dishwashers; [4] water heaters; [5] clothes washers; [6] room air conditioners; and [7] furnaces. Pursuant to the exclusionary criteria set forth in EPCA, (4) the Commission has exempted five other categories of appliances from the labeling requirements: [1] clothes dryers; [2] home heating equipment, other than furnaces; [3] television sets; [4] kitchen ranges and ovens; and [5] humidifiers and dehumidifiers. Labeling requirements for central air conditioners and heat pumps will be considered by the Commission once pending DOE test procedures for those products have been completed.

The primary purpose of the Commission's rule is to encourage consumers to comparison-shop for energy-efficient household appliances. By mandating a uniform disclosure scheme for energy consumption information, the rule will permit consumers to compare the energy efficiency of competing appliances and to weigh this attribute against other product features in making their purchasing decisions. If the labeling program works as expected, the availability of this new information should enhance consumer demand for appliances that save energy. In turn, competition should be generated among manufacturers to meet this demand by producing more energy-efficient appliances.

The rule mandates that specific energy cost or efficiency information for the covered home appliance products be disclosed at the point of sale in the form of a label or a fact sheet. This information includes a highlighted energy cost or efficiency disclosure, a comparison of the labeled product's energy cost or efficiency with that of competing brands, and a chart that permits an individual to estimate how much it will cost to run the appliance each year. The Commission believes that this disclosure scheme fulfills the congressional mandate that consumers be given a meaningful opportunity to consider the energy savings potential of

different appliances in making their purchasing decisions.

In addition to establishing labeling requirements, the rule also incorporates EPCA's provision (5) that all broadcast advertisements and printed materials relating to the consumption or cost of energy consumed for all of the 13 product categories (6) be based on and fairly represent the results of the DOE tests. As in the case of the label disclosures, the purpose of this requirement is to establish a uniform basis for energy consumption claims, thereby helping consumers to evaluate and compare the energy-related attributes of household appliances.

The rule contains numerous other provisions, most of which are designed to ensure the integrity of the labeling scheme. During this proceeding, the Commission's overriding objective has been to fashion a rule that fully implements the requirements of EPCA while minimizing the impact of compliance costs on the appliance industry. The Commission believes that this rule, which has been refined and narrowed from the original proposal, represents a reasonable and sustainable effort toward meeting that objective. The Commission is also confident that the rule will meet its ultimate objective of helping American consumers to reduce the amount of energy they use in their homes.

B. Statutory Framework. In addition to providing a distinct statutory basis for an appliance labeling rule, Congress outlined the parameters of the rule to be prescribed by the Commission.

Under EPCA, only those appliance products for which DOE has prescribed final test procedures can be covered by the Commission's rule. (7) Once DOE has prescribed a final test procedure, the Commission can exclude an appliance category only if it determines that labeling with the required information would not be technologically or economically feasible. (8) Additionally, the Commission may exclude certain categories of appliances if it determines that labeling with the required information is not likely to assist consumers in making purchasing decisions. (9) If a product is covered by the rule, manufacturers must perform the DOE tests in order to establish and verify the information that the rule requires be disclosed. (10)

EPCA directed the Commission to require two disclosures on labels of products covered by the labeling rule: [1] The estimated annual energy cost; [17] and [2] a range of estimated annual energy costs for comparable appliance products. [12] The Commission can require disclosure of a measure of

energy consumption other than energy cost only under two circumstances: (1) if the Secretary of DOE determines that a disclosure of estimated annual energy cost is not technologically feasible; (13) or (2) if the Commission determines that labeling with energy cost is not likely to assist consumers in making purchasing decisions, or is not economically feasible. (14)

The Act requires sellers to disclose in any catalog from which a covered product may be purchased any information which the rule requires be disclosed on the label, unless the Commission provides otherwise in the rule. (15) It further authorizes the Commission to require disclosure of the required label information in any printed material displayed or distributed at the point of sale. (16)

EPCA exempted from the final Commission rule: (a) Covered appliance products not distributed in commerce for use in the United States, so long as they bear a stamp or label stating that they are intended for export; (17) (b) covered products manufactured prior to the effective date of the rule; (18) and (c) any catalog or point-of-sale material distributed prior to the effective date of the rule. (19)

EPCA requires that a labeling rule prescribed by the Commission take effect not later than six months after its prescription. (20) The six-month interval is allowed to provide adequate time for parties covered by the rule to come into compliance. Once it takes effect, the Commission's appliance labeling rule supersedes any state regulation that provides for either additional or different disclosures than those required under the Commission's rule. (21)

In addition to its direction that the Commission consider labeling requirements, EPCA requires that once a DOE test procedure for an appliance product becomes final, advertising claims concerning the energy consumption of that product must be based on, and fairly represent the results of, the DOE test. This requirement applies to all products for which DOE has issued final test procedures, not just to those covered by the Commission's labeling rule. (22) In each instance it takes effect 180 days after the DOE test procedure becomes final. (23) The statute makes a violation of this provision a violation of Section 5 of the Federal Trade Commission Act. (24)

C. Procedural History. On July 21, 1978, the Commission published a proposed rule for the disclosure of energy cost and consumption information in the labeling and advertising of all 13 appliance categories

specified in EPCA. (25) This notice outlined the procedures to be followed in the rulemaking proceeding and solicited written comments on various issues of concern to the Commission.

The rulemaking proceeding was conducted in accordance with the procedural requirements directed by EPCA. (26) The Act incorporated the requirements of Section 553 of the Administrative Procedure Act (27), except that interested persons were afforded an opportunity to present oral testimony as well as written comments. (28) Consistent with these procedural requirements, the Commission conducted hearings from October 12 through November 3, 1978. One hundred and six witnesses appeared, representing retail, industry, government, and consumer viewpoints. A rebuttal period followed, ending on December 11, 1978. On February 12, 1979, the Commission staff released its report, which contained an analysis of the evidence and recommendations to the Commission for a final rule. (29) From that date until March 25, 1979, the public was extended an opportunity to submit written comments on the staff's report. (30) On April 18, 1979, the staff forwarded to the Commission a summary of the comments received. (31) Thereafter, on May 25, 1979, the staff submitted to the Commission revised recommendations for the final rule, incorporating certain changes suggested in the written comments. (32) Oral presentations before the Commission, focusing primarily on the issue of the use of a highlighted energy cost disclosure versus some other measure of energy consumption on the label, were held on June 26, 1979. (33) On June 28, 1979, the Commission met in open session and adopted in substance its final rule for the labeling of consumer appliances, subject to publication of this Statement of Basis and Purpose. After carefully considering the rulemaking record as a whole, the Commission has voted to prescribe this rule governing the labeling and advertising of consumer appliances.

II. The Rule

A. Scope of Product Coverage. As required by EPCA, the Commission originally proposed that labels be required on all thirteen categories of appliances specified in the Act. (34) These are: (1) Refrigerators and refrigerator-freezers; (2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment other than furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12)

central air conditioners; and (13) furnaces.

EPCA Section 324(b)(1) required the Commission to propose a labeling rule for each of the thirteen categories of covered products for which the Department of Energy published a test procedure. Thus, the statute requires the Commission to propose rules, and presumes that the Commission will prescribe rules. Unless the Commission concludes, based on the record evidence, that the statutory criteria for exclusion are satisfied, all thirteen categories of appliances must be labeled. The Commission must prescribe a labeling rule for categories 1-9 unless labeling is not technologically or economically feasible. Categories 10-13 must be labeled unless the Commission determines that labeling is not technologically or economically feasible or, alternatively, that labels are not likely to assist consumers in making purchasing decisions.

The legislative history of the statute does not provide a precise explanation of what the three criteria mean, or how they are to be applied. A variety of questions concerning certain critical factors were examined by the Commission before determining that labeling for five appliance categories would not be justified. These questions included:

1. *Economic feasibility.* (a) How much does the product cost?

(b) How much will testing cost for each unit sold?

(c) How much will labeling cost?

(d) What is the potential saving to a consumer in purchasing a more efficient product: for one year? Over the probable life of the product?

(e) What is the likelihood that the disclosure of energy cost or efficiency data for the product will promote the development of more efficient models?

2. *Likelihood of assisting consumers.*

(a) Are energy costs of the products large or small? If consumers knew these costs were minimal, would they be less likely to buy the same or any product?

(b) Are comparable products quite similar in energy costs? If consumers knew this, might they change purchasing decisions?

(c) If information were available, would consumers be likely to select products requiring a different energy source than they might without the labels?

(d) Are a variety of products generally available for consideration by consumers prior to purchase?

(e) Is the consumer likely to see the label?

As these questions indicate, the Commission believes that Congress

intent was to permit the exclusion of any product category, if the Commission found that the costs of the labeling program would substantially outweigh any potential benefits to consumers. Based on the record evidence, the Commission has determined that these statutory criteria for exclusion are met with respect to television sets, kitchen ranges and ovens, clothes dryers, humidifiers and dehumidifiers, and home heating equipment other than furnaces. In addition, the rule at the present time does not require labeling of category thirteen, central air conditioners, because DOE has not yet adopted a statistical sampling plan that designates the number of units of a given appliance model that must be tested in order to assure the reliability of the test results. (35)

Thus, the final Commission rule applies to only seven categories of appliances. Since EPCA requires coverage of a product category unless the statutory criteria for exclusion are met, it is unnecessary to discuss the appliances that are covered. However, a discussion of the Commission's basis for excluding five appliance categories is in order.

1. Home heating equipment other than furnaces.—a. Electric unvented.

Unvented home heating equipment provides heat by means of resistance heating elements. All electric resistance heating elements are essentially 100 percent efficient in providing heat; that is, no electricity is wasted as it is converted to heat. (36) Since all models of electric unvented heating equipment operate with little variation at maximum efficiency, energy labels for these products would not provide consumers with any information which could be utilized in making energy saving decisions.

In addition, the cost of such labeling would be significant. According to the Association of Home Appliance Manufacturers (AHAM), labeling of electric unvented home heating equipment would cost its seven members who manufacture these appliances about \$589,000 annually. (37) The Association estimated further that this figure would probably be doubled if the entire industry were taken into consideration. (38) Since the National Electrical Manufacturers Association (NEMA) represents another 23 companies, AHAM's estimate may be conservative.

Annual sales of electric unvented home heating equipment total about \$100 million, (39) with a mark-up of approximately three to one. (40) If the cost of testing and labeling, industrywide, is assumed to be \$1

million, the additional cost to consumers would be about \$3 million, or a three percent increase in the price of the products. Because the evidence indicates that labeling would not provide any information which would enable consumers to make more informed purchasing decisions, these additional costs to industry members and consumers cannot be justified.

For these reasons, the Commission has determined that it would not be economically feasible to require that electric unvented heaters be labeled.

b. Vented home heating equipment. This group of appliances is comprised of natural gas, oil and propane heaters. The distinguishing characteristic of this group is that outside venting is required to eliminate the by-products of combustion.

An American National Standards Institute (ANSI) standard for gas heaters has been in effect since about 1930. (41) This standard requires that gas heaters perform at a minimum efficiency rate of 75 percent. Products now vary in efficiency from this minimum level only up to about 78 percent. (42) Although it would be possible to increase the efficiency of these products to some degree, (43) industry members stated that the costs involved in doing so would be so great that there would be no market for the more efficient appliances. (44)

It has been estimated that the testing and labeling costs alone to manufacturers of vented home heating equipment could add about \$10 to the production cost for each unit. (45) Using the normal multiplier of three to reflect distribution and handling charges, (46) this would result in an increase of \$30 in price to the consumer. (47) Moreover, estimates indicate that these additional costs will add approximately 22 to 29 percent to retail prices, (48) from which consumers would derive little, if any, benefit in return. (49) Finally, it is appropriate to note that this product is in a declining market position. Sales have dropped considerably in recent years, (50) and demand for the product has diminished to the point where new firms cannot economically justify entering the market. (51) Industry representatives testified that under these conditions, the cost associated with the rule would drive some manufacturers either out of business or into other product lines. (52)

In light of the evidence, the Commission has determined that labeling of vented home heating equipment would not be economically feasible. Accordingly, this product category has been excluded from the rule.

2. Television sets. Televisions use very little energy. (53) Current television sets use an average of about 40 to 50 watts for black and white (54) and 130 to 140 watts for color, (55) with small screen size black and white sets using only about 14 watts. (56) In short, the amount of energy used by a television receiver is comparable to that used by a light bulb. (57) As this comparison suggests, the energy cost of using a television set amounts to only a few dollars a year, (58) a tiny fraction of the purchase price for this product. (59)

Under the circumstances, it is not surprising that marketing studies indicate that consumers are most concerned with the performance features and cabinetwork of television sets. (60) A consumer purchasing a \$300 to \$600 color television receiver cannot be expected to consider as significant a possible saving in annual energy cost of only a few dollars per year. This is particularly true because there is relatively little variation among most competing brands. The low energy consumption for this product resulted from the fact that for several years there have been strong economic incentives to develop energy-efficient receivers: lower energy use increases the reliability of the product, resulting in lower warranty and service costs. (61)

For these reasons, energy labels for television sets are unlikely to promote further industry efforts to increase energy efficiency, or to provide benefits to consumers. Accordingly, the Commission has concluded that labeling of television receivers is not economically feasible, and they have been excluded from the rule.

3. Kitchen ranges and ovens. This category of appliances is composed of conventional cooking tops, ranges, and ovens, as well as microwave ovens. Unlike conventional cooking appliances, microwave ovens use very little energy, typically less than 100 KWH per year. (62) This amount of energy roughly equals that used by a standard 100 watt lightbulb. In fact, the total average energy cost for microwave ovens probably ranges from only about \$3 to \$5 per year, (63) depending primarily on whether or not the model has a clock. (64)

Conventional cooking appliances are larger users of energy, in absolute terms than microwave ovens, but the difference in energy cost between the least and most efficient models is only about \$6 per year for gas ranges (65) and about \$7 per year for electric ranges. For example, the average annual energy cost varies from \$8 to \$14 for gas ranges, and from \$23 to \$30 for electric ranges. (66)

In contrast to their small range of energy use, kitchen ranges and ovens, including microwaves, typically cost hundreds of dollars to purchase. In view of this and other factors, such as the fact that these appliances all function with about the same degree of reliability, (67) and purchase decisions are usually based on the appearance of the product, (68) a consumer cannot be expected to consider as significant a possible annual energy savings of one or two dollars—or even the maximum of six or seven dollars a year. Indeed, industry members contrasted the lack of benefits from labeling with the costs that would be imposed by a testing and labeling requirement. Several manufacturers complained that their costs would be significantly increased, (69) and one survey of microwave manufacturers showed that the testing and labeling would cost the eight firms surveyed approximately \$500,000. (69a)

Since the substantial costs of a labeling requirement would not produce corresponding consumer benefits, the Commission has determined that labeling of kitchen ranges and ovens would not be economically feasible. Accordingly, this appliance category has been excluded from the rule.

4. Clothes dryers. Another category of appliances having a limited range of annual energy cost is clothes dryers. The average annual cost of energy for electric clothes dryers varies from a low of about \$39 to a high of about \$44. (70) Gas dryers should vary from about \$8 to \$12. (71) This is a maximum difference of \$5 per year for electric and \$4 per year for gas dryers, amounts which the Commission believes consumers would not consider significant when purchasing such expensive appliances.

In addition, a recent AHAM study indicates that the cost of testing and labeling clothes dryers would be high—approximately \$900,000 the first year, and \$700,000 each year thereafter. (72) These costs far outweigh the potential benefits of energy cost information for this product category. As a result, the Commission has concluded that labeling of clothes dryers would not be economically feasible, and these products have been excluded from the rule.

5. Humidifiers and dehumidifiers—a. Humidifiers. All humidifiers operate at the maximum possible efficiency—above 95 percent. (73) This is because the amount of humidification is dependent upon the amount of heat available to evaporate water, regardless of the heat source, (74) rather than upon technological features of the humidifier itself. As a result, all humidifiers cost about the same to operate. The actual

variance in average energy cost between the highest energy user and the lowest amounts to less than \$1 per year. (75)

Because of its present high efficiency rate, the efficiency of humidifiers cannot be improved upon. (76) The Department of Energy recognized this when it originally established its energy efficiency improvement target for humidifiers: "The energy efficiency improvement target for humidifiers shall be a '0' percent change in the energy efficiency of the total number of humidifiers manufactured by all manufacturers in the calendar year 1980 when compared with the energy efficiency of the total number of humidifiers manufactured by all manufacturers in calendar year 1972." (77)

In short, because all humidifiers cost the same to operate, energy cost disclosures will not encourage consumers to purchase more efficient appliances. Since humidifiers already are highly energy efficient, labeling also will not spark the development of more efficient models. For these reasons, the Commission has determined that it would not be economically feasible to require that humidifiers be labeled and that labels on humidifiers would not be likely to assist consumers in making purchasing decisions. Accordingly, this product category has been excluded from the rule.

b. Dehumidifiers. The exemption considerations that apply to humidifiers also apply to dehumidifiers, although their functions are exactly opposite. Annual costs of operation and energy efficiency differences between various brands of dehumidifiers of equal capacity are extremely small compared to the retail price difference. (78)

As is the case with other products recommended for exemption, there is little, if any, relationship between initial purchase price and the comparability of cost and energy efficiency ratings of dehumidifiers. (79) The range of differences in average annual energy costs varies from about \$2.27 per year to a maximum of approximately \$6.25 per year for different capacity dehumidifiers. (80) Regardless of capacity, the difference in energy efficiency varies very little between the least efficient model and the most efficient. (81) The Commission does not believe that the disclosure of these small differences in average annual costs of operation or energy efficiency factors will influence consumers to make purchasing decisions based on them.

In light of this evidence, the Commission has determined that labels

on dehumidifiers would not be economically feasible nor likely to assist consumers in making purchasing decisions. Accordingly, this product category has been excluded from the rule.

B. Determination of Estimated Annual Operating Cost or Energy Efficiency Rating. Manufacturers must base required label information on the results of tests performed in accordance with the procedures prescribed by DOE. (82) These test procedures include a sampling plan that designates the number of units of a given appliance model that must be tested in order to assure the reliability of the test results.

The Commission's rule incorporates the sampling plan in each DOE test procedure for each appliance category. Because this plan is such an integral part of the DOE test procedures, it was decided that the Commission and DOE would jointly solicit views on sampling alternatives, and would agree on the sampling criteria to be incorporated into each DOE test procedure. The Commission deemed this approach preferable to having two distinct test requirements, one for determining the accuracy of the information contained on the label, and the other for ascertaining valid test data for future minimum efficiency standards. (83)

Industry and consumer group witnesses repeatedly opposed the adoption of the "two-sided" sampling procedure contained in the proposed rule. (84) They believed that it was unnecessarily burdensome and that it failed to provide for a conservative rating adjustment for the required label information. (85)

The final sampling plan, which is incorporated by reference in § 305.6 of the rule, requires a one-sided confidence level. This approach reduces the number of units in the sample necessary to maintain the specified confidence level. (86) While the approach adopted does not require the rating to be at the mean of the selected sample, a manufacturer will not be able to overrate a product. Smaller manufacturers with limited testing facilities or a large number of basic models will be better able to meet planned production schedules. (87) The adopted statistical parameters also will be considered essential in validating any energy consumption or cost claims made in any written material or in any broadcast or print advertisement for a covered product. (88)

The Commission believes that this sampling plan approach is compatible with the Congressional intent to assure dissemination of accurate energy cost data or, when applicable, energy efficiency information to consumers.

C. Required Disclosures. 1. Labels and fact sheets.—a. General. EPCA states that any Commission labeling rule must require the disclosure on labels of covered products of both an estimated annual energy cost and the range of estimated annual energy costs for covered products. However, the statute authorizes the Commission to require the disclosure of some measure of energy consumption other than cost if: (1) The Secretary of DOE determines that disclosure of estimated annual operating cost is not technologically feasible; (89) or (2) the Commission determines that disclosure of estimated energy cost is not economically feasible or is not likely to assist consumers in making purchasing decisions. (90) If the Commission makes one of these determinations, it then must require disclosure of a different, useful measure of energy consumption with a corresponding range of that measure for comparable products. (91) Under EPCA, the alternative measure must be capable of being determined under the DOE test procedures. (92)

For refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and water heaters, the final rule requires that the label disclose a highlighted national average estimated energy cost figure based on typical usage patterns and on a national average utility rate for the source of fuel used to operate the appliance. (93) Several rulemaking participants criticized the use of an average dollar cost disclosure on the label. (94) These commenters argued that the estimated annual energy cost, based on an average utility rate and average patterns of usage, will be inherently misleading to consumers and, therefore, will discredit the entire labeling effort. They reasoned that no average dollar figure can delineate for the individual consumer what the energy cost is likely to be for the particular appliance that the consumer purchases. (95) These views were supplemented by oral comments before the entire Commission at an open public meeting on June 26, 1979. (96)

Other rulemaking participants presented alternative arguments for the retention of the highlighted cost figure. They reasoned that the one comparative tool to which any consumer can easily relate is dollars per year—the annual energy cost disclosure, supplemented by the cost grid information chart. (97) This approach requires very little consumer education and can be readily applied to aid consumers in comparing the merits of competing brands based on the

disclosure is precisely the type of information Congress contemplated in requiring that the Commission consider labeling rules. The introduction of an energy efficiency factor for products other than climate control appliances would add a new, and possibly confusing, element for the prospective purchaser. (98) These views were reemphasized in oral comments before the entire Commission at its meeting on June 26, 1979. (100)

The Commission has determined that, for appliances that are not climate-sensitive, any alternative to the cost disclosure predicated on the DOE test procedures would not be likely to assist consumers. The most often cited alternative disclosure, an energy factor, (101) does not lend itself to comparison from one appliance category to another, because it is determined in different ways for different appliance categories. (102) The Commission believes that a cost disclosure, properly qualified by a cost grid information chart that allows the individual consumer to estimate what the labeled appliance will cost to operate, (103) will greatly assist consumers in their appliance purchasing selections. These factors, coupled with the strong statutory presumption in favor of a cost disclosure, convince the Commission that the required disclosure of estimated yearly energy costs should be adopted.

For climate control equipment (room air conditioners and furnaces), the Commission has adopted an energy efficiency rating (EER) disclosure instead of an estimated annual energy cost disclosure. In the case of room air conditioners, energy efficiency ratings have been in use for the last six years. (104) Because these appliances have highly dissimilar usage cycles dependent on disparate climate conditions across the United States, an average energy cost to operate climate control equipment would be very difficult to quantify. (105) The Commission believes that this fact argues against cost as a useful measure of energy consumption for climate control equipment, and requires adoption of an alternative measure that is independent of climatic effects on energy usage. The record shows that an energy efficiency rating meets this objective. (106) Therefore, the Commission has decided that manufacturers of climate control equipment should be required to disclose the energy efficiency ratings of their products as derived from DOE test

disclosed, (108) followed by a cost-grid chart that indicates the estimated annual energy cost for the appliance at various utility rates and hours of usage. (109)

All required label information must appear as specified in § 305.11(a)(5) (i) and (ii) of the final rule. Illustrations of the labels appear in Figures 1 through 3. (110)

The label specifications detailed in § 305.11 of the Rule, like the overall graphic presentation of the label design, have undergone significant changes since the rule was proposed. For example, the final rule clarifies that the manufacturer or private labeler may include multiple model numbers on the label if the models have the same capacity and consume the same amount of energy. (111) Additionally, the final rule does not require that the name of the manufacturer or the date of manufacture appear on the label, but makes their inclusion optional. This change minimizes the printing burden on manufacturers who produce covered products for private labelers or where labeled information remains unchanged from year to year. (112) These revisions, which were suggested by rulemaking participants, should help reduce labeling costs for manufacturers. (113)

Additional modifications resulting from graphic reproduction constraints have been made to the requirements for label size, format, headline, adhesive consistency, paper stock, and use of pressure sensitive, hang tag or flap tag labels. (114) The Commission believes that these changes strengthen the graphic presentation of the required information.

b. Fact sheets for furnaces. Unlike the other products covered by the rule, (115) most furnaces are sold by manufacturers through distributors to retail dealers or contractors. (116) The latter, in turn, sell the furnaces to consumers and install them. (117) The majority of furnace purchases are made either in the consumer's home or as part of the consumer's purchase of a home. (118) As a result, few consumers have an opportunity to see a display model before the furnace is installed. (119) Even if a display unit is seen, it will represent a family of models and will not necessarily be the model under consideration for purchase. (120) Thus, any label information provided on the display model is likely to contain disclosures that are inapplicable to the unit being purchased.

In addition, many factors, such as the cooling load or heat gain of the dwelling,

purchaser's family, (124) will affect the amount of energy consumed by the furnace and the system of which it is a part. Thus, a label disclosing the estimated energy cost or energy efficiency rating for one unit or combination will be irrelevant—indeed, misleading—to consumers who are purchasing a different one. (125)

Because of these factors, many rulemaking participants suggested that furnaces carry a general label, supplemented by specific energy consumption information disclosed in separate energy fact sheets. (126)

The Commission agrees that energy consumption information concerning furnaces can best be provided to consumers by this dual disclosure scheme. Each fact sheet must contain the information listed in § 305.11(b)(3) of the rule, including the energy efficiency rating of each model, the range of energy efficiency ratings for comparable appliance products, and cost-grid information based on varying utility rates and geographical locations. (127) Retailers, including assemblers, who sell furnaces to consumers must have fact sheets for the furnaces they sell and must make the fact sheets available to consumers prior to purchase. The fact sheets may be made available to customers in any manner, as long as customers are likely to notice them. (128) Consumer use of the fact sheets will be supplemented by the general information contained on the labels on any display models the consumer may see.

2. Point-of-Sale disclosures. EPCA authorized the Commission to require the disclosure, in any printed matter displayed or distributed at the point of sale, of any information that is required to be disclosed on the product's label. (129) As originally proposed, the rule would have required that all point-of-sale printed matter, except that reflecting only the identification of a covered product or pricing information about the product, include all information required by the rule to be included on the product's label. (130)

Participants in the rulemaking proceeding described the types of printed material which may be displayed or distributed at the point of sale. This material includes product specification sheets, (131) large advertising banners, (132) small stickers, (133) use and care manuals, (134) installation instructions, (135) warranties, (136) and many other general sales aids. (137) Witnesses explained that much of this material is

to more than one model. (138) In view of the many types and extensive use of promotional material displayed or provided for distribution to consumers, numerous witnesses testified that the proposed requirement would impose a significant and unnecessary cost burden. (139) For example, required changes in label disclosures (140) would also necessitate revision of large amounts of point-of-sale materials. Although the frequency of such revisions cannot be accurately predicted, their costs clearly would be substantial, (141) and likely would be passed on to the consumer. (142) If sellers decided to cease using these materials to avoid the cost of revisions, (143) consumers would be deprived of much relevant and useful product information.

As an alternative to the original proposal, substantial support was voiced for a requirement that point-of-sale materials contain a general disclosure advising the consumer to consult energy cost or efficiency information available from the retailer before purchasing an appliance covered by the rule. (144)

The Commission believes that a reference in point-of-sale materials to the importance and availability of energy consumption information will serve two useful purposes. First, it will reinforce the rule's labeling and fact sheet scheme, drawing attention to the availability of energy consumption information. Second, if consumers are told that this information is available and then seek it out, they will be better able to evaluate the validity of any energy-related claims made in point-of-sale materials for a particular product. For these reasons, the Commission has decided to include a point-of-sale reference requirement in the final rule.

To minimize the cost of this requirement, the disclosure that must appear in point-of-purchase materials is a brief one: "Before purchasing this appliance, read important energy cost and efficiency information available from your retailer." (145) In addition, the Commission has decided that this disclosure need not be included in the following types of point-of-sale materials: (146)

- (1) Written warranties;
- (2) Use and care manuals, installation instructions, or other printed materials containing primarily post-purchase information for the purchaser; or
- (3) Printed material containing only the identification of a covered product, pricing information, or non-energy related representations concerning the

requirement, while ensuring that consumers will be made aware of the existence of the standardized label and fact sheet information.

Finally, the general disclosure will not be required on point-of-sale materials that have been distributed prior to the effective date of the disclosure requirement. (147) This exemption recognizes that previously distributed (148) materials are beyond the control of the manufacturers, (149) who are usually responsible for their preparation. Similarly, it avoids the substantial costs that would be incurred by industry members if promotional materials currently in use had to be replaced. Finally, it is consistent with the effective date limitation imposed by EPCA on a similar requirement for disclosures in catalogs. (150)

3. Catalogs. Except as otherwise required by the Commission's rule, EPCA requires that manufacturers, distributors, retailers, and private labelers include in their catalogs all information required to be displayed on the label of a covered product. (151) The Act specifically limits application of the disclosure requirement to catalogs whose distribution has not commenced prior to the effective date of the labeling rule. (152)

As originally proposed, the rule would have required that catalogs advertising a covered product disclose the model's estimated annual energy cost and cost range, its capacity, and its range of comparability. (153) It would have required, on each page listing a covered product, disclosure of the narrative sections of the label headed "Check Energy Cost" and the "Source of Cost Information". (154)

The Commission recognizes the importance of mail and telephone order catalog sales in this period of limited automobile fuel resources, and believes it is important to provide catalog purchasers with the basic energy information found on the label. The final rule requires that the cataloger print on each page of a catalog which advertises a covered product for sale the following information: the capacity of the model; the estimated annual energy cost and cost range for models of refrigerator-freezers, freezers, dishwashers, clothes washers and water heaters; the energy efficiency rating and energy efficiency rating range for models of room air conditioners and furnaces.

With respect to disclosure of the cost-grid information, the final rule adopts an optional disclosure approach that was

product a general disclosure that the consumer should consult a specific page in the catalog for important energy information about the product. (156) The cataloger then has the option of including on the referenced page either the cost-grid chart itself or instructions on how the cost-grid information may be obtained from the cataloger. (157) The Commission believes that this flexible approach will greatly minimize the cost of the disclosure requirement, while ensuring that catalog purchasers will have access to this important cost-grid information.

Post-record comments raised the question whether the rule should specifically exclude from the disclosure requirements sales incentive catalogs that list no prices for the products shown. (158) The commenters indicated that such catalogs typically are used to encourage salespersons to sell more products, (159) and are not used to promote covered products to the general public. The commenters therefore recommended that these catalogs be excluded from the disclosure requirements. (160) The Commission concurs, and has exempted this type of catalog from the final rule. (161)

The rule originally recommended by the staff would have required catalog disclosures to reflect the labeling information at the time of the catalog's publication. (162) Several commenters argued that the complexities of the catalog industry necessitate a more flexible approach, namely, that the information required to be disclosed in catalogs should be determined as of the closing date for printing or the printing deadline date for the catalog. (163) In its revised recommendations to the Commission, the staff adjusted the rule to reflect this comment. The Commission also believes that the concern is justified, and has incorporated the suggested modification into the final rule. (164)

Finally, the rule has dropped the proposed requirement that the cataloger include the narrative sections from the label on each page listing a covered product. This deletion should reduce even further the cataloger's burden under the rule.

With these modifications, the Commission believes that the Congressional mandate that catalogs contain essential energy information has been achieved.

D. Regulation of Other Energy Consumption Representations. Section 305.4(d) of the rule restates EPCA's requirement (165) that any representation about the energy consumption of an appliance or the cost of energy consumed by it must be

supported by results from performance of the DOE test procedure on the appliance, and that the claim must fairly disclose those results. Violation of this requirement is an unfair or deceptive act or practice under Section 5 of the Federal Trade Commission Act. (166)

It is important to note that the requirements found in § 305.4(d) of the rule are not limited to products covered by the labeling requirements in the Commission's rule. These requirements were established directly by EPCA, and they apply to any product category for which DOE has prescribed a final test procedure under EPCA. (167) As to a particular appliance product, the requirements are effective 180 days after DOE has prescribed a final test procedure for the category of appliance products. (168) They are not affected by the effective dates of any portions of the Commission's rule. The Commission has included the requirements in the rule only so that appliance industry members may look to one document for all of the EPCA disclosure and representation requirements that will be enforced by the Commission.

E. Reporting, Recordkeeping, and Substantiation Requirements. The rule contains specific requirements concerning the duty of manufacturers and private labelers to make reports to the Commission, to maintain records, and to have substantiation for required disclosures or other representations they make.

Manufacturers must submit annual reports to the Commission. (169) By January 21, 1980, each manufacturer of an appliance required to be labeled must submit the first report, containing data derived from performance of the DOE test procedures on the required number of units of each basic model in current production. (170) The report must contain the estimated annual energy cost or energy efficiency rating, the model numbers for each basic model, the total energy consumption used to calculate the estimated annual energy cost or the energy efficiency rating, the number of tests performed on each basic model, and the capacity of each appliance model. (171) This data will be used to determine the ranges of comparability within each appliance category. (172)

Following the first report, manufacturers must submit the reports annually on a staggered schedule, based on the production cycle of the particular appliance. (173) Beginning in 1980 and each year thereafter, the reports for clothes washers must be received by March 1, for water heaters, room air conditioners and furnaces by May 1, for dishwashers by June 1, and for

refrigerators, refrigerator-freezers, and freezers by August 1. (174)

By July 21, 1980, manufacturers must submit to the Commission a report containing starting serial numbers or other numbers identifying the date of manufacture of each covered appliance product. (175) This report is required only one time.

Manufacturers or private labelers must keep underlying test data from which the estimated annual energy cost or energy efficiency rating for each basic model was derived. These records must be maintained for two years after the production of the model has been terminated. (176) Test data or other information requested by the Commission must be submitted within 30 days of the request. (177) Manufacturers and private labelers also must allow access to or copying of such records, if requested. (178) A Commission representative must be allowed to observe any testing required by the rule and to inspect the results of the testing, if requested. (179) Upon request, manufacturers and private labelers must supply no more than two of each model of each covered product to any laboratory designated by the Commission so that it can determine whether the information in catalogs or on the label is accurate. (180) The manufacturer or private labeler must bear the cost of supplying these units to the designated laboratory. (181) but the Commission must pay the charges for the laboratory testing. (182) The Commission will not make a request for units for this independent testing until after a review of the manufacturer's or private labeler's testing records and after giving it an opportunity to revalidate its test data. (183)

F. Sanctions. 1. *Administrative civil penalties.* EPCA set civil penalty sanctions for certain violations of the rule. (184) It also established an administrative mechanism by which the Commission can directly assess civil penalties for these violations (185) rather than having to seek civil penalty assessment by a federal court.

The following rule violations are subject to a maximum administrative civil penalty of \$100 per appliance unit: [1] Knowingly distributing a covered product that is not labeled in accordance with the rule; (186) [2] knowingly removing or rendering illegible a label required by the rule; (187) and [3] failing to disclose any additional energy consumption information required by the rule. (188)

The following rule violations are subject to a maximum administrative civil penalty of \$100 per day: [1] Refusing a Commission request for

access to, or copying of, any records required to be kept by the Commission's rule; (189) [2] refusing to submit to the Commission any reports required by the rule; (190) [3] refusing to permit a Commission representative to observe any required testing or to inspect the results of such testing; (191) [4] refusing a Commission request to supply units of covered products for independent verification testing; (192) and [5] failing to include in any catalog from which covered product may be purchased all energy consumption information required by the rule. (193)

A proposed amendment to the Federal Trade Commission's Rule of Practice to provide procedures for the assessment of civil penalties for violations of the provisions of the Energy Policy and Conservation Act pertaining to labeling and advertising of consumer appliances has been published in the Federal Register with a public comment period currently underway. (194)

2. *Cease and desist orders.* The following statutory and rule violations are unfair or deceptive acts or practices under Section 5 of the Federal Trade Commission Act: (195) [1] Failing to include the required general disclosure in covered point-of-sale materials; (196) and [2] making energy consumption claims in writing or in broadcast advertisements when such claims are not based on performance of the DOE tests or do not fairly reflect the results of those tests. (197) EPCA, Section 336 distinguishes appliance labeling proceedings from other trade regulation rules and states that for the violations listed above, the Commission must pursue traditional cease and desist orders. (198)

G. Preemptive Effect of the Rule. In promulgating EPCA, Congress clearly intended to ease any burden on interstate commerce and to eliminate the possibility that manufacturers, distributors, retailers, and private labelers would have to comply with conflicting disclosure requirements. To accomplish this goal, EPCA provides that the Commission's rule supersedes any state regulation that provides for disclosure of information about any measure of energy consumption of a product covered by the Commission's rule other than information disclosed in accordance with the rule. (199)

As reflected in the rule, (200) the Commission interprets the statutory language to mean that the rule preempts any state or local regulation that requires additional disclosures or disclosures that are different from those prescribed by the rule. So that individual manufacturers will be able to prepare to comply with the federal

program without the unnecessary burden of complying with inconsistent state or local regulations, this section of the rule takes effect immediately.

Footnotes

1. Pub. L. No. 94-163, 89 Stat. 871 (1975) [hereinafter cited as EPCA].
2. EPCA § 324(b).
3. *Id.* § 324(b)(2).
4. *Id.* § 324(a).
5. *Id.* § 323(c).
6. *Id.*
7. *Id.* § 324.
8. *Id.* §§ 324(a)(1)(B) & (a)(2)(B).
9. *Id.* § 324(a)(2)(B).
10. *Id.* § 324(c).
11. *Id.* § 324(c)(1)(a).
12. *Id.* § 324(c)(1)(b).
13. *Id.* § 324(c)(1)(A)(1).
14. *Id.* § 324(c)(1)(A)(2).
15. *Id.* § 326(a).
16. *Id.* § 324(c)(4).
17. *Id.* § 330.
18. *Id.* § 324(d).
19. *Id.* § 326(a).
20. *Id.* § 324(b)(4).
21. *Id.* § 327.
22. *Id.* § 323(c).
23. *Id.* § 323(c) as amended by the National Energy Conservation Policy Act, Pub. L. No. 95-619, § 421(d)(1), 92 Stat. 3258 (1978).
24. *Id.* § 333(c).
25. 43 FR 31,806 (1978).
26. EPCA § 324(b)(2).
27. 5 U.S.C. § 553 (1970). See also EPCA § 336(a)(1).
28. EPCA § 324(b)(2).
29. *Final Staff Report to the Federal Trade Commission and Recommended Rule on Labeling and Advertising of Consumer Appliances* (February, 1979) [hereinafter cited as Staff Report].
30. These comments may be found in the public record under 209-18-22. For purposes of this Statement the citation system used in the Staff Report as explained in Appendix E is followed here.
31. See memorandum of April 18, 1979 from Staff to the Commission, 209-18-22-59.
32. Mr. Kramer, Director of the Bureau of Consumer Protection, concurred with the staff's findings in a memorandum dated May 25, 1979, 209-18-22-60.
33. See 44 FR 32,013 (1979) (notice of oral presentations).
34. EPCA § 324(b).
35. Section 324(c)(1)(A) of EPCA permits the Commission to issue labeling rules only for those products for which DOE has prescribed final test procedures. When a DOE test procedure incorporating a sampling plan for this category of appliances becomes final, a further rulemaking proceeding will be conducted to consider labeling requirements for central air conditioners.
36. The National Electrical Manufacturers Association (NEMA) offered an example of this, comparing a 5000 BTUH heater and a 7000 BTUH heater (NEMA, 15-42/1-15). NEMA's illustration points out that, in accordance with established laws of physics, both heaters will use exactly the same amount of energy to heat a given space to a desired temperature. The difference between the two heaters is that the 5000 BTUH heater

will operate longer than the 7000 BTUH heater. Both heaters, however, will heat the space to the same temperature, using the same amount of energy, and at the same cost.

37. American Home Appliance Manufacturers (AHAM), 21(a)/331.
38. *Id.*
39. NEMA, 15-42/9-12.
40. Gas Appliance Manufacturers Association (GAMA), 21(a)/1191.
41. *Id.* at 1201.
42. *Id.*
43. *Id.* at 1202.
44. *Id.*
45. *Id.*
46. *Id.*
47. GAMA, 8-21/8.
48. *Id.* Examples of what this would mean in terms of consumer purchase price are as follows: Vented circulators would rise in price from an average of about \$128 to \$158; floor furnaces from \$139 to \$169; and panel-type wall furnaces from \$104 to \$134.
49. *Id.*; Martin Industries, 8-20/3.
50. According to GAMA, the shipment of gas fired units, which account for about 95% of the industry, declined from 615,560 in 1972, to 333,920 in 1977, with shipments of 296,300 projected for 1978. GAMA, 21(a)/1180.
51. *Id.*
52. GAMA, 8-21/7-8.
53. Electronic Industries Association/Consumer Electronics Group (EIA/CEG), 9-1/1.
54. *Id.*
55. *Id.* at 2.
56. *Id.*
57. *Id.*
58. The range of estimated yearly energy cost shown in the proposed sample label for color television receivers is \$7 for the model with the lowest cost and \$13 for the model with the highest cost. 43 FR 31,886 (1978).
59. The average color television set retails for about \$300 to \$600. EIA/CEG 9-1/3.
60. *Id.* at 2.
61. *Id.* at 3; EIA/CEG, 21(a)/588.
62. General Electric, 15-30/11-12; AHAM, 21(a)/615.
63. General Electric, 15-30/11; AHAM, 21(a)/615; Hardwick Stove, 21(a)/806; Tappan Company, 21(a)/856-57.
64. AHAM, 21(a)/615.
65. Hardwick Stove, 10-1/1; Crown Stove, 10-4/1; Peerless Enamel Products, 10-5/1-3.
66. Hardwick Stove, 10-1/1; Crown Stove, 10-4/1; Peerless Enamel Products, 10-5/1-3.
67. Roper, 21(a)/716, 10-11/5; Brown Stove Works, 21(a)/745-46.
68. Hardwick Stove, 21(a)/796.
69. Hardwick Stove, 10-1/2; Brown Stove Works, 21(a)/745-46.
- 69(a). AHAM, 21(a)/615.
70. AHAM, 21(a)/559.
71. *Id.* at 558-59.
72. *Id.* at 559.
73. Hermidifier Co., 12-14/2.
74. *Id.*
75. *Id.*
76. *Id.*
77. 43 FR 15,147 (1978).
78. AHAM, 21(a)/1548.
79. *Id.* at 1549.
80. *Id.*
81. *Id.*
82. Final Rule § 305.5. While EPCA § 324(c)(2)(C) requires the Commission to

include a description of the test procedures used in determining the required labeling information, the Commission believes it is not necessary to incorporate the text of those procedures in the rule. The reference to where the procedures may be found should be sufficient to allow manufacturers to comply with the statutory requirement.

83. See Staff Report at 2. The Commission is aware of the 1980-1981 DOE targets for developing minimum efficiency standards for home appliances, and will assess the continuing need for the labeling program when the standards are issued.

84. Tappan, 10-2/8-10; Air Conditioning and Refrigeration Institute (ARI), 7-1/14; NEMA, 15-42/34-35; AHAM, 21(a)/2037-45, 15-40/8-18; Hydronics, 14-10/25-28; GAMA, 15-38/28-29, General Electric, 15-30/4-5; California Citizen Action Group (CCAG) rebuttal/28-29. *Contra*, Stenger, 21(a)/275; Frigidaire, 21(a)/511, 12-29/5-6; Toward Utility Rate Normalization (TURN), 21(a)/2358, 16-3/52-53.

85. Tappan, 10-2/8-10; ARI, 7-1/14; NEMA, 15-42/34-35; AHAM, 21(a)/2037-45, 15-40/8-16; Hydronics, 14-10/25-28; GAMA, 15-38/28-29; General Electric, 15-30/4-5; CCAG rebuttal/28-29. *Contra*, Stenger, 21(a)/275; Frigidaire, 21(a)/511, 12-29/5-6; TURN, 21(a)/2358, 16-3/52-53.

86. AHAM, 21(a)/2037-45; Carrier, 21(a)/2140-45; Ford Product Corp., 21(a)/356-59; Greenville, 21(a)/912-13; Magic Chef, 21(a)/761-62; Whirlpool, 21(a)/2130-34.

87. Ford Product Corp., 21(a)/356-59.

88. See Final Rule § 305.4(d).

89. EPCA § 324(c)(1)(A)(i). The Secretary has not made such a determination for any category of appliances.

90. *Id.* § 324(c)(1)(A)(ii).

91. *Id.* §§ 324(c)(1)(A) & 324(c)(1)(B).

92. *Id.* § 324(c)(1)(A)(ii).

93. Final Rule, § 305.11(a)(5).

94. See, e.g., AHAM, 21(a)/95, 15-40/i, 4; American Retail Federal (ARF), 15-25/3-4; Montgomery Ward, 15-36/4; Commonwealth Edison, 15-17/1; National Retail Merchants Association (NRMA), 15-28/2-9; Whirlpool, 15-27/12; ARI, 15-32/3.

95. AHAM, 21(a)/95, 15-40/i, 4; ARF, 15-25/3-4; Montgomery Ward, 15-36/4; Commonwealth Edison, 15-17/1; NRMA, 15-28/2-9; Whirlpool, 15-27/12; ARI, 15-32-3.

96. See statements of Mr. Turnbull, Mr. Ringger, and Mr. Takacs, 209-18-21(a).

97. See, e.g., Amana, 21(a)/22; American Home Economics Association (AHEA), 21(a)/85; Roper, 21(a)/724; Brown Stove, 21(a)/753.

98. Amana, 21(a)/22; AHEA, 21(a)/85; Roper, 21(a)/724; Brown Stove, 21(a)/753.

99. Amana, 21(a)/22; AHEA, 21(a)/85; Roper, 21(a)/724; Brown Stove, 21(a)/753.

100. See statements of Ms. Siegel, Mr. Kammerer, Dr. Morrison, Mr. Langmead, Mr. Cuccinelli, Mr. Kurtz, and Ms. Grueneich, 209-18-21(a).

101. AHAM, 15-40/4; ARF, 15-25/2-10; ARF and NRMA, 21(a)/95, 175-94, 201-203, 204-09, 211-14, 216-17, 219, 223-24, 231-38, 240-47, 250, 255-59, 283-84; Montgomery Ward, 15-30/2-12; Penney, 15-54/8; Sears, 15-55/2-8.

102. See memorandum of May 25, 1979 from staff to the Commission, 209-18-22-61 at 4.

103. See Final Rule, Appendices A1-D3, F.

104. Beard, 21(a)/1056-58, 1062-66; AHAM, 15-40/141-42; Sears, 15-55/7; General Electric, 21(a)/1045, 1048-49; Carrier, 21(a)/1080; ARI, 21(a)/1107.

105. ARI, 13-4/2-8, 14-11/2-5.

106. See sources cited note 104, *supra*.

107. See Final Rule §§ 305.11(a)(5)(i) (room air conditioners), 305.11(a)(5)(ii) (furnaces).

108. Final Rule §§ 305.11(a)(5)(i) (room air conditioners), 305.11(a)(5)(ii) (furnaces).

109. Final Rule §§ 305.11(a)(5)(i) (room air conditioners), 305.11(a)(5)(ii) (furnaces).

110. All energy labels for each category of covered products must be one size, printed in similar colors and type faces with consistent positioning of headline, copy and charts. Such uniformity in the disclosure format will facilitate immediate consumer recognition and readability. Exact specifications appear in Figures 1, 2, and 3 following Appendix H of the rule and may only be modified where permitted in the rule. Briefly, trim size for all labels is 5½ inches by 7½ inches. Copy is to be set at 27 or 29 picas and copy page must be centered (right to left and top to bottom). Depth is variable, but should follow the label specifications in Figures 1 through 3, the prototype labels illustrating the basic layout. All positioning, spacing, type sizes, and line widths must be similar to and consistent with the prototype label. The basic colors of all labels shall be process yellow or equivalent. The color may be achieved by printing or by the use of colored paper stock. All type, including chart or table rules, shall be print process black. The label may be printed as either a pressure sensitive label or in the form of a hang tag or flap tag. All adhesive labels must be applied so they can be easily uncovered without the use of tools or liquids, other than water. The paper stock, peel consistency, and height and width variables are outlined in § 305.11(a)(4)(i) of the rule. The paper stock, stress durability, and placement for hang tags is discussed in § 305.11(a)(4)(ii).

111. See Final Rule § 305.11(a)(5)(i)(C).

112. AHAM, 15-40/iii; NEMA, 15-42/49-50; GAMA, 21(a)/303; 15-38/48.

113. AHAM, 15-40/iii; NEMA, 15-42/49-50; GAMA, 21(a)/303; 15-38/48.

114. Label size was reduced from a mandatory width of 9½ inches to a uniform trim size of 5½ inches by 7½ inches. The heading "Energy Guide" was selected to replace the proposed rule's headline: "Before Buying: Compare Energy Costs." This change permits the use of a uniform format for appliance labels whether they bear a cost or efficiency disclosure, and provides an easy, general identification with the labels. The requirement of yellow bands divided by white rules on the label has been eliminated. The minimum adhesion capacity requirement on pressure sensitive labels has been reduced from 60 ounces per inch width to 24 ounces per inch width. Specifications for breaking strength of the string used to attach hang tags have been eliminated and replaced by a general requirement that, if gradual pressure is applied to the hang tag by pulling, it should tear before the material used to attach the hang tag to the product breaks.

115. ARI, 14-11; Hydronics, 14-10; General Electric, 15-31; Amana, 15-37/2; GAMA, 14-9/2; Ducane Heating, 14-3/2; Teledyne Laars, 14-5/7-11.

116. ARI, 14-11; Hydronics, 14-10; General Electric, 15-31; Amana, 15-37/2; GAMA, 14-9/2; Ducane Heating, 14-3/2; Teledyne Laars, 14-5/7-11.

117. ARI, 14-11; Hydronics, 14-10; General Electric, 15-31; Amana, 15-37/2; GAMA, 14-9/2; Ducane Heating, 14-3/2; Teledyne Laars, 14-5/7-11.

118. ARI, 15-32/5; General Electric, 15-31/3.

119. ARI, 15-32/5; General Electric, 15-31/3.

120. ARI, 15-32/6; General Electric, 15-31/3-4.

121. ARI, 14-11/3.

122. *Id.*

123. *Id.*

124. *Id.*

125. ARI 14-11/3; Peerless, 14-6/2; GAMA, 14-9/104.

126. Ducane, 14-3; Teledyne Laars, 14-5/18-19; Peerless, 14-6; GAMA, 14-9/3; Hydronics, 14-10/17-22; ARI, 14-11/4-5.

127. Final Rule § 305.11(b)(1)(i).

128. Final Rule § 305.11(b)(1)(ii).

129. EPCA § 324(c)(4).

130. See Section 305.13 of the Proposed Rule, 43 FR 31,813 (1978).

131. General Electric, 21(a)/494; Tappan, 21(a)/834; GAMA, 21(a)/761.

132. Tappan, 21(a)/835-36.

133. *Id.* at 834.

134. Amana, 21(a)/9; National Home Furnishing Association (NHFA), 21(a)/197; General Electric, 21(a)/488; McGee, 21(a)/761; ARF, 15-25/11-12; Whirlpool, 15-27/29-30; NRMA, 15-28/18.

135. Amana, 21(a)/9; ARF, 15-25/11-12; Whirlpool, 15-27/29-30.

136. Amana, 21(a)/9; NHFA, 21(a)/197; ARF, 15-25/11-12; NRMA, 15-28/18.

137. NHFA, 21(a)/197-200; Montgomery Ward, 21(a)/253; Sears, 21(a)/224-25.

138. Amana, 21(a)/10; NHFA, 21(a)/199; ARF, 15-25/12; Whirlpool, 15-27/30; NRMA, 15-28/19; J. C. Penney, 15-54/3-4.

139. Whirlpool, 15-27/29-31; Tappan, 10-2/25; Thermador/Waste King, 10-9/5-6; 10-11/6-7.

140. An example would be a 15% or more change in the national average energy cost of a covered product or a change in the operating cost or efficiency range information due to product design changes of competing products.

141. ARI, 21(a)/430; NRMA, 15-28/18; Sears, 15-55/27; Whirlpool, 21(a)/558; Thermador/Waste King, 21(a)/693.

142. ARI, 21(a)/430; NRMA, 15-28/18; Sears, 15-55/27; Whirlpool, 21(a)/558; Thermador/Waste King, 21(a)/693.

143. NRMA, 15-28/18-19; Montgomery Ward, 15-36/17; GAMA, 21(a)/758; Tappan, 21(a)/838; Sears, 21(a)/253; ARF, 15-25/12.

144. GAMA, 21(a)/301, 308, 758, 761, 15-38/12, 24, 56-57; NEMA, 21(a)/944, 15-42/56; ARI, 21(a)/430, 15-32/11, 14-11/6, 11, 13-4/21.

145. Final Rule § 305.13(a).

146. *Id.* § 305.13(b).

147. *Id.* § 305.13(b)(4).

148. Tappan, 21(a)/838.

149. Whirlpool, 21(a)/393, 535, 15-27/30; Sears, 15-55/27.

150. EPCA § 328(a).

151. *Id.*

152. *Id.*

153. See Proposed Rule § 305.14, 43 FR 31,813 (1978).

154. *Id.*

155. J. C. Penney, 15-54/9-10; Sears, 15-55/28-32; Montgomery Ward, 15-36/6-11; ARF, 15-25/13-18; NRMA, 15-28/21-24.

156. Final Rule § 305.14(a)(5).

157. *Id.* § 305.14(b).

158. Tappan, 22-2/3; General Electric, 22-16/3.

159. Tappan, 22-2/3; General Electric, 22-16/3.

160. See memorandum of May 25, 1979 from staff to the Commission, 209-18-22-61 at 13.

161. See Final Rule § 305.14, which applies only to catalogs from which covered products may be purchased by cash, charge account, or credit terms.

162. See Proposed Rule, § 305.14, 43 FR 31,813 (1978).

163. See sources cited note 155, *supra*.

164. See Final Rule § 305.14(a)(2) and (4).

165. EPCA § 323(c).

166. 15 U.S.C. § 45 (1976). See also EPCA § 333(c).

167. EPCA § 323(c).

168. *Id.*

169. Final Rule § 305.8.

170. *Id.* § 305.8(a).

171. *Id.*

172. See Final Rule § 305.10.

173. Final Rule § 305.8(b).

174. *Id.*

175. *Id.* § 305.8(a).

176. *Id.* § 305.15(a).

177. *Id.* § 305.15(b).

178. *Id.* §§ 305.15(b) & 305.16.

179. *Id.* § 305.16.

180. *Id.*

181. *Id.*

182. *Id.*

183. *Id.*

184. EPCA § 333(a).

185. *Id.*

186. Final Rule § 305.4(a)(1).

187. *Id.* § 305.4(a)(2).

188. *Id.* § 305.4(a)(3).

189. *Id.* § 305.4(b)(1).

190. *Id.* § 305.4(b)(2).

191. *Id.* § 305.4(b)(3).

192. *Id.* § 305.4(b)(4).

193. *Id.* § 305.4(b)(5).

194. 44 FR 53,088 (1979).

195. 15 U.S.C. § 45 (1976). See also EPCA § 333(c).

196. Final Rule § 305.4(c).

197. *Id.* § 305.4(d).

198. 15 U.S.C. § 45(b) (1976).

199. EPCA § 327.

200. Final Rule § 305.17.

In consideration of the foregoing, the Commission prescribes the following rule, pursuant to Section 324 (42 U.S.C. 6294) of the Energy Policy and Conservation Act (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619), and to section 553 of subchapter II, chapter 5, title 5 of the U.S. Code (Administrative Procedure). This amends title 16, chapter 1, of the Code of Federal Regulations by adding to Subchapter C—Regulations Under Specific Acts of Congress, a new Part

305 of that subchapter. The new Part 305 reads as follows:

PART 305—RULES FOR USING ENERGY COSTS AND CONSUMPTION INFORMATION USED IN LABELING AND ADVERTISING FOR CONSUMER APPLIANCES UNDER THE ENERGY POLICY AND CONSERVATION ACT

Scope

Sec.

305.1 Scope of the regulations in this part.

305.2 Definitions.

305.3 Description of covered products to which this part applies.

General

305.4 Prohibited acts.

Testing

305.5 Determinations of estimated annual energy cost and energy efficiency rating.

305.6 Determinations of capacity.

305.8 Submission of data.

Representative Average Unit Energy Costs

305.9 Representative average unit energy costs.

305.10 Ranges of estimated annual energy costs and energy efficiency ratings.

Required Disclosures

305.11 Labeling for covered products.

305.12 Additional information relating to energy consumption.

305.13 Promotional material displayed or distributed at point of sale.

305.14 Catalogs.

Additional Requirements

305.15 Test Data records.

305.16 Required testing by designated laboratory.

Effect of This Part

305.17 Effect of other law.

305.18 When the rules take effect.

305.19 Stayed or invalid parts.

Appendix A1—Refrigerators.

Appendix A2—Refrigerator-Freezers.

Appendix B—Freezers.

Appendix C—Dishwashers.

Appendix D1—Water Heaters—Gas.

Appendix D2—Water Heaters—Electric.

Appendix D3—Water Heaters—Oil.

Appendix E—Room Air Conditioners.

Appendix F—Clothes Washers.

Appendix G—Furnaces.

Appendix H—Suggested Data Reporting Format.

Authority: Sec. 324 of the Energy Policy and Conservation Act, (Pub. L. 94-163, (42 U.S.C. 6294)); as amended by the National Energy Conservation Policy Act (Pub. L. 95-619).

PART 305—RULE FOR USING ENERGY COSTS AND CONSUMPTION INFORMATION USED IN LABELING AND ADVERTISING FOR CONSUMER APPLIANCES UNDER THE ENERGY POLICY AND CONSERVATION ACT

Scope

§ 305.1 Scope of the regulations in this part.

The rule in this part establishes requirements for consumer appliance products, as hereinafter described, in commerce, as "commerce" is defined in the Energy Policy and Conservation Act, 42 U.S.C. 6291, with respect to:

(a) Labeling the products with information indicating their estimated annual energy costs or energy efficiency ratings, and related information;

(b) Including in printed matter displayed or distributed at the point of sale of such products, or including in any catalog from which the products may be purchased, information concerning their energy consumption.

(c) Including on the labels, separately attaching to the products, or shipping with the products, additional information relating to energy consumption, energy efficiency, or energy cost; and

(d) Making representations, in writing or in broadcast advertising, respecting the energy consumption, energy efficiency, or the cost of energy consumed by consumer appliance products.

Definitions

§ 305.2 Definitions.

(a) "Act" means the Energy Policy and Conservation Act (Pub. L.

delivered or sold for purposes of distribution in commerce.

(f) "Private labeler" means an owner of a brand or trademark on the label of a consumer appliance product which bears a private label.

(g) "Range of comparability" means a group of models within a class of covered products, each model of which satisfies approximately the same consumer needs.

(h) "Estimated annual operating cost" or "estimated annual energy cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with tests prescribed under Section 323 of the Act (42 U.S.C. 6293).

(i) "Energy efficiency rating" means the "annual fuel utilization efficiency" for furnaces, and "energy efficiency ratio" for room air conditioners, determined in accordance with tests prescribed under Section 323 of the Act (42 U.S.C. 6293).

(j) "Range of estimated annual operating costs" or "range of estimated annual energy costs" means the range of estimated annual operating costs of all models within a designated range of comparability.

(k) "Range of energy efficiency ratings" means the range of energy efficiency ratings for all models within a designated range of comparability.

(l) "New covered product," as used in § 305.4, means a covered product the title of which has not passed to a purchaser who buys the product for purposes other than resale or leasing for a period in excess of one year.

(m) "Catalog" means printed material which contains the terms of sale, retail price, and instructions for ordering, from which a retail consumer can order a covered product.

(n) "Consumer appliance product" means any appliance product for which the Secretary of the Department of Energy has prescribed final test procedures pursuant to Section 323 of the Act (42 U.S.C. 6293).

(o) "Covered Product" means any consumer appliance product defined in § 305.3 of the rule which is, or may be, used for personal use or consumption by individuals.

§ 305.3 Description of covered products to which this part applies.

(a) Refrigerators and refrigerator-freezers.

(1) "Electric refrigerator" means a cabinet designed for refrigerated storage of food at temperatures above 32° F and having a source of refrigeration requiring an electrical energy input only. It may include a compartment for the

freezing and storage of food at temperatures below 32° F but does not provide a separate low-temperature compartment designed for the freezing of and long-term storage of food at temperatures below 8° F. It has only one exterior door, but it may have interior doors or compartments.

(2) "Electric refrigerator-freezer" means a cabinet which consists of two or more compartments with at least one of the compartments designed for the refrigerated storage of foods at temperatures above 32° F and with at least one of the compartments designed for the freezing of and the storage of frozen foods at temperatures of 8° F or below and which may be capable of adjustment by the user to a temperature of 0° F or below. The source of refrigeration requires an electrical energy input only.

(b) "Freezer" means a cabinet designed as a unit for the storage of food at temperatures of 0° F or below and which has the ability to freeze food. The source of refrigeration requires an electric energy input only.

(c) "Dishwasher" means a cabinetlike appliance which, with the aid of water and detergent, washes, rinses, and dries (when a drying process is included) dishware, glassware, eating utensils and most cooking utensils by chemical, mechanical, and/or electrical means and discharges to the plumbing drainage system.

(d) "Water heater" means an automatically controlled, thermally insulated vessel designed for heating water and storing heated water. It is designed to produce hot water at a temperature of less than 180° F.

(1) "Electric water heater" means a water heater which utilizes electricity as the energy source for heating the water, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage no greater than 250 volts, and which has a manufacturer's specified storage capacity of not less than 20 gallons nor more than 120 gallons.

(2) "Gas water heater" means a water heater which utilizes gas as the energy source for heating the water, which has a manufacturer's specified energy input rating of 75,000 Btus per hour or less, and which has a manufacturer's specified storage capacity of not less than 20 gallons nor more than 100 gallons.

(3) "Oil water heater" means a water heater which utilizes oil as the energy source for heating the water, which has a manufacturer's specified energy input rating of 103,875 Btus per hour or less, and which has a manufacturer's

specified storage capacity of 50 gallons or less.

(e) "Room air conditioner" means an encased assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and may include a means for ventilating and/or heating.

(f) "Clothes washer" means a consumer product designed to clean clothes, utilizing a water solution of soap and/or detergent and mechanical agitation or other movement.

(1) "Automatic clothes washer" means a class of clothes washer which has a control system capable of scheduling a preselected combination of operations, such as regulation of water fill level, and performance of wash, rinse, drain and spin functions, without the need for the user to intervene subsequent to the initiation of machine operation. Some models may require user intervention to initiate these different segments of the cycle after the machine has begun operation, but they do not require the user to intervene to regulate the water temperature by adjusting the external water faucet valves.

(2) "Semi-automatic clothes washer" means a class of clothes washer that is the same as an automatic clothes washer except that the user must intervene to regulate the water temperature by adjusting the external water faucet valves.

(3) "Other clothes washer" means a class of clothes washer which is not an automatic or semi-automatic clothes washer.

(g) "Furnace" means a device designed to be the principal heating source for the living space of a residence and having a heat input rate of less than 300,000 Btus per hour for boilers and less than 225,000 Btus per hour for furnaces.

(1) "Forced air central furnace" means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.

(2) "Gravity central furnace" means a gas-fueled furnace which depends primarily on natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts.

(3) "Electric central furnace" means a furnace designed to supply heat through a system of ducts with air as the heating medium, and in which heat is generated by one or more electric resistance

heating elements, and the heated air is circulated by means of a fan or blower.

(4) "Direct vent system" means a system supplied by a manufacturer which provides outdoor air directly to a furnace for combustion and draft relief if the unit is so equipped.

(5) "Electric boiler" means an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

(6) "Low pressure steam or hot water boiler" means a gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

General

§ 305.4 Prohibited acts.

(a) It shall be unlawful and subject to the enforcement penalties of Section 333 of the Act of a maximum civil penalty of \$100 for each unit of any new covered product to which this part applies:

(1) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product unless such covered product is labeled in accordance with Section 305.11 with a label, flap tag, hang tag, or energy fact sheet which conforms to the provisions of the Act and this part.

(2) For any manufacturer, distributor, retailer, or private labeler knowingly to remove or render illegible any label required to be provided with such product by this part.

(3) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product, if there is not included (i) on the label, (ii) separately attached to the product, or (iii) shipped with the product, additional information relating to energy consumption or energy efficiency which conforms to the requirements in this Part.

(b) It shall be unlawful and subject to the enforcement penalties of Section 333 of the Act of a maximum civil penalty of \$100 per day for any manufacturer or private labeler knowingly to:

(1) Refuse a request by the Commission or its designated representative for access to, or copying of, records required to be supplied under this part.

(2) Refuse to make reports or provide upon requests by the Commission or its

designated representative any information required to be supplied under this part.

(3) Refuse upon request by the Commission or its designated representative to permit a representative designated by the Commission to observe any testing required by this part while such testing is being conducted or to inspect the results of such testing. This section shall not limit the Commission from requiring additional testing under this part.

(4) Refuse, when requested by the Commission or its designated representative, to supply at the manufacturer's expense, no more than two of each model of each covered product to any laboratory designated by the Commission for the purpose of ascertaining whether the information in catalogs or set out on the label as required by this part is accurate. This action will be taken only after review of a manufacturer's testing records and an opportunity to revalidate test data has been extended to the manufacturer.

(5) Distribute in commerce any catalog containing a listing for a covered product without the information required by Section 305.14 of this Part. This subsection shall also apply to distributors and retailers.

(c) Pursuant to Section 333(c) of the Act, it shall be an unfair or deceptive act or practice in violation of Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any manufacturer, distributor, retailer or private labeler in or affecting commerce to display or distribute at point of sale any printed material applicable to a covered product under this rule if such printed material does not contain the information required by § 305.13. This requirement does not apply to any broadcast advertisement or to any advertisement in a newspaper, magazine, or other periodical.

(d) Effective 180 days after a test procedure applicable to a consumer appliance product is prescribed by the Secretary of the Department of Energy, pursuant to Section 323 of the Act (42 U.S.C. 6293), it shall be an unfair or deceptive act or practice in violation of Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any manufacturer, distributor, retailer, or private labeler to make any representation in or affecting commerce—

(1) In writing (including a representation on a label), or

(2) In any broadcast advertisement, respecting the energy consumption of the product or cost of energy consumed by the product, unless the product has

been tested in accordance with the test procedure and the representation fairly discloses the results of the testing. This requirement is not limited to consumer appliance products covered by the labeling requirements in this part.

Any manufacturer, distributor, retailer, or private labeler may file a petition with the Commission not later than sixty (60) days before the expiration of the period involved for an extension of the 180-day period. If the Commission finds that the requirements would impose an undue hardship on the petitioner, the Commission may extend the 180 day period with respect to the petitioner up to an additional 180 days.

(e) This part shall not apply to:

(1) Any covered product if it is manufactured, imported, sold, or held for sale for export from the United States, so long as such product is not in fact distributed in commerce for use in the United States, and such covered product or the container thereof bears a stamp or label stating that such covered product is intended for export.

(2) Any covered product if the manufacture of the product was completed prior to May 19, 1980.

(3) Any catalog or point of sale printed matter distributed prior to except that if representations respecting the energy consumption or energy efficiency of any covered product or other consumer appliance product or cost of energy consumed by such product are included, they are subject to the requirements of paragraph (d) of this Section.

(f) As used in paragraphs (a) and (b) of this Section, the term "knowingly" means:

(1) The having of actual knowledge, or

(2) The presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

Testing

§ 305.5 Determinations of estimated annual energy cost and energy efficiency rating.

Procedures for determining the estimated annual energy costs and energy efficiency ratings of covered products are those found in 10 CFR Part 430, Subpart B, in the following sections:

(a) Refrigerators and refrigerator-freezers—§ 430.22(a).

(b) Freezers—§ 430.22(b).

(c) Dishwashers—§ 430.22(c).

(d) Water heaters—§ 430.22(d).

(e) Room air conditioners—§ 430.22(e).

(f) Clothes washers—§ 430.22(f).

(g) Furnaces—§ 430.22(g).

§ 305.6 Sampling.

Any representation with respect to or based upon a measure or measures of energy consumption incorporated into § 305.5 shall be based upon the sampling procedures set forth in § 430.23 of 10 CFR Part 430, Subpart B.

§ 305.7 Determinations of capacity.

The capacity of covered products shall be determined as follows:

(a) Refrigerators and refrigerator-freezers—The capacity shall be the net refrigerated volume in cubic feet, rounded to the nearest one-tenth of a cubic foot, determined according to 3.2 of Appendix A1 to 10 CFR Part 430, Subpart B.

(b) Freezers—The capacity shall be the net freezer refrigerated volume in cubic feet, rounded to the nearest one-tenth of a cubic foot, determined according to 3.2 of Appendix B to 10 CFR Part 430, Subpart B.

(c) Dishwashers—The capacity shall be the place-setting capacity, calculated in conformance with AHAM Specification DW-1.

(d) Water heaters—The capacity shall be the first hour rating, determined according to 4.8 of Appendix E to CFR Part 430, Subpart B.

(e) Room air conditioners—The capacity shall be the cooling capacity in Btu's per hour, determined according to 4.1 of Appendix F to 10 CFR Part 430, Subpart B, but rounded to the nearest value ending in hundreds that will satisfy the relationship that the value of EER used in representations equals the rounded value of capacity divided by the value of input power in watts. If a value ending in hundreds will not satisfy this relationship, the capacity may be rounded to the nearest value ending in 50 that will.

(f) Clothes washers—The size shall be the tub capacity, rounded to the nearest gallon, determined according to 3.1 of Appendix J to 10 CFR Part 430, Subpart B, in the terms standard or compact as defined in Appendix J of this rule. The factor used to convert cubic feet to gallons shall be eight (8) gallons per cubic foot.

(g) Furnaces—The capacity shall be the heating capacity in Btu's per hour, rounded to the nearest 1,000 Btu's per hour, determined according to 4.7 or 4.10 of Appendix N to 10 CFR Part 430, Subpart B.

§ 305.8 Submission of data.

(a) Each manufacturer of a covered product shall submit to the Commission,

not later than January 21, 1980, a report listing the estimated annual energy cost (for refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, and clothes washers) or the energy efficiency rating (for room air conditioners and furnaces) for each basic model in current production, determined according to § 305.5 and statistically verified according to § 305.6. The report also must list, for each basic model in current production: the model numbers for each basic model; the total energy consumption, determined in accordance with § 305.5, used to calculate the estimated annual energy cost or the energy efficiency rating; the number of tests performed; and its capacity, determined in accordance with § 305.7. For the those models which use more than one energy source or more than one cycle, each separate amount of energy consumption, or energy cost, measured in accordance with § 305.5, shall be listed in the report. Appendix H illustrates a suggested reporting format. Starting serial numbers or other numbers identifying the date of manufacture of covered products shall be submitted by July 21, 1980.

(b) Thereafter, all data required by § 305.8(a) except serial numbers, shall be submitted to the Commission annually, on or before the following dates:

Table 1 ¹				
	Electricity	Oil	Natural gas	Propane gas
Line:				
1.....	\$0.0497 per kWh.....	\$6.09x10 ⁻⁶ per Btu ..	\$3.67x10 ⁻⁶ per Btu ..	\$5.99x10 ⁻⁶ per Btu ..
2.....	4.97¢ per kWh.....	84.1¢ per gal.....	36.7¢ per therm (100 ft ³)	54.5¢ per gal

¹ These figures are based on 1979 DOE calculations and are subject to change.

(b) Table 1, above, will be revised on the basis of future information provided by the Secretary of the Department of Energy, but not more often than annually. Manufacturers shall use the revised information when submission of the annual data is made in accordance with § 305.8.

§ 305.10 Ranges of estimated annual energy costs and energy efficiency ratings.

(a) The range of estimated annual energy costs or range of energy efficiency ratings for each covered product shall be taken from the appropriate appendix to this rule in

Products	Deadline for data submission	Effective mandatory labeling date
Refrigerators, Refrigerator-freezers and Freezers.....	Aug. 1.....	Dec. 1.
Dishwashers.....	June 1.....	Oct. 1.
Water Heaters.....	May 1.....	Sept. 1.
Room Air Conditioners.....	May 1.....	Sept. 1.
Clothes Washers.....	Mar. 1.....	July 1.
Furnaces.....	May 1.....	Sept. 1.

All revisions to such data (both additions to and deletions from the preceding data) shall be submitted to the Commission as part of the next annual report. Serial number reports for new covered products are due sixty days after the annual effective mandatory labeling date for each product.

(c) All information required by paragraph (a) of this section must be submitted for new models prior to any distribution of such model. Models subject to design or retrofit alterations which change the data contained in any annual report shall be reported in the manner required for new models. Models which are discontinued shall be reported in the next annual report.

Representative Average Unit Energy Costs

§ 305.9 Representative average unit energy costs.

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this Part.

effect at the time the labels are affixed to the products. The Commission shall publish revised ranges annually in the Federal Register if appropriate, or a statement that specific prior ranges are still applicable for the new year. Ranges will be changed if the estimated annual energy cost or the energy efficiency rating of the products within the range changes in a way that would alter the upper or lower cost or efficiency rating limits of the range by 15% or more from that previously published. When a range is revised, all information disseminated after 90 days following the publication

of any revision shall conform to the revised range. Products which have been labeled prior to the effective date of a modification under this section need not be relabeled.

(b) When the estimated annual energy cost or energy efficiency rating of a given model of a covered product falls outside the limits of the range found in the current appendix for that product, which could result from the introduction of a new or changed model, the manufacturer shall (1) omit placement of such product on the scale, and (2) add a sentence in the space just below the scale as follows:

The energy cost of this model was not available at the time the range was published; or

The energy efficiency rating of this model was not available at the time the range was published.

Required Disclosures

§ 305.11 Labeling for covered products.

(a) Labels—(1) Layout. All energy labels for each category of covered products use one size, similar colors and typefaces with consistent positioning of headline, copy and charts to maintain uniformity for immediate consumer recognition and readability. Trim size for all labels is 5½" x 7½". Copy is to be set x 27 picas or x 29 picas and copy page should be centered (right to left and top to bottom). Depth is variable but should follow closely Figure 1, the prototype label appearing at the end of this part illustrating the basic layout. All positioning, spacing, type sizes and line widths should be similar to and consistent with the prototype label.

(2) Type size and setting. The Helvetica series typeface or equivalent shall be used exclusively on the label. Specific type sizes and faces to be used are indicated on the prototype labels (Figures 1, 2 and 3). No hyphenation should be used in setting headline or text copy. Positioning and spacing should follow the prototype closely. Generally, text may be set flush left or right, line for line, or justified with one point leading except where otherwise indicated. Helvetica medium shall be used for all copy with the following exceptions only: (i) Numerals indicating "highest" and "lowest" energy cost or energy efficiency rating; (ii) chart headings and, if applicable, energy cost graph headings; (iii) the line, "How much will this model cost you to run yearly?"

(3) Colors. The basic colors of all labels shall be process yellow or equivalent. The color may be achieved by printing or use of colored paper

stock. All type including chart or table rules shall be print process black.

(4) Paper stock—(i) Adhesive labels. All adhesive labels should be applied so they can be easily removed without use of tools or liquids, other than water. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25" x 38") or equivalent, exclusive of the release liner and adhesive. The adhesive shall have a minimum peel adhesion capacity of 24 ounces per inch width. The pressure-sensitive adhesive shall be applied in not less than two strips not less than 0.5 inches wide. The strips shall be within 0.25 inches of the opposite edges of the label. For a "flap-tag" label, the pressure-sensitive adhesive shall be applied in one strip not less than 0.5 inches wide. The strip shall be within 0.25 inches of the top edge of the label.

(ii) Hang tags. The paper stock for hang tags shall have a basic weight of not less than 110 pounds per 500 sheets (25½" x 30½" index). When materials are used to attach the hang tags to appliance products, the materials shall be of sufficient strength to insure that if gradual pressure is applied to the hang tag by pulling it away from where it is affixed to the product, the hang tag will tear before the material used to affix the hang tag to the product breaks.

(5) Contents—(i) Labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters and room air conditioners.

(A) Headlines and texts, as illustrated in Figures 1 and 2, are standard for all labels. At the option of the manufacturer or private labeler, the appropriate year may be inserted in that portion of the label which discloses the national average unit utility rate upon which the cost estimates are based.

(B) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(C) Model number(s) will be the designation given by the manufacturer or private labeler.

(D) Capacity or size is that determined in accordance with § 305.7.

(E) Estimated annual energy cost for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers

and water heaters is that determined in accordance with § 305.5. Energy efficiency rating for room air conditioners is that determined in accordance with § 305.5.

(F) Ranges of comparability and of estimated annual energy costs or energy efficiency ratings, as applicable, are found in Section 1 of the appropriate appendices accompanying this part.

(G) Placement of the labeled product on the scale shall be proportionate to the costs of the lowest and highest costs or efficiency ratings forming the scale.

(H) "More Cost Information" text and tables are found in Section 2 of the appropriate appendices accompanying this part. Cost figures are to be determined in accordance with § 305.5 for the unit energy costs found in Section 2 of the appropriate appendices. Revised appendices will be published by the Commission whenever necessary. Use the unit energy cost figures in the latest published appendices to determine the cost figures to be used for a particular covered product.

(I) The following statement shall appear at the bottom of the label:

"Important
Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)."

(J) A statement that the energy costs or energy efficiency ratings, as applicable, are based on U.S. Government standard tests is required on all labels, as indicated in Figures 1 and 2.

(K) No marks or information other than that specified in this Part shall appear on or directly adjoining this label except for a part or publication number identification, as desired by the manufacturer. The identification number shall be in the lower right-hand corner of the label, and characters shall be in 6-point type or smaller.

(ii) Labels for furnaces. (A) The headline, as illustrated in Figure 3, is standard for all labels.

(B) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(C) The following statements shall appear on the label, as indicated in Figure 3:

"You can save substantially on home heating and cooling energy costs by following the simple steps outlined below:

1. Weatherproof your house.
2. Assure energy efficient heating and cooling equipment selection and installation.
3. Operate and maintain your system to conserve energy.

Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy. Your contractor has the energy fact sheets. Ask for them."

(D) The following statement shall appear at the bottom of the label:

"Important
Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)."

(E) No marks or information other than specified in this part shall appear on or directly adjoining this label except for a part or publication number identification, as desired by the manufacturer. The identification number shall be in the lower right-hand corner of the label, and characters shall be in 6-point type or smaller.

(6) *Placement.* Manufacturers shall affix a label to the exterior surface on covered products in such a position that it can be easily read while standing in front of the product as it is displayed for sale. The label should be generally located on the upper-right-front corner of the product, except that for low-standing products or products with configurations that make application in that location impractical, some other prominent location may be used. The top of the label should not exceed 74 inches from the base of taller products. The label in the form of a "flap-tag" shall be adhered to the top of the appliance and bent (folded at 90°) to hang over the front, if this can be done with assurance that it will be readily visible.

(7) *Use of hang tags.* Information prescribed above for labels may be displayed in the form of a hang tag, which may be used in place of an affixed label. If a hang tag is used, it shall be affixed in such a position that it will be prominent to a consumer examining the product.

(b) *Fact sheets—(1) Distribution.* (i) Manufacturers and private labelers must give distributors and retailers, including assemblers, fact sheets for the furnaces they sell to them. Distributors must give the fact sheets to the retailers, including assemblers, they supply. Each fact sheet must contain the information listed in § 305.11(b)(3).

(ii) Retailers, including assemblers, who sell furnaces to consumers must have fact sheets for the furnaces they sell. They must make the fact sheets

available to their customers. The fact sheets may be made available to customers in any manner, as long as customers are likely to notice them. For example, they can be available in a display, where customers can take copies of them. They can be kept in a binder at a counter or service desk, with a sign telling customers where the fact sheets are. Retailers, including assemblers, who negotiate or make sales at a place other than their regular places of business must show the fact sheets to their customers and let them read the fact sheets before they agree to purchase the product.

(2) *Format.* All information required to be contained in fact sheets must be disclosed clearly and conspicuously.

(3) *Contents.* (i) "Energy Guide" headline is standard for all fact sheets, as for labels.

(ii) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(iii) Model number(s) will be the designation given by the manufacturer or private labeler.

(iv) Capacity or size is that determined in accordance with § 305.7.

(v) Energy efficiency rating is that determined in accordance with § 305.5.

(vi) Ranges of comparability and of energy efficiency ratings are found in Section 1 of the appropriate appendices accompanying this part.

(vii) Placement of the labeled product on the scale shall be proportionate to energy efficiency ratings of the lowest and highest efficiency ratings forming the scale.

(viii) Yearly cost information text and tables are found in Section 2 of Appendix G accompanying this part. Cost figures are to be determined in accordance with § 305.5 for the unit energy costs found in Section 2 of Appendix G. A revised appendix will be published by the Commission whenever necessary. Use the unit energy cost figures in the latest published Appendix G to determine the cost figures to be used for furnaces.

(ix) A statement that the energy costs and energy efficiency ratings are based on U.S. Government standard tests is required in all fact sheets.

§ 305.12 Additional information relating to energy consumption.

Additional information relating to energy consumption which must be

included on labels, separately attached to the product, or shipped with the product will be published as a separate section 3 of the appendices accompanying this part. No additional information will be required without public notice and an opportunity for written comments.

§ 305.13 Promotional material displayed or distributed at point of sale.

(a) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product shall clearly and conspicuously include in such printed material the following required disclosure:

"Before purchasing this appliance, read important energy cost and efficiency information available from your retailer."

(b) This section shall not apply to:

(1) Written warranties.

(2) Use and care manuals, installation instructions, or other printed material containing primarily post-purchase information for the purchaser.

(3) Printed material containing only the identification of a covered product, pricing information and/or non-energy related representations concerning that product.

(4) Any printed material distributed prior to the effective date listed in § 305.18(f).

§ 305.14 Catalogs.

(a) Any manufacturer, distributor, retailer or private labeler who advertises a covered product in a catalog, from which it may be purchased by cash, charge account or credit terms, shall include in such catalog, on each page which lists a covered product, the following information required to be disclosed on the label:

(1) The capacity of the model.

(2) The estimated annual energy cost for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers and water heaters. The representative average unit costs for electricity, natural gas, oil and propane gas, published in § 305.9, which are current at the closing date for printing or the printing deadline date of the catalog, shall be used to compute the estimated annual energy cost.

(3) The energy efficiency ratings for room air conditioners and furnaces.

(4) The range of estimated annual energy costs or energy efficiency ratings, which shall be those which are current at the closing date for printing or the printing deadline date of the catalog.

(5) The following disclosure, appearing clearly and conspicuously:

"Important energy information is available. Turn to page(s) [insert designated page number(s)]."

(b) On the page(s) designated, as referred to in § 305.14(a)(5), the manufacturer, distributor, retailer or private labeler must disclose either instructions on how cost grid information, described in §§ 305.11(a)(5)(i)(H) and 305.11(b)(3)(viii), may be obtained from the cataloger, or the cost grid information itself, so long as all information thereon is clearly legible. Information contained in a catalog for a covered product shall be changed or modified in accordance with § 305.10.

Additional Requirements

§ 305.15 Test data records.

(a) Test data shall be kept on file by the manufacturer of a covered product for a period of two years after production of that model has been terminated.

(b) Upon notification by the Commission or its designated representative, a manufacturer or private labeler shall provide, within 30 days of the date of such request, the underlying test data from which the estimated annual energy cost or energy efficiency rating for each basic model was derived.

§ 305.16 Required testing by designated laboratory.

Upon notification by the Commission or its designated representative, a manufacturer of a covered product shall supply, at the manufacturer's expense, no more than two of each model of each product to a laboratory, which will be identified by the Commission or its designated representative in the notice, for the purpose of ascertaining whether the estimated annual energy cost or energy efficiency rating disclosed on the label or fact sheet, or as required by § 305.14, is accurate. Such a procedure will only be followed after the Commission or its staff has examined the underlying test data provided by the manufacturer as required by § 305.15(b) and after the manufacturer has been afforded the opportunity to reverify test results from which the estimated annual energy cost or energy efficiency rating for each basic model was derived. A representative designated by the Commission shall be permitted to observe any reverification procedures required by this Part, and to inspect the results of such reverification. Charges for testing by designated laboratories will be paid by the Commission.

Effect of This Part

§ 305.17 Effect on other law.

This regulation supersedes any State regulation to the extent required by Section 327 of the Act. Pursuant to the Act, all State regulations that require the disclosure for any covered product of information with respect to energy consumption, other than the information required to be disclosed in accordance with this Part, are superseded.

§ 305.18 When the rules take effect.

(a) The report required by § 305.8(a), listing serial numbers or other numbers identifying the date of manufacture of models in current production, must be received by the Commission no later than July 21, 1980.

(b) The first required annual report of model numbers, test results and other data, referred to in § 305.8(a), must be received by the Commission no later than January 21, 1980.

(c) The requirement that the labels, flap tags, or hang tags specified in this rule must be attached to new covered products takes effect for all new covered products on which manufacture is completed on or after May 19, 1980.

(d) The requirement that energy fact sheets specified in this rule must be provided takes effect for furnaces on which manufacture is completed on or after May 19, 1980.

(e) The requirement that specified information about covered products be disclosed in catalogs takes effect for all catalogs printed and distributed on or after May 19, 1980. This requirement does not apply to catalogs if the catalog issue was distributed before May 19, 1980. Required revisions to the specified information must be made in all new editions and new catalogs printed and distributed after the date of the revision.

(f) The requirement that all printed material displayed or distributed at the point of sale disclose information specified in § 305.13 takes effect on May 19, 1980.

(g) The preemption provision in § 305.17 takes effect on November 19, 1979.

(h) All other requirements of this rule except those in § 305.4(d) take effect on May 19, 1980.

§ 305.19 Stayed or invalid parts.

If any section or portion of a section of this part is stayed or held invalid, the remainder of the part will not be affected.

By direction of the Commission.

Carol M. Thomas,
Secretary.

BILLING CODE 6750-01-M

1. Range Information:

Manufacturer's Rated Total Refrigerated Vol. in cu. ft.	Ranges of Estimated Yearly Energy Costs Electricity	
	Low	High
Less than 2.5		
2.5 to 4.4		
4.5 to 6.4		
6.5 to 8.4		
8.5 to 10.4		
10.5 to 12.4		
12.5 to 14.4		
14.5 to 16.4		
16.5 and over		

2. Yearly Cost Information:

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Yearly Cost	
Cost per	
kilowatt	
hour	
2¢	
4¢	
6¢	
8¢	
10¢	
12¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information - (Reserved).

1. Range Information:

Manufacturer's Rated Total Refrigerated Vol. in cu. ft.	Ranges of Estimated Yearly Energy Costs Electricity	
	Low	High
Less than 10.5		
10.5 to 12.4		
12.5 to 14.4		
14.5 to 16.4		
16.5 to 18.4		
18.5 to 20.4		
20.5 to 22.4		
22.5 to 24.4		
24.5 to 26.4		
26.5 to 28.4		
28.5 and over		

2. Yearly Cost Information:

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Yearly Cost	
Cost per	
kilowatt	
hour	
2¢	
4¢	
6¢	
8¢	
10¢	
12¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information - (Reserved).

1. Range Information:

Manufacturer's Rated Total Refrigerated Vol. in cu. ft.	Ranges of Estimated Yearly Energy Costs Electricity	
	Low	High
Less than 5.5		
5.5 to 7.4		
7.5 to 9.4		
9.5 to 11.4		
11.5 to 13.4		
13.5 to 15.4		
15.5 to 17.4		
17.5 to 19.4		
19.5 to 21.4		
21.5 to 23.4		
23.5 to 25.4		
25.5 to 27.4		
27.5 to 29.4		
29.5 and over		

2. Yearly Cost Information:

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Yearly Cost	
Cost per	
kilowatt	
hour	
2¢	
4¢	
6¢	
8¢	
10¢	
12¢	

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information - (Reserved).

1. Range Information:

"Compact" includes countertop dishwasher models with a capacity of less than eight (8) place settings.

"Standard" includes portable or built-in models with a capacity of eight (8) or more place settings.

Place settings shall conform to AHAM Specification DW-1 (1) for chinaware, flatware and serving pieces. Load patterns shall conform to the operating normal for the model being tested.

Ranges of Comparability	Ranges of Estimated Yearly Energy Costs	
	Electrically Heated Water	Natural Gas Heated Water
	Low	High
	High	Low
Compact		
Standard		

2. Yearly Cost Information - (Type of Energy):

Estimates on the scale are based on a national average electric rate of 4.97¢ per (energy measure) and 8 loads of dishes per week.

Loads of dishes per week	
2	4
6	8
10	10

2¢	
4¢	
6¢	
8¢	
10¢	
12¢	

Cost per
kilowatt
hour

1. Range Information:

First Hour Rating	Ranges of Estimated Yearly Energy Cost	
	Low	High
Less than 21		
21 to 24		
25 to 29		
30 to 34		
35 to 40		
41 to 47		
48 to 55		
56 to 64		
65 to 74		
75 to 86		
87 to 99		
100 to 114		
115 to 131		
Over 131		

1. Range Information:

First Hour Rating	Ranges of Estimated Yearly Energy Cost	
	Low	High
Less than 21		
21 to 24		
25 to 29		
30 to 34		
35 to 40		
41 to 47		
48 to 55		
56 to 64		
65 to 74		
75 to 86		
87 to 99		
100 to 114		
115 to 131		
Over 131		

2. Yearly Cost Information - Gas:

Estimates on the scale are based on a national average natural gas rate of 36.7¢ per therm.

Yearly Cost	
Cost	10¢
Per	20¢
Therm	30¢
	40¢
	50¢
	60¢

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information (Reserved).

Yearly Cost	
Cost	2¢
Per	4¢
Kilo-	6¢
watt	8¢
Hour	10¢
	12¢

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information - (Reserved).

1. Range Information:

First Hour Rating	Ranges of Estimated Yearly Energy Cost	
	Low	High
Less than 65		
65 to 74		
75 to 86		
87 to 99		
100 to 114		
115 to 131		
Over 131		

1. Range Information:

Manufacturers Rated Cooling Capacity in BTU's/hr.	Ranges of Energy Efficiency Ratings	
	Electricity	High
Less than 4,000		
4,800 to 5,299		
5,300 to 5,799		
5,800 to 6,299		
6,300 to 6,799		
6,800 to 7,299		
7,300 to 7,799		
7,800 to 8,299		
8,300 to 8,799		
8,800 to 9,299		
9,300 to 9,799		
9,800 to 10,299		
10,300 to 10,799		
10,800 to 11,299		
11,300 to 11,799		
11,800 to 12,299		
12,300 to 12,799		
12,800 to 13,299		
13,300 to 13,799		
13,800 to 14,299		
14,300 to 14,799		
14,800 to 15,299		
15,300 to 15,799		
15,800 to 16,499		
16,500 to 17,499		
17,500 to 18,499		
18,500 to 19,499		
19,500 to 20,499		
20,500 to 21,499		
21,500 to 22,499		
22,500 to 24,499		
24,500 to 26,499		
26,500 to 28,499		
28,500 to 32,499		
32,500 to 36,000		

2. Yearly Cost Information - Oil:

Estimates on the scale are based on a national average oil rate of 84.¢ per gallon

Yearly Cost	
Cost	\$.76
Per	\$.79
Gallon	\$.82
	\$.85
	\$.88
	\$.91
	\$.94
	\$.97
	\$ 1.00

Beside each cost in the table, place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information - (Reserved).

2. Yearly Cost Information:

Yearly hours of use			
250	750	1,000	2,000 3,000

Cost
per
kilo-
watt
hour

2¢
4¢
6¢
8¢
10¢
12¢

Below the appropriate number of yearly hours of use and beside each cost in the table, place the cost estimate for the model being labeled using the table costs and using the yearly hours of use.

3. Additional Information - (Reserved).

Appendix F - Clothes Washers

1. Range Information:

"Compact" includes all household clothes washers with a tub capacity of less than 16 gallons.
"Standard" includes all household clothes washers with a tub capacity of 16 gallons or more

Ranges of Comparability	Ranges of Estimated Yearly Energy Costs			
	Electrically Heated Water		Natural Gas Heated Water	
	Low	High	Low	High
Compact				
Standard				

2. Yearly Cost Information - (Type of Energy):

Loads of clothes per week						
2	4	6	8	10	12	

Cost
per
kilo-
watt
hour*

2¢
4¢
6¢
8¢
10¢
12¢

*For chart on natural gas, substitute the following cost figures:

Cost per therm - 10¢, 20¢, 30¢, 40¢, 50¢, 60¢.

Below the appropriate number of clothes loads in the table and beside each cost, place the cost estimate for the model being labeled using the table costs and using the designated loads in the table.

3. Additional Information - (Reserved).

Appendix G - Furnaces (contd.)
Fact Sheet Requirement

1. Range Information:

Comparability (Btu per hour)	Ranges of Energy Efficiency Ratings	
	Low	High
5,000 to 10,000		
11,000 to 16,000		
17,000 to 25,000		
26,000 to 42,000		
43,000 to 59,000		
60,000 to 76,000		
77,000 to 93,000		
94,000 to 110,000		
111,000 to 127,000		
128,000 to 144,000		
145,000 to 161,000		
162,000 to 178,000		
179,000 to 195,000		
196,000 and over		

2. Yearly Cost Information:

Btu Heat Loss of Home (See Chart Below)

Cost
per
kilo-
watt
hour*

2¢
4¢
6¢
8¢
10¢
12¢

*For charts on natural gas, oil and propane gas, substitute the following cost figures:

a. Cost per therm - 10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
b. Cost per gallon (oil) - 76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, \$1.00.
c. Cost per gallon (propane) - 35¢, 40¢, 45¢, 50¢, 55¢, 60¢.

Appendix G - Furnaces (contd.)

The following table shows the heat loss values (in thousand Btu/hr.) to be used in the grid above:

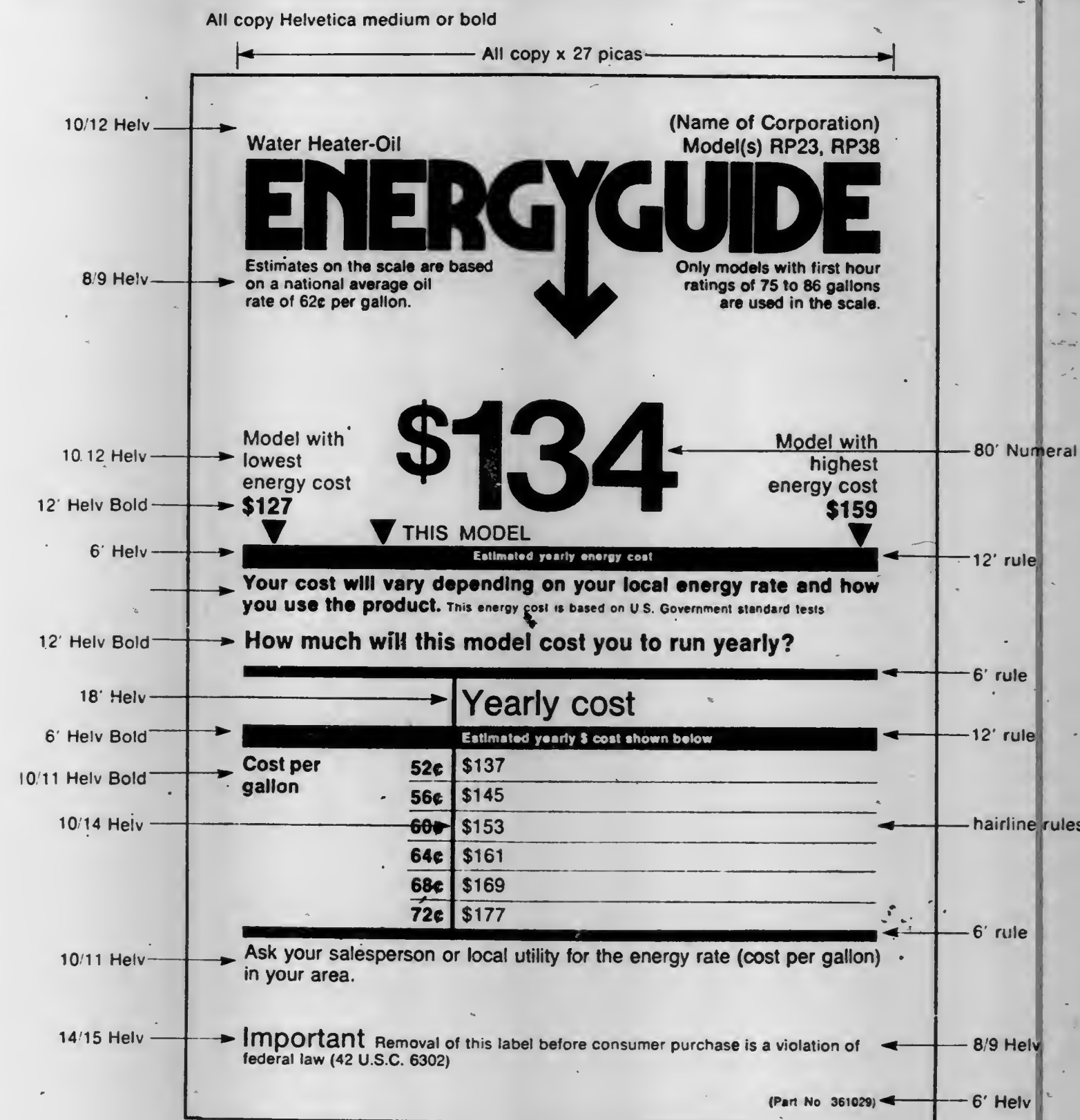
Manufacturer's Rated Heat Output of Model to Be Labeled (Btu per hour)	Design Heat Loss of Model to Be Labeled (1,000 Btu per hour)	Heat Loss Values to Be Used on the Grid (1,000 Btu per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the grid on the opposite page, and below the appropriate heat loss value taken from the table above, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used above with the national average cost.

3. Additional Information - (Reserved).

Appendix H - Suggested Data Reporting Format

1.	Date of Report	
2.	Company Name	
3.	City	
4.	State	
5.	Product	
6.	Energy Type (gas, oil, etc.)	
7.	Model Number	
8.	Estimated Annual Energy Cost or Energy Efficiency Rating	
9.	Capacity	
10.	Number of Tests Performed	
11.	Total Energy Consumption (based on all tests performed)	



SAMPLE LABEL
Figure 1

All copy Helvetica medium or bold

All Copy x 29 picas

10/12 Helv → Clothes Washer Capacity: Compact (Name of Corporation) Model(s) SL301, SL309

ENERGYGUIDE

8/9 Helv → Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour and a natural gas rate of 36.7¢ per therm. Only compact size clothes washers are used in the scale.

8' Helv Bold → Electric Water Heater Gas Water Heater

8/9 Helv → Model with lowest energy cost \$22 Model with highest energy cost \$67 Model with lowest energy cost \$20 Model with highest energy cost \$24

10' Helv Bold → THIS MODEL Estimated yearly energy cost \$58 THIS MODEL Estimated yearly energy cost \$22

12' Helv Bold → Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

12' Helv Bold → How much will this model cost you to run yearly?

8/9 Helv Bold → with an electric water heater with a gas water heater

Loads of clothes per week	2	4	6	8	12	
Estimated yearly \$ cost shown below	\$7	\$14	\$21	\$29	\$42	
Cost per kilowatt hour	2¢	\$14	\$29	\$43	\$57	\$85
	4¢	\$21	\$43	\$64	\$86	\$129
	6¢	\$29	\$57	\$86	\$114	\$172
	8¢	\$36	\$71	\$107	\$143	\$214
	10¢	\$43	\$85	\$128	\$172	\$256
	12¢					

8/9 Helv and Helv Bold → Cost per therm (100 cubic feet)

Loads of clothes per week	2	4	6	8	12	
Estimated yearly \$ cost shown below	\$2	\$4	\$6	\$8	\$12	
Cost per therm	10¢	\$4	\$8	\$12	\$16	\$24
	20¢	\$6	\$11	\$17	\$22	\$34
	30¢	\$8	\$15	\$23	\$30	\$46
	40¢	\$10	\$19	\$29	\$48	\$58
	50¢	\$12	\$22	\$34	\$44	\$68
	60¢					

10/11 Helv → Ask your salesperson or local utility for the energy rate (cost per kilowatt hour or therm) in your area, and for estimated costs if you have a propane or oil water heater.

14' Helv → Important Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

6' Helv (Part No. 8399601)

SAMPLE LABEL

Figure 2

All copy Helvetica medium or bold

All Copy x 27 picas

10/12 Helv → (For Furnaces)

ENERGYGUIDE

12/13 Helv → You can save substantially on home heating and cooling energy costs by following the simple steps outlined below:

1. Weatherproof your house
2. Assure energy efficient heating and cooling equipment selection and installation
3. Operate and maintain your system to conserve energy.

10/11 Helv with 18' numerals → Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy.

12 Helv Bold → Your contractor has the energy fact sheets. Ask for them.

14/15 Helv → Important Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

Figure 3

Refrigerator-Freezer
Capacity: 23 Cubic Feet

(Name of Corporation)
Model(s) AH503, AH504, AH507
Type of Defrost: Full Automatic

ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Only models with 22.5 to 24.4 cubic feet are compared in the scale.

Model with lowest energy cost
\$68

\$91

Model with highest energy cost
\$132

THIS ▼ MODEL

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

How much will this model cost you to run yearly?

Yearly cost		
Estimated yearly \$ cost shown below		
Cost per kilowatt hour	2¢	\$44
	4¢	\$88
	6¢	\$132
	8¢	\$176
	10¢	\$220
	12¢	\$264

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour) in your area.

Important Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 371026)

Freezer
Capacity: 26 Cubic Feet

(Name of Corporation)
Model(s) SH405, SH413
Type of Defrost: Manual

ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Only models with 25.5 to 27.4 cubic feet are compared in the scale.

Model with lowest energy cost
\$95

\$120

Model with highest energy cost
\$140

THIS ▼ MODEL

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

How much will this model cost you to run yearly?

Yearly cost		
Estimated yearly \$ cost shown below		
Cost per kilowatt hour	2¢	\$64
	4¢	\$128
	6¢	\$190
	8¢	\$252
	10¢	\$317
	12¢	\$380

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour) in your area.

Important Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 14332)

V
4
4

N
O

1
9

7
9
U M I

Dishwasher
Capacity: Standard(Name of Corporation)
Model(s) MR328, XL12, NA83

ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour and a natural gas rate of 36.7¢ per therm.

Only standard size dishwashers are used in the scale.

Electric Water Heater**Gas Water Heater**

Model with lowest energy cost
\$50

\$60

Model with highest energy cost
\$84

Model with lowest energy cost
\$19

\$27

Model with highest energy cost
\$42

THIS MODEL

THIS MODEL

Estimated yearly energy cost

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

How much will this model cost you to run yearly?

with an electric water heater

Loads of dishes per week	2	4	6	8	12
Estimated yearly \$ cost shown below					
Cost per kilowatt hour 2¢	\$8	\$15	\$23	\$31	\$47
4¢	\$15	\$31	\$46	\$62	\$92
6¢	\$23	\$46	\$69	\$92	\$139
8¢	\$31	\$62	\$92	\$123	\$189
10¢	\$39	\$77	\$116	\$154	\$231
12¢	\$47	\$92	\$139	\$185	\$278

with a gas water heater

Loads of dishes per week	2	4	6	8	12
Estimated yearly \$ cost shown below					
Cost per therm 10¢	\$2	\$5	\$7	\$9	\$14
20¢	\$5	\$11	\$16	\$22	\$33
30¢	\$7	\$14	\$21	\$27	\$41
40¢	\$9	\$19	\$28	\$36	\$55
50¢	\$12	\$23	\$35	\$45	\$68
60¢	\$19	\$28	\$42	\$54	\$82

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour or therm) in your area, and for estimated costs if you have a propane or oil water heater.

Important Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 73906)

Clothes Washer
Capacity: Compact(Name of Corporation)
Model(s) SL301, SL309

ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour and a natural gas rate of 36.7¢ per therm.

Only compact size clothes washers are used in the scale.

Electric Water Heater**Gas Water Heater**

Model with lowest energy cost
\$22

\$58

Model with highest energy cost
\$67

Model with lowest energy cost
\$20

\$22

Model with highest energy cost
\$24

THIS MODEL

THIS MODEL

Estimated yearly energy cost

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

How much will this model cost you to run yearly?

with an electric water heater

Loads of clothes per week	2	4	6	8	12
Estimated yearly \$ cost shown below					
Cost per kilowatt hour 2¢	\$7	\$14	\$21	\$29	\$42
4¢	\$14	\$29	\$43	\$57	\$85
6¢	\$21	\$43	\$64	\$86	\$129
8¢	\$29	\$57	\$86	\$114	\$172
10¢	\$36	\$71	\$107	\$143	\$214
12¢	\$43	\$85	\$128	\$172	\$256

with a gas water heater

Loads of clothes per week	2	4	6	8	12
Estimated yearly \$ cost shown below					
Cost per therm 10¢	\$2	\$4	\$6	\$8	\$12
20¢	\$4	\$8	\$12	\$16	\$24
30¢	\$6	\$11	\$17	\$22	\$34
40¢	\$8	\$15	\$23	\$30	\$46
50¢	\$10	\$19	\$29	\$48	\$58
60¢	\$12	\$22	\$34	\$44	\$68

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour or therm) in your area, and for estimated costs if you have a propane or oil water heater.

Important Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 8399601)

Room Air Conditioner
Capacity: 8,000 BTU/hr

(Name of Corporation)
Model(s) SA 714, SA 718

ENERGYGUIDE

Models with the most efficient energy rating number use less energy and cost less to operate.

Models with 7800 to 8299 BTU's cool about the same space.

Least efficient model
3.4

7.3

Most efficient model
8.5



This energy rating is based on U.S. Government standard tests.

How much will this model cost you to run yearly?

Yearly hours of use		250	750	1000	2000	3000
Estimated yearly \$ cost shown below						
Cost per kilowatt hour	2¢	\$7	\$20	\$28	\$56	\$84
	4¢	\$14	\$41	\$56	\$112	\$168
	6¢	\$20	\$61	\$80	\$160	\$240
	8¢	\$27	\$82	\$108	\$216	\$324
	10¢	\$34	\$102	\$136	\$272	\$408
	12¢	\$41	\$122	\$163	\$326	\$489

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour) in your area. Your cost will vary depending on your local energy rate and how you use the product.

Important Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL (Part No. 20648)

Water Heater-Oil

(Name of Corporation)
Model(s) RP23, RP38

ENERGYGUIDE

Estimates on the scale are based on a national average oil rate of 62¢ per gallon.

Only models with first hour ratings of 75 to 86 gallons are used in the scale.

Model with lowest energy cost
\$127

\$134

Model with highest energy cost
\$159



Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

How much will this model cost you to run yearly?

		Yearly cost
Estimated yearly \$ cost shown below		
Cost per gallon	52¢	\$137
	56¢	\$145
	60¢	\$153
	64¢	\$161
	68¢	\$169
	72¢	\$177

Ask your salesperson or local utility for the energy rate (cost per gallon) in your area.

Important Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL (Part No. 361029)

(For Furnaces)

ENERGYGUIDE



You can save substantially on home heating and cooling energy costs by following the simple steps outlined below:

1. Weatherproof your house
2. Assure energy efficient heating and cooling equipment selection and installation
3. Operate and maintain your system to conserve energy.

Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy.

Your contractor has the energy fact sheets. Ask for them.

Important Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

[FR Doc. 79-35566 Filed 11-16-79; 8:45 am]
BILLING CODE 6750-01-C

Monday
November 19, 1979

Part V

Department of Transportation

Coast Guard

Tank Vessels of 10,000 Gross Tons or
More and Tank Vessels of 20,000 DWT
or More Carrying Oil in Bulk

Design, Equipment, Operating, and
Personnel Standards, Improved Steering
Gear Standards and Inert Gas and Deck
Foam Systems

federal register

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 30, 32 and 34

[CGD 77-057a]

Inert Gas and Deck Foam Systems

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the tank vessel regulations requires all new foreign and domestic crude oil tankships and product tankships which enter U.S. ports, which are of 20,000 deadweight tons (DWT) and above to be fitted with an inert gas system. New foreign flag tankships of 20,000 DWT and greater are required to be fitted with a fixed deck foam system. Additionally, all existing tankships greater than 20,000 DWT for crude carriers and 40,000 DWT for product carriers will have to be fitted with inert gas systems. Dates for implementation are specified in the rule. This action implements one of the minimum standards of the Port and Tanker Safety Act of 1978, and should result in safer oil tanker operations.

EFFECTIVE DATE: This amendment is effective on January 1, 1980.

ADDRESSES: Copies of the Final Regulatory Analysis and Environmental Impact Statement relating to this amendment are available for examination at the Marine Safety Council (G-CMC/TP24), Room 2148, Coast Guard Headquarters Building, 2100 Second Street SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel F. Sheehan, Merchant Marine Technical Division (G-MMT-4/TP13), Room 1300, Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, D.C. 20593 (202-426-2167).

SUPPLEMENTARY INFORMATION: On February 12, 1979 the Coast Guard published a proposal in the Federal Register (44 FR 9039) to require inert gas systems (IGS) or deck foam systems on certain tankships. Interested persons were given an opportunity to submit written comments to the Coast Guard concerning the proposal until April 16, 1979. Two public hearings were held, one in Washington, D.C. on March 21, 1979, and the other in San Francisco, California on March 28, 1979. A total of 15 comments were received on the proposed regulations either in writing or orally at the public hearings. A discussion of comments received is contained in the following paragraphs.

DRAFTING INFORMATION: The principal persons involved in drafting these rules are: Daniel F. Sheehan, Project Manager, Office of Merchant Marine Safety; and Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Discussion of Comments

The proposed regulations were promulgated to implement the tank vessel equipment and construction standards which were developed at the Tanker Safety and Pollution Prevention (TSPP) Conference held under the auspices of the Inter-Governmental Maritime Consultative Organization (IMCO) in London during February 1978. The authority for issuing these regulations is the Port and Tanker Safety Act of 1978 (PTSA). Two comments pointed out that the proposed applicability of Part 32 to foreign tankships was not consistent with the applicability requirements of the PTSA. The proposal did not exclude any foreign tank vessel not destined for, or departing from, a port or place subject to the jurisdiction of the United States, that is in innocent passage through the territorial seas of the United States or in transit through the navigable waters of the United States which form a part of an international strait. The exception for foreign vessels has been incorporated in the Final Rules at § 32.53-1(c)(2).

One comment suggested that the rule making be expanded to require IGS on all oceangoing tank vessels of more than 1600 gross tons. In a similar vein, the same comment suggested that data for tank vessels of less than 20,000 DWT between the years of 1974 and 1978 be evaluated to determine incidence of fire and explosion. The purpose of the evaluation would be to determine whether or not there was justification for requiring IGS or deck foam systems or both on vessels of less than 20,000 DWT.

An examination of the extension of applicability to include a wider range of tank vessels is currently in progress. Statistics for the United States flag fleet will be submitted to the IMCO Subcommittee on Fire Protection for use in their continuing review of fire protection measures for tank vessels. IMCO is currently developing a data base for tank vessel casualties on a worldwide basis. This data base will be used in determining the need for extension of applicability.

Another comment suggested that the rule making be extended to all barges carrying similar cargoes. This is not germane to this rule making; however, an examination was conducted with

respect to the need for IGS on tank vessels other than those affected by this rule making.

Fire and explosion incidents on barges have been reviewed for the period of 1972 through 1977. During that period there were 59 incidents. Of this 59, fifteen occurred in, or adjacent to, the cargo tanks. Eleven of those incidents involved explosions which occurred due to ignition during repair. Hot work was conducted on cargo tanks which had not been gas freed. The other four incidents involved improper use of equipment or procedures. A review of the 1978 data will be made when it is available. However, at this time, fitting of inert gas systems on the tank barge fleet of over 3,000 barges is not warranted.

One comment suggested that the Coast Guard establish adequate standards for the design, fabrication, installation, operation, maintenance, repair, testing, and inspection of inert gas systems on vessels trading in United States ports. The reason cited for this recommendation was the study conducted by the Norwegian Classification Society det Norske Veritas (DNV) which has found that a majority of installations examined by that society had experienced major maintenance problems. This study was previously described in the notice of proposed rule making.

The Coast Guard feels that substantial progress has been achieved with respect to the concerns addressed by the comment. The DNV study was conducted after there had been a large program of fitting IGS on VLCC's. The study served to highlight problems with respect to materials use as well as maintenance requirements.

In the intervening period, two major industry organizations, the International Chamber of Shipping (ICS) and the Oil Companies International Marine Forum (OCIMF) have collaborated on the recently published "Inert Flue Gas Safety Guide". This guide is receiving wide distribution and is being considered by the IMCO Subcommittee on Fire Protection as a supplement to the requirements for inert gas systems contained in SOLAS 74 and its 1978 Protocol. This guide addresses the concerns of the comment; however, it is not mandatory. The Coast Guard has developed an inspection guide for inert gas systems to be used by Marine Inspectors. This guide will be included as a chapter in the Marine Safety Manual. All of these efforts are directly aimed at improving the design, maintainability, and reliability of IGS. The combination of experience with the systems and increased attention to

training, operation, and maintenance of the systems on the part of shipowners is having the desired positive result.

Several comments were concerned with the exemption process contained in § 32.53-3. One wanted to require that each exemption be accomplished through the regulatory process so that adequate public comment could be achieved. This is not a practical suggestion. The regulatory process prescribes a means for an individual to request relief from certain requirements. Section 32.53-3 details the procedures that must be followed and permits an avenue for competent technical judgments to be made based on the merits and arguments for each case. Under 5 U.S.C. 551 an exemption is a "license", not a "rule", and cannot be legally subjected to the rulemaking process and on this basis the comment's suggestion was not adopted; however, in appropriate cases the Coast Guard will provide public notice of applications for exemption under consideration.

Other comments stated that § 32.53-3 did not address the exemptions based on cargo incompatibility which are specified in Section 7, part C of the Port and Tanker Safety Act. The PTSA 1978 permits the Secretary to authorize an alternative protection system if a product carrier, required by this section to be fitted with an inert gas system, carries dedicated products which are incompatible with such a cargo tank protection system. Application for this exemption would have to be made in accordance with § 32.53-3. Regulation 60 of Chapter II-2 of SOLAS 74 contains the basic principles by which an equivalent cargo tank protection system would be evaluated. Use of this regulation (reg. 60, Chapter II-2), the general equivalency clause found in the base regulation (46 CFR Subchapter D), and the exemption process outlined in § 32.53-3 will permit shipowners or operators to address their proposals to the Coast Guard concerning problems created by possible cargo and system incompatibility.

Four comments stated that paragraph § 32.53-1(b)(2) was not justified with respect to changing existing regulations which exempted Grade E cargoes carried at a temperature lower than 5°C below their flash points to a figure of 50° below their flash points. The Coast Guard agrees with these comments. The figure of 50°C was a typographical error and the regulation has been corrected.

One comment requested that the Coast Guard clarify what vessels are product carriers and what commodities are considered to be products. The terms "product" and "product carrier" are explained in the discussion of

Division I comments in the preamble of the regulations for tank vessels of 20,000 DWT or more carrying oil in bulk (Docket No. CGD 77-058b) published elsewhere in this Part of this Federal Register. Since the terms "product" and "product carrier" are defined in the Act (PTSA), it is not necessary to redefine them in these regulations.

One rule making petition was received which proposed that the inert gas system be required aboard tankships or combination carriers of 20,000 DWT or more. This would apply to U.S.-flag tankships carrying Grades A, B, C, and D liquids and those foreign-flag tankships calling at U.S. ports carrying flammable or combustible liquids. This proposal, or an equivalent means of reducing the potential for cargo tank explosion, would also apply to all U.S. barges certificated for Grades A, B, C, and D liquids in coastal trade. The proposal would be effective after December 31, 1981.

This proposal is similar to the proposed rule except for application to small tankships and barges, and the effective date. With regard to the smaller existing tankships, the risk of explosion is less than the larger ships which have high-capacity washing machines. Where the risk is increased by fitting of either high capacity tank washing machines or crude oil washing, IGS is required. With regard to tank barges, comments presented earlier apply. Justification for fitting inert gas systems on barges was discussed previously. The dates for implementation published in the Coast Guard proposal allowed smaller vessels until June 1983 to be fitted with this equipment in order to relieve shipyard congestion, taking into account that the population of smaller vessels is greater than larger vessels. For these reasons, the Coast Guard has not adopted the proposal.

One comment requested clarification of requirements for existing ships affected by the rulemaking that had existing inert gas systems. Foreign-flag vessels in this category would be required, where necessary, to upgrade their systems to comply with the minimum provisions of regulation 60 of Chapter II-2, SOLAS 74. U.S.-flag vessels would be required to bring their installations up to the standards contained in Subpart 32.53. Where design differences exist on an existing system and the owners or operators can demonstrate that an equivalent level of safety can be obtained, alternative arrangements may be accepted in accordance with provisions previously discussed.

In accordance with the foregoing, the amendments to Chapter I of Title 46, Code of Federal Regulations published on February 12, 1979 (44 FR 9039) are adopted, with modifications, as set forth below.

Dated: November 13, 1979.

R. H. Scarborough,
Vice Admiral, U.S. Coast Guard Acting
Commandant.

PART 30—GENERAL PROVISIONS

1. By adding a new § 30.01-5(e)(2) as follows:

§ 30.01-5 Application of regulations—TB/All.

(e) . . .
(2) A foreign flag vessel, except a public vessel, which operates on or enters the navigable waters of the United States, or which transfers oil in any port or place subject to the jurisdiction of the United States, must comply with the provisions of Subparts 32.53 and 34.05 of this chapter, as applicable.

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

2. By revising § 32.53-1 to read as follows:

§ 32.53-1 Application—T/All.

(a) Except as provided in paragraphs (b) and (c) of this section, this subpart applies to:

(1) A U.S. crude oil tanker or product carrier of 100,000 DWT tons (metric) or more or combination carrier of 50,000 DWT tons (metric) or more, that has a keel laying date on or after January 1, 1975.

(2) A new (as defined in 46 U.S.C. 391a(2)) crude oil tanker or product carrier, or foreign flag crude oil tanker or product carrier of 20,000 DWT tons or more entering the navigable waters of the U.S.

(3) A crude oil tanker that is equipped with a cargo tank cleaning system that uses crude oil washing.

(4) An existing product carrier of 20,000 deadweight tons (metric) or more that has tank washing machines with a capacity of more than 60 cubic meters per hour after May 31, 1983.

(5) Any other U.S. or foreign flag—
(i) Crude oil tanker or product carrier of 70,000 deadweight tons (metric) and over after May 31, 1981;

(ii) Crude oil tanker between 20,000 and 70,000 deadweight tons (metric) after May 31, 1983;

(iii) Product carrier between 40,000 and 70,000 deadweight tons (metric) after May 31, 1983.

(b) This subpart does not apply to vessels designed to carry only—

- (1) Liquefied gas cargo; or
- (2) Grade E cargo that is carried at a temperature lower than 5° C below its flash point.

(c) This part does not apply to the following:

(1) Vessels under subsections (4) and (5) of Sec. 5, Port and Tanker Safety Act of 1978 (Pub. L. 95-474, 92 Stat. 1480, 46 U.S.C. 391a).

(2) Any foreign vessel not destined for, or departing from, a port or place subject to the jurisdiction of the United States, that is in innocent passage through the territorial seas of the United States or is in transit through the navigable waters of the United States which form a part of an international strait.

(3) Adding a new § 32.53-3 as follows:

§ 32.53-3 Exemptions.

(a) The Chief, Office of Merchant Marine Safety grants exemptions for crude oil tankers of less than 40,000 deadweight tons not fitted with high capacity tank washing machines, if the vessel's owner can show that compliance would be unreasonable and impracticable due to the vessel's design characteristics.

(b) Requests for exemptions must be submitted in writing to:

Commandant (G-MMT/82), U.S. Coast Guard, Washington, D.C. 20590.

(c) Each request must be supported by documentation showing that—

- (1) The system would be detrimental to the safe operation of the vessel;
- (2) It is physically impracticable to install the system; or
- (3) Adequate maintenance of the system would be impossible.

(d) The vessel's owner may request a conference. The exemption request file will be available for use in the conference and additional arguments or evidence in any form may be presented. The conference will be recorded. The presiding officer summarizes the material presented at the conference and submits written recommendations to the Chief, Office of Merchant Marine Safety.

(e) The Chief, Office of Merchant Marine Safety reviews the exemption request file and decides whether to grant or deny the exemption. The decision shall include an explanation of the basis on which the exemption is granted or denied, and constitutes final agency action.

PART 34—FIREFIGHTING EQUIPMENT

4. By adding a new sentence to § 34.05-5(a)(2) as follows:

§ 34.05-5 Fire-extinguishing systems—T/Ail.

- (a) * * *
- (2) * * * New foreign flag tankers of 20,000 DWT and over as defined in subsection (2) of 46 U.S.C. 391a must be fitted with a fixed deck foam system complying with Regulation 81, Chapter II-2 of SOLAS 1974.

5. By adding a new § 34.20-1(c) as follows:

§ 34.20-1 Application—T/Ail.

(c) Foreign flag crude oil tankers and product carriers required to have fixed deck foam systems by this subpart must have systems that are designed and installed in accordance with Regulation 81 of Chapter II-2 of SOLAS 1974. (Senate Document, 57-1180, GPO, Washington, 1978; "Message from the President of the United States transmitting, the International Convention for the Safety of Life at Sea, 1974, Done at LONDON, November 1, 1974").

(46 U.S.C. 391a; 49 CFR 1.46(n)(4))

[FR Doc. 79-35623 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 157

[CGD 77-058b]

Tank Vessels of 20,000 DWT or More Carrying Oil in Bulk; Design, Equipment, Operating, and Personnel Standards

AGENCY: Coast Guard, DOT.

ACTION: Interim Final Rule.

SUMMARY: This amendment adds to the rules for certain foreign and domestic tank vessels carrying oil in bulk, standards for segregated ballast tanks, dedicated clean ballast tanks, and crude oil washing systems. The standards are essentially the same as the standards and recommendations contained in the *Protocol of 1978 Relating to the Prevention of Pollution from Ships, 1973* which are reflected in the Port and Tanker Safety Act of 1978. These standards will reduce the probability of oil spilling into the navigable waters of the United States and the world's oceans from tank vessel accidents, will reduce the amount of operational discharges of oil to the oceans from

deballasting and tank cleaning, and will contribute to the conservation of oil. Since this rule changes the proposed assignment of responsibility for various operating requirements, additional comments from the public are invited.

EFFECTIVE DATE: This amendment is effective on January 1, 1980.

COMMENT DATE: Written comments must be received on or before February 1, 1980.

ADDRESSES: Written comments from the public on the assignment of responsibility should be submitted to the Commandant (G-CMC-TP/24), Room 2418, U.S. Coast Guard, Trans Point Building, 2100 2nd Street, SW., Washington, D.C. 20593. All comments will be available for examination at this address. Copies of the Final Regulatory Analysis and Environmental Impact Statement relating to this amendment may be obtained from or examined at this address.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph J. Angelo, Merchant Marine Technical Division (G-MMT-1/TP-13), Room 1308, U.S. Coast Guard, Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20593, (202-426-4431).

SUPPLEMENTARY INFORMATION: On February 12, 1979, the Coast Guard published a proposal in the Federal Register (44 FR 8984) to add regulations governing tank vessels of 20,000 DWT or more carrying oil in bulk and to withdraw a previous proposal (42 FR 24868) for double bottoms and segregated ballast tanks for tank vessels of 20,000 DWT or more. The proposal of February 12 would adopt standards for segregated ballast tanks (SBT), dedicated clean ballast tanks (CBT) and crude oil washing (COW) systems which were consistent with the recommendations of the *Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973* (MARPOL Protocol) developed at the tanker Safety and Pollution Prevention (TSPP) Conference held under the auspices of the Inter-Governmental Maritime Consultative Organization (IMCO) in London during February, 1978. The proposal would also implement most of the requirements of Subsection 7 of Section 5 of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474, 92 Stat 1471).

The amendments to Part 157 of Title 33, Code of Federal Regulations were published in three divisions designated as Division I, Division II, and Division III. Division I contained amendments to various sections in Part 157 that required modification because of the standards contained in the MARPOL Protocol and to the applicability in Part

157 so it conforms with Section 5 of the Port and Tanker Safety Act of 1978. Division II contained standards for Dedicated Clean Ballast Tanks which were derived from Resolution 14 to the MARPOL Protocol (Specifications for Oil Tankers with Dedicated Clean Ballast Tanks). Division III Contained standards for Crude Oil Washing Systems which were derived from Resolution 15 to the MARPOL Protocol (Specifications for the Design, Operation and Control of Crude Oil Washing Systems).

Interested persons were given an opportunity to submit written comments to the Coast Guard concerning the proposal until April 18, 1979. Two public hearings were held, one in Washington, D.C. on March 21, 1979, and the second in San Francisco, California on March 28, 1979. A total of sixty-five commenters responded to the proposed regulations either in writing or orally at the public hearings. The significant comments received are discussed in this document after Drafting Information.

In reviewing the proposed regulations, the Coast Guard has reconsidered the assignment of responsibility for compliance with the various requirements between the owner and operator of the tank vessel, the master, and other designated persons. In addition, two commenters were of the opinion that operation of the COW and CBT systems should be the responsibility of the officer in charge of these operations and not the responsibility of the Master of the vessel, as proposed in the regulations. As mandated by the PTSA, any person who violates any regulation issued under the authority of the PTSA is subject to a civil penalty not to exceed \$25,000 and any person who willfully and knowingly violates any regulation issued under the authority of the PTSA is subject to a criminal penalty of up to \$50,000 or imprisonment for not more than five years, or both. The Master of the vessel is normally the appropriate person to be held responsible for ensuring that the vessel is operated in accordance with the applicable regulations. In some instances this responsibility must be shared with the owner and operator. In other instances human error or inattentiveness by the crew may cause violations, despite the best efforts of the most conscientious and capable Master, making assessment of penalties against the Master inappropriate. Accordingly, changes have been made to the proposed regulations in an effort to enable the Coast Guard to assess penalties, in appropriate cases, against the person or

persons who could have prevented the violation.

In some instances the regulations were changed to clearly indicate that the responsibility of the Master is shared by the owner and operator of the vessel. This is felt to be appropriate for the provisions relating to documents required on board a vessel, recording information in the manuals, personnel qualifications, crude oil washing of tanks, restrictions on cargo carried, and alterations to tank vessels. These changes are reflected in § 157.118, § 157.118, § 157.150, § 157.152, § 157.154, § 157.160, § 157.172, § 157.214, § 157.216, and § 157.218.

Ensuring compliance with an operating requirement is, in most cases, appropriately the responsibility of the Master. These areas include meeting manual procedures, crude oil washing during a voyage, use of the inert gas system, control of hydrocarbon vapor emissions, personnel assignments, removal of equipment, and following operating procedures. Accordingly, § 157.35, § 157.155, § 157.156, § 157.158, § 157.162, § 157.164, § 157.166, § 157.168, § 157.170, § 157.225, § 157.226, and § 157.228 have not been changed in this regard.

For those instances where it is not appropriate to hold the Master responsible for a violation of these regulations, § 157.28 has been added to require that no person may cause or authorize the operation of a tank vessel in violation of these regulations. An example of this situation would be when the main deck watch required under § 157.168 is abandoned by the person assigned that watch by the Master. Such action would cause the operation of the tank vessel in violation of § 157.168. Another example would be when the owner or operator of a tank vessel directs compliance with operating procedures that deviate from those contained in this document for the purpose of reducing time at the discharge terminal. Such action would authorize the operation of a tank vessel in violation of certain operating requirements of this document.

The Coast Guard has determined that it would be impractical and contrary to the public interest to delay the publication of these comprehensive regulations for the purpose of allowing an opportunity for comment on the changes to the assignment of responsibility in the sections listed above. Prompt publication of the design and equipment requirements is necessary to provide owners and operators sufficient time to comply with these regulations. In addition, the alternative of publishing the design and

equipment requirements as final rules and the operating requirements as a supplemental notice of proposed rulemaking was also determined to be impractical. Therefore, these regulations have been published as final rules. They have been designated "Interim Final Rules" to indicate that further consideration will be given to the assignment of responsibility in the sections listed above. The Coast Guard is not soliciting comments on the remaining provisions of these regulations, including the substantive requirements of the sections listed above, as part of this rulemaking action. If the Coast Guard considers changes to these provisions to be desirable at a later date, they will be the subject of a separate rulemaking proposal.

Interested persons are invited to comment on the changes made to the assignment of responsibility in the sections listed above by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 77-058b) and the specific section to which their comments apply, and give reasons for the comments. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope. All comments received before expiration of the comment period will be evaluated by the Coast Guard and changes may be made to the regulations regarding the assignment of responsibilities where appropriate. No additional public hearing is planned.

Drafting Information

The principal persons involved in drafting this rule are: Commander George F. Ireland and Mr. Joseph J. Angelo, Project Managers, Office of Merchant Marine Safety, and Mr. Stanley Colby, Project Attorney, Office of Chief Counsel.

Discussion of Comments

General Comments

The proposed regulations were promulgated to implement the tank vessel equipment and construction standards developed at the TSPP Conference of February 1978 which are mandated by Subsection 7 of Section 5 of the Port and Tanker Safety Act of 1978 (PTSA).

Several commenters expressed disappointment and concern that the proposal did not address the exemption allowed in the PTSA when shore-based reception facilities are available or the additional requirements for tank vessels between 20,000 and 40,000 DWT at 15

years of age that are mandated by the PTSA. The PTSA allows, with certain constraints, the use of adequate shore-based reception facilities for handling dirty ballast instead of the SBT, CBT, or COW requirements on tank vessels if those facilities are determined to be the preferred method of handling that ballast and are readily available. Proposed regulations addressing this exemption, the eligibility for exemptions, the adequacy of shore-based reception facilities, and the preference of the method of handling dirty ballast are currently being developed by the Coast Guard and will be published in the Federal Register in the near future. The PTSA also imposes certain equipment and construction requirements on crude oil tankers and product carriers between 20,000 DWT and 40,000 DWT, by not later than January 1, 1986 or the date on which the vessel reaches 15 years of age, whichever is later. Regulations implementing this provision of the PTSA are being developed by the Coast Guard and will be published in a future issue of the Federal Register.

One commenter said the proposed regulations did not address the problem of air pollution from the operation of ship's boilers and recommended that the Coast Guard "review fuel supplies and limit the sulfur content of boiler fuel". Air pollution from ships boilers is outside the scope of these regulations.

One commenter noted that the proposal made no reference to proper oil spill contingency preparations and procedures. Regulations addressing this issue are published in 33 CFR Part 153.

Two commenters requested clarification of the statement in the preamble of the proposal which said the standards adopted by the TSPP Conference are at least equivalent to the "Presidential Initiatives". The "Presidential Initiatives" (the President's message to Congress on March 17, 1977) recommended SBT on all existing tank vessels of 20,000 DWT or more and double bottoms on all new tank vessels of 20,000 DWT or more. The TSPP standards included SBT or a COW system on existing crude oil carriers of 40,000 DWT or more, SBT or CBT on existing product carriers of 40,000 DWT or more, protectively located SBT and a COW system on new crude oil carriers of 20,000 DWT or more, and protectively located SBT on new product carriers of 30,000 DWT or more. Although the minimum DWT limits of these regulations are, in some instances, higher than those recommended in the "Presidential Initiatives", Coast Guard estimates show that the addition of the

COW and CBT alternatives at the higher DWT limits of these regulations results in approximately the same reduction of operational oil pollution as would the SBT requirement for tank vessels of the sizes recommended by the "Presidential Initiatives". Section 5 of the Final Regulatory Analysis and Environmental Impact Statement addresses this comparison in detail. The issue of the effectiveness of protectively located segregated ballast tanks vs. the effectiveness of double bottoms is extremely subjective due to the uncertainties in oil pollution statistics regarding tank vessel accidents. These uncertainties make it impossible to produce a reliable quantitative comparison of these two construction features at this time. Aware of this situation, IMCO recommended a study of the issue in Resolution 17 of the TSPP Conference. The Coast Guard is planning to work through IMCO on a data collection service to aid in removing some of the uncertainties in oil pollution statistics regarding tank vessel accidents.

One commenter asked if "coastwise vessels" would be allowed to discharge dirty ballast to ballast retention facilities. As discussed above, shoreside reception facilities for ballast will be the subject of a future proposal.

A number of commenters suggested that the Coast Guard take into consideration the developments regarding the proposed regulations reached at the Eleventh Session of the IMCO sponsored Marine Environmental Protection Committee (MEPC XI) in June 1979. The Coast Guard delayed publication of these rules to incorporate into them any recommendations of MEPC XI that are within the scope of the notice of proposed rules of February 12, 1979. Any further developments reached at IMCO on issues relating to the regulations in this document are expected to be incorporated through new proposals.

One commenter suggested that the Coast Guard wait until all maritime nations comply with the TSPP requirements before implementing the requirements of the PTSA which go beyond the TSPP standards. The Coast Guard cannot make this choice since the PTSA mandates implementation, regardless of when the TSPP requirements are adopted and complied with by other maritime nations.

One commenter stated that the Economic Impact was inadequately addressed in the preamble of the proposed rules. The Economic Impact included in the preamble of the proposed rules reflected the significant highlights of the economic assessment

conducted by the Coast Guard. A much more detailed economic analysis can be found in the Final Regulatory Analysis and Environmental Impact Statement. The preamble is not the proper place for such detailed information and would be too lengthy if such information were included in it. The Final Regulatory Analysis and Environmental Impact Statement is available as indicated under Addresses.

One commenter is of the opinion that these regulations are only useful for operational pollution and are not useful in preventing casualty type pollution. Protectively located segregated ballast tanks and dedicated clean ballast tanks provide protection against collisions, ramblings and groundings. The requirements for SBT to be protectively located on certain new tank vessels and CBT to be wing tanks, unless approved by the Commandant to be center tanks, are specifically aimed at reducing oil pollution from tank vessel accidents. In addition, a note now follows § 157.10a that encourages the location of SBT in wing tanks on existing tank vessels.

Three commenters noted that a statement in the "Presidential Initiatives" ("Where technological improvements and alternatives can be shown to achieve the same degree of protection against pollution, the rules will allow their use."), was not included in the proposal and recommended such a principle be incorporated into the regulations. 33 CFR 157.07 allows the Commandant to approve the use of a design or equipment substitute for a requirement in Part 157, which would include technological improvements or alternatives. This allowance for substitutes that are equivalent is consistent with the policy developed by IMCO and provides the necessary mechanism for the public to submit those equivalents to the Coast Guard for review.

Four commenters recommended that the Coast Guard require stricter standards than are provided in the MARPOL Protocol and the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS Protocol) (collectively, both Protocols are referred to as the 1978 Protocols) for U.S. tank vessels in domestic trade. A study was conducted during May and June of 1978 by the Coast Guard and other Federal Agencies to determine if tanker safety and pollution prevention measures in addition to those contained in the 1978 Protocols should be applied to U.S. tank vessels in domestic trade. Coast Guard report, No. CG-M-5-78, Report of Study of Tanker Safety and Pollution

Prevention Requirements for U.S. Tankers in Domestic Trade, June 1978, was issued and is available to the public as document AD A057607 from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. One conclusion reached by the study was that except for U.S. tankers transporting oil from the Outer Continental Shelf (OCS) (to be considered in a future proposal), requirements beyond those of the 1978 Protocols for U.S. tankers in domestic trade would not be cost effective at this time due to the uncertainties that exist in the area of tank vessel oil pollution. The study recommended that a number of actions be taken to remove these uncertainties. Work on these actions has begun. This decision, however, does not foreclose invoking additional requirements at some future time.

Four commenters recommended that the Coast Guard require stricter standards than are provided in the 1978 Protocols for foreign flag tank vessels transferring cargo at U.S. ports. The standards recommended by the commenters are essentially the same as the standards recommended in the "Presidential Initiatives". The Coast Guard did not publish rules that exceed the 1978 Protocols for foreign flag tank vessels transferring cargo at U.S. ports for two reasons. First, oil pollution is a global problem requiring an international solution. Major unilateral action on the part of the United States, while possibly benefiting our waters, might cause a reduction in the quality of the world's oceans. Such unilateral action would result in a tank vessel fleet dedicated in the trade to the United States. Thus, while tanker safety and pollution prevention measures would be improved for those tank vessels, it would not be expected to improve for other tank vessels. For further discussion of this issue and other indirect impacts of unilateral action, see Chapter Six of the Final Regulatory Analysis and Environmental Impact Statement. Second, it is important to balance cost and benefits, especially when inflation is a major problem of the United States at this time. The regulations in this document should reduce oil pollution by about the same amount as the measures recommended by the commenters, at about one-third the cost. Such results must be weighed heavily in view of today's economic situation.

One commenter recommended that all new U.S. tank vessels be built with double hulls, all existing U.S. tank vessels be retrofitted with segregated

ballast tanks, and all U.S. tank vessels be fitted with a COW system. Such requirements go beyond those recommended by the MARPOL Protocol and those required by the PTSA and for reasons discussed above are not being implemented at this time.

One commenter recommended that all U.S. tank vessels in "coastwise" trade be exempt from these regulations. The PTSA mandates the requirements in this document for all U.S. tank vessels above certain DWT sizes, regardless of trade. The requirements of this document are applicable to all seagoing U.S. tank vessels above certain DWT sizes. There are currently no U.S. tank vessels above the DWT sizes of these regulations that trade exclusively on rivers, lakes, bays, sounds, or the Great Lakes, nor does the Coast Guard expect such vessels to be built in the future. In view of this mandate, the commenter's suggestion is rejected.

One commenter suggested that a COW system should not be permitted as a substitute for SBT. As mandated by the PTSA, a COW system is allowed as an alternative to SBT on crude oil carriers. In addition, the Coast Guard has estimated that a COW system would reduce operational oil pollution from tank vessels affected by the regulations in this document by about 38% compared to a 28% reduction in operational oil pollution from the same tank vessels having SBT but not a COW system. Section 5 of the Final Regulatory Analysis and Environmental Impact Statement addresses this comparison in detail.

One commenter recommended that the use of load-on-top procedures should not be allowed as a substitute for SBT or a COW system. Neither the proposed regulations nor the regulations in this document allow the use of load-on-top procedures as a substitute for SBT or a COW system.

Three commenters recommended that the Coast Guard require stringent and comprehensive personnel qualification and manning standards. Personnel and manning requirements are being developed by the Coast Guard and will be the subject of a future proposal.

Six commenters recommended that the Coast Guard require back-up radar and collision avoidance assistance equipment. Final regulations for a second radar were addressed in the Federal Register of July 24, 1978 (43 FR 32112) and on May 7, 1979 (44 FR 26740). In the July 24 issue of the Federal Register, The Coast Guard also withdrew the proposed requirement for collision avoidance aids. The need for unilateral action will be re-evaluated when IMCO has completed the

recommended task of developing performance standards and carriage requirements for collision avoidance aids. Coast Guard representatives are participating in the development of these standards.

Two commenters recommended that the Coast Guard require standards for shipboard electronic aids and their use and maintenance. Interim final regulations for electronic navigation equipment were published by the Coast Guard in the May 31, 1979 issue of the Federal Register (44 FR 31592).

Four commenters recommended that the Coast Guard implement regulations for vessel maneuverability and minimum levels of tug assistance. Such requirements are outside the scope of these regulations, however, the Coast Guard has conducted a study on tank vessel maneuverability entitled, "Presidential Initiative for an Evaluation of Devices and Techniques to Improve Maneuvering and Stopping Ability of Large Tank Vessels, September, 1979", to determine if such requirements are necessary. A copy of this report can be obtained by contacting Commander James Card, G-MMT-4, U.S. Coast Guard, Washington, D.C. 20593, (202) 426-2197.

One commenter recommended that the Coast Guard implement requirements for foreign flag tank vessel inspection and certification to determine compliance with all the provisions of Coast Guard regulations. Such requirements are outside the scope of these regulations, however, the Coast Guard is in the process of developing and implementing such requirements as mandated by the PTSA.

One commenter submitted a Formal Tanker Standards Rulemaking Petition which recommends the following: (1) SBT standards which go beyond those required by the MARPOL Protocol on all tank vessels.

- (2) Double bottom requirements.
- (3) Collision avoidance and dual radar requirements.
- (4) Navigational equipment requirements.
- (5) Inert gas system requirements.
- (6) Vessel maneuverability requirements.
- (7) Vessel inspection requirements.

Responses to each of these recommendations have been discussed in preceding paragraphs of this preamble, in the Final Regulatory Analysis and Environmental Impact Statement, and in the preamble of CGD 77-057a in this issue of the Federal Register.

Several commenters recommended that the Coast Guard consider having a workshop or public hearing after all

comments on the proposal have been considered. The Coast Guard does not agree with this recommendation. All the comments submitted to the Coast Guard have been considered before final action was taken on the proposal. Explanations for accepting or rejecting the comments are given in the discussion of this preamble. Coast Guard personnel are always available for discussions regarding these regulations and the comments from the public. Accepting this recommendation would delay issuing these regulations, which would result in the owners having less time to comply with the regulations at the effective dates.

As stated in the preamble of the proposal, the intent of these regulations is to adopt the standards of the MARPOL Protocol.

Several commenters called attention to instances where the proposed rules did not reflect these standards or needed clarification. Accordingly, improvements were incorporated during the Coast Guard's examination of the proposed rules after participation in MEPC XI in which considerable discussion regarding implementation of the MARPOL Protocol took place. Corrections have been made where necessary and are discussed below. Since these changes merely conform the regulations in this document to the announced purpose, implementation of the MARPOL Protocol and the PTSA, no further notice and opportunity for comment on these changes is necessary.

Numerous commenters recommended editorial changes to the proposed regulations. All editorial recommendations were considered by the Coast Guard. Many were adopted in the regulations, where appropriate. In addition, the Coast Guard made numerous other editorial changes to the proposed regulations.

Division I

Three commenters pointed out that the proposed applicability of Part 157 to foreign tank vessels was not consistent with the applicability requirements of the PTSA. The proposal did not exclude any foreign tank vessel not destined for or departing from a port or place subject to the jurisdiction of the United States that is in innocent passage through the territorial seas of the United States or in transit through the navigable waters of the United States which form a part of an international strait. This exception for foreign tank vessels has been included in § 157.01.

Six commenters requested clarification regarding the applicability of the SBT, CBT, and COW requirements to tank barges. One

commenter said the regulations did not address tank barges and that regulations for tank barges should be issued. One commenter suggested the Coast Guard undertake a study of tank barge oil pollution. The regulations, as proposed, would require tank barges to comply with the SBT, CBT, and COW standards if they are within the applicable DWT limits contained in the regulations. As proposed § 157.10 applies to certain new tank barges of 20,000 DWT or more that carry crude oil and of 30,000 DWT or more that carry products. As proposed, § 157.10a applies to certain new and existing tank barges of 40,000 DWT or more that carry crude oil or products. Regulations for tank barges less than the DWT limits of these regulations were addressed in the Notice of Proposed Rulemaking and Advance Notice of Proposed Rulemaking for tank barges published on June 14, 1979 in the Federal Register (44 FR 34440, 34443). A comprehensive study to determine the causes of oil pollution from tank barges was conducted in support of those proposed regulations for tank barges. The study revealed that approximately 85% of all oil pollution from tank barges results from accidents, supporting the requirement for double hulls on tank barges less than the DWT limits of the regulations in this document. The tank barge study also revealed that there was very little data available to establish conclusions on the cause of oil pollution from tank barges of the DWT sizes addressed by the proposed regulations. Because of the limited number of tank barges of the DWT size addressed by the proposed regulations, it cannot be determined, at this time, if there is a need for additional standards on tank barges of this size. Therefore, the Coast Guard has decided to undertake a study to determine the causes of oil pollution from large tank barges of this size. The results of this study will become the subject of a future proposal. Until that time, the regulations in this document will continue to apply to tank barges. Section 157.08(g) has been added to exclude the inapplicable requirement for propeller immersion on tank barges. If the regulations in this document excluded tank barges from these requirements, that exclusion could drive the tanker industry toward construction of large tank barges rather than tankships for economic reasons, with an adverse impact upon the marine environment. Such action could increase the risk of oil pollution because of the higher susceptibility of large tank barges to accidents due, primarily, to their poor maneuvering capabilities. In addition, since there are very few large tank

barges in existence at this time, this action could place demands on the state of the art in the design and construction of large tank barges with adverse consequences upon the marine environment.

The Coast Guard intends to issue an advance notice of proposed rulemaking in a future issue of the Federal Register to establish an acceptable definition of the term "integrated tug barge". Until that final definition is published in the Federal Register, the definition of "integrated tug barge" provided in this document serves as an interim definition for 33 CFR Part 157 and provides clarification for the reader.

Four commenters requested clarification of the definition of "product" with regard to the applicability of Part 157. Two commenters suggested that in defining "product" or "oil", Part 157 should pertain only to petroleum oils, excluding petrochemicals as intended by IMCO. One commenter requested clarification on the applicability of the proposed regulations to chemical carriers. The PTSA defines oil as "oil of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil." A product carrier is defined as "a tanker engaged in the trade of carrying oil, other than crude oil." However, when reviewing the legislative history of the development of the equipment and construction requirements of paragraphs (B), (C), (G), (H), and (I) of subsection 7 of Section 5 of the PTSA, it is clear that with respect to the products carried, the requirements in these paragraphs were intended to be consistent with the standards for a product carrier developed at the TSPP Conference. The equipment and construction standards for a product carrier developed at the TSPP Conference pertain only to tank vessels that carry petroleum based products, not including petrochemicals and liquified gases. In view of this, the definition of "product" has been changed to mean "any liquid hydrocarbon mixture in any form except crude oil, petrochemicals, and liquified gases." With this definition of product, the proposed regulations for tank vessels that carry products is not applicable to those vessels which carry oils other than petroleum based oils, such as vegetable oils, and those vessels that carry petrochemicals or liquified gases. In this regard a chemical carrier that only carries petrochemicals does not have to comply with these regulations; however, if the chemical carrier carries any petroleum based oil other than petrochemicals, that vessel

must comply with the applicable requirements for a product carrier when carrying that petroleum based oil. Regulations affecting tank vessels that carry petrochemicals and oils other than petroleum based oils can be issued under the authority of subsection 6 of Section 5 of the PTSA in addition to the existing regulations applicable to these vessels in 46 CFR Subchapter O. The Coast Guard is in the process of determining which additional standards tank vessels that carry petrochemicals and oils other than petroleum based oils must meet. This determination will be part of a future rulemaking. Regulations affecting tank vessels that carry liquified gases were issued by the Coast Guard on May 3, 1979 in the Federal Register (44 FR 25986).

Section 157.06 has been added to the proposed regulations to provide a procedure for persons to administratively appeal adverse rulings made by Coast Guard officials regarding these regulations. The procedure is intended to allow for timely resolution of disputes.

Several commenters expressed concern that there appeared to be a conflict between the proposed requirements for a new vessel in § 157.10 and a new vessel in § 157.10a. The commenters are of the opinion that new vessels had to meet the requirements of both § 157.10 and § 157.10a, where applicable. This is not true. Section 157.08(f) was included in the proposed regulations to eliminate any conflict between the requirements of the two sections for a new vessel. Section 157.10 only applies to a new vessel, within certain DWT limitations, that is contracted for after June 1, 1979, has the keel laid after January 1, 1980, is delivered after June 1, 1982 or has undergone a major conversion after specified dates. Section 157.10a applies to an existing vessel, within certain DWT limitations, and a new vessel (as defined in § 157.03(i)), within certain DWT limitations, that is contracted for on or before June 1, 1979, has the keel laid on or before January 1, 1980, and is delivered on or before June 1, 1982 or in the case of a major conversion, has undergone the major conversion on or before specified dates.

One commenter recommended that tank vessels contracted for before June 1, 1979 that for some reason have delivery delayed until after June 1, 1982 be considered a tank vessel under § 157.10a instead of under § 157.10. The PTSA contains no provision that addresses this issue; however, this issue was discussed by IMCO at MEPC XI. It was agreed that if a tank vessel is

contracted before June 1, 1979, but has delivery delayed until after June 1, 1982, the Administration should evaluate the reasons for the delay to determine whether or not the delay occurred through no fault of the shipbuilder and the prospective owner. The Coast Guard will consider possible solutions to this situation on an individual case basis.

In proposed § 157.10(b) and § 157.10a(c), the limitation of applicability of these requirements to tank vessels above the specified DWT that carried "only products" was incorrect. The term "only products" was a drafting error that did not reflect correctly the requirements of the PTSA and the MARPOL Protocol for product carriers. By omitting the word "only", a tank vessel that carries crude oil and product during the same voyage must comply with the applicable requirements for both services during that voyage. This is the intent of the PTSA and the MARPOL Protocol. If the word "only" was not omitted, a tank vessel that carries crude oil and product during the same voyage need only have SBT or a COW system to comply with the proposed regulations. While SBT would be satisfactory for the vessel when carrying crude oil and products during the same voyage, a COW system would not. This drafting error has been corrected to reflect the intent of the PTSA and the MARPOL Protocol.

Two commenters recommended that a tank vessel be allowed to carry petroleum products and crude oil during the same voyage, while only complying with the requirements of either a product carrier or a crude oil carrier. They suggest that the tank vessel be certified for the service in which the vessel does the majority of trading (product or crude oil) and be allowed to trade in the other service without complying with the requirements for that service. As mandated by the PTSA, a product carrier under § 157.10a is required to be equipped with CBT or SBT and a crude oil carrier under § 157.10a is required to be equipped with SBT or a COW system with CBT as an option for a certain time period. As discussed in the preceding paragraph, a tank vessel that carries crude oil and products during the same voyage must comply with the applicable requirements for both services. In view of these provisions of the PTSA, the commenters' recommendation is rejected.

Two commenters recommended that the proposed regulations allow for the change of services between voyages. They suggest that a crude oil carrier be allowed to carry products on one voyage

and crude oil on the next voyage and a product carrier be allowed to do the same. There are certain tank vessels which are currently used in this type of trade depending on the needs of the oil market. This issue was discussed by IMCO at MEPC XI. It was determined that a tank vessel may change services between voyages, provided that when carrying crude oil the tank vessel complies with § 157.10a(a) or (b) and when carrying products the tank vessel complies with § 157.10a(c). If the owner selects the options of CBT when carrying products and a COW system when carrying crude oil, the tank vessel may carry crude oil in all the tanks, including those designated as CBT, as long as the tanks designated as CBT are crude oil washed, water rinsed, and inspected for cleanliness prior to using the tank for CBT. In view of the fact that these regulations do not prohibit the changing of services between voyages, an additional provision to allow such changing is not considered necessary. Each U.S. tank vessel's Certificate of Inspection will be endorsed by the Coast Guard to reflect the vessel's trade. When the owner/operator desires to change the trade for that vessel, the Certificate of Inspection of that vessel will be re-endorsed for the new trade provided the vessel complies with the applicable requirements for the new trade. The same applies to the Certificate of Compliance for foreign tank vessels. This issue will be further discussed by IMCO at MEPC XII.

One commenter recommended that the SBT required on tank vessels under proposed § 157.10A be located within the vessel in accordance with Appendix C, *Procedure for Determining Distribution of Segregated Ballast Tanks to Provide Protection Against Oil Outflow in the Event of Grounding, Ramming, or Collision*. This recommendation is not consistent with the standards reached at the TSPP Conference; however, in view of the fact that the location of SBT in wing tanks could provide an added measure against accidental pollution, a note has been added after § 157.10a stating that SBT in wing tanks will provide added protection against oil outflows resulting from collisions, ramming, and groundings. While the location of SBT is at the discretion of the vessel owner, the note calls attention to the advantages of locating SBT in wing tanks. In addition to complying with the SBT requirements in § 157.10 or § 157.10a, the intact and damage stability requirements in 33 CFR 157.21 and 46 CFR Part 30 must be met when applicable.

Three commenters stated that the wording of proposed § 157.11(d)(4) and (e)(3), which requires an oil piping line that terminates on the weather deck at the extreme breadth of the deck, does not reflect the intent of the MARPOL Protocol for a piping line that is connected outboard of the ship's manifold valves. The Coast Guard concurs with this comment and has changed § 157.11(d)(4) and (e)(3) to correctly reflect the standard of the MARPOL Protocol.

It was agreed by IMCO at MEPC XI that the "special small diameter piping line" that terminates on the weather deck outboard of the manifold valves for discharging strippings ashore should have a cross sectional area of not more than 10 percent of the cross sectional area of the main cargo discharge piping line, except on tank vessels already having such a piping line installed. For those tank vessels the cross sectional area of that piping line should not be more than 25 percent of the cross sectional area of the main cargo discharge piping line. This larger piping line is allowed so that tank vessel owners/operators who took the initiative to have such a piping line installed on their tank vessel before it was mandatory, would not be required to install a smaller diameter piping line. The provision of the MARPOL Protocol regarding the size of this oil piping line stipulated a "special small diameter piping line". It was determined that a clearer definition of this term should be provided. Section 157.11(f) has been added to provide this clarification.

One commenter stated that the proposed regulations revising § 157.11 which were published in the Federal Register on June 27, 1977 (42 FR 32670), were not withdrawn, thereby creating a conflict in the paragraph numbering of § 157.11 between the proposal of June 27 and these regulations. Final regulations for the proposal of June 27 will be issued in the near future. When they are issued as final regulations, the paragraph numbering of § 157.11 will be consecutive and will eliminate the conflict noted by the commenter.

One commenter recommended that a requirement should be added for a means to transfer oil from each cargo tank to each SPT or CBT if an accident occurs that results in oil pollution from a cargo tank. This recommendation is not consistent with the standards for SBT in the MARPOL Protocol or existing 33 CFR Part 157 regulations which require SBT to be completely separated from the cargo system. While there may be a few instances where this capability could reduce the extent of oil pollution, it is

completely contrary to the principle of SBT. In view of this, the commenter's suggestion is rejected. CBT will most likely have such a means by virtue of the common piping system.

The Coast Guard has rewritten proposed § 157.24(c) to allow the tank vessel's flag state to certify compliance with the segregated ballast tank distribution requirements of § 157.09(d) or § 157.10(d). This alternate requirement provides the Coast Guard with equally acceptable and reliable evidence to show compliance with the SBT requirements.

Four commenters identified circumstances where it would be necessary to add ballast water to a cargo tank other than during the circumstances allowed in proposed § 157.35, such as when transiting through the Panama Canal, passing beneath certain bridges, or situations involving vessel safety which go beyond the ballasting anticipated by that section. This issue was addressed at MEPC XI. Some Administrations are of the opinion that vessels which must frequently take on additional ballast because of these circumstances should be fitted with additional SBT capability. Other Administrations are of the opinion that cargo tanks may be used for the carriage of any additional ballast provided this oily ballast is discharged to a shore-based reception facility. Those Administrations which are of this second opinion feel there would be difficulty in defining "frequently". It was recommended that Administrations consider this subject further at MEPC XII. Therefore, this item will be the subject of a future rulemaking.

One commenter took exception to the fact that proposed § 157.35 only allowed a tank vessel under § 157.10 to ballast a cargo tank after the tank had been crude oil washed. This requirement was developed at the TSPP Conference and provides an assurance that certain cargo tanks on a tank vessel under § 157.10 are crude oil washed prior to each ballast voyage when crude oil washing for sludge control is not required.

One commenter recommended that effluent from cargo tanks that are ballasted as allowed under proposed § 157.35 be permitted to be discharged to adequate reception facilities. As previously discussed, standards for reception facilities will be addressed in a future proposal.

One commenter stated that it would be reasonable to allow the use of center tanks for SBT or CBT on tank vessels under proposed § 157.10 provided the protective location requirements of Appendix C are met. CBT is not required on tank vessels under § 157.10, but other

than that, the Coast Guard concurs with the commenter's statement and would allow the use of center tanks for SBT provided the protective location requirements of Appendix C are met.

One commenter recommended that Appendix C be deleted in its entirety because it "steers" the ship designer to double bottoms which would only create "bad experiences" when a tank vessel goes aground. As previously discussed, the uncertainties of accidental oil pollution make it impossible to produce a reliable quantitative comparison of double bottoms vs. protectively located SBT in wing tanks. Salvage experts disagree among themselves as to whether double bottoms will help or hinder salvage efforts. The issue is almost entirely subjective. IMCO recognized this problem and recommended a study of the issue in Resolution 17 of the TSPP Conference. The Coast Guard is planning to work through IMCO on a data collection service to aid in removing some of the uncertainties of accidental oil pollution. Until that is accomplished, Appendix C will be used as the procedure for protectively locating SBT.

Division II—Dedicated Clean Ballast Tanks

One commenter recommended adding requirements that hull stresses be within the acceptable limits in the resulting ballast and loaded conditions of a tank vessel with CBT and that the Master should ensure that the hull stress is at all times within acceptable limits. The proposal pointed out that 46 CFR 31.10-1 requires each tank vessel to meet current American Bureau of Shipping (ABS) standards relating to material and construction of the hull; therefore, adding a requirement concerning hull stresses in these regulations would be redundant. This statement is true with regard to U.S. tank vessels; however, it is not true with all foreign flag tank vessels. Acceptable hull stresses resulting from location of CBT for U.S. tank vessels can be easily verified by the Coast Guard through ABS. This will not always be the case for foreign flag tank vessels which have the CBT system approved by the Coast Guard. In view of this, a requirement has been added in § 157.202 stating that the owner of a foreign flag tank vessel having CBT under § 157.10a(b) or (c)(2) desiring Coast Guard approval of the vessel CBT system must submit documentation from the authority that assigned the Load Line to the vessel that states that the location of CBT is acceptable to that authority. This provision is in the MARPOL Protocol and, as stated in the proposal, the Coast Guard intended to

adopt these standards. In addition, the Master must always ensure that the hull stresses are within acceptable limits at all times; therefore, an operating requirement stating such is not necessary.

Three commenters thought the Coast Guard did not demonstrate a preference for locating CBT in wing tanks rather than center tanks. The proposal stated that CBT must be in wing tanks or center tanks that are accepted by the Commandant. The intent was that if center tanks are selected for CBT, the tanks selected must be acceptable to the Commandant. The selection of wing tanks for CBT does not require specific acceptance by the Commandant. This expresses a preference for locating CBT in wing tanks. Section 157.220(b) has been rewritten to clearly express this intent.

One commenter expressed the opinion that locating all CBT in wing tanks would be difficult and at times impractical. The commenter suggested that use of one or two center tanks be allowed for CBT. The regulations do not prohibit the use of center tanks or double bottom tanks for CBT, but merely calls the designer's attention to considering wing tanks. If for some reason the designer thinks it is best to use a center tank or a double bottom tank for CBT, the Commandant will review the reasons for locating CBT in a center tank or double bottom tank on that vessel and either accept or reject the request. Rejection of the request may be appealed under the procedures contained in new § 157.06.

Three commenters took exception to the requirement in the proposal for CBT to be those cargo tanks which have the least amount of oil conveyed through the pumping and piping system. This has been misconstrued to mean CBT must be in the smallest cargo tanks, hence the least amount of oil conveyed. In addition, the commenters thought that the requirement in the proposal invokes a requirement beyond that intended by IMCO at the TSPP Conference. In view of the fact that § 157.222(a) requires CBT to be connected to the least practicable amount of piping, the requirement for CBT to have the least amount of oil conveyed through the pumping and piping system has been omitted.

Six commenters stated that proposing CBT to be connected only to one pump was totally impractical and exceeds the concept of CBT that was intended by IMCO. The points were raised that many product carriers have only a deepwell pump in each tank to service that tank. Other arrangements usually include connection of the pumps to a common suction manifold. Both of these

points raised would make the operation of a CBT system, while connected to only one pump, totally impractical. These points are valid reasons for eliminating the requirement for CBT to be connected only to one pump but, to maintain consistency with the IMCO wording, § 157.222(a) has been rewritten to require that CBT must be connected to the least practicable number of pumps.

Two commenters recommended that all CBT operating requirements which apply to foreign vessels while operating in the navigable waters of the U.S. should also be applicable when the foreign vessel is outside U.S. waters. They suggested a requirement be added to the regulations stating this, so the integrity of foreign vessel CBT is maintained prior to entering U.S. waters. Under Section 5 of the PTSA, the Coast Guard has no authority for such a requirement.

One commenter suggested that the sample point proposed in the CBT piping system be located in a vertical section of the discharge piping and not just in a vertical section of piping as stated in the proposal. This would be more explicit in defining where the sample point should be located and as a practical matter, would be the usual location. Accordingly, the word "discharge" has been added to § 157.222(e).

One commenter pointed out that the type of sample point required in the proposal is designed for a test rig and would be unsuitable in dimension and shape for location in shipboard discharge piping. The Coast Guard concurs with this statement and has omitted the specification for the type of sample point that must be installed, but has added a note following § 157.222(e) to direct the reader to an example of such a sample point.

One commenter suggested that the regulations take into account any changes IMCO may agree upon regarding the installation of oil monitors. This document has incorporated the agreements reached by IMCO at MEPC XI regarding oil monitors in a CBT system that are within the scope of the notice of the proposed rules of February 12, 1979. Any future agreements reached at IMCO will be considered by the Coast Guard and be the subject of future proposals.

One commenter asked why oil monitors are required on tank vessels if SBT or CBT is required. On tank vessels with SBT or CBT, an oil monitor is required to assure that if a cargo tank is ballasted as allowed under § 157.35, the discharge of that ballast is in accordance with § 157.37. In addition, ballast from a dedicated clean ballast

tank must be discharged in accordance with § 157.43 which requires the discharge of clean ballast to be monitored.

One commenter recommended that all discharges from tank vessels into inland or coastal waters should be limited to 15 ppm or less. The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1321(b)(3)) prohibit discharging into or upon the navigable waters of the United States oil or hazardous substances "in harmful quantities as determined by the President" who has delegated this authority to the Environmental Protection Agency (EPA). The EPA has defined "harmful quantities" in 40 CFR 110.3.

One commenter asked if an existing tank vessel is permitted to discharge clean ballast or segregated ballast below the waterline. Clean ballast from a cargo tank or a dedicated clean ballast tank must be discharged in accordance with § 157.43(a) which requires that clean ballast be discharged through an oil monitor. At the present time, there is no requirement that clean ballast be discharged above the waterline; however, in the Federal Register on June 27, 1977 (42 FR 32684) it was proposed that clean ballast be discharged above the waterline (proposed § 157.37(a)(5)). That proposal is currently being reevaluated for consistency with IMCO standards (which do not require clean ballast to be discharged above the waterline). Segregated ballast must be discharged in accordance with § 157.43(b) which does not prohibit the discharge of segregated ballast below the waterline.

Nine commenters stated that the proposed requirement to prohibit the ballasting of dedicated clean ballast tanks during the loading or unloading of cargo is too restrictive and would exceed the intention of the CBT operating requirements agreed to at the TSPP Conference. Product carriers with deepwell pumps in each tank would allow the ballasting of CBT while loading or unloading cargo without violating the integrity of the CBT system. Further, 157.222(d) requires a double valve separation between CBT and cargo tanks which would maintain the integrity of the CBT system on tank vessels without deepwell pumps. Finally, IMCO had no intention of prohibiting the ballasting of CBT while loading or unloading cargo. In view of this information, the requirement to prohibit the ballasting of CBT during the loading or unloading of cargo has been omitted.

One commenter noted that it was proposed that a letter indicating

compliance with the CBT requirements would be issued to each tank vessel instead of the IMCO required International Pollution Prevention Certificate until the MARPOL Protocol comes into effect. The commenter suggested that a certificate be issued even if the MARPOL Protocol does not come into effect. The PTSA requires the issuance of a Certificate of Inspection to all U.S. tank vessels and the issuance of a Certificate of Compliance to all foreign flag tank vessels that are in compliance with Section 5 of the PTSA and the regulations issued under that Section. The letters issued by the Coast Guard will evidence compliance with only a portion of Section 5 of the PTSA. Those letters will be used by the Master to show that the vessel complies with the applicable portions of Section 5 of the PTSA and the regulations issued thereunder, regardless of whether or not the MARPOL Protocol comes into effect and subsequent IMCO certificates are issued. When the MARPOL Protocol comes into effect and International Oil Pollution Prevention Certificates are issued, that document will be accepted by the Coast Guard as a basis for issuing a Certificate of Compliance to a foreign tank vessel.

Three commenters stated that procedure I.4 of the proposed Appendix in Division II requires a visual inspection of all CBT prior to discharge. They point out that such an inspection would be almost impossible for double bottoms. The proposed Appendix which has been included in 33 CFR Part 157 as Appendix D is only an example of a check list. There are no requirements which must be met in the check list. The Appendix is included only as guidance to serve as a model for the preparation of CBT procedures which will probably vary from ship to ship depending on the CBT arrangement and design.

Division III—Crude Oil Washing System

Two commenters noted that the IMCO terms "arrival ballast" and "departure ballast" and their definitions were not included in the proposal. The commenters recommended that these two terms and their definitions be included in the regulations. The appropriate locations in the proposal for these two terms to be used do not occur frequently enough to warrant the addition of these two terms and their definitions to the regulations. Rather than adding these terms and their definitions to the regulations, the proposal substitutes the definitions for the terms "arrival ballast" and "departure ballast" at the appropriate locations in the regulations.

Two commenters noted that the requirements for the COW piping, fittings, and valves to be of steel or other equivalent metal would prohibit the use of other materials that might be acceptable to the Coast Guard for the COW piping system. In addition, such a requirement is not consistent with the IMCO requirements which allow the use of steel or other equivalent material. The Coast Guard concurs with this comment and has rewritten 157.122(a) to allow steel or an equivalent material accepted by the Commandant.

It was agreed by IMCO during MEPC XI that on combination carriers short lengths of flexible hose piping could be used to connect COW piping to COW machines that are located in a cargo tank hatch cover. The hose must be acceptable to the Administration, have flanged connections, and be protectively stowed when not installed in the COW piping system. The length of the hose shall be no longer than necessary to connect the COW machine to an adjacent point just outside the hatch coaming. Sections 157.122(o) and 157.155(a)(14) have been added to reflect these requirements. This is a discretionary alternative to a requirement which maintains the same degree of safety and protection to the marine environment.

It was agreed by IMCO at MEPC XI to delete any specific reference to materials for the stripping system of a tank vessel with a COW system. Requirements for a stripping system on a tank vessel with a COW system should be no different than those requirements for a tank vessel that does not have a COW system. Regulations currently exist which govern the design of all piping systems including stripping systems. In view of this, material requirements for the stripping system have been omitted from 157.122.

One commenter stated that it is not clear whether or not the fire main system can be connected to the COW system. It was not proposed that the fire main could be connected to the COW system. To clarify this ambiguity and to eliminate any doubt, a procedure to ensure that the fire main is not connected to the COW system has been added as a requirement in the COW manual under 157.155(a)(13). However, this does not prevent the use of the fire main as a source of water for water washing a tank with a washing machine that is placed through an opening in the deck. This use of the fire main is allowed by Coast Guard regulations and is not prevented by the regulations of this document.

Three commenters recommended that the regulations allow for the alternative

use of other overpressure relief devices, rather than requiring only relief valves. They point out that IMCO allows for alternatives acceptable to the Administration to prevent overpressurization of the piping system. Section 157.122(d) has been rewritten to require overpressure relief valves or other means accepted by the Commandant that prevent overpressure of the piping of the COW system.

Six commenters felt that the proposed design and arrangement requirement for the piping of the COW system to have sufficient pressure and flow to allow the number of COW machines needed to pass the Coast Guard inspections to operate simultaneously is totally impractical. They felt that such a requirement would dictate tremendously oversized piping which is absolutely unnecessary. The Coast Guard concurs with this comment and has omitted the requirement from the regulations in this document.

It was agreed by IMCO during MEPC XI that only steam heaters located outside the engine room and used when water washing need be effectively isolated during crude oil washing by double shut-off valves or by blanks. In view of the requirement in Resolution 15 that equipment of the COW system is not allowed in machinery spaces, a steam heater located in the machinery spaces could not be used in COW operations. This is a clarification to Resolution 15 which required steam heaters that are used for water washing to be isolated during crude oil washing. Accordingly, § 157.122(i) has been changed to reflect this clarification.

Ten commenters objected to the proposal that the COW machines be permanently attached to the inside of each cargo tank because it would be extremely impractical to remove the machines for repair and maintenance. The current method of attaching deck mounted machines is to bolt the structure of the machine to the deck from outside the tank. In view of these comments, § 157.124(a) has been rewritten to require COW machines to be permanently mounted in each cargo tank. This wording is more consistent with the wording of IMCO and allows the current method of bolting the structure of the machine to the deck outside the tank.

One commenter recommended deleting the proposed requirement that each COW machine and its piping be supported to withstand vibration and pressure surges because there is a requirement to test the piping system to 1.5 times the working pressure. The pressure test of 1.5 times the working pressure is only a hydrostatic test to be

conducted after the system is assembled. This test will not account for any sudden, temporary pressure surges or vibratory responses which could cause damage to the equipment if it is not sufficiently supported. The pressure test is necessary for testing the system following installation. The performance requirement is necessary so that structural supports for the COW machine and its associated piping will be properly designed. Both requirements are retained.

One commenter suggested omitting the proposed requirement for a shut-off valve on bottom mounted COW machines which have remote monitoring (an indicator on deck which shows the machine's movement). The commenter contends that a bottom mounted machine which has a remote monitor indicating its movement would not need a shut-off valve to be closed when audio inspecting other bottom mounted COW machines in the tank. The requirement in the proposal for each COW machine to have a shut-off valve is not consistent with the standard in Resolution 15. Resolution 15 only requires bottom mounted COW machines that have their operation verified by audio inspection and deck mounted COW machines to have individual shut-off valves. In view of this, the Coast Guard concurs with this comment and has changed § 157.122(n) to correctly reflect this intent.

Four commenters recommended that the regulations allow the use of acceptable materials other than steel for the plate used to seal a tank opening when a deck mounted COW machine is removed. The Coast Guard concurs with this comment, provided the material selected meets the applicable strength and fire protection requirements. Section 157.170 has been changed to allow the use of an equivalent material accepted by the Commandant for the tank opening cover plate.

Seven commenters took exception to the proposed operating requirement that no portable drive unit for the COW machines may be moved more than twice from its original location. The intent of the IMCO requirement for portable drive units was only to establish the minimum number of portable drive units to be carried on board each tank vessel. The proposal carried this requirement a step beyond that which was intended by IMCO and placed a restriction on how many times each portable drive unit may be moved. It was pointed out that such a restriction could adversely affect the operation of the COW system if one or more of the portable drive units break down. In view

of this, the operating requirement has been omitted and the design requirement in § 157.124(d) has been rewritten to establish the minimum number of portable drive units to be carried on board, without restricting the number of times a portable drive unit may be moved.

Eleven commenters strongly objected to elimination of the term "large primary structural member" from the proposed regulation that determines the percent of cargo tank washed by direct impingement from the COW machines. By eliminating this term, which was included in the requirements of Resolution 15, the Coast Guard would require that virtually every surface, excluding the 10% horizontal area and the 15% vertical area exceptions, must be washed by direct impingement. If adopted, this requirement would result in an inordinate number of COW machines in each cargo tank which would produce very little difference in the amount of oil entering the navigable waters of the United States and the world, while increasing the cost of a COW system tremendously. The Coast Guard concurs with these comments and has added to § 157.03 the definition of "large primary structural member". This definition was developed from the guidelines for the assessment of shadow diagrams established by IMCO at MEPC XI. It was also agreed at MEPC XI that swash bulkheads could be treated as tank boundaries and are, therefore, included as vertical areas in § 157.124(e) and (f). In addition, § 157.124(e) has been revised to correctly reflect the intent of the standard in Resolution 15 regarding the percent of cargo tank area washed by direct impingement.

One commenter recommended that the proposed requirements for the percent of horizontal and vertical cargo tank areas that must be washed by direct impingement be calculated on a "per ship basis" for tank vessels under § 157.10a, rather than on a "per tank basis" as proposed. This issue was discussed by IMCO at MEPC XI, to determine if such a requirement would allow the operators or designers of existing tank vessels more flexibility in locating COW machines without adversely affecting the marine environment. It was determined that if a tank vessel under § 157.10a has a tank or tanks with complicated internal structural members, that tank vessel should be allowed to meet these requirements by calculating the percent of the total horizontal and vertical areas of all the cargo tanks washed by direct impingement. This is allowed to reduce the problems associated with locating

and installing COW machines on an existing tank vessel. Although this exception is allowed on a "per ship basis", the cargo tank inspection requirements under § 157.140 must still be met. Tank vessels under § 157.10 must meet the direct impingement requirements on a per tank basis because such tank vessels can be designed to accommodate COW systems. In view of this, § 157.124(f) has been added to these regulations to reflect this determination. This determination will maintain the same degree of protection to the marine environment while being less stringent than the requirement of the proposal.

One commenter noted that the proposed criteria for approval of the COW machine design are "not fully defined", nor is it clear what design data is to be supplied for approval. The COW machine internal and external structure (design), material, and safety aspects will be evaluated as a component of the overall COW system design when submitted by the tank vessel owner for review and approval in accordance with these regulations and the applicable regulations in Subchapters D and F of Title 46. The Coast Guard will not verify the performance of each COW machine, but rather will accept or reject the performance of the COW system by virtue of the inspections under § 157.140 based on the performance of the whole COW system.

Two commenters pointed out that the proposed regulations required only that the Coast Guard inspect those cargo tanks which are to be used as ballast tanks when leaving a port (departure ballast tanks). This is not consistent with the IMCO standards which require all cargo tanks to be visually inspected and only departure ballast tanks to be inspected for the 0.085 percent of oil floating on top of ballast water. This inconsistency was a drafting error when interpreting the IMCO standards. Section 157.140(a) has been rewritten to correctly reflect the intent of the IMCO standard.

Ten commenters disagreed with the proposed regulation which replaces the visual inspection criterion in Resolution 15 of "essentially free of oil" with the term "does not have oil clingage or deposits of oil, or both". The wording of the proposal was meant to have the same intent as that of the IMCO standard; however, the commenters felt this wording did not reflect the same intent. In view of this ambiguity, § 157.140(a)(1) has been rewritten to more clearly reflect the intent of the IMCO standard by replacing the term "does not have oil clingage or deposits

of oil, or both" with the term "essentially free of oil clingage or deposits of oil, or both to a degree acceptable to the Coast Guard inspector" for the visual inspection criteria. This is not a substantive change to the regulation.

Three commenters recommended that the proposed inspections under § 157.140 be conducted by qualified Coast Guard personnel and that a course be given by the Coast Guard to properly train the inspectors in COW system operations and results. The Coast Guard concurs with these comments and has initiated a training program for inspectors.

One commenter asked if a classification society would be allowed to conduct the inspections under § 157.140 in lieu of the Coast Guard. The Coast Guard is considering the possibility of accepting inspections under § 157.140 which are conducted by an exclusive surveyor from a classification society. Until a determination has been made on this subject, the Coast Guard intends to conduct all inspection under § 157.140.

One commenter asked how often the Coast Guard inspections under § 157.140 would be conducted on a tank vessel. It is intended that the Coast Guard would make an initial inspection under § 157.140 to accept the performance of the COW system for issuance of a COW system letter of acceptance under § 157.142. However, the inspections under § 157.140 must also be conducted if a master desires to operate the COW system with characteristics less than those recorded under § 157.150 in the COW Manual. Section 157.158(b) addresses this situation. In addition, the Coast Guard will be making spot checks aboard tank vessels crude oil washing in U.S. ports to ensure that COW systems are operated in accordance with the accepted operating characteristics recorded in the COW manual. When making these spot checks, the inspection described in § 157.140(a)(2) may be utilized.

Four commenters objected to the proposed requirements that each deck mounted COW machine have an indicator that shows the rotation and arc of the movement of the machine. They state that the proposal for such an indicator would preclude the use of multi-nozzle COW machines because it would be impossible to ascertain the arc of a constantly rotating multi-nozzle machine. Neither the Coast Guard nor IMCO intended to prevent the use of multi-nozzle machines by requiring this indicator. The Coast Guard concurs with this comment and has added § 157.124(h) to require each deck

mounted multi-nozzle COW machine to have a means that indicates the movement of the machine during COW operations. This correction to an error in Resolution 15 and the proposal maintains the same degree of safety and protection to the marine environment.

Two commenters suggested that the Coast Guard allow audio inspection in lieu of an indicator to determine if deck mounted multi-nozzle COW machines are operating correctly. Audio inspection is permitted for bottom mounted COW machines because indicators for these machines may be impractical from an equipment, maintenance, and reliability viewpoint. Indicators for multi-nozzle deck mounted machines are currently used on tank vessels and are considered reliable. Correct performance of the COW machines is paramount to assuring satisfactory operation of the COW system and an indicator is a reliable method of assuring correct performance of a COW machine. It has been determined that all deck mounted machines should have an indicator that shows the movement of the machine; therefore, audio inspection will not be allowed as a substitute for an indicator to determine the correct operation of a deck mounted multi-nozzle COW machine.

Two commenters were of the opinion that audio inspection of bottom mounted COW machines during COW operations to verify the machines' operation would result in prolonged crude oil washing times and would unnecessarily delay the departure of the tank vessel. They recommended that all bottom mounted machines be inspected and tested on ballast voyages, instead of during COW operations. This issue was a topic of discussion at MEPC XI. It was determined that any one of three methods would be acceptable to verify the operation of a bottom mounted COW machine. The first method is visual inspection of an indicator located external to the tank which shows the movement of the machine during COW operations. The second method is audio inspection of the COW machine during COW operations. This is the method of inspection in the proposal. During this method of inspection, the machine being inspected must be the only one operating in the same tank. The third method is inspection of the machine during a ballast voyage. During this inspection, water is used as the fluid flowing through the machine. Before conducting this inspection, the tank that has the machine to be inspected in it must be gas freed for safe entry of the person making the inspection. If this

method of inspection is utilized, the inspection must take place at least once every six times that machine is used during COW operations, but the interval between inspections must not exceed one year. These alternative methods of inspection have been included in the regulations as alternative procedures that must be included in the *Crude Oil Washing Operations and Equipment Manual* under § 157.155(a) (4), (5), (6), and (7). These discretionary alternatives will maintain the same degree of safety and protection to the marine environment as the proposal.

Two commenters recommended that instead of prohibiting the use of programmable bottom mounted COW machines, the regulations should permit their use if technical development produces an acceptable, reliable machine. The key to assuring the satisfactory operation of a programmable bottom mounted COW machine is an indicator on deck that shows the movement of the machine. Therefore, § 157.124(i) has been rewritten to allow the use of programmable bottom mounted machines provided an indicator is located on deck showing the movement of the machine.

One commenter was of the opinion that the proposed design requirement for the COW pumps to produce sufficient pressure and flow to allow the number of COW machines needed to meet the Coast Guard inspections to operate simultaneously is impractical. It was felt that the requirement would result in pumps extremely overrated for the capacity in which they will be operated. The Coast Guard concurs with the comment and has rewritten § 157.126(b) to require a pump capacity that will allow the simultaneous operation of the COW machines that are designed to operate simultaneously.

Eight commenters were of the opinion that the proposed requirement for the COW system to have two or more pumps supplying oil to the COW machines implied that two or more pumps must be simultaneously pumping oil to the COW machines. The intention of the regulation was only to have two pumps capable of supplying oil to the COW machines. To remove any ambiguity, § 157.126(d) has been rewritten to require two or more pumps capable of supplying oil to the COW machines.

One commenter pointed out that the standard in Resolution 15 which requires that the carriage of more than one grade of cargo shall not prevent crude oil washing of tanks was not correctly reflected in the proposed regulations because the regulations

required that the COW system be designed to allow crude oil washing with more than one grade of crude oil. The commenter states that the same result could be accomplished with an operational procedure. The Coast Guard concurs with this comment and has rewritten § 157.130 to require that the COW system be capable of crude oil washing with more than one grade of crude oil.

Five commenters objected to the proposed requirement that the stripping system be designed to remove crude oil at a rate of 1.25 times the rate at which all COW machines are operating simultaneously. Resolution 15 requires the stripping system to remove crude oil "at a rate of 1.25 times the total throughout of all the tank cleaning machines to be operated simultaneously when washing the bottom of the cargo tanks." Section 157.128(a) has been rewritten to correctly reflect this standard by requiring that the stripping system be designed to remove crude oil from each cargo tank at 1.25 times the rate at which all the COW machines, that are designed to operate simultaneously when washing the bottom of the tank, are operating.

One commenter expressed opposition to any regulation which requires only a closed gauge system for sounding cargo tanks. The proposed regulations did not require only a closed gauge system for sounding cargo tanks.

Nine commenters objected to the proposed requirement for hand dipping as the method for determining the dryness of the cargo tanks. This issue was discussed by IMCO at MEPC XI. It was determined that other means which efficiently ascertain that the bottom of a cargo tank is "dry" should be allowed. The Coast Guard concurs with this determination and has rewritten § 157.128(b) to require each cargo tank to be designed for sounding to determine the dryness of the tank by hand dipping or a means accepted by the Commandant.

Two commenters recommended that the three other locations for hand dipping should be more specifically stipulated in the regulations. The internal structure and design of each tank varies on each tank vessel. For this reason, three other locations cannot be adequately specified in these regulations to assure satisfactory sounding of each cargo tank on every tank vessel. The intent of this requirement is to make sure all the crude oil that can be removed, is removed from the tank by the stripping system. The location of the three other locations for hand dipping should be determined by the designer to accomplish this intent. In view of this,

the three other locations for hand dipping are not more specifically stipulated in these regulations.

One commenter objected to the proposed requirement for hand dipping at the aftermost portion of the tank if the stripping suction is not located at the aftermost portion of the tank. The location for sounding the tank by hand dipping at the aftermost portion of the tank was proposed because that is where the majority of stripping suctions are located. In addition, tank vessels normally trim by the stern while unloading, thus oil will accumulate at the aftermost portion of the tank. It would be extremely difficult to determine whether or not all the crude oil has been removed from the tank if there is not a method of measuring the quantity of oil at the stripping suction. If the stripping suction is not located at the aftermost portion of the tank, the Coast Guard recommends that one of the other three locations for hand dipping should be placed at the stripping suction to assure the operator that the tank is "dry" for compliance with § 157.155(a)(8)(ii).

Two commenters recommended that the regulations allow the use of alternative methods, other than pumps or eductors, for stripping oil from the cargo tanks, as allowed by Resolution 15. The Coast Guard concurs with this statement and has rewritten § 157.128(c) to permit the use of a device accepted by the Commandant for stripping oil from each cargo tank.

One commenter recommended that the regulations assure that the appropriate monitoring device is required on the correct type of pump, if a pump is selected for stripping oil, rather than just require one of the monitoring devices to be in the stripping system. The Coast Guard concurs with this comment and has rewritten § 157.128(e)(2) to require that the stripping system have a monitoring device that indicates operation of the pump.

It was agreed by IMCO during MEPC XI that all cargo tanks are to be stripped before the tank vessel leaves its final port of discharge. This was discussed to clarify the requirement that all strippings be passed ashore through the special small diameter piping line connected to the discharge piping outboard of the manifold valves at the end of cargo discharge. Cargo discharge is not complete until the cargo tanks are stripped of oil. Accordingly, the procedure under § 157.155(a)(9) has been clarified to ensure that all cargo tanks are stripped before the tank vessel begins each ballast voyage. This does

not change the substance of the regulations.

One commenter noted that the proposed requirement for a cargo tank to be designed for longitudinal and transverse drainage of crude oil to allow the tank vessel to pass the Coast Guard inspections under § 157.140 may be appropriate for new construction of tank vessels, but might be impractical for existing tank vessels. If an owner feels that an existing vessel cannot pass the Coast Guard inspections because the tank design does not permit sufficient drainage, the owner has the choice of altering the tank to allow sufficient drainage of oil to pass the inspections or selecting the SBT alternative in lieu of the COW system as allowed under proposed § 157.10a(a).

Two commenters recommended the deletion of the proposed requirement to water wash cargo piping that is used for ballasting cargo tanks because paragraph 4.5.1 of Resolution 15 does not require water washing of the cargo piping. The Coast Guard concurs that paragraph 4.5.1 does not require water washing of cargo piping but, paragraph 7.4(vii) of Resolution 15 does require water washing of certain cargo piping. The proposed regulations that concerned the commenters consolidated the two requirements of Resolution 15.

Two commenters pointed out that the requirement in Resolution 15 to water wash cargo piping did not include washing the cargo piping before ballasting departure ballast tanks, while the proposed regulations did invoke such a requirement. The Coast Guard agrees that there is a discrepancy and has omitted the requirement in § 157.155(b)(2) to water wash cargo piping before ballasting departure ballast tanks.

One commenter recommended that the proposed personnel requirements for crude oil washing be consolidated with the Tankerman requirements. This action is currently being considered by the Coast Guard and would be the subject of a future rulemaking. Until that time, the personnel requirements for crude oil washing will remain with the COW system requirements in 33 CFR Part 157.

Two commenters disagreed with the requirement that the person in charge of COW operations must have one year's experience on a tank vessel prior to becoming the person in charge. One year's experience on a tank vessel prior to becoming the person in charge of COW operations is expressly required in Resolution 15. The effective operation of a COW system is extremely dependent on the operator; therefore, the experience requirements for the

person in charge of COW operations are most essential. In fact, two other commenters pointed out that the proposed regulations did not reflect correctly the standard in Resolution 15 which requires the person in charge of COW operations to have one year's experience on tankers with duties that included the discharge of cargo, in addition to completing an approved training program in crude oil washing cargo tanks. The proposal did not require the one year's experience in addition to completing a Coast Guard approved training program. The Coast Guard concurs with this second comment and has rewritten § 157.152(c) to agree with Resolution 15, requiring the person in charge of COW operations to have one year's experience on tankers prior to becoming the person in charge.

One commenter did not agree with the proposed requirement that the person in charge of COW operations must participate in crude oil washing aboard a "special" tank vessel prior to becoming the person in charge. In the commenter's opinion, COW operations are basically the same on all tank vessels and the qualifications should be based only on training and experience. As discussed above, the responsibilities of the person in charge are most essential during COW operations in assuring the effective operation of the system. The proposal for the person in charge to participate in the crude oil washing of cargo tanks on the same or similar tank vessel to which the person will be assigned as the person in charge is considered necessary by the Coast Guard so that person gains the experience of the actual equipment and procedures for that particular tank vessel. In view of this, the regulation remains as proposed.

Four commenters recommended that the Coast Guard accept a COW training program approved by an administration other than the United States. The Coast Guard concurs with the comment and has rewritten § 157.152(c)(2) to include the acceptance of a COW training program approved by the government of the tank vessel's flag state.

One commenter pointed out that the one year's experience for the person in charge of COW operations and the six month's experience for the crew members that have a responsibility in crude oil washing should be in oil discharge operations as required by Resolution 15 and not crude oil discharge operations as required by the regulations. The Coast Guard agrees with this comment and has rewritten

§ 157.152(c) and § 157.154(a) to reflect this minor editorial change.

Three commenters objected to the proposed requirement that every crew member who participates in COW operations must have six month's experience on a tank vessel. The commenters correctly state that this proposed requirement is not consistent with the standards in Resolution 15 which requires "where other nominated persons are intended to have particular responsibilities . . . they shall have at least 6 month's experience". The duties of an ordinary seaman and some of those of an able bodied seaman during COW operations do not justify the need for six month's experience on a tank vessel. The Coast Guard concurs with this comment and has rewritten § 157.154 to require that only the crew members with a designated responsibility during COW operations need to have six months' experience on a tank vessel.

One commenter asked how the master will verify that the personnel participating in COW operations comply with the personnel requirements of these regulations. The Coast Guard does not intend to issue documentation certifying compliance with the personnel requirements of these regulations. The responsibility to be able to verify compliance with § 157.152 and § 157.154 will rest with the tanker industry.

Two commenters pointed out that allowing ballast only in cargo tanks that have been crude oil washed during the most recent discharge of crude oil from those tanks does not permit ballasting of cargo tanks which were crude oil washed en route on a two point discharge. The Coast Guard concurs with this comment and has corrected § 157.160(a) and (b) to allow the ballasting of cargo tanks that have been crude oil washed during or after the most recent discharge of crude oil from those tanks.

One commenter was of the opinion that crude oil washing for sludge control purposes should not be within the "purview" of the Coast Guard. Pollution from sludge removal is one of the forms of oil pollution these regulations are expected to reduce. By implementing regulations which will reduce the amount of sludge build-up in tank vessels, the amount of oil pollution that could result from removal of that sludge is expected to be reduced. The Coast Guard does not concur with this comment; therefore, the regulations for the crude oil washing of cargo tanks for the purpose of sludge control remain as proposed.

Two commenters were of the opinion that the proposed regulations for sludge

control which required crude oil washing of at least 25 percent of the cargo tanks not used for carrying ballast to be crude oil washed before each ballast voyage and which required that each cargo tank is crude oil washed at least once in every four times crude oil is discharged from the tank, were not consistent with Resolution 15. The Coast Guard disagrees. Resolution 15 requires approximately one-quarter of all the remaining tanks (of those not crude oil washed for ballast) to be crude oil washed for sludge control before departure on a ballast voyage. The proposed requirement for each tank to be crude oil washed at least once in every four times crude oil is discharged from the tank was added to make sure that the same 25 percent of the tanks were not crude oil washed every time, but rather all the tanks are crude oil washed on a rotational basis. This requirement assures that every tank will be crude oil washed at least once in every four voyages. The third requirement under § 157.160(a)(2) and (b)(3) that no tank need be crude oil washed more than once during each 120 day period eliminates unnecessary and excessive crude oil washing of the cargo tanks.

Two commenters pointed out that the proposed regulation which requires all cargo tanks that are to be used for ballasting and which have been crude oil washed at sea to be ballasted prior to leaving the discharge port, would force the tank vessel to sail at its deepest ballast draft if all the tanks were crude oil washed at sea. The Coast Guard concurs with this comment and has rewritten § 157.162 to only require those tanks which have been crude oil washed at sea and which will be used as ballast tanks when leaving the port to be ballasted for possible inspection by the Coast Guard. The inspection criterion of § 157.140(a)(2) which is referenced in § 157.162 is intended as an inspection criterion for the inspector and is not required as a routine operation.

Three commenters were of the opinion that the proposed regulations requiring a continuous supply of inert gas to the cargo tanks is unnecessary for safe operation of the COW system as long as the criteria for 8% or less oxygen content and positive pressure are maintained in the tank. The Coast Guard concurs with this comment and has rewritten § 157.164(a)(4) to reflect this intent.

Three commenters recommended deleting the proposed requirement that a crew member monitor the inert gas instrumentation during the COW operations, if the instrumentation has an appropriate alarm. The Coast Guard

concurs with this comment and has rewritten § 157.164(a)(5) to require that a crew member monitor the inert gas instrumentation during COW operations, except if the instrumentation has an alarm that sounds in the cargo control room when the oxygen content being monitored exceeds 8% by volume.

Two commenters were of the opinion that one location in each tank for measuring the oxygen content in that tank would be sufficient and that two locations, as required by the proposed regulations and Resolution 15, are redundant and unnecessary. The Coast Guard agrees with IMCO that in view of the increased risk of explosion in a cargo tank that is not properly inerted during crude oil washing of that tank, oxygen content measurements should be taken at two locations in each cargo tank. By taking measurements one meter from the deck and in the center of the hullage space, the operator is better assured that each tank is properly inerted. In view of this, the Coast Guard does not concur with this comment and the regulation remains as proposed.

One commenter felt there was a discrepancy between the oxygen content level of the inert gas required in the proposal and that required in 46 CFR 32.53. The commenter noted that the proposal required an inert gas with 8 percent or less oxygen content, while 46 CFR 32.53 requires 5 percent or less oxygen content. The commenter recommended retaining the 8 percent or less requirement. There is no discrepancy. The 5 percent or less oxygen content required in 46 CFR 32.53 is a design requirement for the inert gas system. The 8 percent or less oxygen content required in the proposal is a less stringent operating requirement that must be complied with during COW operations. In view of this, the 5 percent or less oxygen content is retained as a design requirement for the inert gas system and the 8 percent or less oxygen content is retained as an operating requirement during COW operations.

Seven commenters recommended that the proposed regulations allow use of an alternative to the simultaneous ballasting and discharge of cargo to prevent hydrocarbon vapor emissions from cargo tanks when ballasting. The Coast Guard concurs with this comment and has rewritten § 157.132 to allow the use of an alternative means accepted by the Commandant to prevent hydrocarbon vapor emissions when ballasting cargo tanks on tank vessels having a COW system and that need to ballast cargo tanks when leaving a U.S. port.

Two commenters stated that the propose requirement for simultaneous

ballasting and discharging of cargo is in conflict with another requirement in the proposal which prohibits ballasting tanks while loading or discharging cargo. The proposed regulation for simultaneous ballasting and discharge of cargo is a requirement for tank vessels having a COW system. The proposed regulation which prohibits the ballasting of tanks while loading or discharging cargo was a requirement for tank vessels having CBT and has been deleted from the proposal as previously discussed under Division II. In view of this, there is no conflict in the proposal regarding this issue.

One commenter stated that it was not clear how the proposed regulation regarding the prevention of hydrocarbon vapor emissions will affect emissions in or near U.S. ports. The effect of the proposed regulations on hydrocarbon vapor emissions in or near U.S. ports is discussed in detail in Chapter 3 of the Final Regulatory Analysis and Environmental Impact Statement.

One commenter asked how the regulations for the prevention of hydrocarbon vapor emissions are to be enforced. The Coast Guard will enforce the equipment requirement under § 157.132 and all safety related requirements regarding this equipment and any other equipment on the tank vessel which affects hydrocarbon vapor emissions. The Coast Guard will also enforce the operating requirement under § 157.166 to ensure that the means to prevent hydrocarbon vapor emissions are properly used. However, this requirement will only be enforced in a U.S. port which is in an area designated by the EPA in 40 CFR Part 81 as an area that exceeds the national primary ambient air quality ozone standard in 40 CFR Part 50. The EPA is the federal agency responsible for issuing air pollution standards; therefore, the Coast Guard is not responsible for determining in which U.S. ports the operating requirement in § 157.166 will be enforced. Almost every major U.S. port is located in an area designated in 40 CFR Part 81 as an area that exceeds the allowable standard for ozone. A note has been added after § 157.166 informing the reader that questions regarding which ports are located in the areas designated in 40 CFR Part 81 can be answered by contacting the Plans Analysis Section of EPA.

One commenter stated that the standard in Resolution 15 for a means to prevent hydrocarbon vapor emissions only applies where local conditions require it and should not be invoked throughout the United States as required in the proposal. The proposal did not

invoke the requirement throughout the United States. As discussed above, the requirement is to be enforced in each U.S. port that is in an area designated in 40 CFR Part 81 as an area that exceeds the national primary ambient air quality ozone standard. EPA is responsible for determining in which U.S. ports the operating requirement under § 157.166 will be enforced.

One commenter recommended holding in abeyance the proposed requirements for the prevention of hydrocarbon vapor emissions until various studies which are underway are completed to determine the effectiveness and safety of vapor control. While it is agreed that studies are being conducted to advance the technology of vapor control, IMCO and the Coast Guard agree that the simultaneous ballasting and discharging of cargo tanks is an accepted state of the art method of preventing hydrocarbon vapor emissions when done correctly. In addition, other commenters are of the opinion that alternative methods are available for vapor control as evidenced by the seven commenters who recommended the regulations allow for the use of alternative methods of preventing hydrocarbon vapor emissions. In view of this information the regulations for the prevention of hydrocarbon vapor emissions will not be held in abeyance.

One commenter pointed out that there was a conflict between the proposed requirement for simultaneous ballasting and discharging of cargo and the proposed regulation of 33 CFR 156.120(i) (42 FR 36282) which requires overboard discharge and suction valves connected to the oil transfer system to be sealed or lashed closed when conducting oil transfer operations. The Coast Guard concurs with this comment and will modify 33 CFR 156.120(i) when it is issued as a final regulation to eliminate the conflict of requirements.

One commenter recommended that all references to the Coast Guard approved *Crude Oil Washing Operations and Equipment Manual* should be modified to read "Coast Guard or flag Administration approved COW manual". As stated in the proposal, the Coast Guard will accept a manual which is approved by the government of the vessel's flag state. All references to a manual approved by the government of the vessel's flag state are made at the appropriate locations in the regulations. A manual approved by the government of the tank vessel's flag state must conform to the manual standards of Resolution 15.

One commenter was of the opinion that the standard in Resolution 15 which

requires COW operations "to accord with all foreseeable circumstances of cargo discharge restraints" is utterly impossible to determine and would be uneconomical to even attempt to accomplish. The Coast Guard concurs with this statement and for that reason did not include such a regulation in the proposal or in this document.

One commenter pointed out that design characteristics will vary with different crude oils and advised that the Coast Guard inspectors be made aware of the tolerances on the characteristics that are recorded in the COW manual. The characteristics recorded in the COW manual when passing the Coast Guard inspections are the minimum characteristics to be used during COW operations thereafter. These are the characteristics the inspector will verify when making spot checks of the COW system. The operator must make sure that the COW system is not operated unless the characteristics recorded in the COW manual under § 157.150 when passing the Coast Guard inspections are met.

One commenter recommended a close appraisal of the proposed regulations with regard to the requirements in the COW manual and COW operating requirements "so all that is necessary is included without overkill and possible confusion". The Coast Guard has reviewed all of these regulations and is of the opinion that they are a complete set of requirements which reflect all the requirements of the IMCO standards without overkill or confusion.

One commenter asked if the Coast Guard will publish a list of crude oils that are not suitable for COW operations. Another commenter was of the opinion that it may be impossible to produce a list of crude oils which cannot be used in COW operations. The Coast Guard does not have a list of crude oils that are not suitable for COW operations. Development of a meaningful list is dependent upon the experience gained by the tank vessel operators. That experience is being developed and reported to IMCO. When information regarding crude oils not suitable for COW operations becomes available, the tanker industry will be informed.

One commenter pointed out that some ports in the United States have berths which restrict tank vessels from operating COW systems while moored at the dock. The commenter suggested that a provision be added to the regulations to address this situation. The number of terminals which allow COW operation will increase as the practice of crude oil washing becomes more commonplace. To preclude the

possibility of violating certain operating requirements of these regulations, owners, operators, and masters should remain aware of those terminals which may continue to prohibit COW operations. In view of the fact that certain COW operating procedures must be followed while discharging crude oil, an additional provision is not necessary to address this situation.

One commenter asked if an owner decides to install a COW system on board a tank vessel that has SBT in compliance with § 157.10a(a)(1), must the COW system be in compliance with proposed Subpart D. If a COW system is installed on a tank vessel under § 157.10a that has SBT in compliance with § 157.10a(a)(1), that COW system does not have to be in compliance with proposed Subpart D. However, the COW system will be treated as a cargo piping system and must meet all the applicable design, installation, and safety requirements for a cargo piping system. In addition, an inert gas system that meets 48 CFR 32.53 is required on all tank vessels with a COW system.

Environmental Impact Summary

The purpose of these regulations is to reduce operational and accidental oil pollution and to improve the safety of tank vessels. The Coast Guard estimates that these new standards will result in a reduction of approximately 49,000 metric tons/year in operational oil outflows from present levels. There is estimated to be a reduction of 46,600 metric tons/year in crude oil outflows and a reduction of 2,400 metric tons/year in product outflows. While it is impossible to estimate the reduction in the average 8,000 metric tons/year that result from collisions, ramming, and groundings of tank vessels in our coastal water, it is felt that a significant reduction will occur with the implementation of these regulations.

The environmental impact of this amendment is discussed in further detail in the Final Regulatory Analysis and Environmental Impact Statement prepared as a part of this rulemaking.

Economic Impact Summary

The Coast Guard estimates that this amendment will affect between 589 and 655 existing foreign crude oil carriers and between 138 and 156 foreign product carriers, depending on the options chosen by the shipowners. Approximately 90 existing U.S. crude oil carriers and product carriers would be affected.

Depending on the options chosen by the shipowners, the projected initial capital cost for SBT, COW and/or CBT,

on all existing U.S. tank vessels and foreign tank vessels which call at U.S. ports is estimated to be between \$400 and \$770 million. The total outlay which will be passed on to the consumer as a result of higher freight rates is estimated to be between \$930 million and \$2.5 billion at an expected annual cost between \$90 and \$175 million each subsequent year until 1985. The cost of these measures on a per ship basis is between \$0 and \$2 million for a product carrier and between \$0.5 and \$8 million for a crude oil carrier, depending on the option chosen and the size of the tank vessel. Some of these cost figures have increased from those figures published in the proposal. These increases are a result of including operating costs for additional tankers to compensate for the lost cargo capacity when the SBT and CBT options are chosen by the shipowner and the higher costs of ship construction in the United States.

Because of the current worldwide tanker surplus and the expected increase in domestic pipeline transportation of oil, very few new tankers are expected to be constructed between now and 1985. Tanker construction beyond 1985 is unknown at this time. For these reasons, the cost for new tank vessel construction has not been included in the above cost figures.

The economic impact of this amendment is discussed in further detail in the Final Regulatory and Environmental Impact Statement prepared as a part of this rulemaking.

This rule has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A final evaluation of the rule has been prepared and has been included in the public docket.

In consideration of the foregoing, the proposed rules published in the February 12, 1979 issue of the Federal Register (44 FR 8984) are hereby adopted with the changes described above and set forth below.

Subchapter O of Chapter I of Title 33, Code of Federal Regulations is amended as follows:

PART 157—RULES FOR THE PROTECTION OF THE MARINE ENVIRONMENT RELATING TO TANK VESSELS CARRYING OIL IN BULK

1. By revising § 157.01 to read as follows:

§ 157.01 Applicability.

(a) This part applies to each tank vessel of 150 gross tons or more, unless

otherwise indicated, that carries crude oil or products in bulk and that is—

(1) Documented under the laws of the United States (U.S. vessel); or

(2) A foreign vessel that—

(i) Transfers cargo at a port or place subject to the jurisdiction of the United States; or

(ii) Otherwise enters or operates in the navigable waters of the United States.

(b) This part does not apply to the following:

(1) Vessels under Subsections (4) and (5) of Sec. 5, Port and Tanker Safety Act of 1978 (Pub. L. 95-474, 92 Stat. 1480, 46 U.S.C. 391a).

(2) Any foreign vessel not destined for, or departing from, a port or place subject to the jurisdiction of the United States that is in innocent passage through the territorial seas of the United States or in transit through navigable waters of the United States which form a part of an international strait.

2. By amending § 157.03 by revising paragraphs (k), (n), and (v) and by adding paragraphs (bb), (cc), (dd), (ee), (ff), (gg), and (hh) to read as follows:

§ 157.03 Definitions.

(k) "Major conversion" means a conversion of an existing vessel that—

(1) Substantially alters the dimensions or carrying capacity of the vessel, except the installation of only segregated ballast tanks, dedicated clean ballast tanks, or a crude oil washing system to meet this part;

(2) Changes the type of vessel; or

(3) Substantially prolongs the vessel's service life.

(n) "Oil" includes oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(v) "Tank vessel" means a vessel that is constructed or converted to carry liquid bulk oil cargoes in tanks and includes tankers, tankships, tank barges, integrated tug barges, and combination carriers when carrying oil cargoes in bulk.

(bb) "Crude oil" means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

(cc) "Product" means any liquid hydrocarbon mixture in any form, except crude oil, petrochemicals, and liquified gases.

(dd) "Dedicated clean ballast tank" means a cargo tank that is allocated solely for the carriage of clean ballast.

(ee) "Integrated tug barge" means a tug and a tank barge with a mechanical system that allows the connection of the propulsion unit (the tug) to the stern of the cargo carrying unit (the tank barge) so that the two vessels function as a single self-propelled vessel.

(ff) "Ballast voyage" means the voyage that a tank vessel engages in after it leaves the port of final cargo discharge.

(gg) "Large primary structural member" includes any of the following:

(1) Web frames.

(2) Girders.

(3) Webs.

(4) Main brackets.

(5) Transverses.

(6) Stringers.

(7) Struts in transverse web frames when there are 3 or more struts and the depth of each is more than 1/4 of the total depth of the tank.

(hh) "MARPOL Protocol" means the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London on February 17, 1978.

3. By adding a new § 157.06 to read as follows:

§ 157.06 Appeals.

(a) Any person directly affected by an action taken under this part may request reconsideration by the Coast Guard official who is responsible for that action.

(b) Any person not satisfied with a ruling made under the procedure contained in paragraph (a) of this section may appeal that ruling in writing, except as allowed under paragraph (e) of this section, to the Coast Guard District Commander of the district in which the action was taken. The appeal may contain supporting documentation and evidence that the appellant wishes to have considered. If requested, the District Commander may stay the effect of the action being appealed while the ruling is being reviewed. The District Commander issues a ruling after reviewing the appeal submitted under this paragraph.

(c) Any person not satisfied with a ruling made under the procedure contained in paragraph (b) of this section may appeal that ruling in writing, except as allowed under paragraph (e) of this section, to the Chief, Office of Merchant Marine Safety, U.S. Coast Guard, Washington, D.C.

20593. The appeal may contain supporting documentation and evidence that the appellant wishes to have considered. If requested, the Chief, Office of Merchant Marine Safety may stay the effect of the action being appealed while the ruling is being reviewed. The Chief, Office of Merchant Marine Safety issues a ruling after reviewing the appeal submitted under this paragraph.

(d) Any decision made by the Chief, Office of Merchant Marine Safety under the procedure contained in paragraph (c) of this section is final agency action.

(e) If the delay in presenting a written appeal would have a significant adverse impact on the appellant, the appeal under paragraph (b) or (c) of this section may initially be presented orally. If an initial presentation of the appeal is made orally, the appellant must submit the appeal in writing within five days of the oral presentation to the Coast Guard official to whom the oral presentation was made. The written appeal must contain, at a minimum, the basis for the appeal and a summary of the material presented orally.

4. By revising the title of Subpart B to read as follows:

Subpart B—Design, Equipment, and Installation

5. By adding § 157.08 (f) and (g) to read as follows:

§ 157.08 Applicability of Subpart B.

(f) Sections 157.09 and 157.10a do not apply to a new vessel that—

(1) Is constructed under a building contract awarded after June 1, 1979;

(2) In the absence of a building contract, has the keel laid or is at a similar stage of construction after January 1, 1980;

(3) Is delivered after June 1, 1982; or

(4) Has undergone a major conversion for which—

(i) The contract is awarded after June 1, 1979;

(ii) In the absence of a contract, conversion is begun after January 1, 1980; or

(iii) Conversion is completed after June 1, 1982.

(g) Sections 157.09(b)(3), 157.10(c)(3), and 157.10a(d)(3) do not apply to tank barges.

6. By adding new § 157.10 and § 157.10a to read as follows:

§ 157.10 Protective location of segregated ballast tanks and crude oil washing systems for certain new vessels.

(a) This section applies to a new vessel that—

(1) Is constructed under a building contract awarded after June 1, 1979;

(2) In the absence of a building contract, has the keel laid or is at a similar stage of construction after January 1, 1980;

(3) Is delivered after June 1, 1982; or

(4) Has undergone a major conversion for which—

(i) The contract is awarded after June 1, 1979;

(ii) In the absence of a contract, conversion is begun after January 1, 1980; or

(iii) Conversion is completed after June 1, 1982.

(b) Each tank vessel under this section of 20,000 DWT or more that carries crude oil and of 30,000 DWT or more that carries products must have segregated ballast tanks that have a total capacity to allow the vessel to meet the draft and trim requirements in paragraph (c) of this section without recourse to the use of cargo tanks for water ballast.

(c) In any ballast condition during any part of a voyage, including that of lightweight with only segregated ballast, each tank vessel under paragraph (b) of this section must have the capability of meeting each of the following:

(1) The molded draft amidship (dm) in meters, without taking into account vessel deformation, must not be less than dm in the following mathematical relationship:

$$dm = 2.0 + 0.02L$$

(2) The drafts at the forward and after perpendiculars must correspond to those determined by the draft amidship under paragraph (c)(1) of this section, in association with a trim by the stern of no more than 0.015L.

(3) The minimum draft at the after perpendicular is that which is necessary to obtain full immersion of the propeller.

(d) Segregated ballast tanks under paragraph (b) of this section, voids, and other spaces that do not carry cargo which are within the cargo tank length must be distributed as determined under the procedure contained in Appendix C of this part.

(e) Each tank vessel under this section of 20,000 DWT or more that carries crude oil must have a crude oil washing system that meets the design, equipment, and installation requirements in Subpart D of this part.

(f) Each tank vessel under this section may be designed to carry ballast water in cargo tanks as allowed under § 157.35.

§ 157.10a Segregated ballast tanks, crude oil washing systems, and dedicated clean ballast tanks for certain new and existing vessels.

(a) Not later than June 1, 1981, except as allowed in paragraph (b) of this section, an existing vessel of 40,000 DWT or more that carries crude oil and a new vessel of 40,000 DWT or more but less than 70,000 DWT that carries crude oil must have—

(1) Segregated ballast tanks with a total capacity to meet the draft and trim requirements in paragraph (d) of this section; or

(2) A crude oil washing system that meets the design, equipment, and installation requirements of Subpart D of this part.

(b) Each tank vessel under paragraph (a) of this section does not have to meet the requirements of paragraph (a) of this section until June 1, 1983, for an existing vessel of 70,000 DWT or more, or until June 1, 1985, for a new or existing vessel of 40,000 DWT or more but less than 70,000 DWT, if the vessel—

(1) Has dedicated clean ballast tanks with the total capacity to meet the draft and trim requirements under paragraph (d) of this section; and

(2) Meets the design and equipment requirements under Subpart E of this part.

(c) Not later than June 1, 1981, an existing vessel of 40,000 DWT or more that carries products and a new vessel of 40,000 DWT or more but less than 70,000 DWT that carries products must have—

(1) Segregated ballast tanks with a total capacity to meet the draft and trim requirements in paragraph (d) of this section; or

(2) Dedicated clean ballast tanks that have a total capacity to meet the draft and trim requirements in paragraph (d) of this section and that meet the design and equipment requirements under Subpart E of this part.

(d) In any ballast condition during any part of a voyage, including that of lightweight with either segregated ballast in segregated ballast tanks or clean ballast in dedicated clean ballast tanks, each tank vessel under paragraph (a)(1), (b), or (c) of this section must have the capability of meeting each of the following without recourse to the use of cargo tanks for water ballast:

(1) The molded draft amidship (dm) in meters, without taking into account vessel deformation, must not be less than dm in the following mathematical relationship:

$$dm = 2.0 + 0.02L$$

(2) The drafts at the forward and after perpendiculars must correspond to those

determined by the draft amidship under paragraph (d)(1) of this section, in association with a trim by the stern of no more than 0.015L.

(3) The minimum draft at the after perpendicular is that which is necessary to obtain full immersion of the propeller.

(e) Each tank vessel that meets paragraph (a)(1), (b), or (c) of this section may be designed to carry ballast water in cargo tanks as allowed under § 157.35.

Note.—Segregated ballast tanks located in wing tanks provide protection against oil outflow in the event of a collision, ramming, or grounding.

7. By adding § 157.11 (d), (e), and (f) to read as follows:

§ 157.11 Pumping, piping, and discharge arrangements.

(d) Each tank vessel under § 157.09 and § 157.10a must have—

(1) Equipment that drains each cargo pump and oil piping line of oil residue;

(2) Oil piping lines for the draining of oil residue from cargo pumps and other oil piping lines to a cargo tank or a slop tank; and

(3) An oil piping line that meets paragraph (f) of this section and is connected to the cargo discharge piping on the outboard side of the manifold valves for the draining of oil residue from cargo pumps and other oil piping lines to a receptacle on the shore.

(e) Each tank vessel under § 157.10 must have—

(1) Oil piping lines that are designed and installed to minimize oil retention in those lines;

(2) Equipment that drains each cargo pump and oil piping line of oil residue;

(3) Oil piping lines for the draining of oil residue from cargo pumps and other oil piping lines to a cargo tank or slop tank; and

(4) An oil piping line that meets paragraph (f) of this section and is connected to the cargo discharge piping on the outboard side of the manifold valves for the draining of oil residue from cargo pumps and other oil piping lines to a receptacle on the shore.

(f) Each oil piping line under paragraph (d)(3) or (e)(4) of this section must have a cross-sectional area of 10 percent or less of the cross-sectional area of the main cargo discharge piping line, except if the oil piping line under paragraph (d)(3) of this section is installed before January 1, 1980, that piping line may have a cross-sectional area of 25 percent or less of the cross-sectional area of the main cargo discharge piping line.

8. By revising § 157.15(b)(1) to read as follows:

§ 157.15 Slop tanks in tank vessels.

(b) * * *

(1) Segregated ballast tanks that meet the requirements in § 157.09, § 157.10, or § 157.10a; or

9. By revising § 157.24(c) to read as follows:

§ 157.24 Submission of calculations, plans, and specifications.

(c) Calculations to substantiate compliance with the segregated ballast capacity and distribution requirements in § 157.09, § 157.10, or § 157.10a or a letter from the government of the vessel's flag state certifying that the vessel complies with the segregated ballast capacity and distribution requirements in—

(1) Section 157.09, § 157.10, or § 157.10a; or

(2) Regulation 13 and 13E of the MARPOL Protocol.

10. By adding a new § 157.26 to read as follows:

§ 157.26 Operation of a tank vessel in violation of regulations.

No person may cause or authorize the operation of a tank vessel in violation of the regulations in this part.

11. By revising § 157.35 to read as follows:

§ 157.35 Ballast added to cargo tanks.

The master of a tank vessel that meets § 157.09, § 157.10, § 157.10a(a)(1), § 157.10a(b), or § 157.10a(c) shall ensure that ballast water is carried in a cargo tank only if—

(a) The vessel encounters abnormally severe weather conditions;

(b) More ballast water than can be carried in segregated ballast tanks or dedicated clean ballast tanks is necessary for the safety of the vessel;

(c) The ballast water is processed and discharged in compliance with § 157.37; and

(d) On a new vessel under § 157.10 that carries crude oil, the ballast water is only carried in a cargo tank that is crude oil washed in accordance with Subpart D of this part during or after the most recent discharge of crude oil from that tank.

12. By amending Part 157 by adding Subparts D and E and appendices C and D to read as follows:

Subpart D—Crude Oil Washing (COW) System on Tank Vessels

General

Sec.

157.100 Plans for U.S. tank vessels:

Submission.

157.102 Plans for foreign tank vessels:

Submission.

157.104 Scale models.

157.106 Letter of acceptance.

157.108 *Crude Oil Washing Operations and Equipment Manual* for U.S. tank vessels:

Submission.

157.110 *Crude Oil Washing Operations and Equipment Manual* for foreign tank vessels: Submission.

157.112 *Approved Crude Oil Washing Operations and Equipment Manual*.

157.114 *Crude Oil Washing Operations and Equipment Manual*: Not approved.

157.116 Required documents: U.S. tank vessels.

157.118 Required documents: Foreign tank vessels.

157.120 Waiver of required documents.

Design, Equipment, and Installation

157.122 Piping, valves, and fittings.

157.124 COW tank washing machines.

157.126 Pumps.

157.128 Stripping system.

157.130 Crude oil washing with more than one grade of crude oil.

157.132 Cargo tanks: Hydrocarbon vapor emissions.

157.134 Cargo tank drainage.

157.136 Two-way voice communications.

157.138 *Crude Oil Washing Operations and Equipment Manual*.

Inspections

157.140 Tank vessel inspections.

157.142 Letter of acceptance: Inspections.

157.144 Tank vessels of the same class:

Inspections.

157.146 Similar tank design: Inspections on U.S. tank vessels.

157.147 Similar tank design: Inspections on foreign tank vessels.

157.148 COW system: Evidence for inspections.

157.150 *Crude Oil Washing Operations and Equipment Manual*: Recording information after inspections.

Personnel

157.152 Person in charge of COW operations.

157.154 Assistant personnel.

COW Operations

157.155 COW operations: General.

157.156 COW operations: Meeting manual requirements.

157.158 COW operations: Changed characteristics.

157.160 Tanks: Ballasting and crude oil washing.

157.162 Crude oil washing during a voyage.

157.164 Use of inert gas system.

157.166 Hydrocarbon vapor emissions.

157.168 Crew member: Main deck watch.

157.170 COW equipment: Removal.

157.172 Limitations on grades of crude oil carried.

Subpart E—Dedicated Clean Ballast Tanks on Tank Vessels.

General

Sec.

157.200 Plans for U.S. tank vessels:

Submission.

157.202 Plans and documents for foreign tank vessels: Submission.

157.204 Letter of acceptance.

157.206 *Dedicated Clean Ballast Tanks Operations Manual* for U.S. tank vessels:

Submission.

157.208 *Dedicated Clean Ballast Tanks Operations Manual* for foreign tank vessels: Submission.

157.210 *Approved Dedicated Clean Ballast Tanks Operations Manual*.

157.212 *Dedicated Clean Ballast Tanks Operations Manual*: Not approved.

157.214 Required documents: U.S. tank vessels.

157.216 Required documents: Foreign tank vessels.

157.218 Dedicated clean ballast tanks: Alterations.

Design and Equipment

157.220 Dedicated clean ballast tanks: Standards.

157.222 Pump and piping arrangements.

157.224 *Dedicated Clean Ballast Tanks Operations Manual*.

Dedicated Clean Ballast Tanks Operations

157.225 Dedicated clean ballast tanks operations: General.

157.226 *Dedicated Clean Ballast Tanks Operations Manual*: Procedures to be followed.

157.228 Isolating valves: Closed during a voyage.

Appendix C—Procedure for Determining Distribution of Segregated Ballast Tanks To Provide Protection Against Oil Outflow in the Event of Grounding, Ramming, or Collision

Appendix D—Example of a Procedure for Dedicated Clean Ballast Tanks Operations

Subpart D—Crude Oil Washing (COW) System on Tank Vessels

Authority: Sec. 5, Port and Tanker Safety Act of 1978, 92 Stat. 1480 (46 U.S.C. 391a); 49 CFR 1.46(n)(4).

General

§ 157.100 Plans for U. S. tank vessels: Submission.

(a) Before each U. S. tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) is inspected under § 157.140, the owner or operator of that vessel must submit to the Coast Guard plans that include—

(1) A drawing or diagram of the COW pumping and piping system that meets 46 CFR 56.01–10(d);

(2) The design of each COW machine;

(3) The arrangement, location, and installation of the COW machines; and

(4) Except as allowed in § 157.104, the projected direct impingement pattern of

crude oil from the nozzles of the COW machines on the surfaces of each tank, showing the surface areas not reached by direct impingement.

(b) Plans under paragraph (a) of this section must be submitted to the Officer in Charge, Marine Inspection, of the zone in which the COW system is installed or to one of the following Coast Guard field technical offices:

(1) Commander, 3rd Coast Guard District (mmt), Governors Island, New York, N. Y. 10004, if the COW system is installed in the area under the 1st or 3rd Coast Guard Districts.

(2) Commander, 5th Coast Guard District (mmt), 431 Crawford Street, Portsmouth, Virginia 23705, if the COW system is installed in the area under the 5th or 7th Coast Guard Districts.

(3) Commander, 8th Coast Guard District (mmt), 500 Camp Street, Hale Boggs Federal Building, New Orleans, Louisiana 70130, if the COW system is installed in the area under the 2nd or 8th Coast Guard Districts.

(4) Commander, 9th Coast Guard District (mmt), 601 Rockwell Ave., Cleveland, Ohio 44114, if the COW system is installed in the area under the 9th Coast Guard District.

(5) Commander, 12th Coast Guard District (mmt), 630 Sansome Street, San Francisco, California 94128, if the COW system is installed in the area under the 11th, 12th, 13th, 14th, or 17th Coast Guard Districts.

§ 157.102 Plans for foreign tank vessels: Submission.

If the owner or operator of a foreign tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) desires the letter from the Coast Guard under § 157.106 accepting the plans submitted under this paragraph, the owner or operator must submit to the Commandant (G-MMT), U. S. Coast Guard, Washington, D. C. 20593, plans that include—

(a) A drawing or diagram of the COW pumping and piping system that meets 46 CFR 56.01-10(d);

(b) The design of each COW machine;

(c) The arrangement, location, and installation of the COW machines; and

(d) Except as allowed in § 157.104, the projected direct impingement pattern of crude oil from the nozzles of the COW machines on the surfaces of each tank, showing the surface areas not reached by direct impingement.

§ 157.104 Scale models.

If the pattern under § 157.100(a)(4) or § 157.102(d) cannot be shown on a plan, a scale model of each tank must be built for Coast Guard inspection to simulate, by a pinpoint of light, the projected

direct impingement pattern on the surfaces of the tank.

§ 157.106 Letter of acceptance.

The Coast Guard informs the submitter by letter that the plans submitted under § 157.100 or § 157.102 are accepted if—

(a) The plans submitted show that the COW system meets this subpart; or

(b) The plans submitted and the scale model under § 157.104 show that the COW system meets this subpart.

§ 157.108 Crude Oil Washing Operations and Equipment Manual for U.S. tank vessels: Submission.

Before each U.S. tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) is inspected under § 157.140, the owner or operator of that vessel must submit two copies of a *Crude Oil Washing Operations and Equipment Manual* that meets § 157.138 to the Officer in Charge, Marine Inspection, of the zone in which the COW system is installed or to the appropriate Coast Guard field technical office listed in § 157.100(b).

§ 157.110 Crude Oil Washing Operations and Equipment Manual for foreign tank vessels: Submission.

If the owner or operator of a foreign tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) desires a Coast Guard approved *Crude Oil Washing Operations and Equipment Manual* under § 157.112, the owner or operator must submit two copies of a manual that meets § 157.138 to the Commandant (G-MMT), U. S. Coast Guard, Washington, D. C. 20593.

§ 157.112 Approved Crude Oil Washing Operations and Equipment Manual.

If the manuals submitted under § 157.108 or § 157.110 meet § 157.138, the Coast Guard approves the manuals and forwards one of the approved manuals to the submitter.

§ 157.114 Crude Oil Washing Operations and Equipment Manual: Not approved.

If the manuals submitted under § 157.108 or § 157.110 are not approved, the Coast Guard forwards a letter to the submitter with the reasons why the manuals were not approved.

§ 157.116 Required documents: U.S. tank vessels.

On and after June 1, 1981, the owner, operator, and master of a U.S. tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that the vessel does not engage in a voyage unless the vessel has on board—

(a) The letter under § 157.106 accepting the COW system plans;

(b) The letter of acceptance under § 157.142 after passing the inspections under § 157.140;

(c) The Coast Guard approved *Crude Oil Washing Operations and Equipment Manual* under § 157.112; and

(d) Any amending letters issued under § 157.158 approving changed characteristics.

§ 157.118 Required documents: Foreign tank vessels.

On and after June 1, 1981, the owner, operator, and master of a foreign tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that the vessel does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the vessel has on board—

(a) A *Crude Oil Washing Operations and Equipment Manual* that—

(1) Is approved under § 157.112; or

(2) Meets the manual standards in Resolution 15 of the MARPOL Protocol and is approved by the government of the vessel's flag state; and

(b) Evidence of acceptance of the tank vessel's COW system consisting of—

(1) A document from the government of the vessel's flag state that certifies the vessel's compliance with Resolution 15 of the MARPOL Protocol; or

(2) The following letters issued by the Coast Guard:

(i) The letter under § 157.106 accepting the COW system plans.

(ii) The letter of acceptance under § 157.142 after passing the inspections under § 157.140.

(iii) Any amending letters issued under § 157.158 approving changed characteristics.

§ 157.120 Waiver of required documents.

The Coast Guard waives the requirement for the letter under § 157.118(b), if a U.S. tank vessel engages in a voyage, or under § 157.118(b)(2)(ii), if a foreign tank vessel enters the navigable waters of the United States or transfers cargo at a port or place subject to the jurisdiction of the United States, for the purpose of being inspected under § 157.140.

Design, Equipment, and Installation

§ 157.122 Piping, valves, and fittings.

(a) Except as allowed in paragraph (o) of this section, the piping, valves, and fittings of each COW system must—

(1) Meet 46 CFR Part 56; and

(2) Be of steel or an equivalent material accepted by the Commandant.

(b) The piping of each COW system must be permanently installed.

(c) The piping of each COW system must be separate from other piping

systems on the vessel, except that the vessel's cargo piping may be a part of the COW piping if the cargo piping meets this section.

(d) The piping of each COW system must have overpressure relief valves or other means accepted by the Commandant to prevent overpressure in the piping of the COW system, unless the maximum allowable working pressure of that system is greater than the shut-off head of each pump that meets § 157.126(b).

(e) Each overpressure relief valve must discharge into the suction side of a pump that meets § 157.126(b).

(f) The piping and equipment of a COW system may not be in machinery spaces.

(g) Each hydrant valve for water washing in the piping of a COW system must—

(1) Have adequate strength to meet 46 CFR Part 56 for the working pressure for which the system is designed; and

(2) Be capable of being blanked off.

(h) Each sensing instrument must have an isolating valve at its connection to the piping of the COW system, unless the opening to that connection is 0.055 inches (1.4 millimeters) or smaller.

(i) If the washing system for cargo tanks has a steam heater used when water washing, it must be located outside the engine room and must be capable of being isolated from the piping of the COW system by—

(1) At least two shut-off valves in the inlet piping and at least two shut-off

valves in the outlet piping; or

(2) Blank flanges identifiable as being closed (e.g., spectacle flanges).

(j) If the COW system has a common piping system for oil washing and water washing, that piping system must be designed to drain the crude oil into a slop tank or a cargo tank.

(k) The piping of a COW system must be securely attached to the tank vessel's structure with pipe anchors.

(l) When COW machines are used as pipe anchors, there must be other means available for anchoring the piping if these machines are removed.

(m) There must be a means to allow movement of the COW system piping as a result of thermal expansion and flexing of the tank vessel.

(n) The supply piping attached to each deck mounted COW machine and each COW machine that is audio inspected under § 157.155(a)(4)(ii) must have a shut-off valve.

(o) On combination carriers, piping of the COW system installed between each COW machine located in a cargo tank hatch cover and an adjacent location just outside the hatch coaming, may be

flexible hose with flanged connections that is acceptable by the Commandant.

§ 157.124 COW tank washing machines.

(a) COW machines must be permanently mounted in each cargo tank.

(b) The COW machines in each tank must have sufficient nozzles with the proper diameter, working pressure, movement, and timing to allow the tank vessel to pass the inspections under § 157.140.

(c) Each COW machine and its supply piping must be supported to withstand vibration and pressure surges.

(d) There must be one portable drive unit available on board the vessel for every three COW machines on the vessel that use portable drive units.

(e) Except as allowed in paragraph (f) of this section, each cargo tank must have COW machines located to wash all horizontal and vertical areas of the tank by direct impingement, jet deflection, or splashing to allow the tank vessel to pass the inspections under § 157.140. The following areas in each tank must not be shielded from direct impingement by large primary structural members or any other structural member determined to be equivalent to a large primary structural member by the Commandant when reviewing the plans submitted under § 157.100 or § 157.102:

(1) 90 percent or more of the total horizontal area of the—

(i) Tank bottom;

(ii) Upper surfaces of large primary structural members; and

(iii) Upper surfaces of any other structural member determined to be equivalent to a large primary structural member by the Commandant.

(2) 85 percent or more of the total vertical area of the tank sides and swash bulkheads.

(f) Each cargo tank on a tank vessel having a COW system under § 157.10a(a)(2) with complicated internal structural members does not have to meet paragraph (e) of this section if the following areas of all the cargo tanks of that vessel are washed by direct impingement and the tank vessel can pass the inspections under § 157.140:

(1) 90 percent or more of the total horizontal area of all the—

(i) Tank bottoms;

(ii) Upper surfaces of large primary structural members; and

(iii) Upper surfaces of any other structural member determined to be equivalent to a large primary structural member by the Commandant.

(2) 85 percent or more of the total vertical area of all the tank sides and swash bulkheads.

(g) Each single nozzle COW machine that is mounted to the deck must have a means located outside of the cargo tank that indicates the arc and rotation of the movement of the COW machine during COW operations.

(h) Each multi-nozzle COW machine that is mounted to the deck must have a means located outside of the cargo tank that indicates the movement of the COW machine during COW operations.

(i) Each COW machine mounted to or close to the bottom of a tank without a means located outside of the cargo tank that indicates movement of the machine must not be programmable.

Notes.—1. In the calculations to meet § 157.124 (e) or (f), areas that are shielded from direct impingement by structural members other than large primary structural members or swash bulkheads can be calculated as areas being washed by direct impingement.

2. One or more types of COW machines could be used to meet § 157.124 (e) or (f).

§ 157.126 Pumps.

(a) Crude oil must be supplied to the COW machines by COW system pumps or cargo pumps.

(b) The pumps under paragraph (a) of this section must be designed and arranged with sufficient capacity to meet the following:

(1) A sufficient pressure and flow is supplied to allow the simultaneous operation of those COW machines designed to operate simultaneously.

(2) If an eductor is used for tank stripping, enough driving fluid is provided by the pumps to allow the eductor to meet § 157.128(a).

(c) There must be means on the tank vessel to maintain the pressure under paragraph (b) of this section when shore terminal back pressure is less than the pressure under paragraph (b) of this section.

(d) The COW system must have two or more pumps that are capable of supplying oil to the COW machines.

(e) The COW system must be designed to meet the requirements of this subpart with any one pump not operating.

§ 157.128 Stripping system.

(a) Each tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) must have a stripping system that is designed to remove crude oil from—

(1) Each cargo tank at 1.25 times the rate at which all the COW machines that are designed to simultaneously wash the bottom of the tank, are operating; and

(2) The bottom of each tank to allow the tank vessel to pass the inspection under § 157.140(a)(2).

(b) Each cargo tank must be designed to allow the level of crude oil in the tank to be determined by—

(1) Hand dipping at the aftermost portion of the tank and three other locations; or

(2) Any other means accepted by the Commandant.

(c) Each stripping system must have at least one of the following devices for stripping oil from each cargo tank:

(1) A positive displacement pump.

(2) A self-priming centrifugal pump.

(3) An eductor

(4) Any other device accepted by the Commandant.

(d) There must be a means in the stripping system piping between the device under paragraph (c) of this section and each cargo tank to isolate each tank from the device.

(e) If the stripping system has a positive displacement pump; or a self-priming centrifugal pump, the stripping system must have the following:

(1) In the stripping system piping—

(i) A pressure gauge at the inlet connection to the pump; and

(ii) A pressure gauge at the discharge connection to the pump.

(2) At least one of the following monitoring devices to indicate operation of the pump.

(i) Flow indicator.

(ii) Stroke counter.

(iii) Revolution counter.

(f) If the stripping system has an eductor, the stripping system must have—

(1) A pressure gauge at each driving fluid intake and at each discharge; and

(2) A pressure/vacuum gauge at each suction intake.

(g) The equipment required under paragraphs (e) and (f) of this section must have indicating devices in the cargo control room or another location that is accepted by the Commandant.

§ 157.130 Crude oil washing with more than one grade of crude oil.

If a tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) carries more than one grade of crude oil, the COW system must be capable of crude oil washing the cargo tanks with the grades of crude oil that the vessel carries.

§ 157.132 Cargo tanks: hydrocarbon vapor emissions.

Each tank vessel having a COW system under § 157.10a(a)(2) without sufficient segregated ballast tanks or dedicated clean ballast tanks to allow the vessel to depart from any port in the United States without ballasting cargo tanks must have—

(a) A means to discharge hydrocarbon vapors from each cargo tank that is

ballasted to a cargo tank that is discharging crude oil; or

(b) Any other means accepted by the Commandant that prevents hydrocarbon vapor emissions when the cargo tanks are ballasted in port.

§ 157.134 Cargo tank drainage.

Each cargo tank must be designed for longitudinal and transverse drainage of crude oil to allow the tank vessel to pass the inspections under § 157.140.

§ 157.136 Two-way voice communications.

Each tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) must have a means that enables two-way voice communications between the main deck watch required under § 157.168 and each cargo discharge control station.

§ 157.138 Crude Oil Washing Operations and Equipment Manual.

(a) Each *Crude Oil Washing Operations and Equipment Manual* must include the following information:

(1) The text of the Annex of

Resolution 15 of the MARPOL Protocol.

(2) A line drawing of the tank vessel's

COW system showing the locations of

pumps, piping, and COW machines.

(3) A description of the COW system.

(4) The procedure for the inspection of

the COW system during COW

operations.

(5) Design characteristic information

of the COW system that includes the

following:

(i) Pressure and flow of the crude oil

pumped to the COW machines.

(ii) Revolutions, number of cycles, and

length of cycles of each COW machine.

(iii) Pressure and flow of the stripping

suction device.

(iv) Number and location of COW

machines operating simultaneously in

each cargo tank.

(6) The design oxygen content of the

gas or mixture of gases that is supplied

by the inert gas system to each cargo

tank.

(7) The results of the inspections

recorded when passing the inspections

under § 157.140.

(8) Characteristics of the COW system

recorded during the COW operations

when passing the inspections under

§ 157.140 that includes the following:

(i) Pressure and flow of the crude oil

pumped to the COW machines.

(ii) Revolutions, number of cycles, and

length of cycles of each COW machine.

(iii) Pressure and flow of the stripping

device.

(iv) Number and location of COW

machines operating simultaneously in

each cargo tank.

(9) The oxygen content of the gas or mixture of gases that is supplied by the inert gas system to each cargo tank recorded during COW operations when passing the inspections under § 157.140.

(10) The volume of water used for water rinsing recorded during COW operations when passing the inspections under § 157.140.

(11) The trim conditions of the tank vessel recorded during COW operations when passing the inspections under § 157.140.

(12) The procedure for stripping cargo tanks of crude oil.

(13) The procedure for draining and stripping the pumps and piping of the COW system, cargo system, and stripping system after each crude oil cargo discharge.

(14) The procedure for crude oil washing cargo tanks that includes the following:

(i) The tanks to be crude oil washed to meet § 157.160.

(ii) The order in which those tanks are washed.

(iii) The single-stage or multi-stage method of washing each tank.

(iv) The number of COW machines that operate simultaneously in each tank.

(v) The duration of the crude oil wash and water rinse.

(vi) The volume of water to be used for water rinse in each tank.

(15) The procedures and equipment needed to prevent leakage of crude oil from the COW system.

(16) The procedures and equipment needed if leakage of crude oil from the COW system occurs.

(17) The procedures for testing and inspecting the COW system for leakage of crude oil before operating the system.

(18) The procedures and equipment needed to prevent leakage of crude oil from the steam heater under § 157.122(i) to the engine room.

(19) The number of crew members needed to conduct the following:

(i) The discharge of cargo.

(ii) The crude oil washing of cargo tanks.

(iii) The simultaneous operations in paragraphs (a)(19) (i) and (ii) of this section.

(20) A description of the duties of each crew member under paragraph (a)(19) of this section.

(21) The procedures for ballasting and deballasting cargo tanks.

(22) The step by step procedure for the inspection of the COW system by vessel personnel before COW operations begin that includes the procedure for inspecting and calibrating each instrument. (Operational Checklist)

(23) The intervals for on board inspection and maintenance of the COW equipment. Informational references to technical manuals supplied by the manufacturers may be included in this part of the manual.

(24) A list of crude oils that are not to be used in COW operations.

(25) The procedure to meet

§ 157.155(a)(4).

(b) In addition to meeting paragraph (a) of this section, each manual under paragraph (a) of this section on a tank vessel having a COW system under § 157.10a(a)(2) must include the following:

(1) The procedure to meet § 157.168.

(2) The procedures to meet § 157.155(B).

Inspections

§ 157.140 Tank vessel inspections.

(a) Before issuing a letter under § 157.142, the Coast Guard makes an initial inspection of each U.S. tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) and each foreign tank vessel whose owner or operator submitted the plans under § 157.102 to determine whether or not the cargo tanks that carry crude oil when entering a port meet the following:

(1) After each tank is crude oil washed but not water rinsed, except the bottom of the tank may be flushed with water and stripped, each tank is essentially free of oil clingage or deposits of oil, or both to a degree acceptable to the Coast Guard inspector.

(2) After the tanks that are to be used as ballast tanks when leaving the port are crude oil washed and stripped but not water rinsed or bottom flushed, they are filled with water and the total volume of crude oil floating on top of the water in these tanks is 0.085 percent or less of the total volume of these tanks.

(b) Except on a tank vessel under § 157.10(e), if the initial inspection under paragraph (a) of this section has been passed and the vessel arrives at the first cargo loading port after completing a ballast voyage, the Coast Guard monitors the discharge of effluent from those tanks that have been crude oil washed, water rinsed, stripped, and filled with ballast water to determine whether or not the oil content of the effluent is 15 ppm or less.

§ 157.142 Letter of acceptance: Inspections.

If the inspections under § 157.140 are passed, the Coast Guard issues to the tank vessel a letter that states that the vessel complies with this subpart.

§ 157.144 Tank vessels of the same class: inspections.

(a) If more than one tank vessel is constructed from the same plans, the owner or operator may submit a written request to the Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593, for only one of those tank vessels to be inspected under § 157.140.

(b) Only one tank vessel of the class is inspected under § 157.140, if the Commandant accepts the request submitted under paragraph (a) of this section.

§ 157.146 Similar tank design: inspections U.S. tank vessels:

(a) If a U.S. tank vessel has tanks similar in dimensions and internal structure, the owner or operator may submit a written request to the Officer in Charge, Marine Inspection, of the zone in which the COW system is inspected, for only one of those tanks to be inspected under § 157.140(a)(1).

(b) Only one tank of a group of tanks similar in dimensions and internal structure is inspected under § 157.140(a)(1), if the Officer in Charge, Marine Inspection, accepts the request submitted under paragraph (a) of this section.

§ 157.147 Similar tank design: inspections on foreign tank vessels.

(a) If a foreign tank vessel has tanks similar in dimensions and internal structure, the owner or operator may submit a written request to the Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593, for only one of those tanks to be inspected under § 157.140(a)(1).

(b) Only one tank of a group of tanks similar in dimensions and internal structure is inspected under § 157.140(a)(1), if the Commandant accepts the request submitted under paragraph (a) of this section.

§ 157.148 COW system: Evidence for inspections.

(a) Before the inspections under § 157.140 are conducted by the Coast Guard, the owner or operator of a foreign tank vessel that is to be inspected must submit to the Coast Guard inspector evidence that the COW system has been installed in accordance with the plans accepted under § 157.106.

(b) Before the inspections under § 157.140 are conducted by the Coast Guard, the owner or operator of a tank vessel that is to be inspected must submit to the Coast Guard inspector evidence that the COW piping system has passed a test of 1½ times the design working pressure.

§ 157.150 Crude Oil Washing Operations and Equipment Manual: Recording information after inspections.

After passing the inspections under § 157.140, the owner, operator, and master shall ensure that the following are recorded in the *Crude Oil Washing Operations and Equipment Manual* approved under § 157.112:

(a) The results of the inspections under § 157.140.

(b) The following characteristics used to pass the inspections under § 157.140:

(1) Pressure and flow of the crude oil pumped to the COW machines.

(2) Revolutions, number of cycles, and length of cycles of each COW machine.

(3) Pressure and flow of the stripping suction device.

(4) Number and location of COW machines operating simultaneously in each cargo tank.

(5) Volume of water used for water rinsing.

(6) Trim conditions of the tank vessel.

Personnel

§ 157.152 Person in charge of COW operations.

The owner, operator, and master of a tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that the person designated as the person in charge of COW operations—

(a) Knows the contents in the *Crude Oil Washing Operations and Equipment Manual* approved by the Coast Guard under § 157.112 or by the government of the vessel's flag state;

(b) On at least two occasions, has participated in crude oil washing of cargo tanks, one of those occasions occurring on—

(1) The tank vessel on which the person assumes duties as the person in charge of COW operations; or

(2) A tank vessel that is similar in tank design and which has COW equipment similar to that used on the tank vessel on which the person assumes duties as the person in charge of COW operations; and

(c) Has one year or more of tank vessel duty that includes oil cargo discharge operations and—

(1) Crude oil washing of cargo tanks; or

(2) Has completed a training program in crude oil washing operations that is approved by the Coast Guard or the government of the vessel's flag state.

Note.—Standards of a Coast Guard approved training program are to be developed.

§ 157.154 Assistant personnel.

The owner, operator, and master of a tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall

ensure that each member of the crew that has a designated responsibility during COW operations—

- (a) Has six months or more of tank vessel duty that includes oil cargo discharge operations;
- (b) Has been instructed in the COW operation of the tank vessel; and
- (c) Is familiar with the contents of the *Crude Oil Washing Operations and Equipment Manual* approved by the Coast Guard under § 157.112 or by the government of the vessel's flag state.

COW Operations

§ 157.155 COW operations: General.

(a) The master of a tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that—

- (1) Before crude oil washing a cargo tank, the level in each tank with crude oil that is used as a source for crude oil washing is lowered at least one meter;
- (2) A tank used as a slop tank is not used as a source for crude oil washing until—

- (i) Its contents are discharged ashore or to another tank; and
- (ii) The tank contains only crude oil;
- (3) During COW operations—
- (i) The valves under § 157.122(i)(1) are shut; or
- (ii) The blanks under § 157.122(i)(2) are installed;
- (4) The rotation of each COW machine mounted to or close to the bottom of each cargo tank is verified by—

- (i) A visual inspection of a means located outside of the cargo tank that indicates movement of the machine during COW operations;
- (ii) An audio inspection during COW operations; or
- (iii) An inspection on a ballast voyage, with water as the fluid flowing through the machine;

- (5) During the audio inspection under paragraph (a)(4)(ii) of this section, the COW machine being inspected is the only one operating in that tank;
- (6) Before the inspection under paragraph (a)(4)(iii) of this section, the tank that has the COW machine being inspected in it, is gas freed;
- (7) Each COW machine that is inspected under paragraph (a)(4)(iii) of this section is inspected at least once after every sixth COW operation of that machine, but no less than once every 12 months;

- (8) After each stripping operation is completed, each tank—
- (i) Is sounded by a means under § 157.128(b); and
- (ii) Contains no oil except a minimal quantity near the stripping suction;
- (9) Before the tank vessel begins each ballast voyage, each cargo tank and

each cargo main, stripping, and COW piping is stripped of crude oil and the strippings are conveyed ashore through the piping under § 157.11(d)(3) or § 157.11(e)(4);

(10) Before water washing the cargo tanks, the piping of the COW system is drained of crude oil;

(11) When the cargo tanks are not being water washed, the hydrant valves under § 157.122(g) are blanked off;

(12) If COW machines that are used as anchors for the piping of the COW system are removed, the means available under § 157.122(1) for anchoring the piping are installed;

(13) The fire main is not connected to the COW system; and

(14) On combination carriers, if flexible hoses under § 157.122(o) are used, those hoses are protectively stowed when not installed in the COW piping system.

(b) In addition to meeting paragraph (a) of this section, the master of a tank vessel having a COW system under § 157.10a(a)(2) shall ensure that—

(1) Before ballasting cargo tanks upon leaving a port, each cargo pump, manifold, and piping that is used for ballasting the cargo tanks is drained of all crude oil; and

(2) Before ballasting or deballasting cargo tanks, except when ballasting cargo tanks to leave a port, the cargo piping that is used for ballasting or deballasting the cargo tanks is water washed.

§ 157.156 COW operations: Meeting manual requirements.

Except as allowed in § 157.158, the master of a foreign tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) that has a *Crude Oil Washing Operations and Equipment Manual* approved under § 157.112 and is operating in the navigable waters of the United States or transferring cargo on a port or place subject to the jurisdiction of the United States and the master of a U.S. tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that during each COW operation—

(a) The procedures listed in the *Crude Oil Washing Operations and Equipment Manual* are followed; and

(b) The characteristics recorded in the *Crude Oil Washing Operations and Equipment Manual* under § 157.150(b) are met.

§ 157.158 COW operations: Changed characteristics.

The COW system may be operated with characteristics that do not meet those recorded under § 157.150(b) only if—

(a) The tank vessel passes the inspections under § 157.140 using the changed characteristics;

(b) The changed characteristics used to pass the inspections under § 157.140 are recorded in the *Crude Oil Washing Operations and Equipment Manual* approved under § 157.112; and

(c) The Coast Guard issues to the tank vessel an amending letter stating that the tank vessel complies with this subpart with these characteristics.

§ 157.160 Tanks: Ballasting and crude oil washing.

(a) The owner, operator, and master of a tank vessel under § 157.10(e) shall ensure that—

(1) Ballast water is carried only in a cargo tank as allowed under § 157.35;

(2) For sludge control, at least 25 percent of the cargo tanks are crude oil washed before each ballast voyage and that each cargo tank is crude oil washed at least once every fourth time crude oil is discharged from the tank, but no tank need be crude oil washed more than once during each 120 day period;

(3) Ballast water in a cargo tank that is crude oil washed but not water rinsed during or after the most recent discharge of crude oil from that tank is discharged in accordance with § 157.37(a); and

(4) Cargo tanks are not crude oil washed during a ballast voyage.

(b) The owner, operator, and master of a tank vessel having a COW system under § 157.10a(a)(2) shall ensure that—

(1) Ballast water is carried only in a cargo tank that is crude oil washed during or after the most recent discharge of crude oil from that tank;

(2) Before each ballast voyage a sufficient number of cargo tanks have been crude oil washed during or after the most recent discharge of crude oil from those tanks to allow ballast water to be carried in cargo tanks—

(i) With a total capacity to meet the draft and trim requirements in § 157.10a(d); and

(ii) For the vessel's trading pattern and expected weather conditions;

(3) For sludge control, at least 25 percent of the cargo tanks not used for carrying ballast water under paragraph (b)(2)(i) of this section are crude oil washed before each ballast voyage, and that each cargo tank is crude oil washed at least once every fourth time crude oil is discharged from the tank, but no tank need be crude oil washed more than once during each 120 day period;

(4) Cargo tanks are not crude oil washed during a ballast voyage; and

(5) Ballast water in a cargo tank that is crude oil washed but not water rinsed during or after the most recent discharge

of crude oil from that tank is discharged in accordance with § 157.37(a).

§ 157.162 Crude oil washing during a voyage.

The master of a tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that each cargo tank that is crude oil washed during a voyage other than a ballast voyage—

(a) Remains empty so that the tank may be inspected upon arrival at the next discharge port; and

(b) If it is to be used as a ballast tank when leaving the discharge port, is ballasted before the vessel departs from that discharge port so that the tank may be inspected under § 157.140(a)(2).

§ 157.164 Use of inert gas system.

(a) The master of a tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure the following:

(1) Before each cargo tank is crude oil washed, the oxygen content in the tank is measured at each of the following locations in the tank:

- (i) One meter from the deck.
- (ii) In the center of the ullage space.
- (2) Before each cargo tank with partial bulkheads is crude oil washed, each area of that tank formed by each partial bulkhead is measured in accordance with paragraph (a) of this section.

(3) Before each cargo tank is crude oil washed, the oxygen content in that tank is 8 percent or less by volume at the locations under paragraph (a)(1) of this section.

(4) During COW operations, the following are maintained in each cargo tank being crude oil washed:

- (i) A gas or a mixture of gases with an oxygen content of 8 percent or less by volume.
- (ii) A positive atmospheric pressure.
- (5) During COW operations, a crew member monitors the instrumentation under 46 CFR 32.53–60(a)(1), except if that instrumentation has an alarm that sounds in the cargo control room when the oxygen content exceeds 8 percent by volume.

(b) Crude oil washing of the cargo tanks must be terminated when paragraph (a)(4) of this section is not met and crude oil washing of that tank may not be resumed until the requirements of paragraph (a)(4) of this section are met.

§ 157.166 Hydrocarbon vapor emissions.

If a tank vessel having a COW system under § 157.10a(a)(2) transfers cargo at a port in the United States that is in an area designated in 40 CFR Part 81 as an area that does not meet the national

primary ambient air quality ozone standard under 40 CFR Part 50, issued under the Clean Air Act, as amended (42 U.S.C. 1857), the master of that vessel shall ensure that when cargo tanks are ballasted in that port the hydrocarbon vapors in those tanks are contained by a means under § 157.132.

Note.—Questions relating to whether or not a particular port is located in an area designated in 40 CFR Part 81 as an area that does not meet the national primary ambient air quality ozone standard under 40 CFR Part 50 can be answered by contacting the Plans Analysis Section of the Environmental Protection Agency at (919) 541-5365.

§ 157.168 Crew member: Main deck watch.

During COW operations, the master shall ensure that at least one member of the crew with a designated responsibility for monitoring COW operations is on the main deck at all times.

§ 157.170 COW equipment: Removal.

(a) Whenever a deck mounted COW machine is removed from the tank, the master shall ensure that—

- (1) The supply piping to that machine is blanked off; and
- (2) The tank opening is sealed by a secured plate made of steel or an equivalent material accepted by the Commandant.

(b) If the equipment for the COW system is removed from a cargo tank for the carriage of cargoes other than crude oil and then reinstalled, the master shall ensure that, before COW operations are conducted, the system has no crude oil leakage.

§ 157.172 Limitations on grades of crude oil carried.

If a tank vessel having a COW system under § 157.10a(a)(2) does not have segregated ballast tanks or dedicated clean ballast tanks that meet § 157.10a(d), the owner, operator, and master shall ensure that the vessel carries only the grades of crude oil that can be used for crude oil washing.

Subpart E—Dedicated Clean Ballast Tanks on Tank Vessels

Authority.—Sec. 5, Port and Tanker Safety Act of 1978, 92 Stat. 1480 (46 U.S.C. 391a); 49 CFR 1.46(n)(4).

General

§ 157.200 Plans for U.S. tank vessels: Submission.

(a) Before June 1, 1981 the owner or operator of each U.S. tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) must submit to the Coast Guard plans that include—

(1) The dedicated clean ballast tank arrangement; and

(2) A drawing or diagram of the pumping and piping system for the dedicated clean ballast tanks.

(b) Plans under paragraph (a) of this section must be submitted to the Officer in Charge, Marine Inspection, of the zone in which the dedicated clean ballast tank system is installed or one of the following Coast Guard field technical offices:

(1) Commander, 3rd Coast Guard District (mmt), Governors Island, New York, N.Y. 10004, if the dedicated clean ballast tank system is installed in the area under the 1st or 3rd Coast Guard Districts.

(2) Commander, 5th Coast Guard District (mmt), 431 Crawford Street, Portsmouth, Virginia 23705, if the dedicated clean ballast tank system is installed in the area under the 5th or 7th Coast Guard Districts.

(3) Commander, 8th Coast Guard District (mmt), 500 Camp Street, Hale Boggs Federal Building, New Orleans, Louisiana 70130, if the dedicated clean ballast tank system is installed in the area under the 2nd or 8th Coast Guard Districts.

(4) Commander, 9th Coast Guard District (mmt), 601 Rockwell Ave., Cleveland, Ohio 44114, if the dedicated clean ballast tank system is installed in the area under the 9th Coast Guard District.

(5) Commander, 12th Coast Guard District (mmt), 630 Sansome Street, San Francisco, California 94126, if the dedicated clean ballast tank system is installed in the area under the 11th, 12th, 13th, 14th, or 17th Coast Guard Districts.

§ 157.202 Plans and documents for foreign tank vessels: Submission.

If the owner or operator of a foreign tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) desires the letter from the Coast Guard under § 157.204 accepting the plans submitted under this paragraph, the owner or operator must submit to the Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593—

(a) Plans that include—

(1) The dedicated clean ballast tank arrangement; and

(2) A drawing or diagram of the pumping and piping system for the dedicated clean ballast tanks; and

(b) Documentation from the authority that assigned the load line to the tank vessel that states that the location of the dedicated clean ballast tanks is acceptable to that authority.

§ 157.204 Letter of acceptance.

The Coast Guard informs the submitter by letter that the plans submitted under § 157.200 or the plans and documents submitted under § 157.202 are accepted, if the plans submitted under § 157.200 or the plans and documents submitted under § 157.202 show that the dedicated clean ballast tank system meets this subpart.

§ 157.206 Dedicated Clean Ballast Tanks Operations Manual for U.S. tank vessels: Submission.

Before June 1, 1981, the owner or operator of a U.S. tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) must submit two copies of a *Dedicated Clean Ballast Tanks Operations Manual* that meets § 157.224 to the Officer in Charge, Marine Inspection, of the zone in which the dedicated clean ballast tank system is installed or to the appropriate Coast Guard field technical office listed in § 157.200(b).

§ 157.208 Dedicated Clean Ballast Tanks Operations Manual for foreign tank vessels: Submission.

If the owner or operator of a foreign tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) desires a Coast Guard approved *Dedicated Clean Ballast Tanks Operations Manual* under § 157.210, the owner or operator must submit two copies of a manual that meets § 157.224 to the Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593.

§ 157.210 Approved Dedicated Clean Ballast Tanks Operations Manual.

If the manuals submitted under § 157.206 or § 157.208 meet § 157.224, the Coast Guard approves the manuals and forwards one of the approved manuals to the submitter.

§ 157.212 Dedicated Clean Ballast Tanks Operations Manual: Not approved.

If the *Dedicated Clean Ballast Tanks Operations Manual* submitted under § 157.206 or § 157.208 is not approved, the Coast Guard forwards a letter to the submitter with the reasons why the manual was not approved.

§ 157.214 Required documents: U.S. tank vessels.

On and after June 1, 1981, the owner, operator, and master of a U.S. tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that the vessel does not engage in a voyage unless the vessel has on board—

(a) The letter under § 157.204 accepting the dedicated clean ballast tank system plans;

(b) The Coast Guard approved *Dedicated Clean Ballast Tanks Operations Manual* under § 157.210; and

(c) Any amending letters issued under § 157.218 approving alterations.

§ 157.216 Required documents: Foreign tank vessels.

On and after June 1, 1981, the owner, operator, and master of a foreign tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that the vessel does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the vessel has on board—

(a) A *Dedicated Clean Ballast Tanks Operations Manual* that—

(1) Is approved under § 157.210; or

(2) That meets the manual standards in Resolution 14 of the MARPOL Protocol and is approved by the government of the vessel's flag state; and

(b) Evidence of acceptance of the tank vessel's dedicated clean ballast tank system consisting of—

(1) A document from the government of the vessel's flag state that certifies the vessel's compliance with Resolution 14 of the MARPOL Protocol; or

(2) The letter under § 157.204 accepting the dedicated clean ballast tank system plans and any amending letters issued under § 157.218 approving alterations.

§ 157.218 Dedicated clean ballast tanks: Alterations.

The dedicated clean ballast tanks or equipment on a tank vessel that has a letter issued under § 157.204 may not be altered so that they no longer meet the plans accepted under that section unless—

(a) The owner or operator of that vessel submits plans that show the alterations to the Coast Guard official to which the plans were submitted under § 157.200 or § 157.202;

(b) The owner or operator of that vessel submits changes to the manual under § 157.224 that show and describe the alterations to the Coast Guard official to which the manuals were submitted under § 157.206 or § 157.208; and

(c) The Coast Guard issues to the tank vessel an amending letter stating that the vessel, as altered, complies with this subpart.

Design and Equipment**§ 157.220 Dedicated clean ballast tanks: Standards.**

(a) Cargo tanks that are designated as dedicated clean ballast tanks must allow the tank vessel to meet the draft and trim requirements under § 157.10a(d) when filled with ballast water.

(b) Each tank under paragraph (a) of this section must be—

- (1) A wing tank; or
- (2) Any other tank that is accepted by the Commandant.

§ 157.222 Pump and piping arrangements.

(a) Dedicated clean ballast tanks must be connected to the least practicable—

- (1) Number of pumps; and
 - (2) Amount of piping.
- (b) Each piping system that is arranged to convey clean ballast and cargo must be designed to be flushed to the slop tank with water.

(c) The piping system of each dedicated clean ballast tank must be arranged so that oily water does not enter any dedicated clean ballast tank when the piping system is flushed.

(d) The piping system of each dedicated clean ballast tank must have at least two valves that isolate that tank from each cargo tank.

(e) The piping system of the dedicated clean ballast tanks must have a sample point that is located in a vertical section of discharge piping.

Note.—An example of a sample point is shown in 46 CFR Figure 162.050-17(e).

§ 157.224 Dedicated Clean Ballast Tanks Operations Manual.

Each *Dedicated Clean Ballast Tanks Operations Manual* must include the following information:

(a) The text of the Annex of Resolution 14 of the MARPOL Protocol.

(b) A description of the dedicated clean ballast tanks system.

(c) A procedure for dedicated clean ballast tanks operations.

Note.—Appendix D is an example of such a procedure.

Dedicated Clean Ballast Tanks Operations**§ 157.225 Dedicated clean ballast tanks operations: General.**

The master of a tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that—

(a) Before clean ballast in any dedicated clean ballast tank is discharged or transferred, the pump and piping system for conveying the clean ballast are flushed with water;

(b) Before any dedicated clean ballast tank is ballasted, the pump and piping system for conveying the ballast are flushed with water;

(c) Before the pump and piping system of the dedicated clean ballast tanks are used for cargo transfer—

(1) If water in the dedicated clean ballast tanks is used for flushing the pump and piping system, the volume of water for flushing is equal to at least 10 times the volume of the piping to be flushed;

(2) The piping system is drained of fluid; and

(3) The valves under § 157.222(d) are closed;

(d) Flushing water is pumped from a sea chest or a dedicated clean ballast tank through the pump and piping system of the dedicated clean ballast tanks and then to a slop tank;

(e) Clean ballast from each dedicated clean ballast tank is discharged in accordance with § 157.43;

(f) When the pump and piping system are being flushed—

(1) The oil content of the flushing water in the piping system is monitored; and

(2) The pump and piping system are flushed until the oil content of the flushing water in the piping stabilizes; and

(g) If any pump or piping system that is flushed to meet paragraph (f) of this section is used to convey cargo during an emergency, that pump or piping system is flushed again to meet paragraph (f) of this section before being used to convey clean ballast.

§ 157.226 Dedicated Clean Ballast Tanks Operations Manual: Procedures to be followed.

The master of a foreign tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) that has a *Dedicated Clean Ballast Tanks Operations Manual* approved under § 157.210 and is operating in the navigable waters of the United States or transferring cargo at a port or place subject to the jurisdiction of the United States and the master of a U.S. tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that the procedures listed in the *Dedicated Clean Ballast Tanks Operations Manual* are followed.

(a) *Method of determining a value for J.*

(1) For tank vessels for 20,000 DWT, $J = 0.45$.

(2) For tank vessels of 200,000 DWT or more—

(i) $J = 0.30$; or

(ii) J is the greater of 0.20, or

$$0.30 - \left[a - \frac{(O_c + O_s)}{40A} \right],$$

where:

$a = 0.25$ for tank vessels of 200,000 DWT.

$a = 0.40$ for tank vessels of 300,000 DWT.

$a = 0.50$ for tank vessels of 420,000 DWT.

For values of DWT between 200,000 and 300,000 DWT, 300,000 and 420,000 DWT, and greater than 420,000 DWT, the value of "a" is determined by linear interpolation.

(b) The master of each U.S. tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that the

valves under § 157.222(d) remain closed during a voyage.

(b) The master of each foreign tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that the valves under § 157.222(d) remain closed when the vessel is on a voyage in the navigable waters of the United States.

Appendix C—Procedure for Determining Distribution of Segregated Ballast Tanks To Provide Protection Against Oil Outflow in the Event of Grounding, Ramming, or Collision

1. *Source.* The procedure for determining the distribution of segregated ballast tanks contained in this appendix conforms to Regulation 13E of the MARPOL Protocol.

2. *Procedure.* Protective location of segregated ballast tanks, voids, and other spaces that do not carry cargo which are within the cargo tank length is determined from the following:

$$SPA_c + SPA_s = J[L_c(B + 2D)]$$

Where—

PA_c = the side shell area in square meters based on projected molded dimensions for each segregated ballast tank, void, or other space that does not carry cargo and which complies with paragraph 2(b) of this appendix;

PA_s = the bottom shell area in square meters based on projected molded dimensions for each segregated ballast tank, void, or other space that does not carry cargo and which complies with paragraph 2(b) of this appendix;

L_c = the length in meters between the forward and after extremities of the cargo tanks;

B = the maximum breadth of the ship in meters measured amidship to the molded line of the frame; and

D = the molded depth in meters measured vertically from the top of the keel plate to the top of the freeboard deck beam at the side amidships. In tank vessels having rounded gunwales, the molded depth is measured from the top of the keel plate to the point of intersection of the molded lines of the deck and side shell plating, the lines being extended as though the gunwale were of angular design.

(a) *Method of determining a value for J.*

(1) For tank vessels for 20,000 DWT, $J = 0.45$.

(2) For tank vessels of 200,000 DWT or more—

(i) $J = 0.30$; or

(ii) J is the greater of 0.20, or

$$0.30 - \left[a - \frac{(O_c + O_s)}{40A} \right],$$

where:

$a = 0.25$ for tank vessels of 200,000 DWT.

$a = 0.40$ for tank vessels of 300,000 DWT.

$a = 0.50$ for tank vessels of 420,000 DWT.

For values of DWT between 200,000 and 300,000 DWT, 300,000 and 420,000 DWT, and greater than 420,000 DWT, the value of "a" is determined by linear interpolation.

O_c = as calculated in Appendix A of this part.

O_s = as calculated in Appendix A of this part.

O_A = the allowable oil outflow meeting § 157.19(b)(1) of this part.

(3) For values of DWT between 20,000 and 200,000 DWT, the value of "J" is determined by linear interpolation between 0.45 and 0.30 respectively.

(b) PA_c and PA_s : *Criteria for determining the segregated ballast tanks, voids, and other spaces that do not carry cargo.*

The following criteria are to be met for a segregated ballast tank, void, or space that does not carry cargo, to be used in determining PA_c and PA_s :

(1) The minimum width of each wing tank or space, either of which extends for the full depth of the vessel's side or from the main deck to the top of the double bottom is 2 meters or more. The width is measured inboard from the vessel's side shell plating at right angles to the vessel's center line. If a wing tank or space has a width anywhere within it that is less than 2 meters, that wing tank or space is not used when calculating PA_c .

(2) The minimum vertical depth of each double bottom tank or space is $B/15$ or 2 meters, whichever is smaller. If a double bottom tank or space has a depth less than $B/15$ or 2 meters, whichever is smaller, anywhere within it, the double bottom or space is not to be used when calculating PA_s .

(3) The minimum width of a wing tank or space is not measured in the way of—

(i) the turn of the bilge area; or

(ii) a rounded gunwale area.

(4) The minimum depth of a double bottom tank or space is not measured in the way of the turn of the bilge area.

Appendix D—Example of a Procedure for Dedicated Clean Ballast Tanks Operations

1. *Source.* The example procedure for dedicated clean ballast tanks operation contained in this appendix conforms to the Annex of Resolution 14 of the MARPOL Protocol.

2. *Example Procedure.* Dedicated clean ballast tanks operational procedure:

(a) Before arrival at the loading port:

(1) Transfer all remaining slop to a cargo tank.

(2) Ensure that the pumping and piping designated for clean ballast operation have been properly cleaned to accommodate simultaneous discharge of clean ballast while loading.

(3) Ensure that all valves to the slop tank and the cargo tanks are closed.

(4) Perform visual inspection of all dedicated clean ballast tanks and their contents, if any, for signs of contamination.

(5) Discharge a sufficient amount of clean ballast water to ensure that remaining ballast water and cargo to be loaded will not exceed the permissible deadweight or draft. Leave a sufficient amount of water for flushing the piping, and as a minimum, a quantity equal to 10 times the volume of the affected piping.

(6) Ensure that all valves to the dedicated clean ballast tanks are closed.

(7) If no further ballast discharge is anticipated, drain the clean ballast piping.

(b) In the loading port:

(1) Perform normal loading operations of cargo tanks.

(2) Ensure sufficient slop tank capacity is available for subsequent reception of cargo pump and piping flushings.

(3) When applicable, discharge remaining clean ballast before entire piping system is used for loading. Leave the required minimum quantity of flushing water in ballast tanks.

(4) Ensure that all valves to the dedicated clean ballast tanks are closed.

(5) Ensure that all valves to the cargo tank are closed upon completion of loading.

(c) After departure from the loading port:

(1) Flush appropriate pumping and piping with sufficient water from dedicated clean ballast tanks into a slop tank.

(2) Ensure that valves to the slop tank are closed before pumping the remaining clean water overboard and monitoring oil content of the water.

(3) Ensure that all valves in the dedicated clean ballast tanks are closed.

(d) Before arrival at the unloading port:

(1) Ensure that all valves to the slop tank and cargo tanks are closed.

(2) Recheck that the pumping and piping designated for clean ballast operation have been properly cleaned.

(3) Ballast through clean cargo pumps and piping, considering the port's draft requirements.

(4) Ensure that all valves in the dedicated clean ballast tanks are closed.

(e) In the unloading port:

(1) Allocate pumping and piping intended for clean ballast operation.

(2) Perform normal unloading operations.

(3) As soon as draft conditions permit, complete ballasting to departure conditions.

(4) Ensure that all valves to the dedicated clean ballast tanks are closed.

(5) Complete unloading.

(f) After departure from the unloading port:

(1) Flush pumps and piping servicing the dedicated clean ballast tanks into the slop tank.

(2) Top up dedicated clean ballast tanks.

(3) Process the slop tank content in accordance with load on top (LOT) procedures.

(92 Stat. 1480 (Sec. 5, Port and Tanker Safety Act of 1978, 46 U.S.C. 391a); 49 CFR 1.46(n)(4))

Dated: November 13, 1979.

R. H. Scarborough,
Vice Admiral, U.S. Coast Guard, Acting
Commandant.

[FR Doc. 79-35624 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 164

[CGD 77-063]

Tank Vessels of 10,000 Gross Tons or More; Improved Steering Gear Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These regulations adopt improved steering gear requirements for

tank vessels of 10,000 gross tons or more. The requirements are essentially the same as the steering gear requirements adopted by the 1978 International Conference on Tanker Safety and Pollution Prevention. The ultimate benefits and impact of the regulations will be a reduction in the probability of collision and grounding of tankers caused by steering failure and a resulting reduction in the risk of property damage, personal injury and death, and pollution of the oceans and U.S. waters. The regulations apply both to U.S. tank vessels and to foreign tank vessels that call at U.S. ports.

EFFECTIVE DATE: These regulations become effective on January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Gordon Sims, c/o Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593 (202-426-2206).

SUPPLEMENTARY INFORMATION: On February 12, 1979, the Coast Guard published a notice of proposed rule making in the Federal Register for these regulations (44 FR 9035-9038). Interested persons were invited to submit comments on the proposals and thirteen comments were received. Comments were also received at public hearings held in Washington, D.C., and San Francisco, California.

The comment period on the proposed regulations closed on April 16, 1979, and publication of final rules was planned on June 1, 1979. However, a determination was made thereafter to delay publication, and notice of the delay was published in the Federal Register of June 7, 1979 (44 FR 32713-32715).

These regulations incorporate the steering gear requirements developed by the 1978 International Conference on Tanker Safety and Pollution Prevention (TSPP). The TSPP Conference was held under the auspices of the Intergovernmental Maritime Consultative Organization (IMCO) and the United States was a participant. These regulations, also adopt the minimum steering gear requirements set out in section 5 of the Port and Tanker Safety Act of 1978 (PTSA). The steering gear requirements in PTSA are essentially the same as corresponding TSPP requirements.

The notice of proposed rule making contains a detailed explanation and discussion of the regulations and their background. Reference to this discussion is helpful in understanding the regulations and their applicability. Because of reprinting costs, however, the material is not reproduced here.

Drafting Information

The principal persons involved in drafting these regulations are: Gordon Sims, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

Regulatory Analysis

A Regulatory Analysis has been prepared for these regulations in accordance with the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11040-11045). The analysis was conducted in conjunction with the other TSPP regulatory projects published in this issue of the Federal Register.

The analysis discusses the economic impact of the regulations as follows:

The cost of the improved steering requirements is a one-time cost that, for the most part, is independent of vessel size. The cost of the second steering gear control system and required alarm on existing vessels is estimated to be approximately \$30,000 per vessel. It is estimated that approximately 40 percent of the foreign vessels entering U.S. ports and 30 percent of U.S. flag vessels will require another steering gear control system. Further, it is estimated that 90 percent of the foreign flag vessels and 70 percent of the U.S. flag vessels will need the additional alarm and/or circuit arrangement modifications

Most of the economic impact will be on existing tank vessels since, as explained in the analysis, few new tank vessels are expected to be built within the next five years. The number of existing tank vessels that will have to comply with the steering gear regulations is approximately 1,650. The total capital cost for existing vessels is expected to be approximately \$20,000,000.

The ultimate benefit and impact of the regulations will be a reduction in the probability of collision and grounding of tankers caused by steering failure and a resulting reduction in risk of property damage, personal injury and death, and pollution of the oceans and U.S. waters.

Discussion of Comments

a. General Comments

Four commenters recommended that the regulations be made applicable to all U.S. and foreign vessels that call at U.S. ports, including freighters and passenger vessels as well as tankers. One commenter also recommended that the regulations be made applicable to smaller vessels and that further efforts be undertaken to adopt additional standards for tank vessels including more rigorous standards on steering failure detection and steering recovery. Although these recommendations are important, they are beyond the

objectives of this rule making. As discussed above, the objective of these regulations is to implement the TSPP requirements and steering gear requirements mandated by the PTSA. However, the Coast Guard is considering in a separate docket (CGD 79-038) additional steering gear standards for all commercial vessels, including vessels of smaller tonnages, that call at U.S. ports. Also, as explained in more detail below, ongoing efforts for further improvement of international steering gear standards, including improved standards on steering failure detection and steering recovery, continue in meetings held under the auspices of IMCO.

Four commenters stated that the regulations do not require a sufficient degree of duplication in steering gear components, and two commenters recommended adding a requirement to have duplicate differential units. A requirement for further duplication of steering gear components is currently under consideration by IMCO. Specifically, consideration is being given to requiring a duplicate arrangement of steering gear power units, piping, valves, and rams that can provide for rapid recovery of rudder control following a failure of the steering gear components being used. Also the Coast Guard has recently proposed a requirement at IMCO for duplicate differential units on new tank vessels and a requirement that vessels be designed to recover rudder control within 45 seconds after failure of any steering gear component. The Coast Guard does not intend to propose a requirement for duplicate differential units on existing tankers, principally because retrofitting vessels to provide for a second unit would be extremely difficult and could possibly result in control systems that are less reliable than existing systems.

One commenter asked whether compliance with these regulations could have prevented the steering gear failure of the type that occurred in the AMOCO CADIZ casualty off the coast of France in March 1978. The steering gear failure in the casualty involved the loss of hydraulic fluid from hydraulic power components. Compliance with these regulations would not have prevented the steering failure on the AMOCO CADIZ. However, the circumstances surrounding the failure are currently under consideration at IMCO. The United States and several other countries have proposed requirements for most new vessels to have the design capability to recover rudder control within 45 seconds after failure of any

steering gear component in service, including a hydraulic power component.

Two commenters recommended adding a requirement for all tank vessels, both foreign and domestic, to have a steering failure alarm system that would be activated whenever a steering command and rudder position did not correspond with one another. One of the commenters also recommended adding a requirement for vessels to have alarms that can detect any major system failure. The Coast Guard has recently proposed a requirement at IMCO for all new commercial vessels to have a steering failure alarm system, and proposed regulations requiring new U.S. vessels to have the alarm are being prepared in a separate rule making proceeding. These proposals are limited to new vessels since rudder recovery time on most existing vessels is substantially longer than the few seconds that a steering failure alarm can save in detecting a steering failure. The recommendation to require alarms that can detect major system failure has not been adopted. The steering failure alarm can provide essentially the same detection capability as the other alarms.

One commenter stated that an entirely separate after emergency steering system should be required in addition to the two remote steering gear control systems required by these regulations. This comment has not been adopted. As explained in paragraph 3, IMCO is currently considering additional requirements for most new vessels to have the design capability to recover rudder control within 45 seconds after failure of a steering gear component in service. This design capability should accomplish the same purpose as a separate emergency steering system.

One commenter stated that the Coast Guard should require manning of the steering gear room on all tankers that call at U.S. ports. This requirement was considered as an alternative in the Regulatory Analysis. The alternative was rejected on the basis of the following explanation provided in the analysis:

The manning of the steering gear room when a vessel is in a maneuvering situation has both advantages and disadvantages as compared to the requirement for a duplicate steering gear control system. A trained crewman might quickly remedy some situations, allowing only a momentary loss of steering; however, in the event of a failure of the control system, a duplicate system would be better in most instances. It is felt that redundancy of design is better than having to rely on people. There was no support at the TSPP Conference for a requirement to man the steering gear room in maneuvering situations as an alternative to requiring a

duplicate control system. The primary reasons for this lack of support was the enforcement aspect. There is no method of enforcing such a requirement nor, at present, is there a procedure which would require the proper training of persons assigned to the steering station.

b. Comments on Specific Sections.

§ 164.39(c). One commenter recommended adding a requirement that the steering gear control system required by § 164.39(c) be of different types. His reasoning was that systems of the same type, if they fail in service, will do so at about the same time assuming that they have been utilized for equal amounts of time in service. This comment has not been adopted. System malfunction in service, whether from wear and tear or system defect, can be expected to occur at random intervals.

§ 164.39(d)(2)(ii). Two commenters stated that the phrase "in the steering gear compartment" in § 164.39(d)(2)(ii) should be deleted. One commenter emphasized that, without the revision, the regulation would require relocating the power unit motor starters in some foreign installations to the steering gear room. The change proposed by the commenter is presently being considered by IMCO, and revision of § 164.39(d)(2)(ii) will be considered upon completion of IMCO deliberations. It is expected that IMCO deliberations will be completed by January 1980 or, in any event, well in advance of the June 1, 1981 compliance date for § 164.39(d)(2)(ii).

§ 164.39(f)(2). One commenter recommended that § 164.39(f)(2) be revised to emphasize that fuses may be used in a remote steering gear control system as the required means to disconnect the control system from its power supply. This revision would conflict with U.S. regulations and, accordingly, has not been adopted. The regulations for certification of U.S. vessels in, Title 46, Code of Federal Regulations, require that a disconnecting means be provided at the supply side of and adjacent to fuses. See 46 CFR 111.50-10(c).

§ 164.39(f)(4). One commenter suggested that a large steering wheel be required to allow a visual check on whether rudder orders are being correctly carried out. This comment has not been adopted. The rudder angle indicator required by § 164.39(f)(4) can be used to provide visual verification of compliance with rudder orders.

§ 164.39(k). One commenter recommended that § 164.39(k) be deleted since it was not included in the requirements adopted by the TSPP Conference. Section 164.39(k) requires that the power supply of at least one

steering gear power unit on a new vessel, and its associated remote steering gear control system, be the vessel's main source of electrical power. It is recognized that the TSPP provisions do not include a similar requirement. However, as explained in the notice of proposed rule making, the current practice in tank vessel design and construction is to supply steering gear power units from the main source of electrical power and, as a result, the only principle effect of § 164.39(k) will be to continue this practice. The purpose of § 164.39(k), is to ensure that on a new tank vessel the alternative source of power required by § 164.39(l) will not be the sole source of electrical power to the steering gear installation.

§ 164.39(f)(4)(ii). One commenter recommended that § 164.39(f)(4)(i) be revised to emphasize that placement of the rudder angle indicator must be where it will be visible to both the watch officer and to the helmsman. This recommendation has not been adopted. Section 164.39(f)(4)(i) requires only that the indicator be located on the navigating bridge. A requirement for a specific location on the bridge is unnecessary since as a matter of common practice rudder angle indicators are placed in readily visible locations.

§ 164.39(i). One commenter suggested that § 164.39(i) be deleted unless the terms "sound construction" and "reliable performance" in that section can be cross-referenced to a recognized standard. There are no internationally recognized standards pertaining to the construction and reliability of mechanical connections. However, the requirement will nevertheless be useful in providing cautionary guidance to vessel designers.

§ 164.39(j)(2). One commenter questioned whether the phrase "loss of power" in § 164.39(j)(2) refers to a loss of electrical power to the steering gear. The rule refers to loss of electric or hydraulic power to a power unit, but not to any other portion of the steering system.

Regulations

In consideration of the foregoing, the amendments to Part 164 of Title 33, Code of Federal Regulations, proposed on February 12, 1979 (44 FR 9035) are adopted without change as set forth below.

Issued in Washington, D.C., on November 13, 1979.
R. H. Scarborough,
Vice Admiral, U.S. Coast Guard, Acting
Commandant.

PART 164—TANK VESSELS OF 10,000 GROSS TONS OR MORE

1. The authority citation for Part 164 is revised to read as follows:

Authority: Sec. 2, Port and Tanker Safety Act of 1978 (Pub. L. 95-474); 49 CFR 1.46(n)(4), except as otherwise noted.

2. § 164.01 is revised to read as follows:

§ 164.01 Applicability.

(a) This part (except § 164.39) applies to each self-propelled vessel of 1600 or more gross tons (except foreign vessels described in § 164.02) when it is operating in the navigable waters of the United States (except the Panama Canal or St. Lawrence Seaway).

3. A new § 164.02 is added to read as follows:

§ 164.02 Applicability exception for foreign vessels.

(a) This part (including § 164.39) does not apply to foreign vessels that—

(1) Are not destined for, or departing from, a port or place subject to the jurisdiction of the United States; and

(2) Are in—

(i) Innocent passage through the territorial sea of the United States; or

(ii) Transit through navigable waters of the United States which form a part of an international strait.

4. A new § 164.39 is added to read as follows:

§ 164.39 Steering gear: Tank vessels.

(a) This section applies to each tank vessel of 10,000 gross tons or more, except a public vessel, that—

(1) Is documented under the laws of the United States (U.S. vessel); or

(2) Is a foreign vessel that—

(i) Transfers oil at a port or place subject to the jurisdiction of the United States; or

(ii) Otherwise enters or operates in the navigable waters of the United States, except vessels described in § 164.02.

(b) Definitions. (1) "Tank vessel" means a vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in cargo spaces.

(2) "New tank vessel" means a tank vessel—

(i) For which the building contract is placed after June 1, 1979; or

(ii) In the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after January 1, 1980; or

(iii) The delivery of which is after June 1, 1982; or

(iv) Which has undergone a major conversion, which is contracted for after June 1, 1979, or construction work of which is begun after January 1, 1980, or completed after June 1, 1982.

(3) "Major conversion" means, for the purpose of this paragraph, a conversion of an existing tank vessel which substantially alters the dimensions or carrying capacity of the vessel, or changes the type of vessel, or substantially prolongs its life, or which otherwise so alters the vessel that it is essentially a new tank vessel. A major conversion does not include, however, any alteration or modification made to meet the requirements of this section.

(4) "Public vessel", "oil", "hazardous materials", "foreign vessel", and "existing", as used in this section, have the same meanings provided for these terms in Section 5 of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391a).

(5) "Main steering gear" means the steering gear power units (if any) and their ancillary equipment, and the machinery that can apply enough torque to the rudder stock, tiller, or quadrant to effect movement of the rudder and steer the vessel under normal operating conditions.

(6) "Steering gear power unit" means—

(i) In the case of electric steering gear, an electric motor and its associated electrical equipment such as the motor controller and disconnect switch;

(ii) In the case of electro-hydraulic steering gear, an electric motor and its associated electrical equipment and connected pump; and

(iii) In the case of other hydraulic steering gear, a driving engine and connected pump.

(7) "Remote steering gear control system" means a system by which orders for rudder movements are transmitted from the navigating bridge to the steering gear power unit controls.

(8) "Maximum service speed" means the greatest speed that a vessel is designed to maintain at its deepest seagoing draft.

(c) Each tank vessel must have two remote steering gear control systems, except that separate steering wheels or steering levers are not required.

(d) Each remote steering gear control system required by paragraph (c) of this section must—

(1) Be arranged so that if the system in operation fails, the other system can be brought into immediate operation from a position on the navigating bridge;

(2) If electric, be supplied with power by a circuit that is—

(i) Used for no other purpose; and

(ii) Is connected in the steering gear compartment to the circuit that supplies power to the steering gear power unit controlled by the steering gear control system; and

(3) Have an audible and visual alarm that activates on the navigating bridge upon loss of power to the system.

(e) The visual alarm required by paragraph (d) of this section must be placed in a location on the navigating bridge where it can be readily seen.

(f) Each tank vessel must have—

(1) A means in the steering gear compartment for controlling the main steering gear;

(2) A means in the steering gear compartment to disconnect each remote steering gear control system from its power supply;

(3) A means to communicate between the navigating bridge and the steering gear compartment;

(4) A rudder angle indicator system that is—

(i) Located on the navigating bridge, and

(ii) Independent of each remote steering gear control system; and

(5) A means for indicating in the steering gear compartment the angular position of the rudder.

(g) Each new foreign tank vessel must have a main steering gear that—

(1) Has two or more identical steering gear power units;

(2) To the extent practicable, is arranged so that a failure in its piping or a steering gear power unit will not impair operation of the remaining part of the steering gear; and

(3) Can, while the vessel is operating at maximum service speed in its deepest seagoing draft with one or more power units—

(i) Put the rudder over from 35 degrees on one side of the vessel to 35 degrees on the other side; and

(ii) Put the rudder over from 35 degrees on either side of the vessel to 30 degrees on the other side is not more than 28 seconds.

(h) Each new U.S. tank vessel must have a main steering gear that—

(1) Meets the requirements for a main steering gear in paragraphs (g)(1) and (g)(2) of this section; and

(2) Can, while the vessel is operating at maximum service speed in its deepest seagoing draft with only one power unit, move the rudder in the manner described in paragraphs (g)(3)(i) and (g)(3)(ii) of this section.

(i) Mechanical couplings, including mechanical connections with a remote steering gear control system, on a new tank vessel must be of sound

construction and designed for reliable performance.

(j) Each steering gear power unit on a new tank vessel must—

(1) Be designed so that—

(i) When operating at the time of power failure, it will start automatically after power is restored unless it is manually shut off during the power failure; and

(ii) It can be brought into operation from a position on the navigating bridge;

(2) Have an alarm that activates on the navigating bridge upon loss of power to the power unit.

(k) The power supply of at least one steering gear power unit on a new tank vessel, and one remote steering gear control system, must be the vessel's main source of electrical power.

(1) Each new tank vessel must have an alternative power supply that can automatically supply power to a steering gear power unit, its associated remote steering gear control system, and the rudder angle indicator system within 45 seconds after loss of the vessel's main source of electrical power.

(m) The alternative power supply required by paragraph (1) of this section must be—

(1) The emergency source of electrical power on the vessel; or

(2) An independent source of power that—

(i) Is located in the steering gear compartment;

(ii) Is not used for any purpose other than as an alternative power supply; and

(iii) Has sufficient capacity for at least one half hour of continuous operation.

(n) A steering gear power unit on a new tank vessel, when supplied by the alternative power supply, must be capable of putting the rudder over from 15 degrees on one side of the vessel to 15 degrees on the other side within 60 seconds when the vessel is operating in its deepest seagoing draft at ½ maximum service speed or 7 knots, whichever is greater.

(o) Each tank vessel must have operating instructions and a block diagram that clearly and simply explain the change-over procedures for the remote steering gear control systems and steering gear power units on the vessel. The instructions and block diagram must be permanently displayed both on the navigating bridge and in the steering gear compartment on the vessel.

(p) No tank vessel may enter or be operated in confined or congested waters described in § 164.16 unless—

(1) When under way in those waters, at least two of the steering gear power units on the vessel are in operation if

simultaneous operation of the units is practicable; and

(2) Within one hour before entering those waters the steering wheel or lever on the navigating bridge is operated to determine whether the steering equipment is operating properly under manual control.

(q) The master of a U.S. tank vessel shall conduct an emergency steering drill at least once every 3 months and have the results of the drill logged in the vessel's log book. The drill must include at a minimum the following:

(1) Operation of the main steering gear from within the steering gear compartment.

(2) Operation of the means of communications required by paragraph (f)(3) of this section.

(3) Operation of the alternative power supply if the vessel is so equipped.

(r) No tank vessel may enter or be operated in U.S. navigable waters unless the emergency steering drill described in paragraph (q) of this section has been—

(1) Conducted within three months prior to entry; and

(2) Logged in the vessel's log book.

(s) Compliance with the requirements in paragraphs (c) through (f) of this section is not required until June 1, 1981.

(t) This section is issued under the authority of Section 5 of The Port and Tanker Safety Act of 1978 (Sec. 5, Pub. L. 95-474) (46 U.S.C. 391a)).

(Sec. 5, Pub. L. 95-474 (46 U.S.C. 391a); 49 CFR 1.46)

[FR Doc. 79-35625 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-14-M

V
4
4

N
O

1
9

7
9
U M I

Federal Register

Monday
November 19, 1979

Part VI

Council on Wage and Price Stability

Noninflationary Pay and Price Behavior;
Adoption of Addendum to Form PM-1
and Optional Alternative Form PM-1-A
and Request for Submission of Form;
Questions and Answers on Anti-
Inflationary Pay Standard

COUNCIL ON WAGE AND PRICE STABILITY**6 CFR Part 705****Questions and Answers on the Anti-Inflationary Pay Standard**

AGENCY: Council on Wage and Price Stability.

ACTION: Questions and Answers on the Anti-Inflationary Pay Standard.

SUMMARY: On October 2, 1979, the Council published Anti-Inflationary Pay and Price Standards and Procedural Rules for the Anti-Inflation Program and on October 12, 1979, and October 19, 1979, the Council published Questions and Answers. The Council continues to receive many questions concerning the pay standard. In response to these questions, the Council is publishing the following Questions and Answers. The Council will publish Questions and Answers on a regular basis as questions of general application arise under the Pay and Price Standards, the Procedural Rules, or the published Questions and Answers.

EFFECTIVE DATE: November 13, 1979.

ADDRESS: Written comments and/or questions should be addressed to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C., 20506.

FOR FURTHER INFORMATION CONTACT: Daniel Duff, Assistant General Counsel (202) 456-6210.

Dated: November 13, 1979.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Questions and Answers**II. The Pay Standard**

Q. The Council permits a 1-percent self administered catch-up for employee units in compliance with the pay standard but not covered by COLA provisions during the first program year. Are employee units covered by limited COLA provisions eligible for the non-COLA catch-up?

A. If the combination of fixed pay increases and COLAs (of any type) amounted to less than 8 percent in the first program year, the employee unit is eligible for a self-administered catch-up equal to the difference between 1 percent and the amount of chargeable first-year fixed pay increases and COLAs in excess of 7 percent.

Q. Is a company that made a good-faith effort to comply with the pay standard in the first program year, but exceeded the standard due to unforeseen events beyond its control, eligible for the self-administered 1-percent catch-up?

A. If the chargeable increase was less than 8 percent and there was no COLA, such a company would be eligible for the difference between 1 percent and the amount in excess of 7 percent.

Q. If a company used the fixed-population method in the first program year and plans to continue using this method in the second program year, how is the fixed population determined?

A. The fixed population in the second program year consists of the workers who were employed both at the beginning and at the end of the second program year.

Q. Which employees should be excluded under the low-wage exemption during the interim period?

A. Until the Council acts on the recommendations of the Pay Advisory Committee on the subject of the low-wage exemption, companies should exclude from all pay calculations those employees who were excluded under the low-wage exemption in the first program year and workers hired during the second program year (or during the interim period) at a straight-time wage rate of no more than \$4.00 per hour.

Q. Council exception decisions for nonunion employee units cite October 1, 1978, through September 30, 1979, as the program year. Does this mean that the exception expires September 30, 1979, for these compliance units?

A. No. The exception extends through the company's program year for which the exception was sought, or, in the case of formal annual pay plans, through the end of the company's pay-plan year for which the exception was sought.

[FR Doc. 79-35496 Filed 11-14-79; 12:01 pm]

BILLING CODE 3175-01-M

6 CFR Parts 705, 706 and 707**Noninflationary Pay and Price Behavior; Adoption of Addendum to Form PM-1 and Optional Alternative Form PM-1-A, and Request for Submission of Form**

AGENCY: Council on Wage and Price Stability.

ACTION: Adoption of reporting forms.

SUMMARY: The Council is revising a quarterly reporting form, designated as Form PM-1, by adding an Addendum, and is adopting an optional alternative form called Form PM-1-A.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Anne Marie Hummel, Office of Price Monitoring, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C., 20506, (202) 456-7107.

SUPPLEMENTARY INFORMATION: On May 2, 1979, the Council adopted Form PM-1 to collect quarterly data concerning price behavior during the first program

year. (44 FR 25800) This form was approved by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act under No. 116-R0357. Form PM-1 was used for two quarters to collect data on the extent to which companies have complied with the voluntary price standards.

However, for the final quarter of the first program year, the Council sought OMB approval to modify Form PM-1. OMB approved the use of Form PM-1 with an Addendum and the optional alternative Form PM-1-A under the same clearance number.

The Council will shortly send Form PM-1 with Addendum and Form PM-1-A to companies. The Council requests that companies submit either PM-1 with an Addendum or PM-1-A, but not both. Generally, this request applies to a company that had, or is part of a parent company that had, consolidated net sales or revenues of \$250 million or more in its last complete fiscal year prior to October 2, 1978, and any other company designated by the Council. (See § 706.27, 44 FR 23777, April 20, 1979.) Financial institutions covered by Section 705C-9, insurance companies covered by section 705C-5 and 705C-6, and electric and gas utilities covered by section 705C-8 are not requested to submit this information.

The addendum to Form PM-1 includes important corrections to the directions of Form PM-1. Some companies will find that demonstration of their compliance requires data not requested on Form PM-1, and these additional data are specified in the Addendum.

Form PM-1-A is available as an alternative to the Form PM-1 with an Addendum. The structure of this form is very similar to the form the Council will use during the second program year and its design is based on comments from the business community and others. We believe it is a simpler and more effective instrument than its predecessor. The choice of either Form PM-1 with the Addendum or Form PM-1-A was intended to minimize reporting burden of companies.

In order to simplify the choice between the two forms, the Council wishes to identify a number of salient differences between them. The original Form PM-1 with the Addendum is distinguished from the new Form PM-1-A because:

- Use of PM-1 requires careful attention to an errata list regarding the directions for the original form, while the directions for PM-1-A are correct as they appear on the form;
- The format of PM-1 is more complicated than PM-1-A;

- The addendum to Form PM-1 specifies additional data which are requested directly on PM-1-A.

The burden of supplying information to the Council and the Council's monitoring task will be substantially reduced if the following points are kept in mind:

- The information filed on either form should reflect data for the fourth quarter of the first program year;
- Even if a company assesses compliance on a profit-margin basis, it should still file Schedules A-D, as applicable, as well as Schedule E;
- If a company has furnished the Council with any of the data requested by either form, it need not furnish them again, although it should identify for the Council the document (including page references) containing such data and the date on which they were submitted. (Section 706.20)

Information furnished to the Council pursuant to this request will be treated as confidential in accordance with section 4(f) of the Council on Wage and Price Stability Act, 12 USC 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).

A completed Form PM-1 plus Addendum or Form PM-1-A, together with supporting schedules, should be sent to the Council no later than December 1, 1979, addressed to:

Anne Marie Hummel, Office of Price Monitoring, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

The Addendum to Form PM-1 and Form PM-1-A are hereby adopted as Council forms, and are printed below. Form PM-1 was previously printed in the Federal Register at 44 FR 25800.

Issued in Washington, D.C., November 13, 1979.

R. Robert Russell,

Director.

BILLING CODE 3175-01-M

FORM PM-1

ADDENDUM

OMB No. 116-RO357

1. GENERAL

This addendum clarifies and corrects Form PM-1 and the instructions to the form for the fourth quarter of the first program year. It also asks for two additional items from some companies.

If your firm has been specifically requested to complete the form by the Council or if it has annual sales of more than \$250 million, it should complete and submit Form PM-1 as corrected. (6 CFR 706.27) Only firms claiming insufficient product coverage or whose compliance is based on a conditioned profit-margin exception should submit the appropriate additional items in IV.

A company complying with the profit margin limitation exception because of uncontrollable price increases in the goods and services it buys should file price or gross-margin data in addition to profit data. These companies should, therefore, submit the appropriate Schedules A-D, in addition to Schedule E.

II. CORRECTIONS TO FORM PM-1

1. Schedule A, item 2(d) should read:

(1) ☐ Yes (2) ☐ No (If "No" explain)

2. Schedule B, item 5i(2) should read:

Gross margin trend on sales $(\sqrt{\text{item 5i(1)(c)} - 1}) \times 100$

3. Schedule B, item 5i(3) should read:

(item 4i(8)) $\times \sqrt{5i(1)(c)}$

4. Schedule D, item 4b(4) should read:

Plus: Physical volume increase _____ % $\times$ (item 4b(3))

5. Schedule E, item 1b(3) should read:

Insufficient product coverage (Section 705A-5(b))

6. Schedule E, item 3i(2) should read:

(Base Year Revenues \$ _____)

III. CORRECTIONS TO THE INSTRUCTIONS TO FORM PM-1

1. Page S/D-2, item 4b(2) thru (4), first line should read:

Multiply the amount of line 4b(1)

2. Page S/E-3, item 3i, first sentence should read:

Check the box which describes the method the company chose to calculate its base-year profit.

3. Page S/E-3, item 3i, ninth line should read:

determined in item 2ii above.

V
4
4N
01
97
9
UMI

IV. ADDITIONAL ITEMS

1. Schedule A: Product Lines Excluded from Price Calculations by Sections 705A-3 (For companies claiming insufficient product coverages, only.)

A. should be filled out only by those companies claiming insufficient product coverage under Section 705A-5(a). If a Company's adjusted net revenues during the four quarters prior to the program year are less than 25 percent of a company's net revenues, the company need not comply with the price standard or the profit-margin limitation. These companies should show the base-year revenues and the total of all exclusions of 705A-3(a) to 705A-3(e).

	Amount (Thousands of dollars)		
	Bil.	Mil.	Thou.
A. Exclusions of 705A-3(a) to 705A-3(e)			
(1) Total company net revenues for base year			
(2) Subtotal of exclusions 705A-3(a) to 705A-3(e) for base year			

B. should be filled out only by those companies claiming insufficient product coverage under 705A-5(b). If products excluded under 705A-3(f) to 705A-3(i) account for one-third or more of the company's adjusted net revenues for the program year, the company should comply with the profit margin limitation for the company as a whole and should satisfy the price deceleration standard for nonexcluded products.

	Amount (Thousands of dollars)		
	Bil.	Mil.	Thou.
B. Exclusions of 705A-3(f) to 705A-3(i)			
(1) Total company adjusted net revenues for program year			
(2) Subtotal of exclusions 705A-3(f) to 705A-3(i) for program year			

2. Schedule E: Profit Margin Data for Companies With Conditioned Profit Margin Exceptions

Companies granted or authorized by the Council to self-administer conditioned profit margin exceptions should submit the following data (not on a cumulative basis).

A. Base-quarter Data - Enter net sales or revenues and profits for the company's base quarter. The base quarter is the last complete calendar or fiscal quarter prior to October 2, 1978. The percentage physical volume increase, item 3, is the change in physical volume from the base quarter to the corresponding quarter of 1979.

	Bil.	Mil.	Thou.
1. Net sales or revenue in base quarter			
2. Profits in base quarter			
3. Percentage physical volume increase (Percentage to two decimal places)			%

B. Fourth Quarter Program Year Data - Enter the total net sales or revenues, and profits for the fourth quarter of the program year. Calculate the quarterly profit margin. Note: Do NOT cumulate quarterly data.

	Net sales (Thousands of dollars)			Profit (Thousands of dollars)			Profit margin (Percentage to two decimal places)
	(1)			(2)			(3)
	Bil.	Mil.	Thou.	Bil.	Mil.	Thou.	
Fourth quarter							%

PM-1A (Instructions)

Form Approved
O.M.B. No. 116-R0357Optional Alternative
to Form PM-1EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON WAGE AND PRICE STABILITYINSTRUCTIONS FOR PREPARATION OF
REPORT ON PRICES, SALES, AND PROFITS

Part I - INTRODUCTION AND GENERAL INSTRUCTIONS

A. Purpose of Form PM-1A

Form PM-1A, Report on Prices, Sales, and Profits, is designed to help the Council on Wage and Price Stability (CWPS) monitor compliance with the price standards. The form has been revised to reflect comments and suggestions of companies and to obtain information on profits and prices in the last quarter of the base year. The data collected by Form PM-1A will be used to determine the extent to which firms have complied with the price deceleration standard, the modified price standards, or the profit-margin limitation.

B. Authority for Form PM-1A and Publication of Standards

The Council on Wage and Price Stability Act, 12 U.S.C., Section 1904, note, authorizes the Council to collect data on prices, sales, and profits, such as those requested on Form PM-1A. While the submission of data is voluntary, the Council views the access to timely and uniformly defined data as essential to the effective monitoring of compliance with the standards.

The standards are available in one publication, Pay and Price Standards: A Compendium, Executive Office of the President, Council on Wage and Price Stability, 600 17th Street, NW, Washington, D.C. 20506. This publication collects the material below from the Federal Register:

Part 705 - Pay and Price Standards

43 FR 60772-60777	12/28/78
44 FR 5336-5337	1/25/79
44 FR 9582-9585	2/13/79
44 FR 17910-17916	3/23/79
44 FR 23776-23777	4/20/79

Part 706 - Procedural Rules

44 FR 1346-1351	1/04/79
44 FR 9585-9587	2/13/79
44 FR 17916-17917	3/23/79
44 FR 23777-23779	4/20/79

Form PM-1 (superseded)

44 FR 25800-25809	5/02/79
-------------------	---------

Questions and Answers

43 FR 60777-60783	12/28/78
44 FR 5362-5366	1/25/79
44 FR 9583 and 9585	2/13/79
44 FR 32338-32342	6/05/79

Implementation Guide

44 FR 5339-5361 1/25/79

C. Confidentiality of Information

All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702, 44 FR 59166, (October 12, 1979).

D. Suggestions for Improvement

The Council welcomes suggestions for improving this form. In general, it wishes to both obtain the data needed to meet its responsibility for monitoring compliance with the price standards and place the minimum reporting burden possible on the reporting companies.

E. Who Should File

Any company specifically requested by the Council to do so should file Form PM-1A, and any other company that had, or is part of a parent company that had, consolidated net sales or revenues of \$250 million or more in its last complete fiscal year prior to October 2, 1978 (including both foreign and domestic operations) should also file. Regardless of size, companies in the following industries should not file Form PM-1A:

1. Financial institutions, Section 705C-9,
2. Insurance companies, Sections 705C-5 and 705C-6, and
3. Electric and gas utilities, Section 705C-8.

If a company has not filed an organizational plan for compliance with the standards, it should submit one along with its PM-1A filing. Separate PM-1A forms should be filed for each company as specified in the parent company organization plan.

When a parent company chooses to disaggregate a consolidated entity for compliance purposes, each separately identified entity must meet the requirements for the term "company" as defined in Subpart 705D of the Voluntary Standards for Noninflationary Pay and Price Behavior and in Section 706.21 of the Special Procedural Rules.

F. What to File

Each reporting company should submit the first section of Form PM-1A, Company Report, and the appropriate schedules. This will usually include one or more of Schedules A, B, C, and D. All companies should complete Schedule E, items 1 through 3.

The schedules for Form PM-1A are:

- Schedule A - Report of Price Data
- Schedule B - Report of Wholesale and Retail Trade Percentage Gross Margin
- Schedule C - Report of Food Manufacturers and Processors - Gross Margin
- Schedule D - Report of Petroleum Refiners - Gross Margin
- Schedule E - Report of Profit-Margin Data

Most reporting companies will submit only one of these schedules plus items 1 through 3 on Schedule E. However, if a reporting company is applying more than one

of the standards to its operations, it should submit all appropriate schedules. Those companies that use the profit-margin limitation should file a complete Schedule E and also should submit the relevant Schedules A, B, C, or D if the data can be calculated. Further, any company using the profit-margin limitation because of insufficient product coverage (Section 705A-5(b)) should identify all excluded revenues on Schedule A, item 16, and should submit price deceleration data for nonexcluded items on Schedule A. Companies do not need to resubmit information already filed with the Council but should indicate which documents contain the information (see 706.20).

G. Where to File

Form PM-1A and attachments should be sent to:

Office of Price Monitoring
Council on Wage and Price Stability
Winder Building
600 17th Street, NW
Washington, D.C. 20506

Part II - SPECIFIC INSTRUCTIONS

COMPANY REPORT -
REPORT ON PRICES, SALES,
AND PROFITS

Instructions for this report are shown with items on the report form.

SCHEDULE A -
REPORT OF PRICE DATA

Item 1. Name of Reporting Company - Self explanatory.

Item 2. Base-Period Ending Date - The base-period is measured from the last complete calendar or fiscal quarter of 1975 to the corresponding quarter of 1977.

Item 3. Was the Suggested CWPS Formula Used? - The CWPS formula for determining the base-period rate of price change is outlined in Section 705D and illustrated in the Implementation Guide. If another method was used to determine the rate of price change, it should be explained in an attachment to Schedule A. Subsidized companies should follow the formula outlined in the Compendium, pages 5-6 to 5-8.

Item 4. Were Sampling Techniques Used? - Self explanatory.

Item 5. Were Average Realized Prices Used? - The base-period rates of price change should be calculated using the average realized prices of the first and last quarters of the base period. Prices may be measured at the end of quarters if these end-of-quarter prices are representative of average prices throughout the quarter. List prices may be used if they move closely with transaction prices. If average realized prices were not used, indicate the method employed in an attachment to Schedule A.

Item 6. Total Covered Net Sales or Revenues in the Base Period that were Used in Price Calculations - Enter total covered net revenues or sales after the exclusions of Section 705A-3 for the last complete calendar or fiscal quarter of 1975.

Item 7. Sales-weighted Index of Price Change - The calculations for the sales-weighted average rate of price change for the two-year base period are illustrated in the Implementation Guide.

The sales-weighted average rate of price change is calculated as the weighted average changes of a company's realized product prices from the last complete calendar or fiscal quarter immediately preceding the base period to the last quarter of the base period with each product line weighted by the share of its sales to total covered sales.

For an illustrative example, see the Implementation Guide, Compendium, page 5-4.

For subsidized companies, see the Implementation Guide, Compendium, page 5-6.

Item 8. Base-Period Rate of Price Change This is the square root of item 7, minus 1, times 100. If item 7 were 1.1683, the base-period rate of change would be $(1.1683 - 1.0) \times 100 = 8.09\%$.

Item 9. Price Deceleration Percentage - For the first program year, the price deceleration standard percentage is 0.5%.

Item 10. Subtotal - Subtract item 9 from item 8.

Item 11. Pay Deceleration Passthrough - Pay deceleration calculations are illustrated in the Implementation Guide, Section 83, Compendium, page 5-4. Briefly, where compliance with the pay standard holds labor-cost increases in the program year (including costs, such as government-mandated labor costs, that are excluded from the application of the pay standard) to more than one-half percentage point below the base-period rate of increase, firms are expected to pass through these lower labor-cost increases to the consumer in the form of lower price increases.

Item 12. Allowable Program-Year Rate of Price Change - Subtract item 11 from item 10. This will normally be the allowable program-year rate of price change. However, the maximum allowable rate is 9.5% and any company with a program-year rate of 1.5% or less will be considered to be in compliance regardless of its base-period rate of change.

Item 13. Allowable Rate of Price Change through the Reporting Quarter - If the fourth quarter of the program year is being reported, this item is the same as item 12.

Section 705A-4, however, specifies that no more than 50% of the allowable program-year rate of price change may be taken in the first six months of the program year and no more than 75% in the first nine months.

Multiply item 12 by the appropriate fraction for the quarter and enter the result here.

Item 14. Actual Rate of Price Change through the Reporting Quarter - The rate of price change should be calculated as the rate of change from the base quarter to the reporting quarter. It may be calculated using this formula:

$$\text{Rate of price change} = \left[\left(\sum_i \frac{P_i(rQ)}{P_i(bQ)} \right) - 1 \right] \times 100$$

Where:

$P_i(rQ)$ = The price change of the i th product line in the reporting quarter,

$P_i(bQ)$ = the price of the i th product line in the base quarter,

S_i = the i th product's share in covered sales or revenues in the base quarter, and

$\sum_i$ = the summation sign, where the subscript i includes all product lines not excluded under 705A-5.

Page 3

Item 15. Supporting Documentation for Schedule A - Record the page numbers of any supporting documentation for Schedule A.

Item 16. Sales Excluded from Price Calculations by Section 705A-3.

IMPORTANT - PLEASE READ

Item 16 A should be filled out by only those companies claiming insufficient product coverage under Section 705A-5(a). If a company's adjusted net revenues during the four quarters prior to the program year are less than 25 percent of a company's net revenues, the company need not comply with the price standard or the profit-margin limitation. These companies should show the base-year revenues and the total of all exclusions of 705A-3(a) to 705-3(e) in item 16 A.

Item 16 B should be filled out by only those companies claiming insufficient product coverage under 705A-5(b). If products excluded under 705A-3(f) to 705A-3(i) account for one-third or more of the company's adjusted net revenues for the program year the company should comply with the profit-margin limitation for the company as a whole and should satisfy the price deceleration standard for non-excluded product.

Item 17. Product-Line Information

Number of Product Lines Reported

Enter the number of product lines reported by the company in determining the base-period rate of price change.

Individual Product-Line Data

For each product line, the company should provide the following information:

- Column (a) - brief description of the product line
- Column (b) - four-digit SIC number, optional
- Column (c) - net sales or revenues in the last complete calendar or fiscal quarter of 1975 or sales used for weighting purposes in arriving at the total company annual rate of price change during the base period.
- Column (d) - base-period index of price change (two-year rate)
- Column (e) - base-period rate of price change. This is the square root of column (d), minus 1, times 100. See item 8 above.
- Column (f) - base-quarter net sales or revenues for this product line (the base quarter is either (1) the company's last complete fiscal quarter prior to October 2, 1978, or (2) the calendar quarter July 1, 1978, through September 30, 1978)
- Column (g) - program-year-to-date rate of price change through the reporting quarter

SCHEDULE B - WHOLESALE AND RETAIL TRADE PERCENTAGE GROSS MARGIN

Item 1. Name of Reporting Company - Self explanatory.

Item 2. Method Selected for Compliance in Program Year - Indicate the method used for complying with the percentage-gross-margin standard in the program year. The company may choose to use the base-year percentage gross margin or the gross-margin trend method. See the Implementation Guide, Compendium, pages 5-10 to 5-12, and Section 705C-2 for details on calculations.

Item 3. Inventory Method - Indicate the inventory method chosen by the company for compliance with the standards.

IRS has determined that companies may use FIFO for reporting to CWPS while using LIFO for reporting to others.

Items 4 to 11. Base-Year Percentage Gross-Margin Method - For items 4 through 11, enter the appropriate data for the company's base year (last four quarters completed prior to October 2, 1978).

Calculate the allowable percentage gross margin by dividing item 10 by item 4.

Companies that choose to use the base-year percentage gross margin will use item 11 as their allowable program-year percentage gross margin.

Items 12 to 16. Gross-Margin Trend Method - Companies that choose to use the gross-margin trend should complete this section.

Item 15, the annualized trend, is the square root of the gross-margin trend, minus 1.

Items 17 to 20. Program-Year Compliance Test by Quarters - Each company should show quarterly data, not cumulative data, for each completed quarter of the program year. When reporting allowable percentage gross margin by quarters, a company may show seasonal variations. If it is using the gross-margin trend method, it can show a rising trend over the year if the sum of the quarters meets the goal for the year.

Item 21. Supporting Documentation for Schedule B - Record the page numbers of any supporting documentation for Schedule B.

Page 4

SCHEDULE C - REPORT OF FOOD MANUFACTURERS AND PROCESSORS - GROSS MARGIN

Item 1. Name of Reporting Company - Self explanatory.

Item 2. Method Selected for Compliance in the Program Year - Indicate whether the company has chosen to use the gross margin for the base quarter or the alternative gross margin.

BASE-QUARTER GROSS MARGIN

Item 3. Adjusted Net Sales - Enter net sales (adjusted for discounts, returns, coupons, etc.) for the base-quarter (ending prior to October 2, 1978).

Item 4. Food Ingredients Used in Manufacturing - These are the cost of food ingredients in all the food products sold in the quarter and are defined as any agricultural or fishery commodities that undergo further refining, processing, or manufacturing prior to being sold for ultimate consumption.

Item 5. Base-Quarter Gross Margin - This is the difference between items 3 and 4.

Items 6 to 8. Alternative Gross Margin - This section should be filled out by those companies choosing to use the alternative gross-margin method.

QUARTERLY ALLOWABLE GROSS-MARGIN DATA: COMPLIANCE TEST

Items 9 to 36. For each quarter, enter the applicable base-quarter gross margin or the alternative gross margin. Take the allowable margin growth for the quarter. If the company is claiming a physical volume increase, please show both the percentage increase and the dollar amount associated with this percentage increase. The dollar amount is the percentage increase times the subtotal of the allowable margin growth for the quarter and the base-quarter gross margin or alternative gross margin.

Item 37. Supporting Documentation for Schedule C - Record the page numbers of any supporting documentation for Schedule C.

SCHEDULE D - REPORT OF PETROLEUM REFINERS - GROSS MARGIN

Item 1. Name of Reporting Company - Self explanatory.

Item 2. Were the Required Adjustments Made for Changes in Input Mix? - If the adjustments were not made, explain in an attachment. See Section 705C-7.

Item 3. Were Adjustments Made for Changes in Product Sales Mix? If "yes," explain in an attachment to this schedule.

BASE-QUARTER GROSS MARGIN

Item 4. Adjusted Net Sales - Adjusted net sales are for the base quarter, which is the last complete calendar or fiscal quarter before October 2, 1978.

Item 5. Cost of Petroleum Products Used in Refinery Operations - Enter the cost of all petroleum products further processed in all products sold during the base quarter. These products, see 705C-7, are any petroleum, petroleum products, natural gas, natural gas liquids, and natural gas liquid products used in refinery operations.

Item 6. Gross Margin in the Base Quarter - This is the difference between items 4 and 5.

ALLOWABLE GROSS MARGIN BY QUARTERS - Each company should show quarterly not cumulative data. The test for compliance, however, remains an annual test.

Items 7 to 34. For each quarter, enter the gross margin of the base quarter and the allowable gross margin growth for that quarter as shown on the form. If the company is claiming a physical volume increase, enter both the percentage increase and the dollar value (which can be obtained by multiplying the percentage volume increase by the subtotal of the base-quarter gross margin and the allowable margin growth for the quarter).

Item 35. Supporting Documentation for Schedule D - Record the page numbers of any supporting documentation for Schedule D.

SCHEDULE E - REPORT OF PROFIT-MARGIN DATA

Note: Items 1 through 3 should be completed for every reporting company. All companies complying with the profit margin limitation should fill out the complete schedule. Non-profit institutions may use this schedule but should substitute "operating surplus" for "profits" wherever the word "profits" appears. (See Compendium, Q6, page 4-B.)

Item 1. Name of Reporting Company - Self explanatory.

Item 2. Profit Margin - Enter the ending dates of each of the last three fiscal years completed prior to October 2, 1978, and the net sales or revenues and profits for each year and calculate the profit margins.

Profit is defined as the sum of item 14 and items 11 through 13 minus items 7 through 10 in 17 CFR Section 210.5-03. Briefly, profit is income or loss before income tax expense minus dividend income, interest, or profit on securities and miscellaneous other income, plus interest expense and amortization of debt discount and expense, losses on securities, and miscellaneous income deductions.

Net sales or revenues are defined as (1) net sales of tangible products (gross sales less discounts, returns, and allowances), (2) operating revenues such as royalties,

rents, and the sale of services and intangible products (e.g., engineering, research and development, and other professional services). This definition is consistent with 17 CFR Section 210.5-03, items 1A, 1B, and 1C.

Item 3. Best Two of Last Three Years' Sales-Weighted Average Profit-Margin Test - Choose two of the last three years that will give the largest profit margin and enter the total sales, profits, and profit margin for these two years.

Item 4. Basis for Use of Profit-Margin Limitation - If a company is complying with the profit margin, the rest of Schedule E should be completed.

Indicate the reason why the company is using the profit margin limitation.

TEST ONE: Profit-Margin Limitation

Item 5. Profit-Margin Limitation Percentage - Best Two of Last Three Years - Copy from item 3, column (c).

Item 6. Quarterly Data for Program Year - Enter the total net sales or revenues, and profits for the fourth completed quarter of the program year. Calculate the quarterly profit margins. Note: Do NOT add quarterly data.

Item 7. Program-Year Profit Margin - Enter the data for the full year.

TEST TWO: Base-Year Dollar Profit Plus Allowable Growth - This test is for an annual basis only.

Items 8 to 11. Enter the total base-year profits, which can be either (1) profit earned during the four complete fiscal or calendar quarters prior to the program year, or (2) the average profit margin determined in item 3c above multiplied by sales or revenues in the last four complete fiscal quarters prior to the program year. If method (2) is chosen, show both actual and adjusted base-year profits.

Then multiply item 9, total base-year profit, by 0.065 to arrive at allowable program-year growth in dollars (item 10).

If the company is claiming a physical volume increase, it should show the percentage increase claimed in item 12 and the dollar value attributable to this in item 13 (line 12 times line 11).

The sum of lines 11 and 13 will be the allowable program-year profit.

Items 15 to 17. (To be completed only by companies with conditioned or authorized self-administered profit-margin exceptions). Base-Quarter Data - Only companies with conditioned exceptions need to fill out this section. Enter net sales or revenues and profits for the company's base quarter. The base quarter is the last complete calendar or fiscal quarter prior to October 2, 1978. The percentage physical volume increase, item 17, is the change in physical volume from the base quarter to the corresponding quarter of 1979.

Item 18. Supporting Documentation for Schedule E - Record the page numbers of any supporting documentation for Schedule E.

Page 5

PM-1A EXECUTIVE OFFICE OF THE PRESIDENT COUNCIL ON WAGE AND PRICE STABILITY REPORT ON PRICES, SALES, AND PROFITS		Form Approved: O.M.B. No. 116-R0357		COMPANY REPORT
REPORT FOR QUARTER ENDING: _____, 1979		OFFICE USE ONLY	Company number P1 Primary SIC	
1. Reporting status (Mark (X) one) P2 1 Consolidated parent 2 Disaggregated company 3 Unconsolidated company				
2. Is this an original filing for this quarter or a resubmission? 1 Original filing 2 Resubmission				
3. How many quarters of the program year are being reported on this form? (Mark (X) one) P3 1 One quarter or three months 2 Two quarters or six months 3 Three quarters or nine months 4 Four quarters or twelve months				
4. Date of this report P4 Year Month Day				
5a. Name and address of parent company - A parent company is one that is not directly or indirectly controlled by another company. Enter the name of the parent company and the address of its executive office. Please type or print P5 Name of parent company Address (Number and street) City or town State ZIP code				
5b. Ending date of most recent fiscal year completed prior to October 2, 1978 P6 Year Month Day				
5c. Revenues or sales in most recent complete fiscal year - Enter the total consolidated net sales or revenues of the parent company for the fiscal year indicated in item 5b above. (Report in thousands of dollars.) P7 Bil. Mil. Thou.				
5d. Principal line of business - Describe the parent company's principal line of business and enter the appropriate four-digit SIC number. P8 SIC number				
CONTINUE ON REVERSE SIDE				

6a. Name and address of reporting company covered by this filing - Fill in this item and items 6b, c, and d only if the reporting company is not a parent company (reported in item 5a). Company is defined in Section 705D. Enter the name, and address of the reporting company.			
P9	Name		
	Address (Number and street)		
	City	State	ZIP code
6b. Ending date of most recent fiscal year completed prior to October 2, 1978			
P10	Year Month Day		
6c. Revenues or sales of most recent fiscal year completed prior to October 2, 1978 - Enter the total consolidated net sales or revenues of the reporting company for the fiscal year indicated in item 6b. (Report in thousands of dollars.)			
P11	Bil. Mil. Thou.		
6d. Principal line of business - Describe the reporting company's principal line of business and enter the appropriate four-digit SIC number.			
P12	SIC number		
7. Schedule attachments - Indicate the number of schedules of each type being filed and see part I, item F, "What to File," in the instruction booklet.			
P13	SCHEDULE A - Report of Price Data		
P14	SCHEDULE B - Report of Wholesale and Retail Trade		
P15	SCHEDULE C - Report of Food Manufacturers and Processors		
P16	SCHEDULE D - Report of Petroleum Refiners		
P17	SCHEDULE E - Report of Profit Margin Data		
CERTIFICATION			
Name of Chief Executive Officer or authorized designee		Title	
Company name		Telephone (Area code, No., Ext.)	
To the best of my knowledge and belief, the data submitted herewith are factually correct, complete, and prepared in accordance with the applicable instructions. It is requested that the information submitted herewith be considered as confidential within the meaning of Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, Note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).			
Signature		Date	
RETURN TO			
Return this form including relevant schedules and other attachments:			
Office of Price Monitoring Council on Wage and Price Stability Winder Building 600 17th Street N.W. Washington, D.C. 20506			
PLEASE NOTE			
Print "Form PM-1A" in the lower left corner of the return envelope.			

FORM PM-1A EXECUTIVE OFFICE OF THE PRESIDENT COUNCIL ON WAGE AND PRICE STABILITY REPORT OF PRICE DATA		Form Approved: O.M.B. No. 116-R0357	
REPORT FOR QUARTER ENDING: _____, 1979		OFFICE USE ONLY Company number	
1. Name of reporting company		SCHEDULE A	
2. Base-period ending date A1 Year Month Day		15. Supporting documentation for Schedule A Pages A _____ to A _____	
3. Was the suggested CWPS formula used? A2 1 Yes 2 No - Explain methodology in an attachment		16. Sales excluded from price calculations by section 705A-3 (For companies claiming insufficient product coverage only.) Amount (Thousands of dollars) Bil. Mil. Thou.	
4. Were sampling techniques used? A3 1 Yes 2 No		A. Exclusions of 705A-3(a) to 705A-3(e) (1) Total company net revenues for base year (a) Agricultural, fishing, forestry, and mineral products (b) Recyclable scrap materials (c) Commodities whose price changes are closely tied to those of organized open exchanges (d) Exports (e) Deliveries during program year at predetermined prices (2) Subtotal of exclusions 705A-3(a) to 705A-3(e) A14	
5. Were average realized prices used? A4 1 Yes 2 No - Explain methodology in an attachment		B. Exclusions of 705A-3(f) to 705A-3(i) (1) Total company adjusted net revenues for program year (f) Products exchanged in non-arms-length transactions (g) New or discontinued products (h) Custom or one-time products (i) Interest received (2) Subtotal of exclusions 705A-3(f) to 705A-3(i) A16	
6. Total covered net sales or revenues in the base period that were used in price calculations (Thousands of dollars) A5 Bil. Mil. Thou.			
7. Sales-weighted index of price change for two-year base period A6			
8. Base-period annual rate of price change (Square root of line 7, minus 1, times 100) A7		Percent (Two decimal places)	
9. Less: Price deceleration percentage A8		0.50 %	
10. Subtotal (Line 8 less line 9) A9		%	
11. Less: Pay deceleration passthrough A10		%	
12. Allowable program-year rate of price change A11		%	
13. Allowable rate of price change through the reporting quarter (See instructions for details on calculations) A12		%	
14. Actual rate of price change through the reporting quarter A12		%	

CONTINUE ON REVERSE SIDE →

6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 29
 30
 31
 32
 33
 34
 35
 36
 37
 38
 39
 40
 41
 42
 43
 44
 45
 46
 47
 48
 49
 50
 51
 52
 53
 54
 55
 56
 57
 58
 59
 60
 61
 62
 63
 64
 65
 66
 67
 68
 69
 70
 71
 72
 73
 74
 75
 76
 77
 78
 79
 80
 81
 82
 83
 84
 85
 86
 87
 88
 89
 90
 91
 92
 93
 94
 95
 96
 97
 98
 99
 100
 101
 102
 103
 104
 105
 106
 107
 108
 109
 110
 111
 112
 113
 114
 115
 116
 117
 118
 119
 120
 121
 122
 123
 124
 125
 126
 127
 128
 129
 130
 131
 132
 133
 134
 135
 136
 137
 138
 139
 140
 141
 142
 143
 144
 145
 146
 147
 148
 149
 150
 151
 152
 153
 154
 155
 156
 157
 158
 159
 160
 161
 162
 163
 164
 165
 166
 167
 168
 169
 170
 171
 172
 173
 174
 175
 176
 177
 178
 179
 180
 181
 182
 183
 184
 185
 186
 187
 188
 189
 190
 191
 192
 193
 194
 195
 196
 197
 198
 199
 200
 201
 202
 203
 204
 205
 206
 207
 208
 209
 210
 211
 212
 213
 214
 215
 216
 217
 218
 219
 220
 221
 222
 223
 224
 225
 226
 227
 228
 229
 230
 231
 232
 233
 234
 235
 236
 237
 238
 239
 240
 241
 242
 243
 244
 245
 246
 247
 248
 249
 250
 251
 252
 253
 254
 255
 256
 257
 258
 259
 260
 261
 262
 263
 264
 265
 266
 267
 268
 269
 270
 271
 272
 273
 274
 275
 276
 277
 278
 279
 280
 281
 282
 283
 284
 285
 286
 287
 288
 289
 290
 291
 292
 293
 294
 295
 296
 297
 298
 299
 300
 301
 302
 303
 304
 305
 306
 307
 308
 309
 310
 311
 312
 313
 314
 315
 316
 317
 318
 319
 320
 321
 322
 323
 324
 325
 326
 327
 328
 329
 330
 331
 332
 333
 334
 335
 336
 337
 338
 339
 340
 341
 342
 343
 344
 345
 346
 347
 348
 349
 350
 351
 352
 353
 354
 355
 356
 357
 358
 359
 360
 361
 362
 363
 364
 365
 366
 367
 368
 369
 370
 371
 372
 373
 374
 375
 376
 377
 378
 379
 380
 381
 382
 383
 384
 385
 386
 387
 388
 389
 390
 391
 392
 393
 394
 395
 396
 397
 398
 399
 400
 401
 402
 403
 404
 405
 406
 407
 408
 409
 410
 411
 412
 413
 414
 415
 416
 417
 418
 419
 420
 421
 422
 423
 424
 425
 426
 427
 428
 429
 430
 431
 432
 433
 434
 435
 436
 437
 438
 439
 440
 441
 442
 443
 444
 445
 446
 447
 448
 449
 450
 451
 452
 453
 454
 455
 456
 457
 458
 459
 460
 461
 462
 463
 464
 465
 466
 467
 468
 469
 470
 471
 472
 473
 474
 475
 476
 477
 478
 479
 480
 481
 482
 483
 484
 485
 486
 487
 488
 489
 490
 491
 492
 493
 494
 495
 496
 497
 498
 499
 500
 501
 502
 503
 504
 505
 506
 507
 508
 509
 510
 511
 512
 513
 514
 515
 516
 517
 518
 519
 520
 521
 522
 523
 524
 525
 526
 527
 528
 529

FORM PM-1A
(10-29-79)

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON WAGE AND PRICE STABILITY

REPORT OF WHOLESALE AND RETAIL TRADE
PERCENTAGE GROSS MARGIN

REPORT FOR QUARTER ENDING _____, 1979

1. Name of reporting company

2. Method selected for compliance in program year (Mark (X) one)
B1 ☐ Base-year percentage gross margin 2 ☐ Gross-margin trend

3. Inventory method (Mark (X) one)
B2 ☐ LIFO 2 ☐ FIFO 3 ☐ Other - Provide documentation in an attachment

BASE-YEAR PERCENTAGE GROSS-MARGIN METHOD

	Sales (Thousands of dollars)		
	Bil.	Mil.	Thou.
4. Adjusted net sales	B3		
5. Beginning inventory	B4		
6. Plus: Cost of goods purchased	B5		
7. Subtotal (Line 5 plus line 6)	B6		
8. Less: Ending inventory	B7		
9. Cost of goods sold (Line 7 less line 8)	B8		
10. Gross margin on sales (Net sales less cost of goods sold, line 4 less line 9)	B9		
11. Base-year percentage gross margin on sales (Line 10 divided by line 4)	Percent (Two decimal places) B10 . %		

GROSS-MARGIN TREND METHOD

	Percent (Two decimal places)
12. Base-year percentage gross margin (Same as line 11)	B11 . %
13. Percentage gross margin for year ended two years prior to base year	B12 . %
14. Two-year gross-margin trend (Ratio of line 12 to line 13)	Ratio B13 .
15. Annualized trend (Square root of line 14, minus 1) (See instruction booklet)	B14 0.
16. Allowable percentage gross margin (Line 12 times (1.0 plus line 15))	Percent (Two decimal places) B15 . %

PROGRAM-YEAR COMPLIANCE TEST BY QUARTERS

	Actual net sales (Thousands of dollars) (a)			Actual percentage gross margin (Two decimal places) (b)	Allowable percentage gross margin (Two decimal places) (c)
	Bil.	Mil.	Thou.		
17. First quarter of program year	B16			B17 . %	B18 . %
18. Second quarter of program year	B19			B20 . %	B21 . %
19. Third quarter of program year	B22			B23 . %	B24 . %
20. Fourth quarter of program year	B25			B26 . %	B27 . %

21. Supporting documentation for schedule B

Pages B _____ to B _____

NOTICE - All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).

OFFICE USE ONLY

Company number

SCHEDULE B

Form Approved: O.M.B. No. 116-R0357

PM-1A
EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON WAGE AND PRICE STABILITY

REPORT OF FOOD MANUFACTURERS AND
PROCESSORS - GROSS MARGIN

REPORT FOR QUARTER ENDING
_____, 1979

1. Name of reporting company

2. Method selected for compliance in the program year (Mark (X) one)
C1 ☐ Base-quarter gross margin 2 ☐ Alternative gross margin

BASE-QUARTER GROSS MARGIN

3. Adjusted net sales

4. Less: Food ingredients used in manufacturing

5. Base-quarter gross margin (Line 3 less line 4)

AMOUNT
(Thousands of dollars)
Bil. Mil. Thou.

C2

C3

C4

ALTERNATIVE GROSS MARGIN

6. Base-quarter sales (Same as line 3)

7. Average percentage gross margin in the base year
(Percentage to two decimal places)

C6

8. Alternative gross margin (Line 6 times item 7/100)

C7

FIRST QUARTER ALLOWABLE GROSS MARGIN

9. Base-quarter gross margin or alternative gross margin

C8

10. Plus: Allowable margin growth for the first quarter (Line 9 times 0.0325)

C9

11. Subtotal (Line 9 plus line 10)

C10

12. Percentage physical volume increase
(Percentage to two decimal places)

C11

13. Dollar value of physical volume increase (Line 11 times line 12)

C12

14. Total: Allowable first quarter gross margin (Line 11 plus line 13)

C13

15. Actual first quarter gross margin

C14

SECOND QUARTER ALLOWABLE GROSS MARGIN

16. Base-quarter gross margin or alternative gross margin

C15

17. Plus: Allowable margin growth for the second quarter (Line 16 times 0.0325)

C16

18. Subtotal (Line 16 plus line 17)

C17

19. Percentage physical volume increase
(Percentage to two decimal places)

C18

20. Dollar value of physical volume increase (Line 18 times line 19)

C19

21. Total: Allowable second quarter gross margin (Line 18 plus line 20)

C20

22. Actual second quarter gross margin

C21

CONTINUE ON REVERSE SIDE

NOTICE - All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).

OFFICE
USE
ONLY

Company number

SCHEDULE
C

THIRD QUARTER ALLOWABLE GROSS MARGIN

AMOUNT
(Thousands of dollars)
Bil. Mil. Thou.

C23

23. Base quarter gross margin or alternative gross margin

C24

24. Plus: Allowable margin growth for the third quarter
(Line 23 times 0.0488)

C25

25. Subtotal (Line 23 plus line 24)

C26

26. Percentage physical volume increase
(Percentage to two decimal places)

C27

27. Dollar value of physical volume increase (Line 25 times line 26)

C28

28. Total: Allowable third quarter gross margin (Line 25 plus line 27)

C29

29. Actual third quarter gross margin

FOURTH QUARTER ALLOWABLE GROSS MARGIN

C30

30. Base quarter gross margin or alternative gross margin

C31

31. Plus: Allowable gross margin for the fourth quarter
(Line 30 times 0.065)

C32

32. Subtotal (Line 30 plus line 31)

C33

33. Percentage physical volume increase
(Percentage to two decimal places)

C34

34. Dollar physical volume increase (Line 32 times line 33)

C35

35. Total: Allowable fourth quarter gross margin (Line 32 plus line 34)

C36

36. Actual fourth quarter gross margin

37. Supporting documentation for schedule C

Pages C _____ to C _____

Form Approved: O.M.B. No. 116-R0357

PM-1A EXECUTIVE OFFICE OF THE PRESIDENT COUNCIL ON WAGE AND PRICE STABILITY		NOTICE - All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 5 CFR Part 702, 44 FR 59166 (October 12, 1979).		SCHEDULE D
REPORT OF PETROLEUM REFINERS GROSS MARGINS		OFFICE USE ONLY	Company number	
REPORT FOR QUARTER ENDING: _____, 1979				
1. Name of reporting company				
2. Were the required adjustments made for changes in input mix? (Mark (X) one) D1 1 Yes 2 No - Explain in an attachment				
3. Were adjustments made for changes in product sales mix? (Mark (X) one) D2 1 Yes - Explain in an attachment 2 No				
BASE-QUARTER GROSS MARGIN		Amount (Thousands of dollars)		
		Bit.	Mil.	Thou.
4. Adjusted net sales		D3		
5. Less: Cost of petroleum products used in refinery operations (See instructions)		D4		
6. Gross margin in the base quarter		D5		
ALLOWABLE GROSS MARGIN BY QUARTERS FIRST QUARTER		D6		
7. Gross margin in the base quarter		D7		
8. Plus: Allowable quarter growth (Line 7 times 0.065)		D8		
9. Subtotal (Line 7 plus line 8)		D9		
10. Percentage physical volume growth (Percentage to two decimal places)		D10		
11. Dollar physical volume growth (Line 9 times line 10)		D11		
12. Total: Allowable first quarter gross margin (Line 9 plus line 11)		D12		
13. Actual first quarter gross margin				
CONTINUE ON REVERSE SIDE				

SECOND QUARTER		Amount (Thousands of dollars)		
		Bit.	Mil.	Thou.
14. Gross margin in the base quarter		D13		
15. Plus: Allowable quarter growth (Line 14 times 0.065)		D14		
16. Subtotal (Line 14 plus line 15)		D15		
17. Percentage physical volume growth (Percentage to two decimal places)		D16		
18. Dollar value of physical volume growth (Line 16 times line 17)		D17		
19. Total: Allowable second quarter gross margin (Line 18 plus line 16)		D18		
20. Actual second quarter gross margin		D19		
THIRD QUARTER		D20		
21. Gross margin in the base quarter		D21		
22. Plus: Allowable quarter growth (Line 21 times 0.065)		D22		
23. Subtotal (Line 22 plus line 21)		D23		
24. Percentage physical volume growth (Percentage to two decimal places)		D24		
25. Dollar value of physical volume growth (Line 23 times line 24)		D25		
26. Total: Allowable third quarter gross margin (Line 25 plus line 23)		D26		
27. Actual third quarter gross margin		D27		
FOURTH QUARTER		D28		
28. Gross margin in the base quarter		D29		
29. Plus: Allowable quarter growth (Line 28 times 0.065)		D30		
30. Subtotal (Line 28 plus line 29)		D31		
31. Percentage physical volume growth (Percentage to two decimal places)		D32		
32. Dollar value of physical volume growth (Line 30 times line 31)		D33		
33. Total: Allowable fourth quarter gross margin (Line 30 plus line 32)				
34. Actual fourth quarter gross margin				
35. Supporting documentation for schedule D Pages D _____ to D _____				

FORM PM-1A 1-2-79

Form Approved: O.M.B. No. 116-R0357

FORM PM-1A 11-29-79 EXECUTIVE OFFICE OF THE PRESIDENT COUNCIL ON WAGE AND PRICE STABILITY REPORT OF PROFIT-MARGIN DATA		NOTICE - All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(i) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 5 CFR Part 702, 44 FR 59166 (October 12, 1979).		SCHEDULE E	
REPORT FOR QUARTER ENDING: _____, 1979		OFFICE USE ONLY		Company number: [] [] [] [] [] [] [] [] [] []	
1. Name of reporting company					
Items 2 through 3 should be completed by all reporting companies					
2. Profit margin Enter the profit margin for the last three fiscal years completed prior to October 2, 1978.		Net sales (Thousands of dollars) (a)		Profit (Thousands of dollars) (b)	
		Bil. Mil. Thou.		Bil. Mil. Thou.	
a. Most recent fiscal year completed prior to October 2, 1978		E1 [] [] [] [] [] [] [] [] [] []		E2 [] [] [] [] [] [] [] [] [] []	
b. Second most recent fiscal year completed prior to October 2, 1978		E4 [] [] [] [] [] [] [] [] [] []		E5 [] [] [] [] [] [] [] [] [] []	
c. Third most recent fiscal year completed prior to October 2, 1978		E7 [] [] [] [] [] [] [] [] [] []		E8 [] [] [] [] [] [] [] [] [] []	
3. Best two of last three years' sales-weighted average profit-margin test - total		E10 [] [] [] [] [] [] [] [] [] []		E11 [] [] [] [] [] [] [] [] [] []	
The rest of Schedule E should be filled out only by those companies that are complying with the profit margin limitation					
4. Basis for use of profit margin limitation (Mark (X) one)					
E13 1 ☐ Exception to price deceleration standard granted by CWPS 2 ☐ Self-administered exception to the price standard by a company that has or is part of a company that has less than \$250 million in total net sales or revenues 3 ☐ Self-administered exception to the price standard by a company that has or is part of a company that has more than \$250 million in total net sales or revenues 4 ☐ Insufficient product coverage (Section 705A-5 (b)) NOTE: Companies marking box 4 should complete item 16 on schedule A and provide on schedule A or other appropriate schedules price data on non-excluded products. 5 ☐ Other basis - Explain in an attachment					
TEST ONE: PROFIT-MARGIN LIMITATION		Net sales - (Thousands of dollars) (a)		Profit (Thousands of dollars) (b)	
		Bil. Mil. Thou.		Bil. Mil. Thou.	
5. Profit-margin limitation percentage - Best two of last three years (from line 3)		E13 [] [] [] [] [] [] [] [] [] []		E14 [] [] [] [] [] [] [] [] [] []	
6. Quarterly data for program year		E15 [] [] [] [] [] [] [] [] [] []		E16 [] [] [] [] [] [] [] [] [] []	
a. First quarter		E17 [] [] [] [] [] [] [] [] [] []		E18 [] [] [] [] [] [] [] [] [] []	
b. Second quarter		E19 [] [] [] [] [] [] [] [] [] []		E20 [] [] [] [] [] [] [] [] [] []	
c. Third quarter		E21 [] [] [] [] [] [] [] [] [] []		E22 [] [] [] [] [] [] [] [] [] []	
d. Fourth quarter		E23 [] [] [] [] [] [] [] [] [] []		E24 [] [] [] [] [] [] [] [] [] []	
7. Program year profit margin		E25 [] [] [] [] [] [] [] [] [] []		E26 [] [] [] [] [] [] [] [] [] []	
CONTINUE ON REVERSE SIDE					

TEST TWO: BASE-YEAR DOLLAR PROFIT PLUS ALLOWABLE GROWTH (Annual Basis Only)

8. Method of calculating base-year profit (Mark (X) one)		Amount (Thousands of dollars)	
		Bil. Mil. Thou.	
1 ☐ Actual - Enter amount		E27 [] [] [] [] [] [] [] [] [] []	
2 ☐ Adjusted - If "adjusted" is chosen, enter both actual and adjusted amounts		E28 [] [] [] [] [] [] [] [] [] []	
9. Total base-year profit		E29 [] [] [] [] [] [] [] [] [] []	
10. Plus: Allowable program-year growth (Line 9 times 0.065)		E30 [] [] [] [] [] [] [] [] [] []	
11. Subtotal (Line 9 plus line 10)		E31 [] [] [] [] [] [] [] [] [] []	
12. Percentage physical volume increase (Percentage to two decimal places)		E32 [] [] [] [] [] [] [] [] [] []	
13. Dollar value of physical volume increase (Line 11 times line 12)		E33 [] [] [] [] [] [] [] [] [] []	
14. Total allowable program-year profit (Line 11 plus line 13)		E34 [] [] [] [] [] [] [] [] [] []	
BASE-QUARTER DATA (To be completed by companies granted or authorized to self-administer conditioned profit-margin exception).		E35 [] [] [] [] [] [] [] [] [] []	
15. Net sales or revenue in base quarter		E36 [] [] [] [] [] [] [] [] [] []	
16. Profits in base quarter		E37 [] [] [] [] [] [] [] [] [] []	
17. Percentage physical volume increase (Percentage to two decimal places)		E38 [] [] [] [] [] [] [] [] [] []	
18. Supporting documentation for schedule E		E39 [] [] [] [] [] [] [] [] [] []	
Pages E _____ to E _____			

V
4
4

N
O

1
9

7
9
U M I

federal register

Monday
November 19, 1979

Part VII

Environmental Protection Agency

Preliminary Notice of Determination
Concluding the Rebuttable Presumption
Against Registration of Pesticide
Products Containing Dimethoate;
Availability of Position Document

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/16C; FRL 1362-1]

Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of Pesticide Products Containing Dimethoate; Availability of Position Document

I. Introduction

On September 12, 1977, the Environmental Protection Agency issued a notice of rebuttable presumption against registration and continued registration ("RPAR") of pesticide products containing dimethoate (42 FR 45086), an organophosphate insecticide and acaricide, thereby initiating the Agency's public review of the risks and benefits of dimethoate. The rebuttable presumption was issued on the basis of (1) oncogenicity, (2) mutagenicity, and (3) reproductive and fetotoxic effects. The Agency also requested registrants and other interested parties to submit data on delayed neurotoxicity and synergism of dimethoate by other pesticides.

This notice constitutes the Agency's Notice of Determination (Notice) pursuant to 40 CFR 162.11(a)(5). This determination is preliminary at this point pending external review through submission to, and review by, the United States Department of Agriculture and the Scientific Advisory Panel, pursuant to Sections 6(b) and 25(d) of the Federal Fungicide, Insecticide, and Rodenticide Act (FIFRA) as amended. The action does not become final until the Agency has reviewed the comments of these reviewers and issued a final notice.

In broad summary, the Agency has determined that dimethoate continues to exceed the risk criteria outlined in 40 CFR 162.11 for oncogenicity, mutagenicity, and reproductive and fetotoxic effects. The risks that dimethoate poses to certain exposed groups are of sufficient concern to require the Agency to consider whether these risks can be reduced. The Agency has considered benefits information including that submitted by registrants, interested persons, and the United States Department of Agriculture and has analyzed the economic, social, and environmental benefits of the uses of dimethoate. The Agency has weighed risks and benefits together, in order to determine whether the risks of each dimethoate use are warranted by the benefits of the use. In weighing risks and benefits, the Agency considered what

risk reductions could be achieved and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the risks of certain uses of dimethoate are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms and conditions of registration. Accordingly, the Agency is proposing to initiate action to cancel or deny registration for all uses of dimethoate products (except as hereafter limited) unless the terms and conditions of registration are modified: (1) To forbid the use of dimethoate products as a dust formulation; (2) to require protective clothing and equipment for applicators; (3) to prohibit the application of dimethoate products on citrus, pome fruits and pecans by air blast equipment; (4) for those uses where air blast is permitted, to require that the labeling contain a warning to female applicators to avoid exposure to dimethoate during pregnancy; and (5) to require the use of automatic flagging in connection with aerial application. The Agency has further determined that these modifications in the terms or conditions of registration accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. In addition, the Agency has decided to require registrants and applicants to conduct additional oncogenicity, mutagenicity, delayed neurotoxicity, and applicator exposure studies.

The remainder of this Notice and the accompanying Position Document set forth in detail the Agency's analysis of comments submitted during the rebuttal phase of the dimethoate RPAR, and the Agency's reasons and factual bases for the regulatory actions it is initiating. The Notice is organized into four sections. Section I is this introduction. Section II, titled "Legal Background", sets forth a general discussion of the regulatory framework within which this action is taken. Section III sets forth the Agency's determination concluding the dimethoate RPAR and initiating the regulatory actions which flow from these determinations. Section III and the accompanying Position Document set forth the basis for these determinations. Section IV, titled "Procedural Matters", provides a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is initiating in this Notice.

II. Legal Background

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" (Section 3(c)(5)). The term "unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide" (FIFRA, Section 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognized practices. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect. Under Section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.¹

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a public, informal procedure for the gathering and evaluation of information about the risks and benefits of these uses.

The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency generally announces that an RPAR has arisen by publishing a notice in the Federal Register. After an RPAR is issued, registrants and other interested persons are invited to review the data

¹ Another part of the statutory standard for registration is that the pesticide must satisfy the labeling requirements of FIFRA. These requirements are set out in the statutory definition of "misbranded" (FIFRA Section 2(g)). Among other things, this section provides that a pesticide is misbranded if "the labeling . . . does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any . . . (restrictions) imposed under Section 3(d) . . . are adequate to protect health and the environment."

The Agency can require changes to the directions for use of a pesticide in most circumstances either by finding that the pesticide is misbranded if the labeling is not changed or by finding that the pesticide would cause unreasonable adverse effects on the environment, unless labeling changes are made which accomplish risk reductions.

upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to humans or to the animal or plant of concern with regard to the adverse effect in question.² Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risks of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the risk presumptions have been rebutted. If the Agency determines that the presumption is not rebutted, it will then consider information relating to the social, economic, and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency.

After weighing the risks and the benefits of a pesticide use, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration, pursuant to FIFRA Section 6(b)(1) and Section 3(c)(6) or by issuing a notice of intent to hold a hearing pursuant to Section 6(b)(2) of FIFRA to determine whether the registrations should be cancelled or applications for registration denied.

² 40 CFR 162.11(a)(4) provides that registrants and applicants may rebut a presumption against registration by substantiating the burden of proving: (i) In the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraphs (a)(3)(i) or (iii) that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use, and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of non-target organisms is not likely to result in any significant acute adverse effects; or (ii) In the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraph (a)(3)(ii) that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects; or (iii) That the determination by the Agency that the pesticide meets or exceeds any of these criteria for risk was in error.

A primary purpose of the RPAR process is to screen for appropriate action those pesticide uses which pose risks which are of sufficient concern to require the Agency to consider whether offsetting benefits justify the risks. Accordingly, the Agency's approach to rebuttal determinations concentrates on whether the risk concerns which are central to each RPAR proceeding have in fact been answered.

In determining whether the use of a pesticide poses risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benefits of the use. Among the risk reduction measures short of cancellation which are available to the Agency are changes in the directions for use on the pesticide's labeling and classification of the pesticide for "restricted use" pursuant to FIFRA Section 3(d).

FIFRA requires the Agency to submit notices issued pursuant to Section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy (Section 6(b)). The Agency is required to submit these documents to the Secretary at least 60 days before making the notice effective by sending it to registrants or making it public. If the Secretary of Agriculture comments in writing within 30 days after receiving the notice, the Agency is required to publish the Secretary's comments and the Administrator's response with the notice. FIFRA also requires the Administrator to submit Section 6 notices to a Scientific Advisory Panel for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture (Section 25(d)).

Although not required to do so under the statute, the Agency has decided that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decision making to afford registrants and other interested persons an opportunity to comment on the bases for the proposed action during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps will be taken to make copies of the Position Document available to registrants and other interested persons at the time the decision documents are transmitted for formal external review, through publication of a notice of availability in the Federal Register, or by other means. Registrants and other interested persons will be allowed the same period of time to comment—30 days—that the statute provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After completing these external review procedures and making any changes in the proposed action which

are deemed appropriate as a result of the comments received, the Agency will proceed to implement the desired regulatory action by preparing appropriate documents and releasing them in the manner prescribed by the statute and by the Agency's rules.

III. Determination and Initiation of Regulatory Action

The Agency has considered information on the risks associated with the uses of dimethoate, including information submitted by registrants and other interested persons in rebuttal to the dimethoate RPAR. The Agency has also considered information on the social, economic, and environmental benefits of the uses of dimethoate subject to the RPAR, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions, and information submitted by the United States Department of Agriculture.

The Agency's assessment of the risks and benefits of the uses of dimethoate subject to this RPAR, its conclusions and determinations whether any uses of dimethoate pose unreasonable adverse effects on the environment, and its determinations whether modifications in terms of conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects are set forth in detail in the Position Document. This Position Document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the Position Document, the Determinations of the Agency with respect to dimethoate are as follows:

A. Determinations on Risk

The dimethoate RPAR was based on information indicating that dimethoate posed the following risks to humans: (1) Oncogenicity; (2) mutagenicity; and (3) reproductive and fetotoxic effects. As developed fully in the Position Document (PD 2/3), the Agency has determined that the information submitted to rebut the risk criteria for oncogenicity was insufficient to overcome the presumption against dimethoate for this effect. However, the Agency has concluded, based on a re-analysis of the studies involved and the rebuttal comments, that the weight of evidence for dimethoate's carcinogenicity is only suggestive, and that the evidence warrants further studies.

The Agency has also determined that the rebuttal submissions were insufficient to remove the Agency's concern that dimethoate poses the risks of reproductive and fetotoxic effects to humans. In addition, new teratogenic data unavailable when the RPAR was issued has been submitted (Khera, unpublished) and indicates the potential of dimethoate to produce teratogenic effects.

Finally, the Agency has concluded that the rebuttals and additional information submitted do not invalidate the presumption of mutagenicity risk, although the risk appears to be low.

The Agency has received comments concerning delayed neurotoxicity and the synergism of dimethoate by other pesticides, and has concluded that there is insufficient evidence to indicate that dimethoate meets or exceeds the risk criteria enumerated in 40 CFR 162.11 for these effects, but that additional information concerning dimethoate's ability to induce delayed neurotoxicity must be generated.

The principal risks of oncogenicity, mutagenicity, and reproductive and fetotoxic effects are posed to applicators, who may be exposed to dimethoate before or during application both dermally and via inhalation. The greatest risk to applicators is incurred by (1) the use of dust formulations in the ground spraying of grapes, and (2) airblast spraying on citrus, pecans, and pome fruits. These risks are of sufficient magnitude to require the Agency to determine whether the uses of dimethoate offer offsetting social, economic, or environmental benefits.

B. Determinations on Benefits

The uses of dimethoate which are subject to this RPAR include the following classes of use sites: (1) Grains, (2) field crops, (3) fruits and nuts, (4) vegetables, and (5) other use sites (including livestock premises, forest seed orchards and nurseries, and ornamentals.)

1. **Grains.** Dimethoate is used on 7.8 percent of the sorghum acreage; less than one percent of the U.S. wheat and corn acres are treated with dimethoate. Several effective alternatives are available for all of the grain use sites. Cancellation of dimethoate use on grain would result in a total annual loss of an estimated \$8.03 million per year for corn producers and an increase of \$608,000 in income for sorghum producers. A qualitative evaluation indicated that the impact of cancellation on wheat producers would be minor.

2. **Field Crops.** Dimethoate is used on less than one percent of U.S. acreage of soybeans, tobacco, and alfalfa; on 14.6

percent of U.S. cotton acreage; and on 26.0 percent of California and Arizona safflower acreage. For most of the field crops, several alternative controls are available, with the exception of spider mite control on soybeans, which represents a minor and sporadic problem. Cancellation of dimethoate use on field crops would result in an increase in costs of production of approximately \$1.73 million annually for cotton and would have a negligible effect on production costs for other field crops.

3. **Fruits and Nuts.** The percent of total U.S. acreage treated with dimethoate was 2.6 percent for apples, <1.0 percent for pears, 12.0 percent for citrus, and 17.0 percent for pecans; 50.5 percent of the California grape acreage was treated with dimethoate. Several effective alternatives are available for apples, pears, and pecans; the alternatives for grapes and citrus are less effective. The cancellation of dimethoate would result in an estimated decrease in farm income of \$90,000 for apples, \$745,800 for pecans, \$551,000 for citrus, \$9.99 million for grapes, and a negligible loss on pears. The effect of cancellation on production for apples, pears, pecans, and grapes would be negligible or slight. Significant adverse effects on the quantity and quality of citrus production are expected. Total insecticide use of grapes would increase. Minor price increases may occur for pecan products, and significant consumer impacts are possible for citrus and grape products.

4. **Vegetables.** Dimethoate use on vegetable crops ranges from 7.1 percent of total U.S. acres treated for lettuce to 66.2 percent for fresh tomatoes. Effective alternatives are generally available except for use on broccoli, fresh snap beans, and fresh tomatoes. The cancellation of dimethoate use on vegetables would result in an estimated reduction in annual farm income of \$1.27 million for broccoli, \$1.8 million for dry snap beans, \$3.6 million for fresh snap beans, and \$130,800 for processing snap beans. For fresh tomatoes, the total farm income loss was estimated at \$3.9 million. An increase in farm income of \$371,000 was projected for processing tomatoes due to less expensive alternative controls. The available data were insufficient to allow an estimation of the overall farm income changes for lettuce and other vegetable crops.

5. **Other Use Sites.** Dimethoate is used for adult fly and maggot control in livestock facilities (50,600 pounds AI in 1978); several effective alternatives are available at near comparable cost. Dimethoate use for forest seed orchards and nurseries is believed to be limited to

150 acres in the South; several effective alternatives are available. For ornamental use, 90 percent of the dimethoate pesticide products are applied commercially and 10 percent by homeowners, with use approaching 50,000 pounds AI/year. A few site/pest combinations may have pest control problems if dimethoate is unavailable due to a lack of cost-effective alternatives.

C. Determinations of Unreasonable Adverse Effects

For the reasons set forth in detail in the accompanying Position Document, the Agency has made the following unreasonable adverse effect determinations about the uses of dimethoate.

The Agency has determined that the risks arising from the use of dimethoate are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms and conditions of registration as described in the following section.

The Agency has further determined that these modifications in the terms and conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the uses. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the uses of dimethoate will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practices, and that the labeling of dimethoate pesticide products will not comply with the provisions of FIFRA.

D. Other Determinations

The Agency has determined that registrants and applicants for registration of dimethoate products must submit to the Agency data described in Section III. E. in the areas of oncogenicity, mutagenicity, delayed neurotoxicity, and applicator exposure. This data is required pursuant to FIFRA Sections 3(c)(2)(B) and 3(c)(7). The Agency will use this test data to refine its evaluation of the hazards posed by dimethoate and to refine its assessment of whether the proposed label modifications will be adequate.

E. Initiation of Regulatory Actions

Based upon the determinations summarized above and set out in detail in the Position Document, the Agency is initiating the following regulatory actions:

1. Cancellation and denial of registration of dimethoate products for use in a dust formulation.

2. Cancellation and denial of registrations of dimethoate products for all uses, unless the registrants or applicants for registration modify the labeling of dimethoate products to include the following:

Required Clothing and Equipment for Application

- Impermeable gloves.
- Rubber or synthetic rubber boots or boot covers.
- Long-sleeved shirt and long pants made of closely woven fabric.
- Wide-brimmed hat.
- Respirators must be worn by mixer/loaders and pilots.
- Pilots whose planes are equipped with positive ventilation equipment are not required to wear respirators.

3. Cancellation and denial of registration of dimethoate products for use by aerial application, unless the registrants or applicants for registration modify the labeling of dimethoate products to include the following statement:

Automatic flagging is required for all aerial application use.

4. Cancellation and denial of registration of dimethoate products for use on citrus, pome fruits, and pecans, unless the registrants or applicants for registration modify the terms and conditions of registration to prohibit application by air blast equipment.³ The labeling of dimethoate products for use on citrus, pome fruits, and pecans must be modified to include the following:

WARNING (16 pt. red lettering)
Do not use this product with air blast equipment.

5. Cancellation and denial of registration of dimethoate products for uses other than on citrus, pome fruits, and pecans, unless the registrants or applicants for registration modify the terms and conditions of registration as follows:

WARNING TO FEMALE WORKERS USING AIR BLAST EQUIPMENT (16 pt. red lettering)

The United States Environmental Protection Agency has determined that dimethoate, an active chemical ingredient in this product, causes birth defects in laboratory animals. Exposure to this product during pregnancy should be avoided.

In addition to these actions, the Agency will take steps to require

³ The term air blast is intended to include air blast, air carrier, or other application equipment employing high pressure/low volume application methods.

registrants and applicants to submit the following studies to the Agency:

1. A dimethoate oncogenicity study using the same strains of mice and rats used by Gibel. The protocol for this study must be submitted within 3 months of the Agency's final determination concerning dimethoate. This study must be completed within three years of the Agency's final determination concerning dimethoate (PD 4).

2. Mutagenicity tests, including gene mutation studies, a dominant lethal study in mice, and studies designed to detect spindle effects. The protocol for these studies must be submitted within 3 months of the Agency's final determination concerning dimethoate. These tests must be completed and submitted within eighteen months of the Agency's final determination concerning dimethoate.

3. Delayed neurotoxicity tests, in accordance with the final registration guidelines. The protocol for these tests must be submitted within 3 months of the Agency's final determination concerning dimethoate. These tests must be completed within eighteen months of the final registration guidelines.

4. Exposure studies to determine worker dermal and inhalation exposure during the application of dimethoate with air blast equipment. Exposure data must be gathered for each crop where air blast equipment is used or on crops deemed representative of such applicator exposure situations. Registrants and applicants must submit proposed test protocols for gathering applicator exposure data within three months of the Agency's final determination and must complete all such tests and submit all exposure data within eighteen months of the Agency's final determination for dimethoate.

V. Procedural Matters

This Notice of Determination notifies the United States Department of Agriculture, the Scientific Advisory Panel, pesticide registrants and users, and other interested parties of the Agency's preliminary determinations relating to the risks and benefits of the uses of dimethoate and provides these entities and individuals with the opportunity to comment on these determinations.

As discussed in Section II of this Notice, the Agency's decision to initiate the regulatory action described in Section III must be referred for review by the Secretary of Agriculture and the Scientific Advisory Panel. The EPA position document setting forth in detail the reasons and factual bases for the regulatory actions which the Agency

proposes and this Notice of Determination are being transmitted immediately to the Secretary of Agriculture and the Scientific Advisory Panel for comments. The Agency also will offer registrants and other interested persons an opportunity to comment on the bases for the Agency's action by making copies of the Position Document available upon request. Interested persons may receive copies of the documents by communicating their requests to William Waugh, Project Manager, Special Pesticide Review Division, Office of Pesticide Programs, EPA (TS-791), Room 728C, Crystal Mall II, 1921 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 557-8244. Registrants and other interested persons have the same period of 30 days to submit comments that the statute provides for comments from the Secretary of Agriculture and the Scientific Advisory Panel.

All comments on the proposed actions should be sent to the Document Control Office, Chemical Information Division, EPA (TS-793), Room E-447, 401 M Street SW., Washington, D.C. 20460. In order to facilitate the work of the Agency and of others inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation 30000/16 and should be submitted on or before December 19, 1979.

After completion of these review procedures, the Agency will consider the comments received and publish an analysis of them, together with any changes in the regulatory actions announced in this Notice which it determines are appropriate. Until this final review phase is concluded in this manner, it is not necessary for registrants or other interested persons to request a hearing to contest any regulatory actions resulting from the conclusion of this RPAR.

Dated: November 8, 1979.

Steven D. Jellinek,
Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 79-35091 Filed 11-16-79; 8:45 am]

BILLING CODE 6560-01-M

Reader Aids

Federal Register
Vol. 44, No. 224
Monday, November 19, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

- 202-783-3238 Subscription orders (GPO)
- 202-275-3054 Subscription problems (GPO)
- "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
 - 202-523-5022 Washington, D.C.
 - 312-663-0884 Chicago, Ill.
 - 213-686-6694 Los Angeles, Calif.
- 202-523-3187 Scheduling of documents for publication
- 523-5240 Photo copies of documents appearing in the Federal Register
- 523-5237 Corrections
- 523-5215 Public Inspection Desk
- 523-5227 Finding Aids
- 523-5235 Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

- 523-3419
- 523-3517
- 523-5227 Finding Aids

Presidential Documents:

- 523-5233 Executive Orders and Proclamations
- 523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S.
- 5282 Statutes at Large, and Index
- 275-3030 Slip Law Orders (GPO)

Other Publications and Services:

- 523-5239 TTY for the Deaf
- 523-5230 U.S. Government Manual
- 523-3408 Automation
- 523-4534 Special Projects
- 523-3517 Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

62879-63076.....	1
63077-63508.....	2
63509-64058.....	5
64059-64396.....	6
64397-64780.....	7
64781-65024.....	8
65025-65378.....	9
65379-65580.....	13
65581-65728.....	14
65729-65958.....	15
65959-66174.....	16
66175-66562.....	19

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR	1464.....	65965-65967
485.....	64063	1701..... 64069
3 CFR	1942.....	62880
Executive Orders:	1962.....	64794
12170.....	65729	1980..... 64797
Administrative Orders:	2024.....	65968
Presidential Determinations:	3100.....	66179
No. 80-1 of		Proposed Rules:
October 15, 1979.....	63077	Subtitle A..... 65862
No. 80-2 of		Ch. I..... 65862
October 23, 1979.....	64059	Ch. II..... 65862
No. 80-3 of		Ch. III..... 65862
October 23, 1979.....	64061	Ch. IV..... 65862
No. 80-4 of		Ch. V..... 65862
October 24, 1979.....	66175	Ch. VI..... 65862
Proclamations:		Ch. VII..... 65862
3279 (Amended by		Ch. IX..... 65862
Proc. 4702).....	65581	Ch. X..... 65862
4698.....	63509	Ch. XI..... 65862
4699.....	63511	Ch. XII..... 65862
4700.....	63513	Ch. XIV..... 65862
4701.....	64781	Ch. XV..... 65862
4702.....	65581	Ch. XVI..... 65862
5 CFR		Ch. XVII..... 65862
177.....	65025	Ch. XVIII..... 65862
213.....	63079, 64064-64067,	Ch. XXI..... 65862
	65025-65031, 65959-65961	Ch. XXIV..... 65862
293.....	65031	Ch. XXV..... 65862
297.....	65031	Ch. XXVI..... 65862
315.....	63080	Ch. XXVII..... 65862
351.....	65046	Ch. XXVIII..... 65862
733.....	63080	Ch. XXIX..... 65862
1201.....	65048	210..... 63107
1206.....	65048	235..... 63107
1312.....	64783	271..... 63496, 65077
Proposed Rules:		272..... 63496, 65318
531.....	65077	273..... 63496, 65989
6 CFR		274..... 65318
705.....	64276, 66534	276..... 65318
706.....	64284, 66534	277..... 65318
707.....	66534	278..... 63496
7 CFR		318..... 65080
2.....	66177	910..... 64839
272.....	64386	959..... 65592
273.....	64067	982..... 63547
401.....	64786	989..... 62901
427.....	62879	1001..... 65989
429.....	62878	1002..... 65989
431.....	64786, 66178	1004..... 65989
722.....	65962	1006..... 65989
724.....	63081	1007..... 65989
905.....	65962	1011..... 65989
907.....	64838, 65963	1012..... 65989
910.....	63081, 65049, 65963	1013..... 65989
959.....	63082, 65379	1030..... 65989
971.....	65964, 66176	1032..... 65989
989.....	64397	1033..... 65989
		1036..... 65989
		1040..... 65989
		1044..... 65989
		1046..... 65989
		1049..... 65594, 65989

1050.....65989
1062.....65989
1064.....65989
1065.....65989
1068.....65989
1071.....65989
1073.....65989
1075.....65989
1076.....65989
1079.....65989
1094.....65989
1096.....65989
1097.....65989
1098.....65989
1099.....65989
1102.....65989
1104.....65989
1106.....65989
1108.....65989
1120.....65989
1124.....65989
1125.....65989
1126.....65989
1131.....65989
1132.....65989
1133.....64087, 65989
1134.....65989
1135.....65989
1136.....65989
1137.....65989
1138.....65989
1139.....65989
1464.....63107
1924.....65991
3100.....65768

8 CFR

214.....65726, 65727

9 CFR

1.....63488
2.....63488
3.....63488
78.....65969
92.....63082
113.....63063
160.....63488
161.....63488

Proposed Rules:

Ch. I.....65862
Ch. II.....65862
Ch. III.....65862
Ch. VI.....65862
318.....65403
381.....65403

10 CFR

0.....62880
2.....65049
20.....63515
21.....63515
71.....63083
73.....63515, 65969
211.....63515, 66183
212.....65722, 66186
436.....64776, 65700
450.....63519, 64797
455.....63519, 64797
456.....64602
1023.....64270

Proposed Rules:

Ch. II.....63108, 64094, 65274
Ch. III.....63108, 64094, 65274
Ch. X.....63108, 64094, 65274
51.....65598

221.....63109
470.....64839

11 CFR

107.....63036
114.....63036
9008.....63036
9032.....63756
9033.....63756
9034.....63756
9035.....63766

Proposed Rules:

100.....64773
110.....64773
114.....64773
9033.....63753

12 CFR

4.....65379
5.....65380
27.....63084
28.....65381
225.....64398, 65051, 65731
262.....64398
264b.....64399
265.....64398
720.....65731

Proposed Rules:

211.....62902, 62903
561.....64440
563.....65599

13 CFR

101.....64401

14 CFR

13.....63720
39.....62881, 62882, 63519-
63521, 64797, 65387, 65732,
65733, 66188, 66189
71.....62883, 62884, 65388-
65391, 65734, 66190
75.....62884
91.....62884
95.....65391
97.....62885, 66190
311.....65583
322.....65398
325.....65399
385.....64401
398.....65583, 65584
399.....65052

Proposed Rules:

Ch. I.....65104
23.....62906
25.....62906
39.....62907, 63547
43.....66324
61.....65550
65.....66324
71.....62908, 63548, 63549,
64840-64842, 65403, 65768-
65770, 66204, 66205
73.....65403, 65770
91.....66324
97.....62909
107.....63048, 64843
108.....63048, 64843
121.....63048, 64843, 65550,
66324

123.....66324
125.....66324
129.....63048, 64843
135.....62906, 63048, 64843,
66324

145.....66324
223.....64429
225.....64429
296.....65599

15 CFR**Proposed Rules:**

503.....65940

16 CFR

3.....62887
13.....64803, 65735
305.....66466
460.....64402

Proposed Rules:

13.....63114, 63550, 64432,
64434
433.....65771
451.....65599
454.....62911

17 CFR

1.....65970
140.....65735
145.....65970
147.....65970
200.....64069, 65736
210.....62888, 65738
249.....65739
230.....64070

Proposed Rules:

210.....65774
250.....62912
259.....62912

18 CFR

2.....65055
35.....65740
141.....65741
154.....65740
157.....65055
260.....65741
272.....66192
292.....65744
271.....62889
281.....65585
292.....63114

Proposed Rules:

46.....66205
277.....66208

19 CFR**Proposed Rules:**

4.....64434
144.....64434
151.....64434
159.....64434

20 CFR

416.....64402
675.....64290, 64326
684.....64290
688.....64326

Proposed Rules:

Ch. I.....65556
Ch. IV.....65556
Ch. V.....65556
Ch. VI.....65556
Ch. VII.....65556
208.....62912
260.....62912, 63096
614.....65406

21 CFR

73.....65974

510.....65975
520.....63096, 65975, 65976
522.....63097, 65975
640.....65976
558.....65976
1002.....65352
1040.....65352

Proposed Rules:

145.....65080
331.....65992
338.....65992
340.....65992
353.....63270
864.....64095
868.....63292-63426, 65081
880.....65992

22 CFR

506.....63098

Proposed Rules:

51.....65600

23 CFR

658.....63680
770.....66193

Proposed Rules:

658.....63682
771.....66213

24 CFR

201.....64072
203.....64073
205.....64073, 64403
207.....64073, 65580
213.....64073
220.....64073
221.....64073
232.....64073
234.....64073
235.....64073
236.....64073
241.....64073
242.....64073
244.....64073
250.....64073
570.....65950
805.....64204
841.....64405
868.....64196
880.....65060
882.....65061, 65360
888.....65924
3280.....66194

Proposed Rules:

115.....65775
203.....65776
204.....65776
208.....65081
402.....65992
571.....65776
883.....65776
886.....64095

25 CFR

31g.....65008
258.....65747
700.....65750

Proposed Rules:

1.....64405, 65061
5.....63522

26 CFR

1.....65777
31.....65777, 65995

Proposed Rules:

1.....65777
31.....65777, 65995

29 CFR**Proposed Rules:**

Subtitle A.....65556
Ch. II.....65566
Ch. IV.....65566
Ch. V.....65566
Ch. XVII.....65566
Ch. XXV.....65566
1440.....65407
1601.....65082
1904.....65082
1910.....64095

30 CFR

788.....66195

Proposed Rules:

Ch. I.....65566
Ch. VII.....65601
870.....63737, 65407
871.....63737, 65407
872.....63737, 65407
873.....63737, 65407
874.....63737, 65407
875.....63737, 65407
876.....63737, 65407
877.....63737, 65407
878.....63737, 65407
879.....63737, 65407
880.....63737, 65407
881.....63737, 65407
882.....63737, 65407
883.....63737, 65407
884.....63737, 65407
885.....63737, 65407
886.....63737, 65407
887.....63737, 65407
888.....63737, 65407

31 CFR

535.....65956, 65988

32 CFR

625.....63099
881.....64075
2600.....64077

Proposed Rules:

169.....65601
169a.....65601
169b.....65601
1900.....65780

33 CFR

117.....65750, 66195
124.....63672
126.....63672
157.....66502
160.....62891
161.....63672
164.....63672, 66528
183.....63523
206.....65977

Proposed Rules:

82.....64843
204.....66213

36 CFR

Ch. VI.....64406
51.....62893
60.....64405
219.....65587
222.....64406
1202.....64407, 65066

Proposed Rules:

Ch. II.....65862

37 CFR**Proposed Rules:**

202.....62913

38 CFR**Proposed Rules:**

8.....65995
21.....65083, 65996
36.....65997

39 CFR

10.....65986
775.....63524
952.....65399

40 CFR

6.....64174
51.....65066, 65069
52.....63102, 65066
53.....65066
58.....65066, 65069
60.....65066
61.....65399
65.....63102
80.....62897
81.....63102, 64078, 65751,
65986

87.....64266
116.....65400
117.....65401
162.....63749
227.....65751
256.....66196
409.....64078
418.....64080
424.....64082
434.....64082

Proposed Rules:

Ch. I.....63552, 65601, 65612
51.....65084
52.....63114, 64439, 65084,
65408, 65613, 65614, 65781,
65790, 65791, 66214
60.....62914
65.....65410, 65411, 65615
81.....65791
85.....62915
180.....66216, 66217
230.....63552
713.....64844
257.....65615

41 CFR

14-1.....63529
14-7.....63529
15-7.....65587
105-54.....65071
105-62.....64805

Proposed Rules:

Ch. 4.....65862
3-1.....63115
3-7.....63115
101-39.....65411

42 CFR

50.....65072

43 CFR

3100.....64085

Proposed Rules:

34.....64095

Public Land Orders:

4520 [Revoked by
PLO 5685].....66196

5685.....66196

44 CFR

55.....64082
64.....63529, 64808, 65752
65.....63530
67.....63531-63534, 64421
205.....64809

Proposed Rules:

67.....63117-63120, 63553-
63557, 64096, 64444, 64451,
64460, 64466, 64472, 65093-
65104
205.....63058

45 CFR**Proposed Rules:**

Ch. X.....65412
405.....63120
1152.....63120
1210.....65999
1211.....66003
1501.....64097
1067.....64815
1069.....64836

46 CFR

30.....66500
32.....66500
34.....66500
401.....64836
402.....64836
502.....62898

Proposed Rules:

1.....64844
61.....62915, 66218
254.....65616
512.....65417
514.....65417

47 CFR

21.....63105
22.....63105
25.....65753
31.....65761
73.....64408, 65763
74.....65763
83.....64409
87.....64409

Proposed Rules:

31.....64440
33.....64440
42.....64440
43.....64440
64.....63558
73.....62917, 64441
90.....64442
97.....64442

49 CFR

7.....65765
178.....66197
571.....65766
601.....65765
1033.....62899, 63105, 64410,
65075, 65400, 65767

1034.....65075
1047.....65588
1064.....65987
1201.....65401
1240.....65401
1241.....65401

Proposed Rules:

Ch. X.....64845, 65420

172.....65020, 66219

192.....65792
173.....65020
213.....64844
662.....66213
666.....62918
1001.....64846
1011.....64846
1056.....63121
1100.....64846
1131.....64846
1131a.....64846
1301.....63121, 64851

50 CFR

17.....64246, 64247, 64250,
64730, 64736, 64738, 64741,
64744, 65002

32.....63106
33.....62899
285.....62900
611.....64410, 64421, 65590
672.....64410, 64421

Proposed Rules:

Ch. VI.....63558, 65616
17.....63474
32.....63496
410.....64097
611.....66356
652.....65372
661.....64443
675.....66356

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

- 60262 10-19-79 / Standard requirement for bursal disease vaccine

ENERGY DEPARTMENT

- 60664 10-19-79 / Solar in Federal buildings; demonstration program rules

FEDERAL COMMUNICATIONS COMMISSION

- 59530 10-16-79 / Redefining and clarifying the rules governing restricted radiation devices and low power communication devices

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

- 48964 8-21-79 / General specifications and general restrictions for provisional color additives for use in foods, drugs, and cosmetics; temporary tolerances

INTERSTATE COMMERCE COMMISSION

- 60296 10-19-79 / Policy statement on motor carrier regulation

List of Public Laws

Last Listing November 16, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

- S. 1281 / Pub. L. 96-111 To revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel United States, steamship vessel Oceanic Independence, steamship vessel Santa Rosa, and the steamship vessels Mariposa and Monterey into the trade. (Nov. 15, 1979; 93 Stat. 845) Price \$75.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Dec. 14; Jan. 11 and 25; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202-523-5235 or Gwendolyn Henderson, Assistant Coordinator, 202-523-5234.

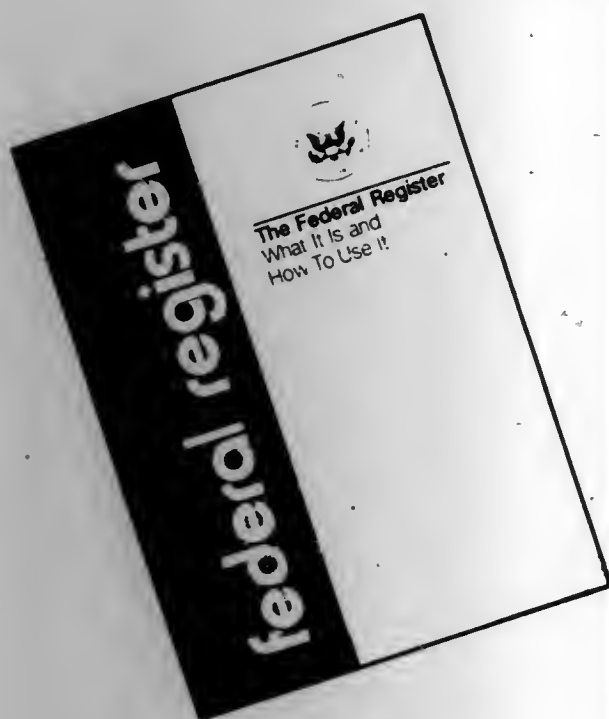
DALLAS, TEXAS

WHEN: December 8, 1979 at 9:30 a.m.

WHERE: Dunfey Dallas Hotel
3800 West Northwest Highway
Dallas, Texas

RESERVATIONS: Call Mary Peters (214) 445-0855

NOW AVAILABLE



THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

A Guide for the User of the Federal Register—
Code of Federal Regulations System

This handbook contains a narrative version of the main elements of the educational workshops conducted by the Office of the Federal Register. For those persons unable to attend a workshop, this handbook will provide helpful information for using the FEDERAL REGISTER and related publications.

MAIL ORDER FORM To: Superintendent of Documents, U.S. Government Printing Office,
Washington, D.C. 20402

Enclosed find \$..... (check, money order). Please send me copies of THE FEDERAL
REGISTER—WHAT IT IS AND HOW TO USE IT, at \$2.40 per copy. (Stock No. 022-003-00953-1)

Please charge this order
to my Deposit Account
No.

Name
Street address
City and State ZIP Code

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW INCLUDING YOUR ZIP CODE

U.S. GOVERNMENT PRINTING OFFICE
SUPERINTENDENT OF DOCUMENTS
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

Name
Street address
City and State ZIP Code

FOR USE OF SUPT. DOCS.

..... Enclosed.....
..... To be mailed
..... later.....
..... Subscription.....
..... Refund.....
..... Postage.....
..... Foreign handling.....

☆ GPO: 1977-O-248-807

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE
375
SPECIAL FOURTH-CLASS RATE
BOOK

Federal Register

Tuesday
November 20, 1979

Highlights

- 66563 **Family Week, 1979, National** Presidential proclamation
- 66565 **Labor-Management Relations Program, Exclusion From the Federal** Executive order
- 66695 **Public Service Education Program** HEW/OE announces closing date for transmittal of applications for fiscal year 1980; apply by 1-8-80
- 66582 **Community Development** Neighborhood Reinvestment Corporation issues general information on the organization and channeling of functions, and provides general program information for grant applicants; effective 4-25-79
- 66697 **Residency Training in General Internal Medicine or General Pediatrics** HEW/PHS announces applications for fiscal year 1980 grants; applications by 1-4-80
- 66590 **Iranian Assets Control** Treasury/Foreign Assets Control amends rules by adding general licenses to transfer of certain funds, transactions incident to exportations, shipments of certain types of blocked property, and the transfer of non-blocked funds to U.S. banks or other U.S. persons solely for certain obligations payments; effective 11-14-79

CONTINUED INSIDE



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Area Code 202-523-5240

Highlights

- 66768 Congressional Budget and Impoundment Control** OMB issues FY 1980 budget rescissions and deferrals (Part III of this issue)
- 66724 School Liability** VA publishes new and revised statements of policy and procedures for determining whether an educational institution may be held liable for an overpayment of educational assistance made to a veteran or eligible person; effective 3-8-79
- 66616 Medical X-Ray Exposure of the Human Embryo and Fetus** HEW/FDA proposes procedures and recommendations for minimization of medical radiation exposure of women of childbearing potential; comments by 3-20-80
- 66623 Veterans Education** VA proposes rules regarding travel expenses for counseling purposes; comments by 12-20-79
- 66626 Nondiscrimination on the Basis of Sex** HEW/Sec'y withdraws proposed rules regarding education programs and activities receiving or benefiting from Federal financial assistance
- 66621 Electrical Standards** Labor/OSHA extends comment period and corrects proposed rule; comments and hearing requests by 12-31-79
- 66605 Summer Food Service Program** USDA/FNS issues additional proposed rules; comments by 12-11-79
- 66591 Procedures for Security of Classified Information and Materials** Office of the Vice President of the United States establishes procedures and provides guidance; effective 10-15-79
- 66599 National Natural Landmarks Program** Interior/HCRS issues interim rules and requests comments; effective 11-20-79; comments by 1-21-80
- 66577 Maximum Lawful Price for Pipeline, Distributor or Affiliate Production** DOE/FERC issues final rules; effective 11-14-79
- 66613 Pricing of Pipeline and Affiliate Production** DOE/FERC proposes rules governing cost component; hearing 1-7-80, requests to participate by 12-28-79, comments by 1-14-80
- 66754 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 66760 Part II, Interior/SMRE**
66768 Part III, OMB

Contents

Federal Register
Vol. 44, No. 225
Tuesday, November 20, 1979

- The President**
- EXECUTIVE ORDERS**
66565 Federal Labor-Management Program, exclusions from the (EO 12171)
- PROCLAMATIONS**
66563 National Family Week, 1979 (Proc. 4703)
- The Vice President**
- Vice President of the United States**
- RULES**
66591 National security information program; implementation
- Executive Agencies**
- Agricultural Marketing Service**
- RULES**
66574 Raisins produced from grapes grown in Calif.
- Agricultural Stabilization and Conservation Service**
- PROPOSED RULES**
Improving Government regulations:
Regulatory agenda. (Note: Agenda issued by USDA appeared in the Federal Register of November 15, 1979, p. 65862.)
- Agriculture Department**
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Food Safety and Quality Service; Forest Service; Rural Electrification Administration; Science and Education Administration; Transportation Office, Agriculture Department.
- Alcohol, Drug Abuse, and Mental Health Administration**
- NOTICES**
Meetings:
66587 Minority Advisory Committee
- Animal and Plant Health Inspection Service**
- PROPOSED RULES**
Improving Government regulations:
Regulatory agenda. (Note: Agenda issued by USDA appeared in the Federal Register of November 15, 1979, p. 65862.)
- Army Department**
See also Engineers Corps.
- NOTICES**
Meetings:
66651 Army Science Board; correction
66650 Military Personal Property Claims Symposium
- Arts and Humanities, National Foundation**
- NOTICES**
Meetings:
66713 Humanities Panel
- Center for Disease Control**
- NOTICES**
Meetings:
66687 Cytopathology Study Group and Working Group for Second International Conference on Nosocomial Infections
- Civil Aeronautics Board**
- NOTICES**
Hearings, etc.:
66646 Braniff International
66646 United States-Central American show cause proceeding
66647 United States-Peru case
66646 U.S.-South America service
66755 Meetings; Sunshine Act (2 documents)
- Commerce Department**
See Economic Development Administration; Maritime Administration; National Technical Information Service; National Telecommunications and Information Administration.
- Comptroller of Currency**
- NOTICES**
66722 Financial futures, forward placement and standby contracts; Banking Circular 79
- Defense Department**
See Army Department; Defense Logistics Agency; Engineers Corps.
- Defense Logistics Agency**
- NOTICES**
Environmental statements; availability, etc.:
66652 Defense Contract Administration Services management areas and regions; closures; Cleveland/Chicago realignment
- Economic Development Administration**
- NOTICES**
Import determination petitions:
66647 Wilder Engineering Products, Inc., et al.
- Economic Regulatory Administration**
- NOTICES**
Consent orders:
66653 Ada Resources, Inc.; correction
Natural gas exportation and importation; petitions:
66656 Border Gas, Inc.
Powerplant and industrial fuel use; exemption requests:
66653 Anheuser-Busch, Inc.; staff determination; availability
Powerplant and industrial fuel use; existing powerplant or installation; classification requests:
66657 Occidental Chemical Co.
Remedial orders:
66655 Harrison Gas & Oil, Inc.
66656 Vic & Lou's Union

- Education Office**
NOTICES
Grant applications and proposals, closing dates:
66694 Domestic mining and mineral and mineral fuel conservation fellowship program
66695 Public service education program
Meetings:
66693 Education of Disadvantaged Children, National Advisory Council
- Employment and Training Administration**
NOTICES
66705 Employment transfer and business competition determinations; financial assistance applications
- Energy Department**
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
Consent orders:
66655 Nordstrom Oil Co.
66656 Sid Richardson Carbon and Gasoline Co., et al.
Environmental statements; availability, etc.:
66652 Anheuser-Busch, Inc., Los Angeles, Calif.; exemption request
Meetings:
66653 National Petroleum Council
- Engineers Corps**
NOTICES
Environmental statements; availability, etc.:
66650 Eldred and Spankey Drainage and Levee District, Ill.
66651 North Bay Aquaduct project, Solano County, Calif.
- Environmental Protection Agency**
RULES
Water pollution control:
66602 Hazardous substances designation; removal of calcium oxide and calcium hydroxide; correction
PROPOSED RULES
Air quality implementation plans; delayed compliance orders:
66624 Ohio
NOTICES
Pesticides; premanufacture exemption applications:
66671 Hesser and Associates
Pesticides; temporary tolerances:
66670 2,6-dichloro-4-nitroaniline
Pesticides; tolerances in animal feeds and human food:
66671 Mobay Chemical Corp. (2 documents)
66671 Review of preliminary draft criteria for particulate matter and sulfur oxides; correction
- Federal Communications Commission**
NOTICES
66756, 66758 Meetings; Sunshine Act (2 documents)
- Federal Deposit Insurance Corporation**
RULES
Interest on deposits:
66575 Time and savings deposits; interest computation during leap years

- NOTICES**
66673 Financial futures, forward placement and standby contracts; policy statement
- Federal Emergency Management Agency**
RULES
Flood insurance; special hazard areas:
66602 Illinois et al.
- Federal Energy Regulatory Commission**
RULES
Natural Gas Policy Act of 1978:
66577 Pipeline price, maximum lawful; distributor or affiliate production
PROPOSED RULES
Natural gas companies:
66613 Pipeline and affiliate production pricing
NOTICES
Hearings, etc.:
66658 Algonquin Gas Transmission Co.
66658 Central Illinois Public Service Co. (2 documents)
66659 Central Louisiana Electric Co., Inc. (3 documents)
66660 Cincinnati Gas & Electric Co.
66660 Colorado Interstate Gas Co.
66660 Columbia Gas Transmission Corp.
66660 Consolidated Gas Supply Corp.
66661 Eastern Shore Natural Gas Co.
66661 El Paso Electric Co.
66661 El Paso Natural Gas Co.
66662 Granite State Gas Transmission, Inc.
66663 Kansas-Nebraska Natural Gas Co., Inc. (2 documents)
66663 Midwestern Gas Transmission Co., et al.
66665 Mountain Fuel Resources, Inc.
66665 Natural Gas Pipeline Co. of America
66665 North Penn Gas Co.
66665 Northern Natural Gas Co.
66666 Northwest Pipeline Corp. (2 documents)
66666 Oklahoma Natural Gas Gathering Corp.
66667 Pacific Interstate Transmission Co.
66667 Pacific Power & Light Co.
66667 Panhandle Eastern Pipe Line Co.
66667 South Carolina Electric & Gas Co.
66668 Southern Natural Gas Co.
66668 Tennessee Gas Pipeline Co.
66668 Texas Gas Transmission Corp.
66669 Texas Gas Pipe Line Corp.
66669 Transcontinental Gas Pipe Line Corp.
66669 United Gas Pipe Line Co.
66670 Western Gas Interstate Co.
66670 Zenith Natural Gas Co.
- Federal Maritime Commission**
NOTICES
Casualty and nonperformance, certificates:
66684 Italian Lines Cruises International
66674 Common carrier tariff cancellation
66758 Meetings; Sunshine Act
- Federal Mine Safety and Health Review Commission**
NOTICES
66758 Meetings; Sunshine Act
- Federal Prevaling Rate Advisory Committee**
NOTICES
66684 Meetings

- Federal Reserve System**
NOTICES
Applications, etc.:
66685 Childress Bancshares, Inc.
66685 Falmouth Bancorporation
66686 Marshall-Putnam County Bancorporation, Inc.
66685 Southern Bancorporation Inc.
- Federal Trade Commission**
RULES
Prohibited trade practices; cease and desist orders:
66576 Trans World Accounts, Inc., et al.
NOTICES
Premerger notification waiting periods; early terminations:
66686 Central Louisiana Energy Corp.
66686 Corroon & Black Corp.
- Fish and Wildlife Service**
NOTICES
66698 Chemical and drug registration; cooperative agreements; policy statement
66699 Floodplains management and wetlands protection
- Food and Drug Administration**
RULES
Animal drugs, feeds, and related products:
65581 Hygromycin B and tylosin
PROPOSED RULES
Radiological health:
66616 Human embryo and fetus; procedures to minimize medical x-ray exposure
NOTICES
Committees; establishment, renewals, terminations, etc.:
66689 Drugs Bureau advisory committees; request for nominations for voting members
Meetings:
66687 Advisory committees, panels, etc.
66688 Consumer participation; information exchange
66690 Tomato juice; identity standard; temporary permits for market testing; extension of time
- Food and Nutrition Service**
RULES
Food stamp program:
66574 Food Stamp Act of 1977; Outreach Program; implementation; correction
PROPOSED RULES
Child nutrition programs:
66605 Summer food service program
Improving Government regulations:
Regulatory agenda. (Note: Agenda issued by USDA appeared in the Federal Register of November 15, 1979, p. 65862.)
- Food Safety and Quality Service**
PROPOSED RULES
Improving Government regulations:
Regulatory agenda. (Note: Agenda issued by USDA appeared in the Federal Register of November 15, 1979, p. 65862.)
- Foreign Assets Control Office**
RULES
66590 Iranian assets; control of

- Forest Service**
NOTICES
Classification, development plans, and boundary descriptions:
66645 Wallowa-Whitman National Forest, Oreg.
- General Services Administration**
See Public Buildings Service.
- Health, Education, and Welfare Department**
See also Alcohol, Drug Abuse, and Mental Health Administration; Center for Disease Control; Education Office; Food and Drug Administration; Health Resources Administration; Human Development Services Office; Public Health Service.
PROPOSED RULES
Nondiscrimination:
66626 Sexual discrimination in federally-assisted programs; codes of personal appearance; withdrawn
Meetings:
66696 White House Conference on Families (2 documents)
- Health Resources Administration**
NOTICES
Grants; availability:
66697 Residency training in general internal medicine or general pediatrics
- Heritage Conservation and Recreation Service**
RULES
66599 National natural landmarks program; interim regulations and inquiry
NOTICES
Historic Places National Register; additions, deletions, etc.:
66704 Alabama et al.
- Human Development Services Office**
NOTICES
Organization and functions:
66693 Families, Office on
66691 Public Services Administration
- Interior Department**
See Fish and Wildlife Service; Heritage Conservation and Recreation Service; Land Management Bureau; Surface Mining Office.
- Interstate Commerce Commission**
PROPOSED RULES
Railroad operation, acquisition, construction, etc.:
66626 Consolidation transaction procedures
NOTICES
Motor carriers:
66752 Fuel costs recovery; expedited procedures
66753 Household goods transportation; Defense Department pack-and-crate operations; special certificate letter notice
66744 Permanent authority applications
Railroad car service orders; various companies:
66753 Kansas City Terminal Railway Co. (2 documents)
66753 Waste product transportation for reuse or recycling

Labor Department

See also Employment and Training Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.

NOTICES

Adjustment Assistance:

- 66706 Arkwright Mills I
66707 Barnes Worsted, Inc.
66707 Bendey Shoe, Inc.
66707 Cal-Sew Apparel, Inc., et al.
66708 Helen's Dress Co.
66708 Ilex Optical Co., Inc.
66709 Lamson & Sessions Co.
66709 Milford Shoe Co.
66710 Rainsheddar

Land Management Bureau**NOTICES**

Applications, etc.:

- 66698 New Mexico (2 documents)
66698 Mineral surveyor; appointment examination

Legal Services Corporation**NOTICES**

- 66712 Grants and contracts; applications

Management and Budget Office**NOTICES**

- 66768 Budget rescissions and deferrals

Maritime Administration**NOTICES**

Applications, etc.:

- 66648 Lykes Bros. Steamship Co., Inc.

National Aeronautics and Space Administration**NOTICES**

Meetings:

- 66712 Aeronautics Advisory Committee
66712, Space and Terrestrial Applications Advisory Committee (3 documents)
66713

National Railroad Passenger Corporation**NOTICES**

- 66758 Meetings; Sunshine Act

National Technical Information Service**NOTICES**

- 66648 Inventions, Government-owned; availability for licensing (2 documents)

National Telecommunications and Information Administration**NOTICES**

- 66649 Senior Executive Service Performance Review Board; establishment

Neighborhood Reinvestment Corporation**RULES**

- 66582 CFR chapter established; organization, functions; program and public information; nondiscrimination
66587 Freedom of information

Nuclear Regulatory Commission**RULES**

Production and utilization facilities, domestic licensing:

- 66575 Fracture toughness requirements for nuclear power reactors; correction

NOTICES

Applications, etc.:

- 66716 Duquesne Light Co. et al. (2 documents)
66714, Kansas Gas & Electric Co. et al. (2 documents)
66716

Meetings:

- 66715 Reactor Safeguards Advisory Committee (3 documents)

Occupational Safety and Health Administration**PROPOSED RULES**

Health and safety standards:

- 66621 Electrical standards; correction and extension of time

NOTICES

Meetings:

- 66706 Occupational Safety and Health National Advisory Committee

Pension and Welfare Benefit Programs Office**NOTICES**

Employee benefit plans:

- 66710 Prohibitions on transactions; exemption proceedings, applications, hearings, etc.

Personnel Management Office**RULES**

Career and career-conditional employment:

- 66574 Mentally and severely physically handicapped; conversion to competitive appointments

Excepted service:

- 66567 Agriculture Department (2 documents)
66567 Commerce Department (2 documents)
66568 Community Services Administration
66568 Energy Department (2 documents)
66568 Executive Office of the President
66569 Federal Emergency Management Agency
66569 Federal Home Loan Bank Board
66569 Federal Labor Relations Authority
66569 Health, Education, and Welfare Department
66569, Housing and Urban Development Department (2 documents)
66570 Justice Department (2 documents)
66570 Labor Department
66571 Merit Systems Protection Board
66571 National Transportation Safety Board
66571 Personnel Management Office
66571 State Department

Excepted service employment:

- 66573 Attorney positions; exemption from procedural requirements
66571 Nepotism; children of civil service employees and uniformed services; summer job appointments; qualification requirements

Postal Rate Commission**NOTICES**

- 66717 Visits to postal facilities

Public Buildings Service**NOTICES**

- 66686 Vista del Arroyo, Pasadena, Calif.; rehabilitation project and disposition of excess property; scoping meeting

Public Health Service**NOTICES**

Organization, functions, and authority delegations:

- 66697 National Institutes of Health

Rural Electrification Administration**PROPOSED RULES**

Improving Government regulations:

- Regulatory agenda. (Note: Agenda issued by USDA appeared in the Federal Register of November 15, 1979, p. 65862.)

NOTICES

Loan guarantees, proposed:

- 66645 Oglethorpe Power Corp.

Science and Education Administration**NOTICES**

Meetings:

- 66645 Committee of Nine

Securities and Exchange Commission**PROPOSED RULES**

Investment companies:

- 66612 Beneficial ownership definition
66608 Investment companies, *prima facie*; exemption from regulation under Investment Company Act
66607 National securities exchanges and associations; record production obligations

NOTICES

- 66719 Fixed price offerings; inquiry
Hearings, etc.:

- 66720 Consolidated Natural Gas Co.
66721 Louisiana Power & Light Co.
Self-regulatory organizations; proposed rule changes:
66719 American Stock Exchange, Inc.
66717 National Association of Securities Dealers, Inc.
66718 Options Clearing Corp.
66722 Stock Clearing Corp. of Philadelphia

Social Security National Commission**NOTICES**

- 66714 Meetings

Surface Mining Office**NOTICES**

Permanent program submission; various States:

- 66760 Mississippi
66761 Montana
66764 Texas

Textile Agreements Implementation Committee**NOTICES**

Man-made textiles:

- 66649 Philippines

Trade Negotiations, Office of Special Representative**NOTICES**

Import relief investigations; determinations:

- 66717 Nonelectric cooking ware; inquiry

Transportation Office, Agriculture Department**NOTICES**

Meetings:

- 66645 Rural Transportation Advisory Task Force

Treasury Department

See Comptroller of Currency.

Veterans Administration**PROPOSED RULES**

Vocational rehabilitation and education:

- 66623 Travel expenses for counseling purposes

NOTICES

Environmental statements; availability, etc.:

- 66724 Wilkes-Barre, Pa.; VAMC; 120-bed nursing home care unit
66724 School liability for overpayment of educational assistance; policies and procedures

MEETINGS ANNOUNCED IN THIS ISSUE**AGRICULTURE DEPARTMENT**

Science and Education Administration—

- 66645 Committee of Nine, 12-4 and 12-5-79
Transportation Office—
66645 Rural Transportation Advisory Task Force, 11-26 through 11-30-79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Humanities Panel, December 1979

DEFENSE DEPARTMENT

Army Department—

- 66650 Military Traffic Management Command, Military Personal Property Claims Symposium, 12-13-79

ENERGY DEPARTMENT

- 66653 National Petroleum Council, Committee on Materials and Manpower Requirements, 11-28-79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

- 66684 Meetings, 12-11 and 12-13-79

GENERAL SERVICES ADMINISTRATION

Public Buildings Service—

- 66686 Rehabilitation Project and Disposition of Excess Property, Vista Del Arroyo, Pasadena, California, 11-28-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

- 66687 Minority Advisory Committee, 12-3 through 12-5-79
Center for Disease Control—
66687 Cytopathology Study Group, 11-29 and 11-30-79, and Working Group for Second International Conference on Nosocomial Infections, 12-3-79
Education Office—
66693 National Advisory Council on the Education of Disadvantaged Children, 12-6 and 12-7-79
Food and Drug Administration—
66688 Consumer Exchange, 11-28-79
66687 Pulmonary-Allergy Drugs Advisory Committee, 12-6 and 12-7-79

LABOR DEPARTMENT

Occupational Safety and Health Administration—

- 66706 Occupational Safety and Health National Advisory Committee, 12-6 and 12-7-79

**NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION**

- 66712 NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC), Subcommittee on Aviation Safety Reporting System (ASRS), 12-4 and 12-5-79
- 66713 NASA Advisory Council (NAC), Space and Terrestrial Applications Advisory Committee (STAAC), Ad Hoc Informal Advisory Subcommittee on Agriculture, Land Cover and Hydrology, 12-13 and 12-14-79
- 66712 NASA Advisory Council (NAC), Space and Terrestrial Applications Advisory Committee (STAAC), Ad Hoc Informal Advisory Subcommittee on Satellite Communications Applications, 12-5 and 12-6-79
- 66713 NASA Advisory Council (NAC), Space and Terrestrial Applications Advisory Committee (STAAC), Ad Hoc Informal Advisory Subcommittee on Materials Processing in Space (MPS), 12-7-79

NUCLEAR REGULATORY COMMISSION

- 66715 Advisory Committee on Reactor Safeguards, Procedures and Administration Subcommittee, 12-5-79
- 66715 Advisory Committee on Reactor Safeguards, Subcommittee on Fire Protection, 12-5-79
- 66715 Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment, 12-5-79

CHANGED MEETING

DEFENSE DEPARTMENT

Army Department

- 66651 Army Science Board, date change from 11-27 and 11-28-79 to 12-11 and 12-12-79

HEARINGS

AGRICULTURE DEPARTMENT

Forest Service—

- 66645 Lord Flat-Somers Point Plateau, Westside Reservoir Face and Mountain Sheep Wilderness Study Areas future management, 1-19-80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Office of the Secretary—

- 66696 White House Conference on Families, 11-30, 12-1, 12-7 and 12-8-79, and 1-11, and 1-12-80 (2 documents)

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—

- 66760 Proposed Mississippi Permanent Regulatory Program, hearing 12-20-79, comments by 12-26-79 (Part II of this issue)
- 66761 Proposed Montana Permanent Regulatory Program, hearing 12-20-79, comments by 12-24-79 (Part II of this issue)
- 66764 Proposed Texas Permanent Regulatory Program, hearing 12-19-79, comments by 12-20-79 (Part II of this issue)

NATIONAL COMMISSION ON SOCIAL SECURITY

- 66714 1980 hearings, 1-16, 1-18, 2-15 and 2-16-80

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:

12171.....66565

Proclamations:

4703.....66563

5 CFR

213 (22 documents).....66567-

66571

302.....66573

315.....66574

338.....66571

7 CFR

272.....66574

989.....66574

Proposed Rules:

225.....66605

10 CFR

50.....66575

12 CFR

329.....66575

16 CFR

13.....66576

17 CFR

Proposed Rules:

240.....66607

270(2 documents).....66608,

66612

18 CFR

270.....66577

Proposed Rules:

2.....66613

154.....66613

270.....66613

21 CFR

558.....66581

Proposed Rules:

1000.....66616

24 CFR

Ch. XXV.....66582

4103.....66587

29 CFR

Proposed Rules:

1910.....66621

31 CFR

535.....66590

32 CFR

Ch. XXVIII.....66591

36 CFR

1212.....66599

38 CFR

Proposed Rules:

21.....66623

40 CFR

116.....66602

117.....66602

Proposed Rules:

65.....66624

44 CFR

65.....66602

45 CFR

Proposed Rules:

86.....66626

49 CFR

Proposed Rules:

1111.....66626

V
4
4

N
O

2
0

7

9

U
M
I

V
4
4

N
O

2
0

7
9
U M I

Presidential Documents

Title 3—

The President

Proclamation 4703 of November 16, 1979

National Family Week, 1979

By the President of the United States of America

A Proclamation

We are a nation of families. This country was settled and built by families of all kinds. A source of strength in our past, families are America's hope for the future. All families are important, but the extended family, the foster family and the adoptive family play a special role by relieving the isolation of those who lack the comfort of a loving nuclear family.

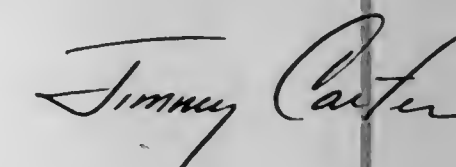
Families are the most universal and enduring element in human existence. A family is a reservoir of shared experiences, shared joys and sorrows and, most of all, shared love that spans generations and distances.

As we come together at this Thanksgiving season, we gather with our families to express our gratitude. Our family circles expand to welcome and include others in the warmth of the holiday season. It is a time for all of us to cherish those we love and to celebrate family life.

We must continue this attention to families all year round, however. Through the coming White House Conference on Families, our new Office on Families, and through new approaches that would encourage more adoptive and foster parents, governments and citizens together can learn to become better family advocates of the American family. We must nurture the family as it has nurtured us.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in accordance with a joint resolution of Congress, do hereby proclaim the week of November 18, 1979, as National Family Week and call upon all the American people to observe this week with appropriate activities in their homes and communities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of November, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.



Presidential Documents

Executive Order 12171 of November 19, 1979

Exclusions From the Federal Labor-Management Relations Program

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7103(b) of Title 5 of the United States Code, and in order to exempt certain agencies or subdivisions thereof from coverage of the Federal Labor-Management Relations Program, it is hereby ordered as follows:

1-1. Determinations.

1-101. The agencies or subdivisions thereof set forth in Section 1-2 of this Order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is also hereby determined that Chapter 71 of Title 5 of the United States Code cannot be applied to those agencies or subdivisions in a manner consistent with national security requirements and considerations. The agencies or subdivisions thereof set forth in Section 1-2 of this Order are hereby excluded from coverage under Chapter 71 of Title 5 of the United States Code.

1-102. Having determined that it is necessary in the interest of national security, the provisions of Chapter 71 of Title 5 of the United States Code are suspended with respect to any agency, installation, or activity listed in Section 1-3 of this Order. However, such suspension shall be applicable only to that portion of the agency, installation, or activity which is located outside the 50 States and the District of Columbia.

1-2. Exclusions.

1-201. The Information Security Oversight Office, General Services Administration.

1-202. The Federal Research Division, Research Services, the Library of Congress.

1-203. Agencies or subdivisions of the Department of the Treasury:

(a) The U.S. Secret Service.

(b) The U.S. Secret Service Uniformed Division.

(c) The Office of Special Assistant to the Secretary (National Security).

(d) The Office of Intelligence Support (OIS).

(e) The Office of the Assistant Secretary (Enforcement and Operations) (OEO).

(f) The Office of Criminal Enforcement, Bureau of Alcohol, Tobacco, and Firearms.

(g) The Office of Investigations, U.S. Customs Service.

(h) The Criminal Investigation Division, Internal Revenue Service.

1-204. Agencies or subdivisions of the Department of the Army, Department of Defense:

(a) Office of Assistant Chief of Staff for Intelligence.

(b) U.S. Army Intelligence and Security Command.

(c) U.S. Army Foreign Science and Technology Center.

(d) U.S. Army Intelligence Center and School.

(e) U.S. Army Missile Intelligence Agency.

(f) Foreign Intelligence Office, U.S. Army Missile Research and Development Command.

1-205. Agencies or subdivisions of the Department of the Navy, Department of Defense:

(a) Office of Naval Intelligence.

(b) Naval Intelligence Command Headquarters and Subordinate Commands.

V
4
4

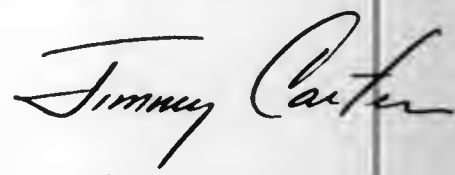
N
O

2
0

7
9
U M I

- (c) Headquarters, Naval Security Group Command.
 (d) Naval Security Group Activities and Detachments.
 (e) Fleet Intelligence Center, Europe and Atlantic (FICEURLANT).
 (f) Fleet Intelligence Center, Pacific (FICPAC).
 (g) Units composed primarily of employees engaged in the operation, repair, and/or maintenance of "off line" or "on line" cryptographic equipment.
 (h) Units composed primarily of employees of naval telecommunications activities in positions which require a cryptographic authorization.
- 1-206. Agencies or subdivisions of the Department of the Air Force, Department of Defense:
 (a) Office of Space Systems, Office of the Secretary of the Air Force.
 (b) Office of Special Projects, Office of the Secretary of the Air Force.
 (c) Engineering Office, Space and Missile Systems Organization (Air Force Systems Command).
 (d) Program Control Office, Space and Missile Systems Organization (Air Force Systems Command).
 (e) Detachment 3, Space and Missile Systems Organization (Air Force Systems Command).
 (f) Defense Dissemination Systems Program Office, Space and Missile Systems Organization (Air Force Systems Command).
 (g) Satellite Data System Program Office, Space and Missile Systems Organization (Air Force Systems Command).
 (h) Project Office at El Segundo, California, Office of the Secretary of the Air Force.
 (i) Project Office at Patrick Air Force Base, Florida, Office of the Secretary of the Air Force.
 (j) Project Office at Fort Myer, Virginia, Office of the Secretary of the Air Force.
 (k) Air Force Office of Special Investigations.
 (l) U.S. Air Force Security Service.
 (m) Foreign Technology Division, Air Force Systems Command, Wright-Patterson Air Force Base.
 (n) 1035 Technical Operations Group (Air Force Technical Applications Center), Air Force Systems Command, and subordinate units.
 (o) 3480 Technical Training Wing, Air Training Command, Goodfellow Air Force Base, Texas.
- 1-207. The Defense Intelligence Agency, Department of Defense.
 1-208. The Defense Investigative Service, Department of Defense.
 1-209. The Office of Enforcement and the Office of Intelligence, including all domestic field offices and intelligence units, of the Drug Enforcement Administration, Department of Justice.
 1-210. Offices of the Assistant Secretary for Defense Programs, Department of Energy.
 1-211. Offices within the Agency for International Development:
 (a) The Immediate Office of the Auditor General.
 (b) The Office of Inspections and Investigations.
 (c) The Office of Security.
 (d) The Office of the Area Auditor General/Washington.
- 1-3. Units outside the 50 States and the District of Columbia.
 1-301. The Drug Enforcement Administration, Department of Justice.

THE WHITE HOUSE,
November 19, 1979.



[FR Doc. 79-36046
Filed 11-19-79; 1:52 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 44, No. 225

Tuesday, November 20, 1979

66567

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Department of Agriculture

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of the Schedule C position in the Department of Agriculture of Private Secretary to the Deputy Assistant Secretary for International Affairs and Commodity Programs to Private Secretary to the Deputy Under Secretary for International Affairs and Commodity Programs to reflect the current title of the superior.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Phyllis Mowery, Department of Agriculture, (202) 447-7131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3313(a)(13) is amended as set out below:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(13) One Private Secretary to the Deputy Under Secretary for International Affairs and Commodity Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35796 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Agriculture

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant to the Administrator, Federal Grain Inspection Service because it is confidential in nature. Appointments may be made without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Phyllis Mowrey, Department of Agriculture, (202) 447-7131.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3313(u)(2) is amended as set out below:

§ 213.3313 Department of Agriculture.

(u) *Federal Grain Inspection Service.* * * *

(2) Three Confidential Assistants to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35797 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant to the Assistant Secretary for Industry and Trade, Department of Commerce, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Judy Hilton, Department of Commerce, (202) 377-3453.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3314(m)(1) is amended as set out below:

§ 213.3314 Department of Commerce.

(m) *Office of the Assistant Secretary for Industry and Trade.*

(1) One Private Secretary and four Confidential Assistants to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35798 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Secretary of Commerce because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Bea Nelson, Department of Commerce, (202) 377-3453.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3314(a)(21) is amended as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *

(21) One Assistant and one Special Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35799 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213**Excepted Service; Community Services Administration**

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of Confidential Staff Assistant to the Assistant Director for Management Community Services Administration, to Confidential Staff Assistant to the Assistant Director for Community Action to reflect an organizational transfer.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.
On position content: Felix A. Gloden, Community Services Administration, (202) 254-5220.

Office of Personnel Management.
Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3373(m)(2) is amended as set out below:

§ 213.3373 Community Services Administration.

(m) *Office of Management.* * * *

(2) One Confidential Staff Assistant to the Assistant Director for Community Action.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35800 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213**Excepted Service; Department of Energy**

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Staff Assistant to the Secretary of Energy because it is confidential in nature. Appointments may be made to these

positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 13, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.
On position content: Robert Willyerd, Department of Energy, (202) 633-8234.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(a)(6) is amended as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* * * *

(6) One Assistant, one Confidential Assistant (Receptionist) and one Staff Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35801 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213**Excepted Service; Department of Energy**

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The following positions in the Dept. of Energy are excepted from the competitive service under Schedule C because they are confidential in nature: one position of Staff Assistant to the Secretary and one position of Staff Assistant to the Under Secretary. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 17, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Robert Willyerd, Department of Energy, (202) 633-8234.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(a)(3) and (7) are amended as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* * * *

(3) One Confidential Assistant (Secretary) and one Staff Assistant to the Under Secretary.

(7) Three Assistants and one Staff Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35802 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213**Excepted Service; Executive Office of the President**

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of two Secretaries to the Director to two Executive Assistants to the Director, Executive Office of the President, to more appropriately reflect the duties of the positions.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.
On position content: Martha Smith, Executive Office of the President, (202) 395-3765.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3303(a)(1) is amended and (a)(4) is added as set out below:

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.*

(1) Three Secretaries to the Director.

(4) Two Executive Assistants to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35803 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213**Excepted Service; Federal Emergency Management Agency.**

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Administrator, U.S. Fire Administration, Federal Emergency Management Agency, because it is confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Albert Maltz, Federal Emergency Management Agency, (202) 235-2473.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3395(b)(1) is added as set out below:

§ 213.3395 Federal Emergency Management Agency.

(b) *U.S. Fire Administration.* (1) One Special Assistant to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35804 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213**Excepted Service; Federal Home Loan Bank Board**

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a Secretary (Steno) to the Special Assistant to the Chairman to Secretary (Steno) to the Assistant to the Chairman, Federal Home Loan Bank Board, to reflect the current title of the superior.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Patricia Schambach, Federal Home Loan Bank Board (202) 377-6057.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3354(m) is amended as set out below:

§ 213.3354 Federal Home Loan Bank Board.

(m) One Secretary (Steno) to the Assistant to the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35805 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213**Excepted Service; Federal Labor Relations Authority**

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Secretary (Typing) to the General Counsel, Federal Labor Relations Authority, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: June 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Gilbert Miller, Federal Labor Relations Authority, (202) 632-6880.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3392 ((b)(1)) is added as set out below:

§ 213.3392 Federal Labor Relations Authority.

(b) *Office of the General Counsel.*

(1) One Secretary (Typing) to the General Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35806 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213**Excepted Service; Department of Health, Education, and Welfare**

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment continues the exception under Schedule B, without time limitation, for participants in midcareer programs in the Department of Health, Education, and Welfare. All other conditions remain the same. This amendment is authorized because it continues to be impracticable to competitively examine for these positions.

EFFECTIVE DATE: June 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Ann Elledge, Department of Health, Education, and Welfare, (202) 245-2100.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3216(e) is amended as set out below:

§ 213.3216 Department of Health, Education, and Welfare.

(e) Seventy-five positions, not in excess of GS-13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 p. 218)

[FR Doc. 79-35807 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213**Excepted Service; Department of Housing and Urban Development**

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C three positions: One Deputy Executive Assistant and two Special Assistants to the Secretary (Operations), Department of Housing and Urban Development, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority contact: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content contact: Ms. Betty Sullivan, Department of Housing and Urban Development, (202) 755-5749.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3384(a)(71) is amended as set out below:

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *
(71) One Secretary (Steno) to the Executive Assistant to the Secretary (Operations), one Deputy Executive Assistant to the Secretary (Operations) and six Special Assistants to the Secretary (Operations).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35808 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Housing and Urban Development

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of Executive Assistant to the Deputy Assistant Secretary for Insured and Direct Loan Programs, Department of Housing and Urban Development, to Executive Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs to reflect the current title of the superior.

EFFECTIVE DATE: June 28, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Linda Stephens, Department of Housing and Urban Development, (202) 755-7844.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3384(b)(19) is amended and (b)(21) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* * * *

(19) One Special Assistant to the Deputy Assistant Secretary for Insured and Direct Loan Programs. * * *

(21) One Executive Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35809 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Positions, other than those providing routine clerical and administrative support, in offices of the United States Trustees, Department of Justice, are excepted from the competitive service under Schedule B because it is impracticable to hold a competitive examination for them.

EFFECTIVE DATE: November 2, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533.

On position content: Lee Probst, Department of Justice, 202-633-3351.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3210(d) is added to read as follows:

§ 213.3210 Department of Justice.

(d) Until March 31, 1984, positions, other than those providing routine clerical and administrative support, on the staff of the offices of United States Trustees. Terms of service under this authority shall be established in accordance with provisions of the Bankruptcy Reform Act of 1978 and subsequent applicable legislation.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35810 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Associate Attorney General, Department of Justice, because it is confidential in nature. Appointments may be made to this position without

examination by the Office of Personnel Management.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Bobbie Gross, Department of Justice, (202) 633-1846.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3310(a)(12) is amended as set out below:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* * * *

(12) One Confidential Assistant and one Special Assistant to the Associate Attorney General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35811 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Secretary of Labor because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Joyce Goins, Department of Labor, (202) 532-6555.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3315(a)(1) is amended as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* (1) One Private Secretary, one Secretary, Five Special Assistants and one Confidential Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35812 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Merit Systems Protection Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the titles of certain positions at the Merit Systems Protection Board to reflect the current title of the superiors.

EFFECTIVE DATE: May 8, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority contact: William Bohling, Office of Personnel Management, 202-632-4533.

On position content contact: Pat Ealey, Merit Systems Protection Board, 202-632-5370.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3390 (a) and (b) are amended as set out below:

§ 213.3390 Merit Systems Protection Board.

(a) One Attorney-Advisor (General), one Special Assistant and one Staff Assistant (Steno) to the Chair.

(b) One Policy Advisor and one Administrative Assistant to the Vice Chair.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35813 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; National Transportation Safety Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The title of the position, Secretary (Steno) to the Chairman, National Transportation Board, is changed to Secretary (Typing) to the Chairman because the new title more accurately describes the duties of the position. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Larry Upson, National Transportation Safety Board, (202) 472-8166.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3396(a)(3) is amended as set out below:

§ 213.3396 National Transportation Safety Board.

(a) *Office of the Chairman.* * * *

(3) One Secretary (Steno) and one Secretary (Typing) to the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35814 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Office of Personnel Management

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule B up to eight positions of Associate Director at grade GS-13 and GS-14 at Executive Seminar Centers of the Office of Personnel Management because competitive examination for these positions is impracticable. Appointments under this authority may not exceed 3 years, and no more than half of the authorized Associate Director positions at any one center may be filled by Schedule B appointees.

EFFECTIVE DATE: June 22, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority contact: William Bohling, Office of Personnel Management, 202-632-4533.

On position content contact: Michael Poole, Office of Personnel Management, 202-632-4648.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3290(a) is added as set out below:

§ 213.3290 Office of Personnel Management.

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS-13 and GS-14. Appointments may be made for any period up to 3 years, and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one

Executive Seminar Center may be filled under this authority.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218)

[FR Doc. 79-35815 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Assistant Secretary for East Asian and Pacific Affairs, Department of State, because it is confidential in nature.

Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: Frances Jones, Department of State, (202) 632-5350.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(j)(2) is amended as set out below:

§ 213.3304 Department of State.

(j) *Office of the Assistant Secretary for East Asian and Pacific Affairs.* * * *

(2) Two Special Assistants to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-35816 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Parts 213 and 338

Excepted Service; Qualification Requirements (General)

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This rule amends the nepotism regulation established under E.O. 10577, "Amending the Civil Service Rules and Authorizing a New Appointment System for the Competitive Service" to allow for the appointment of a son or daughter in the same agency where a parent is

employed when certain conditions are satisfied under that agency's merit staffing plan.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas W. Smith, (202) 632-6030.

SUPPLEMENTARY INFORMATION: On July 13, 1979, the Office of Personnel Management (OPM) published proposed rules (44 FR 40894) to ease restrictions on an applicant's ability to gain summer employment in an agency which employs a parent of that applicant. The invitation to the public to comment on this proposal resulted in 16 responses. Nine of these responses expressed unqualified approval of the proposal. Responses which offered suggestions for improving the proposal are discussed below.

One Federal agency argued that the proposed rules would increase the potential for merit abuse and suggested that an agency be allowed to appoint the children of its civilian employees and members of its uniformed service only at installations located in remote areas when there are no other eligibles available. An examination of the problems related to nepotism had let OPM to believe that a solution could be found that would eliminate abuses in selection and yet not require such a wholesale exclusion of candidates as called for by this suggestion. Given the requirements of the competitive process, allowing children of agency employees to be involved in that competition seems more fair than having them wait until all other applicants in a remote location have been considered or, if the location is not remote, eliminating them from competition altogether.

Comments were received from four people who recommended that the easing of restrictions on the hiring of sons and daughters be expanded to include student programs authorized under the provisions of E.O. 12015. These student programs were not included in the proposed changes because, unlike the participants in temporary summer and student programs covered by these changes, the students in programs authorized by E.O. 12015 can be converted to career service appointments. This conversion authority clearly sets these programs apart from the other student and summer programs and is the reason for retaining restrictions on the hiring of sons and daughters under programs authorized by E.O. 12015. The OPM may authorize exceptions to these rules when it determines that a shortage of applicants exists for a particular occupation. There are editorial changes in the final rule to eliminate the possibility of

misinterpreting the proposed rule's reference to programs under E.O. 12015.

Two commenters called for eliminating the requirement that children of agency employees must have a higher rating than all other available eligibles. Permitting sons and daughters to be selected when their scores are the same as those of other candidates offers the possibility of real or apparent family influence entering into the process. When a selection is to be made from among equals, and a son or daughter is selected, rightly or wrongly, the action would be suspect. This suspicion would lead to renewed charges of favoritism in summer employment. We therefore did not accept this suggestion.

Two other commenters offered opposing views on the degree to which recruitment should be required. One writer felt that the widest possible range of publicity should be required including contact with minority and women's organizations. The other felt that, given the high ratio of applicants to jobs each summer, the publicity called for in the proposed rules would only lead to unnecessary administrative paperwork by Federal personnel offices and disappointment among applicants. These opposing views indicate that the proposal strikes a balance between a concern for open competition and a concern for counterproductive paperwork and frustrated applicants.

Another comment suggested the need to clarify in the Federal Personnel Manual the circumstances under which the ranking of candidates is not appropriate and qualified candidates are considered on a strictly random basis. Guidelines for examining under these circumstances will be included in revisions of appendix J of Federal Personnel Manual chapter 332.

Another change from the proposed rule appears in paragraph (d)(4) of § 213.3101 of the final rule in order to clarify the fact that agencies have already been delegated authority to appoint the severely handicapped or mentally retarded under § 213.3102(t) and (u). The proposed rule implied that such appointments would have to be approved by OPM on an individual basis.

The Director of the Office of Personnel Management finds that, in order to provide for continuity of program operations, good cause exists for shortening the 30-day delay of effectiveness for final rules required by 5 U.S.C. 553(d).

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, the Office of Personnel Management is amending Title 5 of the Code of Federal Regulations as set forth below:

(1) Section 213.3101 is revised to read as follows:

§ 213.3101 Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.

(a) The positions enumerated in §§ 213.3102 to 213.3199 are positions other than those of a confidential or policy-determining character for which it is not practicable to examine and which are excepted from the competitive service and constitute Schedule A.

(b) An agency (including a military department) may not appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service, to a position listed in Schedule A for student employment within the United States.

(c) An agency (including a military department) may appoint the son or daughter of a civilian employee of that agency or the son or daughter of a member of its uniformed service to a summer position when:

(1) The opportunities for employment have been publicized in the summer announcement, OPM regional and/or area office supplements, or through Federal job information centers and State Employment Services for a minimum 2-week period;

(2) There are no eligibles available with the same or higher rating under merit staffing plans for which the ranking criteria satisfy job-relatedness requirements of FPM Supplement 271-2, "Tests and Other Applicant Appraisal Procedures," or for which ranking is not appropriate and qualified candidates are considered on a strictly random basis; and

(3) The appointment is not prohibited by section 3110 of title 5, United States Code, or Part 310 of this chapter relating to the employment of relatives.

(d) Paragraphs (b) and (c) do not restrict the appointment of persons

(1) Who are eligible for placement assistance under the OPM's Displaced Employee (DE) Program;

(2) Who are employed to meet urgent needs resulting from an emergency posing an immediate threat to life or property; or

(3) Who are members of families which are eligible to receive financial assistance under a public welfare program or the total income of which in relation to family size does not exceed

limits established by the OPM and published in the Federal Personnel Manual; or

(4) Who are severely physically handicapped or mentally retarded when appointed under § 213.3102 (t) or (u).

(e) An agency may appoint for summer employment within the United States in positions listed in Schedule A only in accordance with the terms of OPM's summer employment program. This restriction does not apply to positions that are excepted only when filled by particular types of individuals.

(f) In this section "summer employment" means any employment beginning after May 12 which will end before October 1 of the same year. "Student employment" means the employment of persons who are enrolled or who have been accepted for enrollment, on a substantially full-time basis, as resident students of a secondary school or of an institution of higher learning; a resident student, for this purpose, is a student in actual physical attendance at a school as distinguished from a correspondence student.

(2) Section 338.202 is revised to read as follows:

§ 338.202 Restriction on sons and daughters.

(a) An agency (including a military department) may appoint the son or daughter of a civilian employee of that agency, or a son or daughter of a member of its uniformed service for student or summer employment within the United States when:

(1) The position is filled from a list of eligibles established under an examination conducted by the Office of Personnel Management and

(2) There is no other available eligible with the same or higher rating, and

(3) The appointment is not prohibited by section 3110 of title 5, United States Code, or Part 310 of this chapter relating to the employment of relatives.

(b) An agency (including a military department) may appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service for summer employment within the United States when:

(1) The position is filled under agency-developed staffing plans not requiring a summer written test;

(2) The opportunities for employment have been publicized in the summer announcement, OPM regional and/or area office supplements, or through Federal job information centers and State Employment Services for a minimum 2-week period;

(3) There are no eligibles available with the same or higher rating under merit staffing plans for which the ranking criteria satisfy job-relatedness requirements of FPM Supplement 271-2, "Tests and Other Applicant Appraisal Procedures," or for which ranking is not appropriate and qualified candidates are considered on a strictly random basis; and

(4) The appointment is not prohibited by section 3110 of title 5, United States Code, or Part 310 of this chapter relating to the employment of relatives.

(c) Paragraphs (a) and (b) of this section do not restrict the appointment of persons:

(1) Who are eligible for placement assistance under the OPM's Displaced Employee (DE) Program, or

(2) Who are employed to meet urgent needs resulting from an emergency posing an immediate threat to life or property, or

(3) Who are members of families which are eligible to receive financial assistance under a public welfare program or the total income of which in relation to family size does not exceed limits established by the OPM and published in the Federal Personnel Manual.

(d) An agency (including a military department) may not appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service for student employment in programs conducted under the provisions of E.O. 12015 for which noncompetitive conversion is authorized. Exceptions based on difficulty in recruiting for certain occupations may be approved only by OPM.

(e) In this section "summer employment" means any employment beginning after May 12 which will end before October 1 of the same year. "Student employment" means the employment of persons who are enrolled or who have been accepted for enrollment, on a substantially full-time basis, as resident students of a secondary school or of an institution of higher learning; a resident student, for this purpose, is a student in actual physical attendance at a school, as distinguished from a correspondence student.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954-1958 comp., p. 218)

[FR Doc. 79-35793 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 302

Employment in the Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This action exempts attorney positions from normal procedural requirements for filling positions in the excepted service as a result of a Department of Justice ruling.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: On position authority: William Bohling, Office of Personnel Management, 202-632-4533.

SUPPLEMENTARY INFORMATION: Every appropriation act since 1943 has prohibited the Civil Service Commission (now the Office of Personnel Management) from examining the qualifications of individuals being hired as attorneys by the Government. Because of this restriction, attorney positions are excepted from the competitive service under Schedule A. The Department of Justice has now ruled that the statutory restriction also prohibits the Office of Personnel Management from prescribing use of a numerical rating system in the selection of attorneys. To implement this ruling, the regulations governing employment in the excepted service are amended to exempt attorney positions from the procedural requirements. Because this amendment is mandated by the Department of Justice, and the Office of Personnel Management has no discretion in carrying out the ruling, the Director has found that good cause exists for issuing this final rule without a public comment period.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 302.101 is amended by adding a new paragraph (c)(10) to read as follows:

§ 302.101 Positions covered by regulation.

• • • • •

(c) Positions exempt from appointment procedures. • • •

(10) Attorney positions.

• • • • •

[FR Doc. 79-35791 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 315

Career and Career-Conditional Employment

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: These regulations implement Executive Order 12125, Competitive Status for Handicapped Federal Employees, which permits conversion of mentally retarded and severely physically handicapped employees from Schedule A excepted service appointment to competitive appointments.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, Inservice Placement Branch, Staffing Services, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415, (202) 632-4533.

SUPPLEMENTARY INFORMATION:

Background

On June 26, 1979, the Office of Personnel Management published proposed rules to implement Executive Order 12125 (44 FR 37232) and invited comments from the public on its proposals. Comments were received from two organizations. As a result of comments and suggestions received during this period, the Office has modified the final regulations as discussed below. The Office will also supplement the regulations with guidance issued through the Federal Personnel Manual System which will address certain other concerns expressed during the public comment period. Some such guidance has already been issued, informing agencies of the requirements for processing excepted appointments and conversions and of a variation to the regulations permitting credit toward conversion for up to 2 years of service under temporary excepted appointments made before issuance of the proposed regulation.

Requirement for Conversion

A suggestion that the regulation clearly state that creditable service for conversion must be current and continuous and that conversion must be based on supervisory recommendation has been adopted.

Agency Discretion in Conversion

A suggestion that conversion be made mandatory upon completion of 2 years of satisfactory service was not adopted because such a provision would adversely affect certain employees, particularly those who do not yet meet

competitive qualification requirements after 2 years but would do so with longer service. Guidance to be included in the Federal Personnel Manual does, however, state that there should be substantial justification for not recommending for conversion an employee who meets the minimum service requirement and who has demonstrated successful job performance.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, the Office of Personnel Management is adding § 315.708 to Title 5, Code of Federal Regulations, as set forth below.

§ 315.708 Mentally retarded and severely physically handicapped employees serving under Schedule A appointments.

(a) *Coverage.* Employees appointed under §§ 213.3102(t) and 213.3103(u) of this chapter may have their appointments converted to career or career-conditional appointments when they:

(1) Complete 2 or more years of satisfactory service, without a break or more than 30 days, under nontemporary Schedule A appointments;

(2) Are recommended for conversion by their supervisors;

(3) Meet all requirements and conditions governing career and career-conditional appointment except those requirements concerning competitive selection from a register and medical qualifications; and

(4) Are converted without a break in service of one workday.

(b) *Tenure on conversion.* An employee converted under paragraph (a) of this section becomes:

(1) A career-conditional employee, except as provided in paragraph (b)(2) of this section;

(2) A career employee if he or she has completed 3 years of substantially continuous service in nontemporary appointments under § 213.3102(t) or § 213.3102(u) of this chapter, or has otherwise completed the service requirement for career tenure, or is excepted from it by § 315.201(c).

(c) *Acquisition of competitive status.* A person whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on conversion.

(5 U.S.C. 3301, 3302; E.O. 12125)

[FR Doc. 79-35792 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 272

[Amendment No. 143]

Food Stamp Act of 1977; Outreach

Correction

In FR Doc. 79-34408 appearing on page 64386 in the issue of Tuesday, November 6, 1979, in the first column of page 64392, the eighth and ninth lines of paragraph (iii) of § 272.6(b)(3) should have read as follows:

" * * * relationship between health and diet; and other USDA food programs. State agencies shall promptly display posters and make the pamphlets * * * "

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Preliminary Free and Reserve Percentages for 1979-80 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule

SUMMARY: This rule designates preliminary marketing percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins from the 1979 production. The estimated 1979 production of these raisins is in excess of domestic and Western Hemisphere market needs, and the percentages are intended to tailor the supply to these needs. Excess supplies would be available primarily for export to approved countries outside the Western Hemisphere.

EFFECTIVE DATES: August 1, 1979 through July 31, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Higgins, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, Washington, D.C. 20250, (202) 447-5053.

SUPPLEMENTARY INFORMATION: This rule designates preliminary free tonnage percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins of 65 percent and 56 percent, respectively, for the 1979-80 crop year. Also designated for that crop year are preliminary reserve tonnage percentages for these raisins of 35 percent and 44 percent, respectively. The 1979-80 crop year began August 1, 1979.

These designations would be pursuant to § 989.55 of the marketing agreement and Order No. 989, both as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was unanimously recommended under § 989.54(b) by the Raisin Administrative Committee, established under the order as the agency to administer its terms and provisions under USDA supervision.

Interested persons were invited to submit written data, views, or arguments on the preliminary marketing percentages in a notice of proposed rulemaking published in the November 1, 1979, issue of the Federal Register (44 FR 62901). The comment period ended November 13, 1979, and none was received within the time specified.

In the notice of proposed rulemaking, free and reserve tonnage percentages were proposed for Dipped Seedless raisins. However, a recent Departmental action, based upon a recommendation of the Committee, changed the term "Dipped Seedless" to "Dipped and Related Seedless". Consequently, this final rule designates preliminary marketing percentages for Dipped and Related Seedless raisins, not Dipped Seedless raisins. The action changing the terms was published in the November 7, 1979, issue of the Federal Register (44 FR 64397).

Under § 989.54(b) of the order, the Committee is required to recommend on or before October 5, a preliminary free tonnage percentage for any varietal type of raisin for which a free tonnage has been computed which when applied to the estimated production of that varietal type would release 85 percent of the free tonnage for that varietal type—if the field price is firmly established. In accordance with § 989.54(a), the Committee computed free tonnages for Natural (sun-dried), Seedless and Dipped and Related Seedless raisins of 185,757 natural condition tons and 9,588 natural condition tons, respectively. The field price for each of these varietal types has been firmly established and the 1979 production of Natural (sun-dried) Seedless and Dipped and Related Seedless raisins is estimated to be 244,572 natural condition tons and 14,500 natural condition tons, respectively.

Eighty-five percent of the free tonnage quantity (185,757 tons) for Natural (sun-dried) Seedless would be 157,893 tons. Dividing this by the estimated production (244,572 tons) and rounding to the nearest full percent results in a

preliminary free tonnage percentage of 65 percent. Eighty-five percent of the free tonnage quantity (9,588 tons) for Dipped and Related Seedless raisins would be 8,148 tons. Dividing 8,148 tons by the estimated production (14,500 tons) and rounding to the nearest full percent results in a preliminary free percentage of 56 percent.

Section 989.54(b) also provides that any difference between the preliminary or final free tonnage percentage and 100 percent should be the reserve percentage. Thus, the preliminary reserve percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless would be 35 percent and 44 percent, respectively.

The preliminary free tonnage percentages would make 157,893 tons of the estimated 1979 production of Natural (sun-dried) Seedless raisins, and 8,148 tons of the Dipped and Related Seedless raisin production available for immediate sale in any marketing channel. No later than February 15, the Committee shall recommend free tonnage percentages which will tend to release the full free tonnage for those varietal types. By then, the Committee will have firmer estimates of the 1979 raisin production and the trade demand for raisins.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation of the Committee, and other available information, it is found that designation, under § 989.55 of the order, of preliminary free and reserve percentages applicable to Natural (sun-dried) Seedless and Dipped and Related Seedless raisins, for the 1979-80 crop year, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the Federal Register (5 U.S.C. 553) in that: (1) The percentages designated herein for the 1979-80 crop year apply to all Natural (sun-dried) Seedless and Dipped and Related Seedless raisins acquired by handlers during that crop year; (2) handlers will be marketing these 1979 crop raisins soon, and must know what free and reserve percentages will be applicable to make marketing plans; (3) handlers are aware of this action as recommended by the Committee and require no additional time to comply; and (4) no useful purpose would be served by delaying this action.

Note.—This action has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should be

classified "significant". An impact analysis is available from William J. Higgins, (202) 447-5053.

Therefore, Subpart—Supplementary Regulations (7 CFR 989.202-989.232) is amended by adding a new § 989.233 reading as follows:

§ 989.233 Free and reserve percentages for the 1979-80 crop year.

The preliminary percentages of standard Natural (sun-dried) Seedless and Dipped and Related Seedless raisins acquired by handlers during the crop year beginning August 1, 1979, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

	Free percentage	Reserve percentage
Natural (sun-dried) seedless.....	65	35
Dipped and related seedless.....	56	44

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674)

Dated: November 15, 1979.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division.

[FR Doc. 79-35787 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Domestic Licensing of Production and Utilization Facilities; Fracture Toughness Requirements for Nuclear Power Reactors

Correction

In FR Doc. 79-29795, appearing in the issue of Wednesday, September 26, 1979, on page 55328 in the last column under IV.A.3, the fifth line correct "ND-2333" to read "NB-2333".

BILLING CODE 1505-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Computation of Interest on Time And Savings Deposits During Leap Years; FDIC General Counsel's Opinion No. 5

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of FDIC General Counsel's Opinion No. 5.

SUMMARY: FDIC General Counsel's Opinion No. 5 set forth below advises insured nonmember banks of the proper method of calculating and advertising

interest on deposits during the upcoming leap year.

The question has been raised as to the appropriate method of computing and calculating interest on time and savings deposits during leap year and appropriate advertising of interest rates during leap year.

This opinion interprets and applies §§ 329.3(e) and 329.8(f) of Part 329 of FDIC's regulations (12 CFR 329.3(e) and 329.8(f)).

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Senior Attorney 202-389-4324.

SUPPLEMENTARY INFORMATION: Under § 329.3(e) of FDIC's regulations, it is provided that in computing interest on time and savings deposits, the time factor should be expressed as a fraction in which the actual number of days the funds earn interest is the numerator, and the denominator is either 360, 365, or, in leap year, 366. However, when a deposit matures in one month, or multiples thereof, the bank may use thirty days in the numerator, or corresponding multiples thereof.

The effect of this provision of the regulations (as further interpreted by § 329.101 (12 CFR 329.101)) is to provide a means by which banks may increase the effective rate of interest paid on time or savings deposits by the use of an artificial 360-day year as the basis for computation. For example, if a $\frac{360}{366}$ fraction is used (or in a leap year, $\frac{360}{366}$), the effective rate will be greater than if the actual number of days are used in the denominator (i.e., $\frac{365}{366}$).

Naturally, a bank may use any method falling within the parameters set by § 329.3(e) in computing interest on deposits during both leap years and nonleap years. FDIC's major concern as a regulator is that the method used be clearly disclosed in the bank's deposit contracts and accurately reflected in bank advertising.

As a general proposition, where a bank has used a $\frac{360}{366}$ method in calculating interest during a conventional year, it will be required to use a $\frac{360}{366}$ method in calculating interest during a leap year unless it informs its depositors that it is planning to use some other method. If the bank's deposit contracts fail to clearly and conspicuously disclose that the bank will not count the extra day in leap year (i.e., will use a $\frac{360}{366}$ calculation during leap year), the bank will be required to notify depositors that it is employing a means of calculating interest which will be less advantageous to the depositor during leap year than the method used during conventional years.

Banks should take particular care to be sure that their advertising accurately reflects the method of interest calculation during leap year. For example, an advertising statement that a bank "pays the highest rates of interest" or that it "compounds daily" will be considered inaccurate, misleading, and a misrepresentation of a bank's deposit contracts if, in fact, the bank is using a method of computation which does not take into account the extra day in leap year. If a bank is taking into account the extra day in leap year and paying for that extra day, its advertising must clearly and conspicuously reflect that the stated annualized yield is applicable only as to funds which will be on deposit for the extra day in leap year. For example, if a four-year time deposit encompasses leap year 1980,

advertisements for that deposit must clearly and conspicuously state that the increased effective rate is applicable for 1980 only, and the lesser appropriate rate will be applicable for the remaining period of the deposit. That lesser applicable rate must also be stated. To fulfill this requirement, a bank could advertise a nonleap year yield with an asterisk notation to the leap year yield.

If the bank should fail, for some reason, to advertise the leap year yield, or advertise a nonleap year yield, and it is otherwise obligated to pay the leap year yield, it must do so. Understatement of a yield is not considered misleading advertising. Leap year is defined as the 366-day period ending February 29th.

By order of the Board of Directors.
Dated: November 13, 1979.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 79-35822 Filed 11-19-79; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9059]

Trans World Accounts, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order further modifies the Commission's July 25, 1979 "Modified Order to Cease and Desist", 44 FR 49650, by inserting Paragraph 3 which had been omitted pending its reformulation in accordance with the March 29, 1979 mandate of the Court of Appeals for the 9th Circuit.

DATES: Final order issued Oct. 25, 1977. Modifying order issued Oct. 25, 1979.¹

FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102, (415) 558-1270.

SUPPLEMENTARY INFORMATION: In the Matter of Trans World Accounts, Inc., a corporation, and Floyd T. Watkins, individually and as an officer of said corporation. Codification under 16 CFR Part 13, appearing at 44 FR 49650, has been amended by adding under Subpart-Threatening Suits, Not in Good Faith: § 13.2264 Delinquent debt collection.

(Sec. 8, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

The modifying order is as follows:

Order on Remand

This matter is before the Commission upon remand from the Ninth Circuit Court of Appeals, which affirmed the Commission's findings of violation and enforced the order entered by the Commission save for paragraph 3 thereof. As to that paragraph, the Court remanded to the Commission for reformulation.

The Commission found, *inter alia*, that Trans World Accounts has misrepresented the imminency of legal action in its form collection letters, implying therein that legal action would be taken within very short periods of time following refusal by the alleged debtor to pay a debt, when, in fact, the only response to nonpayment by Trans World would be to send another letter in its form series.

Paragraph 3 of the Commission's order prohibited both misrepresentations of the imminency of legal action, and of its likelihood. This was intended to eliminate misrepresentations of the imminency of legal action, and to "fence-in" related misrepresentations of the likelihood of legal action. In remanding this order provision, the Court of Appeals applied the terms "vagueness and overbreadth" to that portion of the order fencing-in misrepresentations of the likelihood of legal action. Respondents argue that the Court held that a showing of misrepresentations of the imminency of legal action was insufficient to justify any fencing-in order as to the likelihood of legal action. Complaint counsel argue that the Court made clear that the Commission was not powerless to fence-in misrepresentations of the

¹ Copies of the Order on Remand filed with the original document.

likelihood of legal action, but merely objected to the manner in which the Commission had done so.

From the Court's opinion, we are not entirely sure what is the source of its objection to the breadth of the Commission's order. Both sides have offered plausible interpretations. For the reasons noted below, we believe that it will be sufficient for the purposes of this proceeding if we adopt the order proposed by respondents.²

The Fair Debt Collection Practices Act, 15 U.S.C. 1692, prohibits on pain of \$10,000 civil penalties per violation, any "false, deceptive, or misleading representation or means in connection with the collection of any debt", 15 U.S.C. 1692e. Among the deceptive practices specifically enumerated are "The threat to take any action that cannot legally be taken or that is not intended to be taken." 15 U.S.C. 1692e(5).

Respondents suggest that their messages are merely "educational" rather than "threatening." The two attributes are not mutually exclusive, however, and coalesce perfectly in the typical debt collection missive. In our experience, debt collectors are not in business to give free correspondence courses in Creditors' Remedies. When a letter is sent to a debtor for the purpose of collecting a debt, and the writer makes the observation that the debtor "will" or "may" be sued if he or she does not pay, that observation is very likely to be perceived by the debtor as a threat. Why else, after all, would the debt collector have spent money to include that information in its letter?

This commonsense proposition finds support in the decision of the Ninth Circuit, as complaint counsel observe. The Court recognized that statements to the effect that legal action "may" be taken if the debtor did not pay within five days were threats of imminent legal action, not merely abstract statements of creditors' legal rights.

In this case, of course, as the Court and respondents observe, there was no proof that respondents misrepresented the likelihood of legal action, and no order against such misrepresentations will enter. But respondents would err grievously to assume that they, therefore, are entitled in the future to misrepresent the likelihood of legal action, particularly given the provisions

² We have, however, retained the term "legal action" rather than "lawsuit". There is no reason why respondents should be allowed to misrepresent the imminency of any form of "legal action" (e.g., referral to an attorney, levying on a judgment). This is clearly permissible fencing-in, and the Court of Appeals expressed no objection to this formulation in the order that was before it.

of the Fair Debt Collection Practices Act cited above.

A valid function is performed by advising debtors of the possibility of legal action if legal action as to the debtor being informed is, indeed, a realistic possibility. Where form letters are used to communicate the possibility of legal action, however, some care is necessary to avoid deception. If, for example, debtors allegedly owing small amounts are rarely or never sued in the event that they fail to pay, it is plainly deceitful to threaten such debtors with the reasonable possibility of legal action. The deceit as to those debtors not likely to be sued is not obviated merely because the same form letters are sent to other debtors, owing much larger amounts, who are likely to be sued.

A debt collector must, therefore, take care that when threatening legal action, the threat be accompanied by an intention to take such legal action as to the debtor being threatened in the event that payment is not made or a defense not raised by the debtor. In the case of form-letter threats, particular care is needed to assure that such threats are not directed at recipients against whom the collector or creditor would be unprepared to take legal action in the event that payment or a defense were not forthcoming. If particular creditors do not take legal action against debtors owing small amounts, then it is simply dishonest to send form letters on behalf of those creditors to those debtors that in any way suggest that legal action may be taken.

With these observations we shall enter the order proposed by respondents, after substitution of the words "legal action" for "lawsuit".

Therefore, it is ordered, That the Commission's "Modified Order to Cease and Desist" dated July 25, 1979, be further modified by the insertion of Paragraph 3 to read:

"3. Misrepresenting directly or by implication, that legal action with respect to an alleged delinquent debt has been or will be initiated, or misrepresenting in any manner the imminency of legal action."

By the Commission.

Carol M. Thomas,
Secretary.

[FR Doc. 79-35678 Filed 11-19-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 270

[Docket No. RM80-7; Order No. 58]

Final Rule Governing the Maximum Lawful Price for Pipeline, Distributor or Affiliate Production

AGENCY: Federal Energy Regulatory Commission, DoE.

ACTION: Final Regulations.

SUMMARY: On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations (43 FR 58448, December 1, 1978) implementing the Natural Gas Policy Act of 1978 (NGPA). The Commission is issuing § 270.203 of the interim regulations as a final regulation. Section 270.203 defines what sales of production by interstate pipelines, intrastate pipelines, local distribution companies and affiliates of those entities will be considered first sales for purposes of the Natural Gas Policy Act of 1978.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Eli Farrah, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4008-E, 825 North Capitol Street, NE, Washington, D.C. 20426 (202) 357-8318.
Jane Phillips, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104-B, 825 North Capitol Street, Washington, D.C. 20426 (202) 357-8033.

November 14, 1979.

I. Background

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations (43 FR 58448, December 1, 1978) implementing the Natural Gas Policy Act of 1978 (NGPA). Section 270.203(a) of the interim regulations implements section 2(21)(B) of the NGPA and prescribes which sales of natural gas will be considered to be first sales for NGPA purposes because the gas is attributable to production by interstate pipelines, intrastate pipelines, local distribution companies and affiliates thereof. Section 270.203(b) of the interim regulations defines what other sales by these entities will be considered to first sales in order to prevent circumvention of the maximum lawful prices established under the NGPA. Section 270.203(c) of the interim regulations defines certain terms used in § 270.203.

The Commission has received numerous comments concerning § 270.203 and is amending that section based on an analysis of these

comments. Section 270.203 as amended delineates the circumstances under which a sale of production of an interstate or intrastate pipeline, local distribution company (or affiliate of any of these entities) will be regulated as a first sale under the NGPA. Production of interstate pipelines and their affiliates which is not regulated as a first sale under the NGPA is subject to continuing regulation under the Natural Gas Act (NGA). In response to comments received on § 270.203 and in conjunction with the amendments issued in this order, the Commission is proposing by separate order to add a new § 2.68a to its regulations under the NGA which, in general, will permit interstate pipelines to determine the cost component associated with their own production by reference to NGPA maximum lawful prices, for NGA ratemaking purposes, in those instances where the pipeline would have been allowed the area or national rates under the NGA.

II. Summary of Comments and Revisions to § 270.203

A. Attribution Rule for Pipelines and Distributors. Section 2(21)(B) of the NGPA provides that a sale of natural gas by a pipeline, distributor or affiliate thereof is not a first sale unless the sale is "attributable" to volumes of natural gas produced by such pipeline, distributor or affiliate thereof. Section 270.203(a), as amended, describes the circumstances under which a sale of natural gas will be considered to be "first sale" of natural gas "attributable" to volumes produced by a pipeline or distributor. Under the amended rule sales by affiliates of pipelines and distributors are now treated separately in § 270.203(c). Section 270.203(a) has been clarified to indicate that, to the extent a sale is comprised exclusively of production volumes from identifiable wells, properties, or reservoirs which are owned by the pipeline or distributor making the sale, such sale is attributable to volumes of natural gas produced by that pipeline or distributor. For example, if a pipeline were to sell its production at the wellhead, in an offsystem sale, such a sale would generally qualify under § 270.203(a) as a first sale.

As the comments point out, however, sales by pipelines usually do not occur at the wellhead. Pipeline sales generally occur at the point the natural gas is withdrawn from the pipeline's general system supply. Furthermore, pipelines usually commingle the gas they produce with gas purchased from other sources and sell such mixed volumes without regard to the source of the particular volumes of natural gas involved. The Commission is aware that, as a result,

most sales by interstate pipelines will not qualify as first sales under § 270.203(a) because the volumes sold are not produced exclusively by and identifiable to the pipeline's own production.

It should be noted, however, that were a pipeline to dedicate natural gas which it produced from an identifiable source to a particular purchaser by contract, commingle the gas with general system supply gas and withdraw equivalent volumes for delivery to that purchaser the sale would generally qualify as a first sale. The sale would qualify because the source of the gas involved is identified and the Commission could be assured that the gas is "attributable" to the pipeline's own production. In addition, the Commission would be able to evaluate requests for allowances for transportation and storage expenses incurred between the wellhead and the point of delivery to the purchaser.

Although many comments have recommended otherwise, the Commission will not interpret the term "attributable" so as to confer first sale treatment on pipeline sales if only a portion of the gas involved was produced by the pipeline. The language of section 2(21)(B) requires that a sale be "attributable" to the pipeline's own production. We believe that Congress did not intend for pipeline or distributor sales from general system supply to qualify as "first sales" merely because some portion of that supply, no matter how small, consists of its own production. Rather, we believe that these sales were precisely the type of sales which were intended to qualify for the general exclusion from first sale regulation for pipeline or distributor sales in section 2(21)(B) of the NGPA. The attribution rule accomplishes that result.

Assuming we were to interpret section 2(21)(B) to treat such mixed volume sales by pipelines or distributors as first sales, the Commission would not adopt such a course because it would result in a wholly inappropriate and unworkable dividing line between "first sales" and other sales, and would override the existing division between Federal and State authority relating to gas sales by pipelines and distributors. The Commission believes that Congress intended that section 2(21) of the NGPA disturb resale rate regulation under the NGA as little as possible. Under the NGA the Commission only has authority to regulate the wholesale rates of interstate pipelines. Retail sales by interstate pipelines, intrastate pipelines and local distribution companies have traditionally been regulated by the

States. If the Commission were to treat all pipeline or distributor sales as first sales where any portion of the volume sold is produced by the pipeline or distributor, Commission regulation would extend to retail sales by interstate pipelines to their direct sale industrial customers. The Commission would also be exercising "first sale" jurisdiction over sales by intrastate pipelines and local distributors of volumes produced by these companies. Yet, pipelines and distributors that did not produce any portion of the natural gas involved in their sales would continue to be exempt from first sale regulation under the exclusion in section 2(21)(B) of the NGPA. Moreover, a pipeline or distributor would be able to incur or avoid first sale regulation by entering into production activities or abandoning production activities as it saw fit. The Commission declines to effect such results absent a clearer showing of a need to do so.

Furthermore, if the Commission were to treat all sales as first sales where any portion of the volumes sold is produced by a pipeline or distributor, additional problems would be created in regard to mixed volume sales by pipelines. Where a pipeline makes a sale from general system supply rather than at the wellhead, the source of the particular volumes of gas sold generally cannot be determined. Although comments by pipelines request first sale treatment for such sales they also request allowances for non-production related costs such as transportation and storage which are incurred between the wellhead and the point at which the volumes are delivered to the purchaser and the sale occurs. However, if mixed volume sales by pipelines and distributors were considered to be first sales, the Commission would be unable to reasonably act on such requests for allowances since the source of the particular volumes of gas involved in any given sale could not be determined.

For the reasons stated above, the Commission has decided to limit first sale treatment for pipelines and distributors under the attribution rule to those sales which are statutorily designated as first sales because the volumes sold are exclusively attributable to the pipeline or distributor's production.

Many comments recognize the problems inherent in according first sale treatment to mixed volume sales by pipelines. As an alternative, these comments suggest that the Commission accord first sale treatment to the pipeline's production by imputing a sale at the point where the pipeline takes its

gas into its transmission system. However, imputing a sale at the wellhead would extend the first sale concept to intracorporate transactions. As a result, Title I prices would be applied to bookkeeping and accounting entries of a corporation rather than to actual sales. In addition, such a rule would extend NGPA first sale jurisdiction to all corporations which produce their own natural gas. Comments filed by industrial corporations which consume their own natural gas production indicate that this would produce undesirable results and that no valid regulatory purpose would be served by extending the Commission's jurisdiction to cover such production. These comments suggest that such an extension could discourage industrial self-help measures and would contravene the policy expressed in section 608 of PURPA. The Commission agrees that no valid reason presently exists to define intracorporate transfers of gas at the wellhead by intrastate pipelines and distributors as sales. Indeed, to do so would displace existing State regulation of these companies and their production. The Commission declines to effect such results.

B. Circumvention Rule for Pipelines and Distributors. Pursuant to its authority under section 2(21)(A)(v) of the NGPA the Commission has defined certain sales by pipelines and distributors, in § 270.203(b), as first sales in order to prevent circumvention of the NGPA maximum lawful prices. Section 270.203(b), as amended, provides that any sale by a pipeline or distributor which is comprised of production volumes from properties owned by the pipeline or distributor and production volumes from other sources will be considered to be a first sale unless one of two exclusions under the rule applies. The first exclusion provides that if the rate at which such natural gas is sold by the pipeline or distributor is regulated under the NGA or is regulated or subject to regulation by a State agency empowered by State statute to establish, modify or set aside the rate for the sale, then the sale will not be considered to be a first sale under the circumvention rule. The second exclusion provides that a sale by a pipeline or distributor will not be considered to be a first sale under the circumvention rule if the Commission, upon application, has determined not to treat the sale as a first sale. The Commission intends to waive first sale treatment under the circumvention rule, pursuant to the second exclusion, only where the applicant has presented sufficient facts to establish that first sale treatment is

not needed to prevent circumvention of the NGPA maximum lawful prices. Any application received pursuant to § 270.203(b)(2) will be noticed in the Federal Register, and interested parties will be given an opportunity to comment on the merits of the application.

The circumvention rule for pipelines and distributors is a necessary corollary to the attribution rule. Under the attribution rule, sales by pipelines or distributors are considered to be "attributable" to production by the pipeline or distributor, and thus to be first sales, only where the sale is comprised exclusively of the pipeline or distributor's own production. Mixed volume sales by a pipeline or distributor are not considered to be first sales under the attribution rule. Accordingly, a pipeline or distributor could avoid first sale treatment and circumvent the maximum lawful prices established by the NGPA merely by making mixed volume sales. Section 270.203(b) prevents such circumvention of NGPA prices by regulating mixed volume sales as first sales unless they are subject to other safeguards; e.g., regulation under the NGA, regulation by a State agency, or review by the Commission, on application, in order to determine whether a sale should be treated as a first sale.

Section 270.203(b) avoids the potential for recreating a dual market such as existed under the NGA. By prescribing maximum lawful prices for natural gas without regard to the situs of the sale, Congress sought to eliminate advantages enjoyed by the intrastate market. However, because a sale of mixed volumes would not be "attributable" to a pipeline's own production within the meaning of § 270.203(a), such a sale would not be regulated as a first sale under the NGPA. In those instances where the sale would not be regulated under the NGA or by any particular State, the sale price would not be regulated at all. By continuing to commingle its production with gas purchased from others, the pipeline or distributor could charge prices in excess of those charged by other sellers and could use the increased revenues to pay higher royalties in order to secure additional leases. The pipeline or distributor would have an incentive to make mixed volume sales in a State which did not regulate the price for such sales so that it could secure such an advantage over other producers in securing leases. In order to avoid such a result, § 270.203(b) makes such sales of otherwise unregulated gas first sales unless the Commission, on application, decides that first sale treatment is not

necessary in order to prevent circumvention of the NGPA maximum lawful prices.

Some of the comments received by the Commission assert that, while the individual States are given the power in section 602 of the NGPA to set ceiling prices below the NGPA price ceilings, the Commission was only given the authority to create higher ceiling prices and has unlawfully attempted in § 270.203 to establish lower ceiling prices indirectly by precluding application of NGPA maximum lawful prices. These comments have misconstrued the effect of § 270.203. In § 270.203(a) the Commission has interpreted the term "attributable" as that term is used in section 2(21)(B) of the NGPA and has described which sales by pipelines and distributors are attributable to their own production and are, thus, first sales. The Commission believes that its definition of the term "attributable" is the most reasonable and advisable one based on the policies articulated above. The fact that the Commission did not exercise its authority under section 2(21)(A)(v) of the NGPA to subject all pipeline or distributor sales to first sale treatment does not mean that the Commission has set ceiling prices below the NGPA ceiling prices in contravention of section 602 of the NGPA. In fact, in § 270.203 the Commission has exercised its authority under section 2(21)(A)(v) of the NGPA to increase the number of sales which will be governed by the NGPA maximum lawful prices.

C. Sales by Certain Affiliates of Pipelines or Distributors. Pursuant to our interpretation of the term "attributable" as it is used in section 2(21)(B) of the NGPA and our authority under section 2(21)(A)(v) of the NGPA, the Commission in § 270.203(c), has provided that any sale by an affiliate of a pipeline or distributor is a first sale if such affiliate is not itself a pipeline or distributor unless the Commission, upon application, has decided not to treat such sale as a first sale. The Commission has also made clear that the term "sale" as it is used in § 270.203(c) does not include any transaction between an interstate pipeline and an affiliate thereof if such transaction would not have been treated as a sale for purposes of the NGA.

The Commission has exercised its authority under section 2(21)(A)(v) of the NGPA, in § 270.203(c), to define all such affiliate sales as first sales in order to prevent circumvention of the NGPA maximum lawful prices. The Commission has adopted this approach for the following reason. Sales by

affiliates of pipelines and distributors are excluded from first sale treatment by section 2(21)(B) of the NGPA unless such sales are "attributable" to the affiliate's own production. As a result, sales by gatherers who are affiliated with a pipeline or distributor would be excluded from first sale treatment where the gatherer did not produce all of the gas sold, irrespective of whether the gatherer was or was not selling the gas to the affiliated pipeline or distributor. However, sales by gatherers that are not affiliated with a pipeline or distributor would not be excluded from first sale treatment. Moreover, an entity selling natural gas could avoid first sale treatment and circumvent the maximum lawful prices established by the NGPA merely by being an affiliate of a pipeline or distributor and conducting transactions which would not otherwise qualify as first sales under § 270.203(a). Accordingly, the Commission has found it necessary to define all sales by affiliates of a pipeline or distributor as first sales if the affiliate is not itself a pipeline or distributor.¹ However, under § 270.203(c) the Commission will entertain applications in individual instances to allow an applicant to present sufficient facts to establish that such first sale treatment is not necessary to prevent circumvention of the NGPA prices.

Treating all affiliate sales as first sales if the affiliate is not itself a pipeline or distributor does no more than recognize what section 2(21) and the other provisions of the NGPA appear to provide for: first sale treatment for all sales which precede sales by pipelines or distributors, where the seller is not a pipeline or distributor. Furthermore, the rule in § 270.203(c) is supported by the desirability of extending Title I maximum lawful prices and related provisions of our regulations concerning resales (§ 270.202) and sales of natural gas subject to differing maximum lawful prices (§ 270.201), and by the need to avoid the anomalous results which would follow from failing to define these sales as first sales.

D. Reports. Section 270.203(d), as amended, requires a pipeline or distributor to file a report with this Commission every six months showing the price charged in sales which have been excluded from first sale treatment under § 270.203 (b)(2) and (c). These reports will allow the Commission to re-evaluate those sales in order to determine whether they should be

¹ See Notice of Proposed Rulemaking issued with this order discussing requirement that an interstate pipeline secure abandonment authorization prior to spinning off production properties to an affiliate.

treated as first sales in order to prevent circumvention of the maximum lawful prices established by the NGPA.

E. Definitions. Section 270.203(e) defines certain terms as they are used in § 270.203. "Pipeline or distributor" is defined as an interstate pipeline, an intrastate pipeline or a local distribution company. "State Agency" is defined as a State, a political subdivision of a State, or an agency or instrumentality of either.

III. Public Procedures and Effective Date

The regulations in Part 270 were originally proposed for comment in November of 1978 and issued as interim regulations on December 1, 1978 (43 FR 56448, December 1, 1978). For 60 days thereafter comments were received and during that period public hearings were held on these regulations. By this process the Commission complied with the provisions of section 502(b) of the NGPA, which requires that "[t]o the maximum extent practicable," an opportunity for the oral presentation of data, views, and arguments be afforded for certain regulations under the NGPA. The amendments to § 270.203 contained in this order rest upon consideration given to the information received during the above-described notice, comment, and hearing process, as well as upon comments received via the FERC "Hot Line". The Commission finds that further notice and public procedure with respect to these rules is unnecessary. The Commission also finds that good cause exists to make these regulations effective immediately. Delay in the effective date of these regulations, even for a short period of time, may cause pipelines, distributors or their affiliates to postpone, or forego altogether, drilling decisions which would increase the nationwide availability of natural gas. Thus, the Commission is dispensing with the publication requirements of 5 U.S.C. 553(d)(1).

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*; Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; E.O. 12009, 42 FR 46267).

In consideration of the foregoing § 270.203 of Part 270, Subchapter H, Chapter I, Title 18, Code of Federal Regulations is issued as a final regulation as set forth below, effective immediately.

By the Commission,
Kenneth F. Plumb,
Secretary.

1. Part 270 is amended in the table of contents and in the text of the regulation by deleting § 270.203 and substituting the following in lieu thereof:

§ 270.203 Pipeline, distributor and affiliate production.

(a) *Attribution rule for pipelines and distributors.* For purposes of applying section 2(21)(B) of the NGPA, a sale by a pipeline or distributor is a sale of natural gas attributable to volumes of natural gas produced by such pipeline or distributor to the extent that such sale is comprised exclusively of production volumes of natural gas from identifiable wells, properties, or reservoirs which are owned by such pipeline or distributor.

(b) *Circumvention rule for pipelines and distributors.* In order to prevent circumvention of the maximum lawful prices established under Title I of the NGPA, the term, "first sale" includes any sale by a pipeline or distributor which is comprised of production volumes from identifiable wells, properties, or reservoirs if a portion of those volumes is produced from wells, properties, or reservoirs owned by such pipeline or distributor unless:

(1) The price at which such natural gas is sold is regulated pursuant to the Natural Gas Act or is regulated by a State agency empowered by State statute to establish, modify or set aside the rate for such sale; or

(2) The Commission, on application, has determined not to treat such sale as a first sale.

(c) *Sales by certain affiliates.* Any sale by an affiliate of a pipeline or distributor is a first sale if such affiliate is not itself a pipeline or distributor, unless the Commission, on application, has determined not to treat such sale as a first sale. For purposes of this paragraph, the term "sale" does not include any transaction between an interstate pipeline and an affiliate thereof if such transaction would not have been treated as a sale for purposes of the Natural Gas Act.

(d) *Reports.* A pipeline, distributor or affiliate thereof must file a report with this Commission every 6 months showing the price charged in a sale which was excluded from first sale treatment under paragraph (b)(2) or (c) of this section. Any determination under paragraph (b)(2) or (c) may be revoked by the Commission on the basis of information in such reports or on the basis of other information.

(e) *Definitions.* For the purposes of this section:

(1) "Pipeline or distributor" means an interstate pipeline, an intrastate pipeline, or a local distribution company.

(2) "State agency" means a State, a political subdivision of a State, or an agency or instrumentality of either.

[FR Doc. 79-35871 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 558

[Docket No. 79N-0307]

Hygromycin B and Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations to codify two approved new animal drug applications (NADA's) sponsored by Elanco Products Co. for use of hygromycin B and tylosin in chicken and swine feed.

EFFECTIVE DATE: November 20, 1979.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-138), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46206, is the sponsor of NADA 13-388 for chicken feeds containing 8 to 12 g (grams) of hygromycin B with 4 to 50 g of tylosin per ton and NADA 12-548 for swine feeds containing 12 g of hygromycin B with 10 to 100 g of tylosin per ton. The combination is indicated for control of certain helminths and for growth promotion and feed efficiency.

The NADAs are two of several which are subject to § 558.15 (21 CFR 558.15) published in the Federal Register of February 25, 1976 (41 FR 8282). In § 558.15, the agency revoked certain uses of antibiotic and sulfonamide drugs in animal feeds. All persons marketing antibiotic and sulfonamide products or identical, related, or similar products for which a use was not revoked were required to submit NADA's and commitments to provide data to resolve outstanding safety questions if marketing is to continue on an interim basis. Failure to comply with these requirements or to make the necessary

submissions and commitments constituted grounds for withdrawal of approval of the product.

The agency did not receive a § 558.15 commitment from Elanco Products Co. (Elanco) regarding the use of the firm's hygromycin and tylosin product. Accordingly, in the Federal Register of April 8, 1977 (42 FR 18611), the agency deleted that portion of the regulations reflecting the approvals and use of the products.

Subsequently, Elanco contended that a timely commitment had been submitted. The firm provided the agency with copies of prior submissions as well as with the data from current studies conducted to satisfy the requirements of § 558.15. After reviewing Elanco's submissions, FDA found that necessary commitments had been submitted, that use of hygromycin with tylosin in chicken and swine feeds had been erroneously deleted from the regulations, and that therefore the supportable uses of the products should be reinstated in the regulations.

This document therefore codifies previous approvals which have been erroneously deleted. Since the approvals were granted before July 1, 1975, a summary of the safety and effectiveness data and information submitted in accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) is not required to be on file with the Hearing Clerk (HFA-305), Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

1. The table in § 558.15(g)(2) is amended by adding a new entry for Elanco Products Co. to read as follows:

§ 558.15 Antibiotic, nitrofurantoin, and sulfonamide drugs in the food of animals.

(g) * * *
(2) * * *

Drug sponsor	Drug ingredient	Species	Use levels	Indications for use
Elanco Products Co.	Hygromycin B and tylosin	Chickens	8 to 12 g/t; 4 to 50 g/t	See § 558.274.
Do.	Hygromycin B and tylosin	Swine	12 g/t; 10 to 100 g/t	Do.

2. The table in § 558.274(e)(1) is amended by alphabetically adding in item (i) for chickens and in item (ii) for swine a new entry for the combination of hygromycin B with tylosin, to read as follows:

§ 558.274 Hygromycin B.

* * *
(e) *Conditions of use.*
(1) * * *

Hygromycin B in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 8 to 12	Tylosin 4 to 50.	Chickens: Control of infestations of large roundworms (<i>Ascaris galli</i>), cecal worms (<i>Heterakis gallinae</i>), and capillary worms (<i>Capillaria obsignata</i>); growth promotion and feed efficiency.	As tylosin phosphate; withdraw 3 days before slaughter.	000986
(ii) 12	Tylosin 10 to 100.	Swine: Control of infestations of large roundworms (<i>Ascaris suis</i>), nodular worms (<i>Oesophagostomum dentatum</i>), and whipworms (<i>Trichuris suis</i>); growth promotion and feed efficiency.	As tylosin phosphate; withdraw 15 days prior to slaughter; feed continuously as follows: Animal wt. (lbs.) Amount of Tylosin (g/t) Up to 40 20 to 100. 41 to 100 20 to 40. 101 to market 10 to 20. wt.	000986

3. In § 558.625 by revising the introductory text of paragraph (f)(2) and adding paragraph (f)(2)(i) to read as follows:

§ 558.625 Tylosin.

- (f) *Conditions of use.*
 (2) Tylosin may be used in accordance with the provisions of this section in the combinations provided as follows:
 (i) Hygromycin B as in § 558.274.
 (ii) [Reserved]
 (iii) [Reserved]

Effective date: This regulation is effective November 20, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 9, 1979.

Lester M. Crawford,
 Director, Bureau of Veterinary Medicine.
 [FR Doc. 79-35518 Filed 11-19-79; 8:45 am]
 BILLING CODE 4110-03-M

NEIGHBORHOOD REINVESTMENT CORPORATION

24 CFR Ch. XXV

Administrative Rules and Regulations

AGENCY: Neighborhood Reinvestment Corporation.

ACTION: Final regulation.

SUMMARY: These regulations set forth the purpose and scope of activities of the Neighborhood Reinvestment Corporation, provide general information on the organization and channeling of functions, and provide general program information for grant applicants. In addition, they furnish public information regarding meetings of the board of directors, in accordance with the provisions of section 552b of title 5, United States Code; and a statement of Non-Discrimination in Federally Assisted Programs.

EFFECTIVE DATE: April 25, 1979

FOR FURTHER INFORMATION CONTACT: Donnie L. Bryant, Secretary, Neighborhood Reinvestment Corporation, 1700 G Street, N.W., Fifth Floor, Washington, D.C., 20552. 202-377-6480

Dated: November 14, 1979.

Donnie L. Bryant,
 Secretary.

Title 24 of the Code of Federal Regulations is amended by establishing Chapter XXV, Neighborhood Reinvestment Corporation, consisting of Parts 4100, 4101, 4102, and 4104 to read as follows:

PART 4100—STATEMENT: ORGANIZATION AND CHANNELING OF FUNCTIONS

- Sec.
 4100.1 Functions and activities.
 4100.2 General organization.
 4100.3 Field activities.
 4100.4 General statement concerning procedures and forms.
 4100.5 Delegations of authority.
 4100.6 Inquiries.

Authority: Title VI, Pub. L. 95-557, 92 Stat. 2115 (42 U.S.C. 6101 et seq.)

§ 4100.1 Functions and activities.

(a) *General statement and statutory authority.* The Neighborhood Reinvestment Corporation (referred to in this Statement as "the Corporation") was established by Congress in the Neighborhood Reinvestment Corporation Act (Title VI of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, October 31, 1978). The Corporation is not a department, agency, or instrumentality of the United States Government.

(b) The Corporation is authorized to receive and expend Federal appropriations and public and private revenues to conduct a variety of programs designed to reverse decline in residential neighborhoods, and for other purposes. These programs include:

(1) *Neighborhood Housing Services:* The major effort of the Corporation is to assist local communities in the development of local Neighborhood Housing Services (NHS) programs. NHS programs are based upon partnerships of community residents, and representatives of local governments, and financial institutions. Each local program is administered by an autonomous, private, non-profit corporation, and offers comprehensive rehabilitation services to community residents in selected neighborhoods. These services include rehabilitation counseling, construction assistance, financial counseling, and loan referrals. Each local NHS maintains a revolving loan fund which makes rehabilitation loans available to homeowners in target neighborhoods who do not qualify at traditional lending institutions.

(2) *NHS Support:* The Corporation's Division of Support and Training provides supportive services to local NHS programs to insure their continuing effectiveness. These services include provision of training, information and technical assistance to NHS programs.

(3) *NHS Expansion:* In response to requests by local NHS programs, the Corporation provides the local NHS's with assistance in expanding to serve additional neighborhoods.

(4) *Neighborhood Preservation Projects:* The Corporation identifies, monitors, evaluates and supports other promising local neighborhood preservation strategies based on local, public-private partnerships. Those which show particular promise after the monitoring and evaluation stage will be developed as tools to treat specific problems in other neighborhoods.

(5) *Neighborhood Preservation Development:* Neighborhood Preservation Projects which, following a period of monitoring and evaluation, show special promise as replicable mechanisms or strategies to reverse neighborhood decline are replicated in a number of other cities on a pilot basis to test and refine developmental processes in different housing markets and neighborhood environments. Following this pilot stage, the new programs are available for broader replication, subject to availability of resources.

(6) *Neighborhood Housing Services of America:* The Corporation also supports Neighborhood Housing Services of America (NHSA), an independent, private, non-profit corporation which provides a variety of services to local NHS programs, including a loan purchase pool, or secondary market, for NHS revolving loan fund loans.

§ 4100.2 General organization.

(a) *The Board of Directors.* The Corporation is governed by a Board of Directors composed of six members: the Chairman of the Federal Home Loan Bank Board, the Secretary of Housing and Urban Development, the Chairman of the Federal Deposit Insurance Corporation, a Member of the Federal Reserve Board designated by its Chairman, the Chairman of the National Credit Union Administration, and the Comptroller of the Currency. Members of the Board serve *ex officio* during their tenure in the offices mentioned. The Chairman of the Federal Home Loan Bank Board serves the first two-year

term as Chairman of the Corporation's Board, pursuant to the Act. Thereafter, the Board may elect one of its members as Chairman. The Vice-Chairman of the Board is elected by its members. The Bylaws of the Corporation provide for the creation of an Executive Committee, an Audit Committee, and such other committees as the Board may, from time to time, establish. The Board meets quarterly to provide the Corporation's management with guidance and policy direction in the conduct of the Corporation's affairs. The Board of Directors elects the officers of the Corporation.

(b) *Management of the Neighborhood Reinvestment Corporation.* The Executive Director is the Chief Executive Officer of the Corporation and, pursuant to authority of the Board, supervises the operations of the Corporation and conducts its business. The Deputy Executive Director derives certain management authority from the Executive Director and acts in the Executive Director's place when the office of the Executive Director is vacant or its incumbent is absent. The Director, Program Development, supervises the development of Neighborhood Housing Services (NHS) programs in neighborhoods throughout the country and new programs growing out of selected neighborhood preservation projects. The Director, Support and Training, supervises the provision of technical assistance and training programs that support Neighborhood Reinvestment's grantees. The Director, Neighborhood Preservation Projects, supervises the selection, monitoring and evaluation of neighborhood preservation projects. The Director, Finance and Administration, supervises the conduct of the Corporation's financial and related operational activities. The Treasurer is the custodian of the Corporation's assets. The General Counsel is the chief legal officer of the Corporation. The Secretary has record-keeping and other functions generally conducted by corporate secretaries.

§ 4100.3 Field activities.

The Corporation's field activities are conducted from regional and local field offices around the country. Regional offices provide coordination of field activities in support of local programs within the geographic limits of each region. Field offices within each region provide assistance in the development

and support of local programs. Regional offices are located as follows:

(a) *Eastern Division—Boston, Massachusetts* (Florida, Alabama, Georgia, North Carolina, South Carolina, Virginia, West Virginia, Maryland, District of Columbia, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine): Neighborhood Reinvestment, c/o Federal Home Loan Bank of Boston, P.O. Box 2196, One Federal Street, Boston, MA 02106, (617) 622-7250.

(b) *Central Division—Dallas, Texas* (Michigan, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Arkansas, Louisiana, West Virginia, Texas, New Mexico): Neighborhood Reinvestment, 500 South Ervay, Dallas, TX 75201, (214) 741-9521.

(c) *Western Division—San Francisco, California* (Washington, Oregon, California, Alaska, Hawaii, Idaho, Nevada, Arizona, Utah, Wyoming, Colorado, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, Iowa, Missouri, Illinois, Wisconsin): Neighborhood Reinvestment, c/o Federal Home Loan Bank of San Francisco, 600 California Street, Suite 301, San Francisco, CA 94108, (415) 393-0705.

§ 4100.4 General statement concerning procedures and forms.

(a) The meetings of the Board of Directors are conducted in accordance with provisions of the Neighborhood Reinvestment Corporation Act, the Neighborhood Reinvestment Corporation's Bylaws, and, when not inconsistent with the foregoing, with Robert's Rules of Order. Meetings of the Board of Directors are open to public observation in accordance with the Corporation's Statement: Public Information Regarding Meetings of the Board of Directors.

(b) Information about the Corporation and certain forms used for various programs are available to the public upon request, pursuant to the Corporation's Statement: Availability and Character of Records.

§ 4100.5 Delegations of authority.

In accord with the Resolution by the Board of Directors adopted December 21, 1978, the Executive Director exercises grant and contract authority of the Neighborhood Reinvestment Corporation, pursuant to the direction, policy guidance of, and budgets adopted

by the Board of Directors. All such authority is exercised in Washington, D.C., and none has been delegated to Regional or Field offices.

§ 4100.6 Inquiries.

Requests for additional information should be addressed to: Neighborhood Reinvestment Corporation, 1700 G Street NW., Washington, D.C. 20552.

PART 4101—GENERAL PROGRAM INFORMATION FOR GRANT APPLICANTS

Subpart A—Neighborhood Housing Services Programs

- 4101.1 Introduction.
 4101.2 Neighborhood Housing Services (NHS) Programs; essential elements.
 4101.3 Role of the Neighborhood Reinvestment Corporation.
 4101.4 Multi-neighborhood programs.
 4101.5 Additional neighborhoods for existing NHS programs.
 4101.6 Application procedure.

Subpart B—Neighborhood Preservation Projects

- 4101.12 Introduction.
 4101.13 Neighborhood preservation projects; demonstration grants and technical assistance.
 4101.14 Program areas.
 4101.15 Neighborhood preservation projects; selection criteria.
 4101.16 Application procedure.

Authority: Title VI, Pub. L. 95-557, 92 Stat. 2115 (42 U.S.C. 6101 et seq.)

Subpart A. Neighborhood Housing Services Programs

§ 4101.1 Introduction.

The major effort of the Neighborhood Reinvestment Corporation is to assist local communities in developing Neighborhood Housing Services (NHS) programs—private, locally-controlled, nonprofit organizations which offer comprehensive housing rehabilitation and financial counseling services to residents of locally selected neighborhoods. Patterned after a program created in Pittsburgh in 1968, and based on a partnership of local government representatives, lenders and residents, NHS programs are now operating in more than 100 communities.

§ 4101.2 Neighborhood Housing Services programs; essential elements.

Neighborhood Housing Services programs, as developed by the Neighborhood Reinvestment Corporation, are designed to promote

reinvestment in a wide variety of neighborhoods. A typical NHS program includes the following essential elements:

(a) A neighborhood with defined boundaries characterized by (1) housing stock showing evidence of deterioration and lack of maintenance; (2) an inadequate degree of mortgage and home improvement activity; (3) a substantial degree of homeownership; (4) a median family income in line with estimated typical repair costs and available local financial resources; and (5) an area of 1,000 to 2,000 structures (somewhat fewer in smaller cities).

(b) Neighborhood residents who (1) want to improve their homes and preserve their community; (2) will actively participate in the development and operations of the program; and (3) will help create a positive improvement climate.

(c) Local government capacity and willingness to (1) provide capital improvements and increased city services where needed; (2) establish a sensitive and systematic housing inspection program; and (3) assist in the development, implementation and operations of the program.

(d) Local financial institutions that will (1) agree to reinvest in the neighborhood by making market rate loans to all homeowners meeting normal underwriting criteria; (2) contribute to (and/or help raise locally) the operating costs of the NHS; and (3) actively participate in the development, implementation and operations of the program.

(e) Establishment of a local, private, state-chartered corporation with the following features:

(1) A nonprofit 501(c)(3) tax exempt status;

(2) A governing Board of Directors made up of neighborhood residents and local financial industry representatives, and city government representation or liaison. No partner controls, but neighborhood residents constitute a numerical majority of the Board. The Board with committees, carries out the ongoing responsibility to keep in place the basic resources to operate the program. These resources include loan fund and administrative funding, public improvements, inspection services, bankable lending, a high degree of organized resident support, appropriate target areas and adequate staffing.

(3) A small, but highly skilled and committed staff (usually a director, assistant director/rehabilitation specialist and secretary/administrative assistant). These staff members, from an office in the neighborhood, carry out

program responsibilities and provide the following NHS services:

(i) Housing Rehabilitation—an analysis of home repair needs, work writeups, cost estimates and home repair counseling;

(ii) Construction Monitoring—on-site inspections and communication links between contractors and residents;

(iii) Financial Counseling—assists client with financial alternatives, helps assess and solve real estate related problems, makes referrals to lenders or other non-NHS resources, assists with revolving loan fund applications.

(4) A revolving loan fund designed to meet the needs of NHS clients who cannot meet commercial credit requirements. This fund is set up as a self-help tool for the neighborhood and is a source of loans, not grants, with repayment terms to fit the ability of the borrower. Loans are secured by the property, usually a deed of trust or mortgage, and NHS counsels with clients to solve payment difficulties. Funds are normally contributed by foundations, by local corporate sources and by local government, usually from community development block grant resources. The Neighborhood Reinvestment Corporation may provide a seed grant to stimulate capitalization of the revolving loan fund.

§ 4101.3 Role of the Neighborhood Reinvestment Corporation.

The Corporation's role is to develop and assist the NHS program. The developmental process, which usually takes from eight to twelve months, normally includes, but is not limited to, the following:

(a) Entering into a developmental agreement to assist the local entity in developing an NHS program. Cost to the local entity is in the range of \$35,000 to \$50,000, and covers a full-time local staff person and a series of workshops, including travel for participants to an operating NHS program;

(b) Recruitment of a local, full-time staff person to coordinate all aspects of the local developmental effort;

(c) Securing strong interest and support of a partnership of financial institutions, city officials and neighborhood residents;

(d) Conducting an educational process to acquaint representatives of this local partnership with operational details of the NHS program and assisting them in creating a local program;

(e) Assistance with the recruitment, selection, orientation, and training of NHS staff;

(f) Assistance with the organization and establishment of the NHS Board

and committees, policies and procedures;

(g) Assistance in initiating an ongoing fund raising program for the revolving loan fund and administrative costs;

(h) Providing a one-time seed money grant for the revolving loan fund (usually \$50,000); and

(i) Providing ongoing information and technical assistance to the newly formed private, nonprofit NHS corporation.

§ 4101.4 Multi-neighborhood programs.

Where resources are adequate, the Neighborhood Reinvestment Corporation has found it possible to create NHS programs which serve two or more neighborhoods within a given city. Applications for "multi-neighborhood" programs should indicate potential sources of funding for development at \$50,000 and revolving loan fund monies at \$100,000 per neighborhood.

§ 4101.5 Additional neighborhoods for existing NHS programs.

Neighborhood Reinvestment Corporation assistance is available to NHS programs wishing to expand to one or more additional neighborhoods, and may include grants to revolving loan funds and/or funding of developmental costs. Applications for expansion assistance should indicate potential sources of increased program funding for administrative costs and the revolving loan fund.

§ 4101.6 Application procedure.

(a) Applications for Neighborhood Reinvestment Corporation assistance in developing NHS programs are accepted on an ongoing basis. Local entities should submit completed applications (forms are available upon request) and other supportive materials directly to the Neighborhood Reinvestment Corporation for consideration. Promising applications will be selected for field reviews and ranked according to their readiness for development.

Developmental agreements will then be entered into with the local entities, subject to the availability of Neighborhood Reinvestment Corporation resources.

(b) Inquiries or requests for applications should be addressed to the Program Development Division, Neighborhood Reinvestment Corporation, 1700 G Street, NW., Washington, D.C. 20552.

Subpart B—Neighborhood Preservation Projects

§ 4101.12 Introduction.

Through its Neighborhood Preservation Projects (NPP) program, the Neighborhood Reinvestment Corporation seeks out and assists promising neighborhood preservation efforts. In the initial phase of a three-phase process, these projects are monitored and evaluated for potential transferability to other cities. In the second phase, projects are replicated in one or more locations to work out a systematic developmental process. Once the developmental process is refined, the program will enter the third-phase, replication in additional cities with provision of technical assistance to insure each program's success.

§ 4101.13 Neighborhood preservation projects; demonstration grants and technical assistance.

The Neighborhood Reinvestment Corporation is participating in the developmental funding of a limited number of selected demonstrations involving a partnership of neighborhood residents, lenders and other private sector representatives and local government, called Neighborhood Preservation Projects. This involves identifying, monitoring, and evaluating locally developed neighborhood preservation programs which show promise of potential replicability in other communities. Those programs selected receive modest demonstration grants and technical assistance from Neighborhood Reinvestment Corporation staff.

§ 4101.14 Program areas.

(a) The Neighborhood Reinvestment Corporation seeks preservation strategies on a neighborhood scale enhancing residents' quality of life and confidence in their neighborhood. Applications will be considered for selection as neighborhood preservation projects which address (but are not limited to) one or more of the following areas:

(1) Mechanisms which address the displacement of current residents of neighborhoods experiencing rapidly increasing housing costs.

(2) Neighborhood-controlled rental resources involving rehabilitation, management and ongoing maintenance of properties to serve low and moderate income renters.

(3) Property management services (non-profit or subsidized) that stabilize apartment buildings of 5-50 units by bringing sophisticated management,

financial analysis, and maintenance services to residents and owners.

(4) Property management training programs for resident owners of 2-6 unit properties.

(5) Strategies for the revitalization of neighborhood commercial areas, relating particularly to the needs of the surrounding residential communities.

(6) Strategies to redesign and convert economically obsolete commercial or other buildings to new uses which will contribute to overall neighborhood revitalization.

(7) Strategies to address residents' concerns about personal safety and property security in neighborhoods or large apartment buildings.

(8) Programs integrating energy conservation techniques into neighborhood housing rehabilitation programs.

(9) Strategies to deal with vacant lots and blighting parcels of land in a neighborhood setting, including creative approaches to land-banking.

(10) Cooperative or condominium conversion mechanisms benefitting the present low or moderate income residents of neighborhoods.

(11) Strategies to improve local schools, using the partnership concept in a neighborhood setting.

(b) Other program areas may be considered for selection if they can be shown to be part of a comprehensive revitalization strategy on a neighborhood scale.

§ 4101.15 Neighborhood preservation projects; selection criteria.

(a) The project should involve a partnership of neighborhood residents, the private sector, and local government.

(b) Preference will be given to projects that are operational.

(c) The project should be specific to a neighborhood or neighborhoods, and should be demonstrating success in upgrading that/those neighborhood(s).

(d) Local government should be willing to allocate financial resources and technical assistance to the project.

(e) Those responsible for the implementation of the project should have a demonstrated capability to perform successfully in the area of neighborhood preservation.

(f) The project sponsors should be willing to provide information which can be analyzed by Neighborhood Reinvestment or its participating agencies to judge the effectiveness of the project. Sponsors should also be willing to cooperate with Neighborhood Reinvestment in assisting others who may wish to replicate their project.

§ 4101.16 Application procedure.

(a) Applications are being accepted on an ongoing basis. Cities or other governmental jurisdictions or non-public entities wishing to have an activity considered for selection as a Neighborhood Preservation Project should submit an application to the Neighborhood Reinvestment Corporation. Application forms are available upon request.

(b) Neighborhood Reinvestment will review materials submitted and select promising submissions for field review. Following the field review, applications will be ranked according to their promise as demonstrations, and agreements will be entered into with the top ranking applicants, subject to the availability of Neighborhood Reinvestment resources.

(c) Inquiries should be addressed to: Neighborhood Preservation Projects, Neighborhood Reinvestment Corporation, 1700 G Street NW., 5th Floor, Washington DC 20552.

PART 4102—STATEMENT OF PUBLIC INFORMATION REGARDING MEETINGS OF THE BOARD OF DIRECTORS OF THE NEIGHBORHOOD REINVESTMENT CORPORATION

Sec.
4102.1 Purpose and scope.
4102.2 Definitions.
4102.3 Open meetings.
4102.4 Exemptions.
4102.5 Closed meetings.
4102.6 Public announcements of meetings.
4102.7 Accommodations for public attendance at open meetings.
Authority.—The Neighborhood Reinvestment Corporation Act, Title VI, Housing and Community Development Amendments of 1978, Pub. L. 95-557, sec. 604(h) 42 U.S.C. 8103(h), makes the Neighborhood Reinvestment Corporation (referred to in this statement as "the Corporation") subject to the provisions of 5 U.S.C. 552b, as amended.

§ 4102.1 Purpose and scope.

This statement is issued by the Corporation pursuant to the requirements of the Neighborhood Reinvestment Corporation Act (cited above) that make provisions of the Government in the Sunshine Act, section 552b of Title 5, United States Code, applicable to the Corporation. This Statement is published to provide the public with the fullest practicable information regarding the Board's decision-making processes while protecting the rights of individuals and the ability of the Corporation to carry out its responsibilities.

§ 4102.2 Definitions.

For purposes of this Statement, the term "meeting" means any deliberations (including those conducted by conference telephone call) of at least that number of members of the Board of Directors of the Corporation (the "Board") required to take action on behalf of the Corporation when the purpose or effect of the deliberations is to determine or result in joint conduct of official business of the Board of Directors, but does not include (a) deliberations to determine whether meetings will be open or closed or whether information pertaining to closed meetings will be disclosed, (b) staff briefings of Board members, and (c) informal background discussions among Board members and staff which clarify issues and expose varying views.

§ 4102.3 Open meetings.

Except as provided in § 4102.4 every portion of every meeting of the Board shall be open to public observation. Board members shall not jointly conduct or dispose of official agency business other than in accordance with this Statement.

§ 4102.4 Exemptions.

(a) The Board may close a meeting or portion of a meeting and withhold information pertaining to such meeting, where it determines that disclosure of information pertaining to such meeting or portion thereof is likely to:

- (1) Relate solely to the internal personnel matters, rules, and practices of the Corporation;
- (2) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552b): Provided, that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (3) Disclose trade secrets or commercial or financial information obtained from a person and privileged or confidential;
- (4) Involve accusing and person of a crime, or formally censuring any person;
- (5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (6) Disclose information contained in or related to reports on performance or financial evaluations of grantees or contractors who have not had an opportunity to review and comment totally upon such reports;
- (7) Disclose information the premature disclosure of which would:

- (i) Be likely to compromise the interests of the Corporation in business matters under negotiation or during competitive bidding procedures; or
 - (ii) Be likely to significantly frustrate implementation of a proposed Corporation action, except that this paragraph (a)(7)(ii) shall not apply in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or
 - (8) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition of a particular matter involving a determination on the record after opportunity for a hearing.
- (b) A meeting or portions of a meeting shall not be closed nor information withheld pursuant to paragraph (a) of this section if the Board finds that the public interest requires that the meeting or portion or portions of the meeting be open to public observation or that such information should not be withheld.

§ 4102.5 Closed meetings.

(a) *Meetings closed under regular procedures.* (1) A meeting or portion thereof will be closed to public observation under regular procedures, or information pertaining to such meeting or portion of a meeting will be withheld, only by recorded vote of a majority of the members of the Board when it is determined that such meeting or portion or the withholding of such information qualifies for exemption under § 4102.4(a) and the Board does not find that the public interest requires otherwise.

(2) Except as provided in the next paragraph of this section, a separate vote of the Board members will be taken with respect to the closing or the withholding of information as to each meeting or portion thereof which is proposed to be closed to public observation, or with respect to which information is proposed to be withheld.

(3) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to public observation, or with respect to any information concerning such series of meetings proposed to be withheld, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series.

(4) Whenever any person's interests may be directly affected by a portion of a meeting for any of the reasons referred

to in § 4102.4(a) (4), or (5), or (8) person may send a written request to the Secretary of the Corporation asking that such portion of the meeting be closed to public observation. The Secretary, or in his absence the Acting Secretary, will transmit the request to the Board members and upon the request of any one of them a recorded vote will be taken whether to close such meeting to public observation.

(5) Within one day of any vote taken pursuant to this section, the Corporation will make publicly available at or through the Office of the Secretary a written copy of such vote reflecting the vote of each Board member on the question. If a meeting or a portion of a meeting is to be closed to public observation, the Corporation within one day of the vote taken pursuant to this section, will make publicly available at or through the Public Information Office a full, written explanation of its action closing the meeting or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation, except to the extent such information is determined by the Board to be exempt from disclosure under § 4102.4 (a).

(b) *Recordkeeping.* (1) A complete transcript or recording shall be made and maintained of the proceedings at each meeting or portion thereof closed to the public under this part, except that, where appropriate, minutes may be made and maintained in lieu of such transcript or recording with respect to meetings closed or information withheld under § 4102.4(a) (6), (7)(i) or (8). Such minutes shall fully and clearly describe all matters discussed and provide a full and accurate summary of any action taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each Board member on the question). All documents considered in connection with any action shall be identified in such minutes.

(2) Such transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, shall be made promptly available to the public at or through the Public Information Office, except for such item or items of such discussion or testimony as have been determined to contain information which may be withheld under § 4102.4(a). Copies of such transcript or minutes or a transcription of such recording, disclosing the identity of each speaker shall be furnished to any person at the actual cost of duplication or

transcription. The Secretary shall maintain a complete verbatim copy of the transcript or a complete electronic recording of each meeting, or portion of a meeting, closed to the public for a period of at least two years after such meeting, or until one year after the conclusion of any Board proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

(3) For every meeting or portion thereof closed pursuant to this section, the General Counsel (or in his absence or incapacity the senior legal officer of the Corporation) shall certify that such closure is authorized by law, including a statement pertaining to the relevant exemptive provision or provisions of law. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons (other than staff) present shall be retained by the Board.

§ 4102.6 Public announcements of meetings.

(a) Except as otherwise provided in this section, public announcement of open meetings and meetings or portions thereof closed under § 4102.5(b) will be made at least one week in advance of each meeting. Except to the extent that such information is determined to be exempt from disclosure under § 4102.4(a) each such public announcement will state the time, place and subject matter of the meeting, whether it is to be open or closed to the public, and the name and telephone number of the official designated to respond to requests for information about the meeting. Each such announcement shall be posted in the lobby of the Corporation's principal office, and may be made available by other means or at other locations as may be deemed desirable by the Board. Immediately following each public announcement, the stated information shall also be submitted for publication in the Federal Register.

(b) Where a majority of the Board members determine by recorded vote that agency business requires that a meeting be called at any earlier date, the one-week prior-announcement rule shall be suspended and announcement shall be made at the earliest practicable time.

(c) Change of the time or place of a meeting following public announcement may be made only if announced at the earliest practicable time.

(d) Change of the subject matter of a meeting or redetermination to open or close a meeting or portions thereof may be made after public announcement only if a majority of the Board

determines by recorded vote that agency business so requires and no earlier announcement of the change was possible, and public announcement of such change and the vote of each member upon such change is made at the earliest practicable time.

4102.7 Accommodations for public attendance at open meetings.

Unless otherwise specified, open meetings are held in the Board Room, Sixth Floor, at 1700 G Street, NW., Washington, D.C., at the time and on the date specified in the advance public notice. Interested members of the public may attend such meetings, but may not participate therein unless invited or permitted to do so by the Board.

PART 4104—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS**§ 4104.1 Nondiscrimination in federally assisted programs.**

In accordance with the terms of Interagency Agreement No. H-51-74, as amended between the Department of Housing and Urban Development and the Federal Home Loan Bank Board, and of an agreement between the Federal Home Loan Bank Board and the National Neighborhood Reinvestment Corporation ("the Corporation") dated April 5, 1979, the Corporation's regulations regarding nondiscriminatory administration of its programs are identical to regulations entitled "Nondiscrimination in Federally Assisted Programs," published by the Federal Home Loan Bank Board beginning at 12 CFR 529.1, as the same may from time to time, be amended. Assistance from the Corporation pursuant to the agreements cited, shall be considered "federal financial assistance" as that term is used in those regulations.

(Title VI, Pub. L. 95-557, 92 Stat. 2115 (42 U.S.C. 8101 et seq.))

[FR Doc. 79-35707 Filed 11-19-79; 8:45 am]
BILLING CODE 0000-00-M

24 CFR Part 4103**Availability and Character of Records**

AGENCY: Neighborhood Reinvestment Corporation.

ACTION: Interim Final Regulation; requests for comments.

SUMMARY: In accordance with provisions of 5 U.S.C. 552, and the Neighborhood Reinvestment Corporation Act, 42 U.S.C. 8103(g) the Corporation shall publish for the guidance of the public, descriptions of the established places at which, the

officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions. As required in 5 U.S.C. 552(4)(A), public comment is invited on Part 4103.4(e). Fees for providing copies of records.

DATES: Effective date: April 25, 1979. Comments must be received before December 15, 1979.

ADDRESS: Comments should be addressed to Donnie L. Bryant, Secretary, Neighborhood Reinvestment Corporation, 1700 G Street, N.W., Fifth Floor, Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Donnie L. Bryant, 202-377-6480.

Dated: November 14, 1979.

Donnie L. Bryant,
Secretary.

Accordingly, Title 24 of the Code of Federal Regulations, Chapter XXV is amended by adding Part 4103 to read as follows:

PART 4103—STATEMENT OF NEIGHBORHOOD REINVESTMENT CORPORATION AVAILABILITY AND CHARACTER OF RECORDS

Sec.

- 4103.1 Basis and scope.
- 4103.2 Definitions.
- 4103.3 Published information.
- 4103.4 Access to records.
- 4103.5 Information not disclosed.
- 4103.6 Subpoenas.

Authority.—The Neighborhood Reinvestment Corporation Act, Title VI, Housing and Community Development Amendments of 1978, Pub. L. 95-557, sec. 604(g), 42 U.S.C. 8103(g), makes the Neighborhood Reinvestment Corporation (referred to in this statement as "the Corporation") subject to the provisions of 5 U.S.C. 552, as amended.

§ 4103.1 Basis and scope.

The Neighborhood Reinvestment Corporation Act and Section 552 of Title 5 of the United States Code, provide that the Corporation shall publish in the Federal Register for the guidance of the public, descriptions of the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions.

§ 4103.2 Definitions.

As used in this statement:
(a) "Information of the Corporation" means all information coming into the possession of any Director, officer, or employee of the Corporation as a result of his or her service with the Corporation and in the performance of duties for or on behalf of the

Corporation, whether located at the offices of the Corporation or elsewhere.

(b) "Records of the Corporation" means rules, statements, opinions, orders, memoranda, interpretations, letters, reports, accounts, and other papers that contain information of the Corporation.

(c) "Person" includes any individual, firm, corporation, organization or other entity.

§ 4103.3 Published information.

(a) Federal Register. As required by sections 552 of Title 5 of the United States Code, and subject to the provisions of section 5 of this Statement, the Corporation publishes in the Federal Register for the guidance of the public, in addition to this Statement:

(1) Descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals, and obtain decisions;

(2) Statements of the general course and methods by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Corporation.

(5) Every amendment, revision, or repeal of the foregoing; and

(6) General notices.

(b) Annual report. The Corporation's Annual Report to the President and the Congress, made pursuant to section 607(a) of the Neighborhood Reinvestment Corporation Act, (42 U.S.C. 8106(a)), which is published after its submission to the President and the Congress, covers the operations of the Corporation.

(c) Compendium of Basic Documents, Policies, and Interpretations. The Corporation will maintain a Compendium of Basic Documents, Policies and Interpretations which contains: (1) the statutes under which the Corporation operates; (2) the statements of policy promulgated by the Board or by the Executive Director pursuant to authority of the Board; (3) digests of opinions rendered by the Office of General Counsel; and (4) other basic policy material relating to the Corporation's operations. The Compendium will be supplemented as

necessary to provide current information. A free copy of the Compendium will be available to any person requesting it from the Corporation's Public Information Office.

(d) Other published information. From time to time, the Corporation may issue statements to the press regarding particular statements of policy, actions with respect to certain types of applications to the Corporation, and other matters. In addition, the Corporation issues various publications, relating to its programs, projects, and other operations.

(e) Access to publications. The publications referred to in paragraphs (b), (c), and (d) of this section may be examined and, if available, copies may be obtained at the offices of the Corporation at the times and the address set forth in paragraph (d) of § 4103.4.

§ 4103.4 Access to records.

(a) General rule. All records of the Corporation are made available to any person for inspection and copying in accordance with the provisions of this section and subject to the limitations stated in § 4103.5 of this Statement. It is the policy of the Corporation to disclose its records to the public, even though such records may, in Neighborhood Reinvestment's discretion, be exempted from disclosure by section 552 of Title 5 of the United States Code or by § 4103.5 of this Statement, wherever such disclosure can be made without resulting in injury to a public or private interest intended to be protected by the foregoing statute or in a significant interference with the statutory responsibilities of the Corporation and the national interest. Requests for information which can be produced only by processing through an information system program especially designed for that purpose are not regarded as requests for identifiable records that must be disclosed pursuant to section 552 of Title 5 of the United States Code; but it is the policy of the Corporation to make such information available if it is not otherwise exempt from disclosure, provided that the retrieval or production of such information does not unduly burden or interfere with the functioning of the Corporation.

(b) Opinions, orders, statements of policy, interpretations, and staff manuals and instructions. Subject to the provisions of § 4103.5 of this Statement, the Corporation makes available for inspection and copying (1) all resolutions of the Corporation's Board of Directors (including the recorded votes of individual Directors) and all decisions made in the ordinary conduct of Board

operations; (2) statements of policy and interpretations adopted by the Corporation that are not published in the Federal Register; and (3) administrative staff manuals and instructions to staff that affect any member of the public. However, to the extent required to prevent a clearly unwarranted invasion of personal privacy, the Corporation may delete identifying details in any material of the kinds above-described; and in each such case the justification for such deletion will be fully explained in writing. The Corporation maintains and makes available for public inspection and copying a current index providing identifying information for the public as to any material described in this paragraph which is issued, adopted, or promulgated after April 1, 1979.

(c) Other records. Subject to the provisions of § 4103.5 of this Statement, a record of the final vote of each member of the Corporation's Board of Directors in any proceeding of the Board of Directors is available for public inspection.

(d) Requests for records and other information. When records and other information of the Corporation subject to this section are available, they may be inspected or copied during regular business hours on regular business days at the Public Information Office of the Corporation, Fifth Floor, 1700 G Street NW., Washington, D.C. Any person requesting access to, or copying of, such records or other information shall submit such request in writing to the Public Information Office of Neighborhood Reinvestment. The request shall state the full name and address of the person and a description of the records or other information sought that is reasonably sufficient to permit their identification without undue difficulty. A request should be submitted sufficiently in advance of the date inspection or copying is desired, preferably by mail.

(e) Fees for providing copies of records. (1) A person requesting access to or copies of particular records shall pay the cost of searching or copying such record at the rate of \$10 per hour for searching and 10 cents per page for copying. Records may be furnished without charge or at a reduced charge where the Executive Director determines that waiver or reduction of fees is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Unless a requestor states in his initial request that he will pay all costs regardless of amount, he shall be notified as soon as possible if there is

reason to believe that the cost for obtaining access to and/or copies of such records will exceed \$50. If such notice is given, the time limitations contained elsewhere in this Statement shall not commence until the requestor agrees in writing to pay such cost. The Public Information Officer is authorized to require an advance deposit whenever in his judgment such a deposit is necessary to insure that the Corporation will receive adequate reimbursement of its costs. If such a deposit is required, the time limitations contained elsewhere in this Statement shall not commence until the deposit is paid.

(2) The Public Information Officer is authorized to waive payment in instances in which total charges are less than three dollars.

(f) Initial determination. (1) The Public Information Officer or his designee, shall determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt by the Public Information Officer of a written request for records or other information of the Corporation whether, or the extent to which, the Corporation will comply with such request.

(2) Upon determination by the Public Information Officer or his designee, with respect to a request for records or other information of the Corporation the Public Information Officer shall immediately send written notification to the person making the request. If the request is denied, in whole or in part, said notification shall include the reasons therefor and shall advise such person that such determination is not a final agency action and of the right to appeal therefrom under paragraph (g) of this section.

(g) Appeal procedure. (1) In the event of any denial under paragraph (f) of this section, the person making the request may, within 30 calendar days of the date of written notification thereof, appeal from said denial by written application, stating the grounds therefor, to the Public Information Officer at the address set forth in § 4103.4(d).

(2) The Executive Director shall make a determination with respect to the appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of said application by the Public Information Officer. If on appeal the denial of the request for records is upheld, in whole or in part, the Public Information Officer shall promptly notify the applicant in writing of such determination and of the provisions for judicial review thereof under 5 U.S.C. 552(a)(4).

(h) Appeal during pendency of action for judicial review. If a suit is filed in a district court of the United States under

5 U.S.C. 552(a)(4) in any case in which an initial adverse determination, in whole or in part, has been issued, regardless of whether or not the suit is premature, (1) the Corporation may continue to process any appeal therefrom under paragraph (g) of this section, or (2) if the person making the request has not appealed under said paragraph (g), the Corporation may initiate and process an appeal from such determination.

(i) Time extension in unusual circumstances. In unusual circumstances as provided in this paragraph, the time limitations prescribed in paragraph (f) or (g) of this section may be extended for not more than ten additional working days by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination of the request or appeal is expected to be dispatched. As used herein, "unusual circumstances" means:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; or

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation with an agency having substantial interest in the determination of the request or the appeal, or among two or more components of the Corporation having substantial subject-matter interest therein.

(j) Time limitations. All time limitations established pursuant to this section with respect to initial determination and appeals therefrom shall begin as of the time that a written request for records or other information of the Corporation or the appeal from such determination, is actually received by the Public Information Officer.

§ 4103.5 Information not disclosed.

(a) General rule. Except as otherwise provided in this Part, or as may be specifically authorized by the Board of Directors, information of the Corporation that has not been published in accordance with § 4103.3 of this Part and is not available to the public through other sources will not be made available to the public or otherwise disclosed if such information is—

(1) Exempt from disclosure by statute or executive order;

(2) Privileged or related to the business, personal, or financial affairs of any person and is furnished in confidence;

(3) Related solely to the internal personnel matters, rules, or practices or other internal practices of the Corporation;

(4) Contained in personnel, medical, and similar files (including financial files), the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or

(5) Contained in the Corporation memoranda or letters that would not be routinely available by law to a private party in litigation with the Corporation, including but not limited to memoranda, reports, and other documents prepared by the Corporation's staff, or by others acting as agents of the Corporation, and records of deliberations and discussions at meetings of the Board of Directors not required to be open, at meetings of the Corporation's staff.

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt from disclosure under this section.

(c) Prohibition against disclosure. Except as authorized by this Statement or otherwise by the Corporation, no officer, employee, or agent of the Corporation shall disclose or permit the disclosure of any unpublished information of the Corporation to anyone (other than an officer, employee, or agent of the Corporation properly entitled to such information for the performance of his official duties), whether by giving out or furnishing such information or a copy thereof, or otherwise. Notwithstanding the foregoing, unpublished economic, statistical or similar information or unpublished information regarding interpretations by the Corporation of statutory or regulatory provisions may be disclosed, orally or in writing, by any officer, employee, or agent of the Corporation, acting in his capacity as agent of the Corporation, subject, however, to the restrictions stated in § 4103.5.

§ 4103.6 Subpoenas.

Advice by person served. If any person, whether or not an officer or employee of the Corporation, has information of the Corporation that may not be disclosed under this Statement and in connection therewith is served with a subpoena, order, or other process requiring his personal attendance as a witness or the production of documents or information in any proceeding, he shall promptly advise the Executive Director of such service and of all relevant facts, including the documents and information requested and any facts which may be of assistance to the

Executive Director in determining whether such documents or information should be made available; and he shall take action at the appropriate time to advise the court or tribunal which issued the process and the attorney for the party at whose instance the process was issued, if known, of the substance of these rules.

[FR Doc. 79-35706 Filed 11-19-79; 8:45 am]
BILLING CODE 0000-00-M

DEPARTMENT OF THE TREASURY
Office of Foreign Assets Control
31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations by the addition of new §§ 535.320, 535.508, 535.533, 535.903 and 535.904. The purpose of the amendments is to add general licenses to the Regulations authorizing (1) the transfer of funds by any person to a blocked account in a domestic bank, (2) transactions incident to exportations to Iran where the exportation is licensed after the effective date by the Department of Commerce, (3) shipments of certain types of blocked property, such as food, clothing, medical supplies, educational materials, certain goods in transit, and personal baggage, provided there is no debit to a blocked account, and (4) the transfer of non-blocked funds to U.S. banks or other U.S. persons solely for purposes of payment of obligations owed by Iranian entities to persons within the United States. The need for the amendments is that transactions in blocked assets are prohibited without a license. The effect of the amendments is that exports licensed by the Department of Commerce after the effective date, exports of certain types of blocked property, payment or transfer of blocked assets into blocked accounts in domestic banks, and transfers of payments by, through or to U.S. banks and other persons for purposes of payment of obligations owed by Iranian nationals, are authorized. The regulations also include a definition for the term domestic bank.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220 (202) 376-0236

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation and a delay in effective date are inapplicable.

The Iranian Assets Control Regulations are amended by the addition of §§ 535.320, 535.508, 535.533, 535.903, and 535.904.

§ 535.320 Domestic bank.

The term "domestic bank" shall mean any branch or office within the United States of any of the following which is not a national of a designated foreign country: Any bank or trust company incorporated under the banking laws of the United States or of any State, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States or of any State, territory or district of the United States. The Secretary of the Treasury may also authorize any other banking institution to be treated as a "domestic bank" for the purpose of this definition or for the purpose of any or all sections of this part.

§ 535.508 Payments to blocked accounts in domestic banks.

(a) Any payment or transfer of credit, including any payment or transfer by any U.S.-owned or controlled foreign firm or branch to a blocked account in a domestic bank in the name of Iran or any Iranian entity is hereby authorized: *Provided*, Such payment or transfer shall not be made from any blocked account if such payment or transfer represents, directly or indirectly, a transfer of the interest of Iran or an Iranian entity to any other country or person.

(b) This section does not authorize:

(1) Any payment or transfer to any blocked account held in a name other than that of Iran or the Iranian entity who is the ultimate beneficiary of such payment or transfer; or

(2) Any foreign exchange transaction including, but not by way of limitation, any transfer of credit, or payment of an obligation, expressed in terms of the currency of any foreign country.

(c) This section does not authorize any payment or transfer of credit comprising an integral part of a transaction which cannot be effected without the subsequent issuance of a further license.

(d) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a sub-account thereof, or the income

derived from such securities to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities were held.

(e) This section does not authorize any payment or transfer from a blocked account in a domestic bank to a blocked account held under any name or designation which differs from the name or designation of the specified blocked account or sub-account from which the payment or transfer is made.

(f) The authorization in paragraph (a) of this section is subject to the condition that a notification from the domestic bank receiving an authorized payment or transfer is furnished by the transferor to the Office of Foreign Assets Control confirming that the payment or transfer has been deposited in a blocked account under the regulations in this part and providing the name and address of Iran or the Iranian entity in whose name the account is held.

§ 535.533 Transactions involving exportations to Iran.

(a) All exports and all transactions ordinarily incident to the exportation of goods, wares and merchandise from the United States to Iran or any person within Iran are hereby authorized: *Provided*, The following terms and conditions are complied with:

(1) The exportation is authorized pursuant to a validated license issued by the Department of Commerce after the effective date under the provisions of the Export Administration Act of 1979, as amended (sec. 4, 93 Stat. 503, 50 U.S.C. App. 2401); and

(2) Banking institutions within the United States, prior to issuing, confirming or advising letters of credit, or accepting or paying drafts drawn, or reimbursing themselves for payments made, under letters of credit, or making any other payment or transfers of credit, in connection with any exportation pursuant to this section, or engaging in any other transaction herein authorized, shall satisfy themselves that: (i) Each such transaction is incident to a bona fide exportation and is customary in the normal course of business, and that the value of such exportation reasonably corresponds with the sums of money involved in financing such transaction; and

(ii) Such exportation is made pursuant to all the terms and conditions of this section.

(b) This section does not authorize the financing of any transaction from any blocked account.

§ 535.903 Authorization of exports of certain types of blocked property to Iran.

All transactions ordinarily incident to the export to Iran of the following types of blocked property:

(a) Medicines, medical supplies, medical equipment;

(b) Agricultural commodities, products, and equipment; seeds, fertilizer, pesticides; fish;

(c) Clothing (other than military), blankets, mosquito netting, textile products;

(d) Educational materials;

(e) Foreign-origin commodities transiting the U.S.;

(f) Crew baggage, aircraft, ship stores, plane stores; are hereby authorized: *Provided*, That no payment therefor may be made by debit to any blocked account. The transfer of funds after the effective date by, through or to any U.S. banking institution or other U.S. person for purposes of payments of U.S. persons for such exportation is authorized. Funds are not blocked by virtue of being transferred or received pursuant to this section.

§ 535.904 Payment by Iranian entities of obligations to persons within the United States.

The transfer of funds after the effective date by, through or to any U.S. banking institution or other person within the United States solely for purposes of payment of obligations by Iranian entities owed to persons within the United States is authorized: *Provided*, That there is no debit to a blocked account. Property is not blocked by virtue of being transferred or received pursuant to this section.

(Secs. 201-207, 91 Stat. 1626; 50 U.S.C. 1701-1706; E.O. No. 12170, 44 FR 65729).

Dated: November 16, 1979.

Stanley Sommerfield,
Director.

Approved:

Richard J. Davis,
Assistant Secretary.

[FR Doc. 79-35936 Filed 11-19-79; 8:45 am]
BILLING CODE 4810-25-M

OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES

32 CFR Chap. XXVIII

Procedures for Security of Classified Information and Materials

AGENCY: Office of the Vice President of the United States.

ACTION: Final rule.

SUMMARY: This directive establishes procedures and provides guidance for

the security of classified information and material within the Office of the Vice President in accordance with Executive Order 12065 of June 28, 1978 and Information Security Oversight Office Directive No. 1 of October 2, 1978. **EFFECTIVE DATE:** October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Ralph E. Martin, Staff Security Officer, Office of the Vice President, Room 294, Old Executive Office Building, Washington, D.C. 20501, Telephone: (202) 395-4223.
Ralph E. Martin,
Staff Security Officer.
November 7, 1979.

Title 32 of the Code of Federal Regulations is amended by establishing a Chapter XXVIII—Office of the Vice President of the United States and by adding a new Part 2800 as follows:

PART 2800—SECURITY PROCEDURES

Sec.
2800.1 Purpose.
2800.2 Guiding directives.
2800.3 Policy.
2800.4 General information.
2800.5 Policies.
2800.6 Delegation of classification and declassification authority.
2800.7 Designation of chairperson for Ad Hoc Committees.
Attachment 1—Employment Agreement & Indoctrination Statement
Attachment 2—Security Termination Statement
Attachment 3—Sample
Authority: EO 12065, 43 FR 28949, 3 CFR, 1978 Comp., p. 190; (Information Security Oversight Office, Directive No. 1, 43 FR 46280, 32 CFR Chapter II.

§ 2800.1 Purpose.

To establish procedures and provide guidance for the security of classified information and material within the Office of the Vice President.

§ 2800.2 Guiding directives.

(a) Executive Order 12065, June 28, 1978, Subject: National Security Information.

(b) Information Security Oversight Office, Directive No. 1, October 2, 1978, Subject: National Security Information.

§ 2800.3 Policy.

The classification, declassification, safeguarding and handling of classified information within the Office of the Vice President will comply with the letter and spirit of those directives listed in § 2800.2. All personnel of the Office of the Vice President are responsible individually for complying with the provisions of these regulations in all respects. The provisions of these regulations applicable to all personnel

assigned or detailed to the Office of the Vice President.

§ 2800.4 General information.

(a) *Staff Security Officer/Top Secret Control Officer.* A Vice Presidential Staff Security Officer and Assistant Staff Security Officer will be assigned to perform the duties as outlined in these regulations. They will normally be on the staff of the Assistant to the Vice President for National Security Affairs. The Staff Security Officer and Assistant Staff Security Officer will serve as Top Secret Control Officer and Assistant Top Secret Control Officer and custodians of classified material for the Office of the Vice President respectively, and will be responsible for the overall supervision of the Top Secret Control program. They will maintain positive control over the movement of all Top Secret material under their jurisdiction.

(b) *Custodian, Office of the Assistant to the Vice President for Congressional Relations.* The Assistant to the Vice President for Congressional Relations, Office of the President of the Senate, will be designated as Custodian of classified material for that office. He will be responsible for compliance with the instructions contained herein. In this capacity, he will be charged with safeguarding classified material necessary to the operation of the office.

(c) *National Security Classifications.* Classifications of National Security Information are defined in Executive Order 12065, Sections 1-102 through 1-104.

(d) *Prohibited Markings.* (1) The caveats "FOR OFFICIAL USE ONLY" and "ADMINISTRATIVELY RESTRICTED" are used within the Office of the Vice President to designate certain unclassified information which requires control. These caveats will under no circumstances be applied to information which qualifies as classified information. Further, neither they nor other terms will be used in conjunction with the prescribed security classifications of CONFIDENTIAL, SECRET and TOP SECRET.

(2) Unclassified information bearing either of the foregoing administrative designations cannot be protected from release under the national security exemption of the Freedom of Information Act (although other exemptions may be available).

(e) *Security Clearances.* No person shall be given access to classified information or material unless a favorable background investigation has been completed determining that the individual is trustworthy and that

access is necessary for the performance of official duties.

(1) *Security Clearance Procedures.* (i) The Counsel to the Vice President will:

(A) Be responsible for the processing of full field investigations for personnel assigned to the Vice President's staff. Department of Defense detailees are processed by the Defense Investigative Service.

(B) Inform the Staff Security Office of individuals whose full field investigations have been satisfactorily completed and approved and of any subsequent changes.

(C) Notify the Staff Security Office as soon as he/she is aware that a staff member is planning to terminate his/her employment.

(ii) The Staff Security Office will provide newly cleared persons with a security orientation briefing covering policy and procedures for handling classified information and material. After the briefing individuals will sign a Statement of Understanding of Security Procedures (Attachment 1). This statement will be kept on file by the Staff Security Office.

(iii) There is no such thing as an "Interim Security Clearance" for persons employed by or detailed to the Office of the Vice President. Under no circumstances will uncleared persons be given access to classified material. Access to classified material will be denied until the individual has had a satisfactorily completed background investigation, has received the security orientation briefing and signed the Statement of Understanding of Security Procedures.

(iv) The Staff Security Office, as part of an individual's departure debriefing, will remind them of their continuing responsibilities to protect classified information to which they have had access during the performance of their official duties. After being debriefed, the individual will sign a Security Termination Statement acknowledging his responsibilities (Attachment 2).

(2) Satisfactory completion of a background investigation does not in itself grant an individual access to classified information. Individual clearances for access to classified information or material will be controlled by the Staff Security Office and certified in writing on an individual basis.

(f) *Access to Classified Material.* Each member of the staff who has custody or possession of classified information is responsible for providing the required degree of protection from unauthorized disclosure at all times.

(1) Classified information and material will only be disclosed to an

individual after it has been determined that the individual possesses the required clearance and has a valid "need to know." Persons releasing the information shall be responsible in every case for determining the recipient's eligibility for access.

(2) *Access to Sensitive Compartmented Intelligence Information* will be controlled by the Assistant to the Vice President for National Security Affairs.

(g) *Custody and safekeeping of Classified Material.* (1) Classified material addressed to the Office of the Vice President will normally be delivered to and receipted for by the Staff Security Office where it will be entered into the classified material control system.

(i) Staff members receiving classified material from any source by any means will personally deliver such material to the Staff Security Office for appropriate entry into the classified control system.

(ii) Conversely, members of the staff desiring to transmit classified material will deliver the material to the Staff Security Office for handling in accordance with paragraph (h)(5) of this section.

(2) *Storage of Classified Material.* (i) Classified material will be stored only in accordance with the provisions of ISOO Directive No. 1, paragraph IV-F-1 through 4.

(ii) Filing of unclassified material in security containers is prohibited except where the unclassified material is an integral part of a file which contains classified material. If extenuating circumstances necessitate the use of a security container for storing only unclassified material, the container will be marked with a sign stating "This container is not used to store classified material" or "Do not store classified material in this container."

(3) *Record of safe locations.* The Staff Security Office will assign numbers to all security containers used to store classified material in the Office of the Vice President. A record of safe numbers, locations and date of last combination change will be maintained in the Staff Security Office.

(4) *Changing of lock combinations.* Combinations of security containers will be changed by the Staff Security Office or the Secret Service. This service may be requested by contacting the Staff Security Office. Combinations will be changed in accordance with the provisions of ISOO Directive No. 1, paragraph IV-F-5.

(5) *Records of combinations.* Records of combinations shall be maintained by the Staff Security Office. Whenever a combination is changed, the new

combination and other required information will be recorded on GSA Optional Form 83. The sealed envelope will then be delivered to the Staff Security Office for retention in the vault safe.

(6) *Custodians.* Each container used for storage of classified material within the Office of the Vice President will have assigned a primary and alternate custodian. Responsibility for security of these containers shall rest with those persons, and their names shall be affixed on the outside of the top drawer of each container positioned so as to be readily discernible. Optional Form 83 shall be used for this purpose.

(h) *Handling of Classified Material.* (1) *Use of cover sheets.* A separate cover sheet indicating the classification of the material will be fastened to the top page of cover of each CONFIDENTIAL, SECRET or TOP SECRET document.

(2) *Unattended documents.* Classified material will be under the direct supervision of a person with an appropriate security clearance and a verified need-to-know at all times when in use. Special care will be taken to insure that classified material is not left unsecured or unattended in an office.

(3) *Working papers.* Working papers are documents, including drafts, photographs, etc., created to assist in the formulation and preparation of finished papers. Working papers containing classified information will be marked with the appropriate classification and provided the same degree of protection as that given to other documents of an equal category of classification.

(4) *Communications security.* Classified information shall not be discussed over any voice communications device except as authorized over approved secure communications circuits. This restriction also applies to electrical transmission of classified material via any unsecure circuitry involving teletypes, DEX equipment or other systems of a like nature. Appropriate secure facilities for the discussion or transmittal of classified material may be arranged by contacting the Staff Security Office.

(5) *Transmittal of Classified Material.* (i) *Outside the Office of the Vice President and the White House Complex.* The Staff Security Office is responsible for transmitting or transferring all classified material outside the Office of the Vice President and the White House Complex in accordance with the provisions of ISOO Directive No. 1, paragraphs I, G and H.

(ii) *Within the Office of the Vice President and the White House Complex.* Transfer or movement of

classified material will be accomplished only by properly cleared persons handcarrying the material to the recipient. The material shall be carried in an envelope marked with the appropriate classification. *Use of see through messenger envelopes is not authorized.* Recipients will sign a receipt (GSA Optional Form 112) for all material classified SECRET and TOP SECRET. Whenever TOP SECRET material is transferred, the Staff Security Office will be notified in order to maintain accurate accountability of the material. Classified material will never be delivered to an uncleared person, left in an unoccupied office, or sent through unclassified mail delivery/distribution systems.

(iii) Staff members requiring the use of classified material at conferences or meetings held outside the Washington, D.C. Metropolitan area and who intend to use commercial transportation shall provide the material to the Staff Security Office far enough in advance to assure that the material will be available on or before the date needed. This requirement does not apply when utilizing government/military transportation. In this case, material may be handcarried. The Staff Security Office will brief each staff member prior to departure concerning security requirements or arrangements needed to safeguard the material while away from his office. For meetings or conferences within the Washington, D.C. Metropolitan area, members may handcarry classified material. Use of classified material during a conference or meeting requires increased awareness and precautionary handling to avoid security violations and/or compromises. Staff members using classified material during a meeting or conference are responsible for ensuring that the material is properly protected at all times, and that personnel present possess appropriate clearances for the material being presented.

(iv) *Visits to foreign countries.* Special precautions must be taken when visiting foreign countries to ensure classified material is protected at all times. For all visits to foreign countries a member of the staff will be appointed as custodian for all classified material required for the success of the mission. This individual will be the holder of a diplomatic passport which exempts him from customs inspections. Individual so designated will coordinate with United States embassy personnel in the country to be visited for securing of classified material within the embassy compound or other appropriate secure area during the course of the visit.

(6) *Preparation and marking of Classified Material.* All classified material originating within the office of the Vice President will be prepared and marked by properly authorized and cleared personnel in accordance with ISOO Directive No. 1, paragraphs I, G, and H. A sample letter is attached for your guidance (Attachment 3). Derivative information will be prepared and classified in accordance with ISOO Directive No. 1, paragraphs II A through C. Questions concerning procedures should be directed to the Staff Security Office.

(7) *Reproduction of Classified Material.* (i) Reproduction of classified material will be accomplished only by properly cleared persons.

(ii) Reproduction of TOP SECRET material will be accomplished only by a member of the Staff Security Office or a designated representative of that office.

(iii) Accountability of reproduced classified material will be maintained by informing the Staff Security Office of the reproduction of SECRET and TOP SECRET material, the number of copies reproduced and their disposition.

(iv) Reproduction machines can retain the imagery of material passed through them. Therefore, to avoid inadvertent disclosure of classified information through subsequent use of machines, staff members will always run machines through four cycles (four blank pages) after the last page of the classified material has been reproduced. These pages will be destroyed in the same manner as classified material.

(8) *Destruction of Classified Material.* (i) SECRET and TOP SECRET material will be given to the Staff Security Office for destruction to insure destruction is properly recorded and destroyed material is removed from the classified control system.

(ii) CONFIDENTIAL material may be destroyed in the holder's office by tearing lengthwise and placing in a "Burn Bag" specifically designated for classified material.

(iii) Classified waste material will be separated from other office waste material and placed in "Burn Bags." Classified waste material includes working papers, notes, drafts of classified correspondence, carbon paper, typewriter ribbons and any other material containing information requiring destruction. "Burn Bags" will be collected daily by a member of the White House Executive Protective Service who will then dispose of the bags in a secure facility.

(iv) *Typewriter ribbons.* Classified material can be reproduced from imprints on used typewriter ribbons. Therefore, ribbons which are used in the

preparation of classified material must be safeguarded accordingly, i.e., they will be stored in a safe at the close of business, destroyed as classified waste when no longer serviceable, etc.

(9) *Inventories.* The Staff Security Office will conduct inventories of all TOP SECRET material charged to the Office of the Vice President at least annually to determine the adequacy of control procedures and insure accountability.

(i) *Loss or compromise.* Any person who has knowledge of loss of possible compromise of classified information shall promptly report the circumstances to the Staff Security Office for appropriate action in accordance with ISOO Directive No. 1, paragraph IV, H.

(j) *Penalties.* Any individual breach of security may warrant penalties up to and including the separation of the individual from his employment or criminal prosecution.

(k) *Special access.* Special access authority is required for release of Sensitive Compartmented Intelligence Information. The names of personnel cleared for access to this category of information are on file in the Staff Security Office.

§ 2800.5 Policies.

(a) *Basic policy.* Except as provided in the Atomic Energy Act of 1943, as amended, Executive Order 12065, as implemented by ISOO Directive No. 1, provides the only basis for classifying information. It is the policy of this office to make available to the public as much information concerning its activities as possible consistent with the need to protect the national security. Accordingly, security classification shall be applied only to protect the national security.

(b) *Duration of classification.* Classification shall not be continued longer than necessary for the protection of national security. Each decision to classify requires a simultaneous determination of the duration such classification must remain in effect. For further guidance, refer to Sections 1-401 and 1-402, E.O. 12065.

(c) *Declassification.* Declassification of information shall be given emphasis comparable to that accorded to classification. Decisions concerning declassification shall be based on the loss of the information's sensitivity with the passage of time or upon the occurrence of a declassification event. For further guidance, refer to Sections 3-102, 3-103 and 3-104 of E.O. 12065.

(d) *Systematic review for declassification.* Systematic review for declassification will be in accordance

with Sections 3-204, 3-401 and 3-503 of E.O. 12065.

(e) *Mandatory review requests.* Requests from a member of the public, a government employee, or an agency, to declassify and release information will be acted upon within 60 days provided the request reasonably identifies the information. After review, the information or any reasonably segregable portion thereof that no longer requires protection, shall be declassified and released, except as provided in Section 3-503, E.O. 12065, unless withholding is otherwise warranted under applicable law.

(f) *Classification guides.* The Chief Counsel, National Security Council, has determined that, in view of the limited amount of material originally classified by this office, the preparation and publication of classification guides is not required.

(g) *Access to Classified Information by historical researchers and former Presidential appointees.* Access may be granted under the provisions of Section 4-3 of E.O. 12065; however, access is permissive and not mandatory.

§2800.6 Delegation of classification and declassification authority.

Pursuant to the provisions of Sections 1-201 and 3-103 of E.O. 12065 of June 28, 1978, the following officials within the Office of the Vice President, are designated to originally classify and declassify information as "SECRET" and/or "CONFIDENTIAL":

- (a) Chief of Staff to the Vice President.
- (b) Counsel to the Vice President.
- (c) Executive Assistant to the Vice President.

(d) Assistant to the Vice President for National Security Affairs.

(e) Assistant to the Vice President for Issues Development and Domestic Policy.

(f) Additionally, the following individuals are designated to declassify "SECRET" and/or "CONFIDENTIAL" information in accordance with Section 3-103 of E.O. 12065:

- (i) Staff Security Officer/Top Secret Control Officer.
- (ii) Assistant Staff Security Officer/Assistant Top Secret Control Officer.

§ 2800.7 Designation of Chairperson for Ad Hoc Committees.

The Counsel to the Vice President is designated as the responsible official to chair Ad Hoc Committees as necessary to act on all suggestions and complaints with respect to the administration of the information security program.

BILLING CODE 3195-01-M

Attachment 1



OFFICE OF THE VICE PRESIDENT
WASHINGTON

EMPLOYMENT AGREEMENT & INDOCTRINATION STATEMENT

As consideration for employment with the Office of the Vice President and as a condition for continued employment I hereby declare that I intend to be governed by and I will comply with the following provisions:

1. By virtue of the performance of my official duties while employed by or assigned to the Office of the Vice President, I expect to be the recipient of classified information, materials, plans or intelligence data which concern the national defense and foreign relations of the United States and which are the property of the United States Government. I have been furnished and I understand the provisions of (a) the Espionage Act, Title 18, USC, Section 793 and 794, concerning the disclosure of information relating to the national defense of the United States and the penalties provided for violations thereof; (b) Title 18, USC, Section 1001, concerning the making of false statements; and (c) Executive Order 12065 entitled "National Security Information."

2. I understand that one of the obligations of my employment by or assignment to the Office of the Vice President is strict compliance with the provisions of Federal laws, directives and regulations with respect to the safeguarding of classified information of the United States Government from unauthorized disclosure.

3. I agree that in the course of my employment by or assignment to the Vice President's staff and subsequent thereto, I will not divulge, publish or reveal by any means any classified information, intelligence data or knowledge which I may acquire by virtue of such employment, except as authorized by competent authority pursuant to the provisions of Federal statutes, regulations and directives. Should an attempt be made by any unauthorized person to obtain classified information from me I will report such incident to the Staff Security Officer for the Office of the Vice President, the nearest office of the Federal Bureau of Investigation or to the nearest U.S. Embassy, Consulate or U.S. Military Command.

4. I understand that upon the termination of my employment by or assignment to the Vice President's staff, none of the classified information or material to which I have access or which I have originated in the course of that employment or assignment may be removed or retained by me, except as authorized by competent authority.

5. I understand that a change in my assignment or employment will not relieve me of my obligations under this statement, and that the provisions of this statement will remain binding upon me after termination of my service with the Office of the Vice President and my services with the United States Government.

Signature

Witnessed and accepted in behalf of the Vice President of the United States on

_____, 19__, by _____

Attachment 2



OFFICE OF THE VICE PRESIDENT
WASHINGTON

SECURITY TERMINATION STATEMENT

On the occasion of the termination of my employment by or assignment to the staff of the Office of the Vice President, I hereby state that:

- 1) I am not retaining possession of or taking with me any document or other material containing classified information affecting the national defense or foreign relations of the United States.
- 2) I will not hereafter in any manner reveal or divulge any such classified information of which I have gained knowledge during my employment by or assignment to the Office of the Vice President, except as authorized by competent authority pursuant to the provisions of Federal statutes, regulations and directives. Should an attempt be made by any unauthorized person to obtain such classified information from me, I will report the incident to the Staff Security Officer of the Office of the Vice President, the nearest office of the Federal Bureau of Investigation, or the nearest U.S. Embassy, Consulate, or U.S. Military Command.
- 3) I have read and understand the provisions of the Espionage Act, Title 18, USC, Sections 793 and 794, concerning unlawful disclosure of information affecting the national defense, and the provisions of Title 18, USC, Section 1001, regarding the making of false statements. With this understanding, I state that the information I have given herein is, to the best of my knowledge and belief, correct and complete and is being furnished to the U.S. Government for purposes of protection of classified information which affects the national defense, or foreign relations, of the United States.

date

signature

WITNESS

name (typed or printed)

V
4
4
N
0
2
0
7
9
U
M
I

SAMPLE

TOP SECRET

Attachment 3

OFFICE OF THE VICE PRESIDENT
WASHINGTON

January 25, 1979

MEMORANDUM FOR The Vice President

FROM: A. Staff Member

SUBJECT: Classified Markings (U)

XXXX XXXXXXXX XX X XXXXXXXXXXXX XXXXXXXX XXXXX XX
XXXXXXXX XX XXXXXXXX XXX XXXXXXXX XXXXXXXXXXXXXXXX XX XXXXXXXXXXXX
XX XXXXXXXX. XXXX XXXXXXXX, XXXX XXXXXXXXXXXX XX XXXXXXX XX XX
XX XXXXXXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX XX XXXXXXX XX. (C)

XXXX XXXXXXXX XXXXXXXX XX XXXX XXXX XXXXXXXXXXXX XXXXX
XXXXXXXXXX XXXXXXXX XXX XXX XXXXXXXXXXXXXXX XXXXXXXXXXXX. XXXX XXX-
XXXX XXXXXX XXXXXX XX XXXXXXXXXXXX XXXXXXXXXXXX XX XXXXXXXXXXXX
XXXXXXXXXX XXXXXXX XXXXXXXXXXXX XXXXXXXX. (S)

XXXXX XXXXXXXXXXX XXXXX XX XXXXXXX XX XXXXXXXXXXXX
XXXXXXXX XXXXXXXXXXX XX XXX XXXXXXX. (U)

X XX XXXXXXXXXXX XXX XXXXXXXXXXX XXXXXXXXXXXX XX XX XXXXX
XXXXXXXX XXXX XXX XXXX XXXXXXX XXXXX XXXXXXXXXXXX XX XXX XXX
XXXXXXXX XX XXXXXXX. XXXXXXXX XX XXX XXX XXXXXXX XXXXXXXXXXXXXXXX
XXXXXXXX XXX XXXX XXXXXXX XXXXX XXXXXXXXXXXX XXX XXXXXXX XXXXXX
XXX XXX XXXXXXX XXXXXXXXXXXX X XXXXXXXX. XXXXXXX XXXXX XXXX
XXXXXXXX XXXXXX. (TS)

Classified by Director, XXX
Declassify on January 24, 1984
Review for Declassification on January 24, 1984
Downgrade to _____ on _____

Enter appropriate terminology

SAMPLE

[FR Doc. 79-35029 Filed 11-19-79; 8:45 am]
BILLING CODE 3195-01-C

TOP SECRET

SAMPLE

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1212

National Natural Landmarks Program

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Interim Regulations and request for comments.

SUMMARY: These interim regulations set forth the process used to study, designate, register and monitor National Natural Landmarks, including criteria for listing areas on the National Registry of Natural Landmarks. These interim regulations will make available to other Federal agencies, State and local governments, private organizations and individuals information on the National Natural Landmarks Program, and formalize the Secretary of the Interior's procedures and criteria for designating National Natural Landmarks.

DATES: Effective November 20, 1979, as interim regulations for program activities originating on or after the effective date of these regulations. Program activities ongoing at the time of publication will be undertaken in accordance with previous guidelines and procedures. Interested parties are encouraged to submit written comments or recommendations concerning these proposed regulations by January 21, 1980.

ADDRESSES: Comments should be sent to the Director, Heritage Conservation and Recreation Service, 440 G Street, NW., Washington, D.C. 20243. (Attn: Division of State Heritage programs).

FOR FURTHER INFORMATION CONTACT: Mr. Arthur L. Stewart, Acting Chief, Division of State Heritage Programs, Heritage Conservation and Recreation Service, 440 G Street, NW., Washington, D.C. 20243, (202-343-4243).

SUPPLEMENTARY INFORMATION: The following interim regulations reflect changes which have been made in the National Natural Landmarks Program since it was transferred from the National Park Service to the Heritage Conservation and Recreation Service on January 25, 1978. Administration of the National Natural Landmarks Program by the Heritage Conservation and Recreation Service is currently evolving and subject to additional changes. However, since other Federal programs, State and local governments, and private organizations and individuals are in need of definitive guidance at the

present time, these regulations are to be considered as in force immediately on an interim basis pending publication of final regulations.

The National Natural Landmarks Program was established in 1963 by the Secretary of the Interior to encourage the preservation of areas that illustrate the ecological and geological character of the United States, to enhance the educational and scientific values of the areas thus preserved, to strengthen cultural appreciation of natural history, and to foster a wider interest and concern in the conservation of the nation's natural heritage.

Areas designated as National Natural Landmarks are listed on the National Registry of Natural Landmarks, which is periodically published in the Federal Register. Listing an area on the National Registry of Natural Landmarks officially recognizes its national significance and often stimulates its owner or manager to use the land so as to retain the values which qualified the resource for landmark designation.

Publication in the Federal Register also serves to notify Federal agencies of the presence and location of National Natural Landmarks so that these areas may be taken into consideration when Federal agencies assess the effect of their actions on the environment under the provisions of the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321).

Section 8 of the National Park System General Authorities Act of 1970, as amended, (90 Stat. 1940, 16 U.S.C. 1a-5) directs the Secretary of the Interior to prepare an annual report to the Congress which identifies all National Natural Landmarks which exhibit known or anticipated damage or threats to the integrity of their resources. This annual report is prepared by the Heritage Conservation and Recreation Service. The National Parks and Recreation Act of 1978 (92 Stat. 3518, 16 U.S.C. 1a-5) authorizes \$1.5 million for monitoring the welfare and integrity of natural and historic landmarks.

Authority for the National Natural Landmarks Program is based on the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) which established a national policy to preserve "objects of national significance."

The primary authors of this document are Mr. Wayne T. Strum and Mr. James F. Orr, Division of State Heritage Programs, Heritage Conservation and Recreation Service, 440 G Street, NW., Washington, D.C. 20243 (202-343-4243).

An environmental assessment of these interim regulations has been prepared by the Heritage Conservation and Recreation Service as required by the

National Environmental Policy Act of 1969 (83 Stat. 852, 42 USC 4321 et seq.). Based on the assessment, it has been determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and that an environmental impact statement is not required. The assessment is on file in the Division of State Heritage Programs, Heritage Conservation and Recreation Service, Department of the Interior, 440 G Street, NW., Washington, D.C. 20243.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Title 36 of the Code of Federal Regulations is amended by adding a new Part 1212 as an interim regulation, reading as follows:

PART 1212—NATIONAL NATURAL LANDMARKS PROGRAMS

- Sec.
- 1212.1 Purpose.
- 1212.2 Definitions.
- 1212.3 Authority.
- 1212.4 National natural landmark designation process.
- 1212.5 Notification.
- 1212.6 Registration.
- 1212.7 Monitoring national natural landmarks.
- 1212.8 Removal of national natural landmark designation.
- 1212.9 National natural landmark criteria.
- Authority: 49 Stat. 666, 16 U.S.C. 461 et seq.

§ 1212.1 Purpose.

The purpose of these regulations is to set forth the process and criteria used to study, designate, register and monitor National Natural Landmarks. The purpose of the landmarks program is to identify and designate nationally significant examples of the full range of terrestrial communities, aquatic communities, landforms, geological features, and habitats of native plant and animal species that constitute the nation's natural heritage.

§ 1212.2 Definitions.

(a) *National Natural Landmark:* A specific area designated by the Secretary of the Interior which contains a representative example(s) of the nation's natural history, including terrestrial communities, aquatic communities, landforms, geological features, or habitats of native plant and animal species, possessing national significance in illustrating or interpreting the nation's natural heritage.

(b) *National Registry of Natural Landmarks:* The official listing of all National Natural Landmarks which is

published periodically in the Federal Register.

(c) *Registered National Natural Landmark*: A National Natural Landmark, the owner(s) of which has voluntarily agreed to protect, use, and manage the area in a manner which prevents the destruction or deterioration of the values upon which landmark designation is based. This agreement is non-binding and may be terminated by either the owner(s) of the landmark or the Director, Heritage Conservation and Recreation Service.

(d) *Secretary*: The Secretary of the Interior or the designee authorized to carry out the Secretary's responsibilities.

(e) *Owner*: The individual or organization owning private land or the public agency responsible for administering public land.

§ 1212.3 Authority.

The policies and procedures contained herein are based on the authority of the Secretary of the Interior under the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 et seq.), exercised through the Heritage Conservation and Recreation Service.

§ 1212.4 National Natural Landmark designation process.

(a) *Natural Region Studies*. The Heritage Conservation and Recreation Service (HCRS) conducts studies of ecological and geological features in each natural region of the United States, Puerto Rico, the Virgin Islands, and the Pacific Trust Territories to provide a scientific basis for identifying potential National Natural Landmarks. The HCRS Division of Natural Landmarks is responsible for monitoring these studies which are usually done under contract with scientists. A study of each region produces a classification and description of ecological and geological features and an annotated list of areas that best illustrate those features. In addition to those areas identified in the natural region studies, Landmark recommendations may also be made by any other interested party. These recommendations will then be considered in the natural region study and/or by the Division of Natural Landmarks. After reviewing the recommendations from a completed natural region study and/or other interested parties, the Division of Natural Landmarks determines those areas which should be considered as having potential for designation as National Natural Landmarks.

(b) *Evaluation*. Areas identified as potential National Natural Landmarks are evaluated to assess their natural

values against the criteria for national significance in § 1212.9. This evaluation is carried out by field scientists in conjunction with the Division of Natural Landmarks and the appropriate Regional Office of the Heritage Conservation and Recreation Service. The result of this evaluation is a documented list of those areas which appear to meet the criteria and which may qualify as National Natural Landmarks. The Division of Natural Landmarks reviews the recommendations from this evaluation and prepares final documentation for those areas judged to possess national significance. These recommendations are then forwarded to the Director, Heritage Conservation and Recreation Service. Those areas which do not appear to meet the criteria for national significance are similarly placed on a documented list to be reviewed by the Division of Natural Landmarks prior to being placed on a list which will not receive further review at that time.

(c) *Nomination and designation*. Areas recommended to the Director, Heritage Conservation and Recreation Service, are reviewed and formally nominated to the Secretary of the Interior, through the Assistant Secretary, Fish and Wildlife and Parks, for approval and designation as National Natural Landmarks under the criteria in § 1212.9. Those areas approved by the Secretary as National Natural Landmarks are listed on the National Registry of Natural Landmarks.

§ 1212.5 Notification.

(a) *First notification*. (1) When an area which has been identified as a potential National Natural Landmark is being evaluated by scientists as described in § 1212.4(b) above, the Heritage Conservation and Recreation Service will notify the owner(s) in writing, except as specified in § 1212.5(a)(2). Such notice will advise the owner(s) that the area is under consideration for National Natural Landmark designation. Owner notice will include information on the National Natural Landmarks Program, available information describing the area and its significance, and a request for permission to conduct an on-site evaluation.

(2) When an area which has been identified as a potential National Natural Landmark has more than 50 owners and is being evaluated by scientists as described in § 1212.4(b) above, the Heritage Conservation and Recreation Service will provide general notice to the owners that the area is under consideration for National Natural Landmark designation. This

general notice will include information on the National Natural Landmarks Program, available information describing the area and its significance, notification that HCRS representatives may conduct an on-site evaluation, and will solicit comments and recommendations. This notice must be published in one or more local newspapers of general circulation in the area in which the potential National Natural Landmark is located.

(b) *Second notification*. (1) When an area appears to qualify for designation as a National Natural Landmark, the Heritage Conservation and Recreation Service will again notify the owner(s) in writing except as specified in § 1212.5(b)(2). In addition, the Heritage Conservation and Recreation Service will notify: (i) The executive of the local governmental jurisdiction in which the potential landmark is located, (ii) the Governor of the State, and (iii) the members of Congress who represent the District and the State in which the potential landmark is located. Such notices will advise the recipients of the proposed action, will reference these regulations, and will notify the owner(s) of the procedures to be followed by the Heritage Conservation and Recreation Service. Notice of this proposed action will also appear in the Federal Register. Those individuals notified will have 30 days from the day the notice is mailed within which to comment before a decision is made to nominate the area to the Secretary. Such considerations as past, current, and anticipated land uses, potential threats to the area's integrity, and the owner's attitude toward designation may be addressed. All comments will be considered in the review and designation of potential National Natural Landmarks.

(2) When an area appears to qualify for designation as a National Natural Landmark and has more than 50 owners, the Heritage Conservation and Recreation Service will again provide general notice to the owners of the area. Notification to all other parties will be undertaken as outlined in § 1212.5(b)(1).

(3) When an area is determined not to meet the criteria for national significance as described in § 1212.9, the Heritage Conservation and Recreation Service will notify the owner(s) as outlined in § 1212.5(a) above that no further action will be taken with respect to landmark designation.

(c) *Third notification*. When an area is designated a National Natural Landmark by the Secretary, notification will be sent to: (1) The owner(s) as outlined in § 1212.5(b) above, (2) the executive of the local governmental jurisdiction in which the landmark is

located, (3) the Governor of the State, (4) the members of Congress who represent the District and State in which the landmark is located, and (5) other interested authorities, organizations, and individuals as deemed appropriate by the Heritage Conservation and Recreation Service. Notice of new designations will be published periodically in the Federal Register.

§ 1212.6 Registration.

(a) Following the designation of an area by the Secretary as a National Natural Landmark, the owner(s) is invited to enter into an agreement with the Heritage Conservation and Recreation Service indicating a willingness to adopt management practices which protect the landmark's nationally significant values. When the agreement is signed, the area becomes a registered National Natural Landmark. The owner(s) gives up none of the rights and privileges of ownership or use of the area, nor does the Department of the Interior gain any property interest in land so designated. The owner(s) may request both a certificate signed by the Secretary of the Interior and the Director of the Heritage Conservation and Recreation Service, and a bronze plaque. The Heritage Conservation and Recreation Service provides the certificate and plaque without cost to the owner(s) through its appropriate Regional Office. Upon request, the Regional Office will help arrange and participate in a presentation ceremony.

(b) If the agreement is not signed, the area retains its status as a National Natural Landmark, but the owner(s) is awarded neither the certificate nor the plaque.

(c) There is no time limit for signing the agreement and accepting the certificate and plaque. The owner may choose to do so at any time following the designation of the area as a National Natural Landmark.

(d) When the ownership of a registered National Natural Landmark changes, a new agreement is required to maintain registration.

§ 1212.7 Monitoring National Natural Landmarks.

(a) The Heritage Conservation and Recreation Service, through its Regional Offices, maintains a continuing relationship with the owners of National Natural Landmarks in the form of periodic visits to the areas to determine whether the landmarks have retained those qualities which make them nationally significant, to advise owners who request help on appropriate conservation practices, and to update administrative records on the areas.

Reports for all periodic visits are sent to and reviewed by the Division of Natural Landmarks. This information provides the basis for an annual report to the Congress by the Secretary on National Natural Landmarks which exhibit known or anticipated damage or threats to the integrity of their resources as mandated by Section 8 of the National Park System General Authorities Act of 1970, as amended, (90 Stat. 1940, 16 U.S.C. 1a-5).

(b) Whenever the Secretary of the Interior determines that a National Natural Landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, the Secretary shall notify the person conducting such activity and prepare a report thereon. The report will include the basis for the Secretary's finding that such activity may cause irreparable loss or destruction of a National Natural Landmark. It will be submitted to the Advisory Council on Historic Preservation, along with a request for advice from the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity. Authority for this action is mandated by Section 9 of the Mining in National Parks Act of 1976 (90 Stat. 1342, 16 U.S.C. 1908).

§ 1212.8 Removal of National Natural Landmark designation.

The National Natural Landmark designation will be removed from an area when the qualities which caused it originally to be nominated have been lost or destroyed; upon proof that an error in professional judgment has been made; or for failure to follow the procedures set forth herein. Information concerning the loss of natural qualities, error in judgment, or procedural failure should be submitted to the Director, Heritage Conservation and Recreation Service, Washington, D.C. 20243. When the Heritage Conservation and Recreation Service obtains information from reliable sources or from its own studies or on-site visits that a National Natural Landmark appears to no longer merit this designation, the following process will be used:

(a) *Evaluation*: Information outlining the apparent loss of nationally significant values will be evaluated by field scientists in conjunction with the division of Natural Landmarks and the appropriate regional office of the Heritage Conservation and Recreation Service. Based on this evaluation, the Division of Natural Landmarks will determine whether the landmark has lost the values which made it nationally

significant. If it has, a recommendation for removal from the National Registry of Natural Landmarks will be forwarded to the Director, Heritage Conservation and Recreation Service.

(b) *Removal from the Registry*. The recommendation for removal of areas from the National Registry of Natural Landmarks will be reviewed by the Director, Heritage Conservation and Recreation Service. The Director's recommendation will then be submitted to the Secretary, through the Assistant Secretary, Fish and Wildlife and Parks, for final decision.

(c) *Notification of Removal from the Registry*. (1) When it has been determined by the Division of Natural Landmarks that an area no longer appears to merit landmark designation, the Heritage Conservation and Recreation Service will notify the owner(s) and the other recipients noted in § 1212.5(b). Notice of the proposed removal will also appear in the Federal Register. The individuals notified will have an opportunity to comment within 30 days from the day the notice is mailed before a recommendation for removal is submitted to the Secretary. All comments received will be considered in the review and decision to remove the National Natural Landmark designation.

(2) When an area is removed from the National Registry of Natural Landmarks by the Secretary, notification is sent to: (i) The owner(s), (ii) the executive of the local governmental jurisdiction in which the landmark is located, (iii) the Governor of the State, (iv) the members of Congress who represent the District and State in which the landmark is located, and (v) other interested authorities, organizations, and individuals as deemed appropriate by the Heritage Conservation and Recreation Service, as outlined in § 1212.5(b). Notice of such removals will be published periodically in the Federal Register.

§ 1212.9 National natural landmark criteria.

National Natural Landmark designation recognizes areas which best represent the ecological and geological character of the United States, including, for example, terrestrial aquatic communities, landforms, geological features, and habitats of native plant and animal species. The identification, evaluation, and designation of National Natural Landmarks is based on the assumption that the characteristics of each of the different natural regions of the United States are unique. Therefore, if an area, using the criteria below, is determined to be significant to a

particular natural region, it is considered to possess national significance.

(a) *Primary criterion.* The first level of consideration in a determination of national significance is that the area being considered must contain one or more high quality examples of the ecological and/or geological features identified in the classification of the natural region in which it exists.

(b) *Secondary criterion.* When it becomes necessary to compare areas that appear to be essentially similar in light of the primary criterion and to determine which of the examples to list on the National Registry of Natural Landmarks, the following criteria, not necessarily in this order, will be used to identify those areas which appear to qualify as National Natural Landmarks.

(1) *Inherent diversity.* The area contains high-quality examples of more than one ecological and/or geological feature in the natural region classification.

(2) *Condition.* The area has been free from disturbance and human intervention for a longer period of time, and is therefore more natural, more stable, and more reflective of the natural environment.

(3) *Viability.* The area is capable of retaining and perpetuating its inherent natural qualities over time; it exists in a state which encourages its persistence and survival.

(4) *Education and research.* The area has exceptional value to scientific research, education, and/or public awareness of our natural heritage.

(5) *Geographic location.* (i) The area contains ecological features that are disjunct and/or relict, or geologic features that are anomalous or atypical or normal distribution patterns.

(ii) The area reflects changes in an ecological or geological feature that has a broad geographic distribution.

(6) *Critical features or habitat.* (i) The area contains a rare and/or fragile geological feature, or an unusually high concentration of rare and/or endangered species.

(ii) The area is essential for breeding, wintering, or migration of animal species.

These criteria provide the basis for the exercise of professional judgment in the identification and designation of National Natural Landmarks.

Dated: November 13, 1979.

Chris Therral Delaporte,
Director, Heritage Conservation and
Recreation Service.

[FR Doc. 79-35866 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 116 and 117

[FRL 1338-7]

Removal of Calcium Oxide and Calcium Hydroxide From Hazardous Substance List

Correction

In FR Doc. 79-34881 appearing at page 65399 in the issue for Tuesday, November 13, 1979, on page 65400, in the third column, in the second paragraph, under the heading § 116.4A [Amended], in the second line, "hydroxide" should read "oxide".

BILLING CODE 1501-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5736]

National Flood Insurance Program; List of Communities With Special Hazard Areas

AGENCY: Federal Insurance
Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or 30 days after the date of this Federal Register publication, (December 20, 1979), whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426-1460 or Toll Free Line 800-424-8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified

flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the Federal Register, (December 20, 1979), or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the Federal Register, (December 20, 1979), or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 or Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Section 65.3 as amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBM's in effect).

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Illinois, Woodford, village of Roanoke, 01	170727B	E-8, 11, 12, 14	I	F	Mar. 1, 1974, Feb. 13, 1978.	Nov. 2, 1979	Elmer J. Wehrli, Mayor, Hussein Street, Roanoke, IL 61561, Phone: (309) 923-3661.
Illinois, Sangamon, city of Springfield, 0001C-0007C.	170604	E-8, 11, 12, 14	I	F	June 7, 1974, Oct. 3, 1975, Jan. 9, 1978.	Nov. 2, 1979	William Telford, Mayor, 7th and Monroe Street, Springfield, IL 62701, Phone: (217) 788-2260.
Indiana, Daviess, town of Elora, 0001B	180036	E-11, 12, 14	I	F	Dec. 7, 1973, June 18, 1978.	Nov. 2, 1979	Harvey Manning, President, Town Board, Town Hall, P.O. Box 338, Elora, IN 47529, Phone: (812) 682-5415.
Indiana, Wayne, town of Milton, 01	180285B	E-8, 11, 12, 14	I	F	Oct. 8, 1978	Nov. 2, 1979	Arnold Boyd, President, Town Board, Town Hall, Milton, IN 47357, Phone: (317) 478-3618.
Ohio, Perry, village of Corning, 01	390440B	E-11, 12, 14	I	F	May 10, 1974, June 11, 1978.	Nov. 2, 1979	Leonard Baird, Mayor, Village Hall, Corning, OH 43730, Phone: (614) 347-4530.
Wisconsin, Barron, village of Almota, 01	550009B	E-11, 12, 14	I	F	Sept. 6, 1974, May 14, 1978.	Nov. 2, 1979	Henry Becker, Village President, Portland Avenue, Almota, WI 54805, Phone: (715) 357-3286.
Alabama, Shelby, town of Wilton, 0001	010405A	N-5	I	F	Nov. 2, 1979	Nov. 2, 1979	James M. Henson, Mayor, Town of Wilton, P.O. Box 148, Wilton, AL 35187, (205) 665-2021.
Alabama, Shelby, town of Calera, 0001	010373A	N-5	I	F	Nov. 2, 1979	Nov. 2, 1979	George W. Roy, Mayor, Town of Calera, P.O. Box 177, Calera, AL 35040, (205) 668-2314.
New York, Rockland, town of Haverstraw, 0002, 0003.	360681B	E-11, 12	I	F	Mar. 29, 1974, Sept. 26, 1975.	Nov. 2, 1979	Fred Mittermeier, Town Engineer, 41 North Main Street, Haverstraw, NY 10927, (914) 425-5000.
Montana, unincorporated area, Wheatland County, 0011A; 0012A.	300172A	E-5	I	F	Nov. 6, 1979	Nov. 6, 1979	Mr. John R. Nelson, Chairman, Wheatland County, Board of County Commissioners, Harlowton, MT 59036, (406) 632-5621.
Illinois, La Salle, city of Peru, 0001B	170406	E-8, 11, 12, 14	I	F	Apr. 5, 1974, Oct. 31, 1975.	Nov. 9, 1979	Donald L. Baker, Mayor, P.O. Box 299, Peru, IL 61354, Phone: (815) 233-0061.
Maryland, Anne Arundel, Anne Arundel County, 0001B-0021B.	240008	E-11	I	F	Nov. 15, 1974, Aug. 4, 1978.	Nov. 9, 1979	Robert Pascal, County Executive, P.O. Box 1831, Annapolis, MD 21404, Phone: (301) 224-1477.
Michigan, Washtenaw, village of Chelsea, 0001A.	260599	N-8, 11, 12, 14	I	F	Oct. 3, 1975	Nov. 9, 1979	Frederick L. Barkley, Projects Director, 104 East Middle Street, Chelsea, MI 48118, Phone: (313) 475-1771.
Ohio, Van Wert and Allen, city of Delphos, 0001B.	390005	E-8, 11, 12, 14	I	F	May 17, 1974, June 11, 1978.	Nov. 9, 1979	Ralph E. Wagner, Mayor, 125 East Second Street, Delphos, OH 45833, Phone: (419) 692-0791.
Georgia, Burke, town of Girard, 01	130023B	E-12	I	F	Sept. 6, 1974, Jan. 23, 1976.	Nov. 9, 1979	Eloise Jenkins, Mayor, Town of Girard, GA 30426.
North Carolina, Wayne, Wayne County, 01-08	370254B	E-11, 12	I	F	Dec. 27, 1974, Aug. 4, 1978.	Nov. 9, 1979	Mr. Reed Tunstall, Wayne Co. Planning Dept., P.O. Box 227, Goldsboro, NC 27530.
California, unincorporated area, San Benito County, 0001B-0005B, 0007B-0008B, 0010B-0013B, 0015B-0021B	060267B	N-5, 15	I	F	Nov. 13, 1979	Nov. 13, 1979	Mr. Phillip A. Fitzbuck, County Planner, San Benito County, Office of County Planner, 3220 Southside Road, Hollister, CA 95023, (408) 637-5313.
North Dakota, Barnes, city of Valley City, 0001C-0004C.	380002C	E-8, 11, 12	I	F	Feb. 8, 1974, Dec. 13, 1974, Jan. 31, 1978.	Nov. 13, 1979	Mr. Robert K. Barrow, City Engineer, P.O. Box 390, Valley City, ND 58071, (701) 845-0380.
Texas, Collin, town of Weston, 0001B	481324B	N-12	I	F	May 23, 1978	Nov. 13, 1979	Honorable Thomas Kissinger, Mayor, P.O. Box 57, Weston, TX 75097, (214) 542-2636.
Illinois, Knox and Fulton, village of London Mills, 01.	170763B	E-8, 11, 12, 14	I	F	Oct. 18, 1974, Feb. 20, 1976.	Nov. 16, 1979	John Ulim, Mayor, Box 254, London Mills, IL 61544, Phone: (309) 486-3593.
Ohio, Fulton, village of Swanton, 0001A	390632	N-8, 11, 12, 14	I	F	July 25, 1975	Nov. 16, 1979	Lewis Carson, Mayor, 219 Chestnut Street, Swanton, OH 43558, Phone: (419) 826-2816.
Pennsylvania, Pike, township of Blooming Grove, 0001A-0005A.	421962	E-11, 12, 14	I	F	Nov. 8, 1974	Nov. 16, 1979	Doy N. Gmm, Jr., Chairman, Twp. Suprs., Blooming Grove, Hawley, PA 18428, Phone: (717) 775-7455.
California, Santa Clara, city of San Jose, 0001C-0016C.	060349C	E-8, 11, 12	I	F	Jan. 24, 1975, Apr. 9, 1976, Apr. 4, 1978.	Nov. 20, 1979	Mr. E. R. Toschi, Principal Civil Engineer, Department of Public Works, 801 North First Street, San Jose, CA 95110, (408) 277-4681.
Texas, Collin, Town of Lavon, 0001B	481313B	N-11, 12	I	F	May 23, 1978	Nov. 20, 1979	Honorable W. H. Morrow, Mayor, Town of Lavon, Town Hall, Lavon, TX 75066, (214) 853-3601.
Alabama, Dale and Houston Counties, city of Dothan, 0001-0009	010104C	E-8, 11, 12	I	F	Dec. 28, 1973, Jan. 9, 1976.	Nov. 23, 1979	Mr. Gary Martin, City Engineer, The City of Dothan, P.O. Box 2128, Dothan, AL 36301, (200) 794-0361.

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Tennessee, Maury County, city of Mount Pleasant, 0001.	470125B	E-8, 11.....	I	F	Feb. 15, 1974, Sept. 17, 1976.	Nov. 23, 1979.....	William H. Boyd, Mayor, City of Mount Pleasant, P.O. Box 426, Mount Pleasant, TN, (615) 979-7717.
Pennsylvania, Somerset, Township of Jenner, 0001A-0005A.	422051	E-11, 12, 14.....	I	F	Jan. 24, 1975.....	Nov. 23, 1979.....	Kenneth Rhoads, Chairman, R.D. No. 2, Boswell, PA 15531, Phone: (814) 629-5754.
Missouri, unincorporated area, New Madrid County, 0001A-0010A.	290849A	E-5.....	I	F	Nov. 27, 1979.....	Nov. 27, 1979.....	Honorable Raymond L. Ashley, Presiding Judge, Office of the Presiding Judge, New Madrid County Courthouse, New Madrid Mo 63869, (314) 748-2524.
Alabama, Sumter, town of Geiger, 0001.....	010386A	E-5.....	I	F	Nov. 30, 1979.....	Nov. 30, 1979.....	Louis Watt, Mayor, Town of Geiger, Rt. 1, Box G39A, Geiger, AL 35459.
Florida, Citrus, City of Crystal River, 01, 02.....	120340A	E-12.....	I	F	Mar. 26, 1976.....	Nov. 30, 1979.....	Mrs. Rice, Secretary, City of Crystal River, 123 North West Highway 19, Crystal River, FL 32629.
New York, Erie, village of Alden, 0001.....	360224B	E-11.....	I	F	May 17, 1974, June 18, 1976.	Nov. 30, 1979.....	Mrs. Joan Weider, Clerk, Village of Alden, 13336 Broadway, Alden, NY 14004.
Tennessee, Cannon, town of Auburntown, 01.	470020B	E-8.....	I	F	Aug. 2, 1974, Apr. 23, 1976.	Nov. 30, 1979.....	Town of Auburntown, Town Administrator, Auburntown, TN 37018.
Ohio, Fulton, Fulton County, ¹ 0003B and 0006B only.	390182	N-11, 12, 14.....	I	F	Jan. 20, 1978.....	Nov. 30, 1979.....	David Hurst, Chairman, County Commissioners, Courthouse, Wauseon, OH 43567, Phone: (419) 335-5921.
Ohio, Knox, Knox County, ¹ 0003B, 0005B and 0006B only.	390306	N-11, 12, 14.....	I	F	Jan. 31, 1975, Nov. 11, 1977.	Nov. 30, 1979.....	Richard Mivis, President, Board of County Commissioners, 110 East High Street, Mount Vernon, OH 43050, Phone: (614) 397-2727.
Pennsylvania, Somerset, township of Larimer, 0001A-0003A.	422515	N-11, 12, 14.....	I	F	Jan. 10, 1975.....	Nov. 30, 1979.....	Robert Cogan, R.D. No. 4, Meyersdale, PA 15552, Phone: (614) 634-8901.
Pennsylvania, Pike, township of Shohola, 0001A-0003A.	421969	E-11, 12, 14.....	I	F	Feb. 14, 1975.....	Nov. 30, 1979.....	George J. Fluhr, Chairman, Shohola, PA 18458, Phone: (717) 559-7444.
Pennsylvania, Bedford, township of Union, 0001A-0002A.	421352	N-11, 12, 14.....	I	F	Jan. 3, 1975.....	Nov. 30, 1979.....	N. Merle Crist, Chairman, R.D. No. 1, Miller, PA 16655, Phone: (814) 276-3704.
Wisconsin, Grant, city of Boscobel, 01.....	550148B	N-8, 11, 12, 14.....	I	F	Dec. 17, 1973, May 14, 1976.	Nov. 30, 1979.....	Leo E. Johnson, Mayor, 1106 East Avenue, Boscobel, WI 53805, Phone: (608) 375-5001.

¹Unincorporated area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: November 2, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-35506 Filed 11-19-79; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register

Vol. 44, No. 225

Tuesday, November 20, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is issuing additional proposed regulations for the Summer Food Service Program for Children in order to implement the provisions of Pub. L. 96-108, enacted on November 9, 1979, and to make other changes directed at reducing mismanagement, waste, and abuse in the Program. As required by the statute, these regulations redefine what types of institutions are eligible to sponsor the Program. This change will have the effect of limiting the eligibility of some private nonprofit institutions which sponsor large programs and which purchase meals from food service management companies. These proposed regulations also emphasize the responsibility of State agencies to attempt to locate high priority sponsors to administer the Program for sites in areas where poor economic conditions exist. It is intended that these changes will reduce mismanagement, waste, and abuse in the Program by more thoroughly screening applicant sponsors of the type described above, and by intensifying the effort to locate the most capable sponsors to administer sites.

DATE: Comments must be received by December 11, 1979 to be assured of consideration in final rulemaking.

ADDRESS: Written comments should be sent to Mr. Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C., 20250. Copies of all written comments received will be available for inspection during normal business hours in Room 620, 500 12th Street, S.W., Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Jordan Benderly or Ms. Beverly Walstrom at the above address or by telephone at (202) 447-6509.

SUPPLEMENTARY INFORMATION:

Authorization for the Summer Food Service Program for Children is given in Section 13 of the National School Lunch Act, Pub. L. 95-166, enacted November 10, 1977, contains the comprehensive Program authorization which is currently in effect and which expires after September 30, 1980. Enactment of Public Law 96-108, which is the appropriations act for the Department for fiscal year 1980, modifies the provisions for institution eligibility included in the authorizing statute. This proposed rule amends current Program regulations (44 FR 6) by redefining which institutions are eligible to sponsor the Program, as mandated by Pub. L. 96-108, and by making related changes. Before the enactment of Pub. L. 96-108, the Department published proposed regulations (44 FR 211) in accordance with the requirement of Pub. L. 95-166. The proposed rule which follows will be combined with the earlier proposal into a final rule for the summer of 1980, which will be published prior to January 1, 1980.

1. Eligibility

Six categories of sponsors are identified as eligible to administer summer programs. They include: (1) public sponsors, (2) private nonprofit sponsors which prepare their own meals or which obtain meals from a public facility, (3) private nonprofit schools (including colleges and universities), (4) private nonprofit migrant farmworker organizations which serve children from migrant families, (5) private nonprofit sponsors which purchase meals from a food service management company and which serve not more than a total of 500 children at not more than three sites, and (6) in areas where no sponsors of types 1 through 5 are available to operate the Program, private nonprofit sponsors which purchase meals from food service management companies, and which are determined to have a consistent record of reliable and honest management and administration of publicly funded community food service programs. The provision established institutions of types 1 through 5 as the first priority for sponsorship of the Program for any given area or food

service site. Type 6 institutions are eligible to sponsor the Program only where no sponsors of the other types are available to sponsor sites serving needy children. Program experience, audits and investigations indicate that mismanagement and waste are more common in large, commercially vended programs administered by private sponsors. The Department anticipates that Program abuses can be reduced by more careful approval of sponsors and sites, as authorized by the proposed rule.

The statute specifies that type 6 institutions must be "determined by the Secretary of Agriculture to have a record of reliable and honest community service in feeding programs." Therefore, additional criteria to determine the eligibility of such institutions have been established. Type 6 applicant sponsors will be required to submit, as part of the application process, sufficient documentation to permit State agencies to determine if the applicant has properly administered publicly funded community food service programs and has no record of operating a seriously deficient program. Type 6 applicants which sponsored the Program in the prior fiscal year are exempt from the requirement to submit this documentation, as the State agencies should have sufficient records on file to evaluate such applicant institutions.

The Department believes that proper administration of summer programs requires a high level of managerial skill and experience. Therefore, the proposed rule requires that each type 6 applicant's history include administration of community food service programs which are publicly funded. Such a record will more meaningfully evidence the applicant's capability for administering public funds under the Program. To provide regulatory guidance to State agencies, the proposed rule defines community food service programs as programs which provide meals on a regular schedule, and which have the stated objective of providing nutritionally balanced meals to participants.

2. State Agency Responsibilities

Implementation of the eligibility provisions described above necessitates additional State agency responsibilities. Administering agencies must target potential sponsors of types 1 through 5

for their outreach efforts and give such potential sponsors first priority in application approval. State agencies are also required to evaluate the documentation submitted by type 6 applicants to determine whether they have a consistent record of reliable and honest administration of publicly funded community food service programs.

In the proposed rule each State is required to outline in its State plan for management and administration its criteria for evaluating such documentation. States must also describe their procedures for locating high priority sponsors for food service sites. The State plan must, in addition, address the State agency's plan for controlling waste and mismanagement for all sponsors, and any special procedures for controlling such problems in the operations of type 6 sponsors. A corrective action plan for problems and deficiencies experienced in the prior year's program is also required in the State plan.

Comment Period

The President directed each Executive Agency to adopt procedures to improve the public comment and rulemaking process (Executive Order 12044, issue March 24, 1978, (43 FR 12661)). Although the Executive Order establishes a 60 day comment period for significant rulemaking, it does allow for shorter comment periods under certain circumstances. A shortened comment period for this proposed rule will allow timely publication of final regulations, thus giving administering agencies at all levels an adequate amount of time to plan and prepare for the 1980 Summer Program. Because the Program's authorizing legislation mandates that final regulations be published no later than January 1 of each year and Pub. L. 96-108 was not enacted until November 9, 1979, Robert M. Greenstein, Administrator of the Food and Nutrition Service, has decided to allow 20 days, rather than 60 days, for public comment.

Accordingly, the Department is issuing proposed amendments to Part 225 as follows:

1. In § 225.4, the first sentence in paragraph (h) is amended and a new paragraph (k) is added, to read as follows:

§ 225.4 Procedures for approval of sponsors and sites

(h) The State agency shall use the following order of priority in approving sponsors eligible under § 225.9(a)(7) (i) through (v) to operate sites which

propose to serve the same area or the same enrolled children. * * *

(k) The State agency shall not approve the application of any applicant sponsor which seeks eligibility under § 225.9(a)(7)(vi) unless the applicant fully documents that it has a consistent record of reliable and honest management and administration of publicly funded community food service programs. For the purpose of determining eligibility under § 225.9(a)(7)(vi), community food service program means a program that provides meals on a regular schedule, and which has the stated objective of providing nutritionally balanced meals to participants. The State agency shall approve such applicant sponsors only if sponsors identified in § 225.9(a)(7) (i) through (v) are not available to administer the Program in the same geographic area or if a significant number of needy children will not otherwise have reasonable access to the Program. Upon receiving an application from a potential sponsor seeking eligibility under § 225.9(a)(7)(vi), the State agency shall make every reasonable effort to locate a sponsor eligible under § 225.9(a)(7) (i) through (v) to serve sites in that same area. The State agency may also assist applicants seeking eligibility under § 225.9(a)(7)(vi) in making changes in their proposed program that would make such applicants eligible under one of the other categories (§ 225.9(a)(7) (i) through (v)).

2. In § 225.5, paragraph (c) is amended by adding a new sentence and a new paragraph (aa) is added, to read as follows:

§ 225.5 Responsibilities of State agencies.

(c) * * * Outreach efforts shall be directed toward potential sponsors which would be eligible under § 225.9(a)(7) (i) through (v). State agencies shall make every reasonable effort to locate high priority sponsors for sites in areas where poor economic conditions exist.

(aa) *Management record.* The State agency shall review information included in applications submitted by potential sponsors seeking eligibility under § 225.9(a)(7)(vi) to determine whether such applicants have adequately documented a consistent record of reliable and honest management and administration of publicly funded community food service programs. State agencies shall not require such documentation of

applicants which have sponsored the Program in the prior fiscal year.

3. In § 225.6, subparagraph (a)(1) is amended by adding two new sentences and subparagraphs (a)(10), (12), and (19) are amended, to read as follows:

§ 225.6 Program management and administration plan.

(a) * * *

(1) * * * The outreach activities identified shall be directed primarily at potential sponsors eligible under Section 225.9(a)(7)(i) through (v). States shall describe their procedures for locating high priority sponsors for food service sites;

(10) The State's plan for monitoring and inspecting sponsors, sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently. The plan shall also explain the State's procedures for controlling mismanagement and waste for all sponsors, as well as additional procedures for sponsors approved under § 225.9(a)(7)(vi), and for sites administered by such sponsors;

(12) The State's plan and schedule for submission and approval of sponsor applications. The plan shall include the State's criteria for evaluating information submitted by applicant sponsors seeking eligibility under § 225.9(a)(7)(vi) in order to ascertain whether such applicants have a consistent history of reliable and honest management and administration of community food service programs. Any additional procedures for such sponsors and for sites administered by such sponsors shall also be included.

(19) An explanation of significant deviations from last year's actual Program operations and administration from that proposed in the plan for last year. This explanation shall include the State's corrective action plan for resolving any problems or deficiencies which occurred during the prior fiscal year.

4. In § 225.9, amend existing subparagraphs (a)(1) and (7) to read as follows:

§ 225.9 Requirements for participation.

(a) * * *

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at

which it proposes to conduct a food service. Applicants under (a)(7)(vi) of this paragraph shall submit sufficient documentation with the application to demonstrate that they have been consistently reliable and honest in the management and administration of publicly funded community food service programs. The following types of documentation shall be submitted for food service programs administered during the prior three years, and may be submitted for any program administered prior to that time:

(i) A description of all food service programs which the applicant has managed or administered, including lists of names of corporate officers, addresses of food service sites, and sources of funding;

(ii) Independent audit reports stemming from any audits which may have been conducted on the applicant's food service programs;

(iii) An assurance that the applicant has not been terminated or determined to have been seriously deficient in its operation of community food service programs; and

(iv) Any other relevant information which is available to the applicant concerning its record in management and administration of food service programs.

An applicant sponsor shall not be required to submit such documentation if during the prior fiscal year it sponsored the Program.

(7) Applicants eligible to sponsor the Program include:

(i) Public sponsors;

(ii) Private nonprofit sponsors, including residential summer camps, which prepare their own meals or obtain meals from a public facility, such as a school district, public hospital, or State university;

(iii) Private nonprofit schools, including colleges and universities;

(iv) Private nonprofit migrant farmworker organizations, including those that purchase meals from a food service management company that develop programs for children of migrant families.

(v) Private nonprofit sponsors which serve not more than a total of 500 children daily at not more than three sites and which purchase meals from a food service management company; and

(vi) In areas where no sponsors described in paragraph (a)(7) (i) through (v) of this section are available to operate the Program, or where a significant number of needy children will not otherwise have access to the Program, private nonprofit service institutions which purchase meals from

a food service management company, and which are determined to have a consistent record of reliable and honest management and administration of publicly funded community food service programs.

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Jordan Benderly.

Dated: November 16, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-35870 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-30-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-16340; File No. S7-807]

Record Production Obligations of National Securities Exchanges and National Securities Associations

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend Rule 17a-1 (17 CFR 240.17a-1) under the Securities Exchange Act of 1934 (the "Act") to conform the text of that rule to Section 17(a) of the Act, as amended by the Securities Acts Amendments of 1975 (the "1975 Amendments"). Rule 17a-1 implements the Commission's recordkeeping and record production authority pursuant to Section 17(a) for national securities exchanges ("exchanges") and national securities associations ("associations").

DATES: Comments should be submitted on or before December 31, 1979.

ADDRESSES: Persons wishing to submit written views should file three copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-807 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 110 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: William S. Muller, Division of Market Regulation, Securities and Exchange Commission, Room 351, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2415.

SUPPLEMENTARY INFORMATION: Prior to passage of the 1975 Amendments, Section 17(a) of the Act governed the record keeping and reporting obligations of exchanges and associations.² On May 14, 1974, the Commission adopted Rule 17a-1 to require exchanges and associations to keep, and to permit the copying by members of the Commission's staff of, all documents made or received by such organizations in the course of their business and in the conduct of their self-regulatory activities.³ Rule 17a-1 also requires that such records be kept for a period of not less than five years subject to the destruction and disposition provisions of Commission Rule 17a-6.

Shortly after the adoption of Rule 17a-1, Congress amended Section 17 of the Act as part of the 1975 Amendments and, by the addition of subparagraph (b) of Section 17, provided the Commission authority to obtain, in the course of examinations by representatives of the Commission, copies of any records maintained by exchanges and associations. While new subsection 17(a)(1) continued the requirement that exchanges and associations, among others, keep and provide the Commission with copies of such records as the Commission prescribes by rule, new subsection 17(b) expressly made "all records of persons described in subsection (a) subject at any time to * * * reasonable * * * examinations by representatives of the Commission. * * * The legislative history of the 1975 Amendments makes clear that Section 17(b) is self-executing by stating that there is "no need for the Commission, as a condition precedent to inspecting any records, to require by rule that the persons described in Section 17(a) keep any such records."⁵ Furthermore, it states that "the authority to examine records would include the

¹ Pub. L. 94-29 (June 4, 1975).

² Section 17(a) at that time provided in pertinent part: Every national securities exchange, * * * every registered securities association * * * shall make, keep, and preserve for such periods, such accounts, correspondence, memoranda, paper, books, and other records, and make such reports, as the Commission by its rules and regulations may prescribe as necessary or appropriate in the public interest or for the protection of investors. Such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time or from time to time to such reasonable periodic, special or other examinations by examiners or other representatives of the Commission as the Commission may deem necessary or appropriate * * *.

³ Securities Exchange Act Release No. 10809 (May 17, 1974), 39 FR 18765 (May 30, 1974).

⁴ 15 U.S.C. 78q(b), as amended by Pub. L. 94-29 (June 4, 1975).

⁵ S. Rep. 75, 94th Cong., 1st Sess. 120 (1975).

authority to make or require copies of such records."⁶

Accordingly, it is unlawful for any exchange or association to refuse to furnish to Commission staff members, upon request, copies of any documents made or received by such exchange or association in the course of its business or the conduct of its self-regulatory activities or, alternatively, to refuse to make such documents available for copying by the Commission staff members.⁷ At the same time, the Commission has determined that paragraph (c) of Rule 17a-1 should be amended to conform the text of that rule to Section 17(a) as amended by the 1975 Amendments regarding the Commission's general authority to obtain copies of documents kept and preserved by exchanges and associations pursuant to Section 17(a). Accordingly, the Commission proposes to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by revising paragraph (c) of § 240.17a-1 as follows:

§ 240.17a-1 Recordkeeping rule for National Securities Exchanges and National Securities Associations.

(c) Every national securities exchange and national securities association shall, upon request of any representative of the Commission, promptly furnish to the possession of such representative copies of any documents required to be kept and preserved by it pursuant to paragraphs (a) and (b) of this section.

By the Commission.
George A. Fitzsimmons,
Secretary.

November 14, 1979.

[FR Doc. 79-35713 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 270

[Release No. IC-10937, File No. S7-805]

Certain Prima Facie Investment Companies; Proposed Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission today is proposing for public comment a rule which would deem certain companies which have more than 40 percent of their assets invested in investment securities—and, thus, are *prima facie* investment companies for the purposes of the Investment Company Act of

⁶Id.
⁷See Securities Exchange Act Release No. 18278 (October 12, 1979), 44 FR 60281 (October 19, 1979).

1940—not to be in fact such investment companies. The Commission upon application has granted numerous exemptive orders regarding such companies. The proposed rule would obviate the need for issuers to apply for, and the Commission to grant, such orders on a case-by-case basis.

DATE: Comments must be received by January 8, 1980.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. (Refer to File No. S7-805.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Mark J. Mackey, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-3045.

SUPPLEMENTARY INFORMATION: The Commission today published for comment proposed rule 3a-1 (17 CFR 270.3a-1) under the Investment Company Act of 1940 ("Act") (15 U.S.C. 80a-1 et seq.) to deem certain companies meeting the statutory definition of the term "investment company" in section 3(a)(3) of the Act (15 U.S.C. 80a-3(a)(3)) not to be investment companies for purposes of the Act. Although such companies are, *prima facie*, investment companies under the Act, they are not in fact companies primarily engaged in an investment company business of the character which the Act was intended to regulate. The proposed rule was developed by the Division of Investment Management's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

I. Background

From time to time, certain companies meeting the statutory definition of the term "investment company" set forth in section 3(a)(3) of the Act—and which are, *prima facie*, investment companies

Section 3(a)(3) defines the investment company, in part, to be an issuer which—is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

For purposes of section 3(a), "investment securities" includes all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities

("prima facie investment companies")—have filed applications with the Commission requesting that the Commission issue exemptive orders under section 3(b)(2) (15 U.S.C. 80a-3(b)(2))² to resolve their status under the Act. Generally, *prima facie* investment companies are either holding companies or industrial companies which have a substantial portion of their assets invested in securities issued by other companies. The Commission has granted numerous orders pursuant to section 3(b)(2) declaring a company not to be an investment company for purposes of the Act, upon its finding that the *prima facie* investment company is engaged primarily in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities.

A. Section 3(a)(3)

Section 3(a)(3) of the Act defines the term "investment company" to be any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value³ of such issuer's total assets (exclusive of Government securities and cash items)⁴

issued by majority-owned subsidiaries of the owner which are not investment companies.

Section 3(b)(2) of the Act, in part, excludes from the definition of investment company in section 3(a)(3) of the Act—Any issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses.

Section 2(a)(41) of the Act (15 U.S.C. 80a-2(a)(41)), in part, defines the term "value" with respect to the assets of registered investment companies, as used in section 3 of the Act to mean—(i) with respect to securities owned at the end of the last preceding fiscal quarter for which market quotations are readily available, the market value at the end of such quarter; (ii) with respect to other securities and assets owned at the end of the last preceding fiscal quarter, fair value at the end of such quarter, as determined in good faith by the board of directors; and (iii) with respect to securities and other assets acquired after the end of the last preceding fiscal quarter, the cost thereof. The definition of "value" in section 2(a)(41) also applies to companies which are not registered under the Act. See SEC v. Fifth Avenue Coach Lines, Inc., 289 F. Supp. 3 at 27 n.13 (S.D.N.Y. 1968), *aff'd*, 435 F.2d 510 (2 Cir. 1970).

The Act does not define specifically the term "cash items." Although an early draft of the Act defined the term to include "cash, bank deposits and current accounts receivable," this definition did not appear in the bill presented to Congress. Kerr, The Inadvertent Investment Company: Section 3(a)(3) of the Investment Company Act, 12 Stan. L. Rev. 29 at n.50 (1959).

Whether certificates of deposit are to be considered cash items or investment securities, for purposes of determining whether an issuer holding them is an investment company under section 3(a)(3), depends on the purpose for which such

Footnotes continued on next page

on an unconsolidated basis.⁵ The term "investment securities" is defined in the section as including all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies.⁶

Footnotes continued from last page
interests are held, the circumstances under which they were acquired, the length of the period for which they are held, the amount held in comparison with the company's other assets, and any other "special circumstances." See, SEC v. Fifth Avenue Coach Lines, n.3, supra, at 31. For example, certificates of deposit purchased as an integral part of an operating business—such as during a transition between lines of business or as a result of seasonal liquidity requirements—may be treated as cash items. When it cannot be shown conclusively that the operating business requires substantial liquid assets, however, such deposits may be considered investment securities for purposes of section 3(a)(3). See SEC v. American Deposit Trust Co. (Current) Fed. Sec. L. Rep. (CCH) ¶96,808 (M.D. Fla., Mar. 12, 1979); and staff response to inquiry of Josephthal & Co. (Nov. 25, 1974) [1974-1975 Transfer Binder], CCH Fed. Sec. L. Rep. ¶80,116.

The Act requires unconsolidated financial statements presumably because consolidation of an issuer with a subsidiary which is majority-owned, but not wholly-owned, will distort the relative value of the issuer's investment securities to its other assets. This distortion would occur since consolidation requires all the subsidiary's assets to be included on the issuer's balance sheet, regardless of whether the subsidiary is wholly-owned. Distortion of the 40 percent standard also could occur in consolidating a company with a subsidiary which is highly leveraged, since section 3(a)(3) looks only to the company's assets. However, it should be noted that any distortion caused by leveraging can occur regardless of whether the parent has any subsidiaries. For example, a company with no subsidiaries which is approaching the 40 percent level of investment securities could cause itself to become highly leveraged, thus decreasing the percentage of the company's assets which are investment securities. However, if the transaction is not done for a *bona fide* business purpose other than circumventing the Act's provisions, it should not be considered in determining the company's status under the Act. Moreover, such a company additionally may be deemed an investment company as defined by section 3(a)(1) of the Act (15 U.S.C. 80a-3(a)(1)).

Government securities are defined in section 2(a)(16) of the Act (15 U.S.C. 80a-2(a)(16)), in part, as any security issued or guaranteed as to principal or interest by the United States. Their exclusion from the definition of investment securities allows an industrial company to place its current assets in an interest bearing medium without being deemed an investment company. Congress presumably considered these securities to be an appropriate short-term use for an industrial corporation's surplus funds.

An employees' securities company is defined in section 2(a)(13) of the Act (15 U.S.C. 80a-2(a)(13)) as, generally, any investment company all the outstanding securities of which, other than short-term paper, are owned by, among others, employees of a company. Such companies' securities may have been excluded from the definition of investment securities to encourage employer participation in such companies. See sections 6(b) (15 U.S.C. 80a-6(b)) and 2(a)(13)(E) of the Act.

Majority-owned subsidiaries are defined in section 2(a)(24) (15 U.S.C. 80a-2(a)(24)) as, generally, a company 50 percent or more of the outstanding voting securities of which are owned by

Section 3(a)(3) of the Act was based on an exhaustive study of 1800 companies.⁷ It was intended to serve as a mechanism whereby companies holding securities could determine easily and quickly whether they were investment companies for purposes of the Act.⁸ Thus, industrial companies

one person. Such companies' securities are excluded from the definition of investment securities if they are not themselves investment companies, presumably since this type of investment is more akin to activities of a holding company than an investment company. The requirement that the subsidiary not be an investment company prevents a company's circumventing section 3(a)(3) by carrying on its investment company activities through a majority-owned subsidiary.

Hearings before a Subcommittee of the Committee on Banking and Currency, United States Senate, 76th cong., 3d Sess. on S. 3580, at 176 (1940) ("Senate Hearings"). Section 3(a)(3) "was based on a very detailed analysis . . . of every corporation which was listed on any exchange in this country." Hearings before a Subcommittee of the Committee on Interstate and Foreign Commerce, House of Representatives, 76th cong., 3d Sess. on H.R. 10065 at 101 (1940) ("House Hearings").

Section 3(a)(3) has its genesis in the Commission Report on Investment Trusts and Investment Companies which defined the term "investment company," generally, as a company having over 50 percent of its assets (exclusive of cash and United States Government securities) invested in securities other than United States Government securities, and securities issued by majority-owned subsidiaries which were not investment companies ("50 percent formula"). See Securities and Exchange Commission, Investment Trusts and Investment Companies (1939) ("1939 Report").

The 50 percent formula constituted a "*prima facie*," and not the absolute, test of whether a company would be considered an investment company. When a company's percentage of non-subsidiary securities was less than 50 percent of the company's total assets but approaching that figure, the Commission examined all the facts and circumstances to determine whether, notwithstanding the company's having had less than 50 percent of its assets invested in non-subsidiary securities, the company was an investment company. The Commission applied the 50 percent formula to 2000 industrial corporations to determine whether it "would encompass corporations not ordinarily regarded as investment companies." 1939 Report at 20. Only ten such companies were found to be investment companies under that definition.

The initial draft of the Act submitted to Congress by the Commission contained alternative definitions of the term "investment company." One definition, which evolved into section 3(a)(3), adopted the statistical approach set forth in the 1939 Report as the "*prima facie*" test. The other definition, which evolved into section 3(a)(1), employed, among other things the "all the facts and circumstances" approach used by the Commission in close cases. (Section 3(a)(2) (15 U.S.C. 80a-3(a)(2)), regarding face-amount certificate companies, was not included in the original draft of the Act.

House Hearings at 101. Section 3(a)(3) is comprised of two elements, both of which must be met for a company to be defined as an investment company under that provision. Fifth Avenue Coach Lines, n.3, supra, at 30. The first element is that the issuer to engaged in the business of investing, reinvesting, owning, holding or trading in securities. A company with an inactive portfolio of securities may be an investment company, therefore, if "owning" or "holding" investment securities is the company's "business." See Fifth Avenue Coach

having a relatively minor—that is, less than 40 percent—portion of their assets invested in investment securities are not within the scope of the definition of the term "investment company" found in section 3(a)(3).⁹ Similarly, notwithstanding the fact that more than 40 percent of their total assets are invested in securities, many holding companies are also outside the scope of that definition since securities of majority-owned subsidiaries, which are not themselves investment companies, are excluded from the definition of the term "investment securities."¹⁰

B. Section 3(b)(1) and Section 3(b)(2)
Although Congress and the Commission in 1940 believed that section 3(a)(3) would effectively exclude most ordinary holding and industrial

Lines n.3, supra; and Atlantic Coast Line Co., 11SEC 661 (1942). The second element is that the issuer own or propose to acquire investment securities having a value exceeding 40 percent of the value of the issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis.

In this regard, it should also be noted that section 3(a)(3) differs in many respects from section 3(a)(1), which defines the term investment company, in part, to be an issuer which is "engaged primarily . . . in the business of investing reinvesting or trading in securities." Among the differences are: Section 3(a)(1) requires the issuer to be "primarily" engaged in the business of investing, reinvesting or trading in securities while section 3(a)(3) requires only that the issuer be "engaged" in that business; section 3(a)(1) applies to companies which invest in any type of security, while section 3(a)(3) applies only to companies investing in "investment securities"; and section 3(a)(1) does not apply to companies which merely "own or hold" securities, while section 3(a)(3) applies to such companies.

The Act's legislative history does not explain specifically the reasons why a 50 percent portfolio composition of investment securities test was used to define an investment company for purposes of the 1939 Report, but a 40 percent figure was incorporated into section 3(a)(3) of the Act. However, it should be noted that the 50 percent formula was employed in the 1939 Report only to determine whether "the formula would encompass corporations not ordinarily regarded as investment companies." 1939 Report at 20. That standard was not used to ascertain whether any companies which might arguably be investment companies were excluded from the 1939 Report by the 50 percent formula. Rather, that determination was to be made based on all the facts and circumstances in those cases where the percentage of a company's non-subsidiary securities was less than, but approaching, 50 percent. See n.7, supra. Thus, adoption of a 40 percent figure is not inconsistent with the 50 percent figure used for the 1939 Report. Indeed, Congress might have believed that neither a 50 percent nor a 40 percent cut-off point would bring ordinary industrial companies within the jurisdiction of the Act. This theory is supported by the Act's legislative history which indicates that, although the 40 percent figure was tested extensively to determine whether it would bring any non-investment companies within the purview of the Act, "very, very few companies were caught by this (40 percent) formula." Senate Hearings at 176-177.

All holding companies are not outside the section 3(a)(3) definition. For example, holding companies which do business through non-majority owned, controlled companies are not so excepted.

companies from the Act's prohibitions and regulatory provisions, section 3(b)(1) (15 U.S.C. 80a-3(b)(1)) and section 3(b)(2) were added to further ensure their exclusion.¹¹ Section 3(b)(1) of the Act provides, generally, that any issuer which is primarily engaged, either directly or through wholly-owned subsidiaries,¹² in a business other than that of investing, reinvesting, owning, holding or trading in securities is excluded from the definition of the term "investment company," although that issuer otherwise would be an investment company as defined in section 3(a)(3) of the Act. Section 3(b)(2) of the Act provides, generally, that any issuer which the Commission finds, and by order declares to be, primarily engaged—directly, or through majority-owned subsidiaries,¹³ or through controlled companies¹⁴ conducting similar types of businesses¹⁵—in a business other than that of investing, reinvesting, owning, holding or trading in securities is excluded from the Act,

¹¹ See House Hearings at 102; Senate Hearings at 177. The 1939 Report contains no provision comparable to section 3(b)(1) or 3(b)(2) of the Act. Instead, it adopted a formula, discussed in n.7 supra, similar to that found in section 3(a)(3) of the Act. Thus, with regard to holding companies, the 1939 Report excluded from the definition of the term "investment company" only those companies which operated through majority-owned companies. The Commission endorsed this approach even though it might cause some holding companies—that is, those which do business through non-majority owned, controlled companies—to be deemed investment companies for purposes of the 1939 Report because the Commission determined there was a "need for studying certain borderline companies even though they might not eventually be encompassed within the scope of possible legislation." 1939 Report at 2. Moreover, the 1939 Report did not provide that industrial companies having substantial investment securities holdings were excluded from its definition of the term "investment company." Such a provision may have been considered unnecessary since the analytical standard used by the 1939 Report (i.e., 50 percent) was less inclusive than the 40 percent mechanical standard adopted subsequently in the Act.

¹² The term "wholly-owned subsidiary" is defined in section 2(a)(43) of the Act (15 U.S.C. 80a-2(a)(43)), in part, as a company 95 percent or more of the outstanding voting securities of which are owned by one person.

¹³ The term "majority-owned subsidiary" is discussed in n.6, supra.

¹⁴ The term "control" is defined in section 2(a)(9) (15 U.S.C. 80a-2(a)(9)), in part, as the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. Obviously, majority-owned and wholly-owned subsidiaries are "controlled companies."

¹⁵ The phrase "similar types of businesses" was included by Congress since a control relationship, involving a "more tenuous business engagement" than that which exists between a parent and its majority-owned or wholly-owned subsidiary, requires an additional standard of similarity amongst the controlled companies to "make the reach of the Act reasonably comprehensive." American Manufacturing Co., Inc., 41 SEC 415 at 420 (1963).

although the issuer otherwise would be an investment company as defined in section 3(a)(3) of the Act.¹⁶

It should be noted that certain operational differences exist between section 3(b)(1) and section 3(b)(2). Section 3(b)(1) is self-operating,¹⁷ while section 3(b)(2) requires a Commission order. Additionally, section 3(b)(1) applies only to companies operating either directly or through wholly-owned subsidiaries, while section 3(b)(2) applies additionally to companies operating through majority-owned subsidiaries and certain controlled companies. These differences ensure that "special situation investment companies" are not excluded from the act's definition of investment company.¹⁸ Special situation investment companies are companies which secure control of other companies primarily for the purpose of making a profit in the sale of the controlled company's securities.¹⁹ Accordingly, they are considered to be investment companies for purposes of the Act.²⁰

Critical to a determination of whether a company is excluded from the definition of investment company by section 3(b)(1) or 3(b)(2) is whether the company is "primarily engaged" in a

¹⁶ Section 3(b)(1) excludes from the definition of investment company in section 3(a)(3) of the Act—

Any issuer primarily engaged, directly or through a wholly-owned subsidiary or subsidiaries, in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities.

The text of section 3(b)(2) is found at n.2, supra. Because section 3(b)(1) is self-operating, while resolution of issues raised under section 3(b)(2) requires a Commission order, the commission's staff quite properly has been reluctant to issue "no-action" or interpretive letters respecting section 3(b)(1).

¹⁷ House Hearings at 102; Senate Hearings at 178-179.

¹⁸ In contrast, a holding company generally secures control of other companies primarily for the purpose of engaging in the other companies' line of business, for a holding company to be excluded by section 3(b)(1) or 3(b)(2) from the Act's definition of investment company, it must both control the companies it claims to do business through and actively exercise that control, i.e., it must engage in the non-investment company business "through" the controlled or subsidiary companies. See, Atlantic Coast Line Co., n.8, supra; and Business Property Associates, 12 SEC 845 (1943).

¹⁹ Frobisher Limited, 27 SEC 944, at 950 (1948); Bankers Securities Corporation, 15 SEC 695 (1944), *aff'd*, 148 F.2d 88 (3d Cir. 1944). Although a company may actively manage its portfolio companies and thus appear superficially to be a holding company, an examination of its operating history may disclose that it is a special situation investment company. Such would be the case, for example, if the company had a history of buying or selling controlling interests in companies. In this regard, the Commission notes that a special situation investment company may operate by purchasing and selling securities of controlled companies, majority-owned subsidiaries or wholly-owned subsidiaries.

non-investment company business.²¹ The determination of a company's primary engagement is a factual issue concerning the nature of its business.²² Relevant criteria for resolving this issue are: (1) The company's historical development, (2) its public representation of policy, (3) the activity of its officers and directors,²³ (4) the nature of its present assets, and (5) the sources of its present income.²⁴ Of these factors, most significant are the character of a company's assets (as evidenced by the percentage of the company's assets invested in investment securities), and the sources of the company's present income (as evidenced by the percentage of the company's income derived from investment securities).²⁵ In such an analysis, securities of controlled companies through which a holding company engages in a business other than an investment company business effectively are not considered to be investment securities.²⁶

Since determining a company's primary engagement involves considering many factors, no specific guidelines can be established for concluding in all conceivable circumstances whether a company is an investment company. As a general rule, however, if a company has no more than 45 percent of its assets invested in—and derives no more than 45 percent of its income from—investment securities, it is

²¹ This business may be engaged directly by an industrial company. See, e.g., Real Silk Hosiery Mills, Inc., 36 SEC 365 (1955); and Hoskins Manufacturing Co., 8 SEC 578 (1941). However, typically it is engaged indirectly by a holding company operating through one or more controlled or subsidiary companies.

²² M. A. Hanna Co., 10 SEC 581, 583 (1941).

²³ The activities of the officers and directors are relevant for determining both control and whether the parent company is engaged in a non-investment company business "through" another company. See Business Property Associates, n.19, supra, at 850.

²⁴ Tonapah Mining Company of Nevada, 26 SEC 426 at 427 (1947). Although that decision was decided under section 3(b)(2) of the Act, the "primary engagement" standard set forth in that case also appears to be applicable to the identical standard of section 3(a)(1) and 3(b)(1). See AVC Corporation, Investment Company Act Release Nos. 5937 and 5778 (Dec. 22, 1969, and August 13, 1969); Atlas Corporation, 41 SEC 144 (1962); and M. A. Hanna Co., n.22, supra, at 583.

²⁵ Tonapah Mining Company of Nevada, n.24, supra, at 427, 430-31.

²⁶ See, e.g., Standard Shares, Inc., Investment Company Act Release Nos. 10234 and 10200 (May 9, 1978, and Apr. 11, 1978); and Newmont Mining Corp., 36 SEC 429 (1955). This analysis is necessary to exclude holding companies from the Act. For example, if a holding company has as its sole asset, and receives all its income from, a 40 percent controlling interest in a company through which it engages primarily in a non-investment company business, it could be granted an order under section 3(b)(2), although 100 percent of its assets are investment securities and 100 percent of its income is derived from these investment securities.

primarily engaged in a business other than being an investment company. Accordingly, it would not appear necessary or appropriate in the public interest for the Commission to regulate such a company under the Act.²⁷

II. Discussion

The Commission proposes to adopt rule 3a-1 under the Act which, under specified circumstances, would exclude certain *prima facie* investment companies from regulation under the Act. The proposed rule is not intended to exclude from the Act all companies which could qualify upon application to the Commission for receipt of an order pursuant to section 3(b)(2) of the Act. Rather, it would exclude only those companies whose asset composition and sources of income would provide conclusive evidence that such companies are not investment companies for purposes of section 3(a)(3) of the Act. In such circumstances, there would be no need for the Commission to conduct a formal inquiry into other facts and circumstances which may more fully characterize a particular company's business.²⁸ However, companies which do not meet the proposed rule's standards nonetheless may be found, pursuant to the application process, not to be investment companies upon the commission's determining that the attendant facts and circumstances warrant such a finding.

The proposed rule would apply to companies which are investment companies solely by virtue of the definition stated in section 3(a)(3) of the Act, only for that period during which they comply with the rule's standards. Companies meeting the statutory

²⁷ See, e.g., Standard Shares, Inc., Investment Company Act Release Nos. 10234 and 10200 (May 9, 1978, and Apr. 11, 1978); and United International Research, Inc., Investment Company Act Release Nos. 7841 and 7797 (May 31, 1973, and May 2, 1973). If either or both of these percentages is greater than 45 percent, all the facts and circumstances will be examined in determining the company's primary engagement in the context of an application for an order under section 3(b)(2).

²⁸ For example, it would not be necessary to inquire whether controlled subsidiaries are conducting similar types of business. It should be noted that the Act does not require such a standard regarding majority-owned subsidiaries—apparently inferring that a company actually does business "through" any company of which it is majority-owned. The proposed rule's requirement that companies which are not majority-owned be "controlled primarily" by an issuer which does business "through" the company provides an identical standard regarding issuers controlling such companies.

Of course, an issuer's complying with the provisions of the rule, while excusing it from compliance with the Act, would not constitute a determination by the Commission as to the business in which a particular issuer is actually engaged.

definition of the term "investment company" set forth in sections 3(a)(1) or 3(a)(2) of the Act as well as special situation investment companies would not be excluded from the Act's definition of "investment company" by the rule.

The exemptive relief which would be provided by proposed rule 3a-1 would be conditioned on the company's having no more than 45 percent of the value (as defined in section 2(a)(41)(A) of the Act) of its total assets (exclusive of Government securities and cash items²⁹) consisting of, and receiving no more than 45 percent of its net income after taxes³⁰ from, securities other than: (1) Government securities; (2) securities issued by employees' securities companies; (3) securities issued by majority-owned subsidiaries of the issuer (other than subsidiaries relying on the exclusion from the definition of investment company in section 3(b)(3) of the Act (15 U.S.C. 80a-3(b)(3))³¹ which are not investment companies; and (4) securities issued by certain controlled companies through which an issuer engages in a non-investment company business.³²

²⁹ For purposes of determining compliance with the proposed rule, cash, coins, paper currency, demand deposits with banks, timely checks of others (which are orders on banks to immediately supply funds), cashier checks, certified checks, bank drafts, money orders, traveler's checks and letters of credit generally would be considered cash items. Certificates of deposits and time deposits typically would not be considered cash items absent convincing evidence of no investment intent. See n.4, supra.

³⁰ Whether capital gains should be considered investment income for purposes of determining compliance with the proposed rule depends upon whether the issuer relies upon such gains as a regular source of income. For such purposes, capital gains realized on sales of investment securities (excluding securities of controlled companies through which the issuer engages in a non-investment company business) generally should be treated as investment income.

³¹ Because of an apparent anomaly, in some situations it cannot be determined whether a company is an investment company under section 3(a)(3) without first deciding whether its subsidiary is excluded by section 3(b)(3). This latter determination may not be made without first determining whether the parent is an investment company as defined in section 3(a)(3) which is entitled to rely on section 3(b)(1) or 3(b)(2). In deciding whether an issuer is an investment company under section 3(a)(3), the investment company status of the issuer's wholly-owned subsidiaries should be determined without reference to the exclusion from the definition of investment company which is provided by section 3(b)(3) of the Act.

³² These provisions regarding controlled companies, which would exclude holding companies from the definition of investment company, generally codify orders granted by the Commission under section 3(b)(2) of the Act. See n.26, supra. To ensure that only holding companies can rely on it, the proposed rule incorporates the statutory requirements of section 3(b)(1) and section 3(b)(2) that the issuer do business "through" the

These asset and income percentages are to be determined on an unconsolidated basis, except that the issuer shall consolidate its financial statement with any wholly-owned subsidiaries.³³

Text of Proposed Rulemaking

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 270.3a-1 as follows:

§ 270.3a-1 Certain *prima facie* investment companies.

Notwithstanding section 3(a)(3) of the Act, and issuer will be deemed not to be an investment company under the act; *Provided, That:*

(a) No more than 45 percent of the value (as defined in section 2(a)(41) of the Act) of such issuer's total assets (exclusive of Government securities and cash items) consists of, and no more than 45 percent of such issuer's net income after taxes is derived from, securities other than:

controlled company. Since such an issuer would presumably be more likely to maintain an active role in managing its affairs with a controlled company—that is, it would do business "through" the controlled company—than would an issuer which may control jointly another company, the proposed rule would require the issuer to *primarily* control the controlled company. The proposed rule also would require that the controlled company not be an investment company. This requirement—which is comparable to the requirement in section 3(a)(3) relating to majority-owned subsidiaries—prevents a company from avoiding the Act by merely carrying on its investment company activities through a controlled company. See n.6, supra. Of course, no person may rely on this rule who transfers assets to affiliated persons primarily for the purpose of avoiding the Act.

³³ On an unconsolidated basis, a company's interest in its wholly-owned subsidiary is entered on the balance sheet at historical cost plus its interest in the subsidiary's net change in equity since the date of acquisition. Such an entry may distort the relative current value of the company's investment securities in relation to its other assets. If, for example, a parent company has a relatively large portfolio of investment securities in comparison with its other assets, the company might be considered an investment company under section 3(a)(3), although it has extensive industrial operations through its wholly-owned subsidiaries.

Accordingly, paragraph (c) of proposed rule 3a-1 would require a company wishing to rely on the proposed rule to consolidate its assets and income with those of its wholly-owned subsidiaries for purposes of determining the asset and income percentages described in paragraph (a) of the rule. The 1939 Report indicates instances where the Commission believed the nature of a company was more accurately reflected by a consolidated statement than by an unconsolidated statement. 1939 Report at 19 n.11. Moreover, paragraph (c) would not cause significant distortion of the type discussed in n.5, supra, which can occur when all the subsidiaries' assets are included in the issuer's balance sheet, because it would apply only when a subsidiary is wholly-owned. Finally, to the extent that paragraph (c) would exclude certain holding companies which operate through wholly-owned subsidiaries it would be consistent with the Act's intent. See House Hearings at 102.

- (1) Government securities;
- (2) Securities issued by employees'

determination may result in an issuer, which would be otherwise excluded

which are not within the Act's purview.¹ For purposes of section 3(c)(1)

state's economy on a statewide basis,

Therefore, it appears that it would not

excluded from the definition of

- (1) Government securities;
- (2) Securities issued by employees' securities companies;
- (3) Securities issued by majority-owned subsidiaries of the issuer (other than subsidiaries relying on the exclusion from the definition of investment company in section 3(b)(3) of the Act) which are not investment companies; and
- (4) Securities issued by companies:
 - (i) Which are controlled primarily by such issuer;
 - (ii) Through which such issuer engages in a business other than that of investing, reinvesting, owning, holding or trading in securities; and
 - (iii) Which are not investment companies;
- (b) The issuer is not a special situation investment company; and
- (c) The percentages described in paragraph (a) of this section are determined on an unconsolidated basis, except that the issuer shall consolidate its financial statements with the financial statements of any wholly-owned subsidiaries.

Statutory Basis

Proposed rule 3a-1 is promulgated pursuant to the provisions of sections 6(c) (15 U.S.C. 80a-6(c)) and 38(a) (15 U.S.C. 80a-37(a)) of the Act.

November 13, 1979.

By the Commission.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35794 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 270

[Release No. IC-10938, File No. S7-806]

Definition of Beneficial Ownership in Certain Issuers; Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Investment Company Act of 1940 excludes from the definition of investment company certain issuers having specified characteristics, including that its outstanding securities are beneficially owned by not more than 100 persons. Beneficial ownership by a company is deemed to be beneficial ownership by one person if the company owns less than 10 percent of the issuer's voting securities. For purposes of this exclusion, beneficial ownership by a company of 10 percent or more of such issuer's outstanding voting securities is deemed to be beneficial ownership by the holders of that company's outstanding securities. Such a

determination may result in an issuer, which would be otherwise excluded from that definition, being considered an investment company for purposes of this act. In this regard, the Commission is requesting public comment on an amendment to a rule under the Investment Company Act of 1940 to deem, under specific circumstances, a company's owning 10 percent or more of an issuer's outstanding voting securities to be beneficial ownership by one person. As presently effective, the rule affords such treatment exclusively to a company's ownership of outstanding voting securities of certain small business investment companies.

DATE: Comments must be received by January 8, 1980.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. (Refer to File No. S7-806.) All comments will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Mark B. Goldfus, Special Counsel, (202) 272-2048; or Joseph F. Mazzella, Esq., (202) 272-2033, Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today proposed for public comment an amendment to rule 3c-2 (17 CFR 270.3c-2) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("Act"), which would deem beneficial ownership of 10 percent or more of the voting securities of an issuer to be ownership by one person for purposes of section 3(c)(1) of the Act (15 U.S.C. 80a-3(c)(1)). The proposed amendment was developed by the Division of Investment Management's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

Background

Section 3(c)(1) of the Investment Company Act of 1940 excludes from the definition of investment company an issuer whose outstanding securities (other than short-term paper) are beneficially owned by no more than 100 people and which is not making and does not propose to make a public offering of its securities. This section is intended to exclude from regulation under the Act private holding companies and private investment companies

which are not within the Act's purview.¹ For purposes of section 3(c)(1), beneficial ownership by a company is considered to be beneficial ownership by one person; except that, if a company holds 10% or more of the outstanding voting securities of the issuer, beneficial ownership will be attributed to the holders of the owning company's outstanding securities (other than short-term paper). This provision is designed to prevent the "easy circumvention"² of the Act by selling securities of nominally private investment companies to intermediary corporate shells which, in turn, would sell their securities to public investors.³

The Commission, in rule 3c-2 under the Act, has previously determined, in part, that ownership by a company of 10% or more of the voting securities of certain small business investment companies may be deemed, under specific circumstances, ownership by one person "without adversely affecting the public investor interest or achievement of the statutory purposes of the Act."⁴ These circumstances generally require that (a) the value of all securities of such small business investment companies owned by such company do not exceed 5% of its total assets; or (b) the small business investment company's securities are owned by a state development corporation which was created by the state legislature to promote and assist the growth and development of the

¹ David Schenker, Chief Counsel of the Commission's Investment Trust Study that was the basis for the legislation enacted as the Act, testified that "[u]nless the company has 100 public stockholders, it is not a public investment company within the purview of this legislation." A Bill to Provide for the Registration and Regulation of Investment Companies and Investment Advisers, and for other purposes: Hearings on H.R. 10065 before a Subcommittee of the House Committee on Interstate and Foreign Commerce, 76th Cong., 3d Sess. (1940), p. 102 ("Schenker testimony").

² A Bill to Provide for the Registration and Regulation of Investment Companies and Investment Advisers and for other purposes: Hearings on S. 3580 before a Subcommittee of the Senate Committee on Banking and Currency, 76th Cong., 3d Sess. (1940), p. 180.

³ As stated in the Schenker Testimony, at pp. 102-3: In order to prevent circumvention, we have said that if any company owns 10 percent of an investment-company voting stock, and the 10 percent owning company is owned by more than 100 people, then you count the stockholders of the owning company as stockholders of the controlled company. We have to adapt this procedure. Otherwise you can see what would happen. A person organizes an investment trust, and has another corporation take all of the stock of the investment trust, which corporation sells its stock to the public. Then technically the investment trust has only one stockholder, the corporation—but the corporation has public stockholders. These stockholders are then counted as the security holders of the investment trust.

⁴ Investment Company Act Release No. 2899 (July 21, 1959), 24 FR 6008 (1959).

state's economy on a statewide basis, provided that the state development corporation would not be an investment company as defined in section 3 of the Act. The availability of this rule regarding such small business investment companies, which would be re-designated as paragraph (a) of amended rule 3c-2, would not be affected by the proposed amendment.

Discussion

The Commission is proposing to amend rule 3c-2 under the Act to extend that rule to apply, in certain circumstances, to interests in otherwise private investment companies in addition to certain small business investment companies.⁵ Proposed paragraph (b) of rule 3c-2 would, for purposes of section 3(c)(1) of the Act, deem beneficial ownership by a company owning 10% of the outstanding voting securities of any issuer other than specified small business investment companies to be beneficial ownership by one person if and so long as the value of all securities of all issuers who are excluded from the definition of investment company by section 3(c)(1) of the Act owned by such company does not exceed 5% of the value of the company's total assets. As has been the case with those situations already covered by rule 3c-2, in such circumstances the participation of these companies in such issuers would comprise a sufficiently small percentage of their assets that there would be no public interest in attributing their participation to their shareholders. In particular, this limitation on the percentage of a company's assets which may be invested in these issuers would ensure that such company is not acting as an intermediary for issuers to circumvent application of the Act.

⁵ The Commission's staff has, in response to requests therefor, provided "no-action" assurances to certain limited partnerships which stated their intent not to register under the Act, although more than 10% of the partnership interests were owned by companies which, if their ownership of partnership interests were attributed to their shareholders, would result in having more than 100 beneficial owners for purposes of section 3(c)(1) of the Act. The "no-action" assurances were conditioned on the companies' ownership in the partnership representing no more than 5% of the owning companies' assets, and, under some circumstances, representing no more than 5% of its income. The assurances apparently were prompted by the possibility that where a person owns a significant amount of limited partnership interests or serves as general partner to the limited partnership he may, by reason of such ownership, have powers similar to those held by an owner of voting securities, and that, therefore, the partnership interests may be considered the equivalent of voting securities for purposes of section 3(c)(1). See staff responses to inquiries of WestVest (Apr. 8, 1978), Pierce, Lewis & Dolan (Mar. 17, 1972), and Devonshire Capital Corporation (Jan. 16, 1976).

Therefore, it appears that it would not be necessary or appropriate in the public interest to regulate under the Act such private investment media as investment companies.

However, the proposed amendment would not apply insofar as section 3(c)(1) would exclude an issuer from being deemed to be an investment company under section 12(d)(1) (15 U.S.C. 80a-12(d)(1)) of the Act.⁶ Thus, investment companies contemplating purchases of shares of such issuers, or such issuers contemplating sales of their shares to registered investment companies, would be required to comply with the provisions of section 12(d)(1). This requirement would ensure that persons cannot rely on this rule to evade those provisions of the Act which generally limit the acquisition by a registered investment company (or any controlled company thereof) of securities issued by any other investment company (or any controlled company thereof).

Text of Proposed Rule

It is proposed that Part 270 of Chapter II of Title 17 of the Code of Federal Regulations be amended by adding a new paragraph (b) to § 270.3c-2 and designating the present paragraph as paragraph (a), as follows:

§ 270.3c-2 Definition of beneficial ownership as used in section 3(c)(1) of the Act.

(a) * * *

(b) For the purpose of section 3(c)(1) of the Act, beneficial ownership by a company owning 10 per centum or more of the outstanding voting securities of any issuer which is not an issuer described in paragraph (a) of this section shall be deemed to be beneficial ownership by one person if and so long as the value of all securities of all issuers (other than any issuer described in paragraph (a) of this section) who are

⁶ Section 12(d)(1) of the Act, in part, generally prohibits a registered investment company from purchasing more than three percent of the total outstanding voting stock of any other investment company, from acquiring securities in another investment company in excess of 5% of the acquiring company's total assets, or from acquiring securities in other investment companies which have an aggregate value of greater than 10% of the acquiring company's assets. These restrictions were added by Congress in 1970 to prevent the pyramiding of costs and control of investment companies. See Investment Company Amendments Act of 1970: Report of the House Committee on Interstate and Foreign Commerce, H.R. Rep. No. 1382, 91st Cong., 2d Sess. (1970) at 23. As presently applicable, rule 3c-2 does not address specifically any concern against such pyramiding in recognition of the Small Business Administration's general prohibitions against a small business investment company's providing funds to specified small business concerns for purposes of relending or reinvesting. See 13 CFR 107.1001.

excluded from the definition of investment company by section 3(c)(1) of the Act owned by such company does not exceed 5 per centum of the value of the company's total assets: *Provided*, That such issuer nonetheless is deemed to be an investment company for purposes of section 12(d)(1) of the Act.

Statutory Basis: Amended rule 3c-2 is promulgated pursuant to the provisions of section 6(c) (15 U.S.C. 80a-6(c)) and 38(a) (15 U.S.C. 80a-37(a)) of the Act.

November 13, 1979.

By the Commission.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35795 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 2, 154, and 270]

[Docket No. RM80-6]

Pricing of Pipeline and Affiliate Production Under the Natural Gas Act

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is proposing to amend its regulations governing the cost component under the Natural Gas Act (NGA) for certain production by interstate pipelines and their affiliates which does not qualify for first sale treatment under the Natural Gas Policy Act (NGPA). In general, production previously allowed the area or nationwide rates under the NGA would be priced by reference to NGPA maximum lawful prices and could be included in the pipeline's PGA clause.

DATES: Public hearing January 7, 1980, 10:00 a.m. Requests to participate by December 28, 1979. Written comments by January 14, 1980.

ADDRESSES: Public hearing in Hearing Room A, Federal Energy Regulatory Commission, Washington, D.C. Send comments and requests to participate in public hearing to Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Reference Docket No. RM80-6.

FOR FURTHER INFORMATION CONTACT:

Eli Farrah, Office of the General Counsel; Federal Energy Regulatory Commission, Room 4008-E, 825 North Capitol Street, NE., Washington, D.C. 20426, (202)357-8316.

Jane Phillips, Office of the General Counsel, Federal Energy Regulatory Commission,

Room 8104-B, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033. November 14, 1979.

I. Background

The Federal Energy Regulatory Commission (Commission) has issued in final form § 270.203 of its regulations which implements section 2(21) of the Natural Gas Policy Act of 1978 (NGPA). Section 270.203 controls which sales by a pipeline, distributor or affiliate thereof will be considered first sales under the NGPA and thus subject to NGPA Title I prices. Interstate pipeline production which does not qualify for first sale treatment under the NGPA is subject to continuing regulation under the Natural Gas Act (NGA).

Under § 270.203 of the Commission's final regulations concerning pipeline production, sales of volumes not totally attributable to the interstate pipeline-seller's own production (mixed volume sales) do not qualify for first sale treatment under the attribution rule. Furthermore, such mixed volume sales are not considered first sales under the circumvention rule because they are regulated under the NGA. As a result, the rate for mixed-volume sales by interstate pipelines will continue to be regulated under the NGA.

Under the NGA pipeline production is priced on a cost of service basis or according to area or nationwide rates. However, the Commission is persuaded by several comments received from pipelines in connection with § 270.203 which maintain that it is inequitable for interstate pipelines to be denied the same pricing treatment accorded other producers of natural gas under the NGPA. These comments argue that restricting pipelines to lower prices under the NGA will discourage pipeline production efforts because costs such as severance taxes and royalties are based on the highest market price rather than on the cost of service or some other price and are thus on a parity with independent producers' costs. The comments argue that "parity of costs" requires "parity of price" and that the Commission should continue the parity of treatment between pipelines and independent producers which the Federal Power Commission (FPC) originated under the NGA.¹

The Commission agrees that there is a need for parity of treatment between pipelines and other producer where pipelines and producers have been

treated similarly in the past with respect to particular natural gas supplies. The FPC established such a policy in Opinion No. 568 "in order to provide a regulatory climate conducive to an aggressive pipeline exploration program." ² In that opinion, the FPC decided to value gas produced by pipelines or their affiliates from leases acquired after October 7, 1969 and taken into the pipeline's own system, by reference to the just and reasonable area rates established for sales by independent producers, absent a showing of special circumstances by the pipeline. In Opinion No. 699-H, the FPC decided that "natural gas which comes within one of the classes enumerated in the new § 2.56(a)(2) shall be entitled to the rate set forth in that section regardless of the date the lease was acquired by a pipeline or pipeline's affiliate." ³ The FPC continued this policy in Opinion 770-A stating, "We have determined that it is in the public interest for the national rate structure to include pipeline production, and the rates for such production should be determined by date of well commencement, rather than by the date on which the subject lease was acquired." ⁴ In Opinion No. 749-C⁵ the FPC reaffirmed its decision that gas from pre-1973 wells on pre-October 8, 1969 leases would continue to be priced on a cost of service basis. Therefore, production from post-October 7, 1969 leases and production from post 1972 wells on pre-October 8, 1969 leases currently receives the applicable area or nationwide rates accorded independent producers unless a showing of special circumstances is made. Production from pre-1973 wells on pre-October 8, 1969 leases is valued on a cost of service basis.

The Commission is proposing to amend § 2.66 and to add a new § 2.66a to its regulations under the NGA. In general, this new section would permit interstate pipelines and affiliates, which would have been allowed the area or nationwide rates under the NGA, to determine the cost component associated with their own production by reference to NGPA maximum lawful prices for NGA ratemaking purposes if the production does not qualify for first sale treatment under the NGPA. All other pipeline production would

¹ Pipeline Production Area Rate Proceeding (Phase I), *Supra*, at p. 745.

² See, Opinion No. 699-H, — F.P.C. —, Mimeo p. 47.

³ See, Opinion No. 770-A, — F.P.C. —, Mimeo p. 147.

⁴ See, Opinion No. 749-C, — F.P.C. —, Mimeo p. 29.

continue to receive the same pricing treatment accorded it in the past.

II. Summary of Amendments

The Commission believes that it is appropriate to continue a policy of parity of treatment for pipeline and affiliate production which is priced at the applicable area or nationwide rate. Accordingly, the Commission is proposing to amend § 2.66 of its regulations and to add a new § 2.66a to allow pipelines and their affiliates to value their production, for purposes of rate proceedings under the NGA, at the applicable NGPA Title I prices if such production would otherwise have been valued at the applicable area or nationwide rates.

In order to implement this proposed pricing policy the Commission is also proposing to amend § 154.38(d)(4) to allow pipelines to include in their PGA clauses production which qualifies for rate treatment by reference to the NGPA prices.

However, the Commission does not propose to extend such parity of treatment to pipeline production which, under the NGA, has not been treated on the same basis as production by independent producers. Much pipeline production, particularly old production, has been priced on a cost of service basis. This treatment provides for recovery of dry hole expenses and assures recovery of the costs of production, including a return, income tax, and depreciation component. This treatment is significantly different from the methods which the Commission has used to establish independent producer rates. These and other differences are emphasized in Opinion No. 568. Given the significant and continuing additional guarantees of cost recovery provided to interstate pipelines by cost of service treatment, we propose that NGPA rates not be extended to pipeline production which has in the past been valued on a cost of service basis. This policy complies with the FPC's decision, following the issuance of Opinion No. 568, that cost of service treatment rather than area and nationwide producer rates should continue to be applied generally to old pipeline production.⁶

Accordingly, we propose that under § 2.66a production from pre-1972 wells on leases acquired on or before October 7, 1969 continue to be priced on a cost of service basis. Production from post-October 7, 1969 properties and post-1972 wells, previously priced with reference to the area and nationwide rates, would be priced with reference to maximum

⁶ See, Opinion No. 749-C, — F.P.C. —, Mimeo p. 29.

lawful prices in Title I of the NGPA unless the production had been accorded special treatment by the Commission under Opinion Nos. 568, 699-H, and 770-A following a showing of special circumstances by the pipeline that the otherwise applicable area or nationwide rate was insufficient. Production which received cost of service treatment based on a showing of special circumstances would continue to receive cost of service treatment. Where the Commission has permitted higher rates after a showing of special circumstances, all or portions of the costs related to the acquisition of leases, drilling of exploratory and developmental wells and other necessary attendant operations, such as the holding of undeveloped properties for future use, have been paid for by the pipeline's customers. Therefore, NGPA Title I rates should not be permitted for such production.

Under proposed § 2.66a a pipeline would be prohibited from seeking relief from the otherwise applicable rate via the special circumstances route, for production from leases acquired subsequent to the effective date of this proposed amendment and other production to which § 2.66a applies.⁷ However, a pipeline would be permitted to make use of the special relief provisions in the Commission's regulations under the NGPA in order to seek relief from the effects of § 2.66a for production which is priced on the same basis as independent producers.

It is appropriate that this Notice of Proposed Rulemaking delineate the interrelationship between our treatment of cost of service pipeline production and our treatment of affiliate sales under § 270.203(c). Under § 270.203(c) a sale by an affiliate of a pipeline or distributor is a first sale if the affiliate company is not itself a pipeline or distributor and the Commission does not specifically determine otherwise.

The Commission recognizes that under § 270.203 a pipeline could attempt to obtain first sale treatment for its cost of service pipeline production by transferring that production to an affiliate and then entering into a

⁷ We note that Columbia Gas Transmission Corporation (Docket No. RP75-106) has a proposal before the Commission under § 2.66(a)(4) which has been the subject of litigated proceedings; the proposal will be disposed of by the Commission on the basis of the record. Moreover, we note that Michigan-Wisconsin Pipeline Company received cost of service treatment under § 2.66(a)(4) for the period, November 1, 1973–October 31, 1977, and that the Commission in approving settlements covering rates for subsequent periods has expressly disavowed any policy determination regarding the pricing approach incorporated in the settlements. This matter will be the subject of a separate order.

contract with the affiliate to purchase the transferred cost of service production. This would have the effect of qualifying the sale of that production as a first sale under § 270.203(c). However, the Commission cautions that any such transfer of an interstate pipeline's production would require that the interstate pipeline file an abandonment application. Opinion No. 628, *Panhandle Eastern Pipe Line Company, et al.*, Docket Nos. CP71-237, *et al.*, 48 F.P.C. 518 (1972). Moreover, since the gas so transferred is "committed or dedicated to interstate commerce" within the meaning of section 2(16) of the NGPA, the affiliate would be required to file a certificate application in order to make the sale to the interstate pipeline.

The Commission advises that, should it adopt the proposed rule, it would scrutinize closely abandonment and certificate applications involving pipeline production. Although the Commission recognizes that valid reasons may be advanced in support of abandonment and certificate applications involving pipeline production, it would attempt to assure itself in all cases that the transfer of pipeline production to an affiliate would not result in pricing pipeline production differently than it would have been priced had the pipeline retained ownership of such production.⁸

In order to implement this proposed policy in those cases where favorable action on abandonment and certificate applications would otherwise be appropriate, the Commission will consider these applications and exercise its authority so as to assure continued cost of service treatment for pre 1973 wells on pre-1969 leases except in extraordinary circumstances. The Commission retains authority over cost of service gas under the express provisions of section 601(a)(1)(B) of the NGPA. Section 601(a)(1)(B) of the NGPA provides that the Commission's NGA jurisdiction over this gas is unaffected by passage of the NGPA, unless a final determination is received that the natural gas from these old wells is high-cost natural gas (as defined in section 107(c) (1), (2), (3), or (4)), or new natural gas (as defined in section 102(c)).⁹ The treatment proposed for certificate and abandonment applications would provide consistent and symmetrical pricing policies for pipeline production.

⁸ The extent to which the Commission can obtain these assurances for new pipeline production which has been priced on a cost-of-service basis, based upon a showing of "special circumstances" under section 2.66 of our regulations, is not clear.

⁹ By definition, natural gas from these old wells cannot qualify for the section 103 price.

irrespective of whether that production were sold by the pipeline as part of its system supply, or were sold separately by an affiliate. This treatment would also assure that the pipeline's decision to produce its own gas or to transfer that production to an affiliate would be made on the basis of factors other than price.

III. Public Procedure

The Commission intends to issue § 2.66a as a substantive rule, rather than as a statement of policy, after receiving and evaluating comments on this proposed rulemaking. Interested persons are invited to submit written comments, data, views or arguments with respect to the provisions of § 2.66a. All submissions should reference Docket No. RM80-6. An original and 14 copies should be filed with the Secretary of the Commission. All comments received by January 14, 1980 will be considered by the Commission prior to issuing final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. 20426.

A public hearing on this proposed rulemaking will be held in Washington, D.C. on Monday, January 7, 1980. The hearing will be held at the Federal Energy Regulatory Commission, Hearing Room A, 825 North Capitol Street, NE., Washington, D.C., and will begin at 10:00 a.m. local time.

Requests to participate in the hearing should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should be made no later than December 28, 1979. Requests should reference Docket No. RM80-6 and should indicate the name of the party who will be making the presentation, a phone number at which that party may be contacted, and the amount of time requested for the presentation. Persons participating in the public hearing should, if possible, bring 25 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information prior to the hearing and will be available in the hearing room on the morning of the hearing.

The hearing will not be of a judicial or evidentiary nature, and there will be no cross-examination of persons presenting statements. The presentations will be made before a panel whose members will be designated by the Chairman. Members participating on the panel may ask questions. If time permits, they may also ask such additional relevant questions as are submitted to them by

participants. Other procedural rules relating to the presentations will be announced at the time the proceedings commence. A transcript of the hearing will be available in the public file for this proceeding in the Commission's Office of Public Information.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*; Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; E.O. 12009, 42 FR 46287)

In consideration of the foregoing, the Commission is proposing to amend Part 2 of Subchapter A, Part 154 of Subchapter E, and Part 270 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission,
Kenneth F. Plumb,
Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

§ 2.66 [Amended]

1. Part 2 is amended in the table of contents and in the text of the regulations by inserting in the title of § 2.66 the phrase "which is not subject to § 2.66a," after the word "affiliates" and is further revised by adding at the end of the text of § 2.66 the following new paragraph:

(e) *Inapplicability to certain gas produced on or after December 1, 1978.* This section does not apply to natural gas to which § 2.66a is applicable.

2. Part 2 is further amended in the table of contents and in the text of the regulations by adding after § 2.66 the following new section:

§ 2.66a Pricing of certain gas produced on or after December 1, 1978, by pipelines and pipeline affiliates.

(a) *Applicability.* This section applies to natural gas which is produced by an interstate pipeline or an affiliate of such pipeline and which is delivered to such pipeline, other than in a first sale, if:

(1) Such gas is produced on or after November 15, 1979; or

(2) Such gas is produced on or after December 1, 1978, and before November 15, 1979, and is specifically made subject by Commission order to the outcome of the proceeding in which this section has been promulgated.

(b) *Policy Statement.* As a matter of policy in any pipeline rate proceeding (including a PGA proceeding):

(1) *NGPA rate treatment.* (i) *General rule.* Subject to paragraph (b)(1) (ii) and (iii) of this section, natural gas produced

by an interstate pipeline (or affiliate thereof) to which this section applies shall be priced for ratemaking purposes at the maximum lawful price which would have been applicable under Subchapter H had the gas been delivered to the pipeline in a first sale, if the production is from a lease owned by such pipeline or affiliate and if:

(A) The lease was acquired after October 7, 1969; or

(B) The natural gas is:

(1) Produced from a well commenced on or after January 1, 1973, or

(2) Produced through a well commenced prior to such date as a result of a completion operation commenced on or after such date into a different, formerly nonproductive reservoir; or

(C) The Commission, prior to December 1, 1978, had granted area or nationwide rate treatment for such gas in lieu of otherwise applicable cost of service treatment.

(ii) *Conditions.* (A) Natural gas to which this subparagraph applies may be priced at a rate prescribed under Subparts B, C, D, G, H, or J of Part 271 and under Subpart K, only if the pipeline (or affiliate thereof) complies with the requirements of section 601(b)(1)(E) of the NGPA, § 154.94 and Subchapter H which would have been applicable had the natural gas been delivered pursuant to a first sale.

(B) Treatment as provided under paragraph (b)(1)(i)(C) of this section shall continue to be accorded only during the period provided for such area or nationwide rate treatment in applicable Commission orders and shall be subject to the conditions specified in those orders.

(iii) *Exceptions.* This subparagraph does not apply to natural gas produced from leases acquired before November 15, 1979, which have ever been granted cost of service treatment pursuant to § 2.66(a)(4) (relating to special circumstances).

(2) *Cost of service rate treatment.* Natural gas to which this section applies, but which is not covered by paragraph (b)(1) of this section, shall be priced for ratemaking purposes on a cost of service basis.

(c) *Definitions.* For purposes of this section:

(1) *NGPA definitions.* The terms "interstate pipeline", "affiliate", and "first sale" have the same meaning as they have for purposes of Subchapter H.

(2) *Lease.* The term "lease" includes any fee interest in producing property or any working interest in production.

PART 154—RATE SCHEDULES AND TARIFFS

§ 154.38 [Amended]

3. Part 154 is amended by deleting the first sentence in footnote 1 to § 154.38(d)(4) and substituting the following sentence in lieu thereof:

¹For the purposes of this paragraph, purchased gas costs represent the cost of well head purchases, field line purchases, plant outlet purchases, transmission line purchases, and pipeline or affiliate production that qualifies for an area or nationwide rate under § 2.66 of this chapter or a maximum lawful price specified in Title I of the NGPA under § 2.66a.

PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

4. Part 270 is amended in § 270.203 by adding a new paragraph (f) to read as follows:

§ 270.203 Pipeline distributor and affiliate production.

(f) *Cross reference.* In treatment of interstate pipeline and affiliate production delivered to a pipeline other than in a first sale, see Part 266 and Part 266a of this chapter.

[FR doc. 79-35670 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-4

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 1000

[Docket No. 75N-0340]

Procedures To Minimize Medical X-Ray Exposure of the Human Embryo and Fetus; Recommendations for Medical Radiation Exposure of Women of Childbearing Potential

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: In an effort to reduce unnecessary radiation exposure to the entire population, the Food and Drug Administration (FDA) is proposing recommendations intended to minimize the irradiation of the human embryo and fetus from diagnostic x-ray procedures. X radiation and other types of ionizing radiations are associated with a variety of harmful effects in the human embryo and fetus. Some of them may occur as a result of diagnostic x-ray procedures. The agency is proposing to establish recommendations for attending physicians, consulting radiologists, x-ray equipment operators, and patients that:

(1) emphasize the importance of ascertaining whether the patient is or may be pregnant prior to referral for examinations that may include the uterus in or near the primary x-ray beam; (2) suggest alternatives for physicians in managing the patient who is or may be pregnant at the time of the contemplated x-ray referral request; and (3) suggest methods for reducing medical x-ray exposure of fetuses throughout gestation.

DATE: Comments by March 20, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph Wang, Bureau of Radiological Health (HF-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602, 42 U.S.C. 263b *et seq.*), the Bureau of Radiological Health of the Food and Drug Administration conducts and supports research, training, and operational activities to minimize unnecessary exposure of the public to electronic product radiation. In carrying out this purpose, the agency is authorized to make such

recommendations relating to the control of electronic product radiation as it considers appropriate. Accordingly, FDA proposes to add new § 1000.51 (21 CFR 1000.51) to provide recommended procedures for minimizing medical x-ray exposure of the human embryo and fetus.

Experimental studies with animals and some limited human epidemiological studies and case reports have indicated that x-ray exposure presents a hazard to the unborn child. The magnitude and kinds of possible effects of radiation exposure depend upon the amount and type of ionizing radiation received and the stage of fetal development when exposure occurs.

The scientific literature supports the conclusion that at no time during gestation can the developing embryo or fetus be irradiated without incurring some risk of biological effect. The first trimester of pregnancy, especially the first 2 weeks after conception, carries the highest risk of abortion induced by radiation. Radiation exposure of the fetus during all stages of pregnancy has been associated with an increased incidence of leukemia and other childhood cancers, but there is some suggestion that the carcinogenic effect is greatest for exposure during the first

trimester. Additionally, during the second and third trimesters, fetal irradiation can be associated with developmental effects manifested by physiological and behavioral changes, some of which may not become apparent until later in life.

Because both the maternal and fetal gonads may be exposed, abdominal irradiation during any stage of pregnancy may also produce alterations in genetic material in at least two individuals. Furthermore, abdominal irradiation of a prospective mother prior to conception may result in genetic changes that could be transmitted to her offspring; for example, some controversial evidence has suggested an increased risk of mongolism and cancer in children born to mothers receiving x-ray examinations prior to conception.

It has been estimated that, in 1970 (the last year that x-ray utilization data are available for the United States), 805,000 pregnant women in the United States (23 percent of all women having live born infants that year) received x-ray examinations of all types (Ref. 1). Of these, an estimated 298,000 received abdominal area x-rays that directly irradiated the fetus. Nearly 22,000 fetuses were irradiated during the first trimester, and it is estimated that 7,000 may have been exposed in the first month of pregnancy.

Calculations based on cancer risk data from the Oxford Survey of Childhood Cancers (Ref. 2), imply that each annual use of prenatal abdominal examinations at these rates could result in approximately 19 extra cases of childhood cancer each year for the next 15 years. Therefore, the estimated number of cancers due to irradiation at any time during pregnancy would be 285 cases per year at equilibrium in children under 15 years of age. Of these 285, perhaps 22 would be due to irradiation during the first trimester. The additional cancer cases would only be observed at equilibrium (15 years after irradiation of the population begins) and not in the first year. Conversely, it would take 15 years to reduce the number of extra cancers to zero if all examination during pregnancy were abruptly eliminated. Stated in individual terms, there is a cumulative probability of about 1 in 1,000 that a child who was irradiated in utero by an abdominal X-ray examination of the mother, consisting of 2 to 3 radiographs, will develop cancer during the first 15 years of life, based upon the Oxford Survey data. For individuals who receive larger doses (as might be the case in fluoroscopy), the estimated risk would be increased proportionately, assuming a linear dose-

effect relationship. The risk due to radiation exposure cannot be decreased to zero, however, because X-ray examinations required for the clinical management of the patient cannot be eliminated.

In addition to an increased risk of childhood cancer, prenatal irradiation may be associated with subtle mental, physiological, and genetic changes that are difficult to detect and measure. It is important to note that environmental stresses may modify the biological response to radiation. For example, the human embryo and fetus have been shown to be particularly susceptible to a variety of chemicals, drugs, viruses, and other physical agents. One or more of these agents could influence the effects of irradiation, thus altering the foregoing risk estimates.

The agency believes however, the risks of harmful effects that may occur as a result of diagnostic X-ray procedures are small in comparison to many risks in everyday life that are commonly ignored. Thus, exposure risks should not be a deterrent to X-ray examinations judged necessary for the medical care of women who are or could be pregnant. Nevertheless, these risks are finite and actions can be taken to mitigate them within the bounds of sound medical care.

An advance notice of proposed rulemaking concerning medical radiation exposure of women of childbearing potential was published in the *Federal Register* of December 15, 1975 (40 FR 58151). In response to this notice, 76 comment letters were received from physicians, hospital administrators, radiological physicists, technologists, and private citizens. From questions that appeared in the *Federal Register* notice, a summary of the comments and the agency's conclusions are as follows:

1. Is it advisable to schedule nonemergency radiological examinations of the abdomen of women of childbearing age only during the early part of the menstrual cycle? If such scheduling is appropriate, should this be done only when the examination could be deferred until term if a pregnancy is observed or suspected at the time the examination is scheduled to occur?

The majority of comments favored scheduling of nonemergency abdominal X-ray examinations during the early part of the menstrual cycle. Several comments, however, opposed elective scheduling on the ground that it is impractical. Several persons noted that there is no "safe" period during which a radiological examination could be undertaken. If a patient is to be examined even though she is found to be

pregnant, scheduling serves no useful purpose and may even be counterproductive. Furthermore, if an examination can be postponed to the end of a pregnancy, there is the question of the need for the examination, even if the patient is not pregnant.

The agency believes that detailed guides for the use of elective scheduling may not always be appropriate. Thus, the proposal recommends that emphasis be placed primarily on ascertaining the pregnancy status of women with childbearing potential prior to their referral for abdominal X-ray examinations so that physicians can give due consideration to possible pregnancy in making their referral decisions. In this regard, the agency advocates that attending physicians use X-ray consultation forms that provide information on the patients' pregnancy status.

2. Is it feasible to modify radiological examinations of known or possibly pregnant women, e.g., fewer views and different technique factors, to reduce exposure of the embryo or fetus? If so, under what circumstances? To what extent does this result in an unacceptable loss of diagnostic information?

With regard to the feasibility of modifying radiological examinations of known or possibly pregnant women, most comments said that it was possible to modify the number of films and projections to provide protection of the fetus. Comments also stated that modifications should be determined in consultation with the radiologist to achieve acceptable diagnostic information.

The agency encourages consultation between the attending physician and the radiologist to determine any examination modifications that may be made if the referring physician suspects a pregnancy or knows that the patient is pregnant. However, no generalizations can be made regarding examination modifications because the techniques used in an examination will vary according to each patient's need.

3. Is it advisable to recommend to institutions that the physician ordering the examination indicate on the referral slip whether or not the patient is or could be pregnant?

Most comments agreed that it is advisable for the attending physician to indicate on the referral slip whether or not the patient is or could be pregnant. Although several respondents noted that patients within the childbearing age group are usually queried as to their pregnancy status, a number of radiologists stated that pertinent clinical

information is often lacking on the referral slips.

The agency believes that X-ray consultation forms, when fully completed, can be an effective tool in assuring that the referring physicians have tried to ascertain whether their patients are or could be pregnant. Furthermore, the agency believes that patients should be encouraged to inform the attending physicians and X-ray department personnel that they are or may be pregnant.

4. Is it advisable to recommend to institutions that the physician ordering the examination indicate on the referral slip whether he or she would be satisfied with a limited study, i.e., modified from the routine manner of performance, on a patient known or suspected to be pregnant?

Several comments objected to the agency establishing recommendations that the physician ordering the examination indicate whether or not a limited study would be satisfactory. It was, however, considered good medical practice to encourage consultation, between the radiologist and the referring physician so that appropriate diagnostic information could be provided to contribute to the patient's care. The proposed recommendation, therefore, encourages consultation between the radiologist and referring physician to determine on an individual basis whether or not limited studies are warranted.

5. For which abdominal X-ray examinations could fetal shielding be employed without compromising the diagnostic value of the radiograph?

Several comments provided examples of the types of abdominal examinations that could be performed using fetal shielding. Other comments claimed that any use of fetal shielding during abdominal examinations would only decrease diagnostic accuracy. The agency believes that the determination of whether or not to use fetal shielding, once the examination has been deemed immediately necessary, requires judgment by the radiologist on a case-by-case basis.

6. To what extent do pelvimetry examinations affect decisionmaking in the management of delivery?

Most comments stated that pelvimetry examinations have negligible influence in the management of delivery. Others declared that they are useful when abnormalities of the birth canal or fetal position are suspected. Several comments noted that the use of pelvimetry is declining. The efficacy of this procedure was questioned in a 1975 FDA study that extracted information on the indications for and benefits of

pelvimetry as the examination was performed in selected hospitals (Ref. 3). Campbell (Ref. 4) and Joyce et al. (Ref. 5) also studied the use of pelvimetry. Campbell's study cast significant doubt on the usefulness of pelvimetry, and Joyce et al. stated that routine pelvimetry should be performed only in the following cases: (a) antenatally, for singleton breech presentations in primigravid and multigravid patients; (b) postpartum, after a caesarean section, difficult forceps delivery, or perinatal death, when vaginal delivery might be considered in a subsequent pregnancy; (c) before pregnancy, after the healing of a fractured pelvis or at some suitable point in the management of other relevant orthopedic disorders.

A pelvimetry panel, composed of members of the American College of Obstetricians and Gynecologists and the American College of Radiology, with the assistance of the Bureau of Radiological Health, has considered the available evidence concerning the usefulness of the pelvimetry examination and is in the process of drafting recommendations regarding its use. When they are completed, the recommendations will be tested in clinical practice and further evaluated.

7. How much radiation exposure is received by the embryo or fetus from various diagnostic nuclear medicine procedures?

Several comments provided data on the radiation exposure received by the embryo or fetus from various diagnostic nuclear medicine procedures. Others noted that the exposure varies greatly with the radiopharmaceutical involved and with the age of the fetus.

It is usually possible, however, to calculate the absorbed radiation dose to the embryo or fetus from diagnostic nuclear medicine procedures using currently available techniques and dose models. These calculations and a determination of the necessity of the procedure need to be made on an individual case basis if nuclear medicine procedures are being considered for a pregnant or potentially pregnant patient.

8. With what frequency are nuclear medicine diagnostic procedures performed on women of childbearing age?

The frequency with which nuclear medicine diagnostic procedures are performed on women of childbearing age was reported in the comments to range from 10 percent to "quite common."

A data collection system, called Medically Oriented Data System (MODS), operated by the Medical Data Systems Staff of the Office of the Director, Bureau of Medical Devices,

Food and Drug Administration, provides frequency data as a service to FDA operating programs. Data from MODS now show that approximately 58 percent of persons undergoing nuclear medicine procedures in the United States are women and, of these, 29 percent are of childbearing age.

9. How useful is nuclear medicine placental scanning in the medical management of pregnant women?

The unanimous response to this question was that ultrasound has replaced nuclear medicine for placental imaging.

It is generally agreed that the biological effects to the fetus resulting from nuclear medicine procedures are not well known. Until additional information becomes available on low-dose effects of such procedures, the agency believes that recommendations on this subject should be limited to ways to minimize medical x-ray exposure of the human embryo and fetus.

Following the analysis of comments on the December 15, 1975 notice, a report entitled "Clinical Methods of Avoiding Medical X-Ray Exposure of the Human Embryo and Fetus: A Technical Overview" was prepared by the Bureau of Radiological Health, Food and Drug Administration (Ref. 1). The report was reviewed by the Bureau's Medical Radiation Advisory Committee and other interested and knowledgeable parties who were invited to comment on its contents.

The recommendations proposed here represent the concepts discussed in the report as modified in response to reviewer comments. A copy of the Technical Overview and other pertinent background data on which the agency relies in proposing these recommendations are on file with the Hearing Clerk, Food and Drug Administration.

The Bureau has also discussed significant elements of the proposed recommendations with the American College of Obstetricians and Gynecologists (ACOG), the American College of Radiology (ACR), and the National Council on Radiation Protection and Measurements (NCRP), which have all issued their own policy statements or recommendations.

Although there are some variations depending on the perspective of the issuing organization, there do not seem to be any important conflicts between the FDA proposed recommendations and the recommendations of these other groups. The ACOG states that there is no measurable advantage to using scheduling as a general procedure (Ref. 6); the ACR discourages elective

scheduling as a general procedure (Ref. 7); and the NCRP suggests use of a decision tree for scheduling or postponing elective examinations of the abdomen or pelvis of women of childbearing capacity (Ref. 8).

Discussion

FDA shares responsibility (e.g., with radiologists), to minimize radiation exposure of the population from medical radiologic examinations, consistent with deriving needed diagnostic information. Although the risk of harm to an individual from these examinations is very small, the public health impact of this risk when applied to large populations can be significant. For any one woman, the risk of injury to her unborn child due to an abdominal area x-ray examination is too small to deter a necessary medical examination. ("Abdominal area examination" means any examination in which the uterus is in or adjacent to the primary x-ray beam, e.g., examinations of the hip, pelvis, lower abdomen, lower back.) It should be noted that nonabdominal examinations, when conducted with appropriate technique factors, collimation, and abdominal shielding, contribute only a negligible exposure to the embryo or fetus. Nonabdominal examinations are, therefore, not included in the proposed recommendations.

The proposed recommendations and rationale for them are as follows:

1. Proposed § 1000.51(b)(1) states that the attending physician should ascertain the likelihood of pregnancy when considering nonemergency abdominal area x-ray examinations for a woman who could be pregnant at the time of the consultation request. X-rays and other types of ionizing radiation have the potential to cause biological effects in the human embryo and fetus. Because of these effects on the human embryo and fetus, every effort to avoid unnecessary x-ray exposure is encouraged. In some cases this exposure might be avoided if the physician is aware that the patient is or might be pregnant.

2. Proposed § 1000.51(b)(2) recommends that X-ray consultation forms be used to provide a method to heighten the attending physician's awareness of the need to determine the pregnancy status of the patient prior to requesting an abdominal area X-ray procedure. In the absence of a notification by the attending practitioner, the X-ray personnel should ask the patient if she might be pregnant prior to conducting an abdominal area examination.

This recommendation is based on studies that show that women are often

selected for abdominal area X-ray examinations without being questioned as to their pregnancy status (Refs. 9 and 10). Annotated consultation requests have been mentioned as one method of assuring that attending physicians determine whether patients who may be pregnant at the time of the abdominal area examination request are, in fact, pregnant. An annotated consultation request should provide, at a minimum, appropriate space for the attending physician to indicate whether the patient is, is probably not, or may be pregnant. Some institutions may also wish to include information on whether or not the examination should be performed irrespective of pregnancy status, whether the physician would like to consult the radiology department about the possibility of modifying the requested examination, or whether the examination could be postponed for a time. Space may also be provided on the annotated consultation request for the attending physician to note the date of the patient's last menstrual period. The consultation request can be a permanent record of the consideration of pregnancy if it is appropriately filed and can be retrieved.

As an alternative to recording pregnancy information on the consultation request, it has been suggested that the attending physician record this information on the patient's chart. This procedure preserves the privacy of the patient in that the consultation request may reveal the possibility of pregnancy to hospital staff who are not involved in the patient's immediate medical care. However, recording pregnancy information on the patient's chart may not be sufficient to alert the radiologic technologist who performs the examination to seek authorization to use special measures to reduce the X-ray exposure of the embryo or fetus, e.g., a grid with lower than usual ratio, fetal shielding, or fewer than the normal number of views.

3. Proposed § 1000.51(b)(3) recommends that, in consultation with the radiologist and based upon the patient's individual needs, any of the following alternative courses of action might be appropriate for the attending physician when it is discovered that the patient being considered for an abdominal area X-ray examination is or is likely to be pregnant.

(a) The attending physician may decide to cancel a contemplated abdominal area examination once aware that the woman is or may be pregnant. The potential health benefit to be gained from a contemplated examination can be variable, depending

upon the attending physician's degree of conviction of the necessity for the examination. If the attending physician is convinced that the X-ray procedure is medically necessary, then the patient's pregnancy should not deter the examination. If there is less certainty of the necessity for the examination, the attending physician may not wish to proceed with the examination, once aware that the woman is or might be pregnant.

(b) The attending physician may request a modified or limited examination which would, as a minimum, provide the necessary clinical information with the least possible radiation exposure. Under certain circumstances, an abdominal area X-ray examination involving fewer exposures or more restricted views than usual may be used by the radiologist to provide the necessary clinical information with less X-ray exposure. Whether modification of a routine X-ray procedure is in the best interests of the mother's and child's health must be decided on an individual basis. The attending physician is, therefore, encouraged to consult with the radiologist.

Ultrasound procedures may replace or supplement certain X-ray examinations. However, experimental and epidemiological studies to date have not ruled out the possibility of biological risk from ultrasound during pregnancy. Consequently, in the absence of additional information, ultrasound procedures should not be viewed as an entirely risk-free alternative to X-ray procedures. Attending physicians and radiologists are encouraged to discuss the relative clinical value of ultrasound procedures under specific clinical circumstances.

(c) The attending physician may request the X-ray examination regardless of pregnancy status. This option is a logical alternative in situations when the woman's medical circumstances dictate an immediate need for an examination, regardless of whether she is pregnant.

(d) In the case of a known pregnancy, the attending physician may assess the possibility of deferring the examination until later in pregnancy or until term. As discussed in the rationale for proposed § 1000.51(b)(1), the embryo or fetus is at risk of different types of radiation-induced injury throughout gestation. However, there is evidence that the carcinogenic effect is greatest when irradiation occurs during the first trimester. This option recognizes that there are some abdominal area examinations which, although necessary, may be deferred for a time long enough into pregnancy so that the

risk to the fetus or embryo is appreciably reduced. In some cases the examination might even be deferred until term, eliminating all X-ray exposure risk to the embryo or fetus.

(e) In the case of a possible but unconfirmed pregnancy, the attending physician may defer an examination that is not needed immediately until pregnancy is ruled out, until later in pregnancy, or until term (see option (d)).

Sometimes called elective scheduling, this option involves scheduling nonemergency abdominal X-ray examinations of women of childbearing potential during the early part of the menstrual cycle (usually the first 10 to 14 days) to minimize the possibility of irradiating a newly fertilized egg. The examinations suitable for this approach are those few that could safely be postponed if the woman subsequently were found to be pregnant. This course of action offers guidance in the management of those rare cases in which (1) the woman's pregnancy status is undetermined, (2) she needs an abdominal X-ray examination, and (3) the examination could be postponed until later in the pregnancy when the fetus is less radiosensitive if she later proved to be pregnant. It must be stressed that this option should be considered only in the unusual simultaneous occurrence of these three circumstances. Furthermore, examinations should be scheduled as soon as possible after the expected onset of menses. Because the date of ovulation varies considerably among women, scheduling an examination as early as possible after the onset of menses minimizes the possibility that a woman will become pregnant prior to the examination.

Some institutions and individual practitioners have applied elective scheduling to all women of childbearing potential without discriminating between examinations that could not or could be postponed to a later period in pregnancy or after delivery. This practice could present the practitioner with a dilemma—if the woman is pregnant, either forego an examination essential to the management of the woman's condition or risk irradiating the embryo during organogenesis when it is especially vulnerable to radiation-induced damage to developing organ systems. Because of the hazards of this situation, the International Commission on Radiological Protection and the National Council on Radiation Protection and Measurements stress that the few examinations for which elective scheduling can be used are those that can be safely deferred until the latter

half of pregnancy or until term if the patient is found to be pregnant at the time of her scheduled visit to the X-ray facility.

There are other problems associated with elective scheduling. The examination date is scheduled based upon the woman's last period. If the woman has irregular periods or is reluctant to discuss them for whatever reason, scheduling an examination becomes difficult. Once scheduled, the woman may jeopardize her own health by not returning for the examination. Obviously, elective scheduling is not a comprehensive approach to the problems of irradiation of the fetus, but, in the restricted circumstances to which it applies, elective scheduling is an alternative worthy of consideration.

4. Proposed § 1000.51(b)(4) recommends that a patient who is or thinks she might be pregnant should alert her attending physician as well as x-ray facility personnel prior to the performance of an x-ray examination. At the same time, medical personnel should impress upon their patients the importance of volunteering this information.

This recommendation is based upon the principle that the patient has the right to participate in decisions regarding her medical care. Commensurate with that right is the patient's responsibility to communicate important information to health care personnel, including her pregnancy status, to help assure optimum medical management. The patient should also inform her physician about any recent similar x-ray examinations. A new examination may not be needed if a recent one can provide the necessary diagnostic information. Finally, if she knows that she is scheduled to receive an x-ray examination of the abdominal area, the patient should postpone a planned pregnancy until after the examination.

The following information has been placed on file in the office of the Hearing Clerk (address above) and may be seen by interested persons from 9 a.m. to 4 p.m. Monday through Friday.

References

1. U.S. Department of Health, Education, and Welfare, Public Health Service, Food and Drug Administration, Bureau of Radiological Health, "Clinical Methods of Avoiding Medical X-Ray Exposure of the Human Embryo and Fetus: A Technical Overview," November 1978.
2. Bithell, J. and Stewart, A., "Prenatal Irradiation and Childhood Malignancy: A Review of British Data from the Oxford Survey," *British Journal of Cancer*, 31:271-278, 1975.

3. Kelly, K. M., et al., "The Utilization and Efficacy of Pelvimetry," *The American Journal of Roentgenology*, 125:1, 66-74, September 1975.

4. Campbell, J. A., "X-ray Pelvimetry: Useful Procedure or Medical Nonsense," *Journal of the National Medical Association*, 68:514-520, November 1978.

5. Joyce, D. N., et al., "Role of Pelvimetry in Active Management of Labour," *British Medical Journal*, 4:505-507, November 1975.

6. The American College of Obstetricians and Gynecologists, Statement of Policy, Guidelines for Diagnostic X-Ray Examination of Fertile Women, May 1977.

7. Brown, R. F., Prepared Remarks for the October 20, 1978 American College of Radiology Press Conference, October 1978.

8. National Council on Radiation Protection and Measurements, Medical Radiation Exposure of Pregnant and Potentially Pregnant Women, NCRP Report No. 54, July 1977.

9. "X-Ray Safety," *The Lancet*, p. 905, April 19, 1975.

10. Asire, A. J., Murray, J. L., Linton, O. W., "Trends in Maternal X-Ray Exposure Practices in the San Francisco Bay Area," Unpublished Report Available from O.W. Linton, American College of Radiology, 6900 Wisconsin Ave., Chevy Chase, MD 20015.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 356, 82 Stat. 1174-1176 (42 U.S.C. 263d)) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that 21 CFR Subchapter J be amended in Part 1000 by adding new § 1000.51 to Subpart C, to read as follows:

§ 1000.51 Recommendations for medical radiation exposure of women of childbearing potential.

X radiation is associated with a wide variety of adverse effects in the human embryo and fetus, some of which may occur as a result of diagnostic X-ray procedures. The Bureau of Radiological Health of the Food and Drug Administration, the American College of Radiology (ACR), the National Council on Radiation Protection and Measurements (NCRP), and the American College of Obstetricians and Gynecologists (ACOG) have all been concerned with protection of the human embryo and fetus from the effects arising from medical radiation exposure. The ACR, NCRP, and ACOG have issued policy statements that suggest methods to minimize medical X-ray exposure of the embryo and fetus. These recommendations are issued by FDA to provide clarification and additional guidance.

(a) Definitions: As used in this section, the following definitions apply:

(1) "Abdominal area examination" means an examination in which the uterus is in or adjacent to the direct X-

ray beam (e.g., X-ray examinations of the hip, pelvis, lower abdomen, lower back, etc.).

(2) "Attending physician" means the physician who assumes primary responsibility for the patient's care or who requests an X-ray examination or consultation.

(3) "Nonemergency X-ray examination" means an X-ray examination not required for the immediate management of an acute medical condition.

(4) "Radiologist" means specifically a physician who specializes in the practice of radiology, but used here in a more general sense to include any practitioner who performs or interprets X-ray examinations as a normal component of his or her practice.

(b) Recommendations:

(1) The attending physician should ascertain the likelihood of pregnancy when considering a nonemergency X-ray examination that would place the uterus of a woman of childbearing potential in or adjacent to the direct X-ray beam.

(2) X-ray consultation forms should provide a method to heighten the attending physician's awareness of the need to determine the pregnancy status of a patient prior to requesting an abdominal area X-ray procedure. In the absence of a notification by the attending practitioner, the X-ray personnel should ascertain the pregnancy status of the patient prior to conducting an abdominal area examination.

(3) In consultation with the radiologist and based upon the individual patient's needs, the attending physician may:

(i) Cancel the examination once aware that the patient is or may be pregnant.

(ii) Request a limited examination when the diagnostic objectives permit the radiologist to modify the examination by using fewer or more restricted views for a woman who is or may be pregnant.

(iii) Request the full abdominal area X-ray examination regardless of pregnancy status when the patient's medical condition dictates immediate need.

(iv) In the case of a known pregnancy, assess the possibility of deferring the examination from early to later pregnancy or until term, or

(v) In the case of a possible but unconfirmed pregnancy, defer an examination that is not immediately needed until pregnancy is ruled out, until later in pregnancy, or until term (see paragraph (b)(3)(iv) of this section).

(4) A patient who is or thinks she might be pregnant should alert her

attending physician as well as X-ray facility personnel before the performance of an X-ray examination. At the same time, medical personnel should impress upon their patients the importance of volunteering this information.

Interested persons may, on or before March 20, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 9, 1979.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 79-35631 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S108-1]

Electrical Standards; Extension of Comment Period and Corrections of Proposal

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of comment period and corrections to notice of proposed rulemaking.

SUMMARY: This notice extends the time in which written comments and requests for a hearing may be submitted on the proposed revision of the electrical standards. It also includes a list of corrections to the electrical standards as they were published in the *Federal Register* (44 FR 55274) on September 25, 1979.

DATES: Written comments and hearing requests must be postmarked by December 31, 1979.

ADDRESS: All comments, objections and hearing requests should be sent to: Docket Officer, Docket S108-1; Rm. S-6212; U.S. Department of Labor; 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Sil Patti, Office of Electrical and

Electronic Engineering Safety Standards; OSHA; Rm. N3510; 200 Constitution Avenue, NW.; Washington, D.C. 20210 (202 523-7207).

SUPPLEMENTARY INFORMATION: When the proposed revisions of Subpart S of Part 1910 were published (44 FR 55274), OSHA established a 65-day comment period, extending through November 30, 1979. However, OSHA has since received written requests for extensions of the comment period. Similar requests for extension were made at the November 8, 1979, public meeting. OSHA has decided that in order to receive comments from as many interested persons as possible a 31-day

extension will be given for written comments. Therefore, comments to the proposal and requests for a public hearing must be postmarked by December 31, 1979. They should be sent to the Docket Officer at the address previously given.

In addition to extending the comment period, this notice contains corrections to the proposed regulation as published in the Federal Register on September 25, 1979. A list of corrections is given below.

Authority: This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S.

Department of Labor, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

This document is issued pursuant to Section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and 29 CFR Part 1911.

Signed at Washington, D.C., this 14th day of November 1979.

Eula Bingham,
Assistant Secretary of Labor.

In FR Doc. 79-29465 appearing at page 55274 of the Federal Register of September 25, 1979, the following changes should be made:

Section	FR page	Column and line	Correction
Table of Contents.....	55279	3rd, 29th from top.....	Add hyphen between "Safety" and "Related."
Table of Contents.....	55279	3rd, 31st from top.....	Add hyphen between "Safety" and "Related."
1910.301.....	55279	3rd, 12th from bottom.....	The word "workplace" should be "workplaces."
1910.301.....	55280	1st, 3rd, from top.....	The word "ar" should be "are."
1910.301.....	55280	1st, 6th from top.....	Add hyphen between "Safety" and "related."
1910.301.....	55280	1st, 9th from top.....	Add hyphen between "Safety" and "related."
1910.302.....	55280	1st, 11th from bottom.....	The word "installation" should be "installations."
1910.302.....	55280	1st, 8th from bottom.....	The word "outdoors" should be "outdoors."
1910.302.....	55280	2nd, 27th from bottom.....	Add comma after "1972."
1910.302.....	55280	2nd, 24th from bottom.....	Add comma after "1972."
1910.302.....	55280	2nd, 21st from bottom.....	Add comma after "1972."
1910.302.....	55280	2nd, 19th from bottom.....	The symbol "\$" should be "\$\$."
1910.303.....	55280	3rd, 22nd from bottom.....	The word "appliances" should be "appliances."
1910.303.....	55281	1st, 32nd from bottom.....	After the word "wood" add the word "or."
1910.303.....	55281	2nd, 14th from bottom.....	Delete the word "chapter" and put in its place "section."
1910.303—Table S-3.....	55281	3rd, 8th from bottom.....	The word "circuit" should be "circuit."
1910.303.....	55282	2nd, 3rd from top.....	The word "Minimum" should be "Minimum."
1910.304.....	55282	2nd, 12th from top.....	The word "workpace" should be "workspace."
1910.304.....	55283	2nd, 11th from top.....	The word "personal" should be "personnel."
1910.304.....	55283	1st, 4th from bottom.....	The word "120 volts" should be "120-volt."
1910.304.....	55283	2nd, 31st from top.....	The word "supply" should be "supply."
1910.304.....	55283	2nd, 43rd from top.....	Add a hyphen between "277" and "volt."
1910.304.....	55283	2nd, 47th from top.....	Add a hyphen between "120" and "volt."
1910.304.....	55283	3rd, 29th from bottom.....	The words "grouping-type" should be "grounding-type."
1910.304.....	55283	3rd, 26th from bottom.....	Delete the colon and insert a period.
1910.304.....	55283	3rd, 20th and 21st from bottom.....	The words "Support, Enclosures, and Equipment To Be Grounded" should be "Supports, enclosures, and equipment to be grounded."
1910.304.....	55284	1st, 17th from bottom.....	Add a comma after the word "section."
1910.304.....	55284	1st, 11th from bottom.....	The section number "1910.306" should be "1910.307."
1910.304.....	55284	2nd, 1st at top.....	After the words "clothes-drying" delete the comma and add the word "and."
1910.305.....	55285	2nd, 37th from top.....	The word "track" should be "tracks."
1910.305.....	55285	2nd, 22nd from bottom.....	The word "Nonmetallic" should be "nonmetallic."
1910.305.....	55285	3rd, 22nd from top.....	The word "subjected" should be "subject."
1910.305.....	55286	1st, 33rd from top.....	The word "weight" should be "weigh."
1910.305.....	55286	1st, 27th from bottom.....	After the word "position" and "Single throw knife switches shall be so placed that gravity will not tend to close them."
1910.305.....	55286	2nd, 10th from bottom.....	After the word "shall" insert the word "be."
1910.305.....	55287	1st, 11th from top.....	Add a hyphen between "power" and "limited."
1910.305.....	55287	1st, 18th from top.....	The word "receptables" should be "receptacles."
1910.305.....	55287	3rd, 16th from top.....	The word "accidental" should be "accidental."
1910.306.....	55288	1st, 22nd from bottom.....	Title "Specific Purpose Equipment and Installations" should be "Specific purpose equipment and installations."
1910.306.....	55288	2nd, 24th from top.....	The word "permitted" should be "permitted."
1910.306.....	55288	2nd, 11th from bottom.....	The word "or" should be "or."
1910.306.....	55288	3rd, 15th from top.....	The word "circuit" should be "circuit."
1910.306.....	55288	3rd, 11th from bottom.....	The word "fluoroscopic" should be "fluoroscopic."
1910.306.....	55288	3rd, 1st at bottom.....	After the word "energized" add a comma.
1910.306.....	55289	2nd, 19th from top.....	The word "receptable" should be "receptacle."
1910.306.....	55289	3rd, 30th from bottom.....	The word "of" should be "for."
1910.306.....	55289	3rd, 21st from bottom.....	The word "receptables" should be "receptacles."
1910.306.....	55290	1st, 27th from top.....	After the word "be" add the word "of."
1910.306.....	55290	1st, 37th from top.....	The word "of" should be "or."
1910.306.....	55290	2nd, 9th from bottom.....	The word "or" should be "or."
1910.307.....	55291	1st, 21st from top.....	The word "heat-production" should be "heat-producing."
1910.307.....	55291	2nd, 12th from top.....	Delete the word "electric."
1910.307.....	55292	1st, 20th from bottom.....	The word "emergency" should be "emergency."
1910.307.....	55292	3rd, 12th from top.....	The word "circuits" should be "circuits."
1910.308.....	55293	1st, 14th from top.....	The word "fire" should be "Fire."
1910.308.....	55293	1st, 18th from top.....	The word "Conductors" should be "conductors."
1910.308.....	55293	1st, 22nd from top.....	The word "grounded" should be "grounded."
1910.309.....	55293	1st, 18th from bottom.....	The word "grounded" should be "grounded."
1910.309.....	55293	1st, 16th from bottom.....	The word "Safety Related" should be "Safety-Related."
1910.309.....	55293	1st, 16th from bottom.....	The word "Safety Related" should be "Safety-Related."

Section	FR page	Column and line	Correction
1910.399.....	55293	2nd, 28th from top.....	The symbol "\$" should be "\$\$."
1910.399.....	55293	3rd, 8th from top.....	Delete the word "of."
1910.399.....	55293	3rd, 9th from top.....	The word "procuced" should be "produced."
1910.399.....	55293	3rd, 14th from top.....	The words "(Plug Cap)" should be "(Plug cap)."
1910.399.....	55293	3rd, 27th from top.....	The word "Conductor" should be "conductor."
1910.399.....	55293	3rd, 7th from bottom.....	The number "(2)" should be "(20)."
1910.399.....	55294	1st, 10th from top.....	The word "cicuit" should be "circuit."
1910.399.....	55294	1st, 37th from top.....	The word "becasue" should be "because."
1910.399.....	55294	1st, 40th from top.....	The word "processess" should be "processes."
1910.399.....	55294	2nd, 15th from bottom.....	The word "Locations" should be "locations."
1910.399.....	55294	3rd, 27th from top.....	The word "powers" should be "powders."
1910.399.....	55294	3rd, 34th from top.....	The word "dust" should be "dusts."
1910.399.....	55294	3rd, 38th from top.....	The word "powers" should be "powders."
1910.399.....	55295	1st, 19th from top.....	The word "Locations" should be "locations."
1910.399.....	55295	2nd, 27th from bottom.....	The word "Under" should be "under."
1910.399.....	55295	3rd, 18th from top.....	The words "Conductor, Equipment" should be "conductor, equipment."
1910.399.....	55295	3rd, 19th from top.....	The word "Apparatus" should be "apparatus."
1910.399.....	55295	3rd, 28th from top.....	The word "surrounding" should be "surrounding."
1910.399.....	55295	3rd, 40th from top.....	The word "of" should be "or."
1910.399.....	55295	3rd, 44th from top.....	The number "\$ 910.308" should be "\$ 910.309."
1910.399.....	55295	3rd, 46th from top.....	The word "positon" should be "position."
1910.399.....	55296	1st, 13th from top.....	The word "Effectively" should be "effectively."
1910.399.....	55296	1st, 14th from top.....	The word "Volts" should be "volts."
1910.399.....	55296	1st, 20th from top.....	The word "Ground" should be "Grounded."
1910.399.....	55296	1st, 25th from bottom.....	The word "functionj" should be "function."
1910.399.....	55296	1st, 7th from bottom.....	The word "whether" should be "whether."
1910.399.....	55296	2nd, 3rd from top.....	The word "opr" should be "or."
1910.399.....	55296	2nd, 15th from top.....	The word "Insulted" should be "Insulated."
1910.399.....	55296	2nd, 18th from top.....	The words "Volts, Nominal" should be "volts, nominal."
1910.399.....	55296	2nd, 23rd from top.....	The word "motrors" should be "motors."
1910.399.....	55296	3rd, 40th from top.....	The word "(Filed)" should be "(filled)."
1910.399.....	55296	3rd, 41st from top.....	The words "Volts, Nominal" should be "volts, nominal."
1910.399.....	55296	3rd, 35th from bottom.....	The word "seving" should be "severing."
1910.399.....	55296	3rd, 24th from bottom.....	The word "of" should be "or."
1910.399.....	55296	3rd, 9th from bottom.....	The words "Unit", "Counter-Mounted" should be unit, counter-mounted.
1910.399.....	55297	2nd, 7th from top.....	The word "associated" should be "associated."
1910.399.....	55297	2nd, 14th from top.....	The word "appliances" should be "appliances."
1910.399.....	55297	3rd, 33rd from bottom.....	Delete the words "against protection."
1910.399.....	55297	3rd, 24th from bottom.....	The word "or" should be "of."
1910.399.....	55298	1st, 19th from top.....	The word "Sign" should be "sign."
1910.399.....	55298	1st, 14th from bottom.....	The word "and" should be "an."
1910.399.....	55298	2nd, 25th from top.....	The word "Circuit" should be "circuit."
1910.399.....	55298	2nd, 11th from top.....	The word "[Reserved]" should be "[Redesignated]."

[FR Doc. 79-35821 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-26-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Travel Expenses for Counseling Purposes

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: The following regulatory provisions, implementing a provision of the Veterans Omnibus Health Care Act of 1976, provide rules for paying for travel expenses incurred going to and from places of counseling by veterans eligible for subsistence allowance or veterans and other persons eligible for educational assistance. This amendment will implement the provision of the law.

DATES: Comments must be received on or before December 20, 1979. In accordance with Pub. L. 94-581, it is proposed that the amendments be made effective October 21, 1976.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs

(271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until December 31, 1979.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420, (202-369-2092).

SUPPLEMENTARY INFORMATION: Section 21.728 is amended to provide that except under certain specific circumstances reimbursement to a disabled veteran for travel expenses incurred while traveling to and from a place of counseling under chapter 31, title 38, United States Code, will be based upon the cost of public transportation.

Section 21.4104 is amended to make clear when the Veterans Administration will pay for the expenses of veterans

and other persons eligible for educational assistance under chapters 34 and 35, title 38, United States Code, while traveling to and from places of counseling; and to state restrictions on such payments.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding these documents to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until December 31, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in

Central Office and furnished the address and room number.

Approved: November 14, 1979.
By direction of the Administrator.
Rufus H. Wilson,
Deputy Administrator.

Subpart A—Vocational Rehabilitation Under 38 U.S.C. Ch. 31

1. Section 21.728 is revised as follows:

§ 21.728 Travel expenses for counseling purposes.

When a disabled veteran having basic eligibility for vocational rehabilitation is requested to report to a designated place for counseling, including personal or vocational adjustment counseling, travel to and from the place of counseling will be made at Government expense. When a veteran because of a severe disability requires the services of an attendant while traveling, payment of travel expenses for the attendant is authorized on the same basis as for the veteran. (38 U.S.C. 111)

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35 and 36

2. Section 21.4104 is revised as follows:

§ 21.4104 Travel expenses.

(a) *General.* The Veterans Administration shall determine and pay the necessary expense of travel to and from the place of counseling for the veteran or eligible person whenever counseling is required, and

(1) The Veterans Administration determines that the veteran or eligible person is unable to defray the cost based upon his or her annual declaration and certification, or

(2) The veteran or eligible person has a service-connected disability. (38 U.S.C. 111)

(b) *Restriction.* The Veterans Administration will not pay the necessary cost of travel to and from the place of counseling when counseling is not required but is provided as a result of a voluntary request by the veteran or eligible person. (38 U.S.C. 111)

(c) *Travel for attendants.* When a veteran or eligible person because of a severe disability requires the services of an attendant while traveling, payment of travel expenses for the attendant is authorized on the same basis as for the veteran. (38 U.S.C. 111)

[FR Doc. 79-35830 Filed 11-19-79; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

(FRL 1362-4)

State and Federal Administrative Orders Permitting a Delay in Compliance with State Implementation Plan Requirements; Proposed Delayed Compliance Order for American Can Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to issue an Administrative Order to American Can Company. The Order requires the Company to bring three gravure printing press drying ovens (the source) into compliance with AP-5-07(G)(1) part of the federally approved Ohio State Implementation Plan (SIP). Because the Company is unable to comply with this regulation at this time, the proposed Order would establish an expeditious schedule requiring final compliance by December 31, 1979. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violation of the SIP regulation covered by the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before the thirtieth day from the date of this notice and requests for a public hearing must be received on or before the fifteenth day from the date of this notice. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Bertram Frey, Attorney, Enforcement

Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353-2082.

SUPPLEMENTARY INFORMATION:

American Can Company owns a facility at Cleveland, Ohio. The proposed Order addresses emissions from three gravure printing press drying ovens at this facility, which is subject to AP-5-07(G)(1) of the Ohio Implementation Plan. The regulation limits the emissions of volatile organic material and is part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by December 31, 1979 and the source has consented to its terms.

The proposed Order satisfies the applicable requirements of section 113(d) of the Act. If the Order is issued, source compliance with its terms would preclude further U.S. EPA enforcement action under section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the *Federal Register* the Agency's final action on the Order in 40 CFR Part 65.

Dated: November 5, 1979.

John McGuire,
Regional Administrator, Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.400:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

U.S. Environmental Protection Agency

In the Matter of: American Can Company,
Brookside Plant, Cleveland, Ohio.

Order No. EPA —

Order

This order is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.*, ("Act"). This order contains a schedule for compliance, interim control requirements, demonstration of compliance and reporting requirements. Public notice, opportunity for

public hearing, and thirty (30) day notice to State of Ohio have been provided pursuant to § 113(d)(1) of the Clean Air Act.

Findings

1. On December 30, 1977, David Kee, Acting Director, Enforcement Division, United States Environmental Protection Agency ("U.S. EPA"), Region V, sent a Notice of Violation (EPA-5-78-A-38) to William Woodside, President of the American Can Company ("American Can"). The Notice cited three violations of Ohio Air Pollution Regulation AP-5-07(G)(1), one for each of three gravure printing press drying ovens designated Units 7111, 7113 and 7114. A copy of the Notice was sent to the Ohio Environmental Protection Agency ("Ohio EPA"). The findings of violation were based upon emission calculations derived from data submitted to U.S. EPA by American Can and from information gained during an inspection of American Can's Brookside facility.

2. More than 30 days have expired since the issuance of the December 30 1977, Notice of Violation.

3. In satisfaction of Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to American Can, and on February 9, 1978, an enforcement conference was held.

4. It has been determined that American Can will expeditiously use ultraviolet (UV) curing, a new means of emission limitation, which is likely to be adequately demonstrated upon expiration of this order.

5. The Administrator of U.S. EPA has determined that the UV curing system is not likely to be used by American Can in its Brookside plant unless this order is granted. 6. The Administrator of U.S. EPA has also determined that the UV curing system for hydrocarbon emission control has a substantial likelihood of achieving and equivalent continuous emission reduction at lower cost in terms of energy, economics and non-air quality environmental impacts than the means of emission limitation that but for the order would be required.

7. Next, the Administrator has determined that compliance by American Can at its Brookside plant with the requirements of Regulations AP-5-07(G)(1) would be impracticable prior to and during the installation of the UV curing system.

8. Finally, it has been determined that American Can is unable to comply immediately with Regulation AP-5-07(G)(1) at its Brookside plant.

Order

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with Section 113(d) of the Act. Therefore, it is hereby ordered:

I

American Can shall comply with Regulation AP-5-07(G)(1), as approved by EPA on April 15, 1974, in accordance with the following schedule on or before the dates specified therein:

A. American Can shall bring its Brookside plant into final compliance with the

Regulation AP-5-07(G)(1) by December 31, 1979. In particular, American Can shall bring Gravure Drying Ovens Units 7111, 7113, 7114 into final compliance with Regulation AP-5-07(G)(1) as set forth in the schedule below. Hydrocarbon emissions from Unit 7114, shall be controlled by UV curing. Hydrocarbon emissions from the remaining two Units 7111 and 7113, shall be immediately brought into compliance by operating schedule alterations once the UV curing system has been installed.

Complete design engineering—Increment Completed

Order all necessary pollution control equipment—Increment Completed
Complete delivery of all necessary pollution control equipment and commence installation of the control system—Increment Completed

Commence trial operation of the control system; for Units 7111, 7113 and 7114—December 1, 1979

Achieve and demonstrate final compliance by submitting the results of a performance test of the control system for Unit 7114 and by submitting the results of compliance tests for Units 7111 and 7113—December 31, 1979

B. American Can shall immediately institute any appropriate surveillance, operation and maintenance procedures that will result in the reduction, to the greatest extent practicable, of hydrocarbon emissions at its Brookside plant during the interim period pending final compliance for each source.

C. In the event American Can is unable, for reasons entirely outside its control, to achieve the final or the interim compliance dates specified in Paragraph I.A., American Can shall provide notification to U.S. EPA as required by Paragraph III.A., and shall be eligible to receive from U.S. EPA an extension of applicable final and interim compliance dates day-for-day for each day. American Can is thus unable to proceed toward compliance. The burden of demonstrating that any delay is entirely beyond the control of the Company is upon American Can. In no event shall an extension of the final completion date go beyond July 1, 1980.

II

The schedule and requirements set forth in Paragraph I above contain interim requirements which are determined to be reasonable, and constitute the best practicable system of emissions reduction which are necessary to avoid imminent and substantial endangerment to the health of persons, and which are necessary to assure compliance with Regulation AP-5-07(G)(1) insofar as American Can is able to comply during the period Order is in effect.

American Can shall comply with the following emissions reporting requirements on or before the dates specified:

A. No later than five (5) working days after any date for achievement of an incremental or final compliance date specified in this order, American Can shall notify U.S. EPA in writing of its compliance, or noncompliance and the reasons therefor, with any requirement. If delay is anticipated in

meeting any requirement of this order, American Can shall immediately notify U.S. EPA in writing of the anticipated delay and the reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay, except as provided in Paragraph I.C.

B. All submittals and notifications to U.S. EPA under the terms of this Order shall be made to Director, Enforcement Division, Region V, U.S. EPA, 230 S. Dearborn Street, Chicago, Illinois 60604.

IV

American Can is not relieved by this order from compliance with any requirement imposed by the applicable State implementation plan, U.S. EPA, or the courts pursuant to Section 303 of the Act during any period of imminent and substantial endangerment to the health of persons.

V

Nothing herein shall effect the responsibility of American Can to comply with any state or local regulation, or with any other Federal regulation.

VI

American Can is hereby notified that its failure to achieve final compliance as specified above by December 31, 1979, or such later date provided by Paragraph I.C., may result in a requirement to pay noncompliance penalties under Section 120 of the Act. In the event of such failure, American Can will be formally notified pursuant to Section 120(b)(3) of the Act. Notification given by this Paragraph, however, does not constitute notice for the purposes of Section 120(b)(3) of the Act.

VII

As long as American Can is in compliance with requirements of this order, U.S. EPA shall not institute any Federal enforcement action against American Can concerning the units identified above at the Brookside plant, based on the asserted noncompliance with Regulation AP-5-07(G)(1).

VIII

American Can has specifically agreed to the terms of this order and shall not be entitled to challenge any of its terms in an action by U.S. EPA to enforce the order.

IX

This order is effective immediately.

Date: _____

Douglas Costle,
Administrator, United States Environmental Protection Agency.

Consent To Issuance of Order

American Can, by the duly authorized undersigned, hereby waives any and all rights to challenge this order and consents to the issuance of this order, such consent and waiver to become effective upon the issuance by U.S. EPA of this order in its present form.

Date: _____

American Can Company

[FR Doc. 79-35885 Filed 11-19-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Office of the Secretary

45 CFR Part 86

Nondiscrimination on the Basis of Sex
in Education Programs and Activities
Receiving or Benefiting From Federal
Financial Assistance

AGENCY: Office of the Secretary, HEW.
ACTION: Withdrawal of notice of
proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw the notice of proposed rulemaking, published at 43 FR 58076 on December 11, 1978, in which the Department proposed to revoke a subparagraph of its Title IX Regulation which prohibits recipients of Federal funds for education programs and activities from discriminating on the basis of sex in rules governing student appearance.

FOR FURTHER INFORMATION CONTACT: Colleen O'Connor, 202-245-6700.

SUPPLEMENTARY INFORMATION: The Department has determined that rulemaking action on subparagraph, 45 CFR 86.31(b)(5), is not appropriate at the present time, and the proposal published in the Federal Register (43 FR 58076) on December 11, 1978, entitled "Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance" is hereby withdrawn.

Dated: November 13, 1979.

Patricia Roberts Harris,
Secretary of Health, Education, and Welfare.
Albert T. Hamlin,
Acting Director, Office for Civil Rights.

[FR Doc. 79-35677 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-12-M

INTERSTATE COMMERCE
COMMISSION

49 CFR Part 1111

[Ex Parte 282 (Sub-3)]

Railroad Consolidation Procedures

AGENCY: Interstate Commerce
Commission.

ACTION: Notice of proposed rule making
and exemption.

SUMMARY: The ICC proposes to revise its regulations relating to rail consolidation procedures. These regulations set out the information to be

filed, and the procedures to be followed in control, merger, acquisition, lease, trackage rights, coordination projects and any other consolidation transaction involving more than one railroad initiated under two sections of the Railroad Revitalization and Regulatory Reform Act of 1978.

DATE: Comments must be received on or before December 20, 1979.

ADDRESS: Send comments to: Interstate Commerce Commission, 12th and Constitution Ave., NW, Washington, D.C. 20423. All written comments will be available in Room 1221 during normal business hours at same address.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg (202) 275-7245.

SUPPLEMENTARY INFORMATION: *Background.* We revised the ICC Railroad and Water Consolidation Procedures, 49 CFR Part 1111 (1976) pertaining to the content and procedures for applications involving railroad transactions under 49 U.S.C. 11343-11348 and 11350, in Railroad Consolidation Procedures, 348 I.C.C. 771 (1977), and 42 FR 14871. These regulations are found in the ICC Railroad Acquisition, Control, Merger, Coordination Project, Trackage Rights and Lease Procedures, 49 CFR Part 1111 (1978) (Old Consolidation Procedures).

That revision of our Consolidation Procedures was necessary because of amendments to former section 5 of Interstate Commerce Act (now 49 U.S.C. 11343-11348, and 11350) contained in section 402 and 403 for the Railroad Revitalization and Regulatory Reform Act of 1978, Pub. L. 94-210 (4R Act). These amendments required the Commission to reach a decision in rail proceedings within strict time limits (See 49 U.S.C. 11345), and developed an expedited procedure for considering rail consolidations presented to the United States Secretary of Transportation (See 49 U.S.C. 11346 and 11350). The Old Consolidation Procedures required the information we believed necessary to comply with the statutory time limits in 49 U.S.C. 11345, and proceed under the expedited procedures in 49 U.S.C. 11346 and 11350. We required voluminous information in applications for all types of rail consolidations.

Subsequent to our adoption of the Old Consolidation Procedures, we have been asked to rule on numerous matters concerning waiver, clarification, and other procedural matters involving these procedures. Numerous applications have been filed under the Old Consolidation Procedures. We have reviewed and considered these applications. In light of our experience, we are now in a position

to revise the Old Consolidation Procedures.

Purpose. Our revision of the Old Consolidation Procedures will reduce informational requirements for different types of applications, clarify the information to be filed in all applications, and expand on the procedures for handling, prosecuting, and opposing an application. We have also determined to institute a proceeding to exempt certain transactions from our regulation because of their minimum impact on the national transportation system.

This revision of the Old Consolidation Procedures changes the format to a logical sequence for planning, preparing, and considering an application. The change in format makes the Consolidation Procedures easier to follow, and spells out the specific information that must be included in each type of application.

We request comments on all portions of the Proposed Consolidation Procedures. It would be most valuable, however, to receive comments on the changes.

Preamble. We have added a preamble to the Proposed Consolidation Procedures to give a brief overview. Comments should discuss (1) the concept of a preamble and (2) the contents of the preamble.

Types of Transactions. In the Proposed Consolidation Procedures, we have developed three types of transactions; *major*, *minor*, and *exempt*. Each has different information and filing requirements. The *major* transaction requires more information than the *minor* transaction which requires more information than the *exempt* transaction.

Section 1111.1(a) defines a *major* transaction as including (1) control, merger, or consolidation transactions or (2) a major market extension resulting from acquisition, lease, partial purchase, or trackage rights involving one or more Class I or Class II railroads acting together with one or more other Class I or Class II railroads. It is our view that *major* transactions require the most information in order to determine whether the proposal is consistent with the public interest within the strict time limits of 49 U.S.C. 11345.

Minor transactions have little competitive or operational impact. They are defined in § 1111.1(b) as transactions involving more than one railroad which are not *major* or *exempt*. Much less information is required to determine, within the time limits, whether a *minor* transaction is

consistent with the public interest compared to a *major* transaction.

Because of *de minimis* competitive and operational impact we propose to exempt seven classes of transactions from our jurisdiction. Comments on the proposed exemptions contained in § 1111.1(c) should evaluate each transaction in light of the standards in 49 U.S.C. 10505.

The proposed exemptions are (1) acquisition of a line railroad where the public convenience and necessity has been found to permit abandonment; (2) acquisition of a non-connecting carrier where (a) the railroads would not connect with each other or any railroad in their corporate family, and (b) the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; (3) transactions within a corporate family that do not result in an operational change or affect the competitive balance with carriers outside the corporate family; (4) renewal of leases or trackage rights contracts and other matters, where the Commission has previously authorized the transaction, and only an extension in time is involved; (5) joint projects involving the relocation of a line or railroad which does not disrupt service to shippers; and (6) reincorporation in a different State. We solicit comments on whether these transactions are the type which should be exempted from our regulation under 49 U.S.C. subtitle IV.

Additionally, we are seeking comments on whether the exemption proposal in § 1111.1(c)(vii) should be adopted. We propose to exempt transactions from the filing of inconsistent applications, petitions for inclusion, or any other proposed relief requiring an application before us if a railroad does not indicate its intention to seek such relief in its written comments. This exemption would permit us to expedite processing applications since we will not have to wait the statutorily-mandated 90 days to see if an inconsistent application, petition for inclusion, etc., is filed. This exemption would apply 49 U.S.C. 11344(b)(2) and 11345(c).

Identifying information. Section 1111.2 of the Proposed Consolidation Procedures requires information identifying the applicant and the transaction.

The information required for all applications is in paragraph (a). Section 1111.2(a)(1) requires a brief summary of the transaction including a time schedule for consummation, the purposes of the transaction, the financial arrangements, public interest

justifications, and other supporting information. An opinion of counsel as to the legality of the transaction is also required. In paragraph (a)(2) information is required identifying the applicants, including name and address, States in which applicants operate, and a map. Paragraph (a)(3) requires an explanation of the transaction including the agreement; the required court order; the property involved; the principal routes involved; the governmental financial assistance involved if any; the labor impact; the environmental data; and the energy data.

Section 1111.2(b) requires further information for *major* transactions. The identity of applicants and their type of business is requested in greater detail. Information is also required about the officers, directors, and stockholders or other owners of the company. A corporate chart is required in § 1111.2(b)(1)(vi) to provide a graphic display of the applicant's relation to other businesses and/or carriers.

A more detailed explanation of the transaction is required by § 1111.2(b)(2). This consists of the documents authorizing the transaction.

Traffic data. Section 1111.3 of the Proposed Consolidation Procedures requires specific traffic data for *major* transactions. *Minor* and *Exempt* transactions do not require this data. The data required is essentially unchanged from that required by the Old Consolidation Procedures.

Paragraph (a) requires Density charts. Carload interchange data and State-to-State interchange data are required by (b). The State-to-State data is only required where 100 or more cars per year per connecting carrier are involved. Carload origin and destination data is required in (c), while (d) requires freight car fleet data. Revenue freight traffic data, paragraph (e), and commodity revenue data, paragraph (f), are also required. Paragraph (g) requires data on Commodity tonnage.

The Traffic study in paragraph (h) has been altered to clarify (1) the information required to make the study, (2) the format for showing the results, and (3) the format for presenting certain traffic information used to determine diversion (a one page study movement sheet-Appendix C). A discretionary Traffic study considering the diversion of traffic not currently moving by rail has been added in § 1111.3(h)(11).

Operational data. The operational information is required by section 1111.4 of the Proposed Consolidation Procedures. The operating plan for a *major* transaction is required by paragraph (A). The information to be presented in the operating plan is

unchanged from the Old Consolidation Procedures, except that it must be for a minimum of 3 years, or for as long as implementation of the plan requires.

The operating plan for *minor* transactions is in paragraph (b). No change has been made in the required information.

Financial information. This data is required by § 1111.5.

In § 1111.5(a) information is required for all transactions. This includes the valuation of property and securities issued, along with a description of encumbered property.

In § 1111.5(b) additional financial data is required for *major* transactions. This includes a balance sheet, *pro forma* balance sheet, income statement, *pro forma* income statement, and a sources and application of funds statement. The *pro forma* balance sheet, *pro forma* income statement, and sources and application of funds statement have been changed from the Old Consolidation Procedures to reflect the length of time, at least 3 years, necessary to implement the operating plan.

In addition to the information required in § 1111.5(a) for all transactions, *minor* transactions require a balance sheet and income statement pursuant to § 1111.5(c).

Procedures. The Proposed Consolidation Procedures have refined and clarified the procedures to be followed in filing, prosecuting, and opposing a proposed transaction. This information is contained in § 1111.6.

Paragraph (a) establishes general requirements for all transactions. These include promptly furnishing any document filed with the Commission, including applications, pleadings, etc., to interested persons on request, unless subject to a protective order. We have also indicated the Commission will prepare and serve a service list 55 days after the application has been accepted. For *major* transactions the original and 20 copies of all documents shall be filed, while the original and 10 copies shall be filed in *minor* transactions. In order to handle expeditiously the documents filed in these proceedings each party much choose a unique four-letter acronym for itself. Having chosen the acronym, the party shall then consecutively number each document filed, prefixed by its acronym.

Paragraph (b) requires a prospective *major* transaction applicant to notify the Commission between 3 to 6 months before the application is filed. Any prospective party, along with the Commission, will then be advised of the prospective transaction. Once the Commission has received the notice, a

notice will be published in the Federal Register briefly describing the transaction, indicating the traffic study year, indicating the approximate filing date of the application, and indicating if it is actually a *major* transaction.

The actual filing of the application is governed by paragraph (c). The filing fee for the original application is \$700. There is no filing fee for a directly related application, or for a responsive application (e.g., a petition for inclusion, an inconsistent application, or any other responsive application). The filing requirements under (c)(2) have only been changed from the Old Consolidation Procedures in (c)(2)(vii). There, an exception to filing a required exhibit has been made for carload interchange data and the traffic study SMS.

Paragraph (c)(3) requires all direct testimony by applicants to be submitted in the form of verified statements concurrently with an application proposing a *major* transaction. Any application responsive to an application proposing a *major* transaction must also contain all direct testimony in the form of verified statements supporting the responsive application.

Paragraph (c)(4) provides for the application or exhibits to be considered part of the evidentiary record, subject to motions to strike.

Paragraph (c)(5) requires the application to be served on certain States, the United States Department of Transportation, the United States Attorney General, the Federal Trade Commission, and certain other railroads. Additionally, a copy of applications filed under 11346, must also be served on the Secretary of Labor. Other carriers must initially be served a copy of the application in a *major* transaction.

Paragraph (c)(6) contains the requirements for an application's format. The information must be presented in the application in the same sequence as the Proposed Consolidation Procedures. Appendices should be used where possible. Colored covers for each volume, if more than one volume is filed, and pages numbered beginning with one in each volume must be used. An informal interpretation of necessary information or format for the application may be obtained, until further notice, from the Commission from the Deputy Director, Section of Finance, of the Office of Proceedings under (c)(6)(iii). The acceptance or rejection of the application is governed by (c)(7). Only a complete application will be accepted.

The procedures for responding to an application are set out in (d).

One response may be written comments. The Proposed Consolidation

Procedures set out when the comments must be filed, on whom they must be served, and what they must contain. Special information must be included by a railroad filing a written comment. This information is contained in (d)(1)(iii)(H) and consists of (1) preferential solicitation agreements, (2) run through train operations, and (3) initial protective conditions. Additionally, a person filing written comments is considered a party of record and need not file a petition to intervene to become a party.

Other special responses include (1) a final list of protective conditions, filed within 75 days of the application's acceptance (Paragraph (d)(3)), (2) all responsive applications filed within 90 days of the application's acceptance ((d)(4)) and (3) protestant traffic studies (only in *major* cases), filed within 90 days of the application's acceptance.

Paragraph (e) describes the information the Commission may consider in setting a proceeding for oral hearing.

Paragraph (f) discusses requirements for filing a petition for waiver or clarification. It must be filed at least 45 days prior to filing an application. No replies will be allowed, except in exceptional instances where the parties are parties to a currently pending related transaction. Waivers will apply to all other parties to a proceeding. The entire Commission will decide all requests for waiver. A petition for waiver must specify the portion of the Proposed Consolidation Procedures sought to be waived, along with the reason supporting waiver.

The notice of exemption is governed by paragraph (g). It must be filed with the Commission when the transaction is consummated and include certain information. The Commission will publish a notice in the Federal Register within 30 days, indicating that the exempt transaction has taken place. In the event the Commission discovers false or misleading information in the notice, it will summarily revoke the exemption for that carrier, and require the carrier to divest.

In the Old Consolidation Procedures the Commission developed special procedures for any application filed under 49 U.S.C. 11346. These special procedures have been adopted in paragraph (h) without any substantive change.

Section 1111.7 defines the terms applicant, applicant carriers, major market extension, railroad, transferee, and transferor.

The General Policy Statement contained in § 1111.10 has not been altered.

Appendix A of the Proposed Consolidation Procedures contains the format to be followed in compiling exhibit 18 describing the revenue carload interchange. Appendix A retains the same format used for exhibit A-13 in the Old Consolidation Procedures.

Appendix B contains the format for exhibit 19. This exhibit concerns itself with revenue carload interchange in state-to-state movements by gateway. This format is the same as used in exhibit A-14 of the Old Consolidation Procedures.

Appendix C contains the Study Movement Sheet (SMS) format for use in exhibit 25, the Traffic study. The SMS was developed to contain all data we believe necessary to be considered in making a judgement as to the divertibility of traffic. We also believe that format will reduce the paper required to prepare the Traffic study. One sheet is sufficient to present all necessary information.

Index I of the Proposed Consolidation Procedures numerically lists all exhibits. Listed with the exhibit numbers are the corresponding names and sections of the Proposed Consolidation Procedures. Additionally, the application type for each exhibit is also listed.

Index II of the Proposed Consolidation Procedures consists of a table of contents detailing the information contained in the Proposed Consolidation Procedures. The contents are in section sequence with a descriptive title. Additionally, any exhibit contained in a section is listed. The type of application corresponding to a section of the Proposed Consolidation Procedures is also listed.

We request comments on the general format of the Proposed Consolidation Procedures. Additionally, we request comments on the individual sections which have been altered.

Comments on the definitions of *major*, *minor*, and *exempt* transactions are solicited. In addition, we also request comments on the information required for each type of application.

The other major change in the Old Consolidation Procedures has been with respect to procedural matters. We solicit comments on all procedural aspects, particularly the new time requirements, the pre-filing notification requirements, and the waiver petition requirements.

The Commission invites all interested persons to participate in this proceeding. The original and 20 copies of written facts, views, and arguments concerning the proposal detailed in this notice shall be submitted. It should be noted that the Proposed Consolidation Procedures may be modified by the comments we receive.

This proceeding does not appear to be a major Federal action significantly affecting energy consumption or the quality of the human environment.

Issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 11343-11348.

Decided: October 19, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Vice Chairman Stafford absent and not participating.

Agatha L. Mergenovich, Secretary.

Accordingly, it is proposed to amend 49 CFR by revising Part 1111 to read as follows:

PART 1111—PROCEDURES FOR RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION, COORDINATION PROJECT, TRACKAGE RIGHTS, LEASE, ETC., PROCEEDINGS

Sec.

1111.0 Preamble.

1111.1 Types of transactions.

1111.2 Identifying information.

1111.3 Traffic data.

1111.4 Operational data.

1111.5 Financial information.

1111.6 Procedures.

1111.7 Definitions.

1111.8 Reserved.

1111.9 Reserved.

1111.10 General Policy Statement.

Authority: 5 U.S.C. 553 and 49 U.S.C. 11343-11348.

§ 1111.0 Preamble.

(a) These regulations set out the information to be filed, and the procedures to be followed in control, merger, acquisition, lease, trackage rights, coordination project and any other consolidation transaction involving more than one railroad initiated under 49 U.S.C. 11344 or 11346. There are three types of transactions, *major*, *minor*, and *exempt*, which are identified in § 1111.1. There are different informational requirements for each type of transaction. Before an application is filed, the designation or type of transaction may be clarified or certain of the information required may be waived upon petition to the Commission. This is detailed in § 1111.6. The required contents of the application are set out in §§ 1111.2. through 1111.5. Information concerning the identity of applicant carriers and the transaction is in § 1111.2, competitive and traffic information is in § 1111.3, operational information is in § 1111.4, and financial data is in § 1111.5.

(b) Procedures, including time limits, filing requirements, participation requirements, and other matters are contained in § 1111.6.

(c) Definitions of the terms applicant, applicant carriers, major market extension, railroad, transferee, and transferor are contained in § 1111.7.

(d) Index number 1 lists all exhibits by number, name, and section, and references the type of application for which the exhibit is required. Index 2 is a table of contents.

(e) All applications must comply with the Commission's general procedural rules, unless otherwise specified. These rules are found in the I.C.C. *General Rules of Practice*, 49 CFR Part 1100.

(f) The information required for a *major* application is contained in §§ 1111.2, 1111.3, 1111.4(a), and 1111.5(a-b). The information required for a *minor* application is contained in §§ 1111.2(a), 1111.4(b), and 1111.5(a and c).

(g) If certain information required is not applicable, provide an explanation.

§ 1111.1 Types of transactions.

Transactions proposed under 49 U.S.C. 11344 and 11346 involving more than one common carrier by railroad are of three types: *major*, *minor*, and *exempt*.

(a) A *major* transaction includes:

(1) Control, merger, or consolidation transactions, or

(2) A major market extension resulting from

(i) Acquisition;

(ii) Lease;

(iii) Partial purchase;

(iv) Purchase;

(v) Trackage rights.

A *major* transaction must involve one or more Class I or Class II railroads, acting together with one or more other Class I or Class II railroads.

(b) A *minor* transaction is one which involves more than one railroad and which is not a *major* or *exempt* transaction.

(c) An *exempt* transaction involves more than one railroad where prior Commission review and approval (1) is not necessary to carry out the transportation policy of 49 U.S.C. 10101, (2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce, and (3) would serve little or no useful public purpose. See 49 U.S.C. 10505. The following transactions are exempt:

(i) Acquisition of a line of railroad where the public convenience and necessity have been found to permit abandonment.

(ii) Acquisition of a non-connecting carrier where (A) the railroads would not connect with each other or any railroads in their corporate family, (B) the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or

any railroad in their corporate family, and (C) the transaction does not involve a Class I carrier.

(iii) Transactions within a corporate family that do not result in operational changes or affect the competitive balance with carriers outside the corporate family.

(iv) Renewal of leases or trackage rights contracts and any other matters, where the Commission has previously authorized the transaction, and only an extension in time is involved.

(v) Joint projects involving the relocation of a line of railroad which does not disrupt service to shippers.

(vi) Reincorporation in a different State.

(vii) If no railroad files timely written comments indicating an intent to file an inconsistent application, petition for inclusion or any other relief requiring an application before the Commission, the transaction is exempt from the filing of those applications, and no relief under 49 U.S.C. 11344(b)(2) or 11345(c) may be sought.

§ 1111.2 Identifying information.

(a) All applications filed under 49 U.S.C. 11344 or 11346 shall show in the title, the names of the applicants and the nature of the proposed transaction. Beneath the title indicate the name, title, business address, and telephone number of the person(s) to whom correspondence with respect to the application should be addressed. The following information shall be included in all applications seriatim:

(1) *Summary*. A brief narrative description of the proposed transaction shall serve as an introduction to the application. It shall include appropriate references to supporting exhibits and statements in the application and shall generally discuss the following matters:

(i) A brief summary of the proposed transaction including the name of applicant, and applicant carriers.

(ii) The proposed time schedule for consummation of the proposed transaction.

(iii) The purposes sought to be accomplished by the proposed transaction, e.g., operating economies, elimination of excess facilities, extension of markets, improved financial viability.

(iv) The nature and amount of any new securities or other financial arrangements.

(v) A brief summary of the applicant's public interest justifications in support of the application indicating how the proposed transaction is consistent with the public interest, with particular regard to:

(A) The financial consideration involved in the proposed transaction, including an explanation of economies, if any, to be effected in operations, and increases, if any, in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction.

(B) The effect of the proposed transaction upon adequate rail and other transportation services to the public.

(C) The effect of the increase, if any, of total fixed charges resulting from the proposed transaction.

(D) The effect of any guaranty or assumption of payment of dividends or fixed charges contemplated in the proposed transaction.

(E) The effect of the proposed transaction upon applicant carriers' employees.

(F) The effect of the inclusion or the failure to include, other railroads in the territory involved in proposed transaction under 49 U.S.C. 11344.

(vi) Any other supporting or descriptive statements applicant deems material.

(vii) An opinion of counsel of applicant that the transaction described in the application meets the requirements of the law and will be legally authorized and valid, if approved by the Commission with specific reference to any specifically pertinent provisions of applicant's charter or articles of incorporation.¹

(2) *Identification of applicant carriers.*

(i) Indicate the full and correct name of each applicant carrier and business address (street and number, city, State, and zip code).

(ii) Indicate the State or States in which any part of the property of each applicant carrier is situated.

(iii) *Map (Exhibit 1).* Submit a general or key map indicating clearly, in separate colors, or otherwise, the line or lines of applicant carriers in their true relation to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the maps accompanying each application, three unbound copies of the map shall be filed with the Commission.

(3) *Explanation of the transaction.*

¹ In a control transaction, or in the case of an inconsistent application, petition for inclusion, or other relief requiring that an application be filed with the Commission, an opinion of counsel is not required for the party sought to be controlled, or for the party against whom relief is sought.

(i) Described the nature of the transaction (e.g., merger, control, coordination project, trackage rights), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).

(ii) *Agreement (Exhibit 2).* Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the transaction covered by the application.²

(iii) If a consolidation or merger is proposed, indicate (A) the name of the company resulting from the consolidation or merger, (B) the State or territory under the laws of which the consolidated company is to be formed or the merged company is to file its certificate of amendment, (C) the capitalization proposed for the company resulting from the consolidation or merger, and (D) the amount and character of capital stock and other securities to be issued.³

(iv) *Court order (Exhibit 3).* If a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, submit a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action.

(v) State whether the property involved in the proposed transaction includes all the property of the applicant carriers and, if not, describe what property is included in the proposed transaction.

(vi) Briefly describe the principal routes and terminals of the lines involved, the principal points of interchange on the routes, and the amount of main line mileage and branch line mileage involved.

(vii) State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.

(viii) *Labor impact (Exhibit 4).* Furnish the following information with respect to impacts on railway labor:

(A) A copy of any agreement or agreements with employee organizations entered into as a result of the proposed transaction.

(B) For all personnel covered by pension plans supplemental to the Railroad Retirement Act, a list of the pension plans currently in effect, indicating whether or not they are funded, the extent of any unfunded liability, and the time required to bring the plans to a fully funded level.

² Where an inconsistent application, petition for inclusion, or any other type of application is filed seeking affirmative relief, a final signed contract or agreement need not be filed. However, a draft contract or agreement spelling out its significant terms should be submitted.

(C) The number, location, craft or class and classification of all positions of the applicant carriers which under the proposed transaction are to be abolished, consolidated, created or transferred (including the point or points from and to which positions will be transferred).

(D) For each of the changes specified in item (c), the cost and savings to the railroad(s) in effectuating such changes, listed for each of the 3 years following consummation of the proposed transaction and the amount by craft or class and classification to which such costs and/or savings will be attributed.

(E) The date or dates on which each job abolishment, transfer, consolidation, or creation set forth under item (C) above is to be effectuated and a statement as to whether or not implementing agreements have been negotiated with appropriate labor organizations with respect to such proposed changes.

(F) The annual net change in employment for applicant carriers by craft or class and classification for the last 6 years preceding the filing of the application.

(ix) *Environment data (Exhibit 5).* Submit information and data with respect to environmental matters prepared in accordance with the ICC *Revised Guidelines for Implementation of the National Environmental Policy Act of 1969*, 49 CFR Part 1108.

(x) *Energy data (Exhibit 6).* Submit information and data with respect to energy consumption prepared in accordance with the ICC *Implementation of the Energy Policy and Conservation Act of 1975*, 49 CFR Part 1108.

(b) In addition to the following information shall be provided only for all major transactions.

(1) *Identification of applicant.* (i) If applicant is a corporation:

(A) Date of incorporation³ and Government, State, or territory of incorporation.

(B) Name and business address of directors.

(C) Name, title and business address of officers.

(D) Name and business address of 10 principal stockholders as of last record date and their respective holdings.

(E) Charter (Exhibit 7). One copy each of the charter or articles of incorporation, and the bylaws and amendments thereof, of each applicant,

³ If the applicant is incorporated or organized under the laws of, or authorized to operate in, more than one State, territory, or Federal district, give all pertinent facts as to such incorporations, organization, or authorization.

duly certified by the appropriate public officer.

(ii) If applicant is a partnership indicate:

(A) Date on which partnership was formed, and State and county in which it was formed.

(B) Name and business address of all present partners, including limited or silent partners and their respective interests.

(C) Partnership articles (Exhibit 8). A properly authenticated copy of the articles of partnership, if any.

(iii) If applicant is an association or other form of organization, other than a corporation indicate:

(A) Date of organization and place of organization.

(B) Full description of the nature and objectives of the organization.

(C) Name, title, and business address of officers and directors, or trustees.

(D) Name and business address of applicant's 10 principal stockholders or owners.

(E) Documents of association (Exhibit 9). A properly authenticated copy of articles of association, trust agreement, or other similar documents.

(iv) If applicant is a trustee, receiver, assignee, or a personal representative of the real party in interest, provide:

(A) The name and address of the court, if any, under the direction of which applicant is acting.

(B) The nature of the proceedings, if any, in which applicant was appointed.

(C) With respect to the real party in interest, indicate its full and correct name, business address (street and number, city, State, and zip code), type of entity, and its carrier status.

(D) Court appointment (Exhibit 10). A properly authenticated copy of the order of the court or instrument appointing each trustee, receiver, assignee, or personal representative which is a party to the transaction.

(v) Other authorizing document (Exhibit 11). If paragraphs (i), (ii), (iii), and (iv) are not applicable, indicate identity, structure, statutory or charter powers of applicant, and submit appropriate organizational or authorizing documents, or indicate why none is available or necessary.

(vi) *Corporate chart (Exhibit 12).* Submit a corporate chart indicating all relationships between applicant carriers and all affiliates and subsidiaries and also companies controlling applicant carriers directly, indirectly or through another entity (each chart shall indicate the percentage ownership of every company on the chart by any other company on the chart). For each company include a statement indicating (A) any common officers or directors for

every entity on the chart (with reference to the commission decision by docket number and date authorizing the holding of such positions, or an explanation of why such authorization was not required) and (B) whether each company is a non-carrier or carrier (by railroad, motor, or water, including any Commission certificate or permit number, and the docket number of any proceeding pending before the Commission). Such information may be referenced through notes to the chart.

(vii) If applicant is not a carrier, indicate (A) the type of business in which it is engaged, (B) the length of time so engaged, and (C) the particulars of its present and prospective activities which have or may have a relation to transportation subject to 49 U.S.C. Subtitle IV.

(viii) Indicate whether there are any direct or indirect intercorporate or financial relationships at the time the application is filed, not disclosed in response to prior instructions, through holding companies, ownership of securities, or otherwise, between (A) applicant carriers and any carrier or person affiliated with any carrier or (B) a person affiliated with applicant carriers and any carrier or person affiliated with any other carrier.

Indicate the nature and extent of such relationships, if they exist, and, if an applicant carrier owns securities of a carrier subject to, 49 U.S.C. Subtitle IV, provide the carrier's name a description of securities, par value of each class of securities held, and the applicant carriers' percentage of total ownership.

(ix) State the amount of each applicant carriers' outstanding capital stock, by classes, and in connection therewith the par value or stated value of each share, its voting rights, if any, the total number of stockholders of record, and the voting rights of all security holders.

(x) *Annual reports (Exhibit 13).* Submit a properly authenticated copy of the annual report, if any, to stockholders or shareholders for each of the two calendar or fiscal years preceding the filing of the application.

(2) *Explanation of the transaction* (i) *Filing resolutions (Exhibit 14).* Submit a copy of all resolutions of directors of each applicant,⁴ authenticated by a proper executive officer, authorizing (A) the proposed transaction and (B) where applicable, the filing of the application with the Commission for its approval

⁴ In a control transaction, or in the case of an inconsistent application, petition for inclusion, or other relief requiring that an application be filed with the Commission, resolutions are not required for the party sought to be controlled, or for the party against whom relief is sought.

and authorization. If the charter or bylaws of the applicant require approval of the stockholders, submit a copy of the resolution of stockholders authorizing the proposed transaction and the filing of the application. All resolutions are to be accompanied by sufficient transcripts of the minutes of meetings of the directors or stockholders of the applicant to show the number of shares entitled to vote, the number of shares voted for and against the resolutions, and the numbers of shares/votes required to adopt the resolution.

(ii) *Executing resolutions (Exhibit 15).* Submit a copy of all resolutions of stockholders or directors of the applicant,⁵ or duly authorized committee thereof, authenticated by a proper executive officer of the applicant, designating by name and for that purpose the executive officer by whom the application is signed and verified, and filed on behalf of the applicant. For purposes of exhibits 14 and 15, in the event the resolutions of stockholders have not been obtained at the time the application is filed then such resolutions shall be obtained as soon as feasible, but not later than the next regularly scheduled stockholders' meeting. A copy of such resolutions shall be filed with the commission within 30 days following such meeting.

(iii) Other evidence of authorization (Exhibit 16). If the applicant is an organization other than a corporation, submit documentary evidence showing authorization and designation of the individual or individuals signing, verifying, and filing on behalf of the applicant.⁶

§ 1111.3 Traffic data.

The information required in this section should only be filed as part of an application proposing a major transaction.

(a) *Density charts (Exhibit 17).* Gross ton-mile traffic density charts shall be filed for applicant carriers containing a map graphically showing principal lines (those handling 1 million gross ton-miles or more per year) and respective densities, expressed in gross ton-miles per year, in each direction, in segments of such lines between major freight yards and terminals, including major

⁵ In a control transaction, or where an inconsistent application, petition for inclusion, or other relief requiring that an application be filed with the commission, resolutions are not required for the party sought to be controlled, or for the party against whom relief is sought.

⁶ In a control transaction, or where an inconsistent application, petition for inclusion, or other relief requiring that an application be filed with the Commission, resolutions are not required for the party sought to be controlled, or for the party against whom relief is sought.

intramodal and intermodal interchange points, using the corporate or political subdivision name of the points shown as well as the railroad station name. The mileage of each segment of line shall be provided, and should be shown on the chart. Data shown in the density chart shall be for the latest available full calendar year preceding the filing of the application.

(b) *Carload interchange data (Exhibition 18)*. Revenue carload interchange data between applicant carriers and connecting line-haul rail carriers or water carriers (deleting intermediate switching railroads, if any) shall be in a table setting forth the gateway involved, each connecting line-haul railroad or water carrier, and for each connecting railroad or water carrier the number of interchange carloads originating on applicant carriers' lines, the number of interchange carloads terminating on applicant carrier's line, the overhead traffic delivered or received by applicant carriers, and a separate total of overhead traffic and the total cars interchanged. Gateways to be listed shall be those handling 5,000 or more revenue carloads or 5 percent of total revenue carloads annually, whichever is smaller. Where two or more gateways are contiguous or nearly contiguous, they should be totaled (as examples, Dallas-Fort Worth, Minneapolis-St. Paul, Omaha-Council Bluffs, et cetera). If necessary, such grouped gateways may also be shown separately in supporting tables. Data shown in Exhibit 18 shall be for the latest available full calendar year preceding the filing of the application. It shall be organized as shown in the table in Appendix A. *State-to-State data (Exhibit 19)*. In a separate table for each of the gateways listed in Exhibit 18 described above, there shall be shown, for each connecting carrier, the origin State, and the destination State and the revenue carloads interchanged. Movements of less than 100 cars per year per connecting carrier need not be included in Exhibit 19. Exhibit 19 shall be organized in the format of the table in Appendix B.

(c) *Carload origin and destination (Exhibition 20)*. An exhibit containing revenue carload origin and destination data for the latest available full calendar year preceding the filing of the application, shall list the following:

(1) Points of origin of 5,000 or more revenue carloads or 5 percent or more of applicant carriers' total originated revenue carloads annually, whichever is smaller, broken down to show

originations of local and interline carloads for each point, and

(2) Points of destination of 5,000 or more revenue carloads, or 5 percent or more of applicant carriers' total terminated revenue carloads annually, whichever is smaller, broken down to show terminations of local and interline carloads for each point. This data shall include all of applicant carriers' carloads at each point originated or terminated, as the case may be, by a line-haul, terminal, or switching railroad or by a motor carrier performing pickup or delivery service, except where such information would identify a specific shipper(s) or a specific receiver(s).

(d) *Freight car fleet (Exhibit 21)*. A summary table shall show the freight car fleet cars owned and leased by applicant carriers indicating by year for the first, fifth, and tenth years preceding the filing of the application, the number of box, flat (including rack cars), gondola, open hopper, covered hopper, refrigerator, miscellaneous, and total number of cars owned and leased, and the aggregate capacity of these cars.

(e) *Revenue freight traffic (Exhibit 22)*. A table shall show the applicant carriers' revenue freight traffic, indicating by year, for the first, fifth and tenth years preceding the filing of the application, (1) the number of local, interline originated, interline terminated, overhead, and total carloads, (2) total revenue tons, (3) revenue ton-miles, and (4) total freight revenue.

(f) *Commodity revenue (Exhibit 23)*. A table shall show commodity group revenue (at the two-digit level of the STCC) for the 5 largest revenue producing commodity groups as a percentage of total revenue for the first, fifth and tenth year preceding the filing of the application, indicating for each year the 5 largest commodity groups, the revenues attributable to each group and the percentage of that group's revenue as it relates to total revenue.

(g) *Commodity tonnage (Exhibit 24)*. For the commodity groups shown in the table required in F above, a table shall show commodity group tonnage as a percentage of total tonnage, for the first, fifth, and tenth years preceding the filing of the application, indicating by year the various commodity groups, the tonnage attributable to each group and the percentage of that group's tonnage as it relates to total tonnage.

Note.—For each of items (d)–(g), above, separate tables should be prepared covering, where appropriate, similar data for class I railroad subsidiaries and for predecessor railroads, if any, in existence during the first, fifth or tenth years preceding the filing of the application. In addition, if applicant consummated a consolidation during this ten-

year period, similar data should also be shown for the first full calendar year of operation following consummation.

(h) *Traffic study (Exhibit 25)*. The traffic study shall be prepared to show the estimated gains (or losses) in traffic and revenue resulting from the proposed transaction for applicant carriers and affected railroads. The traffic study results for applicant carriers shall also serve as a basis for determining the changes in operations shown in Exhibit 27. Preparation of the traffic study shall be in conformity with the instructions that follow.

(1) The period covered by the traffic study shall be for the latest full calendar year⁷ for which data are available preceding the filing of the application. All other traffic studies filed by any party to the proceeding shall be based on the same calendar year, but need not use the same basis for the calendar year, as the traffic study accompanying the application and are subject to the rules for Exhibit 25.

(2) The railroad performing the traffic study must sample all of the traffic it handled in the study year with the following exceptions: (i) local traffic need not be sampled and (ii) in the case of applicant carriers, interline traffic handled only by applicant carriers in line-haul service need not be sampled unless the transaction involves only a portion of a railroad (e.g., a line purchase or trackage rights) or is desired for the purpose of developing the Proposed Operating Plan (Exhibit 27). The traffic study shall utilize probability sampling techniques and shall include a full explanation of the sample as described in "Guidelines for the Presentation of the Results of Sample Studies," February 1971, published by the Commission's Bureau of Economics, or any superseding publications. The sampling rate chosen should be large enough to produce a sufficiently small standard error to allow accurate estimates of revenue changes and small enough to be manageable in terms of the data evaluation requirements under (3), below. Once the sample has been obtained, movements in the sample considered to be irrelevant to the proposed transaction may be deleted. Printouts of information on the deleted movements sufficient to identify them must be maintained at the headquarters of the party making the study and be open to inspection by the Commission's staff and by other carriers which are parties to the proceedings and have a

⁷The basis for the calendar year shall be described, whether it is based on settlement date, movement date, accounting date, or any other date.

legitimate interest in such movements. The railroad performing the traffic study shall prepare and make available the complete information specified under (3) below, for the deleted movements at the request of the Commission's staff and parties to the proceeding having a legitimate interest in them.

(3) At a minimum, the evaluation of sample movements shall be based on the data listed in Appendix C. These data and any additional information relied upon for the evaluations shall be reproduced totally on Study Movement Sheets (SMS). An SMS shall be prepared for each sample movement whether or not a gain (or loss) has been determined. Documents, including but not limited to waybills, from which data have been extracted and placed on an SMS or considered in making a determination of divertibility, are considered work papers. Work papers are not to be filed with the application but must be made available, on request, to the Commission's staff and to parties to the proceeding having a legitimate interest in them.

The minimum data required are shown in Appendix C in the suggested format for a Study Movement Sheet. This format should be followed as closely as practicable (particularly the use of only one sheet). It is recognized that, in some instances, the data required above for the SMS may not be readily available. In those instances, the party performing the study must use its best efforts to obtain the data, e.g., in the case of overhead traffic, the waybill data may be obtained from the terminating carrier. When the required data cannot be obtained, a separate statement should be prepared describing the missing data and reference should be made to the SMS where the data were omitted.

(4) The traffic study shall include a separate statement showing all written instructions, if any, for determining the amount of gains (or losses). All instances where those instructions were not followed, but were subordinated to other, unwritten instructions, shall be clearly shown, together with reference in each instance to the appropriate SMS. The written instructions and the reasons for the deviation shall be stated.

(5) If specific percentages (less than 100%) are applied to represent the amount of gains (or losses) on movements, the criteria used to arrive at such percentages shall be stated precisely.

(6) The traffic study shall include a statement showing the name and title of (i) the person or persons making the initial determination of gains or losses, if any; (ii) the person or persons making

the final determinations; and (iii) the method used to resolve any conflicting determinations between the initial and final determinations. The final evaluator(s) shall submit a verified statement that he (they) personally evaluated all movements.

(7) Traffic study results—applicant carriers: The estimates of gains or losses in traffic and revenue shall be broken down separately for each connecting carrier as follows:

(i) Interline originated traffic by off-junction with connecting carrier.

(ii) Interline terminated traffic by on-junction with connecting carrier.

(iii) Overhead traffic by on-or-off junction with connecting carrier.

To the extent known, the gain or loss estimates for each non-connecting carrier participating in the movement under (i), (ii), and (iii) above, should be listed. The participating carriers in this instance are those which do not connect directly with applicant carriers, but which have a portion of the haul prior to or subsequent to the portion performed by the "connecting carrier."

(8) Traffic study results—non-applicant carriers: The gains (or losses) in traffic and revenue shall be broken down separately, showing gains from or losses to applicant carriers only, at each gateway with applicant carriers at which the gain or loss occurs, and classified as interline originated, interline terminated, or overhead movements to the non-applicant carrier performing the study. Local traffic gains or losses should be shown as a separate total.

(9) Traffic study summary—all carriers: A statement shall be prepared showing the gross revenue gains (or losses), the estimated cost of handling the gained or lost traffic, and the net revenue gain or loss thus derived, including a detailed description of the methods used to compute the estimated cost of handling the traffic.

(10) Under 49 U.S.C. 11910(a)(1), the disclosure of certain traffic information is prohibited without the consent of the shipper or consignee when "that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee. . . ."

(Emphasis added). The voluntary exchange of traffic data to prepare an application under 49 U.S.C. 11344 or 11346 is a proper disclosure which by itself would not constitute a violation of 49 U.S.C. 11910. Any misuse of that data, for purposes other than that for which it was obtained, would violate the statute.

(11) Non-rail traffic study (Exhibit 26). Traffic diversions from non-railroad

modes of transportation may be shown in a statement estimating gross revenue gains from other modes of transportation (on traffic in which applicant carriers do not presently participate) developed from any study (e.g., a market study) conducted by applicant carriers. Sufficient information about the study must be submitted with the application so that its validity can be evaluated. The filing of this study is within applicant's discretion.

§ 1111.4 Operational data.

(a) For major transactions: Operating plan (Exhibit 27). Submit a complete description of the proposed operating plan to be effectuated upon approval of the transaction. This shall provide data, projected at least 3 years, but not less than the time required to complete rehabilitation, upgrading or other major operational changes following consummation of the proposed transaction, describing the following aspects of the operating plan:

(1) The patterns of service on the properties, including the proposed principal routes, proposed consolidations of main-line operations, and anticipated traffic density and general categories of traffic on all main and secondary lines in the system.

(2) The basic operating and train blocking plan of the system, including the identification of system classification yards, and the anticipated workload of such yards, supported by a proposed blocking plan based on projected origin and destination traffic data.

(3) The location of existing shops and repair facilities, and identification of major installations to be discontinued, and a description of the system repair functions of each remaining facility.

(4) If commuter or other passenger services are operated over the lines of applicant carriers, detail any impacts anticipated on such services, including delays which may be occasioned because a line is scheduled to handle increased traffic due to route consolidations.

(5) The equipment requirements of the proposed system, including locomotives, rolling stock by type, and maintenance-of-way equipment; plans for acquisition and retirement of equipment; and projected improvements in equipment utilization, together with an explanation of the operating changes that will cause such improvements.

(6) The extent to which deferred maintenance or delayed capital improvements apply to any road or equipment properties involved, and the schedule for eliminating such deferrals. Also details of general system

rehabilitation, specific rehabilitation relating to the transaction, and upgrading plans including proposed yard and terminal modifications, together with an estimate of anticipated service improvements or operating economies associated with such projects.

(b) For minor transactions: *Operating plan-minor (Exhibit 28)*. Submit information and data, projected at least 3 years following the consummation of the proposed transaction, describing the following aspects of the operating plan:

(1) Any significant changes in patterns of service.

(2) Traffic level and density on lines proposed for joint operations.

(3) Impact on the use of yards or shop facilities and any necessary modifications to yards or terminals.

(4) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis.

(5) Operating economies, which include, but are not limited to estimated savings.

(6) Any associated discontinuances or abandonments.

§ 1111.5 Financial information.

(a) The following information shall be provided for all transactions:

(1) *Property values (Exhibit 29)*. Value of each of the properties involved in the proposed transaction as found by the Commission or, if such value has not been found by the Commission, then the fair market value of the properties as independently appraised for the purposes of the proposed transaction, and, separately, the net cost of additions and betterments made after the date of valuation or appraisal.

(2) *Securities value (Exhibit 30)*. The market value of any securities acquired or proposed to be acquired in consummating the proposed transaction or, if there is no ascertainable market value, the estimated value, giving the basis of the estimate.

(3) *Property encumbrance (Exhibit 31)*. If any of the property covered by the application is encumbered and applicant has agreed to assume obligation or liability in respect thereof.

(i) A description of the property encumbered.

(ii) Amount of encumbrance and full description thereof, including maturity, interest rate, and other terms and conditions.

(iii) Amount of encumbrance assumed or to be assumed by applicant.

(b) The following information shall be provided for all major transactions:

(1) *Balance sheets (Exhibit 32)*. General balance sheets,⁸ as appropriate, of the following:

(i) Transferee on a corporate entity basis.

(ii) Transferee's parent company on a corporate entity basis.

(iii) Each subsidiary of transferee on a corporate entity basis.

(iv) Transferee and subsidiaries on a consolidated basis.

(v) Transferor on a corporate entity basis.

(vi) Each subsidiary of transferor on a corporate entity basis.

(vii) Transferor and subsidiaries on a consolidated basis.

(2) *Pro forma balance sheets (Exhibit 33)*. Where the transaction involves a proceeding other than a control,⁹ submit a *pro forma* balance sheet statement giving effect to the proposed transaction for the year as of the date of the traffic study in Exhibit 25. The *pro forma* data shall be presented in columnar form showing (i) in the first column the balance sheet of transferee on a corporate entity basis, (ii) in the second column a balance sheet of transferor, on a corporate entity basis, (iii) in the third column *pro forma* adjustments and eliminations, and (iv) in the fourth column, transferee's balance sheet "giving effect" to consummation of the proposed transaction. Each adjustment and elimination shall be properly footnoted and fully explained. A *pro forma* balance sheet shall be submitted for the number of years following consummation necessary to effect the operating plan.

(3) *Income statements (Exhibit 34)*. Income statements,¹⁰ as appropriate, of the following:

(i) Transferee on a corporate entity basis.

⁸ All statements requested in (a-g) shall show the latest available data, not exceeding 6 months prior to the filing of the application.

⁹ Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The first column should show transferee's actual balance sheet on a corporate entity basis for the latest available 12-month period, the second column should show the adjustments necessitated by the purchase, and the third column is a compilation of the first two columns into a *pro forma* balance sheet.

The transferor shall file a balance sheet similar to the one filed by the transferee, with the second, column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferee or transferor is affected, a similar balance sheet shall be filed for each.

All adjustments to these balance sheets shall be supported in footnotes to the appropriate balance sheet.

¹⁰ All statements requested in items (a-g) are to be for each of the immediately preceding 3 calendar years, which may include, for the most recent calendar year, the months or quarters then available (preferably to the date of the balance sheet).

(ii) Transferee's parent company on a corporate entity basis.

(iii) Each of transferee's subsidiaries on a corporate entity basis.

(iv) Transferee and subsidiaries on a consolidated basis.

(v) Transferor on a corporate entity basis.

(vi) Each of transferor's subsidiaries on a corporate entity basis.

(vii) Transferor and subsidiaries on a consolidated basis.

(4) *Pro forma income statements (Exhibit 35)*. Where the transaction involves a proceeding other than a control,¹¹ submit a *pro forma* income statement showing transferee's estimate of revenues, expenses, and net income for at least each of the 3 years following consummation¹² of the transaction. The *pro forma* data shall be presented in columnar form, showing (i) in the first column transferee's actual income statement on a corporate entity basis for the year as of the date of the traffic study in Exhibit 25, (ii) in the second column a similar income statement for the transferor, (iii) in the third column forecasted adjustments to the combined revenues, expenses, and net income to reflect increases or decreases anticipated under the unified operation, and (iv) in the fourth column a compilation of the first three columns into a *pro forma* income statement. This information will be submitted for at least each of the three years following the proposed consummation of the transaction. The adjustments are to be supported by a statement explaining the basis used in determining the estimated changes in revenues, expenses, and net income appearing in the third column. Additionally, if the major financial advantage to be derived from the proposed transaction will not occur within the above-prescribed period, then applicant shall furnish additional information to reflect the number of

¹¹ Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The first column should show transferee's actual income statement on a corporate entity basis for the latest available 12-month period, the second column should show the adjustments necessitated by the purchase, and the third column is a compilation of the first two columns into a *pro forma* income statement.

The transferor shall file an income statement similar to the one filed by the transferee, with the second column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferee or transferor is affected, a similar statement shall be filed for each.

All adjustments to these income statements shall be supported in footnotes to the appropriate income statement.

¹² If the operating plan requires more than three years to be put into effect, the *pro forma* income statement shall be prepared for as many years as necessary to implement fully the operating plan.

years within which the financial advantages will be realized. The basis for all such data furnished shall be fully explained and supported.

(5) *Sources and application of funds (Exhibit 36)*. Transferor's and transferee's statement of sources and application of funds for the current year, and a forecast¹³ of source and application of funds for each carrier (if a merger or consolidation, the surviving or resulting corporation) for the year following consummation of the proposed transaction, and years necessary to effectuate the operating plan.¹⁴ The form and content of these statements should be constructed in accordance with schedule 240, "Statement of Changes in Financial Position" required in the most recently filed Annual Report R-1 for Class I Railroads.

(c) The following information shall be provided for all minor transactions:

(1) *Balance sheets-minor (Exhibit 37)*. General balance sheets for the latest calendar year for applicant and applicant's parent on a corporate entity basis.

(2) *Income statements-minor (Exhibit 38)*. Income statements for the latest calendar year for applicant and applicant's parent on a corporate entity basis.

§ 1111.6 Procedures.

(a) *General*. (1) Any document filed with the Commission, including applications, pleadings, etc., shall be promptly furnished to interested persons on request, unless subject to a protective order. At any time, the Commission may require the submission of additional copies of any document previously filed by any party to the proceeding.

(2) The Commission shall prepare and serve a service list on all persons who have indicated an interest in the proceeding 55 days after the application has been accepted. From time to time, this service list will be revised.

(3) The original and 20 copies of all documents shall be filed in *major* proceedings. The original and 10 copies shall be filed in *minor* proceedings.

(4) Each party to a proceeding shall choose a unique acronym of four letters or less for itself. It shall number each document filed in the proceeding consecutively, prefixed by its acronym.

(b) *Pre-filing notification*. (1) Between three to six months prior to the proposed

¹³ The forecast should reflect only changes anticipated to result from the proposed transaction. Forecasts are not required to reflect general economic conditions unrelated to the proposed transaction.

¹⁴ The *pro forma* balance sheets (Exhibit 33), *pro forma* income statements (Exhibit 35), and sources and application of funds (Exhibit 36) shall cover the same years.

filing of an application in a *major* proceeding, applicant shall file a notice with the Commission. The notice shall: (i) Briefly describe the transaction, (ii) Indicate the year to be used for the Traffic study,

(iii) Indicate the approximate filing date of the application, and

(iv) Indicate why the transaction is *major*.

(2) The Commission will publish a notice in the Federal Register within 30 days of the filing of the applicant's notice. The notice to be published shall contain:

(i) A brief description of the transaction,

(ii) The year to be used for the Traffic study,

(iii) The approximate filing date, and

(iv) A determination if the transaction is *major*.

(c) *Application*. (1) There is a \$700 filing fee to file an application with the Commission under these procedures (this may be referred to as the primary application to distinguish it from inconsistent, inclusion, or other directly related applications). There is no filing fee for a directly related application, or for a responsive application (e.g., a petition for inclusion, an inconsistent application, or any other application seeking affirmative relief).

(2) *Filing*. (i) The original of all applications shall be signed in ink by the applicant, if an individual; by all partners, if a partnership; and if a corporation, association, or other similar form of organization, by its president, or such other executive officer having knowledge of the matters therein contained and duly designated for that purpose by the applicant. Applications shall be made under oath and shall contain an appropriate certification (if a corporation, by its secretary) showing that the affiant is duly authorized to verify and file the application. Any person controlling an applicant shall also sign the application.

(ii) The application shall be filed with Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

(iii) Each copy of the application shall conform in all respects to the original and shall be complete in itself except that the signature in the copies may be stamped or typed and the notarial seal may be omitted. In like manner where certified copies of documents are filed with the original application, conformed copies thereof, showing certification in stamped or typewritten form, will be sufficient to accompany the additional copies of the application.

(iv) All applications required to be filed with the Commission or served on designated persons shall include all

exhibits, except as otherwise specifically noted.

(v) The applicant shall submit such additional information to support its application as the Commission may require.

(vi) Applicant shall file concurrently with applications under sections 11344 and 11348 all directly related applications, e.g., those seeking authority to construct or abandon rail lines, to issue securities, control motor carriers, obtain terminal operations, acquire trackage rights, etc.

(vii) Exceptions to required exhibits (A) The original and one copy of Exhibit 18 shall be filed with the Commission. Copies shall be maintained at applicants' headquarters for inspection by interested parties. Applicants must also file with the Commission one copy of a machine readable tape containing only the data shown in Exhibit 18. This tape will be returned to applicants when the Commission issues its decision, and no use of the tape will be made by the Commission other than for the purpose of adjudicating the application.

(B) The original and one copy of the SMS used in Exhibit 25 shall be filed with the Commission. Copies of the SMS need not be included as part of the exhibits to the copies of the application furnished to the Commission or served upon designated persons. A conformed copy of the SMS shall be maintained at the principal place of business of the carrier performing the study and shall be made available upon request to parties in the proceeding.

(viii) The application shall contain a certificate of service indicating that all persons designated in 1111.6(c)(5) have been served a copy of the application.

(3) In a *major* transaction, and in all responsive applications, all of the direct testimony of applicants in the form of verified statements, shall be filed and served with each application.

(4) The application and all exhibits shall be considered part of the evidentiary record upon acceptance. Any portion of an application, and exhibits will remain subject to motions to strike. However, no motion need be made to have the application and exhibits admitted to the evidentiary record.

If a major transaction is designated for oral hearing the presiding Administrative Law Judge shall have discretion in extraordinary circumstances to allow for the presentation of oral or written direct testimony not previously submitted with the application.

(5) *Service*. (i) The applicant shall serve a conformed copy of an

application filed under these procedures by first class mail upon:

(A) The Governor (or Executive Officer), Public Service Commission, and the Department of Transportation of each State in which any part of the properties of the applicant carriers involved in the proposed transaction is situated;

(B) The United States Secretary of Transportation (Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590), except where the Secretary is the proposing party;

(C) The Attorney General of the United States;

(D) The Federal Trade Commission; and

(E) In *major* transactions, all carriers listed in the Traffic study (Exhibit 25).

(ii) The applicant shall serve a conformed copy of an application filed under 49 U.S.C. 11346 by first class mail on the Secretary of Labor in addition to the parties in (5)(i) above.

(6) *Application format.* (i) The application shall be in the same sequence as the information is requested in these procedures, and shall be numbered to correspond to the numbering in the procedures.

(ii) If any material required in the application would lend itself to being placed in an appendix, this should be done. The appendix and application shall be tabulated and cross-referenced in an index for ease in locating and referring to the information. The appendices shall be in the same sequence as the information is required by the regulations. The application should be bound, and it may be bound in more than one volume. If an application is more than one volume, the cover of each volume should be in a different color. The pages in each volume should begin with 1, and shall be sequentially numbered.

(iii) If a question arises regarding an interpretation of the information or format to be included in the application, the party may contact the Commission for assistance.

(iv) All filing, service, or other requirements of these procedures must be complied with when filing the application. Copies of the application filed with the Commission shall be marked in red "Railroad Consolidation Application" on the transmittal envelope or package.

(7) Acceptance or rejection of an application. (i) The Commission shall accept a complete application no later than 30 days after the application is filed with the Commission by publishing a notice in the Federal Register. A

complete application contains all information for all applicant carriers required by these procedures, except as modified by advance waiver.

(ii) The Commission shall reject an incomplete application by serving a decision no later than 30 days after the application is filed with the Commission. The decision shall give specific reasons why the application was rejected, and specify where the application was incomplete. A revised application may be submitted, incorporating portions of the prior application by reference, and the Commission will determine whether the resubmitted application conforms with all prescribed regulations. The resubmission or refiling of an application shall be considered a *de novo* filing for the purpose of computation of the time periods, provided that the resubmitted application is accepted.

(d) *Response to application*—(1) *Written comments.*

(i) Written comments must be filed no later than 45 days after an application is accepted.

(ii) Written comments shall be concurrently served by first class mail on:

(A) The applicants (at each address given in the application).

(B) The United States Secretary of Transportation.

(C) The Attorney General of the United States, and

(D) All parties of record within 10 days of service of the service list by the Commission.

(iii) Written comments must contain:

(A) The docket number and title of the proceeding.

(B) The name and address of the commenting party.

(C) The name, address, and telephone number of the commenting party's representative upon whom service shall be made.

(D) The commenting party's position (in support, opposition, or undetermined).

(E) If the commenting party intends to participate formally in a proceeding or merely comment upon the proposal.

(F) If desired, a request for an oral hearing and supporting reasons.

(G) A list of all information sought to be discovered from applicant carriers.

(H) Railroads filing written comments must submit.

(1) Any existing preferential solicitation agreements.

(2) A list of all run through train operations.

(3) An initial list of specific protective conditions sought and whether the commenting railroad intends to file

inconsistent applications, petitions for inclusion, trackage rights, or any other affirmative relief requiring an application to be filed with the Commission, along with a description of the proposed transactions.

(I) An initial list of specific protective conditions sought by non-railroads.

(iv) All persons who file timely written comments shall be a party of record if they so indicate in their comments. In this event, no petition for leave to intervene need be filed.

(2) The Secretary of Transportation and Attorney General of the United States shall file written comments with the Commission within 60 days of the date of acceptance of the application. These comments shall contain the information in (d)(1)(iii). Copies of these comments shall be concurrently served by first class mail on:

(i) The applicants.

(ii) The parties to the proceeding who have filed written comments, and

(iii) The Attorney General of the United States or Secretary of Transportation (whichever applies).

(3) A second list of protective conditions shall be filed with the Commission within 75 days of acceptance of the application. It shall be concurrently served by first class mail on all parties of record. The second list of protective conditions shall modify the first list based upon changing conditions, such as protective conditions sought by other parties to the proceeding. Parties to the proceeding shall not be permitted to seek any protective conditions not contained in the second list of protective conditions. This does not preclude refinements in conditions sought particularly when stipulations to conditions are reached.

(4) All responsive applications shall be filed within 90 days after the primary application has been accepted. This includes inconsistent applications, petitions for inclusion, and any other affirmative relief that requires an application to be filed with the Commission (such as trackage rights, purchase, purchase of a portion, acquisition, extension, construction, operation, pooling, terminal operations, abandonment, etc.) These applications shall comply as fully as possible with any appropriate Commission regulations, and are presumed to be major market extensions. Any petition for waiver, clarification, or extension of time (of up to 90 days to complete the application) shall be filed no later than 45 days before the application is due to be filed. A petition seeking to rebut the presumption of a major market extension must also be filed at least 45 days in advance of the filing of the

application. Each responsive application filed and accepted (if required) is considered consolidated with the primary application.

(5) In order for a protestant to question the accuracy of diversion estimates, other than through cross-examination, it must prepare and file with the Commission a traffic study that complies with the requirements of § 1111.3(H). This traffic study must be filed within 90 days after the primary application is accepted.

(e) The Commission may order an oral public hearing or a hearing by written submissions. The determination may be made on the basis of written comments. Generally, designation will be made on the basis of indications of a need for hearing.

The Commission will conclude the oral hearing, hearing by written submission, or other evidentiary proceeding within 240 days following the date the application is accepted, except where the transaction involves the merger or control of more than one class I railroad, in which case the evidentiary hearing shall be concluded not more than 24 months following the date the application is accepted. The Commission will issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Secretary of Transportation may propose modifications to any transaction and shall have standing to appear before the Commission in support of any such proposed modification.

These time limits begin to run when the primary application is accepted. They apply to all consolidated cases.

(f) *Waiver or clarification.* (1) Upon petition of a prospective applicant, the Commission may waive or clarify a portion of these procedures. A petition to waive all of the procedures will not be entertained.

(2) Petitions for waiver or clarification must be filed a least 45 days before the application is filed.

(3) No replies to a petition for waiver will be permitted. An exception to this will be made where a proceeding involving the same parties and a related transaction is pending before us. In that case, the petition shall be served by first class mail on all parties to the pending proceeding, with a reply due within 10 days of service.¹⁵

(4) A waiver of clarification granted to any applicant in a proceeding shall apply to any other applicants filing directly related applications or responsive applications.

¹⁵ See *Itel Corp.—Control—Green Bay and W. R. Co.*, 354 ICC 232, 233 (1978).

(5) All petitions for waiver, clarification or extension shall be ruled upon by the *entire* Commission.

(6) A petition for waiver or clarification must specify the sections for which waiver or clarification is sought and give the specific reasons why each waiver or clarification is necessary.

(g) *Notice of exemption.* (1) In order to qualify for an exemption under § 1111.2(C), a railroad must file a notice of the transaction with the Commission on the day the transaction is consummated.

(2) The notice shall contain the information required in § 1111.2(a)(1)(i-iii), (2)i-iii, and (3)(i).

(3) The Commission shall publish a notice in the Federal Register within 30 days of the filing of the notice of exemption. If the notice of exemption contains false or misleading information which is brought to the Commission's attention, the Commission shall summarily revoke the exemption for that carrier and require divestiture.

(h) *Special procedures for applications filed under 49 U.S.C. 11346.*

(1) An applicant which has filed, or prepared for filing, a merger or consolidation proposal with the U.S. Department of Transportation pursuant to section 11346 may submit a copy of that proposal in partial satisfaction of the information requirements of the application.

An applicant following this course of action shall provide cross-references to the accompanying proposal indicating specifically those portions which contain the information required under each applicable section of the procedures.

(2) In initiating a transaction under 49 U.S.C. 11346, any railroad or the Secretary of Transportation may use the procedures, provided:

(i) The transaction involves a merger, consolidation, unification, or coordination project (as described in section 5(c) of the Department of Transportation Act), joint use of tracks or other facilities, or acquisition or sale of assets;

(ii) The transaction has been proposed (A) by the Secretary of Transportation, with the consent of the railroads which are parties to the transaction, or (B) by any railroad which, not less than 6 months prior to such submission to the Commission, submitted the proposed transaction to the Secretary of Transportation for evaluation pursuant to 49 U.S.C. 11346(3)(f); and

(iii) The application is filed on or before December 31, 1981. At the time an application is filed with the Commission

pursuant to 49 U.S.C. 11346, notice of the filing of the application shall be furnished to the Secretary of Transportation by the proposing party, except where the Secretary is the proposing party.

(3) *Report of the Secretary of Transportation.* The Secretary of Transportation shall submit a written report on the proposed transaction to the Commission, in accordance with 49 U.S.C. 11346(f)(v), within 10 days from the date of submission of an application to the Commission.

(4) Written comments shall comply with § 1111.6(d)(1), but must be filed within 30 days of the applications acceptance and must be served on the Secretary of Labor.

(5) *Public hearings.* The Commission shall commence a public hearing on each application filed under this section within 90 days after the date of receipt of the complete application. The hearing shall be held before a panel of the Commission duly designated by the Commission. The panel shall request the views of (i) the Secretary of Transportation, regarding the effect of the proposed transaction upon the national transportation policy as stated by the Secretary, (ii) the Attorney General, regarding the competitive or anticompetitive effects of the proposed transaction, and (iii) the Secretary of Labor, regarding the effects of the proposed transaction on railroad employees and whether the employee protective provisions contained in the proposal are adequate. Within 35 days after receipt of the request or within such other reasonable time as the panel may prescribe, the views of the three above-named persons shall be submitted to the Commission in a written report. At the same time that each such report of the Secretary of Transportation, the Attorney General, and the Secretary of Labor is submitted to the Commission, the persons submitting such report shall serve, by first-class mail a copy of the report upon all parties of record to the proceeding, and shall so certify to the Commission. The designated panel shall complete the public hearing within 180 days after the date of referral of an application to the panel, and the panel may, in order to meet the requirements of the statute, prescribe rules and make such rulings as may tend to avoid unnecessary cost or delay. The panel shall recommend a decision and certify the record to the full Commission for final decision within 90 days after the termination of the hearing. The full Commission shall hear oral argument on the matter so certified, and it shall render a final decision

within 120 days after receipt of the certified record and recommended decision of such panel. The Commission may, in its discretion, extend any time period set forth in this paragraph, except that the final decision of the Commission shall be rendered not later than the second anniversary of the date of receipt of such an application by the Commission.

§ 1111.7 Definitions.

(a) *Applicant.* The parties initiating a transaction (except where the Secretary of Transportation proposes a transaction under 11346).

(b) *Applicant carriers.* Applicant, all carriers related to the applicant, and all other carriers involved in the transaction.

(c) *Major market extension.* A major market extension includes an end-to-end extension of applicant carriers' routes and services and applicant carriers' participation in additional through routes or joint rates. A major market extension may also significantly increase competition by (1) extending service into a new market or (2) providing significantly more efficient and effective competitive service to a market presently being served. Criteria which can be used to determine if a railroad is proposing to provide a more competitive service to a currently served area include (i) whether or not a shorter route is involved, (ii) if the new route provides faster service, (iii) if this route extends into major markets, (iv) under what conditions the application is filed, and (v) if the route may make the railroad competitive.

See, *Burlington Northern, Inc.—Control & Merger—St. L.*, 354 ICC 616, 617 (1978).

(d) *Railroad.* Any common carrier by railroad as defined in 49 U.S.C. 10102 (17)–(18).

(e) *Transferee.* The transferee is:

- (1) The acquiring corporation in a control proceeding,
- (2) The surviving corporation in a merger,
- (3) The resulting corporation in a consolidation,
- (4) The lessee in a lease, and
- (5) The purchaser in an acquisition.

(f) *Transferor.* The transferor is:

- (1) The corporation acquired in a control proceeding,
- (2) The merging corporation in a merger,
- (3) All corporations to be consolidated in a consolidation,
- (4) The lessor in a lease, and
- (5) The seller in an acquisition.

§ 1111.8 [Reserved]

§ 1111.9 [Reserved]

§ 1111.10 General policy statement.

(a) *General.*—The Interstate Commerce Commission encourages the rationalization of railroad facilities and the reduction of excess rail capacity through private industry initiatives rather than active Government intervention. The Commission favors consolidations where operating efficiencies will be enhanced, essential rail services will be retained, and competition will not be unnecessarily diminished. The Commission also encourages other means of attaining these ends, including the joint use of rail facilities and the use of run-through trains. It does not favor rail industry restructuring through the exercise of managerial and financial control unless the controlling entity assumes full responsibility for carrying out the operating railroad's common carrier obligation to provide adequate service upon reasonable demand.

(b) *Consolidation criteria.*—The Commission's consideration of rail consolidation proposals is governed by the criteria prescribed in sections 11344 and 11346 of the Interstate Commerce Act and by the national transportation policy set forth in section 10101 of the act. In addition to the statutory criteria, the Commission will consider:

(1) *Whether essential rail services will continue* to be provided, either by the consolidating companies or by other railroads which may be affected by the consolidation ("essential services" include, but are not limited to, those required by the national defense and those shown necessary to achieve other established national goals, such as energy conservation and rural and community development);

(2) Whether opportunities to achieve operating efficiencies will be increased;

(3) Whether redundant facilities will be eliminated;

(4) Whether the ability of the consolidated system to attract new business will be enhanced;

(5) Whether the consolidated company will be financially viable;

(6) Whether effective inter- and intramodal competition will be maintained wherever economic realities make it possible; and

(7) Whether there will be any adverse impact on the environment of the region served.

(c) *Public interest considerations.*—Individual rail consolidation proposals may have a profound impact upon the national rail system. The Commission will examine each proposal in light of the significant public policy issues raised. In deciding whether to approve a railroad consolidation application the

Commission will examine the effect which the proposed consolidation would have on the total rail system and the needs of the users of rail service. Proposals which fail to take advantage of potential long-run efficiencies, or to provide for the utilization of the most efficient and best located rail facilities, may be denied as not being in the public interest, or approved only subject to conditions. The Commission interprets the public interest tests under sections 11344 and 11346 of the act to be the same.

(d) *Public participation.*—In an effort to assure a fully developed record on the impacts of a proposed railroad consolidation, the Commission will—

(1) Encourage participation in railroad consolidation proceedings by other Government departments and agencies, particularly those with direct responsibility for issues related to the Nation's defense needs, transportation policies, environmental and energy policies, rural and urban needs, employment policies, and business development;

(2) Encourage participation by State and local governments and regional and local planning bodies;

(3) Permit participation by interested persons;

(4) Assure that environmental and energy issues are adequately addressed; and

(5) Provide, if necessary, for the intervention of Commission staff to develop the record.

(e) *Inclusion of other carriers pursuant to section 11344(c).*—(1) The Commission believes that the railroad consolidation process should not be used as a means for preserving the systems of financially weak and marginal railroads or for protecting them from undergoing reorganization, if necessary, under the bankruptcy laws. The Commission is concerned with the preservation of service, not of companies or railroad systems, and will, therefore, use its powers to condition approval of a railroad consolidation upon the acceptance of inclusion of all or parts of other railroad systems only when it can be shown that there is no other reasonable alternative for preserving essential services; that the facilities to be included fit operationally into the new system; and that inclusion can be accomplished without endangering the operational or financial success of the new company. Application of these criteria will mean that requests for inclusion of an entire railroad system are less likely to be successful than those offering more limited, and clearly identified, facilities

for acquisition by the railroad consolidation partners.

(2) The Commission recognizes that a particular consolidation of strong carriers could worsen the condition of other railroads to the extent that they could not survive. In such a situation, the Commission will attempt to assess the impact of a particular carrier's being forced into reorganization or having to terminate service. If it appears that the end result of a proposed railroad consolidation would be the permanent cessation of essential services by some other railroad, the Commission may deny the consolidation application or condition its approval upon the willingness of the applicants to restructure their proposal.

(f) *Labor protection.*—The Commission encourages voluntary negotiation of labor protective conditions in individual rail consolidation proceedings. The Commission will, however, review negotiated agreements to assure that they provide adequate protection for railroad employees and do not jeopardize the future viability of the consolidated company. In the absence of a negotiated settlement, labor protective conditions will normally provide for protection at the level mandated by law, unless it is proven that more stringent protection is required to provide a fair and equitable arrangement to protect the interests of the railroad employees adversely affected.

(g) *Procedures.* (1) Generally the Commission will consider applications on an individual basis in order to expedite the proceeding and insure compliance with the statutory time limits. However, related applications by protestants seeking protection from the proposed consolidation will normally be consolidated with the primary application. Other related applications, such as those seeking inclusion or trackage rights, may also be consolidated. Other applications in the same geographic area may be consolidated when appropriate, if they are in similar procedural stages, have common parties, and involve potential cumulative and crossover effects on those parties.

(2) The Commission will not accept petitions for inclusion in proceedings governed by section 11346 of the act. If, however, the record in such a proceeding showed that a transaction would be in the public interest only if some or all of another carrier's system were included to preserve essential rail services, the Commission would consider conditioning its approval of the transaction on the inclusion.

(3) The Commission will accept applications for control under section 11346 of the act, in addition to the transactions specified in that section.

(h) *Expiration date.*—Unless previously extended by the Commission, this section expires (5 years from the date of publication in the Federal Register).

APPENDIX A.—Exhibit 18—Revenue Carloads Interchanged, Calendar Year

Gateway and connecting line-haul railroad or water carrier	Originated on applicant's line	Terminated on applicant's line	Applicant's revenue carloads			Total cars interchanged
			Overhead (bridge)		Total	
			Delivered by applicant	Received by applicant		
Point A:						
Carrier X.....	1,000	1,000	1,000	1,000	2,000	4,000
Carrier Y.....		50	6,000		6,000	6,050
Carrier Z.....	5,000	4,000				9,000
Total.....	6,000	5,050	7,000	1,000	8,000	19,050
Point B: Carrier M.....	2,000	4,000	1,000	100	1,100	7,100
Point C:						
Carrier R.....	1,000	500	500	500	1,000	2,500
Carrier X.....			5,000	5,000	10,000	10,000
Total.....	1,000	500	5,500	5,500	11,000	12,500

Appendix B.—Exhibit 19—Revenue Carloads Interchanged, State-to-State Movements, by Gateway, Calendar year

Connecting line-haul railroad or water carrier	Origin State ¹	Destination State ¹	Revenue carloads
	(Name) Gateway		
Carrier R.....	Alabama.....	New York.....	400
Do.....	do.....	Ohio.....	100

Appendix B.—Exhibit 19—Revenue Carloads Interchanged, State-to-State Movements, by Gateway, Calendar year—

Connecting line-haul railroad or water carrier	Origin State ¹	Destination State ¹	Revenue carloads
(Name) Gateway			
Do.....do.....	Pennsylvania.....		500
Do.....do.....	Vermont.....		500
Do.....do.....	Alabama.....		600
Do.....do.....	Georgia.....		400
Carrier X.....	Alabama.....	New Jersey.....	5,000
Do.....do.....	New York.....	Florida.....	2,500
Do.....do.....	do.....	Georgia.....	2,500

¹ Use either full State name or standard ZIP Code abbreviation.

Appendix C.—Study Movement Sheet

SMS No.	Stratum identity, if any:	Sequence No.	Car initial: Car No.: Car type: Commodity:
Waybill No.	Total freight revenue: \$	Study road revenue: \$	Weight:
Number of cars:	Study road revenue: \$	Study road accessorial charges: \$	TOFC ☐
Waybill or accounting date:			
Origin Data:			
Station:			
Switching arrangements:			COFC ☐
Open ☐ Closed ☐ Recip. ☐			
Team ☐			
Consignor:			
Carriers Serving:			Special equipment: Yes ☐ No ☐
Destination Data:			
Station:			
Switching arrangements:			Size or weight limitations: Yes ☐ No ☐
Open ☐ Closed ☐ Recip. ☐			
Team ☐			
Consignor:			
Carriers Serving:			
Present route (carriers and junctions to extent known):			
Routed by (if known):			Evaluation:
Carrier ☐ Consignee ☐			Gain ☐ Percent
Consignor ☐			Loss ☐ Percent
Were junctions specified?			No Change ☐
Yes ☐ No ☐ Unknown ☐			Amount of gain or loss:
Transit or other privileges (specify):			Sample basis: \$
Diverted route (carriers and junctions):			Expanded basis: \$
Other data (if any):			Reason(s) for evaluation (may be code-referenced if standardized):
			Initials of evaluator:
			(Delete if only one evaluator made the evaluation on all SMS in the study.)

¹ Show percent only if between 0 and 100.

Index I.—Exhibits

Exhibit number and name	Section	Type application
1 Map.....	1111.2(a)(2)(iii).....	All
2 Agreement.....	1111.2(a)(3)(ii).....	All
3 Court Order.....	1111.2(a)(3)(iv).....	All
4 Labor Impact.....	1111.2(a)(3)(viii).....	All
5 Environmental data.....	1111.2(a)(3)(x).....	All
6 Energy data.....	1111.2(a)(3)(x).....	All
7 Charter.....	1111.2(b)(1)(i)(E).....	Major.
8 Partnership articles.....	1111.2(b)(1)(i)(v).....	Major.
9 Documents of association.....	1111.2(b)(1)(ii)(E).....	Major.
10 Court appointment.....	1111.2(b)(1)(iv)(D).....	Major.
11 Other authorizing document.....	1111.2(b)(1)(iv).....	Major.
12 Corporate chart.....	1111.2(b)(1)(vi).....	Major.
13 Annual reports.....	1111.2(b)(1)(ix).....	Major.
14 Filing resolutions.....	1111.2(b)(2)(i).....	Major.
15 Executing resolutions.....	1111.2(b)(2)(ii).....	Major.
16 Other evidence of authorization.....	1111.2(b)(2)(iii).....	Major.
17 Density Charts.....	1111.3(a).....	Major.
18 Carload interchange data.....	1111.3(b).....	Major.
19 State-to-State data.....	1111.3(b).....	Major.
20 Carload origin and destination.....	1111.3(c).....	Major.
21 Freight car fleet.....	1111.3(d).....	Major.
22 Revenue freight traffic.....	1111.3(e).....	Major.
23 Commodity revenue.....	1111.3(f).....	Major.

Index I.—Exhibits—Continued

Exhibit number and name	Section	Type application
24 Commodity tonnage.....	1111.3(g).....	Major.
25 Traffic study.....	1111.3(h).....	Major.
26 Non-rail traffic study.....	1111.3(i)(1)(h)(1).....	Major.
27 Operating plan.....	1111.4(a).....	Major.
28 Operating plan—minor.....	1111.4(b).....	Major.
29 Property value.....	1111.5(a)(1).....	All.
30 Securities value.....	1111.5(a)(2).....	All.
31 Property encumbrance.....	1111.5(a)(3).....	All.
32 Balance sheets.....	1111.5(b)(1).....	Major.
33 Pro forma balance sheets.....	1111.5(b)(2).....	Major.
34 Income statements.....	1111.5(b)(3).....	Major.
35 Pro forma income statements.....	1111.5(b)(4).....	Major.
36 Sources and application of funds.....	1111.5(b)(5).....	Major.
37 Balance sheets—minor.....	1111.5(c)(1).....	Minor.
38 Income statements—minor.....	1111.5(c)(2).....	Minor.

Index II.—Table of Contents

Section	Exhibit	Application Type ¹
Number	Name	Number
1111.1.....	Types of Transactions.....	All
(a).....	Major.....	Major.
(b).....	Minor.....	Minor.
(c).....	Exempt.....	Exempt.
(c)(1).....	Acquisition—carrier.....	Exempt.
(c)(2).....	Acquisition—line.....	Exempt.
(c)(3).....	Within corporate family.....	Exempt.
(c)(4).....	Renewals.....	Exempt.
(c)(5).....	Relocations.....	Exempt.
(c)(6).....	Reincorporation.....	Exempt.
(c)(7).....	Responsive applications.....	Exempt.
1111.2.....	Identifying information.....	Exempt.
(a).....	All application.....	All.
(e)(1).....	Summary.....	All.
(e)(1)(i).....	Summary.....	All.
(e)(1)(ii).....	Time schedule.....	All.
(e)(1)(iii).....	Purposes.....	All.
(e)(1)(iv).....	Financial arrangements.....	All.
(e)(1)(v).....	Public interest.....	All.
(e)(1)(vi)(A).....	Financial consideration.....	All.
(e)(1)(vi)(B).....	Adequate service.....	All.
(e)(1)(vi)(C).....	Fixed charges.....	All.
(e)(1)(vi)(D).....	Guaranty.....	All.
(e)(1)(vi)(E).....	Employees.....	All.
(e)(1)(vi)(F).....	Inclusion.....	All.
(e)(1)(vi)(G).....	Other support.....	All.
(e)(1)(vii).....	Opinion of Counsel.....	All.
(e)(2).....	Identification of applicant.....	All.
(e)(2)(i).....	Name and address.....	All.
(e)(2)(ii).....	States.....	All.
(e)(2)(iii).....	Map.....	1 Map.....
(e)(3).....	Explanation of transaction.....	All.
(e)(3)(i).....	Nature of transaction.....	All.
(e)(3)(ii).....	Agreement.....	2 Agreement.....
(e)(3)(iii).....	Resulting merged company.....	All.
(e)(3)(iv).....	Court order.....	3 Court order.....
(e)(3)(v).....	Property involved.....	All.
(e)(3)(vi).....	Routes.....	All.
(e)(3)(vii).....	Governmental financial assistance.....	All.
(a)(3)(viii).....	Labor impact.....	4 Labor impact.....
(a)(3)(ix)(A).....	Agreements.....	All.
(a)(3)(ix)(B).....	Supplemental pension plans.....	All.
(a)(3)(ix)(C).....	Position changes.....	All.
(a)(3)(ix)(D).....	Cost and savings of changes.....	All.
(a)(3)(ix)(E).....	Date of changes.....	All.
(a)(3)(ix)(F).....	Annual net change.....	All.
(a)(3)(ix).....	Environmental data.....	5 Environmental data.....
(a)(3)(x).....	Energy data.....	6 Energy data.....
(b).....	Major transaction.....	Major.
(b)(1).....	Identification of applicant.....	Major.
(b)(1)(i).....	Corporation.....	Major.
(b)(1)(i)(A).....	Date of incorporation.....	Major.
(b)(1)(i)(B).....	Director.....	Major.
(b)(1)(i)(C).....	Officers.....	Major.
(b)(1)(i)(D).....	Principal stockholders.....	Major.
(b)(1)(i)(E).....	Charter.....	7 Charter.....
(b)(1)(ii).....	Partnership.....	Major.
(b)(1)(ii)(A).....	Date and place formed.....	Major.
(b)(1)(ii)(B).....	Address of partner.....	Major.
(b)(1)(ii)(C).....	Partnership articles.....	8 Partnership articles.....
(b)(1)(iii).....	Other association.....	Major.
(b)(1)(iii)(A).....	Date and place formed.....	Major.
(b)(1)(iii)(B).....	Nature.....	Major.

Index II.—Table of Contents—Continued

Section		Exhibit		Application Type ¹
Number	Name	Number	Name	
(b)(1)(iii)(C)	Officers			Major.
(b)(1)(iii)(D)	Principal owners			Major.
(b)(1)(iii)(C)	Documents of association	Documents of association ⁹		Major.
(b)(1)(iv)	Representative of real party in interest			Major.
(b)(1)(iv)(A)	Name of court			Major.
(b)(1)(iv)(B)	Nature of appointment			Major.
(b)(1)(iv)(C)	Real party in interest			Major.
(b)(1)(iv)(D)	Court appointment	Court appointment ¹⁰		Major.
(b)(1)(v)	Other authorizing document	11	Other authorizing document	Major.
(b)(1)(vi)	Corporate Chart	12	Corporate chart	Major.
(b)(1)(vii)	Noncarrier activities			Major.
(b)(1)(viii)	Other corporate relations			Major.
(b)(1)(ix)	Capital stock			Major.
(b)(1)(x)	Annual reports	13	Annual reports	Major.
(b)(2)	Explanation of the transaction			Major.
(b)(2)(i)	Filing resolution	14	Filing resolutions	Major.
(b)(2)(ii)	Executing resolutions	15	Executing resolutions	Major.
(b)(2)(iii)	Other evidence of authorization	16	Other evidence of authorization	Major.
1111.3	Traffic data			Major.
(a)	Density chart	17	Density chart	Major.
(b)	Carload interchange data	18	Carload interchange data	Major.
(c)	Carload origins and destinations	19	State-to-State data	Major.
(c)(1)	Origin	20	Car load origin or destination	Major.
(c)(2)	Destination			Major.
(d)	Freight car fleet	21	Freight car fleet	Major.
(e)	Revenue freight traffic	22	Revenue freight traffic	Major.
(f)	Commodity revenue	23	Commodity revenue	Major.
(g)	Commodity tonnage	24	Commodity tonnage	Major.
(h)	Traffic study	25	Traffic study	Major.
(h)(1)	Year			Major.
(h)(2)	Traffic included, probability sampling			Major.
(h)(3)	Data			Major.
(h)(4)	Written instructions			Major.
(h)(5)	Percentages			Major.
(h)(6)	Evaluators			Major.
(h)(7)	Results—applicant carriers			Major.
(h)(7)(i)	Interline originated			Major.
(h)(7)(ii)	Interline originated			Major.
(h)(7)(iii)	Overhead			Major.
(h)(8)	Results—nonapplicant carriers			Major.
(h)(9)	Summary			Major.
(h)(10)	Traffic information disclosure			Major.
(h)(11)	Nonrail traffic study	26	nonrail traffic study	Major.
1111.4	Operational data			Major.
(a)	Major transactions—operating plan	27	Operating plan	Major.
(a)(1)	Patterns of service			Major.
(a)(2)	Blocking plan			Major.
(a)(3)	Location of shops			Major.
(a)(4)	Passenger service			Major.
(a)(5)	Equipment requirements			Major.
(a)(6)	Condition of properties			Major.
(b)	Minor transaction—operating plan	28	Operating plan—minor	Minor.
(b)(1)	Pattern of service			Minor.
(b)(2)	Traffic level			Minor.
(b)(3)	Use of yards and shops			Minor.
(b)(4)	Passenger service			Minor.
(b)(5)	Operating economics			Minor.
(b)(6)	Abandonments			Minor.
1111.5	Financial information			Major.
(a)	All transactions			All.
(a)(1)	Property values	29	Property values	All.
(a)(2)	Securities value	30	Securities value	All.
(a)(3)	Property encumbrance	31	Property encumbrance	All.
(a)(3)(i)	Description			All.
(a)(3)(ii)	Amount			All.
(a)(3)(iii)	To be assumed			All.
(b)	Major transaction			Major.
(b)(1)	Balance sheets	32	Balance sheets	Major.
(b)(1)(i)	Transferee—entity			Major.
(b)(1)(ii)	Transferee parent—entity			Major.
(b)(1)(iii)	Transferee subsidiaries—entity			Major.
(b)(1)(iv)	Transferee and subsidiaries—consolidated			Major.
(b)(1)(v)	Transferor—entity			Major.
(b)(1)(vi)	Transferor subsidiaries—entity			Major.

Index II.—Table of Contents—Continued

Section		Exhibit		Application Type ¹
Number	Name	Number	Name	
(b)(1)(vii)	Transferor and subsidiaries—consolidated			Major.
(b)(2)	Pro forma balance sheets	33	Pro forma balance sheets	Major.
(b)(3)	Income statements	34	Income statement	Major.
(b)(3)(i)	Transferee—entity			Major.
(b)(3)(ii)	Transferee parent—entity			Major.
(b)(3)(iii)	Transferee subsidiaries—entity			Major.
(b)(3)(iv)	Transferee and subsidiaries—consolidated			Major.
(b)(3)(v)	Transferor—entity			Major.
(b)(3)(vi)	Transferor subsidiaries—entity			Major.
(b)(3)(vii)	Transferor and subsidiaries—consolidated			Major.
(b)(4)	Pro forma income statement	35	Pro forma income statements	Major.
(b)(5)	Sources and application of funds	36	Sources and application of funds	Major.
(c)	Minor			Minor.
(c)(1)	Balance sheets	37	Balance sheets	Minor.
(c)(2)	Income statements	38	Income statement—minor	Minor.
1111.6	Procedures			Major.
(a)	General			All.
(a)(1)	Furnishing documents			All.
(a)(2)	Service list			All.
(a)(3)	Copies filed			All.
(a)(4)	Acronym			All.
(b)	Prefiling notification			Major.
(b)(1)	Carrier action			Major.
(b)(1)(i)	Description			Major.
(b)(1)(ii)	Traffic study year			Major.
(b)(1)(iii)	Filing date			Major.
(b)(2)	Commission action			Major.
(b)(2)(i)	Description			Major.
(b)(2)(ii)	Traffic study year			Major.
(b)(2)(iii)	Filing date			Major.
(b)(2)(iv)	If major			Major.
(c)	Application			All.
(c)(1)	Filing fee			All.
(c)(2)	Filing			All.
(c)(2)(i)	Signed under oath			All.
(c)(2)(ii)	Filed with Secretary			All.
(c)(2)(iii)	Copies conform to origin			All.
(c)(2)(iv)	Include exhibits			All.
(c)(2)(v)	Additional information			All.
(c)(2)(vi)	Directly related applications			All.
(c)(2)(vii)	Exception to required exhibits			All.
(c)(2)(viii)(A)	Carload interchange data			Major.
(c)(2)(viii)(B)	Traffic study			Major.
(c)(2)(viii)				All.
(c)(3)	Direct testimony			Major.
(c)(4)	Evidentiary record			All.
(c)(5)	Service			All.
(c)(5)(i)	Application			All.
(c)(5)(ii)(A)	States			All.
(c)(5)(ii)(B)	U.S. Department of Transportation			All.
(c)(5)(ii)(C)	U.S. Attorney General			All.
(c)(5)(ii)(D)	Federal Trade Commission			All.
(c)(5)(ii)(E)	Carriers			Major.
(c)(5)(ii)(F)	Secretary of Labor			All.
(c)(6)	Application format			All.
(c)(6)(i)	Sequence			All.
(c)(6)(ii)	Appendix, volumes, numbering			All.
(c)(6)(iii)	Interpretation			All.
(c)(6)(iv)	Compliance			All.
(c)(7)	Acceptance or rejection			All.
(c)(7)(i)	Acceptance			All.
(c)(7)(ii)	Rejection			All.
(d)	Response to application			All.
(d)(1)	Written comments			All.
(d)(1)(i)	When filed			All.
(d)(1)(ii)	Service			All.
(d)(1)(iii)(A)	Applicants			All.
(d)(1)(iii)(B)	U.S. DOT			All.
(d)(1)(iii)(C)	U.S. Attorney General			All.
(d)(1)(iii)(D)	Parties on service list			All.
(d)(1)(iii)(E)	Contents			All.
(d)(1)(iii)(F)	Docket number and title			All.
(d)(1)(iii)(G)	Name			All.
(d)(1)(iii)(H)	Representative			All.
(d)(1)(iii)(I)	Position			All.
(d)(1)(iii)(J)	Participation			All.
(d)(1)(iii)(K)	Oral hearing request			All.
(d)(1)(iii)(L)	Discovery			All.
(d)(1)(iii)(M)	Railroad information			All.
(d)(1)(iii)(N)	Preferential solicitation agreements			All.

Index II.—Table of Contents—Continued

Section		Exhibit		Application Type ¹
Number	Name	Number	Name	
(d)(1)(ii)(H)(3)	Run through train operations.			All.
(d)(1)(ii)(H)(3)	Protective conditions—initial.			All.
(d)(1)(ii)(I)	Protective conditions—initial—nonrail.			All.
(d)(1)(iv)	Party of record.			All.
(d)(2)	Comments of DOT and Justice.			All.
(d)(2)(i)				All.
(d)(2)(ii)				All.
(d)(2)(iii)				All.
(d)(3)	Protective conditions—final.			All.
(d)(4)	Responsive applications.			All.
(d)(5)	Protestant traffic study.			Major.
(e)	Oral hearing basis.			All.
(f)	Waiver or clarification.			All.
(f)(1)	Petition required.			All.
(f)(2)	When filed.			All.
(f)(3)	No replies to petition.			All.
(f)(4)	Application of waiver to other parties.			All.
(f)(5)	Entire commission decision.			All.
(f)(6)	Specificity of waiver.			All.
(g)	Notice of exemption.			Exemption.
(g)(1)	When filed.			Exemption.
(g)(2)	Contents.			Exemption.
(g)(3)	Commission action.			Exemption.
(h)	Procedures under 49 U.S.C. 11346.			All.
(h)(1)	Use of DOT application.			All.
(h)(2)	Use of 49 U.S.C. 11346 procedures.			All.
(h)(2)(i)	Type of transaction.			All.
(h)(2)(ii)	Proposing party.			All.
(h)(2)(ii)(A)	DOT.			All.
(h)(2)(ii)(B)	Railroad.			All.
(h)(2)(iii)	Notice of filing.			All.
(h)(3)	Report of Secretary of Treasury.			All.
(h)(4)	Written comments.			All.
(h)(5)	Public hearings.			All.
1111.7	Definitions.			All.
(a)	Applicant.			All.
(b)	Applicant carriers.			All.
(c)	Major market extension.			All.
(d)	Railroad.			All.
(e)	Transferee.			All.
(f)	Transferor.			All.
1111.8	Reserved.			
1111.9	Reserved.			
1111.10	General Policy Statement.			All.
(i)	General.			All.
(ii)	Consolidation criteria.			All.
(iii)	Public interest considerations.			All.
(iv)	Public participation.			All.
(v)	Inclusion.			All.
(vi)	Labor protection.			All.
(vii)	Procedures.			All.
(viii)	Expiration date.			All.
Appendix A	Exhibit 18.			
Appendix B	Exhibit 19.			
Appendix C	Study movement sheet.			
Index I	Exhibits.			
Index II	Table of contents.			

¹Major is defined in 1111.1(a). Minor is defined in 1111.1(b). Exemption is defined in 1111.1(c). All includes only major and minor.

[FR Doc. 79-35628 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

The Hells Canyon National Recreation Area, Wallowa-Whitman National Forest, Wallowa County, Ore.; Public Hearing

Notice is hereby given that a public hearing will be held, beginning at 9 a.m., January 19, 1980, in the Classroom Building Auditorium at Eastern Oregon State College, La Grande, Oregon, on a proposal for the future management of the Lord Flat-Somers Point Plateau, Westside Reservoir Face and Mountain Sheep Wilderness Study Areas comprised of approximately 108,200 acres, and portions of the McGraw, Lick Creek, and Snake River roadless areas comprised of approximately 12,480 acres. These areas are within the Hells Canyon National Recreation Area in the County of Wallowa in the State of Oregon.

An information packet containing a map and information about the proposal may be obtained from the Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker, Oregon 97814.

Individuals and organizations may express their views by appearing at this hearing or may submit written comments for inclusion in the official record to the Regional Forester, P.O. Box 3623, Portland, Oregon 97208, by February 19, 1980. Those persons wishing to present oral testimony at the hearing should notify the Regional Forester at the above address by January 11, 1980.

Dated: November 15, 1979.

Thomas C. Nelson,
Acting Chief, Forest Service.

[FR Doc. 79-35694 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Oglethorpe Power Corp.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$684,354,000 to Oglethorpe Power Corporation of Atlanta, Georgia. These loan funds will be used to finance a power supply project which consists of a 60 percent ownership interest in two coal-fired generating units of 818MW each.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. F. F. Stacy, Jr., Manager, Oglethorpe Power Corporation, 2888 Woodcock Boulevard, Atlanta, Georgia 30341.

In order to be considered, proposals must be submitted on or before December 10, 1979 to Mr. Stacy. The right is reserved to give such evaluation and make such evaluation or other disposition of all proposals received, as the cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 9th day of November, 1979.

Robert W. Feragen,
Administrator, Rural Electrification Administration.

[FR Doc. 79-35544 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-15-M

Federal Register

Vol. 44, No. 225

Tuesday, November 20, 1979

Science and Education Administration

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration, Cooperative Research, announces the following meeting:

Name: Committee of Nine.

Dates: December 4 and 5, 1979.

Time: 8:30 a.m. both days.

Place: Hilton Inn-West, I-40 and Meridian, Oklahoma City, Oklahoma.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.

Contact Person for Agenda and More Information: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Science and Education Administration, Cooperative Research, Washington, D.C. 20250, telephone: 202-447-4329.

Done at Washington, D.C., this 15th day of November 1979.

W. I. Thomas,

Deputy Director for Cooperative Research.

[FR Doc. 79-35789 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-22-M

Office of Transportation

Rural Transportation Advisory Task Force Meeting

AGENCY: Office of Transportation, U.S. Department of Agriculture.

ACTION: Notice of Public Meeting of the Rural Transportation Advisory Task Force.

DATES:

November 26: 1:00 p.m., Ramada Inn, Rosslyn, VA

November 27: 9:00 a.m., Rm. 2230, U.S. Department of Transportation, Washington, DC

November 28: 9:00 a.m., Ramada Inn, Rosslyn, VA

November 29: 9:00 a.m., Rm 2230, U.S. Department of Transportation, Washington, DC

November 30: 9:00 a.m., Ramada Inn, Rosslyn, VA

ADDRESS: November 28, 28, and 30, Ramada Inn, Rosslyn, VA; November 27 and 29, U.S. Department of Transportation, Wash., DC.

SUMMARY: At the completion of its work on January 1, 1980, the Task Force will report on methods for enhancing the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs and recommend approaches for establishing a national agricultural transportation policy and for identifying impediments to a railroad transportation system adequate for the needs of agriculture. The Task Force formed three subcommittees on policy and essential transportation needs of agriculture; railroad problems of agriculture; and highway, waterway, and air transportation problems of agriculture. The Task Force has published its interim report including the identification of critical agricultural transportation issues. The Task Force has also held 12 regional public hearings. The Task Force has reviewed public comment received during regional hearings.

The purpose of this meeting is to continue discussion on final recommendations.

The public is invited to attend.

FOR FURTHER INFORMATION CONTACT: Dr. Robert J. Tosterud, Office of Transportation, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: (202) 447-7690.

Dated: November 9, 1979.

Ron Schrader,

Director, Office of Transportation.

[FR Doc. 79-35658 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Order 79-11-88]

Braniff International Airways; Nonstop Service Between United States and Brazil

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79-11-88.

SUMMARY: The Board proposes to (1) temporarily eliminate a condition from the certificate of Braniff International Airways that now precludes nonstop service between the United States and Brazil; (2) consider the renewal of Braniff's temporary nonstop authority in a U.S.-Brazil case to be instituted in the future; and (3) deny other requests for U.S.-Brazil certificate authority without prejudice to refiling after consultations

with Brazil. The applicants now seeking this authority are: American Airlines, Continental Airlines, DHL Airways, Eastern Air Lines and Western Air Lines.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than December 19, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 35455, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicants, the Department of Transportation and the Department of State. Copies of the objections should also be sent to the Ambassadors of the countries affected by the objections.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

To get a copy of the complete order, request it from the CAB Distribution Section, Room 518, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Peter Rosenow (202-673-5035), Bureau of International Aviation, B-57, Civil Aeronautics Board, Washington, D.C.

By the Civil Aeronautics Board: November 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-35618 Filed 11-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-11-80]

Certificated Passenger Service Between United States and Certain Countries in South America

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Denying Applications, 79-11-80.

SUMMARY: The Board is denying applications filed by ten air carriers to provide certificated passenger service between the United States and the following countries: Argentina, Bolivia, Chile, Colombia, Ecuador, Mexico, Paraguay, Uruguay, and Venezuela.

It is also inviting any interested carriers to submit service proposals, including proposed start-up dates for service between points in the United States and points in Bolivia, Colombia, Paraguay and Uruguay, for purposes of consultations with those countries. This information must be submitted to the

Director, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, no later than December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Robert Kneisley, Attorney, Bureau of International Aviation, B-57, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673-5035.

The complete text of Order 79-11-80 is available from the Distribution Section, Room 518, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-11-80 to that address.

By the Civil Aeronautics Board: November 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-35819 Filed 11-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-11-87; Docket No. 37076]

United States-Central American Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-11-87; United States-Central American Show Cause Proceeding, Docket 37076.

SUMMARY: The Board proposes to issue certificates to all fit, willing and able applicants proposing scheduled service between points in the United States and points in Belize, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. It has established the *United States-Central America Show Cause Proceeding* for this purpose, Docket 37076. The current applicants for this authority are: Air Florida, American Airlines, Braniff Airways, Continental Air Lines, DHL Airways, Eastern Air Lines, Evergreen International Airlines, Texas International Airlines, Trans-Americas Airlines, Trans International Airlines, and Western Airlines. Other applicants may request this authority by November 29, 1979.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN December 20, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 37076, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicants, the Department of Transportation and the Department of State. Copies of the objections should

also be sent to the Ambassadors of the countries affected by the objections.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificates.

To get a copy of the complete order, request it from the CAB Distribution Section, Room 518, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Robert W. Kneisley (202-673-5035) or Patricia L. DePuy (202-673-5092), Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C.

By the Civil Aeronautics Board: November 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 35817 Filed 11-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-11-89; Docket No. 37077]

United States-Peru Case

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting *United States-Peru Case*, 79-11-89. Docket 37077.

SUMMARY: The Board is instituting a proceeding to be held before an administrative law judge to consider authorizing one or more additional U.S. air carriers for certificated passenger service between the U.S. and Peru. The judge is to select and rank three carriers for such service. At the conclusion of the case the Board will determine the number of carriers to be authorized, based on negotiating considerations.

DATES: Application for U.S.-Peru service, motions to consolidate and petitions for reconsideration shall be filed by December 4, 1979.

ADDRESSES: Applications, motions and petitions should be filed in Docket 37077, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Robert Kneisley, Attorney, B-57, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673-5035.

The complete text of Order 79-11-89 is available from the Distribution Section, Room 518, Civil Aeronautics Board, 1825 Connecticut Avenue, NW.,

Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-11-89 to that address.

By the Civil Aeronautics Board: November 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-35820 Filed 11-19-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Wilder Engineering Products, Inc., 1948 Ridge Avenue, Evanston, Illinois 60201, producer of loudspeakers (accepted October 31, 1979); (2) Weber Tackle Company, 1039 Ellis Street, Stevens Point, Wisconsin 54481, producer of fishing tackle (accepted October 31, 1979); (3) Triple H. Apparel, Inc., Box 566, Thomasville, North Carolina 27360, producer of women's tops, gowns, shorts and pants; children's dresses (accepted November 1, 1979); (4) Leed Foundry, Inc., Wade Road, Saint Clair, Pennsylvania 17970, producer of iron castings and steel gratings (accepted November 1, 1979); (5) Blue Bird Knitwear Company, Inc., 5200 City Line Road, Hampton, Virginia 23661, producer of children's sweaters, shawls and booties (accepted November 2, 1979); (6) R. M. Knitting Mills, Inc., 42311 West Street, Union City, New Jersey 07087, producer of men's and women's sweaters (accepted November 2, 1979); (7) Blair Footwear, Inc., 2121 Beale Avenue, Altoona, Pennsylvania 16603, producer of women's footwear (accepted November 2, 1979); (8) Car-Fi International, Inc., 152 West Cypress Avenue, Burbank, California 91502, producer of automobile stereo systems (accepted November 2, 1979); (9) Emil Lerch Inc., 2811 Penn Street, Hatfield, Pennsylvania 19440, processor of mushrooms (accepted November 5, 1979); (10) Mallard Frame, Inc., Box 705, Lumpkin, Georgia 31815, producer of dried plants and floral arrangements; plaques and framed pictures (accepted November 5, 1979); (11) Washington Mills Company, Box 1015, Winston-Salem, North Carolina 27102, producer of yarn and men's and boys' underwear and sweatshirts (accepted November 5, 1979); (12) C. S. Fred Mushroom

Company, 395 West Railroad Street, South Lebanon, Ohio 45065, processor of mushrooms (accepted November 6, 1979); (13) American Interlining Corporation, 3401 I Street, Philadelphia, Pennsylvania 19134, producer of apparel bindings, trim and interlining (accepted November 6, 1979); (14) Saxton Products, Inc., 215 North Route 303, Congers, New York 10920, producer of wire, cable, telephones and accessories (accepted November 6, 1979); (15) J. L. Dillon, Inc., Box 180, Bloomsburg, Pennsylvania 17815, producer of cut flowers and foliage plants (accepted November 8, 1979); (16) Chronar Corporation, 330 Bakers Basin Road, Trenton, New Jersey 08638, producer of digital watch modules (accepted November 8, 1979); (17) Stoner, Inc., 6014 East Mercer Way, Mercer Island, Washington 98040, producer of citizen band and amateur radio transceivers (accepted November 8, 1979); (18) Princess Art, Inc., 41 Relyea Place, New Rochelle, New York 10801, producer of wire sculpture and other giftware (accepted November 8, 1979); and (19) Seneca Glass Company, 706 Beechurst Avenue, Morgantown, West Virginia 26505, producer of glass tableware (accepted November 9, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of November 30, 1979.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79-35833 Filed 11-19-79; 8:45 am]

BILLING CODE 3510-24-M

Maritime Administration**[Docket No. S-653]****Lykes Bros. Steamship Co., Inc., Application**

Notice is hereby given that Lykes Bros. Steamship Co., Inc. has filed an application dated November 9, 1979, to amend its present Operating-Differential Subsidy Agreement, Contract No. MA/MSB-451, so as to increase its maximum sailing requirement from 48 to 53 sailings for calendar year 1979 only on its subsidized Trade Route No. 13 - Freight Service (Line C - Mediterranean Line).

Any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, DC 20230, by the close of business on November 21, 1979.

The Maritime Subsidy Board will consider these views and comments and take such action, with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By order of the Assistant Secretary for Maritime Affairs

Dated: November 15, 1979.

Robert J. Patton Jr.,
Secretary.

[FR Doc. 79-35628 Filed 11-19-79; 8:45 am]
BILLING CODE 3510-15-M

National Technical Information Service**Government-Owned Inventions; Notice of Availability for Licensing**

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for \$5.00 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$4.00 (\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in

the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Camplon,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 6,019,806: A Serial Phase Shift Beamformer Using Charge Transfer Devices; filed Mar. 12, 1979.

Patent application 6,038,761: Propellant Binder Manufacture without a Transient Volatile Pre-Solution Step; file May 14, 1979.

Patent application 6,039,059: Thiols of Solid Propellant Modifiers; filed May 14, 1979.

Patent application 6,050,578: Thermal Signature Targets; filed June 21, 1979.

Patent application 725,806: Pyrotechnic Smoke Composition; filed Sept. 22, 1978.

[FR Doc. 79-35634 Filed 11-19-79; 8:45 am]

BILLING CODE 3510-04-M

Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for \$5.00 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield Virginia 22161 for \$4.00 (\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed

to the address cited for the agency-sponsor.

Douglas J. Camplon,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 6-008,720: Pod Assembly; filed Feb. 2, 1979.

Patent application 6-015,092: Seawater Battery; filed Feb. 28, 1979.

Patent application 6-015,269: LCD Controller; filed Feb. 28, 1979.

Patent application 6-015,828: Sonobuoy Launcher System; filed Feb. 28, 1979.

Patent application 6-020,902: Synthesized Sinusoid Generator; filed Mar. 16, 1979.

Patent application 6-024,827: Flexible Piezoelectric Composite Transducers; filed Mar. 28, 1979.

Patent application 6-030,187: Method and Apparatus for Fabricating a Wideband Whip Antenna; filed Apr. 10, 1979.

Patent application 6-038,911: Printed Circuit Waveguide to Microstrip Transition; filed May 7, 1979.

Patent application 6-038,379: Programmable D. C. Motor Servo System; filed May 11, 1979.

Patent application 6-039,920: Air-Curtain Incinerator for Energetic Materials; filed May 17, 1979.

Patent application 6-040,251: Adaptive Detector; filed May 18, 1979.

Patent application 6-042,185: Ion Drag Pumped Heat Pipe; filed May 28, 1979.

Patent application 6-047,187: Differential Sample and Hold Circuit; filed June 8, 1979.

Patent application 6-047,459: An Acceleration Cueing Simulation Device; filed June 11, 1979.

Patent application 6-049,693: Stray Light Eliminator in a Scatterometer; filed June 7, 1979.

Patent application 6-050,946: Charge Coupled Device Signal Output Summing Circuit; filed June 21, 1979.

Patent application 6-052,298: Wideband Polarization-Transforming Electromagnetic Mirror; filed June 28, 1979.

Patent application 6-052,368: Protective Communications Helmet; filed June 27, 1979.

Patent application 6-052,649: Liquid Crystal Fiber Optics Large Screen Display Panel; filed June 27, 1979.

Patent application 6-054,078: Rat-Race Mixer with Improved Intermediate Frequency Extractor; filed Jul. 2, 1979.

Patent application 6-055,100: Magneto-Optic Bias of Ring Laser; filed Jul. 5, 1979.

Patent application 6-056,655: Excimer-Pumped Four Level Blue-Green Solid State Laser; filed Jul. 11, 1979.

Patent 4,144,534: Battlefield IFF System; filed May 1, 1975, patented Mar. 13, 1979; not available NTIS.

Patent 4,147,929: Optical Photoemissive Detector and Photomultiplier; filed Aug. 31, 1977, patented Apr. 3, 1979; not available NTIS.

Patent 4,147,942: Fast Recovery One-Shot; filed Jul. 1, 1977, patented Apr. 3, 1979; not available NTIS.

Patent 4,151,893: Wing in Ground Effect Vehicle; filed Sep. 8, 1977, patented May 1, 1979; not available NTIS.

Patent 4,153,962: Undersea Tether/Terminator Assembly; filed Dec. 27, 1977, patented May 15, 1979; not available NTIS.

Patent 4,155,653: Smoke-Measuring Transducer; filed Oct. 14, 1977, patented May 22, 1979; not available NTIS.

Patent 4,155,961: Rectangular Cell Honeycomb Chemical Converter-Heat Exchange; filed Feb. 9, 1978, patented May 22, 1979; not available NTIS.

Patent 4,156,869: Conducting Cable; filed Jun. 20, 1977, patented May 29, 1979; not available NTIS.

Patent 4,157,863: Acousto-Optic Modulator; filed Apr. 6, 1978, patented Jan. 12, 1979; not available NTIS.

Patent 4,157,928: Method of Fabricating a High Electrical Frequency Infrared Detector by Vacuum Deposition; filed June 22, 1978, patented Jun. 12, 1979; not available NTIS.

Patent 4,158,207: Iron-Doped Indium Phosphide Semiconductor Laser; filed Mar. 27, 1978, patented Jun. 12, 1979; not available NTIS.

Patent 4,158,649: Polymeric Membranes which Contain Polyphenylquinoxalines and which are Useful as Battery Separators; filed Oct. 17, 1977, patented Jun. 19, 1979; not available NTIS.

Patent 4,158,781: Transmit Receive Solid State Switch for Electroacoustic Transducers; filed Jan. 30, 1978, patented Jun. 19, 1979; not available NTIS.

Patent 4,160,175: Differential Threshold Detector; filed Jan. 12, 1978, patented Jul. 3, 1979; not available NTIS.

National Aeronautics and Space Administration, Assistant General Councils for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 6-041,143: Massively Parallel Processor Computer; filed May 21, 1979.

Patent application 6-041,164: Buck/Boost Regulators; filed May 21, 1979.

Patent application 6-051,270: Multiple Band Circularly Polarized Antenna; filed Jun. 22, 1979.

Patent application 6-051,271: Decommulator Patchboard Verifier; filed Jun. 22, 1979.

Patent application 6-051,274: Automatic Flowmeter Calibration System; filed Jun. 22, 1979.

Patent application 6-053,652: Power Converter; filed Jun. 29, 1979.

Patent 4,154,228: Apparatus and Method of Inserting a Microelectrode in Body Tissue or the Like Using Vibration Means; filed Aug. 8, 1978, patented May 15, 1979; not available NTIS.

[FR Doc. 79-35635 Filed 11-19-79; 8:45 am]

BILLING CODE 3510-04-M

National Telecommunications and Information Administration**Performance Review Board; Establishment**

This notice announces the establishment by the Department of

Commerce Assistant Secretary for Communications and Information, Henry Geller, as the Appointing Authority, of the Performance Review Board and of the appointment of all of its initial members. The purpose of the National Telecommunications and Information Administration PRB is to review performance appraisal ratings and performance award actions for recommendations to the Appointing Authority as well as other related matters. The names and titles of the members are:

Edward Zimmerman; Deputy Administrator for Policy, NTIA, DoC.

Gregg Skall, Chief Counsel, NTIA, DoC.

Veronica Ahern, Director, Office of International Affairs, NTIA, DoC.

Forrest Chisman, Acting Deputy Associate Administrator for Policy Analysis & Development, NTIA, DoC.

Roger Salaman, Chief, Policy Research Division, NTIA, DoC.

Douglas Crombie, Associate Administrator, Institute for Telecommunication Sciences, NTIA, DoC.

Stanley L. Cohn, Deputy Administrator for NTIA, DoC.

William Fishman, Acting Director, Office of Planning & Policy Coordination, NTIA, DoC.

Dale Hatfield, Acting Associate Administrator for Policy Analysis & Development, NTIA, DoC.

John Murray, Associate Director, Institute for Telecommunication Sciences, NTIA, DoC.

Joseph Hull, Associate Director, Institute for Telecommunication Sciences, NTIA, DoC.

Donald Lucas, Associate Director, Institute for Telecommunication Sciences, NTIA, DoC.

William Utlaut, Deputy Associate Administrator, Institute for Telecommunication Sciences, NTIA, DoC.

Samuel Probst, Director, Spectrum Plans & Policies, NTIA, DoC.

Terril Steichen, Director, Government Communications, NTIA, DoC.

Alvin Sher, Deputy Director for Electronic & Electrical Engineering, NBS, DoC.

Donald Jansky, Associate Administrator, Federal Systems & Spectrum Management, NTIA, DoC.

William Lucas, Associate Administrator, Telecommunications Applications, NTIA, DoC.

Carlos Roberts, Chief, Private Radio Branch, FCC.

If you have any questions regarding the PRB or its membership, please contact Claudette Jones, National Telecommunications and Information

Administration, Room 790, 1800 G St., NW., Washington, D.C. 20504.

Claudette Jones,
Management Analyst.

[FR Doc. 79-35686 Filed 11-19-79; 8:45 am]

BILLING CODE 3510-06-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**Announcing Additional Import Controls on Certain Man-Made Fiber Textile Products From the Republic of the Philippines**

November 15, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling infants' woven blouses of man-made fibers in Category 641 (only T.S.U.S.A. numbers 382.0460 and 382.8139), produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 28773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines, the United States Government has decided to control imports of man-made fiber textile products in Category 641 (only T.S.U.S.A. numbers 382.0460 and 382.8139), produced or manufactured in the Philippines and exported to the United States during the twelve-month period which began on January 1, 1979, in addition to those categories previously designated.

EFFECTIVE DATE: November 20, 1979.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles, U. S. Department of Commerce, Washington, D. C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 2, September 11, and October 9, 1979, there were published in the Federal Register (44 FR 92, 52858 and 57954) letters from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of

restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. Under the terms of the bilateral agreement, the United States Government has decided also to control imports of man-made fiber textile products in Category 641 during that same period.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 641 in excess of 61,042 dozen. The level of restraint has not been adjusted to account for any imports after December 31, 1978. Imports in the category during the period which began on January 1 and extended through September 30, 1979 have amounted to 37,478 dozen and will be charged. When the data became available, further import charges will be made for the period which began on October 1, 1979 and extended through the effective date of this action.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements,
November 15, 1978.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 27, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1977, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 20, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United

States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 641, produced or manufactured in the Philippines, in excess of the following levels of restraint: Category: 641; ¹ Twelve-Month Level of Restraint: ¹ 61,042 dozen.

Man-made fiber textile products in the foregoing Category which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Man-made fiber textile products in the foregoing Category which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 28773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of man-made fiber textile products from the Philippines has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-35755 Filed 11-19-79; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command, Military Personal Property Claims Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Claims Symposium. This meeting will be held on 13 December 1979, at Headquarters, Military Traffic Management Command, Nassif Building, Room 714, 5611

¹ The levels of restraint have not been adjusted to reflect any imports after December 31, 1978. Imports during the period January-September 1979 have amounted to 37,478 dozen.

² In Category 641, only T.S.U.S.A. numbers 382.0460 and 382.4139.

Columbia Pike, Falls Church, Virginia 22041. The meeting will convene at 0930 hours and adjourn at approximately 1500 hours.

PROPOSED AGENDA: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on mutual problems arising from claims for loss, damage or destruction of personal property while in transit or storage.

This Symposium will be open to the public to the extent that space limitations of the meeting space permit. Because of these limitations, interested parties are requested to reserve space by contacting the Commander, Military Traffic Management Command, ATTN: MT-PPM, Washington, DC 20315, telephone (202) 758-1808.

All interested persons desiring to submit topics to be discussed should submit them in writing to the address given in the preceding paragraph. Topics to be discussed should be received on or before 6 December 1979.

Dated: November 14, 1979.

Robert F. Waldman,

Deputy Director, Directorate of Personal Property.

[FR Doc. 79-35630 Filed 11-19-79; 8:45 am]
BILLING CODE 3710-08-M

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Eldred and Spankey Drainage and Levee District, Greene County, Ill.

AGENCY: St. Louis District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement for the Eldred and Spankey Drainage and Levee District, Illinois.

SUMMARY:

1. **Proposed Action:** The proposed action is to prepare a Draft Environmental Impact Statement for the Eldred and Spankey Drainage and Levee District, Illinois. This project is one of a series of local flood protection projects that were authorized concurrently for the Illinois River. The project features will provide increased flood protection, with emphasis placed on examining the structural stability of the existing levee system. Structural measures will provide a means for preventing or reducing flood damage to existing developments. Nonstructural measures will address managing the future land use and future development that may be located in the floodplain.

2. **Alternatives:** Alternatives will include applicable structural and nonstructural measures such as: increased levee stability measures;

enlargement of existing interior drainage channels for borrow, for additional storage, and for environmental enhancement; varying degrees of flood protection; seepage control measures; floodplain management; greenbelts; enhancement of wildlife habitat areas; and no action.

3. Scoping Process:

a. **Public Involvement Program:** The public involvement program began in March 1977 with the Notice of Initiation of Study sent to Federal, state, and local governments and agencies, as well as local citizens and levee commissions. Informal public meetings and information sessions involving a small number of various groups and/or individuals with divergent viewpoints will be scheduled. A formal public meeting will be scheduled to present alternatives formulated during the study. Coordination meetings and field trips with personnel of affected Federal and state agencies will be scheduled to provide meaningful involvement during the planning process. The scoping process, as outlined by the Council of Environmental Quality (29 November 1978), will be incorporated in the existing planning process.

b. **Significant Issues:** Significant issues addressed in the Draft Environmental Impact Statement will include: cumulative impacts on adjacent levee districts and unprotected areas; stability of existing levee systems; preservation of wildlife habitat, historical and archeological sites, and endangered species; creation of greenbelts; and an analysis of the effects on the environment regarding the economically justified alternatives.

c. **Lead Agency and Cooperating Agency Responsibilities:** The St. Louis District, Corps of Engineers, is the lead agency responsible for the Draft Environmental Impact Statement. The U.S. Fish and Wildlife Service and the Environmental Protection Agency will be requested to participate as cooperating agencies. Coordination will also be maintained with the Illinois Department of Conservation.

d. **Environmental Review and Consultation Requirements:** The completed Draft Environmental Impact Statement will be made available to appropriate Federal, state, and local agencies; representatives of environmental and development groups; and other interested individuals. The Draft Environmental Impact Statement will contain records of compliance with designated consultation requirements found applicable during the course of this study.

4. **Scoping Meeting:** The scoping process was initiated in conjunction

with the response to the study initiation notice of 25 March 1977. Throughout the duration of the study, the scoping process will continue with the scheduling of a formal public meeting, and coordination meetings with Federal, state, and local agencies, as well as with representatives of environmental and development groups.

5. **Draft Environmental Impact Statement Preparation:** The Draft Environmental Impact Statement is tentatively scheduled to be completed in FY 80.

ADDRESS: Questions about the proposed action and the Draft Environmental Impact Statement can be answered by: Mr. Jack F. Rasmussen, Chief, Planning Branch, U.S. Army Engineer District, St. Louis, 210 N. 12th Street, St. Louis, Missouri 63101.

Dated: November 9, 1979.

Robert J. Dacey,

Colonel, CE District Engineer.

[FR Doc. 79-35696 Filed 11-19-79; 8:45 am]

BILLING CODE 3710-GS-M

Correction Notice of Closed Meeting

In accordance with Section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the date change from 27-28 November 1979 to 11-12 December 1979 for the following Committee meeting announced at 44 FR 64484, November 7, 1979:

Name of the committee: Army Science Board.
Dates of meeting: December 11-12, 1979.

Place: Room 2E715B, The Pentagon,
Washington, DC.

Time: 0800 to 1700 hours, December 11-12, 1979 (Closed).

Proposed agenda: The ASB Anti-Tactical Ballistic Missile (ATBM) Ad Hoc Sub-Group will hold classified discussions and receive briefings on the following issues: (a) Soviet tactical ballistic missile threat facing the field army, (b) Expectations over the next 5-10 years, (c) Various options, over the next 10-15 years, which could counter that threat, (d) Assessment of each option. This meeting will be closed to the public in accordance with Section 552b (c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting.

Robert F. Sweeney,

Lieutenant Colonel, GS, Executive Secretary.

FR Doc. 79-35948 Filed 11-19-79; 8:45 am]

BILLING CODE 3710-08-M

Army Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Phase II of the North Bay Aqueduct Project, Regulatory Permit Application (No. 12950-58), Solano County, Calif.

AGENCY: San Francisco District, U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. **Proposed Action:** The Central District of the Department of Water Resources of the State of California has applied for a Department of the Army permit under Section 10 of the River and Harbor Act of 1899 and under Section 404 of the Clean Water Act to construct various facilities for the purpose of conveying Sacramento-San Joaquin Delta water overland to supply water users in Solano and Napa Counties. About 67,000 acre-feet of water would be diverted from the Delta annually. Sixty-three percent would be for Solano County and 37 percent for Napa County. The point of diversion would likely be at or near Lindsey Slough, which is approximately 30 miles downstream from Sacramento, California.

2. Alternatives:

a. No action. Existing water supplies could possibly be supplemented by the reclamation of waste water and/or desalting saline or brackish waters available in the area.

b. Alternate intake locations.

c. Alternate canal and pipeline alignments.

3. Scoping Process:

a. The Environmental Impact Statement will be a "joint" document prepared in cooperation with the California State Department of Water Resources. Much of the scoping process will, therefore, also be a joint effort between the San Francisco District of the Corps of Engineers and the State. The structure of the scoping process will largely depend on the response to this Notice of Intent and on comments received on the Corps Public Notice for the project. The Corps of Engineers and the State Department of Water Resources will hold a scoping meeting on December 11, 1979, beginning at 7:00 P.M. The location is the Fairfield, California, City Council Chambers, 1000 Webster Street. All interested parties are encouraged to attend.

b. **Significant Issues:** To date the significant issues which have been identified and which will be analyzed in the DEIS include: (1) Possible

construction and other long-term impacts on wetlands of the Sacramento-San Joaquin Delta area, (2) Possible impact on a unique vernal pool habitat, (3) Possible impact on some of the only remaining examples of the perennial grasslands which once occupied much of the Central Valley of California, (4) Possible impact on endangered or threatened species, and (5) The impacts resulting from population growth which may be stimulated due to the additional water supply.

c. The necessary degree of coordination will be carried out as required by the Fish and Wildlife Coordination Act (16 USC Sec. 661 et seq.), the National Historic Preservation Act of 1966 (16 USC Sec. 470 et seq.), and the Endangered Species Act of 1973. 4. It is estimated that the DEIS/DEIR will be released to the public in April 1980.

5. Questions pertaining to preparation of the environmental document can be referred to Barney Opton, Environmental Branch, San Francisco District, Corps of Engineers, 211 Main Street, San Francisco, California 94105 (415-556-0325). General questions concerning the processing of the permit application can be referred to Bernard Lewis, Regulatory Functions Branch, same address as above, (415-556-8390). John M. Adsit, Colonel, CE, District Engineer, November 9, 1979. [FR Doc. 79-35637 Filed 11-19-79; 8:45 am] BILLING CODE 3710-FS-M

Defense Logistics Agency

Realignment of Defense Contract Administration Services Regions; Finding of No Significant Impact

Defense Logistics Agency has revised the previously announced plan to reduce the current nine Defense Contract Administration Services Regions (DCASRs) to five.

Instead of consolidating the headquarters activities of DCASR Cleveland with the DCASR Chicago, as announced in March 1979, the headquarters DCASR Chicago will be phased out and certain of its activities along with the associated personnel will be transferred to the DCASR Cleveland headquarters.

This revision results from a recent agreement in principle between the Department of Defense and the City of Chicago to transfer the existing Department of the Air Force facilities at O'Hare International Airport to the city. As a result, the building currently occupied by headquarters DCASR

Chicago will no longer be available for government use. DLA has determined that it is more economical to consolidate DCASR Headquarters operations in Cleveland rather than at an alternative facility in Chicago. The Cleveland/Chicago realignment is part of the Defense Department's streamlining of activities in the interest of better management and savings.

DLA estimated that closing DCASR Chicago should result in a net annual savings of approximately 5 million dollars, consisting primarily of the costs associated with the reduction of 4 military and 176 civilian positions, as well as other related savings. The previous announced closures of DCASRs in New York, New York; Philadelphia, Pennsylvania; and Dallas, Texas, are not affected by this revision to the planned consolidations.

Consistent with the intent of section 102(2) of the National Environmental Policy Act of 1969, Department of Defense Directive 6050.1, Environmental Effects in the United States of DoD Actions, and Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR 1500-1508), notice is hereby given that an Environmental Impact Statement is not being prepared for this action. An Environmental Assessment has been previously completed, from which it has been determined that the consolidation will have no appreciable impact on the environment. Therefore, the actions are not considered to be major actions significantly affecting the quality of the human environment.

The Environmental Assessment, as well as the basic data developed during the economic analysis study, may be reviewed by interested parties in the office of Rear Admiral E. M. Kocher, SC, USN, Assistant Director, Plans, Programs and Systems, Defense Logistics Agency, Cameron Station, Alexandria, Virginia 22314. A limited number of copies of the Environmental Assessment are available from the same office to fill single copy requests.

To ensure that no substantive information has been overlooked, DLA invites public comment concerning the decision and the Environmental Assessment discussed above. Interested persons are invited to submit written data, views, and arguments to Rear

Admiral E. M. Kocher on or before December 20, 1979. E. M. Kocher, Rear Admiral, SC, USN, Assistant Director, Plans, Programs and Systems.

[FR Doc. 79-35638 Filed 11-19-79; 8:45 am] BILLING CODE 3450-01-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act; Finding of No Significant Impact

AGENCY: Department of Energy.

ACTION: Notice of finding of no significant impact (FONSI).

SUMMARY: The Department of Energy (DOE) has prepared an environmental assessment (EA) on the proposed granting of an exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 to Anheuser-Busch, Inc., Los Angeles, California. The exemption is requested for the expansion of the existing Anheuser-Busch brewery in Van Nuys, California, which is within the City of Los Angeles. The site was previously the location of Busch Gardens, and is part of a light industrial/commercial area.

Based on the findings of the EA, which are available to the public on request, DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. Therefore, no environmental impact statement is required.

FOR FURTHER INFORMATION CONTACT:

Susan P. Walker, NEPA Affairs Division, Office of the Assistant Secretary for Environment, Room 4C-064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4600. Steven E. Ferguson, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, (202) 834-6523.

SUPPLEMENTARY INFORMATION: There are no significant environmental impacts associated with the addition to the existing brewery of two oil or gas fired boilers, for the following reasons:

Sulfur emissions will be reduced at the facility by the use of oil of a lower sulfur content than has previously been burned;

Boiler design and operating conditions will enable the facility to meet the stringent nitrogen oxide limitations of the South Coast Air Quality Management District;

Changes in emissions of other pollutants are negligible;

Increased wastewater flows resulting from the expansion will be discharged to the sewage collection system of the City of Los Angeles, which has issued a Negative Declaration under the California Environmental Quality Act for the sewer project;

Visual, noise, and socioeconomic impacts will be minimal, because of the existing industrial character of the area. Anheuser-Busch has agreed to mitigate potential problems from increased truck traffic.

The applicant's Fuels Decision Report, and the Economic Regulatory Administration analysis, considered five alternate fuels, and found that none was reasonable for use at the Anheuser-Busch facility. Therefore, the EA did not address further the impacts of the use of any fuels other than oil or gas, as these fuels had been found not to be reasonable alternatives as defined under the provisions of the Fuel Use Act.

Dated: November 6, 1979.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 79-35724 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Committee on Materials and Manpower Requirements; Meeting

Notice is hereby given that the Committee on Materials and Manpower Requirements has scheduled a meeting in November 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the meeting follows:

The second meeting of the Committee is scheduled for Wednesday, November 28, 1979, starting at 9:30 a.m., in the Fairmont Hotel, 1717 North Akard Street, Dallas, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.

2. Review and discuss the draft report on Materials and Manpower Requirements.

3. Discuss any other matters pertinent to the overall assignment of the Committee on Materials and Manpower Requirements.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/833-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

A transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on November 8, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Oil, Natural Gas and Shale Resources, Resource Applications, November 8, 1979.

[FR Doc. 79-35727 Filed 11-19-79; 8:45 am]

BILLING CODE 6540-01-M

Economic Regulatory Administration

Ada Resources, Inc.; Corrections to Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Correction to Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: This corrects the document that appeared in the Federal Register on November 2, 1979 beginning on page 44 FR 63135. The following corrections should be made:

1. Page 63136, column 1, paragraph 2: Delete—paragraph 2 as published. Substitute—2. The DOE has alleged that Ada Resources' sales of petroleum products were made at prices exceeding the maximum legal selling prices calculated pursuant to 10 CFR 212.93 (6 CFR 150.39 prior to January 15, 1974) and, have resulted in apparent overcharges.

Issued in Dallas, Texas on the 9th day of November, 1979.

Herbert F. Buchanan,

Deputy District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-35731 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Cases Nos. 55023-9053-01-12 and 55023-9053-02-12; Docket No. ERA-FC-001]

Anheuser-Busch, Inc.; Availability of Tentative Staff Determination

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Availability of Tentative Staff Determination.

SUMMARY: On June 15, 1979, Anheuser-Busch, Incorporated (Anheuser-Busch), petitioned the Economic Regulatory Administration (ERA), of the Department of Energy for an order which would permanently exempt two planned major fuel burning installations (MFBIs), from certain prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. (FUA or the Act), relating to the use of petroleum or natural gas in new MFBIs. Anheuser-Busch plans to install two 143,700,000 Btu/hr (heat input rate) oil or natural gas fired boilers at its Los Angeles, California brewery. ERA accepted the petition on July 11, 1979, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemptions, in the Federal Register on July 19, 1979 (44 FR 42307). Publication of the notice of acceptance commenced a 45 day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended September 4, 1979. No comments were submitted. No hearing was requested.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Determination has been made which recommends that ERA issue an order which would grant permanent exemptions to use natural gas or petroleum in the two planned MFBIs. A copy of the Tentative Staff Determination is available from the Office of Public Information at the address listed below.

ERA will issue a final order granting or denying the petition for exemptions from the prohibitions of the Act within six months after the public comment period provided for in this notice has expired unless ERA extends such

period. Notice of any extension will be published in the Federal Register together with a statement of the reasons for such extension.

DATES: Written comments on the Tentative Staff Determination are due on or before December 3, 1979.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW, Washington, D.C. 20461. Docket Number ERA-FC-79-001 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3123, Washington, D.C. 20461, Phone (202) 254-7814.

G. Randolph Comstock, Acting Assistant General Counsel for Coal Regulations, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G-087, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION:

Anheuser-Busch, Incorporated (Anheuser-Busch or the Petitioner) plans to install two 143,700,000 Btu/hr (heat input rate) oil or natural gas fired boilers to expand its Los Angeles, California brewery. The new units are expected to consume approximately 202,000 barrels of low sulfur residual oil per year or an amount of natural gas having a Btu content approximately equivalent to such residual oil.

The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (44 FR 28530, 28950) to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1976, (42 U.S.C. 8301 et seq.) (FUA or the Act). FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations (MFBI) unless an exemption for such use has been granted. On June 15, 1979, Anheuser-Busch petitioned ERA for an order which would permanently exempt the two planned MFBI's.

In accordance with Part 502 of the interim rules, a Fuels Decision Report (FDR) is required as part of the petition. The interim rules require that a FDR be submitted by a petitioner to demonstrate that all reasonable alternatives to the use of oil or natural gas have been

evaluated. In accordance with § 502.2(a)(1) of the interim rules, ERA and Anheuser-Busch agreed that the scope of the FDR would be limited to the following fuels and fuel mixtures:

Coal
Petroleum coke
Refuse derived fuel (RDF)
Low Btu gas derived from coal
Solar energy
A mixture of coal and petroleum
A mixture of petroleum coke and petroleum
A mixture of RDF and petroleum
A mixture of solar energy and petroleum

Anheuser-Busch has met the general requirements for exemptions by demonstrating, in accordance with section 213(a)(1) of the Act, (1) that the use of a mixture of coal, petroleum coke, or RDF and petroleum is not technically feasible because such mixtures cannot be burned without violating applicable environmental requirements, and (2) that use of a mixture of solar energy and petroleum is not economically feasible.

Anheuser-Busch's petition requested the following permanent exemptions from the prohibitions of Title II of FUA for the reasons noted:

1. *Permanent exemption due to inability to comply with applicable environmental requirements.*

For each of the planned units a permanent exemption pursuant to section 212(a)(1)(c) of the Act based upon an asserted inability to comply with applicable environmental requirements by using coal, petroleum coke, or RDF.

2. *Permanent exemption due to lack of alternate fuel supply.*

For each of planned units a permanent exemption pursuant to section 212(a)(1)(A)(ii) of the Act based upon an asserted lack of supply of low Btu gas derived from coal at a cost which does not substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the units.

3. *Permanent exemption due to site limitations.*

For each of the planned units, a permanent exemption pursuant to section 212(a)(1)(B) of the Act based upon an asserted inability to use solar energy due to site limitations.

ERA's staff has reviewed the information presently contained in the record of this proceeding. Based on that review, and independent research, a Tentative Staff Determination has been made which recommends that an order be issued which would respond to the petition as follows:

1. *Permanent exemption due to inability to comply with applicable environmental requirements.*

For each of the two planned units, a permanent exemption should be granted to use a low sulfur residual oil or natural gas based upon Petitioner's demonstration, pursuant to section 212(a)(1)(c) of the Act, of an inability to burn coal, petroleum coke and RDF without violating applicable environmental requirements within five years after the projected date of commencement of operation of the units.

2. *Permanent exemption due to lack of alternate fuel supply.*

For each of the two planned units, a permanent exemption should be granted to use a low sulfur residual oil or natural gas based upon Petitioner's demonstration, pursuant to section 212(a)(1)(A)(ii) of the Act, that the cost of using low Btu gas derived from coal would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the units.

3. *Permanent exemption due to site limitations.*

For one unit, a permanent exemption should be granted to use a low sulfur residual oil or natural gas based upon Petitioner's demonstration, pursuant to section 212(a)(1)(B) of the Act, that site limitations, which cannot be overcome within five years after commencement of operations, preclude the use of solar energy.

For one unit, site limitations would not preclude the use of solar energy. However a permanent exemption should be granted to use a low sulfur residual oil or natural gas based upon data supplied by the Petitioner and pursuant to section 212(a)(1)(A)(ii) of the Act, based on the lack of an alternate fuel supply since the cost of using solar energy would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the units.

ERA's staff also has tentatively determined and recommends that any order granting the exemptions described above should, pursuant to section 214 of the Act, be on certain terms and conditions, including, among others:

1. The use of effective fuel conservation measures applicable to the brewery expansion.

2. That the units comply with applicable environmental requirements.

3. That the units burn only certain specified grades of petroleum fuels.

4. That the units, in the aggregate, burn no more than 1,323 billion Btu's per year of either the specified petroleum fuels or natural gas.

5. That Anheuser-Busch submit an acceptable compliance plan within 30 days of issuance of any order granting the exemptions. Such order shall not

take effect earlier than the 60th calendar day after publication of the order in the Federal Register or until ERA has approved the compliance plan in writing, whichever occurs later.

In addition to the above conditions, ERA's staff recommends that any order granting the exemptions described above set forth as one of the terms of the order, pursuant to Section 214 of the Act, Petitioner's voluntary agreement to install a solar energy system for hot water and heating and cooling at either the present administration building located at the Los Angeles brewery, or at a proposed Hospitality Center to be located at the brewery.

The Tentative Staff Determination does not constitute a decision by ERA to grant the exemptions requested. Such determination will be made in accordance with Section 501.66 of the interim rules on the basis of the entire record of this proceeding, including any comment received on the Tentative Staff Determination.

Issued in Washington, D.C. on November 9, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-35725 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

Harrison Gas & Oil, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Harrison Gas & Oil, Inc., 4600 E. Washington Blvd., Los Angeles, CA 90040. This Proposed Remedial Order charges Harrison with pricing violations in the amount of \$204,033.64, connected with the resale of motor gasoline during the time period November 1, 1973, through May 31, 1976 in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone (415) 556-7200. On or before December 5, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461 in accordance with 10 CFR § 205.193.

Issued On the 9th day of November 1979, in Washington, D.C.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-35729 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

Nordstrom Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: September 24, 1979. Comments by: December 20, 1979.

ADDRESS: Send comments to William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jeannine C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. (Phone) 816-374-5932.

SUPPLEMENTARY INFORMATION: On September 24, 1979, the Office of Enforcement of the ERA executed a Consent Order with Nordstrom Oil Company of Cedar Rapids, Iowa. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Nordstrom Oil Company (Nordstrom), with its home office located in Cedar Rapids, Iowa, is a firm engaged in the marketing of motor gasoline and heating oil to resellers and end-users, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Nordstrom, the Office of Enforcement, ERA, and Nordstrom entered into a Consent Order.

The Consent Order encompasses Nordstrom's sale of covered products

during the period November 1, 1973 through April 30, 1974.

II. Disposition of Refunded Overcharges

In this Consent Order, Nordstrom agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. above, the sum of sixty-five thousand dollars (\$65,000) by May 15, 1980. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the

terms, conditions or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64108. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816-374-5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Nordstrom Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 20, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri on the 24th day of September, 1979.

William D. Miller,

District Manager of Enforcement.

[FR Doc. 79-35728 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

Sid Richardson Carbon & Gasoline Co. and Richardson Products Co.; Action Taken on Consent Order

Pursuant to 10 CFR 205.199, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199(c), no Consent Order involving sums in excess of \$500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms.

On October 4, 1979, ERA published a notice of a Proposed Consent Order which was executed between Sid Richardson Carbon and Gasoline Company and Richardson Products Company and the ERA (44 FR 57148 October 4, 1979). With that notice, and in accordance with 10 CFR 205.199, ERA invited interested persons to comment on the proposed Consent Order. Also, in that notice, and in accordance with 10 CFR 205.283, interested parties who believe that they have a claim to all or a portion of the refund were instructed to provide written notification to ERA. Several parties submitted written notification of claim; however, no comments on the terms, conditions or procedural aspects of the Consent Order were received. Therefore, ERA has concluded that the Consent Order as executed between ERA and Sid Richardson Carbon and

Gasoline Company and Richardson Products Company is an appropriate resolution of the compliance proceedings described in the notice published October 4, 1979, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, on November 15, 1979.

Issued in Dallas, Texas on the 7th day of November, 1979.

Herbert F. Buchanan,

Deputy Director, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-35728 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

Vic & Lou's Union; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Vic & Lou's Union, 1300 Davis Street, San Leandro, CA 94577. This Proposed Remedial Order charges Vic & Lou's Union with pricing violations in the amount of \$3,157.49, connected with the resale of motor gasoline during the period August 1, 1979 through September 20, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 15th day of November, 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-35730 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-31-NG]

Border Gas, Inc.; Application To Import Natural Gas From Mexico, Request for Comments

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of receipt of application from Border Gas, Inc., to import natural gas from Mexico, request for comments, petitions for intervention, protests, and requests for hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department

of Energy (DOE) gives notice that on November 9, 1979, Border Gas, Inc. (Border), filed an application (ERA Docket No. 79-31-NG) under Section 3 of the Natural Gas Act of 1938, as amended, for authorization to import up to 300 million cubic feet per day of natural gas by pipeline into the United States of America from Mexico, all as more fully set forth in the application on file with the ERA and open to public inspection.

The application states that on August 3, 1977, Petroleos Mexicanos (Pemex) announced its decision to sell natural gas to be exported from Mexico into the United States to certain U.S. interstate natural gas pipeline companies in the following proportions:

	Percent
Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee).....	37½
Texas Eastern Transmission Corporation (Texas Eastern).....	27½
El Paso Natural Gas Company (El Paso).....	15
Transcontinental Gas Pipe Line Corporation (Transco).....	10
Southern Natural Gas Company (Southern).....	6½
Florida Gas Transmission Company (Florida).....	3½
Total.....	100

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street, NW., Room 4126, Washington, D.C. 20461, telephone (202) 254-8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Avenue, SW., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252-4888.

SUPPLEMENTAL INFORMATION: Border was formed by U.S. interstate natural gas pipeline companies to facilitate the purchase of the Mexican natural gas from Pemex and the importation into the United States. Border is a closed corporation whose business is managed by its shareholders. The six U.S. interstate natural gas pipeline companies listed above own all of Border's outstanding shares in proportion to their respective percentage entitlements to purchase the Mexican natural gas. Border has made application to conduct business in the State of Texas in the near future as a foreign corporation.

The application further states that Pemex and Border have executive a definitive Contract for the Purchase and Sale of Natural Gas (Purchase Contract) dated October 19, 1979, which provides for the sale by Pemex to Border of natural gas determined from time to time to be surplus to the Mexican national demand, for resale to specified U.S. interstate natural gas pipeline companies. The sale and delivery of natural gas by Pemex will be made at

the International Boundary between Mexico and the United States near Reynosa, Tamaulipas, and Hidalgo, Texas. The sale and delivery of Mexican natural gas by Pemex to Border and the importation and resale of the natural gas by Border can begin immediately by means of existing facilities following the issuance of all governmental approvals in Mexico and in the United States.

The Purchase Contract contemplates that Pemex will sell the Mexican natural gas to Border at two points on the International Boundary. Facilities adequate for the initial delivery of up to 300 million cubic feet of Mexican natural gas per day presently exist on both sides of the International Boundary at the secondary point of delivery where interstate gas pipeline facilities belonging to Texas Eastern interconnect with gas pipeline facilities of Pemex. Texas Eastern holds a Presidential Permit to maintain and operate the facilities at the international boundary issued by Federal Power Commission (FPC) order issued on October 9, 1956, at Docket No. G-9788, pursuant to Executive Order No. 10485, 16 FPC 27 (1956). Border's application also requests authority to import quantities of Mexican natural gas in excess of 300 million cubic feet per day, which will necessitate the construction of additional facilities at the principal point of delivery on both sides of the International Boundary. As imported quantities of Mexican natural gas dictate establishment of the principal point of delivery referred to in the Purchase Contract, appropriate applications will be filed for authority regarding the construction, maintenance and operation of the Presidential Permit facilities and other pipeline facilities in the United States. Immediately upon its purchase and importation of the Mexican natural gas into the United States, Border will resell the Mexican natural gas at the point of importation to the interstate natural gas pipeline companies, in accordance with their respective entitlements.

Border shortly will file its application with the Federal Energy Regulatory Commission for a certificate of public convenience and necessity authorizing, under Section 7(c) of the Natural Gas Act, its sale of the Mexican natural gas in interstate commerce to the six U.S. interstate natural gas pipeline companies for resale, and for waiver (or exemption) as to Border of the provisions of Title II of the Natural Gas Policy Act of 1978 with respect to Border's sale of the Mexican natural gas to the U.S. interstate natural gas pipeline companies.

On September 21, 1979, it was announced that the Governments of the United States and Mexico had reached agreement permitting the purchase of Mexican natural gas by U.S. buyers. The agreement has been described as a framework within which the United States and Mexico "can authorize and support, as a matter of policy" commercial contracts for the purchase of natural gas.

On November 8, 1979, the ERA published a notice in the Federal Register (44 FR 64957) which outlined the agreement, established ERA Docket No. 79-31-NG for this proceeding, and invited potential interveners to petition ERA for intervenor status if they believe they may have an interest in Border's proposal.

While it is noted in the November 8, 1979, Federal Register notice that it is ERA's desire to complete the review and consideration of Border's application by December 31, 1979, ERA will, in accordance with applicable procedural regulations, provide all parties adequate opportunity to address all issues presented by Border's proposal as they may pertain to ERA's review under Section 3 of the Natural Gas Act and DOE Delegation Order 0204-54. Accordingly, petitions for intervention, comments, protests or requests for hearing will be accepted for consideration if filed within 15 days from the date of publication of this notice.

All filings must cite ERA Docket No. 79-31-NG and should be sent to the Department of Energy, Economic Regulatory Administration, Import/Export Docket Room, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461.

Filings are to be made in accordance with the rules of practice and procedure (16 CFR 1.8) and the regulations under the Natural Gas Act (18 CFR 157.10).

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened therein must file a petition to intervene in accordance with the above mentioned rules.

Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the ERA by Section 3 of the Natural Gas Act and the rules of practice and procedure, a formal hearing will not be held on the proposed application if no petition to intervene is filed within the required time, or if the ERA on its own review of the matter finds that a grant of the application, without a hearing, is in the public interest. However, if during the appropriate comment period a request for such hearing is timely filed by an intervenor and is granted by ERA, or if

the ERA on its own motion believes that such a hearing is required, further notice of such hearing will be duly given.

Issued in Washington, D.C., on November 16, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-35928 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 65003-9069-02-77; Docket No. ERA-FC-79-003]

Suwannee River Chemical Complex, Boiler No. N.B. 24382, Occidental Chemical Co.

AGENCY: Economic Regulatory Administration, Department of Energy
ACTION: Determination to Classify the Occidental Chemical Company Suwannee River Boiler No. N.B. 24382 as an Existing Facility.

SUMMARY: On June 27, 1979, Occidental Chemical Company (Occidental) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify its Suwannee River Chemical Complex (Suwannee River) Boiler No. N.B. 24382 as an "existing" facility pursuant to § 515.13 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. section 8301 et seq. (FUA).

ERA has completed its analysis of Occidental's request and has determined that Occidental has satisfactorily demonstrated that cancellation, rescheduling or modification of the construction or acquisition of the subject boiler would result in a significant operational detriment under § 515.13(b) of the Revised Interim Rule.

Accordingly, ERA has determined that Occidental's Suwannee River Boiler No. N.B. 24382 is an "existing" facility, subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

Constance L. Buckley, Chief, New MFEI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW.,

Room 3128, Washington, D.C. 20461, (202) 254-7814.

Robert L. Davies, Acting Assistant Administrator for Fuels Conversion, Department of Energy, 2000 M Street, Room 3128-L, Washington, D.C. 20461, (202) 634-6557.

G. Randolph Comstock, Acting Assistant General Counsel for Coal Regulations, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room G-087, Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION: (1) On June 27, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities issued by ERA on March 15, 1979, Occidental requested ERA to classify its Suwannee River Boiler No. N.B. 24382 as an existing facility. Two conferences had previously been held at Occidental's request on April 17, 1979, and June 1, 1979. On Tuesday, October 16, 1979, ERA published a summary of Occidental's request for classification (44 FR 59584) and requested comments by interested persons on or before November 6, 1979. No comments were received.

(2) Occidental requested confidential treatment under § 515.31(h) of the Revised Interim Rule for certain information it filed with its request on Schedules 1 and 2 of Form ERA-300B. That information is deleted from the copy of ERA's Summary of Analysis relating to this Determination that is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C., November 13, 1979.

Robert L. Davies,
Acting Assistant Administrator, Office of
Fuels Conversion, Economic Regulatory
Administration.

[FR Doc. 79-35655 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP80-29]

Algonquin Gas Transmission Co.; Tariff Filing To Comply With Order No. 49

November 9, 1979.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on November 1, 1979, tendered for filing eleven (11) tariff sheets to revise its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that the tendered sheets are being filed to comply with Order No. 49 of the

Commission. Such sheets change the Purchased Gas Cost Adjustment Provision contained in Algonquin Gas' tariff by instituting provisions governing Incremental Pricing as required by Commission Order No. 49, it is said. The tariff sheets are proposed to be effective on December 1, 1979.

Algonquin Gas states that a copy of this filing is being served upon its affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35740 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER 80-69]

Central Illinois Public Service Co.; Revised Appendix A to Wholesale Power Agreement With City of Sullivan

November 9, 1979.

The filing Company submits the following:

Take notice that on November 1, 1979 Central Illinois Public Service Company (CIPS) tendered for filing Revised Appendix A to the agreement for the purchase of wholesale electric energy by the City of Sullivan.

Said Revised Appendix A modifies the Scheduled Power and Energy charges under the Agreement.

CIPS requests an effective date of January 1, 1980 for the Revised Appendix A.

A copy of the filing has been sent to the City of Sullivan and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426 in accordance with SS 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8,

1.10). All such petitions should be filed on or before November 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35741 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-71]

Central Illinois Public Service Co.; Change in FERC Electric Tariffs

November 9, 1979.

The filing Company submits the following:

Take notice that on November 2, 1979, Central Illinois Public Service Company tendered for filing revisions in Rate Schedules W-1, W-2 and W-3. The revisions are as follows:

1. *W-1 (FERC Electric Tariff, Original Volume No. 1.) for wholesale electric service to electric cooperatives:* The proposed revisions would increase revenues from jurisdictional sales and service by \$6,630,300 based on calendar year 1979.

The proposed revisions will become applicable on January 1, 1980. The proposed revisions resulted from a settlement which was reached after extended negotiations. The proposed revisions contain an upward adjustment in the rate level to more adequately reflect current and anticipated economic conditions.

2. *W-2 (FERC Electric Tariff, Original Volume No. 2) for wholesale electric service to municipal customers purchasing their total requirements:* The proposed revisions would increase revenues from jurisdictional sales and service by \$3,200,000 based on calendar year 1979.

The proposed revisions will become effective on January 1, 1980. Central Illinois Public Service Company states that the revised tariff will be applicable on that date for service being provided to municipalities currently served under Rate Schedule W-2, and to the remaining municipalities upon the expiration of the effective period for the rates and charges currently specified in the various agreements between the Company and the remaining municipalities. The proposed revisions contain an upward adjustment in the rate level to more adequately reflect current and anticipated economic conditions.

3. *W-3 (FERC Electric Tariff, Original Volume No. 3) for wholesale electric service to customers purchasing partial requirements to supplement their own generation:* The proposed tariff would increase revenues from jurisdictional sales and service by \$1,090,860 based on calendar year 1979.

The proposed tariff will become effective January 1, 1980 and applicable for service

being provided to the customers upon the expiration of the various effective periods for the rates and charges currently specified in the agreements between the Company and the customers. The proposed tariff contains an upward adjustment in the rate level to more adequately reflect current and anticipated economic conditions.

Copies of the appropriate filing were served upon the Company's jurisdictional customers and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35742 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-76]

Central Louisiana Electric Co., Inc.; Filing

November 9, 1979.

The filing Company submits the following:

Take notice that on November 7, 1979, Central Louisiana Electric Company, Inc. (Cleco) tendered for filing a Letter Agreement dated September 12, 1979 covering the sale of 80 MW of surplus capacity to Gulf States Utilities Company (GSU) for twelve (12) months beginning January 1, 1980. It also provides for the sale of an additional 150 MW of surplus capacity to GSU for five (5) months beginning January 1, 1980. Cleco states that GSU desires to purchase this capacity for its system needs and Cleco agrees to provide this capacity and that the Agreement will be beneficial to both systems. Cleco further states that deliveries will be made over existing interconnection facilities.

Cleco proposes an effective date of January 1, 1980, and therefore requests waiver of the Commission's notice requirements.

According to Cleco copies of this filing have been sent to GSU.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35743 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-74]

Central Louisiana Electric Co., Inc.; Transmission Service

November 9, 1979.

The filing Company submits the following:

Take notice that on November 7, 1979 Central Louisiana Electric Company, Inc. (CLECO) tendered for filing a Letter Agreement, dated September 18, 1979, providing for transmission service to Gulf States Utilities Company (GSU) for twelve (12) months beginning January 1, 1980. CLECO further states that the transmission service will be made over existing interconnection facilities.

CLECO proposes an effective date of January 1, 1980, and therefore requests waiver of the Commission's notice requirements.

According to CLECO copies of this filing have been sent to the Louisiana Public Service Commission, GSU, Oklahoma Gas & Electric Company, Arkansas Power & Light Company, and Louisiana Power & Light Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35744 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-75]

Central Louisiana Electric Co., Inc.; Surplus Capacity Sale

November 9, 1979.

The filing Company submits the following:

Take notice that on November 7, 1979, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing a Letter Agreement dated August 28, 1979 covering the sale of 200 MW of surplus capacity to Gulf States Utilities Company (GSU) for twelve (12) months beginning January 1, 1980, and shall continue thereafter on a month to month basis until the 345 KV interconnection between GSU and Southwestern Electric Power Company (SWEPCO) has been completed, but in any event this agreement shall terminate no later than May 31, 1981. CLECO states that GSU desires to purchase this capacity for its system needs and CLECO agrees to provide this capacity and that the Agreement will be beneficial to both systems. The Agreement is contingent upon CLECO obtaining equivalent capacity and energy from SWEPCO and upon CLECO obtaining approval of all regulatory bodies having jurisdiction. CLECO further states that deliveries will be made over existing interconnection facilities.

CLECO proposes an effective date January 1, 1980, and therefore requests waiver of the Commission's notice requirements.

According to CLECO copies of this filing have been sent to the Louisiana Public Service Commission, GSU and SWEPCO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35745 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-77]

**Cincinnati Gas & Electric Co.;
Proposed Rate**

November 9, 1979.

The filing company submits the following:

Take notice that The Cincinnati Gas & Electric Company (Cincinnati) tendered for filing on November 8, 1979, a proposed revision of its Short Term Power rate based upon an agreement between Cincinnati and Louisville Gas and Electric Company (Louisville) executed on October 1, 1979. The proposed rate change provides for an increase in the demand charge from \$.60 per kilowatt to \$.70 per kilowatt per week, and an increase in the reduction rate from \$.10 per kilowatt to \$.12 per kilowatt.

The date on which service under the revised schedule is expected to commence on October 1, 1979. An estimate of the sales and revenues under this revised rate schedule is not feasible because use will be scheduled only as load conditions dictate. There were no sales or revenues under the present rate in the twelve months ending August 1, 1979.

The filing company requests that the Commission waive any requirements not already complied with under Section 35.12 of its Regulations and that an effective date prior to the filing date be approved pursuant to Section 35.11.

A copy of this filing has been mailed to Louisville Gas and Electric Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35746 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-20]

**Colorado Interstate Gas Co.; Tariff
Filing**

November 9, 1979.

Take notice that Colorado Interstate Gas Company, on November 1, 1979, tendered for filing proposed tariff sheets which will establish in its FERC Gas Tariff an incremental pricing surcharge provision and a revised PGA provision in conformance with Section 282.601 of the Commission's Regulations.

CIG requests that the instant filing be made effective on December 1, 1979.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35747 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-33]

**Columbia Gas Transmission Corp.;
Proposed Changes in FERC Gas Tariff**

November 9, 1979.

Take notice that Columbia Gas Transmission Corporation (Columbia) on November 1, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows:

Eleventh Revised Sheet No. 64.
Twenty-sixth Revised Sheet No. 64A.
Seventeenth Revised Sheet No. 64B.
Second Revised Sheet No. 64C.
Original Sheet No. 64D.

Original Sheet No. 64E.
Original Sheet No. 64F.
Original Sheet No. 64G.
Original Sheet No. 64H.
Original Sheet No. 64I.

Columbia states that the foregoing tariff sheets effective December 1, 1979, are being filed to revise the provisions of Section 20 (Purchased Gas Cost Adjustment) of Columbia's tariff to reflect the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978 as set forth in Order No. 49, Final Rule, issued September 28, 1979 at Docket No. RM79-14.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before Nov. 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35748 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-12]

**Consolidated Gas Supply Corp.;
Proposed Changes in FERC Gas Tariff**

November 9, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on November 1, 1979 tendered for filing revised tariff sheets pursuant to Sections 154.38 and 282.601 of the Commission's Regulations. The revised tariff sheets, proposed to be effective December 1, 1979, were filed to implement the incremental pricing surcharge provisions and corresponding reduced PGA provisions as prescribed in Order No. 49 issued September 28, 1979 in Docket No. RM79-14.

Included in the filing were:

Original Sheet Nos. 67-A, 70-A, 72-A, 72-B, 72-C;
Second Revised Sheet Nos. 67, 71-A, 72;
Third Revised Sheet Nos. 68, 69, 70;
Fourth Revised Sheet No. 68; and
Fifth Revised Sheet No. 71.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35749 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-35]

**Eastern Shore Natural Gas Co.; Tariff
Filing**

November 9, 1979.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore), on November 1, 1979, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective December 1, 1979:

First Revised Sheet No. 249.
Original Sheet No. 254.

Eastern Shore states that the purpose of the filing is to revise Eastern Shore's FERC Gas Tariff in order to comply with the requirements prescribed in the Commission's Incremental Pricing Rule, Order No. 49, issued September 25, 1979 in Docket No. 79-14, 18 CFR Part 282. First Revised Sheet No. 249 revises Eastern Shore's PGA provision by incorporating the requirements of Subpart E of Part 282 of the Commission's incremental pricing regulations. Original Sheet No. 254 adds an incremental pricing surcharge provision to Eastern Shore's tariff in accordance with Subpart F of Part 282.

The Company states that copies of the filing have been sent to its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R.

§§ 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35750 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-13]

El Paso Electric Co.; Application

November 9, 1979.

Take notice that on October 30, 1979, El Paso Electric Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act and Part 34 of the Commission's Regulations for authority to negotiate the private placement of up to \$10 million of new Preferred Stock. The Applicant is a Texas Corporation, with its principal office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The net proceeds from the sale of the Preferred Stock will be used to repay short-term debt outstanding and for other corporate purposes.

Any person desiring to be heard or to make any protest with reference to the application should on or before November 30, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35751 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-32]

El Paso Natural Gas Co.; Tariff Filing

November 9, 1979.

Take notice that on November 1, 1979, El Paso Natural Gas Company ("El Paso") tendered for filing, in compliance with the Federal Energy Regulatory Commission's ("Commission") Order No. 49 issued September 28, 1979, at Docket No. RM79-14, and pursuant to

Part 154 of the Commission's Regulations Under the Natural Gas Act, certain proposed original and revised tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2A. Such proposed tariff sheets are identified on the attached Appendix.

El Paso states that on September 28, 1979, the Commission issued a series of rulemaking orders and related rulemaking notices designed to implement the first phase of the incremental pricing program set forth in Title II of the Natural Gas Policy Act of 1978 ("NGPA") which directs the Commission to promulgate a rule providing for the passthrough of specified portions of certain gas acquisition costs incurred by interstate pipelines to industrial boiler fuel users of natural gas. The Commission's Order No. 49, issued at Docket No. RM79-14, adopted regulations establishing procedures for the actual calculation and billing of incremental pricing surcharges and procedures by which industrial boiler fuel facilities statutorily exempt from the incremental pricing program could obtain such exemption. Section 282.601 of the Commission's Regulations Under the NGPA requires each interstate pipeline to file, by November 1, 1979, revised tariff sheets reflecting revisions to its existing Purchased Gas Cost Adjustment ("PGAC") provision¹ and the establishment of an Incremental Pricing Adjustment provision in accordance with the provisions of said Order No. 49.

El Paso states that the tendered tariff sheets to its Original Volume Nos. 1 and 2A Tariff were filed in compliance with the filing requirements of said Section 282.601 of the Commission's Regulations Under the NGPA. As fully set forth in the subject filing, the tendered Original Volume No. 1 tariff sheets are designed to (i) effectuate the utilization of the "reduced PGA" approach of determining PGAC rate increases provided for in Section 282.503 of the Commission's Regulations Under the NGPA, (ii) incorporate an Incremental Pricing Adjustment provision which will govern the operation of El Paso's incremental pricing passthrough mechanism, and (iii) make certain minor modifications to the existing language of El Paso's PGAC provision in order to clarify the overall operation of such provision under the incremental pricing program established by Order No. 49. El Paso further states

¹El Paso's PGAC provision is contained in Section 19 of the General Terms and Conditions of its Original Volume No. 1 Tariff and applies to all rate schedules contained in said Volume No. 1 Tariff, as well as certain special rate schedules contained in El Paso's Third Revised Volume No. 2 and Original Volume No. 2A Tariff.

that tendered Original Volume No. 2A tariff sheets are designed to modify El Paso's existing PGAC-Clean High Pressure Gas Provision ("PGAC-CHPG")² by establishing provisions similar to those described above applicable to El Paso's PGAC in order to provide for the passthrough of gas costs subject to incremental pricing to non-exempt boiler fuel facilities which may be served in the future by those sale-for-resale customers currently purchasing clean, high pressure pipeline quality gas from El Paso.³

El Paso states that, inasmuch as it presently does not sell, either directly or indirectly, clean, high pressure, pipeline quality gas to any industrial boiler fuel facility, the incremental pricing provisions established at Docket Nos. RM79-14 and RM79-21 are not applicable to the PGAC-CHPG provisions at this time. Therefore, and for purposes of administrative convenience, El Paso has respectfully requested that the Commission grant such waiver of its Regulations Under the NGPA as may be necessary in order that El Paso may defer the maintenance of the incremental pricing gas costs and surcharges accounts provided for in Section 282.502 of the Commission's Regulations Under the NGPA until such time as El Paso sells clean, high pressure, pipeline quality gas, either directly or indirectly, to an industrial boiler fuel facility pursuant to its Original Volume No. 2A Tariff.

El Paso has requested that the tendered original and revised tariff sheets reflecting the modifications to its existing PGAC and PGAC-CHPG provisions, as required by the Commission's Order No. 49, be accepted

² El Paso's PGAC-CHPG provision specifies the procedures to be utilized in adjusting rates under special Rate Schedules FS-3, FS-6, FS-7, FS-10, and FS-32 contained in El Paso's Original Volume No. 2A Tariff in order to reflect changes in the weighted average cost per Mcf of clean, high pressure, pipeline quality gas purchased by El Paso in the Permian Basin area of west Texas and southwest New Mexico.

³ At the present time, El Paso only makes sales of clean, high pressure, pipeline quality gas to those sale-for-resale customers identified on sheet No. 1-D of El Paso's Original Volume No. 2A Tariff who are being served under the rate schedules listed in footnote 2 *supra*. None of the volumes of gas purchased by such sale-for-resale customers are used to serve industrial boiler fuel facilities. However, in compliance with the directives of the Commission's Order No. 49 respecting revisions to existing PGAC clauses, El Paso is modifying such PGAC-CHPG in order that gas costs subject to incremental pricing may be passed through in a timely fashion to any non-exempt boiler fuel facility which may be served in the future by those sale-for-resale customers purchasing clean, high pressure, pipeline quality gas from El Paso. El Paso presently does not sell clean, high pressure, pipeline quality gas directly to industrial facilities for boiler fuel purposes.

for filing and permitted to become effective on December 1, 1979, the effective date provided for in Section 282.601(c) of the Commission's Regulations Under the NGPA.

El Paso states that copies of the filing have been served upon all of El Paso's interstate transmission system customers and all interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before November 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

El Paso Natural Gas Co.

Tariff sheets applicable to El Paso's Purchased Gas Cost Adjustment Provision contained in its FERC Gas Tariff, Original Volume No. 1:

Eighth Revised Sheet No. 67.
Fifth Revised Sheet No. 67-A.
Fifth Revised Sheet No. 67-B.
Fourth Revised Sheet No. 67-C.
Sixth Revised Sheet No. 67-D.
First Revised Sheet No. 67-D.1.
Original Sheet No. 67-D.2.
Original Sheet No. 67-D.3.
Original Sheet No. 67-D.4.
Original Sheet No. 67-D.5.
Original Sheet No. 67-D.6.
Original Sheet No. 67-D.7.
Original Sheet No. 159.

Tariff sheets applicable to El Paso's Purchased Gas Cost Adjustment Provision—Clean High Pressure Gas contained in its FERC Gas Tariff, Original Volume No. 2A:

Third Revised Sheet No. 1-E.
Second Revised Sheet No. 1-F.
Second Revised Sheet No. 1-G.
Second Revised Sheet No. 1-H.
Sixth Revised Sheet No. 1-I.
First Revised Sheet No. 1-J.
First Revised Sheet No. 1-K.
First Revised Sheet No. 1-L.
First Revised Sheet No. 1-M.

[FR Doc. 79-35752 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-25]

Granite State Gas Transmission, Inc.; Proposed Tariff Changes

November 9, 1979.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 66 Market Street (P.O. Box 508), Portsmouth, New Hampshire 03801, on November 1, 1979, tendered for filing with Federal Energy Regulatory Commission, the following revised tariff sheets for effectiveness December 1, 1979 in its FERC Gas Tariff, Original Volume No. 1:

Second Revised Sheet No. 32B.
Third Revised Sheet No. 32C.
Second Revised Sheet No. 32D.
First Revised Sheet No. 32E.
First Revised Sheet No. 32F.
Original Sheet No. 32G.

According to Granite State, the foregoing tariff sheets revise the Purchased Gas Cost Rate Adjustment provision in Section XX of the General Terms and Conditions in its tariff to comply with the requirements of the Commission's Order No. 49 in Docket No. RM79-14 relating to the incremental pricing provisions of the Natural Gas Policy Act of 1978. Granite State also states that the filing includes a change in the method of computing interest on carrying charges in the Unrecovered Gas Costs Account to conform to the requirements of Order No. 47, Docket No. RM77-22, issued September 10, 1979.

Granite State further states that copies of its filing have been served on its only jurisdictional customer, Northern Utilities, Inc., and the Public Utility Commissions of the States of Maine and New Hampshire.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Nov. 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35753 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-8]

Kansas-Nebraska Natural Gas Co., Inc.; Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that Kansas-Nebraska Natural Gas Company, Inc., on October 31, 1979 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed change would increase revenues from jurisdictional sales and service by \$3,029,268 based on the 12-month period ending June 30, 1979, as adjusted for known and reasonably measurable changes.

Kansas-Nebraska states that the jurisdictional rates filed herewith are designed to enable Kansas-Nebraska to recover increases in its jurisdictional cost of service resulting from: (1) additional facilities required to connect new sources of supply and to maintain deliverability from existing sources of supply; (2) increased gas and royalty costs; (3) increased operating costs including higher costs of labor, materials and supplies; (4) increased revenues needed to provide a return of 11.45% on its utility investment; and (5) increased income, payroll and property taxes.

Kansas-Nebraska has also proposed changes to Section 19 of the General Terms and Conditions of its FERC Gas Tariff to provide for the tracking of increased gas royalties attributable to pipeline owned production which is priced on a cost of service basis and the tracking of changes in the prices of company-owned production which is not priced on a cost of service basis.

Copies of the filing were served upon the company's jurisdictional customers and interested public bodies.

Kansas-Nebraska requests that the tendered sheets be accepted for filing and be permitted to become effective after 30 days following the date of filing.

Any person desiring to be heard or make any protest with reference to this filing should, on or before November 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) under the Regulations of the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the

Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35754 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-10]

Kansas-Nebraska Natural Gas Co., Inc.; Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) on October 31, 1979 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes will establish an incremental pricing surcharge provision in Kansas-Nebraska's FERC Gas Tariff and provide for the pass-through of costs in accordance with Part 282 of the Commission's Regulations.

Kansas-Nebraska states that this filing is made to establish the procedures to be followed by Kansas-Nebraska in implementing the incremental pricing rule established by the Commission in accordance with Title II of the Natural Gas Policy Act of 1978. Pursuant to the Commission's Regulations the filing is to become effective on December 1, 1979.

Copies of the filing were served upon the company's jurisdictional customers, interested public bodies and all direct and indirect customers which will be subject to the incremental pricing surcharge provision.

Any person desiring to be heard or make any protest with reference to this filing should, on or before November 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) under the Regulations of the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing

are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35756 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. SA80-11]

Midwestern Gas Transmission Co., et al.; Joint Application for Adjustment and Request for Interim Relief

November 9, 1979.

In the matter of Midwestern Gas Transmission Company, Great Lakes Gas Transmission Company, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Northern Natural Gas Company, Natural Gas Pipeline Company of America.

On October 26, 1979, Midwestern Gas Transmission Company (Midwestern) and Great Lakes Gas Transmission Company (Great Lakes) filed a joint application in Docket No. SA80-11 pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and Section 1.41 of the Commission's Rules of Practice and Procedure, 18 CFR § 1.41, for an adjustment exempting certain purchased gas costs associated with volumes of gas purchased from TransCanada Pipelines Limited (TransCanada) and imported from Canada from the applicability of the incremental pricing regulations adopted by the Commission in Order No. 49 issued September 28, 1979, in Docket No. RM79-14, all as more fully set forth in the application on file with the Commission and open to public inspection.

In the alternative and in the event Midwestern's and Great Lakes' foregoing application is denied, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Northern Natural Gas Company (Northern), and Natural Gas Pipeline Company of America (Natural) jointly with Midwestern and Great Lakes, request an adjustment exempting Midwestern's Northern System and Great Lakes from the application of the incremental pricing regulation and providing for treatment of the pertinent portion of the purchased gas costs associated with the imported volumes as part of the incremental gas acquisition costs determined directly for Tennessee, Northern and Natural in proportion to their respective purchases as more fully set forth in the application on file with the Commission.

Since a grant of either of the foregoing applications would result in Midwestern and Great Lakes having no

incrementally priced gas supplies, Midwestern and Great Lakes accordingly request an adjustment exempting Midwestern's Northern System and Great Lakes and their general system customers, to the extent of their service from Midwestern and Great Lakes, from the specific filing, reporting, rate and accounting requirements of Part 282 of the Commission's Regulations promulgated in Order No. 49 as more fully set forth in the application on file with the Commission.

Because of the impending deadlines for compliance with the incremental pricing regulations by Midwestern, Great Lakes, Tennessee, Northern and Natural, interim relief pursuant to Section 1.41(m) of the Commission's Rules of Practice and Procedure is also requested to maintain the status quo pending decision on the foregoing applications for adjustment. Specifically, Midwestern and Great Lakes request an interim exemption from the applicability of the incremental pricing regulations (1) to the purchased gas costs associated with the 132 Bcf imported from TransCanada, and (2) to Midwestern's Northern System and Great Lakes as more fully set forth in the application on file with the Commission.

I

Midwestern and Great Lakes state that, by Order of September 25, 1979, in *Midwestern Gas Transmission Company, et al.*, Docket Nos. CP66-110, *et al.* (September 25 Order), the Commission approved, *inter alia*, (1) the importation by Midwestern of additional total quantities of natural gas of 114 Bcf until October 31, 1980, and (2) the importation by Great Lakes of 18 Bcf of gas over the same period. In each case, the import authorizations were necessary only because of daily and annual restrictions in the export authorizations of TransCanada and similar restrictions in the existing import authorizations of both Midwestern and Great Lakes. In neither case was the total quantity of gas to be imported pursuant to the September 25 Order in excess of that previously authorized for export by the National Energy Board (NEB) in Canada and for import by the Commission.

Midwestern and Great Lakes state that a strict, literal reading of Section 207 of the NGPA and Section 282.301(e) of the Commission's Regulations promulgated by Order No. 49 suggests that the purchased gas costs of the 114 Bcf of gas to be imported by Midwestern and the 18 Bcf of gas to be imported by Great Lakes may be subject to

incremental pricing and result in incremental acquisition costs which must be passed through to Midwestern's Northern System and Great Lakes' general system customers as incremental pricing surcharges. However, Midwestern and Great Lakes assert that the applicability of the incremental pricing provisions of the NGPA to include the 132 Bcf to be imported by Midwestern and Great Lakes would impose an inequitable and unnecessary hardship on Midwestern's Northern System and Great Lakes' general system customers and, moreover, produce a result contrary to the purposes of the incremental pricing program. Accordingly, Midwestern and Great Lakes submit that an adjustment exempting these imports from the incremental pricing regulations is clearly appropriate and, further, would be entirely consistent with the purposes of the incremental pricing program.

II

In the event the Commission deems it inappropriate to exempt the purchased gas costs for the imported volumes in question from incremental pricing generally, then Midwestern and Great Lakes state that an adjustment should be granted exempting Midwestern's Northern System and Great Lakes from the requirements of incremental pricing subject to the condition that Tennessee, Northern and Natural treat the gas purchased from Midwestern as their own imported supplies. Neither Midwestern nor Great Lakes have any incrementally priced acquisition costs other than those potentially attributable to the 132 Bcf imported from TransCanada and the 114 Bcf imported by Midwestern will not flow to any of its general system customers and only a part of the 18 Bcf imported by Great Lakes will ultimately flow to Natural, the only general system customer of Great Lakes receiving any of such gas. Midwestern and Great Lakes therefore state that an adjustment exempting Midwestern and Great Lakes from the requirements of the incremental pricing regulations would not result in the costs of the 132 Bcf of gas or any other gas supplies escaping from the determination of incremental acquisition costs, but rather would only ensure that those costs are borne by the customers receiving the benefit of the increased gas supplies—the customers of Tennessee, Northern and Natural. Accordingly, Midwestern and Great Lakes submit that treatment of the supplies by those three pipelines as part of their own incrementally priced acquisition costs would not be inequitable nor impose any hardship or

burden on their customers and in fact would be highly appropriate and consistent with the intent of the incremental pricing provisions of the NGPA and the Commission's Regulations thereunder.

III

Subparts E and F of Part 282 of the Commission's Regulations impose various accounting and filing requirements on interstate pipelines, including Midwestern and Great Lakes. In addition, compliance with these requirements requires substantial effort on the part of Midwestern's and Great Lakes' distribution company customers in the calculation of the maximum surcharge absorption capability (MSAC) for their local systems for reporting to Midwestern and Great Lakes. Midwestern and Great Lakes state that the needless imposition of this burden would not be in the public interest and would not further the purposes of the incremental pricing provisions of the NGPA and, accordingly, that an adjustment should be granted specifically exempting Midwestern's Northern System and Great Lakes and their general system customers, to the extent of their service from Midwestern and Great Lakes, from the requirements of part 282 of the Commission's Regulations.

IV

During the period while this adjustment application is pending, Midwestern and Great Lakes state that they and their distribution company customers, in order to comply with the incremental pricing regulations, will incur unnecessary administrative burdens and, in addition, if the application is not acted on and the requested relief granted prior to January 1, 1980 (the effective date for the rates reflecting incremental pricing surcharges), Midwestern's Northern System and Great Lakes' general system customers will be subject to a significant and inequitable hardship. Accordingly, Midwestern and Great Lakes request interim relief pursuant to Section 1.41(m) of the Commission's Rules of Practice and Procedure.

The procedure applicable to the conduct of this adjustment proceeding are found in Section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Section 1.41. All

petitions to intervene must be filed on or before December 5, 1979.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35757 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP74-14, PGA 79-2]

Mountain Fuel Resources, Inc.; Tariff Sheet Filing

November 9, 1979.

Take notice that on November 1, 1979, Mountain Fuel Resources, Inc. (Resources) pursuant to § 154.82 and § 154.38 of the Commission's Regulations under the Natural Gas Act, filed Ninth Revised Sheet No. 7 and Second Revised Sheet No. 23 to its FERC Gas Rate Schedule No. 1. Resources states that the Ninth Revised Sheet No. 7 relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provisions authorized by RP74-14. More specifically, the tariff sheet reflects a net increase from that currently being collected of 23.08 cents per Mcf to be effective December 1, 1979. The Second Revised Sheet No. 23 reflects a change in filing and effective dates for Resources' semi-annual PGCA.

Any person desiring to be heard and to make any protest with reference to said filing should on or before November 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Resources' tariff filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35758 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-11]

Natural Gas Pipeline Co. of America; Notice of Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that on November 1, 1979, Natural Gas Pipeline Company of America (Natural) tendered for filing proposed changes in its FERC Gas

Tariff, Third Revised Volume No. 1, to implement the incremental pricing provisions of the Natural Gas Policy Act of 1978, pursuant to Order No. 49, issued September 28, 1979, at Docket No. RM79-14. Natural states the proposed changes will make effective:

Original Sheet No. 152.
Original Sheet No. 153.
Fifth Revised Sheet No. 116.
Second Revised Sheet No. 117.
Fourth Revised Sheet No. 118.
Eleventh Revised Sheet No. 119.
Fifth Revised Sheet No. 120.
Ninth Revised Sheet No. 120-A.
Fourth Revised Sheet No. 121.

Copies of this filing were served upon the company's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35759 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-68]

North Penn Gas Co.; Notice of Proposed Changes in FERC Gas Tariff and of Motion To Make Changes Effective

November 9, 1979.

Take notice that North Penn Gas Company (North Penn) on October 31, 1979 tendered for filing Sixty-Second Revised Sheet No. PGA-1 to its FERC Gas Tariff, First Revised Volume No. 1 and a motion to make rates and charges effective after suspension. The revised tariff sheet is proposed to become effective November 1, 1979, subject to refund, in lieu of the rates filed April 30, 1979; in the above docket, which were suspended until November 1, 1979.

North Penn states that Sixty-Second Revised Sheet No. PGA-1 is being filed pursuant to Section 4 of the Natural Gas Act and that the rates contained therein have been adjusted to reflect the intervening changes in cost of pipeline

purchased gas contained in North Penn's April 30, 1979 filing.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35760 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-28]

Northern Natural Gas Co.; Notice of Proposed Changes in PGA Provision and Proposed Incremental Surcharge Provision

November 9, 1979.

Take notice that on November 1, 1979, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1:
Original Sheet No. 4c.
Third Revised Sheet No. 65.
Second Revised Sheet Nos. 66, 67, 68.
Third Revised Sheet No. 69.
Second Revised Sheet No. 70.
Original Sheet Nos. 70a through 70j.
Third Revised Sheet No. 71.

Original Volume No. 2:

Original Sheet No. 1b.1.
First Revised Sheet Nos. 1d, 1e, 1f.
Second Revised Sheet Nos. 1g, 1h, 1i.
Original Sheet Nos. 11.1 through 11.9.

Such revised tariff sheets are required in order that Northern may make certain changes in its tariffs required under Section 282.601 of the Commission's Regulations under Title II of the Natural Gas Policy Act of 1978 (NGPA) which provides that each interstate pipeline shall file with the Commission an incremental pricing surcharge provision and a revised PGA provision in accordance with the requirements of Part 282 of Subchapter I of Chapter 1 of the Regulations.

The Company states that copies of the filing have been mailed to each of its

Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Nov. 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35761 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Dockets Nos. RP72-154 (PGA No. 79-2) and RP74-72 (DCA No. 79-2)]

Northwest Pipeline Corp.; Notice of Proposed Change in Rates

November 9, 1979.

Take notice that on October 30, 1979 Northwest Pipeline Corporation ("Northwest") tendered for filing pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act, the following revised tariff sheet to become effective October 1, 1979:

Third Substitute Twenty-third Revised Sheet No. 10.

By order issued September 28, 1979 in the captioned proceedings, the Commission conditionally accepted, subject to refund, Alternate Substitute Twenty-third Revised Sheet No. 10, effective October 1, 1979. Said tariff sheet was tendered August 16, 1979 in Northwest's PGA filing to reflect its increased cost of purchased gas pursuant to Article 16 in Northwest's Volume No. 1 Tariff.

The Commission's order was conditioned that Northwest file a revised tariff sheet reflecting elimination of producer and pipeline supplier costs which those suppliers were not authorized to charge on October 1, 1979. After recalculating its cost of purchased gas as ordered, the annualized change amounts to (\$.425,042) or (.011¢) per therm.

As more fully explained in the instant filing, Northwest respectfully requests waiver of the Commission's condition in its September 28, 1979 order and that its rates "as filed" on August 16, 1979,

remain unchanged due to (1) the minimal cost effect on its customers, and (2) the *de minimus* amount will be returned to the customers through the normal operations of Account 191 and reflected in the special PGA filing on December 1, 1979 to be effective January 1, 1980 pursuant to the incremental pricing regulations.

A copy of this filing has been served on all of Northwest's customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35762 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-34]
Northwest Pipeline Corp.; Notice of Change in FERC Gas Tariff

November 9, 1979.

Take notice that on November 1, 1979 Northwest Pipeline Corporation ("Northwest") tendered for filing the following tariff sheets as part of its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 10-B.
Fourth Revised Sheet No. 56.
Third Revised Sheet No. 57.
Third Revised Sheet No. 58.
Second Revised Sheet No. 59.
Third Revised Sheet No. 60.
Original Sheet No. 60-A through 60-D.

As more fully explained in the instant filing, these tariff sheets revise Article 16, *Purchased Gas Cost Adjustment Provision*, of the General Terms and Conditions of said Tariff to incorporate the Incremental Pricing Provisions of Title II of the Natural Gas Policy Act of 1978 pursuant to Order No. 49 and to incorporate procedures for determining carrying charges on Account No. 191 pursuant to Order No. 47.

The proposed effective date of the tendered tariff sheets is December 1, 1979. A copy of this filing has been

served on Northwest's customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35763 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. SA80-12]

Oklahoma Natural Gas Gathering Corp.; Notice of Application for Adjustment

November 9, 1979.

On October 28, 1979, Oklahoma Natural Gas Gathering Corporation (Gathering) filed with the Federal Energy Regulatory Commission an application for an adjustment under Part 282 of the Commission's Rules under the NGPA wherein Gathering sought be permitted to (1) determine, as required by Order No. 49, the incremental natural gas costs that would require a surcharge above a base rate on its system each month and report those costs to Cities Service Gas Company (Cities Service) so that Cities Service can use those costs in determining the allocations of incremental costs to its MSAC's; (2) be exempt from performing all other tasks required by incremental pricing rules unless it may at some time have another customer which would have industrial loads which might be required to absorb incremental costs.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any persons desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed within 15 days

after publication of this notice in the Federal Register.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35764 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-19]

Pacific Interstate Transmission Co., Notice of Proposed Changes in FERC Gas Tariff Pursuant to Incremental Pricing Provisions

November 9, 1979.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on November 1, 1979 tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following sheets:

Thirteenth Revised Sheet No. 4.
Tenth Revised Sheet No. 5.
Second Revised Sheet No. 36.
Original Sheet No. 39.
Original Sheet No. 40.
Original Sheet No. 41.

Pacific Interstate states that the above tendered tariff sheets are issued pursuant to the provisions of Order No. 49, Docket No. RM79-14 Subpart F §282.601(a)(b)(c) to revise the present Purchased Gas Cost Adjustment (PGCA) Provision and establish an Incremental Pricing Surcharge Provision. The proposed effective date of these tendered tariff sheets is December 1, 1979.

Pacific Interstate states that this FERC Gas Tariff, Original Volume No. 2 is available to one affiliated customer only, Pacific Lighting Supply Company, a sale for resale customer.

Any person desiring to be heard or to protest said should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before November 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35765 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-78]

Pacific Power & Light Co.; Notice of Extension of Rate Schedule

November 9, 1979.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on November 7, 1979, tendered for filing, in accordance with section 35.13 of the Commission's Regulations, an extension of Pacific's Rate Schedule, FERC No. 169, and Tucson's corresponding Rate Schedule FERC No. 28, for power sales to Tucson Electric Power Company (Tucson).

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective October 1, 1979, which it claims is the date service commenced.

Copies of the filing were supplied to Tucson.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35766 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-16]

Panhandle Eastern Pipe Line Co.; Notice of Change in Tariff

November 9, 1979.

Take notice that on November 1, 1979 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following Revised Tariff Sheets to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 3-C.1.
Original Sheet No. 3-C.2.
Original Sheet No. 3-C.3.
Fifth Revised Sheet No. 43-1.
Seventh Revised Sheet No. 43-2.
Original Sheet No. 43-2.1.
Eighth Revised Sheet No. 43-3.
Ninth Revised Sheet No. 43-4.
Second Revised Sheet No. 43-4.1.
Original Sheet No. 43-7.

Original Sheet No. 43-8.

An effective date of December 1, 1979 is proposed. Panhandle states that such revised tariff sheets are filed pursuant to Section 282.601 of the Commission's Regulations.

On September 28, 1979 the Commission issued Order No. 49 in subject docket establishing the Final Rule implementing the incremental pricing provisions of the Natural Gas Policy Act of 1978. Section 282.601 of the Commission's Regulations as established under Order No. 49 require interstate pipelines to revise its current PGA tariff provisions and establish Incremental Pricing Surcharge (tariff provisions in accordance with the Incremental Pricing Regulations).

Panhandle states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35767 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES80-12]

South Carolina Electric & Gas Co.; Notice of Application

November 9, 1979.

On October 30, 1979, South Carolina Electric & Gas Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204(a) of the Federal Power Act to issue unsecured promissory notes not to exceed in the aggregate \$120,000,000 face value at any one time outstanding. The notes, including bank notes and commercial paper, are to have maturities not exceeding twelve months from the dates of issuance. The Applicant is incorporated under the laws of the State of South Carolina with

its principal business office at Columbia, South Carolina, and is engaged primarily in the electric and gas business.

The proceeds from the sale of the notes will be used (1) to provide interim financing for Applicant's construction program contemplated and now in progress, (2) to provide temporary financing of current transactions, to maintain cash working funds at normal levels, to carry accounts receivable, to provide for periodic large cash needs, such as tax payments, to supply temporary funds for unexpected cash requirements, and (3) to provide for other types of current operational business requirements. Applicant's construction program now in progress and contemplated through 1981 has an estimated cost of \$632,000,000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35768 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-25]

Southern Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that Southern Natural Gas Company (Southern), on November 1, 1979, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective December 1, 1979. Southern states that the proposed tariff sheets have been filed to revise its Purchase Gas Adjustment Clause and to establish an Incremental Pricing Surcharge provision, all in compliance with the Commission's Order No. 49.

Copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35769 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-21]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Notice of Tariff Filing Pursuant to Order No. 49

November 9, 1979.

Take notice that on November 1, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing tariff sheets to its FERC Gas Tariff, to be effective December 1, 1979, consisting of the following:

Ninth Revised Volume No. 1

Original Sheet Nos. 213U, 213V and 213W.
First Revised Sheet Nos. 21, 213K5 and 213T.

Second Revised Sheet Nos. 27, 32 and 213E.
Third Revised Sheet Nos. 213A, 213B, 213F, 213G and 213L.

Fourth Revised Sheet No. 213D.
Fifth Revised Sheet No. 213.
Sixth Revised Sheet No. 213C.

Seventh Revised Sheet Nos. 14, 20, 26, 30 and 33.

Sixth Revised Volume No. 2

First Revised Sheet Nos. 430 and 431.
Second Revised Sheet No. 428.
Fifth Revised Sheet No. 429.
Seventh Revised Sheet No. 427.

Tennessee states that these tariff sheets reflect the modifications and additions to its tariff resulting from the Commission's Regulations adopted in Order No. 49 to implement incremental pricing. Specifically, Tennessee states that it is adding a new Article XXIX to the General Terms and Conditions of its tariff to establish the mechanism for calculating and billing the Incremental Pricing Surcharges. Tennessee further states that it has revised the Purchased Gas Cost Cost Adjustment provision in Article XXIII to reflect the changes in

the calculation of its PGA rate adjustment flowing from Order No. 49. Finally, Tennessee states that it has made a number of minor changes to the notice provisions of its other rate adjustment provisions and modified its basic sales rate schedules to incorporate the appropriate references to the new incremental pricing provisions of its tariff.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers, all direct sales customers subject to incremental pricing and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35770 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-27]

Texas Gas Transmission Corp.; Notice of Filing of Revised Tariff Sheet

November 9, 1979.

Take notice that on November 1, 1979, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1:

Second Revised Sheet Nos. 101 and 104.
Seventh Revised Sheet No. 102.
First Revised Sheet Nos. 103 and 106-A.
Third Revised Sheet No. 105.
Fourth Revised Sheet No. 106.
Original Sheet No. 106-B.

The revised tariff sheets are being filed to (1) establish an incremental pricing surcharge provision in Texas Gas' FPC Gas Tariff; and (2) revise the presently effective PGA provisions of the tariff to reflect incremental pricing as directed in Order No. 49 issued September 28, 1979, in Docket No. RM79-14. The proposed effective date of the revised tariff sheets is December 1, 1979.

Copies of the revised tariff sheets are being mailed to Texas Gas' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35771 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-9]

Texas Gas Pipe Line Corp.; Notice of Tariff Filing

November 9, 1979.

Take notice that on November 1, 1979, Texas Gas Pipe Line Corporation (Texas Gas) tendered for filing as its FERC Gas Tariff to be effective on November 1, 1979 the following volumes:

Second Revised Volume No. 1.
First Revised Volume No. 2.

Texas Gas States that the replacing volumes are tendered for filing for the following reasons:

(1) To effectuate certain conforming changes pursuant to an Order issued by the Commission on February 8, 1978 in Docket No. CP78-57 permitting and approving abandonment of certain facilities.

(2) To satisfy the requirements of Section 282.601 of the Commission's regulations issued on October 3, 1979 in Docket No. RM79-14 (Order No. 49) requiring interstate pipelines to file revised PGA provisions and incremental pricing surcharge provisions to be effective December 1, 1979 unless disapproved by the Commission.

Texas Gas' Second Revised Volume No. 1 contains a First Revised Sheet No. 4a which Texas Gas states has been prepared in accordance with the Purchased Gas Adjustment Provision contained in Section 12 of the General Terms and Conditions of the Tariff. More specifically, the tariff sheet reflects a net decrease under the rate

currently being collected of 7.25 cents per Mcf (at 14.65 psia) to be effective December 1, 1979.

Any person desiring to be heard and to any protest with reference to said filing should on or before November 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Texas Gas' tariff filing is on file with the Commission and available for public inspection.

Kenneth R. Plumb,
Secretary.

[FR Doc. 79-35772 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-13]

Transcontinental Gas Pipe Line Corp.; Notice of Tariff Filing

November 9, 1979.

Take notice that on November 1, 1979, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Second Revised Sheet No. 247.
First Revised Sheet No. 248.
Third Revised Sheet No. 249.
First Revised Sheet No. 250.
Original Sheet No. 250-A.

Transco states that these tariff sheets set forth new procedures for collection of incremental pricing surcharges, as prescribed by the Commission's Order No. 49, issued September 28, 1979, together with the revisions in Transco's purchased gas adjustment (PGA) clause required to implement incremental pricing. These tariff sheets are proposed to be made effective December 1, 1979. The Company states that copies of the filing have been mailed to each of its customers and interested States Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests

should be filed on or before November 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35773 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-30]

United Gas Pipe Line Co.; Notice of Filing of Original and Revised Tariff Sheets

November 9, 1979.

Take notice that United Gas Pipe Line Company (United), on November 1, 1979, tendered for filing, as part of its FERC Gas Tariff, First Revised Volume 1, the following tariff sheets:

Fourth Revised Sheet No. 74-B.
Fifth Revised Sheet No. 74-C.
Fourth Revised Sheet No. 74-D.
Fifth Revised Sheet No. 74-E.
Fifth Revised Sheet No. 74-F.
Original Sheet No. 74-F1.
Original Sheet No. 74-F2.
Original Sheet No. 74-P.
Original Sheet No. 74-Q.
Original Sheet No. 74-R.
Original Sheet No. 74-S.

United states it has revised Section 19 and added a new Section 23 to its FERC Gas Tariff, First Revised Volume No. 1. Section 19 is being revised to (1) modify Section 19, as required by the Commission's order issued July 18, 1979, in United Gas Pipe Line Company Docket No. RP72-133 (PGA77-2), to exclude from United's purchased gas adjustments the costs of emergency gas purchased on or after July 18, 1979, under Section 157.48 of the Commission's regulation either (a) by Seller as agent or broker for others or (b) by Seller for system supply when such gas is not acquired to serve or protect service to United's Priority 1 requirements or to allow United to maintain its storage injection schedules; and (2) to modify Section 19, as required by Commission Order No. 49, issued September 28, 1979, and to provide a new Section 23 to implement the incremental pricing procedures set out in Order No. 49. The proposed tariff sheets will change the method of computing the rates to become effective January 1, 1980, but will not affect the rates in effect prior to that date. United respectfully requests waiver of the Commission's regulations, to the extent

that such waiver may be required to permit implementation of incremental pricing as set out on the proposed tariff sheets and to make such tariff sheets effective on December 1, 1979, as required by Order No. 49.

Copies of the proposed tariff sheets will be mailed to United's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35774 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. SA80-18]

Western Gas Interstate Co.; Notice of Application for Adjustment and Request for Interim Relief

November 9, 1979.

On October 31, 1979, Western Gas Interstate Company ("Western") filed with the Federal Energy Regulatory Commission an application for an adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 ("NGPA"). Western seeks relief from Part 282—Incremental Pricing set forth in Order 49 (RM79-14) and the filing deadline of November 1, 1979 contained in Section 282.601 and an exemption from the December 1, 1979 deadline in Section 282.602 of the Commission's Regulations under Title II of the NGPA. Western also requests interim relief pending determination of the application.

Section 282.601 and 282.602 require: (i) the filing of an incremental pricing surcharge provision and a revised Purchased Gas Adjustment by November 1, 1979; (ii) the filing of tariff sheets on or before December 1, 1979 reflecting the projected Incremental Pricing Surcharges by month for each of the direct sale, non-exempt industrial boiler fuel facilities; and (iii) the monthly aggregate amount applicable to

each sale-for-resale customer on the pipeline system. Western sells gas to only one customer, its parent, Southern Union Company, through its two gas distribution divisions, Southern Union Gas Company ("SUG") and Gas Company of New Mexico ("GCNM"). Such sales are made in accordance with tariffs on file with this Commission. The sale of gas to the ultimate consumers are regulated by various state and local authorities. Western has been advised by sworn affidavit that SUG serves no "non-exempt" industrial boiler fuel customers with natural gas provided by Western. Further, the sales to GCNM are derived from sales from El Paso Natural Gas Company ("EPNG") and are stated to be *de minimis* in amount. To the extent necessary to maintain GCNM's pro rata share of incremental costs from EPNG, Western states that GCNM would treat its purchases from Western as though acquired directly from EPNG.

For these reasons, Western contends that the requirements of Order 49, as established in Part 282—Incremental Pricing and Sections 282.601 and 282.602 in particular are unnecessary and would cause special hardship and work an inequity on Western, and, consequently, Western requests waiver of the requirements set forth in Part 282 as established by Order 49 and in Section 282.602 and an extension of the deadline of November 1, 1979, for filing tariff sheets, revising the PGA provisions set forth in Section 282.601 until 30 days before such time Western brings any non-exempt customer on line, for sale to SUG or makes sales other than from EPNG sources of gas to GCNM all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35775 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. SA80-13]

Zenith Natural Gas Co.; Notice of Application for Adjustment

November 9, 1979.

On October 26, 1979, Zenith Natural Gas Company (Zenith) filed with the Federal Energy Regulatory Commission an application for an adjustment under Part 282 of the Commission's Rules under the NGPA wherein Zenith requested that the Commission clarify the requirements of Part 282 or make an adjustment to exempt Zenith from the requirements of Part 282 as long as none of its gas purchases is at a cost in excess of the threshold level. Zenith states that none of the gas which it purchases is priced in excess of the incremental pricing threshold level and that the gas is low cost gas which will not reach the threshold level.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35776 Filed 11-19-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 9G2256/T221; FRL 1362-2]

Establishment of a Temporary Tolerance; 2,6-dichloro-4-nitroaniline

Pennwalt Corp., 1713 South Carolina Ave., Monrovia, CA 91016, submitted a pesticide petition (PP 9G2256) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the fungicide 2,6-dichloro-4-nitroaniline in or on the raw agricultural commodity kiwi fruit at 20.0 parts per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit, 4581-EUP-33, that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance

was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Pennwalt Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires July 1, 1980. Residues not in excess of 20.0 ppm remaining in or on kiwi fruit after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Henry Jacoby, Product Manager 21, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460 (202/755-2562).

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 34a(j)))

Dated: November 9, 1979.

Douglas D. Campt,
Director, Registration Division.

[FR Doc. 79-35686 Filed 11-19-79; 8:45 am]
BILLING CODE 6560-01-M

[PF-84B; FRL 1361-8]

Filing of Feed Additive Petition Amendments

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Amendments to notice of filing.

SUPPLEMENTARY INFORMATION: On December 6, 1977, EPA announced (42 FR 61626) that Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120, had submitted a feed additive petition (FAP 6H5150) proposing that 21 CFR 561.232 be amended by establishing a regulation permitting the use of the nematocide ethyl-3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its

cholinesterase-inhabiting metabolites on the commodities of grapefruit, lemons, limes, oranges, and tangerines, with tolerance limitations of 3.0 parts per million (ppm) in citrus molasses and 2.5 ppm in dried citrus peel. Mobay Chemical Corp. has submitted amendments to this petition by changing the tolerance limitation from 3.0 ppm to 2.5 ppm for citrus molasses, adding the commodities citrus oil at 25.0 ppm and dried citrus pulp at 2.5 ppm, and deleting the commodity dried citrus peel at 2.5 ppm.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM) 21, Mr. Henry Jacoby, Room E-305, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755-2562. Comments submitted should bear a notation indicating the petition number "FAP 6H5150". Comments may be made at any time while a petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 409(b)(5), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348))

Dated: November 9, 1979.

Douglas D. Campt,
Director, Registration Division.

[FR Doc. 79-35687 Filed 11-19-79; 8:45 am]
BILLING CODE 6560-01-M

[PF-84A; FRL 1361-7]

Notice of Filing of Pesticide Petition Amendment

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Amendment to notice of filing.

SUPPLEMENTARY INFORMATION: On December 6, 1977, EPA announced (42 FR 61626) that Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120, has submitted a pesticide petition (PP 6F1865) proposing that 40 CFR 180.349 be amended by establishing tolerances for the combined residues of the nematocide ethyl-3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities grapefruit, lemons, limes, oranges, and tangerines at 0.75 part per million (ppm). Mobay Chemical Corp. has submitted an amendment to this petition changing the tolerance limitation from 0.75 ppm to 0.6

ppm on the above raw agricultural commodities. The proposed analytical method for determining residues is gas chromatography using a thermionic flame ionization detector.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM-21), Mr. Henry Jacoby, Room E-305, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755-2562. Comments submitted should bear a notation indicating the petition number "PP 6F1865". Comments may be made at any time while a petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Section 408(d)(1) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a))

Dated: November 9, 1979.

Douglas D. Campt,
Director, Registration Division.

[FR Doc. 79-35687 Filed 11-19-79; 8:45 am]
BILLING CODE 6560-01-M

[Docket No. ECAO-CD-79-1; FRL 1362-3]

Review of Preliminary Draft Criteria for Particulate Matter and Sulfur Oxides; Correction

Agency mention of Federal Register notice 44 FR 58730, October 2, 1979, in Federal Register notice 44 FR 61455, October 25, 1979 is changed to read 44 FR 56730, October 2, 1979. This serves to correct the erroneous page cited.

Dated: November 14, 1979.

Stephen J. Gage,
Assistant Administrator for Research and Development.

[FR Doc. 79-35690 Filed 11-19-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1362-7; OPTS-59000]

Office of Pesticides and Toxic Substances; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Receipt of application for exemption from premanufacture requirements for test marketing purposes; request for comments.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in

the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under § 5(h) the Agency may, upon application, exempt any person from any requirement of § 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to publish in the Federal Register a notice of receipt of any such application. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by December 6, 1979. Persons should submit written comments on the application no later than December 5, 1979.

ADDRESS: Written comments should bear the identifying notation OPTS-59000, and should be submitted in triplicate, if possible, to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M St., SW., Washington, D.C. 20460. All comments submitted and other nonconfidential information in the public record are available for public inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room 447, East Tower, at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Paige Beville, Application Manager, Premanufacture Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460 (202/426-8815).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the Federal Register a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the Federal Register.

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979 and 44 FR 59764, October 16, 1979) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) Federal Register notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy (44 FR 28564, May 15, 1979) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Dated: November 16, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic
Substances.

Test Marketing Exemption Application
5AHQ-1079-0020A
5AHQ-1079-0021A
Close of Application Review Period:
December 6, 1979.

Importer's Identity: Hesser & Associates,
Inc., 10100 Santa Fe Drive, Suite 208,
Overland Park, Kansas 66212.

Chemical Substances: Hesser and
Associates intends to import sucrose

tallowate as well as mixtures containing that substance along with any or all of the following: (1) Mono- and diglycerides of tallow fatty acids. (2) Calcium salts of tallow fatty acids. (3) Potassium salts of tallow fatty acids.

Sucrose tallowate is composed primarily of sucrose monopalmitate, sucrose mono-oleate, and sucrose monostearate. An inventory search was conducted for these three components. Sucrose monopalmitate appeared on the Inventory, No. 28446-38-8. Sucrose mono-oleate and sucrose monostearate did not.

Uses:

The importer has indicated that the products that he intends to import for test marketing purposes under this exemption will be used primarily as surfactants in laundry detergents and dishwashing detergents. Possibly one or more of these products may be used in barrier creams for hands.

Data:

1. The importer has indicated that the maximum amount to be test marketed will be approximately 400-600 lbs.
2. The maximum number of products containing sucrose tallowate for test marketing purpose is 10-15.
3. The maximum number of samples containing sucrose tallowate to be test marketed is 70-80.
4. The maximum number of persons who may be exposed to the substance as a result of test marketing activities is 140-160.
5. Test marketing will occur over a time period of 18-24 months.

Physical and chemical characteristics supplied by the submitter for each of the five products he intends to import under this exemption are as follows:

TAL 120 T—Surfactant

Composition

TAL 120 T is essentially a complex mixture of sucrose esters, mono/diglycerides, and potassium soaps formed by the transesterification reaction of tallow and sucrose.

General Characteristics

Appearance, a free flowing, waxy, tan colored flake.
Softening point, 55° C. (Ring and Ball).
Pour point, 74° C.
Specific gravity (20°), 1.099.
Bulk density, 0.40 approx.
pH (1% aq. soln.), 10.5.
H.L.B., 14 approx.
Solubility, dispersible in warm water.
Biodegradability, completely biodegradable.

TAL 121 T—Surfactant

Composition

TAL 121 T is essentially a complex mixture of sucrose esters, mono/diglycerides, and calcium soaps of fatty acids derived from tallow.

General appearance

Appearance, a soft, waxy, light brown solid.
The product will be available in flake or powder form.
Softening point, 82° C. (Ring and Ball).
Pour point, 90° C. approx.

Specific gravity (20° C.), 0.984.

Biodegradability, completely biodegradable.

TAL 125 T—Surfactant

Composition

TAL 125 T is essentially a mixture of sucrose esters and potassium soaps of fatty acids derived from tallow.

General characteristics

Appearance, a free flowing, waxy, tan colored powder.
Softening point, 96° C. (Ring and Ball).
Specific gravity (20° C.), 1.075.
Bulk density, 0.64 approx.
pH (1% aq. soln.), 9.5.
H.L.B., 15 approx.
Solubility, dispersible in warm water.
Soluble in isopropanol.
Biodegradability, completely biodegradable.

TAL 150 T—Sucroglyceride

Composition

TAL 150 T is essentially a mixture of sucrose esters and mono/diglycerides of fatty acids derived from tallow.

General characteristics

Appearance, a soft, waxy, light brown solid.
Softening point, 40° C. (Ring and Ball).
Pour point, 54° C.
Specific gravity (20° C.), 0.99.
H.L.B., 7 approx.
Solubility, insoluble in water. Soluble in isopropanol.
Biodegradability, completely biodegradable.

TAL 160 T—Sucrose ester

Composition

TAL 160 T is composed essentially of sucrose esters of fatty acids derived from tallow.

General characteristics

Appearance, a tan colored, free flowing powder.
Softening point, 95° C. (Ring and Ball).
Specific gravity (20° C.), 1.07.
Bulk density, 0.65 approx.
H.L.B., 16 approx.
Solubility, dispersible in warm water.
Soluble in isopropanol.
Biodegradability, completely biodegradable.

(FR Doc. 79-35884 Filed 11-19-79; 8:45 am)

BILLING CODE 6560-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement of Policy Concerning Interest Rate Futures Contracts, Forward Contracts and Standby Contracts

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Policy Statement.

SUMMARY: This policy statement contains policies and procedures that the Board of Directors believes should be instituted by insured State nonmember banks that engage in

interest rate futures contracts,¹ forward contracts² or standby contracts,³ on U.S. government and agency securities to ensure that such activities are conducted in accordance with safe and sound banking practices. These policies and procedures will apply to contracts outstanding as of January 1, 1980 as well as to those entered into thereafter. Similar policy statements are being adopted by the Comptroller of the Currency and the Board of Governors of the Federal Reserve System.

EFFECTIVE DATE: The policy statement is effective January 1, 1980. Comments, however, will be received until December 15, 1979.

ADDRESS: Comments should be in writing, should refer to PR-122-79, and be addressed to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Ms. Sally Y. King, Chief, Securities Analysis Section, or Mr. Paul L. Sachtleben, Projects and Planning Branch, Federal deposit Insurance Corporation, 550-17th Street, NW., Washington, D.C. 20429 (202-389-4606 or 202-389-4141).

SUPPLEMENTARY INFORMATION: This policy statement is issued pursuant to the Financial Institutions Supervisory Act, 12 U.S.C. 1813, and the supervisory authority of the Federal Deposit Insurance Corporation with respect to nonmember insured banks.

¹ *Futures Contracts:* These are standardized contracts traded on organized exchanges to purchase or sell a specified security on a future date at a specified price. Futures contracts on GNMA mortgage backed securities and Treasury bills were the first interest rate futures contracts. Several other interest rate futures contracts have been developed, and it is anticipated that new and similar interest rate futures contracts will continue to be proposed and adopted for trading on various exchanges.

² *Forward Contracts:* These are over-the-counter contracts for forward placement or delayed delivery of securities in which one party agrees to purchase and another to sell a specified security at a specified price for future delivery. Contracts specifying settlement in excess of 30-days following trade date shall be deemed to be forward contracts. Forward contracts are not traded on organized exchange, generally have no required margin payments, and can only be terminated by agreement of both parties to the transaction.

³ *Standby Contracts:* These are optional delivery forward contracts on U.S. government and agency securities arranged between securities dealers and customers and do not currently involve trading on organized exchanges. The buyer of a standby contract (put option) acquires, upon paying a fee, the right to sell securities to the other party at a stated price at a future time. The seller of a standby (the issuer) receives the fee, and must stand ready to buy the securities at the other party's option.

Statement of Policy Concerning Interest Rate Futures Contracts, Forward Contracts and Standby Contracts

The following is a Board of Directors policy statement relating to insured State nonmember bank participation in the futures and forward contract markets to purchase and sell U.S. government and agency securities. Information contained below is applicable specifically to activities of commercial and mutual savings banks. An additional statement of policy applicable to trust department activities of State nonmember banks may be issued at a later time.

The staff of the Treasury Department and the Board of Governors of the Federal Reserve System recently completed a study of the markets for Treasury futures. In part, the study notes that there is evidence that financial futures can be used by banks effectively to hedge portions of their portfolios against interest rate risk. However, the study also cautions that improper use of interest rate futures contracts will increase rather than decrease interest rate risk. In addition, various participants have advised that certain salespersons are attempting to suggest inappropriate futures transactions for banks, such as taking futures positions to speculate on future interest rate movements. Furthermore, some banks and other financial institutions have recently issued standby contracts (giving the contra party the option to deliver securities to the bank at a predetermined price) that were extremely large given their ability to absorb interest rate risk. In so doing, these institutions have been exposed to potentially large losses that could (and sometimes did) significantly affect their financial condition.

Banks that engage in futures, forward and standby contract activities should only do so in accordance with safe and sound banking practices. Levels of activity should be reasonably related to the bank's business needs and capacity to fulfill its obligations under these contracts. In managing their investment portfolios, banks should evaluate the interest rate risk exposure resulting from their overall activities to ensure that the positions they take in futures, forward and standby contract markets will reduce their risk exposure. Pairing a transaction in the spot market with an offsetting position in either futures, forward or standby contracts can be an effective way to reduce interest rate risk. However, policy objectives should be formulated in light of the bank's entire asset and liability mix. The following are minimal guidelines to be

followed by banks eligible under State law to participate in these markets.

1. Prior to engaging in these transactions, a bank should consult its State banking authority or obtain an opinion of bank counsel concerning the legality of these activities under State law.

2. The board of directors should consider any plan to engage in these activities and should endorse specific written policies in authorizing these activities. Policy objectives must be specific enough to outline permissible contract strategies and their relationship to other banking activities. Record keeping systems must be sufficiently detailed to permit internal auditors and examiners to determine whether operating personnel have acted in accordance with authorized objectives. Bank personnel are expected to be able to describe and document in detail how the positions they have taken in futures, forward and standby contracts contribute to the attainment of the bank's stated objectives.

3. The board of directors should establish limitations applicable to futures, forward and standby contract positions and review periodically (at least monthly) contract positions to make sure they conform with the limits.

4. The bank should maintain general ledger memorandum accounts or commitment registers to adequately identify and control all commitments to make or take delivery of securities. Such registers and supporting journals should at a minimum include: (a) The type and amount of each contract; (b) The maturity date of each contract; (c) The current market price and cost of each contract; and (d) The amount of money held in margin accounts.

5. All open positions should be reviewed and market values determined at least monthly, (or more often, depending on volume and magnitude of positions), regardless of whether the bank is required to deposit margin in connection with a given contract.⁴ All futures contracts should be marked to market at least monthly. Any loss related to open forward and standby⁵ contracts should be recognized on the basis of the lower of cost or market value of the underlying security as

⁴Underlying security commitments relating to open futures and forward contracts should not be reported on the balance sheet. Margin deposits and any unrealized losses (and in certain instances as noted below, unrealized gains) are usually the only entries to be recorded on the books.

⁵Losses on standby contracts need be computed only in the case of the party committed to purchase under the contract, and only where the market value of the security is below the contract price adjusted for deferred fee income.

determined at month-end.⁶ Open forward contracts maintained in trading accounts may be carried at market at the option of the bank.

6. Completed futures, forward or standby contracts giving rise to acquisition of securities will require such security transactions to be recorded on the basis of the lower of contract price or market on settlement date. If the market value of the securities is lower than the contract price, the difference should be recorded as an immediate charge against income.

7. Fee income received by a bank in connection with a standby contract should be deferred at initiation of the contract and accounted for as follows:

(a) Upon expiration of an unexercised contract the deferred amount should be reported as income;

(b) Upon a negotiated settlement of the contract prior to maturity, the deferred amount should be accounted for as an adjustment to the expense of such settlement, and the net amount should be transferred to the income account; or

(c) Upon exercise of the contract, the deferred amount should be accounted for as an adjustment to the basis of the acquired securities. Such adjusted cost basis should be compared to market value of securities acquired. See item 8.

8. Bank financial reports should disclose in an explanatory note any futures, forward and standby contract activity that materially affects the bank's financial condition.

9. To ensure that banks minimize credit risk associated with forward and standby contract activity, banks should implement a system for monitoring credit risk exposure associated with the customers and dealers with whom operating personnel are authorized to transact business.

10. Banks should establish other internal controls including periodic reports to management and internal audit programs to assure adherence to bank policy, and to prevent unauthorized trading and other abuses.

The issuance of long-term standby contracts, i.e., those for 150 days or more, which give the other party to the contract the option to deliver securities to the bank will ordinarily be viewed as an inappropriate practice. In almost all instances where standby contracts specified settlement in excess of 150 days, regulatory authorities have found that such contracts were related not to the investment or business needs of the

⁶Should margin on forward contracts be required, and assuming the margin accounts would work in the same manner as exchange margins, bank forward contracts should be carried at market to reflect the margin transactions.

institution, but primarily to the earning of fee income or to speculating on future interest rate movements. Accordingly, the Board of Directors concludes that insured State nonmember banks should not issue standby contracts specifying delivery in excess of 150 days, unless special circumstances warrant.

The Board of Directors intends to monitor closely insured State nonmember bank transactions in futures, forward and standby contracts to ensure that any such activity is conducted in accordance with safe and sound banking practices. In light of that continuing review, it may be found desirable to establish position limits applicable to insured State nonmember banks. This policy statement is issued pursuant to the Financial Institutions Supervisory Act, 12 U.S.C. 1818, and the supervisory authority of the Federal Deposit Insurance Corporation with respect to nonmember insured banks.

By order of the Board of Directors,
November 13, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 79-35823 Filed 11-19-79; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 79-95]

Cancellation of Tariffs for Failure To Comply With 46 CFR Part 536 (General Order 13); Order To Show Cause

The Commission's Order in Docket No. 72-19 (as it appeared in 42 FR 59265, November 16, 1977), revised the regulations affecting the publishing and filing of tariffs by common carriers and conferences of such carriers, operating in the foreign commerce of the United States. These new regulations became effective on January 1, 1978. It was ordered that all tariff materials employed by such common carrier fully conform to the new regulations by January 1, 1979, unless special permission authority extending this deadline was granted to those carriers which demonstrated good cause on an extension. It was further ordered that tariffs on file January 1, 1979, which had not met the aforementioned requirements would be cancelled.

The carriers named in Attachment A, attached hereto, have published rates in tariffs on file with the Federal Maritime Commission for the carriage of goods in the foreign commerce of the United States. These carriers have failed, however, to bring their tariffs into conformity with the revised regulations.

The Commission is, therefore, of the opinion that the tariffs presently on file on behalf of the carriers and conferences of such carriers, listed in Attachment A, should be cancelled unless the carriers can show cause why their tariffs should not be cancelled.

The Commission has reason to believe that several of the tariffs published by the carriers listed in Attachment A have been previously cancelled by written or telegraphic notice. Commission records, however, do not reflect such cancellation authority. Should this be the case, it is requested that the involved carrier(s) contact the Commission, in writing, citing the authority and date of such authority, which cancelled the involved publication(s).

Any tariff which is cancelled as a result of this Order shall be cancelled without prejudice to the filing of a new tariff publication.

Now, therefore, it is ordered, That pursuant to sections 22 and 18 of the Shipping Act, 1916, the carriers named in Attachment A¹ be named respondents in this proceeding, and that they be ordered to show cause why their tariffs for the common carriage of goods in the foreign commerce of the United States should not be cancelled for failure to comply with the provisions of 46 CFR Part 536.

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law and replies thereto. Oral argument may also be scheduled if deemed necessary by the Commission. Should any party believe that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding and why such proof cannot be submitted through affidavit. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all nonrespondent parties of record no later than close of business on January 7, 1980. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel no later than close of business on February 8, 1980. Intervenor shall file as their interests shall appear. Requests for hearing or for oral argument shall be filed on or before February 15, 1980.

It is further ordered, That notice of this Order be published in the Federal

¹For the purpose of service of this Order, each respondent carrier will receive as Attachment A only that page(s) of the Attachment which relates to its own tariffs.

Register, and a copy be served upon all parties at the addresses indicated on the title page of their respective tariff publications.

It is further ordered, That any person having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72).

It is further ordered, That, except as provided in Rules 159 and 201(a) of the Commission's rules of practice and procedure (46 CFR 502.159), (46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

A. P. Moller-Maersk Line, A. P. Moller, 8 Kongens Nytorv, DK-1098 Copenhagen K, Denmark.

Moller Steamship Company, Inc., One World Trade Center, Suite 3527, New York, New York 10048.

FMC No(s). 6, 10, 52, 69

AB Scanfreight, Box 8873, 402 72 Gothenburg, Sweden.

c/o Scanfreight Inc., 79 Wall Street, New York, New York 10005.

FMC No(s). 15, 17, 18

Ace Lines, Mr. Glenn Scherkenbach, President, 303 East Ohio Street, Suite 2102, Chicago, Illinois 60611.

FMC No(s). 9

Ace Lines Limited, 50 Francisco Street, Suite 210, San Francisco, California 94133.

FMC No(s). 1, 2, 3

Admiral Line, Ltd., Intercoastal Marketing and Shipping Company Inc., 2381 West Flagler Street, Suite 200, Miami, Florida 33135.

FMC No(s). 1

Agromar Line, Cia. Agropecuaria y Maritima, Santa Rosa Ltda., P.O. Box 1578, Barranquilla, Colombia.

c/o Kersten Shipping Agency, Inc., 71 Broadway, New York, New York 10006.

FMC No(s). 6, 7, 9

Air-Sea International, Inc., c/o International Tariff Services, Inc., 615 15th Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 1

Alexander Shipping & Navigation Co., 557 El-Horria Avenue, Alexandria, Arab Republic of Egypt.

Tilston Roberts Corp., 17 Battery Place, New York, New York 10004.

FMC No(s). 1

Alltransport Inc., Kurt Konodi-Floch, Executive Vice President, 300 South Wacker Drive, Chicago, Illinois 60606.

FMC No(s). 3, 4

Aloha Consolidators International, John R. Adcock, Issuing Officer, 2350 E. Dominguez, Long Beach, California 90801.

FMC No(s). 1

Amber Maritime Corp., 1615 Northern Boulevard, Manhasset, New York 11030.

FMC No(s). 14

American Mail Line, 601 California Street, San Francisco, California 94108.

FMC No(s). 5, 12, 14

American Pacific Container Line, Inc., J. J. McCowan, Pier 27—P.O. Box 7731, San Francisco, California 94120.

FMC No(s). 1

American President Lines, Ltd., D. J. Morris, Director of Pricing, 601 California Street, San Francisco, California 94108.

FMC No(s). 65, 67

Ancora Shipping N. V., John B. Gonsiraweg 6, Willemstad, Curacao.

Armilla International (Washington) Inc., General Agents, Abe S. Ashcanase, Senior Vice President, 901 N. Washington Street, Alexandria, Virginia 22314.

FMC No(s). 1

Anglo African Trading Co., Ltd., Bank of Nova Scotia Building, Road Town, Tortola, B.W.I.

Sweden International Shipping Corp., 36 Sherwood Place, Greenwich, Connecticut 06830.

FMC No(s). 1, 2

Anglo European Container Line, Robert Dosomie, Issuing Officer, Ocean Center Building, 110 West Ocean Boulevard, Suite 533, Long Beach, California 90802.

FMC No(s). 2

Aquarius Intermodal, Inc., Frank R. Bailey, 1932 Lebanon Street, Hyattsville, Maryland 20783.

FMC No(s). 1

Arctic Line, Murmansk Steamship Company, U.L. Komintern Company, Murmansk, U.S.S.R.

International Tariff Services, Inc., 615 15th Street NW., Suite 538, Washington, D.C. 20005.

FMC No(s). 8

Armagua Line, Armadora Maritima Guatemalteca, S.A., P.O. Box 1008, Guatemala City, Guatemala.

c/o Hansen & Tidemann, Inc., 442 Canal Street, Suite 310, New Orleans, Louisiana 70130.

FMC No(s). 2, 3, 4

Aspen Steamship Corporation, 767 Fifth Avenue, New York, New York 10022.

FMC No(s). 1

Astron Forwarding Company, Lester A. Dent, President, P.O. Box 161, 75 Market Street, Oakland, California 94604.

FMC No(s). 1

Atlantic and Gulf—Singapore, Malaya, and Thailand Freight Tariff.

c/o The Bangladesh Shipping Corp., 28/1, Toyenbee Circular Road, Motijheel Commercial Area, Dacca, Bangladesh.

Peralta Shipping Corp., 25 Broadway, New York, New York 10004.

FMC No(s). 2
Atlantic Cargo Services, AB, Strachan Shipping Co., 1600 American Bank Building, New Orleans, Louisiana 70130.

FMC No(s). 4
Atlantic Container Line, J. A. McFarlane, Manager Conference Dept., 80 Pine Street, New York, New York 10005.

FMC No(s). 27
Atlantic Cross Lines, Gene K. Nakamura, Manager, International Traffic, 100 Bush Street, San Francisco, California 94104.

FMC No(s). 2
Atlantic Direct Service, 1500 Walnut Street, 19th Floor, Philadelphia Pennsylvania 19102.

FMC No(s). 1
Atlantica Line (Atlantica S.p.A., Genoa, Italy), Containership Agency, Inc., New York, New York.

FMC No(s). 15
Atlanttrafik Express Service.
c/o AB Atlanttrafik, Box 2524, S-403 17 Gothenburg, Sweden.
c/o Leffler & Malmros, Inc., 636 Fifth Avenue, New York, New York 10020.

FMC No(s). 12
Bahama Freight Services, Ltd., (Gulf Shipping Limited, series), Transportation Tariff Publishers, 2311 University Blvd. W., Wheaton, Maryland 20902.

FMC No(s). 2, 3, 4
Balken Consolidators, Inc., Robert A. Ballock, 3987 San Pablo Avenue, Emeryville, California 94608.

FMC No(s). 1
Baltic Shipping Co., 5, Mezhevoi Canal, Leningrad-L 35, U.S.S.R.

G. Fettkotter, Agent, 47, Burgermeister, Smidt-Strasse 47, D 2800 Bremen 1, Germany.

FMC No(s). 7
Baltic Shipping Company, Paul Zottoli, Pricing Manager, 67 Walnut Avenue, Clark, New Jersey 07068.

FMC No(s). 18
Bancroft Inc., Aquilino de La Guardia No. 8, Panama, R.P.

Atlantic Shipping Co., Agent, 1150 S.W. First Street, Miami, Florida 33130.

FMC No(s). 1, 2
Barb Shipping Company, Inc., Andrew P. Aquino, President, 116 John Street, New York, New York 10028.

FMC No(s). 1
Batavier Container Line, A Service of Wm. H. Muller & Co., (U.K.) Ltd., 78 Broadway, Stratford, London E15, 1NG, England.

Trans-World Tariff & Research Service, Inc., 1341 G. Street, N.W., Suite 915, Washington, D.C. 20005.

FMC No(s). 1
Belama Line Ltd., Cacena Corporation, Agent, 6501 Northwest 36th Street, Miami, Florida 33168.

FMC No(s). 1
Belize Shipping Co. Ltd. (Belize Line).
c/o Hansen & Tedeman, One World Trade Center, New York, New York 10048.

FMC No(s). 1
Ben Federico Freight Consolidators, Inc., 1015 North America Way, Port of Miami, Miami, Florida 33132.

FMC No(s). 2
Bentsen Line, S.E.L. Maduro (Florida) Inc., Agent, P.O. Box 011470, Miami, Florida 33101.

FMC No(s). 2
Bermuda Express Service.
c/o Norton, Lilly & Company, Inc., 90 West Street, New York, New York 10006.

FMC No(s). 13
Bestway International, 2472 East Main Street, Bridgeport, Connecticut 06610.

FMC No(s). 1
Bimini Conveyors, Ltd., Bimini, Bahamas, Transportation Tariff Publishers, 2311 University Blvd. W., Wheaton, Maryland 20902.

FMC No(s). 1, 2
Black Sea Canada-U.S.A. Line, Morflot America Shipping, 67 Walnut Avenue, Clark, New Jersey 07068.

FMC No(s). 4
Black Sea Shipping Co., Norton Lilly and Co., Inc., 90 West Street, New York, New York 10006.

FMC No(s). 15, 18
Blue Ridge Lines, Blue Ridge Shipping & Trading Co., Inc., 130 Bush Street, San Francisco, California 94105.

FMC No(s). 2
Blue Star Line Ltd., Albion House, 35 Leadenhall Street, London EC 3A, 1 AR, England.

c/o E. A. Gilbert, Jr., Owners Representative, The Blue Star Line, Inc., One California Street, San Francisco, California 94111.

FMC No(s). 6
Bocimar N.V. Antwerp, Belgium. Atlantic Overseas Corporation, General Agents, Five World Trade Center, New York, New York 10048.

FMC No(s). 1
Boston Consolidation Service, Inc., P.O. Box 75, Boston, Massachusetts 02129.

FMC No(s). 8
British Yukon Navigation Company, Ltd., F. A. Taylor, Marketing Manager, Post Office Box 4070, White Horse, Yukon Territory Y1A 3T1.

FMC No(s). 2
Buffex, Division of Frontier Distribution Line, Inc., International Tariff Services, Inc., 815 15th Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 2
C P Rail (Canadian Pacific Limited), J.C.C. Ferfussion, Manager, 150 Henry Avenue, Winnipeg, Manchester, R3B 0J7, England.

FMC No(s). W.1
C.M.B. (Compagnie Maritime Belge) (Lloyd Royal), St. Katelijnevest 61, B-2000, Antwerpen, Belgium.

Atlantic Overseas Corporation, General Agents, Five World Trade Center, New York, New York 10048.

FMC No(s). 1, 2, 4
Cacena Line, Ltd., Cacena Corporation, 6501 North West 36th Street, Miami, Florida 33168.

FMC No(s). 5
Canadian Intracoastal Container Line, Inc., 501 Army Street, San Francisco, California 94124.

FMC No(s). 1
Cape Cross Lines (Cross Lines, Inc.), Gene K. Nakamura, Manager, International Traffic, 100 Bush Street, San Francisco, California 94104.

FMC No(s). 4
Cargo Lines Ltd., Via Motta 18, Chiasso, Switzerland.

c/o Cargo Worldwide, Inc., Mr. Robert D. Hofmann, Agent, 39 Broadway, New York, New York 10006.

FMC No(s). 8, 9, 10
Cargo Management Corporation, c/o International Tariff Services, Inc., Suite 538 Bowen Bldg., Washington, D.C. 20005.

FMC No(s). 1
Cargo Systema International, Cuenter Perl, 43 Potter Lane, Halesite, New York 11743.

FMC No(s). 1
Cargo Systems International, 1177 Clinton Avenue, Irvington, New Jersey 07111.

FMC No(s). 2,3
Caribbean Container Express, Inc., Apartado 6974, Panama 5, Republic of Panama.

Pioneer Shipping Inc., Agents, P.O. Box 011363, Flagler Station, Miami, Florida 33101.

FMC No(s). 1
Caribbean Freightcon Inc., 4310 N.W. 36th Avenue, Suite 103, Miami, Florida 33142.

FMC No(s). 1
Caribbean Line, Smith & Johnson (Shipping), Inc., 39 Broadway, New York, New York 10006.

FMC No(s). 1, 2, 4
Caribbean Lines Corporation, 920 Broadway, Riviera Beach, Florida 33404.

FMC No(s). 1
Caribbean Parcel Carriers, c/o Trade Routes, Inc., 520 West Avenue, Norwalk, Connecticut 06850.

FMC No(s). 1, 2
Caribe Container Line, Mainstream Forwarding Co., Inc., P.O. Box 494, Greenville, Mississippi 38701.

FMC No(s). 1
Cayman Caribbean Carriers, Troyman Chartering, Inc., Issuing Agents, 19 Rector Street, Suite 1904, New York, New York 10006.

FMC No(s). 1
Central Gulf Lines, Inc., One Whitehall Street, New York, New York 10004.

FMC No(s). 12, 14
Chesapeake Shipping, Inc., Charles W. Thomas, President, 1961 Benhill Avenue, Baltimore, Maryland 21226.

FMC No(s). 2
Chieh Sheng Maritime S.A. Panama, (Ta Peng Steamship Company, Ltd.), 64-70 Chung Ching S. Road, Sec. 1, Taipei, Taiwan.

c/o Ta Peng Lines (New York), Inc., 25 Broadway, New York, New York 10004.

FMC No(s). 1, 2, 3, 4, 5
Christensen Canadian African Lines, 360 St. James St. West, Montreal, Quebec, Canada H2Y 2S2.

FMC No(s). 1, 3, 4
Citadelle Line S.A., 1400 Winston Plaza, Melrose Park, Illinois 60160.

FMC No(s). 4, 5
Citadelle Line S.A. Panama, Anchor Shipping Corporation, 327 South La Salle Street, Chicago, Illinois 60604.

FMC No(s). 3
Cobelfret Lines S.P.R.L., 150 Mechelse Steenweg, Antwerp, Belgium.

FMC No(s). 5
Columbia Export Packers, Inc., Harold E. Kleinhenz, Tariff, Publishing Officer, 19032 South Vermont Avenue, Torrance, California 90502.

FMC No(s). 1, 2
Columbus Line Incorporated, Kenneth R. Egan, Vice President—Traffic, One World Trade Center, Suite 3247, New York, New York 10048.

FMC No(s). 22
Combi Line, Hapag-Lloyd AG, Ballindamm 25, 2000 Hamburg 1, West Germany.

Intercontinental Transport, Wilhelminakade 39, Rotterdam 3005, The Netherlands.

FMC No(s). 10
Commodore Ro/Ro Service, Commodore Cruise Lines, 1015 North American Way, Miami, Florida 33132.

FMC No(s). 1
Compagnie General Transatlantique, (French Line), 555 Fifth Avenue, New York, New York 10017.

FMC No(s). 8
Compagnie Maritime Belge (Lloyd Royal) s.a., Atlantic Overseas Corporation, General Agents, Five World Trade Center, New York, New York 10048.

FMC No(s). 2
Companhia Maritima Nacional, Avenida Rio Branco, 25, 10 Andar, Rio de Janeiro-RJ-Brazil.

FMC No(s). 1
Compania Celta Maritima, S.A., Avda. Jose Antonio, 28, Apartado, 16, Coslada, Madrid, Spain.

Roberts Steamship Agency, 520 ITM Bldg., 2 Canal St., New Orleans, Louisiana 70130.

FMC No(s). 1
Compania Chilena de Navegacion Interocceanica, Valparaiso, Chile.

FMC No(s). 1
Compania Maritime Del Nervion, S.A., (Nervion Line), Kerr Steamship Co., Inc., 327 St. Charles Avenue, New Orleans, Louisiana 70130.

FMC No(s). 5
Compania Peruana De Vapores, (Peruvian State Line), Gamarra 676, Chucuito, Callao, Peru.

Tilston Roberts Corporation as General Agents, 17 Battery Place, New York, New York 10004.

FMC No(s). 10, 11, 13
Compania Sud-Americana de Vapores, Blanco 895, Valparaiso, Chile.

c/o Chilean Line, Inc., One World Trade Center, New York, New York 10048.

FMC No(s). 6, 9
Computerized Freight-Management Corporation, 1440 Broadway, Suite 1257, New York, New York 10018.

FMC No(s). 1
CONFICO, Consolidated Forwarders Intermodal Corporation, c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 1
Consolidadora Del Caribe S.A., Avenida Tulum Y Uxmal, Cancun, Quintana Roo, Mexico.

Transportation Tariff Publishers, 2311 University Blvd., Wheaton, Maryland 20902.

FMC No(s). 1
Consortio Naviero Candelarias, Ltd., Puente 9 de Diciembre, Caracas, Venezuela.

Cacena Corporation, 5-01 Northwest 36th St., Miami, Florida 33168.

FMC No(s). 2, 3
Container America Line, 2841 S. Leavitt, Chicago, Illinois 60608.

FMC No(s). 1
Contract Marine Carriers, Inc., Edward Finnigan, Tariff Publishing Officer, 1201 Corbin Street, Port Elizabeth, New Jersey 07201.

FMC No(s). 1
Contramar S.A., 15 Klipperstraat, B-2030 Antwerpen, Belgium.

FMC No(s). 13
Crescent Lines, Inc., Gene K. Nakamura, Manager, International Traffic, 100 Bush Street, San Francisco, California 94104.

FMC No(s). 1
Crusader Shipping Co., Ltd., P.O. Box 192, Wellington 1, New Zealand.

c/o E.A. Gilbert, Jr., Owners Representative, One California Street, San Francisco, California 94111.

FMC No(s). 1, 3, 4, 8, 9
Cutlass Steamship Corporation, 680 Beach Street, San Francisco, California 94109.

FMC No(s). 6, 9, 10
Daggard International Shipping Corporation, John B. Hammon, President, 800 South Claremont, San Mateo, California.

FMC No(s). 1
Darojo Shipping Inc., International Tariff Services, Inc., Issuing Agents, 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 2
Dart Containerline Company Limited, Reid House, Reid Street, Hamilton, Bermuda.

A.W. Hall, Issuing Officer, Dart Containerline Incorporated, 5 World Trade Center, New York, New York 10048.

FMC No(s). 29
Delta Line, Delta Steamship Lines, Inc., P.O. Box 50250, New Orleans, Louisiana 70150.

FMC No(s). 44
Domestic and International Services, Incorporated, E.K. Swanson, One Charles Center, Baltimore, Maryland 21201.

FMC No(s). 1
Doric Shipping Corporation, International Tariff Services, Inc., Issuing Agents, 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 1, 2
Dorsey Express, Inc., Joseph F. Cipriano, President, P.O. Box 789, Glen Burnie, Maryland 21061.

FMC No(s). 1
East Coast South America/Guam Agreement, Henri P. Blok, Agent, 417 Montgomery Street, San Francisco, California 94104.

FMC No(s). 1
ECCA Line, Transportes Maritimos de Honduras, S.A., Tegucigalpa, Honduras, C.A.

c/o Nordship Agencies, Inc., One East Wacker Drive, Chicago, Illinois 60601.

FMC No(s). 1, 2, 3, 4
Ecuadorian Steamship and Trading Company, c/o International Shipping Corp., P.O. Box 1309, Miami, Florida 33101.

FMC No(s). 1
El Remo, Ltd., P.O. Box 694, Grand Cayman, B.W.I.

Milo Parks, P.O. Box 87036, Houston, Texas 77017.

FMC No(s). 1
Empresa Lineas Maritimas Argentinas, S.A., (E.L.M.A.) Argentine Lines, Nedlloyd Inc., 5 World Trade Center, Suite 617, New York, New York 10048.

FMC No(s). 26
Ensena Marina Line, Anchor Shipping Corporation, 327 South LaSalle Street, Chicago, Illinois 60604.

FMC No(s). 1, 2
Euro-Con International of Pennsylvania, Inc., James W. Edgin, Vice-President, 3259

Whitebrook Plaza, Suite 210, Memphis, Tennessee 38118.

FMC No(s). 7

Euro-Con International, Inc., James A. Acuff, Vice President, Operations, 3259 Whitebrook Plaza, Suite 210, Memphis, Tennessee 38118.

FMC No(s). 4

Euro-Freight Lines, Ltd., Engelgasse 9, 4002 Basel, Switzerland.

Bjoern Timmerman, Issuing Officer, 17 Battery Place, New York, New York 10004.

FMC No(s). 1

Eurofreight Container Service, c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Evergreen Line, Evergreen Marine Corporation, 63, Sung Chiang Road, Taipei, Taiwan, Republic of China.

FMC No(s). 37

Far East Container Service, Michael P. Beidleman, Issuing Officer, 1540 West Ninth Street, Long Beach, California 90813.

FMC No(s). 1

Farrell Lines Incorporated, (American Export Lines, Series), H. F. Hennigar, General Manager, 17 Battery Place, New York, New York 10004.

FMC No(s). 155, 168

Farrell Lines, Inc., H. Hennigar, General Manager, 17 Battery Place, New York, New York 10004.

FMC No(s). 73, 118, 130, 143, 151, 174, 151, 184
Farrell Lines, Incorporated, One Whitehall Street, New York, New York 10004.

FMC No(s). 24, 48

Farrell Lines, Incorporated, Ross A. Levin, Rates & Tariffs, One Market Plaza, Suite 2400, San Francisco, California 94105.

FMC No(s). 30, 35

Flecha Nautica S.A., 2381 Flagler Street, Suite 210, Miami, Florida 33135.

FMC No(s). 1

Forest Lines, David W. Nottage, Assistant Treasurer, International Navigation Limited, P.O. Box N-7790, Suite 308, Austin T. Levy Building, East Bay St., Nassau, Bahamas.

FMC No(s). 11

Forum Line, The General Manager, Pacific Forum Line Limited, Matauti-Tai, P.O. Box 655, Apia, Western Samoa.

FMC No(s). 1

Fracht FWO, Inc., International Tariff Services, Inc., 815 15th Street, N.W., Suite 102, Washington, D.C. 20005.

FMC No(s). 1

Frank P. Dow Co., Inc., M. R. Edwards, Secretary, 354 So. Spring Street, Los Angeles, California 90013.

FMC No(s). 1

Fred F. Noonan Company, Inc., c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 2

Fritz Transportation International, Lynn C. Fritz, Managing Director, 244 Jackson Street, San Francisco, California 94111.

FMC No(s). 1

Geo. S. Bush & Co., Inc., J. W. Hansford, President, 259 Colman Building, Seattle, Washington, 98104.

FMC No(s). 1

Golden Marine Transport, Inc., 750 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1

Grancolombiana Line, Flota Mercante Grancolombiana, S.A., c/o Grancolombiana (New York), Inc., One World Trade Center, Suite 1867, New York, New York 10048.

FMC No(s). 22, 30, 31

Grand Trans-Pacific Corporation, Manila, Philippines.

International Tariff Services, 505 Landmark Building, Washington, D.C. 20005.

FMC No(s). 1

Great Lakes & European Lines, Inc., Warren A. Ireland, Vice President, 222 South Riverside Plaza, Suite 2310, Chicago, Illinois 60606.

FMC No(s). 3, 4, 5, 6

Great Lakes Transcaribbean Line, C.M.B.H. & CO., Grimm 8 2000 Hamburg 11, West Germany.

Protos Shipping Inc., Issuing Agents, 332 South Michigan Avenue, Chicago, Illinois 60604.

FMC No(s). 1, 20, 21, 22, 24, 25, 26, 27

Great Lakes/Japan Memorandum, Mitsui-O.S.K. Lines, Ltd., Issuing Agents, One World Trade Center, Suite 2211, New York, New York 10048.

FMC No(s). 2

Gulf & Caribbean Shipping Inc., 2000 East Bay St., P.O. Box 3036, Jacksonville, Florida 32206.

FMC No(s). 2

Gulf Overseas Towing Corporation, International Tariff Services, Inc., 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

H. & J. Isbrandtsen Ltd., Allied Intercontinental Agency, Inc., 19 Rector Street, New York, New York 10006.

FMC No(s). 2, 3

Hansa Line, c/o Caribbean Agencies, Inc., P.O. Box 370189, Miami, Florida 33137.

FMC No(s). 1

Hansa Line, Deutsche Dampfschiffahrts-Gesellschaft "Hansa", Schlachte 6-Postfach 107969, Bremen, Germany.

F. W. Hartmann & Co., Inc., General Agents, 17 Battery Place, New York, New York 10004.

FMC No(s). 5, 6

Hapag-Lloyd A.G., Ballindamm 25, Hamburg, Germany.

United States Navigation, Inc., 17 Battery Place, New York, New York 10004.

FMC No(s). 92, 115, 117

Hapag-Lloyd AG, Ballindamm 25, Hamburg, German.

c/o Biehl & Company, Inc., 416 Common Street, New Orleans, Louisiana 70130.

FMC No(s). 95

Harrison Line, Thos. & Jos. Harrison, Ltd., Mersey Chambers, Liverpool 2, England.

c/o Phillips-Parr, Inc., 2937 International Trade Mart Bldg., New Orleans, Louisiana 70130.

FMC No(s). 3, 8

Haylock Shipping Co., Ltd., c/o Roberts Steamship Agency, Inc., 2300 ITM Bldg., 2 Canal Street, New Orleans, Louisiana 70130.

FMC No(s). 1

Hellenic Lines Limited, C.N. Velokas, Inward Traffic Manager, Eastern Area, 39 Broadway, New York, New York 10006.

FMC No(s). 5

Hellenic Lines Limited, Evans U. Sismanson, Assistant Traffic Manager, 39 Broadway, New York, New York 10006.

FMC No(s). 10, 13

Hellenic Lines Limited, L. W. Lee, General Traffic Manager, 39 Broadway, New York, New York 10006.

FMC No(s). 29, 30

Hellenic Lines Limited, Peter A. Low, Manager/East Gulf, 2812 International Trade Mart, New Orleans, Louisiana 70130.

FMC No(s). 1

Hellenic Lines Limited, S. Desantis, Traffic Manager, Hellenic Lines, 39 Broadway, New York, New York 10006.

FMC No(s). 7, 16

Herman Ludwig of America, Inc., Hans Pirolt, Station Manager, 1213 Arbor Vitae, Inglewood, California 90301.

FMC No(s). 2

Herman Ludwig of America, Inc., Herbert Abbe, Jr., Issuing Officer, 1 World Trade Center, New York, New York 10048.

FMC No(s). 1

Hispan Line, Antillana de Navegacion, S.A., P.O. Box 8-4170, San Jose, Costa Rica.

c/o Nordship Agencies, Inc., One East Wacker Drive, Chicago, Illinois 60601.

FMC No(s). 1, 2

Hoegh Line, c/o Nedlloyd Inc., 5 World Trade Center, Suite 617, New York, New York 10048.

FMC No(s). 60

I.C.S. Freight Services, Inc., Integrated Container Services, Inc., 522 Fifth Avenue, New York, New York 10030.

FMC No(s). 1

I.M.S., Inc., Peter E. Kirn, President, International Moving Service, 4418 Wheeler Avenue, Alexandria, Virginia 22304.

FMC No(s). 1

I.S.I. Line, 156 East 52nd Street, Suite 903, New York, New York 10022.

FMC No(s). 1

Iceland Steamship Co. Ltd., Reykjavik, Iceland.

A. L. Burbank & Co. Ltd., Suite 622, Law Building, Norfolk, Virginia 23510.

FMC No(s). 5

IML Freight, Inc., H. Lynn Davis, Director of Commerce and Traffic, P.O. Box 30277, Salt Lake City, Utah 84125.

FMC No(s). 1

Inca Lines, 200 E. 6th Street, Suite 507, Courthouse Square Bldg., Ft. Lauderdale, Florida 33301.

FMC No(s). 1

Independent Cargo Express, Inc., Richard A. Ferguson, Traffic Manager, P.O. Box 77102, 1225 Sixth Street, San Francisco, California 94107.

FMC No(s). 7, 10, 12, 15

Independent Cargo Express, Inc. (Series of Alltrans International, Inc.), Richard A. Ferguson, Traffic Manager, P.O. Box 77102, 1225 Sixth Street, San Francisco, California 94107.

FMC No(s). 8

Inter-American Lines, Inc., P.O. Box 4620—Main Post Office, Miami, Florida.

FMC No(s). 16

Intercontinental Transport (ICT) BV, Wilhelminakade 39, Rotterdam 3005, Netherlands.

c/o Biehl & Company, Inc., 416 Common Street, New Orleans, Louisiana 70130.

FMC No(s). 18

Intercontinental Transport (ICT) BV, Wilhelminakade 39, P.O. Box 545, Rotterdam 3005, The Netherlands.

Balfour, Guthrie & Co., Ltd., as Agents, One Maritime Plaza, San Francisco, California 94111.

FMC No(s). 35

Intercontinental Transportation Services, Ltd., Standard Fruit & Steamship Company, Issuing Agents, 50 California St., San Francisco, California 94111.

FMC No(s). 1

Interdom Lines, Strachan Shipping Co., P.O. Box 9667, Savannah, Georgia 31402.

FMC No(s). 1

Intermodal Carriers International Inc., H. Wiesenmaier, General Manager, World Trade Center, San Francisco, California 94111.

FMC No(s). 2, 3, 4

Intermodal Container Service, Ltd., 47 Pearl Street, Brooklyn, New York 11201.

FMC No(s). 5, 6, 8, 10

Intermodal Container Services Ltd., Dennis J. McCabe, 17 Battery Place (Room 1543), New York, New York 10004.

FMC No(s). 2, 3, 4, 7, 9

Intermodal Freight Forwarding, Inc., A.J. De Batto, 116 Nassau Street, New York, New York.

FMC No(s). 2

International (Foreign) Household Goods Maritime Tariff, F.L. Wyche, Executive Secretary, 2425 Wilson Boulevard, Arlington, Virginia 22201.

FMC No(s). 1

International Export Services, Inc., 619 Redna Terrace, Cincinnati, Ohio 45215.

FMC No(s). 1

International Express Co., Ltd., North House, 78-84 Ongar Road, Brentwood, Essex, C.M. 159 BG.

John Watkins, Chairman, International American Enterprises, 375 Park Avenue, Suite 2801, New York, New York 10022.

FMC No(s). 1

International Household Goods Maritime Tariff, c/o Mover's International, Nelson J. Cabrera, Owner, P.O. Box 2302, Hialeah, Florida 33012.

FMC No(s). 1

International Moving Consultants, Inc., Robert Robotti, President, 43-10 21st Street, Long Island City, New York 11101.

FMC No(s). 1

International Navigation Ltd. (Forest Lines), 29 Broadway, New York, New York 10006.

FMC No(s). 9

International Warehouse Industries, Inc., c/o International Tariff Services, Inc., 815 15th Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 1

Intertrans Inc., 575 Madison Avenue, New York, New York 10023.

FMC No(s). 1

Interworld Tradewinds Shipping Inc., S.A., Port Laudania, 750 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1

Iran International Shipping, Assad Ferasat, President, 427 West 5th Street, Los Angeles, California 90013.

FMC No(s). 1

Iran Ocean Shipping Co., Ltd., 3rd Avenue, Aban, Tehran, Iran.

Peralta Shipping Corporation, Filing Agent, 25 Broadway, New York, New York 10004.

FMC No(s). 1

Iraqi Line, Iraqi General Enterprise For Maritime Transport, P.O. Box 768, Bashrah, Iraq.

Uiterwyk Corporation, Uiterwyk Center, 3105 West Waters Avenue, Tampa, Florida 33614.

FMC No(s). 1

Island Ro-Ro, Inc., Henry G. Hohorst, President, 104 East 40th St., New York, New York 10018.

FMC No(s). 1

Island Shippers, Gwendolyn E. Wilson, Director, 601 Madison Street, Brooklyn, New York.

FMC No(s). 3

Islasip Lines, c/o Island & Worldwide Shipping Agency, Inc., P.O. Box S-2387, San Juan, Puerto Rico 00903.

FMC No(s). 1

Ital-Pacific Line, c/o Transmarine Navigation Corporation, 465 California Street, San Francisco, California 94104.

FMC No(s). 3

Italian Line ("Italia" Societa Di Navigazione), N. K. Boyd, Tariff Publishing Officer, 100 California Street, Suite 820, San Francisco, California 94111.

FMC No(s). 26

Italpacific Line, Transmarine Navigation Corporation, General Agents, 465 California Street, San Francisco, California 94104.

FMC No(s). 2

J. Lauritzen Line, Beaufort Navigation, Inc., 400 California Street, San Francisco, California 94104.

FMC No(s). 3

Japan/Great Lakes Memorandum, Mitsui-O.S.K. Lines, Ltd., Issuing Agents, One World Trade Center, Suite 2211, New York, New York 10048.

FMC No(s). 39

Jean Associates, Inc., 1135 West 8th Avenue, Suite 7, Anchorage, Alaska 99501.

FMC No(s). 1

Jeuro Container Line, c/o G. A. Murphy, Cargo Distributors Inc., 115 Sansome Street, Suite 1217, San Francisco, California 94104.

FMC No(s). 1

Johnson Scan Star, Lennart Kron, Conference Manager, Norrlandsgatan 20, Stockholm, Sweden.

FMC No(s). 14

Jugoceanija Line, Jugoslavenska Oceanska Plovidba, Gulf Coast Shipping Corp., 1900 International Trade Mart, New Orleans, Louisiana 70130.

FMC No(s). 9, 10

K.N.S.M. (Antillen N.V.) Curacao, c/o Koninklijke Nederlandsche, Stoombootmaatschappij (Antillen) N.V., P.O. Box 231, Willemstad, Curacao, Netherlands Antilles.

Royal Netherlands Steamship Company (Antilles) N.V., Agent, 5 World Trade Center, Suite 7411, New York, New York 10048.

FMC No(s). 1

Kambara Kisen Co., Ltd., Makoto Kambara, President, Kambara Building, 2-9 Banchi, 1-Bancho, Chiyoda-Ku, Tokyo, Japan.

FMC No(s). 4

Kawasaki Kisen Kaisha, Ltd., "K" Line Kerr Corporation, General Agents, One Market Plaza, Suite 2400, San Francisco, California 94105.

FMC No(s). 60

Kirk Line, R. B. Kirkconnell & Bro. Ltd., Box 1372, Grand Cayman, Cayman Islands.

FMC No(s). 1, 3, 8

Korea Express Lines, J. K. Koh, Agent, Korea Express U.S.A., Inc., One World Trade Center, Suite 4525, New York, New York 10048.

FMC No(s). 3

Kurdian International Transport, Inc., Gregory H. Kurdian, President, Post Office Box 1582, Wichita, Kansas 67201.

FMC No(s). 1

Kuwait Boulder Shipping Co., K.S.C., Boulder Shipping Agency Ltd., General Agents, One Greenwich Plaza, Greenwich, Connecticut 06830.

FMC No(s). 1

L. Figueiredo Navegacao S.A., Caixa Postal 1459, Rio de Janeiro, Brazil.

c/o Dovar Shipping Agency, Inc., 21 West Street, New York, New York 10006.

FMC No(s). 7

La Flor De Mayo Express, Inc., 311 Bruckner Boulevard, Bronx, New York 10454.

FMC No(s). 3

Labay International Inc., P.O. Box 52170, Houston, Texas 66052.

FMC No(s). 1

Laudania Seaways, Inc., 750 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1, 2

Lauritzen-Peninsular Reefers, Ltd., 1, Hammermsgade, Copenhagen-K, Denmark.

c/o Beaufort Navigation, Inc., 95 East Putnam Avenue, Greenwich, Connecticut 06830.

FMC No(s). 2

Lifshultz Fast Freight, Inc., H. L. Rosenthal, Vice President-traffic, 28 North Franklin Street, Chicago, Illinois 60608.

FMC No(s). 6

Linea Naviera Nacional Costarricense, S.A., Nanaco Line, P.O. Box 1254, Miami, Florida 33101.

FMC No(s). 1

Lone Star International, Ltd., c/o Lone Star Shipping, Inc., 1318 Texas Avenue, Houston, Texas 77002.

FMC No(s). 1

Lykes Bros. Steamship Co., Inc., R. J. Finnan, Tariff Publishing Officer, 300 Poydras Street, New Orleans, Louisiana 70130.

FMC No(s). 30, 60, 83, 84, 97

Lyons Transport, Inc., First Avenue & Joliet Road, McCook, Illinois 60525.

FMC No(s). 7

Maeda Kisen Co., Ltd., P.O. Box 108, Nippon Building, 8-2, 2-Chome, Ohtemachi, Chiyoda-Ku, Tokyo.

General Steamship Corporation, Ltd., General Agents, 400 California Street, San Francisco, California 94104.

FMC No(s). 1

Mamenic Line, Marina Mercante Nicaraguense, S.A., P.O. Box 3523, Managua, Nicaragua.

c/o United States Navigation, Inc., 17 Battery Place, New York, New York 10004.

FMC No(s). 16, 19

Marine Express Line, S.A., San Pedro Sula, Honduras.

c/o Dalton Steamship Corporation, 736 Union Street, New Orleans, Louisiana 70130.

FMC No(s). 3, 4, 6

Maritime Company of the Philippine, 205 Juan Luna, Manila, Philippines.

FMC No(s). 6, 10

Maritime Expeditors Line, c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Suite 102, Washington, D.C. 20005.

FMC No(s). 1

Mayan Line, c/o Caribbean Agencies, Inc., 2125 Biscayne Boulevard, Miami, Florida 33137.

FMC No(s). 1

McLean Ocean Shipping, 215 No. Sampson Street, Houston, Texas 77003.

FMC No(s). 1

Medtrans, S.A., Via Layetana, 9, Barcelona 3, Spain.

Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

FMC No(s). 1

Melbourne/Sidney Consolidators, Phillip W. Schmidt, Owner, P.O. Box 8272, Long Beach, California 90806.

FMC No(s). 1

Merchants International, Inc., Arthur R. Clark, Jr., Vice President, 1616 First Street, S.W., Washington, D.C. 20024.

FMC No(s). 2

Meteoro Express, Inc., 521 Fernandez Juncos, Box 5512, Puerta de Tierra, Puerto Rico 00906.

FMC No(s). 1

Mexican Line, Transportacion Mexicana, S.A., Avenida De Los Insurgentes No. 432, Mexico 7, D.F., Republic of Mexico.

Transportation Tariff Publishers, 3211 University Blvd. W., Wheaton, Maryland 20902.

FMC No(s). 46

Mia-Caribe Consolidators, Inc., 7100 Northwest 36th Avenue, Miami, Florida 33147.

FMC No(s). 1

Micronesia Line, Holger R. Peters, Issuing Agent, 28 Hillside Avenue, San Anselmo, California 94960.

FMC No(s). 1

Mid-East Carriers, H. Wiesenmaier, Filing Agent, World Trade Center, Suite 219, San Francisco, California 94111.

FMC No(s). 1

Mid-Pacific Freight Forwarders, Raymond E. Brown, President, 3770 E. 26th Street, Vernon, California 90023.

FMC No(s). 6, 7

Middle East America Line S.A., Gavin Maritime Inc., 119 E. Ogden Ave., Hinsdale, Illinois 60521.

FMC No(s). 1, 2

Middle East Gulf Atlantic Lines (MEGA), Atlantic Overseas Corporation, General

Agents, 5 World Trade Center, New York, New York 10048.

FMC No(s). 1, 2

Mini Line S.A., Monrovia, Liberia, Panama, R.P.

Mini Carriers System, Inc., P.O. Box 1103, Greenville, Mississippi 38701.

FMC No(s). 3, 4

Mitsui O.S.K. Lines, Ltd., 3-3-5-Chome, Akasaka, Minato-ku, Tokyo, Japan.

c/o A. J. Jamundo, One World Trade Center, Suite 2211, New York, New York 10048.

FMC No(s). 49, 50, 53, 57, 73

Mogul Line, c/o Trans-World Tariff & Research Service, Inc., 1341 G Street, N.W., Suite 915, Washington, D.C. 20005.

FMC No(s). 1

Movers' & Warehousemen's Association of America, Inc., Agent, Carroll F. Genovese, Executive Director, 1001 North Highland Street, Arlington, Virginia 22201.

FMC No(s). 1

Moving and Packing International, Inc., Jose F. Miranda, 3301 Commerce Street, Houston, Texas 77003.

FMC No(s). 1

Murphy's Refrigerated Express, Inc., Robert W. Murphy, President, P.O. Box 2217, Newark, New Jersey 07114.

FMC No(s). 1

N. V. Nedlloyd Lijnen, Koninklijke Nedlloyd B. V., Nedlloyd, Inc., General Agents, 5 World Trade Center, New York, New York 10048.

FMC No(s). 40

N.Y.K. Line (Nippon Yusen Kaisha, Tokyo), Matsun Agencies, Inc., as Agents, 100 Mission Street, San Francisco, California 94105.

FMC No(s). 27, 51

N.Y.K. Line, Nippon Yusen Kaisha, Matsun Agencies, Inc., as Agents, P.O. Box 3933, San Francisco, California 94119.

FMC No(s). 84

N.Y.K. Line, Nippon Yusen Kaisha, 25 Broadway, New York, New York 10004.

FMC No(s). 42, 55

N.Y.K. Line, Nippon Yusen Kaisha, 20, 2-Chome, Marunouchi, Chiyoda-Ku, Tokyo, Japan.

N.Y.K. Line, One World Trade Center, Suite 5031, New York, New York 10048.

FMC No(s). 20, 38, 40, 43, 44, 45, 54, 56, 57

Nakamura Shipping Co., Ltd., Tokyo, c/o Gannet Freighting, Inc., 39 Broadway, New York, New York 10006.

FMC No(s). 2

Nakamura Shipping Co., Ltd., Tokyo, c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

National Trading, Ltd., P.O. Box 3630, Carolina, Puerto Rico 00630.

International Tariff Services, Inc., 815 15th St., N.W., Washington, D.C. 20005.

FMC No(s). 1

Nauticus Line, Philip La Palio, Jr., Filing Agent, 36 S. State, Chicago, Illinois 60603.

FMC No(s). 2

Nautilus Chartering Inc., S.A., Aquilino de la Guardia No. 8, Panama, R.P.

c/o American Oceanic Shipping Corporation, 900 I.T.M. Building, New Orleans, Louisiana 70130.

FMC No(s). 12

Navale Et Commerciale Havraise Peninsulaire, 50 Boulevard Haussmann, F-75441, Paris, Cedex 09, France.

Atlantic Overseas Corp., Five World Trade Center, New York, New York 10048.

FMC No(s). 1, 2, 3

Naviera Capriles, S.A., International Tariff Services, Inc., 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Naviera Margarita, C.A., c/o Associated Seas Agencies, Inc., 4310 N.W. 36th Avenue, Miami, Florida 33142.

FMC No(s). 1

Naviera Peninsular, S.A., c/o Quast and Co., Inc., Lykes Center, 300 Poydras Street, New Orleans, Louisiana 70130.

FMC No(s). 2

Naviera Peninsular, S.A., P.O. Box 5010, Panama City, S.R.P.

International Tariff Services, Inc., 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Navieros Reconquista Armadora, S.A., Eagle Ocean Transport, Inc., Agent, 29 Broadway, New York, New York 10006.

FMC No(s). 1

Navimerca, C.A., Naviera Mercante Compania Anonima, P.O. Box 4146, Caracas, Venezuela.

Manuel Lopez, Issuing Agent, P.O. Box S-2367, San Juan, Puerto Rico 00903.

FMC No(s). 2

Navimex, S.A., Reforma 107, Mexico City 4, D.F., Mexico.

Arthur J. Ferrante, Olvind Lorentzen, Inc., General Agents, 522 Fifth Avenue, New York, New York 10036.

FMC No(s). 2

Nedlloyd Lijnen, c/o Nedlloyd Inc., 5 World Trade Center, Suite 617, New York, New York 10048.

FMC No(s). 63

Nedlloyd Lines, Sincere Building, 22d Floor, P.O. Box 45, Hong Kong.

FMC No(s). 59, 62

Nelmar Worldwide, Walter W. Blanken, President, 1179 1/2 Roosevelt Avenue, Carteret, New Jersey 07008.

FMC No(s). 1

New World Shipping, Inc., L.R. Gazitua, Chairman of the Board, 2000 N.W. 70th Avenue, Miami, Florida 33122.

FMC No(s). 1, 2

Nichia Kaiun Kaisha, Ltd., "Nichia Lines," c/o International Tariff Services, Inc., 815

Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 2, 3, 4

Nichia Lines, Nichia Kaiun Kaisha, Ltd., Osaka, Japan.

c/o Transpacific Transportation Company, 915 Norton Building, Seattle, Washington, 98104.

FMC No(s). 5

Nippon Express U.S.A. (Illinois), Inc., N. Watababe, Vice President, 1850 Brummel Drive, Elk Grove Village, Illinois 60007.

FMC No(s). 8

Nippon Express U.S.A. (Illinois), Inc., S. Otsuki, Vice President, 1850 Brummel Drive, Elk Grove Village, Illinois 60007.

FMC No(s). 1, 2

Nopal Caribe Lines, N.V., (The Northern Pan America Line A/S), P.O. Box 27, Smeestad, Oslo 3, Norway.

Olvind Lorentzen, Inc., Agent, 522 Fifth Avenue, New York, New York 10036.

FMC No(s). 28, 30, 36

Nopal Line, P.O. Box 1018, 189 Reid Street, Hamilton, Bermuda.

Robert F. Kaihm, Issuing Agent, Nopal Atlantic Lines, 522 Fifth Avenue, New York, New York 10036.

FMC No(s). 23, 25

Nordana Line, D.F.D.S. A/S, Sankt Annae Plads 30, Copenhagen-K, Denmark.

c/o Barber Steamship Lines, Inc., 17 Battery Place, New York, New York 10004.

FMC No(s). 6

North Eleuthera Shipping Co., P.O. Box 72, Spanish Wells, Bahamas.

Transportation Tariff Publishers, 2311 University Blvd. W., Wheaton, Maryland 20902.

FMC No(s). 1

Northwest Maritime Corporation, William A. Kelly, President, 7100 S.W. Hampton Street, Suite 216, Portland, Oregon 97223.

FMC No(s). 1

NOSAC Lines, NOPAL Star Auto Carriers A/S, Industriegaten 45, Majorstua, Oslo 3, Norway.

c/o Robert F. F. Keihm, Jr., Olvind Lorentzen, Inc., 522 Fifth Avenue, New York, New York 10036.

FMC No(s). 2

Novo Marine Carrier Services, Ltd., David E. Vincent, Managing Director, Kowloon Freight Terminal, Canton Road, Kowloon, Hong Kong.

FMC No(s). 1

Orient Mid-East Lines, Inc., 35-39 Akti Miauli, Piraeus, Greece.

J. Mulara, Traffic Manager, Eagle Ocean Transport, Inc., 29 Broadway, New York, New York 10006.

FMC No(s). 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 30, 31, 33, 34, 35, 36, 38, 40, 42, 43, 44

Orient Overseas Container Line, Inc. (Orient Overseas Line (South East Asia) Incorporated, Series), Robert G. Jufer, Mgr.,

Intermodal Pricing, Eckert Overseas Agency, Inc., General Agents, 88 Pine Street, New York, New York 10005.

FMC No(s). 63, 63

Orient Overseas Container Line, Inc., Robert G. Jufer, Mgr., Intermodal Pricing, 88 Pine Street, New York, New York 10005.

FMC No(s). 11, 38, 47, 48, 74

Ozean/Stinnes-Linien, Ballindamm 8, 2000 Hamburg 1, Germany.

FMC No(s). 10

P & O Lines, Peninsular & Oriental Steam Navigation Co., Beaufort House, St. Botolph Street, London EC3A 7DX, England.

FMC No(s). 8, 9, 10

Pacific Far East Line, Inc., H. P. Devery, Vice President, Traffic, One World Trade Center, New York, New York 10043.

FMC No(s). 80

Pacific Far East Line, Inc., J. T. Enzensperger, Manager-Pricing, One Embarcadero Center, San Francisco, California 94111.

FMC No(s). 74, 82

Pacific Far East Line, Inc., T. C. Ellicott-General Traffic Manager, One Embarcadero Center, San Francisco, California 94111.

FMC No(s). 14, 41, 60, 61, 70, 73, 77, 78, 79, 86, 88

Pacific Far East Line, Inc., One Embarcadero Center, San Francisco, California 94111.

FMC No(s). 43, 83, 90

Pacific Far East Line, Inc., T. C. Elliott, Vice President, Freight Operations Division, One Embarcadero Center, San Francisco, California 94111.

FMC No(s). 13, 64, 69, 71, 75, 76, 84, 85, 86, 87

Pacific Navigation System, c/o Jones & Guerrero Co., Inc., P.O. Box 7, Agana, Guam.

FMC No(s). 4

Pacific Van & Storage Co., Inc., Henry A. Pontes, President, 1415 W. Torrance Blvd., Torrance, California.

FMC No(s). 1

Palau Shipping Company, Inc., P.O. Box 6000, Koror, Palau 96940.

FMC No(s). 1, 2, 3, 4, 5

Pan Atlantic Lines, Chester, Blackburn & Roder, Inc., 1775 N.W. 70th Avenue, Miami, Florida 33159.

FMC No(s). 8, 9

Pan Caribbean Freightliner Inc., P.O. Box 340542, Coral Gables, Florida 33134.

FMC No(s). 1

Pan-Islamic Steamship Company, Ltd., Writers Chamber, Dunolly Road, Karachi, Pakistan.

Ocean Services Agency, Inc., Agents, 866 United Nations Plaza, New York, New York 10017.

FMC No(s). 3

Panama Centroamericana De Navegacion S.A. (P.C.N.S.A.).

c/o Sealift Inc., 380 North Broadway, Jerico, New York 11753.

FMC No(s). 1

Pasa Line, Macoser De Honduras, S. De. R.L., Tegucigalapa, Honduras, C.A.

Pan Am Shipping Agencies, Inc., General Agents, 1222 I.T.M. Bldg., New Orleans, Louisiana 70130.

FMC No(s). 1, 2

Peralta Westward Line, Peralta Shipping Corp., Agents, 25 Broadway, New York, New York 10004.

FMC No(s). 2

Philippine President Lines, Inc., Balfour, Guthrie & Co., Limited, Agent, One Maritime Plaza, San Francisco, California 94111.

FMC No(s). 2

Polynesia Line, Ltd., Nassau, Bahamas. c/o Furness Intercean Corporation, 310 Sansome Street, San Francisco, California 94104.

FMC No(s). 3

Port Line Ltd., Blue Star Port Lines (Management) Ltd., Albion House, 35 Leadenhall Street, London EC 3A 1AR, England.

E. A. Gilbert, Jr., Owners Representative, The Blue Star Line, Inc., One California Street, San Francisco, California 94111.

FMC No(s). 1

Porto Rican Express Company, Inc., Mr. Fred S. Cacici, Manager, 114 Liberty Street, New York, New York 10006.

FMC No(s). 1

Prudential Lines, Inc., One World Trade Center, Suite 3601, New York, New York 10048.

FMC No(s). 46

Purchasing International, Ltd. c/o International Tariff Services, Inc., 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Puritan International Corporation. c/o All Cargo Agencies, Inc., 126 State Street, Boston, Massachusetts 02109.

FMC No(s). 3, 4

Quisqueya Shipping Corporation, 444 Brickell Avenue, Suite 510, Miami, Florida 33010.

FMC No(s). 1

Rate agreement No. 9990, Maritime Container Lines, Ltd. & Navibel International, Ltd., International Tariff Services, 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 7

Retla Steamship Co., Richard T. Welsh, Vice President, 400 Ocean Gate, Suite 1400, Long Beach, California 90802.

FMC No(s). 7, 11, 12, 13, 14, 16, 17

Ro-Ro Transport Services, Inc., Edward J. Keane, President, 40 Rector Street, New York, New York 10006.

FMC No(s). 1

Roberts Intermodal Services, Inc., Robert C. Shugg, President, 40 Rector Street, New York, New York 10006.

FMC No(s). 1, 2

Royal Netherlands Steamship Co., Koninklijke Nederlandsche Stoomroot-Maatschappij B. V., Prins Hendrikade 108-114, Amsterdam, The Netherlands.

FMC No(s). 39

Royal Netherlands Steamship Company (Antilles) N.V., 25 Broadway, New York, New York 10048.

FMC No(s). 25

Royal Netherlands Steamship Company (Antilles) N.V., 5 World Trade Center, Suite 7411, New York, New York 10048.

FMC No(s). 37

Rumania/U.S. Atlantic Rate Agreement, H.F. Hennigar, Issuing Officer. c/o Farrell Lines, Inc., 17 Battery Place, New York, New York 10004.

FMC No(s). 2

Saguenay Shipping Limited, Mr. R. K. Eustace, Vice President, Marketing and Planning, 1060 University Street, Montreal, Quebec, H3B 3A3.

FMC No(s). 24, 25

Saipan Shipping Company, Inc., P.O. Box 8, Saipan, Mariana Islands 96950.

FMC No(s). 2, 4

Sandcaribe, Inc., A. Osvaldo Diez, President, P.O. Box 4042, Hialeah, Florida 33014.

FMC No(s). 1, 2

Scheepvaart Maatschappij Mar. Antil, Curacao, N.V., Pretermaaiweg 4-4A, Curacao, Netherlands Antilles.

Island & Worldwide Shipping Agency, Inc., P.O. Box S-236, San Juan, Puerto Rico 00903.

FMC No(s). 1

Schreiber Intermodal Service, Mr. T. Neil Carson, 1400 Uhle Street, Arlington, Va. 22201.

FMC No(s). 1

Schuldts Atlantic Line dmbH & Co., 8 Ballindamm, 2, Hamburg 1, West Germany.

Hansen & Tideman, Inc., One World Trade Center, New York, New York 10048.

FMC No(s). 1

SCI Line, Norton, Lilly & Company, Inc., General Agents, 90 West Street, New York, New York 10006.

FMC No(s). 20

Sea Express Service. c/o Thai Mercantile Marine, Ltd. & P. T. Samudera Indonesia, 2311 Realty Building, 71 Des Voeux Road, Central, Hong Kong.

c/o E. De Francesco, F. W. Hartmann & Co., Inc., 17 Battery Place, New York, New York 10004.

FMC No(s). 21, 22, 23, 24

Seamist Lines Ltd., Grand Cayman, B.W.I. c/o Cacena Corporation, 51 South Lejeane Road, Coral Gables, Florida 33134.

FMC No(s). 1

Seatraders, Ltd., Port Laudania, 750 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1

Seatrail Gitmo, Inc., V. M. Otero, Director of Pricing, Caribbean Services, Port Seatrain, Weehawken, New Jersey 07087.

FMC No(s). 1

Seatrail Lines, Inc., Port Seatrain, Weehawken, New Jersey 07087.

FMC No(s). 6

Security Forwarding Express, Inc., P.O. Box 593499 A.M.F., Miami, Florida 33159.

FMC No(s). 1

Sentinel Line, Anchor Shipping Corporation, Issuing Agents, 327 South La Salle Street, Chicago, Illinois 60604.

FMC No(s). 1, 2, 3, 4

Service Forwarding Co., Inc., John C. Kelley, President, 112 Pointer Street, Newark, New Jersey 07114.

FMC No(s). 2, 3

Serviocean Internacional, Inc., Valdor Services Corporation, Mario P. Santos, Secretary-Treasurer, 1200 Biscayne Boulevard, Suite 210, Miami, Florida 33132.

FMC No(s). 1

Shamrock Line Ltd. (Of Panama), K-C Lines, Inc. (General Agents), 1110 N.W. 19th Avenue, Miami, Florida 33125.

FMC No(s). 1

Shaw Savill & Albion Co., Ltd., 14-19 Leadenhall Street, London, England. c/o Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

FMC No(s). 2

Shaw Savill & Albion Company Limited, 14-19 Leadenhall Street, London, England.

Norton Lilly & Co., Inc., 90 West Street, New York, New York 10006.

FMC No(s). 4

Shipright, Inc., C.D. Wager, Assistant Director, 2905 South Ridgeland Avenue, Berwyn, Illinois 60402.

FMC No(s). 1

Showa Line, Ltd. c/o Norton, Lilly & Co., Inc., 425 California Street, San Francisco, California 94104.

FMC No(s). 4

Showa Line, Ltd., 1000 Second Avenue, Seattle, Washington 98104.

FMC No(s). 3

Shun On Shipping Corporation, Jubilee Commercial Building, 11th Floor, 42-46 Gloucester Road, G.P.O. Box 790, Hong Kong.

FMC No(s). 1

Sidmara-Costa Joint Service. c/o Strachan Shipping Company, American Bank Building, New Orleans, Louisiana 70130.

FMC No(s). 11

Smith Freighting Ltd., Bank of Montreal Building, Post Office Box 866, Georgetown, Grand Cayman, B.W.I.

International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Sofrana Far East Line, Inc. c/o Sofrana Unilines, P.O. Box 3614, 42 Customs Street, Auckland, New Zealand.

FMC No(s). 1

South African Marine Corporation (N.Y.), Paul M. Vikan, Tariff Publishing Officer, One Banker's Trust Plaza, New York, New York 10006.

FMC No(s). 7

South Pacific United Lines, Port Vila, New Hebrides.

Transpacific Transportation Company, General Agents, 650 California Street, San Francisco, California 94108.

FMC No(s). 4

South Shipping (Iran) Line, Morton, Lilly & Company, Inc., General Agents, 90 West Street, New York, New York 10006.

FMC No(s). 2

Southern Container Line Corporation, 7220 N.W. 36th Street, Miami, Florida 33166.

FMC No(s). 1

Southern Cross Lines, Gene K. Nakamura, Manager International Traffic, 100 Bush Street, San Francisco, California 94104.

FMC No(s). 1, 2

Star Shipping A/S, H.W. Harrington, Vice President, Star Shipping (U.S.W.C.) Inc., 425 California Street, San Francisco, California 94104.

FMC No(s). 18

Star Shipping A/S, P.O. Box 1088, Bergen, Norway.

Star Shipping (NY) Inc., Agents, 90 West Street, New York, New York 10006.

FMC No(s). 9, 14

States Steamship Company, J.J. McGowen, Issuing Officer, 320 California Street, San Francisco, California.

FMC No(s). 10, 12

States Steamship Company, J.S. Butler, Vice President, 320 California Street, San Francisco, California 94104.

FMC No(s). 30, 31

Steve Goldberg & Co., Inc., Steve Goldberg, President, 5220 W. 104th Street, Los Angeles, California 90045.

FMC No(s). 1

Supreme Ocean Freight Corp., P.O. Box 1, Miami, Florida 33148.

FMC No(s). 1

Surinam Navigation Company, Ltd. (N.V. Scheepvaart Maatschappij Suriname), Hansen & Tidemann, Inc., General Agents, 310 Sanlin Building, 442 Canal Street, New Orleans, Louisiana.

FMC No(s). 2, 4, 5

Swede Line, Swede International Shipping Corp., 38 Sherwood Place, Greenwich, Connecticut 06830.

FMC No(s). 1, 2

Thai Mercantile Marine, Ltd., The Bangkok Bank Building, 6th Floor, P.O. Box 905, 300 Silom Road, Bangkok, Thailand.

c/o E. De Francesco, F.W. Hartmann & Co., Inc., 21 West Street, New York, New York 10006.

FMC No(s). 2, 3, 5, 6, 7, 8, 9, 10, 13, 14, 17, 18, 19, 20

The Canadian City Line, McLean Kennedy Limited, 410 St. Nicholas Street, Montreal, Quebec, Canada.

FMC No(s). 4, 5

The Daiwa Navigation Co., Ltd., Shin-Daiichi Building, 4-13 Nihonbashi, 3-Chome, Chuo-ku, Tokyo, Japan.

FMC No(s). 9

The International Shipping Company, Olivier de Chillaz, President, 2202 N. Pickett Street, Suite 104, Alexandria, Virginia 22304.

FMC No(s). 1

The Paulrich Corporation of Panama S.A., Adventure Associates, Inc., General Agents, 1110 N.W. 19th Avenue, Miami, Florida 33125.

FMC No(s). 2, 3

The Paulrich Corporation of Panama S.A., Cacena Corporation, General Agents, 6501 Northwest 36th Street, Miami, Florida 33186.

FMC No(s). 1

The Paulrich Trader of Panama S.A., K-C Lines Inc., General Agents, 1100 N.W. 19th Avenue, Miami, Florida 33125.

FMC No(s). 1

The Scindia Steam Navigation Co., Ltd., c/o Western Steamship Co., Ltd., 400 California Street, San Francisco, California 94104.

FMC No(s). 58

The Shipping Corporation of New Zealand Limited, Pastoral House, Lambton Quay, P.O. Box 3344, Wellington, New Zealand.

FMC No(s). 1

Thru-Container Corporation, 55 Goodrich Street, Staten Island, New York 10303.

FMC No(s). 3, 4

Tiger Lines. c/o M. A. Tenorio, United Micronesia Development Association, P.O. Box 238, Saipan, Mariana Islands 96950.

FMC No(s). 3

Tisa Line. c/o Lorentzen Shipping Agency, Inc., 2125 Biscayne Blvd., Miami, Florida 33137.

FMC No(s). 1

Tokyo Senpaku Kaisha, Ltd., Matson Agencies, Inc., as Agents, 100 Mission Street, San Francisco, California 94105.

FMC No(s). 1

Torm Lines, Kerr Steamship Company, Inc., General Agents, One Shell Square, New Orleans, Louisiana 70139.

FMC No(s). 13, 14

Tracey Navigation Co., Ltd., Georgetown, Grand Cayman.

Lone Star Shipping, Inc., U.S. General Agents, 2100 Melrose Building, 1121 Walker Street, Houston, Texas 77002.

FMC No(s). 1

Traffic Routing International (U.S.) Inc., Chaim Neumann, President, 9399 Wilshire Blvd., Beverly Hills, California 90210.

FMC No(s). 1

Trailer Container Line. c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 1, 2, 3

Trans Arabian Transport Services, Inc., Edward J. Keane, President, 40 Rector Street, New York, New York 10006.

FMC No(s). 1

Trans Caribbean Lines, Inc., 3301 N.W. South River Drive, Miami, Florida 33142.

FMC No(s). 5, 6, 7, 8

Trans Ocean Lines, Mr. Frank Hu, President, Trans Ocean Maritime Corp., Inc., 666 East Ocean Blvd., Suite 1180, Long Beach, California 90802.

FMC No(s). 1

Transmar, S.A., Conde 301, Santo Domingo, R.D.

International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Transmodal Cargoes, Inc., Fred L. Gohlke, 1179 1/2 Roosevelt Avenue, Carteret, New Jersey 07008.

FMC No(s). 4

Transoceanic Navigation Company, 160 Franklin, Oakland, California.

FMC No(s). 2

Transportacion Maritima Hondurena, S.A. De C.V. (T.M.H. Line), Puerto Cortes, Honduras, Central America.

"K" Line-Kerr Corporation, Issuing Agents, 90 Washington Street, New York, New York 10006.

FMC No(s). 1, 2

Transversal International Corporation. c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 1

Trindos Freight Consolidators, 7210 North West 32nd Street, Miami, Florida 33166.

FMC No(s). 1, 2

Trisa Line. c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 2, 3, 4

Troll Carriers, Bank of Bermuda Building, Hamilton Bermuda.

Chase, Leavitt & Co., 10 Dana Street, Portland, Maine 04112.

FMC No(s). 3

Tropic Isle Shipping Ltd. (Grand Cayman, B.W.I.).

c/o CACENA Corporation, 65-01 N.W. 36th Street, Suite 175, Miami, Florida 33166.

FMC No(s). 1

Tropical Shipping and Construction Co., Ltd.

c/o Container Terminals, Ltd., P.O. Box-N
8138, Nassau, Bahamas.
c/o Birdsall Inc., 821 Avenue "E", Riviera
Beach, Florida 33404.

FMC No(s). 12, 15

Tropwood A.G., Zug, Switzerland.
International Tariff Services, Inc., 815 15th
Street, N.W., Suite 538, Washington, D.C.
20005.

FMC No(s). 1, 3, 4, 5, 7, 8

Trust Territory of the Pacific Islands, Saipan,
Mariana Islands 96950.

FMC No(s). 1

Twin Express International Inc., Frank
Arevalo, President, P.O. Box 2294 A.M.F.,
Miami, Florida 33159.

FMC No(s). 2

Uiterwyk Lines (Far East), Uiterwyk Lines
(Far East) Ltd., 50 Shirley Street, Nassau,
Bahamas.

Jan C. Uiterwyk Company, Inc., General
Agents, 3105 West Waters Avenue, Tampa,
Florida 33614.

FMC No(s). 6

Unimodal Inc., 115 Sansome Street, San
Francisco, California 94104.

FMC No(s). 6

Union Gulf Marine Co., S.A., 15, Sec. 1,
Chung-Shan North Road, Taipei, Taiwan,
Republic of China.

Teh Tung Steamship (New York), Inc., 32
Broadway, Suite 808, New York, New York
10004.

FMC No(s). 1

United Container Service, Inc., Third Floor, 99
Chan Chun Road, Taipei, Taiwan, Republic
of China.

C. E. Simmons, Issuing Agent, 1100 Norton
Building, Seattle, Washington 98104.

FMC No(s). 1

United Container Service, Inc., 99 Chang
Chun Road, 3rd Floor, Taipei, Taiwan.

John Watkins, Chairman, International
American Enterprise, 375 Park Avenue,
Suite 2801, New York, New York 10022.

FMC No(s). 2

United Enterprises Co., Ltd., Room No. 502,
Kyodo Bldg. 4-21, Yaesu 1-Chome, Chuo-
Ku, Tokyo, Japan.

Transportation Tariff Publishers, 2311
University Blvd. W., Wheaton, Maryland
20902.

FMC No(s). 3

United Intermodal Line, 15-19 Ha Heung
Road, Ground Floor, Tokwawan, Kowloon,
Hong Kong, B.C.C.

Peter Gilbert, Western Navigation Corp., 545
Sansome Street, San Francisco, California
94111.

FMC No(s). 11, 12, 13, 14

United Intermodal Line 5 Austin Avenue,
Ground Floor—Tsimshatsui, Kowloon,
Hong Kong, B.C.C.

G. R. Morrell, Pacific Intermodal Corp., 545
Sansome Street, San Francisco, California.

FMC No(s). 3

United States Lines, Inc., F. G. Engel, Tariff
Publishing Officer, One Broadway, New
York, New York 10004.

FMC No(s). 88, 107

United States Lines, Inc., J. McMorrow,
Issuing Officer, One Broadway, New York,
New York 10004.

FMC No(s). 53, 68, 99, 105

Universal Alco Limited, Russell McCain,
President, 760 N.E. 7th Avenue, Dania,
Florida 33004.

FMC No(s). 1

Vaasa Line, Vaasa Line OY, Arkadiankatu
Zia, Helsinki 10, Finland.

William, Dimond & Co., 215 Market Street,
San Francisco, California 94105.

FMC No(s). 7

Valmar De Navegacion, S.A., P.O. Box 4204,
Guayaquil, Ecuador.

FMC No(s). 2

Venebueques, C.A., Veneqolana de Buques
Venebueques, C.A., Parque Humboldt-
Edificio "La Piramide" P.H., Prados del
Este-Apartado 6237, Caracas, Venezuela.

FMC No(s). 2

Venexpress Ltd., Grand Cayman, B.W.I.
Cacena Corporation, General Agents, 51
South Lejeune Road, Coral Gables, Florida
33134.

FMC No(s). 1

Victoria Line, Victoria Caribbean Shipping
Line, P.O. Box 343, Port-au-Prince, Haiti.

c/o Maurice Denis, 400 S.W. First Avenue,
Miami, Florida 33130.

FMC No(s). 1

Viking Contracting Company, Ltd., Boulder
Shipping, Ltd., 67 Broad Street, New York,
New York 10004.

FMC No(s). 1

W. A. Bowman Associates, Inc., 534 Boston
Post Road, Suite 202, Milford, Connecticut
06460.

FMC No(s). 1

Windward Steamships, Ltd., 750 N.E. 7th
Avenue, Dania, Florida 33004.

FMC No(s). 1

Wolfsburger Transport—Gesellschaft mbH,
3180 Wolfsburg-1, West Germany.

Herzfeld & Rubin, P.C., 40 Wall Street, New
York, New York 10005.

FMC No(s). 1

Wonder System, Inc., 17 Battery Place, Suite
2222, New York, New York 10004.

FMC No(s). 1, 2, 3

World Shipping Ltd., c/o World Shipping
Agencies, Inc., 750 N.E. 7th Avenue, Dania,
Florida 33004.

FMC No(s). 1

World Trade Forwarding Co., Inc., Jose S.
Lopez, President, 217 World Trade
Building, Houston, Texas 77002.

FMC No(s). 1

Yellow Freight International, J. E. McNamara,
Traffic Manager, Yellow Forwarding Co.,
P.O. Box 490, St. Louis, Missouri 63166.

FMC No(s). 27

Zim Container Service, One World Trade
Center, Suite 2969, New York, New York
10048.

FMC No(s). 19, 20

Zim Israel Navigation Co., Ltd., John C.
Gibson, Mgr., Domestic Rates, One World
Trade Center, Suite 2969, New York, New
York 10048.

FMC No(s). 38

Zim Israel Navigation Co., Ltd., Victor
Alchen, Mgr., Domestic Rates, One World
Trade Center-Suite 2969, New York, New
York 10048.

FMC No(s). 35

[FR Doc. 79-35720 Filed 11-19-79; 8:45 am]

BILLING CODE 6730-01-M

Italian Line Cruises International; Order of Revocation

Certificate of Financial Responsibility
for Indemnification of Passengers for
Nonperformance of Transportation Nos.
P-18 and P-176 and Certificate of
Financial Responsibility To Meet
Liability Incurred for Death or Injury to
Passengers or Other Persons on Voyages
Nos. C-1,028 and C-1,172.

Whereas, Italia Crociere
Internazionali S.p.A. and "Italia" Di
Navigazione S.p.A. (Italian Line) have
ceased to operate the passenger vessel
LEONARDO DA VINCI to and from
United States ports;

It is ordered, that Certificate
(Performance) No. P-18 and Certificate
(Casualty) No. C-1,028 issued to "Italia"
Societa' Per Azioni Di Navigazione and
Certificate (Performance) No. P-176 and
Certificate (Casualty) No. C-1,172 issued
to Italia Crociere Internazionali S.p.A.
and "Italia" Societa' Per Azioni Di
Navigazione ("Italia" Di Navigazione
S.p.A.) covering the Leonardo da Vinci,
be and are hereby revoked effective
November 9, 1979.

It is Further Ordered, that a copy of
this Order be published in the Federal
Register and served on certificants.

By the Commission, November 9, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 79-35719 Filed 11-19-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section
10 of the Federal Advisory Committee
Act (Pub. L. 92-463), notice is hereby
given that meetings of the Federal
Prevailing Rate Advisory Committee

will be held on: Tuesday, December 11,
1979 and Thursday, December 13, 1979.

The meetings will convene at 10 a.m.,
and will be held in Room 5A06A, Office
of Personnel Management Building, 1900
E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory
Committee is composed of a Chairman,
representatives of five labor unions
holding exclusive bargaining rights for
Federal blue-collar employees, and
representatives of five Federal agencies.
Entitlement to membership of the
Committee is provided for in 5 U.S.C.
5347.

The Committee's primary
responsibility is to review the prevailing
rate system and other matters pertinent
to the establishment of prevailing rates
under subchapter IV, chapter 53, 5
U.S.C., as amended, and from time to
time advise the Office of Personnel
Management thereon.

These scheduled meetings will
convene in open session with both labor
and management representatives
attending. During the meeting either the
labor members or the management
members may caucus separately with
the Chairman to devise strategy and
formulate positions. Premature
disclosure of the matters discussed in
these caucuses would impair to an
unacceptable degree the ability of the
Committee to reach a consensus on the
matters being considered and disrupt
substantially the disposition of its
business. Therefore, these caucuses will
be closed to the public on the basis of a
determination made by the Director of
the Office of Personnel Management
under the provisions of Section 10(d) of
the Federal Advisory Committee Act
(Pub. L. 92-463) and 5 U.S.C., section
552b(c)(9)(B). These caucuses may,
depending on the issues involved,
constitute a substantial portion of the
meeting.

Annually, the Committee publishes for
the Office of Personnel Management, the
President, and Congress a
comprehensive report of pay issues
discussed, concluded recommendations
thereon, and related activities. These
reports are also available to the public,
upon written request to the Committee
Secretary.

Members of the public are invited to
submit material in writing to the
Chairman concerning Federal Wage
System pay matters felt to be deserving
of the Committee's attention. Additional
information concerning these meetings
may be obtained by contacting the
Secretary, Federal Prevailing Rate
Advisory Committee, Room 1340, 1900 E

Street, NW., Washington, D.C. 20415
(202-632-9710).

Jerome H. Ross,
Chairman, Federal Prevailing Rate Advisory
Committee.

November 8, 1979.

[FR Doc. 35790 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in
this notice have applied, pursuant to
section 4(c)(8) of the Bank Holding
Company Act (12 U.S.C. 1843(c)(8)) and
§ 225.4(b)(1) of the Board's Regulation Y
(12 CFR 225.4(b)(1)), for permission to
engage in *de novo* (or continue to engage
in an activity earlier commenced *de
novo*), directly or indirectly, solely in the
activities indicated, which have been
determined by the Board of Governors
to be closely related to banking.

With respect to each application,
interested persons may express their
views on the question whether
consummation of the proposal can
"reasonably be expected to produce
benefits to the public, such as greater
convenience, increased competition, or
gains in efficiency, that outweigh
possible adverse effects, such as undue
concentration of resources, decreased or
unfair competition, conflicts of interest,
or unsound banking practices." Any
comment on an application that requests
a hearing must include a statement of
the reasons a written presentation
would not suffice in lieu of a hearing,
identifying specifically any questions of
fact that are in dispute, summarizing the
evidence that would be presented at a
hearing, and indicating how the party
commenting would be aggrieved by
approval of that proposal.

Each application may be inspected at
the offices of the Board of Governors or
at the Federal Reserve Bank indicated
for that application. Comments and
requests for hearings should identify
clearly the specific application to which
they relate, and should be submitted in
writing and received by the appropriate
Federal Reserve Bank not later than
December 7, 1979.

A. Federal Reserve Bank of
Richmond, 701 East Byrd Street,
Richmond, Virginia 23261:

Southern Bancorporation Inc.,
Greenville, South Carolina (finance and
insurance activities; Georgia): To
engage, through its subsidiary, World
Acceptance Corporation, in making
extensions of credit as consumer finance
lenders; and acting as agent for the sale

of credit property insurance, and credit-
related life, accident and disability
insurance issued directly in connection
with the above-mentioned extensions of
credit. These activities will be
conducted from offices in Moultrie and
Tifton, Georgia, serving those cities.

B. Other Federal Reserve Banks:
None.

Board of Governors of the Federal Reserve
System, November 14, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35697 Filed 11-19-79; 8:45 am]

BILLING CODE 6210-01-M

Childress Bancshares, Inc.; Formation of Banking Holding Company

Childress Bancshares, Inc., Childress,
Texas, has applied for the Board's
approval under section 3 (a) (1) of the
Bank Holding Company Act (12 U.S.C.
1842 (a) (1)) to become a bank holding
company by acquiring 95 per cent or
more of the voting shares of First
National Bank in Childress, Childress,
Texas. The factors that are considered
in acting on the application are set forth
in section 3 (c) of the Act (12 U.S.C. 1842
(c)).

The application may be inspected at
the offices of the Board of Governors or
at the Federal Reserve Bank of Dallas.
Any person wishing to comment on the
application should submit views in
writing to the Reserve Bank, to be
received not later than December 11,
1979. Any comment on an application
that requests a hearing must include a
statement of why a written presentation
would not suffice in lieu of a hearing,
identifying specifically any questions of
fact that are in dispute and summarizing
the evidence that would be presented at
a hearing.

Board of Governors of the Federal Reserve
System, November 14, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-35698 Filed 11-19-79; 8:45 am]

BILLING CODE 6210-01-M

Falmouth Bancorporation; Formation of Bank Holding Company

Falmouth Bancorporation, Falmouth,
Kentucky, has applied for the Board's
approval under section 3(a) (1) of the
Bank Holding Company Act (12 U.S.C.
1842 (a) (1)) to become a bank holding
company by acquiring 100 per cent (less
directors' qualifying shares) of the
voting shares of The Falmouth Deposit
Bank, Falmouth, Kentucky. The factors
that are considered in acting on the

application are set forth in section 3 (c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35690 Filed 11-19-79; 8:45 am]

BILLING CODE 6210-01-M

Marshall-Putnam County Bancorporation, Inc.; Formation of Bank Holding Company

Marshall-Putnam County Bancorporation, Inc., Varna, Illinois, has applied for the Board's approval under 3 (a) (1) of the Bank Holding Company Act (12 U.S.C. 1842 (a) (1)) to become a bank holding company by acquiring 88.0 per cent or more of the voting shares of Marshall County State Bank, Varna, Illinois. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35700 Filed 11-19-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Central Louisiana Energy Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Central Louisiana Energy Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Farmland Industries, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Central Louisiana Energy Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 7, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by section 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-35702 Filed 11-19-79; 8:45 am]

BILLING CODE 6750-01-M

Corroon & Black Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Corroon & Black Corporation is granted early termination of the 30-day waiting period provided by law and

the premerger notification rules with respect to the proposed acquisition of certain voting securities of Minet Holdings Limited. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Corroon & Black Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 7, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-35701 Filed 11-19-79; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Rehabilitation Project and Disposition of Excess Property, Vista Del Arroyo, Pasadena, Calif.; Scoping Meeting

As part of the environmental review process required by the Council on Environmental Quality regulations, the General Services Administration (GSA) will conduct a scoping meeting to discuss the future use of the former Pasadena resort known as Vista del Arroyo. The agenda will include the future Federal use of the property's main 7-story hotel building; potential uses for the balance of the historic 10.5 acre complex; and the identification of potential environmental effects resulting from Federal actions. GSA plans to rehabilitate and adapt the main building for use by the U.S. Court of Appeals and various Federal agencies currently

located elsewhere in Pasadena. The property not needed by GSA will be reported excess. Eventual disposition has yet to be decided. All development or transfer of the property will be administered according to Federal historic preservation policy and regulations (38 CFR 800).

Two public scoping meetings will be held on November 28, 1979, at the Council Chambers, Room 220, City Hall, 100 North Garfield Avenue, Pasadena, California. The first meeting will be from 1:30 to 4:30 p.m.; the second will be from 6:00 to 9:00 p.m. The meeting agenda includes a description of the proposed Federal action, the history of the property, and Federal regulations relating to environmental review, historic preservation, and property disposal. Interested parties are invited to present their ideas and concerns. Work shops will be established to explore the specific issues relating to the proposed action.

Questions or communication concerning the proposed action or the scoping meeting may be directed to Mr. Gerry MacClelland, Regional Historic Preservation Officer, GSA, 525 Market Street (Mail Station 30A), San Francisco, CA 94105. His phone number is (415) 556-2532.

Joseph B. Williams,
Regional Administrator.

[FR Doc. 79-35639 Filed 11-19-79; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Minority Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of December 1979.

Minority Advisory Committee, ADAMHA: December 3-5, 9:00 a.m.—open meeting. December 3, Room 17-09B, Parklawn Building, December 4, Conference Room J, Parklawn Building, December 5, Room 17-09B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Contact Ernest F. Hurst, Room 13C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3838.

Purpose: The Minority Advisory Committee, ADAMHA advises the Secretary of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health

matters, and make recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda: On December 3, agenda items include discussion of the status of recommendations of the Second National Conference on Minority Group Alcohol, Drug Abuse, and Mental Health Issues, discussion of Phase II of the Racial Minority Manpower Development and Training Report, the Asian American Consultation meeting, and special reports from Committee members. The remainder of the meeting will include meetings with the Administrator and Institute Directors, the work plan for fiscal years 1980 and 1981, and a review of the legislative process. Agenda items are subject to change as priorities dictate.

This Notice is late because of uncertainty of discussion items and the Federal official was unable to reach the chairperson for confirmation of selected agenda items.

Mr. James C. Helsing, Deputy Director, Office of Public Affairs, ADAMHA, will furnish on request, summaries of the meeting and a roster of the Committee members. Mr. Helsing is located in Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3783.

Dated: November 14, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-35640 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-88-M

Center for Disease Control

Cytopathology Study Group and Working Group for Second International Conference on Nosocomial Infections; Open Meeting

The following meetings will be convened by the Center for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Cytopathology Study Group

Date: November 29-30, 1979.
Time: 9:00 a.m.

Place: November 29: Seville Room, Sheraton-Emory Inn, 1641 Clifton Road, NE., Atlanta, Georgia 30333; November 30: Classroom 2, Building 2, CDC, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Purpose: To discuss the final report of the Professional Examination Service on the comparative study of written-visual and slide practical testing measures in cytopathology.

Additional information may be obtained from: Ms. A. Elizabeth Plott, Chief Cytotechnologist, Pathology Division, Bureau of Laboratories, CDC, Building 1, Room 2301, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Telephones: Commercial: 404/328-3135; FTS: 236-3135.

Working Group for Second International Conference on Nosocomial Infections

Date: December 3, 1979.

Time: 8:30 a.m.

Place: Room B-19, Building 3, CDC, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Purpose: To discuss the preliminary agenda for the Second International Conference on Nosocomial Infections, which will be held August 5-8, 1980.

Additional information may be obtained from: Richard E. Dixon, M.D., Chief, Hospital Infections Branch, Bacterial Diseases Division, Bureau of Epidemiology, CDC, Building 1, Room 5067, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Telephones: Commercial: 404/329-3408; FTS: 236-3408.

Dated: November 15, 1979.

William C. Watson, Jr.,

Acting Director, Center for Disease Control.

[FR Doc. 79-35900 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration

Pulmonary-Allergy Drugs Advisory Committee; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Pulmonary-Allergy Drugs Advisory Committee.	December 6 and 7, 9 a.m., Conference room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing December 6, 9:30 a.m. to 10:30 a.m.; open committee discussion December 6, 10:30 a.m. to 4:30 p.m., December 7, 9:30 a.m. to 11:30 a.m.; closed committee deliberations December 7, 1 p.m. to 3 p.m.; Conrad J. Ladet (HFD-160), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3500.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in treating pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the action report on Temaril/Tacaryl, Beta₂ agonists, and Vanceryl; theophylline-ephedrine combinations; bronchodilator testing guidelines; medicinal gases; Beta₂ agonists (benefit/risk assessment); Brethine/Theophylline combinations; Vanceryl for croup; and freon carcinogenicity.

Closed committee deliberations. The Committee will discuss investigational new drugs (IND's) 10,570, 11,151, 11,258, and 13,871 (Upjohn); IND 14,295 (Cooper Labs); and IND 14,918 (USV Pharmaceutical). These involve discussing preclinical and clinical data submitted in support of Notices of Claimed Investigational Exemption for New Drugs. This information is confidential under 21 CFR 312.5, and this portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public

participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal

nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: November 9, 1979.

Jere E. Goyan
Commissioner of Food and Drugs.

[FR Doc. 79-35512 Filed 11-19-79; 8:45 am]
BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This document announces a forthcoming Consumer Exchange Meeting to be chaired by the Commissioner of Food and Drugs.

DATE: The meeting will be held at 1 p.m., Wednesday, November 28, 1979.

ADDRESS: The meeting will be held at the HEW North Building, Rm. 5051, 330 Independence Ave., SW, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Alexander Grant, Special Assistant to the Commissioner for Consumer Affairs (HF-7), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rm. 16-85, Rockville, MD 20857, 301-443-5006.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to exchange information between FDA officials and consumer representatives by providing an opportunity for consumer representatives to present their views directly to the Commissioner and to the top managers of FDA, by seeking solutions to any problems agreed on during this communication, and by giving the agency an opportunity to discuss and communicate vital health and policy issues to the concerned public. The major agenda item for discussion will be drug regulation reform.

Dated: November 13, 1979.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-35511 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-03-M

Public Advisory Committees; Request for Nominations for Voting Members

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This document requests nominations for voting members to serve on certain public advisory committees of the Bureau of Drugs. This request pertains only to those committees that deal with prescription drug products as distinct from those FDA advisory committees that review nonprescription (over-the-counter) drugs and medical devices. Because of issues to be addressed, it is FDA policy that all members of these prescription drug advisory committees are voting members. Nominations will be accepted for vacancies that now exist and vacancies that will or may occur on the committees during the next 12 months.

DATES: Since scheduled vacancies occur on various dates throughout each year, no cutoff date is established for receipt of nominations. However, nominations should be received at least 90 days before the dates of scheduled vacancies for each year, as indicated in the list of the advisory committees given in this notice.

ADDRESS: All nominations for voting members of the respective advisory committees must be sent to: Joseph Price, Bureau of Drugs (HFD-22), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration requests nominations for voting members for the following 13 advisory committees:

1. Anesthetic and Life Support Drugs Advisory Committee: five vacancies on June 30, 1980.
2. Anti-Infective and Topical Drugs Advisory Committee: three vacancies on December 31, 1979.
3. Arthritis Advisory Committee: one vacancy on September 30, 1980.
4. Cardiovascular and Renal Drugs Advisory Committee: one vacancy on June 30, 1980.
5. Endocrinologic and Metabolic Drugs Advisory Committee: two vacancies on June 30, 1980.
6. Fertility and Maternal Health Drugs Advisory Committee: three vacancies on June 30, 1980.
7. Gastrointestinal Drugs Advisory Committee: two vacancies on June 30, 1980.
8. Oncologic Drugs Advisory Committee: two vacancies on June 30, 1980.
9. Peripheral and Central Nervous System Drugs Advisory Committee: two vacancies on January 31, 1980.
10. Psychopharmacologic Drugs Advisory Committee: four vacancies on June 30, 1980.
11. Pulmonary-Allergy Drugs Advisory Committee: three vacancies on June 30, 1980.
12. Radiopharmaceutical Drugs Advisory Committee: three vacancies on June 30, 1980.

The functions of the 12 committees listed above are to review and evaluate available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the area of the medical specialties indicated by the title of the committee, and to make appropriate recommendations to the Commissioner of Food and Drugs.

13. Drug Abuse Advisory Committee: four vacancies on June 30, 1980.
The functions of the Drug Abuse Advisory Committee are to: (1) Advise the Commissioner regarding the scientific and medical evaluation of all information gathered by both the Department of Health, Education, and Welfare (HEW) and the Department of Justice regarding the safety, efficacy, and abuse potential for drugs or other substances and (2) recommend actions to be taken by HEW regarding the marketing, investigation, and control of such drugs or other substances.

Persons nominated for membership on the above-named committees must have adequately diversified experience appropriate to the work of the committee in such fields as infectious disease, internal medicine, microbiology, psychiatry, neurology, obstetrics and gynecology, surgery, ophthalmology, anesthesiology, nuclear

medicine, epidemiology, statistics, or other appropriate areas of expertise. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is normally 4 years.

In recent months, concerns have been expressed about the need for ensuring "balanced advocacy" in decisionmaking at the Federal level; these concerns have been expressed by Congress and also in the report by the Commissioner of Food and Drugs to the Secretary of the Department of Health, Education, and Welfare on findings and recommendations of the Review Panel on New Drug Regulation. Additionally, an expanded concept of risk/benefit judgments has evolved in scientific, public and government circles from one of purely scientific assessment to one that also incorporates global value judgments.

Accordingly, through this announcement, the Commissioner intends to broaden the field from which potential members of these committees may be chosen to provide a wide range of viewpoints on issues addressed by the committees. Specifically, in addition to nominations from scientific and professional organizations, the Commissioner seeks nominations of well-qualified individuals by consumer-oriented and public interest groups. Because of the technical work performed by the committees, emphasis will be on scientific background that permits in-depth review and critical analysis of clinical data in investigational new drug applications and of new drug applications submitted to obtain marketing approval of drugs. However, for certain committees, for example, the Fertility and Maternal Health Drugs Advisory Committee, the classical background needed for review of clinical data in investigational and new drug applications may be supplied by other experience or specialized knowledge that would be of value to the work of the committee. Because the Fertility and Maternal Health Drugs Advisory Committee deals with the optional use of drugs (such as oral contraceptives, medicated intrauterine devices, drugs used for analgesia in obstetrical labor, as well as drugs used for voluntary termination of pregnancy), experience in consumer concerns relating to the possible effects of these drugs on women and fetuses is considered to be qualifying in that it

would contribute to the work of the committee.

Such qualified persons nominated by consumer-oriented and public interest groups will, if appointed, be voting members of the above-designated advisory committees. Additionally, the FDA Office of Consumer Affairs will provide such qualified persons with brief training to facilitate effective participation in the advisory committee process and with appropriate guidance to ensure effective liaison with public interest groups concerned with issues addressed by the committees on which they serve.

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in assuring that women and minority groups are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female and minority candidates.

Final selection from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR Part 14 relating to advisory committees.

Dated: November 9, 1979.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 79-35510 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 77P-0275]

Tomato Juice Deviating From Identity Standard; Extension and Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the amendment and extension of a temporary permit issued to Borden, Inc., to market test tomato juice from concentrate. This action will enable Borden, Inc., to market test tomato juice from concentrate. This action will enable Borden, Inc., to initiate its experimental market testing survey.

DATES: This amended permit is effective November 18, 1979 and shall terminate either on the effective date of an affirmative order ruling on the FDA proposal to amend the identity standard for tomato juice, which was published in the Federal Register of May 9, 1978 (43 FR 19864), or 30 days after a negative order ruling on the proposal, whichever the case may be.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The original permit was issued to Borden, Inc., under § 130.17 (21 CFR 130.17), concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the Federal Register of November 18, 1977 (42 FR 59554). The permit covered limited interstate marketing tests of tomato juice from concentrate that deviated from the standard of identity prescribed for tomato juice under § 158.145 (21 CFR 158.145). The test product is prepared by adding water to concentrated tomato liquid complying with the tomato paste requirements of § 155.191(a)(1) (21 CFR 155.191(a)(1)). The finished product contains not less than 5.5 percent by weight of tomato soluble solids, which is equivalent to a single-strength tomato juice normally found in the marketplace. In addition, ascorbic acid is added to attain a vitamin C level of 3.5 milligrams per fluid ounce.

The principal display panel of the label will state the product name as "tomato juice from concentrate". Wherever the name appears on the label the words "from concentrate" will appear in letters not less than one-half the size of those used for the words "tomato juice". Each of the ingredients used will be stated on the label as required by the applicable sections of Part 101 (21 CFR Part 101), except that the tomato ingredient complying with

the requirements of § 155.191(a)(1) will be declared as "tomato concentrate".

The original permit provided for the market testing of a total of 80,000 cases of twelve 46-ounce cans of the product to be distributed in the States of Arizona, Colorado, Indiana, Nebraska, New York, and Pennsylvania. Borden, Inc., stated that, owing to economic and other conditions, it has not marketed any tomato juice from concentrate in accordance with the temporary permit referred to above.

Borden, Inc., now has requested that its original temporary permit be extended and amended to provide market testing on a monthly basis of 50,000 cases of twelve 46-ounce cans, 12,500 cases of twenty-four 12-ounce cans, 35,000 cases of forty-eight 5.5-ounce cans, and 15,000 cases of twelve 32-ounce bottles in the States of Alabama, Arizona, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Virginia and in the District of Columbia.

Borden, Inc., has requested that its temporary permit be extended for the duration of the administrative proceedings pertaining to the proposal to amend the standard of identity for tomato juice published in the Federal Register of May 9, 1978 (43 FR 19864). The proposed amendment would, among other things, (1) permit the use of concentrated tomato juice to prepare a single-strength tomato juice product, (2) require the name "tomato juice from concentrate" when concentrated tomato juice is used in the preparation of the canned juice, (3) establish in the identity standard a minimum tomato soluble solids requirement of 5.5 percent, by weight, for the product made from concentrate, and (4) require label declaration of all optional ingredients.

FDA concludes that it will be in the interest of consumers to extend the time period of the temporary permit and to permit market testing on a monthly basis of 50,000 cases of twelve 46-ounce cans, 12,500 cases of twenty-four 12-ounce cans, 35,000 cases of forty-eight 5.5-ounce cans, and 15,000 cases of twelve 32-ounce bottles in the States of Alabama, Arizona, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Virginia and in the District of Columbia.

Under § 130.17, all interested persons may participate in the market tests under the conditions that apply to Borden, Inc., including the labeling requirements and the amounts to be distributed. The designated areas of distribution do not apply to such interested persons. Any interested person who elects to participate in the extended market test shall notify FDA in writing of that fact, the amount to be distributed, and the area of distribution, and shall submit, along with this notification, the labeling under which the food is to be distributed.

This permit extension, as issued to Borden, Inc., and such others who participate in accordance with the provisions set forth in this notice, is effective on November 20, 1979 and expires either on the effective date of an affirmative order ruling on the FDA proposal of May 9, 1978, or 30 days after a negative order ruling on the proposal, whichever the case may be.

Dated: November 13, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-35509 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-03-M

Office of Human Development Services

Administration for Public Services; Statement of Organization, Functions, and Delegations of Authority

This notice amends Part D (Office of Human Development Services), Chapter DS (Administration for Public Services) (43 FR 33339-41, July 31, 1978) by effecting the following organizational and functional statement changes:

(1) Transferring responsibility for formula grants management policies, administrative accounting and reprogramming of formula grant funds from the Division of Financial Management, Office of Program Operations, to the Office of Administration and Management;

(2) Transferring responsibility for equal opportunity and assuring adherence to requirements relating to nondiscrimination in APS S&E contracts from the Office of Administration and Management to the Division of Intergovernmental Planning and Coordination, Office of Program Development;

(3) Adding responsibility for activities related to the reduction of fraud, abuse and error in Title XX to the Division of Financial Management; and

(4) Abolishing the Office of Public Information and transferring its function

to the OHDS Office of Public Affairs except for the responsibility for receiving and coordinating responses to Freedom of Information requests which transfers to the Executive Secretariat.

The revised statement for Administration for Public Services reads as follows:

DS.00 Mission. The Administration for Public Services (APS). Provides national leadership to States in the planning, development, management, coordination, and delivery of social services programs authorized under Title I, IV-A, X, XIV, XVI (AABD) and XX of the Social Security Act. Provides leadership in the development, design and evaluation of Comprehensive Annual Services Plans, which reflect the special needs of low-income and disadvantaged populations, including recipients of Aid to Families with Dependent Children, Medicaid and Supplemental Security Income. Establishes program objectives, standards, policies and guidelines to promote the goals of Title XX among eligible low income populations. Develops policies and guidelines to assure adherence to Federal requirements. Provides guidance to States in the development and operation of State and local training programs. Promotes and funds research and demonstration projects to develop more effective approaches and methods for the management and delivery of social services. Conducts and funds studies to evaluate the extent to which social service programs meet the goals specified in the Title XX Act. Provides administrative support services to the staff assigned to the Work Incentive Program, which is jointly administered by the Department of Labor and HEW. Consults with other Federal agencies in the development of policies and programs which promote the achievement of social services program goals. In conjunction with the Department of Labor, develops plans for increasing the coordination of social services programs with employment programs such as CETA and the WIN program. Coordinates rural development initiatives within HEW and assists the Department of Agriculture in carrying out Section 803(b) of the Rural Development Act of 1972. Provides leadership and professional consultation to Regional Office staff and assists States, local units of government, private agencies and organizations, and public interest groups in the identification of services needs, the planning and utilization of resources, the management and the methods for improving service delivery systems,

manpower development and management of training programs, and promotion and management of research and demonstration projects.

DS.10 Organization. The Administration for Public Services is headed by a Commissioner who reports directly to the Assistant Secretary for Human Development Services and consists of:

- Office of the Commissioner (DS)
- Regional Liaison Staff (DS-1)
- Office of Administration and Management (DSB)
- Office of Policy Control (DSK)
- Executive Secretariat (DSG)
- Office of Program Operations (DSH)
- Division of Program Management (DSH1)
- Division of Financial Management (DSH2)
- Office of Program Development (DSJ)
- Division of Intergovernmental Planning and Coordination (DSJ1)
- Division of Research, Demonstration, and Evaluation (DSJ2)
- Division of Program Planning and Analysis (DSJ3)

DS.20 Functions. A. Office of the Commissioner (DS) provides executive leadership and policy direction to APS in the administration of its responsibilities. Serves as the principal advisor to the Assistant Secretary for Human Development Services on the policies, planning, development, and coordination of social services programs. Maintains relationships with HDS officials and other Federal Agency officials to coordinate APS policies and activities. The Deputy Commissioner acts as the Commissioner in his absence.

1. *regional Liaison Staff (DS-1)* provides advice to the Commissioner and appropriate operational units on the implementation of special initiatives and operational issues in the Regional Offices. Assures that regional concerns are reflected in the development of operational plans, policy, and legislative initiatives. Coordinates the assignment of work activities which require significant Regional Office involvement or staff resources. Identifies the need for and provides technical support and guidance to regional staff. Ensures adequate information flow between Central Office, the APS regional program offices, and HDS Regional Administrators. Establishes procedures for regular communication of regional activities.

In coordination with HDS Regional Administrators and the HDS Office of Regional and Intergovernmental Relations, performs oversight of APS regional responsibility of assuring compliance with Title VI of the Civil Rights Act. Serves as APS liaison to

other HEW and HDS units concerning the operations of APS regional offices.

B. Office of Administration and Management (DSB) manages and directs activities relating to internal planning, coordination, and implementation of budget, personnel, and administrative services essential to the operation of APS.

Manages the formulation and justification of the Title XX Program Budget and the APS S&E budget. Prepares related reports and exhibits for use at Departmental, OMB, and Congressional presentations. Prepares, justifies, and manages the internal operating S&E budget. Within assigned ceiling, proposes, implements, and controls position allocation in APS. Controls administrative accounting and reprogramming of funds as necessary.

Based on ASHDS approved formula grants management policies, controls administrative accounting and reprogramming of formula grant funds. Makes grant awards to States. Processes estimates, expenditure reports and adjustments for prior periods. Maintains liaison and coordination with appropriate HDS and other HEW units to assure consistency between grant award activities and the letter-of-credit system. Controls the deferral actions process as it impacts the grant awards and the adherence to regulatory time limits. Compiles and publishes annual allotment limits under Title XX. Provides or assures the provision of necessary personnel, administration and general services support activities to APS, including organization and manpower management; internal orientation, training and staff development; procurement, records, and facilities management. Develops and maintains the APS work measurement system. Maintains liaison and coordinates activities with appropriate HDS staff offices.

C. Office of Policy Control (DSK) develops and coordinates policy initiatives, legislative proposals, and regulations for APS. Reviews and clears all APS policy related materials to assure consistency with HEW and HDS policies and requirements. Replies or assigns to appropriate divisions, tracks, coordinates and clears responses to policy inquiries from Regional Offices and other sources. Provides, or assures the provision of, consistent policy interpretation to HDS staff and outside inquiries. Serves as contact for information pertaining to APS issuances in the Federal Register. Officially disseminates regulations and other policy related material. Maintains liaison with appropriate HDS and OS units to insure legal sufficiency and

consistency of policy interpretations. Proposes legislative initiatives and coordinates the development and submittal of the APS legislative plan. Performs other legislative assignments; identifies and tracks legislation and regulations of interest to APS. Analyzes legislation and disseminates relevant information to Regional Offices and APS staff. Receives and analyzes the quarterly compliance reports from Regional Offices. Assists Regional Offices on the compliance process and the development of recommendations for compliance action. Prepares documentation for the Commissioner and initiates and tracks compliance process.

D. Executive Secretariat (DSG) receives and controls correspondence. Prepares responses to correspondence or assigns the responsibility to other APS units when inquiries require technical analysis and interpretation; obtains clearance of APS Office of Policy Control as necessary. Prepares or coordinates the preparation of special reports or responses to assignments of general nature. Assures that all correspondence is answered in a timely fashion. Serves as the APS liaison with HDS Executive Secretariat. Responsible for the receipt of Freedom of Information requests and coordinates responses to such requests directed to APS.

E. Office of Program Operations (DSH) provides leadership and direction to the activities of the Division of Program Management and the Division of Financial Management. Assures the coordination of the activities of these divisions with the Office of Program Development and the APS staff offices.

1. Division of Program Management (DSH1) plans, directs, and provides leadership, professional consultation, technical information and guidance in the development and management of the State Title XX program, the development of the proposed and final Title XX CASP, the delivery of social services, and in the development and management of the Title XX training program. Provides expertise in the development of regulations and policies which relate to Title XX Comprehensive Annual Services Planning process, Title XX State program administration and the Title XX training program. Promotes the implementation of innovative service delivery methods and practices. Develops strategies and management tools for the review and monitoring of program performance. Proposes revisions to law and regulations on the basis of monitoring and program review findings.

2. Division of Financial Management (DSH2) plans, directs, and provides guidance and technical expertise in the areas of fiscal policies, standards, procedures and financial operations. Provides expertise in the development of regulations and policies which relate to the financial operations of the Title XX program. Maintains liaison and coordinates activities with appropriate HDS and other HEW units, HEW and GAO audit agencies, and other related organizations, with respect to Title XX financial matters and with respect to such initiatives as reducing losses from fraud, abuse and wasteful or inefficient management practices. Provides technical expertise and consultation, directs and manages the procedures and activities related to the formal hearing held by the Departmental Grant Appeals Board of requests by States for reconsideration of disallowed claims. Maintains liaison with appropriate HDS and HEW units and provides the contact point for State agencies requesting reconsideration.

F. Office of Program Development (DSJ) provides leadership and direction to the activities of the Division of Intergovernmental Planning and Coordination, the Division of Research, Demonstration, and Evaluation, and the Division of Program Planning and Analysis. Assures the coordination of the activities of these divisions with the Office of Program Operations and the APS staff offices.

1. Division of Intergovernmental Planning and Coordination (DSJ1) provides assistance on the development and design of comprehensive social services systems. Reviews implementation of policies, regulations, and interpretations at the State and local level and proposes policy or legislative changes to facilitate the planning of human resource programs. Develops and coordinates the implementation of joint initiatives within HDS and with other Federal agencies in order to promote comprehensive planning of Title XX and related human service programs, including CETA, and to support coordination of program resources to meet the service needs of specific populations. Serves as an advocate for rural concerns in the development of human service policy by Federal and State programs. Provides guidance in the methods by which the concerns of low income and disadvantaged populations can be integrated into planning of social services programs and how their access to services can be facilitated.

Maintains liaison with the Department of Labor on the development and

implementation of policies relating to the provision of supportive services in the CETA programs.

Promotes and provides guidance in the methods by which consumers, Indians, volunteers, and private agencies and foundations can become actively involved in the planning and development of human resources programs within HDS and in State and Federal social service programs.

Develops and monitors EEO objectives. Assures adherence to requirements of the Federal statutes relating to non-discrimination in APS S&E contracts.

2. Division of Research, Demonstration, and Evaluation (DSJ2) develops research, demonstration and evaluation strategies; funds and manages APS research, demonstration, and evaluation grants and contracts and conducts special studies relating to the planning, administration and delivery of social service programs and the impact of such programs on clients. Provides technical guidance on the development and implementation of R&D and evaluation projects and methodologies. Disseminates findings and methods pertaining to R&D and evaluation of social services. Prepares the Annual Title XX Evaluation Report to Congress. Maintains liaison with HDS Office of Planning, Research, and Evaluation, ASPE, and other Federal offices. Reviews and clears grants and RFP's developed in other HDS bureaus. Monitors adherence of R, D, & E grantees and contractors to Title VI of the Civil Rights Act.

3. Division of Program Planning and Analysis (DSJ3) provides technical support for internal planning processes, the identification and utilization of program and budget data, and the analysis of issues relating to the improvement and management of APS programs.

Coordinates the development of management initiatives, long range plans, and consultant services plans. Designs and implements planning processes and monitors performance.

Maintains continuous contact with OPRE, OPMC, and other HDS administrations on the implementation of joint activities. Carries lead responsibility for determining the data requirements of APS program reporting, including modifications to the Social Service Reporting Requirements. Performs analyses of CASP's, reports and data submissions. On a periodic basis, analyzes and publishes data on the APS programs. Serves as APS contact for reports clearance. Serves as technical expert within APS on methods of data development and interpretation

and statistical and economic analysis. Develops and interprets trend analysis relevant to social services programs. Analyzes trends and proposes forecasting techniques.

Dated: November 8, 1979.

Patricia Roberts Harris,
Secretary.

[FR Doc. 79-35710 Filed 11-19-79; 8:45 am]
BILLING CODE 4110-92-M

Office on Families; Statement of Organization, Functions, and Delegations of Authority

This notice amends Part D of the statement of organization, functions, and delegations of authority of the Department of Health, Education, and Welfare, Office of Human Development Services (HDS), to add an Office on Families. Chapter DC, "Administration for Children, Youth, and Families" (44 FR 25700-02, 5/2/79), is amended by adding the "Office on Families (DCT)" at the end of DC.10 Organization and by adding at the end of DC.20 Functions a new section which reads as follows:

H. The Office on Families (DCT) provides a focal point for family concerns within the Department of Health, Education, and Welfare through the development and coordination of policies, legislation, and programs which affect families. Is headed by a Director, who reports to the Commissioner of the Administration for Children, Youth, and Families. Establishes and maintains a liaison with other Federal agencies that have programs and policies which affect the functioning and well being of families.

Proposes policies, legislation, and other actions which are responsive to the expressed needs of the family. Obtains recommendations on the needs of families and on potential strategies for meeting those needs from parents and other members of families, providers of services to families, family advocates, academicians, and others knowledgeable about family life.

Promotes the development of a coordinated approach to addressing the strengths and problems of families. Works to increase the sensitivity of the Department to the ramifications on family life of current and proposed programs, policies, and procedures.

Coordinates activities with the White House Conference on Families, will be involved in the implementation of recommendations coming from the White House Conference on Families, and assists in the work of its Interagency Task Force. Coordinates the collection and dissemination of information about families in

conjunction with other HEW offices and Federal agencies.

Sponsors research on the family and promotes the coordination of research and other activities aimed at identifying and understanding the issues, concerns, and needs of families. Reviews research findings to identify implications for the family and their relevance to existing HEW policies and programs, and recommends specific applications for information resulting from research.

Analyzes the advantages and disadvantages of actions and policies of the Department with respect to families, and makes recommendations for changes as appropriate.

Provides technical assistance to national organizations, other Federal agencies, and State, local, and community agencies and groups.

Dated: November 13, 1979.

Patricia Roberts Harris,
Secretary.

[FR Doc. 79-35715 Filed 11-19-79; 8:45 am]
BILLING CODE 4110-92-M

Office of Education

National Advisory Council on the Education of Disadvantaged Children; Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, section 10(a)(2), notice is hereby given of the meeting of the National Advisory Council on the Education of Disadvantaged Children on Thursday, December 6 and Friday, December 7, 1979. (Specified location to be announced at a later date.)

The meeting shall be open to the public on Thursday and Friday. However, if required, under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), and under the exemptions contained in the Government Sunshine Act (Pub. L. 94-409), section 552b(c) (2) and (6), Title 5 U.S. Code, the meeting will be closed to the public from 3:30 p.m.-4:30 p.m., on Friday, December 7, for a review and discussion of personal documents of applicants being considered for the position of Executive Director. The discussion will involve issues of a personal nature, which, if discussed in open session, would be a clearly unwarranted invasion of personal privacy.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2852) to advise the President and the Congress on the effectiveness of compensatory education

to improve the educational attainment of disadvantaged children.

The main purpose of the two-day meeting will be to obtain comments on various issues related to the administration, operation and outcomes of Title I, ESEA, and other compensatory education programs. Based on these presentations, the Council will select two issues which it will devote major attention on in 1980.

Because of limited space, all persons wishing to attend should call for reservations by December 3, 1979. Any additional information regarding the above meeting may be obtained by calling Mrs. Lisa Haywood at area code 202/724-0114.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children located at 425-13th Street, NW., Suite 1012, Washington, D.C. 20004. A summary of activities at the partially closed meeting will be available to the public within 14 days of the closed portion consistent with 5 U.S.C. 552b.

Signed at Washington, D.C. on November 14, 1979.

Gloria B. Strickland,
Acting Executive Director.

[FR Doc. 79-35854 Filed 11-19-79; 8:45 am]
BILLING CODE 4110-02-M

Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program; Closing Date for Transmittal of Applications for Fiscal year 1980

Applications are invited for new projects under the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program.

Authority for this program is contained in Title IX, Part D of the Higher Education Act of 1965, as amended. (20 U.S.C. 1134n-1134r.)

This program issues awards to institutions of higher education.

The purpose of the awards is to assist graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, oil shale, and uranium.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 8, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.567, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The single application form and instructions pertaining to support under Part D will be contained in the application package that will be sent to all interested applicants. An institution may make only one application and for not less than five new fellowships in an area specifically related to advanced study in domestic mining and mineral fuel conservation including oil, gas, coal, oil shale, and uranium. The focus of the study must be stated clearly; study that is only indirectly or tangentially related to the purposes of this program will not be supported. An institution must give priority in awarding fellowships to graduate students of exceptional ability who demonstrate a financial need for advanced study.

Request for the renewal of fellowship support to those continuing Fellows in good academic standing are not subject to the competitive process and will, therefore, be automatically granted.

Available funds: Approximately \$4.5 million is anticipated for the domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program during the academic year 1980-81.

It is estimated that these funds will provide support for approximately 241 new fellowships, of which 221 will be for 2 years and the balance for 1 year.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 19, 1979. They may be obtained by writing to the Graduate Training Branch, U.S. Office of Education, (Room 3060, Regional Office Building #3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed 15 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program (45 CFR Part 196); and
- (b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education programs.

If EDGAR takes effect before grants are made under this program those grants will be subject to the following provisions of EDGAR:

Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); Subpart G (What Procedures Does the Education Division Use to Get Compliance?)

Applicants should note that an amendment to § 196.7(a) is contemplated. A notice of the proposed change will be published in the Federal Register soon.

Further information: For further information contact Dr. Donald N. Begelow, Bureau of Higher and

Continuing Education, U.S. Office of Education, (Room 3060, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2347.

(Catalog of Federal Domestic Assistance No. 13.567; Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program)

(20 U.S.C. 1134 et seq.)

Dated: November 15, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-35739 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-02-M

Public Service Education Program; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Public Service Education Program.

Authority for this program is contained in Title IX, Parts A and C, of the Higher Education Act of 1965, as amended. (20 U.S.C. 1134 et seq.)

This program issues awards to institutions of higher education.

The purpose of the awards is to develop training programs at institutions of higher education by providing fellowships and, in some instances, institutional grants (under Part A), for graduate or professional study for persons who plan to pursue a career in public service, especially at the State and local levels.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 8, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.555, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The single application form and instructions pertaining to support under Part C (for fellowships) and Part A (for institutional grants) will be contained in the application package that will be sent to all interested applicants. It is expected that no fewer than 5 or no more than 10 fellowships of up to two-years in length will be allocated to a successful applicant.

Requests for the renewal of fellowship support to those continuing Fellows in good academic standing are not subject to the competitive process and will, therefore, be automatically granted. In connection with the allocation of fellowships under Part C, between ten and fifteen institutional grants (averaging \$35,000-\$50,000) will also be made to support the development of model training programs which help develop the professionalization of public service education, especially at the State and local levels.

Available funds: Approximately \$4.0 million is anticipated for the Public Service Education Program during the academic year 1980-81.

It is estimated that these funds will provide support for approximately 175 students in good standing to continue their studies and for 135 new students. The new awards will be for two years. The remaining amount would fund institutional grants.

These estimates, however, do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by

November 19, 1979. They may be obtained by writing to the Graduate Training Branch, U.S. Office of Education, (Room 3060, Regional Office Building #3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed 15 pages in length and limit the overall application length to 36 pages. The Commissioner further urges that applicants not submit information that is not requested.

Special procedures: An application for an institutional grant shall provide assurance that the institution has notified the appropriate State Commission (established or designated under Section 1202 of the Higher Education Act of 1965, as amended) and that the State Commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner.

Applicable regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Public Service Education Program (45 CFR Part 194); and
- (b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR:

Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?);

Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Applicants should note that an amendment to § 194.27(a) is contemplated. A notice of the proposed change will be published in the Federal Register soon.

Further Information: For further information contact Dr. Donald N. Begelow, Bureau of Higher and Continuing Education, U.S. Office of Education, (Room 3060, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C.

(Catalog of Federal Domestic Assistance No. 13.555; Public Service Education)

(20 U.S.C. 1134 et seq.)

Dated: November 15, 1979.

John Ellis,
Executive Deputy Commissioner for
Educational Programs.

[FR Doc. 79-35738 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-02-M

Office of the Secretary

White House Conference on Families; National Hearings

The White House Conference on Families was called by President Carter to "examine the strengths of American families, the difficulties they face, and the ways in which family life is affected by public policies."

The Conference is guided by a 41-person National Advisory Committee, which has adopted an innovative conference process to take the White House Conference on Families to the people. This process includes hearings, state activities, national organization activities, and issue work groups which will lead up to three White House Conferences across the country in the summer of 1980.

The purpose of the hearings is to give families an opportunity to discuss their concerns, ideas, successes and problems relating to contemporary family life. The hearings will help to identify key issues and concerns for the White House Conference on Families. Testimony should identify the most pressing concerns facing American families today and into the 1980's, together with any recommended policies, programs, and strategies for meeting these concerns. Information from the hearings will be available to all the states and will be used as background material for delegates to the National Conferences.

The fifth of the national hearings will be held in Washington, D.C.

November 30—Washington, DC—U.S. Capitol, Russell Building, 1st & C. Street, NE.

December 1—Washington, D.C.—District Building, 1350 E. Street, NW.

Other hearing sites and dates are tentatively scheduled for Detroit, Michigan, December 7-8; and Seattle, Washington, January 11-12.

The hearings are open to the public. Members of the National Advisory Committee on the White House Conference on Families will serve as the hearing panel and are hoping to hear testimony from family members themselves, as well as from representatives of organizations and agencies that are concerned about

families, members of the academic community, leaders in the religious community, public officials, employers, and program administrators.

Requests to testify must be received by the White House Conference on Families, 330 Independence Avenue, SW., Washington, D.C. 20201, no later than November 26, 1979, for the District of Columbia hearings. It is anticipated that more requests to testify will be received than time will permit. Advance registration is, therefore, strongly encouraged to accommodate as many people as possible. Persons wishing to testify should submit a written request which includes the following information: name; home address; telephone numbers at both home and office; whether or not testimony is on behalf of an agency or organization and, if so, the name of the group and individuals' position title; topic of proposed testimony; preferences of location and day or evening testimony and whether an English translator or other special arrangements will be needed.

Time limits will be strictly enforced on all persons giving testimony. Whenever feasible, participants will be grouped together when dealing with similar topics. Members of the National Advisory Committee will be given an opportunity to question individuals and group members after their presentations.

Each hearing will also have a limited time set aside for individuals who have not signed up in advance. Individuals not wishing to testify at the hearings are welcome to attend.

Written testimony is also strongly encouraged and will be included as part of the record of the hearing. It should be typed and not exceed 1,000 words.

FOR FURTHER INFORMATION CONTACT: White House Conference on Families, 330 Independence Avenue, SW., Washington, D.C. 20201 (202) 472-4395.

John L. Carr,
Executive Director, White House Conference on Families.

[FR Doc. 79-35680 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-12-M

White House Conference on Families; National Hearings

The White House Conference on Families was called by President Carter to "examine the strengths of American families, the difficulties they face, and the ways in which family life is affected by public policies."

The Conference is guided by a 41-person National Advisory Committee, which has adopted an innovative

conference process to take the White House Conference on Families to the people. This process includes hearings, state activities, national organization activities, and issue work groups which will lead up to three White House Conferences across the country in the summer of 1980.

The purpose of the hearings is to give families an opportunity to discuss their concerns, ideas, successes and problems relating to contemporary family life. The hearings will help to identify key issues and concerns for the White House Conference on Families. Testimony should identify the most pressing concerns facing American families today and into the 1980's, together with any recommended policies, programs, and strategies for meeting these concerns. Information from the hearings will be available to all the states and will be used as background material for delegates to the National Conferences.

The fifth of the national hearings will be held in Michigan.

December 7—Detroit, Michigan—Wayne County Community College, 1001 West Fort Street.

December 8—Oak Park, Michigan—Oak Park Community Center, 14300 Community Blvd.

A hearing is also tentatively scheduled for Seattle, Washington, January 11-12.

The hearings are open to the public. Members of the National Advisory Committee on the White House Conference on Families will serve as the hearing panel and are hoping to hear testimony from family members themselves, as well as from representatives of organizations and agencies that are concerned about families, members of the academic community, leaders in the religious community, public officials, employers, and program administrators.

Requests to testify must be received by the White House Conference on Families, 330 Independence Avenue, SW., Washington, D.C. 20201, no later than December 3, 1979, for the Michigan hearings. It is anticipated that more requests to testify will be received than time will permit. Advance registration is, therefore, strongly encouraged to accommodate as many people as possible. Persons wishing to testify should submit a written request which includes the following information: name; home address; telephone numbers at both home and office; whether or not testimony is on behalf of an agency or organization and, if so, the name of the group and individuals' position title; topic of proposed testimony; preferences of location and day or evening testimony and whether an English

translator or other special arrangements will be needed.

Time limits will be strictly enforced on all persons giving testimony. Whenever feasible, participants will be grouped together when dealing with similar topics. Members of the National Advisory Committee will be given an opportunity to question individuals and group members after their presentations.

Each hearing will also have a limited time set aside for individuals who have not signed up in advance. Individuals not wishing to testify at the hearings are welcome to attend.

Written testimony is also strongly encouraged and will be included as part of the record of the hearing. It should be typed and not exceed 1,000 words.

FOR FURTHER INFORMATION CONTACT:

Councilwoman Maryann Mahaffey (313) 224-445

or

White House Conference on Families, 330 Independence Avenue, S.W., Washington, D.C. 20201 (202) 742-4395.

John L. Carr,
Executive Director, White House Conference on Families.

[FR Doc. 79-35681 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-12-M

National Institutes of Health, Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (40 FR 22859, May 27, 1975, as amended most recently at 44 FR 50102, August 27, 1979), is amended to reflect: (1) The establishment of the Office of Research Services; (2) the establishment of the Division of Safety; (3) the modification of the functions of the Division of Research Services and the Office of Administration; (4) the transfer of the Divisions of Administrative Services and Engineering Services from the Office of Administration to the Office of Research Services. These changes reflect a restructuring of several current organizational components that will strengthen existing programs and initiate new program activities.

Sec. HN-B, Organization and Functions is amended as follows: (1) Under the statement for Office for Medical Applications of Research (HNA9), insert the following:

Office of Research Services (HNAA). (1) Advises the Director, NIH, and his staff on the management and provision of technical and administrative services

to all components of NIH in support of the research mission; (2) plans and directs service programs for materiel management, physical security, facilities construction and operation, and general services to grounds and buildings; (3) provides national leadership in research safety policy and methodology, and conducts, coordinates, and supports technical assistance, service, compliance, training and research programs in safety and environmental protection in biomedical research.

Division of Safety (HNAA2). Provides national leadership in research safety policy and methodology to NIH and the extramural biomedical research community, and conducts, fosters, coordinates and supports technical assistance, service, compliance, training and research programs, to promote and maintain safety and environmental protection in biomedical research through: (1) Activities performed by program staff and through contracts; (2) cooperation and collaboration with national and international organizations, Departmental agencies and other institutions engaged in safety and environmental protection in biomedical research; (3) collection and dissemination of information on laboratory safety and environmental protection.

Division of Administrative Services (HNAA3). (1) Plans and conducts a centralized program of technical and administrative services in support of biomedical research patient care, and administrative and plant operations; (2) advises the Associate Director for Research Services on central services matters and acts as his representative with PHS, DHEW, GAO, and GSA; (3) collaborates with scientific, technical, and administrative staff of NIH components in the management of programs to meet NIH needs for administrative services and logistical support; (4) develops and implements policies and procedures in areas of responsibility.

Division of Engineering Services (HNAA4). (1) Plans and conducts a centralized program in support of the construction, operation, and maintenance of NIH facilities and advises the Associate Director for Research Services in these areas; (2) provides engineering design and architectural services in the: (a) Planning of NIH facilities and improvements, (b) administration and inspection of NIH construction under direct contract, and (c) liaison with and inspection of projects administered by the GSA or the Office of Facilities Engineering and Property Management,

DHEW, in coordination with PHS; (3) provides engineering craft and labor services in operating and maintaining NIH buildings, grounds, utility plants, and related equipment; (4) maintains liaison with state and local review and governing authorities.

(2) Under the heading Division of Research Services (HN-3), delete the complete statement and insert the following: (1) Plans and conducts, through collaboration and cooperation with national and international organizations, centralized programs of scientific, engineering, and technical services in support of biomedical research activities; (2) collaborates and coordinates with research scientists during all stages of a research project for the development and use of essential products and services; (3) provides specialized assistance and services in: (a) biomedical engineering and instrumentation design and development; (b) research animal production, maintenance, procurement, and animal disease identification and control; (c) biomedical library and translation services; and (d) medical arts and photography.

(3) Under the title for Office of Administration (HNA7), delete the functional statement and insert the following:

Office of Administration (HNA7). (1) Advises the Director, NIH, and his staff on administration and management; (2) provides leadership and guidance in all phases of management; (3) directs staff and service functions in the areas of budget and financial management, personnel management, management policy, grant and contract management, and management surveys.

Dated: November 9, 1979.

Patricia Roberts Harris,
Secretary.

[FR Doc. 79-35716 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-06-M

Public Health Service

Application Announcement for Grants Residency Training in General Internal Medicine or Pediatrics

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1980 Grants for Residency Training in General Internal Medicine or General Pediatrics are now being accepted under the authority of Section 784 of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (P.L. 94-484).

Section 784 authorizes the award of grants to meet the costs of planning,

developing and operating approved residency training programs in internal medicine or pediatrics which emphasize training for the practice of general internal medicine or general pediatrics and to assist participating residents who plan to specialize or work in the practice of general internal medicine or general pediatrics.

To receive support, programs must meet the requirements of the Interim-Final regulations, 42 CFR, Part 57, Subpart FF, published in the Federal Register on November 18, 1977, (42 FR 59500) and the technical amendment to § 57.3105, (h) and (i), dated October 3, 1979. Eligible applicants are schools of medicine and osteopathy. Approximately \$5 million is expected to be available in fiscal year 1980 for competitive awards, under this authority.

Funding preferences will be given to approved projects which include the following elements:

1. Substantial training experience is in settings where physician assistants or nurse practitioners, or both, are used as part of the health care team.

2. Coordination of administrative and educational resources to be used by a program of general internal medicine and a program of general pediatrics which are both to be conducted in a single institution within a single project.

3. Substantial portions of a project are conducted in primary medical manpower shortage area(s), especially primary medical manpower shortage area(s) which are also in a Standard Metropolitan Statistical Area, as defined by the Office of Federal Statistical Policy and Standards, Department of Commerce; or are conducted in an Area Health Education Center funded, at least in part, under section 781 of the Act.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D-28), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436-6564.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than January 4, 1980.

Should additional programmatic information be desired, please contact: Primary Care Education Branch, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-50, 3700 East-West Highway,

Hyattsville, Maryland 20782, Phone: (301) 436-6583.

Dated: November 13, 1979.

Henry A. Foley, Ph. D.,
Administrator.

[FR Doc. 79-35695 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 38798]

New Mexico; Notice of Application

November 13, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 18, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 13 W.,

Sec. 12, E½NW¼ and NE¼SW¼.

This pipeline will convey natural gas across 0.351 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35692 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38847]

New Mexico; Notice of Application

November 13, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 18, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 8W.,

Sec. 3, lot 4.

T. 31 N., R. 8 W.,

Sec. 34, SW¼SW¼.

This pipeline will convey natural gas across 0.210 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-35693 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-84-M

U.S. Mineral Surveyor Appointment Examination; Notice of Examination

Notice is hereby given that the Bureau of Land Management will administer the U.S. Mineral Surveyor Appointment Examination during the latter part of February 1980 in Sacramento, California, and Reno, Nevada. Persons wishing to take the examination must submit an SF 171 by December 20, 1979, [with pages 1, 3, and 4 and the first block on page 2 completed], to the Director, Bureau of Land Management (720), 18th and "C" Streets N.W., Washington, D.C. 20240. Details for the administration of the examination will be furnished directly to the applicants by the Director (720).

Ed Hastey,
Associate Director, Bureau of Land Management.

[FR Doc. 79-35688 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Policy for Cooperative Agreements for the Registration of Chemicals and Drugs for Fishery and Wildlife Uses

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service has prepared a draft policy concerning cooperative agreements with other governmental agencies and with industry in the registration of chemicals and drugs for fish and wildlife purposes. The draft provides procedures whereby the Service may share the workload and cost of studies required in the registration of these compounds and uses. The guidelines would give the conditions which interested parties must meet to qualify as a cooperator. Such

agreements should be helpful in expediting the registration of needed products. Public comment on the draft policy is invited.

DATE: Comments should be submitted on or before January 21, 1978.

ADDRESS: Comments should be sent to the Director, (AR), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343-5715.

FOR FURTHER INFORMATION, CONTACT: Harry D. Van Meter, Registration Liaison Officer, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343-6521.

SUPPLEMENTARY INFORMATION: The cost of registering chemicals and drugs has escalated as much as 20-fold in the past 10 years. The comparatively small profit potential for a product with only a fishery or wildlife use does not usually justify the expense and risk involved for industry to assume total responsibility. Consequently, the task of developing and registering compounds for specific fishery and wildlife uses has become extremely difficult. Therefore, the burden of registering a number of these compounds has fallen on the Fish and Wildlife Service.

If the Service is to meet its obligations to fish and wildlife managers, fish culturists, safety and health agencies, and the general public, it must continue to promote the timely development and registration of chemicals and drugs which are urgently needed. This goal can best be met by joint agreements with other interests to share the workload and cost to the fullest extent possible. Therefore, the Service intends to coordinate this registration activity with other Federal agencies, States, universities, the chemical and drug industry, and other interested groups.

A. Service Policy

The Service will:

1. Establish, through the appropriate Program Manager, the priority needs for general and specific uses of compounds essential for the responsible and prudent implementation of fishery and wildlife management practices, and to use these rankings to provide direction to the registration effort.

2. Accentuate the registration effort on one priority chemical or drug at a time for each specific area of need. Compounds with potential multiple uses will be given greatest consideration. The search for alternative compounds will not be emphasized until the priority chemical is registered, or it has been determined that the priority chemical is unable to meet the efficacy, safety, or

other registration requirements.

Exceptions may be made if additional resources become available for research on specific compounds.

3. Use contractual services whenever feasible to expedite the registration of priority chemicals.

4. Cooperate closely with industry, universities, and Federal and State agencies by sharing the workload for studies required in the registration of priority compounds. Commitments between the Service and interested parties will require a *written agreement*.

5. Develop an effective program for screening new compounds to meet fishery and wildlife needs. All interested parties will be encouraged to provide candidate materials for preliminary testing and evaluation of their potential use for fishery or wildlife purposes. The most promising compound for an identified need will be selected for further testing and evaluation. If candidate compounds show equal promise, priority in cooperative work will be given to that compound for which the least number of studies required by the regulatory agency remain to be completed.

B. Guidelines For Agreements

All cooperative efforts will be consistent with Service priorities, available funds, personnel, facilities, and management policies. Any agreement for Service cooperation with other parties will depend upon the following conditions:

1. Priority need for use of the compound must be consistent with the Service program and policies.

2. Promising indications of efficacy must exist after the initial screening of a candidate compound.

3. Literature search must indicate that no potential problems exist because of chemical structure, nitrosamine formation, oncogenicity, teratogenicity, or mutagenicity.

4. Cooperator must provide technical data sheets, information on antidotes, modes of action, analytical procedures, degradation routes and by-products, metabolites, mammalian safety tests, and related references, if available.

5. Cooperator and the Service must agree to keep each other informed of the current status and progress of in-house studies and tests conducted and/or planned during the registration period.

6. Cooperator and the Service must maintain a reasonable timetable for completion of studies.

C. Additional Requirements for Agreements With Industry

The cooperator will:

1. Supply sufficient quantities of radiolabeled or unlabeled purified compound and of formulated products to permit thorough testing—e.g., to conduct field efficacy, toxicity, metabolism, and mammalian safety testing if it is agreed that the Service will perform any of the needed studies.

2. Provide assurance that the product would continue to be available on the market for the intended fishery or wildlife use.

Upon receiving the above assurances, the Service and the cooperator will negotiate individual assignments and responsibilities for data collection to complete the studies required in the registration process.

When the data indicate that registration appears favorable, the Service will assist in the development of recommended use directions, dosages, and safety considerations, and will help draft a use label that is consistent with applicable requirements.

An application for registration will then be submitted to the involved regulatory agency by the cooperator or the Service, as appropriate, under terms of the agreement.

Authorship

The policy was prepared by U.S. Fish and Wildlife Service personnel on assignment in chemical registration matters. The primary authors of this notice are H. William Newman and Harry D. Van Meter, Division of Fishery Ecology Research:

Dated: November 7, 1979.

Robert S. Cook,
Deputy Director, Fish and Wildlife Service.

[FR Doc. 79-35689 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-55-M

Final Procedures for Implementation of Executive Order 11988—Floodplain Management and Executive Order 11990 Protection of Wetlands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: These final procedures to implement the Floodplains Management and Protection of Wetlands Executive Orders will be published as Section 30 of the Fish and Wildlife Service (FWS) Administrative Manual as Chapter 11 (30 AM 11). They will be used by all Service personnel involved in the planning and implementation of FWS funded, permitted and undertaken actions potentially affecting floodplain areas and wetlands. They will aid FWS efforts to preserve and manage our Nation's wetland resources and to

restore and preserve the natural and beneficial values of floodplains. They will also assure that the FWS, as part of all its action in floodplains, will act to reduce the risk of flood loss and to minimize the impact of floods on human safety, health and welfare. All comments received on the draft procedures published on June 2, 1978, (43 FR 24225) have been taken into account in preparing these final procedures. Because of the extensive changes required, comments on these procedures will be accepted for 30 days following publication. Any comments received will be given due consideration and if changes are warranted they will be made and announced in the Federal Register prior to December 31, 1979.

DATES: Persons wishing to comment should do so prior to December 20, 1979.

ADDRESSES: Comments should be addressed to: Director, Fish and Wildlife Service, Office of Environmental Coordination, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Gene A. Whitaker, Fish and Wildlife Biologist, Office of Environmental Coordination, Fish and Wildlife Service, Washington, D.C. 20240, (202) 343-5685.

SUPPLEMENTAL INFORMATION: The Fish and Wildlife Service first published its procedures Executive Orders 11988 and 11990 in 43 FR 24225-24227 on June 2, 1978, for public comment. They incorporated by reference most of the procedures suggested by the Water Resource Council (WRC) in their Floodplain Management Guidelines (43 FR 6030) making them applicable to all FWS actions in or affecting floodplain or wetland areas. The draft procedures relied principally on each FWS program revising its procedures to assure compliance with Orders.

These procedures have now been revised based on comments from other Government agencies, the public and requirements of the Department of the Interior's Final Procedures for Implementing the Orders (44 FR 36119, June 20 1979). Representatives of the Water Resources Council, Council on Environmental Quality, and the Flood Insurance Administration were consulted during the final drafting.

Response To Comments

Comments were received from three conservation organizations, one State fish and wildlife agency, all six Fish and Wildlife Service Regional Directors and the Alaska Area Director and from several other FWS offices. In addition, a detailed comment letter was jointly provided by the Water Resources Council (WRC), Council on

Environmental Quality, and Federal Insurance Administration. These comments are hereafter referred to as "WRC comments" as they had the lead in preparing the comments and chaired a meeting with the three agencies that reviewed these final procedures.

All comments received were considered in preparation of these final procedures. The followings is a discussion of the major comments received and our responses:

1. The WRC comments and those from the conservation organizations were concerned that the draft procedures do not meet all the requirements of the Orders as explained in WRC's Guidelines. They stated that the procedures needed to include all definitions, requirements and discussions in the guidelines specifically applicable to FWS activities. Many of the comments requested inclusion of specific requirements and discussions. The intent of the writers of the draft procedures was to include the total contents of the guidelines by reference. The procedures have been revised to include all applicable definitions, requirements and discussions from the Guidelines. The complete text of Part II of the Guidelines has been included as Exhibit 2 of the procedures (not reproduced in this Federal Register publication) for use by personnel applying the procedures.

2. Most commenters pointed out the requirement to consider all the natural and beneficial values of floodplains during the planning and implementation of all actions. The procedures have been revised to require this. A definition of natural and beneficial values has also been included in 11.6. However, when commenting on other agency proposed actions, FWS personnel will continue to emphasize effects to fish and wildlife and other natural resource values.

3. The WRC comments and several others pointed out what appeared to be a lack of consistent application of the Orders to all FWS programs. They pointed out that every activity potentially affecting floodplains or wetlands must be planned according to the Orders' requirements and adhere to the procedural requirements. To provide for uniformity and to eliminate confusion, the procedures have been revised to be uniformly applicable to all FWS programs. Supplemental guidance for specific programs or for specific sections of the country may be needed. However, any such guidance must be approved by the Associate Director—Environment (§ 11.7) for consistency with these procedures.

4. Several FWS commenters and a conservation organization were

concerned about the requirement in the draft to provide signs identifying all floodplain lands managed by the FWS. This requirement has to be rewritten (§ 11.11) to emphasize that this only applies to property and facilities used frequently by the general public and that the intent is to protect and to better inform the public as to flood dangers. Signs will only be placed on major structures and facilities where there is existing informational signs and displays. The signs will be designed to be aesthetically appropriate.

5. The WRC comments noted that the special requirements applicable to the planning of "critical actions" were not covered. The FWS does not undertake or support any actions that could be considered critical as defined in the Executive Order and WRC's Implementing Guidelines.

6. Concern was expressed that the procedures might hinder efforts to manage fish and wildlife resources in floodplains and wetland and hinder efforts to correct past mismanagement. This is not the intent. Fish and wildlife habitat is an important natural and beneficial value of floodplain and wetland areas. Management actions are often needed to maintain and enhance these values, the same as management is needed to maintain and enhance forestry, agricultural and aquacultural resource values. Management is generally needed as part of efforts to restore values lost because of past mismanagement. The procedures require that the effects on all natural and beneficial values need to be taken into account when managing for any one value.

7. Most commenters were concerned about the applicability of the procedures to maintenance of existence of existing structures and facilities. The draft regulations gave the impression that some maintenance activities were being exempted from the requirements of the Orders. The procedures have been revised to make it clear that the Orders and these procedures apply to all activities in floodplains including maintenance, repair or rehabilitation of structures (walled and roofed buildings including above ground storage tanks and mobile homes) and facilities. However, it is recognized that the full procedures will not be applied to normal upkeep of existing facilities. Normal upkeep includes measures such as mowing of lawns and road sides, filling of potholes in roads, regularly scheduled tillage, oiling, and painting of water control structures, and cleaning and repairing of nest boxes. The control of

trees and rodents along established levees, etc.

The same applies to upkeep of existing structures. The procedures state (§ 11.14) that the minimum standards of the National Flood Insurance Program (NFIP) will be met as part of all construction and rehabilitation activities. An action that results in substantial improvement to a structure is not normal upkeep. "Substantial improvement" is defined for NFIP in 24 CFR 1909.1 as "any repair, reconstruction, or improvement of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred."

8. The relationship between the requirements of the draft procedures and the requirements of NEPA were a concern to several commenters. Some objected to the apparent requirement that an Environmental Assessment be done for all proposed actions in floodplains. These final procedures specify that the required procedures and public disclosures be incorporated in the documents and process required by NEPA, in A-95 notices, and in other documents as appropriate. The early notification of the public that an action is being planned that may effect a floodplain or wetland will be incorporated in early scoping and/or public involvement process required by NEPA for all proposed actions.

The required planning steps will be accomplished concurrently with other planning activities. The public notification that a decision has been made and the items that must be addressed will be incorporated into the Environmental Assessment and Finding of No Significant Impact or in the EIS and Record of Decision required by new NEPA Regulations (40 CFR 1501-1508). It is not the intent of these procedures to require the preparation of any new documents.

9. One commenter objected to making the procedures applicable to wetlands pointing out that E.O. 11990 (Protection of Wetlands) is not applicable to "... issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property." It has been determined that it is not necessary to include this exception in the procedures as practically all wetlands occur in or are surrounded by a floodplain as defined by the Floodplain Management Executive Order and WRC's Guidelines. That is, they are subject to flooding from the overflow of inland and/or tidal waters, and/or the accumulation or

runoff of surface waters resulting from a one percent event (the 100-year flood).

10. There was concern that no time requirements were placed on the agency review and decisionmaking process for permit actions. This is not needed as the requirements of these Executive Orders are but one set of factors to be considered as part of a permit action. Any overall time limitation on the permit process would still apply.

11. Two commenters said the draft procedures appeared to be an attempt to make the FWS the "lead agency" for any permit activities in wetlands or floodplains and duplicated the requirements of other agencies. There was no such intention. When another agency has permitting or licensing authority for actions in floodplains and wetlands the FWS merely makes recommendations to them as authorized by the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), NEPA and other statutes, regulations memoranda of understandings, and cooperative agreements. As part of its responsibility for stewardship of fish and wildlife resources, the FWS will when reviewing project documents relating to actions of other agencies (§ 11.15) state their opinion as to the proposed actions compliance with the intent of these Orders.

12. It was requested by one commenter that a 30-day period be established for receiving comments after the initial public notification that an action is being planned that may directly or indirectly effect a floodplain or wetland area and after the first notice as planning is a continuing process with comments and public input encouraged at anytime. In addition the first notification is always made early in the planning process, generally considerably longer than 30 days before finalization of the plans, to allow public input to be of maximum value. After public notification of the final decision a minimum of 15 days, as recommended by the WRC Guidelines, will elapse before the action is commenced.

The primary author of this document is:

Gene A. Whitaker, Fish and Wildlife Biologist, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

U.S. Fish and Wildlife Service Administrative Manual Part 30, Chapter 11, Procedures for Implementation of Executive Order 11988 (Floodplain Management) and 11990 (Protection of Wetlands)

Table of Contents

- 11.1 Purpose
- 11.2 Scope
- 11.3 Policy

- 11.4 Objectives
- 11.5 Authority
- 11.6 Definitions
 - A. Action
 - B. Base Flood
 - C. Base Floodplain
 - D. Channel
 - E. Critical
 - F. Facility
 - G. Flood or Flooding
 - H. Floodplain
 - I. Floodproofing
 - J. Minimize
 - K. Natural and Beneficial Values
 - L. One Percent Chance Flood
 - M. Practicable
 - N. Preserve
 - O. Restore
 - P. Structures
 - Q. Wetlands

- 11.7 Responsibility
- 11.8 References

- 11.9 Procedures for Planning and Implementing Actions in Affecting Floodplains and Wetlands
 - Step 1. Floodplain and Wetland Determination
 - Step 2. Early Public Review
 - Step 3. Identify and Evaluate Alternatives to Locating in the Base Floodplain or Wetland
 - Step 4. Identify Impacts of the Proposed Action
 - Step 5. Minimize, Restore, Preserve
 - Step 6. Reevaluate Alternatives
 - Step 7. Public Explanation
 - Step 8. Implement Action
- 11.10 Requests for Authorization or Appropriations
 - 11.11 Delineation of Flood Heights
 - 11.12 Real Estate Transaction
 - 11.13 Federal Aid
 - 11.14 Construction Consideration
 - 11.15 Review of Other Agency Actions
- Exhibits (Available on Request)
 - Exhibit 1 Executive Orders 11988 and 11990
 - Exhibit 2 Part II—Decisionmaking Process of U.S. Water Resources Council, Floodplain Management Guidelines (43 FR 6037-6049)
 - Exhibit 3 Minimum Standards and Criteria Applicable to all Federally Undertaken, Financed and Permitted Construction (24 CFR 1910.1 and 1910.3)

11.1 *Purpose.* These procedures provide general policy and procedural guidance applicable to all Fish and Wildlife Service (FWS) actions to incorporate the requirements of Executive Order 11988 (Floodplain Management) and 11990 (Protection of Wetlands), which are hereafter referred to as the orders.

11.2 *Scope.* The orders and these procedures are applicable to all FWS actions including technical assistance and grants that may result in the construction, maintenance, rehabilitation or installation of structures and facilities and all real estate transactions that are in or could potentially affect floodplain and wetland areas. (See Exhibit 1 for the texts of the orders.)

11.3 *Policy.* Floodplain areas and wetlands are critically important to many species of fish and wildlife and a valuable part of man's environment. The FWS will as part of all its actions:

—Avoid the long and short term adverse impacts associated with the occupancy and modification of floodplains.

- Avoid the direct or indirect support of wetland or floodplain development whenever there is a practicable alternative.
- Reduce the risk of flood loss and minimize the impact of floods of human health, safety and welfare through the utilization of non-structural flood protection measures.
- Restore, preserve and enhance all natural and beneficial values served by floodplains and wetlands.
- Use an integrated process to involve the public in the planning of all actions and to utilize their input whenever decisions are made.
- Incorporate the Unified National Program for Floodplain Management into relevant FWS activities and programs.
- Monitor actions undertaken, funded or permitted to ensure that they are carried out in accordance with the Orders and these directives.
- FWS personnel will, when working with other agencies and the public, advocate compliance with the spirit and intent of the Orders.

11.4 Objectives. The Executive Orders were issued in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy of floodplains, destruction of wetlands or modification of either whenever there is a practicable alternative. They also make it an objective of all Federal agencies to avoid the direct or indirect support of floodplain development and of new construction in wetlands whenever there is a practicable alternative.

These procedures are issued to provide for full implementation of the spirit and intent of these Executive Orders as part of all FWS undertaken or funded actions. They are to provide for FWS leadership and action to reduce the risk and impact of floods, minimize the destruction loss or degradation of wetlands and to restore, preserve and enhance the natural and beneficial values of floodplains and wetlands.

11.5 Authority. The Orders require all Federal agencies to adopt procedures to implement their provisions. The Department of the Interior provided final procedures for implementation of these Orders in 44 FR 36119-36122 (June 20, 1979) which are incorporated in Part 520 Chapter 1 of the Departmental Manual. These FWS procedures are developed in accordance with the Departmental requirements. They are applicable to all FWS actions in or affecting, directly or indirectly, floodplains or wetlands as specified in Part 516 of the Departmental Manual (516 DM).

11.6 Definitions.

A. Action.—Any Federal activity including . . . (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

B. Base Flood.—Is that flood which has a one percent chance of occurrence in any given year (also known as a 100-year flood). This term is used in the National Flood

Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

C. Base Floodplain.—The 100-year floodplain (one percent chance).

D. Channel.—A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water.

E. Critical Action.—Any activity for which even a slight chance of flooding would be too great. The critical action floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

F. Facility.—Any man-made or man-placed item other than a structure.

G. Flood or Flooding.—A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

H. Floodplain.—The lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (one percent floodplain).

I. Floodproofing.—The modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out or to reduce effects of water entry.

J. Minimize.—To reduce to the smallest possible amount or degree.

K. Natural and Beneficial Values.—Floodplains and wetlands in their natural or relatively undisturbed state serve water resources values (natural moderation of floods, water quality maintenance, and groundwater recharge), living resources values (fish wildlife, and plant resources), cultural resource values (open space, archaeological historical natural beauty, scientific study, outdoor education, and recreation), and cultivated resource values (agriculture, aquaculture, and forestry).

L. One Percent Chance Flood.—The flood having one chance in 100 of being exceeded in any one-year period (a large flood). The likelihood of exceeding this magnitude increases in a time period longer than one year. For example, there are two chances in three of a larger flood exceeding the one percent chance flood in a 100-year period.

M. Practicable.—Capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost or technology.

N. Preserve.—To prevent modification of the natural floodplain environment or to maintain it as closely as possible to its natural state.

O. Restore.—To re-establish a setting or environment in which the natural functions of the floodplain can again operate.

P. Structures.—Walled or roofed buildings, including mobile homes and gas or liquid storage tanks that are primarily above ground (as set by the NFIP).

Q. Wetlands.—Those areas which are inundated or saturated by surface or ground water with a frequency sufficient to support, or that under normal hydrologic conditions does or would support, a prevalence of vegetation or aquatic life typically adapted for life in saturated or seasonally saturated soil conditions. Examples of wetlands include, but are not limited to, swamps, fresh and salt water marshes, estuaries, bogs, beaches, wet meadows, sloughs, potholes, mudflats, river overflows, and other similar areas. This definition is intended to be consistent with the definition utilized by the U.S. Fish and Wildlife Service in the publication entitled *Classification of Wetlands and Deep Water Habitats of the United States* (Cowardin, et al., 1979).

11.7 Responsibilities. The Director is responsible for overall FWS compliance with the Orders. Each Associate Director (Wildlife Resources, Fishery Resources, Research, Federal Assistance and Environment) is responsible for general guidance and compliance in their respective areas of responsibility. In addition the Associate Director—Environment has been delegated review authority for FWS compliance with these FWS Orders and is responsible for WRC required reports. An individual in each FWS Regional Office and the Alaska Director, will be responsible for coordinating compliance with the Orders at the regional level. In addition each Area Office will have an individual with similar responsibilities.

Area Managers are directly responsible for assuring that all actions under their purview are planned, approved and implemented in full compliance with the Orders and these Procedures. They are also responsible for maintaining summary records for all actions undertaken that affect floodplains and wetlands. The record must at a minimum include, by project, the acres of floodplains and wetlands beneficially and adversely impacted and the number and type of structures and facilities constructed, enlarged and rehabilitated. The Regional Federal Aid Senior Staff Specialist has this responsibility for State actions funded under FWS administered programs. The appropriate Associate or Assistant Director will discharge these responsibilities for all other actions not directly under the purview of an Area Manager.

11.8 References. Department of the Interior, Departmental Manual Part 520 Chapter 1 (520 DM 1)—*Floodplain Management and Wetlands Protection Procedures*.

—Executive Order 11988, Floodplain Management.

—Executive Order 11990, Protection of Wetlands.

—*Unified National Program for Floodplain Management*, 1979, Water Resources Council.

—*Floodplain Management Guidelines*, Water Resources Council, February 10, 1978 (43 FR 6030).

—*Rules and Regulations of the National Flood Insurance Program*, 41 FR 207, October 26, 1976, at CFR 1909, et seq.

—*Classification of Wetlands and Deepwater Habitats of the United States*. Cowardin, L. M., et al., 1979, Washington, D.C., U.S.

Department of the Interior, Fish and Wildlife Service.

—*Impacts of Construction Activities in Wetlands of the United States*. Darnell, R. M., et al. 1978. Corvallis, WA: U.S. EPA, Office of Research and Development. Publication Number: EPA 600/3/76-045.

11.9 Procedures for Planning and Implementing Actions in or Affecting Floodplains and Wetlands. When an action is proposed in a wetland or floodplain the following procedural steps, discussed in more detail in Part II of WRC's Floodplain Management attached as Exhibit 2, shall be addressed and integrated into the planning process:

Step 1. Floodplain and Wetland Determination. During the initial stages of all planning activities a determination shall be made as to whether the action may potentially be in or effect a wetland or floodplain area. Federal Insurance Administration (FIA), maps shall be used as the primary reference for establishing floodplain limits. Step 1 of Exhibit 2 provides more detail on this requirement and Exhibit 4 supplies the procedures for obtaining FIA floodplain delineation maps. It must be kept in mind that FIA maps, when available, do not delineate portions of the floodplain less than 200 feet wide. Floodplain areas around many small lakes, ponds and wetland areas are often less than 200 feet wide. If the needed information is not available from the FIA assistance shall be requested from another Federal Agency, (see Step 1 of Exhibit 2) the FWS Office of Engineering, or a consultant.

All wetlands will be identified and inventoried according to "Classification of Wetlands and Deepwater Habitats of the United States." Cowardin et al., 1979.

If the analyses and subsequent evaluations indicate that the proposed action (1) lies outside the base floodplain and outside a wetland; (2) has no effect upon floodplain or wetland; and (3) is not expected to cause indirect support of floodplain development and wetland alteration, then planning can proceed without further consideration of the Orders.

Step 2. Early Public Review. Opportunities shall be provided for interested and concerned members of the public and representatives of other Federal, State and local government agencies to become involved at the beginning of the planning process. The "scoping" process required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1500-1508) will satisfy this requirement whenever an early decision is made to prepare an Environmental Impact Statement. For all other actions subject to the Order a news release will be prepared at the beginning of the planning and assessment process for local dissemination briefly describing the proposal and the major alternatives to be investigated urging the public to provide the FWS with their views and suggestions. The news release shall be sent to the newspaper with the largest circulation covering the area, a local or community newspaper(s) and to radio and TV stations covering the local areas. Copies of the news release will also: (1) be posted in local FWS installations; (2)

be sent to local governmental bodies; (3) be sent to adjacent property owners; (4) be sent to other concerned individuals and organizations, and (5) be sent to other Federal and State agencies that may have an interest in the area or proposed action. When the proposal or one of its alternatives may be of national concern or interest a notice similar to the news release will also be published in the Federal Register. For actions where substantial citizen interest or controversy is expected a public meeting will normally be held to allow a full discussion of the issues. (See also 301 DM 2 regarding Public Involvement.)

Step 3. Identify and Evaluate Alternatives to Locating in the Base Floodplain or Wetland. Whenever it is proposed to undertake or locate an action in a base floodplain or wetland, alternatives to such a location must be evaluated and their practicability determined. Alternatives to be evaluated must include: (1) carrying out the proposed action at a location outside the base floodplain or wetland; (2) consideration of alternative sites within the floodplain or wetland which may have less impact; (3) other means to accomplish the same purpose as the proposed action; and (4) no action. If a practicable alternative outside the base floodplain or wetland is identified it must be selected.

Step 4. Identify Impacts of the Proposed Action. Occasionally there will be no practicable alternative to locating structures or facilities in a base floodplain or wetland. This will be the case for functionally dependent facilities, such as necessary water management facilities, when the objective is to preserve, manage or restore specific natural and beneficial values. The positive impacts of such proposals will generally be obvious. However, all adverse effects on all natural and beneficial resource values of the area and on lives and property must be identified. (e.g. an impoundment may benefit waterfowl while lessening habitat values for certain reptiles or upland wildlife or downstream resources.) Indirect impacts of actions taken outside of a floodplain or wetland (e.g. construction of a fish hatchery or wildlife refuge headquarters) that may indirectly affect them must receive the scrutiny. Concentrated and dispersed impacts, and short- and long-term impacts shall always be identified.

The Orders also require avoidance of the direct and indirect support of future floodplain development. Potentials for a proposed action to encourage, allow, serve or otherwise facilitate additional development must be identified. Any proposed maintenance or rehabilitation of existing facilities must also be carefully evaluated for impacts and support. Such action may reinforce existing land use developed without reflecting the concepts of hazard and risk minimization and the concepts restoration and preservation of natural floodplain values which form the basis of the Orders.

Step 5. Minimize, Restore, Preserve. Measures must be incorporated into actions impacting wetlands or floodplains to minimize any adverse impacts on natural and beneficial values and to minimize potential risk to lives and property. When managing

for a specific natural and beneficial value adverse impacts on other such values must be minimized. (e.g. when managing bottomland hardwoods for waterfowl adverse impacts on forestry resources must be minimized.) "Minimize" is a demanding standard and requires the reduction of harm to the smallest possible degree. Regarding lives and property, the goal is to avoid increasing the flood loss potential associated with the level of the base flood prior to the proposed action. Similarly, from the standpoint of floodplain values, minimization requires that harm to such values be reduced to the smallest possible amount or degree. The Orders' requirement to minimize potential harm applies to (1) the investment at risk, or the flood loss potential harm of the action itself, (2) the impact the action may have on others, and (3) the impact the action may have on the various natural and beneficial floodplain values. WRC's *Floodplain Management Guidelines* and other references as listed in Section 3 will be utilized for designing and modifying actions to minimize harm to or within the floodplain or wetland. All practical measures to restore and preserve natural and beneficial values shall be included as part of a proposed action. The requirements of this Step are always applicable to all operation and maintenance actions.

Step 6. Reevaluate Alternatives. After the identification of potential adverse impacts of the proposed action and incorporation of measures to minimize these impacts and incorporation of all practicable measures to restore and preserve other values the proposed action and its alternatives will be reevaluated. The practicability of sites outside of floodplain or wetland areas will be carefully reconsidered as will the no action alternative. The possibility of changing or limiting the action to further reduce adverse impacts will also be reevaluated at this final planning stage.

Step 7. Public Explanation. When it is apparent from the reevaluation that there is no practicable alternative to locating in or impacting a floodplain or wetland an explanation will be included in the appropriate decision documents and A-95 clearinghouse notices. Such documents shall be made available to the public for a minimum 15-day review period prior to the commencement of the action. If an Environmental Impact Statement has been prepared on the action, the explanation will be incorporated in the Record of Decision (ROD) and provided to all who received a copy of the final EIS. Otherwise the explanation will be included in a Finding of No Significant Impact (FONSI) and provided to all those who were informed of the project as part of Step 2. In all cases the following agencies will receive copies of the NEPA documents and as appropriate other decision documents on proposals in floodplains and wetlands:

- a. Environmental Protection Agency (EPA)
- b. Federal Emergency Management Agency (FEMA)
- c. Geological Survey (USGS)
- d. Bureau of Reclamation (BR), in the western States
- e. Corps of Engineers (CE)

- f. Soil Conservation Service (SCS)
g. State Water Resource Agency
h. State Wildlife Agencies

The written statement explaining the decision must include:

1. A description of why the floodplain or wetland location was found to be the only practicable alternative.
2. A description of all significant facts considered in making the determination including alternative sites and actions.
3. A statement indicating whether the action conforms to all applicable State and local floodplain protection standards.
4. A description of how the action has been planned to minimize harm to or within the floodplain and wetland areas.
5. A statement indicating how the action affects natural and beneficial floodplain and wetland values.
6. A listing of the principal other agencies and individuals involved in the planning of the action.

Step 8. *Implement Action.* The Service Director, Regional Directors and Area Managers are responsible for assuring that all actions are carried out and, as appropriate, operated and maintained in conformance with the Orders and these Regulations.

11.10 *Requests for Authorizations or Appropriations.* All requests for new authorizations or appropriations for proposals to be located in or potentially affecting floodplains or wetlands will contain a statement that the proposal is in accord with and fully supports the intent of the Orders.

11.11 *Delineation of Flood Heights.* Conspicuous delineation of past and probable flood heights will be made on all FWS managed property which has been or could be subjected to flooding and is used by the general public. The approximate 100-year flood level and the flood of record should be shown where available. Signs will be placed by June 1980 on all major structures and facilities available to the public in order to enhance awareness of and knowledge about flood hazards.

11.12 *Real Estate Transactions.* All FWS real estate transactions will comply with the Orders and these Regulations. When FWS controlled property in a floodplain is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the conveyance documents shall describe how the use and management of the land must be restricted to comply with the Orders. The documents, unless the conveyance is only for a specific compatible use planned in full compliance with Section 11.9 of these procedures, will:

- Reference those uses that are restricted under identified Federal, State, or local floodplain regulations;
- Provide adequate restrictions on the uses of the property to assure that harm to lives and property and to floodplain values is identified, and such harm is minimized and floodplain values are restored and preserved as part of any future action.

11.13 *Federal Aid.* All projects and activities undertaken by other organizations using funds administered by the FWS shall be planned and implemented in compliance

with the Orders and these procedures. Applicants must provide evidence that they have followed the planning and public involvement requirements set out in Section 11.9 of these Procedures. The Federal Aid Manual will be revised to provide specific guidance to grantees on the implementation of these Procedures.

11.14 *Construction Considerations.* The construction or rehabilitation of buildings or other facilities within or affecting a base floodplain or wetland will be undertaken by the FWS only when essential to the use and management (preservation and restoration of their natural and beneficial values) of the resource. Construction of facilities and structures will be planned in accordance with these procedures and meet the minimum standards and criteria promulgated under the National Flood Insurance Program (NFIP) [24 CFR 1909.1, 1910.1 and .3] (Exhibit 3) and carried out in a manner which is least disruptive of the floodplain environment. To achieve flood protection, structures will, wherever practicable, be elevated above the base flood level rather than filling in land. All other construction located in a floodplain will include design features which will minimize or eliminate damages when exposed to or inundated by flood waters. Site surveys undertaken by or for the FWS will include locations and elevations with respect to any floodplain or wetland areas that may be present. Hydrologic investigations will include flood frequency and location with respect to floodplains.

11.15 *Review of Other Agency Actions.* Minimization of the disruption of fish and wildlife and other natural and beneficial values served by floodplains can best be attained by avoiding the floodplain. An agency's analysis leading to a finding that there is no practicable alternative to carrying out an action in a floodplain or wetland is the most crucial determination in the Orders. Therefore, FWS personnel will closely review practicability determinations made by other agencies proposing actions in a floodplain or wetland. If in the view of the FWS a proposed or preferred action is not in compliance with the Orders, the comments will so state and appropriate recommendations will be made.

As part of any technical assistance to private parties, local, State, or other Federal agencies and as part of required consultations under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and other laws FWS personnel will pay particular attention to the requirements of the Orders. When participating in scoping and other early planning activities personnel will point out any unidentified impacts, suggest alternative project elements with less impact, and recommend steps that could be taken to restore or enhance natural floodplain or wetland values.

Dated: November 15, 1979.

Lynn A. Greewalt,
Director, Fish and Wildlife Service.

[FR Doc. 79-35045 Filed 11-19-79; 8:45 am]
BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before November 9, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by November 30, 1979.

Carol Shull,
Acting Chief, Registration Branch.

ALABAMA

St. Clair County

Ashville vicinity, *Green, Jacob, House*, E of Ashville on SR 33.

CALIFORNIA

Santa Barbara County

Santa Barbara vicinity, *Santa Cruz Island Archeological District*.

COLORADO

Denver County

Denver, *Elsner, John, House*, 2810 Arapahoe St.

DISTRICT OF COLUMBIA

Washington

Sumner, *Charles, School*, 17th and M Sts., NW.

GEORGIA

Brooks County

Quitman, *Turner, Henry Gray, House and Grounds*, 1000 Old Madison Rd.

Fulton County

Atlanta, *Retail Credit Company Home Office Building*, 90 Fairlie St.

Lowndes County

Valdosta, *Crescent, The (Col. William S. West House)* 904 N. Patterson St.

ILLINOIS

Kane County

Montgomery, *Gray-Watkins Mill*, 211 N. River St.

Will County

Lockport, *Milne, Robert, House*, 535 E. 7th St.

INDIANA

Marion County

Indianapolis, *Bals-Woche House*, 951 N. Delaware St.

LOUISIANA

Orleans Parish

New Orleans, *Odd Fellows Rest Cemetery*, Canal St. and City Park Ave.

MAINE

Knox County

Camden, *Comden Yacht Club*, Bay View St.

MARYLAND

Wicomico County

Whitehaven, *Whitehaven Historic District*, Whitehaven Rd., Church and River Sts., Cinder and Locust Lanes.

MASSACHUSETTS

Essex County

Peabody, *O'Shea Building*, 1-15 Main St.

Middlesex County

Chelmsford, *Chelmsford Center Historic District*, MA 4, MA 110 and MA 27.

Norfolk County

Quincy, *Quincy Town Hall*, 1305 Hancock St.

Plymouth County

Plymouth vicinity, *Clifford-Warren House*, E of Plymouth at 3 Clifford Rd.

Suffolk County

Boston, *Union Wharf*, 295-353 Commercial St.

MINNESOTA

Anoka County

Anoka, *Anoka-Champlin Mississippi River Bridge*, U.S. 52 at Mississippi River (also in Hennepin County).

Anoka, *Anoka Post Office*, 300 E. Main St.
Anoka, *Colonial Hall and Masonic Lodge No. 30*, 1900 3rd Ave. South.

Anoka, *Kline Sanatorium*, 1500 S. Ferry St.
Anoka, *Shaw-Hammons House*, 302 Fremont St.

Anoka, *Ticknor, Heman L., House*, 1625 3rd Ave. South.

Anoka, *Windego Park Auditorium*, Between S. Ferry St. and Rum River.

Anoka, *Woodbury House*, 1632 S. Ferry St.
Anoka vicinity, *Kelsey, Porter, House*, 14853 7th Ave. North.

Anoka vicinity, *School District No. 28*, 14100 St. Francis Blvd., NW.

Anoka vicinity, *Sparre Barn*, 20071 Nowthen Blvd.

Ham Lake, *Swedish Evangelical Lutheran Church*, 2200 Swedish Dr., NE.

Martin Lake vicinity, *Crescent Grange Hall No. 512*, W of Martin Lake.
Martin Lake vicinity, *Richardson Barn*, 22814 Sunrise Rd., NE.

St. Francis, *Leathers, H. G. House*, 22957 Rum River Blvd.

St. Francis, *Riverside Hotel*, 3631 Bridge St.

Dakota County

Burnsville, *Orchard Gardens Railway Station*, SR 5 and 155th St.

Farmington, *Chicago, Milwaukee, St. Paul and Pacific Railroad Depot*, 400 2nd St.

Farmington, *Church of the Advent*, 412 Oak St.

Farmington, *Exchange Bank Building*, 344 3rd St.

Farmington vicinity, *Akin, D. F., House*, NW of Farmington at 19185 Akin Rd.

Farmington vicinity, *Horticulture Building*, Dakota County Fairgrounds.

Hastings, *Fasbender Clinic Building*, 801 Pine St.

Hastings, *Hostings Foundry-Star Iron Works*, 707 E. 1st St.

Hastings, *MacDonald-Todd House*, 309 W. 7th St.

Inver Grove Heights, *Freeman, R., House*, 9091 Inver Grove Trail.

Lakeville vicinity, *Oberhoffer, E. J., House*, 17045 Judicial Rd., West.

New Trier, *St. Mary's Church*, 8433 239th St., East.

Nininger, *Good Templars Hall (School District 24)*, 9965 124th St. East.

Waterford, *Waterford School District 72*, 321st St. and Cornell Ave.

West St. Paul, *Wentworth, G. W., House*, 1575 Oakdale Ave.

NEVADA

Washoe County

Reno, *Hawkins House*, 549 Court St.

NEW HAMPSHIRE

Rockingham County

Exeter, *Sewall, Edward, Garrison*, 16 Epping Rd.

NEW MEXICO

Mora County

Ocate, *Valdez, Narciso, House (Lorenzo Lopez House)*, NM 120.

NEW YORK

Chautauqua County

Dunkirk, *Point Gratiot Lighthouse Complex*, Sycamore Rd.

Genesee County

North Bergen, *Gifford-Walker Farm*, 7083 N. Bergen Rd. (also in Orleans County).

Jefferson County

Watertown, *Flower, Roswell P., Memorial Library*, 229 Washington St.

Kings County

Brooklyn, *Brooklyn Borough Hall*, 209 Joralemon St.

Brooklyn, *State Street Houses*, 291-299 and 290-324 State St.

New York County

New York, *Ansonia Hotel*, 2101-2119 Broadway.

New York, *Gramercy Park Historic District*, Roughly bounded by 3rd and Park Aves. S., E. 18th and 22nd Sts.

New York, *House at 37 East Fourth Street*.

New York, *New Amsterdam Theater*, 214 W. 42nd St.

Niagara County

Niagara Falls, *Williams, Johann, Farm*, 10831 Cayuga Dr.

Otsego County

Unadilla, *Mann, Andrew, Inn*, 33 Riverside Rd.

Sullivan County

Bloomington, *Bloomington Reformed Protestant Dutch Church*, NY 17M.

Westchester County

Bronxville, *Lawrence Park Historic District*, Roughly bounded by Side Hill, Prescott, Kensington, Garden, and Chestnut Aves., Maidens Lane, Valley and Pondfield Rds. Millwood, *Sarles' Tavern*, NY 100.

Wyoming County

Warsaw, *Warsaw Academy*, 73 S. Main St.

PENNSYLVANIA

Allegheny County

Pittsburgh, *Buhl Building*, 204 5th Ave.

Delaware County

Lansdowne, *Twentieth Century Club of Lansdowne*, 84 S. Lansdown Ave.

Lycoming County

Muncy vicinity, *Reading-Halls Station Bridge*, NW of Muncy off U.S. 220.

VERMONT

Bennington County

Bennington, *Downtown Bennington Historic District*, U.S. 7 and VT 9.

WEST VIRGINIA

Preston County

Cranesville vicinity, *Reckart Mill*, W of Cranestown at ject of WV 28 and SR 47/2.

Wood County

Parkersburg, *Neale, George, Jr., House*, 331 Juliana St.

WISCONSIN

Lafayette County

Shullsburg vicinity, *Gratiot House*, S of Shullsburg on Rennick Rd.

Vernon County

Viroqua, *Vernon County Courthouse*, N. Dunlap Ave.

[FR Doc. 79-35320 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-03-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
 2. Employment trends in the same industry in the local area.
 3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
 4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
 5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.
- All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, NW, Washington, D.C., 20013.

Signed at Washington, D.C. this 15th day of November 1979.

Earl T. Klein,
Director, Office of Program Services.

Applications Received During the Week Ending November 17, 1979.

Name of Applicant and Location of Enterprise: Seward Fisheries Homer, Alaska.
Principal Product or Activity: Producing and packing fish plant.

[FR Doc. 79-35829 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on December 6 and 7, 1979 at the New Department of Labor Building, Room N-4437, Third Street and Constitution Avenue, Northwest, Washington, D.C. The meeting will begin at 9:00 a.m. The public is invited to attend.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act in 1970 (Pub. L. 91-596) to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

The Committee will continue to discuss the benchmarks for Fully Effective State Plans and the Regulatory Analyses required for OSHA standards. These issues were the major agenda items at the previous meeting which was held on November 1 and 2, 1979. The agenda will also include reports on matters pertaining to OSHA and NIOSH and there will be general discussions of the activities of these agencies.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the

chairman of the committee to the extent which time permits.

For Additional Information Contact

Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202) 523-8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C., this 16th day of November 1979.

Eula Bingham,
Assistant Secretary of Labor.

[FR Doc. 79-35961 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-6102]

Arkwright Mills I, Spartanburg, S.C.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 25, 1979 in response to a worker petition received on September 24, 1979 which was filed on behalf of workers and former workers producing cloth for wearing apparel at Arkwright Mills I, Spartanburg, South Carolina. The investigation revealed that the plant also produced fabric for pocketing. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of grey woven fabric declined absolutely in the first half of 1979 compared with the first half of 1978.

A Department survey revealed that only two of Arkwright's customers import any grey woven fabric. Both of these customers reported decreased import purchases in the first nine

months of 1979 compared with the like period in the previous year.

Conclusion

After careful review, I determine that all workers of Arkwright Mills I, Spartanburg, South Carolina are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-35778 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6035]

Barnes Worsteds, Inc., Kingston, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 17, 1979 which was filed on behalf of workers formerly producing worsted fabrics at Barnes Worsteds, Incorporated, Kingston, Massachusetts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished wool fabric declined absolutely in the first six months of 1979 compared to the like period in 1978. U.S. imports of finished fabric declined in the first six months of 1978. The ratio of U.S. imports to U.S. production of finished fabric was two percent or less in each year during the 1974-1975 time period.

Barnes Worsteds, Incorporated worked on a commission basis for several manufacturers during the period under investigation. A Departmental survey revealed that the manufacturers

did not employ any foreign contractors nor did the manufacturers import worsted fabric from 1977 through August 1979. Manufacturers responding to the survey reported that their company sales increased in the January-August period of 1979 compared to the January-August period of 1978.

Conclusion

After careful review, I determine that all workers of Barnes Worsteds, Incorporated, Kingston, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of November 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-35779 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6121]

Bendey Shoe, Inc., Bangor, Maine; Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 1, 1979, in response to a worker petition received on September 24, 1979, which was filed on behalf of workers and former workers producing men's shoes at Bendey Shoe, Incorporated, Bangor, Maine. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear, except athletic, decreased slightly from 1977 to 1978. The ratio of imports to domestic production, however, remained above 75 percent during 1977 and 1978 and increased during the first half of 1979 compared to the same period of 1978.

A Department survey was conducted with customers of the Milford Shoe Company, selling agent for Bendey Shoe, Incorporated. The survey revealed that many customers have decreased purchases of men's footwear from Milford Shoe and Bendey Shoe and increased purchases from foreign sources during the first nine months of

1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's shoes produced at Bendey Shoe, Incorporated, Bangor, Maine contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bendey Shoe, Incorporated, Bangor, Maine who became totally or partially separated from employment on or after May 19, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of November 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-35780 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

Cal-Sew Apparel, Inc.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to

begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 30, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 30, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance.

Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of November 1979.

Harold A. Bratt,
Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cal-Sew Apparel, Inc. (workers)	Los Angeles, Calif.	10/10/79	9/18/79	TA-W-6,358	Women's tops and blouses.
Guyana Service Company (workers)	Logan, W. Va.	10/29/79	10/22/79	TA-W-6,357	Power line construction work (electrical service).
Kramer Beef Co. (workers)	Scranton, Pa.	10/29/79	10/15/79	TA-W-6,358	Slaughterhouse and meat packing plant.
Leather Styles, Inc. (ACTWU)	New York, N.Y.	11/3/79	10/31/79	TA-W-6,359	Leather apparel.
M. Snower & Company (ACTWU)	Cairo, Ill.	11/3/79	10/31/79	TA-W-6,360	Lab frocks, waiter jackets, hospital frocks, and other institutional apparel.
Oxford Textile Finishing Co., Inc. (ACTWU)	Oxford, N.J.	11/8/79	10/31/79	TA-W-6,361	Dyeing and finishing women's wear.
Republic Steel Corp., Central Alloy District (USWA)	Canton, Ohio	11/2/79	10/25/79	TA-W-6,362	Carbon and stainless steel products.
Rita Coal Co. (UMWA)	Elkhorn City, Ky.	11/2/79	10/26/79	TA-W-6,363	Metallurgical coal.
Russell Fork Coal Co. (UMWA)	Elkhorn City, Ky.	11/2/79	10/26/79	TA-W-6,364	Metallurgical coal.
Spartan Undies, Inc. (ILGWU)	Spartanburg, S.C.	10/31/79	10/26/79	TA-W-6,365	Children's sleepwear.
Stunzi USA, Inc. (workers)	Buena Vista, Va.	10/29/79	10/22/79	TA-W-6,366	Greige (unfinished) goods, drapery goods, fine women's wear.
W. Switchik & Sons, Inc. (ACTWU)	Philadelphia, Pa.	11/3/79	10/31/79	TA-W-6,367	Men's suits and sportcoats.
Zenith Electronics Corp. of Missouri (IBEW)	Springfield, Mo.	11/7/79	11/2/79	TA-W-6,368	Chassis, tuners, and completed assembly of the color TV sets.

[FR Doc. 79-35781 Filed 11-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6106]

Helen's Dress Co., New Haven, Conn.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 25, 1979 in response to a worker petition received on September 17, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses on a contract basis at Helen's Dress Company, New Haven, Connecticut. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's and misses' dresses declined absolutely in the January through June 1979 period when compared to the same period of 1978.

A Department of Labor investigation revealed that Helen's Dress Company contracts for the production of women's dresses.

The Department conducted a survey of the dress manufacturers from whom Helen's Dress Company receives contract work. This survey revealed that the manufacturers did not utilize foreign contractors for the production of dresses, nor did they increase purchases of imported women's dresses in 1978 when compared to 1977 or in the January through August 1979 period when compared to the same period of the previous year. The manufacturers who purchased imported dresses reduced their purchases of imports from 1977 to 1978 and did not import any women's dresses in 1979; in the 1977 to 1978 time period, these customers increased their contracts with other domestic firms for the production of

dresses. It can be concluded that the dress manufacturers, from whom Helen's Dress Company receives contract work, increased their reliance on domestically-produced dresses at the expense of imported dresses.

Conclusion

After careful review, I determine that all workers of Helen's Dress Company, New Haven, Connecticut are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-35782 Filed 11-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6194]

Ilex Optical Co., Inc., Rochester, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 15, 1979 in response to a worker petition received on October 10, 1979 which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers and former workers producing specialty optics and optical systems at Ilex Optical Company, Inc., Rochester, New York. The investigation revealed that the company principally produced optical lenses. It is concluded that all of the requirements have been met.

U.S. imports of mounted lenses increased in value in 1978 from 1977 and during January-June 1979 compared to January-June 1978.

Unit sales and employment by Ilex Optical Company, Inc. declined during the first six months of 1979 compared to the same period in 1978. Ilex closed in August 1979.

A survey conducted by the U.S. Department of Commerce revealed that customers who reduced purchases from Ilex Optical Company, Inc. in 1978 and the first six months of 1979 increased purchases of imported optical lenses during the same period. On November 2, 1979 the Department of Commerce issued a certification of eligibility to apply for firm adjustment assistance applicable to Ilex Optical Company, Inc., Rochester, New York.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with optical lenses produced at Ilex Optical Company, Inc., Rochester, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Ilex Optical Company, Inc., Rochester, New York who became totally or partially separated from employment on or after February 5, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-35783 Filed 11-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6043]

The Lamson & Sessions Co., Kent Division, Kent, Ohio; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 17, 1979 which was filed by the Allied Industrial Workers of America on behalf of workers and former workers producing nuts at the Lamson and Sessions Company, Kent Division, Kent, Ohio. In the following determination, at least one of the criteria has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production of nuts at Kent, measured in value, increased during 1978 compared with 1977. Production, measured in quantity and value, increased during the first nine months of 1979 compared with the first nine months of 1978.

Average total employment at Kent increased during 1978 compared with 1977 and in the first nine months of 1979 compared with the first nine months of 1978. Employment declines involving hourly workers in late 1978 and mid 1979 involved primarily indirect labor personnel. Layoffs of direct production workers in mid 1979 occurred in a department in which average total employment increased 100% during the third quarter of 1979 compared to the previous quarter. Layoffs of all direct production personnel and most indirect personnel were temporary and short term in nature.

Conclusion

After careful review, I determine that all workers of the Lamson and Sessions Company, Kent Division, Kent, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-35784 Filed 11-19-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6008]

Milford Shoe Co., Milford, Mass.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 11, 1979, in response to a worker petition received on September 4, 1979, which was filed on behalf of workers and former workers producing men's shoes at the Milford Shoe Company, Milford, Massachusetts. The investigation revealed that the plant also produces men's and women's bowling shoes. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear, except athletic, decreased slightly from 1977 to 1978. The ratio of imports to domestic production, however, remained above 75 percent during 1977 and 1978 and increased during the first half of 1979 compared to the same period of 1978.

U.S. imports of athletic footwear (including bowling shoes) decreased absolutely and relative to domestic production from 1977 to 1978. The ratio of imports to domestic production, however, remained above 200 percent during 1977 and 1978. U.S. imports increased absolutely and relative to domestic production during the first half of 1979 compared to the same period of 1978.

A Department survey was conducted with customers of the Milford Shoe Company. The survey revealed that many customers have decreased

purchases of men's footwear from Milford Shoe and increased purchases from foreign sources from 1977 to 1978 and during the first nine months of 1979 compared to the same period of 1978.

The survey also revealed that Milford Shoe's sole customer of men's and women's bowling shoes decreased purchases from Milford Shoe and increased purchases from foreign sources during the first nine months of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's shoes and men's and women's bowling shoes produced at the Milford Shoe Company, Milford, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Milford Shoe Company, Milford, Massachusetts who became totally or partially separated from employment on or after August 27, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of November 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-35785 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6166]

Rainsheddard, Brooklyn, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 9, 1979 in response to a worker petition received on October 2, 1979 which was filed by the Amalgamated Ladies' Garment Cutters' Union on behalf of workers and former workers producing ladies' raincoats at Rainsheddard, Brooklyn, New York. It is

concluded that all of the requirements have been met.

Imports of women's, girls', and infants' raincoats increased absolutely and relative to domestic production in 1978 compared to 1977.

Rainsheddard increased its imports of ladies' raincoats from 1977 to 1978 and in the first six months of 1979 compared to the same period in 1978. Over the same periods, Rainsheddard's domestic production of ladies' raincoats declined.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' raincoats produced at Rainsheddard, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Rainsheddard, Brooklyn, New York who became totally or partially separated from employment on or after September 28, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of November 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-35786 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

[Application No. L-1517]

Notice of Proposed Exemption for Certain Transactions Involving the Norton Simon Inc. Profit Sharing Trust, Glass Containers Corp. Profit Sharing Retirement Plan and Trust, Glass Containers Corp. Profit Sharing Plan and Trust, Hunt-Wesson Retirement Account Plan and Trust, and United Can Company Profit Sharing Retirement Plan and Trust

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt until June 30, 1981 the Norton Simon Inc. Profit Sharing Trust, Glass Containers Corporation Profit Sharing Retirement Plan and Trust, Glass Containers

Corporation Profit Sharing Plan and Trust, Hunt-Wesson Retirement Account Plan and Trust, and United Can Company Profit Sharing Retirement Plan and Trust (the Plans) from certain limitations with respect to the holding of qualifying employer securities. The proposed exemption, if granted, would affect participants and beneficiaries of the Plans and other persons participating in the transactions.

DATES: Written comments must be received by the Department of Labor on or before December 18, 1979.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4528, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20218, Attention: Application No. L-1517. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20218.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a) and 407(a) of the Act. The proposed exemption was requested in an application filed by Norton Simon Inc. (Norton Simon), Glass Containers Corp., Hunt-Wesson Foods Inc., and United Can Co., the sponsors of the Plans; the Plans; and Chemical Bank which prior to January 1, 1980 will become the trustee of the Plans, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471; April 28, 1975).

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

(1) Norton Simon is a Delaware corporation which is engaged through subsidiaries; Glass Containers Corporation, Hunt-Wesson Foods Inc., and United Can Company (the Subsidiaries) in various businesses. Norton Simon and the Subsidiaries maintain the Plans, which are profit sharing plans. Each of the Plans require

that all or a substantial portion of the contributions made to the Plans be invested in the common stock of Norton Simon. At the present time each of the Plans holds the following amounts of the common stock of Norton Simon: 98,116,075 shares by the Norton Simon Inc. Profit Sharing Trust Plan (31.27% of this plan's assets as of December 31, 1978); 8,017,775 shares by the Glass Containers Corp. Profit Sharing Retirement Plan and Trust (73.74% of this plan's assets as of December 31, 1978); 104,795,200 shares by the Glass Containers Corp. Profit Sharing Plan and Trust (57.24% of this plan's assets as of December 31, 1978); 1,059,182,875 shares by the Hunt-Wesson Retirement Account (98.68% of this plan's assets as of December 31, 1978); 244,331,275 shares by the United Can Company Profit Sharing Retirement Plan and Trust (91.19% of this plan's assets as of December 31, 1978). Norton Simon and the Subsidiaries also maintain defined benefit pension plans that are related to each of the Plans. Under the pension plans, minimum overall retirement benefit levels are established for participants, and the pension plans pay to participants the difference, if any, between the profit-sharing benefits received by a participant from the Plans and the minimum level of overall retirement benefits. The pension plans do not own any qualifying employer assets.

(2) Chemical Bank, as the trustee of the Plans, will be the fiduciary of the Plans with the authority and discretion to control, manage, and dispose of the Norton Simon stock.

(3) On June 12, 1979 the Department issued a notice of intent to propose a regulation which would clarify the definition of the term "eligible individual account plan" under ERISA. The notice of intent indicated that if an employer maintains a defined benefit plan the benefits of which are offset by distributions from a profit sharing or other individual account plan, section 407(a) (3) and (4) may be applied either to the profit sharing plan separately or to a combination of the profit sharing plan and the defined benefit plan. The applicants represent that since no regulations have as yet been issued in this regard there is a great deal of uncertainty on the part of plan fiduciaries as to the status of the Plans as eligible individual account plans.

(4) Because of this uncertainty and the short time remaining for divestiture under section 407(a)(4)(A) of the Act, the applicants are requesting a temporary exemption to allow the Plans adequate time to bring themselves into

compliance with section 407(a)(4)(A) of the Act. The applicants represent that any large liquidation of Norton Simon shares by the Plans at the present time would not be in the best interests of participants of the Plans. In light of the depressed value of Norton Simon stock, general economic conditions, and other considerations, the applicants represent that it would be in the best interests of participants and beneficiaries of the Plans if Chemical Bank had the opportunity to review the performance of the stock over an 18-month period beginning January 1, 1980. It is further represented that because of the short time for divestiture, the Plans might encounter substantial difficulty in selling their Norton Simon stock, and might be forced into an untimely sale at significantly lower prices than they could otherwise obtain if they were allowed additional time for divestiture. It will also allow the Plans a period of time to evaluate prospective investments for the proceeds of any sales.

(5) In summary the applicants represent that the continued holding of the common stock of Norton Simon Inc. by the Plans until June 30, 1981, will satisfy the criteria of section 408(a) of the Act as follows: (1) Chemical Bank, the prospective independent trustee of the Plans, represents that the retention of the Norton Simon stock by the Plans is in the best interests of the Plans; (2) the sale of Norton Simon Stock at this time might cause the Plans to receive lower prices for the stock than they could otherwise obtain if they were allowed additional time for divestiture and; (3) it will allow a period of time to enable the Plans to review prospective investments for the proceeds of any sales.

Notice to Interested Persons

All employees who are or may become eligible for a benefit under any one of the Plans and all retired participants and former participants who are receiving benefit payments, or who have a vested deferred right to receive such payments at a later date, under any of the Plans that are the subject of the application, and all affected collective bargaining agents under any of the Plans will receive notice by mail.

The notices will be mailed within 10 days after publication in the Federal Register of the notice of pendency of the exemption. The notices will contain a copy of the notice of pendency of the exemption, and will inform the interested persons of their right to comment within the period set forth in

the notice of the pendency of the exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provision to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of

sections 406(a) and 407(a) of the Act shall not apply until June 30, 1981 to the continued holding of the common stock of Norton Simon Inc. as follows: 98,118.075 shares by the Norton Simon Inc. Profit Sharing Plan and Trust; 8,017.775 shares by the Glass Containers Corporation Profit Sharing Retirement Plan and Trust; 104,795.200 by the Glass Containers Corporation Profit Sharing Plan and Trust; 1,059,182.675 by the Hunt-Wesson Retirement Account Plan and Trust; and 244,331.275 shares by the United Can Company Profit Sharing Retirement Plan and Trust provided that Chemical Bank becomes the trustee of the Plans prior to January 1, 1980 with the responsibilities and authority described above.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 18th day of November, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-35078 Filed 11-19-79; 10:01 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Grants and Contracts

November 14, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2998, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Assistance of North Dakota in Bismarck, North Dakota to serve Native Americans on Turtle Mountain and Devils Lake Reservations.

Interested persons are hereby invited to submit written comments or recommendations concerning the above

application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1728 Champa Street, Suite 500, Denver, Colorado 80202.

Dan J. Bradley,
President.

[FR Doc. 79-35788 Filed 11-19-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-90]

Aeronautics Advisory Committee, Subcommittee on Aviation Safety Reporting System; Meeting

The Subcommittee on Aviation Safety Reporting System (ASRS) will meet December 4-5, 1979, at the Air Transport Association Headquarters, 1709 New York Avenue, NW, Washington, DC, 5th Floor Conference Room A. The meeting will be open to the public on a first-come, first-served basis up to the seating capacity of the room (about 30 persons including the Subcommittee members and participants).

The Subcommittee, which serves in an advisory capacity only, reviews ASRS operations and NASA actions taken in response to Subcommittee recommendations. The Chairperson is John H. Winant. There are currently 12 members on the Subcommittee. Following is the approved agenda for the meeting.

Agenda

December 4, 1979

8:30 a.m.—Chairpersons Remarks
9:00 a.m.—Executive Secretary's Report
9:30 a.m.—ASRS Management Report
10:00 a.m.—Monitor Group Report
11:00 a.m.—Old Business
3:00 p.m.—General Discussion
5:00 p.m.—Adjourn

December 5, 1979

8:30 a.m.—Discussion of ASRS Options
11:00 a.m.—New Business
12:00 Noon—Adjourn

For further information, contact Herman A. Rediess, NASA Headquarters, Code RTE-6, Washington, DC 20546. Telephone 202/755-2243.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

November 2, 1979.

[FR Doc. 79-35646 Filed 11-19-79; 8:45 am]

BILLING CODE 7510-01-M

[Notice 79-91]

Space and Terrestrial Applications Advisory Committee; Meeting

The Ad Hoc Informal Advisory Subcommittee on Satellite Communications Applications of the NAC-STAAC will meet on December 5 and 6, 1979 at NASA Headquarters, Room 226-A, Federal Office Building No. 10B, 600 Independence Ave., S.W., Washington, D.C. 20546. Except as noted below, the meeting will be open to the public. Members of the public will be admitted at 8:30 a.m. on the first day only on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

On the second day, the Subcommittee will reconvene to recommend and consider candidates for membership on the Subcommittee. Public discussion of the professional qualifications of candidates for membership would invade the privacy of these individuals. Since this session of the Subcommittee meeting will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6) as described above, it has been determined that this session should be closed to the public.

This Subcommittee, comprised of eight members of the NAC-STAAC including the Subcommittee Chairperson, Dr. John V. Harrington, will review the overall status of the Satellite Communications Program including activities in the 30/20 GHz band program and other issues. Three members of the NAC Space Systems and Technology Advisory Committee have been invited to participate in this meeting.

The approved agenda for the meeting is as follows:

December 5, 1979

Time and Topic

Introduction

9:00 a.m.—Program Overview—Headquarters Perspective
9:15 a.m.—Crucial Program Option Decisions for FY 80
10:00 a.m.—Program Overview at Lewis Research Center
10:15 a.m.—Program Overview at Jet Propulsion Laboratory

30/20 GHz Program

10:45 a.m.—Overall Program Plan and Current Status
11:00 a.m.—Phase II Studies—Verification System
1:00 p.m.—Supporting Research and Technology Activities
1:45 p.m.—NASA/Communications Carrier Interface Arrangements

Time and Topic

Base Research and Technology Program

2:15 p.m.—Overall Program Plan and Current Status
2:45 p.m.—Highlights of Traveling-Wave Tube and Advanced Cathode Research Activities
3:15 p.m.—Strengths and Weaknesses
4:00 p.m.—Conclusions and Recommendations
4:30 p.m.—Adjourn

December 6, 1979

Time and Topic

9:00 a.m.—In-depth Discussion of Candidates for Membership (Closed Session)
12:30 p.m.—Adjourn

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C. (202) 755-7450.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

November 8, 1979.

[FR Doc. 79-35647 Filed 11-19-79; 8:45 am]

BILLING CODE 7510-01-M

[Notice 79-92]

Space and Terrestrial Applications Advisory Committee; Meeting

The Ad Hoc Informal Advisory Subcommittee on Agriculture, Land Cover and Hydrology of the NAC-STAAC will meet on December 13 and 14, 1979, at the Earth Resources Laboratory (ERL), National Space and Technology Laboratories (NSTL), Room No. 146, Building No. 1100, NSTL Station, MS 39529. The meeting is open to the public. Members of the public will be admitted to the meeting on both days on a first-come, first-served basis, and will be required to sign a visitors' register. The seating capacity of the meeting room is for 50 persons.

This Subcommittee, chaired by Dr. Robert M. Ragan, is comprised of eleven members of the NAC-STAAC and will review and discuss the progress and status of research activities in the Renewable Resources Program and also review the on-going and planned Applications Pilot Tests (APT's).

The approved agenda for the meeting is as follows:

December 13, 1979

Time and Topic

8:30 a.m.—Welcome
8:35 a.m.—Chairperson's Remarks
9:00 a.m.—Response to Committee Recommendations
9:30 a.m.—Update on AgRISTARS Status
10:00 a.m.—Review of Applications Pilot Tests (APT's)

Overview and Strategy
Bureau of Census and Forestry (Pennsylvania State—Div. of Natural Resources)
Navajo Nation Resources Inventory, Cotton Inc., and Missouri Farmers' Association (MFA)
USGS Irrigated Lands
St. Regis Paper and Bureau of Land Management (BLM)
Future Directions
1:00 p.m.—APT Review (Continued)
3:00 p.m.—Discussion
5:00 p.m.—Adjourn

December 14, 1979

8:30 a.m.—Basic Research Program Planning Update
9:00 a.m.—NSTL Field Center Tour and Project Review
1:00 p.m.—Strengths and Weaknesses
2:00 p.m.—Conclusions and Recommendations
3:00 p.m.—Adjourn

For further information regarding this meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C. at (202) 755-7450.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

November 8, 1979.

[FR Doc. 79-35648 Filed 11-19-79; 8:45 am]

BILLING CODE 7510-01-M

[Notice 79-93]

Space and Terrestrial Applications Advisory Committee; Meeting

The ad hoc Informal Advisory Subcommittee on Materials Processing in Space (MPS) of the NAC-STAAC will meet in Room 226B of NASA Headquarters, 600 Independence Avenue, S.W., Washington, D.C., from 10:00 a.m. to 3:00 p.m. on December 7, 1979. The meeting is open to the public. Members of the public will be admitted to the meeting on a first-come, first-served basis up to the room's seating capacity of 40 persons, and will be required to sign a visitors' register. The approved agenda for the meeting is as follows:

December 7, 1979

Time and Topic

10:00 a.m.—Introductory Remarks
10:30 a.m.—Report on Progress in organizing a proposal and project review committee for the MPS Program
11:15 a.m.—Report on status of NASA-Industry Joint Endeavors in commercial space processing applications
12:00 noon—Lunch
1:00 p.m.—Discussion of plans and project phasing for the MPS Program Five Year Plan
2:30 p.m.—Discussion and finalization of Subcommittee recommendations
3:00 p.m.—Adjourn

The STAAC ad hoc Informal Advisory Subcommittee was established to advise NASA on the Materials Processing in Space program's accomplishments, ongoing research and long range plans. The Subcommittee has six members representing the scientific and industrial communities and is chaired by Dr. Martin E. Glicksman. For further information, contact Dr. James H. Bredt, Executive Secretary of the NAC-STAAC ad hoc Informal Subcommittee on Materials Processing in Space, Code EM-7, NASA Headquarters, Washington, D.C. 20546, (202/755-8573).

Russell Ritchie,

Deputy Associate Administrator for External Relations.

November 8, 1979.

[FR Doc. 79-35649 Filed 11-19-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Advisory Committee; Meetings

November 15, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506.

1. Date: December 6 and 7, 1979.
Time: 9 a.m. to 5:30 p.m.

Room: 1134.

Purpose: To review applications to the Research Materials Program for translations projects beginning April 1, 1980.

2. Date: December 13, 1979.
Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Stipends applications in Political Science submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

3. Date: December 13, 1979.
Time: 9 a.m. to 5:30 p.m.

Room: 807.

Purpose: To review Summer Stipends applications in Music submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

4. Date: December 14, 17 and 18, 1979.
Time: 9 a.m. to 5:30 p.m.

Room: 807.

Purpose: To review Elementary and Secondary Education Program applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1980.

5. Date: December 18, 1979.
Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Stipend applications in Early English Literature submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

6. Date: December 18, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 1130.

Purpose: To review Summer Stipend applications in Religion submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

7. Date: December 19, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Stipend applications in Anthropology and Archaeology submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

8. Date: December 21, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Stipend applications in Philosophy I submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1979, I have determined that the meetings would fall within exemptions (4) and (8) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

If you desire more specific information, contact the Advisory Committee Management Officer, Mr. Stephen J. McLeary, 806 15th Street, NW., Washington, D.C. 20506, or call 202-724-0367.

Stephen J. McLeary,
Advisory Committee Management Officer.

[FR Doc. 79-35705 Filed 11-19-79; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL COMMISSION ON SOCIAL SECURITY

1980 Hearings

November 14, 1979.

The National Commission on Social Security will complete its series of eight (8) regional public hearings with three (3) hearings scheduled for early 1980. The hearings will be held:

Wednesday, January 16 in Portland, Oregon at the Portland Hilton Hotel, 921 S.W. Sixth Avenue;

Friday, January 18 in Sacramento, California at the State Office Building Number 8 auditorium, 714 P Street; and
Friday, February 15 and 16 in St. Petersburg, Florida at the Bayfront Concourse Hotel, 333 First Street, South.

All hearings will begin at 9:00 a.m. and continue until 5:00 p.m. with the exception of the February 16 hearing which will begin at 9:00 a.m. and end at 12:00 noon.

Requests to testify must be submitted 30 days in advance of the hearing giving the:

- (a) Name,
- (b) Business address,
- (c) Telephone number,
- (d) Capacity in which presentation will be made, i.e., public official, organization presentation, or private citizen,
- (e) Principal issues to be discussed and position on them, and
- (f) Copy of text (due 10 days before hearing).

Invitations to testify and time allotted will be determined by the number of requests received for each hearing. National organization representatives will not be allowed to make multiple presentations and are encouraged to use local representatives as witnesses. Where appropriate, witnesses may be grouped in panels. All witnesses are urged to give oral summaries of their written presentations in order to maximize the number of people heard and allow time for questioning of witnesses by Commissioners.

Organization representatives should bring fifty (50) copies of their written presentations to the hearings for distribution to the press.

An official transcript of each hearing will be made and persons unable to testify in person can submit written testimony which will be included in the official hearing record.

The press and public are invited to attend and there will be time scheduled at each hearing for local citizens to testify regarding their personal opinions of and experiences with the social security program.

Commission meetings will be held in conjunction with the Portland and St. Petersburg hearings. The Portland meeting will be held Thursday, January 17 beginning at 9:00 a.m. in the Galleria Room of the Portland Hilton Hotel. The St. Petersburg meeting is scheduled to begin at 9:00 a.m. February 14 in the Key Largo Room of the Bay Front Concourse Hotel and resume at 1:00 p.m. on February 16 in the same location. While the meetings are also open to the public the space available will accommodate approximately 40 members of the public at any time.

The Commission which was created by the 1977 Social Security Amendments is mandated to study and review the old-age, survivors, disability and health insurance programs authorized by titles II and XVIII of the Social Security Act. The nine member Commission, chaired by Milton Gwirtzman, will conclude its work in January 1981 with the submission of a report to the President and the Congress describing its findings and recommendations.

Requests to testify and inquiries about the hearings should be sent to: Melanie W. McClintock, Public Information Officer, National Commission on Social Security, 440 G Street, N.W., Room 126, Washington, D.C. 20218 (202) 376-2622.

Francis J. Crowley,
Executive Director.

[FR Doc. 79-35723 Filed 11-19-79; 8:45 am]

BILLING CODE 6820-AC-M

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50-482A]

Kansas Gas & Electric Co., et al.; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Kansas Gas and Electric Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on September 11, 1979, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns the addition of Kansas Electric Power Cooperative, Inc. as an owner of the Wolf Creek Generating Station, Unit No. 1 located in Coffey County, Kansas.

The information was filed in connection with Kansas Gas and Electric Company and Kansas City Power and Light Company's application for an amendment to Construction Permit No. CPPR-147 to the Wolf Creek Generating Station, Unit No. 1. Construction Permit No. CPPR-147 was issued on May 17, 1977 and construction of the plant is underway.

The original notice of receipt of application for construction permit and operating license included the antitrust aspects of the application and was published in the Federal Register on August 30, 1974 (39 FR 31684).

A copy of the Kansas Gas and Electric Company letter, dated September 11, 1979 and above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room, located at 1717 H Street, N.W., Washington, D.C., 20555 and at the Coffey County Courthouse, Burlington, Kansas, 66839.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to Kansas Electric Power Cooperative, Inc. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation on or before January 11, 1980.

Dated at Bethesda, Maryland, this 2nd day of November, 1979

For the Nuclear Regulatory Commission.

Olan D. Parr,

Chief, Light Water Reactors, Branch No. 3,
Division of Project Management.

[FR Doc. 79-34706 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Procedures and Administration Subcommittee; Notice of Meeting

The ACRS Procedures and Administration Subcommittee will hold an open meeting on December 5, 1979 in Room 1010, 1717 H St., NW, Washington, DC 20555.

In accordance with the procedures outlined in the Federal Register on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, December 5, 1979
1:30 p.m. until the conclusion of business.

The Subcommittee will discuss recommendations of the President's Commission on the Accident at Three Mile Island relating to ACRS activities and proposed ACRS comments regarding the nuclear regulatory process.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements

and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Raymond F. Fraley, (telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 14, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-35732 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Reliability and Probabilistic Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on December 5, 1979 in Room 1048, 1717 H St., NW, Washington, D.C. 20555. Notice of this meeting, previously scheduled to be held on December 4, 1979, was announced in the Federal Register on October 18, 1979.

In accordance with the procedures outlined in the Federal Register on Oct. 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, December 5, 1979
8:30 a.m.—9:30 a.m. CLOSED

The Subcommittee will discuss items pertaining to the budget and program of the Office of Nuclear Regulatory Research. Since NRC budget proposals are now part of the President's budget—not yet submitted to Congress—public disclosure of budgetary information is not permitted. See OMB Circular No. A-10. The ACRS, however, is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and report the results of its review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussion with members of the NRC Staff. For the reason just stated, a discussion would not be possible if held in public session.

I have determined, therefore, that it is necessary to close this session to protect information, the premature disclosure of which might significantly frustrate implementation of proposed action (552b(c)(9)(B)).

8:30 a.m. until the conclusion of business.
OPEN

The Subcommittee will hear presentations and hold round table discussions with representatives of several Government agencies and other groups that have used or considered quantitative risk assessment methods in their decision making process. Information discussed during this and succeeding meetings will be used by the ACRS as one basis for the development of recommendations regarding quantitative safety goals and criteria for nuclear power reactors for consideration by the NRC.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Gary Quittschreiber, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 14, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-35733 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Fire Protection; Notice of Meeting

The ACRS Subcommittee on Fire Protection will hold an open meeting on December 5, 1979 in Room 1167, 1717 H St., NW., Washington, DC 20555.

In accordance with the procedures outlined in the Federal Register on October 1, 1979 (44 FR 56408) oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Wednesday, December 5, 1979; 2:00 p.m. until the conclusion of business.

The Subcommittee will review the proposed Fire Protection Rule for operating nuclear power plants.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. John C. McKinley.

(telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 14, 1979.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 79-35734 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment provides for changes in the allowable nuclear enthalpy hot channel factor, and core radial peaking factor and deletes the license condition 2.C on Rod Bow Penalty on Total Peaking Factor.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 22, 1978 as supplemented by letter dated February 8, 1979 and portions of letters dated October 27, 1978 and December 14, 1978, (2) Amendment No. 20 to License No. DPR-66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa,

Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of November, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1,
Division of Operating Reactors.

[FR Doc. 79-35736 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to reduce the time constant of the neutron flux rate reactor trips from two seconds to one second, and to reduce the trip setpoint of the high negative rate from five percent to three percent.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 28, 1979, (2) Amendment No. 21 to License No. DPR-66 and (3) the Commission's related Safety Evaluation. All of these items are

available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 3rd day of November, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1,
Division of Operating Reactors.

[FR Doc. 79-35737 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-482-SP]

Kansas Gas & Electric Co., and Kansas City Power & Light Co.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register (37 FR 28710) and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Kansas Gas & Electric Co., and Kansas City Power & Light Co. (Wolf Creek Generating Station, Unit No. 1) Construction Permit No. CPPR-147.

This action is in reference to an Order published by the Commission on September 24, 1979, in the Federal Register (44 FR 55071-72) entitled "Kansas Gas & Electric Co. and Kansas City Power & Light Co.; Proposed Issuance of Amendment to a Construction Permit."

The Chairman of this Board and his address is as follows: Herbert Grossman, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Mr. Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 14th day of November 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and
Licensing Board Panel.

[FR Doc. 79-35735 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Trade Policy Staff Committee; Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, on November 5, 1979, the President received a report from the United States International Trade Commission (USITC) on the case of Nonelectric Cooking Ware (Investigation No. TA-201-39). The Commission submitted a report containing an affirmative determination that cooking ware of steel, enameled or glazed with vitreous glasses, provided for in item 653.97 of the Tariff Schedules of the United States (TSUS), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. The report contained a negative determination as regards other types of nonelectric cooking ware provided for in TSUS items 533.77, 546.38, 546.58, 546.59, 653.85, 653.93, 653.94, 654.05, 654.10, and 654.15.

The Commission finds and recommends that to prevent or remedy the serious injury to the domestic industry, it is necessary to impose rates of duty, with respect to cooking ware of steel, enameled or glazed with vitreous glasses, provided for in item 653.97 of the TSUS, as follows:

Articles valued not over \$2.25 per pound net weight	
Year:	
1st year....	25 cents per pound, but not more than 50 percent ad valorem
2nd year ..	25 cents per pound, but not more than 50 percent ad valorem
3rd year ...	20 cents per pound, but not more than 50 percent ad valorem
4th year ...	15 cents per pound, but not more than 50 percent ad valorem
5th year ...	10 cents per pound, but not more than 50 percent ad valorem

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and

amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States market is a focal point for exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC report 201-36).

Briefs should be submitted in twenty (20) copies to Secretary, Trade Policy Staff Committee, Room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Washington, D.C. 20508.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations

no later than the close of business Monday, December 3, 1979.

William B. Kelly, Jr.,

Associate Special Trade Representative.

[FR Doc. 79-35652 Filed 11-19-79; 8:45 am]

BILLING CODE 3190-01-M

POSTAL RATE COMMISSION

Visits to Mailer Facilities

November 13, 1979.

Notice is hereby given that the Chairman of the Postal Rate Commission and members of the advisory staff visited the facilities of the Doubleday Publishing Company in Hanover, Pennsylvania, on November 13, 1979. A report of the visits will be on file in the Commission's Docket Room.

David F. Harris,
Secretary.

[FR Doc. 79-35650 Filed 11-19-79; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16336; File No. SR-NASD-79-9]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 9, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of the proposed amendments to Part V of Schedule D under Article XVI of the By-Laws of the National Association of Securities Dealers, Inc. Deleted language is bracketed.

A. Entry Fee

[2. In the case of a security to be entered in the NASDAQ System which is registered or admitted to unlisted trading privileges on a registered national securities exchange or exchanges, 50% of any initial listing fees paid to such exchange or exchanges for such security may be deducted from the NASDAQ entry fee for such security.]

(The remaining paragraphs under Section A are renumbered accordingly.)

B. Annual Fee

[2. In the case of an authorized security in the NASDAQ System which is registered or admitted to unlisting trading privileges on any registered national securities exchange or exchanges, 50% of any annual listing fees paid to such exchange or exchanges for such security may be deducted from the NASDAQ annual fee for such security.]

(The remaining paragraphs under Section B are renumbered accordingly.)

Purpose of the Proposed Rule Change

The proposed deletion of a credit for fees paid to exchanges for securities that are both listed on an exchange and quoted in the NASDAQ System reflects changes in the dissemination and display of over-the-counter quotations in listed securities since the adoption of the NASDAQ issuer quotation fees in 1974. When the NASDAQ issuer fee was adopted, NASDAQ service was the only available means to disseminate and display OTC quotations for listed securities on a real-time basis. The Association's Board was concerned that if an issuer of a listed security decided not to pay the NASDAQ issuer fee, the security would be deleted and third market makers would have no means to disseminate their quotations on a real-time basis. As a result of this concern, the Board adopted a credit for issuers that pay a fee for listing on an exchange. With the implementation of the NASDAQ Consolidated Quotation Service, and the adoption of SEC Rule 11Ac1-1, quotations of all third market makers in securities reported on the Consolidated Tape are displayed in CQS. Issuers whose quotations are displayed in CQS do not pay any fees to the Association. With the advent of CQS as an alternative source of third-market quotations, the Association's Board of Governors believes it is no longer appropriate to continue the credit given the few listed securities which are also quoted on NASDAQ.

Basis Under the Act for Proposed Rule Change

Section 15A(b)(5) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

Comments Received From Members, Participants or Others on the Proposed Rule Change

Comments from the membership were not solicited or received.

Burden on Competition

Since the proposed amendment would affect fees charged issuers of securities rather than NASDAQ subscribers, there will be no direct effect on competition among users of the system. The elimination of the credit may discourage some issuers listed on an exchange from also including their securities in the NASDAQ System. However, the Association believes that since only a few issuers are affected and since the maximum possible entry fee is \$5,000 and the maximum possible annual fee is \$2,500, the impact of the elimination of the credit on issuers and the operation of the NASDAQ System will be minimal and that the benefits of the more equitable allocation of issuer fees outweighs any such impact, and is consistent with the purposes of the Act.

On or before December 24, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 10, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

November 13, 1979.
[FR Doc. 79-35721 Filed 11-19-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16337. File No. SR-OCC-79-7]

Options Clearing Corp. Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 2, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would provide OCC with greater flexibility in the timeframes for accepting from Clearing Members instructions to spread, remove from spread, or apply reductions in aggregate amounts of long positions.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide OCC with greater flexibility in the timeframes for accepting from Clearing Members, instructions to spread, remove from spread, or apply reductions in aggregate amounts of long positions. OCC accepts instructions in the form of keypunch cards, magnetic tape and hard copy. Since the hard copy form requires greater processing time, flexibility in the timeframes for accepting instructions is needed.

The proposed rule change relates to OCC's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition.

On or before December 24, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to

which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 10, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

November 13, 1979.
[FR Doc. 79-35722 Filed 11-19-79; 8:45 am]
BILLING CODE 8010-01-M

[Release Nos. 34-16342, IC-10940; File No. SR-NASD-78-3]

Practices in Fixed Price Offerings

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Acceptance of Comments.

SUMMARY: In May 1979, the Commission invited comment on a number of issues raised by a proposed rule change filed by the National Association of Securities Dealers, Inc. to amend its Rules of Fair Practice governing member practices with respect to fixed price offerings of securities. Because of the importance and complexity of these issues, the Commission also has been holding public hearings on this subject which are scheduled to conclude November 20, 1979. The Commission has been accepting and considering public comment received throughout these proceedings.

DATES: Comments will be accepted through December 15, 1979.

ADDRESSES: All comments should refer to File No. SR-NASD-78-3 and should

be sent with 30 copies to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kathleen McGann or Lucy Weisz, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2855 or 272-2839.

SUPPLEMENTARY INFORMATION: Pursuant to Section 19(b) (15 U.S.C. 78s(b)) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94-29 (June 4, 1975)), the National Association of Securities Dealers, Inc. filed a proposed rule change concerning the giving and receiving of selling concession, discounts or other allowances in connection with fixed price offerings of securities (the "proposed rule change").¹ The Commission published notice of the proposed rule change in August 1978.²

Because of the importance and complexity of the issues involved, the Commission, in May 1979, published a release soliciting additional comments on the proposed rule change and announcing public hearings to explore more fully the matters discussed in that release and other issues raised by the proposed rule change.³ The Commission has received 24 comment letters in response to that release. In addition, 15 witnesses have appeared at the public hearings which commenced September 11, 1979, and which are scheduled to conclude on November 20, 1979.

Although the comment period expired August 1, 1979, comment letters received subsequent to that date have been made part of the public record of these proceedings. The Commission will continue to accept and consider all comments submitted by December 15, 1979.

¹ The issues associated with the proposed rule change are commonly identified by reference to a judicial decision, *Papilsky v. Berndt*, (1976-1977 Transfer Binder) Fed. Sec. L. Rep. (CCH) ¶95,627 (S.D.N.Y. 1976).

² Notice of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 15020 (August 2, 1978)) and by a statement of the terms of substance in the Federal Register (43 FR 35446 (August 9, 1978)). The Commission received 22 comment letters in response to this notice. The Commission also received 21 comment letters before formal notice of the proposed rule change was published.

³ Securities Exchange Act Release No. 15807 (May 9, 1979), 44 FR 28574 (May 15, 1979).

By the Commission.
George A. Fitzsimmons,
Secretary.

November 14, 1979.
[FR Doc. 79-35712 Filed 11-19-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 16335; SR-Amex-79-17]

American Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Order Approving Proposed Rule Change

November 13, 1979.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on October 29, 1979, the American Stock Exchange, Inc. (the "Amex"), 86 Trinity Place, New York, New York 10006 filed with the Commission copies of a proposed rule change which would add a commentary to Amex Rule 114, concerning Registered Equity Market Makers, as set forth below: (Italics indicate words to be added.)

Rule 114

... Commentary

13 A Registered Equity Market Maker may not initiate orders from off the floor as a market maker in reliance upon the market maker exemption contained in Section 11(a)(1) of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Amex-79-17.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the

requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed amendment to Rule 114 is designed to correct a deficiency in such rule as currently written. This modification was specifically requested of the NYSE by the Commission at the time it approved a nine month extension of Rule 114 until April 30, 1980.¹

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35710 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21297; 70-6377]

**Consolidated Natural Gas Co.;
Proposed Amendment of Certificate of
Incorporation and Order Authorizing
Solicitation of Proxies**

November 14, 1979.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(e) thereof and Rules 62 and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated proposes to amend its Certificate of Incorporation and intends to submit the proposals for consideration and adoption by the stockholders at a special meeting of stockholders to be held on January 14, 1980. Approval by a majority of the shares of the company's outstanding common stock will be necessary.

Presently, Consolidated's common shareholders have the preemptive right to subscribe to new shares of common stock, except when such shares are authorized by the Board of Directors to be: (a) issued to finance the acquisition

¹ See Securities Exchange Act Release No. 18049 (July 27, 1979).

of operating properties or an interest therein or securities of a public-utility or natural gas company; or (b) sold to or through underwriters who shall have agreed to make a prompt public reoffering thereof; or (c) issued and sold in connection with an employee stock ownership plan whereby the corporation would be permitted by federal tax law to fund the plan by reducing its taxes in an amount equal to such funding; or (d) issued and sold in connection with a dividend reinvestment plan available to common stockholders of the corporation. Holders of common stock have no preemptive or preferential right to subscribe for any such shares of common stock, or any securities convertible into common stock, or any shares of preferred stock.

Consolidated now proposes that the company's Certificate of Incorporation be amended and broadened to permit the Board of Directors to issue and sell, without first making an offering to the common stockholders on a subscription basis, unissued shares of common stock presently or hereafter authorized by the company's Certificate of Incorporation for the financing with original issue common stock under Clause (a) of "the acquisition of properties, plant or equipment of any kind or nature whatsoever or an interest in such properties, plant or equipment or securities of any company, individual, partnership or association, engaged in any phase of the energy business, gaseous or otherwise."

Also, Clause (c) is proposed to be amended to permit the sale of original issue common stock to any employee benefit plan, including the company's employee stock ownership plan, system employee thrift plans, and such other like plans as may be instituted in the future. At present, such stock may be issued only in reference to the employee stock ownership plan where financed by a reduction in federal taxes in an amount equal to such funding.

In connection with the special meeting of stockholders to be held on January 14, 1980, consolidated proposes to solicit proxies seeking the affirmative vote of shareholders with respect to the above-described amendments to its Certificate of Incorporation.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated at \$134,000, including printing expenses of \$33,000, fees and expenses

of Morgan Guaranty Trust Company of \$57,000, charges of \$20,000 for proxy solicitation services, and charges, at cost, of the system service company of \$10,000.

Consolidated has filed its proxy solicitation material and requests that the effectiveness of its declaration with respect to the solicitation be accelerated as provided in Rule 62.

Notice is further given that any interested person may, not later than December 12, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that consolidated's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration regarding the proposed solicitation of proxies be, and hereby is, permitted to become effective forthwith pursuant to Rule 62.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35711 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21296; 70-6225]

**Louisiana Power & Light Co.; Post-
Effective Amendment Regarding
Increase of Short-Term Borrowings
and Extension of Period of
Authorization**

November 14, 1979.

Notice is hereby given that Louisiana Power & Light Company ("Louisiana"), 142 Delaronde Street, New Orleans, Louisiana a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company, has filed with this Commission a second and third post-effective amendment to the declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated December 15, 1978, January 5, 1979 and July 10, 1979, (HCAR Nos. 20832, 20873, and 21141, respectively), Louisiana was authorized to issue and sell, from time to time until December 31, 1979, notes to banks and commercial paper to a dealer in an aggregate principal amount of all such borrowings at any one time outstanding not exceeding \$130,000,000, the presently effective loan commitments from such banks terminating on December 31, 1979, with loans thereunder maturing not later than December 31, 1979, and proposing further that no bank loans under any extensions or renewals of such loan commitments and no sales of Louisiana's commercial paper would be made after June 30, 1980 or having maturity date after June 30, 1980 without further authorization from this Commission on the basis of a further filing by Louisiana. As of October 19, 1979, the aggregate principal amount of short-term borrowings by means of bank loans and the sale of its commercial paper which Louisiana has outstanding, as authorized by this proceeding, is \$73,337,500.

Louisiana now proposes that the aggregate principal amount of all such borrowings that it is permitted to have outstanding at any one time be increased to \$150,000,000 and that the time through which such borrowings may be made and may mature be extended through December 31, 1980; and in such connection it has obtained increases in the present effective loan commitments from some or all of the participating banks, whereby the respective maximum amounts which the banks participating in the bank loans

have committed themselves to lend through December 31, 1980 are as follows:

Name of bank	Maximum amount
The Chase Manhattan Bank (National Association), New York, N.Y.	\$59,000,000
Irving Trust Company, New York, N.Y.	15,000,000
Manufacturers Hanover Trust Company, New York, N.Y.	10,000,000
Whitney National Bank of New Orleans, New Orleans, La.	8,000,000
First National Bank of Louisville, Louisville, Kentucky	8,000,000
First National Bank of Commerce, New Orleans, La.	8,000,000
Bank of Virginia, Richmond, Va.	5,000,000
Hibernia National Bank, New Orleans, La.	5,000,000
Security Pacific National Bank, Los Angeles, Ca.	5,000,000
National American Bank of New Orleans, New Orleans, La.	2,800,000
Jefferson Bank & Trust Company, Metairie, La.	1,000,000
The National Bank of Commerce in Jefferson Parish, New Orleans, La.	750,000
First State Bank & Trust Company, Bogalusa, La.	640,000
The Bank of New Orleans and Trust Company, New Orleans, La.	500,000
Central Bank, Monroe, La.	500,000
First National Bank of West Monroe, West Monroe, La.	500,000
First National Bank of Jefferson Parish, Gretna, La.	400,000
Bastrop National Bank, Bastrop, La.	250,000
Assumption Bank and Trust Company, Napoleonville, La.	240,000
American Bank & Trust Company in Monroe, Monroe, La.	100,000
Bank of Louisiana in New Orleans, New Orleans, La.	100,000
Guaranty Bank & Trust Company, Gretna, La.	100,000
Metairie Bank & Trust Co., Metairie, La.	100,000
Terrebonne Bank & Trust Company, Houma, La.	100,000
Ouachita National Bank, Monroe, La.	100,000
Bank of the South, Gretna, La.	100,000
First Guaranty Bank, Hammond, La.	75,000
Franklin State Bank & Trust Company, Winnboro, La.	50,000
Winnboro State Bank & Trust Company, Winnboro, La.	50,000
Bank of Morehouse, Bastrop, La.	25,000
Citizens Bank & Trust Company, Thibodaux, La.	20,000
Total amount	129,500,000

All of the commitments will terminate on December 31, 1980, with all loans maturing thereunder not later than December 30, 1980. The interest rate charged by the Louisiana banks will be the prime rate in effect from time to time at The Chase Manhattan Bank (N.A.), presently 15-1/4%. Louisiana maintains accounts with such banks and at July 31, 1979 the balances in such accounts aggregated \$3,478,331. Although the balances in some of these Louisiana accounts may be deemed to be compensating balances, most of the accounts with the lending Louisiana banks are working accounts and fluctuations in their balances do not reflect or depend upon fluctuations in the respective amounts of such bank loans outstanding. The minimum balances customarily maintained in such Louisiana bank accounts aggregate \$1,473,500. If minimum balances of 10% or 20% are required, the respective rates

of interest would be 16.94% or 19.06%, respectively, using a prime rate of 15-1/4%. The interest rate charged by each non-Louisiana bank will be its prime rate in effect from time to time. Each of the non-Louisiana lending banks will require a compensating balance with respect to the amount of its loan commitment and/or a compensating balance with respect to the amount of its loans to Louisiana outstanding, but in no case will such compensating balance or the total of such compensating balances exceed 20%. Assuming a 15-1/4% prime rate and a 20% compensating balance, the effective interest cost on loans from the non-Louisiana banks would be 19.06%. All of the other statements previously set forth in the amended declaration in this proceeding with respect to the Louisiana banks and loans to be made therefrom and the non-Louisiana banks and the loans to be made therefrom, and with respect to the borrowings to be made by the sale of commercial paper notes, are expected to remain unchanged.

Louisiana's construction program contemplates expenditures of approximately \$285,000,000 in 1980. Louisiana estimates that it will require approximately \$244,000,000 of additional funds from external sources in order to finance the balance of this 1980 construction program.

It is stated that no special or separate expenses are anticipated in connection with the proposed transactions and that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

NOTICE IS FURTHER GIVEN that any interested person may, not later than December 10, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from

such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-35709 Filed 11-19-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16338; File No. SR-SCCP-79-14]

Stock Clearing Corp. of Philadelphia; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadelphia (SCCP) proposes an amendment to Rule 23, Compensation, which deals with charges for services rendered. The proposed Rule change raises the fee for the member-to-member envelope service from \$2.00 per envelope to \$5.00 per envelope. The text of the Rule is as follows (deleted material in brackets, new material italicized):

Rule 23. For the services rendered to clearing members as herein provided, such clearing member shall pay compensation to Stock Clearing Corporation and PHILADEP as follows:

(Sections 1 through 6 remain unchanged.) 7. Miscellaneous Services. Member-to-member envelope service (plus carrier costs) for sender per envelope [\$2.00] *5.00*. (The remaining portion of Section 7 is unchanged.)

Basis and Purpose of Proposed Rule Change

The purpose of the proposed Rule change is to make a service provided to members more cost-related.

The proposed Rule change provides equitable allocation of reasonable dues, fees and other charges among participating members in accordance with the standards set forth in section 17A(b)(3)(D) of the Act.

No formal comments have been solicited or received regarding the proposed Rule change.

No burden on competition will be imposed by the proposed Rule change. The proposed rate schedule does not discriminate between marketplaces nor does it inhibit clearing interfaces.

The foregoing Rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed Rule change, the Commission may summarily abrogate such Rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 10, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

November 13, 1979.

[FR Doc. 79-35714 Filed 11-19-79; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

National Bank Participation in the Financial Futures and Forward Placement Markets

AGENCY: Comptroller of the Currency.

ACTION: Announcement of Issuance of Banking Circular and Request for Comments.

SUMMARY: This circular considers policies and procedures that should be initiated by national banks that engage in financial futures contracts, forward placement contracts or standby

contracts in their commercial banking activities.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Scott W. Ryan or Owen Carney, Investment Securities Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1901.

ADDRESS: Comments should be sent to the above contacts prior to December 15, 1979.

SUPPLEMENTAL INFORMATION: Banking Circular 79 (Revised) is effective January 1, 1980, and supercedes Banking Circular 79 dated November 2, 1978, and Banking Circular 79, Supplement 1 dated August 1, 1977 which are withdrawn.

This circular is being issued as part of a uniform policy of the Federal Reserve, FDIC, and Comptroller of the Currency regarding the use of financial futures and forward placement contracts by banks. It modifies the previous circulars in the following ways:

1. It does not require each futures or forward contract to specifically correspond to an appropriate cash position.

2. It formalizes the requirement to mark each futures and forward position to market at least monthly, and to record all acquired securities at the lower of cost or market price at settlement.

3. It allows bank to issue standby contracts specifying delivery in less than 150 days.

4. Prior approval by the Comptroller of the Currency for national banks to engage in futures and forwards is no longer required. However, they are required to submit a copy of the specific written policies approved by the Board of Directors, the established contract limitations, blank internal recordkeeping forms, and detailed descriptions of established internal controls to the Regional Administrator of National Banks for their region.

The Comptroller's office intends to monitor closely national bank transactions in futures, forwards, and standby contracts to ensure that any such activity is conducted in accordance with safe and sound banking practice.

This circular is being published in the Federal Register to ensure that all national banks and other members of the public are informed of the revised Banking Circular and to solicit comments prior to December 15, 1979.

Issuance of Banking Circular

The text of Banking Circular 79 is set forth below:

* * * * *

This circular is effective January 1, 1980, and supercedes Banking Circular 79 dated November 2, 1978, and Banking Circular 79,

Supplement 1 dated August 1, 1977, which are withdrawn.

This circular considers policies and procedures that should be initiated by national banks that engage in financial futures contracts, forward placement contracts or standby contracts in their commercial banking activities. We view these contracts as neither inherently prudent nor imprudent. Evidence has shown that they can be used effectively to reduce interest rate risk, but that they also can be used through speculation to increase interest rate risk. Any use of these contracts by national banks should be in accordance with safe and sound banking practices and with levels of activity reasonably related to the bank's business needs and capacity to fulfill its obligations under the contracts.

Definitions

Financial Futures Contracts. These contracts are interest rate futures, which under Section 2 of the Commodities Exchange Act, as amended, 7 U.S.C. § 2, are commodities contracts traded on and guaranteed by a national exchange registered with and regulated by the Commodities Futures Trading Commission (CFTC). These contracts represent a commitment to purchase (to take delivery by the "long") or to sell (to make delivery by the "short") a standardized amount of the deliverable grade security at a specified price during a specified delivery month in accordance with the exchange rules regarding delivery procedures.

Forward Placement Contracts. These contracts are over-the-counter contracts for delayed delivery of securities in which the buyer (long) agrees to purchase and the seller (short) agrees to make a delivery of a specified security at a specified price for future delivery. Cash market transactions other than "when issued" transactions, specifying delivery (settlement) in excess of thirty (30) days following the trade date shall be deemed to be forward contracts. Forward contracts are not traded on organized exchanges, the terms are not standardized, and the contracts can only be terminated by agreement of both parties to the transaction.

Standby Contracts. These are optional delivery forward placement contracts. The buyer of a standby contract (put option) pays a fee for the right or option to sell (deliver) an agreed upon amount of specified securities to the issuer of the standby contract at a specified price at a specified future date.

Guidelines

These contracts are not considered investment securities within the meaning of 12 USC 24(7). However, with the distinctions described below for investment or non-dealer operations, asset-liability management, and dealer-bank trading activities, the use of these contracts is considered to be an activity incidental to banking. The following are minimal guidelines to be followed by national banks that engage in these markets.

1. Distinctions:

a. For *Investment portfolio* or *non-dealer operations* in fixed rate assets, banks should evaluate the interest rate risk exposure resulting from their overall investment

activities to insure that the positions they take in futures, forwards and standby contracts markets will reduce their risk exposure. Short positions in futures and forwards contracts should reasonably relate to existing or anticipated cash positions, and should be used to enhance liquidity of the portfolio. Rather than using short hedges against portfolio holdings for purposes of income generation, we would expect, where practicable, that contract gains would be used to offset losses resulting from the sale of portfolio securities as asset yields are upgraded. Long positions in futures and forwards should reasonably reflect the bank's investment strategy and ability to fulfill its commitments.

b. *Asset-liability management* involves the matching of fixed rate and interest-sensitive assets and liabilities in order to maintain liquidity and profit-ability. Futures and forwards contracts may be used as a general hedge against the interest rate exposure associated with undesired mismatches in interest-sensitive assets and liabilities. Long positions in contracts could be used as a hedge against funding interest-sensitive assets with fixed-rate sources of funds; short positions in contracts could be used as a hedge against funding fixed-rate assets with interest-sensitive liabilities.

c. *Dealer-bank trading activities* that employ futures, forwards and standby contracts should be in accordance with safe and sound banking practices reasonably related to the bank's legally permitted trading activities.

2. The Board of Directors should consider any plan to engage in these activities and should endorse *specific written policies* in authorizing these activities. Policy objectives must be specific enough to outline permissible contract strategies and their relationships to other banking activities. Recordkeeping systems must be sufficiently detailed to permit internal auditors and examiners to determine whether operating personnel have acted in accordance with authorized objectives. Bank personnel are expected to be able to describe and document in detail how the positions they have taken in futures, forwards and standby contracts contribute to attaining the bank's stated objectives.

3. The Board of Directors should establish limitations applicable to futures, forwards and standby contract positions for each distinct category described in item 1 above, and should review contract positions periodically (at least monthly) to ascertain conformance with such limits.

4. The bank should maintain general ledger memorandum accounts or commitment registers to adequately identify and control all commitments to make or take delivery of securities. Such registers and supporting journals should, at a minimum, include:

a. The type and amount of each contract;
b. The maturity date of each contract;
c. The current market price and cost of each contract; and
d. The amount of money held in margin accounts.

5. All open positions should be reviewed and market values determined at least monthly (or more often, depending on volume

and magnitude of positions) regardless of whether the bank is required to deposit margin in connection with a given contract. Underlying security commitments relating to open futures and forwards contracts should not be reported on the balance sheet. Margin deposits and any unrealized losses (and, in certain instances, as noted below, unrealized gains) are usually the only entries to be recorded on the books. All futures contracts should be marked to market at least monthly. Any loss related to open forwards and standby contracts should be recognized on the basis of the lower of cost or market value of the underlying security as determined at month-end. However, losses on standby contracts need be computed only by the issuer (the party committed to purchase under the contract) and only where the market value of the security is below the contract price, reduced by the amount of the deferred account described in item 7 below. Should margin on forwards contracts be required, and assuming the margin accounts would work in the same manner as financial futures exchange margins, bank forwards contracts should be carried at market to reflect the margin transactions. Open forwards contracts maintained in trading accounts may be carried at market at the option of the bank.

6. Completed futures, forwards or standby contracts giving rise to acquisition of securities will require such security transactions to be recorded on the basis of the lower of contract price or market price on settlement date. If the market value of the securities is lower than the contract price, the difference should be recorded as an immediate charge against income.

7. Fee income received by a bank in connection with the issuance of a standby contract should be deferred at initiation of the contract and accounted for as follows:

a. Upon expiration of an unexercised contract, the deferred amount should be reported as income;
b. Upon a negotiated settlement of the contract prior to maturity, the deferred amount should be accounted for as an adjustment to the expense of such settlement, and the net should be transferred to the income account; or
c. Upon exercise of the contract, the deferred amount should be accounted for as an adjustment to the basis of the acquired securities. Such adjusted cost basis should be compared to market value of securities acquired. See item 6.

8. Bank financial reports should disclose in an explanatory note any futures, forwards and standby contract activity that materially affects the bank's financial condition.

9. To insure that banks minimize credit risk associated with forwards and standby contract activity, banks should implement a system for monitoring credit risk exposure associated with various customers and dealers with whom operating personnel are authorized to transact business.

10. Banks should establish other internal controls, including periodic reports to management and internal audit programs, to assure adherence to bank policy and to prevent unauthorized trading and other abuses.

The issuance of long-term standby contracts, i.e., those for 150 days or more, which give the other party to the contract the option to deliver securities to the bank will ordinarily be viewed as inappropriate. In almost all instances where standby contracts specified settlement in excess of 150 days, regulatory authorities have found that such contracts were related not to the investment or business needs of the institution, but primarily to the earning of fee income or to speculating on future interest rate movements. Accordingly, national banks should not issue standby contracts specifying delivery in excess of 150 days, unless special circumstances warrant.

National banks engaging in the futures, forwards and standby contracts markets must submit a copy of the specific written policies approved by the Board of Directors (see item 2 above), the established contract limitations (see item 3 above), blank internal recordkeeping forms (see item 4 above), and detailed descriptions of established internal controls (see item 10 above), to the Regional Administrator of National Banks for their region. We intend to monitor closely national bank transactions in futures, forwards and standby contracts to ensure that any such activity is conducted in accordance with safe and sound banking practices.

Dated: November 15, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-35626 Filed 11-19-79; 8:45 am]

BILLING CODE 4810-33-M

VETERANS ADMINISTRATION

120-Bed Nursing Home Care Unit, Veterans Administration Medical Center, Wilkes-Barre, Pa.; Finding of No Significant Impact

The Veterans Administration has assessed the potential environment impact associated with the development of the 120-Bed Nursing Home Care Unit at the Veterans Administration Medical Center, Wilkes-Barre, Pennsylvania.

The project proposes to construct approximately 55,000 gross square feet of space to house a 120-bed nursing home care unit. The identified site is on the existing Veterans Administration property and connected to building No. 1.

Development of the project will have minimal impacts on the human and physical environment. There will be temporary noise, dust, fumes and visual impact during construction.

Mitigation of the project impacts include: Soil erosion and sedimentation control, noise abatement measures, and control of dust and fumes; and will be accomplished through construction specifications and the implementation of various engineering techniques.

The Environmental Assessment has been performed in accordance with the

requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Stitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: November 13, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-35703 Filed 11-19-79; 8:45 am]

BILLING CODE 4320-01-M

Policies and Procedures; School Liability

AGENCY: Veterans Administration.

ACTION: Final Notice.

SUMMARY: The Veterans Administration is publishing new and revised statements of policy and procedures which the Agency has adopted for use in determining whether an educational institution may be held liable for an overpayment of educational assistance made to a veteran or eligible person. These policy and procedural statements will better acquaint veterans, eligible persons, educational institutions and the public at large with the way in which decisions will be reached in this area.

EFFECTIVE DATE: March 8, 1979.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: This publication contains DVB Circular 22-79-6, and Appendixes A through E of that circular. The circular and its appendixes deal with the policy and procedures for use in considering whether an educational institution may be held liable for an overpayment of educational assistance made to a veteran or eligible person. This circular and appendixes have been distributed

through normal channels to interested persons.

The circular is based on § 21.4009, Title 38, Code of Federal Regulations and the recommended procedure in school liability cases which was published on pages 2835 through 2837 of the Federal Register of January 18, 1978. The public was given 30 days in which to comment on the recommended procedure. Thirty-one persons submitted comments.

Seventeen persons commented to the effect that either the Committees on School Liability or the School Liability Appeals Board would be unduly biased in favor of the Veterans Administration. However, in writing the circular it was decided to retain the procedure for determining the composition of both the committees and the Board. The circular allows a school to challenge members of a Committee on School Liability whom it thinks would be biased; provides for persons to be on the committee who may be unfamiliar with the education procedures of the Veterans Administration; and prohibits persons with conflicts of interests from serving either on the committee or on the School Liability Appeals Board. This should eliminate bias on these bodies.

Four persons commenting thought the chairperson of the hearing panel was given too much opportunity to bias the hearing through the power to determine what evidence is admissible and the power to restrict the number of witnesses. They made many suggestions designed to overcome this perceived bias. These included various suggestions on admitting evidence and calling witnesses. The circular, however, retains the pertinent rules from the recommended procedure.

Generally, formal rules of evidence are not imposed in an administrative proceeding. The Veterans Administration believes that like other administrative proceedings, those contained in this circular are of such a nature that it would not be appropriate to impose formal rules of evidence. Furthermore, since the rules that are in the circular apply equally to both parties, no inherent danger exists that the application of the rules will be prejudicial to either the Government or the school.

Four persons suggested that the Veterans Administration be given time limits within which to complete the actions required of it. While there is some merit in this suggestion, the Veterans Administration believes that the persons making the decisions should have as much time as is necessary to make sure that the decisions are proper.

One person objected to the entire recommended procedure, because he interprets section 1785, title 38, United States Code as requiring a Federal court to conduct a *de novo* review before a school can be held liable for an overpayment. This section allows for collection of debts "in the same manner as any other debt due the United States." Furthermore, section 1784 provides that no reporting fee payable to an educational institution can be offset against any liability for which the institution may be administratively determined to be liable under section 1785 unless the liability is not contested by the institution or is upheld by a final decree of a court of appropriate jurisdiction. Clearly, the Congress has allowed for administrative determinations of liability such as this circular provides for.

Two people objected to the fact that negligence was not defined in the recommended procedure. This is a valid objection. A discussion of negligence is included in Appendix C to the circular.

Another person called for a definition of "evidence of record." Inasmuch as all evidence presented at a hearing is made part of the record, the meaning of this term is self-evident. It does not need to be defined in the circular.

Two persons thought that the appeal procedure was designed so as to deliberately discourage its use. This is not the case. Every effort is made in the circular to provide a system which is responsive to the needs of the schools and to provide an adequate review on appeal of cases which have been properly developed.

One person suggested that the prehearing conference be presided over by an Administrative Law Judge. The Veterans Administration is exempt from the Administrative Procedure Act, and so is not required to use an Administrative Law Judge. The informal prehearing conference as set forth in the circular should be best for all parties concerned.

One person proposed allowing the school a number of peremptory challenges to hearing panel members. The Veterans Administration believes that by allowing the school an unlimited number of challenges to panel members on the basis of their qualifications, there is no need for peremptory challenges.

One person suggested that the Veterans Administration set forth which remedial action the adjudication officer be permitted to request a school to take when no liability is assessed, and what penalty the school would incur by not following the recommendation. These remedial actions may vary from school to school. Therefore, this portion of the

recommended procedure has been removed from the circular. The Veterans Administration may tell a school if defects are found in the school's reporting system, but it may not tell a school what remedial action the school should take.

Two people objected to the rule that allows a recorded report of the hearing to be made. They claimed that this method was too unreliable. The Veterans Administration believes that a recorded report of the hearing will be sufficiently accurate for the purpose of making a transcript. However, in response to this objection the circular provides that a tape must be preserved until both the Veterans Administration and the school are satisfied that the transcript is accurate.

One person suggested that the Veterans Administration allow a school access to all of a veteran's records, if it is considering holding a school liable for an overpayment. A veteran's records are generally confidential under section 3301, title 38, United States Code and the Privacy Act of 1974. These records could include details of the veteran's disabilities, marital history, etc., which should not be revealed to a school. Nevertheless, section 552, title 5, United States Code permits a limited disclosure of information which is immediately related to a determination of liability. For example, specific items of information such as amounts of benefit payments must be disclosed. Each case will differ with respect to the amount necessary for a school to prepare a defense. Procedures exist both in the circular and independent of it which will allow disclosure of pertinent information necessary to a school.

Two persons commented that the entire procedure is too expensive. While both sides may incur expenses in this process, the Veterans Administration is obliged by statute to pursue overpayment, and the opportunity for hearing and appeal is a legally imposed procedure. It should be noted that schools are not required to pursue the procedure. If they are willing to satisfy the debt, minimal expense will be created.

This circular has been implemented and has been distributed through normal channels to interested persons.

Approved: November 14, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[DVB Circular 22-79-6]

Department of Veterans Benefits,
Veterans Administration,
Washington, D.C.
March 8, 1979.

School Liability

1. *General.* This circular provides revised and consolidated procedures for school liability cases. It also serves to lift the moratorium on the processing of school liability cases imposed on April 14, 1977. In this circular, the terms "Adjudication Officer," "Veterans Services Officer," "District Counsel," and "Chief, Finance Activity," refer to VA field station officials and to the designees of such officials unless otherwise indicated; the term "school" means an "educational institution" as defined in 38 U.S.C. 1652(c) or a "training establishment" as defined in 38 U.S.C. 1652(e).

2. *Background.* a. Schools are required to report, without delay, the enrollment, interruption and termination of attendance for each veteran or eligible person enrolled under chapter 32, 34, 35, or 38 (38 U.S.C. 1784 and 1641). Appendix A of this circular describes school reporting requirements.

b. A school may be held liable for an overpayment to a veteran or eligible person if the overpayment was made as a result of (1) willful or negligent failure of the school to report excessive absences from a course, or discontinuance or interruption; or (2) false certification (38 U.S.C. 1785). Appendix B of this circular describes the extent of potential school liability for individual overpayments, and Appendix C provides guidelines that the VA will use in making overall determinations of school liability.

c. School liability may be recovered in the same manner as any other debt due the United States. However, any amount collected from a school shall be reimbursed if the overpayment is subsequently recovered from the veteran or eligible person (38 U.S.C. 1785). The VA may not withhold the annual school reporting fee unless liability is not contested or has been upheld by a final decree of a court of appropriate jurisdiction (38 U.S.C. 1784).

3. *Overview of New Procedures.* a. The new school liability procedures may be summarized as follows:

(1) *Identification of Potential School Liability Cases.* The Adjudication Officer will accumulate notices of school reporting errors referred by adjudicators or education clerks. (Par. 4)

(2) *Determination of Potential Liability.* The Adjudication Officer will periodically review the reporting errors for each school and make a determination as to potential liability; if potential liability is found, the record will be referred to the Chief, Finance Activity. (Par. 5)

(3) *Notice to School and VA Response.* The Chief, Finance Activity, will compute the amount of potential liability and notify the school of its rights under the new procedures. (Par. 6)

(4) *Committee on School Liability.* A panel of three from a newly created station Committee on School Liability will decide the case. The school may challenge the qualifications of proposed panel members. (Par. 7)

(5) *Role of District Counsel.* The District Counsel will present the VA case at the hearing and will be present at any prehearing conference; if no hearing is requested, this attorney will present the VA case directly to the panel. (Par. 8)

(6) *Prehearing Conference.* If a hearing is requested, a prehearing conference will be held unless specifically waived by the school. (Par. 9)

(7) *Hearing.* All hearings will be held under new hearing rules. (Par. 10)

(8) *Committee Panel Decision and Notice to School.* The Committee Panel will make its decision based on the evidence of record including the hearing transcript if a hearing was held. Entire veterans' claims folders will not normally be reviewed. (Par. 11)

(9) *Appellate Procedures.* A school may appeal an adverse decision to the School Liability Appeals Board in Washington. (Par. 12)

(10) *Disposition of Pending Cases.* Liability cases pending at the time of the moratorium must go through the new procedures. Final decisions issued prior to the moratorium are reviewable under certain conditions upon school request if such request is received within 30 days of the first demand letter issued after the moratorium is lifted. (Par. 13)

b. Appendixes to the basic circular provide additional information on special topics:

Appendix A—School Reporting Requirements

Appendix B—Extent of Potential School Liability for Individual Overpayments

Appendix C—Guidelines for School Liability Decisions

Appendix D—School Liability Procedures for the Finance Activity

Appendix E—Forms and Form Letters

4. *Identification of Potential School Liability Cases.* a. *General.*—When an overpayment is created, the adjudicator or education clerk will determine if all or part of the overpayment resulted from a late report or a false certification. See Appendix A for school reporting requirements.

b. *Potential School Liability.*—The adjudicator or education clerk will complete VA Form 22-8804a, Notice of School Reporting Error, whenever all or part of an overpayment resulted from a

late report or false certification. (See sample of this form in Appendix E.) The original of VA Form 22-8804a will be referred to the Adjudication Officer and a copy will be filed on the left flap of the claims folder.

c. *No Potential Liability.*—The authorization action will be annotated "No Liability" and will be dated and initialed by the person preparing the action.

d. *Compliance Survey.*—If reporting errors are initially identified by compliance survey, it will not be necessary to complete VA Forms 22-8804a on the cases identified in the survey report.

5. *Determination of Potential Liability.* a. *Review Procedures.*—(1) *Recordkeeping.*—The Adjudication Officer will maintain a file of the reporting errors noted for each school. This file will include all VA Forms 22-123 referred under the new procedure as well as form letters 22-8804a referred under the prior procedure. The file will also include other pertinent data about the school such as the size of the veteran enrollment and recent compliance survey reports.

(2) *Monthly Review.*—The Adjudication Officer will make a monthly review of the reporting file for each school. The review period will generally extend back one year from the month the review is made. However, a period longer than one year may be reviewed if deemed appropriate. This would be particularly true for the initial review made for cases pending at the time the moratorium was imposed.

(3) *Retention of VA Form 22-8804a.*—VA Form 22-8804a (and the prior FL 22-123) should generally be retained for a one-year period for review purposes. At the end of one year if there is no indication of potential school liability, the year-old notices will be annotated "AO—Review—No Liability" and referred to the claims folder for drop filing.

Note.—The completed FL's 22-123 accumulated prior to and during the moratorium period which are now over one year old may be disposed of after the first monthly review is made if potential liability is not assessed. (FL 22-123 has been discontinued.)

b. *Reporting Problem.*—Whenever a significant reporting problem appears to exist from the monthly review (or from a compliance survey report), the review will be extended to consider all known facts about the school which might have a bearing on school liability. (See Appendix C) In this connection, a review of COIN EDU 174, Report of VA Education Overpayments by Facility Code, may be useful. If circumstances

warrant, a special compliance survey, liaison visit, or field investigation may be requested by the Adjudication Officer to obtain additional information. The District Counsel will always be consulted if there is likelihood of fraud.

c. *No Liability.*—If liability is not assessed, the Adjudication Officer will advise the Veterans Services Officer, where appropriate, of the defects found in the school's reporting system. The Veterans Services Officer will advise the school.

d. *Liability Assessed.*—If the Adjudication Officer determines that the evidence warrants a finding of potential school liability, a memorandum of such determination will be prepared. (The District Counsel will be consulted before any finding of potential liability is made. The final determination of potential liability shall be made by the Adjudication Officer.) Authority to sign this memorandum may not be delegated. Any supporting documents (e.g., compliance survey reports, error analyses, etc.) will be attached to the memorandum as will a VA Form 22-8804, Report of Potential School Liability, completed for each case in which the Adjudication Officer believes there is potential school liability. The memorandum and attachments will then be forwarded to the Chief, Finance Activity, with the claims folders.

Note.—If it appears that fraud is involved, no administrative collection will be pursued, pending a determination by the District Counsel, and the Department of Justice, if applicable. The Chief, Finance Activity, will be advised if fraud is indicated.

e. *Preparation of VA Form 22-8804.*—(1) *General.*—VA Form 22-8804 will be used to determine the period of potential liability in individual veteran cases. The form is designed to accommodate multiple periods of liability in the same case and to provide the Finance activity with sufficient information to compute the amount of school liability. See Appendix E for a completed sample of this form. (In correspondence or flight school cases the form will not be used; instead, the required data will be referred to the Finance activity by memorandum.)

(2) *Need for Accuracy.*—It is essential that VA Form 22-8804 be completed accurately. It is anticipated that all forms for a particular school will be completed on a "project" basis and only be education clerks or adjudicators, who have had special training in school liability procedures, especially Appendixes A and B of this circular.

(3) *Procedures.*—The key issue in completing the form is the period of potential school liability (item 5F). This

period will usually be shorter than the period covered by the total overpayment. (See Appendix B for detailed instructions and examples.) Instructions for other specific items may be found on the reverse side of the form. The following general instructions for using this form will apply:

(a) VA Form 22-8804 will always be prepared with the claims folder. (Do not temporarily transfer—in folders from other stations for this purpose unless there are exceptional circumstances.)

(b) VA Form 22-8804 should not be completed in cases in which the overpayment for the liability period has already been recovered.

(c) The original of VA Form 22-8804 will be forwarded to the Finance Activity. (See subparagraph d above.)

(d) A copy will be initialed by the preparer and filed in the claims folder of the left flap.

(e) Once a school has been notified of its potential liability, no additional VA Forms 22-8804 may be referred for that school unless they are treated as a separate group of errors, in which case the notice procedure of par. 8 will apply.

6. *Notice to School and VA Response.* a. *Initial Action.*—The Chief, Finance Activity, will review the record to determine the amount of liability. Any VA Form 22-8804 found to be inadequate will be returned to the Adjudication Officer for correction. VA Form 4-5295, Institutional Liability Computation Sheet, will be prepared for each case. Appendix D provides detailed Finance instructions for completing the computation sheet.

b. *Form Letter 4-334—Notice of Intent to Hold Institution Liable.*—When the record is considered adequate, and no fraud is indicated, the Chief, Finance Activity, will forward FL 4-334 and attachments to the school by certified mail, return receipt requested. (The District Counsel will be furnished a copy of this package.) The letter (FL 4-334) will notify the school of the intention to hold the school liable. The attachments (VA Form 4-5237, VA Form 22-8804, and VA Form 4-5295) will identify the students overpaid and will set out in each student's case the actions or omissions by the school which resulted in school liability being assessed under 38 U.S.C. 1795. (See Appendix E for samples of these forms and form letters.) Applicable Federal statutes and regulations will be cited by statute and regulation number. Form letter 4-334 will include the following information about the new school liability procedures:

(1) The school will have the option of a hearing or submission of evidence

directly to the Committee on School Liability without a prior hearing.

(2) If the school wishes to exercise its hearing option, a prehearing conference will be scheduled, unless the school specifically waives the prehearing conference.

(3) The purpose of the prehearing conference is to give the school and its legal representatives, if any, an opportunity to review and discuss the record upon which the assessment of liability was based; to discover and consider persons whom they wish to call as witnesses at the hearing; and to set a mutually convenient date for the hearing. The list of such witnesses must be furnished to the VA at the prehearing. The VA likewise will submit to the school a list of witnesses it will call.

(4) If the school wishes a hearing with no prehearing conference, the school will be requested to submit a list of proposed witnesses for the hearing as well as any documentary evidence.

(5) The school will be advised that the final decision will be made on the evidence of record, if additional evidence or a hearing request is not received within 30 days of the date of receipt of FL 4-334. The school will be requested to reply to the Chief, Finance Activity, by certified mail.

c. *Action Upon School Response.*—The Chief, Finance Activity, will notify the officials indicated below who will take the required actions:

(1) *School Requests Hearing and Prehearing Conference.*—The Chairperson of the Committee on School Liability will select the hearing panel members. (See par. 7.) The Adjudication Officer will arrange for the prehearing conference. (See par. 9.) The District Counsel will be present at the prehearing conference. (See par. 8.)

(2) *School Waives Prehearing Conference and Requests Hearing Only.*—The Chairperson of the Committee on School Liability will select the hearing panel members. (See par. 7.) The Adjudication Officer, after consultation with the District Counsel, will notify the school of the time and place of the hearing. This notice will include a list of any VA hearing witnesses and a list of the three proposed hearing panel members (and two alternates) with a brief statement of the qualifications of each and of the right to challenge. (See par. 7.) The District Counsel will present management's case at the hearing. (See par. 8.)

(3) *School Submits Evidence but Waives Both Hearing and Prehearing Conference.*—The Chairperson of the Committee on School Liability will

select a panel of three to decide the case. (See par. 7.) The District Counsel will present management's case to the panel. (See par. 8.)

(4) *School Does Not Reply to FL 4-334.*—If the school does not reply within 30 days, follow the procedure in subparagraph (3) above.

7. *Committee on School Liability.* a. *General.*—A standing Committee on School Liability will be established at each Regional Office and a three-member panel from this Committee will make the decision as to liability.

b. *Committee Composition.*—The Committee on School Liability will be composed of a chairperson who must have knowledge of education claims procedures and such number of committee members as shall be necessary. The chairperson and the committee members shall be designated by the Director of the regional office and shall serve at the discretion of the Director. Neither the chairperson nor any committee member shall be below a GS-9 grade level. There shall be a sufficient number of persons with backgrounds in the adjudication of education claims to meet the requirements for panel composition as stated below.

c. *Panel Composition.*—(1) The Committee chairperson shall designate a panel of three members, one of whom shall be designated chairperson, to decide cases of school liability. The chairperson of the panel shall conduct any hearing if a hearing is held. (When feasible, this person will have had legal training.) At least two panel members shall have knowledge of education procedures and at least one of these two members must be from the Adjudication Division. The third panel member must be from outside the Adjudication Division. (Two alternate panel members will also be designated for each case.)

(2) No person will serve on a panel who is from the Finance activity, District Counsel or who was involved in the investigation or decision-making regarding the determination of potential liability. However, this will not prohibit adjudicators who may have prepared VA Forms 22-8804, 22-8804a (or the prior FL 22-123) from serving on the panel.

d. *Challenges to the Hearing Panel.*—The school will be furnished the names and a brief resume of the qualifications of each designated panel member. This will be done at the prehearing conference or by mail if there is no prehearing conference. The school will be advised that it has the right to challenge for good cause the qualifications of any panel member; that any challenge must be submitted in

writing and received by the regional office Director before the hearing date; and that the challenge and the Director's disposition thereof will be made a part of the record.

8. Role of District Counsel. a.

General.—The District Counsel will present the Agency's case at the hearing if a hearing is held. If a hearing is not held, the District Counsel will either prepare a written submission or orally present the evidence for the Committee Panel to consider. The District Counsel will also be present at any prehearing conference and will assist with framing the issues to be heard at the hearing.

b. Preparation of Exhibits.—The Adjudication Officer will assist the District Counsel in preparing exhibits for the hearing or, if no hearing, for the Committee Panel to consider directly. The exhibits should include:

(1) Copies of pertinent school reports (front and back where necessary) from VA claims folders. (The originals of these reports will be retained in the claims folders.)

(2) FL 4-334 and VA Form 4-5237.

(3) The VA Forms 22-8804 and 4-5295 for individual cases.

(4) Any other pertinent documents.

Note.—Entire claims folders will not normally be reviewed by the Committee Panel nor by the School Liability Appeals Board. Therefore, the exhibits must be prepared carefully and thoroughly.

9. Prehearing Conference. When a hearing is requested, a prehearing conference will be conducted at the regional office unless the prehearing is specifically waived by the school.

a. Notice to School and District Counsel.—The Adjudication Officer will notify the school by certified letter, return receipt requested, of the date, time, and place, of such conference. The District Counsel will be notified at least one week prior to the prehearing date.

b. General Procedures. (1) The Adjudication Officer will designate one person who has knowledge of educational procedures to meet with the school representative and the District Counsel to review and discuss the record upon which potential liability is based. The Adjudication representative shall not participate in any later Committee Panel decision. However, this person shall have authority, at this stage of the proceedings to recommend modifying or rescinding the initial determination, subject to the Adjudication Officer's approval. The Chief, Finance Activity, must be advised of any change in the initial determination.

(2) In reviewing and discussing the record, the school representative will be

given the opportunity to review those documents upon which the finding of potential liability was based. Entire veteran claims folders will not be reviewed by the school representative.

(3) The school will be advised of its right to challenge panel members as described in paragraph 7d. The list of panel members and their qualifications will be obtained from the Committee Chairperson prior to the prehearing.

c. Conclusion of Prehearing Conference.—Every effort will be made to reach agreement at the prehearing on factual points such as the date reports were received so that the hearing which follows can concentrate on the more basic issues of disagreement. At the conclusion of the prehearing conference, a brief memorandum of understanding will be prepared by the Adjudication representative listing the basic unresolved issues; witnesses to be called; hearing date, and any other pertinent data. This memorandum should be signed by the District Counsel and the school representative and should become a part of the record.

10. Hearing. The hearing shall be conducted in accordance with the rules discussed below:

a. Attendance of Witnesses.—Each party shall be responsible for the appearance of witnesses, production of records, and the costs in connection therewith, necessary for the hearing. VA employees called as witnesses shall be required to appear in accordance with existing regulations.

b. Hearing Rules.—**Rule 1**—The chairperson of the panel shall be in charge and responsible for conducting the hearing including administration of oaths or affirmations, which shall be required of all witnesses, and decisions as to admissibility of evidence.

Rule 2—The District Counsel will serve as the VA management representative and shall present the Government's case.

Rule 3—Rules of evidence applicable in judicial proceedings will not apply. Any written or oral testimony deemed to be of probative value will be admissible. Secondary or hearsay evidence will not be excluded on that basis alone. However, evidence or testimony which is irrelevant, immaterial, cumulative or unduly argumentative or repetitious, may be excluded. The chairperson may limit the number of persons appearing as witnesses. Such limitation must be exercised within reason.

Rule 4—Any panel member, the school representative or the management representative shall have the right to question any witness called for the hearing. Each party shall have the right to cross-examine any witness.

Rule 5—Any objection to a ruling by the chairperson regarding the inadmissibility of testimony, documentary evidence, or challenge to a witness, will be made a matter of record together with the substance, in brief, of the testimony intended or other evidence concerned. Documentary evidence objected to may be accepted for filing and future reference.

Rule 6—A verbatim stenographic or recorded report of the hearing shall be made by the Agency and the stenographic notes or tapes preserved until the transcript is accepted as accurate by both parties. The transcript shall become a permanent part of the record, and a copy, if requested, shall be furnished free of cost to the school by certified mail, return receipt requested. The school may utilize a reporter of its choosing, at its expense. If the school wishes its transcript to become part of the record, a copy must be furnished to the Agency free of cost.

Rule 7—All exhibits shall be identified by the chairperson in the order of introduction (numerically for the Agency exhibits and alphabetically for exhibits introduced by the school). All exhibits shall be attached to the original of the transcript. True copies of exhibits, if requested, shall be made and attached to the copy of the transcript furnished to the school.

Rule 8—The hearing shall be conducted in an orderly manner with dignity and decorum. The conduct of panel members shall be characterized by fairness, impartiality, and cooperativeness. The chairperson shall take such action as may be necessary to maintain decorum.

Rule 9—At the close of the hearing, the chairperson shall inform both parties that they may submit additional written arguments within 10 workdays of the conclusion of the hearing. The chairperson shall also inform the school that the notice of the decision and the appeal rights, if applicable, will be furnished by the Chief, Finance Activity.

Rule 10—The Panel shall have no authority to decide a challenge to the constitutionality of statutes and regulations which provide the basis for assessment of school liability. In the event there is such a challenge, the Panel will continue their general duties with respect to hearing the evidence and deliberations and will document the record to show that a constitutional challenge was made, without making any ruling so that such matters will be decided only at the appeal level pursuant to paragraph 12e.

11. Committee Panel Decision and Notice to School. a. Decision.—(1) The Committee Panel will convene to

consider its decision no earlier than 10 workdays after the conclusion of the hearing, if a hearing was held, to allow time for the parties to submit additional written arguments.

(2) The evidence, including the hearing transcript, will be considered under the guidelines of Appendix C of this circular.

(3) The decision shall be by majority and shall either affirm, modify or reverse the finding of potential school liability made by the Adjudication Officer. The Committee Panel must clearly and fully state its findings and conclusions, and the reasons and basis for the decision. Applicable Federal statutes and regulations must be cited by statute and regulation number. The general format for Statements of the Case (M21-1, chapter 18) may be used.

(4) If the Committee Panel affirms liability but modifies the period of liability for individual students, a revised VA Form 4-5237 should be attached to the decision showing what changes were made. Revised VA Forms 22-8804 and 4-5295 will also be furnished for the affected students. The panel will request the Chief, Finance Activity, to prepare VA Form 4-5295 and VA Form 4-5237 whenever recomputation of liability is necessary.

(5) The chairperson of the full committee will review the proposed panel decision and may propose corrections or editorial improvements but not change as to the decision itself. The original of the final decision will be referred to the Chief, Finance Activity.

b. Notice to School.—(1) The Chief, Finance Activity, will prepare a notice letter to the school enclosing the decision. This notice letter will be sent by certified mail, return receipt requested. Copies with the decision enclosed will be furnished to the Director of the regional office, the District Counsel, the Adjudication Officer and the Chairperson of the Committee on School Liability. If liability is found, the letter will demand payment and will include notice of appellate rights and procedures, stating the 60-day period for such appeal.

(2) If the school does not exercise its appeal rights within the appeal period, the Panel decision will become the final Agency decision. The original notice letter to the school will include this information.

c. Records.—The Chairperson of the Station Committee on School Liability will be responsible for maintaining a complete record for each school liability decision. This should include copies of all correspondence with the school.

12. Appellate Procedures. a. Right of Appeal.—(1) If the school disagrees with

the Committee decision, appeal may be taken to the School Liability Appeals Board, which shall be located in the Central Office of the Veterans Administration in Washington, D.C., as a staff element of the Chief Benefits Director's office.

(2) Appeal may be instituted by a letter to the Chief, Finance Activity, indicating disagreement with the decision and setting forth the alleged errors of fact and law.

(3) The appeal must be received in the VA within 60 calendar days from the date of the notice letter to the school. An additional reasonable period, generally not to exceed 30 calendar days, may be allowed if requested, within which to perfect the appeal. The Chairperson of the Committee on School Liability will determine if an extension may be granted.

b. Certification of Appeal.—(1) The Committee Chairperson will review the record prior to submission to the Appeals Board and certify by memorandum that the record upon which school liability is based is complete and that all procedural requirements have been met.

(2) The Chief, Finance Activity, will notify the school that the appeal has been certified and that witnesses are not allowed to testify on appeal but that the school has the right to have its representative appear before the Appeals Board. The school will be advised to write to the following address if such representation is desired: Veterans Administration Central Office, School Liability Appeals Board (20E), 810 Vermont Avenue, NW., Washington, D.C. 20420.

(3) The Chief, Finance Activity, will forward the complete school liability record to Central Office. Individual claims folders will not be forwarded unless requested by the Appeals Board. In such cases the claims folders will be prepared for submission as follows:

(a) A cover sheet or list of the cases submitted, including name and file number, should be included with each submission.

(b) A complete VA Form 60-7216a, Request for and/or Notice of Transfer of Veterans Records, should be attached to each claims folder. Item 14, "Reason for Transfer," will show "Appeal of School Liability" and will include the name of the school involved.

(c) Folders should be sent to the Chairperson, School Liability Appeals Board (20E).

c. Composition of the School Liability Appeals Board.—The School Liability Appeals Board shall consist of a chairperson and board members appointed by the Chief Benefits Director.

Each appeal shall be considered by a panel of two members designated by the chairperson. The chairperson will exercise supervision and control over Board functions and will participate in decisions if the two-member panel does not reach a unanimous decision. A Board member will be designated to act in the absence or disqualification of the chairperson.

d. Appellate Procedures.—Review is limited to the issues raised by the school and shall be on the record and not de novo in character. Witnesses will not be permitted to testify on appeal. The school and the Government shall have the right to have a representative appear before the panel and present oral argument regarding their respective positions. Alternatively, the statement of alleged errors of fact and law submitted by the school may constitute appearance before the Board. If the Board perceives error in an area not addressed in the appeal, it shall have authority to correct such error. The Board may not increase the amount of liability except through the remand procedure of subparagraph i below.

e. Restrictions on Powers of the Board.—The Board shall have no authority to decide a challenge to the constitutionality of statutes and regulations which provide the basis for assessment of school liability. In the event there is such a challenge, the issue or any other legal question raised, shall be referred to the General Counsel for an opinion. All other issues raised by the appeal will be considered and decided by the Board.

f. Disqualification of Members.—A member of the Board shall be disqualified if such member was employed in the office of original jurisdiction prior to appointment as a member of the Board, or if there are other circumstances which give the impression of bias either for or against the appellant. Such disqualification shall be made a part of the record. If a member is disqualified, the chairperson shall appoint a replacement.

g. Decision on Appeal.—The Board will decide each issue on appeal by affirmation, reversal, or modification of the station Committee decision or by remand of the case to the station Committee if clarification or further development is deemed necessary. The decision shall be in writing, signed by the members who participated in the decision, and shall set forth specifically the issues, findings of fact and conclusions of law, and the reason for the Board's decision, which shall be the final determination of the Agency as to school liability. Any dissenting member

may decline to sign and may submit a dissenting decision.

h. Notice of Board Decision.—The Board will promptly notify the school of its decision by certified mail, return receipt requested, and will include a copy of its decision with the notice letter. The letter will include a statement that the Board's decision is the final administrative decision of the Agency. Copies of the transmittal letter and the Board's decision will be furnished to the Station Director, the District Counsel, the Chief, Finance Activity, the Adjudication Officer and the Chairperson of the station Committee on School Liability, simultaneously with the release of the decision to the school. If liability is upheld, the Chief, Finance Activity, will then institute collection action, which will be suspended if suit is filed by the school or the Government.

i. Case on Remand.—(1) If the board remands the case to the station Committee on School Liability for further clarification or development, the District Counsel and the school shall be notified and furnished a copy of the remand. The Committee Panel in the office of original jurisdiction shall have the authority to modify or rescind its earlier decision, including increasing the amount of school liability.

(2) The following procedures will apply:

(a) If the Committee Panel affirms the original decision, the case will be returned to the Appeals Board under the procedures in subparagraph b above.

(b) If the Committee Panel rescinds the original decision, the chairperson of the Committee will notify the Chief, Finance Activity, who will notify the school as provided in paragraph 11b.

(c) If the Committee Panel partially modifies the liability in the school's favor, the school will be requested to advise the Committee within 30 calendar days if it wishes to continue its appeal.

(d) If the Committee Panel increases the school's liability, the school shall be entitled to the hearing procedure as provided in the case of initial determinations. (See par. 6.) Such procedure shall be limited to the issue of increased liability.

(3) The Chief, Finance Activity, will inform the school of the Committee's decision.

(4) Cases returned to the Appeals Board shall be considered by the original panel, if available, and a decision rendered. If either member of the original panel is not available, a substitute shall be designated by the chairperson.

13. Disposition of Pending Cases. a. General.—As noted previously, there

has been a moratorium on the processing of school liability cases since April 14, 1977. The purpose of this section is to provide instructions for handling school liability cases which are at various processing stages at the time this circular is published.

b. Cases With Final Decisions.—(1) **No General Review.** The VA will not conduct a general review of final Agency decisions. Final Agency decisions are defined as:

(a) Final decisions issued by Central Office, or

(b) Regional office decisions if:

1 The 60-day period for requesting Central Office review expired before April 14, 1977, and

2 The school did not request a review within the 60-day period.

(2) **If Error is Alleged.** Within 30 days from the date the first demand letter is issued after the moratorium is lifted, the school may request that the VA reconsider any substantive errors that are alleged to have been made previously in determining the school's liability. The request shall clearly state and document the specific substantive errors that are alleged. Mere "general" requests for review are not adequate. When making the request, the school shall specify whether it merely wishes the VA to consider the allegations of substantive error on the existing record or whether it desires to have these matters determined in accordance with the procedures described in paragraphs 5 through 12 of this circular. If the first option is chosen by the school, the case will be referred to the Chairperson of the Committee on School Liability who will convene a panel of three to decide the case in accordance with paragraph 11. If the latter option is chosen, the case will be handled in accordance with paragraphs 5 through 12. No case will be reconsidered if collection action has already been completed.

c. Cases Pending at the Time of the Moratorium.—All cases that did not have a final Agency decision at the time the moratorium was imposed must go through the complete new procedure as described in paragraphs 5 through 12.

14. VA Management Responsibilities.

a. Implementing New Procedures.—Station Directors are responsible for appointing the members of the Committee on School Liability (par. 7) and for ensuring the necessary coordination of division activities required by this circular.

b. Managing the Backlog.—It is recognized that some stations have a considerable backlog of school liability cases and that the new procedures will be more expensive and time-consuming than the prior procedures. Each station

must develop an appropriate plan to deal with the backlog within current personnel limitations. Schools will be notified as soon as possible of the status of their cases, recognizing that final disposition may take many months. Station responsibilities under 38 U.S.C. 1785 must always be balanced against all other responsibilities.

c. Work Measurement.—Adjudication divisions will report direct labor used on school liability as COW (Committee on Waivers) for AMIS purposes. The Finance Activity will follow paragraph 15 of appendix D. All other divisions should report direct labor school liability hours as "other measured hours."

Dorothy L. Starbuck,
Chief Benefits Director.

Appendix A—School Reporting Requirements

1. General. School reporting requirements for specific enrollment situations are found in the VA regulations (14,000 series) and DVB circulars. This appendix defines the period allowed for reporting changes in enrollment status to the VA. It also describes how the "last date of attendance" is to be determined. There is no substantive change in the reporting requirements which were in effect before the moratorium.

2. Requirements for Reporting Enrollment Changes. a. Background.—Since enactment of the GI bill, schools have been required to promptly report changes in the enrollment status of veterans and other eligible persons receiving educational assistance. However, the period allowed for reporting changes in enrollment status changed on August 6, 1975, based on a modification of VA Regulation 14203.

b. Reporting Requirements in Effect before August 6, 1975. (1) An IHL (institution of higher learning) was allowed 30 days from the end of the term to report changes in enrollment status which occurred before August 6, 1975, if all of the following conditions were met:

(a) The school was not required to maintain attendance records;

(b) The student did not notify the school of the change in his/her enrollment status; and

(c) The school did not otherwise become aware of the change until the end of the term.

(2) In any situation not covered by subparagraph (1) above, the school had 30 days from the date of the change in status to report the change to the VA.

c. Reporting Requirement in Effect Since August 6, 1975. The basic requirement is that reductions in

training time and terminations be reported within 30 days after the change in enrollment status occurs. This 30-day rule is qualified in the following ways:

(1) **Changes Near the Beginning of the Term.** For reductions and terminations in training which occur during a school's "drop" period (not to exceed 30 days from the beginning of a term or other enrollment period), the 30-day reporting period will run from the last day of the "drop" period.

Example: A term begins on September 15, 1977 and there is a "drop" period which ends on October 7, 1977. A reduction in training occurs on September 25, 1977. The school would have until November 8, 1977 to submit a timely report.

(2) **Failure to Reenroll.** For students whose enrollment was certified for the school year, and the student attends through the end of one term but fails to return the following term, the school must report the terminated enrollment within 30 days of the last officially scheduled registration date for the subsequent term.

Example: A student was originally certified for the 1977-78 school year; he or she completes the term ending January 20, 1978 but fails to reenroll for the term beginning February 6, 1978. The last officially scheduled registration date for the second term is February 10, 1978. The school would have until March 12, 1978 to submit a timely report.

(3) **Unsatisfactory Progress.** In general, a school must report unsatisfactory progress within 30 days from the date on which progress becomes unsatisfactory. However, where unsatisfactory grades are involved, the 30-day period will begin from the date the responsible school official first received in the final report indicating that approved satisfactory progress standards have not been met. In no event will a report of unsatisfactory progress (because of unsatisfactory grades) be considered timely if received more than 60 days after the end of the applicable term.

Example No. 1: A student completed a term on January 25, 1978. The school received the final grade reports on March 1, 1978 which showed that the veteran's progress was unsatisfactory as of January 25, 1978. The school would have until March 28, 1978 to submit a timely report.

Example No. 2: A veteran was enrolled in a nondegree course from September 4, 1978, to December 1, 1978. The school has an attendance policy, approved by the SAA (State approving agency), that provides for dismissal after 10 unexcused absences. The 11th unexcused absence in this case was on

October 25, 1978, although the veteran continued to attend classes after the date. The school would have until November 24, 1978 to submit a timely report of unsatisfactory progress.

3. Determining the Last Date of Attendance. Schools must report the last date of attendance to the VA when a veteran or eligible person terminates enrollment in residence training. Likewise, schools must report the last day of attendance in particular residence courses when the veteran or eligible person reduces training time but continues in school (VAR 14135(E)(2)(a)). (For changes in independent study courses, the school need only report the official date of change in status under the practices of the institution (VAR 14135(E)(2)(b)).

a. College-Level Courses. Even though daily attendance records are not required, the school must establish an adequate reporting system to detect enrollment changes soon after they occur and to provide timely reports to the VA. When an enrollment change occurs, any of the following methods may be used to determine the last date of attendance: (1) Attendance records; (2) grading reports; (3) last date on which examination or other papers filed; (4) last day of activity in the instructor's records; or (5) a statement from the student as to the last day of his or her attendance.

b. Non-College-Degree Courses. The last day of attendance shown in the official attendance records must always be used in reports to the VA.

Appendix B—Extent of Potential School Liability for Individual Overpayments

1. General. A school may be potentially liable for an overpayment directly resulting from a false certification or failure to report change in status. This appendix provides instructions for determining the extent of potential school liability for the overpayment of individual veterans or eligible persons. Note: The decision as to whether school liability will actually be assessed or not will always be made under the guidelines of Appendix C.

2. False Certification Cases. False certification includes both intentional and unintentional false certification as described in Appendix C. When an overpayment results from a false certification, the school will be potentially liable for any overpayment which occurred prior to the date the VA first learned of the false certification.

a. Adjudication Procedures. Adjudication should report the entire period covered by the false certification as the period of potential school liability, item 5F, on VA Form 22-8804.

b. Finance Procedures. Finance will compute the actual amount of potential liability on VA Form 4-5295. This computation will be in accordance with the instructions in Appendix D and will take into account the actual payment data in the case.

3. Late Report Cases: This includes the categories "willful failure to report" and "negligent failure to report" described in Appendix C.

a. Payments Excluded From Liability. When late reports result in overpayments, the school will not be potentially liable for the following:

(1) Those amounts paid (checks actually released) prior to the end of the allowable 30-day reporting period (see par. 2 of Appendix A).

(2) Those amounts paid (checks actually released) after the report of change in status is received in the VA.

(3) The amount of an advance payment at the beginning of an enrollment period.

(4) The amount of any additional overpayment created from the date of withdrawal back to the beginning of a term under 38 U.S.C. 1780(a)(4). (See DVB Circular 20-76-84, Appendix M.)

b. "Critical Period" Defined.—The "critical period" is the period starting the day after the end of the 30-day reporting period and ending on the day notice of the change in status is received in the VA. The "critical period" is needed to compute the period of potential liability as described in subparagraph c below.

c. Period of Potential School Liability—Late Reporting.—In cases of late reporting, Adjudication will determine the period of potential liability for each enrollment period as follows:

(1) Determine approximately when the award for the enrollment period was referred to DPC Hines for computer processing.

(2) Determine what payments were made based on this award during the "critical period" and determine the period covered by these payments.

(3) Determine the period of school liability from the period identified in subparagraph (2).

Note.—Adjudication will determine the period of potential liability by examining the award document and projecting what payments should have been made during the "critical period." Finance will be responsible for computing the actual amount of liability and verifying (from microfilm records, if necessary) when payments were actually made.

4. Examples. The examples below are given to illustrate how the period of liability should be computed in various cases of late reporting. (Note that the prepayment method of payment was

changed to postpayment on June 1, 1977.) In all cases it is assumed, unless otherwise stated, that the award was processed near the beginning of the term and that regular monthly payments were made.

a. *Withdrawal Near Beginning of Term.*—Enrollment Period: September 5, 1977, thru June 9, 1978 (non-advance-payment case).

Last Day of "Drop" Period: September 25, 1977.

Withdrawal: September 21, 1977.

End of 30-day period: October 25, 1977.

Notice Received in VA: November 15, 1977.

Critical Period: October 26, 1977 through November 15, 1977.

Period of Potential School Liability: October 1, 1977 to October 31, 1977 (i.e., the period covered by the payment due on November 1, 1977).

Reason: School may be liable for the check due on November 1, 1977, since this is the only payment during the "critical period."

b. *Advance Payment Case.*—Same facts as in subparagraph a above only an advance payment was issued at the beginning of the term.

Period of Potential School Liability: None.

Reason: No check was issued in the "critical period" because of the advance payment. The first check after the advance payment would have been due on December 1, 1977.

c. *Retroactive Payment Case.*—Same facts as in subpar. a above, only the award was not processed to DPC Hines until November 2, 1977. The first check was issued during the "critical period" and covered the period September 15 to October 31.

Period of Potential Liability:

September 22, 1977 to October 31, 1977.

Reason: School may be liable for the entire overpayment made during the "critical period."

d. *Case With Existing Accounts Receivable.*—Same facts as in subpar. a above, only an accounts receivable of \$1,000 existed at the beginning of the term. No checks were actually issued in the "critical period" but the accounts receivable was reduced by offset.

Period of Liability: October 1, 1977 to October 31, 1977.

Reason: The existence of an accounts receivable has no bearing on the determination of school liability. In effect, a school may be held liable for erroneous credits to a veteran's account as well as for erroneous check amounts actually issued.

e. *Withdrawal—Notice Over 30 Days But No Liability.*—Enrollment Period: February 6, 1978 to June 9, 1978.

Withdrawal: April 10, 1978.

End of 30-Day Period: May 10, 1978.

Notice Received in VA: May 20, 1978.

Critical Period: May 11, 1978 through May 20, 1978.

Period of Potential Liability: None.

Reason: No payments were made during the "critical period."

f. *Failure to Reenroll.*—Enrollment

Period: September 2, 1978 thru June 10, 1977 (Prepayment case).

Failed to Reenroll For.

Term Beginning: February 6, 1977.

Late Registration Date: February 11, 1977.

End of 30-day period: March 13, 1977.

Notice Received: May 15, 1977.

Critical Period: March 14, 1977 through May 15, 1977.

Period of Potential Liability: April 1 through May 30 (i.e., the period covered by payments due April 1, 1977 and May 1, 1977).

Reason: Notice of failure to reenroll not received within 30 days from the late registration date for the new term.

g. *Reduction and Withdrawal.*—

Enrollment Period: Full time from

January 5, 1978 to May 2, 1978

(Prepayment case).

Reduction to ½ time: February 28, 1978.

Withdrawal: March 27, 1978.

End of 30-day period: March 28, 1978 for reduction and April 26, 1978 for withdrawal.

Notice of Both Changes: April 16, 1978.

Critical Period: March 29, 1978 through April 16, 1978.

Period of Potential Liability: April 1, 1978 to April 30, 1978 (i.e. the period covered by payment due April 1) for difference between the full-time rate and the one-half-time rate only. Item 5H of VA Form 22-8804 will be completed to show one-half-time training.

Reason: No school liability can be considered for the withdrawal since notice of the withdrawal was timely filed. However, the school is potentially liable for the overpayment resulting from the training time change since this report was not timely filed. The period of liability is from April 1, 1978 through April 30, 1978. The extent of liability for this period is the difference between the full-time and the one-half-time rates although the entire payment for April is an overpayment.

h. *Reporting Requirements Prior to August 6, 1975.*—Enrollment Period: September 2, 1974 through August 15, 1975. (Reporting requirements prior to August 6, 1975 apply.)

Withdrawal: September 28, 1974 (no official withdrawal or other notice and school (IHL) keeps no attendance records).

End of Term: December 18, 1974.

End of 30-day period: January 17, 1975.

Notice to VA: March 10, 1975.

Critical Period: January 18, 1975 through March 10, 1975.

Period of Potential Liability: February 1, 1975 through March 31, 1975 (i.e., the period covered by payments due February 1, 1975 and March 1, 1975).

Reason: The facts in this situation fall under reporting requirements in effect before August 6, 1975. The 30-day allowable reporting period ended January 17, 1975. The school may be liable for benefits the veteran received after January 17, 1975 and before March 10, 1977 (i.e., for payments due on February 1, 1975 and March 1, 1975).

i. *Multiple Adjustments.*—

(Prepayment Case.) Enrollment Period: September 12, 1976 through June 15, 1977 at Full Time.

Reduction to ½ time: November 15, 1976.

Resumption to FT: February 6, 1977.

Withdrawal: March 5, 1977.

End of 30-day period for reduction: December 15, 1976.

End of 30-day period for withdrawal: April 4, 1977.

Notice of all changes: April 15, 1977.

Critical Periods: December 15, 1976 thru April 15, 1977 and April 5, 1977 thru April 15, 1977.

Period of Potential Liability: January 1, 1977 to February 6, 1977 (i.e., the period covered by the payment due January 1, 1977 and part of the period covered by the payment due February 1, 1977.)

Reason: The school may be liable for part of the overpayment resulting from the reduction in training since notice of the reduction was late. There can be no liability resulting from the withdrawal, even though notice was late, since no payments were due in the period April 4, 1977 to April 15, 1977.

5. *Failure to Report and False Certification Distinguished.* Difficulty occasionally arises in distinguishing between failure to report and false certification. The distinction is important since the period of liability will be greater in false certification cases. The following examples should be helpful in making the distinction:

a. A school has a fall term from September 5, 1978, through December 10, 1976. There is a 20-day "drop" period.

The school submitted an enrollment certification signed September 10, 1976, indicating that a student enrolled September 5, 1976 for the fall term. On November 15, 1976, the school furnished notice that the student registered but failed to attend. This is a case of failure to promptly report a change in status, not of false certification. The period of potential liability would be from November 1 to November 30.

b. Assume the same situation as in subparagraph a above except that the initial enrollment certification was signed September 30, 1976, after the end of the "drop" period. This is a case of false certification. The school would be potentially liable for the entire overpayment from September 5, 1976 through November 30, 1976.

Appendix C—Guidelines for School Liability Decisions

1. *General.* The guidelines in the appendix will be used whenever school liability is considered by the Adjudication Officer, the station Committee on School Liability, or the School Liability Appeals Board. It must be emphasized that one overall decision will be made with respect to all of the individual student cases for a particular school which have been identified for potential school liability.

2. *Discussions of Key Concepts.* There are basically three concepts in 38 U.S.C. 1785 under which a school may be held liable. They are as follows:

a. *Willful Failure to Report.*—This refers to intentional failure or refusal by the school to make required reports of enrollment changes. It also includes intentional failure or refusal to make timely reports. To hold a school liable under this concept, the evidence must show with reasonable certainty that there was an intentional failure on the part of the school to make required reports or to make timely reports. (Note: If fraud is indicated, the District Counsel must first be consulted before any school liability decision is made.)

b. *Negligent Failure to Report.*—This refers to a negligent failure to make reports of enrollment changes or a negligent failure to make such reports in a timely manner. See paragraph 3 below for guidelines as to what constitutes negligent reporting.

c. *False Certification.*—This is a certification that is contrary to the actual facts. The falsity may involve enrollment dates, hours of training, or any other item certified. There are two types of false certification as follows:

(1) *Intentional.*—Such cases should initially be referred to the District Counsel. If the District Counsel returns the case with an opinion that there is no violation of Federal criminal statutes or if the U.S. attorney declines prosecution, school liability for false certification may then be considered. To hold a school liable, the evidence must show with reasonable certainty that the school intentionally made a false certification.

(2) *Unintentional.*—School liability for unintentional false certifications may be considered when the school appears to

have been negligent in making accurate reports to the VA. See paragraph 3 below for a discussion of negligent reporting.

3. *Guidelines When Negligence is the Issue.* In many cases, the fundamental issue to be decided is whether or not the school negligently failed to report or timely report changes in enrollment or negligently submitted false (erroneous) certifications. No simple error rate can be given which would define negligent reporting. Instead, it must be determined if the school failed to exercise reasonable care in making timely and accurate certifications to the VA. All relevant factors must be carefully considered including the following:

a. *Allowance for Occasional Clerical Error or Occasional Administrative Delay.*—(1) Consider the number of reporting errors compared to the number of VA students enrolled over a given period; and

(2) If data are available, consider the number of reporting errors compared to the approximate number of required reports of a particular type over a given period (for example, the number of reports of reduced training or termination that were late compared to the approximate number of such reports that were required).

b. *The School's Past Reliability in Reporting.*—Consider the findings of past compliance surveys and the school's response to any reporting deficiencies that were brought to its attention.

c. *The Adequacy of the School's Reporting System.*—A school will be considered negligent if it does not establish a reporting system that can produce accurate and timely reports. However, a school with a basically adequate reporting system will not be held liable if inaccurate or late reports were due to computer or human error which could not have been prevented by the exercise of reasonable care.

d. *The Extent of Noncompliance With Reporting Requirements.*—Consider the nature and seriousness of the reporting errors, the consider the length of delay involved in cases of delayed reports.

4. *Rule of Reasonable Certainty.* School liability decisions will always be considered on the basis of the rule of reasonable certainty. This rule dictates that a determination of school liability is not founded merely on conjecture or likelihood or even probability, but rather on circumstances sufficiently strong to warrant a reasonable person to believe the determination is correct.

Appendix D—School Liability Procedures for the Finance Activity

1. *General.* This appendix provides specific procedures relating to school liability. Collection actions against veterans or other eligible persons are separate from actions against an educational institution and are not affected by provisions of this appendix.

2. *Adjudication Referrals To Finance Activity.* In cases not involving potential fraud the Chief, Finance activity, will receive from the Adjudication Officer, grouped referrals of VA Forms 22-8804, Report of Potential School Liability, along with each applicable claims folder and a covering memo affirming the finding of potential school liability. The referrals should remain packaged by school. The Finance activity will compute the amounts of school liability (paragraphs 4 and 9) and the Finance activity will notify school of its potential liability (par. 7).

3. *Computation of Amounts of Liability.* a. After carefully reviewing payment records, Finance personnel will prepare the VA Form 4-5295, Institutional Liability Computation Sheet, which will be completed to show the amount for which the school may be liable for the periods indicated on the VA Form 22-8804 in each case. In order to complete the computation sheet, it will be necessary to use information appearing on the VA Form 22-8804, the guidance instructions on the VA Form 4-5295 itself and information from the claims folder. Detailed instructions for completing the VA Form 4-5295 are contained in paragraph 4.

b. After the VA Form 4-5295 is prepared, it will be attached to the VA Form 22-8804, and three photocopies of both forms will be made. The original forms will be outfiled on the left side of the claims folder.

c. The photocopies of the VA Forms 22-8804 and 4-5295 will be batched by school, and held until such time as the Chief, Finance activity, prepares the FL 4-334, Notice of Intent To Hold Institution Liable. One set of VA Forms 22-8804 and 4-5295 and the VA Form 4-5237, Listing of Students Overpaid as Result of Institution's Apparent Noncompliance, will accompany the FL 4-334 sent to the school. One set of copies will go to the District Counsel, and one will be kept in Finance activity files.

4. *VA Form 4-5295, Institutional Liability Computation Sheet.* a. VA Form 4-5295 is to be used in conjunction with VA Form 22-8804. The VA Form 22-8804 will be used by the Adjudication Officer to inform the Chief, Finance activity, that a case of potential

school liability exists. Information from the VA Form 22-8804 will be transferred to the VA Form 4-5295 in accordance with the instructions below, and computations will be made to determine school liability amounts. The VA Form 4-5295 will be prepared in all cases when a VA Form 22-8804 is received in the Finance activity.

b. Columnar Instructions:

Column 1.—Transfer the dates shown in Column 5F on VA Form 22-8804 to column 1 on VA Form 4-5295. These dates will generally not be the same as the dates of the total overpayment period. The periods shown in column 5F of the VA Form 22-8804 are broken down by rate period. This means that every time a rate change occurs (change of training time, dependency status, change in legislated rates, etc.), a new period (line item) will be established.

Column 2.—Transfer the monthly benefit rate shown in column 5G on the VA Form 22-8804 to column 2 of the VA Form 4-5295. This will be the original rate awarded for the period in column 1.

Column 3.—Compute the amount of benefits that was originally authorized for this period by multiplying the monthly rate in column 2 by the number of full months in column 1, plus the prorated amounts due for any partial months; enter this amount in column 3. This amount corresponds with the "Paid" portion of a "Paid and Due" statement, and as such is the amount that should have been paid for the period in column 1 based upon award information of record.

Column 4.—Transfer the monthly benefit rate shown in column 5H on VA Form 22-8804 to column 4 of the VA Form 4-5295. This will be the new rate awarded for the period in column 1.

Column 5.—Compute the amount of benefits now authorized for this period by multiplying the monthly rate in column 4 by the number of full months in column 1, plus the prorated amounts due for any partial months. Enter this number in column 5. This figure will correspond with the "Due" portion of a "Paid and Due" statement.

Column 6.—By examining the claims folder, determine if any disbursements were made for the liability period, after notification of change of status was received from the school, or after it was learned by compliance survey (see column 5E on VA Form 22-8804). In the case of false certification, determine from column 5E of VA Form 22-8804 the date that the VA learned that the certification was false. Since there will be no liability to a school for any payments made after such date, it will be important to examine the claims folder for special payments, awards

dated subsequent to award periods, award rejects, or any other actions which may have resulted in payments made after notification and for the liability period. All such disbursements may be shown as one total.

Column 7.—Determine from the Hines master record and/or claims folder if any collections or offsets have been made. Any such collections made may be shown as one total.

Column 8.—Column 3 less columns 5, 6 and 7.

c. When completing a VA Form 4-5295 for a veteran with a prior overpayment, it is important to note the following: The monthly benefits which are being offset rather than paid out to the veteran are still to be treated as payments for the purpose of establishing liability. (Example: A veteran at school "A" is awarded benefits as follows: January 1, 1977 to March 31, 1977 at \$292. It is subsequently determined that the veteran never attended and an overpayment in the amount of \$876 is established. The veteran now enrolls at school "B," and is awarded benefits as follows: January 1, 1978 to March 24, 1978 at \$311. Benefits for this period are not paid to the veteran, but are used to offset the overpayment created by the first award period. A compliance survey determines that the veteran, in fact, never attended school "B" either, and it also places school "B" in a liability status. In calculating the amount of liability to school "B," the amounts of benefits offset will be considered as payments.)

5. Accounts Receivable Record. Using the total amounts of liability shown on all VA Forms 4-5295, a VA Form 4-1103, Accounts Receivable Record, will be established for each school (see Appendix E). This record will include the name, facility code and address of the school, and will reflect all actions which affect collection. Attached to the VA Form 4-1103 will be the original VA Form 4-5237, completed as described in paragraph 7 below so as to support the balance shown on the VA Form 4-1103.

6. Administrative Expense Consideration. After computing amounts of potential liability on VA Forms 4-5295, the Chief, Finance activity, may consider and confer with the Adjudication Officer on whether to forego all future precollection and collection activity. The Chief, Finance activity has termination authority on debts under \$20,000, as per the Federal Claims Collection Act of 1966 (4 CFR 104.3(c)), when costs exceed recovery. Although this termination authority exists at any time during the collection procedure, it is during the early precollection stage when VA Forms 4-

5295 are completed that the Chief, Finance activity, should, if ever, seriously consider any possible termination of overall school liability procedure. The intent here is for the Chief, Finance activity, to consider termination as early as practicable so as to avoid excessive and unnecessary further costs should termination be effected at a later date.

7. Notice To School Of Potential Liability. a. The Chief, Finance activity, by certified mail, return receipt requested, will send to the school FL 4-334, with attached VA Forms 4-5237, 4-5295 and 22-8804. The District Counsel will also be provided with copies of this material as set forth in paragraph 3c. The Form Letter 4-334 primarily notifies the school that the VA has determined that there is evidence to potentially establish liability. The attachments provide the evidence.

b. It will be noted that slight modifications have been made to the VA Form 4-5237. The word "liability" has been substituted for the word "overpayment" where appropriate. Changes have also been made to the first and last columns. The first column market "No." may be used to sequentially identify individual cases. Copies of VA Forms 4-5295 may be marked correspondingly. The final column of the form headed "For VA Use Only" will be used to show the veteran's actual overpayment. *Extreme care should be taken to insure that when the school's copy of the VA Form 4-5237 is prepared, this column is covered over! The information in question is subject to the Privacy Act.* Finance activities should develop an informal method of transmitting information concerning the veteran's actual overpayment from the Operations section to the office of the Chief, Finance activity when the VA Form 4-5237 is prepared. No space for this information is available on the VA Form 4-5295, and no permanent entries showing the veteran's overpayment will be made on this form.

8. Actions by Chief, Finance Activity, Upon School Response to FL 4-334. In accordance with paragraph 6c of the circular, the Chief, Finance activity, will take the following actions in the situations below:

a. *School desires hearing and prehearing conference or hearing only.*—Provide a copy of school's response to the Chairperson of the Committee on School Liability, the Adjudication Officer, and the District Counsel.

b. *School submits evidence but waives both hearing and prehearing conference.*—Provide a copy of school's

response to the Chairperson and the District Counsel.

c. *School does not reply to the FL 4-334.*—After expiration of 30 days from date of school's receipt of FL 4-334, immediately notify the Chairperson and District Counsel that the school has not responded.

9. *Miscellaneous.* a. *Waivers.*—A waiver of a veteran's overpayment (VA waives its right to collect), does not constitute a reduction of liability to the school.

b. *Recalculations.*—A recalculation of the amount of liability of a school may be performed annually upon school request, or if the Chief, Finance activity, wishes to bring the account into current status. In addition, a recalculation will be performed when a school indicates a willingness to make payment.

c. *Collections and Offsets.*—Any reduction of a beneficiary's receivable, by collection or offset, will be used to reduce the liability of the school whenever a recalculation is made.

d. *Transferred Claims Folders.*—When the claims folder of an overpaid veteran has been transferred to another regional office, and a recalculation (annual or potential school payment) is required, the Finance activity at the original regional office will request the Finance activity at the new regional office to complete a VA Form 4-5295 and to send this form to the original station.

e. *School Reporting Fees.*—(1) School Reporting Fees may be withheld under the following conditions:

(a) An uncontested school liability determination by the station committee. If the school fails to appeal the decision within the 60-day appeal period, it can be assumed that the school accepts the decision of the station committee. This assumption is based upon the school's failure to take advantage of its administrative remedy.

(b) Subsequent to a final decree by a court of appropriate jurisdiction.

(2) School Reporting Fees may not be withheld subsequent to the upholding of a liability decision by the Appeals Board. The only exception to this rule occurs when the school makes a positive gesture of acceptance of the Appeals Board's Decision.

f. *Multiple Liability Situations.*—In the event of a multiple liability situation—a school is found liable for one group of errors, when liability has already been determined for another group of errors—liability amounts will not be lumped together. Collection from the school for each group of errors will be pursued independently. Only when the entire collection procedure for both

groups has run its course will the liability amount be consolidated.

10. *Notice of Decision.* The Committee on School Liability will render its decision and forward same to the Chief, Finance activity. If liability is not found, the Chief, Finance activity, will notify the school by letter with a copy of the decision attached. If liability is found, the Chief, Finance activity, will notify the school by standard collection letter with a copy of the decision attached. Both notice letters will be signed by the Chief, Finance activity. In the letter notifying the school of its liability, the Chief, Finance activity, will demand payment and will include notice of appellate rights and procedures, stating the allowable 60-day period for filing such appeal. This letter will also state that if the school does not exercise its right of appeal within the appeal period, the Committee decision will become the final Agency decision. If no appeal is made, the Chief, Finance activity, will proceed with standard collection procedures.

11. *Appeal by School.* a. *Certification to the Central Office School Liability Appeals Board.*—When the school files its appeal, the Chief, Finance activity, will check to insure that the appeal letter does in fact indicate disagreement with the decision and, too, sets forth the alleged errors of fact and law relied upon as the basis for the appeal. An appeal will be considered timely filed if received within 60 days, or 90 days if the school requests extra time in order to perfect appeal, from the date of the decision notice letter to the school. When the Chief, Finance activity, finds that the school's appeal letter is timely received and adequate in content as described above, the Committee Chairperson will be requested to furnish the entire Committee decision package (certified as such by the Chairperson) for forwarding to the School Liability Appeals Board in Central Office. The decision package will include the Committee decision, and decision notice letter, the school's letter of appeal, all other correspondence from the school and its representative, if any, and all other needed collateral material which was a part of the record for the Committee decision—such as the VA Forms 22-8804, 4-5295 and 4-5237, transcripts or memorandums from the hearing, prehearing conference, etc. Claims folders will not be included in package. The Chief, Finance activity, will forward the entire appeals package to the School Liability Appeals Board after assuring its adequacy, as discussed above (certification by Committee Chairperson is assurance of adequacy of

decision package). The transmittal of the entire appeals package will constitute "certification" to Appeals Board. If the Chief, Finance activity, receives an appeal from a school which does not specifically state allegations of errors of fact and/or law, the school will be notified that it must do so in order that its appeal may be processed.

b. *Interim Notice to School.*—When the appeals package has been certified to the Appeals Board, the Chief, Finance activity, will advise the school in writing that such has been done. This letter (see appendix E) will also state that witnesses are not allowed to testify on appeal before the Appeals Board, but that both the school and the VA have the right to have a representative appear before the Appeals Board and present oral arguments respecting their positions. This letter will also provide the Appeals Board's address at Central Office (symbol 20E) should the school desire to correspond with the Appeals Board concerning the appeal.

c. *Appeals Board Decision.*—A copy of the Appeals Board's decision, along with the appeals package, will be forwarded to the Chief, Finance activity (the District Counsel will also receive a copy of the decision) simultaneously with the Board's release of the decision to the school. Upon receipt of this decision, if liability is affirmed or modified, the Chief, Finance activity, will proceed against the school with collection action. However, collection action will be suspended if the Chief, Finance activity, is notified that suit has been filed.

d. *Appeals Board Remand.*—The Appeals Board will remand the case through Chief, Finance activity, to the Chairperson, Station Committee on School Liability, for clarification or development. These are the following possibilities:

(1) The Station Committee affirms liability and the case is to be returned to the Appeals Board. In this instance, the Committee Chairperson will forward the case to the Chief, Finance activity, who will send the case back to the Appeals Board. The Chief, Finance activity, will note on VA Form 4-1103 the Reason for the expected additional delay. The Chief, Finance activity, will inform the school that the case has been returned to the Appeals Board without changes in the original Committee decision.

(2) The Station Committee reverses the original decision in total. In this instance, the Committee Chairperson will notify the Chief, Finance activity, who, in turn, will notify the Appeals Board. The Chief, Finance activity, will advise the school by letter that collection action is being terminated.

(3) The Station Committee partially modifies the liability in the school's favor. In this instance, the Committee Chairperson notifies the Chief, Finance activity, who will notify the school of this modification and simultaneously ask whether the school wishes to stop all further appellate action. This notice letter will also indicate VA's resumption of collection action should the school desire to stop its appeal. If the school requests that appellate action be continued, the Committee Chairperson and the Chief, Finance activity, will then recertify the case as amended to the Appeals Board for final decision as to the debt remaining.

(4) The Station Committee increases the school's liability. In this instance, the Committee Chairperson will forward to the Chief, Finance activity, a copy of the Committee decision increasing liability, and the Chief, Finance activity, will provide the Chairperson with the new amount of liability. The Chairperson will then provide the school with this new decision and liability, as well as opportunity for new hearing procedures. The Chief, Finance activity, will then need only to adjust the records to reflect the new amount of the debt. After new hearings, etc., the Chief, Finance activity, will receive the final Committee decision and package—certified by the Committee Chairperson—at which time he/she will recertify the entire package to the Appeals Board.

12. *Recovery Actions.* a. If a recovery is made from a school at any time, the amount recovered will not be used to reduce the indebtedness of any overpaid trainee. If a recovery has been made from a student, no refunds will be made to a school until the full amount of school liability has been recovered from the school. Refund may be made when an annual recalculation reveals that a total in excess of the school's liability amount has been collected from veterans and the school combined.

b. Any monies recovered from a school will be deposited to station funds (36X0137 Readjustment Benefits, VA). Debit 1012, Credit 4043 (3579). Refunds to a school will be made from appropriation 36X0137 station funds. Debit 4043 (3579), Credit 1012. Do not post school liability assessment to the general ledger account 1217. Consider only as a memorandum receivable and as contingent liability to basic indebtedness of the student.

c. Centralized Accounts Receivable System (CARS) has jurisdiction for debts of veterans and other eligible persons but not for collection from schools. Therefore, school liability cases are not to be referred to CARS.

d. When collection information is required in order to make a recalculation of school liability balances, stations without Pilot/Target capability may make master record writeout requests (TT 39) to the Hines DPC. Pilot/Target stations may make direct inquiries to the system at any time.

e. Collection action on school liability should be pursued in the same manner as any other administrative debts, except that no referrals for enforced collection to the General Accounting Office will be made at this time. Instructions for debt referrals will be forthcoming from Central Office.

13. *Reporting Requirements.* The Finance activity will prepare and submit a quarterly report of school liability cases under RCS 047-18. The report will be submitted to arrive in Central Office (042B21) by the 10th workday of April, July, October and January in the format shown below:

1. Cases with final decisions (premoratorium):

a. Names of schools and dollar amount per school on hand on which liability was previously affirmed (premoratorium), and which were not contested by the schools involved, or which were upheld by Central Office.

b. Names of schools which have requested reconsideration under paragraph 13(b)(2) of the basic circular.

2. Unworked cases in Finance:

a. Number of VA Forms 22-8804 on hand in the Finance activity which have not yet been processed (no VA Form 4-5295 prepared).

b. Number of schools represented by VA Forms 22-8804 on hand (count the number of Adjudication Officer's covering memos).

3. Name, dollar liability amount, and number of payees, of each school to which Form letter 4-334 has been sent (post-moratorium). This is a cumulative category. Remove from this category all schools which receive a station School Liability Committee decision.

4. Dispositions:

a. Name, dollar liability amount, and number of payees of each school for which liability was not upheld, during the reporting period.

b. Name, dollar liability amount, and number of payees of each school for which school liability was affirmed (post-moratorium). This category is cumulative. Remove from this category all schools which are subsequently removed from liability status.

c. Names of schools in category b, which have appealed the finding of liability to the School Liability Appeals Board.

5. Appeals Board Decisions:

a. Names of schools for which liability was upheld by the School Liability Appeals Board.

b. Names of schools absolved of liability by the School Liability Appeals Board.

6. Names of schools which have paid and dollar amounts recovered from these schools.

Note.—No local form or form letter will be developed for this report.

14. *Disposition of Pending Cases.* a. *Updating Amounts of Liability.*—(1) In those past school liability cases when there has been either a Central Office Final Decision, or a final Regional Office Decision when the 60-day period for requesting Central Office review expired before the beginning of the April 14, 1977 moratorium, and request for review was not received within the 60-day period, it will be necessary to recompute the current dollar amount of liability of the institution.

(2) In order to accomplish this, regional offices will request master record writeouts from the Hines DPC on all affected overpaid trainees. Pilot/Target stations may use VDT terminals to obtain master record information.

(3) If the accounts receivable balance in the master record differs from the amount shown in the claims folder or other memorandum receivable record, it will be necessary to determine if the A/R in the master record is a part of the same A/R as the one reflected by the FL 22-123. If it is, a reduction to liability will be made.

(4) Once the new liability balance has been computed, the Chief, Finance activity, will notify the educational institution of the new amount, together with other appropriate school liability and collection information, as outlined in subparagraph (5) below.

(5) The Chief, Finance activity, will attach a listing to the correspondence mentioned in subparagraph (4) above and b(1) below showing name, file number, and outstanding amount of liability for each overpaid trainee. It will normally not be necessary to provide any additional information on this listing, as the schools were previously furnished detailed information on the original notification of liability or accompanying VA Form 4-5237.

b. *Contacting the Schools.* The moratorium being over, the Chief, Finance activity, will take the following actions in accordance with the categories shown below:

(1) *Past school liability cases when there has been either a Central Office Final Decision, or a final Regional Office Decision when the 60-day period for requesting Central Office review*

expired before the beginning of the moratorium, and request for review was not received within this 60-day period.

In these cases the Chief, Finance activity, will, effective immediately, make demand upon the school for payment. In this letter (see app. E, suggested format) the Chief, Finance activity, will briefly explain the lifting of the moratorium. This letter will not go into detail on VA's revised school liability procedures. However, it will tell the school of its right to, within 30 days of the date of this letter, allege substantive error and request a hearing/prehearing conference. This letter will not be sent if the school has previously paid the debt.

If the school (within 30 days from the date of this demand letter) singularly alleges the decision(s) to be substantively erroneous, such allegations of error will be forwarded to the Station Committee for reconsideration. However, if a hearing is also requested, the case will instead be forwarded to the Adjudication Officer. The Chief, Finance activity, will then suspend collection action until notice is received from the Committee.

Chairperson as to the final Committee decision following reconsideration. Upon receipt of the new Committee decision on reconsideration, the Chief, Finance activity, will notify the school as previously discussed in paragraph 10 of this appendix. In decisions affirming liability, the school will be advised of its right to appeal to Central Office.

(2) *All Other Cases.* All school liability cases not covered by subparagraph (1) above will be handled anew in accordance with the procedures of this circular. This category will include all pending cases, including those appealed cases previously returned to certain regional offices by Central Office (without final Central Office decision) because of the moratorium; those cases with regional office decisions made within 60 days of April 14, 1977, but without a request for Central Office review received; those cases with regional office decisions which, because of the moratorium, were not revealed to the school; and those cases held in abeyance, because of the moratorium, by the Committee on Waivers & Compromises. The Adjudication Officer will, if liability still exists, complete a new VA Form 22-8804, for each existing FL 22-123 involved in the above-mentioned cases, and each such VA Form 22-8804 will be processed fully in accordance with the procedures of this circular.

(a) The Chief, Finance activity, will briefly inform the applicable schools

mentioned above that the moratorium is ended and that their cases are being reconsidered under the revised procedures. The Adjudication Officer will return these cases (or notice thereof) to the Chief, Finance activity, after all necessary processing under these revised procedures has been accomplished. If potential liability is not found, the Chief, Finance activity, will appropriately notify the school. If, however, potential liability is again found, the Chief, Finance activity, will notify the school by means of a letter patterned after FL 4-334, so as to clarify to the school this second finding of liability. (No form or form letter will be developed for this purpose.)

(b) The Chief, Finance activity, will return to the Adjudication Officer all FL's 22-123 currently held in abeyance in the Finance activity because of the moratorium, for consideration as to beginning again on new VA Forms 22-8804 in accordance with revised procedures. The Chief, Finance activity, will not yet need to correspond with the school on these cases since an applicable FL 4-334 was not previously sent.

15. *Work Measurement.* a. Report all time expended in direct labor on the School Liability program under End Product 431—Other Measured Work (Operations). Do not report any counts for school liability under EP 403 or 405.

b. Preparation of RCS 047-18 should be reported under End Product 424.

BILLING CODE 8320-01-M

INSTITUTIONAL LIABILITY COMPUTATION SHEET

[illegible]

VA FORM
JUN 1978
4-5295

LISTING OF STUDENTS OVERPAID AS RESULT OF INSTITUTION'S APPARENT NONCOMPLIANCE

LISTING OF STUDENTS OVERPAID AS RESULT OF INSTITUTION'S APPARENT NONCOMPLIANCE						
NO.	STUDENT'S NAME	VA FILE NO	AMOUNT OF LIABILITY	PERIOD OF LIABILITY	CAUSE OF OVERPAYMENT	PAGE NO 1 OF 1 FOR VA USE ONLY
1	JOHN DOE	C28236226	496.59	(5-1-77 TO 6-8-77 4-1-78 TO 4-30-78)	A1 A4	ENTRY (FROM M/R) ENTRY
2	JANE SMITH	C11222333	ENTRY	ENTRY	ENTRY	ENTRY
3	JACK JONES	CSS 098365509	ENTRY	ENTRY	ENTRY	ENTRY

SCHOOL LIABILITY REASON CODES

A. Negligent failure of the educational institution to timely report the following:

1. Reduction in training time (VAR 14115, VAR 14203)
2. Excessive absences (VAR 14205)
3. Unsatisfactory Progress (VAR 14115, VAR 14203)
4. Termination (VAR 14115, VAR 14203)
5. Other (See VA Form 22-8804)

B. False certification (unintentional) by the educational institution as follows:

1. Incorrect dates of enrollment (VAR 14115, VAR 14203)
2. Course(s) certified not approved for VA benefits (See VA Form 22-8804) (VAR 14205)
3. Course(s) certified are not part of program (VAR 14203, VAR 14230)
4. Incorrect number of hours certified (VAR 14230)
5. Other (See VA Form 22-8804)

C. Willful failure to report or intentionally false certification (See VA Form 22-8804)

Veterans Administration

This is a NOTICE OF INTENT to hold your institution liable for certain overpayments of educational assistance benefits. A determination has been made that overpayments to the veteran(s) and/or eligible person(s), as shown by the attachments to this letter, may have been created as the result of your institution's apparent noncompliance with proper and timely reporting requirements. The individuals involved are being notified of their indebtedness.

Section 1785, Title 38, United States Code, provides that if an overpayment is created as the result of (1) willful or negligent failure of an educational institution to report to the Veterans Administration excessive absences from a course, or discontinuance or interruption of a course, or (2) false (erroneous) certification by an educational institution, the amount of such overpayment shall constitute a liability of such institution, and may be recovered in the same manner as any other debt due the United States.

Your institution may therefore be liable for the overpayment(s) to subject veteran(s) and/or eligible person(s) which now totals \$_____. This amount, however, is subject to reduction in accordance with the amount(s) recovered from the veteran(s) and/or eligible person(s).

You are invited to submit, by certified mail, any facts or information in rebuttal to the attached evidence of your possible liability. Alternatively you may, by certified mail, request a hearing to present your case, in which event we will first schedule a pre-hearing conference unless you express your desire to waive this conference.

The purpose of a pre-hearing conference is to give you and your legal representative(s), if any, an opportunity to review and discuss the record, upon which our assessment of your liability is based, so that issues may be properly framed. This conference would also provide an opportunity to determine persons who will be called as witnesses at the hearing, and to set a mutually convenient date for the hearing. If you waive the pre-hearing conference, you are requested to submit your documentary evidence and list of proposed hearing witnesses by mail. Upon receipt of this submission, we will forward to you this agency's witness list as well as information about the panel members who will make the final decision in your case.

If your rebuttal evidence or hearing request is not received by the VA within 30 days of the date of your receipt of this letter, our final decision as to your liability under 38 U.S.C. 1785 will be made on the evidence of record.

Sincerely yours,

Chief, Finance Activity.
Enclosure.

*Letter to School Telling About End of
Moratorium and Renewed Demand for
Payment*

Dear _____: Since April 14, 1977, we have refrained from requesting payment of the debt previously charged you as a result of educational benefits overpayments made to veterans enrolled in your institution. We regret this delay, but considered it necessary so that we could make procedural changes respecting our implementation of Title 38, United States Code, Section 1785. These procedural changes, however, do not alter our previous determination that your institution is liable. Accordingly, collection action has now been resumed and we are again requesting payment.

If you feel substantive error has been made in your case, please specifically identify this error(s) within 30 days from the date of this letter. Allegations of substantive error will be reconsidered by our station Committee on School Liability. Also, you may within 30 days of this letter request a hearing to orally present your case to the Committee, in which event we will first schedule a prehearing conference unless you express your desire to waive this conference.

The current amount of your liability is _____. If this amount differs from that previously stated to you, it is because we have since recovered some of the debt from the veterans and/or eligible persons who were also liable. If such is the case, you will find attached a revised listing of debtor overpayments for which you are currently held liable.

(Continue with standard collection paragraphs, but without reference to right to request waiver of collection.)

Sincerely,

Chief, Finance Activity.

*Letter—Interim Notice to School That Case
on Appeal Has Been Forwarded to the School
Liability Appeals Board.*

Dear _____: We have received your letter appealing our decision holding your institution liable for certain overpayments of educational benefits. We are forwarding your case to our Central Office School Liability Appeals Board in Washington, D.C. This Board will make a final decision as to your liability based on careful review of the entire record, including your letter of appeal.

It is not necessary that your school be personally represented at the Board's review; however, both your school and the Government have the right to have a representative appear before the Board and present oral argument regarding respective positions. However, your letter of appeal may

constitute appearance before the Board. Testimony by witnesses is not allowed on appeal. If you intend representation before the Board, please write, within 10 days of the date of this letter, to the Chairperson of the School Liability Appeals Board at the Veterans Administration Central Office (20E), 810 Vermont Avenue, NW, Washington, D.C. 20420. Appropriate arrangements for your representation will then be made by the Board.

The Board will promptly notify you of its decision, and also provide a copy of this decision.

Sincerely,

Chief, Finance Activity.

BILLING CODE 8320-01-M

NAME AND ADDRESS OF INSTITUTION THE ACME COLLEGE 123 MAIN STREET ANYTOWN, USA		NAME OF VETERAN JOHN JONES - PRES. JANE SMITH - ATTORNEY		FACILITY CODE 1 2 3 4 5 6 7 8	
SERVICE SERIAL NO.		VETERAN'S SOCIAL SECURITY NO.			
NAME OF DEBTOR		PAYEE NO. (ENT CODE)		CLASS	
DATE		1ST LTR		AND LTR	
DUL		CR REF REQ		CR REF REQ'D	
DUL		VA FORM 100		OTHER	
DATE		DEBIT		CREDIT	
9/1/78		POTENTIAL LIAB. EST. (SEE VAF 4-5237)		1 000 000 00	
9/15/78		FL 4-334 + ATTACHMENTS SENT			
10/15/78		SCHOOL REQUESTS HEARING			
11/15/78		LIAB. AFFIRMED BY COMTEE			
11/16/78		1 ST COLLECTION LETTER			
12/16/78		SCHOOL REQ 30-DAY EXTENSION OF 60-DAY APPEAL PERIOD.			
2/16/79		SCHOOL APPEALS DECISION.			
VA FORM 4-1103		EXPLANATION OF VA FORM 100		ALL INFO WILL BE USED	

ACCOUNTS RECEIVABLE RECORD

PAGE 2

DATE	DESCRIPTION	DEBIT	CREDIT	BALANCE
3/1/79	APPEAL PACKAGE TO CO BOARD (20E)			
3/2/79	INTERIM NOTICE TO SCHOOL			
5/1/79	BOARD REMAND TO COMTEE			
5/15/79	COMTEE REDUCES LIABILITY		400 000 00	600 000 00
6/1/79	PACKAGE BACK TO CO BOARD			
6/2/79	NOTIFICATION TO SCHOOL			
9/5/79	BOARD UPHOLDS LIABILITY IN PART - REDUCES \$100,000		100 000 00	500 000 00
9/6/79	ANNUAL RECALCULATION - OFFSETS AND COLLECTIONS FROM VETS -		100 000 00	400 000 00
9/15/79	2 ND COLLECTION LETTER			
10/15/79	3 RD COLLECTION LETTER			
11/16/79	NOTIFY CO (047C2)			
11/20/79	SCHOOL WISHES TO PAY - RECALCULATION		50 000 00	350 000 00

PAGE 3

DATE	DESCRIPTION	DEBIT	CREDIT	BALANCE
11/21/79	NOTIFY CO (047C2)			
12/1/79	SCHOOL REVERSES ITSELF, WILL FILE SUIT AGAINST VA			
	NOTIFY CO (047C2)			

[PR Doc. 79-35704 Filed 11-19-79; 8:45 am]

BILLING CODE 8320-01-C

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and

one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the

Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed on or before December 20, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notice within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 200

Decided: Oct. 17, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones, Member Jones not participating.

MC 200 (Sub-349F), filed May 7, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *meats*, packinghouse products and *commodities* used by packinghouses as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, dairy products, and commodities in bulk), between Mason City and Britt, IA, on the one hand, and, on the other, points in AR, CO, CT, DE, IL, IN, KS, KY, MD, ME, MI, MO, NE, NH, NJ, NY, OH, OK, PA, RI, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 5470 (Sub-193F), filed May 23, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20006. Transporting *coal*, in dump vehicles, from points in Pike County, KY, to Natrium, WV.

(Hearing site: Washington, DC, or Buffalo, NY.)

MC 6031 (Sub-51F), filed May 29, 1979. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Avenue, Milwaukee, WI 53204. Representative: William C. Dineen, Suite 412, Empire Bldg., 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coke*, from Milwaukee, WI, to points in IA, IL, IN, MI, and MN, under continuing contract(s) with Milwaukee Solvey Coke Company, a division of Pickands Mather & Co., of Chicago, IL. (Hearing site: Milwaukee, WI.)

Note.—Dual operations may be involved.

MC 22301 (Sub-29F), filed May 10, 1979. Applicant: SIOUX TRANSPORTATION CO., INC., P.O. Box 3088, Sioux City, IA 51102. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Chicago, IL and Des Moines, IA, from Chicago over Interstate Hwy 55 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines (also from junction Interstate Hwy 80 and U.S. Hwy 6 at or near Iowa City, IA, over U.S. Hwy 6 to Des Moines), and return over the same route, serving all intermediate points in Iowa between Iowa City, and Des Moines, IA, including Iowa City and Des Moines, and the off-route points of Avon, Ankeny, and Bondurant, IA, (2) between Iowa City and Cedar Rapids, IA, (a) over U.S. Hwy 218, serving all intermediate points, and (b) over Interstate Hwy 380, serving all intermediate points, (3) between Chicago, IL and Cedar Rapids, IA, from Chicago over IL Hwy 5 to junction U.S. Hwy 30 at or near Aurora, IL, then over U.S. Hwy 30 to Cedar Rapids, and return over the same route, serving no intermediate points, (4) between Des Moines, IA and Omaha, NE, over Interstate Hwy 80, serving no intermediate points, and (5) between junction Interstate Hwy 80 and Interstate Hwy 680 and junction Interstate Hwy 680 and Interstate Hwy 29 at or near Loveland, IA, over Interstate Hwy 680, serving no intermediate points and serving the

junction of Interstate Hwy 80 and Interstate Hwy 680 and junction Interstate Hwy 680 and Interstate Hwy 29 for purposes of joinder only. (Hearing site: Chicago, IL.)

Note.—Applicant intends to tack the requested authority with its existing authority.

MC 41951 (Sub-44F), filed May 25, 1979. Applicant: WHEATLEY TRUCKING INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. Transporting *unfrozen foodstuffs* (except commodities in bulk), from points in IL, IN, and WI, to points in DE, MD, NJ, NY, PA, and VA. (Hearing site: Washington, DC.)

MC 43421 (Sub-61F), filed May 21, 1979. Applicant: DOHRN TRANSFER COMPANY, a corporation, 4016 9th St., P.O. Box 1237, Rock Island, IL 61201. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except those of unusual value, classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Fort Madison and Muscatine, IA, as off-route points in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Chicago or Rock Island, IL.)

MC 43421 (Sub-62F), filed May 21, 1979. Applicant: DOHRN TRANSFER COMPANY, a corporation, 4016 9th Street, Rock Island, IL 61201. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Transporting *building materials*, from the facilities of Rolscreen Company, at Pella, IA, to Louisville, KY, Elk Grove Village and Rock Island, IL, Indianapolis and Fort Wayne, IN, and Cincinnati, Cleveland, Kettering, and Toledo, OH. (Hearing site: Chicago, IL.)

MC 47171 (Sub-126F), filed May 23, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *textiles and textile products*, from points in Spartanburg County, SC, to points in NH, NY, and those points in CT on and east of the Connecticut River, and those points in PA on and west of the Susquehanna River. (Hearing site: Washington, DC.)

MC 48441 (Sub-47F), filed May 21, 1979. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting

such commodities as are used, dealt in or distributed by paper and plastics manufacturers and converters of paper (except commodities in bulk), from points in MO, IL, IA, IN, and WI, to the facilities of Brown Company and Georgia-Pacific Corporation, at or near Kalamazoo, MI. (Hearing site: Chicago, IL.)

MC 56270 (Sub-29F), filed May 23, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., A Corporation, 1401-55 State Street, P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). Transporting *particleboard* between Marshfield, WI, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, and OH. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 67450 (Sub-91F), filed May 29, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Ave., Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *sugar*, from points in MI, to points in IL, IN, IA, KY, OH, and WI. (Hearing site: Chicago, IL.)

MC 75320 (Sub-215F), filed May 24, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Wilton Corporation, at or near Pontotoc, MS, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Jackson, MS, or Chicago, IL.)

MC 90870 (Sub-28F), filed May 29, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50309. Transporting *drywall products*, and *materials and supplies* used in the installation and distribution of drywall products, from Memphis, TN, to points in FL, GA, IL, IN, MI, MO, TX, and WI. (Hearing site: Memphis, TN, or Chicago, IL.)

MC 93840 (Sub-48F), filed May 29, 1979. Applicant: GLESS BROS., INC., P.O. Box 218, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *liquid feed*, from Olin, IA, to points in IL, MN, MO, and WI. (Hearing site: Des Moines, IA.)

MC 111860 (Sub-4F), filed May 29, 1979. Applicant: WEST YEN EXPRESS CO., a corporation, 18 Donaldson Place, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk), from the facilities of John Morrell & Co., at or near (a) East St. Louis, IL, and Cincinnati, OH, to points in CT, MA, NJ, NY, and PA, under continuing contract(s) with John Morrell & Co., of Chicago, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 111940 (Sub-73F), filed May 21, 1979. Applicant: SMITH'S TRUCK LINES, P.O. Box 88, Muncy, PA 17756. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Transporting *flour*, between points in MD, NY, and PA. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 113651 (Sub-304F), filed May 21, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggins Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), from points in NY, NJ, and CT, to points in PA, OH, IN, IL, IA, MO, KY, TN, LA, AL, FL, GA, TX, WI, MI, MN, NE, and WV. (Hearing site: New York, NY, or Washington, DC.)

MC 114211 (Sub-407F), filed May 14, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adolor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and dealers of agricultural equipment and machinery, industrial equipment and machinery, and lawn and leisure products, (except commodities in bulk), (1) between the facilities of Deere & Company, in Black Hawk and Dubuque Counties, IA, on the one hand, and, on the other, points in the United States (except AK, FL, GA, HI, NC, and SC), (2) between the facilities of Deere & Company, in Dodge County, WI, on the one hand, and, on the other, points in the United States (except AK, FL, GA, HI, NC, and SC), (3) between the facilities of Deere & Company, in (a) Scott County, IA, and

(b) Rock Island County, IL, on the one hand, and, on the other, points in the United States (except AK, DE, FL, GA, HI, KY, MD, NJ, NC, PA, SC, VA, WV, and DC), (4) between the facilities of Deere & Company, in Polk and Wapello Counties, IA, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, ID, IL, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI, and WY, and (5) between points in the United States (except AK and HI), restricted in (1), (2), (3) and (4) above to the transportation of traffic originating at or destined to the named facilities and restricted in (5), (a) to the transportation of traffic originating at or destined to the dealers of Deere & Company, and (b) against the transportation of traffic originating at or destined to the facilities of Deere & Company, at points in (i) Black Hawk Dubuque, Polk, Scott, and Wapello Counties, IA, (ii) Dodge County, WI, and (iii) Rock Island County, IL.

MC 114211 (Sub-410F), filed May 23, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adolor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in by wholesale and retail lumber distributors, and home improvement, home furnishing, and lumber stores (except commodities in bulk), from points in the United States (except WA, OR, ID, MT, CO, NM, AZ, CA, AK, and HI), to points in IL and MO. (Hearing site: St. Louis, MO, or East St. Louis, IL.)

MC 114211 (Sub-411F), filed May 23, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adolor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in or used by agricultural equipment dealers and manufacturers (except commodities in bulk), between points in KS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Topeka or Wichita, KS.)

MC 114301 (Sub-107F), filed May 23, 1979. Applicant: DELAWARE EXPRESS CO., a corporation, P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. Transporting *feed and feed ingredients* (except liquid), from Baltimore, MD, to points in NC and SC. (Hearing site: Washington, DC.)

MC 115841 (Sub-716F), filed May 29, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919.

Representative: D. R. Beeler (same address as applicant). Transporting *such commodities* as are dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, CT, FL, GA, IA, IL, IN, KS, KY, MI, MD, MN, MO, MS, NC, NE, NY, NJ, OH, PA, SC, TN, TX, VA, WI, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 117940 (Sub-338F), filed May 23, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *foodstuffs* (except in bulk), from the facilities of the Pillsbury Company, at Minneapolis, MN, to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 119741 (Sub-193F), filed May 25, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same address as applicant). Transporting *canned pet food*, from the facilities of Carnation Company, at or near Fort Dodge, IA, to Mechanicsburg, PA, Elwood, KS, Fort Wayne, IN, and Rochelle, IL, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Los Angeles, CA.)

MC 121060 (Sub-103F), filed April 26, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting (1) *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Champion International Corporation. (Hearing site: Washington, DC.)

MC 121060 (Sub-107F), filed May 23, 1979. Applicant: ARROW TRUCK LINES, INC., Post Office Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. Transporting *iron and steel articles*, from the facilities of Laclede Steel Company, at or near

Alton, IL, to points in AL, GA, MS, and TN. (Hearing site: St. Louis, MO.)

MC 124170 (Sub-125F), filed May 3, 1979, and previously noticed in *Federal Register* issue of October 4, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Oak Brook, IL 60521. Transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between points in AL, AR, AZ, CT, GA, IA, IL, IN, KS, KY, MD, MA, MI, MN, MO, MS, NC, NE, NY, NJ, OH, PA, TN, TX, UT, VA, VT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—This republication shows GA as an origin or destination state in lieu of CA.

MC 124951 (Sub-43F), filed May 29, 1979. Applicant: WATHEN TRANSPORT, INC., P.O. BOX 237, Henderson, KY 42420. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting *iron and steel articles*, from the facilities of International Steel Company, at Evansville, IN, to points in OH, MI, KY, PA, TN, and IL. (Hearing site: Evansville, IN, or Louisville, KY.)

MC 127840 (Sub-106F), filed May 17, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Transporting *carbontetrachloride*, from New Castle, KY, to Deer Park, TX. (Hearing site: Louisville, KY.)

MC 127921 (Sub-2F), filed May 25, 1979. Applicant: COOLEY TRANSPORT, INC., P.O. Box 225, Box 8, Inman, SC 29349. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Transporting *salt*, in bulk, between the facilities of Cargill, Inc., at or near Spartanburg, SC, on the one hand, and, on the other, points in VA. (Hearing site: Spartanburg, SC, or Washington, DC.)

MC 134501 (Sub-51F), filed May 22, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *used and reconditioned hospital furniture*, between Tulsa and Oklahoma City, OK and Bedford, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tulsa or Oklahoma City, OK.)

MC 135070 (Sub-68F), filed May 29, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82818, Lincoln, NE 68501. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat packing-houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Reelfoot Packing Company, at or near Union City and Humboldt, TN, to points in CA, WA, OR, AZ, NM, CO, OK, KS, NE, IA, MO, IL, WI, IN, MI, OH, PA, VA, MD, DE, ME, NH, VT, RI, CT, MA, NY, NJ, WV, and DC. (Hearing site: Memphis, TN, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 135410 (Sub-61F), filed May 25, 1979. Applicant: COURTNEY J. MUNSON, doing business as, MUSON TRUCKING, P.O. Box 268, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting (1) *cranberry and prune products* (except in bulk), from the facilities of Ocean Spray Cranberries, Inc., at or near Middleboro, MA, to points in IA, IL, IN, OH, WI, MI, and KS; and (2) *canned fruit juices and sauces*, from the facilities of Keystone Foods, Inc., at or near Erie and North East, PA, to points in the United States (except AK and HI). Restricted in part (2) to the transportation of traffic origination to the name origins. (Hearing site: Washington, DC.)

MC 136511 (Sub-55F), filed May 22, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heasley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *canned foodstuffs*, from the facilities of B. F. Trappey's Sons, Inc., at or near New Iberia and Lafayette, LA, to points in WA, OR, CA, AZ, UT, NM, CO, TX, MS, TN, AL, GA, FL, SC, NC, WV, VA, IL, IA, WI, MO, IN, MI, OH, NY, and PA. (Hearing site: New Orleans, LA.)

MC 138151 (Sub-5F), filed May 22, 1979. Applicant: OREGON RUBBER CO., a corporation, 3595 West First Avenue, Eugene, OR 97402. Representative: J. W. McCracken, Jr., 620 Citizens Building, 175 Oak Street, Eugene, OR 97401. Transporting *lumber*, from points in Linn and Klamath Counties, OR, to points in NM (except points in Rio Arriba and San Juan Counties). (Hearing site: Eugene or Portland, OR.)

MC 141811 (Sub-6F), filed May 25, 1979. Applicant: SCHEDULED TRANSPORT, INC., 9000 Keystone Crossing, Suite 945, Indianapolis, IN 46240. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *flour*, in bulk, in tank vehicles, from Lake City, MN, to points in MI, IL, IN, and OH. (Hearing site: Washington, DC.)

MC 142801 (Sub-2F), filed May 23, 1979. Applicant: CECO TRANSPORT, INC., 5601 West 26th Street, Chicago, IL 60650. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery goods*, from the facilities of Merico, Inc., at Little Rock, AR, to points in AL, AZ, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NC, ND, OH, OK, SC, SD, TN, TX, VA, and WI, under continuing contract(s) with Merico, Inc., of Carrollton, TX. (Hearing site: Chicago, IL.)

MC 142880 (Sub-11F), filed May 29, 1979. Applicant: SUMTER TIMBER CO., INC., P.O. Box 104, Cuba, AL 36907. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *lumber*, from Demopolis, AL, and points in Clarke County, AL, to points in FL, GA, MS, LA, and TN. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 143540 (Sub-16F), filed May 29, 1979. Applicant: MARINE TRANSPORT COMPANY, a corporation, P.O. Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from the facilities of Scott Paper Company, at points in (1) DE, NJ, NY, and PA, to points in AL, GA, IL, NC, SC, VA, and WI, (2) IL and WI, to points in AL, GA, NJ, NY, and PA, and (3) AL and GA, to points in IL, IN, NJ, NY, OH, PA, and WI, under continuing contract(s) with Scott Paper Company, of Philadelphia, PA. (Hearing site: Wilmington, NC.)

MC 144330 (Sub-61F), filed May 29, 1979. Applicant: UTAH CARRIERS, INCORPORATED, P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). Transporting *lumber*, from Chickasaw, AL, to Denver, CO, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Denver, CO.)

MC 145441 (Sub-40F), filed May 22, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). Transporting *shampoo*, in containers, from the facilities of Evron Industries, at Chicago, IL, to points in AL and FL. (Hearing site: Chicago, IL, or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 145870 (Sub-13F), filed May 25, 1979. Applicant: L-J-R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting *iron and steel articles*, from points in AL, IL, IN, KY, MD, OH, PA, TN, and WV, to the facilities of Enterprise Fabricators, Inc., at Bristol, VA. (Hearing site: Bristol, VA, or Washington, DC.)

MC 145950 (Sub-23F), filed May 23, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting *footwear*, from Laredo, TX, to Goldsboro, NC. (Hearing site: Columbus, OH.)

MC 147180 (Sub-2F), filed May 23, 1979. Applicant: GEORGE W. BURNETT, INC., 145 Ganson Street, Buffalo, NY 14202. Representative: John R. Hamlett, 2200 Main Place Tower, Buffalo, NY 14202. Transporting *cement*, from Buffalo, NY, to points in OH and PA. (Hearing site: Buffalo, NY, or Washington, DC.)

MC 123481 (Sub-6F), filed May 23, 1979. Applicant: BROWN LINE, INC., 22 First Street, West, Kalispell, MT 59901. Representative: Charles A. Webb, Suite 800-South, 1800 M St., N.W., Washington, DC 20036. Transporting *passengers and their baggage* in the same vehicle with passengers, in round-trip special operations, beginning and ending at points in Flathead, Lincoln, and Sanders Counties, MT, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Kalispell, MT.)

MC 147270 (Sub-2F), filed May 29, 1979. Applicant: B & M TRANSIT CORPORATION, 15 N. Michigan Ave., Atlantic City, NJ 08401. Representative: Ira G. Megdal, 499 Cooper Landing Road, Cherry Hill, NJ 08002. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than 11 passengers in any

one vehicle, not including the driver, between Philadelphia International Airport, at Philadelphia, PA, on the one hand, and, on the other, points in Atlantic County, NJ. (Hearing site: Philadelphia, PA, or Camden, NJ.)

MC 147450F, filed May 29, 1979. Applicant: JAMES B. BARKLEY AND JULIA P. BARKLEY, d.b.a. BARKLEY TRAVEL SERVICE, 239 Bankhead St., New Albany, MS 38652. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22828, Jackson, MS 39205. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in MS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tupelo or Jackson, MS.)

Volume No. 201

Decided: Oct. 24, 1979.

By the Commission, Review Board Number 2, Members Boyle, Liberman, and Eaton.

MC 340 (Sub-56F), filed May 29, 1979. Applicant: QUERNER TRUCK LINES, INC., 1131-33 Austin St., San Antonio, TX 78206. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. Transporting *meats, meat products and meat byproducts, and articles distributed by meat packing-houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Palestine, TX, to points in MI, OH, NJ, and NY. (Hearing site: Dallas or San Antonio, TX.)

MC 5470 (Sub-193F), filed May 29, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th St. NW., Washington, DC 20006. Transporting *silicon carbide*, in dump vehicles, from Hennepin, IL, to points in AR, GA, IN, IA, KY, LA, MI, MS, MO, NY, NC, OH, OK, PA, SC, TN, VA, WV, and WI. (Hearing site: Washington, DC, or Chicago, IL.)

MC 22311 (Sub-15F), filed May 30, 1979. Applicant: A LINE INC., 8135 Monroe St., Munster, IN 46321. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. Transporting (1) *iron and steel articles* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), between the facilities of Western Cold Drawn Steel, Division of Stanadyne Corp., at or near Gary, IN, on the one hand, and, on the other, points

in NY and PA. (Hearing site: Chicago, IL.)

MC 22311 (Sub-22F), filed May 29, 1979. Applicant: A LINE INC., 8135 Monroe St., Munster, IN 46321. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. Transporting (1) *iron and steel articles*; and (2) *materials, equipment, and supplies* used in the manufacture of iron and steel articles (except commodities in bulk), between the facilities of Western Cold Drawn, Division of Stanadyne Corp., at or near Elyria, OH, on the one hand, and, on the other, points in WI, IL, MI, IN, KY, TN, WV, PA, NY, MN, IA, and MO. (Hearing site: Chicago, IL.)

MC 53841 (Sub-28F), filed May 22, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Transporting *paper, paper products, and materials, equipment and supplies* used in the manufacture and sale of paper and paper products (except commodities in bulk), between Philadelphia, PA, on the one hand, and, on the other, points in NY, OH, and PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 108341 (Sub-153F), filed May 29, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). Transporting *metal products*, from the facilities of United States Gypsum Company, at or near Franklin Park, IL, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 108341 (Sub-155F), filed May 29, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). Transporting *power pumps and power pump parts*, from the facilities of The Nash Engineering Company, at or near St. Peters, MO, to those points in the United States in and east of OH, KY, TN, and AL. (Hearing site: Washington, DC.)

MC 108341 (Sub-158F), filed May 29, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). Transporting *lead, lead alloy, and lead products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of (a) Taracorp, (b) Seitzinger, Inc., and (c) Evans Metal

Company Divisions, at or near Atlanta, GA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 109490 (Sub-14F), filed May 21, 1979. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 97, Union Center, WI 53962. Representative: Ronald E. Laitsch, 113 N. 3rd Street, Watertown, WI 53094. Transporting (1) *snowthrowers and lawnmowers*, and (2) *accessories, attachments, and parts* for snowthrowers and lawnmowers, from Lake Mills and Johnson Creek, WI, to points in the United States (except AK and HI). (Hearing site: Milwaukee or Madison, WI.)

MC 111170 (Sub-260F), filed May 29, 1979. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Transporting *sodium hydro sulfide*, in bulk, in tank vehicles, from the facilities of Great Lakes Chemical Corp., at points in Union County, AR, to points in AL, KS, LA, MO, MS, NC, OK, TN, and TX. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 112520 (Sub-374F), filed May 29, 1979. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Thomas F. Panebianco (same address as applicant). Transporting *chemicals*, in bulk, in tank vehicles, from Columbus, GA, to points in NC, SC, and TN. (Hearing site: Atlanta, GA.)

MC 113651 (Sub-306F), filed May 29, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggins Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). Transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, at or near Holland, MI, to points in AL, FL, GA, IL, IA, KS, LA, MN, MS, MO, SC, and WI, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 120761 (Sub-54F), filed May 15, 1979. Applicant: NEWMAN BROS. TRUCKING COMPANY, a corporation, 6559 Midway Road, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Transporting *pipe, and materials, equipment and supplies*, used in the manufacture of pipe (except commodities in bulk), between the facilities of Maverick Tube Corporation, at or near Union, MO, on the one hand, and, on the other, points

in AL, AZ, AR, CO, KS, LA, MS, NM, OK, TN, TX, and UT. (Hearing site: Dallas, TX.)

MC 124211 (Sub-363F), filed May 25, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting *materials, equipment, and supplies* used in the manufacture, operation, maintenance, and repair of motor vehicles (except commodities in bulk), between the facilities used by Trucks, Inc., (a) at Omaha, NE, (b) in Douglas, Sarpy, and Saunders Counties, NE, and (c) in Pottawattamie County, IA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted against the transportation of motor vehicles in driveway service. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 127840 (Sub-107F), filed May 17, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Transporting *animal fats, animal oils, and products and blends* of animal fats and animal oils, in bulk, in tank vehicles, from the facilities of Geo. A. Hormel & Co., at (a) Austin, MN, (b) Fremont, NE, and (c) Davenport, Fort Dodge, and Ottumwa, IA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origins. (Hearing site: St. Paul, MN.)

MC 127840 (Sub-114F), filed May 29, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *acids and chemicals*, from Denver, CO, to points in WY and NE. (Hearing site: Denver, CO.)

MC 127840 (Sub-115F), filed May 29, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *tallow and animal grease*, in bulk, in tank vehicles, from points in IA and WI, to the facilities of Arma Chemical Co., at points in Grundy County, IL. (Hearing site: Chicago, IL.)

MC 133590 (Sub-21F), filed May 22, 1979. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in

interstate or foreign commerce, over irregular routes, transporting *beverages, and materials, supplies, and equipment* used in the manufacture and distribution of beverages (except commodities in bulk), between points in NY and NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with All Brand Importers, Inc., of Rosyl Heights, NY. (Hearing site: New York, NY.)

MC 133590 (Sub-22F), filed May 29, 1979. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*; and (2) *materials and supplies* used in the manufacture and distributions of the commodities named in (1) above (except commodities in bulk), between points in MA, IL, TX, and UT, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with American Pad & Paper Company, of Holyoke, MA. (Hearing site: Boston, MA.)

MC 133591 (Sub-69F), filed May 21, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Charles A. Daniel (same address as applicant). Transporting *processed milk products, containers*, and container parts, from Saint Joseph and Mount Vernon, MO, and Mansfield, TX, to points in MN, WI, MI, IA, MO, TN, KY, IL, AR, LA, MS, TX, OK, KS, NE, ND, SD, MT, WY, CO, NM, AZ, IN, UT, ID, WA, OR, CA, and NV. (Hearing site: Los Angeles, CA, or Kansas City, MO.)

Note: Dual operations may be involved.

MC 133841 (Sub-12F), filed May 29, 1979. Applicant: DAN BARCLAY, INC., P.O. Box 426, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *machinery*, and (2) *materials, equipment, and supplies* used in the manufacture of machinery, between the facilities of Bobst-Champlain Co., at or near Roseland, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

MC 135070 (Sub-67F), filed May 29, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting (1) *coffee and coffee products* (except commodities in bulk),

and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of The Procter & Gamble Distributing Company, at or near Sherman, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cincinnati, OH, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 140231 (Sub-8F), filed May 29, 1979. Applicant: LUMBER DISTRIBUTORS, INC., Building 149 Marsh St.—Southside, Port Newark, NJ 07114. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting wood products, and lumber, between New York, NY, on the one hand, and, on the other, points in CT, DE, MD, NJ, NY, and PA. (Hearing site: Newark, NJ, or New York, NY.)

MC 143031 (Sub-15F), filed May 16, 1979. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY, AND EDWARD STEWART MURPHY, d.b.a. MURPHY & SONS, a partnership, Route 2, Box 139, Spring City, TN 37381. Representative: Stan Guthrie, Suite 500 Dome Building, 736 Georgia Avenue, Chattanooga, TN 37402. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic fiber yarn*, in containers, from the facilities of Chevron Chemical Company, at Dayton, TN, to points in CA, GA, NJ, and PA, under continuing contract(s) with Chevron Chemical Company, of Dayton, TN. (Hearing site: Nashville or Chattanooga, TN.)

MC 143891 (Sub-6F), filed May 21, 1979. Applicant: FLYING L TRUCKING CO., 1350 W. Potrero Road, P.O. Box 4942, Thousand Oaks, CA 91359. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *such commodities* as are dealt in by manufacturers or converters of paper and paper products (except commodities in bulk), (1) from points in CA, OR, and WA, to points in ID, and (2) from points in WA, to points in Malheur and Umatilla Counties, OR. (Hearing site: Los Angeles, CA.)

MC 145481 (Sub-10F), filed May 29, 1979. Applicant: COYOTE TRUCK LINE, INC., 302 Cedar Lodge Road, P.O. Box 756, Thomasville, NC 27360. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting *confectionery* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Boston, MA, to points in AZ, CA,

CO, ID, NV, NM, OR, UT, and WA. (Hearing site: Boston, MA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 146630 (Sub-2F), filed May 29, 1979. Applicant: SAWDUST SIERRA, INC., 2996 Timber Lane, Verona, WI 53593. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *building brick*, from the facilities of Streater Brick Systems, Inc., at or near Streater, IL, to points in WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 147461F, filed May 25, 1979. Applicant: FEDERAL ARMORED EXPRESS, INC., 7675 Canton Center Drive, Baltimore, MD 21224. Representative: Eugene T. Liipfert, Suite 1000, 1660 L St., N.W., Washington, DC 20036. Transporting *currency*, between Atlanta, GA, Baltimore, MD, Birmingham, AL, Boston, MA, Buffalo, NY, Charlotte, NC, Chicago, IL, Cincinnati and Cleveland, OH, Coral Gables and Jacksonville, FL, Culpeper and Richmond, VA, Dallas, El Paso, Houston, and San Antonio, TX, Denver, CO, Detroit, MI, Louisville, KY, Helena, MT, Kansas City and St. Louis, MO, Little Rock, AR, Los Angeles and San Francisco, CA, Memphis and Nashville, TN, Minneapolis, MN, New Orleans, LA, Oklahoma City, OK, Omaha, NE, Philadelphia and Pittsburgh, PA, Portland, OR, Salt Lake City, UT, Seattle, WA, and DC. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

Volume No. 212

Decided: Oct. 27, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Hill not participating.

MC 80443 (Sub-22F), filed June 8, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Davie Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. Transporting (1) *pet food* (except in bulk, in tank vehicles), from the facilities of Tuffy's Division of Star-Kist Foods, Inc., at or near Perham, MN, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of pet food, (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Minneapolis, MN.)

MC 99493 (Sub-7F), filed June 8, 1979. Applicant: CENTRAL STORAGE & TRANSFER CO. OF HARRISBURG, a Corporation, P.O. Box 2821, Harrisburg, PA 17105. Representative: Christian V.

Graf, 407 North Front St., Harrisburg, PA 17101. Transporting *chemicals* (except in bulk), between the facilities of Cello Chemical Company, at or near Havre de Grace, MD, on the one hand, and, on the other, points in Adams, Berks, Blair, Bucks, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Huntingdon, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Schuylkill, Snyder, Union, Wyoming, and York Counties, PA. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 106373 (Sub-47F), filed June 8, 1979. Applicant: THE SERVICE TRANSPORT CO., a Corporation, 114½ East Main St., Ravenna, OH 44268. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting *iron and steel articles*, from points in PA, OH, and WV, to the facilities of FMC Corporation, at or near Indianapolis, IN.

Note.—Applicant states it intends to tack with its authorized regular-route authority at points in OH, PA, and WV to provide a through service from regular-route points in MI and NY, to the facilities of FMC Corporation, at or near Indianapolis, IN. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 106603 (Sub-201F), filed June 8, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain St. SW., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Transporting *plywood and plywood wall paneling*, from Norfolk, VA, to points in DE, IL, IN, IA, KY, MD, MI, MO, NJ, NY, OH, PA, WV, and WI. (Hearing site: Washington, DC, or Chicago, IL.)

MC 107012 (Sub-378F), filed June 4, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *toys*, from the facilities of Mac Plastics, Inc., at or near Canonsburg and Houston, PA, to points in the United States (except AK, HI, and PA). (Hearing site: Los Angeles or San Diego CA.)

MC 111812 (Sub-648F), filed June 7, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Transporting *welding rods, welding wire, wire metal alloys, castings, electric welders, parts for electric welders, and welding compounds*, from the facilities

of Stooddy Company, at City of Industry and Santa Fe Springs, CA to points in AR, CO, IL, IN, IA, KS, MN, MO, NE, NM, ND, OK, SD, TN, TX, UT, WI, and WY restricted to the transportation of traffic originating at the named origin facilities. (Hearing Site: Los Angeles, CA.)

MC 111812 (Sub-649F), filed June 7, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Transporting *electric ranges and microwave ovens*, (1) from the facilities of Litton Microwave Cooking Products, at Sioux Falls, SD, to points in MD, NV, NJ, NY, NC, PA, SC, TX, and VA, and (2) from the facilities of Litton Microwave Cooking Products, at (a) Sioux Falls, SD, and (b) Minneapolis, MN, to points in FL. (Hearing Site: Minneapolis, MN.)

MC 111812 (Sub-653F), filed June 7, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Transporting (1) *welders, parts for welders, welder systems, and welding compounds*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles, and those which because of size and weight require the use of special equipment), between the facilities of the Stooddy Company and Stooddy International Company, at or near Pittsburgh, PA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Los Angeles, CA.)

MC 114632 (Sub-238F), filed June 8, 1979. Applicant: APPLE LINES, INC., a NE Corporation, P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). Transporting *frozen foodstuffs*, between Indianapolis, IN, on the one hand, and, on the other, points in CO, CT, DE, ID, IL, IA, KS, KY, ME, MD, MA, MI, MN, MO, MT, NE, NH, NJ, NY, ND, OH, PA, RI, SD, TN, UT, VT, VA, WV, WI, WY, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Monument Distribution Warehouse, Inc., at Indianapolis, IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 114632 (Sub-239F), filed June 8, 1979. Applicant: APPLE LINES, INC., P.O. Box 287 Madison, SD 57042. Representative: David E. Peterson (same address as applicant). Transporting *frozen foods*, from the facilities of General Foods Corporation, at Avon

and Fulton, NY, to Chicago, IL and Bettendorf, IA, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: New York, NY, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 118142 (Sub-229F), filed June 7, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg. Wichita, KS 67202. Transporting (1) *bananas*, and (2) *agricultural commodities*, which are otherwise exempt from economic regulation under 49 U.S.C. § 10528(a)(6) (1978), in mixed loads with bananas, from the facilities of Del Monte Banana Company, at Port Hueneme, CA, to points in AZ, CO, IA, ID, KS, MO, MT, NE, ND, NM, OR, SD, TX, UT, WA, and WY, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Los Angeles, CA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 123502 (Sub-53F), filed June 7, 1979. Applicant: FREE STATE TRUCK SERVICE, INC., P.O. Box 760, Glen Burnie, MD 21061. Representative: W. Wilson Corroum (same address as applicant). Transporting *petroleum fuel oil flue dust*, in bulk, in dump vehicles, from Oswego, NY, and Portsmouth, Strasburg, and Yorktown, VA to Bellaire, OH, and Freeport and West Elizabeth, PA. (Hearing site: Washington, DC, or New York, NY.)

MC 128672 (Sub-7F), filed June 7, 1979. Applicant: TIMBER TRUCKING CO., INC., P.O. Box 231, Ripley, WV 25271. Representative: Ralph McDonald P.O. Box 2246, Raleigh, NC 27602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, timber, and wood products*, from the facilities of the Burke-Parsons-Bowlby Corporation, at or near Leland, NC, to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, OH, PA, RI, SC, TN, VT, VA, WV, and DC, under continuing contract(s) with The Burke-Parsons-Bowlby Corporation, of Ripley, WV. (Hearing site: Wilmington or Raleigh, NC.)

MC 139602 (Sub-3F), filed May 4, 1979. Applicant: WIERSEMA CHARTER SERVICE, INC., R.R. No. 2, Morrison, IL 61270. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special operations, beginning and ending at points in Stephenson, Carroll, Whiteside, Fulton, Bureau, and Henry

Counties, IL, and extending to points in the United States (including AK and HI). (Hearing site: Chicago, IL.)

MC 140083 (Sub-3F), filed June 7, 1979. Applicant: FLORENCE N. SOBEL, INC., a NY corporation, d.b.a. GENTRY FORWARDING COMPANY, 3445 Paterson Plank Rd., N. Bergen, NJ 07047. Representative: Lawrence L. Lindeman, Pennsylvania Ave. & 13th St. NW., Suite 1032, Washington, DC 20004. Transporting *trailers* (except those designed to be drawn by passenger automobiles), *containers, and trailer chassis*, (1) between points in PA, NY, and NJ, (2) between points in PA, NY, and NJ, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, RI, VA, and VT, and (3) between Norfolk, VA, and Baltimore, MD. (Hearing site: Newark, NJ.)

MC 140563 (Sub-28F), filed March 29, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., a corporation, P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *paper and paper products*, (2) *plastic and plastic products*, (3) *chemicals*, (4) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1), (2) and (3), above, (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

Note.—Dual operations are involved.

MC 141823 (Sub-8F), filed June 7, 1979. Applicant: GLASS CONTAINER TRANSPORT, INC., Route 1, Box 271, Ridgeway, SC 29130. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, (except commodities in bulk), from the facilities of Anheuser-Busch, Inc., at or near Williamsburg, VA, to points in GA, NC, and SC, under continuing contract(s) with Anheuser-Busch, Inc., of St. Louis, MO. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 146032 (Sub-4F), filed June 7, 1979. Applicant: SKYCAB, INC., 137 North 4th St., Philadelphia, PA 19106. Representative: Steven M. Tannenbaum, 133 North 4th St., Philadelphia, PA 19106. Transporting (1) *pharmaceuticals and radioactive medicines*, and (2) *materials and supplies* used in the distribution and use of the commodities in (1) above, (except commodities in bulk), between points in the United States (except AK and HI). Condition:

To the extent the certificate granted in this proceeding authorizes radioactive medicines, it will expire 5 years from the date of issuance. (Hearing site: Philadelphia, PA.)

MC 146293 (Sub-26F), filed June 8, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Ind. Park Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting (1) *charcoal, charcoal briquettes, grills, and lighter fluid*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between Gary, IN, Pachuta, MS, and Branson, MO, on the one hand, and, on the other, those points in the United States on and east of U.S. Hwy 85. (Hearing site: Atlanta, GA.)

MC 14673 (Sub-14F), filed June 7, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K St., NW, Suite 300, Washington, DC 20006. Transporting (1) *glassware, glass-ceramic ware, laminated glassware, and electrical appliances*, and (2) *parts and accessories* for the commodities in (1) above, from Greencastle and Charleroi, PA, to points in AR, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI. NOTE: Applicant intends to rely on rate issues in this proceeding. (Hearing site: Washington, DC.)

MC 146892 (Sub-5F), filed June 8, 1979. Applicant: R & L TRANSFER, INC., P.O. Box 271, Wilmington, OH 45177. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by manufacturers of electrical hardware, components for electrical hardware, and emergency equipment and supplies, (except commodities in bulk), between Wilmington, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus or Cincinnati, OH.)

MC 147583F, filed June 7, 1979. Applicant: MICHAEL J. FITZGIBBON and DOYLE L. WALKER, a partnership, d.b.a. FITZ FREIGHT SPECIAL COMMODITIES, 202 North 161 East Ave., Tulsa, OK 74138. Representative: Michael R. Vanderburg, 5200 South Yale, Suite 400, Tulsa, OK 74135. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *steel products*, between the facilities of (a) S & S Alloys, Inc., at Tulsa, OK and (b) Steel Processing & Supply Company, at Catoosa, OK, on the one hand, and, on the other, points in AR, KS, MO, and TX,

under continuing contract(s) with S & S Alloys, Inc., of Tulsa, OK, and Steel Processing & Supply Company, of Catoosa, OK. (Hearing site: Tulsa, OK.) MC 148573F, filed May 30, 1979.

Applicant: SHEA/RUSTIN TRANSPORT COMPANY, a corporation, P.O. Box 93567, Martech Station, Atlanta, GA 30318. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Re. NE., Atlanta, GA 30326. Transporting (1) *chemicals, chemical compounds, antifreeze, plastics and plastic products*, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Northern Petrochemical Company, at or near (a) Mankato, MN, (b) Newark, OH, (c) Clinton, MA, and (d) Chicago, Morris, and Mapleton, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Washington, DC.)

Note.—Dual operations may be involved.

Agatha L. Mergenovich, Secretary.

[FR Doc. 79-35664 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

(Ex Parte No. 311)

Expedited Procedures for Recovery of Fuel Costs

Decided: November 14, 1979.

In our decisions of September 11, 18, 25, October 2, 9, 16, 23, 30, and November 6, 1979, a 9.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 10-percent. As such, we are authorizing a 10-percent surcharge on this traffic. Owner-operators are to receive compensation at this level. No change will be made in the existing authorization of a 1.7-percent surcharge on less-than-truckload traffic (LTL) performed by carriers not utilizing owner-operators, nor in the existing authorization of a 3.7-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the governor of each State and the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in

the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m., November 16, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Vice Chairman Stafford absent and not participating.

Agatha L. Mergenovich, Secretary.

November 13, 1979.

Appendix.—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax)			
January 1, 1979.....			
Date of Current Price Measurement and Price Per Gallon (Including Tax)			
November 13, 1979.....			
Average Percent: Fuel Expenses (Including Taxes) of Total Revenue			
(1)	(2)	(3)	
From Transportation Performed by Owner Operators (Apply to All Truckload Rated Traffic)	Other (Including Less-Truckload Traffic)	Bus Carriers	
16.9%	2.9%	6.3%	
Percent Surcharge Developed			
10.0%	1.7%	3.7%	
Percent Surcharge Allowed			
10%	1.7%	3.7%	

November 13, 1979.

Bureau of Accounts.—Diesel Fuel—Prices and Index Selling Price at Pump—Full Service—Cash January 1979 = 100

Date	Excluding taxes		Including taxes	
	Price	Index	Price	Index
1/1/79 ¹	50.7	100.0	63.5	100.0
8/27/79 ²	85.2	168.0	98.3	154.8
9/4/79.....	86.8	171.2	99.9	157.3
9/10/79.....	87.0	171.6	100.1	157.8
9/17/79.....	87.1	171.8	100.2	157.8
9/24/79.....	87.1	171.8	100.2	157.8
10/1/79.....	86.8	171.2	99.9	157.3
10/9/79.....	87.0	171.6	100.1	157.8
10/15/79.....	87.2	172.0	100.3	158.0
10/22/79.....	87.3	172.2	100.4	158.1
10/29/79.....	87.4	172.4	100.5	158.3
11/5/79.....	87.3	172.0	100.4	158.1
11/13/79.....	88.0	173.6	101.1	159.2

¹January 1, 1979 base price figures of 50.8¢ and 63.6¢ changed to 50.7¢ and 63.5¢ on 7/2/79 due to minor correction from one reporting station.

²8/27/79 figures of 85.3 and 98.4 changed to 85.2 and 98.3 on 9/4/79 due to reporting correction.

[FR Doc. 79-35661 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Corrected Notice

November 6, 1979.

Notice to the parties: This is to correct an error in the Notice served November 6, 1979, [44 FR 65854, Nov. 15, 1979] regarding the "effective" and "expiration" dates of the initial 60-day directed service period under DSO No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R. I. & P.*, 360 I.C.C. 289 (1979) and 44 FR 56343 (October 1, 1979).

As correctly stated in the prior Notice, the "effective" date was 12:01 a.m. (central time) *Friday, October 5, 1979*. However, the correct "expiration" date is 11:59 p.m. (central time) *Monday, December 3, 1979*.

Please make note of the above correction.

Agatha L. Mergenovich, Secretary.

[FR Doc. 79-35659 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398; Authorization Order No. 10]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: November 14, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of Chicago, Rock Island & Pacific Railroad Company, debtor (William M. Gibbons, Trustee) ("RI"). See Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979).

RI owns a certain bridge (Bridge No. 1650; open deck) which is in need of substantial rehabilitation. DSO No. 1398 required the DRC to obtain prior approval for rehabilitation of lines and related facilities which exceeds \$5,000 per mile. See DSO 1398, 360 I.C.C. at 303 [44 FR 56347, last column, 56348, 1st column]. Accordingly, the DRC submitted a detailed statement of repairs needed to Bridge 1650 located 7.7 miles south of Shell Rock, IA, requiring repairs costing \$10,487.75. See "DRC Report No. 9" (dated November 1, 1979).

The DRC seeks Commission authorization to repair Bridge 1650 on

the grounds that: (1) The bridge is essential to the operation over the RI between Waterloo and Manly, IA; (2) Rehabilitation of Bridge 1650 will permit resumption of through train service to "captive" shippers between Waterloo and Manly, IA; and (3) Restoration of service over that line will realize certain efficiencies and economies by transit time caused by rerouting traffic, eliminating backhaul of traffic, and reducing time consumed in deadheading crews to Manly, IA.

Bridge 1650 is located on the RI line between Waterloo and Manly, IA, and is impassable. The DRC has been rerouting through-traffic which ordinarily moves over this line to Cedar Rapids, IA, and points east via other railroads. This constitutes a substantial loss in freight revenues.

We find:

1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

It is ordered:

1. The DRC is authorized to make repairs to RI Bridge 1650 located 7.7 miles south of Shell Rock, IA, in Bremer County. The total cost authorized for repairs is:

Materials.....	\$6,184.00
Labor.....	3,912.50
Contingencies 10%.....	391.25
Total.....	\$10,487.75

¹Five gang days at \$782.50.

2. The repairs authorized above must be completed within the initial 60-day directed-service period.

3. This decision shall be effective on its service date.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael, Joel E. Burns not participating.

Agatha L. Mergenovich, Secretary.

[FR Doc. 79-35660 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense; Special Certificate Letter Notice

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading

Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC-115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before December 10, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence on or before December 20, 1979, subject to its tariff publication effective date.

HG-27-79 (Special Certificate—Used Household), filed October 16, 1979. Applicant: LINCOLN LAND MOVING & STORAGE, INC., P.O. Box 1190, Number one Lincoln Land Way, Champaign, IL 61820. Representative: J. W. Anderson (same address as applicant). Authority Sought: Between points in Champaign, Clark, Coles, Cumberland, Douglas, Edgar, Ford, Iroquois, Vermillion, Kankakee, Livingston, Marshall, Greene, McDonough, Morgan, Pike, Schuyler, Scott, Logan, Macon, Menard, Moultrie, Piatt, Sangamon, Shelby, Adams, Calhoun, Cass, Fulton, McLean, Peoria, Stark, Tazewell, Woodford, Christian, DeWitt, Mason, Hancock, and Brown counties, IL, serving Chanute Air Force Base, IL.

By the Commission
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35662 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

Transportation of "Waste" Products for Reuse or Recycling; Special Certificate Letter Notices

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 M.C.C. 583 (1978). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before December 10,

1979. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence on or before December 20, 1979, subject to its tariff publication effective date.

PM-12-79 (Special Certificate—Waste Products), filed September 30, 1979. Applicant: B & G TRUCKING, INC., 77 East Wilson Bridge Rd., Worthington, OH 43085. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Sponsors: Container Corporation of America, of Carol Stream, IL. St. Regis Paper Company, of Coshocton, OH, Battle Creek, MI, and York, PA.

P-13-79 (Special Certificate—Waste Products), filed October 11, 1979. Applicant: SHARKEY TRANSPORTATION, INC., 3803 Dye Road, Quincy, IL 62301. Representative: James R. Ponsot (address same as applicant). Sponsor: Carl L. Steiner, 39 So LaSalle St., Chicago, IL 60603. Quad-County Recyclers, Inc., RR #4, Box 3060, West Burlington, IA 52655. Commodities: Waste Products.

P-14-79 (Special Certificate—Waste Products), filed October 2, 1979. Applicant: CAUSTIC SODA TRANSPORTATION CO., 792½ Haywood Rd., Asheville, NC 28806. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. Sponsors: The Mead Corporation, of Dayton, Ohio. Champion International, of Hamilton, Ohio. Olin Corporation of Pisgah Forest, NC. Commodities: Waste Products.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35063 Filed 11-19-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board.....	1, 2
Federal Communications Commission.....	3, 4
Federal Maritime Commission.....	5
Federal Mine Safety and Health Review Commission.....	6
National Railroad Passenger Corporation.....	7

1

[M-255, Amdt. 4, Nov. 14, 1979]

CIVIL AERONAUTICS BOARD.

Notice of closure and renumbering of item to the November 15, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m. (open)—3:00 p.m. (closed)—November 15, 1979.

PLACE: Room 1027 (open), Room 1011 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 33. (Formerly Item 18) Docket 33634, Aeroamerica, Inc., Exemption to operate scheduled air transportation between Seattle/Portland and Honolulu. (Memo 8248-H, BDA.)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: On Wednesday, November 14, 1979, it was determined that the staff's recommended course of action to the Board should be changed. The new recommendation is more likely to necessitate discussion of audit material and confidential business information than was previously the case. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of this meeting was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Discussion of this matter will involve the results of audit conducted under the authority of Section 407(e) of the Federal Aviation Act, 49 U.S.C. 1377(e) Section 902(f) of the Act, 49 U.S.C. 1472(e)

prohibits disclosure of this material absent a Board order. Section 902(f) is a statute within the meaning of Exemption 3(b) of the Sunshine Act. Additionally, the discussion will involve commercial or financial information obtained from a person and privileged and confidential within the meaning of Exemption 4 of the Sunshine Act. So that no unnecessary public disclosure of protection information take place during the course of our consideration of this matter we have determined to discuss it in closed session. Accordingly, the following Members have voted that this discussion concerns matters within the scope of Exemptions 3(b) and 4 of the Government in the Sunshine Act, 5 U.S.C. 552b (3)(B) and (4), and within 14 CFR Section 310b.5 (3)(B) and (4) of the Board's regulations and that the meeting will be closed:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter. Managing Director.—Mr. Cressworth Lander. Executive Assistant to the Managing Director.—Mr. John R. Hancock.

Office of the General Director.—Mr. Michael E. Levine and Mr. Steven A. Rothenberg. Bureau of Domestic Aviation.—Ms. Barbara A. Clark, Mr. James A. Saltsman, Mr. Curtis B. Maloy, Ms. Patricia T. Szrom, and Mr. John R. McCamant.

Bureau of International Aviation.—Mr. Sanford Rederer, Mr. Douglas Leister, and Mr. Vance Fort.

Office of the General Counsel.—Ms. Mary Schuman, Mr. Gary Edles, Mr. Michael Schopf, and Mr. William F. Adler.

Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Robert Preece.

Bureau of Consumer Protection.—Mr. Reuben B. Robertson, Mr. Howard Schemeltzer, and Mr. Glenn Wienhoff.

Bureau of Carrier Accounts and Audits.—Mr. Raymond Kurlander and Mr. Roy E. Thompson.

Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b (3)(B) and (4), and within 14 CFR Section 310b.5 (3)(B) and (4) and that the

Federal Register

Vol. 44, No. 225

Tuesday, November 20, 1979

meeting may be closed to the public observation.

Gary J. Edles,
Deputy General Counsel.

[S-2252-79 Filed 11-15-79; 4:33 pm]

BILLING CODE 6320-01-M

2

[M-256, Nov. 14, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., November 21, 1979.

PLACE: Room 1027, (open), Room 1011 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by notation.

2. Dockets 36461 and 36462; Ozark's notices under section 401(j)(1) of intent to terminate its certificate obligation at Sterling/Rock Falls and Galesburg, Illinois, respectively. (BDA, OCCR)

3. Docket 36971 and 36811: Sixty Day Notice of Air New England for suspension of nonstop or single plane service in eight markets; application of Air New England for an exemption from the notice requirement. (BDA)

4. Dockets 36590, 36760, 36757, 36742, 36684, 36753, 36733, 36763, 36762, 36761, 36743, 36730, 36699, and 36744; Northeast/Ohio Valley-Florida Show-Cause Proceeding. (BDA)

5. Dockets 35744, 35968, 35969, 35971, 35978, and 35978; Pacific Northwest-St. Louis-East Show Cause Proceeding. (BDA)

6. Dockets 36805 and 36928—Applications of Texas International and Ozark Air Lines for restriction removal under Subpart Q in the Houston-Tulsa market. (BDA)

7. Dockets 36401, 36612, 36819, 36581, and 36585; Applications of Continental, Ozark, Piedmont, USAir and Western for Wichita authority. (Memo 9287, DBA)

8. Dockets 36514, 36775, and 36627, applications of Continental, Western and USAir for (formerly Allegheny) for Denver-Cleveland/Pittsburgh/New York (LGA and JFK)/Newark authority. (Memo 9290, BDA)

9. Docket 34772, Cancellation of Rule 1(G), CAB No. 352 (formerly CAB No. 142), and similar tariff rules that state that no employees or agents of carriers have authority to waive or modify tariff provisions. (BDA, BCP)

10. Docket 34435; Cancellation of Air Carrier Rules Pertaining to Transportation of Certain Categories of Passengers. (BCP, BDA, OGC)

11. Dockets 33686, 33687, and 33363; Application of Air America Incorporated for charter air transportation certificates. Order on discretionary review. (Memo 7690-P, OGC)

12. Docket 28262, *Air Midwest Certification Proceeding*—On remand from the Court of Appeals. (Memo 6553-C OGC)

13. Docket 35352, *Pan American's application for redesignation of its point on Route 132 "Balboa, Canal Zone-Panama City, Panama" as "Panama City, Panama."* (Memo 9291, BIA, OGC, BALJ)

14. Docket 36766, *United States—Costa Rica Show Cause Proceeding, Final Order.* (BIA)

15. *Forthcoming Informal Consultations with Spain Scheduled for Late November.* (Memo 9289, BIA)

STATUS: Open (Items 1-14); Closed (Item 15).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: This memo concerns strategy and positions that may be taken by the United States in negotiations with Spain. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member Gloria Schaffer.

Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, Mr. Stephen H. Lachter, Managing Director.—Mr. Cressworth Lander, Executive Assistant to the Managing Director.—Mr. John R. Hancock.

Office of the General Counsel.—Mr. Michael E. Levine and Mr. Steven A. Rothenberg, Bureau of International Aviation.—Mr. Sanford Rederer, Mr. Vance Fort, Mr. Douglas Leister, Ms. Mary I. Pett, Mr. Ivars V. Mellups, Mr. Francis S. Murphy, and Mr. John A. Driscoll.

Office of the General Counsel.—Ms. Mary Schuman, Mr. Gary Edles, and Mr. Peter Schwarzkopf.

Office of Economic Analysis.—Mr. Robert H. Frank.

Bureau of Consumer Protection.—Mr. Reuben B. Robertson, Mr. John T. Golden, and Ms. Patricia J. Kennedy

Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting may be closed to the public observation:

Gary J. Edles,
Deputy General Counsel.

[S-2253-79 Filed 11-15-79; 4:33 pm]

BILLING CODE 6320-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2:00 p.m., Tuesday, November 20, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Title: Application for Review of a ruling by the Chief, Broadcast Bureau, denying a Freedom of Information Act request by Alaskans for Better Media for inspection of the 1974-1978 annual financial reports of five broadcast stations licensed to Northern Television, Inc. Summary: At issue is whether the annual financial reports are exempt from mandatory disclosure under the FOIA and if so whether the annual financial reports should nevertheless be released on the basis that the licensee has placed its financial condition in issue in a Commission proceeding.

General—2—Title: Memorandum Opinion and Order in response to Roper petition for reconsideration permitting immediate marketing of induction cooking range. Summary: The Commission considers a petition filed by the Roper Corporation on September 14, 1979, requesting reconsideration of only the February 1, 1980 effective date of the new regulations for induction cooking ranges adopted August 1, 1979 in the First Report and Order in FCC Docket 20718.

Private Radio—1—Title: Administration of telegraphy examinations to handicapped applicants for Amateur operator licenses. Summary: The FCC will consider what course of action to follow with regard to administering telegraph examinations to certain handicapped persons applying for Amateur radio operator licenses. Options for consideration are: (1) retention of present telegraph speeds for the handicapped; (2) amendment of rules to reduce telegraph speed requirement; (3) creation of a codeless Amateur operator license for handicapped persons only; and, (4) rule waivers to allow a handicapped person to take telegraph test at a slower speed.

Private Radio—2—Title: Second Report and Order to amend Parts 90 and 95 (General Mobile Radio stations only) of the Commission's Rules to replace the low-pass filtering requirement with a revised emission limitation standard (Docket 21142). Summary: The FCC will consider

revised technical standards for transmitters that operate under Parts 90 and 95 (General Mobile Radio stations only) of the Commission's Rules. The new rules would authorize the use of transmitters without the low-pass filters for analog voice, digital voice, automatic vehicle monitoring and high bit rate transmissions if the transmitters would comply with the emission limitation standards proposed by the Commission in the Docket.

Private Radio—3—Title: Notice of Proposed Rule Making to permit operation of paging stations using F9Y emission by persons who are deaf or who have other physical handicaps. Summary: The FCC proposes to permit operation of paging stations using digital techniques by the deaf, deaf-blind, and others who have severe physical handicaps. Two frequencies are proposed to be allocated for this purpose 35.02 and 43.64 MHz. Existing licensees on these frequencies would not be displaced.

Private Radio—4—Title: Rule making to revise Part 97 of the Amateur-Satellite Service. Summary: The FCC will consider whether to adopt or deny a Notice of Proposed Rule Making to revise Part 97 of the Amateur Radio Service to provide for the Amateur-Satellite Service.

Private Radio—5—Title: Eligibility of the Organization of American States (OAS) for licensing in the General Mobile Radio Service. Summary: Application by the OAS for a license in the General Mobile Radio Service (Subpart A of Part 95 of the Commission's Rules) for the operation of a two-way communication system, pursuant to Section 310 of the Communications Act, 47 U.S.C. § 310.

Common Carrier—1—Petitions for Reconsideration of Orders which granted with modified conditions the applications of General Telephone and Electronics Corp. to acquire control of Telenet and its wholly owned subsidiary Telenet Communications Corporation. The Commission is considering Petitions for Reconsideration of Orders entered May 11, 1979 and June 13, 1979 in the application of General Telephone and Electronics Corporation to Acquire Control of Telenet Corporation and its Wholly-owned Subsidiary Telenet Communications Corporation. The issues before us are whether a sufficient rational basis exists to justify the modification of the conditions; whether prohibited *ex parte* communications tainted the proceeding; whether due process was afforded the interested parties.

Common Carrier—2—Title: RCA American Communications, Inc. and Alascom, Inc. applications for authority to jointly construct and operate domestic satellite space stations and earth stations in connection with the provision of Alaskan communications services. Summary: The Commission will consider the applications of RCA American Communications, Inc. and Alascom, Inc. to operate space and earth segment satellite facilities in connection with the provision of communications services to Alaska. Among the issues to be considered are: (1) whether the RCA SATCOM satellite system is

superior, from a technical point of view, to the AT&T COMSTAR system; and (2) whether Alascom and Americom have made a sufficient showing that the cost of using the SATCOM system is less than or equivalent to the cost of using the COMSTAR system.

Common Carrier—3—Title: RCA American Communications, Inc. application for authority to launch the SATCOM F-3 domestic satellite and to relocate SATCOM F-1. Summary: The Commission will consider the application of RCA American Communications, Inc. for authority to launch a third domestic satellite and place it in the prime orbital arc. The issues to be considered are (1) whether the RCA Americom has demonstrated sufficient need for a third in-orbit SATCOM satellite; (2) whether RCA Americom should be authorized to place a second SATCOM satellite in the prime orbital arc; (3) whether the Commission should delay launch authority pending resolution of complaints concerning the design of the satellite and RCA Americom's method of assigning transponders.

Common Carrier—4—Title: Application for consent to transfer control of WUI, Inc., Western Union International, Inc., Aisignal International, Inc., and Aisignal's wholly owned subsidiaries to Xerox Corporation (File Nos. 721-CSG-TC-79 and 722-DSE-TC-79). Summary: Xerox Corporation and WUI, Inc. and its wholly owned subsidiaries seek Commission consent to a proposed merger. The effect of the merger would be to transfer to Xerox control of WUI, Inc. and its wholly owned subsidiaries. WUI, Inc. and its subsidiaries hold various authorizations from the Commission for the provision of domestic and international communications services. Among the issues to be resolved are the question of the applicability of Section 222 to the proposed merger and the effect of the merger on competition.

Assignment and Transfer—1—Title: Letter from Arthur B. Goodkind, counsel for Thomas L. Berkley, requesting a ruling regarding the applicability of the Commission's Multiple Ownership Rules. Summary: Mr. Thomas L. Berkley has a 10% interest and is an officer and director of a licensee of an AM-FM combination in the San Francisco Bay area and also owns and publishes, three times per week, four small newspapers in the same market. He proposes to commence publishing one of these newspapers four times per week at which time he will resign his position as an officer and director of the licensee company and disclaim his voting rights in the company's stock. He requests a ruling as to the applicability of our Multiple Ownership Rules to these circumstances.

Assignment and Transfer—2—Title: Applications for assignment of the licenses of stations WBIR-AM-FM, Knoxville, Tennessee, from Multimedia, Inc. to Stoner Broadcasting System, Inc.; application for assignment of the license of station WVEZ (FM), Louisville, Kentucky, from Stoner Broadcasting System, Inc. to Multimedia, Inc. Summary: The applications are mutually contingent. A petition to deny the

WVEZ (FM) assignment application has been filed by Kentucky Technical Institute, licensee of FM station WLRS, Louisville, Kentucky. The petition primarily alleges that the WVEZ (FM) acquisition by Multimedia would violate the Commission's "three station regional concentration of control rule" (section 73.240(a)(2)).

Renewal—1—Title: Educational Broadcasting Corporation's Request for on-site Inspection of Proposed Newark Facilities. Summary: The proposed Order considers Educational Broadcasting Corporation's request that the Commissioners conduct an on-site inspection of its New Jersey Facilities before issuing further orders in this proceeding.

Aural—1—Title: Memorandum Opinion and Order in re application of Hall Broadcasting Co., Inc. (BPH-10,663). Summary: The FCC considers its grant of the above application to change transmitter location and increase antenna height of Station WIYD-FM, Palatka, Florida, in the light of the parties' failure to consummate a companion assignment of license of the station.

Television—1—Title: Application of WSET-TV, Inc. for CP to make major changes in facilities of WSET-TV, Lynchburg, Virginia (BPCT-5001). Summary: WSET proposes to change site and make other changes, resulting in location closer to Roanoke Virginia, and farther from Lynchburg. Questions raised with respect to short-spacing, UHF impact and other matters. Petition to deny and informal objection are also considered.

Television—2—Subject: Application of Wometco Blonder-Tongue Broadcasting Corp. for a construction permit for changes in the facilities of Station WWHT (TV), channel 68, Newark, N.J. (no file number assigned). Summary: Applicant seeks to locate the WWHT (TV) transmitter atop the World Trade Center Building in New York, N.Y. The proposed transmitter location does not comply with Commission mileage separation requirements for television facilities and applicant has, therefore, requested a waiver of these requirements. The issue before the Commission is whether applicant's waiver request is sufficient to justify acceptance of its application for filing.

Broadcast—1—Reregulation and Rules Oversight of Radio and TV Broadcasting. Amendment of §§ 73.30, "Station location and program origination;" 73.31, "Authority to move main studio;" 73.210, "Station location and program origination" and 73.613, "Main studio location." Basics of these four rules are essentially the same. They are rewritten and combined and placed in Subpart H of Part 73—"Rules Applicable to all Broadcast Stations." The Sections are renumbered and retitled: § 73.1120 Station location; § 73.1125 Station main studio location; § 73.1130 Station program origination.

Broadcast—2—Notice of Proposed Rule Making to permit the use of subcarriers in the television aural baseband for the purposes of cuing and coordinating electronic newsgathering crews (Docket

21323). Summary: The FCC is proposing the use of subcarriers in the television aural baseband for the purposes of cuing and coordinating ENG crews. Technical standards for such transmissions are also proposed. This action was initiated by a petition filed by Boston Broadcasters, Inc. A Notice of Inquiry issued earlier in this proceeding requested comments in regard to all possible uses of TV aural subcarriers including television stereophonic sound. The mixed responses received, combined with the electronic industry's continuing study of the matter, prompts us to hold in abeyance consideration of subcarrier uses other than that now proposed.

Broadcast—3—Pre-U.S. release of television programs in Canada, Docket NO. 20649. The Commission will consider: (1) its jurisdiction, under Section 325(b) of the Communications Act, over the exportation of U.S. network television programs for release by Canadian border stations before they are broadcast within the United States; (2) pending industry proposals that the FCC prohibit program exportation for such "Canadian pre-release" and bar cable carriage of pre-released programs.

Complaints and Compliance—1—Application for review filed by the Let's Help Florida Committee. The complainant, Let's Help Florida (LHF), alleged that WCKT, Miami, Florida, violated the Fairness Doctrine in not allowing reasonable opportunity for the presentation of contrasting viewpoints on Proposition 9, a ballot referendum concerning legalized casino gambling. LHF alleged also that WCKT allowed personal attacks to be made during editorials opposing Proposition 9 and failed to notify LHF and offer them an opportunity to respond, as required by the Commission's personal attack rules. The Broadcast Bureau found that WCKT's programming on the issue had been reasonably balanced and, therefore, WCKT had not violated the Fairness Doctrine in its coverage of the issue. The Staff found that the alleged personal attacks had occurred during news commentaries not during editorials as claimed by LHF. Since news commentaries are exempt from the personal attack rule, the staff found no violation of that rule. LHF appealed the Staff's findings. The Commission must decide whether the Staff's findings should be upheld or overruled.

Complaints and Compliance—2—Title: Application for Review of Reasonable Access Complaint of Harrel Tillman against KYOK, Houston, Texas. Broadcast Bureau denied complaint that Congressional primary candidate was not accorded reasonable access, as required by Sec. 312(a)(7) of the Communication Act, as a result of station's alleged failure to sell advertising time to candidate. Candidate alleged that station rejected request to buy time; station denied allegations, and provided evidence of available time during period in question. Staff found no substantial basis to conduct further inquiry to resolve factual dispute between Tillman and station. Commission must determine whether any basis exists to overturn Bureau's prior action.

Complaints and Compliance—3—Title: In re Complaint of Jim Myers *et al.* against ABC, CBS and NBC Television Networks. Summary: The Commission has before it an Application for Review of a Broadcast Bureau ruling which denied a Fairness Doctrine complaint. The complaint concerns NBC's broadcast of "The Story Teller"; and the alleged suppression of news of TV violence victims by ABC, CBS and NBC. In its ruling, the Bureau found that even assuming that "The Story Teller" raised a controversial issue of public importance, it did not have the authority to require NBC to permit the complainants to appear on NBC; and that no action was warranted on the claim of news suppression since no extrinsic evidence had been presented to support the claim. The Commission must decide whether the Application for Review contains sufficient grounds to warrant a reversal of the Bureau's ruling.

Complaints and Compliance—4—Title: Complaint of the Carter-Mondale Committee against the ABC, CBS and NBC Television Networks. Summary: The Commission has before it a complaint of the Carter-Mondale Committee against the ABC, CBS and NBC Television Networks concerning the networks' refusal to sell a half-hour time segment. The Committee alleges that the networks' refusal to sell the time constitutes a violation of the "reasonable access" provision of Section 312(a)(7). All of the networks claim that their decisions are reasonable and that the complaint should be denied. The Commission must decide whether the networks have fulfilled their obligations under Section 312(a)(7).

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: November 14, 1979.

[S-2254-79 Filed 11-16-79; 11:09 am]
BILLING CODE 6712-01-M

4
FEDERAL COMMUNICATIONS COMMISSION.
TIME AND DATE: 2:00 p.m., Tuesday, November 20, 1979.
PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.
STATUS: Closed Commission Meeting following the open meeting.
MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Appeal of ALJ's Order dismissing an application with prejudice in the Memphis, Tennessee, Common Carrier (Domestic Public Land Mobile Radio Services) proceeding (Docket Nos. 20871, 20872 and 20938).

Hearing—2—Court remand for consideration of the pertinence of a translator station proposal to the Commission's previous refusal to authorize a change in the transmitter site specified in the television station construction permit for Channel 13 at Fajardo, Puerto Rico (Docket Nos. 18048-18049).

Hearing—3—Decision in the renewal proceeding involving Camellia City Telecasters, Inc., licensee of UHF station KTXL-TV, Sacramento, Calif. (Docket Nos. 20125 and 20429).

General—1—Senior Executive Service Performance Appraisal and Compensation System.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Dated: November 14, 1979.

[S-2255-79 Filed 11-16-79; 11:09 am]
BILLING CODE 6712-01-M

5
FEDERAL MARITIME COMMISSION.
TIME AND DATE: November 16, 1979, 10:00 a.m.
PLACE: Room 1212B, 1100 L Street, N.W., Washington, D.C. 20573.
STATUS: Closed.
MATTERS TO BE CONSIDERED:

1. Proceedings for Failure to include Provisions for Adequate Self-Policing as Required by General Order 7.
2. Financial Exhibits and Schedules Non-Vessel Operating Common Carriers in the Domestic Offshore Trades.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-2258-79 Filed 11-16-79; 3:00 pm]
BILLING CODE 6730-01-M

6
FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.
TIME AND DATE: 10:00 a.m., Tuesday, November 20, 1979.
PLACE: Room 600, 1730 K Street, NW., Washington, D.C.
STATUS: Open.
MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Coaltrain Corporation, MORG 79-26-P.
2. Scotia Coal Company, BARB 78-306, etc. (Motion to stay proceedings pending disposition of petition for interlocutory review).

It was determined by a unanimous vote of Commissioners that Commission

business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

Dated: November 15, 1979.

[S-2257-79 Filed 11-16-79; 2:23 pm]
BILLING CODE 6820-12-M

7
NATIONAL RAILROAD PASSENGER CORPORATION.

Board of Directors Meeting

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation notice is given that the Board of Directors will meet on November 28, 1979.

A. The meeting will be held on Wednesday, November 28, 1979, in the Seattle-Hilton, the Windward Room, 6th and University Streets, Seattle, Washington, beginning at 2:00 p.m.

B. The meeting will be open to the public at 2:45 p.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation; Meeting of the Board of Directors, November 28, 1979

Closed Session

1. Internal personnel matters.
2. Litigation matters.

Open Session

3. Approval of minutes of meeting of October 31, 1979.
4. Board Committee Reports: ad hoc Bylaws Revision.
5. President's Report.
6. New business.
7. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383-3991.

Dated: November 16, 1979.

Barbara J. Willman,
Assistant Corporate Secretary.

[S-2256-79 Filed 11-16-79; 1:38 pm]
BILLING CODE 0000-00-M

federal register

Tuesday
November 20, 1979

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Public Hearing and Public Comment Period on the Mississippi, Montana, and Texas Permanent Regulatory Programs

DEPARTMENT OF THE INTERIOR

Office Surface Mining Reclamation and Enforcement

Public Hearing and Public Comment Period on the Mississippi Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of Hearing and Comment Period for Initial Decision on Permanent Program Submission.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of the proposed Mississippi regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Mississippi program is available for public inspection; additions and/or modifications to the submission made since August 2, 1979; the date when and location where OSM will hold a public hearing on the submission; the comment period during which interested persons may submit written comments and data on the proposed program and public hearing.

DATES: A public hearing to review the substance of the Mississippi program submission will be held at 7:30 p.m. on December 20, 1979, at the address listed below. Written comments, data or other relevant information may be submitted to supplement or in lieu of an oral presentation at the hearing. Comments from members of the public must be received on or before December 28, 1979, to be considered in the Secretary's initial decision on the Mississippi proposed State program.

ADDRESSES: The public hearing will be held at Holiday Inn No. 1, Junction of Interstate 20 and Interstate 59, Meridian, Mississippi. Written comments should be sent to: Mr. David C. Short, Regional Director, Office of Surface Mining, 530 Gay St., SW., Suite 500, Knoxville, Tennessee 37902, or may be hand delivered to the Regional Office.

A listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region II Office and central office of the State Regulatory Authority, Monday through Friday, 8 a.m. to 4 p.m., excluding holidays. Copies of the full text of the proposed program are also available for review at those locations. Office locations are listed below:

Office of the Regional Director, Region II, Office of Surface Mining, 530 Gay Street, SW., Suite 500, Knoxville, TN 37902.
Bureau of Geology and Energy Resources, Department of Natural Resources, 2525 N. West Street, Jackson, MS 39216.

A copy of this notice along with a copy of the Mississippi state statutes and regulations regarding the proposed Mississippi regulatory program has been placed on file and is available for inspection in the Library of the Office of the Federal Register, Room 8301, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Davis, Assistant Regional Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 500, Knoxville, TN 37902 Telephone: (615) 837-8060.

SUPPLEMENTARY INFORMATION: On August 2, 1979, the State of Mississippi submitted to OSM a proposed State regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15328-15328, March 13, 1979) the Regional Director published notification of receipt of the program submission in the August 10, 1979 Federal Register (44 FR 47173-47174) and in newspapers of general circulation within the State. In accordance with that announcement, public comments were solicited and a public meeting held September 18, 1979, on the issue of the program's completeness.

On October 9, 1979, the Regional Director published notice in the Federal Register announcing that he had determined the program to be incomplete (44 FR 58000-58001). The notice specified that the program submission lacked complete information in the following areas: (1) Permit review (30 CFR 731.14 (g)(1)); (2) Permit fee assessment (30 CFR 731.14(g)(2)); (3) State organization structure and manpower estimates (30 CFR 731.14(g)(4)(5) and (j)); (4) Citizen participation in inspections (30 CFR 731.14(g)(14), 842.12, 841.14 and 842.15); (5) State staff qualifications (30 CFR 731.14(i)); (6) Budget projections (30 CFR 731.14(i)); (7) Physical resource needs (30 CFR 731.14(m)).

Although Mississippi has now submitted all of the required program elements, the State's proposed regulations are not yet fully authorized as required by (30 CFR 732.12(b)(2)); nevertheless, OSM will hold the public hearing and will receive public comments on the program.

Upon completion of the public hearing and review of all comments, the Regional Director will transmit to the Director his recommended decision on the program along with a record composed of the hearing transcript,

written presentation, exhibits and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will review all relevant information from the public hearing and comments and shall make his recommendation to the Secretary. The Director's recommendation will specify reasons therefor.

The procedures for the recommendation to the Secretary are explained in §§ 732.11(d) and 732.12 (d) and (e) (44 FR 15328-15327) and the corresponding sections of the preamble (44 FR 14959-14961).

At the public hearing, parties wishing to comment on the proposed program will have opportunity to be listed on the speaker's agenda anytime prior to commencement of the hearing. Sign up for listing may be made either by writing the regional office or in person, on or before the day of the hearing. The hearing will follow legislative procedures and participants will not have the opportunity to question each other or the panel. Witnesses will not be cross examined. The moderator may limit testimony to 10 minutes per person based on the number in attendance.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979 (44 FR 54444-54445) OSM published Guidelines in the Federal Register governing contacts between the Department of the Interior and both State officials and members of the public. It is hoped that issuance of these Guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Set forth below is a summary of the contents of the proposed Mississippi program:

Section and Title

- 731.14(a) The Mississippi Surface Coal Mining and Reclamation Act and the Proposed Regulations Promulgated Thereunder
- 731.14(b) Other State Laws Directly Affecting the Regulation of Surface Coal Mining Operations
- 731.14(c) Legal Opinion from Mississippi Attorney General Comparison of Federal and Mississippi Laws Comparison of Federal and Mississippi Regulations
- 731.14(d) Regulatory Authority Designation
- 731.14(e) Organization of the State Regulatory Authority
- 731.14(f) Agreements Between Agencies with Duties in the State Program
- 731.14(g) (1) Exploration and Mining Permits
- (g)(2) Permit Application Fees
- (g)(3) Performance Bonds and Liability Insurance
- (g)(4) Inspections and Monitoring

- (g)(5) Enforcing the Administrative, Civil and Criminal Sanctions of State Laws and Regulations
- (g)(6) Administering and Enforcing the Permanent Program Performance Standards
- (g)(7) Assessing and Collecting Civil Penalties
- (g)(8) Public Notices and Hearings
- (g)(9) Coordinating Issuance of Permits with Other Agencies
- (g)(10) Consultation with Other Agencies Regarding Environmental, Historic, Cultural and Archeological Resources
- (g)(11) Lands Unsuitable for Surface Mining
- (g)(12) Restrictions on Financial Interests
- (g)(13) Training, Examining and Certifying Blasters
- (g)(14) Public Participation
- (g)(15) Administrative and Judicial Review
- (g)(16) The Small Operator Assistance Program
- 731.14(h) Coal Mines and Production in Mississippi
- 731.14(i) Summary of Staff with Titles, Job Functions, and Job Requirements
- 731.14(j) Description of Staffing Adequacy
- 731.14(k) Use of Other Professional and Technical Personnel
- 731.14(l) Budget Information
- 731.14(m) Available Physical Resources
- 731.14(n) Other Programs of the Regulatory Authority

On October 18, 1979, OSM published in the Federal Register a proposed amendment deleting the requirement in § 732.12(a) to publish the full text of State statutes and regulations with this notice. The public comment period for the proposed amendment closes on November 21, 1979, and publication of the final amended rule will occur soon thereafter. OSM believes that publication of the complete text of the Mississippi statutes and regulations would severely burden both OSM and the Government Printing Office and may be impossible to accomplish. In addition, the cost would be excessive in comparison to the expected benefits.

Accordingly, OSM has decided not to publish the full text of the Mississippi statute and regulations. Instead, OSM announces that single copies of the Mississippi statute and regulations will be available to all requesters at no charge. Persons interested in obtaining copies should write the Regional Director. OSM believes that this arrangement and the availability of copies for public review of the entire State program, including State statutes and regulations, at the office of the Regional Director and the offices of the State agency will accomplish wide dissemination without necessary expense or confusion to the public.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Mississippi

program. Under § 702(d) of SMCRA (30 U.S.C. § 1292(d)) approval does not constitute a major action within the meaning of § 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: November 15, 1979.

David C. Short,
Regional Director.

[FR Doc. 79-35831 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-05-M

Public Hearing and Public Comment Period on the Montana Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of Hearing and Comment Period for Initial Decision on Permanent Program Submission.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of the proposed Montana regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Montana program is available for public inspection; additions and/or modifications to the submission made since August 3, 1979; the date when and location where OSM will hold a public hearing on the submission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the Montana program submission will be held at 9:00 a.m., on December 20, 1979, at the address listed below. Written comments, data or other relevant information may be submitted to supplement or in lieu of an oral presentation at the hearing. Comments from members of the public must be received on or before December 24, 1979, to be considered in the Secretary's initial decision on the Montana proposed State program.

ADDRESSES: The public hearing will be held in Billings, Montana, at the Northern Hotel located at the corner of Broadway and 1st Avenue. Written comments should be sent to Mr. Donald A. Crane, Regional Director, Office of Surface Mining, Department of the Interior, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202, or may be hand delivered to the Regional Office.

A listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region V Office and central office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining, Reclamation and Enforcement, Department of Interior, Region V, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202.
Montana Department of State Lands, 1625 11th Avenue, Capitol Station, Helena, Montana 59601.

Copies of the full text of the proposed program are available for inspection during regular business hours at the OSM Region V Office and the central office of the State Regulatory Authority listed below, and field offices of the State Regulatory Authority listed below:

Montana Department of State Lands, 1625 11th Avenue, Capitol Station, Helena, Montana 59601.
Department of State Lands Field Offices, 1245 North 29th Street, Billings, Montana 59101.

A copy of this notice along with a copy of the Montana State statutes and regulations regarding the proposed Montana regulatory program has been placed on file and is available for inspection in the Library of the Office of the Federal Register, Room 8301, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Sylvia Sullivan, Public Information Officer, Office of Surface Mining Reclamation and Enforcement, Department of Interior, Region V, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202, Telephone: (303) 837-4731.

SUPPLEMENTARY INFORMATION: On August 3, 1979, the state of Montana submitted to OSM a proposed State regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15328-15328, March 13, 1979) the Regional Director published notification of receipt of the program submission in the August 13, 1979, Federal Register (44 FR 47414-47415) and in newspapers of general circulation within the State. In accordance with that announcement, public comments were solicited and a public meeting held on September 12, 1979, on the issue of the program's completeness.

On October 5, 1979, the Regional Director published notice in the Federal Register announcing that he had determined the program to be complete (44 FR 57851). The notice specified that the program submission was complete in accordance with the Federal Act and regulations, as required by 30 CFR 731.14(c).

In accordance with § 732.11(d) of the permanent regulatory program regulations and the Regional Director's notice, the State could elect to modify any element of the complete submission and established November 15, 1979, as the final date for submission of a revised program. Modifications to the permanent program of Montana are listed below, along with the dates of each modification submission. On November 13, 1979, the Department of State Lands submitted a revised table of contents, minor revisions to the text, additional documents to be placed in Appendix D (forms used by the Department of State Lands) and an errata sheet for the section-by-section comparison (Appendix C, C-1, C-2).

As a complete submission the proposed program may now be considered for permanent regulatory program approval. Subsequent to the public hearing and review of all comments the Regional Director will transmit to the Director his recommended decision along with a record composed of the hearing transcript, written presentations, exhibits and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that the program be approved or disapproved, in whole or in part, or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12(d) and (e) (44 FR 15326-15327). For further details, refer to §§ 732.12 and 732.13 of the permanent regulatory program (44 FR 15326-15327) and corresponding sections of the preamble (44 FR 14959-14961).

At the public hearing parties wishing to comment on the proposed program will have opportunity to be listed on the speaker's agenda anytime prior to commencement of the hearing. Sign up for listing may be made either by writing the regional offices or in person, on or before the day of the hearing. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

1. The hearing shall be informal and follow legislative procedures.

2. Each participant will be allowed 15 minutes.

3. Participants will be called in the order requests for testifying are received.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published Guidelines in the Federal Register (44 FR 54444-54445) governing contacts between the Department of the Interior and both State officials and members of the public. It is hoped that issuance of these Guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Set forth below is a summary of the contents of the proposed Montana program. In the following summary the first number is the Montana number as shown in their table of contents and is followed by the appropriate number from 30 CFR 731.14.

1. 731.14(a) State Laws

Montana has submitted three state laws which regulate coal, exploration, surface coal mining and reclamation operations. Included are three Bills which the Legislature passed to amend their Strip and Underground Mine Reclamation Act. House Bill 732 and House Bill 406 became effective July 1, 1979. Senate Bill 515 becomes effective upon approval of Montana's permanent regulatory program by the Secretary of the Interior. Included in another section of the program submission is a section-by-section comparison of these laws with the Federal Statute Pub. L. 95-87, explaining any differences and their legal effect.

731.14(a) Regulations

Thirty-one rules promulgated to implement and enforce the state laws and amendments referred to above were adopted by the Montana Department of State Lands on July 16, 1979. These rules, with the exception of Rules XVI and XXI, will become effective at the same time as Senate Bill 515.

In Appendices C-1 and C-2 there is a section-by-section comparison of these Rules with the Federal Regulations as published in 30 CFR Chapter VII. This section gives cross references to all other statutes and regulations which bear on the subject and explains differences between Montana's Rules and the Federal Regulations.

2. 731.14(b) Other State Laws

This sections lists all the laws (submitted in Appendix B of the program submission) which affect in one way or another surface coal mining, public participation, and reclamation. This submission includes 18 subjects and ranges in content from parts of Montana constitution to accountability for conduct of a corporation, to formation of the Department of State

Lands to the Montana Water Quality Act.

3. 731.14(c) Legal Opinion Stating That the State Has Legal Authority To Carry Out This Program

This consists of a copy of the Department of State Lands' Chief Legal Officer's opinion indicating that Montana has or will have the authority to implement, administer and enforce a permanent coal program in compliance with Pub. L. 95-87 and 30 CFR Chapter VII.

4. 731.14(d) Designation of Regulatory Authority

Included is a copy of a letter dated February 23, 1978, from Thomas L. Judge, Governor of Montana, to the Director of OSM, designating the Montana Department of State Lands as the state regulatory authority for Montana and authorizing the Department to receive and administer grants under 30 CFR Part 725 and 30 CFR Part 740.

5. 731.14(e) Organizational Chart

This section gives an organizational chart and a listing of departmental positions involved with Montana's coal program and their duties. The narrative supporting these tables and charts details lines of authority and duties and for both the Department of State Lands and for the role played by the Department of Health and Environmental Sciences (DHES).

6. 731.14(f) Supporting Agreements Between Agencies

This section includes letters of agreement between the Commissioner of the Montana Department of State Lands and the Deputy Director of the Montana Department of Health and Environmental Sciences. These agreements establish the relationship between the two agencies in administering Montana's coal program.

7. (a through p) 731.14(g) 1-16

(a)-(1) Receipt, Review and Discussion on Permit Application

This section sets out the permit systems that Montana proposes to use in coal exploration and coal mining. These systems include statutory authority, environmental assessments, reports, fees and processes carrying out these activities on Federal lands under the cooperative agreement Montana has with the Department of the Interior.

(b)-(2) Assessing Fees for Permit Applications

This section sets out statutory authority for assessing fees, the various

fees involved and the types of operations where no fees are required.

(c)-(3) Bonding Procedures

Statutory authority including reference to their permanent rules are given for performance bonds including various methods of bonding and the periods for which the bond will be held are described.

(d)-(4) Inspection and Monitoring Procedures

Reference is made to various statutes and rules for further description of procedures. This section outlines staff time, number of inspections per quarter, annually, and details on staffing procedures. The procedure to be followed in a technical review of a permit application is presented in last section.

(e)-(5) Enforcement Procedures

Besides references to both State and Federal Statutes and Regulations the narrative describes the procedure for handling cessation orders, the use of hearing examiners, law suits, and the filing of criminal actions.

(f)-(6) Administration and Enforcement of Program Performance Standards

Several of the submitted sections are referenced as Montana does not have a specific statute to cover this aspect of the program. The four sections referenced give in some detail the elements of program performance enforcement.

(g)-(7) Assessing and Collecting Civil Penalties

This section presents not only the system used in collecting and assessing penalties, but also the areas where the state differs from the Federal requirements, for example, " * * * unlike the Federal system, the state must assess a penalty for every violation."

(h)-(8) Public Notice and Public Hearings

Montana's Act and Rules as amended contain numerous provisions for issuing public notices and holding public hearings. Thirty-eight such references are given with the specific subject listed next to the reference.

(i)-(9) Coordination of Permits with Other Agencies

This section lays out the relationship between those agencies that the Department of State Lands must deal with in issuing permits.

(j)-(10) Consultation With Fish, Wildlife, Historic, Cultural and Archaeological Agencies

Besides references to their statutes and rules, this section states the philosophy for consultation and coordination between agencies with responsibilities in specific areas of concern.

(k)-(11) Lands Unsuitable

This section along with certain parts of Senate Bill 515 and Rule XXIII spells out Montana's efforts in developing a data base and inventory system, and the development of a petition process for designating lands as unsuitable.

(l)-(12) Restrictions Against Financial Interests

Montana's Rule XXVIII describes their procedures for monitoring, reviewing and enforcing restrictions against direct and indirect financial interests of state employees.

(m)-(13) Training and Certification of Blasters

Montana's Rule VI (1)(a) states: Each person who conducts strip or underground mining operations shall comply with all applicable state and Federal laws in the use of explosives.

(n)-(14) Providing for Public Participation

This section gives the details for involving the public in a variety of program development areas including rule making, amendments to or repeal of rules, and the public hearing process. This section also explains the provision for citizen participation in the enforcement of the Act and the Rules. Rule XXIV spells out how a citizen may be involved in the inspection process.

(o)-(15) Administrative and Judicial Review

The section-by-section comparison of Pub. L. 95-87 and 30 CFR Chapter VII to Montana's Coal Reclamation Act and Rules gives comparable hearing and judicial review requirements. Administrative review will take place in accordance with the Montana Administrative Procedure Act which provides for contested cases.

(p)-(16) Small Operators Assistance Program

The Department of State Lands will administer the Small Operator Assistance Program in Montana. This system describes in detail the approach Montana is taking to certify labs and to provide assistance to small operators.

8. 731.14(h) Coal Mining and Prospecting Statistics

Statistics on coal tonnage produced, number of mines, mine location, acreage for prospecting and mining permits are spelled out in detail. This information in addition to reclamation and proposed future coal production establishes a basis for comparing actual to proposed figures on staffing and budget in other sections.

9. 731.14(i) Existing and Proposed Staffing Levels

This section sets out numbers and general functions for both present and proposed staffing patterns.

10. 731.14(j) Staffing Adequacy

There are at present 15 Department of State Lands (DSL) employees in the Reclamation Division. Ten of these are devoted full time to coal or uranium.

One hundred thirty-one (131) coal mine inspections were made in 1978-1979. This frequency of inspections exceeds that required in Section 502 of Pub. L. 95-87. In 1978, the Department added 4 additional staff members to help develop their permanent program.

When proposed new staff members are on board there will be 17 members of the Reclamation Division who will be spending a major portion of their time on the coal program.

11. 731.14(k) Personnel Available From Other Agencies

Montana plans on using staff members of the Department of Health and Environmental Sciences only. They depend on this agency for analyzing water quality. Members of the Air Quality Bureau and the Water Quality Bureau are used to advise DSL staff on technical matters.

12. 731.14(l) Budget

This section gives a budgetary summary of Montana's coal program for each of the next two fiscal years. State funding for DSL's Reclamation Division comes from two sources: the State general fund and the DSL's "Reclamation Account." The Reclamation Account is composed of permit and violation fees paid during the two previous years. In FY 79, 95 percent of Reclamation Division funding came from the general fund and 5 percent from the reclamation fund.

13. 731.14(m) Physical Resources

This section describes floor space for offices, number of vehicles, various equipment for regulatory purposes and a note on additional equipment requirements.

14. 731.14(n) Other Programs Administered by DSL

The DSL has two primary duties; one is the management of State-owned lands and the other is the administration of State and Federal mined land reclamation statutes.

The DSL's Land Administration Division oversees leasing, sale, exchange, improvements, and overall management of State-owned lands. The centralized Services Division is charged with providing the necessary administrative services for the Department. The third division, the Reclamation Division, administers Montana's mined land reclamation statutes including the Montana Strip and Underground Mine Reclamation Act, the Montana Strip and Underground Mine Siting Act, the Montana Opencut Mining Act, and the Montana Hard Rock Mining Act.

On October, 18, 1979, OSM published in the Federal Register a proposed amendment deleting the requirement in § 732.12(a) to publish the full text of State statutes and regulations with this notice. The public comment period for the proposed amendment closes on November 21, 1979, and publication of the final amended rule will occur soon thereafter. OSM believes that publication of the complete text of the Montana statutes and regulations would severely burden both OSM and the Government Printing Office and may be impossible to accomplish. In addition, the cost would be excessive in comparison to the expected benefits.

Accordingly, OSM has decided not to publish the full text of the Montana statute and regulations. Instead, OSM announces that single copies of the Montana statute and regulations will be available to all requesters at no charge. Persons interested in obtaining copies should write the Regional Director. OSM believes that this arrangement and the availability of copies for public review of the entire State program, including State statutes and regulations, at the office of the Regional Director and the offices of the State agency will accomplish wide dissemination without necessary expense or confusion to the public.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Montana program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)) approval does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: November 14, 1979.

John E. Hardaway

Acting Regional Director.

[FR Doc. 79-35832 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-05-8

Public Hearing and Public Comment Period on the Texas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of Hearing and Comment Period for Decision on Permanent Program Submission.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substance of the proposed Texas regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Texas program is available for public inspection; additions and/or modifications to the submission made since July 20, 1979; the date when and the location where OSM will hold a public hearing on the submission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the Texas program submission will be held from 7:00 p.m. to 9:00 p.m. on December 19, 1979, and from 9:00 a.m. to 12:00 p.m. on December 20, 1979, at the address listed below. Written comments, data or other relevant information may be submitted as a supplement to, or in lieu of, an oral presentation at the hearing. Comments from the public must be received on or before 5:00 p.m., December 20, 1979, to be considered in the Secretary's decision on the proposed Texas regulatory program.

ADDRESSES: The public hearing will be held at the Austin Marriott Hotel, 6121 I-35 North at U.S. 290, Austin, Texas 78752. Written comments should be sent to: Mr. Raymond L. Lowrie, Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Mo. 64106, or may be hand-delivered to the Regional Office.

A listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region IV Office and the central office of the Texas Railroad Commission listed below, Monday through Friday, 8 a.m., to 4 p.m., excluding holidays:

Office of Surface Mining, Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Mo. 64106.

Texas Railroad Commission, Surface Mining and Reclamation Division, 1124, S. Inter-Regional Highway, Austin, Tex. 78704.

Copies of the full text of the proposed program are available for inspection during regular business hours at the OSM Region IV Office and the central office of the Texas Railroad Commission listed above, and the OSM Headquarters Office, and field offices of the Texas Railroad Commission listed below:

U.S. Department of the Interior, Office of Surface Mining, Interior South Bldg., Washington, D.C. 20240.

Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Woodgate Office Park, Suite 125, 1121 East SW. Loop 323, Tyler, Tex. 75703.

Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Shank Office Bldg., 1419 3rd Street, Floresville, Tex. 78114.

A copy of this notice along with a copy of the Texas state statutes and regulations regarding the proposed Texas regulatory program has been placed on file and is available for inspection in the Library of the Office of the Federal Register, Room 8301, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Assistant Regional Director, Office of Surface Mining, Reclamation and Enforcement, Scarritt Bldg., 818 Grand Avenue, Kansas City, Mo. 64106, Telephone: (816) 374-3920.

SUPPLEMENTARY INFORMATION: On July 20, 1979, the State of Texas submitted to OSM a proposed State regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326-15328, March 13, 1979), the Regional Director published notification of receipt of the program submission in the July 27, 1979 Federal Register (44 FR 44281-44283) and in newspapers of general circulation within the State. In accordance with that announcement public comments were solicited and a public meeting held on September 5, 1979, on the issue of the program's completeness.

On September 17, 1979, the Regional Director published notice announcing that he had determined the program to be incomplete (Federal Register 44 FR 53813). The notice specified that the program submission was missing a section-by-section comparison of Texas regulations with the Federal regulations, as required by 30 CFR 731.14(c).

The State has added a section-by-section comparison of Texas regulations with Federal regulations noting differences between them. The State has

also made a large number of modifications, both substantive and non-substantive, to the July 20, 1979 submission. In light of the large number of changes, Texas has elected to submit an entirely new document in the form of an amended State program submission, received by OSM on November 13, 1979. This amended program is complete and it is this submission that OSM will be considering for permanent regulatory program approval.

Subsequent to the public hearing and review of all comments the Regional Director will transmit to the Director his recommended decision along with a record composed of the hearing transcript, written presentations, exhibits and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that the program be approved or disapproved, in whole or in part, or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12 (d) and (e) (44 FR 15326-15327). For further details refer to §§ 732.12 and 732.13 of the permanent regulatory program (44 FR 15326-15327) and corresponding sections of the preamble (44 FR 14959-14961).

At the public hearing, parties wishing to comment on the proposed program will have the opportunity to be listed on the agenda any time prior to commencement of the hearing. Sign up for listing may be made either by writing the regional office or in person, on or before the day of the hearing. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326). Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter.

The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979 (44 FR 54444-54445) OSM published Guidelines in the Federal Register governing contacts

between the Department of the Interior and both State officials and members of the public. It is hoped that issuance of these Guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Set forth below is a summary of the contents of the proposed Texas Program:

1. The Texas Surface Coal Mining and Reclamation Act.

2. Surface coal mining regulations.

3. Other State laws directly affecting the regulation of surface coal mining operations, i.e., the Administrative Procedure and Texas Register Act, the State Water Administration and related regulations, and the Texas Clean Air Act and related regulations.

4. A legal opinion of the Chief Legal Officer of the Texas Railroad Commission stating that the Commission has the necessary authority to administer a permanent regulatory program in accordance with SMCRA and all regulations promulgated thereunder.

5. A section-by-section comparison of the State's laws and regulations with SMCRA and 30 CFR Chapter VII.

6. A letter from Governor Clements designating the Texas Railroad Commission as the regulatory authority for administering SMCRA.

7. A description of the existing and proposed structural organization of the Railroad Commission and the Division of Surface Mining and Reclamation.

8. A letter from the Commissioner of the General Land Office transferring the responsibility for regulating surface coal mining operations on public lands from the GLO to the Commission.

9. A Memorandum of Understanding between the Commission and the Texas Department of Water Resources regarding the coordination of water quality related regulation of surface coal mining and reclamation activities.

10. A description of the proposed system for:

(a) Receiving, reviewing disapproving or approving and issuing permits for exploration and mining operations;

(b) Assessing fees for permit applications, including a fee schedule;

(c) Implementing, administering and enforcing a system of performance bonds and public liability insurance;

(d) Inspecting and monitoring coal exploration and mining and reclamation operations, and providing opportunity for public participation in the inspection process;

(e) Enforcing the administrative, civil and criminal provisions of the State Act and regulations, including citizen suit provisions;

(f) Administering and enforcing the permanent program performance standards of the State Act and regulations;

(g) Assessing and collecting civil penalties;

(h) Issuing public notices and holding public hearings;

(i) Coordinating issuance of permits with other State, Federal and local agencies;

(j) Consulting with other appropriate State and Federal agencies in the implementation of the program;

(k) Designating lands unsuitable for surface coal mining operations, including a description of a planning process for identifying lands unsuitable, a description of the Texas Natural Resources Information system, and a process to allow the public to petition the Commission to have lands designated as unsuitable for mining;

(l) Monitoring, reviewing and enforcing restrictions against financial interests of State employees in coal mining operations;

(m) Training, examining and certifying blasters;

(n) Providing for public participation in the promulgation of regulations, in the development of the State program under SMCRA, and in the permitting process;

(o) Providing administrative and judicial review of actions taken by regulatory authority, including permit decisions and enforcement actions;

(p) Providing a Small Operator Assistance Program.

11. A listing of statistical information pertaining to the existing program as well as information pertinent to the proposed regulatory program, including:

(a) Coal production figures for each of the last three years;

(b) The number of coal producing mines for each of the last three years;

(c) Acreage approved or permitted for exploration or mining for each of the last three years;

(d) A map showing the geologic distribution of coal in Texas;

(e) The number of applications for permits, revisions, renewals, exploration and mining operations received by the Texas Railroad Commission for each of the last three years;

(f) The frequency of State inspections for each of the last three years;

(g) The number of coal exploration operations and the number of surface and underground operations under permit at the time of program submission;

(h) Projections of annual production and geographic distribution of both exploration and mining operations for the next five years.

12. A summary of both the existing and proposed staff of the Division of Surface Mining and Reclamation showing job functions, titles, and required job experience and training.

13. A description of how the proposed staffing will be adequate to carry out the functions for the projected workload.

14. A description of projected use of professional and technical personnel available from other State and Federal agencies.

15. A description of the actual budget for the prior and current fiscal years as well as the projected annual budget for each for the next two years.

16. A description of the existing and proposed physical resources to be used in implementing the permanent program.

17. A brief description of other programs administered by agencies within the Texas Railroad Commission including the Oil and Gas Division, Gas Utilities Division, Transportation Division and Liquid Petroleum Gas program.

On October 18, 1979, OSM published in the Federal Register a proposed amendment deleting the requirement in § 732.12(a) to publish the full text of State statutes and regulations with this notice. The public comment period for the proposed amendment closes on November 21, 1979, and publication of the final amended rule will occur soon thereafter. OSM believes that publication of the complete text of the Texas statute and regulations would severely burden both OSM and the Government Printing Office and may be impossible to accomplish. In addition, the cost would be excessive in comparison to the expected benefits.

Accordingly, OSM has decided not to publish the full text of the Texas statute and regulations. Instead, OSM announces that single copies of the Texas statute and regulations will be available to all requesters at no charge. Persons interested in obtaining copies should write the Regional Director. OSM believes that this arrangement and the availability of copies for public review of the entire State program, including State statutes and regulations, at the office of the Regional Director and the offices of the State agency will accomplish wide dissemination without unnecessary expense or confusion to the public.

No environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Texas program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)) approval does not constitute a major action within the meaning of Section

102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: November 14, 1979.

Raymond L. Lowrie,
Regional Director.

[FR Doc. 79-35833 Filed 11-19-79; 8:45 am]
BILLING CODE 4310-05-M

federal register

Tuesday
November 20, 1979

Part III

Office of
Management and
Budget

Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To The Congress of the United States:
In accordance with the Impoundment Control Act of 1974, I herewith report six new deferrals totalling \$511.1 million and two revisions to previously transmitted deferrals increasing the amount deferred by \$14.9 million. These items affect programs in the Departments of Commerce, Justice, State and Transportation; the International Communication Agency; the Railroad Retirement Board; and the President's Commission on Pension Policy.
The details of the deferrals are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE,
November 15, 1979.
BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No.	Item	Budget Authority
	Department of Commerce:	
	National Oceanic and Atmospheric Administration	
D80-6A	Coastal Zone Management.....	20,000
	Department of Justice:	
	Bureau of Prisons	
D80-17A	Buildings and facilities.....	37,741
	Department of State:	
	International Organizations and Conferences	
D80-32	Contributions for international peacekeeping activities.....	10,000
	Department of Transportation:	
	Federal Highway Administration	
D80-33	Federal-aid highways.....	495,789
	Other Independent Agencies:	
	International Communication Agency	
D80-34	Salaries and expenses.....	2,000
D80-35	Special foreign currency program.....	1,600
	Railroad Retirement Board	
D80-36	Regional rail protective account.....	1,000
	President's Commission on Pension Policy:	
D80-37	Salaries and expenses.....	700
	Total, deferrals.....	568,830

SUMMARY OF SPECIAL MESSAGES
FOR FY 1980
(in thousands of dollars)

	Rescissions	Deferrals
Second special message:		
New items.....	---	511,089
Change to amounts previously submitted.....	---	14,888
Effect of second special message.....	---	525,977
Previous special messages.....	114	1,003,176
Total amount proposed in special messages.....	114	1,529,153 1/

1/ This amount represents budget authority except for \$2,735 thousand in a general revenue sharing deferral of outlays only (D80-23).

D80-6A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D80-6 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

The deferred amount of \$20,000,000 applies to the National Oceanic and Atmospheric Administration's Coastal Zone Management account, and specifically to the energy impact formula grant program. The original deferral referenced only balances carried forward from 1979 and prior years. This report revises the earlier deferral action to clarify that it applies to 1979 and prior year appropriations and to appropriations realized under the Department of Commerce Appropriation Act, 1980 (P.L. 96-68.)

Deferral No: D80-6A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency	Department of Commerce	New budget authority	\$ 64,675,000*
Bureau	National Oceanic and Atmospheric Administration	(P.L. 96-68)	
Appropriation title & symbol		Other budgetary resources	28,000,000
		Total budgetary resources	92,675,000*
	Coastal Zone Management 13x1451	Amount to be deferred:	
		Part of year	\$
		Entire year	20,000,000
OMB identification code:	13-1451-0-1-302	Legal authority (in addition to sec. 1013):	
Grant program	☒ Yes ☐ No	☒ Antideficiency Act	
Type of account or fund:		☐ Other	
☐ Annual		Type of budget authority:	
☐ Multiple-year (expiration date)		☒ Appropriation	
☒ No-year		☐ Contract authority	
		☐ Other	

Justification: *This appropriation provides for administration, management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, by providing grants to States for the planning and management of their coastal areas. The rate of applications for these funds from the States is significantly lower than previously anticipated. Of the funds available for energy impact formula grants, it is estimated that \$20,000,000 will not be required to support the planned program in FY 1980. Therefore, these funds are deferred in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: This deferral has no effect on the planned program for FY 1980, since these funds would not be used if made available.

Outlay Effect: This deferral will not have any effect on planned outlays.

*Changed from previous report

D80-17A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D80-17 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

The amount deferred for the Federal Prison System's Buildings and facilities account is \$37,741,400, an increase of \$14,888,100 over the amount previously deferred. This increase results from changes in obligational plans for several prison facilities. An additional \$13,460,000 is deferred for the Federal Correctional Institution (FCI) at Phoenix, Arizona pending selection of a site. Another \$1,199,000 is deferred for the Camarillo, California FCI, pending a decision of whether to proceed with the project since construction bids were well in excess of planned expenditures. The remaining \$229,100 results from changes in obligation patterns at several institutions.

Deferral No: D80-17A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency	Department of Justice	New budget authority	\$ 5,960,000*
Bureau	Federal Prison System	(P.L. 96-68)	
Appropriation title & symbol		Other budgetary resources	73,532,800*
		Total budgetary resources	79,492,800*
	Buildings and Facilities ^{1/} 15X1003	Amount to be deferred:	
		Part of year	\$ 6,200,000
		Entire year	31,541,400*
OMB identification code:	15-1003-0-1-753	Legal authority (in addition to sec. 1013):	
Grant program	☐ Yes ☒ No	☒ Antideficiency Act (\$31,541,400*)	
Type of account or fund:		☐ Other	
☐ Annual		Type of budget authority:	
☐ Multiple-year (expiration date)		☒ Appropriation	
☒ No-year		☐ Contract authority	
		☐ Other	

Justification: *This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. These funds were appropriated in the Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act of 1980 and previous years. Due to the time required for planning, site acquisition, design efforts, and selection of contractors, it is not possible to complete the construction, renovation, and rehabilitation associated with all of these projects during FY 1980. The deferral of funds for the entire year, totalling \$31,541,400, is consistent with congressional intent to provide no-year funding for the total cost of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

This deferral also includes \$6.2 million for the Detroit Metropolitan Correctional Center (MCC). These funds are deferred pending an OMB decision whether or not to build the facility.

Estimated Effect: The amount deferred for the entire year could not be economically used, if made available, in fiscal year 1980, because of the planned and phased procurement, construction and installation cycle. The effect of the part-of-year deferral is to preserve these funds for use until a final decision is made concerning whether or not to build the Detroit MCC.

Outlay Effect: * This deferral action will shift an estimated \$2,731,000 in outlays from FY 1980 to FY 1981.

^{1/} This account was the subject of a deferral during FY 1979.

* Changed from previous report.

Deferral No: D80-32

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of State	New budget authority (P.L. 96-68) \$ 67,000,000
Bureau International Organizations and Conferences	Other budgetary resources
Appropriation title & symbol	Total budgetary resources 67,000,000
Contributions for International Peacekeeping Activities	Amount to be deferred: Part of year \$ 10,000,000
1901124	Entire year
OMB identification code: 19-1124-0-1-153	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year (expiration date)	☐ Contract authority
☐ No-year	☐ Other

Justification: Three United Nations Middle East peacekeeping operations are provided for in this account -- the United Nations Disengagement Observer Force in the Golan Heights (UNDOF), the United Nations Interim Force in Lebanon (UNIFIL) and the United Nations Emergency Force in the Sinai (UNEF).

In July 1979, the United Nations failed to extend the mandate of UNEF. As a result, the forces associated with UNEF were either rotated to other UN peacekeeping operations in the Middle East or returned to their country of origin. The full amount provided in the Department of State Appropriation Act, 1980 (P.L. 96-68) for UNEF (\$20,000,000), therefore will not be required. However, some of the funds will be needed to pay the U.S. share of UNEF close out costs and to pay our increased assessed share of UNIFIL and UNDOF costs which has risen from 29.4% in 1979 to an estimated 31.5% for 1980.

The present estimate is that approximately \$10 million will not be required. However, the U.S. will not receive a final assessment from the UN for UNEF close out costs until later this year. The \$10 million is deferred until this assessment is completed. Once the actual U.S. requirement is known, a rescission will be proposed for the balance of the funds.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect: This deferral will not have any effect on outlays, since the funds would not be obligated if made available.

Deferral No: D80-33

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 95-599) \$ 8,599,540,000
Bureau Federal Highway Administration	Other budgetary resources 571,249,397
Appropriation title & symbol	Total budgetary resources 9,170,789,397
Federal-Aid Highways (Trust Fund) 20X8102	Amount to be deferred: Part of year \$ 495,789,397
OMB identification code: 20-8102-0-7-401	Entire year -0-
Grant program ☒ Yes ☐ No	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Type of account or fund: ☐ Annual	☒ Other P.L. 95-599
☒ Multiple-year Sept. 30, 1981 (expiration date)	Type of budget authority: ☐ Appropriation
☐ No-year Sept. 30, 1982 Sept. 30, 1983	☒ Contract authority
	☐ Other

Justification: Section 115 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 118(b)) mandates that any Interstate System funds which remain unused by a State two years after being made available must be withdrawn from that State's entitlement and be made part of a discretionary fund. Money from this fund is then made available to any other State which (1) has used all of its regular share of Interstate System funds, and (2) is ready to proceed with additional Interstate projects.

23 U.S.C. section 104 (b)(5)(a) prohibits the apportionment of the States' regular shares of Interstate System funds until the biennial "Estimate of the Cost of Completing the Interstate System" report is approved by a concurrent resolution of the Congress. The report is presently awaiting Congressional action, and a number of States have no Interstate construction money available. This deferral action is intended to prevent the use of the discretionary fund in lieu of, and prior to, the use of the regular 1980 apportioned shares. Use of the discretionary fund before the use of a States' regular share of funds is contrary to the intent of Congress in enacting 23 U.S.C. 118(b).

This deferral affects Interstate discretionary funds only, which include unobligated, unallocated balances carried forward from FY 1979, and Interstate construction funds withdrawn from States' entitlements on September 30, 1979.

Estimated Effect: This deferral action will be in effect only until the regular 1980 distribution of funds to the States can be made. Total obligations for FY 1980 should not be affected.

Outlay Effect: This deferral action will not have any effect on outlays.

Deferral No: D80-34

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency International Communication Agency	New budget authority (P.L. 96-68) \$ 396,010,000
Bureau	Other budgetary resources 7,470,000
Appropriation title & symbol	Total budgetary resources 403,480,000
Salaries and Expenses - 67X0201 6700201 1/	Amount to be deferred: Part of year \$ Entire year 2,000,000
OMB identification code: 67-0201-0-1-154	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☒ Annual (\$396,355,400) 1/ ☐ Multiple-year (expiration date) ☒ No-year (\$7,124,600)	

Justification: The United States International Communication Agency (ICA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), Executive Order No. 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication, cultural, and educational exchange programs.

The International Communications Agency Authorization Act, Fiscal Years 1980-1981 (P.L. 96-60, enacted on August 15, 1979) authorized to be appropriated for fiscal year 1980, \$416,277,000 for all activities of ICA. The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980, (P.L. 96-68, enacted September 24, 1979) appropriated \$396,010,000 for "Salaries and Expenses", of which not to exceed \$3,654,600 is to remain available until expended for special international exhibitions, including those provided in the Cultural Exchange Traveling Exhibits agreements between the Soviet Union and the United States. It was estimated in the President's 1980 Budget that funds would be obligated for the Tenth Series of US/USSR exchange exhibits.

Due primarily to delays in completing arrangements with the USSR on the showing of the U.S. exhibit in the Tenth Series of the US/USSR exchange, \$2,000,000 of the funds are deferred for the entire year. The funds will be used in succeeding years.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect:

This deferral has no effect on outlays because the funds could not be used if made available.

1/ None of these funds is deferred.

Deferral No: D80-35

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency International Communication Agency	New budget authority (P.L. 96-68) \$ 13,012,000
Bureau	Other budgetary resources 1,345,000
Appropriation title & symbol	Total budgetary resources 14,357,000
Salaries and Expenses (Special Foreign Currency Program) 67X0205	Amount to be deferred: Part of year \$ Entire year 1,600,000
OMB identification code: 67-0205-0-1-154	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	

Justification: The United States International Communication Agency (ICA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), Executive Order No. 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication, cultural, and educational exchange programs.

The International Communication Agency Authorization Act, Fiscal Year 1980-81 (Public Law 96-60, enacted on August 15, 1979) authorized for fiscal year 1980, \$416,277,000 for "Salaries and expenses" and "Salaries and expenses (special foreign currency program)" for ICA. The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 (Public Law 96-68, enacted on September 24, 1979) appropriated \$13,012,000, to remain available until expended, for the "Salaries and expenses (special foreign currency program)" account. The account is used for payment of ICA local program expenses in U.S.-owned foreign currencies in those countries where the Department of Treasury determines that the supply of local currency is in excess of the normal requirements of the U.S. Government. In fiscal year 1980, the "excess currency" countries include: Burma, Guinea, India, Pakistan, and Egypt.

It is now estimated that the 1980 beginning-of-year unobligated balance for this account, plus anticipated recoveries and reimbursements from other agencies, will amount to \$1,345,000, which is significantly more than the sum estimated in the 1980 Budget.

Primarily as a result of delays in the planned cultural center relocation project in Pakistan, and savings in anticipated wage and price increases and other reduced program requirements, mainly in India, \$1,600,000 of the available funds are deferred for the entire year. These funds will be applied to program needs, including the Pakistan center project, in succeeding years.

Estimated Effects:

There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect:

There is no outlay effect of this deferral, because the funds could not be used if made available.

Deferral No: D80-36

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Railroad Retirement Board	New budget authority (P.L. _____) \$ ---
Bureau	Other budgetary resources 27,472,602
Appropriation title & symbol Regional rail transportation protective account 60X0110 1/	Total budgetary resources 27,472,602
	Amount to be deferred: Part of year \$ 1,000,000
	Entire year
OMB identification code: 60-0110-0-1-604	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Regional Rail Reorganization Act of 1973 established a program to reimburse various organizations that provide benefits to employees adversely affected by the creation of the Midwest and Northeast rail system up to the aggregate sum of \$250 million. This program--having reached its authorized limit--will terminate in FY 1980. Prior to termination, a closing audit will be undertaken. To allow for any retroactive adjustments the audit may require, while limiting total expenditure to the \$250 million authorized, \$1,000,000 is being deferred for part of FY 1980. Any funds remaining after required audit adjustments will be expended in accordance with statutory provisions.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: Use of any portion of the amount deferred, including whatever sum is not required to make audit adjustments, will be delayed from one to three months.

Outlay Effect: This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979.

Deferral No: D80-37

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency President's Commission on Pension Policy	New budget authority (P.L. 96-74) \$ 2,000,000
Bureau	Other budgetary resources 900,000
Appropriation title & symbol Salaries and Expenses 48X2300	Total budgetary resources 2,900,000
	Amount to be deferred: Part of year \$
	Entire year 700,000
OMB identification code: 48-2300-9-1-601	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The President's Commission on Pension Policy was authorized by the Pension Policy Commission Act, (P.L. 96-14), for a two-year period to research and develop a set of recommendations for a national retirement policy. Funds were appropriated in the Treasury, Postal Service, and General Government Appropriations Act, 1980 (P.L. 96-74) without fiscal year limitation for operating costs of the Commission. Only \$2.2 million of the total available is necessary to provide for operating expenses in 1980. The remaining \$700,000 is deferred for use in 1981.

This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: This deferral action will have no effect on the Commission's program since it simply allows the Commission to spread budgetary resources over its authorized two-year life to cover operating costs.

Outlay Effects: This deferral action has no effect on outlays.

Reader Aids

Federal Register
Vol. 44, No. 225
Tuesday, November 20, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

- 202-783-3238 Subscription orders (GPO)
- 202-275-3054 Subscription problems (GPO)
- "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
 - Washington, D.C.
 - Chicago, Ill.
 - Los Angeles, Calif.
- 202-523-5022 Scheduling of documents for publication
- 312-663-0884 Photo copies of documents appearing in the Federal Register
- 213-688-6694 Corrections
- 523-5237 Public Inspection Desk
- 523-5215 Finding Aids
- 523-5227 Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

- 523-3419
- 523-3517
- 523-5227 Finding Aids

Presidential Documents:

- 523-5233 Executive Orders and Proclamations
- 523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S.
- 5282 Statutes at Large, and Index
- 275-3030 Slip Law Orders (GPO)

Other Publications and Services:

- 523-5239 TTY for the Deaf
- 523-5230 U.S. Government Manual
- 523-3408 Automation
- 523-4534 Special Projects
- 523-3517 Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

62879-63076	1
63077-63508	2
63509-64058	5
64059-64396	6
64397-64780	7
64781-65024	8
65025-65378	9
65379-65580	13
65581-65728	14
65729-65958	15
65959-66174	16
66175-66562	19
66563-66778	20

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR	907..... 64838, 65963
485..... 64063	910..... 63081, 65049, 65963
3 CFR	959..... 63082, 65379
Executive Orders:	971..... 65964, 66178
12170..... 65729	989..... 64397, 66574
12171..... 66565	1464..... 65965-65967
Administrative Orders:	1701..... 64069
Presidential Determinations:	1942..... 62880
No. 80-1 of	1962..... 64794
October 15, 1979..... 63077	1980..... 64797
No. 80-2 of	2024..... 65968
October 23, 1979..... 64059	3100..... 66179
No. 80-3 of	Proposed Rules:
October 23, 1979..... 64061	Subtitle A..... 65862
No. 80-4 of	Ch. I..... 65862
October 24, 1979..... 66175	Ch. II..... 65862
Proclamations:	Ch. III..... 65862
3279 (Amended by	Ch. IV..... 65862
Proc. 4702)..... 65581	Ch. V..... 65862
4698..... 63509	Ch. VI..... 65862
4699..... 63511	Ch. VII..... 65862
4700..... 63513	Ch. IX..... 65862
4701..... 64781	Ch. X..... 65862
4702..... 65581	Ch. XI..... 65862
4703..... 66563	Ch. XII..... 65862
5 CFR	Ch. XIV..... 65862
177..... 65025	Ch. XV..... 65862
213..... 63079, 64064-64067,	Ch. XVI..... 65862
65025-65031, 65959-65961,	Ch. XVII..... 65862
66567-66571	Ch. XVIII..... 65862
293..... 65031	Ch. XX..... 65862
297..... 65031	Ch. XXI..... 65862
302..... 66573	Ch. XXII..... 65862
315..... 63080, 66574	Ch. XXIII..... 65862
338..... 66571	Ch. XXIV..... 65862
351..... 65046	Ch. XXV..... 65862
733..... 63080	Ch. XXVI..... 65862
1201..... 65048	Ch. XXVII..... 65862
1206..... 65048	Ch. XXVIII..... 65862
1312..... 64783	Ch. XXIX..... 65862
Proposed Rules:	210..... 63107
531..... 65077	225..... 66605
6 CFR	235..... 63107
705..... 64276, 66534	271..... 63496, 65077
706..... 64284, 66534	272..... 63496, 65318
707..... 66534	273..... 63496, 65989
7 CFR	274..... 65318
2..... 66177	276..... 65318
272..... 64386, 66574	277..... 65318
273..... 64067	278..... 63496
401..... 64786	318..... 65080
427..... 62879	910..... 64839
429..... 62879	959..... 65592
431..... 64786, 66178	982..... 63547
722..... 65962	989..... 62901
724..... 63081	1001..... 65989
905..... 65962	1002..... 65989
	1004..... 65989
	1006..... 65989
	1007..... 65989
	1011..... 65989
	1012..... 65989
	1013..... 65989
	1030..... 65989
	1032..... 65989

1033.....65989	456.....64602	108.....63048, 64843	684.....64290
1036.....65989	1023.....64270	121.....63048, 64843, 65550, 66324	688.....64326
1040.....65989	Proposed Rules:	Proposed Rules:	Proposed Rules:
1044.....65989	Ch. II.....63108, 64094, 65274	Ch. I.....65556	Ch. I.....65556
1046.....65989	Ch. III.....63108, 64094, 65274	Ch. IV.....65556	Ch. IV.....65556
1049.....65594, 65989	Ch. X.....63108, 64094, 65274	Ch. V.....65556	Ch. V.....65556
1050.....65989	51.....65598	Ch. VI.....65556	Ch. VI.....65556
1062.....65989	221.....63109	Ch. VII.....65556	Ch. VII.....65556
1064.....65989	470.....64839	208.....62912	208.....62912
1065.....65989	11 CFR	260.....62912, 63096	260.....62912, 63096
1068.....65989	107.....63036	614.....65406	614.....65406
1071.....65989	114.....63036	21 CFR	21 CFR
1073.....65989	9008.....63036	73.....65974	73.....65974
1075.....65989	9032.....63756	510.....65975	510.....65975
1076.....65989	9033.....63756	520.....63096, 65975, 65976	520.....63096, 65975, 65976
1079.....65989	9034.....63756	522.....63097, 65975	522.....63097, 65975
1094.....65989	9035.....63756	540.....65976	540.....65976
1096.....65989	Proposed Rules:	558.....65976, 66581	558.....65976, 66581
1097.....65989	100.....64773	1002.....65352	1002.....65352
1098.....65989	110.....64773	1040.....65352	1040.....65352
1099.....65989	114.....64773	Proposed Rules:	Proposed Rules:
1102.....65989	9033.....63753	145.....65080	145.....65080
1104.....65989	12 CFR	331.....65992	331.....65992
1106.....65989	4.....65379	338.....65992	338.....65992
1108.....65989	5.....65380	340.....65992	340.....65992
1120.....65989	27.....63084	353.....63270	353.....63270
1124.....65989	28.....65381	864.....64095	864.....64095
1125.....65989	225.....64398, 65051, 65731	868.....63292-63426, 65081	868.....63292-63426, 65081
1126.....65989	262.....64398	880.....65992	880.....65992
1131.....65989	264b.....64399	1000.....66616	1000.....66616
1132.....65989	265.....64398	22 CFR	22 CFR
1133.....64087, 65989	329.....66575	506.....63098	506.....63098
1134.....65989	720.....65731	Proposed Rules:	Proposed Rules:
1135.....65989	Proposed Rules:	51.....65600	51.....65600
1136.....65989	211.....62902, 62903	23 CFR	23 CFR
1137.....65989	561.....64840	658.....63680	658.....63680
1138.....65989	563.....65599	770.....66193	770.....66193
1139.....65989	13 CFR	Proposed Rules:	Proposed Rules:
1464.....63107	101.....64401	659.....63682	659.....63682
1924.....65991	14 CFR	771.....66213	771.....66213
3100.....65768	13.....63720	24 CFR	24 CFR
8 CFR	39.....62881, 62882, 63519-63521, 64797, 65387, 65732, 65733, 66188, 66189	Ch. XXV.....66582	Ch. XXV.....66582
214.....65726, 65727	71.....62883, 62884, 65388-65391, 65734, 66190	201.....64072	201.....64072
9 CFR	75.....62884	203.....64073	203.....64073
1.....63488	91.....62884	205.....64073, 64403	205.....64073, 64403
2.....63488	95.....65391	207.....64073, 65580	207.....64073, 65580
3.....63488	97.....62885, 66190	213.....64073	213.....64073
78.....65969	311.....65583	220.....64073	220.....64073
92.....63082	322.....65398	221.....64073	221.....64073
113.....63083	325.....65399	232.....64073	232.....64073
160.....63488	385.....64401	234.....64073	234.....64073
161.....63488	398.....65583, 65584	235.....64073	235.....64073
Proposed Rules:	399.....65052	236.....64073	236.....64073
Ch. I.....65862	Proposed Rules:	241.....64073	241.....64073
Ch. II.....65862	Ch. I.....65104	242.....64073	242.....64073
Ch. III.....65862	23.....62906	244.....64073	244.....64073
Ch. VI.....65862	25.....62906	250.....64073	250.....64073
318.....65403	39.....62907, 63547	570.....65950	570.....65950
381.....65403	43.....66324	805.....64204	805.....64204
10 CFR	61.....65550	841.....64405	841.....64405
0.....62880	65.....66324	868.....64196	868.....64196
2.....65049	71.....62908, 63548, 63549, 64840-64842, 65403, 65768-65770, 66204, 66205	880.....65060	880.....65060
20.....63515	73.....65403, 65770	882.....65061, 65360	882.....65061, 65360
21.....63515	91.....66324	888.....65924	888.....65924
50.....66575	97.....62909	3280.....66194	3280.....66194
71.....63083	107.....63048, 64843	4103.....66587	4103.....66587
73.....63515, 65969		Proposed Rules:	Proposed Rules:
211.....63515, 66183		115.....65775	115.....65775
212.....65722, 66186		203.....65776	203.....65776
436.....64776, 65700		204.....65776	204.....65776
450.....63519, 64797			
455.....63519, 64797			

208.....65081	157.....66502	14-7.....63529	42.....64440
402.....65992	160.....62891	15-7.....65587	43.....64440
571.....65776	161.....63672	105-54.....65071	64.....63558
883.....65776	164.....63672, 66528	105-62.....64805	73.....62917, 64441
886.....64095	183.....63523	Proposed Rules:	90.....64442
25 CFR	206.....65977	Ch. 4.....65862	97.....64442
31g.....65008	Proposed Rules:	3-1.....63115	49 CFR
256.....65747	82.....64843	3-7.....63115	7.....65765
700.....65750	204.....66213	101-39.....65411	178.....66197
26 CFR	36 CFR	42 CFR	571.....65766
1.....64405, 65061	Ch. VI.....64406	50.....65072	601.....65765
5.....63522	51.....62893	43 CFR	1033.....62899, 63105, 64410, 65075, 65400, 65767
Proposed Rules:	60.....64405	3100.....64085	1034.....65075
1.....65777	219.....65587	Proposed Rules:	1047.....65588
31.....65777, 65995	222.....64406	34.....64095	1064.....65987
29 CFR	1202.....64407, 65066	Public Land Orders:	1201.....65401
Proposed Rules:	1212.....66599	4520 (Revoked by PLO 5685).....66196	1240.....65401
Subtitle A.....65556	Proposed Rules:	5685.....66196	1241.....65401
Ch. II.....65566	Ch. II.....65862	37 CFR	Proposed Rules:
Ch. IV.....65566	Proposed Rules:	202.....62913	Ch. X.....64845, 65420
Ch. V.....65566	202.....62913	38 CFR	172.....65020, 66219
Ch. XVII.....65566	Proposed Rules:	8.....65995	192.....65792
Ch. XXV.....65566	21.....65083, 65996, 66623	36.....65997	173.....65020
1440.....65407	1904.....65082	39 CFR	213.....64844
1601.....65082	1910.....64095, 66621	10.....65986	662.....66213
788.....66195	Proposed Rules:	775.....63524	666.....62918
Ch. I.....65566	Ch. I.....65601	952.....65399	1001.....64846
Ch. VII.....65601	870.....63737, 65407	40 CFR	1011.....64846
871.....63737, 65407	871.....63737, 65407	6.....64174	1056.....63121
872.....63737, 65407	872.....63737, 65407	51.....65066, 65069	1100.....64846
873.....63737, 65407	873.....63737, 65407	52.....63102, 65066	1111.....66626
874.....63737, 65407	874.....63737, 65407	53.....65066	1131.....64846
875.....63737, 65407	875.....63737, 65407	58.....65066, 65069	1301.....63121, 64851
876.....63737, 65407	876.....63737, 65407	60.....65066	50 CFR
877.....63737, 65407	877.....63737, 65407	61.....65399	17.....64246, 64247, 64250, 64730, 64736, 64738, 64741, 64744, 65002
878.....63737, 65407	878.....63737, 65407	65.....63102	32.....63106
879.....63737, 65407	879.....63737, 65407	80.....62897	33.....62899
880.....63737, 65407	880.....63737, 65407	81.....63102, 64078, 65751, 65986	285.....62900
881.....63737, 65407	881.....63737, 65407	87.....64266	611.....64410, 64421, 65590
882.....63737, 65407	882.....63737, 65407	116.....65400, 66602	672.....64410, 64421
883.....63737, 65407	883.....63737, 65407	117.....65401, 66602	Proposed Rules:
884.....63737, 65407	884.....63737, 65407	162.....63749	Ch. VI.....63558, 65616
885.....63737, 65407	885.....63737, 65407	227.....65751	17.....63474
886.....63737, 65407	886.....63737, 65407	256.....66196	32.....63496
887.....63737, 65407	887.....63737, 65407	409.....64078	410.....64097
888.....63737, 65407	888.....63737, 65407	418.....64080	611.....66356
31 CFR	Proposed Rules:	424.....64082	652.....65372
535.....65956, 65988, 66590	Ch. I.....63552, 65601, 65612	434.....64082	661.....64443
32 CFR	51.....65084	Proposed Rules:	675.....66356
Ch. XXVIII.....66591	52.....63114, 64439, 65084, 65408, 65613, 65614, 65781, 65790, 65791, 66214	1.....64844	
625.....63099	60.....62914	61.....62915, 66218	
881.....64075	59.....65410, 65411, 65615, 66624	254.....65616	
2600.....64077	61.....65791	512.....65417	
Proposed Rules:	85.....62915	514.....65417	
169.....65601	180.....66216, 66217	47 CFR	
169a.....65601	230.....63552	21.....63105	
169b.....65601	713.....64844	22.....63105	
1900.....65780	257.....65615	25.....65753	
33 CFR	41 CFR	31.....65761	
117.....65750, 66195	14-1.....63529	73.....64408, 65763	
124.....63672		74.....65763	
126.....63672		83.....64409	

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

List of Public Laws

Last Listing November 16, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S. 640 / Pub. L. 96-112 Maritime Appropriation Authorization Act for Fiscal Year 1980. (Nov. 16, 1979; 93 Stat. 847) Price \$.75.

H.R. 998 / Pub. L. 96-113 To amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties. (Nov. 16, 1979; 93 Stat. 850) Price \$.75.

H.R. 2196 / Pub. L. 96-114 "Congressional Award Act". (Nov. 16, 1979; 93 Stat. 851) Price \$.75.

H.J. Res. 68 / Pub. L. 96-115 To authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week". (Nov. 16, 1979; 93 Stat. 856) Price \$.75.

H.R. 5279 / Pub. L. 96-116 To provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany". (Nov. 16, 1979; 93 Stat. 857) Price \$.75.

The authentic text behind the news . . .

The Weekly Compilation of PRESIDENTIAL DOCUMENTS Administration of Jimmy Carter

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, personnel appointments and nominations, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue contains an Index of Contents and a Cumulative Index to Prior Issues.

Separate indexes are published quarterly, semiannually, and annually. Other features include lists of acts approved by the President and of nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements.

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration



SUBSCRIPTION ORDER FORM

ENTER MY SUBSCRIPTION FOR 1 YEAR TO: WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS (PD)

@ \$15.00 Domestic; @ \$23.50 Foreign.

@ \$15.00 additional if Domestic first-class mailing is desired.

NAME—FIRST, LAST		
COMPANY NAME OR ADDITIONAL ADDRESS LINE		
STREET ADDRESS		
CITY	STATE	ZIP CODE
PLEASE PRINT OR TYPE (or) COUNTRY		

☐ Remittance Enclosed (Make checks payable to Superintendent of Documents)

☐ Charge to my Deposit Account No.

MAIL ORDER FORM TO:
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

Reader Service

Wednesday
November 21, 1979

Highlights

Cumulative List of Public Laws—The second cumulative list of public laws for the first session of the 96th Congress can be found in the Reader Aids Section of this issue.

- 66832 **Iran** Treasury/Foreign Assets Control Office amends the Iranian Assets Control Regulations; effective 11-19-79
- 66836 **Social Security** HEW/SSA proposes rule concerning the filing of applications for supplemental security income benefits; comments by 1-21-80
- 66783 **Natural Gas** DOE/FERC issues interim rules defining the term "produced" as it relates to stripper wells; comments by 1-8-80; effective 11-9-79
- 66786 **Natural Gas** DOE/FERC issues interim rules permitting jurisdictional agencies to withdraw notices of determinations regarding natural gas; comments by 1-14-80; effective 11-19-79
- 67060 **Anti-Inflationary Price Standards and Procedural Rules** CWPS issues questions and answers; effective 10-1-79 (Part V of this issue)
- 66855 **Medicaid Program** HEW/HCFR proposes rule concerning deeming of income between spouses; comments by 1-21-80

CONTINUED INSIDE



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Area Code 202-523-5240

Highlights

- 66851 Polychlorinated Biphenyls** EPA proposes amendment to disposal requirements for large PCB capacitors; comments by 12-21-79
 - 66989 Polychlorinated Biphenyls** EPA issues notice of approved PCB disposal facilities
 - 67040 Indian Education** Interior/BIA issues rule concerning grants for tribally controlled community colleges and Navajo Community College; effective 11-21-79 (Part II of this issue)
 - 66825 Terminal Equipment** FCC adopts final rule providing for certain exceptions required to protect the national defense and security; effective 1-1-80
 - 66830 Pollution Prevention** FCC adopts final rule to expand the circumstances under which on-board frequencies may be used aboard vessels involved in oil transfer operations; effective 12-19-79
 - 66838 National Environmental Policy Act** State proposes to add new rules to implement procedural provisions; comments by 12-21-79
 - 66846 Defense Materials System and Defense Priorities System** Commerce/ITA gives advance notice of rulemaking; comments by 1-17-80
 - 66780 Comprehensive Energy Extension Service Program** DOE/Office of Conservation and Solar Energy adopts amendment providing that the first annual State applications for financial assistance shall be submitted by 2-19-80
 - 67057 Abandoned Mine Reclamation Funds** Interior/SMRE issues final rules; effective 12-21-79 (Part IV of this issue)
 - 66781 Premerger Notification** FTC adopts rules concerning reporting and waiting period requirements; effective 11-21-79
 - 66991 Privacy Act** FDIC publishes a document affecting systems of records; comments by 12-21-79
 - 67029 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 67040 Part II, Interior/BIA**
 - 67050 Part III, Fine Arts Commission**
 - 67057 Part IV, Interior/OSM**
 - 67060 Part V, CWPS**

Contents

Federal Register
Vol. 44, No. 226
Wednesday, November 21, 1979

- | | |
|--|--|
| <ul style="list-style-type: none"> Agricultural Marketing Service
RULES 66779 Oranges, grapefruit, tangerines, and tangelos grown in Fla. 66780 Oranges (navel), grown in Ariz. and Calif. Agriculture Department
<i>See</i> Agricultural Marketing Service. Air Force Department
RULES 66816 Privacy Act; implementation; correction Alcohol, Tobacco and Firearms Bureau
NOTICES Committees; establishment, renewals, terminations, etc.: 67009 Explosives Tagging Advisory Committee Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES 66864 Procurement list, 1979; additions and deletions Census Bureau
NOTICES 66862 Neighborhood statistics program (1980 census) 66863 Population censuses, special; results Center for Disease Control
PROPOSED RULES 66853 Etiologic agents; interstate shipment Civil Aeronautics Board
PROPOSED RULES 66835 Mail transportation and mail rates establishment; interstate, overseas, and foreign; extension of time NOTICES Hearings, etc.: 66860 Atlanta/Detroit-New York/Newark show-cause proceeding 66860 Frontier Airlines et al. 66860 Intra-Alaska service investigation 66861 Kansas City-Florida points show-cause proceeding 66861 Walsten Air Service Ltd. 67029 Meetings; Sunshine Act Civil Rights Commission
NOTICES Meetings; State advisory committees: 66862 Idaho 66862 Oklahoma Commerce Department
<i>See also</i> Census Bureau; Industry and Trade Administration; National Oceanic and Atmospheric Administration. NOTICES Committees; establishment, renewals, terminations, etc.: 66864 Western Pacific Fishery Management Council Advisory Panel | <ul style="list-style-type: none"> Commodity Futures Trading Commission
NOTICES 67029 Meetings; Sunshine Act Conservation and Solar Energy Office
RULES 66780 Energy Extension Service; State application for financial assistance, annual; submission date Customs Service
PROPOSED RULES 66835 Petroleum and petroleum products, imported; standardized gaugers guidelines for monitoring; extension of time Defense Department
<i>See</i> Air Force Department; Navy Department. Economic Regulatory Administration
NOTICES Consent orders: 66984 Phillips Petroleum Co. Powerplant and industrial fuel use; exemption requests: 66865 Houston Lighting & Power Co. Remedial orders: 66984 Atlantic Richfield Co. Energy Department
<i>See also</i> Conservation and Solar Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department. NOTICES Meetings: 66864 National Petroleum Council Environmental Protection Agency
PROPOSED RULES Air pollution control, aircraft and aircraft engines: 66850 Turbine engines, large in-use gas; standards; availability of economic impact assessment and extension of time Air quality control regions; criteria and control techniques: 66850 Attainment status designations; Pennsylvania Air quality implementation plans; delayed compliance orders: 66849 Kentucky (2 documents) Toxic substances: 66851 Polychlorinated biphenyls; chemical waste landfill criteria; large PCB capacitors disposal requirements NOTICES Pesticides; emergency exemption applications: 66986 Benomyl 66987 Oxamyl 66985 Permethrin 66986 Pydrin 66988 Strychnine baits Toxic substances: 66989 Polychlorinated Biphenyls (PCB's); approved disposal facilities |
|--|--|

	Equal Employment Opportunity Commission RULES	66786	Jurisdictional agency determinations; withdrawal procedures for determination notices and applications
66791	Age discrimination in employment: Executive and high policymaking employees in private sector and tenured employees at institutes of higher education; exemptions; final interpretations		NOTICES
	Federal Communications Commission RULES	66866	Brazos River Authority
66816	Commercial radio operators, experimental and radio broadcast services; radio operator licensing program; second report and order	66866	Consumer Power Co.
	Common carrier services:	66866	Locust Ridge Gas Co.
66823	Tariff filings; adequate notice and timely availability to public	66867, 66868	Michigan Wisconsin Pipe Line Co. (2 documents)
66825	Telephone network; connection of terminal equipment; exceptions for national defense and security		Natural Gas Policy Act of 1978:
	Communications equipment:	66869-	Jurisdictional agency determinations (6 documents)
66822	UHF television receiver noise figures; video tape recorders with built-in TV tuners		Federal Housing Commissioner—Office of Assistant Secretary for Housing PROPOSED RULES
66830	Radio services, special: Maritime services; shipboard stations; pollution prevention in large oil transfer operations; expanded use of on-board frequencies	66846	Mortgage and loan insurance programs: Multifamily housing; mortgages in default; partial payment of insurance claims; correction
	PROPOSED RULES	67030	Federal Reserve System NOTICES
66857	Radio services, special: Great Lakes public coast stations; transmission of weather broadcasts on channel 17 by voice and facsimile		Meetings; Sunshine Act (2 documents)
	NOTICES		Federal Trade Commission RULES
66991	Hearings, etc.: South Central Bell Telephone Co.	66781	Premerger notification; reporting and waiting period requirements exemptions; minimum dollar value rule
67029	Meetings; Sunshine Act		Fine Arts Commission RULES
66990	Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies	67050	Functions and organization
	Federal Deposit Insurance Corporation NOTICES		Fish and Wildlife Service NOTICES
67029, 67030	Meetings; Sunshine Act (2 documents)	66995	Endangered and threatened species permits; applications
66991	Privacy Act; systems of records		Foreign Assets Control Office RULES
	Federal Emergency Management Agency PROPOSED RULES	66832	Iranian assets control regulations; amendments
66857	Flood elevation determinations: Texas		General Services Administration <i>See also</i> National Archives and Records Service. NOTICES
	NOTICES	66995	Public utilities; hearings, etc.: Ohio Public Utility Commission
66995	Disaster and emergency areas: American Samoa		Health Care Financing Administration PROPOSED RULES
	Federal Energy Regulatory Commission RULES	66855	Medicaid: Deeming of income between spouses
66783	Natural Gas Policy Act of 1978: Ceiling prices; stripper well natural gas; definition of "produced"; interim rule		Hearings and Appeals Office, Energy Department NOTICES
66786	Deregulated high-cost natural gas; definitions for gas produced from geopressured brine, coal seams, and Devonian shale; interim rule and request for comments; correction	66956-66982	Applications for exception: Decisions and orders (11 documents)
66789	Intrastate pipelines; sales and transportation; order on rehearing		

66982	Remedial orders: Objections filed	67028	Railroad operation, acquisition, construction, etc.: Everett Railroad Co.
	Historic Preservation, Advisory Council NOTICES		Justice Department NOTICES
66860	Meetings	67000	Pollution control; consent judgments: Velsicol Chemical Corp.
	Health, Education, and Welfare Department <i>See</i> Center for Disease Control; Health Care Financing Administration; National Institutes of Health; Social Security Administration.		Land Management Bureau RULES
	Housing and Urban Development Department <i>See</i> Federal Housing Commissioner—Office of Assistant Secretary for Housing.	66816	Public land orders: Idaho; correction
	Immigration and Refugee Policy Select Commission NOTICES	66995	Outer Continental Shelf: Oil and gas lease sales; Western and Central Gulf of Mexico
67002	Meetings		National Aeronautics and Space Administration NOTICES
	Indian Affairs Bureau RULES	67000	Organization and functions: Performance Review Board; Senior Executive Service; appointment of member
67040	Education: Community colleges, tribally controlled and Navajo; grants		National Archives and Records Service PROPOSED RULES
67040	Indian education functions; transfer; correction	66852	Property management: Federal advisory committee management; advance notice
67040	Indian education policies; correction		National Institutes of Health PROPOSED RULES
	Industry and Trade Administration PROPOSED RULES	66852	National Library of Medicine programs; advance notice
66846	Defense Materials System and Defense Priorities System; review; advance notice		National Oceanic and Atmosphere Administration PROPOSED RULES
	Interior Department <i>See</i> Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Office.	66859	Fishery conservation and management: North Pacific Fishery Management Council; herring fishery; Bering/Chukchi Seas; hearings; partial postponement
	International Communication Agency NOTICES		National Park Service NOTICES
66996	Organization and functions: Senior Executive Service; Performance Review Board; establishment	66996	Environmental statements; availability, etc.: Glen Canyon National Recreation Area, Ariz.-Utah; general management plan
	International Trade Commission NOTICES	66996	Meetings: Chesapeake & Ohio Canal National Historical Park Commission
66997	Import investigations: Rotatable photograph and components card display units		National Science Foundation NOTICES
66997	Titanium dioxide from Belgium, France, United Kingdom, and Germany	67000	Meetings: Science Education Advisory Committee
	Interstate Commerce Commission RULES		Navy Department RULES
66831	Motor carriers: Claims, overcollection, duplicate payment and overcharge; processing, etc.; unidentified payments	66801	Personnel: Naval Discharge Review Board
	NOTICES		Nuclear Regulatory Commission NOTICES
67010	Fourth section applications for relief	67000	Meetings: Reactors Safeguards Advisory Committee
67009	Motor carriers: Agricultural cooperative transportation; filing notices		Parole Commission NOTICES
67011	Temporary authority applications	67030	Meetings; Sunshine Act
67010, 67011	Railroad car service orders; various companies: Kansas City Terminal Railway Co. (2 documents)		

Securities and Exchange Commission	
NOTICES	
67002	Joint industry plan; consolidated transaction reporting system; inquiry
Small Business Administration	
NOTICES	
	Applications, etc.:
67003	NEFCO Capital Corp.
	Authority delegations:
67004	Minority Small Business and Capital Ownership Development; and Deputy Associate Administrator for Business Development et al.
	Disaster areas:
67002, 67003	Kansas (2 documents)
67004	Loans and revolving line credit; maximum interest rates
67003	National security information program; implementation
Social Security Administration	
PROPOSED RULES	
65836	Supplemental Security Income: Applications, filing requirement
State Department	
PROPOSED RULES	
65838	National Environmental Policy Act: implementation
NOTICES	
67004	Environmental effects abroad of major Federal actions; review procedures
67003	Meetings: International Radio Consultative Committee
Surface Mining Office	
RULES	
67057	Surface coal mining and reclamation enforcement operations: Abandoned mine reclamation funds
Treasury Department	
See Alcohol, Tobacco and Firearms Bureau; Customs Service; Foreign Assets Control Office.	
Wage and Price Stability Council	
RULES	
67060	Wage and price guidance; anti-inflation program: Pay and price standards and procedural rules: correction and changes in standards
67060	Price standards and procedural rules for second program year; questions and answers

MEETINGS ANNOUNCED IN THIS ISSUE

66860	ADVISORY COUNCIL ON HISTORIC PRESERVATION Meeting, 12-11-79
CIVIL RIGHTS COMMISSION	
66862	Idaho Advisory Committee, 12-8-79
66862	Oklahoma Advisory Committee, 12-18-79

ENERGY DEPARTMENT	
66864	National Petroleum Council, Committee on Refinery Flexibility, Oil Supply, Demand and Logistics Task Group
IMMIGRATION AND REFUGEE POLICY SELECT COMMISSION	
67002	Commission hearing, 12-17-79
INTERIOR DEPARTMENT	
National Park Service—	
66996	Chesapeake and Ohio Canal National Historical Park Commission, 12-15-79
NATIONAL SCIENCE FOUNDATION	
67000	Research, Development and Dissemination Subcommittee, 12-8-79
NUCLEAR REGULATORY COMMISSION	
67000	Advisory Committee on Reactor Safeguards, November, December, January and February meetings
STATE DEPARTMENT	
67008	International Radio Consultative Committee, Study Group 1 of the U.S. Organization, 12-13-79
RESCHEDULED MEETING	
COMMERCE DEPARTMENT	
National Oceanic and Atmospheric Administration—	
66859	North Pacific Fishery Management Council, changed from 11-10-79 to an unscheduled later date

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

8 CFR	64.....66852
705 (2 documents).....67060	72.....66853
706 (2 documents).....67060	435.....66855
	436.....66855
7 CFR	
905.....66779	43 CFR
907.....66780	Public Land Orders:
10 CFR	5680 [Corrected by
465.....66780	PLO 5686].....66816
14 CFR	5686.....66816
Proposed Rules:	44 CFR
233.....66835	Proposed Rules:
302.....66835	67.....66857
16 CFR	45 CFR
802.....66781	2101.....67050
18 CFR	2102.....67050
271.....66783	2103.....67050
272.....66786	47 CFR
273.....66786	13.....66816
275.....66786	15.....66822
284.....66789	61.....66823
19 CFR	68.....66825
Proposed Rules:	73.....66816
4.....66835	74.....66816
144.....66835	83.....66830
151.....66835	91.....66830
159.....66835	Proposed Rules:
20 CFR	81.....66857
Proposed Rules:	49 CFR
416.....66836	1008.....66831
22 CFR	50 CFR
Proposed Rules:	Proposed Rules:
161.....66838	676.....66859
24 CFR	
Proposed Rules:	
208.....66846	
25 CFR	
31a.....67040	
31b.....67040	
32b.....67040	
29 CFR	
1625.....66791	
1627.....66791	
30 CFR	
872.....67057	
31 CFR	
535.....66832	
32 CFR	
724.....66801	
806b.....66816	
32A CFR	
Proposed Rules:	
601-662.....66846	
40 CFR	
Proposed Rules:	
65 (2 documents).....66849	
81.....66850	
87.....66850	
761.....66851	
41 CFR	
Proposed Rules:	
101-6.....66852	
42 CFR	
Proposed Rules:	
4.....66852	
59a.....66852	
63.....66852	

Rules and Regulations

Federal Register

Vol. 44, No. 226

Wednesday, November 21, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 3, Amdt. 2]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Limitation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final Rule.

SUMMARY: This amendment establishes a total limitation of shipment regulation for fresh Florida oranges, grapefruit, tangerines and tangelos during the period beginning 6:00 p.m., e.s.t., November 21, 1979, and ending 12:01 a.m., e.s.t., November 25, 1979. The regulation is needed to assist in preventing the accumulation of excessive market supplies of the specified fruits during the Thanksgiving Holiday period specified, in which it is anticipated there will be a greatly reduced market demand.

EFFECTIVE DATE: November 21, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Findings.

(1) This regulation is issued under the marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the committee established under the order, and upon other available information. It is found

that the limitation of shipments of oranges, grapefruit, tangerines and tangelos, as hereinafter provided, will tend to effectuate the declared policy of the Act.

(2) This amendment reflects the Department's appraisal of the marketing situation during the period immediately prior to the week in which Thanksgiving Day occurs and for the period immediately following. It is anticipated that shipments of fresh oranges, grapefruit, tangerines and tangelos prior to Thanksgiving Day will result in market supplies in excess of market needs. An accumulation of excessive quantities of any variety of citrus fruit in the markets during the period immediately prior to and following Thanksgiving contributes to unstable marketing conditions. It is reported that, absent the shipping holiday, excessive shipments of oranges, grapefruit, tangerines and tangelos would occur, causing an accumulation of these varieties of fruit in the market prior to and during the post-holiday period, a period in which there is a drop in consumer demand. Hence, the curtailment of orange, grapefruit, tangerine and tangelo shipments, as hereinafter specified, would contribute to a better-managed supply situation and in turn to the establishment of orderly marketing.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until December 21, 1979 (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act; and good cause exists for making the provisions of this amendment effective at the time specified. Shipments of Florida oranges, grapefruit, tangerines and tangelos are currently regulated through October 12, 1980. Determination as to the need for, and extent of, regulation under § 905.52(a)(3) must await the development of the crop and the availability of information about market supplies and the demand for such fruits. The recommendation and supporting information for such regulation, were promptly submitted to the Department after an open meeting of

the committee, after notice to growers, shippers and others, and interested persons were afforded an opportunity to submit information and views. Information regarding specifications of the regulation has been provided to shippers, and the regulation is identical with the recommendation of the committee. Compliance with the regulation will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone (202) 447-5975.

Accordingly, it is found that the provisions in paragraph (a) § 905.303 (Orange, Grapefruit, Tangerine and Tangelos Regulation 3; 44 FR 59195, 65962) should be and hereby are revised by adding a proviso applicable to shipments of oranges, grapefruit, tangerines and tangelos reading as follows:

§ 905.303 Orange, grapefruit, tangerine and tangelos regulation 3.

Order. (a) * * * unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in columns (3) and (4) of such table: *Provided*, That during the period beginning at 6:00 p.m., e.s.t., November 21, 1979, and ending 12:01 a.m. e.s.t., November 25, 1979, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any oranges, grapefruit, tangerines, or tangelos, of the varieties or types, specified in paragraph (a) Table I of this section, grown in the production area.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, November 15, 1979, to become effective 6:00 p.m., e.s.t., November 21, 1979.
D. S. Kuryloski,
*Acting Director, Fruit and Vegetable Division,
Agricultural Marketing Service.*
[FR Doc. 79-35885 Filed 11-20-79; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Reg. 467]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period November 23-29, 1979. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on November 19, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges has not yet stabilized.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the *Federal Register* (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective

date necessary to effectuate the declared policy of the act. Interested persons were given the opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, phone 202-447-5975.

§ 907.767 Navel orange regulation 467.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period November 23, 1979 through November 29, 1979, are established as follows:

- (1) District 1: 720,000 cartons;
- (2) District 2: Unlimited movement;
- (3) District 3: 80,000 cartons;
- (4) District 4: 10,001 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", "District 4", and "carton" mean the same as defined in the marketing order. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 20, 1979.

D. S. Kuryloski,
*Director, Fruit and Vegetable Division,
Agricultural Marketing Service.*

[FR Doc. 79-36267 Filed 11-20-79; 12:06 pm]
BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 465

Final Rule Changing the Submission Date for the First Annual State Application for Financial Assistance

AGENCY: Department of Energy.

ACTION: Final Rule.

SUMMARY: The Department of Energy today is adopting an amendment to 10 CFR 465.7(b) providing that the first annual State applications for financial assistance under the comprehensive Energy Extension Service (EES) program shall be submitted by February 19, 1980

rather than the date presently specified. Because implementation of the EES program was necessarily delayed the present date specified needs to be adjusted.

EFFECTIVE DATE: This amendment is effective December 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Kathleen Reavis, U.S. Department of Energy, Energy Extension Service, CS-74, MS 2H-027 Forrestal Building, Washington, D.C. 20585, telephone: 202/252-2305.

Richard F. Kessler, U.S. Department of Energy, Office of General Counsel, GC-33, MS 3228, 20MASS, Washington, D.C. 20585, telephone: 202/376-4100.

SUPPLEMENTARY INFORMATION:

1. Background
2. Amendment Adopted
3. Procedural Requirements

1. Background

The Department of Energy (DOE) issued final regulations, 43 FR 45536 (October 2, 1978), governing the expansion of the pilot program for the Energy Extension Service (EES) program, pursuant to the National Energy Extension Service Act (Act), 42 U.S.C. 7001 *et seq.*, to include all States. Section 465.7 of the regulations, 10 CFR 465.7, provides that the DOE Regional Representative will send a letter to the Governor of each State inviting him or her to submit the first annual State application for financial assistance under EES and that the first annual State application shall be submitted not later than 180 days from the date the regulations were issued, or by March 27, 1979. However, implementation of the national EES program was delayed to assure that an adequate level of funding would be available.

2. Amendment Adopted

We are revising § 465.7(b) of the regulations to specify February 19, 1980, as the new submission date for the first annual State applications for EES financial assistance. This date is 180 days after the date DOE invited the Governors to submit the first annual State application for EES.

3. Procedural Requirements

A. Section 553(b) of the Administrative Procedure Act and Section 501 of the DOE Act

Section 553(b) of the Administrative Procedure Act ("APA"), 5 U.S.C. 551 *et seq.*, requires that in most instances of rulemaking general notice of proposed rulemaking shall be published in the *Federal Register*. Except when notice or hearing is required by statute, the requirement for a notice of proposed rulemaking does not apply when the agency finds (and incorporates the

finding and a brief statement of its reasons in the final rulemaking) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. For the reasons set forth in the "Background" section of this preamble and, in particular, because this amendment is not likely to affect significantly States' implementation of EES, we find that the section 553(b) requirements are unnecessary in this rulemaking proceeding.

In view of this determination, the prior notice requirement of subsection (b) of section 501 of the Department of Energy Organization Act ("DOE Act") 42 U.S.C. 7101 *et seq.*, Pub. L. 95-81, is also inapplicable. Therefore, we have determined, for the reasons stated above in support of waiving the APA section 553(b) requirements, that no substantial issue of law or fact exists with respect to this rulemaking and that the rulemaking is unlikely to have substantial impact on the nation's economy or large numbers of individuals or businesses. Accordingly, the hearing requirements of subsections (c) and (d) of section 501 of the DOE Act are inapplicable.

B. Executive Order 12044

In accordance with the DOE's criteria governing "significant regulations" set forth in paragraph 6(a)(3) of DOE Order 2030, 44 FR 1032, (January 3, 1979), the regulation set forth at the end of this preamble is not a significant regulation. Accordingly, the sixty-day advance public comment period and other rulemaking requirements specified in Executive Order 12044, entitled "Improving Government Regulations", 43 FR 12661 (March 23, 1978), and DOE's implementing procedures, DOE Order 2030, are inapplicable.

C. National Environmental Policy Act

In accordance with DOE's obligations under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, an evaluation of the potential environmental impacts of the EES regulation has been prepared by DOE. Based on the Environmental Assessment (DOE/EA-0042) of the comprehensive EES program, DOE determined that the EES regulation does not constitute a major Federal action having a significant effect on the quality of the human environment. This amendment to the EES regulation does not affect this determination. Accordingly, an environmental impact statement will not be prepared.

(The National Energy Extension Service Act, enacted as title V of the Energy Research and Development Administration Authorization Act of 1977, title V of Pub. L. 95-39, 91 Stat.

191 *et seq.*, 42 U.S.C. 7001 *et seq.*; Department of Energy Organization Act, Pub. L. 95-81 Stat. 965 *et seq.*, 42 U.S.C. 7101 *et seq.*; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 92 Stat. 3 *et seq.*, 41 U.S.C. 501 *et seq.*; EO 12009, 42 FR 46287; EO 12044, 43 FR 12660.)

In consideration of the foregoing, Part 465 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective December 21, 1979.

Issued in Washington, D.C., November 14, 1979.

Maxine Savitz,

Acting Assistant Secretary, Conservation and Solar Energy.

Section 465.7 is amended by revising paragraph (b) to read as follows:

§ 465.7 Annual State applications.

(b) To be eligible for financial assistance under this part, a State shall submit an original and two copies to the Regional Representative of an annual State application executed by the Governor. The first annual State application shall be submitted not later than February 19, 1980. Subsequent annual State applications shall be submitted on or before September 30 of the following years.

[FR Doc. 79-35804 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 802

Premerger Notification; Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Promulgation of final rules.

SUMMARY: The purpose of this document is formally to amend the minimum dollar value rule contained in the Commission's premerger notification rules by raising certain minimum dollar value figures which define exemptions from the reporting and waiting requirements of Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. This document consists of the minimum dollar value rule as amended and a statement of basis and purpose. The amended rule will enlarge the class of relatively small transactions which are exempt from the requirement that Premerger Notification and Report Forms be filed with the Federal Trade Commission and the Antitrust Division of the Department of Justice and will be effective immediately.

EFFECTIVE DATE: Immediately November 21, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, telephone: (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a (Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976), requires that certain persons contemplating certain acquisitions or mergers file Notification and Report Forms with the Federal Trade Commission and the Department of Justice and wait designated periods of time before consummating the transactions. Specifically, transactions between persons with \$100 million or more in sales or assets, and persons with \$10 million or more in sales or assets, are reportable to both agencies, if, as a result of the transaction, the acquiring person would hold 15 percent or more of the assets or voting securities of the acquired person or if the acquiring person would hold an aggregate total amount of the assets and securities of the acquired person in excess of \$15 million. See Clayton Act, section 7A(a)(3).

Statement of Basis and Purpose of Amended § 802.20 of the Commission's Premerger Notification Rules

Section 802.20, as amended, exempts certain acquisitions as a result of which the acquiring person will hold 15 percent or more of the voting securities or 15 percent or more of the assets of the acquired person, but the aggregate total amount of voting securities and assets so held will be \$15 million or less (*i.e.*, the 15-percent test of section 7a(a)(3)(A) will be satisfied, but the \$15 million test of section 7A(a)(3)(B) will not). This rule amends the previous § 802.20 so as to exempt acquisitions as a result of which the acquiring person would not hold either (a) assets of the acquired person valued at more than \$15 million, or (b) voting securities conferring control of an issuer which, together with all entities that it controls, has annual net sales or total assets of \$25 million or more.

Section 802.20 was originally promulgated to eliminate reporting and waiting period requirements with respect to certain relatively small acquisitions that are clearly reportable under the Act. It resulted from the Commission's belief

... that certain relatively small transactions (frequently involving only a portion of the stock or assets of the acquired person) that might be reportable under the act are sufficiently unlikely to have a significant anticompetitive impact that imposition of the

act's requirements would not represent an appropriate use of public resources.

Statement of Basis and Purpose to Premerger Notification Rules, 43 FR 33490 (July 31, 1978).

Section 802.20 as originally promulgated exempted, first, those assets acquisitions where at least 15 percent of the acquired person will be held as a result of the transaction, if those assets are valued at \$10 million or less. Second, subsection (b) exempted acquisitions of 50 percent or more of the voting securities of an issuer, if the issuer has both sales and assets of less than \$10 million and the resulting holdings are valued at \$15 million or less. Finally, an acquisition of less than 50 percent of the voting securities of an issuer is exempt without regard to the size of the issuer's sales or assets, as long as the value of the holdings resulting from the acquisition is \$15 million or less.

The Commission scrutinized the filings received during the first nine months of the premerger program and found that, even with the exemptions provided in § 802.20, there was a significant number of relatively small transactions with respect to which neither agency requested additional information pursuant to section 7A(e) of the Act. The Commission has concluded that it could raise somewhat the floors in § 802.20 so as to exempt a larger number of these small transactions without impairing the effectiveness of the program, while at the same time reducing the burden on filing parties.

The new minimum dollar value floors were selected only after careful analysis of the data derived from the filings. Staff formulated a proposal that, based on the past data, maximized the number of additional relatively small transactions exempted while minimizing the possibility that, contrary to legislative intent, transactions which might be of antitrust interest to the agencies would also be exempted.

The amended rule, therefore, exempts assets acquisitions where at least 15 percent of the acquired person will be held as a result of the transaction, if those assets are valued at \$15 million or less (instead of the \$10 million formerly used). Second, amended subsection (b) exempts acquisitions of 50 percent or more of the voting securities of an issuer, if the issuer has both sales and assets of less than \$25 million (instead of the \$10 million figure formerly used) and the resulting holdings are valued at \$15 million or less. The third exemption, affecting acquisitions of less than 50 percent of an issuer's stock as long as the value of the holdings resulting from

the acquisition is \$15 million or less, remains the same.

Staff considered alternative dollar values; however, the \$15 million figure in the case of an assets acquisition and the \$25 million figure in the case of a voting securities acquisition were undoubtedly the most appropriate. All of the comments approved the agencies' attempt to exempt more transactions. Comment 4,¹ however, suggested raising the floor in an assets acquisition to \$20 million, citing as its justification the observation that inflation has rendered the \$15 million figure "an unreasonably low * * * benchmark for identifying potentially anti-competitive acquisitions."

Comment 8 recommended a \$25 million floor in an assets acquisition and a \$50 million floor in a voting securities acquisition. It relied upon a stated belief "that these lower magnitude acquisitions usually involve lower level technology, and these type companies tend to flourish regardless of acquisition activity." Neither comment offered factual support for its recommendations. The Commission has concluded that the 50% increase in an assets acquisition and the 150% increase in a voting securities acquisition is sufficient at this early stage of the program. Continued review of the filings received may result in a reassessment of the Commission's position with regard to these floors; however, a cautious approach seems more appropriate at this time.

Comment 2 recommended a "uniform exemption" for both assets and voting securities acquisitions so as to exempt any acquisition of \$15 million or less, regardless of the percentages involved. A similar comment was addressed to the Commission during promulgation of the original rules. As the Commission stated then, "[I]f Congress had intended such a result, the act could easily have been worded so as to achieve it." 43 FR at 33491: The disjunctive formulation of the size-of-transaction test in section 7A(a)(3) "indicates a clear Congressional intention to reach at least some acquisitions that satisfy only the percentage test." *Id.* Absent justification as to why the clear intent of Congress should be ignored, we will reject this suggestion.

Comments 6 and 9 recommended amending the similar exemptions provided in § 802.50 and § 802.51 for certain acquisitions by and of foreign persons. Comment 7 urged the Commission to redefine "acquired person" in § 801.1 (a)(1) in terms of only

¹ The nine comments received are identified and marked by number following the Statement of Basis and Purpose.

the issuer to be acquired along with all entities which the issuer controls. The Commission rejects these suggestions as being outside the scope of the published notice of proposed rulemaking, but will retain them for further consideration in the event that changes in these sections are proposed at a later date.

Comments

Received in response to August 10, 1979, publication of proposed amendment to § 802.20 of the rules implementing Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 relating to premerger notification (comment period August 10, 1979 to September 10, 1979).

No.	Date of letter	Organization
1	8/17/79	Chadwell, Kayser, Ruggles, McGee & Hastings (David A. Nelson, Esq.).
2	9/4/79	Marathon Oil Co. (Kent B. Hampton).
3	9/5/79	Squibb Corp.* (J. Elliston Murray).
4	9/7/79	Edwards & Angell*.
5	9/10/79	Food Marketing Institute (Kathleen E. McDermott, Esq.).
6	9/10/79	Covington & Burling (Daniel M. Gribbon, Esq. and Stephen Calkins, Esq.).
7	9/10/79	International Telephone and Telegraph Corp. (Roger Langsdorf, Esq.).
8	9/11/79	McCormick & Co., Inc.* (James J. Harrison, Jr., Esq.).
9	9/13/79	Chamber of Commerce of the United States* Fred Bysett).

*This comment was received after the comment period.

The Federal Trade Commission amends § 802.20 of title 16 CFR pursuant to section 7A(d) of the Clayton Act, 15 U.S.C. 18a(d), as added by section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94-435, 90 Stat. 1390, to read as follows:

§ 802.20 Minimum dollar value

An acquisition which would be subject to the requirements of the act and which satisfies section 7A(a)(3)(A), but which does not satisfy section 7A(a)(3)(B), shall be exempt from the requirements of the act if as a result of the acquisition the acquiring person would not hold:

- Assets of the acquired person valued at more than \$15 million; or
- Voting securities which confer control of an issuer which, together with all entities which it controls, has annual net sales or total assets of \$25 million or more.

Pursuant to section 7A(d) of the Act, 15 U.S.C. 18a(d), the Federal Trade Commission, with the concurrence of the Assistant Attorney General, hereby

formally amends § 802.20 of title 16 of the Code of Federal Regulation, Chapter I.

Issued November 13, 1979.

By direction of the Commission.

Carol M. Thomas,
Secretary.

(FR Doc. 79-35935 Filed 11-20-79; 8:45 am)

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

(Docket No. RM79-73)

Interim Interpretive Regulation; Definition of Term "Produced" as it Relates to Stripper Wells

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim Regulation.

SUMMARY: The Commission is issuing an interim regulation defining the term "produced" as it relates to stripper wells under the Natural Gas Policy Act of 1978. The regulation provides that natural gas is produced within the meaning of section 108(b)(3) (A) and (B) of the NGPA (1) on any day during which there is measurable production of natural gas from a well, and (2) on any day during which a well is open to the line but is unable to produce measurable quantities of gas.

The order also provides that days on which a well operator must shut the well in to build up pressure may qualify as "production days" if the jurisdictional agency makes a finding that conservation practice requires such shut-in.

DATES: The regulation is to be effective November 9, 1979. Comments are due on or before January 8, 1980. A public hearing will be held on January 3, 1980. Requests to participate should be received on December 27, 1979.

ADDRESSES: Send comments and requests to participate at the hearing to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The hearing will be held at the same location.

FOR FURTHER INFORMATION CONTACT: Carol Lane, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4001, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 275-5928 or 357-8511.

November 9, 1979.

I. Background

Section 501(b) of the Natural Gas Policy Act of 1978 (NGPA), 92 Stat. 3350, authorizes the Federal Energy Regulatory Commission (Commission) "to define, by rule, accounting, technical and trade terms" used in the NGPA, so long as such definition is "consistent with the definitions set forth in [the] Act." Pursuant to this authority, the Commission is issuing an interim interpretive regulation defining the term "produced" as it is used in portions of section 108 of the NGPA. We are also clarifying our interpretation of the terms "production day" and "90-day production period."

This order arises out of deliberations held in the course of Commission review of certain jurisdictional agency determinations¹ made under section 108 of the NGPA (stripper well natural gas). These determinations generally fall into three categories, which are described below. Wells in these categories had been preliminarily determined by the Commission not to qualify as stripper wells. In a number of these cases, however, the Commission noted that these Preliminary Findings were tentative conclusions which would be re-examined in a forthcoming rulemaking.

Category A (shut-in wells): This category consists of wells which are manually shut-in due to their inability to meet line pressure. For reasons which will be explained below, the Commission had preliminarily found that days on which a well was shut in for this reason did not qualify as "production days."

Category B (open valve wells): This category consists of wells which are open to the line but are unable to meet line pressure. For reasons which will be explained below, the Commission had preliminarily found that days on which a well was open to the line but not producing gas did not qualify as "production days" and could not make up a "90-day production period."

Wells in categories A and B, are generally low-production gas wells which were in production prior to passage of the NGPA (some for many years). These wells have experienced a drop in pressure to the point where they are incapable of producing against the line without compression or the application of enhanced recovery techniques. Producers of such wells have three alternatives: continued shut-

¹ GP79-48, GP79-48, GP79-59, GP79-65, GP79-70, GP79-84, GP79-103, GP79-106, GP79-63, GP79-78, GP79-120.

in, abandonment, or installation of enhanced recovery techniques such as compression.

Category C (intermittent production wells): This category consists of low-production gas wells which are open to the line and produce natural gas at irregular intervals. In such cases, pressure builds up over a period of time until the well can finally "burp up" a measurable amount of gas. Pressure then drops again and the well produces no gas for another period of time until it can build sufficient pressure once again. This cycle may continue on a regular or irregular basis. The Commission had found preliminarily that days in the cycle on which the well did not produce measurable amounts of gas were not "production days."

The regulation we adopt today changes these preliminary conclusions by defining the term "produced" as it applies to wells in categories (A), (B) and (C), in a manner consistent with what we believe to be the scope and the intent of section 108.

II. Nature of Interim Regulation

The Commission is amending § 271.803 by adding a new paragraph (e) defining the term "produced" as follows:

Natural gas is produced, within the meaning of section 108(b)(3) (A) and (B) of the NGPA: (1) on any day during which there is measurable production of natural gas from well, and (2) on any day on which a well is open to the line but is unable to produce measurable quantities of gas.

The phrase "open to the line" is intended to describe a situation in which there is no physical impediment to production. For example, a well may have a one-way or back-flow valve which will automatically close when line pressure is greater than well pressure, but there will exist no physical impediment which will prevent the valve from opening again if line pressure drops sufficiently or well pressure increases sufficiently.

The new definition of "produced" is intended to encourage both Renewed production from wells which are presently incapable of producing and continued production from wells which are presently producing on an irregular basis. Once an applicant has the qualifying production date available the installation of a process or equipment which increases the rate of production from the well will be eligible in most cases to qualify as application of a "recognized enhanced recovery technique."² If the recognized enhanced

² Section 271.803(a) defines recognized enhanced recovery technique as follows: "Recognized Footnotes continued on next page

recovery technique increases production to a point at which average production exceeds 60 Mcf per production day, section 108(b)(2) provides that the gas may still qualify for the maximum lawful price for stripper well natural gas.³ Accordingly, the new rule will in many cases make it economically feasible for a producer to perform an enhanced recovery technique on a low-production well.⁴ In this way gas which might otherwise be lost will be recovered.

III. Relevant Provisions of Section 108

The following provisions of section 108 are described in order to demonstrate why wells such as those described above have not, until this time, been considered by the Commission to qualify as stripper wells.

A. "90-day production period": Section 108(b)(1)(A) stipulates that a well's qualification as a stripper well is based on its average production during the preceding "90-day production period." Section 108(b)(3)(B) defines that term as:

"Any period of 90 consecutive calendar days excluding any day during which natural gas is not produced for reasons other than voluntary action of any person with the right to control production of natural gas from such well" (emphasis added).

Under this definition, voluntarily shut-in days may be included in a preceding 90-day production period; therefore shut-in or abandoned wells may experience preceding 90-day production

periods even if they have been shut-in for the 180 days prior to the date the application for a stripper well determination is filed. However, wells which were open to the line but experienced no measurable production during the 180 days prior to filing have not been considered to have established a preceding 90-day production period, because involuntarily non-producing days have had to be excluded from any such period.⁶

The regulation we adopt today resolves this problem. "Any day during which natural gas is not produced for reasons other than voluntary action" no longer means any day during which the well was in a production mode (i.e., open to the line) but was unable to produce. Under our new definition, such days are not excluded from the 90-day production period, because they no longer are regarded as non-producing days.

B. "Production Day": Section 108(b)(1)(A) stipulates that in order for a well to qualify as a stripper well, it must have produced nonassociated natural gas at a rate which did not exceed an average of 60 Mcf "per production day" during the preceding 90-day production period. A well's average rate of production is calculated by dividing the total production during the 90-day production period by the number of

"production days" in that period. If the figure reached is 60 Mcf or less, the well meets the threshold requirement of section 108. The term "production day" is defined in section 108(b)(3)(A) as:

- (i) Any day during which natural gas is produced; and
- (ii) Any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the state agency having regulatory jurisdiction over the production of natural gas.

Read narrowly, this definition precluded as a "production day" any day on which a well was in a production status, i.e., was open to the line, but on which it was unable to produce measurable quantities of gas. When such days were not interpreted to be "production days," there existed no basis upon which to compute the average production "per production day" for a well which remained open but non-producing for an entire 90-day production period. Accordingly, such a well was not considered to qualify as a stripper well.

The rule we adopt today resolves this problem by defining the term "produced" to encompass days on which a well is in a production mode but is unable to produce. Once such days can qualify as "production days," such a well may meet the threshold requirement for a stripper well.

The chart below illustrates how average production per production day may be calculated for a well which is open to the line and produces 100 Mcf of gas every ten days. A typical 90-day production period for this well might be:

	Jan. 15-31	Feb. 1-28	March 1-31	April 1-15	Totals
Calendar days....	16	28	31	15	90
Days shut-in for maintenance ¹	0	0	0	5	5
Days of measurable production	2	3	3	2	10
Days open to line with no measurable production	14	25	28	8	75
Total Mcf gas produced..	200	300	300	200	1000

¹Days on which a well is shut-in for maintenance are not "production days." See pp. 11-12.

Footnotes continued from last page enhanced recovery techniques means processes or equipment, or both, which when performed or installed by the producer, increase the rate of production of gas from a well. Processes qualifying as recognized enhanced recovery techniques include mechanical as well as chemical stimulation of the reservoir formation. Equipment may include items installed in the well bore or on the surface.

"Normal well maintenance, repair, or replacement of equipment of facilities does not qualify as recognized enhanced recovery techniques. Normal completion operations (as defined by the jurisdictional agency or, if the agency has not defined the term, by state custom or practice) which are performed within two years of the initial completion do not qualify as recognized enhanced recovery techniques. Any drilling activity which results in production from another reservoir does not qualify as a recognized enhanced recovery technique."

³Section 108(b)(2) states the following: "The Commission shall, by rule, provide that, if nonassociated natural gas produced from a well which previously qualified as a stripper well under paragraph (1) exceeds an average of 60 Mcf per production day during any 90-day production period, such natural gas may continue to qualify as stripper well natural gas if the increase in nonassociated natural gas produced from such well was the result of the application of recognized enhanced recovery techniques."

⁴It should be noted, of course, that if subsequently the well is determined not to qualify for section 106, any gas produced from the well is subject to the otherwise applicable maximum lawful price.

⁵Section 271.804(c) of the Commission's regulations provides that the 90-day production period upon which the application is based must fall entirely within the 180 days prior to the date the application is filed. See footnote 6.

⁶Section 108(b)(1) provides that stripper well natural gas means nonassociated natural gas produced during any month from a well if during the preceding 90-day production period such well produced at a rate which did not exceed an average of 60 Mcf per production day. Because the statute speaks in terms of the preceding 90-day production period, rather than a preceding 90-day production period, it appears that Congress did not intend that any 90-day production period become the basis for a stripper well determination. Instead, Congress apparently wanted the most recent 90-day production period before the date of application to be the basis for the determination. Accordingly, the Commission adopted § 271.804(c), which provides that the 90-day production period upon which the application is based must fall entirely within the 180 days prior to the date the application is filed. This regulation: (1) Resolves time problems caused by the necessity of collecting data from the field by giving producers up to 90 days to file an application with the jurisdictional agency after establishing a 90-day production period; (2) attempts to comply, in as practical a manner as possible, with the intent of Congress that the 90-day production period nearest to the application date be the period evaluated by the jurisdictional agency when it makes a determination.

However, in the case of a well which is attempting but unable to produce against line pressure, the producer is not able to establish a 90-day production period within 180 days of the application, because, as explained above, the statutory definition of "90-day production period" excludes involuntarily non-producing days.

Average production per production day for this well is calculated by dividing total production (1000 Mcf) by the number of "production days (10 + 75, or 85):

$$\frac{1000}{85} = 11.8 \text{ Mcf per production day}$$

Accordingly, the well to which this chart applies would qualify as a stripper well, assuming that it was producing at its maximum efficient rate of flow.

Under our new definition of "produced," we believe that a producer may also find it economically reasonable to reopen to the line a well which is presently shut-in. Even if the well then produces no gas, any open-to-the-line day will qualify as a "production day" and the well will be able to meet the statutory requirements for a stripper well. As noted above, once the qualifying production data is available, the producer is in a position to install enhanced recovery techniques to bring the well into a measurable-production status. If the enhanced recovery technique causes the well's production to exceed an average of 60 Mcf per production day, the producer may retain his right to collect the stripper well price by applying for and receiving a designation that the enhanced recovery technique is "recognized."

IV. Further Clarification of Term "Production Day"

The Commission wishes to clarify two other situations which have caused uncertainty with respect to the term "production day."

The first situation involves wells which are shut-in by the operator intermittently to build up sufficient pressure in the well bore so that the well may produce against the line. The issue is whether such shut-in days may qualify as "production days" for purposes of calculating average production during the 90-day production period. As noted earlier, section 108(b)(3)(A) of the NGPA defines "production day" as:

- (i) any day during which natural gas is produced; and
- (ii) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State Law or a conservation practice recognized or approved by the state agency having regulatory jurisdiction over the production of natural gas.

Our interpretation of the term "produced," as defined in this order, does not encompass days on which a well is shut-in by the operator. Therefore, part (i) of the statutory definition does not apply to shut-in days. However, we believe that such

days may qualify as "production days" under part (ii) of the statutory definition if the jurisdictional agency makes a finding that conservation practice requires intermittent shut-in of the well. Conservation practice signifies, *inter alia*, attempts to prevent waste of natural gas supplies. Ensuring that existing supplies are recovered to the fullest extent possible is such an attempt.

The "conservation practice" finding should verify the particular physical impediment which requires the intermittent shut-in of the well and the number of days the well was shut-in; it should explain the conservation practice which the jurisdictional agency recognizes as applicable in the particular case; and it should explain why the conservation practice as applied to the subject well is necessary to achieve and to maintain production. If such a finding and explanation are provided, the Commission believes it will have substantial evidence that these shut-in days meet the statutory test for "production days."

The second situation arises when the 90-day production period contains days on which the well operator separates the well from the delivery line in order to undertake maintenance or repair. May such days qualify as "production days"? The Commission notes that the number of days on which an operator shuts in a well for purposes of repairs or maintenance is generally within the control of the operator or producer. Such voluntary shut-in days, while clearly included in the 90-day production period (See p. 6), do not meet the statutory definition of "production day." On such days the well was not producing, attempting to produce, or shut-in due to state conservation practice. The well was simply shut-in voluntarily. To permit such days to qualify as "production days" would be to invite manipulation of production in order to qualify for the section 108 incentive price.⁸ The Commission notes that the statute was carefully constructed to prevent such manipulation, and we decline to define "production day" in a manner which would circumvent the statutory intent.

⁸For example, if a well produced 100 Mcf of gas for 54 consecutive calendar days, and then the operator shut the well in for the next 36 days, for "maintenance", there would exist a 90-day production period during which the well produced 5400 Mcf.

Average production per production day for this period would be 5400 divided by 54, or 100 Mcf, meaning the well would exceed the 60-Mcf stripper well limit. But if the "maintenance" days were permitted to qualify as production days, average production would be 5400 divided by 90, or 60 Mcf, meaning the well would qualify as a stripper well.

V. Clarification of Filing Requirements

The Commission recognizes that a jurisdictional agency may not have any means of establishing the number of qualifying "production days" in a given 90-day production period, other than examination of statements filed by the applicant. Section 274.206(a)(5) requires that the applicant file "the number of days natural gas was produced," and § 276.206(a)(6) requires that the applicant file "the number of days natural gas was not produced" and an explanation of the reason for the non-production. In addition to these requirements, we note that each applicant must file:

A statement * * * under oath, that he has made, or has caused to be made pursuant to his instructions, a diligent search of all records which are reasonably available and contain information relevant to the determination; a description of the search made, the records reviewed, and the results of this search and examination upon which he has concluded that to the best of his information knowledge and belief, the well qualifies as a stripper well; and a statement that he has no knowledge of any other information which is inconsistent with his conclusion;

We believe that this oath statement, in conjunction with the requirements of §§ 274.206(a) (5) and (6), provides a jurisdictional agency with a sufficient basis upon which to determine the number of "production days" in the 90-day production period, absent contradictory information in the record. Where the jurisdictional agency is able to determine the number of "production days" on the basis of information provided on the production period and the statement in § 274.206(a)(6), the requirements of (a)(5) will be deemed satisfied. The jurisdictional agency may, of course, request filing of additional information.

VI. Public Procedure

A. Written Comments

Interested persons are invited to submit comments, data, views, or arguments with respect to this interim regulation. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should refer to Docket No. RM79-73. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EDT, January 8, 1980 will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection

in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during regular business hours.

B. Public Hearings

A public hearing on this proposed rule will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. on Thursday, January 3, 1980, at 10:00 a.m. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m. on December 27, 1979.

Requests to participate in the hearing should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Requests should refer to Docket No. RM79-73 and should indicate that amount of time required for the oral presentation and the telephone number at which the person making the presentation can be reached. Persons participating in the public hearing should, if possible, bring 20 copies of their testimony to the hearing.

The hearings will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel designated by the Chairman may question such persons, and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearings. Transcripts of the hearings will be available in the public file for the proceeding, Docket No. RM79-73 in the Commission's Office of Public Information.

This interim interpretive regulation relieves restrictions previously placed on applicants under the interim regulations. Accordingly, it is being made effective immediately for all determinations which have not become final as of the day before the date of issuance of this order. This regulation shall not become a final regulation, however, until the Commission has had an opportunity to receive oral and written presentation of relevant data, views and arguments.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; E.O. 12009, 42 FR 46287)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended, as set forth below, effective immediately.

By the Commission.
Kenneth F. Plumb,
Secretary.

Section 271.803 is amended by adding a new paragraph (e) to read as follows:

§ 271.803 Definitions.

For purposes of this subpart.

(e) *Produced*. Natural gas is produced, within the meaning of section 108(b)(3) (A) and (B) of the NGPA:

(1) On any day during which there is measurable production of natural gas from a well, and

(2) On any day on which a well is open to the line but is unable to produce measurable quantities of gas.

[FR Doc. 79-35869 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-95-M

18 CFR Part 272

Interim Rules Involving High-Cost Natural Gas; Correction

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This notice contains corrections to the Commission's interim rules in Docket No. RM79-44 (44 FR 61950, October 29, 1979) relating to defining and deregulating certain high-cost natural gas.

FOR FURTHER INFORMATION CONTACT: Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8151.

SUPPLEMENTARY INFORMATION: Note the following corrections in the Commission's interim rule entitled "Interim Rules Involving High-Cost Natural Gas Described in Section 107(c) (1), (2), (3) and (4) of the NGPA" issued October 24, 1979 (44 FR 61950, October 29, 1979).

(1) On page 61951, the first sentence after the heading "III. Requirements for Filing With the Jurisdictional Agencies", is corrected by inserting "jurisdictional agency filing requirements which" so that the sentence reads as follows:

As indicated in the notice issued June 13, 1979, we are promulgating for gas subject to section 107(c)(2) jurisdictional agency filing requirements which are similar to those imposed for other categories of gas.

(2) On page 61952, the reference to November 19, 1979, in the first sentence of the second paragraph after the heading "V. Comment Procedures, Public Hearings and Effective Date", is corrected to read "November 26, 1979".

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35777 Filed 11-20-79; 8:46 am]

BILLING CODE 6450-01-M

18 CFR Parts 273 and 275

[Docket No. RM79-66]

Interim Regulation Permitting Withdrawal of Notices of and Applications for Determinations Under the Natural Gas Policy Act

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim Regulation.

SUMMARY: The Commission is issuing interim regulations permitting jurisdictional agencies to withdraw notices of determinations regarding certain natural gas qualifying for certain maximum lawful prices under the Natural Gas Policy Act of 1978. The new regulations also permit individual applicants to withdraw applications for determinations which have been transmitted to the Commission.

DATES: The regulation to be effective November 19, 1979; written comments due by January 14, 1980.

ADDRESSES: Written comments to be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Carol Lane, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4001, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-5828 or 357-8511.

November 15, 1979.

I. Background

On August 13, 1979, the Commission issued a Notice of Proposed Rulemaking¹ on amendments to Part 275 of its final regulations under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.* The Notice described the proposed amendments, sought written comments, and announced a public hearing, which was held in Washington, D.C. on September 25, 1979.² This order modifies the

¹ 44 FR 48282 (August 17, 1979).

² See Notice of Public Hearings, Docket Nos. RM79-44, RM79-78, and RM79-66, issued September 5, 1979.

amendments proposed in the Notice and adopts them as interim regulations.

II. Nature of Amendments

Part 275 of the Commission's regulations establishes the procedures under which the Commission reviews each jurisdictional agency notice of determination that natural gas from a particular well or completion location qualifies for a certain maximum lawful price under the NGPA. Pursuant to the authority granted to the Commission in section 501(a) of the NGPA, we are adopting several amendments to supplement these procedures:

(1) *Withdrawals.* Section 275.202(a) of the regulations provides that a jurisdictional agency determination shall become final 45 days after the date on which the Commission receives notice of such determination from the agency, unless during the 45-day period the Commission preliminarily reverses or remands the determination or notifies the agency that the notice is incomplete. The first amendment we adopt in this order provides new procedures under which (a) a jurisdictional agency may withdraw a notice of determination which is before the Commission, and by so doing render that notice a nullity (§ 275.202(c)), and (b) by which an applicant may withdraw an application for a determination which is before the Commission, and by so doing render that application a nullity (§ 275.202(d)).

(2) *Incomplete Notices.* Section 275.202(b)(2) provides that when a notice of determination is found to be incomplete, we will notify the jurisdictional agency within 45 days of the date on which we received the notice. The second amendment we adopt in this order requires the Commission also to notify the purchaser and the parties to the determination proceeding before the jurisdictional agency that the notice is incomplete.

(3) *Conforming Amendment.* Section 273.203(b)(2) is being amended to make a conforming change in a reference in that section to Part 275.

III. Summary of Comments

The Commission received two comments concerning the proposed amendments, one written and one presented at the public hearing. Both comments supported the establishment of procedures for withdrawals but proposed modification of the proposed procedures.³

³ No comments were received on the proposed amendment to § 275.202(b)(2). Accordingly, that section is being adopted as proposed in the Notice for the reasons specified therein.

A. Timing of Jurisdictional Agency Withdrawal

The major issue raised by both parties concerned the fact that, under the rule as proposed, a withdrawal could be effected only within the 40-day period following the date on which the notice of determination was filed with the Commission. Both comments suggested that a withdrawal be permitted at any time prior to the date the determination becomes final. In support of this suggestion, one party noted that in many cases the jurisdictional agency may be unaware of any problem with respect to a notice of determination until just before the expiration of the 45-day Commission review period. Accordingly, a 40-day cut-off would preclude utilization of the withdrawal mechanism in the majority of cases. The other party noted that it would be useful to permit withdrawals after issuance of a Preliminary Finding, because at that time the jurisdictional agency would have a better understanding of the deficiencies or errors which the Commission had preliminarily found in the determination. It was argued that a withdrawal at this point would permit appropriate supplementation or correction of the record by the jurisdictional agency before resubmission to the Commission.

We agree that it is reasonable to extend the period during which withdrawals are permitted.⁴ Accordingly, the regulations adopted in this order permit a jurisdictional agency to withdraw a notice of determination at any time until it is made final by a final order or by operation of law. There is, however, one problem concerning an extended withdrawal period, which is that the applicant may be unaware of the fact that the determination has not become final but instead has been withdrawn just prior to expiration of the 45-day (or 120-day) period.

It was this type of problem which the Commission sought to avoid when it proposed the 40-day cutoff, allowing a 5-day period for the Commission to give notice before termination of the 45-day period. After due consideration, however, we believe any potential problems of this nature may be overcome not by limiting the withdrawal period but rather by requiring the jurisdictional agency to give notice to the applicant at the same time it notifies the Commission of the withdrawal. This procedure will insure that the applicant

⁴ The Commission has already granted, by order, at least one withdrawal after issuance of a Preliminary Finding. See Order Granting Withdrawal of Jurisdictional Agency Determination, GP79-38, issued October 15, 1979.

will receive timely notice that the status of his well category determination has changed. Accordingly, we are altering the regulation as proposed to condition jurisdictional agency withdrawal upon simultaneous notice to the applicant and to the Commission that the notice of determination has been withdrawn.

B. Effect of Jurisdictional Agency Withdrawal on Interim and Retroactive Collections

Pursuant to § 273.202 of the Commission's regulations, a seller may begin interim collections of the price for which he has applied as soon as he has satisfied the filing requirements of § 273.202(d). Interim collections under this section terminate on the earlier of (1) the date on which the Commission receives a notice of the determination, or (2) 12 months after the first delivery for which interim collection is made (18 months in the case of deliveries beginning before May 1, 1979). (See § 273.202(b)(2)).

Accordingly, once the Commission has received notice of determination from the jurisdictional agency, interim collection authority under § 273.202 terminates and any further collection authority depends on the nature of the jurisdictional agency determination. If the determination is negative, the seller may collect only the otherwise applicable maximum lawful price. If the determination is affirmative, the seller may continue to make interim collections of the determined price under § 273.203 until the date the determination becomes final under § 273.203(b). Any such interim collections under § 273.203 cease, however, if a jurisdictional agency withdraws a notice of determination under the withdrawal rule adopted in this order. In the case of a withdrawal under this rule, the applicant would again be entitled to make interim collections under § 273.202, for the following reasons:

(1) *Affirmative Determinations.* When a jurisdictional agency withdraws a notice of an affirmative determination, such determination is rendered a nullity as of the date the Commission, the applicant, and the purchaser are notified. The determination is treated by the Commission as if it had never occurred. Accordingly, upon withdrawal of an affirmative determination, the seller's application is once again pending before the jurisdictional agency and is thus subject to the interim collection provisions of § 273.202 (collection pending jurisdictional agency determination of eligibility). The Commission emphasizes that withdrawal of an initial jurisdictional

agency notice by that agency does not terminate the interim collection authority under § 273.202. Accordingly, a seller who is awaiting jurisdictional agency reconsideration of a withdrawn affirmative determination may make interim collections under § 273.202. If the seller has previously filed the required interim collection data under § 273.202(d), he need not file it again.

(2) *Negative Determinations.* The provisions for affirmative determinations described in (1) above also apply to negative determinations. Accordingly, a seller who is awaiting jurisdictional agency reconsideration of a withdrawn negative determination may make interim collections under § 273.202. If he has previously filed the required interim collection data under § 273.202(d), he need not file it again.

Similarly, jurisdictional agency withdrawal of a notice of determination does not affect a seller's right to make retroactive collections under § 273.204. When a notice is withdrawn and a new notice is submitted to the Commission, the seller is eligible to make retroactive collections of the price which is finally determined to be the maximum lawful price by Commission order or by expiration of the Commission's review period. The seller may collect the difference between the determined maximum lawful price and any lesser price collected after the date the application was filed with the jurisdictional agency.

To summarize what we have explained in detail above, a seller's statutory right to make interim collections remains intact when a jurisdictional agency withdraws a notice of determination from the Commission, and the retroactive collection rules of § 273.204 continue to apply. No comments took issue with this conclusion.

C. Jurisdictional Agency Procedures Regarding Withdrawn Determinations

With respect to the rights of the seller or other parties during a jurisdictional agency's reconsideration of a withdrawn application, the Commission notes that section 503(c)(3) of the NGPA provides that determinations of a Federal or State agency shall be made in accordance with that agency's own procedures. The Statement of Managers of the NGPA states that any party aggrieved by procedural aspects of State or Federal agency determinations may pursue whatever appeal rights are otherwise available under State or Federal law. S. Rep. No. 95-1126, 95th Cong., 2d Sess. 119 (1978). Accordingly, comments concerning determination proceedings for withdrawn applications should be

directed to the appropriate jurisdictional agency. No comments took issue with this conclusion.

D. Withdrawal by Applicant

The other suggestion made in one of the comments concerned the fact that the Commission had made no provision for withdrawals by the applicant rather than by the jurisdictional agency. This comment proposed that we permit the applicant to seek withdrawal directly from the Commission, so long as (1) a time limit was set for refileing, or (2) interim collections were cut off during the period the application was withdrawn.

We have adopted the suggestion that an applicant be permitted to seek withdrawal of an application for a determination which has been transmitted to the Commission for review.⁵ Regulations governing such withdrawals have been adopted in § 275.202(d). A withdrawal by an applicant may be effected by notifying the Commission, the jurisdictional agency, and the buyer at any time until the determination has been made final by Commission order or by operation of law. Such withdrawal will render the application (and the notice of determination on the application) a nullity. At that point, the applicant's right to make interim collections ceases, and he is required to make appropriate refunds under Part 273 if interim collections of the price applied for have been made.

Because the withdrawn application becomes a nullity, any subsequent application for a determination on the same well is not subject to the provisions of § 273.202(e). Accordingly, interim collections may be made under a subsequent application from the date of filing of such subsequent application. Any retroactive collections made after a final determination on the resubmitted application under § 273.204 may be made only for the period beginning on the date of the subsequent filing. As noted above, the original filing date will be a nullity.⁶

The Commission recognizes that a jurisdictional agency may not wish a notice of determination which it has submitted to the Commission to be rendered a nullity on the basis of a withdrawal by the applicant. (The

⁵ Procedures governing withdrawal of an application which has not been transmitted to the Commission are, of course, within the jurisdiction of the individual jurisdictional agency.

⁶ If an applicant were to withdraw his application from the jurisdictional agency before a notice of determination had been submitted to the Commission the same interim and retroactive collection situation would occur as if he had withdrawn the application from the Commission.

agency might prefer that the applicant be required to seek a withdrawal through the agency itself. Then, if the agency agreed to the withdrawal, it would effect it under the provisions of § 275.202(c)). Accordingly, any jurisdictional agency which prefers that its applicants follow a withdrawal procedure other than that adopted in § 275.202(d) should submit an alternative procedure to the Commission during the 60-day comment period described below. Any alternative plan provided by a jurisdictional agency and approved by the Commission for withdrawals by applicants will be incorporated by reference into the final regulations in this docket and will govern the withdrawal of any application filed with that particular agency.

E. Public Procedures and Effective Date

As noted on page 1 of this order, the Commission sought public comment in this docket on the Proposed Regulations regarding withdrawals. We are now adopting those proposed regulations, but with a number of amendments. Accordingly, further comment is sought before promulgation of final regulations.

Interested persons are invited to submit comments, data, views, or arguments with respect to this interim regulation. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should refer to Docket No. RM79-66. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EDT, January 14, 1980, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000 825 North Capitol Street, NE., Washington, D.C., during regular business hours.

The interim regulations adopted in this order promote administrative efficiency and relieve administrative burdens which would be imposed were the Commission required to review a determination which the jurisdictional agency wishes to reconsider prior to such review. Furthermore, they provide flexibility and avoid unnecessary restrictions upon applicants seeking determinations. Accordingly, we find there exists good cause to make them effective immediately on an interim basis.

(Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*, E.O. 12009, 42 F.R. 46267;

Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432).

In consideration of the foregoing, Parts 273 and 275 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, are amended as set forth below, effective immediately.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 275—COMMISSION DETERMINATIONS AND REVIEW OF JURISDICTIONAL AGENCY DETERMINATIONS

§ 275.202 [Amended]

1. Section 275.202 is amended in paragraph (a) by deleting the phrase, "Except as provided in paragraph (b) of this section" and by substituting in lieu thereof the phrase, "Except as provided in paragraphs (b), (c) and (d) of this section".

2. Section 275.202(b) is amended by revising subparagraph (2) to read as follows:

§ 275.202 Commission review of final determinations.

(b) *Incomplete notice.* Notwithstanding the provisions of paragraph (a) of this section, the 45-day period for Commission review of a determination shall not begin if:

(2) The Commission notifies the jurisdictional agency, the purchaser and the parties to the proceeding before the jurisdictional agency, within 45 days after the date on which the Commission receives notice of the determination, that the notice is incomplete.

§ 275.202 [Amended]

3. Section 275.202 is amended by redesignating paragraph (c) as paragraph (e); paragraph (d) as paragraph (f); paragraph (e) as paragraph (g); and by inserting new paragraphs (c) and (d) to read as follows:

(c) *Withdrawal of Notice.* (1) The jurisdictional agency may withdraw a notice of determination by giving notice as specified in paragraph (c)(2) of this section at any time prior to the issuance of a final order with respect to such determination under paragraphs (g)(1) and (g)(2) of this section, or at any time prior to the date such determination becomes final under paragraphs (a) or (g)(4) of this section. Such notice shall include the jurisdictional agency's reasons for the withdrawal.

(2) Withdrawal of a notice of determination shall take effect at such time as the jurisdictional agency has notified the Commission, the parties to the proceeding before the agency, and the purchaser of such withdrawal.

(3) Withdrawal of a notice of determination shall nullify such notice of determination.

(d) *Withdrawal of Application.* (1) An applicant may withdraw an application for a determination which is before the Commission by giving notice as specified in paragraph (d)(2) of this section at any time prior to the issuance of a final order with respect to such determination under paragraphs (g)(1) and (g)(2) of this section, or at any time prior to the date such determination becomes final under paragraphs (a) or (g)(4) of this section.

(2) Withdrawal of an application shall take effect at such time as the applicant has notified the Commission, the jurisdictional agency and the purchaser.

(3) Withdrawal of an application shall nullify such application and the notice of determination on such application.

(4) The applicant's right to make interim collections under Part 273 of this Chapter shall cease and the refund obligations of Part 273 of this chapter shall begin when the withdrawal takes effect under this paragraph.

PART 273—COLLECTION AUTHORITY; REFUNDS

§ 273.203 [Amended]

3. Section 273.203 is amended in paragraph (b)(2)(ii) by deleting "§ 275.202(e)" and by substituting in lieu thereof "275.202(g)".

[FR Doc. 79-35886 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-85-M

18 CFR Part 284

[Docket No. RM79-75]

Certain Sales and Transportation of Natural Gas Policy Act of 1978 and Related Authorities; Order on Rehearing of Order No. 46

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on Rehearing of Order No. 46.

SUMMARY: The Federal Energy Regulatory Commission (Commission) amended its regulations to provide (1) for pipelines to make requests for interpretation of rate questions from the Commission's Office of General Counsel, and (2) for automatic approval of an intrastate pipeline's proposed transportation rate unless the

Commission acts with 150 days of the receipt of the intrastate pipeline's rate application.

EFFECTIVE DATE: Effective December 14, 1979.

ADDRESSES: All filings should reference Docket No. RM79-75 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Robert Platt, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8454.

Federal Energy Regulatory Commission

Issued: November 14, 1979.

On August 30, 1979, the Federal Energy Regulatory Commission (Commission) issued Order No. 46, which contained the final rules implementing sections 311(a) and 312 of the Natural Gas Policy Act of 1978 (NGPA) 15 U.S.C. 3301 *et seq.* Section 311(a)(1) allows the Commission to authorize an interstate pipeline to transport natural gas on behalf of an intrastate pipeline or a local distribution company. Section 311(a)(2) allows the Commission to authorize an intrastate pipeline to transport natural gas on behalf of an interstate pipeline company or a local distribution company served by an interstate pipeline. Section 312 allows the Commission to authorize an intrastate pipeline to assign its surplus natural gas to an interstate pipeline or a local distribution company. Four applications for rehearing of Order No. 46 have been received, from the Railroad Commission of Texas (RR Commission), Texas Gas Transmission Corporation (Texas Gas), East Tennessee Natural Gas Company (East Tennessee) and Delhi Gas Pipeline Corporation (Delhi).

The RR Commission and Delhi object to the definition of "appropriate state regulatory agency." Both are uncertain as to whether the RR Commission falls within the scope of this definition.

In its motion filed September 28, 1979, the RR Commission states that it is required by statute to insure that jurisdictional rates are just and reasonable; that is, the utility shall be able to recover its operating expenses and earn a reasonable return on investment. Since the RR Commission's jurisdiction extends to city-gate service and transportation by intrastate

¹ That term was defined in § 284.126 in the interim rules, and in § 284.1(b) in the final rules. There is no substantive difference between the interim and final definitions.

pipelines, it appears that the RR Commission is an "appropriate state regulatory agency" within the meaning of § 284.1(b), at least insofar as it sets city-gate transportation rates. Based on our understanding of the RR Commission's operations, we find that the city-gate natural gas transportation rates set by the RR Commission are derived by applying a costing methodology such that the use of those rates for similar transactions under section 311(a)(2) will satisfy the statutory requirement that the rates are "fair and equitable" and not in excess of "an amount which is reasonably comparable to the rates and charges which interstate pipelines would be permitted to charge." See section 311(a)(2)(B)(i).²

Further, both the RR Commission and Delhi object to the use of the "cost-of-service" standard in the definition on the ground that the phrase is too vague. We will retain the standard, but will clarify its meaning.

The standard is intended to encompass those transportation rates which are set by a state regulatory agency under a methodology which considers the cost of providing the service rather than the price the service can demand. By cost we intend to include operating costs as well as a reasonable return on investment. If there is no rate setting review based upon the cost of providing the service, the rate is not "cost-based", and the agency setting the rate will not qualify under this definition. However, it is not intended that the methodologies utilized by the FERC are the only ones that can be deemed "cost-of-service." Any methodology that involves rate setting based on the cost of providing the service should satisfy the standard.³

Besides objection to the "cost-of-service" standard used by the Commission in implementing section 311(a)(2)(B)(i) in § 284.123, Delhi objects to using this approach for purposes of setting the transportation rates for services provided by the intrastate pipeline "in connection" with section 311(b) sales. (Section 311(b) allows the

Commission to authorize an intrastate pipeline to sell natural gas to an interstate pipeline or local distribution company. Section 311(b)(2)(B) requires the Commission to set, by rule, a method for computing the compensation due an intrastate pipeline for services rendered in connection with the sale.) Specifically, Delhi contends that the fair and equitable standard under section 311(a)(2)(B)(i) for setting section 311(a)(2) transportation rates differs from the statutory standards for setting the rates for services rendered in connection with section 311(b) sales, and thus the approach of § 284.123 need not be used for section 311(b) sales.

However, the language of section 311(b)(2)(B) is very similar to the language used in section 311(a)(2)(B)(ii). (Section 311(a)(2)(B)(ii) addresses the rates to be charged for services "connected" with the section 311(a)(2) transaction just as section 311(b)(2)(B) governs section 311(b) "connected" service rates). Both used the phrases "reasonably compensate" and "reasonable profit." In promulgating rules under these sections, we determined that it is reasonable to set rates under both sections by reference to the "fair and equitable" standard set forth in § 284.123. We will adhere to that view.

In addressing another aspect of § 284.123, Delhi made an incorrect inference based on Order No. 46's amendment to the language in § 284.123(b)(2). Delhi inferred that by allowing for an affirmative Commission order approving a section 311(a)(2) rate, the Commission has "dramatically shifted" the burden of going forward in a rate proceeding. Such is not the case; the final rule did not place any additional burdens on the intrastate pipeline. The intrastate pipeline which makes a rate filing under § 284.123(b)(2) can begin the transaction prior to Commission review, as it could under the interim rule. It must file "information showing that the proposed rates and charges are fair and equitable," as was required under the interim rule. And, as in the interim rule, the Commission cannot disapprove the rate without "affording notice and opportunity for oral presentation of views, data and arguments." Thus, providing for the specific approval of the rate should work to the advantage of the intrastate pipeline, because such approval would eliminate any uncertainty concerning the possibility that the Commission will

²On page 107 of the Joint Explanatory Statement of the Committee on Conference the term "fair and equitable" is used in describing the total rate to be charged under section 311(b).

later disapprove the rate and order a refund under § 284.2(a).

However, the Commission has determined that a specific order should not be required to give the necessary rate certainty. Accordingly, § 284.123(b)(2) has been amended to provide that unless the Commission acts within 150 days of the date on which the Commission received notice of the proposed rate, an application filed under § 284.123(b)(2) will be deemed approved. Once the rate is deemed approved, the intrastate pipeline will not be subject to any retroactive refund obligation for failure of the rate charged to comply with the requirements of § 284.123(b)(2). However, the Commission can prospectively revoke its approval (or deemed approval) of the rate at any time.

Delhi also objected to our rejection, on page 4 of the Order No. 46, of the request that "if authorization under section 311(a) is found not to exist the parties to such a transaction be allowed to cease operations without having [Natural Gas Act] jurisdiction attach if the transaction was entered into in good faith."

Our position on this matter will not be changed. The Commission has jurisdiction under the Natural Gas Act over all companies engaged in the transportation or sale of natural gas in interstate commerce unless the company is exempted by some statutory provision. Section 601 of the NGPA grants such an exemption if the transaction is authorized by the Commission under section 311 or 312. However, if the transaction is not authorized under section 311 or 312, section 601 does not apply, and Natural Gas Act jurisdiction attaches. The statutory exemption in section 601 does not mention "good faith." Thus, the Commission has no authority to exempt from Natural Gas Act jurisdiction a party who, through a good faith mistake, engages in a jurisdictional activity.

Finally, Delhi objects to § 284.163(b), which limits the price that can be paid under a self-executing section 312 assignment. The limit in both the interim and final rule is the section 102 maximum lawful price for new natural gas. Delhi requests that it be allowed to self-execute assignments priced up to

³The Commission can set by extending the 150 day period, or by instituting a proceeding to examine the rate more fully.

⁴For section 311(a)(2) rates set in accordance with § 284.123(b)(1), as well for any section 311(a)(1) rates, the transporting pipeline may request an interpretation pursuant to § 1.42 of our regulations regarding whether the rate complies with the regulations. Section 284.6 has been included in Subpart A to specifically provide for these interpretations.

the section 102 ceiling plus state severance taxes. The Commission will maintain this ceiling price for self-executing assignments because we continue to believe that relatively expensive natural gas assignments should receive scrutiny. We have chosen as the appropriate cut-off point for scrutiny the section 102 maximum lawful price. The price set for section 102 gas provides a reasonable point for defining "relatively extensive natural gas assignment" for the purpose of determining which transactions to examine. Moreover, it is administratively useful in a way the suggested figure is not. The section 102 price type of figure is uniform throughout the country and is thus administratively simple to apply in selecting which transaction to examine. If our future experience in this area indicates a need to set a higher cut-off point for self-executing assignments, we can do so in the future. Under the present rule higher priced assignments can go forward after Commission approval and this approval will be required for transactions which exceed the section 102 price with no additions.

The two other issues raised in the applications for rehearing involve section 311(a)(1) transportation by interstate pipelines. Texas Gas requests that the Commission allow budget-type construction authorization for facilities that must be constructed to effectuate a section 311(a)(1) transaction. The Commission has permitted such authorization with respect to facilities that are jurisdictional under the Natural Gas Act, in its final rules issued on November 1, 1979, in consolidated Docket Nos. RM79-37 and RM79-43.

Finally, East Tennessee states that the "flowback" rule of § 284.103(d) does not take into account the special circumstances of those interstate pipelines which also perform services which are not subject to the jurisdiction of the Commission under the Natural Gas Act.⁷ East Tennessee suggests that the Commission should allow a pipeline with "jurisdictional" and "nonjurisdictional" customers to allocate the revenue between the two, and flow back through Account 191 only the revenues attributable to the jurisdictional customers.

The Commission agrees that such an allocation is proper. The Commission rules require that the interstate pipeline credit only that portion of the revenues (in excess of 1 cent per MMBtu) properly

⁷Section 284.103(d) requires all but one cent of section 311(a)(1) transportation revenues to be credited to the interstate pipeline's Purchased Gas Adjustment account, Account 191.

allocable to its jurisdictional customers. The allocation should, as a general matter, be based on the pipeline's ratio of (1) sales for resale subject to regulation under the Natural Gas Act, to (2) total sales, on a monthly basis.

The amendments to the Part 284 regulations which are contained in this Order on Rehearing have been reached after consideration of the comments on these rules received under Docket No. RM79-3, and in consideration of the above referenced applications for rehearing. Accordingly, we find that further notice and public procedure is unnecessary and impracticable and that good cause exists to dispense with additional public procedure and to issue these amendments as final rules.

(Natural Gas Act, as amended, 15 U.S.C. 717 et seq., Natural Gas Policy Act of 1978, 15 U.S.C. 3301 et seq., Department of Energy Organization Act, 42 U.S.C. 7101, et seq., E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Subparts A and C of Part 284 of Subchapter I, Chapter I, Title 18, Code of Federal Regulations, are amended as set forth below, effective 30 days from the date of issuance of this order.

By the Commission.

Kenneth F. Plumb,
Secretary.

1. Subpart A of Part 284 is amended by adding a new section to read as follows:

§ 284.6 Rate Interpretations.

(a) *Procedure.* A pipeline may obtain an interpretation pursuant to § 1.42 of this chapter concerning whether particular rates and charges comply with the requirements of this Part.

(b) *Address.* Requests for interpretations should be addressed to: FERC Part 284 Interpretations, Office of General Counsel, Suite 8000, 825 North Capitol Street, Washington, D.C. 20038.

2. Section 284.123 is amended by deleting subparagraph (b)(2) and inserting the following in lieu thereof:

§ 284.123 Rates and charges.

(b) Elections.

(2)(i) If an intrastate pipeline does not choose to make any election under paragraph (b)(1), of this section it shall apply for Commission approval, by order, of the proposed rates and charges by filing with the Commission the proposed rates and charges, and information showing the proposed rates and charges are fair and equitable. Upon filing the petition for approval, the intrastate pipeline may commence the transportation service and charge and

collect the proposed rate, subject to refund.

(ii) 150 days after the date on which the Commission received an application filed pursuant to paragraph (b)(2)(i) of this section, the rate proposed in the application will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for providing similar transportation service, unless within the 150 day period, the Commission either extends the time for action, or institutes a proceeding in which all interested parties will be afforded an opportunity for written comments and for the oral presentation of views, data and arguments. In such proceeding, the Commission either will approve the rate or disapprove the rate and order refund, with interest, of any amount which has been determined to be in excess of those shown to be fair and equitable or in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

(iii) A Commission order approving or disapproving a transportation rate under this subparagraph supersedes a rate determined in accordance with paragraph (b)(1) of this section.

[FR Doc. 79-35934 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Parts 1625 and 1627

Age Discrimination in Employment; Final Interpretations

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final interpretations.

SUMMARY: On July 1, 1979, pursuant to Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978), responsibility and authority for enforcement of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621, 623, 625, 626-633 and 634 (ADEA) was transferred from the Department of Labor to the Equal Employment Opportunity Commission. The Commission assumed enforcement of the ADEA on that date. Prior to the transfer of authority which occurred on July 1, 1979, the Department of Labor published for comment in the Federal Register proposed amendments to their existing interpretations of the ADEA. These proposed amendments included sections entitled "Exemption for certain tenured employees at institutions of higher learning" and "Exemption for

certain executive and high policymaking employees." Insofar as those sections have already been published for public comment, they are herein published as final interpretations of the Commission with certain changes made by the Department of Labor after careful consideration was given to the written comments on the proposed amendments.

EFFECTIVE DATE: Since the following final agency interpretations are interpretive rules or statements of policy, the 30-day delay in effective date as prescribed in Section 553(d) of Title 5 U.S. Code, does not apply. Accordingly, these interpretations are effective November 21, 1979.

FOR FURTHER INFORMATION CONTACT: John Pagano, Office of the General Counsel, Legal Counsel Division, Equal Employment Opportunity Commission, 2401 E Street, NW., Room 2254, Washington, D.C. 20506, telephone (202) 634-6595.

SUPPLEMENTARY INFORMATION: On December 12, 1978, prior to the transfer of authority to the EEOC, the Department of Labor published its proposal to add new § 860.98 (now § 1625.11) to the Interpretive Bulletin in order to set forth the Department's interpretation of section 12(d) of the Act, which took effect on January 1, 1979, when the maximum age of individuals in the private sector and non-Federal public sector protected by the Act was extended from age 65 to 70. See 43 FR 58154-58156. Section 12(d) provides a temporary exemption for newly-protected employees, serving under a contract or similar arrangement of unlimited tenure, at an institution of higher education. The statutory text provides:

(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).

As provided by section 3(b)(3) of the 1978 amendments, this exemption is repealed on July 1, 1982. The proposal took the position that an individual would not be subject to the exemption if the individual is employed by an institution of higher education as of July 1, 1982, regardless of whether his or her duties for the current academic year ceased before that date. The proposal also took the position that receipt of regular salary and employee benefits (except retirement benefits) would be treated as conclusive proof of an employment relationship.

After reviewing the comments and reconsidering these proposed positions, the Department of Labor, with present concurrence from the EEOC, decided that modifications are necessary. The underlying problem raised by the comments relating to the July 1, 1982 repeal date is that where a tenured employee reaches age 65 before July 1, the contract (or similar arrangement) providing for unlimited tenure sometimes does not expire until a month or two after that date, even though the employee is no longer "serving" under the contract (or similar arrangement) because all job duties and responsibilities have ceased prior to July 1.

This situation usually occurs because the college or university's 12-month fiscal year ends on July 31 or even August 31, instead of on June 30, which is the typical end of the fiscal year at many, if not most, institutions. Mandatory retirement (and the concomitant cessation of tenure) is usually effective at the end of the fiscal year, largely as a matter of administrative convenience.

However, even where an employee who reaches age 65 prior to July 1 enjoys tenured status for a month or two thereafter before mandatory retirement, that employee would in most instances have no duties or responsibilities imposed by the college or university after commencement (or after papers and examinations have been graded) in May or June. The individual need not maintain office hours, attend committee meetings, conduct classes or seminars, or even be present on campus. Where a tenured employee with such freedom has attained age 65 before July 1, 1982, he or she cannot truly be said to be "serving" under a contract (or similar arrangement) providing for unlimited tenure, within the meaning of the exemption. The statutory requirement that the employee be "serving" under such a contract (or similar arrangement) obviously contemplates that the employee have certain duties or responsibilities which he or she is obligated to fulfill.

Where a tenured employee has reached age 65 and has ceased all job duties and responsibilities prior to July 1, 1982, it makes no sense that the exemption should apply or not apply, as the case may be, solely because the date on which tenure ceases (that is, the last day of the institution's fiscal year) may be a month or two after June 30 instead of on June 30. This view is confirmed by the legislative history. In the conference committee meeting on March 2, 1978, the conferees initially reached tentative

agreement that the exemption would be repealed three years after the age cap was raised from 65 to 70. However, it was noted that such a repeal would occur on January 1, 1982, before the tenured employee's duties would have ceased for that academic year. The conferees therefore agreed upon July 1, 1982 as the date of repeal, thereby allowing a tenured employee who reaches age 65 at any time through June 30, 1982 to fall within the exemption, if his or her duties had ceased by that time.

In order to effect the change described above, proposed § 1625.11(a)(2) has been revised.

On a related matter, just as tenured status may extend a month or two past the cessation of job duties and responsibilities, so too may salary payments and entitlement to fringe benefits (apart from retirement benefits). This often occurs because the individual has chosen to be paid in 12 installments, rather than in nine, or that the benefit plan provides for coverage of a retiring employee for a certain period after actual retirement (e.g., 30 or 60 days). Moreover, as discussed above, even if the individual is still technically an "employee" for a brief period after July 1, 1982, he or she may not be "serving" under a contract (or similar arrangement) providing for unlimited tenure. In light of these considerations, the reference to salary and employee benefits as conclusive proof of an employment relationship has been removed.

Another principal problem of interpretation presented by this exemption was whether the word "employee" in Section 12(d) should be restricted to those whose sole (or at least primary) duty is teaching or should include such people as research staff, deans, etc. The concept of tenure has traditionally been applied to teachers as a means of assuring academic freedom. On the other hand, when the exemption emerged from the Senate Committee, there was a companion provision exempting tenured "teachers" employed by a local educational agency of a state (see S. Rept. No. 95-493, p. 9). Failure to use the same word in Section 12(d), which instead specifies "any employee" (emphasis added), suggests that a broader application of the exemption was in fact intended with regard to institutions of higher education. Indeed, although the Senate floor debates refer largely to "teachers", there is also discussion of the exemption as applying to all tenured "faculty members" (see 123 Cong. Rec. S17278-S17295). This is reflected in the Conference Committee

Report, which states that the exemption permits the mandatory retirement of "faculty members" (H.R. Rept. No. 95-950, p. 10), as well as in the statements of the House and Senate floor managers (124 Cong. Rec. H2270, S4449). While faculties may differ from one institution to another, they are usually comprised of those groups of employees who are eligible to receive "tenure." Moreover, while teachers do constitute the largest group of employees eligible for tenure at any institution of higher education, certain other groups (such as academic deans, scientific researchers, professional librarians and counselling staff) are frequently also eligible. See, e.g., Commission of Academic Tenure in Higher Education, *Faculty Tenure* (San Francisco: Jossey-Bass, Inc., Publishers, 1973), p. 77.

In light of this legislative history and these facts, the Department of Labor's proposed interpretation did not limit the exemption solely to teachers who meet the tenure requirements. None of the commenters objected to this position, and the final interpretation adopts it without change.

Another major problem arose with regard to the phrase "unlimited tenure," which is not defined in the Act. The Department of Labor's proposed interpretation adopted the almost universally accepted definition of academic "tenure" set forth in the 1940 Statement of Principles on Academic Freedom and Tenure, jointly adopted by the Association of American Colleges and American Association of University Professors. See *Faculty Tenure*, supra, pp. 251-252. See also *AAUP Policy Documents and Reports*, 1977 edition (American Association of University Professors, Washington, D.C.), p. 2. No commenters objected to this approach.

The commenters were divided as to whether the Commission, in addition to adopting the basic definition of tenure in the 1940 Statement of Principles, should also adopt the detailed minimum standards for tenure set forth in the 1940 Statement of Principles and described therein as "acceptable academic practice." The legislative history of the exemption shows clear Congressional recognition that there are certain rights and privileges associated with tenure. Senator Chafee, who introduced the measure, referred to a wide range of policies and practices, such as the important requirement that an institution must "prove incompetence or just cause" before discharging a tenured employee (123 Cong. Rec. S17288; see also 123 Cong. Rec. S17279, S17287). Although the legislative history does not contain a comprehensive list of the

minimum standards required for a tenure system to qualify under the exemption, the standards specifically discussed in the floor debates indicate that the sponsors had in mind the most widely accepted detailed standards as set forth in the 1940 Statement of Principles. The Department of Labor therefore adopted those standards in the proposed interpretation.

Some commenters nevertheless objected to the explicit reference to and quotation from the 1940 Statement of Principles. Their primary objection was that, although the 1940 Statement has been adopted or endorsed by the overwhelming majority of institutions of higher education, some institutions of higher education maintain tenure policies or practices which are substantially different. Moreover, these commenters expressed a concern that even a slight variance from the standards set forth in the 1940 Statement of Principles would be deemed sufficient to deny the exemption.

Where an institution of higher education has tenure policies or practices which are substantially different from the 1940 Statement of Principles, an employee of the institution will not be deemed to be serving under a contract of "unlimited tenure" within the meaning of the Section 12(d) exemption. However, the Commission's proposal was not intended to require an institution to follow the 1940 Statement of Principles to the letter, in order for the exemption to apply. The proposed interpretation merely noted that arrangements which "meet (the detailed minimum standards) will *** satisfy the tenure requirements of the exemption." In order to make clear that these detailed minimum standards need not necessarily be met in every particular aspect, a new paragraph has been added to the final interpretation, in which the views set forth above are expressly stated.

The proposed interpretation also dealt with the issue of whether employees who fall within the exemption may be offered a change in position or status, which is short of forced retirement, and which therefore allows them to remain as employees. The statutory text by its terms excuses only "compulsory retirement." However, if this language were interpreted literally, it would lead to the anomalous result that an employer having an employee within the exemption would be able to force the employee to retire, but would not be able to offer the employee nontenured status or (in the case of a full-time employee) a part-time position. Neither

the Department of Labor nor the EEOC believe that the exemption was intended to lead to such a situation. In light of these considerations, where an employee falls within the exemption, the Commission will not question a conversion to part-time status or other change in position or status short of forced retirement: *Provided*, That the employee voluntarily accepts this new position or status, and that he or she is treated no less favorably than similarly situated younger employees. The proposed interpretation reflected this position.

The commenters generally agreed with this position. However, several suggested that the interpretation be modified so that an individual within the exemption who voluntarily accepts a nontenured position could be forced to retire thereafter on the basis of age. The Commission does not adopt the suggested change in the final interpretation. While the exemption does not require an institution of higher education to offer an employee a nontenured position or status in lieu of compulsory retirement, neither does it permit discrimination on the basis of age against an employee who accepts such employment from the institution.

The Department of Labor published its proposal to add a new subsection (c) to § 850.1 (now § 1627.1, see 44 FR 38459 (July 2, 1979)) and a new § 850.17 (now § 1627.17, see 44 FR 38459 (July 2, 1979)) to the Regulations under the ADEA, and its proposal to add a new § 860.97 (now § 1625.12) to the Interpretive Bulletin on the ADEA on December 12, 1978 (see 43 FR 58148). The purpose of these additions is to take account of an exemption in Section 12(c) of the Act which took effect on January 1, 1979, when the maximum age of individuals in the private sector and the non-Federal public sector protected by the Act was extended from age 65 to age 70. The exemption is as follows:

(c)(1) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least \$27,000.

(2) In applying the retirement benefit test of paragraph (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions,

such benefit shall be adjusted in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.

Paragraph (1) of the exemption describes the types of employees who fall within it; paragraph (2) requires that the Commission issue regulations indicating how the \$27,000 annual retirement benefit is to be calculated under specified circumstances. The final regulation with respect to paragraph (2) is contained in new subsection (c) to § 1627.1 and new § 1627.17.

With regard to § 1627.1(c), the proposed regulation as originally published set forth the purpose and scope of the regulation in § 1627.17. There are no changes in § 1627.1(c).

With regard to §§ 1627.17 (a) and (b), the proposed regulation as originally published merely set forth the text of the exemption in Section 12(c) of the Act. This remains unchanged in the final regulation.

With regard to § 1627.17(c), the proposed regulation took the position that an employee, in order to fall within the exemption, must have the option of in fact receiving, during each year of his or her lifetime following retirement, at least \$27,000 per year (exclusive of amounts attributable to Social Security, employee contributions, rollover contributions and contributions of prior employers). (A retirement benefit which excludes amounts attributable to these sources is sometimes referred to herein as a "qualified" retirement benefit.) This requirement was deemed met where the employee has the option of receiving, during each year of his or her lifetime following retirement, an annual payment of at least \$27,000, or periodic payments on a more frequent basis which, in the aggregate, equal at least \$27,000 per year. The requirement was also deemed met where the employee has the option of receiving, upon retirement, a lump sum payment with which it is possible to purchase a single life annuity (with no ancillary benefits) yielding at least \$27,000 per year.

Where an employee who has any of the options described above instead freely selects still another available option (or options) providing for payments after his or her death, the proposed regulation took the position that the value of these payments may be included in determining whether all of the retirement benefits are actuarially equivalent to a single life annuity (with no ancillary benefits) of at least \$27,000 per year. On the other hand, where an

employee has no choice but to have certain benefits provided after his or her death, the value of these benefits may not be included in this determination.

This approach was intended to assure that "no employee who is required to receive less than \$27,000 per year during his or her lifetime in retirement (because of other benefits being provided only after death) will fall within the exemption." 43 FR 58149 (Dec. 12, 1978).

Several commenters pointed out that the proposed regulation would exclude from the calculation of the \$27,000 retirement benefit those amounts which are derived from many unfunded deferred compensation plans. Such plans encompass a wide variety of arrangements under which compensation to an employee for past or current service is postponed to some future date. Such a plan often does not provide a single life annuity option but instead provides for a specified number of annual installments. Nor does a deferred compensation plan typically provide for a lump sum payment, because of adverse tax consequences.

Section 12(c)(1) of the Act expressly provides that the calculation of qualified retirement benefits includes, *inter alia*, benefits from a "deferred compensation plan." Inasmuch as the proposed regulation would in many if not most instances exclude benefits from such plans, the final regulation has been changed slightly in order to avoid writing such plans out of the exemption. Under the new test, where an employee is entitled to benefits from a deferred compensation plan, it is permissible to count the following amount toward the \$27,000 test: The aggregate value of the employer's contributions, as of the date of the employee's retirement, with respect to those installment payments which are scheduled to be made within the period of life expectancy of the employee.

With regard to § 1627.17(d), the proposed regulation, in accord with the language and legislative history of Section 12(c)(1) of the Act, took the position that the only retirement benefits which may be counted towards the \$27,000 annual benefit are those from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans. The value of benefits from any other employee benefit plan, such as health or life insurance, could therefore not be counted.

The comments raised a question as to whether an employer could supplement the retirement benefits payable to an employee in order to reach the \$27,000 annual benefit level necessary to claim the exemption. Under the proposed

regulation, this issue was not specifically addressed. Under the final interpretation, the only benefits which may be counted are those authorized by and provided under the terms of a pension, profit-sharing, savings, or deferred compensation plan. Benefits from other sources, or provided under other plans, cannot be counted. The reason for this limitation is that these are the only plans referred to by the statutory language.

Another issue not specifically addressed by the proposed regulation was whether an employee may unilaterally withdraw employer contributions from a plan in order to avoid receiving a \$27,000 annual retirement benefit, if such withdrawals are authorized by the plan's terms. To present such a practice at least partially, some commenters have recommended that the proposed regulation be changed to exclude from the calculation of qualified retirement benefits all supplemental payments by employers or contribution withdrawals by employees which occur during the 2-year period immediately before retirement.

However, there is no support in the statutory language or legislative history of the Act for such an approach. Accordingly, the proposed regulation is adopted in final form without the suggested changes.

With regard to § 1627.17(e), in accord with the statutory language and the legislative history, the proposed regulation excluded from the calculation of qualified retirement benefits amounts attributable to Social Security, employee contributions, rollovers and contributions of prior employers.

The proposed regulation did not set forth any special rules explaining how amounts attributable to Social Security are to be calculated. These amounts appear to be readily determinable. Since no comments were received with regard to the handling of Social Security, the regulation in paragraph (1) was adopted without change.

Excluding amounts attributable to employee contributions required further explanation. In this regard, the proposed regulation generally followed Section 411(c) of the Internal Revenue Code (as added to the Code by the Employee Retirement Income Security Act of 1974 (ERISA)), and the Treasury regulations thereunder.

Commenters favored the Commission's reliance on the principles in Section 411(c) and the Treasury regulations. However, a number of comments pointed out a deviation from those principles and requested that the proposed regulation be changed to conform. Specifically, proposed

§ 1627.17(e)(2)(ii)(B) required that, in determining the amounts attributable to employee contributions under a defined benefit plan for which separate accounts are not maintained, interest at the rate of 5 percent be credited to the employee's contributions "from the time each such contribution was made" until the date of retirement. On the other hand, the Internal Revenue Code/ERISA provision requires that 5 percent interest be credited on and after the January 1, 1976 effective date of ERISA and, for periods up to that date, requires only that interest be credited at the rate (if any) specified under the plan as then in existence. Since there does not appear to be any reason why the same rule should not apply under the ADEA, the final regulation adopts the distinction between the crediting of interest before and after the date a plan became subject to ERISA.

The proposed regulation also dealt with the issue of excluding contributions by prior employers from the determination of the value of the retirement benefits. The purpose of this restriction, according to the legislative history, is to assure that "the employee's retirement income will be adjusted to reflect the level of retirement income actually provided by the employer wishing to initiate compulsory retirement." S. Rept. No. 95-493, p. 8.

The contributions to the pension, profit-sharing, savings, or deferred compensation plan made by the employer which actually makes the decision to force the employee to retire may be counted, as the legislative history makes clear. The proposed regulation added to this test the further requirement that the employer which in fact forces the employee to retire must be the employer which customarily and regularly makes such decisions. This second requirement was intended to close what was seen as a loophole. For example, if a subsidiary of a parent corporation customarily and regularly makes its own decisions about whether to discharge employees (and institute other important personnel actions), the subsidiary might ask the parent to force an employee to retire on account of age so that both parent and subsidiary would be deemed the last employer, with the result that pension contributions made by both could be counted towards the \$27,000. The proposed regulation closed this loophole.

Numerous commenters objected to the second requirement. They agreed that Congress intended to exclude from the calculation of qualified retirement benefits those amounts provided by

prior employers unrelated to the current employer. However, they contended that there was no evidence of congressional intent to preclude the aggregating of retirements benefits accrued by an employee while in the employ of affiliated companies, such as parents and subsidiaries, and brother and sister corporations.

In this connection, it is a well-established fact that employees are frequently transferred between parent and subsidiary companies, or among brother and sister corporations within a family of business organizations, as a part of normal executive development. In this way, the employees learn firsthand about many of the various business activities of the entire family of companies and thereby tend to enhance their opportunities for promotion to greater responsibilities and higher income. Under the proposed interpretation, however, because of the way in which it distinguished current from prior employers, these very employees would be much less likely to fall within the exemption than would employees who spend their entire careers with a single subsidiary or other business unit and never work elsewhere in the family of companies. After considering these and similar anomalies, the Commission has concluded that there is no purpose of the exemption which would be served by allowing the bona fide executive who stays with one entity of the business family to fall within the exemption, while preventing the exemption from applying to the bona fide executive who is identical in every respect except for having moved around among various entities within the same family companies.

The largest number of comments on this issue suggested that because the exemption itself relies on concepts taken from the Internal Revenue Code and ERISA, the Commission should adopt the special "controlled group" rule under Section 414(b), 414(c) and 415(h) of the Internal Revenue Code (26 U.S.C. 414(b), 414(c) and 415(h)) and Section 210(c) and 210(d) of ERISA (29 U.S.C. 1060(c) and 1060(d)). Those subsections provide in substance that retirement benefits accrued while in the employ of affiliated corporations, partnerships, proprietorships and all other trades or businesses, which have at least a 50 percent ownership in common, are required to be aggregated and considered as if accrued in the employ of a single employer.

In the final interpretation, the Department does adopt the "controlled group" approach. This is a well-known concept under the Internal Revenue

Code and ERISA; it better reflects economic realities among executives and high policymakers; and it avoids many anomalies that the proposed interpretation would have lead to. However, it should be noted that this special use of the term "employer" in the Section 12(c) exemption does not affect the normal meaning of the term elsewhere in the ADEA, as defined in Section 11(b) and as construed by the courts.

§ 1625.12(a)

The proposed interpretation, as originally published set forth the text of the exemption in Section 12(c)(1) of the Act. This remains the same in the final interpretation.

§ 1625.12(b)

The proposed interpretation set forth two well established principles of statutory construction: That exemptions from remedial legislation must be narrowly construed, and that persons seeking to invoke such an exemption must prove that every element has been clearly and unmistakably met. This subsection remains unchanged in the final version.

§ 1625.12(c)

The proposed interpretation dealt with the issue of whether employees who fall within the exemption may be offered a change in position or status which is short of forced retirement, and which therefore allows them to remain as employees. The statutory test by its terms excuses only "compulsory retirement." However, if this language were interpreted literally, it would lead to the anomalous result that an employer having an employee within the exemption would be able to force the employee to retire, but would not be able to offer the employee a position of lesser status or (in the case of a full-time employee) a part-time position.

The Commission does not believe that the exemption was intended to lead to such a situation. In light of these considerations, where an employee falls within the exemption the Commission will not question an offer of a position of lesser status, conversion to part-time status, or other change in position or status short of forced retirement, provided that the employee voluntarily accepts this new position or status, and that he or she is thereafter treated no less favorably than similarly situated younger employees.

Several commenters suggested that the proposed interpretation be modified to permit the forced retirement (at any time after age 65) of an employee who was subject to the exemption but who,

in order to avoid retirement after attaining age 65, accepted a job which is not a bona fide executive or a high policymaking position. The Commission does not adopt the suggested change in the final interpretation. While the exemption does not require an employer to offer an employee a job with reduced status in lieu of mandatory retirement, neither does it permit an employer to discriminate against an employee who voluntarily accepts such a job, and thereby removes himself or herself from the exemption.

§ 1625.12 (d), (e)

The proposed interpretation of paragraph (1) of the exemption adopted most of the joint explanatory statement of the House and Senate conferees contained in the Conference Committee Report (H.R. Rept. No. 95-950, pp. 8-10). That statement consists largely of a description of the kinds of "executive" and "high policy-making" employees intended to be exempted by the provision. While this description provides a general indication of what kinds of employees are exempt, it does not purport to indicate in every instance whether or not the exemption may apply.

In the supplementary information accompanying the proposed interpretation, the Commission therefore requested comments on the desirability of describing "executive" employees in terms of an annual dollar volume test for the establishment or department supervised or in terms of a minimum number of employees supervised. 43 FR 58148-58149 (Dec. 12, 1978). Only a few comments were received, several objecting to any such descriptive definition. Two commenters did suggest that the top 2 or 3 percent of employees in any company be treated as executives for purposes of the exemption. On further inquiry, however, it appears that the number of executive positions may be substantially lower than that in many large manufacturing concerns, but substantially higher in some small professional services firms. Since insufficient data was a series of concrete examples of employees subject to the exemption, the proposed interpretation is continued without change.

§ 1625.12(f)

The proposed interpretation followed the statutory requirement that an employee must have been in a bona fide executive or high policy-making position, within the meaning of the exemption, "for the 2-year period immediately before retirement." This requirement, according to the

legislative history, prevents an employer from placing an employee within such a position just before age 65 (or any other age less than 70) in order to be able to force the employee to retire on account of age (Conference Report, p. 9).

In response to questions posed by one comment, the final interpretation makes clear that an employee who holds two or more different positions during the 2-year period is subject to the exemption only if each such job is an executive or high policymaking position.

§ 1625.12(g)

The proposed interpretation referred to the statement in the Conference Committee Report that the exemption is not applicable to Federal employees covered by Section 15 of the Act (H.R. Rept. No. 95-950, p. 10). The final version is unchanged.

§ 1625.12(h)

The proposed interpretation stated that the "annual retirement benefit," referred to in the exemption, is the sum of qualified benefits received during each one-year period from the date on which such benefits first become receivable by the retiree. There were no comments regarding the proposed interpretation, which is adopted without change.

§ 1625.12(i)

The proposed interpretation required that benefit payments, in order to be counted towards the \$27,000 annual minimum, must be made or commence within 60 days after the employee's retirement. This provision was intended to give reasonable meaning to the statutory requirement that the employee be entitled to "immediate" payment of the annual retirement benefit.

Many commenters advocated that the Commission adopt instead the rule under ERISA. Under ERISA, benefit payments must begin not later than 60 days after the close of a specified plan year (depending upon the age of the employee, years of participation in the plan, or date of termination of service) (see section 206(a) of ERISA and section 401(a)(14) of the Internal Revenue Code, as added by section 1021(d) of ERISA). The 60-day period starts running at the end of the plan year, and not at the date of retirement, in order to avoid any disruption in those plans which begin benefits for all retired employees on the same date.

However, if this same rule were applied under the ADEA exemption, a bona fide executive or high policymaking employee who is forced to retire because of age might have to wait as long as 14 months to receive any

benefits, depending on how early in the plan year he or she was forced to retire. This result would be contrary to the ADEA's requirement that the \$27,000 annual retirement benefit be an "immediate" one. Under the Commission's ADEA interpretation, if an employee within the exemption were a participant in a plan providing for benefit payments within 60 days after the end of the plan year, the employee could not be forced to retire until the last day of the plan year. However, as the final interpretation also provides, an employee who is entitled to receive benefits within 60 days after retiring would not be removed from the exemption where he or she freely elects to start receiving benefits at some later time.

§ 1625.12(k)

The proposed interpretation dealt with the statutory requirement that the annual retirement benefit be "nonforfeitable."

Commentators have expressly requested the Commission to reconcile the proposed interpretation with section 411(a)(3) of the Internal Revenue Code (26 U.S.C. 411(a)(3)). Under section 411(a)(3), retirement benefits derived from employer contributions are not treated as forfeitable solely because the plan provides that such benefits are discontinued in certain situations on account of death, or suspended during certain periods of reemployment. Nor does section 411(a)(3) treat such benefits as forfeitable under certain limited circumstances where retroactive amendments to the plan are permitted in order to decrease plan liabilities. Finally, under section 411(a)(3), benefits derived from employer contributions are not treated as forfeitable where, under statutorily specified circumstances, the plan participant, in withdrawing his or her own mandatory contributions, thereby loses the right to receive the employer's contributions.

The proposed interpretations did not refer to these exceptions. However, the exceptions are specifically permitted by the Internal Revenue Code (as amended by ERISA) and are not irreconcilable with the term "nonforfeitable" as used in section 12(c) of the ADEA. Accordingly, the Commission has chosen to adopt these section 411(a)(3) exceptions in its interpretation.

Another issue raised by the commenters is the effect of the nonforfeitability requirement on unfunded deferred compensation plans. Paragraph (1) of proposed § 1625.12(k) stated that if an employee is subject to plan provisions which could cause the cessation of payments to a retiree or

could reduce payments below \$27,000, then the exemption would not apply. The commenters noted, however, that many unfunded deferred compensation plans are subject to forfeiture clauses in order to assure, for tax purposes, that the money promised under the plan will not be deemed to have been "constructively received" prior to retirement. (Where the money is deemed to be "constructively received" prior to retirement, it is considered as current income, rather than deferred income.)

The Commission does not believe that this comment necessitates any change in its proposed interpretation. The interpretation deals only with forfeiture clauses which could reduce or eliminate money paid to employees after retirement; it does not deal with forfeiture clauses which affect employees before retirement. As a result, clauses which provide for forfeiture of funds before retirement (and thereby avoid "constructive receipt" problems) could still be included in deferred compensation plans. However, where any money is in fact forfeited prior to retirement pursuant to such a clause, it is clear that none of the forfeited funds could be counted towards the \$27,000 statutory requirement.

Paragraph (2) of the proposed interpretation stated that "as of the effective date of the retirement in question, there must be at least a reasonable expectation that the plan will be sufficiently funded to meet its obligations" (emphasis added). Several commenters questioned how the proposed interpretation would apply to those deferred compensation plans which are unfunded.

An employee who participates in an unfunded deferred compensation plan does not have an individual account in which retirement funds are placed over the years, nor does the employer necessarily set aside funds periodically for the employee's benefit to cover the promised future payment. Deferred compensation plans tend to be unfunded for the same reason that they are subject to contingencies which can result in their forfeiture prior to retirement—to assure that the employee will not be deemed to have "constructively received" any funds prior to retirement. If no money is set aside for the benefit of the employee prior to retirement, there is no money which can be "constructively received."

In light of this situation, the requirement in the proposed interpretation that the plan be sufficiently "funded" could well write all unfunded deferred compensation plans out of the exemption. The

Commission believes that this would be contrary to congressional intent. Such unfunded plans are generally provided for the very key top executives for whom the exemption was designed. Moreover, where there is a reasonable expectation that the plan will pay the promised benefit, the Commission does not believe that employers providing such unfunded plans should be required to set aside funds earmarked for the employee in question. The interpretation has therefore been changed to state that there must be "at least a reasonable expectation that the plan will meet its obligations," thereby leaving out the previous reference to funding.

This document was originally prepared under the direction of the Deputy Administrator, Wage and Hour Division of the Department of Labor with the assistance of the Office of the Solicitor and the concurrence of the Office of the General Counsel of the Equal Employment Opportunity Commission. In addition, in accordance with Executive Order 12067, the Commission has solicited the views of affected Federal agencies.

Signed at Washington, D.C., this 14th day of November 1979.

For the Commission,

Eleanor Holmes Norton,
Chair, Equal Employment Opportunity Commission.

Accordingly, new §§ 1625.11, 1625.12, 1627.17, and new paragraph (c) of § 1627.1 are added to Title 29, Code of Federal Regulations.

Subpart A—General

§ 1627.1 Purpose and scope.

(c) Subpart D of this part sets forth the Commission's regulations issued pursuant to section 12(c)(2) of the Act, providing that the Secretary of Labor, after consultation with the Secretary of the Treasury, shall prescribe the manner of calculating the amount of qualified retirement benefits for purposes of the exemption in section 12(c)(1) of the Act.

Subpart D—Statutory Exemption

§ 1627.17 Calculating the amount of qualified retirement benefits for purposes of the exemption for bona fide executives or high policymaking employees.

(a) Section 12(c)(1) of the Act, added by the 1978 amendments, provides: "Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide

executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least \$27,000." The Commission's interpretative statements regarding this exemption are set forth in § 1625 of this chapter.

(b) Section 12(c)(2) of the Act provides:

In applying the retirement benefit test of paragraph (a) of this subsection, if any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with regulations prescribed by the Commission, after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.

(c)(1) The requirement that an employee be entitled to the equivalent of a \$27,000 straight life annuity (with no ancillary benefits) is satisfied in any case where the employee has the option of receiving, during each year of his or her lifetime following retirement, an annual payment of at least \$27,000, or periodic payments on a more frequent basis which, in the aggregate, equal at least \$27,000 per year. *Provided, however,* That the portion of the retirement income figure attributable to Social Security, employee contributions, rollover contributions and contributions of prior employers is excluded in the manner described in paragraph (e) of this section. (A retirement benefit which excludes these amounts is sometimes referred to herein as a "qualified" retirement benefit.)

(2) The requirement is also met where the employee has the option of receiving, upon retirement, a lump sum payment with which it is possible to purchase a single life annuity (with no ancillary benefits) yielding at least \$27,000 per year as adjusted.

(3) The requirement is also satisfied where the employee is entitled to receive, upon retirement, benefits whose aggregate value, as of the date of the employee's retirement, with respect to those payments which are scheduled to be made within the period of life expectancy of the employee, is \$27,000 per year as adjusted.

(4) Where an employee has one or more of the options described in paragraphs (c) (1)-(3) of this section, but instead selects another option (or

options), the test is also met. On the other hand, where an employee has no choice but to have certain benefits provided after his or her death, the value of these benefits may not be included in this determination.

(5) The determination of the value of those benefits which may be counted towards the \$27,000 requirement must be made on the basis of reasonable actuarial assumptions with respect to mortality and interest. For purposes of excluding from this determination any benefits which are available only after death, it is not necessary to determine the life expectancy of each person on an individual basis. A reasonable actuarial assumption with respect to mortality will suffice.

(6) The benefits computed under paragraphs (c)(1), (2) and (3) of this section shall be aggregated for purposes of determining whether the \$27,000 requirement has been met.

(d) The only retirement benefits which may be counted towards the \$27,000 annual benefit are those from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans. Such plans include, but are not limited to, stock bonus, thrift and simplified employee pensions. The value of benefits from any other employee benefit plans, such as health or life insurance, may not be counted.

(e) In calculating the value of a pension, profit-sharing, savings, or deferred compensation plan (or any combination of such plans), amounts attributable to Social Security, employee contributions, contributions of prior employers, and rollover contributions must be excluded. Specific rules are set forth below.

(1) *Social Security.* Amounts attributable to Social Security must be excluded. Since these amounts are readily determinable, no specific rules are deemed necessary.

(2) *Employee contributions.* Amounts attributable to employee contributions must be excluded. The regulations governing this requirement are based on section 411(c) of the Internal Revenue Code and Treasury Regulations thereunder (§ 1.411(c)-(1)), relating to the allocation of accrued benefits between employer and employee contributions. Different calculations are needed to determine the amount of employee contributions, depending upon whether the retirement income plan is a defined contribution plan or a defined benefit plan. Defined contribution plans (also referred to as individual account plans) generally provide that each participant has an individual account and the participant's benefits are based solely on the account balance. No set

benefit is promised in defined contribution plans, and the final amount is a result not only of the actual contributions, but also of other factors, such as investment gains and losses. Any retirement income plan which is not an individual account plan is a defined benefit plan. Defined benefit plans generally provide a definitely determinable benefit, by specifying either a flat monthly payment or a schedule of payments based on a formula (frequently involving salary and years of service), and they are funded according to actuarial principles over the employee's period of participation.

(i) *Defined contribution plans.*—(A) *Separate accounts maintained.* If a separate account is maintained with respect to an employee's contributions and all income, expenses, gains and losses attributable thereto, the balance in such an account represents the amount attributable to employee contributions.

(B) *Separate accounts not maintained.* If a separate account is not maintained with respect to an employee's contributions and the income, expenses, gains and losses attributable thereto, the proportion of the total benefit attributable to employee contributions is determined by multiplying that benefit by a fraction—

(1) The numerator of which is the total amount of the employee's contributions under the plan (less withdrawals), and

(2) The denominator of which is the sum of the numerator and the total contributions made under the plan by the employer on behalf of the employee (less withdrawals).

Example: A defined contribution plan does not maintain separate accounts for employee contributions. An employee's annual retirement benefit under the plan is \$40,000. The employee has contributed \$96,000 and the employer has contributed \$144,000 to the employee's individual account; no withdrawals have been made. The amount of the \$40,000 annual benefit attributable to employee contributions is $\$40,000 \times \$96,000 / \$96,000 + \$144,000 = \$16,000$. Hence the employer's share of the \$40,000 annual retirement benefit is \$40,000 minus \$16,000 or \$24,000—too low to fall within the exemption.

(ii) *Defined benefit plans.*—(A) *Separate accounts maintained.* If a separate account is maintained with respect to an employee's contributions and all income, expenses, gains and losses attributable thereto, the balance in such an account represents the amount attributable to employee contributions.

(B) *Separate accounts not maintained.* If a separate account is not maintained with respect to an employee's contributions and the income, expenses,

gains and losses attributable thereto, all of the contributions made by an employee must be converted actuarially to a single life annuity (without ancillary benefits) commencing at the age of forced retirement. An employee's accumulated contributions are the sum of all contributions (mandatory and, if not separately accounted for, voluntary) made by the employee, together with interest on the sum of all such contributions compounded annually at the rate of 5 percent per annum from the time each such contribution was made until the date of retirement. *Provided, however,* That prior to the date any plan became subject to section 411(c) of the Internal Revenue Code, interest will be credited at the rate (if any) specified in the plan. The amount of the employee's accumulated contribution described in the previous sentence must be multiplied by an "appropriate conversion factor" in order to convert it to a single life annuity (without ancillary benefits) commencing at the age of actual retirement. The appropriate conversion factor depends upon the age of retirement. In accordance with Rev. Rul. 76-47, 1976-2 C.B. 109, the following conversion factors shall be used with respect to the specified retirement ages:

Retirement age:	Conversion factor percent
65 through 66	10
67 through 68	11
69	12

Example: An employee is scheduled to receive a pension from a defined benefit plan of \$50,000 per year. Over the years he has contributed \$150,000 to the plan, and at age 65 this amount, when contributions have been compounded at appropriate annual interest rates, is equal to \$240,000. In accordance with Rev. Rul. 76-47, 10 percent is an appropriate conversion factor. When the \$240,000 is multiplied by this conversion factor, the product is \$24,000, which represents that part of the \$50,000 annual pension payment which is attributable to employee contributions. The difference—\$26,000—represents the employer's contribution, which is too low to meet the test in the exemption.

(3) *Contributions of prior employers.* Amounts attributable to contributions of prior employers must be excluded.

(i) *Current employer distinguished from prior employers.* Under the section 12(c) exemption, for purposes of excluding contributions of prior employers, a prior employer is every previous employer of the employee except those previous employers which are members of a "controlled group of corporations" with, or "under common control" with, the employer which forces the employee to retire, as those terms are used in sections 414 (b) and 414(c) of the Internal Revenue Code, as modified

by section 414(h) (26 U.S.C. 414(b), (c) and (h)).

(ii) *Benefits attributable to current employer and to prior employers.* Where the current employer maintains or contributes to a plan which is separate from plans maintained or contributed to by prior employers, the amount of the employee's benefit attributable to those prior employers can be readily determined. However, where the current employer maintains or contributes to the same plan as prior employers, the following rule shall apply. The benefit attributable to the current employer shall be the total benefit received by the employee, reduced by the benefit that the employee would have received from the plan if he or she had never worked for the current employer. For purposes of this calculation, it shall be assumed that all benefits have always been vested, even if benefits accrued as a result of service with a prior employer had not in fact been vested.

(4) *Rollover contributions.* Amounts attributable to rollover contributions must be excluded. For purposes of § 1627.17(e), a rollover contribution (as defined in sections 402(a)(5), 403(a)(4), 408(d)(3) and 409(b)(3)(C) of the Internal Revenue Code) shall be treated as an employee contribution. These amounts have already been excluded as a result of the computations set forth in § 1627.17(e)(2). Accordingly, no separate calculation is necessary to comply with this requirement.

§ 1625.11 Exemption for employees serving under a contract of unlimited tenure.

(a)(1) Section 12(d) of the Act, added by the 1978 amendments, provides: "Nothing in this act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965)."

(2) This exemption from the Act's protection of covered individuals took effect on January 1, 1979, and is repealed on July 1, 1982 (see sections 3(b)(1) and 3(b)(3) of the Age Discrimination in Employment Act Amendments of 1978, Pub. L. 95-256, 92 Stat. 189). Individuals who attain age 65 prior to July 1, 1982 and all of whose job duties and responsibilities cease prior to that date will not be considered outside the exemption merely because their contract (or similar arrangement) providing for unlimited tenure expires on or after July 1, 1982.

(b) Since section 12(d) is an exemption from the nondiscrimination requirements of the Act, the burden is on the one seeking to invoke the exemption to show that every element has been clearly and unmistakably met. Moreover, as with other exemptions from the ADEA, this exemption must be narrowly construed.

(c) Section 1201(a) of the Higher Education Act of 1965, as amended by 20 U.S.C. 403(b), provides in pertinent part:

The term "institution of higher education" means an educational institution in any state which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner (of Education) for this purpose or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited."

The definition encompasses almost all public and private universities and two- and four-year colleges. The omitted portion of the text of section 1201(a) refers largely to one-year technical schools, which generally do not grant tenure to employees, but which, if they do, are also eligible to claim the exemption.

(d)(1) Use of the term "any employee" indicates that application of the exemption is not limited to teachers, who are traditional recipients of tenure. The exemption may also be available with respect to other groups, such as academic deans, scientific researchers, professional librarians and counseling staff, who frequently have tenured status.

(2) The Conference Committee Report on the 1978 amendments expressly states that the exemption does not apply to Federal employees covered by section

15 of the Act (H.R. Rept. No. 95-950, p. 10).

(e)(1) The phrase "unlimited tenure" is not defined in the Act. However, the almost universally accepted definition of academic "tenure" is an arrangement under which certain appointments in an institution of higher education are continued until retirement for age of physical disability, subject to dismissal for adequate cause or under extraordinary circumstances on account of financial exigency or change of institutional program. Adopting that definition, it is evident that the word "unlimited" refers to the duration of tenure. Therefore, a contract (or other similar arrangement) which is limited to a specific term (for example, one year or 10 years) will not meet the requirements of the exemption.

(2) The legislative history shows that Congress intended the exemption to apply only where the minimum rights and privileges traditionally associated with tenure are guaranteed to an employee by contract or similar arrangement. While tenure policies and practices vary greatly from one institution to another, the minimum standards set forth in the 1940 Statement of Principles on Academic Freedom and Tenure, jointly developed by the Association of American Colleges and the American Association of University Professors, have enjoyed widespread adoption or endorsement. The 1940 Statement of Principles on academic tenure provides as follows:

(a) After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

(1) The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.

(2) Beginning with appointment to the rank of full-time instructor or a higher rank, the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution it may be agreed in writing that his new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years. Notice should be given at least

one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period.

(3) During the probationary period a teacher should have the academic freedom that all other members of the faculty have.

(4) Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges against him and should have the opportunity to be heard in his own defense by all bodies that pass judgment upon his case. He should be permitted to have with him an advisor of his own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from his own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.

(5) Termination of a continuous appointment because of financial exigency should be demonstrably bona fide.

(3) A contract or similar arrangement which meets the standards in the 1940 Statement of Principles will satisfy the tenure requirements of the exemption. However, a tenure arrangement will not be deemed inadequate solely because it fails to meet these standards in every respect. For example, a tenure plan will not be deemed inadequate solely because it includes a probationary period somewhat longer than seven years. Of course, the greater the deviation from the standards in the 1940 Statement of Principles, the less likely it is that the employee in question will be deemed subject to "unlimited tenure" within the meaning of the exemption. Whether or not a tenure arrangement is adequate to satisfy the requirements of the exemption must be determined on the basis of the facts of each case.

(f) Employees who are not assured of a continuing appointment either by contract of unlimited tenure or other similar arrangement (such as a state statute) would not, of course, be exempted from the prohibitions against compulsory retirement, even if they perform functions identical to those performed by employees with appropriate tenure.

(g) An employee within the exemption can lawfully be forced to retire on account of age at age 65 or above. In addition, the employer is free to retain such employees, either in the same

position or status or in a different position or status: *Provided*, That the employee voluntarily accepts this new position or status. For example, an employee who falls within the exemption may be offered a nontenured position or part-time employment. An employee who accepts a nontenured position or part-time employment, however, may not be treated any less favorably, on account of age, than any similarly situated younger employee (unless such less favorable treatment is excused by an exception to the Act).

§ 1625.12 Exemption for bona fide executive or high policymaking employees.

(a) Section 12(c)(1) of the Act, added by the 1978 amendments, provides: "Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee which equals, in the aggregate, at least \$27,000."

(b) Since this provision is an exemption from the non-discrimination requirements of the Act, the burden is on the one seeking to invoke the exemption to show that every element has been clearly and unmistakably met. Moreover, as with other exemptions from the Act, this exemption must be narrowly construed.

(c) An employee within the exemption can lawfully be forced to retire on account of age at age 65 or above. In addition, the employer is free to retain such employees, either in the same position or status or in a different position or status. For example, an employee who falls within the exemption may be offered a position of lesser status or a part-time position. An employee who accepts such a new status or position, however, may not be treated any less favorably, on account of age, than any similarly situated younger employee.

(d)(1) In order for an employee to qualify as a "bona fide executive," the employer must initially show that the employee satisfies the definition of a bona fide executive set forth in § 541.1 of this chapter. Each of the requirements in paragraphs (a) through (e) of § 541.1 must be satisfied, regardless of the level of the employee's salary or compensation.

(2) Even if an employee qualifies as an executive under the definition in § 541.1 of this chapter, the exemption from the ADEA may not be claimed unless the employee also meets the further criteria specified in the Conference Committee Report in the form of examples (see H.R. Rept. No. 95-950, p. 9). The examples are intended to make clear that the exemption does not apply to middle-management employees, no matter how great their retirement income, but only to a very few top level employees who exercise substantial executive authority over a significant number of employees and a large volume of business. As stated in the Conference Report (H.R. Rept. No. 95-950, p. 9):

Typically the head of a significant and substantial local or regional operation of a corporation [or other business organization], such as a major production facility or retail establishment, but not the head of a minor branch, warehouse or retail store, would be covered by the term "bona fide executive." Individuals at higher levels in the corporate organizational structure who possess comparable or greater levels of responsibility and authority as measured by established and recognized criteria would also be covered.

The heads of major departments or divisions of corporations [or other business organizations] are usually located at corporate or regional headquarters. With respect to employees whose duties are associated with corporate headquarters operations, such as finance, marketing, legal, production and manufacturing (or in a corporation organized on a product line basis, the management of product lines), the definition would cover employees who head those divisions.

In a large organization the immediate subordinates of the heads of these divisions sometimes also exercise executive authority, within the meaning of this exemption. The conferees intend the definition to cover such employees if they possess responsibility which is comparable to or greater than that possessed by the head of a significant and substantial local operation who meets the definition.

(e) The phrase "high policymaking position," according to the Conference Report (H.R. Rept. No. 95-950, p. 10), is limited to " * * * certain top level employees who are not 'bona fide executives' * * *." Specifically, these are:

* * * individuals who have little or no line authority but whose position and responsibility are such that they play a significant role in the development of corporate policy and effectively recommend the implementation thereof.

For example, the chief economist or the chief research scientist of a corporation typically has little line authority. His duties would be primarily intellectual as opposed to executive or managerial. His responsibility would be to evaluate significant economic or

scientific trends and issues, to develop and recommend policy direction to the top executive officers of the corporation, and he would have a significant impact on the ultimate decision on such policies by virtue of his expertise and direct access to the decisionmakers. Such an employee would meet the definition of a "high policymaking" employee.

On the other hand, as this description makes clear, the support personnel of a "high policymaking" employee would not be subject to the exemption even if they supervise the development, and draft the recommendation, of various policies submitted by their supervisors.

(f) In order for the exemption to apply to a particular employee, the employee must have been in a "bona fide executive or high policymaking position," as those terms are defined in this section, for the two-year period immediately before retirement. Thus, an employee who holds two or more different positions during the two-year period is subject to the exemption only if each such job is an executive or high policymaking position.

(g) The Conference Committee Report expressly states that the exemption is not applicable to Federal employees covered by section 15 of the Act (H.R. Rept. No. 95-950, p. 10).

(h) The "annual retirement benefit," to which covered employees must be entitled, is the sum of amounts payable during each one-year period from the date on which such benefits first become receivable by the retiree. Once established, the annual period upon which calculations are based may not be changed from year to year.

(i) The annual retirement benefit must be immediately available to the employee to be retired pursuant to the exemption. For purposes of determining compliance, "immediate" means that the payment of plan benefits (in a lump sum or the first of a series of periodic payments) must occur not later than 60 days after the effective date of the retirement in question. The fact that an employee will receive benefits only after expiration of the 60-day period will not preclude his retirement pursuant to the exemption, if the employee could have elected to receive benefits within that period.

(j)(1) The annual retirement benefit must equal, in the aggregate, at least \$27,000. The manner of determining whether this requirement has been satisfied is set forth in § 1627.17(c).

(2) In determining whether the aggregate annual retirement benefit equals at least \$27,000, the only benefits which may be counted are those authorized by and provided under the terms of a pension, profit-sharing,

savings, or deferred compensation plan. (Regulations issued pursuant to section 12(c)(2) of the Act, regarding the manner of calculating the amount of qualified retirement benefits for purposes of the exemption, are set forth in § 1627.17 of this Chapter.)

(k)(1) The annual retirement benefit must be "nonforfeitable." Accordingly, the exemption may not be applied to any employee subject to plan provisions which could cause the cessation of payments to a retiree or result in the reduction of benefits to less than \$27,000 in any one year. For example, where a plan contains a provision under which benefits would be suspended if a retiree engages in litigation against the former employer, or obtains employment with a competitor of the former employer, the retirement benefit will be deemed to be forfeitable. However, retirement benefits will not be deemed forfeitable solely because the benefits are discontinued or suspended for reasons permitted under section 411(a)(3) of the Internal Revenue Code.

(2) An annual retirement benefit will not be deemed forfeitable merely because the minimum statutory benefit level is not guaranteed against the possibility of plan bankruptcy or is subject to benefit restrictions in the event of early termination of the plan in accordance with Treasury Regulation 1.401-4(c). However, as of the effective date of the retirement in question, there must be at least a reasonable expectation that the plan will meet its obligations.

(FR Doc. 79-38003 Filed 11-20-79; 8:45 am)
BILLING CODE 6570-06-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 724

Revision of Naval Discharge Review Board Regulations

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

SUMMARY: This rule revises the Navy regulations governing the functions and procedures of the Naval Discharge Review Board. This revision reflects the provisions of Part 70 of Title 32, Code of Federal Regulations, Pub. L. 95-126, Assistant Secretary of the Navy (Manpower, Reserve Affairs, and Logistics) memorandum of March 30, 1978, (FR Doc. 78-11025 published at FR page 17355 on April 24, 1978), and it also reflects the refinement of certain

changes to the discharge review regulations made pursuant to a District Court approved settlement. This revision is intended to provide more comprehensive guidance for the Naval Discharge Review Board and for those who bring matters before it.

EFFECTIVE DATE: The Department of the Navy Manual for Discharge Review, 1979, is effective from April 19, 1979, and is applicable to all cases pending before the Naval Discharge Review Board as well as to new applications.

FOR FURTHER INFORMATION CONTACT: Rear Admiral John M. Delargy, U.S. Navy, Director, Naval Council of Personnel Boards, Room 911, 801 North Randolph Street, Arlington, Virginia 22203, telephone number (202) 696-4355.

SUPPLEMENTARY INFORMATION: Under the authority of 10 U.S.C. 1553, the Secretary of the Navy has established the Naval Discharge Review Board and has, from time to time, promulgated regulations governing the functions and procedures of the Board. On April 19, 1979, the Secretary approved the Department of the Navy Manual for Discharge Review, 1979, revising the prior direction contained in Part 724 of Title 32, Code of Federal Regulations (1978). The revised Naval Discharge Review Board instruction prescribes Naval Discharge Review Board organization, the authority and jurisdiction of the Naval Discharge Review Board, policy and procedure pertaining to the review of discharges from the naval service, designates and directs the Naval Discharge Review Board to make final determination as to whether discharges from the naval service should be changed and the nature of the change, if warranted, and revises procedures for those decisions of the Naval Discharge Review Board to be reviewed by the Secretary. By this revision a petitioner may submit contentions and/or issues of fact, law, or discretion at any time prior to the Board's consideration of the case, and the Board is required to provide appropriate statements of its findings, reasons and conclusions. Since these rules specify Naval Discharge Review Board procedures to be followed and since no substantive comments were received in response to the notice of rulemaking published April 8, 1977, and since many of these changes are required under the provisions of Part 70 of Title 32, Code of Federal Regulations, and Pub. L. 95-126, and reflect refinements of certain changes to the discharge review regulations made pursuant to a stipulation of dismissal approved by the United States District Court for the District of Columbia on

January 31, 1977, it has been determined that further invitation for public comment on these changes prior to adoption would be unnecessary and impractical, and therefore not required under the public rulemaking provisions in Parts 296 and 701 of 32, Code of Federal Regulations. However, interested persons are invited, on a continuing basis to comment in writing on these revised Naval Discharge Review Board regulations. Comments should be submitted to the Director, Naval Council of Personnel Boards. All written material received will be available for public inspection during normal business hours in the Director's office and will be considered before taking action on any future revisions of these regulations.

In consideration of the foregoing and for the reasons given by the authority of section 301, Title I, Act of June 22, 1944, (10 U.S.C. 1553), 32 CFR Part 724 is revised as follows:

PART 724—NAVAL DISCHARGE REVIEW BOARD

Subpart A—Definitions

- Sec.
- 724.101 Naval service.
- 724.102 Naval Discharge Review Board.
- 724.103 Naval Discharge Review Board Panel.
- 724.104 Naval Discharge Review Board Traveling Panel.
- 724.105 President, Naval Discharge Review Board.
- 724.106 Presiding Officer, Naval Discharge Review Board Panel.
- 724.107 Discharge.
- 724.108 Administrative discharge.
- 724.109 Characterization of service for administrative discharge.
- 724.110 Reasons/bases for administrative discharge.
- 724.111 Punitive discharge.
- 724.112 Clemency discharge.
- 724.113 Application.
- 724.114 Applicant.
- 724.115 Next of kin.
- 724.116 Legal representative.
- 724.117 Counsel/representative.
- 724.118 Discharge review.
- 724.119 Documentary discharge review.
- 724.120 Personal appearance discharge review.
- 724.121 Findings upon contentions/issues.
- 724.122 Conclusions upon contentions/issues.
- 724.123 Reasons for findings/conclusions.
- 724.124 Findings upon which decision is based.
- 724.125 Conclusions upon which decision/recommendation is based.
- 724.126 Reasons upon which decision/recommendation is based.
- 724.127 Decision/recommendation.

Subpart B—Authority for Departmental Discharge Review

- Sec.
- 724.201 Authority.
- 724.202 Statutory/directive authority.

Subpart C—Policy Pertaining To Review of Naval Discharges

- 724.301 Broad objectives of naval discharge review.
- 724.302 Eligibility for naval discharge review.
- 724.303 Authority for review of naval discharges; jurisdiction limitations.
- 724.304 Jurisdictional determinations.
- 724.305 Disposition of applications for discharge review.
- 724.306 Implementation of Naval Discharge Review Board decisions.
- 724.307 Evidence supporting applicants.
- 724.308 Review action in instances of unavailable records.
- 724.309 Regularity of Government affairs.
- 724.310 Availability of records.
- 724.311 Attendance of witnesses.
- 724.312 Applicant's expenses.
- 724.313 Military representation.
- 724.314 Limitation—failure to appear for hearing.
- 724.315 Limitation—reconsideration.
- 724.316 Limitation—continuances and postponements.
- 724.317 Withdrawal of application.
- 724.318 Review on motion of the Naval Discharge Review Board.
- 724.319 Secretarial review of naval discharge review decisions.
- 724.320 Scheduling of discharge reviews.
- 724.321 Personal appearance discharge review sites.
- 724.322 Naval Discharge Review Board support and augmentation by Regular and Reserve activities.
- 724.323 Court-martial specifications, presumption concerning.

Subpart D—Principal Elements of the Navy Department Discharge Review System

- 724.401 Applicants.
- 724.402 Naval Discharge Review Board.
- 724.403 President, Naval Discharge Review Board.
- 724.404 Director, Naval Council of Personnel Boards.
- 724.405 Commandant of the Marine Corps (Code M) and the Chief of Naval Personnel.
- 724.406 Chief, Bureau of Medicine and Surgery.
- 724.407 Chief of Naval Reserve.
- 724.408 Secretary of the Navy.

Subpart E—Procedural Rights of the Applicant and Administrative Actions Preliminary To Discharge Review

- 724.501 Procedural rights of the applicant.
- 724.502 Actions to be taken by the applicant preliminary to discharge review.
- 724.503 Naval Discharge Review Board response to application for discharge review.
- 724.504 Naval Discharge Review Board actions preliminary to discharge review.

Subpart F—Naval Discharge Review Board Mission and Functions

- 724.601 General.

- Sec.
- 724.602 Mission.
- 724.603 Functions.

Subpart G—Organization of the Naval Discharge Review Board

- 724.701 Composition.
- 724.702 Executive management.
- 724.703 Recorders.
- 724.704 Counsel.

Subpart H—Procedures of the Naval Discharge Review Board

- 724.801 Matter to be considered in discharge review.
- 724.802 Contentions/issues.
- 724.803 Summary of evidence to be displayed in records of review proceedings.
- 724.804 Findings, conclusions, and reasons upon contentions/issues.
- 724.805 Findings, conclusions, and reasons upon which decision is based.
- 724.806 Decision/recommendation.
- 724.807 Decision process.
- 724.808 Issuance of decisions following discharge review.
- 724.809 Conduct of personal appearance discharge reviews.
- 724.810 Decisional document.
- 724.811 Records of Naval Discharge Review Board decisions.
- 724.812 Secretarial review of Naval Discharge Review Board decisions.
- 724.813 Final disposition of the record of proceedings.
- 724.814 Availability of Naval Discharge Review Board documents for public inspection and copying.

Subpart I—Standards for Discharge Review

- 724.901 Objective of discharge review.
- 724.902 Propriety of the discharge.
- 724.903 Equity of the discharge.

Subpart J—Director, Naval Council of Personnel Boards and President, Naval Discharge Review Board

- 724.1001 Mission.
- 724.1002 Functions: Director, Naval Council of Personnel Boards.
- 724.1003 Functions: President, Naval Discharge Review Board.

Subpart K—Responsibilities in Support of the Naval Discharge Review Board

- 724.1101 Responsibility.
- 724.1102 Functions of the Commandant of the Marine Corps and the Chief of Naval Personnel.
- 724.1103 Functions of the Chief, Bureau of Medicine and Surgery.
- 724.1104 Functions of the Commandant of the Marine Corps and Chief of Naval Reserve (refer to § 724.322).
- 724.1105 Functions of the Commandants of Naval Districts and Directors of Marine Corps Districts (refer to § 724.322).

Appendix A—Methods by which individuals may be involuntarily separated from the Naval Service (other than by reason of being physically unfit).

Appendix B—Policy statements by the Secretary of Defense—addressing certain categories of discharges.

Appendix C—Oath of Affirmation to be administered to Discharge Review Board members.

Appendix D—Principal forms employed by the Naval Discharge Review Board.

Appendix E—Veterans' benefits.

Authority:—10 U.S.C. § 1553.

Subpart A—Definitions

§ 724.101 Naval service.

The naval service is comprised of the uniformed members of the United States Navy and the United States Marine Corps, including active and inactive reserve components.

§ 724.102 Naval Discharge Review Board.

An administrative board established by the Secretary of the Navy pursuant to Title 10, United States Code, section 1553, for the review of discharges of former members of the naval service.

§ 724.103 Naval Discharge Review Board Panel.

An element of the Naval Discharge Review Board, consisting of five members, authorized to review discharges. In plenary review session, a Naval Discharge Review Board Panel acts with the authority delegated by the Secretary of the Navy to the Naval Discharge Review Board.

§ 724.104 Naval Discharge Review Board Traveling Panel.

A Naval Discharge Review Board Panel that travels for the purpose of conducting personal appearance discharge review hearings in locations outside the Washington, D.C. area.

§ 724.105 President, Naval Discharge Review Board.

A senior officer of the naval service designated by the Secretary of the Navy who is responsible for the direct supervision of the discharge review function within the naval service. (See Subpart J of this part.)

§ 724.106 Presiding Officer, Naval Discharge Review Board Panel.

The senior member of a Naval Discharge Review Board Panel shall be the Presiding Officer. He shall convene, recess, and adjourn the Naval Discharge Review Board Panels as appropriate.

§ 724.107 Discharge.

(a) In the context of the review function prescribed by 10 U.S.C. 1553, a discharge or dismissal is a complete separation from the naval service, other than one pursuant to the sentence of a general court-martial.

(b) By reason of usage, the term "discharge" is predominantly applicable to the separation of enlisted personnel for any reason, and the term "dismissal" to the separation of officers as a result of Secretarial or general court-martial action; however, Appendix A to this

part sets forth other applicable separations.

(c) In the context of the mission of the Naval Discharge Review Board, the term "discharge" used in this part shall, for purpose of ease of expression, include any complete separation from the naval service other than that pursuant to the sentence of general court-martial.

(d) The term "discharge" also includes the type of discharge and the reason/basis for that discharge, e.g. Undesirable/Misconduct (Civil Conviction).

§ 724.108 Administrative discharge.

A discharge upon expiration of enlistment or required period of service, or prior thereto, in a manner prescribed by the Commandant of the Marine Corps or the Chief of Naval Personnel, but specifically excluding separation by sentence of a court-martial.

§ 724.109 Characterization of service for administrative separations.

(a) A determination reflecting a member's military behavior and performance of duty during a specific period of service. The three characterizations are:

(1) *Honorable*. A separation from the naval service with honor. The issuance of an Honorable Discharge is contingent upon proper military behavior and performance of duty.

(2) *Under Honorable Conditions (also termed General Discharge)*. A separation from the naval service under conditions other than honorable. It is issued to terminate the service of a member of the naval service for one or more of the reasons/bases listed in the current editions of the Bureau of Naval Personnel Manual, Marine Corps Separation and Retirement Manual and their predecessor publications.

(3) *Under Other Than Honorable Conditions (formerly termed Undesirable Discharge)*. A separation from the naval service under conditions other than honorable. It is issued to terminate the service of a member of the naval service for one or more of the reasons/bases listed in the current editions of the Bureau of Naval Personnel Manual, Marine Corps Separation and Retirement Manual and their predecessor publications.

§ 724.110 Reasons/bases for administrative discharges.

The terms "reason for discharge" and "basis for discharge" have the same meaning. The first is a Navy term and the second is a Marine Corps term. These terms identify why an administrative discharge was issued, e.g., Convenience of the Government, Misconduct. Reasons/bases for discharge are found in the Bureau of Naval Personnel Manual and Marine

Corps Separation and Retirement Manual as well as their predecessor publications.

§ 724.111 Punitive discharge.

A discharge awarded by sentence of a court-martial. There are two types of punitive discharges:

(a) *Bad conduct*. A separation from the naval service under conditions other than honorable. It may be effected only as a result of the approved sentence of a general or special court-martial.

(b) *Dishonorable*. A separation from the naval service under dishonorable conditions. It may be effected only as a result of the approved sentence of a general court-martial.

§ 724.112 Clemency discharge.

(a) The clemency discharge was created by the President on September 16, 1974, in his Proclamation 4313, "Announcing a Program for the Return of Vietnam Era Draft Evaders and Military Deserters." Upon issuance to individuals who have an undesirable discharge or a punitive discharge, a clemency discharge serves as a written testimonial to the fact that the individual has satisfied the requirements of the President's program, and has fully earned his return to the mainstream of American society in accordance with that program.

(b) The clemency discharge is a neutral discharge, neither honorable or less than honorable. It does not effect a change in the characterization of the individual's military service as having been under other than honorable conditions, nor does it serve to change, seal, erase or in any way modify the individual's past military record. Therefore, if the underlying discharge was issued as a result of a general court-martial, the issuance of a Clemency Discharge does not subject the underlying characterization to review under 10 U.S.C. 1553. Clemency Discharges are issued by the Chief of Naval Personnel or the Commandant of the Marine Corps when an individual has met the requirements.

§ 724.113 Application.

In the context of this part, a written application to the Naval Discharge Review Board for review of discharge submitted by a former member of the naval service or, where a former member is deceased or incompetent, by spouse, next of kin or legal representative. Department of Defense Form 293 is used for application. (Appendix D of this part.)

§ 724.114 Applicant.

A former member of the naval service who has been discharged administratively in accordance with the directives of the naval service or by sentence of a special court-martial under Title 10, U.S.C. 801 *et seq.* (Uniform Code of Military Justice) and, in accordance with statutory and regulatory provisions:

(a) Whose case is considered by Naval Discharge Review Board at the request of the former member, or, if authorized under § 724.113, the surviving spouse, next-of-kin or legal representative, or

(b) Whose case is considered on the Naval Discharge Review Board's own motion (see § 724.318).

§ 724.115 Next-of-kin.

The person or persons in the highest category of priority as determined by the following list (categories appear in descending order of priority): Surviving legal spouse; children (whether current or prior marriage) age 18 years or older in descending precedence by age; father or mother, unless by court order custody has been vested in another (adoptive parent takes precedence over natural parent); siblings (whole or half) age 18 years or older in descending precedence by age; grandfather or grandmother; any other relative (precedence to be determined in accordance with the civil law of descent of the deceased former member's state of domicile at time of death). (Reference Bureau of Naval Personnel Instruction 1770.2 series).

§ 724.116 Legal representative.

The person(s) representing the interests of the member or former member. Proof of proper interest shall be submitted as may be required by the Naval Discharge Review Board.

§ 724.117 Counsel/representative.

An individual or agency designated by the applicant who agrees to represent the applicant in a case before the Naval Discharge Review Board. It includes but is not limited to: a lawyer who is a member of the bar of a Federal court or of the highest court of a state; an accredited representative designated by an organization recognized by the Administrator of Veterans' affairs; a representative from a state agency concerned with veterans' affairs; and representatives from private organizations or local government agencies.

§ 724.118 Discharge review.

Reappraisal at the level of the Navy Department of discharges from the naval service. The object of the reappraisal is

to determine whether the discharge should be changed, and if so, the nature of the change. This reappraisal includes the type and reason/basis for separation, the procedures followed in accomplishing separation, and the characterization of service. This term includes determinations made under the provisions of Title 38, United States Code, section 3103(e).

§ 724.119 Documentary discharge review.

A formal session of the Naval Discharge Review Board convened for the purpose of reviewing, on the basis of documentary data, an applicant's discharge. The documentary data shall include the application together with all information accompanying that application, available service and medical records, and any other information considered relevant by the Naval Discharge Review Board.

§ 724.120 Personal appearance discharge review.

A formal session of the Naval Discharge Review Board convened for the purpose of reviewing an applicant's discharge on the basis of personal appearance, as well as documentary data. The personal appearance may be by the applicant or by a representative of the applicant, or both.

§ 724.121 Findings upon contentions/issues.

A statement of substantiated evidence which provides the basis for conclusions and reasons with respect to contentions/issues.

§ 724.122 Conclusions upon contentions/issues.

Judgments that contentions/issues are either valid or invalid.

§ 724.123 Reasons for findings/conclusions.

A statement which supports the conclusion as to the validity, or invalidity, of a contention/issue, based upon the findings on that contention/issue.

§ 724.124 Findings upon which decision is based.

A statement which identifies the applicant's current discharge, the change(s) the applicant has requested, and a summary of the previous conclusions on contentions/issues which support the decision/recommendation.

§ 724.125 Conclusions upon which decision/recommendation is based.

A statement of whether or not the type and/or reason/basis of the applicant's discharge should be changed and, if changed, the changes to be made.

§ 724.126 Reason upon which decision/recommendation is based.

Statements supporting the conclusions upon which the decision/recommendation is based and when the full relief requested is not granted, the reasons why.

§ 724.127 Decision/recommendation.

A determination as to whether or not a discharge should be changed.

Subpart B—Authority for Departmental Discharge Review**§ 724.201 Authority.**

The Naval Discharge Review Board, established pursuant to 10 U.S.C. 1553, is a component of the Naval Council of Personnel Boards, By Secretary of the Navy Instruction 5430.7 series, Subject: Assignment of Responsibilities to and among the Civilian Executive Assistants to the Secretary of the Navy, the Assistant Secretary of the Navy (Manpower, Reserve Affairs, and Logistics) is authorized and directed to act for the Secretary of the Navy within his assigned area of responsibility and exercises direct supervision over the Naval Council of Personnel Boards. Secretary of the Navy Instruction 5420.135 series, Subject: Naval Council of Personnel Boards, states the organization, mission, duties, and responsibilities of the Naval Council of Personnel Boards to include the Naval Discharge Review Board. By Chief of Naval Operations Notices 5420 of September 9, 1976, and January 24, 1977, the Chief of Naval Operations approved the Naval Council of Personnel Boards as a shore activity with the following mission statement:

To administer and supervise assigned boards and councils.

§ 724.202 Statutory/directive authority.

The Naval Discharge Review Board, in its conduct of discharge reviews, shall be guided by the applicable statutes, regulations, bureau manuals, directives of the Department of the Navy, and other written public expressions of policy by competent authority.

(a) 10 U.S.C. 1553, Review of discharge or dismissal:

(a) The Secretary concerned shall, after consulting the Administrator of Veterans' Affairs, establish a board of review, consisting of five members, to review the discharge or dismissal (other than a discharge or dismissal by sentence of a general court-martial) of any former member of an armed force under jurisdiction of his department upon its own motion or upon the request of the former member, or, if he is dead, his surviving spouse, next-of-kin, or legal representative. A motion or request for

review must be made within 15 years after the date of the discharge or dismissal.

(b) A board established under this section may, subject to review by the Secretary concerned, change a discharge or dismissal, or issue a new discharge, to reflect its findings.

(c) A review by the board established under this section shall be based on the records of the armed forces concerned and such other evidence as may be presented to the board. A witness may present evidence to the board in person or by affidavit. A person who requests a review under this section may appear before the board in person or by counsel or an accredited representative of an organization recognized by the Administrator of the Veterans' Affairs under Chapter 59 of Title 38.

(b) Pub. L. 95-126. See Appendix E of this part.

(c) 32 CFR Part 70. This provides for uniform standards and procedures for review of discharges from the military services of the Department of Defense. The provisions of 32 CFR Part 70 are incorporated in this part.

(d) The Secretary of Defense memoranda dated August 13, 1971 and April 28, 1972. These directed a review for recharacterization of (1) administrative discharges under other than honorable conditions issued solely on the basis of personal use of drugs or possession of drugs for the purpose of such use, and (2) punitive discharges and dismissals issued solely for conviction of personal use of drugs and possession for the purpose of such use, for those discharges executed as a result of a case completed or in process on or before July 7, 1971. (See Appendix B).

(e) 32 CFR Part 41. This prescribes policy, standards and procedure which govern the administrative separation of enlisted persons from the armed forces.

Subpart C—Policy Pertaining to Review of Naval Discharges**§ 724.301 Broad objectives of naval discharge review.**

Naval discharge review shall have as its broad objectives:

- (a) The furtherance of good order and discipline,
- (b) The correction of injustice or inequity in the discharge issued,
- (c) The correction of administrative or clerical errors.

§ 724.302 Eligibility for naval discharge review.

Any former member of the naval service, eligible for review under 10 U.S.C. 1553, or surviving spouse, next of kin or legal representative, shall upon submission of an application be afforded a review of the member's discharge from the naval service as provided in §§ 724.303 and 724.304.

Discharge review may also be initiated on the motion of the Naval Discharge Review Board. (See § 724.318.)

§ 724.303 Authority for review of naval discharges; jurisdictional limitations.

(a) The board shall have no authority to:

- (1) Review a discharge or dismissal resulting from a general court-martial;
- (2) Revoke any discharge or dismissal;
- (3) Reinstate a person in the naval service; or
- (4) Recall a former member to active duty.

(b) Review of naval discharge shall not be undertaken in instances where the elapsed time between the date of discharge and the date of receipt of application for review exceeds fifteen years. Pub. L. 95-126, however, provides that any former member administratively discharged under other than honorable conditions, and otherwise eligible to make application for review may do so without regard to the 15-year limitation period in Title 10, United States Code, section 1553 if such application is received prior to January 1, 1980. (See Appendix E of this part.)

§ 724.304 Jurisdictional determinations.

The determination as to whether the Naval Discharge Review Board has jurisdiction in any case shall be predicated on the policy stated in § 724.303 above. Decisions shall be made by administrative action without referral to the Naval Discharge Review Board. Normally, they shall be made by the Executive Secretary of the Naval Discharge Review Board, or they may be referred to the President, Naval Discharge Review Board.

§ 724.305 Disposition of applications for discharge review.

One of three dispositions will be made of an application for review of a discharge:

(a) The application may be denied for reason of:

- (1) Absence of jurisdiction;
- (2) Previous review on the same evidence; or

(b) The application may be withdrawn by the applicant; or

(c) The application may be accepted and the discharge reviewed by the Naval Discharge Review Board, resulting in:

- (1) Change to the discharge, or
- (2) No change.

§ 724.306 Implementation of Naval Discharge Review Board decisions.

The Commandant of the Marine Corps and the Chief of Naval Personnel shall be notified by the Naval Discharge Review Board of decisions in each

discharge review case and shall implement the decisions within their respective services.

§ 724.307 Evidence supporting applications.

In the absence of law, evidence or policy to the contrary, naval discharges shall be considered just, equitable and proper. When hearings are scheduled, applicants must be prepared to present their case at the scheduled time. In the absence of any other evidence, naval discharge review shall be undertaken by examination of available service and health records of the applicant. Normally, the responsibility for presenting evidence from outside available service and health records shall rest with the applicant. Applications in which elements of relevant information are obviously omitted will be returned for completion and resubmission.

§ 724.308 Review action in instances of unavailable records.

In the event that personnel or health records of the Department of the Navy associated with a requested review of discharge are not located at the custodial activity, the following action shall be taken by the Naval Discharge Review Board prior to consideration of the request for discharge review.

(a) A certification that the records are unavailable shall be obtained from the custodial activity.

(b) The applicant shall be notified of the situation and requested to provide such information and documents as may be desired in support of the request for discharge review. A period of not less than 30 days shall be allowed for such documents to be submitted. At the expiration of this time period, the review may be conducted with information available to the Naval Discharge Review Board.

(c) The presumption of regularity in the conduct of Government affairs may be applicable in instances of unavailable records depending on the circumstances of the case. (See § 724.309.)

§ 724.309 Regularity of Government affairs.

There is a presumption of regularity in the conduct of governmental affairs. This presumption can be applied in any review unless there is substantial credible evidence to rebut the presumption.

§ 724.310 Availability of records.

(a) Prior to a review, applicants or their designated representatives may obtain copies of military records by submitting a Standard Form 180.

Request Pertaining to Military Records, to the National Personnel Records Center (NPRC), 9700 Page Boulevard, St. Louis, Missouri 63132. The request must be submitted prior to the time the DD Form 293 is submitted, since once the DD Form 293 is submitted, the records will be requested from the National Personnel Records Center by the Naval Discharge Review Board.

(b) When the Naval Discharge Review Board is not authorized to provide copies of documents that are under the cognizance of another Government department, office or activity, applications for such information must be made by the applicant to the cognizant authority. The Naval Discharge Review Board shall advise the applicant of the mailing address of the Government department, office, or activity to which the request should be submitted.

(c) The Naval Discharge Review Board may take steps to obtain additional evidence relevant to the discharge review under consideration beyond that found in the official military records or submitted by the applicant, if a review of available evidence suggests certain aspects of the review would be incomplete without the additional information or when the applicant presents testimony or documents which require additional information in order to enable proper evaluation. Such information shall be made available to the applicant, upon request, with appropriate modifications regarding classified material.

(d) Prior to initiation of the decision process specified in § 724.807, the applicant and/or counsel/representative is entitled to request access to the records to be considered by the Naval Discharge Review Board in the discharge review.

(1) At a reasonable time prior to the initiation of the decision process, in any hearing conducted on request of an applicant, the Naval Discharge Review Board shall provide the applicant and/or counsel representative with a notice of the availability of all regulations and documents to be considered in the discharge review, except for documents in the official personnel/medical records and any documents submitted by the applicant. The Naval Discharge Review Board shall also notify the applicant and/or counsel/representative of: (i) The right to examine such documents or to be provided with copies of the documents upon request, (ii) the date by which such requests must be received, and (iii) the opportunity to respond within a reasonable period of time to be set by the Naval Discharge Review Board.

(2) When necessary to acquaint the applicant with the substance of a classified document, the classifying authority, on the request of the Naval Discharge Review Board, shall prepare a summary of or extract from the document deleting all references to sources of information and other matters, the disclosure of which, in the opinion of the classifying authority, would be detrimental to the national security interest of the United States. Should preparation of such summary be deemed impracticable by the classifying authority, information from the classified sources shall not be considered by the Naval Discharge Review Board in its review of the case.

(e) Regulations of the Department of the Navy may be obtained by writing to the Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310. In addition, certain regulations may be available at installations under the jurisdiction of the military service concerned.

§ 724.311 Attendance of witnesses.

Arrangements for attendance of witnesses testifying in behalf of the applicant at discharge review hearings are the responsibility of the applicant. The Naval Discharge Review Board is not authorized to subpoena or otherwise require their presence.

§ 724.312 Applicant's expenses.

Unless otherwise specified by law or regulation, expenses incurred by the applicant, witnesses, or counsel/representative will not be paid by the Department of Defense.

§ 724.313 Military representation.

Military officers desiring to act for or on behalf of an applicant in the presentation of a case before a Naval Discharge Review Board Panel are advised to consult legal counsel before undertaking such representation. Such representation may be prohibited by Title 18, United States Code, Chapters 11 and 15.

§ 724.314 Limitation—Failure to appear for hearing.

Except as authorized or directed by the Secretary of the Navy further opportunity for personal appearance shall not be made available to an applicant who requests a hearing and who, after being duly notified of the time and place of the hearing, fails to appear at the appointed time and place of the hearing, either in person or by representative, not having made a prior, timely request for a continuance or withdrawal of the application. In such

cases the applicant shall be deemed to have forfeited the right to a personal appearance and the Naval Discharge Review Board shall complete its review of the discharge based upon the evidence of record. Further requests for a personal hearing shall not be granted unless the applicant can demonstrate that prior failure to appear or to request continuance or withdrawal of the application was due to circumstances beyond the applicant's control.

§ 724.315 Limitation—Reconsideration.

A discharge review shall not be subject to reconsideration except:

(a) Where the only previous consideration of the case was on the motion of the Naval Discharge Review Board;

(b) When the original discharge review did not involve a personal hearing and a personal hearing is desired, and the provisions of § 724.314 do not apply;

(c) Where changes in discharge policy are announced subsequent to an earlier review of an applicant's discharge, and the new policy is made expressly retroactive;

(d) Where the Naval Discharge Review Board determines that policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to discharges of the type under consideration, provided that such changes in policies or procedures represent a substantial enhancement of the rights afforded an applicant in such proceedings;

(e) Where an individual is to be represented by counsel/representative, and was not so represented in any previous consideration of the case by the Naval Discharge Review Board;

(f) Where the case was not previously considered under uniform standards published pursuant to Pub. L. 95-128 (Appendix E of this part) and such application is made before January 1, 1980, or within 15 years after the date of discharge; or

(g) On the basis of presentation of new, substantial, relevant evidence not available to the applicant at the time of the previous review. The decision as to whether evidence offered by an applicant in support of a request for reconsideration is in fact new, substantial, relevant, and was not available to the applicant at the time of the original review will be based on a comparison of such evidence with the evidence considered in the previous discharge review. If this comparison shows that the evidence submitted would have had a probable effect on

matters concerning the propriety or equity of the discharge, the request for reconsideration shall be granted.

§ 724.316 Limitation—Continuances and postponements.

(a) A continuance of a discharge review hearing may be authorized by the President of the Naval Discharge Review Board or presiding officer of the Naval Discharge Review Board Panel concerned, provided that such continuance is of reasonable duration and is essential to achieve a full and fair hearing. Where a proposal for continuance is indefinite, the pending application shall be returned to the applicant with the option to resubmit when the case is fully ready for review.

(b) Postponements of scheduled reviews normally shall not be permitted other than for demonstrated good and sufficient reason set forth by the applicant in a timely manner or for the convenience of the Government.

§ 724.317 Withdrawal of application.

An applicant shall be permitted to withdraw an application without prejudice at any time before the scheduled review, except that failure to appear for a scheduled hearing shall not be construed or accepted as a withdrawal.

§ 724.318 Review on motion of the Naval Discharge Review Board.

(a) Reviews of naval discharges may be initiated by the Naval Discharge Review Board on its own motion, (10 U.S.C. 1553) which includes reviews requested by the Veterans' Administration under Title 38, U.S.C. 1001, 3103 as amended by Pub. L. 95-126 of October 8, 1977. (See Appendix E of this part).

§ 724.319 Secretarial review of naval discharge review decisions.

(a) The decisions of the Naval Discharge Review Board are final, subject only to Secretarial review.

(b) The following categories of discharge cases are subject to the review of the Secretary of the Navy:

(1) All cases in which a minority of the Naval Discharge Review Board requests the recorded opinion be forwarded for consideration.

(2) Selected cases as appropriate in order to provide information to the Secretary on specific aspects of the discharge function or of the discharge review function which are of interest to the Secretary of the Navy.

(3) Any specific case which the Secretary has an interest.

(4) Any case which the President, Naval Discharge Review Board in his

sole discretion believes is of significant interest to the Secretary.

(c) Material submitted prior to Secretarial review to correct alleged errors under the provisions of § 724.501(g) below, must be addressed to the President, Naval Discharge Review Board, and must be received within 25 days of the date on which the notification of the decision was mailed to the applicant. Requests or material received subsequent to that date shall not be considered unless a prior extension of time has been approved by the President, Naval Discharge Review Board, or for good cause shown as determined by the President, Naval Discharge Review Board.

§ 724.320 Scheduling of discharge reviews.

(a) If an applicant requests a personal appearance discharge review, or to be represented in absentia, the Naval Discharge Review Board shall provide a hearing in the Washington, D.C. area or at another site within the forty-eight contiguous states.

(b) The Naval Discharge Review Board shall subsequently notify the applicant and representative (if any) in writing of the personal appearance hearing time and place. This notice shall normally be mailed thirty to sixty days prior to the date of the hearing, if the applicant elects, this time limit may be waived and an earlier date set.

(c) When an applicant requests a documentary review, the Naval Discharge Review Board shall undertake the review as soon as practicable. Normally, documentary reviews shall be conducted in the order in which they are received.

§ 724.321 Personal appearance discharge review sites.

(a) The Naval Discharge Review Board shall be permanently located, together with its administrative staff, in the Washington, D.C. area. The Naval Discharge Review Board shall routinely conduct personal appearance discharge reviews and documentary reviews at this, its permanent office. Applicants located within a radius of three hundred miles from the Washington, D.C. area shall normally be required to present their cases in Washington, D.C. if they request a personal appearance review.

(b) In addition, as permitted by available resources, Naval Discharge Review Board Panels shall travel to other selected sites within the contiguous 48 states for the purpose of conducting reviews. The selection of sites and the frequency of visits shall be predicated on the number of requests pending within a region and the

availability of resources. Applicants located within the radius of three hundred miles from sites selected for Naval Discharge Review Board Panel reviews shall normally be required to present their cases at the selected sites, if they have requested a personal appearance review. An exception shall be made if the applicant requests a personal appearance review in Washington, D.C.

(c) If an applicant who has requested a personal appearance review declines without justifiable cause to present a case to the Naval Discharge Review Board Panel when it is sited within three hundred miles of the location in the application, the applicant shall be deemed to have forfeited any right to a personal appearance before a traveling panel. Instead, the Naval Discharge Review Board Panel shall conduct a documentary review of the discharge and its decision shall be based on that review.

§ 724.322 Naval Discharge Review Board support and augmentation by Regular and Reserve activities.

(a) When a Naval Discharge Review Board Panel travels for the purpose of conducting hearings, it shall normally select as review sites Navy and Marine Corps installations in the area visited.

(b) The Naval Discharge Review Board Traveling Panel shall normally consist of members from Washington and augmentees from Regular and Reserve Navy and Marine Corps sources, as required.

(c) Naval and Marine Corps activities in the geographical vicinity of selected review sites shall provide administrative support and augmentation to a Naval Discharge Review Board Panel during its visit where such assistance can be undertaken without interference with mission accomplishment. The Naval Discharge Review Board shall coordinate requests for augmentees and administrative support through the Commandant of the Marine Corps, Chief of Naval Reserve, Commandants of the Naval Districts, and Directors of Marine Corps Districts, as appropriate.

(d) The administrative staff in Washington shall undertake all arrangements for Naval Discharge Review Board Traveling Panel visits and shall process associated review documents.

§ 724.323 Court martial specifications, presumption concerning.

(a) Relevant and material facts stated in a court-martial specification, shall be presumed by the Naval Discharge Review Board Panel as established facts unless there is substantial credible

evidence to rebut this presumption if the applicant was found guilty and the finding was not subsequently overturned by a reviewing authority.

(b) Relevant and material facts stated in a court-martial specification, in the face of which the applicant requested a discharge for the good of the service to avoid trial by court-martial, shall be considered in accordance with the following:

(1) If the accused was required to admit the facts contained in the charge sheet, or if the discharge authority was required to find that the facts stated therein were true, then the Discharge Review Board can presume the truth of such facts, unless there is substantial credible evidence to rebut this presumption; or

(2) If the discharge in lieu of court-martial only required a valid referral,¹ the Discharge Review Board may presume that the signer either had personal knowledge of, or had investigated the matters set forth therein, and that the charges were true in fact to the best of the signer's knowledge and belief. The weight to be given this presumption in determining whether the facts stated in the charge sheet are true is a matter to be determined by the Discharge Review Board. To the extent that the discharge proceeding reflects: (i) An official determination that the facts stated in the charge sheet are true; (ii) that the accused admitted the facts stated in the charge sheet; or (iii) that the accused admitted guilt of the offense(s), then the presumption is strengthened. In accordance with § 70.5(b)(12)(vi) of Part 70, Title 32, Code of Federal Regulations, the presumption may be rebutted by "substantial credible evidence."

Subpart D—Principal Elements of the Navy Department Discharge Review System

§ 724.401 Applicants.

As defined in § 724.114.

§ 724.402 Naval Discharge Review Board.

As defined in § 724.102.

§ 724.403 President, Naval Discharge Review Board.

Supervises the Naval Discharge Review Board. (See Subpart J of this part.)

¹ Charges may be preferred by any person subject to the Uniform Code of Military Justice. The charges must be signed and sworn to before a commissioned officer authorized to administer oaths, and shall state: (1) That the signer has personal knowledge of, or has investigated the matters set forth therein; and (2) that the charges are true in fact to the best of the signer's knowledge and belief. 10 U.S.C. 830 (1976) (Art. 32 Uniform Code of Military Justice).

§ 724.404 Director, Naval Council of Personnel Boards.

Exercises administrative control and oversight of the naval discharge review process. (See Subpart J of this part.)

§ 724.405 Commandant of the Marine Corps (Code M) and the Chief of Naval Personnel.

Personnel managers of the Marine Corps and the Navy; responsible for providing limited support to the Naval Discharge Review Board and for implementation of departmental discharge review decisions. (See Subpart K of this part.)

§ 724.406 Chief, Bureau of Medicine and Surgery.

Custodian of Navy and Marine Corps health records. (See Subpart K of this part.)

§ 724.407 Chief of Naval Reserve.

Manages Naval Reserve resources. Responsible for providing limited support within available resources to the Naval Discharge Review Board. (See Subpart K of this part.)

§ 724.408 Secretary of the Navy.

The final authority within the Department of the Navy in discharge review.

Subpart E—Procedural Rights of the Applicant and Administrative Actions Preliminary to Discharge Review

§ 724.501 Procedural rights of the applicant.

Each applicant has the following procedural rights:

(a) Within 15 years after the date of discharge, to make a written request for review of the applicant's discharge if the discharge was other than the result of a general court-martial. The request may include such other statements, affidavits, or documentation as desired. (See §§ 724.302 and 724.303.)

(b) Prior to January 1, 1980, without regard to the date of discharge, to request review of the applicant's discharge if the discharge has not been reviewed previously under the procedures and standards set forth in Subparts H and I of this part and the applicant was administratively discharged under other than honorable conditions. (See § 724.303.)

(c) To have that review conducted by the Naval Discharge Review Board either in the Washington, D.C. area or other designated locations (see § 724.321), when a personal appearance discharge review is desired.

(d) To appear before the Naval Discharge Review Board in person with or without counsel/representative; with

counsel/representative concurrence, to have counsel/representative present the applicant's case in the absence of the applicant; or to have the review conducted based on records and any additional documentation submitted by the applicant or counsel/representative.

(e) To request copies of any documents or other evidence to be considered by the Naval Discharge Review Board in the review of the applicant's discharge or dismissal other than the documents or evidence contained in the official record or submitted by the applicant prior to the conduct of the formal review and to be afforded an opportunity to examine such other documents or evidence or to be provided with copies of them. (See § 724.310.)

(f) To withdraw the request for discharge review without prejudice at any time prior to the scheduled review, except that failure to appear for a scheduled hearing shall not be construed or accepted as a withdrawal. (See § 724.314.)

(g) To request a continuance of the review when the continuance is of a reasonable duration and essential to achieving a full and fair hearing. The request must indicate the reason why the continuance is required. (See § 724.316.)

(h) To request postponement of the discharge review for good and sufficient reason set forth in a timely manner. (See § 724.316.)

(i) To request reconsideration of the discharge review under the conditions set forth in § 724.315.

(j) To have access to the information to be considered by the Naval Discharge Review Board prior to the actual review of the applicant's case. (See § 724.310.)

(k) To have the applicant's right to privacy protected in any review conducted by the Naval Discharge Review Board. (See §§ 724.815 and 724.1003(g).)

(l) When appearing personally before the Naval Discharge Review Board:

(1) To introduce witnesses, documents, sworn or unsworn testimony. (See §§ 724.311 and 724.312.)

(2) To present oral or written arguments personally or through counsel/representative.

(m) To submit documents, affidavits, briefs or arguments in writing. When the counsel/representative appears in person before the Naval Discharge Review Board, arguments may be presented orally.

(n) To state clearly and specifically the contentions or issues which the applicant desires the Naval Discharge Review Board to answer in writing. These should be presented in writing by

the applicant or counsel/representative. Although applicants are encouraged to state contentions/issues in writing, they may be stated orally at personal appearance hearings.

(o) To have the applicant's discharge reviewed under the standards of equity and propriety outlined in Subpart I of this part.

(p) To be provided with a written decision on the applicant's review.

(q) If the case is to be forwarded for Secretarial review, to present a timely statement rebutting any findings, conclusions, or reasons of the Naval Discharge Review Board or the President, Naval Discharge Review Board, which are alleged to be erroneous on the facts, against the substantial weight of the evidence, or contrary to law or governing regulations, prior to that Secretarial review.

§ 724.502 Actions to be taken by the applicant preliminary to discharge review.

(a) Application for Review of Discharge or Dismissal From the Armed Forces of the United States, DD Form 293 (See Appendix D of this Part) is to be used in requesting a discharge review. DD Form 293 is available at most military installations and regional offices of the Veterans' Administration. This form is to be signed personally by the applicant. In the event the discharged individual is deceased or incompetent, the form must be signed by an authorized individual as discussed in § 724.113.

(b) The application is to be accompanied by:

(1) A copy of the certificate of discharge, if available;

(2) A copy of the Armed Forces of the United States Report of transfer or Discharge (DD-214), if available;

(3) Certification of death, incompetency and evidence of relationship in applicable cases (§ 724.113);

(4) Statements by the applicant specifically presenting contentions/issues of fact, law, or discretion, if any, which form the basis for the request;

(5) Other statements, affidavits, depositions, documents and information desired by the applicant to be considered by Naval Discharge Review Board.

(c) Correspondence relating to review of naval discharges should be addressed to:

Naval Discharge Review Board, Suite 905, 801 North Randolph Street, Arlington, VA 22203, telephone No. (202) 696-4881.

§ 724.503 Naval Discharge Review Board response to application for discharge review.

(a) The Naval Discharge Review Board shall acknowledge receipt of the application.

(b) In the event a documentary review is requested, the applicant shall normally receive no further communication from the Naval Discharge Review Board until notified of the decision in the case.

(c) In the event a personal appearance discharge review is requested, the applicant shall be notified of the time and place of this review and shall be advised of the availability of the official documents to be considered by the Naval Discharge Review Board.

(d) A copy of Naval Discharge Review Board correspondence to an applicant shall be sent to the representative of record, if any.

§ 724.504 Naval Discharge Review Board actions preliminary to discharge review.

(a) When each application for discharge review is received by the Naval Discharge Review Board, the service record and health record of the applicant will be requested from the appropriate record custodian, usually the National Personnel Record Center, St. Louis, Missouri.

(b) Upon receipt, each record of service will be reviewed to determine whether or not the applicant appears to have been discharged under circumstances which might act as a bar to Veterans' Administration benefits under section 3103, Title 38, United States Code. These circumstances of discharge are:

(1) Discharge or dismissal by reason of the sentence of a general court-martial.

(2) Discharge as a conscientious objector who refused to perform military duty, to wear the uniform or otherwise to comply with lawful orders of competent military authority.

(3) Discharge as a deserter.

(4) Discharge on the basis, or as part of the basis, of an absence without authority from active duty for a continuous period of at least 180 days if such discharge was under conditions other than honorable. Additionally, such absence is computed without regard to the applicant's normal or adjusted expiration of term of service.

(5) Discharge or dismissal of an officer based on acceptance of the officer's resignation for the good of the service.

(6) Discharge, on his own application, during a period of hostilities, as an alien.

(c) If it appears that the applicant was not discharged under the circumstances

noted in § 724.504(b), the discharge review will continue.

(d) If it appears that the applicant was discharged under one or more of the circumstances outlined in § 724.504(b), a written notification will be sent which informs the applicant that:

(1) An initial service record review reveals that the discharge may have been awarded under circumstances which make the applicant ineligible for receipt of Veterans' Administration benefits regardless of an action taken by the Naval Discharge Review Board.

(2) Separate action by the Board for Correction of Naval Records (BCNR) and/or the Veterans' Administration, in case of 180 days consecutive unauthorized absence disqualification, may confer eligibility for Veterans' Administration benefits.

(3) Provides instructions for making application to Board for Correction of Naval Records and for contacting the Veterans' Administration.

(4) Indicates that the discharge review will continue if the applicant so requests.

(5) Provides 45 days for the applicant to inform the Naval Discharge Review Board whether or not the applicant wishes the discharge review to continue.

(e) If the applicant does not respond within the allotted 45 days, or if in replying within 45 days the applicant requests a discharge review, the discharge review will continue.

(f) If the applicant replies within 45 days and requests the discharge review not take place, the case will be closed without further action and the records will be returned to storage.

Subpart F—Naval Discharge Review Board Mission and Functions

§ 724.601 General.

The Naval Discharge Review Board is a component of the Naval Council of Personnel Boards and has its offices located in the Washington, D.C. area. The Naval Discharge Review Board conducts documentary reviews and personal appearance reviews, in the Washington, D.C. area and, on a traveling basis, at selected sites within the 48 contiguous states. Regional site selection is predicated on the number of pending applications accumulated from a given geographical area and the resources available to support distant personal appearance reviews. The Naval Discharge Review Board does not maintain facilities other than at its Washington D.C. area offices.

§ 724.602 Mission.

To decide, in accordance with standards of naval law and discipline

and the standards for discharge review set forth in Subpart I of this part, whether a discharge or dismissal from the naval service is proper and equitable, or whether it should be changed.

§ 724.603 Functions.

(a) Meet as frequently as necessary to provide expeditious review of naval discharges.

(b) Meet at locations within the 48 contiguous states as determined appropriate on the basis of the numbers of discharge review applications received from various geographical areas and of available resources and facilities.

(c) Review applications for review of discharges.

(d) In consonance with directives of higher authority and the policies set forth in this Part, grant or deny change of discharges.

(e) Promulgate decisions in a timely manner.

(f) Maintain a system of records.

(g) Maintain liaison in discharge review matters with:

- (1) General Counsel of the Navy;
- (2) Commandant of the Marine Corps;
- (3) Chief of Naval Personnel;
- (4) Judge Advocate General of the Navy;

(5) Chief of Naval Reserve;

(6) Chief, Bureau of Medicine and Surgery;

(7) Veterans' service organizations;

(8) Discharge review boards of the other services, using the Army Discharge Review Board as a focal point for service coordination.

(h) Protect the privacy of individuals whose records are reviewed.

(i) Maintain for public access a reading file and associated index of records of Naval Discharge Review Board proceedings in all reviews undertaken subsequent to July 1, 1975. (See § 724.814.)

Subpart G—Organization of the Naval Discharge Review Board

§ 724.701 Composition.

The Naval Discharge Review Board acting in plenary review session shall be composed of five members. Normally the members shall be career military officers, however, officers of the inactive Navy and Marine Corps Reserves may serve as members when designated to do so by the President, Naval Discharge Review Board.

(a) Presiding officers of the Naval Discharge Review Board shall normally be Navy or Marine Corps officers in the grade of Captain/Colonel or above.

(b) The remaining Naval Discharge Review Board membership shall

normally be not less than the grade of Lieutenant Commander/Major with preference being given to senior grades.

(c) Naval Discharge Review Board members shall be designated from the following sources:

(1) Officers performing duty with the Naval Council of Personnel Boards;

(2) Officers nominated by the Commandant of the Marine Corps;

(3) Officers nominated by the Chief of Naval Reserve, on request;

(4) Officers nominated by Director of Marine Corps Districts, on request;

(5) Officers nominated by the Commandants of the Naval Districts.

(d) At least three of the five members of the Naval Discharge Review Board shall belong to the service from which applicant whose case is under review was discharged.

(e) Individual membership in the Naval Discharge Review Board may vary within the limitations of the prescribed composition.

§ 724.702 Executive management.

The administrative affairs of the Naval Discharge Review Board shall be managed by the Executive Secretary. This responsibility shall include schedules, records, correspondence, and issuance of Naval Discharge Review Board decisions.

§ 724.703 Recorders.

The Naval Discharge Review Board shall be assigned a number of Navy and Marine Corps officers who shall act as recorders for discharge-review sessions. The number of recorders assigned shall be consistent with Naval Discharge Review Board case loading. These officers shall normally be of the rank of Lieutenant Commander/Major or Commander/Lieutenant Colonel.

§ 724.704 Counsel.

Normally the Naval Discharge Review Board shall function without the immediate attendance of legal counsel. In the event that a legal advisory opinion is deemed appropriate by the Naval Discharge Review Board, such shall be obtained routinely by reference to the senior Judge Advocate assigned to the Office of the Director, Naval Council of Personnel Boards. In unusual circumstances, the Naval Discharge Review Board Traveling Panel may request advice from the Officer-in-Charge of the nearest Naval Legal Service Office. In addition, the Naval Discharge Review Board may request advisory opinions from staff offices of the Department of the Navy, including, but not limited to the General Counsel and the Judge Advocate General.

Subpart H—Procedures of the Naval Discharge Review Board

§ 724.801 Material to be considered in discharge review.

In the process of its review of discharges, the Naval Discharge Review Board shall examine available records and pertinent regulations of the Department of the Navy, together with such information as may be presented by the applicant and/or representative, normally to include:

(a) The application for discharge review;

(b) Statements, affidavits or documentation, if any, accompanying the application or presented during hearings;

(c) Testimony, if any, presented during hearings;

(d) Service and health records;

(e) A brief of pertinent facts extracted from the service and health records, prepared by the Naval Discharge Review Board recorder, using NAVSO Form 1900/5C (Appendix D of this part).

§ 724.802 Contentions/issues.

(a) Applicant must state clearly and specifically their contentions, and/or the issues of fact, law, or discretion for written determination to be made in accordance with § 724.810.

(b) In addition to contentions/issues considered by the Naval Discharge Review Board under § 724.802(a), the Naval Discharge Review Board shall consider such issues of fact, law, or discretion as are discerned by them in the discharge review process.

(c) The Naval Discharge Review Board shall state its findings and conclusions and reasons with respect to the contentions and issues as required by § 724.810.

(d) Except as provided in § 724.802(d)(4), all matters that appear to be contentions/issues submitted by an applicant or counsel shall be listed verbatim in the decisional document and appended thereto. The Naval Discharge Review Board must provide findings, conclusions, and reasons only for contentions/issues submitted that are stated clearly and specifically. The Naval Discharge Review Board shall prepare decisional documents in the following manner, with respect to applicant's contentions/issues:

(1) If contentions/issues are stated clearly and specifically by an applicant or counsel, and they are not subsequently amended by the applicant or counsel, these contentions/issues shall be listed verbatim in the decisional document or appended thereto: (See § 724.810(h));

(2) If there are no clearly and specifically stated contentions/issues presented by an applicant or counsel, but contentions/issues are discerned by the Naval Discharge Review Board from an application to the Naval Discharge Review Board for review of discharge, those portions of the application from which the contentions/issues were discerned shall be listed verbatim in the decisional document or appended thereto, and the decisional documents shall note that "THE APPLICANT FAILED TO PROVIDE CLEARLY AND SPECIFICALLY STATED CONTENTIONS/ISSUES. IN THE ABSENCE OF SUCH SPECIFICITY THE BOARD DISCERNED THE FOLLOWING CONTENTIONS/ISSUES USING INFORMATION FROM THE APPLICANT'S STATEMENT:". Whether or not the Board discerns any contentions/issues from the applicant's statement, however, if the entire applicant's statement is included on the Form DD 293, this statement shall be quoted verbatim in the summary of applicant's statement portion of the decisional document;

(3) If no applicant contentions/issues are discernible from an application but the Naval Discharge Review Board determines that there are issues that can be addressed, the lack of applicant contentions/issues and the existence of Naval Discharge Review Board contentions/issues must be noted on the decisional document. Issues which are raised by the Naval Discharge Review Board must also be noted on the decisional document in addition to any listed applicant contentions/issues; and

(4) An applicant or counsel shall not be required to amend a contention/issue. If an applicant or counsel at a personal appearance hearing decides to change contentions/issues previously submitted to the Naval Discharge Review Board, the applicant may withdraw the contention/issue and, if desired, submit an amended contention/issue. Any such decision made at the hearing shall be a part of the record of proceedings, and the decisional document shall note that "AT THE BEGINNING OF THE HEARING, THE APPLICANT INTRODUCED THE FOLLOWING CONTENTIONS/ISSUES AS THE ONLY CONTENTIONS/ISSUES THE APPLICANT IS REQUESTING THE BOARD TO CONSIDER:".

§ 724.803 Summary of evidence to be displayed in Records of Review Proceedings.

The Naval Discharge Review Board shall summarize the evidence

considered in each discharge review. This shall include:

(a) The date, type and reason of the discharge and the discharge regulation under which it was issued;

(b) The circumstances and character of the applicant's service as extracted from service records, health records and information provided by other Government authority or the applicant;

(c) The relevant evidence developed from testimony, when the review involves a personal appearance;

(d) Reference to applicant's written brief, if any. Factual information and/or advice from applicant's brief relied upon for final decision shall normally be set forth verbatim. In lieu thereof, a copy of the applicant's brief may be appended.

(e) Reference to advisory opinions, if any. Factual information and/or advice from advisory opinions relied upon for final decision shall normally be set forth verbatim. In lieu thereof, a copy of the advisory opinion(s) may be appended. Care must be taken to ensure that the summary of evidence also includes those factors required by applicable service regulations to be considered for the determination of the type and reason/basis for the discharge in question.

§ 724.804 Findings, conclusions and reasons upon contentions/issues.

After carefully weighing the evidence, the Naval Discharge Review Board shall prepare findings, a conclusion and reasons for each contention/issue raised by the applicant. (See §§ 724.121, 724.122, 724.123, and 724.810(d).) A conclusion shall be stated as either "Valid" or "Invalid".

§ 724.805 Findings, conclusions and reasons upon which decision is based.

The Naval Discharge Review Board shall record its findings, conclusions and reasons as to whether a discharge should remain unchanged or be changed. The nature of any change shall be specified clearly. (See §§ 724.124, 724.125, 724.126, and 724.810.)

§ 724.806 Decision/recommendation.

The determination by the Naval Discharge Review Board as to whether or not a discharge should be changed and a statement of the type and reason/basis of the discharge and the specific authority for decision/recommendation—e.g., General Discharge/Unfitness for Frequent Involvement (Marine Corps Separations and Retirement Manual, paragraph 6017.2b). (See § 724.127.)

§ 724.807 Decision process.

(a) Naval Discharge Review Board Panels shall meet in plenary session to

review discharges and exercise their discretion on a case-by-case basis in applying the standards set forth in Subpart I of this part.

(b) The presiding officer is responsible for the conduct of the discharge review. The presiding officer shall convene, recess, and adjourn the Naval Discharge Review Board panel as appropriate and shall maintain an atmosphere of dignity and decorum at all times.

(c) Each Naval Discharge Review Board member shall act under oath or affirmation requiring careful, objective consideration of the application. Naval Discharge Review Board members are responsible for eliciting all facts necessary for a full and fair hearing. They shall consider all information presented to them by the applicant. In addition, they shall consider available service and health records, together with such other records as may be in the files of the Department of the Navy and relevant to the issues before the Naval Discharge Review Board, and any other evidence obtained in accordance with Part 70, Title 32, Code of Federal Regulations or this part.

(d) If the applicant does not appear in person and the designated counsel/representative does not appear in the applicant's behalf, the Naval Discharge Review Board shall review the discharge on the basis of available records, documentary evidence submitted by or on behalf of the applicant and any other relevant evidence obtained in accordance with Part 70, Title 32, Code of Federal Regulations or this part.

(e) If the applicant appears in person or the designated counsel/representative appears before the Naval Discharge Review Board in the applicant's behalf, the Naval Discharge Review Board shall review the application on the basis of testimony on behalf of the applicant, available official records, documentary evidence submitted by or on behalf of the applicant and any other relevant evidence obtained in accordance with Part 70, Title 32, Code of Federal Regulations or this part.

(f) *Application of Standards.* (1) When the Naval Discharge Review Board determines that an applicant's discharge was improper (§ 724.902), the Naval Discharge Review Board will determine which reason/basis for discharge should have been assigned based upon the facts and circumstances properly before the discharge authority in view of the service regulations governing reasons/bases for discharge at the time the applicant was discharged. Unless it is also determined that the discharge was inequitable (§ 724.903), the provisions in

the discharge regulations as to the type of discharge under which the applicant should have been discharged will be considered in determining whether further relief is warranted.

(2) When the Naval Discharge Review Board determines that an applicant's discharge was inequitable (§ 724.803), any change will be based on the evaluation of the applicant's overall record of service and relevant Department of the Navy regulations.

(g) Voting shall be conducted in closed session, a majority of the five members' votes constituting the Naval Discharge Review Board decision. The presiding officer shall have a single vote. Decisions shall be reached by formal voting.

(h) Details of closed session deliberations of a Naval Discharge Review Board are privileged information and shall not be divulged.

(i) Minority written opinions, while not required, may be submitted by any minority member(s) and shall contain statements of findings, conclusions and reasons for only those contentions/issues on which the minority disagrees with the majority. The minority's written statement of findings, conclusions and reasons are also required to meet the standards of §§ 724.804 and 724.805. If the minority disagrees with the majority decision/recommendation and writes an opinion as just described, that opinion shall contain the minority's decision/recommendation and the specific authority for that decision/recommendation. (See § 724.806.) In all cases, in which a minority of the Naval Discharge Review Board requests Secretarial review, the entire case, including the majority and minority written opinions will be forwarded to the Secretary of the Navy via the President, Naval Discharge Review Board. The President, Naval Discharge Review Board's recommendations to the Secretary of the Navy will be attached to the majority and minority written opinions and will include findings, conclusions and reasons, in the form earlier described herein.

(j) The Naval Discharge Review Board may request advisory opinions from staff officers of the Department of the Navy. The opinions are advisory in nature and are not binding on the Naval Discharge Review Board in its decision-making process.

§ 724.808 Issuance of decisions following discharge review.

The applicant and counsel/representative, if any, shall be provided with a copy of the decisional document and of any further action in review. Final notification of decisions shall be

issued to the applicant with a copy to the counsel/representative, if any, and to the Service Personnel Manager.

(a) Notification to applicants, with copies to counsel/representatives, shall normally be made through the United States Postal Service. Such notification shall consist of a notification of decision, together with a copy of the decisional document, Form NAVSO 1900/5C (Appendix D of this Part).

(b) Notification to the Commandant of the Marine Corps (Code M) and the Chief of Naval Personnel shall be for the purpose of appropriate action and inclusion of review matter in personnel records. Such notification shall normally be issued en bloc and shall bear the personal signature of the Executive Secretary of the Naval Discharge Review Board in certification of completeness and accuracy. Delivery of en bloc notifications shall normally be via interoffice mail.

(c) Actions on review by the Secretary of the Navy, when occurring, shall be provided to the applicant and counsel/representative in the same manner as the notification of the review decision.

§ 724.809 Conduct of personal appearance discharge reviews.

(a) Personal appearance discharge reviews shall be conducted with a recognition of the individual's rights to privacy. Accordingly, presence at hearings of individuals other than those whose presence is required will be limited to persons authorized by the Secretary of the Navy, President of the Naval Discharge Review Board, Presiding Officer of the Naval Discharge Review Board Panel or expressly requested by the applicant, subject to reasonable limitations based upon available space. If, in the opinion of the President of the Naval Discharge Review Board or Presiding Officer of the Naval Discharge Review Board Panel, the presence of other individuals would be prejudicial to the interests of the applicant or the Government, such reviews may be held in closed session.

(b) Personal appearance discharge reviews shall be conducted with the objective of eliciting all the facts bearing on the case. Naval Discharge Review Board members shall attempt to elicit all the facts necessary for a full and fair hearing, whether or not the applicant is accompanied by a representative.

(c) Each board member shall act under the oath of affirmation as set forth in Appendix C of this part.

(d) *Evidence and testimony:* (1) The Naval Discharge Review Board may consider any evidence obtained in accordance with Part 70, Title 32, Code of Federal Regulations or this part.

(2) Formal rules of evidence shall not be applied in Naval Discharge Review Board proceedings. The presiding officer shall rule on matters of procedure and shall insure that reasonable bounds of relevancy and materiality are maintained in the taking of evidence and presentation of witnesses.

(3) Applicants having personal appearance reviews shall be permitted to introduce witnesses, documents, sworn or unsworn statements or other information on their behalf, all at no expense to the Department of Defense.

(4) Applicants may present oral or written arguments personally and/or through counsel/representatives.

(5) Applicants who present sworn or unsworn statements and witnesses may be questioned by the Naval Discharge Review Board. All testimony shall be taken under oath or affirmation unless the applicant specifically requests to make an unsworn statement.

§ 724.810 Decisional document.

A decisional document shall be prepared for each review conducted by the Naval Discharge Review Board. See copy in Appendix D of this Part (Record of Review of Discharge, NAVSO 1900/5C). At a minimum this document shall contain:

(a) the date, type and reason/basis for the discharge issued to the applicant upon separation from the naval service, including the specific discharge regulation under which the discharge was issued.

(b) the circumstances and character of the applicant's service as extracted from service records, health records and information provided by other Government authority or the applicant, such as, but not limited to:

- (1) Date of enlistment.
- (2) Period of enlistment.
- (3) Age at enlistment.
- (4) Length of service.
- (5) Periods of unauthorized absence.
- (6) Conduct and efficiency ratings (numerical or narrative).
- (7) Highest rank achieved.
- (8) Awards and decorations.
- (9) Educational level.
- (10) Aptitude test scores.

(11) Incidents of punishment pursuant to Article 15, Uniform Code of Military Justice (including nature and date of offense or punishment).

(12) Convictions by court-martial.

(13) Prior military service and type of discharge received.

(c) Reference to the written brief, documentary evidence, and testimony presented to the Naval Discharge Review Board by or on behalf of the applicant.

(d) *Statements of findings, conclusions, and reasons consisting of:*

(1) Findings, conclusions, and reasons on all issues of fact, law, or discretion upon which the decision on the application is based, including those factors required by naval service regulations to be considered for determination of the type of and reason/basis for the discharge in question.

(2) Findings, conclusions, and reasons on all other issues of fact, law, or discretion raised by the applicant in accordance with § 724.802, including claims by the applicant that statutory, regulatory, and/or constitutional provisions were violated, and such other claims made by the applicant, which in the opinion of the Naval Discharge Review Board would have warranted greater relief than that afforded the applicant by the Naval Discharge Review Board decision if resolved in the applicant's favor. If the applicant has clearly and specifically stated a contention/issue, which in the opinion of the Naval Discharge Review Board would not have warranted greater relief than that recommended by the Naval Discharge Review Board if resolved in the applicant's favor, then the Board shall indicate this in the decisional document.

(3) Findings, conclusions, and reasons as to whether or not any change, correction or modification should be made in the type or reasons/basis of the discharge; and, if so concluded, the particular changes, corrections or modifications that should be made.

(4) If the Naval Discharge Review Board adopts statements of findings, conclusions and reasons from a prior decisional document for the same applicant, these findings, conclusions and reasons must be restated in the new decisional document.

(5) If a discharge is changed but not to fully honorable, unless a lesser type discharge is specifically requested by the applicant, a statement of the reasons for the decision not to change the discharge to fully honorable.

(e) Advisory opinions, including those containing factual information, where such opinions have been relied upon for final decisions or have been accepted as a basis for rejecting any of the applicant's claims. Such advisory opinions or relevant portions thereof that are not fully set forth in the statement of findings, conclusions, and reasons shall be incorporated by reference therein. A copy of such opinions shall be appended to the decision and included in the record of proceedings.

(f) A record of the Naval Discharge Review Board members' names and votes.

(g) The Naval Discharge Review Board decision and written minority opinions if any. In a unanimous decision the decisional document shall be signed by the presiding officer and authenticated by the recorder. In a split decision all members will sign the decisional document in the place where their vote is recorded. If the decisional document cannot be signed by the presiding officer or authenticated by the recorder by reason of death, disability or absence, the decisional document shall be signed by the next senior officer available and may be authenticated by another member who was actually at the conclusion of the proceedings. If the decisional document in a split decision cannot be signed by a member(s) by reason of death, disability or absence, the vote of such member(s) may be recorded by another member who was actually present at the conclusion of the proceedings. The decisional document will contain a brief statement explaining any authorized alternative signature(s).

(h) A verbatim listing of the contentions or issues presented by the applicant, if not included elsewhere.

§ 724.811 Records of Naval Discharge Review Board proceedings.

(a) When the proceedings in any review have been concluded, a record thereof will be prepared.

(b) At a minimum, the record will include the following:

- (1) An application for review (except non-motion reviews).
- (2) A summary of testimony in personal appearance hearings.
- (3) Documentary evidence or copies thereof considered by the Naval Discharge Review Board other than service and health record.
- (4) Briefs/arguments submitted by or on behalf of the applicant.
- (5) Advisory opinions considered by the Naval Discharge Review Board.
- (6) The findings, conclusion, and reasons developed by the Naval Discharge Review Board.
- (7) Reference to the document notifying the cognizant personnel manager of the discharge review action in each case.
- (8) Minority reports, if any.
- (9) A copy of the decisional document (NAVSO 1900/5C).

§ 724.812 Secretarial review of Naval Discharge Review Board decisions.

Cases accepted for review by the Secretary of the Navy, or by one to whom the reviewing authority has been delegated, will be considered in

accordance with the standards set forth in Subpart I of this part.

(a) On every decision of the Naval Discharge Review Board that is accepted for review by the Secretary of the Navy, or by one to whom reviewing authority has been delegated, the decision on review will be made in writing.

(b) In every case, the decision of the Naval Discharge Review Board and reviewing authority, if any, will include a statement of findings, conclusions, and reasons, except where the reviewing authority expressly adopts, in whole or in part, the statement of findings, conclusions and reasons of the Naval Discharge Review Board. Similarly, where the reviewing authority adopts the Naval Discharge Review Board's statement of findings, conclusions, and reasons, there is no requirement for duplicative publication and indexing under terms of § 724.814.

§ 724.813 Final disposition of the record of proceedings.

(a) The original record of proceedings and all appendices thereto shall in all cases be incorporated in the service record of the applicant and the service record shall be returned to the custody of the Naval Personnel Records Center, St. Louis, Missouri, via the service personnel manager, if applicable.

(b) A case file consisting of a complete copy of the record of the Naval Discharge Review Board proceedings and hearing transcripts, if any, shall be maintained for reference by the Naval Discharge Review Board for a period of one year, after which the copy of the record of proceedings shall be destroyed or transferred to the Washington National Records Center, Suitland, Maryland.

§ 724.814 Availability of Naval Discharge Review Board documents for public inspection and copying.

(a) A copy of the decisional document prepared in accordance with § 724.810 shall be made available for public inspection and copying promptly after a notice of final decision is sent to the applicant.

(b) To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of the applicant and other persons will be deleted from documents made available for public inspection and copying. Names, addresses, social security numbers, and military service numbers must be deleted. Written justification shall be made for all other deletions and shall be available for public inspection.

(c) Any other privileged or classified material contained in or appended to

any documents required by this instruction to be furnished the applicant and counsel/representative or made available for public inspection and copying may be deleted therefrom, only if a written statement of the basis for the deletions is provided the applicant and counsel/representative and made available for public inspection. It is not intended that the statement be so detailed as to reveal the nature of the withheld material.

(d) Naval Discharge Review Board documents made available for public inspection and copying shall be located in the Armed Forces Discharge Review/Correction Board Reading Room. The documents shall be indexed in a usable and concise form so as to enable the public and those who represent applicants before the Naval Discharge Review Board to isolate from all these decisions that are indexed, those cases that may be similar to an applicant's case and that indicate the circumstances under, and/or reasons for, which the Naval Discharge Review Board or the Secretary of the Navy granted or denied relief.

(1) The reading file index shall include, in addition to any other items determined by the Naval Discharge Review Board, the case number, the date, the type, the reason/basis, and authority for the discharge. It shall further include the decisions of the Naval Discharge Review Board and reviewing authority, if any, and the issues addressed in the statement of findings, conclusions and reasons.

(2) The index should be made available at sites selected for Naval Discharge Review Board Traveling Panel reviews at least 30 days prior to the arrival of the Panel. Applicants at such sites shall be so advised in the notice of scheduled reviews.

(3) The Naval Discharge Review Board is responsible for timely submission to the Reading Room of individual case information required for a quarterly update of indexes. The indexes shall be available for public inspection and/or purchase at the Reading Room. This information will be provided to applicants in the notice of scheduled hearings.

(4) Correspondence relating to matters under the cognizance of the Reading Room (including requests for purchase of indexes) shall be addressed to:

Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

§ 724.815 Privacy Act Information.

Information protected under the Privacy Act is involved in the discharge review functions. The provisions of DoD

Directive 5400.11 will be observed throughout the processing of a request for review of discharge.

Subpart I—Standards for Discharge Review

§ 724.901 Objective of discharge review.

The objective of a discharge review is to examine the propriety and equity of the applicant's discharge and to effect changes, if necessary. The standards of review and the underlying factors which aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable naval service. No factors shall be established which require automatic change or denial of a change in a discharge. Neither the Naval Discharge Review Board nor the Secretary of the Navy shall be bound by any methodology of weighing of the factors in reaching a determination. In each case, the Naval Discharge Review Board or the Secretary of the Navy shall give full, fair, and impartial consideration to all applicable factors prior to reaching a decision.

§ 724.902 Propriety of the discharge.

A discharge shall be deemed to be proper unless, in the course of discharge review, it is determined that:

(a) There exists an error of fact, law, procedure or discretion associated with the discharge at the time of issuance; and that the rights of the applicant were prejudiced thereby. Such error shall constitute prejudicial error, if there is substantial doubt that the discharge would have remained the same if the error had not been made; or

(b) A change in policy by the military service of which the applicant was a member, made expressly retroactive to the type of discharge under consideration, requires a change in the discharge.

§ 724.903 Equity of the discharge.

A discharge shall be deemed to be equitable unless:

(a) In the course of a discharge review, it is determined that the policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to discharges of the type under consideration, provided that:

(1) Current policies or procedures represent a substantial enhancement of the rights afforded the applicant in such proceedings; and

(2) There is substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to

the applicant at the time of the discharge proceedings under consideration; or

(b) At the time of issuance, the discharge was inconsistent with standards of discipline in the military service of which the applicant was a member; or

(c) In the course of a discharge review, it is determined that relief is warranted based upon consideration of the applicant's service record and other evidence presented to the Naval Discharge Review Board viewed in conjunction with the factors listed in this subparagraph and the service regulations under which the applicant was discharged, even though the discharge was determined to have been otherwise equitable and proper at the time of issuance. Areas of consideration include, but are not limited to:

(1) Quality of service, as evidenced by factors such as:

(i) Service history, including date of enlistment, period of enlistment, highest rank/rate achieved, conduct or efficiency evaluations (numerical or narrative).

(ii) Awards and decorations.

(iii) Letters of commendation or reprimand.

(iv) Combat service.

(v) Wounds received in action.

(vi) Records of promotions and demotions.

(vii) Level of responsibility at which the applicant served.

(viii) Other acts of merit that may not have resulted in a formal recognition through an award or commendation.

(ix) Length of service during the service period which is the subject of the discharge review.

(x) Prior military service and type of discharge received or outstanding post-service conduct to the extent that such matters provide a basis for a more thorough understanding of the performance of the applicant during the period of service which is the subject of the discharge review.

(xi) Convictions by court-martial.

(xii) Records of nonjudicial punishment.

(xiii) Convictions by civil authorities while a member of the naval service, reflected in the discharge proceedings or otherwise noted in the service records.

(xiv) Records of periods of unauthorized absence.

(xv) Records relating to a discharge in lieu of court-martial.

(2) Capability to serve, as evidenced by factors such as:

(i) Total capabilities. This includes an evaluation of matters such as age, education level, and aptitude scores. Consideration may also be given as to

whether the individual met normal military standards of acceptability for naval service and similar indicators of an individual's ability to serve satisfactorily, as well as ability to adjust to the naval service.

(ii) Family/personal problems. This includes matters in extenuation or mitigation of the reason for discharge that may have affected the applicant's ability to serve satisfactorily.

(iii) Arbitrary or capricious actions. This includes actions by individuals in authority which constitute a clear abuse of such authority and which, although not amounting to prejudicial error, may have contributed to the decision to discharge or to the characterization of service.

(iv) Discrimination. This includes unauthorized acts as documented by records or other evidence.

Subpart J—Director, Naval Council for Personnel Boards and President, Naval Discharge Review Board

§ 724.1001 Mission.

To oversee and administer discharge review procedures within the Department of the Navy.

§ 724.1002 Functions; Director, Naval Council of Personnel Boards.

(a) Make recommendations to the Secretary of the Navy regarding the organization, tasking and resources of the Naval Discharge Review Board and its associated administrative support.

(b) Submit recommendations to the Secretary of the Navy regarding policy and procedures for discharge review.

(c) Provide administrative and clerical support for the Naval Discharge Review Board.

(d) Inform the Secretary of the Navy of matters of interest to him.

(e) Maintain a system of records, including as a minimum:

(1) Records specified for the Naval Discharge Review Board as stipulated in the procedures prescribed in Subpart H of this Part.

(2) Records required for the administration of military and civilian personnel.

(3) Files of correspondence received and issued.

(f) Prepare and submit to the Secretary of the Navy, a semiannual report covering the operations of the Naval Discharge Review Board.

(g) Establish billet/position assignment criteria for the Naval Discharge Review Board.

(h) Propose to the Secretary of the Navy, changes to the Department of the Navy Manual for Discharge Review.

(i) Issue requisite precepts and remove or add members to Naval Discharge Review Board from personnel detailed to serve on the Naval Council of Personnel Boards, or from personnel otherwise made available.

§ 724.1003 Functions. President, Naval Discharge Review Board.

(a) Exercise primary cognizance within the Department of the Navy for matters relating to discharge review.

(b) Supervise and direct the activities of the Naval Discharge Review Board.

(c) Maintain appropriate liaison with discharge review activities in other services: Use Army Discharge Review Board as focal point for service coordination.

(d) Maintain coordination with the Commandant of the Marine Corps (Code M) and the Chief of Naval Personnel in matters associated with discharge review.

(e) Screen all cases forwarded to the Secretary. In those cases, the President shall provide the Secretary with the Record of Review of Discharge (NAVSO 1900/5C), the service and health records, if available, a statement of the President's findings, conclusions, and reasons, except in the event that he expressly adopts the statement of findings, conclusions, and reasons of the Panel, and any additional statements submitted by the applicant pursuant to § 724.501(g). Where the President adopts such statements, publication and indexing under the terms of § 724.814 is not required where such would duplicate existing publication and indexing of the same material.

(f) In conformance with Secretary of the Navy Instruction 5211.5A, protect the privacy of individuals in connection with discharge review.

(g) Assure that Naval Discharge Review Board functions are administered in accordance with the appropriate Secretary of the Navy instructions dealing with privacy and access to information.

(h) Convene the Naval Discharge Review Board as authorized by the Secretary of the Navy.

(i) Direct the movements of the Naval Discharge Review Board Traveling Panel(s) on the basis of regional hearing requests.

(j) Monitor the performance of the naval discharge review system. Make recommendations for changes and improvements. Take action to avoid delays in processing of individual discharge review actions.

(k) Provide Naval Discharge Review Board inputs for the maintenance of a public reading file and maintain associated Naval Discharge Review Board indexes updated quarterly.

Subpart K—Responsibilities in Support of the Naval Discharge Review Board

§ 724.1101 Responsibility.

The Commandant of the Marine Corps, Chief of Naval Personnel, Chief of Naval Reserve, Chief, Bureau of Medicine and Surgery, and chiefs of other bureaus and offices of the Department of the Navy shall provide limited support to the Naval Discharge Review Board.

§ 724.1102 Functions of the Commandant of the Marine Corps and Chief of Naval Personnel.

(a) Provide and facilitate access by the Naval Discharge Review Board to service/health records and other data associated with performance of duty of applicants.

(b) Advise the Naval Discharge Review Board of developments in personnel management which may have a bearing on discharge review judgments.

(c) Implement the discharge review decisions of the Naval Discharge Review Board and those of higher authority within respective areas of cognizance.

(d) Include the record of Naval Discharge Review Board proceedings as a permanent part of the service record of the applicant in each case.

(e) Issue clemency discharge certificate when notified that an individual has met the requirements.

(f) Where appropriate, recommend cases for Naval Discharge Review Board review on its own motion.

(g) Provide qualified personnel as Naval Discharge Review Board members, recorders and administrative staff.

(h) Establish administrative procedures to ensure that if a member is separated from the Navy or the Marine Corps under other than fully honorable conditions, the member is advised of:

(1) the right to a review of his or her discharge under provisions of 10 U.S.C. 1553, and

(2) the procedures for applying for such a review.

(i) Provide Navy and Marine Corps units and activities with information on the mission of the Naval Discharge Review Board through entries in

appropriate personnel administration directives.

§ 724.1103 Functions of the Chief, Bureau of Medicine and Surgery.

Facilitate, as required, access by the Naval Discharge Review Board to health records of applicants.

§ 724.1104 Functions of the Commandant of the Marine Corps and Chief of Naval Reserve (refer to § 724.322).

(a) Upon request and within available resources, provide qualified Reservists to serve as members of the Naval Discharge Review Board.

(b) Upon request, provide appropriate accommodations to the Naval discharge Review Board Traveling Panels for purposes of conducting review at Naval and Marine Corps Reserve Centers.

§ 724.1105 Functions of the Commandants of Naval Districts and Directors of Marine Corps Districts (refer to § 724.322).

Upon request and within available resources, provide administrative support and augmentation to Naval Discharge Review Board Traveling Panels.

Dated: November 15, 1979.

P. B. Walker,
Captain, JAGC, U.S. Navy, Deputy Assistant
Judge Advocate General (Administrative
Law).

[FR Doc. 79-35837 Filed 11-20-79; 8:45 am]

BILLING CODE 3810-71-M

Department of the Air Force

32 CFR Part 806b

Air Force Privacy Act Program; Correction

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Correction to final rule.

SUMMARY: This document corrects a final rule that appeared at page 23068 in the Federal Register on April 18, 1979.

FOR FURTHER INFORMATION CONTACT: Captain Loretta Behrens, (202) 694-3431.

The preamble, as published in 43 FR 23068, April 18, 1979, should be corrected to change the Authority to read: 5 U.S.C. 552a Pub. L. 93-579, December 31, 1974, 88 Stat. 1897, and amended Pub. L. 94-183, December 31, 1975, 89 Stat. 1057.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-35828 Filed 11-20-79; 8:45 am]

BILLING CODE 3910-10-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5686

[I-13259]

Idaho: Public Land Order No. 5680, Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order; correction.

SUMMARY: This document will correct Public Land Order No. 5680 of August 30, 1979, insofar as it affects the first sentence in paragraph 4 and clarifies the language in the summary statement to show that the 20,738 acres in which the surface is privately owned with a reservation of minerals to the United States, will be open to location for nonmetalliferous minerals under the mining and mineral leasing laws.

EFFECTIVE DATE: November 21, 1979.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber, 202-343-6486.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The first sentence in paragraph 4 of Public Land Order No. 5680 of August 30, 1979, appearing at page 52688 in the Federal Register of September 10, 1979, is corrected to read:

"Subject to applicable law, the lands in which the surface is privately owned with a reservation of minerals to the United States, will be open to location for nonmetalliferous minerals under the mining laws and to applications and offers under the mineral leasing laws at 10 a.m., on October 5, 1979."

Guy R. Martin,

Assistant Secretary of the Interior.

November 14, 1979.

[FR Doc. 79-35835 Filed 11-20-79; 8:45 am]

BILLING CODE 4310-64-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 13, 73, and 74

[Docket No. 20817; FCC 79-721]

Inquiry Relating to the Commission's Radio Operator Licensing Program

AGENCY: Federal Communications Commission.

ACTION: Second Report and Order.

SUMMARY: Amendment of the rules to authorize the holder of any class of commercial operator license to perform routine operating duties at TV stations

and AM stations with critical directional antenna systems; and to authorize less than full-time employment of a First-class radiotelephone license holder, acting as "chief" operator, in charge of technical maintenance at stations.

EFFECTIVE DATE: December 19, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Reiser, Steve Crane, Philip Cross, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of an inquiry relating to the Commission's Radio Operator Licensing Program, Docket No. 20817, RM-3350 [44 FR 1733].

Second Report and Order

Adopted: November 6, 1979.

Released: November 16, 1979.

1. This proceeding addresses the matter of Commission licensing of radio operators in all services, including broadcast (AM, FM, TV) and non-broadcast, and is directed primarily to the Radiotelephone operator class of license. (*Notice of Inquiry*, released June 7, 1976, FCC 76-746, 41 FR 22981; *Notice of Proposed Rule Making*, released August 4, 1977, FCC 77-528, 42 FR 40939).¹

2. The *First Report and Order* herein was restricted to the matter of reducing the requirement for duty operators at AM and FM broadcast stations, except those AM stations with critical directional antennas, to holders of any class of commercial operator license, including Restricted Radiotelephone Operator Permit, in lieu of Third-class Radiotelephone Operator Permit Endorsed for Broadcast Operation. (Released January 5, 1979, FCC 78-871, 44 FR 1738, 70 FCC 2d 2371.)

3. It was stated in the *First Report and Order* that other matters contained in this overall proceeding would be considered in the near future by means of a Further Notice of Inquiry, Further Notice of Rule Making or a Report and Order, as may be appropriate.

4. This *Second Report and Order* is limited to the following proposals which further relax the operator requirements for broadcast stations:

(a) Authorizing AM stations with critical directional antennas and TV stations to use for routine operating duties an operator holding any class of commercial radio license, including a Restricted permit.

¹ In the *Notice of Inquiry*, more than 500 parties filed formal and informal comments. One reply comment was filed. In the *Notice of Proposed Rule Making*, there were ninety-nine comments and one reply comment, a list of which is set out in Appendix A.

(b) Reducing from full-time to less than full-time the required employment of a "Chief" First-class operator for technical supervision and maintenance at AM stations with a directional antenna or power in excess of 10,000 watts; and conforming TV station requirements to the less than full-time employment and the "Chief" operator provisions.

Routine Duty Operators

5. Section 13.62(c) of our rules, "Special privileges," provides that routine operating duties may be performed at AM and FM broadcast stations (except those with a critical directional antenna system) by persons holding any class of commercial operator license, including a Restricted Radiotelephone Operator Permit.

6. A Restricted Permit requires no oral or written examination. Instead, applicants are required to certify in writing to a declaration that the applicant has a need for the requested permit; can receive and transmit spoken messages in English; can keep at least a rough written log in English or in some other language in general use that can be readily translated into English; is familiar with the provisions of treaties, laws, and rules and regulations governing the authority granted under the requested permit; and understands that it is his/her responsibility to keep currently familiar with all such provisions (§ 13.22 (h)).

7. Routine operating duties at an AM or FM station which may be performed by the holder of any class of license pursuant to § 13.62(c) are defined therein as turning the transmitter on and off, making minor adjustments in operating power and modulation, and changing operating power or antenna modes, usually at sunrise and sunset if required by the terms of the station license. (The power and antenna mode changes may be made if they involve only the simple activation of switches and do not require retuning or adjustment of the transmitter or antenna phasing equipment.)

8. The special operating authority for performance of routine duties by lesser grade operators is subject to the condition that there is "in employment at the broadcast station in accordance with Part 73 of this chapter one or more First-class radiotelephone operators authorized to make or supervise all adjustments, whose primary duty shall be to effect and insure the proper functioning of the transmitting system." (§ 13.62 (c)(3)).

9. Section 13.62 on "Special privileges" concerning use of lesser grade operators for routine operating

duties does not now include TV stations. TV stations are required to have First-class Radiotelephone operators for all technical duties. There is no definition of routine operating duties for TV as there is for AM and FM, because the First-class duty operators at TV stations have full authority to make complex adjustments or perform any maintenance of the transmitting equipment.

10. We address first the question of extending to AM stations with critical directional antenna systems the special privilege in § 13.62 of permitting persons with Restricted permits to perform routine operating duties. Comments and reply comments filed in response to the *Notice of Inquiry* and the *Notice of Proposed Rule Making* herein provide little help except for general conclusions that the routine operating duties are so limited by definition and so supervised that most any operator could carry them out.

11. AM stations with critical directional antenna systems are few in number, not in excess of 25. Extending to such stations the special privilege provision of permitting the holder of a Restricted permit to carry out the routine operating duties is not a sweeping change. However, preserving the integrity of the system and keeping it in proper adjustment to avoid interference to other stations is a vital concern. A directional antenna system is considered critical when the station's authorization requires that it maintain ratios of the currents in the elements of the system within tolerance which is less than five percent or relative phases within tolerances which are less than three degrees. (Section 73.14(v)). Our rules further provide, § 73.93(g), that it is the responsibility of the station licensee to insure that each operator is fully instructed in the performance of all the above adjustments, as well as in the other required duties, such as reading meters and making log entries; and that printed step-by-step instructions for those adjustments which the lesser grade operator is permitted to make, and a tabulation or chart of upper and lower limiting values of parameters required to be observed and logged, shall be posted at the operating station. The routine operating duties limited by definition under § 13.62(d) are such that a Restricted permit operator would not be involved in the intricacies of maintaining the ratios within the tolerances specified. The Restricted operator should be sufficiently instructed pursuant to § 73.93(g), quoted above, to read the meters and understand the tolerances. If the station

were to exceed the tolerances at any time, all the Restricted permit operator could do is turn the transmitter off. The required First-class operator would be responsible for making necessary adjustments.

12. We are therefore persuaded that because of the obligation of station licensees to train routine duty operators so as to assure the technical integrity of their stations, pursuant to our rules, the requirement to use First-class operators to perform such routine duties serves no useful purpose. Also, this would provide substantial relief to stations. In view of the foregoing, we conclude that our rules should be amended to authorize the performance of routine operating duties at AM stations with critical directional antenna systems by Restricted permit operators.

13. We address next the question of whether it is necessary for TV stations to have First-class Radiotelephone operators only as now required. They perform both routine operating duties and technical supervision and maintenance duties.

14. Comments were submitted in support of a provision that performance of routine operating duties by Restricted permit operators be extended to TV. American Broadcasting Companies, Inc. (ABC) stated, "In our view, the same rationale underlying the extension of this policy to AM and FM stations also applies to television broadcast operations." In the "Comments of Licensees," submitted on behalf of twenty-nine licensees of radio and television stations, it is stated that the Commission should also permit routine operation of television stations by holders of a limited permit since "there would not appear to be any rational basis for distinguishing between the two services in this regard and the Commission's *Notice* does not offer any basis for such difference in treatment."

15. In reply comments, Harriscope Broadcasting Corporation stated the following:

"The existing rules (§§ 73.661 and 13.61(e)) require the presence of first-class operators throughout the broadcast day at each and every television station in the country. No distinction is made with respect to the operator license requirements for installation, repair and maintenance of a transmitter, and routine operating functions. The end result is that television stations are required to hire more first-class technicians than can be gainfully employed throughout the broadcast day. Not only do first-class technicians perform duties, which, were it not for the requirements set forth in Commission rules (e.g., §§ 73.669, 73.671, 73.672) ² could be

² Now designated as §§ 73.1800, 73.1820 and 73.1830, respectively.

performed by others; but also, simply because first-class operators are on duty, they perform many routine functions, which under the rules do not require a first-class operator."

16. With today's technology and reliability of equipment, it must be concluded that many of the routine operating duties at a television station do not require the services of a First-class operator. We are persuaded that there is no present basis for distinguishing between TV and AM and FM in this matter. Accordingly, we are amending Parts 13 and 73 to include TV with AM and FM in the authorization of Restricted permit operators to perform routine operating duties.

17. The present description of routine operating duties in § 13.62 will obtain with respect to TV, where applicable, and adjustment of visual modulation will be added for TV.

Maintenance Operators

18. We proceed from our previous consideration of duty operators to consideration of maintenance operators. Installation, maintenance, repair and technical supervision of broadcast transmitting operations require an expertise obviously greater than for routine operating duties. Such maintenance operators are required by our rules to be holders of First-class licenses in the case of each broadcast service, AM, FM and TV.³ The *Notice of Proposed Rule Making* herein raised the question of "Should the service or maintenance operator requirements in the various radio services be retained." After the *Notice* was issued, the Commission received in November, 1978, a draft of the final report of a contract study by the Georgia Institute of Technology (GIT) on broadcast regulatory matters which recommended, among other things, that the current program of licensing operators in the broadcast service by examination be eliminated and a "registration" program be substituted.⁴ We stated in the *First Report and Order* that the study raises questions not considered in the *Notice of Proposed Rule Making* and that further review and evaluation are needed before final action is taken. We are not resolving those questions in this *Report and Order*. They will be the subject of a further document.

19. We are addressing, at this time, only the narrow matter of reducing from full-time to less than full-time the

employment required of a maintenance operator as the "Chief operator" at AM stations with directional antenna systems or with power in excess of 10,000 watts and conforming TV stations thereto.

20. It is contended that there is not enough technical maintenance work to be done at many such broadcast stations to keep First-class operators gainfully employed throughout the day. We recognize the facts that some stations require more technical maintenance than others and that many with sophisticated and reliable equipment require very little maintenance. We agree that a station should not be required to employ a First-class operator for more time than is needed to maintain properly the equipment involved and keep it in compliance with our rules. We believe that an accommodating flexibility can be incorporated into the Rules.

21. We now review those rules. Section 73.93(h) of the AM rules now provides, in pertinent part, that "When lesser grade operators are used * * * for any period of operation with normal power in excess of 10 kilowatts, or with a directional antenna, the station shall designate one First-class operator in full-time employment as the chief operator who, together with the licensee, shall be responsible for the technical operation." We are amending the rule to provide for full-time employment or whatever less than full-time employment the licensee determines is needed to keep its technical operation in compliance with our rules.⁵

22. Section 73.661 of our TV rules provides, in pertinent part, that "one or more operators holding a valid radiotelephone first-class operator license shall be on duty and shall be in actual charge whenever the transmitter is delivering power to the transmitting antenna." We are amending this rule to incorporate the same provision as above for less than full-time employment for the First-class operator in actual charge.

23. Sections 73.93(h) and 73.661 are the only rules involving the matter of full-time employment of First-class maintenance operators.

24. Our relaxation of the TV rules to provide for lesser grade duty operators does not change in any way the requirements that technical supervision and maintenance must be performed by a First-class operator. As noted above,

the AM rules provide that, when lesser grade duty operators are used at stations with a directional antenna system or with power in excess of 10,000 watts, the station must designate one first-class operator as the "Chief operator" responsible for the technical operation of the station. For those TV stations which elect to use lesser grade duty operators, the rules will be conformed to the AM provision that the station must designate one first-class operator as the "Chief operator" responsible for the technical operation of the station. The amended operator rules will so indicate.⁶

25. Operator rules being amended are §§ 13.61, 13.62, 73.93, 73.661 and 74.966.

26. We repeat that this *Report and Order* is limited to the matters addressed above and that other issues in this overall proceeding on operator licensing—both broadcast and non-broadcast—will be considered in subsequent documents. We look toward issuance in the near future of a Further Notice of Proposed Rule Making in the matter of testing and licensing maintenance operators for broadcast stations, and inclusion of findings in the study by the Georgia Institute of Technology (para. 18, above) with opportunity for comment on the relevant findings.

27. We stress again, as we did in our *First Report and Order*, that relaxation of the operator requirements does not lessen the burden of responsibility of either the operator or the broadcast station licensee for strict compliance with the Commission rules.

28. Further information concerning matters contained in this *Report and Order* can be obtained from John Reiser, Steve Crane or Philip Cross, FCC, Washington, D.C. 20554; telephone (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, *ex parte* contacts presented to the Commission in proceedings such as this one will be disclosed in the public docket file. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentations requested by the Commission. If a member of the public does wish to comment on the merits of this proceeding in this manner, he or she

³Section 73.3547, "Requests for temporary permission to use lesser grade operators or pro-tem, non-fulltime chief operators," is being retitled and editorially revised to conform to the amended duty operator and chief operator requirements.

should follow the Commission's procedures governing *ex parte* contacts in informal rule making. A summary of these procedures is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554 (202) 632-7000.

29. We conclude that, for the reasons stated above, adoption of these amendments will serve the public interest. Accordingly, it is ordered, that, effective December 19, 1979, Parts 13, 73 and 74 of the Commission's rules and regulations are amended as set forth in Appendix B, pursuant to authority contained in 4(i), 303(l) and 303(r) of the Communications Act of 1934, as amended; and it is further ordered, That, the above referenced petition (para. 21) of the National Association of Broadcasters is dismissed as moot.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303.))

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix A

Comments and reply comments were received from the following:

Albert K. Nielsen—WDNX
Robert Dean Seaver
Adlai C. Ferguson, Jr.—WPRS/WACF
Boyce J. Hanna—WADT
John J. Davis
Paul H. Lee
Charles W. Sepmeier—WFSU/WTAL
Raphael Soifer
George H. Baskos—KQDC
Robert Yeates
William H. Wilson
Hudson C. Millar—WIRA
John E. Shepler—WROK/WZOK
Chris Nevil
Jesse L. Sprouse
Peter B. Orlik—WMTW-FM
Charles B. Field
Daryl E. Harris, Sr.
Michael W. Moran—WLKE
J. F. Curado—Hawaiian Airlines
Rowland Medler
David R. Santee—KBRL
Bruce L. Mackey—WKRT
Frank J. Maynard
Louise Keltner—WPTN
Frederick E. Wells—WNDA
Mark Robinson—WWCU-FM
Robert W. Sassaman—WNWR
Walter L. Johnson, Jr.
Bruce R. Glazer
Gregg S. Warren
Andy K. Hughes
Thomas M. Neilson
Donald L. Schesser
T. E. Shireman
Michael Hemeon
George T. Wade
Robert Karee
Forest Industries Telecommunications
H. David Harrell
Boris Pastuch
John G. Murray—KCMW-FM
Alfred Pastuch

Constantino E. Bernardez—KTCU-FM
John Pastuch
Stephen A. Bloomfield—WAUP-FM
Kenneth L. Welch
National Marine Electronics Association
Bill Harrell
Robert L. Bingham
Gulf Radiotelephone and Electronics
Ernest O. Sutton
California Mobile Radio Association
Cleveland Institute of Electronics
California State Communications Division
John Furr—KITE/KITE-FM
Ernest R. Skinner, Jr.
Greg VanAcker
Patrick Fisher
Raymond H. Basemore
Gerhard J. Straub
Mike Henderson—KENN
Herbert M. Schulkind—WCVB-TV
Daniel J. Reilly, Jr.
Joel E. Wharton
James M. Greenwood
James T. Bittle, James E. Hatson, and James C. Martin (Joint Comment)
William G. Wheeler
C. Curtis Sigmon—WYCL
Associated Public-Safety Communications Officers, Inc. (APCO)
Roland Closson
Hartley Peterson
Michael Donovan—WGLS
Kermit L. Richardson—KBOK
Martin Dekkenga—KDCR
Wisconsin Chapter Associated Public-Safety Communications Officers, Inc.
William J. Oliver
Edwin H. Ryland—KSWH-FM
Donald Karr
RCA Corporation
Tampa Bay Broadcast Advertising
Command Productions
J. G. Rountree
National Broadcasting Company, Inc.
Motorola, Inc.
Aeronautical Radio, Inc.
G.T.E. Service Corp.
Aloysius B. McCabe—WGN
American Broadcasting Companies, Inc.
National Association of Broadcasters
National Association of Business and Educational Radio, Inc. (NABER)
Utilities Telecommunications Council
William F. Duhamel—Duhamel Broadcasting Enterprises
Greater Media, Inc.—WCTC/WMCO-FM, ET AL
McKenna, Wilkinson, and Kittner, Representing 29 Broadcast Station Licensees
National Radio Broadcasters Association
Merrill T. See
The Radio Shack
Robert E. Krueger—KTVB, Inc. (Reply Comment)

Appendix B

PART 13—COMMERCIAL RADIO OPERATORS

1. In § 13.61, the introductory paragraph, paragraphs (a)(1), (b)(1), (d)(1), (g)(1) and (h)(1) are deleted and marked "reserved;" paragraphs (a)(2), (b)(2), (d)(2), (f)(2), (g)(3) and (h)(3) are

amended; paragraphs (f)(3), (4), (5), (6) and (7) are deleted in their entirety; and paragraph (f)(8) is redesignated as (f)(3) as follows:

§ 13.61 Operating authority.

The various classes of commercial radio operator licenses issued by the Commission authorize the holder thereof to operate radio stations, except amateur, as follows. (See also § 13.62 for additional operator authority with respect to AM, FM and TV broadcast stations.)

(a) *Radiotelegraph first-class operator license.* Any station except:

- (1) [Reserved]
- (2) AM, FM, TV and International Broadcast Stations.
- (3) * * *

(b) *Radiotelegraph second-class operator license.* Any station except:

- (1) [Reserved]
- (2) AM, FM, TV and International Broadcast Stations.
- (3) * * *

(c) *Radiotelegraph third-class operator permit.* Any station except:

- (1) [Reserved]
- (2) AM, FM, TV and International Broadcast Stations.
- (3) * * *

(f) * * *

(1) * * *

(2) AM, FM, TV and International Broadcast Stations.

(3) At a ship radar station, the holder of this class of license may not supervise or be responsible for the performance of any adjustments or tests during or coincident with the installation, servicing or maintenance of the radar equipment while it is radiating energy unless the operator has satisfactorily completed the supplementary examination qualifying that operator for that duty and receiving a ship radar endorsement on the license certifying to that fact. Nothing in this paragraph shall be construed to prevent persons holding licenses not so endorsed from making replacements of fuses or of receiving-type tubes. The supplementary examination shall consist of:

- (i) Written examination element: 8.
- (g) *Radiotelephone third class operator permit.* Any station except:

- (1) [Reserved]
- (2) * * *
- (3) AM, FM, TV and International Broadcast Stations.
- (4) * * *

(h) *Restricted Radiotelephone Operator Permit.* Any station except:

³Second-class operators may perform such duties at NCE-FM stations with transmitter output of 1,000 watts or less.

⁴A final report by the Georgia Institute of Technology "Broadcast Regulation Tradeoff Study" was presented to the Commission in June 1979.

⁵The National Association of Broadcasters (NAB) filed on March 12, 1979, a petition for rule making, RM-3350, to reduce from full-time to part-time the required employment of a Chief First-class operator at AM stations with a directional antenna system or with power in excess of 10,000 watts. In view of our action here, the petition will be dismissed as moot.

- (1) [Reserved]
 (2) * * *
 (3) AM, FM, TV and International Broadcast Stations.
 (4) * * *

2. In § 13.62, paragraph (c) is amended and (d) is added to read as follows:

§ 13.62 Special privileges.

(c) The holder of any class of commercial operator license or permit may perform routine transmitter operating duties at any AM, FM or TV broadcast station. However, if the operator holds a license other than a First-class Radiotelephone Operator License, only such duties as set forth in paragraph (d) of this section may be performed, under the following conditions and restrictions:

(1) The licensee of the station has fully instructed the operator in the performance of all transmitter adjustments described in paragraph (d) of this section and in all other required operator duties such as the reading of meters and making of log entries.

(2) The licensee of the broadcast station has posted at each operating position step-by-step instructions for all transmitter adjustments and operating procedures which duty operators, employed under the provisions of this paragraph, are required to perform. Also posted must be a table or chart of the limiting values of transmission system operating parameters that are required to be observed and logged.

(3) The emissions of the station must be terminated whenever the transmitting system is observed operating beyond the posted limiting values or in any other manner inconsistent with the rule or station authorization when the adjustments listed in paragraph (d) of this section are ineffective in correcting the improper operation.

(d) The technical adjustments of the transmitting system that may be performed as routine operating duties at a broadcast station by operators holding other than a First-class Radiotelephone Operator License (or Second Class Radiotelephone Operator License for noncommercial educational FM stations operating with not more than 1 kilowatt transmitter output power) are limited to the following:

- (1) Those necessary to turn the transmitter on and off.
 (2) Those necessary to maintain the operating power within the prescribed limits.
 (3) Those necessary to maintain the aural modulation levels within the prescribed limits.

(4) Those necessary to maintain the visual modulation and waveform within the prescribed limits.

(5) Those necessary to effect the routine changes in operating power within the broadcast day at times specified by an AM station authorization.

(6) Those necessary to change between non-directional and directional or between differing radiation patterns of an AM station, provided that such changes require only activation of switches and do not involve the manual tuning of the transmitter final amplifier and antenna phasing equipment. The switching equipment must be arranged so that the failure of any relay in the directional antenna system to activate properly will cause the emissions of the station to terminate.

PART 73—RADIO BROADCAST SERVICES

3. Section 73.14 is amended to add new paragraph (v) to read as follows:

§ 73.14 Technical definitions.

(v) *Critical directional antenna.* An AM broadcast directional antenna for which the station authorization requires the maintenance of the ratios of currents within the elements of the system within a tolerance of less than 5% or the relative phases of those currents within a tolerance of less than 3°.

4. In § 73.93, paragraphs (d), (e) and (h) are amended to read:

§ 73.93 Operator requirements.

(d) Stations using non-directional antennas during periods of operation with an authorized power in excess of 10 kW may employ operators holding any class of commercial radio operator license or permit for the routine duty operation of the transmitting system as defined in paragraph (f) of this section. In addition, such stations must employ at least one operator holding a First-class Radiotelephone Operator License in either full-time or whatever less than full-time employment the station licensee determines is needed to keep the station's technical operation in compliance with the FCC rules and terms of the station authorization.

(e) The licensee of an AM station using a directional antenna system may employ persons holding any class of commercial radio operator license or permit for the routine duty operation of the transmitting system as defined in paragraph (f) of this section. If the licensee elects to employ operators holding any class of license or permit

other than a First-class Radiotelephone Operator License for the routine duty operation of the transmitting system, the licensee must comply with the following:

(1) The station must employ at least one operator holding a First-class Radiotelephone Operator License in either full-time or whatever less than full-time employment the station licensee determines is needed to keep the station's technical operation in compliance with the FCC rules and terms of the station authorization.

(2) * * *
 (h) When lesser grade operators are used, in accordance with paragraph (d) or (e) of this section, the station licensee must designate one First-class Radiotelephone Operator as the chief operator who, together with the licensee, shall be responsible for the technical operation of the station. The licensee may also designate another First-class Radiotelephone Operator as assistant chief operator, who will assume all responsibilities during absence of the designated chief operator. A copy of the designation must be posted with the license of the designated operator.

(1) [Reserved]

5. Section 73.661 is revised in its entirety to read as follows:

§ 73.661 Operator requirements.

(a) Except as provided for in paragraphs (b), (c) and (d) of this section, one or more operators holding First-class Radiotelephone Operator Licenses must be on duty at the place where the transmitting apparatus is located, where extension meters and monitoring devices for monitoring critical parameters of the transmitter are located as provided for in § 73.1550, or at an authorized remote control point established pursuant to the provisions of § 73.677; and shall be in actual charge thereof whenever the transmitter is delivering power to the transmitting antenna.

(1) The licensed operator on duty and in charge of the TV transmitter may, at the discretion of the licensee, be employed for other duties or for operation of another station or stations in accordance with the class of operator license held and the rules governing such other stations. However, such other duties must not impair or impede the required supervision of the TV broadcast transmitting system.

(2) The transmitter and required monitors and metering equipment, or the required extension meters and monitoring equipment or the controls and required monitoring metering

equipment in an authorized remote control operation must be readily accessible to the licensed operator and located sufficiently close to the normal operating location that deviations for normal indications of required instruments can be observed from that location.

(b) The licensee of a TV station may employ persons holding any class of commercial radio operator license or permit for the routine duty operation of the transmitting system as defined in paragraph (c) of this section. In addition, the licensee must employ at least one person holding a First-class Radiotelephone Operator License either in full-time or whatever less than full-time employment the station licensee determines is necessary to keep the station's technical operation in compliance with the FCC rules and terms of the station authorization. If the licensee elects to employ operators holding any class of license or permit other than a First-class Radiotelephone Operator License for the routine duty operation of the transmitting system, the licensee must comply with the following:

(1) One First-class Radiotelephone operator shall be designated in writing as the chief operator who, together with the licensee, shall be responsible for the technical operation of the station. The licensee may also designate another First-class Radiotelephone operator as assistant chief operator, who shall assume all responsibilities of the chief operator during periods of his absence. A copy of the designation must be posted with the license(s) of the designated operator(s).

(2) The station licensee shall vest such authority in, and afford such facilities to, the chief operator as may be necessary, to insure that the chief operator's primary responsibility for the proper technical operation of the station may be discharged efficiently.

(3) At such times as the regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), and an assistant chief operator has not been designated, or, if designated, for any reason is unable to assume the duties of chief operator, the licensee shall designate another First-class Radiotelephone operator as acting chief operator on a temporary basis. Within 3 days of the date such action is taken, the Engineer in Charge of the radio district in which the station is located shall be notified by the licensee by letter of the name and license number of the acting chief operator, and shall be notified by letter, again within 3 days, of the date when the regularly designated chief operator returns to duty.

(4) The designated chief operator may serve as a routine duty transmitter operator at any station only to the extent that it does not interfere with the efficient discharge of his responsibilities as listed below.

(i) The inspection and maintenance of the transmitting system, including the antenna system and required monitoring equipment.

(ii) The accuracy and completeness of entries in the maintenance log.

(iii) The supervision and instruction of all other station operators in the performance of their technical duties.

(iv) A review of completed operating logs to determine whether technical operation of the station has been in accordance with the rules and terms of the station authorization. After review, the chief operator shall sign the log and indicate the date and time of such review. If the review of the operator logs indicates technical operation of the station is in violation of the rules or terms of the station authorization, he shall promptly initiate corrective action. The review of each day's operating logs shall be made within 24 hours, except that, if the chief operator is not on duty during a given 24-hour period, the logs must be reviewed within 2 hours after his next appearance for duty. In any case, the time before review cannot exceed 72 hours.

(c) Subject to the conditions in paragraph (b) of this section, operators not holding First Class Radiotelephone Operator Licenses may make adjustments only of external controls, as follows:

- (1) Those necessary to turn the transmitter on and off;
 (2) Those necessary to maintain the operating power within the prescribed limits;
 (3) Those necessary to maintain the aural modulation levels within the prescribed limits;
 (4) Those necessary to maintain the visual modulation and waveform within the prescribed limits.

(d) It is the responsibility of the station licensee to insure that each operator is fully instructed in the performance of all of the above adjustments as well as in other required duties, such as reading meters and making log entries. Printed step-by-step instructions for those adjustments which the lesser grade operator is permitted to make, and a tabulation or chart of upper and lower limiting values of parameters required to be observed and logged, shall be posted at the operating position. The emissions of the station must be terminated immediately whenever the transmitting system is observed operating beyond the posted

parameters, or in any other manner inconsistent with the rules or the station authorization and the above adjustments are ineffective in correcting the condition of improper operation and a First-class Radiotelephone operator is not present.

(e) At TV stations which elect to use less than First-class Radiotelephone operators for routine duty operation, a complete inspection of the transmitting system and required monitoring equipment in use shall be made by an operator holding a First-class Radiotelephone License at least once each calendar week. The interval between successive required inspections shall not be less than 5 days. This inspection shall include such tests, adjustments, and repairs as may be necessary to insure operation in conformance with the provisions of this Subpart and the current station authorization.

6. Section 73.3547, including headnote, is being revised in its entirety to read as follows:

§ 73.3547 Requests for temporary permission to use lesser grade operators or a pro-tem chief operator.

(a) For stations which elect to have First-class Radiotelephone Licensed operators on duty in charge of the transmitting system during all periods of operation and, due to circumstances beyond the licensee's control, such operators are unavailable to maintain the regular schedule of operation, a request for temporary permission to employ lesser grade operators may be submitted to the Engineer in Charge of the radio district in which the station is located.

(b) For stations which are required to have a designated chief operator and that operator becomes incapacitated or temporarily unavailable and a designated assistant chief operator is not employed, a request for permission to appoint a First-class operator available on call as the pro-tem chief operator must be submitted to the Engineer in Charge of the radio district in which the station is located.

(c) Temporary permission to operate with either lesser grade operators or with a pro-tem chief operator may be granted for a period of up to 60 days upon a showing of need. The Engineer in Charge may terminate the permission in the absence of adequate efforts to obtain qualified replacement operators or for other good reasons in the judgment of the Engineer in Charge.

(d) Requests for temporary authority are to be made in letter form, signed by the licensee, and must include the following:

(1) The name of the licensee and call letters of the station.

(2) When lesser grade operators are to be employed, a showing that at least one First-class radiotelephone operator is employed and responsible for all technical adjustments and maintenance.

(3) When a pro-tem chief operator is to be employed, a showing that at least one First-class radiotelephone operator will be available on an on-call basis to perform all technical adjustments and maintenance, and who will assume the responsibilities of the chief operator.

(4) Any request for an extension of the original permission, when the employment of a replacement chief operator is required, must include a showing of the continuing efforts made to obtain qualified employees, including the sources of contact and dates of contacts of all known sources of broadcast operators. If a replacement chief operator is rejected for employment, a statement giving the reason for rejection must be included.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

7. In § 74.966, paragraph (a) is amended to read as follows:

§ 74.966 Operator requirements.

(a) An instructional TV fixed station (ITFS) used for the origination of visual and aural program material or the transmitter of which is modulated with visual and aural program material received from other sources, must be operated by a person holding any class of commercial radio operator license or permit, on duty at the place where the transmitter is located or at an authorized control point established pursuant to the provisions of § 74.933, and in actual charge thereof.

[FR Doc. 79-35952 Filed 11-20-79; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 15

[Docket No. 21010; RM-2577; FCC 79-719]

UHF Television Receiver Noise Figures

AGENCY: Federal Communications Commission.

ACTION: Final rule (Order in FCC Docket 21010).

SUMMARY: Order amending the new noise figure requirements for TV receivers to clarify how they apply to video tape recorders with built-in TV tuners. The Order is in response to

petition for clarification from the Consumer Electronics Group of the Electronic Industries Association.

EFFECTIVE DATE: November 23, 1979.

ADDRESSES: Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Larry Middlekamp, FCC Laboratory, P.O. Box 429, Columbia, MD 21045, Phone 301-725-1585.

Adopted: November 6, 1979.

Released: November 14, 1979.

1. On August 1, 1978 (43 FR 54097), the Commission adopted a Report and Order in Docket No. 21010, which required a reduction of UHF television receiver noise figures.

2. No change in this policy is contemplated by this Order. However, because of the way the implementing rules were written, video tape recorders would inadvertently be subjected to more stringent standards than intended. Video tape recorders, regulated under Class I TV Devices in Part 15 of the Commission's Rules, include additional components (power splitters) not found in, or necessary to, television receivers. While the UHF TV tuner in a video tape recorder must meet the new noise figures adopted in Docket No. 21010, the use of a power splitter results in an increase in the measured noise figure when measured at the UHF antenna of the video tape recorder.²

3. The only way a manufacturer could meet the new noise figure requirement using the prescribed measuring techniques would be to attach the power splitter to the outside of the cabinet of the recorder, or sell the power splitter separately and have the customer install it. While this would permit the manufacturer to comply with our requirements for noise figure, it could result in a more serious picture quality impairment than if the power splitter were built-in, and would not be as convenient for the consumer. Because the rules governing Class I TV Devices refer to Subparts B and C of Part 15 which in turn refer to Subpart J of Part 2, the applicability and measuring techniques of the new UHF noise figure

¹ A "Petition for Clarification" in this matter was filed by the Consumer Electronics Group of the Electronic Industries Association on April 30, 1979. In addition, letters requesting clarification and/or amendment of the Rules were received from Matsushita Industrial Company and Hitachi Sales Corporation of America. A filing by the Council for UHF Broadcasters supported the above mentioned requests for clarification.

² The Commission requires that the UHF noise figure be measured at the antenna terminals of the receiver so that the antenna lead connection between the external antenna terminals and those of the built-in UHF tuner will be taken into account.

requirements to video tape recorders were not clear.

4. The Council for UHF Broadcasting (CUB), in a filing on June 25, 1979, made an important point. The fundamental goal of our noise figure regulation is to promote the comparability of UHF television reception to that of VHF television reception. Since the power splitter loss also occurs at VHF, the 4 dB allowance for this loss does not affect the difference between UHF and VHF reception. Further, CUB points out that while the loss of the power splitting device should be minimized, 4 dB represents a "reasonable maximum additional loss figure." (CUB comment dated June 25, 1979 on page 3.)

5. For the reasons set forth above, an amendment to clarify how the new noise figure requirements shall be applied to video tape recorders with built-in TV tuners will serve the public interest. Prior notice of rulemaking, effective date provisions, and public procedure thereon are unnecessary, pursuant to the requirements of 5 U.S.C. 553, inasmuch as these amendments only clarify existing law and raise no issues which would likely result in adverse comment.

6. In view of the foregoing, and pursuant to authority contained in §§ 4 and 303(s) of the Communications Act of 1934, as amended, IT IS ORDERED, that § 15.66 of Part 15, IS AMENDED as set forth in the attached Appendix, effective November 23, 1979.

7. For further information concerning this matter, contact Mr. Larry Middlekamp, FCC Laboratory, P.O. Box 429, Columbia, MD 21045, phone 301-725-1585.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Section 15.66 is amended by adding a new paragraph (d) to read as follows:

§ 15.66 All-channel television broadcast reception: Noise figure.

(d) In the case of a TV tuner built-in as part of a video tape recorder which uses a power splitter between the antenna terminals of the video tape recorder and the input terminals of the TV tuner 4 dB may be subtracted from the noise figure measured at the antenna terminals of the video tape recorder for determining compliance of such built-in

TV tuner with the noise figure limits in paragraph (a) of this section.

[FR Doc. 79-35980 Filed 11-20-79; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 61

[Docket No. 20698; FCC 79-727]

Providing Adequate Notice and Timely Availability of Tariff Filings to the Public

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: These amendments will make tariffs, letters of transmittal and cost support material filed with the Commission more promptly and directly accessible to the public.

EFFECTIVE DATE: December 19, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Helen E. Golding, Common Carrier Bureau, (202) 632-6312.

Adopted: November 6, 1979.

Released: November 15, 1979.

In the matter of amendment of §§ 1.773, 61.32 and 61.58 of the Commission's Rules to provide adequate notice and timely availability of tariff filings to the public (See 41 FR 4727).

1. This proceeding was instituted by a Notice of Inquiry and Proposed Rulemaking (Notice) released on February 10, 1978 (FCC 78-82) 57 FCC 2d 1148 (1976). As stated in the Notice, the proposed rules would amend §§ 1.773, 61.32 and 61.58 of the Commission's Rules, 47 CFR 1.773, 61.32 and 61.58. The proposed revisions are intended to make copies of transmittal letters, tariff schedules, supporting cost material and other information more promptly and directly available to the printer who makes copies of Commission records for sale to the public. They also suggest the amendment of our notice requirements for tariff filings.

2. Comments on the proposed rules were duly filed by the American Telephone and Telegraph Company (AT&T), the Computer and Business Equipment Manufacturers Association (CBEMA), GTE Service Corporation (GTE), ITT World Communications, Inc. (ITT), MCI Telecommunications Corporation (MCI), Southern Pacific Communications Company (SPC), TRT Telecommunications Corporation (TRT), Western Union International, Inc. (WUI), Western Union Telegraph Company (WUTC), and the law firm of Wilkinson, Cragun and Barker (WCB).

All except CBEMA, an association representing the business equipment manufacturing industry, and WCB, engaged in representing clients before the Commission, are communications common carriers. Reply comments were timely filed by AT&T, GTE, TRT, and WCB.

Background

3. While the aforementioned comments were under consideration Congress enacted amendments to Sections 203 and 204 of the Communications Act of 1934.¹ These amendments (1) established a maximum 90 day notice period for proposed tariff changes, (2) extended the maximum period for suspension of new or revised tariff provisions from three to five months, (3) authorized the Commission to allow a part of a tariff filing to go into effect, and (4) gave the Commission authority to allow tariff filings to go into effect temporarily pending a further order. After these statutory revisions became effective, the Commission issued two interlocutory Public Notices² which established temporary procedures for tariff filings until the Commission could revise its Rules to reflect the new law. Public Meetings were held by the Commission staff with customers, carriers, and other members of the public in order to obtain their views concerning appropriate periods of public notice for various types of tariff filings. After careful consideration of the parties' comments and proposals, the Commission amended Parts 0, 1, and 61 of its Rules and established new tariff notice periods. See, *Public Tariff Filings*, 62 FCC 2d 474 (1976). It should also be noted that other amendments to these sections of the Rules were made to take into account changes brought about by passage of the Government in the Sunshine Act, P.L. 94-409, 90 Stat. 1241 (1976). See, *Tariffs, Filing and Posting of*, 64 FCC 2d 635 (1977), *reconsidered*, 70 FCC 2d 1483 (1979). The parties' comments in the present Docket do not reflect the exigencies of the Sunshine Act. Thus, because of these subsequent events, the portions of the comments which relate to the amendment of Sections 1.773 and 61.58 have been superseded and are therefore moot.

Comments

4. As a result of the foregoing, we will focus our attention on the amendment of § 61.32 of the Rules. Because of the parties' comments, §§ 61.33 and 61.34 are also being amended. A review of the

¹ P.L. 94-376, 90 Stat. 1080 (1976).

² FCC 78-774, 61 FCC 2d 1188 (1978); FCC 78-811 (1978).

comments pertinent to these sections reveals the following viewpoints concerning changes in the requirements for submission of tariff materials.

5. The amendment proposed to Rule 61.32, as set forth in the Appendix to the Notice, was that a copy of the complete tariff publication, along with supporting data and the transmittal letter, be sent concurrently with the filing thereof to the commercial printer with whom the Commission annually awards a contract to make copies of Commission records for sale to the public. As stated in the Notice, several carriers had begun to follow this procedure voluntarily pursuant to written requests by Commission staff prior to the institution of this rulemaking. WCB noted that under the voluntary informal procedures some carriers would hand deliver tariff materials to the Commission but mail them to the printer, thereby causing a delay. To remedy the discrepancy in the time of receipt, WCB suggested that tariff materials be sent to the printer at its Commission office simultaneously and by the same means that they are filed at the Commission. AT&T submitted that it would be preferable to require that three copies of the tariff materials be submitted directly to the Secretary, with one designated to go to the printer. This, it said, would simplify the filing procedure by obviating the need for the printer to maintain an office at the Commission and by insuring contemporaneous filing. It proposed that this change be incorporated into Section 61.32, allowing the deletion of Section 61.34, which provides that two copies of each publication, in one package and under one letter of transmittal, be filed with the Commission. Another recommendation, by ITT and AT&T, was that the AT&T printer be required to fill orders for tariff materials within two business days. Without designating a specific time constraint, WCB and SPC also emphasized the importance of getting copies made quickly.

6. CBEMA asked that the rule require that a copy of all of the filing materials also be delivered directly to the Common Carrier Bureau on the date of filing with the Commission, in order to avoid delays from internal routing procedures. AT&T agreed generally but suggested that to require the copy to be sent to the Common Carrier Bureau, Tariff Division concurrently and by the same means as the original filing would serve the purpose of same day delivery while avoiding undue hardship when the filing is made by mail.

7. MCI proposed that a carrier which files tariffs in response to a Commission order be required to serve copies of the tariff provisions and supporting materials on all parties to the

proceeding. MCI also suggested that the Commission require all carriers providing domestic point-to-point communications services (other than program transmission services) to serve all other such carriers when it fills a tariff revision. These proposals were opposed by AT&T which argued that increased costs would ultimately have to be borne by the public and maintained that those who have an interest in receiving copies should pay for them.

8. Other comments addressed the content of various elements of the filing package. WUI proposed that Section 61.33 be amended to require that the transmittal letter contain a concise explanation of the content and nature of the filing being made. WCB asked that all subordinate calculations in supporting documentation be clearly displayed therein or else made available on request, and that claims that certain data are proprietary and confidential be disfavored except in limited circumstances.

Discussion

9. After careful consideration of all of the comments of the parties, we are of the opinion that §§ 61.32, 61.33 and 61.34 of the Rules should be amended as follows:

(a) Section 61.32 is to be amended to provide that the carrier shall file the entire publication (tariff schedules and supporting data) with the transmittal letter at the office of the commercial printer located on the Commission's premises and at the Office of the Chief, Tariff Review Branch, by the same means (hand delivery or mail) and at the same time that those documents are filed with the Commission. The copy submitted to the Tariff Review Branch will serve as the public reference copy and should be so labelled by the carrier. This simultaneous delivery requirements should (1) enable the printer to respond more quickly to requests from the public for copies of tariff materials, and (2) enable the Commission staff to avoid delay caused by internal routing procedures. Due to the short response times for filing petitions against these tariffs, these revisions should assist both those potential petitioners and the Commission staff. The provision previously contained in Section 61.34, requiring that two copies of each tariff publication be filed with the Commission, in a single package and under one letter of transmittal, is being transferred to this Section, with minor modifications, to clarify that this language refers to the official filing which is made with the Secretary of the

Commission.³ Carriers and others affected by these Rules are reminded that it is the date that the original tariff materials are filed at the Commission that will control. It remains the petitioner's responsibility to ascertain the actual date of filing in order to ensure timely responses.

(b) Section 61.33 is to be amended to require that a concise explanation of the nature and purpose of the tariff filing be included in the transmittal letter. Such an explanation should be helpful to quickly establish the basic nature of complex and often voluminous tariff filings.

(c) The substance of § 61.34, as indicated above, is being incorporated into § 61.32, and accordingly, will be deleted.

10. Other suggestions have been considered but are not adopted. WCB's proposal that we develop rules to discourage carriers' claims that their supporting data is proprietary and confidential is rejected inasmuch as we are of the opinion that such filings are very uncommon and should be reviewed on a case by case basis. In general, we have not been sympathetic to carriers making requests for confidential treatment. In any event, §§ 0.457 and 0.459 of the Commission's Rules⁴ adequately deal with bona fide claims of confidentiality.

11. Although we see some merit in AT&T's proposal that the copy of tariff materials for the printer be submitted along with those filed at the Office of the Secretary, we believe that it is on the whole better to require the copy to be filed directly with the printer. Since it is already routine for the printer to maintain an office on the Commission's premises, this procedure should pose no particular hardship, and it will serve to guard against potential administrative and routing delays.

12. MCI's suggestion that a carrier which files tariffs in response to a Commission order be required to serve complete copies on all parties to the proceeding overlooks the fact that a basic purpose of filing a tariff is to give the public notice and opportunity for all interested persons to respond to the filing. The proposal would mainly favor other carriers by providing them with direct notice and free copies of tariff materials, while leaving other interested persons to check Commission filings and to pay for any desired copies.

13. Other comments were made concerning the prompt completion of

³Because we are requiring carriers to file one copy of their tariff material with the Tariff Review Branch, we will require that only one copy be filed with the Secretary's Office.

⁴47 CFR §§ 0.457 and 0.459.

copying orders and also about the date from which the time for filing opposition to tariff filings should run. Such changes were intended to enable interested parties to acquire actual notice of a tariff filing and to ensure that they have adequate time for response. However, we believe that the changes adopted in this proceeding will significantly improve the ability of interested persons to obtain prompt actual notice of tariff filings. Moreover, because of statutory time constraints on prior notice requirements (90 days maximum under Section 203(b) of the Act, 47 U.S.C. 203(b)), we do not believe an action which would lessen the period for Commission review of petitions would be advisable.

14. Authority for the Rules adopted is contained in Sections 2, 3, 4(i), and 4(j), 203 and 403 of the Communications Act, as amended, 47 U.S.C. §§ 152, 153, 154(i), 154(j), 203 and 403.

15. Accordingly, it is ordered, effective December 19, 1979, that Part 61 of the Rules and Regulations is amended as set forth in the Appendix hereto, and this proceeding is terminated.

(Secs. 1, 2, 4, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 152, 154, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602) Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix

Part 61, Chapter X of Title 47 of the Code of Federal Regulations, is amended to read as follows:

1. In § 61.32, the headnote and text are amended to read as follows:

§ 61.32 Method of filing publications.

Tariff publications sent for filing shall be addressed to "Secretary, Federal Communications Commission, Washington, D.C. 20554." One copy of each publication, including all supporting information, shall be filed under a letter of transmittal. The date of which the tariff publication is filed with the Secretary shall be considered the official filing date. Simultaneously with the filing of the publication with the Secretary of the Commission and by the same means (hand delivery or mail), the filing carrier shall send a copy of the entire publication with all supporting information and the transmittal letter (1) to the commercial firm (at its office on the Commission's premises) to whom the Commission annually awards a contract to make copies of Commission records and offer them for sale to the public, and (2) to the Chief, Tariff Review Branch. The copy filed with the

Tariff Review Branch shall be clearly labelled "Public Reference Copy."

2. Section 61.33 (c) is added to read as follows:

§ 61.33 Letters of transmittal.

(c) A statement giving a concise explanation of the nature and purpose of the filing shall be included in the transmittal prescribed above.

§ 61.34 [Deleted and Reserved]

3. Section 61.34 is deleted in its entirety [Number reserved.]

[FR Doc. 79-3558 Filed 11-20-79; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 68

[CC Docket No. 78-331; FCC 79-728]

Connection of Terminal Equipment to the Telephone Network; Providing for Certain Exceptions Required To Protect the National Defense and Security as Well as Other Appropriate Exceptions

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: FCC granted an exception to the terminal equipment registration requirements of Part 68 of its Rules to the Department of Defense and other governmental agencies in instances where compliance would compromise the national security and defense. All other proposals for general exceptions were denied.

EFFECTIVE DATE: January 1, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eliot J. Greenwald, Common Carrier Bureau, 202-632-6312.

SUPPLEMENTARY INFORMATION:

Adopted: November 6, 1979.

Released: November 14, 1979.

In the matter of amendment of Part 68 of the rules to provide for certain exceptions required to protect the national defense and security as well as other appropriate exceptions; CC Docket No. 78-331; memorandum opinion and order.

1. On June 5, 1978 (43 FR 54666) the American Telephone and Telegraph Company (AT&T) sought to revise its Tariff F.C.C. No. 263 to require that as of July 1, 1979¹ customer premises equipment, systems, and protective apparatus (hereafter referred to in the aggregate as "premises equipment")

¹This date was later extended to January 1, 1980.

used in connection with long distance message telecommunications service (MTS) must conform to the registration requirements of Part 68 of the Commission's Rules, 47 CFR 68.1 *et seq.* Part 68 provides for a telephone equipment registration program intended to permit direct electrical connection of customer premises equipment to the nationwide telephone network without harm, and without a requirement for telephone company furnished protective devices (connecting arrangements). The Department of Defense (DOD) requested that we suspend and investigate this tariff. It claimed, among other things, that compliance (that is, registration) would result in the public release of classified information in certain circumstances, thus compromising the national security and defense.

2. In Order FCC 78-712, 69 FCC 2d 1810 (1978), we noted the general areas where DOD asserted these classified equipment items, locations, and project and exercises would normally occur. Moreover, we found merit in DOD's contention that the equipment registration program was never intended to interfere with national security or defense. Accordingly, in that order, we initiated a rulemaking to determine whether a "narrowly drawn" exception to the registration requirements of Part 68 of the Rules should be carved out for government agencies in instances where the agency can certify that the equipment and systems will not harm the public telephone network and where disclosure of equipment, locations or projects and exercises would compromise national security and defense. 69 FCC 2d at 1811-12. Further, on our own motion, we decided to consolidate into this rulemaking the issue of whether Part 68 should be amended to recognize other special historical exceptions to earlier tariff requirements prohibiting interconnection of customer premises equipment.² All told, we specifically requested comments on the following issues:

(a) Should there be an exception to the general requirements of Part 68 of the FCC's Rules, running to equipment or systems provided by governmental agencies in instances where compliance with part 68 might compromise the

²Prior to the promulgation of Part 68, AT&T's tariffs prohibited the direct interconnection of customer provided equipment with the telephone network. There were exceptions, however. These excepted customers have included railroads, pipeline companies, right of way companies, "service station" lines, and customers in hazardous or inaccessible locations.

national security or defense? How shall any such exception be defined?

(b) Are there any special customer circumstances, such as those expressed in the historical special "interconnection" tariff regulations for pipeline, right-of-way, and railroad companies, as well as "service station" lines and hazardous or inaccessible locations, which would also warrant special treatment under Part 68 of the FCC's Rules? How shall the contours of any such special treatment be defined?

(c) What procedures, if any, should be adopted for any exceptions to Part 68 of the FCC's Rules which might be promulgated under (a) or (b) above to assure that equipment or systems connected to the nationwide telephone network do not cause it harm?

(d) What specific rules or rule changes should be adopted in Part 68 of the FCC's Rules consistent with the foregoing?

69 FCC 2d at 1813.

3. Comments or reply comments have been filed by 11 interested persons. See Appendix A. Their comments are summarized in Appendix B. After carefully considering these comments, we find, for reasons to be stated below that public interest and national defense considerations warrant an exception to Part 68 of the Rules in instances where compliance with the registration requirements would compromise the national security. On the other hand, for reasons also to be discussed, we are unable to find a public benefit in creating for the first time a special exception to the registration requirements for those who have traditionally benefitted from the historical exceptions to tariff prohibitions against customer provided equipment.

I. National Defense and Security

4. As noted, DOD has brought to our attention four general areas where classified equipment items, locations and projects and exercises normally occur: communications support of the President and other senior officials, particularly in travel status; communications support of U.S. intelligence agencies; communications support of criminal investigative activities; and, finally, communications support of other classified or sensitive activities approved at Cabinet-official levels. There is no dispute, moreover, among those filing comments that if DOD or other governmental agencies were compelled to meet the present notification and registration requirements of Part 68, public release of

otherwise classified information would result.

5. In our judgment, the possibility of public disclosure under such circumstances makes neither good law nor good sense. As stated in our earlier order, the Part 68 registration program has never been intended to interfere with national security and defense. See 69 FCC 2d at 1811. We are mindful in this regard of our statutory responsibility under Section 1 of the Communications Act to regulate communications in part for the purpose of national defense. 47 U.S.C. 151. Moreover, we would reiterate here our observation, in our *Third Report and Order* in Docket 19528, that certain "special" entities such as governmental agencies have in the past been presumed by carriers to be competent to install and maintain their own telephone equipment and communications systems. See 87 FCC 2d 1255, 1272 (1978). In short, nothing in the comments or in the record before us dissuades us from concluding that an exception under these special circumstances is warranted.³

6. What little dispute there is in the instant comments on the national security and defense exception concerns its implementation rather than propriety. Thus, GTE Service Corporation (GTE) suggests that we limit the exemption to classified locations. We find GTE's proposal too narrow, however. The equipment or certain projects and exercises which GTE seeks to exclude from the scope of the exception may be subject to security classification, yet occur at unclassified locations. In other words, GTE's proposal might leave DOD vulnerable to the very disclosure it rightly seeks to avoid.

7. We emphasize, nevertheless, that the exception we fashion here is to be limited to security classified matters. Any broader exception in our view would compromise the salutary purposes behind the registration program we long ago found in the public interest. Thus, as stated in our instituting order, if unclassified equipment is used in any unclassified location, and classified projects or

³ We would also note that Part 68 at present applies to customer premises equipment directly connected to the public switched network only, that is, message telephone service (MTS) and wide area telephone service (WATS). We are, however, currently considering proposed rules to encompass the direct connection of premises equipment to certain private line services. See Order FCC 79-334 (CC Docket 79-143), 72 FCC 2d 330 (1979). Regardless of the outcome there, the national defense and security exception we promulgate here is intended to be broad enough to exempt DOD and other governmental agencies from Part 68 registration and notification requirements for all services.

exercises are not involved, DOD or other governmental agencies will continue to be subject to Part 68 requirements. See 69 FCC 2d at 1812.

8. In light of the above considerations, our new rule provides that DOD or other governmental agencies approved by this Commission shall be exempted from Part 68 requirements when disclosure adversely affects national defense and security. (The text of these revisions is set forth in Appendix C.) DOD and other agencies will be required, however, to certify to the affected carrier that the connection is required in the interest of the national security and defense; that the equipment or device complies with the technical requirements of Part 68 or will not harm the telephone network or carrier employees; and that only well-trained, qualified employees of DOD or other agencies will perform the installation under the supervision and control of an individual qualified under § 68.215(c) of the Rules, 47 CFR 68.215(c).⁴

9. We recognize that the above scheme is not in full accord with the views of some parties. For example, the North American Telephone Association (NATA) proposes that exemptions be cleared with the Commission in order to prevent telephone companies from discriminating in favor of their own manufacturing affiliates. AT&T, in turn, suggests that DOD or other agencies be required to certify that their equipment complies with Part 68's technical requirements. Finally, Continental Telephone Corporation (Continental) proposes that DOD and other agencies be required to certify that they will assume all responsibility for harm to the telephone network, and to promulgate instructions for processing damage claims.

10. These suggestions may be readily disposed of. Regarding the suggestion that the Commission pre-screen exemption requests, we see no need to involve ourselves beyond approval of those agencies that are to be eligible for the national security exemptions, and publishing that list in the Federal Register. Notification that connections are being made pursuant to an authorized exception will be made to the telephone companies. This approach is consistent with the way in which customers have ordinarily complied with Part 68, and we find no basis to depart from that procedure here. As to the claim of discrimination, moreover, where, as here, the telephone company could not be given the design

⁴ This provision sets out the qualifications for supervising installation of other than "fully-protected" premises wiring.

specifications of the DOD equipment, we fail to see how a telephone company-owned manufacturer would attain a favored status. Stated differently, the telephone company would have no way of knowing under our exemption which manufacturer's equipment DOD or other governmental agencies is using.

11. As to AT&T's suggestion that DOD and other agencies be required to certify that their equipment complies with the technical requirements of Part 68, we find that the proposal is too narrowly drawn. Ordinarily, if a manufacturer wishes to directly connect equipment that does not comply with Part 68, it must seek a rule change or waiver. However, in the case of security classified equipment, such a request is not feasible. The very fact that equipment is classified precludes the governmental entity from publicly seeking a rule change or waiver. Under these circumstances, we believe the more sensible resolution is to afford DOD and other agencies the option of certifying that the equipment will not harm the telephone network or telephone company employees.

12. Finally, we reject Continental's proposal that DOD and other agencies be required to certify that they will assume all responsibility for harm to the telephone network and promulgate instructions for processing damage claims. As stated in DOD's reply comments, tort liability for DOD and other Federal entities is governed by the Federal Tort Claims Act, 28 USC §§ 1346, 2671-80 as well as 50 USC § 1431, Executive Order No. 10789, November 14, 1958, Sections 10, 15 and 17 of the Defense Acquisition Regulations (DARS), and similar provisions in the Federal Procurement Regulations (FPR). In particular, Section 15 of the DARS and similar provisions in the FPR would permit financial payment to a carrier pursuant to a contract for known, identifiable and quantifiable costs incurred by the carrier as a result of interconnection under a national defense and security exemption from Part 68. Overall, the cited provisions in our view preempt any need for this Commission to promulgate further rules concerning damages.

II. Other Historical Exceptions to Interconnection Prohibitions

13. We recognize that many entities such as railroads, right-of-way companies, pipeline companies, and customers in hazardous or inaccessible locations have successfully interconnected pursuant to tariff exceptions to the telephone network for many years. In fact, the very success of

these historical exceptions helped formulate the basis for the Commission's interconnection program because these exceptions demonstrated that customer owned equipment and systems can be interconnected without harm to the network. Docket No. 19528, *First Report and Order*, 56 FCC 2d 593, 598 (1975). Thus, Part 68 was designed to insure that any entity, including the historically excepted customers could interconnect provided that there was no harm to the network.

14. The question raised here is whether these historical exceptions need be continued by operation of a special Commission rule under a regime where the rights of interconnection are now routinely conferred upon any qualified customer who can satisfy the notification and registration requirements. Accordingly, we address now the comments by interested persons—in the main railroads, pipeline companies, and utilities—who contend that there is nevertheless a public purpose in continuing their excepted status.

15. We turn first to the railroads. The gravamen of their complaint appears to be hardships which assertedly would be imposed by their having to comply with § 68.215 of the Rules. That rule governs the installation of other than "fully-protected" premises wiring. Of particular concern are the supervisor requirements imposed by § 68.215(c).

16. We find no such hardship, however. Section 68.215 has been amended since the filing of comments in this proceeding. See Dockets No. 19528, 20774, 21182 and RM-2829, 70 FCC 2d 1800, 1850 (1979). Section 68.215(c)(4) now permits licensed professional engineers to supervise the interconnection of other than fully-protected premises wiring, thus mooted the objections raised concerning the supervision requirements of that section. Also, the Commission has greatly reduced the amount of paperwork necessary to satisfy the documentation requirements of § 68.215(e).⁵ Thus the objections raised concerning the affidavit requirements are moot as well.

17. The Union Pacific Railroad Company (Union Pacific) also objects to Section 68.215(f), (acceptance testing for imbalance) and the § 68.215(g)(3) inspection procedures which are included as part of the § 68.215(g) extraordinary procedures. It claims that these procedures will be burdensome, and may lead to discrimination. However, § 68.215(f) involves only

⁵ See Part 68 Blanket Affidavit Procedure Available, Public Notice Mimeo No. 16384, April 12, 1979.

simple routine testing to see that equipment will not harm the telephone network. Such testing is hardly burdensome to Union Pacific. Furthermore, equipment that fails these tests either produces an audible hum or other excess noise, does not produce a proper dial tone, or does not break the dial tone upon dialing. Faulty equipment can potentially cause harm to the telephone network. Thus, there are sound public interest reasons for having all customers subject to this rule.

18. The complaint against § 68.215(g) fares no better. That section's extraordinary procedures may be invoked only when either (1) information in the supervisor's affidavit gives reason to believe a violation of Part 68 is likely; (2) a failure has occurred during acceptance testing for imbalance; or (3) harm has occurred, and there is reason to believe that it has resulted from the wiring operations performed under that section. Obviously, under any of the above adverse circumstances, the telephone network must be protected. Section 68.215(g) is intended to provide procedures for such protection. Thus, a company that properly installs equipment that is not harmful to the network would be unaffected by § 68.215(g). For these reasons, we find no merit in these objections by the railroads.

19. The pipeline companies and energy utilities ask for a special exemption from Part 68. They claim that compliance would be burdensome, expensive, and inflationary. They fail to explain, however, what the costs would be or how these added costs would affect their customers. Furthermore, as shown, the revisions to § 68.215 discussed above reduce or eliminate many of the alleged burdens.⁶

20. The pipeline companies and energy utilities additionally argue that the use of protective devices will reduce the efficiency and reliability of their systems. However, § 68.215 allows for the direct interconnection of non-protected registered or grandfathered circuitry, obviating the need for protective devices in many circumstances. Also, contrary to the claims of these companies, equipment

⁶ These parties also complain of many technical problems that concern private line services. However, this is not the appropriate proceeding to consider these issues. This is a proceeding concerning whether there should be any general exceptions to Part 68. The issues raised concern specific technical problems that do not warrant a general exception and are thus more appropriately raised in a petition for rulemaking. If unique and unusual circumstances surround the registration of particular premises equipment, a request for a rule waiver may be the appropriate approach.

such as power supplies need not be registered and may be connected pursuant to § 68.215.

21. The Utilities Telecommunications Council (UTC) argues that its members interconnect with the public switched network in emergencies only, and then, only on a manual basis. Part 68, however, is designed to protect the network at all times, and thus emergencies do not, in our view, warrant a general exemption. Similarly, whether control is manual or automatic, the network must be protected.

22. The utilities and pipeline companies contend that the Commission's decision to exempt hazardous and inaccessible locations from the plug and jack requirements of Part 68 (see Docket No. 20774, 41 F.R. 28694, 28699, July 12, 1976) creates the inference that hazardous and inaccessible locations should be completely exempt from the registration requirements. That reading, however, is simply incorrect. Rather, our intention there was to exempt the standard plug and jack requirements, and not to expand the scope of that exemption.⁷

23. Finally, Eastman Kodak (Kodak) urges that we grant an exception for large industrial plants. Part 68, it states, could not hope to define all the possible interconnection arrangements required in a large scale system. However, we find this rationale insufficient basis for the requested exception. Kodak has not stated why it cannot use grandfathered or registered equipment, and, in any event, § 68.215 provides for the interconnection of other than fully-protected premises wiring.

24. In sum, after carefully reviewing the comments and replies, we find that additional exceptions other than for the national defense or security are not in the public interest. Part 68 was promulgated to insure customers' rights to interconnect their own equipment and systems with the telephone network without causing harm. Moreover, as explained in our instituting order, application of Part 68 in a uniform and

⁷ In the event that we decide not to grant an exemption for hazardous and inaccessible locations and right-of-way companies, the energy companies request that we clarify the Part 68 definitions of "terminal equipment" and "systems" and explain whether equipment "behind" protective circuitry may be utilized without registration. In this regard we emphasize that Part 68 was designed to protect the telephone network from harm. Registered protected circuitry accomplishes this result, and any equipment behind registered protected circuitry need not comply with Part 68. However, equipment that is behind other than fully-protected circuitry must either be itself fully-protected circuitry or be connected in compliance with Section 68.215. APT's corollary request for a five year grandfather period will be addressed in Docket No. 79-143.

non-discriminatory fashion better serves the public interest.*

25. Accordingly, it is ordered, that pursuant to sections 1, 2(a), 4(i)-(j), 201(b), 202(a), 203, 205, and 403 of the Communications Act of 1934 (as amended), 47 USC §§ 151, 154(i)-(j), 201(b), 202(a), 203, 205, and 403, Section 68.2 of the FCC's Rules and Regulations, 47 CFR 68.2 is amended as specified in Appendix C of this Order. These amendments shall become effective January 1, 1980; however, governmental departments, agencies, or administrations that wish to qualify for interconnection of equipment or security devices pursuant to § 68.2(d) may file their requests immediately.

26. It is further ordered, that the American Telephone and Telegraph Company shall amend all applicable tariffs in a manner consistent with this Memorandum, Opinion and Order before January 1, 1980.

27. It is further ordered, that this proceeding is terminated.

(Secs. 1, 2, 4, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602; 48 Stat. as amended; 1064, 1066, 1070, 1071, 1072, 1073, 1076, 1077, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 152, 154, 201-205, 208, 215, 218, 313, 314, 403, 404, 410, 602) Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix A

Comments were filed by:

American Petroleum Institute
American Telephone and Telegraph Company
Association of American Railroads
Consolidated Rail Corporation
Continental Telephone Corporation
Department of Defense
Eastman Kodak Company
GTE Service Corporation
North American Telephone Association
Union Pacific Railroad Company
Utilities Telecommunications Council

Reply Comments were filed by:

American Petroleum Institute
American Telephone and Telegraph Company
Association of American Railroads
Department of Defense
North American Telephone Association
Utilities Telecommunications Council

Late Reply Comments were filed by:

Tennessee Valley Authority
United States Coast Guard

* Cf. Docket No. 19528, First Report and Order, 56 FCC 2d 593 (1975), where we determined that the registration program will apply to carriers as well as customers because "carrier-supplied terminal equipment possesses the same potential for harm to the network as does customer-supplied equipment. . . ." 56 FCC 2d at 601. Under these circumstances, it would be inconsistent for us to require carriers to comply with Part 68 in spite of their historic performance, yet except certain customers based on their historic performance.

Appendix B—Comments of the Parties

I. National Defense and Security Issues

1. In its comments, DOD explains that it has frequently connected its own telephone equipment and communications systems to telephone company provided services pursuant to AT&T's Tariff F.C.C. No. 263, Section 2.7.7. It adds that in many instances the specific types of equipment or their geographic location may be subject to security classification, or the equipment or location may be used for security classified projects and exercises. DOD lists four general areas where these classified equipment items, locations, and projects and exercises normally occur:

1. Communications support of the President and other senior United States officials, particularly when they are in travel status;

2. Communications support of United States intelligence agencies, including counterintelligence;

3. Communications support of criminal investigative activities, particularly of espionage, sabotage and subversion; and

4. Communications support of other classified or sensitive activities approved at Cabinet-official levels.

2. DOD states that compliance with present Part 68 of the Commission's Rules would result in the public release of classified information. It explains that both DOD and the National Security Agency (NSA) make extensive use of various communications security devices which are capable of operation in connection with telephone company provided services. Although the majority of these devices are employed to protect classified information relating to diplomatic, defense, intelligence, and executive matters, such devices are also used to protect unclassified information relating to the national security and defense.

3. However, DOD says, disclosure of information relative to security protection equipment, its deployed locations, envisioned uses, or sometimes even the mere fact of its existence, erodes the security the equipment has been designed to provide. Such disclosure, which might enable an adversary to more intelligently plan to exploit the security devices, increases the likelihood that foreign intelligence would target or intercept the communications security installations or equipment.

4. DOD also explains that it is in its interest that any equipment it interconnects be safe and reliable because harm to the telephone network would interfere with the very

communication system that DOD needs for the protection of the national security and defense. Thus, a Part 68 exception is necessary and in the public interest in instances where disclosure of information pertaining to the equipment or its location would compromise the national security and defense. DOD adds that it would be willing to certify that connection of such equipment is required in the interest of national security and defense and either that it complies with the technical requirements of Part 68 or that it will not cause harm to the telephone network or telephone company employees. It includes a proposed rule to create a national defense and security exception to Part 68.

5. In general, the other parties support the proposal to provide a Part 68 exception for governmental agencies in instances where compliance would compromise the national security and defense and the equipment and installations would not harm the telephone network. There is also general support of the proposal that the exception be drawn narrowly so as to limit it to equipment, locations, or projects and exercises that are classified.

6. The North American Telephone Association (NATA) expresses concern that any national security or defense exemption not discriminate between carriers and non-carriers, or between carrier-owned manufacturers and other manufacturers.

7. GTE Service Corporation (GTE) suggests that DOD should not be relieved of Part 68 registration requirements when installing equipment in nonclassified locations. It added that DOD should provide certificates to appropriately cleared telephone company personnel that the equipment exempted from registration will not harm the network.

8. Continental Telephone Corporation (Continental) initially asks that the Commission require that only well-trained, qualified employees perform the installations, modifications, and repairs. In addition, Continental asks that we require DOD to comply with the standards of Part 68 to the extent consistent with national security. Further, it requests that DOD be required to assume all responsibility for harm to the network. Lastly, it recommends that the Commission list in the Federal Register all governmental agencies that are eligible for an exception. Continental also included proposed language for such a rule.

9. The American Telephone and Telegraph Company (AT&T) stated that it would agree to an exception for DOD

provided that DOD certifies in writing that disclosure of information pertaining to the equipment, its location, or associated personnel or activity would adversely affect the national defense and security and that such equipment complies with the technical requirements of Part 68. AT&T also included a proposed rule.

10. DOD replied to the comments of NATA, GTE, Continental, and AT&T. In response to NATA, DOD stated that it is not the intent of DOD or NCS that the proposed national defense and security exemption from Part 68 result in discrimination between or among carriers, noncarriers, or manufacturers.

11. In response to Continental, DOD states that it does not object to a requirement that it employ only well trained and technically qualified personnel to perform the necessary interconnections and that it certify such to the Commission. DOD also does not object to Continental's proposal that any connections comply with Part 68 to the extent consistent with national security and that it certify to the telephone company that the connection must be made for national security purposes. DOD also agrees with printing in the Federal Register a list of entities eligible for a Part 68 exemption provided that the listing is by broad agency level as opposed to specific entities within an agency.

12. As to Continental's proposal that DOD and other entities assume responsibility for harm to the telephone network, DOD points out that the extent to which financial responsibility can be imposed upon a Federal Agency and the procedures to be used are spelled out in the Federal Tort Claims Act, 28 USC §§ 1346, 2671-80. In addition, DOD points out that 50 USC § 1431, Executive Order No. 10789, November 14, 1958, and Sections 10 and 17 of the Defense Acquisition Regulations (DARS) and similar provisions in the Federal Procurement Regulations (FPR) for civilian agencies permit indemnification of carriers in the event of extraordinary and unusual circumstances described there. Lastly, DOD mentions that Section 15 of the DARS and similar provisions in the FPR would permit financial payment to a carrier pursuant to a contract for known, identifiable and quantifiable costs incurred by the carrier as a result of interconnection under a national defense and security exemption from Part 68.

13. DOD interprets Continental's proposal as requiring a case-by-case Commission review of Government agency requests for an exemption which would be followed by a public notice granting each individual exemption.

DOD criticizes this idea because it would create an unnecessary workload for the Commission and the disclosure of individual Part 68 exemptions would erode the security that the exemption is supposed to protect. Also, DOD explains that it, as well as other agencies, often must make connections of a security nature in emergencies, and the time delay resulting from the need for Commission approval would hinder the ability of DOD and other agencies to respond to the emergencies.

14. DOD criticizes GTE's proposal that a Part 68 exemption be limited to classified locations because classified equipment can be used at both classified and unclassified locations and classified projects and exercises can occur at single or multiple locations of both a classified and unclassified nature. Thus, grant of an exemption for classified locations only would be too narrow to protect the national defense and security.

15. As to AT&T's proposal that DOD and other agencies must certify that terminal equipment and systems interconnected pursuant to the national defense and security exception comply with the technical requirements of Part 68, DOD argues that the specific nature and functional makeup of communications security devices does not permit governmental assurance that each device will at all times meet the technical requirements of Part 68. Nevertheless, DOD asserts that the use of such equipment will not harm the telephone network. Thus DOD proposes that it be required to certify either that the equipment or device complies with the technical requirements of Part 68 or it will not cause harm to the telephone network or telephone company employees.

16. In its reply comments, NATA objects to AT&T's proposal that DOD and other governmental agencies notify the appropriate common carrier that disclosure of information would adversely affect the national defense and security. NATA fears giving common carriers the function of administering Part 68 exceptions would create a situation favoring carriers and their manufacturing affiliates. Instead, NATA proposes that DOD and other agencies certify to the Commission that connection of the equipment is required and that it complies with Part 68 or will not harm the network. NATA also supports DOD's proposal that equipment may be connected if DOD and other agencies can certify that it does not cause harm, even if Part 68 is not complied with.

17. The United States Coast Guard supports DOD.

II. Issues Involving Other Historical Exceptions to Interconnection Prohibitions

18. The Association of American Railroads (AAR), the Union Pacific Railroad Company (Union Pacific), and the Consolidated Rail Corporation (Conrail) each claim that the requirements of Section 68.215 of the Rules, 47 CFR § 68.215, would place an undue burden on the railroads. Section 68.215 governs the installation of other than "fully-protected" premises wiring.

19. The AAR, Conrail, and Union Pacific all object to Section 68.215(c)(3) which, at the time comments were filed, required that interconnection of equipment be under the responsible control and supervision of a person trained by and qualified to act as an installation agent of the manufacturer. The AAR and Union Pacific each object to the documentation provisions of Section 68.215(e) which requires notarized affidavits prepared by the installation supervisor of each operation associated with other than fully-protected premises wiring. Also, Union Pacific asks that railroads be exempted from Section 68.215(f), acceptance testing for imbalance, and the 68.215(g)(3) inspection procedures which are included as a part of the 68.215(g) extraordinary procedures.

20. The American Petroleum Institute (API) urges a Part 68 exception for all products and pipeline companies operating along right-of-ways and in hazardous or inaccessible locations, and the Utilities Telecommunications Council (UTC) asks for the same for energy utilities. Each organization argues that its members have successfully interconnected their own equipment with the telephone network for many years and have not caused any harm to telephone company facilities or employees.

21. The two associations claim that compliance with the registration requirements is burdensome, expensive, and inflationary, and that use of protective devices will reduce the efficiency and reliability of their specialized systems. They also claim that certain equipment used, such as emergency power sources, cannot be registered, and that nonuniform application of Part 68 by various telephone companies allows them to interconnect certain equipment in some areas but not others. In addition, they contend that exemption of hazardous and inaccessible locations from the plug and jack requirements of Part 68 (Docket No. 20774, 41 FR 28694, 28699, July 12, 1976) creates the inference that hazardous and inaccessible locations

should be completely exempt from the registration requirements of Part 68. Lastly, UTC argues that energy utilities are entitled to an exemption because they interconnect with the public switched network in emergencies only, and when they do interconnect, the interconnection is manually controlled.

22. In the event the Commission decides that an exemption from Part 68 should not be granted for hazardous and inaccessible locations and right-of-way companies, API argues alternatively that it clarify Part 68 in relation to defining "terminal equipment" and "systems," and explain whether equipment "behind" protective circuitry may be utilized without registration. API also asks for a grandfather period of at least five years to facilitate Part 68 implementation.

23. Eastman Kodak Company (Kodak) suggests that the Commission except large-scale interconnected telephone systems, for example, those operated by pipeline companies and large industrial plants. Kodak argues that Part 68 could not hope to define all the possible interconnection arrangements required in a large system which is operating industry-type equipment in a similar fashion to an independent telephone company.

24. AT&T, Continental, GTE, and NATA each object to any exceptions to Part 68 of the Rules save for the national defense and security exception. They explain that Part 68 was established to protect the telephone network from harm which might be caused by connection of terminal equipment and to administer the standards in a fair and even-handed manner. It is their understanding that Part 68 was designed to eliminate the historical exceptions to telephone company tariffs prohibiting interconnection by allowing those entities that have had the exceptions to be able to interconnect in a manner consistent with Part 68. They maintain that allowing exceptions to Part 68 would defeat its very purpose.

25. In its reply comments, AAR supports UTC and asks for a general exception from Part 68 for the railroads similar to the one proposed by UTC. The Tennessee Valley Authority supports UTC.

26. UTC added that it thought the AC voltage limitations listed in Section 68.306(b)(4), 47 CFR § 68.306(b)(4), were to severe. It claimed that the restriction will preclude the type acceptance of commonly used pilot wire relays.¹

¹The relay measures the current follow on an electrical transmission line, converts it to a low voltage AC signal of 80 Hz and delivers it to the communications channel. The companion relay at

27. In their reply comments, AT&T and NATA state that uniform application of Part 68 is necessary to protect the telephone network from harm. Rather, AT&T suggests that parties propose changes to Part 68 to remove any unnecessary burdens.

28. AT&T and NATA each mention that the specific problems raised by UTC relate to private line usage and should be dealt with in the proceeding concerning that issue. As to UTC's claim that interconnection with the public switched network occurs during emergency situations only, NATA explains that there is as much need for network protection during an emergency as during non-emergency periods.

Appendix C

Part 68—*Connection of Terminal Equipment to the Telephone Network, Subpart A* is amended as follows:

1. In § 68.2, paragraph (a) is revised and a new paragraph (d) is added to read as follows:

§ 68.2 Scope.

(a) *General.* Except as provided for in paragraphs (b), (c), and (d), the rules and regulations in this Part apply to the direct connection of all terminal equipment to the telephone network, for use in conjunction with all services other than party line service and coin service.

(d) *National Defense and Security.* Where the Secretary of Defense or authorized agent or the head of any other governmental department, agency, or administration (approved in writing by the Commission to act pursuant to this rule) or authorized representative, certifies in writing to the appropriate common carrier that compliance with the provisions of Part 68 could result in the disclosure of communications equipment or security devices, locations, uses, personnel, or activity which would adversely affect the national defense and security, such equipment or security devices may be connected to the telephone company provided communications network without compliance with this Part, provided that each written certification states that:

- (1) The connection is required in the interest of national defense and security;
- (2) The equipment or device to be connected either complies with the technical requirements of this part or will not cause harm to the nationwide

the other end of the transmission line performs a similar task and the two AC voltages are compared.

telephone network or telephone company employees; and

(3) The installation is performed by well-trained, qualified employees under the responsible supervision and control of a person who meets the qualifications stated in § 68.215(c).

Governmental departments, agencies, or administrations that wish to qualify for interconnection of equipment or security devices pursuant to this section shall file a request with the Secretary of this Commission stating the reasons why the exemption is requested. A list of those departments, agencies, or administrations that have filed requests shall be published in the Federal Register. The Commission may take action with respect to those requests 30 days after publication. The Commission action shall be published in the Federal Register. However, the Commission may grant, on less than the normal notice period or without notice, special temporary authority, not to exceed 90 days, for governmental departments, agencies, or administrations that wish to qualify for interconnection of equipment or security devices pursuant to this section. Requests for such authority shall state the particular facts and circumstances why authority should be granted on less than the normal notice period or without notice. In such cases, the Commission shall endeavor to publish its disposition as promptly as possible in the Federal Register.

[FR Doc. 79-35859 Filed 11-20-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 83 and 91

[SS Docket No. 78-324; FCC 79-723]

Aiding Pollution Prevention, To Broaden Permissible Communications Aboard Vessels Involved in Large Oil Transfer Operations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: To expand the circumstances under which on-board frequencies may be used aboard vessels involved in oil transfer operations. The United States Coast Guard (USCG) is extending their regulations to apply to additional categories under which communications are required to be provided during oil transfer operations. This action will permit vessel operators to comply with the revised USCG regulations.

EFFECTIVE DATES: December 19, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Walter E. Weaver, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Report and Order (Proceeding Terminated)

Adopted: November 6, 1979.

Released: November 14, 1979.

By the Commission:

In the matter of amendment of Parts 83 and 91—to aid pollution prevention, to broaden permissible communications aboard vessels involved in large oil transfer operations.

1. The Notice of Proposed Rulemaking in this proceeding was released on October 12, 1978 (43 FR 47578) (FCC 78-701), and was published in the Federal Register on October 16, 1978 (43 FR 47578). The dates for filing comments and replies have passed.

Background

2. In 1972 the United States Coast Guard (USCG) initiated a regulatory proceeding to require communications be provided between persons at both ends of a facility while transferring oil to or from vessels. The objective was to avoid accidental spillage and the pollution of waters resulting therefrom. In 1977 the USCG initiated a further regulatory action to fix the lower limit of large oil transfers (at 250 barrels) and to expand the requirement for mandatory communications to other oil transfer operations.

3. In keeping with the USCG 1977 action, this rulemaking proposed to expand the circumstances under which frequencies available for on-board communications may be used aboard vessels involved in oil transfer operations. The term on-board communications refers to the Maritime Mobile Service voice communications used within a vessel or its immediate vicinity. We proposed, further, to discontinue licensing the low power Business Radio frequencies aboard ship.

Commenters

4. Timely comments were filed by the American Institute of Merchant Shipping (AIMS), American Waterways Operators, Inc. (AWO), and the Central Committee on Communication of the American Petroleum Institute (API). The United States Coast Guard has provided a letter to ensure correct interpretation of the USCG's requirements. No other comments were filed.

Disposition

5. Our first proposal was to expand the provisions of § 83.815(a)(2) to permit the usage of on-board frequencies to

fulfill the new (1977) requirements promulgated by the USCG. Numerous changes were suggested to the proposed language of this section. As a consequence, we have rewritten Section 83.815(a)(2), as set forth in the attached Appendix. We believe the rewritten version of this section adequately fulfills the views expressed.

6. Our second proposal was to discontinue, by amending § 90.75, our current practice of licensing low power Business Radio frequencies aboard ship. There was general opposition to this second proposal and we have, therefore, dropped it.

7. Regarding questions on matters covered by this document contact Walter E. Weaver, (202) 632-7175.

8. On the basis of the above considerations, it is ordered, That pursuant to the authority contained in Section 4(i) and 303 (b), (c), (d), (f), (g), and (r) of the Communications Act of 1934, as amended, Parts 83 of the Commission's rules, is amended, effective December 19, 1979, as set forth in the attached Appendix.

9. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission, William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 83.815, paragraph (a)(2) is amended to read as follows:

§ 83.815 Points of communication.

(2) To aid in oil pollution prevention during transfer of oil (250 barrels or greater) from one ship to another ship, barge or lighter, and return; or from ship to onshore facility for transfer (250 barrels or greater) of cargo oil or for vessel fueling (bunkering).

[FR Doc. 79-35857 Filed 11-20-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE

COMMISSION

49 CFR Part 1008

[Ex Parte No. 342]

Procedures Governing the Processing, Investigation and Disposition of Overcharge, Duplicate Payment, or Overcollection Claims

AGENCY: Interstate Commerce Commission.

ACTION: Modification of Final Rules.

SUMMARY: Rule 1008.9(a) providing for disposition of unidentified payments will require carriers to provide one notice of an unidentified payment to the payor. This rule is amended to require that a meaningful single notice must be clearly stated, in writing and provide sufficient information to payor. Upon receipt of information from payor, the carrier shall, within 14 days, make a complete refund, or request additional information, or notify payor of its determination.

EFFECTIVE DATE: December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202-275-7693).

SUPPLEMENTARY INFORMATION: In our prior decision, 358 I.C.C. 114, served September 1, 1978, published in the Federal Register at 43 FR 41040, we adopted regulations providing uniform procedures for the expeditious processing and disposition by motor carriers and freight forwarders of claims for overcharge, duplicate payment and overcollection. In our decision on reconsideration, served January 10, 1979, 359 I.C.C. 211, we ordered a limited reopening of the record to receive additional evidence on the subject of unidentified payments. Notice was published in the Federal Register on January 23, 1979 (44 FR 4679). Except for § 1008.9(a), the rules, with minor modifications, became effective February 22, 1979. Section 1008.9(a), addressed to unidentified payments, was stayed pending further order of the Commission.

The proposed rule reflects our belief that an automatic refund policy, rather than resolve the problem of unidentified payments, may aggravate it. Our conclusion that an automatic refund is inappropriate is based on several considerations: (1) It places an undue evidentiary burden upon the carriers, and relieves shippers from any responsibility in providing accurate information on remittances; (2) Carriers emphasize the possibility that an automatic refund policy might foster an attitude of indifference on the part of shippers in providing required information.

We believe that the burden of providing multiple notices would be prohibitive especially to smaller carriers with manual accounting systems. A single notice providing sufficient data and explanation, and specifically including a clear warning that it will be the only notice provided, is all that can fairly be required of carriers.

We agree that a meaningful single notice must be clearly stated and

provide sufficient information to payor. Rule 1008.9(a) will be modified to include an additional paragraph (2). It will provide that notice shall be in writing and clearly indicate that it is a notice and not a bill. The notice shall include: the check number, amount, and date; the payor's name and any additional information the carrier is able to provide.

Although we believe the definition of unidentified payments adopted in § 1008.2(e) is basically realistic, the definition will be reworded to eliminate the suggestion that all unidentified payments are, in fact, payments for transportation services. Accordingly, the regulations as published at 43 FR 41040 are amended as follows:

§ 1008.2 [Amended]

Section 1008.2(e) is modified as follows:

(e) "unidentified payment" means a payment which a carrier has received but which the carrier is unable to match with its open accounts receivable or otherwise identify as being due for the performance of transportation services.

§ 1008.9 [Amended]

Section 1008.9(a) is amended as follows:

(a) (1) Carriers shall establish procedures for identifying and properly applying all unidentified payments. If a carrier does not have sufficient information with which properly to apply such a payment, the carrier shall notify the payor of the unidentified payment within 60 days of receipt of the payment and request information which will enable it to identify the payment. If the carrier does not receive the information requested within 90 days from the date of the notice, the carrier may treat the unidentified payment as a payment in fact of freight charges owing to it. Following the 90-day period, the regular claims procedure under this part shall be applicable.

(2) Notice shall be in writing and clearly indicate that it is a final notice and not a bill. Notice shall include: the check number, amount, and date; the payor's name; and any additional basic information the carrier is able to provide. The final notice also must inform payor that: (i) Applicable regulations allow the carrier to conditionally retain the payment as revenue in the absence of a timely response by the payor; and (ii) following the 90-day period the regular claims procedure shall be applicable.

(3) Upon a carrier's receipt of information from the payor, the carrier shall, within 14 days: (i) Make a

complete refund of such funds to the payor; or (ii) notify the payor that the information supplied is not sufficient to identify the unapplied payment and request additional information; or (iii) notify the payor of the carrier's determination that such payment was applicable to particular freight charges lawfully due the carrier. Where no refund is made by the carrier, the carrier shall advise the payor of its right to file a formal claim for refund with the carrier in accordance with the regular claims procedure under this part.

These rules are issued under the authority of 5 U.S.C. 553 and 559 and 49 U.S.C. 10321.

Dated at Washington, D.C. this 7th day of November, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis, Commissioner Gresham not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35880 Filed 11-20-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations; Amendments

AGENCY: Office of Foreign Assets Control.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the amendments is to make available to the public certain basic definitions, interpretations, general licenses, and procedures contained in sections that were reserved when the Regulations were issued on November 15, 1979 (44 FR 65956). The need for the amendments is that the Regulations, as published contemporaneously with Executive Order 12170 declaring a national emergency and blocking Iranian assets, of necessity omitted certain essential provisions. These include definitions, interpretations, general licenses, and procedures which affected persons need in order to fully understand and properly comply with the Regulations. The effect of the amendments is that business enterprises, attorneys, and other members of the public will have available to them appropriate guidance on the proper interpretation of the

Regulations, the standards and procedures for obtaining specific licenses, and other matters.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220 (202) 376-0236.

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation and a delay in effective date are inapplicable.

The Iranian Assets Control Regulations are amended as follows:

1. Title 31 CFR Part 535, Subpart C, is amended by revising § 535.320 and adding new §§ 535.316, 535.317, 535.318, and 535.321 to read as follows:

Subpart C—General Definitions

§ 535.316 License.

Except as otherwise specified, the term "license" shall mean any license or authorization contained in or issued pursuant to this part.

§ 535.317 General license.

A general license is any license or authorization the terms of which are set forth in this part.

§ 535.318 Specific license.

A specific license is any license or authorization issued pursuant to this part but not set forth in this part.

§ 535.320 Domestic bank.

(a) The term "domestic bank" shall mean any branch or office within the United States of any of the following which is not Iran or an Iranian entity: any bank or trust company incorporated under the banking laws of the United States or of any state, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States or of any state, territory or district of the United States. The Secretary of the Treasury may also authorize any other banking institution to be treated as a "domestic bank" for the purpose of this definition or for the purpose of any or all sections of this part.

(b) For purposes of §§ 535.413, 535.508, 535.531 and 535.901, the term "domestic bank" includes any branch or office within the United States of a non-Iranian foreign bank.

§ 535.321 United States; continental United States.

The term "United States" means the United States and all areas under the jurisdiction or authority thereof including the Trust Territory of the Pacific Islands. The term "continental United States" means the states of the United States and the District of Columbia.

2. Title 31 CFR Part 535 is amended by adding a new Subpart D—Interpretations, consisting of § 535.413 to read as follows:

Subpart D—Interpretations

§ 535.413 Transfers between dollar accounts held for foreign banks.

Transfers authorized by § 535.901 include transfers by order of a non-Iranian foreign bank from its account in a domestic bank (directly or through a foreign branch or subsidiary of a domestic bank) to an account held by a domestic bank (directly or through a foreign branch or subsidiary) for a second non-Iranian foreign bank which in turn credits an account held by it abroad for Iran. For the purposes of this section, a non-Iranian foreign bank means a bank which is not a person subject to the jurisdiction of the United States.

3. Subpart E is amended by adding new §§ 535.502, 535.503, and 535.566 to read as follows:

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 535.502 Effect of subsequent license or authorization.

(a) No license or other authorization contained in this part or otherwise issued by or under the direction of the Secretary of the Treasury pursuant to section 203 of the International Emergency Economic Powers Act, shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such license or other authorization specifically so provides.

(b) No regulation, ruling, instruction, or license authorizes a transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Treasury Department and specifically refers to this part. No regulation, ruling, instruction or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of Parts 500, 505, 515, 520 or 530 of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

§ 535.503 Exclusion from licenses and authorizations.

The Secretary of the Treasury reserves the right to exclude any person from the operation of any license or from the privileges therein conferred or to restrict the applicability thereof with respect to particular persons, transactions or property or classes thereof. Such action shall be binding upon all persons receiving actual notice or constructive notice thereof.

§ 535.566 Unblocking of foreign currency deposits held by U.S.-owned or controlled foreign firms.

Deposits held abroad in currencies other than U.S. dollars by branches and subsidiaries of persons subject to the jurisdiction of the United States are unblocked, provided however that conversions of blocked dollar deposits into foreign currencies are not authorized.

4. Title 31 CFR Part 535 is amended by adding a new Subpart H—Procedures to read as follows:

Subpart H—Procedures

- 535.801 Licensing.
- 535.802 Unblocking.
- 535.803 Decision.
- 535.804 Records and reporting.
- 535.805 Amendment, modification, or revocation.

Subpart H—Procedures

§ 535.801 Licensing.

(a) *General licenses.* General licenses have been issued authorizing under appropriate terms and conditions many types of transactions which are subject to the prohibitions contained in Subpart B of this part. All such licenses are set forth in Subpart E of this part. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of certain general licenses are required to file reports and statements in accordance with the instructions specified in the licenses.

(b) *Specific licenses.*—(1) General course of procedure. Transactions subject to the prohibitions contained in Subpart B of this part which are not authorized by general license may be effected only under specific license. The specific licensing activities of the Office of Foreign Assets Control are performed by its Washington Office and by the Federal Reserve Bank of New York.

When an unusual problem is presented, the proposed action is cleared with the Director of the Office of Foreign Assets Control or such person as he may designate.

(2) *Applications for specific licenses.* Applications for specific licenses to engage in any transaction prohibited by or pursuant to this part are to be filed in duplicate on Form TFAC-27 with the Federal Reserve Bank of New York. Any person having an interest in a transaction or proposed transaction may file an application for a license authorizing the effecting of such transaction, and there is no requirement that any other person having an interest in such transaction shall or should join in making or filing such application.

(3) *Information to be supplied.* Applicant must supply all information specified by the respective forms and instructions. Such documents as may be relevant shall be attached to each application as a part of such application except that documents previously filed with the Office of Foreign Assets Control may, where appropriate, be incorporated by reference. Applicants may be required to furnish such further information as is deemed necessary to a proper determination by the Office of Foreign Assets Control. If an applicant or other party in interest desires to present additional information or discuss or argue the application, he may do so at any time before or after decision. Arrangements for oral presentation should be made with the Office of Foreign Assets Control.

(4) *Effect of denial.* The denial of a license does not preclude the reopening of an application or the filing of a further application. The applicant or any other party in interest may at any time request explanation of the reasons for a denial by correspondence or personal interview.

(5) *Reports under specific licenses.* As a condition upon the issuance of any license, the licensee may be required to file reports with respect to the transaction covered by the license, in such form and at such times and places as may be prescribed in the license or otherwise.

(6) *Issuance of license.* Licenses will be issued by the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury or by the Federal Reserve Bank of New York, acting in accordance with such regulations, rulings and instructions as the Secretary of the Treasury or the Office of Foreign Assets Control may from time to time prescribe, in such

cases or classes of cases as the Secretary of the Treasury or the Office of Foreign Assets Control may determine, or licenses may be issued by the Secretary of the Treasury acting directly or through any person, agency, or instrumentality designated by him.

§ 535.802 Unblocking.

Any interested person desiring the unblocking of accounts or other property on the ground that neither Iran nor any Iranian entity has an interest in the property may file such an application. Such application shall be filed in the manner provided in § 535.801(b) and shall contain full information in support of the administrative action requested.

The applicant is entitled to be heard on the application. If the applicant desires a hearing, arrangements should be made with the Office of Foreign Assets Control.

§ 535.803 Decision.

The Office of Foreign Assets Control or the Federal Reserve Bank of New York will advise each applicant of the decision respecting applications filed by him. The decision of the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury with respect to an application shall constitute final agency action.

§ 535.804 Records and reporting.

Records are required to be kept by every person engaging in any transaction subject to the provisions of this part.

Reports may be required from any person with respect to any transaction subject to the provisions of this chapter or relative to any property in which any foreign country or any national thereof has any interest.

§ 535.805 Amendment, modification, or revocation.

The provisions of this part and any rulings, licenses, authorizations, instructions, orders, or forms issued thereunder may be amended, modified, or revoked at any time.

Authority: Secs. 201-207, 91 Stat. 1626; 50 U.S.C. 1701-1706; E.O. No. 12170, 44 FR 65729.

Dated: November 19, 1979.

Stanley L. Sommerfield,
Director.

Approved:
Richard J. Davis,
Assistant Secretary.

[FR Doc. 79-36201 Filed 11-19-79; 5:04 pm]

BILLING CODE 4810-25-M

Proposed Rules

Federal Register

Vol. 44, No. 226

Wednesday, November 21, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CIVIL AERONAUTICS BOARD

14 CFR Part 233 and 302

[EDR-387B; PDR-68B; Docket 36497;
Dated: November 15, 1979]

Transportation of Mail and Establishment of Mail Rates; Rules Applicable to Mail Rate Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Extension of Comment Period.

SUMMARY: The CAB is extending until December 11, 1979, the filing date for reply comments in a rulemaking proceeding that proposes modification in the procedures by which air mail rates are set.

DATES: Reply Comments by: December 11, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 36497, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Lawrence Myers, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5791.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking EDR-387/PDR-68, 44 FR 52248, September 7, 1979, the Board proposed to establish new procedures for setting interstate, overseas, and foreign mail rates under section 406 of the Federal Aviation Act. Comments were due by October 22, 1979, with reply comments due November 6, 1979. In a supplemental

notice, EDR-387A/PDR-68A, at the request of several local service carriers, we extended those filing dates by approximately 2 weeks, so that comments were due by November 5, 1979, and reply comments by November 20, 1979.

The U.S. Postal Service (USPS) has asked that we extend the date for the filing of reply comments until December 11, 1979. USPS stated that the time given to respond to the many and varied comments, which exhaustively treat the complex issues raised in the proposed rule, is too short. USPS has asked for the extension of time to provide a thorough response to the comments filed on the complicated issues in this rulemaking.

For the reasons given by USPS, I find good cause to grant the requested extension of time. This is an important rulemaking, and the Board needs the most complete discussion possible on the issues. The extension will allow all parties the time needed to analyze carefully and to respond to the initial comments already filed.

Under authority delegated in 14 CFR 385.20(d), the time for filing of reply is therefore extended until December 11, 1979, as requested.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

Richard B. Dyson,
Associate General Counsel, Rules and Legislation.

[FR Doc. 79-35945 Filed 11-20-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 144, 151, and 159

Extension of Time for Comments Concerning Proposed Amendments to the Customs Regulations Relating to Public Gaugers of Imported Petroleum and Petroleum Products

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This document extends the period of time permitted for the submission of comments in response to the recent proposal to amend the

Customs Regulations relating to public gaugers of imported petroleum and petroleum products. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATE: Comments must be received on or before December 14, 1979.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Alice M. Rigdon, Cargo Processing Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

On November 7, 1979, the Customs Service published in the Federal Register (44 FR 64434), notice of a proposal to amend Parts 4, 144, 151, and 159, Customs Regulations (19 CFR Parts 4, 144, 151, 159), to incorporate recommendations of a Customs Petroleum Imports Task Force for establishing guidelines and procedures applicable to the use of public gaugers in monitoring imports of petroleum and petroleum products. As fully explained in that notice, the purpose of the proposed amendments is to ensure proper control of imported petroleum and petroleum products and uniform, complete, and reliable statistics relating to the importation of these products.

Comments

Customs has received a request from an industry trade association to extend the period of time for the submission of comments in order to prepare a more detailed response. Therefore, the period of time for submission of comments is extended to December 14, 1979.

Dated: November 16, 1979.

Salvatore E. Caramagno,
Acting Director, Office of Regulations and Rulings.

[FR Doc. 79-35883 Filed 11-20-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Social Security Administration

20 CFR Part 416

(Reg. No. 16)

Supplemental Security Income for the
Aged, Blind and Disabled; Filing of
Applications; Proposed RuleAGENCY: Social Security Administration,
HEW.

ACTION: Proposed Rule.

SUMMARY: The Social Security Administration is revising its regulations to make them clearer and easier for the public to use. As part of this effort we are proposing a complete revision of Subpart C which contains the rules for filing an application for supplemental security income (SSI) benefits. We have completely reorganized and rewritten the rules in simpler, briefer language.

We are also including a new policy which allows the date of an oral inquiry to be used as the filing date of an application. We published an amendment reflecting this policy on July 2, 1979.

DATES: We will consider your comments if we receive them no later than January 21, 1980.

ADDRESSES: Send your written comments to: Social Security Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

Anyone can see copies of all comments we receive at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 1169, 330 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Dyer, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7454.

SUPPLEMENTARY INFORMATION: The Social Security Administration is in the process of revising all of its regulations to make them easier to read and more helpful to the public.

Filing an application is generally a requirement for receipt of benefits under the Social Security Act. The application permits us to make a decision on a person's entitlement to benefits and protects the person's right to appeal if he or she is not satisfied with the decision. In some situations when a person is already entitled to receive benefits, and

seeks a different type of benefit, he or she may become entitled to the new benefit without filing a new application.

This subpart deals only with applications for supplemental security income (SSI) benefits. Regulations dealing with the application requirement for retirement, survivors, and disability benefits, for black lung benefits, and for a social security number appear in Parts 404, 410 and 422 of Title 20 of the Code of Federal Regulations.

In rewriting the regulations we propose to clarify the rules about the use of the date of written statement as the filing date. We restated the rule to make clear that the filing date of an application may be based on a written statement if the applicant files a prescribed application form within a specified period of time.

A new policy permitting the use of the date of an oral inquiry whether in person or by telephone, to protect a person's filing date appears in § 416.345 of this proposed regulation. We published this policy in an amendment to the regulations on July 2, 1979.

We plan to relocate § 416.337 which explains the responsibilities of applicants prior to the final decision on their applications. We will place the provisions of this section in Subparts B and G of Part 416.

(Catalog of Federal Domestic Assistance Program No 13.807, Supplemental Security Income Program)

Dated: October 5, 1979.

Stanford G. Ross,

Commissioner of Social Security.

Approved: November 8, 1979.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

Subpart C of Part 416 is Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart C—Filing of Applications

General Provisions

Sec.

416.301 Introduction.

416.302 Definitions.

416.305 You must file an application to receive supplemental security income benefits.

Applications

416.310 What makes an application a claim for benefits.

416.315 Who may sign an application.

416.320 Evidence of authority to sign an application for another.

416.325 When an application is considered filed.

Effective Filing Period of Application

416.330 Filing before the first month you meet the requirements for eligibility.

Sec.

416.335 Filing in or after the first month you meet the requirements for eligibility.

Filing Date Based Upon a Written Statement or Oral Inquiry

416.340 Use of date of written statement as application filing date.

416.345 Use of date of oral inquiry as application filing date.

416.350 Treating a title II application as an oral inquiry about SSI benefits.

Withdrawal of Application

416.355 Withdrawal of an application.

416.360 Cancellation of a request to withdraw.

Authority: Secs. 1102, 1611, and 1631 of the Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1486, 86 Stat. 1475; (42 U.S.C. 1302, 1382, 1383)

Subpart C—Filing of Applications

General Provisions

§ 416.301 Introduction.

This subpart contains the rules for filing a claim for supplemental security income (SSI) benefits. It tells you what an application is, who may sign it, who must file one to be eligible for benefits, the period of time it is in effect, and how it may be withdrawn. It also tells you when a written statement or an oral inquiry may be considered to establish an application filing date.

§ 416.302 Definitions.

For the purpose of this subpart—"Benefits" means any payments made under the SSI program. SSI benefits also include any federally administered State supplementary payments.

"Claimant" means the person who files an application for himself or herself or the person on whose behalf an application is filed.

"We" or "us" means the Social Security Administration (SSA).

"You" or "your" means the person who applies for benefits, the person for whom an application is filed or anyone who may consider applying for benefits.

§ 416.305 You must file an application to receive supplemental security income benefits.

(a) *General rule.* In addition to meeting other requirements, you must file an application to become eligible to receive benefits. If you believe you may be eligible, you should file an application as soon as possible. Filing an application will—

(1) Permit us to make a formal determination whether or not you are eligible to receive benefits;

(2) Assure that you receive benefits for any months you are eligible; and

(3) Give you the right to appeal if you disagree with the determination.

(b) *Exceptions.* You need not file a new application if—

(1) You have been receiving benefits as an eligible spouse and have been living apart from your husband or wife (who is an eligible individual) for more than 6 months;

(2) You have been receiving benefits as an eligible spouse of an eligible individual who has died;

(3) You have been receiving benefits because you are disabled or blind and you are 65 years old before the date we determine that you are no longer blind or disabled.

Applications

§ 416.310 What makes an application a claim for benefits.

An application will be considered a claim for benefits, if the following requirements are met:

(a) An application form prescribed by us must be filled out.

(b) It must be filed at a social security office, at another Federal or State office we have designated to receive applications for us, or with a person we have authorized to receive applications for us. See § 416.325.

(c) The claimant or someone who may sign an application for the claimant must sign the application. See §§ 416.315 and 416.320.

(d) The claimant must be alive at the time the application is filed. See §§ 416.340, 416.345, and 416.350.

§ 416.315 Who may sign an application.

We will determine who may sign an application according to the following rules:

(a) If you are 18 years old or over, mentally competent, and physically able, you must sign your own application. If you are 16 years old or older and under age 18, you may sign the application if you are mentally competent, have no court appointed representative, and are not in the care of any other person or institution.

(b) If the claimant is under age 18, or is mentally incompetent, or is physically unable to sign the application, a court appointed representative or a person who is responsible for the care of the claimant, including a relative, may sign the application. If the claimant is in the care of an institution, the manager or principal officer of the institution may sign the application.

(c) To prevent a claimant from losing benefits because of a delay in filing an application when there is a good reason why the claimant cannot sign an application, we may accept an application signed by someone other than a person described in this section.

Example: Mr. Smith comes to a social security office a few days before the end of the month to file an application for SSI benefits for Mr. Jones. Mr. Jones, who lives alone, just suffered a heart attack and is in the hospital. He asked Mr. Smith whose only relationship is that of a neighbor and friend to file the application for him. We will accept an application signed by Mr. Smith since it would not be possible to have Mr. Jones sign and file the application until the next calendar month and a loss of one month's benefits would result.

§ 416.320 Evidence of authority to sign an application for another.

(a) A person who signs an application for someone else will be required to provide evidence of his or her authority to sign the application for the person claiming benefits under the following rules:

(1) If the person who signs is a court appointed representative, he or she must submit a certificate issued by the court showing authority to act for the claimant.

(2) If the person who signs is not a court appointed representative, he or she must submit a statement describing his or her relationship to the claimant. The statement must also describe the extent to which the person is responsible for the care of the claimant. This latter information will not be requested if the application is signed by a parent for a child with whom he or she is living. If the person signing is the manager or principal officer or an institution he or she should show his or her title.

(b) We may, at any time, require additional evidence to establish the authority of a person to sign an application for someone else.

§ 416.325 When an application is considered filed.

(a) *General rule.* We consider an application for SSI benefits filed on the day it is received by an employee at any social security office, by someone at another Federal or State office designated to receive applications for us, or by a person we have authorized to receive applications for us.

(b) *Exceptions.* (1) If using the date we receive an application results in a loss of benefits, we will use the date the application was mailed to us as shown by a United States postmark. If the postmark is unreadable or there is no postmark, we will consider other evidence of when the application was mailed. If we receive the application in the first 5 days of the month, we will presume that it was mailed before the end of the preceding month when there is no actual postmark to go by.

(2) We consider an application to be filed on the date of the filing of a written

statement or the making of an oral inquiry under the conditions in §§ 416.340, 416.345 and 416.350.

Effective Filing Period of Application

§ 416.330 Filing before the first month you meet the requirements for eligibility.

If you file an application for SSI benefits before you meet all the requirements for eligibility, it will be good up until we make a final decision on your application. In addition, if you request that the final decision be reviewed by a court, and the request is made within the time limit set for requesting the review by the court, the application is good up until the time the court makes its final decision. If you meet all the requirements for eligibility within these time periods, we can pay you from the first month that you meet all the requirements.

§ 416.335 Filing in or after the first month you meet the requirements for eligibility.

When you file an application in a month that you meet all the other requirements for eligibility, your application is good for payment as of the first day of that month. If you file an application after the month you first meet all the other requirements for eligibility, you cannot be paid for any month before the month you filed an application. See §§ 416.340, 416.345 and 416.350 on how a written statement or an oral inquiry made before the filing of the application form may affect the filing date of the application.

Filing Date Based Upon a Written Statement or Oral Inquiry

§ 416.340 Use of date of written statement as application filing date.

We will use the date we receive a written statement such as a letter, an SSA questionnaire or some other writing, as the filing date of an application for benefits if the following requirements are met:

(a) The written statement shows an intent to claim benefits for yourself or for another person.

(b) You, your spouse or a person who may sign an application for you signs the statement.

(c) An application form signed by you or by a person who may sign an application for you is filed with us within 60 days after the date of a notice we will send telling of the need to file an application. The notice will say that we will make an initial determination of eligibility for SSI benefits if an application form is filed within 60 days after the date of the notice. (We will send the notice to the claimant or, where he or she is a minor or incompetent, to

the person who gave us the written statement.)

(d)(1) The claimant is alive when the application on a prescribed form is filed, or

(2) If the claimant dies after the written statement is filed, the deceased claimant's spouse or someone on his or her behalf files an application form, and the surviving spouse is eligible for SSI benefits and was living with the deceased claimant within 6 months before the claimant's death. If we learn that the claimant has died before the notice is sent or within 60 days after the notice but before an application form is filed, we will send a notice to the claimant's spouse. The notice will say that we will make an initial determination of eligibility for SSI benefits only if an application form is filed on behalf of the deceased within 60 days after the date of the notice to the spouse and only if the surviving spouse was eligible for SSI benefits and was living with the deceased claimant within 6 months before the claimant's death.

§ 416.345 Use of date of oral inquiry as application filing date.

We will use the date of an oral inquiry about SSI benefits as the filing date of an application for benefits if the following requirements are met:

(a) The inquiry asks about the claimant's eligibility for SSI benefits.

(b) The inquiry is made by the claimant, the claimant's spouse, or a person who may sign an application on the claimant's behalf as described in § 416.315.

(c) The inquiry, whether in person or by telephone, is directed to an office or an official described in § 416.310(b).

(d) The claimant or a person on his or her behalf as described in § 416.315 files an application on a prescribed form within 60 days after the date of the notice we will send telling of the need to file an application. The notice will say that we will make an initial determination of eligibility for SSI benefits if an application form is filed within 60 days after the date of the notice. (We will send the notice to the claimant or, where he or she is a minor or incompetent, to the person who made the inquiry.)

(e)(1) The claimant is alive when the application on a prescribed form is filed, or

(2) If the claimant dies after the oral inquiry is made, the deceased claimant's spouse or someone on his or her behalf files an application form, and the surviving spouse is eligible for SSI benefits and was living with the deceased claimant within 6 months before the claimant's death. If we learn

that the claimant has died before the notice is sent or within 60 days after the notice but before an application form is filed, we will send a notice to the claimant's spouse. The notice will say that we will make an initial determination of eligibility for SSI benefits only if an application form is filed on behalf of the deceased within 60 days after the date of the notice to the spouse and only if the surviving spouse was eligible for SSI benefits and was living with the deceased claimant within 6 months before the claimant's death.

§ 416.350 Treating a title II application as an oral inquiry about SSI benefits.

(a) When a person applies for benefits under title II (retirement, survivors, or disability benefits) we will explain the requirements for receiving SSI benefits and give the person a chance to file an application for them if—

(1) The person is within 2 months of age 65 or older or it looks as if the person might qualify as a blind or disabled person, and

(2) It is not clear that the person's title II benefits would prevent him or her from receiving SSI or any State supplementary benefits handled by the Social Security Administration.

(b) If the person applying for title II benefits does not file an application for SSI on a prescribed form when SSI is explained to him, or her, we will treat his or her filing of an application for title II benefits as an oral inquiry about SSI, and the date of the title II application form may be used to establish the SSI application date if the requirements of § 416.345 (d) and (e) are met.

Withdrawal of Application

§ 416.355 Withdrawal of an application.

(a) *Request for withdrawal filed before we make a determination.* If you make a request to withdraw your application before we make a determination on your claim, we will approve the request if the following requirements are met:

(1) You or a person who may sign an application for you signs a written request to withdraw the application and files it at a place described in § 416.325.

(2) You are alive when the request is filed.

(b) *Request for withdrawal filed after a determination is made.* If you make a request to withdraw your application after we make a determination on your claim, we will approve the request if the following requirements are met:

(1) The conditions in paragraph (a) of this section are met.

(2) Any other person who may lose benefits because of the withdrawal consents in writing (anyone who could

sign an application for that person may give the consent).

(3) All benefits already paid based on the application are repaid or we are satisfied that they will be repaid.

(c) *Effect of withdrawal.* If we approve your request to withdraw an application, we will treat the application as though you never filed it. If we disapprove your request for withdrawal, we will treat the application as though you never requested the withdrawal.

§ 416.360 Cancellation of a request to withdraw.

You may cancel your request to withdraw your application and your application will still be good if the following requirements are met:

(a) You or a person who may sign an application for you signs a written request for cancellation and files it at a place described in § 416.325.

(b) You are alive at the time the request for cancellation is filed.

(c) For a cancellation request received after we have approved the withdrawal, the cancellation request is filed no later than 60 days after the date of the notice of approval of the withdrawal request.

[FR Doc. 79-35941 Filed 11-21-79; 8:45 am]
BILLING CODE 4110-07-M

DEPARTMENT OF STATE

22 CFR Part 161

(Docket No. SD 148)

Regulations for Implementation of the National Environmental Policy Act (NEPA)

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to add new regulations to implement the procedural provisions of the National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 *et seq.* and the Council on Environmental Quality's (CEQ) National Environmental Policy Act regulations (40 CFR Parts 1500-1508).

DATE: Written comments must be received by December 21, 1979.

ADDRESS: Comments should be addressed to Mr. William H. Mansfield, III, Bureau of Oceans and International Environmental and Scientific Affairs, Office of Environment and Health, Department of State, Room 7820, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: William H. Mansfield, III, Bureau of Oceans and International Environmental and Scientific Affairs, Office of Environment and Health, Room

7820, Department of State, Washington, D.C. 20520 (telephone 202/632-9266).

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* establishes national policies and goals for protecting the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward attaining those goals. All Federal agencies are required to give appropriate consideration in their decisionmaking to the environmental effects of their proposed actions and to prepare environment statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, on November 29, 1978 CEQ issued final regulations (43 FR 55978 *et seq.* November 29, 1978) for implementing NEPA (40 CFR Parts 1500-1508) (CEQ Regulations) which are binding on all Federal agencies as of July 30, 1979. The regulations provide that each Federal agency shall as necessary adopt implementing regulations to supplement the CEQ Regulations. Section 1507.3(b) of the CEQ regulations identifies those sections of the CEQ regulations which must be addressed in agency regulations.

The proposed Departmental regulations address policy and procedure in order to assure compliance with the spirit and substantive intent of NEPA. The proposed regulations reaffirm and codify the Department of State's policy for achieving the goals of section 101 of NEPA and implementing adequate procedures for planning, developing, and effecting Departmental actions. The regulations set forth general policy and procedural directives to assist Departmental officers in complying with the mandates of NEPA and the CEQ regulations.

The proposed Departmental regulations will be applicable to environmental review of major Federal actions with significant environmental effects within the United States. Departmental environmental review of major Federal actions with significant adverse environmental effects abroad is governed by the Department's environmental review procedures, which entered into effect on September 4, 1979 (FAMC No. 807A), published in the Notices section of this issue.

Accordingly, the Department of State proposes to add a new Subchapter Q,

Part 161 to Title 22 of the Code of Federal Regulations to read as set forth below.

SUBCHAPTER Q—ENVIRONMENTAL PROTECTION

PART 161—REGULATIONS FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Subpart A—General

Sec.
161.1 Purpose and scope.
161.2 Policy.
161.3 Applicability.
161.4 Definitions.

Subpart B—NEPA and Departmental Decisionmaking

161.5 Major decision points and timing.
161.6 Responsibilities of Departmental officials.

161.7 Categories of Actions.

Subpart C—Environmental Review Procedures

161.8 General description of the Department's NEPA process.
161.9 Specific steps in the Department's NEPA process.

Subpart D—Coordination of Other Requirements of NEPA

161.10 Non-Federal applicants for permits.
161.11 Environmental review and consultation requirements.
161.12 Environmental effects abroad of major departmental actions.

Authority: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 *et seq.*; Executive Order 11514, 34 FR 4247, as amended by Executive Order 11991, 42 FR 26927; 22 U.S.C. 2658, as amended.

Subpart A—General

§ 161.1 Purpose and scope.

These Departmental regulations are designed to supplement the CEQ Regulations and provide for the implementation of those provisions identified in § 1507.3(b) of the CEQ Regulations. The CEQ Regulations are incorporated herein by reference. The Department's regulations seek to assure that environmental considerations and values are incorporated into the Department's decisionmaking process and assign responsibility within the Department for assessing the significant environmental effects in the United States of the Department's actions.

§ 161.2 Policy.

It is the policy of the Department of State to use all practicable means, consistent with the Department's statutory authority, available resources and national policy, to:

(a) Protect and enhance the quality of the environment;

(b) Ensure that environmental amenities and values are appropriately considered in Departmental actions;

(c) Integrate planning and environmental review procedures with the Department's decisionmaking process;

(d) Invite and facilitate, when appropriate, Federal, State and local governmental authorities and public involvement in decisions which affect the quality of the environment; and

(e) Recognize the worldwide and long-range character of environmental concerns and, when consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.

§ 161.3 Applicability.

The provisions of these regulations apply to decisions on all Departmental actions which may affect the quality of the environment within the United States. The Department is establishing separate environmental review procedures under Executive Order 12114 (January 4, 1979) for actions having potential effects on the environment of global commons areas, such as the high seas, or areas outside national jurisdiction, such as Antarctica, or on the environment of foreign nations.

§ 161.4 Definitions.

Definitions for many terms used in these regulations may be found in section 1508 of the CEQ Regulations. In addition, as used in these regulations, the term:

(a) "Responsible action officer" means the Department officer principally responsible for the preparation of action memoranda and other documents relating to a given Departmental action to which by these regulations apply. Ordinarily, the responsible action officer will be the country or office director whose office has action responsibility for a given action.

(b) "CEQ Regulations" means the regulations implementing the procedural provisions of the National Environmental Policy Act, issued by the Council on Environmental Quality on November 29, 1978 (43 FR 55978-56007), and codified at 40 CFR Parts 1500-1508.

(c) "United States" means all States, territories and possessions of the United States and all waters and airspace subject to the jurisdiction of the United States.

(d) "Environmental document" means an environmental assessment, an environmental impact statement, a Finding of No Significant Impact or a

Notice of Intent prepared under these regulations.

Subpart B—NEPA and Departmental Decisionmaking

§ 161.5 Major decision points and timing.

(a) The responsible action officer shall ensure compliance with these regulations at the earliest practicable stage of Departmental study, consideration or planning of a proposed major Federal action which could significantly affect the quality of the human environment. To accomplish this the responsible action officer must ensure that data developed during the review process is collected, analyzed and made available for consideration early in planning and decisionmaking when it will be most valuable in formulating, reviewing and deciding upon proposals for Departmental action.

(b) Environmental analysis and review of a proposed Departmental action shall be conducted as early as practicable so as to be timely, yet late enough to be relevant to the decisionmaking.

(c) Environmental documents should whenever possible accompany the principal action memorandum relating to a proposed action. An environmental document required in conjunction with conclusion of an international agreement shall, where possible, be prepared and circulated for review and comment before final negotiations begin. The completed environmental document should thus ordinarily accompany the principal memorandum or request for authority to negotiate an agreement under the Department's Circular 175 regulation (11 FAM 720).

(d) Where practicable and appropriate, an environmental document should be prepared before the establishment of a final United States position on a proposal. In such cases the document should indicate the alternatives under consideration without specifying a Departmental preference. If the content and dimensions of a proposed action will not be clear until after the conclusion of an international negotiation or if a decision to proceed on an action involving another nation or international organization is required on short notice and before the environmental document can be prepared, the environmental document should be prepared as soon as possible after the conclusion of an agreed text of a treaty or agreement on the proposed action. If the Senate's advice and consent to a treaty with potential significant environmental effects in the United States will be sought the final environmental impact statement should

accompany other decision documentation for ratification. Legislative environmental impact statements on proposed treaties or legislation shall conform to the requirements of § 1506.8 of the CEQ Regulations and must be prepared in time for Congressional hearings and deliberations.

(e) Because actions having effects on the United States may to varying degrees be initiated, influenced and conducted by other countries, it is recognized that the preparation of environmental documents for such actions must be adjusted to meet a variety of circumstances. Bearing in mind the degree to which other countries possess information on and the ability to affect the decision under consideration, responsible action officers shall seek at all times to prepare environmental analysis documents as early as feasible in the decisionmaking process.

§ 161.6 Responsibilities of Departmental officials.

(a) *General.* As a general rule, responsibility for preparing environmental analysis documents will follow the Department's standard organizational practices; in this way environmental considerations and awareness of environmental responsibilities will be integrated most readily and effectively into the usual decisionmaking processes.

(1) *Departmental bureaus.* Each bureau within the Department shall be responsible for:

(i) Implementing these regulations and incorporating them into its normal decisionmaking processes.

(ii) Identifying actions it intends to initiate which may affect significantly the environment of the United States and employing the environmental evaluation procedures outlined in these regulations to ensure that necessary actions are taken to meet the requirements of applicable laws and regulations.

(iii) Coordinating environmental assessment-related activities for which it is responsible with the Office of Environment and Health in the Bureau of Oceans and International Environmental and Scientific Affairs and supporting and assisting the Office of Environment and Health in implementing these regulations as required.

(iv) Providing the personnel required to implement these regulations, informing the Office of Environment and Health and the Office of the Legal Adviser whenever it is anticipated that environmental documents will be

prepared under these regulations, and consulting the Office of Environment and Health and the Office of the Legal Adviser as necessary for guidance and assistance in the preparation of such documents.

(2) *Bureau of Oceans and International Environmental and Scientific Affairs.* Through its Office of Environment and Health the Bureau shall have the primary responsibility for ensuring the Department's compliance with environmental policies, regulations and procedures. It shall provide policy and professional direction and guidance within the Department for implementing these regulations. It shall also assist other bureaus in obtaining appropriate scientific advice and budgetary resources to implement the regulations. The Office of Environment and Health will act as the focal point for implementation, working closely with the Departmental bureaus and the Office of the Legal Adviser. The Bureau and other involved bureaus will work closely with the Assistant Secretary for Congressional Relations in the preparation of environmental documents relating to legislation. In carrying out its responsibilities the Bureau shall:

(i) Coordinate the formulation, development and revision of Departmental policies and positions on matters pertaining to environmental evaluation and review;

(ii) Develop and ensure the implementation of Departmentwide standards, procedures and working relationships for environmental review and compliance with applicable environmental laws and regulations;

(iii) Develop, as an integral part of the Department's basic decision processes, procedures to ensure that environmental factors are properly considered in all relevant proposals and decisions;

(iv) Monitor these processes to ensure that Departmental procedures are achieving their purposes;

(v) Advise, assist and inform Departmental bureaus of the technical and management aspects of environmental analysis, and of the relevant expertise available in and outside the Department;

(vi) Establish and maintain working relationships with the Council on Environmental Quality, Environmental Protection Agency, and other federal, State and local governmental agencies concerned with environmental matters;

(vii) Represent the Department in working with other government agencies and organizations to formulate, revise and achieve uniform understanding and application of government-wide policies relating to the environment;

(viii) Consolidate and transmit to the appropriate parties Departmental comments on environmental impact statements and other environmental reports prepared by other agencies; and

(ix) Acquire information for and prepare other Departmental reports on environmental assessment matters.

(3) *Office of the Legal Adviser.* The Office of the Legal Adviser is the principal Departmental authority on the legal aspects of environmental matters and the implementation of these regulations and shall advise and assist Departmental Bureaus in these matters.

(4) *Bureau Environmental Coordinators.* Each Departmental bureau and major office shall designate an officer to act as coordinator, adviser and principal point of contact for environmental matters within the bureau. The bureau coordinator will advise and assist the bureau in implementing these regulations and serve as a member of the Departmental Committee of Environmental Coordinators.

(5) *Departmental Committee of Environmental Coordinators.* A Departmental Committee of Environmental Coordinators shall be established to assist in coordinating Departmental implementation of these regulations; in providing advice on major issues, policies and procedures relating to the Department's implementation of environmental analysis requirements; and in ensuring general conformity of Departmental implementation practices. The Committee's responsibility will be to exchange information on the implementation of these regulations, assist bureaus in early identification of Departmental actions which should be analyzed for environmental effects and help to coordinate and provide the appropriate analysis. The Committee will be chaired by the Office of Environment and Health and will be comprised of bureau and office coordinators designated by the respective bureaus and offices.

(6) *Outside contractors.* Qualified outside contractors may be employed to assist Departmental officers in preparing environmental documents as required under these regulations.

§ 161.7 Categories of actions.

Departmental officers shall review each major Departmental action having a potentially significant effect on the quality of the environment in the United States. The need to prepare formal environmental documents will depend on the scope of the action and the context and intensity of any environmental effects expected if the

action is implemented. Departmental actions can generally be grouped into three categories, as follows:

(a) *Actions normally requiring environmental impact statements.* Any Departmental action deemed to have a "significant effect upon the quality of the human environment" of the United States requires the preparation of an environmental impact statement. The criteria to be used in determining significance are set forth in § 1506.27 of the CEQ Regulations. The Department has reviewed representative actions and has found no common pattern which would enable it to specify actions normally requiring environmental impact statements. If developments later enable such designations to be made the Department will publish a description of proposed actions for such designation in the *Federal Register*.

(b) *Actions categorically excluded from the requirement to prepare environmental impact statements.* Categorical exclusion, as defined in § 1508.4 of the CEQ Regulations, provides for exclusion from environmental review of specified actions which have as a class been found to have no significant impact on the quality of the human environment. Neither an environmental assessment nor an environmental impact statement is ordinarily required for such actions. Departmental actions categorically excluded from the requirements of these regulations include the following:

(1) Routine conduct of Departmental and overseas political and economic functions, including reporting on political and economic developments, trends and activities, communicating to host governments United States Government views, maintaining contact with foreign officials and individuals, and facilitating trade opportunities abroad and U.S. business expansion in foreign markets;

(2) Provision of consular services—visas, passports and citizenship, and special consular services, such as issuing or reviewing passports and visas, taking legal depositions, notarizing absentee ballots and other documents and delivering retirement checks, social security payments and veterans benefits;

(3) Conduct of routine administrative functions, such as budget and finance, personnel and general services. This includes routine administrative procurements (e.g., general supplies, negotiating leases for office space or staff housing, ordering supplies and arranging for customs clearances); financial transactions, including salaries, expenses and grants; routine management, formulation and allocation

of the Department's budget at all levels (this does not exempt the preparation of environmental documents for proposals included in the Department's budget when required); and personnel actions (e.g., promotions, hirings, and counseling American and host country employees who work for the Department of State);

(4) Preparing for and participating in conferences, workshops or meetings for information exchange, data collection or research or study activities; and

(5) Document and information exchanges.

Even though an action may be categorically excluded from the need for an environmental impact statement, if information developed during the planning for the actions indicates the possibility that the particular action in question may nonetheless cause significant environmental effects, an environmental assessment shall be prepared to evaluate those effects. Based upon the assessment, a determination will be made whether to prepare an environmental impact statement. The Department may designate additional actions for categorical exclusion by publishing a listing of actions proposed for such designation in the *Federal Register*.

(c) *Actions normally requiring environmental assessments.* An environmental assessment shall provide the basis of the determination whether an environmental impact statement is required. A Departmental action shall require the preparation of an environmental assessment if the action is not one known normally to require an environmental impact statement and is not categorically excluded. Departmental actions normally included in this category are actions for which the Department has lead-agency responsibility and which may significantly affect the human environment of the United States, such as those actions involving:

(1) Issuance of permits for construction of international bridges and pipeline (see Executive Order 11423 and the International Bridge Act of 1972 (Pub. L. 92-434, 86 Stat. 23));

(2) Wetlands, floodplains, endangered species and national historical, archeological and recreational sites (see also specific requirements for environmental review and consultation in § 161.11 of these regulations); and

(3) Ocean dumping, control of toxic substances, disposal and storage of wastes and radioactive substances.

(d) *Emergencies and other exceptional circumstances.* Not every Departmental activity will be considered a major Federal action for

the purposes of these regulations. Several limited classes of action which might ordinarily be subject to these regulations will not be considered major Federal actions requiring the preparation of an environmental impact statement. Among them are the following:

(1) Actions taken in emergency circumstances and disaster and emergency relief activities as defined in section 1506.11 of the CEQ Regulations (in such circumstance the responsible action officer should consult with the Office of Environment and Health which shall consult with the Council on Environmental Quality about appropriate alternative arrangements);

(2) Mandatory actions required under any treaty or international agreement to which the United States Government is a party, or required by the decisions of international organizations or authorities in which the United States is a member or participant;

(3) Payment of contributions, either assessed or voluntary, to any international organization of which the United States is a member pursuant to the obligation of a treaty or other international agreement or which is not for the purpose of carrying out a specifically identifiable action which would affect the environment; and

(4) Support for or acquiescence in (by affirmative vote or agreement to consensus) an activity or expenditure of funds by an international organization where the United States has no unilateral right to control such expenditures.

Subpart C—Environmental Review Procedures

§ 161.8 General description of the Department's NEPA process.

In reviewing proposed actions for potential environmental effects in the United States responsible action officers will follow the procedural steps required by the CEQ Regulations and set forth below. These steps are developed in more detail in the sections of these regulations which follow and in the referenced sections of the CEQ Regulations.

(a) *Preliminary environmental evaluations.* Early in the process of considering any possible action the responsible action officer shall review the action to determine if it may cause potential significant environmental effects on the environment of the United States. A proposed action shall be reviewed initially to determine into which of the following three basic categories of action it falls:

(1) Actions normally requiring environmental impact statements;

(2) Actions categorically excluded from environmental impact statements; or

(3) Actions normally requiring environmental assessments. If the responsible action officer concludes that the proposed action is a major action potentially having significant effects in the United States he should, in cooperation with other appropriate Departmental officials, carry out the steps described in these regulations. If during his review of the location of potential environmental effects or following preparation of an environmental assessment it is determined that the action could affect the environment of the global commons or a foreign nation the officer is responsible for ensuring compliance with the Department's procedures for implementing Executive Order No. 12114 on Environmental Effects Abroad of Major Federal Actions (FAMC No. 807A).

(b) *Environmental Assessment.* An environmental assessment is a concise document which analyses potential environmental effects to determine if an environmental impact statement is required (CEQ Regulations §§ 1501.3 and 1508.9). If the action does not fall into either the category of those actions normally requiring an environmental impact statement or that of actions categorically excluded from the requirement to prepare an environmental impact statement, then the responsible action officer in cooperation with other Departmental officials shall prepare an environmental assessment to determine whether it is necessary to prepare an environmental impact statement or a "Finding of no significant impact". If the action normally requires an environmental impact statement, there is ordinarily no need for the preparation of an environmental assessment and the environmental impact statement process should be initiated without preparing such an assessment. If the action is categorically excluded, no further environmental review is needed. If an environmental assessment is prepared it may also be used to evaluate whether the proposed action may have effects outside the United States.

(c) *Finding of no significant impact.* If the environmental assessment indicates that the environmental effects of the action in the United States are not significant, then the responsible action officer shall make a "Finding of no significant impact", thereby concluding the NEPA review process (CEQ Regulations §§ 1501.4 and 1508.13).

(d) *Environmental impact statement.* If the environmental assessment demonstrates that the environmental effects of the action with the United States may be "significant" (see § 1508.27 of the CEQ Regulations) the Department is required to prepare an environmental impact statement (EIS) in accordance with these regulations (see also CEQ Regulations § 1501.8, Part 1502 and §§ 1506.2 through 1506.7). In preparing the environmental impact statement the following steps will be carried out:

(1) *Notice of intent to prepare an EIS.* If an impact statement is required, the Department will publish in the Federal Register a "Notice of intent" to prepare such a statement (CEQ Regulations §§ 1501.7 and 1508.22).

(2) *Scoping procedures.* The Department will then hold a scoping meeting with interested agencies and individuals to determine the proper content ("scope") of the statement (CEQ Regulations §§ 1501.7 and 1508.25).

(3) *Draft environmental impact statement (DEIS).* The Department will then prepare a draft EIS (DEIS) which will be filed with the Environmental Protection Agency and circulated to agencies and the public for comment for at least 45 days, except where the CEQ Regulations and these regulations permit the time period to be shortened (CEQ Regulations §§ 1501.8, Part 1502, §§ 1506.2 through 1506.7, 1506.10(d) and 1506.11; §§ 161.7(d), 161.9(n)(2)).

(4) *Final environmental impact statement (FEIS).* In light of the comments and following any revision in the draft EIS, the Department will file with the Environmental Protection Agency and circulate to agencies and the public a final EIS at least 30 days before making a final decision on the action, except where the CEQ Regulations and these regulations permit the time period to be shortened (CEQ Regulations §§ 1506.9, 1506.10(d), 1506.11; §§ 161.7(d), 161.9(n)(2)).

(5) *Record of decision.* After making a decision on the action, the Department will make available a formal "Record of decision" (CEQ Regulations § 1505.2).

§ 161.9 Specific steps in the Department's NEPA process.

(a) *Decision whether to prepare a EIS.* In deciding whether to prepare an environmental impact statement, the responsible action officer shall make an initial review in the early planning stages of a proposed action to identify and evaluate potential environmental effects of the actions and all reasonable measures which may be taken to mitigate adverse impacts. This review must be conducted in conjunction with

all requests under the Department's Circular 175 procedure (11 FAM 720), with all actions involving the obligation of funds within the Department's annual or supplemental budget submissions to the Office of Management and Budget, and with other actions when a potentially significant environmental impact may result. The responsible action officer shall ensure that the principal action memoranda prepared for such actions properly reflect the environmental review in all cases. No written statement is required in the case of actions which do not raise the question of environmental impacts. The environmental evaluation document prepared shall be considered along with political, economic and other decisionmaking factors relating to the proposed action.

(1) *Review of the categories of actions.* During the initial environmental review of the proposed action, the responsible action officer should classify the proposed Departmental action as one either (i) normally requiring an environmental impact statement, (ii) normally not requiring such a statement, or (iii) normally requiring an environmental assessment. (See § 1504.1 of the CEQ Regulations and § 161.7 of these regulations.)

(i) *Actions normally requiring environmental statements.*

Environmental assessments are not required for actions which it is already known will require the preparation of environmental impact statements. For each major Departmental action which in the view of the responsible action officer meets the criteria of this section he shall, in cooperation with the Office of Environment and Health, initiate steps to prepare an environmental impact statement. This will be accomplished by preparing a "Notice of intent" to prepare an EIS (see § 1508.22 of the CEQ Regulations). The Office of Environment and Health shall arrange for publication of the notice in the Federal Register (see § 1507.3(e) of the CEQ Regulations). The responsible action officer shall then apply the procedures set forth in § 161.8 of these regulations to determine the scope of the proposed EIS, and proceed to prepare and release the environmental impact statement in accordance with CEQ and Departmental regulations. If, however, the responsible action officer believes that the proposed action, though included within or closely similar to one which normally requires the preparation of an EIS, will itself have no significant impact, he should conduct an environmental assessment in accordance with the CEQ Regulations

(§ 1508.9). If the assessment demonstrates that there will be no significant impact, he should prepare a "Finding of no significant impact" and provide for public review of this finding in accordance with §§ 1501.4(e) and 1506.6 of the CEQ Regulations.

(ii) *Actions categorically excluded.* Separate detailed documentation is not normally required for actions which are categorically excluded and which are therefore exempt from the requirement of preparations of an environmental assessment or environmental impact statement. However, the responsible action officer shall note in the action memorandum concerning the action that the proposed action has been reviewed under the Department's environmental procedures and determined to be categorically excluded. The Office of Environment and Health shall periodically review actions in the classes categorically excluded under these regulations to determine if the original decision to categorically exclude the class remains valid. If such a review determines that a proposed action may have a significant impact on the human environment the necessary revision in the categorical exclusion shall be made and an environmental assessment shall be prepared to determine the need for the preparation of an environmental impact statement.

(iii) *Actions normally requiring environmental assessments.* For each action meeting the criteria of this section the responsible action officer shall prepare an environmental assessment (see §§ 1501.3 and 1508.9 of the CEQ Regulations) and, on the basis of that assessment, determine if an EIS is required. If the determination is that no environmental impact statement is required, the responsible action officer shall, in coordination with the Office of Environment and Health, prepare a "Finding of no significant impact" (see §§ 1501.4 and 1508.13 of the CEQ Regulations). The "Finding of no significant impact" shall be made available to the public through direct distribution and publication in the Federal Register. If the determination is that an environmental impact statement is required, the official shall proceed with the "Notice of intent" to prepare an EIS and the subsequent steps in the preparation and release of an EIS in accordance with the CEQ Regulations (§§ 1501.7, 1507.3 and 1508.22) and these regulations.

(2) *Preparation of environmental assessments.* Environmental assessments, as defined in the CEQ Regulations (§ 1508.9), should be prepared as directed in § 1501.3 of the

CEQ Regulations. The environmental assessment shall be used to determine whether to prepare an environmental impact statement or a "Finding of no significant impact". The assessment shall include a brief discussion of the need for the proposed action, of alternatives and of environmental impacts and a listing of agencies and persons consulted in preparing the assessment.

(3) *Notice of intent to prepare an EIS.* As soon as practicable after deciding to prepare an environmental impact statement and before initiating the scoping process (see § 161.9(b) of these regulations) the Department or another lead agency, if one is designated in accordance with § 1501.5 of the CEQ Regulations, shall publish in the Federal Register a "Notice of intent" to prepare an EIS in accordance with §§ 1501.7 and 1508.22 of the CEQ Regulations. The Office of Environment and Health shall arrange for publishing the notice.

(b) *Scoping.* The Department shall conduct an early and open meeting with interested agencies and the public for determining the scope of issues to be addressed in a given environmental impact statement and for identifying the significant issues related to a proposed action. The elements of the scoping process are defined in § 1501.7 of the CEQ Regulations and must include consideration of the range of actions, alternatives, and impacts discussed in § 1508.25 of the CEQ Regulations.

(c) *Cooperation with other agencies.* Departmental officials are encouraged to cooperate with other agencies and the public throughout the conduct of the Department's NEPA process. The Office of Environment and Health shall ensure also that the Department reviews the draft and final impact statements submitted for review by other agencies (§ 1502.19 of the CEQ Regulations). Where appropriate and to eliminate duplication it shall arrange to prepare environmental assessments and impact statements jointly with other Federal or State agencies. Where possible it will arrange for the department to "adopt" statements prepared by other agencies (§ 1506.3 of the CEQ Regulations). It shall arrange lead and cooperating agency responsibilities for preparing environmental documents (see §§ 1501.5 and 1501.8 of CEQ Regulations).

(d) *Preparation of draft environmental impact statement.* The responsible action officer shall be responsible for the preparation of the draft environmental impact statement in the manner described in § 1501.8, Part 1502, and §§ 1506.2 through 1506.7 of the CEQ Regulations. Preliminary copies of the draft environmental impact statement

and attachments shall be submitted to the Office of Environment and Health before any formal review is conducted outside the Department. This submission shall be accompanied by a list of Federal, State, and local officials (Part 1503 of the CEQ Regulations) and a list of other interested parties (§ 1506.6 of the CEQ Regulations) whose comments shall be sought. The Office of Environment and Health shall review the draft and obtain additional comments from other appropriate Departmental bureaus and offices.

(e) *Review of and comment on draft EIS.* For external review, the Office of Environment and Health shall transmit five copies of the revised draft statement to the Environmental Protection Agency (EPA) Office of Federal Activities. EPA will publish a notice of the statement's availability the following week in the Federal Register. Upon transmission of the draft statement to EPA, the Office of Environment and Health shall also seek the views of appropriate agencies and individuals in accordance with Part 1503 and §§ 1506.6 and 1506.9 of the CEQ Regulations. It shall specify that replies are required at a stated date not earlier than 45 days from the date of NEPA publication of the draft statement availability. Any views submitted during the comment period shall be provided to the responsible action officer in the Department for consideration in preparing the final statement. To the fullest extent possible, requirements for review and consultation with other agencies on environmental matters established by statutes other than NEPA, such as the review and consultation requirements of the Endangered Species Act of 1973, as amended, should be met before or through this review process (see § 161.11 of these regulations). In addition, the draft EIS shall list all environmentally-related federal permits, licenses or other approvals required to implement the proposal as specified in § 1502.25(b) of the CEQ Regulations.

(f) *Public involvement.* (1) Departmental officials will make diligent efforts to involve the public in implementing these regulations as provided in § 1501.4(e), 1503.1(a)(e) and 1506.6 of the CEQ Regulations.

(2) Interested persons can obtain information on the Department's environmental impact statements and other aspects of the Department's NEPA process by contacting the Director, Office of Environment and Health, Room 7820, Department of State, Washington, D.C. 20520 (tel. 202/632-9266). Information pertaining to the NEPA

process may be sent to the above address. Federal Register notices concerning the Department's environmental documents shall specify where such information relevant to the documents in question may be obtained.

(3) The responsible action officer shall identify those persons, community organizations, environmental interest groups, international organizations or other bodies which may have an interest in or be affected by the proposed Departmental action and who should therefore be involved in the NEPA process. With the assistance of the Office of Environment and Health he shall transmit a list of such persons, groups and organizations to the Office of Environment and Health at the same time he submits:

- (i) A recommendation regarding a "Finding of no significant impact";
- (ii) A "Notice of intent to prepare an EIS";
- (iii) A recommendation on possible public hearings (see § 1506.6(c) of CEQ Regulations);
- (iv) A draft EIS; or
- (v) A final EIS.

(4) The responsible action officer shall consult with the Office of Environment and Health and make recommendations regarding the need for public hearings. The Office of Environment and Health shall, as necessary, review such recommendations with the Office of the Legal Adviser.

(g) *Preparation of final environmental impact statement.* (1) After conclusion of the review process with other Federal, State and local agencies and the public, the responsible action officer shall consider suggestions received and revise the draft environmental impact statement as appropriate in accordance with Part 1502 and §§ 1501.8 and 1506.2 through 1506.7 of the CEQ Regulations.

(2) Five copies of the preliminary final environmental impact statement, with attached copies of the comments received and suggested responses, shall be provided to the Office of Environment and Health. The Office of Environment and Health will, as appropriate, obtain additional comments from any other appropriate Departmental bureau or offices and notify the responsible action officer of any further changes required and the number of final statements to be transmitted. The Office of Environment and Health shall submit five copies of the final statement to the Environmental Protection Agency's Office of Environmental Review. Copies shall also be sent to all parties who commented and to other interested parties in accordance with § 1506.9 of the CEQ Regulations.

(3) Each draft and final statement, the supporting documentation, and the "Record of decision" (see § 161.9(h) of these regulations) shall be available for public review and copying at the Office of Environment and Health (OES/ENH), Room 7820, Department of State, Washington, D.C. 20520 (tel. 202/632-2418).

(h) *Record of the decision.* At the time of the decision on the proposed action, the responsible Departmental official shall consult with the Office of Environment and Health and prepare a concise "Record of decision" (see § 1505.2 of the CEQ Regulations).

(i) *Timing of EIS preparation and action decision.* Preparation of an environmental impact statement shall be initiated as soon as the responsible action officer in consultation with the Office of Environment and Health and the Office of the Legal Adviser, has determined that the statement shall be prepared. Except where permitted by the CEQ Regulations (§§ 1506.10(d), 1506.11) and these regulations (§§ 161.7(d), 161.9(n)(2)), no decision on the proposed action shall be made by the Department until the later of the following dates:

- (1) Ninety (90) days after publication by EPA of a notice of availability of a Departmental draft EIS.
- (2) Thirty (30) days after publication by EPA of a notice of availability of a departmental final EIS.

(j) *Implementing and monitoring the decision.* Section 1505.3 of the CEQ Regulations establishes the procedures to be followed by the Department in monitoring to assure that any mitigation measures or other commitments associated with the decision and its implementation are carried out. The Office of Environment and Health will maintain general oversight and cooperate with bureau officers in such monitoring.

(k) *Supplemental environmental impact statements.* Departmental officials shall supplement a draft EIS whenever an alternative which is substantially different from those discussed in the draft is under consideration or when the draft is otherwise out of date. A final EIS shall be supplemented when a substantial change is made in the proposed action or when significant new information on the environmental impacts comes to light. A supplemental EIS should be prepared, circulated and approved in accordance with the provisions of § 1502.9 of the CEQ Regulations. No supplemental EIS need be prepared when the final decision on the action in question has already been taken, if there are reasons not to prepare a

supplemental EIS when one ordinarily would be called for, the responsible action officer should consult with the Office of Environment and Health, which shall consult with the Council on Environmental Quality on the matter.

(l) *Programmatic and generic environmental impact statements.* (1) Before preparing an environmental document under these regulations the responsible action officer should determine if there exists a generic or programmatic environmental document analyzing actions, effects or issues similar to those involved in the proposed action. A generic environmental document reviews the environmental effects that are generic or common to a class of Departmental actions which may not be specific to any single country or area. Where such a document is prepared it could be applied to a number of similar specific country applications. If a generic document exists and if it deals with relevant similarities in the action, such as common timing, environmental impacts, alternatives, methods of implementation or subject matter it will not be necessary to prepare further environmental documentation.

(2) A programmatic environmental document shall focus its analysis on the environmental aspects of an entire program rather than on the specific elements of the program. If a programmatic environmental document has already been prepared the responsible action officer should determine whether it adequately deals with the environmental effects of the particular action under review. If the programmatic document adequately reviews the environmental impacts of the action under consideration, then additional environmental documentation is not required under these regulations. In preparing environmental documents on specific actions, Departmental officers shall consider the advisability of modifying or expanding the documents so they may serve as generic or programmatic documents for a broader range of actions.

(m) *Amendments.* Amendments to these regulations may be made by the Assistant Secretary for Oceans and International Environmental and Scientific Affairs in consultation with other Departmental bureaus and the Office of the Legal Adviser. Such amendments will be published in the Federal Register after consultation with the Council on Environmental Quality, in accordance with § 1507.3 of the CEQ Regulations, and public review and comment.

(n) *Modifications.* The Department's procedures for preparing environmental documents may be modified to accommodate the following circumstances:

(1) *Classified material.* Most Departmental environmental documents will not normally contain classified or administratively controlled material (see § 1507.3(c) of the CEQ Regulations); in some cases, however, an environmental document must include such material to evaluate adequately environmental effects. In such cases Departmental environmental documents, or portions thereof, may be classified. Such material should, if possible, be confined to a classified annex of the environmental document. Approval for classification must be granted with the concurrence of the Assistant Secretary for Oceans and International Environmental and Scientific Affairs and the Office of the Legal Adviser, and the assistant secretary of the bureau with the action responsibility for the proposed action. In these cases, Departmental environmental documents or portions thereof may be classified in accordance with the criteria set forth in Executive Order 12065, dated December 1, 1978. Handling and disclosure of classified or administratively controlled material shall be governed by 22 CFR Part 9. The portions of an environmental document which are not classified or administratively controlled will be made available to persons outside the Department, as provided in 22 CFR Part 9. Classification does not preclude the obligation to ensure that environmental documents are reviewed by competent scientific and technical experts. Appropriate arrangements will be made through the Office of Environment and Health for Federal agency review of classified or administratively controlled environmental documents.

(2) *Time periods for environmental review.* When necessary to comply with other specific statutory requirements or for compelling reasons of national policy the Department may, by agreement with the Environmental Protection Agency, modify time periods specified by the CEQ Regulations for preparing environmental documents in accordance with § 1506.10 of the CEQ Regulations. See also provisions for emergency circumstances contained in § 1506.11 of the CEQ Regulations and § 161.7(d) of these regulations.

Subpart D—Coordination of Other Requirements of NEPA

§ 161.10 Non-Federal applicants for permits.

The Department is responsible for issuing international permits for the construction of bridges and oil pipelines that cross the international boundaries with Canada and Mexico. The Office of Environment and Health will assist in preparation of the required environmental analysis documentation for such permits. Applicants for international permits may obtain information on the type of environmental information needed and the extent of the applicant's participation in the necessary environmental studies and their documentation from the Office of the Legal Adviser, Department of State, Washington, D.C. 20520 (tel. 202/632-0349).

§ 161.11 Environmental review and consultation requirements.

In addition to the environmental review requirements of NEPA the Department has other statutory environmental review and consultation requirements. Departmental officials, in cooperation with the Office of Environment and Health and the Office of the Legal Adviser shall, to the maximum extent possible, conduct environmental review and consultation for these additional requirements concurrently with and integrated with preparation of assessments, and environmental impact statements. The principal additional requirements affecting the Department of State's actions are outlined below.

(a) Section 7 of the Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*, requires identification of and consultation on aspects of any Departmental action that may have effects in the United States on listed species or their habitat. As appropriate, written request for consultation, along with the draft environmental document shall be conveyed by the Office of Environment and Health to the Regional Director of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate, for the Region in the United States where the action will be carried out.

(b) Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470(f), requires identification of National Register properties, eligible properties, or properties in the United States which may be eligible for the National Register within the area of the potential impact of a proposed Departmental action.

Evaluation of the impact of the action on such properties shall be discussed in draft environmental impact statements and transmitted to the Advisory Council on Historic Preservation for comments.

(c) Executive Order 11988 (Floodplains Management) and Executive Order 11990 (Wetlands), requires identification of actions which will occur in or affect a floodplain or wetland (e.g., in areas along the boundary with Canada or Mexico). A comparative evaluation of such actions shall be discussed in draft environmental impact statements and transmitted to the U.S. Water Resources Council for comments.

(d) Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*

(e) Clean Water Act of 1977, 33 U.S.C. 1251 *et seq.*

(f) Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

(g) Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1401 *et seq.*

(h) Deepwater Port Act of 1974, as amended, 33 U.S.C. 1501 *et seq.*

(i) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.*

§ 161.12 Environmental effects abroad of major Departmental actions.

Departmental officials shall analyze actions under their cognizance with due regard for the environmental effects in the global commons and in foreign jurisdictions. Such analysis shall be prepared in accordance with separate Departmental procedures (FAMC No. 807A), dated September 4, 1979 for implementing Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions" (44 FR 1957), dated January 4, 1979.

Leslie H. Brown,

Acting Assistant Secretary for Oceans and International Environmental and Scientific Affairs.

October 29, 1979.

[FR Doc. 79-35943 Filed 11-20-79; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 208

[Docket No. R79-725]

Partial Payment of Claim

Correction

In FR Doc. 79-34649 appearing on page 65081 in the Friday, November 9,

1979, the date given in the second column for comments now reading "January 8, 1979" should have read "January 8, 1980".

BILLING CODE: 4710-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

32A CFR Parts 601 through 662

A Review of Defense Materials System and Defense Priorities System Regulations

AGENCY: Office of Industrial Mobilization, Bureau of Trade Regulation, Department of Commerce.

ACTION: Advance notice of rulemaking and request for comments.

SUMMARY: The Defense Materials System (DMS) and the Defense Priorities System (DPS) have not been reviewed comprehensively since 1974. Since that time several new responsibilities have been added to the DMS/DPS including authority to provide priorities and allocation support to maximize domestic energy supplies. In the intervening years, the country has experienced new and different types of material shortages. New types of defense production activities have been initiated; most notably, co-production programs with our allies. Finally, a number of inconsistencies or other technical problems with the DMS/DPS regulations have been brought to the attention of the Office of Industrial Mobilization (OIM).

Since the DMS/DPS was last reviewed, the President has issued Executive Order 12044 on "Improving Government Regulations". This Executive Order calls for ensuring that regulations be simple and as clear as possible, achieve legislative goals effectively and efficiently, and not impose unnecessary burdens on the economy, on individuals, on public or private organizations, or on state and local governments.

OIM will completely review its present set of rules and regulations toward fully satisfying the intent of E.O. 12044, taking into account the developments mentioned above and the experience gained during the past five years.

This Notice establishes the procedures which OIM will follow in reviewing, and if appropriate, in developing and promulgating revised DMS/DPS regulations.

DATES: Comments by January 17, 1980.

ADDRESS: Iain S. Baird, Director, Priorities and Allocations Division, Office of Industrial Mobilization, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Iain S. Baird, Director, Priorities and Allocations Division, Office of Industrial Mobilization, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-2233.

SUPPLEMENTARY INFORMATION: The Defense Materials System (DMS) and Defense Priorities System (DPS), as it now exists, has three major purposes: First, it is designed to be readily expandable into a system of comprehensive industrial controls to ensure that the industrial resources of the nation are properly allocated during times of emergency.

Second, the DMS/DPS is an active priorities and allocation system currently helping to ensure the timely delivery of items required to promote the national defense.

Third, since a strong and healthy economy is vital to the strength of the nation and the national security, the DMS/DPS is designed and administered to minimize its interference with the private sector during times of peace.

The authority for the DMS/DPS is contained in Title I of the Defense Production Act of 1950, as amended. The Secretary of Commerce has been delegated the responsibility for issuing rules and regulations with respect to priorities and allocations for most industrial items. Within the Department, the Office of Industrial Mobilization (OIM) administers the DMS/DPS.

The following rules and regulations will be included in the proposed review and possible revision of the DMS/DPS and appear in 32A CFR Chapter VI:

DMS Reg. 1, Basic Rules of the Defense Materials System

DMS Reg. 1, Dir. 1, Self-Authorization Procedure for MRO Needed to Fill Mandatory Acceptance Orders

DMS Reg. 1, Dir. 2, Controlled Materials Producers and Distributors

DMS Order 1, Iron and Steel

DMS Order 2, Nickel Alloys

DMS Order 3, Aluminum

DMS Order 4, Copper and Copper-Base Alloys

DPS Reg. 1, Basic Rules of the Defense Priorities Systems

DPS Reg. 2, Operations of the Priorities and Allocations System Between Canada and the United States

DPS Reg. 3, Compliance and Enforcement Procedures

DMS Order 1, Metalworking Machines

DMS Order 2, Nickel

The following delegations will be included in the proposed review and possible revisions of the DMS/DPS:

BDC Del. 1, Delegation of Authority to Secretary of Defense (41 FR 13641)

BDC Del. 2, Delegation of Authority to Energy Research and Development Administration (41 FR 13642)

BDC Del. 3, Delegation of DO Priority Rating to Administrator of General Services (41 FR 13643)

BDC Del. 4, Administrator of the Federal Energy Administration (41 FR 52331)

The terms of the delegations listed above have been amplified through the issuance of statements of conditions to the delegate agencies. The statements of conditions have not been previously published in the Federal Register and are not part of the Code of Federal Regulations. However, they are being made available for review by interested parties and may be inspected and copied at the Freedom of Information Records Inspection Facility described further below. The statements of conditions include:

Statement of Conditions to BDC Del. 1 (Defense)

Statement of Conditions to BDC Del. 2 (ERDA)

Statement of Conditions to BDC Del. 3 (GSA)

Statement of Understanding to BDC Del. 4 (FEA)

Finally, the Office of Industrial Mobilization is publishing a Regulation on Priorities and Allocations of Materials and Equipment to Maximize Domestic Energy Supplies (Energy Reg. 1) at the same approximate time as this Notice. Eventually, it will be incorporated as Part 671 to 32A CFR Chapter VI.

The promulgation of defense production regulations is exempt from the rulemaking procedures of the Administrative Procedure Act. However, because of the importance and complexity of the regulations involved, the Department is inviting public participation in their review. All persons who desire to comment are encouraged to do so at the earliest possible time, so as to ensure the fullest consideration of their views.

Comments may take form of proposed regulatory language, narrative discussion, hypothetical case situations, or any other appropriate format. Comments received on or before January 17, 1980, will be considered in the review of these regulations.

OIM expects to publish the proposed regulations in the Federal Register in early 1980, and expects to allow 60 days for submission of comments on the proposed regulations. The Department

expects to publish final regulations in the Federal Register in the spring of 1980, after taking into consideration the comments received.

Written public comments accompanied by a request that part or all of the material contained therein be treated confidentially will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in developing the regulations. All public comments to be considered in the review of the DMS/DPS will be a matter of public record and will be available for public inspection and copying.

In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, the Department of Commerce official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments as well as the person on whose behalf they purport to be made. All such memoranda will also be a matter of public record and will be available for public review and copying.

Written comments (three copies, if possible) concerning the review of the DMS/DPS should be addressed to: U.S. Department of Commerce, The Office of Industrial Mobilization, Room 4104, Washington, D.C. 20230.

Oral Communications should be directed to: Iain S. Baird, Director, Priorities and Allocations Division (202) 377-2233.

The public record concerning these defense production regulations will be maintained in the Industry and Trade Administration's Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information pertaining to the inspection and copying of records at the facility may be obtained from Ms. Patricia L. Mann, the Industry and Trade Administration's Freedom of Information Officer, at the above address or by calling (202) 377-3031.

A copy of the sections of the Defense Production Act of 1950, as amended, relevant to priorities and allocations is attached to this notice for the information of those wishing to comment on the review of the DMS/DPS.

Dated: November 16, 1979.

Robin B. Schwartzman,
Acting Deputy Assistant Secretary for Trade Regulation.

Title I—Priorities and Allocations

Sec. 1101. (50 U.S.C. App. 2071) (a) The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

(b) The powers granted in this section shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.

(c) (1) Notwithstanding any other provision of this Act, the President may, by rule or order, require the allocation of, or the priority performance under contracts or orders (other than contracts of employment) relating to, supplies of materials and equipment in order to maximize domestic energy supplies if he makes the findings required by paragraph (3) of this subsection.

(2) The President shall report to the Congress within sixty days after the date of enactment of this subsection on the manner in which the authority contained in paragraph (1) will be administered. This report shall include the manner in which allocations will be made, the procedure for requests and appeals, the criteria for determining priorities as between competing requests, and the office or agency which will administer such authorities.

(3) The authority granted in this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials and equipment in the marketplace, unless the President finds that—

(A) such supplies are scarce, critical, and essential to maintain or further (i) exploration, production, refining, transportation, or (ii) the conservation of energy supplies, or (iii) for the construction and maintenance of energy facilities; and

(B) maintenance or furtherance of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection.

(4) During any period when the authority conferred by this subsection is being

exercised, the President shall take such action as may be appropriate to assure that such authority is being exercised in a manner which assures the coordinated administration of such authority with any priorities or allocations established under subsection (a) of this section and in effect during the same period.⁴

Sec. 102. (50 U.S.C. App. 2072) In order to prevent hoarding, no person shall accumulate (1) in excess of the reasonable demands of business, personal, or home consumption, or (2) for the purpose of resale at prices in excess of prevailing market prices, materials which have been designated by the President as scarce materials or materials the supply of which would be threatened by such accumulation. The President shall order published in the Federal Register, and in such other manner as he may deem appropriate, every designation of materials the accumulation of which is unlawful and any withdrawal of such designation. In making such designations the President may prescribe such conditions with respect to the accumulation of materials in excess of the reasonable demands of business, personal, or home consumption as he deems necessary to carry out the objectives of this Act. This section shall not be construed to limit the authority contained in sections 101 and 704 of this Act.

Sec. 103. (50 U.S.C. App. 2073) Any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this title or any rule, regulation, or order thereunder, shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

Title VII—General Provisions

Sec. 701. (50 U.S.C. App. 2151) (a) It is the sense of the Congress that small-business enterprises be encouraged to make the greatest possible contribution toward achieving the objectives of this Act.

(b) In order to carry out this policy—

(i) the President shall provide small-business enterprises with full information concerning the provisions of this act relating to, or of benefit to, such enterprises and concerning the activities of the various departments and agencies under this Act;

(ii) such business advisory committees shall be appointed as shall be appropriate for purposes of consultation in the formulation of rules, regulations, or orders, or amendments thereto issued under authority of this Act, and in their formation there shall be fair representation for independent small, for medium, and for large business enterprises, for different geographical areas, for trade association members and nonmembers, and for different segments of the industry;

(iii) in administering this Act, such exemptions shall be provided for small-business enterprises as may be feasible without impeding the accomplishment of the objectives of this Act; and

(iv) in administering this Act, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small-business enterprises.

(c) Whenever the President invokes the powers given him in this Act to allocate any

material in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding any future allocation of materials: *Provided*, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry.

Sec. 702. (50 U.S.C. App. 2152) As used in this Act—

(a) The word "person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing: *Provided*, That no punishment provided by this Act shall apply to the United States, or to any such government, political subdivision, or government agency.

(b) The word "materials" shall include raw materials, articles, commodities, products, supplies, components, technical information, and processes.

(c) The word "facilities" shall not include farms, churches or other places of worship, or private dwelling houses.

(d) The term "national defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

(e) The words "wages, salaries, and other compensation" shall include all forms of remuneration to employees by their employers for personal services including, but not limited to, vacation and holiday payments, night shift and other bonuses, incentive payments, year-end bonuses, employer contributions to or payments of insurance or welfare benefits, employer contributions to a pension fund or annuity, payments in kind, and premium overtime payments.

(f) The term "defense contractor" means any person who enters into a contract with the United States for the production of material or the performance of services for the national defense.

Sec. 704. (50 U.S.C. App. 2154) The President may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of this Act. Any regulation or order under this Act may be established in such form and manner, may contain such classification and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this Act, or to prevent circumvention or evasion, or to facilitate enforcement of this Act, or any rule, regulation, or order issued under this Act. No rule, regulation, or order issued under this Act which restricts the use of natural gas (either directly or by restricting the use of

facilities for the consumption of natural gas, or in any other manner) shall apply in any State in which a public regulatory agency has authority to restrict the use of natural gas and certifies to the President that it is exercising that authority to the extent necessary to accomplish the objectives of this Act.

Sec. 705. (50 U.S.C. App. 2155) (a) The President shall be entitled, while this Act is in effect and for a period of two years thereafter, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to any person as may be necessary or appropriate, in his discretion, to the enforcement of the administration of this Act and the regulations or orders issued thereunder. The President shall issue regulations insuring that the authority of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the President, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) The production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if, prior to the return date specified in the regulations, subpoena, or other document issued with respect thereto, such person furnishes the President with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the President as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(d) Any person who willfully performs any act prohibited or willfully fails to perform any act required by the above provisions of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$1,000 or imprisoned for not more than one year or both.

(e) Information obtained under this section which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense, and any person willfully violating this provision shall, upon conviction, be fined

not more than \$10,000 or imprisoned for not more than one year, or both.

(f) Any person subpoenaed under this section shall have the right to make a record of his testimony and to be represented by counsel.

Sec. 706. (50 U.S.C. App. 2156) (a) Whenever in the judgment of the President any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, he may make application to the appropriate court for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, and upon a showing by the President that such person has engaged or is about to engage in any such acts or practices a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

(b) The district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this Act or any rule, regulation, order, or subpoena thereunder, and of all civil actions under this Act to enforce any liability or duty created by, or to enjoin any violation of, this Act or any rule, regulation, order, or subpoena thereunder. Any criminal proceeding on account of any such violation may be brought in any district in which any act, failure to act, or transaction constituting the violation occurred. Any such civil action may be brought in any such district or in the district in which the defendant resides or transacts business. Process in such cases, criminal or civil, may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found; the subpoena for witnesses who are required to attend a court in any district in such case may run into any other district. The termination of the authority granted in any title or section of this Act, or of any rule, regulation, or order issued thereunder, shall not operate to defeat any suit, action, or prosecution, whether theretofore or thereafter commenced, with respect to any right, liability, or offense incurred or committed prior to the termination date of such title or of such rule, regulation, or order. No costs shall be assessed against the United States in any proceeding under this Act. All litigation arising under this Act or the regulations promulgated thereunder shall be under the supervision and control of the Attorney General.

Sec. 707. (50 U.S.C. App. 2157) No person shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with a rule, regulation, or order issued pursuant to this Act notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid. No person shall discriminate against orders or contracts to which priority is assigned or for which materials or facilities are allocated under title I of this Act or under any rule, regulation, or order issued thereunder, by charging higher prices or by imposing different terms and conditions for such orders or contracts than for other generally comparable orders or contracts, or in any other manner.

Sec. 709. (50 U.S.C. App. 2159) The functions exercised under this Act shall be excluded from the operation of the Administrative Procedure Act (50 Stat. 237) except as to the requirements of section 3 thereof. Any rule, regulation, or order, or amendment thereto, issued under authority of this Act shall be accompanied by a statement that in the formulation thereof there has been consultation with industry representatives, including trade association representatives, and that consideration has been given to their recommendations, or that special circumstances have rendered such consultation impracticable or contrary to the interest of the national defense, but no such rule, regulation, or order shall be invalid by reason of any subsequent finding by judicial or other authority that such a statement is inaccurate.

[FR Doc. 79-35942 Filed 11-20-79; 8:45 am]

BILLING CODE 3510-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[Docket No. 79-63; FRL 1362-7]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Delayed Compliance Order for Airco Alloys, Division of Airco, Inc., Calvert City, Ky.

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior Federal Register notice proposing a Delayed Compliance Order for Airco Alloys, Division of Airco, Inc., at Calvert City, Kentucky. Since the Environmental Protection Agency proposed issuance of the Delayed Compliance Order, this plant has changed names to SKW Alloys, Inc. This action is being taken because SKW Alloys, Inc., did not achieve and demonstrate compliance with all of the terms of the Delayed Compliance Order by the final compliance date of July 1, 1979.

DATE: This withdrawal is effective November 21, 1979.

FOR FURTHER INFORMATION CONTACT: Richard S. DuBose, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Telephone number: (404) 881-4298.

SUPPLEMENTARY INFORMATION: A Federal Register notice published at 44 FR 32716, June 7, 1979, solicited public comments and offered the opportunity to request a public hearing on a proposed

Delayed Compliance Order to be issued by EPA to Airco Alloys, Division of Airco, Inc., at Calvert City, Kentucky. No public comments were received and no requests for a public hearing were received by EPA regarding this proposed Delayed Compliance Order. Airco Alloys (now SKW Alloys, Inc.) did not achieve and demonstrate compliance with all of the terms of the Delayed Compliance Order by the final compliance date of July 1, 1979. This noncompliance with the DCO was documented by inspections conducted by Region IV, Air Enforcement Branch, and PEDCo Environmental, Inc., EPA's consultant.

In consideration of the foregoing, the proposal published in the Federal Register (44 FR 32716) on June 7, 1979, entitled "Proposed Delayed Compliance Order for Airco Alloys, Division of Airco, Inc., Calvert City, Kentucky" is hereby withdrawn.

Dated: October 31, 1979.

John C. White,

Regional Administrator, Region IV.

[FR Doc. 79-35914 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[Docket No. 79-8; FRL 1362-8]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Delayed Compliance Order for National Southwire Aluminum, Hawesville, Ky.

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior Federal Register notice proposing a Delayed Compliance Order for National Southwire Aluminum at Hawesville, Kentucky. This action is being taken because National Southwire Aluminum did not achieve and demonstrate compliance with all the terms of the Delayed Compliance Order by the final compliance date of July 1, 1979.

DATE: This withdrawal is effective on November 21, 1979.

FOR FURTHER INFORMATION CONTACT: Richard S. DuBose, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Telephone number: (404) 881-4298.

SUPPLEMENTARY INFORMATION: A Federal Register notice published at 44 FR 29934 (May 23, 1979), solicited public

comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by the Commonwealth of Kentucky, Department for Natural Resources and Environmental Protection, to National Southwire Aluminum at Hawesville, Kentucky. No public comments or requests for a public hearing were received by EPA regarding this proposed delayed compliance order. National Southwire Aluminum did not achieve and demonstrate compliance with all of the terms of the Delayed Compliance Order by the final compliance date of July 1, 1979.

In consideration of the foregoing, the proposal published in the Federal Register (44 FR 29934) on May 23, 1979, entitled "Proposed Approval of an Administrative Order Issued by the Commonwealth of Kentucky, Department for Natural Resources and Environmental Protection to National Southwire Aluminum" is hereby withdrawn.

Dated: October 31, 1979.

John C. White,
Regional Administrator, Region IV.

[FR Doc. 79-35886 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1363-5]

Commonwealth of Pennsylvania; Proposed Designations of Attainment Status

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Pennsylvania had requested, and EPA has proposed, that the borough of Lansdale (Montgomery County) be redesignated from nonattainment of secondary total suspended particulates (TSP) standards to attainment. The Commonwealth also requests that six municipalities located adjacent to Lansdale, and which are currently designated as "unclassified" with respect to TSP, be also redesignated as attainment areas. EPA proposes to approve these additional changes. The purpose of this notice is to solicit public comment on this proposed action.

DATE: All comments must be submitted on or before December 21, 1979.

ADDRESSES: Copies of the associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency—
Region III, Curtis Building, 8th & Walnut
Streets, Philadelphia, PA 19106.
Pennsylvania Department of Environmental
Resources, Bureau of Air Quality and Noise
Control, Fulton Building—18th floor, 200
North Third Street, Harrisburg, PA 17120,
ATTN: James Silvaggio.
Public Information Reference Unit, Room
2922—EPA Library, U.S. Environmental
Protection Agency, 401 M Street, S.W.,
Washington, DC 20460.

All comments should be addressed to:
Mr. Howard R. Heim, Jr., Chief (3AH10),
Air Programs Branch, U.S.
Environmental Protection Agency,
Region III, Curtis Building, 10th floor, 8th
& Walnut Streets, Philadelphia, PA
19106, ATTN: 107PA-2.

FOR FURTHER INFORMATION CONTACT:
Mr. Harold A. Frankford (3AH12), U.S.
Environmental Protection Agency,
Region III, Curtis Building, 10th floor, 8th
& Walnut Streets, Philadelphia, PA
19106, (phone) 215/597-8392.

SUPPLEMENTARY INFORMATION: On
December 29, 1978, the Commonwealth
of Pennsylvania submitted revised
designations of attainment status, along
with supporting information, for
promulgation under Section 107 of the
Clean Air Act. One of these
redesignations consisted of revising the
attainment status of Lansdale Borough
from nonattainment of secondary TSP
standards to attainment. With this
submission, the State submitted air
quality data indicating that no violations
of the secondary TSP standard have
occurred for eight consecutive quarters.
This redesignation was proposed for
comment by EPA on July 2, 1979 (44 FR
38585 (1979)).

On August 29, 1979, the
Commonwealth of Pennsylvania
requested that six municipalities located
adjacent to Lansdale, and currently
designated as "unclassified" with
respect to TSP, be redesignated to
attainment. These six areas, all of which
are located in Montgomery County, are
Montgomery Township, Upper
Gwynedd Township, North Wales
Borough, Towamencin Township,
Hatfield Township, and Hatfield
Borough.

Given the fact that the most recent air
quality data for TSP would support a
redesignation of attainment for these six
municipalities, EPA proposes to
redesignate these areas as such.
Because these areas are currently
designated as "unclassified", a Part D
(Clean Air Act) nonattainment plan is
presently not required.

The public is invited to comment on
these proposed designation changes.
Because the changes are associated with
a previously proposed change, and

because they would not affect the need
for submitting a nonattainment plan,
EPA considers a 30-day public comment
period to be sufficient for affording the
public and opportunity to comment.
Therefore, all comments must be
submitted on or before December 21,
1979.

All comments should be addressed to:
Mr. Howard Heim, Chief (3AH10), Air
Programs Branch, U.S. Environmental
Protection Agency—Region III, Curtis
Building, 10th floor, 8th & Walnut
Streets, Philadelphia, PA 19106, ATTN:
107PA-2.

Under Executive Order 12044, EPA is
required to judge whether a regulation is
"significant" and therefore subject to the
procedural requirements of the Order or
whether it may follow other specialized
development procedures. EPA labels
these other regulations "specialized". I
have reviewed this regulation and
determined that it is a specialized
regulation not subject to the procedural
requirements of Executive Order 12044.

Authority: Section 107(d), 171, (2), 301(a) of
the Clean Air Act, as amended (42 U.S.C.
7407(d), 7501(2), 7601(a)).

Dated: October 17, 1979.

Jack J. Schramm,
Regional Administrator.

[FR Doc. 79-35883 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 87

[Docket No. OMSAPC-78-1; FRL 1362-6]

Control of Air Pollution From Aircraft and Aircraft Engines; Proposed Amendments to Standards; Announcement of Availability of Economic Impact Assessment and Extension of Comment Period

AGENCY: Environmental Protection
Agency.

ACTION: Extension of comment period.

SUMMARY: On March 24, 1978, EPA
proposed a number of changes to
gaseous emissions regulations
applicable to several classes of newly
manufactured and newly certified
aircraft engines (43 FR 12615). It was
stated therein that an economic
assessment of the impact of NOx control
on the JT8D engine would be published
at a later date. The purpose of the
present notice is to announce the
availability of this economic impact
assessment and to invite public
comments. The comment period is being
reopened for 60 days to allow additional
time for review of this document.

DATE: All relevant comments received
on or before January 21, 1980 will be
considered.

ADDRESS: Interested persons may
participate in this rulemaking by
submitting written comments to the
Administrator, Environmental Protection
Agency, Attention: Central Docket
Section, Room 2903 (A-130), 401 M
Street, S.W., Washington, D.C. 20460.
Ten copies are requested but not
required.

FOR FURTHER INFORMATION CONTACT:
George Kittredge, Senior Technical
Advisor, Office of Mobile Source Air
Pollution Control, Environmental
Protection Agency, 401 M Street, S.W.,
Washington, D.C. 20460, (202) 426-2514.

SUPPLEMENTARY INFORMATION: On
March 24, 1978, proposed amendments
to the standards for newly
manufactured and newly certified
aircraft engines (40 CFR Part 87) and
proposed standards for in-use aircraft
engines were published (43 FR 12615).
The closing date for comments on the
proposed action was announced as July
24, 1978. The preamble to that action
stated that the comment period would
be extended if necessary to allow at
least a 60-day comment period on the
economic impact assessment. The first
of the two reports which comprise that
assessment was announced in the
Federal Register on August 11, 1978 (43
FR 3678). The second report, which
analyses the cost impact of nitrogen
oxides (NOx) control on the JT8D
engine, is now available for inspection
and copying at the U.S. Environmental
Protection Agency, Central Docket
Section, Room 2903 B, 401 M Street,
S.W., Washington, D.C. 20460 (Docket
No. OMSAPC-78-1). As provided in 40
CFR Part 2, a reasonable fee may be
charged for copying services. To permit
the public the earliest possible
opportunity to comment on the
economic impact assessment, the
Agency is making the document
available at this time without waiting
for the evaluation of its findings by EPA
or for any revisions to the substance of
the March 24, 1978, NPRM that may be
appropriate as a result of these findings.
Such action rather will proceed
concurrently with the accumulation of
public comments on the assessment and
will culminate in either a revised
proposal or final rulemaking action, as
appropriate, at a late date.

The report concludes that the
proposed 1984 NOx emission standards
applied to the JT8D engine would
eliminate this engine from production,
causing severe economic impacts on the
manufacturers of the engine itself and
the aircraft on which it is used. The
analysis contained in this report will be
considered in the development of final
rulemaking applied to the JT8D engine.

Dated: November 8, 1979.

David G. Hawkins,
Assistant Administrator for Air, Noise, and
Radiation.

[FR Doc. 79-35887 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 761

[OPTS-62004 (PCB/RR-4); FRL 1362-5]

Polychlorinated Biphenyls (PCBs); Proposed Amendment to the Disposal Requirements for Large PCB Capacitors in Chemical Waste Landfills

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed Amendment to
Disposal Requirements for Large PCB
Capacitors.

SUMMARY: The Disposal and Marking
Rule that was promulgated February 17,
1978 (43 FR 7150; superseded by 44 FR
31514, May 31, 1979) permits large
capacitors that contain PCBs to be
disposed of in chemical waste landfills
until January 1, 1980. After that date all
large capacitors containing PCBs are to
be disposed of in an incinerator
complying with Annex I of the PCB
regulation. As it is not expected that an
Annex I incinerator will be approved by
January 1, 1980, EPA is proposing to
extend the date for disposal of large
PCB capacitors in chemical waste
landfills until thirty days after an
approved Annex I incinerator capable of
handling these capacitors is operational.
The Environmental Protection Agency
(EPA) will also consider in this
rulemaking whether the amendment
should permit continued disposal of
leaking large PCB capacitors in chemical
waste landfills.

DATES: Written comments and requests
to participate in the hearing on this
proposed amendment are requested and
should be received no later than
December 21, 1979. An informal hearing,
if requested, will be held January 3, 1980
in Washington, DC. The exact time and
location will be made available through
the Industry Assistance Office which
can be reached by calling the toll-free
number (800) 424-9065 or 554-1404 for
calls local to Washington, DC.

ADDRESSES: All comments and requests
to participate in the informal hearing
should be sent to: Ms. Linda Thomson,
Hearing Clerk, TS-794, US
Environmental Protection Agency, 401 M
St., SW, Washington, DC 20460, and
should bear the control number OPTS-
62004 (PCB/RR-4). The hearing will be
held in Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Mr. John Ritch, Director, Industry
Assistance Office, TS-799, US
Environmental Protection Agency, 401 M
St., SW, Washington, DC 20460, Phone
toll free: 800-424-9065, (in Washington,
DC, call 554-1404).

SUPPLEMENTARY INFORMATION: On
February 17, 1978, EPA promulgated a
rule (43 FR 7150; superseded by 44 FR
31514, May 31, 1979) which regulates the
disposal of PCB materials such as liquid
PCBs, nonliquid PCBs, transformers,
capacitors, heat transfer systems,
hydraulic machines and other articles
and equipment that contain PCBs at
concentrations greater than 50 ppm. In
that rule, the Agency permitted disposal
of large (three or more pounds of
dielectric fluid) high voltage and low
voltage PCB capacitors in chemical
waste landfills that comply with Annex
II until January 1, 1980. See
§ 761.10(c)(2)(iii)(B), 43 FR at 7158,
February 17, 1978 and
§ 761.10(b)(2)(iii)(B), 44 FR at 31547, May
31, 1979. EPA provided this disposal
option until January 1, 1980 to allow
time for the design, construction and
approval of adequate PCB incineration
facilities. EPA realized that without the
use of chemical waste landfills,
substantial numbers of large PCB
capacitors (greater than 3 pounds of
dielectric fluid) would have to be stored
until PCB incinerators capable of
handling these capacitors had been
approved.

Despite efforts by both EPA and
individual incinerator operators, it is
now unlikely that an incinerator capable
of handling large PCB capacitors for
general use will be approved by January
1, 1980. EPA is, therefore, proposing to
extend the date that large PCB
capacitors may be disposed of in
chemical waste landfills to 30 days after
EPA announces in the Federal Register
that an Annex I incinerator is approved
and operational for disposal of large
PCB capacitors. The new date would
avoid the necessity of storing
substantial numbers of large PCB
capacitors. EPA included an additional
30 days after EPA announces that an
Annex I incinerator is approved and
operational for disposal of PCB
capacitors, to allow persons who
generate large capacitors for disposal
both to learn of the cut-off date and to
begin sending large PCB capacitors to
PCB incinerators.

Beginning January 1, 1980 and until
the time when this proposed amendment
becomes effective, large PCB capacitors
awaiting disposal must be stored in
accordance with the requirements of
§ 761.42 of the PCB rule.

EPA requests comments on this proposed amendment. Specifically, EPA would like persons to respond to the following questions. (1) How many large PCB capacitors does an owner or operator of a system or facility using large PCB capacitors generate for disposal on a monthly basis? (2) How many large PCB capacitors are expected to remain in use after January 1, 1980? (3) How long would it take industry to begin sending large PCB capacitors to incinerators? (4) What cost and space limitations, if any, would industry face if it were not able to dispose of large capacitors at all, for example, for six months?

EPA has not proposed exclusion of leaking PCB capacitors from the proposed amendment. However, as noted in the summary of this notice, the Agency requests comment on whether such leaking PCB capacitors should be stored rather than placed in an Annex II chemical waste landfill. The Agency wishes to address this issue in the context of this rulemaking. Specifically, EPA would like to know how many large PCB capacitors are leaking at the time of disposal. In responding to this question, please describe the nature of the leak, i.e., drip on side, ruptured seam, etc.

The record in this rulemaking includes the rulemaking record for the 1979 PCB regulation (44 FR 31514, May 31, 1979). EPA has also received a formal petition under section 21 of the Toxic Substances Control Act (TSCA) from the Utility Solid Waste Activities Group, the Edison Electric Institute and the National Rural Electric Cooperative Association, and other correspondence on this matter, which have been placed in the record.

EPA is shortening the time period required by the rulemaking procedural rules in 40 CFR 750.6 in order to make promulgation of this rule feasible as soon as possible after January 1, 1980, when § 761.10(b)(2)(iii)(B) is no longer applicable unless extended. This means that persons may notify EPA that they wish to appear at an informal hearing on this proposal until December 21, 1979.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these rules "specialized". This rule has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Statutory Authority: Section 6(e) of TSCA [15 U.S.C. 2605]. The preamble of the Manufacturing, Processing, Distribution in Commerce and Use

Prohibition Rule at 44 FR 31514 May 31, 1979 delegates authority to amend or modify this rule to the Assistant Administrator for Pesticide and Toxic Substances.

Dated: November 15, 1979.

Steven Jellinek,
Assistant Administrator for Pesticide and Toxic Substances.

It is proposed to amend § 761.10(b)(2)(iii)(B) of 40 CFR part 761 to read as follows:

§ 761.10 Disposal Requirements

* * * * *

(b) * * *
(2) PCB Capacitors. * * *

(iii) Any PCB Large High or Low Voltage Capacitor owned by any person shall be disposed of in accordance with either of the following:

* * * * *

(B) Until thirty days after EPA has announced that an approved Annex I incinerator is operational for general use for the disposal of large PCB capacitors, disposal in a chemical waste landfill that complies with Annex II.

[FR Doc. 79-35901 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 101-6

Federal Advisory Committee Management

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This advance notice requests public participation in the formulation of a proposed GSA Federal Property Management Regulation on Federal Advisory Committee Management. Current Federal advisory committee management regulations are contained in Office of Management and Budget (OMB) Circular A-63 (March 27, 1974) and related A-63 Transmittal Memoranda 1, 4, and 5; in 41 CFR 101-11.12; and in 41 CFR 101-11.4930-248 through 250. GSA proposes to rescind OMB Circular A-63 and A-63 Transmittal Memoranda 1, 4, and 5, and to revise and redesignate 41 CFR 101-11.12 and 41 CFR 101-11.4930-248 through 250 for inclusion in the proposed regulation.

EO 12024, dated December 1, 1977, transferred from the Office of

Management and Budget to GSA certain advisory committee functions under the Federal Advisory Committee Act (FACA), as amended (5 U.S.C., App. I). GSA now having the authority to administer the provisions of FACA, believes that revision and consolidation of the current regulations is necessary. The proposed regulation is intended to provide Federal agencies with additional guidance and instructions for implementation of the Federal Advisory Committee Act.

DATES: Written comments must be received on or before January 5, 1980.

ADDRESSES: Comments should be submitted to the Executive Director, National Archives and Records Service (mailing address: General Services Administration (NA), Washington, DC 20408). Comments will be available for examination at the Committee Management Secretariat (NAM), Room 9403, 1100 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John F. Clancy, Jr., Director, Committee Management Secretariat, Room 9403, 1100 L Street NW., 202-357-0019. Mailing address: General Services Administration (NAM), Washington, DC 20408.

Dated: November 9, 1979.

James E. O'Neill,
Acting Archivist of the United States.

[FR Doc. 79-35836 Filed 11-20-79; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Parts 4, 59a, 63, and 64

National Library of Medicine

AGENCY: PHS, National Institutes of Health.

ACTION: Notice of decision to develop regulations.

SUMMARY: As part of the Department's regulations recodification efforts, the Assistant Secretary for Health plans to amend the regulations for the programs of the National Library of Medicine. The programs are authorized by the Public Health Service Act, as amended. The proposed amendments would (1) permit the Regional Medical Library Network to recover part or all of the costs for the provision of photocopies of biomedical materials, (2) improve readability by use of the HEW Operation Common Sense principles, and (3) allow for inclusion of updated nondiscrimination language.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Carney, Acting Executive Officer, National Library of Medicine, Bethesda, MD 20209, (301) 496-6491.

Dated: November 15, 1979.

Julius B. Richmond,
Assistant Secretary for Health.

[FR Doc. 79-35927 Filed 11-20-79; 8:45 am]

BILLING CODE 4110-08-M

Center for Disease Control

42 CFR Part 72

Interstate Shipment of Etiologic Agents; Proposed Rule

AGENCY: Center for Disease Control, PHS, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Public Health Service proposes to revise its regulation relating to the interstate shipment of etiologic agents. The proposed revision would expand and clarify the packaging, labeling, and shipping requirements for materials such as cultures, diagnostic specimens, and biological products which contain etiologic agents. The revision would also correct the scientific nomenclature, update the list of infectious agents, and provide for future revisions of the list of agents by publication of a Notice in the Federal Register to identify additional agents which must be packaged and transported in accordance with the requirements of this part. Additional changes would be made to reflect HEW's commitment to revise and clarify its regulations to promote public understanding of its programs.

DATES: Written comments are invited and must be received on or before January 21, 1980.

ADDRESS: Written comments should be sent to: Dr. John H. Richardson, Director, Office of Biosafety, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Comments received will be available for public inspection during regular business hours in Building 4, Room 232, at the same address.

FOR FURTHER INFORMATION CONTACT: Dr. John H. Richardson, Director, Office of Biosafety, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 329-3885 or FTS: 236-3885.

SUPPLEMENTARY INFORMATION:

Materials such as cultures, diagnostic specimens, and biological products which contain etiologic agents are transported routinely in interstate traffic for diagnostic, therapeutic, research, and production purposes in accordance with individual and national health needs

and interests. Current procedures in Part 72 of the Code of Federal Regulations provide minimum packaging standards for such materials; a design for a hazard warning label; and a system for receiving and responding to notifications of evidence or reports of leakage or any other damage to shipments of regulated materials during transit.

The proposed revision would (1) update the scientific nomenclature of microorganisms previously listed; (2) add to the list of microorganisms those agents not recognized or considered when the list was initially compiled; (3) provide for future revisions of the list of etiologic agents from time to time by publication of a Notice in the Federal Register to identify additional agents which must be packaged and transported in accordance with the requirements in Part 72; (4) clarify the packaging descriptions; and (5) clarify the requirements for use of the hazard warning label.

Provisions in Part 72 relating to interstate quarantine generally have been transferred to Title 21 (Food and Drugs) of the Code of Federal Regulations. Provisions in Subpart J relating to drinking water standards are now set forth in Title 40 (Protection of Environment). Therefore, the proposed revision would also (1) amend the list of definitions in Subpart A of Part 72 primarily to delete the definitions which are no longer applicable; (2) rescind Subpart J of Part 72; and (3) change the title of Part 72 to Interstate Shipment of Etiologic Agents.

It is, therefore, proposed to revise Part 72 of Title 42, Code of Federal Regulations, as set forth below.

Dated: August 8, 1979.

Charles Miller,
Acting Assistant Secretary for Health.

Approved: November 6, 1979.

Patricia Roberts Harris,
Secretary.

PART 72—INTERSTATE SHIPMENT OF ETIOLOGIC AGENTS¹

Sec.

72.1 Definitions.

72.2 Transportation of diagnostic specimens, biological products, and other materials; minimum packaging requirements.

72.3 Transportation of materials containing certain etiologic agents; minimum packaging requirements.

¹ The requirements of this part are in addition to and not in lieu of any other packaging or other requirements for the transportation of etiologic agents in interstate traffic prescribed by the Department of Transportation and other agencies of the Federal Government.

Sec.

72.4 Notice of delivery; failure to receive.

72.5 Requirements; variations.

Authority: Sec. 215, 58 Stat. 690, as amended, 42 U.S.C. 218; sec. 361, 58 Stat. 703, 42 U.S.C. 264.

§ 72.1 Definitions.

As used in this part: "Biological product" means a biological product prepared and manufactured in accordance with the provisions of 9 CFR Parts 102-104 and 21 CFR Parts 312 and 600-680 and which, in accordance with such provisions, may be shipped in interstate traffic.

"Diagnostic specimen" means any human or animal material including, but not limited to, excreta, secretions, blood and its components, tissue, and tissue fluids being shipped for purposes of diagnosis.

"Etiologic agent" means a viable microorganism or its toxin which causes, or may cause, human disease.

"Interstate traffic" means the movement of any conveyance or the transportation of persons or property, including any portion of such movement or transportation which is entirely within a State or possession, (a) from a point of origin in any State or possession to a point of destination in any other State or possession, or (b) between a point of origin and a point of destination in the same State or possession but through any other State, possession, or contiguous foreign country.

§ 72.2 Transportation of diagnostic specimens, biological products, and other materials; minimum packaging requirements.

No person may knowingly transport or cause to be transported in interstate traffic, directly or indirectly, any material including, but not limited to, diagnostic specimens and biological products which such person reasonable believes may contain an etiologic agent unless such material is packaged to withstand leakage of contents, shocks, pressure changes, and other conditions incident to ordinary handling in transportation.

§ 72.3 Transportation of materials containing certain etiologic agents; minimum packaging requirements.

Notwithstanding the provisions § 72.2, no person may knowingly transport or cause to be transported in interstate traffic, directly or indirectly, any material (other than biological products) known to contain, or reasonably believed by such person to contain, one or more of the following etiologic agents unless such material is packaged in accordance with the requirements specified in paragraphs (a)-(f) of this section:

Bacterial Agents

Acinetobacter calcoaceticus.
Actinobacillus—all species.
Actinomycetaceae—all members.
Arizona hinshawii—all serotypes.
Bacillus anthracis.
Bartonella—all species.
Bordetella—all species.
Borrelia recurrentis, *B. vincenti*.
Brucella—all species.
Campylobacter (Vibrio) foetus, *C. (Vibrio) jejuni*.
Chlamydia psittaci, *C. trachomatis*.
Clostridium botulinum, *Cl. chauvoei*, *Cl. haemolyticum*, *Cl. histolyticum*, *Cl. novyi*, *Cl. septicum*, *Cl. tetani*.
Corynebacterium diphtheriae *C. equi*, *C. haemolyticum*, *C. pseudotuberculosis*, *C. pyogenes*, *C. renale*.
Erysipelothrix insidiosa.
Escherichia coli, all enteropathogenic serotypes.
Francisella (Pasteurella) tularensis.
Haemophilus ducreyi, *H. influenzae*.
Klebsiella—all species and all serotypes.
Legionella pneumophila.
Leptospira interrogans—all serotypes.
Leptospira interrogans—all serovars.
Listeria—all species.
Moraxella—all species.
Mycobacterium—all species.
Mycoplasma—all species.
Neisseria gonorrhoeae, *N. meningitidis*.
Pasteurella—all species.
Pseudomonas mallei.
Pseudomonas pseudomallei.
Salmonella—all species and all serotypes.
Shigella—all species and all serotypes.
Sphaerophorus necrophorus.
Staphylococcus aureus.
Streptobacillus moniliformis.
Streptococcus pneumoniae.
Streptococcus pyogenes.
Treponema coreum, *T. pallidum*, and *T. pertenue*.
Vibrio cholerae, *V. parahemolyticus*.
Yersinia (Pasteurella) pestis, *Y. enterocolitica*.

Fungal Agents

Blastomyces dermatitidis.
Coccidioides immitis.
Cryptococcus neoformans.
Histoplasma capsulatum.
Paracoccidioides brasiliensis.

Viral and Rickettsial Agents

Adenoviruses—human—all types.
Arboviruses—all types.
Coxiella burnetii.
Coxsackie A and B viruses—all types.
Cytomegaloviruses.
Dengue viruses—all types.
Ebola virus.
Echoviruses—all types.
Encephalomyocarditis virus.
Hemorrhagic fever agents including, but not limited to, *Crimean hemorrhagic fever (Congo)*, *Junin*, *Machupo viruses*, and *Korean hemorrhagic fever viruses*.
Hepatitis-antigen B.
Herpesvirus—all members.
Infectious bronchitis-like virus.
Influenza viruses—all types.
Lassa virus.
Lymphocytic choriomeningitis virus.

Marburg virus.
Measles virus.
Mumps virus.
Parainfluenza viruses—all types.
Polioviruses—all types.
Poxviruses—all members.
Rabies virus—all strains.
Reoviruses—all types.
Respiratory syncytial virus.
Rhinovirus—all types.
Rickettsia—all types.
Rotavirus—all types.
Rubella virus.
Simian virus 40.
Tick-borne encephalitis virus complex, including *Russian spring-summer encephalitis*, *Kyasanur forest disease*, *Omsk hemorrhagic fever*, and *Central European encephalitis viruses*.
Vaccinia virus.
Varicella virus.
Variola major and *Variola minor viruses*.
Vesicular stomatitis virus.
White pox viruses.
Yellow fever virus.²

(a) *Volume not exceeding 50 ml.* Material shall be placed in a securely closed, watertight container (primary container (test tube, vial, etc.)) which shall be enclosed in a second, durable watertight container (secondary container). Several primary containers may be enclosed in a single secondary container, if the total volume of all the primary containers so enclosed does not exceed 50 ml. The space at the top, bottom, and sides between the primary and secondary containers shall contain sufficient nonparticulate absorbent material (e.g., paper towel) to absorb the entire contents of the primary container(s) in case of breakage or leakage. Each set of primary and secondary containers shall then be enclosed in an outer shipping container constructed of corrugated fiberboard, cardboard, wood, or other material of equivalent strength.

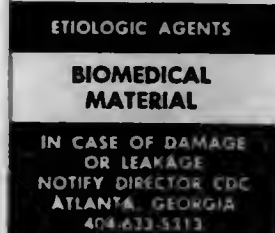
(b) *Volume greater than 50 ml.* Packaging of material in volumes of 50 ml. or more shall comply with requirements specified in paragraph (a) of this section. In addition, a shock absorbent material, in volume at least equal to that of the absorbent material between the primary and secondary containers, shall be placed at the top, bottom, and sides between the secondary container and the outer shipping container. Single primary containers shall not contain more than 500 ml. of material. However, two or more primary containers whose combined volumes do not exceed 500 ml. may be placed in a single, secondary container. The maximum amount of

²This list may be revised from time to time by Notice published in the Federal Register to identify additional agents which must be packaged in accordance with the requirements contained in this part.

etiologic agent which may be enclosed within a single outer shipping container shall not exceed 4,000 ml.

(c) *Dry ice.* If dry ice is used as a refrigerant, it must be placed outside the secondary container(s). If dry ice is used between the secondary container and the outer shipping container, the shock absorbent material shall be placed so that the secondary container does not become loose inside the outer shipping container as the dry ice sublimates.

(d) *Labels.* (1) The outer shipping container of all materials containing etiologic agents transported in interstate traffic must bear a label as illustrated and described below:



(2) The color of material on which the label is printed must be white, the symbol red, and the printing in red or white as illustrated.

(3) The label must be a rectangle measuring 51 mm. (2 inches) high by 102.5 mm. (4 inches) long.

(4) The red symbol measuring 38 mm. (1 1/2 inches) in diameter must be centered in a white square measuring 51 mm. (2 inches) on each side.

(5) Type size of the letters of label shall be as follows:

ETIOLOGIC AGENTS—10 pt. rev.
 BIOMEDICAL MATERIAL—14 pt.
 IN CASE OF DAMAGE OR LEAKAGE—10 pt. rev.
 NOTIFY DIRECTOR CDC ATLANTA, GEORGIA—8 pt. rev.
 404-633-5313—10 pt. rev.

(e) *Damaged packages.* The carrier shall promptly, upon discovery of evidence of leakage or any other damage to packages bearing an Etiologic Agents/Biomedical Material label, isolate the package and notify the Director, Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, GA 30333, by telephone: (404) 633-5314. The carrier shall also notify the sender.

(f) *Registered mail or equivalent system.* Transportation of the following etiologic agents shall be by registered mail or an equivalent system which requires or provides for sending notification to the sender immediately upon delivery:

Coccidioides immitis.
Ebola virus.
Francisella (Pasteurella) tularensis.

Hemorrhagic fever agents including, but not limited to, *Crimean hemorrhagic fever (Congo)*, *Junin*, *Machupo viruses*, and *Korean hemorrhagic fever viruses*.
Herpesvirus simiae (B virus).
Histoplasma capsulatum.
Lassa virus.
Marburg virus.
Pseudomonas mallei.
Pseudomonas pseudomallei.
Tick-borne encephalitis virus complex including, but not limit to, *Russian spring-summer encephalitis*, *Kyasanur forest disease*, *Omsk hemorrhagic fever*, and *Central European encephalitis viruses*, *Variola minor*, and *Variola major*.
Variola major, *Variola minor* and *Whitepox viruses*.
Yersinia (Pasteurella) pestis.³

§ 72.4 Notice of delivery; failure to receive.

When notice of delivery of materials known to contain or reasonably believed to contain etiologic agents listed in § 72.3(f) is not received by the sender within 5 days following anticipated delivery of the package, the sender shall notify the Director, Center for Disease Control, 1600 Clifton Road, N.E., Atlanta, GA 30333 (telephone (404) 633-5313).

§ 72.5 Requirements; variations.

The Director, Center for Disease Control, may approve variations from the requirements of this section if, upon review and evaluation, it is found that such variations provide protection at least equivalent to that provided by compliance with the requirements specified in this section and such findings are made a matter of official record.

[FR Doc. 79-35937 Filed 11-20-79; 8:45 am]

BILLING CODE 4110-88-M

Health Care Financing Administration**42 CFR Parts 435 and 436****Medicaid Program; Deeming of Income Between Spouses**

AGENCY: Health Care Financing Administration (HCFA), HEW.
ACTION: Proposed Rule.

SUMMARY: This proposal would revise current rules for determining Medicaid financial eligibility for the aged, blind, or disabled in States using more restrictive eligibility requirements than Supplemental Security Income (SSI)

³This list may be revised from time to time by Notice published in the Federal Register to identify additional agents which must be transported in accordance with requirements contained in section 72.3(f).

requirements. The proposal would prohibit the current policy that permits these States and Guam, Puerto Rico and the Virgin Islands to automatically consider the income of a noninstitutionalized spouse as available for the care of his or her institutionalized spouse who is aged, blind or disabled. This practice is known as "deeming of income." The proposed regulation would implement a court order by the Federal District Court for the District of Columbia to require these States and the territories to cease the deeming of income between aged, blind, or disabled applicants (or recipients) and their spouses, when either the applicant (or recipient) or his or her spouse is institutionalized.

DATES: Closing date for receipt of comments is January 21, 1980.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17076, Baltimore, Maryland 21235. In commenting please refer to File Code MMB-278-P. Comments will be available for public inspection beginning approximately two weeks after publication, in Room 5220 of the Department's office at 330 C Street, S.W., Washington, D.C., on Monday through Friday of each week, from 8:30 a.m. to 5:00 p.m. (202-245-0365).

FOR FURTHER INFORMATION, CONTACT: Michael Fiore (301) 594-9127.

SUPPLEMENTARY INFORMATION:**Background**

Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)) provides Medicaid eligibility for all SSI recipients. However, section 1902(f) of the Act (42 U.S.C. 1396a(f)) gives the States an option not to cover all SSI recipients. Instead, States may use any financial eligibility conditions for Medicaid which are no more restrictive than those in use under the State's Medicaid plan in effect on January 1, 1972. (In addition, the financial eligibility conditions used may be no more liberal than SSI criteria.) Among the more restrictive practices used in such States are the "deeming" rules which were in effect in 1972.

Deeming involves the process of including a certain amount of the income of a financially responsible relative in the calculation of the countable income of a Medicaid applicant or recipient for purposes of determining the applicant's or recipient's financial eligibility for benefits under the Medicaid program. When income is "deemed" from a responsible relative, such as a spouse or

a parent, to a Medicaid applicant or recipient, proof of actual contribution of that money by the relative to the applicant or recipient is not required. On the basis of a comparison of the financially responsible relative's income with an estimation of the amount of money that will be needed to provide for his own living needs, a certain amount of "left over" income is considered "available" to cover the costs of medical care for the Medicaid applicant or recipient.

By statute, if both spouses in a two-spouse family apply for SSI or are eligible as aged, blind, or disabled and cease to live together, the SSI program must consider the income and resources to be mutually available for purposes of determining SSI eligibility for the first six months after the month they cease to live together (see, 42 U.S.C. 1381a, 1382(a), 1383c(b) and 1382c(f)). If only one spouse applies and is eligible for SSI, the SSI program must deem the income and resources of the other spouse only until the month they cease to live together. States which provide Medicaid to all SSI recipients use these SSI deeming practices for Medicaid eligibility. However, States that have elected, under section 1902(f), to use 1972 Medicaid eligibility criteria may deem as they did under their January 1, 1972 Medicaid plan. Deeming could continue for an indefinite period if it was authorized under the 1972 plan.

Court Order

On December 8, 1978, the United States District Court for the District of Columbia, in *Gray Panthers v. Secretary, Department of Health, Education, and Welfare, et al.*, Civil Action No. 78-0661, ordered HEW to rescind regulations at 42 CFR 435.734, 436.602, 436.711 and 436.821, and to propose and publish regulations to "require all relevant jurisdictions to cease deeming of income for any length of time between institutionalized Medicaid recipients or applicants and their noninstitutionalized spouses". This order was amended by the Court on January 3, 1979, to specify that it applied only to Guam, Puerto Rico, the Virgin Islands and States which have elected to exercise their option under section 1902(f) of the Social Security Act to impose more restrictive requirements for Medicaid eligibility than receipt of SSI (HEW is appealing this decision to the U.S. Court of Appeals.)

On May 30, 1979, we notified these States and jurisdictions of the Court order, directed them to cease deeming income, and informed them that we were revising the relevant regulations. This proposal contains revisions of the

affected regulations concerning the financial responsibility of spouses in these States and jurisdictions. A similar order was entered against the Secretary on August 22, 1979 in *Allen v. Califano* (U.S.D.C. Utah), Civil Action No. 78-0212.

Regulatory Provisions

The Court ordered HEW to publish regulations to prohibit relevant jurisdictions from deeming income only (not resources, i.e., savings accounts, personal possessions, etc.). This regulation permits considering income, in 1902(f) States and Guam, Puerto Rico and the Virgin Islands, as available to an individual who is aged, blind or disabled only to the extent that the income is in fact contributed to the individual by his or her spouse, when either the individual or his or her spouse is institutionalized.

In addition to the sections the Court ordered HEW to amend, we have revised §§ 435.121 (Individuals in States using more restrictive requirements for Medicaid than the SSI requirements) and 435.602 (Limitation on the financial responsibility of relatives). Because we revised § 435.734, we revised § 435.121 to ensure that it remained accurate. We revised § 435.602 to preserve the parallelism with § 436.602 and to clarify the intent of the sections.

On June 12, 1979, plaintiffs asked the District Court to require the Secretary, in implementing the Court's order, to prohibit the deeming of resources as well as income. (Plaintiffs viewed the Court's reference to income as including resources.) On June 22, 1979, we responded to the Court that since the only issue litigated in the case was deeming of income, the order should not apply to resources. The District Court has not yet ruled on this issue. Should the Court decide that its order applies to resources, we will make appropriate changes in this proposed regulation. Without such a ruling, we do not believe that we have the authority to preclude States which exercise their option under section 1902(f) from deeming resources to the extent that they did under their Medicaid plans on January 1, 1972. We particularly invite comments on this issue.

42 CFR Chapter IV, Subchapter C, is amended as set forth below:

PART 435—ELIGIBILITY IN THE STATES AND DISTRICT OF COLUMBIA

A. Part 435 is amended as follows:

1. Section 435.121 is amended by revising paragraph (b)(1) as follows:

§ 435.121 Individuals in States using more restrictive requirements, for Medicaid than the SSI requirements.

(b) If an agency uses more restrictive requirements under this section—

(1) Except for the requirement concerning financial responsibility of spouses in § 435.734, each requirement may be no more restrictive than that in effect under the State's Medicaid plan on January 1, 1972, and nor more liberal than that applied under SSI or an optional State supplement program that meets the conditions of § 435.230; and

2. Section 435.602 is revised to read as follows:

§ 435.602 Limitation on the financial responsibility of relatives.

(a) Except for a spouse of an individual or a parent for a child who is under age 21 or blind or disabled, the agency must not—

(1) Consider income and resources of any relative available to an individual; nor

(2) Collect reimbursement from any relative for amounts paid by the agency for services provided to an individual.

(b) The income and resources of spouses and parents must be considered in determining financial eligibility as provided for the categorically needy in subpart H and the medically needy in subpart I.

3. Section 435.734 is revised to read as follows:

§ 435.734 Financial responsibility of spouses and parents.

(a) Except as provided in paragraph (b) of this section, in determining Medicaid eligibility of an aged, blind, or disabled individual under requirements more restrictive than those used under SSI, the agency must consider the income and resources of spouses and parents as available specified in §§ 435.723 and 435.724 or in a manner that is more extensive than those sections but not more extensive than the requirements in effect under the Medicaid plan on January 1, 1972.

(b) When considering the availability of the income of a spouse to the individual (when either the individual or his or her spouse is institutionalized), the agency must consider only the income in fact contributed by the spouse to the individual.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

B. Part 436 is amended as set forth below:

1. Section 436.602 is revised to read as follows:

§ 436.602 Limitation on the financial responsibility of relatives.

(a) Except for a spouse of an individual or a parent for a child who is under 21 or blind or disabled, the agency must not—

(1) Consider income and resources of any relative available to an individual, nor

(2) Collect reimbursement from any relative for amounts paid by the agency for services provided to an individual.

(b) The income and resources of spouses and parents must be considered in determining financial eligibility as provided for the categorically needy in subpart H and the medically needy in subpart I.

2. Section 436.711 is revised to read as follows:

436.711 Determination of financial eligibility.

In determining eligibility of individuals specified in subparts B and C of this part who are not recipients of cash assistance, the agency must apply the financial eligibility requirements of the State plan for OAA, AFDC, AB, APTD, or AABD that would be used if the individual were applying for cash assistance. This includes requirements on financial responsibility of spouses and parents, except that—

(a) In determining eligibility of families and children, the agency must consider parental income and resources as available to a child who is living with the parents until he becomes 21, even if State law confers adult status below age 21; and

(b) When considering the availability of the income of a spouse to the individual (when either the individual or his or her spouse is institutionalized), the agency must consider only the income in fact contributed by the spouse to the individual.

3. Section 436.821 is revised to read as follows:

§ 436.821 Financial responsibility of spouses and parents.

In determining eligibility of medically needy individuals, the agency must use the rules for determining whether the income of a spouse or parent is available to the individual that would be used if he were applying for OAA, AFDC, AB, APTD or AABD. However,—

(a) For families and children, the agency must consider parental income and resources available to a child who is living with the parent until he becomes 21, even if State law confers adult status below age 21; and

(b) When considering the availability of the income of a spouse to the individual (when either the individual or his or her spouse is institutionalized), the agency must consider only the income in fact contributed by the spouse to the individual.

(Section 1102 of the Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: September 28, 1979.

Leonard D. Schaeffer,
Administrator, Health Care Financing Administration.

Approved: November 7, 1979.

Patricia Roberts Harris,
Secretary.

[FR Doc. 79-35938 Filed 11-20-79; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5737]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSEES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of

base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 and section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 60.3 (formerly § 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/Town/county	Source of flooding	Location	Depth in feet above ground. *Elevation in feet (NGVD)
Texas	Bunker Hill Village, City, Harris County.	Buffalo Bayou Tributary, No. 1 to Buffalo Bayou.	Vanderpool Lane..... South Corporate Limits to Chatham Lane (Extended)	*72 *70

Maps available at: City Hall, 11977 Memorial Drive, Houston, Texas.

Send comments to: The Honorable Jo E. Shaw, Mayor of the City of Bunker Hill Village, P.O. Box 19404, Houston, Texas 77024.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: November 7, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-35933 Filed 11-20-79; 8:45 am]

BILLING CODE 6716-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 81

[PR Docket No. 79-300; FCC 79-724]

Permitting Public Coast Stations in the Great Lakes To Transmit Scheduled Weather Broadcasts on Channel 17 Utilizing Both F3 and F4 Emissions

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to permit public coast stations on the Great Lakes to transmit weather broadcasts on Channel 17 (156.850 MHz) by both voice and facsimile. This action is being taken by the Commission in response to problems experienced by coast stations where the lengthy weather broadcasts interfere with the public correspondence service.

DATES: Comments must be filed on or before December 19, 1979, and Reply Comments must be received on or before December 28, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554/

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Adopted: November 6, 1979.
Released: November 15, 1979.

In the matter of amendment of §§ 81.132 and 81.304 to permit public coast stations on the Great Lakes to transmit scheduled weather broadcasts on Channel 17 utilizing both F3 and F4 emissions. (PR Docket No. 79-300).

1. In this Notice we are proposing to permit transmission of scheduled weather broadcasts on the Great Lakes to ship stations on Channel 17, designated for State Control in the Commission's rules.

Background

2. Public coast stations are permitted to broadcast weather information to ship stations with the approval of the Commission. The weather information is compiled by the National Weather Service (NWS) from reports received from weather reporting ship stations and land stations. This information is sent to the coast station via land lines and disseminated to ship stations by voice and facsimile. The broadcasts are made as a public service on a no charge basis.

3. Channel 17, State Control, has a limited number of assignments. There is one assignment in the Great Lakes area to the State of Indiana at Portage, Indiana. Coordination with the State of Indiana has been completed and they concur with the scheduled weather broadcasts on Channel 17. Any future requests for Channel 17 by State agencies will be coordinated and any sharing arrangements, if necessary, will be determined.

Problem

4. Lorain Electronics Corporation (LORAIN) has provided this service for the past 30 years. No problems were experienced prior to the introduction of the automated VHF system on the Great Lakes. The operator was able to control the passing of public correspondence calls during the weather broadcasts. With automation, the number of public correspondence calls has increased and dissemination of the scheduled weather broadcasts¹ has limited the ability of the subscribers to the automated system to make calls during these broadcast periods.

5. All of this weather information is transmitted over the public correspondence channels for a daily

¹ These broadcasts are scheduled as follows: MAFOR—Coded Marine Weather Forecasts: Daily at 6 and 12 AM, 6 and 12 PM. LAWEB—Great Lakes Weather Broadcasts: Daily at 8:30 and 2:30 AM, 8:30 and 2:30 PM. Notices to Mariners, Bulletins, etc. as received.

average of 80 to 90 minutes. There is a planned increase in the number of vessels reporting weather to the NWS and this will, of necessity, increase the time required to broadcast this information to vessels on the Great Lakes.

Proposal

6. To alleviate this problem, we propose to amend §§ 81.132 and 81.304 of the rules to permit public coast stations on the Great Lakes to broadcast weather information on Channel 17 (156.850 MHz) utilizing both F3 and F4 emissions.²

7. These proposed amendments of the Commission's rules, as set forth in the attached Appendix, are issued pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

Comments

8. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before December 19, 1979, and reply comments on or before December 28, 1979. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

9. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours

² F3. Telephony by frequency modulation of the main carrier. F4. Facsimile by direct frequency modulation of the carrier.

in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Questions

10. Regarding questions on matters covered in this document contact Nicholas G. Bagnato, (202) 632-7175.

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 81.132 paragraph (a)(2)(iii) is amended as follows:

§ 81.132 Authorized classes of emission.

(a) * * *

(2) * * *

(iii) For frequencies in the band 156 to 162 MHz: 156.850, 161.825, 161.875, 161.925 and 161.975 MHz.

F3, and when assigned to stations in an automated multistation system, F2 and F4. The authorized bandwidth for F2 and F4 emissions will be the same as for F3 as specified in § 81.133.

All other frequencies..... F3.

* * * * *

2. In § 81.304 the table in paragraph (a) and footnote in paragraph (b) are amended as follows:

§ 81.304 Frequencies available.

a. * * *

Carrier frequency (kHz)	Conditions of use	
	Section	Limitation
MHz:		
156.800.....	81.304	25
156.850.....	81.185	7
161.800.....	81.304	6, 22, 24

* * * * *

b. * * *

(7) Available for assignment to coast stations on the Great Lakes for transmission of scheduled Coded Marine Weather Forecasts (MAFOR), Great Lakes Weather Broadcast (LAWEB) and unscheduled Notices to Mariners or Bulletins as received. Transmissions are permitted on F3 and F4 emissions.

* * * * *

[FR Doc. 79-35856 Filed 11-20-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 676

North Pacific Fishery Management Council; Partial Postponement of Public Hearings

AGENCY: North Pacific Fishery Management Council.

ACTION: Partial postponement of public hearings.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has postponed a portion of the public hearings scheduled on the Council's Herring of the Bering/Chukchi Seas Fishery Management Plan.

DATES: The postponed hearings are those announced for November 10, 1979 (44 FR 61983, October 29, 1979), in the following Alaska cities and villages: Bethel, Toolikook Bay, and Hooper Bay. The hearings for those cities and villages will be scheduled for a later date, probably in January 1980. Local television, radio stations and newspapers have been informed of this postponement. All other hearings on this FMP will be held as scheduled.

FOR FURTHER INFORMATION CONTACT:

North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274-4563.

Dated: November 15, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-35968 Filed 11-20-79; 8:45 am]

BILLING CODE 3510-22-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Protection of Historic and Cultural Properties; Public Information Meeting

Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (38 CFR Part 800), that on Tuesday, December 11, 1979, at 7:30 PM, a public information meeting will be held at the Antioch Missionary Baptist Church, 525 N. Church Street, Decatur, Illinois.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed use of funds from the Department of Housing and Urban Development, authorized under Section 202 of the Housing Act of 1959, for construction of the Bethany Terrace housing project by the BCP Housing Corporation, an undertaking assisted by the Department of Housing and Urban Development that will adversely affect the Decatur Historic District, Decatur, Illinois, a property included in the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the

property by the Department of Housing and Urban Development, or its representative.

III. A statement by the Illinois State Historic Preservation Officer.

IV. Statements from local officials; private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K St., NW., Washington, DC 20005, Attn: Patrick H. Steele, 202-254-3967.

Robert R. Garvey, Jr.,
Executive Director

[FR Doc. 79-35834 Filed 11-20-79; 8:45 am]
BILLING CODE 4310-10-M

CIVIL AERONAUTICS BOARD

[Order 79-11-112; Amdt. 1 to Order 79-10-51]

Adoption of Maximum Subsidy Rates Due and Payable to Six Local Service Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 79-11-112 Amendment One to order 79-10-51.

SUMMARY: The Board has adopted the maximum subsidy rates due and payable to the six local service carriers for the period from January 1, 1979, through June 30, 1979. Under the provisions of Class Rate IX, semi-annual reviews are conducted to determine adjustments to the base period subsidy rates as set in Order 79-10-51. The adjustments in this order are based on operating results from the year ended September 30, 1978. The annual subsidy level effective January 1, 1979, for the entire class, is \$78.4 million. Included in this figure is a upward median percentage change of 2.08 percent, which was applied to the base period net formula provisions and service incentive payments for Frontier, Hughes Airwest, Ozark, and Piedmont. (The median percentage change provisions of Class Rate IX do not apply to Republic's predecessors, North Central and Southern.) In addition, the industry's Federal tax allowance was reduced by

Federal Register

Vol. 44, No. 226

Wednesday, November 21, 1979

\$1.0 million. Due to service suspensions during the rate period, the maximum annual subsidy rate will decline to \$71.8 million by June 30, 1979.

DATES: Parties must file exceptions and supporting reasons by November 28, 1979.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson or James Craun, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5368.

The complete text of Order 79-11-112 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-11-112 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 15, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-35909 Filed 11-20-79; 8:45 am]
BILLING CODE 6320-01-M

[Docket 37020]

Intra-Alaska Service Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Richard M. Hartsock. Future communications should be addressed to Judge Hartsock.

Dated at Washington, D.C., November 15, 1979.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 79-35905 Filed 11-20-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-11-91; Docket No. 37085]

Atlanta/Detroit-New York/Newark; Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause 79-11-79. The Atlanta/Detroit-New York/Newark Show-Cause Proceeding, Docket 37085.

SUMMARY: The Board is proposing to grant unrestricted nonstop authority in the Atlanta/Detroit-New York/Newark markets to Republic Airlines, Piedmont Aviation and any other fit, willing and able applicant whose fitness can be

established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions, shall file by December 20, 1979, with the Board and serve upon Republic Airlines and Piedmont Aviation a statement of objections, together with a summary of testimony, statistical data and other material expected to be relied upon to support the stated objections.

Additional Data: Additional carriers desiring the authority in issue are directed to file in Docket 37085, by December 5, 1979, (a) illustrative service proposals, (b) environmental evaluations and (c) an estimate of fuel to be consumed in the first year. They are also directed to file applications and motions to consolidate at the same time.

ADDRESSES: Objections should be filed in Docket 37085, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Thomas G. Chew, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-6067.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-11-91 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-11-91 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Director, Bureau of Domestic Aviation: November 14, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-35906 Filed 11-20-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-11-102; Docket No. 37087]

Kansas City-Florida Points; Show-Cause Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause 79-11-102, Kansas City-Florida Points Show-Cause Proceeding, Docket 37087.

SUMMARY: The Board is proposing to grant Kansas City-Miami nonstop authority to Trans World Airlines, Western Air Lines, Ozark Air Lines, Continental Air Lines, and Air Florida, and Kansas City-Miami, Ft. Lauderdale, West Palm Beach, Orlando, and Sarasota-Bradenton, Ft. Myers, and

Tampa-St. Petersburg-Clearwater Nonstop Authority to United and USAir (formerly Allegheny Airlines), and any other fit, willing and able applicant, the fitness of which can be established by officially noticeable material. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by December 21, 1979, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon parties listed below.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than December 8, 1979.

SUPPLEMENTARY INFORMATION: Objections should be served upon: Air Florida, Continental Air Lines, Ozark Air Lines, Trans World Airlines, United Air Lines, USAir, Western Air Lines, Governors of the States of Florida, Missouri and Ohio, the Mayors of the Cities of Columbus, Ohio, Kansas City, Missouri, Miami, Florida, Ft. Lauderdale, Florida, West Palm Beach, Florida, Orlando, Florida, Sarasota, Florida, Ft. Myers, Florida, Tampa, Florida, Bradenton, Florida, St. Petersburg, Florida, and Clearwater, Florida, Florida Department of Transportation, Missouri Department of Transportation, Ohio Department of Transportation, Hillsborough County Aviation Authority (Tampa), Columbus Metropolitan Airport and Aviation Commission, Aviation Department, Kansas City and Dade County Aviation Department.

ADDRESSES: Objections to issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D. C. 20428, in Docket 37087, which we have entitled the *Kansas City-Florida Points Show-Cause Proceeding*.

FOR FURTHER INFORMATION CONTACT: Julien R. Schrenk, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D. C. 20428, (202) 673-5149.

The complete text of Order 79-11-102 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D. C. Persons outside the metropolitan area may send a post-card request for Order 79-11-102 to the Distribution Section,

Civil Aeronautics Board, Washington, D. C., 20428.

By the Civil Aeronautics Board: November 15, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-35908 Filed 11-20-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-11-94; Docket No. 36062]

Walsten Air Service Ltd.; Foreign Air Carrier Permit Application

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79-11-94, Application of Walsten Air Service Limited, Docket 36062.

SUMMARY: The Board proposes to approve the following application: Applicant: Walsten Air Service Limited. Application Date: July 5, 1979. Docket: 36062.

Authority Sought: Foreign air carrier permit authorizing small aircraft charters between points in Canada and points in the United States.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than December 11, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Docket 36062, Docket Section, Civil Aeronautics Board, Washington, DC 20428. Mr. Neil C. Walsten, President, Walsten Air Service Limited, P.O. Box 706, Kenora, Ontario, Canada P9N 3X8.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Ave., NW, Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Nancy L. Pitzer, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board—(202) 673-5134.

By the Civil Aeronautics Board: November 15, 1979.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 79-35907 Filed 11-20-79; 8:45 am]
BILLING CODE 6330-01-M

COMMISSION ON CIVIL RIGHTS

Idaho Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Idaho Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 5:00 p.m., on December 8, 1979, at the Blue Lakes Inn, 1357 Blue Lakes Boulevard North, Twin Falls, Idaho 83301.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to discuss the decision in Census activities; approval of followup activity proposal, farmworker housing; report by AOJ subcommittee; and community forum.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 16, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-35903 Filed 11-20-79; 8:45 am]
BILLING CODE 6335-01-M

Oklahoma Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provision of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oklahoma Advisory Committee (SAC) of the Commission will convene at 2:00 p.m. and will end at 8:00 p.m., on December 18, 1979, at the Lincoln Plaza, 4545 Lincoln Boulevard, Oklahoma City, Oklahoma.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is planning and preparation meeting for the affirmative action project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 16, 1979.
John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-35904 Filed 11-20-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Neighborhood Statistics Program; Determination

The Director of the Bureau of the Census is issuing below a statement on the Neighborhood Statistics Program which includes the final criteria for program participation. The preliminary guidelines were presented for comment in the April 17 issue of the *Federal Register* (Volume 44, Number 75, pages 22796 and 22797). Expressions of interest in this program or requests for further information should be sent to the Director, Bureau of the Census, Washington, D.C. 20233.

1980 Census Neighborhood Statistics Program

In recent years, there has evolved a new type of officially recognized area, frequently called a "neighborhood," which provides concerned citizens a means of communicating with local officials. The Bureau of the Census has developed the Neighborhood Statistics Program to assist jurisdictions that have such subareas by providing to local officials and neighborhood representatives basic demographic, social, and economic data by neighborhoods. These statistics are needed to determine the socioeconomic characteristics of the population residing in each area, to gauge the possible qualification of the area for participation in Federal and other programs (e.g., Community Development Block grants), and to formulate programs needed by neighborhood residents.

As the program evolved, the Bureau obtained comments and advice from many sources including extensive contacts with local officials and neighborhood leaders, as well as national neighborhood organizations and Federal agencies. Based on this input, the Bureau is designating the following three characteristics of neighborhoods as criteria for a locality to participate in the program:

1. *Official recognition.*—All neighborhoods for which data are to be provided must be officially recognized through: A municipal law or similar legal or administrative action; a letter from the locality's highest elected official to the Director of the Bureau of

the Census; or written certification from a central neighborhood council or coalition representing all of the neighborhoods in the locality.

2. *Nonoverlapping boundaries.*—All the area within any given neighborhood must be considered part of that neighborhood only; no portion of the locality may be included in more than one neighborhood.

3. *Advisory representation.*—A mechanism must exist whereby concerned residents within a neighborhood are assured the opportunity to present their views on municipal matters to city officials. Examples of such mechanisms are: Elected or appointed representatives, neighborhood councils, citizen associations, and neighborhood liaisons to city hall.

As proposed in the April *Federal Register* article, the Bureau has eliminated preliminary criterion 2, "complete citywide coverage." Therefore, a city with neighborhoods that meet all three of the final criteria, noted above, but which do not cover the entire municipal area, would be able to participate. In such situations, summary data would be produced for a "balance of city" which would include all areas within the municipality that are not part of a recognized neighborhood.

As indicated earlier, this program is directed specifically to the type of neighborhood which not only is identified as a subcommunity of the locality (because of traditional recognition, socioeconomic homogeneity, or other common interests of its residents), but also has established a means to express the concerns of its residents to the locality's officials and, thereby plays a role in the local government process. The final criteria have been selected with this purpose in mind. The neighborhoods need to be officially recognized as part of a citizen participation system since cities may have more than one neighborhood program, and it is not possible for the Census Bureau to produce these special data for more than one set of neighborhoods within a municipality. Furthermore, since the data for neighborhoods will not be available until the period of fall 1981 to spring 1982, the program is designed for neighborhoods with broad organizational bases that are expected still to be in existence at that time and beyond. The Bureau is interpreting the expression "official recognition" in a broad manner and, to date, most interested localities seem to meet this guideline.

The nonoverlapping boundaries requirement is necessary because each

housing unit and each person must be assigned to one and only one neighborhood for tabulation purposes. In addition, overlapping boundaries would cause duplications in the statistics which would make them difficult to interpret.

The criterion regarding representation is a key factor in distinguishing advisory neighborhoods from statistical areas, wards, transportation zones, and other subareas of localities which have been designated for specific purposes other than citizen participation. Some cities that have neighborhoods which are presently involved in citizen participation also have "inactive" neighborhoods affiliated with the same system. In such situations, it may be possible to produce data for the inactive as well as the active neighborhoods as long as all the neighborhoods in the system are officially recognized and have nonoverlapping boundaries.

While the focus of this program is on incorporated places, it is recognized that neighborhoods of the type described here also exist in unincorporated places and counties. However, the production of neighborhood tabulations for such localities presents some technical and cost considerations that do not exist with cities. Decisions regarding participation by areas other than municipalities will not be made until the Bureau has been able to explore further both these considerations and the possibility of serving the statistical needs of the areas through other types of small-area data to be produced from the 1980 census.

Participation in the Neighborhood Statistics Program can be initiated by a written request from either the chief elected official of the municipality or an appropriate representative of the neighborhood system (e.g., central neighborhood council). The request should include a description of the neighborhoods in relation to each of the final criteria, appropriate documentation, and, if available, a map showing the boundaries of the neighborhoods. Such requests will be accepted through December 31, 1980; however, for budgetary and planning purposes, the Bureau would appreciate receiving at an early date letters of intent from those localities prepared to send them. Likewise, for localities which plan to apply closer to the deadline, an early expression of interest is desired. If a locality has formally requested participation previously or has sent to the Bureau information regarding its neighborhoods, there is no need to duplicate that correspondence unless

the locality's interest or neighborhood system has changed.

Following this *Federal Register* announcement, an informational mailing of the final program criteria will be sent to the highest elected official of cities with 10,000 or more population and to persons who previously have written to the Bureau regarding this program. Over the next few months, the Bureau will contact again those cities which have expressed interest in participating and analyze individually each situation.

Beginning in the spring of 1981, for areas whose compliance with the program criteria has been determined, the Bureau will provide to each requester the appropriate 1980 census maps and other geographic information along with instructions for preparing a "neighborhood block equivalency list." In that operation, the requester will "define" each neighborhood in terms of census geographic areas which, for the most part, will be census blocks. For blocks cut by neighborhood boundaries, the requester will determine the neighborhood to which the entire block will be allocated since individual blocks cannot be split. The Bureau will review the block equivalency list; however, the local requester will be responsible for its accuracy, for the resolution of any omissions or duplications that it may contain, and for any statistical inaccuracies that may result from undiscovered errors.

The cost of the work performed by the Bureau of the Census in connection with this program will be borne by the participants. The expense of program participation to the municipality or central neighborhood council will be minimal, i.e., making the written request, preparing the neighborhood block equivalency list, and providing for such local dissemination of the statistics as the requester deems desirable.

At the completion of the tabulation process, a full set of tables containing the statistics for all recognized neighborhoods within the locality—and, where applicable, for a balance of the city—will be provided without charge to the requester. In terms of content, the data for neighborhoods will parallel the statistics published for census tracts and will include such subjects as age, employment, income, shelter costs, and persons per room. The tables will be accompanied by an appropriate text defining the subject terminology and the statistical limitations of the data. Potential methods for further dissemination of the data by the Bureau of the Census are under review. In any event, the neighborhood statistics will be publicly available at reasonable cost.

Maps showing neighborhood boundaries will not be available from the Bureau of the Census; any map preparation or dissemination in relation to this program will be a local responsibility. The Bureau, however, will prepare guides on the use of these data, develop case studies to illustrate various ways of applying them to neighborhood problems, and include sessions in data user workshops to familiarize potential users of the neighborhood statistics with the data.

Dated: November 16, 1979.

Vincent P. Barabba,
Director, Bureau of the Census.

[FR Doc. 79-35951 Filed 11-20-79; 8:45 am]
BILLING CODE 3510-07-M

Special Censuses

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. However, because of the need to avoid conflicts with activities involving the conduct of the 1980 census, no additional special censuses will be conducted during the period from August 1, 1979 to January 1, 1981. The Bureau is, therefore, not accepting requests for cost estimates for special censuses at this time. Beginning in the fall of 1980 the Bureau will resume accepting such requests.

The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the *Current Population Reports*—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since October 31, 1978, for which tabulations were completed between October 1, 1979 and October 31, 1979.

State/place, special area	County	Date of census	Population
Illinois: El Paso city.	Woodford	June 4, 1978	2,649

State/place, special area	County	Date of census	Population
Mt. Prospect (annexed areas).	Cook	Aug. 18	1,917
Minnesota: Apple Valley city, Nevada:	Dakota	June 26	20,330
Esmeralda county.		June 11	705

Dated: November 26, 1979.

Vincent P. Barabba,

Director, Bureau of the Census.

[FR Doc. 79-35950 Filed 11-20-79; 8:45 am]

BILLING CODE 3510-07-M

Office of the Secretary

Advisory Panel for Western Pacific Fishery Management Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App., (1976) and Office of Management and Budget Circular A-63 (as revised), and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Advisory Panel (AP) for the Western Pacific Fishery Management Council is in the public interest in connection with the performance of duties imposed on the Department by law.

The President signed the Fishery Conservation and Management Act (FCMA) into law on April 13, 1976. The Act mandated the establishment of eight Regional Fishery Management Councils to serve as the instruments of Federal-State-private interaction in the conduct of fishery management in the U.S. Fishery Conservation Zone (FCZ). The Act also authorized the establishment of such advisory panels as are deemed necessary in assisting the Councils in carrying out their functions.

The Advisory Panel for the Western Pacific Fishery Management Council was initially established on October 26, 1977 and its present charter was renewed on November 14, 1979. It is believed that the Panel will continue with a balanced representation of members, which are appointed by the Council. The purpose of the Panel has been to advise the Council in the assessments and specifications contained in the fishery management plans (FMP) for fisheries within the Council's geographic area of concern, with particular regard to (1) the capacity and the extent to which the fishing vessels of the United States will harvest the resources considered in FMPs, (2) the effect of such FMPs on local economies and social structures, (3)

potential conflicts between user groups of a given fishery resource, and (4) enforcement problems peculiar to each fishery with emphasis on the expected need for enforcement resources. Research indicates that this Panel's functions cannot be accomplished by any organizational element or other committee of the Department.

Since its inception, the Panel's activities have resulted in several oral and written reports relative to carrying out the functions outlined above. The Panel is currently addressing five fishery management units selected by the Council for management plan development. Three of these management plans are in the developmental stage.

The Western Pacific Advisory Panel will continue to operate in compliance with the provisions of the Federal Advisory Committee Act. Copies of the Advisory Panel's charter will be filed with the appropriate committees of the Congress and with the Library of Congress. Inquiries regarding this notice may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland 20852, or Mrs. Yvonne Barnes, Committee Staff Contact Person, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: November 14, 1979.

Guy W. Chamberlin, Jr.,

Assistant Secretary for Administration.

[FR Doc. 79-35913 Filed 11-20-79; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 21, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 20, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (44 FR

42755) of proposed addition to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1979:

Class 5440

Stepladder, Wood

5440-00-171-9836

5440-00-227-1592

5440-00-227-1593

5440-00-227-1594

5440-00-227-1595

5440-00-227-1596

5440-00-531-2589

C. W. Fletcher,

Executive Director.

[FR Doc. 79-35932 Filed 11-20-79; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF ENERGY

Oil Supply, Demand and Logistics Task Group and Refinery Capability Task Group of the National Petroleum Council's Committee on Refinery Flexibility; Meetings

Notice is hereby given that the Oil Supply, Demand and Logistics Task Group and the Refinery Capability Task Group of the National Petroleum Council's (NPC) Committee on Refinery Flexibility will meet on Thursday, November 29, 1979, and Tuesday, December 4, 1979 respectively. The Supply and Demand Task Group will meet in the 20th floor Conference Room of the Gulf Building, 712 Main Street, Houston, Texas. The Capability Task Group will meet in the NPC Headquarters, Suite 601, 1625 K Street, N.W., Washington, D.C.

The National Petroleum Council provides technical advice and information to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. Accordingly, the Committee on Refinery Flexibility has been requested by the Secretary to undertake an analysis of the factors affecting crude oil quality and availability and the ability of the refining industry to process such crudes into marketable products. This analysis will be based on information and data to be gathered by the Oil Supply, Demand, and Logistics Task Group and the Refinery Capability Task Group, whose efforts will be coordinated by the Coordinating Subcommittee. The tentative agendas of both Task Group Meetings follow:

Agenda for the meeting of the Oil, Supply, Demand and Logistics Task Group, November 29, 1979, beginning at 10:00 a.m.:

1. Discuss the results of the October 22 meeting of the Coordinating Subcommittee and the November 21 meeting of the Main Committee.
2. Discuss the supply/demand data requirements of the Refinery Capability Task Group.
3. Discuss any other matters pertinent to the overall assignment of the Task Group.

Agenda for the Refinery Capability Task Group meeting, December 4, 1979, beginning at 9:00 a.m.:

1. Review and approve the summary minutes of the October 30, 1979, meeting of the Task Group.
2. Report on the meeting of the Committee on Refinery Flexibility of November 21, 1979.
3. Report on the Oil Supply, Demand and Logistics Task Group meeting of November 29, 1979.
4. Discuss plans for the final phase of the Refinery Flexibility study.
5. Discuss any other matters pertinent to the overall assignment of the Task Group.

All meetings are open to the public. The Chairmen of the Task Groups are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with either Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Mr. Marshall Nichols, National Petroleum Council, (202) 393-6100, prior to the meeting, and provision will be made for their appearance on the respective agendas.

Issued at Washington, D.C., on November 15, 1979.

C. William Fischer,

Acting Assistant Secretary, Policy and Evaluation.

[FR Doc. 79-35929 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Case No. 51252-3470-06-41]

Acceptance of Exemption Petition Pursuant to Interim Rules Implementing the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Energy Department.

ACTION: Notice of Acceptance of Exemption Petition Pursuant to Interim Rules Implementing the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On September 17, 1979, the Houston Lighting and Power Company (HL&P or the Petitioner) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy for an order exempting its Parish No. 6 powerplant from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) which prohibit natural gas use in certain existing electric powerplants. ERA's interim rules implementing FUA including criteria to be used in petitioning for exemptions from the prohibitions of the Act were published at 44 FR 28530 (May 15, 1979), 44 FR 28950 (May 17, 1979) and 44 FR 43176 (July 23, 1979). HL&P has requested a temporary environmental exemption and asserts that Parish No. 6 is unable to burn coal as its primary energy source while at full capacity and comply with applicable environmental requirements using existing emission control equipment. HL&P proposes to burn a mixture of natural gas and coal in the powerplant until certain modifications to the emission control equipment have been completed.

Section 301(a)(2) of FUA imposes prohibitions against natural gas use in existing electric powerplants unless such powerplants used natural gas as a primary energy source during calendar year 1977. HL&P's Parish No. 6 powerplant did not use natural gas as a primary energy source in 1977. ERA's decision in this matter will determine whether HL&P's Parish No. 6 powerplant will be granted an exemption. Pursuant to § 501.67 of the interim rules, ERA has, with the Petitioner's approval, redesignated the HL&P petition as a petition for a temporary public interest exemption under § 504.26 of the interim rules and waived the requirement of a demonstration concerning fuel mixtures as well as the requirement for a Fuels Decision Report. In accordance with the provisions of Sections 701(c) and (d) of FUA and §§ 501.31 and 501.33 of the interim rules, interested persons are invited to submit written comments in regard to this matter. Any interested person may also submit a written request that ERA convene a public hearing.

DATES: Written comments and requests for a public hearing are due on or before January 5, 1980.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 3214, 2000 M Street NW., Washington, D.C. 20461.

Docket Number ERA-FC-79-009 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

Elmer Lee, Chief, Existing Utilities Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 7219, Washington, D.C. 20461, Phone (202) 254-5438.

C. Randolph Comstock, Acting Assistant General Counsel for Coal Regulations, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6C-087, Washington, D.C. 20585, Phone (202) 252-2967.

Robert L. Davies, Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3218, Washington, D.C. 20461, Phone (202) 634-6557.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 and July 23, 1979, implementing provisions of Title III of the Powerplant and Industrial Fuel Use Act of 1978, (FUA or the Act). Title III of the Act prohibits the use of natural gas in existing electric powerplants that did not use natural gas as a primary energy source in the calendar year 1977 unless an exemption to do so has been granted by ERA. Parish No. 6 is a 660 MW, coal-fired, electric powerplant located in Fort Bend County, Texas which did not use natural gas as a primary energy source in 1977.

ERA, at the request of HL&P, conducted a prepetition conference to discuss the filing of a petition for a temporary exemption. In its petition HL&P has asserted that in order to comply with the FUA prohibitions against natural gas use and to meet applicable environmental requirements it has been necessary to operate Parish No. 6 on coal at 40-50 percent of the unit's actual capacity. HL&P further asserted that in order to make up the 350-400 MW of capacity lost by operating Parish No. 6 at the reduced capacity factor it has been forced to operate less efficient units which burn oil and natural gas, to purchase power and to curtail its interruptible load customers.

HL&P has stated that if a temporary exemption is granted, it will be able to burn a mixture of natural gas and coal in Parish No. 6 and operate the unit at full capacity while modifying the existing emission control equipment so as to meet particulate emission standards by January 31, 1980. Petitioner further asserts that this will result in the HL&P

system using less natural gas and oil than if Parish No. 6 burns only coal at reduced capacity and the lost capacity is made up by less efficient oil and gas burning units.

ERA hereby accepts HL&P's petition as adequate for filing. Based upon ERA's preliminary analysis of the information contained in the petition there appears to be a reasonable likelihood that a temporary public interest exemption should be granted which would allow HL&P to burn a mixture of natural gas and coal in Parish No. 6 until January 31, 1980. ERA retains the right to request additional relevant information from HL&P at any time during the pendency of these proceedings where circumstances or procedural requirements may require.

The public file, containing documents on these proceedings and supporting material, is available for inspection upon request at: ERA, Room B-110, 2000 M Street, N.W., Washington, D.C. Monday-Friday, 8:00 A.M.-4:30 p.m.

Issued in Washington, D.C. on November 14, 1979.

Robert L. Davies,
Acting Assistant Administrator, Office of
Fuels Conversion, Economic Regulatory
Administration.

[FR Doc. 79-35930 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL79-32]

Brazos River Authority; Petition Recommending Establishment of Minimum Flows

November 13, 1979.

On April 25, 1979, the Fish and Wildlife Service (FWS) of the U.S. Department of the Interior recommended that the operation of the Morris Sheppard Hydroelectric Project No. 1490 (Possum Kingdom), licensed to the Brazos River Authority, be modified to provide minimum stream flows to enhance the fishery and recreational resources of the Brazos River in Palo Pinto County, Texas. Currently, there is no minimum flow being released at the Morris Sheppard Dam, but normal average reservoir leakage amounts to approximately 20 cfs. FWS's recommendation was submitted pursuant to Article 30 of the project license and specifies the following flows:

(1) During March through October, a minimum flow of 90 cfs from 10:00 a.m. Sunday until 4:00 p.m. Friday, and a minimum flow of 200 cfs from 4:00 p.m. Friday until 10:00 a.m. Sunday.

(2) During November through February, a minimum flow of 100 cfs.

Anyone desiring to be heard or to make any protest about this recommendation should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 24, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The recommendation is on file with the Commission and is available for public inspection.

Letters commenting on FWS's recommendation that have been received prior to issuance of this notice will also be included in the record and considered by the Commission before it acts.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35916 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2448]

Consumer Power Co.; Application for Approval of Conveyance of Project Lands

November 13, 1979.

Take notice that an application was filed on July 30, 1979, under the Federal Power Act (16 U.S.C. § 791(a)-825(r)), by the Consumer Power Company (Applicant) for approval of conveyance of project lands. Correspondence concerning the application should be addressed to: P. A. Perry, Secretary, Consumer Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

According to the application, Consumer Power Company requests Commission approval to convey to the Michigan State Transportation Commission by quit claim deed certain project lands, which Licensee owns in fee, and are situated in the Townships of Big Creek and Mentor, Oscoda County,

Michigan. Flowage rights over the lands to be conveyed are reserved by the Licensee.

The proposed conveyance is necessary for a project of the Michigan State Transportation Commission which will replace the deteriorating existing Route M-33 bridge over the Au Sable River and will realign the bridge approaches as necessary to conform to the new bridge location. The new bridge location is east of the old bridge.

Approximately 11 acres of land are involved in the conveyance.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest, petition to intervene or agency comments must be filed on or before December 28, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35917 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-4]

Locust Ridge Gas Co.; Order Accepting for Filing and Suspending Rate Increase Subject to Conditions and Establishing Procedures

November 2, 1979.

On October 4, 1979, Locust Ridge Gas Company tendered for filing proposed changes¹ to its FERC Gas Tariff, Original Volume No. 3 to be effective November 5, 1979. In general, this filing provides for an increase in the cost of service component charged to Michigan Wisconsin Pipe Line Company from 9.73 cents per MMBtu to 16.9 cents per

¹First Revised Sheet Nos. 1-A, 10, 21A, 21B, 21C, 22 and Second Revised Sheet No. 21 to FERC Gas Tariff, Original Volume No. 3.

MMBtu, resulting in additional annual revenues of \$108,730. Locust Ridge claims that the increase is necessary to recover revenue deficiencies attributable to increased operating expenses. Locust Ridge proposes an overall rate of return of 13% which includes a 14.83% return on common equity which comprises 51.55% of the capitalization.

On March 7, 1977, the Commission in Docket No. CP77-84 authorized Locust Ridge Gas Company to acquire and operate the pipeline facilities of Horner and Smith, Inc., in Tensas Parish, Louisiana and Jefferson County, Mississippi used for the gathering of gas purchased in those states, and for the transportation of gas to the Locust Ridge processing plant in Tensas Parish, Louisiana and the pipeline facilities used for the transportation of residue gas from the plant to Michigan Wisconsin Pipe Line Company and Mid Louisiana Gas Company. Locust Ridge has a long term gas agreement (dated May 1, 1961) with Michigan Wisconsin, that provides for a fixed rate of 24.50 cents/Mcf. An amended agreement dated February 16, 1979, between Locust Ridge and Michigan Wisconsin provided for the sale of certain gas at 24.50 cents/Mcf, with the remainder to be priced at NGPA rates resulting in a rate of 81.84 cents/MMBtu. This rate included an average cost of gathering and transporting gas of 9.73 cents/MMBtu. Locust Ridge indicates under this contract it has experienced an operating loss of \$178,454 for the twelve months ending May 31, 1979. Locust Ridge and Michigan Wisconsin have executed an amendatory agreement dated August 3, 1979, in which Michigan Wisconsin has agreed to pay Locust Ridge's cost of service for each billing month during the remaining term of the agreement for all gas delivered. This cost of service component amounts to 16.96 cents/MMBtu of the 89.07 cents/MMBtu price to be charged to Michigan Wisconsin in the instant rate application. The rate filing reflects gas sales to Mid Louisiana of 829,676 Mcf and 1,503,857 Mcf to Michigan Wisconsin. This represents increases of 147,109 Mcf and 612,062 Mcf, respectively from the last rate case in Docket No. RP79-58.

Public notice of this filing issued on October 9, 1979, providing for comments, protests, or petitions to intervene to be filed on or before October 27, 1979. No protests or petitions to intervene have been filed.

Based upon a review of Locust Ridge's filing, the Commission finds that the proposed rate increase has not been shown to be just and reasonable, and

may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Locust Ridge's tariff sheets for filing, suspend their effectiveness for one day until November 6, 1979, when they may become effective subject to refund, and set the matter for hearing.

The Commission Orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Locust Ridge.

(B) Pending hearing and decision, the tariff sheets listed in footnote 1 to this order are accepted for filing and suspended for one day until November 6, 1979, when they may become effective subject to refund, in the manner prescribed by the Natural Gas Act and the Commission's regulations.

(C) The Commission Staff shall prepare and serve top sheets on all parties on or before February 1, 1980.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure:

By the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35621 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-3]

Michigan Wisconsin Pipe Line Co.; Order Accepting for Filing and Suspending Proposed Rate Increase and Establishing Procedures

Issued: October 31, 1979.

On October 1, 1979, Michigan Wisconsin Pipe Line Company (Mich Wisc) filed pursuant to Section 4(e) of the Natural Gas Act a revised tariff sheet¹ designed to increase its revenues under its Rate Schedule X-64. The

¹Second Revised Sheet No. 667 to FERC Gas Tariff, First Revised Volume No. 2.

increase would raise rates and the cost of service by \$1.8 million over the \$5.5 million cost of service reflected in current rates. Mich Wisc states that its filing is made pursuant to the redetermination clause of its service agreement with High Island Offshore System (HIOS) dated August 4, 1977 and approved by the Commission by order issued July 6, 1978, in Docket No. CP78-134. The proposed effective date is November 1, 1979.

Public notice of the filing was issued on October 10, 1979, providing for protests or petitions to intervene to be filed on or before October 25, 1979. No timely petitions to intervene or protests have been filed.

In support of its increased rates, Mich Wisc filed cost of service data reflecting a \$1.3 million increase in plant investment, a small reduction in operation and maintenance expense and a \$0.3 million increase in return. The proposed depreciation rate of 15.8% commencing January 1, 1980 (up from 7.14%) is identical to that recently claimed by HIOS.² The overall rate of returned claimed is the same rate, 11.5 percent overall, proposed by Mich Wisc in its general rate increase filing in Docket No. RP79-39.

Based on a review of Mich Wisc's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept the tariff sheet for filing, grant waiver of the 30 day notice requirements, suspend it and allow it to become effective on November 1, 1979, subject to refund.

The Commission Orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 8 and 15 thereof, and the Commission's regulations, a public hearing shall be held concerning the lawfulness of the rates proposed by Mich Wisc.

(B) Pending hearing and decision, Mich Wisc's revised tariff sheet is accepted for filing, waiver of the 30 day notice requirement is granted, and the sheet suspended such that the proposed rates shall be permitted to become effective, subject to refund, on November 1, 1979.

(C) Staff shall serve top sheets on or before February 29, 1980.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 C.F.R. 3.5(d)) shall convene

²August 21, 1979, petition to amend certificate in Docket No. CP75-104.

a settlement conference in this proceeding to be held within 10 days after the service of Staff's top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

By the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35922 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Dockets Nos. RP73-14 (PGA79-2) and RP79-39]

Michigan-Wisconsin Pipe Line Co.; Order Accepting for Filing and Suspending Proposed PGA Rate Increase and Consolidated Proceedings

Issued: October 31, 1979.

On September 14, 1979, Michigan-Wisconsin Pipe Line Company (Mich-Wisc) filed a revised tariff sheet¹ reflecting a proposed PGA surcharge adjustment, to be effective November 1, 1979. Mich-Wisc proposes a commodity rate increase of 21.05¢/dth and a 1.1¢/dth decrease in the demand charge. The primary reasons advanced by Mich-Wisc for the proposed adjustment are (1) an increase in the rates charged by its pipeline suppliers to reflect an increase in the Canadian border price of gas, (2) the increased purchased gas costs due to the NGPA, and (3) a decrease in the surcharge to recover the balance in the deferred account.

The revisions proposed by Mich-Wisc include a commodity rate increase of 24.23¢/dth, which represents \$177,808,645 annually in increased purchased gas costs, of which approximately \$91 million results from producer rate increases and approximately \$86 million results from pipeline supplier rate increases. The producer rate increases are pursuant to Sections 102, 103, 104, and 107 of the NGPA, and some of these increases are the result of area rate clauses in gas purchase contracts. Due to the difficulty in immediately determining the rates properly charged by producers under the NGPA, the Commission's acceptance of Mich-Wisc's filing is subject to a revision of the filed rates to eliminate

¹Third Revised Sheet No. 7 to FERC Gas Tariff, Original Volume No. 1.

costs from producer suppliers which are not authorized under the NGPA. Also the Commission will require Mich-Wisc to submit the information in Appendix A attached hereto. Acceptance of Mich-Wisc's filing does not constitute a final determination as to whether any area rate clauses permit the collection of NGPA prices. That determination shall be made in accordance with the procedure, set forth in Order 23, issued March 13, 1979, as amended by subsequent orders in Docket No. RM79-22.

In addition to the commodity rate increase, the filing also reflects commodity rate decreases. The decreases consist of a 2.41¢/dth decrease in the surcharge to recover the balance of \$39,286,074 in the deferred account, and a 0.77¢/dth decrease as a result of the expiration of the HIOS transportation adjustment contained in article V of the Stipulation and Agreement approved in Docket No. RP77-60. The filing also shows a 1.1¢/dth decrease in the demand charge which reflects the impact of increased purchased gas costs due to the NGPA, rate changes by pipeline suppliers, and the replacement of old sources of gas supply with higher priced new gas sources.

Public notice of Mich-Wisc's filing was issued on October 4, 1979, requiring protests or petitions to intervene to be filed by October 18, 1979. No protests or petitions to intervene have been filed.

Based upon a review of Mich-Wisc's filing, the Commission finds that the proposed increase has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall grant waiver of the notice requirements and accept the filing subject to refund and the conditions set forth below.

Mich-Wisc's tariff filing presents questions about the deferred account methodology used by Mich-Wisc in pricing its storage gas volumes. Mich-Wisc's method of pricing storage gas is an issue currently under consideration in Docket No. RP79-39. Accordingly, the Commission will consolidate this PGA filing with the proceeding in Docket No. RP79-39 to allow for the consideration of the storage gas pricing issue in one proceeding.

The issue of the proper method of valuing Michigan Wisconsin's own pipeline production for rate purposes is currently an issue in Michigan Wisconsin's latest general rate case proceeding in Docket No. RP79-39. Accordingly, the costs associated with Michigan Wisconsin's own production in the instant filing shall be collected

subject to refund subject to the resolution of this issue in Docket No. RP79-39.

The Commission orders:

(A) The tariff sheet at issue, filed by Mich-Wisc on September 14, 1979, is accepted for filing and suspended, and waiver of the notice requirements is granted such that the filing shall become effective November 1, 1979, subject to refund.

(B) The acceptance stated in paragraph (A) above is subject to the filing of revised rates within 30 days of the date of this order to reflect the elimination of costs charged by suppliers, which those suppliers are not authorized to charge as of November 1, 1979, pursuant to the Natural Gas Policy Act of 1978, and the Commission's Regulations thereunder; provided, however, that the elimination of such costs will not result in rate levels higher than those contained in the filing of September 14, 1979.

(C) Mich-Wisc shall submit the information set forth in Appendix A attached hereto.

(D) The question as to the appropriate pricing of storage gas in this docket is hereby consolidated with the proceeding in Docket No. RP79-39 for purposes of hearing and decision.

(E) The costs associated with Michigan Wisconsin's own production shall be collected subject to refund and subject to the resolution of the pipeline production costing issue in Docket No. RP79-39.

By the Commission.

Kenneth F. Plumb,
Secretary.

Appendix A

The revised filing should clearly indicate the adjustments to the original submittal and for those sources of supply covered by maximum lawful prices prescribed under Sections 102, 103, 107 and 108 of NGPA and included in the revised rates, the following information should be provided for both the current adjustment and for amounts to be recouped through the surcharge:

(1) identification of each source of supply, including the well identification number or other information sufficient to identify the well and the contract date or rate schedule number where the gas was committed or dedicated to interstate commerce on November 8, 1978;

(2) where multiple wells are metered through a common delivery point or where production from multiple wells is sold under single contract, identify each well where the gas is priced as new natural gas and certain OCS natural gas,

natural gas from onshore production wells, high-cost natural gas or stripper well natural gas;

(3) identify each source of supply being priced under the Commission's transitional rule and include statement, under oath, that to the best of pipeline purchaser's knowledge the filing requirements for collection of the price have been met;

(4) identify each source of supply where a maximum lawful price is being paid pending determination of eligibility by the jurisdictional agency and provide date of receipt of producer filing under the interim collection procedure;

(5) identify each source of supply where a jurisdictional agency determination has been made and provide date of receipt of notice from producer of election to collect the applicable price;

(6) describe basis for payment of the above prices and show for each source of supply whether payment is in response to area rate clause, clause related to Congressional action, contract amendment or other (explain).

For those prices escalated under Sections 104 and 106(a) of NGPA and included in the revised rates, the pipeline should provide explanation for the payment of those escalated prices. Where payment is in response to area rate clauses, clauses related to Congressional action, contract amendments or other agreements the explanation should so indicate.

[FR Doc. 79-35923 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP80-48]

State of Mississippi, Callon Petroleum Co., § 103, § 107 NGPA Determinations, Miller, et al., Gas Unit No. 1, Mauldin et al., Gas Unit No. 1, JD Nos. 79-20793 and 79-20794, State Dockets Nos. 82-79-352 and 81-79-352; Preliminary Finding

Issued: November 1, 1979.

On September 17, 1979, the State Oil and Gas Board of Mississippi (Mississippi) filed with the Commission notice of its determinations that the Miller et al., Gas Unit No. 1 and the Mauldin et al., Gas Unit No. 1 both qualify as new, onshore production wells pursuant to section 103(c) of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95-621 and as high cost natural gas wells pursuant to section 107(c)(1) of the NGPA. The Commission published notice of Mississippi's determination in the Federal Register on October 5, 1979.

The subject wells both qualify as new, onshore production wells as defined in section 103 of the NGPA, as they were

spudded after February 19, 1977, and satisfy the applicable well-spacing and proration unit requirements. The determinations made by Mississippi that the subject wells qualify as new, onshore production wells under section 103 is therefore supported by substantial evidence on the record.

Section 107(c)(1) of the NGPA provides that natural gas produced from any well the surface drilling of which began on or after February 19, 1977, and which production is from a completion location which is located at a depth of more than 15,000 feet, shall be high-cost natural gas eligible for the section 107(a) incentive price. The subject wells are both completed into the Hosston-Sligo Reservoir which extends from above the 15,000 foot level to below that depth. According to the application both wells are single completions and are drilled to depths in excess of 18,000 feet, and are producing from intervals above 15,000 feet in the Sligo Formation, and below 15,000 feet in the Hosston Formation.

The NGPA defines completion location, in section 2(7)(A), as any subsurface location from which natural gas is being or has been produced in commercial quantities. The Commission issued a special rule, § 271.704, (18 C.F.R. § 271.704) to implement section 107(c)(1). This rule provides that to determine the depth of a well under section 107(c)(1), the measurement shall be the true vertical depth from the surface location to the highest perforation point in the completion location. Although the application states that these wells are singularly completed, we believe that each producing interval in these wells is a separate and distinguishable completion location as defined in the NGPA. Accordingly, certain completion locations in the subject wells, if measured according to § 271.704, would be above 15,000 feet, and would be disqualified under section 107(c)(1). Therefore, the Commission will permit the section 107(c)(1) incentive price to be applied only to natural gas produced from the intervals whose highest perforation point is below 15,000 feet.

To determine which production intervals are below 15,000 feet, reference will be made to § 271.704. The electric logs submitted to Mississippi as part of the applications for well determinations indicate that the measurements of the wells' depth were taken from the Kelly Bushing elevation, rather than from the actual surface location. Measuring the depth according to § 271.704 would move one of the producing intervals from below to above 15,000 foot depth, and thus also disqualify gas from that

producing interval the high cost natural gas status under section 107(c)(1).

Since production from the separate completion locations is being comingled prior to metering, the applicants should be prepared to allocate volumes attributable to the section 103 and section 107 prices.

Thus it appears that there is not substantial evidence to support the determinations made by Mississippi that total production from both subject wells qualifies for high cost natural gas treatment because some of the production of the wells is from depths below 15,000 feet. Accordingly, the Commission hereby makes a preliminary finding that the determinations made by Mississippi that the subject wells qualify under section 107(c)(1) insofar as the determinations apply to natural gas produced from intervals above 15,000 feet, as measured from ground level pursuant to § 271.704, are not supported by substantial evidence in the record, and are hereby reversed. The determinations that natural gas produced from intervals below 15,000 feet from the subject wells qualifies for section 107(c)(1) are not disturbed. The reversal of the 107(c)(1) determinations do not affect the determinations that the subject wells qualify for section 103(c) incentive price.

By Direction of the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35924 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

[No. 105]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 30, 1979.

The Federal Energy Regulatory Commission received notices from the Jurisdictional Agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Arkansas Oil and Gas Commission

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS are a name
7. County, State or Block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-02485
2. 03-033-10057
3. 103 000 000
4. SEECO Inc

5. Chitwood No 1-4
6. Dyer
7. Crawford AR
8. .0 million cubic feet
9. October 15, 1979
10. Arkansas Western Gas Company

1. 80-02486
2. 03-033-10057
3. 103 000 000
4. SEECO Inc
5. Chitwood No 1-4
6. Dyer
7. Crawford AR
8. .0 million cubic feet
9. October 15, 1979
10. Arkansas Western Gas Company

1. 80-02487
2. 03-047-00000
3. 108 000 000
4. SEECO Inc
5. Patrick Est No 2
6. Rock Creek
7. Franklin AR
8. 4.2 million cubic feet
9. October 15, 1979
10. Arkansas Western Gas Company

1. 80-02488
2. 03-033-00000
3. 108 000 000
4. SEECO Inc
5. Alexander No 1
6. Cecil
7. Crawford AR
8. 13.0 million cubic feet
9. October 15, 1979
10. Arkansas Western Gas Company

1. 80-02489
2. 03-143-00000
3. 108 000 000
4. SEECO Inc
5. Latham No 1
6. West Fork
7. Washington AR
8. 8.0 million cubic feet
9. October 15, 1979
10. Arkansas Western Gas Company

1. 80-02490
2. 03-143-00000
3. 108 000 000
4. SEECO Inc
5. Threlkeld No. 1
6. West Fork
7. Washington AR
8. 13.0 million cubic feet
9. October 15, 1979
10. Arkansas Western Gas Company

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS are a name
7. County, State or Block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-02407
2. 30-015-22299
3. 103 000 000
4. Amoco Production Company
5. State/EP/Com No 1
6. Burton Flat Strawn

7. Eddy NM
8. 708.0 million cubic feet
9. October 15, 1979
10. El Paso Natural Gas Co

1. 80-02408
2. 30-025-00000
3. 102 000 000
4. Getty Oil Company
5. Getty "36" State Com No 1
6. Grama Ridge-Wolfcamp
7. Lea NM
8. 1586.8 million cubic feet
9. October 15, 1979
10. Tuco Inc

1. 80-02409
2. 30-005-00000
3. 102 000 000
4. Yates Petroleum Corporation
5. McConkey No 1
6. Wildcat ABO
7. Chaves NM
8. .0 million cubic feet
9. October 15, 1979
10.

1. 80-02410
2. 30-025-00000
3. 102 000 000
4. Getty Oil Company
5. Two State Com Well No 1
6. East Grama Ridge Morrow
7. Lea NM
8. 600.0 million cubic feet
9. October 15, 1979
10. Tuco Inc Llana Inc

North Dakota Geological Survey

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS are a name
7. County, State or Block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-02404/143-NGPA
2. 33-007-00268
3. 102 000 000
4. William Herbert Hunt Trust Estate
5. Kordon No 1 6579
6. Four Eyes
7. Billings ND
8. 145.0 million cubic feet
9. October 12, 1979
10. Western Gas Processors Ltd

1. 80-02405/144-NGPA
2. 33-007-00303
3. 102 000 000
4. William Herbert Hunt Trust Estate
5. Kordon No 2 6830
6. Four Eyes
7. Billings ND
8. 100.0 million cubic feet
9. October 12, 1979
10. Western Gas Processors Ltd

1. 80-02406/145-NGPA
2. 33-007-00324
3. 102 000 000
4. William Herbert Hunt Trust Estate
5. Fritz No 1 6914
6. Tree Top
7. Billings ND
8. 50.0 million cubic feet
9. October 12, 1979

10. Western Gas Processors Ltd

1. 80-02494/146-NGPA
2. 33-007-00339
3. 102 000 000
4. Gulf Oil Corporation
5. John Hurineno No 1-1-1A
6. Little Knife
7. Billings ND
8. 217.0 million cubic feet
9. October 15, 1979
10. Montana-Dakota Utilities

1. 80-02495/147-NGPA
2. 33-007-00338
3. 102 000 000
4. Gulf Oil Corporation
5. Radloff No 2-21-1B
6. Little Knife
7. Billings ND
8. 36.0 million cubic feet
9. October 15, 1979
10. Montana-Dakota Utilities

Utah Division of Oil, Gas and Mining

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-02491/K-115(C)
2. 43-043-30076
3. 102 000 000
4. The Anschutz Corporation
5. Anschutz Ranch 34-1
6. Anschutz Ranch
7. Summit UT
8. 1800.0 million cubic feet
9. October 15, 1979
10. Mountain Fuel Supply Colorado Interstate Gas Natural Gas P/L Co of AM

1. 80-02492/K-115(B)
2. 43-043-30084
3. 102 000 000
4. The Anschutz Corporation
5. Anschutz Ranch 3-2
6. Anschutz Ranch
7. Summit UT
8. 328.0 million cubic feet
9. October 15, 1979
10. Mountain Fuel Supply Colorado Interstate Gas Natural Gas P/L Co of AM

1. 80-02493/K-115(A)
2. 43-043-30058
3. 102 000 000
4. The Anschutz Corporation
5. Anschutz Ranch 3-1
6. Anschutz Ranch
7. Summit UT
8. 300.0 million cubic feet
9. October 15, 1979
10. Mountain Fuel Supply Colorado Interstate Gas Natural Gas P/L Co of AM

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name

7. County, State or Block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-02294
2. 47-085-02534
3. 108 000 000
4. Ball Oil Company
5. Ball No 1
6. W C Ball Heirs
7. Ritchie WV
8. .0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02295
2. 47-013-01550
3. 108 000 000
4. Pennzoil Company
5. McIntyre-Rafferty No 4
6. Sherman
7. Calhoun WV
8. .7 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02296
2. 47-013-01549
3. 108 000 000
4. Pennzoil Company
5. S C B Rice No 5
6. Sherman
7. Calhoun WV
8. 3.3 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02297
2. 47-013-01512
3. 108 000 000
4. Pennzoil Company
5. S C B Rice No 4
6. Sherman
7. Calhoun WV
8. 3.3 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02298
2. 47-013-00910-DFR
3. 108 000 000
4. Pennzoil Company
5. McIntyre-Rafferty No 2
6. Sherman
7. Calhoun WV
8. .7 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02299
2. 47-013-00740
3. 108 000 000
4. Pennzoil Company
5. Henry Brannon No 13
6. Sherman
7. Calhoun WV
8. 4.4 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02300
2. 47-013-00737
3. 108 000 000
4. Pennzoil Company
5. Sharp J S No 15
6. Sherman
7. Calhoun WV
8. .8 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

2. 47-013-00733
3. 108 000 000
4. Pennzoil Company
5. Sharp J S No 14
6. Sherman
7. Calhoun WV
8. .8 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02302
2. 47-013-00714
3. 108 000 000
4. Pennzoil Company
5. Sharp J S No 13
6. Sherman
7. Calhoun WV
8. .8 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02303
2. 47-013-02928-FRAC
3. 108 000 000
4. Pennzoil Company
5. McIntyre-Rafferty No 1
6. Sherman
7. Calhoun WV
8. .7 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02304
2. 47-013-02200
3. 108 000 000
4. Pennzoil Company
5. Brake T J No 7
6. Sherman
7. Calhoun WV
8. .1 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02305
2. 47-013-02040
3. 108 000 000
4. Pennzoil Company
5. N I McConaughy No 1
6. Center district
7. Calhoun WV
8. 2.2 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02306
2. 47-013-01843
3. 108 000 000
4. Pennzoil Company
5. Rice Granville No 9
6. Sherman
7. Calhoun WV
8. 1.2 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02307
2. 47-013-01781
3. 108 000 000
4. Pennzoil Company
5. S C B Rice No 9
6. Sherman
7. Calhoun WV
8. 4.2 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02308
2. 47-013-01642
3. 108 000 000
4. Pennzoil Company
5. S C B Rice No 6
6. Sherman

7. Calhoun WV
8. 3.3 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02309
2. 47-013-01609
3. 108 000 000
4. Pennzoil Company
5. McIntyre-Rafferty No 5
6. Sherman
7. Calhoun WV
8. .7 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02310
2. 47-017-02272
3. 108 000 000
4. Pennzoil Company
5. W M Stout No 15
6. South West
7. Doddridge WV
8. 1.1 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02311
2. 47-085-02556
3. 108 000 000
4. Pennzoil Company
5. Wass William No 3
6. Murphy
7. Ritchie WV
8. 1.2 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02312
2. 47-017-02270
3. 108 000 000
4. Pennzoil Company
5. W M Stout No 6
6. South West
7. Doddridge WV
8. 1.1 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02313
2. 47-017-02269
3. 108 000 000
4. Pennzoil Company
5. W M Stout #3
6. Southwest
7. Doddridge WV
8. 1.1 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02314
2. 47-017-02259
3. 108 000 000
4. Pennzoil Company
5. D P Stout #10
6. Southwest
7. Doddridge WV
8. 4.2 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

1. 80-02315
2. 47-017-02234
3. 108 000 000
4. Pennzoil Company
5. W B Maxwell No 16
6. Southwest
7. Doddridge WV
8. 7.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp

2. 47-017-02233
3. 108 000 000
4. Pennzoil Company
5. W B Maxwell #15
6. Southwest
7. Doddridge WV
8. 4.3 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02317
2. 47-017-02232
3. 108 000 000
4. Pennzoil Company
5. W B Maxwell #4
6. Southwest
7. Doddridge WV
8. 4.3 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02318
2. 47-017-01155
3. 108 000 000
4. Pennzoil Company
5. W M Stout #18
6. New Milton
7. Doddridge WV
8. 1.1 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02319
2. 47-017-01154
3. 108 000 000
4. Pennzoil Company
5. W M Stout #16
6. New Milton
7. Doddridge WV
8. 1.1 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02320
2. 47-041-27130
3. 108 000 000
4. Dennis D Blauser
5. Effie Linger #1
6. Skin Creek
7. Lewis WV
8. 3.5 million cubic feet
9. October 15, 1979
10. Equitable Gas Company
1. 80-02321
2. 47-017-00451-REV
3. 108 000 000
4. Clarence Powell
5. W Underwood #1
6. Grant Dist
7. Doddridge WV
8. 1.4 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02322
2. 47-041-27160
3. 108 000 000
4. Dennis D Blauser
5. Winnie Williams #2
6. Skin Creek
7. Lewis WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Company
1. 80-02323
2. 47-041-27650
3. 108 000 000
4. Dennis D Blauser
5. Ruth Elmer #1
6. Skin Creek

7. Lewis WV
8. .5 million cubic feet
9. October 15, 1979
10. Equitable Gas Company
1. 80-02324
2. 47-041-27810
3. 108 000 000
4. Dennis D Blauser
5. Joseph B Stalmaker #1
6. Skin Creek
7. Lewis WV
8. .5 million cubic feet
9. October 15, 1979
10. Equitable Gas Company
1. 80-02325
2. 47-021-02732
3. 108 000 000
4. Reserve Oil Inc
5. Markley #1
6. Glenville South
7. Gilmer WV
8. 19.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02326
2. 47-021-02733
3. 108 000 000
4. Reserve Oil Inc
5. Markley #2
6. Glenville South
7. Gilmer WV
8. 1.9 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02327
2. 47-017-00496
3. 108 000 000
4. W W Wright Oil Co
5. W W Wright Well #3
6. 4-H Grounds
7. Doddridge County WV
8. .0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02328
2. 47-017-00454
3. 108 000 000
4. Bagwell Oil Company
5. Bagwell #1
6. 4-H Grounds
7. Doddridge County WV
8. .0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02329
2. 47-017-00583
3. 108 000 000
4. Clarence Powell
5. Ash Swiger Well #2
6. Central Dist
7. Doddridge WV
8. .0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02330
2. 47-017-02264
3. 108 000 000
4. Clarence Powell
5. Williams Oil and Gas Co
6. Grant District
7. Dodd WV
8. .0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02331
6. Otter

2. 47-017-00478
3. 108 000 000
4. Clarence Powell
5. U N K Well #1
6. New Milton Dist
7. Doddridge WV
8. 10.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02332
2. 47-017-22820
3. 108 000 000
4. Clarence Powell
5. Underwood Oil Gas Co
6. Grant Dist
7. Doddridge WV
8. .0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02333
2. 47-017-01183
3. 108 000 000
4. Clarence Powell
5. Krenn Oil & Gas Co #1
6. New Milton Dist
7. Doddridge Co WV
8. .0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02334
2. 47-017-21295
3. 108 000 000
4. Clarence Powell
5. Market Oil & Gas Co
6. New Milton Dist
7. Doddridge WV
8. .0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02335
2. 47-021-02425
3. 108 000 000
4. Reserve Oil Inc
5. Waco #1
6. Glenville South
7. Gilmer WV
8. 7.0 million cubic feet
9. October 15, 1979
10. Carnegie Natural Gas Co
1. 80-02336
2. 47-021-02286
3. 108 000 000
4. Reserve Oil Inc
5. Hayes #2
6. Glenville South
7. Gilmer WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02337
2. 47-007-01024
3. 108 000 000
4. Reserve Oil Inc
5. Jack #2
6. Otter
7. Braxton WV
8. 2.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Corp
1. 80-02338
2. 47-007-01023
3. 108 000 000
4. Reserve Oil Inc
5. Jack #1
6. Otter

7. Braxton WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Corp
1. 80-02339
2. 47-021-02415
3. 108 000 000
4. Reserve Oil Inc
5. Bright #2
6. Glenville South
7. Gilmer WV
8. 21.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02340
2. 47-021-02481
3. 108 000 000
4. Reserve Oil Inc
5. Bright #1
6. Glenville South
7. Gilmer WV
8. 20.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02341
2. 47-021-02292
3. 108 000 000
4. Reserve Oil Inc
5. Goff #2
6. Glenville South
7. Gilmer WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02342
2. 47-021-02291
3. 108 000 000
4. Reserve Oil Inc
5. Goff #1
6. Glenville South
7. Gilmer WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02343
2. 47-021-02468
3. 108 000 000
4. Reserve Oil Inc
5. Allman-Burk #1
6. Glenville South
7. Gilmer WV
8. 4.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02344
2. 47-021-02469
3. 108 000 000
4. Reserve Oil Inc
5. Allman-Burk #2
6. Glenville South
7. Gilmer WV
8. 3.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02345
2. 47-021-02462
3. 108 000 000
4. Reserve Oil Inc
5. Rogers #2
6. Glenville South
7. Gilmer WV
8. 19.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02346

2. 47-021-02421
3. 108 000 000
4. Reserve Oil Inc
5. Rogers #1
6. Glenville South
7. Gilmer WV
8. 19.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02347
2. 47-021-02460
3. 108 000 000
4. Reserve Oil Inc
5. Hinkle #1
6. Glenville South
7. Gilmer WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02348
2. 47-021-02429
3. 108 000 000
4. Reserve Oil Inc
5. Hinkle #2
6. Glenville South
7. Gilmer WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02349
2. 47-021-02393
3. 108 000 000
4. Reserve Oil Inc
5. Haney #1
6. Glenville South
7. Gilmer WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02350
2. 47-021-02407
3. 108 000 000
4. Reserve Oil Inc
5. Haney #2
6. Glenville South
7. Gilmer WV
8. 4.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02351
2. 47-021-02287
3. 108 000 000 Denied
4. Reserve Oil Inc
5. Garrett #1
6. Glenville South
7. Gilmer WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02352
2. 47-021-02288
3. 108 000 000
4. Reserve Oil Inc
5. Garrett #2
6. Glenville Sand
7. Gilmer WV
8. 8.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02353
2. 47-021-02289
3. 108 000 000
4. Reserve Oil Inc
5. Collins #1
6. Glenville South

7. Gilmer WV
8. 7.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02354
2. 47-021-02295
3. 108 000 000
4. Reserve Oil Inc
5. Marks #1
6. Glenville South
7. Gilmer WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02355
2. 47-021-02424
3. 108 000 000
4. Reserve Oil Inc
5. Lowther #1
6. Glenville South
7. Gilmer WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Carnegie Natural Gas Co
1. 80-02356
2. 47-021-02416
3. 108 000 000
4. Reserve Oil Inc
5. Moore #1
6. Glenville South
7. Gilmer WV
8. 10.0 million cubic feet
9. October 15, 1979
10. Carnegie Natural Gas Co
1. 80-02357
2. 47-021-02290
3. 108 000 000
4. Reserve Oil Inc
5. Flint #1
6. Glenville South
7. Gilmer WV
8. .0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02358
2. 47-021-02420
3. 108 000 000
4. Reserve Oil Inc
5. Tomey #1
6. Glenville South
7. Gilmer WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02359
2. 47-021-02423
3. 108 000 000
4. Reserve Oil Inc
5. Trembley #1
6. Glenville South
7. Gilmer WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02360
2. 47-021-02472
3. 108 000 000
4. Reserve Oil Inc
5. Probst #1
6. Glenville South
7. Gilmer WV
8. 2.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02361

2. 47-021-02519
3. 108 000 000
4. Reserve Oil Inc
5. McHenry A #1
6. Glenville South
7. Gilmer WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02362
2. 47-079-20611
3. 108 000 000
4. Adkins Drilling Co
5. Fravel et al
6. Scott
7. Putnam WV
8. 8.5 million cubic feet
9. October 15, 1979
10. Devon Corp
1. 80-02363
2. 47-099-20902
3. 108 000 000
4. Adkins Drilling Co
5. Rard #3
6. Stonewall
7. Wayne WV
8. 0 million cubic feet
9. October 15, 1979
10. Devon Corporation
1. 80-02364
2. 47-099-20917
3. 108 000 000
4. Adkins Drilling Co
5. Carson #4
6. Stonewall
7. Wayne WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Devon Corporation
1. 80-02365
2. 47-099-20967
3. 108 000 000
4. Adkins Drilling Co
5. Eris #7
6. Stonewall
7. Wayne WV
8. 0 million cubic feet
9. October 15, 1979
10. Devon Corp
1. 80-02366
2. 47-085-23196
3. 108 000 000
4. Huntington Oil & Gas
5. Hoover Well #2
6. Murphy
7. Ritchie WV
8. 5.8 million cubic feet
9. October 15, 1979
10. Pennzoil Co
1. 80-02367
2. 47-097-21669
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #19
6. Banks
7. Upshur WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02368
2. 47-097-21682
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #23
6. Banks

7. Upshur WV
8. 3.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02369
2. 47-097-21661
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #18
6. Banks
7. Upshur WV
8. 2.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02370
2. 47-097-21652
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Earl Vangilder #1
6. Banks
7. Upshur WV
8. 2.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02371
2. 47-097-21651
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #17
6. Banks
7. Upshur WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02372
2. 47-097-21650
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #18
6. Banks
7. Upshur WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02373
2. 47-097-21648
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Carola B Lewis #1
6. Banks
7. Upshur WV
8. 4.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02374
2. 47-097-21647
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J A Coe #1
6. Banks
7. Upshur WV
8. 2.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02375
2. 47-097-21641
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. H H Golden #1
6. Banks
7. Upshur WV
8. 4.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co

1. 80-02376
2. 47-097-21640
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. O J Curry #1
6. Banks
7. Upshur WV
8. 2.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02377
2. 47-097-21639
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. L T Curry #1
6. Banks
7. Upshur WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02378
2. 47-097-21638
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. F G Curry #1
6. Banks
7. Upshur WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02379
2. 47-097-21636
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. O C Rifle #1-B
6. Banks
7. Upshur WV
8. 7.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02380
2. 47-055-00046
3. 103 000 000
4. Conpetro Inc
5. CP-10
6.
7. Mercer, WV
8. 17.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02381
2. 47-043-01828
3. 103 000 000
4. J Scott Talbott
5. Wm Stakpole #1
6.
7. Lincoln, WV
8. 5.4 million cubic feet
9. October 15, 1979
10. Columbia Gas Transmission Corp
1. 80-02382
2. 47-007-01030
3. 108 000 000
4. Pilot Oil & Gas Corporation
5. Gerwig & Karickhoff K-4
6. Glenville South
7. Braxton, WV
8. 10.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply
1. 80-02383
2. 47-007-00668

3. 108 000 000
4. Pilot Oil & Gas Corporation
5. Cerwig & Karickhoff #K-2
6. Glenville South
7. Braxton, WV
8. 7.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply
1. 80-02384
2. 47-081-00416
3. 102 000 000
4. Pilot Oil & Gas Corporation
5. Western Pocahontas #8
6. Pax (New Field)
7. Raleigh, WV
8. 64.0 million cubic feet
9. October 15, 1979
10. Cabot Corporation
1. 80-02385
2. 47-019-00312
3. 102 000 000
4. Pilot Oil & Gas Corporation
5. Western Pocahontas #4
6. Pax (New Field)
7. Fayette, WV
8. 64.0 million cubic feet
9. October 15, 1979
10. Cabot Corporation
1. 80-02387
2. 47-055-00051
3. 103 000 000
4. Conpetro Inc
5. CP-5
6.
7. Mercer, WV
8. 8.5 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02388
2. 47-055-00050
3. 103 000 000
4. Conpetro Inc
5. CP-4
6.
7. Mercer, WV
8. 8.5 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02389
2. 47-055-00049
3. 103 000 000
4. Conpetro Inc
5. CP-2
6.
7. Mercer, WV
8. 8.5 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02390
2. 47-085-23155
3. 108 000 000
4. Huntington Oil & Gas Co
5. Hoover #1 Well
6. Murphy
7. Ritchie, WV
8. 5.8 million cubic feet
9. October 15, 1979
10. Pennzoil Company
1. 80-02391
2. 47-099-21570
3. 108 000 000
4. Dessil Adkins Drilling Co
5. Leland Well
6. Stonewall
7. Wayne, WV

8. 5.9 million cubic feet
9. October 15, 1979
10. Columbia Gas Co
1. 80-02392
2. 47-097-01617
3. 108 000 000
4. Booth Coal Company
5. Maxine Bennett Unit #1
6. Overhill
7. Buckhannon, WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply
1. 80-02393
2. 47-097-01590
3. 108 000 000
4. Booth Coal Company
5. Ada Brake #2
6. Overhill
7. Upshur, WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply
1. 80-02394
2. 47-097-01579
3. 108 000 000
4. Booth Coal Company
5. Ada Brake #1
6. Overhill
7. Upshur, WV
8. 8.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply
1. 80-02395
2. 47-079-00819
3. 108 000 000
4. D C Malcolm Inc
5. H E Womack #2
6. Burdette-St Albans
7. Putnam, WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Transmission
1. 80-02396
2. 47-079-00818
3. 108 000 000
4. D C Malcolm Inc
5. Nichols #1
6. Burdette-St Albans
7. Putnam, WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Transmission
1. 80-02397
2. 47-079-00817
3. 108 000 000
4. D C Malcolm Inc
5. H E Womack #1
6. Burdette-St Albans
7. Putnam, WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Transmission
1. 80-02398
2. 47-039-02343
3. 108 000 000
4. D C Malcolm Inc
5. Black Band Fuel #1
6. Kanawha Forest
7. Kanawha, WV
8. 0 million cubic feet
9. October 15, 1979
10. Columbia Gas Transmission
1. 80-02399

2. 47-079-00924
3. 103 000 000
4. D C Malcolm Inc
5. A A Joyce #1
6. Burdette-St Albans
7. Putnam, WV
8. 12.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Transmission Corp
1. 80-02400
2. 47-039-03358
3. 103 000 000
4. D C Malcolm Inc
5. Orlandi #2
6. Campbells Creek-Malden
7. Kanawha, WV
8. 72.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Transmission
1. 80-02401
2. 47-039-03357
3. 103 000 000
4. D C Malcolm Inc
5. Orlandi #1
6. Campbells Creek-Malden
7. Kanawha, WV
8. 36.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Transmission
1. 80-02402
2. 47-109-00775
3. 103 000 000
4. Conpetro Inc
5. Daubenspeck #5
6.
7. Wyoming, WV
8. 10.0 million cubic feet
9. October 15, 1979
10. Cabot Corporation
1. 80-02403
2. 47-055-00052
3. 103 000 000
4. Conpetro Inc
5. CP-7
6.
7. Mercer, WV
8. 8.5 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02411
2. 47-045-00311
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Boone Co Coal Corp 9754
6. Pineville Field Area A-59442
7. Logan, WV
8. 1.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02412
2. 47-045-00368
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. W W McDonald Land Co 9848
6. Pineville Field Area A-59442
7. Logan, WV
8. 0.7 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02413
2. 47-045-00384
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Triadelphia Land Co 9862
6. Pineville Field Area A-59442

7. Logan, WV
8. 12.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02414
2. 47-045-00428
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Triadelphia Land Co 9908
6. Pineville Field Area A-59442
7. Logan, WV
8. 9.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02415
2. 47-045-00502
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Altizer Coal Land Co 9970
6. Pineville Field Area A-59442
7. Logan, WV
8. 8.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02416
2. 47-045-00451
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Browning Heirs 9934
6. Pineville Field Area A-59442
7. Logan, WV
8. 12.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02417
2. 47-109-00377
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Wyoming Mining Corp 9761
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 21.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02418
2. 47-055-00020
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Pocahontas Land Corp 11513
6. Pineville Field Area A-59442
7. Mercer, WV
8. 10.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02419
2. 47-059-00444
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Bruce McDonald Holding Co 9911
6. Pineville Field Area A-59442
7. Mingo, WV
8. 11.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02420
2. 47-047-00177
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Perry C Cook et al 9111
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 4.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02421
2. 47-109-00163
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Loup Creek Colliery Co 9058
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 5.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02422
2. 47-109-00732
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Loup Cr Colliery Co 11515
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 7.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02423
2. 47-109-00308
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Ida Skaggs 9324
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 10.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02424
2. 47-109-00305
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Loup Cr Colliery Co 9312
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 8.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02425
2. 47-109-00280
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Loup Cr Colliery Co 9208
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 11.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02426
2. 47-109-00228
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. East Gas & Fuel Assoc 9183
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 10.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02427
2. 47-109-00212
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. M D Cook 9156
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 10.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02428
2. 47-109-00107-R
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. N River Poca Consol Coal 9004
6. Pineville Field Area A-59442

7. Wyoming, WV
8. 8.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02429
2. 47-109-00083
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. N River Poca Coal Co 8959
6. Pineville Field Area A-59442
7. Wyoming, WV
8. 11.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02430
2. 47-043-00452
3. 108 000 000
4. Spartan Gas Company
5. Louise Hager 1-S-43
6. Jefferson
7. Lincoln, WV
8. 7.4 million cubic feet
9. October 15, 1979
10. Columbia Gas Transmission
1. 80-02431
2. 47-021-00376
3. 108 000 000
4. Gilco Gas Inc
5. Cordelia Collins #1
6. Center District
7. Gilmer, WV
8. 3.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-02432
2. 47-021-00326
3. 108 000 000
4. Gilco Gas Inc
5. Iva Gerwig #2
6. Center District
7. Gilmer, WV
8. 7.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corporation
1. 80-02433
2. 47-021-00181
3. 108 000 000
4. Gilco Gas Inc
5. JJ & O W Gerwig #6
6. Center District
7. Gilmer, WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corporation
1. 80-02434
2. 47-021-00238
3. 108 000 000
4. Gilco Gas Inc
5. Iva Gerwig #1
6. Center District
7. Gilmer, WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corporation
1. 80-02435
2. 47-021-00110
3. 108 000 000
4. Gilco Gas Inc
5. JJ & O W Gerwig #5
6. Center District
7. Gilmer, WV
8. 3.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corporation
1. 80-02436

2. 47-099-21561
3. 108 000 000
4. Adkins Drilling Co
5. UFG Mineral Milt I
6. Stonewall
7. Wayne, WV
8. 18.6 million cubic feet
9. October 15, 1979
10. Columbia Gas Co
1. 80-02437
2. 47-099-21563
3. 108 000 000
4. Adkins Drilling Co
5. UFG Mineral Elbert II
6. Stonewall
7. Wayne, WV
8. 3.8 million cubic feet
9. October 15, 1979
10. Columbia Gas Co
1. 80-02438
2. 47-099-21564
3. 108 000 000
4. Adkins Drilling Co
5. UFG Mineral MC Comias III
6. Stonewall
7. Wayne, WV
8. 16.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Co
1. 80-02439
2. 47-099-21566
3. 108 000 000
4. Adkin Drilling Co
5. UFG Mineral Simpson IV
6. Stonewall
7. Wayne, WV
8. 1.6 million cubic feet
9. October 15, 1979
10. Columbia Gas Co
1. 80-02440
2. 47-099-21568
3. 108 000 000
4. Adkins Drilling Co
5. UFG Mineral Walker V
6. Stonewall
7. Wayne, WV
8. 14.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Co
1. 80-02441
2. 47-099-21574
3. 108 000 000
4. Adkins Drilling Co
5. UFG Mineral Tabor VI
6. Stonewall
7. Wayne WV
8. 11.2 million cubic feet
9. October 15, 1979
10. Columbia Gas Co
1. 80-02442
2. 47-021-00919
3. 108 000 000
4. Gilco Gas Inc
5. JJ & OW Gerwig #1
6. Center District
7. Gilmer WV
8. 5.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corporation
1. 80-02443
2. 47-021-00087
3. 108 000 000
4. Glico Gas Inc
5. JJ & OW Gerwig #4
6. Center District
7. Gilmer WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corporation
1. 80-02444
2. 47-099-0021591
3. 108 000 000
4. Adkins Drilling Co
5. CGT Mineral Simpkins VII
6. Stonewall
7. Wayne WV
8. 8.6 million cubic feet
9. October 15, 1979
10. Columbia Gas Co
1. 80-02445
2. 47-047-00375
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. McDowell Pocahontas Coal Co
6. Pineville Field Area A-59442
7. McDowell WV
8. 12.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02446
2. 47-005-0620
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. A C Canterbury 8865
6. Pineville Field Area A-59442
7. Boone WV
8. 7.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02447
2. 47-005-00666
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Loup Cr Colliery Co 8912
6. Pineville Field Area A-59442
7. Boone WV
8. 8.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02448
2. 47-005-00802
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Loop Creek Colliery Co 9177
6. Pineville Field Area A-59442
7. Boone WV
8. 2.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02449
2. 47-045-00216
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. M D Cook 9321
6. Pineville Field Area A-59442
7. Logan WV
8. 18.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02450
2. 47-045-00221
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. M D Cook 9372
6. Pineville Field Area A-59442
7. Logan WV
8. 9.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02451
2. 47-045-00233
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Ed Cook 9411
6. Pineville Field Area A-59442
7. Logan WV
8. 12.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02452
2. 47-045-00250
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Ed Cook 9447
6. Pineville Field Area A-59442
7. Logan WV
8. 11.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02453
2. 47-045-00253
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Bruce McDonald Holding Co 9493
6. Pineville Field Area A-59442
7. Logan WV
8. 15.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02454
2. 47-045-00265
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Neaman Jackson 9654
6. Pineville Field Area A-59442
7. Logan WV
8. 3.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02455
2. 47-047-00229
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Peoples First Nat Bank 10368
6. Pineville Field Area A-59442
7. McDowell WV
8. 9.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02456
2. 47-047-00166
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Olga Coal Co 10178
6. Pineville Field Area A-59442
7. McDowell WV
8. 10.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02457
2. 47-047-00192
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Vera Pocahontas Coal Co 10217
6. Pineville Field Area A-59442
7. McDowell WV
8. 10.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02458
2. 47-047-00186
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Olga Coal Co 10325
6. Pineville Field Area A-59442

7. McDowell WV
8. 12.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02459
2. 47-047-00178
3. 108 000 000
4. Consolidated Gas Supply Corporation
5. Olga Coal Co 10144
6. Pineville Field Area A-59442
7. McDowell WV
8. 11.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02460
2. 47-047-00163
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Vera Pocahontas Coal Co 10008
6. Pineville Field Area A-59442
7. McDowell WV
8. 14.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02461
2. 47-047-00106
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Olga Coal Co 9662
6. Pineville Field Area A-59442
7. McDowell WV
8. 8.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02462
2. 47-047-00096
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Olga Coal Co 9659
6. Pineville Field Area A-59442
7. McDowell WV
8. 18.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02463
2. 47-047-00097
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Olga Coal Co 9653
6. Pineville Field Area A-59442
7. McDowell WV
8. 14.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02464
2. 47-045-00755
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Amherst Land Co 10243
6. Pineville Field Area A-59442
7. Logan WV
8. 3.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02465
2. 47-045-00645
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Triadelphia Land Co 10046
6. Pineville Field Area A-59442
7. Logan WV
8. 9.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02466
2. 47-045-00665
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Triad Co 10110
6. Pineville Field Area A-59442
7. Logan WV
8. 12.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02467
2. 47-047-00257
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Peoples First Nat Bank 10486
6. Pineville Field Area A-59442
7. McDowell WV
8. 10.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02468
2. 47-047-00317
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Olga Coal Co 10660
6. Pineville Field Area A-59442
7. McDowell WV
8. 8.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02469
2. 47-047-00326
3. 108 000 000
4. Consolidated Gas Supply Corp
5. McDowell Pocahontas Coal Co 10806
6. Pineville Field Area A-59442
7. McDowell WV
8. 21.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02470
2. 47-047-00303
3. 108 000 000
4. Consolidated Gas Supply Corp
5. IRA J. Powell 10748
6. Pineville Field Area A-59442
7. McDowell WV
8. 12.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02471
2. 47-047-00360
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Olga Coal Co 10815
6. Pineville Field Area A-59442
7. McDowell WV
8. 15.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02472
2. 47-047-00222
3. 108 000 000
4. Consolidated Gas Supply Corp
5. Olga Coal Co 10326
6. Pineville Field Area A-59442
7. McDowell WV
8. 9.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-02473
2. 47-097-21635
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. O C Riffle #1-A

6. Banks
7. Upshur, WV
8. 3.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02474
2. 47-097-21634
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #15
6. Banks
7. Upshur, WV
8. 4.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02475
2. 47-097-21633
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #14
6. Banks
7. Upshur, WV
8. 4.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02476
2. 47-097-21631
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. French W Armstrong #1
6. Banks
7. Upshur, WV
8. 7.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02477
2. 47-097-21626
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #12
6. Washington
7. Upshur, WV
8. 2.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02478
2. 47-097-21671
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #20
6. Washington
7. Upshur, WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02479
2. 47-097-21672
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J M Huber #21
6. Washington
7. Upshur, WV
8. 9.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02480
2. 47-097-21689
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. Susan K Beer #1
6. Banks
7. Upshur, WV
8. 4.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co

1. 80-02481
2. 47-097-21693
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J P Morgan Heirs #2
6. Banks
7. Upshur, WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02482
2. 47-097-21694
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J P Morgan Heirs #3
6. Banks
7. Upshur, WV
8. 1.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02483
2. 47-097-21701
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J H Hinkle #2
6. Meade
7. Upshur, WV
8. 11.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
1. 80-02484
2. 47-097-21756
3. 108 000 000
4. Seneca-Upshur Petroleum Co
5. J H Hinkle #3
6. Meade
7. Upshur, WV
8. 11.0 million cubic feet
9. October 15, 1979
10. Equitable Gas Co
U.S. Geological Survey, Metairie, La.
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NCPA
4. Operator
5. Well name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-02496/G9-403
2. 17-715-40207-00D1-0
3. 102 000 000
4. Gulf Oil Corporation
5. OCS G-2625 S Timb Blk 37 #A-9
6. South Timbalier
7. 37
8. 190.0 million cubic feet
9. October 15, 1979
10. Texas Eastern Transmission Corp
Southern Natural Gas Co, Tennessee Gas Pipeline Co
1. 80-02497/G 8-72
2. 17-700-40314-00000-0
3. 102 000 000
4. Texas Gas Exploration Corp
5. Union Oil Co of Calif #A-4
6. West Cameron
7. 237
8. 1300.0 million cubic feet
9. October 15, 1979
10. Texas Gas Transmission Corp
1. 80-02498/G9-526
2. 17-710-40654-00D1-0
3. 102 000 000
4. Forest Oil Corporation
5. Eugene Island Block 292 B-10
6. Eugene Island
7. 292
8. 2000.0 million cubic feet
9. October 15, 1979
10. Columbia Gas Transmission Corp, Texas
Gas Transmission Corp
1. 80-02499/G9-689
2. 17-725-40177-0000-0
3. 102 000 000
4. Chevron USA Inc
5. OCS-G-3197 #3
6. Main Pass
7. 120
8. 1489.0 million cubic feet
9. October 15, 1979
10. Southern Natural Gas Co
1. 80-02500/G9-705
2. 17-707-40192-00S1-0
3. 102 000 000
4. Placid Oil Company
5. B-16
6. South Marsh Island
7. 269
8. 40.7 million cubic feet
9. October 15, 1979
10. Trunkline Gas Company
1. 80-02501/G9-687
2. 17-707-40277-00D1-0
3. 102 000 000
4. Chevron USA Inc
5. OCS-G-2316 #3
6. South Marsh Island
7. 288
8. 51.0 million cubic feet
9. October 15, 1979
10. Natural Gas Pipeline Co of America
1. 80-02504/G9-706
2. 17-707-40283-00S1-0
3. 102 000 000
4. Placid Oil Company
5. C-15
6. South Marsh Island
7. 281
8. 36.5 million cubic feet
9. October 15, 1979
10. Trunkline Gas Company
1. 90-02505/G9-691
2. 17-710-40604-00S1-0
3. 102 000 000
4. Chevron USA Inc.
5. OCS-G-2108 #B-4
6. Eugene Island
7. 305
8. 2010.0 million cubic feet
9. October 15, 1979
10.
1. 80-02506/G8-118
2. 17-703-40135-0000-0
3. 102 000 000
4. Kerr-McGee Corporation
5. OCS G-2855 Well No 4D
6. East Cameron
7. 34
8. 462.0 million cubic feet
9. October 15, 1979
10. Natural Gas Pipeline Co of America
Northern Natural Gas Co Columbia Gas Transmission Corp Southern Natural Gas Co.
1. 80-02507/G8-121
2. 17-703-40124-0000-0
3. 102 000 000
4. Kerr-McGee Corporation
5. OCS G-2855 Well No 2
6. East Cameron
7. 34
8. 511.0 million cubic feet
9. October 15, 1979
10. Natural Gas Pipeline Co of America
Northern Natural Gas Co Columbia Gas Transmission Corp Southern Natural Gas Co.
1. 80-02508/G8-123
2. 17-703-40091-0000-0
3. 102 000 000
4. Kerr-McGee Corporation
5. OCS G-2855 Well No 1D
6. East Cameron
7. 34
8. 483.0 million cubic feet
9. October 15, 1979
10. Natural Gas Pipeline Co of America
Northern Natural Gas Co Columbia Gas Transmission Corp Southern Natural Gas Co.
1. 80-02509/G8-120
2. 17-703-40132-0000-0
3. 102 000 000
4. Kerr-McGee Corporation
5. OCS G-2855 Well No 3D
6. East Cameron
7. 34
8. 462.0 million cubic feet
9. October 15, 1979
10. Natural Gas Pipeline Co of America
Northern Natural Gas Co Columbia Gas Transmission Corp Southern Natural Gas Co.
1. 80-02510/G8-119
2. 17-703-40132-0000-0
3. 102 000 000
4. Kerr-McGee Corporation
5. OCS G-2855 Well No 3
6. East Cameron
7. 34
8. 436.0 million cubic feet
9. October 15, 1979
10. Natural Gas Pipeline Co of America
Northern Natural Gas Co Columbia Gas Transmission Corp Southern Natural Gas Co.
1. 80-02511/G8-126
2. 17-711-40372-0000-0
3. 107 000 000
4. Kerr-McGee Corporation
5. OCS 0346 Well No 33
6. Ship Shoal
7. 28
8. 447.0 million cubic feet
9. October 15, 1979
10. Transcontinental Gas Pipeline Corp
1. 80-02502/G8-267
2. 42-711-40174-00D1-0
3. 102 000 000
4. Sun Oil Company
5. OCS G-2418 A-5
6. East High Island
7. A-327
8. 100.0 million cubic feet
9. October 15, 1979
10. Trunkline Gas Company Michigan-
Wisconsin P/L Co Panhandle Eastern P/L
Co Natural Gas P/L United Gas P/L
1. 80-02503/G8-268
2. 42-711-40172-00D1-0
3. 102 000 000

4. Sun Oil Company
5. OCS G-2418 A-8
6. East High Island
7. A-327
8. 10.0 million cubic feet
9. October 15, 1979
10. Trunkline Gas Company Michigan-Wisconsin P/L Co Panhandle Eastern P/L Co Natural Gas P/L; United Gas P/L

U.S. Geological Survey, Albuquerque, N. Max.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)
1. 80-025112/NM-3027-79-2
2. 30-015-22133-0000-0
3. 102 000 000
4. Perry R. Bass
5. Big Eddy Unit No 54
6. Bass Morrow
7. Eddy NM
8. 80.0 million cubic feet
9. October 16, 1979
10. Natural Gas Pipeline Co of America
1. 80-02513/NM-3027-79-3
2. 30-015-22133-0000-0
3. 103 000 000
4. Perry R. Bass
5. Big Eddy Unit No 54
6. Bass Morrow
7. Eddy NM
8. 80.0 million cubic feet
9. October 16, 1979
10. Natural Gas Pipeline Co of America
1. 80-02514/NM-3028-79-2
2. 30-015-22075-0000-0
3. 102 000 000
4. Perry R. Bass
5. Big Eddy Unit No 53
6. Undesignated
7. Eddy NM
8. 192.0 million cubic feet
9. October 16, 1979
10. Natural Gas Pipeline Co of America
1. 80-02515/NM-3028-79-3
2. 30-015-22075-0000-0
3. 103 000 000
4. Perry R. Bass
5. Big Eddy Unit No 53
6. Undesignated
7. Eddy NM
8. 192.0 million cubic feet
9. October 16, 1979
10. Natural Gas Pipeline Co of America
1. 80-02516/NM-3069-79
2. 30-039-21296-0000-0
3. 103 000 000
4. Northwest Production Corp
5. Jicarilla 123C #23
6. South Blanco
7. Rio Arriba NM
8. 57.0 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corp
1. 80-02517/NM-2984-79
2. 30-039-21605-0000-0
3. 103 000 000

4. Continental Oil Company
5. Jicarilla 22 #9
6. West Lindrith
7. Rio Arriba NM
8. 13.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas (C-4409)
1. 80-02518/NM-2947-79
2. 30-039-21542-0000-0
3. 103 000 000
4. Continental Oil Company
5. Axi Apache J No 31
6. Axi Apache area
7. Rio Arriba NM
8. 14.0 million cubic feet
9. October 16, 1979
10. Gas Company of New Mexico
1. 80-02519/NM-2722-79
2. 30-015-21030-0000-0
3. 108 000 000
4. Phillips Petroleum Company
5. Drag-A No 1
6. Carlsbad South (Morrow)
7. Eddy NM
8. 10.2 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02520/NM-1-79-ER
2. 30-045-07342-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Florance C 1
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 14.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02521
2. 30-005-60267-0000-0
3. 102 000 000
4. R. L. Foree
5. McClellan No. 1
6. Sams Ranch Grayburg
7. Chaves, NM
8. 122.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02522/NM-3101-79
2. 30-005-60281-0000-0
3. 102 000 000
4. R. L. Foree
5. McClellan No. 2
6. Sam's Ranch Grayburg
7. Chaves, NM
8. 204.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02523/NM-3100-79-3
2. 30-005-60453-0000-0
3. 103 000 000
4. R. L. Foree
5. Midwest-Federal No. 4
6. Sam's Ranch Grayburg
7. Chaves, NM
8. 45.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02524/NM-3100-79-2
2. 30-005-60453-0000-0
3. 102 000 000
4. R. L. Foree
5. Midwest-Federal No. 4
6. Sam's Ranch Grayburg
7. Chaves, NM
8. 45.0 million cubic feet

9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02525/NM-3094-79
2. 30-025-25980-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Brothers No. 25
6. Leonard Queen South
7. Lea NM
8. 24.8 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02526/NM-3095-79
2. 30-025-25983-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Brothers No. 28
6. Leonard Queen South
7. Lea NM
8. 13.1 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02527/NM-3096-79
2. 30-025-25561-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Brothers No. 4
6. Leonard Queen South
7. Lea, NM
8. 17.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02528/NM-3097-79
2. 30-025-25858-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Brothers No. 19
6. Leonard Queen South
7. Lea, NM
8. 6.8 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02529/NM-3098-79
2. 30-025-25858-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Brothers No. 15
6. Leonard Queen South
7. Lea, NM
8. 106.2 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02530/NM-3099-79
2. 30-045-13143-0000-0
3. 108 000 000
4. Consolidated Oil & Gas Inc.
5. Government-Langendorf No. 1-34
6. Basin Dakota
7. San Juan, NM
8. 18.3 million cubic feet
9. October 16, 1979
10. Southern Union Gas Company
1. 80-02531/NM-3093-79
2. 30-025-25855-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Federal No. 13
6. Leonard Queen South
7. Lea, NM
8. 26.3 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02532/NM-3046-79-1
2. 30-039-05475-0000-0

3. 108 000 000
4. BCO, Inc.
5. Escrito Gallup Unit No. 13
6. Escrito Gallup
7. Rio Arriba, NM
8. 4.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02533/NM-3045-79
2. 30-039-05423-0000-0
3. 108 000 000
4. BCO, Inc.
5. Escrito Gallup Unit No. 18
6. Escrito Gallup
7. Rio Arriba, NM
8. 3.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02534/NM-3044-79
2. 30-039-05424-0000-0
3. 108 000 000
4. BCO Inc.
5. Escrito Gallup Unit No. 15
6. Escrito Gallup
7. Rio Arriba, NM
8. 1.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02535/NM-3043-79
2. 30-043-05051-0000-0
3. 108 000 000
4. BCO, Inc.
5. Federal A No. 1
6. Lybrook Gallup
7. Sandoval, NM
8. 4.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02536/NM-3042-79
2. 30-043-20061-0000-0
3. 108 000 000
4. BCO, Inc.
5. Federal B No. 1
6. Lybrook Gallup
7. Sandoval, NM
8. 6.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02537/NM-3041-79
2. 30-043-51645-0000-0
3. 108 000 000
4. BCO Inc.
5. Federal C No. 1
6. Alamito Gallup Oil Pool
7. Sandoval, NM
8. 4.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02538/NM-3040-79
2. 30-043-20081-0000-0
3. 108 000 000
4. BCO, Inc.
5. Federal, C No. 2
6. Alamito Gallup
7. Sandoval, NM
8. 3.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02539/NM-3039-79
2. 30-039-05478-0000-0
3. 108 000 000
4. BCO, Inc.
5. Escrito Gallup Unit No. 11
6. Escrito Gallup
7. Rio Arriba, NM

8. 4.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02540/NM-3038-79
2. 30-039-05384-0000-0
3. 108 000 000
4. BCO Inc.
5. Federal 6-22 No. 1
6. Escrito Gallup
7. Rio Arriba, NM
8. 5.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02541/NM-3037-79
2. 30-0039-05333-0000-0
3. 108 000 000
4. BCO, Inc.
5. Federal 2-26 No. 1
6. Escrito Gallup
7. Rio Arriba, NM
8. 10.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02542/NM-3036-79
2. 30-039-05304-0000-0
3. 108 000 000
4. BCO, Inc.
5. Federal 4-26 No. 1
6. Escrito Gallup
7. Rio Arriba, NM
8. 18.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02543/NM-3035-79
2. 30-045-05118-0000-0
3. 108 000 000
4. BCO, Inc.
5. Escrito Gallup Unit No. 1
6. Escrito Gallup
7. Rio Arriba, NM
8. 4.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02544/NM-3034-79
2. 30-039-05515-0000-0
3. 108 000 000
4. BCO, Inc.
5. Escrito Gallup Unit No. 6
6. Escrito Gallup
7. Rio Arriba, NM
8. 3.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02545/NM-3033-79
2. 30-005-20593-0000-0
3. 103 000 000
4. Shell Oil Company
5. Amco Federal A 6
6. Cato San Andres
7. Chaves, NM
8. 4.0 million cubic feet
9. October 16, 1979
10. Cities Service Oil Co.
1. 80-02546/NM-3032-79
2. 30-005-20594-0000-0
3. 103 000 000
4. Shell Oil Company
5. Amco Federal A 7
6. Cato San Andres
7. Chaves, NM
8. 7.3 million cubic feet
9. October 16, 1979
10. Cities Service Oil Co.
1. 80-02547/NM-3031-79

2. 30-005-20990-0000-0
3. 103 000 000
4. Shell Oil Company
5. Corder Federal 5
6. Cato San Andres
7. Chaves, NM
8. 7.3 million cubic feet
9. October 16, 1979
10. Cities Service Oil Co.
1. 80-02548/NM-3030-79
2. 30-025-25701-0000-0
3. 103 000 000
4. Shell Oil Company
5. Federal 3-2
6. Lusk Morrow (North)
7. Lea, NM
8. 127.7 million cubic feet
9. October 16, 1979
10. Phillips Petroleum Co.
1. 80-02549/NM-3029-79
2. 30-005-20596-0000-0
3. 103 000 000
4. Shell Oil Company
5. Corder Federal 4
6. Cato San Andres
7. Chaves, NM
8. 7.3 million cubic feet
9. October 16, 1979
10. Cities Service Oil Co.
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-02386/W103-9
2. 49-037-21223-0000-0
3. 107 000 000
4. Texaco Inc.
5. Table Rock Unit Well No. 38
6. Table Rock
7. Sweetwater, WY
8. 1500.0 Million Cubic Feet
9. October 16, 1979
10. Colorado Interstate Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 6, 1979.

Please reference the FERC Control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35015 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

(No. 106)

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 29, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kentucky Department of Mines and Minerals, Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 80-02652/574
2. 16-195-02319-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #34 022100
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02653/575
2. 16-195-02320-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #35 022230
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02654/576
2. 16-195-02926-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #39-024080
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02655/577
2. 16-195-03057-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #42-024700
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02656/578
2. 16-195-03530-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #44-025450
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.3 million cubic feet

9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02657/579
2. 16-195-03965-EF
3. 108 000 000

4. Ashland Exploration Inc.
5. Republic Steel Corp. #46-026000
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02658/580
2. 16-195-03967-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #47 026010
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02659/581
2. 16-195-03171-EF1253. 108 000 000
4. Ashland Exploration Inc.
5. Kentucky-West Virginia Gas Co #1
6. Eastern Kentucky Gas
7. Pike, KY
8. 12.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02660/582
2. 16-195-0300392-W
3. 108 000 000
4. Ashland Exploration Inc.
5. Kentucky-West Virginia Gas Co #2-01147
6. Eastern Kentucky Gas
7. Pike, KY
8. 5.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02661/583
2. 16-195-02510-EL
3. 108 000 000
4. Ashland Exploration Inc.
5. Ratliff Silas W #1-023430
6. Eastern Kentucky Gas
7. Pike, KY
8. 3.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02662/584
2. 16-195-03745-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Sparks Siddle C #1-025760
6. Eastern Kentucky Gas
7. Pike, KY
8. 5.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02663/585
2. 16-195-000769E
3. 108 000 000
4. Ashland Exploration Inc.
5. Polley DC #1-008100
6. Eastern Kentucky Gas
7. Pike, KY
8. 21.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02664/586
2. 16-195-00853-E
3. 108 000 000

4. Ashland Exploration Inc.
5. Wells WS #1-008650
6. Eastern Kentucky Gas
7. Pike, KY
8. 13.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02665/587
2. 16-195-00816-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Ford John Heirs #1-301250
6. Eastern Kentucky Gas
7. Pike, KY
8. 3.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02666/588
2. 16-195-03048-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Ford John Heirs #3-010420
6. Eastern Kentucky Gas
7. Pike, KY
8. 3.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02667/589
2. 16-195-03243-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Ford John Heirs #4-010950
6. Eastern Kentucky Gas
7. Pike, KY
8. 3.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02668/590
2. 16-195-02020-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Harper John H #1-009700
6. Eastern Kentucky Gas
7. Pike, KY
8. 17.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02669/591
2. 16-195-02018-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Auxier Ben H #1-009710
6. Eastern Kentucky Gas
7. Pike, KY
8. 3.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02670/592
2. 16-195-03178-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Mason Coal & Coke #3-010900
6. Eastern Kentucky Gas
7. Pike, KY
8. 19.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02671/593
2. 16-195-00426-E
3. 108 000 000
4. Ashland Exploration Inc.
5. So Shelby Land Co #1-006570
6. Eastern Kentucky Gas
7. Pike, KY
8. 2.3 million cubic feet

9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02672/594
2. 16-195-00502-E
3. 108 000 000

4. Ashland Exploration Inc.
5. So Shelby Land Co #2-006740
6. Eastern Kentucky Gas
7. Pike, KY
8. 2.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02673/595
2. 16-195-00750-E
3. 108 000 000
4. Ashland Exploration Inc.
5. So Shelby Land Co #3-007970
6. Eastern Kentucky Gas
7. Pike, KY
8. 2.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02674/596
2. 16-195-00855-E
3. 108 000 000
4. Ashland Exploration Inc.
5. So Shelby Land Co #4-008680
6. Eastern Kentucky Gas
7. Pike, KY
8. 2.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02675/597
2. 16-195-03131-E
3. 108 000 000
4. Ashland Exploration Inc.
5. So Shelby Land Co #5-010290
6. Eastern Kentucky Gas
7. Pike, KY
8. 2.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02676/598
2. 16-195-00927-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Campbell A D #1-008940
6. Eastern Kentucky Gas
7. Pike, KY
8. 5.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02677/599
2. 16-195-00899-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Bevins Edward No 1-008880
6. Eastern Kentucky Gas
7. Pike, KY
8. 12.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02678/600
2. 16-195-03725-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Mason Coal and Coke No 5-012910
6. Eastern Kentucky Gas
7. Pike, KY
8. 5.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02679/601
2. 16-195-03795-E

3. 108 000 000
4. Ashland Exploration Inc.
5. Mason Coal and Coke No 6-013090
6. Eastern Kentucky Gas
7. Pike, KY
8. 5.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02680/602
2. 16-195-03949-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Mason Coal and Coke No 7-013590
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02681/603
2. 16-195-03950-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Mason Coal and Coke No 8-013650
6. Eastern Kentucky Gas
7. Pike, KY
8. 5.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02682/604
2. 16-195-05027-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Justice Zach No 1-011770
6. Eastern Kentucky Gas
7. Pike, KY
8. 9.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02683/605
2. 16-195-03597-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Justice Zach No 2-012200
6. Eastern Kentucky Gas
7. Pike, KY
8. 9.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02684/606
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc.
5. Webb T J No 2-002800
6. Eastern Kentucky Gas
7. Floyd, KY
8. 7.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02685/607
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc.
5. Webb T J No 4-002950
6. Eastern Kentucky Gas
7. Floyd, KY
8. 7.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02686/608
2. 16-119-03953-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Evans E J No 3-013660
6. Eastern Kentucky Gas
7. Knott, KY

8. 5.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02687/609
2. 16-119-03931-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Evans E J No 4-014010
6. Eastern Kentucky Gas
7. Knott, KY
8. 5.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02688/610
2. 16-119-04039-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Evans E J No 7-014250
6. Eastern Kentucky Gas
7. Knott, KY
8. 5.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02689/611
2. 16-119-04049-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Evans E J No 8-014300
6. Eastern Kentucky Gas
7. Knott, KY
8. 5.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02690/612
2. 16-119-04134-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Evans E J No 11-014480
6. Eastern Kentucky Gas
7. Knott, KY
8. 5.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02691/613
2. 16-119-00065-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Evans E J No 20-016320
6. Eastern Kentucky Gas
7. Knott, KY
8. 1.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02692/614
2. 16-025-00136-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Evans E J No 21-016520
6. Eastern Kentucky Gas
7. Breathitt, KY
8. 1.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02693/615
2. 16-195-03353-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Scott Roscoe No 2-011390
6. Eastern Kentucky Gas
7. Pike, KY
8. 3.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.

1. 80-02694/616

2. 16-195-00338-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Cassidy Edith No 1-017210
6. Eastern Kentucky Gas
7. Pike, KY
8. 8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02695/617
2. 16-195-00631-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Cassidy Edith No 2-018200
6. Eastern Kentucky Gas
7. Pike, KY
8. 8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02696/618
2. 16-195-00777-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Cassidy Edith No 3-018650
6. Eastern Kentucky Gas
7. Pike, KY
8. 3.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02697/619
2. 16-195-00331-E
3. 108 000 000
4. Ashland Exploration Inc
5. Cline J O No 1-006010
6. Eastern Kentucky Gas
7. Pike, KY
8. 10.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02698/500
2. 16-195-00283-E
3. 108 000 000
4. Ashland Exploration Inc
5. Fannin David No 1-005820
6. Eastern Kentucky Gas
7. Martin, KY
8. 4.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02699/501
2. 16-195-00312-E
3. 108 000 000
4. Ashland Exploration Inc
5. Fannin David No 2-005940
6. Eastern Kentucky Gas
7. Martin, KY
8. 4.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02700/502
2. 16-195-00347-E
3. 108 000 000
4. Ashland Exploration Inc
5. Fannin David No 3-006140
6. Eastern Kentucky Gas
7. Martin, KY
8. 4.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02701/503
2. 16-195-00494-E
3. 108 000 000
4. Ashland Exploration Inc
5. Fannin David No 4-006770
6. Eastern Kentucky Gas

7. Martin, KY
8. 4.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02702/504
2. 16-195-00000-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kirk & Maynard No 1-007000
6. Eastern Kentucky Gas
7. Martin, KY
8. 11.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02703/505
2. 16-195-00000-E
3. 108 000 000
4. Ashland Exploration Inc
5. Simpson Edith S No 1-006330
6. Eastern Kentucky Gas
7. Martin, KY
8. 1.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02704/506
2. 16-195-00000-E
3. 108 000 000
4. Ashland Exploration Inc
5. Simpson Edith S No 2-006340
6. Eastern Kentucky Gas
7. Martin, KY
8. 1.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02705/507
2. 16-195-00000-E
3. 108 000 000
4. Ashland Exploration Inc
5. Simpson Edith S No 3-006330
6. Eastern Kentucky Gas
7. Martin, KY
8. 1.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02706/508
2. 16-195-00000-E
3. 108 000 000
4. Ashland Exploration Inc
5. Simpson Edith S No 4-006360
6. Eastern Kentucky Gas
7. Martin, KY
8. 1.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02707/509
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Simpson Edith S #5 006370
6. Eastern Kentucky Gas
7. Martin, KY
8. 1.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02708/466
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #8 003830
6. Eastern Kentucky Gas
7. Pike, KY
8. 7.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02709/467

2. 16-195-00146-E
3. 108 000 000
4. Ashland Exploration Inc
5. Sword L B #1 005080
6. Eastern Kentucky Gas
7. Pike, KY
8. 5.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02710/468
2. 16-195-00183
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #19 004650
6. Eastern Kentucky Gas
7. Pike, KY
8. 12.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02711/469
2. 16-195-01015-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #29 009510
6. Eastern Kentucky Gas
7. Pike, KY
8. 12.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02712/470
2. 16-195-00585-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #28 007090
6. Eastern Kentucky Gas
7. Pike, KY
8. 9.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02713/471
2. 16-195-00890-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #27 008860
6. Eastern Kentucky Gas
7. Pike, KY
8. 9.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02714/472
2. 16-195-00492-E
3. 108 000 000
4. Ashland Exploration Inc
5. Cassidy J W #4 006900
6. Eastern Kentucky Gas
7. Pike, KY
8. 21.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02715/473
2. 16-195-00504-E
3. 108 000 000
4. Ashland Exploration Inc
5. Adkins L G #1 006890
6. Eastern Kentucky Gas
7. Pike, KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02716/474
2. 16-195-00787-E
3. 108 000 000
4. Ashland Exploration Inc
5. Ford Charles Heirs #1 008230
6. Eastern Kentucky Gas

7. Pike, KY
8. 6.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02717/475
2. 16-195-03049-E
3. 108 000 000
4. Ashland Exploration Inc
5. Ford Charles Heirs #2 010460
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02718/476
2. 16-195-02019-E
3. 108 000 000
4. Ashland Exploration Inc
5. Steele WM #1 009720
6. Eastern Kentucky Gas
7. Pike, KY
8. 22.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02719/477
2. 16-195-03719-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #47 012790
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02720/478
2. 16-195-03952-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #48 013600
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02721/479
2. 16-195-00336-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #49 017170
6. Eastern Kentucky Gas
7. Pike, KY
8. 6.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02722/480
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #54 050330
6. Eastern Kentucky Gas
7. Pike, KY
8. 11.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02723/481
2. 16-195-00608-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Romans Carrie #1 027050
6. Eastern Kentucky Gas
7. Pike, KY
8. 14.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02724/482

2. 16-195-00916-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #57 026790
6. Eastern Kentucky Gas
7. Pike, KY
8. 10.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02725/483
2. 16-195-00095-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #58 027740
6. Eastern Kentucky Gas
7. Pike, KY
8. 8.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02726/484
2. 16-195-13454
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #59 040530
6. Eastern Kentucky Gas
7. Pike, KY
8. 15.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02727/485
2. 16-195-19112
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #61 048410
6. Eastern Kentucky Gas
7. Pike, KY
8. 15.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02728/486
2. 16-119-31655
3. 108 000 000
4. Ashland Exploration Inc
5. Kyooga Land Co 20 074971
6. Eastern Kentucky Gas
7. Knott, KY
8. 2.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02729/487
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Sexton D M #1 002370
6. Eastern Kentucky Gas
7. Floyd, KY
8. 12.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02730/488
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Allen M V #1 002580
6. Eastern Kentucky Gas
7. Floyd, KY
8. 8.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02731/489
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Osborne E B #1 002480
6. Eastern Kentucky Gas

7. Floyd, KY
8. 13.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02732/490
2. 16-195-21392
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #62 049650
6. Eastern Kentucky Gas
7. Pike, KY
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02733/491
2. 16-195-22530
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #63 050040
6. Eastern Kentucky Gas
7. Pike, KY
8. 5.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02734/492
2. 16-195-24975
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #64 050270
6. Eastern Kentucky Gas
7. Pike, KY
8. 11.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02735/493
2. 16-195-24999
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #65 050280
6. Eastern Kentucky Gas
7. Pike, KY
8. 4.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02736/494
2. 16-195-25129
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #66 050300
6. Eastern Kentucky Gas
7. Pike, KY
8. 7.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02737/495
2. 16-195-25640
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #67-050390
6. Eastern Kentucky Gas
7. Pike, KY
8. 13.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02738/496
2. 16-195-25641
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #68-050400
6. Eastern Kentucky Gas
7. Pike, KY
8. 13.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02739/497

2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc.
5. Martin Essie #1-002890
6. Eastern Kentucky Gas
7. Floyd KY
8. 1.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02740/498
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc.
5. Allen Susan #1-003220
6. Eastern Kentucky Gas
7. Floyd KY
8. 9.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02741/499
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc.
5. Allen J. H. #1-002730
6. Eastern Kentucky Gas
7. Floyd KY
8. 11.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02742/510
2. 16-159-000371-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Kirk Authur #1-006200
6. Eastern Kentucky Gas
7. Martin KY
8. 2.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02743/511
2. 16-159-00381-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Stafford Etta #1-006250
6. Eastern Kentucky Gas
7. Martin KY
8. 4.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02744/512
2. 16-159-00411-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Cassell J. M. #1-006510
6. Eastern Kentucky Gas
7. Martin KY
8. 2.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02745/513
2. 16-159-00493-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Stewart J. W. M. #2-006720
6. Eastern Kentucky Gas
7. Martin KY
8. 8.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02746/514
2. 16-071-00211-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Williamson Thurza B. #1-005370
6. Eastern Kentucky Gas
7. Floyd KY
8. 2.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02747/515
2. 16-071-00282-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Williamson Thurza B. #2-005470
6. Eastern Kentucky Gas
7. Floyd KY
8. 2.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02748/516
2. 16-071-00617-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Williamson Thurza B. #4-007320
6. Eastern Kentucky Gas
7. Floyd KY
8. 2.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02749/517
2. 16-119-00000-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Kycoga Land Co. #1-003210
6. Eastern Kentucky Gas
7. Knott KY
8. 3.7 million cubic feet
9. October 11, 1979
10. Inland Gas Co Inc
1. 80-02750/518
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc.
5. Boes Branch Unit-155590
6. Eastern Kentucky Gas
7. Pike KY
8. 22.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02751/5739
2. 16-119-00324-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Cornett John #2-006020
6. Eastern Kentucky Gas
7. Knott KY
8. 5.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02752/740
2. 16-119-00302-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Cornett John #1-005920
6. Eastern Kentucky Gas
7. Knott KY
8. 5.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02753/741
2. 16-119-03190-E
3. 108 000 000
4. Ashland Exploration Inc.
5. East KY Realty #9-010930
6. Eastern Kentucky Gas
7. Knott KY
8. 8.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02754/742

2. 16-119-03123-E
3. 108 000 000
4. Ashland Exploration Inc.
5. East KY Realty #8-010630
6. Eastern Kentucky Gas
7. Knott KY
8. 8.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02755/743
2. 16-071-00179-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Hatcher Land Co. #3-005280
6. Eastern Kentucky Gas
7. Floyd KY
8. 25.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02756/465
2. 16-195-01786-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #32-021270
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02757/408
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc.
5. Hatcher Land Co. #1-002920
6. Eastern Kentucky Gas
7. Pike KY
8. 15.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02758/409
2. 16-195-00313-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Hatcher Land Co. #4-005900
6. Eastern Kentucky Gas
7. Pike KY
8. 15.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02759/410
2. 16-071-00314-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Hatcher Land Co. #5-005910
6. Eastern Kentucky Gas
7. Floyd KY
8. 15.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02760/481
2. 16-195-01606-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #28-020940
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02761/482
2. 16-195-01607-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #29-020950
6. Eastern Kentucky Gas

7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02762/463
2. 16-195-01608-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #30-020960
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02763/464
2. 16-195-01785-AEF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #31-021220
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02764/460
2. 16-195-01255-EF
3. 108 000 000
4. Ashland Exploration Inc.
5. Republic Steel Corp. #27-020500
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02765/411
2. 16-195-00323-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Hatcher Land Co. #8-006080
6. Eastern Kentucky Gas
7. Pike KY
8. 15.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-02766/412
2. 16-071-00355-E
3. 108 000 000
4. Ashland Exploration Inc.
5. Hatcher Land Co. #7-006090
6. Eastern Kentucky Gas
7. Floyd KY
8. 15.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc.
1. 80-01629
2. 47-097-01420
3. 108
4. Allegheny Land & Mineral Co
5. A-445
6. Washington District
7. Upshur, WV
8. 5.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01630
2. 47-097-01421
3. 108
4. Allegheny Land & Mineral Co
5. A-452
6. Washington District
7. Upshur, WV
8. 10.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01631

2. 47-033-00910
3. 108
4. Allegheny Land & Mineral Co
5. A-530
6. Union District
7. Harrison, WV
8. 10.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01632
2. 47-041-01626
3. 108
4. Allegheny Land & Mineral Co
5. A-362
6. Hackers Creek District
7. Lewis, WV
8. 2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01633
2. 47-033-00914
3. 108
4. Allegheny Land & Mineral Co
5. A-531
6. Union District
7. Harrison, WV
8. 12.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01634
2. 47-033-00918
3. 108
4. Allegheny Land & Mineral Co
5. A-540
6. Grant District
7. Harrison, WV
8. 12.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01635
2. 47-033-00927
3. 108
4. Allegheny Land & Mineral Co
5. A-555
6. Union District
7. Harrison, WV
8. 15.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01636
2. 47-041-01854
3. 108
4. Allegheny Land & Mineral Co
5. A-453
6. Freemans Creek Dist
7. Lewis, WV
8. 2.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01637
2. 47-041-01820
3. 108
4. Allegheny Land & Mineral Co
5. A-438
6. Freemans Creek Dist
7. Lewis, WV
8. 9.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01638
2. 47-041-01711
3. 108
4. Allegheny Land & Mineral Co
5. A-390
6. Hackers Creek District

7. Lewis, WV
8. 2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01639
2. 47-041-01710
3. 108
4. Allegheny Land & Mineral Co
5. A-389
6. Hackers Creek District
7. Lewis, WV
8. 2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01640
2. 47-041-01692
3. 108
4. Allegheny Land & Mineral Co
5. A-382
6.
7. Lewis, WV
8. 20.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01641
2. 47-041-01691
3. 108
4. Allegheny Land & Mineral Co
5. A-381
6. Freemans Creek Dist
7. Lewis, WV
8. 20.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01642
2. 47-041-01690
3. 108
4. Allegheny Land & Mineral Co
5. A-380
6. Freemans Creek Dist
7. Lewis, WV
8. 20.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01643
2. 47-015-00722
3. 108 denied
4. W Howard Taylor Agent
5. Eakle #3 47-015-0722
6. Maysel
7. Clay, WV
8. 23.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01644
2. 47-041-02033
3. 108
4. Allegheny Land & Mineral Co
5. A-566
6. Collins Settlement
7. Lewis, WV
8. 2.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01645
2. 47-041-01999
3. 108
4. Allegheny Land & Mineral Co
5. A-541
6. Freemans Creek Dist
7. Lewis, WV
8. 4.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01646

2. 47-041-01982
3. 108
4. Allegheny Land & Mineral Co
5. A-526
6. Hackers Creek District
7. Lewis, WV
8. 7.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01647
2. 47-041-01981
3. 108
4. Allegheny Land & Mineral Co
5. A-524
6. Hackers Creek District
7. Lewis, WV
8. 5.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01648
2. 47-041-01980
3. 108
4. Allegheny Land & Mineral Co
5. A-525
6. Hackers Creek District
7. Lewis, WV
8. 10.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01649
2. 47-041-01979
3. 108
4. Allegheny Land & Mineral Co
5. A-527
6. Hackers Creek District
7. Lewis, WV
8. 11.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01650
2. 47-041-01978
3. 108
4. Allegheny Land & Mineral Co
5. A-523
6. Court House District
7. Lewis, WV
8. 5.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01651
2. 47-041-01889
3. 108
4. Allegheny Land & Mineral Co
5. A-457
6. Freemans Creek District
7. Lewis, WV
8. 2.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01652
2. 47-041-01866
3. 108
4. Allegheny Land & Mineral Co
5. A-456
6. Freemans Creek Dist
7. Lewis, WV
8. 1.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01653
2. 47-015-00573
3. 108
4. W Howard Taylor Agent
5. Gorrell 47-015-0573
6. Maysel
7. Clay, WV
8. 2.8 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01654
2. 47-015-00567
3. 108
4. W Howard Taylor
5. Reed #2 47-015-0567
6. Maysel
7. Clay, WV
8. 1.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01655
2. 47-015-00561
3. 108
4. W Howard Taylor
5. Reed #3 47-015-0561
6. Maysel
7. Clay, WV
8. 1.7 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01656
2. 47-015-00558
3. 108
4. W Howard Taylor Agent
5. Reed #1 47-015-0558
6. Maysel
7. Clay, WV
8. 1.3 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01657
2. 47-015-00718
3. 108 Denied
4. W Howard Taylor Agent
5. King #2 47-015-0718
6. Maysel
7. Clay, WV
8. 50.7 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01658
2. 47-017-01612
3. 108
4. Allegheny Land & Mineral Co
5. A-424
6. Southwest
7. Doddridge, WV
8. 6.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01659
2. 47-017-01610
3. 108
4. Allegheny Land & Mineral Co
5. A-422
6. McClellan District
7. Doddridge WV
8. 5.8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01660
2. 47-017-01609
3. 108
4. Allegheny Land & Mineral Co
5. A-420
6. Grant District
7. Doddridge WV
8. 4.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01661
2. 47-013-02547
3. 108
4. Allegheny Land & Mineral Co
5. A-59
6. Washington District
7. Calhoun WV
8. 7.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01662
2. 47-013-02555
3. 108
4. Allegheny Land & Mineral Co
5. A-570
6. Washington District
7. Calhoun WV
8. 8.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01663
2. 47-0113-02496
3. 108
4. Allegheny Land & Mineral Co
5. A-461
6. Washington District
7. Calhoun WV
8. 10.264 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01664
2. 47-015-00599
3. 108
4. W Howard Taylor Agent
5. Eakle No 1 47-015-0599
6. Maysel
7. Clay WV
8. 5.6 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01665
2. 47-087-00949
3. 108
4. VA Roy Hildreth
5. Lydia Newlon Well No 2 55-6031283
6. Little Creek
7. Roane
8. 1.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01666
2. 47-087-01012
3. 108
4. VA Roy Hildreth
5. Deweese Well No 1 55-6031017
6. Little Creek
7. Roane WV
8. 5.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01667
2. 47-087-01045
3. 108
4. VA Roy Hildreth
5. M F Tyson Well No 2 55-6031274
6. Little Creek
7. Roane WV
8. 8.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01668
2. 47-013-01453
3. 108
4. W H Hildreth
5. Cogar Oil & Gas 55-6031780
6. Arnoldsburg

7. Calhoun WV
8. 1.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
Kentucky Department of Mines and Minerals,
Oil and Gas Division
1. 80-02807/453
2. 16-195-03653-E
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #18-012510
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02808/454
2. 16-195-03951-E
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #20-013640
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02809/455
2. 16-195-00951-E
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #21-019210
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02810/456
2. 16-195-00978-E
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #22-019460
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02811/457
2. 16-195-01064-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #2-019750
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02812/458
2. 16-195-01221-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #25-019880
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02813/459
2. 16-195-01315-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #26-020220
6. Eastern Kentucky Gas
7. Pike KY
8. 6.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02814/665
2. 16-195-03346-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #42-011660
6. Eastern Kentucky Gas
7. Pike KY
8. 6.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02815/667
2. 16-195-03465-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #43-011670
6. Eastern Kentucky Gas
7. Pike KY
8. 6.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02816/668
2. 16-195-03466-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #44-011740
6. Eastern Kentucky Gas
7. Pike KY
8. 6.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02817/669
2. 16-195-03559-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #45-011750
6. Eastern Kentucky Gas
7. Pike KY
8. 6.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02818/670
2. 16-195-00240-E
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington B & J #5-005440
6. Eastern Kentucky Gas
7. Pike KY
8. 3.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02819/671
2. 16-195-00386-E
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington B & J #7-006270
6. Eastern Kentucky Gas
7. Pike KY
8. 3.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02820/672
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington B & J #1-003560
6. Eastern Kentucky Gas
7. Pike KY
8. 9.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02821/674
2. 16-195-00291-E
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington Ballard #6-005610
6. Eastern Kentucky Gas
7. Pike KY
8. 4.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02822/674
2. 16-119-01024-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #15-009520
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02823/675
2. 16-119-02071-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #16-010270
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02824/676
2. 16-119-00229
3. 108 000 000
4. Ashland Exploration Inc
5. Leslie Rosalie #1-005450
6. Eastern Kentucky Gas
7. Knott KY
8. 2.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02825/677
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #4-003670
6. Eastern Kentucky Gas
7. Pike KY
8. 6.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02826/678
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #7-003820
6. Eastern Kentucky Gas
7. Pike KY
8. 6.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02827/679
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #9-003920
6. Eastern Kentucky Gas
7. Pike KY
8. 6.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02828/680
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #11-004250
6. Eastern Kentucky Gas
7. Pike KY

8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02829/681
2. 16-195-00007-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #12-004250
6. Eastern Kentucky Gas
7. Pike KY
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02830/682
2. 16-195-00020
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #14-004350
6. Eastern Kentucky Gas
7. Pike KY
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02831/683
2. 16-195-00020-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #14-004350
6. Eastern Kentucky Gas
7. Pike KY
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02832/684
2. 16-195-00425-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #21-006540
6. Eastern Kentucky Gas
7. Pike KY
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02833/685
2. 16-195-00424-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #22-006550
6. Eastern Kentucky Gas
7. Pike KY
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02834/686
2. 16-195-03198-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #36-010940
6. Eastern Kentucky Gas
7. Pike KY
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02835/687
2. 16-195-03320-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #39-011260
6. Eastern Kentucky Gas
7. Pike KY
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02836/688
2. 16-071-00026-E
3. 108 000 000
4. Ashland Exploration Inc
5. Steele Letha C #1-004380
6. Eastern Kentucky Gas
7. Floyd KY
8. 11.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02837/689
2. 16-071-00038-E
3. 108 000 000
4. Ashland Exploration Inc
5. Steele Letha C #2-004590
6. Eastern Kentucky Gas
7. Floyd KY
8. 11.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02838/690
2. 16-071-00047-E
3. 108 000 000
4. Ashland Exploration Inc
5. Layne Tom #1-004720
6. Eastern Kentucky Gas
7. Floyd KY
8. 4.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02839/691
2. 16-071-00112-E
3. 108 000 000
4. Ashland Exploration Inc
5. Layne Dallas #1-004920
6. Eastern Kentucky Gas
7. Floyd KY
8. 2.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02840/692
2. 16-071-00039-E
3. 108 000 000
4. Ashland Exploration Inc
5. Clark G W #1-004700
6. Eastern Kentucky Gas
7. Floyd KY
8. 2.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02841/693
2. 16-071-00131-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hamblen Octavia #1-005000
6. Eastern Kentucky Gas
7. Floyd KY
8. 2.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02842/694
2. 16-071-00132-E
3. 108 000 000
4. Ashland Exploration Inc
5. Utilities Elkhorn Coal Co #1-00501
6. Eastern Kentucky Gas
7. Floyd KY
8. 8.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02843/695
2. 16-195-00370-E
3. 108 000 000
4. Ashland Exploration Inc
5. Elliott W K #1-004280
6. Eastern Kentucky Gas
7. Pike KY
8. 4.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02844/696
2. 16-195-00051-E
3. 108 000 000
4. Ashland Exploration Inc
5. Elliott W K #2-004610
6. Eastern Kentucky Gas
7. Pike KY
8. 4.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02845/697
2. 16-195-00320-E
3. 108 000 000
4. Ashland Exploration Inc
5. Elliott W K #3-005970
6. Eastern Kentucky Gas
7. Pike KY
8. 4.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02846/698
2. 16-119-00162-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hicks Elijah #1-005130
6. Eastern Kentucky Gas
7. Knott KY
8. 8.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02847/699
2. 16-119-02924-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Campbell Grace Combs #1-024050
6. Eastern Kentucky Gas
7. Knott KY
8. 5.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02848/700
2. 16-195-00092-E
3. 108 000 000
4. Ashland Exploration Inc
5. Damron Logan #1-004810
6. Eastern Kentucky Gas
7. Pike KY
8. 23.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02849/701
2. 16-071-00045-E
3. 108 000 000
4. Ashland Exploration Inc
5. Gibson Martha #2-004520
6. Eastern Kentucky Gas
7. Floyd KY
8. 9.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02850/702
2. 16-071-00093-E
3. 108 000 000
4. Ashland Exploration Inc
5. Jester Laura M #1-004820
6. Eastern Kentucky Gas
7. Floyd KY
8. 10.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02851/703
2. 16-119-00186-E
3. 108 000 000
4. Ashland Exploration Inc
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02852/704
2. 16-071-00124-E
3. 108 000 000
4. Ashland Exploration Inc
5. Jester Laura M #2 004970
6. Eastern Kentucky Gas
7. Floyd KY
8. 10.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02853/705
2. 16-119-00215-E
3. 108 000 000
4. Ashland Exploration Inc
5. East Ky Realty #6 005350
6. Eastern Kentucky Gas
7. Knott KY
8. 6.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02854/706
2. 16-119-00083-E
3. 108 000 000
4. Ashland Exploration Inc
5. East Ky Realty #5 004780
6. Eastern Kentucky Gas
7. Knott KY
8. 6.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02855/707
2. 16-119-00086-E
3. 108 000 000
4. Ashland Exploration Inc
5. East Ky Realty #4 004750
6. Eastern Kentucky Gas
7. Knott KY
8. 6.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02856/708
2. 16-119-00298-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #19 026810
6. Eastern Kentucky Gas
7. Knott KY
8. 4.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02857/820
2. 16-195-00354-E
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington Ballard #8 006170
6. Eastern Kentucky Gas
7. Pike KY
8. 1.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02858/821
2. 16-195-00482-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kentucky Stone #1 006870
6. Eastern Kentucky Gas

7. Pike KY
8. 8.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02859/822
2. 16-195-00316-E
3. 108 000 000
4. Ashland Exploration Inc
5. Cline J S #1 005930
6. Eastern Kentucky Gas
7. Pike KY
8. 14.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02860/823
2. 16-195-00380-E
3. 108 000 000
4. Ashland Exploration Inc
5. Cline J S #2 006260
6. Eastern Kentucky Gas
7. Pike KY
8. 14.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02861/824
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Bull Ed #1 002290
6. Eastern Kentucky Gas
7. Floyd KY
8. 10.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02862/825
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Bull Ed #2 002380
6. Eastern Kentucky Gas
7. Floyd KY
8. 10.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02863/826
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Bull Ed #3 002550
6. Eastern Kentucky Gas
7. Floyd KY
8. 10.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02864/827
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Bull Ed #5 002780
6. Eastern Kentucky Gas
7. Floyd KY
8. 10.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02865/828
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Bull Ed #7 003030
6. Eastern Kentucky Gas
7. Floyd KY
8. 10.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02866/829
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Bull Ed #6 002870
6. Eastern Kentucky Gas
7. Floyd KY
8. 6.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02867/830
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Bull Ed #8 003040
6. Eastern Kentucky Gas
7. Floyd KY
8. 6.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02868/830
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Newsom Dakota #1-003420
6. Eastern Kentucky Gas
7. Floyd KY
8. 16.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02869/832
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Newsom Dakota #2-003650
6. Eastern Kentucky Gas
7. Floyd KY
8. 16.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02870/833
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Newsom Dakota #3-003700
6. Eastern Kentucky Gas
7. Floyd KY
8. 16.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02871/834
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Turner W J #2-003340
6. Eastern Kentucky Gas
7. Floyd KY
8. 1.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02872/835
2. 16-119-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #2-003600
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02873/836
2. 16-119-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #3-003710
6. Eastern Kentucky Gas

7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02874
2. 16-119-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #3-04530
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02875/638
2. 16-119-00080-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #5-004890
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02876/639
2. 16-119-00173-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #6-005150
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02877/640
2. 16-119-00213-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #7-005320
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02878/641
2. 16-119-00216-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #8-005330
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02879/642
2. 16-119-00241-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #9-005430
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02880/643
2. 16-119-00481-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #10-006660
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02881/644

2. 16-119-00856-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #12-008640
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02882/645
2. 16-195-00020-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #14-004350
6. Eastern Kentucky Gas
7. Pike KY
8. 6.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02883/646
2. 16-195-00148-E
3. 108 000 000
4. Ashland Exploration Inc
5. Lowe John S #2 005070
6. Eastern Kentucky Gas
7. Pike KY
8. 2.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02884/647
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Mullins Noah #3 003980
6. Eastern Kentucky Gas
7. Pike KY
8. 4.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02885/648
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Wagner Roma #1 003990
6. Eastern Kentucky Gas
7. Pike KY
8. 12.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02886/649
2. 16-195-00319-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kentucky West VA Gas Co #1 005980
6. Eastern Kentucky Gas
7. Pike KY
8. 7.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02887/650
2. 16-119-00565-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #11 006980
6. Eastern Kentucky Gas
7. Knott KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02888/651
2. 16-195-00360-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kentucky West Va. Gas Co #2 006210
6. Eastern Kentucky Gas

7. Pike KY
8. 7.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02889/652
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Setser Henry #1 003480
6. Eastern Kentucky Gas
7. Floyd KY
8. 2.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02890/653
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Setser Henry #2 003660
6. Eastern Kentucky Gas
7. Floyd KY
8. 2.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02891/654
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Nunnery George #1 003380
6. Eastern Kentucky Gas
7. Pike KY
8. 14.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02892/655
2. 16-195-00150-E
3. 108 000 000
4. Ashland Exploration Inc
5. Beury WM J #2 005090
6. Eastern Kentucky Gas
7. Pike KY
8. 3.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02893/656
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Susan C Evans #1-005060
6. Eastern Kentucky Gas
7. Pike KY
8. 1.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02894/657
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Greer Ethel #1 003620
6. Eastern Kentucky Gas
7. Pike KY
8. 9.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02895/658
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Marrs Jennie #2 003760
6. Eastern Kentucky Gas
7. Pike KY
8. 6.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02896/659

2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Marrs Jennie #3 003770
6. Eastern Kentucky Gas
7. Pike KY
8. 8.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02897/660
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Coleman John #1 003840
6. Eastern Kentucky Gas
7. Pike KY
8. 13.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02898/661
2. 16-119-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Smith Lillie #1-003790
6. Eastern Kentucky Gas
7. Knott KY
8. 3.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02899/662
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Lowe O R #1-003850
6. Eastern Kentucky Gas
7. Pike KY
8. 18.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02900/663
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Lowe John S #1-003910
6. Eastern Kentucky Gas
7. Pike KY
8. 2.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02901/664
2. 16-195-03363-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #40-011360
6. Eastern Kentucky Gas
7. Pike KY
8. 6.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02902/665
2. 16-195-03351-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #41-011370
6. Eastern Kentucky Gas
7. Pike KY
8. 6.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02903/519
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Slater Unit-155820
6. Eastern Kentucky Gas

7. Pike KY
8. 5.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02904/520
2. 16-195-012136-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #53-021980
6. Eastern Kentucky Gas
7. Pike KY
8. 8.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02905/521
2. 16-195-02375-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #54-022280
6. Eastern Kentucky Gas
7. Pike KY
8. 8.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02906/522
2. 16-195-02430-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #55-022950
6. Eastern Kentucky Gas
7. Pike KY
8. 8.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02907/523
2. 16-195-01787-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #52-021280
6. Eastern Kentucky Gas
7. Pike KY
8. 9.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02908/524
2. 16-195-02511-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #56-023440
6. Eastern Kentucky Gas
7. Pike KY
8. 8.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02909/525
2. 16-195-02007-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #33-021710
6. Eastern Kentucky Gas
7. Pike KY
8. 3.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02910/526
2. 16-195-02704-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #37-023830
6. Eastern Kentucky Gas
7. Pike KY
8. 3.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02911/527

2. 16-195-02804
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #52-026960
6. Eastern Kentucky Gas
7. Pike KY
8. 10.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02912/528
2. 16-195-00208-E8
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #50-026730
6. Eastern Kentucky Gas
7. Pike KY
8. 4.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02913/529
2. 16-195-03259-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #43-025000
6. Eastern Kentucky Gas
7. Pike KY
8. 10.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02914/530
2. 16-195-04017-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #48-026150
6. Eastern Kentucky Gas
7. Pike KY
8. 4.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02915/531
2. 16-195-00370-E8
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #51-026830
6. Eastern Kentucky Gas
7. Pike KY
8. 21.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02916/532
2. 16-195-00038-E8
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #49-026600
6. Eastern Kentucky Gas
7. Pike KY
8. 15.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02917/533
2. 16-195-03612-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #45-025580
6. Eastern Kentucky Gas
7. Pike KY
8. 14.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02918/534
2. 16-195-03056-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #41-024690
6. Eastern Kentucky Gas

7. Pike KY
8. 18.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02919/535
2. 16-195-01768
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #53-032130
6. Eastern Kentucky Gas
7. Pike KY
8. 6.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02920/536
2. 16-195-02925-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Republic Steel Corp #38-024070
6. Eastern Kentucky Gas
7. Pike KY
8. 10.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02921/537
2. 16-195-01878-EF
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #51-021110
6. Eastern Kentucky Gas
7. Pike KY
8. 8.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02922/538
2. 16-195-00286-E
3. 108 000 000
4. Ashland Exploration Inc
5. Mason Coal & Coke #10-026650
6. Eastern Kentucky Gas
7. Pike KY
8. 14.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02923/539
2. 16-195-00950-E8
3. 108 000 000
4. Ashland Exploration Inc
5. Mason Coal & Coke #11-027590
6. Eastern Kentucky Gas
7. Pike KY
8. 8.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02924/540
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #5-003740
6. Eastern Kentucky Gas
7. Pike KY
8. 23.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02925/541
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington Ballard #4-003870
6. Eastern Kentucky Gas
7. Pike KY
8. 24.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02926/542

2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington B & J #2-003880
6. Eastern Kentucky Gas
7. Pike KY
8. 8.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02927/543
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Myers Angie #1-003590
6. Eastern Kentucky Gas
7. Pike KY
8. 13.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02928/544
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Mullins Noah #1-003610
6. Eastern Kentucky Gas
7. Pike KY
8. 6.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02929/545
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Mullins Noah #2-003900
6. Eastern Kentucky Gas
7. Pike KY
8. 6.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02930/546
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Mullins Creed #1-003780
6. Eastern Kentucky Gas
7. Pike KY
8. 2.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02931/547
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington B & J #3-003940
6. Eastern Kentucky Gas
7. Pike KY
8. 9.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02932/548
2. 16-171-00037-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hatcher James #2-004430
6. Eastern Kentucky Gas
7. Floyd KY
8. 8.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02933/549
2. 16-171-00046-E
3. 108 000 000
4. Ashland Exploration Inc
5. Boyd Don-004660
6. Eastern Kentucky Gas

7. Floyd KY
8. 2.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02934/550
2. 16-195-00084-E
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington B & J #4-004940
6. Eastern Kentucky Gas
7. Pike KY
8. 2.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02935/551
2. 16-195-00130-E
3. 108 000 000
4. Ashland Exploration Inc
5. Ratliff James #1-004990
6. Eastern Kentucky Gas
7. Pike KY
8. 6.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02936/552
2. 16-195-00219-E
3. 108 000 000
4. Ashland Exploration Inc
5. Ratliff James #2-005360
6. Eastern Kentucky Gas
7. Pike KY
8. 6.6 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02937/553
2. 16-195-00152-E
3. 108 000 000
4. Ashland Exploration Inc
5. Tackett Preston #1-005110
6. Eastern Kentucky Gas
7. Pike KY
8. 5.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02938/554
2. 16-071-00163-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hatcher James #5-005120
6. Eastern Kentucky Gas
7. Floyd KY
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02939/555
2. 16-071-00187-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hatcher James #6-005300
6. Eastern Kentucky Gas
7. Floyd KY
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02940/556
2. 16-195-000228-E
3. 108 000 000
4. Ashland Exploration Inc
5. Ratliff Donna #1-005410
6. Eastern Kentucky Gas
7. Pike KY
8. 3.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02941/557

2. 16-195-03242-E
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington Ballard #9-010340
6. Eastern Kentucky Gas
7. Pike KY
8. 5.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02942/558
2. 16-195-03669-E
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington Ballard #10-012620
6. Eastern Kentucky Gas
7. Pike KY
8. 5.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02943/559
2. 16-195-00348-E
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington B & J #6-006130
6. Eastern Kentucky Gas
7. Pike KY
8. 2.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02944/560
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Cassidy J W #1-002990
6. Eastern Kentucky Gas
7. Pike KY
8. 21.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02945/561
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Hatcher Land Co #2-003330
6. Eastern Kentucky Gas
7. Pike KY
8. 3.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02946/562
2. 16-195-003352-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hatcher Land Co #8-011380
6. Eastern Kentucky Gas
7. Pike KY
8. 3.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02947/563
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #6-003750
6. Eastern Kentucky Gas
7. Pike KY
8. 7.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02948/564
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #10-003930
6. Eastern Kentucky Gas

7. Pike KY
8. 7.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02949/565
2. 16-195-03109-E
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #34-010620
6. Eastern Kentucky Gas
7. Pike KY
8. 7.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02950/566
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Colony Coal & Coke #3-003580
6. Eastern Kentucky Gas
7. Pike KY
8. 7.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02951/567
2. 16-195-00282
3. 108 000 000
4. Ashland Exploration Inc
5. Emma Leslie #1-005600
6. Eastern Kentucky Gas Field
7. Pike KY
8. 7.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02952/568
2. 16-195-00234-E
3. 108 000 000
4. Ashland Exploration Inc
5. Mims Martin #1-005420
6. Eastern Kentucky Gas Field
7. Pike KY
8. 8.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02953/569
2. 16-195-00254-E
3. 108 000 000
4. Ashland Exploration Inc
5. Mims Martin #2-005460
6. Eastern Kentucky Gas
7. Pike KY
8. 8.7 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02954/570
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington Ballard #1-002930
6. Eastern Kentucky Gas
7. Pike KY
8. 5.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02955/571
2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington Ballard #2-002940
6. Eastern Kentucky Gas
7. Pike KY
8. 5.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02956/572

2. 16-195-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington Ballard #5-004270
6. Eastern Kentucky Gas
7. Pike KY
8. 24.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02957/573
2. 16-195-00349-E
3. 108 000 000
4. Ashland Exploration Inc
5. Weddington Ballard #7-006100
6. Eastern Kentucky Gas
7. Pike KY
8. 5.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02958/709
2. 16-119-03947-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #18-025960
6. Eastern Kentucky Gas
7. Knott KY
8. 4.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02959/710
2. 16-119-0365-E
3. 108 000 000
4. Ashland Exploration Inc
5. Kycoga Land Co #17-025640
6. Eastern Kentucky Gas
7. Knott KY
8. 4.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02960/711
2. 16-119-03460-E
3. 108 000 000
4. Ashland Exploration Inc
5. Martin Ben J #1-025340
6. Eastern Kentucky Gas
7. Knott KY
8. 19.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02961/712
2. 16-119-00688-E
3. 108 000 000
4. Ashland Exploration Inc
5. Cornett George W #1-007440
6. Eastern Kentucky Gas
7. Knott KY
8. 9.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02962/713
2. 16-119-00184
3. 108 000 000
4. Ashland Exploration Inc
5. Childers Mary #1-005260
6. Eastern Kentucky Gas
7. Knott KY
8. 5.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02963/714
2. 16-119-00846-EF
3. 108 000 000
4. Ashland Exploration Inc
5. East KY Realty #10-019040
6. Eastern Kentucky Gas

7. Knott KY
8. 8.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02964/715
2. 16-119-00000
3. 108 000 000
4. Ashland Exploration Inc
5. East KY realty #3-002850
6. Eastern Kentucky Gas
7. Knott KY
8. 8.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02965/716
2. 16-119-00000
3. 108 000 000
4. Ashland Exploration Inc
5. East KY realty #2-002850
6. Eastern Kentucky Gas
7. Knott KY
8. 6.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02966/717
2. 16-119-00106-E
3. 108 000 000
4. Ashland Exploration Inc
5. Damron Auxier #1-004850
6. Eastern Kentucky Gas
7. Pike KY
8. 8.8 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02967/718
2. 16-071-00124-E
3. 108 000 000
4. Ashland Exploration Inc
5. Jester Laura M #3-004980
6. Eastern Kentucky Gas
7. Floyd KY
8. 10.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02968/719
2. 16-071-00149-E
3. 108 000 000
4. Ashland Exploration Inc
5. Jester Laura M #5-005050
6. Eastern Kentucky Gas
7. Floyd KY
8. 10.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02969/720
2. 16-071-00058-E
3. 108 000 000
4. Ashland Exploration Inc
5. Brown Nancy J #3-004800
6. Eastern Kentucky Gas
7. Floyd KY
8. 8.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02970/721
2. 16-071-00022-E
3. 108 000 000
4. Ashland Exploration Inc
5. Brown Nancy J #2-004400
6. Eastern Kentucky Gas
7. Floyd KY
8. 8.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02971/722
2. 16-071-00022-E
3. 108 000 000
4. Ashland Exploration Inc
5. Brown Nancy J #1-004390
6. Eastern Kentucky Gas
7. Floyd KY
8. 8.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02972/723
2. 16-071-00097-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hatcher James #4-004680
6. Eastern Kentucky Gas
7. Floyd KY
8. 8.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02973/724
2. 16-071-00061-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hatcher James #3-004620
6. Eastern Kentucky Gas
7. Floyd KY
8. 8.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02974/725
2. 16-071-00028-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hatcher James #1-004420
6. Eastern Kentucky Gas
7. Floyd KY
8. 8.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02975/726
2. 16-071-00018-E
3. 108 000 000
4. Ashland Exploration Inc
5. Clark Dewey #1-004340
6. Eastern Kentucky Gas
7. Floyd KY
8. 1.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02976/727
2. 16-071-00010-E
3. 108 000 000
4. Ashland Exploration Inc
5. Clark Nora E #2-004300
6. Eastern Kentucky Gas
7. Floyd KY
8. 9.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02977/728
2. 16-071-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Clark Nora E #1-004260
6. Eastern Kentucky Gas
7. Floyd KY
8. 9.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02978/729
2. 16-071-00023-E
3. 108 000 000
4. Ashland Exploration Inc
5. Clark Dewey #2-004370
6. Eastern Kentucky Gas

7. Floyd KY
8. 1.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02979/730
2. 16-119-00172-E
3. 108 000 000
4. Ashland Exploration Inc
5. Childers G W #1-005160
6. Eastern Kentucky Gas
7. Knott KY
8. 5.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02980/733
2. 16-119-00171-E
3. 108 000 000
4. Ashland Exploration Inc
5. Smith Mary B #1-005250
6. Eastern Kentucky Gas
7. Knott KY
8. 4.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02981/732
2. 16-119-00189-E
3. 108 000 000
4. Ashland Exploration Inc
5. Leete Claudia #1-005140
6. Eastern Kentucky Gas
7. Knott KY
8. 4.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02982/733
2. 16-119-00135-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hale Lula M #1-005020
6. Eastern Kentucky Gas
7. Knott KY
8. 5.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02983/734
2. 16-119-00117-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hays Liberty #2-004930
6. Eastern Kentucky Gas
7. Knott KY
8. 12.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02984/735
2. 16-119-00082-E
3. 108 000 000
4. Ashland Exploration Inc
5. Hays Liberty #1-004790
6. Eastern Kentucky Gas
7. Knott KY
8. 12.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02985/736
2. 16-119-00361-E
3. 108 000 000
4. Ashland Exploration Inc
5. Cornett Henderson #1-006230
6. Eastern Kentucky Gas
7. Knott KY
8. 7.2 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02986/737

2. 16-119-00118-E
3. 108 000 000
4. Ashland Exploration Inc
5. Cornett Samuel #2-005170
6. Eastern Kentucky Gas
7. Knott KY
8. 18.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc
1. 80-02987/738
2. 16-119-00000
3. 108 000 000
4. Ashland Exploration Inc
5. Cornett Samuel #1-004770
6. Eastern Kentucky Gas
7. Knott KY
8. 18.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Inc

Louisiana Office of Conservation

1. Control Number (F.E.R.C./STATE)
2. API Well Number
3. Section of NCPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-02991/79-962
2. 17-101-21032
3. 102 000 000
4. McMoran Exploration Co
5. State Lease 5706 #5
6. South Myette Point
7. St Mary LA
8. 20.0 million cubic feet
9. October 17, 1979
10. Transcontinental Gas Pipeline Corp Sugar Bowl Gas
1. 80-02992/79-2308
2. 17-075-22489
3. 102 000 000
4. Signal Petroleum
5. S/L 2028 #12
6. Lake Washington
7. Plaquemines LA
8. 1460.0 million cubic feet
9. October 17, 1979
10. Southern Natural Gas Company
1. 80-02993/79-2309
2. 17-075-22453
3. 102 000 000
4. Signal Petroleum
5. S/L 2028 #13
6. Lake Washington
7. Plaquemines LA
8. 2190.0 million cubic feet
9. October 17, 1979
10. United Gas Pipeline Company
1. 80-02994/79-950
2. 17-075-22521-0000-1
3. 102 000 000
4. Gulf Oil Corporation
5. SL 195 QQ #292
6. Quarantine Bay
7. Plaquemines LA
8. 190.0 million cubic feet
9. October 17, 1979
10. Southern Natural Gas Company
1. 80-02995/79-951
2. 17-075-22521-0000-2
3. 102 000 000

4. Gulf Oil Corporation
5. SL 195 QQ #292-D
6. Quarantine Bay
7. Plaquemines LA
8. 43.0 million cubic feet
9. October 17, 1979
10. United Gas Pipeline Company
1. 80-02996/79-1672
2. 17-031-20730
3. 102 000 000
4. Phillips Petroleum Company
5. Lord A No 1
6. Grogan
7. De Soto Parish LA
8. 75.0 million cubic feet
9. October 17, 1979
10.
1. 80-02997/79-2298
2. 17-075-22545
3. 102 000 000
4. Gulf Oil Corporation
5. VU 1 J G Timolat B #137 West Bay
6. West Bay
7. Plaquemines Parish LA
8. 420.0 million cubic feet
9. October 17, 1979
10. Texas Eastern Transmission Corp United Gas Pipeline Co
1. 80-02998/79-1687
2. 17-075-22410
3. 102 000 000
4. Gulf Oil Corporation
5. VU 68 S L 192 PP #137
6. West Bay
7. Plaquemines LA
8. 300.0 million cubic feet
9. October 17, 1979
10. Texas Eastern Gas Transmission United Gas Pipeline Co
1. 80-02999/79-1680
2. 17-057-20776
3. 102 000 000
4. Mullins & Prichard
5. Mabel C Myers #1
6. Delta Farms West
7. Lafourche LA
8. 175.0 million cubic feet
9. October 17, 1979
10. Tennessee Gas Pipeline Co
1. 80-03000/79-2498
2. 17-075-22453
3. 102 000 000
4. Signal petroleum
5. S/L 2028 #13D
6. Lake Washington
7. Plaquemines, LA
8. 365.0 million cubic feet
9. October 17, 1979
10. Southern Natural Gas Company
1. 80-03001/79-2500
2. 17-023-21325
3. 102 000 000
4. North American Royalties Inc
5. J A Davis #1 16Q322
6. Black Ridge
7. Cameron PH, LA
8. 1000.0 million cubic feet
9. October 17, 1979
10. Energy Development Corporation, Louisiana Resources Co
1. 80-03002/79-2305
2. 17-007-20220
3. 102 000 000
4. Borden Inc
5. Jrg Vua Evan Belle Corp No. 2

8. Lapice Field
7. Assumption Parish, LA
8. 1200.0 million cubic feet
9. October 17, 1979
10. United Gas Pipeline Company, Louisiana Resources Co
1. 80-03003/79-2307
2. 17-075-22379
3. 102 103 000
4. Signal Petroleum
5. LW 26 RA NVU S/L 2028 #11
6. Lake Washington
7. Plaquemines, LA
8. 220.0 million cubic feet
9. October 17, 1979
10. Southern Natural Gas Company
1. 80-03004/79-2300
2. 17-113-20826
3. 102 000 000
4. McAlester Fuel Company
5. VU A Bonin #1 16Q454
6. Southwest Gueydan
7. Vermilion Parish, LA
8. 500.0 million cubic feet
9. October 17, 1979
10. Continental Oil Company
1. 80-03005/79-2299
2. 17-075-22502
3. 102 000 000
4. Hilliard Oil & Gas Inc
5. I R Price et al #1
6. Coquille Bay
7. Plaquemines, LA
8. 365.0 million cubic feet
9. October 17, 1979
10. Southern Natural Gas Company
1. 80-03006/79-2312
2. 17-023-21251
3. 102 000 000
4. Goldking Production Company
5. Miami Corporation L No. 1
6. Twin Island
7. Cameron Parish, LA
8. 547.5 million cubic feet
9. October 17, 1979
10. Transcontinental Pipe Line
1. 80-03007/79-2313
2. 17-023-21349
3. 102 000 000
4. Goldking Production Company
5. Miami Corp L No. 2
6. Twin Island
7. Cameron Parish, LA
8. 547.5 million cubic feet
9. October 17, 1979
10. Transcontinental Pipe Line

South Dakota Department of Natural Resource Development
1. Control number (F.E.R.C./State)
2. API well number
3. Section of NCPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-02988/878
2. 40-063-20184
3. 102 000 000
4. Alma McCuthin
5. #1-19 Olsen
6. West Short Pine Hills

7. Harding, SD
8. 150.0 million cubic feet
9. October 17, 1979
10. Montana Dakota Utilities Co
1. 80-02989/839
2. 40-163-20167
3. 102 000 000
4. Alma McCuthin
5. #1-8 State
6. West Short Pine Hills
7. Harding, SD
8. 80.0 million cubic feet
9. October 17, 1979
10. Montana Dakota Utilities Co
1. 80-02990/836
2. 40-063-20165
3. 102 000 000
4. Alma McCuthin
5. 5-1 State
6. West Short Pine Hills
7. Harding, SD
8. 180.0 million cubic feet
9. October 17, 1979
10. Montana Dakota Utilities Co

Texas Railroad Commission, Oil and Gas Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-02583/00556
2. 42-103-00000
3. 103 000 000
4. W M & A P Fuller
5. Ewell McKnight No. 12
6. Armer (Clearfork)
7. Crane, TX
8. 36.0 million cubic feet
9. October 16, 1979
10. Warren Petroleum Corporation
1. 80-02584/00558
2. 42-103-00000
3. 103 000 000
4. W M & A P Fuller
5. Ewell McKnight No. 14
6. Armer (Glorieta)
7. Crane, TX
8. 62.0 million cubic feet
9. October 16, 1979
10. Warren Petroleum Corporation
1. 80-02585/00559
2. 42-103-00000
3. 103 000 000
4. W M & A P Fuller
5. Ewell McKnight No. 13
6. Armer (Clearfork)
7. Crane, TX
8. 58.0 million cubic feet
9. October 16, 1979
10. Warren Petroleum Corporation
1. 80-02586/03894
2. 42-203-00000
3. 103 000 000 Denied
4. Dyco Petroleum Corporation
5. I L Hutchinson No. 1
6. Woodlawn South (Hill)
7. Harrison, TX
8. 100.0 million cubic feet

9. October 16, 1979
10. Mississippi River Transmission Co
- U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-02609/COA-2592-79
2. 05-067-05058-0000-0
3. 108 000 000
4. Murchison Brothers
5. Southern UTE block 15 #1-16
6. Ignacio-Blanco
7. La Plata County CO
8. 3.4 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02610/COA-2591-79
2. 05-067-05072-0000-0
3. 108 000 000
4. Murchison Brothers
5. Southern UTE block 15 #2-16
6. Ignacio-Blanco
7. La Plata CO
8. 6.2 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02611/COA-2590-79
2. 05-067-05092-0000-0
3. 108 000 000
4. Murchison Brothers
5. Southern UTE block 13 #5-18
6. Ignacio-Blanco
7. La Plata CO
8. 12.5 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02612/COA-2589-79
2. 05-067-05074-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 3 #1-17
6. Ignacio-Blanco
7. La Plata CO
8. 10.1 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02613/COA-2588-79
2. 05-067-05014-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 4 #1-24
6. Ignacio-Blanco
7. La Plata CO
8. 15.7 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corporation

1. 80-02614/COA-2587-79
2. 05-067-05183-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 11 #1-1
6. Ignacio-Blanco
7. La Plata CO
8. 6.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02615/COA-2586-79
2. 05-067-05090-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 12 #1-16
6. Ignacio-Blanco
7. La Plata CO
8. 12.7 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02616/COA-2585-79
2. 05-067-05141-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 13 #1-8
6. Ignacio-Blanco
7. La Plata CO
8. 8.2 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02617/COA-2584-79
2. 05-067-05270-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 6 #2-29
6. Ignacio-Blanco
7. La Plata CO
8. 20.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02618/COA-2583-79
2. 05-067-05124-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 13 #2-8
6. Ignacio-Blanco
7. La Plata CO
8. 10.2 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02619/COA-2582-79
2. 05-067-05582-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 8 #3-22
6. Ignacio-Blanco
7. La Plata CO
8. 12.0 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corp

1. 80-02621/COA-2581-79
2. 05-067-05053-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 3 #4-18
6. Ignacio-Blanco
7. La Plata CO
8. 8.5 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02622/COA-2580-79
2. 05-067-05574-0000-0
3. 108 000 000
4. Murchison Brothers
5. Southern UTE block 9 #2-30
6. Ignacio-Blanco
7. La Plata CO
8. 5.0 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02623/COA-2579-79
2. 05-067-05246-0000-0
3. 108 000 000
4. Murchison Brothers
5. Southern UTE block 10 #3-31

6. Ignacio-Blanco
7. La Plata CO
8. 6.9 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02624/COA-2594-79
2. 05-067-05067-0000-0
3. 108 000 000
4. Murchison Brothers
5. Southern UTE block 12 #2-16
6. Ignacio-Blanco
7. La Plata CO
8. 10.2 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02625/COA-2593-79
2. 05-067-05093-0000-0
3. 108 000 000
4. Murchison Brothers
5. Southern UTE block 13 #3-17
6. Ignacio-Blanco
7. La Plata CO
8. 12.2 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02626/COA-2599-79
2. 05-067-05575-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 9 #1-29
6. Ignacio-Blanco
7. La Plata CO
8. 8.3 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corp

1. 80-02627/COA-2598-79
2. 05-067-05074-0000-0
3. 108 000 000
4. Murchison Brothers
5. Southern UTE block 3 #2-17
6. Ignacio-Blanco
7. La Plata CO
8. 6.5 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02628/COA-2601-79
2. 05-067-05114-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 14 #1-11
6. Ignacio-Blanco
7. La Plata CO
8. 4.6 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corp

1. 80-02629/COA-2602-79
2. 05-067-05084-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 16 #1-13
6. Ignacio-Blanco
7. La Plata CO
8. 8.7 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02630/COA-2600-79
2. 05-067-05578-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 8 #2-27
6. Ignacio-Blanco
7. La Plata CO
8. 7.9 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corp

1. 80-02631/COA-2603-79
2. 05-067-05006-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern UTE block 17 #1-20
6. Ignacio-Blanco
7. La Plata CO
8. 15.6 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02632/COA-2604-79
2. 05-067-05029-0000-0
3. 108 000 000
4. Murchison Brothers
5. Southern UTE block 3 #5-19-X
6. Ignacio-Blanco
7. La Plata CO
8. 6.9 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02637/COA-2605-79
2. 05-067-05757-0000-0
3. 108 000 000
4. Murchison Brothers
5. Southern UTE block 5 #3-32
6. Ignacio-Blanco
7. La Plata CO
8. 6.4 million cubic feet
9. October 16, 1979
10. Western Slope Gas Company

1. 80-02550/NM-82-78
2. 30-045-22957-0000-0
3. 108 000 000 denied
4. Dugan Production Corp
5. Hard Deal #2B
6. WAW Fruitland PC
7. San Juan NM
8. 9.0 million cubic feet
9. October 22, 1979
10. El Paso Natural Gas Company

1. 80-02551/NM-2952-79B
2. 30-025-25871-0000-0
3. 103 000 000 denied
4. Continental Oil Company
5. Jack B-30 No 2
6. Jalmat Yates Gas
7. Lea NM
8. 3.8 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02552/NM-3082-79
2. 30-025-25162-0000-0
3. 103 000 000 denied
4. Tenneco Oil Company
5. Leonard Federal #8
6. Leonard Queen South
7. Lea NM
8. 15.3 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02553/NM-3091-79
2. 30-025-11983-0000-0
3. 103 000 000 denied
4. Tenneco Oil Company
5. Leonard Federal #5
6. Leonard Queen South
7. Lea NM
8. 10.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02554/NM-2452-79 A
2. 30-025-25871-0000-0
3. 103 000 000
4. Continental Oil Company
5. Jack B-30 #2

6. Langlie Mattix Seven Rivers Queen
7. Lea NM
8. 4.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas
1. 80-02555/NM-3067-79-B
2. 30-039-21727-0000-2
3. 103 000 000
4. Northwest Production Corporation
5. Jicarilla 152W #4 (Pictured Cliffs)
6. South Blanco
7. Rio Arriba, NM
8. 100.0 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corporation

1. 80-02556/NM-3067-79-A
2. 30-039-21727-0000-1
3. 103 000 000
4. Northwest Production Corporation
5. Jicarilla 152W #4 (Mesaverde)
6. Blanco
7. Rio Arriba, NM
8. 150.0 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corporation

1. 80-02557/NM-3065-79
2. 30-045-21569-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. NYE 14 FT & CH
6. Aztec-Fruitland & Bloomfield-Chacra
7. San Juan, NM
8. 16.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02558/NM-3064-79
2. 30-045-21877-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Lloyd A 3 CH & PC
6. Bloomfield-Chacra & Aztec-Pictured
7. San Juan, NM
8. 8.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02559/NM-3063-79
2. 30-015-20780-0013-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Patterson #1
6. Rocky Arroyo-Atoka Gas
7. Eddy, NM
8. 1.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02560/NM-3051-79
2. 30-039-21820-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 28-5 Unit #98
6. Basin
7. Rio Arriba, NM
8. 54.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02561/NM-3050-79
2. 30-039-21804-0000-0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 28-5 Unit #101
6. Basin
7. Rio Arriba, NM
8. 91.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company

1. 80-02562/NM-3048-79
 2. 30-039-21809-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. Lindrith Unit COM #93
 6. South Blanco
 7. Rio Arriba, NM
 8. 30.0 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02563/NM-3047-79-2
 2. 30-039-20884-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. San Juan 27-4 Unit #99
 6. Blanco
 7. Rio Arriba, NM
 8. 55.0 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02564/NM-3092-79
 2. 30-025-11972-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Federal #3
 6. Leonard Queen South
 7. Lea, NM
 8. 10.0 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02565/NM-3090-79
 2. 30-025-25860-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Brothers #21
 6. Leonard Queen South
 7. Lea, NM
 8. 7.3 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02566/NM-3089-79
 2. 30-025-25859-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Brothers #20
 6. Leonard Queen South
 7. Lea, NM
 8. 10.2 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02567/NM-3088-79
 2. 30-025-25837-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Federal #12
 6. Leonard Queen South
 7. Lea, NM
 8. 10.9 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02568/NM-3087-79
 2. 30-025-25560-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Brothers A #1
 6. Leonard Queen South
 7. Lea, NM
 8. 14.6 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02569/NM-3086-79
 2. 30-025-25578-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Federal #6
6. Leonard Queen South
 7. Lea, NM
 8. 8.4 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02570/NM-3085-79
 2. 30-025-25833-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Federal #11
 6. Leonard Queen South
 7. Lea, NM
 8. 20.8 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02571/NM-3084-79
 2. 30-025-25581-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Federal #10
 6. Leonard Queen South
 7. Lea, NM
 8. 40.8 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02572/NM-3083-79
 2. 30-025-25579-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Federal #9
 6. Leonard Queen South
 7. Lea, NM
 8. 15.3 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02573/NM-3081-79
 2. 30-025-25861-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Brothers #22
 6. Leonard Queen South
 7. Lea, NM
 8. 5.1 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02574/NM-3080-79
 2. 30-025-25861-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Brothers #26
 6. Leonard Queen South
 7. Lea, NM
 8. 27.0 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02575/NM-3079-79
 2. 30-025-11981-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Brothers #3
 6. Leonard Queen South
 7. Lea, NM
 8. 49.6 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02576/NM-3078-79
 2. 30-025-25572-0000-0
 3. 103 000 000
 4. Tenneco Oil Company
 5. Leonard Brothers #5
 6. Leonard Queen South
 7. Lea, NM
 8. 13.1 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company

1. 80-02577/NM-3077-79
2. 30-025-25574-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Brothers #7
6. Leonard Queen South
7. Lea, NM
8. 1.1 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02578/NM-3076-79
2. 30-025-25982-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Brothers #27
6. Leonard Queen South
7. Lea, NM
8. 22.6 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02579/NM-3075-79
2. 30-025-25960-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Brothers #24
6. Leonard Queen South
7. Lea, NM
8. 14.6 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02580/NM-3074-79
2. 30-025-25578-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Brothers #11
6. Leonard Queen South
7. Lea, NM
8. 57.6 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02581/NM-3073-79
2. 30-025-25857-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Leonard Brothers #16
6. Leonard Queen South
7. Lea, NM
8. 7.3 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02582/NM-3072-79
2. 30-039-21297-0000-0
3. 103 000 000
4. Northwest Production Corporation
5. Jicarilla 123C #22
6. South Blanco
7. Rio Arriba, NM
8. 61.0 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corporation
1. 80-02587/NM-2144-79
2. 30-039-07828-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. SJ 30-4 Unit NP #9
6. Blanco East-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 20.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas Company
1. 80-02588/NM-2986-79
2. 30-025-25511-0000-0
3. 103 000 000
4. Continental Oil Company
5. Pearl B #5

6. Maljamar (GSA)
 7. Lea, NM
 8. 4.0 million cubic feet
 9. October 16, 1979
 10. Transwestern Pipeline
 1. 80-02589/NM-2895-79
 2. 30-039-21524-0000-0
 3. 103 000 000
 4. Continental Oil Company
 5. Conoco 29-4 #6
 6. East San Juan
 7. Rio Arriba, NM
 8. 3.0 million cubic feet
 9. October 16, 1979
 10. Northwest Pipeline Company
 1. 80-02590/NM-2963-79-3
 2. 30-025-25606-0000-0
 3. 103 000 000
 4. Continental Oil Company
 5. Pearl B #7
 6. Maljamar (G-SA)
 7. Lea, NM
 8. 2.0 million cubic feet
 9. October 16, 1979
 10. Transwestern Pipeline Company
 1. 80-02591/NM-2963-79-8
 2. 30-025-25606-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Pearl B #7
 6. Baish-Maljamar-Pearsall
 7. Lea, NM
 8. 3.0 million cubic feet
 9. October 16, 1979
 10. Transwestern Pipeline Company
 1. 80-02592/NM-2545-79
 2. 30-039-20072-0000-0
 3. 108 000 000
 4. Minel Incorporated
 5. PPC #2
 6. Ojito Sec 6 T25N R3W N M P M
 7. Rio Arriba, NM
 8. 4.3 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Co.
 1. 80-02593/NM-2962-79
 2. 30-039-21545-0000-0
 3. 103 000 000
 4. Continental Oil Company
 5. AXI Apache J No. 29
 6. AXI Apache Area
 7. Rio Arriba, NM
 8. 37.0 million cubic feet
 9. October 16, 1979
 10. Gas Company of New Mexico
 1. 80-02594/NM-2740-79
 2. 30-039-06547-0000-0
 3. 108 000 000
 4. Depco Inc
 5. Jenkins No. 4
 6. South Blanco (Picture Cliffs)
 7. Rio Arriba, NM
 8. 16.0 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02595/NM-2739-79
 2. 30-039-06454-0000-0
 3. 108 000 000
 4. Depco Inc
 5. Jenkins 2-X
 6. South Blanco (Picture Cliffs)
 7. Rio Arriba, NM
 8. 5.0 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
1. 80-02596/NM-2737-79
 2. 30-045-06895-0000-0
 3. 108 000 000
 4. Depco Inc
 5. Hancock No. 11
 6. West Kutz (Picture Cliffs)
 7. San Juan, NM
 8. 3.0 million cubic feet
 9. October 16, 1979
 10. Gas Company of New Mexico
 1. 80-02597/NM-2738-79
 2. 30-039-06474-0000-0
 3. 108 000 000
 4. Depco Inc
 5. Jenkins No. 3
 6. South Blanco (Picture Cliffs)
 7. Rio Arriba, NM
 8. 10.0 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02598/NM-2736-79
 2. 30-039-06674-0000-0
 3. 108 000 000
 4. Depco Inc
 5. MKL No. 2
 6. South Blanco (Picture Cliffs)
 7. Rio Arriba, NM
 8. 17.0 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02599/NM-2735-79
 2. 30-045-06931-0000-0
 3. 108 000 000
 4. Depco Inc
 5. Mudge A No. 9
 6. West Kutz (Picture Cliffs)
 7. San Juan, NM
 8. 1.0 million cubic feet
 9. October 16, 1979
 10. Gas Company of New Mexico
 1. 80-02600/NM-2734-79
 2. 30-039-06632-0000-0
 3. 108 000 000
 4. Depco Inc
 5. MKL No. 10
 6. South Blanco (Picture Cliffs)
 7. Rio Arriba, NM
 8. 18.0 million cubic feet
 9. October 16, 1979
 10. El Paso Natural Gas Company
 1. 80-02601/NM-3007-79
 2. 30-041-20178-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. AXI Apache J #15
 6. AXI Apache Area
 7. Rio Arriba, NM
 8. 15.0 million cubic feet
 9. October 16, 1979
 10. Gas Company of New Mexico C-4787
 1. 80-02602/NM-3006-79
 2. 30-039-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. AXI Apache H #7
 6. AXI Apache Area
 7. Rio Arriba, NM
 8. 2.3 million cubic feet
 9. October 16, 1979
 10. Gas Company of New Mexico (C-4787)
 1. 80-02603/NM-3005-79
 2. 30-039-21541-0000-0
 3. 103 000 000
 4. Continental Oil Company
 5. AXI Apache "J" #30

6. AXI Apache Area
7. Rio Arriba, NM
8. 19.0 million cubic feet
9. October 16, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02604/NM-3003-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. AXI Apache H #15
6. AXI Apache Area
7. Rio Arriba, NM
8. 13.0 million cubic feet
9. October 16, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02605/NM-3011-79
2. 30-039-05649-0000-0
3. 108 000 000
4. J Felix Hickman
5. Clark No. 5
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. .0 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corp
1. 80-02606/NM-3010-79
2. 30-039-05618-0000-0
3. 108 000 000
4. J Felix Hickman
5. Clark No. 4
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. .0 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corp
1. 80-02607/NM-3009-79
2. 30-039-05648-0000-0
3. 108 000 000
4. J Felix Hickman
5. Clark No. 3
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. .0 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corp
1. 80-02608/NM-3008-79
2. 30-039-60020-0000-0
3. 108 000 000
4. J Felix Hickman
5. Clark No. 2
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. .0 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corp
1. 80-02620/NM-3012-79
2. 30-039-05645-0000-0
3. 108 000 000
4. J Felix Hickman
5. Clark No. 6
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. .0 million cubic feet
9. October 16, 1979
10. Northwest Pipeline Corp
1. 80-02633/NM-2901-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. AXI Apache M #1
6. AXI Apache Area
7. Rio Arriba, NM
8. 2.9 million cubic feet
9. October 16, 1979
10. Gas Co of NM (C-4787)

1. 80-02634/NM-2899-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. AXI Apache H #8
6. AXI Apache Area
7. Rio Arriba, NM
8. 11.0 million cubic feet
9. October 16, 1979
10. Gas Co of New Mexico (C-4787)
1. 80-02635/NM-2897-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. AXI Apache O #1
6. AXI Apache Area
7. Rio Arriba, NM
8. 14.2 million cubic feet
9. October 16, 1979
10. Gas Co of New Mexico (C-4787)
1. 80-02636/NM-2898-79
2. 30-039-20179-0000-0
3. 108 000 000
4. Continental Oil Company
5. AXI Apache J #14
6. AXI Apache Area
7. Rio Arriba, NM
8. 18.4 million cubic feet
9. October 16, 1979
10. Gas Co of New Mexico (C-4787)
1. 80-02638/NM-2894-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Sholes A #3
6. New Mexico Federal Unit
7. Lea, NM
8. 2.0 million cubic feet
9. October 16, 1979
10. El Paso Natural Gas (C-26)
1. 80-02639/NM-2903-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Meyer B-31A #3
6. New Mexico Federal Unit
7. Lea, NM
8. 3.0 million cubic feet
9. October 16, 1979
10. Phillips Petroleum Co (C-257)
1. 80-02640/NM-2987-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Elliott B-15 #1
6. New Mexico Federal Unit
7. Lea, NM
8. 16.0 million cubic feet
9. October 16, 1979
10. Getty Oil Co (C-112)
1. 80-02641/NM-2988-79
2. 30-039-21543-0000-0
3. 103 000 000
4. Continental Oil Company
5. AXI Apache J #32
6. AXI Apache Area
7. Rio Arriba, NM
8. 2.0 million cubic feet
9. October 16, 1979
10. Gas Company of New Mexico
1. 80-02642/NM-2990-79
2. 30-025-25562-0000-0
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Blinbry-BTY 1 No. 46
6. Blinbry Oil and Gas
7. Lea, NM
8. 37.0 million cubic feet
9. October 16, 1979
10. Warren Petroleum Company
1. 80-02643/NM-2991-79
2. 30-039-20362-0000-0
3. 108 000 000
4. Continental Oil Company
5. AXI Apache J #18
6. AXI Apache Area
7. Rio Arriba, NM
8. 16.3 million cubic feet
9. October 16, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02644/NM-2992-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Sanderson B-14 #2
6. New Mexico Federal Unit
7. Lea, NM
8. 10.4 million cubic feet
9. October 16, 1979
10. Warren Petroleum (C-139)
1. 80-02645/NM-2993-79
2. 30-025-25854-0000-0
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Tubb #51
6. Warren Tubb (oil)
7. Lea, NM
8. 1.0 million cubic feet
9. October 16, 1979
10. Warren Petroleum Corp
1. 80-02646/NM-2994-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. MCA Unit No 77
6. Baish-Maljamal-Pearsall
7. Lea, NM
8. .9 million cubic feet
9. October 16, 1979
10. Transwestern Pipeline Co (C-4497) Gas Co of New Mexico Mesclero Ridge Coop
1. 80-02647/NM-2997-79B
2. 30-025-25828-0000-0
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Tubb No 47
6. Warren Tubb (oil)
7. Lea, NM
8. 8.0 million cubic feet
9. October 16, 1979
10. Warren Petroleum
1. 80-02648/NM-2999-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. AXI Apache H #10
6. AXI Apache Area
7. Rio Arriba, NM
8. 5.5 million cubic feet
9. October 16, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02649/NM-3002-79
2. 30-034-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. AXI Apache J No 12
6. AXI Apache Area
7. Rio Arriba, NM
8. 7.5 million cubic feet
9. October 16, 1979

10. Gas Company of New Mexico
1. 80-02650/NM-3000-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. AXI Apache K #3
6. AXI Apache Area
7. Rio Arriba, NM
8. 10.5 million cubic feet
9. October 16, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02651/NM-3002-79
2. 30-039-00000-0000-0
3. 108
4. Continental Oil Company
5. Roberts #4 NM Prod Unit #17163
6. AXI Apache Area
7. Rio Arriba, NM
8. 5.5 million cubic feet
9. October 16, 1979
10. Gas Company of New Mexico

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.207, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20428.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the commission on or before December 6, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35920 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

[No. 103]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 29, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC

10. Purchaser(s)
1. 80-01523
2. 30-015-22886
3. 102
4. Cities Service Co
5. Villa A Com #1
6. UNDES N Loving-Morrow Gas
7. Eddy, NM
8. 550.0 million cubic feet
9. October 9, 1979
10. El Paso Natural Gas Co
1. 80-01524
2. 30-005-00000
3. 103
4. El Ran Inc
5. Roberts #4 NM Prod Unit #17163
6. Chaveroo (San Andres)
7. Chaves, NM
8. 16.0 million cubic feet
9. October 9, 1979
10. Transwestern Pipeline Co
1. 80-01525
2. 30-015-22272
3. 103
4. Yates Petroleum Corporation
5. Yates As Fee No 5-Y
6. Penasco Draw (Yeso-Sa)
7. Eddy, NM
8. .0 million cubic feet
9. October 9, 1979
10. Transwestern Pipeline Co
1. 80-01526
2. 30-015-22174
3. 103
4. Yates Petroleum Corporation
5. Penasco Iw No 1
6. Penasco Draw Sa-Yeso
7. Eddy, NM
8. .0 million cubic feet
9. October 9, 1979
10. Transwestern Pipeline Co
1. 80-01527
2. 30-015-22306
3. 103
4. Yates Petroleum Corporation
5. Yates Iq No 1
6. UND YESO
7. Eddy, NM
8. .0 million cubic feet
9. October 9, 1979
10. Transwestern Pipeline Co
1. 80-01528
2. 30-015-22322
3. 103
4. Yates Petroleum Corporation
5. White Iu No 1
6. UND YESO
7. Eddy, NM
8. .0 million cubic feet
9. October 9, 1979
10. Transwestern Pipeline Co
1. 80-01529
2. 30-015-22278
3. 103
4. Yates Petroleum Corporation
5. Wilkinson, Az No 4
6. Penasco Draw (YESO-SA)
7. Eddy, NM
8. .0 million cubic feet
9. October 9, 1979
10. Transwestern Pipeline Co
- West Virginia Department of Mines, Oil and Gas Division
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-01530
2. 47-087-00903
3. 108
4. Roy G Hildreth
5. Burley Carpenter #2 55-6031264
6. Triplett
7. Roane, WV
8. .3 million cubic feet
9. October 9, 1979
10. Consolidated Gas Supply Corp
1. 80-01531
2. 47-087-00939
3. 108
4. Roy G Hildreth
5. Carl J Nutter Well #4 55-6031268
6. Triplett
7. Roane, WV
8. 4.7 million cubic feet
9. October 9, 1979
10. Consolidated Gas Supply Corp
1. 80-01532
2. 47-087-00956
3. 108
4. Roy G Hildreth
5. Robert Short Well #1 55-6031281
6. Triplett
7. Roane, WV
8. .4 million cubic feet
9. October 9, 1979
10. Consolidated Gas Supply Corp
1. 80-01533
2. 47-087-00964
3. 108
4. Roy G Hildreth
5. Carl J Nutter Well #3 55-6030992
6. Triplett
7. Roane, WV
8. 1.5 million cubic feet
9. October 9, 1979
10. Consolidated Gas Supply Corp
1. 80-01534
2. 47-087-00990
3. 108
4. Roy G Hildreth
5. Carl J Nutter Well #5 55-06030994
6. Triplett
7. Roane, WV
8. 2.8 million cubic feet
9. October 9, 1979
10. Consolidated Gas Supply Corp
1. 80-01535
2. 47-087-01065
3. 108
4. Roy G Hildreth
5. J L Pursley Well #1 55-6031059
6. Triplett
7. Roane, WV
8. 1.5 million cubic feet
9. October 9, 1979
10. Consolidated Gas Supply Corp
1. 80-01536
2. 47-087-01066
3. 108
4. Roy G Hildreth
5. Carl J Nutter Well #7 55-6031287
6. Triplett
7. Roane, WV
8. 2.8 million cubic feet
9. October 9, 1979
10. Consolidated Gas Supply Corp
1. 80-01537
2. 47-087-01209
3. 108
4. Roy G Hildreth
5. Carl J Nutter Well #8 55-6031286
6. Triplett
7. Roane, WV
8. 2.8 million cubic feet
9. October 9, 1979
10. Consolidated Gas Supply Corp
1. 80-01538
2. 47-087-00943
3. 108
4. Sinstar Development Co (R C Starr)
5. King Well #1 55-6037486
6. Left Hand
7. Roane, WV
8. 4.3 million cubic feet
9. October 9, 1979
10. Columbia Gas Supply Corp
1. 80-01539
2. 47-087-00950
3. 108
4. Sinstar Development Co (R C Starr)
5. Helmic Well #1 55-6037492
6. Left Hand
7. Roane, WV
8. 4.2 million cubic feet
9. October 9, 1979
10. Columbia Gas Transmission Corp
1. 80-01540
2. 47-109-00117
3. 108
4. Consolidated Gas Supply Corp
5. Newriver & Poca Coal Co 9019
6. Pineville Field Area A-59442
7. Wyoming WV
8. 8.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01541
2. 47-109-00373
3. 108
4. Consolidated Gas Supply Corp
5. Conrad B Litz 9714
6. Pineville Field Area A-59442
7. Wyoming WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01542
2. 47-109-00367
3. 108
4. Consolidated Gas Supply Corp
5. Loup CRK Colliery Co 9681
6. Pineville Field Area A-59442
7. Wyoming WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01543
2. 47-109-00364
3. 108
4. Consolidated Gas Supply Corp
5. Agnes Newman Wittenburg 9655
6. Pineville Field Area A-59442
7. Wyoming WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01544

2. 47-109-00328
3. 108
4. Consolidated Gas Supply Corp
5. Poca Land Corp 9364
6. Pineville Field Area A-59442
7. Wyoming WV
8. .7 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01545
2. 47-109-00303
3. 108
4. Consolidated Gas Supply Corp
5. Loup CRK Colliery Co 9288
6. Pineville Field Area A-59442
7. Wyoming WV
8. 1.5 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01546
2. 47-109-00275
3. 108
4. Consolidated Gas Supply Corp
5. A R Wittenberg 9245
6. Pineville Field Area A-59442
7. Wyoming WV
8. 4.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01547
2. 47-109-00269
3. 108
4. Consolidated Gas Supply Corp
5. C C Hedrick 9239
6. Pineville Field Area A-59442
7. Wyoming WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01548
2. 47-109-00165
3. 108
4. Consolidated Gas Supply Corp
5. Agnes N Wittenberg 9092
6. Pineville Field Area A-59442
7. Wyoming WV
8. 1.5 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01549
2. 47-109-00163
3. 108
4. Consolidated Gas Supply Corp
5. Loup CRK Colliery Co 9058
6. Pineville Field Area A-59442
7. Wyoming WV
8. 5.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01550
2. 47-109-00181
3. 108
4. Consolidated Gas Supply Corp
5. Julia W Jennings 9113
6. Pineville Field Area A-59442
7. Wyoming WV
8. .4 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01551
2. 47-081-00175
3. 108
4. Consolidated Gas Supply Corp
5. James R Trump 9426
6. Pineville Field Area A-59442
7. Raleigh WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01552
2. 47-081-00174-D
3. 108
4. Consolidated Gas Supply Corp
5. Mary E Gray 9424
6. Pineville Field Area A-59442
7. Raleigh WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01553
2. 47-081-00172-D
3. 108
4. Consolidated Gas Supply Corp
5. Guy Bolt 9405
6. Pineville Field Area A-59442
7. Raleigh WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01554
2. 47-081-00164-D
3. 108
4. Consolidated Gas Supply Corp
5. Francis W File 9395
6. Pineville Field Area A-59442
7. Raleigh WV
8. 4.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01555
2. 47-081-00160
3. 108
4. Consolidated Gas Supply Corp
5. Douglas Bowers 9376
6. Pineville Field Area A-59442
7. Raleigh WV
8. 6.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01556
2. 47-081-00158
3. 108
4. Consolidated Gas Supply Corp
5. Thurman Daniel 9373
6. Pineville Field Area A-59442
7. Raleigh WV
8. 8.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01557
2. 47-081-00155
3. 108
4. Consolidated Gas Supply Corp
5. O J Harvey 9369
6. Pineville Field Area A-59442
7. Raleigh WV
8. 1.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01558
2. 47-081-00154
3. 108
4. Consolidated Gas Supply Corp
5. Lucinda E Walker 9361
6. Pineville Field Area A-59442
7. Raleigh WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01559
2. 47-081-00103
3. 108
4. Consolidated Gas Supply Corp
5. H G Farmer 9164
6. Pineville Field Area A-59442
7. Raleigh WV
8. 6.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01560
2. 47-081-00105
3. 108
4. Consolidated Gas Supply Corp
5. Thomas Farmer 9165
6. Pineville Field Area A-59442
7. Raleigh WV
8. 12.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01561
2. 47-047-00223
3. 108
4. Consolidated Gas Supply Corp
5. Peoples First Nat Bank 10327
6. Pineville Field Area A-59442
7. McDowell WV
8. 4.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01562
2. 47-047-00394
3. 108 denied
4. Consolidated Gas Supply Corp
5. Olga Coal Co 10935
6. Pineville Field Area A-59442
7. McDowell WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01563
2. 47-047-00300
3. 108 denied
4. Consolidated Gas Supply Corp
5. Olga Coal Co 10738
6. Pineville Field Area A-59442
7. McDowell WV
8. 8.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01564
2. 47-047-00567
3. 108 denied
4. Consolidated Gas Supply Corp
5. Poca Land Corp 11507
6. Pineville Field Area A-59442
7. McDowell WV
8. 8.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01565
2. 47-047-00513
3. 108 denied
4. Consolidated Gas Supply Corp
5. Olga Coal Co 11399
6. Pineville Field Area A-59442
7. McDowell WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01566
2. 47-047-00143
3. 108 denied
4. Consolidated Gas Supply Corp
5. Crozer Land Assn 9800
6. Pineville Field Area A-59442

7. McDowell WV
8. 4.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01567
2. 47-045-00652
3. 108
4. Consolidated Gas Supply Corp
5. W W McDonald Land Co 10048
6. Pineville Field Area A-59442
7. Logan WV
8. 5.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01568
2. 47-045-00561
3. 108
4. Consolidated Gas Supply Corp
5. S E McDonald 10005
6. Pineville Field Area A-59442
7. Logan WV
8. 6.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01569
2. 47-045-00556
3. 108
4. Consolidated Gas Supply Corp
5. Pattie H Feamster 9997
6. Pineville Field Area A-59442
7. Logan WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01570
2. 47-021-01755
3. 108
4. Consolidated Gas Supply Corp
5. Helmick-Moore 10773
6. West Virginia other A-85772
7. Gilmer WV
8. 6.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01571
2. 47-021-01940
3. 108
4. Consolidated Gas Supply Corp
5. Okey Stalnaker 10983
6. West Virginia other A-85772
7. Gilmer WV
8. 8.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01572
2. 47-041-01374
3. 108
4. Consolidated Gas Supply Corp
5. Guy Bush 10687
6. West Virginia other A-85772
7. Lewis WV
8. 2.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01573
2. 47-041-01377
3. 108
4. Consolidated Gas Supply Corp
5. J C Allman 10678
6. West Virginia other A-85772
7. Lewis WV
8. 6.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01574
2. 47-041-01391
3. 108
4. Consolidated Gas Supply Corp
5. Leland L Gould 10683
6. West Virginia other A-85772
7. Lewis WV
8. 12.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01575
2. 47-001-00189
3. 108
4. Consolidated Gas Supply Corp
5. W Corder Teter 10668
6. West Virginia other A-85772
7. Barbour WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01576
2. 47-001-00262
3. 108
4. Consolidated Gas Supply Corp
5. George S White 10766
6. West Virginia other A-85772
7. Barbour WV
8. 3.0 million cubic feet
9. October 5, 1979
10. General system purchasers
1. 80-01577
2. 47-001-00233
3. 108
4. Consolidated Gas Supply Corp
5. Samuel Miner 10742
6. West Virginia other A-85772
7. Barbour WV
8. 12.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01578
2. 47-001-00214
3. 108
4. Consolidated Gas Supply Corp
5. I H McDaniel 10714
6. West Virginia other A-85772
7. Barbour WV
8. 8.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01579
2. 47-033-00092
3. 108
4. Consolidated Gas Supply Corp
5. James A Griffin 2301
6. West Virginia other A-85772
7. Harrison WV
8. 5.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01580
2. 47-001-00327
3. 108
4. Consolidated Gas Supply Corp
5. G Baucham 10869
6. West Virginia other A-85772
7. Barbour WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01581
2. 47-001-00340
3. 108
4. Consolidated Gas Supply Corp
5. H A McCoy 10881
6. West Virginia other A-85772
7. Barbour WV
8. 8.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01582
2. 47-001-00355
3. 108
4. Consolidated Gas Supply Corp
5. Edna McCauley 10917
6. West Virginia other A-85772
7. Barbour WV
8. 12.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01583
2. 47-033-00554
3. 108
4. Consolidated Gas Supply Corporation
5. A S Stout 11318
6. West Virginia other A-85772
7. Harrison WV
8. 13.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01584
2. 47-109-00185
3. 108
4. Consolidated Gas Supply Corporation
5. Loup Crk Colliery Co 9121
6. Pineville Field Area A-59442
7. Wyoming WV
8. 5.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01585
2. 47-109-00184-R
3. 108
4. Consolidated Gas Supply Corporation
5. Agnes N Wittenberg 9118
6. Pineville Field Area A-59442
7. Wyoming WV
8. 4.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01586
2. 47-109-00702
3. 108
4. Consolidated Gas Supply Corporation
5. Leola S Damron 11323
6. Pineville Field Area A-59442
7. Wyoming WV
8. 5.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01587
2. 47-109-00612
3. 108
4. Consolidated Gas Supply Corporation
5. Loup Cr Colliery Co 10339
6. Pineville Field Area A-59442
7. Wyoming WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01588
2. 47-109-00609
3. 108
4. Consolidated Gas Supply Corporation
5. Leola S Damron 10335
6. Pineville Field Area A-59442
7. Wyoming WV
8. 6.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01589

2. 47-109-00596
3. 108
4. Consolidated Gas Supply Corporation
5. Leola S Damron 10302
6. Pineville Field Area A-59442
7. Wyoming WV
8. 4.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01590
2. 47-109-00532
3. 108
4. Consolidated Gas Supply Corporation
5. Loup Crk Colliery Co 10219
6. Pineville Field Area A-59442
7. Wyoming WV
8. 4.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01591
2. 47-109-00490
3. 108
4. Consolidated Gas Supply Corporation
5. Leola S Damron 10052
6. Pineville Field Area A-59442
7. Wyoming WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01592
2. 47-045-00312
3. 108
4. Consolidated Gas Supply Corporation
5. B McDonald Holding Co 9758
6. Pineville Field Area A-59442
7. Logan WV
8. 2.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01593
2. 47-045-00301
3. 108
4. Consolidated Gas Supply Corporation
5. Mary C Porter 9724
6. Pineville Field Area A-59442
7. Logan WV
8. 2.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01594
2. 47-045-00280
3. 108
4. Consolidated Gas Supply Corporation
5. Naaman Jacobs 9701
6. Pineville Field Area A-59442
7. Logan WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01595
2. 47-045-00247
3. 108
4. Consolidated Gas Supply Corporation
5. Naaman Jackson 9491
6. Pineville Field Area A-59442
7. Logan WV
8. 1.5 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01596
2. 47-045-00239
3. 108
4. Consolidated Gas Supply Corporation
5. B McDonald Holding Co 9448
6. Pineville Field Area A-59442
7. Logan WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01597
2. 47-045-00238
3. 108
4. Consolidated Gas Supply Corporation
5. M D Cook 9420
6. Pineville Field Area A-59442
7. Logan WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01598
2. 47-045-00235-R
3. 108
4. Consolidated Gas Supply Corporation
5. B McDonald Holding Co 9421
6. Pineville Field Area A-59442
7. Logan WV
8. 5.0 million cubic feet
9. October 9, 1979
10. General system purchasers
1. 80-01599
2. 47-045-00231
3. 108
4. Consolidated Gas Supply Corporation
5. B McDonald Holding Co 9410
6. Pineville Field Area A-59442
7. Logan WV
8. 7.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01600
2. 47-045-00202
3. 108
4. Consolidated Gas Supply Corporation
5. Mercedes Lusk 9233
6. Pineville Field Area A-59442
7. Logan WV
8. 4.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01601
2. 47-013-00586
3. 108
4. Consolidated Gas Supply Corporation
5. Cora Stump 8539
6. West Virginia Other A-85772
7. Calhoun WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01602
2. 47-001-00353
3. 108
4. Consolidated Gas Supply Corporation
5. W Casto 10913
6. West Virginia Other A-85772
7. Barbour WV
8. 15.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01603
2. 47-041-01378
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Edward O Taylor 10681
6. West Virginia Other A-85772
7. Lewis WV
8. 13.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01604

2. 47-001-00232
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Lonnie E Wolfe 10741
6. West Virginia Other A-85772
7. Barbour WV
8. 19.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01605
2. 47-041-00456
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Mintie Jones 10256
6. West Virginia Other A-85772
7. Lewis WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01606
2. 47-041-01858
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Ira P Simmons 11444
6. West Virginia Other A-85772
7. Lewis WV
8. 4.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01607
2. 47-097-007722
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Herbert N Swecker 10495
6. West Virginia Other A-85772
7. Upshur WV
8. 4.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01608
2. 47-021-00969
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 9839
6. West Virginia Other A-85772
7. Gilmer WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01609
2. 47-021-01072
3. 108
4. Consolidated Gas Supply Corporation
5. Hunter M Bennett 10028
6. West Virginia Other A-85772
7. Gilmer WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01610
2. 47-021-01086
3. 108
4. Consolidated Gas Supply Corporation
5. Burr Furr 10104
6. West Virginia Other A-85772
7. Gilmer WV
8. 3.0 million cubic feet
9. October 9, 1979
10. General System Purchasers
1. 80-01611
2. 47-013-02007
3. 108
4. Mrs O D Smith
5. Ralph Lane Well #2 55-6032170
6. Nicut

7. Calhoun WV
8. 8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01612
2. 47-087-01679
3. 108
4. William Dye Riddle
5. Garretson-Riddle #2 55-6040432
6. Richardson
7. Roane WV
8. 2.5 million cubic feet
9. October 10, 1979
10. Columbia Gas & Transmission Corp
1. 80-01613
2. 47-021-01310
3. 108
4. William Sheppard
5. Allman Well #1 55-6617823
6. Letter Gap
7. Gilmer WV
8. 3.8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01614
2. 47-087-00979
3. 108
4. William Shepard
5. Hess Well #1 34-6629588
6. Linden
7. Roane WV
8. 2.3 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01615
2. 47-015-00742
3. 108
4. Roy G Hildreth
5. Mary D Hanshaw #3
6. Walback
7. Clay WV
8. 0 million cubic feet
9. October 10, 1979
10. Pennzoil Co
1. 80-01616
2. 47-087-00883
3. 108
4. Roy G Hildreth
5. Burley Carpenter #1 55-6031264
6. Triplett
7. Roane WV
8. 3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corporation
1. 80-01617
2. 47-013-01467
3. 108
4. W H Hildreth
5. W H Brannon Well #1 55-6033494
6. Orma
7. Calhoun WV
8. 1.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01618
2. 47-013-01508
3. 108
4. W H Hildreth
5. Parsons Heirs #1 55-6033494
6. Orma
7. Calhoun WV
8. 2.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01619

2. 47-015-00762
3. 108
4. William Shepard
5. Mary D Hanshaw #4 55-6030402
6. Walback
7. Clay WV
8. 2.5 million cubic feet
9. October 10, 1979
10. Pennzoil Co
1. 80-01620
2. 47-013-02479
3. 108
4. William Dye Riddle
5. Russell K Slider #2
6. Pine Creek
7. Calhoun WV
8. 1.8 million cubic feet
9. October 10, 1979
10. Cabot Corporation
1. 80-01621
2. 47-087-01670
3. 108
4. William Dye Riddle
5. Garretson-Riddle #1
6. Richardson
7. Roane WV
8. 2.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01622
2. 47-097-01370
3. 108
4. Allegheny Land & Mineral Co
5. A-400
6. Washington District
7. Upshur WV
8. 14.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01623
2. 47-097-01371
3. 108
4. Allegheny Land & Mineral Co
5. A-431
6. Union District
7. Upshur WV
8. 6.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01624
2. 47-097-01373
3. 108
4. Allegheny Land & Mineral Co
5. A-427
6. Union District
7. Upshur WV
8. 9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01625
2. 47-097-01376
3. 108
4. Allegheny Land & Mineral Co
5. A-430
6. Washington District
7. Upshur WV
8. 4.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01626
2. 47-097-01378
3. 108
4. Allegheny Land & Mineral Co
5. A-432
6. Union District

7. Upshur WV
8. 5.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01627
2. 47-097-01396
3. 108
4. Allegheny Land & Mineral Co
5. A-375
6. Union District
7. Upshur WV
8. 8.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01628
2. 47-097-01400
3. 108
4. Allegheny Land & Mineral Co
5. A-442
6. Washington District
7. Upshur WV
8. 7.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01629
2. 47-097-01420
3. 108
4. Allegheny Land & Mineral Co
5. A-445
6. Washington District
7. Upshur WV
8. 5.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01630
2. 47-097-01421
3. 108
4. Allegheny Land & Mineral Co
5. A-452
6. Washington District
7. Upshur WV
8. 10.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01631
2. 47-033-00910
3. 108
4. Allegheny Land & Mineral Co
5. A-530
6. Union District
7. Harrison WV
8. 10.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01632
2. 47-041-01626
3. 108
4. Allegheny Land & Mineral Co
5. A-362
6. Hackers Creek District
7. Lewis WV
8. 2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01633
2. 47-033-00914
3. 108
4. Allegheny Land & Mineral Co
5. A-531
6. Union District
7. Harrison WV
8. 12.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01634

2. 47-033-00918
3. 108
4. Allegheny Land & Mineral Co
5. A-540
6. Grant District
7. Harrison WV
8. 12.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01635
2. 47-033-00927
3. 108
4. Allegheny Land & Mineral Co
5. A-555
6. Union District
7. Harrison WV
8. 15.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01636
2. 47-041-01854
3. 108
4. Allegheny Land & Mineral Co
5. A-453
6. Freemans Creek Dist
7. Lewis WV
8. 2.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01637
2. 47-041-01820
3. 108
4. Allegheny Land & Mineral Co
5. A-438
6. Freemans Creek Dist
7. Lewis WV
8. 9.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01638
2. 47-041-01711
3. 108
4. Allegheny Land & Mineral Co
5. A-390
6. Hackers Creek District
7. Lewis WV
8. .2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01639
2. 47-041-01710
3. 108
4. Allegheny Land & Mineral Co
5. A-389
6. Hackers Creek District
7. Lewis WV
8. .2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01640
2. 47-041-01692
3. 108
4. Allegheny Land & Mineral Co
5. A-382
6.
7. Lewis WV
8. 20.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01641
2. 47-041-01691
3. 108
4. Allegheny Land & Mineral Co
5. A-381
6. Freemans Creek District

7. Lewis WV
8. 20.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01642
2. 47-041-01690
3. 108
4. Allegheny Land & Mineral Co
5. A-380
6. Freemans Creek District
7. Lewis WV
8. 20.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01643
2. 47-015-00722
3. 108 Denied
4. W Howard Taylor Agent
5. Eakle #3 47-015-0722
6. Maysel
7. Clay WV
8. 23.3 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01644
2. 47-041-02033
3. 108
4. Allegheny Land & Mineral Co
5. A-566
6. Collins Settlement
7. Lewis WV
8. 2.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01645
2. 47-041-01999
3. 108
4. Allegheny Land & Mineral Co
5. A-541
6. Freemans Creek District
7. Lewis WV
8. 4.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01646
2. 47-041-01982
3. 108
4. Allegheny Land & Mineral Co
5. A-526
6. Hackers Creek District
7. Lewis WV
8. 7.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01647
2. 47-041-01981
3. 108
4. Allegheny Land & Mineral Co
5. A-524
6. Hackers Creek District
7. Lewis WV
8. 5.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01648
2. 47-041-01980
3. 108
4. Allegheny Land & Mineral Co
5. A-525
6. Hackers Creek District
7. Lewis WV
8. 10.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01649

2. 47-041-01979
3. 108
4. Allegheny Land & Mineral Co
5. A-527
6. Hackers Creek District
7. Lewis WV
8. 11.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01650
2. 47-041-01978
3. 108
4. Allegheny Land & Mineral Co
5. A-523
6. Court House District
7. Lewis WV
8. 5.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01651
2. 47-041-01889
3. 108
4. Allegheny Land & Mineral Co
5. A-457
6. Freemans Creek District
7. Lewis WV
8. 2.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01652
2. 47-041-01866
3. 108
4. Allegheny Land & Mineral Co
5. A-456
6. Freemans Creek Dist
7. Lewis WV
8. 1.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01653
2. 47-015-00573
3. 108
4. W Howard Taylor Agent
5. Correll 47-015-0573
6. Maysel
7. Clay WV
8. 2.8 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01654
2. 47-015-00567
3. 108
4. W Howard Taylor
5. Reed #2 47-015-0567
6. Maysel
7. Clay WV
8. 1.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01655
2. 47-015-00561
3. 108
4. W Howard Taylor
5. Reed #3 47-015-0561
6. Maysel
7. Clay WV
8. 1.7 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01656
2. 47-015-00558
3. 108
4. W Howard Taylor Agent
5. Reed #1 47-015-0558
6. Maysel

7. Clay WV
8. 1.3 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01657
2. 47-015-00718
3. 108 Denied
4. W Howard Taylor Agent
5. King #2 47-015-0718
6. Maysel
7. Clay WV
8. 50.7 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01658
2. 47-017-01612
3. 108
4. Allegheny Land & Mineral Co
5. A-424
6. Southwest
7. Doddridge WV
8. 6.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01659
2. 47-017-01610
3. 108
4. Allegheny Land & Mineral Co
5. A-422
6. McClellan District
7. Doddridge WV
8. 5.8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01660
2. 47-017-01609
3. 108
4. Allegheny Land & Mineral Co
5. A-420
6. Grant District
7. Doddridge WV
8. 4.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01661
2. 47-013-02547
3. 108
4. Allegheny Land & Mineral Co
5. A-549
6. Washington District
7. Calhoun WV
8. 7.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01662
2. 47-013-02555
3. 108
4. Allegheny Land & Mineral Co
5. A-570
6. Washington District
7. Calhoun WV
8. 8.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01663
2. 47-013-02496
3. 108
4. Allegheny Land & Mineral Co
5. A-461
6. Washington District
7. Calhoun WV
8. 10.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01664

2. 47-015-00599
3. 108
4. W Howard Taylor Agent
5. Eakle #1 47-015-0599
6. Maysel
7. Clay WV
8. 5.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Transmission Corp
1. 80-01665
2. 47-087-00949
3. 108
4. Va Roy Hildreth
5. Lydia Newlon Well #2 55-6031283
6. Little Creek
7. Roane WV
8. 1.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01666
2. 47-087-01012
3. 108
4. Va Roy Hildreth
5. Deweese Well #1 55-6031017
6. Little Creek
7. Roane WV
8. 5.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corporation
1. 80-01667
2. 47-087-01045
3. 108
4. Va Roy Hildreth
5. F Tyson Well # 55-6031274
6. Little Creek
7. Roane WV
8. 8.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corporation
1. 80-01668
2. 47-013-01453
3. 108
4. W H Hildreth
5. Cogar Oil & Gas 55-6031780
6. Arnoldsburg
7. Calhoun WV
8. 1.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01669
2. 47-087-00924
3. 108
4. Roy G Hildreth
5. Carl J Nutter Well #1 55-6031299
6. Tripiett
7. Roane WV
8. 1.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01670
2. 47-087-00951
3. 108
4. Sinstar Development Co (R C Starr)
5. King Well #2 55-6037484
6. Left Hand
7. Roane WV
8. 3.9 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01671
2. 47-087-01014
3. 108
4. Sinstar Development Co (R C Starr)
5. Trout Well #1 55-6037485
6. Left Hand

7. Roane WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01672
2. 47-087-01085
3. 108
4. Sinstar Development Co R C Starr
5. McCully Well #1 55-6037488
6. Newton
7. Roane WV
8. 3.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01673
2. 47-013-00866
3. 108
4. Va Roy Hildreth
5. Adams & Deel
6. Mt Zion
7. Calhoun WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01674
2. 47-087-00926
3. 108
4. Va Roy Hildreth
5. Lydia Newlon Well #1 55-6031283
6. Little Creek
7. Roane WV
8. 1.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01675
2. 47-015-00763
3. 108
4. William Shepard
5. Mary D Hanshaw #5 34-6617881
6. Wallback
7. Clay WV
8. .8 million cubic feet
9. October 10, 1979
10. Pennzoil Co
1. 80-01676
2. 47-015-00776
3. 108
4. D C Sutton
5. W M Smith Well #1 55-6031011
6.
7. Clay WV
8. .0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Co
1. 80-01677
2. 47-087-00029
3. 108
4. M & R Producing Co
5. G R Riddle #2 55-6031021
6. Little Creek
7. Roane WV
8. 3.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01678
2. 47-087-01011
3. 108
4. M & R Producing Co
5. G R Riddle #1 55-6040561
6. Little Creek
7. Roane WV
8. 3.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01679

2. 47-087-01058
3. 108
4. M & R Producing Co
5. R L McCully #1
6. Little Creek
7. Roane WV
8. 4.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01680
2. 47-021-00754
3. 108
4. Bruce Foster
5. Goff Summers #2
6. Duck Run
7. Gilmer WV
8. 9.3 million cubic feet
9. October 10, 1979
10. Equitable Gas Co
1. 80-01681
2. 47-013-01997
3. 108
4. Mrs O D Smith
5. Ralph Lane Well #1 55-6030998
6. Nicut
7. Calhoun WV
8. 2.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01682
2. 47-021-02047
3. 108
4. Gene Stalnaker
5. Drexell Frame Well #1 55-6045319
6. Letter Gap
7. Gilmer WV
8. 4.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01693
2. 47-041-20782
3. 108
4. Dennis D Blauser
5. Worth Linger #1
6. Skin Creek
7. Lewis WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01694
2. 47-041-20784
3. 108
4. Dennis D Blauser
5. J B Stalnaker #1
6. Skin Creek
7. Lewis WV
8. 5.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01695
2. 47-041-20813
3. 108
4. Dennis D Blauser
5. J A Linger #1
6. Skin Creek
7. Lewis WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01696
2. 47-041-20835
3. 108
4. Dennis D Blauser
5. Howard McWhorter #1
6. Skin Creek
7. Lewis WV
8. .5 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01697
2. 47-041-20839
3. 108
4. Dennis D Blauser
5. Dalton Snow #1
6. Skin Creek
7. Lewis WV
8. 5.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01698
2. 47-041-20901
3. 108
4. Dennis D Blauser
5. E B Linger #2
6. Skin Creek
7. Lewis WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01699
2. 47-041-20896
3. 108
4. Dennis D Blauser
5. Laura F Stalnaker #1
6. Skin Creek
7. Lewis WV
8. 5.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01700
2. 47-041-20894
3. 108
4. Dennis D Blauser
5. Della Snow #1
6. Skin Creek
7. Lewis WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01701
2. 47-041-20869
3. 108
4. Dennis D Blauser
5. Agnes L Stalnaker #2
6. Skin Creek
7. Lewis WV
8. 1.5 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01702
2. 47-041-20840
3. 108
4. Dennis D Blauser
5. Ruth Casto #1
6. Skin Creek
7. Lewis WV
8. 1.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01703
2. 47-039-21090
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 8-S-82
6. Malden
7. Kanawha WV
8. 5.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01704

2. 47-097-20673
3. 108
4. Dennis D Blauser
5. Madge Smith #1
6. Buckhannon
7. Upshur WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01705
2. 47-041-20926
3. 108
4. Dennis D Blauser
5. W C Taylor #1
6. Skin Creek
7. Lewis WV
8. 6.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01706
2. 47-041-20925
3. 108
4. Dennis D Blauser
5. Glenn Rohr #1
6. Hackers Creek
7. Lewis WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01707
2. 47-041-20902
3. 108
4. Dennis D Blauser
5. Ruth Elmer #2
6. Skin Creek
7. Lewis WV
8. .5 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01708
2. 47-013-00054
3. 108
4. Pennzoil Company
5. McIntyre-Rafferty #3
6. Sherman
7. Calhoun WV
8. .7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01709
2. 47-085-20377
3. 108
4. Dennis D Blauser
5. Harry Shatter #2
6. Clay
7. Ritchie WV
8. 2.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01710
2. 47-085-23655
3. 108
4. Dennis D Blauser
5. Virginia Bailey #1
6. Union
7. Ritchie WV
8. 5.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01711
2. 47-085-23651
3. 108
4. Dennis D Blauser
5. E S Taylor #2
6. Clay

7. Ritchie WV
8. 8.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01712
2. 47-085-23652
3. 108
4. Dennis D Blauser
5. R R Taylor #3
6. Clay
7. Ritchie WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01713
2. 47-085-23547
3. 108
4. Dennis D Blauser
5. A H McGill #1
6. Union
7. Ritchie WV
8. 2.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01714
2. 47-085-23548
3. 108
4. Dennis D Blauser
5. E M Smith #1
6. Union
7. Ritchie WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01715
2. 47-085-23549
3. 108
4. Dennis D Blauser
5. R J Taylor #1
6. Clay
7. Ritchie WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01716
2. 47-085-23566
3. 108
4. Dennis D Blauser
5. E R Taylor #2
6. Clay
7. Ritchie WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01717
2. 47-021-22514
3. 108
4. Dennis D Blauser
5. R E Davis #1
6. Dekalb
7. Gilmer WV
8. 1.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01718
2. 47-021-22516
3. 108
4. Dennis D Blauser
5. Haney Hickman #1
6. Dekalb
7. Gilmer WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01719

2. 47-021-22517
3. 108
4. Dennis D Blauser
5. Davidson Hardman #2
6. Dekalb
7. Gilmer WV
8. 2.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01720
2. 47-021-22548
3. 108
4. Dennis D Blauser
5. Dottie Gainer #1
6. Dekalb
7. Gilmer WV
8. 2.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01721
2. 47-021-22549
3. 108
4. Dennis D Blauser
5. M E Gainer #2
6. Dekalb
7. Gilmer WV
8. 10.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01722
2. 47-021-22734
3. 108
4. Dennis D Blauser
5. O C Davis #2
6. Dekalb
7. Gilmer WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01723
2. 47-067-20365
3. 108
4. Dennis D Blauser
5. Eric & L #5
6. Summersville
7. Nicholas WV
8. 1.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01724
2. 47-039-22488
3. 108
4. Spartan Gas Company
5. Kanawha & Hocking Coal & Coke 2-S-15
6. Cabin Creek
7. Kanawha WV
8. 9.7 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01725
2. 47-039-02522
3. 108
4. Spartan Gas Company
5. Kanawha & Hocking Coal & Coke 5-S-1
6. Cabin Creek
7. Kanawha WV
8. 1.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01726
2. 47-043-20479
3. 108
4. Spartan Gas Company
5. Huntington Development & Gas Co 1-S
6. Jefferson

7. Lincoln WV
8. .5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01727
2. 47-043-20540
3. 108
4. Spartan Gas Company
5. Huntington Development and Gas Co
6. Jefferson
7. Lincoln WV
8. 7.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01728
2. 47-043-20577
3. 108
4. Spartan Gas Company
5. Huntington Development and Gas Co 3
6. Jefferson
7. Lincoln WV
8. 1.1 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01729
2. 47-043-21425
3. 108
4. Spartan Gas Company
5. H Sansom 1-S-129
6. Ranger
7. Lincoln, WV
8. 8.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01730
2. 47-039-21157
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 14-S-73
6. Malden
7. Kanawha, WV
8. 7.2 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01731
2. 47-039-21158
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 15-S-74
6. Malden
7. Kanawha, WV
8. 3.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01732
2. 47-039-01731
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 16-S-109
6. Malden
7. Kanawha, WV
8. 6.6 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01733
2. 47-039-21887
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 18-S-11
6. Malden
7. Kanawha, WV
8. 11.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01734

2. 47-039-01906
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 19-S-114
6. Malden
7. Kanawha, WV
8. 6.8 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01735
2. 47-039-01928
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 20-S-11
6. Malden
7. Kanawha, WV
8. 7.1 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01736
2. 47-039-01938
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 21-S-116
6. Malden
7. Kanawha, WV
8. 6.2 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01737
2. 47-035-00421
3. 108
4. Spartan Gas Company
5. B F Rader 2-S-46
6. Ripley
7. Jackson, WV
8. 9.7 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01738
2. 47-039-20251
3. 108
4. Spartan Gas Company
5. Griffith-Dixon 1-S-1
6. Kenna
7. Kanawha, WV
8. 1.7 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01739
2. 47-039-01039
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 1-S-51
6. Malden
7. Kanawha, WV
8. 8.1 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01740
2. 47-039-01040
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 2-S-5
6. Malden
7. Kanawha, WV
8. 7.1 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01741
2. 47-039-01064
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 3-S-56
6. Malden

7. Kanawha, WV
8. 6.8 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01742
2. 47-035-20405
3. 108
4. Spartan Gas Company
5. W E Walker 4-S-42
6. Ripley
7. Jackson, WV
8. 11.1 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01743
2. 47-087-00104
3. 108
4. Pennzoil Company
5. Cynthia Douglas #2
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01744
2. 47-043-01848
3. 103
4. Pennzoil Company
5. E S Alford #1
6. Duval
7. Lincoln, WV
8. .0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01745
2. 47-043-01777
3. 103
4. Pennzoil Company
5. Byrd-Dunlap-Hamlin Unit #1
6. Duval
7. Lincoln, WV
8. .0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01746
2. 47-043-01771
3. 103
4. Denied
5. Pennzoil Company
6. Carl W Neal #1
7. Duval
8. Lincoln, WV
9. .0 million cubic feet
10. Consolidated Gas Supply Corp
1. 80-01747
2. 47-087-03024-F
3. 108
4. Pennzoil Company
5. B E Rogers #3
6. Spencer
7. Roane, WV
8. .0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01748
2. 47-079-00828
3. 108
4. Spartan Gas Company
5. The Putnam Company 3-S-180
6. Midway-Extra
7. Putnam, WV
8. 16.5 million cubic feet
9. October 10, 1979
10. Cabot Corp
1. 80-01749

2. 47-0350-00346
3. 108
4. Spartan Gas Company
5. W E Walker 1-S-32
6. Ripley
7. Jackson, WV
8. 11.1 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01750
2. 47-035-00379
3. 108
4. Spartan Gas Company
5. W E Walker 2-S-37
6. Ripley
7. Jackson, WV
8. 11.1 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01751
2. 47-039-01065
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 4-S-57
6. Malden
7. Kanawha, WV
8. 6.9 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01752
2. 47-039-21080
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 5-S-59
6. Malden
7. Kanawha, WV
8. 1.8 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01753
2. 47-039-21081
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 6-S-60
6. Malden
7. Kanawha, WV
8. 2.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01754
2. 47-039-21089
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 7-S-61
6. Malden
7. Kanawha, WV
8. 2.2 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01755
2. 47-039-21105
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 9-S-65
6. Malden
7. Kanawha, WV
8. 11.9 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01756
2. 47-039-21112
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 10-S-67
6. Malden

7. Kanawha, WV
8. 4.6 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01757
2. 47-039-21136
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 12-S-70
6. Malden
7. Kanawha, WV
8. 7.2 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01758
2. 47-039-21139
3. 108
4. Spartan Gas Company
5. Blue Creek Coal and Land No 11-S-69
6. Malden
7. Kanawha, WV
8. 4.4 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01759
2. 47-109-00787
3. 103
4. Ravenscliffs Development Co.
5. Y & O Coal Co.—78
6. Ravenscliff
7. Wyoming, WV
8. 68.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01760
2. 47-017-21811
3. 108
4. Dennis D Blauser
5. J L Carr #1
6. Grant
7. Doddridge, WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01761
2. 47-017-21812
3. 108
4. Dennis D Blauser
5. D L Dotson #1
6. West Union
7. Doddridge, WV
8. 12.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01762
2. 47-017-21813
3. 108
4. Dennis D Blauser
5. H T Davis #2
6. West Union
7. Doddridge, WV
8. 5.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01763
2. 47-017-21816
3. 108
4. Dennis D Blauser
5. J B Smith #1
6. West Union
7. Doddridge, WV
8. 10.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01764

2. 47-021-22364
3. 108
4. Dennis D Blauser
5. Q K Kelley #2
6. Dekalb
7. Gilmer, WV
8. 8.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01765
2. 47-017-21774
3. 108
4. Dennis D Blauser
5. W Brent Maxwell #2
6. Southwest
7. Doddridge, WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01766
2. 47-017-21774
3. 108
4. Dennis D Blauser
5. W Brent Maxwell #3
6. Southwest
7. Doddridge, WV
8. 4.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01767
2. 47-017-21780
3. 108
4. Dennis D Blauser
5. Fannic Coulehan #1
6. Westunion
7. Doddridge, WV
8. 9.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01768
2. 47-17-21783
3. 108
4. Dennis D Blauser
5. J D McReynolds #1
6. Grant
7. Doddridge, WV
8. 2.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01769
2. 47-007-20930
3. 108
4. Dennis D Blauser
5. Archie Bull #1
6. Saltlick
7. Braxton, WV
8. 8.0 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01770
2. 47-015-21057
3. 108
4. Dennis D Blauser
5. E R C & L—#1
6. Henry
7. Clay, WV
8. 1.5 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01771
2. 47-015-21058
3. 108
4. Dennis D Blauser
5. ERC & L #2
6. Henry

7. Clay, WV
8. 1.5 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01772
2. 47-015-21089
3. 108
4. Dennis D Blauser
5. ERC & L #3
6. Henry
7. Clay, WV
8. 1.5 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01773
2. 47-017-21770
3. 108
4. Dennis D Blauser
5. W Brent Maxwell #1
6. Southwest
7. Doddridge, WV
8. 4.5 million cubic feet
9. October 10, 1979
10. Equitable Gas Company
1. 80-01774
2. 47-005-01092
3. 108
4. Pennzoil Company
5. Yawkey-Freeman #114
6.
7. Boone, WV
8. 15.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-01775
2. 47-047-00249
3. 108
4. Consolidated Gas Supply Corporation
5. Peoples First Nat Bank 10476
6. Pineville Field Area A-59442
7. McDowell, WV
8. 11.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-01776
2. 47-047-00254
3. 108
4. Consolidated Gas Supply Corporation
5. Olga Coal Co 10475
6. Pineville Field Area A-59442
7. McDowell, WV
8. 10.0 million cubic feet
9. October 15, 1979
10. General System Purchasers
1. 80-01777
2. 47-047-00653
3. 108
4. Energy Development Corporation
5. EDC No 1-MCD-653
6. Big Sandy
7. McDowell, WV
8. 10.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-01778
2. 47-047-00692
3. 108
4. Energy Development Corporation
5. EDC No 3-MCD-692
6. Big Sandy
7. McDowell, WV
8. 3.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. 80-01779

2. 47-035-03543
3. 108
4. Williams Well Surveys Inc.
5. Glen W Roberts (McCosh) No. 1 W
6. Murphy Dist (Crab Run)
7. Ritchie, WV
8. 20.0 million cubic feet
9. October 15, 1979
10. Consolidated Gas Supply Corp
1. Control number (F.E.R.C./STATE)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-01684/G9-601
2. 17-708-40198-0000-0
3. 102
4. Shell Oil Company
5. B-7
6. South Marsh Island
7. 130
8. 100.0 million cubic feet
9. October 10, 1979
10. Transcontinental Gas Pipe Line Corp
1. 80-01685/G9-609
2. 17-708-40256-0000-0
3. 102
4. Shell Oil Company
5. C-24
6. South Marsh Island
7. 130
8. .0 million cubic feet
9. October 10, 1979
10. Transcontinental Gas Pipe Line Corp
1. 80-01686/G9-565
2. 17-709-40343-0000-0
3. 102
4. Gulf Oil Corporation
5. Eugene is BLK 252 G-8 OCS G-0983
6. Eugene Island
7. 252
8. 3280.0 million cubic feet
9. October 10, 1979
10. Sea Robin Pipeline Company Texas Eastern Transmission Corp
1. 80-01687/G9-686
2. 17-705-40295-0001-0
3. 102
4. Tenneco Oil Company
5. Vermilion BLK 218 No B-2 S/T
6. Vermilion BLK 218 No B-2 S/T
7. 218
8. 269.7 million cubic feet
9. October 10, 1979
10. Tennessee Gas Pipeline Corp
1. 80-01688/G9-610
2. 17-708-40264-0000-0
3. 102 denied
4. Shell Oil Company
5. B-25
6. South Marsh Island
7. 130
8. 112.0 million cubic feet
9. October 10, 1979
10. Transcontinental Gas Pipe Line Corp
1. 80-01689/G9-603
2. 17-708-40175-0000-0
3. 102
4. Shell Oil Company
5. A-20
6. South Marsh Island
7. 130
8. 160.0 million cubic feet
9. October 10, 1979
10. Transcontinental Gas Pipe Line Corp
1. 80-01690/G9-748
2. 17-715-40281-00S1-0
3. 102
4. Exxon Corporation
5. OCS-G 1250 NO C-4
6. South Timbalier
7. 164
8. 1350.0 million cubic feet
9. October 10, 1979
10. Trunkline Gas Company
1. 80-01691/G9-611
2. 17-708-40245-0000-0
3. 102
4. Shell Oil Company
5. B-16
6. South Marsh Island
7. 131
8. 66.0 million cubic feet
9. October 10, 1979
10. Transcontinental Gas Pipeline Corp
1. 80-01692/G9-602
2. 17-708-40194-0000-0
3. 102
4. Shell Oil Company
5. B-5
6. South Marsh Island
7. 130
8. 100.0 million cubic feet
9. October 10, 1979
10. Transcontinental Gas Pipe Line Corp
1. 80-01780/G9-810
2. 17-700-40346-00D1-0
3. 102
4. Union Oil Company of California
5. OCS-0911 #C-6
6. West Cameron
7. 280
8. 1825.0 million cubic feet
9. October 10, 1979
10. Texas Eastern Transmission Corp
1. 80-01781/G9-809
2. 17-700-40345-00D2-0
3. 102
4. Union Oil Company of California
5. OCS-0911 #C-5D
6. West Cameron
7. 280
8. 2190.0 million cubic feet
9. October 10, 1979
10. Texas Eastern Transmission Corp
1. 80-01782/G9-808
2. 17-700-40345-00D1-0
3. 102
4. Union Oil Company of California
5. OCS-0911 #C-5
6. West Cameron
7. 280
8. 2190.0 million cubic feet
9. October 10, 1979
10. Texas Eastern Transmission Corp
1. 80-01783/G9-789
2. 17-709-40360-0000-0
3. 102
4. Exxon Corporation
5. OCS-G 3331 No A-1
6. Eugene Island
7. 251
8. 4000.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp

1. 80-01784/G9-816
2. 17-715-40286-01S1-0
3. 102
4. Exxon Corporation
5. OCS-G 1250 No C-15
6. South Timbalier
7. 164
8. 2900.0 million cubic feet
9. October 10, 1979
10. Trunkline Gas Co
1. 80-01785/G9-811
2. 17-700-40346-00D2-0
3. 102
4. Union Oil Company of California
5. OCS-0911 #C-60
6. West Cameron
7. 280
8. 1460.0 million cubic feet
9. October 10, 1979
10. Texas Eastern Transmission Corp
1. 80-01786/G9-841
2. 17-700-40228-0000-0
3. 102
4. The Superior Oil Company
5. OCS-G 3381 A No 1
6. West Cameron
7. 264
8. 1203.0 million cubic feet
9. October 10, 1979
10. Texas Eastern Transmission Corp
1. 80-01787/G9-807
2. 17-700-40342-00D2-0
3. 102
4. Union Oil Company of California
5. OCS-0911 #C-4D
6. West Cameron
7. 280
8. 2190.0 million cubic feet
9. October 10, 1979
10. Texas Eastern Transmission Corp
1. 80-01788/G9-850
2. 17-711-40454-00D2-0
3. 102
4. Ocean Production Company
5. OCS-G 1023 No B-14 A
6. Ship Shoal 222
7. 224
8. 1100.0 million cubic feet
9. October 10, 1979
10. Transcontinental Gas Pl. Corp
1. 80-01789/G9-850
2. 17-711-40454-00D2-0
3. 102
4. Ocean Production Company
5. OCS-G 1023 No E7B
6. Ship Shoal 222
7. 224
8. 110.0 million cubic feet
9. October 10, 1979
10. Transcontinental Gas Pl. Corp
1. 80-01790/G9-849
2. 17-711-40454-00D1-0
3. 102
4. Ocean Production Company
5. OCS-G 1023 No E7A
6. Ship Shoal 222
7. 224
8. 1825.0 million cubic feet
9. October 10, 1979
10. Transcontinental Gas Pl. Corp
1. 80-01790/G9-849
2. 17-711-40454-00D1-0
3. 102
4. Ocean Production Company
5. OCS-G 1023 No E7A
6. Ship Shoal 222
7. 224
8. 1825.0 million cubic feet
9. October 10, 1979
10. Transcontinental Gas Pl. Corp
1. Control number (F.E.R.C./STATE)
2. API well number
3. Section of NGPA
4. Operator
5. Well name

6. Field or OCS Area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-01683/NM-2785-79
2. 30-039-06470-0000-0
3. 108 denied
4. Caulkins Oil Company
5. Breech 283
6. South Blanco Pictured Cliffs
7. RIO Arriba, NM
8. 10.9 million cubic feet
9. October 10, 1979
10. Gas Company of New Mexico

The Applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 6, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

(FR Doc. 79-35925 Filed 11-20-79; 8:45 am)

BILLING CODE 6450-01-M

(No. 104)

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 29, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Illinois Department of Mines and Minerals, Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-02099
2. 12-163-00000
3. 102 000 000
4. James H Donnewald
5. Waller-Wennemann No 1

6. St Libory North Field
7. St Clair IL
8. 60.0 million cubic feet
9. October 5, 1979
10. Illinois Power Company
1. 80-02100
2. 12-163-00000
3. 102 000 000
4. James H. Donnewald
5. John Wennemann No 1
6. St Libory North Field
7. St Clair IL
8. 60.0 million cubic feet
9. October 5, 1979
10. Illinois Power Company

1. 80-02101
2. 12-163-00000
3. 102 000 000
4. James H Donnewald
5. Lickenbrock-Bertke No 1
6. St Libory North Field
7. St Clair IL
8. 60.0 million cubic feet
9. October 5, 1979
10. Illinois Power Company

1. 80-02102
2. 12-193-28592
3. 103 000 000
4. Sun Oil Company (Delaware)
5. Cain No 1
6. New Harmony
7. White IL
8. 11.0 million cubic feet
9. October 5, 1979
10. Texas Eastern Transmission Corp

1. 80-02103
2. 12-193-28571
3. 103 000 000
4. Sun Oil Company (Delaware)
5. Greathouse A No 1
6. New Harmony
7. White IL
8. 39.0 million cubic feet
9. October 5, 1979
10. Texas Eastern Transmission Corp

1. 80-02104
2. 12-193-28721
3. 103 000 000
4. Sun Oil Company (Delaware)
5. E R Greathouse A No 2
6. New Harmony
7. White IL
8. 18.0 million cubic feet
9. October 5, 1979
10. Texas Eastern Transmission Corp

1. 80-02105
2. 12-193-28737
3. 103 000 000
4. Sun Oil Company (Delaware)
5. E R Greathouse A No 3
6. New Harmony
7. White IL
8. 24.0 million cubic feet
9. October 5, 1979
10. Texas Eastern Transmission Corp

1. 80-02106
2. 12-193-28747
3. 103 000 000
4. Sun Oil Company (Delaware)
5. E R Greathouse A No 4
6. New Harmony
7. White IL
8. 37.0 million cubic feet
9. October 5, 1979
10. Texas Eastern Transmission Corp

1. 80-02107
2. 12-193-28750
3. 103 000 000
4. Sun Oil Company (Delaware)
5. E R Greathouse A No 6
6. New Harmony
7. White IL
8. 20.0 million cubic feet
9. October 5, 1979
10. Texas Eastern Transmission Corp
1. 80-02108
2. 12-193-28816
3. 103 000 000
4. Sun Oil Company (Delaware)
5. E R Greathouse A No 7
6. New Harmony
7. White IL
8. 25.0 million cubic feet
9. October 5, 1979
10. Texas Eastern Transmission Corp
1. 80-02109
2. 12-193-28817
3. 103 000 000
4. Sun Oil Company (Delaware)
5. E R Greathouse A No 8
6. New Harmony
7. White IL
8. 25.0 million cubic feet
9. October 5, 1979
10. Texas Eastern Transmission Corp
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-01907
2. 21-055-32774
3. 102 000 000
4. Michigan Oilwell Investors Ltd
5. Everett & Merry Youker #1-34
6. Grant 34-A 25N-12W
7. Grand Traverse MI
8. 57.8 million cubic feet
9. October 10, 1979
10. Consumers Power Company

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (F.E.R.C./state)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-01953
2. 30-015-0000
3. 103 000 000
4. Wayman W Buchanan
5. Osage Comm No 1
6. Undesignated North Cemetery (Wolfca)
7. Eddy NM
8. 109.5 million cubic feet
9. October 9, 1979
10. Natural Gas Pipeline Co of America
1. 80-01954
2. 30-015-21055

3. 108 000 000
4. Western Oil Producers Inc
5. Flint #1
8. Wildcat
7. Eddy NM
8. .0 million cubic feet
9. October 9, 1979
10. Transwestern Pipeline Co
1. 80-01955
2. 30-039-20488
3. 108 000 000
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit #136
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 22.0 million cubic feet
9. October 9, 1979
10. El Paso Natural Gas Company, Northwest P/L Corp
1. 80-01956
2. 30-045-23017
3. 103 000 000
4. Southland Royalty Co
5. Day State #2
6. Basin Dakota
7. San Juan NM
8. 75.0 million cubic feet
9. October 9, 1979
10. Southern Union Gathering Co
1. 80-01957
2. 30-045-22563
3. 103 000 000
4. Southland Royalty Co
5. Greenbrier #1
6. Blanco Pictured Cliffs
7. San Juan NM
8. 50.0 million cubic feet
9. October 9, 1979
10. Southern Union Gathering Co
1. 80-01958
2. 30-045-0000
3. 103 000 000
4. Southland Royalty Co
5. Culpepper Martin #17
6. Basin Dakota
7. San Juan NM
8. 75.0 million cubic feet
9. October 9, 1979
10. Southern Union Gathering Co
1. 80-01959
2. 30-045-23049
3. 103 000 000
4. Southland Royalty Co
5. Maddox Waller #2
6. Blanco Pictured Cliffs
7. San Juan NM
8. .0 million cubic feet
9. October 9, 1979
10. El Paso Natural Gas Co
1. 80-01960
2. 30-045-22848
3. 103 000 000
4. Southland Royalty Co
5. Lawson #3
6. Blanco Pictured Cliffs
7. San Juan NM
8. 50.0 million cubic feet
9. October 9, 1979
10. Southern Union Gathering Co
1. 80-02110
2. 30-015-00000
3. 103 000 000
4. Dorchester Exploration Inc
5. Morrison Com No 1
6. W Four Mile Draw (Morrow)
7. Eddy NM
8. .0 million cubic feet
9. October 11, 1979
10. Gas Company of New Mexico
1. 80-02283
2. 30-025-10847
3. 108 000 000
4. Arco Oil & Gas Company
5. Melba Goins No 2-Y
6. Langlie Mattix
7. Lea NM
8. 7.0 million cubic feet
9. October 15, 1979
10. El Paso Natural Gas Co
1. 80-02284
2. 30-025-11018
3. 108 000 000
4. Arco Oil & Gas Company
5. Jim Camp WN #1
6. Langlie Mattix
7. Lea NM
8. 14.0 million cubic feet
9. October 15, 1979
10. El Paso Natural Gas Co
1. 80-02285
2. 30-025-0000
3. 108 000 000
4. Campbell & Hedrick
5. Campbell & Hedrick Curry #1
6. Eumont Yates-Seven Rivers Queen
7. Lea NM
8. 11.0 million cubic feet
9. October 15, 1979
10. Phillips Petroleum Company
1. 80-02286
2. 30-025-26169
3. 103 000 000
4. Amerada Hess Corporation
5. State U Gas Com #2
6. Eumont Queen
7. Lea NM
8. 276.0 million cubic feet
9. October 15, 1979
10. Northern Natural Gas Company
1. 80-02287
2. 30-045-23367
3. 103 000 000
4. Southland Royalty Company
5. Hedges #3
6. Aztec Pictured Cliffs
7. San Juan NM
8. 50.0 million cubic feet
9. October 15, 1979
10. El Paso Natural Gas Company
1. 80-02288
2. 30-015-22724
3. 103 000 000
4. Hondo Oil & Gas Company
5. State CB Com #1
6. Undesignated Winchester
7. Eddy NM
8. 400.0 million cubic feet
9. October 15, 1979
10. Natural Gas Pipeline Co of America
- Ohio Department of Natural Resources,
Division of Oil and Gas**
1. Control Number (F.E.R.C./state)
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume

9. Date received at FERC
10. Purchaser(s)
1. 80-01818/04008
2. 34-103-24428-0014
3. 108 000 000
4. Cora B Hoey
5. Fisher #1
6.
7. Medina OH
8. .9 million cubic feet
9. October 5, 1979
10. Columbia Gas Trans Corp
1. 80-01962/02222
2. 34-155-20505-0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2024) V Bacon Unit #2
6.
7. Trumbull OH
8. 1.8 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01963/02235
2. 34-155-20496-0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2012) M & L Haines Unit #1
6.
7. Trumbull OH
8. 8.0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01964/02237
2. 34-155-20479-0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2010) W & E Downs Unit #2
6.
7. Trumbull OH
8. 10.0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01965/02246
2. 34-155-20690-0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2046) M Owen Unit #1
6.
7. Trumbull OH
8. 5.7 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01966/02247
2. 34-155-20675-0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2045) J & J Cicchillo #3
6.
7. Trumbull OH
8. 5.6 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01967/02248
2. 34-155-20676-0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2044) J & J Cicchillo #2
6.
7. Trumbull OH
8. 5.8 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01968/02252
2. 34-155-20677-0014

3. 108 000 000
4. Flint Oil & Gas Inc
5. (2043) J & J Cicchillo #1
6.
7. Trumbull OH
8. 5.8 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01969/02257
2. 34-155-20669-0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2039) J & L Shaffer #1
6.
7. Trumbull OH
8. 5.2 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01970/02263
2. 34-155-20748-0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2098) M Van Slyke #2
6.
7. Trumbull OH
8. 10.0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01971/04622
2. 34-073-21909-0014
3. 108 000 000
4. Wilson Petroleum Corporation
5. Tracy W-3
6.
7. Hocking OH
8. 4.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-01972/06836
2. 34-127-24380-0014
3. 103 000 000
4. Don McKee Drilling Co Inc
5. T A & Opal Wiseman #1
6.
7. Perry OH
8. 5.0 million cubic feet
9. October 11, 1979
10. Columbia Gas
1. 80-01973/02221
2. 34-155-20558-0014
3. 108 000 000
4. Flint Oil & Gas Inc
5. (2033) Wilcox Unit #1
6.
7. Trumbull OH
8. 4.9 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-1974/06837
2. 34-155-21115-0014
3. 103 000 000
4. Berea Oil and Gas Corporation
5. M Burin Unit #1
6.
7. Trumbull OH
8. 27.4 million cubic feet
9. October 11, 1979
10. East Ohio Gas Co
1. 80-01975/06838
2. 34-155-21253-0014
3. 103 000 000
4. Berea Oil & Gas Corporation
5. McElrath #1
6.
7. Trumbull OH
8. 18.3 million cubic feet
9. October 11, 1979
10. East Ohio Gas Co
1. 80-01976/06839
2. 34-155-21233-0014
3. 103 000 000
4. Berea Oil and Gas Corporation
5. Burdman #1
6.
7. Trumbull OH
8. 43.8 million cubic feet
9. October 11, 1979
10. East Ohio Gas Co
1. 80-01977/06840
2. 34-075-02187-0014
3. 103 000 000
4. M C F Oil Company Inc
5. The Graven Farm A Partnership #1
6.
7. Holmes OH
8. 5.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-01978/06841
2. 34-169-22188-0014
3. 103 000 000
4. Royal Petroleum III Ltd
5. Neuenschwander #1
6.
7. Wayne County OH
8. 4.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-01979/06843
2. 34-133-21999-0014
3. 103 000 000
4. Orion Energy Corp
5. Charles Chance #2
6.
7. Portage OH
8. 10.0 million cubic feet
9. October 11, 1979
10.
1. 80-01980/06844
2. 34-157-23038-0014
3. 103 000 000
4. Leslie Oil & Gas Co Inc
5. Border/Doney Unit #1
6.
7. Tuscarawas County oh
8. 20.0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Corporation
1. 80-01981/06848
2. 34-169-22120-0014
3. 103 000 000
4. Paul J Obermiller
5. Joseph McWlwee #1
6.
7. Wayne OH
8. 20.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Grans Corp
1. 80-01982/06849
2. 34-029-20758-0014
3. 103 000 000
4. Bill Blair Incorporated
5. Olin Conrad #2
6. Homeworth Field
7. Columbiana oh
8. 36.0 million cubic feet
9. October 11, 1979
10. East Ohio Company
1. 80-01983/06850
2. 34-029-20755-0014
3. 103 000 000
4. Bill Blair Incorporated
5. Olin Conrad #1
6. Homeworth Field
7. Columbiana OH
8. 30.0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01984/06851
2. 34-089-23640-0014
3. 103 000 000
4. American Well Management Company
5. Crowley #1
6.
7. Licking OH
8. 18.0 million cubic feet
9. October 11, 1979
10.
1. 80-01985/06852
2. 34-115-21822-0014
3. 103 000 000
4. Oneal Production Inc
5. McKown #1
6.
7. Morgan OH
8. .0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-01986/06853
2. 34-075-22203-0014
3. 103 000 000
4. B T Simpson Jr
5. R & Janet Nemeth #1 2203
6. Nashville
7. Holmes OH
8. 115.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-01987/06854
2. 34-075-22208-0014
3. 103 000 000
4. B T Simpson Jr
5. Curtis Martin #2 2208
6. Nashville
7. Holmes OH
8. 85.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-01988/06855
2. 34-133-21345-0014
3. 103 000 000
4. R J S Properties Production
5. K S S Associates Well #3
6.
7. Portage OH
8. 40.0 million cubic feet
9. October 11, 1979
10.
1. 80-01989/06856
2. 34-133-21338-0014
3. 103 000 000
4. R J S Properties Production
5. K S S Associates Well #1
6.
7. Portage OH
8. 40.0 million cubic feet
9. October 11, 1979
10.
1. 80-01990/06857
2. 34-031-23211-0014
3. 103 000 000
4. Oxford Oil Co
5. Loren Helser #1
6.

7. Coshocton OH
8. 3.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-01991/06859
2. 34-115/21822-0014
3. 103 000 000
4. O'Neal Productions Inc
5. McKown #1
6.
7. Morgan OH
8. 8.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-01992/06865
2. 34-119/24448-0014
3. 103 000 000
4. Benatty Corporation
5. Crawford Unit #1
6.
7. Muskingum OH
8. 25.0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-01993/06866
2. 34-155-20757-0014
3. 103 000 000
4. Flint Oil & Gas Inc
5. (2108) John & Margaret Panyko #1
6.
7. Trumbull OH
8. 10.0 million cubic feet
9. October 11, 1979
10. The East Ohio Gas Company
1. 80-01994/06867
2. 34-133-21655-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Peter Zahirsky #1
6.
7. Portage OH
8. 1.5 million cubic feet
9. October 11, 1979
10.
1. 80-01995/06869
2. 34-133-21669-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Matthew S Pochedly #8
6.
7. Portage OH
8. 1.2 million cubic feet
9. October 11, 1979
10.
1. 80-01996/06869
2. 34-133-21786-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Strausser #4
6.
7. Portage OH
8. 1.5 million cubic feet
9. October 11, 1979
10.
1. 80-01997/06870
2. 34-133-21870-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. Matthew S Pochedly #7
6.
7. Portage OH
8. 1.2 million cubic feet
9. October 11, 1979
10.
1. 80-01998/06871

2. 34-133-21888-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. D Dorson #1
6.
7. Portage OH
8. 5.0 million cubic feet
9. October 11, 1979
10.
1. 80-01999/06872
2. 34-133-21887-0014
3. 103 000 000
4. Inland Drilling Co Inc
5. D Dorson #2
6.
7. Portage OH
8. 5.0 million cubic feet
9. October 11, 1979
10.
1. 80-02000/06873
2. 34-031-23150-0014
3. 103 000 000
4. Jadoil Inc
5. Lewis S & Bernice L Knox #1
6.
7. Coshocton OH
8. .0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-02001/06874
2. 34-075-22027-0014
3. 103 000 000
4. Jadoil Inc
5. Ammon H & Freda Miller No 1
6.
7. Holmes OH
8. .0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Co
1. 80-02002/06875
2. 34-075-22017-0014
3. 103 000 000
4. Jadoil Inc
5. Moses L & Dena Troyer #1
6.
7. Holmes OH
8. .0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-02003/06876
2. 34-099-21143-0014
3. 103 000 000
4. Integrated Petroleum Co Inc
5. St John/Kobylanski Unit #1
6.
7. Mahoning OH
8. 50.0 million cubic feet
9. October 11, 1979
10. American Energy Service Inc
1. 80-02004/06877
2. 34-099-21112-0014
3. 103 000 000
4. Integrated Petroleum Company Inc
5. Dilisio #1
6.
7. Mahoning OH
8. 35.0 million cubic feet
9. October 11, 1979
10. American Energy Service
1. 80-02005/06878
2. 34-099-21142-0014
3. 103 000 000
4. Integrated Petroleum Co Inc
5. Dogwood/Steak Unit #1
6.

7. Mahoning OH
8. 30.0 million cubic feet
9. October 11, 1979
10. American Energy Service Inc
1. 80-02006/06890
2. 34-089-23581-0014
3. 103 000 000
4. Petro Oil Co
5. McKee Well #1
6.
7. Licking OH
8. .0 million cubic feet
9. October 11, 1979
10. Newzane Gas Company
1. 80-02007/06891
2. 34-127-24285-0014
3. 103 000 000
4. Petro Oil Co
5. Van Horn Well #2
6.
7. Perry OH
8. .0 million cubic feet
9. October 11, 1979
10.
1. 80-02008/06892
2. 34-119-24268-0014
3. 103 000 000
4. Petro Oil Co
5. Niebarger Well #1
6.
7. Muskingum OH
8. .0 million cubic feet
9. October 11, 1979
10.
1. 80-02009/06893
2. 34-127-24288-0014
3. 103 000 000
4. Petro Oil Co
5. Howdyshell Lumber Company #1
6.
7. Perry OH
8. .0 million cubic feet
9. October 11, 1979
10.
1. 80-02010/06894
2. 34-075-22173-0014
3. 103 000 000
4. Berwell Energy Inc
5. Raymond Kyser No 1
6.
7. Holmes OH
8. 54.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-02011/06896
2. 34-127-24250-0014
3. 103 000 000
4. Jadoil Inc
5. Busse-Peterfish Unit #1
6.
7. Perry OH
8. 6.0 million cubic feet
9. October 11, 1979
10. National Gas and Oil Corp
1. 80-02012/06897
2. 34-089-23552-0014
3. 103 000 000
4. Jadoil Inc
5. Jeffries Bros #4
6.
7. Licking OH
8. 10.0 million cubic feet
9. October 11, 1979
10. Newzane Gas Company
1. 80-02013/06898

2. 34-157-23366-0014
3. 103 000 000
4. Superior Petroleum Services Inc
5. J R Spring #1
6.
7. Tuscarawas OH
8. 52.0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-02014/06899
2. 34-133-20889-0014
3. 103 000 000
4. Perkins Drilling Inc
5. Peck #3
6.
7. Portage OH
8. 5.4 million cubic feet
9. October 11, 1979
10. East Oil Gas Co
1. 80-02015/06900
2. 34-029-20748-0014
3. 103 000 000
4. Bill Blair Incorporated
5. Edward Kibler #4
6. Homeworth Field
7. Columbiana OH
8. 30.0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-02016/06901
2. 34-029-20749-0014
3. 103 000 000
4. Bill Blair Incorporated
5. Edward Kibler #2
6. Homeworth Field
7. Columbiana OH
8. 30.0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Company
1. 80-02017/06902
2. 34-045-20611-0014
3. 103 000 000
4. Reliance Management Co
5. C Oren & J Young #1
6.
7. Fairfield OH
8. 10.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission
1. 80-02018/06904
2. 34-127-24339-0014
3. 103 000 000
4. Reliance Management Co
5. James Wallace #1
6.
7. Perry OH
8. 10.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission
1. 80-02019/06917
2. 34-169-22108-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. MO-1A Hofsteter #1
6.
7. Wayne OH
8. 18.0 million cubic feet
9. October 11, 1979
10.
1. 80-02020/06918
2. 34-169-22107-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. MO-1A Rollason Unit 1
6.

7. Wayne OH
8. 18.0 million cubic feet
9. October 11, 1979
10.
1. 80-02021/06919
2. 34-075-22143-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. MO-1A Troyer
6.
7. Holmes OH
8. 18.0 million cubic feet
9. October 11, 1979
10.
1. 80-02022/06920
2. 34-075-22145-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. MO-1C Miller
6.
7. Holmes OH
8. 18.0 million cubic feet
9. October 11, 1979
10.
1. 80-02023/06921
2. 34-075-22140-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. MO-1A Weaver
6.
7. Holmes OH
8. 18.0 million cubic feet
9. October 11, 1979
10.
1. 80-02024/06922
2. 34-133-21881-0014
3. 103 000 000
4. Viking Resources Corporation
5. East Manufacturing #2
6.
7. Portage OH
8. 30.0 million cubic feet
9. October 11, 1979
10.
1. 80-02025/06923
2. 34-133-21903-0014
3. 103 000 000
4. Viking Resources Corporation
5. East Manufacturing-Frame #1
6.
7. Portage OH
8. 30.0 million cubic feet
9. October 11, 1979
10.
1. 80-02026/06924
2. 34-133-21998-0014
3. 103 000 000
4. Orion Energy Corp
5. T Chance Unit #3
6.
7. Portage OH
8. 12.0 million cubic feet
9. October 11, 1979
10.
1. 80-02027/06925
2. 34-133-22006-0014
3. 103 000 000
4. Orion Energy Corp
5. Cramner Unit #2
6.
7. Portage OH
8. 12.0 million cubic feet
9. October 11, 1979
10.
1. 80-02028/06926

2. 34-089-23652-0014
3. 103 000 000
4. American Well Management Company
5. Crowley No 1A
6.
7. Licking OH
8. 18.0 million cubic feet
9. October 11, 1979
10.
1. 80-02029/06928
2. 34-119-24788-0014
3. 103 000 000
4. Bates Oil & Gas Inc
5. Lantz #2
6.
7. Muskingum OH
8. 38.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-02030/06929
2. 34-083-22605-0014
3. 103 000 000
4. Bates Oil & Gas Inc
5. Jones #1
6.
7. Knox OH
8. 3.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-02031/06930
2. 34-169-22110-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. MO-1A Gerber
6.
7. Wayne OH
8. 18.0 million cubic feet
9. October 11, 1979
10.
1. 80-02032/06931
2. 34-169-22109-0014
3. 103 000 000
4. Edco Drilling & Producing Inc
5. MO-1A Geiser
6.
7. Wayne OH
8. 18.0 million cubic feet
9. October 11, 1979
10.
1. 80-02033/06932
2. 34-133-21880-0014
3. 103 000 000
4. Viking Resources Corporation
5. East Manufacturing #3
6.
7. Portage OH
8. 30.0 million cubic feet
9. October 11, 1979
10.
1. 80-02034/06933
2. 34-133-21879-0014
3. 103 000 000
4. Viking Resources Corporation
5. Frame-East Manufacturing #4
6.
7. Portage OH
8. 30.0 million cubic feet
9. October 11, 1979
10.
1. 80-02035/06934
2. 34-089-23558-0014
3. 103 000 000
4. Jonsu Corp
5. Hornyak #2
6.

7. Licking OH
8. 5.0 million cubic feet
9. October 11, 1979
- 10.
1. 80-02036/06940
2. 34-127-24283-0014
3. 103 000 000
4. The Clinton Oil Company
5. Shiplett #7
- 6.
7. Perry OH
8. 20.0 million cubic feet
9. October 11, 1979
- 10.
1. 80-02037/06941
2. 34-127-24281-0014
3. 103 000 000
4. The Clinton Oil Company
5. Shiplett #8
- 6.
7. Perry OH
8. 25.0 million cubic feet
9. October 11, 1979
- 10.
1. 80-02038/06943
2. 34-157-23355-0014
3. 103 000 000
4. William N Tipka
5. Liggett-Berkshire #1
- 6.
7. Tuscarawas OH
8. 30.0 million cubic feet
9. October 11, 1979
- 10.
1. 80-02039/06944
2. 34-157-23358-0014
3. 103 000 000
4. William N Tipka
5. Lucy W Proctor #1A
- 6.
7. Tuscarawas OH
8. 30.0 million cubic feet
9. October 11, 1979
10. East Ohio Gas Co
1. 80-02040/06945
2. 34-169-22163-0014
3. 103 000 000
4. Ohio Natural Fuel Co
5. Redick #3
- 6.
7. Wayne OH
8. 22.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-02041/06946
2. 34-031-23305-0014
3. 103 000 000
4. Jerry Moore Inc
5. Dale Schlarb No 1
6. Keene
7. Coshocton OH
8. 14.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission
1. 80-02042/06947
2. 34-103-21981-0014
3. 103 000 000
4. Leslie Oil & Gas Co Inc
5. Frank Simmerman #1
- 6.
7. Medina OH
8. 3.5 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-02043/06964
2. 34-127-24282-0014
3. 103 000 000
4. The Clinton Oil Company
5. Dixon #1
- 6.
7. Perry OH
8. 30.0 million cubic feet
9. October 11, 1979
- 10.
1. 80-02044/06965
2. 34-127-24280-0014
3. 103 000 000
4. The Clinton Oil Company
5. J Wilson #1
- 6.
7. Perry OH
8. 30.0 million cubic feet
9. October 11, 1979
- 10.

Oklahoma Corporation Commission

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-01793/00728
2. 35-139-00000
3. 108 000 000
4. Kaiser Frances Oil Company
5. J S Ingle #1
6. Guymon Hugoton
7. Texas OK
8. 10.0 million cubic feet
9. October 10, 1979
10. Cities Service Gas Company

1. 80-01794/00604
2. 35-137-00000
3. 108 000 000
4. Getty Oil Company
5. Crosbie-Mudge No 4
6. Sho-Vel-Tum
7. Stephens OK
8. 19.0 million cubic feet
9. October 10, 1979
10. Getty Oil Co Natural Gas Plant

1. 80-01795/00610
2. 35-137-20146
3. 108 000 000
4. Getty Oil Company
5. Buck A No 1
6. Sho-Vel-Tum
7. Stephens OK
8. 13.0 million cubic feet
9. October 10, 1979
10. Lone Star Gas Company

1. 80-01796/00727
2. 35-139-00000
3. 108 000 000
4. Kansas Nebraska Natural Gas Co Inc
5. Prewett B #1
6. Guymon Hugoton
7. Texas OK
8. 14.0 million cubic feet
9. October 10, 1979
- 10.

1. 80-01797/00735
2. 35-139-00000
3. 108 000 000
4. Kansas Nebraska Natural Gas Co Inc

5. Randles #1
6. Guymon Hugoton
7. Texas OK
8. 9.0 million cubic feet
9. October 10, 1979
- 10.
1. 80-01798/00740
2. 35-007-00000
3. 108 000 000
4. Cimarron Petroleum Corporation
5. Elston No CPC 13
6. Mocane-Laverne
7. Beaver OK
8. 8.5 million cubic feet
9. October 10, 1979
10. Michigan Wisconsin Pipe Line Co

1. 80-01799/00299
2. 35-139-20968
3. 103 000 000
4. Anadarko Production Co
5. Pollock A No 2
6. North Richland Center
7. Texas OK
8. 320.0 million cubic feet
9. October 10, 1979
10. Panhandle Eastern Pipeline Co

1. 80-01800/00600
2. 35-019-00000
3. 108 000 000
4. Roy W Roring
5. Blum No 1
6. Ceddo
7. Carter OK
8. 8.9 million cubic feet
9. October 10, 1979
10. Union Oil Co of California

1. 80-01801/00728
2. 35-139-00000
3. 108 000 000
4. Kan Neb Nat Gas Co Inc
5. Shorb #1
6. Camrick
7. Texas OK
8. 12.0 million cubic feet
9. October 10, 1979
- 10.

1. 80-01802/00729
2. 35-139-00000
3. 108 000 000
4. Kan Neb Nat Gas Co Inc
5. Stinson D #1
6. Guymon Hugoton
7. Texas OK
8. 4.0 million cubic feet
9. October 10, 1979
- 10.

1. 80-01803/00730
2. 35-139-00000
3. 108 000 000
4. Kan Neb Nat Gas Co Inc
5. Westmoreland A #1
6. Guymon Hugoton
7. Texas OK
8. 17.0 million cubic feet
9. October 10, 1979
- 10.

1. 80-01804/00782
2. 35-139-00000
3. 108 000 000
4. Kan Neb Nat Gas Co Inc
5. J Friesen #1
6. Guymon Hugoton
7. Texas OK
8. 11.0 million cubic feet
9. October 10, 1979

- 10.
1. 80-01805/00749
2. 35-139-00000
3. 108 000 000
4. Kan Neb Nat Gas Co Inc
5. Pauls #1
6. Guymon Hugoton
7. Texas OK
8. 10.0 million cubic feet
9. October 10, 1979
- 10.

1. 80-01806/00750
2. 35-139-00000
3. 108 000 000
4. Kan Neb Nat Gas Co Inc
5. F Pauls #1
6. Guymon Hugoton
7. Texas OK
8. 12.0 million cubic feet
9. October 10, 1979
- 10.

1. 80-01807/00760
2. 35-139-00000
3. 108 000 000
4. Kan Neb Nat Gas Co Inc
5. Hamm #1
6. Guymon Hugoton
7. Texas OK
8. 14.0 million cubic feet
9. October 10, 1979
- 10.

1. 80-01808/00228
2. 35-011-20914
3. 103 000 000
4. Mich Wisc Pipe Line Co
5. Helm #2
6. Squaw Creek
7. Blaine OK
8. 365.0 million cubic feet
9. October 10, 1979
10. Michigan Wisconsin Pipe Line Co

1. 80-01809/00625
2. 35-007-00000
3. 108 000 000
4. Patrick & Vaughn
5. Miles A 1-3
6. Mocane Morrow (Pool No 96)
7. Beaver OK
8. 12.0 million cubic feet
9. October 10, 1979
10. Colorado Interstate Gas Co

1. 80-01810/00289
2. 35-139-00000
3. 108 000 000
4. E Lyle Johnson
5. Fankhouser ID#11876
6. Mouser
7. Texas OK
8. 8.3 million cubic feet
9. October 10, 1979
10. Cities Service

1. 80-01811/00628
2. 35-007-21288
3. 108 000 000
4. Elder & Vaughn
5. Miller #1
6. Mocane Chester (Pool No 95)
7. Beaver County OK
8. 15.0 million cubic feet
9. October 10, 1979
10. Colorado Interstate Gas Co

1. 80-01812/00737
2. 35-139-00000
3. 108 000 000

4. Kan Neb Nat Gas Co Inc
5. Tharp A #1
6. Guymon Hugoton
7. Texas OK
8. .1 million cubic feet
9. October 10, 1979
- 10.

1. 80-01813/00736
2. 35-139-00000
3. 108 000 000
4. Kan Neb Nat Gas Co Inc
5. State B #1
6. Guymon Hugoton
7. Texas OK
8. 8.0 million cubic feet
9. October 10, 1979
- 10.

1. 80-01814/00738
2. 35-139-00000
3. 108 000 000
4. Kan Neb Nat Gas Co Inc
5. Grice #1
6. Camrick
7. Texas OK
8. 12.0 million cubic feet
9. October 10, 1979
- 10.

1. 80-01815/00032
2. 35-009-20236
3. 107 000 000
4. The GHK Company
5. Watkins 1-21
6. Carpenter
7. Beckham OK
8. 3600.0 million cubic feet
9. October 11, 1979
10. Michigan Wisconsin Pipelines Oklahoma Natural Gas-Western

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-01817
2. 47-097-01293
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-406
6. Union District
7. Upshur WV
8. .8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp

1. 80-01818
2. 47-097-01167
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-336
6. Union District
7. Upshur WV
8. 7.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp

1. 80-01820
2. 47-097-01241
3. 108 000 000
4. Allegheny Land & Mineral Co

5. A-368
6. Washington District
7. Upshur WV
8. 13.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01821
2. 47-097-01245
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-393
6. Washington District
7. Upshur WV
8. 4.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp

1. 80-01822
2. 47-097-01253
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-394
6. Washington District
7. Upshur WV
8. 13.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp

1. 80-01823
2. 47-097-01256
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-391
6. Union District
7. Upshur WV
8. 3.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp

1. 80-01824
2. 47-097-01259
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-392
6. Union District
7. Upshur WV
8. 2.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp

1. 80-01825
2. 47-097-01281
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-395
6. Union District
7. Upshur WV
8. 4.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp

1. 80-01826
2. 47-097-01291
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-404
6. Union District
7. Upshur WV
8. 15.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp

1. 80-01827
2. 47-097-01289
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-401
6. Washington District
7. Upshur WV
8. 7.9 million cubic feet
9. October 10, 1979

10. Consolidated Gas Supply Corp
1. 80-01828
2. 47-097-01292
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-405
6. Union District
7. Upshur WV
8. 5.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01829
2. 47-097-01508
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-479
6. Union District
7. Upshur WV
8. 17.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01830
2. 47-097-01510
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-503
6. Union District
7. Upshur WV
8. 19.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01831
2. 47-097-01521
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-481
6. Union District
7. Upshur WV
8. 12.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01832
2. 47-097-01529
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-477
6. Union District
7. Upshur WV
8. 1.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01833
2. 47-097-01570
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-513
6. Union District
7. Upshur WV
8. 11.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01834
2. 47-097-01572
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-474
6. Union District
7. Upshur WV
8. 16.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01835
2. 47-097-01578
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-522
6. Washington District
7. Upshur WV
8. 10.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01838
2. 47-097-01645
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-567
6. Banks District
7. Upshur WV
8. 5.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01837
2. 47-097-01422
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-443
6. Union District
7. Upshur WV
8. 9.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01838
2. 47-097-01425
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-451
6. Union District
7. Upshur WV
8. 2.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01839
2. 47-097-01443
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-449
6. Union District
7. Upshur WV
8. 1.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01840
2. 47-097-01496
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-447
6. Washington District
7. Upshur WV
8. 14.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01841
2. 47-097-01497
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-448
6. Washington District
7. Upshur WV
8. 14.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01842
2. 47-097-01498
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-465
6. Washington District
7. Upshur WV
8. 21.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01843
2. 47-097-01503
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-502
6. Washington District
7. Upshur WV
8. 3.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01844
2. 47-097-01506
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-497
6. Washington District
7. Upshur WV
8. 12.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01845
2. 47-041-01312
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Jo L Connally #1 (40)
6. Freemans CK
7. Lewis WV
8. 1.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01846
2. 47-105-00419
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Roberts-Nutter #807
6. Burning Springs
7. Wirt WV
8. 5.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01847
2. 47-105-00506
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Roberts #665
6. Burning Springs
7. Wirt WV
8. 2.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01848
2. 47-059-00725
3. 108 000 000
4. Gilbert Creek Gas Co
5. H C Cline #1
6. Stafford
7. Mingo WV
8. 5.6 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans
1. 80-01849
2. 47-059-00734
3. 108 000 000
4. Gilbert Creek Gas Co
5. Scott Ellis #1
6. Stafford
7. Mingo WV
8. 3.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans
1. 80-01850
2. 47-059-00747

3. 108 000 000
4. Gilbert Creek Gas Co
5. M V Bobo #1
6. Stafford
7. Mingo WV
8. 7.1 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans
1. 80-01851
2. 47-099-01061
3. 108 000 000
4. Deephole Gas Co
5. Tom Hill #1
6. Butler
7. Wayne WV
8. 2.8 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans
1. 80-01852
2. 47-059-00769
3. 108 000 000
4. Fort Collins Consol Roy Inc
5. B McDonald Hrs #1
6. Stafford
7. Mingo WV
8. 7.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01853
2. 47-007-00642
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Effie Nicholas #139
6. Birch
7. Braxton WV
8. .9 million cubic feet
9. October 10, 1979
10. Equitable Gas Co
1. 80-01854
2. 47-007-00700
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. A B Campbell #1
6. Salt Lick
7. Braxton WV
8. 7.7 million cubic feet
9. October 10, 1979
10. J C Baker & Sons Inc
1. 80-01855
2. 47-007-00713
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. H Cunningham #48
6. Salt Lick
7. Braxton WV
8. 1.9 million cubic feet
9. October 10, 1979
10. J C Baker & Sons Inc
1. 80-01856
2. 47-007-00710
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Hugh Cunningham #1
6. Salt Lick
7. Braxton WV
8. 1.9 million cubic feet
9. October 10, 1979
10. J C Baker & Sons Inc
1. 80-01857
2. 47-013-02160
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. H G Isenhart #1(56)
6. Washington
7. Calhoun, WV
8. .5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01858
2. 47-013-02187
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. L L Knotts #2 (58)
6. Lee
7. Calhoun, WV
8. 4.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01859
2. 47-017-01333
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Ralph Leggett #2 (59)
6. Central
7. Doddridge, WV
8. 5.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01860
2. 47-021-01662
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. M Stump #2 (#111)
6. Dekalb
7. Gilmer, WV
8. 3.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01861
2. 47-013-00708
3. 108 000 000
4. Pennzoil Company
5. Sharp J S #10
6. Sherman
7. Calhoun, WV
8. .8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01862
2. 47-013-00712
3. 108 000 000
4. Pennzoil Company
5. Sharp J S #11
6. Sherman
7. Calhoun, WV
8. .8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01863
2. 47-013-00713
3. 108 000 000
4. Pennzoil Company
5. Sharp J S #12
6. Sherman
7. Calhoun, WV
8. .8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01864
2. 47-013-00536
3. 108 000 000
4. Pennzoil Company
5. Henry Brannon #5
6. Sherman District
7. Calhoun, WV
8. 2.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01865
2. 47-013-00537
3. 108 000 000
4. Pennzoil Company
5. Sharp J S #4
6. Sherman
7. Calhoun, WV
8. .8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01866
2. 47-013-00577
3. 108 000 000
4. Pennzoil Company
5. Henry Brannon #6
6. Sherman District
7. Calhoun, WV
8. 1.6 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01867
2. 47-013-00599
3. 108 000 000
4. Pennzoil Company
5. Henry Brannon #7
6. Sherman District
7. Calhoun, WV
8. 2.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01868
2. 47-013-00641
3. 108 000 000
4. Pennzoil Company
5. Henry Brannon #8
6. Sherman District
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01869
2. 47-013-00642
3. 108 000 000
4. Pennzoil Company
5. Sharp J S #8
6. Sherman
7. Calhoun, WV
8. .8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01870
2. 47-013-00672
3. 108 000 000
4. Pennzoil Company
5. Sharp J S #9
6. Sherman
7. Calhoun, WV
8. .8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01871
2. 47-039-02625
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #12A
6. Elk
7. Kanawha, WV
8. 14.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01872
2. 47-039-02028
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #10A
6. Elk

7. Kanawha, WV
8. 15.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01873
2. 47-039-02185
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #11A
6. Elk
7. Kanawha, WV
8. 17.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01874
2. 47-039-02017
3. 108 000 000
4. Blue Creek Gas Co
5. Moubrey #1
6. Elk
7. Kanawha, WV
8. 7.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01875
2. 47-039-02004
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #9A
6. Elk
7. Kanawha, WV
8. 11.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01876
2. 47-039-01991
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #7A
6. Elk
7. Kanawha, WV
8. 12.2 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01877
2. 47-039-02000
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #8A
6. Elk
7. Kanawha, WV
8. 10.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01878
2. 47-039-01963
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #8A
6. Elk
7. Kanawha, WV
8. 10.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01879
2. 47-039-01974
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #5A
6. Malden
7. Kanawha, WV
8. 8.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01880
2. 47-039-01942
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #4A
6. Elk
7. Kanawha, WV
8. 11.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01881
2. 47-039-01935
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #3A
6. Elk
7. Kanawha, WV
8. 11.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01882
2. 47-085-23627
3. 108 000 000
4. Dennis D Blauser
5. Alvin Tharp #2
6. Union
7. Ritchie, WV
8. 18.0 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Company
1. 80-01883
2. 47-085-23626
3. 108 000 000
4. Dennis D Blauser
5. Hubert Rose #1
6. Union
7. Ritchie, WV
8. 8.0 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Company
1. 80-01884
2. 47-085-23625
3. 108 000 000
4. Dennis D Blauser
5. Paul Baker #1
6. Union
7. Ritchie, WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Company
1. 80-01885
2. 47-021-22404
3. 108 000 000
4. Dennis D Blauser
5. Rex Southall #1
6. Troy
7. Gilmer, WV
8. 5.0 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Company
1. 80-01886
2. 47-039-02620
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #16
6. Elk
7. Kanawha, WV
8. 15.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01887
2. 47-039-01945
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #14
6. Malden

7. Kanawha WV
8. 18.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01888
2. 47-021-02749
3. 108 000 000
4. Trio Petroleum Corp
5. Adams No 1
6. Glenville North
7. Gilmer WV
8. 3.8 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01889
2. 47-047-20415
3. 108 000 000 Denied
4. Worldwide Oil & Gas Co
5. Elizabeth Evans No 1
6. Sandy River District
7. McDowell WV
8. 1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01890
2. 47-021-02603
3. 108 000 000
4. Trio petroleum Corp
5. Morris No 2A
6. Glenville South
7. Gilmer WV
8. 6.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01891
2. 47-021-02526
3. 108 000 000
4. Trio Petroleum Corp
5. Morris No 1-A
6. Glenville South
7. Gilmer WV
8. 6.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01892
2. 47-085-02695
3. 108 000 000
4. Trio Petroleum Corp
5. Freshour No 3
6. Auburn
7. Ritchie WV
8. 1.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01893
2. 47-085-02777
3. 108 000 000
4. Trio Petroleum Corp
5. Freshour No 2
6. Auburn
7. Ritchie WV
8. 1.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01894
2. 47-039-01891
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #13
6. Malden
7. Kanawha WV
8. 10.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01895
2. 47-033-00936
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-575
6. Sardis District

2. 47-041-01678
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-361
6. Hackers Creek District
7. Lewis WV
8. 2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01896
2. 47-041-00862
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-159
6. Freemans Creek District
7. Lewis WV
8. 4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01897
2. 47-041-01012
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-179
6. Freemans Creek District
7. Lewis WV
8. 1.8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01898
2. 47-033-00928
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-564
6. Union District
7. Harrison WV
8. 4.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01899
2. 47-033-00929
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-548
6. Union District
7. Harrison WV
8. 8.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01900
2. 47-033-00933
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-547
6. Grant District
7. Harrison WV
8. 6.8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01901
2. 47-033-00934
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-556
6. Union District
7. Harrison WV
8. 3.4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01902
2. 47-033-00936
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-575
6. Sardis District

7. Harrison WV
8. 9.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01903
2. 47-033-00947
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-572
6. Union District
7. Harrison WV
8. 3.8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01904
2. 47-041-00506
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-73
6. Courthouse District
7. Lewis WV
8. 4.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01905
2. 47-041-00545
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-85
6. Freemans Creek District
7. Lewis WV
8. 1.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01906
2. 47-041-00596
3. 108 000 000
4. Allegheny Land & Mineral Co
5. A-67
6. Freemans Creek District
7. Lewis WV
8. 1.8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01908
2. 47-021-01881
3. 108 000 000
4. Trio Petroleum Corp
5. Craddock No 1
6. Chaple-German
7. Gilmer WV
8. 8.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01909
2. 47-021-01905
3. 108 000 000
4. Trio Petroleum Corp
5. Post No 2
6. Glenville South
7. Gilmer WV
8. 3.7 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01910
2. 47-021-01930
3. 108 000 000
4. Trio Petroleum Corp
5. Helmick No 1
6. Glenville South
7. Gilmer WV
8. 1.8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01911

2. 47-021-02449
3. 108 000 000
4. Trio Petroleum Corp
5. Boyles No 1A
6. Glenville South
7. Gilmer WV
8. 14.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01912
2. 47-041-02081
3. 108 000 000
4. Trio Petroleum Corp
5. A B College No 1
6. Glenville North
7. Lewis WV
8. 2.8 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas
1. 80-01913
2. 47-021-02752
3. 108 000 000
4. Trio Petroleum Corp
5. Simmons No 1
6. Glenville North
7. Gilmer WV
8. 8.3 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01914
2. 47-021-02781
3. 108 000 000
4. Trio Petroleum Corp
5. Frymyer No 1
6. Glenville North
7. Gilmer WV
8. 5.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01915
2. 47-021-02760
3. 108 000 000
4. Trio Petroleum Corp
5. Welch A No 1
6. Glenville North
7. Gilmer WV
8. 5.1 million cubic feet
9. October 10, 1979
10. Columbia Gas Trans Corp
1. 80-01916
2. 47-021-01010
3. 108 000 000
4. Trio Petroleum Corp
5. Luzader No 1
6. Glenville South
7. Gilmer WV
8. 2.8 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01917
2. 47-021-01020
3. 108 000 000
4. Trio Petroleum Corp
5. Groves No 1
6. Glenville South
7. Gilmer WV
8. 4 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01918
2. 47-021-01202
3. 108 000 000
4. Trio Petroleum Corp
5. Goff No 1
6. Revel

7. Gilmer, WV
8. 3.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01919
2. 47-021-01741
3. 108 000 000
4. Trio Petroleum Corp
5. Morris No 3
6. Glenville South
7. Gilmer, WV
8. 19.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01920
2. 47-021-01721
3. 108 000 000
4. Trio Petroleum Corp
5. Morris No 2
6. Glenville South
7. Gilmer, WV
8. 1.9 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01921
2. 47-085-23704
3. 108 000 000
4. Dennis D Blauser
5. Hubert Rose #2
6. Union
7. Ritchie, WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Company
1. 80-01922
2. 47-085-23705
3. 108 000 000
4. Dennis D Blauser
5. Paul Baker #2
6. Union
7. Ritchie, WV
8. 10.0 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Company
1. 80-01923
2. 47-085-23710
3. 108 000 000
4. Dennis D Blauser
5. Paul Baker #3
6. Union
7. Ritchie, WV
8. 12.0 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Company
1. 80-01924
2. 47-039-01809
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #12
6. Malden
7. Kanawha, WV
8. 12.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01925
2. 47-039-01796
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #11
6. Malden
7. Kanawha, WV
8. 14.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01926

2. 47-039-01717
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #8
6. Elk
7. Kanawha, WV
8. 18.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01927
2. 47-039-01709
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #7
6. Elk
7. Kanawha, WV
8. 13.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01928
2. 47-039-01699
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #6Elk
6. Elk
7. Kanawha, WV
8. 18.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01929
2. 47-039-01697
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #5
6. Elk
7. Kanawha, WV
8. 18.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01930
2. 47-039-01680
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #3
6. Malden
7. Kanawha, WV
8. 10.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01931
2. 47-039-01679
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #2
6. Malden
7. Kanawha, WV
8. 10.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01932
2. 47-039-01742
3. 108 000 000
4. Blue Creek Gas Co
5. Naylor #1
6. Elk
7. Kanawha, WV
8. 10.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01933
2. 47-039-01726
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #9
6. Elk

7. Kanawha, WV
8. 12.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01934
2. 47-039-01764
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #10
6. Elk
7. Kanawha, WV
8. 14.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01935
2. 47-039-01839
3. 108 000 000
4. Blue Creek Gas Co
5. Blue Creek Coal & Land #1A
6. Elk
7. Kanawha, WV
8. 12.0 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01936
2. 47-039-01860
3. 108 000 000
4. Blue Creek Gas Co
5. Workman #1
6. Elk
7. Kanawha, WV
8. 3.5 million cubic feet
9. October 10, 1979
10. Columbia Gas Transmission Corp
1. 80-01937
2. 47-021-01840
3. 108 000 000
4. Trio Petroleum Corp
5. Groves No 3
6. Glenville South
7. Gilmer, WV
8. 5.3 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01938
2. 47-021-01821
3. 108 000 000
4. Trio Petroleum Corp
5. Cottrill No 2
6. Glenville South
7. Gilmer S, WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01939
2. 47-021-01806
3. 108 000 000
4. Trio Petroleum Corp
5. Cottrill No 1
6. Glenville South
7. Gilmer, WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01940
2. 47-021-01804
3. 108 000 000
4. Trio Petroleum Corp
5. Groves No 2
6. Glenville South
7. Gilmer, WV
8. 3.2 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01941

2. 47-021-02740
3. 108 000 000
4. Pace Pipe Line Company
5. Shifflett #1
6. Glenville
7. Gilmer, WV
8. 8.7 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Company
1. 80-01942
2. 47-021-02772
3. 108 000 000
4. Pace Pipe Line Company
5. Collins #3
6. Glenville
7. Gilmer, WV
8. 9.5 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Company
1. 80-01943
2. 47-021-02773
3. 108 000 000
4. Pace Pipe Line Company
5. Wiant #1
6. Glenville
7. Gilmer, WV
8. 3.0 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Company
1. 80-01944
2. 47-047-20564
3. 108 000 000
4. Worldwide Oil & Gas Co
5. Lizzie Evans No 1
6. Sandy River District
7. McDowell, WV
8. 12.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01945
2. 47-047-20574
3. 108 000 000
4. Worldwide Oil & Gas Co
5. Lizzie Evans No 3
6. Sandy River District
7. McDowell, WV
8. 12.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01946
2. 47-047-20576
3. 108 000 000
4. Worldwide Oil & Gas Co
5. Lizzie Evans No 2
6. Sandy River District
7. McDowell, WV
8. 12.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01947
2. 47-047-20580
3. 108 000 000
4. Worldwide Oil & Gas Co
5. Lizzie Evans No 4
6. Sandy River District
7. McDowell, WV
8. 12.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01948
2. 47-085-21977
3. 108 000 000
4. Edith Swadley et al
5. A W Goff #2
6. Union

7. Ritchie WV
8. 1.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01949
2. 47-047-20584
3. 108 000 000
4. Worldwide Oil & Gas Co
5. Lizzie Evans No 5
6. Sandy River District
7. McDowell WV
8. 12.0 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01950
2. 47-021-02826
3. 108 000 000
4. Trio Petroleum Corp
5. McQuain No 1
6. Glenville North
7. Gilmer WV
8. 8.0 million cubic feet
9. October 10, 1979
10. Carnegie Natural Gas Co
1. 80-01951
2. 47-085-02939
3. 108 000 000
4. C G G Oil Company
5. Conaway #2 Rit 2939
6. Conaway
7. Ritchie WV
8. 2.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-01952
2. 47-085-03505
3. 108 000 000
4. C G G Oil Company
5. Conaway #3 Rit 3505
6. Conaway
7. Ritchie WV
8. 2.5 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply Corp
1. 80-02045
2. 47-047-00387
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. Litwar Red Ash #1
6. Sandy River
7. McDowell WV
8. 4.7 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply Corp
1. 80-02046
2. 47-047-00418
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. Vera Pora #4
6. Sandy River
7. McDowell WV
8. 11.3 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02047
2. 47-047-00473
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. George King #1 (18)
6. Sandy River
7. McDowell WV
8. 3.8 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02048

2. 47-047-00661
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. Litwar Red Ash #700
6. Sandy River
7. McDowell WV
8. 12.9 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02049
2. 47-059-00785
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. H Arnold #1
6. Stafford
7. Mingo WV
8. 8.7 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02050
2. 47-011-00601
3. 103 000 000
4. Spartan Gas Company
5. Clyde Davis #1-S-201
6. Grant District
7. Cabell County, WV
8. 18.0 million cubic feet
9. October 11, 1979
10.
1. 80-02051
2. 47-047-00307
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. Joe Roberts #1
6. Sandy River
7. McDowell WV
8. 10.3 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02052
2. 47-047-00352
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. Jaeger Drilling #1
6. Sandy River
7. McDowell WV
8. 5.7 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02053
2. 47-047-00358
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. Rose Morgan #1
6. Sandy River
7. McDowell WV
8. 10.7 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02054
2. 47-047-00365
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. Vera Poca #1
6. Sandy River
7. McDowell WV
8. 14.3 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02055
2. 47-047-00369
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. Lick Branch #1
6. Sandy River

7. McDowell WV
8. 2.7 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02056
2. 47-047-00378
3. 108 000 000
4. Fort Collins Consolidated Royalties
5. Vera Poca #2
6. Sandy River
7. McDowell WV
8. 4.0 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02057
2. 47-011-00607
3. 103 000 000
4. Spartan Gas Company
5. Carl Davis #1-S-202
6. Grant District
7. Cabell WV
8. 11.0 million cubic feet
9. October 11, 1979
10.
1. 80-02058
2. 47-105-00744
3. 103 000 000
4. Ray Resources Div of Flying Diamond
5. Hutchison Hrs #795
6. Reedy
7. Wirt WV
8. 1.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02059
2. 47-007-00742
3. 108 000 000
4. Apollo Petroleum Corp
5. Eva Barrett #2 (WX 20)
6. Salt Lick
7. Braxton WV
8. 14.3 million cubic feet
9. October 11, 1979
10. J C Baker & Sons Inc
1. 80-02060
2. 47-039-02521
3. 108 000 000
4. Apollo Petroleum Corp
5. James F Brown #331
6. Elk
7. Kanawha WV
8. 6.5 million cubic feet
9. October 11, 1979
10. Pennzoil United Inc
1. 80-02061
2. 47-097-01145
3. 108 000 000
4. Apollo Petroleum Corp
5. Wm Radabaugh #1
6. Union
7. Upshur WV
8. 2.7 million cubic feet
9. October 11, 1979
10. Petro-Lewis Corp
1. 80-02062
2. 47-097-01213
3. 108 000 000
4. Apollo Petroleum Corp
5. Radabaugh #184 (#2)
6. Union
7. Upshur WV
8. 3.0 million cubic feet
9. October 11, 1979
10. Petr-Lewis corp
1. 80-02063
2. 47-017-01667
3. 108 000 000
4. Apollo Petroleum Corp
5. W A David #391
6. McClellan
7. Doddridge WV
8. 4.1 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02064
2. 47-105-00607
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Joe Parsons #658
6. Burning Springs
7. Wirt WV
8. 1.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02065
2. 47-105-00615
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. D P Ferree #643
6. Burning Springs
7. Wirt WV
8. 1.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02066
2. 47-105-00620
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Denzil Ferree #654
6. Burning Springs
7. Wirt WV
8. 2.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02067
2. 47-105-00622
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. D P Ferree #644
6. Burning Springs
7. Wirt WV
8. 1.0 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02068
2. 47-105-00624
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Westvaco #659
6. Burning Springs
7. Wirt WV
8. 1.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02069
2. 47-105-00637
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. McConaughy #662
6. Burning Springs
7. Wirt WV
8. 12.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02070
2. 47-105-00648
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Diken #663
6. Burning Springs

7. Wirt WV
8. 12.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02071
2. 47-105-00664
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Diken #664
6. Burning Springs
7. Wirt WV
8. 12.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02072
2. 47-105-00666
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. J W McCoy #619
6. Reedy
7. Wirt WV
8. 5 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02073
2. 47-087-00607
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. G B Bullington #611
6. Reedy
7. Roane WV
8. .6 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02074
2. 47-087-00617
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. E R Seaman #612
6. Reedy
7. Roane WV
8. .6 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02075
2. 47-087-00627
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. E R Seaman #614
6. Reedy
7. Roane WV
8. .6 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02076
2. 47-087-00693
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. T A Leadsome #613
6. Reedy
7. Roane WV
8. .6 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02077
2. 47-087-01461
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. A Clayton Moore #1 (135)
6. Walton
7. Roane WV
8. 1.9 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02078

2. 47-105-00601
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Joe Parsons #660
6. Burning Springs
7. Wirt WV
8. 1.4 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02079
2. 47-015-00706
3. 108 000 000 Denied
4. W Howard Taylor Agent
5. Eakle #2 47-015-0706
6. Mayse
7. Clay WV
8. 23.3 million cubic feet
9. October 11, 1979
10. Columbia Gas Transmission Corp
1. 80-02080
2. 47-081-00241
3. 108 000 000
4. Peake Operating Company
5. Oglebay Norton No 94 RAL-241
6. Marsh Fork District
7. Raleigh WV
8. .2 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply Corporation
1. 80-02081
2. 47-087-00634
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. H A Price #615
6. Reedy
7. Roane WV
8. .6 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02082
2. 47-087-00525
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. C L Carson #609
6. Reedy
7. Roane WV
8. .6 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02083
2. 47-087-00519
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Sam (Brook) Sheppard #608
6. Reedy
7. Roane WV
8. .6 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02084
2. 47-087-00531
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. T J Brown
6. Reedy
7. Roane WV
8. .6 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02085
2. 47-087-00518
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. T J Brown #607
6. Reedy
7. Roane WV

8. .6 million cubic feet
9. October 11, 1979
10. Columbia Gas Trans
1. 80-02086
2. 47-105-00542
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. M L Woburn #613
6. Burning Springs
7. Wirt WV
8. 5.1 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02087
2. 47-105-00510
3. 108 000 000
4. Ray Resources Div of Flying Diamond
5. Roberts D #666
6. Burning Springs
7. Wirt WV
8. 4.7 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-02088
2. 47-085-21916
3. 108 000 000
4. Edith Swadley et al.
5. A J Snyder #2
6. Union
7. Ritchie WV
8. 2.5 million cubic feet
9. October 11, 1979
10. Consolidated Gas Supply
1. 80-01819
2. 47-097-01185
3. 108
4. Allegheny Land & Mineral Co.
5. A-379
6. Washington District
7. Upshur, WV
8. 7.1 million cubic feet
9. October 10, 1979
10. Consolidated Gas Supply

Wyoming Oil and Gas Conservation Commission

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Dated Received at FERC
10. Purchaser(s)
1. 80-01961/NG42-79
2. 49-009-21439
3. 103-000-000
4. Exeter Exploration Company
5. Lebar #3
6. Mike's Draw
7. Converse WY
8. 36.0 million cubic feet
9. October 5, 1979
10. Phillips Petroleum Company

U.S. Geological Survey, Metairie, La.

1. Control Number (F.E.R.C./State)
2. API well number
3. Section NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume

9. Date received at FERC
10. Purchaser(s)
1. 80-02268/G9-528
2. 17-710-40482-00S1-0
3. 102 000 000 denied
4. Forest Oil Corporation
5. Eugene Island Block 314 G-3
6. Eugene Island
7. 314
8. 33.0 million cubic feet
9. October 12, 1979
10. Columbia Gas Transmission Corp, Texas
Gas Transmission Corp, Consolidated Gas Supply Corp
1. 80-02270/G8-117
2. 17-703-40135-0000-0
3. 102 000 000
4. Kerr-McGee Corporation
5. OSC G-2855 No 4
6. East Cameron
7. 34
8. 513.0 million cubic feet
9. October 12, 1979
10. Natural Gas Pipeline Co of America,
Northern Natural Gas Co, Columbia Gas
Transmission, Southern Natural Gas Co
1. 80-02271/G8-122
2. 17-703-40091-0000-0
3. 102 000 000
4. Kerr-McGee Corporation
5. OCS G-2855 No 1
6. East Cameron
7. 34
8. 513.0 million cubic feet
9. October 12, 1979
10. Natural Gas Pipeline Co of America,
Northern Natural Gas Co, Columbia Gas
Trans, Southern Natural Gas Co
1. 80-02272/G9-690
2. 17-725-40164-0000-0
3. 102 000 000
4. Chevron USA Inc
5. OCS-G-3197 #2
6. Main Pass
7. 120
8. 1862.0 million cubic feet
9. October 12, 1979
10. Southern Natural Gas Company
1. 80-02273/G9-578
2. 17-705-40290-01D-0
3. 102 000 000
4. Felmont Oil Corporation
5. OCS-0172 B-2-D (Form #12-D)
6. Vermilion
7. 86
8. 1600.0 million cubic feet
9. October 12, 1979
10. Transcontinental Gas Pipe Line
1. 80-02274/G9-347
2. 17-711-20046-01D2-0
3. 102 000 000
4. Placid Oil Company
5. A-32-D
6. Ship Shoal
7. 204
8. 25.0 million cubic feet
9. October 12, 1979
10. Michigan Wisconsin Pipe Line Co
1. 80-02276/G9-700
2. 17-707-40191-00S1-0
3. 102 000 000
4. Placid Oil Company
5. B-15
6. South Marsh Island
7. 269
8. 1642.5 million cubic feet

9. October 12, 1979
 10. Trunkline Gas Company
 1. 80-02277/G9-719
 2. 17-706-40319-00D1-0
 3. 102 000 000
 4. CNG Producing Company
 5. B-6-D1
 6. Vermilion
 7. 313
 8. 285.0 million cubic feet
 9. October 12, 1979
 10. Consolidated Gas Supply Corp, Columbia Gas Transmission Corp
 1. 80-02278/G9-720
 2. 17-706-40319-00D2-0
 3. 102 000 000
 4. CNG Producing Company
 5. B-6D2
 6. Vermilion
 7. 313
 8. 285.0 million cubic feet
 9. October 12, 1979
 10. Consolidated Gas Supply Corp, Columbia Gas Transmission Corp
 1. 80-02279/G9-717
 2. 17-706-40301-00D1-0
 3. 102 000 000
 4. CNG Producing Company
 5. B-3-D-1
 6. Vermilion
 7. 313
 8. 285.0 million cubic feet
 9. October 12, 1979
 10. Consolidated Gas Supply Corp, Columbia Gas Transmission Corp
 1. 80-02280/G9-718
 2. 17-706-40301-00D2-0
 3. 102 000 000
 4. CNG Producing Company
 5. B-3-D2
 6. Vermilion
 7. 313
 8. 285.0 million cubic feet
 9. October 12, 1979
 10. Consolidated Gas Supply Corp, Consolidated Gas Supply Corp
 1. 80-02281/G9-693
 2. 17-707-40277-0000-0
 3. 102 000 000
 4. Chevron USA Inc
 5. OCS-G-2316 #3-D
 6. South Marsh Island
 7. 288
 8. 71.0 million cubic feet
 9. October 12, 1979
 10. Natural Gas Pipeline Co of Amer
 1. 80-02282/G9-688
 2. 17-725-40132-0000-0
 3. 102 000 000
 4. Chevron USA Inc
 5. OCS-G-3197 #1
 6. Main Pass
 7. 120
 8. 1117.0 million cubic feet
 9. October 12, 1979
 10. Southern Natural Gas Co
 1. 80-02289/G9-406
 2. 17-711-40161-0000-0
 3. 102 000 000 denied
 4. Cities Service Co
 5. High Is SA Blk A-332 #A-8
 6. High Island So Addn
 7. A-332
 8. 25.0 million cubic feet
 9. October 12, 1979

10. Michigan Wisconsin Pipe Line Co, Panhandle Eastern Pipeline Co, Natural Gas Pipeline Co of Amer, Trunkline Gas Co; United Gas P/L
 1. 80-02275/G8-271
 2. 42-711-40290-00D1-0
 3. 102 000 000
 4. Sun Oil Company
 5. OCS-G 2418 #A-18
 6. East High Island
 7. A-327
 8. 600.0 million cubic feet
 9. October 12, 1979
 10. Trunkline Gas Company, Michigan-Wisconsin Pipeline Co, Natural Gas Pipeline Co of Amer, Panhandle Eastern P/L; United Gas P/L

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (F.E.R.C./State)
 2. API well number
 3. Section NGPA
 4. Operator
 5. Well name
 6. Field or OCS area name
 7. County, State or Block No.
 8. Estimated annual volume
 9. Date received at PERC
 10. Purchaser(s)
 1. 80-02238/COA-2835-79
 2. 05-067-05140-0000-0
 3. 108 000 000
 4. Getty Oil Company
 5. Sam Burch No 5
 6. Ignacio Blanco Mesaverde
 7. Laplata CO
 8. 12.7 million cubic feet
 9. October 12, 1979
 10. El Paso Natural Gas Co
 1. 80-02262/COA 2856-79
 2. 05-067-05170-0000-0
 3. 108 000 000
 4. Getty Oil Company
 5. Sam Burch No 2
 6. Ignacio Blanco Mesaverde
 7. Laplata CO
 8. 19.4 million cubic feet
 9. October 12, 1979
 10. El Paso Natural Gas Co
 1. 80-02263/COA-2855-79
 2. 05-067-05739-0000-0
 3. 108 000 000
 4. Getty Oil Company
 5. Sam Burch No 3
 6. Ignacio Blanco Mesaverde
 7. La Plata CO
 8. 10.4 million cubic feet
 9. October 12, 1979
 10. El Paso Natural Gas Co
 1. 80-02089/NM-2755-79
 2. 30-039-06176-0000-0
 3. 108 000 000 denied
 4. Caulkins Oil Company
 5. Breech E 49
 6. South Blanco Pictured Cliffs
 7. Rio Arriba NM
 8. 10.7 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02090/NM-2756-79
 2. 30-039-06697-0000-0
 3. 108 000 000 denied
 4. Caulkins Oil Company
 5. Breech E 81

6. South Blanco PC
 7. Rio Arriba NM
 8. 18.3 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02091/NM-2757-79
 2. 30-039-06695-0000-0
 3. 108 000 000 denied
 4. Caulkins Oil Company
 5. Breech E 87
 6. South Blanco Pictured Cliffs
 7. Rio Arriba NM
 8. 21.6 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02092/NM-2759-79
 2. 30-039-06637-0000-0
 3. 108 000 000 denied
 4. Caulkins Oil Company
 5. Breech B 123
 6. South Blanco Pictured Cliffs
 7. Rio Arriba NM
 8. 14.6 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02093/NM-2760-79
 2. 30-039-06616-0000-0
 3. 108 000 000 denied
 4. Caulkins Oil Company
 5. Breech A 125
 6. South Blanco Pictured Cliffs
 7. Rio Arriba NM
 8. 16.3 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02094/NM-2761-79
 2. 30-039-06613-0000-0
 3. 108 000 000 denied
 4. Caulkins Oil Company
 5. Breech A 129
 6. South Blanco Pictured Cliffs
 7. Rio Arriba NM
 8. 17.3 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02095/NM-2788-79
 2. 30-039-06510-0000-0
 3. 108 000 000 Denied
 4. Caulkins Oil Company
 5. Breech 221
 6. South Blanco Pictured Cliffs
 7. Rio Arriba, NM
 8. 12.1 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02096/NM-2792-79
 2. 30-039-20912-0000-0
 3. 108 000 000 Denied
 4. Caulkins Oil Company
 5. Breech 382
 6. South Blanco PC—Otero Chacra
 7. Rio Arriba, NM
 8. 18.6 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02097/NM-2793-79
 2. 30-039-20913-0000-0
 3. 108 000 000 Denied
 4. Caulkins Oil Company
 5. Breech 368
 6. South Blanco Pictured Cliffs
 7. Rio Arriba, NM
 8. 21.7 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico

1. 80-02098/NM-2796-79
 2. 30-039-06428-0000-0
 3. 108 000 000 Denied
 4. Caulkins Oil Company
 5. Breech D 345
 6. South Blanco Pictured Cliffs
 7. Rio Arriba, NM
 8. 15.3 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02111/NM2958-79
 2. 30-025-25851-0000-0
 3. 103 000 000
 4. Continental Oil Company
 5. Warren Unit Blinbry No 48
 6. Blinbry Oil & Gas
 7. Lea, NM
 8. 14.0 million cubic feet
 9. October 11, 1979
 10. Warren Petroleum Company
 1. 80-02112/NM2959-79
 2. 30-039-21795-0000-0
 3. 103 000 000
 4. Continental Oil Company
 5. Jicarilla 30 #11
 6. West Lindrith
 7. Rio Arriba, NM
 8. 55.0 million cubic feet
 9. October 11, 1979
 10. El Paso Natural Gas
 1. 80-02113/NM2960-79
 2. 30-025-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Stevens B #2
 6. New Mexico Federal Unit
 7. Lea, NM
 8. 18.1 million cubic feet
 9. October 11, 1979
 10. El Paso Natural Gas (C-4037)
 1. 80-02114/NM2961-79
 2. 30-039-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Axi Apache L #4
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 6.8 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02115/NM2963-79
 2. 30-039-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Axi Apache J #6
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 6.8 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02116/NM2965-79
 2. 30-039-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Axi Apache H #12
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 3.9 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02117/NM2966-79
 2. 30-039-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Axi Apache A #7

6. Axi Apache Area
 7. Rio Arriba, NM
 8. 2.2 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02118/NM2967-79A
 2. 30-025-25854-0000-1
 3. 108 000 000
 4. Continental Oil Company
 5. Warren Unit Blinbry Bty 1 #51
 6. Blinbry Oil & Gas
 7. Lea, NM
 8. 15.0 million cubic feet
 9. October 11, 1979
 10. Warren Petroleum Corp
 1. 80-02119/NM2967-79B
 2. 30-025-25854-0000-2
 3. 108 000 000
 4. Continental Oil Company
 5. Warren Unit Blinbry Bty 1 #51
 6. Warren Tubbs
 7. Lea, NM
 8. 15.0 million cubic feet
 9. October 11, 1979
 10. Warren Petroleum Corp
 1. 80-02120/NM2968-79
 2. 30-039-20667-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Axi Apache N #9
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 15.9 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02121/NM2969-79
 2. 30-039-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Axi Apache N #8
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 13.6 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02122/NM2970-79
 2. 30-039-21431-0000-0
 3. 103 000 000
 4. Continental Oil Company
 5. Axi Apache O No 12
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 162.0 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02123/NM2971-79
 2. 30-039-21428-0000-0
 3. 103 000 000
 4. Continental Oil Company
 5. Axi Apache "O" #13
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 29.0 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02124/NM2973-79
 2. 30-025-25571-0000-0
 3. 103 000 000
 4. Continental Oil Company
 5. Vaughan B-1 #7
 6. Langlie Mattix Seven Rivers Queen
 7. Lea, NM
 8. 20.0 million cubic feet
 9. October 11, 1979
 10. El Paso Natural Gas

1. 80-02125/NM2974-79A
 2. 30-039-21590-0000-1
 3. 103 000 000
 4. Continental Oil Company
 5. Jicarilla 28 #16 (Gallup)
 6. West Lindrith
 7. Rio Arriba, NM
 8. 107.0 million cubic feet
 9. October 11, 1979
 10. El Paso Natural Gas
 1. 80-02126/NM2974-79B
 2. 30-039-21590-0000-2
 3. 103 000 000
 4. Continental Oil Company
 5. Jicarilla 28 #16 (Dakota)
 6. West Lindrith
 7. Rio Arriba, NM
 8. 107.0 million cubic feet
 9. October 11, 1979
 10. El Paso Natural Gas
 1. 80-02127/NM2975-79
 2. 30-039-20177-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Axi Apache J #13
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 13.4 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02128/NM2977-79-3
 2. 30-039-21430-0000-0
 3. 103 000 000
 4. Continental Oil Company
 5. Axi Apache "O" #11
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 15.0 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02129/NM2977-79-8
 2. 30-039-21430-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Axi Apache O #11
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 11.5 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02130/NM2978-79
 2. 30-039-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Axi Apache A #2
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 16.5 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02131/NM2979-79
 2. 30-039-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Axi Apache J #5
 6. Axi Apache Area
 7. Rio Arriba, NM
 8. 5.1 million cubic feet
 9. October 11, 1979
 10. Gas Company of New Mexico
 1. 80-02132/NM2980-79
 2. 30-025-00000-0000-0
 3. 108 000 000
 4. Continental Oil Company
 5. Eaves A #11

6. New Mexico Federal Unit
7. Lea, NM
8. 8.4 million cubic feet
9. October 11, 1979
10. El Paso Natural Gas (C-26)
1. 80-02133/NM2981-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache H #11
6. Axi Apache Area
7. Rio Arriba, NM
8. 8.3 million cubic feet
9. October 11, 1979
10. Gas Company of New Mexico
1. 80-02134/NM 2934-79
2. 30-025-0000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Sholes A #2
6. New Mexico Federal Unit
7. Lea, NM
8. 1.5 million cubic feet
9. October 11, 1979
10. El Paso Natural Gas (C-26)
1. 80-02135/NM-2938-79
2. 30-023-25642-0000-0
3. 103 000 000
4. Continental Oil Company
5. Marshall #8
6. Cruz
7. Lea, NM
8. 14.0 million cubic feet
9. October 11, 1979
10. Phillips Petroleum (C-511)
1. 80-02136/NM-2937-79
2. 30-039-21503-0000-0
3. 103 000 000
4. Continental Oil Company
5. Axi Apache D #5
6. Axi Apache Area
7. Rio Arriba, NM
8. 35.0 million cubic feet
9. October 11, 1979
10. Southern Union Gathering Company
1. 80-02137/NM 2882-79B
2. 30-025-25852-0000-0
3. 103 000 000
4. Continental Oil Company
5. Warren Unit-Blinbry No 49
6. Blinbry Oil and Gas
7. Lea, NM
8. 50.0 million cubic feet
9. October 11, 1979
10. Warren Petroleum Co
1. 80-02138/NM-2940-79
2. 30-039-21506-0000-0
3. 103 000 000
4. Continental Oil Company
5. Axi Apache K #5A
6. Axi Apache Area
7. Rio Arriba, NM
8. 74.0 million cubic feet
9. October 11, 1979
10. Gas Company of New Mexico
1. 80-02139/NM-2941-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache H #9
6. Axi Apache Area
7. Rio Arriba, NM
8. 6.8 million cubic feet
9. October 11, 1979
10. Gas Company of New Mexico (C-4787)

1. 80-02140/NM-2942-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache C #1
6. Axi Apache Area
7. Rio Arriba, NM
8. 2.0 million cubic feet
9. October 11, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02141/NM-2943-79
2. 30-025-25587-0000-0
3. 103 000 000
4. Continental Oil Company
5. Vaughan B-1 #8
6. Langlie Mattix Seven Rivers Queen
7. Lea, NM
8. 12.0 million cubic feet
9. October 11, 1979
10. El Paso Natural Gas
1. 80-02142/NM-2944-79
2. 30-025-26032-0000-0
3. 103 000 000
4. Continental Oil Company
5. Semu Warren No 99
6. Warren Blinbry West
7. Lea, NM
8. 1.0 million cubic feet
9. October 11, 1979
10. Warren Petroleum (131)
1. 80-02143/NM-2945-79
2. 30-039-21217-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache O #9
6. Axi Apache Area
7. Rio Arriba, NM
8. 15.9 million cubic feet
9. October 11, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02144/NM-2946-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache A No 1
6. Axi Apache Area
7. Rio Arriba, NM
8. .0 million cubic feet
9. October 11, 1979
10. Gas Company of New Mexico
1. 80-02145/NM-2951-79
2. 30-039-21589-0000-0
3. 103 000 000
4. Continental Oil Company
5. Jicarilla 30 #7
6. West Lindrith
7. Rio Arriba, NM
8. 165.0 million cubic feet
9. October 11, 1979
10. El Paso Natural Gas
1. 80-02146/NM-2953-79
2. 30-025-25488-0000-0
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Tubb #45
6. Warren Tubb (Oil)
7. Lea, NM
8. 113.0 million cubic feet
9. October 11, 1979
10. Warren Petroleum
1. 80-02147/NM 2955-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Sholes B-25 #2

6. New Mexico Federal Unit
7. Lea, NM
8. .9 million cubic feet
9. October 11, 1979
10. El Paso Natural Gas (C-26)
1. 80-02148/NM 2956-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Warren Unit Blinbry #18
6. New Mexico Federal Unit
7. Lea, NM
8. 8.8 million cubic feet
9. October 11, 1979
10. Getty Oil Co (C-112)
1. 80-02149/NM 2763-79A
2. 30-039-21528-0000-1
3. 103 000 000
4. Caulkins Oil Company
5. Breech A 675 (S Blanco PC)
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 99.5 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02150/NM 2763-79B
2. 30-039-21528-0000-2
3. 103 000 000
4. Caulkins Oil Company
5. Breech A 675 (Otero Chacra)
6. Otero Chacra
7. Rio Arriba, NM
8. 99.5 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02151/NM-2884-79A
2. 30-039-21335-0000-1
3. 103 000 000
4. Continental Oil Company
5. Jicarilla 28 #15 (Gallup)
6. West Lindrith Gallup
7. Rio Arriba, NM
8. 69.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas
1. 80-02152/NM 2884-79B
2. 30-039-21335-0000-2
3. 103 000 000
4. Continental Oil Company
5. Jicarilla 28 #15 (Dakota)
6. West Lindrith Dakota
7. Rio Arriba, NM
8. 69.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas
1. 80-02153/NM 2888-79A
2. 30-039-21428-0000-1
3. 103 000 000
4. Continental Oil Company
5. Axi Apache N #13 (PC)
6. Axi Apache Area
7. Rio Arriba, NM
8. 32.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02154/NM 2888-79B
2. 30-039-21428-0000-2
3. 103 000 000
4. Continental Oil Company
5. Axi Apache N #13 (MV)
6. Axi Apache Area
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico

1. 80-02155/NM 2908-79
2. 30-025-25582-0000-0
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Tubb No 46
6. Warren Tubb Oil
7. Lea, NM
8. 62.0 million cubic feet
9. October 12, 1979
10. Warren Petroleum
1. 80-02156/NM-2910-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Hawk B-10 #7
6. New Mexico Federal Unit
7. Lea, NM
8. 13.0 million cubic feet
9. October 12, 1979
10. Getty Oil Co (C-112)
1. 80-02157/NM-2911-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache J #8
6. Axi Apache Area
7. Rio Arriba, NM
8. 4.2 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02158/NM-2912-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. N El Mar Unit #23
6. El Mar
7. Lea, NM
8. .1 million cubic feet
9. October 12, 1979
10. Phillips Petroleum (C-638)
1. 80-02159/NM-2914-89
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache C No 7
6. Axi Apache Field
7. Rio Arriba, NM
8. 5.4 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02160/NM-2915-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache M #3
6. Axi Apache Area
7. Rio Arriba, NM
8. 4.2 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02161/NM-2916-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache P #1
6. Axi Apache Area
7. Rio Arriba, NM
8. 11.4 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02162/NM-2917-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. North El Mar #40

6. El Mar
7. Lea, NM
8. 1.9 million cubic feet
9. October 12, 1979
10. Phillips Petroleum Co (C-638)
1. 80-02163/NM 2918-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache N #5
6. Axi Apache Area
7. Rio Arriba, NM
8. 4.7 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02164/NM-2919-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache D #2
6. Axi Apache Area
7. Rio Arriba, NM
8. 13.7 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02165/NM-2921-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache L #2
6. Axi Apache Area
7. Rio Arriba, NM
8. 7.2 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02166/NM-2923-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache H #8
6. Axi Apache Area
7. Rio Arriba, NM
8. 6.7 million cubic feet
9. October 11, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02167/NM-2924-79
2. 30-039-21347-0000-0
3. 103 000 000
4. Continental Oil Company
5. Axi Apache D #4
6. Axi Apache Area
7. Rio Arriba, NM
8. 35.0 million cubic feet
9. October 11, 1979
10. Southern Union Gathering Company
1. 80-02168/NM-2925-79A
2. 30-039-21436-0000-1
3. 103 000 000
4. Continental Oil Company
5. Axi Apache N #12 (MV)
6. Axi Apache Area
7. Rio Arriba, NM
8. 65.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02169/NM 2925-79B
2. 30-039-21436-0000-2
3. 103 000 000
4. Continental Oil Company
5. Axi Apache N #12 (PC)
6. Axi Apache Area
7. Rio Arriba, NM
8. 44.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico

1. 80-02170/NM-2926-79
2. 30-039-21586-0000-0
3. 103 000 000
4. Continental Oil Company
5. Conoco 29-4 #10
6. East San Juan
7. Rio Arriba, NM
8. 37.0 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Company
1. 80-02171/NM-2927-79A
2. 30-025-25828-0000-1
3. 103 000 000
4. Continental Oil Company
5. Warren Unit-Blinbry No 47
6. Blinbry Oil & Gas
7. Lea, NM
8. 18.0 million cubic feet
9. October 12, 1979
10. Warren Petroleum Company
1. 80-02172/NM-2928-79
2. 30-025-25511-0000-0
3. 103 000 000
4. Continental Oil Company
5. Wells B-1 #4
6. Jalmat Yates Gas
7. Lea, NM
8. 133.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas
1. 80-02173/NM-2930-79
2. 30-025-25849-0000-0
3. 103 000 000
4. Continental Oil Company
5. MCA Unit #357
6. Baish-Maljammar-Pearsall
7. Lea, NM
8. 3.0 million cubic feet
9. October 11, 1979
10. Transwestern (C-7758)
1. 80-02174/NM-2932-79
2. 30-025-25488-0000-0
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Blinbry Bty 1 No 45
6. Blinbry Oil and Gas
7. Lea, NM
8. 42.0 million cubic feet
9. October 11, 1979
10. Warren Petroleum Company (131)
1. 80-02175/NM-2933-79
2. 30-039-21544-0000-0
3. 103 000 000
4. Continental Oil Company
5. Axi Apache J No 28
6. Axi Apache Area
7. Rio Arriba, NM
8. 47.0 million cubic feet
9. October 11, 1979
10. Gas Company of New Mexico
1. 80-02176/NM-2840-79
2. 30-045-05956-0000-0
3. 108 000 000
4. Getty Oil Company
5. J W Goddard No 9
6. South Gallegos
7. San Juan, NM
8. 2.3 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas
1. 80-02177/NM-2851-79
2. 30-039-05818-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla C No 25

6. Otero Gallup
7. Rio Arriba, NM
8. 8.9 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas
1. 80-02178/NM-2850-79
2. 30-039-21068-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla C No 27
6. Basin Dakota
7. Rio Arriba, NM
8. 15.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02179/NM-2844-79
2. 30-045-06452-0000-0
3. 108 000 000
4. Getty Oil Company
5. John Charles No 4
6. Blanco P Cliffs S
7. San Juan, NM
8. 16.3 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02180/NM-2802-79
2. 30-039-05825-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 10
6. Blanco P Cliffs S
7. Rio Arriba, NM
8. 4.2 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02181/NM-2839-79
2. 30-045-6608-0000-0
3. 108 000 000
4. Getty Oil Company
5. Nellie Platero No 2
6. Blanco P Cliffs S
7. San Juan, NM
8. 10.8 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02182/NM-2681-79
2. 30-045-10368-0000-0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Hale-Adobe #1-28
6. Basin Dakota
7. San Juan, NM
8. 14.8 million cubic feet
9. October 12, 1979
10. Southern Union Gas Company
1. 80-02183/NM-2801-79
2. 30-039-05774-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 11
6. Blanco P Cliffs S
7. Rio Arriba, NM
8. 4.8 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02184/NM-2800-79
2. 30-039-05630-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 11
6. Blanco P Cliffs S
7. Rio Arriba, NM
8. 3.1 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp

1. 80-02185/NM-2799-79
2. 30-039-05745-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 5
6. Blanco P Cliffs S
7. Rio Arriba, NM
8. 11.4 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02186/NM-2890-79
2. 30-039-21349-0000-0
3. 103 000 000
4. Continental Oil Company
5. Axi Apache J #27
6. Axi Apache Area
7. Rio Arriba, NM
8. 26.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02187/NM-2797-79
2. 30-039-06442-0000-0
3. 108 000 000
4. Caulkins Oil Company
5. Breech 310
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 16.9 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02188/NM-2795-79
2. 30-039-06465-0000-0
3. 108 000 000
4. Caulkins Oil Company
5. Breech C 328
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 16.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02189/NM-2794-79
2. 30-039-06443-0000-0
3. 108 000 000
4. Caulkins Oil Company
5. Breech 312
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 13.1 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02190/NM-2791-79
2. 30-039-06697-0000-0
3. 108 000 000
4. Caulkins Oil Company
5. Breech E 581
6. Otero Chacra
7. Rio Arriba, NM
8. 6.3 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02191/NM-2790-79
2. 30-039-06636-0000-0
3. 108 000 000
4. Caulkins Oil Company
5. Breech A 629
6. Undesignated Gallup
7. Rio Arriba, NM
8. 15.2 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02192/NM-2789-79
2. 30-039-06505-0000-0
3. 108 000 000
4. Caulkins Oil Company
5. Breech B 220

6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 5.6 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02193/NM-2769-79
2. 30-039-21534-0000-0
3. 103 000 000
4. Caulkins Oil Company
5. Breech D 346
6. Basin Dakota
7. Rio Arriba, NM
8. 112.1 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02194/NM-2768-79A
2. 30-039-21362-0000-1
3. 103 000 000
4. Caulkins Oil Company
5. Breech D 358 (S Blanco PC)
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 44.7 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02195/NM-2768-79B
2. 30-039-21362-0000-2
3. 103 000 000
4. Caulkins Oil Company
5. Breech D 358 (Otero Chacra)
6. Otero Chacra
7. Rio Arriba, NM
8. 44.7 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02196/NM-2798-79A
2. 30-039-21533-0000-1
3. 103 000 000
4. Caulkins Oil Company
5. Breech 228 (Blanco MV)
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 15.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02197/NM-2798-79B
2. 30-039-21533-0000-2
3. 103 000 000
4. Caulkins Oil Company
5. Breech 228 (Otero Chacra)
6. Otero Chacra
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02198/NM-2798-79C
2. 30-039-21533-0000-3
3. 103 000 000
4. Caulkins Oil Company
5. Breech 228 (S Blanco PC)
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 25.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02199/NM-2798-79D
2. 30-039-21533-0000-4
3. 103 000 000
4. Caulkins Oil Company
5. Breech 228 (Basin Dakota)
6. Basin Dakota
7. Rio Arriba, NM
8. 84.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico

1. 80-02200/NM-2893-79A
2. 30-039-21427-0000-1
3. 103 000 000
4. Continental Oil Company
5. Axi Apache N #14 (PC)
6. Axi Apache Area
7. Rio Arriba NM
8. 3.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02201/NM-2893-79B
2. 30-039-21427-0000-2
3. 103 000 000
4. Continental Oil Company
5. Axi Apache N #14 (MV)
6. Axi Apache Area
7. Rio Arriba NM
8. 83.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02202/NM-2891-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Eaves A #4
6. New Mexico Federal Unit
7. Lea NM
8. 1.1 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas (C-26)
1. 80-02203/NM-2889-79
2. 30-025-23811-0000-0
3. 108 000 000
4. Continental Oil Company
5. Eaves B-1 #13
6. New Mexico Federal Unit
7. Lea NM
8. 1.3 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas (C-26)
1. 80-02204/NM-2887-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache M #4
6. Axi Apache Area
7. Rio Arriba NM
8. 3.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02205/NM-2886-79
2. 30-015-22738-0000-0
3. 103 000 000
4. Continental Oil Company
5. Federal 34 #1
6. Spring
7. Eddy NM
8. 720.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas
1. 80-02206/NM-2883-79
2. 30-039-21669-0000-0
3. 103 000 000
4. Continental Oil Company
5. Jicarilla 20 #6
6. West Lindrith
7. Rio Arriba NM
8. 34.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas
1. 80-02207/NM-2882-79
2. 30-025-25852-0000-0
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Tubbs #49

6. Warren Tubbs (Oil)
7. Lea NM
8. 9.0 million cubic feet
9. October 12, 1979
10. Warren Petroleum
1. 80-02208/NM-2881-79
2. 30-025-25586-0000-0
3. 103 000 000
4. Continental Oil Company
5. Vaughan A-12 #2
6. Langlie Mattix Seven Rivers Queen
7. Lea NM
8. .0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas
1. 80-02209/NM-2880-79
2. 30-025-25851-0000-0
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Tubbs #48
6. Warren Tubbs Oil
7. Lea NM
8. 15.0 million cubic feet
9. October 12, 1979
10. Warren Petroleum Company
1. 80-02210/NM-2878-79
2. 30-039-21607-0000-0
3. 103 000 000
4. Continental Oil Company
5. Jicarilla 30 #8
6. West Lindrith
7. Rio Arriba NM
8. 16.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas (C-8285)
1. 80-02211/NM-2875-79
2. 30-039-21606-0000-0
3. 103 000 000
4. Continental Oil Company
5. Jicarilla 30 #9
6. West Lindrith
7. Rio Arriba NM
8. 14.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas (C-8285)
1. 80-02212/NM-2873-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Axi Apache A #9
6. Axi Apache Area
7. Rio Arriba NM
8. 9.3 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico (C-4787)
1. 80-02213/NM-2871-79
2. 30-025-25850-0000-0
3. 103 000 000
4. Continental Oil Company
5. Warren Unit Blinbry Battery 1 #50
6. Blinbry Oil & Gas
7. Lea NM
8. 5.0 million cubic feet
9. October 12, 1979
10. Warren Petroleum
1. 80-02214/NM-2870-79
2. 30-025-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Hawk B-3 #19
6. New Mexico Federal Unit
7. Lea NM
8. 12.9 million cubic feet
9. October 12, 1979
10. Getty Oil Co (C-112)

1. 80-02215/NM-2838-79
2. 30-045-06550-0000-0
3. 108 000 000
4. Getty Oil Company
5. Marshall A No 1
6. Blanco P Cliffs S
7. San Juan NM
8. 6.1 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02216/NM-2843-79
2. 30-039-05987-0000-0
3. 108 000 000
4. Getty Oil Company
5. C W Roberts No 2
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 7.6 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02217/NM-2842-79
2. 30-045-05937-0000-0
3. 108 000 000
4. Getty Oil Company
5. J W Goddard No 3
6. South Gallegos
7. San Juan NM
8. 5.9 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02218/NM-2841-79
2. 30-045-05930-0000-0
3. 108 000 000
4. Getty Oil Company
5. Navajo L No 1
6. South Gallegos
7. San Juan NM
8. 11.7 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02219/NM-2824-79
2. 30-039-05291-0000-0
3. 108 000 000
4. Getty Oil Company
5. Anderson A No 3
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 5.1 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02220/NM-2810-79
2. 30-039-05815-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla C No 5
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 3.7 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02221/NM-2809-79
2. 30-039-05683-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla B No 3
6. Basin Dakota
7. Rio Arriba NM
8. 6.5 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02222/NM-2808-79
2. 30-039-05635-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla B No 1

6. Ballard Pictured Cliffs
7. Rio Arriba County NM
8. 9.2 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02223/NM-2807-79
2. 30-039-05786-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 6
6. Blanco P Cliffs S
7. Rio Arriba NM
8. .3 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02224/NM-2806-79
2. 30-039-05776-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 1
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 4.1 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02225/NM-2805-79
2. 30-039-05829-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 7
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 5.1 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02226/NM-2803-79
2. 30-039-05687-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 2
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 12.1 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02227/NM-2804-79
2. 30-039-05775-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 9
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 4.4 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02228/NM-2829-79
2. 30-039-06024-0000-0
3. 108 000 000
4. Getty Oil Company
5. C W Roberts No 1
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 9.0 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02229/NM-2828-79
2. 30-045-06538-0000-0
3. 108 000 000
4. Getty Oil Company
5. Marshall A No 4
6. Blanco P Cliffs S
7. San Juan NM
8. 6.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company

1. 80-02230/NM-2827-79
2. 30-039-05961-0000-0
3. 108 000 000
4. Getty Oil Company
5. V R Nordhaus No 1
6. Ballard PC
7. Rio Arriba NM
8. 12.6 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02231/NM-2826-79
2. 30-045-06577-0000-0
3. 108 000 000
4. Getty Oil Company
5. Campbell Com #1 No 1
6. Basin Dakota
7. San Juan NM
8. 9.8 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02232/NM-2833-79
2. 30-039-05741-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla B No 8
6. Otero Gallup
7. Rio Arriba NM
8. 7.2 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02233/NM-2825-79
2. 30-039-05324-0000-0
3. 108 000 000
4. Getty Oil Company
5. Anderson A No 1
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 9.8 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02234/NM-2837-79
2. 30-039-05879-0000-0
3. 108 000 000
4. Getty Oil Company
5. Lydia Rentz No 5
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 9.3 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02235/NM-2836-79
2. 30-039-05688-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 3
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 18.5 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02237/NM-2834-79
2. 30-039-05725-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla B No 2
6. Otero Gallup
7. Rio Arriba NM
8. 6.7 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02238/NM-2832-79
2. 30-039-05707-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla B No 2

6. Otero Gallup
7. Rio Arriba NM
8. 10.7 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02239/NM-2831-79
2. 30-039-05682-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla B No 2
6. Otero Gallup
7. Rio Arriba NM
8. 2.1 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02240/NM-2830-79
2. 30-039-05739-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 4
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 11.4 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02241/NM-2765-79
2. 30-039-21539-0000-0
3. 108 000 000
4. Caulkins Oil Company
5. Breech D 640
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 96.9 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02242/NM-2764-79
2. 30-039-21530-0000-0
3. 103 000 000
4. Caulkins Oil Company
5. Breech C 644
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 74.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02243/NM-2758-79
2. 30-039-60010-0000-0
3. 103 000 000
4. Caulkins Oil Company
5. Breech E 102
6. Undesignated Gallup
7. Rio Arriba NM
8. 5.9 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02244/NM-2819-79
2. 30-045-06554-0000-0
3. 108 000 000
4. Getty Oil Company
5. Marshall A No 2
6. Blanco P Cliffs S
7. San Juan
8. 14.3 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02245/NM-2869-79
2. 30-039-05765-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla B No 21
6. Basin Dakota
7. Rio Arriba NM
8. 7.8 million cubic feet
9. October 11, 1979
10. El Paso Natural Gas Company

1. 80-02246/NM-2557-79
2. 30-039-21713-0000-0
3. 103 000 000
4. Odessa Natural Corporation
5. Jicarilla JV PC 109
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 32.9 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02247/NM-2555-79
2. 30-039-21536-0000-0
3. 103 000 000
4. Odessa Natural Corporation
5. Little Federal No 32-2
6. Chacon Dakota
7. Rio Arriba NM
8. 377.8 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02248/NM-2768-79
2. 30-039-21352-0000-0
3. 103 000 000
4. Caulkins Oil Company
5. Breech E 558
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 27.9 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02249/NM-2846-79
2. 30-039-05857-0000-0
3. 103 000 000
4. Getty Oil Company
5. Jicarilla C No 14
6. Otero Chacra
7. Rio Arriba NM
8. 17.1 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02250/NM-2849-79
2. 30-039-05740-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla B No 12
6. Otero Gallup
7. Rio Arriba NM
8. 8.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02251/NM-2848-79
2. 30-039-05762-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla C No 12
6. Blanco P Cliffs S & Otero Chacra
7. Rio Arriba NM
8. 2.5 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02252/NM-2847-79
2. 30-039-05767-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla C No 13
6. Blanco P Cliffs S & Otero Chacra
7. Rio Arriba NM
8. 6.6 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02253/NM-2852-79
2. 30-045-06637-0000-0
3. 108 000 000
4. Getty Oil Company
5. Nellie Platero No 3

6. Blanco P Cliffs S
7. San Juan NM
8. 3.9 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02254/NM-2854-79
2. 30-039-05820-0000-0
3. 108 000 000
4. Getty Oil Company
5. L L McConnell No 12
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 5.4 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02255/NM-2867-79-A
2. 30-045-23116-0000-1
3. 103 000 000
4. Getty Oil Company
5. B M Houck No 1-L
6. Undesignated MV
7. San Juan NM
8. 60.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02256/NM-2867-79-B
2. 30-045-23116-0000-2
3. 103 000 000
4. Getty Oil Company
5. B M Houck No 1-L
6. Bloomfield Chacra
7. San Juan NM
8. 36.2 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02257/NM-2859-79
2. 30-045-22673-0000-0
3. 103 000 000
4. Getty Oil Company
5. John Charles No 7-A
6. Blanco Mesaverde
7. San Juan NM
8. 85.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Company
1. 80-02258/NM-2860-79
2. 30-045-22672-0000-0
3. 103 000 000
4. Getty Oil Company
5. Nellie Platero No 5-A
6. Blanco Mesaverde
7. San Juan NM
8. 71.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02259/NM-2861-79
2. 30-045-22678-0000-0
3. 103 000 000
4. Getty Oil Company
5. Marshall A No 6-A
6. Blanco Mesaverde
7. San Juan NM
8. 67.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02260/NM-1-LI-M
2. 30-045-22660-0000-0
3. 103 000 000
4. Getty Oil Company
5. John Charles No 6-A
6. Blanco Mesaverde
7. San Juan NM
8. 71.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co

1. 80-02261/NM-2863-79
2. 30-045-22679-0000-0
3. 103 000 000
4. Getty Oil Company
5. Marshall-Gentle No 1-A
6. Blanco Mesaverde
7. San Juan NM
8. 81.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02264/NM-2853-79
2. 30-039-05876-0000-0
3. 108 000 000
4. Getty Oil Company
5. Lydia Rentz No 1
6. Blanco P Cliffs S
7. Rio Arriba NM
8. 7.4 million cubic feet
9. October 12, 1979
10. Northwest Pipeline Corp
1. 80-02265/NM-2865-79-A
2. 30-045-23130-0000-1
3. 103 000 000
4. Getty Oil Company
5. Bunce A No 1-L
6. Undesignated Mv
7. San Juan NM
8. 60.0 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02266/NM-2865-79-B
2. 30-045-23130-0000-2
3. 103 000 000
4. Getty Oil Company
5. Bunce A No 1 U
6. Bloomfield Chacra
7. San Juan NM
8. 3.8 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02267/NM-2857-79
2. 30-039-21111-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla B No 24
6. Basin Dakota
7. Rio Arriba NM
8. 18.3 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02289/NM-2762-79
2. 30-039-21531-0000-0
3. 103 000 000
4. Caulkins Oil Company
5. Breech C 744
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 105.8 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02290/NM-2892-79
2. 30-25-00000-0000-0
3. 108 000 000
4. Continental Oil Company
5. Eaves B-1 #12
6. New Mexico Federal Unit
7. Lea NM
8. 1.4 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02291/NM-2767-79
2. 30-039-21365-0000-0
3. 103 000 000
4. Caulkins Oil Company
5. Breech F 545

6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 47.0 million cubic feet
9. October 12, 1979
10. Gas Company of New Mexico
1. 80-02292/NM-2858-79
2. 30-039-05806-0000-0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla C No 11
6. Blanco P Cliffs S & Otero Chacra
7. Rio Arriba NM
8. 13.2 million cubic feet
9. October 12, 1979
10. El Paso Natural Gas Co
1. 80-02293/NM-2864-79
2. 30-045-22574-0000-0
3. 103
4. Getty Oil Company
5. Mexico—Federal B #1-AU
6. Aztec—Fruitland
7. San Juan NM
8. 30.0 million cubic feet
9. October 12, 1979
10. Southern Union Gathering Co.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 8, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35918 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

[No. 111]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 9, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

- Control Number (F.E.R.C./State)
- API Well Number
- Section of NGPA
- Operator
- Well Name
- Field or OCS area name

- County, State or Block No.
- Estimated annual volume
- Date received at FERC
- Purchaser(s)
1. 80-03984/K-79-445
2. 15-093-00000-0000
3. 108 000 000
4. Kansas-Nebraska Natural Gas Company
5. Widner #1
6. Hugoton
7. Kearny, KS
8. 18.0 million cubic feet
9. October 25, 1979
10.
1. 80-03985/K-79-0427
2. 15-145-20536-0000
3. 103 000 000
4. Halliburton Oil Producing Company
5. Scharzt 1-B
6. Zook (Pennsylvanian-Mississippian C
7. Pawnee, KS
8. 100.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Company
1. 80-03986/K-79-426
2. 15-145-20538-0000
3. 103 000 000
4. Halliburton Oil Producing Company
5. Scharzt 1-C
6. Zook (Pennsylvanian-Mississippian C
7. Pawnee, KS
8. 100.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Company
1. 80-03987/K-79-431
2. 15-007-00000-0000
3. 108 000 000
4. John O Farmer Inc
5. Ohlson #1
6. Hardtner
7. Barber, KS
8. .0 million cubic feet
9. October 25, 1979
10. Cities Service Gas Company
1. 80-03988/K-79-429
2. 15-007-00000-0000
3. 108 000 000
4. John O Farmer Inc
5. Schiff #1
6. Rhodes Northeast
7. Barber, KS
8. .0 million cubic feet
9. October 25, 1979
10. Cities Service Gas Company
1. 80-03989/K-79-0388
2. 15-055-20297-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Moody #2
6. Panoma
7. Finney, KS
8. 122.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co
1. 80-03990/K-79-389
2. 15-055-20298-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Hatfield Gas Unit #2
6. Panoma Council Grove
7. Finney, KS
8. 114.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Company
1. 80-03991/K-79-0390

2. 15-055-20288-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Nolan Gas Unit #2
6. Panoma Council Grove
7. Finney, KS
8. 89.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Company
1. 80-03992/K-79-0391
2. 15-093-20384-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Heintz Gas Unit #2
6. Panoma Council Grove
7. Finney, KS
8. 122.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Company
1. 80-03993/K-79-0392
2. 15-093-20382-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Loucks A Gas Unit
6. Panoma Council Grove
7. Kearny, KS
8. 117.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Company
1. 80-03994/K-79-0393
2. 15-093-20381-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Loucks Petroleum Company
6. Panoma Council Grove
7. Kearny, KS
8. 100.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Company
1. 80-03995/K-79-394
2. 15-055-20277-0000
3. 103 000 000
4. Champlin Petroleum Company
5. McGonigal Gas Unit #2
6. Panoma Council Grove
7. Finney, KS
8. 82.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natl Gas Co Inc
1. 80-03996/K-79-553
2. 15-055-00000-0000
3. 108 000 000
4. Kansas-Nebraska Natural Gas Company
5. P Shell #1
6. Hugoton
7. Finney, KS
8. 18.0 million cubic feet
9. October 25, 1979
10.
1. 80-03997/K-79-555
2. 15-175-20334-0000
3. 103 000 000
4. Burnett Corporation
5. Kane-Baughman #1
6. Unnamed Field Lansing Formation
7. Seward
8. 200.0 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-03998/K-79-556
2. 15-189-20423-0000
3. 103 000 000
4. Mobil Oil Corporation
5. I G Ellis Unit Well #1
6. Gentzler

7. Stevens, KS
8. 200.0 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-03999/K-79-557
2. 15-189-20404-0000
3. 103 000 000
4. Northern Natural Gas Producing Comp
5. Bunton #2 Unit #8
6. Panoma
7. Stevens, KS
8. 70.0 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-04000/K-79-581
2. 15-175-10017-0000
3. 108 000 000
4. Cabot Corporation
5. H C Bryant A #1
6. Undesignated
7. Seward, KS
8. 8.0 million cubic feet
9. October 25, 1979
10. Cities Service Gas Co
1. 80-04001/K-79-602
2. 15-055-00000-0000
3. 108 000 000
4. Texaco Inc
5. Erickson Gas Unit No 1
6. Hugoton
7. Finney, KS
8. 13.1 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-04002/K-79-603
2. 15-055-00000-0000
3. 108 000 000
4. Texaco Inc
5. Garden City Unit No 1
6. Hugoton
7. Finney, KS
8. 12.0 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-04003/K-79-604
2. 15-055-00000-0000
3. 108 000 000
4. Texaco Inc
5. Ed Hughes B No 1
6. Hugoton
7. Finney, KS
8. 21.2 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-04004/K-79-605
2. 15-055-00000-0000
3. 108 000 000
4. Texaco Inc
5. Kianer-Horton Unit No 1
6. Hugoton
7. Finney, KS
8. 18.6 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-04005/K-79-606
2. 15-055-00000-0000
3. 108 000 000
4. Texaco Inc
5. Landgraf Unit No 1
6. Hugoton
7. Finney, KS
8. .0 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-04006/K-79-600

2. 15-055-00000-0000
3. 108 000 000
4. Texaco Inc
5. Anderson-Shrier Unit No 1
6. Hugoton
7. Finney, KS
8. 20.8 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-04007/K-79-601
2. 15-055-00000-0000
3. 108 000 000
4. Texaco Inc
5. J W Davis Unit No 1
6. Hugoton
7. Finney, KS
8. 15.0 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-04008/K-79-607
2. 15-055-00000-0000
3. 108 000 000
4. Texaco Inc
5. H M Riffel No 1
6. Hugoton
7. Finney, KS
8. 6.6 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-04009/K-79-608
2. 15-1119-10213-0000
3. 108 000 000
4. Texaco Inc
5. A D Sanders B
6. Singley-Sanders
7. Meade KS
8. .0 million cubic feet
9. October 25, 1979
10. Panhandle Eastern Pipe Line Co
1. 80-04010/K-79-609
2. 15-189-20428-0000
3. 103 000 000
4. Texaco Inc
5. Curtis No 2
6. Panoma
7. Stevens KS
8. 72.0 million cubic feet
9. October 25, 1979
10. Cities Service Gas Company
1. 80-04011/K-79-610
2. 15-189-20429-0000
3. 103 000 000
4. Texaco Inc
5. C M Dudley No 2
6. Panoma
7. Stevens KS
8. 72.0 million cubic feet
9. October 25, 1979
10. Cities Services Gas Company
1. 80-04012/K-79-0399
2. 15-175-20370-0000
3. 103 000 000
4. Anadarko Production Company
5. Guttridge C-2
6. Shuck
7. Seward KS
8. 975.0 million cubic feet
9. October 25, 1979
10. Cimarron-Quingue A Div of APC
1. 80-04013/K-79-0400
2. 15-175-20368-0000
3. 103 000 000
4. Anadarko Production Company
5. Guttridge B No 2
6. Shuck

7. Seward KS
8. 5.80 million cubic feet
9. October 25, 1979
10. Cimarron-Quingue A Div of APC
1. 80-04014/K-79-0594
2. 15-129-00000-0000
3. 108 000 000
4. Gas Producing Enterprises Inc
5. Craver 1-32
6. Greenwood
7. Morton KS
8. 11.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co
1. 80-04015/K-79-595
2. 15-129-00000-0000
3. 108 000 000
4. Gas Producing Enterprises Inc
5. Fullerton 1-21
6. Greenwood
7. Morton KS
8. 14.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co
1. 80-04016/K-79-0378
2. 15-055-20332-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Kansas #2
6. Panoma
7. Finney KS
8. 110.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Nat Gas Co
1. 80-04017/K-79-0379
2. 15-093-20465-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Orlie White Gas Unit #2
6. Panoma Council Grove
7. Kearny KS
8. 106.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Company
1. 80-04018/K-79-0380
2. 15-055-20267-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Wm H Moody #2
6. Panoma Council Grove
7. Finney KS
8. 88.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Company
1. 80-04019/K-79-0381
2. 15-055-20324-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Potter #2
6. Panoma
7. Finney KS
8. 168.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Nat Gas Co
1. 80-04020/K-79-0382
2. 15-055-20300-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Lee #2
6. Panoma
7. Finney KS
8. 65.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co
1. 80-04021/K-79-0383

2. 15-093-20482-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Claypool D1-21
6. Council Grove
7. Kearny KS
8. 30.0 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Co
1. 80-04022/K-79-0384
2. 15-175-20293-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Silverman #2
6. Silverman
7. Seward KS
8. 91.0 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Co
1. 80-04023/K-79-0385
2. 15-055-20321-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Garnand #2
6. Panama
7. Finney KS
8. 100.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co
1. 80-04024/K-79-0388
2. 15-055-20298-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Lockwood #2
6. Panama
7. Finney KS
8. 100.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co
1. 80-04025/K-79-0387
2. 15-055-20266-0000
3. 103 000 000
4. Champlin Petroleum Company
5. Reeves Gas Unit #2
6. Panama Council Grove
7. Finney KS
8. 100.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Company
1. 80-04026/K-79-0452
2. 15-035-21246-0000
3. 103 000 000
4. W B Osborn Jr (Operator)
5. McNickle #1
6. Panama
7. Cowley KS
8. 75.0 million cubic feet
9. October 25, 1979
10. Citices Service Gas Co
1. 80-04027/K-79-0453
2. 15-093-20552-0000
3. 102 000 000
4. W B Osborn Jr Operator
5. Myrtle #1-A
6. Panama
7. Kearny KS
8. 30.0 million cubic feet
9. October 25, 1979
10. Panhandle Eastern Pipeline
1. 80-04028/K-79-0454
2. 15-093-20402-0000
3. 102 000 000
4. W B Osborn Jr Operator
5. Martin #3 (3-A)
6. Panama
7. Kearny KS
8. 40.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co
1. 80-04029/K-79-0455
2. 15-093-20556-0000
3. 102 000 000
4. W B Osborn Jr Operator
5. Miller #3-A
6. Panama
7. Kearny KS
8. 75.0 million cubic feet
9. October 25, 1979
10. Panhandle Eastern Pipeline
1. 80-04030/K-79-0456
2. 15-093-20404-0000
3. 102 000 000
4. W B Osborn Jr Operator
5. Martin #2 (2-A)
6. Panama
7. Kearny KS
8. 100.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co
1. 80-04031/K-79-0463
2. 15-093-20400-0000
3. 103 000 000
4. W B Osborn Jr Operator
5. Miller #2 (2-A)
6. Panama
7. Kearney KS
8. 40.0 million cubic feet
9. October 25, 1979
10. Colorado Interstate Gas Co
1. 80-04032/K-79-0464
2. 15-093-20444-0000
3. 103 000 000
4. W B Osborn Jr Operator
5. Miles #1-A
6. Panama
7. Kearny KS
8. 75.0 million cubic feet
9. October 25, 1979
10. Panhandle Eastern Pipeline
1. 80-04033/K-79-0443
2. 15-145-20498-0000
3. 102 000 000
4. F G Holl
5. City of Garfield No 1
6. Garfield SW
7. Pawnee KS
8. 60.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 80-04034/K-79-0442
2. 15-047-20336-0000
3. 102 000 000
4. F G Holl
5. G D White No 1
6. WAC North
7. Edwards KS
8. 60.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 80-04035/K-79-0439
2. 15-047-20370-0000
3. 102 000 000
4. F G Holl
5. Cross No 1-19
6. Mundhenke
7. Edwards KS
8. 210.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 80-04036/K-79-0438

2. 15-047-20365-0000
3. 102 000 000
4. F G Holl
5. Hoar No 2-6
6. Garfield SW
7. Edwards KS
8. 19.0 million cubic feet
9. October 25, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 80-04037/K-79-0436
2. 15-035-20659-0000
3. 108 000 000
4. Olympic Petroleum Company
5. No 1 F G Jabara
6. East Mansur Field
7. Cowley KS
8. 3.6 million cubic feet
9. October 25, 1979
10. Cities Service Gas Company
1. 80-04038/K-79-0434
2. 15-199-20019-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Hinrichs #1
6. Wildcat
7. Wallace KS
8. 913.0 million cubic feet
9. October 25, 1979
10. The Nueces Company
1. 80-04039/K-79-0433
2. 15-199-20023-0000
3. 102 000 000
4. Texas Oil & Gas Corp
5. Johannes #1
6. Wildcat
7. Wallace KS
8. 91.0 million cubic feet
9. October 25, 1979
10. The Nueces Company

Kentucky Department of Mines and Minerals,
Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-03927/ERC-207
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 11
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03810/ERC-104
2. 16-107-23951-0000
3. 108 000 000
4. Barron Kidd
5. Barron Kidd Fox #5 Permit No 22433
6. Elk Creek Sec 12 Twp K Rge 25
7. Hopkins KY
8. 2.2 million cubic feet
9. October 25, 1979
10. Western Kentucky Gas Company
1. 80-03811/ERC-103
2. 16-107-23200-0000
3. 108 000 000

4. Barron Kidd
5. Barron Kidd-Fox #4 Permit #23200
6. Elk Creek Sec 12 Twp K Rge 25
7. Hopkins KY
8. 2.2 million cubic feet
9. October 25, 1979
10. Western Kentucky Gas Company
1. 80-03812/ERC-91
2. 16-193-00000-0000
3. 108 000 000
4. W W Lindsey
5. Melissa Jobe Well #1
- 6.
7. Perry KY
8. 9.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03313/ERC-102
2. 16-107-22433-0000
3. 108 000 000
4. Barron Kidd
5. Barron Kidd-Fox #3 Permit #22433
6. Elk Creek Sec 18 Twp K-Rge 25
7. Hopkins County KY
8. 2.2 million cubic feet
9. October 25, 1979
10. Western Kentucky Gas Company
1. 80-03814/ERC-101
2. 16-107-89340-0000
3. 108 000 000
4. Barron Kidd
5. Barron Kidd-Fox #1 Permit No 8934
6. Elk Creek Sec 12 Twp K Rge 25
7. Hopkins County KY
8. 2.2 million cubic feet
9. October 25, 1979
10. Western Kentucky Gas Company
1. 80-03815/ERC-100
2. 16-195-00000-0000
3. 108 000 000
4. R E Riley & Thadeus Scott Trustee
5. Nell #1 J R Sword Farm
6. East KY Pikeville Marion Branch
7. Pike KY
8. 18.5 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03816/ERC-99
2. 16-195-00000-0000
3. 108 000 000
4. W E Elliott Trustee
5. James Hatcher Acct 501 Well #3
- 6.
7. Pike KY
8. 15.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03817/ERC-98
2. 16-195-00000-0000
3. 108 000 000
4. W E Elliott
5. Will Justice Well #1
- 6.
7. Pike KY
8. .0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03818/ERC-97
2. 16-195-00000-0000
3. 108 000 000
4. W E Elliott Trustee
5. James Hatcher Acct 501 Well #1
- 6.
7. Pike KY
8. 15.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03819/ERC-96
2. 16-133-00000-0000
3. 108 000 000
4. W W Lindsey and W F Elliott
5. Wayne Brown Well
- 6.
7. Letcher KY
8. 5.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03820/ERC-95
2. 16-195-00000-0000
3. 108 000 000
4. W E Elliott Trustee
5. James Hatcher Acct 501 Well #2
- 6.
7. Pike KY
8. 15.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03821/ERC-94
2. 16-133-00000-0000
3. 108 000 000
4. W W Lindsey and W E Elliott
5. Oakland Halcomb Well 1
- 6.
7. Letcher KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03822/ERC-93
2. 16-193-00000-0000
3. 108 000 000
4. W W Lindsey
5. Melissa Jobe #2
6. Leatherwood
7. Perry KY
8. 9.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03823/ERC-92
2. 16-193-00000-0000
3. 108 000 000
4. W W Lindsey and W E Elliott
5. Ernest Pratt #1
- 6.
7. Perry KY
8. .0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03824/ERC-90
2. 16-193-00000-0000
3. 108 000 000
4. W W Lindsey and W E Elliott
5. Kentucky River Coal Corp #1
6. Leatherwood
7. Perry KY
8. 4.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03825/ERC-89
2. 16-193-00000-0000
3. 108 000 000
4. W W Lindsey and W E Elliott
5. Kentucky River Coal Corp Well #2
6. Leatherwood
7. Perry KY
8. 10.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03826/ERC-88
2. 16-193-00000-0000
3. 108 000 000
4. W W Lindsey and W W Elliott
5. Jobe & Pratt Well
6. Leatherwood
7. Perry KY
8. 2.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03827/ERC-87
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Addison-Gamblin No. 1 (16558 T)
6. St. Charles
7. Hopkins KY
8. 1.4 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corp
1. 80-03828/ERC-86
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Island Creek No 12 (16570)
6. St Charles
7. Hopkins KY
8. 4.0 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03829/ERC-85
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Island Creek No 11 (16560)
6. St Charles
7. Hopkins KY
8. 1.3 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03830/ERC-84
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Island Creek No 10 (16555T)
6. St Charles
7. Hopkins KY
8. 5.9 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03831/ERC-83
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Island Creek No 9 (16482C)
6. St Charles
7. Hopkins KY
8. 6.1 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03832/ERC-82
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Island Creek No 15 (16612)
6. St Charles
7. Hopkins KY
8. 3.7 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03833/ERC-81
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Island Creek No 17 (16660)
6. St Charles
7. Hopkins KY

8. 7.0 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03834/ERC-80
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Morris Community (16411)
6. St Charles
7. Hopkins Ky
8. .3 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03835/ERC-79
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Western Kentucky No 2
6. St Charles
7. Hopkins Ky
8. 16.2 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03836/ERC-78
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Stearman No 1
6. St Charles
7. Hopkins Ky
8. 2.0 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03837/ERC-77
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Island Creek No 9 (16482T)
6. St Charles
7. Hopkins Ky
8. 4.5 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03838/ERC-76
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Addison-Gamblin No 1 (16558C)
6. St Charles
7. Hopkins Ky
8. 3.9 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03839/ERC-75
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Island Creek Coal Co No 16
6. South Mortons Gap
7. Hopkins Ky
8. 12.8 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03840/ERC-74
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. W N Cox Estate No 1
6. Elk Creek Gas Field
7. Hopkins Ky
8. 12.1 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03841/ERC-73
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. L Qualls No 1
6. St Charles
7. Hopkins Ky
8. .0 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03842/ERC-72
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Western Kentucky No 8
6. St Charles
7. Hopkins Ky
8. 4.2 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03843/ERC-71
2. 16-107-00000-0000
3. 108 000 000
4. Har-Ken Oil Company
5. Western Kentucky No 1
6. St Charles
7. Hopkins Ky
8. 9.0 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03844/ERC-129
2. 16-071-00000-0000
3. 103 000 000
4. W E Elliott Trustee Acct 505
5. Gearheart Et Al #1
6.
7. Floyd KY
8. .0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03845/ERC-128
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Minnie Pack #2
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03846/ERC-125
2. 16-127-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. John Smith #1
6.
7. Lawrence KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission
1. 80-03847/ERC-124
2. 16-127-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. E E Shannon #1
6.
7. Lawrence KY
8. 1.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03848/ERC-123
2. 16-127-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Nell Perry #1
6.

7. Lawrence KY
8. 1.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03849/ERC-122
2. 16-127-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Derifield #2
6.
7. Lawrence KY
8. 1.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Company
1. 80-03850/ERC-121
2. 16-127-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Charles Derifield #1
6.
7. Lawrence KY
8. 1.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03851/ERC-120
2. 16-127-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Derifield #3
6.
7. Lawrence KY
8. 1.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03852/ERC-119
2. 16-127-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. E Wallace or F Porter #3
6.
7. Lawrence KY
8. 1.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03853/ERC-118
2. 16-127-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. E Wallace or F Porter #1
6.
7. Lawrence KY
8. 1.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03854/ERC-117
2. 16-127-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Sam Branhan #1
6.
7. Lawrence KY
8. 12.3 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Co
1. 80-03855/ERC-116
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Hinkle and Ward #1
6.
7. Martin KY
8. 2.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission
1. 80-03856/ERC-115
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. George Justice #1
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission
1. 80-03858/ERC-113
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Vinson Heirs
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission
1. 80-03859/ERC-112
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Edgar Cassel #1
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission
1. 80-03860/ERC-111
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. John Coble #1
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03861/ERC-110
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. James Horn #1
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03862/ERC-109
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Belle Fitzpatrick #2
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03863/ERC-108
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Belle Fitzpatrick #3
6.

2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Sarah Martin #2
6.
7. Martin KY
8. 9.5 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Co
1. 80-03857/ERC-114
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. George Justice #1
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission
1. 80-03858/ERC-113
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Vinson Heirs
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission
1. 80-03859/ERC-112
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Edgar Cassel #1
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission
1. 80-03860/ERC-111
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. John Coble #1
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03861/ERC-110
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. James Horn #1
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03862/ERC-109
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Belle Fitzpatrick #2
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03863/ERC-108
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Belle Fitzpatrick #3
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03864/ERC-107
2. 16-159-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Carl Pack #2
6.
7. Martin KY
8. 7.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03865/ERC-106
2. 16-025-00000-0000
3. 108 000 000
4. Baiden Gas Company
5. Clyde Endicott #1
6.
7. Lawrence KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Co
1. 80-03866/ERC-105
2. 16-025-00000-0000
3. 108 000 000
4. T & M Producers
5. T & M #2
6. Quicksand
7. Breathitt County KY
8. 6.5 million cubic feet
9. October 25, 1979
10. Panbowl Gas Company
1. 80-03867/ERC-127
2. 16-195-00000-0000
3. 107 000 000
4. W E Elliott Trustee Acct 504
5. J E Childers Etal Acct 504 #1
6.
7. Pike KY
8. 100.0 million cubic feet
9. October 25, 1979
10. Columbia Trans Corp
1. 80-03868/ERC-128
2. 16-195-00000-0000
3. 103 000 000
4. W E Elliott Trustee Acct 504
5. J E Childers et al Acct 504 well #1
6.
7. Pike KY
8. 100.0 million cubic feet
9. October 25, 1979
10. Coilumbia Trans Corp
1. 80-03869/ERC-130
2. 16-071-00000-0000
3. 108 000 000
4. Victor Hale
5. G W Ratliff Well No 2(OG) Ky Permit
6. Middle Creek
7. Floyd KY
8. 8.7 million cubic feet
9. October 25, 1979
10. Kentucky W Va Gas Co
1. 80-03870/ERC-131
2. 16-071-00000-0000
3. 108 000 000
4. Victor Hale
5. G W Ratliff (Ky W Va Gas Co) No 1
6. Middle Creek
7. Floyd KY
8. 8.7 million cubic feet
9. October 25, 1979
10. Kentucky W Va Gas Co
1. 80-03871/ERC-132
2. 16-051-00000-0000
3. 108 000 000
4. Paken Exploration Co
5. Lewis #2
6.
7. Clay KY
8. 2.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03872/ERC-133
2. 16-051-00000-0000
3. 108 000 000
4. Paken Exploration co
5. Lewis #3
6.
7. Clay KY
8. .4 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03873/ERC-134
2. 16-149-00000-0000
3. 108 000 000
4. K L I Petroleum
5. Bryant 1-G
6. Rumsey Field
7. McLean KY
8. 11.8 million cubic feet
9. October 25, 1979
10. Orbit Gas Company
1. 80-03874/ERC-135
2. 16-149-00000-0000
3. 108 000 000
4. K L I Petroleum
5. Conrad 3-G
6. Rumsey Field
7. McLean KY
8. 1.0 million cubic feet
9. October 25, 1979
10. Orbit Gas Company
1. 80-03875/ERC-136
2. 16-149-00000-0000
3. 108 000 000
4. K L I Petroleum Corp
5. Conrad B-1-G
6. Rumsey Field
7. McLean KY
8. 4.8 million cubic feet
9. October 25, 1979
10. Orbit Gas Company
1. 80-03876/ERC-137
2. 16-149-00000-0000
3. 108 000 000
4. K L I Petroleum
5. Walters 1-G
6. Rumsey Field
7. McLean KY
8. 10.1 million cubic feet
9. October 25, 1979
10. Orbit Gas Company
1. 80-03877/ERC-138
2. 16-149-00000-0000
3. 108 000 000
4. K L I Petroleum Corp
5. Kittinger 1-G
6. Rumsey Field
7. McLean KY
8. 18.8 million cubic feet
9. October 25, 1979
10. Orbit Gas Company
1. 80-03878/ERC-139
2. 16-195-00000-0000
3. 108 000 000
4. W E Burchett
5. Stepp #2
6. District #6

7. Pike KY
8. 6.6 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03879/ERC-140
2. 16-195-00000-0000
3. 108 000 000
4. W E Burchett
5. Stepp #1
6. District #8
7. Pike KY
8. 6.6 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03880/ERC-141
2. 16-195-00000-0000
3. 108 000 000
4. W E Burchett
5. Stepp #4
6. District #8
7. Pike KY
8. 6.6 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03881/ERC-142
2. 16-195-00000-0000
3. 108 000 000
4. W E Burchett
5. Stepp #5
6. District #8
7. Pike KY
8. 6.6 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03882/ERC-143
2. 16-195-00000-0000
3. 108 000 000
4. W E Burchett
5. Stepp #6
6. District #8
7. Pike KY
8. 6.6 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03883/ERC-144
2. 16-195-00000-0000
3. 108 000 000
4. W E Burchett
5. Bonzo #1
6.
7. Pike KY
8. 7.3 million cubic feet
9. October 25, 1979
10. Cities Service Company
1. 80-03884/ERC-145
2. 16-195-00000-0000
3. 108 000 000
4. W E Burchett
5. Bonzo #2
6.
7. Pike KY
8. 5.1 million cubic feet
9. October 25, 1979
10. Cities Service Company
1. 80-03885/ERC-146
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #8 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03886/ERC-147

2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #3 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03887/ERC-148
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #6 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03888149/ERC-149195
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #2 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03889/ERC-150
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #13 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03890/ERC-151
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #12 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03891/ERC-152
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #11 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03892/ERC-153
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #10 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03893/ERC-154
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #9 B F Johnson lease
6. East KY Virgie Shelby Valley

7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03894/ERC-155
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #1—B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03895/ERC-156
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #4 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03896/ERC-157
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #14 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03897/ERC-158
2. 16-195-00000-0000
3. 108 000 000
4. Riley & Scott Gas Co
5. Well #5 B F Johnson lease
6. East KY Virgie Shelby Valley
7. Pike KY
8. 9.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03898/ERC-159
2. 16-195-00000-0000
3. 108 000 000
4. W E Burchett
5. Stepp #3
6. District #8
7. Pike KY
8. 6.6 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03899/ERC-160
2. 16-127-00000-0000
3. 108 000 000
4. Quintana Petroleum Corp
5. Robertson Coal Co No 1 (F-11016)
6. Big Sandy-North
7. Lawrence KY
8. 1.9 million cubic feet
9. October 25, 1979
10. Kentucky West Virginia Gas
1. 80-03900/ERC-161
2. 16-127-00000-0000
3. 108 000 000
4. Quintana Petroleum Corp
5. Robertson Coal Co No 3 (F-11030)
6. Big Sandy-North
7. Lawrence KY
8. 7.0 million cubic feet
9. October 25, 1979
10. Kentucky West Virginia Gas
1. 80-03901/ERC-162

2. 16-071-00000-0000
3. 108 000 000
4. James L Fox
5. May #1 805808X
6.
7. Floyd KY
8. 9 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03902/ERC-163
2. 16-159-00000-0000
3. 108 000 000
4. James B Lauffer Agent
5. Federal Gas & Oil Co-V1273
6. Wolf Creek
7. Martin KY
8. 8.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03903/ERC-164
2. 16-159-00000-0000
3. 108 000 000
4. W E Brewer
5. #1-Little Elk
6.
7. Martin KY
8. 14.7 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03904/ERC-165
2. 16-159-00000-0000
3. 108 000 000
4. W E Brewer
5. G R Vinson Farm #1
6.
7. Martin KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03905/ERC-166
2. 16-159-00000-0000
3. 108 000 000
4. W E Brewer
5. #1 Big Elk
6.
7. Martin KY
8. 82.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03906/ERC-168
2. 16-159-00000-0000
3. 108 000 000
4. C F Shewey Agent
5. Fields-Howard #1
6. Wolf Creek
7. Martin KY
8. 3.3 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03907/ERC-167
2. 16-159-00000-0000
3. 108 000 000
4. C F Shewey Agent
5. Germer Evans #1
6. Wolf Creek
7. Martin KY
8. 2.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03908/ERC-168
2. 16-159-00000-0000
3. 108 000 000
4. T A Shewey C F Shewey Agent
5. Big Elk Well #1
6. Tug River

7. Martin KY
8. 6.3 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03909/ERC-169
2. 16-159-00000-0000
3. 108 000 000
4. T A Shewey C F Shewey Agent
5. Wallace Well #1
6. Tug River
7. Martin KY
8. 11.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03910/ERC-190
2. 16-195-22227-0014
3. 108 000 000
4. R E Riley & Company
5. Weddington Well #19
6. Millers Creek
7. Pike KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03911/ERC-191
2. 16-195-21424-0014
3. 108 000 000
4. R E Riley & Company
5. Weddington Well #11
6. Millers Creek
7. Pike KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03912/ERC-192
2. 16-195-29298-0014
3. 108 000 000
4. R E Riley & Company
5. Weddington Well #18
6. Millers Creek
7. Pike KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03913/ERC-193
2. 16-195-26600-0014
3. 108 000 000
4. R E Riley & Company
5. Weddington Well #17
6. Millers Creek
7. Pike KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03914/ERC-194
2. 16-195-22043-0014
3. 108 000 000
4. R E Riley & Company
5. Weddington Well #18
6. Millers Creek
7. Pike KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03915/ERC-195
2. 16-195-24876-0014
3. 108 000 000
4. R E Riley & Company
5. Weddington Well #15
6. Millers Creek
7. Pike KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03916/ERC-196

2. 16-195-00000-0000
3. 108 000 000
4. R E Riley & Company
5. Weddington Well #14
6. Millers Creek
7. Pike KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03917/ERC-197
2. 16-195-00000-0000
3. 108 000 000
4. R E Riley & Company
5. Weddington Well #13
6. Millers Creek
7. Pike KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03918/ERC-198
2. 16-195-00000-0000
3. 108 000 000
4. R E Riley & Company
5. Weddington Well #12
6. Millers Creek
7. Pike KY
8. 3.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03919/ERC-199
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 1
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03920/ERC-200
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 3
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03921/ERC-201
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 5
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03922/ERC-202
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 6
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03923/ERC-203
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 7
6. Virgie

7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03924/ERC-204
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 8
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03925/ERC-205
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 9
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03926/ERC-206
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 10
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03928/ERC-208
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 12
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03929/ERC-209
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 13
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03930/ERC-210
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 14
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03931/ERC-211
2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 15
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03932/ERC-212

2. 16-195-00000-0000
3. 108 000 000
4. Amos Newsom Coal Company
5. United Mineral Development No 16
6. Virgie
7. Pike KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03933/ERC-213
2. 16-193-00000-0000
3. 108 000 000
4. The Wiser Oil Co
5. Jasper J Mullins No 1
6. Vicco
7. Perry KY
8. 5.0 million cubic feet
9. October 25, 1979
10. Kentucky West Virginia Gas
1. 80-03934/ERC-214
2. 16-159-00000-0000
3. 108 000 000
4. Charley Cain
5. Cain Lease 2756
6. Kentucky
7. Martin KY
8. 12.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03935/ERC-215
2. 16-159-00000-0000
3. 108 000 000
4. Charley Cain
5. S A D Ward 959
6. Kentucky
7. Martin KY
8. 7.3 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03936/ERC-216
2. 16-159-00000-0000
3. 108 000 000
4. Charley Cain
5. A F Cassidy No 2
6. Kentucky
7. Martin KY
8. 3.6 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03937/ERC-217
2. 16-127-00000-0000
3. 108 000 000
4. Tebco
5. Carl Miller No 1
6.
7. Lawrence KY
8. 4.4 million cubic feet
9. October 25, 1979
10. Kentucky West Virginia Gas Co
1. 80-03938/ERC-218
2. 16-127-00000-0000
3. 108 000 000
4. Kentucky Ohio Gas Company
5. Ernest Hayes #1 Serial L-7
6. Little Blaine
7. Lawrence KY
8. 2.8 million cubic feet
9. October 25, 1979
10. Inland Gas Company
1. 80-03939/ERC-219
2. 16-071-00000-0000
3. 108 000 000
4. Kentucky Ohio Gas Company
5. Liza Prater #1 Serial F-19
6. Big Sandy Field

7. Floyd KY
8. 9.0 million cubic feet
9. October 25, 1979
10. Southeastern Gas Company
1. 80-03940/ERC-167
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. W R Branham #1
6. W R Branham Farm
7. Martin KY
8. 3.3 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03941/ERC-168
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Cassell #1
6. Rockcastle
7. Martin KY
8. 3.1 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03942/ERC-169
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Fannin #1
6. Rockcastle
7. Martin KY
8. 3.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03943/ERC-170
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Field Heirs #1
6. Meathouse Fork
7. Martin KY
8. 4.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03944/ERC-171
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Field Heirs #3
6. Meathouse Fork
7. Martin KY
8. 19.5 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03945/ERC-172
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Field Heirs #5
6. Meathouse Fork
7. Martin KY
8. 5.6 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03946/ERC-173
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Field Heirs #6
6. Meathouse Fork
7. Martin KY
8. 7.8 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03947/ERC-174

2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Field #8-A
6. Meathouse Fork
7. Martin KY
8. 6.9 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03948/ERC-175
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Field #8-B
6. Meathouse Fork
7. Martin KY
8. .9 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03949/ERC-176
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Field Heirs #8-C
6. Meathouse Fork
7. Martin KY
8. 9.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03950/ERC-177
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Virgil Field #1
6. Meathouse Fork
7. Martin KY
8. .8 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03951/ERC-178
2. 16-159-00000-0000
3. 108 000 000
4. Earl & Anna Prather
5. Sam Moore
6. Meathouse Fork
7. Martin KY
8. 19.2 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03952/ERC-179
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. J H Muncy #1
6. Meathouse Fork
7. Martin KY
8. 8.8 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03953/ERC-180
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Muncy Heirs 1-B
6. Meathouse Fork
7. Martin KY
8. 6.9 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03954/ERC-181
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Muncy #1-C
6. Meathouse Fork

7. Martin KY
8. 17.6 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03955/ERC-182
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Bill & Telia Muncy #2
6. Meathouse Fork
7. Martin KY
8. 1.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03956/ERC-183
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Muncy & Kirk
6.
7. Martin KY
8. 4.4 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03957/ERC-184
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Pocahanta Land Co #3
6. Finley Branch
7. Martin KY
8. 9.7 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03958/ERC-185
2. 16-159-00000-0000
3. 108 000 000
4. Prather Drilling & Producing Co
5. Pocahanta Land Co #4
6. Finley Branch
7. Martin KY
8. 19.5 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No
8. Estimated annual volume
9. Date received at Ferc
10. Purchaser(s)
1. 80-03959
2. 30-015-22728-0000
3. 102 000 000
4. Yates Petroleum Corporation
5. Gulf KC State Com No 1
6. Richard Knobb Atoka-Morrow
7. Eddy, NM
8. .0 million cubic feet
9. October 25, 1979
10. Transwestern Pipeline Company

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name

6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-03755/07002
2. 34-167-24640-0014
3. 103 000 000
4. The Clinton Oil Co
5. L Arnold #1
6.
7. Washington OH
8. 12.0 million cubic feet
9. October 25, 1979
10. Gas Transport Inc
1. 80-03730/00455
2. 34-083-22475-0014
3. 108 000 000
4. Jerry C Olds
5. T Clark #1
6.
7. Knox OH
8. 2.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corporation
1. 80-03731/02345
2. 34-075-21416-0014
3. 108 000 000
4. John C Mason
5. Jacob D Yoder Unit #1
6.
7. Holmes OH
8. 2.5 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03732/02997
2. 34-075-21508-0014
3. 108 000 000
4. John C Mason
5. H E Herman #1
6.
7. Holmes OH
8. 5.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Trans Corp
1. 80-03733/03160
2. 34-157-21550-0014
3. 108 000 000
4. El Patron Oil & Gas Co/Waldron & AS
5. John R Welling #1
6.
7. Tuscarawas OH
8. 3.2 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03734/03161
2. 34-099-20159-0014
3. 108 000 000
4. David A Waldron & Assoc Inc
5. Bedell Community #1
6.
7. Mahoning OH
8. 5.7 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03735/03166
2. 34-055-20079-0014
3. 108 000 000
4. Woodmac Inc/Waldron & Assoc Inc
5. Hering #1
6.
7. Geauga OH
8. 4.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company

1. 80-03736/03187
2. 34-151-21036-0014
3. 108 000 000
4. David A Waldron & Assoc Inc
5. Jake Miller Community #1
- 6.
7. Stark OH
8. 5.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03737/03188
2. 34-151-21046-0014
3. 108 000 000
4. David A Waldron & Assoc Inc
5. Spuhler Community #1
- 6.
7. Stark OH
8. 3.3 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03738/03189
2. 34-133-20152-0014
3. 108 000 000
4. David A Waldron
5. Bivens Community #1
- 6.
7. Portage, OH
8. 3.7 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03739/03190
2. 34-133-20205-0014
3. 108 000 000
4. David A Waldron
5. T & E Griffith Community #1
- 6.
7. Portage, OH
8. 1.9 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03740/03191
2. 34-151-21947-0014
3. 108 000 000
4. David A Waldron & Assoc Inc
5. J M Wells #1
- 6.
7. Stark OH
8. 14.5 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03741/03192
2. 34-151-10450-0140
3. 108 000 000
4. David A Waldron
5. East Ohio Limestone (Kurtz) #1
- 6.
7. Stark OH
8. 7.7 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03742/03193
2. 34-151-21028-0014
3. 108 000 000
4. David A Waldron
5. Alvin Raber #1
- 6.
7. Stark OH
8. 5.8 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03743/03194
2. 34-133-20150-0014
3. 108 000 000
4. David A Waldron
5. Boutell Community #1

- 6.
7. Portage OH
8. 8.4 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03744/04925
2. 34-119-23270-0014
3. 108 000 000
4. Alan Schottenstein
5. R Michel #2
- 6.
7. Muskingum OH
8. 18.8 million cubic feet
9. October 25, 1979
10. American Energy Services
1. 80-03745/04946
2. 34-119-23302-0014
3. 108 000 000
4. Alan Schottenstein
5. Harold M West Sr #1
- 6.
7. Muskingum OH
8. 1.0 million cubic feet
9. October 25, 1979
10. American Energy Services
1. 80-03746/05121
2. 34-031-23134-0014
3. 108 000 000
4. Monroe & Keusink Inc #316
5. Silverwood #1-34-031-2-3134**14
- 6.
7. Coshocton OH
8. 4.5 million cubic feet
9. October 25, 1979
10. Ohio Cumberland Gas Company
1. 80-03747/06903
2. 34-075-22198-0014
3. 103 000 000
4. Reliance Management Co
5. T W Young #1
- 6.
7. Holmes OH
8. 15.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission
1. 80-03748/06927
2. 34-115-21804-0014
3. 103 000 000
4. The Benatty Corporation
5. Harlan Rex #3
- 6.
7. Morgan OH
8. 25.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03749/06935
2. 34-007-21118-0014
3. 103 000 000
4. Paul De Cleva
5. Davis #1
- 6.
7. Ashtabula County OH
8. 38.5 million cubic feet
9. October 25, 1979
- 10.
1. 80-03750/06936
2. 34-007-21015-0014
3. 103 000 000
4. Paul De Cleva
5. Dolinar #1
- 6.
7. Ashtabula County OH
8. 36.5 million cubic feet
9. October 25, 1979
- 10.

1. 80-03751/06937
2. 34-007-21119-0014
3. 103 000 000
4. Paul De Cleva
5. Subotnick #1
- 6.
7. Ashtabula OH
8. 36.5 million cubic feet
9. October 25, 1979
- 10.
1. 80-03752/06938
2. 34-007-21080-0014
3. 103 000 000
4. Paul De Cleva
5. Stickle #1
- 6.
7. Ashtabula County OH
8. 36.5 million cubic feet
9. October 25, 1979
- 10.
1. 80-03753/06939
2. 34-007-21031-0014
3. 103 000 000
4. Paul De Cleva
5. Balsius Christmas Tree #1
- 6.
7. Ashtabula County OH
8. 36.5 million cubic feet
9. October 25, 1979
- 10.
1. 80-03754/06995
2. 34-013-20290-0014
3. 103 000 000
4. Appalachian Energy Inc
5. James Keyser A-E-71
- 6.
7. Belmont OH
8. 30.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03756/07046
2. 34-075-22184-0014
3. 103 000 000
4. John C Mason
5. Merle Hood #4
- 6.
7. Holmes OH
8. 15.0 million cubic feet
9. October 25, 1979
10. Cincinnati Gas & Electric
1. 80-03757/07047
2. 34-115-21842-0014
3. 103 000 000
4. Future Energy Corporation
5. Putnam Bragg #1
- 6.
7. Morgan OH
8. 128.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03758/07048
2. 34-019-21286-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. West #1
- 6.
7. Carroll OH
8. 36.5 million cubic feet
9. October 25, 1979
10. East Ohio Gas Co
1. 80-03759/07049
2. 34-019-21258-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Gartrell #4-A

- 6.
7. Carroll OH
8. 9.1 million cubic feet
9. October 25, 1979
10. East Ohio Gas Co
1. 80-03760/07050
2. 34-019-21285-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Clark-Morrison Etal #3-E
- 6.
7. Carroll OH
8. 36.5 million cubic feet
9. October 25, 1979
10. East Ohio Gas Co
1. 80-03761/07051
2. 34-019-21277-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Thompson #2
- 6.
7. Carroll OH
8. 9.1 million cubic feet
9. October 25, 1979
10. MB Operating Co Inc
1. 80-03762/07052
2. 34-127-24316-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Lewis Etal #1
- 6.
7. Perry OH
8. 18.3 million cubic feet
9. October 25, 1979
10. National Gas & Oil Corp
1. 80-03763/07053
2. 34-127-24327-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Sweeney #1
- 6.
7. Perry OH
8. 36.5 million cubic feet
9. October 25, 1979
10. National Gas & Oil Corp
1. 80-03764/07054
2. 34-127-24320-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Lewis-Peabody #1
- 6.
7. Perry OH
8. 27.4 million cubic feet
9. October 25, 1979
10. National Gas & Oil Corp
1. 80-03765/07055
2. 34-127-24361-0014
3. 103 000 000
4. Jerry C Olds
5. Adcock #4
- 6.
7. Perry OH
8. 7.0 million cubic feet
9. October 25, 1979
10. Enterprise Gas & Oil Inc
1. 80-03768/07056
2. 34-127-24311-0014
3. 103 000 000
4. Jerry C Olds
5. Adcock #2
- 6.
7. Perry OH
8. 7.0 million cubic feet
9. October 25, 1979
10. Enterprise Gas & Oil Inc

1. 80-03767/07057
2. 34-119-24782-0014
3. 103 000 000
4. Custom Industries Inc
5. G S Neghbert #1
- 6.
7. Muskingum OH
8. 36.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03768/07058
2. 34-187-24789-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. Rummer #2
- 6.
7. Washington OH
8. 3.5 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03769/07059
2. 34-029-20759-0014
3. 103 000 000
4. Bill Blair Incorporated
5. George Journey #1
6. Homeworth Field
7. Columbiana OH
8. 36.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03770/07063
2. 34-089-23626-0014
3. 103 000 000
4. Mid-Con Oil Company
5. Whited Well #5
- 6.
7. Bowling Green Twp LIOH
8. 8.0 million cubic feet
9. October 25, 1979
10. National Gas Company
1. 80-03771/07064
2. 34-089-23648-0014
3. 103 000 000
4. Donald G Dorsey
5. Joe Cunningham #1
- 6.
7. Licking OH
8. 36.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03772/07065
2. 34-119-24826-0014
3. 103 000 000
4. Mid-Con Oil Company
5. Robert T Williams #1
- 6.
7. Hopewell Twp Musking OH
8. 10.0 million cubic feet
9. October 25, 1979
10. National Gas Company
1. 80-03773/07066
2. 34-053-20318-0014
3. 103 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. C William Price #1
- 6.
7. Gallia OH
8. 4.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corporation
1. 80-03780/07073
2. 34-151-23044-0014
3. 103 000 000
4. Amtex Oil and Gas Inc
5. Myers Well No 1
- 6.
7. Stark OH
8. 25.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03781/07074
2. 34-133-21968-0014
3. 103 000 000
4. Jud Noble and Associates Inc.
5. Foster #2
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company

- 6.
7. Gallia OH
8. 14.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03775/07068
2. 34-053-20357-0014
3. 103 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. Gilman-Church Unit-1
- 6.
7. Gallia OH
8. 5.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03776/07069
2. 34-053-20372-0014
3. 103 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. Columbia-Poleyn #1
- 6.
7. Gallia OH
8. 5.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03777/07070
2. 34-053-20373-0014
3. 103 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. Marion Darnell #1
- 6.
7. Gallia OH
8. 5.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03778/07071
2. 34-053-20441-0014
3. 103 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. Vera Thomas #1
- 6.
7. Gallia OH
8. 5.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03779/07072
2. 34-053-20374-0014
3. 103 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. Keith Drummond #1
- 6.
7. Gallia OH
8. 4.0 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corporation
1. 80-03780/07073
2. 34-151-23044-0014
3. 103 000 000
4. Amtex Oil and Gas Inc
5. Myers Well No 1
- 6.
7. Stark OH
8. 25.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03781/07074
2. 34-133-21968-0014
3. 103 000 000
4. Jud Noble and Associates Inc.
5. Foster #2
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company

1. 80-03782-07075
2. 34-133-21969-0014
3. 103 000 000
4. Jud Noble and Associates Inc.
5. Foster #1
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03783/07078
2. 34-167-24788-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. Rummer #1
- 6.
7. Washington OH
8. 3.5 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03784/07077
2. 34-167-24787-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. Rummer #3
- 6.
7. Washington OH
8. 3.5 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03785/07078
2. 34-167-24786-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. Morgenstern #1
- 6.
7. Washington OH
8. 3.5 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03786/07079
2. 34-167-24785-0014
3. 103 000 000
4. Appalachian Petroleum Corporation
5. Morgenstern #2
- 6.
7. Washington OH
8. 3.5 million cubic feet
9. October 25, 1979
10. Columbia Gas Transmission Corp
1. 80-03787/07080
2. 34-119-24804-0014
3. 103 000 000
4. Irvin Producing Company
5. Fred Lenhart #1
- 6.
7. Muskingum OH
8. 8.0 million cubic feet
9. October 25, 1979
10. National Gas & Oil Corp
1. 80-03788/07081
2. 34-111-21886-0014
3. 103 000 000
4. The Oxford Oil Co
5. Gerald Williamson 1-S
- 6.
7. Monroe OH
8. 9.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03789/07082
2. 34-075-22192-0014
3. 103 000 000
4. John C Mason
5. Charles Thompson #1

- 6.
7. Holmes OH
8. 10.0 million cubic feet
9. October 25, 1979
10. Cincinnati Gas & Electric
1. 80-03790/07104
2. 34-157-23334-0014
3. 103 000 000
4. Floyd E Kimble DBA Red Hill Dev
5. J Frautschy #1
- 6.
7. Tuscarawas OH
8. 29.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03791/07105
2. 34-157-23314-0014
3. 103 000 000
4. Floyd E Kimble DBA Red Hill Dev
5. C Schotzinger #1
- 6.
7. Tuscarawas OH
8. 21.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03792/07106
2. 34-157-23315-0014
3. 103 000 000
4. Floyd E Kimble DBA Red Hill Dev
5. Finzer-Mutti Unit #1
- 6.
7. Tuscarawas OH
8. 18.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03793/07107
2. 34-157-23328-0014
3. 103 000 000
4. Floyd E Kimble DBA Red Hill Dev
5. D Muehlhoffer #1
- 6.
7. Tuscarawas OH
8. 19.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03794/07108
2. 34-157-23313-0014
3. 103 000 000
4. Floyd E Kimble DBA Red Hill Dev
5. F Lanz #1
- 6.
7. Tuscarawas OH
8. 20.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03795/07109
2. 34-157-23329-0014
3. 103 000 000
4. Floyd E Kimble DBA Red Hill Dev
5. Mervin Lahmers Unit #1
- 6.
7. Tuscarawas OH
8. 23.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03796/07111
2. 34-089-23638-0014
3. 103 000 000
4. American Well Management Co
5. Gayheart No 2
- 6.
7. Licking OH
8. 18.0 million cubic feet
9. October 25, 1979
- 10.

1. 80-03797/07112
2. 43-089-23630-0014
3. 103 000 000
4. American Well Management Co
5. Gayheart No 1
- 6.
7. Licking OH
8. 0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03798/07113
2. 34-089-23639-0014
3. 103 000 000
4. American Well Management Co
5. Boyd No 1
- 6.
7. Licking OH
8. 18.0 million cubic feet
9. October 25, 1979
- 10.
1. 80-03799/07114
2. 34-059-22477-0014
3. 103 000 000
4. New Frontier Exploration Inc
5. Propst #1
- 6.
7. Guernsey OH
8. 25.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03800/07115
2. 34-085-20255-0014
3. 103 000 000
4. Drillex Inc
5. E H Tresger Inc #3
6. Painesville
7. Lake OH
8. 30.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas
1. 80-03801/07116
2. 34-169-22196-0014
3. 103 000 000
4. Berman J Shafer
5. C & F Limited #1
6. Wooster South
7. Wayne OH
8. 13.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03802/07127
2. 34-133-21046-0014
3. 103 000 000
4. Perkins Drilling Inc
5. Hunter #2
- 6.
7. Portage OH
8. 6.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03803/07128
2. 34-133-21040-0014
3. 103 000 000
4. Perkins Drilling Inc
5. Brandt #1
- 6.
7. Portage OH
8. 10.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03804/07129
2. 34-133-21653-0014
3. 103 000 000
4. Perkins Drilling Inc
5. Brandt-Skilton Unit #2

- 6.
7. Portage OH
8. 19.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03805/07130
2. 34-133-21039-0014
3. 103 000 000
4. Perkins Drilling Inc
5. Brandt/Skilton Unit #1
- 6.
7. Portage OH
8. 20.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03806/07131
2. 34-133-21051-0014
3. 103 000 000
4. Perkins Drilling Inc
5. Hunte Salamon #1
- 6.
7. Portage OH
8. 18.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03807/07133
2. 34-133-21049-0014
3. 103 000 000
4. Perkins Drilling Inc
5. Salamon #1
- 6.
7. Portage OH
8. 10.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03808/07134
2. 34-115-21837-0014
3. 103 000 000
4. Minuteman Exploration Company
5. T Dale & Virginia M Roberts #3
- 6.
7. Morgan OH
8. 24.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
1. 80-03809/07135
2. 34-115-21830-0014
3. 103 000 000
4. Minuteman Exploration Company
5. T Dale & Virginia M Roberts #2
- 6.
7. Morgan OH
8. 20.0 million cubic feet
9. October 25, 1979
10. East Ohio Gas Company
- Oklahoma Corporation Commission**
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-01791/00257
2. 35-079-20272-0000
3. 102 103 000
4. Samson Resources Company
5. Stroud No 1—Cromwell
6. Milton
7. Leflore OK
8. 50.0 million cubic feet

9. October 10, 1979
10. Arkansas Louisiana Gas Company
1. 80-01792/00258
2. 35-079-20272-0000
3. 103 000 000
4. Samson Resources Company
5. Stroud No 1—Spiro
6. Milton
7. Leflore OK
8. 315.0 million cubic feet
9. October 10, 1979
10. Arkansas Louisiana Gas Company
- U.S. Geological Survey, Metairie, La.**
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-03960/09-831
2. 17-706-40340-0000-0
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2089 No A-7
6. Vermilion
7. 325
8. 1825.0 million cubic feet
9. October 25, 1979
10. Transcontinental Gas Pipe Line Corp
1. 80-03962/09-739
2. 17-707-40295-0000-0
3. 102 000 000
4. Amoco Production Company
5. OCS-G-0788 No B-7
6. South Marsh Island
7. 50
8. 1825.0 million cubic feet
9. October 25, 1979
10. Transcontinental Gas Pipe Line Corp
1. 80-03963/09-696
2. 17-707-40249-00S1-0
3. 102 000 000
4. Placid Oil Company
5. C-13
6. South Marsh Island
7. 281
8. 104.5 million cubic feet
9. October 25, 1979
10. Trunkline Gas Company
1. 80-03964/09-743
2. 17-700-40266-00S1-0
3. 102 000 000
4. Continental Oil Company
5. West Cameron 222 I-4
6. West Cameron
7. 222
8. 1549.0 million cubic feet
9. October 25, 1979
10. Texas Eastern Transmission Co., Transcontinental Gas Pipeline Corp, United Gas Pipeline Co, Northern Natural Gas Co
1. 80-03965/09-750
2. 17-701-40019-00S1-0
3. 102 000 000
4. Mobil Oil Exploration & Producing S
5. W Cameron Blk 343 A-2A
6. West Cameron
7. 343
8. 1407.0 million cubic feet
9. October 25, 1979

10. Northern Natural Gas Company
1. 80-03966/09-751
2. 17-701-40041-00S1-0
3. 102 000 000
4. Mobil Oil Exploration & Producing S
5. W Cameron Blk 343 A-7A
6. West Cameron
7. 343
8. 2453.0 million cubic feet
9. October 25, 1979
10. Northern Natural Gas Company
1. 80-03967/09-780
2. 17-705-40266-0000-0
3. 102 000 000
4. Transco Exploration Company
5. No 1
6. Vermilion
7. 58
8. 1700.0 million cubic feet
9. October 25, 1979
10. Transcontinental Gas Pipe Line Corp, Public Service Elec & Gas Co
1. 80-03968/09-746
2. 17-700-40263-00S1-0
3. 102 000 000
4. Continental Oil Company
5. West Cameron 222 I-3
6. West Cameron
7. 222
8. 1515.0 million cubic feet
9. October 25, 1979
10. Texas Eastern Transmission Company, Transcontinental Gas Pipeline Corp, United Gas Pipeline Co, Northern Natural Gas Co
1. 80-03969/09-511
2. 17-707-40203-0000-0
3. 102 000 000
4. The Superior Oil Company
5. OCS-G-2596 No B-2-D
6. South Marsh Island
7. 243
8. 1476.0 million cubic feet
9. October 25, 1979
10. Sea Robin Pipe Line Co, Tennessee Gas Pipeline Co, Transcontinental Gas Pipeline Corp, Northern Natural Gas Co
1. 80-03970/09-794
2. 17-703-40100-0000-0
3. 102 000 000
4. Shell Oil Company
5. JA-1
6. East Cameron
7. 57
8. 0 million cubic feet
9. October 25, 1979
10. Transcontinental Gas Pipe Line Co
1. 80-03971/09-512
2. 17-700-40251-0000-0
3. 102 000 000
4. The Superior Oil Company
5. OCS-0244 No 18
6. West Cameron
7. 71
8. 2293.0 million cubic feet
9. October 25, 1979
10. Michigan Wisconsin Pipe Line Company
1. 80-03972/09-786
2. 17-703-40143-0000-0
3. 102 000 000
4. Shell Oil Company
5. JA-3
6. East Cameron
7. 57
8. 0 million cubic feet
9. October 25, 1979

10. Transcontinental Gas Pipe Line Comp
1. 80-03973/G9-862
2. 17-710-40746-00S1-0
3. 102 000 000
4. Texaco Inc
5. E I Blk 385 OCS G-3157 #A-6
6. Eugene Island
7. 348
8. 1278.0 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corporation
1. 80-03975/G9-783
2. 17-705-40300-0000-0
3. 102 000 000
4. Transco Exploration Company
5. No 3
6. Vermilion
7. 58
8. 1800.0 million cubic feet
9. October 25, 1979
10. Transcontinental Gas Pipe Line Corp.
Public Service Elec & Gas Co
1. 80-03976/G9-631
2. 17-700-40361-0000-0
3. 102 000 000
4. Gulf Oil Corporation
5. W Cameron 198 OCS-G-3265 #B-2
6. West Cameron
7. 198
8. 3850.0 million cubic feet
9. October 25, 1979
10. Texas Eastern Transmission Corp
1. 80-03979/G9-782
2. 17-705-40297-0000-0
3. 102 000 000
4. Transco Exploration Company
5. No 2
6. Vermilion
7. 58
8. 1900.0 million cubic feet
9. October 25, 1979
10. Transcontinental Gas Pipe Line Corp.
Public Service Elec & Gas Co
1. 80-03980/G9-740
2. 17-707-40295-0000-0
3. 102 000 000
4. Amoco Production Company
5. OCS-G-0788 No B-7-D
6. South Marsh Island
7. 50
8. 1825.0 million cubic feet
9. October 25, 1979
10. Transcontinental Gas Pipe Line Corp.
Public Service Elec & Gas Co
1. 80-03981/G9-781
2. 17-705-40266-0000-0
3. 102 000 000
4. Transco Exploration Company
5. No 1-D
6. Vermilion
7. 58
8. 1000.0 million cubic feet
9. October 25, 1979
10. Transcontinental Gas Pipe Line Corp.
Public Service Elec & Gas Co
1. 80-03983/G9-633
2. 17-715-00292-0100-0
3. 102 000 000
4. Gulf Oil Corporation
5. ICS-0263 S TIMB BLK 21 #116-D
6. South Timbalier
7. 21
8. 620.0 million cubic feet
9. October 25, 1979
10. Tennessee Gas Pipeline Company United
Gas Pipeline Co
1. 80-04040/G9-792
2. 17-703-40168-0000-0
3. 102 000 000
4. Shell Oil Company
5. JA-6
6. East Cameron
7. 57
8. .0 million cubic feet
9. October 25, 1979
10. Transcontinental Gas Pipeline Company
1. 80-04041/G9-507
2. 17-707-40280-0000-0
3. 102 000 000
4. The Superior Oil Company
5. OCS-G-2300-No A-3
6. South Marsh Island
7. 235
8. 1498.0 million cubic feet
9. October 25, 1979
10. Sea Robin Pipeline Co, Tennessee Gas
Pipeline Co
1. 80-04042/G9-510
2. 17-707-40222-0000-0
3. 102 000 000
4. The Superior Oil Company
5. OCS-G-2300 No A-2
6. South Marsh Island
7. 235
8. 1297.0 million cubic feet
9. October 25, 1979
10. Sea Robin Pipeline Co, Tennessee Gas
Pipeline Co
1. 80-04043/G9-710
2. 17-707-40293-00S1-0
3. 102 000 000
4. Placid Oil Company
5. E-5
6. South Marsh Island
7. 281
8. 295.7 million cubic feet
9. October 26, 1979
10. Truckline Gas Company
1. 80-04044/G9-744
2. 17-700-40249-00S1-0
3. 102 000 000
4. Continental Oil Company
5. West Cameron 222 I-2
6. West Cameron
7. 222
8. 1549.0 million cubic feet
9. October 26, 1979
10. Texas Eastern Transmission Company,
Transcontinental Gas Pipeline Corp, United
Gas Pipeline Co, Northern Natural Gas Co
1. 80-04045/G9-699
2. 17-707-40189-00S1-0
3. 102 000 000
4. Placid Oil Company
5. A-22
6. South Marsh Island
7. 269
8. 158.7 million cubic feet
9. October 26, 1979
10. Trunkline Gas Company
1. 80-04046/G9-188
2. 17-719-40129-00D1-0
3. 102 000 000
4. Sonat Exploration Company
5. OCS 0384 No 11
6. West Delta
7. 28
8. 1000.0 million cubic feet
9. October 26, 1979
10. Southern Natural Gas Company
1. 80-04047/G9-731
2. 17-703-40192-0000-0
3. 102 000 000
4. Kerr-McGee Corporation
5. OCS G-2855 Well No 6
6. East Cameron
7. 34
8. .0 million cubic feet
9. October 26, 1979
10. Natural Gas Pipeline Co of Amer,
Northern Natural Gas Co, Columbia Gas
Transmission Corp, Southern Natural Gas
Co
1. 80-04048/G9-745
2. 17-700-40193-00D2-0
3. 102 000 000
4. Continental Oil Company
5. West Cameron 222 I-1D
6. West Cameron
7. 222
8. 1277.0 million cubic feet
9. October 26, 1979
10. Texas Eastern Transmission Company,
Transcontinental Gas Pipe Line Corp,
Northern Natural Gas Co
1. 80-04049/G9-187
2. 17-719-40129-00D2-0
3. 102 000 000
4. Sonat Exploration Company
5. OCS 0384 No 11D
6. West Delta
7. 28
8. 42.0 million cubic feet
9. October 26, 1979
10. Southern Natural Gas Company
1. 80-04050/G9-747
2. 17-706-40347-00S1-0
3. 102 000 000
4. Narathon Oil Company
5. Vermilion Block 331 #A-15
6. Vermilion
7. 331
8. 1460.0 million cubic feet
9. October 26, 1979
10. Texas Eastern Transmission Company,
Transcontinental Gas Pipe Line Corp,
Northern Natural Gas Co
1. 80-04055/G9-791
2. 17-703-40141-0000-0
3. 102 000 000
4. Shell Oil Company
5. JA-2
6. East Cameron
7. 57
8. .0 million cubic feet
9. October 26, 1979
10. Transcontinental Gas Pipeline Company
1. 80-04056/G9-760
2. 17-703-40138-0000-0
3. 102 000 000
4. Shell Oil Company
5. JB-1
6. East Cameron
7. 57
8. .0 million cubic feet
9. October 26, 1979
10. Transcontinental Gas Pipeline Company
1. 80-04057/G9-790
2. 17-703-40160-0000-0
3. 102 000 000
4. Shell Oil Company
5. JA-5
6. East Cameron
7. 57
8. .0 million cubic feet
9. October 26, 1979

10. Transcontinental Oil Company
1. 80-04058/G9-513
2. 17-707-40179-0000-0
3. 102 000 000
4. The Superior Oil Company
5. OCS-G-2586 No B-1-D
6. South Marsh Island
7. 243
8. 1143.0 million cubic feet
9. October 26, 1979
10. Sea Robin Pipeline Co Transcontinental
Gas Pipeline Corp Northern Natural Gas
Co
1. 80-04059/G9-715
2. 17-707-40275-00/d2-0
3. 102 000 000
4. Placid Oil Company
5. D-10D
6. South Marsh Island
7. 281
8. 112.7 million cubic feet
9. October 26, 1979
10. Trunkline Gas Company
1. 80-04060/G9-785
2. 17-705-40337-0000-0
3. 102 000 000
4. Transco Exploration Company
5. No 4-D
6. Vermilion
7. 58
8. 1900.0 million cubic feet
9. October 26, 1979
10. Transcontinental Gas Pipeline Corp.
Public Service Elec & Gas Co
1. 80-04061/G9-784
2. 17-705-40337-0000-0
3. 102 000 000
4. Transco Exploration Company
5. No 4
6. Vermilion
7. 58
8. 800.0 million cubic feet
9. October 26, 1979
10. Transcontinental Gas Pipeline Corp.
Public Service Elec & Gas Co
1. 80-04062/G9-742
2. 17-700-40193-00D1-0
3. 102 000 000
4. Continental Oil Company
5. West Cameron 222 I-1
6. West Cameron
7. 222
8. 1514.0 million cubic feet
9. October 26, 1979
10. Texas Eastern Transmission Co,
Transcontinental Gas Pipe Line Corp,
United Gas Pipeline Co, Northern Natural
Gas Co
1. 80-04063/G9-545
2. 17-700-40280-00S1-0
3. 102 000 000 Denied
4. Gulf Oil Corporation
5. West Cameron Block 21 OCS-G-1859 #4
6. West Cameron Block 45
7. 21
8. 183.0 million cubic feet
9. October 26, 1979
10. Tennessee Gas Pipeline Company
1. 80-04064/G9-732
2. 17-703-40192-0000-0
3. 102 000 000
4. Kerr-McGee Corporation
5. OCS G-2855 No 6D
6. East Cameron
7. 34
8. .0 million cubic feet
9. October 26, 1979
10. Natural Gas Pipeline Co of Amer,
Northern Natural Gas Co, Columbia Gas
Transmission Corp, Southern Natural Gas
Co
1. 80-04065/G9-768
2. 17-706-20030-00D4-0
3. 102 000 000
4. Forest Oil Corporation
5. Vermilion Block 255 B-4-A
6. Vermilion
7. 255
8. 730.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Transmission Corporation,
Texas Gas Transmission Corporation,
Consolidated Gas Supply Corporation
1. 80-04066/G9-767
2. 17-706-40001-00S2-0
3. 102 000 000
4. Forest Oil Corporation
5. Vermilion Block 255 B-6-A
6. Vermilion
7. 255
8. 730.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Transmission Corporation,
Texas Gas Transmission Corporation,
Consolidated Gas Supply Corporation
1. 80-04054/G9-795
2. 17-703-40158-0100-0
3. 102 000 000
4. Shell Oil Company
5. JA-8
6. East Camron
7. 57
8. .0 million cubic feet
9. October 26, 1979
10. Transcontinental Gas Pipeline Company
U.S. Geological Survey, Metairie, La.
1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80-03961/G9-775
2. 42-711-40408-0000-0
3. 102 000 000
4. Cities Service Co
5. High Island Blk A-0355 #B-3
6. High Island EA SE
7. A-355
8. 2000.0 million cubic feet
9. October 25, 1979
10. Michigan Wisconsin Pipe Line Co
1. 80-03974/G9-658
2. 42-711-40303-00S1-0
3. 102 000 000 Denied
4. Union Oil Company of California
5. Well #B-7
6. East High Island
7. 334
8. 61.0 million cubic feet
9. October 25, 1979
10. Texas Gas Transmission Corp, El Paso
Natural Gas Co, Michigan-Wisconsin
Pipeline Co
1. 80-03977/G9-734
2. 42-711-40381-0000-0
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2412 No A-6
6. High Island
7. A-317
8. 1825.0 million cubic feet
9. October 25, 1979
10. Natural Gas Pipeline Co of America,
Michigan-Wisconsin Pipeline Co
1. 80-03978/G9-778
2. 42-711-40397-0000-0
3. 102 000 000
4. Cities Service Co
5. High Island Blk A-356 #A-4
6. High Island E A S E
7. A-356
8. 2000.0 million cubic feet
9. October 25, 1979
10. Michigan Wisconsin Pipeline Co
1. 80-03982/G9-812
2. 42-709-40404-0000-0
3. 102 000 000
4. Gulf Oil Corporation
5. High Is Blk A-498 OCS 3479 A-4
6. High Island
7. A-498
8. 5475.0 million cubic feet
9. October 25, 1979
10.
1. 80-04051/G9-738
2. 42-711-40409-0000-0
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2412 No A-10
6. High Island
7. A-317
8. 1825.0 million cubic feet
9. October 26, 1979
10. Natural Gas Pipeline Company of
America, Michigan-Wisconsin Pipeline Co
1. 80-04052/G9-735
2. 42-711-40386-0000-1
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2412 No A-7
6. High Island
7. A-317
8. 1825.0 million cubic feet
9. October 26, 1979
10. Natural Gas Pipeline Company of
America, Michigan-Wisconsin Pipeline Co
1. 80-04053/G9-736
2. 42-711-40386-0000-2
3. 102 000 000
4. Aminoil Development Inc
5. OCS-G-2412 No A-7D
6. High Island
7. A-317
8. 1825.0 million cubic feet
9. October 26, 1979
10. Natural Gas Pipeline Company of
America, Michigan-Wisconsin Pipeline Co
U.S. Geological Survey, Albuquerque, N.M.
1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-03694/NM 3059-79
 2. 30-045-23137-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. Lucerne A #1A
 6. Blanco
 7. San Juan NM
 8. 275.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03695/NM-3060-79
 2. 30-039-21692-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. San Juan 30-6 Unit #28A
 6. Blanco
 7. Rio Arriba NM
 8. 260.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03696/MN-3061-79
 2. 30-039-21693-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. San Juan 30-6 Unit #4A
 6. Blanco
 7. Rio Arriba NM
 8. 365.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03697/NM-3062-79
 2. 30-045-23078-0000-0
 3. 103 000 000
 4. El Paso Natural Gas Company
 5. Marcotte #1A
 6. Blanco
 7. San Juan NM
 8. 290.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03698/NM-3066-79-A
 2. 30-039-21726-0000-1
 3. 103 000 000
 4. Northwest Production Corporation
 5. Jicarilla 152W #4A (Mesaverde)
 6. Blanco
 7. Rio Arriba NM
 8. 135.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation
 1. 80-03699/NM-3066-79-B
 2. 30-039-21726-0000-2
 3. 103 000 000
 4. Northwest Production Corporation
 5. Jicarilla 152W #4A (Pictured Cliffs)
 6. South Blanco
 7. Rio Arriba NM
 8. 90.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation
 1. 80-03700A/NM-3167-79-A
 2. 30-045-22517-0000-1
 3. 103 000 000
 4. Arco Oil and Gas Company
 5. Marron WN Federal Comm #6-A (Chacra)
 6. Blanco Largo Chacra
 7. San Juan NM
 8. 185.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation
 1. 80-03700B/NM-3167-79-B
 2. 30-045-22517-0000-2
 3. 103 000 000
 4. Arco Oil and Gas Company
 5. Marron WN Federal Comm #6-A (MV)
6. Blanco Mesaverde
 7. San Juan NM
 8. 185.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Nat Gas Co
 1. 80-03701/NM-3174-79
 2. 30-045-23216-0000-0
 3. 103 000 000
 4. Arco Oil and Gas Company
 5. Hammond WN Federal #7A
 6. Blanco-Mesaverde
 7. San Juan NM
 8. 200.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03702/NM-3192-79
 2. 30-045-22932-0000-0
 3. 103 000 000
 4. Arco Oil and Gas Company
 5. Jacquez 1-A
 6. Blanco Mesaverde
 7. San Juan NM
 8. 190.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation
 1. 80-03715/NM-3249-79
 2. 30-039-07779-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 30-5 Unit #32
 6. Blanco
 7. Rio Arriba NM
 8. 13.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation, El Paso Nat Gas Co
 1. 80-03716/NM-3250-79
 2. 30-039-07822-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 30-5 Unit #33
 6. Blanco
 7. Rio Arriba NM
 8. 9.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Nat Gas Co
 1. 80-03717/NM-3251-79
 2. 30-039-07799-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 30-5 Unit #30
 6. Blanco
 7. Rio Arriba NM
 8. 13.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Nat Gas Co
 1. 80-03720/NM-3253-79
 2. 30-039-07956-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. S/J 29-5 Unit #45
 6. Blanco
 7. Rio Arriba NM
 8. 9.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Nat Gas Co
 1. 80-03721/NM-3256-79
 2. 30-039-05956-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. Federal #11

6. Cavilan
 7. Rio Arriba NM
 8. 9.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Nat Gas Co
 1. 80-03722/NM-3257-79
 2. 30-039-07969-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. Rosa Unit #20
 6. Blanco
 7. Rio Arriba NM
 8. 18.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Nat Gas Co
 1. 80-03723/NM-3258-79
 2. 30-045-11420-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. San Juan 32-8 Unit #3
 6. Blanco
 7. San Juan NM
 8. 3.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation El Paso Nat Gas Co
 1. 80-03724/NM-3259-79
 2. 30-045-11377-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. SJ 32-8 Unit #24
 6. Blanco
 7. San Juan NM
 8. 8.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation, El Paso Nat Gas Co
 1. 80-03725/NM-3275-79
 2. 30-039-07958-0000-0
 3. 108 000 000
 4. Northwest Pipeline Corporation
 5. Rosa Unit #4
 6. Blanco
 7. Rio Arriba NM
 8. 12.0 million cubic feet
 9. October 24, 1979
 10. Northwest Pipeline Corporation, El Paso Nat Gas Co
- U.S. Geological Survey Albuquerque, N.M.
1. Control number (F.E.R.C./State)
 2. API well number
 3. Section of NGPA
 4. Operator
 5. Well name
 6. Field or OCS area name
 7. County, State or Block No.
 8. Estimated annual volume
 9. Date received at FERC
 10. Purchaser(s)
 1. 80-03703/UA-3194-79
 2. 43-037-30362-0000-0
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit H-14
 6. Greater Aneth
 7. San Juan UT
 8. 6.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03704/UA-3195-79
 2. 43-037-30384-0000-0
 3. 103 000 000

4. The Superior Oil Company
 5. McElmo Creek Unit C-15
 6. Greater Aneth
 7. San Juan UT
 8. 22.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03705/UA-3196-79
 2. 43-037-30389-0000-0
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit E-15
 6. Greater Aneth
 7. San Juan UT
 8. 3.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03706/UA-3198-79
 2. 43-037-30455-0000-0
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit U-11
 6. Greater Aneth
 7. San Juan UT
 8. 22.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03707/UA-3199-79
 2. 43-037-30358-0000-0
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit L-11
 6. Greater Aneth
 7. San Juan UT
 8. 18.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03708A/UA-3200-79A
 2. 43-037-30339-0000-1
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit L-24 (Desert Crk)
 6. Greater Aneth
 7. San Juan UT
 8. 69.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03708B/UA-3200-79B
 2. 43-037-30339-0000-2
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit L-24 (Isamay)
 6. Greater Aneth
 7. San Juan UT
 8. 69.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03709/UA-3202-79
 2. 43-037-30413-0000-0
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit M-12B
 6. Greater Aneth
 7. San Juan UT
 8. 14.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03710/UA-3203-79
 2. 43-037-30383-0000-0
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit M-12B
 6. Greater Aneth
 7. San Juan UT
 8. 7.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03726B/UA-3208-79B
 2. 43-037-30454-0000-2
9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03711/UA-3205-79
 2. 43-037-30360-0000-0
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit H-12B
 6. Greater Aneth
 7. San Juan UT
 8. 8.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03727A/UA-3201-79-A
 2. 43-037-30351-0000-1
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit L-10 (Desert Crk)
 6. Greater Aneth
 7. San Juan UT
 8. 8.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03727B/UA-3201-79-B
 2. 43-037-30351-0000-2
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit L-10 (Isamay)
 6. Greater Aneth
 7. San Juan UT
 8. 8.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03728A/UA-3197-79-A
 2. 43-037-30303-0000-1
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit M-21 (Desert Crk)
 6. Greater Aneth
 7. San Juan UT
 8. 11.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03728B/UA-3197-79-B
 2. 43-037-30303-0000-2
 3. 103 000 000
 4. The Superior Oil Company
 5. McElmo Creek Unit M-21 (Isamay)
 6. Greater Aneth
 7. San Juan UT
 8. 11.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03729A/UA-3116-79A
 2. 43-037-30374-0000-1
 3. 103 000 000
 4. Texaco Inc
 5. Aneth Unit No G-325X (Isamay)
 6. Aneth
 7. San Juan UT
 8. 4.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company
 1. 80-03729B/UA-3116-79B
 2. 43-037-30374-0000-2
 3. 103 000 000
 4. Texaco Inc
 5. Aneth Unit No G-325X (Desert Crk)
 6. Aneth
 7. San Juan UT
 8. 4.0 million cubic feet
 9. October 24, 1979
 10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is

treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 6, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35919 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of April 30 Through May 4, 1979

Notice is hereby given that during the week of April 30 through May 4, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Cities Service Co., Tulsa, Okla.; DEA-0335, crude oil

Cities Service Company filed an Appeal of an Order that had been issued by the Economic Regulatory Administration (ERA) directing Cities Service to supply crude oil to the Sigmor Refining Company (Sigmor) under the provisions of 10 CFR 211.65, the Crude Oil Buy-Sell Program. The Appeal, if granted, would result in the rescission of the Order and require the payback by Sigmor of the volume of crude oil which it was furnished by Cities Service under the Order. In considering the Appeal, the DOE found that Cities Service had not demonstrated that the order was improperly issued, or that the firm will experience irreparable harm or a confiscation of its property as a result of the Order. However, in view of the fact that Sigmor had entered into a long-term crude oil supply contract soon after the issuance of the ERA's order, the DOE modified the order and directed Sigmor to return the same volume of crude oil to Cities Service as Cities Service supplied to Sigmor pursuant to the ERA's order. The important issues discussed in the Decision are (i) the ERA's authority to extend filing deadlines for applications for Buy-Sell Allocations, (ii) the adequacy of notice given to Cities Service, (iii) the validity of a factual basis for ERA's Order and (iv) the relevance of developments subsequent to the issuance of the Order to the modification or rescission of the order.

Federal Information Tools, Alexandria, Va.; DFA-0359, freedom of information

Federal Information Tools filed an Appeal from a partial denial by the Deputy Director of the DOE Office of Procurement Operations of a Request for Information which the firm had submitted under the Freedom of Information Act. In its Request, Federal Information Tools had sought a copy of the winning proposal submitted to the DOE in response to a Request for Proposal for a "Feasibility Study of Nonresidential/Commercial Buildings Energy Consumption" (RFP EI-78-C-01-6367). The Deputy Director released some of the requested proposal, but withheld certain portions on the ground that they were exempt from disclosure under Sections 552 (b)(4) and (b)(6) of the Act. In considering Federal Information Tools' Appeal, the Office of Hearings and Appeals (OHA) determined that the Deputy Director had failed to support his conclusions by explaining his reasons for applying the exemptions to each of the withheld portions of the document. In this particular case, the OHA also determined that the Deputy Director had further failed to specify which exemption he was applying to each withheld portion of the document. The OHA therefore concluded that the matter should be remanded to the Deputy Director for further action. On remand, he was directed to either release the material withheld under 552(b)(4) or explain in writing why each deletion constitutes a trade secret or commercial or financial information which is privileged or confidential and how release of each portion would cause substantial harm to the competitive position of the firm which submitted the proposal. The OHA further instructed the Deputy Director to release the material withheld under 552(b)(6) or indicate in writing the specific reasons why privacy interest in this case outweigh the public interest in disclosure. Federal Information Tools' Appeal was accordingly granted in part.

Petitions for Special Redress

Coastal States Gas Corp., Houston, Tex.; DSG-0045, DES-0181

Coastal States Gas Corporation filed an Application for Stay from the requirement that it comply with a subpoena. It also filed a Petition for Special Redress for the purpose of quashing the subpoena and motions for an evidentiary hearing, discovery and the issuance of interrogatories to Special Counsel of the Department of Energy. In the course of its Decision, the Office of Hearings and Appeals determined that: (1) Special Counsel was a "disinterested person" and could properly participate in the review of this subpoena, (2) the Deputy Special Counsel made adequate findings that circumstances warrant the issuance of this subpoena; (3) the subpoena was issued for a lawful purpose and was not shown to be unduly burdensome; and (4) documents called for by the subpoena were described with sufficient particularity. Consequently, the submissions were denied. However, Coastal States Gas Corporation was invited to request reargument of its petition if in the course of the enforcement of the subpoena clear and convincing evidence becomes available that

enforcement of the subpoena would cause it an excessive financial burden.

Coastal States Gas Corp., Houston, Tex.; DSG-0049, crude oil

Coastal States Gas Corporation filed a Motion to Limit Participation in which it requested that 18 of its customers, whom the Office of Hearings and Appeals had informally determined must be treated as aggrieved parties for purposes of Coastal's Statement of Objections to a Proposed Remedial Order, be barred from further participation in that proceeding. Coastal also requested that the filings already submitted by the 18 parties be stricken from the record of the proceeding. In support of its Motion, Coastal asserted that participation by the 18 firms was contrary to Congressional intent because Congress made no provision in the Economic Stabilization Act of 1970 for administrative enforcement by private parties. In considering the Coastal Motion, the DOE pointed out that the DOE's enforcement activities are intended to directly serve the public interest and are not equivalent to a private litigant's action for the recovery of overcharges from a firm which has violated the DOE regulations. In addition, the DOE pointed out that the participation of the 18 firms was consistent with the DOE procedural regulations since the 18 firms were directly involved in the matters raised by the Proposed Remedial Order and clearly had an interest in the enforcement Proceeding. Coastal's Motion to Limit Participation was therefore denied.

Requests for Exception

Bunting Oil Co., Washington, D.C.; FEE-4409, No. 2 heating oil

Bunting Oil Company filed an Application for Exception from the provisions of 10 CFR Part 212 in which the firm sought to be relieved of its obligation to refund the overcharges alleged in a Remedial Order issued to the firm. In considering the request, the DOE found that the firm's request was inappropriate since the Remedial Order was withdrawn and the firm was not currently subject to any refund obligation. Accordingly, the exception request was dismissed.

Champlin Petroleum Co., Fort Worth, Tex.; FEE-4730, crude oil

Champlin Petroleum Company filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). The requested exception, if granted, would permit Champlin to sell entitlements in excess of the number it would ordinarily be permitted to sell in order to compensate the firm for the high cost of imported crude oil acquired in connection with the expansion and modernization of its Corpus Christi, Texas refinery.

In considering the Champlin submissions, the DOE found that the firm had engaged in a refinery expansion and modernization program through which the crude oil processing capacity of the Corpus Christi facility was increased by 80,600 barrels per day to 145,800 BPD. The DOE noted that, in order to meet the increased feedstock requirements attendant to this expansion, Champlin acquired at world market prices substantial volumes of imported crude oil for

permanent additions to its inventory. The DOE observed that, since the amount by which Champlin increased its crude oil inventories is never matched by equivalent volumes of crude oil runs to stills, the firm does not receive Entitlement benefits with respect to the imported crude oil it purchased in the course of its refinery expansion program. The DOE further observed that, as a consequence, Champlin had not enjoyed the full crude oil cost equalization benefits of the Entitlements Program. Upon assessing this result in light of the facts presented by Champlin, the DOE found that the expansion and modernization of the Corpus Christi refinery had furthered several important national energy policy objectives. In particular, the DOE found that the Champlin refinery expansion represents a substantial increase in domestic refinery capacity operated by an independent refiner which is capable of processing efficiently a wide range of the available crude oil, feedstocks into a slate of petroleum products which conforms closely with the nation's requirements. The DOE further found that the continued economic viability of the Corpus Christi refinery will not depend on the maintenance of a particular regulatory climate, but will derive from the sophistication and flexibility of the facility. In view of these factors, the DOE concluded that the operation of the Entitlements Program imposed an unfair distribution of regulatory burdens and produced a grossly inequitable result by denying Champlin any crude oil cost equalization benefits with respect to the imported crude oil acquired for its inventory expansion. Consequently, exception relief was approved which provided Champlin with entitlements benefits for the increase in crude oil inventory which was a necessary component of the firm's refinery expansion.

Energy Cooperative, Inc., East Chicago, Ind.; DEE-2042, crude oil

Energy Cooperative, Inc. (ECI) filed an Application for Exception from that portion of Section 211.67(i)(4) which creates a 21 cent per barrel advantage for domestic crude oil under the Entitlements Program. In its Application, ECI asserted that the 21 cent advantage was causing the firm to experience a serious hardship and a gross inequity because ECI is almost totally dependent upon foreign crude oil. In considering the ECI submission, the DOE found that the economic viability of the firm was seriously threatened in a manner contrary to the policy objectives of the Emergency Petroleum Allocation Act. Moreover, the DOE noted that the ERA was currently proposing to eliminate the 21 cent advantage for domestic crude oil. Therefore, in order to prevent ECI from experiencing substantial additional costs during the pendency of the ERA rulemaking proceeding, the DOE determined that the ECI Application be granted.

Ince Minerals Corp., Golden, Colo.; DEE-1148, uranium

Ince Minerals Corporation (Ince) filed an Application for Exception from the provisions of 10 CFR, Part 760 of the Domestic Uranium Program Regulations. The exception request, if granted, would result in the reduction in the royalty payments that Ince is required to

remit to the Department of Energy with respect to its production of uranium and vanadium ore from the Bitter Creek Mine. In its application Ince maintains that in view of the substantial royalty payments that it must remit to the DOE, unless exception relief is approved that will permit a downward adjustment in the current royalty payment schedule, the firm will cease extraction activities at the site and the nation's supply of energy reserves will therefore be reduced. After a review of the record in the case, it was determined that exception relief was not appropriate. The DOE noted that the contention of the firm that the Bitter Creek Mine would generate operating losses under the current method of operation appeared to be correct. Nevertheless, the DOE found that the primary cause of the firm's operating difficulties was a discretionary business decision by the firm to secure a leasehold interest in the Bitter Creek Mine at a relatively high cost to the firm. The DOE noted that the direct application to the firm of a particular regulatory program was not the source of its difficulties. The DOE also determined that if the firm was to receive exception relief under these conditions, it would serve to insulate Ince against the risks inherent in undertaking exploration activities and would further eliminate the incentive of a firm to make a realistic estimate of the mineral bearing reserves at a site prior to the submission of a bid and the operation of the lease. It was also found that energy resources would not be lost to the nation if the firm's Application is denied. Under existing regulations, if a firm determines that mining operations are uneconomic under the applicable royalty structure, it can relinquish its leasehold interest and the tract is then made available by the DOE for new bids. Accordingly, Ince's exception application was denied.

Pierremont Petroleum Corp., Shreveport, La.; DXE-2207, crude oil

Pierremont Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which Pierremont sought an extension of exception relief previously granted to the firm. The relief requested would permit the firm to continue selling certain quantities of the crude oil produced from the C. G. Henderson 17-8 #1 Well, located in the East Barber Creek Field, Scott County, Mississippi, at upper tier prices. In considering the exception request, the DOE found that continued exception relief was necessary to provide Pierremont with an economic incentive to maintain production operations. Accordingly, exception relief was granted.

Shell Oil Co., Houston, Tex.; DEE-1955, crude oil

Shell Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell, at prices in excess of the applicable ceiling prices, certain of the crude oil to be produced from the Gas City Unit located in Dawson County, Montana. In considering the application, the DOE determined that in the absence of exception relief the firm would have no incentive to undertake a capital

investment program necessary to substantially increase the amount of crude oil ultimately recoverable from the Unit. Therefore, the DOE determined that exception relief should be approved which would enable Shell to attain a 23 percent rate of return on the capital investment. Accordingly, Shell was permitted to sell, at prices that exceed the applicable ceiling prices, a portion of the crude oil produced from the Gas City Unit for the benefit of the working interest owners.

Requests for Stay

Exxon Company, U.S.A., Houston, Tex.; DES-0367, DST-0367, Motor Gasoline

Exxon Company, U.S.A. filed Applications for Stay and for Temporary Stay of a Redirection Order issued to the firm by the DOE Region IX Office of Fuels Regulation pending a determination on its Appeal. In that Order, Exxon was required to supply motor gasoline to Pacific Refining Company during April 1979. In considering the Application for Temporary Stay, the DOE determined that Exxon had failed to show that it or its customers would incur an irreparable injury in the absence of stay relief. Accordingly, Exxon's Application for Temporary Stay was denied. In considering the Application for Stay, the DOE found that Exxon had made a strong showing of a likelihood of success on the merits of its Appeal because the Order did not comply with DOE procedural and substantive regulations concerning the issuance of Redirection Orders. Exxon's stay request was therefore granted.

Port Petroleum, Inc., Shreveport, La.; DES-3952, crude oil

Port Petroleum, Inc. filed an Application for Stay from the requirement that it discharge \$141,483.12 which is equal to one-half of its total entitlement obligation for January 1979. See 10 CFR 211.67. In considering the Application, the DOE determined that Port had insufficient financial resources to meet its remaining entitlement obligation for that month, but that the firm could purchase one-third of its outstanding January entitlements during the months of May, June and July. The stay request was therefore granted.

Motions for Evidentiary Hearing

Amerada Hess Corp., Washington, D.C.; DRH-0096, DRD-0096, crude oil

Amerada Hess Corporation filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order which the DOE Office of Special Counsel issued to the firm on August 9, 1978. The PRO alleged that Hess failed to deduct from its costs of crude oil the consideration which the firm received in connection with foreign-domestic crude oil sale and exchange transactions and that Hess therefore overstated its increased costs of crude oil in violation of 10 CFR 212.63. In considering Hess' Motion for Evidentiary Hearing, the DOE indicated that several of the matters concerning which Hess wished to present oral testimony related to the correctness of the Office of Special Counsel's position regarding the treatment of consideration received in the "ticket" exchanges in which

Hess engaged. The DOE concluded that this was an issue of law rather than fact and should be resolved by reference to published material, including the relevant regulatory and statutory provisions themselves and legislative and regulatory history. The DOE further rejected Hess' request to introduce oral testimony to establish the burden on the firm of filing amended forms reflecting a recalculation of its crude oil costs as directed by the PRO. The DOE noted that it was unlikely that the burden of recomputation would be found to outweigh the public interest in the refund of the overcharges. The DOE accordingly denied Hess' Motion for Evidentiary Hearing.

In considering Hess' Motion for Discovery, the DOE first denied Hess' request for internal documents relating to the correct treatment of consideration received or given up in ticket exchanges, the purposes of the Mandatory Oil Import Program and ticket exchanges, and the proper interpretation of the cost passthrough provision of the Emergency Petroleum Allocation Act of 1973 in light of these exchanges. The DOE found that the documents sought related to the legal issue concerning the correct treatment of consideration involved in ticket exchanges and that it did not appear that the Office of Special Counsel relied upon any material other than that cited in the PRO in reaching its conclusions concerning that issue. Accordingly, the DOE concluded that its determination as to the correctness of the Office of Special Counsel's legal conclusion would focus upon the PRO itself and the regulatory provisions and other material discussed therein. The DOE further rejected Hess' contention that discovery was justified under *Standard Oil Co. v. DOE*, CCH Fed. En. Guid. Par. 26.115 (T.E.C.A. 1978). In view of the foregoing considerations, the DOE denied Hess' Motion for Discovery.

Bultman, Inc., Elkhart, Kans.; DEH-0098 propane

Bultman, Inc. filed a Motion for Evidentiary Hearing requesting that an evidentiary hearing be convened in connection with the firm's Statement of Objections to a Proposed Decision and Order issued to the firm. In considering the request, the DOE found that Bultman had not set forth adequately the relevancy of the matters it wished to present at an evidentiary hearing. Accordingly, the Motion was denied.

Supplemental Orders

Steichschulte Gas & Oil Co., Owosso, Mich.; DEX-0162 motor gasoline

On March 27, 1979, the DOE granted an Application for Stay filed by Steichschulte Gas & Oil Company on behalf of all branded jobbers of the Union Oil Company of California. *Steichschulte Gas & Oil Company*, 3 DOE Par. — (March 27, 1979). In that stay, the DOE directed Union to allocate motor gasoline to its branded jobbers in PADs, I, II and III during March, April and May 1979 on the basis of each jobber's purchases during the period May 1978 through January 1979. Subsequent to the issuance of that Decision and Order, the DOE promulgated regulations which provided for an upward adjustment of the base period volumes of retail sales outlets

and wholesale purchaser-consumers which experienced unusual growth since the base period. As a result, it became possible for Union jobbers to receive double allocations for certain volumes of gasoline. Accordingly, the DOE issued a Supplemental Order to Steichschulte which eliminated the possibility of double allocations. In addition, the DOE limited the volumes of gasoline that jobbers could certify upward to Union for the purpose of supplying new retail outlets.

Texaco, Inc., Los Angeles, Calif.; DEX-0158 crude oil

Texaco, Inc. filed a petition with the Office of Hearings and Appeals in which it requested the DOE to provide assurances that certain expenditures that the firm must incur in performing an emergency well workover would be included in an analysis of the firm's economic incentive to continue extraction operations at one of its crude oil producing properties.

Since the proposed expenditures were necessary to continue extraction activities, the DOE concluded that the expenses necessary to perform the well workover would be included in any subsequent analysis of the firm's economic incentive to continue extraction operations at the site.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Stay and/or Temporary Stay of the provisions of Standby Regulation Activation Order No. 1. The stay requests, if granted, would result in an increase in the base period allocation of motor gasoline pending determination of the Applications for Exception. The DOE issued Decisions and Orders which determined that the stay requests be granted:

Company Name, Case No. and Location

Brentwood Exxon, DES-2363; Raleigh, NC
Farel Little Oil Co., DES-2627; St. Augustine, FL
Keahey's Friendly Service DES-3209; DST-3209; Hot Springs, AR
Oklahoma Ref. Co., DST-0187; Wash., DC
Bud Wolfe's Arco Mini Market DES-3397; Redlands, CA
Manchester Shell, DES-3541; Inglewood, CA
Shell Oil Co., DES-2894; Houston, TX
Farmland Industries, DES-2138; Kansas City, MO
Citadel Corp., DES-3870; DST-3870; Wash., DC
Chevron U.S.A., Inc., DES-3153; San Francisco, CA
Tom's Village Arco, DES-3181; Sturtevant, WI
Wood Oil Co., DST-2933; Cadena, CA
Aia Exxon, DES-2428; DST-2428; Daytona Beach, FL
River Oil Co., DST-2348; Memphis TN
Holiday Foods, Inc., DES-3752; Des Moines, WA

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception and/or Applications for Stay and/or Temporary Stay form the provisions of

Standby Regulation Activation Order No. 1. After reviewing the material presented by these firms, the DOE issued Decisions and Orders which determined that each of these petitions should be dismissed without prejudice to a refiling at a later date:

Company Name, and Case No.

Addington Oil Co., DEE-3382
Neptune Petroleum, DEE-3378
Jac Shell Corp., DEE-3468
Broadway Standard, DEE-2664
Bakers Standard, DEE-3072
Golla Standard, DEE-3128
Henry Austin, DEE-2527
Delsordo's Amoco, DEE-3678
Cordingley's Amoco, DEE-3687
Orleans Amoco, DEE-3696
Calfee's Minute Market, DEE-2356
Koester Chevron, DEE-33075
A & E Service, Inc., DEE-3306
Lefaster Corporation, DEE-3604, DES-3604, DST-3604
Clifford Cox, DEE-3834; and location, North Las Vegas, NV

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name, and Case No.

V. Bell Oil Co., DEE-3343, DES-3343, DST-3343
Valley View Conoco, DEE-2656, DES-2656
Venezia Oil Co., DEE-4008
W. F. Shuck Pet., DEE-1967
Walker Chevron, DEE-3932
Waterbury Truck Stop, DEE-4009
West Asheville Exxon, DEE-2425, DES-2425, DST-2425
William Ted Langston, DEE-3204, DES-3204
Wyn's Service Center, DEE-3913
Young's 76 Service, DEE-3404
Youseff Terzian, DEE-3372
Quickway Grocery (J. H. Kaspar Oil Co.), DEE-2839, DES-2839
R. J. Oil Co., Inc., DEE-2588
Ralph J. Phillips, DEE-3431
Richard D. Parry (Parry Tire Co.), DEE-3483, DES-3483, DST-3483
Ron's Mobil Service, DEE-3569
Sawyer & Gale (A & J Mini-Market), DEE-3579
Silverman Oil Co., DEE-2459
Smith's Kwik Stop, DEE-3825
South Vienna Exxon, DEE-3090, DES-3090, DST-3090
Speidel's Automotive, DEE-4037, DES-4037
T. A. Roberts Oil Co., DES-0182
T. H. Ray, Inc., DEE-3903
Terry Wisely Equal (Village of Erie), DEE-2871
The Country Store, DEE-3399, DST-3399
Thomas B. Baird, Jr. (Bastian Exxon), DEE-4048, DES-4048
Michael Mandel, DEE-4020
Molo Oil Company, DEE-2601
Moo Tae Kim, DEE-3573
Morris Adams Oil Co., DEE-3877, DST-3877
Nickolas Baldini, DEE-3679
Nickolas Baldini, DEE-3688
North River Gulf, DEE-3043
Palmyra Standard, DEE-3008
Park Forest Mobil, DEE-3508
Paul F. Mantia, DEE-3908
Perfection Oil, Inc., DEE-3883, DST-3883
Plantation Park Exxon, DEE-3966

Pleasant Lake Shell, DEE-3370
Prairie Oil Co., DEE-2760, DES-2760
Preston B. Hall, DEE-2969
John Bogley, DEE-3630
Johnson's Shell, DEE-3172, DES-3172
Joseph A. Smith (G.W.'s Exxon), DEE-3387, DES-3387
Joseph H. Campbell (Bill Moore's Exxon), DEE-3388
Kalama Chemical, Inc., DPI-0035
Ken Crites, DEE-2603
L. C. Armstrong & K. W. Davis, DEE-3556
Lammers & Gerding, DEE-2535
Lance Oil Co., Inc., DEE-2859
Lanis Pettit, Jr. (Mini-Markets, Inc.), DEE-2860
Log Cabin Grocery, DEE-3392
M. M. F. Service, DEE-3473, DES-3473
M. Jerkins (Otton's Bakery, Inc.), DEE-3600
Magee General Store, DEE-3130
Mandrich, Clark & Barker (Mike's Arco Mini-Mart), DEE-3734
Ever-Ready Mart (Oliver Clinton), DEE-3632
Exxon North Elm, DEE-3963
Gary's Exxon, DEE-3956
Gas-Mart Company, DEE-2369, DES-2369
George E. Brooks (Princess Manor Arco), DEE-3970
Great Lakes Dev. Co., DEE-3973
Harry's Mobil, DEE-3229
Hayter Oil Company, DEE-2590
Herb's Standard Inc., DEE-3992
Hamdon Mobil, DEE-2607
Hill's Service Center, DEE-3266, DES-3266
Hypoluxo Marina, DEE-3748
Jack's Amoco (James Jackson), DEE-3664
Jackson & Reed (Boemmels Auto Wash), DEE-3739
Jenkins Oil Co., DST-0039
Jerry Lantz Standard, DEE-3724
Burleigh Heights (Molkentine), DEE-3123
C&D Grocery, DEE-3334, DES-3334
C. P. Phelps, Inc., DEE-2879, DES-2879
Cassels Oil Company, DEE-2421, DES-2421, DST-2421
Charlie's Mobil, DEE-4027
Chateau Oil Co. (Traveler's Petro., Inc.), DEE-2846
Creekside Market, DEE-2785, DES-2785
Cunningham Butane Gas, DEE-3972
Dean Gallion, DEE-3806
Dick & Hank's Mobil, DEE-3418
Dom's Exxon, DEE-3670
Donal Chilton, DEE-4040, DES-4040
E. E. Henley & Son, DEE-3808
Earl W. Allen, DEE-3983
Eastern Shore Arco, DEE-3317, DST-3317
A&W Oil & Tire Co., DEE-3847
Al Haddox Chevron, DEE-3535
American Car Wash, DEE-3839
Amoco of Commack DEE-3389
Armstrong/Davis Arco, DEE-3196, DES-3196
Art Haigh's Arco, DEE-3863
Austin's Acre Exxon, DEE-3926
Berrell Auto Service, DEE-3675
Bill's Truck Stop, DEE-3400
Black Coach Enterprises, DEE-2364, DES-2364, DST-2364
Blodgett Oil Co., Inc., DEE-3782
Bob's Mini/Market, DEE-3510, DES-3510
Bull City Oil Co., DEE-2592
Bunting Oil Co., DRA-0067
Riley's Sales Co., DEE-4039, DES-4039
Rodrique's Exxon, DEE-3177, DES-3177
Shell Oil Co., DEA-0368
Smo Inc., DEE-3824

The Mascot, DEE-4036, DES-4036
The W. Gordon Smith Co., DEE-2707
Torrance Car Wash, DEE-3324, DST-3324
Wolf's Exxon Servicenter, DEE-2907
Lou Balady's Texaco, DEE-3230
Main Gas & Appliances, DRO-0055
Mason's Automotive, DEE-3862, DES-3862
Mike Nichols, DEE-4001
Miller's Exxon, DEE-3202, DES-3202
Morlan's Dx Service, DEE-3028, DST-3028
Murray's Mini-Market, DEE-3581
National Park Village, DEE-4002
Nelson Oil & Tire Co., DEE-3645
Newark Intermodal Truck Stop, DEE-3062
Phillips Pet. Co., DPI-0036
Pollard's Gulf, DEE-3162
Pope's Exxon, DEE-3168
Quick Car Wash & Gas, DEE-2946, DES-2946
Red & Jack Oil Co., DEE-2502
C. Parker Oil Co., Inc., DEE-2644, DES-2644
Cantro Pet. Corp., DEE-3315, DST-3315
Carlos A. Monreal Exxon, DEE-3158
Christopher A. Nauman (Whistle Stop), DEE-3696, DES-3696, DST-3696
Clayton Oil Co., DEE-2921
Crites Oil Co., Inc., DEE-3025, DES-3025, DST-3025
Day-N-Nite Convenience Store #1 (Truxillo), DEE-4000
Exxon Co., USA, DST-0055
George E. Brooks (Tom's Arco), DEE-3971
Great Plains Corp., DRD-0171, DRH-0171
Grier's Kwik Stop, DEE-2964
Guarantee Oil Co., DEE-2580, DES-2580
Hull's Chevron, DEE-4069
J. A. Travaglino, DEE-4024
Kentwood Exxon, DEE-3332, DES-3332
A-1 Standard Service, DEE-3131
Al's Mobil, DEE-4197, DES-4197
B & T Gulf Station, DEE-3991
Allied Chem. Corp., FEE-4366
Aspen Hill Amoco, DEE-3652
Atlantic Richfield Co., DEE-4202, DES-4202, DST-4202
Auto Service, Inc., DEE-3909
Bill Doland, DEE-4098
Baintree Square Mobil, DEE-4022
Amerada Hess Corporation, DEE-0028
American Petrofina, Inc., DEE-0006
Apco Oil Corporation, DEE-0020
Ashland Oil, Inc., DEE-0026
Atlantic Richfield Company, DEE-0042
Champlin Petroleum Company, DEE-0025
Charter Oil Company, FEE-4858
Cities Service Company, DEE-0011
Coastal States Gas Corporation, DEE-0001
Commonwealth Oil Refining Company, Inc., DEE-0015
Continental Oil Company, DEE-0016
Delta Refining Company, DEE-0043
Exxon Company, U.S.A., DEE-0027
Farmland Industries, Inc., DEE-0045
Getty Oil Company, DEE-0023
Gulf Oil Corporation, DEE-0012
Husky Oil Company of Delaware, DEE-0014
Indiana Farm Bureau Cooperative Association, Inc., FEE-4319
Kerr-McGee Corporation, DEE-0017
Marathon Oil Company, DEE-0019
Mobil Oil Corporation, DEE-0044
Monsanto Company, FEE-4354
Navajo Refining Company, DEE-0008
Newhall Refining Company, Inc., FEE-4379
Pasco Liquidating Trust, DEE-0009
Pennsoil Company, DEE-0022
Phillips Petroleum Company, DEE-0002

Plateau, Inc., FEE-4388
Powerine Oil Company, FEE-4381
Quaker State Oil Refining Corporation, DEE-0010
Shell Oil Company, DEE-0121
Standard Oil Company (Indiana), DEE-0003
Standard Oil Company of Ohio, DEE-0004
Sun Oil Company of Pennsylvania, DEE-0029
Tenneco Oil Company, DEE-0018
Tesoro Petroleum Corporation, DEE-0013
Texaco, Inc., DEE-0005
Texas City Refining, Inc., DEE-0021
Thunderbird Resources, Inc., FEE-4851
Time Oil Company, DEE-0122
Tosco Corporation, DEE-0024
Tri-State Oil & Asphalt Sales, Inc., FEE-4852
Union Oil Company of California, DEE-0056
Warrior Asphalt Company of Alabama, Inc., FEE-4389
Witco Chemical Corporation, DEE-0007
Marsh St. Union Serv., DEE-4169
P & L Exxon, DEE-3918
Roxbury Garage, DEE-4025
Roy's Standard Serv., DEE-4173
Stevenson's Texaco, DEE-3354
Sunoco of Exton, DEE-3689
Sweet Treat Ice Cream (Locust Grove Standard Station), DEE-2472, DES-2472, DST-2472
Terry's Mobil, DEE-2821, DES-2821, DST-2821
Tom's Exxon, DEE-2708
Tommy's One Stop, DEE-2709
W. L. Avery, DEE-4092, DST-4092
Campbells Shell, DEE-3744
Carthage Road 66, DEE-4170
Collinsville Motors, DEE-3921
Curt Roth, DEE-3568
Domind Pet. Corp., DRO-0140
E-Z-Go Self-Service, DEE-3157
East Drive Automotive, DEE-3465
Eden Oil company, DEE-3023, DES-3023
Gebbie's Exxon, DEE-3691
Gettlefinger Service, DEE-3451
Hilltop Services, Inc., DEE-2978
Home-Stake Production, DEE-1003
Jim's State Line K-M, DEE-4077
Koch Industries, DMR-0046
M.R.S. Markets, DEE-3562

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
November 14, 1979.

[FR Doc. 79-35842 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of June 25 Through June 29, 1979

Notice is hereby given that during the week of June 25 through June 29, the

Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Pat Broudy, Laguna Niguel, Calif.; DFA-0436, freedom of information

Pat Broudy filed an Appeal from a partial denial by the Director of the Office of Classification of a Request for Information which she had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that certain of the material contained in the documents which were initially withheld under exemptions (b)(1) and (b)(3) should be released to the public. An important issue considered in the Decision and Order was whether OHA may perform a complete classification review in connection with its consideration of the Appeal.

Exxon Co., U.S.A., Mobil Oil Corp., Tosco Corp., Shell Oil Co., Union Oil Co., of California, Houston, Tex., et al.; DEA-0367, DES-0400, DEA-0400, DEA-0405, DEA-0399, DEA-0401, motor gasoline

The Exxon Company, U.S.A., Mobil Oil Corporation, Tosco Corporation, Shell Oil Company, and Union Oil Company of California filed five Appeals and one Application for Stay relating to five Redirection Orders which were issued to those firms by the DOE Economic Regulatory Administration Region IX Office of Fuels Regulation. Those Orders required the five firms to supply motor gasoline to Pacific Refining Company during April 1979. In considering the Appeals and Application for Stay, the DOE determined that the Redirection Orders were defective because they did not set forth factual and legal findings which would indicate that the Office appropriately considered supply imbalances within a geographic area as the primary factor in its decision to order a redirection of product. In addition, the DOE found that the Office considered factors which are outside the scope of 10 CFR Section 211.14. The DOE also found that the Office failed to make findings that the supply difficulties which Pacific was experiencing could not have been anticipated long before its request for a redirection order or that Pacific's parent corporation, Coastal States Gas Corporation, was unable to assist Pacific. Consequently, the Appeals of the five firms were granted and the Redirection Orders were rescinded. In addition, the DOE ordered Coastal States to repay to Tosco and Union the volumes of motor gasoline that those firms had supplied to Pacific in compliance with the Redirection Orders.

Robert C. Smith, Washington, D.C.; DFA-0437, freedom of information

Robert C. Smith appealed from a partial denial by the Deputy District Manager of the DOE Northeast District Office of Enforcement

of a Request for Information that Mr. Smith had submitted pursuant to the Freedom of Information Act, 5 USC 552 (FOIA). The Deputy District Manager withheld certain documents as being exempt from disclosure pursuant to sections (b)(4) regarding commercial proprietary information and (b)(5) relating to intra-agency memoranda. Upon consideration of the Appeal, which related only to those documents withheld pursuant to Exemption 4, the DOE found that the documents were properly withheld under Exemption 4 as being commercial information the release of which could cause substantial harm to the competitive position of the firm that submitted the information. Although the financial and pricing data was several years old, it was held that the data was still confidential because the regulatory structure of the petroleum industry since 1973 maintains relationships that were in place at that time.

Atlantic Richfield Co., Los Angeles, Calif.; DRO-0230, motor gasoline

Atlantic Richfield Company (Atlantic Richfield) filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which was issued to the firm on May 22, 1979 by the Pacific District Office of the DOE Special Counsel. Atlantic Richfield's Notice of Objection was officially filed on June 5, 1979, the fourteenth day after the issuance of the IROIC. The DOE determined that Atlantic Richfield had not complied with 10 CFR 205.199D, which requires that a Notice of Objection be filed within ten days of the issuance of the IROIC, and that the firm had not explained its failure to file its Notice in a timely manner. Therefore, the DOE dismissed the Notice of Objection and stated that the IROIC would be issued as a final order of the DOE unless within ten days of the firm's receipt of the Decision and Order, Atlantic Richfield filed a new Notice of Objection and demonstrated good cause for the late filing of its June 5, 1979 Notice. Atlantic Richfield's Notice of Objection was accordingly dismissed without prejudice to a re-filing on the terms specified.

In the following cases involving Proposed Remedial Orders, no Statements of Objections were filed. The DOE therefore issued Remedial Orders in final form.

Name, case No., and location

Harry L. Burke, d.b.a. Burke's Mobil Service, DRW-0015; Westchester, Pa.
Marvin Eaton, d.b.a. Eaton's Gulf Service, DRW-0017; Parkersburg, W. Va.
Robert Blattenberger, d.b.a. Blattenberger Gulf, DRW-0018; Chambersburg, Pa.
Stan Segal, d.b.a. S&S Arco, DRW-0014; Philadelphia, Pa.
Ted Davis, d.b.a. Ted's Exxon, DRW-0018; Bradley, W. Va.

Chevron USA, Inc., San Francisco, Calif.; DXE-2802, crude oil

Chevron USA, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Summerland Field in

excess of the applicable ceiling price levels. In considering the exception application, the DOE found that Chevron continued to incur increased operating expenses at the Summerland Field and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that Field. In view of this determination and on the basis of the operating data which Chevron had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Chevron to sell at market prices (not to exceed \$21.32 per barrel) 100 percent of the crude oil produced from the Summerland Field for the benefit of the working interest owners for a six-month period.

Ely Crude Oil Co., Nye County, Nev.; DXE-0892, entitlements

The Ely Crude Oil Company (Ely) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). The exception request, if granted, would permit any refiner that purchases the crude produced by Ely to exclude that crude oil from its crude oil runs to stills for purposes of determining its entitlement purchase obligation. In evaluating the exception application, the DOE found that in view of the particularly low quality of Ely's crude oil production and the high cost of transporting Ely's crude oil to the nearest refinery, it is not economical for a refiner to purchase crude oil from Ely if the refiner incurs a full entitlement purchase obligation for Ely's production. Based upon this finding the DOE granted Ely exception relief which permits the firm to certify 29 percent of its crude oil production as stripper well crude oil for the purposes of the Domestic Crude Oil Entitlements Program, thereby reducing the entitlement purchase obligation of the purchase.

Gulf Oil Corp., Tulsa, Okla.; DXE-6683, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception, if granted, would result in an extension of the exception relief previously granted and would permit the firm to continue to sell a portion of the crude oil which it produces from the South Stanley Lease at upper tier ceiling prices. Gulf Oil Corp., 3 DOE Par. — (March 2, 1979). In considering the exception application, the DOE found that Gulf was continuing to incur increased operating expenses at the South Stanley Lease, and that in the absence of exception relief the firm would lack an economic incentive to continue its crude oil production operations at the property. In view of this determination and on the basis of the operating data which Gulf had submitted for the most recently completed six-month period, the DOE concluded that exception relief should be continued to permit Gulf to sell at upper tier ceiling prices 72.91 percent of the crude oil produced from the South Stanley Lease for the benefit of the working interest owners for a six-month period.

Hewitt and Dougherty, Austin, Tex.; DEE-2222, natural gas liquids

Hewitt and Dougherty filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart K. The exception request, if granted, would permit the firm to use the fourth quarter of 1973 as its base quarter in the calculation of its increased non-product costs used in calculating its maximum permissible selling price for natural gas liquid. In considering the exception request, the DOE found that the firm incurred significant construction and startup costs during the second quarter of 1973, the base quarter for purposes of Subpart K, and that these costs seriously distorted the intended use of the base period for measurement purposes. The DOE therefore determined that Hewitt and Dougherty satisfied the *Tenneco* standard for granting exception relief from a base period calculation. In accordance with this determination, the DOE permitted Hewitt and Dougherty to use the last quarter of 1973 as its base quarter in calculating allowable cost pass through pursuant to Subpart K.

Husky Oil Co., Washington, D.C.; DEE-1436, DEE-1444, crude oil

Husky Oil Company filed an Application for Exception from the provisions of 10 CFR 212.72 in which the firm sought permission to sell the crude oil produced from the Fleisher and Victory Leases located in Santa Barbara County, California at prices in excess of the prices permitted by the Mandatory Petroleum Price Regulations. In considering the request the DOE found that at the applicable ceiling prices the firm was incurring an operating loss in each of the leases and the exception relief was necessary to provide the firm with an incentive to continue crude oil production operations. Accordingly, partial exception relief was granted to the working interest owners of each of the leases.

Koch Exploration Co., Wichita, Kans.; DXE-2120, DXE-2121, crude oil

Koch Exploration Company (Koch) filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Sink Draw #1 Lease and the Cedar Rim #3 Lease at upper tier ceiling prices. Koch Exploration Co., 2 DOE Par. 81.093 (1978). In considering the exception application, the DOE found that Koch continued to incur increased operating expenses at the Sink Draw #1 and Cedar Rim #3 Leases and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at those leases. In view of this determination and on the basis of the operating data which Koch had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Koch to sell at upper tier ceiling prices 48.20 percent of the crude oil produced from the Sink Draw #1 Lease and 100 percent of the crude oil produced from the Cedar Rim #3 Lease for the benefit of the working interest owners for a six-month period.

Meason Operating Co., Natchez, Miss.; DXE-5821, crude oil

Meason Operating Company (Meason) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Arnold Perry Unit #1 (the Unit) at upper tier ceiling prices. Meason Operating Co., 3 DOE Par. 81.006 (1979). In considering the exception application, the DOE found that Meason continued to incur increased operating expenses at the Unit and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that Unit. In view of this determination and on the basis of the operating data which Meason had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Meason to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Unit for the benefit of the working interest owners for a six-month period.

O'Meara Bros., New Orleans, La.; DXE-5530, crude oil

O'Meara Brothers filed an Application for Exception from the provisions of 10 CFR, Part 212, in which the firm sought an extension of exception relief previously granted, which would permit O'Meara Brothers to continue to sell certain quantities of the crude oil produced from the Louisiana State Lease 2192 at upper tier ceiling prices. In considering the request, the DOE found that exception relief was necessary to provide O'Meara Brothers with an economic incentive to continue crude oil production activities at the property. Moreover, the DOE determined that the public interest would best be served by the prompt issuance of a final Decision and Order on the firm's exception request. Accordingly, the DOE issued a final Decision and Order in which exception relief was granted.

Pennzoil Producing Co., Houston, Tex.; DXE-2189, crude oil

Pennzoil Producing Company (Pennzoil) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Perry Sand Waterflood Unit, North Segment at upper tier ceiling prices. Pennzoil Producing Co., 2 DOE Par. 81, 161 (1978). In considering the exception application, the DOE found that Pennzoil continued to incur increased operating expenses at the Perry Sand Waterflood Unit, North Segment and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that Unit. In view of this determination and on the basis of the operating data which Pennzoil had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Pennzoil to sell at upper tier ceiling prices 100 percent of the crude oil produced

from the Perry Sand Waterflood Unit, North Segment for the benefit of the working interest owners for a six-month period.

Texaco, Inc., Denver, Colo.; DXE-2214, crude oil

Texaco, Inc. filed an Application for exception from the provisions of 10 CFR, Part 212, in which the firm sought an extension of exception relief previously granted which would permit Texaco to continue to sell certain quantities of the crude oil that it produces from the Government Graves Lease located in Campbell County, Wyoming at upper tier ceiling prices. In considering the request, the DOE found that exception relief was necessary to provide Texaco with an economic incentive to continue its crude oil production activities at the property. Moreover, the DOE determined that the public interest would best be served by the prompt issuance of a final Decision and Order on the Texaco exception request. Accordingly, the DOE issued a final Decision and Order in which exception relief was granted.

Union Oil Co. of California, San Francisco, Calif.; DEE-2022, crude oil

Union Oil Company of California (Union) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the working interest owners to sell the crude oil production from the Coalinga Nose Unit (Coalinga Unit) which is located in Fresno County, California at market price levels. In evaluating the exception request, the DOE found that crude oil production at the Coalinga Unit is enhanced by re-injecting indigenous formation gas. The DOE also found that the Mandatory Petroleum Price Regulations produced an incentive for Union to discontinue gas re-injection, de-emphasize crude oil production, and immediately sell the natural gas underlying the Unit. This series of events would result in the permanent loss of substantial quantities of domestic crude oil. Therefore the DOE determined that the working interest owners should be permitted to sell certain incremental volumes of crude oil as well as all natural gas liquids and natural gas liquid products produced from the Unit at market price levels. The DOE also determined that the amount of crude oil which Union would produce in the event of the immediate termination of its natural gas re-injection operation should be sold in accordance with the generally applicable provisions of 10 CFR, Part 212, Subpart D.

Young Coal Co., Waterloo, Iowa; DEE-0664, heating oil

Young Coal Company filed an Application for Exception from the provisions of 10 CFR 212.93 in which the firm sought to be relieved of an obligation to refund \$103,985 to its customers as required by the terms of a remedial order issued to the firm. In considering the request, the DOE found that the firm had failed to establish compelling reasons why retroactive exception relief is warranted or that it would experience severe and irreparable injury in the absence of such relief. Accordingly, exception relief was denied.

Requests for Stay

Amerada Hess Corp., New York, N.Y.; DES-0463, motor gasoline

Amerada Hess Corporation (AMC) filed an Application for Stay of a Temporary Assignment Order. The stay request, if granted, would permit AMC to be relieved of its obligations under a Temporary Assignment Order issued to that firm on May 31, 1979 to supply Petroleum Combustion International, Inc. (PCI) with motor gasoline during the months of June and July 1979. In considering the application, the DOE determined that AMC did not receive adequate notice or an opportunity to comment prior to the issuance of the Temporary Assignment Order as required pursuant to the DOE Procedural Regulations. Since the underlying validity of the May 31 Order was in serious doubt, the Temporary Assignment Order issued to AMC was therefore stayed pending a further Order of the DOE.

Amoco Oil Co., Chicago, Ill.; DES-0217, DST-0217, gasohol

Amoco Oil Company filed an Application for Stay of the provisions of 10 CFR 212.83 so as to permit the firm to market Gasohol as a separate category and grade of gasoline for cost pass-through purposes and to permit it to pass through the entire cost of the alcohol in its sales of Gasohol. In considering the Application, the DOE determined that Amoco had made a strong showing that it would be desirable for public policy reasons to grant the stay and that the firm was likely to succeed on the merits of its underlying Application for Exception. Amoco's stay request was therefore granted.

Mallard Resources, Inc., Washington, D.C.; DES-0318, crude oil

Mallard Resources, Inc., filed an Application for Stay from the provisions of 10 CFR 211.65(a)(1)(iii), which prevents new refiners from participating in the Crude Oil Buy-Sell Program. In considering the Application, the DOE determined that Mallard began constructing its refinery long after this provision was in effect and therefore could not have had a reasonable expectation that it would participate in the program. Consequently, the DOE ruled Mallard's alleged difficulties in obtaining crude oil were not attributable to the DOE regulatory program but, rather, to the firm's discretionary business decisions. The DOE found therefore, that Mallard had not made a showing that it was likely to succeed on the merits of its exception request. The temporary exception request was therefore denied.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception, Stay, Temporary Stay and/or Interim relating to the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company name, case No., and location

Pine Grove Exxon, DEN-5051; Pine Grove, Calif.
Town & Country Food Markets, Inc., DEN-2883; Washington, D.C.
Mason Valley Petroleum Dealers, DEN-5144; Yerington, Nev.
McDaniel's Grocery & Meat Market, DEN-5933; Port Bolivar, Tex.
Red Bluff Mobil, DEE-3111; Pasadena, Tex.
Howard Moor, DEX-0170; Wentzville, Mo.
Oklahoma Refining Co., DES-5901, DST-5901; Washington, D.C.
Hilltop Grand, DXE-6884; Reno, Nev.
Irv's Service Center, DXE-5543; Bossier, La.
Jesse Morales, DXE-6270; Uvalde, Tex.
Jersey Crown Dairy, DEN-4549; Manteca, Calif.
Mountain Oil Inc., DXE-6883; Boone, N.C.
Action Gas Co., DXE-6114; Sullivan, Ind.
Browning's Exxon, DXE-6882; Hazelwood, N.C.
Weekly's Exxon, DXE-6329; Montclair, Calif.
Big K Oil Co., Inc., DEE-2494; Hattiesburg, Miss.
Central City Shell, DXE-5889; Ferguson, Mo.
Greenwood Petroleum, DEN-6718; Greenwood, S.C.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firm filed Applications for Stay and/or Temporary Stay of the provisions of the Motor Gasoline Allocation Regulations. The stay requests, if granted, would result in an increase in the base period allocation of motor gasoline pending determination of the Applications for Exception. The DOE issued Decisions and Orders which determined that the stay request be denied.

Company name, case No., and location

Hull Oil Co., DES-4200, DST-4200; Washington, D.C.

Dismissals

The following submissions were dismissed without prejudice to refile at a later date:

Company name and case No.

Gunter's Country Store, DEE-6483
Mill's Seafood Plant, DEE-6409
S. Lane Sunoco, DEE-6233
Slidell Oil Co., Inc., DEE-3813
Southeast Oil & Development Corp., DES-0192
Yorktown 86 Service Station, DEE-4399
Artesia Paramount Arco, DEE-5764
Atlantic Richfield, DEE-3228
Brabham Oil Co., Inc., DEE-2951
Dillon Amoco, DEE-6350
Dudley & Assoc., Inc., DEE-6290
Garland M. Canter, Inc., DEE-5138
Gulf Service Station, DEE-3510, DES-3518
Farmland Industries, DEE-2138
Farmland Industries, DEE-4844
Farmland Industries, DES-0213
Foster Oil Co., DEE-6114
Barney's Service Station, DEE-4023
Biran E. Bolles, DEE-3347
Burgess Gulf Station, DEE-4874
Donald Griffith, DEE-4118
Dustin's Gulf, DEE-5625
H. J. Truxillo, Inc., DEE-3987, DEE-3988, DEE-3989

Joseph Lichenberg, DEE-4360
Kerr McGee Station #6782, DEE-6334
Lyle Fairchild Texaco, DEE-4601
Maier's Arco Service, DEE-6118; DES-6118
Richard Mannion, DEE-4294
Smoke House Sunoco, DEE-3303
Tyler Petroleum Co., DEE-3071
AMS Rentals, DEE-4914
Cross Roads Oil Co., DEE-3894
Irvingate Shamrock, DEE-6374
Kirkpatrick Oil Distributors, DEE-3882; DST-3882
Arthur Gannet, DEE-4028
Excelsior Super Shell, DEE-6267
Jim Rutherford, DEE-5160
Ripon Shell Service, DEE-3772; DST-3772
Beck Suppliers, Inc., DEE-3314; DST-3314
California 5 Minut Car Wash, DEE-3107; DES-3107
Carroll Oil Co., Inc., DEE-2550
Commonwealth Oil DPI-0030; DES-0218
Lynch Oil Co., DEE-4371; DST-2371
Mayor of Montgomery, DEE-6789
N. A. Dunn, Inc., DEE-4721
Pride Refining, Inc., DEE-5823
Ratcliff Stadium Shell, DEE-6639
Ron's Shell Service DES-5912
Sarko Equipment, Inc., DEE-6420
Stechschulte Gas & Oil Co., DST-0058
Union Oil Co. of California DRO-0212
Universal Car Wash #2, DEE-2795
Whistle Stop, DEE-6659
Blanton Oil Co., DES-0185
Central Florida Gas, DEE-2270
Chouteau Oil Co., DEE-3846
Craig, Mrs. Warren, DEE-6504
Pennzoil Producing, DEE-6200
Stone Oil Corp., DEE-4111
Big Jim's Gulf, DEE-6248
Bob's Gulf, DEE-5640
Dilworth's American, DEE-3629
Ervin H. Stever, DEE-4529; DES-4529
Huron Shell Service, DEE-2882; DES-2882
Jack Vanderspeck, DEE-5301
Park & 86th Exxon, DEE-4506
Pettigrew Oil Co., DEE-4079
Todd's Automotive, DEE-5255
Tonopah Chevron, DEE-4864
Virginia Forest Exxon, DEE-2606
West Main Amoco, DEE-5435
Casey G. Snyder, DFA-0459
Charles G. Allen Contracting Co., Inc., DEE-3811
County of Louisa, DEE-6558
Fitts Oil Co., DEE-4924
Hayes Chevron, DEE-6307
M.D.L. Auto Truck Center, Inc., DEE-6732
Romine Oil Co., DEE-6223
Shenandoah Phillips 66, DEE-4819
Stern Oil Co., DEE-6478
Abdalla N. Haddad, DEE-5387
Anoka International Sales & Service, Inc., DEE-6328
Auto Care Centers, Inc., DEE-5112
Auto Club Services Corp., DEE-6009
Barrett's Auto Service, DEE-5281

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management*:

Federal Energy Guidelines, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

November 15, 1979.

[FR Doc. 79-35853 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of July 30 Through August 3, 1979

Notice is hereby given that during the week of July 30 through August 3, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Demetriou, Del Guercio & Lovejoy, Los Angeles, Calif.; DFA-0485, freedom of information

Demetriou, Del Guercio & Lovejoy filed an Appeal from a denial of a request for information which it made pursuant to the Freedom of Information Act. In its Appeal, the firm argued that the FOIA Director had failed to sufficiently explain the basis for the determination to deny the request under Section 552(b)(5) of the FOIA which exempts interagency or intra-agency memoranda from mandatory public disclosure. In considering the Appeal, the DOE found the documents in question to be a preliminary draft of a legal memorandum written by a staff attorney and set of handwritten notes reflecting the discussion of DOE staff members in the preparation for an appearance before a congressional committee. The DOE determined that these documents did fall within the exemption for predecisional intra-agency memoranda and that their disclosure would inhibit the DOE's decision making process. As a result, the firm's Appeal was denied.

State of Illinois (Attorney General's Office), Chicago, Ill.; DFA-0455, freedom of information

The State of Illinois (Illinois) filed an Appeal from a partial denial by the Program Director of the Office of Nuclear Waste Management (the Program Director) of a Request for Information which the State had submitted under the Freedom of Information Act (FOIA). In its request, Illinois sought access to all documents held by DOE regarding the possible use of the General Electric Company's (G.E.'s) Morris, Illinois facility for use as an away-from-reactor repository for spent nuclear fuel. The Program Director withheld in its entirety a document encompassed by Illinois' request on the ground that it contained confidential commercial information exempt from mandatory disclosure under the FOIA. This

document, which was submitted to the DOE by a G.E. official, consists of a cover letter and excerpts from a G.E. study on the possible use of the Morris facility as a dry storage repository for spent nuclear fuel.

In its Appeal, Illinois contended that the Program Director had neither adequately described that document which was withheld nor set forth the bases on which it was considered exempt from mandatory disclosure. After considering this contention, the DOE determined that the Program Director complied with minimum agency requirements regarding identification of withheld material as well as those regarding an explanation of the basis for nondisclosure. The DOE therefore rejected Illinois' contention. Illinois also asserted in its Appeal that since the withheld document contains information on spent nuclear fuel storage techniques that have never been commercially used, this data cannot constitute confidential commercial information within the meaning of Exemption 4. The DOE rejected this argument, finding that proprietary data concerning a technology with potential as an economically practical means of storing spent nuclear fuel was commercially valuable to G.E. and was therefore within the scope of Exemption 4. The DOE further found that the withheld data related to a specific G.E. facility and could not have been culled directly from Government-generated studies on the feasibility of dry storage, and that the data had not been previously released to the public by G.E. Finally, Illinois asserted that the Program Director failed to segregate and release nonexempt portions of the material. In this regard, the DOE determined that G.E. did not consider the cover letter of the document to contain any confidential information. The DOE also found that the remainder of the document contained no reasonably segregable nonexempt information. Accordingly, the DOE determined that the cover letter should be released and that the remainder of the document should be withheld.

Vickers Petroleum Corp., Washington, D.C.; DEA-0351

Mobil Oil Corp., New York, N.Y.; DEA-0353, DEA-0354, DEA-0355

Koch Industries, Inc., Washington, D.C., DEA-0358

Exxon Co., U.S.A., Washington, D.C.; DEA-0369, DEA-0371

Morathon Oil Co., Washington, D.C.; DEA-0376

Sun Oil Co., Washington, D.C.; DEA-0370, DEA-0379

Gulf Oil Corp., Houston, Tex.; DEA-0391

Texaco, Inc., Washington, D.C.; DEA-0404, DEA-03082

Standard Oil Co. of Indiana, Chicago, Ill; DEA-0383, DEA-0402

Shell Oil Co., Houston, Tex.; DEA-0385

Between March 26, 1979 and May 3, 1979, Vickers Petroleum Corporation, Mobil Oil Corporation, Koch Industries, Inc., Exxon Company, U.S.A., Marathon Oil Company, Sun Oil Company, Gulf Oil Corporation, Texaco, Inc., Standard Oil Company of Indiana, and Shell Oil Company filed Appeals of seventeen Orders for the Redirection of Product which were issued to those firms on

March 20, 1979, March 23, 1979 and March 24, 1979 by the DOE Economic Regulatory Administration (ERA) pursuant to 10 CFR 211.14(a). The Redirection Orders required the ten appellants to supply 12, 508,566 gallons of motor gasoline to Farmland Industries, Inc., Land-O-Lakes, Inc., and Midland Cooperatives, Inc. In considering the consolidated Appeals, the DOE determined that the Orders for Redirection of Product were legally and factually defective and rescinded them. Specifically, the DOE determined that the IRA had failed to provide sufficient notice to potential suppliers and that the ERA had exceeded its authority under Section 211.14(a) by considering and making explicit reference to the price of product as a factor in its determination when that section restricted its consideration to the question or regional supply imbalances. The DOE required the three firms which had received the redirected gasoline pursuant to the Orders to sell back that product to appellants at a price which was no greater than the weighted average cost of product which those three firms purchased in June 1979.

Remedial Order

Larco Drilling Co., Shreveport, La.; DRO-0071, crude oil

Larco Drilling Company, Inc., filed a Statement of Objections to a Proposed Remedial Order (PRO) that the Regional Director of Enforcement of DOE Region IV issued to the firm on June 14, 1978. In the PRO, Region IV found that Larco had sold crude oil produced from four properties at prices that exceeded the applicable ceiling prices. Region IV also found that Larco had failed to file certain required reports for the period September 1973 through December 1974. In its Statement of Objections, Larco conceded that it had violated Section 212.116(a)(2) of the DOE's Mandatory Petroleum Price Regulations by failing to file the required reporting forms. Larco also conceded that it sold the crude oil produced from three of its properties at illegal prices. However, Larco contests that portion of the PRO which involves alleged pricing violations arising from Larco's improper classification of the remaining property, the Knoxo Field Unit, as a stripper well lease. In the PRO, Region IV found that Larco improperly certified the Knoxo Field Unit as a "stripper well lease" and accordingly sold the crude oil produced from that property at market price levels. In its Objections, Larco contends that the Knoxo Field Unit did in fact qualify as a stripper well lease because the Unit's average daily production did not exceed ten barrels per well per day. In rejecting Larco's contention, the DOE noted that Larco erred by including shut-in wells and an injection well in its calculation of the Unit's average daily production. On the basis of this finding, the DOE rejected Larco's objections and issued the PRO as a final Remedial Order.

Requests for Exception

Atlantic Richfield Co., Houston, Tex.; DEE-3446, crude oil

Atlantic Richfield Company filed an Application for Exception from the provisions

of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Arco to sell at upper tier prices 23.15 percent of the crude oil produced from Platform Spark.

Cities Service Co., Tulsa, Okla.; DEE-2000, crude oil

Cities Service Company (Cities Service) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling price levels the crude oil produced from the State AE Lease (State Lease) located in the Lovington Field in Lea County, New Mexico. In considering the exception request, the DOE observed that the data submitted by the applicant indicated that operating costs at the State Lease had increased to the point where they exceeded the revenues received from the sale of crude oil produced at lower tier prices. The DOE also found that the abandonment of the lease by Cities Service would result in the loss of a significant quantity of otherwise recoverable crude oil. On the basis of the precedent established in a number of prior Decisions, the DOE approved exception relief which permitted Cities Service to sell 71.1 percent of the crude oil produced from the State Lease at upper tier prices for a period of approximately six months.

City of Long Beach, Calif., Long Beach, Calif.; DXE-5820, crude oil

The City of Long Beach, California (Long Beach) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Fault Block II Unit at upper tier ceiling prices. *City of Long Beach, Calif.*, 3 DOE Par. — (1979). In considering the exception application, the DOE found that Long Beach was continuing to incur increased operating expenses at the Fault Block II Unit and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that Unit. In view of this determination and on the basis of the operating data which Long Beach had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Long Beach to sell at upper tier ceiling prices 72.58 percent of the crude oil produced from the Fault Block II Unit for the benefit of the working interest owners for a six-month period.

Continental Oil Co., Houston, Tex.; DEE-3710, crude oil

Continental Oil Company (Continental) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Southeast Eureka Unit located in the South Eureka Field in Alfalfa County, Oklahoma. In considering the Application, the DOE found that the cost of producing crude oil from the Southeast Eureka Unit had

increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Continental had no economic incentive to continue to produce crude oil from the Unit and that it was unlikely that the crude oil in the reservoir underlying the Southeast Eureka Unit could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Continental and the other the working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Continental to sell at upper tier ceiling prices 58.49 percent of the crude oil produced from the Southeast Eureka Unit for the benefit of the working interest owners for the period April 12, 1979 through September 30, 1979.

Craft Petroleum Co., Inc., Jackson, Miss.; DXE-5526, crude oil

Craft Petroleum Company, Inc., (Craft Petroleum) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Bedford 33-11 Lease at upper tier ceiling prices. *Craft Petroleum Co., Inc.*, 3 DOE Par. — (1979). In considering the exception application, the DOE found that Craft Petroleum continued to incur increased operating expenses at the Bedford 33-11 Lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that lease. In view of this determination and on the basis of the operating data which Craft Petroleum had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Craft Petroleum to sell at upper tier ceiling prices 36.81 percent of the crude oil produced from the Bedford 33-11 Lease for the benefit of the working interest owners for a six-month period.

Equipment, Inc., Lafayette, La.; DXE-4107, crude oil

Equipment, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Hayes No. 1 and Hayes A-1 Wells at market price levels. *Equipment, Inc.* 2 DOE Par. 81.161 (1978). In considering the exception application, the DOE found that Equipment, Inc. continued to incur increased operating expenses at the Hayes No. 1 and Hayes A-1 Wells and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at those wells. In view of this determination and on the basis of the operating data which Equipment, Inc. had submitted for the most recently completed fiscal period, the DOE concluded

that exception relief should be continued to permit Equipment, Inc. to sell at market price levels 100 percent of the crude oil produced from the Hayes No. 1 and Hayes A-1 Wells for the benefit of the working interest owners for a six-month period.

Grace Petroleum Corp., Oklahoma City, Okla.; DEE-4752, crude oil

Grace Petroleum Corporation (Grace) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at market price levels the crude oil which it produces from the C. I. Lovett Lease (the Lovett Lease) located in the Spartan Field in San Patricio County, Texas. In considering the Application, the DOE found that the cost of producing crude oil from the Lovett Lease had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Grace had no economic incentive to continue to produce crude oil from the lease, and that it was unlikely that the crude oil in the reservoir underlying the Lovett Lease could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Grace and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Grace to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Lovett Lease for the benefit of the working interest owners for the period April 30, 1979 through October 31, 1979.

Gulf Oil Corp., Houston, Tex.; DEE-3705, crude oil

Gulf Oil Corporation (Gulf) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the E. G. Robinson, et al., Unit Well No. 1 (the Robinson Unit) located in the Cleveland Townsite Field in Liberty County, Texas. In considering the Application, the DOE found that the cost of producing crude oil from the Robinson Unit had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Gulf had no economic incentive to continue to produce crude oil from the Unit and that it was unlikely that the crude oil in the reservoir underlying the Robinson Unit could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Gulf and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Gulf to sell at upper tier ceiling prices 94.25 percent of the crude oil produced from the Robinson Unit for the benefit of the working interest owners for the period April 10, 1979 through September 30, 1979.

Justiss-Mears Oil Co., Inc., Jena, La.; DXE-5533, crude oil

Justiss-Mears Oil Company, Inc. (Justiss-Mears) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Saucier No. 1 Well at upper tier ceiling prices. *Justiss-Mears Oil Co., Inc.*, 3 DOE Par. — (1979). In considering the exception application, the DOE found that Justiss-Mears continued to incur increased operating expenses at the Saucier No. 1 Well and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that well. In view of this determination and on the basis of the operating data which Justiss-Mears had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Justiss-Mears to sell at upper tier ceiling prices 71.51 percent of the crude oil produced from the Saucier No. 1 Well for the benefit of the working interest owners for a six-month period.

M. J. Mitchell, Dallas, Tex.; DXE-5534, crude oil

M. J. Mitchell filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell the crude oil which it produces from the Mitchell State Minnelusa Sand Unit (the Minnelusa Unit) at market price levels. *M. J. Mitchell*, 3 DOE Par. — (1979). In considering the exception application, the DOE found that M. J. Mitchell continued to incur increased operating expenses at the Minnelusa Unit and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that Unit. In view of this determination and on the basis of the operating data which M. J. Mitchell had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit M. J. Mitchell to sell at market price levels not to exceed \$19.13 per barrel 100 percent of the crude oil produced from the Minnelusa Unit for the benefit of the working interest owners for a six-month period.

Moran Pipe & Supply Co., Inc., Seminole, Okla.; DXE-4212, crude oil

Moran Pipe and Supply Company, Inc. (Moran) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Cozar Lease at upper tier ceiling prices. *Moran Pipe and Supply Company, Inc.*, 3 DOE Par. — (1979). In considering the exception application, the DOE found that Moran continued to incur increased operating expenses at the Cozar Lease and that, in the

absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that lease. In view of this determination and on the basis of the operating data which Moran had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Moran to sell at upper tier ceiling prices 72.83 percent of the crude oil produced from the Cozar Lease for the benefit of the working interest owners for a six-month period.

Pacific Resources, Inc., Honolulu, Hawaii; DEE-1688, crude oil

Pacific Resources, Inc. (PRI) filed an Application for Exception from the provisions of the Domestic Crude Oil Allocation Program, 10 CFR 211.67, which established a 21 cent per barrel differential between the benefits distributed under the Program for imported and domestic crude oil. Subsequent to the filing of the PRI Application, the DOE amended the Program to eliminate the differential. Because the relief requested by PRI was no longer necessary, the Application was dismissed.

Perfection Products Co., DEE-21228

Preway, Inc., DEE-3218

Louisville Tin & Stove Co., DEE-2399

Williams Furnace Co., DEE-2228

Peerless Manufacturing Corp., DEE-2798

United States Stove Co., DEE-3140

Martin Industries, DEE-3440

Locke Stove Co., DEE-3441

Readybuild Products Co., DEE-2400, DEE-2322

Suburban Manufacturing Co., Waynesboro, Ga.; consumer products

Perfection Products Company and nine other firms filed Applications for Exception from the Provisions of 10 CFR 430, the Energy Conservation Program for Consumer Products. The firms requested exception relief permitting them to market certain types of vented home heating equipment without regard to the mandatory energy efficiency test procedures set forth in 10 CFR 430, Appendix O. In considering the requests, the DOE determined that the prescribed test procedures did not fairly and accurately measure the energy efficiency and estimated annual fuel cost for vented gas space heaters with manual control valves, and vented oil heaters with vaporizing-type burners. The DOE found that in the absence of exception relief, the applicants would be placed at a competitive disadvantage in the marketing of the heaters and would therefore suffer a gross inequity. Accordingly, exception relief was granted with respect to these three types of heaters. With respect to vented gas space heaters with step-opening control valves, however, the DOE determined that the prescribed test procedures provided appropriate estimates of energy consumption. Accordingly, exception relief with respect to vented space heaters with step-opening control valves was denied.

Phillips Petroleum Co., Bartlesville, Okla.; DXE-2173, crude oil

Phillips Petroleum Company (Phillips) filed an Application for Exception from the

provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Evelyn "A" Lease at market price levels. *Phillips Petroleum Co.*, 3 DOE Par. — (1979). In considering the exception application, the DOE found that Phillips continued to incur increased operating expenses at the Evelyn "A" Lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that lease. In view of this determination and on the basis of the operating data which Phillips had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Phillips to sell at upper tier ceiling prices 53.45 percent of the crude oil produced from the Evelyn "A" Lease for the benefit of the working interest owners for a six-month period.

Texaco, Inc., Denver, Colo.; DEE-2362, crude oil

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Dugout Creek Shannon Sand Unit (the Shannon unit) located in Johnson County, Wyoming. In considering the Application, the DOE found that the cost of producing crude oil from the Shannon Unit had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Texaco, Inc. had no economic incentive to continue to produce crude oil from the Shannon Unit, and that it was unlikely that the crude oil in the reservoir underlying the Shannon Unit could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Texaco, Inc. and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Texaco, Inc. to sell at upper tier ceiling prices 52.50 percent of the crude oil produced from the Shannon Unit for the benefit of the working interest owners for the period March 12, 1979 through August 31, 1979.

Texaco, Inc., Denver, Colo.; DEE-2359, DEE-2360, DEE-2361, crude oil

Texaco, Inc. filed three Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit the firm to sell at market price levels the crude oil which it produces from the Government C. S. McGhee Lease (the McGhee Lease) located in Dawson County, Montana; the Government Gwen Knapp Lease (the Knapp Lease) and the Owens B Lease (the Owens Lease) located in Park County, Wyoming. In considering the exception request for the Owens B Lease, the DOE found that the applicant would be able to operate the lease on a profitable basis

even if the crude oil is sold at the applicable lower tier ceiling price. Accordingly, the DOE determined that exception relief should be denied for the Owens B Lease. With respect to remaining two leases, the DOE found that the cost of producing crude oil from the McGhee Lease and the Knapp Lease had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling prices. The DOE found that Texaco, Inc. had no economic incentive to continue to produce crude oil from the McGhee Lease and the Knapp Lease, and that it was unlikely that the crude oil in the reservoir underlying those leases could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity of Texaco, Inc. and the other working interest owners with an incentive to continue to produce, the DOE granted an exception relief which permits Texaco, Inc. to sell at upper tier ceiling prices 53.01 and 100 percent of the crude oil produced from the McGhee Lease and the Knapp Lease, respectively, for the benefit of the working interest owners for the period March 12, 1979 through August 31, 1979.

Kenneth L. Tipps, Denver, Colo., DXE-5532, crude oil

Kenneth L. Tipps filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Marick 1-A Property at upper tier ceiling prices. *Kenneth L. Tipps, 3 DOE Par. — (1979).* In considering the exception application, the DOE found that Kenneth L. Tipps continued to incur increased operating expenses at the Marick 1-A Property and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that property. In view of this determination and on the basis of the operating data which Kenneth L. Tipps had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Kenneth L. Tipps to sell at upper tier ceiling prices 79.56 percent of the crude oil produced from the Marick 1-A Property for the benefit of the working interest owners for a six-month period.

Eldon Walker, Fortuna, Calif., DEE-4108, crude oil

On April 17, 1979 Eldon Walker filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Hutson 1-A Lease located in the N.W. Carthage Field in Texas County, Oklahoma. In considering the Application, the DOE found that the cost of producing crude oil from the Hutson 1-A had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Eldon Walker had no economic incentive to continue to produce

crude oil from lease, and that it was unlikely that the crude oil in the reservoir underlying the Hutson 1-A could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Walker and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Walker to sell at upper tier ceiling prices 54.05 percent of the crude oil produced from the Hutson 1-A for the benefit of the working interest owners for the period May 21, 1979 through October 31, 1979.

Requests for Stay

Ashland Oil, Inc., Ashland, Ky.; DRS-0540, crude oil

Ashland Oil, Inc. filed an Application for Stay from the requirement that it make certain refunds pending consideration by the Office of Hearings and Appeals of an Appeal of an Ancillary Order issued to the firm on July 2, 1979 by the Region IV District Manager of the Economic Regulatory Administration of the Department of Energy. In considering the Application, DOE determined that it is consistent with Congressional intent and DOE precedent to routinely grant stay of Ancillary Orders pending a firm's administrative appeal. Under the precedent established in *Petroleum International Associates, 2 DOE Par. 82,029 (1978)*, the Ashland stay request was granted.

Chevron U.S.A. Inc., San Francisco, Calif.; DES-0537, DST-0537, motor gasoline

Chevron U.S.A., Inc. filed an Application for Stay and Temporary Stay from a DOE Region IV Order directing it to supply Public Oil Company with motor gasoline during the months June through September 1979. In considering the Application, the DOE determined that the firm was given adequate notice and opportunity to comment upon the issuance of the Region IV Order. Chevron's stay request was therefore denied.

Exxon Company, USA, Houston, Tex.; DST-0558, DES-0558, motor gasoline

Exxon Company, U.S.A. filed an Application for Temporary Stay and Stay of a Temporary Assignment Order issued to the firm directing it to supply motor gasoline to Grambling State University. In considering the Application, the DOE determined that the Temporary Assignment Order contained several procedural deficiencies which casted serious doubt upon the validity of the Order and that accordingly the firm was likely to succeed on the merits of its Appeal of the Order.

Bob Mueller, Overland Park, Kans.; DRS-0304, motor gasoline

Bob Mueller filed an Application for Stay which, if granted, would stay the provisions of an Interim Remedial Order for Immediate Compliance which the ERA issued to him on June 29, 1979 pending a determination on Mueller's objection to the Order. The Interim Remedial Order requires Mueller to immediately lower the prices for motor gasoline at his sales outlet in Platte Woods, Missouri. In considering the Mueller stay

request, the DOE found that a recent change in the DOE retailer pricing regulations which was not contemplated by the ERA when it issued the Interim Remedial Order to Mueller creates a substantial likelihood that Mueller's objection to the Interim Remedial Order will be successful. Furthermore, the DOE found that since the provisions of the Interim Remedial Order direct Mueller to charge lower prices for motor gasoline than the revised retailer price regulations, he would incur an irreparable injury if he is required to comply with the provisions of the Interim Remedial Order.

K. R. "Ken" Rearick, Metairie, La.; DRS-0273, motor gasoline

K. R. "Ken" Rearick filed an Application for Stay which, if granted, would stay the provisions of an Interim Remedial Order from Immediate Compliance which the ERA issued to him on July 2, 1979. In considering the Application, the DOE determined that the criteria contained in 10 CFR 205.199D(a) for the issuance of an Interim Remedial Order for Immediate Compliance had not been met by the ERA. Rearick's stay request was therefore granted.

Motion for Discovery

Dalton J. Woods, Shreveport, La.; DRD-0222, crude oil

Mr. Dalton J. Woods filed a Motion for Discovery and Protective Order with the Office of Hearings and Appeals of the Department of Energy. The Motion is incident to a Statement of Objections filed by Mr. Woods to a Proposed Remedial Order which the DOE issued to him on May 15, 1979. If the Woods Motion were granted, an order would be issued directing the Ashland Oil Company to respond to several interrogatories. In considering the Woods Motion, the DOE found that Mr. Woods had failed to demonstrate that the approval of the discovery requested would enable him to effectively pursue his defense to the Proposed Remedial Order. The DOE also found that the Motion, if granted would not result in the production of relevant and material evidence and would not materially advance its consideration of the issues in the pending compliance proceeding. Accordingly, the Woods Motion for Discovery and Protective Order was denied.

Supplemental Orders

Sigmar Refining Co., Washington, D.C.; DEX-0199, supplemental order

The DOE convened a preliminary hearing in order to determine whether Sigmar Refining Company or its counsel had violated DOE regulations by failing to apprise the DOE promptly of certain facts relating to a prior Appeal proceeding. Based upon the showing made by Sigmar and its counsel at the hearing, the DOE determined that no further disciplinary action was warranted.

Texaco, Inc., Los Angeles, Calif.; DEX-0184, crude oil

Texaco, Inc. (Texaco) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the DOE including certain expenditures necessary to perform an emergency well workover in determining the

level of exception relief at one of Texaco's crude oil producing properties. In considering the firm's submission, the DOE determined that the proposed expenditures were necessary to maintain extraction operations at the Alaska State Lease. Therefore, the DOE concluded that the proposed expenditures should be included in subsequent analyses for purposes of determining the level of exception relief for the property.

Quincy Oil, Inc., Quincy, Mass.; DRX-0197, No. 6 fuel oil

Quincy Oil, Inc. requested that the DOE issue an order releasing the funds in an escrow account which Quincy had established incident to the DOE's consideration of the firm's Appeal of a Remedial Order. In considering Quincy's request the DOE noted that the Remedial Order had been withdrawn and that as a result there was no longer any basis for maintaining the escrow account in existence. Accordingly, the DOE directed that all funds in the account be returned to Quincy.

Temporary Stay

The following Application for Temporary Stay was granted on the grounds that the applicant had made a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Company Name, Case No., and Location
Harvey J. Bean, DRT-0301; Erie, Pa.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception and/or Interim Order of the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company Name, Case No., and Location
State of New Jersey, DEN-7189; Woodbridge, NJ
Webster Self Service Gulf Station, DXE-7038; Coffeeville, MI
Duffy's Car Wash, Inc., DEN-4940; Newport, KT
C. M. Petroleum Distributors, DEN-4513; Billings, MT
Brian's Auto Service, DEN-3916; Berlin, CT
Daigh Automotive Engineering Corp., DEE-6038; Wilmington, CA
Ray W. Reeves, DXE-7409; McDonough, CA
Gillett Cement Products, Inc., DEN-3548; Gillett, WI
Solvang, California, DEZ-5121; Solvang, CA
Strickling Exxon, DEN-3668; Byrn Mawr, PA
Tony's Texaco, Inc., DEN-6341; Miami, FL
Alvin P. Barrington, DEN-4869; Yucaipa, CA
Fina Jobbers Assn., Inc., DEZ-0003; Washington, DC

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Stay, Temporary Stay and/or Exception of the provisions of the Motor Gasoline

Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied:

Company Name, Case No., and Location
Colonial Oil Company, DES-5733; Washington, DC
Wells Petroleum Company, DEE-2252; Chicago, IL
Kelly's Exxon, DEE-3231; Tyler, TX
J.D. Street & Company Inc., DEE-3255, DES-3255, DST-3255; Washington, DC

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name of Company, and Case No.

Centerville Oil Company, DEE-7278; DST-7278; DES-7278
Charles L. Luttrell, DEE-3029; DST-3029
Deshong & Fleck, Inc., DEE-6648
Entrada Arco Service, DEE-5958; DES-5958
Ocean Production Company, DEE-3938
Wesley E. Shankland, DEE-7467
Jim's Service Station, DEE-7291
Amoco Oil Company, DES-0231
Ashland Oil, Inc., DST-0230; DES-0230
Frowley Oil Company, DEE-7239
C. M. Petroleum Distributors, Inc., DST-4513
All-Quip Company, Inc., DEE-5004
Bill's Exxon, DEE-5477
Burns Brothers Truck, DEE-4676
T & D Transfer, DEE-4628
W. N. McMurry, DXE-3730
Alpha Cab Company, DEE-6239
Chris' #2, DEE-6827
Crossland Gas, DEE-5247
Diggs Service Station, DEE-7186
Fable's N. Main Street Amoco, DEE-5423
Francis A. Gunther, DEE-6396
Getty Oil Company, DEE-3709
Monsanto Company, DXE-7417
Rogers Oil Company, DEE-2850
Shell Service Station, DEE-5227
Snyder's Mini Mart Company, Inc., Route 100, DEE-7590, DES-7590
Weeg's Standard Service, DEE-5069
Silva's Gulf, DEE-5652
Stu's Service, DEE-4740
Camacho Aerial Service, DEE-6982
Campus Commons Shell #3, DEE-5117
Coecles Harbor Marina & Boatyard, Inc., DEE-5201
D&S Sheet Metal Works, Inc., DEE-7100
Ebbetts Pass Gas Service, DEE-6935
Equipment Services Superintendent, DEE-5587
Garrett Freightlines, DEE-7387
Milne Bros. Automobile Center, DEE-6719
Montgomery, Lytal, et al., DEE-6445
Natal's Air Conditioning, Inc., DEE-7004
R. J. Shell & Son, Inc., DEE-5750
Rowden Oil Company, DEE-2699
Royal Equipment Company, Inc., DEE-6404
City of San Buenaventura, CA, DEE-5587
Camacho Aerial Service, DEE-6982
Campus Commons Shell #3, DEE-5117

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between

the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

21 November 15, 1979.

[FR Doc. 79-35843 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 6 Through August 10, 1979

Notice is hereby given that during the week of August 6 through August 10, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Requests for Exception

Husky Oil Co., Washington, D.C.; DEE-1437, DEE-1438, DEE-1439, crude oil

Husky Oil Company filed an Application for Exception from the provisions of 10 CFR 212.73 in which the firm sought permission to sell the crude oil produced from the Goodwin, Los Flores, and Lakeview Leases located in Santa Barbara County, California at prices in excess of the prices permitted by the Mandatory Petroleum Price Regulations. In considering the request the DOE found that at the applicable ceiling prices the firm was incurring an operating loss on each of the leases and that exception relief was necessary to provide the firm with an incentive to continue crude oil production operations. Accordingly, exception relief to the working interest owners was granted in part on the leases.

Mills Bennett Estate, Houston, Tex.; DXE-3443, crude oil

Mills Bennett Estate (Mills Bennett) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a certain portion of the crude oil which it produces from the Wilburn B Lease at upper tier ceiling prices. *Mills Bennett Estate, 3 DOE Par. 81,007 (1979).* In considering the exception application, the DOE found that Mills Bennett continued to incur increased operating expenses at the Wilburn B Lease and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that lease. In view of this determination and on the basis of the operating data which Mills Bennett had submitted for the most recently completed

fiscal period, the DOE concluded that exception relief should be continued to permit Mills Bennett to sell at upper tier ceiling prices 64.18 percent of the crude oil produced from the Wilburn B Lease for the benefit of the working interest owners for a six-month period.

Sidney E. Pinkston, Jr., Natchez, Miss.; DXE-7310, crude oil

Sidney E. Pinkston, Jr. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted and would permit Pinkston to continue to sell certain quantities of the crude oil produced from the BLM-A-011588-C Lease, in Adams County, Mississippi, at upper tier ceiling prices. In considering the exception request the DOE found that, in the absence of relief, Pinkston's cost would rise to the point where the working interest owners would no longer have an economic incentive to continue their production activities. On the basis of the criteria applied in previous Decisions, the DOE determined that for the period September 1, 1979 through February 29, 1980, Pinkston should be permitted to sell 67.88 percent of the crude oil produced from the BLM Lease at upper tier ceiling prices.

Roger Thornton, Kalispell, Mont.; DEE-7492 motor gasoline

Roger Thornton filed an Application for Exception in which he sought permission to transfer the base period allocation for motor gasoline of a retail outlet which he formerly operated to a facility where he is presently located. In considering the request, the DOE found that the allocation regulations already permit Thornton to retain the allocation of his former station while at the same time succeeding to the allocation of the outlet where he now does business. In view of this determination, the DOE concluded that exception relief was not necessary. Accordingly, the Application for Exception was dismissed.

Request for Temporary Exception

State of Alaska, Juneau, Alaska; DES-7639, DEL-7639 motor gasoline

The State of Alaska filed an Application for Stay and an Application for Temporary Exception from the motor gasoline price regulations adopted on July 15, 1979. In considering these Applications, the DOE determined that the State of Alaska had adequately demonstrated that many small retailers of gasoline in Alaska would be unable to sustain profitable operations of fixed margins of 15.4 cents. A stay was therefore granted which permitted certain retailers of gasoline in Alaska to realize margins up to 20.4 cents. The temporary exception request was dismissed.

Requests for Stay

Amoco Production Co., Chicago, Ill.; DRS-7003 crude oil

Amoco Production Company filed an Application for Stay from the requirement that it make certain refunds pending consideration by the Office of Hearings and Appeals of an Appeal of an Ancillary Order issued to the firm on June 29, 1979 by the

Region VI Audit Manager of the Economic Regulatory Administration of the Department of Energy. In considering the Application, the DOE determined that it is consistent with Congressional intent and DOE precedent to routinely grant stays of Ancillary Orders pending a firm's administrative appeal. Under the precedent established in *Petroleum International Associates*, 2 DOE Par. 82,029 (1978), the Amoco stay request was granted.

Southwestern Refining Company, Inc., Washington, D.C.; DES-0224 crude oil

On July 5, 1979, the Southwestern Refining Company, Inc. (Southwestern) filed an Application for Stay which, if granted, would permit the firm to sell additional entitlements, pending a decision on its Application for Exception. In considering the Application, the DOE determined that the firm's average cost of crude oil was exceptionally high and that the firm would incur an irreparable injury in the absence of relief. The DOE therefore ordered the Johnson Oil Company, a major supplier of crude oil to Southwestern, to lower its markup on sales of crude oil to Southwestern to \$1.75 per barrel.

Uni Refining, Inc., Houston, Tex.; DEE-6684, crude oil

Uni Refining, Inc. filed an Application for Stay from the provisions of 10 CFR 211.65 which would permit it to participate in the Crude Oil Buy-Sell Program. In considering the Application, the DOE determined that Uni had failed to meet any of the criteria for a stay. Uni's stay request was therefore denied.

Motion for Discovery

Florida Power & Light Co., Miami, Fla.; DRD-0192, fuel oil

Florida Power & Light Company (FPL) filed a Motion for Discovery in which it requested that documents in the possession of the Belcher Oil Company be released to it. Belcher and FPL agreed to a stipulation for a Protective Order providing for the release of the documents. The DOE therefore approved the stipulation and issued it as an order of the DOE.

Interlocutory Order

State of New York; DRZ-0084, DRR-0053, DRD-0010, DRH-0084

Ashland Oil, Inc., Boswell Oil Co., Certified Oil, Hudson Oil Co., Kocolene Oil Corp., Naph-Sol Refining Co., Transit Oil Co., New York, N.Y.; DRD-0084, DRH-0042, crude oil

On October 16, 1978, Ashland Oil, Inc., objected to a Proposed Remedial Order issued to the firm on July 7, 1978. According to the PRO, Ashland overcharged its customers when it incorrectly calculated maximum permissible selling prices for gasoline. A principal issue in those proceedings is the meaning of the word "purchase" as that term is used in the DOE price regulations. This Decision and Order addressed several pending motions filed by various parties and intervenors in the Ashland proceedings. The DOE first determined that the State of New York should be permitted to participate in the enforcement proceedings in order to represent the interests of the citizens of the State in this matter. However, the DOE

limited the scope of that participation by permitting the State only to file legal comments setting forth its position and to participate in evidentiary hearings and oral arguments held in connection with the case. The DOE also considered Motions for Discovery and Evidentiary Hearing filed by Ashland. The Office of Special Counsel was ordered to furnish Ashland with certain documents relating to the manner in which the overcharges alleged in the PRO were calculated and the meaning of the term purchase as it appears in DOE price regulations. The DOE granted Ashland's Motion for Evidentiary Hearing with respect to the firm's request to present evidence relating to the meaning of the word purchase. Boswell Oil Company, an intervenor in the proceedings relating to Ashland's Statement of Objections, also filed Motions for Discovery and Evidentiary Hearing. The DOE denied Boswell's request for a complete copy of the PRO issued to Ashland including the work sheets setting forth the calculation of the overcharges. The DOE determined that the requested documents contained confidential information and could therefore only be released in connection with a protective order. The DOE further held that before such an order would be issued, Boswell would first be required to show that it had attempted in writing to reach agreement with Ashland to provide for voluntary release of the material. With respect to Boswell's Motion for Evidentiary Hearing, the DOE determined that Boswell should be permitted to examine individuals who prepared Ashland's monthly refiner pricing forms and DOE officials who calculated the amount of overcharges alleged in the PRO. Finally, the DOE denied Ashland's request for reconsideration of a Decision and Order issued on April 18, 1979, relating to other Motions for Discovery and Evidentiary Hearing filed by Boswell.

Remedial Order

In the following case involving a Proposed Remedial Order, no Statement of Objections was filed. The DOE therefore issued a Remedial Order in final form.

Company Name, Case No. and Location

Forgotson, James M. DRW-0031; Shreveport, LA

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Stay and/or Interim Order of the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company Name, Case No., and Location

*Rainbow Oils of San Angelo, Inc., DEN-5501; San Angelo, TX
Brent-West Car Wash, DEN-4531; W. Los Angeles, CA
Cottam Company, DEN-3277; St. George, UT
Palm Oil Company, DEN-7461; Washington, DC
Brown's Service, DEN-4672; Westerly, RI*

Bruder's Exxon, DEN-6319; Baltimore, MD Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception and/or Interim Order from the provisions of the Motor Gasoline Allocation Regulations. After reviewing the material presented by these firms, the DOE issued Decisions and Orders which determined that each of these petitions should be dismissed without prejudice to a refiling at a later date:

Company Name, Case No., and Location

*Kingsport Fuels, Inc., DEE-3530; Kingsport, TN
Mountain Empire Oil, DEE-3612; Johnson City, TN
Laveen Country Store, DEN-6660; Laveen, AZ*

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name, and Case No.

*Advance Petroleum Dist., DEE-6726; DES-6726; DST-6726
Akin, Gump, DFA-0498
Chuck Diehl Oil, DEE-7381
Commerce Crossroads, DEE-2320; DES-2320; DST-2320
D. S. Sims Oil Company, DEE-6928
Jimmy Brasseaux, DEE-3624
Kenzenberg Oil Company, DEE-7378
Reed Oil Company, Inc., DES-0183
Citadel Corporation, DRS-0258; DRS-0259; DRS-0260; DRO-0258; DRO-0259; DRO-0260
Farmers Co-op Elevator Company, DEE-4404
George M. Ragan, DEE-4730
Graber, Stetler & Townsend, DFS-0334
Haw Knob Inc., DEE-6733
San Anselmo Beacon, DEE-7175
San Diego County Law Library, DEE-7599
Swink Oil Company, DEE-3814
Boudoin & Richard, DEE-4182; DES-4182
Burlington Ind., Inc., DEE-5014
Dawson's Amoco, DEE-3650
Don Prouse, DEE-5294
Furr's Auto Center, DEE-5299
Joe Frans, DEE-5295
Marlborough Sinclair Service, DEE-6877
R. E. Turner, DEE-7259
Ben Logan, DEE-7598
Shell Company (Puerto Rico) Ltd., DED-2245; DEH-2245
Standard Oil Company of Ohio, DEA-0550; DEA-0551; DEA-0549; DST-0550; DST-0551; DST-0549
Bob Desmarais, DEE-4984
Brien Oil Company, DEE-7444
Cini-Grissom Association, DEE-7518
Fowler State Bank, DEE-7561
Meridian Medical Group, DEE-7556
Mur's American, DRO-0271
Page Bus Company, Inc., DEE-3614
R. A. Pool Oil Company, DEE-3610; DEE-3610
Walter E. Carter, DEE-6400*

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m.,

e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein, Director, Office of Hearings and Appeals, November 15, 1979.

[FR Doc. 79-35847 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 13 Through August 17, 1979

Notice is hereby given that during the week of August 13 through August 17, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Brock Exploration Corp., New Orleans, La.; DFA-0486, freedom of information

Brock Exploration Corporation filed an Appeal from a partial denial of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the case should be remanded due to the inadequacy of the initial determination, and that, upon remand, the possible applicability of Exemption 7(A) under the *Exxon* rationale should be considered. Important issues that were considered in the Decision and Order were (i) the degree of specificity required of an initial determination under the FOIA with respect to (a) the statutory exemptions from mandatory disclosure and (b) the public interest in disclosure of exempt material; and (ii) the possible blanket withholding, pursuant to Exemption 7(A), of all investigatory records compiled in a pending enforcement proceeding.

Appeals

Brock Exploration Corp., New Orleans, La.; DFA-0486, freedom of information

Brock Exploration Corporation filed an Appeal from a partial denial of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the case should be remanded due to the inadequacy of the initial determination, and that, upon remand, the possible applicability of Exemption 7(A) under the *Exxon* rationale should be considered. Important issues that were considered in the Decision and Order were (i) the degree of specificity required of an initial determination under the FOIA with respect to (a) the statutory exemptions from mandatory disclosure and (b) the public interest in

disclosure of exempt material; and (ii) the possible blanket withholding, pursuant to Exemption 7(A), of all investigatory records compiled in a pending enforcement proceeding.

F. L. Roberts & Co., Inc., Springfield, Mass.; DEA-0491, DST-0491, DSG-0056, motor gasoline

F. L. Roberts & Company, Inc., filed an Appeal, an Application for Temporary Stay, and a Petition for Special Redress. All three submissions related to an Application for Temporary Assignment in which Roberts requested that a supplier be assigned to supply motor gasoline to eight retail outlets which it recently purchased. In considering the Appeal, the DOE concluded that there had been no inordinate delay by the ERA in acting upon Roberts' request for a temporary assignment. The Appeal was therefore dismissed without prejudice. The DOE also denied the Petition for Special Redress on the grounds that the ERA had not acted improperly. Finally, the DOE denied the temporary stay request since Roberts had failed to demonstrate that it would experience an irreparable injury. Important issues that were discussed in this case include the circumstances under which the Office of Hearings and Appeals will consider an appeal even though no order has been issued by the DOE and the circumstances under which the Office of Hearings and Appeals will direct another office of the DOE to take action in a particular proceeding.

Donald P. Mullen, Las Vegas, Nev.; DFA-0494, freedom of information

Donald P. Mullen filed an Appeal from a determination issued to him by the Manager of the Idaho Operations Office of the DOE in response to a Request for Information which he had submitted under the Freedom of Information Act (the FOIA). Idaho Operations determined that there were 28 items responsive to Mullen's request, but that one item should be withheld because it did not involve agency records and was therefore unavailable under the FOIA. Idaho Operations notified Mullen that it would release copies of 25 of the described records upon payment of the balance of a search fee and a copying charge of 10 cents per page. In his Appeal, Mullen requested that the DOE reverse the determinations of Idaho Operations, independently evaluate the item which was withheld and furnish all requested documents without any further cost to Mullen. The DOE determined that Idaho Operations had correctly found that the government contractor's informal notes of annual fee negotiation meetings between that contractor and the DOE or its predecessor were not agency records and were thus not available under the Act. The DOE further determined that the refusal of Idaho Operations to waive or reduce the search fees for processing Mullen's request was proper since he had not demonstrated that release of the documents requested could be considered as primarily benefiting the general public. Mullen's Appeal was therefore denied.

Soules & McCamish, San Antonio, Tex.; DFA-0518, freedom of information

The law firm of Soules & McCamish filed a Freedom of Information Appeal which, if granted, would release to the firm information regarding the number and kilotonnage of nuclear weapons in the United States arsenal at the end of 1945 and the end of 1946. In considering the Appeal, the DOE determined that the information which the firm sought is properly classified as "Secret" and therefore exempt from mandatory public disclosure. The Appeal was accordingly denied.

Requests for Exception

Cities Service Co., Tulsa, Okla.; DEE-2086, crude oil

Cities Service Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D in which the firm sought an exception which would permit the working interest owners to sell the crude oil that is produced from the Walker A. Lease located in the Bowlegs Field in Seminole County, Oklahoma, at upper tier ceiling prices. In considering the request, the DOE found that the working interest owners were experiencing increased operating expenses. The DOE also found that exception relief was necessary to provide the working interest owners with an incentive to continue production by permitting them to recover the increased operating costs incurred in the previous two fiscal quarters. Accordingly, exception relief was granted.

Commonwealth Oil Refining Co., Inc., Penuelos, P.R.; DEE-2245

Phillips Petroleum Co., Guayama, P.R.; DEE-2317

Union Carbide Caribe, Inc., Ponce, P.R.; DEE-3148, naphtha, motor gasoline

Commonwealth Oil Refining Co., Inc., Phillips Petroleum Company, and Union Carbide Caribe, Inc. filed Applications for Exception from the provisions of the Naphtha Entitlements Program. The firms sought an exception from the provision of the Naphtha Entitlements Program that limits the maximum value of a naphtha entitlement to the value of a single crude oil entitlement. In considering these requests, the DOE found that the competitive disadvantages incurred by the three petitioners as a result of high imported naphtha costs would exist in an uncontrolled environment and that the difficulties being experienced by these three firms were not the result of the DOE regulatory program. The DOE also found that the petitioners had not demonstrated that they were experiencing serious financial difficulties which justified the requested exception relief. The requests were therefore denied. The DOE also considered the difficulties being generally experienced by the Puerto Rican petrochemical industry and the impact of the DOE regulations on that industry and the citizens of Puerto Rico. The DOE concluded that it would be appropriate to accord additional entitlement benefits to firms in return for investments in new downstream petrochemical facilities in Puerto Rico.

Disabled American Veterans, Washington, D.C.; DEE-7433, temperature

The Disabled American Veterans filed an

Application for Exception from the provisions of 10 CFR, Part 490 in which the firm sought to lower the temperature to 70°F in its offices located in Southwest Washington, D.C. In considering the request, the DOE found that exception relief was necessary to relieve the amputees employed in the building of the severe discomfort they experience at 78°F. Accordingly, exception relief was granted.

Husky Oil Co., Santa Barbara, Calif.; DEE-1434, DEE-1443, crude oil

Husky Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D in which the firm sought permission for the working interest owners to sell the crude oil produced from the Bonnetti and Standard Nicholson leases at upper tier prices. In considering the request, the DOE found that exception relief was necessary to give the firm an economic incentive to continue its crude oil extraction activities at the two leases involved.

S & W Engine Supply Co., Oklahoma City, Okla.; DXE-3444, crude oil

S & W Engine Supply Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The firm's request, if granted, would permit S & W to continue to sell a portion of the crude oil produced for the benefit of the working interest owner from the Baker Townsend Lease, located in Oklahoma County, Oklahoma, at upper tier ceiling prices. In considering the exception application, the DOE found that S & W continued to incur increased operating expenses on the Lease and that these expenses exceed the revenues which the firm can realize from charging the applicable ceiling price. The DOE therefore found that in the absence of exception relief, the working interest owner would lack an economic incentive to continue to produce oil from the property. In view of these determinations, the DOE concluded that exception relief should be granted to permit S & W to sell 78.37 percent of the crude oil produced for the benefit of the working interest owner from the Baker Townsend Lease at upper tier ceiling prices for the period from April 1, 1979 to September 30, 1979.

Petition for Special Redress

United Refining Co., Warren, Pa.; DSG-0061, motor gasoline

The United Refining Company filed an Application for Exception from the Federal Energy Administration's determination that the certified refining capacity of the firm's refinery was 52,000 barrels per day (bpd). The exception request, if granted, would have resulted in the recertification of the firm's capacity rating at a level below 50,000 bpd. The firm sought exception relief in order to qualify for special treatment under a new Environmental Protection Agency regulation which permits refiners with capacity ratings certified by the DOE at less than 50,000 bpd to refine motor gasoline with a higher lead content than otherwise would be permissible under the provisions of the EPA's lead phasedown program for gasoline. In considering the firm's request, the DOE found that since United had not requested an exception from a regulation, ruling or generally applicable requirement imposed by

the DOE regulations, the firm's submission could not properly be treated as an Application for Exception. Nevertheless, the DOE found that United's submission could be treated as a Petition for Special Redress. In its submission, United argued that the FEA's certification of its refining capacity at a level above the EPA's 50,000 bpd cutoff point would cause United to incur significant extra costs in order to comply with the stricter air pollution standard set for refineries with capacity ratings above 50,000 bpd. In denying the firm's request, the DOE found that the firm's contention that it would be adversely affected by the agency's determination of its refining capacity was not persuasive. Moreover, the DOE found that, in the light of the strong national interest in the production of unleaded gasoline to preserve the quality of the nation's ambient air, special redress relief was not necessary to effectuate other DOE policy objectives which were less important under the circumstances. Accordingly, special redress relief was denied.

Request for Modification and/or Rescission

Little America Refining Co., Washington, D.C.; DMR-0065, crude oil

Little America Refining Co. (LARCO) filed an Application for Modification of a Supplemental Order which the DOE issued to the firm on March 19, 1979. In the Supplemental Order, the DOE implemented the relief which it tentatively granted in a Proposed Decision and Order issued on the same date. In considering the LARCO request, the DOE found that a modification to the *Delta* standards had recently been adopted and that the DOE would consider applying the modification to LARCO when the DOE considers all of the Statements of Objections to the Proposed Decision and Order. Accordingly, LARCO's Application for Modification was denied.

Requests for Stay and/or Temporary Stay

Belcher New England, Inc., Washington, D.C.; DRS-0265, motor gasoline

Belcher New England, Inc. filed an Application for Stay of the requirement that it supply motor gasoline to Acomi Corporation in compliance with an Interim Remedial Order for Immediate Compliance which the Northeast District of the Office of Enforcement issued to the firm on July 6, 1979. After considering the arguments advanced by the firm, the DOE determined that the Stay be granted.

Gasco, Inc., Honolulu, Hawaii; DES-0263, Propane

Gasco, Inc. filed an Application for Stay pending judicial review of an order issued on July 3, 1979 to Oahu Gas Service, Inc. In considering the Application, the DOE determined that Gasco had failed to satisfy any of the criteria applicable to the consideration of a request for stay. The stay request was therefore denied.

Heights Shell, Minneapolis, Minn.; DRS-0291, Motor Gasoline

Robert A. Williams & Bow Partnership d/b/a Heights Shell filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) that the Economic

Regulatory Administration of the DOE (ERA) issued to the firm on July 6, 1979. The Office of Hearings and Appeals construed this submission to include an Application for Stay which, if granted, would stay the IROIC pending a determination on the firm's objection to that Order. In considering the Application for Stay, the DOE noted that the Department had amended Section 212.93 of the DOE retailer pricing regulations subsequent to the issuance of the IROIC. The DOE found that, in the absence of a stay, the IROIC would require Heights Shell to charge prices that are likely to be below the maximum lawful prices which it could establish under the new pricing rule. The DOE determined that a stay of the IROIC should be granted because the Order rested upon a regulatory provision which has since been materially changed and because failure to grant a stay would cause a more immediate hardship to Heights Shell than to others involved in the proceeding. Accordingly, the DOE granted a stay of the Interim Remedial Order for Immediate Compliance.

Laketon Asphalt Refining, Inc., Evansville, Ind.; DES-0222, crude oil

Laketon Asphalt Refining, Inc. filed an Application for Stay from the requirement that it purchase entitlements during the month of August 1979 to account for its crude oil receipts and runs to stills during the month of June 1979 (10 CFR 211.67). In considering the Application, the DOE noted that a Proposed Decision and Order had been issued to the firm on February 16, 1979, which tentatively determined that Laketon should be relieved of all of its entitlement purchase obligation for a period of time which included August 1979. In addition, the DOE determined that the firm did not possess the financial resources to purchase its entire entitlement purchase obligation during August 1979. Laketon's stay request was therefore granted.

Mobil Oil Corp., New York, N.Y.; DST-0227, DES-0227, motor gasoline

Mobil Oil Corporation filed an Application for Temporary Stay and an Application for Stay from a DOE Region IV Order directing it to supply Publix Oil Company with motor gasoline during the months June through September 1979. In considering the Application for Temporary Stay, the DOE determined that the firm had failed to show that it would incur an irreparable injury in the absence of temporary stay relief. The Application for Temporary Stay was therefore denied. In considering the Application for Stay, the DOE concluded that the firm was given adequate notice and opportunity to comment upon the issuance of the Region IV Order. The DOE also determined that the DOE complied with the procedural regulations governing exceptions. Mobil's stay request was therefore denied.

Mobil Oil Corp., New York, N.Y.; DST-0289, motor gasoline

Mobil Oil Corporation filed an Application for Temporary Stay from a DOE Region VII Order directing it to supply the Onyx Corporation with motor gasoline for the months June through September 1979. In considering the Application, the DOE

determined that Mobil's compliance with the Region VII Order would not result in irreparable harm to the firm itself or to its base period customers. Mobil's stay request was therefore denied.

George Riley, Overland Park, Kans.; DRS-0303, motor gasoline

George Riley filed an Application for Stay from the requirement that he comply with an Interim Remedial Order for Immediate Compliance (IROIC) issued to him on July 9, 1979. In considering the Application, the DOE determined that the finding in the IROIC that Riley served anyone who came into the station even though he had posted "No Gas" signs does not provide a clear showing that Riley violated 10 CFR 210.62(a) and 10 CFR 210.62(b). Based on this consideration the DOE determined that Riley had shown a likelihood of success on the merits of his objection to the IROIC and the stay request was therefore granted.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception and/or Interim Order of the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company name, location, and case No.

Corner Pantry Food Marts, Inc., Greensboro, Ga.; DEE-2408
G & H Shell, Philadelphia, Pa.; DEN-6960
Jim's Chevron, Battle Mountain, Nev.; DEE-3045
Smith Service Oil Co., Savannah, Ga.; DEN-2331
Sonny's, Inc., Bossier City, La.; DEN-2116
Robert's Gulf, Carbondale, Pa.; DEN-6922
Whiz Fast Car Wash, Baltimore, Md.; DEN-3672

The following firms filed Applications for Stay and/or Exception of the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied:

Company name, location, and case No.

Lake Wright Texaco, Virginia Beach, Va.; DES-2665
D&D Mobil Service, Cupertino, Calif.; DEE-2668

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name, and Case No.

A. C. & M. Goldberg, DEE-4892
Bobby Reeves, DEE-7489
Crounse Corporation, DEE-6958
Forbes Sunoco, DEL-0006
Fort Peck Super Service, DEE-7458
Gene Williamson, DEE-6097
Gozzo's Service Center, DEE-7445
Hamilton Village Gulf, DEE-5628
Huntington Filling St., DEE-5646

Jesse E. Lyman, Inc., DEL-0007
Martin Exploration, DEE-3707
Pocono Airlines, Inc., DEE-7450
Quarterfield Amoco, DEE-6190
Rowell's Service St., DEL-0004
Spelman Mem. Hospital, DEE-7613
Sunset Oil Co., Ltd., DEE-2609
T. V. Guide Magazine, DEE-7655
Wilemon Oil Company, DEE-2748
Wristen's Texaco, DEE-5205
Caton Amoco, DEE-7361
Charley's Exxon, DEE-6915
Dow Chemical, DEE-2144
Enders & Cooper, Inc., DEE-7625
Joe & Bill's, DEE-7483
Office of Special Counsel, DRO-0221
Pittman-Witherington, DEE-6416
Rich's Shell, DEE-7510
Shay Oil Company, DEE-4859
Smitty's Amoco, DEE-7109
Springfield Sugar & Products Company, DEE-7696

Don Gressman Chevron, DEE-3261
John Merrell, DEE-3608; DST-3608
Orth Oil, Inc., DEE-2597
Pinebrook Exxon, DEE-6567
Pioneer Oil Co., Inc., DEE-2295; DST-2295
Airport Exxon, DST-2939
Barnes & Rogers, Inc., DEE-5914
Curtner Mobil, DEE-5373
D & M Exxon, DEE-6703
Domoco, Inc., DEE-4718
Harr's Grocery, DEE-6286
Lahser & 11 Mile Shell, DEE-2438
Marion Pet. Distri., DEE-2843; DES-2843
N. A. Dunn, Inc., DEE-2784
New York Tel. Co., DFA-0559
P & W Oil Co., Inc., DST-5451
R. Michael Bailey, DEE-6117
Sam F. Arledge Oil, DEE-5151
Seekonk Mobil, DEE-6820
Shideler Tire Mart, DEE-7605
Spartan Oil Company, DEE-3557
Teague Oil Company, DEE-6159
Telzrow Oil Company, DEE-4113
Victor Plaza Car Wash, DEE-5670
Wesco, Inc., DEE-7297
Voitalla Service Co., DEE-5579; DES-5579
Woody's Amoco, DEE-4288
Bag-Mor Food, DEE-2298; DES-2298; DST-2298

Benton Brothers Film Express, Inc., DEE-7769
Bor Len Service, DEE-7255
Conwood Corporation, DEE-7669
D. F. Hollar, DEE-3575
Englewood Oil Company, DEE-4201; DES-4201; DST-4201

Fortmeyer's, Inc., DEE-3275
Fortune Oil Corp., DEE-3212
Herman L. Miller Investments, Inc., DEE-3339; DES-3339; DST-3339
Housley Distributing, DEE-5350
Ken's Union 76, DEE-3426
Klinger's Korner, DEE-3850
Leroy Tanner, DEE-7153
Marathon Oil Company DEE-3212
Medway Excavators, DEE-7675
Miller Enterprises, DEE-2325; DST-2325
Pea Soup Andersen's, DES-3251
Ralph Righi, Inc., DEE-5245
Rhodes Oil Company, DEE-6649
Roy W. Powell, DEE-6603
Senn Texaco, DEE-6881
Spooner Oil Company, DEE-2703
Terrace Shell I, DEE-6255
Texas City Ref., Inc., DRO-0219

Thos. P. Reidy, Inc., DEE-5667; DST-5667
Veterans Cab Co. of Newton, Inc., DEE-7723

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

November 14, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

[FR Doc. 79-35845 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 10 through September 14, 1979

Notice is hereby given that during the week of September 10 through September 14, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Fuel Oil Supply & Terminating, Inc., Bay City, Tex.; DFA-0620 freedom of information

Fuel Oil Supply & Terminating, Inc. filed an Appeal from a partial denial by the District Manager of the Southwest Enforcement District of the Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the District Manager failed to properly identify the documents found to be responsive to the request. Accordingly, the matter was remanded to the District Manager.

General Motors Corp., Detroit Mich.; DEA-0266 propane

General Motors Corporation filed an Appeal from a Decision and Order which the Economic Regulatory Administration of the DOE issued to Consumers Power Company on October 31, 1978. In that order, the ERA assigned Consumers up to 13,000 barrels per day of propane, butane or natural gasoline for use as synthetic natural gas feedstock in Consumer's Maryville, Michigan SNG plant. In considering the request, the DOE found that General Motors had failed to establish grounds for reversing the ERA's determination.

KUTV, Inc., Salt Lake City, Utah; DFA-0581 freedom of information

KUTV, Inc. filed an Appeal from a partial denial by the Acting Manager of the DOE Idaho Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that autopsy reports and photographs had been properly withheld under exemption 6, except that they did contain some segregable factual information that should be released to the public. Important issues that were considered in the Decision and Order were (i) that Exemption 6 extends to the privacy of members of the immediate family of the deceased and (ii) compensation claim documents in possession of the DOE are not subject to Department of Labor regulations.

Jesse R. Pitts, Oakland Minn.; DFA-0552 freedom of information

Jesse R. Pitts filed an Appeal from a denial by the Assistant Administrator for Enforcement of the Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that there existed certain documents not originally identified by the ERA and which were more responsive to Pitts' request for information. The DOE determined that that information was already available to the public and should therefore be released to Pitts.

St. Petersburg Times, St. Petersburg, Fla.; DFA-0582 freedom of information

The St. Petersburg Times filed an Appeal from a partial denial by the Director of Freedom of Information and Privacy Acts Activities of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the Director properly withheld the documents which the Times requested under Exemption 5.

Remedial Orders

Amerada Hess Corp., New York, N.Y.; DRO-0096 crude oil

The Amerada Hess Corporation objected to a Proposed Remedial Order which the Office of Special Counsel of the Department of Energy issued to the firm on August 9, 1978. In the Proposed Remedial Order, the Office of Special Counsel found that during the period May 1975 through April 1976 Hess overstated its increased costs of crude oil in violation of 10 CFR 212.83. The proceeding involved foreign-domestic crude oil sale and exchange transactions which Hess entered into with Chevron. The primary issue raised was the correct treatment of a cash differential which Chevron paid Hess in connection with these transaction for the use of Hess' fee-free import licenses. After considering the refiner price regulations and the Mandatory Oil Import Programs, the DOE determined that the cash proceeds which Hess derived from its exchange transactions should have been treated as a reduction in its crude oil costs rather than as ordinary income as Hess argued. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order. Important issues discussed in the Decision and Order include

(i) whether the remedial actions which the Proposed Remedial Order directed Hess to take, including the requirement that Hess refund any overcharges to the U.S. Treasury, were proper; and (ii) the validity of the DOE's interim procedural regulations which governed the proceeding.

Bultman, Inc., Elkhart, Kans.; DRO-0016 propane

Bultman, Inc., objected to a Proposed Remedial Order which the Department of Energy Region VII Office issued to the firm on September 8, 1978. In the Proposed Remedial Order, the Regional Office, found that during the period October 1973 through December 1976 Bultman sold propane at prices which exceeded those permitted under 6 CFR 150.359 and 10 CFR 212.93. After considering Bultman's objection, the DOE determined that the firm had failed to present material which would support various assertions that the Regional Office incorrectly computed the firm's May 15, 1973 weighted average unit cost of product in inventory. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order.

Donald Brown d/b/o Valley Drive Exxon et al., Sprague, W. Va.; DRW-0020 through DRW-0030 motor gasoline

This proceeding involves Interim Remedial Orders for Immediate Compliance (IROIC's) issued to certain firms on May 31 and June 1, 1979. In the IROIC's, the Office of Enforcement of the DOE found that the firms to which the IROIC's were issued: (i) were selling motor gasoline at prices that exceeded the maximum prices they were permitted to charge under the provisions of 10 CFR, Part 212; (ii) had failed to post and maintain maximum lawful selling prices as required by 10 CFR, § 212.92; (iii) had failed to maintain books and records as required by 10 CFR § 212.93; or (iv) were engaged in discriminatory practices prohibited under 10 CFR § 210.62. Because neither the recipients of these IROIC's nor any other person filed a Notice of Objection within the prescribed time period, the DOE concluded that the IROIC's should be issued in final form as Remedial Orders for Immediate Compliance.

Request for Modification and/or Rescission

American Petrofina, Inc., Dallas, Tex.; DMR-0072 motor gasoline

American Petrofina, Inc. filed an Application for Modification of a Decision and Order which the DOE issued to Fina Jobbers Association, Inc. on August 29, 1979. After considering the request and convening a hearing, the DOE determined that the Application for Modification should be granted.

Requests for Exception

Cities Service Company, Tulsa, Okla.; DEE-3138 crude oil

Cities Service Company filed an Application for Exception from the provisions of 10 CFR, Part 212 in which the firm sought permission to sell a portion of the crude oil produced from its Howell A Lease in Grant County, Oklahoma, at upper tier ceiling prices. In considering the request, the DOE found that an existing regulatory amendment

provided the relief requested by the firm. The exception request was therefore dismissed.

Gasolinas De Puerto Rico Corp., Hato Rey, Puerto Rico; DEE-4757 motor gasoline

Gasolinas de Puerto Rico Corporation filed an Application for Exception in which the firm sought various forms of exception relief to enable it to compete more effectively in the motor gasoline market in Puerto Rico. In considering the request, the DOE found that Gasolinas had failed to participate adequately in the exception proceeding.

Gulf Oil Co., Tulsa, Okla.; DXE-7603 crude oil

Gulf Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted and would permit the applicant to continue to sell certain quantities of crude oil which it produces from the N.W. Graylin "D" Sand Unit at upper tier ceiling prices. In considering the request, the DOE found that exception relief was necessary to prevent the loss of a significant quantity of crude oil which would not otherwise be recoverable from the property and to provide the firm with an incentive to continue crude oil production activities. Accordingly, on September 12, 1979, the Department of Energy issued a Decision and Order which determined that the exception request be granted.

Rex Monahan, Sterling, Colo.; DEE-2161 crude oil

Rex Monahan filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Basin Unit located in Campbell County, Wyoming. In considering the Application, the DOE found that the cost of producing crude oil from the Basin Unit had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Rex Monahan had no economic incentive to continue to produce crude oil from the Basin Unit, and that it was unlikely that the crude oil in the reservoir underlying the applicant's property could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Rex Monahan and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Rex Monahan to sell at upper tier ceiling prices 88.44 percent of the crude oil produced from the Basin Unit for the benefit of the working interest owners for the period March 1, 1979 through August 31, 1979.

Rex Monahan, Sterling, Colo.; DEE-2188 crude oil

Rex Monahan filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it

produces from the Sandbar "B" Unit located in Campbell County, Wyoming. In considering the Application, the DOE found that the cost of producing crude oil from the Sandbar "B" Unit had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Rex Monahan had no economic incentive to continue to produce crude oil from the Sandbar Unit, and that it was unlikely that the crude oil in the reservoir underlying the applicant's property could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Rex Monahan and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Rex Monahan to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Sandbar "B" Unit for the benefit of the working interest owners for the period February 14, 1979 through August 31, 1979.

Oneida Heater Co., Oneida, N.Y.; DEE-4101 consumer product

Oneida Heater Company filed an Application for Exception from the provisions of 10 CFR 430. The firm requested that it be granted an exception from the requirement to perform energy efficiency and fuel utilization tests applicable to the combination wood/oil and wood/gas furnaces which the firm manufactures. In considering the request, the DOE found that the test procedures prescribed in Part 430, Appendix N applied only to gas or oil furnaces but did not apply to wood furnaces. The DOE determined that the test results obtained by following the prescribed procedures would not be representative of the furnaces' actual performance during a representative average use cycle and would be misleading to the public. The DOE therefore concluded that the requirement to perform the prescribed energy efficiency tests resulted in a gross inequity. Accordingly, exception relief was granted permitting the firm to market its combination wood/oil and wood/gas furnaces without regard to the provisions of 10 CFR 430.

Requests for Temporary Exception

Commonwealth Oil Refining Company, Inc., San Antonio, Tex.; DEL-8020, DES-8020, crude oil

Commonwealth Oil Refining Company, Inc. filed an Application for Stay of an Order issued by the Economic Regulatory Administration of the DOE under the Buy/Sell Program. The firm also filed an Application for Temporary Exception in which it requested that one or more firms be directed to supply crude oil to it during the period from September to December 1979. In considering the stay request, the DOE determined that Corco had failed to demonstrate a likelihood of success on the merits of its Appeal of the ERA Order. The stay request was therefore denied. In considering the temporary exception request, the DOE found that Corco would in all likelihood be required to shut down its refinery in the absence of immediate

affirmative relief. The request was therefore approved, and six firms were directed to supply a total of 32,000 barrels of crude oil per day to Corco.

County of Los Angeles, Los Angeles, Calif.; DEL-0011, temperature restrictions

The County of Los Angeles filed an Application for Temporary Exception from the emergency building temperature restrictions (10 CFR, Part 490). On the basis of the oral representations made by the Chairman of the Board of Supervisors of the County, the DOE determined that a temporary exception should be approved for a five-day period.

Texaco, Inc., White Plains, N.Y.; DEL-7209, gasohol

On August 20, 1979, Texaco, Inc. filed an Application for Temporary Exception from the provisions of 10 CFR 211.83 in which the firm sought a temporary exception in order to allow the firm to market Gasohol as a separate category and grade of gasoline for cost passthrough purposes. In considering the request, the DOE found that temporary exception relief was warranted based on several strong public policy objectives. Accordingly, temporary exception relief was granted.

Union Oil Co. of California, Schaumburg, Ill.; DES-5748, DEL-5748, crude oil

On August 31, 1979, the Union Oil Company of California filed an Application for Temporary Exception and Stay from the provisions of 10 CFR 211.67 in which the firm sought a temporary exception from the provisions of the DOE Entitlements Program. In considering the request, the DOE found that the firm had failed to demonstrate that a strong likelihood exists that it would succeed on the merits of its underlying exception request. Accordingly, the Application for Temporary Exception and Stay were denied.

Request for Stay

Mobil Oil Corporation Valley Forge, Pa.; DES-0566 through DES-0568 motor gasoline

Mobil filed Applications for Stay of three Orders which were issued to Home Oil, Inc., a branded Mobil distributor, by Region III of the Economic Regulatory Administration. The orders assigned Home to supply three retail outlets with motor gasoline. If its Applications for Stay were granted, Mobil would be relieved of the obligation to supply Home with additional volumes of motor gasoline for the three new purchasers. In its Applications, Mobil asserted that the three outlets did not qualify for an allocation under provisions of Section 211.105(d) because the firms were not branded independent marketers. In addition, Mobil asserted that it would experience an irreparable injury in the event that its Applications were denied. In considering the Mobil submissions, the DOE found that Mobil had failed to demonstrate that the three outlets did not qualify as branded independent marketers. Moreover, the DOE found that Mobil would not experience an irreparable injury in the absence of a stay. Accordingly, the Mobil requests were denied.

North Tahoe-Truckee Gasoline Retailers, San Francisco, California; DST-0072, DES-0282 motor gasoline

The North Tahoe-Truckee Gasoline Retailers filed an Application for Temporary Stay from the provisions of the motor gasoline price regulations adopted on July 15, 1979. In considering the Application, the DOE determined that operating costs experienced by retailers in the Lake Tahoe area of California are significantly higher than the operating costs experienced by retailers elsewhere in the United States. A stay was therefore approved which permits the applicants to realize margins no higher than two cents in excess of the 15.4 cent fixed margin ceiling. The request for temporary stay was dismissed.

Shell Oil Company, Houston, Tex.; DST-0603, DES-0603 motor gasoline

Shell Oil Company filed an Application for Temporary Stay and Stay of a Temporary Assignment Order issued to the firm directing it to supply motor gasoline to West Texas Utilities. In considering the Application, the DOE determined that the Temporary Assignment Order contained several procedural deficiencies which casted serious doubt upon the validity of the Order and that accordingly the firm was likely to succeed on the merits of its Appeal of the Order. Shell's stay request was therefore granted.

Request for Temporary Stay

Santa Clara County Service Station Dealers Association, Sunnyvale, Calif.; DST-0070 motor gasoline

Santa Clara County Service Station Dealers Association filed an Application for Temporary Stay from the provisions of the motor gasoline price regulations adopted on July 15, 1979. The Association requested that its full-service members be permitted to apply margins in excess of 15.4 cents per gallon in sales of gasoline. In considering the Application, the DOE determined that the factual material in the record did not support the Association's contention that a higher margin was justified by higher operating costs experienced by retailers in Santa Clara County. The temporary stay request was therefore denied.

Motion for Discovery

Gas Del Oro, Inc.; Gas Del Oro, International, Inc.; The El Dorado Marketing Company of Laredo, Houston, Tex.; DEO-0396 natural gas liquids

Gas del Oro, Inc., Gas del Oro, International, Inc., and the El Dorado Marketing Company of Laredo (collectively referred to as Gas del Oro) filed a Motion for Discovery in connection with Statements of Objections which Gas del Oro filed in opposition to relief tentatively granted to the Ozone Gas Processing Plant in two Proposed Decisions and Orders issued by the DOE. *Ozone Gas Processing Plant, Case Nos. DXE-1237 and DXE-0396 (Proposed Decisions and Orders issued July 20, 1978 and March 21, 1978, respectively).* In its Motion, Gas del Oro requested the DOE to order Ozone to respond to several interrogatories relating to confidential information submitted by Ozone to the DOE. In considering Gas del Oro's

discovery request, the DOE found that in the context of the previous Motion for Evidentiary Hearing, *Gas del Oro, Inc.*, 3 DOE Par. (February 8, 1979), the firm had failed to fully avail itself of Ozone's offer to release pursuant to a Protective Order substantially the same information which Gas del Oro sought to obtain through its Motion for Discovery. In addition, the DOE found that since the positions of the firm had already been thoroughly briefed and argued, approval of Gas del Oro's motion would unnecessarily protract the proceedings. Accordingly, Gas del Oro's Motion for Discovery was denied.

Interlocutory Order

Cliff Adams d/b/a Adams' Exxon
George Alexiades Arcadia Exxon Services
Donald J. Bania d/b/a Fisher Shell Station
Donald Brown d/b/a Valley Drive Exxon
Johne E. Burchard d/b/a Burchard's Exxon
David Clark d/b/a Clark's Arco
Cubbon Lumber Company d/b/a Miller Auto Supply Company
D&C Exxon Service Center, Inc.
Dave's Sunoco, Inc.
Don Ebersole
Englewood Getty Service, Inc.
First Street Exxon
Anthony Fava d/b/a Tony Fava Sports
James V. Fulmer d/b/a Rossmayne Exxon
Gold's Exxon
Heights Shell
Jerry's Chevron
Pauline Johnson d/b/a Johnson's Amoco
John Kline d/b/a Kline's Exxon
Lincrest Exxon
Harry Martin d/b/a Martin's Sunoco
Anthony Massahos
Dean Miller d/b/a Dean Miller Sunoco
J. W. Miller & Associates d/b/a Miller's Union 78
Bob Mueller
New Tip Top Corporation
Don Newman d/b/a Newman's Exxon
Servicenter
Northview, Inc.
David G. Palamara (Atlantic Highlands Shell)
Alfredo Perez, Jr.
Robal Company
Rock Creek Gulf
Aurelio Rodriguez t/a/ Magnolia Sunoco
Shell 17, Inc.
Shell 17, Inc.
South Side Getty
T & J Auto Laundry
T & V Auto Service Center, Inc.
Tenafly Getty Service, Inc.
Tony's Elmora Shell
Robert Whiting d/b/a RMS Enterprises, Inc.
Robert A. Williams
Robert A. Williams d/b/a Freeway Texaco, DRZ-0013 through DRZ-0056 motor gasoline

These cases involve Interim Remedial Orders for Immediate Compliance (IROIC's) issued to retail sellers of motor gasoline. Because the pricing rule applied in these IROIC's differs from the new pricing rule, which became effective July 16, 1979, governing the manner in which retail motor gasoline outlets may compute their maximum selling prices, the DOE determined that the IROIC's should be modified to pertain only to

the period prior to July 16, 1979. Therefore, these IROIC's were rescinded, *nunc pro tunc*, as of July 16, 1979.

Protective Order

The following firm filed an Application for Protective Order. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy.

Company Name, Case No., and Location
Union Oil Co. of California, DEZ-0557; Washington, D.C.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception, Interim Order, Stay and/or Temporary Stay of the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company name, case No., and location
James Oil Co., Inc., DEE-2912; Golden, Colo.
Flowers Grocery, DEN-4785; Louisville, Miss.
Berwyn Fuel, Inc., DEN-3061; Laurel, Md.
Amerada Hess, DEN-7974; Washington, D.C.
Amerada Hess Corp., DEN-7999; Washington, D.C.
Howie Oil Co., DEN-2549; Pensacola, Fla.
Franklin Oil Co., DEO-0220; Caldwell, Idaho

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception, Interim Order and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied:

Company name, location and case No.
George Lavender Chevron Service, DEO-0228; Silverdale, Wash.
Northville Industries, DEN-7009; New York, N.Y.
Enterprise Shell, DEE-4341; Oxnard, Calif.
Nancy Starr Mobil, DEE-4137; Martinez, Calif.
Amati Service Station, DEO-0255; Monongahela, Pa.
White's Chevron, DEE-3959; Robertsdale, Ariz.

Dismissals

The following submissions were dismissed without prejudice to refile at a later date:

Company name and case No.
H. C. Petroleum, Inc., DEE-5638
Mickey's Exxon Station, DEE-6754
Norman E. Stephenson, DEE-3643
D&K Coals, Inc., DEE-7663
Honda & Hou, DEE-4606

John & Bob's Service Center Inc., DEE-2899
Johnson's Shell, DEE-2945
Rovero's American Station, DEE-3367
Robert's Amoco, DEE-4933
Beck Distributing Co., DEE-3087
H&H Oil Co., Inc., DEE-7998
Hampshire Oil Co., DEE-6753
June Parker Oil Co., DRS-0270
Kansas City Times, DFA-0484
Kremer Oil Corp., DEE-5565; DST-5565
Lambrecht Petroleum, Inc., DEE-7197
Linke Bros., Inc., DEE-7399
Lung Association, DEE-7577
Monts Texaco, DEE-7610
Northern Petroleum, Inc., DEE-5432
Pacific Outdoor Adv., DEE-6736
Raskin R. Ranch, DEE-5736
Riverdale, Chevron, DXE-6122
Siemens-Allis, Inc., DEE-7803
Site Oil Co.; Flash Oil Corp., DST-0062
Ward Oil Co., DEE-6345
Hobbs Trucking Co., DEE-2219
J. E. Sharber Oil, DEE-5405
Nome Quick Stop, DEE-7232
Suburban Mini Mart, DEE-3737
Bankhead Chevron, DEE-3667
Crites Oil Co., Inc., DEE-6403
DeKalb County Schools, DEE-7820
Dick Wilson's Arco, DEE-3249; DES-3249
Glenn & Alan Grimm Farms, DEE-6988
American Agri-Fuels, DEN-2179
Arlton Gulf, DEE-4666
Clements Oil Co., DEE-1589
Community Heating Oils, DEE-1996
D & R Service, Inc., DEE-1972
Giardina Shell, DEE-6601
Gulf Oil Corp., DFA-0592
H. H. Elder Oil, DEE-3035; DST-3035
Janice Dupree Parts & Sales, DEE-3176; DES-3176; DST-3176
MFA Oil Co., DEE-5453; DST-5453; DES-5453
Mecosta County Road Commission, DEE-6092
R. W. Tyson Producing, DEE-6515; DEE-6516; DEE-6517
Schuyler County Office of Civil Defense, DEE-7061
Tolson Motors, DEE-7718
U.S. Post Office, Alvin, Tex., DEE-6983
Vickers Petroleum Corp., DEE-78981, DES-7898; DST-7898
Yarnell's Sunoco, DEE-5074
Master's Market, DEE-5961
Nels Jakobson, DEE-3284
Onan Oil Co., DEE-3722
Union Oil of California, DEE-7777
Wolfe's Arco, DEE-7226
Barnosky Oils, Inc., DEE-7777; DES-7777; DST-7777
Crown Central Petroleum, DEE-7756; DES-7756; DST-7756
Deminex U.S. Oil Co., DEE-7994
Marathon Oil Co., DST-0495; DES-0495; DEA-0495; DST-0496; DES-0496; DEA-0496
C. E. McInerney, DEE-4133
Ed's Garage Inc., DEE-7693
Garland Bros. Petroleum, DEE-7253
J. E. Meintzer & Sons, DEE-7743
Moore Oil of Florida, DEE-4251; DES-4251; DST-4251
Niagara Frontier Vocational Rehab., DEE-5332
Northtown Skelly, DEE-7388
Petro, Inc., DEE-4828
Phil's Mini-Market, DEE-7671; DES-7671
Providence Hospital, DEE-7743

William M. Gardner, DEE-7885

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein, Director, Office of Hearings and Appeals. November 15, 1979.

[FR Doc. 79-35844 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 17 through September 21, 1979

Notice is hereby given that during the week of September 17 through September 21, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Cotten, Day & Doyle, Washington, D.C., DFA-0596, freedom of information

Cotten, Day & Doyle filed an Appeal from a denial by the Freedom of Information Officer, Region X, of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that certain of the documents which were initially withheld under exemptions (b)(4), (b)(5), and (b)(7)(A) and (7)(E) should be released to the public.

McGraw-Hill Publications Co., Washington, D.C.; DFA-0599 freedom of information

McGraw-Hill Publications Company filed an Appeal from a denial by the DOE Energy Information Administration (EIA) of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOI Act). In considering the Appeal, the DOE found that the matter should be remanded to the Acting Assistant Administrator of the EIA for further action. The Administrator was directed to release the documents to the applicant or in the alternative issue a written statement explaining in detail why any of these documents should be withheld.

Mobil Oil Corp., New York, N.Y.; DEA-0577, DES-0577, motor gasoline

Mobil Oil Corporation filed an Appeal of an Order which had been issued to the firm by DOE Region VII. That Order directed Mobil to supply the Onyx Corporation with

1,841,370 gallons of gasoline for the period July through September 1979. Mobil also filed an Application for Stay from the requirement that it supply fuel to Onyx pursuant to the Region VII Order. In considering the Appeal, the DOE found that Mobil was afforded sufficient notice of the Region VII Order to satisfy Mobil's due process rights and that the Order was issued in compliance with DOE regulations. Accordingly, Mobil's Appeal was denied, and its Application for Stay was dismissed.

Maria Reichmanis, Syracuse, N.Y.; DFA-0604, freedom of information

Maria Reichmanis (Reichmanis) filed an Appeal from a denial by the Assistant Director for Power Delivery of the Division of the Electric Energy Systems (the Assistant Director) of a Request for Information which Reichmanis had submitted under the Freedom of Information Act. In considering her Appeal, the DOE found that the Assistant Director had correctly determined that the requested documents do not exist. The DOE also determined that no law requires the maintenance of the documents that Reichmanis requested. The DOE therefore denied Reichmanis's Appeal.

Tom P. Smith, Houston, Tex.; DFA-0600, freedom of information

Mr. Tom P. Smith filed an Appeal from a denial by the Acting District Manager of the DOE Southwest District Office of Enforcement of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the initial determination must contain an index of the documents that were withheld. It also concluded that Exemption 7(E) apparently did not apply, but it remanded the determination for consideration of other FOIA exemptions.

Trends Publishing, Inc., Washington, D.C.; DFA-0597, freedom of information

Trends Publishing, Inc. filed an Appeal from a denial by the Executive Director of the Research and Development Coordination Council of the Office of Energy Research of the Department of Energy of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Director had failed to make a thorough search for all documents responsive to the Trends request. Consequently, the DOE remanded the Request for further action in accordance with 10 CFR, Part 1004.

Requests for Exception

Coastal States Gas Corp., Houston, Tex.; DEE-2238, crude oil refiner

Coastal States Gas Corporation (Coastal) filed an Application for Exception from the provisions of Section 211.67(a)(4) of the Old Oil Entitlements Program. The exception request, if granted, would result in the issuance of an Order relieving Coastal of a portion of its obligation to purchase entitlements during the months of August-December 1979. As adopted on December 8, 1977, the provisions of that section reduced the entitlement purchase obligation associated with the purchase of certain lower tier California crude oils. The December 8

amendments also reduced the entitlement benefits received by California refiners that processed imported and Alaskan North Slope (ANS) crude oils. On June 15, 1978, the DOE modified Section 211.67(a)(4) and eliminated the reduction in entitlement benefits to California refiners that processed imported and ANS crude oils. In considering the Coastal exception request, the DOE observed that the firm processes only imported and ANS crude oils. As a result, Coastal was directly and adversely affected by the provisions of Section 211.67(a)(4) which were in effect during the five-month period from January through May 1978. The DOE observed that the financial data submitted by Coastal indicated that it incurred a severe financial hardship as a result of the operation of the provisions of Section 211.67(A)(4) during the January-May period. The DOE also noted that coastal had no economic alternative to the continued use of imported crude oil, despite the penalty associated with the December 8 amendments. Accordingly, the DOE granted exception relief that permitted Coastal to sell additional entitlements equal in value to the losses of entitlement revenues it experienced during the January-May period as a result of the provisions of Section 211.67(a)(4).

Fannon Petroleum Services, Inc., Alexandria, Va.; DEE-3884, gasohol

Fannon Petroleum Services, Inc. (Fannon) filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increase in its base period allocation of unleaded motor gasoline for the express purpose of producing gasohol. In considering the request, the DOE found that exception relief was necessary to prevent a gross inequity, since Fannon's inability to obtain sufficient supplies of unleaded gasoline for the purpose of marketing gasohol was frustrating the national policy objective of increasing the use of alternative energy sources. Accordingly, exception relief was granted. The DOE held that the gross inequity standard is the appropriate basis for granting exception relief when the application of a regulatory requirement to a particular set of facts frustrates the attainment of a statutory or regulatory objective. The DOE further found that the production and marketing of gasohol furthers the national objective of developing diversified energy sources.

J. M. Huber Corp., Houston, Tex.; DEE-3004, crude oil

The J. M. Huber Corporation (Huber) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which is produced from the Pure-State No. 1 Well (the Well) located in Lea County, New Mexico. In considering the Application, the DOE found that the cost of producing crude oil from the Pure-State No. 1 Well had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Huber had no economic incentive to continue to produce crude oil from the Well, and that it was unlikely that the crude oil in the reservoir underlying the Well could be recovered by

any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Huber and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Huber to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Pure-State No. 1 Well for the benefit of the working interest owners for the period March 27, 1979 through September 30, 1979.

Ross Production Co., Shreveport, La.; FEE-4476, crude oil

Ross Production Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D in which the firm sought relief from the DOE crude oil pricing regulations on behalf of all the working interest owners of the C. F. Rouston property which is located in Catahoula Parish, Louisiana. In considering the request, the DOE found that the firm and other working interest owners did not have a sufficient economic incentive to continue producing crude oil from this property if constrained to lower tier pricing. Exception relief therefore was found to be necessary in order to provide a reasonable return on the capital investment made by the working interest owners and assure continued production at the Rouston property. Accordingly, exception relief was granted.

Texas Independent Producers & Royalty Owners Association, Austin, Tex.; DEE-7997, certification requirements

The Texas Independent Producers and Royalty Owners Association (TIPRO) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in a class exception which would permit the 4,000 members of TIPRO to establish new base production control levels for domestic crude oil producing properties 30 days after the certification deadline. In evaluating the TIPRO application, the DOE found that TIPRO had failed to satisfy the general criteria governing whether a class exception is appropriate. On the basis of this finding, the DOE dismissed the TIPRO exception application.

Requests for Stay

Mobil Oil Corp., New York, N.Y.; DES-0220, crude oil

Mobil Oil Corporation filed an Application for Stay of an Interim Order immediately implementing a proposed exception decision and allocating 3,316,829 barrels of crude oil to Energy Cooperative, Inc. (ECI) under the buy-sell program, 10 CFR 211.65. The DOE concluded that Mobil would not experience an irreparable injury because the DOE could order ECI to replace any crude oil Mobil is required to supply under the order in the event an objection to the proposed decision were sustained. The DOE further concluded that the effect of the proceeding on ECI and its customers was far greater than the effect on Mobil and its customers. Finally, the DOE rejected Mobil's claim that it would likely be successful in its objection to the proposed exception decision, on the grounds that the

contentions made by Mobil had already been considered by the DOE in the exception proceeding and rejected in the proposed decision. Mobil's Application for Stay was therefore denied.

Western Refining Co., Salt Lake City, Utah; DES-0278, crude oil

Western Refining Company (Western) filed an Application for Stay from the requirement that it purchase entitlements during the month of August 1979 as required by 10 CFR 211.67. In considering the Application, the DOE determined that Western failed to show that it would incur an irreparable financial injury in the absence of immediate relief or that there was a strong likelihood of success on the merits of the firm's Application for Exception. Western's stay request was therefore denied.

Supplemental Orders

Acomi Corp., Washington, D.C.; DEX-0191, motor gasoline

The Office of Hearings and Appeals of the Department of Energy had issued an Order to Show Cause to Acomi Corporation regarding alleged misrepresentations made by the firm to the DOE in connection with the temporary stay, stay, and exception proceedings. In this proceeding, the DOE examined Acomi's response to that Order. After reviewing Acomi's arguments, the Office of Hearings and Appeals found that Acomi had made serious material misrepresentations of fact to the DOE in connection with the prior proceedings. In addition, the DOE found that Acomi had improperly sold on the spot market substantial quantities of motor gasoline which it had received under orders of the Office of Hearings and Appeals. Those Orders provided Acomi with gasoline in order to enable it to supply its base period purchasers and other customers identified to the DOE. However, the DOE found, Acomi had failed to supply a large number of those customers and instead sold substantial volumes of that gasoline to spot purchasers. Under those circumstances the DOE determined, the prior relief granted to Acomi should be rescinded in part. Accordingly, Acomi was directed to resupply motor gasoline to the firms that furnished it with that product under the DOE's prior orders.

Hamilton Bros. Petroleum Corp., Denver, Colo.; DEX-0202, crude oil

The Hamilton Brothers Petroleum Corporation filed a request for supplemental relief in which the firm sought to have transferred to the Fields Field Company the relief which was granted to Hamilton in Case Number FEE-4789. *Martin Exploration Co.*, 3 DOE Par. 81,001 (1979). In that case the DOE had granted exception relief to the Martin Exploration Company and to Hamilton which permitted the firms to sell at market prices the crude oil produced and sold for the benefit of the working interest owners of the Wilcox B Sand Unit in Beauregard Parish, Louisiana. Hamilton requested supplemental relief in order to facilitate a proposed transfer of all its right, title and interest in the Wilcox Unit to the Fields Field Company. In considering Hamilton's request, the DOE found that Hamilton's subsidiary, the Norwegian Oil Corporation (DNO-U.S.),

would continue to operate the Wilcox Unit and that the terms of the operating agreement would remain essentially unchanged after Hamilton completes the transfer of the property to the Fields Field Company. Therefore the DOE determined that the factual basis upon which exception relief had originally been granted to Hamilton would not be altered in any significant way by the planned change in the ownership of the Wilcox Unit. Accordingly, supplemental relief was granted, subject to the completion of the transfer of Hamilton's interest in the Wilcox Unit to the Fields Field Company.

Laketon Asphalt Refining, Inc., Evansville, Ind.; DEX-0204 crude oil

On September 20, 1979, the DOE issued a Decision and Order to Laketon Asphalt Refining, Inc. staying the firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on September 20, 1979.

Little America Refining Co., Washington, D.C.; DEX-0203 crude oil

On September 20, 1979, the DOE issued a Decision and Order to Little America Refining Company staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on September 20, 1979.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception, Stay and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied:

Company Name, Case No., and Location

Baldwin Petroleum Co., DST-3878; Jonesboro, AR
Cal's 66 Service Station DEE-3497; Miami, FL
Ernie's Sunoco, DEE-3690; New Castle, DE
Gene Sanders Service, DEE-2578; St. Louis, MO
Miller & Claburn Oil Co., DES-4183; Texarkana, AR

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Interim Order from the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company Name, Case No., and Location

Citadel Corp., DEN-3870; Washington, DC
Ozarks Petroleum Service, DEN-6488; Bronson, MO
Lakewood Oil Co., DEN-2974; Lakewood, NJ
Twin State Oil Co., DEN-5759; Tabor City, NC
North Centrol Oil, DEN-3080; Gaylord, MI

Bob & Roy's Standard, DEN-7785; Brandon, MN

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. After reviewing the material presented by these firms, the DOE issued Decisions and Orders which determined that each of these petitions should be dismissed without prejudice to a refiling at a later date:

Company Name, Case No., and Location

Uniservice Center
United Independent Taxi Drivers, Inc.
Independent Cab Co., DEE-5221; Los Angeles, CA
Automotive Testing Laboratories, Inc., DEE-4530; Aurora, CO

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name, and Case No.

Murphy's Gulf Station, DEE-6613
V&V Auto Service, DEE-6651
Bob Wong's Chevron, DEE-4246; DES-4246
Bro Len Service Center, DEE-7255
General Merchandise, DEE-6603
Shawnee Oil & Gas Corporation, DRO-0242
Ronald Sorel, DEE-4738
Bethel Assembly of God, DEE-7821
Crown Central Petroleum, DEA-0493
David L. Currier, DEE-5622
Energy Development Corporation, DEE-6349
Friendly Oil Company, DEE-3885; DES-3885
Galloway Oil Company, DEE-8087
Jennings-Watts Oil Company DEE-4702
John's Service DEE-5257
Kay Peterson Distributors, DEE-5034
Maplewood Conoco, DST-5448
Paul's Mobil Products, DEE-4168
Jerry English Mobil, DEE-6583; DES-6583; DST-6583
K. R. "Ken" Rearick, DRO-0273
Livingston-Thebaut Oil Company, Inc., DEE-6394
Martinez Service, DEE-6563
Mobil Oil Corporation, DES-0316
Riverland Auto Bath, DEE-3937
Robert A. Williams, DRS-0271
San Fernando Valley Academy, DEE-6980
Selbyville Arco, DEE-6398
Villa Rica Medical Clinic, P.A., DEE-7884
Schuyler County Office of Civil Defense, DEE-7061
Springfield Phillips 66, Inc., DEE-4398
Tenafly Getty Service, Inc., DRO-0262
Vernon Mobil, DEE-4834; DES-4834; DST-4834
West Avenue Exxon, DEE-4054
Williams Oil Company, DEE-4003
Brantely's Gulf, DEE-3330; DES-3330
Calloway's Gulf, DEE-7165
Hassell Oil Company, DEE-2098; DST-2098
Fairlington Sunoco, DEE-0249
Nola Oil Company, DEE-5852
Robal Company, Inc. (Sunoco), DRO-0300
Robert Whiting, DRS-0315
Thomas E. Thrasher, DEE-6167
Vickers Petroleum Corporation, DEA-0573
Werner Oil Company, DEE-2490; DES-2490
Citadel Corporation, DES-5956; DST-5956

Crystal Flash Petroleum, DEE-2378
Donald J. Bania, DRO-0263
Ever Ready Oil Company, DEE-4783
Farmersville Gulf, DEE-5845
Frank's Servicenter, DEE-7873
Summit Car Care Center, DXE-5788
Travaglio's Service Center, DEE-6442
Vandevander's Amoco, DEE-6236
B&B Oil Company, Inc., DEE-3194
Dewey's Automotive Service Center, Inc., DEE-7704
Getty Oil Company, DXE-7858 thru DXE-7861
Helms Service Station, DEE-4474
Main Street Shell, DEE-7295
Master Gulf Service, DEE-2688
Max's Vernon Truck & Car Center, DEE-6621
Paul Mayo, DES-4488
Stephen Meads Oil Company, DEE-5096

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N. W. Washington, D. C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

November 15, 1979.

Melvin Goldstein,
Director, Office of hearings and Appeals.

[FR Doc. 79-35854 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; September 17 Through September 21, 1979

Notice is hereby given that during the period September 17 through September 21, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision

and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decision and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D. C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except federal holidays.

November 15, 1979.
Melvin Goldstein,
Director, Office of Hearings and Appeals.

*Alexander's Department Store, Inc.,
Wilmington, N.C.; DEE-7571 temperature
restrictions*

Alexander's Department Store, Inc. filed an Application for Exception from the provisions of the Emergency Building Temperature Restrictions. The exception request, if granted, would permit Alexander's to raise the temperature in the firm's four outlets above 65° F. On September 18, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

*André Fantasies Originals, Ft. Lauderdale,
Fla.; DEE-7657 temperature restrictions*

André Fantasies Originals (André) filed an Application for Exception from the provisions of the Emergency Building Temperature Restrictions. See 44 Fed. Reg. 39354 (July 5, 1979). The exception request, if granted, would permit André to lower the temperature in its business establishment below 78 degrees Fahrenheit. On September 21, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

*John O. Farmer, Inc., Russell, Kans.; DEE-
2327 crude oil*

John O. Farmer, Inc. filed a request for exception from the reporting requirements which, if granted, would relieve Farmer of the obligation to provide the Form EIA-23 (Annual Survey of Domestic Oil and Gas Reserves) to the Energy Information Administration of the DOE. In denying the request, the DOE noted that: (i) the use of the aggregate data obtained from the Form EIA-23 is important to enable the DOE to develop national and regional estimates of production and proved reserves of domestic crude oil and natural gas; and to facilitate national energy policy decisions, and (ii) showing that the firm should be exempted from the reporting requirements of the Form EIA-23. On September 17, 1979 the DOE issued a

Proposed Decision and Order in which it determined that the request be denied.

*Jerol R. Hodges, Los Angeles, Calif.; DEE-
7780 temperature restrictions*

Jerol R. Hodges filed an Application for Exception from the provisions of the Emergency Building Temperature Restrictions. The exception request, if granted, would permit Hodges to lower the temperature to 70° F in his office located in Suite 1800, 2049 Century Park East, Los Angeles, California. On September 17, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

*Laketon Asphalt Refining, Inc., Evansville,
Ind.; DXE-6986 crude oil*

Laketon Asphalt Refining, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would relieve Laketon of its obligation to purchase entitlements pursuant to the provisions of 10 CFR 211.67. On September 20, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

*Little America Refining Company,
Washington, D.C.; DEE-7391 crude oil*

Little America Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would relieve Little America of its obligation to purchase entitlements pursuant to the provisions of 10 CFR 211.67. On September 20, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

*Logue & Patterson, Inc., Dallas, Texas; DEE-
7371 crude oil*

Logue & Patterson, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Dahney Lease located in Polk County, Texas at upper tier ceiling prices. On September 18, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's petition.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Twin State Oil Company, DEE-5759; Tabor City, NC.
Ozarks Petroleum Service, DEE-6488; Bronson, MO

Lakewood Oil Company, DEE-2974; Lakewood, NJ
North Central Oil Company, DEE-3060; Gaylord, MI
Bob & Roy's Standard, DEE-7785; Brandon, MN

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Al's Mobil, DEE-7886; Grand Rapids, MI
Baldwin Petroleum Company, DEE-3878; Jonesboro, AR
Bayside Marine Corporation, DEE-7689; Duxbury, MA
Citadel Corporation, DEE-3870; Washington, DC
Decker's Amoco, DEE-4236; Norfolk, VA
Gateway Texaco, DEE-5550; Mount View, CA
Gene Sanders Service, DEE-2578; St. Louis, MO
Gengarely's Hillcrest, DEE-7421; Ridgefield, CT
Hiser's Service, DEE-4030; Pittsfield, MA
Ye Olde Family Inn & Service Center, DEE-4639; Tipp City, OH
Peter P. Adamo, DEE-6528; Wallingford, CT
Robert Huth, DEE-7042; San Diego, CA
Sheehan Oil Company, DEE-5561; Norman, OK
Lynn Smith's Arco, DEE-7250; Sacramento, CA
Karim Safiris Arco, DEE-6709; Mill Valley, CA
Murphy's Service, DEE-7529; Kansas City, KS
Ben's Filling Station, DEE-5619; Brunswick, ME
Interstate Mobil, DEE-4699; Springfield, MA
Interstate Texaco, DEE-4945; Fredericksburg, VA
Ron's Agoura Chevron, DEE-3078; Agoura, CA
Westchester Shell, DEE-3254; Los Angeles, CA
Bud's Service Center, DEE-4673; Danbury, CN
C.M. Leasing Corporation, DEE-7726; Burlington, MA
Courtesy Tow Service, DEE-6590; San Jose, CA
Miller & Claburn Oil Company, DEE-4183; Texarkana, AR
[FR Doc. 79-35849 Filed 11-20-79; 8:45 a.m.]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of October 1 Through October 5, 1979

Notice is hereby given that during the week of October 1 through October 5, 1979, the Decisions and Orders summarized below were issued with

respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

*Akin, Gump, Hauer & Feld, Washington, D.C.;
DFA-0627 freedom of information*

The law firm of Akin, Gump, Hauer & Feld filed an Appeal from a partial denial by the DOE Assistant General Counsel for International Trade and Emergency Preparedness of a Request for Information which the firm submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the Assistant General Counsel's explanation for withholding the requested information under Exemption 5 was inadequate and inconsistent with a prior agreement. Accordingly, the matter was remanded to the Assistant General Counsel for further consideration.

*Exxon Company, U.S.A., Houston, Tex.;
DEA-0614 motor gasoline*

Exxon Company, U.S.A. filed an Appeal from an Order which the ERA Office of Petroleum Operations issued to the firm on July 25, 1979, pursuant to a Proposed Decision and Order and an Interim Decision and Order of the Office of Hearings and Appeals. The ERA Order directed Exxon to furnish Triangle Refineries, Inc. with motor gasoline for the month of July 1979. In its Appeal, Exxon requested that the Order be rescinded and that Triangle be directed to reinstate Exxon with the volume of gasoline which Exxon supplied to Triangle pursuant to the Order. In considering the Appeal, the DOE found that the arguments raised by Exxon should be considered in the context of the firm's Statement of Objections to the Proposed Decision and Order. Accordingly, the Appeal was dismissed without prejudice.

*Pester Refining Co., El Dorado, Kans.; DEA-
0439 motor gasoline*

Pester Refining Company filed an Appeal from an Order which was issued to the firm by the DOE Central Enforcement District on April 2, 1979. In the April 2, Order, the Central District directed Pester to furnish Kemco Petro, Inc. with motor gasoline. In considering the Appeal, the DOE determined that Pester had not sold or otherwise furnished a covered product to Kemco. Accordingly, the DOE granted the Appeal and rescinded the April 2 Order.

Remedial Order

*Drew Cornell, Inc., Lafayette, La.; DRO-0390,
crude oil*

Drew Cornell, Inc. objected to a Revised Proposed Remedial Order which the DOE Region VI issued to the firm on January 29, 1979. In the Revised Proposed Remedial Order, Region VI found that Cornell had improperly classified the V. Boagni Lease as two separate properties. In considering the firm's objections, the DOE found that clarification of the liability of royalty interest

owners and of the proper computation of future royalty payments was unnecessary. The DOE therefore concluded that the Revised Proposed Remedial Order should be issued as a final Order.

Request for Modification and/or Rescission
*Wind Energy Report, Rockville Center, N.Y.;
DMR-0068, freedom of information*

Wind Energy Report filed a Request for Modification of a prior DOE Decision and Order to provide for the waiver of fees for material released to the firm under the Freedom of Information Act. In considering the Request, the DOE concluded that the fees should be waived. An important issue considered in the Decision and Order was the standard to be applied by the DOE when a waiver of fees is requested. Among the factors found relevant in the present proceeding were: (i) the status of the requester as a representative of the news media, (ii) the public interest in providing the requester's subscribers with timely information, and (iii) the financial ability of the requester to pay customary fees.

Requests for Exception

*Gustafson Oil Co. of California, Washington,
D.C.; DEE-2108, residual fuel oil*

Gustafson Oil Company of California filed an Application for Exception from the provisions of 10 CFR 212.93 in which the firm sought retroactive exception relief which would permit the firm to retain revenues obtained on sales of residual fuel oil at prices which exceeded the firm's maximum permissible selling prices. In considering the request, the DOE found that prospective exception relief would likely have been approved if the firm had filed a timely request and that in the absence of retroactive exception relief the firm would be forced to terminate its business operations. Accordingly, exception relief was granted in part.

*L & M Operating Co., Carroll County, Ohio;
DEE-4438, crude oil*

L & M Operating Company filed an Application for Exception from the provisions of 10 CFR 212.131 in which the firm sought retroactively to certify crude oil produced from the Watkins #3 well as stripper well crude oil. In considering the request, the DOE found no evidence which indicated that the application of Section 212.131 to L & M was discriminatory or inequitable or that L & M was experiencing a serious financial hardship. Accordingly, exception relief was denied.

*Texaco, Inc., Denver, Colo.; DEE-2168, crude
oil*

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm sought to permit the working interest owners to sell the crude oil production from the A. S. Wisness lease in McKenzie County, North Dakota, at upper tier ceiling prices. In considering the request, the DOE found that in the absence of exception relief, Texaco would no longer have an economic incentive to continue crude oil production from the lease. Accordingly, exception relief was granted.

*Energy Cooperatives, Inc., Rosemont, Ill.;
DEL-8112, DES-8112, crude oil*

Energy Cooperatives, Inc. (ECI) filed Applications for Stay and temporary exception from the provisions of 10 CFR 211.65(c) in which the firm sought to purchase sufficient volumes of crude oil through the DOE Buy/Sell Program to operate its East Chicago Refinery at the national average refinery utilization ratio. In considering the request, the DOE concluded that ECI had satisfied the criteria for a temporary exception with respect to the three month period October through December 1979. Accordingly, relief was granted in part and the Application for Stay was dismissed.

*Pacific Resources, Inc., Honolulu, Hawaii;
DEL-0008, gasoline*

Pacific Resources, Inc. filed an Application for Temporary Exception from the provisions of 10 CFR 212.83 in which the firm sought permission to market Gasohol as a separate category and grade of gasoline and to pass through the entire cost of the alcohol. In considering the request, the DOE found that temporary relief was warranted since the firm was likely to succeed on the merits of its underlying Application for Exception. In addition, the DOE noted that the removal of the regulatory disincentives for producing Gasohol would help to diminish the nation's reliance on petroleum products for energy. Accordingly, temporary exception relief was granted.

*Phillips Petroleum Co., Bartlesville, Okla.;
DES-7804; DST-7804; DEL-7804, gasoline*

Phillips Petroleum Company filed Applications for Temporary Exception, Temporary Stay, and Stay from the provisions of 10 CFR 211.83 in which the firm sought permission to market Gasohol as a separate category and grade of gasoline for cost passthrough purposes. In considering the request, the DOE found that several public policy objectives would be furthered by the approval of exception relief. Accordingly, temporary exception relief was granted and the Applications for Stay and Temporary Stay were dismissed.

*Champlin Petroleum Co., Houston, Tex.;
DST-0644 through DST-0646, DES-0644
through DES-0646, motor gasoline*

Champlin Petroleum Company filed Applications for Stay and Temporary Stay of the requirement that it supply motor gasoline to BLT, Inc. and Trans-Texas Petroleum, Inc. for the months of August and September 1979 pursuant to three temporary assignment orders issued by DOE Region VI. In considering the Applications, the DOE determined that the findings upon which the orders were based were inadequate. Accordingly, Champlin's stay requests were granted and the firm's temporary stay requests were dismissed.

*Exxon Co., U.S.A., Washington, D.C.; DES-
0629, motor gasoline*

Exxon Company, U.S.A. filed an Application for Stay of the provisions of a Redirection Order which was issued to the firm by DOE Region IV. In the order, Region IV required Exxon to supply Southland-Florida with motor gasoline pursuant to the

provisions of 10 CFR 211.107(c). In considering the Application, the DOE determined that Exxon was likely to succeed on the merits of its Appeal because the Region IV order did not contain sufficient findings of fact. The stay request was therefore granted.

Motion for Evidentiary Hearing

Johnson Oil Co., Salt Lake City, Utah; DEH-0043, crude oil

Johnson Oil Company filed a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Decision and Order which the DOE issued to the Southwestern Refining Company on December 19, 1978. In its Motion, Johnson requested permission to present testimonial evidence in support of the contentions raised in its Statement of Objections. In considering the request, the DOE determined that Johnson should be permitted to present oral testimony concerning the reasonableness of its markup on sales of crude oil to Southwestern. Accordingly, the Motion for Evidentiary Hearing was granted in part.

Interlocutory Order

Atlantic Richfield Co., Los Angeles, Calif.; BRZ-0001

Gulf Oil Corp., Houston, Tex.; BRZ-0002
Marathon Oil Co., Inc., Findlay, Ohio; BRZ-0003

Standard Oil Co. of California, San Francisco, Calif.; BRZ-0004

Standard Oil Co. (Ohio), Cleveland, Ohio; BRZ-0005

Standard Oil Co. of Indiana, Chicago, Ill.; BRZ-0006

Texaco, Inc., White Plains, N.Y.; BRZ-0007, crude oil

From May 29, 1979 through August 15, 1979 a total of 13 firms filed Notices of Objection and Requests to Participate in the enforcement proceedings involving Proposed Remedial Orders issued to the seven oil companies listed above. In an interlocutory Decision and Order issued on October 5, 1979, the DOE ruled on the Notices of Objection and Requests to Participate. In several instances, the DOE found a sufficient interest to warrant participation in the proceedings, while in other cases, the DOE denied participation or restricted participation to the filing of briefs.

Supplemental Order

Gulf Oil Corp., Houston, Tex.; DRX-0206, motor gasoline

The DOE Office of General Counsel requested the Office of Hearings and Appeals to withdraw certain Decisions and Orders previously issued to the Gulf Oil Corporation which were related to a lawsuit which Gulf filed against the DOE. In considering the request, the DOE determined that the withdrawal of the Decisions and Orders was necessary to a full settlement in the lawsuit. Accordingly, the request was granted.

Protective Orders

The following firm filed an Application for Protective Order. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by

the firm. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy:

Company name, location, and case No.
Chevron U.S.A., Inc., San Francisco, Calif.; DEZ-0537

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company name, location, and case No.

Quality Car Wash & Convenience, Marietta, Ga.; DEN-3961

The Village Market, Cutler, Maine; DEN-7442

Van Alstine Oil Co., New London, Wis.; DEN-5383

Randy's Exxon, N. Tazewell, Va.; DEN-7143

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception and/or Temporary Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company name, location, and case No.

Palm Oil Co., Costa Meas, Calif.; DEE-2497

Publix Oil Co., Washington, D.C.; DEL-8115

The following firms filed Applications for Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company name, location, and case No.

Industrial Petroleum Supplier, Inc., Washington, D.C.; DEE-2404

Uncle Russ's Service, Cambridge, Mass.; DEE-5185

Spangler Oil Co., York, Pa.; DES-7223

Danville Gas House Co., Winston Salem, N.C.; DES-5439

M.F.A. Oil Co., Columbia, Md.; DST-8101

Dismissals

The following submissions were dismissed without prejudice to refile at a later date:

Company Name and Case No.

Amber Fuel Oil, Inc., DEE-1942

Ann L. Krumboltz, DFA-0655

City of Carter Lake, DEE-7385

Colonial Truck Stop, DEE-4018

Common Cause, DFA-0647

Confederate Shell, DEE-6153

Eliea Shahbazian, DEE-7092

Frank S. Bellafiore, DEE-6758

Hamilton Mill-185 Chevron, DEE-3329, DES-3329

J. A. Nere Co., Inc., DEE-7515

Los Angeles County, DEL-0011; DEE-8224

Lowry's Gulf DEE-7289

Orbit Stations, Inc., DEE-4237

Paul A. McArthur, DEE-3498

Price Waterhouse & Co., DFA-0654

Ray's Red Horse Mobil, DEE-5054

Roettgers Oil Co., DEE-2385

Ronald F. Schocle, DEE-2117

Joe Tatro, DEE-4866

Urbano's Service, DEE-6512

Viscosity Oil Co., DEE-2735; DST-2735

Wayne Johnson, DEE-4705

Amorient Pet. Co., DEE-4626, DES-4626, DST-4626

Anthony Massahos, DRS-0292

Avis Leasing Corp., DEE-6914

B & B Service Center, DEE-6870

Brown's Service, DEE-7172

Chevron U.S.A., Inc., DEE-8269, DEL-8269

Clarence Guidry, DEE-3628

Conoco Travel Shoppe, DEE-5483

Creighton Truck Lines, DEE-5368

Dean Miller Sunoco, DRO-0256

Dollar Rent-a-Car, DEE-6401

Ed's Amoco, DEE-5418

Holland Oil Co., DEE-3340

Lloyd Ritter, DEE-8252

Marlo Bulk Sales, DST-0049

New Fairfield Service, DEE-4013

Nick & Paul's Auto, DEE-8071

Osceola Service, DEE-7191

P & M Pet. Mgmt., DXE-7953

Polanco Service, DEE-7728

Red Carpet Car Wash, DRO-0279

Richard Amaral, DEE-6744

Rockwell Skelly, DEE-6189

Shaffer's Sunoco, DEE-7078

Southdale Shell & Tire, DRO-0239

Spencer's Sunoco, DEE-4824

Standard Oil of Indiana, DES-6160

Tissue's General Store, DEE-7028

Waterlick Minimart, DEE-7044

Wides Oil Co., Inc., DEE-5204

Baden Texaco, DEE-7464

Builders Mart of Calawba County, DEE-4586

Canyon Welding, DEE-5399

Charles Brown Oil Co., DEE-7107

Dow Foundations, DEE-5363

E. R. Carothers, DEE-3433

Gellatly Construction, DEE-7684

Harold Gamer, DEE-5239

Ivy H. Smith Co., DEE-6731

John J. Nissen Banking Co., DEE-7712

New Orleans East, Inc., DEE-7537

Ronald Holtz, DEE-7479

Valley Plaza Standard, DEE-7934

Arco Mini Mart, DEE-4403

Bedell's Amoco, DEE-3366

C. B. Ragland Co., DEE-8868

Chesapeake Car Wash Systems, Inc., DEE-6215

Clark Gas & Oil Co., Inc., DEE-2931, DST-2931

Clemco, DEE-8293, DEE-8294

Cliff Brice Stations, DEE-4939

Gay's Arco and Mini-Mart, DES-6273

Hartwell Industries, DEE-6893

J.M. Huber Corp., DEE-8300

Dorothy Jones, DEE-2901

Kentwood Spring Water, DEE-7415

Metairie Shell Car Wash DEE-5146

Monger Coal & Oil Inc., DEE-4807

Blythdale 66, DEE-5010

Branyon Oil Co., DEE-2929, DST-2929

Cities Service Co., DES-8088

Double EE Service, DEE-3149

Eastern Shore Oil Co., DEE-2670

Norman D. St. Cyr, DEE-4302

Northern Petroleum, DEE-5431

Northrup's Service, DEE-5660
P. Wotherspoon, Inc., DEE-3420
Perdue, Inc., DEE-7380
Pop Shoppe Texaco, DEE-2692
Richland Farm Bureau Co-op, DEE-4577, DST-4577
Robert A. Williams, DOR-0293
Sheeha Oil Co., DST-5561
Southern Stations, Inc., DEE-6832
Tom Prada, DEE-6767
Turco Supertest, DEE-2633, DES-2633, DST-2633
United Co., DRO-0304
Vaughn Oil Co., DEE-2920
American Packaging Corp., DEE-7279
Digi-Data Corp., DEE-6562
Oils, Inc., DEE-7486
Penco Oil Co., DEE-5760, DST-5760
Perry Hall's Mini Market, DEE-3563
Carl A. Schuble, DEO-0334
Schulze Processing, Inc., DEA-0274
Shell Westwego, DEE-5918
Travelers Petroleum, Inc., DEE-6959, DES-6959
Norman Weigant, DEE-6923

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
November 15, 1979.

[FR Doc. 79-35846 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; October 22 Through October 26, 1979

Notice is hereby given that during the period October 22 through October 26, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR Part 205 Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that

if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

November 15, 1979.

Commonwealth Oil Refining Company, Inc.,
Penuelas, Puerto Rico; DXE-7928,
naphtha

Commonwealth Oil Refining Co., Inc. filed an application for Exception from the provisions of the Entitlements Program as they apply to naphtha. The exception request, if granted, would increase the benefits that Corco receives under the Entitlements Program by a per barrel amount equal to the disparity between the cost of imported naphtha feedstocks utilized by the firm and the weighted average cost of all imported naphtha feedstocks utilized in Puerto Rico. On October 22, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Eastern Shore Oil Co., Fruitland, Md.; DEE-7886, gasohol

The Eastern Shore Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, Subpart F. The exception request, if granted, would permit Eastern Shore Oil to receive a separate allocation of unleaded motor gasoline for the express purpose of blending Gasohol. On October 22, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

M. L. Mayfield, Houston, Tex.; DEE-1957,
crude oil

M. L. Mayfield filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit M. L. Mayfield to sell the crude oil that is produced from the VUB Gulf Schlicher-Thomas Well (the VUB Well), the Schlicher-Thomas B Well (the B Well) and the Schlicher-Thomas Gournay Well

(Gournay Well) located in the Pine Prairie Field in Evangeline Parish, Louisiana, at upper tier prices. M. L. Mayfield also requested retroactive exception relief with respect to the B Well. On October 23, 1979, the Department of Energy issued a Proposed Decision and Order which determined that M. L. Mayfield be granted prospective relief with respect to the B Well and that the exception request be denied in all other respects.

Tyson Oil Co., Savannah, Ga.; DEE-7082,
motor gasoline

On July 5, 1979, Tyson Oil Company (Tyson) filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit Tyson to receive an additional allocation of unleaded motor gasoline for the purpose of blending Gasohol. On October 26, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Winon Avenue Missionary Baptist Church,
Hot Springs, Ark.; DEE-8229,
temperature restrictions

The Winon Avenue Missionary Baptist Church (the church) filed an Application for Exception from the provisions of the Emergency Building Temperature Restrictions. The exception request, if granted, would permit the church to raise the maximum temperature in its building to 72°F for certain time periods in the winter. On October 25, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Red Carpet Car Wash, DEE-6930;
Wallingford, CT

Carol Davis Mini-market, DXE-7977; Wittier,
CA

Ulysses J. Papini Arco, DEE-6722; Vista, CA

Anderson's Exxon, DEE-2127; Baltimore, MD

Don's Market, Inc., DEE-5680; Hampstead,
NH

Gold oil Company, DEE-4344; Belleville, IL

Holmes Mobil, DEE-6441; Auburn, CA

Jack Vaughn Oil Company DEE-6262; Pampa,
TX

Leblanc's Arco, DEE-5129; Riverside, CA

Mike Rose oil Company, DEE-2733;
Washington, DC

Ernie's General Store, DEE-3763; Stockton,
CA

Richard Oil Corporation, DEE-4855; W. Palm
Beach, FL

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor

Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

A&R Enterprises, DEE-7180; Clinton, MD
County Line Grocery, DEE-7001; Hull, TX
N. Miami Beach Fina, DEE-7249; N. Miami Beach, FL
Tony's Servicer, DEE-3943; Miami, FL
Dave's Alignment Service, DEE-6768; Wareham, MA
Georgetown Gulf, DEE-6860; Washington, DC
Bazell Oil Company, Inc., DEE-4490; Jackson, OH
James M. Brog, DEE-4240; Rohnert Park, CA
Rudolph's, Inc., DEE-3056; Yoakum, TX
Ray's Shell Service, DEE-4814; Mission Hills, CA
Michael Debaise, DEE-4684; Wallingford, CT
Sanford Oil Company, DEE-7878; Ada, OK
Shoreline, Texaco, DEE-7037; Mill Valley, CA
Traid Oil Company, DEE-3818; San Francisco, CA
Adamson Amoco, DEE-6836; Revere, MA
Arapahoe Exxon, DEE-5208; Denver, CO
Bill's Automotive, DEE-6710; Los Angeles, CA
Montgomery Village Service, Inc., DEE-3645; Gaithersburg, MD
Northside Country Store, DEE-7638; Myerstown, PA

[FR Doc. 79-35850 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of October 22 through October 26, 1979

Notice is hereby given that during the week of October 22 through October 26, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to these notices were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before December 11, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as nonparticipants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings

and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.
November 15, 1979.

Lupi A. Arias, Piru, Calif.; BRO-0066, motor gasoline

On October 24, 1979, Lupi A. Arias, Highway 126, Piru, California 93040, filed a Notice of Objection to a Proposed Remedial Order which the DOE Western District Office of Enforcement issued to the firm on October 15, 1979. In the PRO the Western District found that during August 1, 1979 to October 2, 1979, Arias overcharged retail purchasers of motor gasoline. According to the PRO the Arias violation resulted in \$3,740.36 of overcharges.

Bud Dietrich's Orinda Shell, Orinda, Calif.; BRO-0063, motor gasoline

On October 25, 1979, Bud Dietrich's Orinda Shell, 9 Orinda Way, Orinda, California 94563, filed a Notice of Objection to a Proposed Remedial Order that the Department of Energy's Western District Office of Enforcement issued to the firm on September 27, 1979. The proposed Remedial Order found that during the period August 1, 1979 through September 18, 1979 the firm committed pricing violations of \$5,398.24 in connection with the sale of motor gasoline in the State of California.

Garner C. Clark, Dallas, Tex.; BRO-0050, crude oil

On October 23, 1979, Garner C. Clark filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to Mr. Clark on September 24, 1979. In the PRO the Southwest District found that during September 1, 1973 to December 31, 1978, Clark improperly classified crude oil in violation of 10 CFR, Part 210 and incorrectly determined base period control levels in violation of 10 CFR, Part 212. According to the PRO the Clark violation resulted in \$108,055.77 of overcharges.

Estate of S. H. Killingsworth, Longview, Tex.; BRO-0038, crude oil

On October 22, 1979, the Estate of S. H. Killingsworth, P.O. Box 35, Longview, Texas 75601, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on September 27, 1979. In the PRO the Southwest District found that during the period from September 1, 1973 to January 1, 1977, the Estate of S. H. Killingsworth violated the provisions of 10 CFR, Part 212 which relate to the pricing of crude oil and condensate. According to the PRO the Estate of S. H. Killingsworth's violation resulted in \$2,579,229.53 of overcharges. This matter has been transferred for resolution to the Southwest Regional Center of the Office of Hearings and Appeals. Requests to participate in proceedings with respect to this matter should therefore be directed to: Mr. Maurice Held, Director, Office of Hearings and Appeals, Southwest Regional Center, 2628 West Mockingbird Lane, Dallas, Texas 75235.

Ford Oil Co., Washington, D.C.; BRO-0065, propane

On October 28, 1979, Ford Oil Company of Washington, D.C. filed a Notice of Objection to a Proposed Remedial Order which the DOE San Antonio District Office of Enforcement issued to the firm on September 27, 1979. In the PRO the San Antonio District found that during November 1, 1973 to January 31, 1975, Ford Oil Company overcharged certain customers purchasing propane. According to the PRO the Ford Oil Company violation resulted in \$92,001 of overcharges.

Mohawk Petroleum Corp. Inc., Bakersfield, Calif.; BRO-0037, motor gasoline

On October 22, 1979, Mohawk Petroleum Corporation, Inc., P.O. Box 1476, Bakersfield, California 93302, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance which the DOE Western District office of Enforcement issued to the firm on October 12, 1979. In the IROIC the Western District found that beginning on October 4, 1979 Mohawk unilaterally terminated the supply of motor gasoline to Harris Oil Company without the express written consent of DOE in violation of 10 CFR, Part 211. The IROIC orders Mohawk to resume its supplier/purchaser relationship with Harris.

[FR Doc. 79-35849 Filed 11-20-79; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; October 29 Through November 2, 1979

Notice is hereby given that during the period October 29 through November 2, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within

30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.
November 15, 1979.

Alpha Fitness Center, Omaha, Nebr.; DEE-7779, temperature restrictions

Alpha Fitness Center filed an Application for Exception from the provisions of 10 CFR, Part 490. The Exception request, if granted, would permit Alpha to lower the minimum cooling temperature below 78° F in its fitness center. On October 31, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Apollo Oil Co., Peoria, Ill.; DEE-2427, gasohol

The Apollo Oil Company (Apollo) filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would permit Apollo to receive a separate allocation of unleaded gasoline in order to blend gasohol. On October 31, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception be —.

Docktor Pet Center, Columbus, Ohio; DEE-7801, temperature restrictions

Docktor Pet Center filed an Application for Exception from the provisions of 10 CFR, Part 490. The Exception request, if granted, would permit Docktor to lower the minimum ceiling temperature below 78° F in its pet center. On October 31, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

E. I. DuPont DeNemours & Co., 45 locations throughout the United States; BEE-0156 through BEE-0199, BEE-0235, temperature restrictions

E. I. DuPont DeNemours & Company filed Applications for Exception from the provisions of 10 CFR, Part 490. The exception requests, if granted, would permit DuPont to raise the maximum heating temperature above 651f in the shower and locker rooms at 45 of the firm's industrial plants and the firm's country club. On November 2, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Finch Oil Co., Fayetteville, N.C.; DEE-7195, gasohol

Finch Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, Subpart F. The exception request, if granted, would permit Finch to receive an additional allocation of unleaded gasoline for the purpose of producing Gasohol. On October 31, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Mallard Resources, Inc., Washington, D.C. DEE-6318, crude oil

Mallard Resources, Inc. filed an Application for Exception from the provisions of 10 CFR 211.65. The exception request, if granted, would permit Mallard to participate in the Crude Oil Buy-Sell Program as a refiner-buyer. On October 30, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Port Petroleum, Inc., Washington, D.C.; DEE-6994, crude oil

Port Petroleum, Inc., filed an Application for Exception from the provisions of 10 CFR 211.65. The exception request, if granted, would permit Port to participate in the Crude Oil Buy-Sell Program as a refiner-buyer. On October 30, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Southern California Edison Co., Rosemead, Calif.; BEE-0007, propane

Southern California Edison Company filed an Application for Exception from the provisions of 10 CFR, Part 211.83. The exception request, if granted, would permit the firm to obtain 100 percent of its current requirements of propane not subject to the application of its supplier's allocation fraction. On October 31, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's request for additional volumes of propane.

Tri-Cor Petroleum Inc., Ronkonoma, N.Y.; DEE-5457, gasohol

On May 17, 1979, Tri-Cor Petroleum Inc. filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy. The application, if granted, would result in the issuance of an order assigning the firm a base period use and supplier of unleaded motor gasoline for the purpose of producing and marketing gasohol. On November 2, 1979, the DOE tentatively determined that the firm's request should be granted. In that proposed determination, the DOE granted Tri-Cor a base period use of 832,500 gallons of unleaded motor gasoline per month and ordered the Director of Petroleum Operations in DOE Region II to assign suppliers for this volume.

U.S. Oil Co., Combined Locks, Wis.; DEE-3174, DEE-6387, motor gasoline

U.S. Oil Company filed two Applications for Exception from the provisions of 20 CFR 211.101. The exception requests, if granted, would result in the assignment to U.S. Oil of suppliers of lower-priced motor gasoline. On

November 2, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception requests be granted.

Whitehead Oil Co., Lincoln, Nebr.; DEE-7965, gasohol

The Whitehead Oil Company filed an Application for Exception from the provisions of Section 211. The exception request, if granted, would permit the firm to receive an increase in its allocation of unleaded motor gasoline for the express purpose of blending gasohol. On October 31, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

F&P Market, DEE-8314; Decaturville, Tenn.
Gary Keating's Village Texaco, DEE-7024; St. Ann, Mo.
Mt. Pleasant Arco, DEE-7070; Providence, R.I.
Phillip Sloan Oil, DEE-8280; North Miami Beach, Fla.
Union Oil Co. of California, DEE-8000; Washington, D.C.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Auberry General Store, DEE-4386; Auberry, Calif.
Brookside Store, DEE-7628; Orford, N.H.
C. B. Clay, DEE-4336; Whitesburg, Ky.
Carlson's Sunoco, DEE-7066; Ladysmith, Va.
Cornell's Exxon, DEE-6373; Woodsboro, Md.
Navy Yard Shell, DEE-7499; Washington, D.C.
North Kingstown Shell, DEE-6820; N. Kingstown, R.I.
Andrew J. Catalano, DEE-3907; Bedford, Mass.
Indian Rock "66", DEE-5935; Largo, Fla.
James R. Drummond, DEE-7670; Alexandria, La.
Jerry's Exxon, DEE-6987; Los Angeles, Calif.
Ken's Exxon, DEE-6758
Walt's Sunoco Service, DEE-7065; Bricktown, N.J.
Gaithersburg Square Amoco, DEE-4269; Gaithersburg, Md.
Roland's Exxon, DEE-5392; Ojai, Calif.
Smitty's Amoco, DEE-6964; Greenwich, Conn.
Westgate Oil Co., DEE-2464; Muskegon, Mich.

Love's Shell Service, DEE-4900; San Jose, Calif.
 McHenry Exxon, DEE-5386; Modesto, Calif.
 Michael McGrady, DEE-4275; Germantown, Md.
 Barnes Exxon, DEE-5443; Perryville, Ky.
 Boland Oil Co., DEE-4333; Manchester, Conn.
 Changey's Service, DEE-6708; Chester, W. Va.
 Odyssey Enterprises, DEE-6771; Augusta, Maine
 Seaview Exxon, DEE-5762; Camden, Maine
 W. S. Williams, Inc., DEE-2614; Cordele, Ga.
 [FR Doc. 79-35841 Filed 11-20-79; 8:45 am]
 BILLING CODE 6450-01-M

Office of Special Counsel for Compliance; Proposed Remedial Order to Atlantic Richfield Co.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Atlantic Richfield Company and Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel for Compliance of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives notice that a Proposed Remedial Order was issued to Atlantic Richfield Company (Atlantic), 515 S. Flower Street, Los Angeles, California. The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning the reallocation of unrecouped costs pursuant to the terms of 10 CFR 212.83(d) of the Mandatory Petroleum Price Regulations. The violation, in the amount of \$62,900,000 resulted from the unlawful reallocation and retroactive reallocation of unrecouped costs from the middle distillate refinery product category to the motor gasoline product category, improperly making such costs available for passthrough in sales of motor gasoline. The violation occurred in the post April 21, 1976 period when such reallocations were disallowed.

In accordance with 10 CFR 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted from the ERA.

By December 6, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. Such Notice should be filed with:

Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street, N.W., Washington, D.C. 20461

Copies of the Proposed Remedial Order may be obtained by written request addressed to:

Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000

Independence Avenue, S.W., Washington, D.C. 20583
 Attention: George W. Yong, Jr.
 Copies of the Proposed Remedial Order may be obtained in person from:
 Office of Freedom of Information, Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue, S.W., Washington, D.C. 20585

Issued in Washington, D.C., November 13, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 79-35852 Filed 11-20-79; 8:45 am]
 BILLING CODE 6450-01-M

Proposed Consent Order With Phillips Petroleum Co.

AGENCY: Department of Energy (DOE).

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment

SUMMARY: The Office of the Special Counsel for Compliance (OSC) hereby gives the notice required by 10 CFR 205.199] that it entered into a consent order with Phillips Petroleum Company on November 9, 1979. The consent order resolves all issues of compliance with the DOE Petroleum price and Allocation Regulation for the period March 6, 1973 through October 1979. To remedy any overcharges that may have occurred during the period, Phillips Petroleum agrees to \$200 million in remedies.

As required by the regulation cited above, OSC will receive comments on the consent order for a period of not less than 30 days following publication of this notice. OSC will consider any comments received before determining whether to make the consent order final. Although the consent order has been signed and accepted by the parties, the OSC may, after the expiration of the comment period, withdraw its acceptance of the consent order and attempt to obtain a modification of the consent order or issue the consent order as proposed.

COMMENTS: Comments must be received by 5:00 p.m. December 21, 1979 to be considered. Address comments to:

Phillips Consent Order Comments, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Rm. 3109, Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT: Carl A. Corrallo, Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue, N.W., Rm. 3109, Washington, D.C. 20461, 202-633-8288

Copies of the consent order may be received free of charge by written request to:

Phillips Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Rm. 3109, Washington, D.C. 20461

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room GB-145.

SUPPLEMENTARY INFORMATION: Phillips Petroleum Company (Phillips) is one of the 34 major refiners presently subject to audit by the Special Counsel to determine compliance with the DOE petroleum Price and Allocation Regulations (Regulations). Phillips engages in the production, refining and marketing of crude oil and refined petroleum products. The audit included a review of Phillips' records relating to compliance with the Regulations during the period March 3, 1973 through October 31, 1979 (the audit period). During the audit, questions and issues were raised and enforcement documents were issued. This consent order resolves all issues not previously resolved concerning the allocation and sale of covered products during the audit period, whether or not raised in a previous enforcement action.

Conclusion of OSC Audit

The consent order addresses all aspects of compliance with applicable price and allocation regulations pertaining to the production, refining and marketing of crude oil, motor gasoline, residual fuel oil, No. 2 heating oil, No. 2 diesel fuel, natural gas liquids (NGL), natural gas liquid products (NGLP) and other refined petroleum products. OSC's audit examined all areas of compliance including but not limited to: the sales and certifications of crude oil, including property determinations; the calculations of monthly increased costs of product, including NGL's and NGLP's; nonproduct costs increases; the determination of, and prices charged to, different classes of purchaser; and the crude oil transfer pricing, entitlements and mandatory oil import regulations.

Neither OSC nor Phillips have retreated from the positions taken previously on the issues addressed by this consent order and each believes that its position on these issues is meritorious. The parties desire to resolve the issues raised without resort to complex, lengthy and expensive compliance actions. OSC believes that the terms and conditions of this consent order provide a satisfactory resolution of disputed issues and conclusion of the audit of Phillips and thus, that the

consent order is in the best interests of the United States.

Terms and Conditions of the Consent Order

Phillips has agreed to undertake certain actions totalling \$200 million which OSC believes constitutes a satisfactory resolution of its audit of Phillips. The \$200 million in remedies consists of three components: a "current payment component" of \$25 million; a "bank reduction component" of \$75 million; and an "investment component" of \$100 million. The details of these components are as follows:

1. The current payment component of \$25 million is composed of approximately \$3 million in refunds to nine purchasers of crude oil from Phillips, and a heating oil supply commitment valued at the balance, or approximately \$22 million. To increase the supply of fuel oil during the winter heating season, Phillips will buy additional imported crude oil and increase its refinery and sale of middle distillates (heating oil and diesel fuel) during the 1979-1980 winter heating season by a like amount. Phillips will absorb \$22 million in increased incremental costs of these purchases. Phillips will not raise its prices for middle distillate until this amount has been sold, except to recover its increased costs of crude oil and middle distillates other than costs incurred to fulfil its \$22 million obligation. In effect, Phillips will make more heating oil available at a price below that reflecting actual crude oil costs. Phillips will make every effort to buy the crude oil at the lowest possible price. If it cannot buy the entire amount of crude oil, it may buy finished middle distillate to meet up to \$7 million of the \$22 million requirement. If Phillips is unable to disburse the current payment component in the manner described, OSC may direct Phillips to reduce prices for gasoline or heating oil by three cents per gallon until the entire balance of the \$25 million is paid out.

2. To complete the bank reduction component of \$75 million, Phillips must reduce its unrecouped increased costs of gasoline by \$67,500,000, and its unrecouped increased costs of propane by \$7,500,000. These are costs previously incurred which Phillips was entitled to pass through in product prices. The effect of these reductions is to foreclose Phillips' opportunity to recover this amount in future price increases.

3. Under the investment component, Phillips will expend \$100 million over and above amounts planned or committed in the period October 1979 through December 1980. These

incremental expenditures may be made in one or more of the following projects:

(a) Domestic United States oil and gas exploratory drilling, developmental drilling, geological and geophysical activity, and enhanced recovery.

(b) Design, engineering, construction, and activation of an Atmospheric Residual Desulphurization ("ARDS") project at Phillips' refinery in Borger, Texas.

(c) Design, engineering, construction, and activation of heavy oil upgrading units at Phillips' refinery in Kansas City, Kansas.

Phillips has provided information to demonstrate its current exploration and production commitments. OSC will have continued access to information to ensure that the commitment of this additional \$100 million is implemented.

The consent order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the terms and conditions of the consent order. Upon becoming final after consideration of public comments, the order will be a final order of DOE to which Phillips has waived its right to an administrative or judicial appeal. The consent order does not constitute an admission by Phillips or a finding by OSC of a violation of any price and allocation statutes or regulations, and it does not impose a penalty on the company.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this consent order to the address noted above. All comments received by 5:00 p.m. on December 21, 1979 will be considered by OSC before determining whether to adopt the consent order as a final order. Modifications of the consent order which, in the opinion of OSC, significantly change the terms or impact of the consent order will be published for comment.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C., November 14, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 79-35851 Filed 11-20-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180276B; FRL 1363-1]

Arizona Commission of Agriculture and Horticulture; Amendment to Specific Exemption to Use Permethrin to Control "Heliothis" Species on Lettuce

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of amendment to specific exemption.

SUMMARY: EPA has granted an amendment to the specific exemption issued to the Arizona Commission of Agriculture and Horticulture (hereafter referred to as the "Applicant") to use permethrin (Ambush and Pounce) to control *Heliothis* species on 40,000 acres of lettuce in Arizona. The amendment permits an additional five applications of permethrin. A maximum of 80,000 pounds of permethrin is authorized. The specific exemption expires on December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On Wednesday, April 11, 1979 (44 FR 21702), EPA published a notice in the Federal Register which announced the granting of a specific exemption to the Applicant to use permethrin on a total of 40,000 acres of lettuce to control *Heliothis* species. On Monday, October 22, 1979 [44 FR 60810], EPA revised that exemption to allow the use of fenvalerate if a sufficient quantity of permethrin was not available. Since then, the Applicant has requested permission to make an additional five applications of permethrin, making a total of ten applications.

After reviewing the application and other available information, EPA has determined that the additional applications should not result in residues of permethrin of more than ten parts per million in or on lettuce. This level has been judged adequate to protect the public health. EPA does not anticipate an undue hazard to man or the environment from the requested amendment. Accordingly, EPA has amended the specific exemption by a

revision of item 3 of the April 11, 1979 notice: A maximum of five applications of permethrin may be made per season at 5- to 7-day intervals with a 7-day pre-harvest interval. If a knowledgeable expert determines that additional applications are necessary to control heavy infestations, five additional applications may be made. The EPA will be notified of the circumstances which warranted the additional applications. This revision applies only to permethrin and is not applicable to the recently approved use of fenvalerate. This

revision is subject to the following restrictions:

1. Available data indicate that the 0.1 pound a.i. rate should provide as good a control as the 0.2 pound a.i. rate in most situations. Therefore, in most instances the 0.1 pound a.i. rate should be recommended;
2. Lettuce will be field-trimmed to remove wrapper leaves;
3. Permethrin or fenvalerate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method and height	Aerial (10 feet)			Ground (2 feet)		
Application rate (lbs. a.i. fenvalerate)	.05	0.1	0.2	0.05	0.1	0.2
Freshwater (distance in feet)	1,847	2,779	3,950	369	556	790
Application rate (lbs. a.i. permethrin)	.05	0.1	0.2	0.05	0.1	0.2
Freshwater (distance in feet)	585	990	1,400	117	198	320

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or other aquatic organism kills; and

4. All other terms and conditions of the specific exemption granted on March 1, 1979, still apply.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: November 9, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-35871 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180391; FRL 1363-4]

California Department of Food and Agriculture; Crisis Exemption To Use Benomyl on Crucifer Seeds To Control Blackleg

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that on October 12, 1979 the California Department of Food and Agriculture (hereafter referred to as "California") availed itself of a crisis exemption to use oxamyl on up to 415,000 pounds of crucifer seeds (cabbage, cauliflower, broccoli, and brussels sprouts) to control blackleg (*Phoma lingam*). Since treatment was expected to exceed fifteen days, California requested a specific exemption for the continuation of this use of benomyl.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons

telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION:

According to California, *P. lingam* reduces germination in home gardens and commercial production for canning purposes. It can devastate a field by killing the plants or severely stunting their growth and yield. The organism is often present on crucifer seed or weed hosts of the brassica genus that are already at the planting site. Spores of *P. lingam* can remain viable on infected debris for up to four years and uninfected fields can be infected by the introduction of contaminated seed. California claimed that effective disease control requires treatment of seed stock used for seed production as well as the treatment of commercial seed lots.

According to California, 415,000 pounds of crucifer seed are shipped into California annually for packaging before being sold to dealers and growers worldwide. The seed is not treated in the places of origin because Benlate (benomyl) is not registered for this use except in Minnesota and Washington. Unless treated, the seed cannot be marketed for export to other States and

overseas. California reported, and as a result, the industry could lose \$17.4 million. California stated that the severity of the crisis made immediate treatment necessary so that there was no time to request a specific exemption.

California is using eight ounces of Benlate, EPA Reg. No. 352-354 (four ounces of the active ingredient benomyl), per one hundred pounds of seed as a slurry application in combination with Arasan or Captan. One application is made per seed lot by, or under the supervision of, an applicator State-certified for this category of pest control. All applicable directions and precautions on the label are to be followed. All applications are to be made in accordance with California closed mixing system regulations. Treated seeds must be dyed to indicate treatment and are to be used for planting only. California anticipated no environmental or toxicological problems from this use of benomyl and will monitor the program. California submitted a request for a specific exemption to continue this use of benomyl until July 1, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: November 9, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-35874 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180379A; FRL 1363-2]

California Department of Food and Agriculture; Issuance of Specific Exemption To Use Pydrin (Fenvalerate) To Control Pear Psylla on Pears

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use Pydrin (fenvalerate) to control pear psylla on 37,000 acres of pears in California. The specific exemption expires on March 31, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C.

20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION:

According to the Applicant, pear psylla is a very serious and difficult pest to control. The insect has three distinct developmental forms: the egg, the nymph, and the adult. In addition to a spring generation, there are three to five summer generations of this pest. Adults of the final summer generation are referred to as the over-wintering adults; they survive the winter in cracks and crevices of the bark and buds of pear and other trees. Although adults may be found on many different hosts, development of the immature insect occurs only on pears. Pear psylla causes serious damage, such as pear decline, decreased tree vitality, leaf blackening and leaf drop, tree death, fruit russetting, and reduced fruit size.

According to the Applicant, chemical control of pear psylla begins well before the growing season. In most orchards both a dormant and delayed-dormant (pre-bloom) spray of superior oil plus an insecticide(s) are applied to kill over-wintering adult psylla before they lay their eggs. Because there is little dispersal of pear psylla during the summer months, an effective dormant treatment is extremely important to reduce future summer populations. Treatment such as parathion and oil, ethion, diazinon, Guthion, and back-to-back oil treatments have been recommended for this use. According to the Applicant, the pear psylla has developed resistance to all of these materials and excessive applications of oil result in the russetting of fruit, making it unacceptable for the market. Data indicate that Pydrin offers excellent control of pear psylla. The Applicant indicates that the use of Pydrin is compatible with their current integrated pest management program (IPM) and that it should reduce the need for continuous applications of other materials next summer.

The Applicant initiated a crisis exemption for this use of fenvalerate on August 7, 1979, and so notified the Administrator. Notification of this crisis exemption was published in the Federal Register on Monday, October 22, 1979 [44 FR 60813].

The Applicant proposed to use Pydrin 2.4 E.C., manufactured by Shell Chemical Company, which contains fenvalerate (cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate). A maximum of two

applications will be made by air and ground at a rate of up to 0.4 pound active ingredient (a.i.) per acre. Pydrin will be applied during the post-harvest to pre-bloom stages of pear tree development. The Applicant anticipates losses valued at \$10 million if Pydrin is not used to control pear psylla.

EPA has determined that the proposed use of Pydrin should not result in residue levels of fenvalerate exceeding 0.01 part per million (ppm) in or on pears. Secondary residues in meat, fat, and meat byproducts should not exceed the established 0.02 ppm temporary tolerances provided cover crops grown in treated orchards are not fed to livestock. These residue levels have been deemed adequate to protect the public health. EPA has determined that the proposed use of Pydrin is not likely to jeopardize the continued existence of endangered species or adversely modify their critical habitats.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of pear psylla has occurred; (b) there is no effective pesticide presently registered and available for use to control the pear psylla in California; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the pear psylla is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until March 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Pydrin may be applied at a rate of up to 0.4 pound active ingredient per acre per application. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum of two applications may be made during the post-harvest to the pre-bloom stages of pear tree development;

3. Applications may be made with ground equipment or by aircraft;

4. Spray mixture volumes of 10 to 20 gallons will be applied by aircraft and spray mixture volumes of 50 to 400 gallons will be applied by ground equipment;

5. A maximum of 37,000 acres may be treated;

6. A maximum of 14,800 pounds a.i. may be applied;

7. All applications will be limited to commercial orchards;

8. All applications will be made by State-certified private or commercial applicators or persons under their direct supervision;

9. Precautions will be taken to avoid spray drift to nontarget areas;

10. Pydrin is extremely toxic to fish and aquatic invertebrates. Care must be used when applying it in areas adjacent to any body of water. It may not be applied when weather conditions favor runoff or drift. It must be kept out of lakes, streams, and ponds. Contamination of water caused by cleaning of equipment of disposal of wastes is to be avoided;

11. Pydrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied, or allowed to drift, to weeds in bloom on which an economically significant number of bees are actively foraging. The State Cooperative Agricultural Extension Service will provide information on protection of bees;

12. Pears with residue levels of fenvalerate not exceeding 0.01 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

13. The feeding or grazing of orchard cover crops is prohibited;

14. All applicable directions, restrictions, and precautions on the product label must be followed;

15. The Applicant is responsible for assuring that all of the provisions of the specific exemption are met and must submit a report summarizing the results of this program by July 1, 1980; and

16. The EPA shall be immediately informed of any adverse effects resulting from the use of Pydrin in connection with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: November 9, 1979.

Edwin L. Johnson

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-35872 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180390; FRL 1363-6]

Hawaii Department of Agriculture; Crisis Exemption To Use Oxamyl on Watermelons To Control Leaf Miners

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that on September 11, 1979 the Hawaii Department of Agriculture (hereafter referred to as "Hawaii") availed itself of a crisis exemption to use oxamyl on approximately 190 acres of watermelons to control leaf miners. Since treatment was expected to exceed fifteen days, Hawaii submitted a request for a specific exemption for continuation of this use of oxamyl.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Under a crisis exemption Hawaii initiated the use of Vydate L, which contains the active ingredient oxamyl, to control leaf miners (*Liriomyza* spp.) on watermelons at various growth stages, in Hawaii, Kauai, Maui Molokai, and Oahu Counties. According to Hawaii, unusually hot weather conditions favored the increase of leaf miner infestation to the level of total loss in some fields, and future plantings were in jeopardy. Hawaii reported that all registered insecticides have proven ineffective and estimated that losses could come to \$225,000, if the leaf miner is not controlled.

Hawaii is using 2-4 pints of Vydate L (EPA Reg. No. 352-372) applied in sufficient water to obtain uniform coverage of foliage at 5- to 7-day intervals. Applications are being made by State-certified applicators using ground equipment. A two-day pre-harvest interval is to be observed. A maximum of six applications per acre will be made per growing season. Hawaii is requiring that all precautions and directions on the label be followed to minimize risks to the environment.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136j))

Dated: November 9, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-35875 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180333; FRL 1363-3]

Montana Department of Livestock; Issuance of Specific Exemption for Use of Strychnine Baits for Control of Rabid Skunks

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Montana Department of Livestock (hereafter referred to as the "Applicant") to use strychnine-treated lard and eggs to reduce rabid skunk populations and thus reduce the probability of exposure of man and domestic animals to rabies in twenty-four counties of eastern Montana. The specific exemption expires on June 1, 1980, effective January 1, 1980, to revise

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The section 18 regulations provide that the Administrator may grant an emergency exemption to a Federal or State agency when the following conditions exist:

(a) A pest outbreak has [occurred] or is about to occur and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest, (b) significant economic or health problems will occur without the use of the pesticide, and (c) the time available from discovery or prediction of the pest outbreak is insufficient for a pesticide to be registered for the particular use. 40 CFR 166.1.

The exemption is also subject to the provisions of 40 CFR Part 164, specifically, Subpart D, published in the Federal Register on March 18, 1975 (40 FR 12261). In cases such as the one presented by this Applicant, if the request is for the use of a pesticide which has been finally canceled or suspended, then the application constitutes a petition for reconsideration of such cancellation or suspension order. On March 9, 1972, Administrator Ruckelshaus canceled and suspended the registration of strychnine, sodium cyanide, and 1080 (sodium fluoroacetate) for predator control. However, the Administrator's order banned the use of these pesticides for predator control without distinguishing

between rabid and non-rabid predators, the former a human health problem and the latter an economic problem. Therefore, the exemption cannot be granted without the treatment of a prior public hearing, unless certain conditions are found to exist.

Subpart D of the section 3 regulations provides that in emergency circumstances the Administrator may rule on the application without convening a formal hearing and without making a finding as to the question of substantial new evidence when he determines:

(1) That the application presents a situation involving need to use the pesticide to prevent an unacceptable risk: (i) to human health, or (ii) to fish or wildlife populations when such use would not pose a human hazard; and (2) That there is no other feasible solution to such risk; and (3) That the time available to avert the risk to human health or fish and wildlife is insufficient to permit convening a hearing as required by section 164.131; and (4) That the public interest requires the granting of the requested use as soon as possible. 40 CFR 164.133.

It should be noted that a rebuttable presumption exists against registration of rodenticide products containing strychnine which are registered for outdoor, above-ground use (see Federal Register of December 1, 1976, p. 52810); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

Since 1973, the Applicant has found it necessary to employ annually strychnine baits in an effort to reduce the exposure of man and domestic animals to rabid skunks. The latest exemption issued to the Applicant for the above purpose expired on April 24, 1979. The Applicant has again found it necessary to apply for a specific exemption in 1979. The affected counties this year are: Big Horn, Blaine, Carter, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Garfield, Hill, Judith Basin, Liberty, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Valley, Wibaux, and Yellowstone.

The program calls for the use of a maximum of 500 strychnine-treated baits to be placed within a five-mile radius of an area of human habitation where skunks are determined as the vector species in a positive rabies case. A maximum of two strychnine lard baits or two strychnine-treated eggs per setting may be placed in the following skunk habitats: skunk dens, holes, garbage dumps, road culverts, junk piles, and unoccupied buildings. At the end of a 30-day treatment period, treated bait and/or eggs will be collected and destroyed. Strychnine-treated lard baits

or eggs will be placed only on those lands where premise entry agreements are signed by the landowner, lessee, or Administrator, and warning signs will be posted at entries to all premises and other visible positions near locations where treated baits or eggs have been placed.

In light of the above and pursuant to the controlling regulations, the Administrator, EPA, has determined that (a) a pest outbreak of rabid skunks has occurred or is likely to occur; (b) there is no pesticide presently registered for use in suppressing populations of rabid skunks in Montana; (c) the application presents a situation involving a need to use the pesticide as requested to prevent an unacceptable risk to human health; (d) the time available to avert the risk to human health is not sufficient to convene a hearing; and (e) the public interest requires the granting of the requested use as soon as possible. Accordingly, the Applicant was granted a specific exemption to use strychnine baits in twenty-four counties in eastern Montana until June 1, 1980. The specific exemption is also subject to the following conditions:

1. The areas to be treated are presently limited to a circle within a five-mile radius around a confirmed rabid skunk case found within a two-mile radius of areas of human habitation in the counties named above;

2. When the Applicant receives a report of a skunk, cat, or raccoon which is behaving abnormally and located within two miles of an area of human habitation, personnel may place a maximum of one hundred strychnine-treated baits within a five-mile radius of the area of human habitation, pursuant to taking specimens to determine whether rabid skunks are present in the area. If no rabid skunks are found, the unconsumed strychnine baits will be retrieved. If one or more rabid skunks are found, a maximum of four hundred additional baits may be placed in areas of skunk habitation within a five-mile radius around the location of the rabid skunk;

3. A report must be submitted at the termination of the program summarizing the location of each case occurrence;

4. Exposure of any bait station within a five-mile radius (to survey for presence of or suppress rabid skunk populations) may not exceed thirty days;

5. Each strychnine lard bait will contain approximately 0.012 gram of actual strychnine alkaloid. Each strychnine egg bait will contain approximately 0.035 gram of actual strychnine alkaloid;

6. The Applicant's personnel are responsible for preparing the strychnine baits, selecting bait stations, posting warning signs, securing premise entry agreements, checking bait stations periodically for kills, and retrieving all unconsumed baits at the termination of the control program;

7. A maximum of two strychnine lard or egg baits per setting will be placed in the following skunk habitats: skunk dens, holes, garbage dumps, road culverts, junk piles, and unoccupied buildings;

8. Strychnine-treated lard or egg baits will be placed only on those lands where premise entry agreements have been signed by the landowner, lessee, or Administrator;

9. Warning signs will be posted at entries to all premises and other visible positions near locations where treated baits have been placed;

10. Each bait station will be checked as often as possible for kills, but in any case, no less than once a week;

11. All retrieved or excess strychnine baits will be disposed of by burial at least 18 inches deep in an approved sanitary landfill. Containers to be destroyed will be handled in a similar manner;

12. Animals poisoned in the control program will be submitted for laboratory analysis for presence of rabies virus if possible. Otherwise, they will be buried on the premises to prevent possible secondary non-target species poisonings;

13. The EPA shall be immediately informed of any adverse effects to man or the environment resulting from this program;

14. The Applicant will be responsible for assuring that all provisions of this specific exemption are followed and must submit a final report on June 1, 1980; and

15. The Applicant must follow any more stringent requirements imposed by State law or regulation or applied by the State pesticide regulatory authority.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136j))

Dated: November 9, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-35873 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1362-4]

Polychlorinated Biphenyls Approved PCB Disposal Facilities

On February 17, 1978, the U.S. Environmental Protection Agency published in the Federal Register the final rule for the "Disposal and Marking of Polychlorinated Biphenyls (PCBs)" (43 FR 7150). (This rule is required by Section 6(e)(1) of the Toxic Substances Control Act (Pub. L. 94-469, 15 U.S.C. 2605(e)). This rule was recodified on May 31, 1979 and made part of the final rule on PCB's covering the manufacturing, processing, distribution in commerce and use prohibitions. (See 44 FR 31514, May 31, 1979.)

Under this rule, disposal of many PCBs, as defined in the regulation, is prohibited subsequent to April 18, 1978, except at EPA approved facilities. All facility approvals will be granted in writing by the appropriate Regional Administrator in which the respective facility is located.

To date, the following facilities have been approved by EPA under the authority of §§ 761.40(d) and 761.41(c) of the PCB Disposal and Marking Regulations to dispose of PCBs:

EPA Region II (26 Federal Plaza, New York, New York 10007)

1. Facility: General Electric Co., Silicone Products Division
Facility Address: 26 Hudson River Road, Waterford, New York 12189
Facility Telephone Number: (518) 237-3330
Type of Facility Approved: Incinerator
Type of PCB Waste Handled: Approval allows G.E. to incinerate only those PCB wastes which are generated on-site i.e., G.E. cannot accept PCBs for incineration from any other company or any other G.E. facility.

Expiration Date of Approval: September 1, 1981
EPA Regional Office Contact: Wayne Pierre
EPA Telephone Number: (212) 264-0505

2. Facility: Newco Chemical Waste Systems, Inc.
Facility Address: 4528 Royal Avenue, Niagara Falls, New York 14303
Facility Telephone Number: (716) 285-6944
Type of Facility Approved: Chemical Waste Landfill
Type of PCB Waste Handled: Capacitors (small and large), Properly drained transformers, Contaminated soil, dirt, rags and other debris, Dredge spoils, Municipal sludges, Properly drained containers (drums)

Expiration Date of Approval: August 18, 1981
EPA Regional Office Contact: Wayne Pierre
EPA Telephone Number: (212) 264-0505

3. Facility: SCA Chemical Services, Inc.
Facility Address: 1550 Balmer Road, Model City, New York 14107
Facility Telephone Number: (716) 754-8231
Type of Facility Approved: Chemical Waste Landfill

Type of PCB Waste Handled: Capacitors (small and large), Properly drained transformers, Contaminated soil, dirt, rags, and other debris, Dredge spoils, Municipal sludges, Properly drained containers (drums)

Expiration Date of Approval: October 2, 1981

EPA Regional Office Contact: Wayne Pierre

EPA Telephone Number: (212) 264-0505

EPA Region IV (345 Courtland Street NE., Atlanta, Georgia 30308)

1. Facility: Waste Management of Alabama, Inc.

Facility Address: P.O. Box 1200 Livingston, Alabama 35470

Facility Telephone Number: (205) 652-9529

Type of Facility Approved: Chemical Waste Landfill

Type of PCB Waste Handled: Capacitors (small and large), Properly drained transformers, Contaminated soil, dirt, rags, and other debris, Dredge spoils, Municipal sludges, Properly drained containers (drums), Liquid PCB's at a concentration of between 50 to 500 ppm

Expiration Date of Approval: Open-ended*

EPA Regional Office Contact: Mr. James Scarbrough

EPA Telephone Number: (404) 881-3016

EPA Region V (230 South Dearborn Street, Chicago, Illinois 60604)

1. Facility: Newco Chemical Waste Systems of Ohio, Inc.

Facility Address: 5092 Aber Road, Williamsburg, Ohio 45176

Facility Telephone Number: (513) 724-6114

Type of Facility Approved: Chemical Waste Landfill

Type of PCB Waste Handled: Capacitors (small and large), Properly drained transformers, Contaminated soil, dirt, rags and other debris, Dredge spoils, Municipal sludges, Properly drained containers (drums), Liquid PCB's at a concentration of between 50 to 500 ppm

Expiration Date of Approval: Open-ended*
EPA Regional Office Contact: Karl Klepitsch
EPA Telephone Number: (312) 353-2197
EPA Region IX (215 Fremont Street, San Francisco, California 94105)

1. Facility: Casmalia Disposal
Facility Address: 539 Yeldro Road, P.O. Box 5275, Santa Barbara, California 93108; Main Office (site located near Casmalia in Santa Barbara County)

Facility Telephone Number: (805) 969-4703

Type of Facility Approved: Chemical Waste Landfill

Type of PCB Waste Handled: Capacitors (small and large), Properly drained transformers, Contaminated soil, dirt, rags and other debris, Dredge spoils, Municipal sludges, Properly drained containers (drums)

Expiration Date of Approval: Open-ended*

EPA Regional Office Contact: Raymond Seid

EPA Telephone Number: (415) 556-3450

2. Facility: Nuclear Engineering Company, Inc.

Facility Address: 9200 Shelbyville Road, Suite 526, P.O. Box 7248, Louisville, Kentucky 40207—Main Office (site located near Beatty, Nevada in Nye County).

Facility Telephone Number: (502) 426-7160

Type of Facility Approved: Chemical Waste Landfill

Type of PCB Waste Handled: Capacitors (small and large), Properly drained transformers, Contaminated soil, dirt, rags and other debris, Dredge spoils, Municipal sludges, Properly drained containers (drums)

Expiration Date of Approval: Open-ended*

EPA Regional Office Contact: Raymond Seid

EPA Telephone Number: (415) 556-3450

EPA Region X (1200 Sixth Avenue, Seattle, Washington 98101)

1. Facility: Chem-Nuclear Systems, Inc.

Facility Address: P.O. Box 1289, Portland, Oregon 97205—Main Office (site located in Arlington, Oregon)

Facility Telephone Number: (503) 223-1912
Type of Facility Approved: Chemical Waste Landfill

Type of PCB Waste Handled: Capacitors (small and large), Properly drained transformers, Contaminated soil, dirt, rags, asphalt, and other debris, Properly drained containers (drums)

Expiration Date of Approval: January 1, 1980

EPA Regional Office Contact: Mr. Roger Fuentes

EPA Telephone Number: (206) 442-1260

2. Facility: Wes-Con, Inc.

Facility Address: P.O. Box 564, Twin Falls, Idaho 83301—Main Office (site located in Grand View, Idaho)

Facility Telephone Number: (208) 734-7711

Type of Facility Approved: Disposal in Missile Silos

Type of PCB Waste Handled: Capacitors (small and large), Properly drained transformers, Contaminated soil, dirt, rags, asphalt, and other debris, Properly drained containers (drums)

Expiration Date of Approval: January 1, 1980

EPA Regional Office Contact: Mr. Roger Fuentes

EPA Telephone Number: (206) 442-1260

*Note: After January 1, 1980, PCB large capacitors cannot be disposed of in chemical waste landfills.

Future notices, updating this list of approved facilities will be published in the Federal Register. For further information on the EPA approval of the disposal facilities, please get in touch with the appropriate EPA Regional Office contact.

Dated: November 7, 1979.

Steffen W. Plehn,

Deputy Assistant Administrator for Solid Waste.

[FR Doc. 79-35902 Filed 11-20-79; 8:45 am]

BILLING CODE 6560-01-M

[CC Dockets Nos. 79-250 and 79-251; Files Nos. 21870-CD-P-(4)-75 and 20437-CD-P-15-75]

South Central Bell Telephone Co.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues; Correction

Released: November 15, 1979.

In the applications of South Central Bell Telephone Company, for construction permit for modification of DPLMRS station KK1454 at Houma, Louisiana, to replace equipment, add channels, and to furnish Improved Mobile Telephone Service, CC Docket No. 79-250, File No. 21870-CD-P-(4)-75; South Central Bell Telephone Company, for construction permit for modification of DPLMRS Station KKD292 at New Orleans, Louisiana, to add channels and to furnish Improved Mobile Telephone Service, CC Docket No. 79-251, File No. 20437-CD-P-(15)-75.

On October 22, 1979, the Commission released a Memorandum Opinion and Order (FCC 79-593, published in the Federal Register on October 24, 1979 (44 FR 61252), in the above-captioned proceeding. The file number in CC Docket No. 79-251 was erroneously listed as File No. 20437-CD-P-(13)-75. The application as originally filed proposed to construct 13 transmitters. The application was later amended to add two proposed transmitters. Accordingly, the application file number has been revised to reflect a total of 15 transmitters.

Federal Communications Commission.

William Tricarico,

Secretary.

[FR Doc. 79-35840 Filed 11-20-79; 8:45 am]

BILLING CODE 6712-01-M

use contained in its personnel-related systems of records to properly reflect disclosure formerly made to the Civil Service Commission.

ADDRESS: Comments may be mailed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429 or hand delivered during work days to Room 6108, 550 17th Street, N.W., Washington, D.C. between 8:30 a.m. and 5:00 p.m. Comments received may also be inspected during work days in Room 6108 between 8:30 a.m. and 5:00 p.m.

EFFECTIVE DATE: Any interested party may submit written comments regarding the proposed changes. To be considered, comments should be received on or before December 21, 1979. The changes to the systems of records shall become effective as proposed without further notice on December 28, 1979 unless comments are received which warrant a contrary determination and a notice to that effect is published by the FDIC.

FOR FURTHER INFORMATION CONTACT: Douglas H. Jones, Legal Division, FDIC, 550 17th Street, N.W., Washington, D.C. 20429. 202-389-4618.

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974, the FDIC is required to publish notice of the existence and character of all systems of records it maintains. 5 U.S.C. 552a(e)(4), 88 Stat. 1896, 1899-1900. The FDIC last published the full text of its systems of records at 43 FR 37152 (August 21, 1978). Since that publication, one amendment has been made to its systems. 44 FR 11118 (February 27, 1979). A review of the FDIC's existing systems has indicated that certain corrections and changes are necessary. These are merely technical in nature and are not viewed as substantive.

Several FDIC offices have relocated; therefore, several changes are proposed in order to accurately reflect the current location of FDIC systems of records maintained in these offices. In addition, in order to be more responsive to consumer inquiries and certain personnel matters, the FDIC is proposing to locate certain of its existing systems in its Regional Offices. The three systems which would be affected by this change are the Consumer Complaint and Inquiry Records System (30-64-0005), the Employee Education System (30-64-0007), and the Travel Voucher System (30-64-0014).

In several instances, the FDIC is proposing to rewrite paragraphs contained in its systems. This is not intended to represent any material change in the systems; but rather, it is

intended to provide more clarity and specificity to the affected paragraphs.

The FDIC also is proposing to rescind its Graduate Fellowship Applications Systems (30-64-0010). The FDIC's Graduate Fellowship Program has been discontinued and all of the records in the system have been destroyed.

When the FDIC adopted its Medical Records and Emergency Contact Information System (30-64-0017) through an error one paragraph of the system was not included. The FDIC is proposing to amend that system by inserting the missing paragraph.

Finally, the FDIC has a routine use in each of its personnel-related systems providing for the disclosure to the Civil Service Commission of information necessary for the Commission to carry out its government-wide personnel management functions. As a result of the recent reorganization involving the Civil Service Commission, designated functions of the Commission were transferred to the Equal Employment Opportunity Commission, the Office of Personnel Management, the Office of Special Counsel, and the Federal Labor Relations Authority. Appellate and other adjudication functions and certain special studies functions remained with the Civil Service Commission which, by redesignation, became the Merit Systems Protection Board. Due to these changes, it is necessary for the FDIC to revise its routine uses to properly reflect disclosures in its personnel-related systems which were previously made to the Commission. The FDIC is neither proposing to increase nor to change the nature of its disclosures. This revised routine use is compatible with the purposes for which the FDIC's personnel-related systems are maintained. Although the FDIC does not view the proposed change to represent a new or different use, to ensure full compliance with the prior public notice requirements of subsection (e)(1) of the Privacy Act (5 U.S.C. 552a(e)(1)), the change will not become effective until the public has had at least 30 days in which to comment on the proposed change in the routine uses, as well as the other proposed changes to the systems of records. In order to be considered, any comments on the proposed changes should be received on or before December 21, 1979.

Unless comments are received which indicate the proposed changes should not be adopted and a notice to that effect is published by the FDIC, the changes to the FDIC's systems of records shall become effective without further notice on December 28, 1979.

The proposed changes to the FDIC's systems are as follows:

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1199]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

November 9, 1979.

Docket or RM No.	Rule No.	Subject	Date received
CC 78-10, RM-2688	61.72	Amendment of § 61.72 of the Commission's rules to modify the requirements for the posting of certain tariffs. (Filed by Victor J. Toth and Joseph M. Urban, Attorneys for The Society of Telecommunications Consultants).	Oct. 3, 1979.

Note.—Oppositions to petitions for reconsideration must be filed on or before December 6, 1979. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-35839 Filed 11-20-79; 8:45 am]

BILLING CODE 6712-01-M

1. In "Attorney-Legal Intern Applicant System" (30-64-0001), the "routine uses" section is revised to read as follows:

30-64-0001

SYSTEM NAME:

Attorney—Legal Intern Applicant System—FDIC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of information may be made: (1) In requesting information of individuals for concerns whose names were supplied by the applicant as references and/or past or present employers; (2) to the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management investigatory, adjudicatory and appellate functions within their respective jurisdictions; (3) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

2. In "Consumer Complaint and Inquiry Records" system (30-64-0005), "system location", "Categories of individuals covered by the system", "Categories of records in the system", and "System manager(s) and address" are revised to read as follows:

30-64-0005

SYSTEM NAME:

Consumer Complaint and Inquiry Records—FDIC.

SYSTEM LOCATION:

Office of Consumer Affairs and Civil Rights, FDIC, 550 17th Street, N.W., Washington, D.C. 20429 and the appropriate FDIC Regional Office for complaints or inquiries originating within or involving a bank located in an FDIC region. (See Appendix A for the location of FDIC Regional Offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints or inquiries concerning activities and practices of FDIC insured banks.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the names of individuals and the nature of their complaints or inquiries. Contains correspondence and

records of other communications between the FDIC and the individuals filing complaints and/or making inquiries. May contain correspondence between the FDIC and the bank in question and/or Federal or State supervisory authorities. May contain copies of supporting documents supplied by a complainant and intra-agency memoranda.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Consumer Affairs and Civil Rights, FDIC, 550 17th Street, N.W., Washington, D.C. 20429. The appropriate FDIC Regional Director for records maintained in FDIC Regional Offices. (See Appendix A for the location of FDIC Regional Offices.)

3. In "Employee Education System" (30-64-0007), the "system location", "Routine uses" and "System manager(s) and address" are revised to read as follows:

30-64-0007

SYSTEM NAME:

Employee Education System—FDIC.

SYSTEM LOCATION:

Employee Development Branch, FDIC, 550 17th Street, N.W., Washington, D.C. 20429 and the appropriate FDIC Regional Office for employees assigned to an FDIC region. (See Appendix A for the location of FDIC Regional Offices.)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) to the United States Office of Personnel Management, the Merit System Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (2) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (3) to educational institutions for purposes of enrollment and verification of employee attendance and performance.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Management, FDIC, 550 17th Street, N.W., Washington, D.C. 20429. The appropriate FDIC Regional Director for

records maintained in FDIC Regional Offices. (See Appendix A for the location of FDIC Regional Offices.)

4. In "Examiner Employment, Training, and Education Records" (30-64-0009), the "Routine uses" section is revised to read as follows:

30-64-0009

SYSTEM NAME:

Examiner Employment, Training, and Education Records—FDIC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (2) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (3) to educational institutions for purposes of enrollment and verification of employee attendance and performance.

5. The "Graduate Fellowship Applications" system is deleted and system designation 30-64-0010 is [Reserved]

30-64-0010 [Reserved]

6. In "Legal Compliance and Enforcement Records" (30-64-0011), the "Categories of individuals covered by the system" is revised to read as follows:

30-64-0011

SYSTEM NAME:

Legal Compliance and Enforcement Records—FDIC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Directors, trustees, officers or other persons participating in the conduct of the affairs of an FDIC insured bank which is not a member of the Federal Reserve System ("an FDIC insured nonmember bank") who have been the subject of an indictment, information or complaint for a felony involving

dishonesty or breach of trust. Directors, trustees, officers or other persons participating in the conduct of the affairs of an FDIC insured nonmember bank who are suspected of committing violations of law, rule or regulation, or of a final cease-and-desist order, or of committing acts, omissions or practices constituting a breach of fiduciary duty. Individuals who have sought FDIC consent to serve as an officer, director, trustee, or employee of an FDIC insured bank after having been convicted of a crime involving dishonesty or breach of trust.

7. In "Payroll and Employee Financial Records" (30-64-0012), the "System location", "Categories of records", "Routine uses", "System manager(s) and address", and "Record source categories" are revised to read as follows:

30-64-0012

SYSTEM NAME:

Payroll and Employee Financial Records—FDIC.

SYSTEM LOCATION:

Accounting and Budget Branch, FDIC, 1850 K Street, N.W., Washington, D.C. 20006 and the appropriate FDIC Regional Office for employees working out of regional offices. (See Appendix A for the location of FDIC Regional Offices.) Information pertaining to state or federal tax liens, bankruptcies, attachments, and wage garnishments also is maintained in the Legal Division, FDIC, 550 17th Street, N.W., Washington, D.C. 20429

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of the following information on FDIC employees: mailing addresses and home addresses; rate and amount of pay; hours worked; leave accrued and leave balances; life insurance, health insurance and retirement deductions; tax exemptions; and payroll deduction authorizations (including, where applicable, state or federal tax liens, bankruptcies, attachments, and wage garnishments which have been legally executed by the appropriate taxing or judicial authority).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Information developed from these records is routinely provided to State, City, and Federal income tax authorities, including, at the Federal level, the Internal Revenue Service and the Social

Security Administration, and, to other recipients, as authorized by the employee, including the United States Treasury Department, savings institutions, insurance carriers and charity funds; (2) records are periodically made available for inspection to auditors employed by the General Accounting Office; (3) relevant records in this system of records may be referred, as a routine use to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting any violation of law; rule or regulation; (4) in the event of litigation, relevant records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery; (5) Disclosure may be made to the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and Equal Employment Opportunity Commission, to the extent necessary in order for these agencies to carry out the government-wide personnel management; (6) disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, Officer of the Controller, FDIC, 550 17th Street, N.W., Washington, D.C. 20429. The appropriate FDIC Regional Director for records maintained in FDIC Regional Offices. (See Appendix A for the location of FDIC Regional Offices.) General Counsel, Legal Division, FDIC, 550 17th Street, N.W., Washington, D.C. 20429 for records maintained by the Legal Division.

RECORD SOURCE CATEGORIES:

The information is obtained from the employee on whom the record is maintained. Where an employee is subject to a tax lien, a bankruptcy, an attachment, or a wage garnishment, information also is obtained from the appropriate taxing or judicial entity.

8. In "Savings Bond Payroll Deduction Systems" (30-64-0013), the "System location" and "Routine uses" are revised to read as follows:

30-64-0013

SYSTEM NAME:

Savings Bond Payroll Deduction—FDIC.

SYSTEM LOCATION:

Accounting and Budget Branch, FDIC, 1850 K Street, N.W., Washington, D.C. 20006.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to: (1) the United States Treasury Department for the preparation of savings bonds; (2) to the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (3) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

9. In "Travel Voucher System" (30-64-0014), the "system location", "Routine uses" and "System manager(s)" are revised to read as follows:

30-64-0014

SYSTEM NAME:

Travel Voucher System—FDIC.

SYSTEM LOCATION:

Accounting and Budget Branch, FDIC, 1850 K Street, N.W., Washington, D.C. 20006 and the appropriate FDIC Regional Office for employees assigned to an FDIC region. (See Appendix A for the location of FDIC Regional Offices.)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Records are periodically made available for inspection to auditors employed by the General Accounting Office; (2) in the event that information contained in this system of records indicates a violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a

routine use, to the appropriate agency, whether Federal, or State, charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto; (3) in the event of litigation, the records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery; (4) Disclosure may be made to the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (5) disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, Office of the Controller, FDIC, 550 17th Street NW., Washington, D.C. 20429. The appropriate FDIC Regional Director for records maintained in FDIC Regional Offices. (See Appendix A for the location of FDIC Regional Offices.)

10. In "Unofficial Personnel System" (30-64-0015), the "Categories of records" and "Routine uses" are revised to read as follows:

30-64-0015

SYSTEM NAME:

Unofficial Personnel System—FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of personnel-related records that are maintained in addition to those kept in the official personnel folder pursuant to the Federal Personnel Manual Suppl. 296-31, Table 8, Sec. 1. (The United States Office of Personnel Management has Privacy Act responsibility for those systems of records which are government-wide in nature and it requires agencies to maintain. Included among these is the Official Personnel Folder. While OPM has designated the FDIC as being responsible for disclosing to its current employees the contents of their Official Personnel Folder, notice of the existence and character of this system is published by the United States Office of Personnel Management as "General

Personnel Records", OPM/GOVT-1.) This system contains records of various types. They are: (1) records maintained in the Washington and regional offices which may contain information on individuals relating to: birthday; social security number; past and present salaries, grades, and position titles; home address and telephone number; emergency contacts, addresses and telephone numbers; employment history; original applications, résumé, and letters of reference; statement of bank loans and stock ownership; record of equipment and material issued to the individual; record of leave and time-and-attendance; written notes or memoranda on employee performance; counseling; examiner assignments and lists of banks examined; records relating to on-the-job training; and data documenting reasons for personnel actions, decisions, or recommendations made about an employee; (2) parking permit records containing information (name, address, and type of automobile) about FDIC employees who have applied for (or are members of the applicants' carpool) a parking permit in the FDIC's Washington office garage; (3) American Red Cross blood donor records containing information including donors name, social security number, date of birth, age, sex, home address and phone number, whether the donation was accepted, and whether the Red Cross would recruit the donor again for blood; (4) FDIC personnel awards including information supporting the employee's nomination for one of these awards; (5) dental insurance records including information on earnings, number and name of dependents, sex, birth date, home address, and social security number; and (6) employee locator records containing the employee's name, social security number, division or office assignment, office telephone number and office room number.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

With regard to category (1) above, the records are primarily maintained to be used by the employee's supervisor for preparation of general personnel action; however, in the case of categories (1), (2), and (4) disclosures may be made, where relevant:

- (a) to financial and credit institutions for loan and credit reference purposes (solely to verify the employee's employment with the FDIC, date of employment, and pay grade);
- (b) [Reserved];

(c) to the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary in order for these agencies to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (d) in the event of litigation, to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery;

(e) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (f) to State authorities regarding reasons for a former employee's separation from FDIC service, where the inquiry is made pursuant to the former employee's application for unemployment compensation;

(g) to Federal and State regulatory agencies, for reasons related to FDIC business, as to the temporary work location of FDIC bank examiners.

In the case of category (3) above, disclosure may be to the American Red Cross from the information contained in the blood donor records. Disclosure may be made, in the case of category (5) above, to the dental insurance carrier in support of a claim for dental insurance benefits. In category (6) above, except for the employee's Social Security Number, all information in the record is available to the public.

11. In "Medical Records and Emergency Contact Information System" (30-64-0017), the "Categories of individuals" is revised and "Categories of records" is added as follows:

30-64-0017

SYSTEM NAME:

Medical Records and Emergency Contact Information System—FDIC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical record of the employee, including the date of any visit to the FDIC Health Unit, the diagnosis, and the treatment administered. Attached to this record is a separate sheet containing the name and telephone number of the

person to contact in the event of an emergency involving the employee.

12. In Appendix A to the system of records the address for the FDIC's Dallas Regional Office is changed to read as follows:

Appendix A—Federal Deposit Insurance Corporation regional offices

Dallas Regional Office, FDIC,
350 North St. Paul Street, Suite 2000
Dallas, Texas 75201

By order of the Board of Directors,
November 13, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-36064 Filed 11-20-79; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

(FEMA-610-DR)

American Samoa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Territory of the American Samoa (FEMA-610-DR), dated November 9, 1979, and related determinations.

DATED: November 9, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7825.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of November 9, 1979, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the territory of the American Samoa resulting from flooding, mudslides and landslides beginning on October 28, 1979, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the Territory of American Samoa.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director Under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the Territory of American Samoa to have been affected adversely by this declared major disaster.

The following for Public Assistance and emergency assistance for subsistence agriculture on a communal basis:

Island of Tutuila

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-35931 Filed 11-20-79; 8:45 am]

BILLING CODE 6718-02-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 104; Case No. 79-928-EL-AEM]

Dayton Power & Light Co., the Public Utility Commission of Ohio; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Public Utility Commission of Ohio concerning the application of the Dayton Power and Light Company for an increase in its electric rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-566-0750, on or before December 30, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

[Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4)]

Dated: November 13, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-35825 Filed 11-20-79; 8:45 am]

BILLING CODE 6620-AM-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Patuxent Wildlife Research Center, U.S. Fish and Wildlife Service, Laurel, Maryland 20811.

The applicant requests a permit to export blood and feather pulp samples from *Grus americana* and *Grus canadensis pulla* to the University of Calgary, Calgary, Canada for scientific purposes.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4818. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: November 13, 1979.

Larry LaRochelle,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-35827 Filed 11-20-79; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Outer Continental Shelf Western and Central Gulf of Mexico Oil and Gas Lease Sale No. 58A; Change in Location for Submission and Opening of Bids; Deletion of Tract

1. Bidders on tracts offered in Lease Sale 58A are advised that, due to circumstances beyond the control of the Department of the Interior, the location for the submission and opening of bids has been changed from the Grand Hotel, 1500 Canal Street, New Orleans, Louisiana, to the Louisiana Superdome, Gate "C", Hyatt Ramp, Level 200, Rooms 4 and 5, 1500 Poydras Street, New Orleans, Louisiana. All other dates, times, terms and conditions of the sale announced in the Federal Register on October 26, 1979, 44 FR 61804, are unaffected by this change in location.

Bidders submitting bids on the day of the sale should deliver their bids to the Superdome location between the hours of 8:30 a.m., c.s.t. and 9:30 a.m., c.s.t.; however, an Interior official will also be present on that day at the front entrance of the Grand Hotel to receive bids between the hours of 8:30 a.m., c.s.t. and 9:30 a.m., c.s.t. Any bids submitted at the Grand Hotel will be transported to the Superdome and opened at that location.

II. Bidders are also advised that tract No. 58A-128 has been deleted from oil and gas lease sale 58A because the Notice of Sale contained an error in the description of the dimensions of the tract.

Dated: November 16, 1979.

Ed Hasteley,

Associate Director, Bureau of Land Management.

Approved,

Heather L. Ross,

Deputy Assistant Secretary of the Interior.

[FR Doc. 79-35972 Filed 11-20-79; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, December 15, 1979, at 1:00 p.m. in the Conference Room at C&O Canal National Historical Park Maintenance Area, Hancock, Maryland.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush, Chairman, Hagerstown, Maryland
 Mrs. Bonnie Troxell, Cumberland, Maryland
 Miss Nancy Long, Glen Echo, Maryland
 Mrs. Constance Morella, Bethesda, Maryland
 Mr. Kenneth S. Rollins, Brookmont, Maryland
 Mrs. Constance Lieder, Baltimore, Maryland
 Mr. Edwin F. Wesely, Jr., Brookmont, Maryland
 Mr. John D. Millar, Cumberland, Maryland
 Mr. James B. Coulter, Annapolis, Maryland
 Mrs. Dorothy Grotos, Arlington, Virginia
 Mrs. Minny Pohlmann, Dickerson, Maryland
 Mrs. Margaret Dietz, Lovettsville, Virginia
 Mr. William H. Ansel, Jr., Romney, West Virginia
 Dr. James H. Gilford, Frederick, Maryland
 Mr. Donald H. Shannon, Washington, D.C.
 Mr. Silas F. Starry, Shepherdstown, West Virginia

Mr. Rockwood H. Foster, Washington, D.C.
 Mr. R. Lee Downey, Williamsport, Maryland
 Mr. John C. Frye, Gapland, Maryland

Matters to be discussed at this meeting include:

1. Development Concept Plan, North Branch/Cumberland
2. Rock Run Sewer Treatment Proposal
3. Great Falls Development Concept Plan
4. Interpretive Prospectus, Seneca to Cumberland
5. Georgetown Park Complex Access
6. Surface Treatment of the Towpath
7. Towpath Continuity at Catocin Creek
8. Boteler Cement Mill
9. Potomac River Legislation (H.R. 5118)
10. Report on COE water supply plan for Washington-Metro Area

The meeting will be open to the public. Any member of the public may file with the Commission, a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782, telephone 301-948-5641 or 301-432-2231.

Minutes of the meeting will be available for public inspection four (4) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: November 8, 1979.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 79-35862 Filed 11-20-79; 8:45 am]

BILLING CODE 4310-70-M

Glen Canyon National Recreation Area; General Management Plan

The approved final environmental impact statement on the proposed general management plan, wilderness recommendation, and road study alternatives for Glen Canyon National Recreation Area will serve as the general management plan for that unit of the National Park Service. Therefore, as of November 21, 1979, the general management plan is approved.

The document identifies the plan for the management and use of the area, land use zones, and the activities considered compatible with each of the boundary adjustments and land exchanges felt desirable, a utility corridor, major road alternatives, and proposed wilderness. In addition it identifies five major visitor use areas and, in general, the facilities to be contained therein, three minor visitor use areas, and two areas for future development, when and if required. The document also contains a description of the physical and socioeconomic

environment of the area, the physical and cultural resources therein, and the present use being made thereof.

Any inquiries concerning the document or its contents should be addressed to: Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, Arizona 86040.

Dated: November 6, 1979.

James B. Thompson,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 79-35861 Filed 11-20-79; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL COMMUNICATION AGENCY

Performance Review Board Members

AGENCY: International Communication Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the International Communication Agency (USICA) Performance Review Board (PRB).

DATE: November 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John P. Clyne, Deputy Director, Office of Personnel Services, International Communication Agency, 1776 Pennsylvania Avenue, N.W., Washington, D.C. 20547, (202-724-9632).

SUPPLEMENTARY INFORMATION: In accordance with Section 4314(c) (1) through (5) of the Civil Service Reform Act of 1978 (Public Law 95-454), the Director of the International Communication Agency (USICA) has appointed the following persons to the USICA Performance Review Board:

James D. Isbister, Associate Director for Management (Chairperson)
 John P. Clyne, Deputy Director, Office of Personnel Services, Associate Directorate for Management (Executive Secretary)
 Julia Chang Bloch, Deputy Director, Office of African Affairs
 Alan Carter, Director, Office of East Asian and Pacific Affairs
 John H. Deviney, Manager, Office of Program Development and Coordination, Television and Film Service, Associate Directorate for Programs
 Angie Garcia, Director, Office of Personnel Services, Associate Directorate for Management
 Claude B. Groce, Deputy Director, Office of Programs, Associate Directorate for Broadcasting
 Alan L. Heil, Jr., Chief, News and Current Affairs, Associate Directorate for Broadcasting
 John K. Jacobs, Director, Exhibits Service, Associate Directorate for Programs
 Mildred K. Marcy, Senior Advisor, Associate Directorate for Educational and Cultural Affairs

Stanley Alan Nicholson, Director, Office of Academic Programs, Associate Directorate for Educational and Cultural Affairs

Stanley M. Silverman, Director, Office of Comptroller Services, Associate Directorate for Management

Gordon Winkler, Deputy Associate Director, Associate Directorate for Programs

Members will serve until they are reassigned, depart from Agency employment or membership is terminated by the Director, USICA. The PRB will consist of fourteen people: a Chairperson, six members, six alternates, and an Executive Secretary. An additional person will be appointed in the future. The PRB will be responsible for making recommendations to the Director relating to performance appraisal, awards and ranks, compensation, and adverse actions with respect to USICA Members of the Senior Executive Service.

John E. Reinhardt,

Director, International Communication Agency.

[FR Doc. 79-35904 Filed 11-20-79; 8:45 am]

BILLING CODE 8230-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-74]

Certain Rotatable Photograph and Card Display Units, and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 15, 1979, and amended on November 5, 1979, under section 337 of the tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Roto-Photo Co., Inc., 5620 North Western Avenue, Chicago, Illinois 60659, and Aaron H. Shneider, 9221 Drake Avenue, Skokie, Illinois 60076, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain rotatable display units, or in their sale, by reason of the alleged unfair acts, specified in the complaint, as follows: (1) Infringement by such rotatable display devices of (a) the claim of U.S. Letters Patent 3,218,743, (b) the claim of U.S. Letters Patent 3,791,059, (c) U.S. Trademark Registration No. 838,394, and (d) the common law trademark on ROTO-PHOTO; and (2) restraint of and the tendency to monopolize commerce of rotatable display units.

The complaint, as amended (complaint), alleges that the effect or tendency of the unfair methods of competition and unfair acts is to

substantially injure an industry, efficiently and economically operated, in the United States.

Complainants request that after a full investigation has been conducted, exclusion of the imports in question, or other relief as authorized, be ordered by the Commission.

Having considered the complaint, the Commission on November 8, 1979, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine whether there is a violation of subsection (a) of this section in the unlawful importation of certain rotatable display devices, or components thereof, into the United States, or in their sale, by reason of the alleged infringement by such rotatable display devices of—

(a) The claim of U.S. Letters Patent 3,218,743,

(b) The claim of U.S. Letters Patent 3,791,059,

(c) U.S. Trademark Registration No. 838,394, and

(d) The common law trademark ROTO-PHOTO,

the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Roto-Photo Co., Inc., 5620 North Western Avenue, Chicago, Illinois 60659.

Aaron H. Shneider, 9221 Drake Avenue, Skokie, Illinois 60061.

(b) The respondents are the following parties upon whom the complaint is to be served:

Crown Craft Products, Inc., 251 West 19th Street, New York, New York 10011.

Dan Dee Imports, 106 Harbor Drive, Jersey City, New Jersey 07305.

American Consumer Inc., Caroline Road, Philadelphia, Pennsylvania 19176

Ben Franklin Stores, P.O. Box 5938, Chicago, Illinois 60680.

Etna Products Co., 53 West 23rd Street, New York, New York 10010.

American Home Toy Parties, Inc., 20 Craig Road, Acton, Massachusetts 01720.

Chadwick-Miller, Inc., 300 Turnpike Street, Canton, Massachusetts 02021.

Regent Export Co., Ltd., TST P.O. Box 98067, 704 Kowloon Centre, 29-39 Ashley Road, Tsimshatsui, Kowloon, Hong Kong.

(c) Charles F. Schill, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, is hereby named Commission investigative

attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (19 C.F.R. 210.21). Pursuant to section 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extension of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for the confidential information contained therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York, New York 10048.

By order of the Commission.

Issued: November 13, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-35963 Filed 11-20-79; 8:45 am]

BILLING CODE 7020-02-M

[AA1921-206, AA1921-207, AA1921-208 and AA1921-209]

Titanium Dioxide From Belgium, France, the United Kingdom and the Federal Republic of Germany; Determination of No Injury

Determination

On the basis of information developed during the course of investigations Nos. AA1921-206, AA1921-207, AA1921-208, and AA1921-209, the Commission (Chairman Parker dissenting) determines that an industry in the United States is not being injured, is not

likely to be injured, and is not prevented from being established, by reason of the importation of titanium dioxide from Belgium, France, the United Kingdom or the Federal Republic of Germany, provided for in item 473.70 of the Tariff Schedules of the United States, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

Procedural Background

On August 7, 1979, the United States International Trade Commission received advice from the Department of the Treasury that titanium dioxide from Belgium, France, the United Kingdom and the Federal Republic of Germany, with the exception of that sold by Bayer AG, of the Federal Republic of Germany and ceramic grades sold by LaPorte Industries of the United Kingdom, is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended. Accordingly, on August 23, 1979, the Commission voted to institute investigations Nos. AA1921-206 (titanium dioxide from Belgium) AA1921-207 (titanium dioxide from France), AA1921-208 (titanium dioxide from the United Kingdom) and AA1921-209 (titanium dioxide from the Federal Republic of Germany) under section 201(a) of said act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

In connection with the investigations, a public hearing was held in Washington, D.C., on September 27 and September 28, 1979. Notice of the institution of the investigations and the public hearing was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register of August 29, 1979 (44 FR 50663).

The Treasury Department instituted its investigations after receiving a complaint filed on September 18, 1978, from counsel acting on behalf of SCM Corp., N.Y., N.Y. Treasury's notices of withholding of appraisement and determinations of sales at less than fair value were published in the Federal Register of August 10, 1979 (44 FR 47196-47204).

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested

parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

Statement of Reasons of Vice Chairman Bill Alberger and Commissioners George M. Moore, Catherine Bedell, and Paula Stern

We determine that an industry in the United States is not being and is not prevented from being established, by reason of the importation of titanium dioxide from Belgium, France, the United Kingdom, and the Federal Republic of Germany (West Germany) into the United States which the Secretary of the Treasury (Treasury) has determined is being, or is likely to be, sold at less than fair value (LTFV).¹

The Imported Article and the Domestic Industry

Titanium dioxide is a white, solid, metallic oxide which is the whitest, most inert, and most opaque of all commercial pigments. It is used to whiten, brighten, and opacify paints, paper, plastics, inks, synthetic fibers, and rubber compounds. Six firms using ten plants currently produce titanium dioxide in the United States: E. I. du Pont de Nemours & Co., Inc. (Du Pont), SCM Corp. (SCM), Kerr-McGee Corp., American Cyanamid Co., Gulf & Western, and N.L. Industries (N.L.).

Treasury's investigation of imports of titanium dioxide covered the six-month period from May 1 to October 31, 1978. Treasury examined virtually all of the transactions involving titanium dioxide exports to the United States from Belgium and France, 95 percent of the value of exports entering the United States from the United Kingdom, and 65 percent of the subject exports from West Germany during the period.² It found weighted average LTFV margins which ranged from 0.3 percent to 32.4 percent of the fair market value of the

¹ No one alleged, and there is no information supporting a finding, that an industry is prevented from being established by reason of imports of such merchandise. Therefore, the issue of "prevention of establishment" will not be further discussed.

² Our determination is the same whether the subject imports from the respective countries are considered separately or are cumulated. We have therefore made a negative determination.

³ Treasury's LTFV determination excluded exports sold by Bayer AG of West Germany and ceramic grades of titanium dioxide sold by LaPorte Industries of the United Kingdom. Treasury defined ceramic grades of titanium dioxide as being titanium dioxide pigments, provided for in item 473.70 of the Tariff Schedules of the United States, having an average minimum particle size exceeding eight microns in diameter.

merchandise, with most margins in the lower end of the range.³

No Injury or Likelihood of Injury by Reason of LTFV Sales

In making our determination in these investigations, we looked for price suppression, loss of customers by U.S. producers to foreign manufacturers selling at less than fair value, and increased penetration of the relevant U.S. market by imports. In addition, we also examined domestic production, inventories, capacity utilization, employment levels, profitability, and expansion plans. In order to understand these indicators, we first examined the conditions of competition in this industry in the United States.

The Conditions of Domestic Competition

About 85 percent of the titanium dioxide consumed in the United States is presently produced in domestic facilities. Careful analysis of weighted average selling prices of Du Pont, SCM, and N.L. on a monthly basis from January 1976 through July 1979 shows that each of these firms initiated both price increases and decreases during the period. However, no price change held unless Du Pont initiated it or soon followed the lead of the others. Du Pont, with a market share of a third to a half, is simply too significant a factor for other producers to be able to ignore its actions. Du Pont has a substantially larger productive capacity than Belgium, France, the United Kingdom, and West Germany individually and can almost equal their total annual output.

In addition to its dominant market position, Du Pont stands out in other ways. It has consistently been the industry innovator, pioneering the modern chloride process and subsequent improvements on it. This process uses cheaper ore, achieves greater efficiency, and produces far less pollutant than the older sulfate process that it has replaced in all plants built since 1959. As environmental regulations have raised the cost of disposal of pollutants and useless byproducts produced in the sulfate process, the comparative advantage of the chloride process has grown even greater. Du Pont has licensed its chloride process using high-grade feedstock to other firms. However, it has reserved for itself the low-grade chloride process that allows the use of low-cost ilmenite as a feedstock. This has resulted in each Du Pont's four plants, regardless of size, having mill costs

³ See table 8 on p. A-21 of the accompanying report.

below those of any of the six plants of its domestic competitors.

The changing role of N.L. constitutes another factor crucial to an understanding of the domestic industry. Having experienced labor and environmental problems intermittently during the last five years, N.L. closed a major plant in 1978 and temporarily increased its reliance on imports from the subject foreign producers to supply a third to a half of its domestic sales of titanium dioxide during 1977. In 1976, 1978, and 1979, 20 to 30 percent of its sales were from foreign sources covered by this navigation. Since becoming a significant importer, N.L.'s total of imports plus domestic production has not exceeded its peak domestic production recorded in 1974 before it began to import foreign-produced titanium dioxide. Because of N.L.'s peculiar situation as both producer and importer, its total reliance on the sulfate process in domestic operations, and its significant labor and environmental difficulties, the inclusion of N.L. in the domestic industry's aggregate data often obscured rather than illuminated the implications of the data.

Economic Indicators

We could find no persuasive case for injury, or likelihood thereof, to the domestic industry by reason of LTFV sales. We believe that any injury which may exist is not related to LTFV imports from the four countries in question.

The product is sold in two major grades, anatase and rutile, and in two forms, dry and slurried. Quality variations are possible. There are hundreds of customers and perhaps thousands of sales per year. The Commission received complete data from two of the six domestic producers; the remaining firms submitted incomplete but usable data.

The information before us does not provide evidence of price suppression or price depression by imports from any of the four countries. In comparing U.S. producers' and importers' weighted average selling prices for rutile titanium dioxide in dry form shipped to paint manufacturers (which cover about 50 percent of titanium dioxide shipments) for the period January 1976-July 1979, we found that U.S. producers' prices did not significantly differ from importers' prices. U.S. producers' prices never exceeded importers' prices by more than 3.8 cents per pound (about 8 percent in July 1978) during the period, and importers' prices never exceeded U.S. producers' prices by more than 1.6 cents per pound (about 3 percent in November 1978). On the whole, price spreads remained fairly constant during the

period, narrowing slightly after mid-1978. Importers alleged that some of this price advantage was necessary to compensate for their inability to provide services to the extent furnished by domestic producers.

Further, domestic producers' weighted average selling prices appear to have increased at a slower rate than those of importers. Between January 1978 and January 1979, producers' weighted average selling prices increased by about 8 percent. Importers' weighted average selling prices increased by slightly more than 10 percent in the same period.

There appears to be some indication of lost sales by domestic manufacturers to the subject LTFV imports. Of the hundreds of end users of titanium dioxide in the United States, 43 were sent producers' questionnaires; nearly half responded. In general, there seemed to be some decline in purchases of the domestic product and some increase in purchases of imports. A telephone survey of 50 other end users yielded 14 confirmed instances of lost sales. In some cases, quality and availability rather than price were given as the reasons for choosing imports. In a market where there may be thousands of sales, we found it difficult to determine that the small number and volume of lost sales were significant. For example, it is uncertain how many lost sales may have been due to imports by N.L. which replaced its diminished domestic production rather than displacing titanium dioxide from the other five firms.

The market penetration by subject LTFV imports was stable during 1976-78. Starting in 1974 at a level of 2.4 percent of consumption, it increased to 10.3 percent in 1977 and 10.4 percent in 1978. Thus, in the year which included Treasury's six-month evaluation period, import penetration increased by an insignificant 0.1 percentage point. The penetration for the first six months of 1979 was lower than that for the corresponding period of 1978. The first year covered by this investigation, 1974, is not a good base year for judging the industry. The years 1973-75 showed historically low levels of penetration of the domestic market by all imports. This was in part due to worldwide excess demand which forced prices up in Europe while they remained under government control in the United States during 1973 and early 1974. By the end of 1978, imports had regained the stable level of penetration characteristic of the 1960's. Import penetration in this industry does not appear to be at unprecedented levels.

Domestic production in 1978 was up from the 1977 level, equal to this level, and about 15 percent higher than the 1975 level. Data for the first seven months of 1979 indicate that 1979 production will probably exceed the 1978 level.

U.S. exports experienced a decline of 50 percent in 1975 from a 1974 level of over 30,000 short tons. They then grew irregularly to a record level of almost 38,000 short tons in 1978. Figures for the first half of 1979 are nearly triple those for the corresponding period of 1978. Principal export markets included France and Belgium.

Only partial inventory information was received by the Commission. For the four firms reporting, inventories increased from 1974 through 1978 and then steadily declined through the first half of 1979. Inventories in January-July 1979 were at their lowest levels since 1974.

Overall capacity utilization fell from 64 percent in 1974 to 50 percent in 1975 before recovering dramatically to about 80 percent in 1978, a level which held through the first half of 1979. Excluding data for N.L., which had many unusual labor and environmental problems unrelated to LTFV imports, the industry average, with the exception of 1975, hovered at about 90 percent for the entire period under consideration.

Employment fell 24 percent from 1974 to 1978 for the five firms reporting employment data for the full period. N.L., which closed a plant in 1978, was responsible for the decline. Employment apparently increased steadily over the five-year period for all other firms. The petitioner, SCM, showed one of the most marked rises in the average number of production and related workers engaged in the production of titanium dioxide during this period.

In the aggregate, reported net profit on domestic titanium dioxide operations fell from \$39 million (11.8 percent of net sales) in 1974 to \$13 million (3.8 percent) in 1975, rose to \$44 million (9.9 percent) in 1976, and fell to \$334,000 in 1978 (0.1 percent). A sharp improvement was recorded in the first half of 1979. The ratio of net profit to net sales for the other reporting firms was significantly better in each year, but followed the same pattern as when N.L. data were included.⁴ The individual experiences of the four reporting firms varied considerably. One producer reported a very high profit ratio in all five years. Another producer reported high profits in three years but lower profits in 1975 and 1978. Yet a third producer showed

⁴ A more detailed discussion would disclose confidential data.

losses in three of five years, and the remaining one reported consistent losses after 1974. The effect of the technically superior chloride process on financial performance has been significant. Firms utilizing it exclusively showed consistently higher profit ratios than the others. For the five reporting firms, there was a direct relation between the profit ratios and the percentages of total capacity using the chloride process.

Domestic production capacity was essentially constant for all domestic producers except N.L. Du Pont is proceeding with plans to open a new facility at DeLisle, Mississippi, in 1981. When complete, it will raise domestic capacity by more than 10 percent. There has been no indication of either significant expansion plans or unused capacity by the foreign producers covered in this investigation.

Conclusion

We have found that the economic indicators do not demonstrate that the domestic industry is being or is likely to be injured by reason of the LTFV sales. The information before us on pricing, import penetration, and lost sales does not connect the subject LTFV imports to any of the problems that may have confronted the domestic industry during the period of this investigation. The implications of the introduction of the chloride process and of Du Pont's position of technological superiority and market dominance suggest that the problems reflected in the profit ratios of some domestic producers are the result of the conditions of domestic competition.

An examination of the subject imports on a country-by-country basis has not been necessary because, even when examined collectively, they did not satisfy the statutory requirements necessary for an affirmative determination.

By order of the Commission.

Issued: November 7, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-35864 Filed 11-20-79; 8:45 am]
BILLING CODE 7020-02-N

DEPARTMENT OF JUSTICE

"United States v. Velsicol Chemical Corp.," Consent Decree In Action To Enforce Compliance With Terms of NPDES Permit

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States v. Velsicol Chemical Corporation* has been lodged

with the United States District Court for the Western District of Tennessee. The decree imposes on defendant certain requirements and compliance dates with respect to the operation of its Memphis manufacturing facility.

The Department of Justice will receive until December 21, 1979, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice Washington, D.C. 20530 and should refer to *United States v. Velsicol Chemical Corporation*, D.J. Ref. 1-72-29.

The consent decree may be examined at the office of the United States Attorney, Western District of Tennessee, 1058 Federal Office Building, 167 North Main Street, Memphis Tennessee 38103, at the Region IV office of the Environmental Protection Agency, 345 Courtland Street N.E., Atlanta, Georgia 30308, and the Pollution Control Section Land and Natural Resources Division of the Department of Justice, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

James W. Moorman,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-35812 Filed 11-20-79; 8:45 am]

BILLING CODE 4410-01-N

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-96]

Performance Review Board, Senior Executive Service

NASA Notice 79-73 (44 FR 52053, September 6, 1979). Performance Review Board, Senior Executive Service, listed Richard G. Smith (Term expires July 1982) as a member of the Board.

Mr. Smith will not be able to participate as a member and has been replaced by Philip E. Culbertson (Term expires July 1982).

Robert A. Frosch,
Administrator.

November 8, 1979.

[FR Doc. 79-35824 Filed 11-20-79; 8:45 am]

BILLING CODE 7510-01-N

NATIONAL SCIENCE FOUNDATION

Research, Development and Dissemination Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Research, Development & Dissemination Subcommittee of the Advisory Committee for Science Education. Date and time: December 8, 1979—9 a.m. to 3 p.m.

Place: National Science Foundation—Room W-651, 5225 Wisconsin Avenue, N.W., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Alphonse Buccino, Director, Office of Program Integration, Room W-660, National Science Foundation, Washington, D.C. 20550 (202) 282-7947.

Purpose of subcommittee: To provide advice and recommendations concerning Science Education programs for research, development and dissemination.

Agenda: The review and compare of declined proposals (and supporting documentation) with successful awards under the research and development programs in Science Education, including review of peer review materials and other privileged material.

Reason for closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt material and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act. Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
November 16, 1979.

[FR Doc. 79-35958 Filed 11-20-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed

meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or canceled since the last list of proposed meetings published October 18, 1979 (44 FR 60178). Those meetings which are definitely scheduled to have had, or will have, an individual notice published in the *Federal Register* approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, canceled, or rescheduled, or whether changes have been made in the agenda for the December 1979 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Mary E. Vanderholt) between 8:15 and 5:00 p.m., EST.

Subcommittee and Working Group Meetings

*Advanced Reactors, November 29-30, 1979, Albuquerque, NM. The Subcommittee will discuss the NRC-sponsored research at Sandia and LASL on the safety of advanced reactors. Notice of this meeting was published November 14, 1979.

*Reactor Operations, December 3, 1979, Washington, D.C. The Subcommittee will review the status of various generic items contained in the Committee's March 21, 1979 report, "Status of Generic Items Relating to Light-Water Reactors: Report No. 7." Notice of this meeting was published November 16, 1979.

*Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design, December 4, 1979 (Tentative), Washington, D.C. An Ad Hoc Subcommittee will continue its discussion of the implications of the TMI-2 Accident. Notice of this meeting was published November 19, 1979.

*Reliability and Probabilistic Assessment, December 5, 1979, Washington, D.C. Rescheduled from December 4, 1979. The Subcommittee will discuss items pertaining to the budget and program of the Office of Nuclear Regulatory Research; also, it will hear presentations and hold round table discussions with representatives of several Government agencies and other groups that have used or considered quantitative risk assessment methods in their decision-making process. Notice of this meeting was published November 20, 1979.

*Procedures and Administration, December 5, 1979 (afternoon), Washington, D.C. The Subcommittee will discuss recommendations of the President's Commission on the Accident at Three Mile Island relating to ACRS activities and proposed ACRS comments regarding the nuclear regulatory process. Notice of this meeting was published November 20, 1979.

*Fire Protection, December 5, 1979 (afternoon), Washington, DC. The Subcommittee will review the proposed Fire Protection Rule for operating nuclear power plants. Notice of this meeting was published November 20, 1979.

*Regulatory Activities, December 5, 1979, Washington, DC. Cancelled.

*Power and Electrical Systems, December 13, 1979, Washington, DC. The Subcommittee will discuss several miscellaneous items with regard to electrical power, instrumentation, and control and protection systems in nuclear power plants. Notice of this meeting was published October 18, 1979.

*Waste Management/Fuel Cycle, December 19, 1979, Washington, DC. The Subcommittee will hold a joint meeting to continue their review of the NRC waste management/fuel cycle research and technical assistance programs. In addition, representatives of the Environmental Protection Agency (EPA), the United States Geological Survey (USGS), and the Department of Energy (DOE) will brief the Subcommittees on their waste management work.

*Site Evaluation, December 20, 1979, Washington, DC. The Subcommittee will discuss siting and emergency planning research and NRC siting policy.

Reactor Safety Research, January 9, 1980, Rescheduled from January 8, 1980, Washington, DC. The Subcommittee will continue its discussion of preparation of the Annual Report to Congress on the NRC Reactor Safety Research Program. Notice of this meeting was published October 18, 1979.

*Emergency Core Cooling Systems/Three Mile Island, Unit-2 Accident Bulletins and Orders, January 9, 1980, Washington, DC. The Subcommittees will hold a joint meeting to consider the response of vendors and utilities to NRC Office of Inspection and Enforcement Bulletins and NRC Orders, including information related to the small-break loss of coolant accident.

*Metal Components, January 16-17, 1980, Oak Ridge, TN (tentative). Details will be furnished later.

ACRS Full Committee Meetings

December 6-8, 1979

A. *Adequacy of nuclear regulatory process—proposed ACRS comments.

B. *Report of President's Commission on the Accident at Three Mile Island—safety implications, proposed changes in ACRS activities, and proposed plans for implementation of recommendations.

C. *NRC Regulations which may need changing to ensure public health and safety—ACRS recommendations.

D. *Follow-up procedures regarding ACRS recommendations—modification of procedures.

E. *NUREG-0585, "TMI-2 Accident Lessons Learned Task Force Final Report,"—ACRS comments.

F. *Meeting with NRC Commissioners (tentative)—discuss proposed pause in licensing of nuclear facilities and ACRS reports on evaluation of licensee event reports and the NRC safety research program.

G. *Interactions resulting from failure of safety grade and non-safety grade systems and components—ACRS comments.

H. *Proposed pause in licensing of nuclear facilities—ACRS comments.

I. *Proposed changes in NRC program to resolve outstanding safety issues (NUREG-066, "Unresolved Safety Issues").

January 10-12, 1980

Agenda to be announced.

February 7-9, 1980

Agenda to be announced.

Dated: November 16, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-35959 Filed 11-20-79; 8:45 am]

BILLING CODE 7500-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 16347/November 16, 1979; File No. S7-433]

Receipt of Amendments to Joint Industry Plan

On November 5, 1979, the Consolidated Tape Association submitted to the Commission a proposed amendment to Section XI(c) of the joint industry plan (the "Plan") filed with and declared effective pursuant to Rule 17a-15 [17 CFR 240.17a-15] under the Securities Exchange Act of 1934 governing the consolidated transaction reporting system. The proposed amendment would effect an 8% increase in display charges to subscribers for receipt of last sale information with respect to Network A.¹ The proposed amendment bears an effective date of January 1, 1980.

In order to assist the Commission in determining whether to approve the proposed amendment, interested persons are invited to submit their views and comments on the proposal in writing to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before December 21, 1979. The amendment to the Plan will be available for public inspection in the Commission's public reference room. All such communications should refer to File No. S7-433.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

Amendment to Plan Submitted Pursuant to Rule 17a-15 of Securities and Exchange Commission Under Securities Exchange Act of 1934

The undersigned hereby submit to the Securities and Exchange Commission the following amendment to the plan filed pursuant to Rule 17a-15 under the Securities Exchange Act of 1934 as declared effective by the Commission as of May 17, 1974, as heretofore amended (the Plan).

1. Section XI(c) of the Plan is hereby amended, effective January 1, 1980, to revise Network A subscriber fees as follows:

"New York Stock Exchange, Inc. Market Data Services Schedule of Monthly Charges (Excluding Applicable Taxes)

Service	Rate
Stock Tickers (1):	
Cont'l. USA First Unit.....	160

¹ Network A disseminates last sale reports of transactions executed in all reporting markets for securities listed on the New York Stock Exchange, Inc.

"New York Stock Exchange, Inc. Market Data Services Schedule of Monthly Charges (Excluding Applicable Taxes)—Continued

Service	Rate
Additional Unit.....	105
Canada First Unit (2).....	184-270
Additional Unit.....	119
Foreign First Unit (3).....	50
Additional Unit.....	4
Stock Ticker Displays (1)(3)(4):	
Cont'l. USA First Unit.....	93
Additional Unit (5).....	4
Canada First Unit (2).....	111-198
Additional Unit (5).....	4
Foreign First Unit.....	50
Additional Unit.....	4
Interrogation Units (3)(4):	
All Locations First Unit.....	50
Additional Unit.....	4.75

Notes:

(1) Charges are "per location" and do not include one time installation, relocation and other miscellaneous charges where applicable, which are generally a direct pass through from the common carrier (e.g. Western Union) to the subscriber.

(2) Dependent upon geographical area.

(3) Charges by vendor furnishing equipment are in addition to these charges.

(4) Only one first unit charge applies in an office subscribing to units from two or more vendors.

(5) Plus charges, if any, for interconnecting facilities required in connection with additional unit.

(6) Other administered miscellaneous rates will also be adjusted consistent with the new schedule."

2. This amendment may be executed by the Participants in any number of counterparts, no one of which need contain all signatures of all Participants. As many such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

Dated: November 7, 1979.

American Stock Exchange, Inc.

By _____

Midwest Stock Exchange, Inc.

By _____

National Association of Securities Dealers, Inc.

By _____

New York Stock Exchange, Inc.

By _____

Pacific Stock Exchange Inc.

By _____

Philadelphia Stock Exchange, Inc.

By _____

[FR Doc. 79-35933 Filed 11-20-79; 8:45 am]

BILLING CODE 8010-01-M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Public Hearing

The Select Commission on Immigration and Refugee Policy will hold the fourth of 12 regional hearings on:

Date: December 17, 1979.

Place: "Centro de Artes del Mercado"/ Market Square Arts Center, 514 W. Commerce, San Antonio, Texas 78205.

Time: 9-5; 7-9 p.m.

The San Antonio hearing will be chaired by Commissioner Joaquin F.

Otero, Vice President, Brotherhood of Railway and Airline Clerks.

The major portion of this hearing will be devoted to testimony from invited witnesses addressing issues relating to illegal or undocumented aliens, enforcement of immigration and labor laws, and relationships with Mexico.

There will also be an "Open Mike" in the evening from 7-9 p.m. available to anyone wishing to address any immigration issue before the Commission. Written statements will be accepted for a period of 7 days following the hearing from people unable to appear in person.

The public is cordially invited to attend both the day and evening discussions.

The Select Commission on Immigration and Refugee Policy was created by public law to provide a comprehensive review of U.S. immigration laws, policies, and procedures. The regional hearings are being held to ensure that a wide range of views are heard and considered by the Commission. Other hearings will be held in Chicago, Denver, Los Angeles, New York, Phoenix, and San Francisco.

Members of the Commission include four Cabinet officers, eight members of Congress with four members selected from each Judiciary Committee, and four members appointed by the President.

Anyone wishing more information about the San Antonio hearing or about testifying at the evening session should contact: Harry Matthews, Select Commission on Immigration and Refugee Policy, New Executive Office Building, Suite 2020, 726 Jackson Place, N.W., Washington, D.C. 20506. Telephone: (202) 395-5615.

Dr. Lawrence H. Fuchs,
Executive Director.

[FR Doc. 79-35898 Filed 11-20-79; 8:45 am]

BILLING CODE 6820-AR-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 17311]

Kansas; Declaration of Disaster Loan Area

The area of Blaine and Walnut Street in the City of Latham, Butler County, Kansas, constitutes a disaster area because of damage resulting from a fire which occurred on October 24, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 10, 1980, and for economic injury until the close of business on August 8, 1980, at: Small Business Administration, District Office,

Main Place Building, 110 East Waterman Street, Wichita, Kansas 67202.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program No. 59002 and 59008)

Dated: November 8, 1979.

Edward Norton,

Acting Administrator.

[FR Doc. 79-35967 Filed 11-20-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1732]

Kansas; Declaration of Disaster Loan Area

Clay, Doniphan, Jackson and Pottawatomie Counties and adjacent counties within the State of Kansas constitute a disaster area as a result of damage caused by hail, wind, rain and tornadoes which occurred on October 18, 19 and 21, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 14, 1980, and for economic injury until the close of business on August 14, 1980, at: Small Business Administration, District Office, Main Place Building, 110 East Waterman Street, Wichita, Kansas, 67202 or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Date: November 12, 1979.

William H. Mauk,

Acting Administrator.

[FR Doc. 79-35896 Filed 11-20-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 10/10-5167]

NEFCO Capital Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by NEFCO Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers, directors and stockholders of the applicant are as follows:

Conway R. Rogers, President, Director, 9003 N.E. 37th Place, Bellevue, Washington 98004

Dennis C. Blackwell, Vice President, Director, General Manager, 3846 Williams West, Seattle, Washington, 98199

Jack J. Caston, Vice President, Loan Officer, 5973 Wilson Avenue S., Seattle, Washington 98118

Stephen A. Druggie, Treasurer, Director, 3247 Magnolia Boulevard W., Seattle, Washington 98199

Evelyn C. Merritt, Secretary, 507 North 169th, Seattle, Washington 98133

New England Fish Company, 4th & Vine Building, Seattle, Washington 98121; 100 Percent Stockholder

The New England Fish Company, applicant's parent, is involved in the catching, processing, distribution and marketing of products from the area.

The applicant, a Washington Corporation, with its principal place of business at Pier 89, Seattle, Washington 98119, will begin operations with \$500,000 of paid-in capital and paid-in surplus derived from the sale of 10,000 shares of common stock.

The applicant will conduct its activities primarily in the States of Washington, Oregon and Alaska.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than December 6, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Seattle, Washington.

¹ There is no individual or company owning ten or more percent of New England Fish Company's common stock.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 15, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-35895 Filed 11-20-79; 8:45 am]

BILLING CODE 8025-01-M

National Security Information; Handling Classified Information

AGENCY: Small Business Administration. ACTION: Notice.

SUMMARY: This Standard Operating Procedure (SOP) establishes the policy of the Small Business Administration regarding the handling of classified material. The Small Business Administration had previously issued procedures pertaining to the handling of classified material in Standard Operating Procedure (SOP) 90-21, Chapter 3. Publication of the revised procedures is required by Executive Order 12065.

EFFECTIVE DATE: November 21, 1979.

FOR FURTHER INFORMATION CONTACT: William W. Bowling, Director, Office of Security and Investigations, Office of the Inspector General, Room 303, 1441 L Street, N.W., Washington, D.C. 20416 (202-653-6355).

SUPPLEMENTARY INFORMATION: Executive Order 12065, 43 FR 28949 (1978), established new policy for classification, safeguarding, and declassification of national security information, i.e., information classified Top Secret, Secret, or Confidential. Under that Order, each agency that handles such information must establish procedures regarding such handling and publish them in the Federal Register. In accordance with that requirement the Small Business Administration is revising SOP 90-21, Chapter 3, to include the new procedures for handling classified information which have been approved by the Information Security Oversight Office, General Services Administration. The revised Chapter 3, SOP 90-21 includes the following:

(1) Statement of policy regarding the Systematic Review Guidelines of the Small Business Administration.

(2) Designation of the Director, Office of Security and Investigations, Office of the Inspector General, to administer the Small Business Administration's information security program; and

(3) Statement of the Small Business Administration's policy regarding the handling of security information.

The Small Business Administration finds that notice and public procedure

are unnecessary under 5 U.S.C. 533(b) because SOP 90-21 concerns only Small Business Administration internal procedures. Accordingly, the Small Business Administration hereby amends SOP 90-21, Chapter 3, to include the new procedures for handling classified information as approved by the Information Security Oversight Office, General Services Administration.

National Security Information

1. Purpose and Scope.
2. Policy.
3. Administration of program.
4. Mandatory review procedures.

1. Purpose and scope

(a) This revision is issued by the Small Business Administration pursuant to the requirement of Section 5-402 of Executive Order 12065, 43 FR 28929 (1978), that unclassified regulations establishing information security policy and unclassified guidelines for systematic declassification review, which affect the public, be published in the Federal Register.

(b) This revision covers all information and material handled by the Small Business Administration that is owned by, produced for or by, or under the control of, the United States Government, has been determined pursuant to the Executive Order of prior Orders to require protection against unauthorized disclosure, and is so designated. Such material is referred to in this part as classified information.

2. Policy

It is the Small Business Administration's policy to act in accordance with Executive Order 12065 with respect to all classified information.

3. Administration of Program

The Director, Office of Security and Investigations, Office of the Inspector General (the "Director"), shall (a) implement and oversee the Small Business Administration's information security program; (b) receive questions, suggestions, and complaints regarding it; (c) make changes to it as he deems advisable; (d) assure that it is at all times consistent with Executive Order 12065; and (e) receive requests for declassification regardless of the origin of the request, assuring that requests are acted upon within 60 days and that requests submitted under the Freedom of Information Act are handled in accordance with the act.

4. Mandatory Review Procedures

The Director shall process requests for mandatory review for declassification.

The Director shall not refuse to confirm the existence or non-existence of a document requested under the Freedom of Information Act or the Mandatory Review Provision of Executive Order 12065, unless the fact of its existence or non-existence would itself be classifiable under Executive Order 12065.

Dated: November 15, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35967 Filed 11-20-79; 8:45 am]
BILLING CODE 8025-01-M

[Delegation of Authority No. 16-A; Amdt. 2]

Redelegation of Minority Small Business and Capital Ownership Development Activities

Delegation of Authority No. 16-A (44 FR 231245) as amended (44 FR 29188) is hereby further amended to reflect a recent organizational change. The Office of Business Development and the Government Contracts Division have been abolished and a new position of Deputy Associate Administrator for Business Development and an office of 8 (a) Contracting established.

Accordingly, Delegation of Authority No. 16-A is amended as follows:

B. Deputy Associate Administrator for Business Development

C. Director, Office of 8(a) Contracting

Effective Date: November 21, 1979.

Dated: November 8, 1979.

Joseph J. Luna,

Acting Associate Administrator for Minority Small Business and Capital Ownership Development.

[FR Doc. 79-35968 Filed 11-20-79; 8:45 am]
BILLING CODE 8025-01-M

Interest Rates

The interest rate on Small Business Administration direct business loans, and the SBA share of immediate participation loans, is 8 1/4 percent for Fiscal Year 1980, effective for applications received by SBA on or after October 9, 1979. The rate for direct Economic Opportunity Loans continued to be 9 1/2 percent for the period from October to December 31, 1979.

On business loans guaranteed by SBA, effective for applications received by SBA on or after September 19, 1979, the maximum rate that may be charged by a participating bank is established at 1/2 percentage point above the minimum New York prime rate (and 1 1/2

percentage points above the minimum New York prime for seasonal line of credit loans) until further notice. The maximum rate for the bank share of immediate participation loans will be 1 percent less than the maximum guaranty rate.

Dated: November 15, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-35968 Filed 11-20-79; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 689]

Bureau of Oceans and International Environmental and Scientific Affairs; Environmental Review Procedures

AGENCY: Department of State.

ACTION: Environmental Review.

SUMMARY: The Department of State has adopted Departmental procedures effective September 4, 1979, to implement the provisions of Executive Order 12114 on Environmental Effects Abroad of Major Federal Actions of January 4, 1979. The procedures enable responsible Departmental officials to be informed of pertinent environmental considerations and to take such considerations into account in authorizing or approving actions encompassed by the Order that may have significant environmental effects outside the United States.

DATE: Comments due by December 21, 1979.

ADDRESS COMMENTS TO: Comments should be addressed to Mr. William H. Mansfield, III, Office of Environment and Health, U.S. Department of State, Room 7820, Washington, D.C. 20520.

SUPPLEMENTARY INFORMATION: On January 4, 1979 the President signed Executive Order 12114 on Environmental Effects Abroad of Major Federal Actions (44 FR 1957). The Executive Order, Section 2-1, states that every Federal agency taking major Federal actions encompassed by the Order and not exempted therefrom having significant effects on the environment outside the geographical borders of the United States and its territories and possessions shall within eight months of the effective date of the Order have in effect procedures to implement the Order. The purpose of the Executive Order is to enable responsible officials of Federal agencies having ultimate responsibility for authorizing and approving actions encompassed by

the Order to be informed of pertinent environmental considerations and to take such considerations into account, with other pertinent considerations of national policy, in making decisions regarding such actions. While based on independent authority, the Order furthers the purpose of the National Environmental Policy Act, the Marine Protection, Research and Sanctuaries Act and the Deepwater Port Act consistent with the foreign policy and national security policy of the United States, and represents the United States Government's exclusive and complete determination of the procedures and other actions to be taken by Federal agencies to further the purpose of the National Environmental Policy Act, with respect to the environment outside the United States, its territories and possessions.

In accordance with Section 2-1 of the Executive Order, the Department of State consulted with the Council on Environmental Quality concerning the procedures.

These new procedures address policy and procedure in order to conform to the spirit and substantive intent of the Executive Order. They affirm and codify the Department of State's policy for achieving the objectives of the Executive Order. The procedures set forth general policy and procedural directives to assist Departmental officers to implement the terms of the Executive Order.

These procedures are applicable to environmental reviews of major Federal actions with significant effects abroad and entered into effect on September 4, 1979. Departmental environmental review of major Federal actions with significant effects within the United States is governed by the National Environmental Policy Act. Proposed Departmental regulations for implementing the National Environmental Policy Act are published in the Proposed Rules section of this issue.

The procedures, issued as Department of State Foreign Affairs Manual Circular No. 807A, September 4, 1979, are set forth below.

Procedures for Implementing Executive Order 12114 (January 4, 1979) on Environmental Effects Abroad of Major Federal Actions

Subpart A—General

1. Purpose

These procedures are designed to provide policy guidance and establish procedures to enable Department of State officers to implement the provisions of Executive Order 12114 on Environmental Effects Abroad of Major Federal Actions, dated January 4, 1979 (44 FR 1957, January 9, 1979).

2. Policy

It is the policy of the Department of State to use all practicable means, consistent with national policy and the Department's authority and available resources to carry out the objectives of the Executive Order and to ensure that environmental effects outside the United States are appropriately identified and considered in the Department's decisions on proposed actions encompassed by the Executive Order.

3. Applicability

These procedures apply to decisions on major Departmental actions which significantly affect the quality of the environment outside the United States, its territories and possessions, including the environment of the global commons areas, areas outside the jurisdiction of any nation, such as Antarctica, or the environment of foreign nations.

4. Right of Action

These procedures are solely for the purpose of establishing internal procedures for the Department of State to employ in considering significant environmental effects outside the United States of Departmental actions covered by the Executive Order. Nothing in these procedures shall be construed to create a cause of action.

5. Definitions

As used in these procedures, the term:

a. "Responsible action officer" means the Department officer principally responsible for the preparation of action memoranda and other documents relating to a given Departmental action governed by these regulations. Ordinarily, the responsible action officer will be the country or office director whose office has action responsibility for a given action.

b. "United States" means all states, territories and possessions of the United States and all waters and airspace subject to the jurisdiction of the United States.

c. "Global commons" means areas outside the jurisdiction of any nation, such as the oceans or Antarctica.

d. "Environment" means the natural and physical environment and excludes social, economic and other environments; an action "significantly affects" the environment if it does significant harm to the environment even though on balance the agency believes the action to be beneficial to the environment.

Subpart B—Departmental Environmental Review Process

1. Responsibilities of Departmental Officials

As a general rule, responsibility for preparing environmental documents will follow the Department's standard organization practices. The officials responsible for making decisions on proposed actions will be accountable for assuring that environmental documents are prepared in accordance with these procedures.

a. Departmental bureaus having action responsibility for a given action are responsible for implementing these procedures and incorporating the environmental documents into their decisionmaking, and for:

(1) Identifying those of their actions which significantly affect environment abroad and

assuring the necessary environmental review is undertaken and documentation prepared.

(2) Coordinating and working with the Office of Environment and Health to implement these procedures.

b. The Bureau of Oceans and International Environmental and Scientific Affairs will be responsible for the Department's implementation of Executive Order 12114 and implementation of these procedures, and for:

(1) Assisting other bureaus in implementing these procedures by providing policy and professional direction, guidance and scientific advice and assisting in furnishing budgetary resources and technical expertise for preparing environmental documentation.

(2) Ensuring the adequacy of environmental documents prepared and approving, as provided in these procedures, appropriate modification in the contents, timing and availability of environmental documents.

(3) Establishing and maintaining working relationships with other agencies, organizations and the public necessary to assist the Department in complying with these procedures.

c. The Office of the Legal Adviser, principally through the Office of the Assistant Legal Adviser for Oceans and International Environmental and Scientific Affairs, will be responsible for reviewing and concurring in the adequacy of Departmental implementation of these procedures and for providing advice and assistance on the legal aspects of Department implementation of the procedures.

d. Departmental Committee of Environmental Coordinators is comprised of representatives of bureaus and offices and is responsible for assisting in the coordination of Departmental implementation of these procedures.

2. Review to Determine Whether to Prepare an Environmental Document

In reviewing proposed Departmental actions for environmental effects abroad the responsible action officer will use the following process. The officer shall initiate the environmental review process early and coordinate with other bureaus and appropriate Federal and other agencies as may be necessary.

a. Actions Calling for Environmental Review

Early in considering a possible major Departmental action, the responsible action officer shall evaluate the action to determine if it is likely to cause significant environmental effects abroad and thus may be subject to environmental review. A notation reflecting this review shall be made in conjunction with all requests under the Department's Circular 175 procedure (11 FAM 720), with all actions involving the obligation of funds within the Department's annual or supplemental budget submissions to the Office of Management and Budget, and with other actions when a potentially significant environmental impact may result. The responsible action officer shall ensure that the principal action memoranda prepared for such actions properly reflect the environmental review in all cases. No written statement is required in the case of actions which are categorically excluded under SUBPART B, paragraph 2b(1). The

environmental evaluation document prepared should be considered along with political, economic and other decision-making factors relating to the proposed action.

The proposed action shall be reviewed initially to determine whether it falls into any of the four basic categories of actions and environmental effects abroad, described in Section 2-3 of the Executive Order, which call for environmental review.

These actions and effects are as follows:

(1) Major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica).

(2) Major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action.

(3) Major Federal actions significantly affecting the environment of a foreign nation which provide to that nation:

(i) a product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk; or

(ii) a physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

(4) Major Federal actions outside the United States, which significantly affect natural or ecological resources of global importance designated for protection under Section 2-3(d) of the Executive Order by the President, or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State.

These procedures do not apply to nuclear export activities of Federal agencies. See Unified Procedures Applicable to Major Federal Actions Relating to Nuclear Activities Subject to Executive Order 12114.

An illustrative list of products, emissions, and effluents encompassed or not encompassed by Subpart B, paragraph 2a(3)(i) is provided at Appendix A.

This initial evaluation should also be used to determine whether the proposed action may have significant environmental effects within the United States. If it is determined that such effects may occur, the responsible action officer shall also review the proposed action in accordance with the Department's regulations for implementation of the National Environmental Policy Act (NEPA) (22 CFR 161, Subchapter Q, issuance pending).

b. Actions Excluded or Exempted From Review.

If the responsible action officer finds that the proposed action falls within the scope of subsection a. above he shall then determine whether it is categorically excluded or exempted from review under the procedures on any of the following grounds:

(1) Actions Normally Categorically Excluded From Review

The first category is that of actions normally excluded from environmental review under the Executive Order and these procedures. Such actions are those which as

a class the Department has determined are not likely to have significant adverse effects on the quality of the environment within the meaning of the Executive Order. If an action is categorically excluded, the responsible action officer need not conduct any further environmental review.

Actions which have been categorically excluded are listed in Appendix B. Additions to or deletions from this list may be made by the Assistant Secretary for Oceans and International Environmental and Scientific Affairs, and shall become effective upon publication in the Federal Register.

Even though an action may be categorically excluded from the need for environmental review, if information developed during the planning for the action indicates the possibility that the action may cause significant adverse environmental effects, the environmental effects of the action shall be reviewed to determine the need for the preparation of an environmental document.

(2) Actions Falling Within Executive Order Exemptions

If the proposed action is not categorically excluded the responsible action officer shall evaluate it to determine if it falls under any of the exemptions outlined in Sections 2-5 (a) and (c) of the Executive Order.

Exemptions under subparagraph (i) below are within the discretion of the responsible action officer and shall be employed only when there is no serious question of significant environmental impact from the proposed action. The principal action memorandum shall reflect this determination. Even though an action may have been exempted under subparagraph (i), if information developed during the planning for the action indicates the possibility that the action will cause significant environmental effects, the environmental effects of the action shall be reviewed to determine the need for the preparation of an environmental document.

The responsible action officer shall, with the concurrence of the Office of Environment and Health and the Office of the Legal Adviser, note in the Principal action memorandum relating to a proposed action, or in a separate memorandum, any exemption of a proposed action from environmental review under subparagraphs (ii) through (viii) below. Exemptions under subparagraphs (iii) or (viii) shall, in addition, require the approval of a Department officer of Deputy Assistant Secretary rank or above. In utilizing exemptions under subparagraph (viii), the Department shall, as soon as feasible, consult with the Council on Environmental Quality.

The exemptions are as follows:

(i) actions not having a significant effect on the environment outside the United States as determined by the Department.

(ii) actions taken by the President.

(iii) actions taken by or pursuant to the direction of the President or Cabinet officer when the national security or interest is involved or when the action occurs in the course of an armed conflict.

(iv) intelligence activities and arms transfers.

(v) export licenses or permits or export approvals, and actions relating to nuclear

activities except actions providing to a foreign nation a nuclear production or utilization facility as defined in the Atomic Energy Act of 1974, as amended, or a nuclear waste management facility.

(vi) votes and other actions in international conferences and organizations.

(vii) disaster and emergency relief action.

(viii) actions that may be necessary to meet emergency circumstances situations involving exceptional foreign policy and national security sensitivities and other such special circumstances.

c. Review for Potentially Significant Environmental Effects Abroad.

If the proposed action falls within the scope of Subpart B, paragraph 2a, and is not excluded or exempted from environmental review under Subpart B, paragraph 2b, the responsible action officer shall review it to determine if the action will cause a significant effect on the environment of the global commons, any other area outside the jurisdiction of any nation, or a foreign nation.

The responsible action officer shall make his review concurrently with his general planning and review of the proposed action. In reviewing for potential effects abroad he should consider potential direct effects on the natural and physical environment, including soil, air, water and natural resources, which may be caused by the action and occur at the same time and place. He should also consider reasonably foreseeable significant indirect effects on the natural and physical environment potentially caused by the action but occurring later in time.

In reviewing for significance of the potential effects on the environment he should consider whether the action:

(1) Adversely affects public health and safety through the environment;

(2) Is environmentally controversial;

(3) Has highly uncertain environmental effects;

(4) Involves unique or unknown environmental risks; or,

(5) Together with other actions the effects of any one of which are individually insignificant, will have cumulatively significant environmental effects.

d. Actions Without Potentially Significant Environmental Effects.

If, having made a preliminary analysis for significant effects, the responsible action officer concludes that the proposed action is not expected to cause significant harmful environmental effects within the meaning of Subpart A, paragraph 5d, he shall with concurrence of the Office of Environment and Health so state in the principal action memorandum or a separate memorandum. No further environmental review of the action will then be necessary.

e. Actions With Potentially Significant Environmental Effects.

If, having made a preliminary analysis for significant effects, the responsible action officer concludes that the proposed action will cause significant environmental effects within the meaning of Subpart A, paragraph 5d, he shall prepare an environmental document—an environmental impact statement, a concise environmental review or a bilateral and multilateral study, as appropriate—in accordance with section 2-4

of the Executive Order and Subpart B, paragraph 3c, of these procedures. The responsible action officer shall with concurrence of the Office of Environment and Health state the conclusions of any such environmental document in the principal action memorandum or a separate memorandum, and shall attach the environmental document to the principal action memorandum. He shall ensure that the environmental document is prepared as early as feasible and to the extent possible concurrently with the other planning relating to the proposed action.

3. Preparing the Environmental Document

a. Coordinating Preparation.

When it is determined that an environmental document is to be prepared, the responsible action officer shall inform the Office of Environment and Health and shall cooperate with it and other bureaus, as necessary, to prepare the document.

To avoid duplication of effort and to gain maximum relevant expertise in the preparation of environmental reviews, Departmental officers should, where appropriate, encourage the participation of other agencies having relevant environmental jurisdiction or expertise, and, as necessary, private individuals in the preparation of environment documents under these procedures.

Early efforts will be made to determine which Federal agency should serve as lead agency in preparation of an environmental document. In making this decision, the magnitude, duration and sequence of agency involvement, the locus of project approval or disapproval authority and the amount of expertise concerning the action's environmental effects will be considered.

b. Planning the Preparation of the Environmental Document.

If it is decided that the Department will prepare the environmental document, the responsible action officer, with the cooperation of the Office of Environment and Health and the Office of the Legal Adviser, shall conduct an early meeting to define the significant considerations and issues that should be addressed in the environmental document.

c. Content of the Environmental Document.

The format and content of each document must be appropriate to the action under consideration. The significant adverse environmental effects of actions described in Subpart B, paragraph 2a(1) of these procedures shall be reviewed through preparation of environmental impact statements. The significant adverse environmental effects of actions described in Subparts B, paragraph 2a(2), (3) and (4) shall be reviewed either through preparation or use of a bilateral or multilateral environmental study or through preparation of a concise environmental review.

(1) Environmental Impact Statement.

If it is determined that an environmental impact statement shall be prepared, the responsible action officer shall to the extent possible and consistent with these procedures, follow the procedures for preparing such statements contained in the Department's regulations for implementing

the National Environmental Policy Act (22 CFR 161, Subchapter Q, issuance pending). Such statements will be concise and analytical so as to permit an informed consideration of the significant environmental effects of the proposed action and the reasonable alternatives.

If an environmental impact statement (including a generic statement) has been prepared involving analysis of environmental effects or issues directly relevant to the effects or issues involved in the proposed action, a new environmental impact statement need not be prepared under these procedures.

(2) Bilateral or Multilateral Environmental Studies.

A bilateral or multilateral environmental study is a study by the United States and one or more foreign nations or by an international body or organization in which the United States is a member or participant. To be used for the purposes of these procedures the study should deal with the environmental issues of the proposed action being considered. While the exact content of the document may vary, the study should normally include a brief discussion of the action proposed and of the anticipated environmental impacts as well as possible measures that could be taken to mitigate harmful environmental effects.

(3) Concise Environmental Review.

A concise environmental review considers the key environmental issues and effects involved in an action. The review shall be prepared by the responsible action officer in cooperation with other Departmental officers, and, as necessary and appropriate, other Federal agencies. The review may be prepared in any format useful for facilitating planning and decisionmaking. The review should normally include the same basic elements as those defined for bilateral and multilateral studies above. If an environmental review or bilateral or multilateral environmental study (including a generic review or study) has been prepared involving analysis of environmental effects or issues directly relevant to the effects or issues involved in the proposed action, a new environmental review or study for the proposed action need not be prepared under these procedures.

d. Modifications of Environmental Documents.

In order to ensure the proper and efficient conduct of foreign affairs, modifications in the contents, timing and availability to other affected Federal agencies and affected nations of environmental documents prepared in accordance with these procedures may be made to:

(1) Enable the Department to decide and act promptly as and when required;

(2) Avoid adverse impacts on foreign relations or infringement in fact or appearance of other nations' sovereign responsibilities; or

(3) Ensure appropriate reflection of:

(i) Diplomatic factors;

(ii) International commercial, competitive and export promotion factors;

(iii) Needs for governmental or commercial confidentiality;

(iv) National security considerations;

(v) Difficulties of obtaining information and Department ability to analyze meaningfully environmental effects of a proposed action; and

(vi) The degree to which the Department is involved in or able to affect a decision to be made.

Such modifications may be made only with the concurrence of the Office of Environment and Health and the Office of the Legal Adviser and the written approval of a Department officer of Deputy Assistant Secretary rank or above.

e. Revision and Supplementing of Environmental Documents.

The responsible action officer shall revise or supplement an environmental document if before the final decision is taken on the proposed action which may have significant environmental effects or if there are significant new circumstances or information relevant to environmental effects which may have a bearing on the proposed action.

f. Cooperation and Coordination With Other Countries and International Organizations.

The Department will cooperate with other countries and with international organizations, as appropriate, in preparing environmental documentation. The responsible action officer will consider when it may be appropriate to seek cooperation and to exchange information for preparation of environmental documents. In accordance with Section 2-4(d) of the Executive Order he will determine when an affected nation shall be informed in accordance with Sections 2-5(b) and 3-2 of the availability of environmental documents prepared pursuant to these procedures. He will consult with the Office of Environment and Health before making any such contacts. The Department will coordinate communication between other U.S. agencies and foreign governments and international organizations concerning these procedures. The appropriate action bureau or office, with the concurrence of the Office of Environment and Health, will coordinate these contacts as appropriate.

g. Obtaining Outside Technical Assistance.

Qualified technical agency personnel or outside contractors may be used to assist the Department in preparing environmental analysis documents as called for under these procedures. Responsible action officers shall work with the Office of Environment and Health to arrange for such additional technical assistance.

h. Generic and Programmatic Environmental Documents.

Before preparing an environmental document under these procedures the responsible action officer should inquire from the Office of Environment and Health to determine if a generic or programmatic environmental document exists analyzing similar actions effects or issues. A generic environmental analysis reviews the environmental effects that are generic or common to a class of Departmental actions which may not be specific to any single country or area. Where such a document is prepared under these procedures it could be applied to a number of similar specific country applications. If a generic document exists and if it deals with relevant similarities

in the action, such as common timing, environmental impacts, alternatives, methods of implementation or subject matter it will not be necessary to prepare further environmental documentation.

A programmatic environmental document would be relevant to environmental aspects of a broad element of a program. If a programmatic environmental document has already been prepared the responsible action officer should determine to what extent it deals with the particular action under review. If the programmatic document adequately reviews the environmental impacts then additional environmental documentation need not be prepared under these procedures. In preparing environmental documents on a specific action, the responsible action officer shall consider the advisability of modifying or expanding the documents so they may serve as generic or programmatic documents for a broader range of actions.

1. Classified Material.

Departmental environmental documents should not normally contain classified or administratively controlled material. In some cases, however, documents may not adequately evaluate environmental effects without including such materials or may relate to proposed actions which are themselves classified. In such cases Departmental environmental documents or portions thereof may be classified in accordance with the criteria set forth in Executive Order 12065, dated December 1, 1978. Such material should, if possible, be confined to a classified annex of the environmental document. Approval for classification must be granted with the concurrence of the Assistant Secretary for Oceans and International Environmental and Scientific Affairs and the Office of the Legal Adviser and the assistant secretary of the bureau considering the proposed action. In these cases, handling and disclosure of classified or administratively controlled material shall be governed by 22 CFR Part 9 *et seq.* The portions of an environmental document which are not classified or administratively controlled may be made available to persons outside the Department, as provided in 22 CFR Part 9.

4. Use of the Environmental Document in Departmental Decisionmaking

Departmental officers responsible for decisionmaking on a particular action shall ensure that the environmental documentation called for in these procedures is prepared early in the decisionmaking when it will be most valuable in formulating, reviewing and deciding upon proposals for Departmental action.

In order that any environmental effects of a proposed action may be considered by Departmental decisionmakers the responsible action officer shall ensure that the relevant environmental document is among the documents on which Departmental decisionmaking on a proposed action is based. An environmental document prepared in conjunction with conclusion of an international agreement shall, where possible, be prepared and considered before final negotiations begin. The completed environmental document should thus

ordinarily accompany the principal action memorandum or request for authority to negotiate an agreement under the Department's Circular 175 procedure (11 FAM 720). Documents developed under these procedures will be filed with the action bureau or office, the Office of Environment and Health and other interested bureaus.

5. Notification of the Availability of Environmental Documents

As appropriate and upon completion of an environmental document prepared under these procedures the Office of Environment and Health shall inform other interested Federal agencies and foreign governments of the availability of the document.

Attachments:

Appendix A—Illustrative List of Toxic Substances

Appendix B—Categorical Exclusions

Appendix A—Illustrative List of Toxic Substances

I. Illustrative list of principal products, emissions or effluents produced by physical projects subject to the procedures set forth in Subpart B.

Asbestos, vinyl chloride, acrylonitrile, isocyanates, polychlorinated biphenyls, pesticides, mercury, beryllium, arsenic, cadmium, and benzene.

II. Illustrative list of principal products, emissions or effluents produced by physical projects not subject to the procedures set forth in Subpart B.

Chlorine, caustic soda, ammonia, sulphuric acid, phosphoric acid, nitric acid, sulfur dioxide, nitrogen oxides, sulfate, and sulfite liquors.

Appendix B—Categorical Exclusions

Executive Order 12114 provides for the Department to exclude from environmental review specified actions which as a class the Department has determined are not likely to have significant effects on the quality of the environment within the meaning of the Executive Order (see Subpart B, paragraph 2b(1) of these procedures). Departmental actions categorically excluded from the requirements of these procedures include the following:

(1) Routine conduct of Departmental and overseas political and economic functions, including reporting on political and economic developments, trends and activities, communicating to host governments United States Government views, maintaining contact with foreign officials and individuals, and facilitating trade opportunities abroad and U.S. business expansion in foreign markets;

(2) Provision of consular services—visas, passports and citizenship and special consular services, such as issuing or reviewing passports and

visas, taking legal depositions, notarizing absentee ballots and other documents and delivering retirement checks, social security payments and veterans benefits;

(3) Conduct of routine administrative functions, such as budget and finance, personnel and general services. This includes routine administrative procurements (e.g., general supplies, negotiating leases for office space or staff housing, ordering supplies and arranging for customs clearances); financial transactions, including salaries, expenses and grants; routine management, formulation and allocation of the Department's budget at all levels (this does not exempt the preparation of environmental documents for proposals included in the Department's budget when required; and personnel actions (e.g., promotions, hirings, and counseling American and host country employees who work for the Department of State);

(4) Preparing for and participating in conferences, workshops or meetings for information exchange, data collection or research or study activities; and

(5) Document and information exchanges.

Dated: October 29, 1979.

Leslie H. Brown,
Acting Assistant Secretary for Oceans and International Environmental and Scientific Affairs.

[FR Doc. 79-35944 Filed 11-22-79; 8:45 am]
BILLING CODE 4710-09-M

[CM-8/246]

International Radio Consultative Committee (CCIR); Study Group 1 of the U.S. Organization; Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on Thursday, December 13, 1979, in Conference Room B841, Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C., at 9:30 a.m.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to review preparations for the international meeting of Study Group 1 in 1980.

Members of the general public may attend the meeting and join in the

discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: November 13, 1979.

Gordon L. Huffcutt,
Chairman, U.S. CCIR National Committee.

[FR Doc. 79-35911 Filed 11-20-79; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 80-1]

Advisory Committee on Explosives Tagging; Renewal of Advisory Committee Charter

Pursuant to the Federal Advisory Committee Act (Pub. Law 92-463), the Director of the Bureau of Alcohol, Tobacco and Firearms announces the renewal of the charter of the Advisory Committee on Explosives Tagging. The Technical Subcommittee to the Advisory Committee on Explosives Tagging was abolished in December 1978, in keeping with the President's objective of reducing the number of committees in the Federal Government. In order that the technological knowledge developed over the past 5 years was not lost, the members of the Technical Subcommittee were incorporated into the full Advisory Committee as advisory members on science and technology matters.

Purpose. The Advisory Committee is strictly advisory in nature and its purpose is to provide recommendations on the research and development of explosives detection and identification systems, and the industrial, environmental, and law enforcement requirements of such systems. Through the Committee, the Director, Bureau of Alcohol, Tobacco and Firearms, obtains informed advice on issues pertinent to technological advances which impact public safety and enforcement of Federal laws and regulations governing the manufacture, importation, distribution, and storage of explosive materials. The Advisory Committee, whose members represent government agencies with mission responsibilities involving explosive detection and identification, private industry, law enforcement, industrial security, and the academic community, also serves as an

excellent forum for the exchange of technical information and the coordination of research activities, thereby reducing the possibility of unnecessary duplication of effort.

Statement of Public Interest. The problem of detection and identification of explosives which are used illegally is of vital concern to law enforcement and public safety agencies, as well as to the general public. The disturbing number of deaths and injuries and the millions of dollars in property damage and other costs to society which result from the illegal use of explosives emphasize the need for a coordinated effort to develop technology to combat this problem. In the development of such new technology, the Director must seek the views, expertise, and requirements of interested government agencies, private associations, the industry, and the scientific community.

By deciding to continue the Advisory Committee, the Director recognizes the importance of maintaining the forum which the Committee provides for mutual cooperation among interested agencies to avoid duplication of effort in the area of explosives control. The Committee has resulted in a productive exchange of technical information not only within the United States, but also with interested foreign governments.

The Committee has made significant contributions in developing an operational capability for tagging certain classes of explosives for identification. The members' advice and guidance will continue to be extremely valuable toward achieving the more difficult technical objectives of pre-detonation detection of explosives and post-detonation identification of explosive materials.

Based on the technical nature of the problems associated with explosives control, the accomplishments of the program to date stimulated by the recommendations of the Committee, and the fact that no other committee or single government agency exists that could carry on these important activities, the continuation of the Advisory Committee on Explosives Tagging is found to be in the interest of the American public.

Signed: October 12, 1979.

G. R. Dickerson,

Director.

[FR Doc. 79-36052 Filed 11-20-79; 8:45 am]

BILLING CODE 4810-31-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperatives; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: November 16, 1979.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

Complete Legal Name of Cooperative
Association or Federation of Cooperative Associations: K & G Transport Inc.,
Principal Mailing Address (Street No., City, State, and ZIP Code): P.O. Box 494, Carlstadt, NJ 07072.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State, and ZIP Code): 31-90 Stienway St., Astoria, Long Island, NY 11103.

Person To Whom Inquiries and Correspondence Should be addressed (Name and Mailing Address): Teresa Giglia, P.O. Box 494, Carlstadt, NJ 07072.

Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Knouse Foods Cooperative, Inc.

Principal Mailing Address (Street No., City, State, and ZIP Code): Peach Glen, PA 17306.

Where Are Records of Your Motor Transportation Maintained (Street No., City, State and ZIP Code): Peach Glen, PA 17306.

Person To Whom Inquiries and Correspondence Should Be Addressed

(Name and Mailing Address): William H. Horner, Peach Glen, PA 17306.

Agatha L. Mergenovich
Secretary.

[FR Doc. 79-35889 Filed 11-20-79; 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Application for Relief

November 16, 1979

This application for long-and-short-haul relief has been filed with the I.C.C. Protests are due at the I.C.C. on or before December 21, 1979.

FSA No. 43769, Southwestern Freight Bureau, Agent No. B-31, sand, gravel and related articles, in carloads between stations in Southwestern and Southern Territories in Supp. 59 to its Tariff ICC SWFB 4319, effective December 10, 1979. Grounds for relief—need for increased revenue.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-35889 Filed 11-20-79; 8:45 am]
BILLING CODE 7035-01-M

[Directed Service Order No. 1398; Supplemental Order No. 9]

Kansas City Terminal Railway Co. Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: November 14, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979).

This Supplemental Order is being issued to amend the portion of DSO No. 1398 dealing with maintenance and rehabilitation of RI lines and related facilities. See DSO No. 1398, 360 I.C.C. at 303 [44 FR 56348, 1st column]. At present, the Directed Service Order requires the DRC to obtain prior Commission approval for rehabilitation of lines and related facilities which costs more than \$5,000 per mile. DSO No. 1398 classifies this as "substantial" rehabilitation. The DRC is authorized to perform "minor" rehabilitation of less than \$5,000 without prior Commission approval. The DRC has submitted a request that DSO No. 1398 be modified to redefine "minor" line rehabilitation so as to permit rehabilitation, without prior

Commission approval, on track segments that do not exceed an average of \$10,000 per mile. See "DRC Report No. 7."

The DRC seeks this modification of the definition of "minor" rehabilitation to lines and related facilities on the following grounds: (1) the present definition of "minor" rehabilitation is unreasonably low and seriously interferes with the ability of the DRC to conduct normal railroad operations and normal track maintenance; (2) FRA has granted some conditional waivers from Class I Standards which impose operating restrictions on the DRC over these lines and increase the expense of directed-service; and (3) the purpose of most "minor" repairs is to bring the track segment into compliance with FRA Track Safety Standards, or to prevent a track segment from becoming not in compliance with the standards.

The "minor" rehabilitation of \$5,000 per mile means the DRC can rehabilitate the track if the cost of materials and labor does not exceed \$5,000. Since labor costs are already being paid for track maintenance, we believe an upper limit of \$7,500 per mile for materials only to be a more realistic gauge of "minor" or normal track maintenance costs. Further, the \$7,500 per mile figure should be based on an average cost per mile for any given track segment.

Accordingly, we shall amend the first criterion in the definition of "minor" line rehabilitation to read as follows:

360 I.C.C. 289, at 303 [44 FR 56348, 1st column] change item (1) under the heading "Minor Rehabilitation" to read as follows: "(1) would cost less than an average of \$7,500 (for materials) per mile."

Moreover, since the thirtieth day of the directed-service period (November 4, 1979) is rapidly approaching, we shall also modify the definition of "minor" line rehabilitation to provide simply that such rehabilitation be capable of being performed within the 60-day directed service period (which ends December 4, 1979). Accordingly, we shall amend the second and third criteria in the definition of "minor" line rehabilitation to read as follows:

360 I.C.C. 289, at 303 [44 FR 56348, 1st column] Delete item (3) under the heading "Minor Rehabilitation" and change item (2) to read as follows: "(2) can be completed within the initial 60-day directed-service period."

We find: (1) This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106, 1108 (1979).

It is ordered: (1) DSO No. 1398 is modified to the extent indicated above.

(2) This decision shall be effective on its service date.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Trantum, whom Commissioner Gresham joins, dissenting. Commissioner Alexis dissenting. Vice Chairman Stafford not participating.

Agatha L. Mergenovich,
Secretary.

Commissioner Trantum, whom Commissioner Gresham joins, dissenting:

Authorization of expenditures for rehabilitation that may not be completed until the 60th day of directed service presupposes an extension beyond December 4. At this time the Commission is still analyzing which Rock Island lines meet the "essentiality" test for continued directed service (see the original directed service order, 360 ICC 289, 294). I therefore cannot approve the revision of items (2) and (3) in the definition of "minor" rehabilitation.

It may be that a limit of \$5,000 per mile "is unreasonably low and seriously interferes with the ability of the DRC to conduct normal railroad operations and normal track maintenance." But under a 60-day directed service order, neither operations nor maintenance can be conducted as if everything were "normal." Directed service provides a brief period during which all interested parties should be planning for significant change, not patching up the status quo. The KCT management group should not take excessive advantage of government funds to upgrade facilities that some members may benefit from at a later date if liquidation occurs. I am opposed to an increase in the \$5,000 per mile limit.

On the general issue of offsetting all rehabilitation expenditures against equipment rents owed to the Rock Island's trustee, I strongly support such conditions. Government funds should not be used to upgrade facilities or equipment for the benefit of the Rock Island estate or other carriers that may ultimately purchase assets from the Rock Island. Correspondingly, we should not expect the trustee to forego claims for the use of Rock Island properties merely because public funds were spent on maintenance and rehabilitation.

Commissioner Alexis, dissenting:

I do not concur with the Chairman's circulated memorandums. I vote to impose the offset requirement for all sums expended beyond those set forth in the original directed service order. In addition, I would like to receive and accounting of all sums the Commission has agreed to pay over and above those set forth in the original directed service order and for all sums due from the Government for the lease of its equipment. These accountings should include the most current figures available and an estimate of the total cost to the Government for the current 60-day directed service period.

I also occur with the sentiments expressed by Commissioners Gresham and Trantum.

[FR Doc. 79-35891 Filed 11-20-79; 8:45 am]
BILLING CODE 7035-01-M

[Directed Service Order No. 1398; Supplemental Order No. 11]

Kansas City Terminal Railway Co. Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: November 14, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. § 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979) and 44 FR 56343 (October 1, 1979).

This Supplemental Order is being issued to clarify the process for handling any force reductions involving RI employees represented by the Brotherhood of Railway and Airline Clerks (BRAC).

In a letter dated October 1, 1979, Acting Chairman Stafford clarified the force reduction procedures for BRAC-represented employees. As was stated in paragraph 1 of that letter:

(1) "With respect to any force reduction thereafter and before any job abolishment notices, the Kansas City Terminal (KCT) must meet with the Brotherhood of Railway and Airline Clerks (BRAC) and representatives of the Department of Transportation (DOT), the National Mediation Board (NMB), Department of Labor (DOL), and Interstate Commerce Commission (ICC) and provide substantial evidence to show the need for such reduction. BRAC shall have the opportunity to rebut such evidence and the decision of DOT, NMB, DOL, and ICC shall be final.

A majority of the Commission adopted Acting Chairman Stafford's letter in Supplemental Order No. 2 (decided and served October 3, 1979) [44 FR 58581, Oct. 10, 1979].

KCT and BRAC do not see the continued need for the kind of governmental involvement contemplated by Acting Chairman Stafford's letter. Rather, they believe that any future force reductions involving RI employees represented by BRAC can best be handled by reliance on collective bargaining agreements and KCT/BRAC negotiations.

Accordingly, KCT and BRAC have requested that we replace the quoted language in Acting Chairman's letter with the following language:

The directed rail carrier shall guarantee employees represented by BRAC who were not in a furloughed status on August 27, 1979, earnings at least equal to their July 1979

earnings, adjusted to reflect current rates of pay, offset by railroad earnings including vacation pay, time off of their own volition, and any unemployment benefits to which he or she is entitled, through the remainder of the period of the initial directed service order. For any month at the end of the directed service period in which less than a full month is worked, such earnings shall be calculated on a *pro rata* basis.

We believe the requested modification is in the best interest of the public, the parties involved, and the continued provision of directed service. Moreover, we note that the requested modification will bring BRAC force reductions into line with the approach we have taken regarding force reductions involving RI employees represented by the United Transportation Union (UTU) and Brotherhood of Locomotive Engineers (BLE). See Chairman O'Neal's letter (dated October 29, 1979) to Messrs. Hardin (UTU), Sytsma (BLE) and Coe (KCT).

We find: (1) This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

It is ordered: (1) Acting Chairman Stafford's letter of October 1, 1979, is modified to the extent indicated above.

(2) This decision shall be effective on its service date.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Gresham concurring. Commissioner Trantum dissenting. Vice Chairman Stafford not participating.

Agatha L. Mergenovich,
Secretary.

Commissioner Trantum, dissenting:

If directed service is extended beyond 60 days, the government should retain a role in the furlough process in order to minimize the excess costs of directed service.

[FR Doc. 79-35890 Filed 11-20-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized

representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 198, November 1, 1979

MC 52704 (Sub-247TA), filed October 9, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345.

Containers, container ends and container closures, from the facilities of Chattanooga Glass Company at or near Gulfport, MS to points in NC and SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chattanooga Glass Company, 400 West 45th Street, Chattanooga, TN 37410. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 105045 (Sub-122 TA), filed September 28, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Avenue, Evansville, IN 47731. Representative: George H. Veech (same address as applicant). Iron and steel articles and pollution control equipment from the facilities of Shelby Fabricators, Inc. at or near Vincent, AL, Shelby County to Alumax Aluminum Co. located at Goose Creek SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shelby Steel Fabricators, Inc., P.O. Drawer G, Vincent, AL 35178. Send protests to:

Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 106674 (Sub-432TA), filed September 21, 1979. Applicant: SCHILLI MOTOR LINES, INC., U.S. Highway 24 West, P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as Applicant). (1) *Furniture parts (2) materials equipment and supplies used in the manufacture of furniture parts* (1) from Carthage, and Springfield, MO to Mason, OH; Winchester, KY; Rensselaer, IN; Delano, PA; Social Circle, GA; Atlanta, GA; Litchfield, MI and Nicholasville, KY (2) from Kansas City, MO to Nicholasville, KY for 180 days. (1) and (2) are restricted to traffic originating at or destined to the facilities of Leggett & Platt, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leggett Platt, Inc., Carthage, MO 64836. Send protest to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 106674 (Sub-433TA), filed October 4, 1979. Applicant: SCHILLI MOTOR LINES, INC., U.S. Highway 24 West, P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as Applicant). *Fabricated sheet metal products, fabricated plastic products, heating and air conditioning systems and equipment, materials and supplies used in the installation thereof* from the facilities of Acme Manufacturing Company, located at or near Medina, NY, on the one hand, and, on the other, points in the United States in and east of MS, TN, KY, IL, and WI for 180 days. Restricted to the transportation of shipments originating at or destined to the facilities of Acme Manufacturing Company at or near Medina, NY. Supporting shipper(s): Acme Manufacturing Company, 7500 State Road, Philadelphia, PA 19136. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 East Ohio St., Indianapolis, IN 46204.

MC 106674 (Sub-428TA), filed August 6, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Iron and steel articles*, from Newport and Wilder, KY to OH, IL, IN and points in MO and IA east of State Highway #63 for 180 days. Supporting shipper: Interlake, Inc., 9th and Lowell Streets, Newport, KY 41072. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 106674 (Sub-429TA), filed September 10, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Glass containers and closures thereof*, from Mundelein, IL to points in TN and VA for 180 days. Supporting shipper: Ball Corporation, 34 South High Street, Muncie, IN 47302. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 106674 (Sub-430TA), filed July 20, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, US Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Petroleum coke, in bulk*, from the facilities of International Minerals and Chemical Corporation at Joliet, IL to Manistee, MI, for 180 days. Supporting Shipper: International Minerals & Chemical Corp., 421 E. Hawley St., Mundelein, IL 60060. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 106674 (Sub-431TA), filed August 24, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Roofing and roofing materials*, from the plantsite of the Celotex Corporation at Lockland, OH to points and places in IL for 180 days. Supporting shipper: The Celotex Corporation, Div. of Jim Walter Corporation, 1500 N. Dale Mabry, Tampa, FL 33622. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 107295 (Sub-942TA), filed September 24, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: DUANE ZEHR (same address as applicant). *Composition board*, from Adrian, MI and Constantine, MI, to points in the United States (except AK and HA) for 180 days. Supporting Shipper(s): Simplex Industries, Inc., Simplex Products Corporation, 3000 W. Beecher Road, Adrian, MI 49221. Send protests to: Annie Booker, T/A, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 107515 (Sub-1291TA), filed October 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Marc A. Pearl, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. *Intravenous solutions, and commodities used in the*

application of intravenous solutions from the facilities of Travenol Laboratories, at or near Memphis, TN to Atlanta, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Travenol Laboratories, Inc., 1 Baxter Parkway, Deerfield, IL 60015. Send protests to: ICC, Sara K. Davis, T/A, 1252 W. Peachtree St. N.W., Room 300, Atlanta, GA 30309.

MC 107515 (Sub-1289 TA), filed August 24, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby and Marc A. Pearl, 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Unfrozen prepared foods* from facilities of Alex XLNT Foods, Vernon, CA to points in NC, SC, FL, GA, TN, AL and AR for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Alex XLNT Foods, 2750 East 50th, Vernon, CA 90058. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, Ga 30309.

MC 107515 (Sub-1290 TA), filed September 7, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. (1) *Commodities dealt in or used by wholesale and retail grocery stores and toy stores* (a) between the facilities of Wetterau Incorporated and its subsidiaries located at or near Keene, NH, Reading, PA, Charleston, SC, Lexington, KY, Greenville, KY, Scott City, MO, Mexico, MO, Hazelwood, MO, Bloomington, IN, Desloge, MO, and Schuylkill Haven, PA and (b) from points in the US (except AK and HI) to the facilities named in (a) above and (2) *Bakery products* from the facilities of Wetterau Incorporated and its subsidiaries located at or near Atlanta, GA and Hazelwood, MO to points in the US (except AK and HI) and (3) *Refused, rejected and returned merchandise moving in the reverse directions* for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wetterau Incorporated, 8920 Pershall, Hazelwood, MO 63042. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 112304 (Sub-212 TA), filed September 7, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Concrete cylinder pipe* from the facilities of Gifford-Hill American, at or near Grand Prairie, TX

to Newark, AR and points within a 20-mile radius thereof for 180 days. Supporting Shipper(s): Gifford-Hill American, 1004 Meyers Rd., P.O. Box 1571, Grand Prairie, TX 75051. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Bldg., 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 113024 (Sub-164 TA), filed September 24, 1979. Applicant: ARLINGTON J. WILLIAMS, 1398 S. DuPont Highway, Smyrna DE 19977. Representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, DC 20005. *Contract carrier: Irregular routes: General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Compton, CA; Herrin and Rock Island, IL; Eldora, IA; Springfield, MO; Alliance and McCook, NE; Dover NJ; Hayward County, NC; Kingstree, Walterboro and Wiliston, SC; Olney, TX, and Richmond, VA; Marion County, FL; on the one hand, and, on the other, points on and east of Mississippi River and points in MO, NE, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dayco Corp., 333 W. 1st St., Dayton, OH 45402. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St. Rm. 620, Phila, PA 19106.

MC 113434 (Sub-146TA), filed October 1, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A-5253 144th Avenue, Holland, MI 49423. Representative: Roger Van Wyk, A-5253 144th Avenue, Holland, MI 49423. (1) *Glass containers and accessories therefore*; (2) *Pallets & rejected shipments*; (1) from the facilities of Glenshaw Glass Company at or near Glenshaw, PA to WI; (2) from WI to the facilities of Glenshaw Glass Company at or near Glenshaw, PA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glenshaw Glass Company, Inc., 1101 Wm. Flinn Hwy., Glenshaw, PA 15116. Send protests to: C. R. Flemming, D/S, ICC, 501 Corr Building, Lansing, MI 48933.

MC 113434 (Sub-147TA), filed August 30, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A5253 144th Avenue, Holland, MI 49423. Representative: Roger Van Wyk, A6253 144th Avenue, Holland, MI 49423. (1) *Glass containers and accessories*; (2) *Refused and rejected shipments of glass containers and accessories*; (1) from Gurnee, IL to South Haven, Battle Creek, Eaton Rapids and Detroit, MI. (2) from South Haven, Battle Creek, Eaton Rapids, MI and Detroit, MI to Gurnee, IL. For 180

days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anchor Hocking Corp., 109 North Broad Street, Lancaster, OH 43130. Send protests to: C. R. Flemming, D/S, ICC, 201 Corr Building, 300 East Michigan Avenue, Lansing, MI 48933.

MC 113784 (Sub-91TA), filed October 17, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario, Canada L8L 7X7. Representative: Douglas R. Gowland, President (address same as above). *Ilmenite Ore in dump type vehicles*, from the International Boundary between the United States and Canada located at MI to points in MI and IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nuclear Shielding Supplies & Service, 2545 Delorimier, Longueuil, Quebec, Canada J4K 3P8. Send protests to: R. H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 113784 (Sub-92TA), filed October 11, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton Ontario Canada L8L 4M1. Representative: Douglas R. Gowland, President (address same as above). *Hydraulic Building Cement*, between ports of entry in the United States on the US/Canada border located in New York and points in ME, VT, NH, MA, CT, RI, NJ, MD, DE, WV, and VA, for 180 days. Supporting shipper(s): Federal White Cement, Box 548, Woodstock, Ontario, Canada, Send protests to: R. H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 114045 (Sub-551TA), filed September 12, 1979. Applicant: TRANSCOLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart, P.O. Box 61228, Dallas, TX 75261. *Rust preventive compounds, cleaning compounds, misc. metalworking chemicals*, in containers, in vehicles equipped with mechanical refrigeration, from Warren, MI to the States of CO, IL, IA, KY, OH, and WI for 180 days. Supporting shipper(s): Amchem Products, Div. of Union Carbide Co., Brookside Ave., Ambler, PA 19002. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 114334 (Sub-68TA), filed September 27, 1979. Applicant: BUILDERS TRANSPORTATION CO., 3710 Tulane Street, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis, TN 38103. *Aluminum ingots and aluminum metals*, from Gum Springs and Jones Mills, AR to Lister Hill, AL, for 180 days.

An underlying ETA seeks 90 days authority. Supporting shipper(s): Reynolds Metals Company, P.O. Box 128, Malvern, AR 72104. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 114604 (Sub-84TA), filed October 9, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. *Frozen foodstuffs* (except in bulk), from the facilities of Southern Frozen Foods, Division of Seabrook Foods, Inc., at or near Montezuma, GA, to points in DC, IL, IN, KY, LA, MS, MD, OH, TX, VA, WV, TN (except Chattanooga, TN), and, points in that part of FL south of Levy, Marion, Putnam, and Flagler Counties, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Frozen Foods, Inc., P.O. Box 306, Montezuma, GA 31063. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Room 300, Atlanta, GA 30309.

MC 114604 (Sub-85TA), filed October 2, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. *Foodstuffs* (except in bulk), in temperature controlled vehicles, from the facilities of J. H. Filbert, Inc., at or near Atlanta, GA, and Fulton, Clayton, DeKalb, Cobb, and Douglas Counties, GA to points in AL, FL, KY, LA, MS, NC, SC, TN, TX, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. H. Filbert, Inc., 3701 Southwestern Blvd., Baltimore, MD 21229. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW, Room 300, Atlanta, GA 30309.

MC 114725 (Sub-107TA), filed October 4, 1979. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: Donald F. Swerczek (same address as applicant). *Methanol alcohol, in bulk, in tank vehicles* from Pampa, TX to Omaha, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nashua Corporation, Richard K. Samson, Materials Manager, 3838 So. 108 St., Omaha, NE 68144. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 115554 (Sub-21TA), filed October 9, 1979. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 89B, R.R. 6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 62028, Lincoln, NE 68501. (1) *Agricultural and industrial*

pesticides and chemicals (except commodities in bulk, in tank vehicles), and empty containers, from the facilities of Imperial, Inc. at or near Albert Lea, MN to points in the U.S. (except AK and HI); and (2) Materials and supplies used in the packaging, processing, formulating, production, blending and storage of the commodities in (1) above (except commodities in bulk, in tank vehicles), from the destinations named in (1) above, to the facilities of Imperial, Inc., at or near Albert Lea, MN for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Imperial, Inc., Shenandoah, IA 51601. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 116254 (Sub-291TA), filed October 11, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: M. D. Miller (address same as applicant). *Aluminum and aluminum articles and materials, equipment and supplies used in the manufacture of aluminum and aluminum articles*, between the facilities of Reynolds Metals Company located at Eastman, GA; on the one hand, and, on the other, points and places in MN, IA, MO, AR, LA, MS, AL, TN, KY, IL, IN, OH, WI, MI, GA, SC, NC, FL, VA, WV, MD, DE, NJ, PA, NY, DC, and TX, for 180 days. Supporting Shipper(s): Reynold Metals Company, P.O. Box 27003, Richmond, VA 23261. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 116544 (Sub-182TA), filed October 11, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: R. G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Furniture, materials, equipment and supplies used in the manufacture of furniture*, between the facilities of Gerber Industries, Inc., at St. Peters, MO, on the one hand, and, on the other, Dunn High Point and Tarboro, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Gerber Industries, Inc., #1 Gerber Industrial Dr., St. Peters, MO 63376. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 116915 (Sub-102TA), filed October 3, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. No. 1, Box 248, Rockport, IN 47835. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. *Aluminum and aluminum articles between the facilities of Taber Metal, Inc. at or Russellville, AR, on the one hand, and, on the other, points in the U.S. for 180*

days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Material Corporation, Tang Inds., Inc., CTM, 2525 Arthur Ave., Elk Grove Village, IL 60007. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 117765 (Sub-270TA), filed September 13, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Beverages, non-alcoholic, in containers*, from Harahan, LA, to OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Canada Dry, Midsouth, 272 Plauche St., Harahan, LA 70183. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 117765 (Sub-272TA), filed October 18, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, Oklahoma City, OK 73147. Representative: R. E. Hagan 1100 S. MacArthur, Oklahoma City, OK 73147. *Flour, Corn Meal, Bird Seed, Popcorn, Feed and Feed Ingredients* (except in bulk) From Shawnee, OK to TX. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shawnee Milling Company, Box 1567, Shawnee, OK 74801. Send protests to: Connie Stanley, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 117765 (Sub-273TA), filed October 16, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, Oklahoma City, OK 73147. Representative: R. E. Hagan, 1100 S. MacArthur, Oklahoma City, OK 73147. (1) *Petroleum and Petroleum products*, in containers, and (2) *Advertising Materials*. Articles distributed by wholesale or retail suppliers, marketers, or distributors of Petroleum Products, and such commodities as are used by wholesale or retail suppliers, marketers, or distributors of petroleum products in the conduct of their businesses, when moving in mixed loads with the commodities described in (1) above from the facilities of Champlin Petroleum Company, Tulsa, OK, To. IL, IN, IA, KS, MI, MN, MO, NE, ND, SD, and WI, for 180 days. Supporting shipper(s): Champlin Petroleum Company, P.O. Box 552, Enid, Oklahoma 73701. Send protests to: Connie Stanley, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119634 (Sub-42TA), filed September 25, 1979. Applicant: DICK IRVIN, INC., P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole (same as applicant). *Agricultural chemicals* from Midland, MI, Omaha,

NE and Kansas City, MO to Portland and Umatilla, OR, Lewiston, Caldwell and Twin Falls, ID, Minot, ND and points in MT, WA and WY; and from Lewiston and Caldwell, ID, Fresno, CA, Portland, OR and Henderson, NV to Minot, ND and points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wilbur Ellis Company, P.O. Box 1627, Great Falls, MT 59401. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 119654 (Sub-76TA), filed April 11, 1979. Applicant: HI-WAY DISPATCH, INC., 1401 West 28th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Glass Containers*, from Charlotte, MI to OH, IN, IL and the commercial zone of St. Louis, MO for 180 days. Supporting shipper: Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 120675 (Sub-9TA), filed September 5, 1979. Applicant: ACME TRUCK LINE, INC., P.O. Box 143, Harvey, LA 70059. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78767. *Oil Well fracturing proppant* from New Iberia, LA to Rock Springs, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Carborundum—A corporation, Star Rt. B, Box 390 C, New Iberia, LA 70560. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 121664 (Sub-93TA), filed October 5, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36480. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35203. *Cement*, from the facilities of Marquette Cement Co., in Nashville and Cowan, TN to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, OH, SC, VA, and TN. From Marquette Cement Co., in Memphis, TN to points in AL, AR, KY, LA, MO, IL, MS, and TN, for 180 days. Supporting Shipper(s): The Marquette Co., A Wholly-Owned Subsidiary of G & W Ind., 2200 First American Center, Nashville, TN 37238. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 121664 (Sub-95TA), filed October 8, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36480. Representative: William E. Grant, 1702 First Avenue South, Birmingham, AL 35233. *Steel tubing and steel articles* from Tallapoosa, GA to points in AL, MS, LA, TX, AR, FL and

TN, for 180 days. Supporting shipper(s): Atlantic Building Systems, Inc., 3169 Holcomb Bridge Road, Norcross, GA. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 123744 (Sub-63TA), filed October 1, 1979. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 866 11th St., N.W., Washington, DC 20001. *Such commodities as are dealt in or used by agricultural equipment manufacturers and dealers thereof* (except commodities in bulk) from Canton and East Moline, IL, to points in WV, PA, NY, NJ, MA, CT, DE, MD, VA, NC, SC, GA, NH, VT, RI and ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Harvester Co., 401 N. Michigan Ave., Chicago, IL 60611. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 124154 (Sub-91TA), filed October 2, 1979. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Chemicals (except in bulk)*, between points in NM and LA. Restricted to the transportation of traffic handled for the account of ATCO Chemical Co., for 180 days. Supporting shipper(s): ATCO Chemical Co., 4207 Raymond, Shreveport, LA 71108. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124154 (Sub-92TA), filed October 18, 1979. Applicant: WINGATE TRUCKING COMPANY, INC., P.O. Box 645, Albany, GA 31702. Representative: W. D. Wingate (address same as applicant). *Agricultural chemicals, materials, supplies and equipment used in their manufacture* between points in McIntosh, AL and Leland, MS on the one hand, and on the other, points in AL, AR, CA, IL, IN, IA, KS, MI, MN, MO, NE, NY, OH, OK, OR, WA, WI, TN, KY, and PA, for 180 days. Supporting shipper(s): Olin Corporation, P.O. Box 991, Little Rock, AR. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124174 (Sub-157TA), filed September 21, 1979. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137.

Representative: Karl E. Momen (same address as applicant). (A) *Electric Cable* from Omaha, NE to points in CT, MA, and RI and (B) *Communications or telephone equipment, materials, supplies and such articles as are useful or incidental to the installation, erection*

and maintenance thereof between Omaha, NE and Suffern, NY for 180 days. Restriction: Traffic is restricted to originate at or destined to the facilities of Western Electric Co. Supporting shipper(s): Western Electric, A.C. Dodge, Resident Transportation Supervisor, 120th & "T" Street, Omaha, NE 68114. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 124174 (Sub-158TA), filed September 21, 1979. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momen (same address as applicant). *Composition board* from the facilities of United States Gypsum Co. at Lisbon Falls, ME to points in AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, Russell S. Hancock, Traffic Manager, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 124174 (Sub-159TA), filed October 2, 1979. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momen (same address as applicant). *Containers (empty) for chemicals* from Omaha, NE and Council Bluffs, IA to Sioux Falls, SD and St. Paul, MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Walling Chemical Company, R.A. Walling, President, P.O. Box 408, 2008 Westport Avenue, Sioux Falls, SD 57101. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 124835 (Sub-22TA), filed August 9, 1979. Applicant: PRODUCERS TRANSPORT COMPANY, P.O. Box 4022, Chattanooga, TN 37405.

Representative: Sam Speer (same address as applicant). *Commodities in bulk*, from the facilities of Transbulk, Inc. at or near Memphis, TN to points in AL, AR, KY, LA, MS and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Transbulk, Inc., 4646 Poplar Suite 407, Memphis, TN 38117. Hercules Incorporated, 3169 Holcomb Bridge Rd., Suite 700, Norcross, GA 30071. Send protests to: Glenda Kuss, T/A, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 124964 (Sub-50 TA), filed October 9, 1979. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 265, Tavares, FL 32778. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier, irregular routes, transporting foodstuffs,*

as dealt in by retail, wholesale, chain grocery, and food houses, from Lakeland, FL, to points in IL, MI, NJ, NY, OH, and PA for 180 days. Under a continuing contract or contracts with Borden Foods, Division of Borden, Inc., Columbus, OH. An underlying ETA seeks 90 days authority. Supporting Shippers(s): Borden Foods, Division of Borden, Inc., 180 E. Broad Street, Columbus, OH 43215. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 125335 (Sub-85 TA), filed September 10, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs (except frozen foods and commodities in bulk)* from the facilities of Vlasic Foods, Inc. at Greenville, MS to points in FL, TN, GA, AL, and KY for 180 days. An underlying ETA seeks 90 authority. Supporting Shipper(s): Vlasic Foods, Inc., 33200 W. 14 Mile Rd., West Bloomfield, MI 48033. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Bldg., 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 125985 (Sub-33 TA), filed September 17, 1979. Applicant: AUTO DRIVEWAY COMPANY, 310 South Michigan Avenue, Chicago, Illinois 60604. Representative: Mr. RON I. FREDRIKSEN (same address as applicant). *Step vans of 1½ ton GVW in secondary movements in driveway service*, from Cook County, IL, to San Mateo, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Monarch Laundry, 140 West 111th Street, Chicago, Illinois 60628. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn, Room 1386, Chicago, IL 60604.

MC 126305 (Sub-129 TA), filed September 25, 1979. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD 1, Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Bladstone, NJ 07934. *Grain bins, augers, fans, heaters, and other related items; from the facilities of Conrad-American, Inc., Eufaula, AL, to points in AL, GA, SC, NC, VA, FL, LA, MS, TN, KY, and AR. And equipment, material, and supplies used in the manufacture of the above named items* from points in AL, GA, SC, NC, VA, FL, LA, MS, TN, KY, and AR, to the facilities of Conrad-American, Inc., Eufaula, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Conrad-American, Inc., P.O. Box 2, Eufaula, AL 36027. Send protests to: Mabel E. Holston, T/A, ICC, Room

1616—2121 Building, Birmingham, AL 35203.

MC 126555 (Sub-71TA), filed October 4, 1979. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, SD 57709. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. *Soda ash* from Sweetwater County, WY to Golden, CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Coors Container Company, Golden, CO 80401. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 126555 (Sub-72TA), filed October 15, 1979. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, SD 57709. Representative: Galen R. Meek (same address as applicant). *Diesel fuel and gasoline* from Denver, CO to Imperial, Lamar and Naigler, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zimmerman Oil, P.O. Box 369, Greeley, CO 80632. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 127745 (Sub-7TA), filed September 18, 1979. Applicant: GEORGE B. KING, d.b.a. KING TRANSFER, 714 Pearl Street, Onawa, IA 51040. Representative: Robert A. Wichser, P.O. Box 417, Sioux City, IA 51102. (1) *Farm machinery, implements and equipment* from Onawa and Smithland, IA to points in CO, IL, IN, IA, MI, MN, MO, MT, ND, SD, WA and WI; and (2) *Materials, supplies and equipment used in the manufacture, sale and distribution of farm machinery, implements and equipment* from the destination states specified in (1) above to the name origin points for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westendorf Manufacturing Company, Neal W. Westendorf, President, Onawa, IA 41040. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 128115 (Sub-2TA), filed October 15, 1979. Applicant: KEITH EMHOFF, d.b.a. EMHOFF TRUCKING, Route 1, Sheffield, IA 50475. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. Contract carrier—Irrregular Routes. *Liquid fertilizer, in bulk*, from Mason City, Clear Lake, Des Moines, and Clinton, IA, to points in MN and WI, under continuing contract(s) with Land O'Lakes, Inc., Fort Dodge, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Land O'Lakes, Inc., Fort Dodge, IA 50501. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 128285 (Sub-16TA), filed October 17, 1979. Applicant: MELLOW TRUCK EXPRESS, INC., 9801 N. Vancouver Way, Portland, OR 97217. Representative: Peter H. Glade and Dennis H. Elliott, Suite 555, One Columbia, Portland, OR 97258. Contract, irregular, feed, feed ingredients, and fertilizer (except liquid commodities in bulk) from points in CA, to points in OR and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Occidental Chemical Co., 8700 SW 26th, Portland, OR 97219. Send protests to: D. Merine Galbraith, T/A, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 133095 (Sub-273TA), filed September 14, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Ron Duncan, P.O. Box 434, Euless, TX 76039. *Synthetic resin granules* from the facilities utilized by Ren Plastics, at or near Grand Prairie, TX to points in the United States, for 180 days. Supporting Shipper(s): Ren Plastics, 1205 Avenue H East, Grand Prairie, TX 75050. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133314 (Sub-6TA), filed September 20, 1979. Applicant: SILVAN TRUCKING COMPANY, INC., RR 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. *Vegetables and/or fruit puree, canned or pressured, except commodities in bulk* from the warehouse facilities of The Larsen Company in Chicago, IL to points in IN, OH, PA, the lower peninsula of MI and Louisville, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Larsen Company, P.O. Box 1127, 520 North Broadway, Green Bay, WI 54305. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 133565 (Sub-16TA), filed October 22, 1979. Applicant: TRUE TRANSPORT INC., 15 Stockton Street, P.O. Box 829, Newark, NJ 07101. Representative: Leamon McCoy, P.O. Box 829, Newark, NJ 07101. 1. General commodities, (except those of unusual value, Class A & B explosives, and household goods), in containers or trailers restricted to traffic having a prior or subsequent movement by water. 2. Empty trailers, containers and container chassis, over irregular routes. Between points in the commercial zones of New York, NY, Philadelphia, PA and Baltimore, MD, on

the one hand, and, on the other, points and places in that part of PA on and west of a line beginning at the PA-NY state borderline, at or near Lawrenceville, PA, and extending along U.S. Highway 15 to junction U.S. Highway 11 at or near Camp Hill, PA, then along U.S. Hwy 11 to the PA-MD state borderline, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are nine (9) supporting shippers on file at the Newark, NJ and Washington, D.C. offices. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 133655 (Sub-185TA), Filed October 15, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Carpet, carpet padding, and materials and supplies* used in the installation thereof from Philadelphia, PA; Camden, NJ; and Trenton, NJ to points in TX, AR, LA, and OK, for 180 days. Supporting shipper(s): General Felt Industries, Inc., Part 80 Plaza West-One, Saddle Brook, NJ 07662. Send protests to: Marianne Minnich, Rm 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133655 (Sub-186TA), filed September 13, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Such commodities as are sold, distributed, and dealt in by retail and wholesale, drug, grocery, and department stores* from the facilities of Colgate-Palmolive Company located at or near Kansas City, KS to points in OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Colgate-Palmolive Company, 1806 Kansas Ave., Kansas City, KS 66105. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133805 (Sub-35TA), filed September 26, 1979. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Such commodities as are dealt in or used by Allied Stores Marketing Corporation* from New York, NY and North Bergen, NJ to the facilities utilized by Allied Stores Marketing Corporation in Miami and Tampa, FL and Dallas, Houston, and San Antonio, TX and the commercial zone of each named point for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Allied Stores Marketing Corporation, 1114

Avenue of the Americas, New York, NY 10036. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133805 (Sub-36TA), filed October 10, 1979. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Gerald Ragle, 9632 Palo Pinto Road, Fort Worth, TX 76476. (A) *Rubber articles, plastic articles and rubber materials and (B) equipment, materials and supplies used in the manufacturing and distribution of Commodities in (A)* from the facilities of Entek Corporation of America at or near Irving, TX on the one hand, and on the other, points in the US except ID, MT, ND, SD, AK, & HI for 180 days. Supporting shipper(s): Entek Corporation of America, P.O. Box 61048, Dallas, TX 75261. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134064 (Sub-29TA), filed September 8, 1979. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30501. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Foodstuff (except in bulk)* from the facilities of C. F. Mueller Company at or near Jersey City, NJ to points in NC, SC, GA and FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. F. Mueller Company, 180 Baldwin Avenue, Jersey City, NJ 07306. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA.

MC 134064 (Sub-30TA), filed September 19, 1979. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30501. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Paper, in rolls, pulpboard, non-corrugated, newsprint, and paper wastes, in bales, except in bulk, between Carrollton, GA; St. Marys, GA; Atlanta, GA; and points in their commercial zones on the one hand, and, on the other, points in ME, NH, MA, CT, RI, NY, NJ, PA, DE, MD, VA, WV, NC, SC, TN, FL, AL, OH, MI, IN, KY, IL, MS, AR, LA, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dixie Converting Corp., P.O. Box 1446, Carrollton, GA 30117. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.*

MC 134105 (Sub-67TA), filed October 4, 1979. Applicant: CELERYVALE TRANSPORT, INC., 208 East 28th St., Chattanooga, TN 37410. Representative: Daniel O. Hands, Suite 200, 205 West

Touhy Ave., Park Ridge, IL 60068. *Meat, meat products, meat-by-products and articles distributed by meat packing houses (except hides and commodities in bulk)*, from the facilities of Illini Beef Packers, Inc. at Joslin, IL to points in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Illini Beef Packers, Inc., P.O. Box 245, Geneseo, IL 61254. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 134134 (Sub-50TA), filed September 24, 1979. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, Omaha, NE 68107. Representative: James F. Crosby, I-80 and Hwy. 50, P.O. Box 37205, Omaha, NE 68137. *Aluminum sheet, coils, foil and scrap* from the facilities of Aluminum Company of America at Lebanon, PA to points in IL, IN, IA, KY, MI, MO, NE, OH, TN and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aluminum Company of America, James W. Lyle, Supervisor, Rate Research, 1501 Alcoa Building, Pittsburgh, PA 15219. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 134405 (Sub-87TA), filed August 29, 1979. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Sand, in bulk, in tank vehicles*, from Bossier City, LA, to points in Camp, Cass, Gregg, Harrison, Marion, Morris, Nacagdoches, Panola, Rusk, Shelby, Smith, St. Augustine, Upshur, Van Zandt, and Wood Counties, TX, for 180 days. Supporting Shipper(s): Dowell Division of Dow Chemical Company, P.O. Box 21, Tulsa, OK 74102. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134405 (Sub-88TA), filed August 29, 1979. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Proppant, in bulk, in tank vehicles*, from New Iberia, LA, to points in AR, CO, KS, LA, MS, MT, MN, OK, TX, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Halliburton Services a Division of Halliburton Company, Box 1431, Duncan, OK 73533. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134484 (Sub-26TA), filed September 26, 1979. Applicant: EDWARDS BROS., INC., P.O. Box 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Meat, frozen in boxes*, from Los Angeles, CA to Seattle, WA and points in its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Landmark Beef Processors, Inc., 3161 E. Vernon Ave., Los Angeles, CA 90058. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Bosie, ID 83702.

MC 134574 (Sub-1TA), filed September 27, 1979. Applicant: FIGOL DISTRIBUTORS LIMITED, P.O. Box 6296, Station "C", Edmonton, AB, Canada T5B 4K6. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. *Meat, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from Billings, MT and points within five miles thereof, to ports of entry on the International Boundary line between the U.S. and Canada located in ND, MT, ID and WA and to points in AZ, CA, ID, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pierce Packing Company, P.O. Box 30177, Billings, MT 59107. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 134954 (Sub-5TA), filed September 27, 1979. Applicant: INTERNATIONAL PRODUCTS CORP., 402 North Sixth Street, P.O. Box 1158, Chickasha, OK 73018. Representative: Rufus H. Lawson, Attorney, 2753 Northwest 22nd Street, Oklahoma City, OK 73107. *Contract Carrier: Irregular Route: Fertilizer, dry, in bulk, or in bags*, from Pasadena, TX, to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Smith-Douglas, Division of Borden Chemicals, Borden, Inc., P.O. Box 419, Norfolk, VA 23501. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 135605 (Sub-7TA), filed September 24, 1979. Applicant: WILKINSON TRANSPORT, INC., P.O. Box 25, Barton, AR 72312. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Bldg., Memphis, TN 38103. *Foodstuffs, except meat, meat products, meat by-products, not frozen and except commodities in bulk*, from the facilities of Vlasic Foods Inc. at (1) Millsboro, DE to WV, PA, MD, NY and NJ; and (2) Greenville, MS to AR, LA, OK, TX, TN,

AL and GA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Vlastic Foods, Inc., 33200 W. 14 Mile Road, West Bloomfield, MI 48033. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135605 (Sub-8TA), filed September 24, 1979. Applicant: WILKINSON TRANSPORT, INC., P.O. Box 25, Barton, AR 72312. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Bldg., Memphis, TN 38103. *Agricultural fertilizers, chemicals and products, supplies and raw materials* used in the manufacture, distribution and sale thereof (except in bulk) between all points in CA, AL, AR, DE, FL, GA, LA, MD, MS, NC, NJ, NY, OK, PA, SC, TN, TX, VA, WV, AZ, NM, MO, IA, MI and KS, for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Helena Chemical Company, 5100 Poplar Ave., Memphis, TN 38137. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135654 (Sub-10TA), filed September 10, 1979. Applicant: J. M. HANEY TRUCKING CO., INC., 4754 Mahoning Ave., Youngstown, OH 44515. Representative: Gilbert J. Green, 4101 W. 42nd Place, Chicago, IL 60632. *Contract; irregular; Automotive parts, equipment and supplies; machinery parts viz: mufflers, internal combustion engine; and tubing straight steel, welded, except commodities in bulk, in tank vehicles* between the facilities of Midas International Corp. at Chicago, IL and all points and places in the states of: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY for 180 days. Supporting Shipper(s): Midas International Corp., 4101 W. 42nd Place, Chicago, IL 60632. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Bldg., 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 135895 (Sub-60TA), filed October 15, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Sta., Jackson, MS 39204. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. *Wire and wire products, and fence and fencing material* between the facilities of Bekaert Steel Wire Corp. located at or near Van Buren, AR, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, MO, NC, OK, SC, TN and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bekaert Steel Wire Corp., P.O. Box 668, Van Buren, AR 72956. Send protests to:

Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 136644 (Sub-11TA), filed October 4, 1979. Applicant: WESTERN DRYWALL TRANSPORT, INC., d.b.a. WESTERN DIRECT TRANSPORT, 2001 Broadway, Vallejo, CA 94590. Representative: Ronald D. Davis, President (same address as applicant) PH: (707) 552-8777. *Contract carrier, irregular routes; (1) gypsum board paper* from Stockton, CA to points in Clark County, NV; and (2) *Gypsum wallboard, accessories and materials used in installation of same*, from points in Clark County, NV to points in Sacramento County, CA, for 180 days. Supporting shipper(s): Pacific Coast Building Products, 3001 "I" Street, Sacramento, CA 95816. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 136635 (Sub-92TA), filed September 20, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same as above). *General commodities (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment* from Los Angeles, CA, and its commercial zone to points in AL, MS, FL, GA, TN, KY, NC, SC, LA, and VA, restricted to the transportation of traffic originating at the facilities of Streamline Shippers Association, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Streamline Shippers Association, P.O. Box 3606, Terminal Annex, Los Angeles, CA 90051. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm CC516, Charlotte, NC 28205.

Notice No. 201

November 6, 1979.

MC 2934 (Sub-46 TA), Filed August 30, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beatley, Suite 1000, 130 R. Washington St., Indianapolis, IN 46204. *Kitchen cabinets, furniture, vanities, household fixtures and related articles*, (1) from the facilities of Triangle Pacific Corporation at or near Union City, IN to points and places in the states of CT, DE, ME, MD, MA, NH, NJ, NY, PA and (2) from the facilities of Excel Wood Products, at or near Lakewood, NJ and Sheloyville, IN to points and places in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Triangle Pacific

Corporation, 4255 LBJ Freeway, Dallas, TX 75234 and Excel Wood Products, PO Box 619, Lakewood, NJ 08701. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 14314 (Sub-35 TA), Filed September 21, 1979. Applicant: DUFF TRUCK LINE INC., P.O. Box 359, Broadway & Vine Streets, Lima, OH 45802. Representative: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 E. State Street, Columbus, OH 43215. *Common; regular: General commodities*, Except those of unusual value, Classes A and B explosives, commodities in bulk, and those requiring special equipment, serving Hopkinsville, KY and points in its commercial zone as an off-route point in connection with carrier's otherwise authorized regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Carrier intends to tack and interline at Louisville, KY, Evansville, IN, St. Louis, MO, Detroit and Pontiac, MI, Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Lima, Mansfield and Toledo, OH. Supporting shipper(s): Faultless Division, Bliss & Laughlin Industries, 120 Faultless Road, Hopkinsville, KY 42240. USM Corporation, Bailey Division, Bradshaw Road, Hopkinsville, KY 42240. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th., Phila., PA-19106, Room 620.

MC 31675 (Sub-28 TA), filed September 27, 1979. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Garland V. Moore, P.O. Box 34303, Charlotte, NC 28234. *Boards, building, wall or insulation and materials and supplies used in the insulation thereof (except commodities in bulk)* from the facilities of Armstrong Cork Company at or near Marietta, Pa., to Points in AR, IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, TX, OK and WI, for 180 days. Supporting shipper(s) Armstrong Cork Company, P.O. Box 3001, Lancaster, PA 17604. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm CC516, Charlotte, NC 28205.

MC 31675 (27 TA), filed September 27, 1979. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Garland V. Moore, P.O. Box 34303, Charlotte, NC 28234. *Boards, building, wall or insulating and materials and supplies used in the insulation thereof (except commodities in bulk)* from the facilities of Armstrong Cork Company at or near Marietta, PA to points in AL, FL, GA, KY, LA, MS and TN, for 180 days. Supporting shipper(s) Armstrong Cork Company, P.O. Box 3001, Lancaster, PA 17604.

Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm CC516, Charlotte, NC 28205.

MC 52704 (Sub-248TA), filed October 5, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Metal containers, container ends and closures*, from the facilities of Crown Cork and Seal, Inc. in Atlanta, GA to Knoxville, Chattanooga and Nashville, TN; to Mullins and Columbia, SC and to Birmingham, AL; and (2) *tinplate and materials, equipment and supplies used in the manufacture and distribution of metal containers, container ends and closures* from Knoxville, Chattanooga and Nashville, TN, Columbia, Mullins and Spartanburg, SC, and Birmingham, AL to the facilities of Crown Cork and Seal Company, Inc. in Atlanta, GA, for 180 days. Supporting shipper(s): Crown Cork and Seal Company, Inc., 125 Ottley Drive, Atlanta, GA 30324. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 53965 (Sub-165TA), filed September 27, 1979. Applicant: GRAVES TRUCK LINE, INC., P.O. Drawer 1387, Salina, KS 67401. Representative: Bruce A. Bullock (same as above). *Common carrier: Irregular. General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment* between Tulsa, OK and Dallas, TX, from Tulsa over US Hwy 75 to junction Indian National Turnpike, then over Indian National Turnpike to junction US Hwy 69, then over US Hwy 69 to junction US Hwy 75, then over US Hwy 75 to Dallas, and return over the same route, serving their respective commercial zones, serving no intermediate points, and serving Ft. Worth, TX and its commercial zone as an off-route point, for 180 days. An underlying ETA seeks 90 days authority. Applicant requests authority to interline at Dallas, TX and Tulsa, OK. 37 supporting shippers. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 58035 (Sub-24TA), filed August 29, 1979. Applicant: TRANS-WESTERN EXPRESS, INC., 48 E. 58th Avenue, Denver, CO 80216. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. (1) *Household electric appliances and equipment; oral hygiene appliances and equipment; hydrotherapy equipment; sink and*

shower fixtures; smoke alarms; food processing machines; and filters; (2) materials, equipment and supplies used in manufacture and distribution of commodities named in (1) above, between the facilities of Teledyne Water Pik at points in Larimer County, CO, on the one hand, and, on the other, points in SC and NC for 180 days. An underlying ETA seeks authority for 90 days. Applicant requests authority to interline with other carriers. Supporting shipper(s): Teledyne Water Pik, 1730 E. Prospect, Fort Collins, CO 80525. Send protests to: District Supervisor R. L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 59655 (Sub-33TA), filed October 26, 1979. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: George A. Olsen, POB 357, Gladstone, NJ 07934. *Containers*, from Wharton, NJ, to Milton, NY; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hudson Valley Apple Products Co., POB 808, South Road, Milton, NY 12547. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 66124 (Sub-9TA), filed August 10, 1979. Applicant: PACIFIC NORTHWEST MOTOR FREIGHT LINES, INC., 600 South Edmunds, Seattle, WA 98108. Representative: L. H. Doolittle, (same as above). *General commodities (except Classes A and B explosives)*, between Tacoma, WA and Portland, OR, including intermediate point of Longview, WA and the off-route points of Aberdeen-Hoquiam, WA; and between Port Townsend and Seattle, WA, restricted to containerized freight having a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority with authority it presently holds in MC-66124. Supporting shipper(s): Keer Steamship Company, Inc., 1001 Fourth Ave, Seattle, WA 98154, Matson Agencies, Inc., Pacific Bldg., 720 34d, Seattle, WA 98104, Morflot Freightliners, Inc., 801 Second Ave., Seattle, WA 98104. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 67234 (Sub-25TA), filed October 26, 1979. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. (1) *Materials, parts and supplies used in the manufacture of computer power systems* from Minneapolis and St. Paul, MN and

Oshkosh, WI to ports of entry on the boundary between the US and Canada in MI and NY; and (2) *computer power systems* from ports of entry on the boundary between the US and Canada in MI and NY to points in Sullivan and Washington Counties, TN, Hennepin and Ramsey Counties, MN, Cerro Gordo County, IA, Santa Clara and Orange County, CA, Salt Lake City County, UT, Cook County, IL and Winnebago County, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sperry-Univac, 2276 Highcrest Dr., Roseville, MN 55113. Send protests to: Peter E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 102764 (Sub-10TA), filed September 28, 1979. Applicant: A.B.C., Inc., 24 Plymouth Road, North Providence, RI 02940. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Common carrier: regular route: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, between Providence, RI and Boston, MA serving all intermediate points between Providence, RI and Boston, MA, from Providence, RI over U.S. Hwy 1 to the RI/MA State Line, then over U.S. Hwy 1 to Boston, MA, and return over the same route; between Providence, RI and Boston, MA serving all intermediate points between Providence, RI and Boston, MA, from Providence, RI over U.S. Hwy 1 to the RI/MA State Line, then over U.S. Hwy 1 to Attleboro, MA to the junction of U.S. Hwy 1A, then over U.S. Hwy 1A to Dedham, MA to the junction of U.S. Hwy 1, then over U.S. Hwy 1 to Boston, MA and return over the same route; between Providence, RI and Boston, MA serving all intermediate points between Providence, RI and Boston, MA, from Providence, RI over U.S. Hwy 1 to the RI/MA State Line, then over U.S. Hwy 1 to Dedham, MA to junction of Hwy 128, then over Hwy 128 to junction of the Southeast Expressway to Boston, MA and return over the same route; between Providence, RI and Boston, MA serving all intermediate points between Providence, RI and Boston, MA, from Providence, RI over U.S. Hwy 1 to the RI/MA State Line, then over U.S. Hwy 1 to Attleboro, MA to the junction of U.S. Hwy 1A, then over U.S. Hwy 1A to Dedham, MA to the junction of Hwy 128, then over Hwy 128, to the junction of the Southeast Expressway, then over the Southeast Expressway to Boston, MA and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant request authority to*

interline at Providence, RI and Boston, MA. Supporting shipper(s): There are approximately 37 statements of support which may be examined at the office listed below and Headquarters. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset St., Room 102, Providence, RI 02903.

MC 106074 (Sub-132TA), filed October 18, 1979. Applicant: B and P MOTOR LINES, INC., Shiloh Rd. and U.S. Highway 221 South, Forest City, NC 28043. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA, 30328. *Foodstuffs, canned or preserved from the facilities of Heinz, USA, Division of H. J. Heinz Company at Holland, MI to Greenville, SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz, USA, Division of H. J. Heinz Company; P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.*

MC 106074 (Sub-133TA), filed October 23, 1979. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Forest City, NC 28043. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *General commodities (except in bulk), between Houston, TX; Pasadena, TX; Kansas City, KS; Seneca, Spartanburg, and Startex, SC, on the one hand, and, on the other, all points in the U.S. (except AK and HI), restricted to transportation originating at or destined to the facilities of Phillips Petroleum, Company, Phillips Fibers Corporation, Phillips Chemical Company, and Phillips Products Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Petroleum Company, 148 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.*

MC 106485 (Sub-19TA), filed October 24, 1979. Applicant: LEWIS TRUCK LINES, INC.; Box 642, Lisbon, ND 58054. Representative: Kip B. H. Erickson, 502 First National Bank Bldg., Fargo, ND 58126. *Common carrier: regular routes: General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading, between Mobridge, SD, on the one hand, and, on the other, Mandan, ND, from Mobridge over U.S. Hwy 12, to junction U.S. Hwy 83, then over U.S. Hwy 83 to junction I Hwy 94, then over I Hwy 94 to Mandan, ND, serving the intermediate points of Bismarck, ND, and all intermediate*

points south of the Burleigh County-Emmons County, ND line, and return over the same route, for 180 days. Applicant states it intends to tack the authority here applied for to other authority held by it. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority. Supporting shipper(s): There are 14 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: H. E. Farsdale, DS, ICC, Room 268, Fed. Bldg. and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 106674 (Sub-427TA), filed September 12, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Containers and closures therefore, from the plant site of Ball Corporation at Mundelein, IL and warehouse facilities utilized by Ball Corporation located in Lake and Cook Counties of IL to points in AL, AR, DE, FL, GA, IN, KY, LA, MS, MD, MA, MO, NJ, NY, NC, OH, PA, SC, TN, TX, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ball Corporation, 345 South High Street, Muncie, IN 47302. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.*

MC 106674 (Sub-434TA), filed October 12, 1979. Applicant: SCHILLI MOTOR LINES, INC., U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Insulating materials, loose in cartons and blankets in cartons from C-E Refractories Division of Cubustion Engineering, Inc., Erwin, TN to points in and east of MN, IA, NB, KS, OK, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C-E Refractories, P.O. Box 828, Valley Forge, PA 19482. Send protests to: Beverly J. Williams, Transportation Assistant, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.— Interstate Commerce Commission.*

MC 107515 (Sub-1292TA), filed Sept. 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby and Marc A. Pearl, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30328. *Such commodities as are dealt in or used by chemical manufacturers and distributors (except commodities in bulk), from the facilities of Oxford Chemicals at or near Chamblee, GA, to the facilities of Oxford Chemicals at or near Memphis, TN, for 180 days. An*

underlying ETA seeks 90 days authority. Supporting Shipper(s): Oxford Chemicals, P.O. Box 80202, Atlanta, GA 30341. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW Room 300, Atlanta, GA 30309.

MC 107605 (Sub-24TA), filed October 5, 1979. Applicant: ADVANCE-UNITED EXPRESSWAYS, INC., 2601 Broadway Rd., NE, Minneapolis, MN 55413. Representative: William S. Rosen, 630 Osborn Bldg., St. Paul, MN 55102. *Common carrier: regular routes: General commodities (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, and commodities of unusual value) between Milwaukee, WI and Two Rivers, WI serving the intermediate and off-route points of Sheboygan, Kohler, Sheboygan Falls and Manitowoc: from Milwaukee over Interstate Hwy. 43 to Sheboygan, thence on U.S. Hwy. 141 to its junction with Wisconsin Hwy. 42 at or near Manitowoc, thence over Wisconsin Highway 42 to Two Rivers and return over the same route; between Milwaukee, WI and Bristol, WI serving the intermediate and off-route points of East Troy, Elkhorn, Delavan, Burlington and Union Grove: from Milwaukee over Wisconsin Hwy. 15f to its junction with Wisconsin Hwy. 50 at or near Delavan, thence over Wisconsin Hwy. 50 to its intersection with U.S. Hwy. 45 at or near Bristol, thence over U.S. Hwy. 45 to its junction with Wisconsin Hwy. 11 at or near Union Grove, thence over Wisconsin Hwy. 11 to its junction with U.S. Hwy. 15; thence over U.S. Hwy. 15 to Milwaukee; between Milwaukee and Bristol, serving the intermediate point of Union Grove: from Milwaukee over U.S. Hwy. 45 to Bristol and return over the same route; between Milwaukee and Burlington: from Milwaukee over Wisconsin Hwy. 36 to Burlington and return over the same route; between Milwaukee and Delavan: from Milwaukee over Wisconsin Hwy. 15 to Delavan and return over the same route, serving intermediate points of Elkhorn and East Troy; from Milwaukee over Wisconsin Hwy. 11, thence over Wisconsin Hwy. 11 to its junction with Wisconsin Hwy. 15, thence over Wisconsin Hwy. 15 to Delavan and return over the same route serving the intermediate points of Elkhorn, Burlington and Union Grove; from Milwaukee over Interstate Hwy. 94 to its junction with Wisconsin Hwy. 11, thence over Wisconsin Hwy. 11 to its junction with Wisconsin Hwy. 15, thence over Wisconsin Hwy. 15 to Delavan and return over the same route serving the intermediate points of Elkhorn, Burlington and Union Grove; from Milwaukee over Interstate Hwy. 94 to its junction with Wisconsin Hwy. 50, thence over Wisconsin Hwy. 50 to Delavan, thence over Wisconsin Hwy. 15 to Milwaukee and return over the same route, serving the intermediate*

points of Bristol, Elkhorn and East Troy. Service to and from all points in the commercial zones of the points requested to be served, for 180 days. An underlying ETA seeks 90 days authority. Applicant request authority to interline at all service points and to tack this authority with authority it presently holds in No. MC-107605. Supporting Shipper(s): There are 15 statements of support attached to this application which may be examined at the ICC in Washington, DC or the field office named below. Send protests to: Judith L. Olson, TS, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 110325 (Sub-120TA), filed October 12, 1979. Applicant: TRANSCON LINES, 101 Continental Blvd., El Segundo, CA 90245. Representative: Wentworth E. Griffin, Esq., 1221 Baltimore Ave., Kansas City, MO 64105. *COMMON: Regular: General commodities (except Class A and B explosives, those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Trent Tube Division of Colt Industries, Inc., at East Troy, WI, as an off-route point in connection with carrier's otherwise authorized regular-route operations, for 180 days. An underlying ETA seeks up to 90 days operating authority. Applicant request to interline and to tack with authority it presently holds in No. MC-110325 and Subs thereto. Supporting Shipper(s): Trent Tube Division of Colt Industries, Inc., 498 S. Church St., East Troy, WI 53120. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.*

MC 111545 (Sub-295TA), filed Oct. 17, 1979. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, Marietta, GA 30067. Representative: Robert E. Born, 1425 Franklin Rd., Marietta, GA 30067. *Commodities, the transportation of which because of size or weight require the use of special equipment; and self-propelled articles, each weighing 15,000 pounds or more, between points in CA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, NE, KS, OK, and TX. Supporting Shipper(s): Blue Valley Machine & Mfg. Co., 6834 Truman Rd., Kansas City, MO 64128. Aggressive Erectors & Bridgemen, Inc., 22118 S. Vermont, Torrance, CA 90502. Concrete Pump Division, Challenge-Cook Bros., Inc., 15421 East Gale Ave., Industrial, CA 91745. Formetco, Inc., 2963 Pleasant Hill Rd., Duluth, GA 30138. Send protests to: Sara*

K. Davis T/A, ICC, 1252 W. Peachtree St., N.W. Room 300, Atlanta, GA 30309.

MC 111594 (Sub-87TA), filed October 18, 1979. Applicant: C W TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Thomas D. O'Connor (same address as applicant). *General commodities (except those of unusual value, explosives, livestock, household goods as defined in Practice of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between points and places in Wisconsin as follows: From Milwaukee, WI over WI Hwy 19 to Sun Prairie, WI, thence over US Hwy 151 to Madison, WI; From Milwaukee, WI over WI Hwy 15 to Beloit, WI, thence over US Hwy 51 to South Beloit, IL; From Milwaukee, WI over US Hwy 41 to junction WI Hwy 36, then over WI Hwy 36 to Lake Geneva, WI, thence over US Hwy 12 to Genoa City, WI; From Racine, WI over WI Hwy 11 to Janesville; Service is authorized to or from the off-route point of Williams Bay, WI. From Racine, WI over WI Hwy 20 to Rochester, WI; From Milwaukee, WI over US Hwy 18 to Waukesha, WI (also from Milwaukee, WI over WI Hwy 59 to Waukesha), thence over WI Hwy 59 to Milton, WI, thence over WI Hwy 26 to Janesville; Service is authorized to and from the off-route point of Genesee Depot, WI. From Watertown, WI over US Hwy 16 to Portage, WI; Service is authorized to and from the off-route points of Clyman, Reeseville, Fall River and Pardeeville, WI; From Watertown over WI Hwy 26 to junction WI Hwy 33, thence over WI Hwy 33 to Beaver Dam, WI, thence over Hwy 151 to Columbus, WI, and thence over US Hwy 18 to Portage, WI; From Watertown, WI over US Hwy 26 to Fort Atkinson, WI, thence over US Hwy 12 to Whitewater, WI; From Burlington, WI over WI Hwy 83 to Salem, WI; From Kenosha, WI over WI Hwy 50 to junction WI Hwy 83; From junction WI Hwy 50 and US Hwy 45 over US Hwy 45 to Bristol, WI. Return over these routes to the above specified origin points. Service is authorized to and from all intermediate points on the above specified routes. Service is authorized to all points in the commercial zones of the points authorized above for 180 days. An underlying ETA seeks 90 days authority. Applicant request authority to interline at Sun Prairie, Madison, Beloit, Milwaukee, Lake Geneva, Genoa City, Racine, Janesville, Rochester, Waukesha, Milton, Watertown, Portage, Beaver Dam, Columbus, Ft. Atkinson, Whitewater, Burlington, Salem,*

Kenosha, and Bristol, WI and to tack this authority with authority it presently holds in No. MC-111594 and Subs thereto. Supporting Shipper(s): There are 17 (seventeen) supporting shippers. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 112304 (Sub-223TA), filed September 20, 1979. Applicant: ACE DORAN HAULING & RIGGING COMPANY, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Iron and steel articles, from Richland County, SC, to points in IL, MA, OH and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Southeastern Coated Products, 649 Rosewood Drive, Columbia, SC. Send protests to: L.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Phila., PA 19106, Room 620.*

MC 114334 (Sub-64TA), filed October 18, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane, Memphis, TN 38116. Representative: Gerald K. Gimmel, Suite 4 Professional Dr., Gaithersburg, MD 20760. *Iron and steel articles, pipe, valves, castings, hydrants, fittings and accessories thereto, from Birmingham and Bessemer, AL, to points in TN, AR, MS and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Applicant has three supporting shippers. Send protests to: Floyd A. Johnson, Rm. 2006—100 N. Main St., Memphis, TN 38103.*

MC 115554 (Sub-22 TA), filed October 9, 1979. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 89B, R. R. 6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *Gas or electrical appliances and parts, materials, supplies, and equipment used in the distribution or repair of appliances from the facilities of Whirlpool Corporation at or near St. Paul, MN, to points in AR, IL, IN, IA, MI, MO, NE, OH, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Whirlpool Corporation, 2000 U.S. 33, North, Benton Harbor, MI 49022. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 116254 (Sub-292 TA), filed October 9, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: M. D. Miller (same address as applicant). *Aluminum dross, in dump vehicles from the facilities of The Anaconda Company, at or near Seabee, KY to Oswego, KS, for 180 days. Supporting Shipper(s): The Anaconda Company,*

Aluminum Div., P.O. Box 32860, Louisville, KY 40232. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 116915 (Sub-103 TA), filed October 11, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602.

Commodities, the transportation of which, because of size or weight requires the use of special equipment or special handling, and, when moving in connection therewith, related commodities, the transportation of which, because of size or weight, does not require the use of special equipment or special handling (1) between points in the U.S. in and east of MN, IA, KS, MO, OK, and TX, (Except ME, VT, NH, MA, CT and RI); (2) Between points in and East of WI, IL, MO, TN, and MS (Except ME, VT, NH, MA, CT, and RI), on the one hand, and, on the other, points in and west of ND, SD, NE, KS, CO, and NM for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: 247 shippers. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 120364 (Sub-24 TA), filed September 12, 1979. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: Robert M. Kaske, 4805 Sandy Hollow Road, Rockford, IL 61109. *General commodities* (except articles of unusual value, Class A & B explosives, household goods as defined, commodities in bulk, and commodities requiring the use of special equipment), between points in IL, bounded at a line beginning at the IL-WI State Line and extending southerly on IL Hwy. 78, then to junction with IL Hwy. 88, then on IL Hwy. 88, to junction with IL Hwy. 92, then easterly to junction with U. S. Hwy. 34, then easterly on U. S. Hwy. 34 to junction with IL Hwy. 59, then northerly on IL Hwy. 59 to junction with IL Hwy. 83 to the IL-WI State Line, west on the State Line to the place of beginning. That also the points of Chicago, Des Plaines, Mt. Prospect, Arlington Heights, Elizabeth, Sayanna, Mundelein, Round Lake, Woodbine, Apple River, Weukagan, Hanover, North Chicago, Galena, and Scales Mounds, IL, on the one hand, and on the other hand the Counties of Brown, Calumet, Dane, Dodge, Fon Du Lac, Gren, Jefferson, Kenosha, Kewanee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, and

Winnebago, WI for 180 days. An underlying ETA seeks 90 days authority. Applicant requests authority to interline at Rockford and Chicago, IL supporting shippers(s): Six Supporting Shippers. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn Street, Room 1388, Chicago, IL 60604.

MC 124174 (Sub-160TA), filed September 24, 1979. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). *Hot rolled steel rounds, epoxy coated hot rolled steel rounds, and cold drawn steel wire* from the facilities of North Star Steel Co. and Simcote Co. at or near St. Paul, MN; Colorado Fuel and Iron Corporation at Pueblo, CO; and L.M.P. at Maryville, MO to the plant site of Wady Industries at Maquoketa, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wady Industries, E. F. Read, Vice President and Treasurer, 510 E. Grove, Maquoketa, IA 52060. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 124964 (Sub-52TA), filed October 26, 1979. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 265, Tavares, FL 32778. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier, irregular routes, transporting dried spaghetti, macaroni, and noodle products*, from Jersey City, NJ, to Jacksonville, Lakeland, Miami, Ocala, Orlando, Pompano Beach, and Tampa, FL, for 180 days. Under a continuing contract or contracts with C. F. Mueller Company, Jersey City, NJ. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. F. Mueller Company, 180 Baldwin Avenue, Jersey City, NJ 07306. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124964 (Sub-53TA), filed October 19, 1979. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 285, Tavares, FL 32778. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier, over irregular routes, transporting frozen foods*, Greenville, MI and Plover, WI, to points in AL, FL, GA, MS, NC, and SC for 180 days. An underlying ETA seeks 90 days authority. Under continuing contract or contracts with Ore-Ida Foods, Inc. Supporting shipper(s): Ore-Ida Foods, Inc., Manager Rates and Services, P.O. Box 10, Boise, ID. Send protests to: Jean M. King, TA, 288 Federal Building, 400 West Bay Street, Jacksonville, FL 32202.

MC 125294 (Sub-10TA), filed September 13, 1979. Applicant: HILLDRUP TRANSFER & STORAGE, INC., 300 Central Road, Fredericksburg, VA 22401. Representative: William A. Stross, P.O. Box 1835, Quantico, VA 22134. *Household goods, as defined by the Commission*, between points in FL, on the one hand, and, on the other, points in SC and (b) between points in VA, MD, DC, on the one hand, and, on the other points in OH, CT, MA, and AL, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority with authority it presently holds in No. MC-125294 Sub-Nos. 1, 5, 6G, 7 and 8G. Supporting shipper(s): There are 5 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 126555 (Sub-73TA), filed October 22, 1979. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, SD 57709. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. *Bentonite, in bags* from Colony, WY to points in IL, IN, MN, MI and MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foundries Materials Company/C-E Cast Industrial Products, 5 Preston St., Coldwater, MI 49036. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 133095 (Sub-274TA), filed October 24, 1969. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Rocky Moore, P.O. Box 434, Euless, TX 76039. *Alcoholic beverages* from points in Kentucky to points in California, for 180 days. Supporting shipper(s): Medley Distributing Co., P.O. Box 386, Owensburg, KY 42301. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Rm 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133095 (Sub-275TA), filed October 22, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Ron Duncan, P.O. Box 434, Euless, TX 76039. *Paint Products* from Houston, TX to AL, IL, LA, MI, MS, MO, and OK, for 180 days. Supporting shipper(s): Napko Corp., 5300 Sunrise Rd., Houston, TX 77021. Send protests to: Interstate Commerce, Marianne Minnich, TCS, Rm. 9A27 Federal Building, 819 Taylor St., Fort Worth, TX 76102.

MC 133655 (Sub-187TA), filed October 24, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. *General commodities* (except commodities in bulk) between Houston and Pasadena, TX; Kansas City, KS; and Seneca, Spartanburg, and Startex, SC on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Phillips Petroleum Company, Phillips Fibers Corporation, Phillips Chemicals Company, and Phillips Products Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Petroleum Company, 148 Phillips Building Annex, Bartlesville, OK 74004. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 133805 (Sub-37TA), filed September 28, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76478. Representative: Gerald Ragle, 9632 Palo Pinto Rd., Fort Worth, TX 76118. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A & C of Appendix I to the report in descriptions of Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the cold storage facilities utilized by Freezer Services, Inc., at or near Amarillo, TX to points in CA, AZ, LA, MS, AL, FL, GA, SC, NC, VA, IL, IN, MI, OH, PA, NY, NJ, RI, CT, MA, OR, WA, and OK, restricted to shipments originating at said origin and destined to points in the named designated states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Freezer Services, Inc., P.O. Box 30220, Amarillo, TX 79120. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134105 (Sub-68TA), filed October 18, 1979. Applicant: CELERYVALE TRANSPORT, INC., 208 East 28th St., Chattanooga, TN 37410. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. (1) *Frozen food* from the facilities of Zartic Frozen Meats & Seafood, Inc., at Cedartown, GA to points in and east of ND, SD, NE, CO, OK and TX (except ME, NH and VT) and (2) *Equipment, materials and supplies* used in the manufacture and distribution of frozen food from points in and east of ND, SD, NE, CO, OK and TX (except ME, NH and VT) to the facilities of Zartic Frozen

Meats & Seafood, Inc. at Cedartown, GA and (3) *Frozen food and materials and supplies used in the manufacture of frozen food* between the facilities of Zartic Frozen Meats & Seafood, Inc. at Cedartown, GA, on the one hand, and, on the other, Plainfield, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zartic Frozen Meats & Seafoods, Inc., 808 West Ave., Cedartown, GA 30125. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 134105 (Sub-69TA), filed October 18, 1979. Applicant: CELERYVALE TRANSPORT, INC., 208 East 28th St., Chattanooga, TN 37410. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. (1) *Lighting fixtures, lighting fixture parts and lighting fixture accessories*, (1) from the facilities of Lithonia Lighting Company at Cochran and Conyers, GA to points in AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NM, ND, OH, OK, SD, TX, VA, WV, WI, WY, and (2) between the facilities of Lithonia Lighting Company at Cochran and Conyers, GA, on the one hand, and, on the other, the facilities of Lithonia Lighting Company at Crawfordville, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lithonia Lighting Company, 1335 Industrial Blvd., P.O. Box A, Conyers, GA 30207. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 134405 (Sub-90TA) filed October 24, 1979. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamsom, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Waste petroleum products*, in bulk, in tank vehicles, from Wise County, TX, to points in Love and Carter Counties, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Metropolitan Supply, P.O. Box 1125, Ardmore, OK 73401. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 135454 (Sub-28 TA), filed October 18, 1979. Applicant: DENNY TRUCK LINES, INC., 893 Ridge Road, Webster, NY 14580. Representative: John F. O'Donnell, Barrett and Barrett, 60 Adams St., P.O. Box 238, Milton, MA 02187. *Containers and container closures*, from Baltimore, MD to points in NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Independent Can Co., 1001 South Lakewood Avenue, Baltimore, MD

21224. Send protests to: R. H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 135895 (Sub-86TA), filed October 4, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Sta., Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1925, Greenville, MS 38701. *Glass containers, closures, and returned shipments of glass containers and closures* (1) between Gulfport, MS and points in MO, MS, NC, SC, and Memphis, TN and points in its commercial zone; (2) between Mineral Wells, MS and points in AL, FL, GA, MO, MS, NC, and SC; (3) between Chattanooga, TN and points in MO, NC, SC and Little Rock, AR and points in its commercial zone; and (4) between Corsicana, TX and points in MO, NC, and SC, for 180 days. NOTE: Restricted to transportation of traffic originating at or destined to the facilities of Chattanooga Glass Co. Supporting shipper(s): Chattanooga Glass Company, 400 W. 45th St., Chattanooga, TN 37410. Send protests to: Alan Tarrant, D/s, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 135895 (Sub-67TA), filed September 28, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Sta., Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. (1) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds* (except in bulk, in tank vehicles) and *filters*, from points in Warren County, MS to points in AL, FL, GA, LA, MS, NC, OK, SC, TN and TX, and (2) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, materials, supplies and equipment* used in the manufacture, sale and distribution of the commodities named in (1) above (except in bulk, in tank vehicles) from points in AL, GA, and SC to points in Warren County, MS, for 180 days. Supporting Shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: Alan Tarrant, D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

Note.—Parts (1) and (2) above restricted to shipments originating at or destined to the facilities of Quaker State Oil Refining Corporation located in Warren County, MS. An underlying ETA seeks 90 days authority.

MC 136605 (Sub-136TA), filed October 17, 1979. Applicant: DAVIS BROS. DIST., INC., 2042 Trade Street, Missoula, MT 59807. Representative: Thomas J. Burke, Jr., Jones, Meiklejohn, Kehl & Lyons, Suite 1660, 1600 Lincoln St., Denver, CO 80264. *Steel pipe and seamless oil well casing* from the

facilities utilized by Far West Tubular Products, Inc. at or near Los Angeles, CA and Portland, OR to points in MT, ID, WY, ND, SD, UT and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Far West Tubular Products, Inc., 2815-96th Avenue NE, Bellevue, WA 98004. Send protests to: Paul J. Labane, DS, ICC, 2802 First Avenue North, Billings, MT 59101.

MC 138824 (Sub-30 TA), filed September 20, 1979. Applicant: REDWAY CARRIERS, INC., P.O. Box 104, Waukegan, IL 60085. Representative: Paul J. Maton, 10 S. La Salle St., Rm. 1620, Chicago, IL 60603. Contract carrier: Irregular routes: Food products dry or liquid, in containers; materials and supplies incidental to, and used in the processing, canning and bottling of said food products, between the facilities and warehouse facilities of Oconomowoc Canning Corp. at Pynette, Deforest, Waunakee, Sun Prairie, Cobb, Merrill and Oconomowoc Canning Corp. at Pynette, Deforest, Waunakee, Sun Prairie, Cobb, Merrill and Oconomowoc, WI, on the one hand, and, on the other, points in the State of OH for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Oconomowoc Canning Company, 626 E. Wisconsin Ave., Oconomowoc, WI 53066. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 138844 (Sub-15 TA), filed October 2, 1979. Applicant: TRANSCAG INC., 95 Merrimack Street, Lowell, MA 01853. Representative: John W. Bryant, 900 Guardian Building, Detroit, MI 48226. Liquid ethylene, in bulk, in tank vehicles from the port of entry on the International Boundary line between the United States and Canada at or near Port Huron, MI, to the facilities of Dow Chemical Company at or near Bay City, MI. For 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Dow Chemical Company, 4868 Wilder Rd., Bay City, MI 48706. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 138875 (Sub-244 TA), filed October 3, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same as above). Brick, masonry materials and supplies used in the installation, manufacture and distribution thereof, from points in ID to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Norman Freeman, 2060 Middle Field Road, Boise, ID 83704. Send protests to:

Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-245 TA), filed October 9, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same as above). Heating and air conditioning units, from Wichita, KS to Boise, ID & Aurora OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Continental Distributing Co., Inc., 415 So. 6th Ave., Boise, ID 83706. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-246 TA), filed October 23, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same as above). Chemicals, except in bulk, from Rogers, AR to Boise, ID for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Component Structures, Inc., 401 S. 8th St. Ste. 361, Boise, ID 83702. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-247 TA), filed October 24, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same as above). Ground clay and floor sweeping compounds, except commodities in bulk, from the facilities used by Oil-Dri Corp. of America located at or near Ripley, MS and points in GA to points in AL, AR, CT, DE, DC, FL, IL, IN, IA, KS, KY, LA, MA, MD, MI, MN, MO, NE, NJ, NY, NC, OK, OH, PA, RI, SC, TN, TX, VA, WV, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oil-Dri Corporation of America, 520 N. Michigan Ave., Chicago, IL 60611. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 139495 (Sub-489 TA), filed October 28, 1979. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Tires, tubes and rims from Ft. Worth & Dallas, TX to Woodward, Alva and Guymon, OK & Liberal and Garden City, KS. Restricted to traffic destined to the above named points; for 180 days, common, irregular. Supporting shipper: Clingan Tires, Inc., 314 S. Kansas, Liberal, KS 67901. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. SUPPORTING SHIPPER: Hayter Tire Co., 1301 Main, Woodward, OK 73801.

MC 139495 (Sub-490 TA), filed September 27, 1979. Applicant: NATIONAL CARRIERS, INC., P.O. Box

1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Agricultural Chemicals and products used in the manufacturing, sales and distribution thereof (except commodities in bulk) between points in the states of CA, AZ, NM, TX, OK, KS, NE, IN, MO, AR, LA, MS, AL, FL, GA, SC, NC, TN, KY, VA, WV, MD, IL, IA, MI, OH, PA, NY, VT, NH, CT, NJ, RI, DE, MA, DC. Restricted to traffic originating at and destined to the facilities of Helena Chemical Company; for 180 days, common, irregular. Supporting shipper: Helena Chemical Company, 5100 Poplar Ave., Suite 3200, Memphis, TN 38137. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139495 (Sub-491 TA), filed October 16, 1979. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. (1) Wiring Device, Electrical and Lighting Equipment (2) Materials and supplies used in the manufacture thereof (1) From Parkersburg, WV and (2) From Baton Rouge, LA and North Seattle, WA; Portland, OR; San Francisco, CA; Sparks, NV; Minneapolis, MN; St. Paul, MN; Chicago, IL; Sheboygan, WI; Elkhart, IN; Tallahassee, FL and (2) Parkersburg, WV; restricted to traffic originating and destined to the above named points, for 180 days, common, irregular. Supporting shipper: GTE, Sylvania (Union Insulating), 3401 Camden Ave., Parkersburg, WV. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139495 (Sub-492 TA), filed October 16, 1979. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Such commodities as are dealt in by grocery stores and supermarkets from the facilities of Port Terminals Co., Inc., Bowker Storage Distribution and Foxboro Terminals Co., Inc., located at or near Boston, MA to New York City, NY; Paterson & Trenton, NJ; Harrisburg, Philadelphia, Pittsburgh & Wilkes-Barre, PA; Baltimore & Grasonville, MD; Washington, DC; Rocky Mount, NC; and Richmond, VA. Restricted to traffic originating at or destined to the above named origins and destinations; for 180 days, common, irregular. Supporting shipper: Port Terminals Co., Inc., 666 Summer St., S. Boston, MA 02127. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139495 (Sub-493 TA), filed October 16, 1979. Applicant: NATIONAL

CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Petroleum and petroleum products, vehicle body sealer, filters, and sound deadening compounds, except in bulk from Congo and St. Marys, WV; Buffalo & North Tonawanda, NY; and Farmers Valley, Emlenton & North Warren, PA to points in the states of TX, OK, AR, MO, IA, IL, TN, LA, MS, AL, GA, SC, NC and WI; restricted to traffic originating at and destined to the facilities of Quaker State; for 180 days, common, irregular. Supporting shipper: Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16801. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139495 (Sub-494 TA), filed October 18, 1979. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Iron pipe fittings, iron pipe hangers, iron valves, plastic pipe fittings, plastic valves, brass, bronze or copper valves, brass, bronze or copper pipe fittings, brass, bronze or copper pipe connections, hydrants and indicator posts from the facilities of ITT Grinnell Corporation at Indianapolis, IN to Atlanta, GA; Pocatello, ID, Chicago, IL; New Orleans, LA; Columbia, MD; Canton, MA; Taylor, MI; Bloomington MN; N. Kansas City and St. Louis, MO; Billings and Great Falls, MT; Lincoln Park, NJ; Buffalo, NY; Charlotte, NC; Chillicothe, Cincinnati, and Cleveland, OH; Tulsa, OK; Portland, OR; Philadelphia and Pittsburgh, PA; Memphis, TN; Farmers Branch and Houston, TX; Seattle, Spokane, Pasco, WA; Milwaukee, WI; and Sandston, VA; Phoenix, AZ; Los Angeles and Sacramento, CA; Denver, CO; Tampa, FL; for 180 days, common, irregular. Supporting shipper: ITT Grinnell Corporation, 280 West Exchange, Providence, RI 02901. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139745 (Sub-3 TA), filed October 4, 1979. Applicant: WILLIAMS AND SONS TRUCKING COMPANY, 600 Sunnyside Lane, Atlantic, IA 50022. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Contract carrier, irregular routes: (1) Construction and building materials from points in CO, ID, MT, OR and WA to points in IA, IL, KS, MN, MO, NE and WI under contract with Antrim Lumber Company; (2) Metal buildings and component parts and steel articles from Atlantic, IA to points in CO, ID, IL, KS, MT, MO, NE, NM, OK, TX and WI under contract with

American Building Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Antrim Lumber Co., Inc., Arnold L. Reed, Vice President, Box 1205, Cumberland, IA. (2) American Buildings Co., Gary Norton, Plant Manager, Hwy. 6, Atlantic, IA. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140024 (Sub-164 TA), filed October 17, 1979. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO 80022. Representative: Jeffrey A. Knoll (same address as applicant). Iron and steel articles from the facilities of Nucor Corporation at or near Norfolk, NE to points in AR, CO, IL, IN, KS, KY, MI, MO, NJ, NY, OH, PA and WI for 180 days. ETA filed seeking 90 days authority. Supporting shipper(s): Nucor Corporation, P.O. Box 59, Norfolk, NE 68701. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 141205 (Sub-35 TA), filed October 11, 1979. Applicant: HUSKY OIL TRANSPORTATION COMPANY, 600 South Cherry Street, Denver, CO 80222. Representative: F. Robert Reeder and James M. Elegante, P.O. Box 11898, Salt Lake City, UT 84147. Contract, irregular, crude oil, scrubber oil and condensate, from points in Billings Co., ND to the pipeline facilities of Portal Pipeline Company near Stanley, ND, the pipeline facilities of the Portal Pipeline Company near Reserve, MT, the pipeline facilities of Butte Pipeline Co., near Baker, MT, the pipeline facilities of Continental Pipeline Co. near Douglas, WY, the pipeline facilities of Platte Pipeline Co., near Casper, WY, and the Husky Oil Co. refinery at Cheyenne, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Oil Company, 600 South Cherry St., Denver, CO 80222. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 141205 (Sub-36 TA), filed October 11, 1979. Applicant: HUSKY OIL TRANSPORTATION COMPANY, 600 South Cherry Street, Denver, CO 80222. Representative: F. Robert Reeder and James M. Elegante, P.O. Box 11898, Salt Lake City, UT 84147. Contract, irregular, crude oil, scrubber oil and condensate, from points in Yellowstone County, MT, to Husky Oil Co. refinery at Cody, WY, and the pipeline injection facilities of Marathon Pipeline Co. at Oregon Basin, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Oil Company, 600 South Cherry St., Denver, CO 80222.

Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 141245 (Sub-15 TA), filed October 24, 1979. Applicant: BARRETT TRUCKING CO., INC., 16 Austin Drive, Burlington, VT 05401. Representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20006. Canned goods, from Marion, Newark, and Williamson, NY to Burlington, Barre, St. Johnsbury, White River Junction, Colchester, VT; Keene, Manchester, Nashua, Salem, Dover, NH; Lawrence and Worcester, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Snyder Sales & Service, Inc., 1616 Soldiers Field Road Extension, Boston, MA 02135. Send protests to: Carol A. Perry, TA, ICC, P.O. Box 548, Montpelier, VT 05602.

MC 141804 (Sub-277 TA), filed October 15, 1979. Applicant: WESTERN EXPRESS, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as above). Bottle mineral water, from Ukiah, CA to points in CO, NE, UT, KS, IA, MO, IL, WI, IN and OH, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Vichy Springs Mineral Water Corp., President, 2605 Vichy Springs Road, Ukiah, CA 94582. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 141804 (Sub-278 TA), filed October 10, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. Television parts and accessories, from Smithfield, NC to Little Ferry, NJ and Compton, CA and their respective commercial zones, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Sanyo Electric Inc., 1200 W. Artesia, Compton, CA 90022. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 141804 (Sub-279 TA), filed October 11, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Commodities dealt in and used by animal and pet stores, from Canton, GA to points in and west of MT, WY, CO, and NM (except AK and HI), for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Odell Manufacturing, Inc., P.O. Box 1169, Canton, GA 30114. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 141804 (Sub-280TA), filed October 18, 1979. Applicant: WESTERN EXPRESS, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as above). *Cocktail mix*, from Los Angeles, CA to points in and east of ND, SD, NE, KS, OK & TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Tahitian Products Co., Inc./A California Corp., Executive Vice President, 8938 S. Sepulveda Blvd., Los Angeles, CA 90045. Send protests to: Irene Carlos, TA, ICC 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 142565 (Sub-4TA), filed September 10, 1979. Applicant: DON RAY DRIVE-A-WAY COMPANY, INC., 305 North 13th St., Decatur, IN 46733. Representative: Constance J. Goodwin, Suite 800—Circle Tower, 5 East Market St., Indianapolis, IN 46204. *Passenger automobiles (Van conversions), and trucks, thru three-fourths ton, in motor carrier service between Huntington County and Adams County, IN, on the one hand, and on the other, points in the states east of the Mississippi River, plus MO, AR, LA, TX, IA, OK and MN for 180 days.* Supporting Shipper(s): General Engineering & Manufacturing Corp., P.O. Box 338, Andrews, IN 46702. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 143594 (Sub-20TA), filed September 26, 1979. Applicant: NATIONAL BULK TRANSPORT, INC., 624 Holcomb Bridge Road, Suite 13, Roswell, GA 30075. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Liquid chemicals* from the facilities of Rohm and Haas at or near Deer Park, TX to Croydon, PA; Atlanta, GA; Charlotte, NC; Louisville, KY; Knoxville and Nashville, TN; Birmingham, AL; Orlando, FL; El Paso, IL; Fort Madison, IA; Kansas City, KS; and Garyville and Good Hope, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 143775 (Sub-177TA), filed October 3, 1979. Applicant: PAUL YATES, INC., 6601 W. Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke, (same address as applicant). *Foodstuffs, canned or preserved*, from the facilities of H. J. Heinz Co., USA Division, at or near Muscatine and Iowa City, IA to Grand Prairie, TX, for 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper: Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 152309. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 144675 (Sub-6TA), filed September 27, 1979. Applicant: LINCOLN FREIGHT FORWARDING CORP., 537 North Long Beach Road, Rockville Centre, NY 11570. Representative: Morton E. Kiel, Suite 1832—2 World Trade Center, New York, NY 10048. *General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment*, between Columbus, OH and Pittsburgh, PA, on the one hand, and, on the other, Los Angeles and San Francisco, CA; restricted to shipments moving on freight forwarder bills of lading; for 180. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Freight Association, POB 54037, Los Angeles, CA 90031. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 144844 (Sub-10TA), filed October 25, 1979. Applicant: OZARK TRANSPORTATION, INC., P.O. Box 203, Greenville, MO 63944. Representative: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603. *Such commodities as are dealt in by metal processors*, except commodities in bulk, from the facilities of Mid-State Metals Processing, Inc., at or near East Chicago, IN to Birmingham, AL; Pochontas, AR; Dexter, MO and Oklahoma City and Stroud, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid-State Metals Processing, Inc., 3777 Canal St., E. Chicago, IN 46312. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144855 (Sub-17TA), filed October 10, 1979. Applicant: TRANS CONTINENTAL CARRIERS, 2761 East White Star, Anaheim, CA 92806. Representative: Knapp, Grossman & Marsh, David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Plastics*, from Bullitt County, KY to Orange County, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Plastics, 1122 North Kramer Place, Anaheim, CA 92806. Send

protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 145115 (Sub-1TA), filed October 22, 1979. Applicant: N.J., N.J., CONN., FREIGHT & MESSENGER CORP., 351 West 38 St., New York, N.Y. 10018. Representative: Ronald L. Shapss, 450 Seventh Avenue, New York, NY 10001. *Contract carrier, irregular routes: Such merchandise as is dealt in by retail department stores, excluding commodities in bulk*, between Enfield, CT, on the one hand, and, on the other, Orlando, FL, Phoenix, AZ, and Los Angeles and San Francisco, CA; under a continuing contract(s) with Casual Conner, Inc.; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Casual Corner, Inc., 107 Phoenix Ave., Enfield, CT 06082. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 145515 (Sub-7TA), filed October 9, 1979. Applicant: GREENE'S CARTAGE CO., INC., 1934 Avalon Avenue, Muscle Shoals, AL 35660. Representative: Robert E. Born, Suite 508, 1447 Peachtree Street, NE., Atlanta, GA 30309. (1) *Paper and paper products*, (a) from Lithonia, GA and Belleville, IL to points in AL, MS, and TN, and (b) from Jackson, MS to points in AL and TN; (2) *Materials, equipment and supplies used to manufacture and distribute paper and paper products*, (a) from AL, MS, and TN to Lithonia, GA and Belleville, IL and (b) from AL and TN to Jackson, MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, 1547 Helton Drive, Florence, AL 35630. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616 2121 Building, Birmingham, AL 35203.

MC 145875 (Sub-5TA), filed October 24, 1979. Applicant: SWAIN & SONS TRANSPORTS, INC., 208 Poplar Ave., Memphis, TN 38103. Representative: William R. Swain, Jr., 208 Poplar Ave., Memphis, TN 38103. *Sugar*, in packages, except in bulk, from Gramercy, LA to Memphis, TN for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority it presently holds in No. MC-145875. Supporting shipper(s): Colonial Sugars, Borde, Inc., Gramercy, LA 70052. Send protests to: Floyd A. Johnson, Rm. 2006—100 N. Main St., Memphis, TN 38103.

MC 146074 (Sub-1TA), filed September 26, 1979. Applicant: FORT TRANSFER CO., 225 So. Maple, Morton, IL 61550. Representative: Roger Kahler (same as address as applicant). *Farm Chemicals*, from Pekin, IL to IN, IA, MI, OH and WI

for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): CIBA-GEIGY Corporation, Saw Mill River Road, Ardsley, NY 10502. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 146214 (Sub-3TA), filed September 13, 1979. Applicant: JAKE BAUMAN Representative: d.b.a. JAKE BAUMAN TRUCKING, Rural Route No. 1, Congerville, IL 61729. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier: irregular routes: Farm Wagons, farm tillage equipment, fertilizer spreading equipment, woodburning systems, truck bumper cushions, for the account of DMI, Inc.*, from Goodfield, IL to points in IA, MO, MN, ND and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DMI, Inc., Rt. 150 East, Goodfield, IL 61742. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn, Room 1386, Chicago, IL 60604.

MC 147795 (Sub-1TA), filed October 15, 1979. Applicant: BRUNER TRANSFER & STG., INC., P.O. Box 98, Lincolnton, NC 28092. Representative: H. L. Bruner, Sr., P.O. Box 98, Lincolnton, NC 28092. *Household goods as described by the Commission between points in NC, SC, TN, VA, GA and FL*, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Fiber Industries, Inc., Shelby, NC 28150. Regal Manufacturing Company, P.O. Box 2363, Hickory, NC 28601. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 147954 (Sub-2TA), filed October 24, 1979. Applicant: CARRIERS CARTAGE CO., 3335 U.S. 27th South, P.O. Box 1021, Sebring, FL 33870. Representative: Jacob P. Billig, Suite 300, 2033 K Street NE., Washington, D.C. 20008. *Fruit, fruit juice, fruit juice concentrate, fruit in jars and cans, fruit product beverages and beverage preparations, and fruit products*, between Brevard, Broward, Dade, Duval, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lake, Manatee, Marion, Martin, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Polk, St. Lucie, and Seminole Counties, FL for 180 days. An underlying ETA seeks 90 days authority. Applicant requests authority to interline. Supporting Shipper(s): Citrus World, Inc., P.O. Box 111, Lake Wales, FL 33853. Treesweet Products Co., P.O. Box 189, Ft. Pierce, FL 33450. Carolina Freight Carrier Corp., 6900 Broadway Ave., Jacksonville, FL. Central Truck Lines, Inc., P.O. Box 18464, Tampa, FA 33679. Send protests to: Donna M. Jones, T/A,

ICC—BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 148184 (Sub-1TA), filed September 19, 1979. Applicant: SUMMIT TRUCK LINES, INC., 218 North 23rd Street, Coeur d'Alene, ID 83814. Representative: Philip J. Carstens, Jr., 1600 Washington Trust Financial Center, Spokane, WA 99204. *Canned or preserved foodstuffs*, from the facilities of Heinz USA at Muscatine and Iowa City, IA to the facility of Heinz USA at Grand Prairie, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 148315 (Sub-1TA), filed September 17, 1979. Applicant: NORBERT & BARBARA DONNELLY d.b.a. RYAN TRUCKING COMPANY, 7379 Laurel Court, W. Bloomfield, MI 48033. Representative: Norbert Donnelly, 7379 Laurel Court, W. Bloomfield, MI 48033. *Concrete poles and bracket arms*; from Highland, MI to MI, IL, MO, OH, PA, KY, NY, IA, TN, WI, MN, CO, NE, ND and SD. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Great Lakes Concrete Pole Corp., 909 N. Milford Rd., Highland, MI 48031. Send protests to: C. R. Flemming, D/S, ICC, 201 Corr Building, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 148354 (Sub-1TA), filed September 28, 1979. Applicant: TWIN CITY DISTRIBUTING INC., P.O. Box 637, Greeley, CO 80631. Representative: Fred Cantonwine, 8785 East 50th Ave., Commerce City, CO 80022. *Contract carrier: Meat and meat by-products used as or in the manufacture of animal feed and feed ingredients, (except hides and commodities in bulk, in tank vehicles)*, from Greeley, CO to Livingston, Los Angeles and San Diego, CA; Kankakee, IL; Algona, Ft. Dodge and Des Moines, IA; Topeka, KS; Independence, Kansas City and St. Joseph, MO; Crete, Fremont, Hastings, Lincoln, Omaha, York, NE; Forest Grove, Portland, OR; and Jefferson, WI for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): Valley Feed & Provision Co., P.O. Box 958, Greeley, CO 80631. Send protests to: District Supervisor R.L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 148374 (Sub-1TA), filed October 10, 1979. Applicant: MUSIC TRANSPORT, INC., 358 S. Mission Road, Los Angeles, CA 90033. Representative: Robert B. Conway (same address as applicant). *Contract: Irregular: Pianos and related show*

props, between Los Angeles, CA and points in NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Liberace, 4993 Wilbur Avenue, Las Vegas, NV. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 148375 (Sub-1TA), filed October 3, 1979. Applicant: LOWER COLUMBIA TRUCKING, INC., Route 1, Box 217, Cathlamet, WA 98612. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Ave., Portland, OR 97210. *Common, regular, general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk between Portland, OR and Ilwaco, WA serving all intermediate points between Kelso, WA, and Ilwaco, WA and the off-route points of Altoona, Rosburg, Deep River Camp; Puget Island, Long Beach, Seaview, Chinook and Megler, WA; and serving all commercial zones, from Portland, OR to Kelso, WA over Interstate Hwy 5, then over Washington Hwy 4 to Junction US Hwy 101, then over US Hwy 101 to Ilwaco, WA and returned over the same route.* Restriction: Service is not authorized between Longview, WA, and Kelso, WA on the one hand, and, on the other, Portland, OR and Vancouver, WA, for 180 days. An underlying ETA seeks 90 days authority. Applicant request authority to interline at Portland, OR and Longview/Kelso, WA. Supporting shipper(s): There are 10 supporting shippers. As attached. Send protests to: D. Merine Galbraith, Transportation Asst., Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 148394 (Sub-1TA), filed October 5, 1979. Applicant: MCKINLEY TRUCKING CO., INC., 652 Williams Street, Carson City, MI 48811. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract carrier: Irregular routes: Petroleum and petroleum products*, between the facilities of Crystal Refining Company at Carson City, MI; on the one hand, and, on the other, Cleveland and Toledo, OH; Chicago and Lemont, IL; Indianapolis, East Chicago, Fort Wayne and Hammond, IN and their respective commercial zones, under continuing contract or contracts with Crystal Refining Company, for 180 days. Supporting shipper(s): Crystal Refining Company, Carson, MI 48811. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Building, 300 Michigan Avenue, Lansing, MI 48933.

MC 148405 (Sub-1TA), filed October 10, 1979. Applicant: BODIE CORP., 3350 Olive Avenue, Long Beach, CA 90807. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. **Contract:** Irregular: (1) *Sucker rods and accessories*, from Tulsa County, OK to points in CA; and (2) *sub-surface pump barrels*, from CA and NM to Tulsa County, OK, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Dover Corporation/Norris Division, 4801 W. 49th Street, Tulsa, OK 74101. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 148424 (Sub-1TA), filed October 12, 1979. Applicant: TBC TRUCKING, INC., 2501 Aztec, N.E., Albuquerque, NM 87101. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. **Contract carrier:** Irregular routes: *Vinyl floor covering, carpeting and ceramic or clay tile*, from Lancaster, Landisville, Marcus Hook, Whitehall and Marietta, PA and Keyport, Kearney, Trenton and Salem, NJ, to the facilities of Standard Brands Paint Co., Inc., located at Torrance, CA, under a continuing contract(s) with Standard Brands Paint Co. of Torrance, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Brands Paint Co., Inc., 4300 W. 190th St., Torrance, CA 90509. Send protests to: DS/ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 148425 (Sub-1TA), filed October 24, 1979. Applicant: SUNDANCE STAGE LINES, INC., 5920 Mission Gorge Road, San Diego, CA 92120. Representative: Roger Curtis McKee, 110 West "C" Street, Suite 1803, San Diego, CA 92101. **Contract:** Irregular: *Passengers including baggage of passengers in the same vehicle with passengers; both special and charter operations*, between the greater San Diego, CA area and the greater Las Vegas, NV area, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Globe Trotter Travel, Vice-President/Director of Group Sales, 6171 Mission Gorge Rd., San Diego, CA 92120. Adventure Tours Ltd., Owner, Tour Manager, 4888 Sparks Avenue, San Diego, CA 92110. Dave Tour Service, General Manager, 2641 E. Beyer Blvd., San Ysidro, CA 92073. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148555 (Sub-1TA), filed October 9, 1979. Applicant: J.T. & S. TRANSFER, INC., Rt. No. 4 Circle Creek Drive, Stockbridge, GA 30281. Representative: Archie B. Culbreth and John P. Tucker,

Jr., 2200 Century Parkway, Suite 202, Atlanta, GA 30345. *Plywood, wood paneling, lumber, wood related building materials and veneer products* between the facilities of Woodcraft Incorporated at or near Madison, GA, on the one hand, and, points in AL, AR, FL, GA, MS, LA, IN, IL, KY, NC, OH, SC, TX, TN, VA, WI, MI, PA, WV, MD, on the other hand, for 180 days. Supporting shipper(s): Woodcraft, Incorporated, P.O., Box 2489, Peachtree City, GA 30269. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

By the Commission.
Agatha L. Mergenovich,
Secretary.
[FR Doc. 79-35892 Filed 11-20-79; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29149]

Northmont Industries, Inc.; Lease of Everett Railroad Co.

November 15, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Supplemental notice.

SUMMARY: Northmont Industries, Inc. proposes to lease and operate the Everett Railroad Company. Northmont is now the owner of Mercersburg Railway, Inc. and the proposed transaction would give it control of two railroads. A petition was filed on September 28, 1979, for exemption from 49 U.S.C. 11343, which requires prior consideration and approval of the transaction by the Interstate Commerce Commission. On November 8, 1979, the Commission announced the institution of a proceeding to consider the request for exemption. The notice appeared in Volume 44, page 64953 of the Federal Register. It provided that comments should be submitted to the Commission on or before December 10, 1979. The purpose of this supplemental notice is to advise those persons submitting comments to serve a copy of their comments on petitioner's representative: Steven Kalish, Suite 1105, 1750 Pennsylvania Ave. NW, Washington, DC 20006.

Agatha L. Mergenovich,
Secretary.
[FR Doc. 79-35891 Filed 11-20-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board	1
Commodity Futures Trading Commission ..	2
Federal Communications Commission	3
Federal Deposit Insurance Corporation	4, 5
Federal Reserve System	6, 7
Parole Commission	8

1

[M-255, Amdt. 5; Nov. 16, 1979]

CIVIL AERONAUTICS BOARD.

Deletion of items from the November 15, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., November 15, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

6. Docket 35568, Final rule to deregulate foreign air freight forwarders; (Memo 8698-C, BIA, OGC, BDA, BALJ, BCP)

16. Docket 34774, Petition for reconsideration of Order 79-8-53 filed by the Texas Aeronautics Commission, the Chamber of Commerce of Lamar County, Texas, and the City of Paris, Texas, and the appeal to this order filed by Ponca City, Oklahoma; (Memo 8060-G, BDA, OCCR)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Items 6 and 16 are being deleted from the November 15, 1979 agenda because revisions are going to be made on these items. Accordingly, the following Members have voted that Items 6 and 16 be deleted from the November 15, 1979 agenda and that no earlier announcement of these deletions was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2266-79 Filed 11-19-79; 2:26 pm]
BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, November 30, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE

INFORMATION: Jane Stuckey, 254-6314.

[S-2280 Filed 11-19-79; 10:12 am]

BILLING CODE 6351-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, November 20, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission Open Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—3—Creation of Advisory Committee on AM Broadcasting in Region 2.

Renewal—2—Title: Educational Broadcasting Corporation's application for renewal of license of Station WNET(TV) with a continuation of the waiver of the Commission's main studio location rules. Summary: The proposed Order considers WNET's application for renewal of its license with a continuation of the waiver of the Commission's main studio location rules; considers WNET's New Jersey studio proposal; and, directs WNET to submit a revised proposal affording it unimpaired non-preemptible access to its New Jersey studio.

Broadcast—3—Pre-U.S. release of television programs in Canada, Docket No. 20649. The Commission will consider: (1) its jurisdiction, under Section 325(b) of the Communications Act, over the exportation of U.S. network television programs for release by Canadian border stations before they are broadcast within the United States; (2) pending industry proposals that the FCC prohibit program exportation for such "Canadian pre-release" and bar cable carriage of pre-released programs.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260. November 16, 1979.

[S-2263-79 Filed 11-19-79; 11:55 am]
BILLING CODE 6712-01-M

Federal Register

Vol. 44; No. 226

Wednesday, November 21, 1979

4 FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, November 26, 1979, to consider the following matters:

Disposition of minutes of previous meetings.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, San Diego, California, in connection with the receivership of United States National Bank, San Diego, California.

Reynolds, Ridings & Hargis, Oklahoma City, Oklahoma, in connection with the liquidation of International City Bank and Trust Company, New Orleans, Louisiana.

Hughes, Hubbard & Reed, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York. (TWO MEMORANDA)
Schneider, Smeltz, Huston & Bissell, Cleveland, Ohio, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

Morgan, Lewis & Bockius, Philadelphia, Pennsylvania, in connection with the liquidation of Centennial Bank, Philadelphia, Pennsylvania.

Memorandum and Resolution re: Amendments to Parts 303 and 304 of the Corporation's rules and regulations—Model Agreement Governing Pledge of Assets by Foreign Banks.

Reports of committees and officers:

Minutes of the actions approved by the committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W. Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 19, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-2264-79 Filed 11-19-79; 2:26 pm]
BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 26, 1979, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

Arlington State Bank, a proposed new bank, to be located at approximately 150 feet west of the northwest corner of the intersection of Poly Webb Road and Little Road, Arlington, Texas, for Federal deposit insurance.

Bank of Hapoalim B.M., a United States branch of a foreign bank, located at 3 Penn Center Plaza, Philadelphia, Pennsylvania, for Federal deposit insurance.

Application for consent to establish a branch:

Banco Popular de Puerto Rico, San Juan (Hato Rey), Puerto Rico, for consent to establish a branch on Road 189, at Km 1.1, El Condadito Urbanization, Caguas, Puerto Rico.

Application for consent to move a branch:

Banco Central y Economias, San Juan (Hato Rey), Puerto Rico, for consent to relocate its branch office from Mayaguez Shopping Center to Mendez Vigo and Las Nereidas Streets, both addresses within Mayaguez, Puerto Rico.

Application for consent to merge and establish branches:

The New York Bank for Savings, New York (Manhattan), New York, an insured mutual savings bank, for consent to merge with Guardian Federal Savings and Loan Association, Northport, New York, a Federally insured mutual savings and loan association, under the charter and title of The New York Bank for Savings, and to establish the seven offices of Guardian Federal Savings and Loan Association as branches of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44.132-L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 44.133-L—Franklin National Bank, New York, New York.
Case No. 44.134-L—State Bank of Clearing, Chicago, Illinois.
Case No. 44.135-L—Franklin National Bank, New York, New York.
Case No. 44.138-L—Northern Ohio Bank, Cleveland, Ohio.
Case No. 44.139-L—The Bank of Bloomfield, Bloomfield, New Jersey.
Case No. 44.142-L—The Drovers' National Bank of Chicago, Chicago, Illinois.
Memorandum re: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Recommendation with respect to payment of legal services rendered and expenses incurred by Sullivan & Worcester, Boston, Massachusetts, in connection with the receivership of Surety Bank and Trust Company, Wakefield, Massachusetts.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Request for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389-4425.

Dated: November 19, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-2265-79 Filed 11-19-79; 2:26 pm]
BILLING CODE 6714-01-M

6

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER CITATION" OF PREVIOUS ANNOUNCEMENT: 44 FR 65697, November 14, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Friday, November 16, 1979.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a meeting on November 7, 1979.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: November 16, 1979.
Theodore E. Allison,
Secretary of the Board.
[S-2259 Filed 11-16-79; 4:00 pm]
BILLING CODE 6210-01-M

7

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Monday, November 26, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: November 19, 1979.
Griffith L. Garwood,
Deputy Secretary of the Board.
[S-2262-79 Filed 11-19-79; 11:54 am]
BILLING CODE 6210-01-M

8

PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Monday, November 19, 1979, at 1 p.m.

PLACE: Room 818, 320 First Street, N.W., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 15 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst; (202) 724-3094.

[S-2261-79 Filed 11-19-79; 10:53 am]
BILLING CODE 4410-01-M

Wednesday
November 21, 1979

Part II

Department of the Interior

Bureau of Indian Affairs

Indian Education Policies, Correction; Transfer of Indian Education Functions, Correction; Grants for Tribally Controlled Community Colleges and Navajo Community College

federal register

V
4
4
N
O
2
1
7
9
U
M
I

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 31a

Indian Education Policies; Correction

November 15, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Correction to final rule.

SUMMARY: Beginning on page 29832 of the May 22, 1979, Federal Register (44 FR 29832), there was published a notice of proposed rulemaking to add a new Part 31a to Chapter 1, Subchapter E, of Title 25 of the Code of Federal Regulations. Part 31a, Indian Education Policies, prescribes the policies for the administration of all BIA education programs, including the operation of the BIA school system. These changes are required by sections 1130 and 1133 of the Education Amendments of 1978 (Pub. L. 95-561; 25 U.S.C. 2010 and 2013).

The final rule published on Tuesday, October 9, 1979 (44 FR 58096), contained an effective date of November 8, 1979, which is erroneous. The final rule shall not become effective less than 45 days from the date on which it was transmitted to Congress.

EFFECTIVE DATE: The regulations shall become effective not less than 45 days from the date on which they were transmitted to Congress. (See Section 431 of the General Education Provisions Act (20 U.S.C. 1232 and 25 U.S.C. 2018).) To determine the effective date, contact the person below. The Bureau will publish a document confirming the effective date of this regulation at a later date.

FOR FURTHER INFORMATION CONTACT: Rick C. Lavis, Deputy Assistant Secretary, Department of the Interior, 18th and C Streets, N.W., Washington, D.C., (202) 343-7163.

Rick C. Lavis,

Deputy Assistant Secretary—Indian Affairs.

(FR Doc. 79-35805 Filed 11-20-79; 8:45 am)

BILLING CODE 4310-02-M

25 CFR Part 31b

Transfer of Indian Education Functions; Correction

November 15, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Correction of final rule.

SUMMARY: Beginning on page 29834 of the May 22, 1979, Federal Register (44 FR

29834), there was published a notice of proposed rulemaking to add a new Part 31b to Chapter 1, Subchapter E, of Title 25 of the Code of Federal Regulations. Part 31b, Transfer of Indian Education Functions, changes the line authority for the administration of the education program and functions of the Bureau of Indian Affairs and prescribes regulations to be followed in transferring control over Agency and Area education functions from the Commissioner of Indian Affairs to the Director, Office of Indian Education Programs, and his/her subordinates. These changes are required by sections 1126 and 1127 of the Education Amendments of 1978 (Pub. L. 95-561; 25 U.S.C. 2006).

The final rule published on Tuesday, October 9, 1979 (44 FR 58101), contained an effective date of November 8, 1979, which is erroneous. The final rule shall not become effective less than 45 days from the date on which it was transmitted to Congress.

EFFECTIVE DATE: The regulations shall become effective not less than 45 days from the date on which they were transmitted to Congress. (See Section 431 of the General Education Provisions Act (20 U.S.C. 1232) and 25 U.S.C. 2018). To determine the effective date, contact the person below. The Bureau will publish a document confirming the effective date of this regulation at a later date.

FOR FURTHER INFORMATION CONTACT: Rick C. Lavis, Deputy Assistant Secretary, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. (202) 343-7163.

Rick C. Lavis,

Deputy Assistant Secretary—Indian Affairs.

(FR Doc. 79-35806 Filed 11-19-79; 8:45 am)

BILLING CODE 4310-02-M

25 CFR Part 32b

Grants for Tribally Controlled Community Colleges and Navajo Community College

November 14, 1979.

AGENCY: Bureau of Indian Affairs, Department of Interior.

ACTION: Final rule.

SUMMARY: Beginning on page 29857 of the May 22, 1979 Federal Register (44 FR 29857), the Bureau of Indian Affairs published a notice of proposed rulemaking to add a new Part 33 to Chapter 25 of the Code of Federal Regulations. Part 33 was previously assigned to another regulation and inadvertently reassigned to this regulation. For this reason, the Part

number for this regulation is now changed to 32b and all sections are changed to read 32b. The rules in Part 32b implement the provisions of Public Law 95-471, the Tribally Controlled Community College Assistance Act of 1978.

EFFECTIVE DATE: November 21, 1979.

FOR FURTHER INFORMATION CONTACT: Rick C. Lavis, Deputy Assistant Secretary—Indian Affairs, Department of Interior, 18th & C Streets, N.W., Rm. 6352, Washington, D.C. 20240, (202) 343-7163.

SUPPLEMENTARY INFORMATION: The Assistant Secretary—Indian Affairs' authority to issue these regulations is Public Law 95-471 and 209 DM 8.

On May 22, 1979 the Bureau of Indian Affairs published proposed regulations to provide grants and technical assistance for the operation and improvement of Tribally Controlled Community Colleges and the Navajo Community College. The public was invited to offer comments on the proposed rules on or before July 6, 1979. Numerous comments were received from the public. Each of the comments was carefully considered by Task Force No. 12, which was constituted by the Assistant Secretary—Indian Affairs to oversee the preparation of these regulations. Some changes in the proposed regulations were made by the Task Force in response to public comment. Other changes were made as a result of departmental review in order to conform the regulations to statutory authority or to meet administrative concerns. Changes in the proposed regulations are summarized below.

A. Comments Adopted.

§ 32b.3 Various commentors proposed changes to clarify definitions and make them more specific. In response to one comment, the Task Force rewrote the definition of "Operating Expenses" under section 32b.3(1) to clarify the term.

§ 32b.7 A commenter felt the language in this section giving the factors to be considered in feasibility studies was discriminatory and potentially divisive. The Task Force agreed with this assessment and has changed the wording for factors (1) and (2). Another commenter felt that the 90 days or more allowed for completion of a feasibility study was excessive and that 60 days would be adequate. The Task Force agreed with this recommendation and has revised the section to allow only 60 days.

§ 32b.8 One commenter felt that a college eligible for funding during Fiscal Year 1980 should not have to wait for

"the academic year commencing after the date of approval of its application" to receive a grant. The Task Force agreed with this idea, and the section has been changed to allow colleges qualifying in F.Y. 1980 to receive grants for the 1979-1980 academic year. Another commenter believed that subparagraph 32b.8(d)(2) should be modified. This subparagraph stated: "a further priority for awarding grants among them shall be given to those who appear to have the best operations or operating proposals." The commenter felt that this statement created competition and was not in keeping with the Act. The Task Force agreed with this assessment and has modified this section so that further priority is given "to those who appear to be in the best position to fulfill the purpose of the Act and to those whose continued existence would be threatened if they did not receive such a grant."

B. Comments Not Adopted.

§ 32b.3 Many comments suggesting changes in definitions were considered but not adopted by the Task Force. Some of these comments, such as one suggesting an added definition of "duly authorized representative", were rejected as being unnecessary. Other comments suggesting that the definition of "Community College" be expanded were rejected because the definition of "Community College" is fixed by statute.

§ 32b.4 A commenter felt that this section should state that college by-laws, constitutions and policies should adhere to Tribal policies. The Task Force did not agree this was necessary because Tribally Controlled Community Colleges are chartered by the Tribe, which is therefore in the best position to ensure that tribal policies are adhered to.

§ 32b.5 A comment suggesting that Community Colleges be allowed indirect costs was rejected as not being authorized by the Act.

§ 32b.6 A suggestion that a section be added to establish a branch of Community Colleges under the Director was rejected because internal organization is more appropriate for inclusion in the Bureau Manual.

§ 32b. A commenter recommended that this section establish a deadline date for the BIA and HEW to enter into an agreement on the development of feasibility studies. The Task Force rejected this recommendation because the BIA and HEW are already negotiating an agreement which will allow the studies to be conducted as soon as these regulations are final and appropriated funds are available.

§ 32b.7 One commentor suggested that the Director of Education be given authority to waive the requirement for a feasibility study if a college has been awarded candidacy status by a regional accreditation association. The Task Force rejected this suggestion because the law requires feasibility studies and make no provision for waivers of any type. Another commentor suggested that the rule state that funding for feasibility studies may be drawn from the Secretary's general administrative fund. The Task Force rejected this suggestion because this is a matter of administrative discretion and therefore not appropriately included in a rule. A comment suggesting that "institutional status" studies be allowed in lieu of feasibility studies was rejected because the law specifies feasibility studies. Another comment on feasibility studies suggested "clarifying" their relationship to older colleges. This comment was also rejected because the law requires that all colleges, whether previously established or not, undergo feasibility studies before becoming eligible for grants. A comment suggesting a change of wording in subsection (d) was rejected.

§ 32b.8 A commentor suggested including a definition of "education program" in subparagraph (d)(1). The Task Force rejected this comment because "education program" is already defined in § 32b.3.

§ 32b.10 A commentor recommended that this section mention that funding for technical assistance is limited by Public Law 95-471 to appropriations specifically designated for that purpose. The Task Force rejected this recommendation because Public Law 95-471 already states the limitation and no regulatory language is needed.

§ 32b.12 A commentor recommended that this section be expanded to detail line items for feasibility studies, operational grants, and technical assistance for 1980 and beyond. The Task Force rejected this recommendation because specifying line items might provide more money for one of the three activities at the expense of limiting money available for one or more of the others.

C. Other Changes

§ 32b.1 That portion of the statement of policy which did not directly relate to the Department's functions with respect to Indian education has been omitted.

§ 32b.3 The definition of "FTE" and "Academic term" have been revised for clarity and to conform them to the statutory language. Definitions of "Academic year" and "part time/full time" have been added. Under the

regulations, a college will determine the number of FTE Indian students registered at the end of the sixth week of each academic term.

The FTE for an academic term is determined by the formula: $FTE = FT + PTCR/12$ where FT is the number of full time Indian students (those carrying 12 or more credit hours at the end of the sixth week of the term) and PTCR is the sum of credit hours for which part-time students are registered at the end of the sixth week of the term. Grant calculations under § 32b.8 are determined by adding the Indian FTE for each academic term and dividing by the number of terms in the academic year and multiplying that figure times \$4,000. For example, in a school operating on a two semester basis and the following enrollments, the FTE and grant calculations would be as follows:

Fall	FT=275 students	PTCR=800 hours
Spring	FT=225 students	PTCR=720 hours
Fall FTE = $275 + \frac{800}{12}$		
= $275 + 66.67$		
= 341.67		
Spring FTE = $225 + \frac{720}{12}$		
= $225 + 60$		
= 285		
Annual grant = $\frac{\text{Fall FTE} + \text{Spring FTE}}{2} \times \$4,000$		
= $\frac{341.67 + 285}{2} \times \$4,000$		
= $\frac{626.67}{2} \times \$4,000$		
= $313.33 \times \$4,000$		
= \$1,253,320.00		

In addition, the definition of "institution of higher education" in § 32b.3(j) has been changed. The definition is fixed by statute and includes (1) accredited colleges, (2) unaccredited colleges with respect to which the Commissioner of Education (DHEW) has annually determined will meet accreditation standards within a reasonable time, and (3) unaccredited colleges whose credits are accepted on transfer by three accredited colleges. Determinations of institutional status under the law are the responsibility of DHEW, which under current practice uses regional advisory groups to evaluate colleges and publishes lists of qualifying institutions.

§ 32b.6 This section, dealing with the role of HEW in conducting feasibility studies has been rewritten for clarity, but there was no substantive change other than designating the Assistant Secretary, rather than the Director, as the official responsible for entering into the agreement.

§ 32b.7 Subsection (b) of this section was revised to make it clear that the Act requires Indian tribes, not the colleges, to request a feasibility study and that a feasibility study may be undertaken even before a college is formally established. Also, mention of giving priority in scheduling feasibility studies has been deleted. Also, subsection (c) was added: "The Director of Education will issue guidelines for conducting the feasibility studies." This is in keeping with the practice of treating the implementation of technical procedures with greater detail in a separate document.

§ 32b.8 Subsection (b) of this section was revised to require applications to contain the listed information. Subsection (c)(3) was revised to include appeal procedures similar to those under § 32b.7, in case of disapproval of grant applications. The provisions relating to calculation of the grant have been clarified. The date for payment of the first installment of grant funds in subsection (e) has been changed from September 1 to October 1 or the first day on which appropriated funds are available, whichever is later, in order to accommodate budgetary concerns. Subsection (g) of this section was omitted to make it clear that funding under the regulations requires annual submission and approval of an application for assistance. A new subsection (g) has been added to provide for adjustment or recovery of grant overpayments due to fraud or mistake.

§ 32b.9 The last sentence has been revised to clarify that periodic reporting of FTE counts is required. The reports are necessary to calculate advance installments on the grants.

The regulations in Subpart B applicable to the Navajo Community College have been revised to make them conform to the changes made in Subpart A.

These regulations are being promulgated as effective immediately upon publication, rather than after 30 days, under 5 U.S.C. 553(d)(3) in order that eligible colleges may apply for and receive funding as soon as possible after appropriated funds become available and because these regulations impact primarily upon only a few Indian tribes and colleges who have had full opportunity to comment and not upon the public generally.

The Department of the Interior has determined that these regulations are not a major Federal action within the scope of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c).

The Department of Interior has determined that this is not a significant

rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The primary author of this document is Leroy Clifford, Steering Committee Member and Task Force No. 12 Chairman. Address: 1626 High Street, Denver, Colorado 80218. Telephone: (302) 321-5909.

With the above changes, a new Part 32b of Chapter 1 Title 25 of the Code of Federal Regulations is adopted as set forth below:

PART 32b—GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Subpart A—Tribally Controlled Community Colleges

- Sec.
- 32b.1 Purpose.
- 32b.2 Scope.
- 32b.3 Definitions.
- 32b.4 Eligible Recipients.
- 32b.5 Eligible Activities.
- 32b.6 HEW Participation.
- 32b.7 Feasibility Studies.
- 32b.8 Grants.
- 32b.9 Reports.
- 32b.10 Technical Assistance.
- 32b.11 General Provisions.
- 32b.12 Annual Budget.
- 32b.13 Criminal Penalties.

Subpart B—Navajo Community College

- 32b.20 Purpose.
- 32b.21 Scope.
- 32b.22 Definitions.
- 32b.23 Eligible Activities.
- 32b.24 Grants.
- 32b.25 Reports.
- 32b.26 Technical Assistance.
- 32b.27 General Provisions.
- 32b.28 Criminal Penalties.

Authority: Sections 114 and 203(a) of Public Law 95-471, 25 U.S.C. 1815, 25 U.S.C. 640c-1(c).

Subpart A—Tribally Controlled Community Colleges

§ 32b.1 Purpose.

The policy of the Department of the Interior is to support and encourage the establishment, operation, and improvement of tribally controlled community colleges to ensure continued and expanded educational opportunities for Indian students. The regulations in this Subpart prescribe procedures for providing financial and technical assistance to this end under the Tribally Controlled Community College Assistance Act of 1978 (Pub. L. 95-471, 92 Stat. 1325, 25 U.S.C. 1801 et seq.).

§ 32b.2 Scope.

The regulations in this Subpart are applicable to the provision of financial and technical assistance to Community

Colleges under Title I of the Act. They do not apply to the provision of assistance to Navajo Community College. Subpart B of this Part applies to assistance to Navajo Community College under Title II of the Act.

§ 32b.3 Definitions.

As used in this Subpart A:

(a) "Academic Term" means a semester, trimester, or other such period (not less than six (6) weeks in duration) into which a community college normally subdivides its academic year, but does not include a summer term.

(b) "Academic Year" means a twelve month period established by a community college and approved by the Director of Education as the annual period for the operation of the college's education programs.

(c) "The Act" means the Tribally Controlled Community College Assistance Act of 1978 (Pub. L. 95-471, 92 Stat. 1325, 25 U.S.C. 1801 et seq.).

(d) "Assistant Secretary" means the Assistant Secretary for Indian Affairs of the Department of the Interior, or his/her duly authorized representative.

(e) "Community College" means an institution of higher education which (1) is formally controlled or operated and managed by the governing body of an Indian Tribe or by the governing bodies of two or more Indian Tribes, or (2) is established or is otherwise sanctioned or chartered by resolution, ordinance, or other official action (which is still in full force and effect) of such governing body or bodies. However, for purposes of this definition, only one such institution shall be recognized with respect to any one Tribe. A Community College that meets the requirements of this definition with respect to more than one Tribe must meet such requirements with respect to at least one Tribe that has no other currently formally controlled, operated and managed, established, sanctioned, or chartered Community College.

(f) "Director of Education" means the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs, or his/her duly authorized representative.

(g) "Full Time Equivalent" or "FTE", means the number of Indian students (1) enrolled full-time for an entire academic term at a community college, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term, plus (2) the full-time equivalent of the number of other Indian students who are enrolled part-time for an entire academic term at a community college (determined on the basis of the quotient of the sum of credit hours for which all such part-time students are registered during such academic term,

divided by twelve (12)), calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term. The formula for calculating the Indian FTE for an academic term is expressed mathematically as $FTE = FT + PTCR/12$ where FT is the number of full time Indian students (those carrying 12 or more credit hours at the end of the sixth week of the academic term) and PTCR is the number of credit hours for which part-time Indian students are registered at the end of the sixth week of an academic term.

(h) "Indian" means a person who is a member of an Indian Tribe and is eligible to receive services from the Secretary of the Interior because of his/her status as an Indian.

(i) "Indian Tribe" means an Indian tribe, band, nation, pueblo, rancheria, or other organized group or community, including any Alaskan Native Village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(j) "Institution of Higher Education" as defined in Pub. L. 95-471 (incorporating in part § 1201 of the Higher Education Act of 1965), means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (3) is a public or other nonprofit institution, and (4) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (A) is an institution with respect to which the Commissioner of Education has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also

includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of clauses (1), (2), (3), and (4). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.

(k) "National Indian Organization" means any organization of Indians, found by the Director of Education to be nationally based, representing a substantial Indian constituency, and expert in the field of Indian education. Notice of such findings shall be published in the Federal Register with an opportunity for comment from the public and no such finding shall be effective earlier than 30 days after publication.

(l) "Operating Expenses of Education Programs" means the obligations and expenditures of a community college for post-secondary activities, including administration, instruction, attendance, health and other student services, operation, maintenance and repair of plant, fixed charges, and other related expenses, but not including expenditures for the acquisition or construction of academic facilities. (The term "academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs of an institution of higher education or as dormitories or student services buildings, and maintenance, storage, support, or utility facilities essential to operation of the foregoing facilities.)

(m) "Part-time" means registered for less than twelve (12) credit hours for an academic term; "full-time" means registered for twelve (12) or more credit hours for an academic term.

(n) "Unused Portion of Received Funds" means the amount of financial assistance provided under this Subpart to a Community College for an academic year which has not been obligated or expended by the Community College by July 1 of that academic year.

§ 32b.4 Eligible recipients.

Financial assistance under this Subpart shall be available only to a Community College which:

(a) Is governed by a board of directors, regents, or trustees, a majority of whom are Indians;

(b) Demonstrates its adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians, and has formally adopted, in writing, such goals, philosophy, or plan of operation, which may be in the form of a constitution, by-laws, or policy statement of the Community College;

(c) If in operation for more than one year, has students a majority of whom are Indian; and

(d) Upon completion of a feasibility study, receives a positive determination, and;

(e) Is not in violation of § 32b.11 of this Subpart.

§ 32b.5 Eligible activities.

Financial assistance under this Subpart shall be available to defray only the operating expenses of education programs of Community Colleges. Financial assistance under this Subpart shall not be used for religious worship or sectarian instruction, but nothing in this Subpart shall be construed as barring instruction in comparative religions or cultures or in languages of Indian tribes.

§ 32b.6 HEW participation.

The Assistant Secretary for Indian Affairs is authorized to enter into an agreement with the Assistant Secretary for Education, Department of Health, Education, and Welfare, and to revise such agreement as necessary, to assist the Director of Education in the development of plans, procedures, and criteria for feasibility studies under this Subpart, and to provide the Director with technical assistance in conducting such feasibility studies, including determinations as to the reasonable number of students required to support a Community College.

§ 32b.7 Feasibility studies.

(a) Grants under § 32b.8 of this Subpart may be made to a Community College only after a positive determination of feasibility as provided in this section.

(b) Within thirty (30) days of receiving a resolution or other duly authorized request from the governing body of one or more Indian Tribes, the Director of Education shall initiate a feasibility study to determine whether there is justification to encourage and maintain a Community College for such tribe or tribes. The feasibility study shall give consideration to the following factors:

(1) Financial feasibility based upon potential enrollment;

(2) Evidence of low tribal levels of tribal matriculation in and graduation from postsecondary educational institutions;

(3) Tribal, linguistics, or cultural differences;

(4) Isolation;

(5) Presence of alternate education sources;

(6) Proposed curriculum;

(7) The benefits of continued and expanded educational opportunities for Indian students.

(c) The Director of Education will issue detailed guidelines for conducting and analyzing the feasibility studies.

(d) Feasibility studies under this section shall be conducted in consultation with the tribal governing body or bodies involved or their designated representatives. Each feasibility study shall be completed and filed by the Director of Education within sixty (60) days after the feasibility study has been initiated. The study shall be filed with (1) the Assistant Secretary, (2) the tribal governing body or bodies requesting the studies, and (3) with the board of directors, regents, or trustees of the Community College, if already established.

(e) In the case of any feasibility study which results in a negative determination by the Director of Education, a Tribe requesting the study may within thirty (30) days of receipt of the study or of notice of such determination file a notice of appeal with the Assistant Secretary. Following the timely filing of a Tribe's notice of appeal, the Tribe and Community College shall have a right to a formal review of the feasibility study, including a hearing upon reasonable notice within sixty (60) days before the Assistant Secretary (or his/her designee, other than the Director of Education or any federal employee under the Director's supervision). At the hearing, the appealing Tribe or the Community College (or both) may present additional evidence or arguments to justify feasibility. Within thirty (30) days of the hearing, the Assistant Secretary shall issue a written ruling either confirming, modifying, or reversing the original determination. The ruling, which shall be final for the Department, shall be mailed or otherwise delivered to the appealing Tribe and the Community College within one week of its issuance.

In any case where the original negative determination is not reversed, the Assistant Secretary's ruling shall specify the grounds for the decision and state the manner in which the determination related to each of the factors specified.

(f) A negative determination shall not prevent a Tribe from requesting another feasibility study, but no more than one feasibility study shall be requested for any given Community College per year.

§ 32b.8 Grants.

(a) Each Community College which has received a positive feasibility study determination under § 32b.7 of this Subpart shall be entitled to apply for financial assistance under this Subpart.

(b) Except with respect to applications for grants for the 1979-1980 academic year, each Community College shall make an application to the Director of Education before January 31, of the year preceding the academic year for which financial assistance is requested. Each application must contain the following information:

(1) The name and address of the Community College and the names of the members of the governing board and the number of its members who are Indian;

(2) A statement that the Community College has received a positive feasibility determination and the date thereof;

(3) A written statement of the goals, philosophy, or proposed plan of operation sufficient to demonstrate that its education program or proposed program is designed to meet the needs of Indians;

(4) In the case of a Community College which has been in operation for more than one year, a statement of the total number of FTE Indian students and the total number of all FTE students;

(5) If the Community College has not yet begun operations, a statement of expected enrollment, including the total number of FTE students and the number of FTE Indian students;

(6) The name and address of the Indian Tribe or Tribes which control or operate and manage, or have established, sanctioned, or chartered the Community College, and a statement as to which of those Tribes have not done so with respect to any other Community College;

(7) A curriculum, which may be in the form of a college catalog or like publication;

(8) A proposed budget, showing total expected operating expenses of education programs and expected revenues from all sources for the academic year to which the information applies;

(9) An assurance that the Community College will not deny admission to any Indian student because that student is not a member of a specific tribe or because such student is a member of a specific tribe, and will comply with the

requirements set forth in § 32b.11 of this Subpart together with any request and justification for a specific waiver of any requirement of 25 CFR Part 276 which the Community College believes to be inappropriate;

(10) Certification by the chief executive officer of the Community College that the information on the application is complete and correct and that the application has been filed with the governing body or bodies of the Tribe or Tribes which control or have sanctioned or chartered it.

(c)(1) Within thirty (30) days of receiving an application required under subsection (b) of this section, the Director of Education shall review the application submitted by the Community College and any comments with respect thereto filed by the Tribe(s) or by any national Indian organization(s) whose assistance has been requested by the Community College, and make a grant award in an amount determined under subsection (d) of this section to the Community College if the application qualifies the Community College to receive a grant.

(2) In the case of any Community College whose application is not approved, the Director shall promptly send a notice of such action to the Community College. Such notice shall include a statement of the specific reasons for not approving the application and a statement advising the College of its right within thirty (30) days to amend or supplement the application on file to rectify the defect.

(3) Final disapproval of a grant application by the Director after the thirty day period referred to in subsection (c)(2), or a failure of the Director of Education to approve an application within thirty (30) days of its receipt may be appealed by a Community College in the same manner as provided in subsections (d) and (f) of § 32b.7.

(4) A Grant award under an approved application shall be evidenced by a grant agreement, signed by the Director of Education, incorporating the application and the provisions required by § 32b.11.

(d)(1) In fiscal year 1980, each Community College which qualifies for a grant will receive a grant for academic year 1979-80; thereafter each Community College which qualifies for a grant shall receive a grant for the academic year commencing after the date of approval of its application. Except as provided in subsection (d)(3) grants shall be in an amount equal to \$4,000 multiplied by the number of FTE Indian students in attendance at such college during each academic term

divided by the number of academic terms in the academic year, except that no such grant shall exceed the annual operating expenses of the education programs provided by the Community College. The mathematical formula for calculating the base grant is $BC \text{ (Base Grant)} =$

$$\frac{\$4000 \times \text{FTE}}{\text{TERM 1} + \text{FTE} + \text{TERM 2} + \dots + \text{FTE} + \text{TERM N}}$$

where FTE is the Indian FTE for each of the academic terms during the academic year calculated in conformity with § 32b.3(g) of this Subpart and N is the number of academic terms in the academic year.

(2) For the first Federal fiscal year for which funds are appropriated for grants under this Subpart, not less than eight (8) nor more than fifteen (15) grants shall be approved; priority in awarding such grants shall be given to Community Colleges which are operating on October 17, 1978, and which have a history of service to the Indian people. (If more than fifteen (15) Community Colleges meeting these two (2) conditions submit applications for the first fiscal year, a further priority for awarding grants among them shall be given to those who appear to be in the best position to fulfill the purpose of the Act and to those whose continued existence would be threatened if they did not receive such a grant).

(3) All grants under this section shall be subject to the availability of appropriations and the amount thereof shall be ratably reduced for all Community Colleges if the sums appropriated for any fiscal year for financial assistance under this Subpart are not sufficient to pay the full amounts to which the eligible Community Colleges are otherwise entitled under subsection (d)(1).

(e) The Director of Education shall authorize payments to each such Community College in advance installments by letter of credit or Treasury check in an amount equal to fifty percent (50%) of the grant amount available for allotment to such Community College for such academic year under subsection (d) of this section on or before October 1st of such College's academic year (except for 1979-80) or the first day on which appropriations for the fiscal year beginning on such date are available for obligation by BIA whichever occurs later, based on the number of FTE Indian students calculated on the basis of registrations as in effect at the conclusion of the sixth week of the final academic term of the preceding

academic year. On or before January 1st (or such other date that is the first day of the fifth month) of such College's academic year, payments shall be made in the form of advance installments to each Community College in an amount equal to seventy-five percent (75%) of the grant amount available for allotment to such Community College for such academic year under subsection (d) of this section, calculated on the basis of registrations at the conclusion of sixth week of the academic year, less the amount previously advanced for such academic year. On or before July 1st (or such other date that is the first day of the eleventh month) of each such academic year the balance of the grant amount to which each College is entitled under subsection (d) of this section shall be paid to such College. In the event that additional sums are appropriated to which such Community Colleges are entitled under section 110(a) of the Act and subsection (d) of this section, these amounts shall be included in such final payments.

(f) If with respect to any academic year the amounts of financial assistance hereunder have been ratably reduced as provided in subsection (d)(3) of this section and additional funds have not been appropriated to pay the full amount of such reductions on or before June 1st of such year, the Director of Education shall notify each Community College of such fact in writing, and each Community College shall report in writing to the Director of Education on or before July 1st of such year the amount of unused portion of received funds. The total of such reported unused portions of received funds shall be reallocated by the Director of Education in proportion to the amount of financial assistance to which each Community College is entitled under subsection (d) but which has not been provided due to the ratable reductions provided for therein, (except that no Community College shall receive more than the total annual cost of the education programs provided by such College) and payments shall be made reflecting such reallocations on or before August 1st of such academic year.

(g) If the Director of Education determines that a Community College has received, through mistake or fraud, payments of financial assistance under this Subpart to which it was not entitled, the Director shall promptly notify the college, which may appeal the Director's determination under the procedures set forth in § 32b.7, and adjust the amount of payments to the college under this Subpart for the same or subsequent academic years to compensate for such

overpayments or otherwise attempt to recover such overpayments.

(h) Eligibility for grants under this Subpart shall not, by itself, bar a Community College from qualifying for or receiving financial assistance under any other Federal program for which it may qualify.

§ 32b.9 Reports.

Each Community College receiving financial assistance under this Subpart shall provide to the Director of Education on or before December 1st of each year a report which shall include an accounting of the amounts and purposes for which such financial assistance was expended during the preceding academic year; the annual cost of education programs of the Community College from all sources for such academic year; and a final report of the performance based upon the criteria set forth in the Community College's stated goals, philosophy or plan of operation. Upon reasonable cause, the Director of Education may extend the period for submitting the annual report. Each Community College shall in addition report to the Director of Education its FTE Indian student enrollment for each academic term of the academic year within three weeks of the date such FTE calculation is made.

§ 32b.10 Technical assistance.

The Director of Education shall furnish technical assistance either directly or through contract to any Community College requesting it. Such assistance shall be initiated within thirty (30) days of a Community College's request in writing. In any case, where the type and source of technical assistance is specified in the request, the Director, to the extent possible or feasible, shall provide the type of technical assistance through the source so specified. Technical assistance may include, but is not limited to, consulting services for the development of programs, plans, and feasibility studies and accounting, and other technical advice. In awarding of contracts for technical assistance, preference shall be given to an organization designated by the Community College to be assisted.

Denials of requests for technical assistance under this section shall be made in writing and sent to the applicant within thirty (30) days of the request, together with a statement of the reason for denial. An appeal under this section may be undertaken in the same manner as in the case of negative determinations of feasibility under § 32b.7 of this Subpart.

§ 32b.11 General Provisions.

The general requirements for grant administration in this section are applicable to all grants provided under this Subpart to Community Colleges:

(a) Services or assistance provided to Indians by Community Colleges aided under this Subpart shall be provided in a fair and uniform manner, and admission to any such Community College shall not be denied to any Indian student because such individual is not a member of a specific Indian tribe or because such individual is a member of a specific Indian tribe.

(b) Except as may be otherwise provided in this Subpart, any Community College receiving financial assistance under this Subpart shall comply with Part 276 of this Title, subject to any express waiver of specific inappropriate provisions of Part 276 that may be granted by the Assistant Secretary after request and justification by the Community College.

(c) A Community College shall have the right to appeal any adverse decision of the Director of Education under a grant agreement to the Assistant Secretary by filing written notice of appeal with the Assistant Secretary within thirty (30) days after the adverse decision. Within thirty (30) days after receiving notice of appeal, the Assistant Secretary shall conduct a formal hearing at which time the College may present evidence and argument to support its appeal. Within thirty (30) days of the hearing, the Assistant Secretary shall issue a written ruling on the appeal confirming, modifying, or reversing the Director of Education's decision, the Assistant Secretary shall state in detail the basis for his/her ruling. The ruling of the Assistant Secretary on an appeal shall be final for the Department of the Interior.

§ 32b.12 Annual Budget.

Appropriations under Title I of the Tribally Controlled Community College Assistance Act of 1978 shall be separately identified in the Bureau of Indian Affairs Budget justification. Funds appropriated for grants under this Subpart shall not be commingled with other funds expended by the Bureau of Indian Affairs.

§ 32b.13 Criminal Penalties.

Persons submitting or causing to be submitted to the Bureau any false information in connection with any application, report, or other document, upon which the provision of Federal financial assistance or any other payment of Federal funds is based, may be subject to criminal prosecution under

provisions such as sections 287, 371, or 1001 of Title 18, U.S. Code.

Subpart B—Navajo Community College**§ 32b.20 Policy.**

It is the policy of this Department to support and encourage the establishment, operation, and improvement of tribally controlled community colleges in order to ensure continued and expanded educational opportunities for Indian students. The regulations in this Subpart prescribe procedures for providing financial and technical assistance to this end for the Navajo Community College under the Navajo Community College Act, as amended (25 U.S.C. 640a-c).

§ 32b.21 Scope.

The regulations in this Subpart are applicable to the provision of financial and technical assistance to Navajo Community College pursuant to the Navajo Community College Act of December 15, 1971 (Pub. L. 92-189, 85 Stat. 646, 25 U.S.C. 640a-c) as amended by the Navajo Community College Assistance Act of 1978, Title II of the Tribally Controlled Community College Assistance Act of 1978 (Pub. L. 95-471, 92 Stat. 1325, 1329, 25 U.S.C. § 640c). Regulations applicable to Tribally Controlled Community Colleges other than Navajo Community College are found in Subpart A of this Part 32b.

§ 32b.22 Definitions.

As used in this Subpart:

(a) "Academic Term" means a semester, trimester, or other such period (not less than six (6) weeks in duration) into which the college normally subdivides its academic year, but does not include a summer term.

(b) "Academic Year" means a twelve month period established by the college and approved by the Director of Education as the annual period for the operation of the college's education programs.

(c) "The Act" means the Navajo Community College Act of December 15, 1971 (Pub. L. 92-189, 85 Stat. 646) as amended by the Navajo Community College Assistance Act of 1978, (Pub. L. 95-471, Title II, 92 Stat. 1329, 25 U.S.C. § 640a et seq.).

(d) "Assistant Secretary" means the Assistant Secretary for Indian Affairs of the Department of the Interior or his/her duly authorized representative.

(e) "College" means the institution known as Navajo Community College established by the Navajo Tribe.

(f) "Director of Education" means the Director of the Office of Indian

Education Programs of the Bureau of Indian Affairs, or his/her duly authorized representative.

(g) "Full Time Equivalent" or "FTE" means the number of Indian students (1) enrolled full-time for an entire academic term at the College, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term, plus (2) the full-time equivalent of the number of other Indian students who are enrolled part-time for an entire academic term at the College (determined on the basis of the quotient of the sum of credit hours for which all such part-time students are registered during such academic term divided by (12)), calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term. The formula for calculating the Indian FTE for an academic term is expressed mathematically as $FTE = FT + PTCR/12$ where FT is the number of full time Indian students (those carrying 12 or more credit hours at the end of the sixth week of the academic term) and PTCR is the number of credit hours for which part-time Indian students are registered at the end of the sixth week of an academic term.

(h) "Indian" means a person who is a member of an Indian tribe and is eligible to receive services from the Secretary of the Interior because of his/her status as an Indian.

(i) "Indian Tribe" means an Indian tribe, band, nation, pueblo, rancheria, or other organized group or community, including any Alaskan Native Village or Regional or Village Corporation as defined in or established under the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(j) "Operating and Maintenance Expenses of Education Programs" means the obligation and expenditures by the College for post-secondary education activities including administration, instruction, attendance, health and other student services, operation, maintenance and repair of plant, and fixed charges, and other related expenses, but not including obligations or expenditures for the acquisition or construction of academic facilities (as defined in § 32b.3(1) of Subpart A).

§ 32b.12 Eligible Activities.

Financial assistance under this Subpart shall be available to defray only the operating and maintenance expenses of education programs of the College. Financial assistance under this

Subpart shall not be used for religious worship or sectarian instruction, but nothing in this Subpart shall be construed as barring instruction in comparative religions or cultures or in languages of Indian tribes.

§ 32b.24 Grants.

(a) Navajo Community College is entitled to annual grants for operation and maintenance of the College in amounts based upon the number of Full-Time Equivalent Indian students in attendance.

(b) Annually, in the manner and within the deadline established by the Director of Education, the Navajo Community College shall submit an application in the form of a statement of its FTE enrollment (total and Indian) for the next academic year. The statement shall include a description of the College's curriculum, which may be in the form of a College catalog or like publication, and a proposed budget showing total expected operating expenses of educational programs and expected revenue from all sources for the academic year for which the information applies. The statement shall be certified by the chief executive officer of the College and shall certify that a copy of that statement has been submitted to the Navajo Tribe.

(c) Annual budget request for the College shall be separately identified in the Bureau of Indian Affairs Budget justifications. Funds appropriated for grants under this subpart shall not be commingled with other funds appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.

(d) Within thirty (30) days of submission of the statement required under subsection (b) of this section, the Director of Education shall make a grant award to the College in an amount determined under subsection (e) of this section. The grant award shall be evidenced by a grant agreement signed by the Director of Education, incorporating the grant application and including the provisions required by § 32b.27 of this Subpart.

(e) The College shall be eligible to receive a grant for the fiscal year beginning October 1, 1979, and for each succeeding year, in an amount equal to \$4,000 multiplied by the number of FTE Indian students in attendance at the College during each academic term divided by the number of academic terms in the academic year, except that no such grant shall exceed the annual operating expenses of the education programs provided by the College. The

mathematical formula for calculating the base grant is BG (Base Grant) =

$$\$4000 \times \frac{FTE_{TERM 1} + FTE_{TERM 2} + \dots + FTE_{TERM N}}{N}$$

where FTE is the Indian FTE for each of the academic terms during the academic year calculated in conformity with section 32b.22(g) of this Subpart and N is the number of academic terms in the academic year. The amount and payment of such grants shall be subject to the availability of annual appropriations.

(f) The Director of Education shall authorize payments to the College in advance installments by letter of credit or Treasury check in an amount equal to fifty percent (50%) of the grant amount available for allotment to the College for such academic year under subsection (e) of this section on or before October 1st of such academic year (except 1979-80) or the first day on which appropriations for the fiscal year beginning on such date are available for obligation by BIA, whichever occurs later, based on the number of FTE Indian students calculated on the basis of registrations as in effect at the conclusion of the sixth week of the final academic term of the preceding year. On or before January 1st (or such other date that is the first day of the fifth month) of such academic year, payment shall be made in the form of such advance installments to the College in an amount equal to seventy-five percent (75%) of the grant amount available for allotment to the College for such academic year under subsection (e) of this section, calculated on the basis of registrations as in effect at the conclusion of the sixth week of the academic year, less the amount previously advanced for such academic year. On or before July 1st (or such other date that is the first day of the eleventh month) of such academic year, the balance of the grant amount to which the College is entitled under subsection (e) of this section shall be paid to the College. In the event that additional sums are appropriated for the benefit of the College, these sums shall be included in the final payment.

(g) Overpayments of grants under this Subpart may be recovered in the manner provided by § 32b.8(g) of Subpart A.

(h) Payments to the Navajo Community College under this Subpart shall not disqualify the College from applying for or receiving grants or contracts under any other Federal programs for which it may qualify.

§ 32b.25 Reports.

The Navajo Community College shall provide the Director of Education on or before September 1st of each year a report which shall include an accounting of the amounts and purposes for which financial assistance under this Subpart was expended during the preceding academic year, the annual cost of the education programs of the College from all sources for such academic year, and a final report of the performance based upon the criteria set forth in the College's stated goals, philosophy or plan of operation. Upon reasonable cause, the Director of Education may extend the period for submitting the annual report. The college shall in addition report to the Director of Education its FTE Indian Student enrollment for each academic term of the academic year within three weeks of the date such FTE calculation is made.

§ 32b.26 Technical Assistance.

The Director of Education shall furnish technical assistance, either directly or through contract, to the College when requested in writing. Such assistance shall be initiated within thirty (30) days of the College's request. In any case in which the form and source of technical assistance is specified in the request, the Director of Education shall to the extent possible or feasible provide technical assistance in the form requested and through the source so specified. Technical assistance may include, but is not limited to, consulting services in the development of annual statements and reports required under this Subpart and accounting, and other technical advice and assistance.

§ 32b.27 General Provisions.

The general requirements for grant administration in this section are applicable to all grants provided under this Subpart to the Navajo Community College.

(a) Services or assistance provided to Indians by the College with the financial assistance provided under this Subpart shall be provided in a fair and uniform manner, and admission to the College shall not be denied any Indian student because such individual is not a member of a specific Indian tribe or because such individual is a member of a specific Indian tribe.

(b) Except as may be otherwise provided in this Subpart, the College shall comply with Part 276 of this Title, subject to express waiver of specific inappropriate provisions of Part 276 that may be granted, after request and justification by the College by the Assistant Secretary.

(c) In addition to any other right the college may have under this Subpart, the College shall have the right to appeal any adverse decision of the Director of Education under a grant agreement to the Assistant Secretary by filing written notice of appeal with the Assistant Secretary within thirty (30) days of the adverse decision. Within thirty (30) days after receiving notice of appeal, the Assistant Secretary shall conduct a formal hearing at which time the College may present evidence and argument to support its appeal. Within thirty (30) days of the hearing, the Assistant Secretary shall issue a written ruling on the appeal confirming, modifying or reversing the decision of the Director of Education. In the case of a ruling not reversing the Director of Education's decision, the Assistant Secretary shall state in detail the basis for his/her ruling. The ruling of the Assistant Secretary on an appeal shall be final for the Department of the Interior.

§ 32b.28 Criminal Penalties.

Persons submitting or causing to be submitted to the Bureau any false information in connection with any application, report, or other document, upon which the provision of the Federal financial assistance, or any other payment of Federal funds, is based, may be subject to criminal prosecution under provisions such as sections 287, 371, or 1001 of Title 18, U.S. Code.

Forrest J. Gerard,

Assistant Secretary, Indian Affairs.

[FR Doc. 79-35867 Filed 11-20-79; 8:45 am]

BILLING CODE 4310-02-M

federal register

Wednesday
November 21, 1979

Part III

Commission of Fine Arts

Procedures and Policies; Final Rulemaking

COMMISSION OF FINE ARTS

45 CFR Parts 2101, 2102, and 2103

Procedures and Policies

AGENCY: The Commission of Fine Arts.

ACTION: Final rule.

SUMMARY: As established by Congress in 1910, the Commission of Fine Arts is a small independent advisory body made up of seven Presidentially appointed "well qualified judges of the arts" whose primary role is architectural review of designs for buildings, parks, monuments and memorials erected by the Federal or District of Columbia Governments in Washington, D.C. In addition to architectural review, the Commission considers and advises on the designs for coins, medals and foreign U.S. memorials. The Commission also advises the District of Columbia Government on private building projects within the Georgetown Historic District, the Rock Creek Park perimeter and the Monumental Core area. The Commission advises Congress, the President, Federal agencies, and the District of Columbia Government on the general subjects of design, historic preservation and on orderly planning on matters within its jurisdiction. The Commission hereby adopts these regulations to set forth its procedures and policies and to facilitate and clarify the relationship of the Commission and its staff with those parties subject to the Commission's jurisdiction.

EFFECTIVE DATE: November 21, 1979.

FOR FURTHER INFORMATION CONTACT: Charles H. Atherton, Secretary, Commission of Fine Arts, 708 Jackson Place, N.W., Washington, D.C. 20006 (202) 566-1066.

SUPPLEMENTARY INFORMATION: On 20 July 1979 the Commission published (44 FR 42728) a proposed rule, and it received only one comment involving a technical correction which has been made. Other changes from the proposed rule have been made merely to correct errors or omissions, to clarify the intent of certain provisions, and to reschedule the regular time for monthly meetings. Accordingly, there is established a new Chapter XXI, Commission of Fine Arts, Rules and Regulations, in 45 Code of Federal Regulations consisting at this time of Parts 2101, 2102 and 2103 as set forth below.

PART 2101—FUNCTIONS AND ORGANIZATION

Subpart A—Functions and Responsibilities of the Commission

Sec.

2101.1 Statutory and Executive order authority.

2101.2 Relationships of Commission's functions to responsibilities of other government units.

Subpart B—General Organization

2101.10 The Commission.

2101.11 Secretary to the Commission.

2101.12 Georgetown Board of Review.

Subpart A—Functions and Responsibilities of the Commission

§ 2101.1 Statutory and Executive Order Authority.

The Commission of Fine Arts (referred to as the "Commission") functions pursuant to statutes of the United States and Executive Orders of Presidents, as follows:

(a) *Public buildings, other structures, and parklands.* (1) For public buildings to be erected in the District of Columbia by the federal government and for other structures to be so erected which are important to the appearance of the city, the Commission comments and advises on the plans and on the merits of the designs before final approval or action;

(2) For statues, fountains and monuments to be erected in the District of Columbia under authority of the federal government, the Commission advises upon their location in public squares, streets, and parks, upon the selection of models and upon the merits of the designs;

(3) For monuments to be erected at any location pursuant to the American Battle Monuments Act, the Commission approves the designs and materials before they are accepted by the Monuments Commission;

(4) For parks within the District of Columbia, when plans of importance are under consideration, the Commission advises upon the merits of the designs; and

(5) For the selection by the National Capital Planning Commission of lands suitable for development of the National Capital park, parkway, and playground system in the District of Columbia, Maryland, and Virginia, the Commission provides advice.

(36 Stat. 371 (40 U.S.C. 104) as amended by 74 Stat. 128 (40 U.S.C. 106); Executive Order (E.O.) 1259 of October 25, 1910; E.O. 1862 of November 28, 1913; and E.O. 3524 of July 28, 1921; 60 Stat. 317 (36 U.S.C. 124) and 66 Stat. 781 (40 U.S.C. 712))

(b) *Private buildings bordering certain public areas in Washington, D.C.* For

buildings to be erected or altered¹ in locations which border the Capitol, the White House, the intermediate portion of Pennsylvania Avenue, the Mall Park System, Lafayette Park, the Zoological Park, Rock Creek Park or Parkway, or Potomac Park or Parkway, or are otherwise within areas defined by the official plats prepared pursuant to Sec. 2 of the Shipstead-Luce Act, the Commission reviews the plans as they relate to height and appearance and to color and texture of the exteriors, and makes recommendations to the government of the District of Columbia, including ones for changes as in the judgement of the Commission are necessary to prevent reasonably avoidable impairment of the public values represented by the areas along which the buildings border. (The Shipstead-Luce Act, 46 Stat. 366 as amended (40 U.S.C. 121; D.C. Code 5-410).)

(c) *Georgetown buildings.* For buildings to be constructed, altered, reconstructed, or razed within the area of the District of Columbia known as "Old Georgetown." The Commission reviews and reports to the District of Columbia Government on proposed exterior architectural features, height, appearance, color, and texture of exterior materials as would be seen from public space; and the Commission makes recommendations to such government as to the effect of the plans on the preservation and protection of places and areas that have historic interest or that manifest exemplary features and types of architecture, including recommendations for any changes in plans necessary in the judgement of the Commission to preserve the historic value of Old Georgetown, and takes any such actions as in the judgement of the Commission are right or proper in the circumstances. (Old Georgetown Act, 64 Stat. 903 (D.C. Code 5-801).)

(d) *United States medals, insignia, and coins.* On medals, insignia, and coins to be produced by an executive department of the United States, the Commission advises as to the merits of their designs; and if requested to do so, the Commission advises the Heraldic Branch, Quartermaster Corps, Department of the Army, on merits of designs it proposes for medals, insignia,

¹ Alteration does not include razing of a building (Commissioner of the District of Columbia v. Bennenson, D.C. Ct. of App., 1974, 329 A. 2d 437). Partial demolition, however, is viewed as an alteration (The Committee to Preserve Rhodes Tavern and the National Processional Route v. Oliver T. Carr Company, et al., U.S. Ct. of App. for D.C. Cir., 1979, 79-1457, Dept. Justice Brief for Fed. Appellee).

seals, and the like. (E.O. 3254 of July 28, 1921 and 71 Stat. 589 (10 U.S.C. 4954))

(e) *Questions of art with which the federal government is concerned.* When required to do so by the President or by either House of Congress, the Commission advises generally on questions of art, and whenever questions of such nature are submitted to it by an officer or department of the federal government the Commission advises and comments. (36 Stat. 371 (40 U.S.C. 104) and E.O. 1862 of November 28, 1913)

§ 2101.2 Relationships of Commission's functions to responsibilities of other government units.

(a) *Projects involving the Capitol building and the Library of Congress.* Plans concerning the Capitol building and the buildings of the Library of Congress are outside the purview of the Commission except as to questions on which the Congress requires the Commission to advise.

(b) *Other United States Government projects.* Officers and departments of the United States Government responsible for finally approving or acting upon proposed projects within the purview of the Commission's functions as described in § 2101.1 (a) and (d) are required first to submit plans or designs for such projects to the Commission and obtain its advice and comments.

(c) *Projects within the jurisdiction of the District of Columbia Government.* The District of Columbia seeks Commission advice on exterior alteration or new construction of public buildings or major public works within its boundaries. The District of Columbia Government also shall seek Commission advice on certain private construction requiring building or demolition permits from the D.C. Permit Branch (D.C. Law 5-422). These include certain actions by the District of Columbia Government pursuant to either D.C. Law 5-422 or D.C. Law 2-144 within areas subject to the Shipstead-Luce or Old Georgetown Acts (§ 2101.1 (b) and (c)) prior to the issuance of a permit.² Lot subdivision, alteration of buildings, demolition, or new construction at individually designated landmarks or within historic districts are further subject to the permit requirements of the Historic Landmark and Historic District Protection Act of 1978 (D.C. Law 2-144).³

² Provisions of the Shipstead-Luce Act (§ 2101.1 (b)) do not include full demolition, though partial demolition is viewed as an alteration.

³ The Historic Sites Subdivision Amendment of 1976 (D.C. Law 1-90) purported to give the Commission advisory authority over subdivision permits within the areas covered by the Shipstead-Luce Act and the Old Georgetown Act, but the law was repealed by the 1976 Act (D.C. Law 2-144).

Subpart B—General Organization

Authority.—36 Stat. 371 as amended (40 U.S.C. 104 and 106); sec. 3, 64 Stat. 903 (D.C. Code 5-801)

§ 2101.10 The Commission.

The Commission is composed of seven members, each of whom is appointed by the President and serves for a period of four years or until his or her successor is appointed and qualifies. The Chairman is elected by the members. The Commission is assisted by a staff as authorized by the Commission.

§ 2101.11 Secretary to the Commission.

Subject to the direction of the Chairman, the Secretary to the Commission is responsible for providing secretarial and record-keeping services by the staff to support the functions of the Commission; for preparing the agenda of Commission meetings; for organizing the presentation before the Commission of plans, designs, or questions upon which it is to advise, comment, or respond; for interpreting the Commission's conclusions, advice, or recommendations on each matter submitted to it; and for maintaining custody of the Commission's records. The Assistant Secretary of the Commission shall carry out duties delegated to him by the Secretary and shall act in place of the Secretary during his absence or disability.

§ 2101.12 Georgetown Board of Architectural Consultants.

To assist the Commission in carrying out the purposes of the Old Georgetown Act (§ 2101.1 (c)), a committee of three architects appointed for a term of three years by the Commission serves as the Board of Architectural Consultants without expense to the United States. This committee advises the Commission regarding designs and plans referred to it.

PART 2102—MEETINGS AND PROCEDURES OF THE COMMISSION

Subpart A—Commission Meetings

Sec.

2102.1 Times and places of meetings.

2102.2 Actions outside of meetings.

2102.3 Public notice of meetings.

2102.4 Public attendance and participation.

2102.5 Records and minutes; public inspection.

Subpart B—Procedures on Submissions of Plans or Designs

2102.10 Timing, scope and content of submissions for proposed projects involving land, buildings or other structures.

Sec.

2102.11 Scope and content of submissions for proposed medals, insignia, coins, seals, and the like.

2102.12 Responses of Commission to submissions.

Authority.—Sec. 10, 86 Stat. 770 as amended (5 U.S.C., App. 1, Federal Advisory Committee Act 10); OMB Circular No. A-63 (36 FR 2306, January 23, 1973) as amended.

Subpart A—Commission Meetings.

§ 2102.1 Times and places of meetings.

Regular meetings of the Commission, open to the public, are held monthly on the second Tuesday of the month, beginning at 10:00 o'clock a.m., in its offices at 708 Jackson Place, N.W., Washington, D.C. 20006, except that by action of the Commission a regular meeting in any particular month may be omitted or it may be held on another day or at a different time or place. A special meeting, open to the public, may be held in the interval between regular meetings upon call of the Chairman and five days' written notice of the time and place mailed to each member who does not in writing waive such notice. On all matters of official business, the Commission shall conduct its deliberations and reach its conclusions at such open meetings except as stated in § 2101.12 provided, however, that Commission members may receive staff briefings or may have informal background discussions among themselves and the staff outside of such meetings.

§ 2102.2 Actions outside of meetings.

Between meetings in situations of emergency, the Commission may act through a canvass by the Secretary of individual members, provided that any action so taken is brought up and ratified at the next meeting. In addition, the Commission members may convene away from the Commission's offices to make inspections at the site of a proposed project or at the location of a mock-up for the project and may then and there reach its conclusions respecting such project which shall be recorded in the minutes of the meeting held on the same day or, if none was then held, in the minutes of the next meeting.

§ 2102.3 Public notice of meetings.

Notice of each meeting of the Commission shall be made at least one week in advance by posting in the lower lobby of the Commission's offices and by submission for publication in the Federal Register.

§ 2102.4 Public attendance and participation.

Interested persons are permitted to attend meetings of the Commission, to file statements with the Commission at or before a meeting, and to appear before the Commission when it is in meeting, provided that an appearance will be permitted only if it is germane to the functions and policies of the Commission and to the matter or issues then before the Commission and only if the presentation or argument is made in a concise manner within reasonable time limits and it avoids duplicating information or views already before the Commission. A decision of the Chairman as to the order of appearances and as to compliance with these regulations by any person shall be final unless the Commission determines otherwise.

§ 2102.5 Records and minutes; public inspection.

A detailed record of each meeting shall be made and kept which shall contain names of persons who appeared before the Commission, information or arguments presented orally, discussions held and conclusions reached, together with copies of all written, printed, or graphic materials presented. The Secretary shall also prepare minutes of each meeting which shall state the time and place it was held and attendance by Commission members and staff and which shall contain a complete summary of matters discussed and conclusions reached and an explanation of the extent of public participation, including names of persons who presented oral or written statements and an estimate of the number of members of the public who attended; and he shall send a copy to each member of the Commission. The accuracy of all such minutes shall be certified by the Chairman. The minutes and any completed reports, studies, agenda or other documents made available to, or prepared for or by, the Commission shall be available for public inspection and, at the requesting party's expense, for copying at the offices of the Commission.

Subpart B—Procedures on Submissions of Plans or Designs**§ 2102.10 Timing, scope and content of submissions for proposed projects involving land, buildings, or other structures.**

(a) A party proposing a project which is within the purview of the Commission's functions under § 2101.1 (a), (b), or (c) should make a submission when preliminary plans for the project

are ready but before detailed plans and specifications or working drawings are prepared. In order to assure that a submission will be considered at the next scheduled meeting of the Commission, it should be delivered to the Commission's offices not later than five (5) days before the meeting; if it is a project subject to review first by the Georgetown Board, not later than three (3) days before the Georgetown Board meeting. The Commission will attempt to consider a submission which is not made in conformity with this schedule, but it reserves the right to postpone consideration until its next subsequent meeting.

(b) Each submission should state or disclose (1) the nature, location, and justification of the project, including any relevant historical information about a building or other structure to be altered or razed, (2) the identity of the owner or developer (or for public buildings, the governmental unit with authority to approve or act upon the plans) and of the architect, (3) the functions, uses, and purpose of the project, and (4) other information to the extent it is relevant, such as area studies, site plans, building and landscape schematics, renderings, models, depictions or samples of exterior materials and components, and photographs of existing conditions to be affected by the project. Alternative proposals may be included within one submission. The information submitted shall be sufficiently complete, detailed, and accurate as will enable the Commission to judge the ultimate character, siting, height, bulk, and appearance of the project, in its entirety, including the grounds within the scope of the project, its setting and environs, and its effect upon existing conditions and upon historical and prevailing architectural values.

(c) If a project consists of a first or intermediate phase of a contemplated larger program of construction, similar information about the eventual plans should accompany the submission. Even though a submission relates only to approval for razing or removal of a building or other structure, the project will be regarded as part of phased development, and the submission is subject to such requirement.

(d) If the project involves a statue, fountain or a monument within the purview of the Commission under § 2101.1(a)(2), partial submissions should be made as appropriate to permit the Commission to advise on each aspect of the project starting with the selection of any artist to be employed.

(e) The Commission staff will advise owners and architects concerning the scope and content of particular

submissions. Material relevant to the functions and policies of the Commission varies greatly depending upon the nature, size, and importance of the project to be reviewed by the Commission. Also, it is the policy of the Commission not to impose unnecessary burdens or delay on persons who make submissions to the Commission. However, the Commission at any meeting may decline to reach a conclusion about a proposed project if it deems the submission inadequate for its purposes, or it may condition its conclusions on the submission of further information to it at a later meeting or, in its discretion, to the staff of the Commission only.

(f) The Commission staff, members of the Georgetown Board, interested members of the public, or the submitting party may augment any submission by additional relevant information made available to the Commission before or at the meeting where the submission is considered. The Commission staff should also make available to the Commission at the meeting where a submission is considered information concerning prior considerations or conclusions of the Commission concerning the same project or earlier versions of it.

§ 2102.11 Scope and content of submissions for proposed medals, insignia, coins, seals, and the like.

Each submission of the design for a proposed item which is within the Commission's purview under § 2101.1(d) should identify the sponsoring government unit and disclosure the uses and purposes of the item, the size and forms in which it will be produced, and the materials and finishes to be used, including colors if any, along with a sketch, model, or prototype.

§ 2102.12 Responses of Commission to submissions.

(a) The Commission before disposing of any project presented to it may ask for the proposed plans or designs to be changed in certain particulars and resubmitted or for the opportunity to review plans, designs, specifications in certain particulars at a later stage in their development and to see samples or mock-ups of materials or components; and when appropriate in the matter of a statue or other object of art, the Commission may ask for the opportunity to see a larger or full-scale model. All conclusions, advice or comments of the Commission which lead to further development of plans, designs, and specifications or to actual carrying out of the project are made in contemplation that such steps will conform in all

substantial respects with the plans or designs submitted to the Commission including only such changes as the Commission may have recommended; and any other changes in plans or designs require further submission to the Commission.

(b) In the case of plans for a project subject to the Old Georgetown Act (§ 2101.1(c)), if the Commission does not respond with a report on such plans within forty-five days after their submission, its approval shall be assumed and a permit may be issued by the government of the District of Columbia.

PART 2103—STATEMENTS OF POLICY

Sec.

2103.1 General approaches to review of plans by the Commission.

§ 2103.1 General approaches to review of plans by the Commission.

The Commission functions relate to the appearance of proposed projects within its purview as they may be seen from public space. These functions are to serve the purpose of conserving and enhancing the visual assets which contribute significantly to the character and quality of Washington as the nation's capital and which meaningfully reflect the history and features of its development over nearly two centuries. Where existing conditions detract from the overall appearance of official Washington or historic Georgetown—such as conditions caused by temporary, deteriorated, or abandoned buildings of little or no historical or architectural value, by interrupted developments, or by vacant lots not devoted to public use as parks or squares—the Commission will favor suitable corrections to these conditions. When changes or additions are proposed in other circumstances, the Commission may consider whether the public need or value of the project or the private interests to be served thereby justify making any change or addition, and it will consider whether the project can be accomplished in reasonable harmony with the nearby area, with a minimum loss of attractive features of the existing building or site, with due deference to the historical and architectural values affected, and without creating an anomalous or disturbing element in the public view of the city.

(36 Stat. 371, 40 U.S.C. 104, as amended by 74 Stat. 128, 40 U.S.C. 106; Executive Order, (E.O.) 1259 of Oct. 25, 1910; E.O. 1862 of Nov. 28, 1913; E.O. 3524 of July 28, 1921; 46 Stat. 366, 40 U.S.C. 121, as amended by 53 Stat. 1144, 40 U.S.C. 121; 64 Stat. 903, D.C. Code 5-801; 66 Stat. 781, 40 U.S.C. 72)

Dated: October 23, 1979. Washington, D.C.

Charles H. Atherton,
Secretary.

[FR Doc. 79-35876 Filed 11-20-79; 8:45 am]
BILLING CODE 6330-01-M

V
4
4

N
O

2
1

7
9
U M I

federal register

Wednesday
November 21, 1979

Part IV

Department of the Interior

Office of Surface Mining Reclamation and
Enforcement

Abandoned Mine Reclamation Fund; Final
Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 872

Abandoned Mine Reclamation Funds

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) amends its Final Abandoned Mine Lands Reclamation Rules (43 FR 49932-49952, October 25, 1978), relating to abandoned mine reclamation funds, to allow the States and Indian tribes to enter into a cooperative agreement to prepare and submit first annual work plans for implementation of specific reclamation projects.

EFFECTIVE DATE: The amendment shall be effective December 21, 1979.

ADDRESS: Office of Surface Mining, Administrative Record—Room 135, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Charles L. Crawford, P.E., Chief, Division of State & Indian Reclamation Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20245. Telephone (202) 343-4061.

SUPPLEMENTARY INFORMATION: On October 25, 1978, the Secretary of the Interior promulgated Final Rules for the Abandoned Mine Land Reclamation Program under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq. (the Act).

Under section 405(a) of the Act, the Secretary was required to promulgate and publish in the Federal Register, procedures and requirements for preparation, submission and approval of State abandoned mine reclamation plans and an annual request for funding specific reclamation projects. The rules as promulgated provided that a State is eligible to submit a State reclamation plan if it has eligible lands and water as defined in 30 CFR 874.12; and the State is eligible for a State reclamation plan to be approved if it has an approved State regulatory program under section 503 of the Act.

Under the present rule, OSM has provided for advance funds to be available for preparation of State and Indian tribe reclamation plans (30 CFR

872.11(b)(5)(vi)). Funds will now be available for developing a State or Indian tribe first annual work plan for implementation of specific reclamation projects. As a result, development of the first annual work plan can begin prior to a State or Indian tribe reclamation plan being approved. This provision will hasten implementing a State or Indian tribe reclamation program by providing for the collection of data and budgetary information necessary for prompt implementation of the program. In the event a State or Indian tribe fails to obtain approval of their permanent regulatory program, and a Federal Reclamation Program must be instituted this amendment provides a means to implement Federal Reclamation Programs immediately.

Two comments were received; one from the State of Alabama and one from the State of Missouri. Both comments were favorable to amending the Final Rules.

Drafting Information: The principal author of this amendment was Charles L. Crawford, Chief, Division of State and Indian Reclamation Programs, Abandoned Mine Lands, Office of Surface Mining Reclamation and Enforcement, with legal advice from Chris Warner, Office of the Solicitor.

Amendment

PART 872—ABANDONED MINE RECLAMATION FUNDS

30 CFR 872.11(b)(5)(vi) is amended to read as follows:

§ 872.11 Abandoned Mine Reclamation Fund.

(b) * * *

(5) * * *

(vi) Cooperative projects to compile information required for preparation of State and Indian reclamation plans, as specified in § 884.13(f) of this chapter and the first annual work plan for implementation of specific reclamation projects as specified in § 886.14 of this chapter. This work shall be done only with those moneys allocated or available for allocation to a State or Indian Tribe and at the request of the Governor of a State or the Indian tribe.

Dated: November 9, 1979.

Joan M. Davenport,

Assistant Secretary—Energy and Minerals.

[FR Doc. 79-35937 Filed 11-20-79; 8:45 am]

BILLING CODE 4310-05-M

V
4
4N
O
2
17
9
UMI

V
4
4

N
O

2
1

7
9
UMI

federal register

Wednesday
November 21, 1979

Part V

Council on Wage and Price Stability

Anti-Inflationary Pay and Price Standards
and Procedural Rules for the Second
Year Program; Changes; Corrections; and
Questions and Answers

COUNCIL ON WAGE AND PRICE STABILITY**6 CFR Parts 705 and 706****Anti-Inflationary Pay and Price Standards and Procedural Rules; Changes and Corrections**

AGENCY: Council on Wage and Price Stability.

ACTION: Changes and Corrections to Parts 705 and 706.

SUMMARY: On November 6, 1979, the Council on Wage and Price Stability published final price standards and final procedural rules for the second program year in Parts 705 and 706 of Title 6 of the *Code of Federal Regulations*. After reviewing these parts, the Council has found several typographical errors and, in addition, has decided to make two changes to the standards in response to public comments.

EFFECTIVE DATE: October 1, 1979.

ADDRESS: Questions concerning these changes should be addressed to: Office of Price Monitoring, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Industries, Contact Person, and Telephone No.

Metals, Machinery and Equipment, Eugene Roberts, 456-7784.

Food, Agriculture and Trade, Stephen Hiemstra, 456-7740.

Energy, Chemicals, Utilities and Transportation, John Keith, 456-7747.

Construction and Building Materials, Joseph Lackey, 456-7156.

Health, Insurance and Other Services, Arthur Corazzini, 456-7730.

Exceptions, Walter Leibowitz/David Wagner, 456-7733.

SUPPLEMENTARY INFORMATION: In addition to making three typographical corrections, the Council is making two changes in the price standards. The first of these provides an exemption for compliance units that were exempt from coverage of the price standards during the first year because they failed to meet the 25-percent threshold of Section 705A-5 of the first-year standards, and whose base-year revenues from products not excluded under §§ 705.4(a)1-7 and 705.4(b) were no more than \$25 million.

The Council did not provide for continuation of the original exception because it concluded that this exemption and the flexibility afforded companies in reorganizing for compliance purposes resulted in significant slippage in the price standard. Nonetheless, the Council has

been persuaded that a *de minimus* test is appropriate to avoid needless administrative burden on companies whose nonexempt operations are a small part of their overall operations and small relative to the focus of the anti-inflation program. One of the questions and answers issued today (I.G. Q&A 3), makes it clear that companies cannot reorganize during the second program year to take advantage of the new *de minimus* test. Thus, this change should minimize administrative burdens of the program without resulting in significant slippage.

The Council is also amending § 705.45 to delete reference to SIC Code 4932. Inclusion of this reference inadvertently excluded from coverage of the gross-margin standard for utilities certain natural-gas utilities (e.g., interstate natural gas pipelines) that were eligible for the standard during the first year. Reference to the code has therefore been deleted.

Issued in Washington, D.C., November 16, 1979.

R. Robert Russell,

Director, Council on Wage & Price Stability.

Accordingly, 6 CFR Parts 705 and 706 are amended as follows:

Changes in the Price Standards.

1. Section 705.5(a) should read as follows:

§ 705.5 Special Situations.**(a) Insufficient Product Coverage.**

(1) A compliance unit that was exempt from coverage of the price standards during the first program year because adjusted net revenues during the four quarters prior to the first program year were less than 25 percent of that unit's net revenues is also exempt from coverage of the second-year price standards if its base-year revenues from products not excluded under §§ 705.4 (a) 1-7 and 705.4 (b) were no more than \$25 million.

(2) If products excluded under § 705.4(a)(8) through (10) account for one-third or more of a compliance unit's total revenue for the first two program years minus revenue from the sale of products excluded under §§ 705.4(a) (1) through (7) and 705.4 (b), the compliance unit should

(i) Comply with the two-year and intermediate price limitations in §§ 705.2 and 705.3 for those products not excluded under § 705.4, unless those products account for less than \$50 million in sales during each of the first program years, and

(ii) Comply with the profit limitation in § 705.6 (a) for the compliance unit as a whole.

§ 705.45 Gross margin standard for electric, gas, and water utilities. [Amended]

(2) Section 705.45(a) is amended by deleting "[1972 Standard Industrial Classification Code 4832]".

Typographical Corrections**§ 705.5 [Amended]**

1. In § 705.5 (c), change "dividend" to "divested" in paragraph (c) to read:

(c) *Divestitures.* A company should exclude the data for any divested entity from all calculations.

§ 705.3 [Amended]

2. In § 705.3(b), change "of the 18-month price change" to "if the 18-month price change" in paragraph (b) to read:

(b) If a compliance unit was granted or properly self-administered a profit-margin exception during the first program year, it complies with the 18-month price change if the 18-month price change does not exceed the two-year price limitation less one half of the difference between the two-year price limitation and the price change realized during the first program year.

3. In § 706.76, change "deposition" to "disposition" so that this section reads:

§ 706.76 Stays pending reconsideration.

A request for reconsideration submitted within seven days of the Council's decision of noncompliance under § 706.53 will stay the placing of a compliance unit's name on a list of noncompliers pending the disposition of the request.

[FR Doc. 79-35960 Filed 11-20-79; 8:45 am]

BILLING CODE 3175-01-4

6 CFR Parts 705 and 706**Questions and Answers on the Anti-Inflationary Price Standards and Procedural Rules for the Second Program Year**

AGENCY: Council on Wage and Price Stability.

ACTION: Questions and Answers on the anti-inflationary price standards and procedural rules.

SUMMARY: This is a compilation of the Questions and Answers that relate to the Part 705 Price Standards and Part 706 Procedural Rules for the second program year, which have been

published in final form (44 FR 64276, November 6, 1979). These Questions and Answers are intended to clarify or interpret the standards and procedures, and those affected by the anti-inflation program can and should rely on them in developing and implementing compliance plans.

DATES: The effective date of these Questions and Answers is October 1, 1979.

ADDRESS: Written comments or suggested additional Questions and Answers should be submitted to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Procedural Rules:
David Henderson, Jane Campana—(202) 456-6286

Price Standards:
Metals, Machinery and Equipment Eugene Roberts—(202) 456-7784.
Food, Agriculture and Trade Stephen Hiemstra—(202) 456-7740.
Energy, Chemicals, Utilities and Transportation John Keith—(202) 456-7747.
Construction and Building Materials Joseph Lackey—(202) 456-7156.
Health, Insurance and Other Services Arthur Corazzini—(202) 456-7730.
Exceptions Walter Leibowitz, David Wagner—(202) 456-7733.

SUPPLEMENTARY ANALYSIS: During the first year of the anti-inflation program the Council published clarifications of the standards and procedures in the form of Questions and Answers (Q & A's). At the beginning of the second year, the standards and procedures were revised. Some materials previously appearing in first-year Q & A's are now incorporated into the standards or rules. Some of the first-year Q & A's are no longer relevant; others are not applicable to the second-year standards. First-year Q & A's that are applicable are published below, in their original form or edited to reflect Council policy in the second program year. Also set forth below are edited versions of the Q & A's published since the effective date of the second-year standards or rules (44 FR 58891 and 44 FR 60251) and new Q & A's not previously published. The council will publish additional Q & A's on a regular basis as questions of general applicability arise.

These Q & A's clarify and interpret the standards and procedures, and as such should be considered an integral part of the standards and procedures. Accordingly, those affected by the program can and should rely on the Q & A's when formulating compliance plans or taking any action under the standards. The Council will hold

companies responsible for knowledge of the Q & A's as of the day they are published in the *Federal Register* and will evaluate compliance on that basis.

Issued in Washington, D.C., November 16, 1979.

R. Robert Russell,
Director, Council on Wage and Price Stability.

I. The Price Standard**A. Coverage of the Price Standard**

Q1. Do the standards apply to companies in United States territories and possessions?

A. Yes. The standards apply to operations of domestic or foreign companies in Puerto Rico, Guam, American Samoa, and the Virgin Islands. They do not apply to companies in United Nations Trust Territories administered by the United States.

Q2. Are imports covered?

A. Goods sold to a domestic company by a foreign entity are not included in the program. Subsequent sales of imported goods by domestic companies are covered regardless of where the goods are when title changes.

Q3. Are taxes covered by the price standards?

A. No.

Q4. How are the price standards applied to an agricultural cooperative?

A. Agricultural cooperatives that provide only a marketing function for their farmer members are not covered by the price standards. An agricultural cooperative that is also a food processor is covered by the price standards. If the cooperative complies with the gross-margin standard in § 705.43 or the profit limitation in § 705.6(a), it should use market prices of farm inputs in lieu of payments to farmers in calculating costs.

Q5. Are U.S. operations of foreign companies included?

A. Yes. U.S. subsidiaries of foreign companies are covered.

Q6. Are foreign operations of U.S. companies included?

A. No. The standards apply only to domestic operations of these companies.

Q7. Does the program apply to tuition and fees?

A. Yes. Schools, colleges, and nonprofit organizations are expected to comply with the pay and price standards. Increases in tuition and fees, however, are averaged in with other charges such as room and board. Universities that receive government subsidies are subject to a modified price standard that takes into account changes in the subsidy (see § 705.47).

Q8. Are outside-director fees covered by the pay or the price standard?

A. Since outside directors are not employees, they are not covered by the pay standard. Although such directors formally do not come under the professional-fee standard, which covers only specified SIC groups, it would be consistent with the intent of the program to apply the 13.5-percent professional-fee standard to director fees.

Q9. Are gas and petroleum (crude and refined product) pipelines and sewage treatment authorities covered by the price standards?

A. Yes.

B. Company Organization

Q1. One company has many operating subsidiaries and divisions; another company is equally complex, but is not divided into subsidiaries and divisions. Can both of these companies disaggregate units for compliance purposes?

A. In both cases, at the option of the company, one or more of its operations may be treated as a separate compliance unit if each unit meets the four criteria for disaggregation in the definition of a compliance unit (§ 705.64). If a company historically has maintained separate accounting records for the entities it wants to disaggregate, it may continue to follow that practice for purposes of measuring compliance with the program. If a firm has maintained records that allow it to disaggregate historical accounting data, such data may be used for disaggregating its entities. Newly adopted accounting procedures, however, cannot be used to rework accounting data into new formats for the purpose of separating units.

Q2. May a firm aggregate an unconsolidated subsidiary?

A. No. Aggregation is allowed only for those entities that normally would be consolidated in accordance with SEC reporting requirements (17 CFR 210.4-01 to 09).

Q3. Can a company comply with the standards by meeting the price limitation (or one of the alternative standards) for some compliance units and the profit limitation for others?

A. Yes, if the separate compliance units for which the profit-limitation exception is sought are eligible.

Q4. How are joint ventures to be treated?

A. A joint venture may be combined with a firm that owns more than 50 percent of that venture's equity. If no one firm owns more than 50 percent of a joint venture, the joint venture should comply with the program as a separate compliance unit.

Q5. Is a divestiture treated differently from a discontinued product under the standards?

A. Divestiture is the sale of all or part of a business entity, normally with separate accounting records, that would be reported under the Securities and Exchange Commission regulations for a publicly held company. The operations of that entity should be excluded from all calculations made with respect to the price standards. Discontinued products are products that constitute a portion of an entity's operations and for which separate accounting records do not exist. Those products are excluded from price calculations only for the period during which they were discontinued.

C. Time Periods

Q1. During the first program year a company had the option of selecting the last fiscal or calendar quarter completed before October 2, 1978, for its base quarter; if it chose to use the last calendar quarter, may it now choose to use the last fiscal quarter, or vice versa?

A. No. During the second year a compliance unit should use the same base quarter that it used during the first year.

D. Price Calculations

Q1. Does the fact that the price standard applies to the *average* percentage price increase for all goods and services sold by a compliance unit mean that there is no constraint on individual product prices?

A. Price increases for individual products can exceed the price standard as long as these increases are offset by lower price increases for other products.

Q2. In computing the two-year price change, how should a price increase announced and effective before October 2, 1978, be treated?

A. The date a price increase is announced, or the date it is effective, does not determine how it is treated. The benchmark for measuring price change in the program year is the *average* price level of the *last fiscal or calendar quarter* before October 2, 1978. Therefore, a price increase announced sometime during that quarter influences the base only to the extent that it affects average prices during the quarter. The new price schedule does not become the base just because it was announced, or made effective, before October 2, 1978.

Q3. In calculating the base-period and the two-year price changes, must a compliance unit use the prices of all of its products?

A. Some product prices can be omitted if the number of omitted products is small and they account for a small percentage of sales, and it would

be extremely difficult to include the omitted products in the calculations. Second, if the compliance unit sells a very large number of products and if inclusion of prices of all of those products would create an onerous burden, the Council permits the use of a sample of those products in computing base-period and two-year price changes. The sample however, must be based on standard, widely accepted statistical procedures that produce data that are representative of all of the compliance unit's sales.

Q4. Does the Council insist that a company base its calculations of product prices on the revenues and quantities associated with all of the transactions that occurred during a quarter?

A. No. A company may create a sample of all of its records for transactions during a quarter and base its calculations of product prices on this smaller set of records. A company that does this should use a method of sampling that produces data that are representative of all of the company's transactions. Generally, the company should rely on standard, widely accepted statistical procedures in this regard.

Q5. Price changes over the base period and over the first two program years compare prices in one quarter with prices in another quarter. How should these quarterly prices be computed?

A. The compliance unit should calculate average realized prices for the quarter by dividing total revenue from the sales of each product by the number of units sold during the quarter. If computing average quarterly prices for some products would be burdensome, then end-of-period prices for those products may be used, but only if they are representative of average prices realized for the entire quarter.

Q6. May a compliance unit use list prices in making price calculations?

A. Ordinarily, actual realized prices, net of discounts and other adjustments, should be used in price calculations, if discounts and other adjustments are uncommon for certain products, list prices for those products may be used if their use would provide representative measures of changes in actual prices charged.

Q7. If business is done on a contract basis, should prices be evaluated when the contract is signed, when payment is received, or when delivery is made?

A. Prices determined by contract should be evaluated when delivery is made.

Q8. How should a compliance unit value a cost-plus-fixed-fee contract for

purposes of complying with the price standard?

A. The price for such a contract is defined as the cost plus the fixed fee. However, if the seller is acting only as a purchasing agency with a fixed dollar fee, the transaction can be defined to include only the fee since the seller is filling a role similar to that of a wholesaler or retailer.

Q9. Prices determined by contracts entered into before October 2, 1978, were excluded from the first-year price limitation. Should prices determined by long-term contracts signed in the first program year for delivery in the second program year be excluded from the two-year price computations?

A. No.

Q10. According to § 705.60, if seasonal factors are important, the revenue shares (S_j) used to compute the base-period price change may be calculated using the data for the entire base period. Must a compliance unit use data for both years of the base period?

A. Yes. However, if there is a compelling reason for not using data for the entire base period, the compliance unit should use data for the fiscal year ending in 1977.

Q11. Are new companies that cannot compute a base-period price change assigned a two-year price limitation of ten percent?

A. Companies formed during the base period or before the base quarter are assigned a two-year price limitation of ten percent (§ 705.2(b)). Companies formed during the base quarter or the first or second program year need not comply with either the price limitation (§ 705.2) or the profit limitation (§ 705.6(a)). They are, however, requested to comply with the spirit of the program.

Q12. Sales by U.S. companies to foreign subsidiaries are normally made at other than arms-length transactions. How should these prices be determined for purposes of price and profit calculations?

A. The transfer-price policy of the company must be consistent with past practices.

E. Intermediate Price Limitations

Q1. Price increases in excess of the intermediate price limitations can be justified on grounds of seasonal variations in business operations, historical business practices, or unusual business conditions. What are examples of these conditions?

A. "Seasonal variations" in business operations refers to conditions such as once-a-year sales or time-of-year pricing (e.g., seasonal pricing by utilities). "Historical business practices" refers to

phenomena such as price increases following the signing of labor contracts of regular duration. "Unusual business conditions" refers to changes in costs that cannot be attributed to seasonality or historical patterns and that are not expected to persist throughout the second program year. Unusually strong demand does not constitute a justification for exceeding the intermediate limitations.

Q2. In documenting seasonality of price variations, may a compliance unit consider only a select set of product prices (for example, only those that it thinks may exhibit seasonal variations) or should it calculate seasonal factors for all its products?

A. The calculations should be made for all of the product prices covered by the standard.

Q3. Section 705.3(d) provides that a compliance unit may exceed the intermediate price limitations if it can demonstrate that its price increases are justified on grounds of seasonal variations, historical business practices, or unusual business conditions. If a compliance unit exceeds the limitations on one of these bases, is there any limit on its allowable intermediate price increases?

A. Yes. If the price increase in excess of the basic intermediate limitation is based on seasonality or historical business practices, the increase should be consistent with normal seasonal patterns or historical practices. If the excess price increase is based on unusually large cost increases (unusual business conditions), the price increase should be limited to a simple dollar-for-dollar passthrough of the costs directly attributable to the unusual conditions.

Q4. Must a compliance unit that was granted or properly self-administered a profit-margin exception during the first program year and whose realized price change during the first program year exceeds the two-year price limitation reduce its prices during the second program year in order to comply with the price limitation?

A. Yes. However, unless its total unit costs are expected to fall in the second program year, it should again qualify for the profit limitation on the basis of uncontrollable cost increases.

F. Exclusions

Q1. Is an agricultural product price that is excluded from price calculations under § 705.4(a)(1) also excluded if some processing of the product takes place before the first sale?

A. No, it is not excluded from price calculations.

Q2. May a compliance unit exclude a processed product from its price

calculations if the product's price is tied to quotes from a price reporting service, but the product is not traded on an organized exchange market?

A. No.

Q3. May a compliance unit exclude a processed product from its price calculations if that product's price is closely related to the price of a raw material that in turn is excluded because its price is determined by an organized exchange market?

A. No. To qualify for this exclusion, the processed product itself must be traded on an organized exchange market. Moreover, any product that is brand-name identified does not qualify for this exclusion.

Q4. Should producers of primary-copper shapes exclude the revenue from the sales of these products from their price calculations under § 705.4(a)(3)?

A. Copper (cathode, ingot, wirebar, rod, cake, and billet) should be excluded under § 705.4(a)(3) because major copper producers have adopted the practice of tying their prices to closing prices on the New York Commodity Exchange. As long as this linkage is maintained (particularly over periods of falling as well as rising prices), the exclusion will continue to apply. The exclusion does not apply to revenues from the sale of fabricated copper products.

Q5. Are air fares that U.S. citizens pay to foreign carriers covered?

A. As imports, they are excluded.

Q6. What freight rates and passenger fares should a U.S. air carrier exclude as exports in making its price calculations?

A. It should exclude all international fares and rates as reported to the Civil Aeronautics Board on CAB Form 41. International fares are excluded because an individual carrier has no practical way to distinguish exports from domestic sales in its international activities. Also, these prices are set in an international market and must have the approval of foreign governments with which we have bilateral agreements.

Q7. In making price-change calculations, what freight rates and passenger fares should be excluded by U.S.-operated ocean carriers engaged in international transport?

A. They should exclude all rates on international movements of goods and people. These rates are excluded because of the difficulty involved in distinguishing sales to foreign residents and firms from sales to domestic residents and firms. Also, international ocean-liner freight rates are set in conferences that include carriers of foreign countries.

Q8. Since export prices are excluded, are the prices of goods intended for export that are first sold to a domestic firm also excluded?

A. No. All domestic sales are included regardless of plans for resale.

Q9. Do engineering services performed in the United States (design, drafting, calculations) on behalf of a foreign client and for use in a foreign country qualify as "exports of services" under § 705.4(a)(5)?

A. Yes.

Q10. Is a product sold to the U.S. Government but delivered overseas considered an export and therefore excluded from price calculations?

A. No. All sales to the U.S. Government, regardless of place of delivery, are considered domestic transactions.

Q11. Does the term "contract" as used in § 705.4(b) include purchase orders of routine or normally recurring purchased items?

A. No.

Q12. If a compliance unit sells a product to the Department of Defense (DOD) based on DOD-generated and directed specifications that are subject to modification, may the compliance unit treat this item as a custom product?

A. If the compliance unit can net out the costs associated with the changes, it should net out the changes to make the product comparable to the products previously sold. If this approach is not feasible, the compliance unit may treat the item as a custom product.

Q13. May compliance units that purchase products excluded under § 705.4 deduct the costs of those products from prices in making their price calculations?

A. No. Compliance units may exclude from their price calculations only those products excluded under § 705.4 that they produce.

Q14. How do custom products differ from new products in applying the price standards?

A. Custom products and new products are treated the same under the standards.

Q15. If all of a compliance unit's products are excluded under § 705.4, is that compliance unit subject to the price standards?

A. No. Such compliance units are subject to *neither* the two-year price limitation nor the two-part profit limitation.

G. Special Situations

Q1. How does a compliance unit that was excluded during the first program year under the "75-percent" rule (705A-5(a)) comply with the second-year standards?

A. It should comply with a one-year price limitation in the second program year equal to 8.5 percent or the base-period rate of price change, as defined in the first-year price standard, plus 0.5 percentage point, whichever is less. However, a company with a second-program-year rate of price change of 3 percent or less will be considered to be in compliance with the price limitation regardless of its base-period rate of price change.

In addition, the compliance unit should not exceed one half of its one-year price limitation in either the first or second quarter of the second program year and it should not exceed its one-year price limitation in the third quarter of the second program year.

Q2. If an acquired company is combined with the acquiring company into a single compliance unit, for what period(s) should data for the acquired company be included with the acquiring company data?

A. The acquired company data must be included on a consistent basis for all periods for which computations are made.

Q3. Is a compliance unit that is newly formed for the second program year eligible for the insufficient-product-coverage exemption in § 705.5(a)(1)?

A. No.

H. Profit Limitation

Q1. One of the grounds for eligibility for an exception to the price standard is uncontrollable cost increases. How does a compliance unit demonstrate that it is eligible for the profit limitation, whether it self-administers or requests Council approval for that exception?

A. To qualify for an exception on the basis of uncontrollable cost increases, a compliance unit first must demonstrate that the two-year rate of increase in total cost per unit of output has exceeded and is expected to continue to exceed the compliance unit's two-year price limitation after allowing for normal gains in productivity.

Secondly, the compliance unit must demonstrate that a substantial proportion of the increase in total cost per unit of output is uncontrollable.

Lastly, the compliance unit must demonstrate that, if it were held to its two-year price limitation, the increase in total unit costs would result in a significant erosion in its profit margin (i.e., its profit margin in the second program year will be significantly below the base-year profit margin).

Total costs are equivalent to the difference between net sales and/or revenues and profit (as defined in § 705.76). The cost-of-goods sold component of total costs should be

measured in a manner consistent with the compliance unit's customary inventory accounting methods. The uncontrollable components of the total-unit-cost increase should be enumerated by disaggregating total unit costs into labor costs, overhead costs, and costs of purchased materials and services.

To qualify for an exception based on uncontrollable cost increases, a compliance unit eligible for one of the gross-margin standards must demonstrate that total costs excluding those subtracted from revenues in computing gross margins have risen since the base quarter at an annual rate in excess of that allowed by the respective standard and that those costs are expected to continue to do so by an amount that would result in a significant erosion of the profit margin if the compliance unit were held to the gross-margin standard. In making its calculations, the compliance unit must adjust for normal gains in productivity. It must also demonstrate that a substantial proportion of the increase in total costs is uncontrollable.

Q2. Are pay-rate increases in excess of the pay standard considered uncontrollable?

A. No.

Q3. To monitor compliance with the profit limitation, compliance units will need to project their profit performance during the program year. Since even good estimates may be in error because of unforeseen circumstances, how will the Council determine compliance with the profit limitation?

A. Firms applying the profit limitation are expected to estimate prospective profits based on reasonable assumptions about economic and other conditions during the program year. If a compliance unit does not, in fact, satisfy the profit limitation, the Council will consider it noncompliant unless appropriate corrective action is initiated promptly.

Q4. The two-year price limitation allows carryover of unused allowable increases from the first year to the second program year. Is carryover of unused allowable increases in dollars of profits and gross margin also allowable?

A. Carryover is implicit in the limitations on growth of dollar profits and dollar gross margins, just as it is implicit in the two-year price limitation. That is, the limitation on dollar profit growth and the limitation on growth in dollar gross margins are also two-year limitations, since they limit growth from the base year or base quarter to the second program year or the last quarter of the second program year, respectively, to 13.5 percent (8.5 percent compounded). Thus, if growth in the first

year were 5 percent, the allowable increase in the second year would be 8 percent (since 5 percent and 8 percent compounded is 13.5 percent).

Q5. How does the profit limitation apply to nonprofit organizations?

A. A nonprofit organization that is eligible for this exception would be expected to comply with an operating-surplus limitation, where operating surplus is defined as operating funds less total costs and expenses, including wages. The operating margin is operating surplus divided by operating funds.

Q6. How do cooperatives comply with the profit limitation?

A. As nonprofit organizations, cooperatives that are eligible for the exception should comply with the operating-surplus limitation. For these organizations, operating surplus includes patronage dividends and retained earnings.

Q7. How does the profit limitation apply to government enterprises?

A. Government entities that are covered by the price standards and that are eligible for the exception should use the operating-surplus limitation that applies to nonprofit organizations.

I. Profit Calculations

Q1. The second part of the profit limitation states that second-program-year profit should not exceed base-year profit by more than 13.5 percent plus any positive percentage growth in physical volume from the base year to the second program year. Should the volume adjustment be multiplicative or additive?

A. Either method is acceptable.

Q2. When computing profit according to the definition in § 705.76, does interest include interest expense in carrying accounts receivable or discounts on receivables?

A. Interest expense includes all payments of interest regardless of purpose; discounts on receivables are defined as an interest expense for purposes of determining compliance with the profit limitation.

Q3. Should the profit limitation be applied to domestic operations only, or must it be applied to all operations, domestic and foreign?

A. Foreign operations should be excluded from profit calculations. However, foreign sales from domestic operations should be included in profit and cost calculations.

Q4. May a compliance unit exclude from profit calculations the profits earned on sales excluded from price calculations under § 705.4?

A. No.

Q5. How should a change in depreciation accounting methods that affects profits be treated?

A. If a compliance unit has changed depreciation accounting methods between the preceding period and the second program year, it should compute its profits for the two periods using the same revised depreciation method.

Q6. Are the proceeds from the sale of a compliance unit's productive assets, such as plant and equipment, included as revenues in determining compliance with the profit limitation?

A. No.

Q7. How should a compliance unit that produces custom construction work (meeting the definition in § 705.4(a)(10)) measure changes in physical volume?

A. It should provide a measure of volume growth that is appropriate to its own operations. This could be a measure of output (such as a sum across projects of square footage weighted by the fraction of each project completed during the measurement period) or a measure of input usage (such as an index of labor and material inputs used over the period). Any measure used should reasonably reflect the physical volume of activity over the second program year relative to the base year.

Q8. Should a nonprofit organization include depreciation as a cost in determining its operating surplus and operating margin?

A. It should do so only if it has historically included depreciation in its current expenses account.

J. Undue Hardship and Gross Inequity [Reserved]

II. Modified Price Standards for Selected Industries

A. Wholesale and Retail Trade and Food Manufacturing and Processing.

Q1. Should all manufacturing or processing operations of wholesale and/or retail companies be disaggregated for compliance purposes?

A. No. Disaggregation is necessary only if the wholesale or retail entity elects to apply the percentage-gross-margin standard for its wholesale or retail operations and the manufacturing or processing operations account for \$50 million or more of the entity's base-year sales. If these conditions are met, a separate compliance unit should be established for the manufacturing and processing operations even if there are no outside sales. The separate unit may elect to comply with the two-year price limitation standard in 705A or a modified price standard in 705C, if appropriate.

Q2. Consider a company that owns and operates several manufacturing

and/or processing operations, each of which accounted for less than \$50 million in sales during the base year, but taken together they account for \$50 million or more. Furthermore, the company owns and operates wholesaling and retailing operations that will comply with the percentage-gross-margin standard (§ 705.42). May any or all of the manufacturing and/or processing operations be aggregated into the retailing and wholesaling compliance unit?

A. No. A compliance unit that elects to comply with the percentage-gross-margin standard may include its manufacturing and/or processing operations if and only if all of those operations collectively account for \$50 million or less in sales during the base year.

Q3. If a food manufacturer or processor is unable to compute its gross margin because of inability to disaggregate cost of food products from cost of other material inputs, how should it proceed?

A. The compliance unit should consult with the Council for assistance in developing appropriate alternative computation procedures.

Q4. How does a food-manufacturing company that applies the gross-margin standard (§ 705.43) to its food operations treat its nonfood products?

A. The Council encourages such a company to disaggregate and to apply the price limitations to its nonfood sales. If it is unable to do so and it is eligible for the gross-margin standard it may apply this standard to all of its operations, in which case the gross margin is calculated by deducting from sales the cost of food products used in the food-processing operations.

Q5. How is the cost of food products (§ 705.43) defined for a vertically integrated company that produces both raw and processed products?

A. The company can use an estimate of the market price of raw agricultural products, based on price quotations from an organized market, to determine the cost of raw agricultural products for purposes of applying the margin standard. If such price quotations are not available, the cost of inputs at the farm level can be used instead of the cost of raw agricultural products.

Q6. Because of changes in the mix of product sales, improvement in loss experience ("shrinkage"), or changes in the rates of movement of merchandise at initial mark-ups versus marked-down prices, a retailer might fail to satisfy the percentage-gross-margin standard for reasons beyond its control. Will the compliance unit be judged to be out of compliance?

A. As long as a compliance unit makes a good-faith effort to comply with the standard, an inadvertent overshooting of the margin target will not result in a determination of noncompliance. A good-faith effort requires that retailers adopt a mark-up (and markdown) policy than can be expected to generate percentage margins that comply with the standard. If there is no change in policy regarding markdowns, shrinkage, etc., the retailer can simply project past experience regarding these factors. However, a change in policy or practice regarding any of these factors should be reflected in the mark-up policy. Finally, if a company inadvertently exceeds the intermediate or first-year margin limitation, it should adjust its mark-up policy in the remaining quarters of the second program year to compensate for the earlier margin excesses.

Q7. In computing its gross margin, should a wholesaler include service fees?

A. Yes. All service fees, stop or order charges, adjustments to "sell price", etc., should be added to sales in computing the gross margin.

Q8. How do inventory changes of retailers and wholesalers affect the computation of gross margins?

A. Gross margins are adjusted for changes in finished-goods inventories. Any method of calculating inventory valuation is acceptable as long as generally accepted accounting principles and procedures are applied consistently for a given compliance unit.

Q9. Should the revenues or costs for goods and services excluded from price calculations under § 705.4 be excluded in the calculation of the gross margin?

A. No.

B. Petroleum Refiners

Q1. Are all of a company's petrochemical operations required to be aggregated with its petroleum-refining operations if the company elects to use the refiner's gross-margin standard?

A. No. Only the petroleum products, petrochemicals, and petrochemical feedstocks produced in refining operations shall be included, whether such products are sold to third parties or transferred to other compliance units.

Q2. In determining the gross margin or profit margin of a compliance unit, must the revenues or costs for all products delivered to or received from another compliance unit be included?

A. Yes, they should be included at arms-length transfer prices.

Q3. Should the revenues or costs for goods and services excluded from price calculations under § 705.4 be excluded in the calculation of the gross margin?

A. No.

C. Gas, Electric, and Water Utilities

Q1. The first-year utility standard included material about the role of State Utility Commissions. Does the omission of this material from the second-year standard reflect a change in Council policy with respect to those matters?

A. No.

Q2. What is the Council's relationship with State Utility Commissions in the second program year?

A. State Utility Commissions should continue to function in the second year as they did in the first. The Council is again asking Commissions to determine compliance with the standards and to rule on the applicability of exceptions. The Council also wishes to receive quarterly reports from Commissions on their progress in implementing the standards. Finally, the Council asks that Commissions phase in rate increases to ease their inflationary impact.

Q3. May utility companies subject to § 705.45 combine their utility and nonutility operations (if any) into a single compliance unit?

A. No, notwithstanding the definition of compliance unit used in § 705.64, such aggregation is not permitted.

Q4. Does the utility standard apply to municipal, cooperative, and publicly owned utilities that meet the eligibility test, even though they are not regulated by a public utility commission?

A. Yes.

Q5. For purposes of determining compliance with the gross-margin standard, how should utilities treat revenues attributable to inclusion in the rate base of additions to construction work in progress or new facilities transferred to plant in service?

A. Such revenues are included unless the commission grants an exception to the gross-margin standard.

D. Professional Fees

Q1. How is the professional-fee standard applied by firms that also sell products or services to which the basic price limitation applies?

A. These firms should comply separately with the standard appropriate for each segment of their business.

Q2. Are hospital-based physicians and other health professionals covered under the pay standard or under the professional-fee standard?

A. Physicians paid on a salary basis are included in one of the employee units identified by the hospital for purposes of the pay standard. Physicians paid on a fee-for-service or proportion-of-department-revenue basis (e.g. radiologists, pathologists,

emergency-room physicians) should comply with the professional-fee standard. If billing for such services is done through the hospital, both the hospital and the physician are responsible for compliance with the professional-fee standard.

If professional earnings are based on some combination of salary and fee-for-service or proportion-of-department-revenue, the hospital and the physicians should comply with the respective standards for the respective portions of professional earnings.

Q3. Architectural and engineering companies may determine fees on a fixed percentage basis. Under the professional-fee standard, are such companies allowed to increase the percentage fee by 13.5 percent?

A. No. The 13.5-percent professional-fee standard applies only to fixed dollar fees charged for particular services.

Q4. Would an architectural or engineering company that determined fees as a percentage of total project construction costs be in compliance with the professional-fee standard if it could demonstrate that the pattern of percentage fees charged during the second program year is no higher than the pattern used for projects before October 2, 1978?

A. Yes.

Q5. How might a compliance unit comply with the professional-fee standard if the prices of its services are calculated by adding to the costs incurred an additional fee that is determined as a percentage of direct labor costs?

A. In this situation, a compliance unit could demonstrate compliance by showing (i) that the pattern of percentage multipliers used during the second program year is no higher than the patterns used before October 2, 1978, and (ii) that the firm is in compliance with the pay standard.

Q6. How might a compliance unit comply with the professional-fee standard if its prices are based on cost-plus-fixed-fee arrangements (where contract prices are based on expenses—direct labor costs, a percentage markup over direct labor costs to cover overhead, and other direct expenses—plus a negotiated percentage fixed fee)?

A. In this situation, a compliance unit would be considered to be in compliance if (i) the pattern of percentage direct-labor multipliers used during the second program year is no higher than the pattern used before October 2, 1978, (ii) the firm is in compliance with the pay standard, and (iii) the pattern of percentage fixed fees negotiated during the second program

year is no higher than the pattern negotiated before October 2, 1978.

Q7. Firms such as architectural and engineering firms may negotiate lump-sum or firm fixed prices for particular services. These contract prices are often determined in a manner similar to cost-plus-fixed-fee arrangements. For example, the lump-sum fee may be set by adding to direct labor costs a percentage markup to cover overhead and other expenses, plus an amount to cover risk and pre-tax profit. How does the professional-fee standard apply to this kind of pricing arrangement?

A. Such compliance units are treated generally the same as a cost-plus-fixed-fee arrangement. They would be considered to be in compliance if (i) the pattern of percentage direct-labor multipliers used during the second program year is no higher than the pattern used before October 2, 1978, (ii) the firm is in compliance with the pay standard, and (iii) the pattern of amounts negotiated during the second program year to cover risk and pre-tax profit does not exceed the pattern negotiated prior to October 2, 1978, for similar classes of jobs by more than 6.5 percent.

Q8. What price or pay standards apply to physicians who provide services to health maintenance organizations (HMOs)?

A. Since there is a variety of physician-compensation arrangements for HMOs, the following standards apply:

- Physicians who are salaried by an HMO are covered under the pay standard.

- Physicians who are paid by an HMO on a fee-for-service basis are covered under the professional-fee standard.

- Physicians who are members of a medical group that contracts with an HMO are covered under the pay standard. If the pay arrangements between the physician and the medical group include components for physician compensation, risk, office expenses, and other types of expenses, then the physician-compensation component should meet the pay standard. The formula or means of determining compensation for the other components should not be altered to circumvent the pay standard.

E. State and Local Government Enterprises, Private Nonprofit Enterprises, and Government-Subsidized Private Companies

Q1. In computing subsidy-adjusted price changes, what payments should be included as subsidies?

A. Any direct government grant or payment that enables an enterprise to charge a lower price for its services is generally considered a subsidy. For example, payments to transit companies or universities to cover deficits in operating expenses would be subsidies. On the other hand, a student-aid grant that allows a student to pay tuition but does not result in a lower tuition level is not a subsidy. Similarly, a government contract for specific goods or services rendered to the government is not a subsidy.

Q2. Are any explicit provisions made for nonprofit organizations with operating deficits in the base period—such as allowing those compliance units to raise the prices of their goods and services so that they can attain a balanced budget or reduced deficit and still comply with the operating-margin limitation?

A. No such general provision has been provided, although compliance units in this situation may qualify for an undue hardship exception. A blanket hardship exception would be inappropriate since, in spite of base-period and current deficit situations, many institutions are financially viable due to accumulated reserves or endowments that are not restricted legally from current operating use.

F. Insurance

Q1. How is the insurance standard applied by firms that also sell products or services to which the basic price limitation applies?

A. These firms should comply separately with the standard appropriate for each segment of their business.

G. Financial Institutions

(Reserved)

*III. Procedures**A. General Provisions*

Q1. What procedures apply to matters pending before the Council as of October 1, 1979, that relate to the first program year?

A. The second-year procedures apply to all matters pending as of October 1, 1979.

Q2. Are the first year Q & A's still valid for evaluating a company's compliance during the first program year?

A. Yes.

Q3. Are "employee units" the same as "compliance units" under the pay standard?

A. No. "Compliance units" refers to the organizational structure of the company. Within a compliance unit,

there may be one or more "employee units"—for management employees, employees subject to collective-bargaining agreements, and all others.

B. Reports and Notifications

Q1. Will a company's failure to file its organizational or periodic reports requested under Part 706, Subpart B, result in a determination of noncompliance?

A. No. A company will be determined to be out of compliance only if it fails to comply with the substantive price or pay standards. However, the Council may make public the fact that the company has failed to furnish the requested reports, initiate further investigation of the company's compliance, or use the compulsory processes provided by statute either to order submission of the requested reports or to subpoena the necessary information.

Q2. Do the reporting requirements of §§ 706.21 and 706.22 apply to private universities and other nonprofit institutions?

A. Yes. These entities satisfy the definition of company in § 705.63.

Q3. Under the procedures for the first year, companies were encouraged to report the same organizational structure for pay and price purposes unless this would involve substantial administrative costs. Does this policy continue to apply?

A. No. Under § 706.21(a), a company's organizational structure may be different for pay and price compliance without regard to administrative costs.

Q4. What is the date by which a company should choose its company organization for compliance purposes?

A. Consistent with § 706.21 (b) and (c), all companies are expected to organize for compliance purposes by December 1, 1979.

Q5. If a company was not required to file reports with the Council during the first program year but now meets the reporting thresholds under §§ 706.21 and 706.22, must it now compute and submit data for the first program year?

A. No, except to the extent that first-year data are necessarily part of the reports for the second program year.

Q6. In computing its net sales or revenues for the reporting thresholds of §§ 706.21 and 706.22, should a company include the net sales or revenues of unconsolidated subsidiaries?

A. Yes. All subsidiaries are within the definition of "company" in § 705.63. Under § 705.64, however, unconsolidated subsidiaries must be treated as separate compliance units.

Q7. Are companies with at least \$250 million in sales or revenues that intend to treat their entire organization as one

unit for purposes of compliance requested to notify the Council of their organizational structure under § 706.21(b)?

A. Yes. Even if a company does not disaggregate into smaller compliance units, it is still requested to notify the Council of its organization, as well as to submit data on its major lines of business.

Q8. Are companies with at least \$250 million in sales or revenues that do not intend to change their structure for compliance purposes for the second program year requested to notify the Council of their organizational structure under § 706.21(b)?

A. Yes.

Q9. If a company meets the reporting threshold of §§ 706.21 and 706.22 but all of its products are excluded under § 705.4, should it report its company organization?

A. Yes.

Q10. Should a State or local government entity that meets the threshold reporting requirements of § 706.21 report its company organization?

A. Yes, if the entity is a government enterprise as defined in § 705.47(b).

Q11. Should a company with total sales or revenues of \$250 million or more, but whose domestic operations (as distinguished from domestic sales) account for less than \$250 million in sales or revenues, report its company organization or file Form PM-1's?

A. Not unless it is specifically requested by the Council to do so.

Q12. Should a company with domestic operations of \$250 million or more, but whose domestic sales account for less than \$250 million, report its company organization or file Form PM-1's?

A. Yes.

Q13. Should a foreign company whose U.S. business operations account for less than \$250 million in sales or revenues report its company organization or file Form PM-1's?

A. Not unless it is specifically requested by the Council to do so.

Q14. Should a foreign company that owns or controls U.S. business operations accounting for \$250 million or more in sales or revenues report its company organization or file Form PM-1's?

A. Only the U.S. business operations of the foreign company should do so.

Q15. Should the sales and revenues of operations divested during the company's last complete fiscal year before October 2, 1979, be included in determining whether a company meets the \$250 million threshold?

A. No.

Q16. Should the sales and revenues of operations divested after the close of the company's last complete fiscal year before October 2, 1979, be included in determining whether a company meets the \$250 million threshold?

A. Yes.

Q17. In its Form CO-1 (Price), a company should indicate which standard each of its compliance units will comply with. May a company that is eligible for a modified price standard change its choice of the standard (e.g., from the price limitation to a gross-margin standard, or from a gross-margin standard to the price limitation) after the filing of the Form CO-1 (Price)?

A. No.

Q18. Are employees excluded under the low-wage exemption to be counted in meeting the 5,000-employee threshold for reporting company organization under § 706.21 or filing Form PAY-1's under § 706.22?

A. Yes. A compliance unit should count all permanent employees, including part-time workers and those earning less than the low-wage exemption (even though the latter are not included for pay-computation purposes). Seasonal or temporary employees, however, need not be counted.

Q19. Should colleges and universities count graduate assistants and part-time student help for purposes of the 5,000 employee threshold in §§ 706.21 and 706.22?

A. Only permanent part-time workers are included in determining the size of the unit for reporting purposes; temporary part-time workers are not included.

Q20. Should a company file Form PAY-1 if at any time during any calendar quarter of its last complete fiscal year before October 2, 1979, it had 5,000 or more employees, or only if the average number of employees in any such quarter was 5,000 or more?

A. Under § 706.22, a compliance unit should file Form PAY-1 if, during any calendar quarter of its last complete fiscal year before October 2, 1979, the average number of employees was 5,000 or more.

Q21. What forms should electric, gas, and water utilities file with the Council?

A. Those utilities that meet the reporting thresholds should file all requested reports except Form PM-1. If a utility has non-utility operations, it should file Form PM-1 for those operations.

Q22. Should petroleum (crude and refined product) pipelines and sewage treatment authorities file reporting forms with the Council?

A. They should file if they meet the thresholds of §§ 706.21 and 706.22 and are not subject to the jurisdiction of a public utility commission.

C. Requests for Approval of Exceptions

Q1. Should a company with net sales or revenues of \$250 million or more in its last complete fiscal year before October 2, 1979, apply for approval of an exception if it exceeds an intermediate price, profit, or gross-margin limitation because of seasonal variations in business operations, historical business practices, or unusual business conditions?

A. No. Sections 705.3(d), 705.42(f), 705.43(f) and 705.44(f) do not treat exceeding intermediate price or gross-margin limitations as an exception. Under Subpart C of Part 707, however, a company should attach to its Form PM-1 documentation justifying the excess.

Q2. Should electric, gas, and water utilities whose rates are subject to State or Federal regulation seek approval of exceptions from the Council?

A. No. Such utilities should seek approval of exceptions to the price standards by the applicable regulatory agencies.

Q3. What types of employees should be counted in the § 706.31(a) thresholds for numbers of employees in employee units or collective-bargaining units?

A. All permanent employees should be counted, including part-time workers and those earning less than the low-wage exemption (even though the latter are not included for pay computation purposes). Seasonal or temporary employees, however, need not be counted.

Q4. Does § 706.31(a)(2) mean that a company need not request approval of an exception to the pay standard if the affected collective-bargaining unit has fewer than 1,000 employees?

A. No. Since a collective-bargaining unit is an employee unit, approval of the exception should be requested if the collective-bargaining agreement covers a unit of 100 or more employees in a company with 1,000 or more employees. In addition, if a multi-employer collective-bargaining agreement covers more than 1,000 employees, approval of the exception should be requested regardless of the number of employees in an individual company's employee units.

Q5. Section 706.31(d) states that a compliance unit granted an exception for the first program year should submit a new request if it seeks to continue that exception for the second program year. Does this provision apply to compliance units that were required to seek approval of exceptions but were

authorized by the Council to self-administer price exceptions during the first program year?

A. Yes.

Q6. Must a compliance unit that received a tandem exception in the first program year reapply for this exception for the second program year?

A. Yes. Under § 706.31(d), the compliance unit should submit a new request for approval of the exception. However, to show that the employee unit still qualifies, it suffices to show that the historical relationship in pay-rate increases between the leader and follower units was continued through the first program year and that the leader unit is in compliance or exempt from the standard.

Q7. A compliance unit did not meet the first-year threshold for advance approval of exceptions by the Council and self-administered an exception, but now meets the threshold in § 706.31(a). Should it apply to the Council for approval in order to continue using the exception in the second program year?

A. Yes. Compliance units that meet or exceed the thresholds of § 706.31(a) should seek approval of an exception from the Council, even if they self-administered the exception in the first program year.

Q8. If a compliance unit submits a request for approval of an exception but does not provide sufficient supporting data, what action may the Council take?

A. The Council may deny the request or, at its option, ask for additional data. If the Council asks for additional data, it may specify a time certain for submission of that data.

Q9. Section 706.36 does not include any time limit on requests for conferences. Does this mean that the request for a conference need not be made at the time the request for approval of an exception is submitted?

A. Yes.

D. Special Investigations [Reserved]

E. Determination of Noncompliance

Q1. If a company self-administers an exception when it should have applied to the Council for approval, may it assert that it is entitled to that exception as a defense in a non-compliance proceeding?

A. Yes. If the company is entitled to the exception, the company may use the exception as a defense. If the company is not entitled to the exception, however, the fact that the company should have applied for approval and did not do so reflects on its good faith.

Q2. Is it a defense to a Notice of Probable Noncompliance that a

company made a good-faith effort to comply with the standards?

A. Yes. Companies failing to comply despite a good-faith effort will not be determined to be out of compliance under § 706.52(b) if appropriate corrective actions are initiated promptly.

Q3. If a company chooses to treat one of its subsidiaries as a separate compliance unit and the subsidiary is found to be out of compliance, will that affect the compliance of the parent corporation?

A. No. However, the compliance unit may be identified as a subsidiary of the parent company.

F. The List of Noncompliers

Q1. Will a compliance unit that is determined to be out of compliance during the first program year, but will be in compliance on a two-year basis, be listed as a noncomplier?

A. Yes. Until the compliance unit takes corrective action that will compensate for its excess in the first year, it will be listed as noncompliant.

G. Reconsideration [Reserved]

[FR Doc. 79-35962 Filed 11-20-79; 8:45 am]

BILLING CODE 3175-01-M

Reader Aids

Federal Register
Vol. 44, No. 226
Wednesday, November 21, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

- 202-783-3238 Subscription orders (GPO)
- 202-275-3054 Subscription problems (GPO)
- "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
 - 202-523-5022 Washington, D.C.
 - 312-663-0884 Chicago, Ill.
 - 213-688-6694 Los Angeles, Calif.
- 202-523-3187 Scheduling of documents for publication
- 523-5240 Photo copies of documents appearing in the Federal Register
- 523-5237 Corrections
- 523-5215 Public Inspection Desk
- 523-5227 Finding Aids
- 523-5235 Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

- 523-3419
- 523-3517
- 523-5227 Finding Aids

Presidential Documents:

- 523-5233 Executive Orders and Proclamations
- 523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S.
- 5282 Statutes at Large, and Index
- 275-3030 Slip Law Orders (GPO)

Other Publications and Services:

- 523-5239 TTY for the Deaf
- 523-5230 U.S. Government Manual
- 523-3408 Automation
- 523-4534 Special Projects
- 523-3517 Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

62879-63076	1
63077-63508	2
63509-64058	5
64059-64396	6
64397-64780	7
64781-65024	8
65025-65378	9
65379-65580	13
65581-65728	14
65729-65958	15
65959-66174	16
66175-66562	19
66563-66778	20
66779-67070	21

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR	907..... 64838, 65963, 66780
485..... 64063	910..... 63081, 65049, 65963
3 CFR	959..... 63082, 65379
Executive Orders:	971..... 65964, 66178
12170..... 65729	989..... 64397, 66574
12171..... 66565	1464..... 65965-65967
Administrative Orders:	1701..... 64069
Presidential Determinations:	1942..... 62880
No. 80-1 of	1962..... 64794
October 15, 1979..... 63077	1980..... 64797
No. 80-2 of	2024..... 65968
October 23, 1979..... 64059	3100..... 66179
No. 80-3 of	Proposed Rules:
October 23, 1979..... 64061	Subtitle A..... 65862
No. 80-4 of	Ch. I..... 65862
October 24, 1979..... 66175	Ch. II..... 65862
Proclamations:	Ch. III..... 65862
3279 (Amended by	Ch. IV..... 65862
Proc. 4702)..... 65581	Ch. V..... 65862
4698..... 63509	Ch. VI..... 65862
4699..... 63511	Ch. VII..... 65862
4700..... 63513	Ch. IX..... 65862
4701..... 64781	Ch. X..... 65862
4702..... 65581	Ch. XI..... 65862
4703..... 66563	Ch. XII..... 65862
5 CFR	Ch. XIV..... 65862
177..... 65025	Ch. XV..... 65862
213..... 63079, 64064-64067,	Ch. XVI..... 65862
65025-65031, 65959-65961,	Ch. XVII..... 65862
66567-66571	Ch. XVIII..... 65862
293..... 65031	Ch. XXI..... 65862
297..... 65031	Ch. XXIV..... 65862
302..... 66573	Ch. XXV..... 65862
315..... 63080, 66574	Ch. XXVI..... 65862
338..... 66571	Ch. XXVII..... 65862
351..... 65046	Ch. XXVIII..... 65862
733..... 63080	Ch. XXIX..... 65862
1201..... 65048	210..... 63107
1206..... 65048	225..... 66605
1312..... 64783	235..... 63107
Proposed Rules:	271..... 63496, 65077
531..... 65077	272..... 63496, 65318
6 CFR	273..... 63496, 65989
705..... 64276, 66534, 67060	274..... 65318
706..... 64284, 66534, 67060	278..... 65318
707..... 66534	277..... 65318
7 CFR	278..... 63496
2..... 66177	318..... 65080
272..... 64386, 66574	910..... 64839
273..... 64067	959..... 65592
401..... 64786	982..... 63547
427..... 62879	989..... 62901
429..... 62879	1001..... 65989
431..... 64786, 66178	1002..... 65989
722..... 65962	1004..... 65989
724..... 63081	1006..... 65989
905..... 65962, 66779	1007..... 65989
	1011..... 65989
	1012..... 65989
	1013..... 65989
	1030..... 65989
	1032..... 65989

1033	65989	456	64602	107	63048, 64843	144	64434, 66835
1036	65989	465	66780	108	63048, 64843	151	64434, 66835
1040	65989	1023	64270	121	63048, 64843, 65550, 66324	159	64434, 66835
1044	65989	Proposed Rules:		123	66324	20 CFR	
1048	65989	Ch. II	63108, 64094, 65274	125	66324	416	64402
1049	65594, 65989	Ch. III	63108, 64094, 65274	129	63048, 64843	675	64290, 64326
1050	65989	Ch. X	63108, 64094, 65274	135	62906, 63048, 64843, 66324	684	64290
1062	65989	51	65598	145	66324	688	64326
1064	65989	221	63109	223	64429	Proposed Rules:	
1065	65989	470	64839	225	64429	Ch. I	65556
1068	65989	11 CFR		233	66835	Ch. IV	65556
1071	65989	107	63036	296	65599	Ch. V	65556
1073	65989	114	63036	302	66835	Ch. VI	65556
1075	65989	9008	63036	15 CFR		Ch. VII	65556
1076	65989	9032	63756	Proposed Rules:		208	62912
1079	65989	9033	63756	503	65940	260	62912, 63096
1094	65989	9034	63756	16 CFR		416	66836
1096	65989	9036	63756	3	62887	614	65406
1097	65989	Proposed Rules:		13	64803, 65735, 66576	21 CFR	
1098	65989	100	64773	305	66466	73	65974
1099	65989	110	64773	460	64402	510	65975
1102	65989	114	64773	802	66781	520	63096, 65975, 65976
1104	65989	9033	63753	Proposed Rules:		522	63097, 65975
1106	65989	12 CFR		13	63114, 63550, 64432, 64434	540	65978
1108	65989	4	65379	433	65771	558	65976, 66581
1120	65989	5	65380	451	65599	1002	65352
1124	65989	27	63084	454	62911	1040	65352
1125	65989	28	65381	17 CFR		Proposed Rules:	
1126	65989	225	64398, 65051, 65731	1	65970	145	65080
1131	65989	262	64398	140	65735	331	65992
1132	65989	264b	64399	145	65970	338	65992
1133	64087, 65989	265	64398	147	65970	340	65992
1134	65989	329	66575	200	64069, 65736	353	63270
1135	65989	720	65731	210	62888, 65738	864	64095
1136	65989	Proposed Rules:		249	65739	868	63292-63426, 65081
1137	65989	211	62902, 62903	230	64070	880	65992
1138	65989	561	64840	Proposed Rules:		1000	66616
1139	65989	563	65599	210	65774	22 CFR	
1464	63107	13 CFR		240	66607	506	63098
1924	65991	101	64401	250	62912	Proposed Rules:	
3100	65768	14 CFR		259	62912	51	65600
8 CFR		13	63720	270	66608, 66612	161	66838
214	65726, 65727	39	62881, 62882, 63519, 63521, 64797, 65387, 65732, 65733, 66188, 66189	18 CFR		23 CFR	
9 CFR		71	62883, 62884, 65388, 65391, 65734, 66190	2	65055	658	63680
1	63488	75	62884	35	65740	770	66193
2	63488	91	62884	141	65741	Proposed Rules:	
3	63488	95	65391	154	65740	659	63682
78	65969	97	62885, 66190	157	65055	771	66213
92	63082	311	65583	260	65741	24 CFR	
113	63083	322	65398	270	66577	Ch. XXV	66582
160	63488	325	65399	271	66783	201	64072
161	63488	385	64401	272	66192, 66786	203	64073
Proposed Rules:		398	65583, 65584	273	66786	205	64073, 64403
Ch. I	65862	399	65052	275	66786	207	64073, 65580
Ch. II	65862	Proposed Rules:		284	66789	213	64073
Ch. III	65862	Ch. I	65104	292	65744	220	64073
Ch. VI	65862	23	62906	271	62889	221	64073
318	65403	25	62906	281	65585	232	64073
381	65403	39	62907, 63547	292	63114	234	64073
10 CFR		43	66324	Proposed Rules:		235	64073
0	62880	81	66550	2	66613	236	64073
2	65049	65	66324	46	66205	241	64073
20	63515	71	62908, 63548, 63549, 64840-64842, 65403, 65768, 65770, 66204, 66205	154	66613	242	64073
21	63515	73	65403, 65770	270	66613	244	64073
50	66575	91	66324	277	66208	250	64073
71	63083	97	62909	19 CFR		570	65950
73	63515, 65969	11 CFR		Proposed Rules:		805	64204
211	63515, 66183	Proposed Rules:		4	64434, 66835	841	64405
212	65722, 66186	Proposed Rules:		Proposed Rules:		868	64195
438	64776, 65700	Proposed Rules:		Proposed Rules:		25 CFR	
450	63519, 64797	Proposed Rules:		Proposed Rules:		Proposed Rules:	
455	63519, 64797	Proposed Rules:		Proposed Rules:		Proposed Rules:	

880.....	65060	32 CFR	256.....	66196	2103.....	67050
882.....	65061, 65360	Ch. XXVIII.....	409.....	64078	Proposed Rules:	
888.....	65924	625.....	418.....	64080	Ch. X.....	65412
3280.....	66194	724.....	424.....	64082	88.....	66626
4103.....	66587	806b.....	434.....	64082	405.....	63120
Proposed Rules:		881.....	Proposed Rules:		1152.....	63120
115.....	65775	2600.....	Ch. I.....	63552, 65601, 65612	1210.....	65999
203.....	65776	51.....		65084	1211.....	66003
204.....	65776	169.....	52.....	63114, 64439, 65084,	1501.....	64097
208.....	65081, 66846	169a.....	65408, 65613, 65614, 65781,	65790, 65791, 66214	1067.....	64815
402.....	65992	169b.....	60.....	62914	1069.....	64836
571.....	65776	1900.....	65.....	65410, 65411, 65615,	46 CFR	
883.....	65776	66624, 66849		65791, 66850	30.....	66500
886.....	64095	32A CFR		85.....	32.....	66500
25 CFR		Proposed Rules:		87.....	34.....	66500
31a.....	67040	601-662.....	66846	180.....	401.....	64836
31b.....	67040	33 CFR		230.....	402.....	64836
31g.....	65008	117.....	65750, 66195	257.....	502.....	62898
32b.....	67040	124.....	63672	713.....	Proposed Rules:	
256.....	65747	126.....	63672	761.....	1.....	64844
700.....	65750	157.....	66502	61.....		62915, 66218
26 CFR		160.....	62891	254.....		65616
1.....	64405, 65061	161.....	63672	512.....		65417
5.....	63522	164.....	63672, 66528	514.....		65417
Proposed Rules:		183.....	63523	47 CFR		
1.....	65777	206.....	65977	13.....	66816	
31.....	65777, 65995	Proposed Rules:		15.....	66822	
29 CFR		82.....	64843	21.....	63105	
1625.....	66791	204.....	66213	22.....	63105	
1627.....	66791	36 CFR		25.....	65753	
Proposed Rules:		Ch. VI.....	64406	31.....	65761	
Subtitle A.....	65556	51.....	62893	61.....	66823	
Ch. II.....	65566	60.....	64405	68.....	66825	
Ch. IV.....	65566	219.....	65587	73.....	64408, 65763, 66816	
Ch. V.....	65566	222.....	64406	74.....	65763, 66816	
Ch. XVII.....	65566	1202.....	64407, 65066	83.....	64409, 66830	
Ch. XXV.....	65566	1212.....	66599	87.....	64409	
1440.....	65407	Proposed Rules:		91.....	66830	
1601.....	65082	Ch. II.....	65862	Proposed Rules:		
1904.....	65082	37 CFR		31.....	64440	
1910.....	64095, 66621	Proposed Rules:		33.....	64440	
30 CFR		202.....	62913	42.....	64440	
788.....	66195	38 CFR		43.....	64440	
872.....	67057	Proposed Rules		64.....	63558	
Proposed Rules:		8.....	65995	73.....	62917, 64441	
Ch. I.....	65566	21.....	65083, 65996, 66623	81.....	66857	
Ch. VII.....	65601	36.....	65997	90.....	64442	
870.....	63737, 65407	39 CFR		97.....	64442	
871.....	63737, 65407	10.....	65986	49 CFR		
872.....	63737, 65407	775.....	63524	7.....	65765	
873.....	63737, 65407	952.....	65399	178.....	66197	
874.....	63737, 65407	40 CFR		571.....	65766	
875.....	63737, 65407	6.....	64174	601.....	65765	
876.....	63737, 65407	51.....	65066, 65069	1008.....	66831	
877.....	63737, 65407	52.....	63102, 65066	1033.....	62899, 63105, 64410,	
878.....	63737, 65407	53.....	65066	65075, 65400, 65767		
879.....	63737, 65407	58.....	65066, 65069	1034.....	65075	
880.....	63737, 65407	60.....	65066	1047.....	65588	
881.....	63737, 65407	61.....	65399	1064.....	65987	
882.....	63737, 65407	65.....	63102	1201.....	65401	
883.....	63737, 65407	80.....	62897	1240.....	65401	
884.....	63737, 65407	81.....	63102, 64078, 65751,	1241.....	65401	
885.....	63737, 65407	65986	64266	Proposed Rules:		
886.....	63737, 65407	116.....	65400, 66602	Ch. X.....	64845, 65420	
887.....	63737, 65407	117.....	65401, 66602	172.....	65020, 66219	
888.....	63737, 65407	162.....	63749	192.....	65792	
31 CFR		227.....	65751	173.....	65020	
535.....	65956, 65988, 66590,	45 CFR		213.....	64844	
66832		2101.....		662.....	66213	
		2102.....		666.....	62918	
				1001.....	64846	
				1011.....	64846	

1056.....	63121
1100.....	64846
1111.....	66626
1131.....	64846
1131a.....	64846
1301.....	63121, 64851

50 CFR

17.....	64246, 64247, 64250, 64730, 64736, 64738, 64741, 64744, 65002
---------	---

32.....	63106
33.....	62899
285.....	62900
611.....	64410, 64421, 65590
672.....	64410, 64421

Proposed Rules:

Ch. VI.....	63558, 65616
17.....	63474
32.....	63496
410.....	64097
611.....	66356
652.....	65372
661.....	64443
675.....	66356
676.....	66859

Public Laws

This is the second of three planned cumulative lists of public laws for the first session of the 96th Congress. Upon adjournment, the third and final list will be printed. Public law numbers will continue to be

announced after enactment in the "Reader Aids" section of the **Federal Register** under the heading "List of Public Laws." Comments are still welcome and should be mailed to the Director, Office of the Federal Register, Washington, D.C. 20408.

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Jan. 22	H.J. Res. 1	96-1	93:3	To extend the time for filing the Economic Report.	\$.75
Mar. 7	H.R. 1902	96-2	93:4	To amend the Bank Holding Company Act Amendments of 1970.	.75
	S. 37	96-3	93:5	To repeal a section of Public Law 95-630.	.75
Mar. 30	H.R. 2301	96-4	93:6	To amend the Federal District Court Organization Act of 1978 with respect to certain administrative matters arising from the redrawing of the Federal judicial districts in the State of Illinois.	.75
Apr. 2	H.R. 2534	96-5	93:8	To provide for a temporary increase in the public debt limit, and for other purposes.	.75
Apr. 3	H.R. 1147	96-6	93:10	To extend temporarily the authority of the Secretary of the Treasury to waive the imposition of countervailing duties.	.75
Apr. 9	H.R. 2439	96-7	93:11	To rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96-46), transmitted pursuant to the Impoundment Control Act of 1974.	.75
Apr. 10	H.R. 2479	96-8	93:14	Taiwan Relations Act.	.75
Apr. 19	H.J. Res. 283	96-9	93:22	Reaffirming the United States commitment to the North Atlantic Alliance.	.75
May 10	H.R. 2283	96-10	93:23	To amend the Council on Wage and Price Stability Act to extend the authority granted by such Act to September 30, 1980, and for other purposes.	.75
May 18	H.J. Res. 262	96-11	93:25	To declare May 18, 1979 to be "National Museum Day".	.75
May 23	S.J. Res. 80	96-12	93:26	To confer certain powers on the Presidential Commission appointed to investigate the Three Mile Island nuclear powerplant accident.	.75
May 24	S.J. Res. 71	96-13	93:28	To authorize and request the President to proclaim the week of May 6 through 12, 1979, as "National Historic Preservation Week".	.75
	S. 532	96-14	93:29	Pension Policy Commission Act.	.75
May 28	S. 631	96-15	93:32	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to John Wayne.	.75
June 4	H.R. 1787	96-16	93:33	To authorize a supplemental appropriation to the National Aeronautics and Space Administration for research and development.	.75
	H.R. 2520	96-17	93:34	To amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal year 1980.	.75
June 8	H.R. 3404	96-18	93:35	To amend the Federal Reserve Act to authorize Federal Reserve banks to lend certain obligations to the Secretary of the Treasury to meet the short-term cash requirements of the Treasury, and for other purposes.	.75
June 13	H.R. 2805	96-19	93:37	To make technical and conforming changes to the financial disclosure provisions in the Ethics in Government Act of 1978.	.75
	S. 348	96-20	93:45	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman.	.75
	S. 613	96-21	93:48	Authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey.	.75
	S. 7	96-22	93:47	Veterans' Health Care Amendments of 1979.	1.25
	S. 709	96-23	93:68	To authorize appropriations for the Coast Guard for fiscal years 1980 and 1981, and for other purposes.	.75

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
June 19	H.R. 3915	96-24	93:70	To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 10 months the date on which the corporation must pay benefits under terminated multiemployer plans.	.75
	S. 199	96-25	93:71	Shipping Act Amendments of 1979.	.75
June 21	H.R. 3577	96-26	93:74	To amend section 8 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1980, and for other purposes.	.75
	H.R. 3879	96-27	93:75	To authorize additional appropriations for the Temporary Commission on Financial Oversight of the District of Columbia, and for other purposes.	.75
June 22	S. 869	96-28	93:76	To amend section 207 of title 18, United States Code.	.75
June 27	S. 429	96-29	93:78	Department of Defense Supplemental Appropriation Authorization Act, 1979.	.75
June 30	S. 1317	96-30	93:80	To extend the existing antitrust exemption for oil companies that participate in the Agreement on an International Energy Program.	.75
July 7	S. 984	96-31	93:81	To provide the Secretary of Agriculture with authority to reduce marketing penalties for peanuts.	.75
July 10	S.J.Res. 14	96-32	93:82	To amend the Public Health Service Act and related health laws to correct printing and other technical errors.	.75
July 16	H.R. 4556	96-33	93:86	To amend section 1521 of the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to extend conditional designations of State health planning and development agencies.	.75
July 17	H.J.Res. 353	96-34	93:87	Congratulating the men and women of the Apollo program upon the tenth anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance".	.75
July 20	S. 1007	96-35	93:89	Special International Security Assistance Act of 1979.	.75
	S. 927	96-36	93:94	To authorize the Smithsonian Institution to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.	.75
July 23	H.R. 3978	96-37	93:95	To amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such Act.	.75
July 25	H.R. 4289	96-38	93:97	Supplemental Appropriations Act, 1979.	2.00
July 26	H.R. 4537	96-39	93:144	Trade Agreements Act of 1979.	4.00
July 30	H.R. 3661	96-40	93:318	To increase the authorization of appropriations under the Act of December 22, 1974 (88 Stat. 1712).	.75
	H.R. 2154	96-41	93:319	Strategic and Critical Materials Stock Piling Revision Act of 1979.	.75
July 31	H.R. 4712	96-42	93:326	To delay conditionally the effective date of certain rules of procedure and evidence proposed by the United States Supreme Court, and for other purposes.	.75
Aug. 2	S. 961	96-43	93:327	Speedy Trial Act Amendments of 1979.	.75
	H.R. 2729	96-44	93:333	National Science Foundation Authorization Act for Fiscal Year 1980.	.75
Aug. 3	H.J.Res. 373	96-45	93:336	Recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II.	.75
Aug. 6	H.R. 4591	96-46	93:338	To make technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978, and for other purposes.	.75
Aug. 8	S. 976	96-47	93:344	To authorize appropriations for the international affairs functions of the Department of the Treasury for fiscal year 1980.	.75
	H.R. 1786	96-48	93:345	National Aeronautics and Space Administration Act, 1980.	.75
Aug. 13	H.R. 4476	96-49	93:351	Higher Education Technical Amendments of 1979.	.75
	H.J.Res. 19	96-50	93:356	National Lupus Week.	.75
	H.J.Res. 209	96-51	93:357	National Diabetes Week.	.75

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	S. 1318	96-52	93:358	To amend title 13 of the United States Code to provide a limited exemption to the Bureau of the Census from the provisions of section 322 of the Act of June 30, 1932.	.75
Aug. 14	H.R. 3324	96-53	93:359	International Development Cooperation Act of 1979.	1.25
	H.R. 4616	96-54	93:381	To make certain technical and clerical amendments to title 5, United States Code.	.75
	H.R. 4811	96-55	93:386	For the relief of the city of Nenana, Alaska, and to amend the Act of January 2, 1976, as amended, and for other purposes.	.75
	H.R. 2807	96-56	93:387	To amend the Bankruptcy Act to provide for the nondischargeability of certain student loan debts guaranteed or insured by the United States.	.75
	H.R. 3914	96-57	93:388	To amend the National Capital Transportation Act of 1969 to remove the limitation on the amount authorized for District of Columbia contributions for the cost of construction of the rapid transit system of the National Capital Region.	.75
	H.R. 4057	96-58	93:389	To increase the fiscal year 1979 authorization for appropriations for the food stamp program, and for other purposes.	.75
	S. 41	96-59	93:394	To require the Secretary of Agriculture to convey a reversionary interest held by the United States in certain lands located in Bell County, Kentucky, to the Board of Education, Bell County, Kentucky.	.75
Aug. 15	H.R. 3363	96-60	93:395	To authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.	1.00
	S. 917	96-61	93:407	To authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1980, 1981, and 1982, and for other purposes.	.75
Sept. 6	H.J.Res. 244	96-62	93:410	National Grandparents Day.	.75
	S. 1146	96-63	93:411	To extend for three fiscal years the authorizations for appropriations under the Safe Drinking Water Act.	.75
Sept. 14	S. 1646	96-64	93:412	To amend the International Banking Act of 1978 (Public Law 95-369) to extend the time for foreign banks to obtain required deposit insurance with respect to existing branches in the United States.	.75
Sept. 19	H.J.Res. 367	96-65	93:413	To authorize and request the President to proclaim the week of September 16 through 22, 1979, as "National Meals on Wheels Week".	.75
Sept. 21	H.R. 2774	96-66	93:414	To authorize appropriations for fiscal years 1980 and 1981 under the Arms Control and Disarmament Act, and for other purposes.	.75
	S. 1019	96-67	93:415	To amend the International Development and Food Assistance Act of 1978 and the Foreign Assistance and Related Programs Appropriations Act, 1979, by striking out certain prohibitions relating to Uganda, and for other purposes.	.75
Sept. 24	H.R. 4392	96-68	93:416	Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980.	1.25
Sept. 25	H.R. 4388	96-69	93:437	Energy and Water Development Appropriation Act, 1980.	1.00
Sept. 27	H.R. 111	96-70	93:452	Panama Canal Act of 1979.	2.25
Sept. 28	S.J.Res. 105	96-71	93:501	To provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.	.75
Sept. 29	S. 737	96-72	93:503	Export Administration Act of 1979.	1.75
	H.R. 3996	96-73	93:537	To amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 2 additional years, and for other purposes.	1.25
	H.R. 4393	96-74	93:559	Treasury, Postal Service, and General Government Appropriations Act, 1980.	1.25
	H.R. 5380	96-75	93:578	To continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1979, for a certain period.	.75
	S. 230	96-76	93:579	To amend title VIII of the Public Health Service Act to extend through fiscal year 1980 the program of assistance for nurse training, and for other purposes.	1.00

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.J.Res. 406	96-77	93:588	To extend by one hundred and twenty days the expiration date of the Defense Production Act of 1950.	.75
	H.R. 5369	96-78	93:589	To provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process.	.75
Oct. 4	S. 544	96-79	93:592	Health Planning and Resources Development Amendments of 1979.	2.25
Oct. 6	H.J.Res. 303	96-80	93:641	Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 7, 1979, as "National Port Week".	.75
	S. 721	96-81	93:642	Civil Rights Commission Authorization Act of 1979.	.75
Oct. 10	S. 237	96-82	93:643	Federal Magistrate Act of 1979.	.75
	S. 756	96-83	93:648	Office of Federal Procurement Policy Act Amendments of 1979.	.75
	H.R. 3920	96-84	93:653	To amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes.	.75
	S. 233	96-85	93:655	To amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes.	.75
Oct. 12	H.J.Res. 412	96-86	93:656	Making continuing appropriations for the fiscal year 1980, and for other purposes.	.75
	H.R. 5419	96-87	93:664	To authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes.	.75
Oct. 17	S. 210	96-88	93:668	Department of Education Organization Act.	1.50
Oct. 19	S. 817	96-89	93:697	To amend the Act of July 2, 1940, as amended, to increase the amount authorized to be appropriated for the Canal Zone Biological Area.	.75
Oct. 23	H.R. 1301	96-90	93:698	To amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes.	.75
Oct. 25	S. 567	96-91	93:700	To amend title 28 of the United States Code to allow the United States attorney and assistant United States attorneys for the Eastern District of New York to reside within twenty miles of the district.	.75
Oct. 29	H.R. 3173	96-92	93:701	International Security Assistance Act of 1979	1.00
Oct. 30	H.R. 4580	96-93	93:713	District of Columbia Appropriation Act, 1980.	.75
Oct. 31	H.R. 5506	96-94	93:720	To amend the Energy Policy and Conservation Act to extend for two months certain authorities relating to the international energy program.	.75
	H.R. 1825	96-95	93:721	Archaeological Resources Protection Act of 1979.	.75
	H.R. 5386	96-96	93:729	To amend the Higher Education Act of 1965 to provide that any reduction in the amount appropriated for fiscal year 1980 pursuant to section 101(a) of such Act from the amount so appropriated for fiscal year 1979 shall be borne equally by all the States.	.75
	S. 436	96-97	93:730	To amend section 15(d) of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Valley Authority.	.75
Nov. 1	H.R. 3923	96-98	93:731	To amend chapter 25 of title 44, United States Code, to extend for one year the authorization of appropriations for the National Historical Publications and Records Commission, and for other purposes.	.75
Nov. 2	H.J.Res. 3	96-99	93:732	Designating November 4, 1979, as "Will Rogers Day".	.75
	S. 975	96-100	93:733	Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1980.	.75
Nov. 4	S. 1905	96-101	93:736	Milwaukee Railroad Restructuring Act.	1.00
Nov. 5	S. 1030	96-102	93:749	Emergency Energy Conservation Act of 1979.	1.25
	H.R. 4394	96-103	93:771	Department of Housing and Urban Development--Independent Agencies Appropriation Act, 1980.	1.25

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
	H.R. 2515	96-104	93:789	To authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes.	.75
Nov. 8	S.J.Res. 117	96-105	93:794	To provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.	.75
Nov. 9	H.R. 4249	96-106	93:796	To amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.	.75
	S. 428	96-107	93:803	Department of Defense Authorization Act, 1980.	1.25
	H.R. 4387	96-108	93:821	Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1980, and for other purposes.	1.25
	H.R. 5218	96-109	93:842	To amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance.	.75
Nov. 13	H.R. 4955	96-110	93:843	To authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.	.75
Nov. 15	S. 1281	96-111	93:845	To revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel United States, steamship vessel Oceanic Independence, steamship vessel Santa Rosa, and the steamship vessels Mariposa and Monterey into the trade.	.75
Nov. 16	S. 640	96-112	93:847	Maritime Appropriation Authorization Act for Fiscal Year 1980.	.75
	H.R. 998	96-113	93:850	To amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties.	.75
	H.R. 2196	96-114	93:851	Congressional Award Act.	.75
	H.J.Res. 68	96-115	93:856	To authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week".	.75
	H.R. 5279	96-116	93:857	To provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany".	.75

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- ENERGY DEPARTMENT**
Federal Energy Regulation Commission—
61338 10-25-79 / Changes in permanent curtailment provisions
- FEDERAL COMMUNICATIONS COMMISSION**
59546 10-16-79 / Aviation services; Providing a frequency for use by helicopters for air-to-air communications
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary—
60934 10-22-79 / Neighborhood Self-help development program requirements
- INTERIOR DEPARTMENT**
Fish and Wildlife Service—
60962 10-22-79 / Manatee: establishment of protection areas
- NUCLEAR REGULATORY COMMISSION**
43280 7-24-79 / Safeguard requirements for special nuclear material of moderate and low strategic significance

Next Week's Deadlines for Comments On Proposed Rules

- AGRICULTURE DEPARTMENT**
Agricultural Marketing Service—
64087 11-6-79 / Milk marketing order; Inland Empire; comments by 11-26-79
- Agricultural Stabilization and Conservation Service—
55183 9-25-79 / Emergency conservation program; comments by 11-25-79
- Animal and Plant Health Inspection Service—
65080 11-9-79 / Quarantine notices; Hawaiian fruits and vegetables; comments by 11-30-79

- Federal Crop Insurance Corporation—
61352 10-25-79 / Tobacco ("Dollar Plan") crop insurance provisions; comments by 11-26-79
- 61366 10-25-79 / Tobacco (guaranteed production) crop insurance regulations; comments by 11-26-79
- 61359 10-25-79 / Tobacco (Quota Plan) crop insurance regulations; comments by 11-26-79
- Food and Nutrition Service—
62289 10-30-79 / Summer Food Service Program; authority given to States to determine "rural pockets" in standard metropolitan statistical areas; comments by 11-26-79
- Rural Electrification Administration—
55890 9-28-79 / Specifications for service entrance and station protector installations; comments by 11-27-79
- Soil and Conservation Service—
53176 9-13-79 / Soil surveys; cartographic operations; comments by 11-30-79
- BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM**
55911 9-28-79 / Workshop certification provisions; comments by 11-30-79
- CIVIL AERONAUTICS BOARD**
52847 9-11-79 / Carriers in U.S. Mainland—Alaska and intra-Alaska market fares; reply comments by 11-28-79
- 55383 9-26-79 / Prohibition on discrimination against air travelers on the basis of age; comments by 11-26-79
- COMMERCE DEPARTMENT**
Maritime Administration—
65616 11-14-79 / Operating-differential subsidy for dry bulk cargo; comment period extended from 10-29-79 to 11-30-79
- [Originally published at 44 FR 52002, Sept. 6, 1979]
- National Oceanic and Atmospheric Administration—
53191 9-13-79 / Atlantic mackerel fishery; Approval and partial disapproval of the fishery management plan; comments by 11-30-79
- 61982 10-29-79 / Tanner Crab off Alaska; management plan; comments by 11-30-79

- Office of the Secretary—
56230 9-28-79 / Criteria for accrediting laboratories that test thermal insulation materials, freshly mixed field concrete or carpet; comments by 11-27-79
- COMMUNITY SERVICES ADMINISTRATION**
50982 8-30-79 / Grantee Program Management System. Volume 1; comments by 11-28-79
- CONSUMER PRODUCT SAFETY COMMISSION**
55892 9-28-79 / Exemption of isosorbide dinitrate in certain forms from child protection packaging requirements; comments by 11-27-79
- 59914 10-17-79 / Partial revocation of standard concerning accelerated environmental durability testing of plastic glazing materials; comments by 11-26-79
- [See also 44 FR 55386, Sept. 26, 1979]
- DEFENSE DEPARTMENT**
Office of the Secretary—
62295 10-30-79 / Civilian Health and Medical Program of the Uniformed Services; expanded benefits for CAT scanning diagnostic services; comments by 11-29-79
- ENERGY DEPARTMENT**
Economic Regulatory Administration—
50072 8-27-79 / Availability of propane deregulation draft regulatory analysis; comments by 12-1-79
- Federal Energy Regulatory Commission—
61950 10-29-79 / Interim rules defining and deregulating certain highest cost natural gas; comments by 11-28-79
- 61205 10-24-79 / Small power production cogeneration—qualifying status; comments by 12-1-79
- 61190 10-24-79 / Small power production and cogeneration—rates and exemptions; comments by 12-1-79
- Office of the Secretary—
55774 9-27-79 / Appropriate Technology Small Grants Program; comments by 11-26-79
- ENVIRONMENTAL PROTECTION AGENCY**
62296 10-30-79 / Air quality implementation plans; revision of Maricopa County, Ariz., urban planning area nonattainment area plan for ozone; comments by 11-29-79
- 55210 9-25-79 / Arizona process weight regulation; comments by 11-26-79
- 62260 10-29-79 / General pretreatment regulations for new and existing users of publicly owned treatment works; comments by 11-28-79
- 58923 10-12-79 / Hazardous waste guidelines; comments by 11-26-79
- 55401 9-26-79 / Leather tanning and finishing industry point source category; availability of technical and economic development documents; comments by 11-26-79
- 62543 10-31-79 / Proposed delayed compliance order for Koppers Co., Inc.; comments by 11-30-79
- 61384 10-25-79 / Proposed revision to Missouri State Implementation Plan; comments by 11-28-79
- 59764 10-16-79 / Reproposal of premanufacture notice form and provisions of rules; comments by 11-30-79
- EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**
65082 11-9-79 / "706 Agencies"; proposed designation; comments by 11-26-79
- 55907 9-28-79 / Coordination of Federal equal employment opportunity programs; comments by 11-26-79
- FEDERAL COMMUNICATIONS COMMISSION**
37522 6-27-79 / Creation of an additional personal radio service; comments by 11-30-79

- 61214 10-24-79 / Eliminating semi annual reports and to provide for the submission of revised and corrected data in the annual reports overseas telecommunications traffic data; reply comments by 12-1-79
- 58764 10-11-79 / FM broadcast station in Lockhart, Tex.; changes in table of assignments; comments by 11-28-79
- 55603 9-27-79 / Multiple ownership of AM, FM and TV, broadcast stations; comments by 11-27-79
- 62307 10-30-79 / Nighttime power limitations and antenna systems for Class IV AM broadcast stations; comments by 11-29-79
- 26772 5-7-79 / Provisions for noncommercial educational FM broadcast stations; reply comments period extended to 11-30-79
- [Originally published at 43 FR 27682, June 7, 1978]
- 58762 10-11-79 / Table assignment of class A FM channel to Coffeyville, Kans.; comments by 11-30-79
- HEALTH, EDUCATION AND WELFARE DEPARTMENT**
Food and Drug Administration—
51226 8-31-79 / Lead in food; comments by 11-29-79
- 65080 11-9-79 / Standards of identity and quality for canned pears; comments by 11-28-79
- Health Care Financing Administration—
55318 9-25-79 / Medicaid program quality control system error rate; comments by 11-26-79
- Health Care Financing Administration—
55314 9-25-79 / Fiscal disallowance for erroneous payments in the aid to families with dependent children and medicaid programs; comments by 11-26-79
- Public Health Service—
55378 9-28-79 / Grants for fluoridation of water for communities and schools; comments by 11-26-79
- Social Security Administration—
55318 9-25-79 / Aid to families with dependent children; fiscal disallowance for erroneous payments; comments by 11-26-79
- 55899 9-28-79 / Federal old-age survivors' and disability insurance benefits; wage credits for veterans and members of the uniformed services; comments by 11-27-79
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
Community Planning and Development, Office of the Assistant Secretary—
55562 9-27-79 / Section 312 Rehabilitation Loan Program; interim rule; comments by 11-26-79
- Fair Housing and Opportunity, Assistant Secretary—
55522 9-28-79 / Nondiscrimination and equal opportunity in housing under E.O. 11063; comments by 11-26-79
- Federal Housing Commissioner, Office of Assistant Secretary for Housing—
56608 10-1-79 / Management and Disposition of HUD-owned multifamily housing projects; comments by 11-30-79
- 55198 9-25-79 / Multifamily dwellings: life safety requirements; comments by 11-26-79
- 55392 9-28-79 / Section 8 Housing Assistance Program; elimination of rent reduction incentive; comments by 11-26-79
- 55518 9-26-79 / Transfer from nonprofit to profit-motivated ownership for multifamily housing projects with HUD-insured or HUD-held mortgages; comments by 11-26-79
- Office of the Secretary—
55528 9-26-79 / Nondiscrimination in fair housing advertising; comments by 11-26-79
- INTERIOR DEPARTMENT**
Fish and Wildlife Service—
56618 10-1-79 / Endangered and threatened wildlife and plants; proposed endangered status for the black rhinoceros; comments by 11-30-79

- Land Management Bureau—
56176 9-28-79 / Oil and gas leasing provisions; comments by 11-27-79
 Office of the Secretary—
64095 11-6-79 / Requirement for equal opportunity during construction and operation of the Alaska Natural Gas Transportation System, meeting, Barrow, Alaska (open), 11-30-79
INTERNATIONAL TRADE COMMISSION
59392 10-15-79 / Procedures for the Conduct of Investigations of Whether Injury to Domestic Industries Results from Imports sold at less than fair value or from subsidized exports to the United States; comments by 11-28-79
INTERSTATE COMMERCE COMMISSION
60122 10-18-79 / Modification of provisions for adequacy of intercity motor common carrier passenger service; comments by 11-28-79
JUSTICE DEPARTMENT
 Parole Commission—
58507 10-10-79 / Parole, release, supervision, and recommitment of prisoners, youth offenders and juvenile delinquents; comments by 12-1-79
LABOR DEPARTMENT
 Occupational Safety and Health Administration—
55274 9-25-79 / Electrical standards; comments by 11-30-79
59561 10-16-79 / Occupational safety and health standards; guarding of low-pitched-roof perimeters during roofing work; comments extended to 11-26-79
 [Originally published at 44 FR 48275, Aug. 17, 1979]
 Pension and Welfare Benefit Programs Office—
62316 10-30-79 / Employee benefit plans; acquisitions, sales, or leases of property; comment period extended to 11-30-79
 [Originally published at 44 FR 50367, Aug. 28, 1979]
55205 9-25-79 / Employee retirement income security, reporting and disclosure requirements; comments by 11-26-79
61618 10-26-79 / Fiduciary responsibility; plan assets and trust establishment; comments by 11-29-79
 [Originally published at 44 FR 50363, Aug. 28, 1979]
NATIONAL CREDIT UNION ADMINISTRATION
61189 10-24-79 / Mergers of credit unions; comments by 11-28-79
SECURITIES AND EXCHANGE COMMISSION
62912 11-1-79 / Extension of filing date for annual reports by mutual and subsidiary service companies to May 1 of each year; comments by 11-26-79
58521 10-10-79 / Mergers and consolidations involving registered investment companies; comments by 11-30-79
61974 10-29-79 / National securities exchanges and associations; notification of changes in membership; comments by 11-30-79
44881 7-31-79 / Petition concerning disclosure of relationships between attorneys and registrants; comments by 11-30-79
53426 9-13-79 / Shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally; comments by 11-30-79
SMALL BUSINESS ADMINISTRATION
61602 10-28-79 / Small business size standards; procurement purposes; comments by 11-26-79
 [Originally published at 44 FR 50048, Aug. 27, 1979]
TRANSPORTATION DEPARTMENT
 Coast Guard—
64844 11-8-79 / Design standards for tank barges to preventive oil pollution and existing tank barges to prevent oil pollution; comments by 12-1-79
 [First published at 44 FR 34440, June 14, 1979]
61978 10-29-79 / White River, Arkansas; drawbridge operations; comments by 11-26-79

- Federal Highway Administration—
55786 9-27-79 / Federally funded research and development; proposed revision of regulations; comments by 11-26-79
55592 9-27-79 / National maximum speed limit; certification and monitoring requirements; comments by 11-26-79
55598 9-27-79 / Uniformity of traffic control devices on all streets and highways; comments by 11-26-79
National Highway Traffic Safety Administration—
56389 10-1-79 / Consumer information, uniform tire quality grading; comments by 11-26-79
55612 9-27-79 / Motor vehicle safety standards; motorcycle helmets; comments by 11-26-79
55592 9-27-79 / National maximum speed limit; certification and monitoring requirements; comments by 11-26-79
Research and Special Programs Administration—
53185 9-13-79 / Transportation of gas or liquid by pipeline; Temperature limits on cold expanded steel pipe; comments by 12-1-79
TREASURY DEPARTMENT
 Customs Service—
59742 10-16-79 / Customs regulations relating to antidumping duties; proposed revision; comments by 11-30-79
VETERANS ADMINISTRATION
61396 10-25-79 / Procurement provisions; revision of contract clauses; comments by 11-26-79
61619 10-26-79 / Veterans' Education; approval of courses; comments by 11-26-79
50864 8-30-79 / VA Home Loans; delegation of authority; comments by 11-28-79

Next Week's Meetings

- AGRICULTURE DEPARTMENT**
 Forest Service—
61623 10-26-79 / State and Private Forestry Advisory Committee, Washington, D.C. (open), 11-26 through 11-28-79
65111 11-9-79 / Targhee Forest Grazing Advisory Board, St. Anthony, Idaho (open), 11-30-79
 Office of the Secretary—
61237 10-24-79 / Structure of Agriculture, Huntsville, Ala. (open), 11-29-79
61237 10-24-79 / Structure of Agriculture, Fayetteville, N.C. (open), 11-26-79
61237 10-24-79 / Structure of Agriculture, Montpelier, Vt. (open), 11-27-79
ARTS AND HUMANITIES, NATIONAL FOUNDATION
65825 11-15-79 / Arts National Council, Washington, D.C. (partially open), 11-30 through 12-2-79
65583 11-5-79 / Expansion Arts Panel, Washington, D.C. (partially open), 11-27 through 11-29-79
65584 11-5-79 / Theatre Panel, Los Angeles, Calif. (closed), 11-27 and 11-28-79
65830 10-22-79 / Opera-Musical Theatre Panel, Washington, D.C. (open and closed), 11-27 through 11-29-79
CIVIL RIGHTS COMMISSION
65801 11-15-79 / Alaska Advisory Committee, Anchorage, Alaska (open), 11-30-79
65115 11-9-79 / California Advisory Committee, Los Angeles, Calif. (open), 12-1-79
63126 11-2-79 / Illinois Advisory Committee, Chicago, Ill. (open), 11-26-79
65115 11-8-79 / Maine Advisory Committee, Augusta, Maine (open), 11-29-79

- 63126** 11-2-79 / Missouri Advisory Committee, Kansas City, MO. (open), 11-29- and 11-30-79
62552 10-31-79 / Oklahoma Advisory Committee, Oklahoma City, Okla. (open), 11-27-79
65116 11-9-79 / Pennsylvania Advisory Committee, Philadelphia, Pa. (open), 11-30-79
65115 11-9-79 / Rhode Island Advisory Committee, Providence, R.I. (open), 11-28-79
63127 11-2-79 / South Carolina Advisory Committee, Columbia, S.C. (open), 11-27-79
65116 11-9-79 / Vermont Advisory Committee, Montpelier, Vt. (open), 11-28-79
65115 11-9-79 / Virginia Advisory Committee, Richmond, Va. (open), 11-29-79
COMMERCE DEPARTMENT
 Industry and Trade Administration—
64480 11-7-79 / Electronic Instrumentation Technical Advisory Committee, Washington, D.C. (partially open), 11-28-79
64861 11-8-79 / GATT and Multilateral Trade Agreements Subcommittee of the Presidents' Export Council, Atlanta, Ga. (open), 11-30-79
65803 11-15-79 / Management-Labor Textile Advisory Committee, Washington, D.C. (open), 11-30-79
63128 11-2-79 / Numerically Controlled Machine Tool Technically Advisory Committee, Washington, D.C. (partially closed), 11-27-79
65620 11-14-79 / President's Export Council, Subcommittee on Agriculture, Washington, D.C. (open), 11-29-79
65427 11-13-79 / President's Export Council, Subcommittee on Export Administration, Washington, D.C. (open), 11-28-79
 National Oceanic and Atmospheric Administration—
63558 11-5-79 / Caribbean Fishery Management Council, Lajas, P.R. (open), 11-27 through 11-29-79
52711 9-10-79 / Mid-Atlantic Fishery Management Council's Surf Clam/Ocean Quahog Resources Subpanel, Dover, Del. (open), 11-30-79
65616 11-14-79 / New England Fishery Management Council and Mid-Atlantic Fishery Management Council, Philadelphia, Pa. (open), 11-28-79
65620 11-14-79 / North Pacific Fishery Management Council's Scientific and Statistical Committee, Anchorage, Alaska (open), 11-27 and 11-28-79
60351 10-19-79 / South Atlantic Fishery Management Council, Islamorada, Fla. (open), 11-27-79
64481 11-7-79 / Western Pacific Fishery Management Council, Maui, Hawaii (open), 11-29 and 11-30-79
64481 11-7-79 / Western Pacific Fishery Management Council, Scientific and Statistical Committee, Maui, Hawaii (open), 11-27 and 11-28-79
DEFENSE DEPARTMENT
 Air Force Department—
62323 10-30-79 / USAF Scientific Advisory Board, Wright-Patterson, AFB, Ohio (closed), 11-28 and 11-29-79
 Army Department—
64884 11-8-79 / U.S. Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Parasitic Diseases, Washington, D.C. (partially open), 11-30-79
64484 11-7-79 / Army Science Board, Washington, D.C. (open), 11-29 and 11-30-79
64484 11-7-79 / Army Science Board, Washington, D.C. (closed), 11-27 and 11-28-79
 Corps of Engineers, Department of the Army—
65124 11-9-79 / Environmental Advisory Board, Huntsville, Ala. (open), 11-28, 11-29, and 11-30-79

- Office of the Secretary—
64102 11-6-79 / Defense Advisory Committee on Women in the Services (DACOWITS), Executive Committee, Washington, D.C. (open), 11-28 and 11-27-79
EDUCATIONAL RESEARCH, NATIONAL COUNCIL
24244 4-24-79 / Meeting, Washington, D.C., 11-30-79
ENERGY DEPARTMENT
 Economic Regulatory Administration—
65625 11-14-79 / Industry Advisory Board, Paris, France, 11-27 and 11-28-79
 Office of the Secretary—
63562 11-5-79 / National Petroleum Council, Task Group of Committee on Unconventional Gas Sources, Dallas, Tex. (open), 11-28 and 11-29-79
ENVIRONMENTAL PROTECTION AGENCY
65665 11-14-79 / Administrator's Toxic Substances Advisory Committee, Washington, D.C. (open), 11-29 and 11-30-79
65672 11-14-79 / Federal Insecticide, Fungicide and Rodenticide Act Scientific Advisory Panel, Arlington, Va. (open), 11-29-79
FEDERAL COMMUNICATIONS COMMISSION
64942 11-8-79 / Radio Technical Commission for Aeronautics (RTCA); Special Committee 137—Airborne Area Navigation Systems, Wash., D.C. (open), 11-27 through 11-29-79
64942 11-8-79 / Radio Technical Commission for Aeronautics (RTCA); Special Committee 143—Ground Based Automated Weather Observation Equipment, Wash., D.C. (open), 11-30-79
HEALTH, EDUCATION, AND WELFARE DEPARTMENT
 Alcohol, Drug Abuse, and Mental Health Administration—
59962 10-17-79 / Mental Health Small Grant Review Committee, Rockville, Md. (open and closed), 11-29, 11-30 and 12-1-79
 Education Office—
64572 11-7-79 / Ad Hoc Committee on the Media in Continuing Education of the National Advisory Council, Washington, D.C. (open), 11-28 and 11-29-79
64916 11-8-79 / Community Education Advisory Council (open), Cambridge, Mass., 11-28-79 and Boston, Mass., 11-27-79
 Food and Drug Administration—
63154 11-2-79 / Consumer participation, San Francisco, Calif. (open), 11-27-79
65479 11-13-79 / Gastrointestinal Drugs Advisory Committee, Subcommittee on Hepatotoxicity, Rockville, Md. (open), 11-30-79
58967 10-12-79 / Microbiology Devices Section of the Immunology and Microbiology Devices Panel, Washington, D.C. (open), 11-29-79
 Health Resources Administration—
64119 11-6-79 / Graduate Medical Education National Advisory Committee, Washington, D.C. (open), 11-29 and 11-30-79
 National Institutes of Health—
55420 9-26-79 / Board of Scientific Counselors, Bethesda, Md. (partially open), 11-29 and 11-30-79
62955 11-1-79 / Cancer Control Merit Review Committee, Bethesda, Md. (partially open), 11-28 through 11-30-79
65479 11-13-79 / Gastrointestinal Drugs Advisory Committee, Subcommittee on Hepatotoxicity, Rockville, Md. (open), 11-30-79
61461 10-25-79 / Heart, Lung, and Blood Research Review Committees A and B, Bethesda, Md. (partially open), 11-30 through 12-1-79 (2 documents)

- 65481 11-13-79 / National Cancer Advisory Board and its Subcommittees, Bethesda, Md. (open), 11-28 through 11-28-79
- 61462 10-25-79 / National Heart, Lung, and Blood Advisory Council, Bethesda, Md. (partially open), 11-29 and 11-30-79
- 56401 10-1-79 / National Institute of Dental Research Programs Advisory Committee, Subcommittee on Dental Caries, Bethesda, Md. (open), 11-27 and 11-28-79
Office of the Secretary—
- 65192 11-9-79 / Education Statistics Advisory Council, Washington, D.C. (open), 11-28-79
- 60415 10-19-79 / White House Conference on Families, Washington, D.C. 11-30 and 12-1-79
Social Security Administration—
- 54128 9-18-79 / Social Security For Your Future, Atlanta, Ga., 11-30-79
- 54128 9-18-79 / Social Security For Your Future, Denver, Colo., 11-27-79
- INTERIOR DEPARTMENT**
Land Management Bureau—
- 61463 10-25-79 / Ely District Grazing Advisory Board, Ely, Nev. (open), 11-30-79
- 61660 10-28-79 / Mount Dome Grazing Management Plan, California, scoping meetings:
Dorris, Calif., 11-28-79
Tulelake, Calif., 11-29-79
- 57229 10-4-79 / Oregon; proposed decision on intensive wilderness inventory of selected areas; public meetings:
Eugene, Ore., 11-27-79
Portland, Ore., 11-29-79
National Park Service—
- 65205 11-9-79 / Boston National Historical Park Advisory Commission, Boston, Mass. (open), 11-30-79
- 62965 11-1-79 / Cuyahoga Valley National Recreation Area Advisory Commission, Sagamore Hills, Ohio (open), 11-29-79
- 65205 11-9-79 / Public discussion on General Management Plan for Boston area park sites, Charlestown and Boston, Mass. (open), 11-28, 11-27, and 11-29-79
Office of the Secretary—
- 64095 11-8-79 / Requirement for equal opportunity during construction and operation of the Alaska Natural Gas Transportation System, meeting, Anchorage, Alaska (open), 11-28-79
- JUSTICE DEPARTMENT**
Law Enforcement Assistance Administration—
- 65686 11-14-79 / National Advisory Committee for Juvenile Justice and Delinquency Prevention, Biloxi, Miss. (open), 11-29 thru 12-1-79
- LABOR DEPARTMENT**
Occupational Safety and Health Administration—
- 64154 11-6-79 / Advisory Committee on Construction Safety and Health, and Subgroup on Health Standards, Washington, D.C. (open), 11-28, 11-27, and 11-28-79
- NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
- 62384 10-30-79 / NASA Advisory Council, Space and Terrestrial Applications Advisory Committee, Pasadena, Calif. (open), 11-27 and 11-28-79
- NATIONAL SCIENCE FOUNDATION**
- 65224 11-9-79 / Earth Sciences Advisory Committee, Geology, Geochemistry and Geophysics Subcommittees, Berkeley, Calif. (closed), 11-30 and 12-1-79

- 65225 11-9-79 / Engineering and Applied Science Advisory Committee, Applied Physical, Mathematical, and Biological Sciences and Engineering Sciences Subcommittee, Washington, D.C. (closed), 11-28 and 11-27-79
- 65225 11-9-79 / Engineering and Applied Science Advisory Committee, Applied Social and Behavioral Sciences Subcommittee, Washington, D.C. (closed), 11-29 and 11-30-79
- 65225 11-9-79 / Ocean Sciences Advisory Committee, Executive Committee, Washington, D.C. (open), 11-28 and 11-29-79
- 65224 11-9-79 / Science and Society Advisory Committee, Oversight Subcommittee, Washington, D.C. (closed), 11-30-79
- NUCLEAR REGULATORY COMMISSION**
- 65686 11-14-79 / Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors, Albuquerque, N. Mex., 11-29 and 11-30-79
- 65226 11-9-79 / Regional State Liaison Officers' meeting, Dallas, Tex. (open), 11-28 and 11-29-79
- PENSION POLICY, PRESIDENT'S COMMISSION**
- 42831 7-20-79 / Meeting, Washington, D.C. (open), 11-30-79
- 42831 7-20-79 / Study Group on Pension Policy and the Economy, Washington, D.C. (open), 11-29-79
- 42831 7-20-79 / Study Groups on Present and Future Income Needs of Retired and Disabled Population, and the Ability of Present U.S. Pension Systems to Meet Needs of Retired, Disabled, and Survivors, Washington, D.C. (open), 12-1-79
- SMALL BUSINESS ADMINISTRATION**
- 61126 10-23-79 / Region V Advisory Council, Indianapolis, Ind. (open), 11-27-79
- 61126 10-23-79 / Region IX Advisory Council, Las Vegas, Nev. (open), 11-27-79
- TRANSPORTATION DEPARTMENT**
Federal Aviation Administration—
- 56369 10-1-79 / Proposed Kahului, Hawaii, terminal control area, Kahului, Hawaii, 11-29-79, Honolulu, Hawaii, 11-30-79
- TREASURY DEPARTMENT**
Internal Revenue Service—
- 65230 11-9-79 / Commissioner's Advisory Group, Washington, D.C. (open), 11-28 and 11-27-79
- UNEMPLOYMENT COMPENSATION, NATIONAL COMMISSION**
- 65223 11-9-79 / Washington, D.C., 11-30 and 12-1-79
- VETERANS ADMINISTRATION**
- 53602 9-14-79 / Wage Committee, Washington, D.C. (closed), 11-29-79

Next Week's Public Hearings

- ADMINISTRATIVE CONFERENCE OF THE UNITED STATES**
- 64852 11-8-79 / Remedial Order procedures of the Energy Department; tentative recommendations, Washington, D.C. 11-28-79
- CIVIL AERONAUTICS BOARD**
- 64100 11-8-79 / Interim essential air transportation at Plattsburgh, Massena, Watertown, Saranac Lake/Lake Placid, Ogdensburg, N.Y. and Rutland, Vt. oral argument, Washington, D.C., 11-30-79
- COMMERCE DEPARTMENT**
National Oceanic and Atmospheric Administration—
- 61983 10-29-79 / Draft fishery management plan, hearing, Kodiak, Alaska, 11-29-79

- 61983 10-29-79 / Draft fishery management plan, Anchorage, Alaska, 11-30-79
- 64443 11-7-79 / Gulf of Mexico Fishery Management Council, Brownsville, Tex., and Cameron, La., 11-28-79
- 64443 11-7-79 / Gulf of Mexico Fishery Management Council, Corpus Christi, Tex. and Delcambre, La., 11-27-79
- 64443 11-7-79 / Gulf of Mexico Fishery Management Council, Freeport, Tex., and Houma, La., 11-28-79
- 64443 11-7-79 / Gulf of Mexico Fishery Management Council, New Orleans, La., 11-29-79
- DEFENSE DEPARTMENT**
Navy Department—
- 65623 11-14-79 / Naval Discharge Review Board, Salt Lake City Utah; San Diego, Calif.; San Francisco, Calif., 11-25-79—12-1-79
- DELAWARE RIVER BASIN COMMISSION**
- 60134 10-18-79 / Draft final report of Delaware River Basin Comprehensive (level B) study and its draft environmental impact statement, Willingboro, N.J., 11-27-79
- ENERGY DEPARTMENT**
- 51183 10-24-79 / Federal loan guarantees for alternative fuel demonstration facilities, Washington, D.C., 11-28-79
Economic Regulatory Administration—
- 60236 10-18-79 / Voluntary guideline for solar energy and renewable resources implementing standards of the Public Utility Regulatory Policies Act of 1978, Kansas City, Mo., 11-29-79
Federal Energy Regulatory Commission—
- 61977 10-29-79 / Small power production and cogeneration rates and exemptions, New York, NY, 11-28-79
- 61977 10-29-79 / Small power production and cogeneration rates and exemptions, Denver, Colo., 11-30-79
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
EDUCATION OFFICE—
- 59291 10-15-79 / National Advisory Council on Vocational Education, Atlanta, Ga., 11-27 and 11-28-79
Food and Drug Administration—
- 65479 11-13-79 / Gastrointestinal Drugs Advisory Committee, Subcommittee on Hepatotoxicity, Rockville, Md., 11-30-79
National Institutes of Health—
- 65479 11-13-79 / Gastrointestinal Drugs Advisory Committee, Subcommittee on Hepatotoxicity, Rockville, Md., 11-30-79
Office of the Secretary—
- 56029 9-28-79 / White House Conference on families, Washington, D.C. (open), 11-30 and 12-1-79
- INTERIOR DEPARTMENT**
Surface Mining Office—
- 63737 11-5-79 / Abandoned mine lands reclamation program; draft environmental impact statement:
Austin, Tex., 11-28-79
Alcoa, Tex., 11-28-79
Indianapolis, Ind., 11-27-79
Denver Colo., 11-28-79
- INTERSTATE COMMERCE COMMISSION**
- 63121 11-2-79 / Transportation of household goods in interstate and foreign commerce; review of the regulation of carriers, Los Angeles, Calif., 11-27 and 11-28-79
- LABOR DEPARTMENT**
Employment and Training Administration—
- 59890 10-18-79 / Adverse effect wage rate methodology, Yakima, Wash., 11-28 and 11-27-79

- 59890 10-16-79 / Adverse effect wage rate methodology, Bakersfield, Calif., 11-29 and 11-30-79

SOCIAL SECURITY NATIONAL COMMISSION

- 35324 6-19-79 / Social security, Austin, Tex., 11-27-79
- 35324 6-19-79 / Social security, Phoenix, Ariz., 11-27-79

List of Public Laws

Last Listing November 20, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the *Federal Register* but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.J. Res. 199 / Pub. L. 96-117 To amend the Act of October 21, 1978 (92 Stat. 1675; Public Law 95-498). (Nov. 16, 1979; 93 Stat. 858) Price \$75.

S. 838 / Pub. L. 96-118 To authorize appropriations for fiscal years 1980, 1981, and 1982 to carry out cooperative programs with the States for the conservation of anadromous fish, and for other purposes. (Nov. 16, 1979; 93 Stat. 859) Price \$75.

H.J. Res. 428 / Pub. L. 96-119 Designating December 1979 as "National Child Abuse Prevention Month". (Nov. 16, 1979; 93 Stat. 861) Price \$75

S. 1728 / Pub. L. 96-120 To designate the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, as the "John H. Wood, Jr., Federal Courthouse". (Nov. 16, 1979; 93 Stat. 862) Price \$75.

S. 1160 / Pub. L. 96-121 To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes. (Nov. 16, 1979; 93 Stat. 863) Price \$75.

S. 1037 / Pub. L. 96-122 "District of Columbia Retirement Reform Act". (Nov. 17, 1979; 93 Stat. 866) Price \$2.50.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the *Federal Register* during the previous week.

RULES GOING INTO EFFECT

- 65950 11-15-79 / HUD/CPD—Community development block grants technical amendments; interim rule; effective 12-17-79; comments by 1-14-80

APPLICATIONS DEADLINES

- 65714 11-14-79 / USDA/SEA—Special Research Grants for Fiscal Year 1980, apply by 1-21-80 (Soybean Research, 1-28-80) (Alcohol Research, 1-28-80) (Animal Health Research, 2-4-80) (Energy Research, 1-28-80)
- 65803 11-15-79 / Commerce/NOAA—Ocean dumping grants competitive applications; apply by 12-28-79

MEETINGS

- 65481 11-13-79 / HEW/NIH—Bladder and Prostatic Cancer Review Committee, Boston, Mass. (partially open), 12-6 and 12-7-79
- 65481 11-13-79 / HEW/NIH—Cancer Control Intervention Programs Review Committee, Bethesda, Md. (partially open), 12-14-79
- 65481 11-13-79 / HEW/NIH—Cancer Control Merit Review Committee, Bethesda, Md. (partially open), 12-12 through 12-14-79
- 65480 11-13-79 / HEW/NIH—Clinical Trials Review Committee (partially open):
Chicago, Ill., 12-4 and 12-5-79
Tampa, Fla., 12-5 and 12-6-79

- 65481 11-13-79 / HEW/NIH—Large Bowel and Pancreatic Cancer Review Committee, Large Bowel Subcommittee, Houston, Tex. (partially open), 12-6 and 12-7-79
- 65482 11-13-79 / HEW/NIH—Indian Education National Advisory Council, Denver, Colo. (open), 11-30 through 12-2-79
- 65481 11-13-79 / HEW/NIH—National Cancer Advisory Board and its Subcommittees, Bethesda, MD. (open), 11-26 through 11-28-79
- 65825 11-15-79 / NFAH—Arts National Council, Washington, D.C. (partially open), 11-30 through 12-2-79
- 65825 11-15-79 / NFAH—Media Arts Advisory Panel (Production Aid), Washington, D.C. (closed), 12-10 through 12-12-79
- 65494 11-13-79 / NFAH—Music Panel (Orchestra Section), Washington, D.C. (partially open), 12-3 through 12-6-79
- 65494 11-13-79 / Visual Arts Panel, (Artists Spaces), Washington, D.C. (closed), 12-3 through 12-5-79
- 65494 11-13-79 / NFAH—Visual Arts Panel (Photography Surveys), Washington, D.C. (closed), 12-4 and 12-5-79
- OTHER ITEMS OF INTEREST**
- 65806 11-15-79 / Commerce/NOAA—Financial assistance for fisheries development; proposals by 1-15-80 and 4-1-80
- 65776 11-15-79 / HUD/Sec'y—Community development block grants for Indian Tribes and Alaska natives; Transmittal of interim rule to Congress

Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are now available:

HERBERT HOOVER

1929	\$13.30	1931	\$14.00
1930	\$16.60	1932-33	\$17.25

HARRY S. TRUMAN

1945	\$11.75	1949	\$11.80
1946	\$10.80	1950	\$13.85
1947	\$11.15	1951	\$12.65
1948	\$15.95	1952-53	\$18.45

DWIGHT D. EISENHOWER

1953	\$14.60	1957	\$14.50
1954	\$17.20	1958	\$14.70
1955	\$14.50	1959	\$14.95
1956	\$17.30	1960-61	\$16.85

JOHN F. KENNEDY

1961	\$14.35	1962	\$15.55
1963	\$15.35		

LYNDON B. JOHNSON

1963-64 (Book I)	\$15.00	1966 (Book II)	\$14.35
1963-64 (Book II)	\$15.25	1967 (Book I)	\$12.85
1965 (Book I)	\$12.25	1967 (Book II)	\$11.60
1965 (Book II)	\$12.35	1968-69 (Book I)	\$14.05
1966 (Book I)	\$13.30	1968-69 (Book II)	\$12.80

RICHARD NIXON

1969	\$17.15	1972	\$18.55
1970	\$18.30	1973	\$16.50
1971	\$18.85	1974	\$12.30

GERALD R. FORD

1974	\$16.00	1975 (Book I)	\$13.50
1975 (Book II)	\$13.75		

JIMMY CARTER

1977 (Book I)	\$16.00	1977 (Book II)	\$15.25
1978 (Book I)	\$18.00		

Published by Office of the Federal Register, National Archives and Records Service,
General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office,
Washington, D.C. 20402

V

4

4

N

0

2

1

7

9

U M I

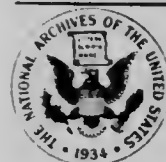
FRIDAY NOVEMBER 23, 1979

Friday
November 23, 1979

Highlights

- 67071 **Aid for Kampuchians** Presidential determination
- 67073 **Trade Sanctions Against Rhodesia** Presidential determination
- 67178 **Income Tax** Treasury/IRS proposes rules relating to the procedure for electing an alternative amortization method of funding certain pension plans; comments by 1-21-80
- 67089 **Three- and Four-Family Dwellings** FHLBB permits Federal savings and loan associations to make loans with low downpayments under certain circumstances; effective 12-24-79
- 67134 **Guaranteed Loans** USDA/FmHA proposes to amend its regulations pertaining to administration of all FmHA programs; comments by 1-21-80
- 67181 **Veterans Education** VA proposes rules which specify more fully the conditions which must exist before an eligible person can be paid during an interval between terms, quarters and semesters; comments by 12-24-79
- 67179 **Veterans Education** VA proposes a rule regarding more precisely the time limits within which schools must submit reports; comments by 12-24-79

CONTINUED INSIDE



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Area Code 202-523-5240

Highlights

- 67152 Securities** SEC proposes a rule pertaining to transient investment companies; comments by 1-11-80
- 67150 Securities** SEC proposes rulemaking regarding certain investment companies owned by companies which are not investment companies; comments by 1-14-80
- 67107 Securities** SEC adopts a rule relating to information required in solicitation of proxies other than by the issuer; effective date 12-24-79
- 67143 Securities** SEC proposes amendments regarding exhibit requirements; comments by 12-31-79
- 67108 Natural Gas Policy** DOE/FERC clarifies a section of its rules which establish the maximum lawful price for gas from new, onshore production wells; effective 11-16-79
- 67166 Natural Gas Policy** DOE/FERC proposes a rule to specify the application procedures, form of authorization, and terms and conditions of transportation; comments by 12-10-79
- 67170 Natural Gas Policy** DOE/FERC proposes under the incremental pricing program to include all industrial users of natural gas that are not granted an exemption from the program by statute; comments by 1-31-80
- 67154, 67158 Electric Industry** DOE/FERC proposes to establish procedural and substantive rules governing proceedings involving an issue of price squeeze; comments by 12-24-79 (2 documents)
- 67125 Citizens Band Radio Service** FCC amends rule to authorize licensees to communicate cross-border with the Canadian General Radio Service (GRS)
- 67088 Operating License Proceeding** NRC adjudicatory boards may examine any "serious" matter not contested by the parties; effective 11-30-79
- 67185 Procurement** HEW/Sec'y proposes to amend its rules to incorporate confidentiality of information and protection of privacy; comments by 1-6-80 and 12-24-79 respectively
- 67290 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 67294 Part II, Labor/ESA**
67330 Part III, DOE
67338 Part IV, DOE/ERA

Contents

Federal Register
 Vol. 44, No. 227
 Friday, November 23, 1979

- The President**
ADMINISTRATIVE ORDERS
67071 Aid for Kampucheans (Presidential Determination No. 80-5 of November 13, 1979)
67073 Trade Sanctions Against Rhodesia (Presidential Determination No. 80-6 of November 14, 1979)
- Executive Agencies**
- Actuaries, Joint Board for Enrollment of**
NOTICES
67236 Meetings: Actuarial Examinations Advisory Committee
- Agency for International Development**
NOTICES
67263 Authority delegations: General Services Division Chief, et al.; contracting functions; correction, Federal Register correction
- Agricultural Marketing Service**
RULES
67075 Almonds grown in Calif.
67075 Lemons grown in Ariz. and Calif.
PROPOSED RULES
67131 Lettuce grown in Tex.
 Milk marketing orders:
67132 Iowa
67130 Oranges and grapefruit grown in Tex.
- Agriculture Department**
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Farmers Home Administration; Federal Grain Inspection Service; Food Safety and Quality Service; Forest Service.
- Air Force Department**
NOTICES
67206 Environmental statements; availability, etc.: Goodfellow Air Force Base; closure
- Animal and Plant Health Inspection Service**
RULES
67087 Viruses, serums, toxins, etc.: Bursal disease vaccine; safety, purity requirements, etc.; correction
- Antitrust Division**
NOTICES
67236 Competitive impact statements and proposed consent judgments: Continental Group, Inc., et al.
- Arms Control and Disarmament Agency**
NOTICES
67202 Meetings: General Advisory Committee
- Arts and Humanities National Foundation**
NOTICES
67250 Meetings: Museum Advisory Panel
- Blind and Other Severely Handicapped, Committee For Purchase From**
NOTICES
67205 Procurement list, 1979; additions and deletions (3 documents)
- Civil Aeronautics Board**
PROPOSED RULES
67140 Air carriers, certificated: Passenger origin-destination survey
NOTICES
67202 Hearings, etc.: Cascade Airways, Inc., fitness investigation
- Civil Rights Commission**
NOTICES
67202 Meetings; State advisory committees: Michigan
67202 North Carolina
- Commerce Department**
See also Industry and Trade Administration; National Oceanic and Atmospheric Administration.
RULES
67091 Regional Action Planning Commissions; administrative operations
- Commodity Credit Corporation**
RULES
 Loan and purchase programs:
67083 Cotton
67084 Cotton; warehouse approval standards
67077 Grain, rice, etc.; warehouse approval standards
67080 Processed agricultural commodities; dry and cold storage warehouse approval standards
PROPOSED RULES
67134 Loan and purchase programs: Grain, etc.
- Commodity Futures Trading Commission**
NOTICES
67290 Meetings; Sunshine Act (2 documents)
- Consumer Product Safety Commission**
See Interagency Regulatory Liaison Group.
- Copyright Royalty Tribunal**
NOTICES
67290 Meetings; Sunshine Act
- Defense Department**
See Air Force Department; Navy Department.
- Economic Regulatory Administration**
PROPOSED RULES
67338 Oil; administrative procedures and sanctions: Applications for assignments, adjustment; and other ERA actions; notice to aggrieved persons

- NOTICES**
Canadian allocation program:
67208 Crude oil; October through December; 1979 allocation period; supplemental
67208 Crude oil; October through December; 1979 allocation period; supplemental; correction
Consent orders:
67210 Aluminum Co. of America
67206 Graner Oil Co.
Natural gas; fuel oil displacement certification applications:
67207 ASARCO, Inc.
Remedial orders:
67210 Advance Brake & Tune-Up Systems
67210 Alcatraz Mobil
67211 Rich's Shell Service
- Education Office**
NOTICES
Meetings:
67231 Bilingual Education National Advisory Council
67232 Federal Impact Aid Program Review Commission
- Employment Standards Administration**
NOTICES
67294 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ala., Fla., Ga., Mo., N.J., N.Y., Okla., Tex., and Va.)
- Energy Department**
See also Economic Regulatory Commission; Federal Energy Regulatory Commission.
PROPOSED RULES
67330 Procurement; small businesses
NOTICES
Consent orders:
67221 Mobil Oil Corp.
- Environmental Protection Agency**
See also Interagency Regulatory Liaison Group.
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
67115 Atrazine
67117 Carbaryl
67115 Chlorpyrifos
67116 Methomyl
PROPOSED RULES
Air quality implementation plans; approval and promulgation:
67182 Nonattainment areas; evaluation of plan revision submissions; supplement
Air quality implementation plans; delayed compliance orders:
67183 New York; withdrawn
Toxic substances:
67183 Data reimbursement; advance notice; extension of time
67183 Polybrominated biphenyls (PBB's) and tris (2,3 dibromopropyl) phosphate; importation or manufacture notice requirement; correction
NOTICES
Meetings:
67224 Administrator's Toxic Substances Advisory Committee; cancelled
Pesticide registration, cancellation, etc.:
67224 Apron 355D Fungicide
- 67222 Ortho Delnav 4 emulsive, etc.
67223 Ortho Nemagon 70 soil fumigant, etc.
Pesticides; experimental use permit applications:
67223 Sodium 1-[p-chlorophenyl]-1,4-dihydro-6-methyl-4-oxo-pyridazine-3-carboxylate
- Farmers Home Administration**
PROPOSED RULES
Guaranteed loan programs:
67134 Administration regulations; lender requirements etc.
- Federal Aviation Administration**
RULES
Airworthiness directives:
67101 Embraer
67102 McDonnell Douglas
67103 Mitsubishi Aircraft International, Inc.
67106, 67107 Restricted areas (2 documents)
67104-67107 Transition areas (5 documents)
67106
- PROPOSED RULES**
Airworthiness directives:
67139 Boeing
Airworthiness standards:
67137 Transport category airplanes; Douglas DC-3 airplanes modified with three turboprop engines; withdrawn
67136 Rotorcraft regulatory review program; conference agenda change
67140 Transition areas
- Federal Bureau of Investigation**
NOTICES
Meetings:
67240 National Crime Information Center Advisory Policy Board
- Federal Communications Commission**
RULES
Radio services, special:
67125 Citizens band radio service (CB); cross-border communications with Canadian General Radio Service licensees
67117 Land mobile services, private; consolidation and transfer of regulations; correction
67119 Private land mobile service; interconnection with public switched telephone network
PROPOSED RULES
Common carrier services:
67192 Overseas telecommunications traffic data; eliminating semi-annual reports and providing revised and corrected data in annual reports; inquiry; extension of time
Radio services, special:
67191 Digital termination systems; frequency reallocation in 10.55-10.68 GHz band; extension of time
67192 Personal radio service; frequency assignment in 900 MHz bands; extension of time
NOTICES
Hearings, etc.:
67224 Am Ende, Werner W.
67226 Bruce Dale Sommers
67225 Lowell M. Bush et al.
67227 New Continental Broadcasting Co. et al.

- 67228 Seaford Television Co. et al.
67290 Meetings; Sunshine Act (2 documents)
- Federal Election Commission**
NOTICES
67290, 67291 Meetings; Sunshine Act (2 documents)
- Federal Emergency Management Agency**
RULES
Flood insurance; special hazard areas:
67129 Alabama et al.
67126 Colorado et al.
PROPOSED RULES
Flood elevation determinations:
67186 Arkansas et al.
- Federal Energy Regulatory Commission**
RULES
Natural Gas Policy Act of 1978:
67108 Ceiling prices; maximum lawful for new onshore production wells; well spacing requirements, etc.
PROPOSED RULES
Natural Gas Policy Act of 1978:
67170 Incremental pricing; industrial users not granted exemption from program by statute; hearings
67166 OCS gas sales; distributor access; statement of policy
67154 Price squeeze in electric industry; procedural rules governing Commission proceedings
67158 Price squeeze in electric industry; substantive rules governing Commission proceedings
Public Utility Regulatory Policies Act:
67176 Small power production and cogeneration facilities; rates and exemptions; hearings
NOTICES
Hearings, etc.:
67211, 67212 Cities Service Gas Co. (4 documents)
67213 Colorado Interstate Gas Co.
67214 Consolidated Gas Supply Corp.
67215 Great Lakes Gas Transmission Co.
67216 Natural Gas Pipeline Co. of America
67217 Northwest Pipeline Corp.
67217 Panhandle Eastern Pipe Line Co.
67218 Sea Robin Pipeline Co. et al.
67219 Tennessee Gas Pipeline Co.
67219 Tennessee Gas Pipeline Co. et al.
67220, 67221 Transcontinental Gas Pipe Line Corp. (2 documents)
Natural Gas Policy Act of 1978:
67214, 67215, 67219 Jurisdictional agency determinations (3 documents)
- Federal Grain Inspection Service**
NOTICES
Grain standards; inspection points:
67196 Arkansas
67198 Illinois
67196, 67199 North Dakota (2 documents)
67197 Ohio
67200 Tennessee
- Federal Highway Administration**
PROPOSED RULES
Motor carrier safety regulations:
67193 Safety ratings
- Federal Home Loan Bank Board**
RULES
Federal savings and loan system:
67089 Loans in excess of 80 percent of value three-family and four-family dwellings
NOTICES
Applications, etc.:
67230 Haven Federal Savings & Loan Association
67230 Naples Federal Savings & Loan Association
Meetings:
67230 Federal Savings and Loan Advisory Council; correction
- Federal Maritime Commission**
NOTICES
Agreements filed, etc.
67230
Meetings; Sunshine Act (2 documents)
67291
- Federal Railroad Administration**
NOTICES
Environmental statements; availability, etc.:
67264 St. Louis Metropolitan Area Rail Gateway Terminal, Mo.; restructuring of railway facilities
Petitions for exemptions, etc.:
67263 Fore River Railroad Co.
Preference share financing applications:
67263 TELACU Investment Co., Inc.
- Fish and Wildlife Service**
NOTICES
Environmental statements; availability, etc.:
67236 Lower Apalachicola Floodplain, Fla.
- Food and Drug Administration**
See also Interagency Regulatory Liaison Group
RULES
Animal drugs, feeds, and related products:
67112 Fee requirement for processing of medicated feed applications
67113 Norwich-Eaton Pharmaceuticals; sponsor name change
67113 Western Research Labs, Inc.; approved sponsor
NOTICES
Food additives, petitions filed or withdrawn:
67231 Thomas J. Lipton, Inc.
- Food Safety and Quality Service**
See also Interagency Regulatory Liaison Group.
RULES
Meat and poultry inspection, mandatory:
67087 Inspection legend and ingredient statement
NOTICES
Meat and poultry inspection program covering imported products; inquiry
67201
- Forest Service**
NOTICES
Environmental statements; availability, etc.:
67201 Toiyabe National Forest, Nev.

General Accounting Office NOTICES		Labor Department <i>See also</i> Employment Standards Administration; Occupational Safety and Health Administration.	
67231	Regulatory reports review; proposals, approvals, etc. (SEC)	NOTICES	
Geological Survey NOTICES		Adjustment assistance:	
Coal resource areas:		67244	A&W Products Co., Inc., et al.
67236	Alabama	67241	ACCO Industries, Inc.
Health, Education, and Welfare Department <i>See also</i> Education Office; Food and Drug Administration.		67141	Annette, Inc.
PROPOSED RULES		67142	Barad and Co.
Procurement:		67142	Chrysler Corp.
67185	Contractors; confidentiality of information requirements	67243	Clinchfield Coal Co.
67183	Contractors; protection of privacy of individuals requirements	67243	Consolidated Coal Co.
Housing and Urban Development Department PROPOSED RULES		67243	Converse Rubber Co.
Low income housing:		67244	Cowden Manufacturing Co.
67177	Fair market rents (Section 8) and contract rent automatic annual adjustment factors; contract rents factors publication as notice in Federal Register; transmittal of interim rule to Congress	67245	Island Creek Coal Co.
67177	Housing assistance payments (Section 8); substantial rehabilitation; transmittal of interim rule to Congress	67245	Jeep Corp.
Industry and Trade Administration NOTICES		67246	Keystone Metal Moulding Co.
Meetings:		67246	Luray Textile
67203	Semiconductor Technical Advisory Committee	67246	New Jersey Steel & Structural Corp.
Interagency Regulatory Liaison Group NOTICES		67247	Reynoldsville Industries, Inc.
67233	Carcinogens, scientific report, identification and estimation of risks; inquiry; extension of time	67247	Riviera Fashion, Inc.
67232	Epidemiologic studies documentation guidelines; availability	67247	Salant Corp.
Interior Department <i>See</i> Fish and Wildlife Service; Geological Survey; Land Management Bureau.		67248	Stanley Sweater Mill, Inc.
Internal Revenue Service PROPOSED RULES		67248	U.S. Steel Corp.
Income taxes:		67249	Valmont, Inc.
67178	Pension plan funding; election of alternative amortization method	67249	Wisconsin Screw Products Corp.
NOTICES		67248	Xenko, Inc.
Authority delegations:		Land Management Bureau NOTICES	
67269	Service Center Directors; execution of returns	Alaska Native claims selections; applications, etc.:	
Interstate Commerce Commission NOTICES		67235	Kavilco Inc.; correction
Motor carriers:		Applications, etc.:	
67269, 67287	Permanent authority applications (2 documents)	67233, 67234	New Mexico (2 documents)
67287	Permanent authority applications; correction	67234	North Dakota
Justice Department <i>See also</i> Antitrust Division; Federal Bureau of Investigation.		67234	Coal leases:
PROPOSED RULES		67234	Utah
Nondiscrimination:		67233	Opening of public lands:
67179	Handicapped in federally assisted programs; meeting rescheduled	67233	Utah
		Withdrawal and reservation of lands, proposed, etc.:	
		67235	Alaska
		Legal Services Corporation NOTICES	
		67250	
		Grants and contracts; applications	
		Maritime Administration NOTICES	
		67203	
		Applications, etc.:	
		American Petrofina, Inc.	
		National Highway Traffic Safety Administration NOTICES	
		67265	
		Committees; establishment, renewals, terminations, etc.:	
		National Highway Safety Advisory Committee	
		Motor vehicle safety standards; exemption petitions, etc.:	
		67265	
		California Highway Patrol; school bus emergency exits; denial of rulemaking petition	

National Oceanic and Atmospheric Administration PROPOSED RULES		Research and Special Programs Administration, Transportation Department NOTICES	
67195	Fishery conservation and management: Groundfish, Calif., Oreg., and Wash. and jack mackerel fishery; hearings	Hazardous materials:	
67194	Marine Mammals: Commercial fishing operations; incidental taking; advance notice	67265-67268	Applications; exemptions, renewals, etc. (3 documents)
NOTICES		Securities and Exchange Commission RULES	
67204	Meetings:	67107	Proxy solicitation other than by issuer; required information
67204	Gulf of Mexico Fishery Management Council	PROPOSED RULES	
67204	Pacific Fishery Management Council (2 documents)	67143	Exhibit filing requirements
National Science Foundation NOTICES		67152	Investment companies, transient; exemption from compliance with Investment Company Act
67250	Antarctic Conservation Act of 1978; permit applications received	67150	Investment companies owned by companies which are not investment companies; exemption from compliance with Investment Company Act
National Transportation Safety Board NOTICES		NOTICES	
67254	Accident reports, safety recommendations and responses, etc.; availability	67258	Hearings, etc.:
67291	Meetings; Sunshine Act	67259	Carolina Telephone & Telegraph Co.
Navy Department RULES		67260	Columbia Gas System, Inc.
67114	Navigation:	67262	Philadelphia Stock Exchange, Inc.
USS <i>Narragansett</i> ; compliance with COLREGS; exemption		67262	Zero Corp.
NOTICES		67292	Meetings; Sunshine Act
67206	Environmental statements; availability, etc.:	Small Business Administration NOTICES	
China Lake, Calif.; naval weapons center		67262	Applications, etc.:
Nuclear Regulatory Commission RULES		67262	Brooklyn Capital Corp.
67089	Nuclear power plants; physical protection requirements; correction	67262	Louisiana Equity Capital Corp.
67088	Practice rules:	Small Business Conference Commission NOTICES	
Operating license proceedings; review of uncontested matters		67263	White House Conference on Small Business; meeting
NOTICES		State Department <i>See</i> Agency for International Development.	
Abnormal occurrence reports:		Textile Agreements Implementation Committee NOTICES	
67250	Seventeenth report to Congress	Wool textiles:	
Applications, etc.:		67204	Malaysia
67251	Consolidated Edison Co. of N.Y., Inc.	Transportation Department <i>See</i> Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department.	
67251	Georgia Power Co.	Treasury Department <i>See</i> Internal Revenue Service.	
67252	Houston Lighting & Power Co. et al.	Veterans Administration PROPOSED RULES	
67252	Indiana & Michigan Electric Co. et al.	Vocational rehabilitation and education:	
67252	Northern States Power Co.	67181	Paying educational assistance during intervals between terms
67252, 67253	Portland General Electric Co. et al. (2 documents)	67179	School report requirements
67253	Public Service Electric & Gas Co. (2 documents)		
67253	Tennessee Valley Authority		
67254	Texas Utilities Generating Co.		
67254	Texas Utilities Generating Co., et al.		
67251	Demographic statistics pertaining to nuclear power reactor sites; availability		
Occupational Safety and Health Administration <i>See</i> Interagency Regulatory Liaison Group.			
Postal Rate Commission NOTICES			
67291	Meetings; Sunshine Act (3 documents)		

MEETINGS ANNOUNCED IN THIS ISSUE

- ARTS AND HUMANITIES, NATIONAL FOUNDATION**
67250 Museum Panel, 12-11-79
- CIVIL RIGHTS COMMISSION**
67202 Michigan Advisory Committee, 12-15-79
67202 North Carolina Advisory Committee, 12-17-79
- COMMERCE DEPARTMENT**
Industry and Trade Administration—
67203 Semiconductor Technical Advisory Committee, 12-12-79
National Oceanic and Atmospheric Administration—
67204 Gulf of Mexico Fishery Management Council, 12-4 through 12-6-79
67204 Pacific Fishery Management Council, 12-11-79
67204 Pacific Fishery Management Council's Pink Shrimp Subpanel, 12-12-79
- FEDERAL HOME LOAN BANK BOARD**
67230 Federal Savings and Loan Advisory Council, 11-19-79
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
Office of Education—
67232 Commission on the Review of the Federal Impact Aid Program, 12-14-79
67231 National Advisory Council on Bilingual Education: Committee meeting, 12-9-79; Full council meeting 12-10 and 12-11-79
- JOINT BOARD FOR THE ENROLMENT OF ACTUARIES**
67236 Advisory Committee on Actuarial Examinations, 12-17-79
- JUSTICE DEPARTMENT**
67240 National Crime Information Center (NCIC) Advisory Policy Board, 12-12 and 12-13-79
- SMALL BUSINESS CONFERENCE COMMISSION**
67263 White House Conference, 12-17-79
- TRANSPORTATION DEPARTMENT**
National Highway Traffic Safety Administration—
67265 National Highway Safety Advisory Committee, 12-12 and 12-13-79
- U.S. ARMS CONTROL AND DISARMAMENT AGENCY**
67202 General Advisory Committee, 12-13 and 12-14-79
- CANCELED MEETING**
- ENVIRONMENTAL PROTECTION AGENCY**
67224 Administrator's Toxic Substances Advisory Committee, 11-29 and 11-30-79
- CHANGED MEETING**
- JUSTICE DEPARTMENT**
67179 Prohibition of Discrimination on the basis of being handicapped in programs and activities receiving Federal financial assistance, 11-27-79

HEARINGS

- COMMERCE DEPARTMENT**
National Oceanic and Atmospheric Administration—
67195 Pacific Fishery Management Council, 12-14, 12-15, 12-17-79, and 1-5-80
- ENERGY DEPARTMENT**
Economic Regulatory Administration—
67338 Applicants for Assignments, Adjustments, and Certain Other Agency Action, 12-20-79
Federal Energy Regulatory Commission—
67176 Small Power Production and Cogeneration Rates and Exemptions, 11-28, 11-30 and 12-4-79

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR	18 CFR
Administrative Orders:	271..... 67108
Presidential Determinations:	274..... 67108
No. 80-5 of November 13, 1979..... 67071	Proposed Rules:
No. 80-6 of November 14, 1979..... 67073	35 (2 documents)..... 67154, 67158
7 CFR	280..... 67166
910..... 67075	282..... 67170
981..... 67075	284..... 67166
1421..... 67077	292..... 67176
1423..... 67080	21 CFR
1427 (2 documents)..... 67083, 67084	431..... 67112
Proposed Rules:	510 (2 documents)..... 67113
906..... 67130	514..... 67112
971..... 67131	520..... 67113
1079..... 67132	522..... 67113
1421..... 67134	526..... 67113
1980..... 67134	558..... 67113
9 CFR	24 CFR
113..... 67087	Proposed Rules:
316..... 67087	881..... 67177
10 CFR	888..... 67177
2..... 67088	26 CFR
73..... 67089	Proposed Rules:
Proposed Rules:	1..... 67178
205..... 67338	28 CFR
12 CFR	Proposed Rules:
541..... 67089	42..... 67179
545..... 67089	32 CFR
13 CFR	706..... 67114
540..... 67091	38 CFR
14 CFR	Proposed Rules:
39 (3 documents)..... 67101-67103	21 (2 documents)..... 67179, 67181
71 (5 documents)..... 67104, 67106	40 CFR
73 (2 documents)..... 67106, 67107	180 (4 documents)..... 67115-67117
Proposed Rules:	Proposed Rules:
1..... 67136	52..... 67182
25..... 67137	65..... 67183
27..... 67136	713..... 67183
29..... 67136	774..... 67183
33..... 67136	41 CFR
39..... 67139	Proposed Rules:
43..... 67136	3-1 (2 documents)..... 67183, 67185
45..... 67136	3-7..... 67185
61..... 67136	9-1..... 67330
71..... 67140	9-3..... 67330
91..... 67136	9-16..... 67330
121..... 67136	9-50..... 67330
127..... 67136	44 CFR
133..... 67136	65 (2 documents)..... 67126, 67129
135..... 67136	Proposed Rules:
241..... 67140	67..... 67186
17 CFR	47 CFR
240..... 67107	90 (2 documents)..... 67117, 67119
Proposed Rules:	95..... 67125
229..... 67143	Proposed Rules:
230..... 67143	2..... 67191
239..... 67143	21..... 67191
240..... 67143	43..... 67192
249..... 67143	87..... 67191
270 (2 documents)..... 67150, 67152	90..... 67191
	95..... 67192

49 CFR

Proposed Rules:
385..... 67193

50 CFR

Proposed Rules:
216..... 67194
662..... 67194

V
4
4

N
0

2
3

7
9
U M I

Presidential Documents

Title 3—

The President

Presidential Determination No. 80-5 of November 13, 1979

Determination Pursuant to Section 2(c)(1) of Migration and Refugee Assistance Act of 1962, as Amended, (The "Act"), Authorizing the Use of \$2,000,000 of Funds Made Available From the United States Emergency Refugee and Migration Assistance Fund

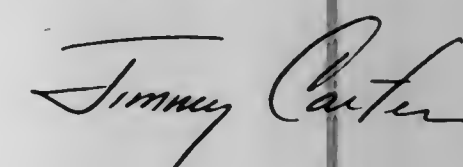
Memorandum for the Secretary of State

In response to the urgent financial needs of the Relief Program within Kampuchea, I hereby determine that it is important to the national interest that up to \$2,000,000 from the United States Emergency Refugee and Migration Assistance Fund be made available through the Department of State for transfer to the United Nations Children's Fund for this purpose.

The Secretary of State is requested to inform the appropriate committees of Congress of this Determination and the obligation of funds under this authority.

This Determination shall be published in the Federal Register.

THE WHITE HOUSE,
Washington, November 13, 1979.



[FR Doc. 79-36355
Filed 11-20-79; 4:24 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 80-6 of November 14, 1979

Maintenance of Sanctions Against Zimbabwe-Rhodesia Under Section 408(b) of the Department of State Authorization Act, Fiscal Years 1980 and 1981

Memorandum for the Secretary of State

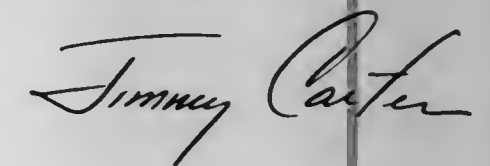
Pursuant to Section 408(b) of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (93 Stat. 405), I hereby determine that it is in the national interest of the United States to continue sanctions against Zimbabwe-Rhodesia at this time.

You are requested, on my behalf, to report this determination promptly to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate.

You are further requested to report to me immediately upon the conclusion of the present Constitutional Conference on Zimbabwe-Rhodesia being held in London, describing the conclusions of that conference and your recommendations for action by the United States with respect to the termination of sanctions.

This determination shall be published in the Federal Register.

THE WHITE HOUSE,
Washington, November 14, 1979.



[FR Doc. 79-36356
Filed 11-20-79; 4:25 pm]
Billing code 3195-01-M

V
4
4
N
O
2
3
7
9
U
M
I

Rules and Regulations

Federal Register
Vol. 44, No. 227
Friday, November 23, 1979

67075

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

(Lemon Regulation 227)

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period November 25-December 1, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: November 25, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on November 19, 1979, to consider supply and market conditions and other factors affecting the need for regulation and

recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is expected to be easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202-447-5975.

Section 910.527 is added as set forth below:

§ 910.527 Lemon regulation 227.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period November 25, 1979, through December 1, 1979, is established at 230,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: November 20, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.
[FR Doc. 79-36410 Filed 11-21-79; 12:23 pm]

BILLING CODE 3410-02-M

7 CFR Part 981

Handling of Almonds Grown in California; Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule makes changes in the creditable advertising and quality control provisions of the administrative rules and regulations established under the Federal marketing order for California almonds. These changes are necessary to bring the provisions into conformity with current industry operating practices, and to aid handlers in selling increased supplies of almonds.

EFFECTIVE DATE: November 28, 1979.

FOR FURTHER INFORMATION CONTACT: William J. Higgins, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5053.

SUPPLEMENTARY INFORMATION: Notice was published in the October 5, 1979, issue of the Federal Register (44 FR 57417) to amend Subpart—Administrative Rules and Regulations (7 CFR 981.401-981.474; 44 FR 30074, 31181) by revising §§ 981.441 and 981.442. No comments were received.

This subpart is issued under the marketing agreement, as amended, and Order No. 981, as amended (7 CFR 981), regulating the handling of almonds grown in California. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based on a recommendation of the Almond Board of California.

Section 981.441 pertains to crediting a handler's assessment obligation for paid advertising, which is authorized pursuant to § 981.41 in the order, and is revised to update two of its provisions.

As provided in § 981.441(b), in order for a handler to receive credit for a paid advertisement, each advertisement must be published, broadcast, or displayed during the crop year for which credit is requested, except that a handler may expend a maximum of five percent of the total creditable advertising obligation (as of the June 30

redetermination report) in the subsequent July 1-September 1 period. In this case, the accompanying documentation must be filed with the Board no later than September 30. A handler utilizing this extension of time, however, has to certify to the Board, at time of redetermination, the planned expenditures during the extension period.

The five percent limit on such credit, however, is now seen as unnecessarily restricting handler operations. The sometimes large fluctuations in the size of the almond crop cause expansion or curtailment in advertising programs. Thus, it is desirable to provide that a greater portion of a handler's creditable advertising be carried over from one crop year to the next, in order to better sustain a fairly consistent ongoing advertising program. Therefore, § 981.441(b)(1) is revised to permit that a maximum of twenty percent of the total handler creditable advertising obligation as of the June 30 redetermination report may be expended no later than December 31 of the subsequent crop year, and the related documentation filed with the Board no later than the following January 31.

Currently, § 981.441(e)(2) provides that credit not to exceed in total 10 percent of the creditable obligation for advertising in each crop year, would be granted a handler for media expenditures for advertising in 14 foreign countries. These countries are Great Britain, France, Italy, West Germany, Denmark, Belgium, Ireland, Luxembourg, the Netherlands, Sweden, Norway, Finland, Switzerland, and Japan. Credit may be allowed when claims are substantiated by applicable rate cards. The provisions of this section applicable to domestic advertising would apply to the crediting of advertising in these countries.

Given the importance to the almond industry of its export markets—which are expected to take approximately two-thirds of the 1979 California almond crop—the current ten percent limit is considered restrictive. Thus, § 981.441(e)(2) is revised to increase this limit to twenty percent of a handler's total creditable advertising expenditures in the specified foreign countries.

Section 981.42 provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of almonds received, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, constitutes a weight obligation to be accumulated in the

course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to change this percentage for any crop year, and to establish rules and regulations necessary and incidental to the administration of this provision, including, among other things, that the Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing.

Section 981.442 specifies the procedures for implementing § 981.42. Currently, § 981.442(a)(1) provides for the sampling procedures for handlers to follow. For receipts of almonds at a handler's premises with mechanical sampling equipment and under contract providing for payment by the handler to the producer for sound meat content, samples shall be drawn by the handler in a manner acceptable to the Board and the inspection agency. The inspection agency shall make periodic checks of the mechanical sampling procedures. For all other receipts, including but not limited to field examination and purchase receipts, accumulations purchased for cash at the handler's door or from an accumulator, or almonds of the handler's own production, samples shall be drawn by or under the surveillance of the inspection agency. All samples shall be bagged and identified in a manner acceptable to the Board and the inspection agency. Each handler shall identify receipts according to the method of acquisition, and shall submit to the Board such reports of the quantity received by method of acquisition, as the Board may require.

As these provisions apply to a handler's own production, however, they do not now conform with industry practice. That is, handlers currently take safeguards to insure impartial sampling of almonds of their own production. Therefore, to conform the requirements to current practices, § 981.442(a)(1) is revised so that for such almonds, sampling shall be conducted or monitored by the inspection agency in a manner acceptable to the Board. Moreover, handlers will no longer be required to identify and report receipts according to the method of acquisition.

Section 981.442(a)(5) currently provides that the quantity of inedible kernels in each variety in excess of one and one-half percent of the kernel weight received, constitutes a handler's weight obligation to be delivered to the Board, or Board accepted crushers, feed

manufacturers, or feeders. The industry believes that a tolerance of two percent is more realistic and the current tolerance places an economic hardship on small handlers without almond product manufacturing facilities. Therefore, this tolerance is increased to two percent.

After consideration of all relevant matter presented, including that in the notice, the recommendation submitted by the Board, and other available information, it is found that to amend the administrative rules and regulations as herein set forth will tend to effectuate the declared policy of the act.

It is further found that it is impractical, unnecessary, and contrary to the public interest to postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553) in that: (1) The 1979-80 crop year began July 1, 1979, and handlers need to know as soon as possible of changes in the administrative rules and regulations; and (2) these changes are less restrictive on handlers than those regulations currently in effect.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from William J. Higgins, (202) 447-5053.

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 981.441-981.474) is amended as follows:

1. In § 981.441, paragraphs (b) and (e)(2) are revised to read as follows:

§ 981.441 Crediting for paid advertising.

(b) Each advertisement must be published, broadcast, or displayed during the crop year for which credit is requested, except: (1) that a maximum of 20 percent of the total handler creditable advertising obligation as of the June 30 redetermination report may be expended no later than December 31 of the subsequent crop year, and documentation therefor filed with the Board no later than the following January 31; and (2) that a handler utilizing this extension certify to the Board, at time of redetermination, the planned expenditures during the extension period. The credit granted by the Board shall be that which is appropriate when compared to the applicable outlet rate published in the domestic or Canadian catalogs of Standard Rate and Data Service, or station or publisher or outdoor rate cards. In the case of claims for credit not

covered by any such source, the Board shall grant the claim if it is consistent with rates for comparable outlets. For advertisements in countries other than the United States and Canada, paragraph (e) shall apply.

(e) Credit for media expenditures in a foreign country shall be granted:

(2) For a handler's media expenditures for brand advertising of almonds in the following countries: Great Britain, France, Italy, West Germany, Denmark, Belgium, Ireland, Luxembourg, The Netherlands, Sweden, Norway, Finland, Switzerland, and Japan, credit shall be allowed when claims are substantiated by applicable rate cards. The provisions of this section applicable to domestic advertising shall also apply to the crediting of advertising in these countries. The total of the foreign credit shall not exceed 20 percent of a handler's advertising assessment in each crop year.

2. In § 981.442(a) subparagraphs (1) and (4) are revised to read as follows:

§ 981.442 Quality control.

(a) *Incoming.* Pursuant to § 981.42(a), the quantity of inedible kernels in each variety of almonds received by a handler, including almonds of own production, shall be determined and disposed of in accordance with the provisions of this paragraph.

(1) *Sampling.* Each handler shall cause a representative sample of almonds to be drawn from each lot, except lots of Peerless variety designated as bleaching stock, of any variety received. The sample shall be drawn before inedible kernels are removed from the lot, or the lot is processed or stored by the handler. For receipts at premises with mechanical sampling equipment and under contracts providing for payment by the handler to the producer for sound meat content, samples shall be drawn by the handler in a manner acceptable to the Board and the inspection agency. The inspection agency shall make periodic checks of the mechanical sampling procedures. For all other receipts, including but not limited to field examination and purchase receipts, accumulations purchased for cash at the handler's door or from an accumulator, or almonds of the handler's own production, sampling shall be conducted or monitored by the inspection agency in a manner acceptable to the Board. All samples shall be bagged and identified in a manner acceptable to the Board and the inspection agency.

(4) *Disposition obligation.* The weight of inedible kernels in excess of two percent of kernel weight reported to the Board of any variety received by a handler shall constitute the disposition obligation. If a variety other than Peerless is used as bleaching stock, the weight so used may be reported to the Board and the disposition obligation for that variety reduced proportionately.

(Secs. 1-19, 48 Stat. 31, as amended (U.S.C. 601-674))

Dated November 16, 1979 to become effective November 26, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable
Division.

[FR Doc. 79-38099 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

**Standards for Approval of
Warehouses for Grain, Rice, Dry Edible
Beans, and Seed**

AGENCY: Commodity Credit Corporation,
United States Department of
Agriculture.

ACTION: Final rule.

SUMMARY: This rule sets forth in the Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed (hereinafter referred to as "Standards") the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires an approval by the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of CCC-owned or Loan commodities under the applicable commodity agreements. The rule establishes (1) an increase in the minimum net worth requirement from \$10,000 to \$25,000; (2) \$250,000 maximum net worth; and (3) an increase in the commodity value factor to be used in calculating the net worth requirement. Additional changes have been made to improve clarity, understanding and general administration of the Standards.

This rule revises the regulations which previously appeared in the Federal Register, Subpart—Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed published in the Federal Register on November 10, 1975 (40 FR 52351).

This revision incorporates changes in the regulations which are necessary in

order to obtain uniformity and clarity in the Standards. The rule would affect all warehousemen who make application to handle and store CCC-owned or CCC-loan commodities under the applicable storage agreement. The rule would not affect warehousemen currently under contract with CCC until such time as their contracts are to be renewed.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Eugene A. Williams, (ASCS), (202) 447-7335.

ADDRESS: Inventory Management
Division, ASCS, U.S. Department of
Agriculture, Room 5969-S, P.O. Box
2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Section 4 of the CCC Charter Act, as amended, provides that CCC may enter into and carry out such contracts or agreements as are necessary in the conduct of its business and may contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of the agricultural commodities subject to its control.

On April 3, 1979, there was published in the Federal Register (44 FR 19411-13) CCC's proposed revision of the Standards for Approval of Warehouses for Grains, Rice, Dry Edible Beans, and Seed. Interested persons were asked to comment on the proposed rule. A total of five responses were received. Two were from Federal Government agencies and one each from an association of insurance companies, an institute of public accountants, and a cotton warehouseman.

All responses agreed in principle with the proposed rule or some variation thereof. One Federal Government agency suggested a higher commodity value factor should be used in the calculation of a minimum net worth, and that a bond be furnished on the amount that the net worth fell below \$25,000. A minimum net worth requirement of \$25,000 was selected because it should improve storage security and reduce potential losses to depositors on commodities in store.

If implementation of the \$25,000 minimum net worth requirement would result in a critical shortage of warehouse space in some areas, CCC may waive the requirement. The regulation provides that if warehousing services in any area cannot be secured under the provisions of the Standards for Approval, and no reasonable and economical alternative is available for securing such services for commodities under CCC programs,

CCC may exempt applicants in such areas from one or more of the provisions of the Standards and may establish such other requirements as are necessary to safeguard satisfactorily the interests of CCC. With this authority, CCC may waive the net worth requirement for any warehouse where it is found to be necessary in order to carry out the price support and loan program.

The insurance association suggested that a clause be added to Section 1421.5553, "Bonding Requirements for Net Worth," which would state that the bond was not cumulative regardless of the number of years it was in force, and that the maximum liability of the surety was the face amount of the bond including any endorsements thereto. The association stated that they would always know what their liability was with respect to this type of clause. Under a cumulative bonding liability, however, insurers are unsure of their liability with regard to potential claims, and underwriting was, therefore, made more difficult.

The suggestion of the insurance association was rejected because bonding liability on a continuous basis provides more comprehensive security for CCC. There could be a situation, for example, where a warehouseman with a bond of \$100,000 per year may be liable for conversion of \$75,000 the first year; \$50,000 the second year; and, \$50,000 the last year. The revision suggested by the insurance association would limit the warehouseman's potential liability to only \$50,000 in the last year. Under CCC's present application of the bonding standard, which shall be continued, CCC would potentially collect damages to the maximum of \$100,000 per year for the duration of the bond. Thus, under the example cited above, the warehouseman and the insurer would be potentially subject to \$175,000 in claims by CCC.

Other suggestions were received from two Federal Government agencies and the Institute of Public Accountants for changes to improve the clarity and understanding of the Standards. These suggestions will be adopted without requesting further comment, since they simply enhance the interpretation of some of the provisions and do not affect the substantive changes outlined in the proposed rule.

Final Rule

Accordingly, 7 CFR 1421 is revised to change §§ 1421.5551 through 1421.5557 to read as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed

- Sec.
1421.5551 General statement and administration.
1421.5552 Basic standards.
1421.5553 Bonding requirements for net worth.
1421.5554 Examination of warehouses.
1421.5555 Exceptions.
1421.5556 Approval of warehouses; requests for reconsideration.
1421.5557 Exemption from requirements.

Authority: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714 b). Subpart—Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed § 1421.5551 General statement and administration.

(a) This subpart prescribes the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires the initial or continuing approval by the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of:

- (1) Wheat, oats, corn, rye, barley, sorghums, flaxseed, and soybeans under a Uniform Grain Storage Agreement (which commodities hereinafter referred to as "grain");
- (2) Rough rice under a Uniform Rice Storage Agreement;
- (3) Milled rice under a Milled Rice Storage Agreement;
- (4) Dry Edible Beans under a Bean Storage Agreement; and
- (5) Seed under a Seed Storage Agreement, which are owned by CCC or held by CCC as security for price support loans.

This subpart is not applicable to grain, rough and milled rice, dry edible beans, and seed purchased in store for prompt shipment or to handling operations of a temporary nature.

(b) Copies of the CCC storage contract or agreement and other forms required for obtaining approval under this subpart may be obtained from the Kansas City Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas 66208 (hereinafter referred to as the "KCCO").

(c) A warehouse must be approved by KCCO and a storage contract or agreement must be in effect between CCC and the warehouseman before CCC will use such warehouse. The approval of a warehouse or the entering into of a storage contract or agreement does not constitute a commitment that

CCC will use the warehouse, and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman, when applying for approval under this subpart, shall submit to CCC at KCCO:

(1) A completed Form CCC-24, "Application for Approval of Warehouse for Grain, Rice, Dry Edible Beans, and Seed", and a completed Form CCC-24-1, "Supplement to Application for Approval of Warehouse for Grain, Rice, Dry Edible Beans, and Seed";

(2) A current financial statement on Form TW-51, "Financial Statement", supported by such supplemental schedules as CCC may request. Such statement shall show the financial condition of the warehouseman as of a date not earlier than ninety (90) days prior to the date of the warehouseman's application, or such other date as CCC may prescribe. Additional financial statements shall be furnished annually and at such other times as CCC may require. CCC reserves the right to require that financial statements prepared by the warehouseman or by a public accountant shall be examined by an independent certified public accountant in accordance with generally accepted auditing standards if CCC is unable to reconcile the information furnished by the warehouseman on the Form TW-51.

Only one financial statement is required for a chain of warehouses owned or operated by a single business entity, and

(3) Evidence that the warehouseman is licensed by the appropriate licensing authority as required under § 1421.5552(a)(2) and such other documents or information as CCC may require.

§ 1421.5552 Basic standards.

Unless otherwise provided in this subpart, each warehouseman and each of the warehouses owned or operated by such warehouseman for which CCC approval is sought for the storage or handling of CCC owned or loan commodities shall meet the following standards:

(a) The warehouseman shall:

(1) Be an individual, partnership, corporation, association, or other legal entity engaged in the business of storing or handling for hire, or both, the applicable commodity. The warehouseman, if a corporation, shall be authorized by its charter to engage in such business;

(2) Have a current and valid license for the kind of storage operation for which the warehouseman seeks

approval if such a license is required by State or local laws or regulations.

(3) Have a net worth which is the greater of \$25,000 or the amount which results from multiplying the maximum storage capacity of the warehouse (the total quantity of the commodity involved which the warehouse can accommodate when stored in the customary manner) times ten (10) cents per bushel in the case of grain, forty (40) cents per hundredweight in the case of rough rice, seventy (70) cents per hundredweight in the case of milled rice, and fifty (50) cents per hundredweight in the case of dry edible beans, and in the case of seed, the net worth shall be equal at least to the product obtained by multiplying the estimated total number of pounds of seed to be stored times six (6) cents per pound. The net worth need not exceed \$250,000. If the calculated net worth exceeds \$25,000, the warehouseman may satisfy any deficiency in net worth between the \$25,000 minimum requirement and such calculated net worth by furnishing bonds (or acceptable substitute security) meeting the requirements of § 1421.5553.

(4) Have available sufficient funds to meet ordinary operating expenses.

(5) Have satisfactorily corrected upon request by CCC, any deficiencies in the performance of any storage contract or agreement with CCC.

(6) Maintain accurate and complete inventory and operating records.

(7) Use only prenumbered warehouse receipts and scale tickets.

(8) Have available at the warehouse adequate and operable firefighting equipment for the type of warehouse and applicable stored commodity, and

(9) Have a work force and equipment available to complete the load out within approximately thirty (30) working days of that quantity of grain for which the warehouse is or may be approved under a Uniform Grain Storage Agreement and within approximately ninety (90) working days of that quantity of the commodity for which the warehouse is or may be approved under a Uniform Rice Storage Agreement, a Milled Rice Storage Agreement, a Bean Storage Agreement, or a Seed Storage Agreement. The loadout capacity of any of these warehouses need not exceed the equivalent of 200 railroad cars per day.

(b) The warehouseman, officials, or supervisory employees of the warehouseman in charge of the warehouse operations shall have the necessary experience, organization, technical qualifications, and skills in the warehousing business regarding the applicable commodities to enable them

to provide proper storage and handling services.

(c) Warehouseman, officials, and each of the supervisory employees of the warehouseman in charge of the warehouse operations shall:

(1) Have a satisfactory record of integrity, judgment, and performance, and

(2) Be neither suspended nor debarred under CCC's suspension and debarment regulations, 7 CFR Part 1407 for any of the causes set forth in § 1407.5 thereof.

(d) The warehouse shall:

(1) Be of sound construction, in good state of repair, and adequately equipped to receive, handle, store, preserve, and deliver the applicable commodity.

(2) Be under the control of the contracting warehouseman at all times, and

(3) Not be subject to greater than normal risk of fire, flood, or other hazards.

§ 1421.5553 Bonding requirements for net worth.

A bond furnished by a warehouseman under this subpart must meet the following requirements:

(a) Such bond shall be executed by a surety which:

(1) Has been approved by the U.S. Treasury Department, and

(2) Maintains an officer or representative authorized to accept service of legal process in the State where the warehouse is located.

(b) Such bond shall be on Form CCC-33, "Warehouseman's Bond", except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if:

(1) CCC determines that such bond provides adequate protection to CCC.

(2) It has been executed by a surety specified in paragraph (a) of this section or has a blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond, and

(3) It is noncancellable for not less than ninety (90) days or includes a rider providing for not less than ninety (90) days' notice to CCC before cancellation. Excess coverage on a substitute bond for one warehouse will not be accepted or applied by CCC against insufficient bond coverage on other warehouses.

(c) Cash and negotiable securities offered by a warehouseman may be accepted by CCC in lieu of the equivalent amount of required bond coverage. Any such cash or negotiable securities accepted by CCC will be

returned to the warehouseman when the period for which coverage was required has ended and there appears to CCC to be no liability under the storage contract or agreement.

(d) A legal liability insurance policy may be accepted by CCC in lieu of the required amount of bond coverage provided such policy contains a clause or rider making the policy payable to CCC. CCC determines that it affords protection equivalent to a bond, and the Office of the General Counsel, U.S. Department of Agriculture, approves it for legal sufficiency.

§ 1421.5554 Examination of warehouses.

Except as otherwise provided in this subpart, a warehouse must be examined by a person designated by CCC before it may be approved by CCC for the storage or handling of commodities and periodically thereafter to determine its compliance with CCC's standards and requirements.

§ 1421.5555 Exceptions.

Notwithstanding any other provisions of this subpart:

(a) The financial, bond, and original and periodic warehouse examination provisions of this subpart do not apply to any warehouseman approved or applying for approval for the storage and handling of commodities under CCC programs if the warehouse is licensed under the U.S. Warehouse Act for such commodities but a special examination shall be made of such warehouse whenever CCC determines such action is necessary.

(b) A Certificate of Competency issued by the Small Business Administration for a warehouseman will be accepted by CCC as establishing conformance by the warehouseman with the standards prescribed in § 1421.5552(a), (1), (3), (4), and (9); (b); and (d); and the warehouseman will not be required to furnish bond coverage for a deficiency in net worth.

(c) A warehouseman who has a net worth of at least \$25,000 but who fails, or whose warehouse fails, to meet one or more of the other standards of this subpart may be approved if:

(1) CCC determines that the warehouse services are needed and the warehouse storage and handling conditions provide satisfactory protection for the commodity, and

(2) The warehouseman furnishes such additional bond coverage (or cash or acceptable negotiable securities or legal liability insurance policy) as may be prescribed by CCC.

§ 1421.5556 Approval of warehouses; requests for reconsideration.

(a) CCC will approve a warehouse if it determines that the warehouse meets the standards set out in this subpart. CCC will send a notice of approval to the warehouseman. Approval under this subpart, however, does not relieve the warehouseman of the responsibility for performing the warehouseman's obligations under any contract or agreement with CCC or any other agency of the United States. An approval will remain in effect until the storage contract or agreement expires or is otherwise terminated. CCC reserves the right to withdraw approval for good cause shown.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that the warehouse does not meet the standards set out in this subpart.

(2) CCC may withdraw its approval of a warehouse if CCC determines that such warehouse ceases to meet such standards or if the warehouseman fails to perform the warehouseman's obligations under the CCC storage contract or agreement, and

(3) CCC will send any notice of rejection or withdrawal of approval to the warehouseman. This notice will state the cause(s) for such action. Unless the warehouseman or any officials or supervisory employees of the warehouseman is suspended or debarred as provided in 7 CFR § 1407, CCC will approve or reinstate the approval of the warehouse if the warehouseman establishes that the causes for CCC's disapproval have been remedied.

(c) If rejection or withdrawal of approval by CCC is due to the warehouseman's failure to meet the standards set forth:

(1) In § 1421.5552, other than the standard set forth in paragraph (c)(2), thereof the warehouseman may at any time after receiving notice of such action request reconsideration of the action and present to the Director of the KCCO orally or in writing, information in support of such request. The Director shall consider such information in making a determination and notify the warehouseman in writing of such determination. The warehouseman may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing thereon by filing an appeal with the Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS"). The time for filing appeals, forms for requesting an

appeal, nature of the informal hearing, determination, and reopening of the hearing shall be as prescribed in the ASCS regulations governing appeals, 7 CFR Part 780. When appealing under such regulations, the warehouseman shall be considered a "participant", and (2) In § 1421.5552(c)(2), the warehouseman's rights of appeal and hearing shall be as provided in CCC's regulations governing suspension and debarment, 7 CFR Part 1407. After expiration of any period of suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

§ 1421.5557 Exemption from requirements.

(a) If warehousing services in any area cannot be secured under the provisions of this subpart and no reasonable and economical alternative is available for securing such services for commodities under CCC programs, the President or Executive Vice President, CCC, may exempt, in writing, applicants in such area from one or more of the standards of this subpart and may establish such other standards as are considered necessary to safeguard satisfactorily the interests of CCC. Warehousemen who are currently under contract with CCC will be required to meet the terms and conditions of these regulations at the time of renewal of their contract.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations", and has been classified "significant". An approved Final Impact Statement is available from Mr. Eugene A. Williams, ASCS, (202) 447-7335.

Signed at Washington, D.C. on November 13, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-36076 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-05-M

7 CFR Part 1423**Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey and Bulk Oils**

AGENCY: Commodity Credit Corporation, United States Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule sets forth in the Standards for Approval of Dry and Cold Storage Warehouses for processed

Commodities, Extracted Honey, and Bulk Oils (hereinafter referred to as "Standards") the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires the approval of the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of CCC-owned or -loan honey and bulk oils or dry and refrigerated agricultural commodities under the Processed Commodities Storage Agreement. The rule establishes: (1) an increase in the minimum net worth requirement from \$10,000 to \$25,000; (2) a \$250,000 maximum net worth; and, (3) an increase in the commodity value factor to be used in calculating the net worth requirement. Additional changes have been made to obtain uniformity and improve clarity, understanding and general administration of the Standards. The rule also incorporates the Standards for Approval of Warehouses for Extracted Honey, Bulk Oils, and Processed Agricultural Commodities by revising and recodifying the regulations which previously appeared in the Federal Register as 7 CFR Part 1424, Subpart—Standards for Approval of Bulk Oil Warehouses published on February 18, 1976 (41 FR 7384); 7 CFR Part 1434, Subpart—Standards for Approval of Warehouses for Extracted Honey published on April 12, 1976 (41 FR 15398); and revises 7 CFR 1423, Subpart—Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities published on February 11, 1976 (41 FR 6059).

The revision incorporates changes in the regulations which are necessary in order to obtain uniformity and clarity in the Standards. The rule would affect all warehousemen who make application to handle and store CCC-owned and -loan honey and bulk oil or dry and refrigerated agricultural commodities under the Processed Commodities Storage Agreement. The rule would not affect warehousemen currently under contract with CCC until such times as their contracts are to be renewed.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene A. Williams, (ASCS), (202) 447-7335.

ADDRESS: Inventory Management Division, ASCS, U.S. Department of Agriculture, Room 5969-S, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Section 4 of the CCC Charter Act, as amended, provides that CCC may enter into and carry out such contracts or agreements

as are necessary in the conduct of its business and may contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of the agricultural commodities subject to its control.

On April 3, 1979, there was published in the Federal Register (44 FR 19413-16) CCC's proposed revision of the Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities. Interested persons were asked to comment on the proposed rule. A total of five responses were received. Two were from Federal Government agencies, and one each from an association of insurance companies, an institute of public accountants, and a cotton warehouseman.

All responses agreed in principle with the proposed rule or some variation thereof. One Federal Government agency suggested a method of calculation to be used in determining the net worth, which is adopted in the revised "Standard".

The insurance association suggested that a clause be added to § 1423.3, "Bonding Requirements for Net Worth," which would state that the bond was not cumulative regardless of the number of years it was in force, and that the maximum liability of the surety was the face amount of the bond including any endorsements thereto. The association stated that they would always know what their liability was with respect to this type of clause. Under a cumulative bonding liability, however, insurers are unsure of their liability with regard to potential claims, and underwriting, was, therefore, made more difficult.

The suggestion of the insurance association was rejected because bonding liability on a continuous basis provides more comprehensive security for CCC. There could be a situation, for example, where a warehouseman with a bond of \$100,000 per year may be liable for conversion of \$75,000 the first year; \$50,000 the second year; and \$50,000 the last year. The revision suggested by the insurance association would limit the warehouseman's potential liability to only \$50,000 in the last year. Under CCC's present application of the bonding standard, which shall be continued, CCC could potentially collect damages to the maximum of \$100,000 per year for the duration of the bond. Thus, under the example cited above, the warehouseman and the insurer would be potentially subject to \$175,000 in claims by CCC.

Other suggestions were received from the two Federal Government agencies and the institute of public accountants

for changes to improve the clarity and understanding of the Standards. These suggestions will be adopted without requesting further comment, since they simply enhance the interpretation of some of the provisions and do not affect the substantive changes outlined in the proposed rule.

Final Rule

Accordingly, 7 CFR Part 1424, Subpart—Standards for Approval of Bulk Oil Warehouses and 7 CFR Part 1434, Subpart—Standards for Approval of Warehouses for Extracted Honey are revised and recodified in 7 CFR Part 1423, which is revised to read as follows:

PART 1423—PROCESSED AGRICULTURAL COMMODITIES Subpart—Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils

- Sec.
1423.1 General statement and administration.
1423.2 Basic standards.
1423.3 Bonding requirements for net worth.
1423.4 Examination of warehouses.
1423.5 Exceptions.
1423.6 Approval of warehouses; requests for reconsideration.
1423.7 Exemption from requirements.
Authority: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b).

Subpart—Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils**§ 1423.1 General statement and administration.**

(a) This subpart prescribes the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires the approval by the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of:

(1) Dry or refrigerated processed agricultural commodities under a Processed Commodities Storage Agreement (hereinafter referred to as "processed commodities").

(2) Bulk oils, under a Contract or Agreement for Tank Storage, which are owned by CCC or held by CCC as collateral for price support loans, and

(3) Extracted Honey (hereinafter referred to as "honey") under a Honey Storage Agreement, either in bulk or in containers meeting specifications in the applicable honey price support regulations, which is owned by CCC or held by CCC as security for price support loans. This subpart shall not apply to processed commodities,

extracted honey, and bulk oils purchased in store by CCC for prompt shipment or to handling of commodities.

(b) Copies of the CCC storage contract or agreement and other forms required for obtaining approval under this subpart may be obtained from the Kansas City Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas 66208 (hereinafter referred to as "KCCO").

(c) A warehouse must be approved by KCCO and a storage contract or agreement must be in effect between CCC and the warehouseman before CCC will use such warehouse. The approval of a warehouse or the entering into of a storage contract or agreement does not constitute a commitment that CCC will use the warehouse, and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman when applying for approval under this subpart, shall submit to CCC at KCCO:

(1) A completed Form CCC-560, "Application for Approval of Warehouse (Processed Commodities)", or Form CCC-513, "Application for Approval of Tank Farm", or Form CCC-55, "Application for Approval of Warehouse for Honey Storage Contract", whichever is applicable,

(2) A current financial statement on Form TW-51, "Financial Statement", supported by such supplemental schedules as CCC may request. Such statement shows the warehouseman's financial condition as of a date not earlier than ninety (90) days prior to the date of the warehouseman's application, or such other date as CCC may prescribe. Additional financial statements shall be furnished annually and at such other times as CCC may require. CCC reserves the right to require that financial statements prepared by the warehouseman or by a public accountant shall be examined by an independent certified public accountant in accordance with generally accepted auditing standards if CCC is unable to reconcile the information furnished by the warehouseman on the Form TW-51. Only one financial statement is required for a chain of warehouses owned or operated by a single business entity.

(3) Copies of the warehouseman's tariff and any changes thereto, and

(4) Evidence that the warehouseman is licensed by the appropriate licensing authority as required under § 1423.2(a)(2) and such other documents or information as CCC may require.

§ 1423.2 Basic standard.

Unless otherwise provided in this subpart, each warehouseman and each of the warehouses owned or operated by such warehouseman for which CCC approval is sought for the storage or handling of CCC-owned or loan commodities shall meet the following standards:

(a) The warehouseman shall:

(1) Be an individual, partnership, corporation, association, or other legal entity engaged in the business of storing or handling for hire, or both, the applicable commodity. The warehouseman, if a corporation, shall be authorized by its charter to engage in such business.

(2) Have a current and valid license for the kind of storage operation for which the warehouseman seeks approval if such a license is required by State or local laws or regulations.

(3) Have a net worth which is the greater of \$25,000 or (i) for dairy and other processed commodities (other than those shown in (ii) of this subsection 1423.2(a)(3)), the amount which results from multiplying five (5) percent of the current purchase price, times the

quantity of the commodity to be stored; (ii) for honey, sugar and bulk oils, the amount which results from multiplying the storage capacity of the flat warehouse space available to CCC or the maximum capacity of the bulk tank(s), whichever is applicable, times five (5) percent of the current loan value for honey and sugar and five (5) percent of the current market value for bulk oils.

The net worth need not exceed \$250,000. If the calculated net worth exceeds \$25,000, the warehouseman may satisfy any deficiency in net worth between the \$25,000 minimum requirement and such calculated net worth by furnishing bonds (or acceptable substitute security) meeting the requirements of § 1423.3.

(4) Have available sufficient funds to meet ordinary operating expenses.

(5) Have satisfactory corrected, upon request by CCC, any deficiencies in the performance of any storage contract or agreement with CCC.

(6) Use only warehouse receipts or such other documents as CCC may prescribe.

(7) Maintain accurate and complete inventory and operating records.

(8) Have available at the warehouse adequate and operable firefighting equipment for the type of warehouse and applicable stored commodity, and

(9) Have a work force and equipment available to complete loadout as stated below or as CCC may prescribe:

(i) Forty-five (45) working days of the total quantity of all honey and processed commodities stored for CCC.

(ii) Seventy-five (75) working days of that quantity of bulk oils for which the warehouse is or may be approved under a contract with CCC.

(b) The warehouseman, officials, or supervisory employees of the warehouseman in charge of the warehouse operations shall have the necessary experience, organization technical qualifications, and skills in the warehousing business regarding the applicable commodity to enable them to provide proper storage and handling services.

(c) Warehouseman, officials, and each of the supervisory employees of the warehouseman in charge of the warehouse operations shall:

(1) Have a satisfactory record of integrity, judgment, and performance, and

(2) Be neither suspended nor debarred under CCC's suspension and debarment regulations, 7 CFR Part 1407, for any of the causes set forth in § 1407.5 thereof.

(d) The warehouse shall:

(1) Be of sound construction, in good state of repair, and adequately equipped to receive, handle, store, preserve, and deliver the applicable commodity.

(2) Be under the control of the contracting warehouseman at all times, and

(3) Not be subject to greater than normal risk of fire, flood or other hazards.

§ 1423.3 Bonding requirements for net worth.

A bond furnished by a warehouseman under this subpart must meet the following requirements:

(a) Such bond shall be executed by a surety which:

(1) Has been approved by the U.S. Treasury Department, and

(2) Maintains an officer or representative authorized to accept service of legal process in the State where the warehouse is located.

(b) Such bond shall be on Form CCC-33, "Warehouseman's Bond", except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if:

(1) CCC determines that such bond provides adequate protection to CCC.

(2) It has been executed by a surety specified in paragraph (a) of this section or has a blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond, and

(3) It is noncancellable for not less than one hundred twenty (120) days or

includes a rider providing for not less than one hundred twenty (120) days' notice to CCC before cancellation.

Excess coverage on a substitute bond for one warehouse will not be accepted or applied by CCC against insufficient bond coverage on other warehouses.

(c) Cash and negotiable securities offered by a warehouseman may be accepted by CCC in lieu of the equivalent amount of required bond coverage. Any such cash or negotiable securities accepted by CCC will be returned to the warehouseman when the period for which coverage was required has ended and there appears to CCC to be no liability under the storage contract or agreement.

(d) A legal liability insurance policy may be accepted by CCC in lieu of the required amount of bond coverage provided such policy contains a clause or rider making the policy payable to CCC. CCC determines that it affords protection equivalent to a bond, and the Office of the General Counsel, U.S. Department of Agriculture, approves it for legal sufficiency.

§ 1423.4 Examination of warehouses.

Except as otherwise provided in this subpart a warehouse must be examined by a person designated by CCC before it may be approved by CCC for the storage or handling of commodities and periodically thereafter to determine its compliance with CCC's standards and requirements.

§ 1423.5 Exceptions.

Notwithstanding any other provisions of this subpart:

(a) The financial, bond, and original and periodic warehouse examination provisions of this subpart do not apply to any warehouseman approved or applying for approval for the storage and handling of commodities under CCC programs if the warehouse is licensed under the U.S. Warehouse Act for such commodities, but a special examination shall be made of such warehouse whenever CCC determines such action is necessary.

(b) A Certificate of Competency issued by the Small Business Administration for a warehouseman will be accepted by CCC as establishing conformance by the warehouseman with the standards prescribed in § 1423.2 (a) (1), (3), (4), and (9); (b); and (d), and the warehouseman will not be required to furnish bond coverage for a deficiency in net worth.

(c) A warehouseman who has a net worth of at least \$25,000 but who fails, or whose warehouse fails, to meet one or more of the other standards of this subpart may be approved if:

(1) CCC determines that the warehouse services are needed and the warehouse storage and handling conditions provide satisfactory protection for the commodity, and

(2) The warehouseman furnishes such additional bond coverage (or cash or acceptable negotiable securities or legal liability insurance policy) as may be prescribed by CCC.

§ 1423.6 Approval of warehouses; requests for reconsideration.

(a) CCC will approve a warehouse if it determines that the warehouse meets the standards set out in this subpart. CCC will send a notice of approval to the warehouseman. Approval under this subpart, however, does not relieve the warehouseman of the responsibility for performing the warehouseman's obligations under any contract or agreement with CCC or any other agency of the United States. An approval will remain in effect until the storage contract or agreement expires or is otherwise terminated. CCC reserves the right to withdraw approval for good cause shown.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that the warehouse does not meet the standards set out in this subpart.

(2) CCC may withdraw its approval of a warehouse if CCC determines that such warehouse ceases to meet such standards or if the warehouseman fails to perform the warehouseman's obligations under the CCC storage contract or agreement, and

(3) CCC will send any notice of rejection or withdrawal of approval to the warehouseman. The notice will state the cause(s) for such action. Unless the warehouseman or any officials or supervisory employees of the warehouseman are suspended or debarred as provided in 7 CFR § 1407, CCC will approve or reinstate the approval of the warehouse if the warehouseman establishes that the causes for CCC's disapproval have been remedied.

(c) If rejection or withdrawal of approval by CCC is due to failure to meet the standards set forth:

(1) In § 1423.2, other than the standard set forth in paragraph (c)(2) thereof, the warehouseman may at any time after receiving notice of such action request reconsideration of the action and present to the Director of KCCO, orally or in writing, information in support of such request. The Director shall consider such information in making a determination and shall notify the warehouseman in writing of such

determination. The warehouseman may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing thereon by filing an appeal with the Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS"). The time for filing appeals, forms for requesting an appeal, nature of the informal hearing, determination, and reopening of the hearing shall be as prescribed in the ASCS regulations, governing appeals, 7 CFR Part 780. When appealing under such regulations, the warehouseman shall be considered a "participant", and

(2) In § 1423.2(c)(2), the warehouseman's rights of appeal and hearing shall be as provided in CCC's regulations governing suspension and debarment 7 CFR Part 1407. After expiration of any period of suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

§ 1423.7 Exemption from requirements.

(a) If warehousing services in any area cannot be secured under the provisions of this subpart, and no reasonable and economical alternative is available for securing such services, the President or Executive Vice President, CCC, may exempt, in writing, applicants in such area from one or more of the standards of this subpart and may establish such other standards as are considered necessary to safeguard satisfactorily the interests of CCC.

(b) Warehousemen who are currently under contract with CCC will be required to meet the terms and conditions of these regulations at the time of renewal of their contract.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations", and has been classified "significant". An Approved Final Impact Statement is available from Mr. Eugene A. Williams, ASCS, (202) 447-7335.

Signed at Washington, D.C. on November 13, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-36078 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1427

[Cotton Loan Program Regs., Amdt. 2]

Cotton Price Support Program; Eligibility

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to add another eligibility requirement to the cotton price support program. This rule amends the program regulations governing warehouse stored cotton loans to limit excessive sampling of cotton effective for the 1980 and subsequent crops. This rule is necessary in order to prevent contamination of the cotton from outside sources and to prevent excessive quantities of cotton from being removed from bales.

EFFECTIVE DATE: November 23, 1979.

ADDRESS: Price Support and Loan Division, ASCS, USDA, Room 3752-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dalton Ustynik, ASCS, (202) 447-6733.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking regarding a limitation on bale sampling was published in the Federal Register on August 10, 1979 (44 FR 47096).

Nine responses were received, eight in favor of the proposed rule and one opposed. Two comments also recommended that the language be clarified to provide that the sample may be broken in half or split lengthwise. This language will be adopted. One respondent recommended that the language be adopted to provide that the sample be broken in half or split horizontally. This language was not adopted since the regulation adopted will accomplish the same purpose.

Final Rule

Accordingly, 7 CFR Part 1427 is amended by adding a new paragraph (p) to § 1427.6, effective for 1980 and subsequent crops of cotton, to read as follows:

§ 1427.6 Eligible cotton.

(p) Each bale of upland cotton sampled by the warehouseman upon initial receipt which has not been sampled by the ginner must not show more than one sample hole on each side of the bale. If more than one sample is desired when the bale is received by the warehouseman, the sample shall be cut across the width of the bale, broken in half or split lengthwise, and otherwise drawn in accordance with AMS

dimension and weight requirements. This requirement will not prohibit sampling of the cotton at a later date if authorized by the producer.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c);

Note.—This proposal has been determined not significant under USDA criteria for implementing Executive Order 12044, "Improving Government Regulations". A Final Impact Statement is available from Dalton Ustynik, ASCS, (202) 447-6733.

Signed at Washington, D.C., on November 13, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-36082 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1427

Standards for Approval of Warehouses for Cotton or Cotton Linters

AGENCY: Commodity Credit Corporation, United States Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule sets forth in the Standards for Approval of Warehouses for Cotton or Cotton Linters (hereinafter referred to as "Standards") the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires approval by the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of CCC-owned or -loan cotton or cotton linters under the Cotton Storage Agreement. The rule establishes: (1) an increase in the minimum net worth requirement from \$10,000 to \$25,000; (2) a maximum net worth of \$250,000; and, (3) an increase in the commodity value factor to be used in calculating the net worth requirement from \$5 to \$10 per bale. Additional changes have been made to improve clarity, understanding and general administration of the Standards.

This rule revises the regulations which previously appeared in the Federal Register as 7 CFR Part 1427, Subpart—Standards for Approval of Warehouses for Cotton or Cotton Linters published on July 1, 1976 (41 FR 27076).

This revision incorporates changes in the regulations which are necessary in order to obtain uniformity and clarity in the Standards. The rule would affect all warehousemen who make application to handle and store CCC-owned and -loan cotton or cotton linters under the Cotton Storage Agreement. The rule would not

affect warehousemen currently under contract with CCC until such time as their contracts are to be renewed.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene A. Williams, (ASCS), (202) 447-7335.

ADDRESS: Inventory Management Division, ASCS, U.S. Department of Agriculture, Room 5969-S, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Section 4 of the CCC Charter Act, as amended, provides that CCC may enter into and carry out such contracts or agreements as are necessary in the conduct of its business and may contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of agricultural commodities subject to its control.

On April 3, 1979, there was published in the Federal Register (44 FR 19416-19) CCC's proposed revision of the Standards for Approval of Warehouses for Cotton or Cotton Linters. Interested persons were asked to comment on the proposed rule. A total of five responses were received. Two were from Federal Government agencies, and one each from an association of insurance companies, an institute of public accountants, and a cotton warehouseman.

Of all the responses, all but one agreed in principle with the proposed rule or some variation thereof. The one dissenting comment, from a cotton warehouseman, expressed objection to the net worth provisions as proposed. The warehouseman contended that the \$25,000 minimum net worth requirement might reduce the number of approved warehousemen and thus decrease available warehouse space to a critical level in some areas. The warehouseman recommended that the \$25,000 minimum net worth requirement should be modified so that any deficit in net worth could be made up by additional bond requirements in order to enable smaller warehouses to be eligible to store CCC-loan cotton.

Implementation of the \$25,000 minimum net worth requirement would not be expected to result in a critical shortage of warehouse space as suggested by the warehouseman. The regulations provide that if warehousing services in any area cannot be secured under the provisions of the Standard for Approval, and no reasonable and economical alternative is available for securing such services for commodities under CCC programs, CCC may exempt applicants in such areas from one or

more of the provisions of the Standard and may establish such other requirements as are necessary to safeguard satisfactorily the interests of CCC. With this authority, CCC may waive the net worth requirement for any warehouse where it is found to be necessary in order to carry out the price support and loan program.

One Federal Government agency suggested a higher commodity factor should be used in calculation of a minimum net worth, and a bond be furnished on the amount if the net worth was below \$25,000.

The requirement of a minimum net worth of \$25,000 was selected because it should improve storage security and reduce potential losses to depositors on commodities in store. Again, CCC can waive this requirement for those warehousemen unable to meet the \$25,000 minimum net worth requirement if it is found to be necessary in order to carry out the price support and loan program.

The insurance association suggested that a clause be added to Section 1427.1083, "Bonding Requirements for Net Worth," which would state that the bond was not cumulative regardless of the number of years it was in force, and that the maximum liability of the surety was the face amount of the bond including any endorsements thereto. The association stated that they would always know what their liability was with respect to this type of clause. Under a cumulative bonding liability, however, insurers are unsure of their liability with regard to potential claims, and underwriting was, therefore, made more difficult.

The suggestion of the insurance association was rejected because bonding liability on a continuous basis provides more comprehensive security for CCC. There could be a situation, for example, where a warehouseman with a bond of \$100,000 per year may be liable for conversion of \$75,000 the first year; \$50,000 the second year; and \$50,000 the last year. The revision suggested by the insurance association would limit the warehouseman's potential liability to \$50,000 in the last year. Under CCC's present application of the bonding standard, which shall be continued, CCC could potentially collect damages to the maximum of \$100,000 per year for the duration of the bond. Thus, under the example cited above, the warehouseman and the insurer would be potentially subject to \$175,000 in claims by CCC.

Other suggestions were received from two Federal Government agencies and the institute of public accountants for changes to improve the clarity and

understanding of the Standards. These suggestions will be adopted without requesting further comment, since they simply enhance the interpretation of some of the provisions and do not affect the substantive changes outlined in the proposed rule.

Final Rule

Accordingly, 7 CFR Part 1427 is revised to change §§ 1427.1081 through 1427.1087 to read as follows:

PART 1427—COTTON

Subpart—Standards for Approval of Warehouses for Cotton or Cotton Linters

- Sec.
- 1427.1081 General statement and administration.
 - 1427.1082 Basic Standards.
 - 1427.1083 Bonding requirements for net worth.
 - 1427.1084 Examination of warehouses.
 - 1427.1085 Exceptions.
 - 1427.1086 Approval of warehouses; requests for reconsideration.
 - 1427.1087 Exemption from requirements.

Authority: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b).

Subpart—Standards for Approval of Warehouses for Cotton or Cotton Linters

§ 1427.1081 General statement and administration.

(a) This subpart prescribes the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires the approval by the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of cotton and cotton linters, under a Cotton Storage Agreement, which are owned by CCC or held by CCC as security for price support loans. This subpart is not applicable to cotton or cotton linters purchased in storage for prompt shipment or to handling operations of a temporary nature.

(b) Copies of the CCC storage agreement and other forms required for obtaining approval under this subpart may be obtained from the Kansas City Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas 66208 (hereinafter referred to as the "KCCO").

(c) A warehouse must be approved by the KCCO and a storage agreement must be in effect between CCC and the warehouseman before CCC will use such warehouse. The approval of a warehouse or the entering into of a storage agreement does not constitute a commitment that CCC will use the warehouse, and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman, when applying for approval under this subpart shall submit to CCC at KCCO:

(1) A completed Form CCC-49, "Application for Approval of Warehouse for Storage of Cotton and/or Cotton Linters."

(2) A current financial statement on Form TW-51, "Financial Statement", supported by such supplemental schedules as CCC may request. Such statement shall show the financial condition of the warehouseman as of a date not earlier than ninety (90) days prior to the date of the warehouseman's application, or such other date as CCC may prescribe. Additional financial statements shall be furnished annually and at such other times as CCC may require. CCC reserves the right to require that financial statements prepared by the warehouseman or by a public accountant shall be examined by an independent certified public accountant in accordance with generally accepted auditing standards if CCC is unable to reconcile the information furnished by the warehouseman on the Form TW-51. Only one financial statement is required for a chain of warehouses owned or operated by a single business entity.

(3) Evidence that the warehouseman is licensed by the appropriate licensing authority as required under § 1427.1082(a)(2) and such other documents or information as CCC may require.

(4) For warehouseman not operating under the U.S. Warehouse Act, a sample copy of the warehouseman's receipts and bale tags, and

(5) Evidence of applicable fire insurance rates.

§ 1427.1082 Basic standards.

Unless otherwise provided in this subpart, each warehouseman and each of the warehouses owned or operated by such warehouseman for which CCC approval is sought for the storage or handling of CCC-owned or -loan commodities shall meet the following standards:

(a) The warehouseman shall:

(1) Be an individual, partnership, corporation, association, or other legal entity engaged in the business of storing or handling for hire, or both, the applicable commodity. The warehouseman, if a corporation, shall be authorized by its charter to engage in such business.

(2) Have a current and valid license for the kind of storage operation for which the warehouseman seeks approval if such a license is required by State or local laws or regulations,

(3) Have a net worth which is the greater of \$25,000 or the amount which results from multiplying the maximum storage capacity of the warehouse (the total number of bales of cotton or cotton linters which the warehouse can accommodate when stored in the customary manner) times ten (10) dollars per bale. The net worth need not exceed \$250,000. If the calculated net worth exceeds \$25,000, the warehouseman may satisfy any deficiency in net worth between the \$25,000 minimum requirement and such calculated net worth by furnishing bond (or acceptable substitute security) meeting the requirements of § 1427.1083.

(4) Have available sufficient funds to meet ordinary operating expenses.

(5) Have satisfactorily corrected, upon request by CCC, any deficiencies in the performance of any storage agreement with CCC.

(6) Maintain accurate and complete inventory and operating records.

(7) Use only card type warehouse receipts which are pre-numbered and pre-punched or such other document as CCC may prescribe.

(8) Have available at the warehouse adequate and operable firefighting equipment for the type of warehouse and applicable stored commodity, and

(9) Have a work force and equipment available to provide adequate storage and handling service.

(b) The warehouseman, officials, or supervisory employees of the warehouseman in charge of the warehouse operation shall have the necessary experience, organization, technical qualifications, and skills in the warehousing business regarding the applicable commodities to enable them to provide proper storage and handling services.

(c) Warehouseman, officials and each of the supervisory employees of the warehouseman in charge of the warehouse operation shall:

(1) Have a satisfactory record of integrity, judgment, and performance, and

(2) Be neither suspended nor debarred under CCC's suspension and debarment regulations, 7 CFR Part 1407 for any of the causes set forth in § 1407.5 thereof.

(d) The warehouse shall:

(1) Be of sound construction, in good state of repair, and adequately equipped to receive, handle, store, preserve, and deliver the applicable commodity.

(2) Be under the control of the contracting warehouseman at all times, and

(3) Not be subject to greater than normal risk of fire, flood, or other hazards.

§ 1427.1083 Bonding requirements for net worth.

A bond furnished by a warehouseman under this subpart must meet the following requirements:

(a) Such bond shall be executed by a surety which:

(1) Has been approved by the U.S. Treasury Department, and

(2) Maintains an officer or representative authorized to accept service of legal process and in the State where the warehouse is located.

(b) Such bond shall be on Form CCC-33, "Warehouseman's Bond", except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if:

(1) CCC determines that such bond provides adequate protection to CCC.

(2) It has been executed by a surety specified in paragraph (a) of this section or has a blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond, and

(3) It is noncancellable for not less than ninety (90) days or includes a rider providing for not less than ninety (90) days' notice to CCC before cancellation. Excess coverage on a substitute bond for one warehouse will not be accepted or applied by CCC against insufficient bond coverage on other warehouses.

(c) Cash and negotiable securities offered by a warehouseman may be accepted by CCC in lieu of the equivalent amount of required bond coverage. Any such cash or negotiable securities accepted by CCC will be returned to the warehouseman when the period for which coverage was required has ended and there appears to CCC to be no liability under the storage agreement.

(d) A legal liability insurance policy may be accepted by CCC in lieu of the required amount of bond coverage provided such policy contains a clause or rider making the policy payable to CCC. CCC determines that it affords protection equivalent to a bond, and the Office of the General Counsel, U.S. Department of Agriculture, approves it for legal sufficiency.

§ 1427.1084 Examination of warehouses.

Except as otherwise provided in this subpart, a warehouse must be examined by a person designated by CCC before it may be approved by CCC for the storage and handling of the commodity and periodically thereafter to determine its compliance with CCC's standards and requirements.

§ 1427.1085 Exceptions.

Notwithstanding any other provisions of this report:

(a) The financial bond and original and periodic warehouse examination provisions of this subpart do not apply to any warehouseman approved or applying for approval for the storage and handling of cotton or cotton linters under CCC programs if the warehouse is licensed under the U.S. Warehouse Act for such commodity but a special examination shall be made of such warehouse whenever CCC determines such action is necessary.

(b) A Certificate of Competency issued by the Small Business Administration for a warehouseman will be accepted by CCC as establishing conformance by the warehouseman with the standards prescribed in § 1427.1082(a) (1), (3), (4), and (9); (b); and (d), and the warehouseman will not be required to furnish bond coverage for deficiency in net worth.

(c) A warehouseman who has a net worth of at least \$25,000 but who fails, or whose warehouse fails, to meet one or more of the other standards of this subpart may be approved if:

(1) CCC determines that the warehouse services are needed and the warehouse storage and handling conditions provide satisfactory protection for the commodity.

(2) The warehouseman furnishes such additional bond coverage (or cash or acceptable negotiable securities or legal liability insurance policy) as may be prescribed by CCC.

(d) The bond requirements, and, at the discretion of the KCCO, the financial, warehouse receipt, and bale tag requirements, of this subpart are not applicable to any warehouseman approved or applying for approval for the storage and handling of cotton or cotton linters under CCC programs if the warehouse is operated by the State of South Carolina Department of Agriculture.

§ 1427.1086 Approval of warehouses, requests for reconsideration.

(a) CCC will approve a warehouse if it determines that the warehouse meets the standards set out in this subpart. CCC will send a notice of approval to the warehouseman. Approval under this subpart, however, does not relieve the warehouseman of the responsibility for performing the warehouseman's obligations under any agreement with CCC or any other agency of the United States. An approval will remain in effect until the storage agreement expires or is otherwise terminated. CCC reserves the right to withdraw approval for good cause shown.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that the warehouse does not meet the standards set out in this subpart.

(2) CCC may withdraw its approval of a warehouse if CCC determines that such warehouse ceases to meet such standards or if the warehouseman fails to perform the warehouseman's obligations under the CCC storage agreement, and

(3) CCC will send any notice of rejection or withdrawal of approval to the warehouseman. The notice will state the cause(s) for such action. Unless the warehouseman or any officials or supervisory employees of the warehouseman are suspended or debarred as provided in 7 CFR § 1407, CCC will approve, or reinstate the approval of, the warehouse if the warehouseman establishes that the causes for CCC's disapproval have been remedied.

(c) If rejection or withdrawal of approval by CCC is due to the warehouseman's failure to meet the standards set forth:

(1) In § 1427.1082, other than the standard set forth in paragraph (c)(2) thereof, the warehouseman may, at any time after receiving notice of such action, request reconsideration of the action and present to the Director of the KCCO, orally or in writing, information in support of such request. The Director shall consider such information in making a determination and notify the warehouseman in writing of such determination. The warehouseman may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing thereon by filing an appeal with the Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS"). The time of filing appeals, forms for requesting an appeal, nature of the informal hearing, determination, and reopening of the hearing shall be prescribed in the ASCS regulations governing appeals, 7 CFR Part 780. When appealing under such regulations, the warehouseman shall be considered a "participant", and

(2) In § 1427.1082(c)(2), the warehouseman's rights of appeal and hearing shall be as provided in CCC's regulations governing suspension and debarment, 7 CFR Part 1407. After expiration of a period of suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

§ 1427.1087 Exemption from requirements.

(a) If warehousing services in any area cannot be secured under the provisions of this subpart and no reasonable and economical alternative is available for securing such services for commodities under CCC programs, the President or Executive Vice President, CCC may exempt, in writing, applicants in such area from one or more of the standards of this subpart and may establish such other standards as are considered necessary to safeguard satisfactorily the interests of CCC.

(b) Warehousemen who are currently under contract with CCC will be required to meet the terms and conditions of these regulations at the time of renewal of their contract. Warehousemen approved under prior regulations may be required to submit a new TW-51 "Financial Statement" at renewal time or as may be prescribed by CCC for approval under this revision and are subject to the provisions of this subpart for continued approval to handle and store the applicable commodities.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations", and has been classified "significant". An approved Final Impact Statement is available from Mr. Eugene A. Williams, ASCS, (202) 447-7335.

Signed at Washington, D.C. on November 13, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-36077 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service**9 CFR Part 113****Viruses, Serums, Toxins, and Analogous Products; Organisms and Vectors; Standard Requirements; Corrections**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; corrections.

SUMMARY: On October 19, 1979, a final rule was published in the Federal Register at 44 FR 60262 that amended Part 113 by adding a new § 113.166. In the preparation of this final rule, the first letter of each word in the heading was not capitalized and parts of two sentences were inadvertently omitted.

This amendment is being published to correct these errors.

EFFECTIVE DATE: This amendment becomes effective November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

Part 113.166 (b)(2)(ii) and (d)(3) are corrected to read:

§ 113.166 Bursal disease vaccine.

(b) * * *

(ii) Fourteen days post-vaccination, the remaining vaccinates and negative controls shall be necropsied and examined for obvious bursal atrophy. If any of the vaccinates have such atrophy, the Master Seed Virus is unsatisfactory, except that, if any of the negative controls have such atrophy, the test is inconclusive and may be repeated.

(d) * * *

(3) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of log 10^{+7} greater than that used in such immunogenicity test, but not less than log 10^{+2} titration units (PFU or ID₅₀'s) per dose.

(21 U.S.C. 151 and 154, 37 FR 28477, 28646; 38 FR 19141.)

Done at Washington, D.C., this 16th day of November 1979.

M. T. Goff,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-35082 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-34-M

Food Safety and Quality Service**9 CFR Part 316****Marking of Meat Food Products With Official Inspection Legend and Ingredient Statement**

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations with respect to marking or labeling small sausages and other meat products in casings or link form to reflect weight limitations in kilograms rather than in pounds. The September 22, 1978, proposal (43 FR 43027-43028) was commented on without opposition. This rule is in compliance with the U.S. policy to convert to the metric system, with a minimum disruption of service and cost.

EFFECTIVE DATE: December 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:**Background**

On September 22, 1978, a notice was published in the Federal Register (43 FR 43027-43028), proposing to amend the Federal meat inspection regulations (9 CFR 316.10(b)) with respect to marking or labeling small sausages and other meat products in casings or link form. The Federal meat inspection regulations (9 CFR 316.10(b)) required that small sausages and similar products, in casings or link form, bear one or more inspection legends and one or more lists of ingredients on each 2 pounds of product. This requirement makes readily available to the consumer the list of ingredients on each 2 pounds of product and assures the consumer that the product has been packed under Federal inspection. Fully labeled immediate containers of 10 pounds or less of product need not bear the official inspection legend and list of ingredients on each 2 pounds of products, since containers of product 10 pounds or less are customarily sold at retail intact.

The Food Safety and Quality Service (FSQS) proposed to convert the 2-pound limitation to a kilogram (2.205 lbs.), and the 10-pound container size to 5 kilograms (11.025 lbs.). This change complies with the U.S. policy to convert to the metric system.

Public Comment

A total of 10 comments were received. One comment was received from a consumer, one from a State Department of Food and Agriculture, one from a farmer, one from a packaging firm, two from food retailing firms, and four from producers of meat food products.

Nine of the 10 comments supported the proposal in general terms, without

objection or modification. Four commenters specifically endorsed this conversion to the metric system, and four commenters stated the conversion would result in cost savings to industry and consumers. One comment was not relevant to the issues of the proposal.

After carefully considering all comments received on the proposed amendment, the Administrator has determined that the amendment, should be published without change, except to show the complete sentence containing the change to assure proper placement in the Code of Federal Regulations. Accordingly, the first sentence in § 316.10(b) of the Federal meat inspection regulations (9 CFR 316.10(b)) is amended to read as follows:

§ 316.10 Marking of meat food products with official inspection legend and ingredient statement.

(b) Inspected and passed sausage and other products, in casings or in link form, of the smaller varieties, shall bear one or more official inspection legends and one or more lists of ingredients in accordance with Part 317 of this subchapter on each kilogram (2.205 lbs.) of product, except where such products leave the official establishment completely enclosed in properly labeled immediate containers having a capacity of 5 kilograms (11.025 lbs.) or less and containing a single kind of product: *Provided*, That such products in properly labeled closed containers exceeding 5 kilograms (11.025 lbs.) capacity, when shipped to another official establishment for further processing or to a governmental agency, need only have the official inspection legend and list of ingredients shown twice throughout the contents of the container.

(Sec. 21, 34 Stat. 1284, 21 U.S.C. 621; 42 FR 35625, 35626, 35631)

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been designated "not significant."

A Final Impact Statement has been prepared and is available from Mr. Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. The alternatives considered during the analysis are listed in the Final Impact Statement.

Done at Washington, D.C., on November 19, 1979.

Donald L. Houston,
Administrator, Food Safety and Quality Service.

[FR Doc. 79-36205 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Review of Uncontested Matters by Adjudicatory Boards During Operating License Proceedings

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its Rules of Practice to provide that during an operating license proceeding, NRC adjudicatory boards may examine any "serious" matter not contested by the parties. The rules as now written provide that the adjudicatory boards may review matters not put in issue by the parties to an operating license proceeding only in "extraordinary circumstances" and must exercise this authority "sparingly". The amended rules eliminate an apparent constraint on boards as well as more accurately reflect current NRC adjudicatory board practice.

EFFECTIVE DATE: November 30, 1979.

FOR FURTHER INFORMATION CONTACT: William M. Shields, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Phone: 202-634-3215.

SUPPLEMENTARY INFORMATION: The Commission's rules governing review of uncontested matters in operating license proceedings are: 10 CFR 2.760a, 10 CFR 2.104(c), 10 CFR Part 2, Appendix A, Sec. VIII(b) [Licensing Boards]; 10 CFR 2.785(b)(2) and 10 CFR Part 2 Appendix A, Sec. IX(a) [Appeal Board]. In general, these rules provide that in operating license proceedings the boards may review "serious" matters not put in issue by the parties only in "extraordinary circumstances", and that this authority is to be used "sparingly". The rules derive from a decision of the Atomic Energy Commission entitled *Consolidated Edison Company of New York* (Indian Point), 8 AEC 7 (1974).

It has come to the Commission's attention that this wording could prevent boards from examining issues that, although not presented by "extraordinary circumstances," could still pose important health and safety

questions. It is true that members of the current adjudicatory boards, while limiting their inquiries to "serious" matters involving the public health and safety, the environment, or the common defense and security, do not appear to have further constrained themselves by strict observance of the "extraordinary circumstances" and "sparingly" criteria. The Commission approves this somewhat less restrictive limitation, and thus amendments to the rules of practice are in order.

The specific rule changes are stated below.

The Rules of Practice, 10 CFR Part 2, are amended as follows:

1. 10 CFR 2.760a is revised to read:

§ 2.760a Initial decision in contested proceedings on applications for facility operating licenses.

In any initial decision in a contested proceeding on an application for an operating license for a production or utilization facility, the presiding officer shall make findings of fact and conclusions of law on the matters put into controversy by the parties to the proceeding and on matters which have been determined to be the issues in the proceeding by the Commission or the presiding officer. Matters not put into controversy by the parties will be examined and decided by the presiding officer only where he or she determines that a serious safety, environmental, or common defense and security matter exists. Depending on the resolution of those matters, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, after making the requisite findings, will issue, deny, or appropriately condition the license.

2. 10 CFR 2.104(c) is revised to read (in relevant part):

§ 2.104 Notice of hearing.

(c) In the case of an application for an operating license in which a hearing will be held, the notice of hearing will, except as provided in paragraph (d) of this section and unless the Commission determines otherwise, state, in implementation of paragraph (a)(3) of this section, that the presiding officer will consider any matters in controversy among the parties and may, where he or she determines that a serious safety, environmental, or common defense and security matter has not been raised by the parties, consider such other matter within the purview of:

3. 10 CFR Part 2 Appendix A, Sec. VIII(b) is amended to read (in relevant part):

VIII. Procedures Applicable to Operating License Proceedings

(b) In an operating license proceeding the board will determine the matters in controversy among the parties, and where the board determines that a serious safety, environmental, or common defense and security matter was not raised by the parties, the board will determine such matter as being among the issues to be decided. Those issues will be specified in the notice of a hearing issued by the Commission, or in a prehearing conference order issued by the board in the exercise of its discretion during the hearing.

4. 10 CFR 2.785(b)(2) is revised to read:

§ 2.785 Functions of Atomic Safety and Licensing Appeal Boards.

(b) . . .

(2) In a proceeding on an application for an operating license where the Atomic Safety and Licensing Appeal Board determines that a serious safety, environmental, or common defense and security matter exists that has not been raised by the parties, it may give appropriate consideration to that matter.

5. The fourth sentence of 10 CFR Part 2 Appendix A, Sec. IX(a) is amended to read:

IX. Licensing Proceedings Subject to Appellate Jurisdiction of Atomic Safety and Licensing Appeal Board

(a) . . . In a proceeding on an application for an operating license, if the Atomic Safety and Licensing Appeal Board determines that a serious safety, environmental, or common defense and security matter has not been raised by the parties, it has the authority to give appropriate consideration to that matter.

(Sec. 161(p), Pub. L. 83-703, 68 Stat. 948, 42 U.S.C. 2201(p); sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1243, Pub. L. 94-79, 89 Stat. 413, 42 U.S.C. 5841)

Dated at Washington, D.C., this 16th day of November, 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-36216 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 73

Physical Protection of Plants and Materials; Requirements for the Physical Protection of Nuclear Power Plants

Correction

In FR Doc. 79-35619, appearing at page 65969 in the issue of Friday, November 16, 1979, the headings, which mistakenly identified the Nuclear Regulatory Commission as part of the

Department of Energy, should be corrected to read as above.

BILLING CODE 1505-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 541, 545

[No. 79-571]

Loans in Excess of 80 Percent of Value; Three-Family and Four-Family Dwellings

November 15, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: These rules amend the Board's regulations to permit Federal savings and loan associations to make loans with low downpayments on the security of three- and four-family dwellings provided the borrower occupies a unit of the dwelling. The rules also increase the maximum authorized dollar amounts of loans secured by two-, three- and four-family dwellings. The Board believes these changes will increase opportunities for home ownership, especially in urban areas where such dwellings are concentrated and, by encouraging owner occupancy in such areas, help alleviate problems associated with absentee ownership.

EFFECTIVE DATE: December, 24, 1979.

FOR FURTHER INFORMATION CONTACT: John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552 (202-377-6445).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 79-342, dated June 14, 1979, proposed to amend Parts 541 and 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Parts 541 and 545) to permit loans in excess of 80 percent of value on the security of three- and four-family dwellings, provided the borrower executes a certificate stating that he or she occupies, or in good faith intends to occupy, the property as his or her principal dwelling. The Board also proposed to set a maximum amount of \$60,000 per dwelling unit on any loan secured by a two-, three- or four-family dwelling with a loan-to-value ratio of more than 80 percent but not more than 90 percent.

Present § 545.6-2(a) limits 90-percent loans on two-family dwellings to maximum dollar amounts per dwelling unit as established under section 207(c)(3) of the National Housing Act.

This limitation is not prescribed by statute; section 5(c) of the Home Owners' Loan Act merely requires that the amount of the loan exceeding the 207(c)(3) maximum be included in a limited investment category of the association.

On the basis of comments received and all other information available to it the Board has determined to adopt the proposed amendments with the following change.

The Board has determined to prescribe a maximum dollar amount 90-percent on loans on the security of two-, three-, and four-family dwellings of \$60,000 per dwelling unit or the limit established pursuant to section 207(c)(3) of the National Housing Act, whichever is greater. The Board believes these alternative maximums will assure flexibility for associations located in all areas of the country, including areas where a maximum of \$60,000 per dwelling unit would be unnecessarily restrictive. Thus, this change will more effectively achieve the liberalization intended by the proposed amendments.

The final amendments also contain a technical change clarifying that no loan made under §§ 545.6-2(a) (2) or (3), as long as it is in excess of 80 percent of the value or purchase price of the security property, may be included in the category of loans that are not subject to percentage-of-assets or percentage-of-savings-accounts limitations. As provided in the current regulations, such loans are subject to a 50-percent-of-assets limitation, and loan amounts exceeding 207(c)(3) limits must be included in an investment category that may not exceed 20 percent of assets.

Comment Summary

The Board received 26 public comments on the proposal. Nineteen commenters favored the proposal, three opposed it, and four recommended that the proposal be amended.

Comments Favoring Adoption

Respondents favoring adoption of the proposal stated their belief that it would encourage lending in inner-city areas where three- and four-family dwellings are concentrated and increase opportunities for home ownership for first-time home buyers, the elderly, and inner-city residents. Commenters stated that an increase in owner occupancy would benefit areas in which housing has been uniformly owned by absentee landlords. They stated that Federal associations have been restricted in making loans on three- and four-family dwellings by the low maximum loan amounts permitted under the 207(c)(3)

limits and by the inability of potential borrowers to accumulate the required downpayment. Some associations stated that present restrictions have precluded their making loans on a significant part of the housing located in their lending area.

Respondents also favored the proposal as a step toward increased management responsibility and flexibility.

Comments Opposing Adoption

Commenters expressed concern about the ability of moderate-income persons to repay the loans that the proposal would authorize. They stated that rental income cannot be expected to cover monthly mortgage payments, and in areas where purchase prices are high with respect to rental rates, a borrower will require supplemental income that is above the "moderate" income level. One commenter asserted that prudent lending dictates that income property should carry itself.

Commenters noted that some borrowers will have little experience in managing rental property and may be unprepared for the high maintenance costs and rent collection and vacancy problems often associated with rental income.

While the Board recognizes that higher ratio loans may involve increased risk, it believes that associations can minimize that risk by applying good appraisal practices and careful underwriting standards to each individual loan application. The Board would not expect associations to approve any loan if it appeared that net operating income from the property, combined with the borrower's other resources, would not be sufficient to service the debt, maintain the property, and meet minor emergencies.

Respondents asserted that the requirement that the owner occupy one of the units of the dwelling cannot be enforced and therefore the proposed low-downpayment loans will be an invitation to abuse by speculators. Respondents stated that the proposal will merely reduce the equity interest of investors in such property and thereby aggravate the absentee-landlord problem. Other respondents urged that the residency requirement be increased or that a means of enforcement be authorized.

The Board believes that the potential for abuse of the owner-occupancy requirement can be reduced if associations structure loans to make them affordable for qualified owner/occupants whose certification of intent to occupy the property is executed in good faith. Further, the Board's

experience with high-ratio single-family dwelling loans, which also have an owner-occupancy requirement, does not lead it to expect widespread abuse. The Board notes that any applicant who makes a false statement about occupying or intending to occupy the security property will be subject to criminal prosecution under 18 U.S.C. 1014.

One commenter argued that the proposed \$60,000 maximum loan per unit would be too high.

The Board believes that careful appraisal procedures will determine loan amounts within the maximum prescribed limits. The final amendments provide a flexible maximum that will reflect the differing housing costs in various areas of the country.

Another commenter stated that the proposal is inflationary at a time when government is otherwise working to reduce inflation.

Because the thrust of the amendments is to facilitate a specific type of lending rather than to increase total lending, the Board does not believe the change will produce an inflationary effect.

Commenters' Recommendations

Most recommendations concerned the maximum loan amount per dwelling unit. The following limits were recommended:

(1) Permit \$75,000 for a two-family dwelling, \$90,000 for a three-family dwelling, and \$100,000 for a four-family dwelling.

(2) Permit \$75,000 for a one-family dwelling, \$70,000 per unit for a two-family dwelling, \$65,000 per unit for a three-family dwelling, and \$60,000 per unit for a four-family dwelling.

(3) Permit \$75,000 on the borrower's unit (equalling the amount permitted on a single-family dwelling) and a lesser amount for each of the other dwelling units, not to exceed an average of \$45,000 per unit.

(4) Permit the greater of \$60,000 or the 207(c)(3) limitations, thereby assuring that, if housing costs rise and the \$60,000 limit is not immediately increased, the regulation will not unnecessarily limit lending activity.

(5) Permit management to determine maximum loan amounts.

The final amendments incorporate the fourth listed suggestion. It is the Board's view that the prescribed maximum will provide flexibility for loans on various types of housing in various geographic areas.

One commenter recommended that the \$60,000 maximum amount be made applicable to 95% loans on two-family dwellings.

The Board believes that by maintaining 207(c)(3) limits on 95% loans, loans with the lowest downpayment will be available to moderate-income borrowers seeking the most affordable, small multi-unit dwellings.

One respondent recommended that low-downpayment loans be limited to borrowers with incomes under \$30,000.

The Board does not consider such a requirement necessary if the owner-occupancy requirement is met.

One respondent recommended permitting low-downpayment loans for non-resident landlords who agree to submit to periodic inspections by a government agency.

The purpose of the proposed amendments is to encourage owner occupancy and therefore, the suggestion is beyond the scope of the proposal.

One respondent recommended that loan agreements contain some warning language regarding criminal penalties for false statements made in connection with obtaining a loan from a Federal association.

The Board has no objection to inclusion of such a statement in loan agreements.

PART 541—DEFINITIONS

Accordingly, the Board hereby amends §§ 541.23, 545.6-2(a), and 545.6-7(b) of the Rules and Regulations for the Federal Savings and Loan System, to read as follows:

§ 541.23 Two-, three- or four-family dwelling.

A structure designed for two, three, or four dwelling units, respectively.

PART 545—OPERATIONS

§ 545.6-2 Monthly-installment loans.

Loans repayable in regular periodic payments sufficient to liquidate the debt, principal and interest, within the loan term may be made as follows:

(a) *On the security of homes or combinations of homes and business property.* * * *

(2) *80 percent to 90 percent of value.* The 80 percent limitation in paragraph (a)(1) of this section shall be 90 percent, if:

(i) The loan is secured by a first lien on a single-family, two-family, three-family, or four-family dwelling;

(iii) The amount of the loan does not exceed: (A) For single-family dwellings, \$75,000 (\$112,500 for security property in Alaska, Guam or Hawaii) and, for two-family, three-family, and four-family dwellings, the greater of \$60,000 per dwelling unit or the amount allowable in

or under section 207(c)(3) of the National Housing Act, or (B) 90% of the value or purchase price of the security property, whichever is less;

(v) The borrower, including a purchaser who assumes the loan, has executed a certificate stating that (A) no lien or charge on the property other than the association's lien or any lien or charge which will be discharged from the proceeds of the loan, has been given or executed by the one executing the certificate, or has been agreed to be so given or executed, and (B) the borrower occupies, or in good faith intends to occupy, the property as the borrower's principal dwelling;

(3) *90 percent to 95 percent of value.* The 80 percent limitation in paragraph (a)(1) of this section shall be 95 percent for loans secured by first liens on single-family and two-family dwellings, if:

(i) The requirements of paragraphs (a)(2) (ii), (iv), (v), (vi), and (vii) are met;

§ 545.6-7 Percentage limitations on real estate loan investments.

(a) *Loan investments not subject to percentage limitation.* The following investments by a Federal association on loans in the security of real estate shall not be subject to any percentage-of-assets or percentage-of-savings-accounts limitation: (1) A loan secured by a single-family dwelling, or a home or combination of home and business property, except a loan:

(v) Made under §§ 545.6-2(a) (2) or (3), as long as the loan is in excess of 80 percent of the value or purchase price of the security property, determined at the time the loan was made, whichever is less:

(b) *Percentage limitations for specific types of loans.* Loan investments made under sections containing specific percentage limitations shall be subject to those limitations. Those sections are: § 545.6-2(a)(2) (loans on single-family or two-, three- and four-family dwellings), § 545.6-2(a)(3) (loans on single-family or two-family dwellings), § 545.6-3(d)(4) (loans to facilitate trade-in or exchange), § 545.6-5 (developed building lot loans), § 545.6-8 (land acquisition and development loans), § 545.6-8 (loans for housing for the aging), § 545.6-10 (loans in areas receiving concentrated development assistance), § 545.6-11 (loans guaranteed under the Foreign Assistance Act of 1961), § 545.6-12(d) (nonconforming secured loans), and § 545.6-13 (Farmers Home

Administration Rural Housing Program guaranteed loans). However, whenever the terms of a loan investment under §§ 545.6-8, 545.6-10, 545.6-12(d) or 545.6-13 meet the requirements for a loan under §§ 545.6-2 or 545.6-3, the loan may be allocated to the applicable percentage-limitation category in paragraph (c) of this section, and if the loan meets the requirements of paragraph (a) of this section, it shall not be allocated to any percentage-limitation category. A loan investment under § 545.6-2(a)(2) (a loan on a single-family or two- to four-family dwelling in excess of 80 percent of value) or § 545.6-2(a)(3) (a loan on a single-family or two-family dwelling in excess of 90 percent of value) within the association's regular lending area may be released from its percentage-limitation category when the loan balance has been reduced to not more than the percent of value permitted under the applicable provision.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 79-36207 Filed 11-21-79; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Part 540

Regional Action Planning Commissions; Administration

AGENCY: Special Assistant to the Secretary for Regional Development, Office of the Secretary, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is adopting final regulations applicable to the Regional Action Planning Commissions. The revised regulations include standards for Commissions' administrative responsibilities and the administrative requirements which Commissions apply to their financial assistance recipients. Congress appropriates funds for this program to the Secretary of Commerce and has designated the Secretary as the administrator of the statute which authorizes the regional commissions. The purpose of the revised regulations is to meet the Secretary's legal responsibility to assure that Commissions are accountable to the Federal Government for the Federal

funds which are provided to them by the Department of Commerce. Existing standards have proven to be inadequate safeguards to prevent or detect fraud, waste and abuse in the program. The revised rules will enable the Department to handle better its responsibilities in transferring funds to Commissions and assuring their proper use. While preserving the authority of Commissions to plan and make investment decisions consistent with applicable plans and law, the rules also enable the Commissions to fulfill better their responsibilities as recipients of public funds and to handle their administrative functions in a more efficient and economical manner. In order to strengthen Commission responsibility, whenever possible the regulations have set only minimum standards which the Commissions are expected to supplement with their own standards. The revised regulations also enable the revocation of a set of 1970 Secretarial Guidelines to the Commissions and make the existing regulations more readable.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Daniel J. Schulder, Room 2092, U.S. Department of Commerce, Washington, D.C. 20230 (202) 377-5174.

SUPPLEMENTARY INFORMATION: On June 7, 1979, the Department of Commerce published in the Federal Register (44 FR 32958) proposed regulations applicable to the regional commissions established pursuant to Title V of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3181 *et seq.* (hereinafter called the Act). At the same time as publication, copies of the proposed regulations were sent to governors who serve as members of commissions and to other interested parties. Fifteen comments on the proposal were received during the 60-day public comment period which ended on August 6, 1979. Comments came from four groups: Governors who are members of commissions (12), members of Congress (1), Governors' alternates (1) and executive directors of commissions (1). Most comments did not address the substantive content of the proposed regulations. However, in response to the comments received, changes have been made in the regulations including substantial reductions in the overall length and elimination of many detailed requirements. Although a majority of the comments agree with the objective of assuring proper management of tax dollars, most comments questioned the authority of the Secretary or the need for the Department to issue regulations

applicable to the Title V regional commissions. Some commentators indicated a lack of awareness of existing regulations applicable to regional commission operations. For clarification, these regulations amend the existing regulations.

Comments on whether the Department has the authority to issue regulations focus on the concept of a Title V regional commission as a partnership between the Federal Government and the States. Some commentators interpret this partnership as mandating agreement by one partner before the other may impose any requirements on the partnership entity. The Department supports the concept of the commissions as partnerships for the purpose of carrying out programs of regional development. However, the Act and the legislative history indicate congressional intent not to exempt the commissions from minimum fiscal and management standards applicable to administrative entities receiving Federal funds. In fact, the Congress appropriates the funds for commissions to the Secretary and specifically provides that the Secretary will administer the program's authorizing statute. In these roles, the Secretary has a legal obligation to insure that the Federal funds which are provided to the commissions are used for purposes authorized by law. The authorizing statute also allows the Secretary to adopt such regulations as necessary to carry out legal responsibilities (42 U.S.C. 3211). Because this legal responsibility is placed with the Department of Commerce, self-regulation by commissions may supplement, but cannot substitute for, the Secretary's rule-making on the public record.

Recently, in the course of the Senate debate concerning new legislation affecting this program, Senator Randolph the floor manager, made clear the concern of the authorizing Committee about the fiscal management of the program and indicated his awareness of and agreement in principle with the issuance of appropriate regulations in advance of enactment of the pending legislation.

Some commentators suggested that Commissions be allowed to regulate their own fiscal and management procedures through internal codes and without Federal standards, such as these regulations, to provide a basis for developing such codes. The Department agrees that commissions should have internal codes and has made allowance for such documents in the text of the regulations. However, in order for the Department to meet its responsibilities

for the appropriated funds which it receives and then provides to the commissions, the Secretary has no alternative but to set minimum fiscal and management standards which the codes must contain. Considerable discretion is allowed commissions because of their unique status to develop and apply their own implementing measures so as to supplement Federal rules in ways that best suit each commission's circumstances and those of the State members. This discretion is believed to be unique, but is warranted under the circumstances. Moreover, commission codes approved by the Secretary that continue to meet the minimum standards of these regulations, will be used as the source documents for conducting compliance evaluations and audits of the commissions. If, however, a commission does not have an approved code, or until a code or an amendment to a code is approved by the Secretary, these regulations will be the only legally enforceable standards for the commissions to follow.

Some commentators suggested that the Department is imposing "red tape" on the commissions and preventing them from being flexible in their operations. We recognize that commissions will need to exert greater care in their handling of Federal funds than was required of them in the past. However, the Department of Commerce believes that it is in the public interest to publish standards of accountability for the use of Federal tax dollars. Recent audits and disclosures of fraud, waste and abuse in some commissions make it clear that the standards established and applied by the Department in the past were not adequate assurance that Federal funds were properly expended. Contrary to the comments, these minimum fiscal and management standards have been developed to avoid excessive "red tape," to allow commissions the maximum amount of flexibility, and to avoid the application of standing Federal rules that are not applicable to entities such as the commissions. The standards are based on requirements negotiated by the Office of Management and Budget with non-profit recipients of Federal financial assistance and accepted and followed by those recipients in their handling and use of Federal dollars. (See OMB Circular A-110.) The final regulations have been substantially reduced by eliminating excessively detailed rules and provisions which are restatements of requirements found in law. Also, in response to comments received, Section 540.204 has been developed. This

section consolidates standards from scattered parts of the proposed regulations and places more responsibility on the commissions to develop their own policies and procedures. In addition, the criteria for judging the adequacy of these self-developed standards have been simplified, leaving more discretion for the commissions in determining the content of the standards. Adoption of these regulations will enable the Secretary to eliminate the "Guidelines" which commissions have been following since 1970. Moreover, if it is found that the application of provisions of OMB Circulars A-102 and A-110 will cause undue hardships or inequity on a grantee or contractor to the Commission or when an exception from these Circulars is in the best interest of the Commission, the regulations provide for a waiver system with the prior approval of the Secretary and OMB.

One commentator indicated that the regulations were being proposed for final effect during the middle of the State's budget cycle and that the new requirements could disrupt Commission funding which the State had counted on. The Department recognizes that, if regulations were immediately made applicable to the commissions, there could be disruptions. Therefore, because of the legal and administrative problems of retroactive or immediate applicability of requirements, the rules now provide a transition period, making the regulations apply to financial assistance and contracts awarded on or after January 1, 1980. This provision recognizes that commission funding is not entitlement funding and that it is not reasonable for recipients to expect that minimum standards of fiscal accountability should give way because a recipient assumes it will receive funds from a commission each year. Because these rules are designed to insure that funds are not going into unauthorized activities, it is in the public interest not to delay their applicability after January 1, 1980.

Accordingly, Part 540 of Title 13 CFR is revised to read as follows:

PART 540—ADMINISTRATION

Sec. 540.001 Authority and purpose.

Subpart A—Funding of Commissions

540.101 Purpose.
540.102 Funding procedures.

Subpart B—Administrative Standards Applicable to Commissions

540.201 Purpose.
540.202 Effective date.
540.203 Internal Commission Code.
540.204 Commission responsibilities.
540.205 Financial Assistance—General.

Sec. 540.206 Financial Assistance—Administrative Requirements.
540.207 Nondiscrimination.
540.208 Personnel—Key Officials.
540.209 Personnel Policies and Procedures.
540.210 Commission Records.
540.211 Management of Commission Property.
540.212 Program Income.
540.213 Procurement by Commissions.

Subpart C—Compliance

540.301 Purpose.
540.302 Evaluation.
540.303 Audits.
540.304 Remedies for Noncompliance.

Authority: 42 U.S.C. 3204; 42 U.S.C. 3211; 42 U.S.C. 3181 *et seq.*; Executive Order 11386; Department Organization Order 15-5.

§ 540.001 Authority and purpose.

(a) The Secretary of Commerce is directed by the Congress to administer Title V of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3181 *et seq.*, which establishes the Regional Action Planning Commission program. In this role, the Secretary is authorized to establish such rules and regulations as may be necessary.

(b) The standards contained in this part respond to the Secretary's legal duty to insure that the Federal funds provided to the Regional Commissions for their programs and internal operations are used for purposes authorized by law. The standards of this part apply to all regional Commissions established pursuant to 42 U.S.C. 3181 *et seq.* They are designed to assure the Commissions' accountability for the Federal funds which they receive, to improve efficiency and prevent fraud, waste and abuse, to standardize certain procedures for all Commissions, and to allow maximum flexibility for Commissions to establish their own standards in most areas of operation.

Subpart A—Funding of Commissions

§ 540.101 Purpose.

This subpart describes the procedures which govern how Regional Commissions receive their funding from the Department of Commerce.

§ 540.102 Funding procedures.

(a) The annual budget request for the regional development program is submitted to the Office of Management and Budget as a part of the Department of Commerce's proposed budget and, as it is approved, becomes a part of the President's budget request submitted to the Congress. The Federal Cochairman shall prepare and submit to the Secretary any documentation and information on the Regional Commissions which the Department

requires in order to formulate a budget request for presentation before budget authorities. The Federal Cochairman shall also carry out other duties in the presentation of a budget request as may be required of them under law.

(b) Funds for Commission operations and programs which are appropriated to the Department of Commerce shall be treated as provided in the appropriation act, the authorizing statute and other applicable statutes, regulations and policies. Department of Commerce appropriated funds shall be transferred to Commissions in accordance with the program's authorizing statute and other applicable Federal laws and policies. In transferring the appropriated funds, the Secretary may require such documents, reports and information from the Federal Cochairman and the Regional Commissions as may be appropriate to carry out the Secretary's responsibilities under law.

(c) As a condition of receiving any funds from the Department of Commerce, each Commission shall submit to the Secretary for review and approval a financial plan in such forms and at such times as the Secretary shall prescribe.

(d) Funds may be used by a Commission only for purposes authorized by law and in accordance with a financial plan approved by the Secretary. The Department shall apply the principles and standards of Federal Management Circular 74-4 for the purpose of determining the reasonableness, allowability and allocability of costs incurred by a Commission.

Subpart B—Administrative Standards Applicable to Commissions

§ 540.201 Purpose.

This subpart sets certain minimum standards to be followed by the Regional Commissions in their internal operations and in administering their assistance programs. These standards assure accountability for the Federal funds provided to Commissions while allowing the Commission to set additional standards and to develop their own standards in most areas of operation.

§ 540.202 Effective date.

(a) This subpart shall become effective on January 1, 1980, and shall apply to all Commission internal operations and all grants and contracts awarded by a Commission on or after January 1, 1980.

(b) Any grant or contract awarded by a Commission prior to January 1, 1980, but renewed, extended or amended in

any manner on or after January 1, 1980, shall be subjected to and meet the requirements of this subpart.

§ 540.203 Internal Commission Code.

(a) Each Commission is authorized to adopt a code governing its policies and procedures. Any Commission code shall meet the minimum standards prescribed in this subpart, including the detailing of specific policies and procedures as required in § 540.204 of this part.

(b) If any Commission adopts an internal code and wishes to implement it, the Commission shall submit the proposed code for the approval of the Secretary of Commerce. If the Secretary determines that the submitted code meets all of the minimum standards in this subpart, the code shall be approved by the Secretary. The Secretary will not act on those portions of the Code which do not affect the standards in this subpart. Approval of a code does not imply approval of those sections which have no relevance to the minimum standards in this subpart. After approval, a Code which continues to comply with this subpart will be used in lieu of this subpart for the purpose of Departmental evaluations and audits as described in Subpart C of this part.

(c) Any proposed amendment to an approved code must be submitted to and approved by the Secretary prior to its becoming effective. The Secretary shall approve the proposed amendment if it is authorized by law and meets the minimum standards in this subpart. If the Secretary determines that the amendment is not relevant to the minimum standards of this subpart, the Secretary shall take no action on it.

(d) If the Secretary takes no action on a proposed code or a proposed amendment within 45 days of receiving it, the code or amendment shall be deemed approved by the Secretary.

(e) The Department shall treat a violation by a Commission of its approved code as a violation of the corresponding regulations in this part.

§ 540.204 Commission responsibilities.

(a) Each Commission shall develop standards as described in paragraph (b) of this section and submit them to the Secretary on or before May 1, 1980. The Secretary shall review each standard to determine if it complies with the applicable minimum criteria as described in paragraph (b) of this section. If the standard substantially meets these minimum criteria, the Secretary shall approve the standard for adoption and implementation by the Commission.

(b) Each Commission shall develop the following:

(1) Standards of conduct which shall govern the performance of Commission officers, employees or agents engaged in the award and administration of contracts and grants. Minimum Criteria:

(i) Such standards shall provide for disciplinary actions to be applied for violations of such standards by officers, employees or agents.

(ii) Such standards shall contain at least the standards set forth in §§ 540.209(c) and 540.209(d).

(2) A pay schedule for employees and a schedule of identified employee benefits with corresponding policies on benefits. Minimum Criteria:

(i) Benefits include, but are not limited to, annual and sick leave, other leave, health insurance, life insurance, retirement benefits and premium pay.

(ii) A Commission shall not establish benefits which exceed the levels of benefits provided by the Federal Government to Government employees. A Commission shall not establish benefit policies which have the effect of giving more generous benefits to Commission employees than Federal employees receive. This restriction shall not apply if a Commission chooses to contract with a State Government in the region for inclusion of its employees in the State's retirement and employee benefit system and if Commission employees are treated the same as regular State employees for benefit purposes.

(iii) The pay schedule, benefits and related policies must meet the applicable requirements of Federal Management Circular 74-4 and shall not exceed limitations in the Act.

(3) Procedures, policies and amounts governing the authorization for and reimbursement of travel and transportation costs for employees in transacting official Commission business. Minimum Criteria:

(i) Travel costs include transportation, food, lodging and related costs incurred by Commission personnel in performance of their official duties away from their regular place of duty.

(ii) Reimbursement for travel or transportation costs shall not exceed the reimbursement provided by the standard travel regulations of the Federal Government.

(iii) Travel and transportation procedures and policies shall generally conform to the Department of Commerce standard travel regulations contained in Department Administrative Order 204-1.

(iv) The standards of paragraph (b)(3) (i), (ii) and (iii) above shall not apply if a Commission adopts the standard travel regulations of a State Government in the region and if a Commission employee is treated the same as a regular State

employee would be for purposes of travel and transportation authorization and expenses.

(4) Payroll and attendance policies and procedures.

Minimum Criteria:

(i) A timekeeper's manual shall be established by each Commission.

(ii) A Commission shall keep time and attendance records on all persons employed by it in order to insure the proper recording of attendance, leave, other absences from duty and the proper distribution of hours by project.

(iii) Each payroll period, only an authorized Commission supervisor or official shall verify, approve and sign the time and attendance records.

(5) Experience and education requirements for each authorized Commission employee position. Minimum Criteria: The requirements must be reasonable, explicit, and verifiable.

(6) Specific policies governing the use of Commission funds and the conduct and responsibilities of officers and employees in the following areas:

(i) Gifts;

(ii) Entertainment;

(iii) Honoraria;

(iv) Training;

(v) Use of Commission time and facilities;

(vi) Outside employment;

(vii) Use and disclosure of

employment and information;

(viii) Political activities;

(ix) Non-discrimination;

(x) Nepotism;

(xi) Lobbying;

(xii) Authorization for and expenses of conferences and meetings.

Minimum Criteria:

(A) The specific policies must meet the applicable requirements of Federal Management Circular 74-4.

(B) The Commission must establish a procedure by which all employees are notified of the responsibilities and rights created by this subsection.

(C) The non-discrimination policies shall meet the applicable Federal requirements imposed on the Commissions in the areas of discrimination by race, color, national origin, sex, handicap or age.

(D) At a minimum, the political activities policies shall meet the applicable requirements of the Hatch Political Activity Act, 5 U.S.C. 1501 *et seq.*

(E) Policies on the use and disclosure of employment and information at a minimum, shall address the areas of private gain, non-public information and coercion.

(F) The gifts and entertainment policies shall incorporate at least the standards of 540.209(d).

(G) The nepotism policy, at a minimum, shall cover those relatives identified in 5 U.S.C. 3110, the Federal nepotism statute.

(7) Requirements for obtaining, reviewing, and acting upon employee statements of employment and financial interests. Minimum Criteria:

(i) At a minimum, each Commission shall require statements of employment and financial interests from the Executive Director and from employees exercising judgments on awarding grants or contracts or approving costs under grants or contracts.

(ii) Statements shall be updated yearly.

(iii) The State and Federal Cochairmen shall review the statements of employment and financial interests and be responsible for taking appropriate action on the information contained therein in order to resolve conflicts or apparent conflicts of interest.

(iv) Statements shall be held in confidence except for good cause.

(v) Facts disclosed in statements which indicate a conflict or apparent conflict between the personal interest of any employee and the interest of the Commission shall be investigated and referred to legal counsel as appropriate.

(vi) The standards shall contain procedures and sanctions for dealing with employees with unresolved conflicts of interest.

(8) An appropriate appeal procedure for employees covering:

(i) Cases of discrimination or unlawful preferential treatment;

(ii) Adverse personnel actions or nonactions;

(iii) Violation of official and employee conduct standards.

Minimum Criteria:

The procedure shall provide proper notice and the opportunity for a hearing in accordance with applicable requirements of law.

(9) Procedures governing audit resolutions and project closeouts. Minimum Criteria: These standards shall incorporate, but expand upon, Attachment K of OMB Circular A-110 and Attachment L and P of Circular A-102.

(10) Policies and procedures on cash advances in order to ensure that payments to recipients do not exceed identified requirements. Minimum Criteria: Section 8 of Department of Commerce Administrative Order 203-7 on cash management shall be used as a

guide for determining the subjects which must be addressed.

§ 540.205 Financial assistance—General.

(a) *Selection of Instrument.* Before a Commission transfers funds to a recipient, the Executive Director must decide whether to use a grant instrument or a contract.

(1) If the principal purpose of the instrument is the acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Commission, the Commission shall use a contract and may not use a grant and shall comply with § 540.213.

(2) If the principal purpose of the instrument is financial assistance to the recipient in order to accomplish a public purpose of support or stimulation authorized by Title V of the Public Works and Economic Development Act, the Commission shall use a grant and not a contract. However, the Executive Director may determine in a specific instance that the use of a contract is appropriate. (See § 540.213(c)).

(b) *Purpose.* (1) A grant or contract may be awarded by a Commission only for a purpose or purposes authorized by Title V of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3181 *et seq.*

(2) No grant or contract shall be awarded unless there is an approved application from the proposed financial assistance recipient which discloses how the funds will be used. Each grant or contract shall—

(i) Contain a description of the work to be accomplished under the grant or contract (the "scope of work") which identifies final work products and the specific activities supported by the financial assistance;

(ii) Identify the goals and objectives of the assistance and how Commission funding will assist in meeting those objectives; and

(iii) Be supported by approved plans, budgets and other information submitted by the applicant/recipient to enable the Commission to evaluate the relationship of funding to goals and to perform technical evaluations and cost/price analyses as required.

(c) *Changes.* (1) Changes in any provision or condition of a grant or contract shall be made only by formal amendment of the agreement.

(2) There must be adequate consideration for changing an agreement to provide increased funding to the recipient.

(3) Project files must be kept up to date with all changes.

(d) *Prohibitions.* (1) No grant or contract may be entered into by a Commission for the purpose of funding

an individual's salaried position in a unit of government or for paying the salary of any individual except as follows: All or any part of the compensation (and allowable benefits) of an individual may be a cost charged to grant or contract funds as an expense of carrying out specific duties detailed in the scope of work for the grant or contract. The amount of cost charged will depend upon the services rendered and the extent of benefits received in relation to grant or contract objectives and in accordance with the applicable cost principles. No grant or contract funds shall be used to pay any portion of the compensation of a Governor or an Alternate or any person who acts as an Alternate.

(2) In accordance with applicable cost principles, a grant or contract with a unit of State or local government shall not provide for payments to cover expenses for general activities which the unit normally incurs to carry out its general governmental responsibilities. Such assistance will be considered an unauthorized subsidy. A grant or contract shall be for specific, defined tasks or projects authorized by law. (FMC 74-4)

(e) *Files.* Each Commission shall establish and maintain an official file on each project assisted.

(f) *Evaluation.* (1) During the course of and at the completion of each project assisted, each Commission shall (i) assess the progress or results of the project in relation to its established, approved objectives; (ii) measure the overall results of program accomplishments in terms of contributions to the Commission's basic goals and objectives; and (iii) assure that evaluation activities are fully documented in the project files.

(2) A Commission shall not delegate the following to any person who is not an official or employee of the Commission:

(i) Accountability for insuring that grants and contracts are being properly monitored and that corrective actions are taken when appropriate;

(ii) Final evaluation and approval of performance and costs under a grant or contract.

§ 540.206 Financial assistance—administrative requirements.

(a) Each Commission shall adopt and apply the following standards for its recipients of financial assistance:

(1) For grants to State and Local Governments, the following attachments in Office of Management and Budget (OMB) Circular A-102 (revised as of October 1, 1979)—

(i) A Cash Depositories;

(ii) B Bonding and Insurance;

(iii) C Retention and Custodial Requirements for Records;

(iv) E Program Income;

(v) F Matching Share;

(vi) G Standards for Grantee Financial Management Systems;

(vii) H Financial Reporting Requirements;

(viii) I Monitoring and Reporting Program Performance;

(ix) K Budget Revision Procedures;

(x) L Grant Close-out Procedures;

(xi) N Property Management Standards; and

(xii) O Procurement Standards.

(2) For grants to and agreements with institutions of higher education, hospitals, and other nonprofit organizations, the following attachments in OMB Circular A-110 (July 20, 1976)—

(i) A Cash Depositories;

(ii) B Bonding and Insurance;

(iii) C Retention and custodial Requirements for Records;

(iv) D Program Income;

(v) E Cost Sharing and Matching;

(vi) F Standards for Financial Management Systems;

(vii) G Financial Reporting Requirements;

(viii) H Monitoring and Reporting Program Performance;

(ix) J Revision of Financial Plans;

(x) K Closeout Procedures;

(xi) L Suspension and Termination Procedures;

(xii) N Property Management Standards; and

(xiii) O Procurement Standards.

(b) The Federal Cochairman, with the prior approval of the Secretary and the Director of the Office of Management and Budget (OMB), may grant exceptions from the requirements of the attachments listed in paragraphs (a)(1) and (a)(2) of this section when an exception is in the best interest of the Commission or necessary to prevent undue hardships or inequity on a grantee or contractor.

(c) If a Commission wishes to adopt a form which is a substitute for or is a deviation from a form specified in the attachments listed in paragraph (a) of this section, the Federal Cochairman shall secure the prior approval of the Director of OMB in writing, with a copy to the Secretary, before the form is put into effect or use.

(d) Cost principles and standards. (1) State and local governments. When a Commission enters into a grant or contract with a State or local government, it shall apply the principles and standards of Federal Management Circular (FMC) 74-4 for determining reasonableness, allowability and allocability of costs. Under this

requirement, references in FMC 74-4 to such terms as Federal Government or Federal grantor agency shall be read as references to the Regional Commission.

(2) Educational institutions. When a Commission enters into a grant or contract with an educational institution, it shall apply the provisions of OMB Circular A-21 (formerly FMC 73-8) for determining the reasonableness, allowability and allocability of costs. Under this requirement, references in A-21 to such terms as Federal Government or Federal grantor agency shall be read as references to the Regional Commission.

(3) When a Commission enters into an agreement with an individual or a commercial organization, it shall apply the provisions of Subpart 1-15.2 of the Federal Procurement Regulations (41 CFR Subpart 1-15.2) for determining the reasonableness, allowability, and allocability of costs. Under this requirement, references in Subpart 1-15.2 to such terms as Government, Federal Government or Federal agency shall be read as references to the Regional Commission.

(4) When a Commission enters into an agreement with a nonprofit organization not covered under paragraphs (d) (1) or (2) of this section, it shall apply the provisions of "Department of Commerce Cost Principles for Non-Profit Organization" or an equivalent set of Federal cost principles (such as 41 CFR 1-15.2) for determining the reasonableness, allowability and allocability of costs. Under this requirement, references in this document to such terms as Department, Government, Federal Government or Federal agency shall be read as references to the Regional Commission.

(5) No Commission shall grant exceptions to the principles and standards of the cost principles referred to in paragraphs (d) (1), (2), (3) and (4) of this section except as specifically provided in the terms of the cost principles.

(e) Each Commission shall incorporate the appropriate requirements of this section into the terms of its grants, contracts and agreements.

§ 540.207 Nondiscrimination.

The provisions of Title VI of the Civil Rights Act of 1964 shall apply to each Commission as an agency empowered to extend Federal financial assistance and as a recipient of such assistance. The Commission shall adopt as its own the Regulations of the Department of Commerce implementing Title VI (15 CFR, Subtitle A, Part 8). The Commission and every program or activity receiving Federal assistance

directly or indirectly from or through the Commission, shall be subject to and comply with those Regulations. The employment practices provisions of those Regulations shall be applicable to the Commission in its employing activities. The Commission may issue rules, regulations, orders and instructions to further implement Title VI and the Regulations.

§ 540.208 Personnel—Key officials.

(a) Each Commission shall employ legal counsel in order to meet its legal services needs.

(b) The Executive Director of a Commission is chief administrative officer of the Commission. Subject to the policies and procedures adopted by the Commission and any applicable laws, regulations and guidelines, the Executive Director is responsible for the efficient administrative operation of the Commission and is responsible to the State and Federal Cochairmen of the Commission. Each Commission shall assign such duties to the Executive Director as it deems appropriate, but, at a minimum, the Commission shall assign the Executive Director the authority to perform the following duties:

(1) To supervise and manage the Commission staff in carrying out day-to-day operations and to assure that proper administrative functions are accomplished;

(2) To develop the internal administrative structure of the Commission's staff and to assign functions and duties to employees;

(3) In accordance with Commission policies and after any required approval, to develop and execute for and on behalf of the Commission—

(i) Contracts and purchase orders;

(ii) Grant agreements;

(iii) Leases;

(iv) Travel orders;

(v) Personnel actions;

(vi) Any certifications required for the payment of legitimate expenses;

(4) To develop a procurement system consistent with applicable requirements and Commission policies;

(5) To prepare an annual Commission budget for presentation to the Commission and such others as directed by the Commission;

(6) To accept, on behalf of the Commission, funds from the Federal Government and the member States;

(7) To develop a system of budget and accounting control to insure that obligations never exceed available unencumbered funds.

§ 540.209 Personnel policies and procedures.

(a) *Bonding.* Each Commission shall provide adequate fidelity bond coverage of the Executive Director and such other officers and employees as the Commission determines. These bonds shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR Part 223).

(b) *Employee Positions.* (1) Each Commission shall keep an up-to-date position description for each of its authorized positions and shall ensure that it is applicable to and made available to the employee occupying the position.

(2) The rate of compensation for Commission employee positions shall not exceed the rate paid by the Federal Government to persons occupying similar positions with similar responsibilities.

(c) *Personal financial interests.* (1) Except as provided in paragraph (c)(2) of this section, no State Member, Alternate, officer, employee or agent of a Commission shall participate in any proceeding, application, award, selection, determination, grant, contract, procurement, claim, or any other activity in which, to his knowledge, at least one of the following has a financial interest that might cause a conflict of interest or create the appearance of a conflict of interest:

(i) The person himself or herself;

(ii) His or her spouse;

(iii) His or her minor child;

(iv) His or her business partner;

(v) Any organization (other than a State or political subdivision of the State) which employs any person listed in paragraph (c)(1) (i), (ii), (iii) or (iv) of this section;

(vi) Any organization (other than a State or political subdivision of the State) in which the person is serving as officer, director, trustee, partner or employee;

(vii) Any person with whom he or she is serving as officer, director, trustee, partner or employee in any organization;

(viii) Any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment.

(2) Exceptions to paragraph (c)(1) of this section may be obtained if the State Member, Alternate, person acting as an Alternate, officer, employee or agent—

(i) First advises the Commission of the nature and circumstances of the activity;

(ii) Makes full disclosure of the financial interest in writing; and

(iii) Receives in advance a written determination made by the full Commission that the interest is not so substantial as to be deemed likely to

affect the integrity of the services which the Commission expects from the individual involved.

The Commission shall keep a copy of each of the determinations made under this Rule in its official files.

(3) A Commission may declare void and rescind any contract or other agreement in relation to which it finds that paragraph (c)(1) of this section has been violated. If a Commission chooses not to void and rescind a contract or agreement under these circumstances, it shall place in its files a written report which states the following:

(i) The factual situation surrounding the contract or agreement;

(ii) The personal financial interest involved; and

(iii) The reasons for not voiding the contract or agreement.

(4) Paragraphs (c) (1) and (2) of this section do not apply to—

(i) The Federal Cochairman; or

(ii) Any Federal officer or employee detailed to a Commission pursuant to 42 U.S.C. 3186(a)(3).

(d) *Gifts, entertainment.* A Commission's standards for employees on gifts and entertainment, at a minimum, shall contain the following provisions:

(1) Except as provided in paragraph (d)(2) of this section, no Commission employee or officer shall accept or solicit, directly or indirectly, any gift, gratuity, entertainment, loan or any other thing of monetary value, from a person who—

(i) Has or seeks contracts or grant relations or other business or financial relations with the Commission; or

(ii) Has interests that may be substantially affected by the performance or nonperformance of the employee's or officer's official duty.

(2) Nothing in paragraph (d)(1) of this section shall prohibit—

(i) The solicitation or acceptance of any gift, gratuity, favor, loan, entertainment or any other thing of value which arises out of obvious family or personal relationships, such as those between the parents, children or spouse of the employee and the employee, so long as it is clear from the circumstances that it is the family or personal relationship rather than the business of the person concerned that is the motivating factor;

(ii) The acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(iii) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(iv) The acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, or calendars, and other items of nominal value.

§ 540.210 Commission records.

(a) Each Commission shall keep such records as will fully disclose the amount and disposition of the funds received from the Federal Government and all other grantors, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources. These records shall also include (1) a record of key actions on individual projects which relate to both award and post-award monitoring, evaluation and close-out, in sufficient detail to understand the history of the project and its current status, and (2) such other records as will facilitate an effective audit.

(b) Each Commission shall assure retention of financial records, supporting documents, statistical records, and all other records pertinent to its activities for a minimum period of three years, with the following qualifications:

(1) If any litigation, claim or audit is started before the expiration of the three-year period, the Commission shall retain the records until all litigations, claims or audit findings involving the records have been resolved.

(2) Each Commission shall retain records for nonexpendable property acquired with Federal funds for three years after its final disposition.

(3) The three-year retention requirement is not applicable to a Commission when records are transferred to or maintained by the Federal Government.

(4) If a record or set of records is covered by the Records Control Schedule for Regional Action Planning Commissions (U.S. Department of Commerce, March, 1978), the Commissions shall follow the requirements of the Records Control Schedule.

(c) Unless the Records Control Schedule provides another standard, a record retention period starts from one of the following two dates, whichever is later:

(1) The last day of the Federal fiscal year during which the activities occurred for which the record is kept, or

(2) If the record concerns a project, the last day of the Federal fiscal year in which the project was completed.

(d) The Secretary may request transfer of certain Commission records to the custody of the Federal Government when it is determined that the records possess long-term retention value.

(e) The Secretary of Commerce, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of a Commission and its recipients for the purpose of making audits, examinations, excerpts, and transcripts.

(f) A Commission shall provide for public access to its records. However, the Commission may impose limitations on access when it can demonstrate to the Secretary of Commerce or his or her designee that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the Federal Government.

(g) A Commission is authorized to substitute microfilm copies in lieu of original records.

§ 540.211 Management of Commission property.

(a) Each Commission shall observe the standards in this section relating to the management of property furnished to the Commission by the Federal Government or acquired by the Commission in whole or in part with Federal funds. A Commission may adopt its own standards and procedures governing the management of property as long as the provisions of this section are included in the Commission's standards.

(b) The following definitions apply for the purposes of this section:

(1) *Real property.* Real property means land, including land improvements, structures and appurtenances, thereto, but excluding movable machinery and equipment.

(2) *Personal property.* Property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence, such as patents, inventions, and copyrights).

(3) *Nonexpendable personal property.* Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit. A Commission may use its own definition of nonexpendable personal property provided that such definition would at least include all

tangible personal property as defined above.

(4) *Expendable personal property.* Expendable personal property refers to all tangible personal property other than nonexpendable property.

(5) *Excess property.* Excess property means Federal property under the control of any Federal agency which, as determined by the head thereof, is no longer required for its needs or discharge of its responsibilities.

(6) *Acquisition cost of purchased nonexpendable personal property.* Acquisition cost of an item of purchased nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installations, transportation, taxes, duty, or protective intransit insurance, may be included or excluded from the unit acquisition cost in accordance with the Commission's regular accounting practices.

(c) *Real property.* (1) No Commission shall use any Federal funds to purchase real property. This prohibition does not apply to bona fide Commission grantees, whose acquisition of real property is governed by other standards in this part. This prohibition does not apply to a gift or donation of real property to a Commission under the authority of 42 U.S.C. 3186(a)(6).

(2) If a Commission recovers real property from a recipient of Commission assistance which used Commission funds to purchase the property, the Commission shall abide by the standards applied to the recipient in Attachment N of OMB Circulars A-102 and A-110.

(d) *Nonexpendable personal property furnished by the Federal Government.* Title to Federally owned property furnished to a Commission remains vested in the Federal Government. Each Commission shall submit annually to the Secretary an inventory listing of Federally owned property in its custody. When a Commission no longer needs the property, it shall report the property to the Secretary and the Federal Cochairman for further Federal utilization. If the Federal agency which furnished the property has no further need for the property, it shall be declared excess and reported to the General Services Administration. After completion of Federal review, appropriate disposition instructions will be issued to the Commission.

(e) *Other nonexpendable property.* When nonexpendable tangible personal

property is acquired by a Commission in part or in whole with Federal funds, title shall not be taken by the Federal Government but shall vest in the Commission subject to the following conditions:

(1) For items of nonexpendable personal property having a unit acquisition cost of \$1,000 or more, the Secretary of Commerce reserves the right to transfer title to the Federal Government or to another Commission named by the Federal Government subject to the following standards:

(i) The property was acquired with 100 per cent Federal funds.

(ii) The property will be identified to the Commission in writing at least thirty days prior to the time the title will be transferred.

(iii) The Department of Commerce will issue disposition instructions within 120 calendar days after the end of the fiscal year in which the notice is given. If the Department fails to issue disposition instructions within the 120 calendar day period, the Commission shall apply the standards of paragraphs (e) (2) and (4) of this section as appropriate.

(iv) When the Department exercises its right to take title, the personal property shall be subject to the provisions for federally-owned nonexpendable property discussed in paragraph (d) of this section.

(v) When title is transferred either to the Federal Government or to a third party the Commission shall be reimbursed by the benefiting agency for any reasonable shipping or interim storage costs.

(2) The Commission shall use the property for the activities for which it was acquired whether or not the program continues to receive Federal funds from the Department. When it is no longer needed for the original activity, the Commission may use the property in its other activities sponsored with Federal funds.

(3) Use of any property owned by the Federal Government for non-Commission activities is prohibited unless approved by the Federal Cochairman and the Secretary. They may require a Commission to impose user charges if appropriate.

(4) When the Commission no longer needs the property, the property may be used for other activities in accordance with the following standards:

(i) For nonexpendable property with a unit acquisition cost of less than \$1,000, the Commission may sell the property and retain the proceeds.

(ii) For nonexpendable personal property with a unit acquisition cost of \$1,000 or more, the Commission may retain the property for other uses

provided that compensation is made to the Department of Commerce or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original purchase (50% or 100%) to the current fair market value of the property. If the Commission has no need at all for the property and the property has further use value, the Commission shall request disposition instructions from the Department of Commerce, which shall determine whether it can use the property. If no requirement exists, the Department will report the property to the General Services Administration to determine whether a requirement for the property exists in other Federal agencies. The Department shall issue instructions to the Commission no later than 120 days after the recipient's request and the following procedures shall govern:

(A) If so instructed or if disposition instructions are not issued within 120 calendar days after the Commission's request, the Commission shall sell the property and reimburse the Department an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program (50% or 100%). However, the Commission shall be permitted to deduct and retain from the Federal share \$100 or ten percent of the proceeds, whichever is greater, for the Commission's selling and handling expenses.

(B) If the Commission is instructed to ship the property elsewhere, the Commission shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Commission's (State's) participation in the cost of the original purchase to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(C) If the Commission is instructed to otherwise dispose of the property, the Commission shall be reimbursed by the Department for the costs incurred in the disposition.

(f) *Property management standards for nonexpendable personal property.* Each Commission shall have property management standards for nonexpendable personal property which include the following procedural requirements:

(1) Property records shall include—

(i) A description of the property;

(ii) Identifying serial numbers;

(iii) Source of the property;

(iv) Acquisition date and cost, and whether title rests in the Commission or the Federal Government;

(v) Percentage of Federal participation in the cost of the activity for which the property was acquired;

(vi) Location, use and condition of the property and date this information was reported;

(vii) Unit acquisition cost; and

(viii) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where the Commission compensates the Department.

(2) Property owned by the Federal Government shall be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the result reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The Commission shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage or theft of the property. Any loss, damage or theft of property shall be investigated and fully documented; if the property was owned by the Federal Government, the Commission shall promptly notify the Department.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the Commission is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

(g) *Expendable personal property.* Title to expendable personal property shall vest in the Commission upon acquisition. If there is a residual inventory of such property exceeding \$1,000 in total aggregate fair market value, upon termination of Departmental funding, and the property is not needed for any other federally sponsored project or program, the Commission shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

(h) *Intangible Property—(1) Inventions and patents.* If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by Federal funds, such fact shall be promptly and fully reported

to the Department of Commerce. The Department shall determine whether protection on the invention or discovery shall be sought. The Department will also determine how the rights in the invention or discovery—including rights under any patent issued thereon—shall be allocated and administered in order to protect the public interest consistent with the "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 38 FR 16889).

(2) *Copyrights.* The author or the Commission is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Federal agreement, but the Department of Commerce shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, republish, or otherwise use, and to authorize others to use, the work for Government purposes.

§ 540.212 Program income.

(a) The purpose of this section is to set standards for Commissions to account for program income related to projects financed in whole or in part with Federal funds.

(b) Program income represents gross income earned by a Commission from the federally supported activities. Such earnings exclude interest earned on advances and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, and royalties on patents and copyrights.

(c) Interest earned on advances of Federal funds to a Commission shall be remitted to the Department of Commerce.

(d) Proceeds from the sale of real and personal property either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with § 540.211 of this subpart pertaining to property management.

(e) The Commission shall have no obligation to the Federal Government with respect to royalties received as a result of copyrights produced under work aided by Federal funds. At the determination of allocation and administration rights in inventions and discoveries pursuant to § 540.211(h), the Department shall determine the Commission's obligation with respect to royalties received as a result of patents produced under work aided by Federal funds.

(f) All other program income earned shall be retained by the Commission and, in accordance with the transfer of

Federal funds to the Commission, shall be:

(1) Added to funds committed to the particular activity from which the program income arose and used to further eligible program objectives; or

(2) Deducted from the total cost of the activity from which the program income arose in determining the net costs on which the Federal share of costs will be based.

§ 540.213 Procurement by Commissions.

(a) *Scope.* This section prescribes minimum standards for use by each Commission in establishing its own procedures for the procurement of supplies, equipment and services in part or in whole with funds provided by the Federal Government to the Commission.

(b) *Purpose.* These standards are furnished to ensure that materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and executive orders. No additional procurement standards or requirements shall be imposed by the Department of Commerce upon Commissions unless specifically required by Federal statute or executive orders.

(c) *Applicability.* (1) The standards in this section apply to contracting between a Commission and a contractor(s) whenever the principal purpose of the contract is the acquisition of property or services for the direct benefit or use of the Commission. The direct benefit or use may be either for an administrative purpose or for a programmatic purpose.

(2) Whenever the principal purpose of the contract is to benefit a third party and does not involve the acquisition of property or services for the direct benefit or use of the Commission, the standards in this section do not apply to the contracting, but the financial assistance requirements of §§ 540.205 and 540.206 shall apply to the contract. If the Commission determines on the record that the relationship between the Commission and the contractor for the benefit of a third party recipient requires that the contractor be bound by contractual rather than financial assistance requirements, the Commission may follow the standards of this section rather than the financial assistance requirements of this subpart. However, this paragraph does not authorize a Commission to substitute the standards of this section for the financial assistance standards of this subpart when there is a direct relationship between the Commission and a financial assistance recipient.

(d) *Commission responsibility.* The standards contained in this section do

not relieve a Commission of the contractual responsibilities arising under its contracts. The Commission is the responsible authority, without recourse to the Department of Commerce, or to the Federal Government, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into by the Commission in support of activities under financial assistance provided by the Federal Government, subject to any rights of legal appeal which a contractor may have. This includes, but is not limited to: disputes; claims; protests of awards; source evaluations or other matters of a contractual nature. Matters concerning violation of law are to be referred by the Federal and State Cochairmen, Commission members or the staff immediately to the local, state, and/or Federal authority as may have proper jurisdiction.

(e) *Commission Procedures.* A Commission may adopt its own procurement policies and procedures. However, all Commissions shall adhere to the standards set forth as follows:

(1) *Extent of competition.* A Commission shall conduct all procurement transactions (regardless of whether by formal advertising or by negotiation and without regard to dollar value) in a manner that provides, to the maximum extent practical, open and free competition. A Commission should be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to insure objective contractor performance and eliminate unfair competitive advantage, a contractor that develops or drafts for a particular procurement specifications; requirements; a statement of work; or invitations for bids or requests for proposals should be excluded from competing for the ensuing procurement.

(2) *Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the recipient, price and other factors considered.*

(3) *Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the Commission. Any and all bids/offers may be rejected when it is in the Commission's interest to do so.*

(4) *Procurement procedures.* Each Commission shall establish procurement procedures which provide for, at a minimum, the following procedural requirements:

(i) Before making an award, Commission officials shall review

proposed procurement actions to avoid purchasing unnecessary or duplicative items. Where appropriate, these officials shall make an analysis of lease and purchase alternatives to determine which approach would result in the most economical, practical procurement.

(ii) *Solicitations for goods and services, whether by formal advertising or negotiations, shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such descriptions shall not, in competitive procurement, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.*

(iii) Each Commission shall make positive efforts to utilize small business concerns and minority owned business enterprises as sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing Federal funds.

(iv) *Type of procuring instruments.* The type of procuring instrument used (i.e., fixed price contracts, cost reimbursable contracts, purchase order, etc.), shall be determined by the Commission but must be appropriate for the particular procurement and for promoting the best interest of the Commission program involved. (41 CFR 1-3.403 may be used for guidance in selecting the appropriate contract type.) The "cost-plus-a-percentage-of-cost-fee" method of contracting shall not be used.

(v) *Responsible contractors.* A Commission shall award a contract only to a responsible contractor who possesses the demonstrated ability to perform successfully under the terms and conditions of a proposed procurement. The Commission shall give consideration to such matters as contractor integrity, record of past performance, and financial and technical resources or accessibility to other necessary resources.

(vi) *Sole source.* All proposed sole source contracts, or where only one bid or proposal is received in which the aggregate cost is expected to exceed \$5,000, shall not be approved until a written justification for the sole source, or one-bid, procurement is placed in the official project file.

(vii) *Technical evaluations and cost or price analysis.* Each Commission shall perform and document in the project files a technical evaluation and a cost or

price analysis in connection with every procurement action, including contract modifications. (41 CFR 1-1.305, 306 and 307 provide guidance as to how to perform a technical evaluation.) Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Costs analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability. The method and degree of analysis, however, is dependent on the facts surrounding the particular procurement. The Commission should perform cost analysis when the offeror is required to submit the elements of his/her estimated cost for sole source procurements, and when adequate price competition is lacking, e.g., when only a single bid is received and it is impossible to perform a valid price analysis. Price analysis should be used in all other instances to determine the reasonableness of the proposed contract price.

(viii) *Commission procurement records.* Each Commission shall maintain records or files sufficient to detail the significant history of a procurement. These records or files shall include, but are not necessarily limited to, the following information:

(A) Rationale for the method of procurement;

(B) Basis for contractor selection;

(C) Justification for lack of competition when competitive bids or offers are not obtained;

(D) Basis for award cost or price; and

(E) Evidence of administering and monitoring actions during contract performance.

(ix) *Contract administration.* Each Commission shall maintain a system for contract administration to insure that contractors conform with the terms, conditions and specifications of the contract or purchase order, including modifications, to identify and endeavor to resolve conditions that might adversely affect the Commission's interest, and to insure adequate and timely followup of all purchases.

(5) Each Commission shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. These provisions shall also be applied to subcontracts.

(i) *Contracts in excess of \$10,000 shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances in which contractors violate or breach contract*

terms, and provide for such remedial actions as may be appropriate.

(ii) All contracts in excess of \$10,000 shall contain suitable provisions for termination by the Commission including the manner by which termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(iii) All contracts awarded by a Commission and its contractors or subgrantees having a value of more than \$10,000 shall contain a provision requiring compliance with Executive Order 11284, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60-1).

(iv) Where applicable, all contracts awarded by a Commission in excess of \$2,500 that involve the employment of mechanics or laborers shall include a provision for compliance with section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (20 CFR, Part 5).

Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week.

(v) All contracts awarded by a Commission shall include a provision to the effect that the Commission, the Federal Cochairman, the Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audit, examination, excerpts, and transcriptions. A Commission shall require its contractors to maintain all required records for three years after the Commission makes final payments.

(vi) *Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the contractor or recipient to agree to comply with all applicable standards,*

orders or regulations issued pursuant to the Clean Air Act of 1970, (42 U.S.C. 1857 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1252 et seq.), as amended. A Commission shall report violations to the Department of Commerce and the Regional Office of the Environmental Protection Agency.

Subpart C—Compliance

§ 540.301 Purpose.

This subpart describes procedures by which the Secretary of Commerce will monitor and evaluate Commission compliance with the requirements of this chapter and the program's authorizing statute.

§ 540.302 Evaluation.

(a) The Secretary shall establish monitoring and reporting procedures which may be necessary in order to determine compliance by each Commission with the authorizing statute and with the standards contained in this chapter.

(b) The Secretary shall periodically evaluate each Commission's performance and compliance with law.

§ 540.303 Audits.

In accordance with applicable Federal law and policy, the Secretary shall establish a schedule for audits of Commissions.

§ 540.304 Remedies for noncompliance.

(a) If a Commission fails to comply with any requirement in this Chapter or the authorizing statute, and after reasonable notice to the Commission, the Secretary may take such steps as may be necessary, including the suspension of funding for the Commission and the withholding of further payments pending corrective action by the Commission or other appropriate actions by the Department of Commerce.

(b) The Department shall provide an opportunity for a hearing in cases of suspension of funding and disallowed costs. This hearing will be in accord with any applicable Federal laws or policies.

Issued on: November 16, 1979.

Lawrence O. Houstoun, Jr.,
Special Assistant to the Secretary for
Regional Development.

[FR Doc. 79-38008 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-19-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-SO-75; Amdt. No. 39-3616]

Embraer Model EMB-110P1 and EMB-110P2; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), which requires the inspection of the wing flap actuators for excessive wear of the two sealing rings and the ballscrew/nut assembly on EMBRAER Model EMB-110P1 and EMB-110P2 series airplanes. The AD is needed to prevent failure of either of the flap actuators which could result in a one-flap-up and the other-flap-down condition.

DATES: Effective November 30, 1979.

Compliance schedule—Within the next 25 hours time in service after the effective date of this AD and thereafter at intervals not to exceed 250 hours time in service.

ADDRESSES: The applicable Alert Service Bulletin 110-27-A43, may be obtained from Empresa Brasileira de Aeronautica S/A (EMBRAER), P.O. Box 343-CEP 12.200, Sao Jose dos Campos-SP, Brasil. A copy of the Brazilian Airworthiness Directive is contained in Room 275, FAA, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: C. W. Kaiser, Chief, Systems and Equipment Section, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (A/C 404) 763-7781.

SUPPLEMENTARY INFORMATION: There has been a report of a failure of a wing flap actuator in the EMB-110 airplane caused by moisture penetrating the ballscrew mechanism resulting in corrosion of the mechanism with the resultant loss of the balls. The affected flap may retract due to the air load, leaving the other flap extended. Since this condition is likely to develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires the inspection of the actuators for excessive wear of the sealing rings and the ballscrew mechanism on EMBRAER Model EMB-110P1 and EMB-110P2 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and

good cause exists for making this

(1) Reconnect the flap to the actuator lug by

telegraphic AD T79WE13 dated

certificated in all categories, equipped

(c) If cracks are found during any of the

[Docket No. 79-ASW-54; Amdt. 22-28102]

good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

EMBRAER: Model EMB-110P1 and EMB-110P2 series airplanes, certificated in all categories.

Compliance is required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 250 hours' time in service. To prevent failure of the wing flap actuators (EEMCO Part No. D2246-4), accomplish the following:

(a) Prepare the wing flap actuators for inspection by extending the flaps to the fully extended position.

Caution

Make sure that the Battery Switch is "Off" and that flaps are not inadvertently operated while the flap actuators are being serviced.

(b) Disconnect each wing flap from actuator lug by removing cotter pin, nut, washer, and attaching bolt.

Note.—When removing the attaching bolt, provide a support for flap to prevent its rotation and possible damage.

(c) Remove safety wire and four retaining screws from outer cover of actuator.

(d) Slide the inner and outer covers toward the reduction gear box to expose the threaded shaft, which should then be cleaned in accordance with good aircraft practices.

(e) While manually retracting and extending threaded shaft, determine:

(1) General condition of shaft.
(2) Movement of shaft while turning it by hand—must be free and smooth.

(3) Longitudinal motion of shaft in the ballscrew/nut assembly—play must be practically undetectable by handling manually.

(4) That the transverse motion of ballscrew/nut assembly, measured at the rod end of the shaft does not exceed .080 inch, when shaft is fully extended.

(5) General condition of ballscrew/nut assembly and security of ball return tube and related clamp.

(f) Inspect for damage and wear of sealing rings in inner and outer actuator covers, used to protect ballscrew and threaded shaft from moisture and dirt.

(g) If any of the items inspected in sections (e) and (f) above are not satisfactory, the actuator must be repaired, overhauled, or replaced, as necessary.

(h) Lubricate the threaded shaft by brush-daubing it with MIL-G-23827 grease.

(i) Rotate the threaded shaft to the fully extended position.

(j) Slide the outer cover aft to the proper position on the rod end cap.

(k) Install the four retaining screws and safety wire.

(l) Reconnect the flap to the actuator lug by installing attaching bolt, washer, nut, and cotter pin.

(m) Check for proper operation and rigging of the wing flaps and flap position indication according to EMBRAER Technical Manual T.O. 1C95-2-5.

Note.—

EMBRAER Alert Service Bulletin 110-27-A43 covers the procedures and specifications incidental to this AD.

Compliance with the provisions of this AD may be accomplished in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, Southern Region.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, Southern Region, may adjust the inspection compliance times specified in this Airworthiness Directive to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This amendment is effective November 30, 1979.

Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), 14 CFR 11.89.

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Georgia, on November 8, 1979.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 79-35083 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-WE-30-AD; Amdt. 39-3618]

McDonnell Douglas DC-9 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective to all persons an amendment adopting an airworthiness directive (AD) which was previously made effective to all known operators of McDonnell Douglas Model DC-9 series airplanes by telegraphic messages dated September 18, 1979 and September 28, 1979. This AD was required because of failure of the aft pressure bulkhead has resulted in cabin decompression and degraded flight and powerplant control functions.

DATES: Effective December 24, 1979, and was effective earlier for all recipients of

telegraphic AD T79WE13 dated September 18, 1979 and telegraphic AD T79WE15 dated September 28, 1979.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846. Attention: Director, Publications and Training C1-750 (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 918, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or Rules Docket in Room 8W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: An emergency airworthiness directive was adopted September 18, 1979 and superseded on September 28, 1979. The ADs were made effective immediately upon receipt of telegrams to all known U.S. operators of DC-9 series airplanes. The AD was necessary because of a failure of the aft pressure bulkhead which resulted in cabin depressurization and degraded flight and powerplant control functions. The AD requires visual and X-ray inspections of the aft pressure bulkhead on airplanes equipped with non-ventral door aft pressure bulkhead P/N 5910163.

Subsequent to issuing these telegrams the FAA determined that the request for special reports should be limited to the initial inspections and that provisions should be made for equivalent level of safety actions. These changes are relieving and impose no additional burden on any person, therefore the AD has been changed accordingly.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impractical and contrary to the public interest, and good cause existed to make the ADs effective immediately as to all operators of the McDonnell Douglas DC-9 series airplanes. These conditions still exist and the amended AD is hereby published in the Federal Register as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9 series airplanes,

certificated in all categories, equipped with the non-ventral door aft pressure bulkhead P/N 5910163, and with more than 10,000 landings.

Compliance required as indicated.

To detect fatigue cracks and prevent failure of the aft pressure bulkhead, accomplish the following:

(a) For aircraft not previously modified or repaired in accordance with McDonnell Douglas DC-9 Service Bulletin 53-127 dated May 25, 1978, accomplish the following:

(1) Within 10 landings after the effective date of this AD, unless already accomplished in accordance with telegraphic AD T79WE13 dated September 18, 1979 or telegraphic AD T79WE15 dated September 28, 1979, conduct an initial visual inspection per Step 1, Figure 1, of McDonnell Douglas DC-9 Alert Service Bulletin A53-127, Revision 1, dated September 28, 1979. The visual inspection shall encompass the entire periphery of the emergency exit doorjamb structure.

(2) Within 100 landings after the effective date of this AD, unless already accomplished in accordance with telegraphic AD T79WE15 dated September 28, 1979, conduct both visual and X-ray inspections per Steps 3 through 10, Figure 1, of McDonnell Douglas DC-9 Alert Service Bulletin A53-127, Revision 1, dated September 28, 1979. The visual portion of the inspection shall encompass the entire periphery of the doorjamb structure.

(3) Within 250 landings of the inspection required by paragraph (a)(2) of this AD and thereafter at intervals not to exceed 250 landings, conduct a visual inspection per Step 1, Figure 1, of McDonnell Douglas DC-9 Alert Service Bulletin A53-127, Revision 1, dated September 28, 1979. The visual inspection shall encompass the entire periphery of the emergency exit doorjamb structure.

(4) Within 1,000 landings from the inspection required by paragraph (a)(2) and thereafter at intervals not to exceed 1,000 landings, conduct X-ray inspections per Steps 8 through 10 and a visual inspection per Step 1, Figure 1, of McDonnell Douglas DC-9 Alert Service Bulletin A53-127, Revision 1, dated September 28, 1979. The visual inspection shall encompass the entire periphery of the emergency exit doorjamb structure.

(b) For aircraft previously modified or repaired per McDonnell Douglas DC-9 Service Bulletin 53-127 dated May 25, 1978, accomplish the following:

(1) Within 100 landings after the effective date of this AD, unless already accomplished subsequent to September 25, 1979, conduct X-ray inspections per Steps 8 through 10, Figure 1, of McDonnell Douglas DC-9 Alert Service Bulletin A53-127, Revision 1, dated September 28, 1979, and a visual inspection of the entire periphery of the emergency exit doorjamb structure.

(2) Within 2,000 landings after inspection per paragraph (b)(1) of this AD and thereafter at intervals not to exceed 2,000 landings, conduct X-ray inspections of the jamb structure per Steps 8 through 10, Figure 1, of McDonnell Douglas DC-9 Alert Service Bulletin A53-127, Revision 1, dated September 28, 1979, and a visual inspection of the entire periphery of the emergency exit doorjamb structure.

(c) If cracks are found during any of the inspections required by this AD, repair before further flight in accordance with the following:

(1) For cracks which are limited to the emergency exit doorjamb, repair as shown for Condition 2, Figure 2, of McDonnell Douglas DC-9 Alert Service Bulletin A53-127, Revision 1, dated September 28, 1979.

(2) For cracks which extend through the emergency exit doorjamb and into the pressure bulkhead web, repair as shown for Condition 3, Figure 3, of McDonnell Douglas DC-9 Alert Service Bulletin A53-127, Revision 1, dated September 28, 1979.

(3) For cracks for which no repair is prescribed in McDonnell Douglas DC-9 Alert Service Bulletin A53-127, Revision 1, dated September 28, 1979, repair in accordance with FAA approved data.

(d) Within 24 hours after the initial inspections per paragraph (a)(2) and paragraph (b)(1), report the results of the initial inspections by Telex to the Chief, Aircraft Engineering Division, FAA Western Region. Include in the reporting information the date and condition of modification or repair per DC-9 Service Bulletin 53-127 or A53-127, McDonnell Douglas fuselage number, factory serial number, and registration number.

(e) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplanes unpressurized to a base where the inspections or crack repair can be performed.

(g) For the purposes of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operator's fleet average time from takeoff to landing for the DC-9 airplane.

This amendment becomes effective December 24, 1979 and was effective upon receipt for all recipients of telegraphic AD T79WE13 dated September 18, 1979 and telegraphic AD T79WE15 dated September 28, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on November 8, 1979.

William R. Krieger,

Acting Director, FAA Western Region.

[FR Doc. 79-35084 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 79-ASW-54; Amdt. 39-3612]

14 CFR Part 39

Mitsubishi Aircraft International, Inc., Models MU-2B Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires wiring modifications on the Mitsubishi Aircraft International, Inc., (MAI) Models MU-2B series airplanes. The AD is needed to prevent the accidental pumping of fuel overboard which could result in ground or in-flight fires.

DATE: Effective November 21, 1979. Compliance required within the next 50 hours' time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable Service Bulletins may be obtained from Mitsubishi Aircraft International, Inc., Post Office Box 3848, San Angelo, Texas 76901. A copy of these Service Bulletins is contained in the Rules Docket, at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: A. A. Backstrom, Propulsion Section, Engineering and Manufacturing Branch, ASW-214, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101, telephone number 817-824-4911, extension 524.

SUPPLEMENTARY INFORMATION: The FAA has determined that improper usage of the fuel transfer switches may result in pumping up to 70 gallons of fuel overboard. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires revision to the airplane wiring so fuel will not be pumped overboard even when improper usage of the fuel transfer switches is attempted on the MAI Model MU-2B series airplanes.

Since a situation exists which requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is

amended by adding the following new airworthiness directive:

Mitsubishi Aircraft International, Inc., (MAI).

Applies to MAI Model MU-2B series, serial numbers 354SA, 356SA, 374SA, 387SA, 392SA, 393SA, 709SA, 723SA, 728SA, and other aircraft which have previously complied with Service Recommendation No. SR017/28-001, dated July 25, 1979; MU-2B-40, serial numbers 395SA through 412SA, 414SA, and 416SA; Model MU-2B-60, serial numbers 731SA through 747SA and 749SA through 757SA.

Compliance is required within the next 50 hours' time in service after the effective date of this airworthiness directive, unless already accomplished, except that the airplane may be flown in accordance with FAR 21.197 to a base where the modifications can be performed.

To prevent pumping fuel overboard, accomplish the following: Modify outer fuel tank switch wiring in accordance with Mitsubishi Aircraft International Service Bulletin No. SB013/28-001, dated October 18, 1979; or Service Bulletin No. SB014/28-002, dated October 18, 1979, as applicable; or an equivalent method.

Mitsubishi Aircraft International, Inc., Service Bulletin No. SB013/28-001 and Service Bulletin No. SB014/28-002 pertain to and provide instructions for accomplishing the intent of this AD. The manufacturer's procedures identified and described in this directive are incorporated herein and made a part thereof pursuant of U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Mitsubishi Aircraft International, Inc., Post Office Box 3848, San Angelo, Texas 76901. These documents may also be examined at Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

This amendment becomes effective November 21, 1979.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 142, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas, on November 5, 1979.

Note.—The incorporation by reference in this document was approved by the Director of the Federal Register on June 19, 1967.

C. R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 79-35882 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-13]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area—Forest City, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Forest City, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Forest City, Iowa Municipal Airport based on a Non-Directional Radio Beacon (NDB), a navigational aid, being installed on the airport by the City of Forest City, Iowa. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: Effective January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Forest City Municipal Airport, Forest City, Iowa, is being established based on a Non-Directional Radio Beacon (NDB), a navigational aid, being installed on the airport by the City of Forest City, Iowa. The establishment of an instrument approach procedure based on this approach aid entails the alteration of the transition area at Forest City, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 50857 of the Federal Register dated August 30, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Forest City, Iowa. Interested persons were invited to participate in this rule making

proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442), is amended effective 0901 GMT January 24, 1980, by altering the following transition area:

Forest City, Iowa

That airspace extending upward from 700 feet above the surface within a 8½ mile radius of the Forest City Municipal Airport (latitude 43°14'00" N, longitude 93°37'30" W). Excluding that portion overlying the Mason City, Iowa, 700 foot transition area.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on November 9, 1979.

John E. Shaw,
Acting Director, Central Region.

[FR Doc. 79-35879 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-EA-60]

Designation of Federal Airways; Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area: Deferiet, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will designate a temporary Deferiet, N.Y., Transition Area. This designation will provide protection for military aircraft participating in a military joint readiness exercise called Empire Glacier '80. The nature of the exercise requires a controlled medium and separation of military and other users of the airspace.

EFFECTIVE DATE: 0901 GMT January 2, 1980.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace and Procedures

Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment is to designate a temporary transition area in which a military readiness exercise may be conducted. The exercise is scheduled for January and February 1980.

The area involved extends generally from north through south around the Great Bend, N.Y., 700-foot floor transition area to an average distance of 10 miles. Since the commencement of the exercise is January 2, 1980, notice or public procedure hereon are impractical and good causes exists for making the rule effective in less than 30 days.

Drafting Information

The principal authors of this document are Charles J. Bell, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 January 2, 1980, as follows:

§ 71.181 [Amended]

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a temporary 700-foot floor transition area as follows:

Deferiet, N.Y.

That airspace extending upward from 700 feet above the surface bounded by latitude 44°17'59"N, longitude 75°42'29"W, clockwise along a 17-mile arc centered at latitude 44°03'00"N, longitude 75°44'00"W (Wheeler-Sack, NY Airport) to latitude 44°09'00"N, longitude 75°25'00"W to latitude 44°00'00"N, longitude 75°14'50"W, to latitude 43°53'30"N, longitude 75°14'50"W, to latitude 43°53'30"N, longitude 75°29'10"W, to latitude 43°43'40"N, longitude 75°44'30"W, to latitude 43°50'30"N, longitude 75°53'30"W, to latitude 44°04'10"N, longitude 75°49'10"W to the point of beginning. This transition area is effective from January 2, 1980, to February 1, 1980.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York on October 29, 1979.

Murray E. Smith,
Director, Eastern Region.

[FR Doc. 79-35878 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SO-76]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Auburn, Ala., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Auburn, Alabama, Transition Area. The name of the Auburn-Opelika Airport has been changed to Auburn-Opelika Robert G. Pitts Airport. The action of Auburn University, officially changing the Airport name, requires this to be reflected in the Transition Area description.

EFFECTIVE DATE: January 24, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: Auburn University officially changed the name of the Auburn-Opelika Airport to Auburn-Opelika Robert G. Pitts Airport. Therefore, it is necessary to alter the description of the Auburn, Alabama, Transition Area to reflect the name change. Since this alteration is editorial in nature, notice and public procedure hereon are not necessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, January 24, 1980, by altering the Auburn, Alabama, Transition Area as follows:

*** Auburn-Opelika Airport *** is deleted and

*** Auburn-Opelika Robert G. Pitts Airport *** is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this

action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on November 8, 1979.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 79-35876 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

[Airspace Docket No. 79-RM-26]

14 CFR Part 71

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Alteration of Transition Areas and Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the 700' and 1,200' transition areas and control zone at Gillette, Wyoming to provide controlled airspace for aircraft executing the new localizer runway 33, standard instrument approach procedure to the Gillette-Campbell County Airport, Gillette, Wyoming and additional controlled airspace for holding aircraft and for air traffic control purposes.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:
History

On September 26, 1979, the FAA published for comment a Notice of Proposed Rulemaking (NPRM) to alter the 700' and 1,200' transition areas and control zone at Gillette, Wyoming (44 FR 57935). No objections were received in response to this notice.

The Rule

This amendment to subparts F and G of Part 71 of the Federal Aviation Regulations amends the 700' and 1,200' transition areas and control zone at Gillette, Wyoming. This action is necessary to provide controlled airspace for aircraft executing the new localizer runway 33, standard instrument approach procedure to the Gillette-Campbell County Airport, Gillette, Wyoming, and to provide controlled airspace for holding aircraft and for air traffic control purposes.

Drafting Information

The principal authors of this document are David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 GMT, January 24, 1980, as follows:

By amending subpart F, section 71.171 (44 FR 353) by altering the following control zone:

Gillette, Wyo.

Within a 5-mile radius of the Gillette-Campbell County Airport (latitude 44°20'52"N., longitude 105°32'34"W.); and within 3.5 miles each side of the Gillette VOR 171° radial extending from the 5-mile radius to 14 miles south of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective time will thereafter be continuously published in the Airman's Information Manual.

By amending subpart G, section 71.181 (44 FR 442) by altering the following transition areas:

Gillette, Wyo.

That airspace extending upward from 700 feet above the surface within 7 miles east and 9.5 miles west of the Gillette VOR (latitude 44°20'52"N., longitude 105°32'34"W.) 176° and 356° radials, extending from 17.5 miles south to 18.5 miles north of the VOR, and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 44°47'00"N., longitude 106°22'30"W.; to latitude 44°23'00"N., longitude 106°22'30"W.; to latitude 44°16'00"N., longitude 105°58'00"W.; to latitude 44°05'00"N., longitude 106°00'00"W.; to latitude 43°49'15"N., longitude 106°09'30"W.; to latitude 43°39'00"N., longitude 106°00'00"W.; to latitude 43°39'00"N., longitude 105°09'00"W.; to latitude 44°08'00"N., longitude 105°09'00"W.; to latitude 44°01'00"N., longitude 104°51'00"W.; to latitude 44°30'00"N., longitude 104°41'00"W.; thence to point of beginning.

(Sec. 307(a) Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colorado on November 9, 1979.

M. M. Martin,
Director, Rocky Mountain Region.

[FR Doc. 79-35674 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

(Airspace Docket No. 79-SO-74)

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area, Salisbury, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This rule redesignates an extension and corrects the geographic location of the Salisbury RBN in the Salisbury, North Carolina, Transition Area. This action provides controlled airspace required to protect instrument flight operations at the Rowan County Airport.

EFFECTIVE DATE: December 6, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In the Salisbury, North Carolina, Transition Area described in § 71.181 (44 FR 442), an extension was designated on the 017° bearing from the Salisbury RBN to provide controlled airspace for aircraft executing the NDB-A standard instrument approach procedure at the Rowan County Airport. The final approach course and geographic location of the Salisbury RBN have been changed. It is necessary to redesignate the extension and correct the RBN location in order to provide the required controlled airspace to protect aircraft executing the approach procedure.

Since this amendment is minor in nature and creates no burden on the public, notice and public procedures hereon are unnecessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT December 6, 1979, as follows:

Salisbury, N.C.

"... 017° bearing from Salisbury RBN (latitude 35°40'29"N., longitude 80°30'22"

W.) ... is deleted and "... 023° bearing from Salisbury RBN (latitude 35°40'27"N., longitude 80°30'22"W.) ... is substituted therefor.

(Sec. 307(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on November 5, 1979.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 79-35675 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 73

(Airspace Docket No. 79-WE-14)

Special Use Airspace; Establishment of Temporary Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This amendment establishes a temporary joint use restricted area in the vicinity of Yuma, Ariz., to contain the testing and development of military drones by the U.S. Army. This action provides for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the temporary restricted area during the hours the area is activated.

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: On October 11, 1979, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to establish temporary restricted area R-2311 Army Proving Grounds, Yuma, Ariz., to contain the developmental testing of military drones (44 FR 58746). The only activity to be conducted in this area is flight operations of military drones

which travel at speeds in excess of 400 miles per hour. Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received that objected to the proposal. Section 73.23 was republished in the Federal Register on January 3, 1979, (44 FR 672).

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) establishes temporary restricted area R-2311 Army Proving Grounds, Yuma, Ariz., to protect nonparticipating aircraft during the times that R-2311 is activated. The Commander, Yuma Proving Ground, will release the airspace for public use immediately on completion of the drone flights. Chief, Facility Engineering Directorate, has provided the certificate indicating that the requirements of the National Environmental Protection Act (NEPA) has been met.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 672) is amended, effective 0901 GMT, November 29, 1979, as follows:

Under § 73.23 the following temporary restricted area is added: R-2311 Army Proving Grounds, Yuma, Ariz. Boundaries. Beginning at Lat. 33°05'00"N., Long. 113°39'04"W.; to Lat. 33°05'00"N., Long. 113°22'00"W.; to Lat. 33°01'00"N., Long. 113°21'00"W.; to Lat. 32°53'50"N., Long. 113°36'20"W.; to Lat. 32°52'50"N., Long. 113°50'10"W.; to Lat. 32°58'00"N., Long. 113°37'20"W.; to Lat. 33°02'00"N., Long. 113°37'20"W.; to Lat. 33°02'00"N., Long. 113°39'04"W.; to point of beginning.

Designated altitudes, 1500 feet MSL to 5500 feet MSL.
Time of designation. Continuous 0600 to 1200 local time daily, December 1, 1979, through September 30, 1980; and from April 1, 1981, through March 31, 1982. Other times by NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.
Using agency. Commanding Officer, U.S. Army Proving Ground, Yuma, Ariz.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations,

the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 16, 1979.

William E. Broadwater,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-35974 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 73

(Airspace Docket No. 79-AL-21)

Special Use Airspace; Alteration of Restricted Areas Controlling Agency

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This amendment changes the location of the controlling agency for Yukon, Alaska, R-2205 and Blair Lakes, Alaska, R-2211 restricted areas from Eielson Approach Control and Eielson RAPCON to Fairbanks Approach Control.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 73 is to change the location of the FAA facility that is the controlling agency of R-2205 and R-2211. Because this action merely identifies the present location of the controlling agency without changing the agency, it is administrative in nature and a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary and good cause exists for making this action effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.22 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 671) is amended, effective November 23, 1979, as follows:

In R-2205 Yukon, Alaska, under Controlling agency, "Federal Aviation Administration, Eielson Approach Control." is deleted and "FAA, Fairbanks Approach Control." is substituted therefor.

In R-2211 Blair Lakes, Alaska, under Controlling agency, "Federal Aviation Administration, Eielson RAPCON." is deleted

and "FAA, Fairbanks Approach Control." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 16, 1979.

B. Keith Potts,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-36086 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION**17 CFR Part 240**

[Release No. 34-16346]

Information Required in Solicitation of Proxies Other Than by the Issuer

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting an amendment to its rules and regulations providing for the filing of a statement in triplicate, by participants in a proxy solicitation other than the issuer, containing the information specified in Schedule 14B, with both the Commission and with each national securities exchange upon which any security of the issuer is listed and registered. Formerly, copies of such information were required to be filed in duplicate, resulting in their unavailability in the Public Reference Room for at least fifteen days. This increase will permit the distribution of these three copies respectively among the Office of Reports and Information Services, the branches in the Division of Corporation Finance, and the Commission's Public Reference Room. Furthermore, the national securities exchanges have also indicated that a third copy of the statement containing the information specified in Schedule 14B be submitted to them for their particular purposes.

EFFECTIVE DATE: December 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mary A. Binno, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., 20549 (202) 272-2604.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of an amendment to Rules 14a-11(c) (1) and (2) (17 CFR 240.14a-11(c) (1) and (2)) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 [June 4, 1975]).

The amendments require those persons making a solicitation pursuant to Rule 14a-11 to file the information specified by Schedule 14B in triplicate with both the Commission and the national securities exchanges. This increase in the number of copies required to be filed will facilitate the immediate availability of such documents for use in the Commission's Public Reference facilities and will expedite their review and processing in the respective branches of the Division of Corporation Finance. Moreover, inquiries made of several of the national securities exchanges have also indicated that the increase is necessary for their particular purposes.

Amendments

Accordingly, 17 CFR Part 240 is amended by deleting the word "duplicate" in paragraphs (c) (1) and (2) of § 240.14a-11 and substituting the word "triplicate" therefor.

Certain Findings

The Commission finds that the foregoing amendments are minor and technical in nature and, accordingly, that notice and prior publication for comment under the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

The Commission has considered the impact of such amendments on competition as required by Section 23(a)(2) of the Exchange Act (15 U.S.C. 78w(a)(2)) and has concluded that there is none.

Statutory Authority

The amendments are adopted pursuant to Section 23(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)(1)).

By the Commission.
George A. Fitzsimmons,
Secretary.
November 16, 1979.
[FR Doc. 79-36033 Filed 11-21-79; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271 and 274

[Docket No. RM79-72]

Clarification of and Amendments to the Regulations and Amendment to the Interim Regulations Implementing the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rules.

SUMMARY: The Commission is clarifying its final regulations implementing section 103 of the Natural Gas Policy Act, which establishes the maximum lawful price for gas from new, onshore production wells. Also, the Commission is amending the final regulations regarding the well spacing requirements and the special rule applicable to existing proration units. Also, it is amending its interim regulations with regard to requirements for filing with jurisdictional agencies consistent with the amendments to the special rule.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Thom Hirsch, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8511.

Howard Kilchrist, Director of NGPA Compliance, Office of Pipeline & Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8585.

SUPPLEMENTARY INFORMATION:

Final rule amending regulations on natural gas from new, onshore production wells and amendment to the filing requirements in § 274.204 of the interim regulations; Order No. 43-A Order Granting in Part and Denying in Part Rehearing of Order No. 43 and Amending Regulations (Docket No. RM 79-72) (Issued November 16, 1979).

On August 20, 1979, the Commission in Order No. 43 (44 FR 49651) issued final regulations implementing section 103 of the Natural Gas Policy Act of 1978 (NGPA),¹ which concerns new, onshore production wells. Eight petitions for rehearing of Order No. 43 have been

received by the Commission.² After consideration of the comments contained in the petitions, the Commission will grant in part rehearing of Order No. 43, amend Subpart C of Part 271 of the final regulations and Subpart B of Part 274 of the interim regulations and clarify certain aspects of Order No. 43.³

Special Rule Respecting Existing Proration Units

Each of the rehearing petitions addressed § 271.305 of the final regulations, the special rule applicable to existing proration units. The special rule, as set forth in Order No. 43, provides that in order for a second well on an existing proration unit to qualify as a new, onshore production well, the appropriate jurisdictional agency must explicitly find, prior to drilling, that the second well "is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit." The special rule also required that, if allowables had been set for the unit by a State regulatory agency, the jurisdictional agency must set separate allowables for both the existing well and the new well.

In Order No. 43, the Commission indicated that a redefined proration unit would be recognized as a proration unit for purposes of section 103 only where the agency, in creating the unit, had made an explicit finding prior to the

¹ Petitions for rehearing were filed by Sun Gas Company (Sun Gas); Amoco Production Company (Amoco); El Paso Natural Gas Company (El Paso); the State of New Mexico; the Texas Railroad Commission (Texas); Consolidated Oil & Gas, Inc.; Four Corners Gas Producers Association an Independent Petroleum Association of New Mexico, jointly; (New Mexico Producers); Indicated Oklahoma Producers (Oklahoma Producers) and the Indicated Producers. The deadline for filing the petitions for rehearing was September 19, 1979. The petition of the New Mexico Producers was stamped by the Office of the Secretary of the Commission on September 20, 1979. The Commission finds that the petition of the New Mexico Producers is untimely filed. However, in light of the importance of the final regulations at issue here, the Commission hereby waives the filing deadline requirement as it applies to the New Mexico Producers.

² On October 15, 1979, the Commission received a supplemental filing by Texas, wherein Texas requested that the Commission not apply any additional requirements imposed by Order No. 43 to wells drilled prior to issuance of the order. Texas also requested that the Commission suspend the effectiveness of Order No. 43 in general and hold further conferences to hear and consider additional comments by the jurisdictional agencies on section 103 of the NGPA. The only additional requirement imposed by Order No. 43 was the requirement that in certain situations the agencies must set separate allowables for each well on a proration unit. The requirement has been eliminated, *infra*. We do not find good cause to suspend the final rule, and, accordingly, we will not stay the effectiveness of the rule as modified by this Order.

drilling of a new well that the well was necessary for effective and efficient drainage. In so stating, the Commission made clear that the new well, although it is the first well on a redefined proration unit, would nevertheless be subject to the special rule.

The petitions on rehearing on Order No. 43 raised questions regarding the timing of the effective and efficient drainage finding, the special rule's applicability to redefined proration units, the definition of existing well and the allowables rule. In reconsideration of Order No. 43, the Commission hereby amends its rules regarding the timing of the effective and efficient drainage finding and the definition of existing well for purposes of the special rule. Also, the Commission is modifying its view of the applicability of the special rule to redefined proration units. Finally, the Commission is deleting the allowables rule and is proposing, in a separate rulemaking, to accomplish the objectives of the allowables rule through a more appropriate device.

The Oklahoma Producers and Sun Gas object to the requirement in § 271.305 that the finding regarding the effective and efficient drainage of the proration unit be made prior to the drilling of the new well. The Oklahoma Producers submit that in Oklahoma, appropriate procedures are not available for making the finding prior to drilling. Moreover, these producers submit that even if Oklahoma conducted the necessary proceedings prior to drilling, the proceedings would have no legitimate purpose under Oklahoma law. The Oklahoma Producers contend that in establishing the possibility of alternative procedures in § 271.305(e), the Commission has already recognized that the effective and efficient drainage finding is not required, under the NGPA, prior to drilling. It is requested that the Commission allow the finding to be made as part of the well category determination by the jurisdictional agency, especially where the first well in the unit is no longer producing. Sun Gas adds that this requirement of a prior finding causes substantial delay in the drilling of new wells and thus, in getting new gas supplies to market.

The most obvious shortcoming of requiring the finding prior to the drilling of the new well is a practical one. In many cases, only after the well has been drilled can the appropriate engineering and geological data be collected to make a reasonable determination as to whether the new well is necessary to effectively and efficiently drain the relevant portion of the reservoir. Indeed, in all cases, a more accurate

determination can be made after drilling and the collection of more accurate data.

Moreover, the Commission is concerned that by requiring that the effective and efficient drainage finding be made prior to drilling, the drilling of many new, onshore production wells may be unnecessarily delayed. Such delays frustrate the underlying Congressional policy embodied in section 103 of the NGPA to spur the development of new production wells.

The Commission recognizes the difficulty of this issue concerning the timing of the effective and efficient drainage finding. We have therefore re-examined the words of both section 2(8) and section 103 of the NGPA and have determined that the NGPA explicitly directs the nature of the finding which must be made but does not limit the Commission's discretion with regard to what is essentially a procedural decision: the appropriate time for the decision to be made.

Section 103 clearly requires that a well may receive the section 103 price only upon a finding that the well must be necessary to effectively and efficiently drain the reservoir. The Commission does not propose to vary from the statutory requirement that this finding be made. However, the Commission is persuaded by the arguments of the States and the producers that often this finding can be made most appropriately after the well has been drilled.

Arguably, this interpretation is in conflict with a literal reading of the Joint Statement of Managers, which says that "[i]n all cases, the unit must be designated prior to drilling the new well." ⁴ However, on re-examination of this issue we believe the unintended and detrimental effects of a strict literal application of this admonition can and should be avoided.

We believe that the purpose of this language in the legislative history is to make clear that the effective and efficient drainage finding must be based on facts concerning conditions as they existed prior to the drilling of the new well, and should not be read literally to preclude a jurisdictional agency from adducing evidence of those facts at a later time, when more complete and informative data is available. This interpretation is particularly compelling in light of policy considerations which favor an interpretation which promotes production, encourages administrative efficiency and avoids anomalous results.

⁴ S. Rep. No. 95-1752, 95th Cong., 2d Sess. 81 (1978).

We are of the view that the statutory command can be met, if, on the basis of engineering and geological data (including data obtained after drilling) the jurisdictional agency can reasonably conclude that as of the time of the commencement of surface drilling the specific well was necessary for the effective and efficient drainage of the reservoir. In a case where the only data available to the jurisdictional agency is data obtained after the commencement of surface drilling, the agency may make the effective and efficient drainage finding solely on the basis of that data; the Commission presumes that a finding so supported could have been made at the time drilling commenced, and will regard it as if it had been made at that time.

Section 271.305 will be amended to reflect this change in the Commission's policy and interpretation of section 103, including the deletion of the rule formerly in § 271.305(c) for wells drilled during the transitional period prior to the NGPA. However, it should be noted that where a jurisdictional agency has already made the finding previously required by § 271.305(c), such finding will be accepted by the Commission as satisfying the requirement of the effective and efficient drainage finding under § 271.305(b) for the subject well.

This change in Commission policy regarding the timing of the effective and efficient drainage finding would also alleviate another anomalous result in the case where a producer commences drilling and encounters multiple reservoirs. In such a situation the producer, under our previous requirements, could unexpectedly encounter a reservoir which is not being effectively and efficiently drained by an existing well, but would not be able to collect the section 103 price for gas produced from the reservoir because the appropriate finding did not precede the surface drilling. Our present action avoids such results.

In view of our decision as explained above, the Commission believes that it is similarly appropriate to recognize for the purposes of section 103(c)(2) a waiver or alteration of well-spacing requirements where the waiver or alteration is granted by the jurisdictional agency after drilling of the new well. For example, where the new well penetrates more than one reservoir, the jurisdictional agency might not decide to waive its well-spacing requirements as to a certain reservoir until the agency has found that the well is needed to effectively and efficiently drain that particular reservoir. As noted, especially in the multiple reservoir

situation the effective and efficient drainage finding as to some reservoirs is most appropriately made after the well is drilled. Thus, the Commission will no longer require that the alteration or grant of a waiver of well-spacing requirements be made prior to drilling of the new well. Accordingly, § 271.304 is amended to reflect this change.

The next issue raised in the petitions for rehearing concerns the applicability of the special rule where the jurisdictional agency has redefined the boundaries of the existing proration unit designating a new proration unit, prior to the drilling of a new well. Texas submits that § 271.305 should not apply where the new well would have been the second well on a previously existing proration unit, but because of the designation of the new unit is now the first well on the proration unit.

Texas notes that it designates proration units on the basis of the ability of a well (which is to be drilled on the unit) to effectively and efficiently drain the reservoir; thus, Texas argues, the proration unit designation constitutes and implicit effective and efficient drainage finding made prior to the commencement of surface drilling, and should be accepted as such. They conclude, therefore, that the new well, being the only well on the new proration unit designated prior to the commencement of surface drilling, should qualify as a new, onshore production well without the jurisdictional agency being required to make an explicit effective and efficient drainage finding under § 271.305 regarding that well prior to the commencement of drilling. The Indicated Producers make an argument similar to that of Texas.

After reconsidering this matter and reviewing the legislative history of section 103, the Commission now believes that a modification in interpretation of the final regulations is appropriate.

The Commission notes that this issue highlights a possible distinction between the concept of a "State law proration unit" which is used by the States in regulating natural gas production and the concept of "NGPA proration unit" which is defined in the NGPA and the Commission's regulations. A State law proration unit—that is, a proration, production or drilling unit established by a State—is a production area designated on the basis of criteria which may vary from State to State; e.g., correlative rights or State conservation laws. In contrast, an NGPA proration unit is defined in section 2(8) of the NGPA as a portion of a reservoir designated or recognized in a variety of

ways as that portion of the reservoir which can be effectively and efficiently drained by a single well.

For the purposes of section 103, the jurisdictional agency can designate or recognize an NGPA proration unit in two ways. First, if the jurisdictional agency explicitly finds for purposes of § 271.305 that a second well on a State law proration unit is necessary to effectively and efficiently drain a portion of that unit, for section 103 purposes the agency is making a de facto designation of that portion of the unit as an NGPA proration unit, inasmuch as the State is designating a portion of a reservoir that can be drained effectively and efficiently by a new well. Second, a jurisdictional agency may, prior to drilling a new well, designate an NGPA proration unit by redefining the boundaries of a previously existing State law proration unit, and by establishing the new unit explicitly or implicitly on the basis of the effective and efficient drainage of the relevant portion of the reservoir by the new well. In both of these situations, the new well is the only well on the NGPA proration unit and can qualify as a new, onshore production well.

Accordingly, where a jurisdictional agency prior to the drilling of a new well designates a proration unit, either individually or through field rules, on the basis that the designation of the new unit is necessary for effective and efficient drainage, the Commission will recognize a new well drilled in the unit so designated as meeting the requirements of section 103 and will not require the explicit effective and efficient drainage finding under § 271.305 with respect to the new well. If the proration unit is redefined after the drilling of a new well, the state may qualify a new well if it makes an explicit finding. See discussion, *supra*.

The next issue raised in the petitions for rehearing centers on the reference in the special rule to an "existing well" in § 271.305. The question arises because section 103 of the NGPA states that an eligible well may not be within a proration unit which, among other things, applied to a well which produced natural gas in commercial quantities. Under § 271.305, a second well on an existing proration unit may qualify as a new, onshore production well only when the second well is determined to be necessary to drain a portion of a reservoir which cannot be effectively and efficiently drained by "any existing well" located on the proration unit. A problem may arise where State law does not terminate a previously existing proration unit after the last well on the

unit is plugged and abandoned; in such circumstances, is the plugged and abandoned well an existing well within the proration unit?

The Oklahoma Producers contend that a well which is incapable of producing, especially one which has been plugged and abandoned, should not be considered an existing well and that in this situation, the new well should not be considered a second well on the unit. The Indicated Producers submit that any well plugged and abandoned prior to January 1, 1970, should not be considered an existing well. These producers assert that it is difficult to ascertain whether a well has been drilled, produced, plugged and abandoned in the distant past, and that the suggested cut-off date is reasonable, because it was used in a similar way by the Congress in defining marker wells in section 2(5) of the NGPA.

The Commission is persuaded by these comments. Accordingly, the Commission will amend § 271.305 to provide that where a well has been plugged and abandoned before January 1, 1970 and has not produced natural gas on or after that date, a rebuttable presumption is created, for the purposes of section 103, that the well has not produced and is not capable of producing natural gas in commercial quantities. Accordingly (unless the record contains information to the contrary) the Commission will accept that a well was plugged and abandoned prior to 1970 as sufficient to meet the requirements in section 103(c)(3)(C) as to the absence of previous production history for the existing well.

The Commission's filing requirements in § 274.204 also will be amended to take into account the use of the rebuttable presumption by the applicant. Of course, the applicant may not use the rebuttable presumption where the applicant has actual knowledge that another well located on the proration unit had produced (or after February 19, 1977, was capable of producing) natural gas in commercial quantities.

The issue that attracted most of the comments in the petitions for rehearing concerned the requirement in § 271.305(b)(2)(ii), that where a State agency establishes allowables or production levels for proration units, the agency must also set allowables for each well in the unit in order for gas from the new well which is the second well in the unit to qualify for the section 103 price. As the Commission stated in Order No. 43 (*mimed.*, p. 9), it is concerned that where a jurisdictional agency finds that both an existing well and a new well are necessary to effectively and efficiently drain the gas

within the proration unit and a State has established allowables for the unit but has not established separate allowables for each well, there is an incentive to produce a disproportionate amount of gas from the new well because it commands the higher section 103 price. To prevent this, the Commission in § 271.305(b)(2)(ii) conditioned eligibility on the jurisdictional agency setting separate allowables for each well, based on the respective ability of the well to deliver gas.

Texas, the State of New Mexico and the New Mexico Producers have raised various procedural and substantive objections to the allowables rule. They submit that the rule represents an unlawful intrusion into the preserve of State regulation, is discriminatory in effect and is unduly burdensome to both producers and jurisdictional agencies. They also urge that interested and affected persons be afforded notice and an opportunity for comment on this regulation prior to its effective date.

In consideration of these comments, the Commission believes that the objective of the allowables rule—to assure that a disproportionate amount of the gas which can be produced from the unit is not priced at the section 103 price—can be better accomplished by other means, and has decided that further comment by interested and affected parties would be advantageous. Therefore, the Commission is deleting the allowables rule and will issue in connection with this order a notice of proposed rulemaking which will address the concerns previously addressed by § 271.305(b)(2)(ii) under circumstances in which the jurisdictional agency does not establish allowables on a well-by-well basis.

The Oklahoma Producers request that the Commission clarify when the jurisdictional agency must notify the Commission under § 271.305(c) (formerly § 271.305(d)) that the agency has made an effective and efficient drainage finding. The Commission advises that only where the finding relates to a well that later becomes the subject of a section 103 determination and only when that determination is forwarded by the agency to the Commission must the agency so notify the Commission.

The New Mexico Producers request that the filing requirements contained in § 274.204 concerning new, onshore production wells be clarified to apply also to infill wells approved on a poolwide basis. This issue is currently before the Commission in a proceeding involving the alternative filing plan of the State of New Mexico, and will be resolved in that proceeding. See Docket No. RM79-3.

Because the amendments to Subpart C of Part 271 and Subpart B of Part 274 issued herein relieve restrictions previously imposed by the final rule issued in Order No. 43, and the interim regulations regarding filing requirements, the Commission is issuing these amendments effective immediately with regard to jurisdictional agency determinations which have not yet become final under § 275.202 as of the day before the date of issuance of this order. 5 U.S.C. 553(d)(1).

Therefore, in considering all future and pending applications, the jurisdictional agencies may make the effective and efficient drainage finding before or after drilling. Of course, the Commission would uphold a jurisdictional agency determination based on a finding made prior to drilling, in compliance with the prior rule of § 271.305 that a well qualifies as a new, onshore production well, so long as the determination is otherwise in compliance with applicable Commission regulations.

If a jurisdictional agency found prior to the effective date of these amendments that a well qualifies as a new, onshore production well based on an effective and efficient drainage finding made after drilling, the producer may take advantage of the change in § 271.305; that jurisdictional agency determination, if it is otherwise in compliance with applicable Commission regulations, will also be upheld. The Commission knows of no case pending before us for review in which a jurisdictional agency, in compliance with the prior rule of § 271.305, has found that the well is ineligible to qualify under section 103 because no effective and efficient drainage finding had been made prior to drilling. If such a case should arise, however, the Commission would reverse the agency determination where evidence in the record supports a finding made either before or after drilling that the well is necessary to effectively and efficiently drain the reservoir. In the absence of such evidence, the Commission would permit the jurisdictional agency to supplement the record by providing additional evidence, adduced after drilling, that the well is necessary to effectively and efficiently drain the reservoir.

In the case of an adverse section 103 determination which has become final under § 275.202, the applicant may seek an adjustment under section 502(c) of the NGPA, if the applicant believes that the change regarding the timing of the effective and efficient drainage finding has caused a special hardship, inequity

or unfair distribution of burdens. The Commission will consider such adjustments on a case-by-case basis, consistent with the provisions of § 1.41 of the Commission's regulations.

Similarly, in the case of future applications and all applications pending before the jurisdictional agency or the Commission, an applicant may take advantage of all other amendments to the Commission's regulations set forth in this order (including deletion of the allowables rule), and the change in the Commission's interpretation of its regulations with regard to the redefinition of the boundaries of proration units. To the extent necessary, the Commission would handle such cases in a manner similar to the manner in which it intends to handle the amendment regarding the effective and efficient drainage finding. In addition, if an adverse section 103 determination has become final under § 275.202, an applicant who believes that he has suffered a special hardship, inequity or unfair distribution of burdens because of that determination, may seek an adjustment under section 502(c) of the NGPA and § 1.41 of the Commission's regulations.

The Commission Orders: (A) To the extent not granted above, the applications for rehearing of Order No. 43 are denied;

(B) Order No. 43 is clarified, as set forth above; and

(C) Sections 274.204 of the Commission's interim regulations and §§ 271.304 and 271.305 of the final regulations are amended and made effective as set forth above.

(Natural Gas Act, as amended, 15 U.S.C. § 717 *et seq.*; Department of Energy Organization Act, 42 U.S.C. § 7107, *et seq.*; Exec. Order No. 12009, 42 Fed. Reg. 46267; Natural Gas Policy Act of 1978, 15 U.S.C. § 3301, *et seq.*)

In consideration of the foregoing, Subpart C of Part 271 and Subpart B of Part 274, Subchapter H, Chapter I, Title 18, Code of Federal Regulations are amended as set forth below, effective immediately with regard to jurisdictional agency determinations which have not yet become final under § 275.202 as of the day before date of issuance of this order.

By the Commission.
Kenneth F. Plumb,
Secretary.

1. Section 271.304 is amended to read as follows:

§ 271.304 Waivers of well-spacing requirements.

If a jurisdictional agency alters or grants a waiver of any applicable well-

spacing requirements, the new well for which a determination is sought shall be deemed to satisfy any applicable Federal or State well-spacing requirements as required by section 103(c)(2) of the NGPA.

2. Section 271.305 is amended to read as follows:

§ 271.305 Special rule applicable to existing proration units.

(a) *Applicability.* (1) This section applies only to a jurisdictional agency determination with respect to a new well which is within a State law proration unit:

(i) Which was in existence at the time the surface drilling of such well began;

(ii) Which was applicable to the reservoir from which natural gas from such well is produced; and

(iii) Which applied to a well:

(A) Which produced natural gas in commercial quantities; or

(B) The surface drilling of which was begun before February 19, 1977, and which was thereafter capable of producing natural gas in commercial quantities.

(2) For purposes of this paragraph, State law proration unit means a proration unit, drilling unit or similar unit expressly designated in accordance with State law or Federal law (other than the NGPA).

(b) *Wells spudded on or after February 19, 1977.*

(1) In order for natural gas from a well to which this section applies to qualify for the maximum lawful price under this subpart, the jurisdictional agency must explicitly find that the well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit. This explicit finding must be based on appropriate geological and engineering data and such data must be included in the notice of determination submitted to the Commission.

(2) [Reserved]

(c) *Notice of finding.* If the jurisdictional agency makes a finding under paragraph (b)(1) of this section, it shall notify the Commission of such a determination in accordance with § 274.104.

(d) *Rebuttable presumption for certain wells drilled on existing proration units.* For the purposes of section 103(c)(3)(C) of the NGPA and paragraph (a)(1)(iii) of this section, if a well has been plugged and abandoned prior to January 1, 1970 and has not produced natural gas on or after that date, a rebuttable presumption is created that the well has not produced

and is not capable of producing natural gas in commercial quantities.

§ 274.204 [Amended]

3. Section 274.204 is amended in paragraph (d)(3) by deleting the phrase "except as provided in paragraph (f) of this section" and substituting in lieu thereof the phrase "except as provided in paragraphs (f) and (g) of this section".

4. Section 274.204 is further amended by adding a new paragraph (g) to read as follows:

* * *

(g) For the purposes of paragraph (d)(3)(iii) of this section, the applicant may rely on the rebuttable presumption created in § 271.305(d) unless the applicant knew that a well in the proration unit, which was plugged and abandoned prior to January 1, 1970 and has not produced natural gas on or after that date, produced natural gas in commercial quantities or, after February 19, 1977, was capable of producing natural gas in commercial quantities.

[FR Doc. 79-38067 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 431, 514

[Docket No. 79N-0337]

Fee Requirement for Processing of Medicated Feed Applications

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations by deleting the fee requirement for the processing of medicated feed applications for medicated animal feeds containing antibiotics subject to section 512(n) of the act. This action is based on requests to abolish the fee.

EFFECTIVE DATE: December 24, 1979.

FOR FURTHER INFORMATION CONTACT: George Graber, Bureau of Veterinary Medicine (HFV-220), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4438.

SUPPLEMENTARY INFORMATION: Section 514.60(b) (21 CFR 514.60(b)) requires the submission of a \$10 fee with each medicated feed application (FD Form 1800) for a medicated animal feed which contains one or more antibiotics subject to the certification provisions of section 512(n) of the Federal Food, Drug, and

Cosmetic Act (the act) (21 U.S.C. 560b(n)). The fee was sanctioned by section 512(n) of the act which authorizes the promulgation of regulations "to carry out the purposes of this section, including provisions prescribing * * * (D) such fees specified in such regulations as are necessary to provide, equip and maintain an adequate certification service." Originally, applications for these antibiotics in animal feeds were filed as Form 10's and were reviewed by the Certification Services Branch of the agency.

In 1975, the agency received a request to abolish the fee requirement of § 514.60(b). The request stated that there were no services rendered for the fee, and that it was an unwarranted economic hardship. The agency reviewed its authority to impose a fee for reviewing medicated feed applications containing antibiotics subject to 512(n) of the act, and concluded that the applicable case law did not preclude the charging of this fee.

In June 1978, the agency formed a Medicated Feed Task Force to examine the existing medicated feed program and to explore and recommend ways to employ resources more efficiently in this program. The Task Force issued its report and recommendations in December 1978 (Second Generation of Medicated Feeds). Subsequently, the Chairman of the Task Force recommended that the agency additionally delete the fee requirement in § 514.60(b) for medicated feeds.

Consequently, the agency again reviewed the fee requirement for medicated feed applications for medicated animal feeds containing an antibiotic subject to section 512(n) of the act and reconsidered the earlier request to abolish the fee. The agency concludes that because these applications are now processed identically to other medicated feed applications (i.e., medicated feed applications for medicated feeds containing drugs not subject to section 512(n) of the act) which do not require submission of a fee, and because no services are currently being rendered under section 512(n) of the act, the \$10 fee for processing these applications is not warranted. Therefore, the agency finds that § 514.60(b) should be amended to delete the \$10 fee. Additionally, the agency is amending § 431.53(g) (21 CFR 431.53(g)) to delete reference to this fee.

The agency has determined that this document does not contain an agency action covered by § 25.1(b) and that consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 59 Stat. 463 as amended, 82 Stat. 350-351 (21 U.S.C. 357-360b(n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 431 and 514 are amended as follows:

§ 431.53 [Amended]

1. In Part 431, § 431.53 *Fees* is amended in (g) by deleting the phrase "and § 510.515".

2. In Part 514, § 514.60 is revised to read:

§ 514.60 Fees for certification of animal drugs subject to section 512(n) of the act.

The fees for certification services for veterinary drugs are described in the applicable provisions of § 431.53 of this chapter.

Under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary because the action taken herein relieves a restriction by lessening the requirements of an existing regulation:

Effective date. This regulation is effective December 24, 1979.

(Secs. 507, 512(n), 59 Stat. 463 as amended, 82 Stat. 350-351 (21 U.S.C. 357-360b(n))).

Dated: November 18, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-35983 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 510

Western Research Labs, Inc.; Addition to List of Sponsors of Approved New Animal Drug Applications

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations concerning the list of approved sponsors to reflect that Western Research Labs, Inc., is the sponsor of an approved new animal drug application (NADA).

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 2, 1977 (42 FR 44226), the regulations were

amended in 21 CFR 520.1720a to reflect approval of NADA 102-824V, sponsored by Western Research Labs, Inc., 301 S. Cherokee St., Denver, CO 80223. Inadvertently, 21 CFR 510.600(c) was not amended to include the sponsor name, address, and drug labeler code. The regulations are amended to include this information.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Veterinary Medicine (21 CFR 5.83), § 510.600 is amended to add a sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * *

(c) * * *

(1) Alphabetical Listing of Sponsors

Firm Name, Address, and Drug Labeler Code

* * *

Western Research Labs, Inc., 301 S. Cherokee St., Denver, CO 80223-000832.

* * *

Drug Labeler Code and Firm Name and Address

* * *

000832—Western Research Labs, Inc., 301 S. Cherokee St., Denver, CO 80223.

* * *

Effective date. September 2, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))).

Dated: November 18, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-35982 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 510, 520, 522, 526, and 558

Animal Drugs, Feeds, and Related Products—Norwich-Eaton Pharmaceuticals; Change of Sponsor Name

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The regulations are amended to reflect the change of sponsor name for several nitrofurantoin-containing products and a buquinolate premix from Eaton Labs. and Norwich Pharmacal Co. to Norwich-Eaton Pharmaceuticals. Supplemental new animal drug applications (NADA's) filed by Norwich-Eaton Pharmaceuticals provide for this change.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Eaton Labs. and Norwich Pharmacal Co. have been combined into Norwich-Eaton Pharmaceuticals. Norwich-Eaton Pharmaceuticals filed supplemental NADA's on certain nitrofurantoin-containing dosage form products and a buquinolate premix to provide for the change of sponsor name. The regulations are amended to reflect the change.

This intracorporate transfer of NADA's does not involve changes in facilities, equipment, procedures, or production personnel. Under the Bureau of Veterinary Medicine's proposed supplemental approval policy (see the Federal Register of December 23, 1977 (42 FR 64367)), this is a Category I change; therefore, this action does not require a reevaluation of the safety and effectiveness data in the parent applications.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), the Regulations are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended in paragraph (c)(1) by deleting the entries for "Eaton Laboratories" and "Norwich Pharmacal Co." and by alphabetically adding a new sponsor entry; and in paragraph (c)(2) by deleting the entries for "000035" and "000947" and by numerically adding a new sponsor entry, to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * *

(c) * * *

(1) * * *

Firm Name, Address and Drug Labeler Code

* * *

Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc., P.O. Box 191, Norwich, NY 13815-000149

* * *

(2) * * *

Firm Name, Address and Drug Labeler Code

* * *

Norwich-Eaton Pharmaceuticals, Division of
Morton-Norwich Products, Inc., P.O. Box
191, Norwich, NY 13815-000149

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 520:

§ 520.1560a [Amended]

a. Section 520.1560a *Nitrofurantoin oral suspension* is amended in paragraph (b) by deleting sponsor number "000035" and inserting in its place "000149."

§ 520.1560b [Amended]

b. Section 520.1560b *Nitrofurantoin tablets and boluses* is amended in paragraph (b) by deleting sponsor number "000947" and inserting in its place "000149."

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1563 [Amended]

3. In Part 522, § 522.1563 *Nitrofurantoin sodium injection* is amended in paragraph (b) by deleting sponsor number "000947" and inserting in its place "000149."

PART 526—INTRAMAMMARY DOSAGE FORMS NOT SUBJECT TO CERTIFICATION

4. In Part 526, § 526.1014 is amended by adding paragraph (b), to read as follows:

§ 526.1014 Furaladone.

(b) *Sponsor.* See 000149 in § 510.600(c) of this chapter.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

5. In Part 558:

§ 558.15 [Amended]

a. Section 558.15 *Antibiotic, nitrofurantoin, and sulfonamide drugs in the feed of animals* is amended in the tables of paragraph (g) (1) and (2) by changing each entry for Norwich Pharmacal to Norwich-Eaton Pharmaceuticals and changing each entry for Hess & Clark and Norwich Pharmacal Co. to Hess & Clark and Norwich-Eaton Pharmaceuticals.

§ 558.105 [Amended]

b. Section 558.105 *Buquinolate* is amended in paragraph (b) by deleting

sponsor number "000947" and inserting in its place "000149."

Effective date. This regulation is effective November 23, 1979.

(Sec. 512(j), 82 Stat. 347 (21 U.S.C. 360b(i)).)
Dated: November 16, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-35981 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) has determined that USNS NARRAGANSETT (T-ATF 167) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with Annex I, section 2(f) of the 72 COLREGS without interfering with its special function as a naval tug, and (2) has found that USNS NARRAGANSETT (T-ATF 167) is a member of the T-ATF 166 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rules 38(a), 38(b) and 38(d)(1). The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: November 7, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Charles Stanley Prentace, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, D.C. 20370, Telephone number (202) 694-5188.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. § 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USNS NARRAGANSETT (T-ATF 167) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS Annex I, section 2(f) in that, during

those situations when the USNS NARRAGANSETT must simultaneously display masthead lights used for towing as required by Rule 24 and the task lights of a vessel restricted in its ability to maneuver as required by Rule 27, the masthead lights used for towing will not be located above and clear of the task lights. Full compliance with this provision would interfere with the special function of the ship. The Secretary of the Navy has also certified that the lights previously mentioned are located in closest possible compliance with the applicable 72 COLREGS' requirement.

Notice is also provided to the effect that the Secretary of the Navy has previously authorized the use by T-ATF 166 class of certain exemptions permitted by 72 COLREGS Rule 38. Specifically, the use of the exemptions has been authorized as allowed in Rule 38(a), pertaining to lights with ranges and intensities prescribed in Rule 22, Rule 38(b), pertaining to lights with color specifications prescribed in Annex I, section 7, and Rule 38(d)(i), pertaining to the repositioning of masthead lights on vessels less than 150 meters in length required by Annex I, section 3(a).

The Secretary of the Navy has determined that USNS NARRAGANSETT is a member of the T-ATF 166 class, is in compliance with the 1960 Rules of the Road, and the keel of the T-ATF 166 class lead ship was laid prior to July 15, 1977.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to the public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function. Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table Four of § 706.2 is amended by adding the following new note 11 which reflects the certification issued by the Secretary of the Navy:

11. On USNS NARRAGANSETT T-ATF 167, the masthead lights used for towing required by Rule 24 will be displayed approximately 4.95 meters below the lowest of the lights required to be displayed by Rule 27 when a vessel is not under command or is restricted in its ability to maneuver.

(EO 11964 and 33 U.S.C. 1605)

Dated: November 7, 1979.

Edward Hidalgo,

Secretary of the Navy.

[FR Doc. 79-35977 Filed 11-21-79; 8:45 am]

BILLING CODE 3810-71-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[FRL 1364-1; PP 7E2010/R223]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Office of Pesticide Programs,
Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide chlorpyrifos on broccoli, Brussels sprouts, cabbage, and cauliflower at 2 parts per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This rule establishes maximum permissible levels for residues of the insecticide chlorpyrifos on broccoli, Brussels sprouts, cabbage, and cauliflower. **EFFECTIVE DATE:** Effective on November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/426-0223).

SUPPLEMENTARY INFORMATION: On September 13, 1979, the EPA published a notice of proposed rulemaking in the Federal Register (44 FR 53183) in response to a pesticide petition (PP 7E2010) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Colorado, Hawaii, Idaho, Michigan, New York, Oregon, Utah, Washington, and Wisconsin. This petition proposed that 40 CFR 180.342 be amended by the establishment of tolerances for combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-1-pyridinol in or on the raw agricultural commodities broccoli, Brussels sprouts, cabbage, and cauliflower at 2 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.342 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before December 24, 1979, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on November 23, 1979, Part 180, Subpart C, section 180.342 is amended by alphabetically inserting tolerances on broccoli, Brussels sprouts, cabbage, and cauliflower at 2 ppm in the table as set forth below.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348a(e)))

Dated: November 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.342 is amended by alphabetically inserting tolerances on Brussels sprouts, broccoli, cabbage, and cauliflower at 2 ppm in the table to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

Commodity	Parts per million
Broccoli	2
Brussels sprouts	2
Cabbage	2
Cauliflower	2

[FR Doc. 79-36047 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1364-2; PP 8E2076/R224]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Atrazine

AGENCY: Office of Pesticide Programs,
Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide atrazine on proso millet grain at 0.25 part per million (ppm) and proso millet fodder, forage, and straw at 5 ppm. The proposal was submitted by the Interregional Research Project No. 4. This rule establishes maximum permissible levels for residues of the herbicide atrazine on proso millet grain and proso millet fodder, forage, and straw.

EFFECTIVE DATE: Effective on November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/426-0223).

SUPPLEMENTARY INFORMATION: On September 20, 1979, the EPA published a notice of proposed rulemaking in the Federal Register (44 FR 54510) in response to a pesticide petition (PP 8E2076) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Colorado, Michigan, Minnesota, and Nebraska. This petition proposed that 40 CFR 180.220 be amended by the establishment of tolerances for combined residues of the herbicide atrazine [2-chloro-4-ethylamino-6-isopropylamino-s-triazine] and its metabolites 2-amino-4-chloro-6-ethylamino-s-triazine, 2-amino-4-chloro-6-isopropylamino-s-triazine, and 2-chloro-4,6-diamino-s-triazine in or on the raw agricultural commodities proso millet grain at 0.25 ppm and proso millet fodder, forage, and straw at 5 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.220 should be adopted without

change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before December 24, 1979, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on November 23, 1979, Part 180, Subpart C, § 180.220 is amended by alphabetically adding proso millet grain at 0.25 ppm and proso millet fodder, forage, and straw at 5 ppm to the table as set forth below.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 34a(e)))

Dated: November 15, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.220 is amended by alphabetically adding proso millet grain at 0.25 ppm and proso millet fodder, forage, and straw at 5 ppm to the table to read as follows:

§ 180.220 Atrazine; tolerances for residues.

(b) ***

Commodity:	Parts per million
Proso millet, fodder.....	5
Proso millet, forage.....	5
Proso millet, grain.....	0.25
Proso millet, straw.....	5

[FR Doc. 79-38048 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1365-1; PP 5F1615 & 7F1948/R218]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Methomyl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This rule establishes tolerances for combined residues of the insecticide methomyl on a variety of raw agricultural commodities at various tolerance levels. The regulation was requested by E. I. du Pont de Nemours & Co., Inc. This rule establishes maximum permissible levels for residues of methomyl in or on a variety of raw agricultural commodities.

EFFECTIVE DATE: Effective on November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Sanders, Product Manager (PM) 12, Room E-335, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/426-2635).

SUPPLEMENTARY INFORMATION: On May 8, 1975 and August 2, 1977, notices were given (40 FR 20129 and 42 FR 39132, respectively) that E. I. du Pont de Nemours & Co., Wilmington, DE 19898, had filed pesticide petitions (PP 5F1615 and 7F1948) with the EPA. These petitions proposed that 40 CFR 180.253 be amended to establish tolerances for combined residues of the insecticide methomyl [S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate] in or on the raw agricultural commodities wheat grain, oat grain, barley grain, and rye grain at 1 part per million (ppm); wheat forage, hay, and straw; oat forage, hay, and straw; barley forage, hay, and straw; rye forage, hay, and straw at 10 ppm (PP 5F1615); and strawberries at 2 ppm (PP 7F1948). No comments were received in response to these notices of filing.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a two-year rat and a two-year dog feeding study with a no-observed-effect level (NOEL) of 100 ppm each (5.0 milligrams (mg)/kilogram (kg) of body weight (bw)/day and 2.5 mg/kg bw/day, respectively); a three-generation rat reproduction study with a NOEL of 100 ppm (5.0 mg/kg bw/day); a hen delayed neurotoxicity study (with atropine), which was negative at 200 mg/kg bw; a hen delayed neurotoxicity study (without atropine),

which was negative at 28 mg/kg bw; and a rat teratogenic study which was negative at 400 ppm (highest level tested).

Based on the two-year dog feeding study with a 2.5 mg/kg bw/day NOEL and using a safety factor of 100, the acceptable daily intake (ADI) for man is 0.025 mg/kg bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from the previously established tolerances and the proposed tolerances does not exceed the ADI.

Desirable data that are lacking from the petitions are a (second) mouse oncogenicity study and a lactating goat metabolism study. In letters of April 11, 1978, and April 20, 1979, the petitioner indicated that these studies are underway and is expected to be completed in late 1980. A mutagenicity study has been submitted to the Agency for evaluation. The validity of the submitted study will be determined upon completion of the evaluation and the development of suitable test protocols for mutagenicity studies. The petitioner also agreed to voluntarily delete the use of methomyl on strawberries from the label should the results of the second oncogenicity exceed the risk criteria for chronic toxicity in 40 CFR 162.11.

The metabolism of methomyl in rats and plants is adequately understood, and an adequate analytical method (gas chromatography using a microcoulometric detector) is available for enforcement purposes. Based on feeding studies, there is no reasonable expectation of parent methomyl residues in eggs, meat, milk, or poultry. However, if metabolites of methomyl are found in these lactating goat metabolism study, the transfer potential of these metabolites will have to be determined. No actions are currently pending against continued registration of methomyl, nor are there any other relevant considerations involved in establishing the proposed tolerances.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances established by amending 40 CFR 180.253 will protect the public health. It is therefore recommended that tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before December 24, 1979, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the

objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on November 23, 1979, Part 180 is amended as set forth below.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Dated: November 9, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.253 is amended by alphabetically inserting barley forage, barley hay, barley straw, oat forage, oat hay, oat straw, rye forage, rye hay, rye straw, wheat forage, wheat hay, and wheat straw at 10 ppm; strawberries at 2 ppm; and barley grain, oat grain, rye grain, and wheat grain at 1 ppm in the table to read as follows:

§ 180.253 Methomyl; tolerances for residues.

Commodity:	Parts per million
Barley, forage.....	10
Barley, grain.....	1
Barley, hay.....	10
Barley, straw.....	10
Oats, forage.....	10
Oats, grain.....	1
Oats, hay.....	10
Oats, straw.....	10
Rye, forage.....	10
Rye, grain.....	1
Rye, hay.....	10
Rye, straw.....	10
Strawberries.....	2
Wheat, forage.....	10
Wheat, grain.....	1
Wheat, hay.....	10
Wheat, straw.....	10

[FR Doc. 79-38054 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1364-3; PP 6E1847/R225]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Carbaryl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide carbaryl on lentils at 10 parts per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of the insecticide carbaryl on lentils.

EFFECTIVE DATE: Effective on November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/426-0223).

SUPPLEMENTARY INFORMATION: On September 20, 1979, the EPA published a notice of proposed rulemaking in the Federal Register (44 FR 54510) in response to a pesticide petition (PP 6E1847) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Idaho and Washington. This petition proposed that 40 CFR 180.169 be amended by the establishment of a tolerance for combined residues of the insecticide carbaryl (1-naphthyl N-methylcarbamate) including its hydrolysis product 1-naphthol, calculated as carbaryl, in or on the raw agricultural commodity lentils at 10 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.169 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before December 24, 1979, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the

objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on November 23, 1979, Part 180, Subpart C, § 180.169 is amended by alphabetically inserting lentils at 10 ppm in the table as set forth below.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

Dated: November 15, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.169 is amended by alphabetically inserting lentils at 10 ppm in the table to read as follows:

Commodity:	Parts per million
Lentils.....	10

[FR Doc. 79-38045 Filed 11-21-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[Docket No. 21348]

Private Land Mobile Radio Service; Providing a New Part 90 That Re-regulates and Consolidates Parts 89, 91, and 93; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In an effort to set forth a simple and more manageable set of rules for use by applicants, licensees, and industry users, the Federal Communications Commission published regulations at 43 FR 54788, November 22, 1978, providing for the consolidation and updating of the private land mobile radio services provisions. This document makes necessary corrections

because of omissions and inaccuracies which occurred in preparation and printing.

EFFECTIVE DATE: January 2, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Rules Division, Private Radio Bureau, (202) 632-6497.

Fourth Errata

Released: November 14, 1979.

In the matter of amendment of the Commission's rules governing the private land mobile radio service to provide a new Part 90 that re-regulates and consolidates Parts 89, 91, and 93, Docket 21348.

The appendix to the Report and Order in this proceeding (FCC 78-799, 43 FR 54788) contained a new Part 90 which consolidated the rules and regulations formerly contained in Parts 89, 91, and 93. In the process of consolidating, a number of omissions and inaccuracies occurred which are the subject of this errata.

§ 90.51 [Corrected]

1. In § 90.51, *Emergency repair of public communications facilities*, correct the first sentence to read:

(a) *Eligibility.* Communications common carriers are eligible in this service for radio facilities to be used in effecting expeditious repairs to interruption of public communications facilities where such interruptions have resulted in disabling intercity circuits or service to a multiplicity of subscribers in a general area.

§ 90.53 [Corrected]

2. In § 90.53, *Frequencies available*, correct the Special Emergency Frequency Table as follows:

150.790.....	do.....	7
152.075.....	Base.....	4

§ 90.63 [Corrected]

3. In § 90.63(d), correct subparagraph (5) to read:

(d) * * *

(5) This frequency is not available for assignment in this service in the States of Arkansas, Louisiana, Oklahoma, and Texas. In these States, this frequency is available to the petroleum and Forest Products Radio Services.

§ 90.73 [Corrected]

4. In § 90.73(c) correct the Special Industrial Radio Service Frequency Table to read:

(c)		
157.740.....	do.....	2, 9
952 and above.....	Operational fixed.....	22

§ 90.93 [Corrected]

5. In § 90.93(d), correct subparagraph (3) to read:

(d) * * *

(3) The frequency band 33.00-33.01 MHz may be used for developmental operation subject to the provisions of Subpart Q. * * *

§ 90.119 [Corrected]

6. In § 90.119, correct paragraph (c) to read:

(c) Form 425 shall be used in lieu of Form 400 and 405(a) to submit applications specifying any frequency in the band 470-512 MHz. (See also Subpart P.)

§ 90.175 [Corrected]

7. In § 90.175, in the Errata dated May 29, 1979, two paragraphs were incorrectly identified as (d)(4) and (d)(10). The correct identification is (e)(4) and (e)(10).

§ 90.242 [Corrected]

8. In § 90.242(a) correct subparagraphs (1) and (5) to read:

(a) * * *

(1) For Travelers' Information Station applications only, eligibility requirements as set forth in § 90.17(a) are extended to include park districts and authorities.

(5) The transmitting site of each Travelers' Information Station shall be restricted to the immediate vicinity of the following specified areas: air, train, and bus transportation terminals, public parks and historical sites, bridges, tunnels, and any intersection of a Federal Interstate Highway with any other Interstate, Federal, State, or local highway.

§ 90.261 [Corrected]

9. In § 90.261(c), correct the frequency table as follows: Following the frequency 465.175, delete 475.200 and insert in its place 475.200.

§ 90.311 [Corrected]

10. In § 90.311, identify the opening paragraph as (a) as follows:

(a) Except as provided for in § 90.315, the following * * *

§ 90.429 [Corrected]

11. In § 90.429(d), correct the first sentence of subparagraph (1) as follows:

(d) * * *

(1) A carrier-operated device which will provide continuous visual indication when the transmitter is radiating, or, a pilot lamp or meter which will provide continuous visual indication when the transmitter circuits have been placed in a condition to produce radiation.

§ 90.461 [Corrected]

12. In § 90.461(c), correct subparagraph (3) as follows:

(c) * * *

(3) Equipment used to provide the transmitter/dial-up circuit interface * * *

§ 90.463 [Corrected]

13. In § 90.463(a), correct the first sentence to read:

(a) A control operator is required to be stationed at the operating position of a transmitter control point. * * *

§ 90.527 [Corrected]

14. In § 90.527, identify the first subparagraph as (1) as follows:

(c) *Emergency Operation.* (1) A National Defense Emergency Authorization will be issued * * *

§ 90.555 [Corrected]

15. In § 90.555(b), correct the combined frequency list as follows:

(b) * * *	
* * *	* * *
30.58.....	IS.....
30.60.....	IS.....
30.62.....	IS.....
* * *	* * *
39.30.....	PP.....
39.32.....	PP.....
39.34.....	PP.....

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-36028 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[Docket No. 20846; FCC 79-720]

Prescribing Policies and Regulations To Govern Interconnection of Private Land Mobile Radio Systems With the Public Switched Telephone Network

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order; Final rule.

SUMMARY: This Memorandum Opinion and Order amends the FCC's rules prescribing policies and regulations to govern interconnection of private land mobile radio systems with the public switched telephone network. It denies, in large part, certain petitions for reconsideration of action taken by the Commission in the First Report and Order. Largely interpretive in nature, this decision responds to various questions relating to the intent of the rules adopted in the First Report and Order.

EFFECTIVE DATE: December 19, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Federal Communications Commission, Private Radio Bureau, Rules Division, James E. McNally, Jr. at (202) 254-6884.

Memorandum Opinion and Order

Adopted: November 6, 1979.

Released: November 16, 1979.

By the Commission: Commissioner Jones not participating.

In the Matter of Amendment of Part 90 (Formerly, Parts 89, 91 and 93) of the Commission's rules to prescribe policies and regulations to Govern Interconnection of Private Land Mobile Radio Systems with the Public Switched Telephone Network, Docket No. 20846.

Background

1. This proceeding was initiated primarily to develop and prescribe specific rules to define and regulate the interconnection of private land mobile radio systems (i.e., those authorized in the Public Safety, Special Emergency, Industrial, Land Transportation and General Mobile Radio Services) with the public switched telephone network (PSTN).¹ Secondly, this proceeding was intended to be the forum through which the transmitter control requirements (in the same radio services) were to be updated to be more in keeping with the control capabilities

¹ See the Notice of Inquiry and Notice of Proposed Rule Making (FCC 78-603), Docket No. 20846, 41 FR 28540 (July 12, 1976).

afforded by modern communications technology.

2. In the First Report and Order² in Docket 20846, we adopted basic rules to govern interconnection service and made a number of revisions in the transmitter control requirements. However, we determined that we should inquire further before adopting rules relating to the interconnection of mobile radio systems operating in the 800 MHz bands (i.e., those allocated to the private land mobile radio services in the proceedings in Docket 18262). For this purpose we issued a Further Notice of Proposed Rule Making.³ Therefore, with one exception,⁴ the new rules developed in the First Report and Order pertain solely to systems licensed in the mobile bands below 512 MHz. Further, we decided to postpone the adoption of new rules to govern interconnection at common locations of certain shared systems provided by third parties.

The Petitions for Reconsideration

3. Petitions for reconsideration have been filed by a number of parties. Oppositions and replies have also been filed.⁵ Very broadly, some petitioners have questioned whether the new rules governing interconnection had inadvertently been extended to private operational fixed systems; and whether the restrictions and limitations adopted went too far, or not far enough; whether we had confused "internal" systems with "end-to-end" or operational fixed facilities; and whether or not some of our actions (particularly those directed to paging operations) were not, in fact, beyond the scope of our Notice, and were arbitrary and capricious.

4. By the Memorandum Opinion and Order adopted May 2, 1979, we acted on the petition for reconsideration filed by Larry Bird relating to the General

Mobile Radio Service.⁶ Thus, we deal here only with the rules governing interconnection of private land mobile systems licensed under Part 90 (the Public Safety, Special Emergency, Industrial and Land Transportation Radio Services).

Applicability of the Interconnection Rules to Operational Fixed Facilities Licensed Under Parts 90 and 94

5. API and UTC raised questions as to the applicability of the new interconnection rules to operational fixed (point-to-point) radio facilities authorized either under Part 90 or 94 of the rules. It is pointed out that many of these systems (as they are presently designed and operated) are accessed directly from the PSTN, or serve as communications links between points within private fixed and mobile systems and persons served by the PSTN.

6. It is argued that the situation is complicated by the fact that parts of these systems operate on microwave channels licensed under Part 94 of the Rules; some on operational fixed frequencies allocated for use under Part 90 of the Rules; and some are composites formed by combinations of such facilities. Also, these systems are, at times tied in with mobile systems (including two-way and paging operations) and with what we have classified as "internal" systems under our new rules. In these circumstances, clarification or reconsideration of our policies and rules governing operation of these types of systems is requested.

7. We must agree with those petitioners who expressed the belief that this proceeding was directed primarily to interconnection of private land mobile radio systems, not to microwave systems regulated under Part 94. Section 94.13 governs the interconnection of point-to-point systems authorized under Part 94; and it simply states that:

Stations authorized under this Part may be interconnected with facilities of common carriers, subject to applicable tariffs.⁷

The new interconnection rules were intended to apply to mobile systems, not to operational fixed facilities, regardless of the frequency being utilized. We said in the initial Notice that we were "initiating this inquiry and rule making to develop and prescribe specific rules to better define and regulate 'interconnection' of private land mobile

⁶ Memorandum Opinion and Order (FCC 79-273), Docket No. 20846, adopted May 2, 1979.

⁷ This rule clearly permits the type of operation contemplated by API and UTC in the microwave bands; and we see no conflict with the rules that have been adopted in this proceeding. The systems described by API and UTC appear to be in compliance with Commission regulations.

² See the First Report and Order (FCC 78-622), Docket No. 20846, 43 FR 38396 (August 28, 1978).

³ See the Further Notice of Proposed Rule Making (FCC 79-18), Docket No. 20846, 44 FR 7987 (February 8, 1979).

⁴ Section 90.389 (formerly, 89.653) was rewritten for purposes of clarification.

⁵ Petitions for reconsideration were filed by Larry Bird; Capitol Communication, Inc. (Capitol Communications); California Mobile Radio Association (CMRA); Telocator Network of America (TNA); Utilities Telecommunications Council (UTC); American Petroleum Institute (API); National Association of Business and Educational Radio, Inc. (NABER); and the Fort Wayne Medical Society. Timely oppositions were filed by Corwin D. Moore, Jr. (Moore); American Petroleum Institute (API); and Telocator Network of America (TNA). Timely replies were filed by the American Petroleum Institute (API); Utilities Telecommunications Council (UTC); the Fort Wayne Medical Society, Inc. (FWMS); and Telocator Network of America (TNA).

systems." We further stated that "we use the term (interconnection) to refer to arrangements in which radio facilities licensed in the private services are 'interconnected' with the facilities of wire line telephone companies to permit 'communication' between persons at telephone positions—which are part of the public switched telephone network—and persons with *mobile radio equipment* licensed or authorized in the referenced private services."⁹ Thus, we think that a reading of the initial Notice (and similarly, of the Further Notice), clearly leads to the conclusion that our focus was on mobile interconnected systems. The interconnection of operational fixed stations is a different subject, involving different considerations and problems which are not necessarily or essentially related to mobile radiotelephone-type communication.

8. Thus, operational fixed facilities, whether licensed under Part 90 or 94, are governed by the rules and policies that applied prior to the adoption of the First Report and Order in this Docket. This means that in "end-to-end", point-to-point systems¹⁰, where applicable transmitter control requirements are met, licensees may interconnect with the facilities of the telephone company subject, of course, to applicable tariffs and applicable Commission policies governing such systems, and need not follow the specific requirements and limitations contained in §§ 90.477, 90.481, and 90.483 of our rules. We think that this ruling meets the points raised on reconsideration; but to further clarify the matter and to relieve any confusion on this point which might arise in the future, we are amending the rules on interconnection to indicate that they refer to mobile radio systems only. Additionally, a new rule has been included (§ 90.476) which relates to the interconnection of operational fixed stations. This provision is identical to that given in Part 94 for microwave stations; and it merely states long-standing policy.

9. The other point raised concerning interconnection of fixed stations relates to the approach to be taken where fixed systems are combined with mobile systems. The answer is simply that when a fixed station is used as part of a mobile system, then the rules relating to interconnection of mobile systems apply. Put another way, when the fixed

station serves to link a point in the PSTN (where such a point is not an authorized and fully equipped control point) and mobile units of the licensee, then the rules relating to the interconnection of mobile systems apply. Thus, where an operational fixed facility between Point "A" and Point "B" ties in with a two-way mobile communications system in Point "B" and the base station transmitter is accessed from a PSTN position at Point "A", the rules relating to interconnection of mobile systems will apply. This is because the mobile transmitter is being accessed from the PSTN. All permissible options for interconnection are, of course, available (see § 90.481), but the rule requirements must be satisfied (see § 90.483). It should be noted that the particular point of interconnection in the preceding example is optional. It would have been possible to configure the system so that interconnection took place at the base station, avoiding use of the operational fixed system altogether.

Requests To Extend or Relax Limitations and Restrictions on Interconnected Service

10. NABER, and certain others, ask that we modify our rules to relax the conditions under which interconnected service is to be permitted. In this regard, we are asked to amend § 90.477(c) to permit certain classes of Business Radio Service licensees (large single user systems, hospitals, doctors and certain educational systems, as examples) to interconnect in the restricted zones delineated in this rule section. Further, we are asked to clarify and the bases for our choice of the 25 urban areas and the five service categories (Automobile Emergency, Business, Special Emergency, Special Industrial and Taxicab Radio Services), in which interconnection is prohibited.

11. In contrast, TNA argues that we did not go far enough; that the restriction should apply to points 90 or 100 miles from the centers of the designated urban areas; and that the prohibition should extend to 30 or 35 urban areas, including ones that have increased in population in recent years and which now exceed (in terms of population) some of the urban centers designated in the rules.¹¹

12. We believe we explained adequately in the Report and Order our reasons for imposing restrictions on interconnection in the five services. Our decision to preclude interconnection in and near the major centers in the

Business Radio Service, was based, in part, on the strong recommendations of CMRA, ELA, and NABER, and our own conclusion that in that Service (which is characterized by high intensity of usage of the frequencies by diverse classes of users, and lacking the same degree of discipline which is characteristic of some other services) such a limitation was in order. We also stated, with the limited exception made in the case of the Special Emergency Radio Service, that the limitations in the Business Radio Service should also be extended to other high-intensity use services (which includes the remaining four services mentioned). We adhere to the original views; and we are not persuaded to relax the rules as requested.

13. As to the 25 urban areas selected, they were those which were ranked the largest in terms of population at the time of our decision, and those where the land mobile radio frequencies are used most intensively. In these urban centers, and in the areas adjacent to them, the radio frequencies in the five radio services involved are generally heavily used. Beyond 75 miles from the center of these areas, the frequencies are not in heavy demand and, therefore, interconnection of the relatively few, if any, systems there is not likely to impact adversely on the use of the frequencies in and near the large population centers. Therefore, there is no need to extend the restriction to greater distances and to other urban centers, as urged by TNA. Accordingly, the requests of both NABER and TNA will be denied.

Clarification of Rules Governing Interconnection of 800 MHz Systems and Miscellaneous 800 MHz Matters

14. We mentioned that the basic policy issues relating to 800 MHz interconnection are to be explored in further rule making in this Docket.¹² However, we did clarify the governing rule provision, Section 90.389 (formerly, § 89.653) in the First Report and Order; and a number of points have been raised on reconsideration as a result of that particular action.

15. First, it is claimed that our action was no mere clarification, but rather an amendment of substance that went beyond the scope of the Notice. However, it is sufficiently clear that, even if the amendment were substantive, it was not beyond the scope of the Notice. The Notice was directed to all land mobile radio systems authorized in all of the frequency bands

allocated to the Public Safety, Industrial and Land Transportation Radio Services. In fact, specific comments were directed to certain inherent distinctions that were thought to exist between land mobile operations below 512 MHz and those above 800 MHz. It was only after consideration of those comments that we decided to separate our consideration of the rules and policies which would apply to the two basic band-groups. Accordingly, we see no merit in this contention.

16. Also, NABER alleges that even as a clarification, there is no clear or valid basis for requiring licensees of 800 MHz facilities to interconnect (if that mode of operation is desired) only at licensed control points.¹³ It is also argued (by Capitol Communications) that greater flexibility is needed, and that as a minimum, clarification of the intent of the rule is needed in the situation where the base station and the station control point are at the same location or are in close proximity to each other (CMRA), such as when the transmitter is on the roof of a building and the licensee's control point is within that same building.

17. On these points, we feel that if greater flexibility is to be provided, it should be the result of a decision in the Further Rule Making in this proceeding. As to the scope of our action (as TNA points out), the clarification adopted is consistent with the history of the 800 MHz interconnection limitation. The rule, as it read prior to this Docket, was derived from the proceedings in Docket 18262, and it always required 800 MHz systems to be interconnected at a control point or a control station at some fixed location. The modification of the language of Section 90.389 was designed to eliminate ambiguities in the rule, itself.

18. On CMRA's question, we feel that the resolution depends merely on some common sense being applied to the rule's interpretation. For example, where a control point is in the same building as the base station, the intent of the rule would be satisfied if interconnection takes place at either location. If the base station is at some other building in the same general area, even if at the same address (such as might be the case in an industrial complex), the interconnection must take place at the control point (or control station).

19. CMRA also asks whether or not 800 MHz systems (authorized in the

private services) are governed by the new transmitter control requirements;¹⁴ and whether or not these systems may be operated under the options specified in § 90.461.¹⁵ The answer to both of these questions is yes. While interconnection of 800 MHz systems is governed by § 90.389, the transmitter control requirements set out through §§ 90.461-90.469 govern all Part 90 systems, including those licensed in the 806-821 and 851-866 MHz bands.¹⁶

20. Finally, NABER inquires as to whether or not the grandfather provisions apply to 800 MHz systems (and if so, to what extent); and whether systems not meeting the requirements of § 89.653, as modified (new § 90.389), could continue in use until the date for mandatory compliance with the new rules. The answer is that the grandfather provisions do not apply to 800 MHz interconnection because nothing has been changed with respect to interconnection in these bands. Section 90.389 has merely been clarified. Accordingly, any lawful system may continue in existence at least until the completion of the further rule making pertaining to 800 MHz operation.

"Internal" and "Dial-up" Systems of Communication

21. API and UTC, expressed concern as to possible confusion between what we have now classified as "internal" systems of communication and their operational fixed (point-to-point) facilities. While we feel that there is a certain amount of overlap between these concerns and those voiced by the same parties as to interconnected systems dealt with previously, the rule provisions involved are different,¹⁷ and we believe that separate treatment of this matter is warranted.

22. As mentioned earlier, of particular concern are §§ 90.475(a)(2) and 90.481(c)(2). As we understand it, the apprehension stems from a reading of the rules, together with the definition of "internal" systems given in § 90.7, and with certain language we employed in the First Report and Order, which would seem to prohibit the use of "dial-up" circuits in interconnected systems (see § 90.461 (a)(2) and (a)(5)), the use of "dial-up" control circuits in "internal" systems, and access of "internal"

systems from telephone positions in the PSTN (see § 90.475(a)(2)).

23. This concern, of course, is real and very important to licensees in the Power and Petroleum Radio Services (and in others with similar operating requirements and methodologies). Many have operational fixed facilities, authorized under both Parts 90 and 94, which are accessed directly from telephone positions in the PSTN through dial-up circuits.

24. While, as TNA argues, reading the entire set of rules as a whole would indicate that the flexibility desired by the petitioners is now permitted, clarification and language modification is in order. It appears that in our effort to develop a solution to a particular set of operational problems, we have adopted rules which seem to confuse the benefits we sought to attain in one area with restrictions imposed on other, unrelated methods of operation.

25. In brief, in our First Report and Order we introduced considerable flexibility on how "internal" systems (such as private wireline/microwave/PBX facilities) may be interfaced with licensee's mobile systems. It was our intention simply to delete needless and burdensome control point requirements in these situations. To assure licensee control of the mobile system, however, we adopted a further provision which requires a design feature in such systems which would preclude access to the radio system from the PSTN. We can understand, however, how this specific provision, applied literally, could restrict or even preclude a number of common and valuable system configurations. As we said, correction is in order. However, it is emphasized that where an internal system together or along with other facilities, including "end-to-end" systems, and the PSTN, are to be interfaced with the mobile system, the higher applicable rule requirements would have to be met. For example, if a base station, which is controlled by an internal system is to be accessed from the PSTN, and automatic interconnection is to be accomplished, the base station and the mobile units would have to meet the requirements prescribed in § 90.483 for automatic interconnected service. The rules have been modified so as to remove the uncertainties and, therefore, the requests of the petitioners have been granted to the extent indicated.

26. Also, § 90.461(c)(5) prohibits use of dial-up circuits for transmitter control in radio communication systems which are interconnected with the PSTN. Capitol Communications has requested that we delete § 90.461(c)(5) and thereby permit interconnection in systems equipped

⁹ See the Notice, cited previously in Footnote 1, Paragraph 1. (Emphasis supplied.)

¹⁰ Ibid, Footnote 2. (Emphasis supplied.)

¹¹ The parties use the term, "end-to-end" to refer to communications paths between two fixed points, not between one or more fixed points and a mobile station.

¹² TNA specifically mentions Tampa/St. Petersburg, Florida, and Phoenix, Arizona, among the urban centers it feels should have been included in the ban on interconnected service.

¹³ See the Further Notice of Proposed Rule Making, referenced in Footnote 3.

¹⁴ See § 90.389 (formerly, § 89.653) which provides, in part, that "such interconnection is accomplished at a control point or control station . . . at a fixed location . . . where a person directly responsible for the operation of the base station or stations is on duty."

¹⁵ See §§ 90.403, 90.461-90.469.

¹⁶ Section 90.461 pertains to direct and remote control of radio transmitters licensed in the private services.

¹⁷ The exception would be only in those instances where there is a conflict between the new rules and Subpart M of Part 90. See § 90.351 for our policy on this point.

¹⁸ See §§ 90.7, 90.471-90.475.

with a dial-up control point, arguing that "dial-up circuits have the same function and control regardless of whether the system is interconnected or not." We agree. It must be pointed out, however, that interconnection in this case would not be allowed at the dial-up control point, but must be accomplished at the base station, at a wireline control point, or at a control station, for the following reasons.

26. First, under most circumstances, a dial-up control point is not electrically connected to the transmitter except when it is actually being used. If the point of interconnection is the location of the dial-up control point, it would be necessary to forward the incoming call to the transmitter access telephone number, and some means would have to be provided for the caller in the PSTN to bypass the licensee's individual transmitter access code. Section 90.461(c)(2), requires the use of circuitry which would make it impossible for a person in the PSTN to "turn this electronic key" which is incorporated into the transmitter control interface hardware, and gain access to the transmitter. Thus, even if we were to allow it, automatic interconnection at a dial-up control point would appear to be an unwieldy and expensive proposition. If the person in the PSTN were to dial the transmitter access number directly, the transmitter access telephone number would be "tied-up" by the user in the PSTN, and the licensee would not have control of the transmitter unless some alternative means of transmitter control were provided. The burden of system supervision, then, would have to fall on a mobile unit operator who, under the transmitter control rules, would not have the capability to properly regulate the communications. Therefore, in this situation all of the appropriate requirements of § 90.483 would have to be complied with. Clearly, the same communications circuit may not be used for both transmitter control and interconnection.

27. In summary, then, when we talk about an "internal" system, we mean to refer to a particular mode of operation which does not necessarily preclude other modes of operation. The same is true of a "dial-up" transmitter control system. The two types of systems are intended to serve as substitutes for the traditional transmitter control arrangement where a control point operator supervises a control point which is permanently linked to the transmitter, and associated dispatch points. However, just as it is possible for a transmitter to have multiple control points, it is possible for such a station to

utilize multiple but independent modes of transmitter control. Thus, it is possible for a station to be controlled from a conventional control point, a "dial-up" control point (which may be seldom used) and an "internal system". Further, such a station could be interconnected, if the interconnection was in accord with the interconnection rules, but the interconnection could not take place at a "dial-up" control point, or at a point in the "internal system," since these positions are intended solely for the use of the licensee. Licensees with complex communications systems involving the use of microwave or other operational fixed point-to-point links comply with all applicable requirements when they provide a separate circuit for each mode of transmitter operation.

Requests Concerning Paging Operations

28. A number of points were raised on reconsideration directed to our new rules governing paging operations. Some parties (UTC and FWMS, as examples) ask that more liberal rules be adopted; while TNA argues that the rules adopted afford sufficient options to licensees to permit them to meet all reasonable paging requirements. But TNA also asks that we specifically state that paging on interconnected mobile systems is prohibited, otherwise the restriction we imposed on the direct dial paging would be easily circumvented.

29. We believe our rules are reasonably clear on this point. The type of operation described by TNA is clearly prohibited by § 90.487(c) which states, in part: "Paging signals, as such, may not be transmitted from telephone positions in the public, switched, telephone network, notwithstanding the fact that the radio system employed may be interconnected with the telephone network and meet the conditions set out in §§ 90.477-90.483 * * *." The rules are very clear on this point and further clarification is not needed.

30. Next, UTC asks that we amend the rules to permit direct access paging from PSTN positions in the Power Radio Service. The new rules were designed to assure that licensees exercised that degree of control over paging operations commensurate with their duties and responsibilities as licensees. Our experience through the years has been that in paging operations, where PSTN positions were treated as "dispatch" points, supervision by control operators was often lacking entirely, or improperly carried out. In some cases (especially in tone-only paging operations), we found it was not possible for the control point operator to be assured at all times that the paging system was being used for permissible purposes by persons with

proper authority from the licensee. It was in these circumstances that the strict rule on PSTN-accessed paging was adopted; and we are not persuaded that it should be relaxed as UTC requests.

31. NABER and FWMS ask for similar relief, favoring a more liberal approach to paging. NABER feels that PSTN-access paging should be allowed, for example, for medical societies, hospitals, doctors, and certain other classes of users. FWMS argues that as a minimum, we should allow tone and voice paging by medical societies licensed in the Special Emergency Radio Service, particularly where the paging is conducted on "paging-only" channels; and where it is under direct and constant supervision by a control operator stationed at a fixed control point. FWMS adds, as a further argument, that the limitation adopted is, in any event, an illegal one, since it goes beyond the scope of the Notice.

32. We do not believe that the action we have taken goes beyond the scope of the initial Notice. While we did indicate that one-way paging arrangements were not our primary concern,¹⁹ they were, nevertheless, included.²⁰ Further, paging systems similar to those mentioned by FWMS were described in the comments; and were given careful consideration prior to our development of the final rules.²¹ However, we were not and we are not yet convinced that in view of the traditional problems associated with such operations, we should relax the rules as requested. The Commission has the power to waive these rules where, as FWMS points out, a good case is made that direct dial is needed and provisions have been made for effective operator supervision of the system. But we still maintain the view that the rules we have placed on paging operations should be retained. Accordingly, the requests of FWMS and other parties to relax our adopted paging requirements are denied.

Request To Permit Automatic Interconnection on a Case-by-Case Basis Only

33. Section 90.483(c) allows automatic interconnection where certain design features are employed.²² TNA feels that

¹⁹ See the Notice of Inquiry and Notice of Proposed Rule Making (FCC 78-603), Docket No. 20846, 41 FR 28540 (July 12, 1976), Paragraph 7.

²⁰ *Ibid.*, Paragraph 6.

²¹ See the First Report and Order (FCC 78-622), Docket No. 20846, 43 FR 38396, (August 28, 1978), Appendix A. The comments of the Tarrant County Hospital District and the Dade County Medical Association, Inc. were particularly informative.

²² Among these are the use of "automatic monitoring equipment" at the base station, restricted initial access from PSTN positions, and a timer to limit communications to three minutes and to safeguard against malfunction.

this method of operation should be allowed only in special circumstances; and that the Commission should decide what these circumstances are on a case-by-case basis only.

34. We have examined TNA's suggestion in light of the administrative burdens it would impose (which we feel would be great) and the public interest objectives that would be achieved by case-by-case review. We have concluded that with the requirements we have imposed for inter-connected operation, we could not accomplish more by way of assuring system control than what already flows out of the present rule requirements. When a system is operated in this fashion, while it may be first accessed from the PSTN, all that is permitted is the transmission of an "alerting signal".²³ The licensee's mobile operator then takes control and supervises the use and operation of the interconnected facility. There are further requirements under the referenced rule provisions, and we cannot think what conditions we might add to guard against improper use. In all, we are convinced that the rule provisions as they stand are adequate; and that no useful purpose would be served by following the procedure outlined by TNA. Therefore, this relief will not be granted.

Packaging

35. In Docket No. 18921,²⁴ we adopted an interim policy which precludes third parties who were not licensees from offering both radio equipment (either on a sale, rental or lease basis) and "radio dispatching" services to licensees or users of shared systems. TNA says that since the dispatchers or operators have now been replaced in automatically interconnected systems, this policy can be easily circumvented. It suggests that we adopt a rule in this proceeding which would prohibit licensing shared systems for which both the radio equipment and the automatic interconnection is furnished by the same third party. This request will be denied. As noted, the policy to which TNA referred to was proposed in Docket 18921. That proceeding is still open, and we believe that decision on the types of shared systems we should authorize should be made in that proceeding.

Request To Eliminate the 3-Minute Limitation Rule

36. In fully automatic interconnected mobile systems (which are not under the

²³ See § 90.483(c)(2).

²⁴ See *Multiple Licensing—Safety and Special Radio Services*, 24 FCC 2d, 510 (1970), at p. 518 et seq.

supervision of the licensee's control point operator at a fixed control point) we limited interconnected communications to 3 minutes. This serves two purposes. First, it limits all calls to or from PSTN positions to 3 minutes in order to give other co-channel licensees an opportunity to gain access to the frequency; and, second, it closes the system down in order to safeguard against possible system malfunction. Both API and UTC see this as a "dangerous" limitation, particularly taking into account the nature of operations of Power and Petroleum licensees. This, they say, often involves emergency traffic carried over interconnected circuits, and such messages cannot always be completed within the 3 minute timeframe permitted. In these circumstances, API and UTC ask that the limitation be deleted.

37. TNA, however, feels that the revision requested by API and UTC is not necessary, since utilities and petroleum companies are generally large concerns with control operators on duty 24 hours a day. But API and UTC point out in reply that this is not necessarily so; that in many rural areas (and even in urban areas during nighttime hours) control operators or "dispatchers" are not necessarily on duty, and that there is a real need for more flexibility under the § 90.483(c) option. They strongly urge that the capability of automatic interconnection is needed and that the 3 minute time limit is impractical and even dangerous, considering the nature of Power and Petroleum communications requirements.

38. We agree with the petitioners that the 3 minute restriction in the Power and Petroleum Radio Service is not desirable; and we believe that similar arguments could be made on behalf of licensees in certain of the Public Safety Radio Services, the Special Emergency Radio Service and the Railroad Radio Service. We see their situation as being generally parallel to that portrayed by API and UTC on behalf of their radio users. Further, we recognize that in these higher priority services, it may, in fact, be dangerous to automatically terminate communications at the end of a 3 minute period. This could lead to unwarranted and unfortunate disruption of essential emergency communications, with resulting harm to the public. Accordingly, we have concluded that an exception should be made in these services, and that the rule should be modified to permit elimination of the 3 minute timer in the Police, Fire, Local Government, Special Emergency, Power, Petroleum and Railroad Radio Services.

We will retain the requirement in the remaining Part 90 services; and we will also preserve the requirement for a timer for the purpose of deactivating the radio system in case of malfunction.

Request To Modify the Rule Governing Control Operator Requirements

39. Section 90.463(a) sets certain standards for the control operator (i.e., the person designated by the licensee to exercise supervision and control over the operation of the station). It provides that the control operator may be the licensee, an employee of the licensee, an agent of the licensee, or a third-party contractor. TNA objects to permitting third-party contractors to serve as control point operators because, TNA argues, such arrangements, by their very nature, permit such parties to act independently of licensees in the use of the radio facilities. Further, TNA says that all arrangements involving "agency relationships" should receive approval by the Commission prior to implementation; otherwise, abuse of the Commission's processes would be possible. Various examples are given by TNA to illustrate its point. In reply, API points out that third-party contractors are employed widely to perform control operator functions, particularly in remote areas; and that the harm, if there is any, is not so much in what the person who performs duties for the licensee is called, but rather, it subsists in the nature of the arrangement made between the licensee and the person.

40. API is correct in its view. A licensee may or may not be responsive to the requirements of law and FCC regulations. The same is true of an employee or agent of the licensee. Abuse of the rules is always possible, and is not more or less likely in cases where the control functions are carried out by third-parties. The rules already cover this concern, in that they specifically state that in no case, through appointment or designation of any person to serve as a control point operator, may the licensee delegate any of the duties and responsibility the licensee may have in his or her capacity as licensee.²⁵ Further, this requirement is coupled with those set out in Section 90.403 which states, in part, that licensees may not, through written or oral agreements or otherwise, relieve themselves of any duty or obligation imposed upon them by law, as licensees. These regulations, taken together, guard sufficiently against the problem TNA projects; and we see no need to modify our regulations in this regard.

²⁵ See § 90.463(a).

Compliance Dates

41. The new rules adopted in the First Report and Order became effective on October 16, 1978, for new systems; but we allowed a 5 year period approximately (until January 1, 1984) for licensees of existing systems to bring their facilities into compliance with the new regulations. TNA would like to see this changed and asks that licensees seeking renewal of existing authorizations after October 16, 1979, "be required to be in compliance with the rules and should be required to make an affirmative showing in this regard, just like new station applicants."²⁶

42. The (approximately) 5 year time period was chosen in light of the magnitude of the impact of the new rules on existing systems, many of which were authorized in the Business Radio Service and are presently interconnected within the 75 mile restricted zone. Further, many paging systems are in operation and are being accessed directly from the PSTN, perfectly permissible under prior policies, but now prohibited. These, too, will have to be brought into compliance by the January 1, 1984, deadline. Also, the new requirements for "internal" transmitter control systems will have to be met, and there are many systems of this type which do not now meet the exacting new requirements for operation in this mode. In all, the time afforded is not unusual in cases like this. Further, it avoids any Section 316 question,²⁷ and affords licensees reasonable opportunity for adjustments and for equipment in use to be amortized on a just basis. In these circumstances, then, the relief TNA asks is denied.

43. We were also asked to clarify our policy as to whether or not the grandfather provisions apply only to "interconnected" radio systems; or do they also extend to "paging" operations, "internal" systems, radio facilities which are "shared" within the meaning of § 90.481, and, strangely enough, to systems which are in operation but may have been "illegal" under prior Commission rules and policies. The short answer is that the grandfather provision (i.e., the January 1, 1984, deadline) was intended to apply to all modes of operation covered by the new rules. It does not, however, apply to systems "illegally" designed and operated under prior law policies. Thus, if a licensee's "shared" radio system, licensed in the Business Radio Service, uses an "automatic" patch for

interconnection at a shared base station location, that system, which would have been "illegal" prior to the new rules, would not be permitted to continue in an "illegal" fashion for the grandfather period. Further, systems in restricted areas which were interconnected "illegally" before, may not now be modified to comply with the present rules in order to operate under the grandfather provision.

Summary and Conclusion

44. We have carefully considered all of the matters advanced by the parties in their petitions for reconsideration, as well as in their respective oppositions and replies. Basically, we have found that the major concerns of the petitioners were in rule interpretations, rather than in the substantive requirements of the new rules adopted in the First Report and Order in this proceeding. Accordingly, we have directed our attention principally to such matters and have clarified and interpreted the rules where we thought necessary. In a few instances, the rules are being amended to eliminate what we have found, upon reconsideration of the presentations of the parties, to be burdensome requirements, or ones which were unnecessary to our regulatory goals and objectives. Therefore, we affirm, in principal measure, our actions in adopting the rules to govern licensee control, "internal" systems of communication, "dial-up" transmitter control, paging operations, and the new rules governing the interconnection of private land mobile radio systems licensed in the Part 90 Services, with the facilities of wireline common carriers. Such rule changes as we have deemed necessary or desirable are set forth in the attached Appendix. In addition, we have made minor word changes for greater clarity or to correct inadvertent errors.

45. Accordingly, it is ordered, effective December 19, 1979, that Part 90 of the Commission's rules is amended as shown in the Appendix, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. It is further ordered, that the petitions for reconsideration filed herein and above-referenced, are granted, to the extent indicated in the foregoing opinion, and in all other respects, are denied. Further information on this matter may be obtained by contacting James E. McNally, Jr., Private Radio Bureau, Rules Division, at (202) 254-6884.

(Secs. 4, 303, 48 stat., as amended, 1068, 1082; (47 U.S.C. 154, 303.))

Federal Communications Commission.

William J. Tricarico,
Secretary.

Attachment

Appendix

Part 90 of the Federal Communications Commission's Rules and Regulations is amended as follows:

1. Section 90.7 is amended by modifying the definition of "Interconnection" to read:

§ 90.7 Definitions.

Interconnection. Connection, either through automatic or manual means, of private mobile radio communications systems with the facilities of the public, switched telephone network to permit the transmission of messages or signals between points in the public telephone network and persons served by the private mobile radio systems. Wire line or radio links furnished by common carriers and used by licensees for transmitter control, including dial-up circuits, are not included within this definition of interconnected systems. Such facilities are treated as separate and distinct and are regulated under the provisions of § 90.461.

2. A new § 90.460, is added to Subpart O, to read as follows:

§ 90.460 Scope.

This subpart sets forth the provisions relating to permissible methods of transmitter control and interconnection (see the definition in § 90.7) of radio systems authorized under this part. The rules become effective for new systems on October 17, 1978. Licensees of existing systems shall bring their facilities into compliance with the provisions of this Subpart by January 1, 1984.

3. In § 90.461, paragraph (c)(5) is amended to read as follows:

§ 90.461 Direct and remote control of transmitters.

(c) * * *

(5) Interconnection, within the meaning of §§ 90.7 and 90.477 through 90.483, may not take place at a control point which connects to its associated transmitter(s) through dial-up circuits; nor may such dial-up transmitter control circuits be used in conjunction with (or shared by) interconnection equipment.

Subpart O—[Amended]

4. Subpart O of Part 90 is amended by including the heading, "Internal Transmitter Control Systems", following

§ 90.469 and preceding § 90.471; and the heading, "Interconnected Systems", following § 90.475 and preceding § 90.477.

5. In § 90.471, the headnote and text are amended to read as follows:

§ 90.471 Points of operation in internal transmitter control systems.

The transmitting facilities of the licensee may be operated from fixed positions located on premises controlled by the licensee. The fixed position may be part of a private telephone exchange or it may be any position in a closed or limited access communications facility intended to be used by employees of the licensee for internal communications and transmitter control purposes. Operating positions in internal transmitter control systems are not synonymous with dispatch points (See § 90.487) nor with telephone positions which are part of the public, switched telephone network; and the scheme of regulation is to be considered and treated as being different. See §§ 90.485 through 90.489.

6. In § 90.473, the headnote and text are amended to read as follows:

§ 90.473 Operation of internal transmitter control systems through licensed fixed control points.

An internal transmitter control system may be operated under the control and supervision of a control operator stationed at a fixed control point in the system. In such a case, the control point must be equipped to permit the control operator to monitor all traffic to and from fixed positions and mobile stations or paging units of the licensee; and the system shall be so designed to permit the control operator to either disconnect any operating position in the internal system from the transmitter control circuit or to close the system down entirely at will.

7. In § 90.475, the headnote, paragraph (a) and paragraph (a)(2) are amended to read as follows:

§ 90.475 Operation of internal transmitter control systems in specially equipped systems.

(a) An internal transmitter control system need not be designed to meet the requirements of § 90.473 if it meets the following requirements:

(2) An internal transmitter control system may be used in conjunction with other approved methods of transmitter control and interconnection; *Provided, however,* That the internal transmitter control system, itself, is neither accessed from telephone positions in the public, switched telephone network, nor

uses dial-up circuits in the public, switched telephone network.

8. In § 90.463, paragraph (e)(2) is amended to read as follows:

§ 90.463 Transmitter control points.

(e) * * *

(2) To terminate any transmission(s) or communication(s) between points in the public communications system and the private communications system.

9. A new § 90.476 is added to Subpart O, after the new heading, "Interconnected Systems" (see Instruction 4) to read as follows:

§ 90.476 Interconnection of fixed stations and certain mobile stations.

Fixed stations and mobile stations used to provide the functions of fixed stations pursuant to the provisions of paragraphs (c)(4), (c)(36) or (d)(4) of § 90.75, are exempted from the interconnection provisions of the remainder of this Subpart (§§ 90.477 through 90.483) and may be interconnected with the facilities of common carriers, subject to applicable tariffs.

§ 90.477 [Amended]

10. In § 90.477, paragraph (e) is deleted.

11. In § 90.483, paragraph (c)(4) is amended to read as follows:

§ 90.483 Special requirements pertaining to the methods of interconnection.

(c) * * *

(4) A timer shall be installed at the base station transmitter(s) which shall limit communications to three (3) minutes. After the three (3) minutes, the system shall close down, with all circuits between the base station and the public, switched telephone network disconnected; *Provided, however,* That this provision will not apply to systems licensed in the Police, Fire, Local Government, Special Emergency, Power, Petroleum and Railroad Radio Services, except that systems in these services shall be equipped with a timer that will close down the transmitter(s) not more than three (3) minutes after completion of communications in progress, as a safeguard against system malfunction.

(FR Doc. 79-36013 Filed 11-21-79; 8:45 am)

BILLING CODE 6712-01-31

47 CFR Part 95

[RM-2912; FCC 79-722]

Personal Radio Services; Permitting Cross-Border Communications With Canadian General Radio Service Licensees

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: In response to correspondence from the Canadian Government and a petition, the Commission authorizes cross-border communications between United States Citizens Band licensees and Canadian General Radio Service licensees. Such communications had heretofore been prohibited.

EFFECTIVE DATE: May 6, 1980.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, (202) 254-6884.

SUPPLEMENTARY INFORMATION**Order**

Adopted: November 6, 1979.
Released: November 14, 1979.
By the Commission.

In the matter of amendment of Citizens Band Radio Service rules to permit cross-border communications with Canadian General Radio Service licensees.

1. The Commission has under consideration amending Part 95 of the Commission's Rules to authorize licensees in the Citizens Band (CB) Radio Service to communicate cross-border with licensees in the Canadian General Radio Service (GRS). We have received correspondence from the Canadian Government and a petition for rule making, RM-2912, filed by Mr. Fred C. Blackwell, publisher of the CB Voice, Statesville, North Carolina, both expressing interest in and support for authorizing cross-border CB-GRS communications.

2. The Canadian counterpart of the Citizens Band Radio Service is the General Radio Service. Both services have experienced phenomenal growth in the past few years. In the United States, there are now approximately fifteen million CB licensees. In Canada, there are over 600,000 GRS licensees. The technical standards, allocated frequencies, and operating rules of the two services, for the most part, are the same. Since 1970, a reciprocal permit system with Canada has been in effect which allows their licensees to operate their stations in the United States while on vacation or business. Under a

²⁶ TNA Petition, page 20.

²⁷ See Section 316(a) of the Communications Act of 1934, as amended.

reciprocal permit, U.S. CB licensees have the same privileges in Canada.

3. However, despite the compatibility of the two services, the regulations of both countries prohibit communications by one of their licensees with a foreign station. This means that although a CB licensee may communicate with a Canadian visiting in the United States (visiting GRS licensees are not foreign stations because they have been granted a temporary permit to operate in the Citizens Band Radio Service), communications with that GRS licensee when the Canadian is back in Canada are not permitted.

4. The purpose of prohibiting communications with foreign stations originally was twofold. One was to prevent communications between radio services that were incompatible. In many countries, the 27 MHz range is used for either land mobile or amateur radio and operating rules are vastly different from CB radio. Second, it was meant to prevent CB licensees from attempting to send long-distance signals via skywave propagation ("skip"). These two problems, for the most part, do not apply in the case of CB-GRS communication. The United States and Canada share a 5500 mile border, including several large population centers, the most notable being Detroit-Windsor, and communications across this border would normally be ground wave transmissions. Therefore, we believe that communications between CB and GRS licensees should be permitted. However, to make clear the Commission's position, by authorizing U.S.-Canadian cross-border communications for the Citizens Band Radio Service, we are in no way modifying the prohibition against communications over 250 kilometers (155.3 miles).

5. The specific rule amendment we are adopting is set forth in the Appendix. Authority for this amendment is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. The amendment is basically deregulatory. Since no party would be adversely affected by the rule changes; since public comments, we believe, would be unlikely; and, because of the delay in the effective date of the rule, we are dispensing with the prior notice and public procedure provisions of the Administrative Procedure Act as unnecessary, 5 U.S.C. 553(b). The effective date of the rule change herein ordered is to be six months after the adoption date of this Order so that permission for cross-border communications will occur

simultaneously in both the United States and Canada.

6. Accordingly, It is ordered, effective May 6, 1980, that Part 95 of the Commission's Rules is amended as set forth in the attached Appendix, and that this proceeding is terminated.

7. For further information on these rule changes, contact Maurice J. DePont, (202) 254-6884.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

§ 95.401 [Amended]

1. Section 95.401 (CB Rule 23(a)(1)) is amended to read as follows:

CB Rule 23. What communications are prohibited?

(a) * * *

(11) To communicate with unlicensed stations or stations in other countries, except General Radio Service stations in Canada; and,

* * *

Agreement Between the Government of the United States of America and the Government of Canada Relating to the Operation of Radio Telephone Stations

The Government of the United States of America and the Government of Canada, being desirous of establishing rules to permit certain radio station licensees of either country, upon compliance with certain conditions, to operate radio telephone stations in the other country have agreed as follows:

Article I

It is agreed that the Governments of Canada and the United States of America, finding their respective licensees qualified to operate a radio telephone station in their own country, shall permit licensees in the Canadian General Radio Service, and licensees in the United States Citizens Band Radio Service, to operate their stations in the territory of the other country, subject to the following conditions:

(a) The appropriate administrative agency of the host Government may:

- (1) deny the privilege of operation to any visiting licensee at its discretion;
- (2) grant the privilege of operation to any visiting licensee under such conditions, restrictions, and terms as it may prescribe;
- (3) modify the privilege of operation of any visiting licensee under any conditions, restrictions or terms as it may prescribe;
- (4) cancel the privilege of operation of any visiting licensee at any time at its discretion.

(b) The visiting licensee shall identify the station by the call sign issued by the licensing country.

(c) In all other respects, the station shall be operated in accordance with the laws and regulations of the host country which apply to the corresponding radio service of the host country.

(d) In the event of rule violations by the visiting licensee, it shall be the responsibility of the host country to take appropriate actions.

Article II

The present convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible. The present convention shall enter into force on the day of the exchange of instruments of ratification and shall continue in force thereafter subject to the termination by either Government giving six months notice in writing of its intention to terminate.

(FR Doc. 79-36083 Filed 11-21-79; 8:45 am)

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5721]

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed Special Flood Hazard Areas (SFHAs) for those communities is appropriate as a result of requests for changes in the interim rule.

DATES: These modified SFHAs are in effect as of the dates listed in the sixth column of the attached list and amend the Federal Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified SFHA determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator has

published a notification of modification of the SFHAs in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Administrator has received appeals from the communities requesting changes in the proposed SFHA determinations.

The numerous changes made in the SFHAs on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the SFHA changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modified SFHA determinations are available for inspection.

The modifications are pursuant to Section 206 of the Flood Disaster

Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65 (Presently appearing at its former section 24 CFR Part 1915)).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These SFHAs are bases for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These SFHAs together with the flood plain management measures required by § 60.3 (Presently appearing at its former

§ 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The changes in the SFHAs listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former 24 CFR 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Colorado	Garfield	City of Rifle	<i>The Rifle Telegram</i> , Aug. 23 and Aug. 30, 1978.	Mr. Daniel W. Deppe, City Manager, City of Rifle, P.O. Box 1908, Rifle, Colorado 81650.	Sept. 1, 1978	085078B
Missouri	St. Louis	City of Ferguson	<i>The Northwest County Journal</i> , Aug. 23 and Aug. 30, 1978.	Honorable Charles H. Grimm, Mayor, City of Ferguson, City Hall, 110 Church Street, Ferguson, Missouri 63135.	Sept. 1, 1978	290351C
North Carolina	Dare	Town of Manteo	<i>Manteo Coastland Times</i> , Sept. 5 and Sept. 12, 1978.	Honorable Carlisle N. Davis, Mayor of Town of Manteo, P.O. Box 248, Manteo, North Carolina 27954.	Sept. 8, 1978	375355E
Tennessee	Hamilton	City of East Ridge	<i>Chattanooga Times</i> , Sept. 20 and Sept. 22, 1978.	Honorable G. W. White, Mayor of East Ridge, 1501 Tombrast Avenue, East Ridge, Tennessee 37412.	Sept. 15, 1978	475424C
Colorado	Adams	City of Commerce City	<i>The Adams County Almanac</i> , Sept. 28 and Oct. 5, 1978.	Honorable Allen Williams, Mayor, City of Commerce City, 529 East 60th Street, Commerce City, Colorado 80022.	Oct. 16, 1978	080006C
Mississippi	Jones	City of Laurel	<i>The Laurel Leader-Call</i> , Oct. 12 and Oct. 13, 1978.	Honorable W. L. Patrick, Jr., Mayor, City of Laurel, City Hall, P.O. Box 647, Laurel, Mississippi 39440.	Oct. 13, 1978	280082C
Oregon	Umatilla	City of Pendleton	<i>The East Oregonian</i> , Nov. 2 and Nov. 3, 1978.	Honorable Joe McLaughlin, Mayor, City of Pendleton, P.O. Box 190, Pendleton, Oregon 97801.	Nov. 3, 1978	410211C
New Jersey	Mercer	Township of Hopewell	<i>The Hopewell Valley News</i> , Nov. 2 and Nov. 9, 1978.	Honorable Caroline E. Woodward, Mayor, Hopewell Township, Hopewell Township Municipal Building, Route 545 Scotch Road, Titusville, New Jersey 08560.	Nov. 10, 1978	345296B
Colorado	Boulder	City of Louisville	<i>The Louisville Times</i> , Nov. 25 and Nov. 30, 1978.	Honorable John Waschak, Mayor, City of Louisville, 749 Main Street, Louisville, Colorado 80027.	Dec. 1, 1978	085076D
Florida	Palm Beach	Town of Gulf Stream	<i>The News-Journal</i> , Dec. 7 and Dec. 14, 1978.	Honorable William F. Koch, Mayor, Town of Gulf Stream, 248 Sea Road, Gulf Stream, Florida 33444.	Dec. 15, 1978	125109C
New Jersey	Union	City of Elizabeth	<i>The Daily Journal</i> , Nov. 30 and Dec. 1, 1978.	Honorable Thomas Dunn, Mayor, City of Elizabeth, 50 West Scott Place, Elizabeth, New Jersey 07201.	Dec. 1, 1978	345523D
North Carolina	Guilford	City of Greensboro	<i>The News-Record</i> , Dec. 8 and Dec. 15, 1978.	Honorable James Melvin, Mayor, City of Greensboro, Drawer W-2, Greensboro, North Carolina 27402.	Dec. 15, 1978	375351B
North Carolina	Transylvania	Town of Rosman	<i>The Transylvania Times</i> , Dec. 12 and Dec. 15, 1978.	Honorable Guy A. Mull, Jr., Mayor, Town of Rosman, P.O. Box 636, Rosman, North Carolina 28772.	Dec. 8, 1978	375358B
North Dakota	Cass	City of Fargo	<i>The Fargo Forum</i> , Nov. 24 and Dec. 1, 1978.	Honorable Jon G. Lindgren, Mayor, City of Fargo, 201 4th Street, North, Fargo, North Dakota 58102.	Dec. 1, 1978	365364B
Florida	Palm Beach	Village of Tequesta	<i>The Courier Highlights</i> , Dec. 28, 1978 and Jan. 4, 1979.	Honorable Howard F. Brown, Mayor, Village of Tequesta, P.O. Box 3273, Tequesta, Florida 33458.	Jan. 5, 1979	120228E
Texas	Aransas	City of Rockport	<i>The Rockport Pilot</i> , Jan. 26 and Feb. 4, 1979.	Honorable Walter S. Falk, Jr., Mayor, City of Rockport, 319 N. Broadway, P.O. Box 1058, Rockport, Texas 78382.	Jan. 16, 1978, 1916B	465504C
New Jersey	Atlantic	City of Atlantic City	<i>Atlantic City Press</i> , Feb. 2 and Feb. 9, 1979.	Honorable Joseph Lazarow, Mayor, City of Atlantic City, 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401.	Jan. 23, 1979, 1916B	345278B
Idaho	Blaine	City of Ketchum	<i>The Wood River Journal</i> , Jan. 26 and Feb. 8, 1979.	Honorable Gerald N. Seiffert, Mayor, City of Ketchum, P.O. Box 567, Ketchum, Idaho 83340.	Jan. 16, 1978, 1916B	16003B

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Florida	Palm Beach	Town of Highland Beach	<i>The Sun Sentinel</i> , Jan. 25 and Jan. 26, 1979.	Honorable Louis Y. Horton, Mayor, Town of Highland Beach, 3614 South Ocean Boulevard, Highland Beach, Florida 33431.	Jan. 26, 1979	125111E
Florida	Palm Beach	Town of Jupiter Inlet Colony	<i>The Courier-Highlights</i> , Jan. 18, and Jan. 25, 1979.	Honorable George Bachman, Mayor, Town of Jupiter Inlet Colony, P.O. Box 728, Jupiter Inlet Colony, Florida 33458.	Jan. 26, 1979	125120C
Florida	Palm Beach	Town of Jupiter	<i>The Courier-Highlights</i> , Feb. 1 and Feb. 8, 1979.	Honorable Donald Faucher, Mayor, Town of Jupiter, Town Hall, 1000 Town Hall Avenue, Jupiter, Florida 33458.	Feb. 9, 1979	125119C
New Jersey	Monmouth	Township of Ocean	<i>The Asbury Park Press</i> , Feb. 12 and Feb. 19, 1979.	Honorable Joseph Paleia, Mayor, Township of Ocean, Township Hall, Deal and Monmouth Road, Oakhurst, New Jersey 07755.	Jan. 29, 1978, 1916B	340319C
New York	Stuten	Village of Painted Post	<i>The Leader</i> , Feb. 5 and Feb. 6, 1979.	Honorable Vernon J. Patterson, Mayor of the Village of Painted Post, Box 110, Painted Post, New York 14870.	Feb. 8, 1979	36079001D
North Carolina	Forsyth	City of Winston-Salem	<i>The Winston-Salem Journal</i> , Feb. 1 and Feb. 2, 1979.	Mr. Orville Powell, City Manager, City of Winston-Salem, City Hall.	Feb. 2, 1979	375380E
Oklahoma	Canadian, Cleveland, McClean, and Pottawatomie	City of Oklahoma City	<i>The Oklahoman</i> , Feb. 1 and Feb. 2, 1979.	Mr. James Cook, City Manager, City of Oklahoma City, 302 Municipal Building, Oklahoma City, Oklahoma 73102.	Feb. 9, 1979	405578A
Texas	Harris	City of Baytown	<i>Baytown Sun</i> , Feb. 12 and Feb. 13, 1979.	The Honorable Emmitt Butto, Mayor of Baytown, Box 424, Baytown, Texas 77520.	Feb. 9, 1979	485456B
Wisconsin	Douglas	City of Superior	<i>The Evening Telegram</i> , Feb. 22 and Feb. 23, 1979.	Honorable Bruce Hagen, Mayor, City of Superior, 1409 Hammond Avenue, Superior, Wisconsin 54800.	Feb. 23, 1979	550118-001C
Colorado	Routt	Town of Steam Boat Springs	<i>The Steamboat Springs</i> , Mar. 7 and Mar. 15, 1979.	Mr. Donald E. Barrett, President, Town Council, Town of Steamboat Springs, Town Offices, P.O. Box 1174, Steamboat Springs, Colorado 80477.	Mar. 18, 1979	080159B
Florida	Palm Beach	City of Delray Beach	<i>The Delray Beach News Journal</i> , Mar. 1 and Mar. 8, 1979.	Honorable Leon Weeks, Mayor, City of Delray Beach, 100 N.W. 1st Avenue, Delray Beach, Florida 33444.	Mar. 9, 1979	125102B
Ohio	Erie and Lorain	City of Vermilion	<i>The Photo Journal</i> , Mar. 15, 1979.	Honorable Arthur R. Crow, Jr., Mayor of Vermilion, P.O. Box 317, Vermilion, Ohio 44089.	Mar. 9, 1979	395374B
Pennsylvania	Allegheny	Township of Elizabeth	<i>McKeesport Daily News</i> , Mar. 19, and Mar. 20, 1979.	Mr. Charles Carlock, Chairman of Board of Commissioners, Elizabeth Township, 522 Rock Run Road, Buena Vista, Pennsylvania 15016.	Mar. 16, 1979	420033, 0001C-0020C
Rhode Island	Providence	City of East Providence	<i>Providence Journal</i> , Mar. 19 and Mar. 20, 1979.	Mr. Paul A. Slyn, City Manager, City Hall, 80 Commercial Way, East Providence, Rhode Island 02914.	Mar. 16, 1979	445398B
New Jersey	Atlantic	City of Brigantine	<i>Atlantic City Press</i> , May 11 and May 18, 1979.	Honorable John A. Regge, Mayor, City of Brigantine, City Hall, Brigantine, New Jersey 08203.	Apr. 17, 1979, 1916B	345286A
Connecticut	Hartford	Town of West Hartford	<i>Hartford Courant</i> , Sept. 11, Sept. 12, 1978.	Mr. Richard Custer, Town Manager, 28 South Main Street, West Hartford, Connecticut 06107.	May 11, 1979	095082A
Missouri	Marion County		<i>Hannibal Courier Post</i> , May 3 and May 4, 1979.	Mr. W. R. Sears, Marion County Clerk, Marion County Courthouse, Palmyra, Missouri 63461.	Apr. 26, 1979	290222
Arizona	Mohave	City of Kingman	<i>Kingman Miner</i> , June 28, and June 29, 1979.	The Honorable A. H. Carpenter, Mayor, City of Kingman, 310 North Fourth Street, Kingman, Arizona 86401.	June 18, 1979, 1916B	040060B
Washington	Okanogan	City of Omak	<i>Omak Chronicle</i> , May 31, and June 7, 1979.	Honorable Clarence Nash, Mayor, City of Omak, P.O. Box 72, Omak, Washington 98841.	May 22, 1979, 1916B	530120B
California	San Luis Obispo	City of San Luis Obispo	<i>Telegram Tribune</i> , July 19, and July 20, 1979.	The Honorable Lynn Cooper, Mayor, City of San Luis Obispo, California 93401.	July 2, 1979, 1916B	060310B

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 1968), effective January 28, 1969 [33 FR 17804, November 28, 1968], as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.

Issued: October 11, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-35958 Filed 11-21-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 5722]

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as

amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65.4 (Presently appearing at its former 24 CFR Part 1915)).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by § 60.3 (presently appearing at its former § 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former 24 CFR 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Alabama	Tuscaloosa	City of Tuscaloosa	<i>Tuscaloosa News</i> , Aug. 25 and Sept. 1, 1979.	Mr. Ernest W. Collins, Mayor, City of Tuscaloosa, P.O. Box 2089, Tuscaloosa, Alabama 35403.	Aug. 16, 1979	010203A
California	San Mateo	City of San Carlos	<i>Peninsula Times and San Carlos Enquirer</i> , Aug. 15 and Aug. 22, 1979.	Honorable Bill Steele, Mayor, City of San Carlos, 666 Elm Street, San Carlos, California 94070.	Aug. 21, 1979	060327C
Mississippi	Lowndes	City of Columbus	<i>Commercial Dispatch</i> , July 31 and Aug. 7, 1979.	Honorable James M. Trotter, Mayor, City of Columbus, P.O. Box 703, City Hall, Columbus, Mississippi 39701.	Aug. 7, 1979	280180, 0005C
Missouri	Lawrence	City of Aurora	<i>Aurora Advertiser</i> , Aug. 18, 1979.	The Honorable Max Solomon, Mayor of Aurora, City Hall, Aurora, Missouri 65605.	Aug. 17, 1979	290196C
North Dakota	Mercer	City of Hazen	<i>Hazen Star</i> , July 26 and Aug. 2, 1979.	The Honorable Melvin P. Beckler, Mayor, City of Hazen, P.O. Box 717, Hazen, North Dakota 58545.	July 9, 1979	380067, 0001B
Alaska		Fairbanks North-Star Borough	<i>News Miner</i> , Sept. 5 and Sept. 12, 1979.	The Honorable John Carlson, Mayor, Fairbanks North-Star Borough, P.O. Box 1267, Fairbanks, Alaska 99707.	Sept. 11, 1979	025009D
Texas	Hidalgo	City of Alamo	<i>Alamo News Monitor</i> , Sept. 27 and Oct. 4, 1979.	The Honorable Cruz Alantiz, Mayor, City of Alamo, 423 North Tower Road, Alamo, Texas 78518.	Sept. 25, 1979	480335C
Wisconsin		Manitowoc County unincorporated area.	<i>Herald News</i> , Oct. 12 and Oct. 19, 1979.	Mr. James M. Hendericks, Chairman, Manitowoc County Board, Manitowoc County Courthouse, 1010 South Eighth Street, Manitowoc, Wisconsin 54220.	Sept. 12, 1979	550236, 0080A

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 1968), effective January 28, 1969 [33 FR 17804, November 28, 1968], as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: October 17, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-35955 Filed 11-21-79; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 44, No. 227
Friday, November 23, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 906

Oranges and Grapefruit Grown in Texas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the rules and regulations governing the exemption of certain special purpose shipments of Texas oranges and grapefruit from assessments, regulations, and inspection and certification requirements prescribed under the marketing order. The proposed action is designed to facilitate the handling of fruit for relief, charity, and home use and provide adequate safeguards to assure that the fruit does not enter commercial fresh market channels.

DATES: Comments must be received not later than December 7, 1979.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: The proposed amendment would be issued under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was submitted by the Texas Valley Citrus Committee, which locally administers this marketing order program. The committee reports that a small volume of fruit for home use,

relief, and charity is transported out of the production area each year. The proposed provisions are designed to facilitate the movement of fruit for these uses and provide adequate safeguards to assure that the fruit does not enter commercial fresh market outlets.

The proposal would exempt the handling of oranges and grapefruit for home use from the requirements of § 906.34 (assessments), § 906.40 (issuance of regulations), and § 906.45 (inspection and certification) and regulations thereunder. Currently, § 906.120 provides for the exemption of fruit for relief or charity from the requirements provided that the handler notifies the committee of the proposed handling and furnishes a statement that the fruit will not enter fresh market channels. Under the proposal § 906.120 would be amended to require each person to apply to the committee for a certificate of privilege prior to handling fruit for home use, relief or charity exempt from the specified regulations. The procedures would be similar to that currently prescribed in § 906.120(e) which is applicable to the handling of fruit in certain specified containers. The proposal would specify the type of information which would be required to be furnished to the committee by each applicant. The committee would consider each application and notify the applicant of the action taken on the application and the basis for denial of any application. The proposal would also make a number of minor revisions in the rule for purposes of clarification.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposed amendment is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that this action should not be classified "significant". A Draft Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Telephone (202) 447-5975.

The proposal is to amend Subpart—Rules and Regulations, (7 CFR 906.100 *et seq.*) by revising § 906.120 (a), (c), (d), and (e) and by deleting paragraph (f), to read as follows:

§ 906.120 Fruit exempt from regulation.

(a) *Minimum quantity.* Any person or the occupants of any one vehicle may ship fruit from the production area during any one day exempt from the requirements of §§ 906.34, 906.40, and 906.45, and regulations issued thereunder: *Provided*, That the shipment does not exceed 400 pounds of fruit (either oranges or grapefruit or a combination of both), it consists solely of fruit not for resale, and it is not part of a shipment of fruit exceeding 400 pounds.

(c) *Special purpose shipments and safeguards.* (1) Fruit may be handled for relief, charity, or home use exempt from the requirements of §§ 906.34, 906.40, and 906.45 and the regulations issued thereunder: *Provided*, That the fruit shall not be offered for resale, and the handler submits, prior to any such handling, an application to the committee on forms provided by the committee. The application shall contain the name and address of the handler and such other information that the committee may require including, but not limited to, the quantity of fruit involved, license number of the conveyance, and supporting documentation. Approval of the application by the committee shall be evidenced by the issuance of a certificate of privilege to the applicant in accordance with paragraph (d).

(2) Gift packages of fruit handled pursuant to § 906.41 shall be in containers stamped or marked with the handler's name and address.

(3) Fruit may be handled exempt from regulations issued pursuant to § 906.40(d), if the following conditions are met:

(i) Each fiscal period the handler submits prior to such handling a written application to the committee on forms provided by the committee. The application shall contain the name and address of the handler, and a description of the container or containers in which such fruit would be handled.

(ii) The fruit grades at least U.S. No. 1.

(iii) The fruit is handled in closed fully telescopic fiberboard cartons with inside dimensions of 16½ x 10½ x 10½ inches which are packed level full, and the cover and bottom section have a Mullen or Cady test of at least 250 pounds; in six-packs; in 12-packs; in

baskets of a capacity of 1 bushel or less; or in any of the containers authorized under § 906.340, provided they are stamped or marked "special purpose shipment".

(iv) Each handler shall file a report with the committee within 1 business day after each shipment handled pursuant to paragraph (c)(3). Such report shall contain the name and address of the handler; date fruit is handled; the number and type of containers and packs in such shipment; the inspection certificate numbers applicable to such shipment; name and address of the purchaser; and the license number of the truck, trailer, or automobile, as the case may be, in which the shipment was loaded.

(d) The committee or its duly authorized agents, shall approve or deny each handler's request to handle fruit under paragraph (c)(1) and (c)(3) of this section and promptly notify such handler in writing of its decision: *Provided*, That if it approves a handler's request, it shall issue a certificate of privilege as provided in § 906.44, but if it denies a request it shall advise the handler why the application was denied. The committee may rescind a certificate of privilege issued to a handler, or deny a certificate of privilege to a handler upon proof satisfactory to the committee that such handler has shipped fruit contrary to the provisions of this part. Such action denying a certificate of privilege shall apply to and not exceed a reasonable period of time as determined by the committee. Any handler who has had a certificate of privilege rescinded or denied may file a written appeal with the committee for reconsideration.

(e) *Meaning of terms.* When used herein, the term "bushel" means a unit of measure equivalent to 2,150.42 cubic inches; the term "level full" means that the fruit is level with the top edge of the bottom section of the carton; the term "six-pack" means any container with a capacity of one-eighth of a bushel; the term "12-pack" means any container with a capacity of one-fourth of a bushel; the term "basket" means any container made of interwoven material; the term "closed" means closed in accordance with good commercial practices; and the term "U.S. No. 1" means the same as in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 2851.680-712), or the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona) (7 CFR 2851.620-653), as applicable.

Dated: November 16, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.
[FR Doc. 79-36088 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 971

[Amdt. No. 1]

Lettuce Grown in Lower Rio Grande Valley in South Texas; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would extend through March 31, 1980, container, pack, and inspection requirements on shipments of lettuce grown in the Lower Rio Grande Valley in South Texas. Standardizing trading practices improves marketing efficiency, promotes orderly marketing of such lettuce, and helps provide better quality lettuce at reasonable prices to consumers.

DATE: Comments due December 21, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments must be submitted; the comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski (202) 447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 144 and Marketing Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The South Texas Lettuce Committee, established under the order, is responsible for its local administration.

This notice is based upon the recommendations made by the committee at its public meeting in McAllen, Texas, on November 1, 1979. These recommendations reflect its appraisal of the 1980 lettuce crop and marketing prospects for the season. The proposal is designed to provide orderly marketing of South Texas lettuce during the period January 1 through March 31, 1980, and is similar to the temporary regulation to be in effect from November 19 which imposes inspection and minimum container and pack requirements.

The proposed container and pack requirements would be in accord with the generally accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specified sized containers limited to those found acceptable to the trade for safe transportation of the lettuce, and would prevent deceptive practices.

In addition the South Texas lettuce industry is accustomed to operating on a six day shipping week. A six day shipping week has proven adequate for five days distribution in terminal markets, therefore, proposed "packaging holidays" on Sundays would promote more efficient and orderly marketing. However, handlers would be permitted, with the approval of the committee, to package lettuce on Sunday whenever the committee finds that distribution is inadequate, or that crop damage is imminent.

No purpose would be served by regulating the containers or pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore each person would be exempt from such requirements for up to two cartons or the equivalent of lettuce per day.

Proposed provisions with respect to special purpose shipments, including export, are designed to meet the different requirements for export and noncommercial domestic trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market. These buyers use lettuce which fails to meet the proposed pack and container requirements. Inasmuch as such shipments have a negligible effect on the domestic market, they should be permitted if certain safeguard requirements are met.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because (1) shipments of the 1980 crop lettuce grown in the production area are expected by, and the regulation should become effective on, the effective date herein to maximize benefits to producers; (2) information regarding the provisions of the recommendation by the committee has been disseminated among growers and handlers of lettuce in the production area; (3) a temporary regulation with identical requirements is to be effective for the period November 19 through December 31, 1979; and (4) compliance with this section should not require any special preparation on the part of handlers subject thereto which cannot

be completed by such effective date. A determination has been made that this section should not be classified "significant." A Draft Impact Analysis is available from Donald S. Kuryloski (202) 447-6393.

It is proposed that 7 CFR 971.320 be amended to read as follows:

§ 971.320 Handling regulation.

During the period January 1, 1980, through March 31, 1980, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b) and (c) of this section, or unless such lettuce is handled in accordance with paragraphs (d) or (e) of this section. Further, no person may package lettuce during the above period on any Sunday unless approved in accordance with paragraph (f).

(a) *Containers.* Containers may be only the following depth, width and length respectively:

(1) Cartons with inside dimensions of 10 inches x 14½ inches x 21½ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches x 14 inches x 21 inches (designated as carrier container No. 7306), or

(3) Cartons with inside dimensions of 14 inches x 9¾ inches x 21 inches (designated as carrier container No. 7313), or

(4) Cartons with inside dimensions of 10¾ inches x 16½ inches x 21½ inches (designated as carrier container No. 7312—flat pack).

(b) *Pack.* (1) Lettuce heads, packed in container Nos. 7303, 7306, or 7313; if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 7312 may be packed only 24 or 30 heads per container.

(c) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued for it, except when relieved of such requirement by paragraphs (d) or (e) of this section.

(2) No handler may transport by motor vehicle, or cause such transportation of, any shipment of lettuce for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI-23) furnished by the inspection service verifying that such shipment meets the pack and container requirements of this section. A copy of such inspection

certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(d) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons or the equivalent of lettuce a day without regard to inspection, assessment, container and pack requirements. This exception shall not be applied to any shipment of over two cartons of lettuce.

(e) *Special purpose shipments.* The container, pack, and inspection requirements of this section shall not be applicable to shipments as follows:

(1) For relief, charity, experimental purpose, or export to Mexico, if a handler presents a Certificate of Privilege for such lettuce prior to handling it, pursuant to §§ 971.120-971.125; and

(2) For exports to Mexico, if the handler of such lettuce loads and transports it in a vehicle bearing Mexican registration (license).

(f) *Suspensions of packing holidays.* Upon approval of the committee, the prohibition against packaging lettuce on any Sunday may be modified or suspended to permit the handling of lettuce provided such handling complies with the procedures and safeguards specified by the committee.

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

Dated: November 16, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable
Division, Agricultural Marketing Service.

[FR Doc. 79-36087 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-02-4

7 CFR Part 1079

Milk in the Iowa Marketing Area; Termination of Proceeding on Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service,
USDA.

ACTION: Termination of proceeding.

SUMMARY: This action terminates the suspension proceeding that was initiated by a notice of proposed suspension of certain provisions of the order issued by the Acting Deputy Administrator, Marketing Program Operations, on October 12, 1979. The termination is based on an evaluation of pertinent information, including comments that were submitted by the public in response to the notice of proposed suspension. The suspension was found not to be warranted.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 202-447-7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of proposed suspension—
Issued October 12, 1979, published
October 17, 1979 (44 FR 59913).

This termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*). In the notice of proposed suspension, the public was invited to submit comments not later than October 25, 1979.

The provisions that were proposed to be suspended for the periods indicated were:

1. In § 1079.13(d)(1), for the period November 1, 1979, through August 31, 1980, the words "as producer milk", and

2. In § 1079.13(d)(3), for the month of November 1979, the portion of the last sentence as follows: "50 percent in the months of September through November, and"; and the words "in other months".

Statement of Consideration

Kraft, Inc., has built a plant at Earlville, Iowa, which it intends to operate as a pool supply plant under the Iowa milk order. There will be no manufacturing facilities at the supply plant. Kraft, Inc., intends to supply milk that will be associated with the supply plant to the pool distributing plant of a proprietary handler in Des Moines, Iowa. The milk would move from farms directly to the Des Moines distributing plant by diversion from the Earlville supply plant. Also, milk would be diverted from the supply plant to the Kraft, Inc., nonpool plant at Galena, Illinois. The suspension was requested to facilitate the movement of such milk for the firm.

The order provides that milk may be diverted from a pool plant to another pool plant or to a nonpool plant if at least one day's production of each dairy

farmer is physically received as producer milk at a pool plant. The order provides also that the total quantity diverted during the month may not exceed 50 percent in the months of September through November, and 70 percent in other months, of the milk received at or diverted from such pool plant during the month that is eligible to be diverted by a handler.

The petitioner contends that unless the provision "as producer milk" in § 1079.13(d)(1) is suspended, at least one day's production of milk of a dairy farmer would have to be physically received at the supply plant for the milk of such farmer to be eligible for diversion as producer milk to the Des Moines distributing plant, or to the nonpool manufacturing plant at Galena, Illinois. Thus, the milk of each producer that would be involved in such diversion would have to be delivered to the supply plant at least once a month and then reloaded to be delivered to the respective plant.

The attorney for Kraft, Inc., stated that such requirement should not be necessary to pool the milk of such producers under the Iowa milk order. In his view, the fact that the milk would be received at a pool distributing plant directly from farms should be a sufficient basis for establishing the pooling and diversion eligibility for such milk under the Iowa order.

According to Kraft, Inc., if the suspension proposed for § 1079.13(d)(1) is not adopted, extra pumping of milk will be required which, it was stated, would tend to deteriorate the quality of the milk so handled. Also, the handler claimed that for the milk that is received at the supply plant, a location adjustment of minus 16 cents a hundredweight would apply in paying producers, when the sole purpose of delivering the milk to the supply plant is to qualify the producers' milk for diversion.

Kraft, Inc., claimed also that by providing 70 percent diversion for November 1979, instead of the 50 percent now provided by the order, economies of about \$100 per day could be realized in the cost of diverting milk to pool and nonpool plants, considering the hauling distances to Des Moines and to Galena, Illinois, from Earlville, Iowa, and the quantity of milk involved in such diversion. According to the handler, much of the milk would be diverted to the Des Moines distributing plant, while some milk would be diverted to a Kraft, Inc., nonpool manufacturing plant at Galena, Illinois. These economies, according to Kraft, do not include the cost reduction that could be realized in reducing the milk pumping

that would be involved if the proposed suspension were adopted.

The petitioner asked that the suspension be effective October 1, 1979; however, it was found in the proposed suspension notice that suspension from such date would not have provided other handlers in the market an opportunity to adjust their operations for the month of October. Accordingly, the proposed suspension was contemplated to begin November 1, 1979.

Comments were submitted by three cooperative associations that supply most of the milk used in the market. The comments were mostly in opposition to the suspension request. One cooperative supported a suspension of the 50 percent diversion provision if the reciprocal of the supply plant shipping percentages were provided. The supply plant shipping percentages are 35 percent during the months of September through November, and 20 percent in all other months. The reciprocals of these percentages would be 85 percent and 80 percent, and the cooperative would have them apply to diverted milk in each of the respective months, and for cooperative associations as well as for proprietary handlers. In this connection, there is no order language in the diversion provisions that could result in providing the reciprocals requested by the cooperative. Further, there is no basis either in petitioner's request or in the comments submitted to consider suspension of the diversion percentage for any months other than November 1979.

One cooperative observed that the proposed suspension was requested by petitioner to accommodate the diversion of larger quantities of milk to a nonpool plant. The cooperative pointed out that the petitioner had asked the Department to suspend certain provisions of the Iowa milk order under which, at the time the public was asked to comment, petitioner had neither pooled a plant nor had diverted milk from it for manufacturing. In the cooperative's view, it would be more appropriate for petitioner actually to operate the Earlville plant as an Iowa pool plant instead of requesting that certain provisions of the order be suspended based on marketing conditions that do not exist.

The cooperative stated, also, that in the absence of the one-day-a-month delivery by producers, diversions of milk to the nonpool plant from distant areas that are in no way related to the supply area for the market could be attached to the pool by diversion from petitioner's supply plant. In the cooperative's view, this result would be

contrary to the purpose of the provision which is to provide an economic means of pooling milk that is regularly associated with the supply plant, as a reserve of fluid milk for the market.

Concerning the diversion percentage, the cooperative stated that the month of November has been the month of highest Class I use in relation to supply for the past two years. It pointed out that the diversion of milk accommodates the economical movement of milk from farms to manufacturing plants when milk that is associated with the market is not needed for fluid use. The cooperative stated that the petitioner had not established any need, from a marketwide standpoint, to increase the diversion limits for the month of November 1979, to accommodate the diversion of milk to a manufacturing plant.

The cooperative concluded that the petitioner's request did not establish that disorderly marketing conditions exist in the Iowa market that would justify the suspension requested. It stated that, notwithstanding the suspension request, if petitioner can establish that such conditions do, in fact, exist, then they should be reviewed at a public hearing to consider amendment of appropriate provisions.

Another cooperative stated that the delivery of a producer's milk to a pool plant at least once a month is needed to assure that milk that is pooled can actually be used as a reserve supply for the market. In the cooperative's view, absent the provision, Kraft, Inc., or any proprietary handler, could divert to a nonpool manufacturing plant milk that is nowhere near the supply plant at Earlville, Iowa, or, for that matter, anywhere near the perceived supply area of the market. In such case, the cooperative stated, the milk would not be available to supply the fluid needs of a handler.

The cooperative stated also that, considering the respective locations of the Earlville, Iowa, and Galena, Illinois, facilities, petitioner's request for a 70 percent diversion percentage for November 1979, instead of the 50 percent now provided, would enable Kraft, Inc., to divert larger volumes of milk to the Galena plant, not only saving transport costs in not shipping milk to Des Moines but gaining additional manufacturing returns for the Galena plant. In the cooperative's view this result might be an important consideration in petitioner's marketing strategy, but it would not be aimed at stabilizing marketing conditions for the Iowa market.

The cooperative stated that a further objection to the request for a higher

diversion percentage for November 1979 is that the petitioner did not furnish sufficient detail concerning the supposed \$100 per day savings to Kraft, Inc., to provide the cooperative with an adequate basis for evaluating it.

A third cooperative opposed the suspension request on the basis that the once-a-month delivery provision is not a hardship. In the cooperative's view, the provision would clearly associate milk with the Earlville facility if it functions as a supply plant, thereby indicating who is to be the handler for the milk. The cooperative believes that it is not unreasonable to provide that a producer's milk should first be delivered to a pool supply plant, for example, to qualify further deliveries during the month for diversion to a nonpool manufacturing plant.

From an evaluation of the petitioner's request and the comments submitted it must be concluded that there is a bona fide question whether a suspension of the provision concerning the once-a-month delivery of producer milk at a pool plant would actually promote the efficient handling of milk for the market or whether it would accommodate the pooling of milk that is only intended to be diverted to a nonpool manufacturing plant, and reasonably could not be expected to be available to the Iowa market as part of a reserve supply for fluid use.

A further consideration is that there are no marketing conditions that make a suspension of the applicable provisions imperative. In view of the questions raised by the request, a hearing might be the most appropriate means of considering whether an amendment to the order, as contemplated by petitioner, would be warranted.

It must be concluded, also, that the petitioner did not establish the need for greater diversion of milk for November 1979 on a market basis. Further, petitioner's claim that certain financial savings would result from providing a larger diversion percentage for that month was not presented in sufficient detail to determine whether such savings represented efficient milk handling for the market.

It is therefore found and determined that the proposed suspension should be denied and that the proceeding begun in this matter on October 12, 1979, should be and is hereby terminated.

Signed at Washington, D.C., on November 16, 1979.

Jerry C. Hill,
Deputy Assistant Secretary for
Marketing & Transportation Services.

[FR Doc. 79-38090 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

Grains and Similarly Handled Commodities; General Regulations Governing Price Support for the 1978 and Subsequent Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed Rule.

SUMMARY: The Secretary of Agriculture proposes to amend the regulation which permits the reoffering as security or replying as collateral for a new loan any grain or similarly handled commodity that has been previously so mortgaged or pledged. The amendment is needed in order to correct a conflict in provisions of the present regulations, wherein § 1421.4(f) enables some producers to obtain loans for longer periods of time than allowed in § 1421.6(c). Producers that obtain new loans just before the close of the commodity loan availability period can in effect extend their loans up to an additional 9 months. This rule would limit the maturity date of new loans to that of the original loan. The amendment would apply to 1979 and subsequent crops.

DATES: This notice invites written comments on the proposed rule. Comments must be received on or before January 21, 1980 in order to be assured of consideration.

ADDRESSES: Director, Price Support and Loan Division, ASCS, USDA, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013. Comments will be available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT: Harold Jamison, ASCS, (202) 447-7973.

Proposed Rule

Accordingly, it is proposed to amend 7 CFR Part 1421 by revising § 1421.4(f) to read as follows:

§ 1421.4 Eligibility requirements.

(f) *Redeemed loan collateral.* A producer may, before the final date for obtaining a loan on a commodity, reoffer as security or repledge as collateral for a new loan any commodity that has been previously so mortgaged or pledged. Such loan shall have the same maturity date as the original loan.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 105A, 107A, 201, 301, 401, 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444c, 1445b, 1446, 1447, 1421, 1425))

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified as "not significant." A draft impact analysis has not been prepared because the proposed rule is an operating procedure implementing provisions of the various commodity loan programs, for which impact analyses have been prepared and are available from the Director, Impact Analysis and Public Participation Staff, Ray Voelkel, U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, D.C., 20013.

Signed at Washington, D.C. on November 9, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-38075 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Part 1980

FmHA Guaranteed Loan Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations pertaining to the administration of all the FmHA guaranteed loan programs. The changes involve defining local lender, requiring lender to hold a part of the unguaranteed portion of the loan, and restricting the sale of the guaranteed loan to applicants. The intended effect of these changes is to clarify FmHA's position and strengthen the guaranteed programs. This action is taken in response to Agency recommendations to correct deficiencies in the regulations as suggested by the Department's Office of Inspector General.

DATES: Written comments must be received on or before January 21, 1980.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above.

FOR FURTHER INFORMATION CONTACT: Darryl H. Evans, Director, Business Management and Development Division, Telephone 202-447-4150.

SUPPLEMENTARY INFORMATION: FmHA proposes to amend § 1980.13 (a) and paragraphs III A. and III A.3.b. of Appendix B of Subpart A of Part 1980,

Chapter XVIII, Title 7, Code of Federal Regulations. These amendments are proposed to strengthen the guaranteed programs and are made by FmHA at the recommendation of the Department's Office of Inspector General. The following specific additions or revisions are proposed:

1. Section 1980.13(a) is revised to redefine local lender. Since the inception of the FmHA guaranteed programs, particularly the Business and Industry Loan Program, the requirements for a local lender have been subject to misunderstanding. The proposed revision provides more specific criteria for local lender involvement. Lenders would be considered eligible if they have a facility within 100 miles of the applicant's business location, or normally make loans in the geographic location such as a regional bank does, have specific expertise, or for business and industry have been providing the credit needs for the applicant. FmHA believes this criteria will broaden lender eligibility within its guaranteed programs. This approach should require less FmHA direct involvement in monitoring lender servicing in those projects where more experienced lenders participation is required. This change should not adversely affect small local lenders from participating in the program.

2. Paragraphs III A. and III A.3.b. of Appendix B, Form FmHA 449-35, "Lender's Agreement," are revised. In paragraph III A. the lender is restricted from selling or participating any portion of the loan to the applicant or other parties with a vested interest. This provision is necessary to eliminate any possible conflict of interest the applicant would have when a loan is guaranteed by the government. Several cases have arisen where applicants wanted to purchase a part of the guaranteed loan as an investment. FmHA believes such financing is not an arms-length transaction and is therefore, a conflict of interest. FmHA does not believe it should guarantee a loan in which the applicant or officers or stockholders of on applicant purchases a portion as an investment. This change will remove any question of interpretation of FmHA's policy on this matter.

Paragraph III A.3.b. is revised to require lenders to hold in their own portfolio a minimum of 10% of each loan(s) for Farmer Program Loan and 5% beneficial interest of the total loan(s) for other loan programs. This amount must be included in the unguaranteed portion of the loan. FmHA believes that this shared risk concept is reasonable and will result in lenders doing a better job

in loan servicing. FmHA had also received from some of the secondary market dealers the suggestion of requiring lenders to hold a part of the unguaranteed portion of the loan. Present regulations permit the lender to not only sell the entire guaranteed portion of the loan, but also to participate out the total unguaranteed portion. This practice of selling off and participating out the entire loan is followed in a large portion of the guarantees made, especially multi-million dollar loans.

Although the lender is required to service and/or liquidate the loan irrespective of beneficial ownership, many lenders do not have an incentive to follow through on their servicing responsibilities as they should since they do not have any of their own funds at risk in the project. In approaching the issue of shared risk, FmHA felt that 5% (except for farmer program loans which would require 10%) of total loan amount was reasonable, rather than requiring the lender to hold a half or all of the unguaranteed portion. In addition, the requirement would not adversely affect those lenders who receive a guarantee of less than 90%. Before adopting these proposed regulations, consideration will be given to any written comments that are submitted to the Chief, Directives Management Branch.

As proposed, Subpart A of Part 1980 is amended as follows:

1. Section 1980.13(a) is amended and reads as follows:

§ 1980.13 Eligible lenders.

(a) *Local lenders.* All lenders may participate by using the various sources of capital and segments of the money market to meet the necessary financing requirement for guaranteed loan programs. Although the project may involve other lenders, investors, or packagers, the local lender will be the lead lender and the lender for purposes of these regulations responsible for servicing and liquidate (if necessary) the loan. The lender may use agents, correspondents, branches, financial experts, or other institutions or persons to provide expertise to assist in carrying out its responsibilities. FmHA will use the lender as the point of contact for the administration of the program. FmHA may also permit a lender to be the lender for the loan without being local if:

(1) the lender normally makes loans in the region or geographic location in which the applicant's project being financed is located, or

(2) the lender has specific expertise in loans for the proposed project and provides evidence to the satisfaction of FmHA; or

(3) for B&I loans, the lender has provided, in the past, to the applicant a substantial portion of the proposed applicant's credit requirements on a regular basis.

2. Paragraphs IIIA. and IIIA.3.b. of Appendix B of Subpart A of Part 1980 are amended and read as follows:

Appendix B—Form FmHA 449-35, Lender's Agreement

United States Department of Agriculture
Farmers Home Administration

III. Lender's Sale or Assignment of Guaranteed Loan.

A. The lender may retain all of the guaranteed loan. The lender is not permitted to sell or participate any amount of the guaranteed or unguaranteed portion(s) of the loan(s) to the applicant or borrower, its officers, directors, stockholders, other owners, or any parent, subsidiary or affiliate. If the lender desires to market all or part of the guaranteed portion of the loan, the lender may proceed under the following options:

3. Participation.

(b) The lender is required to hold in its own portfolio or retain a minimum of 10% for Farmer Program Loans and 5% of the total guaranteed loan(s) amount for other programs. The amount required to be retained must be of the unguaranteed portion of the loan and cannot be participated to another. The lender may sell the remaining amount of the unguaranteed portion of the loan except for Farm Program Loans only through participation. However, the lender will always retain the responsibility for loan servicing and liquidation.

(7 U.S.C. 1989; 5 U.S.C. 301; Sect. 209, Title II, P.L. 95-334, 92 Stat. 432; Sect. 10, P.L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statement." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, P.L. 91-190, an Environmental Impact Statement is not required.

This proposal has been reviewed under USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved Draft Impact Analysis is available from the Chief, Directives

Management Branch, Farmers Home Administration, USDA, Room 6346, Washington, D.C. 20250.

Dated: November 3, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.

[FR Doc. 79-36091 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 27, 29, 33, 43, 45, 61, 91, 121, 127, 133, and 135

[Docket No. 18689; Notice No. 79-1C]

Rotorcraft Regulatory Review; Notice of Change in Conference Agenda

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice announcing a change in Conference Agenda.

SUMMARY: This notice announces a change in the Agenda for the Rotorcraft Regulatory Review Conference.

DATES: The Rotorcraft Regulatory Review Conference will be held on December 10-14, 1979, at the Monteleone Hotel, 214 Rue Royale, New Orleans, LA 70140 (telephone 504-523-3341).

FOR FURTHER INFORMATION CONTACT: Roger E. Riviere, Regulatory Review Branch, AVS-22, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755-8715.

SUPPLEMENTARY INFORMATION:

Background

Information relating to the objectives of this review and additional information relating to this Conference are contained in Notice 79-1 (44 FR 3250; January 15, 1979), which announced the Rotorcraft Regulatory Review Program, Notice 79-1A (44 FR 12685; March 8, 1979), which extended the period during which the public could submit proposals, and Notice 79-1B, which announced the availability of the Agenda and Compilation of Proposals and dates for the Conference.

Conference Schedule

The FAA has received several comments regarding the present arrangement of the Conference schedule. After careful consideration of comments received, thorough review of the Compilation of Proposals, and

coordination of the conference site, it has been determined that a change in the Conference schedule is in the best interest of the public and will result in a more orderly, productive Conference.

The major Conference proceedings will be conducted through three committees identified with their area of coverage as:

I. Sections 27.1-27.873 and 29.1-29.877, Appendix A of Parts 27 and 29.

II. Sections 27.901-27.1589 and 29.901-29.1589, Part 33.

III. Parts 43, 45, 61, 91, 121, 127, 133, and 135.

A detailed schedule of proposals to be discussed in each committee is contained in the Appendix II to this Notice. The four proposals dealing with § 1.1 have been divided among the three committees as identified in the Appendix.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), Sec. 8(c), Department of Transportation Act [49 U.S.C. 1655(c)].)

Issued in Washington, D.C. on November 18, 1979.

Charles R. Foster,
Associate Administrator for Aviation Standards.

Revised Agenda: Schedule of Events; Committee I

Monday, December 10, 1979

Morning Session

9:00 Opening Session
10:00 Coffee break
10:30 Agenda items 1, 5-8, 152-158
12:00 Lunch

Afternoon Session

1:30 Agenda items 10-12, 9, 161-163, 159-160, 13, 164-166
3:00 Coffee break
3:15 Agenda items 14, 15, 167-169, 16-18, 170-173

Tuesday, December 11, 1979

Morning Session

9:00 Agenda items 19-23, 174-178
10:15 Coffee break
10:30 Agenda items 24-28, 179-182 Appendix A
12:00 Lunch

Afternoon Session

1:30 Agenda items 29, 31, 30, 28, 27, 32, 165, 167, 166, 163, 164
3:00 Coffee break
3:15 Agenda items 33, 188, 34, 35, 189, 37, 36, 38, 192, 190, 191, 39, 40, 195

Wednesday, December 12, 1979

Morning Session

9:00 Agenda items 193, 194, 41, 196, 197, 42, 198, 43, 199
10:15 Coffee break
10:30 Agenda items 44, 200, 45, 201, 46, 47, 202, 203, 204, 48
12:00 Lunch

Afternoon Session

1:30 Agenda items 49, 205, 50, 206, 52, 51, 207, 208, 53, 54, 55, 209
3:00 Coffee break
3:15 Agenda items 210, 56-58, 211-215, 59, 60, 216, 217, 61, 62, 218-220

Thursday, December 13, 1979

Morning Session

9:00 Agenda items 221, 83, 222, 64, 223, 65, 224, 66, 225
10:15 Coffee break
10:30 Agenda items 226-228, 67, 229-233, 68, 69, 235, 70, 234
12:00 Lunch

Afternoon Session

1:30 Agenda items 71-73, 236, 74, 75, 237-239, 76, 240-242
3:00 Coffee break
3:15 Agenda items 243, 77, 244, 245-247, 78-80, 248-251, 81

Friday, December 14, 1979

Morning Session

9:00 Agenda items 82, 83, 252, 253, 84, 255, 85, 256, 86, 257, 258
10:15 Coffee break
10:30 Agenda items 259-269
12:00 Lunch

Afternoon Session

1:30 Agenda items 87, 88, 270, 271, 89, 272
3:00 Coffee break
3:15 Agenda items 90, 273, 91, 274, 92, 275

Revised Agenda: Schedule of Events; Committee II

Monday, December 10, 1979

Morning Session

9:00 Opening Session
10:00 Coffee break
10:30 Agenda items 414-420, 2, 3
12:00 Lunch

Afternoon Session

1:30 Agenda items 276, 93, 277, 280, 278, 279, 94, 281, 282, 283, 284
3:00 Coffee break
3:15 Agenda items 285-287, 95, 96, 97, 288-296, 98

Tuesday, December 11, 1979

Morning Session

9:00 Agenda items 301, 297-302, 303
10:15 Coffee break
10:30 Agenda items 304, 305, 99, 306, 307, 100, 308, 101, 309
12:00 Lunch

Afternoon Session

1:30 Agenda items 310, 311, 102, 314, 312, 313, 315, 103, 316, 317, 104, 318
3:00 Coffee break
3:15 Agenda items 105, 319, 320, 106, 321, 107, 322-325

Wednesday, December 12, 1979

Morning Session

9:00 Agenda items 326, 108, 327, 109, 328-330
10:15 Coffee break
10:30 Agenda items 110, 111, 331-337, 112
12:00 Lunch

Afternoon Session

1:30 Agenda items 113, 339, 114, 338, 115, 340, 341, 116, 343, 342, 117, 344
3:00 Coffee break
3:15 Agenda items 345, 346, 118, 347, 119, 348, 120, 349, 350, 121, 351-353

Thursday, December 13, 1979

Morning Session

9:00 Agenda items 122, 354, 123, 124, 357, 125, 360
10:15 Coffee break
10:30 Agenda items 355, 356, 358, 359, 361-363, 126, 368, 364
12:00 Lunch

Afternoon Session

1:30 Agenda items 365-367, 369-371, 127, 372, 373, 128, 374, 375
3:00 Coffee break
3:15 Agenda items 376-388, 129, 387, 388, 130, 131

Friday, December 14, 1979

Morning Session

9:00 Agenda items 389, 132, 133, 390-394, 134
10:15 Coffee break
10:30 Agenda items 395, 135, 396, 136, 397, 137, 398, 399, 138
12:00 Lunch

Afternoon Session

1:30 Agenda items 400, 139, 140, 401, 141, 402, 142, 430, 143, 404, 144, 405
3:00 Coffee break
3:15 Agenda items 406, 145, 407, 146, 409, 147, 408, 148, 412, 149, 150, 410, 411, 151, 413

Revised Agenda: Schedule of Events; Committee III

Monday, December 10, 1979

Morning Session

9:00 Opening Session
10:00 Coffee break
10:30 Agenda items 4, 421-426
12:00 Lunch

Afternoon Session

1:30 Agenda items 427-434
3:00 Coffee break
3:15 Agenda items 435-444

Tuesday, December 11, 1979

Morning Session

9:00 Agenda items 445-452
10:15 Coffee break
10:30 Agenda items 453-460
12:00 Lunch

Afternoon Session

1:30 Agenda items 461-468
3:00 Coffee break
3:15 Agenda items 469-477

Wednesday, December 12, 1979

Morning Session

9:00 Agenda items 478-484
10:15 Coffee break
10:30 Agenda items 485-492
12:00 Lunch

Afternoon Session

1:30 Agenda items 493-500
3:00 Coffee break
3:15 Agenda items 501-509

Thursday, December 13, 1979

Morning Session

9:00 Agenda items 510-516
10:15 Coffee break
10:30 Agenda items 517, 520, 518, 519, 521-524
12:00 Lunch

Afternoon Session

1:30 Agenda items 525-532
3:00 Coffee break
3:15 Agenda items 533-541

Friday, December 14, 1979

Morning Session

9:00 Agenda items 542-548
10:15 Coffee break
10:30 Agenda items 549-554
12:00 Lunch

Afternoon Session

1:30 Agenda items 555-562
3:00 Coffee break
3:15 Agenda items 563-569

[FR Doc. 79-35973 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 25

[Docket No. 17914; Notice No. 78-8]

Modified Douglas DC-3 Airplanes With Three Turboprop Engines; Proposed Type Certification Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws a Notice of Proposed Rule Making (NPRM) which proposed to amend Special Federal Aviation Regulation (SFAR) 13 to provide a basis for approval by the Administrator of modifications to DC-3 airplanes to replace the two existing reciprocating engines with three turbopropeller engines. The notice is withdrawn because it would compromise aviation safety and would be contrary to the public interest.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1978, the FAA issued Notice of Proposed Rule Making (NPRM) No. 78-8 (43 FR 21900; May 22, 1978), which proposed amending Special Federal Aviation Regulation (SFAR) 13 as applicable to DC-3 airplanes to provide a basis for approval by the Administrator of modifications that

would replace the two existing reciprocating engines with three turbopropeller engines. SFAR 13 establishes requirements for approval of some modifications to Douglas DC-3 and Lockheed L-13 airplanes. A change in the number of engines is not a modification covered by SFAR 13. The procedural requirements for the issuance of type certificates found in Part 21 of the Federal Aviation Regulations are applicable. Under § 21.19 any person who proposes to change the number of engines on an aircraft must make a new application for a type certificate. An applicant for a new type certificate must show that the aircraft complies with the airworthiness standards in effect on the date of application. In this case, compliance with Part 25 would have to be demonstrated. The NPRM was issued in response to a petition for rule making from Specialized Aircraft that, in effect, sought to allow the DC-3 modification without making application for a new type certificate and a showing of compliance with Part 25.

Summary of Comments

Interested persons have been afforded an opportunity to comment on the notice and due consideration has been given to all matter presented. Forty-two comments from 38 commenters were received.

The thrust of the proponents' comments was that the three-engine DC-3 airplane would be safer, more economical, and more widely utilized than today's two-engine DC-3 airplanes because the airframe is proven, the powerplant is more reliable and efficient, Part 25 performance would be provided, and the systems and equipment would be more reliable. Several commenters noted the difficulty in maintaining the two reciprocating engines because fewer mechanics are trained to work on such engines and because of the increasing unavailability of parts. A number of commenters contended that, because of the anticipated export demand, the proposed rule would enhance the U.S. balance of payments. Several commenters, including some commuter airlines, indicated that the three-engine DC-3 would be especially attractive to commuter airlines. Finally, many commenters expressed their confidence in what they consider to be the proven airframe of the DC-3.

Several commenters proposed revision or deletion of § 21.19 to make it easier to make major modifications to old aircraft.

A number of commenters suggested changes to the proposal. Some, including

Specialized Aircraft, proposed deletion of the proposed power and weight limitations. Specialized Aircraft also suggested that rather than applying the Part 25 requirements for flight characteristics only a demonstration that the modification does not adversely affect the flight characteristics of the airplane be required. Aircraft Technical Service, Inc., the engineering firm working for Specialized Aircraft, indicated that it considered compliance with the fail-safe flutter criteria of § 25.629 (d)(4)(v) and (d)(4)(vi) to be impractical.

The Air Line Pilots Association (ALPA) suggested that the damage tolerance and fatigue evaluation requirements of § 25.571 be applied to the outer wing joint to assure a reasonable level of structural integrity. ALPA also suggested that compliance with the requirements of § 25.679 (control system gust locks) and § 25.775 (birdproof windshield) should be required. This commenter cited service experience as justification for its proposals.

Among the commenters opposed to the proposed rule was the Canadian Ministry of Transport (MOT) which stated that it will view the three-engine DC-3 as a new type design and apply current requirements as the basis for its type certification. MOT stated that it is not in the best interest of aviation safety that very old aircraft, designed to much less stringent standards than those in force today, have their lives extended by major redesign without being shown to comply with the latest requirements.

Douglas Aircraft Company, manufacturer of the DC-3 and holder of its type certificate, expressed its "complete opposition" to the proposal. Douglas claimed that the proposed rule was at odds with the purpose of the Federal Aviation Regulations because the engineering effort substantiation, flight testing, and post-certification monitoring by the manufacturer required in the normal application for a type or amended type certificate would not be required in this case.

Three commenters, including Douglas and the Aerospace Industries Association (AIA), expressed concern that Douglas as type certificate holder and manufacturer of the original airplane, would be subject to liability for structural problems that might develop even though it had no control over the major modification proposed. AIA pointed out that aircraft manufacturers are concerned about the product liability implications where extensive modifications can be made to their aircraft by others.

One opponent expressed concern that such a radical change could be applied to such an old airframe with many thousands of hours of service without conducting detailed studies as to its continued serviceability. This commenter also contended that replacement of the propulsion system on the airplane would not solve other basic reliability problems in an airframe so long out of production that parts are increasingly difficult to find.

Finally, one commenter noted that following the DC-3 to be converted to three-engine power without making application for a new type certificate is detrimental to new aircraft manufacturers, presumably because of the competition of a less costly modified airplane. This commenter also stated that his objections from a safety standpoint include problems concerning increased speed, potential metal fatigue, effects of turbine vibration versus piston engine cycle, and lack of birdproofing.

Discussion of Withdrawal

Without disputing some of the benefits cited by those supporting the proposal, a decision as to whether the proposal should be adopted must be based upon an assessment of its effect on the FAA's ability to evaluate the safety of the proposed DC-3 modification. Upon analysis of the comments and further review of the proposal, the FAA has determined that safety can only be assured by a showing of compliance with Part 25 requirements.

The purpose of type certification is to ensure that aircraft meet minimum safety standards. The regulations which set forth these standards are continually reviewed and updated to take into account technological advances and aircraft service experience. It is only by requiring that new type aircraft meet the latest standards that the public is guaranteed to benefit from advances in aviation state-of-the-art. Adoption of this proposal would not be consistent with FAA certification policy.

Most modifications to existing aircraft can be accomplished under a supplemental type certificate. Ordinarily, compliance with the rules which formed the basis for the original type certification is sufficient. However, in the case of certain modifications to existing aircraft, covered by § 21.19, application for a new type certificate is required. As a result the applicant must demonstrate that the aircraft complies with the rules in effect at the time of that application. Included in this group of modifications is a change in the number of engines. Approval of such an extensive modification would require a substantially complete investigation of

the aircraft. Evaluation is needed of the load changes, flutter, fatigue, the powerplant and its installation, aircraft systems, and flight requirements. The proposed modification of the DC-3 with its effect on the rest of the aircraft is tantamount to a new type design. To allow the three-engine DC-3, in effect, to be exempted from § 21.19 would not be in the public interest. It should be noted that no transport category airplane has been exempted from § 21.19(b)(1), which requires a new application for a type certificate and application of the latest requirements when the number of engines is changed. To adopt this proposal would establish a precedent for transport category airplanes which is completely at odds with FAA's certification requirement philosophy.

As stated in the notice, the FAA and one of its predecessors in safety regulation, the Civil Aeronautics Board (CAB), have issued special requirements applicable to certain modifications of the DC-3. These requirements are found in Special Federal Aviation Regulation (SFAR) 13. They were originally issued by the CAB in 1953 when it was recognized that the standards of Bulletin 7A under which the DC-3 was certified were inadequate for the approval of major modifications to these airplanes. This special regulation did not contemplate those extensive changes covered by § 21.19 and special treatment such as that proposed in the notice is not warranted.

Without following the type certification procedures the FAA cannot determine whether the three-engine DC-3 provides a minimum level of safety. The proposal did not contain any requirement which would have enabled the FAA to establish the structural integrity of the aircraft. A reliable propulsion system, reliable systems and equipment, and Part 25 performance cannot compensate for lack of structural integrity. Despite the fact the proponents of the proposal claim that the DC-3 airplane has a proven airframe, no substantiating data have been presented to assess its future reliability. In fact, the service history of the DC-3 indicates that there have been four fatigue accidents, four bird-strike accidents, and either control system accidents in the last twenty years. Furthermore, because of the relatively low utilization of the DC-3 in recent years the service record may appear better than it really is. The service history justifies the application of the damage tolerance and fatigue evaluation requirements of § 25.571. It also supports the application of the control system, birdproof empennage, birdproof windshield, and

other additional requirements of current Part 25. Relaxations in the proposed rule suggested by commenters to delete the flight characteristics and flutter requirements of Part 25, and the limitations on weight and power are not justified. The structural integrity of the DC-3 with the changed configuration of three engines can be proven only by demonstrating compliance with the fatigue, flutter, and other applicable airworthiness requirements of Part 25.

Experience with high-time airplanes of even more recent vintage than the DC-3 has brought the problem of aging aircraft into sharper focus. If the proposal were adopted, the FAA would be extending the life of an old airframe certificated over forty years ago for which the predicted life is unknown and may be indeterminable. It should be noted that substantiation of the fatigue requirements for any applicant other than the original manufacturer would be difficult because only it has the necessary basic design and service data. Furthermore the service history of each individual DC-3 is so varied as to make compliance with § 25.571 and the establishment of a fatigue baseline impracticable, perhaps even for the original manufacturer. In this connection it should be noted that the type certificate holder has not supplied a Supplemental Structural Inspection Document as has been done for the DC-6 and DC-7 aircraft. This information, on which a Supplementary Program for Continued Airworthiness would be based, is an essential element in any FAA determination which would extend the life of a geriatric airplane. Without a demonstration that the three-engine DC-3 complies with the applicable requirements of Part 25, the FAA cannot establish that safety would not be compromised by its certification under the proposed rule.

In conclusion, the FAA has determined that adoption of the proposed rule would compromise aviation safety and is not in the public interest.

Withdrawal of Proposed Rule Making

Accordingly, Notice No. 78-8 (43 FR 21900; May 22, 1978) entitled "Modified Douglas DC-3 Airplane with Three Turboprop Engines," is withdrawn.

(Sec. 313(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final

evaluation prepared for the proposed regulation is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on November 14, 1979.

M. C. Beard,

Director, Office of Airworthiness.

[FR Doc. 79-35855 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 79-NW-39-AD]

14 CFR Part 39

Boeing Model 727 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rulemaking would require those operators of Boeing Model 727 airplanes who have removed or received airplanes without panels lining the aft ventral stairway, to replace those panels with either the original panels or an FAA approved substitute. This reinstallation is necessary because passengers may injure themselves on exposed equipment or loose objects may be deposited which can interfere with the flight control system.

DATES: Comments must be received on or before January 1, 1980.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 79-NW-39-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Some operators have removed the sidewall and ceiling panels of the 727 aft ventral stairway (Ref. Boeing Service Bulletin 727-25-227) exposing flight control cables and airplane equipment. There have been reports of dirt and trash accumulating in this area. Also, passengers have access to flight control cables during boarding and egress which does not comply with CAR 4b.329. An unsafe condition exists since passengers or loose objects may interfere with or jam the flight control

cables. No incidents of control cable jamming have been reported.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 79-NW-39-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following Airworthiness Directive:

Boeing: Applies to all Model 727 airplanes in passenger service.

A. Within the next 180 days from the effective date of this AD, all Model 727 airplanes operating in passenger service will have the panels installed in the aft ventral stairway. The original panels may be reinstalled or substitute panels may be found to be equivalent. An FAA Maintenance Inspector may be contacted to determine if other than original panels are acceptable or designs may be submitted to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region for approval.

B. In lieu of replacing the panels as per Paragraph A, the aft ventral stairway shall be used only as an emergency exit and placarded as an emergency exit only. (Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85).

Note: The FAA has determined that this document involves a regulation which is not

considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 F.R. 11034; February 26, 1979).

Issued in Seattle, Washington, on November 8, 1979.

C. B. Walk, Jr.,
Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-35672 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-34]

Transition Area—Ord, Nebraska; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Ord, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Evelyn Sharp Airport, Ord, Nebraska, utilizing a Non-Directional Radio Beacon (NDB) being installed on the airport by the State of Nebraska as a navigational aid.

DATES: Comments must be received on or before December 24, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments

as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before December 24, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Ord, Nebraska. To enhance airport usage by providing instrument approach capability to the Evelyn Sharp Airport, Ord, Nebraska, the State of Nebraska is installing an NDB on the airport. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid, entails designation of a transition area at Ord, Nebraska, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442) by adding the following new transition area:

Ord, Nebraska

That airspace extending upward from 700 feet above the surface within a 7 mile radius of the Evelyn Sharp Field (latitude 41°37'20" N., longitude 96°57'05" W) and within 3 miles either side of the 311° true bearing from the Ord, NDB (latitude 41°37'23", longitude 96°56'52" W) extending from the 7 mile radius area to 8½ miles northwest of the airport.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on November 7, 1979.

Paul J. Baker,
Director, Central Region.

[FR Doc. 79-35673 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

(EDR-392; Docket No. 37088; Dated: November 15, 1979)

Uniform System of Accounts and Reports for Certificated Air Carriers; Passenger Origin-Destination Survey

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is inviting public comment on a proposal that would require all U.S. certificated route air carriers offering scheduled passenger service (except helicopter and wholly intra-Alaska carriers) to participate in a Passenger Origin-Destination Survey based on a continuous sample of passenger tickets.

DATES: Comments by January 21, 1980.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by December 6, 1979. The Docket Section prepares the Service List and sends it to

the persons listed on it, who then serve their comments to others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 37088, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6044.

SUPPLEMENTARY INFORMATION: All of the U.S. certificated route air carriers existing prior to deregulation that are now providing scheduled passenger service are voluntarily participating in a Passenger Origin-Destination (O & D) Survey. The O & D Survey is based on a continuous 10 percent sample of lifted flight coupons and includes basic information on passenger origins and destinations, routings, choice of carriers, fare basis, and dollars paid for purchased transportation. The Survey has been flourishing in a cooperative environment for many years and has never been required by Board regulations.

Importance of the O & D Survey

Inside the Board, the O & D Survey has, is and will be serving a wide variety of important needs. It is being used in: (1) Terminations, reductions, and suspensions of service decisions pursuant to Section 401(j) of the Act, (2) determinations of essential air service and subsidy need projections pursuant to Section 419 of the Act; (3) bilateral negotiations with foreign governments and carrier selections in international air transportation; (4) environmental impact assessments; and (5) a variety of other formal proceedings involving calculations of market shares and fare dilutions.

It is the one tool the Board has at its disposal that can be used to compare where passengers are traveling with where the airlines have chosen to provide service. The true origins and destinations of passengers routed on different flights of the same carrier, or different flights of more than one carrier cannot be determined from the Board's largest statistical data base, service segment data. Service segment data is accumulated by carrier by flight and makes no distinction between enplanements that would enable the

Board to determine whether the enplanement reported by a particular carrier for a particular flight was attributable to a true passenger origination or a passenger boarding a connecting flight. Similarly, it cannot be determined from service segment data whether a passenger has deplaned because of an arrival at the destination point or because a passenger must meet a connecting flight.

In order to reach their destinations, many travelers stop at an intermediate point and change flights. Approximately 38 percent of one-way domestic passenger tickets (tickets with an origin different than the destination) included in the O & D Survey are interline or involve more than one flight of the same carrier. In a typical case, the schedules available to an Indianapolis-Birmingham passenger could involve one flight routed Indianapolis-Atlanta-Miami and another flight routed Washington-Atlanta-Birmingham-New Orleans. An Indianapolis-Birmingham passenger routed through Atlanta would not appear as such in service segment data but rather as two separate passengers, one from Indianapolis to Atlanta and another from Atlanta to Birmingham. The service segment data cannot recognize that the two passengers are actually one passenger using a connecting routing.¹ Without O & D data the Board would have no way to match the true origin with the true destination of this passenger.

In determinations of essential air service levels, the Board has announced an intention to consider O & D data in making hub selections.² Because O & D data can be used to identify origins and destinations of air travelers, it is an effective means to relate points of particular interest to travelers' originating at given points and avoids total reliance on traffic data between pairs of points the carriers have chosen to serve. O & D data are also useful in subsidy need determinations under Section 419 of the Act.

In bilateral negotiations, O & D data are used to determine the true O & D of travelers in international markets. It is also used in resolving day to day problems in a particular area and plays an important role in the formal hearing process.

O & D data have also been used extensively in environmental impact

¹ Although a domestic travel plan was used in this example, the same principles apply in matching passenger origins and destinations in international travel. True origins and destinations of travelers cannot be identified from service segment data.

² Part 398—Guidelines for Individual Determinations of Essential Air Transportation, adopted August 31, 1979 (49 FR 2(c)(1)(iii)).

assessments in the *Oakland Service Case* (Docket 30689), in the *Orange County Airport Case*³ and in rate cases, including *The Hawaii Common Fares Investigation* (Docket 35107).

The O & D Survey is also the only way the Board can determine the dollar amounts that are actually being paid for the transportation that is being provided. Using these data, the Board's staff can estimate what percentage of passengers are traveling at various fare levels. Tariff filings cannot be used to determine this because they indicate only the fares that are being offered to the public; not the fares that are being chosen by passengers.

In looking forward to the Report to Congress on the Effects of Deregulation that is required by Section 1601(c) of the Act, the Passenger Origin-Destination Survey will provide essential input for a complete report. Coupled with historical data that is already available within the O & D Survey, and from other sources, it will provide answers to many of the questions Congress will surely want to know about deregulation, among them the crucial questions of how well scheduled passenger service offered by the airlines fits public travel patterns and what impact greater competition has had on the price the public is paying for air transportation.

The data needed to carry out these regulatory functions cannot be alternatively obtained from *Official Airline Guide* data, international data prepared by the Immigration and Naturalization Service or other sources. The OAG provides no input on the true origins and destinations or the fares actually being paid by travelers and INS data only contains gateway-to-gateway information.

Beyond our own internal uses, we found that O & D data are also used extensively by carriers and organizations outside the Board for Board proceedings, publications of interest to the traveling public, airport and airways planning, studies relating to aircraft acquisitions and dispositions and market assessments and development.

The Need for a Reporting Requirement

Despite the usefulness of the O & D Survey, it now faces an uncertain future unless all eligible carriers become Survey participants.

As a result of the Airline Deregulation Act, U.S. passenger air transportation

³ *Environmental Negative Declaration and Environmental Assessment and Announcement of Preparation of Environmental Impact Statement for Orange County Airport, Orange County, California* (Dockets 31574, 33227, 35372, 35355, 34303, 33710, 34787).

services have become more competitive with the addition of many new entrants. We can foresee two things developing from this environment. First, we foresee a situation where the current voluntary participation system could leave the Board with less than complete data if new entrants chose not to participate. Second, we can foresee where the carriers now voluntarily participating in the Survey would be disinclined to continue providing information that could place them at a competitive disadvantage with nonparticipating carriers. Less than complete data would have a serious negative effect on many of the Board's most important regulatory programs. Determinations of Essential Service, environmental impact assessments, international negotiations and carrier selection processes would all be adversely affected, as would the Report to Congress on the Effects of Deregulation.

Recent contacts with air carriers have not altered that outlook. On July 30, 1979, the Chairman of the Civil Aeronautics Board sent letters to the Chief Executive Officer of each U.S. certificated route air carrier participating in the Survey and to each U.S. certificated route air carrier not participating in the Survey (helicopter, all-cargo and wholly intra-Alaska carriers were excluded). In essence, the letter to participating carriers requested a reconfirmation of their commitment to the Survey and the letter to nonparticipating carriers urged them to become participants.

Despite the willingness of an overwhelming majority of existing carriers to continue, and of new entrants to begin participating in the Survey, this willingness is not universal, and the Survey's completeness remains in doubt.

Because the O & D Survey is too important to the Board to be left to the uncertainties that appear to lie before it, we are proposing now to make participation in the O & D Survey mandatory. It would be incorporated into Part 241 of the Economic Regulations to safeguard it, at least until December 31, 1983, against the changes in the industry environment that now threaten its continued existence.

While we can foresee that there will be a need to continue the O & D Survey beyond Sunset, certainly in the international area, we believe that the need for the Survey and its structures should be reexamined in 1983. This reexamination, we believe, should be undertaken with a view toward restructuring the system in view of then future needs, and exploring the transferral of data collection and processing responsibilities to other

Federal agencies or organizations that have a strong interest in the Survey's continued existence, if this transferral has not already occurred.

Solicitation of Comments on Reporting Alternatives

In addition to making the reporting requirements mandatory, we have an ongoing effort to streamline the Survey to reduce the reporting and processing burdens associated with it. In this proceeding we are soliciting comments on several alternatives we are exploring to bring about a more streamlined system. Among them are:

1. A reduction in the sample size from 10 percent to 5 percent or 1 percent. While this would reduce the volume of data reported and processing burdens and the reliability of the data, some carriers have indicated that this would be desirable.

2. A limitation in the number of coupons on tickets included in the Survey. The present Survey provides for recording ticketed itineraries up to a maximum of 23 flight-coupon legs. We will be exploring the possibility of reducing the length of the itineraries to be reported to a maximum of from six to eight flight coupon stages. This would reduce the complexity of the data to be handled with a loss of less than .1 percent of the data.

3. A reduction in the number of tickets for which the dollar value is to be reported by excluding the dollar value for certain types of ticketed itineraries⁴ as well as to reduce the sample size for this data element, e.g. report dollar values only for every other reported ticket.

4. The establishment of a two-tiered reporting system that would impose a lesser burden on the smaller carriers by having them exclude interline tickets from their sample and having these tickets reported by larger carriers.

We are soliciting comments on each of these alternatives. We are trying to find the most cost efficient way to reduce the burdens on both the air carriers and the Board while still preserving its usefulness. Comments should provide estimates of employee-hour and dollar costs associated with each alternative.

Technical Aspects of the Survey

Over the years, the technical aspects of the Survey data collection and reporting requirements have been administered from an independent body of instructions communicated to the carriers entitled, *Instructions to Air*

⁴ Tickets with open-jaw or multi-break itineraries and surface movements would be excluded.

Carriers for Collection and Reporting Passenger Origin-Destination Survey Statistics and Passenger Origin-Destination Directives. These instructions and amendments of them are routinely transmitted to all carriers participating in the Survey. Because of its proven efficiency, they will continue to be transmitted to all participating carriers as well as new entrants who would be required to participate in the Survey under the proposed rule. By a separate order issued at the same time as this notice, we are authorizing continued informal contacts between Board employees and carrier representatives on the administration of the Survey in accordance with § 300.2(a) of Part 300, *Rules of Conduct in Board Proceedings.*

Proposed Rule

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 241, *Uniform System of Accounts and Reports for Certificated Air Carriers*, as follows:

In Section 19, Operating Statistics Classifications new Sections 197-7 and 19-8 would be added, to read:

Section 19-7 Passenger Origin-Destination Survey.

(a) All U.S. certificated route air carriers conducting scheduled passenger operations (except helicopter and wholly intra-Alaska carriers) shall participate in a Passenger Origin-Destination Survey covering domestic and international operations, as described in the instruction manual entitled, *Instructions to Air Carriers for Collection and Reporting Passenger Origin-Destination Survey Statistics and Passenger Origin-Destination Directives* issued by the Board's staff.

(b) Those air carriers having access to automatic data processing services shall utilize either magnetic computer tape or punched cards for transmitting the prescribed data to the Board. Those carriers not having access to automatic data processing equipment shall utilize CAB Form 2787 in typewritten form.

(c) Flight coupons shall be selected for reporting on a sample basis in accordance with the instruction manual and the directives mentioned in paragraph (a) of the section. The data to be recorded and submitted from reportable flight coupons, as stipulated in the instruction manual and directives, shall include the following data elements: point of origin, carrier on each flight-coupon stage, fare-basis on each flight-coupon stage, points of stopover or connection (interline and intraline), point of destination, number of passengers, total dollar value of ticket

(fare plus tax) and interchange information.

(d) Similar international Passenger Origin-Destination Survey data covering the operations of the non-U.S. carriers are not generally available to the Civil Aeronautics Board, the U.S. carriers, or U.S. interests. Therefore, because of the damaging competitive impact on U.S. flag carriers and the adverse effect upon the public interest that would result from unilateral disclosure of the U.S. survey data, the Civil Aeronautics Board has determined its policy to be that the international data in the Passenger Origin-Destination Survey shall be disclosed only as follows:

(1) To an air carrier directly participating in, and contributing input data to, the Survey, or to a legal or consulting firm or other organization designated by an air carrier to use on its behalf O & D data in connection with a specific assignment by such carrier.

(2) To parties to any proceeding before the Board to the extent that such data are relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the Board. Any data to which access is granted pursuant to this section may be introduced into evidence subject to the normal rules of admissibility of evidence.

(3) To agencies and other components of the U.S. Government.

(4) To other persons upon a showing that the release of the data will serve specifically identified needs of U.S. users which are consistent with U.S. interests.

(5) To foreign governments and foreign users as provided in formal reciprocal arrangements between the foreign and U.S. governments for the exchange of comparable O & D data.

(e) The Board reserves the right to make such other disclosure of the subject data as is consistent with its regulatory functions and responsibilities.

(f) The requirements of this section will expire on January 1, 1984 unless extended by the Board.

(Sec. 204(a), 407, 1601, Federal Aviation Act of 1958, as amended, 72 Stats. 743, 766, 92 Stat. 1744, (49 U.S.C. 1324(a), 1377, and 1551))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-32206 Filed 11-23-79; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 239, 240 and 249

[Release Nos. 33-6149; 34-16345; File No. S7-808]

Proposed Amendments Regarding Exhibit Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Request for public comments on proposed amendments to forms, rules and regulation.

SUMMARY: The Securities and Exchange Commission today authorized the publication for comment of proposed amendments to Regulations S-K (17 CFR 229.20) and certain forms in order to standardize and improve the Commission's requirements relating to the filing of exhibits. The proposed amendments would delete certain exhibits formerly required to be filed, revise and make uniform the requirements relating to certain other exhibits, and, with the exception of Form S-18, consolidate all of the amended exhibit requirements in a new Regulation S-K item. Also, to facilitate the identification and location of exhibits by the public, which is particularly difficult under the existing micrographic document storage system, the Commission is proposing to amend certain rules to require an exhibit index to be included with each form or report filed, as well as a statement on the first page of each such document indicating the page on which the exhibit index can be found.

DATE: Comments should be submitted on or before December 31, 1979.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-808. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: William H. Carter, (202-272-2604), Peter J. Romeo (202-272-2573), or Joseph G. Connolly, Jr., (202-272-2696), Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is inviting public comment on proposals to amend the exhibit filing requirements currently set forth in

certain registration and reporting forms under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 ("1934 Act") (15 U.S.C. 78a et seq.) and to amend certain related rules under these Acts. The proposed changes, as described herein, would relax certain existing exhibit requirements and make certain others more uniform and consistent.

Background

As part of its continuing effort to improve the quality of disclosure, the Commission's Division of Corporation Finance has reexamined the exhibit filing requirements for the registration and reporting forms promulgated under the 1933 and 1934 Acts. As a result of this reexamination, it was determined that the present requirements often result in documents being filed that are of limited interest both to the public and the Commission. Moreover, in many instances the requirements are inconsistent. In recognition of the foregoing, the Commission is proposing certain changes for the dual purpose of making the requirements more relevant to investors and reducing the burdens which they impose on registrants.

The proposed revisions would affect the forms most frequently used by registrants under the 1933 and 1934 Acts. Not only would the proposed changes alter the substance of some of the exhibit requirements for such forms, but they also would change the location of such requirements by consolidating them in a single place. Specifically, the revisions being proposed herein would:

(1) Eliminate certain exhibits believed to be of limited interest to the public and the Commission, add for purposes of consistency some exhibits inadvertently omitted from certain forms in the past, and modify certain other exhibit requirements in light of current considerations;

(2) Delete from certain frequently used forms, with the exception of Form S-18, the specific exhibit requirements presently contained therein and substitute a reference to a new item in Regulation S-K relating to exhibits;

(3) Add to Regulation S-K an item consolidating all exhibit requirements for the above-mentioned forms other than Form S-18; and

(4) Amend certain rules under the 1933 and 1934 Acts to require an exhibit index to be included with all of the registration and reporting forms filed under such Acts, as well as a statement on the first page of each such form indicating the page on which the exhibit index can be found.

The Commission has determined to confine its proposals for amending the exhibit requirements under the 1933 and 1934 Acts to only those forms which are most frequently used. These are Forms S-1 (17 CFR 239.11), S-2 (17 CFR 230.12), S-7 (17 CFR 239.26), S-8 (17 CFR 239.16b), S-11 (17 CFR 239.18), S-14 (17 CFR 239.23), S-18 (17 CFR 239.27), and S-18 (17 CFR 239.28) under the 1933 Act and Forms 10 (17 CFR 249.210), 8-K (17 CFR 249.308), 10-Q (17 CFR 249.308a), 10-K (17 CFR 249.310), and 11-K (17 CFR 249.311), under the 1934 Act. This approach has been adopted primarily because the benefits to be gained by amending the less frequently used forms would be minimal, since they amount to less than 5% of all filings under the above Acts. Moreover, the possibility exists that some or all of these other forms may be eliminated in the future¹ and the Commission believes it would be best to forego making any changes in them until their ultimate status has been determined. Accordingly, the exhibit filing requirements for these other forms² will continue to be found in the forms themselves.

It should also be noted that the Commission is presently considering the adoption of a new reporting form, Form 20-F, which would constitute both the registration and the annual report form applicable to foreign private issuers under the 1934 Act and would replace existing Forms 20 (17 CFR 249.310) and 20-K (17 CFR 249.320). It is not possible at this time to incorporate the exhibit changes proposed in this release into the new Form 20-F, but it is contemplated that such changes may be made part of that Form at some future time. Accordingly, comments are hereby expressly requested on the appropriateness of these proposed exhibit changes as they relate to registration and annual report forms filed on Form 20-F by foreign private issuers under the 1934 Act.

With respect to Form S-18, the Commission has determined to adopt all the substantive changes to the exhibit requirements outlined in this release, but instead of inserting a reference to Regulation S-K in Form S-18, the

¹ As part of its program for simplification of the reporting requirements, the Division of Corporation Finance intends to conduct a study of such less frequently used forms in order to determine the feasibility of their elimination or amendment.

² The less frequently used forms not affected by the proposed amendments are Forms S-3 (17 CFR 239.13), S-10 (17 CFR 239.17), S-12 (17 CFR 239.19), and S-13 (17 CFR 239.25) under the 1933 Act and Forms 14 (17 CFR 249.214), 14-K (17 CFR 249.314), 16 (17 CFR 249.218), 16-K (17 CFR 249.318), 18 (17 CFR 249.218), 18-K (17 CFR 249.318), 19 (17 CFR 249.219), 19-K (17 CFR 249.319), 20 (17 CFR 249.310), and 20-K (17 CFR 249.320) under the 1934 Act.

substantive changes are directly incorporated into the "Instructions as to Exhibits" section of the Form. The basis for this distinction is the view that Form S-18 represents a "simplified" registration form and as such the Commission believes that it is appropriate to avoid cross-references to other Regulations wherever possible.

A. Elimination, Modification and Addition of Exhibits

1. *Elimination of Exhibits.* The Commission proposes to eliminate the following exhibits, which are presently required by the forms indicated in parentheses:

- (1) Syndication agreements (S-1, S-2, S-7, S-11, S-14, S-16, and S-18);
- (2) Selling group agreements (S-1, S-2, S-7, S-11, S-14, S-16, and S-18);
- (3) Specimen certificates (S-1, S-2, S-7, S-11, S-14, S-16, S-18, Form 10 and Form 20);
- Plans relating to options, warrants and rights provided they are not deemed to be material contracts (S-1, S-8, S-11, S-14, S-18, Form 10 and Form 10-K);
- (5) Pension, retirement and deferred compensation plans (S-1 and S-18);
- (6) Indemnification contracts or arrangements (S-1, S-7, S-11 and S-14);
- (7) Profit sharing or bonus plans provided they are not deemed to be material contracts (S-8, S-11, S-14, S-18 and Form 10);
- (8) Agreements relating to registration rights (S-14);
- (9) Summaries of the plan and related written communications (S-8 and S-18);
- (10) Waivers or undertakings required by Rule 480 (17 CFR 230.480) (S-8);
- (11) List of subsidiaries participating in the plan (S-8);
- (12) Form of proxy (S-14);³ and
- (13) Text of any proposal or any published report regarding matters submitted to a vote of security holders (Form 10-K and Form 10-Q).

2. *Modification of Exhibits.* The Commission is also proposing the following substantive revisions to two existing exhibits requirements, i.e.,: (1) Material contracts, and (2) amendments and modifications of previously filed documents:

- (i) *Material Contracts.* The definition of the term "material contract" used for exhibit filing purposes is proposed to be revised in a number of respects. The purpose of the proposed revisions is to reduce the number of contracts required to be filed without materially impairing investor information and protection.

³ Although the form of proxy will no longer be required to be filed as an exhibit to the S-14 registration statement, the requirement that it be filed with the staff with both the preliminary and definitive proxy material would be retained.

First, the requirement that any contract specifically referred to in the registration statement or report is deemed to be a material contract and thus filed as an exhibit to said filing has been deleted. The Commission has always encouraged registrants, in addition to specifically required disclosure, to discuss in their filings whatever additional information they felt was appropriate in describing the registrant's business or operations. As a result, many contracts have been referred to in such disclosure which are, of themselves, not material to the registrant. The Commission has determined that under such circumstances the mere mention of such contracts should not impose an exhibit filing requirement. Accordingly, the Commission proposes to delete this reference from the definition and require the filing of such contracts only if mandated by the other provisions of the definition.

Second, with regard to paragraph (b) of the definition relating to contracts not made in the ordinary course of business, the Commission proposes to revise the existing percentage test in subpart 3 which relates to the acquisition or sale of certain assets for a consideration exceeding a set percentage. As proposed, the 10% standard used therein would amount to a reduction from the 15% threshold currently utilized in the definition of material contract in Form S-1. It is, however, consistent with the 10% standard used in the Form 10 definition. The Commission's experience with the 10% standard suggests that it is a better gauge for determining which contracts are material. Because of the importance of this standard, the Commission specifically invites public comment on the advisability of using it under the 1933 and 1934 Acts.

Finally, paragraph (c) of the definition has been revised to reduce the number of remunerative plans or arrangements which must be filed. Presently, all management contracts, bonus or profit sharing plans or arrangements must be filed as exhibits under the material contract provision. Subpart 4 of proposed paragraph (c), however, would require the filing of only those remunerative arrangements which are not generally available to all employees and which in operation do not provide for the same method of allocation of benefits between management and non-management participants.

(ii) *Previously Unfiled Documents.* The Commission is also proposing to revise the exhibit requirement relating to amendments or modifications of documents previously filed pursuant to

Forms 10-Q, 10-K or 11-K. The requirement, as amended, would be captioned "Previously Unfiled Documents." It would require the filing of all documents originally required by a registration statement or report but not previously filed, as well as any amendments or modifications to documents already on file with the Commission. This proposal is a consolidation of several existing exhibit requirements in the above referenced forms and would not impose any new filing requirements upon registrants except that the revised requirement would be operative on a quarterly basis, rather than on the annual basis used in the past.

3. *Additional Exhibits.* In connection with its reexamination of the exhibit filing requirements, the Commission has become aware of the fact that the requirements for certain related forms are inconsistent in the sense that certain items are required in some forms but not in others, even though all such forms deal essentially with the same disclosure issues. To cure this inconsistency, the Commission proposes to require the following documents to be filed as exhibits to the forms listed in parentheses: (1) Instruments defining the rights of security holders, including indentures, (S-2); (2) opinion re tax matters (S-1, S-14 and S-18); (3) voting trust agreements (S-2); and (4) plans of acquisition, reorganization, arrangement, liquidation or succession (S-7 and S-16).

B. Revision of Forms and Regulation S-K

In the interest of clarity, and in order to make the exhibit requirements for the most frequently used forms under the 1933 and 1934 Acts as uniform as possible, the Commission proposes to make two major changes in the manner in which such requirements are set forth. First, with the exception of Form S-18, it intends to delete from each such form the specific exhibit requirements contained therein. In lieu thereof, it proposes to substitute a single reference to Regulation S-K. Second, the Commission intends to create a new item in Regulation S-K containing all of the exhibit requirements for the relevant forms being amended.

C. Inclusion of Exhibit Item in Regulation S-K

Regulation S-K is a uniform disclosure regulation which specifies information required to be disclosed in various registration statements, periodic reports and proxy and information statements filed with the Commission under the 1933 and 1934 Acts. The purpose of

Regulation S-K is to facilitate compliance with the disclosure requirements of the above Acts by consolidating in a single regulation disclosure provisions that are common to various forms and reports that are frequently filed.

To date, Regulation S-K has dealt solely with the requirements applicable to textual disclosures in the Commission's forms and reports under the 1933 and 1934 Acts. As noted in the preceding section, the Commission proposes to expand the scope of the regulation by adding a new Item 8 thereto setting forth specific exhibit requirements applicable to certain forms.

The format of the proposed new Item 8 would consist of two parts. First, two tables (one each for the 1933 and 1934 Acts) would be set forth at the beginning of the item along with a set of instructions pertaining to them. The tables would list each of the forms being covered and the exhibits required to be filed with each such form. Second, there would be a separate section containing a narrative description of each exhibit listed in the table.

The Commission recognizes that the format proposed to be employed would represent a significant departure from its past practice of setting forth specific exhibit requirements in each individual form. It believes, however, that the change is appropriate for two reasons. First, it will permit the Commission to eliminate inconsistent requirements relating to specific exhibits and adopt uniform provisions relating to each such exhibit. Second, it will assist registrants in complying with the exhibit requirements by simplifying and consolidating requirements.

D. Proposed Amendments to Certain Rules

In connection with the proposed amendment to Regulation S-K, the Commission also is proposing to amend Rule 403 (17 CFR 230.403) under the 1933 Act and Rule 0-3 (17 CFR 240.0-3) under the 1934 Act. Both rules set forth requirements relating to the filing of documents with the Commission. Each such rule would be amended to add a new paragraph thereto requiring that the following be included with each registration statement or report being filed: (1) An index listing each exhibit filed with the registration statement or report and the page under the Commission's sequential numbering system where such exhibit can be found; and (2) a statement on the cover page of the filing indicating the page under the sequential numbering system on which the exhibit index is located.

The purpose of the proposed rule changes is to assist readers of the above filings in identifying and locating exhibits. Under the present micrographic system used by the Commission to store documents, it is difficult to determine which exhibits are filed with registration statements and periodic reports. Further, in order to locate specific exhibits, it is necessary in many cases to review almost every page filed with a statement or report before the exhibits can be found. The Commission believes that the changes described above would substantially ease the difficulties in identification and location inherent in the present system.

The Commission recognizes that the above changes would impose some additional burdens on registrants. It believes, however, that these burdens would be minimal, particularly when one considers that an exhibit list (albeit one that does not list the page location of each exhibit) currently is required by virtually all registration and reporting forms. Moreover, the listing in the index of the pages on which the various exhibits can be found would be permitted to be made in handwritten or other legible form, thus reducing the time and expense required to prepare and complete the index. In view of the significant benefits to the public that would result from the proposed changes, the Commission believes that there is sufficient justification for proposing the adoption of the new requirements.

E. Text of the Proposed Amendments

1. 17 CFR Part 229 is proposed to be amended by adding a new Item 8 to Regulation S-K.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K.

Item 8. Exhibits. (a) Subject to the rules regarding incorporation by reference, the following exhibits shall be filed, where applicable, as a part of the registration statement or report. For convenient reference, each exhibit should be listed in the exhibit index according to the number assigned to it in the applicable table set forth below. The exhibit index should immediately precede the exhibits filed with such document and should indicate the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact should be noted in the exhibit index referred to in the preceding sentence. For a description of each of the exhibits included in the following tables, see paragraph (b) of this Item.

This Item applies only to the forms specified below. With regard to forms not listed in the tables, reference should be made

to the appropriate form for the specific exhibit filing requirements applicable thereto.

Tables

Instructions

(1) Each table indicates those documents which must be filed as exhibits to the respective forms listed. Only copies, rather than originals, need be filed of each

document listed;

(2) The "X" designation indicates the documents which are required to be filed with each form; and

(3) The number used in the far left column of each table refers to the appropriate subsection in paragraph (b) where a description of the exhibit can be found. Whenever necessary, alphabetical or numerical subparts may be used.

Table I.—Securities Act of 1933—Frequently Used Forms

	S-1	S-2	S-7	S-8	S-11	S-14	S-16
(1) Underwriting Agreement	X	X	X		X	X	X
(2) Plan of acquisition, reorganization, arrangement, liquidation or succession	X		X		X	X	X
(3) Charter and by-laws	X	X			X	X	X
(4) Instruments defining the rights of security holders	X	X	X	X	X	X	X
(5) Opinion re legality	X	X	X	X	X	X	X
(6) Opinion re discount on capital shares	X	X	X	X	X	X	X
(7) Opinion re liquidation preference	X				X	X	
(8) Opinion re tax matters	X			X	X	X	
(9) Voting trust agreement	X	X			X	X	
(10) Material contracts	X	X	X		X	X	X
(11) Statement re computation of per share earnings	X		X		X	X	
(12) Statements re computation of ratios	X		X		X	X	
(13) Annual report to security holders	X			X	X	X	
(14) Material foreign patents	X	X				X	
(15) Instruments defining the rights of participating employees				X			

Table II.—Securities Exchange Act of 1934—Frequently Used Forms

	Form 10	8-K	10-Q	10-K	11-K
(2) Plan of acquisition, reorganization, arrangement, liquidation or succession	X	X			
(3) Charter and by-laws	X				
(4) Instruments defining the rights of security holders, including indentures	X				
(6) Opinion re discount on capital shares	X		X	X	
(7) Opinion re liquidation preference	X				
(9) Voting trust agreements	X				
(10) Material contracts	X			X	
(11) Statement re computation of per share earnings	X		X	X	
(12) Statements re computation of ratios	X			X	
(14) Material foreign patents	X				
(16) Letter re change in certifying accountant		X			
(17) Letter re director resignation		X			
(18) Letter re change in accounting principles			X	X	
(19) Previously unfiled documents			X	X	
(20) Financial statements furnished to security holders			X		

(b) *Description of Exhibits.* Set forth below is a description of each document listed in the foregoing tables for which copies should be filed, where appropriate.

(1) *Underwriting agreement.*—Each underwriting contract or agreement with a principal underwriter or letter pursuant to which the securities being registered are to be distributed; if the terms of such documents have not been determined, the proposed forms thereof.

(2) *Plan of acquisition, reorganization, arrangement, liquidation, or succession.*—Any material plan of acquisition, disposition, reorganization, readjustment, succession, liquidation or arrangement and any amendments thereto described in the statement or report.

(3) *Charter and by-laws.*—The charter and

by-laws of the issuer or instruments corresponding thereto as presently in effect and any amendments thereto.

(4) *Instruments defining the rights of security holders.*—(a) All instruments defining the rights of (1) holders of the equity or debt securities being registered; (2) holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed; and (3) holders of a new class of securities or indebtedness, the creation of which was required to be disclosed in a periodic report.

(b) Where the instrument defines the rights of holders of long-term debt of the registrant and all its subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, there

need not be filed (1) any instrument with respect to long-term debt not being registered if the total amount of securities authorized thereunder does not exceed 5% of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such agreement to the Commission upon request; (2) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered; or (3) copies of instruments evidencing scrip certificates for fractions of shares.

(c) If any of the securities being registered are, or will be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (1) a reasonably itemized and informative table of contents; and (2) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to Sections 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

(5) *Opinion re legality.*—(a) An opinion of counsel, as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid and non-assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(b) If the securities being registered are issued under a plan and the plan is subject to the requirements of ERISA either (i) an opinion of counsel which confirms compliance with the provisions of the written documents constituting the plan with the requirements of that Act pertaining to such provisions; or (ii) a copy of the Internal Revenue Service determination letter that the plan is qualified under Section 401 of the Internal Revenue Code; or (iii) an opinion of counsel attaching a copy of the determination letter, that any amended provisions of the plan adopted subsequent to such determination comply with the requirements of that Act pertaining to such provisions.

(6) *Opinion re discount on capital shares.*—If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(7) *Opinion re liquidation preference.*—If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(8) *Opinion re tax matters.*—An opinion of counsel or, in lieu thereof, a revenue ruling from the Internal Revenue Service, supporting the tax matters and consequences as to the registrant's activities or proposed activities described in the filing when such tax matters are material to the transaction for which the registration statement is being filed.

(9) *Voting trust agreement.*—Any voting trust agreements and amendments thereto.

(10) *Material contracts.*—(a) Every contract not made in the ordinary course of business which is material to the registrant and is to be performed in whole or in part at or after the filing of the registration statement or was entered into not more than two years before such filing. Only contracts need to be filed as to which the registrant or subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment or in which the registrant or such subsidiary has a beneficial interest.

(b) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Any contract to which directors, officers, promoters, voting trustees, security holders named in the registration statement or report, or underwriters are parties except where the contract merely involves the purchase or sale of current assets having a determinable market price, at such market price;

(2) Any contract upon which the registrant's business is substantially dependent, as in the case of continuing contracts to sell the major part of registrant's products or services or to purchase the major part of registrant's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which registrant's business depends to a material extent;

(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 10% of all such assets of the registrant and its subsidiaries; or

(4) Any lease under which a significant part of the property described in the registration statement or report is held by the registrant.

(c) Any management contract or any remunerative plan, contract or arrangement including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) shall be deemed material and shall be filed except the following:

(1) Ordinary purchase and sales agency agreements.

(2) Agreements with managers of stores in a chain organization or similar organization.

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(4) Any remunerative plan, contract or arrangement which pursuant to its terms is

available to employees generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

(11) *Statement re computation of per share earnings.*—A statement setting forth in reasonable detail the computation of per share earnings, unless the computation can be clearly determined from the material contained in the registration statement or report. (See 1933 Act Release No. 33-5133 (February 18, 1971) (38 FR 4483)).

(12) *Statements re computation of ratios.*—The registrant shall file the following statements concerning computations of ratios where applicable:

(a) If debt securities have been or are being registered, the registrant shall show in tabular form for each fiscal year or other period the ratio of earnings to fixed charges. If appropriate, the ratio of earnings to fixed charges for such periods shall also be shown on a total enterprise basis. If debt securities are being registered under the 1933 Act, there shall also be shown for the most recent fiscal year or twelve months a pro forma ratio of earnings to fixed charges, adjusted to give effect to (i) the issuance of the securities being registered; (ii) any issuance, retirement or redemption of securities during such period; or (iii) any issuance, retirement or redemption of securities after, or presently proposed for one year after, such period.

(b) Earnings shall be computed after all operating and income deductions except fixed charges and taxes based on income or profits and after eliminating undistributed income of unconsolidated subsidiaries and 50% or less owned persons. In the case of utilities, interest credits charged to construction shall be added to gross income and not deducted from interest.

(c) The term "fixed charges" shall mean (i) interest and amortization of debt discount and expense and premium on all indebtedness; (ii) such portion of rentals as can be demonstrated to be representative of the interest factor in the particular case; and (iii) in the event consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all instances items eliminated in consolidation.

(d) If preferred stock is being registered, the registrant shall show, in tabular form, for each fiscal year or other period the ratio of earnings to combined fixed charges and preferred dividend requirements.

(13) *Annual report to security holders.*—The issuer's annual report to security holders for its last fiscal year incorporated by reference in the filing. Such report, except for those portions thereof which are incorporated by reference in the filing, is to be furnished for the information of the Commission and is not to be deemed "filed" as part of the filing. If the financial statements in the report have been incorporated by reference in the filing, the accountant's certificate shall be manually signed in one copy.

(14) *Material foreign patents.*—Each material foreign patent for an invention not covered by a United States patent. If the filing is a registration statement and if a substantial part of the securities to be offered or if the proceeds therefrom have been or are to be used for the particular purposes of

acquiring, developing or exploiting one or more material patents or patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(15) *Instruments defining the rights of participating employees.*—All constituent instruments (other than the plan itself) defining the rights of employees who participate in the plan.

(16) *Letter re change in certifying accountant.*—A letter from the registrant's former independent accountant regarding its concurrence or disagreements with the statements made by the registrant in the current report concerning the resignation or dismissal as the registrant's principal accountant.

(17) *Letter re director resignation.*—A letter from a former director which sets forth a description of the disagreement with the registrant that led to the director's resignation or refusal to stand for re-election and which requests that the matter be disclosed.

(18) *Letter re change in accounting principles.*—Unless previously filed, a letter from the registrant's independent accountant indicating whether any change in accounting principles or practices followed by the registrant, or any change in the method of applying any such accounting principles or practices, which materially affected the financial statements being filed with the Commission in the report or which is reasonably certain to affect the financial statements of future fiscal years, is to an alternative principle which in his judgment is preferable. No such letter need be filed when such change is made in response to a standard adopted by the Financial Accounting Standards Board requiring such a change.

(19) *Previously unfiled documents.*—All documents originally required by a registration statement or report but not previously filed, as well as any amendments or modifications to documents already on file. If such amendments or modifications are not in the English language, there should be furnished in addition a translation into English.

(20) *Financial statements furnished to security holders.*—If the registrant makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a financial statement containing the information required by this form, the information called for may be incorporated by reference to such published statement provided copies thereof are included as an exhibit to Part I of the report filed.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

2. 17 CFR 230.403 is proposed to be amended by adding a new paragraph (e):

§ 230.403 Requirements as to paper, printing, and language.

(e) Each registration statement shall contain an exhibit index, which should

immediately precede the exhibits filed with such registration statement. The index shall list each exhibit filed and identify by handwritten, typed, printed, or other legible form of notation, the page number in the sequential numbering system described in paragraph (d) of this section where such exhibit can be found or where it is stated that the exhibit is incorporated by reference. Further, the first page of the registration statement shall list the page in the filing where the exhibit index is located.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. 17 CFR 240.0-3 is proposed to be amended by adding a new paragraph (c):

§ 240.0-3 Filing of material with the Commission.

(c) Each document filed shall contain an exhibit index, which should immediately precede the exhibits filed with such document. The index shall list each exhibit filed and identify by handwritten, typed, printed, or other legible form of notation, the page number in the sequential numbering system described in paragraph (b) of this section where such exhibit can be found or where it is stated that the exhibit is incorporated by reference. Further, the first page of the document shall list the page in the filing where the exhibit index is located.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

4.a. Form S-1. Item 30 and the Instructions as to Exhibits of Form S-1 are proposed to be amended as follows:

§ 239.11 Form S-1, registration statement under the Securities Act of 1933.

Item 30. Financial statements and exhibits.

(a)
(b) Exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

b. Form S-2. Item 18 and the Instruction as to Exhibits of Form S-2 are proposed to be amended as follows:

§ 239.12 Form S-2, for shares of certain corporations in the development stage.

Item 18. Exhibits Filed.

Exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

[All instructions as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

c. Form S-7. Item 17 and the Instructions as to Exhibits of Form S-7 are proposed to be amended as follows:

§ 239.26 Form S-7, for registration under the Securities Act of 1933 of securities of certain issuers.

Item 17. Other Documents Filed as a Part of the Registration Statement.

(a)
(b) Exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

d. Form S-8. Instructions as to Exhibits of Form S-8 are proposed to be amended as follows:

§ 239.16b Form S-8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 8 of Regulation S-K, 17 CFR 229.20.

e. Form S-11. Item 32 and the Instructions as to Exhibits of Form S-11 are proposed to be amended as follows:

§ 239.18 Form S-11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

Item 32. Financial Statements and Exhibits.

(a)
(b) The exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

f. Form S-14. Item 5 and the Instructions as to Exhibits of Form S-14 are proposed to be amended as follows:

§ 239.23 Form S-14, for simplified registration procedure for securities in certain transactions under Rules 133 and 145 (17 CFR 230.133, 230.145).

Item 5. Exhibits Filed.

Exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

g. Form S-18. Item 13 and the Instructions as to Exhibits of Form S-18 are amended as follows:

§ 239.27 Form S-18, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

Item 13. List of Exhibits.

Exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

h. Form S-18. Instructions as to Exhibits of Form S-18 are proposed to be amended as follows:

§ 239.28 Form S-18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed \$5,000,000.

Instructions as to Exhibits

Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for by Item 20.

(1) *Underwriting agreement*—Each underwriting contract or agreement with a principal underwriter or letter pursuant to which the securities being registered are to be distributed; if the terms of such documents have not been determined, the proposed forms thereof.

(2) *Charter and by-laws*—The charter and by-laws of the issuer or instruments corresponding thereto as presently in effect and any amendments thereto.

(3) *Instruments defining the rights of security holders*—(a) All instruments defining the rights of (1) holders of the equity or debt securities being registered; (2) holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed; and (3) holders of a new class of securities or indebtedness, the creation of which was required to be disclosed in a periodic report.

(b) Where the instrument defines the rights of holders of long-term debt of the registrant and all its subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, there

need not be filed (1) any instrument with respect to long-term debt not being registered if the total amount of securities authorized thereunder does not exceed 5% of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such agreement to the Commission upon request; (2) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered; or (3) copies of instruments evidencing scrip certificates for fractions of shares.

(c) If any of the securities being registered are, or will be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (1) a reasonably itemized and informative table of contents; and (2) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to Sections 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

(4) *Opinion re legality*—

(a) An opinion of counsel, as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid and non-assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(b) If the securities being registered are issued under a plan and the plan is subject to the requirements of ERISA either (i) an opinion of counsel which confirms compliance with the provisions of the written documents constituting the plan with the requirements of that Act pertaining to such provisions; or (ii) a copy of the Internal Revenue Service determination letter that the plan is qualified under Section 401 of the Internal Revenue Code; or (iii) an opinion of counsel attaching a copy of the determination letter, that any amended provisions of the plan adopted subsequent to such determination comply with the requirements of that Act pertaining to such provisions.

(5) *Opinion re discount on capital shares*—If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(6) *Opinion re liquidation preference*—If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(7) *Opinion re tax matters*—An opinion of counsel, or in lieu thereof, a revenue ruling from the Internal Revenue Service supporting the tax matters and consequences as to the registrant's activities or proposed activities described in the filing when such tax matters are material to the transaction for which the registration statement is being filed.

(8) *Voting trust agreement*—Any voting trust agreements and amendments thereto.

(9) *Material contracts*—(a) Every contract not made in the ordinary course of business which is material to the registrant and is to be performed in whole or in part at or after the filing of the registration statement or was entered into not more than two years before such filing. Only contracts need be filed as to which the registrant or subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment or in which the registrant or such subsidiary has a beneficial interest.

(b) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Any contract to which directors, officers, promoters, voting trustees, security holders named in the registration statement or report, or underwriters are parties except where the contract merely involves the purchase or sale of current assets having a determinable market price, at such market price;

(2) Any contract upon which the registrant's business is substantially dependent, as in the case of continuing contracts to sell the major part of registrant's products or services or to purchase the major part of registrant's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which registrant's business depends to a material extent;

(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 10% of all such assets of the registrant and its subsidiaries; or

(4) Any lease under which a significant part of the property described in the registration statement or report is held by the registrant.

(c) Any management contract or any remunerative plan, contract or arrangement including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) shall be deemed material and shall be filed except the following:

(1) Ordinary purchase and sales agency agreements.

(2) Agreements with managers of stores in a chain organization or similar organization.

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(4) Any remunerative plan, contract or arrangement which pursuant to its terms is

available to employees generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

(10) *Material foreign patents*—Each material foreign patent for an invention not covered by a United States patent. If the filing is a registration statement and if a substantial part of the securities to be offered or if the proceeds therefrom have been or are to be used for the particular purposes of acquiring, developing or exploiting one or more material patents or patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(11) *Instruments defining the rights of participating employees*—All constituent instruments (other than the plan itself) defining the rights of employees who participate in the plan.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

a. Form 10. Item 16 and the Instructions as to Exhibits of Form 10 are proposed to be amended as follows:

§ 249.210 Form 10, general form for registration of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

Item 16. Financial Statements and Exhibits.

(a)
(b) Exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

b. Form 8-K. Item 7 of the Form 8-K is proposed to be amended as follows:

§ 249.308 Form 8-K, for current reports.

Item 7. Financial statements.

(a)
(b) Exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

c. Form 10-Q. Instruction 9 and Item 9 of Form 10-Q are proposed to be amended as follows:

§ 249.308a Form 10-Q, for quarterly reports under sections 13 or 15(d) of the Securities Exchange Act of 1934.

Instruction 9. Exhibits.

Exhibits as required by Item 8 of Regulation S-K, 17 CFR 229.20.

Item 9. Exhibits and Reports on Item 10-Q.

(a) Exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

d. Form 10-K. Item 12 and the Instructions to Exhibits of Form 10-K are proposed to be amended as follows:

§ 249.310 Form 10-K, annual report pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

Item 12. Financial Statements, Exhibits Filed and Reports on Form 10-K.

(a) Exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits" are proposed to be deleted.]

e. Form 11-K, Item 7 and the Instructions as to Exhibits of Form 11-K are proposed to be amended as follows:

§ 249.311 Form 11-K, for annual reports of employee stock purchase, savings and similar plans pursuant to section 15(d) of the Securities Exchange Act of 1934.

Item 7. Financial Statements and Exhibits.

(a) Exhibits, as required by Item 8 of Regulation S-K, 17 CFR 229.20.

Instructions as to Exhibits

[All instructions as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

Comments

Any interested person wishing to submit written comments on the proposals, as well as on other matters which might have an impact upon the proposals contained herein, is invited to do so. As noted above, commentators are also requested to consider the appropriateness of these proposed exhibit changes as they relate to registration and annual report forms of foreign private issuers under the 1934 Act, particularly the new Form 20-F now being considered for adoption by the Commission. Mindful of its responsibilities to weigh with care the costs and benefits which result from its rules and form requirements, the Commission specifically invites comments on the cost to registrants and others of these proposals.

Authority

The amendments to Rule 403 and the enumerated forms prescribed under the Securities Act of 1933 are being proposed pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) of that Act. The amendments to Rule 0-3 and the enumerated forms prescribed under the Securities Exchange Act of 1934 are being proposed pursuant to the authority in Sections 12, 13, 15(d) and 23(a) of that Act. The amendments to Regulation S-K are being proposed pursuant to all of the

1933 and 1934 Act provisions referred to above.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 205, 209, 48 Stat. 906, 908; secs. 1, 3, 8, 203(a), 49 Stat. 704, 1375, 1377, 1379; sec. 2, 52 Stat. 1075; sec. 301, 54 Stat. 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 6, 10, 78 Stat. 88(a), 565, 569, 570; sec. 1, 79 Stat. 1051; secs. 1, 2, 82 Stat. 454; secs. 1, 2, 7, 28, 84 Stat. 1435, 1497, 1653; secs. 10, 11, 18, 89 Stat. 119, 121, 155; sec. 308, 90 Stat. 57; sec. 204, 91 Stat. 1500; [15 U.S.C. 77f, 77g, 77h, 77j, 77e(a), 78f, 78m, 78o(d), 78w(a)]).

By the Commission.
George A. Fitzsimmons,
Secretary.

November 16, 1979.

[FR Doc. 79-30034 Filed 11-21-79; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 270

[Release No. IC-10944; File No. S7-810]

Certain Investment Companies Owned by Companies Which Are Not Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission today is publishing for public comment a proposed rule under the Investment Company Act of 1940 to deem certain issuers having corporate parents as not being investment companies for purposes of the Act. The Commission has granted orders exempting, and its staff has provided no-action assurances regarding, numerous such companies. The proposed rule would obviate the necessity for the Commission's considering such matters on a case-by-case basis.

DATE: Comments must be received by January 14, 1980.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. (Refer to File No. S7-810.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. **FOR FURTHER INFORMATION CONTACT:** Mark J. Mackey, Esq. Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 272-3045.

SUPPLEMENTARY INFORMATION: The Commission today is publishing for comment proposed rule 3a-3 [17 CFR 270.3a-3] under the Investment

Company Act of 1940 ("Act") [15 U.S.C. 80a-1 et seq.] to deem certain issuers having corporate parents as not investment companies for purposes of the Act. This proposed rulemaking was prepared by the Division of Investment Management's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

Background

Section 3(b)(3) of the Act [15 U.S.C. 80a-3(b)(3)] excludes, generally, from the definition of the term "investment company" any issuer which otherwise would be an investment company as defined in section 3(a)(3) of the Act [15 U.S.C. 80a-3(a)(3)].¹ provided that all its outstanding securities (other than short-term paper² and directors' qualifying shares) are owned by a company which is excluded from the definition of the term "investment company" by section 3(b)(1) or 3(b)(2) [15 U.S.C. 80a-3(b)(1) and 3(b)(2)].³

¹Section 3(a)(3) of the Act provides: When used in this chapter, "investment company" means any issuer which—

Is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. As used in this section, "investment securities" includes all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies.

²The term "short-term paper" is defined in section 2(a)(38) of the Act [15 U.S.C. 80a-2(a)(38)] as, generally, any note, draft, bill of exchange, or banker's acceptance payable on demand or having a maturity at the time of issuance of not exceeding nine months.

³Section 3(b) of the Act provides: Notwithstanding paragraph (3) of subsection (a) [of section 3], none of the following persons is an investment company within the meaning of this [Act].

(1) Any issuer primarily engaged, directly or through a wholly-owned subsidiary or subsidiaries, in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities.

(2) Any issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses. . . .

(3) Any issuer all the outstanding securities of which (other than short-term paper and directors' qualifying shares) are directly or indirectly owned by a company excepted from the definition of investment company by paragraph (1) or (2) of this subsection.

Because of the introductory language of section 3(b), section 3(b)(3) excludes only subsidiaries which are investment companies as defined in section 3(a)(3) of the Act. See United States Foll Co., 9 SEC 22, 26 (1941). Moreover, the parent of the

Footnotes continued on next page

Section 3(b)(3) was included in the Act because of the practice, followed by some industrial companies, of effectuating their security transactions, not directly, but rather indirectly through a wholly-owned subsidiary.⁴ Congress presumably determined that there was little public interest in directly regulating such a subsidiary as a public investment company under the Act because the subsidiary has no public shareholders. Moreover, it also presumably determined that the public interest in so regulating the subsidiary through its corporate parent is also not compelling when the parent itself is not, in fact, an investment company.

In its administering the Act, the Commission has noted three important regulatory concerns that have arisen in the context of applications for exemptive orders and no-action letters relating to section 3(b)(3) of the Act. First, by the terms of that section, a subsidiary, which is a small business investment company and which has issued debt obligations to the United States Small Business Administration, would not be considered totally owned by a corporate parent for purposes of section 3(b)(3). Nonetheless, the Commission and its staff have provided such companies with exemptive orders and no-action assurances, respectively, in recognition of the Small Business Administration's extensive knowledge of the subsidiary's financial business status, and its ability to protect itself with respect to such debt securities.⁵ Moreover, it does not appear that the Small Business Administration's holding

Footnotes continued from last page company claiming the exclusion provided in section 3(b)(3) itself must also be an investment company within the definition of section 3(a)(3) since section 3(b)(3) only excludes companies whose parents are excluded from the definition of the term "investment company" by section 3(b)(1) and 3(b)(2). Those sections, in turn, by reason of the introductory language in section 3(b), apply only to investment companies as defined by section 3(a)(3) of the Act.

⁴Hearings before the Subcommittee on Securities and Exchange of the House Committee on Interstate and Foreign Commerce, 76th Cong., 3d Sess. on H.R. 10065 at 102 (1940); Hearings before the Subcommittee on Securities and Exchange of the Senate Committee on Banking and Commerce, 76th Cong., 3d Sess. on S. 3580 at 177-78 (1940) ("Senate Hearing").

⁵See, e.g., Struthers Capital Corporation, Investment Company Act Release Nos. 8016 and 7938 (September 27, 1973, and Aug. 10, 1973); and Foothill Venture Corporation, Investment Company Act Release Nos. 7374 and 7340 (Sept. 21, 1972, and Aug. 24, 1972). These orders were conditioned on the applicant's filing with the Commission certain financial and other information concerning the applicant and its parent. Companies relying on the proposed rule would not be required to file such information. Accord, staff responses to inquiries of George E. Carmody, P.C. (Aug. 18, 1978), and Rollinson & Schaumburg (Mar. 9, 1977), in which no such filings were required.

of such debt obligations should cause it to be considered a public investor for purposes of determining whether there is a public interest in regulating the subsidiary as a public investment company.

Second, an apparent anomaly exists regarding an issuer's status under section 3(b)(3) of the Act, depending on whether it otherwise would be considered an investment company as defined in section 3(a)(1) or as defined by section 3(a)(3).⁶ By its terms, section 3(b)(3) of the Act applies solely to issuers which are defined to be investment companies under section 3(a)(3).⁷ Nonetheless, the presumptive intent of section 3(b)(3)—that is, the lack of any public interest in regulating such a subsidiary as an investment company under the Act—apparently would apply regardless of whether the issuer otherwise would be defined as an investment company by section 3(a)(1) or by section 3(a)(3), provided that it has no public shareholders. Accordingly, notwithstanding the introductory language in section 3(b) of the Act limiting its application to investment companies as defined by section 3(a)(3), the Commission and its staff effectively have extended the scope of section 3(b)(3) of the Act to issuers which would have been deemed investment companies by section 3(a)(1).⁸

Third, an apparent anomaly also exists with regard to the status of a parent company of an issuer which may rely on section 3(b)(3) in determining whether it is not an investment company under the Act. By its terms, section 3(b)(3) applies only to an issuer whose parent company is excluded from the definition of investment company by section 3(b)(1) or section 3(b)(2) of the Act. These sections, in turn, are addressed only to companies which meet the *prima facie* definition of investment company in section 3(a)(3) of the Act. In contrast, an issuer whose parent company is an industrial corporation having few or no investment securities would not be excluded from the definition of investment company by section 3(b)(3), although there would be no greater apparent public interest in protecting the shareholders of such issuer's parent company under the Act. Accordingly, the Commission has granted orders exempting, and its staff has provided no-action assurances concerning, investment companies all

⁶Section 3(a)(1) of the Act defines investment company to be any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities.

⁷N. 3, supra.

⁸N. 5, supra.

whose outstanding securities are owned by parent companies which do not meet the statutory definition of the term "investment company" in section 3(a).⁹

Discussion

The Commission is proposing to adopt rule 3a-3 under the Act which, under specified circumstances, would deem certain corporate subsidiaries not to be investment companies for purposes of the Act. The proposed rule effectively would exempt from regulation as an investment company specified subsidiaries which may not rely on the statutory exclusion from the definition of the term "investment company" found in section 3(b)(3) solely by reason of its:

(1) Issuing debt obligations to the Small Business Administration;

(2) Being an investment company as defined under section 3(a)(1) of the Act; or

(3) Having a parent company which is not an investment company by virtue of section 3(b)(1) or section 3(b)(2), because the parent company is not, *prima facie*, an investment company under section 3(a)(3) of the Act or because the parent company would have relied on proposed rule 3a-1 [17 CFR § 270.3a-1] in lieu of applying for an order under section 3(b)(2). Since the proposal would exempt these companies without prior Commission scrutiny, however, the Commission has included (by reference to paragraph (a) of proposed rule 3a-1) a condition to the rule requiring, generally, that the parent and its subsidiary have no more than 45 percent of their consolidated assets invested in, and receive no more than 45 percent of their consolidated net income after taxes from, investment securities. For purposes of the rule, securities of certain controlled companies through which the parent company engages in a non-investment company business would not be considered "investment securities."¹⁰

⁹Ebasco Industries, Inc., Brazilian Electric Power Company, and Empresas Electricas Argentinas, Investment Company Act Release Nos. 6025 and 6006 (Apr. 9, 1970, and Mar. 23, 1970). Accord staff responses cited in note 5, supra. These staff letters were conditioned, generally, upon the aggregate value of the corporate parent's investment securities and interest in the subsidiary representing less than 40 percent of the value of the parent's assets. The Commission has incorporated a modified version of this condition as part of the proposed rule, N. 10, infra.

¹⁰Paragraph (a) of proposed rule 3a-1 would require, generally, that a company have no more than 45 percent of the value of its total assets (exclusive of Government Securities and cash items) consisting of, and receive no more than 45 percent of its net income after taxes from, securities other than Government securities, securities issued by employees' securities companies, and securities issued by certain majority-owned subsidiaries and certain controlled companies of such issuer.

Footnotes continued on next page

This condition would act as a safeguard against arrangements—such as a parent company's establishing a wholly-owned investment company subsidiary with assets significantly greater than those of the parent—designed to circumvent the Act.¹¹ The Commission will consider on a case-by-case basis, pursuant to the customary process of filing an application requesting an exemptive order, whether the particular facts and circumstances would justify issuing an exemptive order to those issuers which do not satisfy this requirement.

Text of Proposed Rulemaking

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 270.3a-3 as follows:

§ 270.3a-3 Certain investment companies owned by companies which are not investment companies.

Notwithstanding section 3(a)(1) or section 3(a)(3) of the Act, an issuer will be deemed not to be an investment company for purposes of the Act; *Provided*, That all of the outstanding securities of the issuer (other than short-term paper, directors' qualifying shares, and debt securities owned by the Small Business Administration) are directly or indirectly owned by a company which meets the requirements of paragraph (a) of rule 3a-1 under the Act and which is:

- (a) A company that is not an investment company as defined in section 3(a) of the Act;
- (b) A company that is an investment company as defined in section 3(a)(3) of the Act, but which is excluded from the definition of the term "investment company" by section 3(b)(1) or 3(b)(2) of the Act; or
- (c) A company that is deemed not to be an investment company for purposes of the Act by § 270.3a-1.

Statutory basis: Proposed rule 3a-3 is promulgated pursuant to the provisions of sections 6(c) [15 U.S.C. 80a-6(c)] and 38(a) [15 U.S.C. 80a-37(a)] of the Act.

By the Commission.

November 16, 1979.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-36032 Filed 11-21-79; 8:45 am]

BILLING CODE 8010-01-M

Footnotes continued from last page
Moreover, paragraph (c) of proposed rule 3a-1 would provide that in determining this percentage an issuer shall consolidate its financial statements with those of any wholly-owned subsidiaries.

¹¹ The Commission emphasizes that, even without this safeguard, under Section 3(a)(1) the parent and subsidiary company relationships can be collapsed and the totality of the corporate arrangement be deemed to be an investment company. See Senate Hearings at 178.

17 CFR Part 270

[Release No. IC-10943, File No. S7-809]

Transient Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission today is proposing for public comment a rule which, subject to certain conditions, would deem certain issuers not to be investment companies for purposes of the Investment Company Act of 1940 for a period not to exceed one year. The proposed rule would exclude certain issuers—which otherwise would be considered investment companies because of unusual corporate occurrences—from complying with that Act.

DATE: Comments must be received by January 11, 1980.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. (Refer to File No. S7-809.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Mark J. Mackey, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-3045.

SUPPLEMENTARY INFORMATION: The Commission today is publishing for comment proposed rule 3a-2 [17 CFR 270.3a-2] under the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a-1 et seq.] to deem certain issuers, which otherwise would be transient investment companies, not to be investment companies for purposes of the Act. The proposed rule was developed by the Division of Investment Management's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

Discussion

Section 3(a)(1) of the Act [15 U.S.C. 80a-3(a)(1)] defines the term "investment company" to be any issuer which is or holds itself out as being engaged primarily or proposes to engage primarily, in the business of investing, reinvesting or trading in securities. Section 3(a)(3) of the Act [15 U.S.C. 80a-3(a)(3)] defines the term "investment

company" also to be any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and which owns, or proposes to acquire investment securities having a value¹ exceeding 40 percent of the value of such issuer's total assets (exclusive of Government securities² and cash items) on an unconsolidated basis. The term "investment securities" is defined in section 3(a) to include all securities, except (A) Government securities, (B) securities issued by employees' securities companies,³ and (C) securities issued by majority-owned subsidiaries⁴ of the owner which are not investment companies.

From time to time, as a result of an unusual business occurrence, an issuer may be considered an investment company under these statutory definitions, although it would remain in such status only transiently. Examples of such unusual business occurrences include:

- (1) A "start-up" company's investing its offering proceeds in securities while arranging to purchase operating assets⁵;
- (2) A company's selling a large operating division and investing the proceeds in securities pending acquisition of additional operating assets⁶; and

¹ Section 2(a)(41) of the Act [15 U.S.C. 80a-2(a)(41)] provides, in part, that the term "value" for purposes of section 3 of the Act means—

(i) with respect to securities owned at the end of the last preceding fiscal quarter for which market quotations are readily available, the market value at the end of such quarter; (ii) with respect to other securities and assets owned at the end of the last preceding fiscal quarter, fair value at the end of such quarter, as determined in good faith by the board of directors; and (iii) with respect to securities and other assets acquired after the end of the last preceding fiscal quarter, the cost thereof. . . .

² The term "Government security" is defined in section 2(a)(16) of the Act [15 U.S.C. 80a-2(a)(16)], in part, as any security issued or guaranteed as to principal or interest by the United States.

³ The term "employees' securities company" is defined in section 2(a)(13) of the Act [15 U.S.C. 80a-2(a)(13)] as, generally, any investment company all the outstanding securities of which, other than short-term paper, are owned by, among others, employees of a company.

⁴ The term "majority-owned subsidiary" is defined in section 2(a)(24) [15 U.S.C. 80a-2(a)(24)] as, in part, a company 50 percent or more of the outstanding voting securities of which are owned by a person.

⁵ Real estate syndications and other tax shelters usually remain transient investment companies longer than other "start-up" companies because of the substantial amount of time needed to analyze, organize and purchase interests in a specific tax shelter. See, e.g., Securities and Exchange Commission Report of the SEC Real Estate Advisory Committee 60-54 (1972).

⁶ A company selling its assets in the process of final dissolution in activities that are merely

(3) A company's making a tender offer to stockholders of a non-investment company, and failing to obtain a majority of the target company's stock.

Frequently, such issuers have a *bona fide* intent to change their operations or assets within a short period of time so that they would no longer meet the statutory definition of an investment company. In many such instances, the issuer may argue that it is not in the "business" of investing, reinvesting, owning, holding or trading in securities for purposes of determining whether it is an investment company.⁷ Moreover, it may not be appropriate to require an issuer to effect for only an interim period the significant operational modifications—including modifications to its capital structure—which may be necessary to comply with the Act.

Accordingly, the Commission's Division of Investment Management has provided "no-action" assurances to issuer which did not intend to register under the Act, contingent upon representations that the issuer is engaged in *bona fide* efforts to cease meeting the statutory definition of the term "investment company" within a one-year period.⁸

Proposed Rule

The Commission believes that it would be appropriate by rulemaking to exclude temporarily from the Act's definition of investment company certain transient investment companies. Therefore, it proposes to adopt new rule 3a-2 which, subject to conditions, effectively would provide these companies with a temporary exemption from regulation under the Act.

Proposed rule 3a-2 would deem an issuer *not* to be engaged in the business of investing, reinvesting, owning, holding or trading in securities for purposes of section 3(a)(1) or 3(a)(3) of the Act during a period of time not to exceed one year, provided that specified safeguards are satisfied.⁹

Incidental to the dissolution would be effectively excluded from the Act pursuant to section 7(e). See staff response to inquiry of Kaplan, Livingston, Goodwin, Berkowitz & Selvin (May 17, 1979).

⁷ See, SEC v. Fifth Avenue Coach Lines, Inc., 289 F.Supp. 3 (S.D.N.Y. 1968). In that decision, it was held that 2½ months was "not too much time to allow" an issuer, which had invested proceeds from the condemnation of a prior business "to make up its mind what business it will henceforth engage in." Id. at 31.

⁸ The question in any case is whether the investment is temporary. Generally, we would consider a practice that continued for more than one year as no longer being temporary. Staff response to inquiry of McKenna & Flitting (June 14, 1979).

⁹ It should be noted that—regardless of the

As a safeguard, the rule would require the issuer to have a *bona fide* intent during that year to be engaged primarily, by the termination of such period of time, in a business other than that of investing, reinvesting, owning, holding or trading in securities. This intent must be evidenced by an appropriate resolution of the issuer's board of directors and recorded contemporaneously in its minute books.¹⁰ Such action would be a prerequisite to an issuer's reliance on the rule.

If, at the expiration of the period during which an issuer may rely on the rule, it is not actually engaged primarily in a non-investment company business, it would be required to so notify within 10 calendar days the Director of the Commission's Division of Investment Management. This requirement would allow the Commission or its staff to take any appropriate action on a case-by-case basis.

The maximum one-year period of time for which the rule would be available to an issuer would be calculated from the earlier of two dates. One date would be the date in which an issuer—such as a "start up" enterprise which temporarily is engaged primarily in investment activities—owns securities and/or cash having a value exceeding 50 per cent of the value of such issuer's total assets. The alternative date would be the date on which an issuer—such as a company having sold substantial operating assets, which intends temporarily to invest the proceeds pending the acquisition of new operating assets—owns or proposes to acquire certain investment securities representing greater than 40 percent of the issuer's total assets. Therefore, the rule's maximum one-year period of exclusion begins to run regardless of whether the issuer has yet determined its subsequent business.

In order that an issuer could not circumvent the Act by repeatedly invoking reliance on proposed rule 3a-2, the rule would provide that it would not apply more frequently than once during any three-year period. Where an issuer's

business in which an issuer actually is engaged primarily—an issuer which holds itself out as being engaged primarily, or which proposes to engage primarily, in the business of investing, reinvesting or trading in securities would be an investment company under section 3(a)(1) of the Act. This rule, of course, would not affect such an issuer's status under the Act.

¹⁰ Of course, insofar as this intent may be material to investment or voting decisions, it would be required to be stated in appropriate disclosure documents of the issuer.

activities would bring it within the definition of investment company more frequently than would be permitted by the rule, the investor protection concerns of the Act would be relevant, the need for shareholder protections would not be met, and there would be no persuasive public interest from the standpoint of investors in permitting a nontransient investment company to avoid complying with the prohibitions and regulatory provisions of the Act.

Text of Proposed Rule

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 270.3a-2 as follows:

§ 270.3a-2 Transient investment companies.

(a) For purposes of section 3(a)(1) and section 3(a)(3) of the Act, an issuer is deemed not to be engaged in the business of investing, reinvesting, owning, holding or trading in securities during a period of time not to exceed one year; *Provided, That:*

(1) The issuer has a bona fide intent (as evidenced by an appropriate resolution of its board of directors which has been recorded contemporaneously in its minute books) to be engaged primarily, by the termination of such period of time, in a business other than that of investing, reinvesting, owning, holding or trading in securities; and

(2) If, at the expiration of this period of time, the issuer is not engaged primarily in a business other than that of investing, reinvesting, owning, holding or trading in securities, it shall so notify within 10 calendar days the Director, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

(b) For purposes of this rule, the period of time described in paragraph (a) shall commence on the earlier of:

(1) The date on which an issuer owns securities and/or cash having a value exceeding 50 per cent of the value of such issuer's total assets on either a consolidated or unconsolidated basis; or

(2) The date on which an issuer owns or proposes to acquire investment securities (as defined in section 3(a) of the Act) having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

(c) No issuer may rely on this section more frequently than once during any three-year period.

Statutory basis: Proposed rule 3a-2 is promulgated pursuant to the provisions of sections 6(c) [15 U.S.C. 80a-6(c)] and 38(a) [15 U.S.C. 80a-37(a)] of the Act.

By the Commission.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-36031 Filed 11-21-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM79-79]

Price Squeeze—Procedural Rules

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its Regulations under the Federal Power Act (18 CFR Part 35) by adding a new § 35.30 which would establish the procedural rules governing Commission proceedings involving an issue of price squeeze in the electric industry. On this date and in a companion rulemaking (Docket No. RM79-80), the Commission is proposing to add a new § 35.32 to Part 35, which would establish the substantive rules relating to Commission consideration of a price squeeze issue. New §§ 35.30 and 35.32 together would supersede present § 2.17 of the Commission's regulations on General Policy and Interpretations (18 CFR Part 2).

DATE: Written comments by: December 24, 1979. Public hearing to be announced.

ADDRESS: Written comments should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should reference Docket No. RM79-79.

HEARING LOCATION: To be announced.

FOR FURTHER INFORMATION CONTACT: Angela Lancaster, Office of the Chairman, Federal Energy Regulatory Commission, Room 9000, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8333

or
Bonnie Cord, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104-A, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8170.

SUPPLEMENTARY INFORMATION:
Issued: November 19, 1979.

I. Background

The Federal Energy Regulatory Commission (Commission) is proposing to amend its Regulations under the Federal Power Act (18 CFR Part 35) by

adding a new § 35.30 which would establish the procedural rules governing Commission proceedings involving an issue of price squeeze in the electric industry. On this date and in a companion rulemaking (Docket No. RM79-80), the Commission is also proposing to add a new § 35.32 to Part 35, which would establish the substantive rules relating to Commission consideration of a price squeeze issue. New §§ 35.30 and 35.32 together would supersede present § 2.17 of the Commission's regulations concerning General Policy and Interpretations (18 CFR Part 2).

Price squeeze is the term used to describe price discrimination, with an anticompetitive effect, against an electric utility's wholesale customer. Specifically, price squeeze exists if a utility's price for wholesale service is higher in relation to wholesale costs than is the utility's price for retail service in relation to retail costs, resulting in actual or potential impairment of the wholesale customer's ability to compete with the utility for retail service.

The Federal Power Commission (predecessor of the Federal Energy Regulatory Commission) added § 2.17 to its regulations on March 21, 1977, in Order No. 563. That section was added to comply with the Supreme Court's decision in *F.P.C. v. Conway Corp.*, 426 U.S. 271 (1976), *aff'd* 510 F.2d 1264 (D.C. Cir. 1975), which required the Commission to consider price squeeze as part of its determination as to whether a utility's wholesale rate is just and reasonable. Section 2.17 established the substantive and procedural guidelines to be followed by parties in trying price squeeze cases before the Commission.

When § 2.17 was promulgated, the Federal Power Commission recognized that it did not have sufficient experience with price squeeze issues to promulgate a rule concerning price squeeze and, therefore, issued § 2.17 as a Statement of Policy. Since that time, the Commission staff (staff) and other participants to proceedings involving price squeeze issue have developed practical experience working under the procedures and requirements specified in § 2.17. The Commission has issued several decisions which resolve many of the substantive and procedural questions involved in the consideration of a price squeeze issue. Further, the Commission has reviewed most of the questions in a generic manner at public meetings held on June 28 and 29, 1979. The experience gained since promulgation of § 2.17, the issued

decisions, and the Commission's conclusions at the public meetings are reflected in this proposed rulemaking and in the companion proposed rulemaking which would establish new § 35.32.

II. Summary of the Proposed Regulations

Paragraph (a) of new § 35.30 provides that the procedures in this section are applicable to proceedings involving price squeeze as defined in § 35.32(b)(1).

Paragraph (b) of § 35.30 provides that the definitions set forth in § 35.32 also apply to § 35.30. That paragraph also defines the term "top sheets."

Paragraph (c) of § 35.30 establishes the proceedings in which, and the procedures by which, price squeeze may become an issue in a Commission proceeding. Subparagraph (1) lists the types of proceedings in which the issue of price squeeze may be raised. That subparagraph provides that price squeeze may be alleged against an electric utility in any proceeding arising from the filing, by the utility, of a request for increased rates under § 35.13 or of an initial rate under § 35.12 or in any proceeding involving that utility's rates conducted pursuant to section 206 of the Federal Power Act (16 U.S.C. 824e (a) and (b)). Subparagraph (2) of paragraph (c) establishes the procedures by which price squeeze may become an issue in proceedings specified in subparagraph (1). The procedures set forth in subparagraph (2)(i) through (iii), relating to intervention and complaints are essentially identical to, and merely clarify, the procedures set forth in § 2.17. The provisions of subparagraph (2)(iv), articulating procedures pertaining to the staff, incorporate the Commission's decision in *Connecticut Light and Power Company*, Docket No. ER78-517 (August 20, 1979). In that decision the Commission recognized that the staff is not required to file a petition to intervene and that the staff is unlikely at the initial intervention stage to have the information necessary to determine whether the price squeeze issue has merit. The Commission held that the staff would be permitted to submit a motion to expand the scope of the proceeding if the price squeeze issue has not been raised by an intervenor or complainant, or if an intervenor or complainant has failed to establish a *prima facie* case. Specific authority was given to the presiding judge to rule on such a motion, after the granting of which the staff would be held to the same procedural and substantive requirements as any other participant in the proceeding. In the event that an intervenor or complainant had made a

prima facie case, the staff would be permitted to participate as a matter of course.

Paragraph (d) provides that if no intervenor or complainant has raised the issue of price squeeze in accordance with paragraph (c), the staff may file with the presiding judge a "Motion to expand the scope of the proceeding" at any time prior to the issuance of top sheets. In that situation, price squeeze will be an issue in the proceeding only if the judge grants the staff's motion.

Paragraph (e) of § 35.30, which describes the structure of a proceeding involving a price squeeze issue, incorporates the Commission's decisions in several cases. In an order issued in *Arkansas Power and Light Company*, Docket No. ER79-339, (August 6, 1979), a section 205 proceeding, the Commission stated that it preferred to consider the price squeeze issue in a separate phase of the proceeding (phasing) and held that, in all newly docketed cases in which price squeeze was alleged, all other issues in the proceeding would be considered and decided prior to consideration of the price squeeze issue. However, the Commission granted discretion to the presiding judge, on his or her own motion or the motion of the staff or any party, to determine not to phase the price squeeze issue.

The Commission held further that, if phasing were ordered, the first phase or phases would address and resolve the cost of service (including capitalization and rate of return) issues, after which a preliminary Commission decision would be issued and any refunds to the level of the rate specified in the preliminary decision would be ordered by the Commission. The issue of price squeeze would then be considered in a new phase of the party alleging price squeeze determined that the preliminary just and reasonable wholesale rate still presented a price squeeze and determined to pursue its price squeeze allegations. The Commission advocated such phasing because resolution of the cost of service issues often eliminates, or at least substantially diminishes, any unjustified disparity between the wholesale and retail rates so that the price squeeze issue no longer exists. In addition, as the Commission noted in *Southern California Edison Company*, Opinion No. 62 at 29 (August 22, 1979), this procedure allows the wholesale customers to obtain refunds of all amounts collected in excess of the preliminary just and reasonable rate at an earlier date.

In an order issued in *Public Service Company of New Mexico*, Docket Nos. ER79-478 and ER79-479 (August 28, 1979), the Commission adopted a

different approach for filings involving contracts under which rates may be increased only after issuance of a final Commission opinion. In that case, the Commission did not phase the price squeeze issue on the section 206 filing, since under section 206 no rate relief can be afforded until the end of the entire proceeding. Although the Commission did not order phasing in that proceeding, it gave the presiding judge authority to order phasing in his or her discretion provided that the utility did not object. Further, even though that docket also concerned a section 205 filing, the Commission declined to order phasing of the price squeeze issue pertaining to that filing, again leaving discretion to order phasing with the presiding judge.

Paragraph (e) of § 35.30 incorporates the decisions in these cases with respect to phasing the price squeeze issue. Subparagraph (1)(i) specifies the proceedings which will be phased automatically. Clause (ii) of subparagraph (1) provides that the presiding judge has discretion to order that these proceedings not be phased if he or she determines that circumstances exist which warrant not phasing the price squeeze issue. As discussed in the Notice proposing the establishment of § 35.32 (Docket No. RM79-80), issued simultaneously with this rulemaking, the Commission has determined that, in light of the Commission's limited remedial powers, the preliminary just and reasonable wholesale rate is the appropriate rate to be compared with the relevant retail rate for price squeeze purposes. Consistent with this determination, the Commission emphasizes its strong preference for phasing of the price squeeze issue. Although the Commission cannot at this time conceive of circumstances which would warrant unphasing of proceedings specified in subparagraph (1)(i), discretion has been given to the presiding judge to determine in a particular case that such circumstances exist.

Subparagraph (2) of paragraph (e) specifies those proceedings in which the price squeeze issue will be phased if the judge so orders, unless the utility objects.

Paragraph (f) establishes procedures pertaining to the presiding judge's decision on phasing and provides opportunity for the staff or any party to argue before the presiding judge on phasing.

Paragraph (g) sets forth the procedures governing consideration of the price squeeze issue if phasing has been ordered. Subparagraph (1) provides that, if so ordered by the Commission, the wholesale rate, established by the

Commission prior to commencement of the price squeeze phase of the proceeding (the "preliminary just and reasonable wholesale rate"), will be charged during the price squeeze phase and that the wholesale customer may collect any refunds ordered by the Commission should the preliminary just and reasonable wholesale rate be less than the rate previously charged.¹

Subparagraph (2) of paragraph (g) requires that the price squeeze allegations be renewed by parties after completion of the cost of service phases. Except as provided in paragraph (g)(3), if the price squeeze allegations are not renewed, the preliminary just and reasonable wholesale rate is deemed to be the final just and reasonable wholesale rate.

Subparagraph (3) of paragraph (g) provides that, if no renewed allegations have been filed under subparagraph (2), and if the staff wishes to litigate the price squeeze issue, the staff shall submit to the Commission a "Motion to continue consideration of the price squeeze issue." If the staff's motion is denied by the Commission, price squeeze will not be considered in the proceedings and the preliminary just and reasonable wholesale rate shall be deemed the final just and reasonable wholesale rate.

Subparagraphs (4) through (10) of paragraph (g) specify the time limits for further submissions on the price squeeze issue.

Paragraph (h) sets forth the procedures governing consideration of the price squeeze issue if phasing has not been ordered. These procedures are essentially the same as those established in paragraph (g), with the exception that different procedures are applicable to the staff in accordance with the Commission's decision in *Connecticut Light and Power*, discussed above. Subparagraph (10) provides that the staff may request by motion permission to litigate the price squeeze issue if the parties have failed to make the *prima facie* case. Subparagraphs (11) through (13) establish the applicable procedures, if the presiding judge grants the staff's motion. Subparagraph (14) directs the presiding judge to establish procedural dates for further consideration of the price squeeze issue if the elements of a *prima facie* case have been satisfied.

¹ After the Commission rules on an application for rehearing of the Commission's preliminary decision, the Commission believes that any party that applied for rehearing may seek court review of the Commission's preliminary just and reasonable rate level determination in accordance with section 313 of the Federal Power Act.

III. Public Comments and Public Hearing

The Commission invites interested persons to submit written data, views and other information with respect to the matters contained in this notice. All comments should be verified, should reference Docket No. RM79-79, and should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An original and 14 conformed copies should be filed. All such submissions filed by December 24, 1979, will be considered by the Commission prior to issuance of a final rule.

All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours.

The Commission intends to conduct a public hearing on the matters contained in this notice and in the companion notice (Docket No. RM79-80). The members of the panel at that hearing will be designated by the Chairman of the Commission. The date, location and procedures will be announced in the near future.

(Federal Power Act, 16 U.S.C. §§ 791-828c; Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352, E.O. 12009, 42 Fed. Reg. 46267)

In consideration of the foregoing, the Commission is proposing to amend Part 35, Subchapter B, Chapter 1 of Title 18, Code of Federal Regulations as set forth below.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.

PART 35—FILING OF RATE SCHEDULES

1. Part 35 is amended in the Table of Contents by adding in the appropriate numerical order a new section and heading to read as follows:

§ 35.30 Price squeeze—procedural rules.

2. Part 35 is further amended in the Statement of Authority by adding the following phrase to the end thereof:

42 U.S.C. 7101-7352, E.O. 12009, 42 F.R. 46467.

3. Part 35 is further amended by adding § 35.30 to read as follows:

§ 35.30 Price squeeze—procedural rules.

(a) *Applicability.* This section sets forth the procedures applicable to proceedings in which the issue of price squeeze, as defined in § 35.32 of this chapter, is alleged.

(b) *Definitions.* The definitions set forth in § 35.32 of this chapter apply to this section. For purposes of this section the term "top sheets" means the cost of service analysis prepared by the staff for settlement purposes only and served upon all parties to the proceeding in advance of the first scheduled settlement conference.

(c) *Price squeeze as an issue in a Commission proceeding.* (1) Price squeeze may be an issue in the following proceedings:

- (i) Any proceeding arising from a filing for a rate increase made by an electric utility under § 35.13;
- (ii) Any proceeding arising from a filing of an initial rate made by an electric utility under § 35.12; and
- (iii) Any proceeding concerning the electric utility's rates which is conducted pursuant to section 206 of the Federal Power Act.

(2) Price squeeze may be considered as an issue in those proceedings specified in paragraph (c)(1) of this section only if:

- (i) a person files with the Commission a petition to intervene, in accordance with § 1.8 of this chapter, alleging a price squeeze;
- (ii) a State Commission files with the Commission a notice of intervention, in accordance with § 1.8, alleging a price squeeze;
- (iii) a person files a complaint with the Commission pursuant to section 206 of the Federal Power Act, in accordance with § 1.6 of this chapter, alleging a price squeeze; or
- (iv) the staff files with the presiding judge, as specified in paragraph (d) of this section a motion alleging a price squeeze.

(3) When price squeeze becomes an issue in a Commission proceeding, the Secretary shall add to the service list, maintained under § 1.17(c) of this chapter, the State Commission, agency or body that is responsible for regulation of retail rates for each State in which the utility provides electric service.

(d) *Raising of price squeeze issue by the staff.* (1) If no intervenor or complainant has alleged price squeeze in accordance with paragraph (c)(2) (i) through (iii) of this section, the staff may file with the presiding judge a "Motion to expand the scope of the proceeding" at any time prior to the issuance of top sheets.

(2) If the presiding judge grants the staff's motion under paragraph (d)(1) of this section, price squeeze shall be an issue in the proceedings. If the judge denies the staff's motion, price squeeze shall not be an issue in the proceeding.

(e) *Phasing of proceedings involving the price squeeze issue.* (1) This

subparagraph applies to proceedings arising solely under section 205 in which the proposed wholesale rates may become effective subject to refund or a proceeding involving certain complaints under section 206 of the Federal Power Act.

(i) A proceeding specified in paragraph (e)(1)(i) (A) or (B) of this section shall be conducted in separate phases if price squeeze is an issue, unless the presiding judge orders otherwise under paragraph (e)(ii) of this section. The initial phase or phases shall resolve all issues regarding cost of service and shall result in a determination by the Commission of a preliminary just and reasonable wholesale rate. The price squeeze issue shall be considered in a subsequent phase in accordance with the provisions of paragraph (g) of this section. This subparagraph applies to the following proceedings:

(A) proceedings which arise solely from a filing by an electric utility of a proposed increased rate under § 35.13 which may become effective subject to refund or an initial rate under § 35.12; or

(B) proceedings which arise from the filing of a complaint under § 1.6 of this chapter and pursuant to section 206 of the Federal Power Act, which complaint alleges that an electric utility's rate is excessive.

(ii) The presiding judge may determine on his or her own motion, or upon motion of the staff or any party, that circumstances exist which warrant that all or part (e.g., discovery) of the price squeeze issue not be considered in a separate phase.

(2) If price squeeze is an issue in a proceeding conducted entirely under section 206 of the Federal Power Act, other than a proceeding described in paragraph (e)(1)(i) (A) or (B) of this section, the presiding judge may determine that the price squeeze issue be considered in a separate phase of the proceeding, unless the electric utility whose rates are the subject of the proceeding objects to the consideration of the price squeeze issue in a separate phase.

(3) Any determination on phasing the proceeding which is made by a presiding judge under this paragraph shall be made in accordance with the procedures specified in paragraph (f) of this section.

(f) *Procedures for determination on phasing.* (1) Within fifteen days after issuance of the order setting the matter for hearing, or within fifteen days after the granting of staff's "Motion to expand the scope of the proceeding" under paragraph (d) of this section, the staff or any party may file with the presiding judge a motion requesting that the price

squeeze issue not be considered in a separate phase of a proceeding specified in paragraph (e)(1) of this section, or that the price squeeze issue be considered in a separate phase of a proceeding specified in paragraph (e)(2) of this section.

(2) Within five days after the date by which all motions made under paragraph (f)(1) of this section are to be filed, the staff or any party may file with the presiding judge a reply to such motions.

(3) Within ten days after the date by which replies made under paragraph (f)(2) of this section are to be filed, the presiding judge shall issue a decision on whether to consider the price squeeze issue in a separate phase.

(4) If the judge decides to consider the price squeeze issue in a separate phase, that phase shall be conducted in accordance with paragraph (g) of this section. If the judge decides not to consider the price squeeze issue in a separate phase, the proceeding shall be conducted in accordance with paragraph (h) of this section.

(g) *Procedures if there is separate phasing of the price squeeze issue.* The following procedures apply to proceedings in which the price squeeze issue is considered in a separate phase.

(1) If so ordered by the Commission, the utility shall charge the preliminary just and reasonable wholesale rate or rates during the price squeeze phase and shall refund any amounts collected during all prior phases of the proceeding which are in excess of the preliminary just and reasonable wholesale rate or rates.

(2) Except as provided in paragraph (g)(3) of this section, unless the alleging party refines its price squeeze allegation after the final decision establishing the preliminary just and reasonable wholesale rates has been issued but no later than thirty days after the Commission accepts the utility's compliance filing, the price squeeze issue shall not be considered in the proceeding and the preliminary just and reasonable wholesale rate shall be deemed to be the just and reasonable wholesale rate.

(3) If no price squeeze allegations have been refiled by intervenors or complainants within the time period specified in paragraph (g)(2) of this section or if the price squeeze issue was not raised by intervenors or complainants in accordance with paragraph (c)(2)(i) through (iii) of this section, and if the staff wishes to litigate the price squeeze issue, the staff shall submit to the Commission a "Motion to continue consideration of the price squeeze issue, no later than seven days

after the end of the time period specified in paragraph (g)(2) of this section. If the staff's motion is denied by the Commission, the price squeeze issue shall not be considered in the proceeding and the preliminary just and reasonable wholesale rate shall be deemed to be the just and reasonable wholesale rate.

(4) Within fifteen days after the date by which renewed allegations must be filed under paragraph (g)(2) of this section, or within fifteen days after the date on which the Commission grants the staff's motion under paragraph (g)(3) of this section, intervenors, complainants or the staff shall file with the presiding judge any requests for data required to present their case.

(5) Within fifteen days after the date by which data requests must be filed under paragraph (g)(4) of this section, the presiding judge shall convene a prehearing conference for the purpose of hearing argument on such data requests. At the conference the judge shall identify the specific data requests to which the utility will be required to respond.

(6) Within thirty days after the date of the prehearing conference specified in paragraph (g)(5) of this section, the utility shall respond to the data requests identified by the judge under paragraph (g)(5) of this section.

(7) Within thirty days after the date on which the utility makes a response under paragraph (g)(6) of this section intervenors, complainants, and the staff shall file their *prima facie* cases, as described in § 35.32(c).

(8) Within fifteen days after the date by which the *prima facie* case (or cases) is to be filed under paragraph (g)(7) of this section, the staff or any party may file a pleading alleging that such *prima facie* case does or does not fulfill the requirements of § 35.32(c).

(9) Within twenty days after the date by which pleadings are to be filed under paragraph (g)(8) of this section, the presiding judge shall determine whether the case filed under paragraph (g)(7) of this section satisfies the requirement of a *prima facie* case specified in § 35.32(c). If the judge determines that the requirements for a *prima facie* case have been satisfied, that determination shall not be reviewable by the Commission.

(10) If the presiding judge decides that the requirements for a *prima facie* case have been satisfied, the presiding judge shall set procedural dates for the following:

(i) submission by the utility of evidence (including evidence relating to the *prima facie* case) to justify the

preliminary just and reasonable wholesale rate;

(ii) submission of additional evidence which the judge in her or his discretion deems appropriate; and

(iii) commencement of the hearing.

(h) *Procedures if there is no separate phasing of the price squeeze issue.* The following procedures apply to proceedings in which the price squeeze issue is not considered in a separate phase.

(1) Intervenor or complainants shall file with the presiding judge any requests for data required to present their cases:

(i) if no motions concerning the phasing of the proceeding have been filed under paragraph (f)(1) of this section, within thirty days after issuance of the order setting the matter for hearing or within thirty days after the granting of the staff's "Motion to expand the scope of the proceedings" under paragraph (d) of this section; or

(ii) if a motion concerning the phasing of the proceeding has been made under paragraph (f)(1) of this section, within fifteen days after the judge's determination under paragraph (e) of this section, that the proceeding will not be phased.

(2) Within ten days after the date by which data requests must be filed by intervenors and complainants under paragraph (h)(1) of this section, the staff file with the presiding judge any requests for data required to present its case.

(3) Within fifteen days after the date by which data requests must be filed under paragraph (h)(2) of this section, the presiding judge shall convene a prehearing conference for the purpose of hearing argument on data requests filed under paragraphs (h)(1) and (2) of this section. At the conference, the judge shall identify the specific data requests to which the utility will be required to respond.

(4) Within thirty days after the data of the prehearing conference specified in paragraph (h)(3) of this section, the utility shall respond to the data requests of intervenors and complainants filed under paragraph (h)(1) of this section and identified by the judge under paragraph (g)(3) of this section.

(5) Within twenty days after the date on which the utility is required to make a response under paragraph (h)(4) of this section, the utility shall respond to the data requests of the staff filed under paragraph (h)(2) of this section, and identified by the judge under paragraph (h)(3) of this section.

(6) Within thirty days after the date on which the utility makes a response under paragraph (h)(4) of this section,

intervenors and complainants shall file their *prima facie* cases, as described in § 35.32(c).

(7) Within fifteen days after the date by which the *prima facie* case (or cases) is to be filed under paragraph (h)(6) of this section, the staff or any party may file a pleading alleging that such *prima facie* case does or does not fulfill the requirements of § 35.32(c).

(8) Within twenty days after the date by which pleadings are to be filed under paragraph (h)(7) of this section, the presiding judge shall determine whether the case filed under paragraph (h)(6) of this section satisfies the requirements of a *prima facie* case specified in § 35.32(c). If the judge determines that the requirements for a *prima facie* case have been satisfied, that determination shall not be reviewable by the Commission and the staff shall not be required to file a *prima facie* case.

(9) If the judge determines under paragraph (h)(8) of this section, that the requirements of a *prima facie* case have not been satisfied, the staff may file with the judge a "Motion to continue consideration of the price squeeze issue" within fifteen days after the date of the judge's determination under paragraph (h)(8) of this section. If the staff has filed such a motion within the specified time, the presiding judge shall determine whether to grant or deny the motion. If the presiding judge denies the staff's motion, or if the staff did not file such motion within the specified time, the price squeeze issue shall not be considered further in the proceeding.

(10) Within fifteen days after the presiding judge grants the staff's motion under paragraph (h)(9) of this section, the staff shall file its *prima facie* case, as described in § 35.32(c).

(11) Within fifteen days after the date by which the staff's *prima facie* case is to be filed under paragraph (h)(10) of this section, any party or the staff may file a pleading alleging that such *prima facie* case does or does not fulfill the requirements of § 35.32(c).

(12) Within twenty days after the date by which pleadings are to be filed under paragraph (h)(11) of this section, the presiding judge shall determine whether the staff's *prima facie* case satisfies the requirements of a *prima facie* case specified in § 35.32(c). If the judge determines that the requirements for a *prima facie* case have been satisfied, that determination shall not be reviewable by the Commission. If the presiding judge determines that the requirements of the *prima facie* case have not been satisfied, the price squeeze issue shall not be considered further in the proceeding.

(13) If the presiding judge determines under paragraph (h)(8) or paragraph (h)(12) of this section that the elements of a *prima facie* case have been satisfied, the presiding judge shall set procedural dates for the following:

(i) submission by the utility of evidence (including evidence relating to the *prima facie* case) to justify the proposed wholesale rate;

(ii) submission of additional evidence which the judge in his or her discretion deems appropriate; and

(iii) commencement of the hearing.

(i) *Change of procedural dates under this section.* The presiding judge may, in his or her discretion, and for good cause shown, change any procedural dates specified in this section.

[FR Doc. 79-38198 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 35

[Docket No. RM79-80]

Price Squeeze—Substantive Rules

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its Regulations under the Federal Power Act (18 CFR Part 35) by adding a new § 35.32 which would establish the substantive rules governing Commission proceedings involving an issue of price squeeze in the electric industry. On this date and in a companion rulemaking (Docket No. RM79-79), the Commission is proposing to add a new § 35.30 to Part 35, which would establish the procedural rules relating to Commission consideration of a price squeeze issue. New §§ 35.30 and 35.32 together would supersede present § 2.17 of the Commission's regulations on General Policy and Interpretations (18 CFR Part 2).

DATE: Written comments by: December 24, 1979. Public hearing to be announced.

ADDRESS: Written comments should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should reference Docket No. RM79-80.

HEARING LOCATION: To be announced.

FOR FURTHER INFORMATION CONTACT: Angela Lancaster, Office of the Chairman, Federal Energy Regulatory Commission, Room 9000, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8333, or Bonnie Cord, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104-A, 825 North Capitol Street,

N.E., Washington, D.C. 20426, (202) 357-8170.

SUPPLEMENTARY INFORMATION:

Issued: November 19, 1979.

I. Background

The Federal Energy Regulatory Commission (Commission) is proposing to amend its Regulations under the Federal Power Act (18 CFR Part 35) by adding a new § 35.32 which would establish the substantive rules governing Commission proceedings involving an issue of price squeeze in the electric industry. On this date and in a companion rulemaking (Docket No. RM79-79), the Commission is proposing to add a new § 35.30 to Part 35, which would establish the procedural rules relating to Commission consideration of a price squeeze issue. New §§ 35.30 and 35.32 together would supersede present § 2.17 of the Commission's regulations on General Policy and Interpretations (18 CFR Part 2).

Price squeeze is the term used to describe price discrimination, with an anticompetitive effect, against an electric utility's wholesale customer. Specifically, price squeeze exists if a utility's price for wholesale service is higher in relation to wholesale costs than is the utility's price for retail service in relation to retail costs, resulting in actual or potential impairment of the wholesale customer's ability to compete with the utility for that retail service.

The Federal Power Commission (predecessor to the Federal Energy Regulatory Commission) added § 2.17 to its regulations on March 21, 1977, in Order No. 563. That section was added to comply with the Supreme Court's decision in *F.P.C. v. Conway Corp.*, 426 U.S. 271 (1976), *aff'd* 510 F.2d 1264 (D.C. Cir. 1975), which required the Commission to consider price squeeze as part of its determination as to whether a utility's wholesale rate is just and reasonable. Section 2.17 established the substantive and procedural guidelines to be followed by parties in trying price squeeze cases before the Commission.

When § 2.17 was promulgated, the Federal Power Commission recognized that it did not have sufficient experience with price squeeze issues to promulgate a rule concerning price squeeze and therefore, issued § 2.17 as a Statement of Policy. Since that time, the Commission staff (staff) and other participants to proceedings involving a price squeeze issue have developed practical experience working under the procedures and requirements specified in § 2.17. The Commission has issued

several decisions which resolve many of the substantive and procedural questions involved in the consideration of a price squeeze issue. Further, the Commission has reviewed most of the questions in a generic manner at public meetings on June 28 and 29, 1979. The experience gained since promulgation of § 2.17, the issued decisions, and the Commission's conclusions at the public meetings are reflected in this proposed rulemaking and the companion proposed rulemaking which would establish new § 35.30.

II. Analysis of the Issues

In designing § 2.17, the Federal Power Commission was concerned that there would be a great waste of time and resources if a utility were required, as part of a rate increase application, to prove the absence of price discrimination among all wholesale and retail classes and subclasses. Consequently, the Commission placed upon a person alleging price squeeze a requirement to establish a *prima facie* case indicating the likelihood of the existence of a price squeeze. At the same time, the Commission recognized that in any rate increase application the ultimate burden of proof (*i.e.*, the risk of non-persuasion) rests on the utility.

This Commission believes that the concern of the Federal Power Commission in this regard was well placed. Although this Commission's analysis of price squeeze differs in some respects from that of the Federal Power Commission, the basic framework is administratively desirable and legally correct. Accordingly, the burden of establishing a *prima facie* case of price squeeze rests on the person alleging a price squeeze. If a *prima facie* case has been made, the burden of going forward shifts to the filing utility, and the utility bears the burden of proving that a proposed wholesale rate increase is not unduly discriminatory. However, consistent with Commission and judicial interpretation of section 206 of the Federal Power Act, in cases of an initial rate or a complaint filed pursuant to section 206, both the burden of going forward and the burden of proof rest on the person alleging a price squeeze.

In *Missouri Power and Light Company*, Opinion No. 31, (October 27, 1978), the Commission held that a three-part analysis would be applied to its consideration of a price squeeze issue. First, it must be determined whether there is price discrimination against the utility's wholesale customer with respect to rate(s) charged by the utility to its retail customers. Second, if price discrimination is found, it must be determined if there is, or if there is a

potential for, an anticompetitive effect. Third, if the anticompetitive effect is also found, then a price squeeze situation exists, and the wholesale rate is considered to be unduly discriminatory, unless the Commission determines that there are countervailing public policy or factual circumstances which would cause the Commission to conclude that the discrimination is not undue. Since sections 205 and 206 of the Federal Power Act prohibit the establishment of a rate that is unduly discriminatory, remedial action must be considered if the discrimination is found to be undue.

The following discussion sets forth the Commission's position, and the rationale for the position, on each aspect of the analysis: price discrimination, anticompetitive effect, and undue discrimination.

A. Price Discrimination

In arriving at its determination as to what constitutes price discrimination, the Commission had considered defining price discrimination to include only those situations in which service characteristics of the wholesale and retail customers are comparable (similar) and the wholesale rates are higher than the retail rates. However, in *Missouri Power and Light Company*, Opinion No. 31-A (May 16, 1979), the Commission rejected this definition, recognizing that price discrimination can exist in cases where there is no disparity in rates but where the costs of serving wholesale customers are less than the costs of serving retail customers. Therefore, it is necessary to consider the wholesale and retail costs as well as rates to determine whether price discrimination exists. Accordingly, the Commission defines price discrimination as a situation in which the relationship of the wholesale rate to the wholesale costs is greater than the relationship of the relevant retail rate to retail costs. In this context, relationship means either the ratio of rates to costs or the difference between rates and costs. Hence, price discrimination exists if there is similarity of service (*i.e.*, approximately equal costs of service) between the wholesale and retail class and the rates for the wholesale class are higher. Price discrimination also exists if services are not similar but the retail rate is lower in relation to retail costs than the wholesale rate in relation to wholesale costs (where retail and wholesale costs are determined on a consistent basis), including situations in which the wholesale and retail rates are the same, but the costs of serving the wholesale class are less than the costs of serving the retail class.

The Commission believes that this definition is consistent with the *Conway* decision. In *Conway*, the Court was concerned that the price structure of the bulk power supplier resulted in unequal profit margins between wholesale and retail customers; that is, the wholesale customers might be discriminated against in the prices they were charged. An analysis focusing solely on similarity of service and a straight comparison of rates would fail to recognize that although the services may not be strictly similar, the price-to-cost relationships may still result in price discrimination against the wholesale customer. Further, this definition of price discrimination is consistent with price discrimination decisions under the antitrust laws, which have focused not only on differences in prices, but also on the cost-justification for the prices.

Having defined price discrimination, it is necessary to determine which wholesale rate and which retail rate should be compared in order to determine if price discrimination exists. With respect to wholesale rates, the question is whether to use the rate proposed by the utility and made effective subject to refund or the rate determined by the Commission to be just and reasonable but for consideration of the price squeeze issue. With respect to the retail rates, the question is whether to use the proposed retail rate, the effective retail rate subject to refund, or the finally effective retail rate.

In *Southern California Edison*, Opinion No. 62 (August 22, 1979), the Commission held that the "just and reasonable, but for price squeeze" wholesale rate, rather than the proposed wholesale rate, should be the rate compared to the relevant retail rate to determine if price discrimination exists. The "just and reasonable, but for price squeeze" wholesale rate (the preliminary just and reasonable wholesale rate) means the rate which the Commission determines to be just and reasonable after consideration of all issues in the proceeding except the price squeeze issue. This rate is not the final wholesale rate because, under section 205 of the Federal Power Act, the Commission cannot determine a final just and reasonable wholesale rate until it disposes of price squeeze allegations.

The Commission's holding in *Southern California Edison* that the preliminary just and reasonable rate should be used for comparison purposes was based upon ramifications of the Commission's limited "remedial" powers under the Federal Power Act. That act authorizes the Commission to suspend proposed

rates for five months, to make the proposed rates effective subject to refund and to order prospective rate relief. Therefore, the Commission can only correct a situation in which it has determined that price squeeze exists by ordering refunds to the wholesale customer of rates paid in excess of the just and reasonable rate and by adjusting the rates for the future. The Commission does not have authority to grant damages to compensate wholesale customers for loss of business or other anticompetitive effects¹ due to the price discrimination; this relief must be sought in the courts. With respect to the relief that the Commission can provide for excess rates already charged, the Commission will, in any event, order refunds for all rates charged in excess of the preliminary just and reasonable wholesale rate, irrespective of any price squeeze issue. Hence customers will receive all the relief that the Commission can order for charges in excess of that rate.

Therefore, there is no practical benefit to be gained from comparing the proposed wholesale rate, instead of the preliminary just and reasonable wholesale rate, with the relevant retail rate.

For similar reasons, the Commission also held in *Southern California Edison* that the effective retail rate or rates should be used for comparison purposes. Unlike the wholesale rate, however, the effective retail rate could include a proposed or interim retail rate that is being collected subject to refund. This distinction is made because the Commission has no authority to adjust retail rates and cannot determine what adjustments the state commission will ultimately make when the final retail rate is established. The Commission, therefore, must accept whatever retail rate is in effect during the relevant time period for its comparisons. Moreover, it is the effective retail rate with which the wholesale customer must compete for retail customers.² Because the effective rate may change during the course of the Commission proceedings, it may be necessary to base the comparison on more than one retail rate.

The Commission wishes to emphasize the importance of the correct selection of the retail class used for comparison. This issue was discussed in depth in *Commonwealth Edison Company*, Opinion No. 63 (September 14, 1979) and Opinion No. 63-A (November 16, 1979). The relevant retail class for price

¹ See note 3, *infra*, p. 19.

² If a final retail rate is determined and refunds ordered during the course of the wholesale proceeding, it is the lower rate that is the effective rate for these purposes.

discrimination comparisons consists of the customers for whom there is competition between the bulk power supplier and its wholesale customer. In *Cities of Batavia v. F. P. C.*, 548 F. 2d 1056 (D.C. Cir. 1977), the court was concerned about the reasonableness of the composition of a retail class that included all industrials regardless of their individual peak characteristics. The court's concern seemed to be that group subsidies within the industrial class might work to the competitive disadvantage of the wholesale class. For example, a wholesale customer may wish to compete for a part of the industrial class. If that part of the class were charged lower rates than their costs of service would justify because it was being subsidized by the rest of the industrial class whose costs of service were even lower, the wholesale customer would be disadvantaged in competing with the utility for that part of the class. This would be of concern to the Commission if the competition were solely for the subsidized group of customers and not also for the retail customers who provided the subsidy. Accordingly, the Commission believes that the person alleging a price squeeze should specify the group of customers for which competition exists, explain why the specified group was selected for comparison, and explain why other retail groups were not selected. Without this specification and explanation, the Commission cannot determine whether the alleged price discrimination with respect to this group has the potential of causing an anticompetitive effect.

In the comparison of the relevant retail group to the wholesale customer(s), the Commission has determined that the average or aggregate class characteristics of the relevant retail and wholesale classes may be used unless the whole class is not the object of competition.

In order to satisfy the price discrimination requirement of a *prima facie* case, the person alleging a price squeeze may make a direct comparison of the relevant wholesale and retail rates, without an examination of the respective costs of service, if the wholesale rate is higher than the retail rate. If the wholesale rate is not higher, the person may satisfy the price discrimination requirement of the *prima facie* case by comparing the price/cost relationships of the two rates. If the price/cost relationship comparison is made, the person alleging a price squeeze need only show, in the *prima facie* case, that certain cost-determining factors indicate that price discrimination

exists, without specifically quantifying the costs.

The Commission recognizes that such a minimal showing of costs in the *prima facie* case makes the burden of going forward relatively light, but believes that such a showing is all that should be required in the *prima facie* case, for two reasons: the utility has the burden of proof in wholesale rate increase cases; and the utility possesses, or should be able to develop, the load and cost data needed to make the price/cost comparison. The first factor, the utility's burden of proof, requires that the showings necessary to show price discrimination for purposes of a *prima facie* case be less stringent than the showings necessary to demonstrate price discrimination if the person alleging price squeeze bore the burden of proof. The Commission has been unable to devise a requirement to show costs, for purposes of the price discrimination requirement of the *prima facie* case, which is heavier than the minimal showing and yet which does not, in essence, place the burden of proof on the person alleging the price squeeze.

Further, since any information (including estimates) on retail costs is far more accessible to the utility, the Commission feels that this information should be introduced by the utility after the *prima facie* case has been satisfied, when the utility presents its case to show cost-justification of the relevant rates. In promulgating regulations under section 133 of the Public Utility Regulatory Policies Act (16 U.S.C. 2643, Pub. L. 95-617, November 9, 1978), the Commission discovered that utilities often do not have the load data needed to ascertain with any precision the costs of serving a particular retail class. To the extent that the utilities do not have these data, the person alleging a price squeeze cannot secure it through discovery. However, the utilities do have an understanding of the behavior of the retail class and the bases for retail rate loads and structures. Since it is possible to perform an adequate cost study based on very rough load estimates, and since the utility is in a far better position to make these estimates, the Commission believes that the practical way of proceeding is to place on the utility the task of quantifying the cost differences. After the utility presents its case, the person alleging price squeeze will be required to rebut the utility's showing that the difference in rates is cost justified, in order to prevail on the merits.

In addition, the Commission feels that the requirement in the *prima facie* case

to show that the price discrimination is of sufficient magnitude and duration so as to reasonably indicate an anticompetitive effect, discussed below, makes the burden of going forward sufficiently stringent to preclude frivolous claims. The Commission specifically requests comments on this subject.

The Commission does not require the use of any particular methodology to prove or disprove price discrimination. Possible methods include, but are not limited to, the following: wholesale versus retail average revenues; application of retail rates to wholesale billing determinants (so long as the ratio of billing demands to allocation demands of the retail group is similar to that of the wholesale group or an adjustment is made to put the two groups on the same basis); comparison of revenues at various load curves; comparison of overall rates of return; and the transfer price analysis. Each of these methods has advantages and disadvantages. The Commission will determine whether the method employed in any particular proceeding was sufficient to demonstrate price discrimination, based upon the record of that proceeding.

If, in presenting its case, a utility offers a rate of return analysis demonstrating that there is not a lesser rate of return on the relevant retail class than on the wholesale class, this demonstration will constitute an affirmative defense.

However, in attempting to prove that a difference in rates is cost-justified, a utility should assure that any cost comparisons it presents compute costs on the wholesale and retail side in the same manner and, to the extent possible, in the manner followed by the Commission. Without such synchronized computations, it may be difficult for the Commission to draw meaningful conclusions from the data presented. (*Southern California Edison Company*.) In addition, as the Commission stated in *Southern California Edison* and in *Commonwealth Edison Company*, cost differences should be quantified; that is, the utility should show how much of the difference in rates is accounted for by the different cost factors. A generalized showing is insufficient. However, if the utility lacks the requisite data on costs of serving the relevant retail class, it may use estimates in performing its full cost study.

B. Anticompetitive Effect

If price discrimination is established, the Commission must determine whether there has been, or could be, an anticompetitive effect. In this regard,

two concepts, competition and anticompetitive effect, require consideration and definition. Although the two terms are necessarily related, it is important to consider each one separately and to determine the type of showing, if any, which is required to establish its existence.

In *Connecticut Light and Power Company*, Docket No. ER78-517 (August 20, 1979), the Commission reiterated the assumption that it had stated in *Missouri Power and Light*, Opinion No. 31-A, that the electric industry is an industry in which competition exists. In *Connecticut*, the Commission concluded that the concept of competition in the electric industry should not be confined to cases in which active rivalry among alternative suppliers can be demonstrated. The characteristics essential to the existence of competition are geographic proximity and the ability of the wholesale customer and the filing utility to be alternative suppliers of the same product for an individual customer or group of customers. Accordingly, the Commission held in *Connecticut* that the only showing required for the establishment of a *prima facie* case as to competition is that the wholesale customer and the filing utility are in geographic proximity and that they are or could be alternate suppliers. The Commission stated that such a showing could be challenged.

The Commission recognizes that if the relevant form of competition is franchise competition, certain requirements of the *prima facie* case may not be precisely applicable. This is so because franchise competition involves competition for all types of electric service. There is no single retail rate that corresponds to all types of retail loads. Consequently, those elements of a *prima facie* case which require specification of the effective retail rate schedule and a comparison of the effective retail rate with the relevant wholesale rate are difficult to establish when franchise competition is alleged. The Commission intends that the presiding judge would take this difficulty into consideration when determining whether the person alleging price squeeze has met the burden of going forward on the price squeeze issue.

In *Connecticut*, the Commission also decided that the person alleging price squeeze must allege the form of competition which was purportedly being harmed. Competition for individual customers or customer groups, franchise competition and fringe area competition were all held to be relevant forms of competition. The requirement of alleging the form of

competition involved was imposed to aid the utility in the event that it seeks to rebut the showing of competition.

In *Connecticut* the Commission considered whether a person alleging price squeeze must show actual anticompetitive effect due to the alleged price discrimination or whether a showing of a potential anticompetitive effect is sufficient. The antitrust laws and federal case law on the subject³ have stated that the concern of Congress in passing the antitrust laws was with "probabilities not certainties" and that the intent is to "reach such discriminations in their incipency." However, the courts have also made clear that "potential" does not refer to a "mere possibility", but rather to a "reasonable probability". See, e.g., *Brown Shoe Co. v. United States*, 370 U.S. 294 (1962); *Corn Products Refining Co. v. Federal Trade Commission*, 324 U.S. 726 (1945); and *Forgett v. Scharf*, 181 F.2d 754 (3d Cir.), cert. denied, 340 U.S. 825 (1950). The Commission further held in *Connecticut* that if the *prima facie* requirements of competition and price discrimination are satisfied, it is reasonable to presume that there is a potential anticompetitive effect, subject to the utility's right to rebut this presumption.

Even though a rebuttable presumption of anticompetitive effect has been established with respect to the case-in-chief, the Commission believes that, in order to meet its burden of going forward in the *prima facie* case, a person alleging price squeeze should be required to show that the price discrimination is of sufficient magnitude that an anticompetitive effect is indicated. Further, the Commission believes that, if more than one retail rate has been in effect during the pendency of the wholesale rate proceeding, the person alleging price squeeze should be required to show that the price discrimination with respect to each effective retail rate that is alleged to cause discrimination is of sufficient magnitude and duration that an anticompetitive effect is indicated. Duration in this context refers to the time period during which the proposed wholesale rate and the effective retail rate (or rates) are in effect concurrently. The purpose of these requirements in the *prima facie* case is, in view of the minimal showings required to meet the *prima facie* requirement on price discrimination, to preclude the possibility of a utility's being forced to

³ The Commission does not have the responsibility to enforce the antitrust laws. It does, however, consider the policies underlying those laws in carrying out its regulatory responsibilities.

defend against a frivolous claim. The Commission recognizes that the duration requirement may be difficult to show in an unphased proceeding. Section 35.30 provides that any participant may submit pleadings in support of, or in opposition to, the *prima facie* case, thus providing the utility with the opportunity to argue that the price discrimination is so small or short-lived that there is no potential for an anticompetitive effect. The presiding judge has the authority to determine that the *prima facie* case has not been satisfied because the potential for an anticompetitive effect is *de minimis*.

The Commission specifically asks for comments on the advisability of including in the *prima facie* case a statement or demonstration by wholesale customers that they cannot secure like power from an alternative source at an ultimate price equal to or lower than the price which their current bulk power supplier would be charging absent price discrimination. It would appear that a bulk power supplier's price discrimination would have no anticompetitive effect if the customer could avoid having to pay the discriminatory price. Of course, if the alternative bulk power supplier is not directly interconnected with the customer, then the willingness of intervening systems to wheel and the price at which they would do so, as well as the reliability of the service or the assurance of continued supply, would have to be taken into account.

The proposed rule contains no mention of this consideration. Nonetheless, a utility could include a showing of the availability of alternative power at a suitable price in its case in response to a price squeeze allegation so as to rebut any presumption of anticompetitive effect. It might be considered more appropriate, however, for the party alleging price squeeze to make a statement of showing that appropriately-priced power from an alternative source is not available. One of the factors militating towards placing this obligation on the party alleging price squeeze is the Commission's belief that wholesale customers should be continually testing the market and searching for cheaper or more reliable sources of power. It follows from this assumption that the wholesale customer would be in a better position to describe its bulk power supply alternatives than would the present bulk power supplier. On the other hand, raising this consideration in every price squeeze proceeding through its inclusion in the *prima facie* case may add a great deal to the time and expense of these

proceedings, and the Commission may ultimately conclude that these resources have been wasted because this consideration is of no importance in the great majority of cases. The Commission requests comments on whether such a showing should be made as part of a price squeeze case; on the which party should be required to make such a showing; and on what type of evidence should constitute the demonstration.

The final consideration pertaining to anticompetitive effect is whether the ownership characteristics of the wholesale customer are relevant to a determination of anticompetitive effect. In *Boston Edison Company*, Opinion No. 809-A (December 9, 1977), the Commission specifically posed the question, "In determining the existence of anticompetitive effect, what significance is there, if any, that publicly-owned utilities may be involved?" In *Commonwealth Edison Company*, the Commission found that it was irrelevant that a wholesale customer may be a municipality or a cooperative and may therefore have some tax or other advantages which are not available to the filing utility. Any competitive or other advantages that have been accorded to municipalities or cooperatives have been granted by the Congress or the state legislatures. Regulation should not reverse legislative intent.

Furthermore, in *Southern California Edison* the Commission noted that the crucial element in a price squeeze case is that the wholesale rates are discriminatory. Whether a wholesale customer has or has not been forced to pass these higher costs on to its customers is immaterial to a finding of price squeeze, since the impairment of the municipal customer's retail competitive advantages would itself be an anticompetitive effect.

C. Undue Discrimination

If the Commission determines that there is price discrimination and a potential for an anticompetitive effect, there is price squeeze. A rebuttable presumption then arises that the wholesale rate is unduly discriminatory. The Commission shall find that the price squeeze constitutes undue discrimination, unless countervailing public policy or factual considerations cause the Commission to conclude that the discrimination is not undue. *Missouri Power and Light Company*, Opinion No. 31. Such considerations include, but are not limited to: adequacy of service, reliability, financial integrity, the length of time the price squeeze existed, the extent of price

discrimination, and regulatory actions and policies of state commissions.

With respect to the regulatory actions and policies of state commissions, many utilities have claimed that, even if the effective retail rate is discriminatorily low when compared with the wholesale rate, price squeeze cannot be found because the low retail rate was set by the state public service commission ("the state action doctrine"). In *Parker v. Brown*, 317 U.S. 341 (1943), the Supreme Court held that the actions of state officials which would violate the antitrust laws if carried out by private persons are not violative of the Sherman Act if done according to the direction of the legislature. The Commission has determined that the "state action doctrine" cannot be relied upon as an absolute defense in cases in which all or a part of the discrimination is due to differing regulatory policies. As the Commission noted in *Southern California Edison*, the doctrine does not necessarily grant immunization in every case in which part of the discrimination can be traced to action of the state. To be granted such immunity, the action of the state must be so dominant as to make it unfair to hold the utility liable. If, however, it is found that the conflicting regulatory policies of the Commission and the state commissions have caused the price squeeze, it may well be concluded that the discrimination is not undue.

In *Missouri Power and Light Company*, Opinion No. 31, the Commission held that the filing utility's intent to discriminate in order to gain competitive advantage was irrelevant to a determination of price squeeze, as well as to any determination made regarding the correction of price squeeze. The Federal Power Act, as interpreted by *Conway*, requires the Commission to consider the existence of undue discrimination between retail and wholesale service in setting a just and reasonable rate regardless of whether or not that discrimination was intentionally imposed. Therefore, no showing of intent to create a price squeeze is required.

As previously noted, under the Federal Power Act, the Commission's only mechanisms for correction are the ordering of refunds and prospective rate relief. However, as stated in *Conway*, refunds can go beyond the Commission's normal cost of service adjustments at least to the lower end of the "zone of reasonableness."

III. Summary of the Proposed Regulations

The proposed rule incorporates the Commission's decisions and conclusions

explained above. This section of the preamble discusses the specific provisions of the proposed rule.

Paragraph (a) of proposed § 35.32 provides that this section sets forth the substantive provisions applicable to Commission proceedings involving the determination of a price squeeze issue pertaining to electric utilities.

Paragraph (b) contains definitions applicable to this section and to new § 35.30. This paragraph defines the following terms: "anticompetitive effect", "competition", "franchise competition", "price discrimination", "phase", "preliminary just and reasonable wholesale rate", and "price squeeze". Several of these terms will be discussed below in the context of the paragraphs which use the terms.

Paragraph (c) provides that a person alleging price squeeze must support its allegations by filing a *prima facie* case. Subparagraphs (1) through (4) of paragraph (c) establish the requirements of a *prima facie* case, which requirements must be met if consideration of the price squeeze issue is to continue.

Subparagraph (1) of paragraph (c) sets forth the first requirement of the *prima facie* case, which is the specification of the utility's effective retail rate schedule or schedules which the person alleges is relevant to the price squeeze.

Subparagraph (2) of paragraph (c) establishes the second requirement of the *prima facie* case, which is a showing that there is enough evidence that price discrimination exists to warrant going forward with the proceeding. Consistent with the definition of price discrimination in paragraphs (b)(2), paragraph (c)(2)(ii) establishes that a person alleging price squeeze must show price discrimination in one of three ways as part of the *prima facie* case. Subparagraph (2)(ii)(A) or paragraph (c) provides that price discrimination may be shown by demonstrating that the wholesale rate is higher than the utility's retail rate for the relevant group of customers. Subparagraph (2)(ii)(B) provides that, if the wholesale rate is equal to the utility's retail rate for the relevant group of customers, price discrimination may be shown by demonstrating that there is a reasonable indication that the costs of serving those retail customers are greater than the costs of serving the wholesale customer. Finally, subparagraph (2)(ii)(C) provides that, if the wholesale rate is less than the utility's retail rate for the relevant group of customers, price discrimination may be shown by demonstrating that there is a reasonable indication that the costs of serving those customers are sufficiently greater than the costs of serving the wholesale customer, so that

price discrimination exists against the wholesale customer. Accordingly, for purposes of the *prima facie* case, the person alleging price squeeze may demonstrate price discrimination by submitting a straight rate comparison on the assumption that the costs to serve the wholesale and retail customers are similar or by submitting a price/cost comparison for the wholesale and retail customers, respectively. If the price/cost comparison is made, the person alleging a price squeeze need only show, in the *prima facie* case, that one or more cost determining factors indicate that price discrimination exists, without specifically quantifying the costs. For example, in subparagraphs (2)(ii)(B) and (C), the person alleging price squeeze could show that distribution costs for the relevant group of retail customers were sufficiently high that, if the rates were adjusted to account for distribution costs, the wholesale rate would be higher than the retail rate.

Section 2.17 requires "as showing that the retail rates are lower than the proposed wholesale rate for comparable service," as one of the elements of a *prima facie* case. The proposed rule differs from § 2.17 in that the person alleging price squeeze under the proposed rule has the latitude to show price discrimination when service is not similar.

Subparagraph (2)(i) of paragraph (c) establishes the rates which are to be compared for purposes of the *prima facie* showing of price discrimination under subparagraph (2)(ii). Subparagraph (2)(i) provides that if the proceeding is phased in accordance with § 35.30, the effective retail rate shall be compared with the wholesale rate which the Commission determines to be just and reasonable after consideration of all issues in the proceeding except price squeeze (the "preliminary just and reasonable wholesale rate," defined in paragraph (b)(7)). If the price squeeze issue is not to be considered in a separate phase, subparagraph (2)(i)(B) provides that the effective retail rate shall be compared with the proposed wholesale rate. In that situation, the rate used for comparison in the Commission's final decision will be the wholesale rate as adjusted by determinations on issues other than price squeeze.

Subparagraph (3) of paragraph (c) establishes the third requirement of a *prima facie* case, consisting of a showing that competition exists between the utility and the wholesale customer, a statement of the form of competition which is being harmed, and the specification and explanation of the

group of customers for which competition exists. The person alleging price squeeze must show that competition exists by showing that the wholesale customer is in geographic proximity to the electric utility and that the wholesale customer is, or could be an alternate supplier to the group of customers. The person must also state whether the purported competition is franchise competition (defined in paragraph (b)(5)) or competition for individual customers, including fringe areas. The subparagraph further requires that the person alleging price squeeze identify the specified group or groups of customers for whom the type of competition exists and explain the basis of the determination that the specified group is the object of competition and other retail groups are not.

The proposed rule differs from § 2.17 in that the proposed rule requires only a showing of geographic proximity and that the customer is or could be an alternative supplier of electricity to the relevant customers. The proposed rule also contains the additional showings relating to the form of competition involved and the customers who are the object of the competition, which were not required by § 2.17.

The fourth requirement of the *prima facie* case is set forth in paragraph (c)(4) which states that the person alleging a price squeeze must show that the magnitude, and in certain cases the duration, of the price discrimination indicate that there is a potential for an anticompetitive effect.

The final requirement of the *prima facie* case is established in paragraph (c)(5) which provides that the person alleging price squeeze must indicate the reduction in the wholesale rate which is necessary to eliminate the price squeeze. The proposed rule is similar to § 2.17 in this respect.

As part of a *prima facie* case, § 2.17(a)(4) requires a showing of "the wholesale customer's prospective rate for comparable service, i.e., the rate necessary to recover bulk power costs (at the proposed wholesale rate) and distribution costs." This requirement has not been included in the proposed rule, because the Commission has determined that, consistent with its decision as to the ownership characteristics of the wholesale customer, it is irrelevant to a determination of price squeeze.

The requirements of the *prima facie* case in § 2.17 are more stringent than the ones contained in the proposed rule, both with respect to the price discrimination and the competition showings. As the Commission noted in *Connecticut Light and Power*, the

minimal showing of competition now necessary should shift the focus in price squeeze cases from proving competition to showings on the price discrimination issue. For this reason, the Commission cautions against exclusive reliance on the price discrimination aspect of the *prima facie* case by the person alleging price squeeze. More may be required of the person in cases in which the utility offers evidence in its case that the rates are not unduly discriminatory.

Paragraph (d) establishes that in proving or disproving price discrimination in the *prima facie* case or in the full case, the Commission does not require the use of any particular methodology.

Paragraph (e) provides that certain rebuttable presumptions arise from the satisfaction of certain of the requirements of the *prima facie* case. Subparagraph (1) of paragraph (e) provides that if the requirements of the *prima facie* case as specified in paragraph (c) are satisfied, a rebuttable presumption arises that price discrimination with an anticompetitive effect (price squeeze) exists.

Subparagraph (2) of paragraph (e) establishes that, if price squeeze is found, a presumption arises that the rate is unduly discriminatory. In determining whether the wholesale rate is unduly discriminatory, the Commission may consider countervailing public policy and factual considerations, including: adequacy of service, reliability, financial integrity, length of time the price squeeze existed; the extent of the price squeeze; and the regulatory actions and policies of state commissions.

Paragraph (f) sets forth provisions applicable to the utility's case. Subparagraph (1) provides that if the utility's case is based upon the difference in the costs of serving the retail and wholesale customers, the utility must quantify the differences in its total costs, including distribution costs, if any, between the wholesale and pertinent retail services. However, as discussed above, if the utility lacks the requisite data on costs of serving the relevant retail class, it may use estimates in performing its full cost study. Subparagraph (2) sets forth the affirmative defenses available to the utility. Clause (i) establishes that, if the utility presents a rate of return analysis that shows that the rate of return for the pertinent retail service or services is not lower than the rate of return on the pertinent wholesale service or services, that showing shall constitute an affirmative defense. Clause (ii) provides that, if the utility can show that the wholesale customer could not be an alternative supplier to the utility for the

group of customers who are the object of the competition, that showing shall constitute an affirmative defense.

Paragraph (g) establishes which participant in the proceeding bears the burden of proof. Subparagraph (1) provides that in the case of a proposed wholesale rate increase, if a *prima facie* case has been made in accordance with paragraph (c) and § 35.30, the utility shall bear the burden of proof to justify the wholesale rate as not unduly discriminatory. In contrast, subparagraph (2) places the burden of proof on the person alleging price squeeze in the case of an initial rate filed under § 35.12 and in the case of a complaint proceeding conducted pursuant to section 206 of the Federal Power Act.

Paragraph (h) provides that a finding of undue discrimination shall require remedial action by the Commission.

IV. Application of Regulations to Proceedings to the Natural Gas Industry

Commission proceedings in which price squeeze has been an issue have been almost exclusively proceedings involving the electric utility industry. Accordingly, the proposed rule would pertain only to the electric industry. However, the Commission specifically solicits comments from members of the public on whether the regulations contained in the proposed rule should also be made applicable to the natural gas industry.

V. Public Comments and Public Hearing

The Commission invites interested persons to submit written data, views, and other information with respect to the matters set forth in this notice. All comments should be verified and should, reference Docket No. RM79-80 and should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An original and 14 conformed copies should be filed. All comments received by December 24, 1979, will be considered by the Commission prior to promulgation of the final regulations.

All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours.

The Commission intends to conduct a public hearing on the matters contained in this notice and in the companion notice (Docket No. RM79-79). The members of the panel at that hearing will be designated by the Chairman of

the Commission. The date, location and procedures will be announced in the near future.

(Federal Power Act, 16 U.S.C. § 791-828c; Department of Energy Organization Act, 42 U.S.C. § 7101-7352; E.O. 12009, 42 FR 48267)

In consideration of the foregoing, the Commission is proposing to amend Part 35 of Chapter 1, Title 18, Code of Federal Regulations as set forth below.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.

PART 35—FILING OF RATE SCHEDULES

1. Part 35 is amended in the table of contents by adding in the appropriate numerical order a heading for § 35.30 to read as follows:

§ 35.32 Price squeeze—Substantive rules.

2. Part 35 is further amended by adding a new § 35.32 to read as follows:

§ 35.32 Price squeeze—substantive rules.

(a) *Applicability.* This section sets forth the substantive provisions applicable to Commission proceedings involving the determination of a price squeeze issue pertaining to electric utilities.

(b) *Definitions.* For purposes of this section and § 35.30, the following definitions apply.

(1) "Price squeeze" means price discrimination between a utility's wholesale and retail rates with an anticompetitive effect.

(2) "Price discrimination" means that the relationship of the wholesale rate to the wholesale costs is greater than the relationship of the relevant retail rate to the retail costs. "Relationship" means either the ratio of rates to costs or the difference between rates and costs.

(3) "Anticompetitive effect" means the actual or potential impairment, as a result of price discrimination on the part of an electric utility, of the utility's wholesale customer's ability to make sales of the same or similar products to a retail customer or type of retail customer that could also be served by the utility. "Potential" means a reasonable probability, not a mere possibility.

(4) "Competition" means the actual or potential ability of an electric utility and its wholesale customer to serve as alternate suppliers of the same or similar products to the same retail customer or type of retail customer.

(5) "Franchise competition" means the right to provide electric service to all customers in an entire area.

(6) "Phase" means a portion of a proceeding in which only certain issues

in the proceeding are considered or in which certain issues in the proceeding are excluded from consideration.

(7) "Preliminary just and reasonable wholesale rate" means the wholesale rate that is found to be just and reasonable by the Commission after completion of the phase or phases preceding the price squeeze phase of the proceeding.

(c) *Prima facie case.* Except as provided in § 35.30(h)(8), any person alleging a price squeeze under this section must support the allegation by filing a *prima facie* case, which shall include the items listed in subparagraphs (c)(1) through (c)(4) of this paragraph.

(1) The person shall specify the utility's effective retail rate schedule or schedules that the person alleges are relevant to the issue of price squeeze.

(2) The person shall submit evidence on price discrimination in accordance with paragraphs (c)(2)(i) and (c)(2)(ii) of this subparagraph.

(i) The person shall compare the effective retail rate or rates with:

(A) The preliminary just and reasonable wholesale rate, if the price squeeze issue is to be considered in a separate phase in accordance with § 35.30;

(B) The proposed wholesale rate, if the price squeeze issue is not to be considered in a separate phase of the proceeding, in accordance with § 35.30, but the Commission's final decision will be based on the wholesale rate as adjusted by its cost of service determinations.

(ii) The person shall demonstrate that: (A) The wholesale rate is higher than the utility's retail rate for the group of retail customers who are the object of competition;

(B) If the wholesale rate is equal to the utility's retail rate for the group of retail customers who are the object of competition, there is a reasonable indication that the costs of serving those retail customers are greater than the costs of serving the wholesale customers;

(C) If the wholesale rate is less than the utility's retail rate for the group of retail customers who are the object of competition, there is a reasonable indication that the costs of serving those retail customers are sufficiently greater than the costs of serving the wholesale customer that there is price discrimination against the wholesale customer.

(3) The person shall submit evidence on competition in accordance with paragraphs (c)(3)(i) and (c)(3)(ii) of this subparagraph.

(i) The person shall demonstrate the existence of competition by showing:

(A) That the wholesale customer is in geographic proximity to the utility; and (B) That the wholesale customer is or could be an alternative supplier of electricity to the group of retail customers (a retail class or a part of a retail class) for which there is competition.

(ii) The person must also:

(A) State whether the purported competition is franchise competition or competition for individual customers, including fringe areas; and

(B) Specify the group of customers for which there is competition, explaining why the specified group was determined to be the object of the competition and why other retail groups were not.

(4) The person shall show that the magnitude of the price discrimination indicates that there is a potential for an anticompetitive effect. If more than one retail rate has been in effect during the pendency of the wholesale rate proceeding, the person shall state the magnitude and duration of the price discrimination with respect to each effective retail rate which is alleged to cause the discrimination and show that the magnitude and duration of the price discrimination under such retail rate or rates is sufficient to indicate that there is a potential for an anticompetitive effect.

(5) The person shall indicate the reduction in the wholesale rate which is necessary to eliminate the alleged price discrimination.

(d) *Methodology to show price discrimination.* No particular methodology shall be required to be used to demonstrate the presence or absence of price discrimination.

(e) *Rebuttable presumptions.* The following rebuttable presumptions exist. (1) If the *prima facie* has been made in accordance with paragraph (c) and § 35.30, a rebuttable presumption arises that price discrimination with an anticompetitive effect (price squeeze) exists.

(2) A finding of price squeeze shall create a rebuttable presumption that the wholesale rate is unduly discriminatory. In determining whether the wholesale rate is unduly discriminatory the Commission may consider countervailing public policy and the factual circumstances.

(f) *Utility's case.* This paragraph is applicable to the utility which filed the proposed rates under § 35.13 or § 35.12 or whose rates are the subject of the proceeding conducted pursuant to section 206 of the Federal Power Act.

(1) If the utility's case is based in part or in whole upon the difference in the

costs of serving the retail and wholesale customers, the utility must quantify the differences in total costs, including distribution costs, if any, between the wholesale and pertinent retail services.

(2) The following showings constitute affirmative defenses for the utility.

(i) If the utility presents a rate of return analysis that shows that the rate of return for the pertinent retail service or services is not lower than the rate of return for the pertinent wholesale service or services, that showing shall constitute an affirmative defense.

(ii) If the utility shows that the wholesale customer could not be an alternative supplier to the utility for the group of customers who are the object of the competition, that showing shall constitute an affirmative defense.

(g) *Burden of proof.* (1) In the case of a proposed wholesale rate increase, if a *prima facie* case has been made in accordance with paragraph (c) and § 35.30, the utility shall have the burden of proof (i.e., the risk of nonpersuasion) to justify that the wholesale rate is not unduly discriminatory.

(2) In the cases of an initial rate filed under § 35.12 or of a complaint proceeding conducted pursuant to section 206 of the Federal Power Act, the person alleging price squeeze shall have the burden of proof to show that the wholesale rate is unduly discriminatory.

(h) *Remedy.* A finding of undue discrimination shall require such remedial action as the Commission deems appropriate.

[FR Doc. 79-36199 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

18.CFR Parts 280 and 284

[Docket No. RM80-11]

Statement of Policy on Distributor Access to Outer Continental Shelf Gas; Proposed Rulemaking

Issued: November 16, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 603 of the Outer Continental Shelf Lands Act Amendments of 1978 requires the Commission to promulgate a statement of general policy concerning the transportation of natural gas owned by a local distribution company from an outer continental shelf lease to the service area of the local distribution company. The proposed rule specifies the application procedures, forms of authorization, and terms and conditions

which would apply to such transportation.

DATES: Written Comments by December 10, 1979. Public Hearing on December 10, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (Reference Docket No. RM80-11).

FOR FURTHER INFORMATION CONTACT:

Robert C. Platt, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8454.
Charles W. Strotman, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-9028.

I. Discussion

On September 18, 1978, the Outer Continental Shelf Lands Act Amendments of 1978 (OCSLAA), Pub. L. 95-372, 43 U.S.C. 1801, *et seq.*, became law. Section 603 of the OCSLAA requires the Commission to promulgate a statement of general policy concerning the transportation of natural gas owned by a local distribution company from an Outer Continental Shelf (OCS) lease to the service areas of the local distribution company.

Traditionally, local distribution companies have relied upon pipeline system supplies to meet their requirements. However, as curtailment deepened on interstate pipelines during the 1970's, many local distribution companies were forced to resort to expensive "self-help" measures in order to protect their high priority users. Local distribution companies frequently incurred substantial take-or-pay obligations when contracting for supplemental supplies. In addition, supplemental facilities such as LNG peak shaving plants and SNG plants require extensive capital investment. Further, those measures included purchasing imported LNG or SNG made from imported oil, and the purchase of such supplemental supplies contributes to the nation's balance of payments problems. In contrast, the direct investment in domestic OCS reserves (OCS gas) permits the local distribution companies to obtain secure supplemental supplies while avoiding many of the adverse consequences of alternative investments.

Permitting local distribution companies to have the option of investing some of their available capital in the development of OCS gas is consistent with the public interest. This would assure that the high priority markets served by local distribution

companies will have access to domestic energy supplies developed from the public lands. This Notice of Proposed Rulemaking presents the Commission's views on a desirable long term policy regarding local distribution company participation in the development and production of OCS gas. This Notice also discusses a series of issues that arises from local distribution company participation in the OCS.

A. Advance Notice of Policy

Section 603 of the OCSLAA was prompted by the uncertainty that surrounds the terms upon which local distribution companies can develop their own OCS reserves. This uncertainty deters local distribution companies from investing in OCS exploration and development efforts. Because investment decisions must be made far in advance of the actual commencement of any transportation arrangements, the Commission will clarify the future availability of transportation of OCS gas to local distribution companies by providing a description of the eligibility criteria, limitations and conditions which the Commission will attach to the transportation.

The only recent case which authorized the transportation of local distribution company produced OCS gas illustrates the Commission's policy to date on the transportation of such natural gas. Initially, the Commission denied an application for a transportation certificate, citing the greater need of the transporting pipeline's customers over the local distribution company's customers.¹ The comparative end-use of the two sets of customers was the basis for assessing the public convenience and necessity of the proposed transaction. On rehearing, the transportation was authorized subject to the diversion of the OCS gas into the system supplies of the transporting pipelines, if needed to avoid irreparable injury to life or property.²

The enactment of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95-621, 15 U.S.C. § 3301 *et seq.*, has alleviated many of the concerns that prompted the Commission's imposition of certificate conditions in the above case. First, the general curtailment

¹Trunkline Gas Company, Order issued January 11, 1977 in Docket No. CP74-322, *et al.* (Trunkline was transporting OCS gas produced by Northern Michigan Exploration Co. to its parent, Consumers Power Company.)

²Order Granting Rehearing and Granting Certificates of Public Convenience and Necessity, Docket No. CP74-322, *et al.*, issued November 10, 1977.

outlook for interstate system supplies has improved.³ Second, local distribution companies served by interstate pipelines may now purchase significant volumes of natural gas from the intrastate market under sections 311(b) and 312 of the NGPA. Third, section 311(a) of the NGPA provides the Commission with greater flexibility in authorizing transportation on behalf of local distribution companies than available under the Natural Gas Act. In light of these changes, the Commission need not continue a restrictive policy which was adopted to mediate between competing demands for a limited supply of natural gas available to the interstate market.

The Commission proposes to instead focus its future policy upon the objective of placing local distribution companies on a more equal footing with other purchasers of natural gas supplies. Local distribution companies should not be at a disadvantage in the exploration and development of OCS gas.

B. Statutory Authority for Transportation

When the OCSLAA was enacted, section 7 of the Natural Gas Act was the Commission's only basis for authorizing transportation in interstate commerce. However, section 311(a) of the NGPA gave the Commission an additional basis for authorizing transportation arrangements. Given the superseding enactment of the NGPA, the Commission considers the use of section 311(a) of the NGPA to be consistent with the legislative intent of both the OCSLAA and NGPA. Because the NGPA did not specifically amend section 603 of the OCSLAA, the Commission is prepared to utilize both section 311(a) of the NGPA as well as section 7(c) of the Natural Gas Act to authorize those transactions. Because of the greater flexibility afforded by section 311(a) of the NGPA, the Commission prefers to use that section to implement the transportation specified in section 603 of the OCSLAA rather than section 7(c) of the Natural Gas Act. The selection of either legal authority is left to the applicant.

C. Pipeline Participation

The Commission is aware that the entry of local distribution companies into the competition for OCS leases changes their traditional relationship with interstate pipelines. Although the awarding of OCS leases is the responsibility of the Department of the

Interior and not the Commission, the allocation of the limited capacity of interstate pipeline lies within the scope of our concerns.

Section 603(b)(1) of the OCSLAA refers to "the application of any local distribution company." Some commentators may argue that this phrase implies that the local distribution company may apply to the Commission for a certificate without the consent of the transporting pipeline. However, neither the statute nor the legislative history explain the local distribution company's role as a certificate applicant.

The Commission invites comment upon the Commission's authority to grant otherwise eligible applications which are filed by a local distribution company without the concurrence of a transporting onshore interstate pipeline. Some onshore interstate pipelines have excess capacity which, although not being utilized to meet the needs of current customers, is being paid for by the pipeline ratepayers. The transportation of OCS gas on behalf of local distribution companies offers onshore interstate pipelines an opportunity to utilize unused capacity and to reduce the burden upon their ratepayers.⁴ If an interstate pipeline is unwilling to avail itself of such opportunities, the question arises whether this Commission can compel the transportation and, if so, under what terms and conditions as will assure that the present and future convenience and necessity is served.

It should be noted, in contrast, that section 5 of the Outer Continental Shelf Lands Act⁵ gives the Commission authority to require offshore pipelines to transport OCS gas owned by local distribution companies on the same basis as OCS gas owned by interstate pipelines. The Commission invites comment upon possible means of resolving disputes between local distribution companies that seek to develop supplemental OCS supplies and interstate pipelines which do not wish to transport the OCS gas. In particular, the Commission invites comment upon the use of the Commission's authority under section 7(a) of the Natural Gas Act to compel pipeline participation.

D. Term

Because of the local distribution company's need to amortize exploration and development costs, the term of most covered transportation arrangements

³Section 284.103(d) requires revenues in excess of out-of-pocket costs to be flowed through to the ratepayers in Account 191.

⁴Pub. L. 83-212, 43 U.S.C. § 1334, as amended by section 204 of the OCSLAA.

will probably exceed two years. The proposed rule does not affect the term provisions which apply generally to transportation authorized under section 311(a) of the NGPA. Such transportation is authorized for a two year term on a self-implementing basis.⁶ Longer term transportation arrangements are permitted only with prior Commission approval.⁷

The Commission will consider applications for certificates authorizations of either a fixed or indefinite term under section 7(c).

E. Incremental Pricing

All first sales of OCS gas are subject to the incremental pricing provisions of Title II of the NGPA. Section 204(c)(4) of the NGPA requires a local distribution company which purchases OCS gas in a first sale to be treated as an interstate pipeline for the purpose of computing the incremental pricing of the natural gas. To the extent that the local distribution company produces natural gas without creating a separate affiliate, the natural gas would not be subject to incremental pricing.

F. End Use Restrictions

As discussed in Section A, *supra*, the Commission in the past has conditioned the transportation of OCS gas upon diversion into the system supply of the transporting pipeline when needed to serve high priority requirements. However, the President's authority during declared natural gas supply emergencies under Title III of the NGPA removes the need for such conditions. Instead, the OCS gas transported pursuant to this subpart will be outside the scope of the transporting pipeline's curtailment plan. Such an approach is in accord with the legislative history of section 603 of the OCSLAA:

The ad hoc committee's report points out the need to insulate this gas from the curtailment system of the interstate pipeline which transports this gas in order that the local distribution company can justify the investment in developing its own resources on the grounds that it will be assured of receiving the gas. Under present law, this result is already reached.⁸

The Commission invites comment upon the treatment of these volumes during declared natural gas supply emergencies.

⁵18 C.F.R. § 284.104(b). Such arrangements are subject to renewal under § 284.105.

⁷Section 284.107.

⁸124 Cong. Record at H205, January 25, 1978.

II. Section-by-Section Analysis

Section 280.101

This section is amended to include a definition of the abbreviation "OCS."

Section 284.240

This section emphasizes the fact that the natural gas transported under Subpart H must be for a local distribution company's general system supply.

Only transportation of the natural gas by interstate pipelines is covered. (By virtue of section 601(a)(1)(B)(ii) of the NGPA, no Commission authorization is required for the sale of the natural gas from a new OCS lease to the local distribution company.) Although Subpart H describes the Commission's policy, the subpart does not authorize any transportation independent of other regulations.

Section 284.242

The definition of "eligible recipient" in proposed paragraph (c) describes who is eligible to participate in the program. Because the definition of local distribution company in section 603(c)(1) of the OCSLAA is different from that in section 2(17) of the NGPA, the term "eligible recipient" is defined to reflect the section 603 definition. It should be noted that if an eligible recipient does not also qualify as either a local distribution company or an intrastate pipeline, within the meaning of the NGPA, transportation cannot be authorized on its behalf under section 311(a) of the NGPA. Covered transportation outside the scope of section 311(a) would have to be authorized by a certificate issued pursuant to section 7(c) of the Natural Gas Act.

Section 603 of the OCSLAA is limited to OCS lease interests owned by local distribution companies. Under the proposed rule, the lease must be owned by either the local distribution company itself, a producing affiliate of the local distribution company, or a joint venture in which the local distribution company participates. (The local distribution company may participate in a joint venture through an affiliate.) Any sale between the lease holder and the eligible recipient is a "first sale" under the NGPA. If the eligible recipient produces the OCS gas, then § 270.203(b) governs the first sale status of any sales made by the eligible recipient.

The proposed definition of "eligible OCS natural gas" in paragraph (d) would include all natural gas produced from new leases as well as natural gas produced from interests in old leases acquired before the effective date of the

statement of policy. The Commission is also considering the possibility of excluding all natural gas produced from old leases from the definition. The Commission invites comment upon an appropriate definition of "eligible OCS natural gas."

The definition of "covered transportation" excludes natural gas which does not enter the general system supply of an eligible recipient. Hence, Subpart H does not apply to the transportation of natural gas which is produced by an eligible joint venture for delivery to participants who are not eligible recipients.

The § 284.1(a) definition of "transportation" which includes backhaul, displacement and exchange will apply to the program instituted by their regulations.

Section 284.243

Paragraph (a) states the general rule governing which transportation arrangements will be authorized pursuant to this subpart. Transactions which do not meet these criteria are governed by § 284.247. As is the case in the Commission's direct sale program for essential agricultural and other high-priority users (Order No. 27), either an interstate pipeline or the eligible recipient applying on the pipeline's behalf may file the application with the Commission.

Paragraph (b) makes clear that the applicant may elect to file for authorization under either section 311(a) of the NGPA or section 7(c) of the Natural Gas Act. However, the abandonment jurisdiction of section 7(b) of the Natural Gas Act applies to any section 7(c) certificate. As a result, an applicant for authorization under section 7(c) may wish to seek a pregrant of abandonment as part of the application.

Section 284.244

This section prescribes filing requirements in addition to those applicable under Subparts A and B of this part or Part 157.

Section 284.245

This section specifies the terms and conditions which apply to covered transportation. Additional terms and conditions may be included in the order authorizing the transactions. In addition, the Commission would waive its right to prospectively impose further terms and conditions (see § 284.5) when appropriate.

Proposed paragraph (a) incorporates the terms and conditions of Subparts A and B of this Part for transactions authorized under either section 311(a) of

the NGPA or section 7(c) of the Natural Gas Act.

Proposed paragraph (b) requires the OCS gas to be allocated according to the curtailment plan which governs the general system supply of the eligible recipient. This requirement reflects a concern expressed in the legislative history of section 603:

[T]he intent of this section is to benefit local distribution companies only. It is designed to facilitate entry by such companies in the Outer Continental Shelf leasing so that they can distribute the proposed natural gas to their service areas only.⁹

If the local distribution company were allowed to assign the OCS gas to a specific end-user instead of incorporating the OCS gas into its system supply, this objective would not be met.

Section 284.246

The proposed rule does not disqualify interstate pipelines from transporting OCS gas on behalf of a local distribution company which is not an eligible recipient, under Subpart B of Part 284. The Commission will consider such transactions on a case-by-case basis. However, the policies proposed here do not apply to such transactions.

III. Environmental Considerations

The Commission finds that the issuance of a statement of policy, as proposed here, would not significantly affect the quality of the human environment.¹⁰ The proposed rule is basically clarifying in nature and does not substantially change the effect of existing regulations.

IV. Written Comment Procedures

Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. An original and fourteen (14) copies should be filed with the Secretary of the Commission. All comments received prior to December 10, 1979, will be considered by the Commission before promulgation of final regulations. All written submission will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public

⁹ S. Report No. 95-1081, 95th Cong. 2d Sess. (1978) at 158.

¹⁰ We note that the Council on Environmental Quality has issued regulations implementing the National Environmental Policy Act (40 CFR 1501.4(a), 1508.4) which provide for identifying categories of actions which normally do not produce significant environmental effects and which therefore can be excluded from agency NEPA review. (See Notice of Proposed Rulemaking issued in Docket No. RM79-69 on August 20, 1979, 44 Fed. Reg. 50052 (August 27, 1979)).

Information, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, and should reference Docket No. RM80-11.

V. Public Hearing Procedures

A public hearing concerning this proposal will be held in Washington, D.C. on December 3, 1979, beginning at 9:30 a.m. and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m., December 3, 1979.

Requests to participate in the hearing should include a reference to Docket No. RM80-11 and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five (5) copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m. on December 7, 1979. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring twenty (20) copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel, whose members will be designated by the Chairman of the Commission may question such persons. In addition, any interested persons may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether a question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, 15 U.S.C. § 3301, *et seq.*; Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. 95-372, 43 U.S.C. § 1801, *et seq.*)

In consideration of the foregoing, Parts 280 and 284 of Subchapter I, Chapter I of Title 18, Code of Federal

Regulations, are proposed to be amended as follows.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.

1. Section 280.101 is amended by adding a new subparagraph (2) in paragraph (b) to read as follows:

§ 280.101 Definitions

(b) *Other definitions.* For the purpose of this subchapter:

(2) "OCS" means the Outer Continental Shelf as defined in section 2(35) of the NGPA.

2. The table of contents for Part 284 is amended by the addition of a new Subpart H, to consist of sections 284.241 through 284.247:

Subpart H—Transportation of Natural Gas From the Outer Continental Shelf on Behalf of Local Distribution Companies

Sec.
284.241 Applicability.
284.242 Definitions.
284.243 General rule, criteria.
284.244 Application requirements.
284.245 Terms and conditions.
284.246 Other transportation of OCS natural gas.

3. Part 284 is amended by the addition of new subpart H to read as follows:

Subpart H—Transportation of Natural Gas From the Outer Continental Shelf on Behalf of Local Distribution Companies

§ 284.241 Applicability.

This subpart implements section 603 of the Outer Continental Shelf Lands Act Amendments of 1978 and applies to transportation of natural gas from certain OCS leases to a local distribution company for its general system supply.

§ 284.242 Definitions.

For the purposes of this subpart:
(a) "Producing affiliate" means any person which is:

(1) Exploring for, developing, or producing natural gas on the OCS;
(2) Controlled by a local distribution company; and
(3) Regulated, or operated as a public utility, by a state or local government or agency thereof.

(b) "Eligible joint venture" means an association formed for the purposes of purchasing, exploring, and developing an OCS lease in which an eligible recipient participates.

(c) An "eligible recipient" is a person engaged in the distribution of natural gas at retail and regulated, or operated

as a public utility, by a state or local government or agency thereof.

(d) "Eligible OCS natural gas" means natural gas produced from the OCS pursuant to:

(1) A lease entered into on or after April 20, 1977, or
(2) An interest which was acquired before [effective date of rule] in a lease which was entered into prior to April 20, 1977.

(e) "Eligible OCS producer" means:

(1) A producing affiliate of a local distribution company;
(2) An eligible recipient; or
(3) An eligible joint venture.
(f) "Covered transportation" means the transportation by an interstate pipeline of eligible OCS natural gas from an eligible OCS producer to an eligible recipient.

§ 284.243 General rule.

(a) *Applications.* Any interstate pipeline, or eligible recipient on behalf of an interstate pipeline, may file applications for covered transportation. The Commission will consider such applications on a priority basis if the following criteria are met:

(1) Eligible OCS natural gas is produced on a lease owned in whole or in part by an eligible recipient; and
(2) The eligible recipient will use all of the transported natural gas for its general system supply.

(b) *Election by applicant.* Covered transportation may be authorized under either section 311 of the NGPA or section 7(c) of the Natural Gas Act. The applicant shall elect the form of authorization at the time of filing an application. In either case, the covered transportation shall be subject to the terms and conditions of § 284.245.

§ 284.244 Application requirements.

An application for covered transportation shall include, in addition to the requirements of Part 157 of this chapter that implement section 7(c) of the Natural Gas Act or Subparts A and B of this part that implement section 311(a) of the NGPA, as appropriate, the following:

(a) A description of the lease under which the eligible OCS producer is exploring the OCS;
(b) A copy of the joint venture agreement, if any, to which the eligible OCS producer is a party;
(c) A copy of the contract(s) applicable to the transportation of the eligible OCS natural gas; and
(d) A copy of a document verifying that the eligible recipient is regulated as a public utility by a state or local authority.

§ 284.245 Terms and conditions.

(a) *General.* Covered transportation authorized under either section 7(c) of the Natural Gas Act or under section 311(a) of the NGPA shall be subject to the terms and conditions, rates and charges, and reporting requirements of Subparts A and B or this part (as amended from time to time).

(b) *Curtailment.* Natural gas transported pursuant to this subpart shall be subject to the terms of any currently effective curtailment plan which governs the allocation of natural gas from the general system supply of the eligible recipient.

§ 284.246 Other transportation of OCS natural gas.

A transportation arrangement involving natural gas produced from the OCS which does not comport with the criteria of this subpart may be:

- (a) authorized on a self-implementing basis under Subpart B of this part; or
- (b) considered on a case-by-case basis by the Commission for authorization under this subpart.

[FR Doc. 79-36060 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

18 CFR Part 282

[Docket No. RM80-10]

Rule Required Under Section 202 of the Natural Gas Policy Act of 1978; Proposed Rulemaking and Public Hearings

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking and Public Hearings.

SUMMARY: The Federal Energy Regulatory Commission hereby proposes regulations to implement section 202 of the Natural Gas Policy Act of 1978. Under the proposal, the incremental pricing program would be expanded on November 1, 1980, to include all industrial users of natural gas that are not granted an exemption from the program by statute. The final regulations to be adopted pursuant to this proposal will be subject to review by the Congress prior to their taking effect.

DATES: Comments: By January 31, 1980. Hearing dates: To be announced.

ADDRESSES: All comments to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426 (Reference Docket No. RM80-10). Hearing locations: to be announced.

FOR FURTHER INFORMATION CONTACT: Walter W. Schroeder, Executive

Assistant to the Chairman, 825 North Capitol Street, NE., Washington, D.C., 20426, (202) 357-8335.

Nancy E. Williams, Deputy Assistant General Counsel for Regulatory Development, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.
November 15, 1979.

I. Introduction.

Title II of the Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) requires that the Federal Energy Regulatory Commission (the Commission) promulgate regulations to channel a specified portion of the acquisition costs of natural gas to industrial users. The "incremental costs" of natural gas are to be passed through from the supplier to the industrial facility by means of a surcharge pricing mechanism.

Title II further requires that the incremental pricing program be implemented in two phases. The first phase has been implemented by regulations that were issued by the Commission on September 28, 1979 (44 FR 57728, October 5, 1979). The regulations issued on September 28 were contained in two dockets, Docket Nos. RM79-14 and RM79-21. Under those regulations only large industrial facilities which use natural gas as a boiler fuel are subject to incremental pricing.

Section 202 of Title II requires the Commission to promulgate a second phase (Phase II) rule by May 9, 1980, which may extend the incremental pricing program to other (non-boiler) industrial users. This rule will be subject to Congressional review pursuant to the provisions of the NGPA. If either House votes to disapprove it, the rule promulgated by the Commission will not take effect.

For the reasons set forth below, the Commission has decided to propose a Phase II rule that would broaden the scope of incremental pricing to include all industrial users other than those specifically exempted by Title II. Further, the Commission proposes that the Phase II rule incorporate the same three-tier alternative fuel ceiling approach adopted in the Phase I regulations. The Commission also proposes that the Phase II regulations retain the mechanism for calculating and billing incremental pricing surcharges, commonly referred to as the "reduced PGA" approach, that was developed and finalized under the Phase I program. Finally, the Commission proposes that the "adjustments" procedure available pursuant to the mandate of section 502(c) of the NGPA serve as the primary means for the

Commission to address individual situations involving special hardship or inequity under the generally applicable Phase II regulations.

II. The Statutory Mandate to the Commission.

Title II of the NGPA and the accompanying Statement of Managers provide a clear directive to the Commission to propose a broad expansion of incremental pricing in its second phase rule. Section 202, which mandates the second phase rule, is entitled "Amendment Expanding Application for Other Industrial Users." Subsection (b) of section 202 provides that the second phase rule:

"shall apply with respect to the industrial use of natural gas (as defined by the Commission in such rule), including boiler fuel use of natural gas . . . by—

- (1) any industrial boiler fuel facility (as defined in section 201(4)(1)); and
- (2) any industrial facility which is within a category defined by the Commission in such amendment as subject hereunder to the requirements of such rule which is not exempt under Section 206. (emphasis added)

The Statement of Managers of the NGPA further evidences a Congressional intent that the incremental pricing program be expanded from a program of relatively narrow scope in Phase I to a much broader scope in Phase II. The statement provides:

The conference agreement requires the Commission to prescribe a rule for implementing incremental pricing. Each pipeline would be required under the rule to place certain portions of its acquisition costs of natural gas into a special incremental pricing account for pass-through to incrementally priced users.

A two stage process is utilized for identification of users who will be subject to incremental pricing. First, the Commission is required to develop a rule, within 12 months after the date of enactment, for implementation of incremental pricing applicable to certain industrial boiler fuel facilities. Second, the Commission is required to develop an amendment to the first rule, within 18 months after the date of enactment, for implementation of incremental pricing to other industrial users.¹

These directives, and the additional considerations discussed below, lead the Commission to propose that the rule required by section 202 of Title II broaden the scope of the incremental pricing program to include all industrial users. The rule would not, of course, apply to facilities exempted from the program by statute. Moreover, the Commission proposes to exempt all "small" industrial users in much the

¹ House Report No. 95-1752, October 10, 1978, pages 94, 95.

same manner as small boiler fuel users are already exempt.

In sum, Title II of the NGPA requires that this Commission develop a program to extend the Phase I, boiler-fuel incremental pricing program to all industrial users of natural gas and submit this program to Congress for its review. Section 202 of the NGPA vests the Commission with the authority to include within the incremental pricing program any category of industrial facility that the Commission determines would be appropriate to include. The Commission believes that the Congressional purposes underlying incremental pricing would be most fully met if all industrial users, other than those specifically excluded by statute, are brought within the scope of Title II.

The Commission further believes that the most practicable means of dealing with potential hardships or inequities resulting from incremental pricing is on a case-by-case review pursuant to section 502(c), rather than in a generic proceeding.

The remaining sections outline the basic features of the Phase II rule that the Commission proposes to submit to Congress.

III. Proposal With Respect to the Scope of Phase II.

The proposed definition of industrial facility utilized in Phase II would be the same as that which is incorporated in the Phase I regulations issued on September 28, i.e.:

"Industrial facility" means any facility engaged primarily in the extraction or processing of raw materials, or in the processing or changing of raw or unfinished materials into another form or product.

Some respondents to the Commission's Notice of Inquiry in RM79-56 (discussed *infra* in section IX), point out that some facilities within the scope of the broadest possible expansion of incremental pricing may not have the capability to use fuel oil as an alternative to natural gas. These observers generally argued that industrial facilities without fuel oil capability should not be made subject to incremental pricing. The Commission is currently of the view that the absence of alternative fuel oil capability should not prevent the application of incremental pricing to that facility. Explication of the basis of this view requires some discussion of the history of Title II.

During the legislative debate that eventually produced the NGPA, various Congressional spokesmen argued that deregulated new gas prices would initially be driven far above long-run market clearing levels. Congress took

the position that such an occurrence would produce an unjust and unacceptably large income transfer from consumers to producers. The House Ad Hoc Committee on Energy, in its report accompanying H.R. 8444, stated that upon sudden deregulation

an interstate pipeline will be able to bid extremely high prices for new supplies of natural gas, which even deregulation proponents concede will be relatively small as compared to the volumes of presently flowing natural gas. The interstate pipelines, unlike the intrastate pipelines, are not constrained by a limited demand for natural gas. Using rolled-in pricing, interstate pipelines can bid the price of new supplies of natural gas to unprecedented levels of \$5 per Mcf or more. (page 395)

This Congressional concern over the disruptive effect of deregulation were it to occur during a period of market imbalance is also illustrated by an economic analysis of the NGPA that accompanied its final adoption by the House.² This analysis estimated that the deregulation bill that had previously been passed by the Senate would have resulted

in new gas prices rising very quickly, to \$4.73 per Mcf in 1980 and then dropping slowly during the next several years to a price of \$4.48 per Mcf in 1985, after which prices would escalate with the general inflation rate. Prices are highest when unregulated gas represents only a small fraction of pipeline supplies. They drop to equivalence with substitute fuels as the percentage of unregulated pipeline supply increases. This projected disorderly price path under sudden deregulation is the main reason why the conference committee ultimately adopted a mechanism consisting of intrastate controls and moderate price escalation to prepare the natural gas system for eventual decontrol.³

The Congress perceived a supply/demand imbalance for natural gas in 1977 and 1978. The NGPA was enacted as a transition mechanism to orderly deregulation in 1985. But concern remained that markets would not be ready for deregulation by then. Congress' solution to the potential problem of excess demand for natural gas relative to its supply in 1985 was to increase the delivered price to large industrial users in order to eliminate industrial demand arising from the artificial "subsidy" effect of rolled-in pricing.⁴

² *Economic Analysis of H.R. 5289, Natural Gas Policy Act of 1978*, Prepared by the Staff of the Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, October 13, 1978, pp. 4-5.

³ See House Committee Print 95-31, *Economic Analysis of Natural Gas Policy Alternatives*, Committee on Interstate and Foreign Commerce, Subcommittee on Energy and Power, December 1977, pages 11 and 12. Rolled in pricing refers to the phenomenon in which a pipeline can blend high-

In short, Congress in enacting Title II sought to raise the price of natural gas to large industrial customers to a level at which further increases would threaten to cause loss of industrial load, and thereby reduce total sales of interstate pipelines. Incremental pricing was thus intended to place the large industrial users in the role of motivating their pipelines to refrain from bidding up the price of deregulated natural gas or relying excessively on the regulated gas categories with high ceiling prices. Achieving this objective of Title II would appear to require maximizing the number of industrial users included within the program. A user's lack of alternative fuel oil capability does not dispose of the question of whether his consumption is price sensitive. Higher natural gas prices to process or feedstock users should encourage conservation and other actions (such as adding alternative fuel capability) affecting the use of natural gas. The Congressional purpose of achieving market balance by 1985 may require the full exploitation of economic incentives for demand reduction.

The proposed expanded scope of Phase II also arises from the possibility that by 1985 declining total natural gas production and the operation of curtailment plans will prevent incremental pricing from accomplishing demand restraint. Phase I users are among the lowest priority users of natural gas; if heavily curtailed, Phase I users would no longer be in a position to affect their pipelines' bidding decisions. Under such circumstances, demand restraint could be achieved only through measures applicable to users of higher priority than industrial boilers.

Accordingly one of the areas that the Commission must examine in promulgating a Phase II rule is the demand and supply outlook for natural gas markets as deregulation in 1985 approaches. The ultimate status of gas markets in 1985 turns on future volumes and prices of natural gas that the Commission is not presently able to ascertain with the clarity necessary to make a definitive determination that the scope of Phase II should be any less broad than authorized by Title II.

Commenters that have made pertinent analyses are specifically requested to provide the Commission with estimates of natural gas demand and supply in 1985 and 1990 on either a pipeline system, state, or nationwide basis. In addition, the Commission seeks projections of delivered natural gas

priced gas with lower-priced regulated gas and still keep the average price of gas within marketable limits.

prices as of year-end 1984 to each major user category under the assumption that no Phase II rule becomes effective and how such prices would compare with the projected price of alternative fuels to each user category. Projections and analyses of these types will assist the Commission in evaluating the impacts of the Phase II proposal described herein, and other possible alternatives.

A second purpose of incremental pricing is to shelter residential and other high priority natural gas consumers from the full near-term impact of wellhead price increases permitted by the NGPA. This effort to mitigate price impacts on non-industrial customers is accomplished by recovering a greater proportion of interstate pipeline purchased gas costs for users subject to incremental pricing than from other users. Through the interaction of incremental pricing surcharge accounts (recovered only from incrementally priced users) and normal purchased gas adjustment accounts (recovered from all users), non-incrementally priced users will receive the greatest rate benefits when the recovery of gas costs from incrementally priced users is maximized. The Commission is highly cognizant of its mandate to afford high priority users the full measure of price protection consistent with the purposes of Title II, and believes that this protection will be best achieved by maximizing the volume of natural gas use subject to incremental pricing.

As discussed extensively in the final orders issued in Docket No. RM79-21, the Commission must balance two competing objectives found in Title II of the NGPA. The first objective is to maximize the recovery of NGPA-related wellhead price increases from industrial customers.

The second objective is to set the alternative fuel cost ceilings on incremental pricing surcharges at a level that will not encourage industrial users to switch from natural gas to fuel oil if such switching would result in increased rates for residential and small commercial customers. The Commission believes that these balancing considerations remain critical to proper implementation of the incremental pricing program as broadened by Phase II. The need to insure that consumers are not damaged by virtue of having to pay more of the fixed costs of the natural gas transmission and distribution system does not mean that no loss of industrial load is permissible. Some load loss may be compatible with Title II if, among other reasons, the resulting reduction in deregulated gas prices more than offsets the increased

allocation of fixed costs to high priority customers. Such a result could occur if the reduced industrial demand for gas so reduces bidding pressures on deregulated gas that the average unit cost of gas acquisition (at the wellhead) is decreased by more than the amount by which the average unit cost of transmission and distribution is increased.

Comments on the Commission's responsibility to minimize the delivered cost of gas to high priority customers, the relationship of the objective to the issue of load loss, and the implications from Phase II implementation are requested.

IV. Proposal With Respect to the Level of Incremental Pricing.

An issue central to the expansion of incremental pricing is the level of ceiling prices that should be applied to non-boiler fuel facilities. One possibility would be to use the same ceilings as in Phase I. Another would be to develop some other ceilings for non-boiler fuel use of gas. Stated alternatively, the question is whether industrial facilities which utilize natural gas for a process or feedstock use (including those with no alternative fuel capability) should pay prices equivalent to the No. 2 or No. 6 fuel oil prices, as adjusted pursuant to Order No. 50.

If industrial non-boiler fuel natural gas were to be incrementally priced in some manner different from the way boiler fuel users are treated, the question becomes what ceiling level(s) would be appropriate. Should such users be subject to the highest ceiling prices under Title II, on the theory that these users should absorb as much as they are able to bear inasmuch as there is no reasonable prospect of load attrition and, therefore, no potential adverse impact on high-priority customers due to load loss? Or, on the other hand, would it be appropriate to price these users at low ceiling prices on the theory that natural gas use by these facilities is so insensitive to price that to impose the highest statutory price would be punitive?

The Commission proposes at this time that the three-tier ceiling adopted for purposes of Phase I be used for Phase II as well. The Commission believes that the advantages of the three-tier approach are equally as applicable to Phase II as they are to Phase I. Adoption of the three-tier approach would encompass the presumption that a user who did not have No. 5 or No. 6 alternative capability would be deemed to have No. 2 fuel oil capability. This aspect of the three-tier approach is described in more detail below.

However, the Commission recognizes that the questions set out above pose difficult policy issues and seeks guidance with respect to the preferred resolution of this matter. Users whose only alternative fuel is propane are asked to suggest possible approaches for alternative fuel cost treatment within the limits prescribed by section 204 of the NGPA.

Under the final regulations adopted by the Commission in Order No. 50, non-exempt industrial boiler fuel facilities will be priced for their use of natural gas up to the price equivalence of No. 2 fuel oil unless they can demonstrate a capability to use less costly No. 5 or No. 6 fuel oil. The principal advantage of the three-tier ceiling approach is that it should cause the ceiling applicable to any particular incrementally priced facility to be high enough to maximize the recovery of incremental costs from that facility, yet low enough to minimize the likelihood that the facility would switch to an alternative fuel. Where lower cost fuel oil capability exists, users will be subject to lower natural gas ceiling prices corresponding to the price equivalence of either low sulfur or high sulfur No. 6 fuel oil. The principal advantage of this three-tier ceiling approach is that it should cause the ceiling applicable to any particular incrementally priced facility to be high enough to maximize the recovery of incremental costs from that facility, yet low enough to minimize the likelihood that the facility would switch to an alternative fuel. The three-tier system would seem to offer the potential to achieve the maximum possible flow-through of incremental costs to industrial customers without causing load loss. An additional advantage of the three-tier approach is that it imposes minimal administrative burdens on users subject to incremental pricing.

While adopting the three-tier approach as a permanent part of incremental pricing, the Commission adopted an interim rule under which facilities subject to incremental pricing will be priced only up to the equivalent price of No. 6 high sulfur fuel oil (the lowest priced of the three tiers) for ten months. This interim rule to exempt users from the upper two tiers contained in the permanent rule was adopted by the Commission as an exemption under the authority of section 206 of the NGPA and had to be submitted for Congressional review before it could become effective. The interim exemption rule was not disapproved by the Congress, and thus the single high-sulfur No. 6 tier will apply for the first ten

months of the program, from January 1, 1980 through October 31, 1980.

Increased cost absorption by industrial users under the three-tier rule should have the effect of reducing the impact of rising wellhead gas prices on residential and other high priority customers to as full an extent as is possible given the constraint that Phase I is limited to boiler fuel users. The record in the proceeding on the three-tier rule indicated that the maximum surcharge absorption capability of industrial boiler fuel users will probably be less than the amount of purchased gas costs subject to incremental pricing as soon as the rule takes effect. If industrial boiler fuel users subject to Phase I are in fact likely to be pushed immediately to alternative fuel ceiling prices, it works to the disadvantage of high priority users to permit only the lowest of the three tiers to operate any longer than necessary. Hence, the Commission adopted the single tier rule for only a ten-month interim period.

By increasing the amount of industrial use subject to incremental pricing, the proposed Phase II rule should increase the total surcharge absorption capability of industrial users. If, initially, the effect of the Phase II rule would be to cause the aggregate surcharge absorption capability of incrementally priced users to exceed the amount of purchased gas costs subject to incremental pricing, then there would be no adverse consequence on high priority users if the single tier rule, or some other exemption falling short of the three-tier rule, were to remain in effect beyond October 31, 1980. Accordingly, the Commission seeks as detailed information as is available on the amount by which the proposed Phase II rule would increase maximum surcharge absorption capabilities under alternative ceiling approaches.

To best assist the Commission, commenters are asked to provide any available data regarding the following questions:

1. Under Phase I, what is the estimated 1980 average maximum surcharge absorption capability (MSAC) under the single No. 6 ceiling? What would the Phase I MSAC be if the three-tier rule were in effect?
2. What is the current delivered price of natural gas to non-boiler industrial users served directly or indirectly by interstate pipelines?
3. What is the current price of alternative fuels for these users?
4. On the basis of current or estimated 1980 volumes consumed by these industrial non-boiler users, what increase in the MSAC would occur under the proposed Phase II program

relative to Phase I? Both dollar amounts and percentages are desired.

Ideally, analyses will utilize alternative assumptions relating to the ceiling price applicable to industrial users without fuel oil capability. One computation should assume users are priced at the No. 2 fuel oil level. The other computation should assume that users without alternative fuel oil capability are priced at the high sulfur No. 6 fuel oil price. For both computations, assume that the three-tier approach applies to all users with fuel oil capability.

Analysts should identify whether data apply to a pipeline system, distribution company, state, or nationwide.

V. Proposal With Respect to Surcharge Computation and Passthrough Mechanism for Phase II

As stated previously, the Commission adopted a mechanism for implementation of the Phase I program which is commonly referred to as the "reduced PGA" method. This mechanism requires that pipelines estimate, for several months into the future, their natural gas acquisition costs and the amount of such costs subject to being passed through to industrial users as incremental pricing surcharges. The pipeline supplier then recovers his purchased gas costs through both incremental pricing surcharges and the purchased gas costs adjustment (PGA) rate. The amount which would otherwise be reflected in the PGA rate is reduced by the amount estimated to be recovered through incremental pricing surcharges in order to avoid double recovery. The primary reason the Commission determined to adopt this approach was that it results in an almost immediate flow through of the benefits of the incremental pricing program to high priority customers.

The Commission has concluded that the regulations which provide the structure for the Phase I incremental pricing program should generally be retained and utilized for Phase II. The Commission does, however, request specific comment on the adaptability of the Phase I regulations to Phase II as it is proposed herein. In particular, the Commission requests comment on whether the "reduced PGA" mechanism will be adaptable to the Phase II program.

Several commenters indicated in their comments submitted in Docket No. RM79-14 that they believe the "reduced PGA" mechanism would not be workable if the class of affected end-users were significantly expanded. The "reduced PGA" method entails numerous estimates, calculations, and a

large reporting network in order to operate smoothly. Commenters indicated that each step could not be completed in a timely fashion if end-users subject to incremental pricing surcharges were to increase in number.

Commenters who held this view are requested to explain in detail why they conclude that the "reduced PGA" approach would not be workable for Phase II. The Commission is interested in estimates of the number of additional end-users who would become subject to incremental pricing under Phase II, and who are not already subject to Phase I. Measures of the work-load and computational time implications of the proposed Phase II rule are also requested.

In addition, the Commission seeks estimates of the anticipated level of purchased gas costs subject to incremental pricing in 1980 and in 1985. Based on this information and the calculations of maximum surcharge absorption capabilities requested in the previous section, parties are requested to provide information as to whether under Phase II the aggregate absorption capability of a pipeline's customers will exceed the total incremental gas costs which may be passed through to such users. If so, how long will it take for the incrementally priced industrial users served by the pipeline to reach their alternative fuel ceilings?

Commenters who believe that the "reduced PGA" method will not be workable for Phase II, are requested to describe in detail alternative methodologies that the Commission should consider. In this regard, the Commission continues to adhere to its position, adopted in the Docket No. RM79-14 proceeding, that the mechanisms for calculation and billing of incremental pricing surcharges should result in as little delay as possible in the recovery of incurred acquisition costs.

One other aspect of the Phase I mechanism merits mention at this point. The Phase I regulations currently require installation of submeters within industrial facilities to determine the volume of gas used for non-exempt purposes. This requirement will become effective November 1, 1980. In the interim ten-month period, the Commission will rely on certified estimates. Expansion of the program to all industrial uses of natural gas might eliminate the need for many submeters which would otherwise have to be installed, and would in part resolve the difficult issue of submetering.

However, submetering might still be required in order to differentiate between the volumes of gas used for boiler fuel and for other uses, should the

Commission determine that different ceilings should apply to the different

would be subject to incremental pricing

per day threshold, only the volume

regulations. One category of "adjustments" which are to be made

small boilers and agricultural uses be

too sweeping to merit serious attention

Commission determine that different ceilings should apply to the different types of use. An additional need for submeters may arise in conjunction with providing exemptions to "small" users, as described in the following section.

Commenters are invited to address the question of the degree of submetering which would be necessary under the Phase II program as proposed here.

VI. Proposal With Respect to "Small" Nonboiler Fuel Industrial Facilities.

The Commission's current intention is that the proposal to expand incremental pricing to all industrial facilities would not encompass "small" industrial facilities. This exemption would be consistent with the statutory exemption granted to "small" boiler fuel facilities. For purposes of Phase I, a small boiler fuel user is defined as any boiler facility using 300 Mcf or less per day. For purposes of Phase II, this 300 Mcf threshold will be adjusted to the level required to make 95 percent of total industrial natural gas boiler fuel transported by interstate pipelines subject to incremental pricing (5 percent rule).

The statute requires that the eligibility for the "small" boiler fuel facility exemption be based on the volume of natural gas consumed in 1977. If the volume used in 1977 was below the threshold, the facility qualifies for the exemption.

The base period approach for identifying "small" boiler fuel facilities has certain disadvantages. For example, the approach does not account for situations where the base period use was anomalous. Nor does the approach provide for the treatment of facilities constructed since the base period. Finally, the approach leaves open the question of the treatment of facilities whose usage has been altered since the base period.

Because of such problems, the Commission has determined that the exemptions for "small" non-boiler fuel facilities should be based on the current use of natural gas in the facility.

To implement this approach, the Commission proposes to look to a base period comprised of the six months prior to the effective date of the Phase II regulations. In this regard, the Commission proposes to make the Phase II regulations effective on November 1, 1980.

If in any billing month beginning after April 30, 1980, the facility used more than an average of 300 Mcf per day (or the permanent threshold in accord with section 206(a)(2) of the NGPA, if lower) for a non-boiler fuel use, the facility

would be subject to incremental pricing as to all such use under Phase II. Further, any facility constructed following the effective date of the Phase II rules would become subject to the program when and if its usage exceeds the threshold volumetric limit.

Finally, the Commission currently believes that the "small" boiler fuel facility exemption and the exemption described above for other uses of natural gas should be additive. Thus, any one facility could receive a "small" exemption with respect to either or both its boiler fuel use and its other uses of natural gas so long as both uses are below their threshold levels.

The additive rule is perhaps best explained by way of example. A facility consumed 250 Mcf per day (peak month) of boiler fuel in 1977. It currently consumes an additional 250 Mcf per day for process use. Assuming that the small exemption threshold is not reduced by the 5 percent rule but remains at 300 Mcf per day, the entirety of the facility's use would be exempt from incremental pricing because each type of use is below its volumetric threshold. On the other hand, a facility that consumed 350 Mcf per day (peak month) of boiler fuel in 1977 and which consumes 150 Mcf per day for process use would be incrementally priced for the totality of its boiler fuel use. This latter facility, even though it uses the same total volume of gas as the former, would be exempt only with respect to its non-boiler fuel use (and only for so long as this non-boiler fuel use remains below 300 Mcf per day).

The Commission has considered but tentatively rejected alternative approaches to exemptions for small industrial users. One alternative would be to simply exempt any facility whose combined use of natural gas for boiler and non-boiler fuel is less than 600 Mcf per day. This option has been rejected because it would permit large boiler fuel users (greater than 300 Mcf per day) to benefit from an exemption so long as process use is sufficiently small to keep total consumption below 600 Mcf per day. Such a result is plainly inconsistent with the language and intent in section 206(a) that the boiler fuel exemption apply only to facilities using 300 Mcf per day or less.

Another alternative to small industrial user exemptions would be the "single threshold" approach. Under this approach the single 300 Mcf per day threshold would apply to the entirety of a facility's consumption. The advantage of this approach is its simplicity. However, one problem is that it may also bring about inequities. If total consumption were to exceed the 300 Mcf

per day threshold, only the volume below the threshold would be eligible for an exemption, and any use in excess of the threshold would be subject to incremental surcharges. This treatment could result in a small volume of natural gas used as non-boiler fuel, when used in conjunction with boiler fuel use, being incrementally priced, while a user which consumed a substantially larger amount (up to the threshold amount) of gas for non-boiler fuel purposes might receive an exemption for his entire non-boiler consumption.

For example, if one facility used 290 Mcf per day (peak month) for boiler fuel in 1977 and currently consumes 50 Mcf for process use, the 50 Mcf non-boiler fuel use would be subject to incremental pricing under the "single threshold" approach. The facility's boiler fuel use would be exempt because it is covered by the small boiler exemption. A second facility using no boiler fuel but using 290 Mcf per day for process use would be totally exempt because its consumption would be less than the "single threshold." The anomalous result is that the smaller process fuel use is incrementally priced, while on the other hand the larger use is exempt.

However, the Commission remains concerned that the additive approach may result in granting an exemption to a facility consuming up to 600 Mcf per day (or twice the threshold established for Phase II) and that such a facility is not sufficiently "small" to warrant special treatment. Thus, comments are requested on the question of whether the "small" exemptions should be treated as proposed above, or whether some alternative approach should be adopted in order to achieve administrative simplicity and equitable impact.

VII. Proposal With Respect to Adjustments to Phase II Regulations.

Section 502(c) of the NGPA vests in the Commission the authority to grant "adjustments" to any regulations adopted under the statute in order to alleviate special hardship, inequity, or an unfair distribution of burdens. The Commission has adopted procedures under which an application for such an adjustment may be filed for consideration by the Commission (18 CFR 1.41). Decisions on adjustment applications are issued by the Office of Pipeline and Product Regulation, and may be appealed to the Commission for review.

When regulations are adopted to implement the Phase II program, 502(c) adjustments will be available with respect to those regulations, as they are now with respect to other NGPA

regulations. One category of "adjustments" which are to be made available under section 502(c) are "exemptions." Section 206(d) also provides for "exemptions" from regulations which implement Title II of the NGPA, and makes such exemptions subject to Congressional review before they may take effect.

The Commission is concerned that an argument could be made that the provisions of section 206(d) indicate that all "exemptions" granted to regulations which implement Title II must be subject to Congressional review. The Commission believes that section 206(d) does not impair its authority under section 502(c) and that section 206(d) is applicable only to actions which would grant generic exemptions from the mandatory provisions of the statute. The Commission views the section 502(c) "exemptions" as actions which would grant an exemption from regulations which were adopted pursuant to the Commission's discretion.

In order to obviate a possible challenge on this point, however, the Commission has determined to propose to include provisions in the Phase II regulations which would provide for the granting of 502(c) exemptions by the Commission. The Commission believes that Congressional review of the totality of the Phase II regulations (including the proposed 502(c) "exemption" procedures) would constitute Congressional approval (or disapproval) of the Commission's authority to grant 502(c) "exemptions." Comments are requested on this proposal.

The Commission also solicits comment on the criteria it should utilize in order to reach determinations on all—exception, exemption, modification and rescission—502(c) adjustment applications.

The Commission has made a preliminary determination that it is premature at this time to attempt to further define the statutory criteria of "special hardship, inequity, or unfair distribution of burdens." The Commission believes further refinement should not be undertaken until the Commission has gained experience in reviewing 502(c) applications and is more familiar with the reasons why such relief would be appropriate. However, the Commission solicits comments on this point at this time.

VIII. Proposal With Respect to Permanent Exemptions for Small Boilers and Agricultural Uses.

As discussed in the preamble to the final rule in Docket No. RM79-14, section 206(c) of the NGPA requires that permanent exemptions with regard to

small boilers and agricultural uses be promulgated prior to May 9, 1980. (The interim exemptions for these two categories were required to be adopted by November 9, 1979, and were incorporated in the regulations issued on September 28, 1979.)

The two permanent exemptions are not, however, unlike the rule required by section 202, subject to Congressional review. The Commission currently plans to adopt regulations with respect to the two permanent exemptions on a time schedule similar to the one for the rule required by section 202, but to open separate dockets for each. This will aid in keeping comments focused on the issues important to each of the three dockets. This approach will also allow us to have the regulations on the permanent exemptions in place, should the Congress ultimately disapprove the regulations promulgated in this docket.

IX. Interface of Incremental Pricing Program with Curtailment Program.

On June 28, 1979, (44 FR 38857, July 3, 1979), the Commission issued a Notice of Inquiry (RM 79-56) with respect to a study proposal to link incremental pricing with curtailment policies. The basic feature of the study proposal is to allow each industrial user subject to incremental pricing (under both Phase I and Phase II) to determine its own alternative fuel value. This alternative fuel value would then determine each user's curtailment status. Users choosing a low alternative fuel ceiling for incremental pricing purposes would obtain relatively lower-priced gas, but would also receive correspondingly low priority status, so that they would be curtailed prior to users choosing higher priced alternative fuel ceilings.

In issuing the study proposal for public comment, the Commission indicated that it:

... is interested in this proposal for a number of reasons. First, it is an intriguing approach to curtailment policy because it appears to address many of the problems that the courts have expressed with respect to current end use curtailment policy. Second, the proposal is viewed by some Commission staff as a means of lessening perceived administrative and economic burdens associated with incremental pricing. Finally, the proposal seeks to use market forces rather than regulations to create a stable and fair system for allocating supplies and costs of natural gas. (mimeo p. 2:44 FR 38858)

An informal conference on the subject was held on August 7, 1979. In addition, numerous written comments were submitted in response to the Notice. The majority of commenters criticized the proposal and suggested that the concept of tying these two programs together is

too sweeping to merit serious attention at this time. The Commission remains intrigued with the concepts expressed in the study proposal, but would prefer to leave the issue open for constructive development if circumstances surrounding the full implementation of incremental pricing appear to warrant increased attention to this alternative. Accordingly, the Commission does not intend to actively pursue the study proposal at this time.

X. Comment Procedures.

A. *Written Comments.* Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM80-10. An original and 14 copies should be filed. All comments received prior to 5:00 p.m. EST, January 31, 1980, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

B. *Public Hearings.* Public hearings on these proposed regulations will be held at several regional locations during the month of January, 1980. The exact dates, locations and procedures for these hearings will be announced at a later date.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, (15 U.S.C. 3301, et seq.).)

In consideration of the foregoing, it is proposed to amend Title 18 of the Code of Federal Regulations by revisions to Part 282, to read as set forth below.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

1. Section 282.102 is revised in paragraph (a) to read as follows:

§ 282.102 Applicability and effective date.

(a) *Uses.* (1) Natural gas used as boiler fuel in industrial boiler fuel facilities on and after January 1, 1980, shall be subject to incremental pricing under this part.

(2) On and after November 1, 1980, natural gas used in all industrial facilities shall be subject to incremental pricing under this part.

...

2. Section 282.203 is revised to read as follows:

§ 282.203 Exempt end-uses.

(a) In accordance with the provisions of sections 206 (a), (b), and (c) of the NGPA, natural gas used for the following purposes shall be exempt from incremental pricing under this part:

(1) All gas used for boiler fuel by an industrial boiler fuel facility which was:

(i) In existence on November 9, 1978; and

(ii) Did not consume more than an average of — Mcf (to be determined in the separate rulemaking proceeding instituted to implement section 206(a)(2) of the NGPA) per day for boiler fuel during any calendar month of calendar year 1977;

(2) All gas used for an agricultural use (the definition of "agricultural use" will be determined in the separate rulemaking proceeding instituted to implement section 206(b)(2) of the NGPA);

(3) All gas used in a school, hospital, or similar institution;

(4) All gas used for the generation of electricity by an electric utility; and

(5) All gas used in a qualifying cogeneration facility.

(b) In addition, all gas used for purposes other than as boiler fuel by an industrial facility shall be exempt from incremental pricing under this part if on and after May 1, 1980, the facility does not consume more than an average — Mcf (to be determined in the separate rulemaking proceeding instituted to implement section 206(a)(2) of the NGPA) per day for uses other than as boiler fuel during any billing month.

3. Section 282.204 is revised to read as follows:

§ 282.204 Obtaining an exemption.

(a) *General.* This section establishes procedures by which owners or operators of industrial facilities may obtain an exemption for natural gas used for the purposes described in § 282.203.

(Conforming amendments to paragraphs (b) through (f) will be made to conform the exemption affidavit procedure to the substantive provisions adopted in this and companion rulemaking proceedings.)

4. Section 282.206 is revised in paragraph (a) to read as follows:

§ 282.206 Petitions for exemptions under section 206(d).

(a) *General rule.* Any person may

petition under authority of subsection 206(d) of the NGPA for the exemption, in whole or in part, of any non-exempt industrial facility or category thereof.

5. A new § 282.207 is added to read as follows:

§ 282.207 Exemptions under section 502(c).

(a) *General rule.* The Commission may, under authority of section 502(c) of the NGPA, exempt any non-exempt industrial facility, (or category thereof), in whole or in part, from any provision of this part.

(b) *Procedures.* The procedures set forth in § 1.41 shall apply to an application for an exemption in the nature of an adjustment as described in paragraph (a).

§§ 282.401—282.405 [Amended]

6. Sections 282.401 through 282.405 are revised by deleting "boiler fuel" wherever it appears.

§§ 282.501, 282.503 and 282.504 [Amended]

7. Sections 282.501, 282.503, and 282.504 are revised by deleting "boiler fuel" wherever it appears. (Appropriate conforming amendments will also be made to the estimating/submetering provisions in § 282.504.)

8. Section 282.506 is revised by designating the present text as paragraph (a) and by adding a new paragraph (b), to read as follows:

§ 282.506 Refunds.

• • • • •

(b) The jurisdictional portion of any refund (including interest applicable thereto) which is attributable to service provided to non-exempt industrial facilities prior to January 1, 1981, which has not been flowed through to such users as of December 31, 1980, shall be flowed through as a lump sum payment in appropriate amounts to each appropriate natural gas supplier for the benefit of such users. Such refunds shall be calculated on the basis of sales to such users during the period when the rates which give rise to the refund were in effect.

§§ 282.602 and 282.603 [Amended]

9. Sections 282.602 and 282.603 are revised by deleting "boiler fuel" wherever it appears.

[FR Doc. 79-30005 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 292

[Dockets Nos. RM79-54 and RM79-55]

Small Power Production and Cogeneration—Rates and Exemptions; Public Hearings

November 16, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Time and Place of Public Hearing.

SUMMARY: On October 24, 1979, the Federal Energy Regulatory Commission issued a Notice of Public Hearings in RM79-55 which implements Part 292 of its regulations. The proposed regulations would implement section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). That section sets forth rates for the sale of electric energy between qualifying small power production and cogeneration facilities and electric utilities. It also provides for the exemption of qualifying facilities from State and Federal regulation.

The Notice of Public Hearings also addressed the Request for Further Comments in RM79-54, which implements section 201 of PURPA by establishing a procedure whereby cogeneration and small power production facilities can become qualified to receive the benefits set forth in RM79-55. The Request for Further Comments specifically seeks comment on the preliminary Environmental Assessment of the environmental effects of the two rules and the interrelationship between the rules. The preliminary Environmental Assessment is available at the Commission's Office of Public Information.

Notice was given that four public hearings would be held in Seattle, New York, Denver, and Washington, D.C. with respect to the Notice of Proposed Rulemaking in RM79-55 and the issues raised in the Request for Further Comments in RM79-54. This notice specifies the locations and times for the public hearings in New York, Denver, and Washington, D.C.

DATES: The deadline for requests to participate in these hearings has been extended to November 28, 1979. Hearings dates: November 28 in New York, New York; November 30 in Denver, Colorado; and December 4 in Washington, D.C.

ADDRESSES: Requests to participate should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street,

NE., Washington, D.C. 20426 and should reference Docket No. RM79-55. The hearings will be held at the following locations: New York Hearing: Room 10, Association of the Bar of the City of New York, 42 West 44th Street, New York, New York; Denver Hearing: Lecture Hall A & B, United States Geological Survey Building 25, Federal Center, Denver, Colorado. Washington, D.C. Hearing: The Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20462.

FOR FURTHER INFORMATION CONTACT: Barbara King, Office of Congressional and Public Affairs, Federal Energy Regulatory Commission, Room 9200-C, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8373.

SUPPLEMENTARY INFORMATION: The hearings are being held pursuant to the requirements of section 210(a) of PURPA that these rules shall be prescribed "• • • and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views and arguments." Staff may question persons making presentations, and persons may submit to the presiding officer questions to be asked of those making presentations. The presiding officer will determine whether the questions so submitted are relevant and whether time permits their presentation. If time permits, participants may be given the opportunity to rebut points raised during other presentations. In addition, if there is time remaining at the end of the hearing, persons who attend the hearings but have not previously reserved time to present their views will be given the opportunity to make a statement. Any further procedural rules will be announced by the presiding officer at the hearing. The hearing will be continued on the following day, if necessary, at the same location.

Requests to participate in the hearing should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should be made no later than November 28, 1979. Requests should indicate the amount of time required for the oral presentation and the name, representation, and telephone number of the person who will participate.

Participants should, if possible, bring 50 copies of their presentation to the hearing. A list of the participants will be available in the Commission's Office of

Public Information two days before the hearing and at the place of hearing on the morning of the hearing.

A transcript will be made of the hearing and it will be made part of the public file of Docket No. RM79-55.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-30014 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 881

[Docket No. R-79-724]

Section 8 Housing Assistance Payments Program—Substantial Rehabilitation; Transmittal of Interim Rule to Congress

AGENCY: Department of Housing and Urban Development

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 881—Section 8 Housing Assistance Payments Program—Substantial Rehabilitation

This interim rule would completely revise 24 CFR Part 881, governing the Section 8 Substantial Rehabilitation program.

The major changes from the present rules are as follows:

1. The revised regulations would provide new limits on rent, costs and amenities and require cost justification for rents in certain cases.

2. Changes would be made in processing to coordinate Section 8 submissions with the submissions required under the HUD mortgage insurance programs.

3. New relocation requirements would provide more equitable treatment for tenants displaced by rehabilitation activities.

In addition, the language of the revised part has been simplified and the format made more readable.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 16, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-30007 Filed 11-21-79; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 888

[Docket No. R-79-742]

Section 8 Housing Assistance Payments Program—Fair Market Rents and Contract Rent Automatic Annual Adjustment Factors; Transmittal of Interim Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 888—Section 8 Housing Assistance Payments Program—Fair Market Rents and Contract Rent Automatic Annual Adjustment Factors—Amendments to Permit Publication of Contract Rent Automatic Annual Adjustment Factors by Notice in the Federal Register.

This interim rule would amend 24 CFR 888.202 to permit the Contract Rent Automatic Annual Adjustment Factors to be published by Notice in the Federal Register rather than as Schedule C to Part 888. In addition, this interim rule would amend § 888.201 to delete a specific listing of the Section 8 Housing Assistance Payments Programs which use the Annual Adjustment Factors and to make a general statement to indicate that Automatic Annual Adjustment Factors are used to adjust rents under all of the Section 8 Housing Assistance Payments Programs.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 16, 1979.

Moon Landrieu,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-36008 Filed 11-21-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-32-78]

Election of Alternative Amortization Method of Funding Certain Pension Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the procedure for electing an alternative amortization method of funding certain pension plans. These regulations implement section 1013(d) of the Employee Retirement Income Security Act of 1974, and provide necessary guidance to the public for compliance with the Internal Revenue Code of 1954, as amended. The regulations would affect certain multiemployer pension plans which were in existence on January 1, 1974.

DATES: The proposed regulations are effective generally for plan years beginning after 1975, but earlier (or later) in the case of some plans as

provided by section 306 of the Employee Retirement Income Security Act of 1974. Written comments and requests for a public hearing must be delivered or mailed by January 21, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-32-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mr. Russell Greenblatt of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3544) (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 412 of the Internal Revenue Code of 1954. Section 412 was added by section 1013 of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 914). These amendments are proposed to conform the regulations to section 1013(d) of ERISA and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (88A Stat. 917; 26 U.S.C. 7805), and section 1013(d)(1) of ERISA (88 Stat. 923). These regulations also apply for purposes of section 302 of ERISA (88 Stat. 869; 29 U.S.C. 1082).

Explanation of Provisions

Section 412 of the Internal Revenue Code of 1954, added by section 1013 of ERISA, provides minimum funding requirements with respect to certain pension plans. These requirements include the maintenance of a minimum funding standard account, to which is charged (among other items), in accordance with section 412(b)(2)(B), an amount necessary to amortize in equal annual installments the plan's unfunded past service liability.

With respect to certain multiemployer plans which were in existence on January 1, 1974, section 1013(d) of ERISA allows an election by the plan to fund certain unfunded past service liability on the basis of an equal annual percentage of the aggregate pay of all participants of the plan in lieu of the level dollar charges referred to above. This alternative amortization method applies to the amount of unfunded past service liability which exists as of the date 12 months after the date on which section 412 first applies to the plan.

The proposed regulations prescribe the means by which certain multiemployer plans can elect the

alternative amortization method. The multiemployer plans to which this election is available are those plans which (a) on January 1, 1974, had contributions under the plan based on a percentage of pay, (b) have actuarial assumptions with respect to pay which are reasonably related to past and projected experience, and (c) have rates of interest under the plan which are determined on the basis of reasonable actuarial assumptions. The election consists of the attachment of a statement to the annual report required under section 6058 (a) for the plan year for which the election is made, stating that the alternative method is being adopted. Advance approval from the Internal Revenue Service is not required. The alternative method must be adopted on or before the deadline for filing the annual report corresponding to the last plan year beginning before January 1, 1982. If the election is made after the first plan year to which section 412 applies, recomputation of the contributions due in the prior years (to which section 412 applied) will be necessary.

Comments and Requests for a Public Hearing

Before adopting the rules contained in these proposed regulations as final regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. However, it is anticipated that any public hearing will be deferred until the issuance of further proposed regulations regarding section 412. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these regulations is Mr. Russell Greenblatt of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed amendments to the regulations

The Income Tax Regulations (26 CFR Part 1) are amended by adding in the appropriate place the following new section:

§ 1.412(b)-5 Election of the alternative amortization method of funding.

(a) *Alternative amortization method in general.* Section 1013(d) of the Employee Retirement Income Security Act of 1974 provides an alternative method which may be used by certain multiemployer plans (as defined in section 414(f)) which were in existence on January 1, 1974, for funding certain unfunded past service liability. The multiemployer plans which may elect to use this alternative method are those plans (1) under which, on January 1, 1974, contributions were based on a percentage of pay, (2) which use actuarial assumptions with respect to pay that are reasonably related to past and projected experience, and (3) which use rates of interest that are determined on the basis of reasonable actuarial assumptions. The unfunded past service liability to which this method applies is that amount existing as of the date 12 months after the date on which section 412 first applies to the plan. The alternative method allows the plan to fund this liability over a period of 40 plan years by charging the funding standard account with an equal annual percentage of the aggregate pay of all participants in the plan instead of the level dollar charges required under section 412(b)(2)(B). Paragraphs (b), (c), (d) and (e) of this section contain procedural rules for electing this alternative method.

(b) *Election procedure.* To elect the alternative amortization method, a multiemployer plan must attach a statement to the annual report required under section 6058 for the plan year for which the election is made, stating that the alternative method for funding unfunded past service liability is being adopted. Advance approval from the Internal Revenue Service is not required. The alternative method must be adopted on or before the last day prescribed for filing the annual report corresponding to the last plan year beginning before January 1, 1982.

(c) *Charges to which the alternative amortization method is applicable.* Once elected, the alternative amortization method is applicable to the unfunded past service liability existing as of the date 12 months after the date on which section 412 first applies to the plan. This results in charges to the funding standard account which are in lieu of—

- (1) Charges required under clause (i) of section 412(b)(2)(B), and
- (2) Charges required under clause (iii) of section 412(b)(2)(B) if the plan amendments referred to in such clause result in a net increase in the unfunded past service liability existing as of the

date 12 months after the date on which section 412 first applies to the plan. Such charges generally will arise only with respect to plan amendments adopted in the first plan year to which section 412 applies.

If the election is made on an annual report corresponding to a plan year after the first plan year to which section 412 applies, recomputation of the contributions due in the prior years (to which section 412 applied) will be necessary.

(d) *Limitation.* The sum of the charges described in this paragraph may not be less than the interest on the unfunded past service liabilities described in section 412(b)(2)(B) (i) and (iii), determined as of the date 12 months after the date on which section 412 first applies to the plan.

(e) *Reporting requirements.* Each annual report required by section 6058(a) and periodic report of the actuary required by section 6059 must include all additional information relevant to the use of the alternative amortization method as may be required by the applicable forms and the instructions for such forms.

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 79-35965 Filed 11-21-79; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 42

Nondiscrimination Based on Handicap in Federally Assisted Programs—Implementation of Section 504 of the Rehabilitation Act of 1973 and Executive Order 11914; Rescheduling Public Meeting

AGENCY: Department of Justice.

ACTION: Rescheduling Public Meeting Relating to Proposed Rulemaking.

SUMMARY: The Department of Justice published proposed rulemaking in the Federal Register of September 21, 1979 (44 FR 54950) to prohibit discrimination against the handicap in programs and activities receiving Federal financial assistance from the Department of Justice. The proposed rule is designed to comply with section 504 of the Rehabilitation Act of 1973 as amended and Executive Order 11914 (41 FR 17871, April 28, 1976) which relate to nondiscrimination against handicapped persons in programs and activities receiving Federal financial assistance.

The proposed rule included a notice of a public meeting on the proposed rule scheduled for November 27, 1979 from

9:00 a.m. to 5:00 p.m. in the Auditorium of the Department of Health, Education and Welfare, North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

The purpose of the public meeting is to provide an opportunity for interested persons to provide oral testimony on the proposed rule. The published notice of the meeting requested that those persons interested in speaking at the meeting have their written requests postmarked by November 9, 1979.

To increase the public participation in the meeting and the comment period, the Department mailed approximately 4,000 copies of the published proposed rule to interested parties, including copies to approximately 200 public and private committees, associations and organizations representing the interests of the handicapped or interested in the problems of the handicapped, many of them with offices in the Washington, D.C. area. Thus far the Department has received only three requests to present oral testimony at the public meeting.

DATE: In view of the lack of public response, the hours of the meeting have been changed from 9:00 a.m. to 5:00 p.m. on November 27, 1979 to 9:00 a.m. to 12 noon on November 27, 1979.

Persons interested in speaking at the public meeting should immediately contact Robert N. Dempsey, Federal Enforcement Section, Civil Rights Division, Department of Justice, Constitution Avenue and 10th Street, N.W., by telephoning (202) 633-2374.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed rule or for tape copies of this proposed rule contact the following:

(1) For LEAA programs: Thomas J. Madden, General Counsel, Law Enforcement Assistance Administration, Telephone: 202/376-3691;

(2) For other Department of Justice Federal assistance programs: Robert N. Dempsey, Federal Enforcement Section, Civil Rights Division, Telephone: 202/633-2374.

Dated: November 20, 1979.

Drew S. Days, III,
Assistant Attorney General, Civil Rights Division.

[FR Doc. 79-36295 Filed 11-21-79; 8:45 am]

BILLING CODE 4410-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Reports by Schools; Requirements

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The proposed regulation states more precisely the time limits within which schools must submit reports concerning interruptions, terminations, course changes, or unsatisfactory progress or conduct of a veteran or eligible person who is receiving educational assistance. In the past when administering this regulation the Veterans Administration found that the regulation was worded vaguely. Schools were uncertain of the length of time they had to make these reports which are required by law. The amended regulation corrects this by setting definite time limits for making these reports.

DATES: Comments must be received on or before December 24, 1979. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until January 3, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.4203(c), Title 38, Code of Federal Regulations is amended to provide a time limit for schools to report when a nonpunitive grade has been given to a veteran or eligible person. Section 21.4203(d) is amended to state more precisely when the Veterans Administration will consider that a school's report of the interruption, termination or course change of the veteran or eligible person has been made promptly. Section 21.4203(h) is added to state that reports of unsatisfactory progress or conduct must be reported promptly. A cross-reference to these sections is added to § 21.4277.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only

between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), until January 3, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 15, 1979.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

1. Section 21.4203 is amended as follows:

(a) By deleting the words "wife, husband, widow or widower" and "wife's, husband's, widow's or widower's" and inserting the words "spouse or surviving spouse" and "spouse's or surviving spouse's" in paragraph (e).

(b) By deleting the words "paragraphs (b), (c) and (d) of this section" and inserting the words "paragraphs (b), (c), (d) and (h) of this section" in the second sentence of paragraph (f)(2).

(c) By revising paragraphs (c) and (d) and by adding paragraph (h) so that the added and revised material reads as follows:

§ 21.4203 Reports by schools; requirements.

(c) *Nonpunitive grades.* When a school assigns a nonpunitive grade for a course or subject in which a veteran or eligible person is enrolled, it must report that fact to the Veterans Administration in time for the Veterans Administration to receive the report within 30 days of the date on which the nonpunitive grade is assigned. (38 U.S.C. 1784(a))

(d) *Interruptions, terminations and changes in hours of credit or attendance.* When a veteran or eligible person interrupts or terminates his or her training for any reason, including unsatisfactory conduct or progress, or when he or she changes the number of hours of credit or attendance, this fact must be reported to the Veterans Administration by the school.

(1) If the course in which the veteran or eligible person is enrolled does not lead to a standard college degree and the change in status or change in number of hours of credit or attendance occurs on a day other than one indicated by paragraph (d)(3) or (4) of this section, the school shall submit the report required by this paragraph as follows:

(i) If the quarterly certification of attendance that normally is required for the student is due to be received by the Veterans Administration within 30 days of the date on which the change in status or the change in the numbers of hours of credit or attendance occurs, the report will be included on the quarterly certification.

(ii) If no quarterly certification is due to be received by the Veterans Administration within 30 days of the date on which the change of status or change in the number of hours of credit or attendance occurs, the school will report the change in time for the Veterans Administration to receive the report within 30 days of the date on which the change occurs. This report shall include a certification of the absences of the student since the last quarterly certification was filed or, if no quarterly certification has been filed, the report shall include a certification of the absences of the student since the course begins. (38 U.S.C. 1784(a))

(2) If the course in which the veteran or eligible person is enrolled leads to a standard college degree and the change in status or change in number of hours of credit or attendance occurs on a day other than one indicated by paragraph (d)(3) or (4) of this section, the school will initiate a report of the change in time for the Veterans Administration to receive the report within 30 days of the date on which the change occurs. (38 U.S.C. 1784(a))

(3) If the enrollment of the veteran or eligible person has been certified by the school for more than one term, quarter or semester and the veteran or eligible person interrupts or terminates his or her training at the end of a term, quarter or semester within the certified period of enrollment, the school shall report the change in status to the Veterans Administration in time for the Veterans Administration to receive the report within 30 days of the last officially scheduled registration date for the next term, quarter or semester. (38 U.S.C. 1784(a))

(4) If the change in status or change in the number of hours of credit or attendance occurs during the 30 days of a drop-add period, the school must report the change in status or change in the number of hours of credit or attendance to the Veterans Administration in time for the Veterans Administration to receive the report within 30 days from the last date of the drop-add period or 60 days from the first day of the enrollment period, whichever occurs first. (38 U.S.C. 1784(a))

(h) *Unsatisfactory progress or conduct.* At times the unsatisfactory progress or conduct of a veteran or eligible person is caused by or results in his or her interruption or termination of training. If this occurs, the interruption or termination shall be reported in accordance with paragraph (d) of this section. If the veteran or eligible person continues in training despite making unsatisfactory progress, the fact of his or her unsatisfactory progress must be reported to the Veterans Administration, if such a report is required, within the time allowed by paragraph (h)(1) and (2) of this section. (38 U.S.C. 1674)

(1) A veteran's or eligible person's progress may become unsatisfactory as a result of the grades he or she receives. The criteria used to determine that the grades received have caused the student's progress to become unsatisfactory may be either those criteria dealing with the unsatisfactory punitive grades found in § 21.4277(a)(2), or the regularly prescribed standards and practices of the school. The school shall report such unsatisfactory progress to the Veterans Administration in time for the Veterans Administration to receive it before the earlier of the following dates is reached.

(i) Thirty days from the date on which the school official, who is responsible for determining whether a student is making progress, first received the final grade report which establishes that the veteran either is not progressing satisfactorily, or

(ii) Sixty days from the last day of the enrollment period during which the veteran or eligible person earned the grades that caused him or her not to meet the satisfactory progress standards. (38 U.S.C. 1674)

(2) If the unsatisfactory progress or conduct of the veteran or eligible person is caused by any factors other than the grades which he or she receives, the school shall report the unsatisfactory progress or conduct to the Veterans Administration in time for the Veterans Administration to receive it within 30 days of the date on which the progress or conduct of the veteran or eligible person becomes unsatisfactory. See also § 21.4277. (38 U.S.C. 1674)

2. Immediately following § 21.4277, a cross reference is added as follows: "Cross Reference: Reports by schools; requirements. See § 21.4203."

(38 U.S.C. 210(c))

[FR Doc. 79-36079 Filed 11-21-79; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21**Veterans Education; Paying Educational Assistance During Intervals Between Terms**

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: These proposed regulations state more fully than previously the conditions which must exist before a veteran or eligible person can be paid educational assistance during an interval between terms, quarters and semesters. They also liberalize the payment procedures. The statement of current Veterans Administration policy in the proposed regulation will better inform the general public as well as veterans and other eligible persons as to how these decisions will be made.

DATES: Comments must be received on or before December 24, 1979. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until January 3, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.4138(f), Title 38, Code of Federal Regulations is amended to make clear that most of the circumstances which will prevent payment for an interval between terms, quarters or semesters when the student remains in the same school will also prevent payment when the student changes schools during the interval. Insofar as is consistent with the law the Veterans Administration wishes neither to encourage nor to discourage a veteran or eligible person from changing schools.

Section 21.4200(b) is amended to provide definitions of "summer term" and "summer session" which are consistent with the use of these terms in § 21.4138 and other sections of Title 38, Code of Federal Regulations.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810

Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until January 3, 1980.

Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 15, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In § 21.4138(f), subparagraphs (2) and (3) are revised and subparagraphs (4), (5), (6) and (7) are added so that the added and revised material reads as follows:

§ 21.4138 Certifications and release of payments.

(f) *Payment for intervals between terms.*

(2) Except as provided in this subparagraph and paragraph (f)(6) of this section, payments will be made for intervals between consecutive terms, quarters or semesters where the veteran or other eligible person transfers from one approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution, if the interval does not exceed 30 days. The days for which such a payment is made will count as absences for the purposes of § 21.4205. If the transfer is made to another school and the program in which the student enrolls at the second institution is different from that he or she was pursuing at the first school no payment may be made for the interval.

(3) Except as provided in paragraph (f)(6) of this section, payments will be made for periods between semesters or quarters as defined by § 21.4200(b), and between semesters or quarters and a term (other than a summer term), if the veteran or eligible person remains at the same educational institution and the interval does not exceed 1 full calendar month. The days for which payment is made will count as absences for the purposes of § 21.4205.

(4) Except as provided in paragraph (f)(6) of this section, payments will be made for periods between consecutive terms other than quarters or semesters as defined in § 21.4200(b), but not between terms and summer terms, if the

veteran or eligible person remains at the same educational institution and the interval does not exceed 1 full calendar month. The days for which payment is made will count as absences for the purposes of § 21.4205.

(5) Except as provided in paragraph (f)(6) of this section, payments will be made for intervals between terms, quarters or semesters and a summer term or summer session, and for intervals between summer sessions within a summer term, where the veteran or other eligible person remains enrolled in the same school, if the interval does not exceed 30 days. The days for which such a payment is made shall count as absences for the purposes of § 21.4205.

(6) No payment will be made for the intervals described in paragraph (f)(2), (3), (4) and (5) of this section if:

(i) The student is training at less than the half-time rate on the last date of his or her training during the term, quarter, semester or summer term preceding the interval;

(ii) The student is on active duty;

(iii) The student requests, prior to authorization of an award or prior to negotiating the check, that no benefits be paid for the interval period;

(iv) The student will exhaust his or her entitlement by receipt of such payment, and it is to the advantage of the individual not to receive payment;

(v) The interval occurs between school years at a school which is not organized on a term, quarter or semester basis; or

(vi) The veteran or eligible person withdraws from all his or her courses in the term, quarter, semester or summer session preceding the interval, or discontinues training before the scheduled start of an interval in a school not organized on a term, quarter, or semester basis. (38 U.S.C. 1780)

(7) A veteran or eligible person who is enrolled in overlapping enrollment periods (either at the same or different schools) and who is entitled to a payment for an interval shall be paid at the highest monthly rate attributable to any portion of the enrollment which qualifies the claimant for interval payment under paragraph (f)(2), (3), (4), and (5) of this section. (38 U.S.C. 1780(a))

2. In § 21.4200 paragraph (b)(5) is revised and paragraph (b)(6) is added so that the added and revised material reads as follows:

§ 21.4200 Definitions.

(b) *Divisions of the school year.* . . .

(5) "Summer term", the whole of the period of instruction at a school which takes place between ordinary school

years. A summer term may be divided into several summer sessions. (38 U.S.C. 1780(a))

(6) "Summer session", any division of a summer term. (38 U.S.C. 1780(a))

(38 U.S.C. 210(c))

[FR Doc. 79-38080 Filed 11-21-79; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1358-5]

State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on the Aftermath of the Granting of Conditional Approvals for State Implementation Plans)

AGENCY: Environmental Protection Agency.

ACTION: General Preamble for proposed rulemaking—Supplement.

SUMMARY: Provisions of the Clean Air Act enacted in 1977 require States to revise their State Implementation Plans (SIPs) for all areas that have not attained national ambient air quality standards (NAAQS). The Agency is now taking action on whether each of the State submittals should be approved. Today's Supplement provides information on how EPA will administratively handle the approval/disapproval actions for those portions of SIPs where conditional approvals have been issued.

FOR FURTHER INFORMATION CONTACT: The appropriate EPA Regional Office listed on the first page of the General Preamble (44 FR 20372) or the following Headquarters office: G. T. Helms, Chief, Control Programs Operation Branch, Control Programs Development Division, EPA Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, North Carolina 27711, (919) 541-5365 or 541-5228.

SUPPLEMENTARY: In the April 4, 1979, issued of the Federal Register, EPA published a General Preamble identifying and summarizing the major considerations that will guide EPA's evaluation of the submittals (44 FR 20372). A discussion of the conditional approval option available to EPA was included in the General Preamble. This option would allow EPA to approve portions of the States' plans which had only minor deficiencies while specifying a schedule for submission of the needed corrections. In those cases where a State

has submitted the prescribed materials according to their schedule, EPA will forward for publication in the Federal Register, a "Notice of Receipt" as soon as possible after receiving the State's submittal. This notice will indicate EPA has received the State submission and is reviewing the submittal to determine its adequacy. The notice will also reiterate that the conditional approval status of the SIP is continued until final action is taken and published in the Federal Register. After completion of the review, EPA will expeditiously approve or disapprove the State's submittal. A second conditional approval is not an available option for acting upon a State's submission in response to an original conditional approval. The determination of the adequacy of the State's submission will be published in the Federal Register as either a proposed action or as a final rulemaking depending on the nature of the State's submittal and the need for further public evaluation and comment. If the State's submittal is determined to be inadequate, the final rulemaking notice will explain that the Section 110(a)(2)(I) restrictions on growth will be in effect as of publication of the final disapproval notice.

In those cases where a State has failed to meet a scheduled commitment date, the SIP must be disapproved. Prior notice of the consequences of failure to meet a condition will have been provided in either the proposed or final conditional approval action. Consequently, when the State fails to meet a scheduled commitment, a final rulemaking notice will be published in the Federal Register indicating disapproval for failure to meet the required commitments. This notice will also state that the new source restrictions are in effect for those sources applying for construction permits after the date of publication.

In the case where a State misses the original deadline and submits the required information and/or regulations after EPA has taken final disapproval action, EPA will evaluate the submittal and either publish a proposal or final rulemaking notice indicating EPA's findings as appropriate. During the period prior to publication of the final Federal Register notice approving the SIP (if appropriate), the restrictions specified in Section 110(a)(2)(I) will be in effect.

(Secs. 110(a), 172, Clean Air Act, as amended (42 U.S.C. 7410(a), 7502)).

Dated: November 6, 1979.

David G. Hawkins,
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79-38053 Filed 11-21-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1365-2]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Delayed Compliance Order for the City of White Plains, New York

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior Federal Register notice proposing the issuance of a Delayed Compliance Order to the City of White Plains, New York. This action is being taken because compliance with the State Implementation Plan provisions covered by the proposed Order has been achieved by the City, through the termination of operations at the subject Municipal Incinerator.

DATE: This withdrawal is effective November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Walter E. Mugdan, Attorney, General Enforcement Branch, Enforcement Division, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, N.Y. 10007 (212) 264-4434.

SUPPLEMENTARY INFORMATION: A Federal Register notice published at 44 FR 26929, May 8, 1979, solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by the Environmental Protection Agency to the City of White Plains, New York. White Plains had been operating its Municipal Incinerator in violation of Title 6, Sections 201.2(b), and 222.3 (a) and (b), Official Compilation of Codes, Rules and Regulations of the State of New York, portions of the applicable State Implementation Plan. Prior to any publication of a notice of final rulemaking with respect to this proposed Order, the City of White Plains terminated all operations at its Municipal Incinerator. It is presently having its solid waste removed by a private carter; the City has publicly expressed its intention to join the Westchester County Solid Waste disposal program. No comments, and no

requests for a public hearing were received.

In consideration of the foregoing, the proposal published in the Federal Register at 44 FR 26929 on May 8, 1979, entitled "Proposed Delayed Compliance Order for the City of White Plains, New York", is hereby withdrawn.

Dated: November 8, 1979.

Richard Dewling,
Acting Regional Administrator.

[FR Doc. 79-38053 Filed 11-21-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 713

[FRL 1353-5; OTS-81005 A]

Reporting Requirements; Submission of Notice of Manufacture or Importation of PBB's and Tris; Corrections

Correction

In FR Doc. 79-34602 appearing on page 64844 in the issue of Thursday, November 8, 1979, in the second column, paragraph (f) should have read as follows:

(f) Page 59109, second column, "\$ 713.11(j)", sixth line, the molecular formula "C₁₂H₂Br₂" should read "C₁₂H₂Br₄".

BILLING CODE 1505-01-M

40 CFR Part 774

[FRL 1364-4; OPTS-48001A]

Data Reimbursement Under Sections 4 and 5 of the Toxic Substances Control Act; Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency [EPA].

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for the advance notice of proposed rulemaking on data reimbursement under sections 4 and 5 of the Toxic Substances Control Act (TSCA), published September 18, 1979 (44 FR 54284). The comment period will close January 17, 1980 instead of November 19, 1979.

The Chemical Manufacturers' Association (CMA) requested additional time to develop and submit a comprehensive scheme for cost-sharing and reimbursement. The extension of time has been granted in response to this request and to allow EPA to solicit comments from other interested parties.

DATE: Comments on the issues in this rulemaking must be submitted on or before January 17, 1980, in order to

ensure their consideration in the development of the proposed rule.

ADDRESS: Written views and comments should bear the document control number OTS-48001 and should be addressed to the Document Control Officer, Office of Toxic Substances (TS-793), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 or submitted to the same office in Room 447, East Tower at the above address, Monday through Friday, 8:30 a.m. to 4:00 p.m. The rulemaking record for this docket is available for inspection in the room mentioned above.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Pesticides and Toxic Substances (TS-799), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone (toll-free) 800-424-9065 or in Washington, 544-1404.

Steven D. Jellinek,
Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 79-38044 Filed 11-21-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

41 CFR Part 3-1

Protection of Privacy of Individuals

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare is proposing to establish a new procurement regulation regarding the protection of privacy of individuals.

The regulation implements the Privacy Act of 1974 (Pub. L. 93-579, December 31, 1974; 5 U.S.C. 552a), the Department's implementation of the Privacy Act (45 CFR Part 5b), and the Federal Procurement Regulation implementation of the Privacy Act (41 CFR 1-1.327).

DATE: Comments must be received by December 24, 1979.

ADDRESS: Any person or organization wishing to submit data, views, or comments pertaining to the proposed regulation may do so by filing them with Ed Lanham, Division of Procurement Policy and Regulations Development, OGP-OASMB-OS, Room 538H—Hubert H. Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, telephone 202-245-0481.

SUPPLEMENTARY INFORMATION: Section 3-1.327-4(a) of the proposed rule refers to "45 CFR 5b.16." This is the section in the Department's draft revision of its Privacy Act implementation rule which discusses Privacy Act coverage of Government contractors. The Department will issue this revision as a Notice of Proposed Rulemaking in the near future.

It is proposed to amend 41 CFR Chapter 3 in the manner set forth below.

Dated: November 9, 1979.

Murray N. Weinstein,
Acting Deputy Assistant Secretary for Grants and Procurement.

Under Subpart 3-1.3, General Policies, of Part 3-1, General, section 3-1.327, Protection of the privacy of individuals, is proposed to be added to 41 CFR Chapter 3 as indicated below. In addition, the table of contents for Part 3-1 is proposed to be amended to add the following:

PART 3-1—GENERAL

Subpart 3-1.3—General Policies

Sec.
3-1.327 Protection of the privacy of individuals.
3-1.327-1 General.
3-1.327-2 [Reserved].
3-1.327-3 [Reserved].
3-1.327-4 Applicability.
3-1.327-5 Procedures.

§ 3-1.327 Protection of the privacy of individuals.

§ 3-1.327-1 General.

(a) This section implements 45 CFR Part 5b, Privacy Act Regulations, and FPR § 1-1.327, Protection of the privacy of individuals, which implement the Privacy Act of 1974 (P.L. 93-579, December 31, 1974; 5 U.S.C. 552a) and OMB Circular No. A-108, July 9, 1975.

(b) It is the Department's policy to protect the privacy of individuals to the maximum possible extent while permitting the exchange of records required to fulfill the Department's administrative and program responsibilities and its responsibilities for disclosing records to which the general public is entitled under the Freedom of Information Act (5 U.S.C. 552).

(c) In regard to the procurement process, it is the Department's policy to guard the individual's right of privacy whenever a Departmental system of records on individuals (See § 1-1.327-

2(e) for definition) is operated under contract rather than by the Department. The individual's privacy will be protected by the Department requiring the contractor to observe all the rules of privacy that apply to the Department (See § 1-1.327-3).

§ 3-1.327-2 [Reserved]

§ 3-1.327-3 [Reserved]

§ 3-1.327-4 Applicability.

(a) The Privacy Act of 1974 and the Department's implementation under 45 CFR Part 5b apply "when an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish any agency function * * *". The key factor is whether a Departmental function is involved. Therefore, the Privacy Act requirements apply to a Departmental contract when, under the contract, the contractor must maintain or operate a system of records to accomplish a Departmental function. 45 CFR 5b.16 gives examples of systems, maintained by contractors, which are covered and systems, maintained by contractors, which are not covered.

(b) The contracting officer, with the assistance of the program official, and, as necessary, the official designated as the activity's Privacy Act coordinator and the Office of General Counsel, shall determine the applicability of the Act to each procurement.

(c) Whenever the contracting officer determines that the Privacy Act is not applicable, but the resultant contract will involve the collection of individually identifiable personal data by the contractor, the contracting officer shall include provisions to protect the confidentiality of the records and the privacy of individuals identified in the records. In addition, the contracting officer shall include in the procurement file documentation of the determination that the Privacy Act is not applicable. However, documentation is not required for obvious procurements not involving the Privacy Act, such as supply contracts or contracts which do not involve the collection of data on individuals.

§ 3-1.327-5 Procedures.

(a) All procurements shall be reviewed by the contracting officer to determine whether the Privacy Act requirements are applicable. If applicable, the contracting officer shall accomplish the actions required by § 1-1.327-5 and shall include the solicitation notification and contract clause required by § 1-1.327-5(b) and (c), respectively, in all instances specified by those paragraphs. In addition, the contracting

officer shall ensure that the solicitation notification, contract clause, and other pertinent information specified in this § 3-1.327 are included in any contract modification which results in the Privacy Act requirements becoming applicable to the contract.

(b) The contracting officer shall identify the system(s) of records on individuals in solicitations, contracts, and contract modifications to which the Privacy Act and the implementing regulations are applicable.

(c) The contracting officer shall include in the contract the disposition to be made of the system(s) of records on individuals upon completion of performance of the contract. For example, the contract may require the contractor to completely destroy the records, to remove personal identifiers, to turn the records over to the Department, or to keep the records, but take certain measures to keep the records confidential and protect the individual's privacy.

(d) The contracting officer shall include a statement in the contract notifying the contractor that the contractor and its employees are subject to criminal penalties for violations of the Act (5 U.S.C. 552a(i)) to the same extent as employees of the Department. The contracting officer shall provide the contractor with a copy of the rules of conduct and other requirements set forth in 45 CFR 5b.

(e) Whenever a procurement is determined to be subject to the Privacy Act requirements, a "system notice," prepared by the program official and describing the Department's intent to establish a new system of records on individuals, to make modifications to an existing system, or to disclose information in regard to an existing system, is required to be published in the Federal Register. A copy of the "system notice" shall be attached to the request for contract or purchase request. If a "system notice" is not attached, the contracting officer shall inquire about its status and shall obtain a copy from the program official for inclusion in the procurement file. If a "system notice" has not been published in the Federal Register, the contracting officer may proceed with the procurement but shall not award the contract until the "system notice" is published, and publication is verified by the contracting officer.

[FR Doc. 79-36141 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-12-M

41 CFR Parts 3-1 and 3-7

Confidentiality of Information

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare is proposing to amend the HEW Procurement Regulations (HEWPR) to incorporate Section 3-1.357, Confidentiality of Information, and to incorporate a clause for its implementation (Subpart 3-7.5028)

The amendments are being made to provide Departmental coverage for cases where the contractor handles confidential information, which is not subject to provisions of the Privacy or Freedom of Information Acts. The Confidentiality of Information clause which was previously contained in HEWPR § 3-7.5010 was too broad in coverage and did not contain guidance enabling contracting officers to selectively include it in contracts. This regulation provides specific examples of areas which are likely to be subject to these provisions and specifies a contractor's responsibilities in handling confidential information.

This coverage will enable contracting officers to include the clause only in those contracts which are expected to involve confidential material which is not subject to provisions of the Privacy or Freedom of Information Acts. It will also protect contractors from an undue amount of consultation with Departmental representative prior to the release or utilization of data under a contract.

DATES: Comments must be received on or before January 6, 1980. Any person or organization wishing to submit data, views or comments pertaining to the proposed amendments may do so by filing them with the individual at the address listed below:

ADDRESS: Send comments to David J. Eskenazi, Division of Procurement Policy and Regulations Development, OGP-OASMB-OS, Room 539H, Hubert H. Humphrey Building, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: David J. Eskenazi, Division of Procurement Policy and Regulations Development, OGP (202-245-8791).

It is therefore proposed to amend 41 CFR Chapter 3, Parts 1 and 7 in the manner set forth below:

(5 U.S.C. 301; 40 U.S.C. 486(c))

Dated: November 9, 1979.

Murray N. Weinstein,
Acting Deputy Assistant Secretary for Grants and Procurement.

PART 3-1—GENERAL

The following section is added to Subpart 3-1.3 and to the Table of contents of that subpart.

Subpart 3-1.3—General Policies

Sec.
3-1.357 Confidentiality of information.

Subpart 3-1.3—General Policies

§ 3-1.357 Confidentiality of Information

(a) *General.* This subpart advises contractors of their responsibilities in handling confidential information, which are not subject to the provisions of the Privacy or Freedom of Information Acts. It contains provisions that are to be included in applicable Requests for Proposals (RFPs) and contracts. These will protect contractors from an undue amount of consultation with awarding agencies before the release or utilization of data, by defining the kinds of data that requires confidential treatment.

(b) *Application of the clause.* The clause set forth in § 3-7.5028 should be considered for use in contracts where confidentiality of information provisions may apply, as provided in § 3-1.357(a). Examples of situations where this clause should be considered for use include:

(1) Studies involving the handling of personally identifiable data, such as medical records, vital statistics, surveys, and questionnaires.

(2) Salary structures, wage schedules, proprietary plans or processes, and confidential financial information on organizations.

(3) Unverified scientific leads, and early results of animal or clinical testing. With regard to protecting individuals, this regulation is not meant to regulate or control the method of selecting subjects and performing studies or experiments involving them. These questions are dealt with in the HEW regulation entitled "Protection of Human Subjects," 45 CFR Part 46. If a contract or portions thereof are determined to be subject to the requirements of the Privacy Act, in accordance with the Federal Procurement Regulations (41 CFR Part 1-1.327) or the HEW General Administration Regulations (41 CFR Part 5b), the Privacy Act procedures and clauses cited in those references shall be included in the contract, in addition to this clause. This clause applies to confidential data utilized or generated under the contract which are not subject

to the more detailed requirements of the Privacy Act.

(c) *Required clause.* The clause set forth in § 3-7.5028 shall be included in any RFP and resultant contract(s) which is expected to be for an amount in excess of \$10,000, and where it has been determined that confidentiality of information provisions may apply. Any RFP announcing the intent to include this clause in any resultant contract(s) shall indicate as specifically as possible the types of data which would be covered and requirements for handling such data.

PART 3-7—CONTRACT CLAUSES

The following clause is added to Subpart 3-7.50 Special Contract Clauses and to the Table of Contents for that subpart.

Subpart 3-7.50—Special Contract Clauses

Sec.
3-7.5028 Confidentiality of Information.

Subpart 3-7.50—Special Contract Clauses

§ 3-7.5028 Confidentiality of Information.

The following clause is covered by the policy set forth in Subpart 3-1.3 and is to be used in accordance with the instructions set forth in § 3-1.357.

Confidentiality of Information

(a) Confidential information, as used in this clause, includes, but is not limited to, (1) information or data of a personal nature about an individual, (2) proprietary information or data submitted by or pertaining to an institution or organization, or (3) information or data which represents findings or results which, if disclosed prematurely, might adversely affect the public and the Government's formulation of public policy with respect thereto.

(b) The Contracting Officer may identify elsewhere in this contract specific information and/or categories of information which the Government will furnish to the Contractor or that the Contractor is expected to generate, which is confidential. Similarly, the Contracting Officer may identify such confidential information from time to time during the performance of the contract.

(c) If it is established elsewhere in this contract that information to be utilized under this contract or a portion thereof, is subject to the Privacy Act, the Contractor will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. 552a, and

implementing regulations and policies, with respect to systems or records determined to be subject to the Privacy Act.

(d) The Contractor shall not disclose confidential information without the prior approval of the Contracting Officer. Whenever the contractor is uncertain with regard to the proper handling of material under the contract, or if the material in question is subject to the Privacy Act or is confidential information subject to the provisions of this clause, the Contractor should obtain a written determination from the Contracting Officer prior to any release, disclosure, dissemination or publication.

[FR Doc. 79-38140 Filed 11-21-79; 8:45 am]
BILLING CODE 4110-12-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5738]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance
Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT:
Mr. R. Gregg Chappell, National Flood Insurance Program (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5148, 451 7th Street S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in

accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-Year) flood elevations for selected locations are:

Proposed Base (100-year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas.....	City of Clarksville, Johnson County.	Spadra Creek.....	Just downstream of Cherry Street.....	*378
			Just upstream of Missouri-Pacific Railroad.....	*380
		Tributary 1.....	Just upstream of Interstate HWY 40.....	*358
		Greenbrier Creek.....	Just upstream of Missouri-Pacific Railroad.....	*390
			Just upstream of Cherry Street.....	*406
		Little Willet Branch.....	Just upstream of U.S. HWY 64.....	*365
			Just upstream of Quarter-Line Road.....	*369
Maps available at: City Hall, Walnut Street, Clarksville, Arkansas 72830.				
Send comments to: Mayor Sterling Hurley or Ms. Ann Schmatjen, Assistant Administrator, City Hall, P.O. Box 409, Clarksville, Arkansas 72830.				
Arkansas.....	City of Mammoth Spring, Fulton County.	Spring River.....	Just downstream of State HWY 63.....	*502
		Warm Fork Spring River.....	Just downstream of St. Louis-San Francisco Railway.....	*504
		Town Branch.....	Just upstream of State Highway 63.....	*508
			Just upstream of Bronson Avenue.....	*524
Maps available at: City Hall, 110 Main Street, Mammoth Springs, Arkansas 72554.				
Send comments to: Mayor Freddie R. Cullinson or Ms. Cathlene Autry, City Clerk, City Hall, P.O. Box 185, Mammoth Springs, Arkansas 72554.				
Delaware.....	Ocean View, Town; Sussex County.	Indian River Bay.....	All area between Assawoman Canal and Route 26, adjacent to White Creek and White Creek Ditch.	*8
Maps available at: The Town Hall.				
Send comments to: Mr. Wayne C. Breasure, President of the Council of Ocean View, Oakwood Avenue, Ocean View, Delaware 19970.				
Idaho.....	Middleton (City), Canyon County...	Boise River.....	400 feet upstream from confluence with Willow Creek.....	*2,382
			120 feet upstream from confluence with Mill Creek.....	*2,384
		Willow Creek.....	70 feet upstream from center of State Highway 44 (Main Street).....	*2,401
			Intersection of Concord Street and Elderberry Drive.....	*2,411
			Intersection of 8th Street North and Hawthorne Drive.....	*2,413
Maps available at: City Hall, 15 North Dewey, Middleton, Idaho.				
Send comments to: Honorable Alice Lanning, Mayor, City of Middleton, City Hall, Box 176, Middleton, Idaho 83644.				
Louisiana.....	Village of Gilbert, Franklin Parish...	Deer Creek.....	Approximately 400 feet upstream of Louisiana HWY 572.....	*89
			Just upstream of downstream of corporate limits.....	*86
Maps available at: City Clerk's Office, Franklin Parish Courthouse, Winnsboro, Louisiana 71295.				
Send comments to: Mayor Charles Holcomb or Assistant Mayor Proteem Jim Meredith, City Hall, P.O. Box 573, Gilbert, Louisiana 71338.				

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Louisiana	Village of Tallulah, Madison Parish.	Panola Bayou	Just upstream of Fish Street, extended	*79
Maps available at: City Clerk's Office, 204 North Cedar, Tallulah, Louisiana 71282. Send comments to: Mayor Leander A. Anthony or Mr. Moses Jackson, City Clerk, 204 North Cedar, Tallulah, Louisiana 71282.				
Maryland	Pocomoke City, Worcester County.	Pocomoke River	Entire Shoreline	*6
Maps available at: The City Hall. Send comments to: Mr. Russell Blake, Pocomoke City Manager, P.O. Box 29, Pocomoke City, Maryland 21851.				
New York	Montour Falls, Village, Schuyler County.	Barge Canal	Downstream Corporate Limits Confluence of Diversion Channel Confluence of Catherine Creek Confluence with Barge Canal Upstream Access Bridge Upstream Clawson Boulevard, Route 14 Confluence of Catlin Mill Creek Ayres Street, Route 14 Confluence of Catherine Creek Confluence with Diversion Channel 500' upstream of confluence with Catharine Creek 420' downstream, Skyline Drive Skyline Drive 490' upstream, Skyline Drive 930' upstream, Skyline Drive Havana Glen Creek Confluence with Diversion Channel Ayres Street, Route 14 695' upstream Ayres Street, Route 14 1,270' upstream, Ayres Street, Route 14 Catharine Creek Confluence with Barge Canal Ayres Street Confluence of Shequaga Creek 650' downstream, upstream Corporate Limits Upstream Corporate Limits	*449 *449 *449 *449 *451 *457 *459 *468 *469 *459 *465 *470 *476 *485 *493 *493 *469 *489 *475 *482 *449 *450 *451 *469 *470
Maps available at: The Municipal Building. Send comments to: Honorable Gwen Snow, Mayor of Montour Falls, Municipal Building, 330 West Main Street, Montour Falls, New York 14885.				
North Carolina	Town of Catawba, Catawba County.	Lyle Creek Town Creek	Just upstream of N.C. 10 Just upstream of S.R. 1004 Just upstream of S.R. 1822	*774 *818 *841
Maps available at: Mayor's Office, Catawba City Hall, Catawba, North Carolina 28609 Send comments to: Mayor John Elmore, Jr., P.O. Box 428, Catawba, North Carolina 28609.				
North Carolina	Unincorporated Areas of Catawba County.	Lyle Creek McLin Creek West Tributary McLin Creek Hagan Fork Creek Mill Creek Bakers Creek Conover Creek Cline Creek Cline Creek North Propst Creek Herman Branch Creek Clark Creek Miller Branch Creek Smyre Creek South Fork Catawba River Henry Fork Snow Creek Long Shoal Creek Elk Shoal Creek Dellinger Creek Long Creek	Just upstream of N.C. 10 Just downstream of I 64, I 70 Just downstream of SR 1709 Approximately 1,100 feet downstream of SR 1441 Just downstream of SR 1722 Just upstream of SR 1731 Just upstream of SR 1746 Approximately 3,400 feet downstream of SR 1736 Just upstream of SR 1727 Just downstream of N.C. 10 Just upstream of SR 1806 Just upstream of I 40 Just upstream of N.C. 16 Just upstream of SR 1512 Just upstream of SR 1712 Just downstream of SR 1164 Just upstream of U.S. Highway, 321, 64, 70 Just upstream of SR 1488 Just downstream of SR 1486 Approximately 750 feet upstream of SR 1683 Approximately 200 feet downstream of SR 1492 Just upstream of SR 1544 Just downstream of SR 1821 Approximately 450 feet upstream of SR 2012 Approximately 500 feet downstream of SR 201 Just upstream of SR 1165 Approximately 150 feet downstream of SR 1478 Approximately 125 feet downstream of SR 1880 Just upstream of N.C. 10 Just upstream of SR 1144 Just upstream of SR 1124 Just upstream of SR 1507 Just upstream of SR 1529 Just downstream of SR 1511 Just upstream of SR 1703 Just upstream of SR 1702 Just upstream of SR 1702 Approximately 1800 feet upstream of the Confluence with McLin Creek Just downstream of the Southern Railway	*775 *788 *829 *936 *778 *868 *919 *915 *813 *821 *861 *860 *870 *889 *876 *870 *883 *900 *893 *920 *1006 *918 *978 *812 *824 *861 *894 *847 *820 *833 *918 *974 *840 *984 *877 *826 *861 *869 *945

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
North Carolina	City of Conover, Catawba County	Town Branch	Approximately 2100 feet downstream from SR 1004	*799
		Bills Creek	Just upstream of U.S. Highway 321	*835
		Betts Branch	Just downstream of SR 2012	*812
		Pinch Gut Creek	Approximately 150 feet downstream of SR 1882	*830
		Maiden Creek	Just downstream of SR 1880	*851
		Allen Creek	Approximately 200 feet downstream of SR 1867	*880
		Naked Creek	Approximately 200 feet downstream of SR 1867	*880
			Just upstream of SR 1453	*960
		Maps available at: Planning Office, County Administration Building, Newton, North Carolina 28658.		
		Send comments to: Mr. Kenneth E. Martin, P.O. Box 389, Newton, North Carolina, 28658.		
North Carolina	City of Conover, Catawba County	Lyle Creek	Just upstream of S.R. 1484 Bridge	*894
		Propst Creek	Just upstream of S.R. 1490 Bridge	*905
		Conover Creek	Approximately 25 feet downstream of S.R. 1583 Bridge	*915
			Approximately 130 feet upstream of 1-40 Bridge	*927
			Approximately 100 feet upstream of 7th Street Bridge	*934
		Mull Creek	Approximately 75 feet downstream of 5th Street Bridge	*948
			Approximately 100 feet upstream of SP 1714	*929
		Maps available at: Conover City Office, 101 First Street West, Conover, North Carolina 28613.		
		Send Comments to: Mayor Harvey Hawn or Mr. Ed Robinett, City Manager, P.O. Box 485, Conover, North Carolina 28613.		
North Carolina	City of Hickory, Catawba County	Lyle Creek	Approximately 100 feet upstream of SR 1599	*1,005
			Just upstream of SR 1612	*1,055
			Just upstream of SR 1447	*1,090
		Herman Creek	29th Street N.E. (Extended)	*1,034
			27th Street N.E. (Extended)	*1,044
		Hickory Creek	Just upstream of 9th street	*1,080
			Just downstream of 20th street (SR 1447)	*1,090
		Clarks Creek	Just downstream of US 70,64,321	*879
		Miller Branch	Approximately 200 feet downstream of SR 1468	*893
			Approximately 130 feet downstream of SR 1478	*894
		Henry Fork	Approximately 1500 feet downstream of SR 1692	*965
			Approximately 1000 feet upstream of US 321 bridge	*883
		Henry Fork Tributary One	Approximately 275 feet upstream of SR 1124 bridge	*918
			Approximately 75 feet of SR 1170 bridge	*934
		Falling Creek	Approximately 300 feet downstream of US 70,64,321	*998
			Approximately 300 feet upstream of SR 1400	*961
		Falling Creek Tributary Two	Approximately 720 feet downstream of SR 1404 bridge	*999
		Catawba River Tributary One	Just downstream of 12th Avenue N.E.	*1,088
			Just upstream of SR 1333	*987
		Snow Creek	Approximately 75 feet upstream of SR 1331 bridge	*1,007
			Approximately 250 feet upstream of SR 1507	*975
			Just upstream of SR 1400	*1,012
		Horseford Creek	14th Avenue N.W. (Extended)	*1,084
		Cripple Creek	Approximately 95 feet upstream of 6th Street N.W.	*979
			Just upstream of 4th Street N.W.	*1,050
			Approximately 65 feet upstream of Lenoir Road	*1,062
			Approximately 120 feet upstream of US 321	*1,015
		Geitner Branch	Approximately 100 feet upstream of center line of U.S. 64, 70	*1,038
			Approximately 125 feet upstream of 9th Street culvert entrance	*997
		Geitner Branch Tributary One	Approximately 60 feet upstream of 7th Avenue	*1,018
		Geitner Branch Tributary Two	Just upstream of 7th Avenue S.W.	*1,026
			4th Street S.W.	*1,055
		Longview Creek	Approximately 90 feet upstream of Interstate 40 culvert entrance	*1,069
			Just upstream of 9th Street	*893
		Longview Creek Tributary One	SR 1189	*1,012
			U.S. 64-70	*1,038
		Longview Creek Tributary Two	At downstream corporate limits	*1,087
		Barger Branch	Just upstream of SR 1173	*1,038
			Approximately 75 feet upstream of 10th Avenue S.E.	*907
		Barger Branch Tributary One	8th Avenue S.E.	*1,037
		Barger Branch Tributary Two	8th Avenue S.E.	*1,072
		Barger Branch Tributary Three	Approximately 300 feet upstream of Confluence with Barger Branch	*1,008
			8th Avenue S.E.	*1,083
		Maps available at: Director of Planning, P.O. Box 398, Hickory, North Carolina 28601.		
		Send comments to: Mayor George Murphy or Wilfred Well, City Manager, City Hall, P.O. Box 398, Hickory, North Carolina 78338.		
North Carolina	Town of Maiden, Catawba County	Maiden Creek	Just upstream of State Road 2007	*805
			Approximately 450 feet upstream of US 321	*812
			Just upstream of State Road 1810	*830
		Allen Creek	Just upstream of State Road 1870 Extended	*840
		Clarks Creek	Just upstream of State Road 2007	*804
		Holly Branch	Just upstream of State Road 2005	*818
		Pinch Gut Creek	Approximately 100 feet downstream of Northwestern Railroad	*809
			Approximately 400 feet upstream of US 321	*810
		Maps available at: Town Manager's Office, City Hall, 113 W. Main Street, Maiden, North Carolina 28650.		
		Send comments to: Mayor W. H. Adams or D. D. Freeman, City Manager, City Hall P.O. Box 125, Maiden, North Carolina 77538.		
North Carolina	City of Newton, Catawba County	Clarks Creek	Approximately 250 feet upstream of the Confluence of Smyre Creek	*829
			Just upstream West C Street (NC Hwy 10)	*839
			Approximately 270 feet downstream Hwy 1149	*849
		Hidebran Creek	Approximately 200 feet upstream of Hwy 10	*838
			Approximately 75 feet upstream of SR 1154	*851
			Approximately 100 feet downstream of West 1st Street	*867
			Just upstream of SR 1156	*913

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
North Carolina	City of Conover, Catawba County	Smyre Creek	Downstream of Hwy 321	*833
			Approximately 140 feet downstream of Hwy 1880	*847
		Town Creek	Approximately 30 feet upstream of P Street	*836
			Approximately 200 feet upstream of South Caldwell Avenue	*869
			Just upstream SR 1880	*868
		Snow Hill Branch	Just upstream of Hwy 16	*875
			Approximately 50 feet upstream of SR 1736	*901
			At East 11th Street	*936
		McLin Creek	Approximately 170 feet upstream of SR 1739	*940
			Approximately 30 feet upstream of Confluence of East Tributary McLin Creek	*944
		Maps available at: City Hall, P.O. Box 550, Newton Carolina 28658.		
		Send comments to: Mayor Wayne Dellinger or Mr. R. Duke Whiseman, City Manager, P.O. Box 550, Newton, North Carolina 28658.		
Ohio	Mount Vernon, City, Knox County	Kokosing River	Downstream Corporate Limits	*973
			Upstream South Main Street	*984
			Fountain Street (Extended)	*990
			Upstream Corporate Limits	*998
		Center Run	Downstream East Gambler Avenue	*980
			Upstream East Vine Street	*985
			Upstream East Chestnut Street	*990
			Upstream Beech Street	*998
		Map available at: The City Hall, Mount Vernon, Ohio.		
		Send comments to: Honorable Claude S. Schlosser, Mayor of Mount Vernon, 40 Public Square, Mount Vernon, Ohio 43050.		
Oklahoma	City of Hominy, Osage County	Penn Creek	Just upstream of State Highway 99 Eastern Ave	*766
		Claremore Creek	Just upstream of Kathy Avenue	*776
		Maps available at: City Hall, P.O. Box 219, Hominy, Oklahoma 74035.		
		Send comments to: Mayor J. E. Sheppard or Ms. Betty Helm, City Manager, P.O. Box 219, Hominy, Oklahoma 74035.		
Pennsylvania	Borough of Blawnox, Allegheny County	Allegheny River	Downstream Corporate Limits	*740
			Upstream Corporate Limits	*741
		Maps available at: The Borough Hall.		
		Send comments to: Honorable Thomas M. Smith, Mayor of Blawnox, 930 Center Avenue, Blawnox, Pennsylvania 15238.		
Pennsylvania	Haycock, Township, Bucks County	Tohickon Creek	Confluence of Kimples Creek	*469
			Union Road (Downstream)	*480
		Kimples Creek	Confluence with Tohickon Creek	*469
			Old Bethlehem Road (Downstream)	*478
			Roudenbush Road (Downstream)	*482
			Lake Towhee (Downstream)	*484
		Haycock Creek	Church Road (Downstream)	*400
			Haycock Run Road	*436
		Maps available at: The Township Municipal Building.		
		Send comments to: Mr. Earl Winters, Chairman of the Board of Supervisors of Haycock, Municipal Building, R.D. 3, Harrisburg School Road, Quakertown, Pennsylvania 18951.		
Pennsylvania	Lykens, Borough, Dauphin County	Rattling Creek	Downstream Corporate Limits	*642
			Edwards Street	*671
			Market Street	*707
			Dam	*729
			Glen Park Road	*761
			Upstream Corporate Limits	*768
		Wiconisco Creek	Main Street	*649
			Market Street	*679
			Upstream Corporate Limits	*683
		Maps available at: The Borough Building.		
		Send comments to: Mr. Earl Bufflington, President of the Borough Council of Lykens, 622 South Street, Lykens, Pennsylvania 17048.		
Pennsylvania	Township of Monaghan, York County	Yellow Breeches Creek	Downstream Corporate Limits	*376
			Wharf Road	*380
			Township Route 612 (upstream side)	*399
			Gilbert Road (Upstream side)	*409
			Upstream Corporate Limits	*414
		Stony Run No. 1	Confluence with Yellow Breeches Creek	*376
			Upstream side of Andersontown Road	*386
			Confluence of Stream A	*395
			60' upstream of Wharf Road	*420
		Pippins Run	Confluence with Yellow Breeches Creek	*389
			Upstream side of Lewisberry Road	*412
			2,270' upstream of Lewisberry Road	*460
Pennsylvania	Stony Run No. 2		Upstream side of Legislative Route 66001	*501
			150' downstream of Cemetery Road	*544
			Confluence with Yellow Breeches Creek	*409
			4,200' upstream of Grantham Road	*440
			First Corporate Limits Upstream	*470
			Second Corporate Limits Upstream	*478
			Upstream Corporate Limits	*481
			Downstream Corporate Limits	*496
			Upstream side of Fileys Road	*506

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available at The Monaghan Township Building. Send comments to: Mr. Lloyd Sowers, President of the Commission of Monaghan, R. D. 3, Dillsburg, Pennsylvania 17019.				
		Upstream side of Private Lane.....		*528
		Upstream side of Fishers Run Road.....		*554
		850 feet upstream of Fishers Run Road.....		*574
		950 feet upstream of Fishers Run Road.....		*604
Pennsylvania.....	Township of Watson, Lycoming County.....	Pine Creek.....	Downstream Corporate Limits.....	*583
				*578
				*606
Maps available at The Community Building. Send comments to: Mr. Stanley J. Wall, Chairman of the Township of Watson, R. D. 4, Jersey Shore, Pennsylvania 17704.				
Tennessee.....	City of Bristol, Sullivan County.....	Beaver Creek.....	Just upstream of Vance Drive.....	*1,543
				*1,645
				*1,675
				*1,675
		Little Creek (Backwater from Beaver Creek).....	Just upstream of Glenwood Road.....	*1,507
		Cedar Creek.....	Just downstream of Weaver Pike.....	*1,534
			Just upstream of Weaver Pike.....	*1,542
			Just upstream of Virginia Avenue.....	*1,658
		Sinking Creek.....	Approximately 80 feet upstream of Old Jonesboro Road.....	*1,707
			Just upstream of King College Road.....	*1,757
			Just downstream of Middlebrook Dam and Road.....	*1,758
			Just upstream of Middlebrook Dam and Road.....	*1,770
Maps available at City Hall, P.O. Box 417, Bristol, Tennessee. Send comments to: Mr. Steve Schertel, Asst. Manager, City Hall, P.O. Box 417, Bristol, Tennessee.				
Texas.....	City of Balch Springs, Dallas Texas.....	Hickory Creek.....	At Arrowdell Road.....	*441
				*452
				*459
				*482
		Stream 4 C6.....	At Verdant Road.....	*444
		South Mesquite Creek.....	Just upstream of Seagoville Road.....	*462
		Stream 2 B2.....	Approximately 150 feet upstream of Beltline Road.....	*427
			Just upstream of Burton Road.....	*432
Maps available at City Administrator, 3117 Hickory Road, Balch Springs, Texas 75159. Send comments to: Mr. John A. Koerner, City Administrator, 3117 Hickory Road, Balch Springs, Texas 75159				
Texas.....	City of Cibolo, Guadalupe County.....	Town Creek.....	Just upstream of Farm to Market Road 78.....	*891
				*710
				*791
				*711
				*687
				*675
Maps available at City Hall, Main Street—(F.M. 78) Cibolo, Texas 78108. Send comments to: Mayor John A. Sippel or Ms. Barbara Glenawinkle, City Secretary, City Hall, P.O. Box 156, Cibolo, Texas 78108.				
Texas.....	City of Kirby, Bexar County.....	Rosillo Creek.....	Approximately 200 feet upstream of Binz-Engleman Road.....	*671
				*691
				*676
				*683
Maps available at City Hall, 112 Bauman Street, Kirby, Texas 78219. Send comments to Mayor Milton J. Hoenoake or George Setterman, City Manager, Kirby City Hall, 112 Bauman Street, San Antonio, Texas 78219.				
Vermont.....	Town of Charlotte, Chittenden County.....	Lake Champlain.....	Entire Coastline.....	*102
Maps available at The Town Clerk's Office. Send comments to: Mr. George Roscoe, Chairman of the Board of Selectmen, Town Hall, Charlotte, Vermont 05445.				
Virginia.....	Appalachia, Town, Wise County.....	Powell River.....	Downstream Corporate Limits.....	*1,610
				*1,621
				*1,632
				*1,643
				*1,656
		Callahan Creek.....	Confluence w/Powell River.....	*1,642
			Depot Street (Upstream Side).....	*1,650
			3,537 feet upstream of State Route 78 (Callahan Avenue).....	*1,660
			Upstream Corporate Limits.....	*1,674
		Looney Creek.....	211 feet downstream of Corporate Limits.....	*1,645
			Downstream Corporate Limits.....	*1,649
			State Route 160 (Upstream Side).....	*1,677
			1,584 feet upstream of State Route 160 (at County Road).....	*1,695
			1,214 feet upstream of County Road.....	*1,722
			Upstream Corporate Limits.....	*1,774
		Pigeon Creek.....	39.6 feet upstream of Corporate Limits.....	*1,775
			Confluence w/Powell River.....	*1,615
			52.8 feet upstream of Southern Railway (at County Road).....	*1,616

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available at The Municipal Building, Appalachia, Virginia. Send comments to: Mr. Eugene E. Brooks, Appalachia Town Manager, Box 112, Appalachia, Virginia 24216.				
		Beaver Creek.....	Just upstream of Moore Street.....	*1,678
			Just upstream of Elm Street.....	*1,698
			Just upstream of Lee Highway.....	*1,805
		Little Creek.....	Just upstream of Euclid Avenue.....	*1,683
			Just upstream of Island Road.....	*1,728
		Susong Branch.....	Just upstream of US Highway 421, (Euclid Avenue).....	*1,683
			Just upstream of Randolph Avenue.....	*1,693
		Mumpower Creek.....	Just upstream of Madison Street.....	*1,705
			Just upstream of Meadow Drive.....	*1,722
			Just downstream of Chesterhills Estate.....	*1,763
Maps available at City Hall, Bristol, Virginia 24201. Send comments to: Mr. Hugh G. Cooper, City Manager, City Hall, Bristol, Virginia 24201.				
Virginia.....	Pound, Town, Wise County.....	Pound River.....	Downstream Corporate Limits.....	*1,549
				*1,558
				*1,558
				*1,558
				*1,558
				*1,556
				*1,601
				*1,625
				*1,607
				*1,611
				*1,556
				*1,591
Maps available at The Town Hall, P.O. Box 426, Pound, Virginia 24279. Send comments to: Honorable Jerry Baker, Mayor of Pound, P.O. Box 426, Pound, Virginia 24279.				
West Virginia.....	Annoore, Town, Harrison County.....	Ann Moore Run.....	Downstream Corporate Limits.....	*1,006
				*1,015
				*1,039
				*1,058
				*1,068
				*1,016
				*1,026
				*1,035
				*1,043
				*1,017
				*1,022
Maps available at The Town Hall. Send comments to: Honorable Dinny Lamm, Mayor of Annoore, South Ash and Route 58, Annoore, West Virginia 26323.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19867; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: November 6, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-35954 Filed 11-21-79; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 2, 21, 87 and 90**

[General Docket No. 79-188; RM-3247]

Allocating Spectrum for, and To Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision on Common Carrier Digital Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Extension of time for filing comments to Notice of Proposed Rulemaking and Inquiry.

SUMMARY: At 44 FR 51257, August 31, 1979, the Commission published a Notice of Proposed Rulemaking and Inquiry relating to allocating spectrum for, and to establish other rules and policies pertaining to, the use of radio in digital termination systems for the provision of common carrier digital

telecommunications services. This document extends the dates for the filing of comments and of reply comments in Docket 79-188, released on August 29, 1979 and which was issued in response to the rulemaking petition filed by the Xerox Corporation.

DATES: The filing dates for comments and reply comments are extended one month. Comments and reply comments must be filed on or before December 14, 1979 and on or before January 14, 1980, respectively.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Spectrum Allocation Division, Office of Science & Technology, 2025 M Street, NW., Washington, D.C. 20554 (202) 632-6350—Room 7310.

Order Extending Time for Filing Comments

Adopted: November 9, 1979.

Released: November 9, 1979.

In the matter of Amendment of Parts 2, 21, 87 and 90 of the Commission's rules to Allocate Spectrum for, and To Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision on Common Carrier Digital Telecommunications Services, General Docket No. 79-188, RM-3247.

1. On November 5, 1979 the Xerox Corporation, by its attorneys, pursuant to § 1.46 of the Commission's rules and regulations, 47 CFR 1.46, filed a request to extend the time for filing comments to December 14, 1979 in the above-captioned matter. Comments on the Notice of Proposed Rulemaking and Inquiry (Notice) in this matter, released by the Commission on August 29, 1979, are currently due by November 14, 1979. See 44 FR 61214, October 24, 1979.

2. Xerox gives the following rationale for the requested extension. Because it filed the rulemaking petition which led to the Notice, Xerox feels that its intended extensive comments in this matter will be of particular value to the Commission in its rulemaking deliberations. Xerox consequently feels that more time is needed for it to put these extensive comments into "the form most useful to the Commission". Furthermore, Xerox contends that the public interest will be served by the compilation of the more complete and accurate record that would be made possible.

3. The Commission has expressed (paragraph 6 of the Notice) the intention to resolve all issues raised and to adopt appropriate rules and policies for Digital Termination Systems and the Common Carrier services provided over them, and to do so without further public comment—if justified by the formal responses to the Notice. Therefore, the request is consistent with the purpose of providing a fuller record to serve as a basis upon which these rules and policies will be developed. Additionally, since we perceive no hardship to any interested party, and because the resolution of this proceeding with due dispatch will not be materially affected,

the request for extension of the comment period to December 14, 1979 is hereby granted.

4. Accordingly, it is ordered, pursuant to § 0.241(d) of the Commission's rules and regulations, that, the dates for filing comments and reply comments in this proceeding are extended from November 14, 1979 and December 14, 1979, respectively. The new date for filing comments is December 14, 1979; the date for filing reply comments is now January 14, 1980.

Federal Communications Commission.

Will A. McGibbon,

Associate Chief Scientist.

[FR Doc. 79-36056 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR—Part 43

[CC Docket No. 79-262]

Eliminating Semiannual Reports and To Provide for the Submission of Revised Data in the Annual Reports of Overseas Telecommunications Traffic Data; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order to change filing dates in Notice of Inquiry and Proposed Rulemaking.

SUMMARY: The deadline for filing Comments and Replies in CC Docket No. 79-262 is extended.

DATES: Comments to be submitted by December 6, 1979 and Replies to be submitted by December 21, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth B. Stanley, Room 526, (202) 653-7413.

SUPPLEMENTARY INFORMATION:

Order

Adopted: November 13, 1979.

Released: November 14, 1979.

By the Chief, Common Carrier Bureau: In the Matter of amendment of § 43.61 of the Rules so as to eliminate semi-annual reports and to provide for the submission of revised and corrected data in the annual reports of overseas telecommunications traffic data. [44 FR 61214].

1. In CC Docket No. 79-262, the Commission instituted a Notice of Inquiry and Proposed Rule Making to amend certain parts of § 43.61 of its Rules and Regulations. This section

requires the semiannual submission of traffic data by the overseas carriers. The notice called for interested parties to file comments by November 16, 1979 and Replies by December 1, 1979.

2. United States Telephone and Telegraph Company filed a motion for extension of time until January 16, 1980 to file its comments. As justification for this motion, U.S.T.&T. states that its counsel recently returned to the office from vacation and only then learned of our Notice, and that its subsidiary, ITT World Communications, was unaware of the proceeding. U.S.T.&T. also states that some information called for in our Notice is not routinely available.

3. We do not find the justification advanced by U.S.T.&T. to be compelling. It is the responsibility of U.S.T.&T. and ITTWC to keep informed on Commission matters which affect them and to act accordingly. We cannot be responsible for counsel's vacation schedule or lack of awareness of a proceeding. While some information called for in this proceeding may not be routinely available, we think the request for a two-month extension is excessive.

4. TRT Telecommunications has also petitioned for an extension of time. Its petition, filed November 9, 1979, requests an extension to December 16, 1979. It cites the need to compile additional information to adequately address the matters in this proceeding.

5. We think the time schedule set in our Notice is adequate to respond to the issues in this proceeding. However, some extension of time may be warranted if it enables interested parties to compile additional relevant information and submit more meaningful comments.

6. Accordingly, IT IS ORDERED, pursuant to delegated authority, That the deadline for filing comments in this proceeding is extended to December 6, 1979 and, That Replies shall be filed no later than December 21, 1979.

Thomas J. Casey,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 79-36082 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 95

[PR Docket No. 79-140]

Creation of an Additional Personal Radio Service; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This Order extends the time period for comments to the Notice of Inquiry proposing the creation of an additional Personal Radio Service. The comment period and reply period are extended to January 15, 1980, and February 15, 1980, respectively.

DATES: Comments must be filed on or before January 15, 1980 and Reply Comments must be filed on or before February 15, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James McNally, Personal Radio Branch, Private Radio Bureau (202) 254-6884.

Order

Adopted: November 8, 1979.

Released: November 14, 1979.

In the matter of creation of an additional Personal Radio Service, PR Docket No. 79-140, 44 FR 37522, June 27, 1979.

1. On June 25, 1979, the Commission released a *Notice of Proposed Rulemaking* looking towards the creation of a new Personal Radio Service in the 900 MHz band. Comments were due by December 31, 1979.

2. The distribution of this *Notice* to the public took longer than had originally been anticipated. In order to be assured that members of the public who wish to participate have sufficient time to prepare and file their comments, we have concluded that an extension of time is in order.

3. Accordingly, pursuant to the authority contained in § 0.331 of the Commission's rules, the Commission orders that the comment period and the reply period in PR Docket No. 79-140 are extended to January 15, 1980, and February 15, 1980, respectively.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 79-36027 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 385

[BMCS Docket No. 88; Notice No. 79-7]

Assignment of Motor Carrier Safety Ratings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would amend the Federal Motor Carrier Safety Regulations (FMCSR) and codify established procedure for determining a motor carrier's safety rating. Uniform procedures will apprise motor carriers of the factors that may affect their safety rating while also ensuring that equal standards are applied to all motor carriers.

DATE: Comments must be received on or before January 6, 1980.

ADDRESS: Anyone wishing to submit written comments may do so. Comments (original and two copies) should be sent to BMCS Docket No. MC-88, Federal Highway Administration, Room 3404, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Jeglum, Chief, Compliance Analysis Branch, Operations Division, Bureau of Motor Carrier Safety, 202-426-1724; Attorney: Mr. Gerald M. Tierney, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 1653(e) of the Department of Transportation Act of 1966 (49 U.S.C. § 1651) declares it to be the duty of the Secretary of Transportation to determine and report to the Interstate Commerce Commission (ICC) a safety rating for each carrier applicant seeking operating authority from the ICC. The Federal Highway Administration is responsible for providing this information. A carrier's safety rating is one factor the ICC considers in determining whether temporary operating authority should be granted. The possible ratings assigned are: satisfactory unsatisfactory, safety, conditional, and insufficient information.

This document proposes the addition of Part 385 to Title 49 Code of Federal Regulations. It would establish the criteria to be followed when the FHWA assigns a safety rating to a carrier applying for temporary operating authority. There are presently no published regulations governing this process. The new regulation would codify, with minor changes, the procedure that is being followed by the FHWA when determining a safety rating on temporary authority applications. This regulation is intended to ensure that a uniform procedure is followed upon request for a safety rating. It also

makes public the criteria considered when assigning a safety rating.

Since the proposed regulation largely formalizes current procedure, no additional compliance or cost burden is anticipated to stem from its implementation. However, at least two benefits will accrue from this codification. First, publishing the criteria considered will inform carriers of what conduct might lead to their being assigned an unsatisfactory rating, thus allowing them to conform to acceptable standards. Second, publishing the criteria will further ensure uniform treatment for all carrier applicants.

The regulation does not attempt to establish rigid categories of conduct which will result in a particular safety rating. The variety of factors, coupled with the attending circumstances that influence a safety rating, do not permit rigid classifications. The regulation is drafted to ensure that all carriers receive equal treatment, while also allowing consideration of the many factors needed to reach an equitable result. The Administration is particularly interested in comments regarding the criteria to be considered when determining a carrier applicant's safety rating.

In consideration of the foregoing, and under the authority of 49 U.S.C. §§ 304 and 1655 and the delegation of authority by the Secretary of Transportation in 49 CFR 1.48(b) and 49 CFR 301.60, it is proposed to amend Chapter III Subchapter B of Title 49, Code of Federal Regulations by adding a new Part 385 as follows:

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

PART 385—SAFETY RATINGS

385.1 Determination of motor carrier safety rating.

385.3 Criteria to be considered.

Authority: 49 U.S.C. 304 and 1655; 49 CFR 1.48(b) and 301.60.

§ 385.1 Determination of motor carrier safety rating.

(a) This section prescribes procedures that apply to the FHWA when assigning a safety rating to a motor carrier seeking temporary operating authority before the Interstate Commerce Commission.

(b) A motor carrier will be assigned one of the following ratings:

(1) Satisfactory—The carrier applicant is in substantial compliance with all areas of the Administration's safety regulations.

(2) Unsatisfactory—The carrier applicant is not in substantial compliance with one or more areas of the Administration's safety regulations.

(3) Safety Conditional—The carrier applicant has experienced recent difficulty in complying with one or more areas of the Administration's safety regulations. Failure to improve will result in an unsatisfactory rating.

(4) Insufficient Information—The FHWA's file contains insufficient recent information upon which to base a rating.

(c) Ratings will be transmitted to the ICC by written report or by telephone communication followed by a written report. *Exception:* A written report need not be transmitted if the rating is Satisfactory or Insufficient Information.

§ 385.3 Criteria to be considered.

In determining a carrier's safety rating, the following factors are considered:

(a) Violations of the Federal Motor Carrier Safety and Hazardous Materials Regulations, and Safety Orders that were discovered during surveys performed within 5 years of the rating.

(b) Violations of the Federal Motor Carrier Safety and Hazardous Materials Regulations, and Safety Orders that were discovered during driver equipment compliance checks performed within 5 years of the rating.

(c) Violations of State Motor Carrier Safety and Hazardous Materials Regulations, and Safety Orders that were discovered during investigations performed within 5 years of the rating.

(d) The nature, extent, circumstances, and gravity of the violations discovered.

(e) The carrier's accident record.

(f) The carrier's improvement or lack of improvement in complying with the Federal in State motor carrier safety and hazardous materials regulations within the past 5 years.

(g) The recommendation of the Federal Highway Administration field staff based on their consideration of factors (a) through (f).

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044. The impact of this rule is so minimal that it does not warrant a full regulatory evaluation.

Issued on: November 7, 1979.

Robert A. Kaye,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 79-35679 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The General Permit and regulations governing the taking of marine mammals incidental to commercial fishing operations are required by the Marine Mammal Protection Act of 1972, as amended (MMPA). The existing General Permit issued to the American Tunaboat Association for this purpose and the regulations underlying the General Permit (50 CFR 216.24) are valid until 2400 hours, December 31, 1980. However, because of new information contained in the Report of the Status of Porpoise Stocks Workshop, held August 27-31, 1979, in La Jolla, California, the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, intends to reconsider the appropriateness of the existing regulations and to consider the regulatory regime that may be appropriate beyond 1980. This Notice announces the Agency's tentative schedule for proposing amendments to the existing regulations and General Permit, proposing regulations governing incidental taking of porpoise in the eastern tropical Pacific beyond 1980, and holding formal hearings before an Administrative Law Judge to consider these matters.

DATES: See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: 202-634-7461.

SUPPLEMENTARY INFORMATION: On November 7, 1979, the National Marine Fisheries Service announced that the Report of the Status of Porpoise Stocks Workshop, held August 27-31, 1979, in La Jolla, California, was available (44 FR 64480, November 7, 1979).

The Workshop was held as part of the Agency's process to prepare a draft environmental impact statement on regulations governing the taking of marine mammals incidental to commercial fishing operations in the

eastern tropical Pacific for 1981 and beyond (see Announcement of Public Scoping Meeting, 44 FR 46903, August 9, 1979).

The 1979 Workshop Report contains new information regarding the status of eastern tropical Pacific porpoises that must be reviewed to determine whether and if the existing General Permit and regulations regarding the incidental taking of such porpoises are consistent with and necessary to carry out the purposes of the MMPA. If not, the Agency will modify the existing regulations in such manner to fulfill the purposes of the MMPA.

50 CFR 216.24(d)(2)(i)(D) recognizes that the receipt of new information may require a mid-course adjustment to the regulations underlying the existing General Permit and allows the public to request a formal or informal hearing on this matter. The consequences of the review of the Report and other information to be submitted may be considerable. Therefore, the Agency has determined that a formal hearing before an Administrative Law Judge is the best means of reviewing the Report and other relevant information, as well as affording full due process rights for all interested parties.

The Agency also believes that the formal proceeding must consider the General Permit and incidental taking regulations that may be appropriate when the existing General Permit and regulations become invalid. The Agency believes that any adjustment to the existing General Permit and regulations that may be appropriate beyond 1980 must be based on the best available and most complete scientific and other information.

The Agency hereby announces the following tentative schedule to consider these matters:

January 18, 1980—FR publication of (1) Notice of Formal Hearing; (2) Procedural rules for the formal hearing; (3) proposed amendments to existing General Permit and 50 CFR 216.24 as are necessary to carry out the purposes of the MMPA; (4) proposed regulations to govern incidental taking beyond 1980; and (5) Notice of Availability of draft environmental impact statement.

February 18, 1980—Start of Formal Hearings.
March 21, 1980—Close of Formal Hearings.
April 25, 1980—Close of Briefing Schedule.
June 2, 1980—ALJ's Recommended Decision.
June 11, 1980—Exceptions to ALJ's Decision.
July 1, 1980—Final Decision by Administrator of NOAA.

The ex parte communications prohibitions at 5 U.S.C. 557(d) shall begin to apply on January 18, 1980, or at such time that the Formal Hearings are actually Noticed by the Agency.

(Marine Mammal Protection Act of 1972, as amended; 86 Stat. 1027; 16 U.S.C. 1361-1407; Pub. L. 92-522)

Dated: November 20, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36213 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 662

Pacific Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Public Hearings.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-285), and the National Marine Fisheries Service, NOAA/DOC, will hold joint public hearings for the purpose of input on the Draft Fishery Management Plan and Environmental Impact Statement (DEIS/DFMP) for the California, Oregon, and Washington Groundfish Fishery, and the Draft Environmental Impact Statement and Fishery Management Plan for the Jack Mackerel Fishery.

DATES: Written comments on both DEIS/DFMP's should be submitted on or before January 14, 1980.

Individuals or organizations wishing to comment on the DEIS/DFMP's may do so at public hearings to be held as follows:

December 14, 1979; Monterey, California.
December 14, 1979; Astoria, Oregon.
December 15, 1979; North Bend, Oregon.
December 15, 1979; Long Beach, California.
December 17, 1979; Arcata, California.
January 5, 1980; Seattle, Washington.

Copies of the DEIS/DFMP's will be mailed to all individuals and organizations who have requested to be placed on the Council's Groundfish Plan and Jack Mackerel Plan mailing lists. In order to facilitate review of the plans by others, the Council will distribute copies to various local repositories in Washington, Oregon, and California. These include marine extension offices, local libraries, port offices, and State and Federal fishery agency offices. A limited number of copies of the DEIS/DFMP's will be available at the Council office for those currently not on the mailing list as well as at the public hearings listed above.

ADDRESSES: Written comments should be sent to the following individuals—
(a) Groundfish DEIS/DFMP

Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201.

(or)

Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Ave., North, Seattle, Washington 98109.

(b) Jack Mackerel DEIS/DFMP

Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201.

(or)

Gerald V. Howard, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

HEARING LOCATIONS:

December 14, 1979—Monterey, 7:30 p.m., Astoria Middle School, 1100

Klaskanine Avenue, Astoria, Oregon.

December 14, 1979—Monterey, 7:30 p.m., Ferrante Room, One Portola Plaza, Monterey, California.

December 15, 1979—North Bend, 2:00 p.m., Timber Country, 3491 Broadway, North Bend, Oregon.

December 15, 1979—Long Beach, 2:00 p.m., California State University, 1212 Bellflower Boulevard, Long Beach, California.

December 17, 1979—Arcata, 7:30 p.m., Ramada Inn, 4975 Valley West Boulevard, Arcata, California.

January 5, 1980—Seattle, 10:00 a.m., Georgian Room, Olympic Hotel, Fourth and Seneca Street, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:

Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, Telephone: (503) 221-6352.

SUPPLEMENTARY INFORMATION: Hearings will be held concurrently on the Groundfish Plan and the Jack Mackerel Plan because the fisheries for these species are interrelated. For the past several years, the offshore foreign trawl fishery has been regulated by a preliminary fishery management plan, and the domestic fishery by State regulations.

The Council proposes that the foreign and domestic groundfish and jack mackerel fisheries in the 3-200 mile zone off Washington, Oregon, and California be managed beginning in 1981 on the basis of fishery management plans implemented by Federal regulations.

Dated: November 19, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36204 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-22-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Agency Designation of the Little Rock Grain Exchange Trust, North Little Rock, Ark., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Little Rock Grain Exchange Trust, North Little Rock, Arkansas, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Little Rock Grain Exchange Trust (the "Agency"), 600 Olive Street, Building B, North Little Rock, Arkansas 72119, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS), has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency

was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Little Rock Grain Exchange. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

In Texas, the following counties: Bowie and Cass.

In Arkansas, the area shall be:

Bounded: on the North by the northern Arkansas State line from the western Marion County line east to the eastern Clay County line;

Bounded: on the East by the following counties: Clay, Greene, Lawrence, Jackson, Woodruff, Monroe, Arkansas, Desha, and Chicot.

Bounded: on the South by the southern Arkansas State line from the eastern Chicot County line west of the western Miller County line; and

Bounded: on the West by the following counties: Miller, Little River, Howard, Pike, Clark, Hot Spring, Garland, Perry, Conway, Pope, Searcy, and Marion.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by Memphis Grain and Hay Association, Memphis, Tennessee: Lockhart-Thompson Grain Elevator in Augusta, Arkansas, in Woodruff County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Federal Register
Vol. 44, No. 227

Friday, November 23, 1979

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note)).

Done in Washington, D.C., on November 16, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-36025 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Designation of the Minot Grain Inspection, Inc., Minot, N. Dak., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Minot Grain Inspection, Inc., Minot, North Dakota, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Minot Grain Inspection, Inc. (the "Agency"), 601 3rd Avenue, S.W., Box B, Minot, North Dakota 58701, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the North Dakota State line east to State Route 14;

Bounded: on the East by State Route 14 south to State Route 5; State Route 5 east to State Route 60; State Route 60 southeast to State Route 3; State Route 3 south to State Route 200;

Bounded: on the South by State Route 200 west to State Route 41; State Route 41 south to U.S. Route 83; U.S. Route 83 northwest to State Route 200; State Route 200 west to U.S. Route 85; U.S.

Route 85 south to Interstate 94; Interstate 94 west to the North Dakota State line; and

Bounded: on the West by the North Dakota State line.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Farmers Elevator Company, Bottineau, North Dakota, in Bottineau County; Farmers Feed & Grain and Farmers Union, Harvey, North Dakota, in Wells County; Farmers Union, Rugby, North Dakota, in Pierce County; Farmers Elevator & Mercantile Co., and Coast Trading Company, Underwood, North Dakota, in McLean County; and Merle A. Larsen Elevator, Inc., Washburn, North Dakota in McLean County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant

to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on November 16, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-36024 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Designation of the Tri-State Grain Inspection Service, Inc., Cincinnati, Ohio, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Tri-State Grain Inspection Service, Inc., Cincinnati, Ohio, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: On December 18, 1978, a notice was published in the Federal Register (43 FR 58847) announcing the Cincinnati Board of Trade, Inc., Cincinnati, Ohio, had requested that its designation be cancelled and transferred to the Tri-State Grain Inspection Service, Inc. (the "Agency"), 1137 West Sixth Street, Cincinnati, Ohio 45203, owned and operated by Patrick G. Corrigan, Jr.

Interested persons were given until January 17, 1979, to submit written views and comments with respect to the requested transfer of designation and/or to apply for designation to operate as an official agency at Cincinnati, Ohio. No comments were received regarding the December 18, 1978, notice. No additional applications were received, other than the application from Mr. Corrigan, Jr.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on June 15, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Cincinnati Board of Trade, Inc. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

In Ohio, the area shall be:
Bounded: on the North by the northern Preble County line east; the western and northern Miami County lines east to State Route 296; State Route 296 east to State Route 560; State Route 560 south to the northern Clark County line; the Clark County line east to U.S. Route 68;
Bounded: on the East by U.S. Route 68 south to U.S. Route 22; U.S. Route 22 east to State Route 73; State Route 73 southeast to the eastern Adams County line; the eastern Adams County line;
Bounded: on the South by the southern Adams, Brown, Clermont, and Hamilton County lines;
Bounded: on the West by the western Hamilton, Butler, and Preble County lines.

In Kentucky, the area shall include the following counties: Bath, Boone, Bourbon, Bracken, Campbell, Clark, Fleming, Gallatin, Grant, Harrison, Kenton, Lewis (west of State Route 59), Mason, Montgomery, Nicholas, Owen, Pendleton, and Robertson.

In Indiana, the area shall include the following counties: Dearborn, Decatur, Franklin, Ohio, Ripley, Rush (south of State Route 244), and Switzerland.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the

Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on November 16, 1979.

L. E. Bartlett,
Administrator.

[FR Doc. 79-36023 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Designation of the Gibson City Grain Inspection Department, Gibson City, Ill., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Gibson City Grain Inspection Department, Gibson City, Illinois, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Gibson City Grain Inspection Department (the "Agency"), Routes 47 and 9, P.O. Box 20, Gibson City, Illinois 60936, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official agency inspection services not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Livingston County line from the ICG Railroad line;

Bounded: on the East by the Livingston County line; the Ford County line; the southern Ford County line west to Interstate 57; Interstate 57 south to State Route 136;

Bounded: on the South by State Route 136 west to a point 10 miles west of the eastern McLean County line; and

Bounded: on the West by a straight line running north and south from this point north through Arrowsmith to Pontiac; the ICG Railroad line from

Pontiac northeast to the northern Livingston County line.

In addition, the following location which is outside of the foregoing contiguous geographic area and is to be serviced by the Agency shall be considered as part of the Agency's geographic area: Farm Service, Arrowsmith, Illinois, in McLean County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on November 16, 1979.

L. E. Bartlett,
Administrator.

[FR Doc. 79-36022 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Designation of the Grain Inspection, Inc., Jamestown, North Dakota, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Grain Inspection, Inc., Jamestown, North Dakota, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Grain Inspection, Inc. (the "Agency"), 217 4th Avenue, N.W., Box 1652, Jamestown, North Dakota 58401, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on March 1, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note: Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by Interstate 94 to U.S. Route 85; U.S. Route 85 north to State Route 200; State Route 200 east to U.S. Route 83; U.S. Route 83 southeast to State Route 41; State Route 41 north to State Route 200; State Route 200 east to State Route 3; State Route 3 North to U.S. Route 52; U.S. Route 52 southeast to State Route 15; State Route 15 east to U.S. Route 281; U.S. Route 281 south to Foster county; the northern Foster County line; the northern Griggs County line east to State Route 32;

Bounded: on the East by State Route 32 south to State Route 45; State Route 45 south to State Route 200; State Route 200 west to State Route 1; State Route 1 south to the Soo Railroad line; the Soo Railroad line southeast to Interstate 94; Interstate 94 west to State Route 1; State Route 1 south to Dickey County line;

Bounded: on the South by the southern Dickey County line west to U.S. Route 281; U.S. Route 281 north to the Lamoure County line; the southern Lamoure County line; the southern Logan County line west to State Route 13; State Route 13 west to U.S. Route 83; U.S. Route 83 south to the Emmons County line; the southern Emmons County line; the southern Sioux County line west to State Route 49; State Route 49 north to State Route 21; State Route 21 west to the Chicago-Milwaukee-St. Paul and Pacific Railroad line; the Chicago-Milwaukee-St. Paul and Pacific Railroad line northwest to State Route 22; State Route 22 south to U.S. Route 12; U.S. Route 12 west-northwest to the North Dakota State line; and
Bounded: on the West by the western North Dakota State line north to Interstate 94.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Farmers Coop Elevator, Fessenden, North Dakota, in Wells County; Farmers Union Elevator and Manfred Grain, Manfred, North Dakota, in Wells County; and Norway Spur and Oakes Grain, Oakes, North Dakota, in Dickey County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

Aberdeen Grain Inspection, Inc., Aberdeen, South Dakota; Farmers Elevator, Guelph, North Dakota, in Dickey County; Farmers Equity Exchange and Sun Grain, New England, North Dakota, in Hettinger County; and Regent Grain Company and Regent

Equity, Regent, North Dakota, in Hettinger County; and

Minot Grain Inspection, Inc., Minot, North Dakota; Farmers Elevator & Mercantile Co., and Coast Trading Company, Underwood, North Dakota, in McLean County; and Merle A. Larson Elevator, Inc., Washburn, North Dakota, in McLean County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act. This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on November 16, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-38021 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Designation of the Memphis Grain and Hay Association, Memphis, Tenn., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Memphis Grain and Hay Association, Memphis, Tennessee, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J.T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Memphis Grain and Hay Association (the "Agency"), 1390 Channel Avenue, P.O. Box 13302, Memphis, Tennessee 38113, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Memphis Grain and Hay Association. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

In Arkansas, the area shall include the following counties: Craighead, Crittenden, Cross County, Lee County, Mississippi, Phillips, Poinsett, and St. Francis.

In Tennessee, the area shall include the following counties: Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Lauderdale, Madison, McNairy, Shelby, and Tipton.

In addition, the following location which is outside of the foregoing contiguous geographic area and is to be serviced by the Agency shall be considered as part of the Agency's geographic area: Lockhart-Thompson Grain Elevator, Augusta, Arkansas, in Woodruff County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States

Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note)).

Done in Washington, D.C., on November 16, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-38020 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-02-M

Food Safety and Quality Service

Meat and Poultry Inspection Program Covering Imported Products; Solicitation of Comments

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice and solicitation of comments.

SUMMARY: This notice announces the completion and availability of a task force report on the meat and poultry inspection system covering imported products. The report was prepared at the direction of the Administrator of the Food Safety and Quality Service (FSQS) and constitutes a review of the program by which the agency assures that imported meat and poultry products are not adulterated or misbranded. The Department is soliciting the views of consumers, the industry, and other interested parties on this report, as well as recommendations for improvements in the inspection program.

DATE: All comments must be received on or before January 23, 1980.

ADDRESS: Written comments to Executive Secretariat, Attn: Annie Johnson, Room 3807, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments to Dr. K. O. McDougall, (202) 447-3473. See also comments under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Dr. K. O. McDougall, Assistant to the Deputy Administrator, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3473.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this notice. Written comments must be sent in duplicate to the office of the Executive Secretariat. Comments should bear a reference to the date and page number of this issue of the Federal Register. Any person desiring opportunity for oral presentation of views concerning this notice must make such request to Dr. K. O. McDougall so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

Background

The Administrator, Food Safety and Quality Service (FSQS), has initiated a number of systematic reviews in certain specified program areas. As part of this process, the Administrator determined that there was a definite need for review of the program by which FSQS assures that imported meat and poultry products are not adulterated or misbranded and are in compliance with the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Federal Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). Therefore, the Administrator appointed a Task Force to undertake this study, recognizing the need of FSQS to be responsive to consumer concerns, to assure that the products are not adulterated or misbranded, and to allocate financial and other resources in a manner which best serves program purposes.

Presently, FSQS establishes the eligibility of establishments in foreign countries to export meat and poultry and products thereof to the U.S., conducts periodic onsite reviews of certified foreign establishments, and inspects meat and poultry and products thereof at the point of entry. The Task Force has recommended a basic change of emphasis in this area. The present FSQS program relies heavily upon data obtained from actual inspection, including both port-of-entry inspection of meat and poultry and products thereof and onsite reviews of foreign establishments. The report recommends that greater emphasis be placed upon the overall monitoring of a foreign country's ability to develop and effectively enforce its own meat and poultry inspection programs. The Task Force suggests that better use of resources could be achieved by recognizing the responsibility of foreign

governments and producers to assure the quality of meat and poultry offered for import and the possibility of placing the burden of proof of compliance on those parties.

Details of the Task Force study and resultant recommendations have been published in a report titled "Task Force Report on Imported Meat and Poultry Inspection Program." Section I of the report outlines the legal basis and responsibilities of the program, as well as describing the amounts and types of product the program regulates. Section II provides a detailed discussion of current import inspection activities. Section III defines and discusses the major risks most frequently associated with meat and poultry products. These risks include (1) biological residues, (2) diseases, (3) misuses of food additives, (4) gross contamination, (5) microscopic contamination, and (6) economic fraud. Section IV covers several specific areas in which improvements might be necessary and Section V presents specific suggestions for dealing with these problem areas.

Copies of this report are available without charge from the Office of Information, Room 3606, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

The Department encourages all interested persons to review the report and submit comments within 60 days regarding its overall content, as well as comments regarding the specific recommendations contained therein. The Department will then carefully consider comments on these issues in deciding if regulatory changes should be proposed.

Done at Washington, DC, on: November 19, 1979.

Donald L. Houston,
Administrator, Food Safety and Quality Service.

[FR Doc. 79-36147 Filed 11-21-79; 8:45 am]
BILLING CODE 3410-02-M

Forest Service

Forest Plan, Toiyabe National Forest Reno, Nev.; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, and 36 CFR 219.7 pertaining to National Forest System Land and Resource Planning, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the proposed Forest Plan for the Toiyabe National Forest.

A range of alternatives will be considered and evaluated. The selected alternative will guide the management of the Forest, establish management standards and guidelines, and will determine the resource management practices.

Early in the environmental analysis, Federal, State, and local agencies, organizations, and individuals who may be interested in or affected by the decision will be invited to participate in the scoping process, which includes: (a) identification of those issues to be addressed; (b) identification of those issues to be analyzed in depth; and (c) eliminate from detailed study the issues which are not significant, or which have been covered by prior environmental review.

To accomplish this, an informal public meeting will be held at the Pioneer Inn, 221 South Virginia, Reno, Nevada, from 1:30-4:00 p.m. and 7:30-9:30 p.m., November 27, 1979. Open houses will be held at the following locations:

Bridgeport Ranger's Office—1:30-4:00 p.m./
7:30-9:30 p.m. (November 27, 1979)
Austin Ranger's Office—1:30-4:00 p.m./7:30-
9:30 p.m. (November 27, 1979)
Tonopah Ranger's Office—1:30-4:00 p.m./
7:30-9:30 p.m. (November 27, 1979)
Las Vegas Ranger's Office—1:30-4:00 p.m./
7:30-9:30 p.m. (November 27, 1979)

Frank Ferrarelli, Forest Supervisor, Toiyabe National Forest, is the responsible official. Questions about the proposed actions and Environmental Impact Statement should be directed to Terry Randolph, Forest Planner, in the Forest Supervisor's Office (702-784-5331).

It is anticipated the analysis will take approximately three (3) years. The draft Environmental Impact Statement is scheduled for completion by July 1982, with a three-month review period, and the final Environmental Impact Statement is scheduled for filing in April 1983.

Written comments and suggestions concerning this analysis should be sent to Frank Ferrarelli, Forest Supervisor, Toiyabe National Forest, 111 North Virginia, Reno, Nevada 89501. To be of assistance, comments should be received by December 31, 1979.

Dated: November 14, 1979.

Vern Hamre,

Regional Forester.

[FR Doc. 79-36109 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-11-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on December 13, 1979 from 10 a.m. to 6 p.m. and on December 14, 1979 from 8:30 a.m. to 12:30 p.m. at 2201 C Street NW., Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of November 15, 1979 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: November 16, 1979.

Charles R. Oleszycki,

Advisory Committee Management Officer.

[FR Doc. 79-36061 Filed 11-21-79; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Docket 37019]

Cascade Airways, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 11, 1979, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of: (1) Proposed

statements of issues; (2) Proposed stipulations; (3) Proposed requests for information and for evidence; (4) Statements of positions; and (5) Proposed procedural dates. The Bureau of Domestic Aviation will circulate its material on or before November 28, 1979, and the other parties on or before December 5, 1979. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., November 16, 1979.

Richard M. Hartsock,

Administrative Law Judge.

[FR Doc. 79-36071 Filed 11-21-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Michigan Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) will convene at 10:00 a.m. and will end at 4:00 p.m., on December 15, 1979, at City Hall, 1315 South Washington, Saginaw, Michigan.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss FY '80 project planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 19, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-36084 Filed 11-21-79; 8:45 am]

BILLING CODE 6335-01-M

North Carolina Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Carolina Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. and will end at 4:30 p.m., on December 17, 1979, at the Hilton Hotel, Room G & H, 830 West Market Street, Greensboro, North Carolina 27402.

Persons wishing to attend this open meeting should contact the Committee

Chairperson or the Southern Regional Office of the Commission, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303.

The purpose of this meeting is program planning for fiscal year 1980; and review of the Greensboro shooting by the Ku Klux Klan.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 19, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-36085 Filed 11-21-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Semiconductor Technical Advisory Committee; Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1978), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will be held on Wednesday, December 12, 1979, at 9:30 a.m. in Room 6802, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda had four parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.

3. Finalize Committee program for 1979-80.

Executive Session

4. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof, was published in the Federal Register on December 21, 1978 (43 FR 59537).

Copies of the minutes of the open portion of the meeting can be obtained by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: November 19, 1979.

Kent Knowles,

Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 79-36148 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket No. S-654]

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application by American Petrofina, Inc.

Notice is hereby given that American Petrofina, Incorporated (Petrofina) has applied for written permission under section 506 of the Merchant Marine Act of 1936, as amended, for the temporary employment of the U.S. flag tanker Brooklyn in the carriage of crude oil in the domestic trade on two consecutive voyages from Alaska to the U.S. Gulf by way of the southern tip of South America. The Brooklyn is of 225,280 deadweight tons and was built with construction-differential subsidy (CDS). The vessel is under long-term charter to Petrofina from East River Steamship Corporation.

Petrofina states that it has a requirement to transport approximately 1.4 million barrels of crude oil from storage facilities in Valdez, Alaska prior to the end of December 1979. Because of an excess inventory problem at the Petrofina refinery at Port Arthur, Texas, Petrofina states that its only reasonable course of action is to ship the Alaskan oil around the southern tip of South America into the Gulf of Mexico. Petrofina advises that this extended itinerary will allow its Port Arthur refinery time to work off its excess inventory, making available adequate storage space for the Alaskan crude. At present, the loading of the vessel is scheduled for December 15-20, 1979.

It is Petrofina's belief that no non-CDS vessels of suitable size to meet the foregoing transportation requirement are available. The domestic movement requested by Petrofina does not coincide with either the Valdez/U.S. west coast or Valdez/Panama Canal trades specifically set forth in Part 250 of Chapter II, Title 46, of the Code of Federal Regulations. However, the Maritime Administration believes it is appropriate to provide an opportunity for interested parties to comment on the application.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration,

Room 3099-B, Department of Commerce Building, 14th and E Streets, NW, Washington, D.C. 20230.

Any person, firm, or corporation who desires to protest such application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received on or before November 30, 1979. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidies (CDS)).

By order of the Assistant Secretary for Maritime Affairs.

Dated: November 16, 1979.

Robert J. Patton, Jr.,
Secretary.

[FR Doc. 79-35970 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

DATES: The meeting will convene on Tuesday, December 4, 1979, at 1:30 p.m., and adjourn at 5 p.m.; reconvene on Wednesday, December 5, 1979, at 8:30 a.m., and adjourn at 5 p.m., and on Friday, December 6, 1979, reconvene at 8:30 a.m., and adjourn at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place in the Ballroom of the Mobile Hilton Inn, 3101 Airport Boulevard, Mobile, Alabama.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609. Telephone: (813) 228-2815.

Dated: November 19, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36196 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Herring Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Herring Subpanel which will meet to review historical data on the herring fishery.

DATES: The meeting will convene on Tuesday, December 11, 1979, at 1 p.m., and adjourn at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Northwest and Alaska Fishery Center, 2725 Montlake Boulevard East, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201 Telephone: (503) 221-6352.

Dated: November 19, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36195 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Pink Shrimp Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Pink Shrimp Subpanel which will meet to discuss the second draft of the Pink Shrimp Fishery Management Plan.

DATES: The meeting will convene on Wednesday, December 12, 1979, at 9 a.m., and adjourn at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Sheraton Renton Inn, 800 Rainier Avenue, South, Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: November 19, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36197 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Levels for Certain Wool Apparel Products From Malaysia

November 19, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels for men's and women's wool sweaters in Categories 445 and 446, exported from Malaysia during the agreement year which began on January 1, 1979. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: By an exchange of letters dated October 4 and 12, 1979, the Government of the United States and Malaysia have agreed further to amend the Bilateral Cotton, Wool and Man-Made Fiber Textile agreement of May 17 and June 18, 1978, as amended to increase the designated consultation level previously established for wool textile products in Category 446 to 14,113 dozen. The United States government has also agreed to increase the minimum consultation level for wool textile products in Category 445 to 10,080 dozen. Both increases will apply to the agreement year which began on January 1, 1979.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Norman Duckworth, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 3, 1979, there was published in the Federal Register (44 FR 930), a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements

to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In accordance with the terms of a further amendment to the bilateral agreement, the United States Government has agreed to increase the levels of restraint for Categories 445 and 446 during the agreement year which began on January 1, 1979 and extends through December 31, 1979.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.
November 19, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 27, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 23, 1979, and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 445 and 446, produced or manufactured in Malaysia, in excess of the following levels of restraint:

Category:	Amended 12-month level of restraint ¹
445.....	10,080 doz.
446.....	14,113 doz.

¹ The levels of restraint have not been adjusted to reflect any imports after December 31, 1978.

The actions taken with respect to the Government of Malaysia and with respect to imports of wool textile products from Malaysia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs

exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-36065 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from Procurement List.

SUMMARY: This action deletes from Procurement List 1979 a commodity produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 23, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On September 28, 1979, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (44 FR 55920) of proposed deletion from Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from Procurement List 1979:

Class 7920

Brush, Scrub (Kitchen-Vegetable), 7920-00-324-2746.

C. W. Fletcher,
Executive Director.

[FR Doc. 79-36060 Filed 11-21-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 a service to be provided by and a commodity to be

produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 23, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On August 24, 1979 and September 21, 1979, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (44 FR 49711 and 44 FR 54750) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the service and the commodity listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service and commodity are hereby added to Procurement List 1979:

Sic 7349

Janitorial Service, Federal Bldg, 275 Peachtree Street, U.S. Courthouse, Forsyth & Walton Sts., Atlanta, Georgia.

Class 7210

Pillow, Bed (Feather), 7210-00-753-6228.

C. W. Fletcher,
Executive Director.

[FR Doc. 79-36059 Filed 11-21-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1979 commodities to be produced and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 26, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to

procure the commodities and the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and the service to Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 8115

Box, Shipping, Reusable with Cushioning

8115-00-787-2142, 8115-00-787-2146, 8115-00-787-2147, 8115-00-787-2148, 8115-00-101-7638, 8115-00-101-7647, 8115-01-019-4084, 8115-01-057-1243, 8115-01-057-1244, 8115-01-057-1245, 8115-01-019-4085.

Class 7110

Credenza, 7110-00-762-5513.

Sic 7349

Janitorial Service, Federal Office Building, Cass and Stephens Streets, Roseburg, Oregon 97470.

C. W. Fletcher,
Executive Director.

[FR Doc. 79-36058 Filed 11-21-79; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent to Prepare a Draft Environmental Impact Statement

In accordance with Section 805b of the proposed Military Construction Authorization Act for Fiscal year 1980, the United States Air Force is planning to prepare a Draft Environmental Impact Statement (EIS) on the proposed closure of Goodfellow Air Force Base, Texas and the consolidation of cryptologic training at Keesler AFB, Mississippi and Corry Station, Florida. The purpose for this proposed action is to improve the effectiveness and economic efficiency of Department of Defense cryptologic training.

An earlier announcement of the proposed Goodfellow AFB closure was made on April 26, 1978. Since this date, close coordination has been maintained with interested governmental agencies, concerned groups, and individuals. Local technical consultation meetings were held in San Angelo, Texas and Biloxi, Mississippi on September 6, 1978 and September 20, 1978, respectively. These meetings provided public inputs to two studies prepared by the Air Force on the proposed closure: (1) Formal environmental assessment, (2) local economic consequences study. The public has commented on these two studies and a public meeting was held on them in San Angelo, TX on September 14, 1979. Information from these earlier studies and public reviews

will be used in scoping and preparing the Draft EIS.

All interested federal, state, and local agencies, as well as the general public, will be afforded the opportunity to participate in the scoping process to identify the environmental issues that should be considered in the Draft EIS. The Air Force will offer the affected areas of the San Angelo, Texas and Biloxi, Mississippi, the opportunity to host scoping meetings in early December 1979. The impact on Pensacola, Florida is very minor and does not justify such a meeting. Notice of date, time, and place of scoping meetings will be announced in the news media in the areas where the meetings will be held.

For further information concerning the Draft EIS and scoping meetings contact: Lieutenant Colonel Gerald T. Dantzer, HQ ATC/DEV, Randolph AFB, TX 78148, Telephone: (512) 852-6352.

Darwin W. Berg,

Chief, Special Projects Branch, Pentagon Administrative Support Division, 1947 Administrative Support Group.

[FR Doc. 79-35984 Filed 11-21-79; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Intent To Prepare an Environmental Impact Statement for Naval Weapons Center, China Lake, Calif., on a Management Plan for Control of Non-Native Feral (Wild Free-Roaming) Burros "Equus Asinus" on Lands Administered by the Naval Weapons Center

The Naval Weapons Center, China Lake, California, will prepare an Environmental Impact Statement on a management plan for control of non-native feral (wild free-roaming) burros (*Equus asinus*) on lands administered by the Commander, Naval Weapons Center.

The purpose of this action is the development of a long range program of management and control for feral burros on the Naval Weapons Center. Excessively high populations of feral burros on the desert lands occupied by the Center are damaging costly test and evaluation equipment, and creating safety hazards on public roads and highways as well as the Navy access roads. Additionally, the extent of environmental damage caused by large number of burros around springs and watering places in detrimental to the welfare of native vegetation and wildlife. The competition between native species and burros for habitat is a matter of serious concern in the exercise

of good stewardship over the lands and the resources for which the Naval Weapons Center is responsible.

The Environmental Impact Statement will consider the following alternatives: a management and control program compatible with the welfare of native species, available water and the carrying capacity of the habitat; adoption of burros by interested private citizens; total elimination of feral burros from Naval Weapons Center land; other methods of population control; and no project.

A public scoping meeting will be held on the Environmental Impact Statement to determine the issues of concern and to identify significant issues related to the proposed action. This meeting will be held at 7:00 p.m. on December 12, 1979, in the Lecture Center at Burroughs High School in Ridgecrest, California.

The meeting is open to the public for comment on the proposed action. Comments should summarize the viewpoint of the speaker and will be limited to five (5) minutes per speaker. Detailed comments may be submitted in writing for consideration. Written comments may be sent to the address shown below. For information concerning the proposed Environmental Impact Statement contact:

Naval Weapons Center, Attention: Public Works Officer, Code 26309, China Lake, California 93555, Telephone No. (714) 939-3411, extensions 382, 383, or 384.

P. B. Walker,

Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-35978 Filed 11-21-79; 8:45 am]

BILLING CODE 3910-71-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration Graner Oil Co.; Action Taken on Consent Order

October 12, 1979.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: September 25, 1979.

COMMENTS BY: December 24, 1979.

ADDRESS: Send comments to: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111; Phone (415) 556-7200.

SUPPLEMENTARY INFORMATION: On September 25, 1979, the Office of Enforcement of the ERA executed a Consent Order with Graner Oil Company ("Graner") of Los Angeles County, California. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Graner wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Graner effective as of the date of its execution.

I. Consent Order

Graner, with its home office in Los Angeles County, California, is engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and Graner entered into a Consent Order to resolve certain actions which could be brought by ERA as a result of its audit of Graner production and sale of crude oil, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through May 31, 1979.

2. DOE alleges that Graner charged prices for crude oil produced from a certain property during the period June 3, 1975 through November 30, 1977 in excess of the maximum allowable to its customers in violation of the ceiling prices prescribed by 10 CFR 212.73 and 10 CFR 212.74.

3. Graner, without admitting to any violation of the DOE regulations, agrees to refund to the DOE \$77,536.22 plus interest thereon. Interest through date of execution totals \$13,969.17.

4. The total refund was paid by Graner upon execution of the Consent Order.

5. Graner paid \$4,000.00 upon execution of the Consent Order in settlement of potential civil penalties.

6. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

Refunded overcharges in the total amount described in I.3 in the form of a certified check made payable to the United States Department of Energy will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transaction described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Jack Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 556-7200.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Graner Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 24, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington D.C., on the 15th day of November, 1979.

Robert D. Gerring,

Director, Program Operations Division,
Economic Regulatory Administration.

[FR Doc. 79-38035 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-096]

ASARCO, Inc.; Notice of Certification of Eligible Use of Natural Gas To Displace Fuel Oil

ASARCO, Inc., (ASARCO) filed an application for certification of an eligible use of natural gas to displace fuel oil at its smelters in Hayden, Arizona and El Paso, Texas, with the Administrator of the Economic Regulatory Administration (ERA), pursuant to 10 CFR Part 595 on September 26, 1979. Notice of that application was published in the Federal Register (44 FR 58595, October 10, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed ASARCO's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that ASARCO's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on November 14, 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum
Operations, Economic Regulatory
Administration.

**Appendix I.—Certification by the Economic
Regulatory Administration to the Federal
Energy Regulatory Commission of the Use of
Natural Gas for Fuel Oil Displacement by the
ASARCO, Inc.**

[ERA Docket No. 79-CERT-096]

Application for Certification

Pursuant to 10 CFR Part 595, ASARCO, Inc. (ASARCO) filed an application for certification of an eligible use of 735,000 Mcf of natural gas at its smelter in Hayden, Arizona and 630,000 Mcf of natural gas at its smelter in El Paso, Texas, with the Administrator of the Economic Regulatory Administration (ERA) on September 26, 1979. The application states that the eligible seller of the gas is Esperanza Transmission Company (Esperanza) and that the gas will be transported by the El Paso Natural Gas Company. The application and supplemental information indicate, among other things, that the use of natural gas will displace approximately 5,578,650 gallons of No. 2 diesel fuel oil (0.4 percent sulfur) at the Hayden smelter and 4,781,700 gallons of No. 2 diesel fuel oil at the El Paso smelter and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of approximately 735,000 Mcf of natural gas at the Hayden smelter and 630,000 Mcf of natural gas at the El Paso smelter purchased from Esperanza is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 10 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volumes of natural gas at the same facilities purchased from the same eligible seller.

Issued in Washington, D.C., on November 14, 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum
Operations, Economic Regulatory
Administration.

November 14, 1979.

Re: ERA Certification of Eligible Use ERA
Docket No. 79-CERT-096 ASARCO, Inc.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory
Commission, 825 North Capital Street,
N.E., Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification

of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the Federal Register and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254-8202. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-096.

Sincerely,

Doris J. Dewton,
Assistant Administrator, Office of Petroleum
Operations, Economic Regulatory
Administration.

Enclosure.

[FR Doc. 79-36152 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the October 1 Through December 31, 1979, Allocation Period Correction

The following corrections are made in the Appendix to the Allocation Notice reflecting the export levels of Canadian light crude oil and Canadian heavy crude oil for the month of November 1979, (44 FR 62931, November 1, 1979).

The Murphy: Superior, Wisconsin, refinery priority designation listed as II should instead be listed as (Priority) I.

In the Nominations—Heavy column, the Total Priority II figure, incorrectly listed as 68,000, should instead be 73,000. The Total I and II figure, incorrectly listed as 202,000, should instead be 207,000.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before December 24, 1979.

Issued in Washington, D.C. on November 19, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum
Operations, Economic Regulatory
Administration.

[FR Doc. 79-36154 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the October 1 Through December 31, 1979, Allocation Period

In accordance with § 214.32(c) of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect the export levels of Canadian light crude oil and Canadian heavy crude oil for the month of December 1979.

The Canadian National Energy Board (NEB) recently announced that, beginning in October 1979, exports of crude oil from Canada would be authorized on a monthly basis, instead of a quarterly basis. Consequently, the volumes listed in the Allocation Notice issued on September 21, 1979 (44 FR 55927, September 28, 1979), and in the Supplemental Notice issued on October 17, 1979 (44 FR 61085, October 23, 1979), represented only volumes to be exported in October. Volumes listed in the Supplemental Notice issued on October 23, 1979 (44 FR 62930, November 1, 1979), represented only volumes to be exported in November. This Supplemental Notice lists only Canadian crude oil volumes which will be exported in the month of December.

The issuance of Canadian crude oil rights for December 1979 to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) the name of each refiner and other firm to which rights have been issued; (2) the base period volume¹ of Canadian crude oil for each refiner's first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each refiner's first or second priority refinery; (4) the nominations to ERA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The nomination of Murphy Oil Corporation for heavy crude oil remains at the level to which it was reduced for November. The nomination of Marathon Oil Company for heavy crude oil, which

¹Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis.

was reduced only for the month of November, has been restored to the level originally submitted for the October-December period.

The NEB has formally advised ERA that the total volume of Canadian light crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the month of December 1979 will be 50 barrels/day (B/D), all of which is operationally constrained through the Union Oil pipeline from the Reagan field in Canada to the Thunderbird refinery (second priority) at Cut Bank, Montana. The total volume of Canadian heavy crude oil authorized for export and subject to allocation under Part 214 will be 123,970 B/D for the month of December.

Pursuant to 10 CFR 214.35, ERA is continuing to give effect to the operational constraint regarding the Thunderbird refinery in the revised

issuance of Canadian crude oil rights for the month of December set forth in the Appendix. The Canadian light and heavy crude oil rights were computed in accordance with the formulas set forth in the Allocation Notice issued on September 21, 1979, (44 FR 55927, September 28, 1979).

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before December 24, 1979.

Issued in Washington, D.C. on November 19, 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum
Operations, Economic Regulatory
Administration.

Appendix.—Canadian Allocation Program Rights—December 1979

Refiner/refinery	Priority	Base period volumes			Nominations		Allocation	
		Total Canadian runs	Canadian light crude oil	Canadian heavy crude oil	Light	Heavy	Light	Heavy
Amoco:								
Whiting, Ind.	II	26,751	25,560	1,191	0	0	0	0
Casper, Wyo.	II	2,991	2,991	0	0	0	0	0
Mandan, N.D.	II	8,995	8,995	0	0	0	0	0
Sugar Creek, Mo.	II	317	317	0	0	0	0	0
Arco: Cherry Point, Wash.	II	34,225	34,225	0	0	0	0	0
Ashland:								
Buffalo, N.Y.	II	36,752	32,033	4,719	0	0	0	0
Findlay, Ohio	II	2,198	33	2,165	0	0	0	0
St. Paul Park, Minn.	I	14,707	13,127	1,580	40,000	31,000	0	31,000
Clark: Blue Island III	II	18,764	18,764	0	0	0	0	0
Consumers Power:								
Essexville, Mich.	I	13,872	13,872	0	0	0	0	0
Marysville, Mich.	I	27,306	27,306	0	17,500	0	0	0
Conoco:								
Billings, Mont.	I	25,994	25,994	0	25,994	0	0	0
Denver, Colo.	II	4,639	4,639	0	4,638	0	0	0
Ponca City, Ok.	II	1,188	1,188	0	1,188	0	0	0
Wrenshall, Minn.	I	20,651	20,651	0	20,651	0	0	0
CRA:								
Coffeyville, Kan.	II	318	318	0	0	0	0	0
Phillipsburg, Kan.	II	173	173	0	0	0	0	0
Scottsbluff, Neb.	II	401	401	0	0	0	0	0
Crystal: Carson City, Mich.	II	1,104	1,104	0	0	0	0	0
Dow Chemical, U.S.A.: Bay City, Mich.	II	2,767	2,767	0	0	0	0	0
Energy Cooperative: East Chicago, Ind.	II	10,804	10,267	537	0	0	0	0
Exxon: Billings, Mont.	I	15,908	15,908	0	16,000	0	0	0
Farmers Union: Laurel, Mont.	I	13,439	13,439	0	13,500	0	0	0
Gladieux: Fort Wayne, Ind.	II	774	774	0	0	0	0	0
Gulf: Toledo, Ohio	II	13,253	13,253	0	0	0	0	0
Husky:								
Cheyenne, Wyo.	II	4,865	4,865	0	0	0	0	0
Cody, Wyo.	II	806	806	0	0	0	0	0
Koch: Pine Bend, Minn.	I	144,383	133,996	10,387	0	95,000	0	174,383
Lake Superior D.P.: Ashland, Wisc.	I	125	125	0	0	0	0	0
Lakeside: Kalamazoo, Mich.	II	1,240	1,240	0	0	0	0	0
Laketon: Laketon, Ind.	II	141	10	131	0	5,000	0	71
Little America:								
Casper, Wyo.	II	2,248	2,248	0	0	0	0	0
Sinclair, Wyo.	II	709	709	0	0	0	0	0
Marathon: Detroit, Mich.	II	10,301	10,159	142	19,522	10,000	0	77
Mobil:								
Buffalo, N.Y.	II	24,995	24,995	0	0	10,975	0	0
Ferndale, Wash.	II	45,444	45,444	0	0	6,036	0	0
Joliet, Ill.	II	14,806	2,132	12,674	0	12,989	0	6,789
Murphy: Superior, Wisc.	I	25,625	20,253	5,372	10,000	8,000	0	8,000
NCRA: McPherson, Kan.	II	836	836	0	0	0	0	0
Pester Refining Co.: El Dorado, Kan.	II	196	196	0	0	0	0	0

Appendix.—Canadian Allocation Program Rights—December 1979—Continued

[Barrels per day]

Refiner/refinery	Priority	Base period volumes			Nominations		Allocation		
		Total Canadian runs	Canadian light crude oil	Canadian heavy crude oil	Light	Heavy	Light	Heavy	
Phillips:									
Great Falls, Mont.	II	1,222	1,222	0	0	0	0	0	
Kansas City, Kan.	II	3,352	3,105	247	0	0	0	0	
Rock Island: Indianapolis, Ind.	II	1,063	1,063	0	0	0	0	0	
Shell:									
Anacortes, Wash.	II	55,919	55,919	0	0	0	0	0	
Wood River, Ill.	II	8,673	8,673	0	0	0	0	0	
Sohio: Toledo, Ohio	II	29,182	29,182	0	15,000	10,000	0	0	
Sun: Toledo, Ohio	II	16,427	16,427	0	0	0	0	0	
Tenneco: Chalmette, La.	II	1,767	1,767	0	0	0	0	0	
Texaco:									
Anacortes, Wash.	II	41,229	41,229	0	0	0	0	0	
Casper, Wyo.	II	1,380	1,380	0	0	0	0	0	
Lockport, Ill.	II	1,244	1,244	0	0	0	0	0	
Texas American: West Branch, Mich.	II	2,011	2,011	0	0	0	0	0	
The Refinery Corp.: Commerce City, Colo.	II	174	174	0	0	0	0	0	
Thunderbird: Cut Bank, Mont.	II	554	554	0	50	0	50	0	
Total Petroleum: Alme, Mich.	II	9,727	9,020	6,707	0	8,000	0	3,650	
Union Oil of California: Lemont, Ill.	II	11,711	11,711	0	10,000	20,000	0	0	
United Refining: Warren, Pa.	II	9,817	9,789	128	0	0	0	0	
Wyoming Refining Co.: New Castle, Wyo.	II	676	676	0	0	0	0	0	
Total Priority I		202,010	154,071	47,939	143,645	134,000	0	113,383	
Total Priority II		469,029	440,588	28,441	50,398	83,000	50	10,587	
Total I and II		671,039	594,659	76,380	194,043	217,000	50	123,970	

¹Although nominations were made on a quarterly basis, allocations reflect the volumes of crude oil which must be exported from Canada only during the month of November.

²Adjusted.

³Adjustments to base period volumes not given effect in allocation of Canadian heavy crude oil.

⁴Operational constraint.

[FR Doc. 79-36155 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Advance Brake and Tune-Up Systems; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Advance Brake and Tune-Up Systems, 698 San Antonio Road, Palo Alto, CA 94303. This Proposed Remedial Order charges Advance Brake and Tune-Up Systems with pricing violations in the amount of \$4,698.26, connected with the resale of motor gasoline during the period August 1, 1979 through September 29, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. On or before December 7, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 15th day of November 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-36038 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Alcatraz Mobil; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Alcatraz Mobil, 6392 Telegraph Avenue, Oakland, CA. This Proposed Remedial Order charges Alcatraz Mobil with pricing violations in the amount of \$2,890.77, connected with the resale of motor gasoline during the period August 1, 1979 through September 19, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. On or before December 7, 1979, any

aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 15th day of November 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-36037 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[6450-01]

Aluminum Co. of America; Action Taken on Consent Order

Pursuant to 10 CFR 205.199], the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199(c), no Consent Order involving sums in excess of \$500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms.

On July 18, 1979, ERA published a notice of a Proposed Consent Order which was executed between Aluminum Company of America and the ERA (44 FR 41908, July 18, 1979). With that notice, and in accordance with 10 CFR 205.199] ERA invited interested persons to comment on the proposed Consent Order. Also, in that notice, and in accordance with 10 CFR 205.283, interested parties who believe that they have a claim to all or a portion of the refund were instructed to provide written notification to ERA.

One party submitted written notification of claim; however, no comments on the terms, conditions or procedural aspects of the Consent Order were received. Therefore, ERA has concluded that the Consent Order as executed between ERA and Aluminum Company of America is an appropriate resolution of the compliance proceedings described in the notice published July 18, 1979, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, on November 16, 1979. Issued in Dallas, Texas, this 6th day of November, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-36036 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Rich's Shell Service; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Rich's Shell Service, 1160 W. Yosemite, Manteca, CA 95336. This Proposed Remedial Order charges Rich's Shell Service with pricing violations in the amount of \$948.88, connected with the resale of motor gasoline during the period August 2, 1979 through October 15, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. On or before December 7, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 15th day of November 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-36039 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-28]

Cities Service Gas Co.; Application

November 15, 1979

Take notice that on October 5, 1979, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-28 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline, taps, measuring, regulating and appurtenant facilities to enable Applicant to render natural gas service to authorized local gas distribution companies for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to render natural gas service to authorized local distribution companies for resale to eleven rural customers pursuant to right-of-way easements and agreements and gas storage leases between Applicant and such customers.

Specifically, Applicant requests authorization to:

1. Tap Applicant's McLouth Storage 20-inch pipeline in Leavenworth County, Kansas, and construct facilities for delivery of natural gas to Bernie Barge.
2. Tap Applicant's Nowata 6-inch transmission pipeline in Washington County, Oklahoma, and construct facilities for delivery of natural gas to Jack Clark.
3. Tap Applicant's Southern Trunk 20-inch transmission pipeline in Labette County, Kansas, and construct facilities for delivery of natural gas to Kim Geren.
4. Tap Applicant's Jane 20-inch transmission pipeline in Newton County, Missouri, and construct facilities for delivery of natural gas to Jack F. Grant.
5. Tap Applicant's Knobnoster 3-inch transmission pipeline in Johnson County, Missouri, and construct facilities for delivery of natural gas to Glen Johnson.
6. Tap Applicant's Canadian-Blackwell 28-inch transmission pipeline in Kay County, Oklahoma, and construct facilities for delivery of natural gas to L. A. Meade.
7. Tap Applicant's Hugoton-Kansas City 26-inch transmission pipeline in Reno County, Kansas, and construct facilities for delivery of natural gas to Ralph Powell.
8. Tap Applicant's Plattsburg 6-inch transmission pipeline in Buchanan County, Missouri, and construct facilities for delivery of natural gas to Joanne Ray.
9. Tap Applicant's Ottawa-Tonganoxie 28-inch transmission pipeline in Douglas County, Kansas, and construct facilities for delivery of natural gas to Donna Irene Shirar.
10. Tap Applicant's Avar 6-inch gathering pipeline in Woods County, Oklahoma, and construct facilities for delivery of natural gas to Joe Shirley.
11. Tap Applicant's Falls City 12-inch Loop transmission pipeline in Atchison County, Kansas, and construct facilities for delivery of natural gas to Larry Wenger.

Applicant states that at the present time, it anticipates that the sale of gas to Bernie Barge, Joe Shirley and Larry Wenger would be made by Applicant on a direct sale basis, and the sale to the other eight customers would be made to The Gas Service Company for resale to these customers.

Applicant states that the estimated cost of construction of such facilities would be \$8,285, which cost Applicant would finance from treasury funds on hand. Applicant states the estimated annual sales for each rural domestic service would be 250 Mcf, for a combined annual total of 2,750 Mcf.

Applicant believes that the proposed sales would have no effect upon the operation of Applicant's pipeline system.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal

Energy Regulatory Commission, Washington, D.C. 20428, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35985 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-47]

Cities Service Gas Co.; Application

November 15, 1979

Take notice that on October 24, 1979, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma, 73125, filed in Docket No. CP80-45 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)), for a certificate of public convenience and necessity authorizing the construction, for a 12-month period commencing January 1, 1980, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous minor rearrangements which would not result in any material change in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed \$300,000. Applicant further states that the cost of the proposed facilities would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35986 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-48]

Cities Service Gas Co.; Application

November 15, 1979

Take notice that on October 24, 1979, Cities Service Gas Company

(Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-48 an application pursuant to Section 7(b) of the Natural Gas Act and Section 157.7(e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon, during the calendar year 1980, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and

approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35987 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-49]

Cities Service Gas Co.; Application

November 15, 1979

Take notice that on October 24, 1979, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-49 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon, for the calendar year 1980, and operate various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the instant application.

Applicant states that the total cost of the proposed construction and abandonment under Section 157.7(g) would not exceed \$3,000,000. Applicant requests waiver of the single project cost limitation in order to permit an increase from \$500,000 to \$600,000 for single projects. Such a request is predicated upon the climbing inflation which has eroded the usefulness of the budget authorization since the Commission last revised the cost limitations, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the

requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35988 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-35]

Colorado Interstate Gas Co.; Notice of Application

November 15, 1979.

Take notice that on October 18, 1979, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80-35 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the systemwide sale, transportation and exchange of natural gas with Panhandle Eastern Pipe Line Company (Panhandle), and for permission and approval to abandon service under existing natural gas exchange agreements between CIG and Panhandle, which the new agreement would supersede, all as more fully set forth in the application which is on file

with the Commission and open to public inspection.

CIG's authorization for systemwide sale, transportation and exchange of natural gas with Panhandle pursuant to a 20-year gas purchase, transportation and exchange agreement would be from such sources of supply as set forth in the agreement and as contained in the application. CIG states that it requests authorization for the transportation and exchange of gas from additional sources of supply that either party may develop in proximity to the other party's existing or future pipeline system. It is indicated that no more than 300,000 Mcf of gas per day would be transported by one party for the other.

CIG further states that any additional delivery points or facilities that would be required to connect the proposed supply sources would be constructed under budget-type authority, or pursuant to a separate certificate application, if necessary. CIG asserts that it would submit an annual tariff filing informing the Commission of any additions or deletions of delivery points. CIG states that this annual tariff filing would detail the delivery points for all gas sources covered under the agreement.

CIG states that the agreement further provides for the sale of up to 25 percent of the gas delivered to either party's transmission system, not including any gas acquired by CIG Exploration, Inc., or Pan Eastern Exploration Co., with the purchasing party to reimburse the seller for such cost.

CIG further states that it seeks permission and approval for the abandonment of service under the following three existing exchange agreements between CIG and Panhandle:

(1) A gas sales and exchange agreement dated July 13, 1972, as amended, filed in Docket No. CP73-44, order issued March 30, 1973. Companion Rate Schedule X-2 of CIG's FERC Gas Tariff, Original Volume No. 2.

(2) A gas purchase and exchange agreement dated April 22, 1977, filed in Docket No. CP77-405, order issued July 6, 1977. Companion Rate Schedule X-19 of CIG's FERC Gas Tariff, Original Volume No. 2.

(3) A gas purchase and transportation agreement dated December 3, 1976, filed in Docket No. CP77-423, Phase I order issued February 17, 1978, Phase II order issued June 5, 1979. Companion Rate Schedule X-25 of CIG's FERC Gas Tariff, Original Volume No. 2.

CIG asserts that all services provided under the three existing agreements would be provided in the systemwide agreement. CIG further states that no facilities constructed pursuant to the

above authorizations are to be abandoned.

CIG states that it and Panhandle would provide compensation for fuel usage and unaccounted for gas to the extent reasonably required, not to exceed 0.5 percent of the redelivery volumes.

It is further stated that if the exchange gas received by either party exceeds in total thermal content the exchange gas delivered by that party, then that party would pay a transportation rate equal to the product of the excess redelivery volumes and the delivering party's jurisdictional rates and charges for the cost of service.

It is stated that CIG and Panhandle would be able to receive gas which is distant from their existing pipeline systems without the need for major facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

states that no additional facilities are proposed herein.

the Natural Gas Policy Act of 1978 (NGPA). The Commission published

production are only temporary and are due to seasonal fluctuations.

and Northern dated June 29, 1979, Great Lakes

intervene or a protest in accordance

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35990 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-44]

Consolidated Gas Supply Corp.; Notice of Application

November 15, 1979.

Take notice that on October 24, 1979, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP80-44 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to render a transportation service for Transco pursuant to a transportation agreement between the parties dated October 17, 1979. The purpose of this service, Applicant states, would be to assist Transco in receiving into its system natural gas which Transco would purchase from Sulpetro Limited (Sulpetro) of Calgary, Alberta, Canada, and which would be delivered to Applicant for the account of Transco by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee).

According to Applicant, it would transport for Transco from (1) the existing interconnection of the systems of Tennessee and Applicant in Erie County, New York, known as the Marilla connection, and (2) other mutually agreed to existing interconnections between the systems of Tennessee and Applicant, up to 37,500 dekatherms (dt) equivalent of natural gas per day. Applicant would deliver to Transco on a best-efforts basis thermally equivalent quantities, less quantities used by Applicant in providing the transportation service, at the existing interconnection of Applicant's and Transco's systems in Clinton County, Pennsylvania (the Leidy connection).

Applicant states that it would charge Transco 13.4 cents per dt for all gas transported and would retain 2.66 percent of gas received for fuel use. Applicant states the transportation arrangement would terminate on November 1, 1984. Applicant further

states that no additional facilities are proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35990 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP80-54]

El Paso Natural Gas Co.; State of New Mexico, Section 108 NGPA Determination; Notice of Preliminary Finding

Issued: November 2, 1979.

On September 19, 1979, the Commission received a notice of determination from the New Mexico Oil Conservation Division that the San Juan 28-5 Unit Well No. 15 meets all the requirements of a "seasonally-affected" stripper well under § 271.804(d) of the Commission's regulations implementing

the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of this determination on October 5, 1979.

Section 271.804(d)(2) provides that if at any time after a final determination of stripper well status the operator acquires production reports for a period of 24 consecutive months which demonstrate that the well is "seasonally affected," a petition may be filed with the jurisdictional agency for a designation as a seasonally affected well. The designation of a stripper well as "seasonally affected" insures the seller exemption from the "continuing qualification" filing requirements of § 271.805, unless the rate of production exceeds an average of 60 Mcf per production day for a 12-month period. Accordingly, if the well qualifies as "seasonally affected" the seller's right to continue to collect the section 108 price does not terminate when the well exceeds an average 60 Mcf per production day during any 90-day production period.

This well was classified as a stripper well by the Commission (JD79-780) but later has produced more than an average of 60 Mcf per production day during a 90-day production period. The applicant claims that the production in excess of 60 Mcf is due to seasonal fluctuations.

Section 271.804 (d)(1) provides that in order to qualify for a designation as "seasonally affected," a well's 24-month production reports must demonstrate that the well is subject to seasonal fluctuations "which temporarily increase average production above 60 Mcf per production day" and the jurisdictional agency must find that the seasonal fluctuations "have not increased and cannot reasonably be expected to increase production levels above an average of 60 Mcf per production day for any 12-month period." In addition, § 274.206 (d)(4) requires that the applicant must file "a description of the nature of the seasonal fluctuations as inferred from the data supplied."

With the petition, El Paso submitted the wells production records for the 24 months from July, 1977, through June, 1979. These records demonstrate substantial increases in production during May and June of 1979 which are inconsistent with the production variations in the preceding 22 months. Moreover, the company did not specifically identify the cause of the production increases during May and June. Accordingly, the Commission cannot find substantial evidence in the record that the large increases in

production are only temporary and are due to seasonal fluctuations.

The Commission makes a preliminary finding, under 18 C.F.R. §§ 275.202 (a)(1)(i) and 271.806 (b) that the notice of determination submitted by the state of New Mexico Oil Conservation Division for the above-listed well is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35993 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. CP80-43, CP66-110, et. al.]

Great Lakes Gas Transmission Co.; Notice of Application and Petition To Amend

November 15, 1979.

Take notice that on October 23, 1979, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed pursuant to Section 7(c) of the Natural Gas Act an application for a certificate of public convenience and necessity in Docket No. CP80-43 authorizing Great Lakes to render transportation service for Northern Natural Gas Company (Northern) and to authorize the construction and operation of minor metering facilities for use in such transportation service, and a petition to amend the existing certificate in Docket Nos. CP66-110, et al., to authorize Great Lakes to enter into (a) an amendment to Great Lakes' transportation contract dated September 12, 1967, with TransCanada Pipe Line Limited (TransCanada) and (b) an amendment to its delivery pressure agreement dated July 1, 1975, with TransCanada, as amended, all as more fully set forth in the application and petition which are on file with the Commission and open to public inspection.

Great Lakes states that on February 24, 1979, Northern entered into a gas sales contract with Consolidated Natural Gas Limited (Consolidated) for the purchase and importation of natural gas at Emerson, Manitoba. Applicant asserts that Northern has requested Great Lakes to transport up to 140,000 Mcf per day of such gas from an interconnection of Great Lakes' facilities with those of TransCanada near Emerson (Emerson interconnection) to an interconnection of the existing facilities of Northern and Great Lakes near Carlton, Minnesota. Great Lakes further states that, in accordance with the terms of the agreement between it

and Northern dated June 29, 1979, Great Lakes proposes to transport said volumes as set forth herebefore.

Great Lakes states that deliveries would commence in November 1980, and that during the first five years, Great Lakes would transport up to 140,000 Mcf per day for Northern. Great Lakes states that, beginning in the sixth contract year, such volumes would be decreased each year thereafter, all in accordance with the terms of the transportation agreement.

Great Lakes further states that the transportation service would be performed with the addition of minor metering facilities with an estimated cost of \$677,400, which would be financed with funds generated internally.

Great Lakes states that it further requests an amendment to its existing authorizations in Docket Nos. CP66-110, et al., to authorize it to enter into (a) an amendment to Great Lakes' gas transportation contract dated September 12, 1967, with TransCanada which is on file with the Commission as its Rate Schedule T-4, and (b) an amendment to its delivery pressure agreement dated July 1, 1975, as amended, with TransCanada. Great Lakes asserts that in order to perform said transportation service for Northern, Great Lakes would request TransCanada to reduce the contract demand under the gas transportation contract and to provide compression service for the delivery of volumes proposed pursuant to the delivery pressure agreement.

Great Lakes asserts that since the transportation service for Northern is made possible by a reduction in TransCanada's contract demand, Great Lakes would charge Northern a rate equal to the rate to be charged by Great Lakes to TransCanada under its Rate Schedule T-4. In addition, Great Lakes proposes to charge 1.0 cent per Mcf to cover related expenses for construction of metering facilities and administrative fee.

Great Lakes further proposes to purchase, for the account of Northern, fuel and company use gas required for the transportation service from TransCanada. It is stated that Great Lakes would also continue to pay TransCanada 0.645 cent per Mcf to compress the subject volumes from 550 psig to 750 psig, the pressure at which all gas is presently received by Great Lakes at the Emerson Connection.

Any person desiring to be heard or to make any protest with reference to said application and petition should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35991 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-41]

Harvey E. Yates, Co.; State of New Mexico Section 102 NGPA Determination; Final Order on Jurisdictional Agency Determination

Issued: November 2, 1979.

I. Background

On July 8, 1979, the Commission issued a Notice of Preliminary Finding that the determination made by the New Mexico Oil Conservation Division (New Mexico) that natural gas produced from the Queen formation through two wells¹ operated by Harvey E. Yates, Co. (Applicant) met all the requirements of the new onshore reservoir provision of section 102(c)(1)(C) of the Natural Gas Policy Act of 1978, Pub. L. No. 95-621 (NGPA) was not supported by

¹ State 22 Well No. 1 and the Mobil 27 State Well No. 1 (JD79-4974 and JD79-4972 respectively).

substantial evidence in the record on which the determination was based.

Section 102(c)(1)(C)(ii), the Behind-the-Pipe Exclusion, provided the basis for the Notice of Preliminary Finding. The exclusion states that a reservoir shall not qualify as a new, onshore reservoir if (1) the reservoir was penetrated before April 20, 1977, by an old well from which natural gas or crude oil was produced in commercial quantities (whether or not such production was from such reservoir); and (2) natural gas could have been produced in commercial quantities from such reservoir through such old well before April 20, 1977.

In the Notice of Preliminary Finding, the Commission applied an interpretation to section 102(c)(1)(C)(ii)(II) which reduced that prong of the Behind-the-Pipe Exclusion to a test of whether the reservoir was physically capable of producing natural gas prior to April 20, 1977 through the old well. Accordingly, the Commission stated:

The records show that the subject reservoir (Queen formation) was completed prior to April 20, 1977, by the State 22 Well No. 1 from which crude oil was produced in commercial quantities prior to April 20, 1977. The casinghead gas produced in conjunction with oil has been vented.²

Since the subject reservoir was penetrated by an old well which produced crude oil in commercial quantities and the reservoir demonstrated its capability to produce natural gas through such old well prior to April 20, 1977, the reservoir is subject to the behind-the-pipe exclusion in section 102(c)(1)(C)(ii) and is not a new onshore reservoir as defined in the NGPA.

Pursuant to § 275.202(d) of the Commission's regulations, an informal conference was requested and comments were filed by Applicant as well as Texas Oil & Gas Corp. and Senator Pete V. Domenici. The comments suggested that the Commission should apply a commercial standard in addition to a physical standard with respect to the second prong of the Behind-the-Pipe Exclusion. An informal conference with the Commission Staff was held on September 6, 1979. Applicant supplemented the record before the Commission by letter filed October 1, 1979.

²The record indicates that the Mobil 27 State Well No. 1 was spudded on June 28, 1977, was completed in the subject reservoir, and vented associated gas until October, 1978 when gas gathering facilities were installed. The State 22 Well No. 1 was spudded on February 15, 1977 and began producing crude oil in commercial quantities from the subject reservoir on April 14, 1977 with the associated gas being vented until October, 1978.

II. Discussion—Application of the Behind-the-Pipe Exclusion

At the time New Mexico made its determinations with respect to production through the subject wells from the Queen formation, the Commission interpreted the second prong of the Behind-the-Pipe Exclusion, section 102(c)(1)(C)(ii)(II) of the NGPA, as only requiring the application of a reservoir physical capability test without consideration of the commerciality of the reserves.

However, in a final order issued on September 28, 1979 in GP79-27,³ the Commission concluded that both a physical and an economic test must be applied to the second prong of the behind-the-pipe exclusion.

Therefore, a reservoir falls within the behind-the-pipe exclusion if (1) the reservoir was penetrated before April 20, 1977 by an old well from which natural gas or oil was produced in commercial quantities; (2) the reservoir was physically capable of natural gas production through such old well before April 20, 1977⁴ and (3) such natural gas could have been produced in commercial quantities as determined by the application of an economic test.

On the basis of review of the record before the Commission, we find that the natural gas produced from the subject reservoir through the subject wells qualifies under the new onshore reservoir category of section 102(c)(1)(C) of the NGPA.

While the State 22 No. 1 Well is an old well which produced crude oil in commercial quantities prior to April 20, 1977, and the subject reservoir demonstrated its capability to produce through that well prior to April 20, 1977 by virtue of the fact that associated natural gas was vented from that well prior to April 20, 1977, we find that the natural gas could not have been produced in commercial quantities prior to April 20, 1977 through that well. Specifically, the record indicates that the cost of building facilities to tie into the nearest pipeline facilities as of April 20, 1977 would have exceeded the revenues recoverable from selling the small quantity of Queen formation

³While the flaring of casinghead gas demonstrates the physical capability of the reservoir to produce, the remote location and minimal productive capacity of the State 1-18-3D well, as well as the sourness of the gas, demonstrate that the economic test is not met and that the Behind-the-Pipe exclusion of section 102(c)(1)(C)(ii) does not apply. Therefore, the Commission believes that natural gas could not have been produced in commercial quantities from the Little Knife-Madison Reservoir through any of the four subject wells prior to April 20, 1977.

⁴The absence of facilities alone is insufficient to be disqualified under the physical capability test.

reserves attributable to the State No. 22 Well No. 1, the only well that falls within section 102(c)(1)(C)(ii)(I) of the NGPA and which could possibly have disqualified the subject reservoir.

The Commission orders: Pursuant to 18 CFR § 275.202(e), New Mexico's determination that natural gas produced from the Queen formation through the State 22 No. 1 Well and the Mobil 27 State Well No. 1 qualifies as new natural gas under section 102(c)(1)(C) of the NGPA is affirmed.

By order of the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35994 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-39]

Natural Gas Pipeline Co. of America; Notice of Application

November 15, 1979.

Take notice that on October 22, 1979, Natural Gas pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-39 an application pursuant to Section 7(c) of the natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has been advised by Columbia that Columbia has available at the terminus of the U-T Offshore System (UTOS) near Johnson's Bayou in Cameron Parish, Louisiana, volumes of gas produced in offshore Louisiana needing transportation subsequent to its initial transportation by High Island Offshore System (HIOS) and then by UTOS onshore. Applicant states that it owns and operates an extensive pipeline system, a portion of which extends between the interconnection of UTOS to the Texaco Inc.'s Henry Processing Plant near Erath in Vermilion Parish, Louisiana. Applicant further states that it has unused capacity in said portion of its pipeline and would be willing to transport thermally equivalent volumes of gas for Columbia from the terminus of UTOS for redelivery for Columbia's account to Columbia Gulf Transmission Company (Columbia Gulf), an affiliate of Columbia, at the tailgate of the Henry Processing Plant, thereby eliminating the necessity for enlarging the pipeline facilities of either Columbia or Columbia Gulf.

Applicant asserts that it is presently authorized to receive gas at the terminus of UTOS from Columbia Gulf under two agreements dated October 12, 1973, as amended in 1973, in Docket No. CP74-204, and March 27, 1978, in docket No. CP78-302.

Applicant states that it has entered into a gas transportation agreement with Columbia and Columbia Gulf dated September 17, 1979, under which Applicant contracts to receive from UTOS at the Johnson Bayou Delivery Point for the account of Columbia total daily volumes of gas up to 70,000 Mcf and to redeliver to Columbia Gulf for Columbia's account at the Henry Plant Redelivery point volumes equivalent to thermal content, less 0.25 percent of the volumes transported for fuel and less the volumes delivered to Applicant for Columbia Gulf's account under the 1973 and 1978 agreements.

Applicant states that it does not anticipate the need to construct any new facilities in order to implement the proposed transportation.

Applicant further states that pursuant to provisions of the agreement, Applicant proposes to bill Columbia a transportation charge of 3.7 cents per Mcf of gas received by applicant at the Johnson's Bayou Delivery Point for Columbia's account and transported under the agreement, less the reduction for fuel used.

Applicant states that it anticipates no significant changes in the operation of its system as a result of the receipt and transportation of gas as proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held

without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35992 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-480]

Northwest Pipeline Corp.; Notice of Amendment to Application

November 15, 1979.

Take notice that on October 24, 1979, Northwest Pipeline Corporation (Applicant), P.O. Box 1528, Salt Lake City, Utah 84111, filed in Docket No. CP79-480 pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)), an amendment to its application filed September 10, 1979, in said docket, requesting authorization to increase the cost of a single onshore project from \$2,400,000 to \$2,500,000, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that based on the proposed changes contemplated by the Commission in Docket No. RM79-37, it is now proposing a single onshore project cost of \$2,500,000, which is consistent with the recommendation in RM79-37.

Applicant further states that the total project cost of \$12,000,000 remains unchanged.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the

protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35995 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-34]

Panhandle Eastern Pipe Line Co.; Notice of Application

November 15, 1979.

Take notice that on October 18, 1979, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-34 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale, transportation and exchange of natural gas with Colorado Gas Company (CIG) and for permission and approval to abandon certain gas purchase and exchange agreements with CIG, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that on December 1, 1978, it entered into a gas purchase, transportation and exchange agreement with CIG, which provides for a transportation service between the two parties transferring natural gas from sources proximately located to one party to the other party, for whose transmission system the source is remotely located. Panhandle asserts that the agreement provides for no more than 300,000 Mcf of gas per day to be transported from one party to another, and that Panhandle would be able to purchase from CIG up to 25 percent of said natural gas. Panhandle asserts that should the transporting party exercise its option to purchase up to 25 percent of the volumes proffered by the other party at each delivery point, the receiving party would pay the delivering party a rate equal to the average purchase price of natural gas by the tendering party at the point of delivery and any authorized gathering and conditioning costs associated with the natural gas so delivered. Panhandle asserts that the two parties may utilize each other's gathering systems for the gathering of natural gas subject to the payment of an approved gathering charge.

Panhandle states that for this exchange service, the agreement

provides that should either party in any party in any hearing therein must file a

Island Area, offshore Louisiana

[Docket No. GP80-52]

the well produced gas at a rate not

Redeliver to Columbia Gulf

provides that should either party in any month receive a greater volume of the exchange gas than it delivers, the party receiving such excess deliveries should each month pay the delivering party an amount equal to the excess redelivery volumes times a transportation rate equal to the amount per Mcf reflected in the delivering party's jurisdictional rates.

Panhandle further states that the transportation rates, which are subject to periodic change, would initially be 24.5 cents per Mcf for Panhandle's system and 23.42 cents per Mcf for CIG's system.

Panhandle requests authorization for the sale, transportation and exchange of natural gas pursuant to the agreement, as amended, which is to continue for twenty years from its issuance on December 1, 1978. Panhandle asserts that the transportation and exchange of gas would be from specific sources of supply as set forth in the agreement, and requests further authorization for the transportation and exchange of gas from any new sources of supply as may be developed by Panhandle or CIG. Panhandle states that it proposes to submit an annual tariff filing which would reflect the addition or deletion of delivery points pursuant to the Agreement.

Panhandle further requests permission and approval to abandon existing gas purchase and exchange agreements between Panhandle and CIG, which received Commission approval in Docket Nos. CP72-181, as amended, CP77-388, CP77-383 Phase I and CP77-383 Phase II. Panhandle further states that such agreements have been superseded by the agreement of December 1, 1978.

Panhandle states that the implementation of the agreement with CIG would enable it to provide for the transportation of natural gas from the Rocky Mountain area to its transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a

party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35996 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-42]

Sea Robin Pipeline Co. et al.; Notice of Petition To Amend

November 15, 1979.

Take notice that on October 18, 1979, Sea Robin Pipeline Company (Sea Robin), P.O. box 1478, Houston, Texas 77001, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. box 1398, Houston, Texas 77001, filed in Docket No. CP79-42 a joint petition to amend the order of May 17, 1979, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Northern to own and operate jointly, with Sea Robin and Transco, certain offshore pipeline and related facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued May 17, 1979, in Docket No. CP79-42 Sea Robin and Transco were authorized to construct and operate approximately 2.7 miles of 12-inch pipeline and related facilities (Block 261 lateral) to connect the Eugene Island 261 Field reserves to a sub-sea tap on Sea Robin's 24-inch pipeline located in Block 273, Eugene

Island Area, offshore Louisiana. Petitioners assert that the Block 261 lateral is required to transport reserves located in the Eugene Island 261 Field, where proved and potential reserves are estimated to be 69.018 Bcf, with maximum daily deliveries projected to be 80,000 Mcf.

Petitioners assert that Northern contracted to purchase Diamond Shamrock Corporation's undedicated 13.33 percent in the Eugene Island 261 Field, and proposes to share in the ownership and operation agreement between Petitioners, dated July 2, 1979. Petitioners state that under the proposed agreement, Sea Robin, Transco, and Northern would hold 66.67 percent, 20.00 percent, and 13.33 percent of the facilities, respectively.

Northern proposes herein to own and operate jointly the undivided portion of the pipeline and the related facilities in the percentages set forth above, and Sea Robin proposes to relinquish the identical percentages to that which would be acquired by Northern.

Petitioners state that Northern and Sea Robin are presently negotiating the transportation agreement necessary to deliver gas from Northern's Eugene Island 261 Field from the point of receipt by Sea Robin to the point of receipt onshore. Petitioners further state that such gas would be exchanged onshore with United Gas Pipe Line Company, pursuant to authority requested in Docket No. CP79-194.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35997 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP80-52]

Consolidated Gas Supply Corp.; State of West Virginia Section 108 NGPA Determinations; Notice of Preliminary Finding

Issued: November 2, 1979.

On September 19, 1979¹ and September 20, 1979,² the Commission received notices of determinations from the West Virginia Department of Mines, Oil and Gas Division (West Virginia), that the ten wells do not qualify as stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission issued public notice of these determinations on October 5, 1979.

Section 108(b)(1)(A) of the NGPA provides that in order to qualify as a stripper well, a well must have produced nonassociated natural gas at a rate not exceeding 60 Mcf per production day during the preceding 90-day production period. The records accompanying these notices of determination indicate that the subject wells produced an average of 60 Mcf or less of nonassociated gas per production day during the relevant 90-day production period. Accordingly, the wells meet the initial requirement for a stripper well.

Section 108(b)(1)(B) provides that in order to qualify as a stripper well, a well must also have produced at its maximum efficient rate of flow (MER) during the preceding 90-day production period. Section 271.804(d) of the Commission's Interim Regulations³ prescribes the methods by which MER may be established. In particular, § 271.804(d)(2) states that a well which has produced nonassociated gas at an average rate of 60 Mcf or less for the 90-day production period will be presumed to have produced at its MER if during the 12-month period ending concurrently with the 90-day production period the

¹ JD No.; well name and number
79-20890; S. C. Biesezad 10918
79-20894; E. T. Donley 10662
79-20895; Greer Steel Co. 11022
79-20897; H. D. Smith
79-20898; E. Lawson 10940
79-20899; Boone County Coal 10844
79-20922; P. H. Hilkey 8034
79-20948; Vanetta Land Co. 9875.

² JD No.; well name and number
79-21272; W. G. Brown 10836
79-21273; H. C. Alexander 11288.

³ Section 271.804(d) of the Interim Regulations was revised and renumbered in the Final Regulations for Section 108. (Order No. 44, issued August 22, 1979, Docket No. RM 79-73). However, the revised rule (§ 271.807) was made effective prospectively. Since the revised rule applies only to applications for determinations filed with the jurisdictional agency on or after September 21, 1979, the applications for the above wells remain subject to § 271.804 of the Interim Regulations.

the well produced gas at a rate not exceeding an average of 60 Mcf per production day. The records accompanying the notices of determinations indicate that the subject wells produced an average of 60 Mcf or less per production day during the 12-month period ending concurrently with the 90-day production period. Accordingly, the well appears to meet the MER requirement for stripper well natural gas.

Notwithstanding the record evidence described above, West Virginia made negative determinations regarding the wells' MER on the basis that during certain months of the 12-month period the wells' average production exceeded 60 Mcf per production day. The Commission believes these determinations were based on a misinterpretation of § 271.804(d)(2). Accordingly, on the basis of our review of the record submitted with these determinations, the Commission makes a preliminary finding, pursuant to 18 C.F.R. § 275.202(a)(1)(i), that the determinations by West Virginia that the ten wells do not qualify as section 108 stripper wells are not supported by substantial evidence in the record on which the determinations were made.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36002 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP65-49]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Petition To Amend

November 15, 1979.

Take notice that on October 19, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP65-49 a petition to amend the order of August 1, 1972¹ issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to sell natural gas to Robeline-Stanley Gas Company, Inc. (Robeline-Stanley), purchasers of distribution facilities from Longhorn Gas, Inc. (Longhorn), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it is presently authorized to sell natural gas service to Longhorn up to a maximum daily quantity of 140 Mcf for Longhorn's

¹ This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Robeline, Louisiana, service area, under Petitioner's Rate Schedule GS-1 pursuant to a gas sales contract dated August 1, 1972.

Petitioner states that effective March 1, 1978, Longhorn sold its properties comprising the natural gas distribution system of its Robeline Service Area to Robeline-Stanley.

Therefore, Petitioner proposes herein to service Robeline-Stanley, in lieu of Longhorn, in the Robeline service area under Petitioner's Rate Schedule GS-1.

Petitioner states that this would not affect its ability to render presently authorized service to the Robeline service area or to other areas. It states that the change would not increase or decrease the maximum daily quantity of 140 Mcf authorized for the Robeline service area nor would it increase or decrease the annual volumetric limitation imposed on Petitioner's system.

Petitioner states that no additional facilities would be required.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35998 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP80-30]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc., et al.; Notice of Application

November 15, 1979.

Take notice that on October 16, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, Texas Eastern Transmission Corporation (Tetco), P.O. Box 2521, Houston, Texas 77001, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, and Natural Gas

Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-30 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities necessary to connect gas purchased in the East Cameron South Addition Area, offshore Louisiana, to the West Cameron Block, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to construct and operate 7.2 miles of 10-inch pipeline and appurtenant facilities to permit the attachment of gas purchased by Tennessee, Tetco, Trunkline, and Natural from the East Cameron South Addition Area. It is stated the proposed pipeline would originate at the East Cameron 353 A platform, offshore Louisiana, and would extend to the Project 601 system to a subsea valve in West Cameron Block 60.

Applicant states the proposed facilities would permit the attachment of volumes of gas from the area indicated below:

Block	Contract Date	Producer	Producer percentage ownership	Purchaser	Percentage of producer interest committed
EC354	9-7-79	Tenneco Exploration, Ltd.	50	Tennessee	100.0
EC354	(1)	Texas	50	Natural	100.0
EC353	7-20-73	Anadarko	12	Trunkline	100.0
EC353	9-27-73	Texas Pacific	11	Trunkline	100.0
EC353	5-31-73	Sun Oil Company	49	Trunkline	100.0
EC353	(2)	Pan Eastern Exploration	12	Trunkline	100.0
EC353	7-16-73	Diamond Shamrock	16	Trunkline	100.0
EC351	3-12-73	Ocean Production Company	5.42	Tennessee	100.0
EC351	3-12-73	Ocean Oil & Gas Company	16.25	Tennessee	100.0
EC351	3-12-73	Murphy Oil Co.	10.83	Tennessee	100.0
EC351	3-12-73	Valti Inc.	20	Tennessee	100.0
EC351	5-4-73	General American Oil Co. of Texas	32.5	Tennessee	100.0
EC351	5-9-73	Delco Oil Co.	5	Tennessee	100.0
EC351	6-6-73	Southland Oil Co.	10	Tennessee	100.0
EC352	9-20-79	Louisiana Land Offshore Exploration Company, Inc.	82	TETCO	100.0
EC352	8-6-79	Texas Eastern Exploration Company	18	TETCO	100.0

¹ Contract to be submitted upon execution.

² Advance Payment Agreement which has been previously filed with the Commission.

³ This 12% is committed to Trunkline's affiliate, Panhandle Eastern Pipeline Company, pursuant to Stipulation and Agreement, dated August 20, 1976 and approved by Commission order of December 22, 1976 in Docket No. CP71-237, et. al. Trunkline will transport such gas for Panhandle Eastern pursuant to a contract to be entered into with Panhandle Eastern and an application to filed requesting appropriate authorization for such service.

Applicants estimate that approximately 48 BCF of recoverable proved gas reserves (dry) would be available from the East Cameron 353 A area for delivery through the proposed facilities. Applicants state the total deliverability from such area is expected to be approximately 40,000 Mcf of gas per day as a result of installed compression.

Applicants state the total cost of such facilities is approximately \$4,918,700. Of the total cost, Applicants state 26.4 percent would be borne by Tennessee, 33 percent by Tetco, 30.3 percent by Trunkline, and 10.3 percent by Natural. It is stated that the proposed facilities would be financed from funds on hand, borrowing under revolving credit agreements or short term loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance

with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if

the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-35998 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-45]

Transcontinental Gas Pipe Line Corp.; Notice of Application

November 15, 1979.

Take notice that on October 24, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-45 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Penn Fuel Gas, Inc. (Penn Fuel), an affiliate of Union Gas Company (Union), one of Applicant's customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Penn Fuel has contracted with National Gas Storage Corporation (Storage Corporation) for underground storage service up to a maximum of the dekatherm equivalent of 850,000 Mcf of natural gas and has requested Applicant to transport injection and withdrawal quantities. Applicant proposes to transport up to 7,800 Mcf per day on an interruptible basis.

Injection quantities would be delivered to Storage Corporation's affiliate, National Fuel Gas Supply Corporation (National Fuel), through existing facilities at the Wharton Storage Field in Pennsylvania, it is stated, and withdrawal quantities would be delivered to Applicant at that point and in turn delivered to Union at existing points of delivery for the account of Penn Fuel. Of the quantities transported, Applicant proposes to retain 2 percent during injection and 3 percent during withdrawal for

compressor fuel and line loss makeup. For all quantities transported and delivered Penn Fuel would pay Applicant an initial rate of 7.0 cents per dekatherm, it is stated.

According to Applicant, the transportation proposed herein would assist Union in minimizing curtailments to its high priority markets during the coming heating seasons.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36000 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-26]

Transcontinental Gas Pipe Line Corp.; Notice of Application

November 15, 1979.

Take notice that on October 15, 1979, Transcontinental Gas Pipe Line

Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-26 an application pursuant to Section 7(c) of the Natural Gas Act and Subpart F of Part 284 of the Regulations pursuant to the Natural Gas Policy Act for authorization to transport natural gas for Consolidated Edison Company of New York, Inc. (Con Ed) on an interruptible basis for a period commencing on the date of initial delivery and ending May 31, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposed to transport up to 15,000 dekatherms (dt) equivalent of natural gas per day on behalf of Con Ed which Con Ed has arranged to purchase from UGI Corporation (UGI). Applicant continues that UGI would make available to Texas Eastern Transmission Corporation (Texas Eastern) up to 15,000 dt of gas per day at an existing interconnection at Rockwood, Somerset County, New Jersey, which would, in turn, transport and deliver such quantities to Applicant at their existing Lambertville interconnection in Somerset County or other mutually agreeable points.

Applicant states it would deliver said gas to Con Ed at Applicant's existing delivery points to Con Ed in the New York metropolitan area.

For such transportation service, Applicant states that Con Ed would pay Applicant 7.0 cents per dt, and Applicant would retain 0.6 percent of the quantities received for compressor fuel and line loss make-up.

Applicant states that Con Ed has advised that it would burn the gas directly to generate electricity and/or steam, and that such gas would displace fuel oil which would otherwise be burned for such purposes. Applicant asserts that this application is being filed pursuant to Commission Order Nos. 30 and 30-A, which provide for transportation of gas for boiler-fuel use.

Applicant further asserts that the subject transportation service would be on an interruptible basis and subordinate to existing transportation arrangements on Applicant's Lambertville Lateral and to Applicant's deliveries to Con Ed under Applicant's Rate Schedules CD, PS, GSS, and WSS.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the

Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36001 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Special Counsel for Compliance

Consent Order With Mobil Oil Corp. Made Final

AGENCY: Department of Energy.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: Pursuant to 10 CFR 205.199], the Office of Special Counsel (OSC) of the Department of Energy hereby gives notice that the Consent Order executed between OSC and Mobil Oil Corporation on August 15, 1979 is final, effective upon publication of this notice. The Consent Order addresses Mobil's compliance with the crude oil production regulations, subpart D of 10 CFR Part 212, for the months September 1973 through May 1979. In the Consent Order, Mobil agrees to remedy the violations alleged by refunding and reducing its costs by a total of \$13,796,387.

On September 20, 1979, notice was published in the Federal Register at 44

FR 54544, that the proposed Consent Order had been signed. The notice set

Two comments were received. An individual objected to the compromise

receive benefits under other provisions of the Consent Order. The organization

EPA registration Product name Registrant

Dated: November 15, 1979.

produced on or before the effective date

FR 54544, that the proposed Consent Order had been signed. The notice set out the background of the Consent Order, summarized its terms and conditions and provided 30 days for the receipt of comments before determining whether to make the Consent Order final. OSC has considered the two comments received and determined to adopt the proposed Consent Order without modification.

FOR FURTHER INFORMATION CONTACT: Richard Wolf, Deputy Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue NW., Room 2140, Washington, D.C. 20461, 202-633-9165.

Copies of the Consent Order may be received by written request to the same address. Copies are also available at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue SW., Room GA-152.

SUPPLEMENTARY INFORMATION: DOE regulations provide that notice must be given of the signing of a consent order. In the notice, published in the Federal Register on September 20, 1979, at 44 FR 54544, and in a press release dated September 17, 1979, OSC summarized the Consent Order and the facts relevant thereto, as required by regulation. A 30 day period was established for the filing of comments. Two comments were received; none were submitted after the period ended. OSC considered both comments in determining what action to take concerning the proposed Consent Order.

The terms and conditions of the Consent Order are, in summary:

1. OSC concluded its audit of Mobil's compliance with the crude oil sales regulations from August 1973 through May 1979.

2. Mobil agreed to pay a total of \$13,796,387.76; \$2,236,165.65 through price reductions or cash refunds to identifiable crude oil purchasers identified as having received crude oil from the properties with respect to which allegations of overcharges were made by OSC.

3. The balance, attributable to interaffiliate transfers, or OSC's projections to unaudited properties, will be deducted from Mobil's monthly cost allocation reports for months during the period in which the allegedly improper cost was reported. Mobil will adjust its entitlements reports and obligations for the months affected.

4. Mobil agreed to pay a compromise penalty of \$50,000.

The September 20, 1979, notice, or a copy of the Consent Order, available at the address noted above, should be consulted for further information.

Two comments were received. An individual objected to the compromise civil penalty of \$50,000 as an insufficient sanction for a "white collar crime." The comment indicates a misconception of the nature of the violations alleged against Mobil. No criminal act was alleged, found or admitted. The matters raised in OSC's audit ranged from mathematical errors to disputes over interpretation and application of the regulations. In considering the nature of the allegations, OSC believes the amount of the penalty is appropriate.

A group representing consumer interests objected to the Consent Order's remedial terms because the refunds are directed at the purchasers of Mobil's crude oil, and because the Consent Order does not place requirements on these recipients to pass through such refunds to individual consumers.

The Consent Order is an agreement resolving an enforcement dispute between Mobil and OSC. The order requires Mobil to refund specified amounts totalling \$2.2 million to customers identified as having purchased crude oil from Mobil, providing full restitution to them. The Consent Order also provides that Mobil is to advise these recipients that the amounts are to be considered as reductions in the recipients' current crude costs. Accordingly, those refunds made by reduced crude costs will be immediately reflected as less costs to be passed through by the recipients. OSC cannot, however, require action by third parties receiving checks or credit memoranda by means of a Consent Order negotiated solely with Mobil. DOE will determine in the course of its audits whether the recipients have properly accounted for the refund.

Much of the refund represents transfers by Mobil of crude from its producing to its refining entities. Of the total of \$13.7 million, \$9.4 million is the amount of claimed costs disputed by OSC. Mobil will reduce its costs in the months the costs were originally claimed. An additional \$2.1 million is being deducted from Mobil's banks of unrecouped increased costs representing the amount OSC projects may have been charged by Mobil for crude oil from unaudited properties. Once the adjustments are made, it can be determined whether Mobil's prices were supportable. If not, OSC will take appropriate action, pursuant to paragraph 9 of the Terms and Conditions.

The consumer organization raised the possibility of "double recoveries" under paragraph 6 of the Terms and Conditions for claimants who might also

receive benefits under other provisions of the Consent Order. The organization further suggested the difficulty of determining appropriate prices to implement the requirements of paragraph 2. The DOE monitoring and enforcement provisions of the Consent Order are designed to prevent such problems from occurring, and appear to be sufficient.

OSC has complied with the requirements of 10 C.F.R. 205.199] by publicizing the terms of the proposed Consent Order and making copies available, and by reviewing and considering the comments received in response to the notice. OSC has concluded that the Consent Order entered with Mobil Oil Corporation is proper, appropriate, and should be made effective. Therefore, the Consent Order is made final by publication of this notice.

Issued in Washington, D.C., November 16, 1979.

Paul L. Bloom,
Special Counsel for Compliance.

(FR Doc. 79-36153 Filed 11-21-79; 8:45 am)

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

(FRL 1364-8; OPP-66057)

Pesticide Programs; Intent to Cancel Registrations of Certain Pesticide Products

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of intent to cancel pesticide registrations.

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their desire to voluntarily cancel registrations of the products listed herein:

EPA registration No.	Product name	Registrant
239-1946	Ortho Delnav 4 Emulsive	Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804.
239-2068	Ortho Delnav 8 Flow Concentrate	Do.
449-116	Techne Endrin Emulsifiable 1.8 Pounds	Techne Corp., PO Box 7305, Kansas City, MO 64116.
1201-204	Puregro Delnav 8-E Emulsifiable Concentrate	Puregro Co., 1111 W. Sixth St., Los Angeles, CA 90017.
2568-4	3804 Baittop Pentaclear Wood Preservative	Jotun-Baltimore Copper Paint Co., 501 Key Highway, Baltimore, MD 21230.

EPA registration No.	Product name	Registrant
8754-34	Professional Delnav 25 Insecticide Emulsifiable Concentrate	Dettelbach Pesticide Corp., PO Box 9986, Atlanta, GA 30319.
8605-2	Rucco Fly-Away Special Cattle Mineral Medicated	Rucklos Calcium Carbonated Co., 125 Cedar Crest Dr., Cedar Falls, IA 50613.
30575-1	Magnetex Dust Control Additive	Texel Industries, Inc., PO Box 658, Cleburne, TX 76031.

The Agency has agreed that such cancellations shall be effective on or before December 24, 1979 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; *Provided*, That the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of such existing stocks has been determined to be consistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-792), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the OPP document control number "[OPP-66057]" and the EPA registration number/product name to which the comments pertain. Any comments filed regarding this notice will be available for public inspection in the office of Process Coordination Branch at the above address from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended (86 Stat. 973, 89 Stat. 751, (7 U.S.C. 136j))

Dated: November 15, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

(FR Doc. 79-36040 Filed 11-21-79; 8:45 am)
BILLING CODE 6560-01-M

(FRL 1364-7; OPP-66056)

Pesticide Programs; Intent to Cancel Registrations of Certain Pesticide Products

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of intent to cancel pesticide registrations.

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their desire to voluntarily cancel registrations of the products listed herein:

EPA registration No.	Product name	Registrant
239-1939	Ortho Nemagon 70 Soil Fumigant	Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804.
407-277	Imperial 20% Heptachlor Granules	Imperial Inc., PO Box 423, Shenandoah, IA 51601.
8513-7	MIL-DU-WASH	Devco & Reynolds Co., Inc., PO Box 23653, Tampa, FL 33622.
1021-740	MGK Formula No. 6357	McLaughlin Gormley King Co., 8810 Tenth Ave. No., Minneapolis, MN 55427.
1021-1058	Pyrocid Pet Spray Concentrate 6766	Do.
1021-1258	Pyrocid Stabilized Growers Spray 7083	Do.
3840-2	Refined White Arsenic Trioxide (Technical)	Intsel Corp., 825 Third Ave., New York, NY 10022.
6913-14	Abalene Rodent Poison	Abalene Pest Control Services, Inc., 257 Dutchess Turnpike, Poughkeepsie, NY 12603.
8917-16	Telone Soil Fumigant	J. R. Simplot Co., PO Box 812, Pocatello, ID 83201.
11682-20	Simplot Soilbuilders Telone C Soil Fungicide & Nematocide	Do.
20954-25	Best All Out Weed Killer	Zoecon Corp., 975 California Ave., Palo Alto, CA 94304.
20954-67	Liquid Edger	Do.

The Agency has agreed that such cancellations shall be effective on or before December 24, 1979 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this section.

The Agency has determined that the sale and distribution of these products

produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier.

Provided, That the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of such existing stocks has been determined to be consistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-792), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the OPP document control number "[OPP-66056]" and the EPA registration number/product name to which the comments pertain. Any comments filed regarding this notice will be available for public inspection in the office of Process Coordination Branch at the above address from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended (86 Stat. 973, 89 Stat. 751, (7 U.S.C. 136j)).

Dated: November 15, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

(FR Doc. 79-36041 Filed 11-21-79; 8:45 am)
BILLING CODE 6560-01-M

(FRL 1364-5; OPP-50445)

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 707-EUP-95. Rohm and Haas Company, Philadelphia, PA 19105. This experimental use permit allows the use of 130 pounds of the chemical hybridizing agent sodium 1-[p-chlorophenyl]-1,4-dihydro-5-methyl-4-oxopyridazine-3-carboxylate on wheat to evaluate hybridizing potential. A total of 27 acres is involved; the program is authorized only in the States of Colorado, Indiana, Kansas, Michigan, Nebraska, Oregon, and Pennsylvania. This experimental use permit is effective from October 16, 1979

to October 18, 1980. This permit is being issued with the limitation that all treated crops will be destroyed or used for research purposes only. (PM-25, Robert Taylor, Room: E-301, Telephone: 202/755-2196)

No. 400-EUP-56. Uniroyal, Inc., Bethany, CT 06525. This experimental use permit allows the use of 28.8 pounds of the fungicide 2,4,5-trimethyl-N-phenyl-3-furancarboxamide on wheat, barley, and oats to evaluate control of smut and bunt. A total of 22 acres is involved. The experimental use permit is effective from October 23, 1979 to October 23, 1980.

No. 400-EUP-57. Uniroyal, Inc., Bethany, CT 06525. This experimental use permit allows the use of 1.55 pounds of the fungicide 2,4,5-trimethyl-N-phenyl-3-furancarboxamide on wheat, barley, and oats to evaluate control of smut and bunt. A total of 22 acres is involved; this program and the one above are authorized only in the States of California, Illinois, Minnesota, Nebraska, North Dakota, Texas, Utah, and Washington. This experimental use permit is also effective from October 23, 1979 to October 23, 1980. The permits will use the same active ingredient but different formulations. These experimental use permits are being issued with the limitation that treated seed must not be used for food, feed, or oil, and all crops grown from treated seed must be destroyed or used for research purposes only. (PM-21, Henry Jacoby, Room: E-305, Telephone: 202/755-2562)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136j))

Dated: November 15, 1979.

Douglas D. Camp, Jr.

Director, Registration Division.

[FR Doc. 79-36043 Filed 11-21-79; 8:45 am]

BILLING CODE 5550-01-M

[FRL 1364-6; OPP-30172]

Pesticide Programs; Receipt of Application To Register a Pesticide Product Containing New Active Ingredient

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of receipt of application.

SUPPLEMENTARY INFORMATION: Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 27409, has submitted to EPA an application to register the pesticide product APRON 355D FUNGICIDE (EPA File Symbol 100-ANI) containing 35% of the active ingredient metalaxyl (N-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine methyl ester which has not been included in any previously registered end-use pesticide product. The application proposes that the pesticide be classified for general use as a fungicide for control of downy mildew on sorghum grown for seed.

Notice of approval or denial of this application to register APRON 355D FUNGICIDE will be announced in the **Federal Register**. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR Part 182), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of this application does not indicate a decision by the Agency on the application.

COMMENTS/INQUIRIES: Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to Product Manager (PM) 21, Mr. Henry Jacoby, Room E-305, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, DC 20460, telephone number 202/755-2562.

The comments must be received on or before December 24, 1979, and should bear a notation indicating the EPA File Symbol 100-ANI. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by Ciba-Geigy Corp., as well as all written comments filed in connection with this notice, will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Statutory Authority: Section 3(c)(4), FIFRA and 40 CFR Part 162.

Dated: November 15, 1979.

Douglas D. Camp, Jr.

Director, Registration Division.

[FR Doc. 79-36042 Filed 11-21-79; 8:45 am]

BILLING CODE 5550-01-M

[FRL 1365-7]

Administrator's Toxic Substances Advisory Committee; Cancellation of Meeting

The two-day meeting of the Administrator's Toxic Substances Advisory Committee scheduled for Thursday, November 29, and Friday, November 30, 1979 has been cancelled because it is not necessary to hold the meeting as planned. Notice of this meeting was published in the **Federal Register** on November 14, 1979 (44 FR 65665).

For further information contact: Ms. Marsha Ramsay, Executive Secretary, Administrator's Toxic Substances Advisory Committee, Office of Pesticides and Toxic Substances (TS-793), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Telephone 202-426-1129.

Dated: November 19, 1979.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 79-36297 Filed 11-21-79; 8:45 am]

BILLING CODE 5550-01-M

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 79-299]

Werner W. am Ende; Designating Application for Hearing on Stated Issues

Adopted: November 6, 1979.

Released: November 13, 1979.

In the matter of application of Werner W. am Ende, 421 19th Street, Moline, Illinois 61265, PR Docket No. 79-299, for renewal of Amateur radio station license WD9CML and Novice Class Amateur Radio Operator License.

The Chief, Private Radio Bureau, has under consideration the application of Werner A. am Ende, dated January 12, 1979, to renew the Amateur radio station (WD9CML) and Novice Class Amateur radio operator licenses issued to him on March 22, 1977, for two year terms.^{1 2}

¹ Effective May 15, 1978, § 97.59 of the Amateur Radio Service Rules was modified. The license term for Novice Class Amateur Operator licenses was changed from two years to five years from the date of issuance of a new or renewed license.

² Pursuant to § 1.928(c) of the rules, am Ende has continuing operating authority pending a

Footnotes continued on next page

1. Information before the Commission indicates that on May 30, 1978, am Ende's radio station made transmissions on the frequency 27.505 MHz. That frequency was assigned for use by radio stations in the Industrial Radio Service. Am Ende did not possess a license authorizing the use of that frequency. Thus, this radio operation was apparently in violation of Section 301 of the Communications Act of 1934, as amended.

2. If the apparent radio operation on May 30, 1978, was under the color of authority of am Ende's Amateur radio license WD9CML, the operation was in violation of the following Amateur Rules: 97.7(e) (authorized emissions); 97.61(a) (authorized frequencies); 97.84(f) (station identification requirements);³ and 97.121 (false signals).

3. On January 19, 1976, Werner W. am Ende was issued Citizens Band (CB) radio station license KBP-6496, for a five year term.⁴ If the apparent radio operation on May 30, 1978, was under the color of authority of am Ende's CB license, it was in violation of the following CB Rules: 95.455(a) (authorized frequencies); 95.469(b) (time limitations on communications); 95.471(c) (station identification requirements).⁵

4. The information before the Commission further indicates that the May 30, 1978, transmissions were not identified by either of am Ende's Commission-assigned call signs (WD9CML or KBP-6496) but were identified by the designation "49W78". Thus, it appears that the operator participated in a club or organization whose members operate on unauthorized frequencies and use special identifiers to avoid detection by the Commission.

5. The apparent radio operation on May 30, 1978, was the subject of two Official Notices of Violation mailed to am Ende on July 31, 1978.

6. Section 309(e) of the Communications Act of 1934, as amended, requires that the Commission designate an application for hearing where it cannot find that grant of the application would serve the public interest, convenience, and necessity.

Footnotes continued from last page
determination of whether his renewal application should be granted or denied.

³ Effective September 27, 1977, § 97.87(f) of the Amateur Radio Service Rules was renumbered as § 97.84(f). The Amateur rules cited herein are those which were in effect on the date of the conduct in question.

⁴ On March 5, 1979, am Ende's CB license (KBP-6496) was cancelled at his request.

⁵ The Commission's CB Rules have been revised and renumbered. The Rules cited herein are those in effect on the date in question.

The radio operation described above precludes the Commission from determining that a grant of am Ende's application would so serve the public interest, convenience and necessity.

7. It is ordered, that if am Ende wants hearing on this matter, he must file a written request for a hearing within 30 days.⁶ If a hearing is requested, the time, place, and Presiding Judge will be specified by subsequent Order. If am Ende waives his right to a hearing, his application will be dismissed with prejudice. Accordingly, it is ordered, that am Ende's application for renewal of his Amateur radio station license (WD9CML) and his Novice Class Amateur radio operator license is designated for hearing upon the following issues:

(a) To determine whether am Ende's radio station was operated on May 30, 1978, in violation of Section 301 of the Communications Act of 1934, as amended, or §§ 97.7(e), 97.61(a), 97.84(f) and/or 97.121 of the Commission's Amateur Radio Service Rules, or §§ 95.455(a), 95.469(b), and/or 95.471(c) of the Commission's CB Rules.

(b) To determine whether the transmissions on May 30, 1978, were identified by a club identifier in lieu of Commission-assigned call sign.

(c) To determine, in light of the above, whether grant of the application would serve the public interest, convenience, and necessity.

8. It is further ordered, that copies of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to am Ende at his address of record (as shown in the caption).

Chief, Private Radio Bureau.

Raymond A. Kowalski,

Acting Chief, Compliance Division.

[FR Doc. 79-36015 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 79-303, 79-304; File Nos. BPH-10744, BPH-11011]

Joy Broadcasters, et al; Memorandum Opinion and Order; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: November 7, 1979.

Released: November 14, 1979

In re applications of Lowell M. Bush d/b/a Joy Broadcasters, Lancaster, Wisconsin, Reg: 97.7 MHz, Channel 249., 3 kW (H&V), 300 feet, BC Docket No. 79-303, File No. BPH-10744; Beverly J. Peterson and Bert R. Peterson,

⁶ The attached form should be used to request or waive hearing. It should be completed and mailed to the Federal Communications Commission, Washington, D.C. 20554, in the enclosed envelope.

Lancaster, Wisconsin, Reg: 97.7 MHz, Channel 249 3 kW (H&V), 235 feet, BC Docket No. 79-304, File No. BPH-11011; for construction permits.

1. The Commission, by its Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (a) The above-captioned mutually exclusive applications of Beverly J. Peterson and Bert R. Peterson (Peterson) and Lowell M. Bush d/b/a Joy Broadcasters (Joy); (b) a petition to specify issues filed by Peterson; and (c) related pleadings.

2. Joy Broadcasters. Joy originally listed its equipment costs at \$25,000, and supported its estimate with a letter from a supplier offering equipment at \$34,835, with deferred credit. Joy later amended its application to state that it can "put the station on the air for \$14,000." Joy states that used equipment is now available to it, but Joy does not list the equipment it intends to buy nor does it show any purchase agreements. Therefore, Joy has not shown that used equipment is reasonably available for purchase. If Joy intends to use its original purchase letter of \$34,835 as an alternative plan for constructing its station, the letter Joy has submitted does not show that the equipment supplier has made a preliminary check of Joy's credit, and hence, the letter cannot be relied upon to show that Joy has a reasonable assurance of purchasing equipment with deferred credit.

3. To meet its revised total cost estimate of \$21,320, Joy relies on \$20,000 in personal loans, a \$5,000 bank loan, and \$1,500 cash on hand. The bank loan has been shown to be available. However, Joy did not provide a current balance sheet to show that current assets exceed current liabilities, so the availability of the \$1,500 has not been demonstrated. With respect to the other loans, Joy states that it has a verbal agreement with the lenders that the loans will run for three years with options to renew at 10% interest, payments to begin 14 months after the station begins operation. No written agreements were submitted. Section III, Question 4a to FCC Form 301 requires that for each person who has agreed to furnish funds to the applicant, a copy of the agreement must be submitted, showing the amount, rate of interest, terms of repayment, and security, if any. Therefore, we cannot accept that the verbal agreements give a reasonable assurance that the funds are available. Because Joy has not made a sufficient showing of its costs and its funding, a general financial issue will be specified.

4. Peterson has petitioned the Commission to specify three matters

relating to Joy's application. Peterson questions whether Joy has the financial resources to make its proposed transmitter site suitable for use. Peterson also questions whether Joy has proposed an adequate staff for its station. In addition, Peterson requests a comparative issue to determine whether the public interest would be better served by the general market radio format it has proposed, or by the specialized religious format proposed by Joy.

5. As for the first two questions, Joy has submitted a statement by the transmitter site owner pledging to clear it at no cost to Joy, affidavits of three persons who intend to donate their time to work at Joy's proposed station, and a work schedule which shows adequate staffing throughout the week. Therefore, these requested issues will not be included. Turning to Peterson's request to compare programming, this issue was most recently addressed by the Commission in *George E. Cameron, Jr. Communications*, 71 FCC 2d 460, 45 RR 2d 689 (1979), in which the Commission stated:

[I]nquiry along these lines has not been proved fruitful or enlightening. . . . Moreover, since a licensee may change formats at any time without Commission approval, this is far from the most satisfactory ground for a choice between competing applicants. We have, therefore, decided not to allow inquiry into the relative need for program formats under the standard comparative issue, except on a pre-designation showing that a proposed specialized format is not available in the particular market in a substantial amount. *Ibid.*, at 694.

In its request, Peterson has made no showing that its general market radio format is not available to residents of Lancaster. Therefore, no issue is warranted.

6. Finally, Joy has amended its application to correct deficiencies in its ascertainment survey cited earlier by the staff. It has submitted a compositional study which identifies all significant groups; it has surveyed leaders of the significant Lancaster groups and of outlying communities; it has also provided a general public survey; and it has proposed responsive programming. Therefore, we find Joy to be in substantial compliance with the *Primer*.

7. *Peterson*. Peterson is the licensee of WGLR, and AM station in Lancaster, Wisconsin. Peterson estimates that it would cost \$24,933 to construct its new FM station and operate for three months, and relies upon a bank loan of \$25,000 to cover these costs. Although the cost estimate appears low, Peterson

says it will be purchasing used equipment (a letter from a used equipment supplier was submitted) and will use its existing AM tower and building at no incremental cost. Peterson did not include any legal fees in its cost estimate, stating that the legal fees have already been paid. However, no substantiation has been provided, nor is it clear that the legal fees already paid include hearing costs. In light of the fact that Peterson is relying solely on a loan of \$25,000 to meet an estimated cost of construction and operation of \$24,933, there appear to be no resources available to meet additional legal fees. Accordingly, a limited financial issue to determine whether Peterson has the financial ability to pay legal fees incident to a hearing will be specified.

8. In the compositional study submitted with its ascertainment report, Peterson describes Grant County (in which Lancaster is the county seat) as ranking "number one in Wisconsin in hog and beef production, and is among the highest in dairying. Rich, fertile, rolling hills dotted with modern farms surround Lancaster. . . . Grant County has [s] 3,090 farms. . . . for a total of 677,300 acres of farmland. . . . the third highest total in Wisconsin." Yet Peterson has not provided a single interview of a local leader of agriculture. The failure to provide interviews of this key group brings into question whether Peterson has substantially complied with the 1971 *Primer*. Accordingly, a limited ascertainment issue will be specified.

9. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1mV/m or greater strength, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated

proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether Joy is financially qualified to construct and operate the proposed station.
2. To determine whether Peterson has the financial ability to pay legal fees incident to a hearing, and whether, in light of the evidence adduced, the applicant is financially qualified.
3. To determine whether Peterson interviewed agricultural leaders in connection with its ascertainment effort.
4. To determine which of the proposals would, on a comparative basis, better serve the public interest.
5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.
12. It is further ordered, That the petition to specify issues filed by Peterson is denied.
13. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.
14. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.
Richard J. Shiben,
Chief, Broadcast Bureau.

(FR Doc. 79-36016 Filed 11-22-79; 8:45 am)

BILLING CODE 6712-01-M

[PR Docket No. 79-302]

Bruce Dale Sommers; Designation Order; Designating Application for Hearing on Stated Issues

In the matter of Application of Bruce Dale Sommers, 3030 Summit, Kansas City, MO. 64108, PR Docket No. 79-302, For Amateur Radio Station License and Technician Class Amateur Radio Operator License.

Adopted: November 6, 1979.

Released: November 15, 1979.

The Chief, Private Radio Bureau, has under consideration the application of

Bruce Dale Sommers, dated June 28, 1979, for an Amateur radio station license and a Technician Class Amateur radio operator license.

1. Information before the Commission indicates that in or around April of 1978, Sommers offered to pay \$200 to Mr. Richard A. Hinkel, an Amateur radio licensee, if Hinkel would take Commission Amateur radio examinations in his (Sommers') name. Hinkel declined Sommers' offer and refused to take the examinations for Sommers.

2. On May 1, 1979, Sommers appeared at the Commission's District Office located in Kansas City, Missouri. He took Commission examinations for an Amateur radio station license and a Technician Class Amateur radio operator license. He passed the Morse code examination (Element 1(A)) required by the Commission for these licenses, but he failed the required written examinations (Elements 2 and 3).

3. On June 12, 1979, Sommers again failed the required written examinations. On June 28, 1979, Commission personnel at the Kansas City District Office waived § 97.33 of the Commission's rules,¹ and permitted Sommers to be re-examined. He passed the written examinations at that time and submitted his application.

4. On July 17, 1979, Sommers' application was granted, and he was issued an Amateur radio station license (N0BDX) and a Technician Class Amateur radio operator license.²

5. By letter dated August 14, 1979, the Commission informed Sommers that the grant of his application had been set aside, pursuant to § 1.113(a) of the Commission's rules, and that his application had reverted to pending status. This Commission action was taken in light of the conduct discussed in this order.

6. Information before the Commission indicates that after Sommers failed the written examinations on June 12, 1979, he attempted to persuade Commission personnel at the Kansas City District Office to waive Rule 97.33 and re-examine him orally at that time. In making this request, it appears that Sommers falsely represented that he had

formerly held an Amateur radio station license with call sign WB8PCO, which had expired in October, 1977.

7. Information before the Commission also indicates that Sommers operated an unlicensed Amateur radio station for some four months prior to the grant of his application on July 17, 1979. This unlicensed radio operation was in apparent willful and repeated violation of Section 301 of the Communications Act of 1934, as amended. It also appears that Sommers identified his unlicensed radio transmissions with false Commission call signs (WB8PCO and W8SLR).

8. The Commission's information also indicates that, on July 19, 1979, Sommers operated his licensed Amateur radio station (N0BDX) in willful violation of § 97.84(a) (station identification requirements) and 97.121 (transmission of a false call sign (W8SLR)) of the Commission's rules.

9. Section 309(e) of the Communications Act of 1934, as amended, requires the Commission to designate an application for hearing when it cannot find that a grant of the application would serve the public interest, convenience and necessity. Sommers' apparent offer of money in an attempt to fraudulently obtain an Amateur radio license, and his apparent unlicensed radio operation, misrepresentations, and rule violations, described above, preclude the Commission from determining that a grant of his application would be in the public interest.

10. Accordingly, pursuant to Section 309(e) of the Communications Act and § 1.973 of the Commission's rules, it is ordered, that Sommers' application for an Amateur radio station license and Technician Class Amateur radio operator license is designated for hearing upon the following issues:

- (a) To determine whether Sommers offered money to Mr. Richard A. Hinkel, in or around April of 1978, in an attempt to fraudulently obtain an Amateur radio license;
- (b) To determine whether Sommers operated an unlicensed Amateur radio station prior to July 17, 1979, in willful and/or repeated violation of Section 301 of the Communications Act of 1934, as amended;
- (c) To determine whether Sommers operated his licensed Amateur radio station (N0BDX) in willful violation of §§ 97.84(a) and 97.121 of the Commission's rules on July 19, 1979;
- (d) To determine whether Sommers misrepresented to the Commission that he had formerly held an Amateur radio station license (WB8PCO);
- (e) To determine, in light of the evidence adduced under issues (a), (b),

(c), and (d), above, whether Bruce Dale Sommers possesses the requisite qualifications to be a licensee of the Commission; and

(f) To determine, in light of the resolution of issues (a) through (e), above, whether the subject application should be granted or denied.

11. It is further ordered, pursuant to § 1.221(c) of the Commission's rules, that if Sommers wants a hearing on this matter he must file within 20 days a written notice, stating that he will appear and present evidence in this matter. If he fails to file such notice, his application will be dismissed with prejudice.³ If a hearing is requested, the time, place, and Presiding Judge will be specified by subsequent Order.

12. It is further ordered, that copies of this Order shall be sent by Certified Mail—Return Receipt Requested, and by Regular Mail, to Sommers at his address as shown in the caption.

Chief, Private Radio Bureau.
Raymond A. Kowalski,
Acting Chief, Compliance Division.
(FR Doc. 79-36017 Filed 11-21-79; 8:45 am)

BILLING CODE 6712-01-M

[BC Docket Nos. 79-305—79-312; File No. BP-21251]

New Continental Broadcasting Co. et al.; Memorandum Opinion and Order; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: November 7, 1979.

Released: November 15, 1979.

In re Applications of: The New Continental Broadcasting Company, Miami, Florida, BC Docket No. 79-305, File No. BP-21251; Central Broadcasting, Inc., Miami, Florida, BC Docket No. 79-306, File No. BP-780714A; Dadeland Broadcasting Company, Inc., Miami, Florida, BC Docket No. 79-307, File No. BP-780905AN; Women's Florida Association of Broadcasters, Inc., Miami, Florida, BC Docket No. 79-308, File No. BP-780905AO; Victor Lanz, Jose J. Arzuaga & George M. Arroyo, d/b/a Latin American Broadcasters, Miami, Florida, BC Docket No. 79-309, File No. 780906AG; Community Broadcasters, Inc., Miami, Florida, BC Docket No. 79-310, File No. BP-780906AH; Dade Communications, Inc., Miami, Florida, BC Docket No. 79-311, File No. BP-780906AI; Radio America Broadcasting, Incorporated, Miami, Florida, BC Docket No. 79-312, File No. BP-780906AJ; for construction permit for new AM

³ The accompanying form should be used to reply to this Order. It should be completed and mailed to the Federal Communications Commission, Washington, D.C. 20554, in the enclosed envelope, within 20 days.

Broadcast Station (990 kHz, 5kW, DA-1,U).

1. The Commission by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above mutually exclusive applications for the deleted facilities of Station WFAB, Miami, Florida.

2. All of the applicants specify the site and facilities used by Station WFAB. The New Continental Broadcasting Company has agreed to purchase this land and equipment from the former licensee, with monthly payments to begin in February of 1980. On the assumption, reasonable we believe, that a construction permit will not have been granted by this date, New Continental has provided in its financial proposal for an entire year of payments. We think this a prudent course under the circumstances,¹ both for New Continental and, should it not prevail in this proceeding, for the successful applicant who would presumably acquiring the property from it.² See, *The New Continental Broadcasting Company*, FCC 79-383, 45 RR 2d 1632 (1979). Hence, to the extent that five of the applicants (Dadeland Broadcasting Company, Inc., Latin American Broadcasters, Community Broadcasters, Inc., Dade Communications, Inc. and Radio America Broadcasting, Inc.) lack sufficient funds to meet a year's contractual obligations, we will specify financial issues against them.

3. In conducting interviews with community leaders, Latin American Broadcasters has focused exclusively upon Miami's Puerto Rican population, a concentration which is not compatible with its obligation to survey the entire community of license. A limited ascertainment issue will thus be specified. A limited issue will also be directed to the survey of Women's Florida Association of Broadcasters, Inc., which omits interviews with identified leaders of the black community. Given the size of Miami's black population—22.7% according to the applicant's demographic showing—this omission precludes a finding of

¹ Under ordinary circumstances applicants' contractual obligations do not begin until a grant is made. We require in such cases that an ability to meet three months' payments be established. *Financial Qualifications Standards for Aural Broadcast Applicants*, 69 FCC 2d 407, 43 RR 2d 1101 (1978).

² Four of the five applicants' financial proposals are based on the terms of a lease agreement between New Continental and the former Station WFAB licensee. This agreement has been superseded by the sales contract, however, and can no longer appropriately be relied upon. The fifth financial proposal appears to reflect the sales agreement but calls for only three months of payments.

substantial compliance with our *Primer*.³

4. Neither Women's Florida Association of Broadcasters, Inc. nor Latin American Broadcasters has given local notice of the filing of the application as required by § 73.3580 of our rules. And, in failing to include in its public notice the name of its 97.33% stockholder, Dade Communications, Inc. has so deviated from the requirements of this Section as to require a specific inquiry into its compliance. Appropriate issues will accordingly be specified.

5. Except as indicated above, the applicants are qualified to construct and operate as proposed. In view of the foregoing, however, and in light of the fact that the proposals are mutually exclusive, the applications must be designated for hearing.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the following applicants the source and availability of funds to meet land and equipment payments over a one-year period, and, in light thereof, whether the applicants are financially qualified:

- Dadeland Broadcasting Company, Inc.
- Latin American Broadcasters
- Community Broadcasters, Inc.
- Dade Communications, Inc.
- Radio America Broadcasting, Incorporated

2. To determine whether Latin American Broadcasters adequately surveyed leaders outside of the Puerto Rican population of its proposed community of license.

3. To determine whether Women's Florida Association of Broadcasters, Inc. interviewed leaders of the black community.

4. To determine whether the following applicants complied with the Commission's public notice requirements, and, if not, the effect thereof on the applicants' basic and/or comparative qualifications to be Commission licensees:

- Women's Florida Association of Broadcasters, Inc.
- Latin American Broadcasters
- Dade Communications, Inc.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

³ *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971).

6. To determine in light of the evidence adduced pursuant to the foregoing issues which of the applications should be granted.

7. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

8. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-38018 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 79-297, 79-298; BPCT 781005KF, BPCT 790130LC]

Seaford Television Co. and URC Management Services Corp.; Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: November 2, 1979.

Released: November 6, 1979.

In re applications of John R. Powley and Sandra B. Powley d.b.a. Seaford Television Company, Seaford, Delaware, BC Docket No. 79-297, BPCT 781005KF; URC Management Services Corporation, Seaford, Delaware, BC Docket No. 79-298, BPCT 790130LC, for construction permit for a new television broadcast station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, filed by Seaford Television Company (STC)¹ and URC Management Services Corp. (URC) for a new commercial television station on Channel 38, Seaford, Delaware. Also under consideration is a "Joint Petition to Intervene" filed by the

¹ This application was originally filed by John R. Powley. Subsequently, John Powley and his wife, Sandra B. Powley, formed a partnership doing business as Seaford Television Company with John Powley as 51% partner.

Citizens Committee for the Expansion of Commercial Television to the State of Delaware, the Delaware Citizens Committee and the City of Seaford, an informal objection to the STC application filed by Henry de Sassure Flood; and associated filings.

2. Section 73.613 of the Commission's rules requires the main studio of a television station to be located within the community of license or the applicant must show good cause for an alternate location. STC proposes to locate its studio at its transmitter site which is outside Seaford, and makes no further explanation for this proposal. Consequently, compliance with § 73.613 cannot be determined, and an issue will be specified.

3. Analysis of the financial data submitted by STC reveals that \$293,565 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment payment	\$137,500
Land	6,000
Building remodeling	54,000
Miscellaneous	23,000
Operating costs (three months)	73,065

STC has not submitted a balance sheet for the partnership, rather only the balance sheet of John Powley, one partner. That balance sheet shows:

Net liquid assets	\$60,679
Net loan	88,250

Total Funds Available \$148,929

Presumably STC plans to construct and operate with these funds which, as shown above, are insufficient to meet its requirements. Although Powley may be credited with \$60,679 in net liquid assets, the application does not indicate that he will make these assets available to the partnership and, if so, upon what terms. Moreover, the bank loan commitment letter expired September 14, 1979. Even if the Commission were to credit STC with all Powley's assets and loan proceeds, the partnership would still require an additional \$144,636. Accordingly, an issue will be specified to inquire into STC's ability to obtain the \$293,565, it requires.

4. John Powley, partner in STC, owns and operates WHGM-FM in Bellwood, Pennsylvania. Commission action on WHGM's application for renewal of its license has been deferred since August 1, 1978. In a composite week of programming, WHGM failed to meet its promised levels of public service announcement, public affairs and news programs, and no justification for this discrepancy was submitted. Consequently, it cannot be determined that STC can be relied upon to effectuate its programming as proposed in the instant application, and an appropriate issue will be specified.

5. STC has submitted predicted distance in miles to Grade B Contour of 37 miles, but the Commission's staff calculates this distance at approximately 30 miles. The URC predicted distance to Grade B Contour is 42 miles. Although the area disparity between the applicants is greater using the staff's figures, there has been no showing that there is a significant population within the area potentially unserved. *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393, 398-9. See *Radio Telephone Co. of Gainesville*, 46 FCC 2d 827 (1974); *WWKY, Inc.*, 47 FCC 2d 277 (1974). Consequently, no comparative coverage issue will be specified at this time.

6. STC proposes a tower height of 317 feet above ground level. § 17.7 of the Commission's Rules requires that such a proposal be submitted to the Federal Aviation Administration for clearance. STC has not done so and, consequently, an air safety issue will be specified.

7. Analysis of the financial data submitted by URC reveals that \$1,827,750 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	\$1,383,750
Land	88,000
Building remodeling	15,000
Miscellaneous	195,000
Operating Costs (three months)	145,000

URC relies upon a \$3,000,000 loan from its parent company, Human Services Group, Inc. (Human), to construct its facility. Since both the URC and Human balance sheets are outdated (more than 90 days prior to URC's filing date), it cannot be determined whether URC will have the \$1,827,750 it requires, and a limited financial issue will be specified.

8. The Delaware Citizens Committee, the City of Seaford, Delaware, and the Citizens Committee for the Expansion of Commercial Television to the State of Delaware have filed a "Joint Petition To Intervene" pursuant to § 1.223 of the Commission's rules.² This petition is premature as submitted and thus will be dismissed without prejudice to its resubmission at the appropriate time.

9. The informal objection filed by Mr. Flood in his affidavit is predicated on conversations with John Powley. Mr. Flood alleges that Powley would not properly serve the public interest in Seaford because he: (a) Sought only minimal information about Seaford; (b) expressed interest in operating the station for a few years and moving on; (c) would provide only minimal service

² Section 1.223 of the Commission's rules pertains to hearing proceedings and thus is not applicable until after the Order designating issues for hearing is issued.

coverage; (d) would provide minimal news and public issue coverage; and, (e) was not interested in seeking local financial assistance. While the public interest is a basic criterion for Commission action, it is well settled that the Commission may consider only specific allegations of fact directed against an applicant. Section 309(d)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 309(d)(1). Mr. Flood's allegations are vague and based only upon opinion and speculation. Accordingly, the informal objection will be denied.

10. Except as indicated in the issues specified below, the Commission finds Seaford Television Company and URC Management Services Corp. legally, financially, technically and otherwise qualified to operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of these applications will serve the public interest, convenience and necessity. The applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below.

11. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal of Seaford Television Company is in compliance with § 73.613 of the Commission's rules with respect to location of the main studio, and if not, if good cause exists for the proposed location.

2. To determine with respect to Seaford Television Company:

(a) Whether the partnership has liquid assets in excess of current liabilities of at least \$293,565; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine with respect to Seaford Television Company, whether STC can be relied upon to program in accordance with the promises made in its Seaford application; and, the effect of this determination on STC's basic and comparative qualifications.

4. To determine whether the tower height and location proposed by STC would constitute a hazard to air navigation.

5. To determine with respect to URC Management Service Corporation:

(a) The availability of the proposed loan from Human Services Group, Inc.; and

(b) Whether URC has liquid assets in excess of current liabilities of at least \$1,827,750; and

(c) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

6. To determine which of the proposals would, on a comparative basis, better serve the public interest.

7. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, that the "Joint Petition to Intervene" filed by Citizens Committee for the Expansion of Commercial Television to the State of Delaware, the Delaware Citizens Committee and the City of Seaford, is dismissed without prejudice.

13. It is further ordered, that the informal objection filed by Henry de Sassure Flood is denied.

14. It is further ordered, that the Federal Aviation Administration is made a party respondent in respect to Issue 4, above.

15. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and the party respondent shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

16. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 3.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-36057 Filed 11-21-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Advisory Council; Amended Meeting

November 9, 1979.

Reference Federal Register dated October 30, 1979, Vol. 44, No. 211, page 62368, Notice of Meeting for the Federal Savings and Loan Advisory Council on Monday, November 19, 1979.

The second item, after the General Discussion, "Title Examinations and

Insurance" at 9:00 a.m., Monday, November 19 is withdrawn from the Agenda.

Jay Janis,
Chairman.

[FR Doc. 79-36072 Filed 11-21-79; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-67]

Haven Federal Savings & Loan Association, Winter Haven, Fla.; Post Approval Amendment of Conversion Application; (Notice of Final Action)

November 19, 1979.

Notice is hereby given that on November 8, 1979, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 79-549, approved the amendment to the application of Haven Federal Savings and Loan Association, Winter Haven, Florida, for permission to convert to the stock form of organization. The application to convert was approved on August 16, 1979, by Resolution No. 79-440. Copies of the application and the amendment are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, 260 Peachtree Street NW., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 79-36118 Filed 11-21-79; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-66]

Naples Federal Savings & Loan Association, Naples, Fla.; Approval of Conversion; Notice of Final Action

November 19, 1979.

Notice is hereby given that on November 8, 1979, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 79-548, approved the application of Naples Federal Savings and Loan Association, Naples, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, 260 Peachtree Street, N.W., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 79-36117 Filed 11-21-79; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 783, 48 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 3, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 5200-35.

Filing party: David C. Nolan, Esq., Ralph M. Pais, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111.

Summary: Agreement No. 5200-35, among the member lines of the Pacific Coast European Conference, would amend the basic agreement to revise and extend the independent action provisions and the procedures governing the participation and voting of joint services.

Dated: November 16, 1979.

By Order of the Federal Maritime Commission.
Francis C. Hurney,
Secretary.

[FR Doc. 79-36113 Filed 11-21-79; 8:45 am]
BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on November 15, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipts.

The notice includes the title of each request received; the names of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed SEC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 11, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Securities and Exchange Commission

The SEC requests an extension without change clearance of voluntary Form R-4a, Private Noninsured Pension Funds. The form collects data quarterly on common stock transactions and statement of assets. Respondents are corporations, unions, multi-employer groups as sponsors of pension plans, and banks as managers of pension plans. The SEC estimates that respondents will number approximately 400 and that reporting time will average 3 hours per quarterly report.

The SEC requests an extension without change clearance of voluntary Form R-5, Property and Liability Insurance Companies. The form collects data quarterly on common stock transactions and statement of assets. Respondents are property and liability insurance companies. The SEC

estimates that respondents will number approximately 120 and that reporting time will average 3 hours per quarterly report.

The SEC requests an extension without change clearance of voluntary Annual Asset Letter and attached Reporting Form. The form collects data on total assets. Respondents are registered investment companies. The SEC estimates that respondents will number approximately 1,507 and that reporting time will average 5 minutes per report.

Norman F. Heyl,
Regulatory Reports Review Officer.

[FR Doc. 79-36062 Filed 11-21-79; 8:45 am]
BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79F-0401]

Thomas J. Lipton, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Thomas J. Lipton, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of methylene chloride as a solvent for decaffeinating tea.

FOR FURTHER INFORMATION CONTACT: Gerard L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 0A3481) has been filed by Thomas J. Lipton, Inc., 800 Sylvan Ave., Englewood Cliffs, NJ 07632, proposing that the food additive regulations be amended to provide for the safe use of methylene chloride as a solvent for decaffeinating tea.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, the notice of availability of the environmental impact analysis report, statement of exemption, environmental assessment report as applicable, will be published in the Federal Register regulation, as permitted by 21 CFR 25.25(b).

Dated: November 13, 1979.

Sanford A. Miller,
Director, Bureau of Foods.
[FR Doc. 79-35838 Filed 11-21-79; 8:45 am]
BILLING CODE 4110-03-M

Office of Education

National Advisory Council on Bilingual Education; Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Bilingual Education. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Committee meetings: December 9, 1979, 2:00 p.m. Full Council meeting: December 10 and 11, 1979, 9:00 a.m. to 5:00 p.m.

ADDRESS: December 9, 1979, Committee meetings will be held at the Four Seasons Plaza Nacional, San Antonio, Texas. December 10 and 11, 1979, Full Council meeting will be held at the Southwest Intergovernmental Training Institute, Hemisphere Plaza, 643 East Durango Street, San Antonio, Texas 78206. For further information contact: Gloria Becerra, Office of Bilingual Education, Reporters Building, Room 421, Office of Education, 400 Maryland Avenue, S.W., Washington, DC 20202, (202-447-9227).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b-11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

The meetings on December 10 and 11, 1979 will be open to the public beginning at 9:00 a.m.

December 10, 1979: A meeting of the Full Council on the following subjects is scheduled from 9:00 a.m. until 5:00 p.m. The proposed agenda includes the following:

Business Meeting

- Call to Order
- Approval of Minutes
- Chairperson's Report
- Management Institute
- Presidential Commission
- Dissertation Award
- Correspondence

- d. Committee Reports
Executive Committee
Program Resource and Coordination
Committee
Research Plan
Community Involvement and Outreach
Committee
Program Administration Committee
Final Rules and Regulations
Continuing Students in Programs not
Refunded
Legislative Advisory and Policy Committee
Presidential Status
- e. Ad Hoc Reports
Dissertation Committee
- f. OBE Director's Report
Rules and Regulations
Department of Education
Materials Development Procedures
1980 Census

December 11, 1979: The proposed agenda includes the following:

- g. Old Business
Action Items
- h. New Business
Action Items
Agenda
- i. Public Participation
- j. Adjournment

Records will be kept of all Council proceedings and shall be available for public inspection after approval, by the Full Council, of said records has been obtained. These records will be available in Room 421, Reporters Building, 300 7th Street, S.W., Washington, DC. Written requests for such records should be sent to 400 Maryland Avenue, S.W., Reporters Building, Room 421, Washington, DC 20202.

In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C. on November 19, 1979.

Josue M. Gonzalez,

Director, Office of Bilingual Education.

[FR Doc. 79-35975 Filed 11-21-79; 8:45 am]

BILLING CODE: 4110-99-M

Commission on the Review of the Federal Impact Aid Program; Meeting

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the second meeting of the Commission on the Review of the Federal Impact Aid Program, the members of which were appointed by the President on August 15, 1979. The meeting will be open to the general public and all interested persons are invited to attend. Notice of this meeting is given in accordance with

section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 1).

DATE: December 14, 1979. The Commission will meet at 9:00 a.m. and continue until business is completed.

ADDRESS: BOAC Room, Hyatt Regency O'Hare, 9300 Bryn Mawr Road, Chicago, Illinois 60668.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Impact Aid Program, Suite 710, 1325 G Street, N.W., Washington, D.C. 20005. (202) 724-0221.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Public Law 95-561). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Public Law 874, 81st Congress), and report its recommendations on that program to the President and the Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Public Law 874 requires that the Commissioner make payments to local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of Federal ownership of real property and the provision of educational services for federally connected children—or by reason of sudden or substantial increases in school attendance resulting from Federal activities.

TENTATIVE AGENDA: The Commission members will consider a Plan of Study for the Commission during its evaluation and review of the Federal Impact Aid Program.

RECORDS: Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at Suite 710, 1325 G Street, N.W., Washington, D.C. 20005.

Signed at Washington, D.C. on the 15th day of November, 1979.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 79-38063 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-02-M

INTERAGENCY REGULATORY LIAISON GROUP

Epidemiology Work Group (EWG); Availability of Draft Guidelines

AGENCY: Interagency Regulatory Liaison Group (IRLG), representing the Consumer Product Safety Commission (CPSC); the Environmental Protection Agency (EPA); the Food and Drug Administration, Department of Health, Education and Welfare (FDA); the Food Safety and Quality Service, Department of Agriculture (FSQS); and the Occupational Safety and Health Administration, Department of Labor (OSHA).

ACTION: Notice of availability of draft guidelines.

SUMMARY: A package containing the draft Guidelines on Documentation for Epidemiologic Studies is available for review and comment. The guidelines were developed by the Epidemiology Work Group (EWG) of the IRLG, for use when reporting the results of epidemiologic research to IRLG member agencies.

REQUESTS FOR GUIDELINES: Single copies of the guidelines may be obtained by writing to: Industry Assistance Office (TS-799), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or by calling (800) 424-8065 (toll-free) or (202) 554-1404.

DATE: In order to give interested persons an opportunity to express their views on the validity and appropriateness of the documentation described for epidemiologic studies, written comments on these guidelines may be submitted by March 1, 1980. When completed, the final version will incorporate these comments where appropriate and will be made available to the public.

ADDRESS: Comments should be addressed to Dr. Roberts D. Verhalen, Deputy Associate Executive Director for Epidemiology, U.S. Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be examined in the IRLG Office, Room 509, 1111 18th Street, N.W., Washington, D.C., 9:00 a.m. to 4:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The IRLG was established for the purpose of improving public health through sharing of information, avoiding duplication of effort, and developing consistent regulatory policy.

The IRLG established the Epidemiology Work Group (EWG) partly for the purpose of more readily facilitating the objective conduct and

evaluation of non-experimental epidemiologic studies which may be used for regulatory decision-making. To help achieve this objective, the EWG has developed guidelines for such epidemiologic studies. While it is not intended that a standard model be developed against which epidemiologic would mold their research, the EWG believes it is necessary to develop minimal criteria by which submitted studies can be objectively evaluated.

The EWG subsequently reviewed studies, obtained outside guidance and coordinated its work with the agencies and others who might also be interested in guidelines development.

Draft guidelines on documentation for epidemiologic studies were prepared by the EWG to satisfy the needs of the IRLG agencies. The guidelines emphasize the type and extent of information considered important by the EWG for the objective evaluation and interpretation of epidemiologic studies. In addition, they are intended to provide a framework for evaluation even when all elements of the guidelines have been met. It is intended that they be sufficiently flexible to permit innovative approaches to the study of human disease or injury under changing circumstances.

The EWG is releasing these guidelines in order to obtain public comment before it prepares final drafts of the guidelines for submission to the member agencies for their consideration. These draft guidelines are not intended to have the force of law. The use agencies make of the guidelines will be determined by each agency after receiving final draft guidelines prepared by the IRLG Work Group.

Early drafts of the IRLG guidelines were circulated through each agency and to a number of scientists and administrators for review; and comments from that review are included in these draft guidelines. The EWG acknowledges the contributions from each of these information sources and takes this opportunity to express its appreciation to them for helping develop these draft guidelines.

Dated: November 14, 1979.

Edwin H. Clark, II,

Chairman, Interagency Regulatory Liaison Group

[FR Doc. 79-35949 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-25-M

Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks; Comment Extension

AGENCY: Interagency Regulatory Liaison Group (IRLG), representing the

Consumer Product Safety Commission (CPSC); the Environmental Protection Agency (EPA); the Food and Drug Administration, Department of Health, Education and Welfare (FDA); the Food Safety and Quality Service, Department of Agriculture (FSQS); and the Occupational Safety and Health Administration, Department of Labor (OSHA).

ACTION: Notice of Extension of Public Comment Period for "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks."

SUMMARY: This notice extends the public comment period for the IRLG report entitled "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks" from the previously announced closing on September 30, 1979, to November 30, 1979. This report was published on July 6, 1979, in 44 FR 39358 ff.

DATE: Written comments are requested to be submitted before close of business, November 30, 1979.

ADDRESS: Comments should be sent to IRLG, Room 500, 1111 18th Street, N.W., Washington, D.C. 20207. Comments may be examined in Room 2903B of the Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS-799), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; telephone toll-free 800-424-9065 or, in Washington, 554-1404.

SUPPLEMENTARY INFORMATION: This report has also formed the basis of part of the Regulatory Council's "Statement on Regulation of Chemical Carcinogens", published in the Federal Register on October 17, 1979, and was incorporated as Annex B to that statement. (See 44 FR 60038 ff and Annex B, page 60044 ff.) The Regulatory Council has asked that comments upon its statement be received by the Council by November 15, 1979.

Dated: November 14, 1979.

Edwin H. Clark, II,

Chairman, Interagency Regulatory Liaison Group.

[FR Doc. 79-35948 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 38814, 38817 and 38818]

New Mexico; Applications

November 14, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 22 S., R. 26 E.,

Sec. 17, S½NE¼ and SE¼NW¼.

T. 21 S., R. 27 E.,

Sec. 16, NE¼SE¼.

T. 21 S., R. 36 E.,

Sec. 18, NW¼SE¼.

These pipelines will convey natural gas across 0.689 of a mile of public lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79-38110 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[U-32705]

Order Providing for Opening of Lands in Utah

November 9, 1979.

By virtue of the authority contained in Section 24 of the Act of June 10, 1920 (41 Stat. 1075) as amended 16 U.S.C. 818 (1970) and pursuant to the determination of the Federal Energy Regulatory Commission in DA 204 Utah January 28, 1977, it is ordered as follows:

1. In DA 204 Utah, The Federal Energy Regulatory Commission determined that the following described power project No. 665 (U-43000, U-43021) is no longer needed for power purposes and is vacated in its entirety. Under the authority delegated by the Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, the segregative effect of said withdrawal is hereby lifted.

Salt Lake Meridian, Utah

T. 10 S., R. 1 E.,
Sec. 13, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$,
SW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 10 S., R. 2 E.,
Sec. 18, lot 9,
Sec. 19, lots 1, 2, 5, 6, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$,
SW $\frac{1}{4}$ SE $\frac{1}{4}$.
Sec. 30, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

The area aggregates approximately 620 acres in Utah County, Utah.

2. All of the above described lands are within the Uinta National Forest and some of the lands have been withdrawn for reclamation purposes. Any use of these lands will be subject to the provision of these existing withdrawals.

Gary J. Wicks,
State Director.

[FR Doc. 79-36093 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38820, 38821, 38844 and 38846]

New Mexico; Applications

November 13, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576). Gas Company of New Mexico has applied for two 2-inch and two 4-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 10 W.,
Sec. 14, lots 7, 10, 11 and 12,
Sec. 31, SW $\frac{1}{4}$ NE $\frac{1}{4}$,
Sec. 35, E $\frac{1}{2}$ SW $\frac{1}{4}$.
T. 30 N., R. 10 W.,
Sec. 34, lot 5,
Sec. 35, lots 12 and 13.

These pipelines will convey natural gas across 1.141 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 8770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,
Chief Lands Section.

[FR Doc. 79-36111 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[M 45173 (ND)]

North Dakota; Application

November 15, 1979.

Notice is hereby given that, pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Montana-Dakota Utilities Co. of Bismarck, North Dakota, has applied for a 4-inch natural gas pipeline right-of-way across the following described public lands:

Fifth Principal Meridian, North Dakota

T. 130 N., R. 106 W.,
Sec. 32, N $\frac{1}{2}$ SW $\frac{1}{4}$.

This pipeline will convey natural gas from the J. C. Paine-Chapman No. 1 gas well to an existing Montana-Dakota Utilities pipeline across 0.276 of a mile of public land in Bowman County, North Dakota.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1229, Pulver Hall, Dickinson, North Dakota 58601.
Roland F. Lee,
Chief, Branch of Lands and Minerals Operation.

[FR Doc. 79-36094 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[Coal Lease Application U-37045]

Land in Emery County, Utah; Public Hearing and Availability of Environmental Assessment

November 16, 1979.

The Department of the Interior, Bureau of Land Management, Utah State Office, Moab District, hereby gives notice that a public hearing will be held on December 12, 1979 at 7:00 p.m. in the large court room, Carbon County Courthouse, Price, Utah. Application has been made to the United States that it offer for lease certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment prepared and on the following items:

(1) The method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leasehold may have on the area,

including but not limited to impacts on the environment; and (3) methods of determining the fair market value of the coal to be offered. Written requests to testify orally at the December 12 public hearing should be received at the Price River Area Office, PO Drawer AB, Price, Utah 84501, prior to the close of business at 4:30 p.m. on December 11, 1979. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearings, but speakers will be limited to a maximum of ten minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to Price River Resource Area at the above address, prior to close of business on December 11, 1979. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1-2. Should any information submitted as comments be considered to be proprietary by the commentator, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to

both the State Director, Utah, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than December 10, 1979.

Application U-37045

The coal resource to be offered is to be mined underground from the Blind Canyon and Hiawatha seams in the following lands located about one mile west of the community of Wattis.

Township 15 South, Range 8 East, Salt Lake Base and Meridian:

Section 5: Lots 4, 5, 12 and NW $\frac{1}{4}$ SW $\frac{1}{4}$ —

B.L.M.

Section 6: Lots 1, 2, 3, 6, 7, 9, 10, 11, 13, 14,

E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ —F.S.

Section 7: NE $\frac{1}{4}$ NE $\frac{1}{4}$ —F.S.

Section 8: NW $\frac{1}{4}$ NW $\frac{1}{4}$ —F.S. containing 735.9 acres.

The estimated total underground reserves are 5,500,000 tons. The coal quality is as follows: Btu—11,500 to 12,290 per pound; Sulfur—.06% to .85%; Ash—6.3% to 9%; and moisture 6.5%.

The draft Environmental Assessment will be available for review in the Bureau of Land Management Moab District Office, PO Box 970, Moab, Utah 84532; the Price River Resource Area Office, 900 North 700 East, Price, Utah 84501; and Manti LaSal Forest Service Office, 350 East Main, Price, Utah 84501. Single copies are available for distribution upon request from the office at the above addresses.

A copy of the Environment Assessment, the case file and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commentator and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Utah State Office, Bureau of Land Management at the above address.

S. Gene Day,
District Manager.

[FR Doc. 79-36115 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[F-35350]

Alaska; Proposed Withdrawal and Reservation of Lands

The Department of the Army, Corps of Engineers, on February 17, 1978, filed application, serial No. F-35350, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws subject to valid existing rights:

Fairbanks Meridian, Alaska

T. 1 S., R. 3 E.,

more particularly described as (protracted)

Sec. 22: E $\frac{1}{2}$ SE $\frac{1}{4}$.

Sec. 23: S $\frac{1}{2}$.

Sec. 24: N $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$,
S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$,
NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$,
SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$,
W $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$.

Sec. 25: W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.

Sec. 26: N $\frac{1}{2}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,
W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$,
W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.

Sec. 27: E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$.

Sec. 34: N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
N $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$.

Sec. 35: NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
NW $\frac{1}{4}$ NW $\frac{1}{4}$.

Containing 1,335 acres, more or less.

The applicant agency desires that the

lands be withdrawn and reserved for

use in conjunction with the Chena River

Lakes Flood Control Project.

All persons who wish to submit

comments, suggestions, or objections in

connection with the proposed

withdrawal may present their views in

writing to the undersigned authorized

officer of the Bureau of Land

Management on or before January 3,

1980.

Pursuant to section 204(h) of the

Federal Land Policy and Management

Act of 1976, notice is hereby given that

an opportunity for a public hearing is

afforded in connection with the

proposed withdrawal. All interested

persons who desire to be heard on the

proposed withdrawal must submit a

written request for a hearing to the State

Director, Bureau of Land Management,

701 C Street, Box 13, Anchorage, Alaska

99513, on or before January 3, 1980.

Notice of the public hearing will be

published in the Federal Register giving

the time and place of such hearing. The

public hearing will be scheduled and

conducted in accordance with BLM

Manual, Sec. 2351.16 B.

The Department of the Interior's

regulations provide that the authorized

officer of the BLM will undertake such

investigations as are necessary to

determine the existing and potential

demands for the lands and their

resources. He will also undertake

negotiations with the applicant agency

with the view of assuring that the area

sought is the minimum essential to meet

the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the Federal Register. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of 2 years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 701 C Street, Box 13, Anchorage, Alaska 99513.

Robert E. Sorenson,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-36074 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[AA-6983-A, AA-6983-B, and AA-6983-D]

Alaska Native Claims Selection

Corrections

In FR Doc. 79-32762 appearing at page 61262 in the issue of Wednesday, October 24, 1979, on page 61263, first column, under T. 74 S., R. 85 E. (Partially Surveyed), Sec. 36 should read as follows: "Sec. 36, lots 1, 2 and 3, E $\frac{1}{2}$ E $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$." And under T. 74 S., R. 86 E. (Partially Surveyed), second line under Sec. 19 should read "E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$."

BILLING CODE 1505-01-M

Fish and Wildlife Service**Withdrawal of Notice of Intent to Prepare and Environmental Impact Statement on the Lower Apalachicola Flood Plain in Gulf, Calhoun, and Liberty Counties, Fla.**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Fish and Wildlife Service had decided not to pursue this study further at this time. Therefore, the Notice of Intent Published in the November 9, 1979, *Federal Register* (44 FR 219) to prepare an Environmental Impact Statement on alternatives for conserving portions of the lower Apalachicola River Basin is hereby withdrawn.

DATES: Effective immediately.

ADDRESSES: Donald Hankla, Area Manager, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Florida 32207, Telephone Number: (904) 791-2850.

Stephen H. Taub

Chief, Office of Environmental Coordination.

November 20, 1979.

[FR Doc. 79-36238 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey**Known Recoverable Coal Resource Area, Warrior Basin, Ala.**

Pursuant to Authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94-377, August 4, 1976, as amended by Pub. L. 95-554, October 30, 1978), Federal lands within the State of Alabama have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(1) Alabama

Warrior Basin (Alabama) Known Recoverable Coal Resource Area (KRCRA); September 4, 1979; 162,400 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Regional

Conservation Manager, Eastern Region, U.S. Geological Survey, Washington, D.C. 20006.

Dated: November 18, 1979.

O. M. Hackett,

[FR Doc. 79-36073 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-31-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES**Advisory Committee on Actuarial Examinations; Meeting**

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at Room 4125, Department of the Treasury, 15th Street and Pennsylvania Avenue, Washington, D.C., on December 17, 1979 beginning at 9:30 a.m.

The purpose of the meeting is to review the November Joint Board examinations in actuarial mathematics and methodology, referred to in Title 29 U.S. Code, Sections 1242(a)(1) (B) and (C); and to make recommendations relative thereto, including the minimum acceptable pass score. A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in Title 5, U.S. Code, Section 552(b)(5) and that the public interest requires such meeting be closed to public participation.

Dated: November 19, 1979.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 79-36019 Filed 11-21-79; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE**Antitrust Division****United States V. Continental Group, Inc., et al.; Proposed Consent Judgment, Stipulation, and Competitive Impact Statement as to Continental Group, Inc., American Bag & Paper Corp. and Harley Corp.**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b) through (h), that a proposed Consent Judgment, Stipulation and Competitive Impact Statement as to Continental Group, Inc., American Bag & Paper Corp. and Harley Corporation (hereinafter referred to as "Consenting Defendants") as set out below have been filed with the United States District Court for the Eastern

District of Pennsylvania in *United States of America v. Continental Group, Inc. et al.*, Civil Action No. 76-3377. The Complaint in this case alleged that five

(5) corporations, including the consenting Defendants, engaged in a combination and conspiracy to fix prices of consumer bags in violation of Section 1 of the Sherman Act, 15 U.S.C. Section 1. The proposed Consent Judgment enjoins the consenting Defendants from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, plan, program, combination or conspiracy with any other person engaged in the production or sale of consumer bags to: (a) raise, fix, maintain or stabilize the price or other terms or conditions for the sale of consumer bags to any third person; (b) submit noncompetitive, collusive, rigged, cover or complimentary bids or quotations for the sale of consumer bags; and (c) refrain from submitting a bid or quotation for any sale of consumer bags. The proposed Judgment further enjoins the Consenting Defendants from communicating or exchanging with any other manufacturer or seller of consumer bags and information regarding specific prices of consumer bags or material from which such specific prices may be computed. The consenting Defendants are also enjoined from distributing any pricing manuals or price lists used or to be used in computing prices, terms or conditions of sale charged or to be charged for consumer bags. Each Consenting Defendant is required to establish an antitrust compliance program which must include reporting to the Department of Justice all communications relating to prices of consumer bags between its employees and representatives of other consumer bag manufacturers. Public comment is invited within the statutory 60 day time period. Such comments and responses thereto will be published in the *Federal Register* and filed with the Court. Comments should be directed to John J. Hughes, Chief, Middle Atlantic Office, Antitrust Division, Department of Justice, 3430 United States Courthouse, Philadelphia, Pennsylvania 19106.

Dated: November 13, 1979.

Josef H. Widmar,

Director of Operations.

U.S. District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. *Continental Group, Inc. et al.*, Defendants. Civil Action No. 76-3377.

Filed: November 13, 1979.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 18), and without further notice to any party or other proceedings, provide that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: November 13, 1979.

For the Plaintiff: John H. Shenefield, Assistant Attorney General; Joseph H. Widmar, Charles F. B. McAleer, John J. Hughes, Attorneys, Department of Justice; Walter L. Devany, Attorney, Department of Justice, Antitrust Division, Department of Justice, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106.

For Defendant American Bag & Paper Corp.: Edward C. German, Philip A. Ryan, LaBrum & Dook, 700 I.V.B. Building, Philadelphia, Pennsylvania 19103.

For Defendant Harley Corporation: Benjamin M. Quigg, Jr., James J. Rodgers, Morgan, Lewis & Bockius, 2300 The Fidelity Building, 123 South Broad Street, Philadelphia, Pennsylvania 19109; Willis B. Snell, Michael L. Denger, Robert M. Royalty, Sutherland, Asbill & Brennan, 1666 "K" Street, N.W., Washington, D.C. 20036.

For Defendant Continental Group, Inc.: Patrick T. Ryan, William J. Lehane, Drinker, Biddle & Reath, 1100 Philadelphia National Bank Building, Philadelphia, Pennsylvania 19107.

U.S. District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. *Continental Group, Inc. et al.*, Defendants. Civil Action No. 76-3377.

Filed: November 13, 1979.

Final Judgment as to Continental Group, Inc., American Bag & Paper Corp. and Harley Corp.

Plaintiff, *United States of America*, having filed its Complaint herein on October 29, 1976, and the Plaintiff and the Defendants, Continental Group, Inc., American Bag & Paper Corp. and Harley Corporation (hereinafter referred to as "consenting defendants"), by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this

Final Judgment constituting any evidence against or an admission by any party with respect to any such issue, and this Court, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, having determined there is no just reason for delay in entering a Final Judgment as to all of Plaintiff's claims asserted in said Complaint against said consenting defendants and having directed the entry of such a Final Judgment;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed as follows:

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the consenting defendants under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, corporation, firm, association or other business or legal entity;

(B) "Consumer bags" or "small bags" shall include bags which are pre-formed by a manufacturer from one or more plies of paper, and which are sometimes combined with other materials used as linings and/or coatings, and which are designed for capacities of less than twenty-five pounds. They are normally used to pre-package products which are then marketed in such bags. Consumer bags are used for packaging a variety of products including, among others, pet foods, cookies, tea, coffee, kitty litter, chemicals and agricultural products. Consumer bags also include air sickness bags.

III

This Final Judgment applies to each of the consenting defendants and to its officers, directors, agents and employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; provided, however, that this final Judgment shall not apply to transactions or communications solely between a consenting defendant and its officers, directors, employees, agents, or to transactions or communications between or among a consenting defendant and its parent company, subsidiaries or companies more than fifty percent (50%) owned by a consenting defendant or its parent, or to activities outside the United States which do not affect the commerce of the United States.

IV

Each consenting defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, plan, program, combination or conspiracy with any other person engaged in the production or sale of consumer bags to:

(A) Raise, fix, maintain or stabilize the price or other terms or conditions for the sale of consumer bags to any third person;

(B) Submit noncompetitive, collusive, rigged, cover, or complimentary bids or quotations for the sale of consumer bags;

(C) Refrain from submitting a bid or quotation for any sale of consumer bags.

V

Each consenting defendant is enjoined and restrained from:

(A) Communicating to, requesting from or exchanging with any other manufacturer or seller of consumer bags:

(1) Any price, price change, discount or other term or condition of sale charged or quoted to any customer or potential customer for consumer bags whether communicated in the form of a specific price or in the form of information from which such specific price may be computed;

(2) Any future price, price change, discount, or other term or condition of sale to be charged or quoted to any customer or potential customer for consumer bags whether communicated in the form of a specific price or in the form of information from which such specific price may be computed;

(3) Any plan or changes or revisions in the prices at which, or the terms or conditions of sale upon which, consumer bags are sold or offered for sale; and

(4) Any formula utilized for computing costs or prices or methods or means for computing prices at which consumer bags are sold.

(B) Distributing to any manufacturer of consumer bags any pricing manual, price lists, or similar pricing material which is used, has been used or will be used in computing prices or terms or conditions of sale charged or to be charged for consumer bags.

VI

Nothing contained in this Final Judgment shall prohibit a consenting defendant's negotiations, arrangements or communications with another manufacturer or seller of consumer bags or with any agent, broker, distributor or representative of such manufacturer or seller solely in connection with bona fide proposed or actual purchases of consumer bags from, or sale of consumer bags to, that manufacturer or seller except as prohibited by Paragraph (B) of Section V of this Final Judgment. Each such negotiation, arrangement or communication, by an employee of a consenting defendant with a person whom a consenting defendant has reason to believe sells consumer bags, shall be reported in writing with a copy to his or her immediate superior stating the date, time and place of the negotiation, communication or arrangement, whether it was oral or written, the name and title of the other person or persons involved in the negotiation, arrangement or communication, a brief description of the transaction involved, and the price information transmitted to or from the consenting defendant; such reports shall be retained in the files of the consenting defendant and copies thereof shall be delivered to the Antitrust Division by the consenting defendant on each anniversary date of this Final Judgment along with a certification by the responsible officer of the consenting defendant stating that all reports

responsive to this proviso have been delivered to the Antitrust Division without comparison of such reports with reports filed or to be filed with the Antitrust Division by any other company.

VII

(A) Within sixty (60) days after the date of entry of this Final Judgment, each consenting defendant shall furnish a conformed copy thereof to:

- (1) Each of its officers and directors;
- (2) Each officer and director of a domestic subsidiary engaged in the manufacture or sale of consumer bags;
- (3) Each of its employees and managing agents who is engaged in, or has responsibility for or authority over, the pricing of consumer bags; and
- (4) Each employee and managing agent of a domestic subsidiary who is engaged in, or has responsibility for or authority over, the pricing of consumer bags;

and shall advise and inform each such person that violation of this Final Judgment could result in a conviction for contempt of court and imprisonment and/or fine.

(B) Within ninety (90) days after the date of entry of this Final Judgment, each consenting defendant shall file with this Court and serve upon the Plaintiff an affidavit concerning the fact and manner of compliance with Paragraph (A) of this Section.

(C) Within thirty (30) days after each such person becomes an officer, director, employee or agent of the kind described in Paragraph (A), each consenting defendant shall furnish to him or her a conformed copy of this Final Judgment together with the advice specified by said Paragraph (A).

(D) Each person receiving from any consenting defendant a conformed copy of this Final Judgment in accordance with this paragraph shall furnish such consenting defendant a receipt therefor which such consenting defendant shall retain in its files.

VIII

(A) Each consenting defendant shall advise each of its officers who has management responsibility for the manufacture or sale of consumer bags, and each of its employees and managing agents who is engaged in, or has responsibility for or authority over, the pricing of consumer bags, of its and their obligations under this Final Judgment. Each consenting defendant shall maintain a program to insure compliance with this Final Judgment, which program shall include at a minimum the following with respect to each of the persons described immediately above:

- (1) The annual distribution to them of this Final Judgment;
- (2) The annual submission to them of a written directive setting forth such consenting defendant's policy regarding compliance with the Sherman Act and with this Final Judgment, with such directive in include advice that such consenting defendant will make legal advice available to such persons regarding any compliance questions or problems;
- (3) The imposition of a requirement that each of them sign and submit to such consenting defendant, once a year, a certificate in substantially the following form:

"The undersigned hereby (1) acknowledges receipt of a copy of the Final Judgment as to [name of appropriate consenting defendant] entered in United States v. Continental Group, Inc. et al., E.D. Pa., Civil Action No. 76-3377 and a written directive setting forth the [name of appropriate consenting defendant] policy regarding compliance with the antitrust laws and with such Final Judgment, (2) represents that the undersigned has read and understands such Final Judgment and directive, (3) acknowledges that the undersigned has been advised and understands the company's policy with respect to compliance with the Sherman Act and the Final Judgment, and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine";

(4) The holding of one or more meetings with them to review the terms of this Final Judgment and the obligations it imposes, with such meetings to be arranged and conducted so that each of them attends at least one such meeting within a twelve (12) month period; and

(5) The imposition of a requirement that for a period of five (5) years from the entry of this Final Judgment each of them shall report, subject to any legally recognized privilege, to his or her immediate superior in writing each communication with any officer, director, representative or employee of any other company which manufactures consumer bags if such communication in any way involves prices or any of the terms or conditions of sale of consumer bags or any information from which a price of term or condition of sale may be computed. Each of them is to meet this requirement by completing a written report of each such communication, within thirty (30) days of the communication, stating the date, time and place of the communication, whether it was oral or written, the name and title of the other person or persons involved and a brief description of the topics discussed during the communication. Any person required to complete reports of communications by this Paragraph and who completes no such reports during any twelve (12) month period must certify that he or she had no communications of the type described in this Paragraph. Each such report and certification shall be retained in the files of the consenting defendant and copies thereof shall be delivered to the Antitrust Division by the consenting defendant on each anniversary date of this Final Judgment along with a certification by the responsible officer of the consenting defendant stating that all reports responsive to this proviso have been delivered to the Antitrust Division without comparison of such reports with reports filed or to be filed with the Antitrust Division by any other company. Each consenting defendant shall include in its annual sworn statement required to be filed by Paragraph VIII(B) of this Final Judgment, the name and address of each person, if any, who has failed to submit a report or certification required by this Paragraph during the twelve (12) month period preceding the filing of the consenting defendant's sworn statement and the reason

given or privilege claimed by each such person for not filing a report or certification.

(B) Each consenting defendant shall file with the Court and with Plaintiff on or before each anniversary date of this Final Judgment, a sworn statement, by a responsible official designated by such consenting defendant to perform such duties, setting forth all steps it has taken during the preceding year to discharge its obligations under this Section VIII. This statement shall be accompanied by copies of all written directives issued by such consenting defendant during the prior year with respect to compliance with the antitrust laws and with this Final Judgment.

(C) Upon order of the Court, on motion by the Plaintiff for good cause shown, the designated official shall appear before the Court to give sworn testimony on the manner of compliance with the Final Judgment.

IX

Each consenting defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in the design, printing, manufacture and sale of consumer bags, that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with the Court.

X

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a consenting defendant made to its principal office, be permitted:

- (1) Access, during office hours of such consenting defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such consenting defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and
- (2) Subject to the reasonable convenience of such consenting defendant and without restraint or interference from it, to interview officers, employees and agents of such consenting defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a consenting defendant's principal office, such consenting defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment, as may be requested.

No information or documents obtained by the means provide in this Section X of the Final Judgment shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a consenting defendant to Plaintiff, such consenting defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such consenting defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by Plaintiff to such consenting defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which such consenting defendant is not a party.

XI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

XII

This Final Judgment will expire on the tenth anniversary of its date of entry.

XIII

Entry of this Final Judgment is in the public interest.

Dated: _____,
United States District Judge

U.S. District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. Continental Group, Inc.; American Bag & Paper Corp.; Chase Bag Company; Harley Corporation; and St. Regis Paper Company, Defendants.

Civil Action No. 76-3377.
Filed: November 13, 1979.

Competitive Impact Statement

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment as to Continental Group, Inc., American Bag & Paper Corp. and Harley Corporation (hereinafter referred to as "Consenting Defendants") submitted for entry in this civil antitrust proceeding.

Nature and Purpose of the Proceedings

On October 29, 1976 the United States filed a civil antitrust Complaint alleging that five corporations combined and conspired to fix prices of consumer bags in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. The Complaint alleges that beginning at least as early as 1950 and continuing thereafter until the date of the filing of the Complaint the defendants engaged in a combination and conspiracy to raise, fix, maintain and stabilize the prices and terms and conditions of sale of consumer bags.

The Complaint seeks a judgment by the Court declaring that the Defendants engaged

in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also seeks an order by the Court to enjoin and restrain the Defendants from any such activities or other activities having a similar purpose or effect in the future.

II

Description of the Practices Giving Rise to the Alleged Violations of the Antitrust Laws

As defined in the Complaint, consumer bags, also known in the trade as "small bags," are made from one or more plies of paper which may be combined with other materials used as linings and/or coatings. Consumer bags are performed by the manufacturer in many styles and sizes according to consumer specifications. Most consumer bags have printed exterior designs as specified by the customer and are designed for capacities of less than 25 pounds. They are normally used to prepackage products which are then marketed in such bags. Consumer bags are used for packaging a variety of products including, among others, pet foods, cookies, tea, coffee, kitty litter, chemicals, and agricultural products. Consumer bags also include air sickness bags.

The Complaint further alleges that the defendant corporations accounted for aggregate sales of consumer bags of approximately \$42 million in 1974. During the period of time covered by the Complaint the Defendants sold and shipped substantial quantities of consumer bags in a continuous and uninterrupted flow of interstate commerce to customers located in States other than the States in which such bags were manufactured.

The Complaint alleges that the Defendants engaged in a combination and conspiracy beginning at least as early as 1950 and continuing thereafter until the date of filing of the Complaint consisting of an agreement, understanding, and concert of action among themselves and co-conspirators, the substantial terms of which were to raise, fix, maintain, and stabilize the prices and terms and conditions of sale of consumer bags.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

1. Prices and terms and conditions of sale of consumer bags sold by the defendants and various co-conspirators have been raised, fixed, maintained and stabilized at artificial and noncompetitive levels;
2. Buyers of consumer bags have been deprived of the benefits of free and open competition in the purchase of consumer bags; and
3. Competition among the defendants and various co-conspirators in the sale of consumer bags has been restrained.

III

Explanation of the Proposed Final Judgment

The United States and the Consenting Defendants have stipulated that a Final Judgment, in the form filed with the Court, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h). The proposed Final Judgment provides that the

entry of the Final Judgment does not constitute any evidence against or an admission by any party with respect to any issue of law or fact. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon the Court finding that its entry will be in the public interest.

The proposed Final Judgment contains two principal forms of relief. First, the Consenting Defendants are enjoined from repeating the behavior which characterized the consumer bag conspiracy and from certain other conduct constituting *per se* violations of Section 1 of the Sherman Act. Second, the proposed Final Judgment places affirmative burdens on the Consenting Defendants to pursue a compliance program directed toward avoiding a repetition of the consumer bag price-fixing conspiracy.

A. Prohibited Conduct

Section IV of the proposed Final Judgment enjoins the Consenting Defendants from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, plan, program, combination or conspiracy with any other person engaged in the production or sale of consumer bags to raise, fix, maintain, or stabilize the price or other terms or conditions of sale of consumer bags to any third person; submit non-competitive, collusive, rigged, cover or complimentary bids or quotations for the sale of consumer bags and refrain from submitting a bid or quotation for any sale of consumer bags.

Section V(A) of the proposed Final Judgment also enjoins Consenting Defendants from communicating to, requesting from or exchanging with any manufacturer or seller of consumer bags any past, present or future price, price change, discount or other terms or conditions of sale charged or quoted to any customer or potential customer whether communicated in the form of a specific price or in the form of information from which such specific price may be computed; any plan, change, or revision in the prices at which or the terms or conditions of sale upon which consumer bags are sold or offered for sale; and any formula utilized for computing cost of price or methods or means for computing price at which consumer bags are sold.

Section V(B) restrains Consenting Defendants from distributing to any manufacturer of consumer bags any pricing manual or price lists for consumer bags.

The only exception to the broad prohibitions of Section V of the Judgment is contained in Section VI and permits necessary communications in connection with *bona fide* proposed or actual purchase or sales transactions between the parties to such communications. The exception, however, does not apply to the distribution of pricing manuals or price lists for consumer bags. Section VI further provides that any such excepted communication between an employee of a Consenting Defendant and a person whom such Consenting Defendant has reason to believe sells consumer bags shall be reported in writing with a copy to his or her immediate superior stating the date, time and place of the negotiation, arrangement or

communication, whether oral or written, the identity of the other person or persons involved, a brief description of the transaction and the price information transmitted to or from Consenting Defendant. Such reports shall be retained by such Consenting Defendant and copies delivered to the Antitrust Division without comparison with reports filed or to be filed with the Antitrust Division by any other company.

B. Consenting Defendants' Affirmative Obligations

Sections VII and VIII require that each Consenting Defendant adopt or pursue an affirmative compliance program directed toward insuring that its employees comply with the Antitrust laws.

Section VII requires each Consenting Defendant to furnish a copy of the Judgment within sixty (60) days of the date of entry to each of its officers and directors and each of its employees who is engaged in or has responsibility for or authority over pricing of consumer bags; obtain and retain a written receipt therefor; and file with the Court and serve on the Plaintiff an affidavit as to the fact and manner of its compliance with this provision. Each Consenting Defendant is required to furnish a copy of the Final Judgment to each new officer, director and employee of the kind described above, and obtain and retain a written receipt therefor. Each Consenting Defendant is also required to advise and inform each such person that violation of this Final Judgment could result in a conviction for contempt of court and imprisonment and/or fine.

Section VIII requires each Consenting Defendant to distribute annually the Final Judgment and its written Antitrust compliance program to each employee who has management responsibility for the manufacture or sale of consumer bags or who is engaged in or has responsibility for or authority over the pricing of consumer bags and hold annual meetings with these employees to review the terms and obligation of the decree. These employees must annually certify that they have read and understand the Final Judgment and such Consenting Defendant's compliance program and that they realize their failure to comply with the Final Judgment may place them in contempt of Court. Additionally, Subsection VIII(A)(5) requires for a five (5) year period that such employees must file written reports of all communications with other consumer bag manufacturers during which any prices or terms or conditions of sale of consumer bags were discussed. Any employee who files no reports during any twelve (12) month period must certify that he has had no communications of the type required to be reported. Each Consenting Defendant must retain each such report and certification and deliver a copy thereof to the plaintiff annually.

Section VIII(B) of the proposed Judgment also requires each Consenting Defendant to file each year with the Plaintiff and the Court a sworn statement setting forth all steps it has taken during the preceding year to discharge its obligations under Section VIII of the Judgment.

Finally, under Section X of the Judgment, the Justice Department will have access,

upon reasonable notice, to records and personnel of the Consenting Defendants in order to determine compliance with the Judgment.

C. Scope of the Proposed Judgment

(1) Persons Bound by the Decree

The proposed Judgment expressly provides in Section III that its provisions apply to the Consenting Defendants and to each of their officers, directors, agents and employees, subsidiaries, successors and assigns and to all other persons who receive actual notice of the terms of the Judgment except that the Final Judgment does not apply to transactions solely between a Consenting Defendant and its employees or to transactions between a Consenting Defendant, its parent company, or wholly or partially-owned subsidiaries.

In addition, Section IX of the Judgment prohibits each Consenting Defendant from selling or transferring all or substantially all of its assets used in its consumer bag business unless the acquiring party files with the Court its consent to be bound by the provisions of the Judgment.

(2) Geographic Coverage of the Decree

The provisions of the proposed Judgment apply to acts or transactions within the United States, its territories and possessions, but not to activities outside the United States which do not affect the commerce of the United States.

(3) Duration of the Judgment

Section XII provides that the Judgment will expire on the tenth anniversary of its entry. As explained above, the reporting provisions of Subsection VIII(A)(5) of the Judgment will terminate in five (5) years.

D. Effect of the Proposed Judgment on Competition

The prohibition terms of Sections IV and V of the Judgment are designed to insure that each Consenting Defendant will act independently in determining the prices, terms and conditions at which it will sell or offer to sell consumer bags. The affirmative obligations of Sections VI, VII and VIII are designed to insure that the employees of each Consenting Defendant are aware of their obligations under the decree in order to avoid a repetition of behavior that occurred in the consumer bag industry during the conspiracy period. Compliance with the proposed Judgment will prevent price collusion by the Consenting Defendants with other consumer bag manufacturers in the sale of consumer bags.

IV

Remedies Available to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which he may have had if the proposed Judgment had not been entered. The proposed Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

V

Procedures Available for Modification of the Proposed Consent Judgment

The proposed Final Judgment is subject to a stipulation between the Government and the Consenting Defendants which provides that the Government may withdraw its consent to the proposed Judgment any time before the Court has found that entry of the proposed Judgment is in the public interest. By its terms, the proposed Judgment provides for the Court's retention of jurisdiction of this action in order to permit any of the parties to apply to the Court for such orders as may be necessary or appropriate for the modification of the Final Judgment.

As provided by the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), any person wishing to comment upon the proposed Judgment may, for a sixty (60) day period subsequent to the publishing of this document in the Federal Register, submit written comments to the United States Department of Justice, Attention: John J. Hughes, Chief, Middle Atlantic Office, Antitrust Division, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106. Such comments and the Government's response to them will be filed with the Court and published in the Federal Register. The Government will evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed Judgment.

VI

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the proposed Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the Judgment provides appropriate relief against the violations alleged in the Complaint.

VII

Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Therefore, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

John J. Hughes, Raymond D. Cauley, Attorneys, Department of Justice; Walter L. Devany, Attorney, Department of Justice, Antitrust Division, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106.

[FR Doc. 79-36068 Filed 11-21-79; 8:45 am]

BILLING CODE 4410-01-M

Federal Bureau of Investigation

Advisory Policy Board; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the

National Crime Information Center (NCIC) Advisory Policy Board will be held on December 12-13, 1979, Marriott Hotel, New Orleans, Louisiana. The meeting is scheduled to begin at 9 a.m. and terminate at 5 p.m. each day.

The purpose of this meeting will be to discuss policy and operational matters relating to the NCIC. Included in these topics will be a discussion of the Interstate Identification Index Concept relating to a national exchange of criminal history record information. A rewrite of the Board's Bylaws will also be reviewed.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Board members must notify the Designated Federal Employee (DFE) identified below or the Assistant Director, Technical Services Division, FBI, Washington, D.C. 20535, at least 24 hours prior to the commencement of the session. Name, corporate designation, consumer affiliation or government designation must be provided along with a capsulized version of the statement to be given and an outline of the material to be offered.

Additional information may be obtained from the DFE, Mr. Lawrence G. Lawler, Chief, NCIC Section, Technical Services Division, FBI Headquarters, Washington, D.C. 20535, telephone 202/324-2606.

Minutes of the meeting will be available upon request from the above designated FBI official.

William H. Webster,
Director.

[FR Doc. 79-36325 Filed 11-21-79; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-6023]

ACCO Industries, Inc., Page Fence Division; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 17, 1979 in response to a

worker petition received on September 11, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing barbed wire, chain link fence, plastic coated chain link fence, and aluminum coated wire at ACCO Industries, Incorporated, Page Fence Division, Monessen, Pennsylvania. The investigation revealed that the correct corporate title is ACCO Industries, Incorporated and that the Monessen plant produces aluminized wire and aluminized chain link fencing. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of aluminized wire were negligible in 1977, 1978, and during the first half of 1979.

U.S. imports of chain link fencing declined absolutely and relative to domestic shipments in 1978 compared with 1977 and declined absolutely and relative to domestic shipments during the first half of 1979 compared with the same period in 1978.

Conclusion

After careful review, I determine that all workers of ACCO Industries, Incorporated, Page Fence Division, Monessen, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-36119 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6061]

Annette, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility

requirements of section 222 of the Act must be met.

The investigation was initiated on September 20, 1979 in response to a worker petition received on September 17, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Annette, Incorporated, New Bedford, Massachusetts. The investigation revealed that the plant produces ladies' blouses. It is concluded that all of the requirements have been met.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely and relative to domestic production in 1978 as compared to 1977.

A Departmental survey was conducted with the manufacturers from whom Annette, Incorporated received contract work. The survey revealed that the manufacturers did not import ladies' blouses nor did they contract with foreign sources for the production of ladies' blouses. However, the survey revealed that company sales by these manufacturers declined. A survey was then conducted with the retailing customers to whom these manufacturers sold ladies' blouses. In aggregate, retail customers, who represented a significant proportion of the manufacturers' sales, increased their purchases of imported ladies' blouses on an absolute basis as well as relative to their total demand from 1977 to 1978. These customers also increased their purchases of imported blouses on an absolute basis in the January-June period of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses produced at Annette, Incorporated, New Bedford, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Annette, Incorporated, New Bedford, Massachusetts who became totally or partially separated from employment on or after September 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-36120 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6148]

Barad & Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974 (19 U.S.C. 2273), an investigation was initiated on October 4, 1979 in response to a worker petition received on October 1, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's lingerie at Barad and Company, Thayer, Missouri.

In a letter dated October 29, 1979, the three petitioners and the Business Representative for the International Ladies' Garment Workers Union requested the withdrawal of the petition (TA-W-6148). Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 14th day of November 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-36121 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5995, 6001]

Chrysler Corp.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligible to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigations were initiated on September 7, 1979 in response to a worker petition received on September 4, 1979, which was filed by the International Union, United Automobile, Aerospace and Agricultural Workers of America (UAW) on behalf of workers and former workers producing axles, transmissions, transaxles and transfer cases at Chrysler Corporation's New Process Gear Plant, East Syracuse, New York, and producing car parts at Chrysler Corporation's Van Wert

Complex, Van Wert, Ohio. The investigations revealed that the Van Wert Complex is officially known as the Amplex-Van Wert Plant of Chrysler Corporation, and that the plant primarily produces windshield wiper magnets, cold steering gear extrusions, and miscellaneous powdered metal products.

In the following determination, without regard to whether any of the other criteria have been met for workers producing axles, transmissions, transaxles, and transfer cases at the New Process Gear Plant of Chrysler Corporation, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department determined that the vast majority of the New Process Gear Plant's production was sold to unaffiliated companies rather than used internally by Chrysler Corporation. Adjusted public sales of products manufactured at the plant increased in the final two quarters of 1978 compared to the same quarters of 1977, as well as in the first half of 1979 compared to the same period of 1978. During model year (MY) 1979, only a minor portion of the plant's total output was ultimately used in the production of Chrysler car and truck lines which have been subject to import injury.

Average employment of production workers at the New Process Gear Plant increased in each quarter of MY 1979 compared to the same quarter of MY 1978. The number of layoffs occurring at New Process Gear during August and September 1979 was less than significant in relation to the plant's total workforce. In October 1979, Chrysler Corporation began to recall workers who had been laid off from New Process Gear during the previous two months.

Chrysler Corporation recently began to modify and expand the New Process Gear Plant as part of its automotive program for the 1980's. One axle and three transmission lines, which were produced at New Process Gear in MY 1979, have been discontinued in MY 1980. At the same time, Chrysler has introduced a new line of four-wheel-drive transfer cases and has begun to convert part of the plant into a front-wheel-drive transaxle assembly line. The company currently plans to make a sizable addition to the plant in order to meet the needs of its front-wheel-drive and four-wheel-drive programs for the 1980's. Worker layoffs at New Process

Gear during August and September 1979 were partly a result of change in the nature and organization of production, which temporarily reduced the plant's labor requirements.

For workers producing windshield wiper magnets, cold steering gear extrusions, and miscellaneous powdered metal products at the Amplex-Van Wert Plant of Chrysler Corporation, all of the criteria have been met.

In order to determine if increased imports contributed importantly to production and employment declines at the petitioning auxiliary plants of Chrysler Corporation, the Department sought to determine the degree to which each auxiliary plant was integrated into the production of Chrysler car and/or truck lines which have been subject to import injury.

The Department of Labor has determined that increased imports contributed importantly to the decline in sales or production and to the separation of workers at seven automobile and truck assembly plants of Chrysler Corporation (TA-W-5979-5983, 6037-6038). Workers at these plants were engaged in the production of one or more of the following car and truck lines: Aspen, Volare, Diplomat, LaBaron, Newport, New Yorker, and St. Regis automobiles, pickup trucks, general utility light trucks, and utility vans.

During the course of the investigation, it was established that the Amplex-Van Wert Plant produced a significant proportion of its output for use in one or more of the Chrysler car and truck lines which have been subject to import injury. Therefore, the Amplex-Van Wert Plant was substantially integrated into the production of the trade-impacted Chrysler car and truck lines.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with Aspen, Volare, Diplomat, LeBaron, Newport, New Yorker and St. Regis automobiles, pickup trucks, general utility light trucks, and utility vans produced by Chrysler Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers at the Amplex-Van Wert Plant of Chrysler Corporation. In accordance with the provisions of the Act, I make the following certification:

All workers at the Amplex-Van Wert Plant, Van Wert, Ohio, of Chrysler Corporation who became totally or partially separated from employment on or after January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

After careful review, I further determine that all workers at the New Process Gear Plant, East Syracuse, New York, of Chrysler Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Herbert N. Blackman,

Acting Deputy Under Secretary, International Affairs.

[FR Doc. 79-36122 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6051-6053]

Clinchfield Coal Co., Camp Branch No. 1 Mine, Lambert Fork No. 24 Mine, Splashdam No. 47 Mine; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to worker petitions received on September 17, 1979 which were filed on behalf of workers and former workers mining metallurgical coal at the Camp Branch No. 1 Mine, Lambert Fork No. 24 Mine and Splashdam No. 47 Mine of the Clinchfield Coal Company, Lebanon, Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Camp Branch No. 1 Mine and the Lambert Fork No. 24 Mine of the Clinchfield Coal Company mine coal for exports and for sale to domestic utility companies for use in producing steam. The coal mined at the Splashdam No. 47 Mine is primarily exported or sold to domestic utility companies, however a small amount of the coal is also sold to domestic metallurgical coal users. The production and employment declines at this mine are attributable primarily to a

loss of export and domestic utility sales, and not to a loss of sales to domestic metallurgical coal users.

Imports of bituminous coal for use in producing steam are negligible, being less than 1 percent of domestic production. Imports have no relevant effect on export sales, and therefore cannot be considered to have contributed to a loss of such sales at any of the mines.

Conclusion

After careful review, I determine that all workers of the Camp Branch No. 1 Mine, Lambert Fork No. 24 Mine and Splashdam No. 47 Mine of Clinchfield Coal Company, Lebanon, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

James F. Taylor,

Director, Office of Management,
Administration and Planning.

[FR Doc. 79-36123 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6138]

Consolidation Coal Co., Rowland Division; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on October 2, 1979 in response to a worker petition received on September 27, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers producing metallurgical coal at Consolidation Coal Company's Rowland Division, Beckly, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Rowland Division produces metallurgical coal which is used to produce coke. Coke is metallurgical coal at a later stage of production, and therefore, can be considered "like or directly competitive" with metallurgical coal.

All coal production from the Rowland Division has been sold to foreign customers since January, 1979. In 1978, some small, irregular shipments were made to one domestic customer. This customer does not import metallurgical coal or coke. The cutbacks in production which occurred at the Rowland Division resulted from a loss of foreign markets.

Conclusion

After careful review, I determine that all workers of Consolidation Coal Company's Rowland Division, Beckley, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research

[FR Doc. 79-36124 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6105]

Converse Rubber Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 25, 1979 in response to a worker petition received on September 20, 1979 which was filed on behalf of workers and former workers producing rubber, canvas and leather athletic and leisure footwear at the Contoocook, New Hampshire facility of Converse Rubber Company. It is concluded that all of the requirements have been met.

The Contoocook, New Hampshire facility of Converse Rubber is a distribution center. Total company sales and production indicate the level of operations at Contoocook. Total company sales and production declined

in the period January through August 1979 compared to the like period of 1978. U.S. imports of rubber/fabric footwear increased in terms of quantity absolutely and relative to domestic production in 1978 compared with 1977. In the first six months of 1979, the ratio of imports to domestic production was higher than in any year from 1972 through 1977.

U.S. imports of athletic footwear increased in terms of quantity absolutely and relative to domestic production during the first half of 1979 compared with the first half of 1978.

The Department conducted a survey of Converse Rubber Company's customers. The survey revealed that some customers decreased purchases from Converse and increased purchases of imported canvas and leather athletic footwear in 1978 compared with 1977.

Workers at all eight production plants, all four distribution centers, all regional sales offices, and the corporate headquarters have been certified eligible to apply for adjustment assistance by the Department in previous cases. In addition, workers at one plant, two distribution centers and the corporate headquarters have been recertified. (See TA-W-911, 911A, 1137, 1590, 1613, 1614, 1672, 2024, 2165, 2166, 2167, 2168, 3007, 4928, 4929, 4929A through E, 4930, 5248.)

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with rubber, canvas, and leather athletic and leisure footwear produced at Converse Rubber Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Contoocook, New Hampshire facility of Converse Rubber Company. In accordance with the provisions of the Act, I make the following certification:

All workers of the Contoocook, New Hampshire facility of Converse Rubber Company who became totally or partially separated from employment on or after October 31, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-36125 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6041]

Cowden Manufacturing Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 10, 1979 which was filed on behalf of workers and former workers producing men's bib overalls and work clothing and women's clothes at the Lancaster, Kentucky plant Cowden Manufacturing Company. The investigation revealed that the plant produces only bib overalls. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that customers who reduced purchases of bib overalls from Cowden did not increase their reliance on bib overalls from foreign sources.

A survey of customers who purchase bib overalls from Cowden indicated that those customers representing the preponderance of Cowden's sales did not purchase imported bib overalls.

Conclusion

After careful review, I determine that all workers of the Lancaster, Kentucky plant of Cowden Manufacturing Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of November 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36126 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 212(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 3, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than Dec. 3, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of November 1979.

Harold A. Bratt,
Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A & W Products Company, Inc. (Teamsters)...	Port Jervis, N.Y.	11/6/79	11/1/79	TA-W-6,369	School and office supplies.
Beld Eagle Coal Company (company).....	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,370	Bituminous metallurgical coal.
Brown Shoe Co. (Amalgamated Shoe Workers Union).....	Piggott, Ark.	11/1/79	10/26/79	TA-W-6,371	Men's shoes and boots.
Carl Eagle Coal Company (company).....	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,372	Bituminous metallurgical coal.
Christopher Coal Sales Corp. (company).....	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,373	Bituminous metallurgical coal.
Como Textile Prints, Inc. (ACTWU).....	Peterson N.J.	11/6/79	11/2/79	TA-W-6,374	Printed fabrics.
D & R Coal Co., Inc. (company).....	Hoboken N.J.	11/6/79	10/25/79	TA-W-6,375	Ladies' coats.
Jolee Fashions, Inc. (workers).....	Passaic, N.J.	11/6/79	11/1/79	TA-W-6,376	Ladies' dresses, sportswear, and coats.
Kaiser Steel Corp., Steel Manufacturing Division (USWA).....	Fontana, Calif.	10/31/79	10/8/79	TA-W-6,377	C.W. pipe, E.W. pipe, steel plant, cold roll and coiled products, sheet galvanize, hot rolled sheet steel, basic steel.
Lasser Garment (ILGWU).....	New York, N.Y.	11/7/79	10/31/79	TA-W-6,378	Infants and children's coats, also, ladies' coats.
Research Cottrell, Inc. (workers).....	Sommerville, N.J.	11/2/79	10/25/79	TA-W-6,379	Air and water pollution devices.
Robert Eagle Coal Company (company).....	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,380	Bituminous metallurgical coal.
Sparkle Mills, Inc. (company).....	New York, N.Y.	11/2/79	10/26/79	TA-W-6,381	Men's knit shirts and sweaters.
Terry Eagle Coal Company (company).....	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,382	Bituminous metallurgical coal.
Timex Corporation (workers).....	Middlebury, Conn.	10/12/79	10/5/79	TA-W-6,383	Administrative work.
Timex Clock Company (workers).....	Waterbury, Conn.	10/12/79	10/5/79	TA-W-6,384	Administrative end of manufacturing and selling of clocks.
Timex Defense Products Corp. (workers).....	Watertown, Conn.	10/12/79	10/5/79	TA-W-6,385	Government contracts.
U.S. Steel Corp., Homestead Works (USWA).....	Homestead, Pa.	10/25/79	9/27/79	TA-W-6,386	Finished slab, plate structural and forgings shape.
William Eagle Coal Company (company).....	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,387	Bituminous metallurgical coal.

[FR Doc. 79-36118 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6042]

Island Creek Coal Co., Virginia Pocahontas No. 2 Mine, Oakwood, Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 17, 1979 which was filed on behalf of workers and former workers mining metallurgical coal at the Virginia Pocahontas #2 Mine of the Island Creek Coal Company, Oakwood, Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the

Virginia Pocahontas #2 Mine of Island Creek Coal Company mines coal primarily for export. Declines in production and employment at the mine are attributable primarily to a loss of export sales. Therefore, imports of coal or coke could not have contributed importantly to sales and/or employment declines at the Virginia Pocahontas #2 Mine.

Conclusion

After careful review, I determine that all workers of the Virginia Pocahontas #2 Mine of the Island Creek Coal Company, Oakwood, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36127 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5804 and 5805]

Jeep Corp., North Cove Boulevard Plant, Stickney Avenue Plant, Toledo, Ohio; Affirmative Determination Regarding Application for Reconsideration

On October 16 and 25, 1979, the petitioning union requested administrative reconsideration of the

Department of Labor's Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of the Jeep Corporation, North Cove Boulevard Plant and the Stickney Avenue Plant in Toledo, Ohio. This determination was published in the Federal Register on October 5, 1979, (44 FR 57530).

The petitioning union claims that because significant layoffs of workers producing pick-up trucks occurred after the termination date set in the certification, the termination date should be removed. The union also stated that the workers engaged in production of general utility vehicles, CJ-5 and CJ-7 models, should have been certified, given the significant importation of such vehicles from an AMC plant in Canada beginning in the third quarter of 1978. The union further claimed that other workers were integrated into the production process with those certified workers assembling pick-up trucks from April 30, 1979, and before August 10, 1979, and that the Department's determination is unenforceable because of this integration and interchangeability of job assignments.

Conclusion

After review of the application, I conclude that the claims of the petitioning union mentioned above are of sufficient weight to justify

reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 16th day of November 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-36128 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6065]

Keystone Metal Moulding Co., Pontotoc, Miss.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 20, 1979 in response to a worker petition received on September 18, 1979 which was filed on behalf of workers and former workers producing metal moulding for automobiles at the Pontotoc, Mississippi plant of Keystone Metal Moulding Company. It is concluded that all of the requirements have been met.

U.S. imports of metal auto moulding increased absolutely and relative to domestic production in 1978 compared to 1977 and in the January through June period of 1979 compared to the same period of 1978.

A Departmental survey was conducted with the manufacturers for whom Keystone Metal Moulding Company works. The survey revealed that manufacturers representing a significant portion of Keystone's sales decreased their purchase from Keystone and increased their purchases of metal auto moulding from foreign sources during the January-September 1979 period compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metal moulding for automobiles produced at the Pontotoc, Mississippi plant of Keystone Metal Moulding Company contributed importantly to the decline in sales or production and to the total or

partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Pontotoc, Mississippi plant of Keystone Metal Moulding Company who became totally or partially separated from employment on or after May 6, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Harry J. Gilman,
Supervisory International Economist, Office
of Foreign Economic Research.

[FR Doc. 79-36129 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6044]

Luray Textile, Luray, Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 17, 1979 which was filed on behalf of workers and former workers producing textured raw yarn at Luray Textile, Luray, Virginia. The investigation revealed that Luray Textile is located in and produces raw yarn. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of yarns declined absolutely in the first six months of 1979 compared to the same period in 1978. The ratio of U.S. imports to domestic production was less than two percent in each year during the 1974-1977 time period. This ratio is not available for 1978.

The Department of Labor conducted a survey with the customers of Luray Textile. The survey revealed that

customers did not purchase yarn from foreign sources in 1977, 1978 or 1979.

Conclusion

After careful review, I determine that all workers of Luray Textile, Luray, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of November 1979.

Harry J. Gilman,
Supervisory International Economist, Office
of Foreign Economic Research.

[FR Doc. 79-36130 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6067]

New Jersey Steel & Structural Corp., Sayreville, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 20, 1979 in response to a worker petition received on September 18, 1979 which was filed on behalf of workers and former workers producing rebars, smooth rounds, equipment for flats and angles at New Jersey Steel Corporation, Sayreville, New Jersey. The investigation revealed that the plant produces primarily reinforcing bars at New Jersey Steel & Structural Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of reinforcing bars decreased in terms of quantity absolutely and relative to domestic production during the first half of 1979 compared with the first half of 1978.

The Department conducted a survey of some of New Jersey Steel & Structural Corporation's customers. According to the survey results the customers did not

purchase imported reinforcing bars in 1977, 1978, or during the first three quarters of 1979.

Conclusion

After careful review, I determine that all workers of the Sayreville, New Jersey mill of New Jersey Steel & Structural Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Harry J. Gilman,
Supervisory International Economist, Office
of Foreign Economic Research.

[FR Doc. 79-36131 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6030]

Reynoldsville Industries, Inc., Reynoldsville, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 17, 1979 in response to a worker petition received on September 11, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing boys' knit shirts at Reynoldsville Industries, Inc., Reynoldsville, Pennsylvania. It is concluded that all of the requirements have been met.

U.S. imports of men's and boy's knit sport and dress shirts increased absolutely in each year from 1975 through 1978 when compared to the immediate preceding year.

The manufacturer for which Reynoldsville Industries, Inc. produced boys' knit sport shirts experienced a decrease in sales during the period under investigation. A survey of customers who decreased purchases of boys' knit shirts from this manufacturer indicated that some of these customers increased purchases of imported boy's knit sport shirts while decreasing purchases from the manufacturer. The survey also indicated that customers increased reliance on imported shirts to satisfy demand.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with boys' knit sport shirts produced at Reynoldsville Industries, Inc., Reynoldsville, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Reynoldsville Industries, Inc., Reynoldsville, Pennsylvania who became totally or partially separated from employment on or after May 13, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-36132 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6223]

Riviera Fashions, Inc., Springfield Gardens, N.Y.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 17, 1979 in response to a worker petition received on October 11, 1979 which was filed on behalf of workers and former workers producing ladies' sportswear at Riviera Fashions, Incorporated, Springfield Gardens, New York.

In a letter the petitioner requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 16th day of November, 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment
Assistance.

[FR Doc. 79-36133 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6019]

Salant Corp., Salant & Salant Division, Paris, Tenn.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 12, 1979 in response to a worker petition received on September 6, 1979 which was filed by the United Garment Workers of America on behalf of workers and former workers producing men's western shirts, and misses' and junior's blouses at the Paris, Tennessee plant of Salant & Salant. The investigation revealed that the subject firm's correct title is the Salant & Salant Division of the Salant Corporation. It is concluded that all of the requirements have been met.

Imports of men's and boys' woven dress, business and sport shirts increased in 1978 compared to 1977 and in the first six months of 1979 compared to the first six months of 1978.

Imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased in 1978 compared to 1977.

Imports of women's, misses', and children's blouses and shirts increased in 1978 compared to 1977.

The Paris, Tennessee plant of the Salant Corporation is the only Salant plant producing men's dress and sport shirts and junior and misses' blouses. The majority of production at the Paris, Tennessee plant has been men's dress and sport shirts. Men's shirts represented the majority of the production declines.

The Department conducted a survey of some customers of the Salant Corporation that purchase men's dress and sport shirts. The survey revealed that a number of customers had decreased purchases from the Salant Corporation in 1978 compared to 1977 and in the first eight months of 1979 compared to 1978. During the same time periods several of those same customers increased purchases of imported men's dress and sport shirts.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress and sport shirts produced at the Paris, Tennessee plant of the Salant & Salant Division of the Salant Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Paris, Tennessee plant of the Salant & Salant Division of the Salant Corporation who became totally or partially separated from employment on or after June 16, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-36134 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6031]

Stanley Sweater Mill, Inc., Richmond Hill, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 17, 1979 in response to a worker petition received on September 12, 1979 which was filed on behalf of workers and former workers producing knitgoods (sweaters for men and women) at Stanley Sweater Mill, Incorporated, Richmond Hill, New York. The investigation revealed that Stanley Sweater Mill, Incorporated produces men's and women's sweaters.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production in 1978 as compared to 1977. The ratio of U.S. imports of sweaters to domestic production exceeded 100 percent in each year during the 1974-1978 time period.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased on an absolute basis as well as in relation to U.S. production in 1978 as compared to 1977. The ratio of U.S. imports of men's and boys' sweaters to domestic production was 94.1 percent in 1978.

The Office of Trade Adjustment Assistance conducted a survey of the

major manufacturers for whom Stanley Sweater Mill did contract work. The survey revealed that manufacturers, accounting for a significant amount of Stanley's sales, utilized foreign contractors for the production of ladies' sweaters or purchased finished sweaters from foreign sources during the 1977 to August 1979 time period. Several manufacturers have been fulfilling a substantial proportion of their sweater demand via foreign sources for many years and are continuing a high level of imports in 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and ladies' sweaters produced at Stanley Sweater Mill, Incorporated, Richmond Hill, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Stanley Sweater Mill, Incorporated, Richmond Hill, New York who became totally or partially separated from employment on or after October 29, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Harry J. Gilman,
Supervisory, International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36135 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6045]

The United States Steel Corp., Gary Tubular Specialties, Gary, Ind.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 17, 1979 which was filed by the United Steel Workers of America on behalf of workers and former workers producing

seamless steel tubular products at the U.S. Steel Corporation, Gary Tubular Specialties, Gary, Indiana. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers increased in 1978 compared with 1977, and in the first three quarters of 1979 compared with the same period in 1978. Average quarterly employment increased in every quarter, when compared with the same quarter of the previous year, from the first quarter of 1978 through the third quarter of 1979. The average number of man-hours worked increased in 1978 compared to 1977, and in the first three quarters of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of U.S. Steel Corporation, Gary Tubular Specialties, Gary, Indiana are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36136 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6046]

Xenko, Inc., Xenko #2 Deep Mine, Fayette County, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) The Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 12, 1979 which was filed by the United Mine Workers of America on behalf of

workers and former workers leasing coal and paying a royalty per ton to the Dry Hill Coal Company at Xenko, Incorporated, Xenko #2 Deep Mine, Fayette County, West Virginia. The investigation revealed that workers at Xenko #2 Deep Mine mined coal on land leased from the Dry Hill Coal Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Xenko began mining coal at its Mine #1 in April 1978. The company terminated operations at Mine #1 in March 1979 due to physical conditions at the mine. Workers at Xenko's Mine #1 were denied eligibility to apply for adjustment assistance on May 29, 1979 (TA-W-5141). In April, 1979, the company began mining coal at a second mine, employing the same workers from Mine #1. Mine #2 is the subject of the current investigation.

Xenko #2 Deep Mine sold all its coal to a single firm from April through July 1979. A Department survey revealed that Xenko's customer, a coal user and a coal broker, does not purchase foreign coal or coke. A customer of this firm reported increased reliance on foreign coke in 1978 compared with 1977. However, purchases of foreign coke by this company during the first half of 1979 decreased compared with import purchases during the same period in the previous year. This secondary customer purchased no imported coke in 1979.

Conclusion

After careful review, I determine that all workers of Xenko, Incorporated, Xenko #2 Deep Mine, Fayette County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of November 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-36139 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6032]

Valmont, Inc., Ludlow, Mass.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 17, 1979 in response to a worker petition received on September 12, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing brassieres at Valmont, Incorporated, Ludlow, Massachusetts. It is concluded that all of the requirements have been met.

U.S. imports of brassieres, bralettes and bandeaux increased absolutely and relative to domestic production and consumption from 1977 to 1978. Imports increased absolutely in the first half of 1979 compared to the same period of 1978.

A survey of customers of the company revealed that the customer which represents a significant proportion of the company's sales decreased its purchases of brassieres from Valmont, Incorporated and increased purchases of brassieres from foreign sources in the first three quarters of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres produced at Valmont, Incorporated, Ludlow, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Valmont, Incorporated, Ludlow, Massachusetts who became totally or partially separated from employment on or after March 17, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of November 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36137 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-6013]

Wisconsin Screw Products Corp., Oshkosh, Wis.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 11, 1979 in response to a worker petition received on September 5, 1979 which was filed on behalf of workers and former workers producing screws and bolts at Wisconsin Screw Products Corporation, Oshkosh, Wisconsin. The investigation revealed that the plant produces small screws. It is concluded that all of the requirements have been met.

U.S. imports of small screws increased absolutely and relative to domestic production 1978 compared to 1977 and further increased in the first half of 1979 compared to the first of 1978.

A survey of the customers of the subject firm revealed that customers decreased purchases of small screws from the subject firm while increasing purchases of imported small screws in the first ten months of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with small screws produced at Wisconsin Screw Products Corporation, Oshkosh, Wisconsin contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Wisconsin Screw Products Corporation, Oshkosh, Wisconsin who became totally or partially separated from employment on or after July 15, 1979 are

eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of November 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-36136 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

LEGAL SERVICES CORPORATION

Grants and Contracts

November 16, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Judicare of Anoka County in Anoka, Minnesota to serve Anoka County.

2. Northwest Minnesota Legal Services in Moorhead, Minnesota to serve Kittson, Roseau, Lake of the Woods, Marshall, Pennington, Red Lake, Polk, Beltrami, Norman, Mahnomen, Clearwater, Clay, Becker, Hubbard, Wilkin, Otter Tail, Wadena, Traverse, Grant, Douglas, Stevens, and Pope Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

Dan J. Bradley,
President.

[FR Doc. 79-36029 Filed 11-21-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Museum Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Panel to the National Council on the Arts will be held December 11, 1979, from 9:00 a.m.-5:30 p.m., in Room 1422,

Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.
November 19, 1979.

[FR Doc. 79-36004 Filed 11-21-79; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permits Issued Under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 632-4238.

SUPPLEMENTAL INFORMATION: On October 11, 1979, the National Science Foundation published a notice in the Federal Register, page 58818, of permit applications received. On November 9, 1979, permits were issued to David H. Elliot and Jonathan Ward. Arthur L. DeVries withdrew his application for a permit.

Charles E. Myers,

Division of Polar Programs.

[FR Doc. 79-36112 Filed 11-21-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; 17th Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission has published and issued the seventeenth periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 2, No. 2). The release date is November 20, 1979.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the Federal Register (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The seventeenth report to Congress is for the second quarter of 1979. The report identifies the occurrences or events that the Commission determined were significant and the remedial action that was undertaken. The report indicates that the following incidents or events were determined by the Commission to be significant and reportable:

(a) There were three abnormal occurrences at the 70 nuclear power plants licensed to operate. One involved an indication of low water level in a boiling water reactor, the second involved damage to new fuel assemblies, and the third involved deficient procedures. The latter item was determined reportable during report preparation and therefore has not previously been noticed in the Federal Register. Using the abnormal occurrence criteria published in the Federal Register on February 24, 1977 (42 FR 10950), the item satisfies example I.D.3 of Appendix A: Serious deficiency in management or procedural controls in major areas.

(b) There were no abnormal occurrences at fuel cycle facilities (other than nuclear power plants).

(c) There were no abnormal occurrences at other licensee facilities.

(d) There were two abnormal occurrences reported by the Agreement States. One involved releases of tritium and contamination of food and the second involved overexposures from a radiography source.

The seventeenth report to the Congress also contains updating information on some abnormal occurrences reported in previous reports, including the nuclear accident at Three Mile Island.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C. or at any of the 130 local Public Document Rooms throughout the country. The report, designated NUREG-0090, Vol. 2, No. 2, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, or from the GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, on or about December 4, 1979.

Dated at Washington, D.C. this 16th day of November 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-36095 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-3, 50-247, 50-286]

Consolidated Edison Co. of New York, Inc., and Power Authority of the State of New York, Inc. (Indian Point Station, Units 1, 2 and 3); Request for Action

Notice is hereby given that by petition received September 17, 1979 the Union of Concerned Scientists requested immediate action be taken to revoke the provisional operating license for Indian Point Unit 1, that a decommissioning and decontamination plan be submitted within 90 days, that operation of Indian Point Units 2 and 3 be immediately suspended, and that an adjudicatory record be developed prior to permitting restart of these units. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 15th day of November 1979.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-36096 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[NUREG-0348]

Demographic Statistics Pertaining to Nuclear Power Reactor Sites; Issuance and Availability

This report provides a consolidation of data which deals with the populations in areas surrounding nuclear power reactors. The report provides population statistics for 145 nuclear power plant sites, including summary tables and figures developed to aid in the evaluation of trends and general patterns associated with the various parameters of interest, such as the proximity of nuclear plant sites to centers of population. One of the reasons for publishing this information at this time is to provide a factual basis for use in discussions on the subject of reactor siting policy.

Copies of the report will be available after November 14, 1979. As long as the supply lasts, single copies of the report can be obtained by writing to the Director, Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, DC 20555. Once this supply is exhausted, copies may be purchased from the NRC Government Printing Office Sales Program, Washington, DC 20555, or the National Technical Information Service, Springfield, Virginia 22161.

The report is a revised and updated version of a draft report published in December 1977. Errors in the population data base have been corrected and new data tabulations added. The report was revised based on comments by NRC staff members. External comments were solicited, but none were received.

William E. Kreger,

Assistant Director for Site Analysis, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 79-36097 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-321 and 50-326 (Spent Fuel Expansion)]

Georgia Power Co., (Edwin I. Hatch Nuclear Plant, Units 1 and 2); Order Dismissing Proceeding

In a conference call on November 1, 1979 with a member of the Licensing Board, the NRC staff's attorney and the

licensee's attorney, and confirmed by a letter dated November 2, 1979, the attorney for the petitioner, Georgians Against Nuclear Energy (GANE), withdrew its Petition for Leave to Intervene, for the expressed purpose of terminating GANE's participation in this proceeding. Petitioner's attorney indicated his understanding that the withdrawal of GANE, the sole petitioner, would terminate the proceeding before the Board, although not the staff's continuing review of the safety matters implicit in the proposed amendment of operating license.

The withdrawal of the only petitioner removes both the need and the occasion for evidentiary hearings in this proceeding. There are no longer any matters which the parties wish to resolve in this proceeding and, consequently, there is no issue to be heard by the Board.

Dismissal of this proceeding is consistent with the Commission's requirements which do not contemplate a hearing on an application for an operating license, or an amendment thereto, in the absence of any matters in controversy or any requests for hearing by interested persons, 10 CFR 2.104, 2.105, 2.714, 50.58(b), and 50.91, and is consistent with the general powers of the presiding officer in 10 CFR 2.718. Moreover, dismissal of a proceeding pursuant to agreement of the parties is consistent with the general policy of administrative law favoring harmonious settlement of contested issues, and with the provisions of 10 CFR 2.759, which specifically encourages the fair and reasonable settlement of NRC licensing proceedings.

It is ordered that petitioner GANE's request to withdraw its petition to intervene be granted. There being no outstanding petitions to intervene or requests for hearing.

It is further ordered that this proceeding, which was begun with the establishment of the Atomic Safety and Licensing Board on Sept. 27, 1979, as published at 44 FR 57541 (Oct. 5, 1979), is hereby dismissed.

Board members Glenn O. Bright and Richard F. Cole concur in this Order.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland this 16th day of November, 1979.

Herbert Grossman,
Chairman.

[FR Doc. 79-36098 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-498A & 50-499A]

Houston Lighting & Power Co. et al. (South Texas Project, Units 1 and 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this antitrust proceeding to consist of the following members:

Alan S. Rosenthal, Chairman
Michael C. Farrar
Richard S. Salzman

Dated: November 13, 1979.

C. Jean Bishop,
Secretary to the Appeal Board.

[FR Doc. 79-36099 Filed 11-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Dockets Nos. 50-315 and 50-316]

Indiana & Michigan Electric Co. and Indiana & Michigan Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-58, and Amendment No. 14 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company and Indiana and Michigan Power Company (the licensee), which amends the licenses and revises the Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of merger of the Indiana and Michigan Electric Company and the Indiana and Michigan Power Company.

The amendments reflect and accommodate the proposed merger of the Indiana and Michigan Electric Company and the Indiana and Michigan Power Company with the Indiana and Michigan Electric Company being the surviving corporation. The amendments also incorporate certain title changes of members within the organization.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required

since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated August 24, 1979 and portions of letters dated December 22, 1978 and February 13, 1979; (2) Amendment Nos. 33 and 14 to License Nos. DPR-58 and DPR-74; and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of November, 1979.

For the Nuclear Regulatory Commission,
A. Schwencer,
Chief, Operating Reactors Branch No. 1,
Division of Operating Reactors.

[FR Doc. 79-36100 Filed 11-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Dockets Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-42, and Amendment No. 34 to Facility Operating License No. DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments permit the addition of a special chlorination program for the circulating water system which is necessary to destroy the parasitic amoeba discovered in this system.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act

of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated May 1973.

For further details with respect to this action, see: (1) The application for amendments dated October 30, 1979; (2) Amendment Nos. 40 and 34 to License Nos. DPR-42 and DPR-60; and (3) The Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 2nd day of November, 1979.

For the Nuclear Regulatory Commission,
A. Schwencer,
Chief, Operating Reactors Branch No. 1,
Division of Operating Reactors.

[FR Doc. 79-36105 Filed 11-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., the City of Eugene, Oreg., and Pacific Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The

amendment is effective 30 days from the date of issuance.

The amendment revises the Administrative Controls section of the Technical Specifications relating to both the on-site and off-site organizational structure.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated August 13, 1979, as supplemented August 22 and September 12, 1979; (2) Amendment No. 42 to License No. NPF-1; and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of November, 1979.

For the Nuclear Regulatory Commission,
Charles M. Trammell,
Acting Chief, Operating Reactors Branch No. 1,
Division of Operating Reactors.

[FR Doc. 79-36101 Filed 11-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Dockets Nos. 50-514, and 50-515]

Portland General Electric Co., et al. (Pebble Springs Nuclear Plant, Units 1 and 2); Memorandum and Order Concerning Conference Scheduled for December 19, 1979

A conference of the Parties in this proceeding is scheduled for Wednesday,

December 19, 1979, at 9:30 a.m., local time at the following location:

Conference Room, Sheraton Inn,
Portland Airport, 8235 North East
Airport Way, Portland, Oregon 97218.

The purpose of this conference is to discuss schedules, the status of the State of Oregon proceeding, and the status in this proceeding of certain open items, namely:

- (1) Alternative Sites.
- (2) Financial Qualifications.
- (3) Appendix I.
- (4) "River Bend" Generic Safety Subjects.
- (5) Need for Power.

Members of the public are invited to attend but limited appearances will not be received at this conference.

It is ordered.

For the Atomic Safety and Licensing Board.
Dated at Bethesda, Maryland, this 16th day of November 1979.

Elizabeth S. Bowers,
Chairman.

[FR Doc. 79-36102 Filed 11-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Dockets No. 50-354, and 50-355]

Public Service Electric & Gas Co. (Hope Creek Generating Station, Units 1 and 2); Request for Action

Notice is hereby given that by petition dated October 18, 1979, Alfred and Eleanor Coleman requested that an order be issued to Public Service Electric & Gas Company to show cause why the construction permits for Hope Creek Units 1 & 2 should not be suspended or revoked for alleged violations of the Endangered Species Act of 1973. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

For the Nuclear Regulatory Commission.
Dated at Bethesda, Maryland this 15th day of November, 1979.

Harold R. Denton,
Director, Office of Nuclear Reactor
Regulation.

[FR Doc. 79-36104 Filed 11-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Dockets Nos. 50-272 and 50-311]

Public Service Electric & Gas Co. (Salem Nuclear Generating Station, Units 1 and 2); Request for Action

Notice is hereby given that by petition dated October 18, 1979, Alfred and Eleanor Coleman requested that an order be issued to Public Service Electric and Gas Company to show cause why the construction permit for Salem Unit 2 and the operating license for Salem Unit 1 should not be suspended or revoked. The basis of the request is alleged violations of the Endangered Species Act of 1973. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

For the Nuclear Regulatory Commission.
Dated at Bethesda, Maryland, this 15th day of November, 1979.

Harold R. Denton,
Director, Office of Nuclear Reactor
Regulation.

[FR Doc. 79-36103 Filed 11-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260 and 50-286]

Tennessee Valley Authority; Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR-33, Amendment No. 50 to Facility Operating License No. DPR-52 and Amendment No. 27 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to allow partial tensioning of the reactor vessel head bolts at 70°F rather than at 100°F as formerly required.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the

Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated August 6, 1979; (2) Amendment No. 55 to License No. DPR-33, Amendment No. 50 to License No. DPR-52, and Amendment No. 27 to License No. DPR-68; and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, N.W., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14 day of November 1979.

For the Nuclear Regulatory Commission,
Thomas A. Ippolito,
Chief, Operating Reactors Branch No. 3,
Division of Operating Reactors.

[FR Doc. 79-36106 Filed 11-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-445A and 50-446A]

Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this antitrust proceeding: Alan S. Rosenthal, Chairman, Michael C. Farrar, and Richard S. Salzman.

Dated: November 13, 1979.

C. Jean Bishop,
Secretary to the Appeal Board.

[FR Doc. 79-36108 Filed 11-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-445 and 50-446]

Texas Utilities Generating Co.; Issuance of Amendment to Construction Permits and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Construction Permits CPPR-126 and CPPR-127, issued to Texas Utilities Generating Company for the Comanche Peak Steam Electric Station, Units 1 and 2, (the facility) located in Somervell County, Texas. The amendment is effective as of its date of issuance.

The amendment authorizes an additional one year of withdrawal of groundwater during construction at the presently authorized rate (not to exceed 250 gpm).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated June 1974.

For further details with respect to this action, see: (1) The application for amendment dated June 15, 1979; (2) Amendment No. 2 to CPPR-126, (3) Amendment No. 2 to CPPR-127; and (4) The Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, N.W., Washington, DC and at the Somervell County Public Library, On The Square, Glen Rose, Texas. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland this 16th day of November 1979.

For the Nuclear Regulatory Commission.

Donald E. Sells,
Acting Branch Chief, Environmental Projects
Branch 2, Division of Site Safety and
Environmental Analysis.

[FR Doc. 79-36107 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-47]

Reports, Safety Recommendation Letters and Responses; Availability

Marine Accident Report

Spanish Motor Tankship RIBAFORADA Ramming of Barge MB-5, Three Wharves, and Cargo Ship M/V TIARET, New Orleans, Louisiana, December 4, 1977 (NTSB-MAR-79-15).—In its report on the investigation of this accident, the National Transportation Safety Board determined that the probable cause of the ramming was the pilot's late initiation of the turning maneuver and the failure of the master to more insistently assert his concern or to assume control of the vessel when the RIBAFORADA was too close to the left descending bank. Contributing to the cause were the pilot's limited familiarity with the maneuvering characteristics of the RIBAFORADA, and the pilot's impaired attentiveness due to fatigue.

The investigation report, released to the public on November 9, indicates that two of the RIBAFORADA's cargo tanks were breached when the accident occurred. Property damage was estimated to be \$921,000. This accident was investigated jointly by the Safety Board and the U.S. Coast Guard. The formal investigation began on December 6, 1977, in New Orleans.

As a result of its analysis of this accident, the Safety Board on October 29 forwarded to the U.S. Coast Guard four new safety recommendations, Nos. M-79-103 through 106, and reiterated two previously issued recommendations, Nos. M-74-15 and M-77-33. Also, four additional recommendations, Nos. M-79-107 through 110, were forwarded to the Board of River Port Pilot Commissioners for the Port of New Orleans, in cooperation with the Crescent River Port Pilots Association, and one recommendation, No. M-79-111, was issued to the American Pilots Association on October 29. The complete text of these recommendations was published at 44 FR 64932, November 8, 1979.

Highway Accident Reports

Brief Format, Issue No. 1, 1979 (NTSB-HAB-79-1).—The Safety Board on November 8 published its brief format findings of probable cause of 26 multipurpose van accidents which occurred throughout the United States in the last six months of 1978 and in January 1979. The highway accidents were investigated by the Safety Board in preparation of its special study, "Safety of Multipurpose Vans," released last April 18 (44 FR 24656, April 26, 1979.)

The new brief report format publication, first of its kind in the highway transportation mode, incorporates single-page reports which contain the causal and contributing factors and basic factual information about each accident. The volume may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Note.—The brief reports in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 7 cents per page for printed matter, \$1 per page for black-and-white photographs, and \$1.50 per page for color photographs, plus postage. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Safety Recommendation Letters

Aviation

A-79-86 and 87 to the Federal Aviation Administration.—Last March 3, a Beech Travel Air, N644SE, crashed into mountains east of Elko, Nev., killing all four persons aboard. The flight was on an instrument flight rules flight plan, controlled by the Salt Lake City Air Route Traffic Control Center (ARTCC). Soon after the pilot reported to ARTCC that he was leaving 13,000 feet for 14,000 feet, the aircraft developed problems with its left engine. The highest altitude the aircraft reached was 13,200 feet, at which point the pilot initiated a descending turn to the left. When the aircraft reached 11,600 feet, the pilot declared an emergency to ARTCC and turned toward Elko.

At 10,800 feet, the controller transmitted, "... suggest you make a left turn and proceed eastbound from your position. There is a mountain range 12 o'clock and about 2 miles, ten eight on the altitude." When the controller suggested the turn, however, based on a mental correlation of terrain information from an overhead map with the display on his radarscope, the aircraft was

already past the highest terrain along its projected track and the elevation of the terrain immediately ahead was between 5,000 and 6,000 feet. Nevertheless, the pilot turned to the left and the aircraft crashed into the mountain at 9,400 feet. The Safety Board believes that the controller was faced with an extremely difficult task in making a mental correlation of the two sources of information.

The Board also believes that if an Emergency Obstruction Video Map, which displays contour lines and terrain elevation information, had been installed in the Salt Lake City ARTCC, the controller would have known precisely where the mountain range was located in relation to the aircraft, and hence would not have the suggested heading. The pilot would then have continued descent to the aircraft's single-engine service ceiling of 7,900 feet and proceeded toward Elko. The Board believes that the use of the Emergency Obstruction Video Map, as outlined in paragraph 1481 of the Facility Management Handbook, should be expanded to include every ATC facility controlling airspace over designated mountainous areas. This map is now used at the terminal radar facilities in Seattle, Wash., and Tucson, Ariz., and other terminal facilities are equipped to accommodate the addition of this feature at small cost. Accordingly, on November 15 the Safety Board recommended that FAA:

Require all terminal facilities located in designated mountainous areas to install and use emergency obstruction video radar maps. (Class II, Priority Action) (A-79-86)

Design future ARTCC NAS Stage-A radar systems to include the capability of incorporating emergency obstruction video maps and require those facilities servicing designated mountainous areas be provided with and use the feature as the new systems are installed. (Class II) (A-79-87)

Marine

M-79-112 and 113 to the U.S. Coast Guard.—On August 27, 1978, the American containership SS SEA-LAND VENTURE collided with the Danish tanker M/T NELLY MAERSK while overtaking at the bend into Inner Bar Channel, Galveston, Texas. The NELLY MAERSK, fully loaded with medium crude oil and making about 7 kns, had made the turn and was steady on the upbound channel heading as the SEA-LAND VENTURE was closing to port. The bow of the SEA-LAND VENTURE was crushed as it raked the portside and after deckhouse of the NELLY MAERSK. The NELLY MAERSK was pivoted into the left bank and grounded, and the SEA-LAND VENTURE veered to

starboard into an anchorage to the right of the channel. There were no deaths or injuries resulting from the accident. Damage to the vessels was estimated to be \$1.4 million.

Investigation showed that the pilots had agreed that when the SEA-LAND VENTURE caught up with the NELLY MAERSK in the 800-ft-wide part of the Galveston Bay Entrance Channel or in the Inner Bay Channel it would maneuver to overtake. The NELLY MAERSK was to slow and provide passing room. The overtaking was begun as the NELLY MAERSK turned left into the Inner Bar Channel. The pilots had exchanged proper whistle signals for the SEA-LAND VENTURE to overtake on the portside of the NELLY MAERSK. Without slowing the SEA-LAND VENTURE, the pilot gave an order for left 20° rudder to the helmsman to begin the overtaking and turning maneuver. The helmsman answered the order and turned the steering wheel slowly to port. The helmsman had previously been steering by gyrocompass headings conforming to the channel, using slightly more than 10° right and left rudder to maintain course. The rudder angle indicator had been about 10° right rudder and moving right and lagged in catching up to the left turn on the steering wheel. The pilot saw 10° right rudder indicated seconds after he gave the 20° left rudder order and immediately concluded that the helmsman had turned the steel the wrong way. Despite the pilot's avoidance maneuvers, using helm and engine, the two vessels collided. The relative speed and proximity of the two vessels, particularly at the channel bend, left little margin for error or avoidance maneuvers.

The Safety Board's recommendation letter notes that presently, overtaking or meeting at turns is an accepted practice in the Galveston-Houston Ship Channel; however, this accident emphasizes the need for some control over deep-draft vessels using the channels. The Board believes that these maneuvers by deep-draft vessels should not be permitted at the bends. A similar recommendation to Coast Guard to regulate the traffic on the Houston Ship Channel was made following investigation of the M/V ANCO SCEPTRE collision with Crown Central Petroleum Corporation Pier on the Houston Ship Channel. In connection with the subject accident, the Safety Board on November 9 recommended that Coast Guard:

Issue a regulation to prohibit deep-draft vessels overtaking or meeting each other at the bends in the channels when traversing the Galveston-Houston Ship Channel. (M-79-112)

Require helmsmen in the U.S. Merchant Marine to inform the officer in charge of navigation of the vessel when rudder orders have been executed, in addition to the present practice of repeating them as they are given. (M-79-113)

M-79-114 and 115 to the Galveston-Texas City Pilots Association, the Houston Pilots Association, and the American Pilots Association.—Also on November 9 as a result of the **SEA-LAND VENTURE—NELLY MAERSK** accident investigation, the Safety Board addressed the following recommendations to:

Galveston-Texas City Pilots Association, Houston Pilots Association: Require member pilots piloting deep-draft vessels to refrain from overtaking or meeting other vessels at the bends in the Galveston-Houston Ship Channel. (M-79-114)

Galveston-Texas City Pilots Association and Houston Pilots Association, and American Pilots Association: Require member pilots to confer with ships' master on any maneuvering agreements made over the radio telephone well in advance of the execution. (M-79-115)

All of the above marine safety recommendations are classified for priority action, Class II.

Pipeline

P-79-34 to the Research and Special Programs Administration, U.S. Department of Transportation.—The Safety Board has completed its

investigation of the flash fire which erupted at 4:30 p.m. last July 31 in a small cellar beneath a commercial greenhouse in Aliquippa, Pa. Investigation showed that the fire erupted as a man entered the cellar and struck a match. The man died later that night. The fire did only minor damage to the cellar.

The Peoples Natural Gas Company was notified of the accident at 4:36 p.m. A gas serviceman arrived at the site at 5 p.m., evacuated the building, and checked for leakage on a 12-inch, 80-psig-pressure gas main which came within 5 feet of the greenhouse. The gas main was not shut down. The serviceman, using a spotting bar and a combustible gas indicator, detected gas leaking around the gas main. At 6:55 p.m. a service crew arrived and excavated the gas main. The excavated pipe showed active general corrosion with some pit holes. Six corrosion-caused leaks and one leaking clamp were detected and repaired.

A 4-inch drain hole in the concrete floor of the greenhouse cellar was located approximately 18 feet from the gas main. The leaking gas could have entered the greenhouse cellar through this drain hole. A gas line from an old

gas well, which served the greenhouse boiler room at 20-psig pressure, was located approximately 150 feet from the greenhouse cellar. Bar hole tests conducted between the old gas well and the affected building showed no gas leakage from this system was reaching the accident area.

The bare steel main, designated on company records as P-670, had been installed in 1935 with compression coupling. The gas main, which extends north and south from the accident site and serves other residences along its route, had never been surveyed to determine whether active corrosion conditions existed, and it had never been cathodically protected as required by 49 CFR 192.457. The Board did find that the line had been checked quarterly for leak detection by a line walker who did not use a combustible gas indicator but depended on his sense of smell and signs of dead vegetation over the right-of-way. No leaks had been previously detected on this pipeline.

In view of its findings, the Safety Board on November 7 recommended that RSPA:

Monitor, through its State agent, the Pennsylvania Public Utility Commission, the activities of the Peoples Natural Gas Company to survey the 12-inch gas main for leaks and to cathodically protect the gas main where needed. (Class I, Urgent Action) (P-79-34)

P-79-35 through 37 to the Peoples Natural Gas Company of Pittsburgh, Pa.—Three additional "urgent action" recommendations were forwarded by separate letter, also on November 7:

Conduct an instrument (Hydrogen Flame Ionization, Combustible Gas Indicator) leak survey of the gas main identified on the company records as P-670 to determine any additional areas of leakage. (P-79-35)

Conduct a complete corrosion survey over the entire 12-inch bare steel gas main to determine any additional areas of active corrosion. (P-79-36)

Repair any leaks detected by these surveys and apply cathodic protection to those sections of the gas main found to have active corrosion. (P-79-37)

P-79-38 and 39 to the Mayor and the Council of the District of Columbia.—At 11:36 a.m. on October 30, 1979, a natural gas explosion demolished a townhouse at 215 Third Street S.E., in Washington, D.C., and damaged several nearby buildings. No one was in the townhouse at the time, but three persons passing by in a car were injured when debris from the explosion shattered glass in the car.

The Safety Board's continuing investigation of this accident has revealed that natural gas leaking from a 1-inch low-pressure plastic service line, which had been inserted into an old 1¼-

inch steel service line, migrated into the townhouse and was ignited by an unknown source. Two contractors had been working near the house for 4 to 6 weeks; some of the work involved the use of mechanized excavation equipment. An inspection of the service line after the accident revealed that it had been struck by excavation equipment. The steel line had been partially broken at that point and the plastic line apparently had been pulled out of a compression coupling under the alley near where the service line entered the house. The Washington Gas Light Company, the operator of the gas line, had not been notified by either contractor of the projected work before the accident.

The Board notes that the most effective method of preventing excavation-related accidents to underground facilities is to notify the operators of utility companies of the proposed excavation work so that the operators can mark the location of their facilities before work begins. The most efficient and convenient method for contractors to make this notification is through a "one-call" system. In a "one-call" notification system, the operators of the utilities establish a center to which an excavator can make one call to notify all the participating operators. The center then alerts each operator to the need for marking the location of the facilities near the work area. There are now 106 "one-call" systems throughout the country in 40 States, and some systems cover entire States or regions. In its 1978 special study, "Safe Service Life for Liquid Petroleum Pipelines," the Safety Board noted that a 1977 survey of "one-call" systems found a markedly downward trend in damage to underground facilities after the systems were established. The greatest number of incidents of damage to underground facilities after the "one-call" systems were established, the Safety Board found, was attributed to excavators who did not notify the operators of underground facilities before undertaking excavation.

Therefore, on November 14 the Safety Board recommended that the District of Columbia:

Cooperate with the utility companies serving the District of Columbia to establish a "one-call" excavation notification system. (P-79-38)

Enact legislation which requires persons planning to excavate in the District of Columbia to notify utility companies of their plans so that the location of underground facilities can be marked before excavation is started. These notifications should be made through the "one-call" system once one is established. (P-79-39)

P-79-40 to Washington Gas Light Company, Potomac Electric Power Company, and Chesapeake & Potomac Telephone Co.—A separate recommendation letter, issued jointly to the three addressees, was also forwarded on November 14 and contained a third "Class II, Priority Action" recommendation:

In cooperation with the District of Columbia Government, expand the "Miss Utility" "one-call" system now serving areas of Maryland and Virginia to include the District of Columbia. (P-79-40)

Responses to Safety Recommendations

Aviation

A-79-6.—On November 9 the Federal Aviation Administration responded to the Safety Board's inquiry of June 5 which also commented on FAA's previous response of last May 22 to a recommendation developed during investigation of the crash of a Learjet near Vickery, Ohio, on October 20, 1978. (See 44 FR 31331, May 31, 1979.) The recommendation asked that FAA issue an Alert Bulletin recommending that all operators of Learjets review their requirement to practice a runaway trim and, if practice runaway pitch trim exercises are deemed necessary, recommending that the exercise be performed in a manner which will not allow an excessive nosedown attitude or high airspeeds to develop. The Safety Board was pleased to note from FAA's May 22 letter that FAA is preparing bulletins for air carrier and general aviation operations to fulfill the intent of the Board's recommendation.

FAA's November 9 letter reported that last June 28 FAA issued Change 17 to Order 8440.5A, General Aviation Operations Inspector's Handbook, which transmits Operations Inspector's Handbook which transmits Operations Bulletin NO. 79-3, "Simulated Runaway Pitch Trim Training—Transport Category Aircraft." FAA also issued Change 32 to Order 8430.1A, effective July 3, 1979, which contains Part 135 of Operations Bulletin No. 79-2, "Runaway Pitch Trim Training and Testing in High Performance Airplanes." Copies of the changes were attached to FAA's letter.

Highway

H-79-27 and 28.—Letter of October 29 from the National Highway Traffic Safety Administration is in response to recommendations issued last May 17 following investigation of an accident which occurred August 22, 1978, near Littleton, N.H., when an ambulance, traveling at 90 to 95 mph in response to an emergency call, failed to negotiate a

curve on New Hampshire State Route 116. (See 44 FR 30179, May 24, 1979.)

Recommendation H-79-27 asked NHTSA to extend the application of Federal Motor Vehicle Safety Standards 220, Schoolbus Rollover Protection; 221, Schoolbus Body Joint Strength; and 301, Fuel System Integrity, to include ambulances and other emergency vehicles. In response, NHTSA notes that all vehicles (except motorcycles) under 10,000 pounds Gross Vehicle Weight Rate must conform to FMVSS No. 301. FMVSS No. 221 specifies body joint strength for strength for schoolbuses over 10,000 pounds. Its primary thrust is to strengthen the overlapping body panels of large schoolbuses, and is not appropriate to the smaller van type vehicles. The roof crush requirements of FMVSS No. 220 apply to all schoolbuses including those under 10,000 pounds. NHTSA is not aware of any vehicles that could be used as schoolbuses that do not meet this requirement without any further special consideration by the purchaser. Conceivably, a chassis purchased for conversion to an ambulance would not necessarily meet this standard in the final vehicle, but, as nearly as can be determined, most if not all ambulances are produced by modification of a basic vehicle rather than a basic chassis. In the vehicle investigated, NHTSA notes, the "raised" roof probably conformed to FMVSS No. 220, although the standard is not applicable to this type of vehicle. NHTSA points out that ambulances are not considered an "after-market" product, but are manufactured by second-stage companies and may be classified as a completed chassis or a modified vehicle. In either case, the final vehicle must be certified in compliance with all applicable Federal standards.

Recommendation H-79-28 asked NHTSA to study the feasibility of extending Federal Motor Vehicle Safety Standards relating to vehicle interior padding, occupant protection, and the anchorage of seats, flooring, and equipment to include ambulances and other emergency vehicles. In response, NHTSA states that the same steps are currently underway to extend certain standards to the other classes of vehicles. FMVSS No. 201, Occupant Protection in Interior Impacts, for example, is currently being amended to include all vehicles under 10,000 pounds. NHTSA has no indication that the "total design and construction" was affected by the professional alterer. NHTSA states that if this is true, the second-stage manufacturer may be in violation of the Act. "We are not aware that the 'total design and construction' of the

ambulance was altered by second-stage modifications, except for the raised roof," NHTSA states.

Marine

M-77-31.—The Federal Communications Commission has provided the Safety Board with a copy of a Report and Order terminating the proceedings in PR Docket No. 70-101 in the matter of amendment of 47 CFR Part 83 to ensure the availability of certain compulsory radio equipment to the operator of the vessel's steering station in use. This document was adopted October 10 and released October 16, 1979, and serves as a response to recommendation M-77-31, issued following investigation of the PEARL C charter fishing boat accident which occurred near Astoria, Oreg., September 13, 1976. The recommendation called on FCC to require the installation at each operator steering station on charter boats of a radiotelephone or an extension speaker and microphone with adequate control of the transceiver to insure reliable communications.

The FCC document amends § 83.202(c). Watch required on vessels subject to the Communications Act, as follows:

(c) Each vessel of the United States transporting more than six passengers for hire, which is equipped with a radiotelephone installation for compliance with Part III of Title III of the Communications Act shall, while being navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or contiguous to the open sea, keep a continuous and efficient watch on 2182 kHz while the vessel is beyond VHF communication range of the nearest VHF coast station, whenever such installation is not being used for authorized traffic. While the vessel is within VHF communication range of the nearest coast station, the watch shall be kept on 156.8 MHz whenever such installation is not being used for authorized traffic. The VHF watch shall be maintained at the vessel's steering station actually in use by the qualified operator as defined by Section 83.155(e) of this part, or by a designated member of the crew who has been instructed in radio operation and voice procedure by the radio operator. The crew member so designated may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch.

The document also amends § 83.514(d), Radiotelephone installation, as follows:

(d) After October 1, 1980, a VHF radiotelephone installation or a remote unit with all controls necessary to ensure reliable communications, shall be located at each operator steering station aboard the vessel, except those auxiliary steering stations which are used only during brief periods for docking

or for close-in maneuvering. A single portable radiotelephone set shall be considered capable of meeting the requirements of this paragraph provided adequate permanent mounting arrangements with suitable power provision and antenna feed are installed at each operator steering station intended for all such use as is not excepted in this paragraph. Additionally, for vessels of more than 100 gross tons, the radiotelephone installation and all necessary controls shall be located at the level of the main wheelhouse or at least one deck above the vessel's main deck.

These amendments become effective November 23, 1979.

Railroad

R-79-37 through 40.—The Federal Railroad Administration on October 15 responded to recommendations issued last April 13 following investigation of the Conrail-Amtrak rear-end collision, June 9, 1978, at Seabrook, Md. (See 44 FR 23391, April 19, 1979.)

Recommendation R-79-37 asked FRA to initiate a study of cab signal equipment that analyzes the relationship between noise levels, traction motor return current and the filter characteristic of blocking, and its impact on the quality of the signal received by the cab signal. FRA reports that during investigation of the Seabrook accident, consideration was given to the presence of the 25 HZ traction motor return current and its fourth harmonic as well as any spurious signals that could have been picked up by the cab signal receivers. Extensive tests were made in the field and in the General Railway Signal Company (GRS) laboratory in Rochester, N.Y., to determine if the traction return circuit could cause or sustain the cab signal amplifiers in a self-oscillating mode. These tests and recorded data obtained while operating in both cab signal and non-cab signal territory showed that the filter operated in a manner so as to perform its intended function in the environment in which it is used.

FRA further notes that in order to be compatible with the complete system, it was necessary to redesign the input filter on equipment used in electrified territory. Because of the increased sensitivity of the modified amplifier, a complete safety analysis was completed by GRS on November 10, 1978. Retrofit has been completed on all electric cars and locomotives used on the Northeast Corridor. Further, FRA has initiated a study to include an analysis where 60 HZ traction motor current is used, such as is proposed in the Northeast Corridor improvement program.

In response to R-79-38, which recommended regulations to establish minimum standards for the design and construction of the interiors of

passenger-carrying cars so that adequate crash injury protection will be provided passengers, and R-79-39, which called for regulations requiring that the emergency release mechanism for doors on passenger-carrying cars be clearly identified so that the doors can be opened easily in an emergency, FRA notes that special safety problems which arise from passenger transportation have been of deep concern to FRA, and rather than addressing each recommendation as a separate rulemaking, FRA is developing a comprehensive passenger safety program that includes all aspects of the problem. On October 6, 1977, FRA's Office of Safety and Office of Research and Development met with representatives of the Urban Mass Transportation Administration and agreed to a preliminary test plan incorporating Safety Board passenger safety recommendations. These then could be tested on passenger cars at the Department of Transportation's Test Center in Pueblo, Colo. The program is scheduled for completion during the last quarter of 1980 or first quarter of 1981. FRA states, "Until such time as the testing program has been completed, we feel we cannot adequately and fully respond to specific passenger car safety recommendations."

With respect to recommendation R-79-40, which called for regulations establishing minimum standards for the training of train crews in the safe operation of trains and in emergency procedures, FRA notes that early in 1978 it sponsored a conference on Labor/Management/Public Agency Cooperation for Railroad Employee Training. The major purpose of the conference was to bring those in railroad labor and management together with representatives of publicly supported training agencies, and the objective was to open communications so that public agencies could become better aware of the opportunities for employment in the railroad industry and the needs of the industry in terms of trained personnel.

Further, FRA is assisting the industry in its training efforts. In 1977, FRA funded a contract for developing a "Proposed Research Plan to Improve Railroad Employee Training (FRA-OPPD-78-10)." As a result of this plan, FRA initiated a contract in November 1978, to be completed in the fall of 1979, which calls for developing a comprehensive catalogue of railroad employee training programs. This catalogue will be an integral part of FRA's overall training research effort. FRA believes it can best serve the

training needs of the industry through research projects of this type and does not intend to promulgate regulations in this area.

Note.—Single copies of the Safety Board's reports are available without charge, as long as limited supplies last. Copies of recommendations letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594

Multiple copies of accident reports issued by the Safety Board may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,
Federal Register Liaison Officer.

November 19, 1979.

[FR Doc. 79-36070 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-58-M

SECURITIES AND EXCHANGE COMMISSION

(File Nos. 2-34018, 2-38292, 2-41721, 2-49251, 2-61151)

Carolina Telephone and Telegraph Co.; Application and Opportunity for Hearing

November 15, 1979.

Notice is hereby given that Carolina Telephone and Telegraph Company (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Bankers Trust Company under five indentures between Bankers Trust Company and the Applicant qualified under the Act (the "Prior Indentures") and under an Indenture between Bankers Trust Company and the Applicant not so qualified (the "New Indenture") are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as trustee under the New Indenture.

The Applicant alleges the following:

(1) Applicant, a North Carolina corporation with telephone operations in the State of North Carolina, and Norfolk Carolina Telephone Company, a Virginia corporation with telephone operations in the States of North Carolina and Virginia ("Norfolk") are subsidiaries of United

Telecommunications, Inc., a Kansas corporation ("United").

United intends to consolidate the telephone operations of Applicant and Norfolk in the State of North Carolina. In connection with the consolidation, Applicant plans to issue unsecured Debentures under the New Indenture in the approximate aggregate principal amount of \$15,854,000 (the "Debentures"). Pursuant to agreements with the holders thereof (the "Debenture Agreement"), all outstanding First Mortgage Bonds and Debentures of Norfolk ("Norfolk Securities") will be exchanged for Debentures of the Applicant. The principal amount of Norfolk Securities surrendered in the exchange will be equal to the principal amount of Debentures issued under the New Indenture. The Norfolk Securities issued under Norfolk's Indentures were purchased by institutional investors for investment and not with a view to distribution under the exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended. The Debentures of the Applicant to be issued under the New Indenture and exchanged for Norfolk Securities will consist of twenty-three series, designated Series B through X, with each series having the same interest rate, redemption provisions and maturity as the Norfolk Securities surrendered in exchange therefor and each series of Debentures will rank *pari passu* under the New Indenture. The New Indenture will contain provisions substantially identical to the provisions contained in the Prior Indentures, except for those changes necessary to provide for the issuance of serial Debentures. The New Indenture will contain all of the applicable provisions which would have been required by the Act had the New Indenture been qualified except that Applicant will not be required to file copies of reports with the Commission as required by Sections 312(b), 313(b) and 314(a) of the Act and except that the New Indenture will not contain the statement required by Section 318(a) of the Act. It is anticipated that the execution of the New Indenture, the merger and the issuance and delivery of the Debentures of the Applicant in exchange for Norfolk Securities will occur early in the fourth calendar quarter of 1979.

(2) Applicant has appointed Bankers Trust Company, a New York corporation, to act as trustee under the New Indenture.

(3) The Prior Indentures relate to five prior sales to the public of Debentures of Applicant in the original aggregate principal amount of \$155,000,000 of

which \$145,600,000 remained outstanding as of June 30, 1979, (the "Outstanding Debentures").

(4) The New Indenture will contain provisions substantially identical to the provisions contained in the Prior Indentures, particularly insofar as the duties and responsibilities of Bankers Trust Company are concerned. Although not qualified under the Act, the New Indenture will contain, to the fullest extent possible, all the applicable provisions which would have been required under the Act had the New Indenture been so qualified. In addition, the New Indenture and the Prior Indentures contain cross-default provisions so that an event of default under one will constitute an event of default under the others. Thus the existence of the dual trusteeship should in no way inhibit or discourage the actions of Bankers Trust Company. The only material differences between the Indentures and the rights of the holders of Debentures issued thereunder relate to principal amounts, dates of issue, maturity and interest payment dates, interest rates and redemption provisions. However, since the Debentures of the Applicant to be issued under the New Indenture and the Outstanding Debentures issued under the Prior Indentures are unsecured obligations ranking *pari passu*, neither the above differences nor any other provisions of the Indentures are likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any of the Debentureholders to disqualify Bankers Trust Company from acting as trustee under such Indentures.

(5) Applicant is not in default under the Prior Indentures.

The Applicant has waived notice of hearing, hearing on the issues raised by its application and all rights to specify procedures under Rule 8(b) of the Commission's rules of practice in connection with this matter.

For a further statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than December 10, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be

addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as to the Commission may seem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-36011 Filed 11-21-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21299; 70-6282]

Columbia Gas System, Inc. et al.; Post-Effective Amendment Regarding Increase of Short-Term Open Account Advances

November 15, 1979.

In the matter of the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., 99 North Front Street, Columbus, Ohio 43215; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027; Columbia Hydrocarbon Corporation, The Inland Gas Company, Inc., 340 17th Street, Ashland, Kentucky 41101; Columbia Coal Gasification Corporation, Columbia Gas Development Corporation, Columbia LNG Corporation, Columbia Gas Development of Canada, Ltd., 20 Montchanin Road, Wilmington, Delaware 19807, (70-6282).

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and certain of its subsidiary companies named above have filed a first post-effective amendment to an application-declaration filed with this Commission pursuant to Sections 6(b), 9, 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and rules 43, 45, and 50(a)(3) promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated May 18, 1979 and September 28, 1979 (HCAR Nos. 21053 and 21233, respectively), Columbia was authorized, among other things, to make short-term advances on open account to certain subsidiaries. Columbia now proposes that such authorization be amended to increase the permissible advances to Columbia Gas Transmission Corporation (Columbia Transmission) from \$120,000,000 to \$180,000,000 and to authorize up to \$6,500,000 of such advances to Columbia Gas Development of Canada Ltd. (Development Canada). These advances will be subject to the same terms and conditions as the advances made by Columbia to certain other subsidiaries as described previously in this application-declaration.

The increase of \$60,000,000 in advances to Columbia Transmission is required in order to provide Columbia Transmission with sufficient funds to finance gas purchases and other normal short-term seasonal requirements. At the time of the original filing of the application-declaration, adequate information concerning the cash impact of the Natural Gas Policy Act was not available and as a result Columbia Transmission's gas purchase expenses were under-estimated. It is now forecasted that an additional \$60,000,000 of short-term financing is required to meet Columbia Transmission's peak requirement. At the time of the original filing of the application-declaration, Development Canada anticipated issuing common stock to finance portions of its 1979-80 construction program. The proposed sale of certain non-utility properties in the Beaufort Sea, however, was not forecasted at that time. The proceeds of that sale will not be realized in time to meet financial requirements of the construction program. The requested \$6,500,000 short-term advances for Development Canada would be a form of bridge financing to be realized upon receipt of the proceeds of the Beaufort Sea Sale. This will avoid the overcapitalization of Development Canada which would result from the combined effect of issuance of common stock to finance construction and a subsequent sale of working interest in the Beaufort Sea properties.

The fees commissions and expenses to be incurred in connection with the proposed transactions are estimated at \$1,000, composed of service fees of Columbia Gas system Service Corporation of \$700 and miscellaneous expenses of \$300. It is stated that no State commission and no federal commission, other than this

Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than December 10, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law raised by said post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-38012 Filed 11-21-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16349; File No. SR-PHLX-79-8]

**Philadelphia Stock Exchange, Inc.;
Self-Regulatory Organizations;
Proposed Rule Change**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 25, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

**Exchange's Statement of Terms of
Substance of Proposed Rule Change**

The Philadelphia Stock Exchange, Inc. ("PHLX") proposes to amend PHLX Rules 1024 and 1027 by deleting Commentaries .04 through .06 under

Rule 1024 and Commentary .01 under Rule 1027. The text of the proposed amendments is as follows: (Brackets denote deletions):

**Conduct of Accounts for Options
Trading**

Rule 1024.

Commentary

.04 Before approving an account of trust, pension fund, profit sharing plan or other fiduciary for options trading, a member organization shall be satisfied that the instruments under which the fiduciary is acting permit options trading.

.05 Before approving an account with respect to which trading authorization has been granted to a third person who is not an employee of the member organization for options trading, the member organization shall obtain written evidence of the agent's authority to act and that such authority specifically includes options trading.

.06 Before approving an account of an investment partnership or an investment club for options trading, the member organization shall obtain written evidence of the authority of the person signing the agreement required by this Rule to sign such agreement on behalf of such partnership of club, as the case may be, and that such authority specifically includes options trading. Information shall also be obtained with respect to any current long or short option positions of the respective partners or members of the partnership or investment club.

Discretionary Accounts

Rule 1027

Commentary

.01 No transactions shall be executed in a discretionary account which would result in an uncovered short position in option contracts unless the person for whom the account is maintained has specifically authorized, in writing, transactions of this nature and such transactions are effected with due regard to the provisions of Rule 1026.]

**Exchange's Statement of Basis and
Purpose**

The purpose of the proposed changes is to delete certain portions of rule commentary that more properly belong within the ambit of member firm control and which can otherwise be dealt with, if needed, in Exchange publications and joint SRO releases relating to supervisory guidelines and procedures. The PHLX believes it is appropriate to delete the provisions at this time in view

of the numerous rule changes which will be proposed uniformly by the joint SRO Task Force in response to the SEC Options Study. (See SR-PHLX-79-7, SR-AMEX-79-11 and SR-CBOE-79-9.) Deletion of these provisions will bring the Exchange's rules into closer uniformity with the rules of the other options exchanges and the NASD, thus eliminating confusion and uncertainty on the part of both dual member firms and exchange personnel (primarily those who perform inspection and audit duties) as to differences in the rules of the SRO's. Since the Options Study did not mention any of the specific provisions of the rules which are proposed to be deleted, the Task Force has not considered these matters in responding to the SEC recommendations. The PHLX is submitting this file separate and apart from its file SR-PHLX-79-7 to avoid confusion with the joint efforts of the Task Force.

It should be noted that each of the provisions proposed to be deleted have been part of the PHLX rules since the start of the Exchange's options program. During this period of time, numerous member firms have pointed out the difficulty and impracticality in complying with these rules.

Rule 1024.04 and .05—The Exchange believes that firms should be able to set their own guidelines and standards and make independent legal determinations as to whether or not sufficient basis exists to approve a fiduciary or a third-party discretionary options trading account (i.e., an account where trading discretion is granted to a third person who is not an employee of the member organization) and not be confined, by Exchange rule, to require that the trading authority to such third-party specifically include options trading.

In certain cases, it is extremely difficult and impracticable (if not impossible) to amend a fiduciary or discretionary third-party trading authorization to include the word "options". Firms have noted that many attorneys and non-attorneys often use standard "boiler-plate" forms, which are intended to give the broadest possible investment and management powers, but which do not specifically include an options trading provision. Literally, such forms fail to meet the rigid requirements of these provisions. To amend these forms, in some cases by application to a court, would be both time consuming and expensive and appear to serve little benefit except to meet technical conformity with the provisions of this rule.

Those member firms which have commented on this rule believe that they

should retain the right and bear the responsibility—based on the documentary items involved—to make their own legal determinations as to whether or not to accept and approve a particular third-party discretionary or fiduciary account for options trading.

Rule 1024.06—Similarly, for the reasons noted above, the Exchange believes that firms should be able to make their own legal determinations as to whether or not a person purportedly acting on behalf of an investment club or partnership has proper authority to so act and not be confined, by Exchange rule, to require that such authority specifically includes options trading.

Oftentimes, investment clubs and partnerships use standard forms (for resolutions, articles, By-Laws, etc.) to ease the way in transacting business, although many of such forms were designed prior to the commencement of listed options trading. While it may be the express intent of a partnership or club to engage in options transactions, absence of the required options trading provision would not meet the requirements of the rule.

Also, the requirement that firms ascertain and track the options positions of individual partners and members of the investment partnership or club is a virtual impossible requirement. Deletion of this provision, however, will not relieve a firm from its duty to ensure that violations of the aggregation provision under the position limits rule do not occur. Thus, to the extent they are aware of such positions, firms would need to aggregate the personal options positions of those club members or partners who exercise control over the investment decisions of the club or partnership with the options positions of such club or partnership.

Rule 1027.01—The Exchange believes that since firms are required to adopt supervisory procedures to ensure that any and all discretionary account transactions are suitable for customers, it is not necessary that they be prohibited, by Exchange rule, from executing certain specified transactions unless specifically authorized (e.g., the uncovering of a covered position or the establishment of a short position). Current and proposed suitability rules (PHLX Rule 1026, AMEX Rule 923 and CBOE Rule 9.9) and other requirements relating to supervision of accounts require firms to ensure that proper trading is conducted at all times in each customer's account. (See PHLX Rule 1025 and Circular No. 77-13 "Regulatory Guidelines for Conducting a Public Business in Options (Puts and Calls)"; AMEX Rule 922 and Regulatory Guidelines for Conducting a Public

Business in AMEX Listed Options and CBOE Rule 9.8 and Educational Circular No. 6.) Accordingly, the PHLX believes the provisions of this rule can be deleted.

The basis for the proposed rule change is found in Section 6(b)(5) of the Securities Exchange Act of 1934, as amended, which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and protect investors and the public interest.

As noted in Item 3 above, in part, the amendments to Rules 1024.04, .05 and 1027.01 were proposed in response to oral comments made by member organizations. No written comments were solicited or received.

The proposed rule changes will not impose any burden on competition and will bring the PHLX rules in closer uniformity to the comparable rules of other options exchanges.

On or before December 28, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 14, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

November 16, 1979.
[FR Doc. 79-38009 Filed 11-21-79; 8:45 am]
BILLING CODE: 8010-01-M

[File No. 1-5260]

Zero Corp.; Application to Withdraw From Listing and Registration

November 15, 1979

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Zero Corporation's ("Zero") common stock was listed and registered for trading on the Amex on July 14, 1966.
2. Zero's common stock became listed and registered for trading on the New York Stock Exchange, Inc. ("NYSE") on October 11, 1979. Simultaneously, Amex suspended trading in the issue pursuant to Rule 12d2-1 of the Act.
3. Zero has determined that the direct and indirect costs and the possibility of market fragmentation do not justify maintaining common stock listings on both the Amex and NYSE.

This application relates solely to withdrawal of the applicant's common stock from listing and registration on the Amex and will have no effect upon the continued listing of that stock on the NYSE. The Amex has posed no objections in this matter.

Any interested person may, on or before December 7, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-36010 Filed 11-21-79; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5365]

Brooklyn Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On February 23, 1979, a notice was published in the *Federal Register* (44 FR 10804), stating that Brooklyn Capital Corporation, located at 1476 39th Street, Brooklyn, New York 11218, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978), for a license to operate as a small business investment company, under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business March 12, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 02/02-5365 to Brooklyn Capital Corporation on November 2, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 16, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-36149 Filed 11-21-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0169]

Louisiana Equity Capital Corp.; Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR § 107.701 (1979)), for transfer of control of Louisiana Equity Capital Corporation (LECC), located at 451 Florida Street, Baton Rouge, Louisiana 70801, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

LECC was licensed on February 21, 1974, with an initial private capital of \$900,000. It was owned equally by Louisiana National Bank of Baton Rouge, Bank of New Orleans, and Ouachita National Bank in Monroe. It is proposed that Louisiana National Bank

acquire 100 percent of the Licensee's issued and outstanding stock for cash.

The proposed transfer of control is subject to the approval of SBA. If such approval is given, the officers and directors of LECC will be:

Charles W. McCoy, 17 Stone's Throw, Baton Rouge, Louisiana 70809, Chairman, Director.

George Lee Griffin, 3100 Fairway Drive, Baton Rouge, Louisiana 70809 President, Director.

Norman L. Phillips, 9902 Hilltrace Avenue, Baton Rouge, Louisiana 70809, Executive Vice President, Director.

William W. Scheffy, 8212 Argosy Court, Baton Rouge, Louisiana 70809, Executive Vice President, Director.

Robert B. McCall III, 2225 Kleinert Avenue, Baton Rouge, Louisiana 70806, Vice President.

Barry W. Braucht, 5635 Port Hudson Drive, Baton Rouge, Louisiana 70816, Vice President.

Nancy M. Richmond, 8632 Norfolk Drive, Baton Rouge, Louisiana 70809, Treasurer.

Laura L. Oubre, 1755 College Drive #104, Baton Rouge, Louisiana 70808, Secretary of the Board.

John G. Munsell, 7431 Rienzi Blvd., Baton Rouge, Louisiana 70809, Director.

Howard E. Samuel, 5258 Belvedere Drive, Baton Rouge, Louisiana 70808, Director.

There will be no significant changes in the operations of the Licensee, but its two branch offices—in New Orleans and Monroe—will be closed.

Matters involved in SBA's consideration of the application include the general business reputation and character of management and shareholders, and the probability of successful operations of LECC under their management, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA in writing, comments on the proposed transfer of control of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published by LECC in a newspaper of general circulation in Baton Rouge, Louisiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 16, 1979.

Peter F. McNeish,

Acting Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-36150 Filed 11-21-79; 8:45 am]

BILLING CODE 8025-01-M

SMALL BUSINESS CONFERENCE COMMISSION**White House Conference on Small Business; Meeting**

In accordance with Section 10(a) of the Federal Advisory Committee Act (5 USC appendix I), announcement is made of the following national commission meeting.

Small Business Conference Commission—December 17, 1979—2:30 p.m.—4:00 p.m., Room 2010, New Executive Office Building, Washington, D.C.

Open Meeting

Purpose: The Small Business Conference Commission was established by Executive Order to provide advice with respect to the holding of a White House Conference on Small Business in early 1980. In pursuit of the goal of a strong small business community, the Commission shall recommend issues to be considered by the Conference including those related to fostering of small business and the expansion of opportunities for entry into small business enterprises. The Commission shall make recommendations for legislative and policy changes primarily based upon the findings of the White House Conference on Small Business.

Agenda: The Commission shall address the above issues and review the progress of research task forces in addition to other Commission business.

Contact: Heidi Hanson, Executive Assistant to the Director, White House Conference on Small Business, 730 Jackson Place, N.W., Washington, D.C. 20006.

Please write before December 17, 1979, if you wish to attend this meeting. Attendance by the public will be limited to space available.

Summaries of the transcript of the meeting will be made available to the public upon request at cost.

Dated: November 19, 1979.

K Drew,

Deputy Advocate for Advisory Councils, U.S. Small Business Administration.

[FR Doc. 79-36151 Filed 11-21-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE**Agency for International Development**

[Redelegation of Authority No. 99.1.1.1]

Chief, General Services Division, and Chief, Purchasing Branch, Office of Management Operations; Redelegation of Authority Regarding the Contracting Function**Correction**

In FR Doc. 79-24642 appearing on page 47195 in the issue of Friday, August 10, 1979, the "Redelegation of Authority Number" in the heading reading "99.1.1" should have read "99.1.1.1".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket No. RMB-80-1, Notice No. 1]

Request for Comment on Investment Application

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and Request for Comment on Application of TELACU Investment Company, Inc. (TELACU), for purchase of its preferred stock by the FRA.

SUMMARY: As part of its program of assisting minority enterprises in participating in the rebuilding and revitalizing of the railroads, the FRA is investing in certain minority enterprise small business investment companies (MESBICs). These MESBICs receive matching and other funds from the Small Business Administration (SBA). Through the FRA investment and the leveraging of SBA funds, the MESBICs are able to invest in eligible firms doing railroad related work. A new application has been received from TELACU, and the FRA is requesting comments on the application.

DATES: The deadline for comment is December 13, 1979.

ADDRESS: Written comments should identify the docket number and the notice number and must be submitted to the Docket Clerk, Office of Chief Counsel, FRA, Room 8211, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than the comment closing date. Written comments will be available for

inspection both before and after the close of the comment period at the foregoing address between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patrick O'Driscoll, Office of Chief Counsel, FRA, Room 8211, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 472-5311.

SUPPLEMENTARY INFORMATION: By notices of July 25, 1978, and November 29, 1979 (43 FR 33358, 43 FR 58744, respectively), the FRA advised that it had requested applications from seven MESBICs licensed by the SBA, under section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681), for the purchase by the United States of their preferred stock ("stock") under section 11 of the DOT Act, as amended (49 U.S.C. 1657a). The names and addresses of the MESBICs were contained in the notices. Notice is hereby given that the FRA has received and has under review an additional application. The applicant is: TELACU Investment Company, Inc., South Atlantic Boulevard, East Los Angeles, California 90022, (Docket No. RMB-80-1).

TELACU proposes that the United States purchase two million dollars worth of its preferred stock. The proceeds from the sale of the stock and any matching SBA funds are to be used by TELACU to make investments in "socially or economically disadvantaged small businesses" to enable such firms to engage in business activities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the nation's railroads.

The application will be made available for inspection during normal business hours in Room 8211 of the FRA, subject to the regulations of the Office of the Secretary of Transportation set forth in 49 CFR, Part 7.

Issued in Washington, D.C. on November 15, 1979.

John M. Sullivan,
Administrator.

[FR Doc. 79-35717 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS-79-21]

Fore River Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR § 211.41 and § 211.9, notice is hereby given that

the Fore River Railroad Company (FOR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. (64a(e)). That petition requests that the FOR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The FOR seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-79-21, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Communications received before December 31, 1979, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).)

Issued in Washington, D.C. on November 15, 1979.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79-36114 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-06-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Restructuring of Railroad Facilities in the St. Louis Metropolitan Area Rail Gateway Terminal Located in Madison and St. Clair Counties, Ill., and the City of St. Louis, Mo.

November 9, 1979.

AGENCY: U.S. Department of Transportation, Federal Railroad Administration

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

PROPOSED ACTION: The proposed action would involve improving railroad operations, reducing railroad/community conflicts, and freeing property for redevelopment through the restructuring of existing rail facilities, phasing out operations in certain yards and concentrating them in others, and perhaps construction of new rail yard and trailer-on-flat-car/container-on-flat-car (TOFC-COFC) facilities in the Gateway Area.

ALTERNATIVES CONSIDERED: The following alternatives for rail restructuring are now being considered:

- Alternative A consists of the "no-build" alternative.
- Alternative B consists of a "Two-Yard" proposal that would improve the railroad corridors in the Gateway, expand Madison and Gateway Yards in Illinois, and restructure the Carrie Avenue Yards in Missouri for west-side industry support.
- Alternative C consists of a "Three-Yard" alternative that would improve the Gateway Yard, and possibly restructure Madison and Carrie Avenue Yards.

PUBLIC INVOLVEMENT: Considerable public involvement in this project is being obtained from an extensive Community Involvement program organized through the St. Louis Metro Area Rail Gateway Enterprise (St. Louis MARGE). Along with input from the general public, there are several formal committees that help provide input from the surrounding areas. These committees include Railroad and Public Agency Steering Committees, Railroad and Public Agency Technical Advisory Committees, and a Citizens Advisory Committee. A series of public informational meetings are planned throughout the time frame for producing the DEIS.

ISSUES: Significant issues to be analyzed in the DEIS will include a determination of the extent, in degree and kind, to which the Selected Plan and any

reasonable alternatives might positively or negatively impact on the human and natural environments. While these significant issues have not yet been identified, the Federal Railroad Administration recommends discussion of the following areas of impact: Air and water quality; Noise and vibration; Solid waste disposal; Natural ecological systems; Wetlands; Endangered species; Flood hazard evaluation and flood plain management; Coastal zone management; Energy; Use of natural resources other than energy; Aesthetic environment and scenic resources; Transportation; Elderly and handicapped; Land use; Socioeconomic environment; Public health and safety; Recreation; Significant historical, Archeological, Architectural, and Cultural sites; and construction impacts.

SCOPING MEETING: All potentially impacted local, State, and Federal agencies are being involved in the study through the actions of the Federal Railroad Administration and the St. Louis MARGE. An initial scoping meeting for interested Federal agencies will be held at the St. Louis MARGE Program Office, 325 Missouri Avenue, East St. Louis, Illinois, at 10 a.m. on Thursday, November 29, 1979.

AVAILABILITY: It is intended to make this Draft Environmental Impact Statement available to the public on or about June 30, 1980.

ADDRESS: Questions about the proposed action and the DEIS should be directed to:

PRINCIPAL PROGRAM PERSON: Richard J. Crisafulli, Program Management Advisor, Federal Railroad Administration, Washington, D.C. 20590; (202) 472-7180.

PRINCIPAL ATTORNEY: Brigid Hynes—Cherin, Attorney Advisor, Federal Railroad Administration, Washington, D.C. 20590; (202) 472-5438.

PRINCIPAL REVIEW PERSON: Marilyn W. Klein, Environmental and Special Projects Officer, Office of Policy and Program Development, Federal Railroad Administration, Washington, D.C. 20590; (202) 426-9684.

Robert C. Hunter, Director, Office of Passenger and Special Programs.

[FR Doc. 79-36069 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

California Highway Patrol; Denial of Petition for Ruelmaking

This notice denies a petition for ruelmaking submitted by the California Highway Patrol (CHP) to amend Standard No. 217, *Bus Window Retention and Release*, as it applies to school buses. The CHP petition would have the agency change the name of the standard and increase the number of emergency exits in school buses. For the reasons set forth below, the CHP petition is denied.

The CHP stated that existing transit buses are safer than school buses because they have significantly more exits than do school buses. Transit buses are required to have emergency exits with a total number of square inches equal to 67 times the designated seating positions. School buses on the other hand need only have a rear emergency exit or a side emergency exit and a rear push-out window. The difference in the treatments of these two bus types, according to the CHP, results in unsafe school buses. The CHP would have the agency increase the exit requirements to one exit for every other row of seats in school buses.

Transit buses and school buses have different requirements in a variety of areas because of their specialized functions and different considerations for the safety of their occupants. For example, transit buses have push-out window exits at all or most seating positions. While this type of emergency exit may be appropriate in vehicles that are transporting primarily adults, push-out windows at each seating position may not be safe for vehicles involved primarily in the transportation of children. Push-out windows can result in abuse and provide an attractive opportunity for children to hang out of the sides of buses.

The agency acknowledges that the existing regulation permits fewer emergency exits in school buses than in transit buses. However, we have no evidence that the number of exits currently manufactured into school buses has been a contributing factor in the death or injury of school children

transported in those vehicles. Therefore, the agency concludes that the requirements are satisfactory at this time. Nonetheless, the agency continues to monitor the exit issue and will take action if it appears appropriate.

The agency notes that the emergency exit requirement like all Federal safety standards is a minimum safety requirement. States are permitted in their purchase contracts for buses to specify more emergency exits if they believe that their own particular circumstances warrant safety measures. Further, States can specify more stringent State standards for emergency exits in buses purchased for their own use. Therefore, if the CHP considers that California needs justify additional emergency exits in their buses, it is free to require them. However, the agency does not perceive a national need to upgrade the exit requirements in school buses at this time.

The CHP also claimed that the existing title of the standard is confusing and therefore it recommended that the name of the standard be changed. The agency considers the title of the standard to be relatively unimportant. Certainly, a separate rulemaking action is not justified merely to change a standard's title. However, when the agency modifies Standard No. 217 in the future, we will consider changing the title to something that is more descriptive of the standard.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued November 14, 1979.

Joan Claybrook, Administrator.

[FR Doc. 79-35651 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-59-M

National Highway Safety Advisory Committee; Field Trip

The National Highway Safety Advisory Committee's Task Force on the 55 mph speed limit is planning a field trip to Austin, Texas on December 12-13, 1979.

Task Force members plan to meet with legislators, enforcement people including the judiciary, highway safety

officials, educators and media representatives to discuss current programs used to improve voluntary compliance with the 55 mph speed limit. The members will also discuss the costs and benefits of the 55 mph program.

A report on the trip will be made by the Task Force chairman at the January meeting of the full Advisory Committee. The arrangement for visits to various officials are being made by the National Highway Traffic Safety Administration's Region VI Administrator and the Texas Governor's Highway Safety Representative.

The visit is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S.W., Washington, D.C., 20590, telephone, 202-426-2872.

Issued in Washington, D.C. on November 14, 1979.

Wm. H. Marsh, Executive Secretary.

[FR Doc. 79-35665 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in September 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Renewals				
2587-P	DOT-E-2587	Mansfield Oxygen Corp., Mansfield, Ohio	49 CFR 173.315(a)(1)	To become a party to Exemption 2587. (Mode 1.)
2709-X	DOT-E 2709	U.S. Department of Defense, Washington, D.C.	49 CFR 173.52, 177.834(L)(1)	To ship a Class A explosive liquid in non-DOT specification drums. (Mode 1.)
3121-X	DOT-E 3121	U.S. Department of Defense, Washington, D.C.	49 CFR 173.336(a), 177.841(b)	To ship a certain Class A or Class B explosive rocket motors without overpacking. (Mode 1.)
3415-X	DOT-E 3415	U.S. Department of Defense, Washington, D.C.	49 CFR 173.79, 173.92	To ship gas generators and other explosive components with empty rocket engine, Class B or Class C explosives. (Mode 1.)
3600-X	DOT-E 3600	U.S. Department of Defense, Washington, D.C.	49 CFR 172.101, 173.87, 172.300	To ship certain Class A or Class B explosive rocket motors without overpacking. (Mode 1.)
4459-X	DOT-E 4459	Lif-O-Gen American Life Support Corp., Cambridge, Md.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.328(a)(2), 173.353(a)(3), 178.37, 175.3	To manufacture, mark and sell non-DOT specification steel spheres for shipment of compressed gases and other hazardous materials. (Modes 1, 2, 4.)
4575-X	DOT-E 4575	ICI Americas Inc., Wilmington, Del.	49 CFR 173.314(c), 173.315(a)(1)	To ship certain liquefied compressed gases in DOT specification and non-DOT specification cargo tanks and tank car tanks. (Modes 1, 2, 3.)
4612-X	DOT-E 4612	MC/B Manufacturing Chemists, Norwood, Ohio	49 CFR Part 173	To ship small quantities of various hazardous materials in inside glass bottles packed in metal cans overpacked in DOT Specification 12B fiberboard boxes. (Mode 1.)
5248-X	DOT-E 5248	The 3M Co., St. Paul, Minn.; Rockwell International, Anaheim, Calif.; The Boeing Co., Seattle, Wash.	49 CFR 173.389(g), 175.3	To ship a certain radioactive material in DOT approval outer Type A packaging. (Modes 1, 2, 3, 4.)
5746-X	DOT-E 5746	U.S. Department of Defense, Washington, D.C.	49 CFR 172.101, 173.145, 173.268, 176.83(b), 175.3	To ship expended missiles and detanking pumps contaminated with a certain flammable liquid and a corrosive liquid in military specification cartons on wooden boxes. (Modes 1, 2, 3, 4.)
5777-X	DOT-E 5777	U.S. Department of Defense, Washington, D.C.	49 CFR 172.101, 173.93(c)	To ship a certain Class B explosive in non-DOT cylindrical type metal containers. (Modes 1, 2.)
5895-X	DOT-E 5895	Explosive Technology, Fairfield, Calif.	49 CFR 173.100(cc), 173.104(b)(9), 175.3	To ship Class C explosives in non-DOT specification inner containers overpacked in a DOT Specification 12H fiberboard box, or a wooden box. (Modes 1, 2, 3, 4.)
5945-X	DOT-E 5945	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.315, 178.245	To ship a nonflammable compressed gas in insulated portable tanks complying with DOT Specification 51 except water capacity is less than 1,000 pounds. (Mode 1.)
6128-X	DOT-E 6128	Hapag-Lloyd AG, Hamburg, West Germany	49 CFR 173.119, 173.125(a), 173.346(a)	To ship certain hazardous materials in non-DOT specification intermodal portable tanks. (Modes 1, 2, 3.)
6228-X	DOT-E 6228	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.301(d)(4)	To ship a flammable compressed gas in manifolded DOT Specification 8 or Specification 8 AL cylinder. (Mode 1.)
6293-P	DOT-E 6293	Hercules Inc., Wilmington, Del.	49 CFR 173.21(b), 173.245(a)(31)	To become a party to Exemption 6293. (Mode 1.)
6498-X	DOT-E 6498	Luxfer USA, Ltd., Riverside, Calif.	49 CFR 173.302(a)(1), 173.304(a)(1), (d)(3), 173.336(a)(2), 175.3	To manufacture, mark and sell non-DOT specification seamless high pressure aluminum cylinders for shipment of certain liquefied and nonliquefied compressed gases and certain other hazardous materials. (Modes 1, 2, 3, 4, 5.)
6672-X	DOT-E 6672	Chandler Evans Inc., West Hartford, Conn.	49 CFR 173.302(a)(4), 175.3	To manufacture, mark and sell non-DOT specification steel cylinders for shipment of certain nonliquefied compressed gases. (Modes 1, 2, 4.)
6738-X	DOT-E 6738	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; El Paso Products Co., Odessa, Tex.; Texas Eastman Co., Longview, Tex.	49 CFR 172.101, 173.315(a)	To ship a flammable gas in non-DOT specification cargo tanks. (Mode 1.)
6798-P	DOT-E 6798	Koppers Co., Inc., Pittsburgh, Pa.	49 CFR 173.164(a)	To become a party to Exemption 6798. (Modes 1, 2.)
6824-X	DOT-E 6824	Georgia-Pacific Corp., Los Angeles, Calif.	49 CFR 173.217(a)	To ship certain oxidizing materials in specially designed polyethylene bottles overpacked in non-DOT specification corrugated fiberboard boxes. (Modes 1, 2, 3.)
6844-X	DOT-E 6844	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.249a	To ship a certain corrosive liquid in a non-DOT specification "Dypak" single-trip polyethylene container plywood box package. (Modes 1, 2, 3.)
7418-X	DOT-E 7418	Seatrains Lines, Inc., Weehawken, N.J.	49 CFR 173.125	To ship flammable liquids in a non-DOT specification portable tank. (Modes 1, 2, 3.)
7466-X	DOT-E 7466	Firmenich, Inc., Princeton, N.J.	49 CFR 173.119(a)(7), 175.3	To ship certain flammable liquid mixtures in an aluminum can overpacked in a non-DOT specification corrugated fiberboard box. (Modes 1, 2, 3, 4.)
7909-X	DOT-E 7909	Dow Chemical Co., Midland, Mich.	49 CFR Part 172; Part 173	To manufacture, mark and sell non-DOT specification multi-composite packaging for shipment of poisonous liquids and solids in limited quantities. (Modes 1, 2, 4.)
7931-X	DOT-E 7931	Degussa Central Transport Department, Frankfurt, West Germany	49 CFR 173.346	To ship a certain Class B poisonous liquid in non-DOT specification portable tanks. (Modes 1, 2, 4.)
8005-P	DOT-E 8005	G. Hartig K. G., Mannheim, Germany	49 CFR 173.266	To become a party to Exemption 8005. (Modes 1, 2.)
8049-X	DOT-E 8049	U.S. Department of Defense, Washington, D.C.	49 CFR 146.05-15; 49 CFR 172.407(c), 172.400(a)	To authorize certain labeling exceptions for military explosives transported by vessel. (Modes 1, 2, 3.)
8110-P	DOT-E 8110	Eurotainer, Paris, France; CATU, Geneva, Switzerland	49 CFR 90.05-35; 49 CFR Part 173	To become a party to Exemption 8110. (Modes 1, 2, 3.)
8146-P	DOT-E 8146	Rocket Research Co., Redmond, Wash.	49 CFR 173.375	To become a party to Exemption 8146. (Modes 1, 2.)
8229-P	DOT-E 8229	Hercules Inc., Wilmington, Del.	49 CFR 172.504, 172.506, 173.2	To become a party to Exemption 8229. (Mode 1.)
New Exemptions				
8131-N	DOT-E 8131	The National Aeronautics and Space Administration, Washington, D.C.	49 CFR 173.302(a), 173.34(d), 173.301(d), 175.3	To ship oxygen, a nonflammable gas, in a non-DOT specification pressure vessel. (Modes 1, 2, 4.)
8177-N	DOT-E 8177	A. O. Smith-Inland, Inc., Little Rock, Ark.	49 CFR 173.245(a)(12), 175.3	To ship a corrosive material in DOT Specification 12B corrugated fiberboard box. (Modes 1, 2, 3, 4.)
8182-N	DOT-E 8182	Fauvet-Girel, Paris, France	49 CFR 173.348	To ship arsenic acid solution in a non-DOT specification intermodal portable tank. (Modes 1, 2, 3.)
8196-N	DOT-E 8196	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315	To ship certain compressed gases (refrigerants) in a non-DOT specification portable tank. (Modes 1, 3.)
8198-N	DOT-E 8198	Technicon Instruments Corp., Tarrytown, N.Y.	49 CFR 172.101, 173.65, 175.3	To ship medical devices containing small quantities of picric acid and sodium hydroxide in multiple composite packaging. (Modes 1, 2, 3, 4.)

New Exemptions—Continued				
8204-N	DOT-E 8204	Pacific Gas and Electric Co., San Francisco, Calif.	49 CFR Part 107	To authorize use of bills of lading with the shipper certification printed at the top instead of the bottom as prescribed, until depletion of existing stock. (Mode 1.)
8212-N	DOT-E 8212	The Embassy of Switzerland, Washington, D.C.	49 CFR 172.101, 173.87, 175.3	To authorize shipment of rocket ammunition, Class A or B explosive, by cargo-only aircraft. (Mode 4.)
8213-N	DOT-E 8213	Trailmaster Tanks, Inc., Fort Worth, Tex.	49 CFR 173.119(a)(17), 173.245(e)(30), (31), 178.342-5	To manufacture, mark and sell non-DOT Specification cargo tanks for shipment of waste flammable and corrosive liquids. (Mode 1.)
8214-N	DOT-E 8214	Thiokol, Wasatch Div., Brigham City, Utah	49 CFR 173.153, 173.154, 175.3	To ship inflators and modules for passive restraint system, classed as flammable solids, for use in automobiles. (Modes 1, 2, 4.)
8218-N	DOT-E 8218	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.93	To ship certain solid propellant explosives, Class B, in non-DOT specification polyethylene/polypropylene bags. (Mode 1.)
8220-N	DOT-E 8220	Applied Environments Corp., Van Nuys, Calif.	49 CFR 173.302(a), 175.3	To ship nonflammable compressed gases in a non-DOT Specification small, high pressure cylinders patterned after DOT Specification 3HT. (Modes 1, 2, 4.)
8229-N	DOT-E 8229	Atlas Powder Co., Dallas, Tex.	49 CFR 172.504, 172.506, 173.2	To ship certain oxidizers in the same vehicle or rail car with blasting agents, n.o.s. and/or ammonium nitrate oil mixtures. (Modes 1, 2.)
Emergency Exemptions				
Application Received and Granted				
EE7060-P	DOT-E 7060	Golden Eagle Air Services, Inc., Jennings, Mo.	49 CFR 175.75(a)(13), 175.700(a)	To become a party to Exemption 7060. (Mode 4.)
Denials				
8133-N—Request by Alpha Chemical Co., Lake Charles, La.—To ship and transport a corrosive liquid in a non-DOT specification stainless steel cargo tank, denied September 20, 1979.				

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-35899 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions**AGENCY:** Materials Transportation Bureau, D.O.T.**ACTION:** List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of

Hazardous Materials Regulations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comment period closes December 24, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the application are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 Seventh Street, SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8296-N	ANF Industries, Paris, France	49 CFR 173.315	To authorize shipment of Vinyl bromide and two low pressure gases in non-DOT Specification IMCO Type V portable tanks. (Modes 1, 2, 3.)
8297-N	SMG, Gray, France	49 CFR Part 173, Subpart D, F, H, and K	To authorize shipment of liquid hazardous materials of various classifications in non-DOT Specification IMCO Type II portable tanks. (Modes 1, 2, 3.)
8298-N	Compagnie Francaise De Materiel Ferroviaire, Paris, France	49 CFR Part 173, Subpart D, F, H, and K	To authorize shipment of liquid hazardous materials of various classifications in non-DOT Specification IMCO Type I portable tanks. (Modes 1, 2, 3.)
8299-N	HTL Industries Inc., Monrovia, Calif.	49 CFR 173.302(a)	To manufacture, mark and sell a specially designed high pressure, stainless steel cylinder for shipment of a non-flammable compressed gas mixture. (Modes 1, 2, 4, 5.)
8300-N	United Parcel Service, Greenwich, Conn.	49 CFR 172.200	To authorize shipment of radioactive materials, limited quantity, n.o.s. and radioactive devices, n.o.s. without shipping papers. (Modes 1, 2.)
8301-N	Container Corp. of America, Wilmington, Del.	49 CFR 173.119(m), 173.221(a), 173.247, 173.256, 173.264, 173.271, 173.272(g), 173.348	To manufacture, mark and sell DOT Specification 34 polyethylene drums of 15 and 30 gallons capacity for shipment of liquid hazardous materials, classed as organic peroxides, flammable liquids, corrosive liquids or poison B. (Modes 1, 2, 3.)
8302-N	Zippo Manufacturing Co., Bradford, Penn.	49 CFR 173.304(d)(3), 173.1200(a)(8)	To authorize shipment of an LPG mixture in 5.8 fluid ounce capacity containers equivalent to 20, without safety relief devices as an ORM-D material. (Modes 1, 2.)
8303-N	Martin Marietta Chemicals, Charlotte, N.C.	49 CFR 173.154	To authorize shipment of 2,4 Dinitrophenol, wet with not less than 10% water in DOT Specification 56 portable tanks. (Mode 1.)

New Exemptions—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8304-N	Sky Cab Inc., E. Brunswick, N.J.	49 CFR 177.842(a)(b)	To authorize shipment of radioactive materials via motor vehicle when the combined transport index exceeds 50 but not more than 1200. (Mode 1.)
8305-N	Eldorado Chemical Co., Inc., San Antonio, Tex.	49 CFR 173.245	To authorize shipment of a corrosive liquid, n.o.s., in DOT Specification MC-300 cargo tanks. (Mode 1.)
8306-N	FMC Corporation, Philadelphia, Penn.	49 CFR 172.101, 173.245b	To authorize shipment of sodium sulfide as corrosive material in collapsible polyethylene-lined polypropylene bags having a capacity of approximately 2,200 pounds each. (Modes 1, 3.)
8307-N	U.S. Dept. of Energy, Washington, D.C.	49 CFR 173.21, 173.247	To authorize shipment of non-pyrotechnic smoke generators consisting of cylinder reservoirs, containing titanium tetrachloride, ammonium hydroxide, an explosive valve and nitrogen. (Mode 1.)
8308-N	New England Nuclear Corp., Boston, Mass.	49 CFR 177.842(a)(b)	To authorize shipment of radioactive materials via motor vehicle when the combined transport index exceeds 50 but not more than 1000 and/or the separation criteria cannot be met. (Mode 1.)
8309-N	Carrier Corporation, Syracuse, N.Y.	49 CFR 173.306(e)(ii)	To authorize shipment of refrigerating machines having two charged vessels containing more than 2,000 pounds of freon (group I refrigerant) but not more than 10,000 pounds. (Modes 1, 2.)
8310-N	Exxon Chemical Co., Houston, Tex.	49 CFR 177.834(i)	To authorize use of a non-attended TV monitored tank truck loading & unloading rack for shipping and receiving dilute isoprene. (Mode 1.)
8311-N	Pressed Steel Tank Co., Inc., Milwaukee, Wis.	49 CFR 178.37-5	To authorize shipment of liquefied and non-liquefied non-flammable compressed gases in cylinders complying with DOT Specification 3AA except for the use of boron-treated steel. (Modes 1, 2, 3, 4.)
8313-N	Osmose Wood Preserving Co., Buffalo, NY	49 CFR 173.346(a)(27)	To authorize shipment of a poison B liquid n.o.s. in DOT Specification 57 steel portable tanks. (Modes 1, 3.)
8314-N	Barber steamship Lines Inc., New York, NY	49 CFR 176.905(1)	To authorize shipment stowage of air condition and refrigerating machinery containing a non-flammable compressed gas in same hold or compartment with motor vehicles. (Mode 3.)
8315-N	Air Products & Chemicals Inc., Allentown, Pa.	49 CFR 173.314(c), Note 7	To authorize shipment of methyl chloride in DOT Specification 106A500X tanks via cargo vessel. (Mode 3.)
8316-N	Van Camp Sea Food Co., San Diego, Calif.	49 CFR 173.171	To authorize shipment of fish meal containing 5% moisture in 100 pound paper bags packed in freight containers. (mode 3.)
8318-N	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.134	To authorize shipment of pyroforic liquids n.o.s. in portable tanks meeting DOT Specifications 51 except for the ASME Stamp. (Modes 1, 2, 3.)
8319-N	Union Carbide Corp. Bound Brook, NJ	49 CFR 173.31	To authorize a one year extension of the 10 year hydrostatic retest requirement on nine DOT Specification 114A340W tank car tanks used in vinyl chloride service. (Mode 2.)
8320-N	Merck & Co., Inc. West Point, Pa.	49 CFR 173.387(b)	To authorize shipment of etiologic agents in plastic bottles or bags (primary container) not to exceed 100 ml each. (Modes 1, 2, 3, 4.)
8321-N	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.32(e)(2)(i)	To authorize shipment of titanium tetrachloride in DOT Specification 60 portable tanks which are overdue for retest. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance in Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued at Washington, D.C., on November 15, 1979.

J. R. Grothe,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.
[FR Doc. 79-35979 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to

expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes December 7, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, D.C.

Application No.	Applicant	Re-nu-al of exemp-tion
3051-X	NCI Industrial Gases, Chicago, Ill.	3051
3121-X	Vertac Chemical Corp., Memphis, Tenn.	3121
3188-X	Matson Navigation Company, San Francisco, Calif.	3188

Application No.	Applicant	Re-nu-al of exemp-tion
3293-X	Air Products and Chemicals, Inc., Allentown, Penn.	3293
3302-X	Airco Industrial Gases, Murray Hill, N.J.	3302
3302-X	Air Products and Chemicals, Inc., Allentown, Penn.	3302
3822-X	Dow Chemical Company, Midland, Mich.	3822
4007-X	Matson Navigation Company, San Francisco, Calif.	4007
4404-X	SunOlin Chemical Company, Claymount, Del.	4404
4600-X	Halocarbon Products Corp., Hackensack, N.J.	4600
4661-X	Foots Mineral Company, Exton, Penn.	4661
5526-X	Allied Chemical Corp., Morristown, N.J.	5526
5604-X	Gardner Cryogenics Corp., Bethlehem, Penn.	5604
6205-X	American LNG Company, Oak Brook, Ill.	6205
6243-X	Liquid Carbonic Corp., Chicago, Ill.	6243
6250-X	Department of the Army, Washington, D.C.	6250
6267-X	Alden Leeds, Inc., South Kearny, N.J.	6267
6296-X	American Cyanamid Company, Wayne, N.J.	6296
6397-X	Harstar Chemical Corp., Brooklyn, N.Y.	6397
6523-X	FMC Corporation, Philadelphia, Penn.	6523
6614-X	Continental Chemical Company, Sacramento, Calif.	6614
6816-X	Fenwal Incorporated, Ashland, Mass. (See Footnote 1).	6816
6798-X	Allied Chemical Corp., Morristown, N.J.	6798
7005-X	Bignier Schmid-Laurent, Paris, France (See Footnote 2).	7005
7011-X	Advanced Chemical Technology, Camden, N.J.	7011
7046-X	J. T. Baker Chemical Company, Phillipsburg, N.J. (See Footnote 3).	7046
7071-X	Philip A. Hunt Chemical Corporation, Palisades Park, N.J. (See Footnote 4).	7071
7227-X	Air Products and Chemicals, Inc., Allentown, Penn. (See Footnote 5).	7227
7255-X	Naval Weapons Station, Concord, Calif.	7255
7512-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J. (See Footnote 6).	7512
7541-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	7541
7584-X	Degussa Corporation, Frankfurt, Germany.	7584
7622-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Delaware.	7622
7793-X	Hooker Chemicals & Plastics Corp., Niagara Falls, N.Y. (See Footnote 7).	7793
7827-X	KemaNord Bleaching Chemicals, Stockholm, Sweden.	7827
7835-X	Air Products and Chemicals, Inc., Allentown, Penn.	7835
7846-X	Union Carbide Corporation, Tarrytown, N.Y.	7846
7876-X	Allied Chemical Corporation, Morristown, N.J. (See Footnote 8).	7876
7883-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Delaware.	7883
7901-X	Merck & Company, Inc., Rahway, N.J.	7901
7901-X	Hugonnet, S.A., Paris, France	7901
7908-X	Merck & Company, Inc., Rahway, N.J.	7908
7908-X	Hugonnet, S.A., Paris, France	7908
7948-X	Clark Tank & Mfg. Co., Inc., Long Beach, Calif.	7948
8111-X	Department of Energy, Washington, D.C. (See Footnote 9).	8111

¹To authorize Bromotrifluoromethane mixed with equal amounts of monobasic ammonium phosphate charged with nitrogen as an additional commodity.
²To add additional tanks identical to those authorized except for location of safety vents and extensions of ISO frame.
³To provide for additional destination point for shipment of perchloric acid.
⁴To renew and authorize not over 6-quart capacity inside polyethylene bottles for shipment of corrosive liquid, n.o.s.
⁵To authorize various modifications to the safety control

measures pertaining to one way travel time, holding time, and venting restrictions.
⁶To authorize removal of insulation from portable tanks used for shipment of flammable & combustible liquids.
⁷To renew and to provide for portable tanks built in accordance with the Fruehauf Corporation's drawings for the shipment of a corrosive liquid, n.o.s.
⁸To authorize an additional mixed acid to be shipped described as etching acid.
⁹To provide for certain modifications affecting cylinder volumetric capacity, design pressure, and test requirements.

Application No.	Applicant	Parties of exemp-tion
4453-P	Beaver Explosives, Inc., Edinburg, Penn.	4453
6397-P	Baird & McGuire, Inc., Holbrook, Mass.	6397
6816-P	General Dynamics, San Diego, Calif.	6816
7023-P	J. T. Baker Chemical Co., Phillipsburg, N.J.	7023
7052-P	Sonatech, Inc., Goleta, Calif.	7052
7052-P	Wilson Greatbatch Ltd., Clarence, N.Y.	7052
7052-P	Electrochem Industries Inc., Clarence, N.Y.	7052
7269-P	Hercules, Inc., McGregor, Texas	7269
7620-P	Degussa Corp., Frankfurt, Germany	7620
7846-P	J. Ray McDermott & Co., Inc. New Orleans, La.	7846
7887-P	Canaroc Industries Ltd. Edmonton Alberta, Canada.	7887
7890-P	Mobay Chemical Corp. Pittsburgh, Penn. (See Footnote 1).	7890
8051-P	Sonoco-Mausser Containers, Ltd. Brantford, Ontario, Canada.	8051
8055-P	Associated Lead Inc. Philadelphia, Penn.	8055
8156-P	Scientific Gas Products Inc. South Plainfield, N.J.	8156
8184-P	Atlas Powder Company, Dallas, Texas.	8184
8203-P	Degussa Corp., Frankfurt, Germany	8203
8296-P	Eurotainer, Paris, France	8296
8298-P	Eurotainer, Paris, France	8298

¹Request party status and to add rail as additional mode of transportation.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on November 15, 1979.

J. R. Grothe,
Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-35980 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 182]

Service Center Directors; Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of authority.

SUMMARY: The authority vested in the Commissioner of Internal Revenue, District Directors and the Director of International Operations by 26 CFR 301.6020-1(b), 26 CFR 301.7701-9, and 26

CFR 301.7701-10, to execute returns required by any Internal Revenue law or regulation made thereunder, when the person required to file such return fails to do so, is being extended to include Service Center Directors. The text of the delegation order appears below.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Hulberg, 1111 Constitution Avenue NW., Washington, D.C. 20224, Room 7539, (202) 566-4445 (not toll free).

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

J. R. Starkey.

Acting Director, Collection Division.

Date of issue: November 16, 1979.

Effective Date: December 17, 1979.

1. The authority granted to the Commissioner of Internal Revenue, District Directors, and the Director of International Operations by 26 CFR 301.6020-1(b), 26 CFR 301.7701-9, and 26 CFR 301.7701-10, to execute returns required by any internal revenue law or regulation made thereunder when the person required to file such return fails to do so, is hereby extended to include Service Center Directors.

2. This authority may be redelegated only by the Service Center Directors, District Directors, and the Director of International Operations to Revenue Agents and Revenue Officers not lower than GS-9.

Jerome Kurtz,

Commissioner.

[FR Doc. 79-35947 Filed 11-21-79; 8:45 am]

BILLING CODE 4830-01-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it

(1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or (b) where the service is not limited to the facilities of particular shippers, from and to, or between any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of

record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed on or before December 24, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the

following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 202

Decided: October 19, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 65579 (Sub-2F), filed May 21, 1979. Applicant: MURRAY TRANSFER AND STORAGE COMPANY, INC., 1400 South Fifth Street, Wilmington, NC 28401. Representative: Vaughan S. Winborne, 1108 Capital Club Building, Raleigh, NC 27601. Transporting *household goods*, as defined by the Commission, between points in NC, on the one hand, and, on the other, points in AL, DE, FL, GA, MD, MA, NJ, NY, NC, PA, RI, SC, VA, WV, CT, OH, KY, LA, MS, TN, TX, and DC. Note and condition: Applicant appears to be in common control with Patterson Storage Warehouse Company, Inc., holder of a certificate of registration in MC 99096. A certificate of registration is invalid if held by a carrier in common control with another carrier operating outside of the single State involved in the certificate of registration, 49 U.S.C. § 10931 (d) (2). Accordingly, the person or persons who appear to be engaged in common control of applicant and Patterson Storage Warehouse Company, Inc., must file an application for approval of the common control under 49 U.S.C. § 11343 (a), and file an application for conversion of the certificate of registration to one of public convenience and necessity, or submit an affidavit indicating why such approval is unnecessary. Failure to file the conversion application will not prevent issuance of a certificate here but will render the certificate of registration invalid if common control does exist. (Hearing site: Wilmington, or Raleigh, NC.)

MC 73688 (Sub-89F), filed May 21, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, P.O. Box 7195, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Transporting *aluminum ingots*, from Gum Springs, (Clark County) and Jones Mill, AR, to Listerhill, AL. (Hearing site: Little Rock, AR, or Memphis TN.)

MC 103798 (Sub-42F), filed May 21, 1979. Applicant: MARTEN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 100 First National Bank,

Minneapolis, MN 55402. Transporting *foodstuffs* (except commodities in bulk), from Madison, WI, to points in IN. (Hearing site: Minneapolis, MN.)

Note.—Dual Operations may be involved.

MC 108119 (Sub-158F), filed May 21, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting (1) *contractors' and industrial equipment*, and *self-propelled articles*, and (2) *parts, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Joy Manufacturing Company at (a) Franklin, PA, (b) Birmingham, AL, (c) Claremont, NH, (d) Buffalo, NY, (e) Michigan City, IN, (f) Wilson, NC, (g) New Philadelphia, OH, (h) Colorado Springs and Denver, CO, and (i) Wheeling, WV, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 114569 (Sub-312F), filed May 21, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 10 17072. Representative: David R. Parker (same address as applicant). Transporting *such commodities* as are dealt in by retail stores (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Gamble Skogmo, Inc. (Hearing site: St. Paul, MN, or Washington, DC.)

Note.—Dual operations may be involved.

MC 123329 (Sub-49F), filed May 21, 1979. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Ray F. Koby, 314 Montant Building, Great Falls, MT. 59401. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *cement*, in bulk, in tank vehicles, between points in Whatcom County, WA, on the one hand, and, on the other, the ports of entry on the International Boundary Line between the United States and Canada located in WA. (Hearing site: Great Falls, MT.)

Note.—Dual operations may be involved.

MC 124078 (Sub-966F), filed May 21, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette,

P.O. Box 1601, Milwaukee, WI 53201. Transporting *vegetable oils*, and *blends of vegetable oils*, between Louisville, KY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cleveland, OH.)

Note.—Dual operations may be involved.

MC 140829 (Sub-316F), filed May 18, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting (1) *wire, cable, and tape*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from the facilities used by Brand-Rex Company, at or near Willimantic, CT, to points in AR, IL, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-317F), filed May 18, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting *animal feed* (except in bulk, in tank vehicles), from the facilities used by Hi-Life Packing Company, at or near Holland and Hamilton, MI, to points in CO, MO, NJ, NY, PA, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 143739 (Sub-14F), filed May 21, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *such commodities* as are dealt in or used by grocery and food business houses, (1) between the facilities of Ralston Purina Company, at or near (a) Battle Creek, MI, and (b) Sharonville, OH, and (2) between the facilities of Ralston Purina Company, at or near Clinton and Davenport, IA, on the one hand, and, on the other, points in IN, KY, MI, MN, MO, OH, and WI. (Hearing site: St. Louis, MO, or St. Paul, MN.)

MC 144549 (Sub-6F), filed May 21, 1979. Applicant: PITTSVILLE SERVICE, INC., 146 Daniels Avenue, Pittsfield, MA 01201. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood flour*, in bulk, between the facilities of the

General Electric Company, at or near Pittsfield, MA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA (except the St. Louis, MO-East St. Louis, IL, commercial zone), under continuing contract(s) with Genal Products Business Section, Plastics Division, General Electric Company, of Pittsfield, MA. (Hearing site: Albany, NY, or Boston, MA.)

MC 144688 (Sub-24F), filed May 21, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *cleaning, scouring, and washing compounds, industrial maintenance supplies, and such commodities* as are dealt in by drug, grocery, and food business houses, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, (except commodities in bulk), (a) from the facilities of The Proctor & Gamble Company, at or near Cincinnati, OH, to points in NC, SC, and GA, and (b) between points in AL, FL, GA, NC, SC, and TN, restricted in (b) above to the transportation of traffic originating at or destined to the facilities used by the Proctor & Gamble Company, The Proctor & Gamble Manufacturing Company, The Proctor & Gamble Paper Products Company, and The Buckeye Cellulose Corporation. (Hearing site: Cincinnati, OH, or Atlanta, GA.)

Note.—Dual operations may be involved.

MC 146838 (Sub-2F), filed May 21, 1979. Applicant: NOBLE EXPRESS, INC., Route 3, Box 211A, Noblesville, IN 46060. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, except commodities in bulk, and (2) *materials, equipment, and supplies* used in the manufacture, processing, sale, and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of R. R. Donnelley & Sons Co., at or near (a) Glasgow, KY, (b) Mattoon, IL, and (c) Crawfordsville, and Warsaw, IN, on the one hand, and, on the other, points in AZ, CA, CO, FL, OK, OR, TX, GA, NM, NV, UT, ID, WY, and WA, under continuing contract(s) with R. R. Donnelley & Sons Co., of Chicago, IL. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 147438B, filed May 21, 1979. Applicant: SULLIVAN TRUCKING CO.,

INC., P.O. Box 235, Warsaw, KY 41095. Representative: Herbert D. Liebman, P.O. Box 478, Frankfort, KY 40602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foundry facing and ground bituminous coal*, from Cincinnati, OH, to points in Jefferson and Boyle Counties, Ky, under continuing contract(s) with The Hill and Griffith Company, of Cincinnati, OH. (Hearing site: Frankfort, KY.)

Volume No. 205

Decided: October 19, 1975.

By the Commission. Review Board Number 3. Members Parker, Fortier and Hill.

MC 26739 (Sub-103F), filed May 21, 1979. Applicant: ALFARM TRUCKLINES, a corporation, 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *such commodities as are dealt in or used by manufacturers and dealers of agricultural equipment and machinery, industrial equipment and machinery, lawn care products and leisure products (except commodities in bulk)*, (1) between the facilities of John Deere & Company at (a) Rock Island City, IL, and (b) points in Black Hawk, Dubuque, Polk, Scott, and Wapello Counties, IA, on the one hand, and, on the other, points in KS, MO, and OK, and (2) between points in KS, MO, and OK, restricted in (1) above to the transportation of traffic originating at or destined to the facilities of John Deere & Company and further restricted in (2) above to the transportation of traffic originating at or destined to the facilities of John Deere & Company dealers. (Hearing site: Chicago, IL, or St. Paul, MN.)

MC 55889 (Sub-52F), filed May 22, 1979. Applicant: AAA COOPER TRANSPORTATION, a corporation, P.O. Box 6827, Dothan, AL 36302. Representative: Kim D. Mann, 7101 Wisconsin Ave., Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Atlanta, GA, and Birmingham, AL, over U.S. Hwy 78, serving no intermediate points, (2) between Atlanta, GA, and Birmingham, AL, over Interstate Hwy 20, serving no intermediate points, (3) between Atlanta, GA, and Montgomery, AL, over Interstate Hwy 85, serving

Opelika, AL, as an intermediate point, (4) from Atlanta, GA, over U.S. Hwy 29 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Montgomery, AL, and return over the same route, serving Opelika, AL, as an intermediate point, (5) between Birmingham, AL, and New Orleans, LA, over U.S. Hwy 11, serving all intermediate points in MS between and including Laurel and Picayune, (6) from Birmingham, AL, over Interstate Hwy 59 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, serving all intermediate points in MS between and including Laurel and Picayune, (7) from Mobile, AL, over U.S. Hwy 98 to junctions MS Hwy 15, then over MS Hwy 15 to Laurel, and return over the same route, (8) from Mobile, AL, over U.S. Hwy 45 to junction U.S. Hwy 84, then over U.S. Hwy 84 to Laurel, MS, and return over the same route, (9) between Mobile, AL, and New Orleans, LA, over U.S. Hwy 90 (10) between Mobile, AL, and New Orleans, LA, over Interstate Hwy 10, (11) between Hattiesburg and Gulfport, MS, over U.S. Hwy 49, (12) between Hattiesburg, MS, and junction U.S. Hwy 98 and MS Hwy 15, over U.S. Hwy 98, (13) between Montgomery, AL, and junction U.S. Hwy 80 and Interstate Hwy 59 over U.S. Hwy 80, (14) between Waynesboro, MS, and junction U.S. Hwy 84 and AL Hwy 21, at or near Monroeville, over U.S. Hwy 84, serving routes in (7) through (14) above (a) all intermediate points in MS, and (b) points in Jones, Wayne, Lamar, Forrest, Perry, Greene, Stone, George, Pearl River, Hancock, Harrison, and Jackson Counties, MS, as off-route points, restricted in routes (5) through (14) above against providing service (except tacking) (a) between points in MS, (b) between points Mobile, AL, and points in MS, and (c) between New Orleans, and points in MS. (Hearing site: Atlanta, GA, or Birmingham, AL.)

Note.—Applicant intends to tack this with its otherwise authorized regular irregular route authority.

MC 108119 Sub 135F, filed May 2, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, INC., P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *dust collectors, air coolers, fans, blowers, (2) parts, attachments, and accessories for the commodities in (1) above, (except commodities in bulk), and (3) materials, equipment, and supplies used in the manufacture of the commodities in (1) and (2) above, between the facilities of Pneumafil*

Company, in Mecklenburg County, NC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Charlotte, NC, or Columbia, SC.)

MC 112188 (Sub-188F), filed May 21, 1979. Applicant: MC BREEN TRUCKING, INC., 3641 NW Front Avenue, Portland, OR 97210. Representative: Lawrence V. Smart, Jr., 419 W NW 23rd Avenue, Portland, OR 97210. Transporting *magazines, paperback books, periodicals, and printed matter, between points in OR and WA*. (Hearing site: Portland, OR.)

MC 112989 (Sub-101F), filed May 21, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., (same address as applicant). Transporting (1) *fireplaces, dampers, air heaters, ventilators stoves, boilers, grates, cookers, and grills, (2) accessories for the commodities in (1) above, and (3) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Whittier Steel & Manufacturing, Inc., at or near Santa Fe Springs, CA, and Shelbyville, KY, on the one hand, and, on the other, points in the United States (except AK and HI)*. (Hearing site: Los Angeles, CA.)

MC 124078 (Sub-967F), filed May 21, 1979. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Transporting *chemicals, in bulk, in tank vehicles, from the facilities of Monsanto Co., at or near Chocolate, Bayou, Texas City, and Houston, TX, to those points in the United States in and east of MN, IA, MO, AR, and LA*. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 127278 (Sub-6F), filed May 14, 1979. Applicant: PACIFIC VAN & STORAGE CO., INC., P.O. Box 2990, Torrance, CA 90509. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Washington, DC 20036. Transporting *household goods as defined by the Commission, between points in CA, AZ, NV, WA, NM, and UT, and OR*. (Hearing site: Los Angeles, CA.)

MC 128648 (Sub-22F), filed May 21, 1979. Applicant: TRANS-UNITED, INC., 425 West 152nd Street, East Chicago, IL 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal articles, from the*

facilities of Modulus Corporation, at Gary IN, to points in the United States (except AK and HI), under continuing contract(s) with Modulus Corporation, of Radnor, PA. (Hearing site: Chicago, IL.)

MC 138279 (Sub-14F), filed May 21, 1979. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, 200 Conalco Drive, Jackson, TN 38301. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *copper articles, copper sulfate, and chemicals (except commodities in bulk, in tank vehicles), and (b) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1)(a) above (except commodities in bulk, in tank vehicles), between Maspeth, NY, on the one hand, and, on the other, those points in the United States (except AK and HI); and (2)(a) cable and copper articles and (b) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (2)(a) above, (except commodities in bulk, in tank vehicles), (i) between Los Angeles, CA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, NE, KS, OK, and TX, and (ii) between DeQuoin, IL, Starkville, MS, and Elizabeth and Yonkers, NY, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) in (1) above with Phelps Dodge Refining Corporation, of New York, NY, and in (2) above with Phelps Dodge Industries, Inc., of New York, NY. (Hearing site: Washington, DC, or New York, NY.)*

Note.—Dual operations may be involved.

MC 141439 (Sub-2F), filed March 23, 1979. Applicant: HILL TRUCK LINE, INC., 1116 South 6, P.O. Box 6291, Elmwood Park Station, Omaha, NE 68106. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Omaha, NE, and Kansas City, MO, over Interstate Hwy 29, serving St. Joseph, MO, as an intermediate point, and (2) between Omaha, NE, and Kansas City, MO, over U.S. Hwy 73, serving Falls City, MO, Verdon, and Dawson, NE, as intermediate points and serving points*

in Nemaha, Marshall, and Pottawattamie Counties, KS, as off-route points. (Hearing site: Omaha, NE.)

Note.—The purpose of this application is to convert the irregular route authority in MC 141439 to regular route authority.

MC 141759 (Sub-12F), filed May 21, 1979. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 South High Street, Columbus, OH 43207. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printed matter, and materials, equipment, and supplies used in by printing firms, between Chicago, IL, Dresden, TN, and Corinth, MS; and (2) printed matter, from Chicago, IL, Dresden, TN, and Corinth, MS, to points in AR, CO, LA, MS, OK, and TX, under continuing contract(s) with W. F. Hall Printing Company, of Chicago, IL*. (Hearing site: Chicago, IL.)

MC 144069 (Sub-11F), filed May 21, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting *erection equipment, and materials, equipment, and supplies used in the construction of erection equipment, (1) between the facilities of Ceco Corporation, at or near Muirkirk, MD, on the one hand, and, on the other, points in NC and VA, and (2) between points in NC, on the one hand, and, on the other, points in VA*. (Hearing site: Charlotte, NC, or Raleigh, NC.)

MC 144688 (Sub-18F), filed April 30, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *such commodities as are dealt in by chain, grocery and food business houses (except frozen foods and commodities in bulk), and (2) materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodities in (1) above (except commodities in bulk), from points in GA, to the facilities of Colgate-Palmolive Company, Inc., at or near Jefferson, IN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Jeffersonville, IN, or Omaha, NE.)*

MC 144688 (Sub-20F), filed April 30, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501.

Transporting (1) *household cleaning products, water purifying compounds, and dry acids, (except commodities in bulk), from the facilities of Purex Corporation, at or near Auburndale, FL, to Atlanta, GA; (2) industrial and institutional cleaning supplies (except commodities in bulk), from the facilities of Purex Corporation, at or near Houston, TX, to Atlanta, GA, and Tampa, FL; (3) parts, materials, equipment and supplies used in the manufacture, sale, and distribution of the commodities in (1) and (2) above, (except commodities in bulk), from Houston, TX, and Atlanta, GA, to the facilities of Purex Corporation, at or near Auburndale, FL, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Carson, CA, or Atlanta, GA.)*

MC 145468 (Sub-11F), filed May 14, 1979. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Transporting *beverages, and materials, equipment, and supplies manufacture and distribution of beverages, between Spencer, IA, on the one hand, and, on the other, points in IL, KS, MN, MO, and WI*. (Hearing site: Omaha, NE, or Des Moines, IA.)

Note.—Dual operations may be involved.

MC 145588 (Sub-13F), filed May 21, 1979. Applicant: GULF MID-WESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. Transporting *chemicals, from Brownsville, Corpus Christi, Harlingen, and Kingsville, and points in Brazoria, Lavaca, Harris, Jefferson, Orange, Montgomery, and Galveston Counties, TX, to points in the United States (except AK and HI)*. (Hearing site: Denver, CO, or Omaha, NE.)

MC 146269 (Sub-2F), filed May 21, 1979. Applicant: WALDORF TRANSPORTATION CO., INC., P.O. Box 353, Waldorf, MD 20601. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *malt beverages, from Philadelphia, PA, and Baltimore, MD, to Hampton, Newport News, Norfolk, Chesapeake, Virginia Beach, Suffolk, and Portsmouth, VA, and points in Gloucester County, VA*. (Hearing site: Norfolk, Va.)

Note.—Dual operations may be involved.

Volume No. 206

Decided: October 25, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 1824 (Sub-96F), filed May 30, 1979. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 918 16th St., NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Hagerstown, MD, and Wytheville, VA, over Interstate Hwy 81, serving all intermediate points, and serving those points in VA on bounded by a line beginning at the DC-VA State line and extending along U.S. Hwy 29 to the VA-NC State line, then west over the VA-NC State line to junction Interstate Hwy 77, then north along Interstate Hwy 77 to the VA-WV State line, then east along the VA state line to point of beginning; and (2) between Washington, DC, and Danville, VA, over U.S. Hwy 29, serving all intermediate points and serving the off-route points described in (1) above, and points within 10 miles of U.S. Hwy 29, east of U.S. Hwy 29. (Hearing site: Washington, DC.)

MC 8544 (Sub-36F), filed May 20, 1979. Applicant: GALVESTON TRUCK LINE CORPORATION, 7415 Wingate, Houston, TX 77011. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77002. Transporting (1) *petroleum and petroleum products*, in containers, and (2) *automotive supplies* (except commodities in bulk), from Ponca City, OK, to those points in TX on and east of a line beginning at the OK-TX State line and extending along U.S. Hwy 83 to junction U.S. Hwy 277, then along U.S. Hwy 277 to the international boundary line between the United States and Mexico, at or near Del Rio, TX. (Hearing site: Houston, TX.)

MC 14215 (Sub-40F), filed May 29, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. Fifth Ave., P.O. Box 12241, Columbus, OH 43212. Transporting (1) *iron and steel articles*, from Steubenville, OH, to points in MD, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), in the reverse direction.

(Hearing site: Columbus, OH, or Washington, DC.)

MC 61825 (Sub-101F), filed May 29, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting (1)(a) *containers, glassware, container components, and scrap materials*, and (b) *material, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1)(a) above (except commodities in bulk, in tank vehicles, and those which because of size and weight require the use of special equipment), between those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Midland Glass Company, Inc.; and (2) *glass containers and container accessories*, from the facilities of Libbey Glass, Division of Owen-Illinois, Inc., at (a) Shreveport, LA, and (b) Toledo, OH, to points in AL, DE, FL, GA, MD, MS, NJ, NY, NC, PA, SC, TN, VA, WV, and DC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Washington, DC.)

MC 61825 (Sub-102F), filed May 29, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, Post Office Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting *citrus products, citrus by-products, beverages, and beverage preparations, in containers*, from points in Lake, Manatee, Orange, Polk and Saint Lucie Counties, FL, to points in MD, IL, IN, KY, OH, VA, WV, TN, PA, and DC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Washington, DC.)

MC 61825 (Sub-103F), filed May 30, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, Post Office Box 385, Collinsville, VA 24078. Representative: John D. Stone

(same address as applicant).

Transporting *dry animal feed (except in bulk)*, from Red Bay, AL, and Tupelo, MS, to points in FL, KY, MD, NC, OH, PA, VA, WV, and DC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Washington, DC.)

MC 85934 (Sub-108F), filed May 31, 1979. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, 3601 Wyoming, P.O. Box 248, Dearborn, MI 48120. Representative: Edwin M. Snyder, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Transporting *chemicals*, in bulk, from Detroit, MI, to points in OH, IN, IL, TX, WI, and PA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 95084 (Sub-142F), filed May 30, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50248. Representative: Kenneth F. Dudley, P.O. Box 279, 1501 East Main Street, Ottumwa, IA 52501. Transporting *wire, wire products, fence and fencing materials*, between the facilities of Bekaert Steel Wire Corporation, at Van Buren, AR, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, ND, OH, PA, SD, VA, WV, WI and WY. (Hearing Site: Little Rock, AR or Kansas City, MO.)

MC 106674 (Sub-390F), file May 29, 1979. Applicant: SCHILLI MOTOR LINES, INC. P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *fibrous glass products, fibrous glass materials, mineral wool, mineral wool products, insulated air ducts, insulating products, insulating materials, and flexible air ducts*, (except commodities in bulk), (1) from Kansas City and Pauline, KS, to points in AR, KY, LA, TN, IN, and IL, and (2) from Mountaintop, PA, to points in KY, TN, MO, IL, and IN. (Hearing site: Chicago, IL or Indianapolis, IN.)

MC 107605 (Sub-23F), filed May 22, 1979. Applicant: ADVANCE-UNITED EXPRESSWAYS, INC., 2601 Broadway Rd. N.E., Minneapolis, MN 55413. Representative: William S. Rosen, 630 Osborn Bldg., St. Paul, MN 55102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, households goods

as defined by the Commission, commodities in bulk, and those requiring special equipment), between Mora, MN, and Fort Worth, TX, from Mora over MN Hwy 65 to its junction with Interstate Hwy 35; then over Interstate Hwy 35 to Fort Worth, and return over the same route, serving the intermediate and off-route points of Cambridge and Isanti, MN, Kansas City, MO, and Kansas City, KS. (Hearing site: St. Paul, MN.)

MC 111274 (Sub-44F), filed May 30, 1979. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 356, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials* used in the installation and erection of pole buildings and panel buildings, (1) between points in IA, IL, MI, MS, AR, AL, WA, and OR, and (2) between ports of entry on the international boundary line between the United States and Canada in WA and MT, on the one hand, and, on the other, Allenton, WI, under continuing contract(s) with Jack Walters and Sons Corporation, of Allenton, WI. (Hearing site: Chicago, or Springfield, IL.)

MC 113784 (Sub-86F), filed May 31, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, a corporation, 65 Guise St., Hamilton, Ontario, Canada L8L 4M1. Representative: David A. Sutherland, 1150 Connecticut Ave., NW, Suite 400, Washington, DC 20036. Transporting (1) *building materials*, and (2) *accessories and supplies* used in the installation and erection of building materials, between ports of entry on the international boundary line between the United States and Canada, on the Niagara River, on the one hand, and, on the other, the facilities of National Gypsum Company, at Niles, OH. (Hearing site: Buffalo, NY.)

MC 113855 (Sub-489F), filed May 29, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. Transporting: (1) *Grinding machines, metal fabrications, and metal and metal articles*, (2) *parts* for the commodities in (1) above, and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in Worcester County, MA, on the one hand, and, on the other, points in the United States (including AK but excluding HI). (Hearing site: Washington, DC.)

MC 116254 (Sub-272F), filed May 21, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). Transporting *chemicals*, in bulk, in tank vehicles, from points in Iberia Parish, LA, to points in AL, FL, GA, MS, and TN. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 118535 (Sub-141F), filed May 29, 1979. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Bulter, MO 64730. Representative: Wilburn L. Williamson, The Oil Center, Suite 615E, 2601 N. W. Expressway, Oklahoma City, OK 73112. Transporting (1) *non-ferrous metals, non-ferrous scrap, and junk batteries*, (a) from points in TX to points in AR, AZ, CA, CO, IA, IL, IN, KS, KY, MN, MO, MS, ND, NE, LA, NM, OK, SD, TN, and WI; (b) from points in LA to points in AR, AZ, CA, CO, IA, IL, IN, KS, KY, MN, MO, MS, ND, NE, NM, OK, SD, TN, TX, and WI; and (c) from the facilities of Schullkill Metals Corp., at or near, Forest City, (Holt County), to points in CA, and (2) *whole junk batteries, burned-out battery plates, drosses and residues*, from points in AR, AZ, CO, KS, IA, IL, IN, LA, MN, MO, ND, NM, OH, OK, SD, TN, WI, and WY, to the facilities of Gould, Inc., Metals Division, at Frisco, TX, and Omaha, NE. (Hearing site: Kansas City, MO.)

MC 120364 (Sub-21F), filed May 30, 1979. Applicant: A & B FREIGHT LINE, INC., 2800 Falund St., Rockford, IL 61109. Representative: Robert M. Kaske (same address as applicant). Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between Chicago, Elizabeth, Sayanna, Round Lake, Woodbine, Apple River, Waukegan, Hanover, North Chicago, Galena, Scales Mounds, and those points in IL bounded by a line beginning at the IL-WI State line and extending on IL Hwy 78 to junction IL Hwy 88, then along IL Hwy 88 to junction IL Hwy 92, then easterly along IL Hwy 92 to junction U.S. Hwy 34, then easterly along U.S. Hwy 34 to junction IL Hwy 59, then northerly along IL Hwy 59 to junction IL Hwy 83 then along IL Hwy 83 to the IL-WI State line, then west along the State line to point of beginning, on the one hand, and, on the other, points in Brown, Calumet, Dane, Dodge, Fond du Lac, Green, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, and

Winnebago Counties, WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 123255 (Sub-209), filed May 30, 1979. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road., Newark, OH 43055. Representative: C. F. Schnee, Jr., 1984 Coffman Road., Newark, OH 43055. Transporting (1) *plastic and plastic articles, mineral fiber and mineral fiber products, glass fiber and glass fiber products, air filters, wood fiber products, and materials, paint, building materials, equipment and supplies* used in the manufacture, distribution and installation of the foregoing commodities (except commodities in bulk), between the facilities of the United States Gypsum Company, at or near, (a) Danville, VA (b) Greenville, MS, (c) Birmingham, AL, (d) Gypsum, OH, (e) Milwaukee and Walworth, WI, and (f) Wabash, IN, on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and LA; (2) *adhesives, cement compounds, caulking compounds, cleaning and polishing compounds and solutions, emulsions used as a mixing material, latex solutions, mastic material, sealing primer, solvents*, (except commodities in bulk, in tank vehicles, and those which require the use of special equipment), and (3) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (2) above, (except commodities in bulk, in tank vehicles, and those which require the use of special equipment), between the facilities of Durabond Products Co., at Chicago, IL, on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and LA. (Hearing site: Columbus, OH.)

MC 123294 (Sub-66F), filed May 30, 1979. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *paper and paper products*, from the facilities of Olinkraft, Inc., at or near Owosso, MI, to points in IL, IN, and OH. (Hearing site: Chicago, IL.)

MC 126514 (Sub-57F), filed May 29, 1979. SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Transporting *plastic liquid, plastic articles, chemicals, cleaning and scouring compounds, defoaming compounds, laminating machinery and parts, ink, paper, solvents, pellets and empty containers* (except commodities in bulk), between points in Orange County, CA, on the one hand, and, on the other,

points in IL, IN, MA, NJ, NY, NC and VA. (Hearing site: Los Angeles, CA.)

MC 135874 (Sub-170F), filed May 29, 1979. Applicant: LTL PERISHABLES, INC., 550 East 5th St. So., St. Paul, MN 55075. Representative: Paul Nelson (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk, in tank vehicles), between points in IN, IL, IA, KS, KY, MA, MI, MN, MO, NC, ND, NE, NY, OH, PA, SD, TN, VA, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 135895 (Sub-63F), filed April 13, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *metal container and plastic containers*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Standard Container Corporation, at or near (a) Atlantic, Homerville and Valdosta, GA, (b) Jacksonville, FL, and (c) Picayune, MS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Jackson, MS.)

MC 135895 (Sub-64F), filed April 24, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 9534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 39701. Transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds* (except commodities in bulk, in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, and TX; and (2)(a) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in LA, GA, and SC, to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Vicksburg or Jackson, MS.)

MC 136035 (Sub-13F), filed May 30, 1979. Applicant: TREADWAY CARRIERS, INC., P.O. Box 364, Westfield, IN 46074. Representative: Orville G. Lynch (same address as

applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles*, and *sheet steel articles*, from Columbiana, Middlefield, and Shelby, OH, to points in the United States (except AK and HI), under continuing contract(s) with Ballonoff Home Products, a division of Pentron Industries, Inc., of Beachwood, OH. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Indianapolis, IN, or Cleveland, OH.)

MC 136035 (Sub-14F), filed May 30, 1979. Applicant: TREADWAY CARRIERS, INC., P.O. Box 364, Westfield, IN 46074. Representative: Orville G. Lynch (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, (1) *cement and adhesives*, and (2) *materials and supplies* used in the manufacture and distribution of cement and adhesives, (except commodities in bulk, in tank vehicles), between Freeport, NY, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, and WI, under continuing contract(s) with Columbia Cement Co., Inc., of Freeport, NY. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Indianapolis, IN, or New York, NY.)

MC 136034 (Sub-15F), filed May 30, 1979. Applicant: TREADWAY CARRIERS, INC., P.O. Box 364, Westfield, IN 46074. Representative: Orville G. Lynch (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *sailboats and sailboat parts*, from Waterbury, CT, to points in the United States (except AK and HI), under continuing contract with AMF Alcott/Paceship Division, of Waterbury, CT. (Hearing site: Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 141804 (Sub-229F), filed May 30, 1979. Applicant: WESTERN EXPRESS, Division of INTERSTATE RENTAL,

INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *dried noodles*, and *materials and supplies* used in the distribution of dried noodles, from Gardena, CA, to those points in the United States in and east of MN, IA, MO, LA, and AR. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-230F), filed May 30, 1979. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *paint, resin, coal tar, and petrochemicals*, (except commodities in bulk), from the facilities of Schenectady Chemical, at Schenectady and Rotterdam, NY, to points in CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 151804 (Sub-233F), filed May 30, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *alcoholic beverages* (except in bulk), from points in NJ and NY, to points in CA, AZ, NV, WA, OR, UT, and CO. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-235F), filed May 30, 1979. Applicant: WESTERN EXPRESS, Division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *bags and bagging material*, from Nashville, TN, to points in WA, OR, CA, AZ, NM, and UT. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142114 (Sub-7F), filed May 31, 1979. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs), between points in CT, DE, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, TN, and VA, under continuing contract(s) with King's Department Stores, Inc., of Newton, MA. (Hearing site: New York, NY, or Washington, DC.)

MC 142114 (Sub-9F), filed May 30, 1979. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. To operate

as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk, and frozen foodstuffs), (1) from Jersey City, NJ, to Pawtucket, RI, and Braintree, MA, (2) from Braintree, MA, to Silver Spring, MD, and (3) from Silver Spring, MD, to Jersey City, NJ, under continuing contract(s) with Outlet Specialties Stores, Inc., of Pawtucket, RI. (Hearing site: New York, NY, or Washington, DC.)

MC 143775 (Sub-96F), filed May 24, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *pesticides* (except in bulk), in vehicles equipped with mechanical refrigeration, from Kansas City, MO, to points in AZ, CA, CO, ID, NM, NV, MT, OR, UT, WA, and WY. (Hearing site: Kansas City, MO, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143775 (Sub-97F), filed May 29, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of or used by East-West Shippers Associations, at or near Chicago, IL, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143775 (Sub-98F), filed May 24, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Northeastern Pennsylvania Shippers Association, in Broome and Chemung Counties, NY, and Lackawanna, Lehigh, Luzerne, Northampton and Wayne Counties, PA, to points in IL, MO, TX, CA, WA, OR, CO, MN, WI, GA, FL, MI, and NE. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143775 (Sub-101F), filed May 31, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ

85301. Representative: Michael R. Burke (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in vehicles equipped with mechanical refrigeration, from the facilities of Nationwide Shippers Cooperative Association, at Cincinnati, OH, to points in AZ, CA, CO, FL, GA, ID, KS, MD, MN, MO, NY, NV, OR, PA, TX, UT, VA, OK, and WA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Columbus, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144884 (Sub-6F), filed May 30, 1979. Applicant: ARTHUR E. JOHNSTON & MICHAEL A. JOHNSTON, d.b.a. JOHNSTON TRUCKING, P.O. Box 325, Spearfish, SD 57783. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. Transporting *iron and steel articles* from the facilities of Jones & Laughlin Steel Corporation, at Youngstown, OH, to points in CO, ID, IA, MN, ND, SD, UT and WY. (Hearing site: Pittsburgh, PA, or Youngstown, OH.)

Note.—Dual operations may be involved.

MC 145384 (Sub-36F), filed May 29, 1979. Applicant: ROSE-WAY, INC., 1914 East Euclid Avenue, Des Moines, IA 50306. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *iron and steel articles*, from the facilities of Inland Steel Company, at East Chicago, IN, to points in IA, MN, MO and NE, and points in Adams, Rock Island and Whiteside Counties, IL, restricted to the transportation of traffic originating at the above-name origin. (Hearing site: Chicago, IL.)

MC 145724 (Sub-1F), filed May 25, 1979. Applicant: HASTINGS TRANSPORTATION, INC., East on Hwy 6, Hastings, NE 68901. Representative: Thomas H. Dahlk, 1000 Woodmen Tower, Omaha, NE 68102. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *aluminum products*, from Hastings, NE, and Powell, WY, to points in the United States (except AK and HI); and (b) *aluminum and aluminum materials*, from Oswego, NY, Lancaster, PA, Lewisport and Hawesville, KY, Davenport, IA, Terre Haute, IN, McCook, IL, and Omah, OH, to Hastings, NE, and Powell, WY, under continuing contract(s) with Hastings Irrigation Pipe Company, of Hastings, NE; (2) *oil*, in containers, and *grease products*, from

Oil City and Bradford, PA, Kansas City, KS, Oklahoma City, OK, and Houston and Port Arthur, TX, to points in NE, under continuing contract(s) with Major Oil Co., and Thomsen Oil Co., both of Hastings, NE; and (3) *lumber and building products*, from (a) Custer, SC, Worland, WY, Eugene, OR, Hood River, OR, Lakewood, CO, Billings, MT, and Yakima, and Wenatchee, WA, to points in NE, under continuing contract(s) with Golden Triangle Lumber Co., Inc., of Hastings, NE; and (b) from Dallas, Corrigan, New Waverly, Nacogdoches, Jasper, and Lufkin, TX, Winnfield, Natchitoches, Urdia, Dodson, Ruston, Minden, Plain Dealing, and Hammond, LA, and Crossett, AR, to Council Bluffs and Moulton, IA, Stanberry, Milan, Maryville, Clifton, Hill, and Kansas City, MO, Topeka, Wichita, and Salina, KS, and points in NE, under continuing contract(s) with American Paneling Factory Outlet, Inc., of Nederland, TX. (Hearing site: Omaha or Lincoln, NE.)

MC 146484 (Sub-2F), filed May 21, 1979. Applicant: F. J. CRIKOS TRUCKING, INC., 141 Helman Lane, Cotati, CA 94928. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, from the facilities of Quaker Chemical Corporation, at Pomona, CA, to points in OR and WA, under continuing contract(s) with Quaker Chemical Corp., of Pomona, CA. (Hearing site: San Francisco, CA, or Spokane, WA.)

MC 146725 (Sub-2F), filed May 29, 1979. Applicant: FREEPORT TRANSPORT, INC., P.O. Box 1275, Freeport Center, Clearfield, UT 84016. Representative: Bruce W. Shand, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting (1) *copper and copper articles*, (2) *molybdenum concentrates and molybdenic oxides*, and (3) *materials, equipment, and supplies* used in the mining and manufacture of copper, (except commodities in bulk), between the facilities of Kennecott Copper Corporation, at or near (a) Garfield, UT, (b) Hurley, NM, and (c) Hayden, AZ, on the one hand, and on the other, points in the United States. (Hearing site: Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 146804 (Sub-1F), filed May 24, 1979. Applicant: R. J. WRIGHT & SONS, R.R. 3, Box 259, Portland, IN 47371. Representative: Royce Wright (same address as applicant). Transporting *fertilizer and fertilizer ingredients*, between points in IN and OH. (Hearing

site: Indianapolis, IN, or Cincinnati, OH.)

2613 Carew Tower, Cincinnati, OH 45202. Transporting *household goods*, as

MC 60014 (Sub-120F), filed June 4, 1979. Applicant: APRO TRUCKING

site: Indianapolis, IN, or Cincinnati, OH.)

MC 147354 (Sub-2F), filed May 30, 1979. Applicant: FAUBION TRUCK LINES, INC., P.O. Box 5795, Stockguard Rd., Baton Rouge, LA 70821. Representative: James S. Holliday, Jr., One American Place, Suite 1800, Baton Rouge, LA 70825. Transporting *beef*, from Amarillo, Hereford, Plainview, and Friona, TX, to Slidell, LA. (Hearing site: New Orleans, LA.)

MC 147444 (Sub-1F), filed May 30, 1979. Applicant: TRAIN TERMINAL & TRANSFER CO., A Corporation, 3119 Train Ave., Cleveland, OH 44113. Representative: Joseph E. Ludden, 324 Exchange Bldg., P.O. Box 1567, La Crosse, WI 54601. Transporting (1) *aluminum alloy ingots, zinc alloy ingots, scrap metals, and zinc*, and (2) *equipment and supplies* used in the manufacture and distribution of ingots, between the facilities of (a) Aluminum Smelting & Refining Co., Inc., and (b) Certified Alloys Company, at Maple Heights, OH, on the one hand, and, on the other, points in CT, IL, IN, IA, KY, MD, MI, MN, MO, NE, NJ, NY, PA, TN, and WI. (Hearing site: Cleveland, OH, or Washington, DC.)

Volume No. 208

Decided: November 1, 1979.
By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 1074 (Sub-18F), filed June 4, 1979. Applicant: ALLEGHENY FREIGHT LINES, INC., P.O. Box 2080, Winchester, VA 22601. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Cello Chemical Co., Inc., at Havre de Grace, MD, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC, or Baltimore, MD.)

MC 4405 (Sub-608F), filed June 1, 1979. Applicant: DEALERS TRANSIT, INC., Corporation, P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *dump bodies*, from points in Fayette County, PA, to points in the United States (including AK but excluding HI). (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 8575 (Sub-6F), filed June 1, 1979. Applicant: FERGUSON VAN LINES, INC., 3999 Erie Avenue, Cincinnati, OH 45208. Representative: Howard Gould,

2613 Carew Tower, Cincinnati, OH 45202. Transporting *household goods*, as defined by the Commission between points in Hamilton, Clermont, Brown, Warren, Clinton and Butler Counties, OH, Boone, Kenton, Campbell, Pendleton, Grant, and Gallatin Counties, KY, and Dearborn County, IN, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Cincinnati, OH.)

MC 34975 (Sub-15F), filed April 13, 1979. Applicant: TREDWAY'S EXPRESS, INC., 512 Myrtle Ave., Boonton, NJ 07005. Representative: Bernard F. Flynn, Jr., 425 E. Blackwell St., Dover, NJ 07801. Transporting *such commodities* as are dealt in by department stores, between points in NY, NJ, CT, PA, MD, and DE, on the one hand, and, on the other, Albany and New York, NY, West haven, CT, Baltimore, MD, Dover, DE, Philadelphia and Allentown, PA, and Boonton, and East Windsor, NJ. (Hearing site: New York, NY.)

MC 41404 (Sub-159F), filed May 31, 1979. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, P.O. Box 440, Martin, TN 38237. Representative: Mark L. Horne (same address as applicant). Transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Louisville, KY, to points in AL, AR, FL, GA, IL, IN, LA, MI, MO, MS, NC, SC, TN, and WI. (Hearing site: Louisville, KY, or St. Louis, MO.)

MC 56244 (Sub-83F), filed June 1, 1979. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Transporting *canned goods* (except frozen), from the facilities of Joan of Arc Company, at Hoopston and Princeville, IL, to points in MD, NJ, PA, VA, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Harrisburg, PA or Washington, DC.)

MC 60014 (Sub-117F), filed May 31, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting *paving joints, siding, and paving joint compound*, from the facilities of W. R. Meadows of Georgia, Inc. at Atlanta, GA, to those points in the United States in and east of MN, WI, IL, KY, TN, MS, and LA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 60014 (Sub-120F), filed June 4, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Board Street, Columbus, OH 43215. Transporting *iron and steel articles, belt, hose, and machinery*, between the facilities of Red Stewart Supply Company, at or near Birmingham, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham, AL.)

MC 60014 (Sub-122F), filed May 31, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *Pipe, fittings, fire hydrants, and valves*, and (2) *accessories* used in the installation of the commodities names in (1) above, (except commodities in bulk), from the facilities of Clow Corporation, at or near Birmingham, AL, to points in CT, DE, IL, IN, IA, KY, ME, MD, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC. (Hearing site: Washington, DC.)

MC 60014 (Sub-124F), filed June 5, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *cranes and accessories for cranes*, from the facilities of Kranco, Inc., at Houston, TX, to points in the United States (except AK and HI), and (2) *air compressors, air compressor parts, and accessories for air compressors*, from the facilities of Tide Air, Inc., at Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX, or Washington, DC.)

MC 56475 (Sub-25F), filed June 3, 1979. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *iron and steel articles*, from the facilities of Connors Steel Company, Inc., at Huntington, WV, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 67234 (Sub-21F), filed May 31, 1979. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Transporting *new furniture, and commercial institutional fixtures*, between points in WA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Tacoma, WA, or St. Louis, MO.)

MC 85255 (Sub-67F), filed May 30, 1979. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526,

Seattle, WA 98124. Representative: Clyde H. MacIver, 1900 Peoples National Bank Bldg., 1415 Fifth Ave., Seattle, WA 98171. Transporting *bakery products*, from the facilities of Nabisco, Inc., at or near Portland, OR, to Spokane, WA. (Hearing site: Seattle, WA.)

MC 95084 (Sub-143F), filed June 1, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50248. Representative: Kenneth F. Dudley, 1501 East Main, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *agricultural machinery and materials and supplies*, used in the distribution and sale of agricultural machinery (except commodities in bulk), from the facilities of DewEze Mfg., Inc., at or near Harper, KS, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture, and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Wichita, KS, or Omaha, NE.)

MC 98614 (Sub-10F), filed June 1, 1979. Applicant: ARKANSAS TRANSPORT COMPANY, a corporation, P.O. Box 702, Little Rock, AR 72203. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *petroleum and petroleum products*, in bulk, in tank vehicles, between points in AR and LA. (Hearing site: Nashville, TN.)

MC 106074 (Sub-114F), filed May 31, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and U.S. Hwy. 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *plastic articles and plastic materials*, from Forest City, NC, to points in GA, IL, and MI; and (2) *material, equipment, and supplies* used in the manufacture and distribution of plastic articles, in the reverse direction. (Hearing site: Charlotte, NC, or Washington, DC.)

Note.—Dual operations may be involved.

MC 106674 (Sub-394F), filed June 1, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *precut log buildings*, and (2) *accessories* used in the installation of the precut log buildings from Fletcher, NC, to points in IL, IN, KY, MI, OH, and TN. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-399F), filed June 4, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *Iron and steel articles*,

from the facilities of Connors Steel Corporation, at or near Huntington, WV, to those points in the United States in and east of MN, IA, MO, AR, and TX. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107064 (Sub-133F), filed May 31, 1979. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting *sodium sulfate*, from points in Terry and Gaines Counties, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 107515 (Sub-1242F), filed June 1, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *foodstuffs*, from the facilities of J. M. Smucker Company, at or near Memphis, TN, to points in FL, GA, NC, SC, AL, KS, NE, MO, IL, and IA. (Hearing site: Memphis, TN.)

Note.—Dual operation may be involved.

MC 109265 (Sub-27F), filed June 1, 1979. Applicant: W. L. MEAD, INC., P.O. Box 31, Cleveland Rd., Norwalk, OH 44857. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, in interstate or foreign commerce, by motor vehicle of *general commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), serving all points in OH as off-route points in conjunction with regular-route operations at Norwalk, OH. (Hearing site: Columbus, OH.)

Note.—Applicant now holds authority to serve (a) Norwalk as an intermediate point on its regular-routes between Boston, MA, and Columbus, OH, and (b) all points in OH as off-route points in conjunction with its regular-route operations at North Fairfield, OH. The purpose of this application is to add Norwalk as an alternate gateway to be used in conjunction with the authority described in (b) above.

MC 109804 (Sub-2F), filed May 21, 1979. Applicant: BILLIE ORTON TRUCKING, Route 3, Memphis, MO 63555. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, and *malt beverage containers*, from Columbus, OH, Kansas City, MO, and East St. Louis, IL, to Grinnell, IA; and (2) *malt beverage containers*, in the reverse direction, under continuing contract(s) with

Grinnell Beverage Company, Inc., of Grinnell, IA. (Hearing site: Des Moines, IA.)

MC 111045 (Sub-175F), filed June 5, 1979. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: F. W. Fincher (same address as applicant). Transporting (1) *chemicals*, in bulk, in tank vehicles, from Spartanburg, SC, to points in FL, MS, LA, and TX; (2) *tall oil*, in bulk, in tank vehicles, from Port St. Joe, FL, to Spartanburg, SC; and (3) *petroleum products*, in bulk, in tank vehicles, from points in TX to Spartanburg, SC. (Hearing site: Spartanburg, SC.)

MC 111545 (Sub-285F), filed May 30, 1979. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6428, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). Transporting *plywood, paneling, gypsum board, composition board, molding, and particleboard*, from the facilities of Pan American Gyro-Tex, Company at or near Valdosta, GA, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX (except GA). (Hearing site: Atlanta, GA, or Jacksonville, FL.)

MC 113475 (Sub-33F), filed June 4, 1979. Applicant: RAWLING TRUCK LINE, INC., P.O. Box 831, Emporia, VA 23847. Representative: Harry J. Jordan, 1000 16th Street, NW., Washington, DC 20036. Transporting *iron and steel articles*, from the facilities of United States Steel Corporation, at or near (a) Fairless, Dravosburg, Homestead, Duquesne, Clairton, McKees Rocks, Johnstown, McKeesport, and Vandergrift, PA, and (b) Lorain, Cleveland, and Youngstown, OH, to points in VA, NC, and SC. (Hearing site: Washington, DC, or Richmond, VA.)

MC 116645 (Sub-30F), filed June 4, 1979. Applicant: DAVIS TRANSPORT CO., a corporation, P.O. Box 56, Gilcrest, CO 80623. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *ammonium polyphosphate* in bulk, in tank vehicles, from the facilities of Cargill, Inc., at Sterling, CO, to points in KS, NE, OK, SD, TX, and WY. (Hearing site: Denver, CO.)

MC 118805 (Sub-7F), filed June 1, 1979. Applicant: CONTINENTAL VAN LINES, INC., 4501 W. Marginal Way S.W., P.O. Box 3693, Seattle, WA 98124. Representative: Susan Carlson, 1215 Norton Bldg., Seattle, WA 98104. Transporting *used household goods*, between points in WA, restricted to the transportation of shipments having a prior or subsequent movement in containers beyond the points

authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and decontainerization of such shipments. (Hearing site: Seattle, WA.)

MC 121654 (Sub-22F), filed June 7, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Rd., NE, 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transporting *iron and steel articles*, from Darlington, SC, to points in AL, GA, FL, NC, and VA. (Hearing site: Atlanta, GA or Jacksonville, FL.)

Note.—Dual operations may be involved.

MC 124964 (Sub-37F), filed June 1, 1979. Applicant: JOSEPH M. BOOTH, d.b.a. J. M. Booth Trucking, P.O. Box 907, Eustis, FL 32728. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from Hillsdale and Jonesville, MI, to points in AL, FL, and GA, under continuing contract(s) with DCA Food Industries, Inc., of New York, NY. (Hearing site: New York, NY, or Washington, DC.)

MC 124964 (Sub-38F), filed May 18, 1979. Applicant: JOSEPH M. BOOTH, d.b.a. J. M. BOOTH TRUCKING, P.O. Box 907, Eustis, FL 32728. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, CT, FL, GA, IL, IN, KS, MI, MD, MN, MO, MS, NC, NJ, NE, NY, OH, PA, TN, TX, SC, VA, and WI, under continuing contract(s) with Kraft, Inc., of Chicago, IL. (Hearing site: Washington, DC, or Chicago, IL.)

MC 127524 (Sub-23F), filed June 7, 1979. Applicant: QUADREL BROS. TRUCKING COMPANY, INC., 1603 Hart St., Rahway, NJ 07065. Representative: John L. Alfano, 550 Manaroneck Ave., Harrison, NY 10528. Transporting *liquid chemicals*, in bulk, between the facilities of Union Carbide Company, at or near Carteret, NJ, on the one hand, and, on the other, Baltimore, MD, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: New York, NY, or Newark, NJ.)

MC 134755 (Sub-14F), filed March 16, 1979, previously noted in Federal

Register issue of August 2, 1979, as MC 134755 (Sub-176F). Applicant: GUNTER BROS., INC., 19060 Frager Rd., Kent, WA 98031. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *air cargo containers, landing gear, fuselage fairing components, and interior aircraft furnishings*, from Kent, WA, to points in the United States (except AK and HI), under continuing contract(s) with Heath Tecna Corporation, Kent, WA. (Hearing site: Seattle, WA.)

Note.—This republication corrects the number.

MC 145655 (Sub-5F), filed May 30, 1979. Applicant: TYSON FOODS, INC., 2210 Oaklawn P.O. Drawer E Springdale, AR 72764. Representative: Michael H. Mashburn, 111 Holcomb St., P.O. Box 869 Springdale, AR 72764. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in CT, IN, LA, MO, NH, and RI, to Bentonville, Searcy, and Fort Smith, AR, under continuing contract(s) with Wal-Mart Stores, Inc., of Bentonville, AR. (Hearing site: Fayetteville or Ft. Smith, AR.)

MC 146334 (Sub-2F), filed June 3, 1979. Applicant: SPECHT TRUCKING, INC., Route 2, Box 595 A Lake Villa, IL 60046. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: (1) *plastic and plastic products*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, from Waukegan and Elmhurst, IL, to points in MN, WI, MI, IA, OH, IN, PA, NY, IL, MO, KY, and TN; and (3) *plastic granules*, from Monaca, PA, to Waukegan, IL, under continuing contract(s) with Foam Forms, Inc., of Waukegan, IL. (Hearing site: Chicago, IL.)

MC 157304F, filed June 1, 1979. Applicant: MONTE L. THOEN and DORIS R. THOEN, d.b.a. THOEN TRUCK RENTALS 13124 N. W. Sue St. Portland, OR 97229. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue Portland, OR 97210. Transporting *malt beverages*, from the facilities of Blitz-Weinhard Brewing Company, at Portland, OR, to points in CA, OR, WA,

ID, MT, WY, NV, UT, CO, AZ, and NM. (Hearing site: Portland, OR.)

MC 147435F, filed May 31, 1979. Applicant: CRONIN TRANSPORT LIMITED, P.O. Box 54, Dublin, Ontario, Canada NOK 1E0. Representative: William J. Hirsch, Suite 1125 43 Court St., Buffalo, NY 14202. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers, between ports of entry on the international boundary line between the United States and Canada, (a) at Detroit, MI, on the one hand, and, on the other, Detroit, MI; (b) at Port Huron, MI, on the one hand, and, on the other, Port Huron, MI; and (c) on the Niagara River, on the one hand, and, on the other, Buffalo, NY, restricted to the transportation of traffic moving in foreign commerce. (Hearing site: Buffalo, NY.)

Volume No. 217

Decided: November 2, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 105269 (Sub-76F), filed April 30, 1979. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake Street, P.O. Box 986 Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. Transporting (1) *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in IL, IN, IA, KY, MI, MN, MO, OH, PA, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities of (a) Middleton Paperboard Company or (b) Wisconsin Paperboard Corporation. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 106398 (Sub-886F), filed April 26, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *aluminum products*, between the facilities of Keystone Resources-Aluminum Division, at Greensboro, GA, on the one hand, and, on the other, points in the United States in and east of WI, IL, KY, TN, MS, and LA. (Hearing site: Chicago, IL.)

MC 106398 (Sub-898F), filed April 30, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *lumber, lumber mill products, and wood products*, from

points in Butte, Custer, Harding, Lawrence, Meade, and Pennington Counties, SD, to points in AZ, AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, MT, NV, NM, ND, OH, OK, TX, TN, WI, and WY. (Hearing site: Denver, CO.)

MC 116328 (Sub-2F), filed May 17, 1979. Applicant: CROSS & MURRAY, INC., 710 Third Ave., No., Minneapolis, MN 55403. Representative: William E. Fox, 4200 IDS Center, 80 So. Eighth St., Minneapolis, MN 55402. Transporting *liquid sugar and edible corn syrup*, in bulk, in tank vehicles, from Cedar Rapids, IA, to Fargo, ND, Sioux Falls, SD, and points in MN and WI. (Hearing site: Minneapolis, MN.)

MC 119988 (Sub-199F), filed April 27, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion 1108 Continental Life Building, Ft. Worth, TX 76102. Transporting (1) *petroleum products*, in packages, from the facilities of Texaco, Inc., in Jefferson County, TX, to points in AR, IN, IL, OH, WI, MI, and KY; and (2) *empty containers* for petroleum products, in the reverse direction. (Hearing site: Houston, TX, or Dallas, TX.)

MC 120869 (Sub-3F), filed April 30, 1979. Applicant: CALIFORNIA TANK LINES, INC., 3105 McKinley Avenue, Stockton, CA 95206. Representative: John G. Lyons, 220 Bush Street, Room 1418, San Francisco, CA 94104. Transporting *petroleum products*, in bulk, between points in CA. (Hearing site: San Francisco, CA.)

Note.—Applicant seeks to convert Certificate of Registration No. MC-120869 to a Certificate of Public Convenience and Necessity.

MC 126709 (Sub-13F), filed April 24, 1979. Applicant: SABER, INC., 514 South Floyd Blvd., Sioux City, IA 51101. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Transporting (1) *animal fats, animal oils, and animal greases*, between points in IL, TA, KS, MN, MO, NE, ND, SD, and WI, and (2) *such commodities* as are dealt in or used by meat-packing houses, in bulk, in tank vehicles, from Sioux Falls, SD, and Sioux City and Estherville, IA, to points in IL, IA, KS, MN, MO, SD, and WI. (Hearing site: Omaha, NE.)

MC 136168 (Sub-35F), filed April 30, 1979. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3328, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts*,

and articles distributed by meat-packing houses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 786 (except hides and commodities in bulk), (a) from the facilities of Wilson Foods Corporation, at (i) Albert Lea, MN, (ii) Cedar Rapids, Cherokee, and Des Moines, IA, and (iii) Monmouth, IL, to points in WI, and (b) from the facilities of Wilson Foods Corporation at Logansport, IN, to points in IL and WI; and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk and those requiring special equipment), from points (a) in WI to the origins described in (1)(a) above, and (b) above, under continuing contract (s) with Wilson Foods Corporation, of Des Moines, IA. (Hearing site: Dallas, TX, or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 138328 (Sub-89F), filed May 8, 1979. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, Interstate Hwy 80 and Hwy 50, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby (same address as applicant). Transporting *such commodities* as are dealt in by retail and discount stores (except household goods and foodstuffs), from Seattle, WA, and Los Angeles, CA, to the facilities of Pamida, Inc., at Omaha, NE. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 141958 (Sub-13F), filed April 27, 1979. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cleaning and washing compounds*, and (2) institutional and industrial maintenance supplies, except those described in (1) and (3) *such commodities* as are dealt in or used by drug, grocery, and food business houses (except commodities in bulk), between Kansas City, KS, and points in IL, IN, KY, MI, MO, OH, TN, and PA, under continuing contract(s) with The Procter and Gamble Company and its wholly-owned subsidiaries, The Procter & Gamble Distributing Company, The Procter & Gamble Manufacturing Company, The Procter & Gamble Paper Products Company, and The Folger Coffee Company, of Cincinnati, OH. (Hearing site: Cincinnati, OH, or Chicago, IL.)

MC 143059 (Sub-77F), filed April 23, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th & Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). Transporting *iron and steel articles*, from the facilities of Republic Steel Corporation, at or near Chicago, IL, to points in AR, IN, KY, LA, MS, and TN, restricted to the transportation of traffic originating at the named origin. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143328 (Sub-22F), filed May 18, 1979. Applicant: EUGENE TRIPP TRUCKING, a corporation, P.O. Box 282, Frenchtown, MT 59834. Representative: David Sutherland, 1150 Connecticut Avenue, NW., Suite 400, Washington, DC 20036. Transporting (1) *paper and paper products*, from the facilities of Champion International Corporation, at or near Frenchtown, MT, to points in CA, WA, OR, WI, and MN, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Missoula, MT.)

MC 143739 (Sub-15F), filed May 22, 1979. Applicant: SHURSON TRUCKING COMPANY, INC., Box 147, New Richland, MN 56072. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *such commodities as are dealt in by chain grocery and food business houses* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AZ, GA, IA, ID, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, PA, SD, TN, TX, UT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 145246 (Sub-1F), filed April 26, 1979. Applicant: AIR NEW MEXICO, INC. d.b.a.; LAS CRUCES/EL PASO AIRPORT STAGE LINE, 9531 Dyer Street, El Paso, TX 79924. Representative: Sanford C. Cox, Jr., 9th Floor, El Paso National Bank Building, El Paso, TX 79901. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *passengers and their baggage* in the same vehicle with passengers, and (2) *general commodities* (except commodities in bulk, classes A and B explosives, and those requiring special equipment), between the El Paso, International Airport at El Paso, TX, and Las Cruces, NM, over Interstate Hwy 10, serving no intermediate points, and

restricted in (1) and (2) above to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: El Paso, TX.)

MC 145829 (Sub-9F), filed May 8, 1979. Applicant: ETI CORP., P.O. Box 549, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz, USA, at or near Pittsburgh, PA, to points in NJ and those in NY on and south of Interstate Hwy 84 and on and east of Interstate Hwy 87, under continuing contract(s) with Heinz, USA, A Division of H. J. Heinz Co., of Pittsburgh, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a) formerly Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 148578F, filed May 14, 1979. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Box Drawer M, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except in bulk) in vehicles equipped with mechanical refrigeration, from Los Angeles and Ontario, CA, to points in MT, NV, UT, and WA, under continuing contract(s) with Kraft, Inc., of Chicago, IL. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 148579 (Sub-1F), filed May 10, 1979. Applicant: GREAT NORTHEASTERN, INC., P.O. Box 115, Blue Ball, PA 17506. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Transporting (1) *hard-surface floor coverings* and (2) *articles* used in the installation and maintenance of the commodities in (1) above, from the facilities of Armstrong Cork Company, at Lancaster and East Hempfield, PA, to points in OH, IN, IL, WI, KY, MI and MO, restricted to the transportation of traffic originating at the name origins and destined to the indicated destinations. (Hearing site: Harrisburg, PA, or Washington, DC.)

Note.—Dual operations may be involved.

Volume No. 221

Decided: November 9, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 989 (Sub-33F), filed May 24, 1979. Applicant: IDEAL TRUCK LINES, INC., P.O. Box 330, Norton, KS 67854. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501.

Transporting (1) *fireplaces, air heaters, and ventilators*, from Lucas, KS, to points in CO, IL, IA, MN, MO, NE, OK, and WY, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except those requiring special equipment) in the reverse direction. (Hearing site: Kansas City, MO.)

MC 29079 (Sub-108F), filed May 24, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006. Transporting (1) *electric motors, and parts and accessories* for electric motors, from Mt. Sterling, KY, to points in IL, IN, MD, MI, OH, MO, NJ, NY, NC, PA, SC, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of electric motors, in the reverse direction. (Hearing site: Washington, DC.)

MC 29079 (Sub-109F), filed May 24, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, 1210 So. Union St., Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St. NW., Washington, DC 20006. Transporting *cardboard bottle and can carriers*, from the facilities of Hi-Cone Div. of ITW, at Itasca, IL, to Madisonville, Lexington, and Winchester, KY. (Hearing site: Washington, DC.)

MC 29079 (Sub-110F), filed May 24, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006. Transporting (1) *iron and steel articles*, from the facilities of Berwick Forge & Fabrication, Div. of Whitaker Corporation, at Berwick, PA, to points in IL, IN, KY, MD, MI, OH, MO, NJ, NY, NC, SC, VA, WV, WI, and DC and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 29079 (Sub-111F), filed May 24, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, 1210 So. Union St., Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St. NW., Washington, DC 20006. Transporting (1) *pipe cable, wire, sheet steel, and strip steel*, from the facilities of Triangle PWC, Inc., at New

Brunswick, NJ, to points in DE, IL, IN, KY, MD, MI, MO, NY, NC, OH, PA, SC, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities in (1) above, in the reverse direction.

MC 29079 (Sub-112F), filed May 24, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006. Transporting (1) *iron and steel articles*, from the facilities of Bethlehem Fab., at Bethlehem, PA, to points in IL, IN, KY, MD, MI, MO, NJ, NY, NC, OH, SC, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 40978 (Sub-61F), filed May 24, 1979. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, a corporation, 3321 Business 141 South, Sheboygan, WI 53081. Representative: William C. Dineen, 710 N. Plankinton, Avenue, Milwaukee, WI 53203. Transporting *new furniture*, from the facilities of the Simmons Company, at Kansas City, KS, to points in IA, IL, IN, MO, and WI. (Hearing site: Milwaukee, WI.)

MC 73688 (Sub-91F), filed May 25, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Ave., P.O. Box 7195, Memphis, TN 38107. Representative: Diane Price, Southern Trucking Corporation, Route 6, Box 15, North Little Rock, AR 72118. Transporting *plastic pipe and fittings*, from Memphis, TN, to points in AL, AR, GA, IN, IL, KY, LA, MS, MO, NC, SC, FL, and TX. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 99019 (Sub-11F), filed May 24, 1979. Applicant: KILLIAN-BLACK TRUCKING, INC., 100 Katharine Street, Buffalo, NY 14210. Representative: Robert D. Gunderman, Suite 710, Statler Bldg., Buffalo, NY 14202. Transporting *flour*, in bulk, in tank vehicles, from Baldwinsville and Buffalo, NY, to Detroit, MI. (Hearing site: Buffalo, NY.)

MC 103798 (Sub-43F), filed May 25, 1979. Applicant: MARTEN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at Iowa City and Muscatine, IA, to

points in NE, and WI. (Hearing site: Minneapolis, MN, or Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 106398 (Sub-911F), filed May 22, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *fabricated structural steel, steel vessels, steel pipe, and fabricated pipe*, from the facilities of Southeast Pipe Fabricators, Inc., at Crossett, AR, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 107678 (Sub-70F), filed May 22, 1979. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Representative: David A. Sutherland, 1150 Connecticut Avenue, NW, Suite 400, Washington, DC 20036. Transporting (1) *pipe, and iron and steel articles*, from Conroe, TX, to points in the United States (including AK, but excluding HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Houston, TX.)

MC 107678 (Sub-71F), filed May 24, 1979. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Representative: David A. Sutherland, 1150 Connecticut Avenue, NW, Suite 400, Washington, DC 20036. Transporting (1) (a) *equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (b) *materials, equipment, and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up of pipe lines, and (2) *earth drilling equipment, and equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in CA, on the one hand, and, on the other, points in the United States (including AK and HI). (Hearing site: Houston, TX, or San Francisco, CA.)

MC 109449 (Sub-38F), filed May 25, 1979. Applicant: KUJAK TRANSPORT,

INC., 6366 W. 6th Street, Winona, MN 55987. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Transporting *coke*, in bulk, from Milwaukee, WI, to Winona, MN. (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 109818 (Sub-50F), filed May 25, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *bananas*, from Tampa, FL, to points in IA, IL, IN, MI, MN, MO, NE, WI, and OH. (Hearing site: Tampa, FL.)

MC 110988 (Sub-391F), filed May 23, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. Transporting (1) *crude oil*, in bulk, in tank vehicles, from Nekoosa, WI, to Nitro, WV, and (2) *liquid latex*, from Kobuta, PA, to the facilities of ARCO/Polymers, Inc., at Bucksport and Rumford, ME. (Hearing site: Chicago, IL.)

MC 112989 (Sub-102F), filed May 24, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same as applicant). Transporting (1) *knocked-down buildings*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Visalia, CA, on the one hand, and, on the other, points in CA, OR, WA, ID, NV, AZ, UT, MT, WY, CO, NM, and TX. (Hearing site: San Francisco or Los Angeles, CA.)

MC 112989 (Sub-112F), filed April 9, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Transporting *lumber, lumber mill products, and wood products*, (1) from points in CA, OR, and WA to points in UT, and (2) between points in CA, ID, and NV. (Hearing site: Portland, OR.)

Note.—Dual operations may be involved.

MC 113678 (Sub-813F), filed May 22, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting (1) *bananas*, and (2) *coconuts and pineapples*, in mixed loads with bananas, from Galveston, TX, to points in CO. (Hearing site: Denver, CO.)

MC 113678 (Sub-814F), filed May 22, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO

80022. Representative: Roger M. Shaner (same address as applicant). Transporting *foodstuffs* (except commodities in bulk), from New Orleans, LA, to points in AZ, CA, CO, ID, IL, IA, MN, MO, MT, NE, NV, MN, OR, UT, WA, and WI. (Hearing site: New Orleans, LA.)

MC 113678 (Sub-823F), filed May 23, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers*, as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides, and commodities in bulk, in tank vehicles), (1) between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in the United States (except AK, HI, and IA), (2) from Mason City, IA, to points in the United States (except AK, CT, DE, HI, IL, IN, IA, KY, ME, MD, MA, MI, NE, NJ, NY, PA, and DC), (3) from Mason City, IA, to Chicago, IL, and (4) from points in the United States (except AK, HI, and IA), to Mason City, IA, restricted in parts (1), (2), (3), and (4) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Phoenix, AZ.)

MC 114028 (Sub-33F), filed May 25, 1979. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting *water treatment chemicals*, in drums, from Frisco, PA, to points in IA. (Hearing site: Pittsburgh, PA, or Chicago, IL.)

MC 114569 (Sub-311F), filed May 25, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting (1) *tea*, and (2) *equipment and supplies* used in the manufacture and distribution of tea products, between Denver, CO, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Denver, CO, or Washington, DC.)

MC 114569 (Sub-313F), filed May 22, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingdom, PA

17072. Representative: N. L. Cummins (same address as applicant). Transporting (1) *bananas*, and (2) *agricultural commodities* the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6), in mixed loads with bananas, from Port Newark, NJ, Baltimore, MD, and Albany, NY, to points in MI, OH, IL, IN, PA, WV, VA, and WI. (Hearing site: Harrisburg, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-314F), filed May 22, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting *such commodities* as are dealt in or used by retail department stores, from the facilities of Turco Manufacturing Company, at Du Quoin, IL, and points in Williamson County, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-315F), filed May 22, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting *foodstuffs*, (except *commodities in bulk*), from the facilities of Baumert Foods, Inc., at or near New Orleans, LA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named facilities. (Hearing site: New Orleans, LA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-317F), filed May 22, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting *foodstuffs*, (except *commodities in bulk*), from the facilities of Schwartz Pickle Co., Inc., at Chicago, IL, to Atlanta, GA, and points in TX, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 117068 (Sub-116F), filed May 25, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Transporting (1) *contractors' and industrial equipment*, *mining machinery*, and *self-propelled vehicles* (except automobiles, trucks, buses, and motor homes), (2) *parts* for the commodities in (1) above, and (3)

materials and supplies used in the distribution and manufacture of the commodities in (1) and (2) above (except *commodities in bulk*), between the facilities of Joy Manufacturing Company at or near (a) Franklin, PA, (b) Birmingham, AL, (c) Claremont, NH, (d) Buffalo, NY, (e) Michigan City, IN, (f) Wilson, NC, (g) New Philadelphia, OH, (h) Colorado Springs and Denver, CO, and (i) Wheeling, WV, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC.)

MC 119489 (Sub-81F), filed May 24, 1979. Applicant: PAUL ABLE d.b.a. CENTRAL TRANSPORT COMPANY, P.O. Box 249, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Transporting *liquid fertilizer*, in bulk, in tank vehicles, from Perry, NE, to points in CO and KS. (Hearing site: Omaha, NE.)

MC 121499 (Sub-9F), filed April 2, 1979, previously noticed in the Federal Register issue of September 27, 1979. Applicant: WILLIAM HAYES LINES, INC., P.O. Box 610, Lebanon, TN 37087. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *general commodities* except those of unusual value, classes A and B explosives, household goods as defined by the Commission commodities in bulk, and those requiring special equipment), (1) between Nashville, TN, and New Albany, IN, over U.S. Hwy 31W, serving Louisville, KY, as an intermediate point, and serving (a) junction TN Hwy 109 and U.S. Hwy 31W, at or near Mitchell, TN, (b) junction U.S. Hwy 68 and U.S. Hwy 31W, (c) junction KY Hwy 90 and U.S. Hwy 31W, (d) junction KY Hwy 218 and U.S. Hwy 31W, and (e) junction Western Kentucky Parkway and U.S. Hwy 31W, for purposes of joinder only; (2) between Nashville, TN, and New Albany, IN, from Nashville over Interstate Hwy 65 to junction Interstate Hwy 64, then over Interstate Hwy 64 to New Albany, and return over the same route, serving Louisville, KY, as an intermediate point, and serving (a) junction U.S. Hwy 31W/TN Hwy 109 and Interstate Hwy 65, (b) junction U.S. Hwy 68 and Interstate Hwy 65, (c) junction KY Hwy 90 and Interstate Hwy 65, (d) junction KY Hwy 218 and Interstate Hwy 65, and (e) junction Western Kentucky Parkway and Interstate Hwy 65, for purposes of joinder only; (3) between Nashville, TN and Lebanon, TN: over U.S. Hwy 70, serving all intermediate points; (4) between

Nashville, TN, and Lebanon, TN: from Nashville over Interstate Hwy 40 to junction U.S. Hwy 231 then over U.S. Hwy 231 to Lebanon, and return over the same route, serving all intermediate points; (5) between Lebanon, TN, and Louisville, KY, from Lebanon over U.S. Hwy 231 to junction U.S. Hwy 31E, then over U.S. Hwy 31E to Louisville, and return over the same route, serving all intermediate points between Lebanon and junction U.S. Hwy 231 and TN Hwy 25, and serving (a) junction KY Hwy 90 and U.S. Hwy 31E and (b) junction KY Hwy 218 and U.S. Hwy 31E, for purposes of joinder only; (6) between junction TN Hwy 109 and Interstate Hwy 40 and junction U.S. Hwy 31W and TN Hwy 109 over TN Hwy 109, serving no intermediate points, and serving junction U.S. Hwy 70 TN Hwy 109 and the termini for purposes of joinder only; (7) between junction KY Hwy 90 and U.S. Hwy 31E, at or near Glasgow, KY, and junction KY Hwy 90 and Interstate Hwy 65 near Cave City, KY, over KY Hwy 90, serving no intermediate points, but serving junction KY Hwy 90 and U.S. Hwy 31W and the termini for purposes of joinder only; (8) between junction KY Hwy 218 and U.S. Hwy 31E and junction KY Hwy 218 and Interstate Hwy 65, over KY Hwy 218 serving no intermediate points, but serving junction KY Hwy 218 and U.S. Hwy 31W and the termini for purposes of joinder only; (9) between Memphis, TN, and Nashville, TN, over Interstate Hwy 40, serving no intermediate points; (10) between Memphis, TN, and junction U.S. Hwy 68 and Interstate Hwy 65 and U.S. Hwy 31W, at or near Smiths Grove, KY: from Memphis over U.S. Hwy 79 to junction U.S. Hwy 68 at Russellville, KY, then over U.S. Hwy 68 to junction Interstate Hwy 65 and junction U.S. Hwy 31W at or near Smiths Grove, KY, and return over the same route, serving no intermediate points; (11) between Memphis, TN and junction Western Kentucky Parkway and Interstate Hwy 65 and junction U.S. Hwy 31W, at or near Elizabethtown, KY, from Memphis over U.S. Hwy 51 to junction Purchase Parkway, at or near Fulton, KY, then over Purchase Parkway to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction Western Kentucky Parkway, then over Western Kentucky Parkway to junction Interstate Hwy 65 and junction U.S. Hwy 31W, at or near Elizabethtown, KY, and return over the same route, serving no intermediate points; (12) between Memphis, TN, and Atlanta, GA, from Memphis over U.S. Hwy 72 to junction U.S. Hwy Alternate 72, then over U.S. Hwy Alternate 72 to junction Interstate Hwy 65, then over

Interstate Hwy 65 to Birmingham, AL, then over U.S. Hwy 78 to Atlanta, GA, and return over the same route, serving no intermediate points, but serving junction Interstate Hwy 65 and U.S. Hwy 278 for purposes of joinder only; (13) between junction Interstate Hwy 65 and U.S. Hwy 278 at or near Cullman, AL, and Atlanta, GA, over U.S. Hwy 278, serving no intermediate points; (14) Between New Albany, IN, and Chattanooga, TN, from New Albany over Interstate Hwy 64, to junction Interstate Hwy 75, then over Interstate Hwy 75 to Chattanooga, TN, and return over the same route, serving Louisville, KY, as an intermediate point, and serving (a) junction Interstate Hwy 64 and U.S. Hwy 127; (b) junction Interstate Hwy 64 and U.S. Hwy 27; and (c) Chattanooga, TN, for purposes of joinder only; (15) between junction Interstate Hwy 64 and U.S. Hwy 127 and Chattanooga, TN: from junction Interstate Hwy 64 and U.S. Hwy 127, over U.S. Hwy 127 to junction U.S. Hwy 150, then over U.S. Hwy 150 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Chattanooga and return over the same route, serving no intermediate points, but serving junction U.S. Hwy 27 and U.S. Hwy 150 and the termini for purposes of joinder only; (16) between junction Interstate Hwy 64 and U.S. Hwy 27 and junction U.S. Hwy 27 and U.S. Hwy 150 over U.S. Hwy 27 serving no intermediate points, and serving the termini for purposes of joinder only; (17) between Lebanon, TN, and Atlanta, GA, from Lebanon over U.S. Hwy 231 to Murfreesboro, TN, then over U.S. Hwy 41 to Atlanta, and return over the same route, serving Murfreesboro and Chattanooga for purposes of joinder only; (18) between Murfreesboro, TN, and Atlanta, GA, from Murfreesboro over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Atlanta, and return over the same route, serving no intermediate points, and serving Murfreesboro and Chattanooga, TN, for purposes of joinder only; (19) between Nashville and Murfreesboro, TN, (a) over U.S. Hwy 41, and (b) over Interstate Hwy 24, serving Murfreesboro for purpose of joinder only; and serving no intermediate points, and serving points in Wilson County, TN, as off-route points in connection with routes (1-19) above. (Hearing site: Atlanta, GA, or Memphis, TN.)

Note.—This republication clarifies routes (5)(b), (8), (10), (11), and (14)(a) and adds (19)(b).

MC 123669 (Sub-7F), filed May 24, 1979. Applicant: SILVER TRUCK, INC., P.O. Box 41, Austin, MN 55912.

Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *contract carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting (1) *corrugated shipping containers*, *corrugated sheets*, and *parts of corrugated shipping containers*, from White Bear Lake, MN, to points in WI, ND, IA, and SD, and the Upper Peninsula of MI, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction, under continuing contract(s) with Weyerhaeuser Company of Chicago, IL. (Hearing site: Minneapolis, MN.)

MC 125708 (Sub-173F), filed May 25, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IL 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *upholstered chairs*, from the facilities of La-Z-Boy Midwest, at Neosho, MO, to points in the United States (except AK and HI). (Hearing site: St. Louis, MO, or Washington, DC.)

MC 126118 (Sub-160F), filed May 23, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic articles, from Wooster, OH, to points in AZ, CA, CO, NV, NM, OK, OR, TX, and WA. (Hearing site: Akron, OH, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 126118 (Sub-161F), filed May 23, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *lead ingots*, from Muncie, IN, to Murfreesboro, TN. (Hearing site: Chicago, IL, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 126119 (Sub-4F), filed May 24, 1979. Applicant: EASTERN MOTOR TRANSPORT, INC., P.O. Box 501, Richmond, VA 23204. Representative: Harold G. Hernly, Jr., 110 So. Columbus St., Alexandria, VA 22314. Transporting *petroleum products* (except asphalt and petrochemicals), from Fairfax, VA, to points in MD. (Hearing site: Washington, DC, or Houston, TX.)

MC 126898 (Sub-8F), filed May 23, 1979. Applicant: BULLDOG HIWAY EXPRESS, a corporation, P.O. Box 506, Charleston, SC 29402. Representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, SC 29201.

Transporting (1) *general commodities* (except classes A and B explosives), in marine containers, (2) *marine containers*, and (3) *chassis*, between Wilmington, NC, Charleston, SC, Savannah, GA, and Jacksonville, FL. (Hearing site: Columbia, SC, or Charlotte, NC.)

MC 128698 (Sub-20F), filed May 23, 1979. Applicant: ERDNER BROS., INC., Davidson Road, Swedesboro, NJ 08085. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, DC 20005. Transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H.J. Heinz Company, at or near Holland, MI, to points in DE, MD, NJ, DC, and those in PA on and east of Interstate Hwy 81, and those in NY on, south, and east of a line beginning at the CT-NY State line and extending along Interstate Hwy 84 to junction Interstate Hwy 87, and then along Interstate Hwy 87 to New York, NY, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 133689 (Sub-275F), filed May 24, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in CT, MA, and RI, to the facilities of The Charter Oak Shippers Cooperative Association, Inc., at Berlin and Danbury, CT, and those points in the United States in and east of ND, SD, NE, KS, MO, AR, and LA (except ME, NH, VT, MA, CT, and RI). (Hearing site: St. Paul, MN.)

MC 138018 (Sub-51F), filed May 23, 1979. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Representative: Joseph W. Harvey (same address as applicant). Transporting *meats*, *meat products*, and *meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides, and commodities in bulk, in tank vehicles), from the facilities used by Farmland Foods, Inc., at or near (a) Carroll, Denison, Iowa Falls, Cherokee, Des Moines, Fort Dodge, and Sioux City, IA, and (b) Lincoln and Omaha, NE, to points in AZ, CA, CO, ID, MT, NV, HM, OR, UT, WA, and WY, restricted to the

transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 138308 (Sub-74F), filed May 25, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between the facilities of Kimberly-Clark Corporation at or near Corinth, MS, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Jackson, MS, or Washington, DC.)

Note.—Dual operations may be involved.

MC 138308 (Sub-75F), filed May 25, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *foodstuffs* (except in bulk), from the facilities of Welch Foods, Inc., at or near (a) North East, PA, and (b) Westfield, NY, to points in AL, AR, GA, KS, LA, MS, MO, NM, OK, TN, and TX. (Hearing site: Washington, DC, or Westfield, NY.)

Note.—Dual operations may be involved.

MC 138308 (Sub-76F), filed May 25, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628. Transporting (1) *battery boxes*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), between the facilities of the Richardson Company, at or near (a) Indianapolis, IN, (b) Philadelphia, MS, and (c) City of Industry, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Jackson, MS, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 138308 (Sub-77F), filed May 25, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39203. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *foodstuffs* (except in bulk), from the

facilities of Welch Foods, Inc., at or near Kennewick, WA, to points in AZ, CA, CO, ID, NV, and UT. (Hearing site: Washington, DC, or Westfield, NY.)

Note.—Dual operations may be involved.

MC 139579 (Sub-11F), filed May 24, 1979. Applicant: GEORGE H. GOLDING, INC., 5879 Marion Dr., Lockport, NY 14094. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *heaters, air conditioning parts, and storage bins*, between Lockport, NY, on the one hand, and, on the other, points in MI and OH, under continuing contract(s) with Harrison Radiator Division General Motors Corporation, of Lockport, NY. (Hearing site: Buffalo, NY.)

Note.—Dual operations may be involved.

MC 140389 (Sub-61F), filed May 25, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Swift & Company, at (a) Clovis, NM, (b) Guymon, OK, and (c) Cactus, TX, to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Chicago, IL.)

MC 140389 (Sub-62F), filed May 25, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30305. Transporting *foodstuffs* (except in bulk), from points in FL, to points in AL, AZ, AR, CA, CO, GA (except Atlanta), ID, KS, LA, MS, MT, NE, NV, NM, NC, ND, OR, SC, SD, UT, WA, and WY. (Hearing site: Orlando, FL.)

MC 140829 (Sub-258F), filed May 24, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David King (Same as applicant). Transporting *wooden doors*, from the facilities used by Buell Door Company, at or near Dallas, TX, to points in CO, IL, IN, KS, MO, NE, and OH, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 141958 (Sub-18F), filed May 22, 1979. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *groceries*, from the facilities of Swift & Co., at Bradley, Chicago, and Des Plaines, IL, to St. Louis, MO, under continuing contract(s) with Swift & Co., of Chicago, IL, and (2) *plastic products, chemicals, and such commodities* as are dealt in by food and drug business houses, (except commodities in bulk), from Chicago and Des Plaines, IL, to Bridgeton and St. Louis, MO, under continuing contract(s) with Dry Storage Corporation, of Chicago, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 142909 (Sub-6F), filed May 25, 1979. Applicant: TIMBER TRUCKING, INC., 4100 So. West Temple, Salt Lake City, UT 84107. Representative: Miss Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *crushed scrap automobiles and parts of crushed scrap automobiles*, (a) from Pocatello, ID, to points in ID, UT, WY, OR, WA, and CA, (b) from points in UT to points in ID, and (c) from points in WY to points in WA, OR, and ID. (Hearing site: Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 145018 (Sub-8F), filed May 24, 1979. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: John W. Frame, Box 628, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting (1) *paper bags and wrapping paper*, and (2) *materials and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, from the facilities of Terminal Paper Bag Co., Inc., at or near Yulee, FL, to points in PA, NY, NJ, OH, MD, VA, WV, and DC, restricted in (1) and (2) to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Harrisburg, PA.)

MC 145738 (Sub-9F), filed May 24, 1979. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 525, Selmer, TN 38375. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, NE., Atlanta, GA 30326. Transporting *fiberglass products, and materials, equipment, and supplies* used in the manufacture and distribution of fiberglass products (except commodities in bulk), from Irwindale, CA, and Nashville, TN, to points in CA, FL, GA, IL, IN, LA, MA, MI, MN, NH, NY, NC,

OH, OK, TN, TX, and VA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 146438 (Sub-2F), filed May 23, 1979. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Transporting (1) (a) *frozen foods*, from the facilities of Lloyd J. Harriss Pie Co., at or near (i) Saugatuck, MI, and (ii) Louisville, KY, to points in AL, AZ, AR, CA, CO, DE, FL, GA, ID, KS, LA, MD, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, and WY, and (b) *materials and supplies* used in the manufacture and distribution of the commodities in (1)(a) above, (except commodities in bulk), in the reverse direction, and (2) *frozen foods*, from the facilities of Saluto Foods Corporation, at or near (a) Benton Harbor, MI, and (b) Montgomery and Fort Payne, AL, to points in CA, OR, WA, NV, UT, CO, FL, GA, AL, NC, SC, VA, MD, PA, NY, NJ, DE, and DC, and (b) *equipment, materials, and supplies* used in the manufacture of frozen foods (except commodities in bulk), in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 146648 (Sub-2F), filed May 22, 1979. Applicant: NIMCO TRUCKING, INC., 308 South 25th Street Boise, ID 83706. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap metal, batteries, and compressed automobile bodies and parts*, from the facilities of Northern Iron & Metals, Inc., at Boise, ID, to points in CA, OR, UT, and WA, under continuing contract (s) with Northern Iron & Metals Co., Inc., of Boise, ID. (Hearing site: Boise, ID, or Portland, OR.)

MC 146839 (Sub-2F), filed May 24, 1979. Applicant: T. C. TRANSPORTATION, INC., 299 Lawrence Avenue, South San Francisco, CA 94080. Representative: Michael S. Rubin, 256 Montgomery Street, San Francisco, CA 94104. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in San Francisco, San Mateo, Alameda, Santa Clara, Sacramento, Fresno, and Los Angeles Counties, CA, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: San Francisco or Los Angeles, CA.)

MC 147099 (Sub-1F), filed May 23, 1979. Applicant: RAUCH INDUSTRIES, INC., 6048 S. York Rd., Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW, Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by department stores, from Charlotte and Hickory, NC, to the facilities of M. O'Neil Company, at or near Mogadore and Akron, OH, under continuing contract(s) with M. O'Neil Company, a subsidiary of May Department Store, Inc., of Akron, OH. (Hearing site: Akron, OH.)

MC 147218 (Sub-1F), filed May 17, 1979. Applicant: AMERICAN CHOICE TRANSPORT, INC., 614 East Main Street, Lewisville, TX 75067. Representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, TX 75202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *peanuts and peanut products, vegetable oil, pickles, honey, agricultural seeds, and fertilizer* (except commodities in bulk), between the facilities of Portales Valley Mills, Inc., American Nut Corporation, and Choice Products, Inc., at or near (a) Lewisville, TX, and (b) Portales, NM, on the one hand, and, on the other, points in CA, AZ, NM, CO, TX, OK, KS, MO, IL, WI, AR, LA, MS, TN, AL, GA, and FL, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in CA, AZ, NM, CO, TX, OK, KS, MO, IL, WI, AR, LA, MS, TN, AL, GA, and FL, to the facilities named in (1) above, under continuing contract(s) with Portales Valley Mills, Inc., of Portales, NM, and American Nut Corporation and Choice Products, Inc., both of Lewisville, TX. (Hearing site: Dallas, TX, or Washington, DC.)

MC 147429F, filed May 23, 1979. Applicant: JACKSON TRANSFER, INC., 328 Foxfire Drive, Columbia, SC 29210. Representative: C. Jack Pearce, 1000 Connecticut Avenue, N.W., Washington, D.C. 20038. Transporting *meats, meat products, and meat by-products, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Glenwood, Des Moines, Sioux City, and Marshalltown, IA, Guymon, OK, Clovis, NM, and Cactus, TX, to points in AL, FL, GA, MS, NC, SC, and TN. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 147439F, filed May 23, 1979. Applicant: SEABOARD WAREHOUSE TERMINALS, INC., 3455 Northwest 54th Street, Miami, FL 33142. Representative: Bernard C. Pestcoe, 511 Biscayne Building, 19 West Flagler Street, Miami, FL 33130. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tobacco products*, from the facilities of Seaboard Warehouse Terminals, Inc., in Dade, Broward, and Palm Beach Counties, FL, to West Palm Beach FL, restricted to the transportation of traffic having a subsequent movement by water, under continuing contract(s) with Brown & Williamson Tobacco Corp., of Louisville, KY. (Hearing site: Miami, FL, or Washington, DC.)

MC 147449F, filed May 24, 1979. Applicant: KNEZ BUILDING MATERIALS CO., INC., 8185 S. W. Hunziker Rd., Tigard, OR 97228. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Transporting *lumber*, from Washougal, WA, and Clatskanie, Willamina, and Swisshome, OR, to points in CA. (Hearing site: Portland, OR.)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36030 Filed 11-21-79; 8:45 am]

BILLING CODE 7095-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-28163 appearing at page 52917 in the issue for Tuesday, September 11, 1979, make the following correction:

On page 52928, in the third column, in the fourth paragraph "MC 104696 (Sub-56F)" for "Womeldorf, Inc.", the 14th line reading "in the United States and east of MN, IA," should be corrected to read "in the United States in and east of MN, IA."

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision-Notice

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest

under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the

requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before December 24, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 214

Decided: Nov. 2, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 55709 (Sub-12F), filed February 26, 1979. Applicant: ANDING TRANSIT, INC., P.O. Box 112, Arena, WI 53503. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting *cheese*, between the facilities of Rochester Cold Storage, at or near Rochester, MN, and points in WI. (Hearing site: Madison, WI, or Chicago, IL.)

MC 98327 (Sub-32F), filed September 11, 1979, and previously published in the FR issues of December 7, 1978 and April 8, 1979. Applicant: SYSTEM 99, a Corporation, 8201 Edgewater Drive, Oakland, CA 94621. Representative: Michael J. O'Neill, (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Tacoma, WA, and Medford, OR, over Interstate Hwy 5, as an alternate route for operating convenience only, serving no intermediate points. (Hearing site: Portland, OR, or Seattle, WA.)

Note.—This republication is to eliminate the phrase "and serving the termini for purposes of joinder only."

MC 113908 (Sub-468F), filed February 22, 1979. Applicant: ERICKSON TRANSPORT CORP., 2105 E. Dale St., P.O. Box 10068, G.S., Springfield, MO 65804. Representative: B. B. Whitehead (Same address as applicant). Transporting (1) *cat litter*, from Viroqua, WI, to points in AR, CO, IL, IN, IA, KS, KY, MI, MO, MT, MN, NE, ND, OH, OK, SD, TN, and WY; (2) *fertilizer and de-icer*, in bulk, from Viroqua, WI, to points in AR, CO, KY, MO, MT, OK, TN, and WY; and (3) *fertilizer and de-icer*, in containers, from Viroqua, WI, to points in IN, OH, IL, IA, KS, MI, MN, NE, SD, and ND. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 115826 (Sub-348F), filed September 11, 1978, and previously published in the FR issue of April 3, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (Same address as applicant). Transporting (1) *safety clothing and equipment* for the protection of workers, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (3) *abrasives and abrasive products*, (4) *drilling, coring and mining bits*, (5) *sealants*, (6) *power tools and parts* for power tools, (7) *materials, equipment, and supplies* used in the manufacture and distribution of industrial ceramics, plastic and synthetic articles, chemical process, mining and petroleum products, and *commodities* dealt in by a manufacturer of such commodities, (except commodities in tank vehicles), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the

facilities of Norton Company; and its subsidiaries, Boyles Bros. Drilling Co., Christensen, Inc., Christensen Diamond Products, USA, Metals Processing, Inc., Air Space Devices, Inc., and Norton International Inc. (Hearing site: Denver, CO.)

Note.—This republication is to include Norton Company subsidiaries.

MCRBI 120098 (Sub-31F), filed December 6, 1978, previously published in Federal Register issue January 18, 1979. Applicant: UINTAH FREIGHTWAYS, A Corporation, 1030 South Redwood Road, Salt Lake City, UT 84104. Representative: Robert L. Bloomquist, (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Vernal, UT, and Denver, CO, over U.S. Highway 40, serving all intermediate points between Vernal, UT, and Craig, CO, (2) between Baggs, WY, and Denver, CO, from Baggs over WY Hwy 789 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Cheyenne, WY, then over Interstate Hwy 25 to Denver, and return over the same route, serving no intermediate points, (3) between Franklin, ID, and Salt Lake City, UT: from Franklin over U.S. Hwy 91 to junction Interstate Hwy 15, then over Interstate Hwy 15 to Salt Lake City, and return over the same route, serving no intermediate points, (4) between Price, UT, and Denver, CO: from Price over U.S. Hwy 6 to Grand Junction, CO, then over U.S. Hwy 6 to Denver, and return over the same route, serving no intermediate points, and (5) between Salt Lake City, UT, and Denver, CO: from Salt Lake City over Interstate Hwy 30 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Cheyenne, WY, then over Interstate Hwy 25 to Denver, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points. (Hearing site: Salt Lake City, UT.)

Note.—Applicant intends to tack this authority with its existing regular-route authority. The purpose of this republication is to make notice of the intent to tack.

Volume No. 215

Decided: Nov. 2, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 134599 (Sub-165F), filed September 7, 1978, previously published in Federal Register issue of October 19,

1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crated office furniture, and parts* for office furniture, from the facilities of Steelcase, Inc., at or near Tustin, CA, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC, under continuing contract(s) with Steelcase, Inc., of Grand Rapids, MI. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operation may be involved. This republication adds VA and DC as destination points.

Volume No. 216

Decided: Nov. 2, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 113106 (Sub-64F), filed November 2, 1978, and previously published in the FR issue of February 20, 1979. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 East Fairmount Avenue, Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, DC 20005. Transporting *such commodities* as are dealt in or used by manufacturers of glass and plastic products (except commodities in bulk), between points in CT, DE, FL, GA, MA, MD, NC, NH, NJ, NY, OH, PA, RI, SC, VA, and DC, restricted to the transportation of traffic either originating at the facilities of Thatcher Glass Manufacturing Company, Division of Dart Industries, Inc., as destined to the named points in the States involved, or originating at the points in the States involved and destined to the facilities of Thatcher Glass Manufacturing Company, Division of Dart Industries, Inc. (Hearing site: Washington, DC.)

Note.—This republication is to correctly reflect restriction.

MC 113666 (Sub-150F), filed February 8, 1979, and previously published in the FR issue of July 19, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: William H. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. Transporting (1) *refractory products*, and *materials and supplies* used in the production and installation of refractory products, and *brick* (except liquid commodities, in bulk, in tank vehicles), from points in AL, IN, IL, MD, MI, NJ, NY, TN, and VA, to the ports of

entry on the international boundary line between the United States and Canada at points in MN, MI, NY, ME, NH, and VT, and (2) *refractory products*, and *materials and supplies* used in the production and installation of refractory products, *brick and insulation material* (except liquid commodities in bulk, in tank vehicles), from Girard, IL, to those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Chicago, IL, or Pittsburgh, PA.)

Note.—This republication is to correctly reflect the territorial description.

MC 144688 (Sub-12F), filed February 26, 1979, and previously published in the FR issue of March 29, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household appliances, and materials, equipment, and supplies* used in the manufacture and distribution of household appliances (except commodities in bulk), from the facilities of General Electric Company, at or near Louisville, KY, to points in FL, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Louisville, KY, or Omaha, NE.)

Note.—This republication changes the origin point.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36026 Filed 11-21-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 227

Friday, November 23, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1, 2
Copyright Royalty Tribunal	3
Federal Communications Commission	4, 5
Federal Election Commission	6, 7
Federal Maritime Commission	8
National Transportation Safety Board	9
Postal Rate Commission	10-12
Securities and Exchange Commission	13

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., November 27, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed temporary exemption from the One-Minute Timing Requirement of Rule 1.35(a).

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2277-79 Filed 11-20-79; 2:34 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., November 27, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2272-79 Filed 11-20-79; 2:34 pm]

BILLING CODE 6351-01-M

3

COPYRIGHT ROYALTY TRIBUNAL.

TIME AND DATE: 10 a.m., December 5 and 6.

PLACE: 2000 L Street, NW., Room 500.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Distribution of 1978 jukebox royalties.
2. Oral argument on legal issues of cable television royalties distribution.

FOR FURTHER INFORMATION CONTACT: Douglas Coulter, Chairman, Copyright Royalty Tribunal (202) 653-5175.

Douglas Coulter, Chairman.

[S-2273-79 Filed 11-20-79; 2:34 pm]

BILLING CODE 4410-01-M

4

FEDERAL COMMUNICATIONS COMMISSION. PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., Tuesday, November 20, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission Closed Meeting.

CHANGES IN THE MEETING: Deletion of an item at the request of the Executive Director.

Agenda, Item No., and Subject

General—1—Senior Executive Service Performance Appraisal and Compensation System.

Additional information concerning this item may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: November 20, 1979.

[S-2277-79 Filed 11-20-79; 3:45 pm]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION. PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 P.M., TUESDAY, NOVEMBER 20, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission Open Meeting.

CHANGES IN THE MEETING: Deletion of Agenda Items and Change in the Order the Commission will Consider the Agenda.

The following items have been deleted:

Agenda, Item No., and Subject

Private Radio—5 Title: Eligibility of the Organization of American States (OAS) for licensing in the General Mobile Radio Service. Summary: Application by the OAS for a license in the General Mobile Radio Service (Subpart A of Part 95 of the Commission's Rules) for the operation of a two-way communication system, pursuant to Section 310 of the Communications Act,

47 U.S.C. § 310. (At the request of the Office of General Counsel.)

Aural—1—Title: Memorandum Opinion and Order in re application of Hall Broadcasting Co., Inc. (BPH-10,663) Summary: The FCC considers its grant of the above application to change transmitter location and increase antenna height of Station WYD-FM, Palatka, Florida, in the light of the parties' failure to consummate a companion assignment of license of the station. (At the request of the Broadcast Bureau.)

Television—1—Title: Application of WSET-TV, Inc. for CP to make major changes in facilities of WSET-TV, Lynchburg, Virginia (BPCT-5001). Summary: WSET proposes to change site and make other changes, resulting in location closer to Roanoke, Virginia, and farther from Lynchburg. Questions raised with respect to short-spacing, UHF impact and other matters. Petition to deny and informal objection are also considered. (At the request of the Broadcast Bureau.)

As the Commission's first order of business, the following item will be considered:

Complaints and Compliance—4—Complaint of the Carter-Mondale Committee against the ABC, CBS and NBC Television Networks.

Additional information concerning these items may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: November 19, 1979.

[S-2278-79 Filed 11-20-79; 3:45 pm]

BILLING CODE 6712-01-M

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, November 27, 1979 at 10:00 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This hearing will be open to the public.

MATTER TO BE CONSIDERED: At the request of the Udall '76 Committee and pursuant to former 11 CFR § 134.2(b), the Commission will hold a public hearing on Tuesday, November 27, 1979, at 10:00 a.m. at which time the Committee will be given an opportunity to dispute the Commission's determination that the Committee must repay \$62,449.22 in matching funds to the U.S. Treasury.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2270-79 Filed 11-20-79; 11:29 am]

BILLING CODE 6715-01-M

7

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, November 27, 1979, following Public Hearing.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel. Audit Policy-Materiality Threshold.

DATE AND TIME: Thursday, November 29, 1979 at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED IN OPEN SESSION:

Setting of dates for future meetings. Correction and approval of minutes. Certification.

Advisory Opinions: 1. Draft AO 1979-58, Ms. Barbara S. M. Kretchmar, Corporate Counsel, Scott Paper Company. 2. Draft AO 1979-59, Mr. Harold F. Fendius, Assistant Treasurer, Container Corporation of America Political Action Committee. 3. Draft AO 1979-60, Mr. F. Coulter de Vries (Hoisting and Portable Engineers Local Union 101 and political action committee).

Audit advisory panel. Final audit reports for the National Federation of Republican Women and the National Black Republican Council.

Bookkeeping manuals. 1980 elections and related matters. Appropriations and budget.

Pending legislation. Classification actions. Routine administrative matters.

MATTERS TO BE CONSIDERED IN CLOSED SESSION: Personnel.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2276-79 Filed 11-20-79; 3:24 pm]

BILLING CODE 6715-01-M

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: November 28, 1979, 10 a.m.

PLACE: Room 12126 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Puerto Rico Maritime Shipping Authority seven percent general increase between ports in Puerto Rico and ports in the U.S. Virgin Islands and fifteen percent general increase between ports in Puerto Rico and ports in Canada via Elizabeth, New Jersey and between United States Atlantic and Gulf ports and ports in Puerto Rico.

2. Agreements Nos. 9427-6 and 9552-4: Modifications to rate agreements to conform to Commission General Order 7.

3. Dynamic International Freight Forwarders, Inc.—Application for independent ocean freight forwarder license.

4. Special Docket No. 855: Application of Sea-Land Service, Inc. for the Benefit of Trade Winds Importing Co.—Review of initial decision.

5. Docket No. 79-52: Filing of Petitions for Reconsideration and Stay—Proposed final rules.

6. Docket No. 79-27: Eastern Forwarding International, Inc.—request to enter into settlement negotiations for penalty claims.

7. Docket No. 79-74: Japan/Korea-Atlantic and Gulf Freight Conference (Agreement No. 3103-67—Extension of Intermodal Authority)—Motions for permission to file rebuttal and for confidential treatment.

8. Docket No. 78-46: Financial Exhibits and Schedules Non-Vessel Operating Common Carriers in the Domestic Offshore Trades—Review of comments.

Portion Closed to the Public

1. Continental Forwarding, Inc.—Application for independent ocean freight forwarder license.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-2279-79 Filed 11-20-79; 3:49 pm]

BILLING CODE 6730-01-M

9

[NM-79-42]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, November 29, 1979.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first item will be open to the public; the last two items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report—Inlet Marine, Inc., Gates Learjet Century III, Model 25C, N77RS, Anchorage International Airport, Anchorage, Alaska, December 4, 1978.*

2. *Opinion and Order—Administrator v. Dickman, Dkt. SE-3768; Administrator v. Corrons, Dkt. SE-3769; disposition of the Administrator's appeal.*

3. *Opinion and Order—Petition of McHenry, Dkt. SM-2318; disposition of respondent's appeal.*

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

November 20, 1979.

[S-2275-79 Filed 11-20-79; 3:24 pm]

BILLING CODE 4910-58-M

10

POSTAL RATE COMMISSION.

TIME AND DATE: 3 p.m., November 29, 1979.

PLACE: Conference Room, Room 500, 2000 L St., NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Docket No. MC78-1 (Parcel post.)

[Closed pursuant to 5 U.S.C. 552b(c)(10).]

CONTACT PERSON FOR MORE INFORMATION: D. Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-2287-79 Filed 11-19-79; 3:52 pm]

BILLING CODE 7715-01-M

11

POSTAL RATE COMMISSION.

TIME AND DATE: 11:30 a.m., November 21, 1979.

PLACE: Conference Room, Room 500, 2000 L St., N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Docket No. MC78-2 (Third-class presort.)

[Closed pursuant to 5 U.S.C. 552b(c)(10).]

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-2288-79 Filed 11-19-79; 3:53 pm]

BILLING CODE 7715-01-M

12

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., December 3, 1979.

PLACE: Conference Room, Room 500, 2000 L St., NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. MC78-3 (E-COM.)

[Closed pursuant to 5 U.S.C. 552b(c)(10).]

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-2200-79 Filed 11-19-79; 3:53 pm]

BILLING CODE 7715-01-M

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 (FR 66128, November 16, 1979.)

STATUS: Closed meetings.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, November 16, 1979.

CHANGES IN THE MEETING: Additional meeting/item.

The following additional closed meeting will be held on Tuesday, November 20, 1979, at 2:00 p.m.

The subject matter of the closed meeting will be:

Regulatory matter bearing enforcement implications.

The following additional item will be considered at a closed meeting scheduled for Tuesday, November 20, 1979, immediately following the 2:30 p.m. open meeting:

Formal order of investigation.

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Ketels at (202) 272-2468.

November 20, 1979.

[S-2274-79 Filed 11-20-79; 3:24 pm]

BILLING CODE 8010-01-M

Friday
November 23, 1979

Part II

Department of Labor

Employment Standards Administration,
Wage and Hour Division

Minimum Wages for Federal and
Federally Assisted Construction; General
Wage Determination Decisions

Registered Federal Reporter

V
4
4
N
O
2
3
7
9
U M I

DEPARTMENT OF LABOR

Employment Standards
Administration, Wage and Hour
DivisionMinimum Wages for Federal and
Federally Assisted Construction;
General Wage Determination
Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of

publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedes
Decisions to General Wage
Determination Decisions

Modifications and supersedes decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedes decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedes decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is

encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination
Decisions

Missouri. MO79-4076

Modifications to General Wage
Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Florida:		
FL79-1068	Apr. 13, 1979.	
New Jersey:		
NJ79-3013	June 22, 1979.	
Oklahoma:		
OK79-4074	Aug. 3, 1979.	
Texas:		
TX79-4005	Jan. 5, 1979.	
TX79-4036	Aug. 17, 1979.	
TX79-4051	May 4, 1979.	
TX79-4066	Oct. 5, 1979.	
Virginia:		
VA79-3049	Nov. 9, 1979.	
VA79-3051	Nov. 9, 1979.	

Supersedes Decisions to General Wage
Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedes decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:		
AL79-1043 (AL79-1140)	Mar. 9, 1979.	
AL79-1046 (AL79-1142)	Mar. 16, 1979.	
Georgia:		
GA78-1089 (GA79-1149)	Oct. 13, 1978.	
Missouri:		
MO77-4272 (MO78-4093)	Sept. 30, 1977.	
New York:		
NY79-3018 (NY79-3040)	July 6, 1979.	
Oklahoma:		
OK78-4055 (OK79-4097)	June 9, 1978.	
OK78-4056 (OK79-4098)	June 18, 1978.	
OK78-4058 (OK79-4100)	June 16, 1978.	

Cancellation of General Wage
Determination Decisions

None.

Signed at Washington, D.C. this 16th day of November 1979.

Dorothy P. Come,
Assistant Administrator, Wage and Hour
Division.

BILLING CODE 4510-27-30

DECISION NO. MO79-4076

NEW DECISION

STATE: Missouri
COUNTY: Cole
DATE: Date of publication
DESCRIPTION OF WORK: Building projects, (excluding single family homes and apartments up to and including 4 stories).

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
ASBESTOS WORKERS	13.26			
BOILERMAKERS	12.15	1.04		
BRICKLAYERS, STONEMASONS, TILE LAYERS	10.60	1.00		.03
CARPENTERS	10.50	.35		
Carpenters	11.25	.30		
Millwrights	10.90	.30		
Piledrivers	10.55	.30		
CEMENT MASONS	12.53			
ELECTRICIANS	12.78	3%	7%+.30	.01
Cable Splicers	11.95	3%	7%+.30	.01
GLAZIERS		1.58	13.2%	.01
LABORERS:				
General Laborer; Watchman; Flagman; Heaters; Water-ial Plant Man; Carpenter Tender; Landscaper; Signal man; Wrecker (old/new structures); Form Handler; post hole Digger; Cleaning & clearing of all debris for all crafts; Loading & unloading, conveying, distributing, collecting & hoisting of construction material & debris; Backfilling, grading & landscaping; Covering of tanks, structures & material piles with tarpaulins or other material handled by laborers; Handling & cleaning of concrete chutes; Cleaning of concrete spills & chipping where hand tools are required	8.85	.25		
IRONWORKERS	12.075	.55		.09
LATHERS	10.85	1.05		.01
PAINTERS:				
Brush	10.20	.20		
Spray; structural steel; stage or saddle; sandblasting				
PIPEFITTERS	10.70	.20		
PLASTERERS	12.95	2.165		
PLUMBERS	9.75	1.51		
POWER EQUIPMENT OPERATORS:	12.505	.80		.20
Group I				
Backhoe; cableway; crane, crawler or truck; crane, hydraulic truck or crane; mounted 16 tons & over; crane, locomotive, derrick, steam; derrick car & derrick boat; dragline; dredge; grapple; crawler or tire mounted;				

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
POWER EQUIPMENT OPERATORS (GROUP I CONTD.): locomotive, gas, steam & other powers; piledriver, land or floating; scoop, skimmer; shovel; power (steam, gas, electric or other powers); switch boat; whirley Group II Air tugger w/air compressor; anchor placing barge; asphalt spreader; Athey force feeder loader (self propelled); backfilling machine; boat oper. push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer such as mixermobile; compressor (when operator runs throttle); compressors, two not more than 50' apart; compressor-generator combination; compressor pump combination; compressor welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as concrete machine; concrete spreader, conveyor, large (not self propelled) hoisting or moving brick & concrete into, or into & on floor level, one or both; cranes hydraulic rough terrain, self-propelled; crane, hydraulic truck or crawler	.75	1.00			

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
POWER EQUIPMENT OPERATORS (GROUP II CONTD.): mounted under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills & any hand-drills obtaining power from other sources including concrete breakers, jackhammers & Barco equipment no engineer required); elevating grader, engine man, dredge; excavator or powerbelt machine; propelled oscillating screed; fork lift; grader road with power blade; highlift; hoist, concrete & brick (brick cages or concrete skips operating in or on tower, tower-mobile, or similar equipment); hoist, stack; hydraulic hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as Barber-Greene); mechanic, on job site; mixer, paving machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or ready-mix job site; plant, heating job site; plant, mixing job site; plant, power, generating job site; pumps, two self-power over 2" through 6"; pumps, electric submersible, one through three, over 4"; quad-track;					

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
POWER EQUIPMENT OPERATORS (GROUP II CONTD.): roller, asphalt, top or subgrade; scoop, tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take offs, & attachments regardless of size; trenching machine, tunnel boring machine, vibrating machine, automatic, propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine Group III Air tugger w/plant air; boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; boiler, temporary; compressor, air one; compressor, air (mounted on truck); concrete saw, (self-propelled); conveyor, large (not self-propelled); conveyor, large (not self-propelled) moving brick & concrete (distributing) on floor level; curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30kw or any number developing over 30kw;	.75	1.00			

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
POWER EQUIPMENT OPERATORS (GROUP III CONTD.): greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one Employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixers, with side loader, 2 bag capacity or more mixer, with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self powered, automatic controlled over 2" during use in connection with construction work; scissor lift (used for hoisting); sweeper, street; tractor small wheel type 50 h.p. & under with grader blade & similar equipment; welding machine, one over 400 amp.; winch operating from truck; mechanic in shop Group IV Boat operator outboard motor (job site); conveyors, (such as conveyor-it) regardless of how used; oiler; sweeper, floor Group V (a) Air-pressure; oiler engineer operating under ten pounds	.75	1.00			

U M I 7 9 3 2 0 Z 4 4 V

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.67	.75	1.00		
14.12	.75	1.00		
14.87	.75	1.00		
POWER EQUIPMENT OPERATORS (GROUP V CONTD.) (b) Air-pressure, oiler engineer operating over ten pounds (c) Air-pressure engineer operating under ten pounds (d) Air-pressure oiler engineer operating over ten pounds (e) Crane, climbing (such as linden), crane, pile driving & extracting; crane, using rock socket tool; derrick, diesel, gas or electric, hoisting material erecting steel (150' or more above ground); dragline, 7 cu. yds. & over; hoist, three or more drums in use; scoop, tandem; shovel, power 7 cu. yds. & over; tractor, tandem crawler tunnel man assigned to work in tunnel or tunnel shaft; wrecking, when machine is working on second or higher; crane-booms (including jib) 100 ft. to 150 ft. Crane, boom (including jib) 150 ft. to 300 ft. ROOFERS: Roofers in coal tar pitch SHEET METAL WORKERS TRUCK DRIVERS: Warehousemen, Dumper, Flatbed & pick-up Tandem, trailer, float, winch & hi-lift	.75	1.00		
12.62	.75	1.00		
13.12	.75	1.00		
11.20		.35	.30	
11.70		.35	.30	
11.26	.50	.36		
7.65	.50	.50	d	
8.05	.50	.50	d	

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$8.35	.50	.50	d	
11.38	.895	.69	38+a	.025
70&JR	.895	.69	38+a	.025
50&JR				
TRUCK DRIVERS (Contd.): Tandem-slip-bed operation FOOTNOTE: d - After 1 year a weeks vacation ELEVATOR CONSTRUCTORS: Elevator Constructors Elevator Constructors Helpers Elevator Constructors Helpers (probationary) FOOTNOTES: a - Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years as Vacation Pay Credit, also 7 paid Holidays. SPRINKLER FITTERS 13.24 .75 1.05 .08 Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (ii)).	.50	.50	d	
11.38	.895	.69	38+a	.025
70&JR	.895	.69	38+a	.025
50&JR				
13.24	.75	1.05		.08

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
12.10	.55	.65		.06
10.28	.65	.75	.65	.05
10.28	.65	.75	.65	.05
6.28				
7.12	.60	.30		
7.52	.60	.30		
6.70	.60	.30		
10.50	.54	.56		.05
12.29	.67	.64		.05
Decision # FL79-1068-Mod #4 (44-FR-22309-April 13, 1979) Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site, Florida Change: Asbestos Workers Ironworkers LABORERS: Air tool operators; Concrete laborers; Hod carriers; Mason tenders; Mortar mixers; Kettlemen (excl. roofing & water-proofing); Pipelayers; Powdermen; Form setters (paving & curbing & gutter); Well point & de-watering Gunnite laborer Gunnite nozzle men Unskilled laborers PLUMBERS: PIPEFITTERS: STEAMFITTERS: Commercial Industrial (power houses, Chemical Plants, Missile Sites, Oil Refineries, Bulk Plants, etc., & such other work which is related to & considered a part thereof)	.55	.65		.06
10.28	.65	.75	.65	.05
10.28	.65	.75	.65	.05
6.28				
7.12	.60	.30		
7.52	.60	.30		
6.70	.60	.30		
10.50	.54	.56		.05
12.29	.67	.64		.05

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.03	1.24	1.36		
DECISION NO. N79-3013 - Mod. #2 (44 FR 36661 - June 22, 1979) Atlantic County, New Jersey Change: IRONWORKERS Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).	1.24	1.36		

DECISION #OK79-4074-Mod. #2
(44 FR 45664 - August 3, 1979)
Oklahoma, Cleveland, Caddo,
Canadian, Kingfisher, Logan,
Lincoln, McClain, Grady,
Seminole & Pottawomie Cos.,
Oklahoma

CHANGE:

CARPENTERS (ZONE I)

Carpenters
Power saw operator
Millwrights-Piledrivermen
CARPENTERS (ZONE II)

Carpenters
Millwrights-Piledrivermen
Power saw operator
CARPENTERS (ZONE III)

Carpenters
CARPENTERS (ZONE IV)

Carpenters
Millwrights-Piledrivermen
CARPENTERS (ZONE V)

Carpenters
LABORERS:

ZONE I
Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

Group I

Group II

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
\$ 9.30	.55	.50	.05		
9.55	.55	.50	.05		
10.60	.55	.80	.09		
10.35	.55	.80	.09		
10.60	.55	.80	.09		
11.25	.55	.80	.09		
9.20	.55	.35			
10.025	.55	.35			
7.25					
8.15	.25	.40			
8.40	.25	.40			
6.80	.25	.40			
7.05	.25	.40			
6.95	.25	.40			
7.25	.25	.40			
6.65	.25	.40			
6.90	.25	.40			
12.55	.70	.50	.12		
12.05	.70	.50	.12		
11.55	.70	.50	.12		
11.30	.70	.50	.12		
12.05	.70	.50	.12		
10.80	.70	.50	.12		
10.55	.70	.50	.12		
9.55	.70	.50	.12		
12.20	.60	.88	.05		
12.79	.75	1.05	.08		

SHEET METAL WORKERS

SPRINKLER FITTERS

DECISION NO. OK79-4074 - Mod. #2

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII

Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist - when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with a frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimeter; farmer tractor-with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screened operator; concrete pump; form grader; screening plant; will point pump operator; signal man on large wharves when and if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII

Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); wilding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer operator; fuelman; truck crane oiler driver or crane oiler; conveyor operator-single-continuous belt bulk handling; asphalt lay machine back end man

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (ii)).

DECISION NO. TX79-4005 - MOD. #8 (44 FR 1675 - January 5, 1979) Bee, Kleberg & Nueces Counties, Texas	Fringe Benefits Payments			Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	
OMIT: Plumbers & steamfitters	\$ 8.565	.335	.35	.035
ADD: Plumbers & pipefitters	11.09	.45	.35	.04
DECISION NO. TX79-4036 - MOD. #4 (44 FR 48594 - August 17, 1979) Galveston & Harris Counties Texas				
CHANGE: Painters: East Harris County: Group 1 Group 2 Group 3 Group 4 Group 5 Group 6	13.33 13.685 13.425 13.58 13.725 13.99			
DECISION NO. TX79-4051 - MOD. #5 (44 FR 26535 - May 4, 1979) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas				
CHANGE: Asbestos workers Bricklayers & stonemasons: Zone 2 Zone 3 Carpenters: Zone 2 - Carpenters Millwrights Glaziers	11.36 11.49 11.49 11.15 12.07 10.13	.70 .45 .45 .60 .60 .40	.96 .50 .50 .45 .55	.03 .07 .04 .07 .07 .025

MODIFICATION PAGE 7

MODIFICATION PAGE 8

DECISION NO. TX79-4051 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vocation		
Ironworkers - Zone 1	\$10.53	.55	1.15			.07
Labors:						
Zone 2 - Group 1	6.86	.30	.40			.02
Group 2	7.01	.30	.40			.02
Group 3	7.11	.30	.40			.02
Group 4	7.26	.30	.40			.04
Lathers	11.58					
Marble, tile & terrazzo workers:						
Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos.	10.47		.30			
Painters:						
Zone 1 - Group 1	10.255	.55	.60			.07
Group 2	10.505	.55	.60			.07
Group 3	10.63	.55	.60			.07
Group 4	10.33	.55	.60			.07
Zone 2 - Group 1	11.215		.20			.12
Group 2	11.465		.20			.12
Group 3	12.465					
Roofers:						
Zone 1 - Group 1	9.905					
Group 2	9.755					
Group 3	9.855					.05
Group 4	9.705					.05
Zone 2 - Group 1	11.14	.50	.84			.135
Group 2	11.26					.09
Group 3	10.39	.40	.40			.03
Sheet metal workers-Zone 1						
Zone 2	10.22	.65	.90			
Soft floor layers	10.62	.65	.90			
Power Equipment Operators:						
Zone 1 - Group 2	10.02	.65	1.00			.10
Group 3	10.42	.65	1.00			.10
Zone 2 - Group 2						
Group 3						

DECISION NO. TX79-4051 - MOD. #2 (44 FR 57632 - October 5, 1979)	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vocation		
Bexar County, Texas						
CHANGE:						
Elevator constructors:	\$11.21	1.045	.82	4%+a+b		.035
Mechanics	70%JR	1.045	.82	4%+a+b		.035
Helpers (Prob.)	50%JR		.55			.10
Plumbers & pipefitters	12.74	.60	.55			.09
Sheet metal workers	11.93	1%+.45	.06			

MODIFICATION PAGE 9

DECISION NO. 79-VA-3049 - MOD. #1 (44 FR 65313 - November 9, 1979)	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vocation		
Counties of Accomack, Greensville, Isle of Wight, James City, Northampton, Southampton, Surry, Sussex, York and the Cities of Emporia, Franklin, Suffolk, and Williamsburg, Virginia						
OMIT: PILEDRIVER LEADSMEN	\$4.50					
DECISION NO. 79-VA-3051 - MOD. #1 (44 FR 65315 - November 9, 1979)						
Counties of Caroline, Essex, Gloucester, King, George, King & Queen, King William Lancaster, Mathews, Middlesex, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland, and the Independent City of Fredericksburg, Virginia						
OMIT: IRONWORKER, REINFORCING HELPER	\$ 3.75					

SUPERSEDES DECISION

STATE: Alabama
 COUNTY: *See below
 DECISION NUMBER: AL79-1140
 DATE: Date of Publication
 SUPERSEDES Decision No.: AL79-1043 dated March 9, 1979 in 44 FR-13213
 DESCRIPTION OF WORK: Building Construction Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

COUNTIES: Jefferson, Shelby, St. Clair & Walker	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vocation		
Asbestos workers	12.46	.55	.80			.05
Boilermakers	9.95	1.05	1.05			.02
Bricklayers:						
Caulkers; pointiers;	10.35	.40	.50			.13
Cleaners; stonemasons	9.25	.40	.50			.13
Carpenters:						
Carpenters, soft floor layers	10.24	.60	.40			.07
Millwrights	11.25					.07
Piledrivers	10.44	.60	.40			.10
Cement masons	9.65					
Electricians:						
Cable splicers	12.05	.55	3%+.40			.48
Elevator constructors	12.30	.55	3%+.40			.48
Glaziers	10.56	.895	.69	a+b		.03
Ironworkers	9.88	.50	.50			.01
Lathers	11.60	.60	.82			.06
Marble setters	9.73		.10			.01
Painters:	9.55		.50			
Brush (Commercial)	10.80		.70			
Spray; Structural steel	11.30		.70			
Paperhangers	10.95		.70			
Plasterers	9.80					
Plumbers and pipefitters	11.45	.60	.65			.10
Roofers	8.90	.58	.20			.09
Sheet metal workers	10.80	.79	1.07			.10
Sprinkler fitters	11.94	.75	1.05			.08
Terrazzo workers; Tile setters	10.30		.50			
Tile, Marble, Terrazzo finishers	7.50					

AL79-1140 (Cont'd)

Basic Hourly Rates	Fringe Benefits Payments		
	H & W	Pensions	Education and/or Appr. Tr.
Truck Drivers: Up to but not including 1 1/2 tons			
1 1/2 to but not including 3 tons	.40		
3 tons to but not including 5 tons	.40		
5 tons and over including special equipment	.40		
Heavy Duty - off the road trucks	.40		
Welders, rigger, riveters - receive rate prescribed for craft performing operation to which welders, riggers, and riveters are incidental.	.40		

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- a. 6 paid holidays: A through F.
- b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

Basic Hourly Rates	Fringe Benefits Payments		
	H & W	Pensions	Education and/or Appr. Tr.
LABORERS:			
GROUP A	.40	.45	.03
GROUP B	.40	.45	.03
GROUP C	.40	.45	.03
GROUP D	.40	.45	.03
GROUP E	.40	.45	.03
GROUP F	.40	.45	.03
GROUP G	.40	.45	.03
GROUP H	.40	.45	.03
GROUP I	.40	.45	.03
GROUP J	.40	.45	.03
GROUP K	.40	.45	.03

GROUP A Air or electrical tool operators and asphalt rakers

GROUP B Vibrator operators, chain saw operators, operators of mechanical equipment which replaces wheelbarrows or buggies, power mowers, mortar mixers, pipe layers, concrete and clay and muckers

GROUP C Plasterers' tenders and hod carriers

GROUP D Mason tenders, building laborers

GROUP E Burners on demolition, wagon drill operators and tunnel laborers

GROUP F Powderman

GROUP G Caisson-driller (10'Dia)

GROUP H Tunnel miner

GROUP I Pneumatic concrete gun operator and nozzle man

GROUP J Chuck tender

GROUP K Oxagon operator

AL79-1140 (cont'd)

Basic Hourly Rates	Fringe Benefits Payments		
	H & W	Pensions	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:			
GROUP A	10.04	.30	.10
GROUP B	9.51	.30	.10
GROUP C	8.44	.30	.10
GROUP D	10.74	.30	.10
GROUP E	10.03	.30	.10
GROUP F	8.57	.30	.10

GROUP A Asphalt plant, boom tractor, bulldozer, cableways, core driller, compressors (2 or more), crane-derrick-dragline, dinky locomotive, dredges, fork lift, front end loader, gradall, heavy duty mechanic, hoist (1 drum or more), mixers, push tractor, scrapers, shovels, trenching machine, (and all similar equipment), winch trucks, motor graders, concrete pump, piledriver, rotary drill

GROUP B Air compressor (over 125), asphalt spreaders, blade graders (pull type), boat operator, conveyor (2 or more up to 4), crawler tractor, distributors, (bituminous surface), farm tractors, finishing machine, pumps over 4 inches, rollers, welding machine (4 or more)

GROUP C Air compressor (125 & under), oilers-firemen, conveyor (1) tended by oiler), pumps (under 4 inches), welding machines (3 or under)

GROUP D ON STEEL ERECTION: Crane, dragline, derricks, hoist, piledrivers winch truck, fork lift, tower cranes, climbing cranes, cherry picker, mechanics, locomotives, tug boat

GROUP E Tractors, welding machine, gas or diesel driven welding machine (4 or more), air compressors over 125 (2 or less), power generating units (gas or diesel)

GROUP F Gas or diesel driven welding machine (3 or less), air compressor 125 and under (2 or less), oiler, fireman, small boat

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

STATE: Alabama
DECISION NO.: AL79-1142
SUPERSEDES Decision No.: AL79-1046 dated March 16, 1979 in 44 PR-16305
DESCRIPTION OF WORK: Building construction projects (does not include single family homes and apartments up to and including 4 stories)

SUPERSEDES DECISION

COUNTIES: *See below
DATE: Date of Publication

Basic Hourly Rates	Fringe Benefits Payments		
	H & W	Pensions	Education and/or Appr. Tr.
Asbestos workers	12.46	.80	.05
Bricklayers:			
Bricklayers, Marble masons, Stonemasons, Pointers, Cleaners, Caulkers	11.00		
Carpenters:			
Carpenters, & Soft Floor layers	8.60	.35	.03
Millwrights	9.24	.35	.03
Piledrivermen	9.00	.35	.03
Cement masons	10.25		
Electricians:			
Electricians, linemen	11.30	.50	1 1/2
Cable splicers	11.55	.50	1 1/2
Groundmen	10.05	.50	1 1/2
Elevator Constructors	10.56	.895	.03
Ironworkers:			
Ornamental, reinforcing, structural	9.805	.70	.08
Laborers (Lawrence County):			
Laborers, mason tenders, plasterers' tenders	5.90	.45	
Air tool operators (jack-hammer, vibrator, mortar mixers, pipelayers	6.10	.45	
Laborers (Limestone & Morgan Counties):			
Laborers, mason tenders	5.55	.50	
Air tool operator (jack-hammer, vibrator), mortar mixer	5.80	.50	
Plasterers & Troweling machine operator	10.50		
Plumbers, pipefitters, steamfitters:			
Lawrence Co. (Eastern portion of Co., north from intersection of State Rt. 33 Rt. 20 to Wheeler Lake including Moulton & Wren excluding Dankhead National Park), Limestone Co. & Morgan Co.	11.50	.60	.15

CLASSIFICATION DEFINITIONS (CONTD.)

POWER EQUIPMENT OPERATORS (ZONE I-GROUP 1 CONTD.)

conveyor, large (not self-propelled) hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-tough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers, jack-hammers and barco equipment); elevating grader; engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist, concrete and brick (brick cages on concrete skips operating in or on tower; towmobile, or similar equipment); hoist, stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-green); mixer-mobile, mucking machine, pipe cleaning machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or ready-mix-job site; plant, heating-job-site; plant-mixing-job-site; plant, power generating-job site; pumps, two self-powered, over 2" through 6" pumps, electric submersible, one through three, over 4" quad-track; roller, asphalt, top or subgrade; scoop tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine, tunnel boring machine; vibrating machine, automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine; mechanic on job site; mixer, paving.

Group II - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor, air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level, curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 kw or any number developing over 30 kw; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixer with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self-powered, automatic controller over 2" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck; scissor lift (used for hoisting); curb finishing machine.

CLASSIFICATION DEFINITIONS (CONTD.)

POWER EQUIPMENT OPERATORS (CONTD.)

Group III - Boat operator-outboard motor (job-site); conveyor (such as con-vay-it), regardless of how used; oiler; sweeper, floor.

Group IV - (a)Air pressure; oiler engineer operating under ten pounds. (b)Air pressure, oiler engineer operating over ten pounds. (c)Air pressure engineer operating under ten pounds. (d)Air pressure engineer operating over ten pounds. (e)Crane-pile driving and extracting; crane using rock socket tool; dragline-7 cu. yds. & over; shovel, power-7 cu. yds. and over, crane, climbing (such as linden), derrick, diesel, gas or electric hoisting material and erecting steel 150' or more above ground, hoist, three or more drums; scoop, tandem; tractor, tandem crawler. Crane, with boom (including jib) over 100' from pin to pin (add 1¢ per foot to maximum of 1.00) above basic rate for cranes.

Work in tunnel or tunnel shaft, 50¢ above base rate.

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ROOFERS:						
Composition; slate & tile	\$11.55	.82	.60			.03
Kettlemen	9.35	.82	.60			.03
SHEET METAL WORKERS	11.94	.56+3%	.76	.96		.04
SOFT FLOOR LAYERS	8.74	.58	.35	.50		.14
SPRINKLER FITTERS	11.81	.75	1.05			.12
TERRAZZO WORKERS	12.75					
TILE SETTERS	10.98	.85	1.205			.04
TILE SETTERS HELPERS	8.58	.325	.40			
TRUCK DRIVERS:						
Truck or trailers of a water level capacity of 11.99 cu. yds. or less						
fork lift trucks, job site ambulances, pick-up trucks, flat bed trucks	6.99	d	e	f&g		
Truck or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids						
cu. yds. including euclids speedace & similar equipment of same capacity	7.19	d	e	f&g		
Truck or trailers of a water level of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom equipment of same capacity	7.29	d	e	f&g		

FOOTNOTES: d-Employer contribution of \$12.50 per week; e-Employer contribution of \$12.00 per week; f-Paid Holidays; New Years' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving Day, Christmas Day; g-Paid vacation of 3 days for 600 hours of service in any one contract year, 4 days paid vacation for 800 hours of service in any one contract year, 5 days paid vacation for 1,000 hours of service in any one contract year.

WELDERS - receive rate prescribed for craft performing operation to which is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii)).

STATE: New York

SUPERSHEDMAS DECISION

COUNTIES: Albany, Rensselaer, Saratoga and Schoharie
DATE: Date of Publication
DECISION NO. NY79-3040
Supersedes Decision No. NY79-3016 dated July 6, 1979 in 44 FR-39922

DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	\$12.67	.95	.41			.02
BOILERMAKERS	11.80	.95	10%			.02
BRICKLAYERS, CEMENT MASONS, MARBLE MASONS, PLASTERERS, POINTERS, CAULKERS AND CLEANERS	10.90	.70	.75			.03
BRICKLAYERS, CEMENT MASONS MARBLE MASONS, PLASTERERS, POINTERS, CAULKERS AND CLEANERS:						
(Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use)	7.81	.70	.75			.03
CARPENTERS:						
Saratoga County (twps. of Day, Hadley, Edinburg, Corinth and Moreau):						
Carpenters & soft floor layers	10.70	.55	.90	a		.005
Millwrights	10.95	.55	.90	a		.005
Piledrivers	10.85	.55	.90	a		.025
Heavy and Highway Albany County, Rensselaer County, Saratoga County (remainder of County), & Schoenectady County:	10.40	.55	.90			
Carpenters, Drywall Installers & Soft Floor Laver	11.03	.70	.85			.02
Millwrights	11.53	.70	.85			.02
Piledrivers	11.70	1.50	1.78	.91		.04
Heavy and Highway Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure	10.30	.70	.85	b		.025

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
CARPENTERS (CONTD.): which is intended for predominantly residential use					
CEMENT MASONS: Heavy and Highway	\$7.88	.85		.02	
DIVERS	10.00	1.00	1.03	.05	
DIVER TENDERS	14.82	1.78	1.03	.05	
ELECTRICIANS: Albany County (Cohoes and Watervliet)	11.43	1.78			
Albany County (remainder of County)	12.80	38+.70	a	.05	
Rensselaer County (Schodack, Rensselaer, East Greenbush, Nassau and Stephentown)	12.90	38+.60	c	.03	
Rensselaer County (remainder of County)	12.90	38+.60	c	.03	
Saratoga County (Gansevoort, Mt. McGregor, Schuylerville, Victory Mills, Wayville, Stillwater, Mechanicville and Waterford)	12.80	38+.70	a	.05	
Saratoga County (remainder of County)	11.60	38+.20	a	.03	
Schenectady County	11.60	38+.20	a	.03	
ELEVATOR CONSTRUCTORS	10.77	.56	d+e	.025	
HELPERS	7.54	.56	d+e	.025	
ELEVATOR CONSTRUCTORS	5.385				
HELPERS (Probationary)	8.66	.25		.01	
GLAZIERS					
IRONWORKERS: Structural, Ornamental, Reinforcing, Machinery Mover, Fence Erector, Rigger, Rodman and Stone Derrickman	11.10	1.25		.08	
Sheeters	11.35	1.25		.08	
Sheeters, Buckler-up	11.225	1.25		.08	
Rehabilitation work on residential structures over 4 stories defined to include demolition					

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
IRONWORKERS (CONTD.): alteration and repair on any existing structure which is intended for predominantly residential use)	\$7.58	1.04		.04	
LATHERS	10.46	.30		.01	
LATHERS (Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use)	7.59	.30		.01	
LEAD BURNERS	10.75	.25	d	.01	
MARBLE TILE AND TERRAZZO WORKERS	10.40	.75			
PAINTERS: Saratoga County (Twps. of Day, Hadley, Corinth, Morneau, Gansevoort and Mt. McGregor):					
Brush	9.20	.40		.35	
Window Jack, Structural Steel, Swing Scaffold, Bosun Chair and Bridge Spray, Sandblasting and Waterblasting	9.40	.40		.35	
Albany County, Rensselaer County, Saratoga County (remainder of County), Schenectady County:					
Brush	10.28	.35		.35	
Structural Steel & Bridge Swing Scaffold, Bosun Chair, Water Towers, Window Jacks, Flagpoles	11.03	.35		.35	
Spray Gun Application & Sandblasting	10.78	.35		.35	
PLUMBERS & STEAMFITTERS: Albany County (Green Island Watervliet and Latham), Rensselaer County (Northern	12.13	.35		.35	

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
PLUMBERS & STEAMFITTERS (CONTD.): half), Saratoga County (Twps. of Halfmoon & Stillwater): Building, Heavy & Highway Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use)	\$10.90	.60	1.00	.04	
Saratoga County (Twps. of Clifton Park, Galway, Milton & Atomic Projects at Malta and West Milton), Schenectady County	8.175	.60	1.00	.04	
Saratoga County (remainder of County), Albany County (remainder of County), Rensselaer County (southern half), Saratoga County (remainder of County):	12.20	.85	1.05	.10	
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	12.30	.80	1.02	.05	
ROOFERS: Roofers	9.07	.80	1.02	.05	
Pitch and Asbestos	11.30	1.37	.40	.04	
SHEET METAL WORKERS: Rehabilitation work on residential structures over 4 stories defined to include demolition	11.80	1.37	.40	.04	
	11.87	1.00	1.32	.07	

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
SHEET METAL WORKERS (CONTD.): alteration and repair on any existing structures which is intended for predominantly residential use	\$7.47	38+.90	h	.05	
SPRINKLER FITTERS	13.29	1.05		.08	
TRUCK DRIVERS, BUILDING: Straight, winch, transit mix on job site, road oilers, dump, panel, pick-up, water and fuel trucks on site (including nozzle)	9.37	.81	i	.12	
Eucled or similar equipment	9.56	.81	i	.12	
Lowboy or lowboy trailers	9.70	.81	i	.12	
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.					
FOOTNOTES: a. Holidays: Thanksgiving Day provided employee reports for work the day after the holiday. b. Holidays: Labor Day and 4th of July. c. Holiday: E, provided the employee works the day after the holiday, 3 hrs. before X-Mas and New Year's Eve. d. Holidays: A thru F, Day after Thanksgiving. e. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit. g. Employer contributes \$4.00 per day to a Vacation Fund. h. 2 hours off with pay on the first Tuesday after the first Monday of November provided they are working on a job beyond 50 miles from the shop. i. One week vacation after on year's work; 2 weeks after 5 years.					

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Electrical Overhead and Underground Distribution Work:					
Lineman & Technicians	\$10.50	1.00	38+.75	a	3½
Cable splicers	13.70	1.00	38+.75	a	3½
Groundman Digging Machine Operator and Groundman Dynamite	9.45	1.00	38+.75	a	3½
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor-trailer unit)	8.40	1.00	38+.75	a	3½
Groundman Truck Driver, Driver Mechanic, Groundman	7.825	1.00	38+.75	a	3½
All Overhead Transmission Line Work and Lighting for Athletic Fields:					
Lineman and Technicians	11.85	1.00	38+.75	a	3½
Groundman Digging Machine Operator, Ground Dynamite	10.665	1.00	38+.75	a	3½
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor-trailer unit)	9.48	1.00	38+.75	a	3½
Groundman Truck Driver, Driver Mechanic, Groundman	8.8875	1.00	38+.75	a	3½
All Pipe Type Cable Installations:					
Lineman and Groundman Equipment Operator	12.45	1.00	38+.75	a	3½
Cable splicer	13.695	1.00	38+.75	a	3½
Groundman Truck Driver, Groundman	9.3375	1.00	38+.75	a	3½
Sub-station, switching structures (when not part of the line), traffic signals, street lighting and electrical, telephone or CATV commercial work:					

LINE CONSTRUCTION (CONTD.):	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Lineman and Technicians	\$12.45	1.00	38+.75	a	3½
Cable splicers	13.695	1.00	38+.75	a	3½
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor-trailer unit)	9.96	1.00	38+.75	a	3½
Groundman Truck Driver, Driver-Mechanic, Groundman Dynamite	9.3375	1.00	38+.75	a	3½
Groundman Digging Machine Operator	11.205	1.00	38+.75	a	3½
Telephone and other Communication Systems, Both Overhead and Underground:					
Lineman & Installer Repair men	8.34	.40	38+.75	a	1½
Splicers	8.89	.40	38+.75	a	1½
Groundman Digging Machine Operator	7.73	.40	38+.75	a	1½
Groundman Truck Driver	5.72	.40	38+.75	a	1½
Groundman Dynamite	6.82	.40	38+.75	a	1½
Groundman Dynamite	6.60	.40	38+.75	a	1½

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, Washington's Birthday, Good Friday and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and the day after the holiday.

Albany County (Cities of Cohoes and Watervliet)
Saratoga County (Twp. of Halfmoon and Stillwater)
Rensselaer County (Twp. of Berlin, Sand Lake, Poestenkill, Brunswick, Petersburg, Schaghticoke, Pittstown, Hoosick and Grafton)

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS A	\$8.29	1.00	1.10	a	.10
CLASS B	8.49	1.00	1.10	a	.10
CLASS C	8.69	1.00	1.10	a	.10
CLASS D	8.89	1.00	1.10	a	.10
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

FOOTNOTE:

a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS A

Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B

Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibratory, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C

All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D

Blasters, form setter, stone or granite curb setters.

Albany County (entire County except Cities of Cohoes and Watervliet), Rensselaer County (Twp. of North Greenbush, East Greenbush, Schodack, Nassau and Stephentown)

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS A	\$8.39	.90	1.10	a	.10
CLASS B	8.59	.90	1.10	a	.10
CLASS C	8.79	.90	1.10	a	.10
CLASS D	8.99	.90	1.10	a	.10
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

FOOTNOTE:

a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS A

Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B

Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibratory, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphragm), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C

All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D

Blasters, form setter, stone or granite curb setters.

Saratoga (Twp. of Day, Hadley, Edinburg, Corinth, Moreau, Wilton, Providence, Greenfield, Northumberland, Galway, Milton, Charlton, Saratoga Springs, Malta, Ballston and Clifton Park) Schenectady County

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS A	8.64	.80	1.00	a	.05
CLASS B	8.84	.80	1.00	a	.05
CLASS C	9.04	.80	1.00	a	.05
CLASS D	9.24	.80	1.00	a	.05
PAID HOLIDAYS:					
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS A

Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B

Bull float, chain saw, concrete aggregate, bin, concrete boot-man, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1 1/2" and single diaphragm), nozzle (asphalt, gunnits, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C

All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt taker, powderman.

CLASS D

Blasters, form setter, stone or granite curb setters.

Albany County: North to 1st Ave. in Watervliet, West on 1st Ave. (South side) to Lincoln Ave.; North on Lincoln Ave. (West side) to Watervliet-Shaker Rd. (Route 155, south side) to Junction of Route 9; North on route 9 (West side) to Crescent Bridge and Mohawk River.
Rensselaer County: Twp. of North Greenbush, East Greenbush, Schodack, Nassau, Stephentown and Rensselaer City.

LABORERS: Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP I	\$6.57	.90	1.10		.12
GROUP II	6.695	.90	1.10		.12
GROUP III	6.71	.90	1.10		.12
GROUP IV	6.75	.90	1.10		.12
GROUP V	6.785	.90	1.10		.12
GROUP VI	6.77	.90	1.10		.12
GROUP VII	6.95	.90	1.10		.12
LABORERS, BUILDING:					
GROUP I	9.47	.90	1.10		.12
GROUP II	9.62	.90	1.10		.12
GROUP III	9.645	.90	1.10		.12
GROUP IV	9.695	.90	1.10		.12
GROUP V	9.745	.90	1.10		.12
GROUP VI	9.725	.90	1.10		.12
GROUP VII	9.945	.90	1.10		.12

Albany County: The west side of the Hudson River, extending westerly along the north side of 1st Street (Watervliet), to one-half mile of Route 9 to Shaker Rd. to Route 9 northerly to the north line of Albany County.

Rensselaer County: Twp. of Berlin, Sand Lake, Postenkill, Schodack, Pittstown, Hoosick, Brunswick, Grafton and Petersburg. Saratoga County: Beginning southerly at the east side of Route 9, running northerly along

all of the Twp. of Stillwater, continuing along the east shore of Saratoga Lake to the Saratoga City Line, easterly of Saratoga City Line taking in all of the Twp. of Schuylerville. This includes all towns, cities and villages in for said counties.

LABORERS: Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:

LABORERS, BUILDING:	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP I	\$6.62	.95	1.00		.12
GROUP II	6.745	.95	1.00		.12
GROUP III	6.76	.95	1.00		.12
GROUP IV	6.80	.95	1.00		.12
GROUP V	6.835	.95	1.00		.12
GROUP VI	6.82	.95	1.00		.12
GROUP VII	7.00	.95	1.00		.12
LABORERS, BUILDING:					
GROUP I	9.37	1.00	1.10		.12
GROUP II	9.52	1.00	1.10		.12
GROUP III	9.545	1.00	1.10		.12
GROUP IV	9.595	1.00	1.10		.12
GROUP V	9.645	1.00	1.10		.12
GROUP VI	9.625	1.00	1.10		.12
GROUP VII	9.845	1.00	1.10		.12

Saratoga County: Twp. of Day, Hadley, Edinburg, Corinth, Moreau, South Glen Falls, Providence, Greenfield, Wilton, Northumberland, Galway, Milton, Saratoga Springs, Charlton, Ballston, Malta and Clifton Park.
Schenectady County

LABORERS: Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:

LABORERS, BUILDING:	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP I	6.82	.80	1.00		.07
GROUP II	6.945	.80	1.00		.07
GROUP III	6.96	.80	1.00		.07
GROUP IV	7.00	.80	1.00		.07
GROUP V	7.035	.80	1.00		.07
GROUP VI	7.12	.80	1.00		.07
GROUP VII	7.20	.80	1.00		.07
LABORERS, BUILDING:					
GROUP I	9.72	.80	1.00		.07
GROUP II	9.87	.80	1.00		.07
GROUP III	9.895	.80	1.00		.07
GROUP IV	9.945	.80	1.00		.07
GROUP V	9.995	.80	1.00		.07
GROUP VI	9.97	.80	1.00		.07
GROUP VII	10.195	.80	1.00		.07

LABORERS DEFINITIONS (RESIDENTIAL REHABILITATION)
ALL AREAS

GROUP I
Laborers

GROUP II
Pipelayers (2 man team), mortar mixers (hand or machine), jack-hammer operator, well pointing, concrete vibrators, all air or gas driven tools, hod carriers, power driven buggies.

GROUP III

Form setter (curb)

GROUP IV

Wagon drill operator

GROUP V

Acetylene burners

GROUP VI

Demolition

GROUP VII

Blasters

LABORERS DEFINITIONS (BUILDING CONSTRUCTION)

ALL AREAS

GROUP I

Laborers

GROUP II

Pipelayers (2 man team), mortar mixers (hand or machine); jack-hammer operator, well pointing, concrete vibrators, power driven buggies.

GROUP III

Form setter (curb)

GROUP IV

Wagon drill operator

GROUP V

Acetylene burners

GROUP VI

Demolition

GROUP VII

Blasters

POWER EQUIPMENT OPERATORS:
HEAVY & HIGHWAY
CONSTRUCTION

GROUP I	\$11.58
GROUP II	11.19
GROUP III	10.11
GROUP IV	9.15

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTES:

a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

GROUP I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated), (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader(4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt type loader, truck crane, tunnel shovel.

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted, boring machine, cage-hoist, central mix plant (non-automated and all concrete batch-ing plants), cherry picker (5 tons capacity and under), comp-ressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders, locomotive maintenance/engineer/grease/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

Basic Hourly Rates	Fringe Benefits Payments				Education end/or Appr. Tr.
	H & W	Pensions	Vocation		
\$11.58	1.05	.85	a		.15
11.19	1.05	.85	a		.15
10.11	1.05	.85	a		.15
9.15	1.05	.85	a		.15

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION (CONTD.)

GROUP III - Asphalt curb and gutter machines, blower for burning brush, chipping machine and chip spreader, compressors: 4 not exceeding 2,000 c.f.m. combined capacity, 3 or less with more than 1,200 c.f.m. but not to exceed 2,000 c.f.m., compressor (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type or combination) concrete curing machines, conveyor drill core, drill well, electric pump used in conjunction with well point systems, farm tractor with accessories, fine grade machine hammers-hydraulic-self-propelled, hydraulic rock expander or similar type machine, hydraulic pump, motorized hydraulic pin puller and seeders, post hole digger and post driver, roller (grade and fill), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler, C.M.I. and similar type concrete spreaders, cement bin operator, compressors: 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors: (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type of combination), concrete mixer (16S and under), concrete saw self-propelled, fireman, form tamper, mulching machine, oiler, power boom, power heaterman, revinius widener, steam cleaner, tractor.

POWER EQUIPMENT OPERATORS,
BUILDING CONSTRUCTION:
Albany County, Rensselaer
County, Saratoga County &
Schenectady County.

GROUP I	\$11.03
GROUP II	11.10
GROUP III	11.24
GROUP IV	11.46
GROUP V	11.84
GROUP VI	12.02
GROUP VII	12.15

Basic Hourly Rates	Fringe Benefits Payments				Education end/or Appr. Tr.
	H & W	Pensions	Vocation		
\$11.03	1.05	.85	a		.15
11.10	1.05	.85	a		.15
11.24	1.05	.85	a		.15
11.46	1.05	.85	a		.15
11.84	1.05	.85	a		.15
12.02	1.05	.85	a		.15
12.15	1.05	.85	a		.15

POWER EQUIPMENT OPERATORS
(BUILDING CONSTRUCTION):

GROUP I

Oilcrs

GROUP II

Firemen and heavy duty greasers, all boilers and steam generators.

GROUP III

Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines, well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltercrete power pac (beltercrete system), electric submersible pump 4" and over.

GROUP IV

Dinky locomotives, Baber Greene loaders, loaders and conveyors, tractor, scoomobiles, bulldozers, road roller, form fine graders, power brooms and sweeper.

GROUP V

Black top spreaders, black top roller, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well driller (one drum), econonobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum).

GROUP VI

LeTourneau graders or scrapers, trenching machines, push cart.

GROUP VII

Tractor road pavers, cranes, power road graders, shovels, back-hoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CHB Vibrotamp or similar, Murphy type diesel generator-beltercrete system, side boons, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirries, tower cranes, cable-ways, hydraulic cranes, power hoisting (2 drum and over), mucking machine.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D- Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

POWER EQUIPMENT OPERATORS (CONT'D.):
(BUILDING CONSTRUCTION)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:					
POWER EQUIPMENT OPERATORS: Albany County, Rensselaer County, Saratoga County & Schenectady County:					
GROUP I	\$7.40	.95	1.05	a	.15
GROUP II	7.45	.95	1.05	a	.15
GROUP III	7.55	.95	1.05	a	.15
GROUP IV	7.71	.95	1.05	a	.15
GROUP V	7.98	.95	1.05	a	.15
GROUP VI	8.10	.95	1.05	a	.15
GROUP VII	8.26	.95	1.05	a	.15

POWER EQUIPMENT OPERATORS
(BUILDING CONSTRUCTION)

- GROUP I**
Oilers
- GROUP II**
Firemen and heavy duty greasers, all boilers and steam generators.
- GROUP III**
Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines, well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over.
- GROUP IV**
Dinky locomotives; Baber Greene loaders, loaders and conveyors, tractor, scoommobiles, bulldozers, road roller, form fine graders, power brooms and sweeper.
- GROUP V**
Black top spreaders, black top roller, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well driller (one drum), econmobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum).

- GROUP VI**
Lefournneau graders or scrapers, trenching machines, push cart.
- GROUP VII**
Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CUB Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirles, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

TRUCK DRIVERS: HEAVY AND
HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS 1	\$9.14	.95	.80	a	
CLASS 2	9.19	.95	.80	a	
CLASS 3	9.24	.95	.80	a	
CLASS 4	9.39	.95	.80	a	
CLASS 5	9.54	.95	.80	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

CLASS 1
TRUCK DRIVER: HEAVY AND HIGHWAY CONSTRUCTION

Pick-ups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters and receivers, greasers, truck tiremen.

CLASS 2
Tandems, batch trucks mechanics.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back dump, twin engine equipment and double hitched equipment where not self loaded.

COUNTIES: Tulsa, Creek, Craig, Ottawa, Delaware, Mayes and Rogers

DECISION NO. OK79-4097
SUPERSEDES DECISION NO. OK78-4055 dated June 9, 1978 in 43FR 25270
DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$12.60	.55	.85		.015
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-STONEMASONS: Tulsa, Delaware, Ottawa, Craig and Rogers Counties	11.34	.70	.40	.33	.06
Mayes County	11.70	.60	.40		.05
CARPENTERS:					
Area I	9.68	.45	.75		.07
Area II	9.62	.50	.40		
MILLWRIGHTS-PILEDRIWMEN:					
Area I	9.98	.45	.75		.07
Area II	9.87	.50	.40		
CARPENTERS-MILLWRIGHTS-PILEDRIWMEN AREA DEFINITIONS					
AREA I - Tulsa, Creek, Craig, Rogers and Mayes Counties					
AREA II - Delaware and Ottawa Counties					
CEMENT MASONS:					
Cement Masons	10.22		.40		.16
Power tool operator	10.47		.40		.16
ELECTRICIANS:					
Electricians	12.15	.59	38+.58		.07
Cable splicers	12.40	.59	38+.58		.07
ELEVATOR CONSTRUCTORS	10.81	.545	.35	48+a+b	.02
ELEVATOR CONSTRUCTORS' HELPER	70&JR	.545	.35	48+a+b	.02
ELEVATOR CONSTRUCTORS' HELPER (Probationary 6 months)	50&JR				
GLAZIERS:					
Area I	10.49	.70	.30		.01
Area II	8.05			.25	
GLAZIERS AREA DEFINITIONS					
AREA I - Tulsa, Creek, Mayes, and Rogers Counties					
AREA II - Craig, Delaware and Ottawa Counties					
IRONWORKERS	11.30	.75	.65		.12
LABORERS:					
Group I	8.15	.25	.40		
Group II	8.45	.25	.40		
Group III	8.55	.25	.40		
Group IV	9.00	.25	.40		

DECISION NO. OK79-4097

Page 2

DECISION NO. OK79-4097

LABORERS CLASSIFICATION DEFINITIONS

GROUP I

All digging and dirt work, firing of salamanders and smudge pots; loading & unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning when the man is directly tenders; and common laborers

GROUP II

All machines tool operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathes, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher laborer; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar & plaster mixing machine, pump-crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale man on batch plants; all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle, signalmen and cutting torch operators in connection with laborers work; concrete grader

GROUP III

Wagon drill operator

GROUP IV

Powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments				Education and or Appr. Tr.
		H & W	Pensions	Vacation		
Lathers	10.15					.01
LINE CONSTRUCTION:						
Linenmen	10.60		3%			1/2%
Cable splicers	11.29		3%			1/2%
Hole digger operator	9.62		3%			1/2%
Heavy equipment operator (pole or cat equivalent)	9.62		3%			1/2%
Jackhammerman	7.93		3%			1/2%
Line truck (winch operator)	8.71		3%			1/2%
Powderman	9.62		3%			1/2%
Groundman	7.07		3%			1/2%
Truck driver (flat bed ton and half and under)	7.55		3%			1/2%

Page 3

	Basic Hourly Rates	Fringe Benefits Payments				Education and or Appr. Tr.
		H & W	Pensions	Vacation		
PAINTERS (Craig, Ottawa and Delaware Counties):						
Brush, roller, tapers and sprayers	\$ 7.92		.30			
Spray, steamclean, sand-blast & pot tenders	8.295		.30			
PAINTERS (Tulsa, Creek, Rogers & Mayes Counties):						
Brush	10.90		.40			.07
Highwork & stage	11.30		.40			.07
Spray and sandblasting	11.55		.40			.07
Hot or bituminous	12.20		.40			.07
Sheetrock handtools	10.90		.40			.07
Sheetrock power tools	11.30		.40			.07
PIPEFITTERS	12.67	.60	.75			.08
PLASTERERS	10.15		.75			.08
PLUMBERS	12.67	.60	.75			.08
POWER EQUIPMENT OPERATORS:						
GROUP I	12.55	.70	.50			.12
GROUP II	12.05	.70	.50			.12
GROUP III	11.55	.70	.50			.12
GROUP IV	11.30	.70	.50			.12
GROUP V	12.05	.70	.50			.12
GROUP VI	10.80	.70	.50			.12
GROUP VII	10.55	.70	.50			.12
GROUP VIII	9.55	.70	.50			.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 300' of boom or over (including jib)
 GROUP II - All crane type equipment with 100-200' of boom (including jib)
 GROUP III - All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more
 GROUP IV - Sideboom (booms 30' and over); Guy Derrick monorail; whirley; panel board batch plant op.; piledriver engine; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operation 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade)

DECISION NO. OK79-4097

Page 4

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VI

Fork lift (35' & over); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader op. of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

GROUP VII

Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift; bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with a frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulverizer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large wharves when & if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII
 Permanent elevator-building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. & under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer op.; fuelman; truck crane oiler driver or crane oiler; conveyor op.-single-continuous belt bulk handling; asphalt lay machine back end man;

	Basic Hourly Rates	Fringe Benefits Payments				Education and or Appr. Tr.
		H & W	Pensions	Vacation		
ROOFERS	\$10.40	.60	.25			.04
SHEET METAL WORKERS	12.06	.60	.66			.10
SOFT FLOOR LAYERS	7.71		.45	.81*		.03
*plus 6 paid holidays - New Years Day; Memorial Day; July 4th; Labor Day; Thanksgiving and Christmas Day						
SPRINKLER FITTERS	12.79	.75	1.05			.08
TERRAZZO WORKERS	10.97	.70	.40			
TERRAZZO WORKERS AND TILE						
LAYERS FINISHERS	9.01	.70				
TERRAZZO WORKERS' FLOOR						
MACHINE OPERATOR	9.14	.70				
TERRAZZO WORKERS' BASE						
MACHINE OPERATOR	9.38	.70				
TILE LAYERS	10.97	.70	.40			

DECISION NO. OK79-4097

Page 5

	Basic Hourly Rates	Fringe Benefits Payments				Education and or Appr. Tr.
		H & W	Pensions	Vacation		
TRUCK DRIVERS (DELAWARE CO.)						
Group I	\$ 7.55					
Group II	7.65					
Group III	7.75					
Group IV	7.70					
Group V	7.85					
TRUCK DRIVERS (TULSA, CREEK, CRAIG, MAYES AND ROGERS COUNTIES):						
Group I	8.83					
Group II	8.88					
Group III	8.98					
Group IV	8.98					
Group V	8.98					

TRUCK DRIVERS CLASSIFICATION DEFINITION (DELAWARE-COUNTY)

GROUP I - Pick-up, 1 1/2 tons or 2 1/2 yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses
 GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards
 GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers
 GROUP IV - Ready-mix concrete trucks up to but not including 3 yds.
 GROUP V - Ready-mix concrete trucks 3 yards and over

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (TULSA, CREEK, CRAIG, OTTAWA, MAYES AND ROGERS COUNTIES)

GROUP I - Truck drivers, including pick-up, 1 1/2 tons or 2 1/2 yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver.
 GROUP II - 3 tons or 4 yards up to but not including 4 tons or 6 yds. or 6 yards
 GROUP IV - Ready mix concrete truck
 GROUP V - tractor-trailer and similar equipment

FOOTNOTES:

a - 1st 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate.
 b - Paid Holidays - A through F
 PAID HOLIDAYS:
 A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day.

*Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (ii)).

DECISION NO. OK79-4098

STATE: OKLAHOMA
 COUNTY: Muskogee, Adair, Cherokee
 & Okmulgee

DECISION NO. OK79-4098
 SUPERSEDES Decision No. OK78-4056 dated June 9, 1978 in 43 FR 22273
 DESCRIPTION OF WORK: Building Projects (exclusion single family homes & apartments up to and including 4 stories), and heavy construction within the City of Muskogee

	Basic Hourly Rates	Fringe Benefits Payments			Education and or Appr. Tr.
		H & W	Pensions	Vacation	
Asbestos workers	\$12.20	.35	.75		.015
Boiler makers	10.55	.80	1.00		.02
BRICKLAYERS:					
Muskogee, Adair & Cherokee Counties	11.70	.60	.40		.05
Okmulgee County	11.25	.60	.40		.05
CARPENTERS (Area I)	9.53	.55	.75		.08
CARPENTERS (Area II)	8.35	.45	.75		.05
MILLWRIGHTS-PILEDRIVERS:					
Area I	10.03	.55	.75		.08
Area II	9.70	.45	.75		.05

CARPENTERS-MILLWRIGHTS-PILEDRIVERS AREA DEFINITIONS

AREA I - Muskogee, Adair and Cherokee Counties

AREA II - Okmulgee County

CEMENT MASONS (AREA I):

Cement masons

Power tool operator

CEMENT MASONS (AREA II):

Cement masons

Power tool operator

CEMENT MASONS & POWER TOOL OPERATORS AREA DEFINITIONS

AREA I - Adair, Cherokee, Muskogee and Southern portion of Okmulgee

Okmulgee Counties

AREA II - Northern portion of Okmulgee County

ELECTRICIANS:

Zone I - 20 mile radius from Post Office of City of Muskogee

Zone II - Area outside Zone I

Zone III - Okmulgee County

Electricians

Cable splicers

Electricians

Cable splicers

Electricians

Cable splicers

Electricians

Cable splicers

ELEVATOR CONSTRUCTORS

ELEVATOR CONSTRUCTORS WELDER

CLAYERS

IRONWORKERS

LABORERS CLASSIFICATION DEFINITIONS

GROUP I

All digging and dirt work, firing of salamanders and smudge pots; loading & unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning when the man is directly tenders; and common laborers

GROUP II

All machine tool operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher laborer; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar & plaster mixing machine, pump-crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale man on batch plants; all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle; signalmen and cutting torch operators in connection with laborers work; concrete grader

GROUP III

Wagon drill operator

GROUP IV

Powdermen or blaster

DECISION NO. OK79-4098

Page 3

	Basic Hourly Rates	Fringe Benefits Payments			Education and or Appr. Tr.
		H & W	Pensions	Vacation	
Line Construction					
Lineman	10.60		3%		1/2%
Cable splicers	11.29		3%		1/2%
Hole digger operator	9.62		3%		1/2%
Heavy equipment operator (pole or cat equivalent)	9.62		3%		1/2%
Jack hammerman	7.93		3%		1/2%
Line truck (winch operator)	8.71		3%		1/2%
Powderman	9.62		3%		1/2%
Groundman	7.07		3%		1/2%
Truck driver (flat bed ton and half and under)	7.55		3%		1/2%
Marble, Tile & Terrazzo Workers (Okmulgee):	10.97	.70	.40		.10
Painters	10.90		.40		.10
Brush	11.30		.40		.10
Highwork and stage	11.55		.40		.10
Spray and sandblasting	12.20		.40		.10
Hot or bituminous	10.90		.40		.10
Sheetrock hand tools	11.55		.40		.10
Sheetrock power tools	9.70		.40		.07
Painters (Adair, Muskogee & Cherokee Counties):	10.30		.40		.07
Brush painting & roller	10.55		.40		.07
Highwork & Stage	11.20		.40		.07
Sandblasting & Spray	12.80	.60	1.10		.20
Hot or Bituminous	10.15				.12
Plumbers & Pipefitters	12.55	.70	.50		.12
Plasterers	12.05	.70	.50		.12
POWER EQUIPMENT OPERATORS:					
GROUP I	12.55	.70	.50		.12
GROUP II	12.05	.70	.50		.12
GROUP III	11.55	.70	.50		.12
GROUP IV	11.30	.70	.50		.12
GROUP V	12.05	.70	.50		.12
GROUP VI	10.80	.70	.50		.12
GROUP VII	10.55	.70	.50		.12
GROUP VIII	9.55	.70	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 300' of boom or over (including jib)

GROUP II - All crane type equipment with 100-200' of boom (including jib)

GROUP III - All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more

GROUP IV - Sideboom (booms 30' and over); Guy Derrick

Page 2

LABORERS (AREA I)
 Muskogee, Adair and Cherokee Counties

GROUP I

GROUP II

GROUP III

GROUP IV

LABORERS (AREA II)

GROUP I

GROUP II

GROUP III

GROUP IV

LABORERS (AREA II)

GROUP I

GROUP II

GROUP III

GROUP IV

Page 4

DECISION NO. OK79-4098

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP V

Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant op.; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade)

GROUP VI

Fork lift (35' & over); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader op. of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

GROUP VII

Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with a frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heater under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large whirleys when & if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII

Permanent elevator-building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. & under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer op.; fuelman; truck crane oiler driver or crane oiler; conveyor op.-single-continuous belt bulk handling; asphalt lay machine back end man

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocation	
ROOFERS	\$10.40	.60	.25		.04
SHEET METAL WORKERS	12.06	.60	.66		.10
SPRINKLER FITTERS	12.79	.75	1.05		.08
TERRAZZO WORKERS FINISHER	9.01	.70			
TERRAZZO WORKERS FLOOR OP.	9.14	.70			
TERRAZZO WORKERS BASE	9.38	.70			
MACHINE OPERATORS:					
TRUCK DRIVERS:					
GROUP I	8.03				
GROUP II	8.13				
GROUP III	8.23				
GROUP IV	8.18				
GROUP V	8.33				

TRUCK DRIVERS CLASSIFICATION DEFINITION

- GROUP I
pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.
- GROUP II
3 tons or 4 yards and up to but not including 4 tons or 6 yds.
- GROUP III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers
- GROUP IV
Ready-mix concrete trucks up to but not including 3 yards
- GROUP V
Ready-mix concrete trucks 3 yards and over
- WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.
- FOOTNOTES:
a--1st 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate.
b--Paid Holidays - A through G
- PAID HOLIDAYS:
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1)).

SUPERSEDED DECISION

STATE: Oklahoma
DECISION NO. OK79-4100
COURTY: McIntosh
DATE: Date of Publication
SUPERSEDES DECISION NO. OK78-4058 dated June 16, 1978 in 43 FR 26258
DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocation	
ASBESTOS WORKERS	\$12.60	.55	.85		.015
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-STONEMASONS	10.25	.45	.40		.05
CARPENTERS (Northern half of county).					
Carpenters	9.53	.55	.75		.08
Millwrights-Piledriversmen	10.03	.55	.75		.08
CARPENTERS (Southern half of county).					
Carpenters	8.00	.45	.40		
Millwrights-Piledriversmen	8.80	.45	.40		
CEMENT MASON	9.90				
ELECTRICIANS:					
ZONE I - A 20 mile radius from Post Office of City Muskogee					
ZONE II - Area outside Zone I					
Electricians	11.70	.60	3%		½
Cable splicers	12.10	.60	3%		½
ZONE II					
Electricians	12.10	.60	3%		½
Cable splicers	12.95	.60	3%		½
ELEVATOR CONSTRUCTORS	10.81	.545	.35	4½+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70½JR	.545	.35	4½+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (Probationary 6 mos)	50½JR	.70	.30		.01
GLAZIERS	10.49	.75	.65		.12
IRONWORKERS	11.30				
LABORERS:					
GROUP I	7.35	.25	.40		
GROUP II	7.65	.25	.40		
GROUP III	7.85	.25	.40		

LABORERS CLASSIFICATION DEFINITIONS

- GROUP I
All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures, cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tending ladders, masons or plasterers; water boys, when used, carpenter tenders; and common laborers.
- GROUP II
All machine tool operators, all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to four inches and slip form jacks; men erecting scaffolds and directly tending ladders, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-concrete machines, and gunnite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle; signal men and cutting torch operators in connection with laborers' work; concrete grader.
- GROUP III
Wagon drill operator and powdermen or blaster.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocation	
LATHERS	10.15				.01
LINE CONSTRUCTION					
Linemen	10.60		3%		½
Cable splicers	11.29		3%		½
Hole digger operator	9.62		3%		½
Heavy equipment operator (or Pole cat equivalent)	9.62		3%		½
Line truck driver (winch operator)	8.71		3%		½
Jack hammerman	7.93		3%		½
Powderman	9.62		3%		½
Groundman	7.07		3%		½
Truck driver (flat bed, ton and half and under)	7.55		3%		½

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocation	
PAINTERS:					
Brush & roller	\$ 9.70		.40	.20	.07
High work & stage	10.30		.40	.20	.07
Sandblasting	10.55		.40	.20	.07
Spray painting	10.55		.40	.20	.07
Hot or bituminous	11.20		.40	.20	.07
Sheet rock power tools	10.30		.40	.20	.07
POWER EQUIPMENT OPERATORS:					
GROUP I	12.55	.70	.50		.12
GROUP II	12.05	.70	.50		.12
GROUP III	11.55	.70	.50		.12
GROUP IV	11.30	.70	.50		.12
GROUP V	12.05	.70	.50		.12
GROUP VI	10.80	.70	.50		.12
GROUP VII	10.55	.70	.50		.12
GROUP VIII	9.55	.70	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

- GROUP I
All crane type equipment with 300' of boom or over (including jib)
- GROUP II
All crane type equipment with 100-200' of boom (including jib)
- GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu.yd. or more
- GROUP IV
Sideboom (booms 30' and over); Guy Derrick
- GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant op.; piledriver engineer; dragline; shovel; clamshell; backhoe (¾ yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade)
- GROUP VI
Fork lift (35' & over); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader op. of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor; multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

U M I 7 9 3 2 0 Z 4 4 V

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer; bering machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum, welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with a frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulverizer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large whirleys when & if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII
Permanent elevator-building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. & under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer op.; fuelman; truck crane oiler driver or crane oiler; conveyor op.-single-continuous belt bulk handling; asphalt lay machine back end man;

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
PLUMBERS-STEAMFITTERS	12.80	.60	1.10		.20
ROOFERS	10.40	.60	.25		.04
SHEET METAL WORKERS	12.06	.60	.66		.10
SPRINKLER FITTERS	12.79	.75	1.05		.08
TERRAZZO WORKERS	10.97	.70	.40		
TERRAZZO WORKERS FINISHERS	9.01	.70			
TERRAZZO WORKERS FLOOR MACHINE OPERATORS	9.14	.70			
TERRAZZO WORKERS BASE TILE LAYERS	9.38	.70			
TERRAZZO WORKERS	10.97	.70	.40		
TRUCK DRIVERS:					
Group I	8.03				
Group II	8.13				
Group III	8.23				
Group IV	8.18				
Group V	8.33				

[FR Doc. 79-35877 Filed 11-21-79; 845 am]
BILLING CODE 4510-27-C

TRUCK DRIVERS CLASSIFICATION DEFINITION

GROUP I
Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.

GROUP II
3 tons or 4 yards and up to but not including 4 tons or 6 yards

GROUP III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers

GROUP IV
Ready-mix concrete trucks up to but not including 3 yards

GROUP V
Ready-mix concrete trucks 3 yards and over

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. -6%; over 5 yrs. - 8% of basic hourly rates
b - Paid Holidays

PAID HOLIDAYS:

A - New Years' Day; B - Memorial Day; C - Independence Day;
D - Labor Day; E- Thanksgiving Day; F - Day after Thanksgiving Day; G - Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (ii)).

federal register

Friday
November 23, 1979

Part III

Department of
Energy

Proposed Procurement Regulations

DEPARTMENT OF ENERGY

41 CFR Parts 9-1, 9-3, 9-16, 9-50

Proposed Procurement Regulations

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The proposed rule would revise the Department of Energy Procurement Regulations (DOE-PR) to incorporate the requirements of Pub. L. 95-507, Amendments to the Small Business Act and Small Business Investment Act of 1951, the Office of Federal Procurement Policy's (OFFP) April 20, 1979 implementation of Pub. L. 95-507 (44 FR 23610) as modified on June 18, 1979 (44 FR 35068), and FPR Temporary Regulation 50 (44 FR 38748). Other minor changes are also made.

DATE: Comments must be received on or before December 24, 1979.

ADDRESS: Comments should be addressed to Mr. Ed Lovett, U.S. Department of Energy, Procurement and Contracts Management Directorate, Procurement Policy Branch, PR-211, Room 308RB, 400 1st St N.W., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Edward Lovett, Procurement Policy Branch (PR-211), Policy and Procedures Division, Procurement and Contracts Management Directorate, Department of Energy, 400 1st Street NW., Washington, D.C. 20585, Room 308RB, Telephone (202) 376-1759.

Lester Schiefelbein, Jr., AGC for Procurement, Office of General Counsel, Department of Energy, Washington, DC 29585, Telephone (292) 252-6902.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Statutory and Regulatory Requirements.

I. Background

Under Section 644 of the Department of Energy Organization Act (hereinafter referred to as the Act) (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations, as he may deem necessary or appropriate, to effectuate the functions vested in him. Accordingly, the DOE-PR was promulgated with an effective date of June 30, 1979 (see 44 FR 34434). At the time of publication, the staffs of OFFP and the Federal Procurement Regulations were in the process of implementing Pub. L. 95-507. This necessitated reserving those subparts and sections of the DOE-PR dealing with Pub. L. 95-507. Those subparts and sections, together with other revisions of a minor nature, are now proposed for inclusion in the DOE-PR. It should also be noted that OFFP

and Department of Energy are conducting a pilot test of the application of subcontracting incentives under Pub. L. 95-507.

II. Statutory and Regulatory Requirements

To the extent that Section 501 of the Department of Energy Organization Act (42 U.S.C. 7191) relating to the opportunity for oral presentation on proposed rules is applicable to the proposed rule, and paragraph 9 of DOE Order 2030.1 relating to a regulatory analysis, our preliminary view is that no substantial issue of fact or law exists and that this proposed rule is unlikely to have substantial impact on the Nation's economy, or large numbers of individuals or businesses.

This preliminary conclusion is based on the fact that the Department was previously operating under Pub. L. 95-507, and this proposed rule would merely revise and formalize those existing procedures to be consistent with OFFP's guidance, and FPR Temporary Regulation 50.

A final determination of whether there should be an opportunity for the presentation of oral views or if a regulatory analysis should be prepared will be made after an evaluation of the comments on the proposed regulation, and consideration of the views of those requesting an opportunity for oral presentation or preparation of a regulatory analysis.

Note.—The Department has determined that the regulation will not affect the quality of the environment, and that the requirements of Section 7 (c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, do not apply.

For the Department of Energy.
Dated: November 9, 1979.

Hilary J. Rauch,

Acting Director, Procurement and Contracts Management Directorate.

It is proposed to amend 41 CFR Chapter 9 as follows:

PART 9-1—GENERAL

1. By adding a new Subpart 9-1.7 to read as follows:

Subpart 9-1.7—Small Business Concerns

- Sec.
- 9-1.700 General.
 - 9-1.703.1 Certification.
 - 9-1.704 Agency program direction and operation.
 - 9-1.704-1 DOE headquarters.
 - 9-1.704-2 Other procuring activities.
 - 9-1.704-3 Small business/small disadvantaged business specialist.
 - 9-1.705-3 Screening of procurements.
 - 9-1.705-7 Performance of contract by SBA.
 - 9-1.706 Procurement set-aside for small business.

Sec.

- 9-1.706-1 General.
- 9-1.706-5 Total set-asides.
- 9-1.710 Subcontracting with small business concerns.
- 9-1.710-3 Required clauses.
- 9-1.710-5 Subcontracting certification.
- 9-1.750 Access to procurement information.
- 9-1.751 Small business set-aside—recurring procurements.

Subpart 9-1.7—Small Business Concerns

§9-1.700 General.

This subpart sets forth the policies for the utilization of small business concerns in DOE procurements. The policies and procedures prescribed in FPR 1-1.7 and this subpart apply to all DOE procurements.

§9-1.703.1 Certification.

The following certifications are to be used in procurements exceeding \$10,000.

(a) The offeror () contractor () certifies that he is () is not () a small business concern as defined in accordance with Section 3 of the Small Business Act (15 U.S.C. 632).

(b) The offeror () contractor () certifies that he is a small business (as set forth in (a) above) and is () is not () owned and controlled by socially and economically disadvantaged individuals. Such a firm is defined as one—

(1) Which is at least 51 per centum owned by one or more such individuals or, in the case of a publicly owned business, at least 51 per centum of the stock is owned by such individuals.

(2) Whose management and daily business operations are controlled by one or more such individuals, and

(3) Which certifies concerning said ownership and control in accordance with paragraph (c) of this section.

(c) The offeror () contractor () certifies that he is () is not () a minority individual(s) in accordance with paragraph (c)(1) of this section or that he is () is not () socially and economically disadvantaged in accordance with paragraph (c)(2) or (c)(3) of this section. Social and economically disadvantaged individuals are defined as:

(1) United States citizens who are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans or other specified minorities;

(2) Any other individual found to be disadvantaged pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637); or

(3) Any other individual defined as socially and economically disadvantaged, for purposes relating to other sections of the Small Business Act.

Failure to execute all parts of the representation will be deemed a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award.

§ 9-1.704 Agency program direction and operation.

§ 9-1.704-1 DOE headquarters.

The Director of Small and Disadvantaged Business Utilization, Headquarters, is responsible for the administration of the DOE small and small disadvantaged business programs. This includes responsibility for developing, implementing, executing, and managing these programs, providing advice on these programs, and representing DOE before other Government agencies on matters primarily affecting small and small disadvantaged businesses.

§ 9-1.704-2 Other procuring activities.

(a) The Head of the Procuring Activity or designee, with the advice and consent of the Director of Small and Disadvantaged Business Utilization (SDBU), shall appoint a small business/small disadvantaged business (SB/DB) specialist.

(b) The specialist will serve as SB/DB coordinator for the activity to provide a central point of contact to which small business and small disadvantaged business and Labor Surplus Area (LSA) concerns may direct inquiries concerning participation in the procurement program. The Director, SDBU, Headquarters will provide the SB/DB specialist with advice and technical assistance, as necessary. The SB/DB specialist shall also perform such other functions as specifically directed by this Subpart and any additional functions required to implement the SB/DB programs. A copy of each appointment and termination of appointment of SB/DB specialists shall be forwarded to the Director, SDBU, Headquarters.

§ 9-1.704-3 Small business/small disadvantaged business specialist.

The SB/DB specialist shall perform the following duties:

(a) Manage a program designed to locate capable SB/DB sources for current and future procurements, through SBA or other methods.

(b) Describe to SB/DB concerns, program areas which may offer potential contracting opportunities.

(c) Prior to issuance of solicitations in excess of \$10,000, determine that SB/DB/LSA concerns will receive adequate consideration, including initiation of set-asides or 8(a) contracting procedures,

where appropriate, in accordance with 9-1.705-3.

(d) Review procurement programs for possible breakout of items suitable for procurement from SB/DB concerns.

(e) Advise SB/DB concerns with respect to the financial assistance available under existing law and regulation and assure that requests by SB/DB concerns for proper assistance are not treated as a handicap in securing the award of contracts.

(f) Assure that participation of SB/DB/LSA concerns is accurately reported.

(g) Make available to SBA copies of solicitations when so requested.

(h) Act as liaison between the contracting officer and SBA field offices and representatives in connection with set-asides, certificates of competency, and other matters in which the SB/DB program may be involved. Procurements estimated to cost \$100,000, or more, in which Certificates of Competency are requested, shall be reported to the Director, SDBU, Headquarters, or designee. The report shall contain a description of the requirement, a list of the bidders or proposers, and the contract prices specified in the bids or proposals submitted and the reason for the proposed rejection of an otherwise acceptable small business bid or proposal.

(i) In cooperation with the contracting officer and technical personnel, seek and develop information on the technical competence of small business concerns for research and development contracts. Regularly bring to the attention of the contracting officers and technical personnel descriptive data, brochures, and other information on small and small disadvantaged business concerns that are apparently competent to perform research and development work in fields in which DOE is interested.

(j) Where appropriate, participate on Contractor Procurement System Reviews (CPSR) to review socioeconomic performance. Review and maintain copies of CPSR reports on major DOE prime contracts.

§ 9-1.705-3 Screening of procurements.

(a) *Individual set-asides.* The Department has established a comprehensive review and screening process encompassing procurement actions (excluding those specified) for small, small disadvantaged business concerns and labor surplus area concerns (see § 9-16.804).

(b) *Initiation of Class Set-Asides.* (1) Class Set-Asides. By agreement with SBA, DOE has established a class set-aside for procurements of construction

whose estimated value is from \$10,000 through \$2 million including new construction and repair and alteration of structures. Lists of other class set-asides shall be maintained by procuring offices, including Government-owned, contractor-operated sites, and updated at least annually.

(2) In establishing and reviewing small business class set-asides, consideration shall be given to contracting with SBA pursuant to FPR 1-1.705-7 as well as the set-aside priorities in FPR 1-1.708-1. List of class set-asides maintained at procuring activities shall identify corresponding priorities.

§ 9-1.705-7 Performance of contract by SBA.

(a) Full consideration will be given to contracting with SBA in order to foster or assist in the establishment or growth of SBA designated socially and economically disadvantaged small business concerns.

(b) The Small Business Administration has delegated to its field offices authority to negotiate contracts and subcontracts under Section 8(a) of the Small Business Act. Heads of procuring activities or designees should assure full cooperation with SBA in efforts to place procurements with firms which are eligible for subcontract awards by SBA under Section 8(a). They shall take the necessary steps to:

(1) Invite appropriate SBA field representatives to identify needs for 8(a) contracts and to provide for cooperation and assistance on the part of DOE in verifying the availability or nonavailability of requirements, funding and other pertinent factors; and

(2) Propose any requirements which appear to offer potential opportunity for contracting with SBA under the authority of Section 8(a) of the Small Business Act, for consideration by appropriate SBA field representatives.

(3) Work out detailed arrangements for individual 8(a) contracts with SBA offices, consistent with FPR 1-1.712. Any problems relating to contracting with the Small Business Administration should be reported to the Director, SDBU, Headquarters.

(4) Once a product or service has been procured successfully from the SBA, all future requirements for the same or substantially the same product or service will be automatically reserved for procurement from SBA.

This procedure will be followed unless the Contracting Officer determines, for an individual procurement, that there is no reasonable expectation that the SBA will provide the Government a satisfactory product or service delivered within stated time requirements at a fair

and reasonable price. Permanent withdrawal of a product or service from this procedure must be concurred in by the SB/DB specialist. A list shall be maintained by the SB/DB specialist of recurring procurements subject to this subpart.

§ 9-1.706 Procurement set-aside for small business

§ 9-1.706-1 General.

(a) Procurements under \$10,000 awarded through small purchase procedures, are set-aside for small business. (See § 9-3.603-1)

(b) In addition to paragraph (a) of this section, Contracting Officers are authorized to seek set-asides for all susceptible procurements including architectural and engineering services, research, development, test and evaluation.

§ 9-1.706-5 Total set-asides.

It is DOE policy to use the preferred method of procurement known as "small business restricted advertising" for contracts involving total set-asides unless there are circumstances which make conventional negotiation necessary.

§ 9-1.710 Subcontracting with small business concerns.

(a) Procuring activities shall maintain lists of active prime contracts containing the clause entitled "Subcontracting Plan for Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

(b) SB/DB specialists shall monitor prime contractors' subcontracting programs and shall, insofar as practicable participate in on-site small business subcontracting reviews. In the event deficiencies are noted, SB/DB specialists shall recommend remedial action to the cognizant Contracting Officer.

§ 9-1.710-3 Required clauses.

(a) On April 20, 1979, the Office of Federal Procurement Policy (OFPP) issued, in the Federal Register (44 FR 23610), its implementation of Section 211 of Pub. L. 95-507. This issuance as modified on June 18, 1979, (44 FR 35068) contains various subcontracting provisions and guidance for their use. FPR Temporary Regulation 50 (44 FR 38478) requires the use of OFPP's clauses and procedures.

(b) In lieu of the clauses set forth in FPR 1-1.710-3(a) and 1-1.1310-2(a), the OFPP clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and

Controlled by Socially and Economically Disadvantaged Individuals" is to be used under the conditions specified in Part A of the April 20, 1979 issuance.

(c) In lieu of the clauses set forth in FPR 1-1.710-3(b) and 1-1.1310-2(b), the OFPP clauses relating to the requirements for small business and small disadvantaged business subcontracting plans are to be used under the conditions specified in Parts C and E of the April 20, 1979 issuance.

(d) DOE activities shall not utilize Part D, "Incentive Subcontracting Program," of OFPP's April 20, 1979, issuance without prior approval of the Senior Procurement Official, Headquarters or his designee.

(e) The following contract clause is to be included in formally advertised and negotiated procurements when there is a requirement for a small and small disadvantaged business subcontracting plan. Contracting Officers may modify this clause to specify the forms on which quarterly reports are to be submitted.

Subcontracting Plan for Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.

(a) The contractor agrees to comply in good faith with the Small and Small Disadvantaged Business Concerns Subcontracting Plan which is hereby incorporated in and made a part of this contract. In this connection, the contractor shall:

(1) Use his best efforts to attain such percentage goals as may be set forth in the plan.

(2) Designate an individual who will: (i) Maintain liaison with the Government on matters relating to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; (ii) monitor compliance with the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals"; and (iii) administer the contractor's plan.

(3) Provide adequate and timely consideration of the potentialities of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals in all "Make-or-buy" decisions.

(4) Assure that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals will, consistent with efficient performance of the contract, have the maximum practicable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of such concerns. Where the Contractor's lists of potential subcontractors which are small business and small business concerns owned and controlled by socially

and economically disadvantaged individuals are excessively long, reasonable effort shall be made to give all such concerns an opportunity to compete over a period of time.

(5) Maintain records showing: (i) Whether each prospective subcontractor is a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals; (ii) procedures which have been adopted to comply with the plan and the policies set forth in this clause; (iii) with respect to the letting of any subcontract (including purchase orders) exceeding \$10,000 information substantially as follows:

(A) Whether the award went to large business, small business, or small business owned and controlled by socially and economically disadvantaged individuals.

(B) Whether small business concerns or small business concerns owned and controlled by socially and economically disadvantaged individuals were solicited.

(C) The reason for nonsolicitation of small business concerns or small business concerns owned and controlled by socially and economically disadvantaged individuals if such was the case.

(D) The reason for failure of small business concerns or small business concerns owned and controlled by socially and economically disadvantaged individuals to receive the award if such was the case when such firms were solicited.

The records maintained in accordance with (5)(iii) above may be in such form as the contractor may determine, and the information shall be summarized quarterly and submitted by the purchasing department of each individual plant or division to the contractor's cognizant liaison officer for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. Such quarterly summaries will be considered to be management records only and need not be submitted routinely to the Government; however, records maintained pursuant to this clause will be kept available for review by the Government until the expiration of one year after the expiration of this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(6) Notify the Contracting Officer before soliciting bids, quotations, or proposals on any subcontract (including purchase orders) in excess of \$10,000 if: (i) no small business concern or small business concern owned and controlled by socially and economically disadvantaged individuals is to be solicited, and (ii) the Contracting Officer's consent to the subcontract (or ratification) is required by a "Subcontracts" clause in this contract. Such notification will state the contractor's reasons for nonsolicitation of small business and small business concerns owned and controlled by socially and economically disadvantaged individuals and will be given as early in the procurement cycle as possible so that the Contracting Officer may suggest potentially qualified small business concerns or small business concerns owned and controlled by socially and economically disadvantaged individuals. In no case will the procurement action be held up when to

do so would, in the Contractor's judgment, delay performance under the contract and the Contractor's notification shall specify that he is proceeding with the solicitation.

(7) Include the "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" in all subcontracts over \$10,000 which offer further subcontracting opportunities.

(8) Cooperate in any studies or surveys of the Contractor's subcontracting procedures and practices as may be required by the DOE or the Small Business Administration.

(9) Submit quarterly reports of subcontracting to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals on such forms as may be specified elsewhere in this contract.

(b) The Contractor agrees that failure to comply in good faith with the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals," or the terms of the subcontracting plan incorporated into the contract will be a material breach of the contract and the contract may be terminated in whole or, in part, for default.

(c) The contractor further agrees to insert in all subcontracts hereunder (except those with small business concerns) which contain the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals," which offer further subcontracting opportunities, and which may exceed \$1,000,000 in the case of a subcontract for the construction of any public facility or in excess of \$500,000 in the case of all other subcontracts, provisions which shall conform substantially to the language of this clause, including this paragraph (c), and to notify the Contracting Officer of the names of such subcontractors.

(d) The provisions of this clause shall not apply to small business concerns.

§ 9-1.710-5 Subcontracting Certification.

The following certification shall be used in all contracts and modifications exceeding \$500,000 or \$1,000,000 if solely for construction of a public facility which contain the "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

(a) The offeror () contractor () represents that the following conditions prevail which determine whether the firm shall be required to submit a subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals:

(1) He is () a small business as defined in accordance with Section 3 of the Small Business Act (15 U.S.C. 632);

(2) Subcontracting possibilities are not () offered with respect to this contract/modification;

(3) The contract/modification is not expected to exceed \$1,000,000 (if solely for construction of a public facility) or \$500,000 otherwise ().

(b) The offeror () contractor () represents that he is not () required to submit plans for subcontracting with small and small disadvantaged businesses because he has properly executed one or more of the above representations.

(c) The offeror/contractor certifies that he will submit a Subcontracting Plan in accordance with the terms and conditions specified unless exempted by paragraph (a) of this section, and that he will require it of all appropriate subcontractors.

§ 9-1.750 Access to Procurement Information.

For any contract (except those which will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico or which is for services which are personal in nature) to be let by the Department, any small business concern, upon its request, shall be provided:

(a) A copy of bid sets and specifications with respect to such contract;

(b) The name and telephone number of the Contracting Officer with respect to such contract; and

(c) Adequate citations to each major Federal law or Department rule with which such business concerns must comply in performing such contract.

§ 9-1.751 Small Business Set-Aside—Recurring Procurements.

Once a product or service has been procured successful on the basis of a total or partial small business set-aside, all future requirements for the same or substantially the same product or service will be automatically set aside for small business. This procedure will be followed unless the Contracting Officer determines, for an individual procurement, that there is no reasonable expectation that two or more small business concerns will submit acceptable offers to provide the Government a satisfactory product or service delivered within stated time requirements at a reasonable price. Permanent withdrawal of a product or service from this procedure must be concurred in the SB/DB specialist. A list shall be maintained by the SB/DB specialist of recurring procurements subject to this subpart.

2. By adding §§ 9-1.800, 9-1.804, and 9-1.805 and by revising § 9-1.807 to read as follows:

Subpart 9-1.8—Labor Surplus Area Concerns

§ 9-1.800 General.

(a) This subpart sets forth the policies for the utilization of surplus area (LSA) concerns in DOE procurements.

(b) Procurement actions shall be reviewed for potential labor surplus area set-aside consideration in accordance with § 9-1.705-3.

§ 9-1.804 Total Set-Asides.

It is DOE policy to use the preferred method of procurement known as "labor surplus area restricted advertising" for contracts involving total set-asides unless there are circumstances which make conventional negotiation necessary.

§ 9-1.805 Subcontracting with Labor Surplus Area Concerns.

(a) DOE encourages prime contractors to plan subcontracts, including purchase orders, with labor surplus area concerns. Heads of Procuring Activities or designees shall appoint SB/DB specialists under their jurisdiction to serve as liaison officers who will administer the labor surplus area program. (See § 9-1.704-3).

(b) Heads of Procuring Activities shall maintain lists of active prime contracts of \$500,000 or more which contain the Labor Surplus Area Subcontracting Program Clause in FPR 1-1.805-9(b). Lists shall contain:

(1) The title, address, and telephone number of the prime contractor's liaison office.

(2) Contract estimated value.

(3) Period of performance.

(4) Nature of the work to be performed.

(5) Contract number.

§ 9-1.807 Records and Reports.

Records and reports shall be as required by "A Guide to Preparation of DOE Quarterly Procurement and Financial Assistance Reports."

3. By adding a new subpart 9-1.13 to read as follows:

Subpart 9-1.13 Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.

Sec.

9-1.1300 Scope of subpart.

9-1.1310 Subcontracting with small disadvantaged business concerns.

Subpart 9-1.13—Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals**§ 9-1.1300 Scope of subpart.**

This subpart implements and supplements the policies applicable to the participation of Small Disadvantaged Business Concerns in Government procurement, at the prime and subcontract level, as set forth in FPR Subpart 1-1.13.

§ 9-1.1310 Subcontracting with small disadvantaged business concerns.

See § 9-1.710 for guidance relative to subcontracting plans.

PART 9-3 PROCUREMENT BY NEGOTIATION

4. By adding a new § 9-3.603-2 to read as follows:

§ 9-3.603-2 Data to support small purchases.

The manner of securing quotations and the nature and extent of documentation to be required for small purchases shall be determined by Heads of Procuring Activities, but should be limited to a minimum consistent with the objective of reducing the cost of handling small purchases. Normally, confirmation of purchase orders issued after the material has been received should not be required unless such confirmation is requested by the supplier. Documentation can be accomplished by the purchaser and receiver endorsing the invoice. Contracting Officers shall include in the contract file an appropriate notation when award of small purchases is made to other than a small business.

PART 9-16—PROCUREMENT FORMS

5. By revising § 9-16.804-4 to read as follows:

§ 9-16.804-4 Small business/labor surplus set-aside review.

(a) *Use of DOE Form 415.* Procurement request originators at the Headquarters and Field Activities shall initiate DOE Form 415, Small Business/Labor Surplus Set-Aside Review, with all procurement requests except:

- (1) Procurements of \$10,000 or less.
- (2) Basic research contracts with educational institutions.
- (3) Incremental funding, where there is no change in the scope of work.
- (4) Unsolicited proposals.
- (5) The exercise of options.

(b) *Preparation and Approval Procedures—(1) Responsibility for initiation of DOE Form 415.* All applicable procurement requests

originating from Headquarters organizations whether for procurement by Headquarters or Field Activities shall be accompanied by a completed DOE Form 415, initiated by Headquarters program officials. All applicable procurement requests originating from field organizations shall be accompanied by a DOE Form 415 initiated by the Field Activity program officials.

(2) *Responsibility for screening/endorsing procurement requests.* The Director, SDBU shall screen/endorse all applicable procurement requests originating from Headquarters organizations for feasibility of small business/small disadvantaged business/labor surplus area (SB/DB/LSA) procurement action which are accompanied by a DOE Form 415. The cognizant field SB/DB specialist shall screen/endorse all applicable procurement request which are accompanied by a DOE form 415.

(c) *Requirements.* (1) The contracting officer shall review the recommendations and findings by procurement originators and SB/DB specialists, and make determinations in accordance with FPR 1-1.706-1.

(2) If the contracting officer does not agree with the findings of the SB/DB specialist, the contracting officer shall notify the SB/DB specialist and promptly suspend procurement activity until a resolution of the disagreement is reached.

(3) After a review and endorsement of the findings and the form is signed and dated, the SB/DB specialist shall make the procurement documents available to the cognizant Small Business Administration procurement center representative (SBA/PCR).

(4) Upon award of the contract, one copy of the fully completed Form 415 shall be returned to the cognizant SB/DB specialist. In addition, when the award results from a small business set-aside, a copy of the abstract of bids, including the address and telephone number of the bidders, shall accompany the Form 415. In all other competitive actions, furnish the name, address and telephone number of the SB/DB firms that were in the competitive range.

PART 9-50—OPERATING AND ON-SITE SERVICE CONTRACTS

6. By adding a new § 9-50.104 to read as follows:

§ 9-50.104 Small Business and Small Disadvantaged Business Concerns. (FPR 1-1.7 and 1-1.13)

(a) The policies and procedures in the following regulations shall be applied to

procurement activities of operating and on-site service contractors.

FPR	DOE-FR
1-1.703-1	9-1.706-5
1-1.703-2	9-1.710
1-1.706-5	9-1.710-3
1-1.706-6	
1-1.710-1	
1-1.710-2	
1-1.712-2	

(b) Protests received by contractors regarding small business status or questions concerning small disadvantaged businesses shall be referred to the SBA through the DOE contracting officer.

(c) Procurement of construction between \$2,500 and \$2 million, including new construction, and repair and alteration of structures, shall be set aside on a class basis for small business concerns. When, in the judgment of the contractor, a particular procurement falling within these dollar limits is determined to be unsuitable for a small business set-aside notification to SBA shall be made through the DOE contracting officer. Unless SBA appeals the decision (See FPR 1-1.706-2), the contractor shall proceed to process the procurement on an unrestricted basis. Small business set-aside preferences should be considered for construction procurements in excess of \$2 million on a case-by-case basis, favoring such preferential participation of small business, whenever appropriate.

(d) Initiation of set-asides by contractors shall be made on a unilateral basis.

(e) Heads of Procuring Activities shall require operating and on-site service contractors to prepare quarterly reports on small business, small disadvantaged business, and contracts placed in labor surplus areas.

(f) To expand participation of small and small disadvantaged business sources in cost-type contractor procurement, Government owned plants and laboratories and other on-site service contractors shall publicize proposed actions of approximately \$100,000 and above in accordance with FPR 1-1.1003-7.

PART 9-1—GENERAL**§ 9-1.5407 [Amended]**

7. By amending § 9-1.5407 in paragraph (a) of the solicitation provision entitled "Organizational Conflicts of Interest Disclosure or Representation" by adding the following immediately after the word "advantage.": "The offeror may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other

divisions or sections of the organization and how that structure or system would avoid or mitigate such organizational conflict."

PART 9-3—PROCUREMENT BY NEGOTIATION

8. By revoking and reserving paragraph (a) of § 9-3.404-50.

§ 9-3.404-50 Lump-sum contract for architect-engineer services with reimbursement for certain costs.

(a) [Reserved]

PART 9-50—OPERATING AND ON-SITE SERVICE CONTRACTS**§ 9-50.303 [Amended].**

9. By amending paragraph (c)(1) of § 9-50.303 by adding the following immediately after the word "administrative.": "including environmental, safety, health and energy conservation program considerations."

10. By adding paragraph (c)(2)(iv) to § 9-50.304 to read as follows:

§ 9-50.304 Field recommendations to extend or compete operating contracts and on-site service contracts.

(c) * * *

(2) * * *

(iv) A separate appraisal shall be made of the contractor's performance in assuring consideration of environmental, safety, health and energy conservation in the operation of the facility and development of products.

§ 9-50.1002-1 [Amended]**§ 9-50.1003-1 [Amended]**

11. By amending §§ 9-50.1002-1 and 9-50.1003-1 by deleting "\$2,000" and substituting therefore "\$25,000."

[FR Doc. 79-38211 Filed 11-21-79, 8:45 am]

BILLING CODE 6450-01-M

Friday
November 23, 1979

Part IV

Department of
Energy

Economic Regulatory Administration

Applications for Assignment, Adjustment
and Other Agency Actions; Notice to
Aggrieved Persons

Registered
Federal Reporter

V
4
4

N
O

2
3

7
9

UMI

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 205

[Docket No. ERA-R-79-51]

Applications for Assignment, Adjustment and Other Agency Actions; Notice to Aggrieved Persons

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a proposed rule which would require applicants for assignments, adjustments and certain other agency action to give notice of their applications to aggrieved persons. **DATES:** Written comments by December 28, 1979 requests to speak by December 12, 1979, 4:30 p.m.; hearing date: December 20, 1979.

ADDRESSES: All comments to Public Hearing Management, Docket No. ERA-R-79-51, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. The hearing will be held in Room 2105, at the same location.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214-B, 2000 M Street NW., Washington, D.C. 20461, (202) 254-5201
William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 634-2170
William E. Caldwell (Regulations & Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254-8034
Sue D. Sheridan (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6754

SUPPLEMENTAL INFORMATION:

- I. Background.
- II. Amendments Proposed.
- III. Alternative Amendments.
- IV. Procedural Requirements.
- V. Written Comment Procedures.

I. Background

Part 205 of the Department of Energy Regulations (10 CFR Part 205) sets forth the administrative procedures and sanctions which govern proceedings before the Department of Energy. Subpart B establishes the procedures for filing applications for adjustments. Subpart C sets forth the procedures for filing applications for assignments. Subpart G establishes procedures for filing applications, petitions or requests pertaining to certain other proceedings provided for under the DOE regulations.

In their current form, Subparts B and C contain notice provisions which require DOE to give notice of pending applications to aggrieved persons. Subpart G currently contains no notice requirements. The proposed rule would amend Subparts B, C and G to require applicants for adjustments, assignments and certain other proceedings to give notice of their applications to aggrieved persons and to certify to the DOE that such notice has been served. While an application may be filed prior to such certification, the application will not be perfected until certification is made. By requiring applicants to give notice to aggrieved parties, DOE's handling of applications will be expedited. Furthermore, we believe applicants are in many cases in a better position than DOE to determine who aggrieved parties are. Therefore, adoption of the proposed rule can be expected to facilitate the DOE's handling of applications, and to ensure that notice is given to all aggrieved parties.

II. Amendments Proposed

Section 205.2 of the Department of Energy Regulations defines "aggrieved" as describing a person with an interest sought to be protected under the Federal Energy Administration Act (FEAA), the Emergency Petroleum Allocation Act (EPA), or Proclamation Number 3279, as amended, who is adversely affected by an order or interpretation issued by the DOE or a State Office. Section 205.23 of Subpart B, which governs applications for adjustments, requires the DOE to serve notice on any person readily identifiable by the DOE as one who will be aggrieved by the action requested. Section 205.33 of Subpart C contains a similar provision requiring DOE to notify readily identifiable persons who will be adversely affected by the requested assignment. Subpart G, which sets forth filing procedures for certain other applications, petitions, or requests under the DOE regulations contains no notice provisions.

The proposed rule would amend §§ 205.23 and 205.33 to require applicants for adjustments and assignments, rather than DOE, to notify aggrieved persons of pending applications (see discussion of relation between §§ 205.33 and 205.214 of Subpart Q, *infra*). The proposed rule would alter Subpart G by adding a notice provision requiring applicants in other proceedings before DOE which involve aggrieved persons to notify any aggrieved persons of the pending application. In each case, the notice provision set forth in the proposed rule would further require that the applicant inform such persons that they may

within 15 days following service of notice submit comments regarding the application to the ERA office in which the application was filed. The proposed rule would require the applicant to include with his application to the ERA a certification that the above notice requirements have been met, and to include therein the date on which notice was served, and the names and addresses of each person notified.

If an applicant determines that compliance with the notice requirement would be impracticable, the proposed rule would require the applicant to provide notice to those persons whom it is reasonable and practicable to notify, and to include with the application a description of the persons or class of persons to whom notice was not sent. Should an applicant determine that compliance with the notice provision is impracticable, the proposed rule would permit DOE to require the applicant to provide alternative notice, or to determine that the notice requirement is not impracticable, or to determine that notice should be published in the Federal Register. In addition, the proposed rule would permit DOE to serve notice on any other person that written comments will be accepted if filed within 15 days.

The rule would require that aggrieved persons who submit written comments to DOE send the applicant a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f). Such persons shall include with their comments to DOE a certification that they have notified the applicant. The proposed rule would allow DOE to notify other persons participating in the proceeding of comments received by aggrieved parties, and to provide an opportunity for such persons to respond.

This rule would also amend § 205.214 of Subpart Q, which establishes notice procedures governing both applications for assignments under the state set-aside system and applications for allocation assignments by new end-users. With respect to set-aside applications, § 205.214(a) allows State Offices to notify aggrieved persons. As currently written, § 205.214(b) provides that applications for allocation assignments by new end-users shall be governed by the notice requirements of § 205.33 of Subpart C. It could be overly burdensome in some instances to impose the proposed new notice requirements of Subpart C on small end-users who apply for assignments under Subpart Q.

Therefore, we propose to consolidate paragraphs (a) and (b) of § 205.214 and

permit a State Office to notify aggrieved persons as to both types of applications.

III. Alternative Amendments

This notice of proposed rulemaking sets forth two alternative provisions for determining the date on which service of notice on an aggrieved person is complete. The first alternative, set forth in Appendix A of this proposal, adopts the notice provisions of § 205.7(c) of Chapter I. In current form, § 205.7(c) provides that service by registered or certified mail is complete upon mailing.

Under the second alternative, set forth in Appendix B, service is complete upon receipt. This alternative avoids a problem attendant to the adoption of § 205.7(c), whereby service is complete upon mailing. Since it is likely that some persons to whom an applicant mails notice will receive notice several days later than persons on faster mail delivery routes, adoption of § 205.7(c) could result in a discrepancy between the amount of time available to various aggrieved persons for the submission of comments to DOE. In order to avoid that result, this proposal would amend § 205.7(c) by dividing it into two parts, §§ 205.7(c)(1) and 205.7(c)(2). Proposed paragraph (c)(1) would apply the current provisions of § 205.7(c) to all Subparts of Part 205 except Subparts B, C and G. Proposed paragraph (c)(2) would apply to Subparts B, C and G the presumption that service of notice on an aggrieved person is complete upon receipt, which would be presumed to occur on the tenth calendar day after mailing. Under this alternative, therefore, the fifteen (15) day period for submission of comments by an aggrieved person would run from the tenth through the twenty-fifth day after the date of mailing certified by the applicant.

In addition to these proposed alternatives, DOE is interested in receiving comments regarding the advisability of adopting a rule which would simply allow aggrieved persons to submit comments during a 25-day period following the date on which notice was mailed. Under this alternative, service would be deemed complete upon mailing.

IV. Procedural Requirements

A. Section 404 of the DOE Act. Pursuant to the requirements of Section 404(a) of the DOE Act, we have referred this proposed rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review this rule, the FERC has declined

to determine that it may significantly affect any of its functions.

B. Section 7 of the FEA Act. Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. section 787 *et seq.*, Pub. L. 93-275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of the notice was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the ERA.

C. National Environmental Policy Act. It has been determined in accordance with DOE's proposed guidelines for compliance with NEPA (44 FR 42136, July 18, 1979), that this proposed rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

D. Executive Order 12044. Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all proposed "significant" regulations for public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). The DOE procedures explain that regulations are "significant" unless they are not expected to affect important policy concerns or to engage much public interest.

The proposed rule requiring applicants to give notice to aggrieved parties is procedural in nature, and does not touch on important policy concerns. Since it affects only applicants requesting certain types of agency action, it is not likely to generate much public interest. We find, therefore, that the proposed rule is not "significant"

under DOE Order 2030 and therefore is not subject to E.O. 12044.

V. Written Comment and Public Hearing Procedures

A. You are invited to participate in this proceeding by submitting data, views, or arguments with respect to the matters contained in this notice. Comments should be submitted by December 28, 1979, to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Notice to Aggrieved Parties." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearing. 1. Procedure for Requests to Make Oral Presentation. If you have any interest in the matters discussed in the notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., e.s.t., on the date set forth in the "Dates" section of this notice. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.s.t., December 14, 1979. You will be required to submit one hundred copies of your statement to the address for submission of statements indicated in the "Addresses" section of this notice, before 4:30 p.m., e.s.t., on the day before the hearing.

2. Conduct of the hearing. We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. It will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., local time, on the day before the hearing. If you wish to have a question asked at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcript of the hearing from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. Section 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. Section 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. Section 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. Section 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, we propose to amend Part 205 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., November 13, 1979.

David J. Bardin,
Administrator, Economic Regulatory
Administration.

Appendix A—Proposed Amendatory Language

1. Section 205.23 is revised to read as follows:

§ 205.23 Notice.

(a) The applicant shall provide a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is

reasonably ascertainable by the applicant to be a person who will be aggrieved by the ERA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments within 15 days of service regarding the application to the ERA office with which the application is to be filed. Service shall be made in accordance with § 205.7 of this Subpart. The application filed with the ERA is not complete until the applicant certifies to the ERA that it has complied with the requirements of this paragraph. Such certification shall include the names and addresses of each person to whom a copy of the application was sent and the dates on which such notice was served.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those aggrieved persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the aggrieved persons of class or classes of aggrieved persons to whom notice was not sent, and the reasons why notice was not sent. The ERA may require the applicant to provide alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the Federal Register.

(c) The ERA shall serve notice on any other person readily identifiable by the ERA as one who will be aggrieved by the ERA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 15 days of service of such notice.

(d) Any person submitting written comments to the ERA with respect to an application filed under this subpart shall also send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. The person shall certify to the ERA that he has complied with the requirements of this paragraph. The ERA may notify other interested persons of such comments and ERA may provide an opportunity for such persons to respond.

2. Section 205.33 is revised to read as follows:

§ 205.33 Notice.

(a) The applicant shall provide a copy of the application and any subsequent

amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the applicant to be a person who will be aggrieved by the ERA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments within 15 days regarding the application to the ERA office with which the application is to be filed. Service shall be made in accordance with § 205.7 of this Subpart. The application filed with the ERA is not complete until the applicant certifies to the ERA that it has complied with the requirements of this paragraph. Such certification shall include the names and addresses of each person to whom a copy of the application was sent and the dates on which such notice was served.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those aggrieved persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the aggrieved persons or class or classes of aggrieved persons to whom notice was not sent. The ERA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the Federal Register.

(c) The ERA shall serve notice on any other person readily identifiable by the ERA as one who will be aggrieved by the ERA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 15 days of service of such notice.

(d) Any person submitting written comments to the ERA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. The person shall certify to the ERA that he has complied with the requirements of this paragraph. The ERA may notify other interested persons of such comments and ERA may provide an opportunity for such persons to respond.

§§ 205.93—205.97 Redesignated as §§ 205.94—205.98

3. Part 205 is amended by renumbering §§ 205.93—205.97 as §§ 205.94—205.98 respectively and by adding a new § 205.93 to read as follows:

§ 205.93 Notice.

(a) The applicant shall provide a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the applicant to be a person who will be aggrieved by the DOE action sought. In certain proceedings under this Subpart, there will be no potentially aggrieved persons. In such proceedings, the notice provisions of this Subsection shall not apply. Where notice is required, the copy of the application shall be accompanied by a statement that the person may submit comments within 15 days regarding the application to the DOE office with which the application is to be filed. Service shall be made in accordance with § 205.7 of this Subpart. In those proceedings under this Subpart which involve potentially aggrieved persons, the application filed with the DOE is not complete until the applicant certifies to the DOE that it has complied with the requirements of this paragraph. Such certification shall include the names and addresses of each person to whom a copy of the application was sent and the dates on which such notice was served.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those aggrieved persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent. The DOE may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the Federal Register.

(c) The DOE shall serve notice on any other person readily identifiable by the DOE as one who will be aggrieved by the DOE action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 15 days of service of such notice.

(d) Any person submitting written comments to the DOE with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. The person shall certify to the DOE that he has complied with the requirements of this paragraph. The DOE may notify other interested persons of such comments and provide an opportunity for such persons to respond.

4. Section 205.214 is revised to read as follows:

§ 205.214 Notice.

With regard to an application for a set-aside order or for an assignment order, the State Office may notify any person that it determines will be aggrieved by an order that comments regarding the application will be accepted.

Appendix B—Alternative Proposed Amendatory Language

Section 205.7 is amended by revising paragraph (c) to read as follows:

§ 205.7 Service.

(c)(1) Except for Subparts B, C and G of Part 205 of this chapter, service by registered mail or certified mail is complete upon mailing. Official United States Postal Service receipts from such registered or certified mailing shall constitute prima facie evidence of service.

(2) With regard to Subparts B, C and G of Part 205 of this chapter, service by registered, certified or regular U.S. mail shall be complete upon receipt. Receipt shall be presumed to occur on the tenth calendar day after mailing.

[FR Doc. 79-35653 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

V
4
4
N
0
2
2
3
7
9
UMI

Reader Aids

Federal Register
Vol. 44, No. 227
Friday, November 23, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

- 202-783-3238 Subscription orders (GPO)
- 202-275-3054 Subscription problems (GPO)
- "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
 - 202-523-5022 Washington, D.C.
 - 312-663-0884 Chicago, Ill.
 - 213-688-6694 Los Angeles, Calif.
- 202-523-3187 Scheduling of documents for publication
- 523-5240 Photo copies of documents appearing in the Federal Register
- 523-5237 Corrections
- 523-5215 Public Inspection Desk
- 523-5227 Finding Aids
- 523-5235 Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

- 523-3419
- 523-3517
- 523-5227 Finding Aids

Presidential Documents:

- 523-5233 Executive Orders and Proclamations
- 523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S.
- 5282 Statutes at Large, and Index
- 275-3030 Slip Law Orders (GPO)

Other Publications and Services:

- 523-5239 TTY for the Deaf
- 523-5230 U.S. Government Manual
- 523-3408 Automation
- 523-4534 Special Projects
- 523-3517 Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

62879-63076	1
63077-63508	2
63509-64058	5
64059-64396	6
64397-64780	7
64781-65024	8
65025-65378	9
65379-65580	13
65581-65728	14
65729-65958	15
65959-66174	16
66175-66562	19
66563-66778	20
66779-67070	21
67071-67342	23

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR	427	62879
485	64063	429
		431
3 CFR	722	65962
Executive Orders:	724	63081
12170	905	65962, 66779
12171	907	64838, 65963, 66780
Administrative Orders:	910	63081, 65049, 65963, 67075
Presidential Determinations:	959	63082, 65379
No. 80-1 of	971	65964, 66178
October 15, 1979	981	67075
No. 80-2 of	989	64397, 66574
October 23, 1979	1421	67077
No. 80-3 of	1423	67080
October 23, 1979	1427	67083, 67084
No. 80-4 of	1464	65965-65967
October 24, 1979	1701	64069
No. 80-5 of	1942	62880
November 13,	1962	64794
1979	1980	64797
No. 80-6 of	2024	65968
November 13,	3100	66179
1979		
Proclamations:		
3279 (Amended by		
Proc. 4702)	65581	
4698	63509	
4699	63511	
4700	63513	
4701	64781	
4702	65581	
4703	66563	
5 CFR		
177	65025	
213	63079, 64064-64067,	
	65025-65031, 65959-65961,	
	66567-66571	
293	65031	
297	65031	
302	66573	
315	63080, 66574	
338	66571	
351	65046	
733	63080	
1201	65048	
1206	65048	
1312	64783	
Proposed Rules:		
531	65077	
6 CFR		
705	64276, 66534, 67060	
706	64284, 66534, 67060	
707	66534	
7 CFR		
2	66177	
272	64386, 66574	
273	64067	
401	64786	
		427
		429
		64786, 66178
		65962
		63081
		65962, 66779
		64838, 65963, 66780
		63081, 65049, 65963,
		67075
		63082, 65379
		65964, 66178
		67075
		64397, 66574
		67077
		67080
		67083, 67084
		65965-65967
		64069
		62880
		64794
		64797
		65968
		66179
		Proposed Rules:
		Subtitle A
		Ch. I
		Ch. II
		Ch. III
		Ch. IV
		Ch. V
		Ch. VI
		Ch. VII
		Ch. IX
		Ch. X
		Ch. XI
		Ch. XII
		Ch. XIV
		Ch. XV
		Ch. XVI
		Ch. XVII
		Ch. XVIII
		Ch. XX
		Ch. XXIV
		Ch. XXV
		Ch. XXVI
		Ch. XXVII
		Ch. XXVIII
		Ch. XXIX
		210
		225
		235
		271
		272
		273
		274
		276
		277
		278
		318
		906
		910
		959

971.....	67131	318.....	65403
982.....	63547	381.....	65403
989.....	62901		
1001.....	65989	10 CFR	
1002.....	65989	0.....	62880
1004.....	65989	2.....	65049, 67088
1006.....	65989	20.....	63515
1007.....	65989	21.....	63515
1011.....	65989	50.....	66575
1012.....	65989	71.....	63083
1013.....	65989	73.....	63515, 65969, 67089
1030.....	65989	211.....	63515, 66183
1032.....	65989	212.....	65722, 66186
1033.....	65989	436.....	64776, 65700
1036.....	65989	450.....	63519, 64797
1040.....	65989	455.....	63519, 64797
1044.....	65989	456.....	64602
1046.....	65989	465.....	66780
1049.....	65594, 65989	1023.....	64270
1050.....	65989		
1062.....	65989	Proposed Rules:	
1064.....	65989	Ch. II.....	63108, 64094, 65274
1065.....	65989	Ch. III.....	63108, 64094, 65274
1068.....	65989	Ch. X.....	63108, 64094, 65274
1071.....	65989	51.....	65598
1073.....	65989	205.....	67338
1075.....	65989	221.....	63109
1076.....	65989	470.....	64839
1079.....	65989, 67132		
1094.....	65989	11 CFR	
1096.....	65989	107.....	63036
1097.....	65989	114.....	63036
1098.....	65989	9008.....	63036
1099.....	65989	9032.....	63756
1102.....	65989	9033.....	63756
1104.....	65989	9034.....	63756
1106.....	65989	9035.....	63756
1108.....	65989		
1120.....	65989	Proposed Rules:	
1124.....	65989	100.....	64773
1125.....	65989	110.....	64773
1126.....	65989	114.....	64773
1131.....	65989	9033.....	63753
1132.....	65989		
1133.....	64087, 65989	12 CFR	
1134.....	65989	4.....	65379
1135.....	65989	5.....	65380
1136.....	65989	27.....	63084
1137.....	65989	28.....	65381
1138.....	65989	225.....	64398, 65051, 65731
1139.....	65989	262.....	64398
1421.....	67134	264b.....	64399
1464.....	63107	265.....	64398
1924.....	65991	329.....	66575
1980.....	67134	541.....	67089
3100.....	65768	545.....	67089
		720.....	65731
8 CFR		Proposed Rules:	
214.....	65726, 65727	211.....	62902, 62903
		561.....	64840
		563.....	65599
9 CFR			
1.....	63488	13 CFR	
2.....	63488	101.....	64401
3.....	63488	540.....	67091
78.....	65969		
92.....	63082	14 CFR	
113.....	63083, 67087	13.....	63720
160.....	63488	39.....	62881, 62882, 63519-63521, 64797, 65387, 65732, 65733, 66188, 66189, 67101-67103
161.....	63488		
316.....	67087	71.....	62883, 62884, 65388-65391, 65734, 66190, 67104, 67106
Proposed Rules:		73.....	67106, 67107
Ch. I.....	65862	75.....	62884
Ch. II.....	65862		
Ch. III.....	65862		
Ch. VI.....	65862		

91.....	62884	229.....	67143
95.....	65391	230.....	67143
97.....	62885, 66190	239.....	67143
311.....	65583	240.....	66607, 67143
322.....	65398	249.....	67143
325.....	65399	250.....	62912
385.....	64401	259.....	62912
398.....	65583, 65584	270.....	66608, 66612, 67150, 67152
399.....	65052		
Proposed Rules:		18 CFR	
Ch. I.....	65104	2.....	65055
1.....	67136	35.....	65740
23.....	62906	141.....	65741
25.....	62906, 67137	154.....	65740
27.....	67136	157.....	65055
29.....	67136	260.....	65741
33.....	67136	270.....	66577
39.....	62907, 63547, 67139	271.....	62889, 66783, 67108
43.....	66324, 67136	272.....	66192, 66786
45.....	67136	273.....	66786
61.....	65550, 67136	274.....	67108
65.....	66324	275.....	66786
71.....	62908, 63548, 63549, 64840-64842, 65403, 65768-65770, 66204, 66205, 67140	281.....	65585
73.....	65403, 65770	284.....	66789
91.....	66324, 67136	292.....	63114, 65744
97.....	62909		
107.....	63048, 64843	Proposed Rules:	
108.....	63048, 64843	2.....	66613
121.....	63048, 64843, 65550, 66324, 67136	35.....	67154, 67158
123.....	66324	46.....	66205
125.....	66324	154.....	66613
127.....	67136	270.....	66613
129.....	63048, 64843	277.....	66208
133.....	67136	280.....	67166
135.....	62906, 63048, 64843, 66324, 67136	282.....	67170
		284.....	67166
145.....	66324	292.....	67176
223.....	64429		
225.....	64429	19 CFR	
233.....	66835	Proposed Rules:	
241.....	67140	4.....	64434, 66835
296.....	65599	144.....	64434, 66835
302.....	66835	151.....	64434, 66835
		159.....	64434, 66835
15 CFR			
Proposed Rules:		20 CFR	
503.....	65940	416.....	64402
		675.....	64290, 64326
16 CFR		684.....	64290
3.....	62887	688.....	64326
13.....	64803, 65735, 66576		
305.....	66466	Proposed Rules:	
460.....	64402	Ch. I.....	65556
802.....	66781	Ch. IV.....	65556
Proposed Rules:		Ch. V.....	65556
13.....	63114, 63550, 64432, 64434	Ch. VI.....	65556
433.....	65771	Ch. VII.....	65556
451.....	65599	208.....	62912
454.....	62911	260.....	62912, 63096
		416.....	66836
17 CFR		614.....	65406
1.....	65970		
140.....	65735	21 CFR	
145.....	65970	73.....	65974
147.....	65970	431.....	67112
200.....	64069, 65736	510.....	65975, 67113
210.....	62888, 65738	514.....	67112
240.....	67107	520.....	63096, 65975, 65976, 67113
249.....	65739	522.....	63097, 65975, 67113
230.....	64070	526.....	67113
Proposed Rules:		540.....	65976
210.....	65774	558.....	65978, 66581, 67113
		1002.....	65352
		1040.....	65352

Proposed Rules:		22 CFR	
145.....	65080	506.....	63098
331.....	65992		
338.....	65992	Proposed Rules:	
340.....	65992	51.....	65600
353.....	63270	161.....	66838
864.....	64095		
868.....	63292-63426, 65081	23 CFR	
880.....	65992	658.....	63680
1000.....	66616	770.....	66193
		Proposed Rules:	
22 CFR		659.....	63682
506.....	63098	771.....	66213
Proposed Rules:			
51.....	65600	24 CFR	
161.....	66838	Ch. XXV.....	66582
		201.....	64072
23 CFR		203.....	64073
658.....	63680	205.....	64073, 64403
770.....	66193	207.....	64073, 65580
Proposed Rules:		213.....	64073
659.....	63682	220.....	64073
771.....	66213	221.....	64073
		232.....	64073
24 CFR		234.....	64073
Ch. XXV.....	66582	235.....	64073
201.....	64072	236.....	64073
203.....	64073	241.....	64073
205.....	64073, 64403	242.....	64073
207.....	64073, 65580	244.....	64073
213.....	64073	250.....	64073
220.....	64073	570.....	65950
221.....	64073	805.....	64204
232.....	64073	841.....	64405
234.....	64073	868.....	64196
235.....	64073	880.....	65060
236.....	64073	882.....	65061, 65360
241.....	64073	888.....	65924
242.....	64073	3280.....	66194
244.....	64073	4103.....	66587
250.....	64073	Proposed Rules:	
570.....	65950	115.....	65775
805.....	64204	203.....	65776
841.....	64405	204.....	65776
868.....	64196	208.....	65081, 66846
880.....	65060	402.....	65992
882.....	65061, 65360	571.....	65776
888.....	65924	881.....	67177
3280.....	66194	883.....	65776
4103.....	66587	886.....	64095
Proposed Rules:		888.....	67177
115.....	65775		
203.....	65776	25 CFR	
204.....	65776	31a.....	67040
208.....	65081, 66846	31b.....	67040
402.....	65992	31g.....	65008
571.....	65776	32b.....	67040
881.....	67177	256.....	65747
883.....	65776	700.....	65750
886.....	64095		
888.....	67177	26 CFR	
		1.....	64405, 65061
25 CFR			63522
31a.....	67040	Proposed Rules:	
31b.....	67040	1.....	65777, 67178
31g.....	65008		
32b.....	67040		
256.....	65747		
700.....	65750		

31.....	65777, 65995
28 CFR	
Proposed Rules:	
42.....	67179
29 CFR	
1625.....	66791
1627.....	66791
Proposed Rules:	
Subtitle A.....	65556
Ch. II.....	65566
Ch. IV.....	65566
Ch. V.....	65566
Ch. XVII.....	65566
Ch. XXV.....	65566
1440.....	65407
1601.....	65082
1904.....	65082
1910.....	64095, 66621
30 CFR	
788.....	66195
872.....	67057
Proposed Rules:	
Ch. I.....	65566
Ch. VII.....	65601
870.....	63737, 65407
871.....	63737, 65407
872.....	63737, 65407
873.....	63737, 65407
874.....	63737, 65407
875.....	63737, 65407
876.....	63737, 65407
877.....	63737, 65407
878.....	63737, 65407
879.....	63737, 65407
880.....	63737, 65407
881.....	63737, 65407
882.....	63737, 65407
883.....	63737, 65407
884.....	63737, 65407
885.....	63737, 65407
886.....	63737, 65407
887.....	63737, 65407
888.....	63737, 65407
31 CFR	
535.....	65956, 65988, 66590, 66832
32 CFR	
Ch. XXVIII.....	66591
625.....	63099
706.....	67114
724.....	66801
806b.....	66816
881.....	64075
2600.....	64077
Proposed Rules:	
169.....	65601
169a.....	65601
169b.....	65601
1900.....	65780
32A CFR	
Proposed Rules:	
601-662.....	66846
33 CFR	
117.....	65750, 66195
124.....	63672
126.....	63672
157.....	66502

32.....	66500	50 CFR
34.....	66500	17..... 64246, 64247, 64250,
401.....	64836	64730, 64736, 64738, 64741,
402.....	64836	64744, 65002
502.....	62898	32..... 63106
Proposed Rules:		33..... 62899
1.....	64844	285..... 62900
61.....	62915, 66218	611..... 64410, 64421, 65590
254.....	65616	672..... 64410, 64421
512.....	65417	Proposed Rules:
514.....	65417	Ch. VI..... 63558, 65616
47 CFR		17..... 63474
13.....	66816	32..... 63496
15.....	66822	216..... 67194
21.....	63105	410..... 64097
22.....	63105	611..... 66356
25.....	65753	652..... 65372
31.....	65761	661..... 64443
61.....	66823	662..... 67194
68.....	66825	675..... 66356
73.....	64408, 65763, 66816	676..... 66859
74.....	65763, 66816	
83.....	64409, 66830	
87.....	64409	
90.....	67117, 67119	
91.....	66830	
95.....	67125	
Proposed Rules:		
2.....	67191	
21.....	67191	
31.....	64440	
33.....	64440	
42.....	64440	
43.....	64440, 67192	
64.....	63558	
73.....	62917, 64441	
81.....	66857	
87.....	67191	
90.....	64442, 67191	
95.....	67191	
97.....	64442	
49 CFR		
7.....	65765	
178.....	66197	
571.....	65766	
601.....	65765	
1008.....	66831	
1033.....	62899, 63105, 64410,	
	65075, 65400, 65767	
1034.....	65075	
1047.....	65588	
1064.....	65987	
1201.....	65401	
1240.....	65401	
1241.....	65401	
Proposed Rules:		
Ch. X.....	64845, 65420	
172.....	65020, 66219	
192.....	65792	
173.....	65020	
213.....	64844	
385.....	67193	
662.....	66213	
666.....	62918	
1001.....	64846	
1011.....	64846	
1056.....	63121	
1100.....	64846	
1111.....	66626	
1131.....	64846	
1131a.....	64846	
1301.....	63121, 64851	

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- COPYRIGHT ROYALTY TRIBUNAL**
- 60726 10-22-79 / Cable royalty fees; filing of claims
- FEDERAL COMMUNICATIONS COMMISSION**
- 60741 10-22-79 / Ensuring the availability of certain compulsory radio equipment to the operator of the vessel's steering station in use
- 60740 10-22-79 / FM assignment; Brush, Colorado
- 60097 10-18-79 / FM broadcast station in Oakhurst, Calif., changes in table of assignments
- 60091 10-18-79 / Subscription television service provisions
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
- Office of Assistant Secretary for Housing—Federal Housing Commissioner—
- 61177 10-24-79 / Rental assistance payments; noninsured Section 236 projects; interim rule

Rules Going Into Effect Saturday, November 24, 1979

- COMMERCE DEPARTMENT**
- National Oceanic and Atmospheric Administration—
- 61546 10-25-79 / Fisherman's Protective Act implementation effective November 24, 1979

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing November 21, 1979

Slip Laws

Subscriptions Now Being Accepted

96th Congress, 1st Session, 1979

Separate prints of Public Laws, published immediately after enactment, with marginal annotations, legislative history references, and future Statutes volume page numbers.

Subscription Price: **\$130.00 per session**

(Individual laws also may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Prices vary. See Reminder Section of the Federal Register for announcements of newly enacted laws and prices).

SUBSCRIPTION ORDER FORM

ENTER MY SUBSCRIPTION TO: PUBLIC LAWS [PULA-File Code 1L]

☐ \$130.00 Domestic; ☐ \$162.50 Foreign.

PLEASE PRINT OR TYPE

NAME - FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY

STATE

ZIP CODE

MAIL ORDER FORM TO
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

(or) COUNTRY

☐ Remittance Enclosed (Make checks payable to Superintendent of Documents)

☐ Charge to my Deposit Account No.

Federal Register

Monday
November 26, 1979

Highlights

- 67615 Iranian Assets Control** Treasury/Foreign Assets Control Office amends regulations concerning payments to block accounts; payments by Iranian entities of obligations to persons within the U.S. and certain judicial proceedings with respect to property of Iran or Iranian entities; effective 11-23-79 (Part VI of this issue)
- 67602 Standby Mandatory Crude Oil Allocation Program** DOE/ERA proposes provisions for full or partial implementation; comments by 12-26-79 (Part V of this issue)
- 67543 American Schools and Hospitals Abroad Program** IDCA/AID issues criteria for screening of applications for grants; effective 11-26-79
- 67384 Emergency School Aid** HEW/OE adopts interim rules governing planning grants and transitional grants
- 67490- Minority Business** Commerce/MBDA solicits
67493 applications for grants to serve various States; apply by 12-21-79 (9 documents)
- 67546 Criminal Justice Education and Training** Justice/LEAA discontinues Internship Program for FY 1980
- 67381 Medicare Program** HEW/HCFR issues rules regarding payment for inpatient services of Foreign hospitals; effective with admissions on or after 1-1-80

CONTINUED INSIDE



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202-523-5240

Highlights

- 67421 Aid To Families With Dependent Children Program** HEW/SSA issues rules to increase Federal matching payments to States with low error rates; effective 11-26-79
- 67445 Non-Dominant Communications Common Carriers** FCC proposes to reduce amount of information which certain carriers must include on proposed rate charges; comments by 2-1-80 and 2-29-80, reply comments by 3-14-80 and 3-21-80
- 67584 Indian Child Custody** Interior/BIA issues guidelines for State courts proceedings (Part III of this Issue)
- 67440 Mobile Homes** HUD/NVACP proposes to amend rules regarding disqualification and requalification of primary inspection agencies; comments by 1-25-80
- 67598 Noncompetitive Geothermal Leases** Interior/BLM proposes rules for issuance of leases for the development and utilization; comments by 1-25-80 (Part IV of this issue)
- 67383 Navajo Tribe** Interior/BLM issues order restoring certain former tribal lands; effective 11-14-79
- 67578 Flood Plain** DOT/FHWA rules regarding location and hydraulic design of encroachments; effective 11-15-79 (Part II of this issue)
- 67343-67361 Crop Insurance** USDA/FCIC prescribes procedures for 1980 crop year for insuring flax, rice, sunflower, and corn; effective 11-26-79 (4 documents)
- 67445 Hazardous Materials** EPA extends comment period on intent to add lead/phenolic sand casting wastes to the proposed list; comments by 1-25-80
- 67554 Pig Iron From Brazil** Treasury/Customs issues final countervailing duty determination; effective 11-26-79
- 67438 Pancrelipase** CPSC proposes exemption from child-protection packaging requirements; comments by 1-25-80
- 67562 Sunshine Act Meetings**
Separate Parts of This Issue
- 67578 Part II, DOT/FHWA**
- 67584 Part III, Interior/BIA**
- 67598 Part IV, Interior/BLM**
- 67602 Part V, DOE/ERA**
- 67617 Part VI, Treasury/Foreign Assets Control Office**

Contents

Federal Register
Vol. 44, No. 228
Monday, November 26, 1979

- | | |
|---|---|
| <p>Administrative Conference of United States
NOTICES
Meetings:
67482 Informal Action Committee
67482 Judicial Review Committee
67482 Plenary Session</p> <p>Agency for International Development
See International Development Cooperation Agency.</p> <p>Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
67427 Middle Atlantic</p> <p>Agriculture Department
See Agricultural Marketing Service; Federal Crop Insurance Corporation.</p> <p>Arts and Humanities, National Foundation
NOTICES
Meetings:
67547 Artists-in-Schools Advisory Panel
67547 Dance Advisory Panel
67547 Theatre Panel</p> <p>Bonneville Power Administration
NOTICES
Environmental statements; availability, etc.:
67495 Proposed program for FY 1981</p> <p>Child, International Year of the, 1979, National Commission
NOTICES
67546 Meetings (2 documents)</p> <p>Civil Aeronautics Board
NOTICES
67482 Certificates of public convenience and necessity and foreign air carrier permits
Hearings, etc.:
67483 Eastern Air Lines, Inc. (2 documents)
67485
67485 Former large irregular air service investigation
67485 Oklahoma City/Tulsa service show cause proceeding
67485 U.S.-Peru case (2 documents)
67486
67562 Meetings; Sunshine Act (2 documents)</p> <p>Commerce Department
See Industry and Trade Administration; Maritime Administration; Minority Business Development Agency; National Oceanic and atmospheric Administration.</p> <p>Commodity Credit Corporation
NOTICES
67562 Meetings; Sunshine Act</p> | <p>Community Services Administration
RULES
Grantees; funding:
67423 Federal Register and Code of Federal Regulations; sole issuance system; access to publications</p> <p>Consumer Product Safety Commission
PROPOSED RULES
Poison prevention packaging:
67438 Pancrelipase preparations in tablet, capsule, or powder form; child-resistant packaging exemption</p> <p>Customs Service
NOTICES
Countervailing duty petitions and preliminary determinations:
67554 Pig iron from Brazil</p> <p>Defense Department
NOTICES
Discharge Review Boards:
67495 Decisional documents; review procedures; modification; correction
Meetings:
67494 Wage Committee</p> <p>Economic Regulatory Administration
PROPOSED RULES
67602 Standby Mandatory Crude Oil Allocation Program, activation of
NOTICES
Consent orders:
67497 Cosby Oil Co.
67498 Energy Development of California, Inc.
67496 J & C Drilling Co.
67500 N. C. Ginther
67499 O'Donnell Oil Co.
67501 Reinhard Distributors, Inc.
67502 Smith's Exxon
Remedial orders:
67495 Airport Texaco
67495 Ancora-Citronelle Corp.
67497 Bryant, Charles M.
67497 Chana's Auto Service Center
67498 David Davidson, Corona Hall Service Center
67498 Delano & Arias Texaco Service Center</p> <p>Education Office
RULES
67384 Emergency school aid; interim regulations</p> <p>Educational Research, National Council
NOTICES
67565 Meetings; Sunshine Act</p> <p>Energy Department
See Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission.</p> |
|---|---|

Environmental Protection Agency	67343	Flax
RULES	67349	Rice
Air quality control regions; criteria and control techniques:	67355	Sunflower
67380 Attainment status designations; Colorado		
Air quality implementation plans; approval and promulgation; various States, etc.:		
67375 Alabama		
PROPOSED RULES		
Waste management, solid:		
67445 Hazardous waste guidelines and standards; criteria; extension of time and clarification		
Water quality standards; State programs:		
67442 Alabama		
NOTICES		
Air pollution; ambient air monitoring reference and equivalent methods applications, etc.:		
67522 ASARCO models 500 and 600 sulfur dioxide monitor		
Environmental statements; availability, etc.:		
67525 Agency statements, weekly receipts		
Marine sanitation device standards:		
67524 Virginia		
Meetings:		
67523 , Science Advisory Board (2 documents)		
67524		
Toxic and hazardous substances control:		
67523 Premanufacture notices; monthly status report		
Federal Aviation Administration		
RULES		
Airworthiness directives:		
67369 Bell		
67369 EMBRAER		
67370 Transition areas (7 documents)		
67373		
PROPOSED RULES		
Airworthiness directives:		
67435 General Electric		
67436 Transition areas; withdrawn		
NOTICES		
Environmental statements; availability, etc.:		
67553 Washington National Airport; enlarging runway safety overrun area		
67551 Exemption petitions; summary and disposition		
Meetings:		
67553 Aeronautics Radio Technical Commission		
Organization and functions:		
67551 Flight Standards District Office, Milwaukee, Wis.; transfer		
Federal Communications Commission		
PROPOSED RULES		
Common carrier services:		
67445 Tariffs; rates policy and rules for competitive common carrier services and facilities authorizations		
NOTICES		
Hearings, etc.:		
67528 American Telephone & Telegraph Co.		
67529 Nevada County Broadcasters, Inc., et al.		
67562 , Meetings; Sunshine Act (3 documents)		
67563		
Federal Crop Insurance Corporation		
RULES		
Crop insurance; various commodities:		
67361 Corn		

Federal Energy Regulatory Commission		
NOTICES		
Hearings, etc.:		
67502 Arkansas Louisiana Gas Co.		
67503 Cities Service Gas Co. (2 documents)		
67503 Clark County Public Utility District #1		
67504 Commonwealth Edison Co.		
67505 Connecticut Light & Power Co.		
67504 Consolidated Edison Co. of New York, Inc.		
67504 Consumers Power Co. et al.		
67505 , Duke Power Co. (4 documents)		
67506		
67507 El Paso Electric Co.		
67507 Green River Electric Corp.		
67507 Henderson-Union Rural Electric Cooperative Corp.		
67507 Kansas Gas & Electric Co.		
67507 Kansas Nebraska Natural Gas Co., Inc.		
67516 , Kentucky West Virginia Gas Co. (2 documents)		
67517		
67517 Louisville Gas & Electric Co.		
67521 Madison Electric Works Department		
67517 Madison Gas & Electric Co.		
67517 Michigan Wisconsin Pipe Line Co.		
67518 Mid Louisiana Gas Co.		
67518 Montana-Dakota Utilities Co.		
67518 Natural Gas Pipeline Co. of America (2 documents)		
67519 Northern Indiana Public Service Co.		
67519 Pacific Gas & Electric Co.		
67520 Public Utility District No. 1 of Snohomish County		
67520 South Georgia Natural Gas Co.		
67520 Tennessee Gas Pipeline Co.		
67519 Utah Gas Service Co.		
67520 Utah Power & Light Co.		
67521 , Virginia Electric & Power Co.		
67522 (2 documents)		
67522 Wisconsin Power & Light Co.		
67522 Wisconsin Public Service Corp.		
67508 Natural Gas Policy Act of 1976:		
Jurisdictional agency determinations		
Federal Highway Administration		
RULES		
Engineering and traffic operations:		
67578 Bridges, structures, and hydraulics; flood plains encroachments, location and hydraulic design		
Federal Home Loan Bank Board		
NOTICES		
67564 Meetings; Sunshine Act		
Federal Housing Commissioner—Office of Assistant Secretary for Housing		
RULES		
Mortgage and loan insurance programs:		
67375 Identification of incorporated by reference materials; CFR correction		
Federal Mine Safety and Health Review Commission		
NOTICES		
67564 Meetings; Sunshine Act		

Federal Reserve System		
NOTICES		
67564 Meetings; Sunshine Act		
Federal Trade Commission		
PROPOSED RULES		
Prohibited trade practices; consent orders:		
67436 Nolan's R.V. Center, Inc.		
Foreign Assets Control Office		
RULES		
67617 Iranian Assets Control Regulations		
General Accounting Office		
NOTICES		
67530 Regulatory reports review; proposals, approvals, etc. (CAB)		
Health, Education, and Welfare Department		
See also Education Office; Health Care Financing Administration; Museum Services Institute; Social Security Administration.		
NOTICES		
Contract awards:		
67533 A. L. Nellum & Associates		
67532 Berkeley Planning Associates		
67531 Blue Cross Blue Shield Associations		
67532 Education Policy Research Institute		
67532 Howerton, Paul		
67533 ISC Inc.		
67533 Management Systems Applications, Inc.		
67531 Mathematica Policy Research		
67533 Tektronix Inc.		
67531 Telex Computer Products, Inc.		
67532 University of California Institute for Social Science Research		
67531 , University of Illinois Survey Research Lab (2 documents)		
67532 University of Michigan Survey Research Center		
67531 Urban Institute		
Meetings:		
67530 Health Care Technology National Council		
Health Care Financing Administration		
RULES		
Medicare:		
67381 Foreign hospitals, inpatient services payment		
Housing and Urban Development Department		
See Federal Housing Commissioner—Office of Assistant Secretary for Housing; Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary.		
Indian Affairs Bureau		
NOTICES		
67584 State courts-Indian child custody proceedings; guidelines		
Industry and Trade Administration		
RULES		
Trade practices, restrictive, or boycotts:		
67374 Shipping and insurance certifications; interpretation		
NOTICES		
Meetings:		
67489 Computer Systems Technical Advisory Committee		
Scientific articles; duty free entry:		
67486 Duke University et al.		
67487 George Washington University		
67487 Moody College of Marine Sciences		
67488 New Mexico Institute of Mining and Technology		
67488 University of California		
Interior Department		
See also Indian Affairs Bureau; Land Management Bureau; National Park Service; Water and Power Resources Service.		
NOTICES		
Environmental statements; availability, etc.:		
67543 Shoshone District, Idaho; grazing management program		
Internal Revenue Service		
PROPOSED RULES		
Excise taxes:		
67441 Coal producers; black lung benefits; compliance; hearing		
NOTICES		
Authority delegations:		
67555 Assistant Commissioner (Technical) and Deputy Chief Counsel (Litigation); appeals functions, settlement of cases docketed in U.S. Tax Court		
International Development Cooperation Agency		
NOTICES		
Grants:		
67543 American schools and hospitals abroad; final program criteria		
Meetings:		
67544 International Food and Agricultural Development Board		
International Trade Commission		
NOTICES		
Import investigations:		
67544 Coke from Germany		
Interstate Commerce Commission		
RULES		
Accounts, uniform system:		
67424 Railroad property units; rebuilding rule		
PROPOSED RULES		
Motor carriers:		
67476 Exemptions; designated airports, interpretation of operating rights authorizing service		
NOTICES		
Fourth section applications for relief		
67559 Hearing assignments		
Motor carriers:		
67561 Released rates applications		
Port equalization orders:		
67553 Nueces County Navigation District No. 1 et al.		
67559 , Railroad car service orders; various companies:		
67560 Kansas City Terminal Railway Co. (3 documents)		
67561 Railroad operation, acquisition, construction etc.: Chicago, Milwaukee, St. Paul & Pacific Railroad Co.		
67559 Railroad service abandonment: Chicago, Milwaukee, St. Paul & Pacific Railroad Co.		
Justice Department		
See Law Enforcement Assistance Administration.		

- Land Management Bureau**
RULES
 Public land orders:
 67383 Arizona
PROPOSED RULES
 Geothermal resources leasing:
 67598 Noncompetitive leases
NOTICES
 Alaska Native claims selections; applications, etc.:
 67535 Aleknagik Native Village
 67533 Ohgsenakale Corp.
 67540 Tanacross, Inc.
 Applications, etc.:
 67542 New Mexico
 Motor vehicles, off-road, etc.; area closures:
 67541 California
- Law Enforcement Assistance Administration**
NOTICES
 67546 Criminal Justice Education and Training Office; discontinuation of internship program for 1980-81 academic year
- Management and Budget Office**
NOTICES
 67548, 67550 Agency forms under review (2 documents)
- Maritime Administration**
NOTICES
 Applications, etc.:
 67489 Waterman Steamship Corp.
- Materials Transportation Bureau**
 See Research and Special Programs Administration, Transportation Department.
- Metric Board**
NOTICES
 Meetings: Sunshine Act
 67546 Voluntary metric conversion; public forum
- Minority Business Development Agency**
NOTICES
 67490-67493 Financial assistance projects; applications (9 documents)
- Museum Services Institute**
NOTICES
 Meetings:
 67530 National Museum Services Board
- National Credit Union Administration**
NOTICES
 Meetings: Sunshine Act
 67565
- National Oceanic and Atmospheric Administration**
NOTICES
 Marine mammal permit applications, etc.:
 67494 Buchwald, Dr. Jennifer
 Meetings:
 67494 New England Fishery Management Council
 67494 South Atlantic Fishery Management Council

- National Park Service**
PROPOSED RULES
 Special regulations:
 67441 Gateway National Recreation Area, N.Y.; use of mineral or metal detecting devices at Jacob Riis Beach
NOTICES
 Meetings:
 67542 Cape Cod National Seashore Advisory Commission
- National Science Foundation**
NOTICES
 Meetings:
 67547 Minority Programs in Science Education Advisory Committee
 67548 Ocean Sciences Advisory Committee
 67547 Physiology, Cellular, and Molecular Biology Subcommittee
- Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary**
PROPOSED RULES
 Mobile home procedural and enforcement regulations:
 67440 Primary inspection agencies; disqualification and requalification
- Research and Special Programs Administration, Transportation Department**
PROPOSED RULES
 Hazardous materials:
 67476 Explosives Bureau; authority delegations withdrawn
- Securities and Exchange Commission**
NOTICES
 Meetings: Sunshine Act
 67565
- Social Security Administration**
RULES
 Financial assistance programs:
 67421 Aid to families with dependent children; increased Federal matching payments to States with low error rates
- Transportation Department**
 See Federal Aviation Administration; Federal Highway Administration; Research and Special Programs Administration, Transportation Department.
- Treasury Department**
 See Customs Service; Foreign Assets Control Office; Internal Revenue Service
NOTICES
 Notes, Treasury:
 67556 C-1985 series
- Water and Power Resources Service**
NOTICES
 Contract negotiations:
 67543 Shoshone Project, Wyo.; municipal water service

MEETINGS ANNOUNCED IN THIS ISSUE

- ADMINISTRATIVE CONFERENCE OF THE UNITED STATES**
 Meeting, 12-13, 12-14-79
 67482
 Committee on Informal Action, 12-13-79
 67482
 Committee on Judicial Review, 12-13-79
 67482
- ARTS AND HUMANITIES, NATIONAL FOUNDATION**
 Artists-in-Schools Panel, 12-12, 12-13, and 12-14-79
 67547
 Dance Panel, 12-13, 12-14, 12-15, and 12-16-79
 67547
- COMMERCE DEPARTMENT**
 Industry and Trade Administration—
 Computer Systems Technical Advisory Committee, Licensing Procedures Subcommittee, 12-18-79
 67489
 National Oceanic and Atmospheric Administration—
 New England Fishery Management Council, Scientific and Statistical Committee, 12-12-79
 67494
 South Atlantic Fishery Management Council, Scientific and Statistical Committee, 12-17 and 12-18-79
 67494
- DEFENSE DEPARTMENT**
 Office of the Secretary—
 Wage Committee, 1-8, 1-15, 1-22, and 1-29-80
 67494
- ENVIRONMENTAL PROTECTION AGENCY**
 Science Advisory Board, Subcommittee on Energy-Related Health Effects Research, 12-18 and 12-19-79
 67523
 Water Quality Criteria Subcommittee, 12-13 and 12-14-79
 67524
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
 Museum Services Institute—
 National Museum Services Board, 11-30 and 12-1-79
 67530
 Office of the Assistant Secretary for Health—
 National Council on Health Care Technology, 12-12 and 12-13-79
 67530
- INTERIOR DEPARTMENT**
 National Park Service—
 Cape Cod National Seashore Advisory Commission, 12-14-79
 67542
- INTERNATIONAL DEVELOPMENT COOPERATION AGENCY**
 Agency for International Development—
 Board for International Food and Agricultural Development, Joint Research Committee, 12-11 and 12-12-79
 67544
- METRIC BOARD**
 Public Forum, 12-13-79
 67546
- NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD, 1979**
 Meeting, 12-5 and 12-6-79
 67546
 Children's Advisory Panel, 12-2, 12-3, and 12-4-79
 67546

- NATIONAL SCIENCE FOUNDATION**
 Advisory Committee for Physiology, Cellular, and Molecular Biology, Subcommittee on Human Cell Biology, 12-10-79
 67547
 Minority Programs in Science Education, 12-13 and 12-14-79
 67547
- TRANSPORTATION DEPARTMENT**
 Federal Aviation Administration—
 Radio Technical Commission for Aeronautics (RTCA) Separation Study Review Group, 12-11 and 12-12-79
 67553
- TREASURY DEPARTMENT**
 Internal Revenue Service—
 Proposed excise tax on coal, hearing 1-10-80, outline of oral comment 12-27-79
 67441
- CHANGED MEETING**
- NATIONAL SCIENCE FOUNDATION**
 The Advisory Committee for Ocean Sciences, Executive Committee, 11-28 and 11-29-79 (status change)
 67548
- CANCELLED MEETING**
- ARTS AND HUMANITIES, NATIONAL FOUNDATION**
 Theatre Advisory Panel, 11-27 and 11-28-79
 67547
- HEARING**
- ENERGY DEPARTMENT**
 Economic Regulatory Administration—
 Activation of Standby Mandatory Crude Oil Allocation Program, 12-13-79
 67602

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR	
423.....	67343
424.....	67349
428.....	67355
432.....	67361
Proposed Rules:	
1004.....	67427
10 CFR	
Proposed Rules:	
211.....	67602
212.....	67602
14 CFR	
39 (2 documents).....	67369
71 (7 documents).....	67370-67373
Proposed Rules:	
39.....	67435
71.....	67438
15 CFR	
369.....	67374
16 CFR	
Proposed Rules:	
13.....	67438
1700.....	67438
23 CFR	
650.....	67578
24 CFR	
Ch. II.....	67375
Proposed Rules:	
3282.....	67440
26 CFR	
Proposed Rules:	
48.....	67441
139.....	67441
31 CFR	
535.....	67617
36 CFR	
Proposed Rules:	
7.....	67441
40 CFR	
52.....	67375
81.....	67380
Proposed Rules:	
120.....	67442
250.....	67445
42 CFR	
405.....	67381
43 CFR	
Public Land Orders:	
5687.....	67383
Proposed Rules:	
3210.....	67598
3211.....	67598
45 CFR	
185a.....	67384
205.....	67421
1067.....	67423
47 CFR	
Proposed Rules:	
61.....	67445
63.....	67445
49 CFR	
1201.....	67424
Proposed Rules:	
171.....	67476
173.....	67476
1047.....	67478

Rules and Regulations

Federal Register

Vol. 44, No. 228

Monday, November 26, 1979

67343

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 423

Flax Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring flax crops effective with the 1980 crop year. The rule combines provisions from previous regulations for insuring flax in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the Federal Register on July 30, 1979 (44 FR 44505), outlining prescribed procedures for insuring flax crops effective with the 1980 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that a new Part 423 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring flax crops effective with the 1980 crop year to be known as 7 CFR Part 423 Flax Crop Insurance.

All previous regulations applicable to insuring flax crops, as found in 7 CFR 401.101-401.111, and 401.128, are not

applicable to 1980 and succeeding flax crops but remain in effect for FCIC flax insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring flax crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, 7 CFR Part 423 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) that the production guarantee will now be shown on a harvested basis with a reduction of the lesser of 1.5 bushels or 20 percent of the guarantee for any unharvested acreage, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, and (8) for an increase in the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 420.5 of these regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The Flax Crop Insurance regulations provide a December 31 cancellation date for most flax producing counties. Flax producing counties in Texas have a June 30 cancellation date effective 1980.

These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the earlier of the two cancellation dates, December 31, 1979, in order to afford farmers an opportunity to examine them before the earlier cancellation date of

December 31, 1979, before they become effective for the 1980 crop year.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received.

Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1980 crop year.

In addition, there is hereby added to the final rule an Appendix "B", which lists the counties where flax crop insurance is available in accordance with the provisions of 7 CFR § 423.1 outlined below which state in part that before insurance is offered in any county there shall be published by appendix to this part the names of the counties in which such insurance shall be offered.

Inasmuch as the publication of the list of counties and crops insured by the Federal Crop Insurance Corporation as contained in Appendix "B" merely provides guidance for the general public and has no effect on the provisions of the insurance plan, the Corporation has determined that compliance with the procedure for notice and public participation in the proposed rulemaking process would be impracticable, unnecessary, and contrary to the public interest. Therefore, Appendix "B" is issued without compliance with such procedure.

Final Rule

§ 401.128 [Reserved]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby deletes and reserves 7 CFR 401.128, with the provisions as contained therein remaining in effect for FCIC insurance policies issued for crop years prior to 1980, and issues a new Part 423 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR Part 423) to be known as the Flax Crop Insurance Regulations, which shall remain in effect, until amended or superseded, for the 1980 and succeeding crop years, to read as follows:

PART 423—FLAX CROP INSURANCE **Subpart—Regulations for the 1980 and** **Succeeding Crop Years**

Sec.

- 423.1 Availability of Flax Insurance.
 423.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
 423.3 Public notice of indemnities paid.
 423.4 Creditors.
 423.5 Good faith reliance on misrepresentation.
 423.6 The contract.
 423.7 The application and policy.

Authority: Secs. 506, 516; 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1980 and **Succeeding Crop Years**

§ 423.1 Availability of flax insurance.

Insurance shall be offered under the provisions of this subpart on flax in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which flax insurance will be offered.

§ 423.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for flax which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 423.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 423.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 423.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the flax insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insurance person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 423.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the flax crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 423.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the flax crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its

determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however*, That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a flax contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Flax Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Flax Insurance Policy are as follows:

U.S. Department of Agriculture, Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years

Flax
 Crop Insurance Contract
 —(Contract Number) —

(Identification Number)

(Name and Address) (Zip Code)

(County) (State)

Type of Entity
 Applicant is Over 18 Yes—No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the flax seeded on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. **THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.**

Level Election — Price
 Election —

Example: for the 19— Crop Year (100 percent Share)

Location/Farm No.	Guarantee Per Acre*	Premium Per Acre**	Practice

*Your guarantee will be on a unit basis (acres X per acre guarantee)
 **Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed. **AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELLED OR TERMINATED** as provided in the contract. This accepted application, the following flax insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(Code No./Witness to Signature)

(Signature of Applicant)
 (DATE) —, 19—
 Address of Office for County:

Phone —
 Location of Farm Headquarters:

Phone —

Flax Crop Insurance Policy

Terms and Conditions
 Subject to the provisions in the attached appendix:

1. Causes of Loss. (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. Crop and Acreage Insured. (a) The crop insured shall be flaxseed (herein called "flax") which is seeded for harvest as seed and which is grown on insured acreage and

for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage seeded to flax on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) seeded with any other crop except perennial grasses or legumes other than vetch, (2) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (3) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (4) which is destroyed and after such destruction it was practical to reseed to flax and such acreage was not reseeded, (5) initially seeded after the date on file in the office for the county which has been established by the Corporation as being too late to initially seed and expect a normal crop to be produced, (6) of volunteer flax, or (7) seeded to a type or variety of flax not established as adapted to the area or shown as noninsurable on the actuarial table.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is seeded for the development or production of hybrid seed or for experimental purposes.

3. Responsibility of Insured to Report Acreage and Share. The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of flax seeded in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of seeding. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities. (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 1.5 bushels or 20 percent for any unharvested acreage.

5. Annual Premium. (a) The annual premium is earned and payable at the time of seeding and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of seeding, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Percentage Adjustment Factor For Current Crop Year																
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	85	80	80	75	75	70	70	65	60	
.41 - .60	100	100	95	95	95	95	90	90	90	85	85	80	80	75	70	
.61 - .80	100	100	95	95	95	95	95	90	90	90	90	85	85	85	80	
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Percentage Adjustment Factor For Current Crop Year																
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. Insurance Period. Insurance in insured acreage shall attach at the time the flax is seeded and shall cease upon the earliest of (a) final adjustment of loss, (b) combining, threshing, or removal of the flax from the field, (c) October 31 of the calendar year in which flax is normally harvested, or (d) total destruction of the insured flax crop.

7. Notice of damage or loss. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the flax on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to reseed to flax. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 days after the earliest of (1) the date harvest is completed on the unit, (2) October 31 of the crop year, or (3) the date the entire flax crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to

be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for Indemnity. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of flax on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation. (b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of flax on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of flax to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) If, due to insurable causes, any flax does not grade No. 2 or better in accordance with the Official U.S. Grain Standards, the production shall be adjusted by (i) dividing the value per bushel of the damaged flax (as determined by the Corporation) by the price per bushel of U.S. No. 2 flax and (ii) multiplying the result by the number of bushels of such flax. The applicable price for U.S. No. 2 flax shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged flax was sold.

(2) Appraised production to be counted shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is seeded before flax harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 1.5 bushels or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However*, if consent is given to put acreage to another use and the

Corporation determines that any such acreage (1) is not put to another use before harvest of flax becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. Misrepresentation and fraud. The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. Transfer of Insured Share. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. Records and Access to Farm. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments sale or other disposition of all flax produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. Life of Contract: Cancellation and Termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

States	Cancellation date	Termination date for indebtedness
Texas	June 30	Sept. 15
All other States	Dec. 31	Mar. 31

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix,

the contract shall continue in force for each succeeding crop year.

Appendix (additional terms and conditions)

1. Meaning of Terms. For the purposes of flax crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding flax insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the flax crop is normally grown and shall be designated by the calendar year in which the flax crop is normally harvested.

(d) "Harvest" means the severance of mature flax from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the applications accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured flax crop at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured. *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) October 31 of the crop year, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the flax crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of flax in the county on the date of seeding for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the flax crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation

shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Acreage Insured. (a) The Corporation reserves the right to limit the insured acreage of flax to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of flax.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero." If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. Irrigated Acreage. (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of seeding.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding, as determined by the corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual Premium. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. Claim for and Payment of Indemnity. (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured flax acreage.

(d) In the event that any claim for indemnity under the provisions of the

contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1506(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the flax is seeded for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. Subrogation. The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the Contract. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage Level and Price Election. (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. Assignment of Indemnity. Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract Changes. The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix B

Counties Designated for Flax Crop Insurance—7 CFR 423

In accordance with the provisions of 7 CFR 423.1, the following counties are designated for flax crop insurance:

Minnesota

Becker	Otter Tail
Big Stone	Pennington
Chippewa	Pipestone
Clay	Polk
Grant	Pope
Kittson	Red Lake
Lac qui Parle	Redwood
Lincoln	Roseau
Lyon	Stevens
Mahnomen	Swift
Marshall	Traverse
Murray	Wilkin
Nobles	Yellow Medicine
Norman	

North Dakota

Barnes	Mountrail
Benson	Nelson
Bottineau	Pembina
Burleigh	Pierce
Cass	Ramsey
Cavalier	Ransom
Dickey	Renville
Eddy	Richland
Emmons	Rolette
Foster	Sargent
Grand Forks	Sheridan
Griggs	Steele
Kidder	Stutsman
La Moure	Towner
Logan	Trill
McHenry	Walsh
McIntosh	Ward
McLean	Wells

South Dakota

Brookings	Hamlin
Brown	Kingsbury
Campbell	Lake
Clark	McPherson
Codington	Marshall
Corson	Miner
Day	Moody
Deuel	Roberts
Edmunds	Walworth
Grant	

These regulations have been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F.

Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Dated: November 16, 1979.

James D. Deal,
Manager.

[FR Doc. 79-36144 Filed 11-23-79; 8:45 am]
BILLING CODE 3410-08-M

7 CFR Part 424

Rice Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring rice crops effective with the 1980 crop year. The rule combines provisions from previous regulations for insuring rice in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the Federal Register on July 30, 1979 (44 FR 44511), outlining prescribed procedures for insuring rice crops effective with the 1980 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that a new Part 424 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring rice crops effective with the 1980 crop year to be known as 7 CFR Part 424 Rice Crop Insurance.

All previous regulations applicable to insuring rice crops, as found in 7 CFR 401.101-401.111, and 401.132, are not applicable to 1980 and succeeding rice crops but remain in effect for FCIC rice insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring rice crops into one shortened, simplified, and

clearer regulation would be more effective administratively.

In addition, 7 CFR Part 424 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insuring experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) for the consolidation of termination for indebtedness dates to March 31 in all counties, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, (8) for an increase, in the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 424.5 of these regulations, wherein the Manager of the Corporation is authorized to take action to grant relief, and (9) that the production guarantee will now be shown on a harvested basis with a reduction of the lesser of 5 cwt, or 20 percent of the guarantee for any unharvested acreage.

The Rice Crop Insurance regulations provide a December 31 cancellation date for all rice producing counties. These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received.

Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1980 crop year.

In addition, there is hereby added to the final rule an Appendix "B", which lists the counties where rice crop insurance is available in accordance with the provisions of 7 CFR § 424.1 outlined below which state in part that before insurance is offered in any county there shall be published by appendix to this part the names of the counties in which such insurance shall be offered.

Inasmuch as the publication of the list of counties and crops insured by the Federal Crop Insurance Corporation as contained in Appendix "B" merely provides guidance for the general public and has no effect on the provisions of the insurance plan, the Corporation has determined that compliance with the procedure for notice and public participation in the proposed rulemaking process would be impracticable, unnecessary, and contrary to the public interest. Therefore, Appendix "B" is issued without compliance with such procedure.

Final Rule

§ 401.132 [Reserved]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby deletes and reserves 7 CFR 401.132, with the provisions as contained therein remaining in effect for FCIC insurance policies issued for crop years prior to 1980, and issues a new Part 424 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR Part 424) to be known as the Rice Crop Insurance Regulations, which shall remain in effect, until amended or superseded, for the 1980 and succeeding crop years, to read as follows:

PART 424—RICE CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

- 424.1 Availability of Rice Insurance.
- 424.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
- 424.3 Public notice of indemnities paid.
- 424.4 Creditors.
- 424.5 Good faith reliance on misrepresentation.
- 424.6 The contract.
- 424.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

§ 424.1 Availability of rice insurance.

Insurance shall be offered under the provisions of this subpart on rice in counties within limits prescribed by and in accordance with the provisions of the

Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which rice insurance will be offered.

§ 424.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for rice which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 424.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 424.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 424.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the rice insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations; as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other

erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 424.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the rice crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 424.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the rice crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the Federal Register upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however*, That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a

rice contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Rice Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Rice Insurance Policy are as follows:

U.S. Department of Agriculture

Application for 19— and Succeeding Crop Years

Rice

Crop Insurance Contract

(Contract Number)

(Identification Number)

(Name and Address) (ZIP Code)

(County) (State)

Type of Entity

Applicant is Over 18 Yes — No —

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the rice seeded on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. **THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.**

Level Election ——— Price Election

Example: For the 19— Crop Year Only (100% Share)

Location/Farm No. ———

Guarantee Per Acre* ———

Premium Per Acre** ———

Practice ———

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELLED OR TERMINATED as provided in the contract. This accepted application, the following rice insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable

*Your guarantee will be on a unit basis (acres × per acre guarantee × share).

**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(Code No./Witness to Signature)

(Signature of Applicant)

(Date) ———, 19—
Address of Office for County:

Phone ———

Location of Farm Headquarters:

Phone ———

Rice Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. Causes of Loss. (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions (excluding drought), insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) application of saline water, (2) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (3) failure to follow recognized good farming practices, (4) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (5) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. Crops and Acreage Insured. (a) The crop insured shall be rice which is seeded for harvest as grain and which is grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage seeded to rice on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) on which the rice was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture, (2) seeded to rice for the two preceding crop years, (3) which is destroyed and after such destruction it was practical to reseed to rice and such acreage was not reseeded, (4) initially seeded after the date on file in the office for the county which has been established by the Corporation as being too late to initially seed

and expect a normal crop to be produced, (5) of a second crop following a rice crop harvested in the same calendar year, or (6) seeded to a type or variety of rice not established as adapted to the area or shown as noninsurable on the actuarial table.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is seeded for the development or production of hybrid seed or for experimental purposes.

3. Responsibility of insured to report acreage and share. The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of rice seeded in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of seeding. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. Production guarantees, Coverage Levels and Prices for Computing Indemnities. (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 5 cwt. or 20 percent for any unharvested acreage.

5. Annual Premium. (a) The annual premium is earned and payable at the time of seeding and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of seeding, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Percentage Adjustment Factor For Current Crop Year																
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Percentage Adjustment Factor For Current Crop Year																
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

8. Insurance Period. Insurance on insured acreage shall attach at the time the rice is seeded and shall cease upon the earliest of (a) final adjustment of a loss, (b) combining, threshing, or removal of the rice from the field, (c) October 31 of the calendar year in which rice is normally harvested, or (d) total destruction of the insured rice crop.

7. Notice of Damage or Loss. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the rice on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to reseed to rice. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 days after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire rice crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to

be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for Indemnity. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of rice on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of rice on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of rice to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 3 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; and if, due to insurable causes, the rough rice does not grade U.S. No. 3 or better (determined in accordance with Official Grain Standards of the United States) with a milling yield per cwt. of 55 pounds of heads for the short and medium grain varieties and 48 pounds of heads for long grain varieties (whole kernels) and 68 pounds total milling yield (heads, second heads, screenings and brewers), the number of pounds of such rice to be counted shall be adjusted by (i) dividing the value per pound of the damaged rice (as determined by the Corporation) by the market price per pound at the nearest mill center for the same variety of rough rice grading U.S. No. 3 with the milling yields as stated above, and (ii) multiplying the result thus obtained by the number of pounds of production of such damaged rice. The applicable price for No. 3 rice shall be the nearest mill center price on the earlier of: the day the loss is adjusted or the day the damaged rice was sold.

(2) Any production from volunteer rice growing with the seeded rice crop shall be counted as rice on a weight basis.

(3) Appraised production to be counted shall include: (i) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and for poor farming practices, (ii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the

Corporation or damaged solely by an uninsured cause, and (iii) only the appraisal in excess of the lesser of 5 cwt. or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However*, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. Misrepresentation and Fraud. The corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such avoidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. Transfer of Insured Share. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. Records and Access to Farm. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all rice produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. Life of Contract: Cancellation and Termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

Counties	Cancellation date	Termination date for indebtedness
All counties	Dec. 31	Mar. 31

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix (Additional Terms and Conditions)

1. Meaning of Terms. For the purposes of rice crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding rice insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the rice crop is normally grown and shall be designated by the calendar year in which the rice crop is normally harvested.

(d) "Harvest" means the severance of mature rice from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Mill center" means any location in which two or more mills are engaged in milling rough rice.

(h) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(i) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured rice crop at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(k) "Tenant" means a person who rents land from another person for a share of the rice crop or proceeds therefrom.

(l) "Unit" means all insurable acreage of rice in the county on the date of seeding for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the rice crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Acreage Insured. (a) The Corporation reserves the right to limit the insured acreage of rice to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of rice.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. Irrigated acreage. (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment of facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual Premium. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however*, any previous unfavorable insurance experience shall be

considered in premium computation following a break in continuity.

5. Claim for and Payment of Indemnity. (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured rice acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the rice is seeded for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. Subrogation. The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the Contract. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage Level and Price Election. (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall

be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. Assignment of Indemnity. Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract Changes. The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix "B"

Counties Designated for Rice Crop Insurance—7 CFR 424

In accordance with the provisions of 7 CFR 424.1, the following counties are designated for rice crop insurance:

Arkansas	Jackson
Arkansas	Jefferson
Ashley	Lonoke
Chicot	Monroe
Clay	Poinsett
Craighead	Prairie
Crittenden	St. Francis
Cross	Desha
Desha	Woodruff
Greene	
California	
Colusa	Sutter
Sacramento	Yolo
Louisiana	
Acadia	Lafayette
Calcasieu	Morehouse
Evangeline	St. Landry
Jefferson Davis	Vermilion
Mississippi	
Bolivar	Washington
Leflore	
Texas	
Brazoria	Matagorda
Fort Bend	Wharton

These regulations have been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance

Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Dated: November 16, 1979.

James D. Deal,

Manager.

[FR Doc. 79-36145 Filed 11-23-79; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 428

Sunflower Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring sunflower crops effective with the 1980 crop year. The rule combines provisions from previous regulations for insuring sunflowers in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the *Federal Register* on July 31, 1979 (44 FR 45861), outlining prescribed procedures for insuring sunflower crops effective with the 1980 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that a new Part 428 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring sunflower crops effective with the 1980 crop year to be known as 7 CFR Part 428 Sunflower Crop Insurance.

All previous regulations applicable to insuring sunflower crops, as found in 7 CFR 401.101-401.111, and 401.152, are not applicable to 1980 and succeeding sunflower crops but remain in effect for FCIC sunflower insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring sunflower crops into one shortened,

simplified, and clearer regulation would be more effective administratively.

In addition, 7 CFR Part 428 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent reduction for good insurance experience as well as premium increases for unfavorable experience, on an individual contract basis, (2) for a minimum appraisal of 50 percent of the applicable guarantee for acreage released and planted to another insurable crop, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, (8) for an increase in the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 428.5 of these regulations, wherein the Manager of the Corporation is authorized to take action to grant relief, (9) that the three year rotation requirement for insurability for acreage planted to sunflowers be reduced to two years, and (10) that the production guarantee will now be shown on a harvested basis with a reduction of the lesser of 100 pounds or 20 percent of the guarantee for any unharvested acreage.

The Sunflower Crop Insurance regulations provide a December 31 cancellation date for all sunflower producing counties. These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received.

Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
Loss Ratio ^{1/} Through Previous Crop Year	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage Adjustment Factor For Current Crop Year															
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
Loss Ratio ^{1/} Through Previous Crop Year	Number of Loss Years Through Previous Year ^{2/}															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage Adjustment Factor For Current Crop Year															
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

^{1/} Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

^{2/} Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C.

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. Insurance Period. Insurance on insured acreage shall attach at the time the sunflowers are planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) combining, threshing, or removal of the sunflowers from the field, (c) November 30 of the calendar year in which sunflowers are normally harvested, or (d) total destruction of the insured sunflower crop.

7. Notice of Damage or Loss. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the sunflowers on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to sunflowers. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 days after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire sunflower crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to

be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for Indemnity. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of sunflowers on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of sunflowers on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of sunflowers to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 2 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 12.0 percent; and if, due to insurable causes, any sunflowers do not grade No. 2 or better, as defined by the North Dakota Grain Inspection Service Incorporated, on the basis of test weight or seed damage, the production shall be adjusted by (i) dividing the value per pound of the damaged sunflowers (as determined by the Corporation) by the price per pound of No. 2 sunflowers and (ii) multiplying the result by the number of pounds of such sunflowers. The applicable price for No. 2 sunflowers shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged sunflowers were sold.

(2) Any harvested production from volunteer crops growing with the planted sunflower crop on acreage which the Corporation has not given consent to be put to another use shall be counted as sunflowers on a weight basis.

(3) Appraised production to be counted shall include: (i) greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is planted before sunflower harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than

the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 100 pounds per acre or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However*, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of sunflowers becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. Misrepresentation and Fraud. The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. Transfer of Insured Share. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. Records and Access to Farm. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all sunflowers produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. Life of Contract Cancellation and Termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year; *Provided*, That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State	Cancellation date	Termination date for indebtedness
All States	Dec. 31	Mar. 31

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b) and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix—Additional Terms and Conditions

1. Meaning of Terms. For the purposes of sunflower crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding sunflower insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the sunflower crop is normally grown and shall be designated by the calendar year in which the sunflower crop is normally harvested.

(d) "Harvest" means the severance of mature sunflowers from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured sunflower crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured.

Provided, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the sunflower crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of sunflowers in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sunflower crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Acreage Insured. (a) The Corporation reserves the right to limit the insured acreage of sunflowers to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of sunflowers.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. Irrigated Acreage. (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual Premium. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be

considered in premium computation following a break in continuity.

5. Claim for and Payment of Indemnity. (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured sunflower acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the sunflowers are planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. Subrogation. The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the Contract. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage Level and Price Election. (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the

coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. Assignment of Indemnity. Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract Changes. The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix "B"

Counties Designated for Sunflower Crop Insurance—7 CFR 428

In accordance with the provisions of 7 CFR 428.1, the following counties are designated for sunflower crop insurance:

Minnesota

Becker	Norman
Big Stone	Otter Tail
Clay	Pennington
Grant	Polk
Kittson	Red Lake
Mahnomen	Traverse
Marshall	Wilkin

North Dakota

Barnes	Pembina
Cass	Ransom
Dickey	Richland
Eddy	Sargent
Foster	Steele
Grand Forks	Stutsman
Griggs	Traill
La Moure	Walsh
Nelson	Wells

South Dakota

Roberts

These regulations have been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Dated: November 16, 1979.

James D. Deal,

Manager.

[FR Doc. 79-30140 Filed 11-23-79; 8:45 am]

BILLING CODE 3410-06-M

7 CFR Part 432

Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring corn crops effective with the 1980 crop year. The rule combines provisions from previous regulations for insuring corn in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the *Federal Register* on August 16, 1979 (44 FR 47944), outlining prescribed procedures for insuring corn crops effective with the 1980 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that a new Part 432 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring corn crops effective with the 1980 crop year to be known as 7 CFR Part 432 Corn Crop Insurance.

All previous regulations applicable to insuring corn crops, as found in 7 CFR 401.101-401.111, and 401.154, are not applicable to 1980 and succeeding corn crops but remain in effect for FCIC corn insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring corn crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, 7 CFR Part 432 provides (1) for a Premium Adjustment Table which replaces the current premium

discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) that, when appraisals for unharvested acreage are made (except appraisals for abandoned acreage, other use without consent, uninsured causes, poor farming practices, and substitute crops) only the appraisals in excess of the lesser of 6 bushels or 20 percent of the guarantee will be included in the production to count, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, and (8) for an increase in the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 432.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The Corn Crop Insurance regulations provide a December 31 cancellation date for all counties. These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received.

Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1980 crop year.

In addition, there is hereby added to the final rule an Appendix "B", which lists the counties where corn crop insurance is available in accordance with the provisions of 7 CFR § 432.1

outlined below which state in part that before insurance is offered in any county there shall be published by appendix to this part the names of the counties in which such insurance shall be offered.

Inasmuch as the publication of the list of counties and crops insured by the Federal Crop Insurance Corporation as contained in Appendix "B" merely provides guidance for the general public and has no effect on the provisions of the insurance plan, the Corporation has determined that compliance with the procedure for notice and public participation in the proposed rulemaking process would be impracticable, unnecessary, and contrary to the public interest. Therefore, Appendix "B" is issued without compliance with such procedure.

Final Rule

§ 401.154 [Reserved]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby deletes and reserves 7 CFR 401.154, with the provisions as contained therein remaining in effect for FCIC insurance policies issued for crop years prior to 1980, and issues a new Part 432 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR Part 432) to be known as the Corn Crop Insurance Regulations, which shall remain in effect, until amended or superseded, for the 1980 and succeeding crop years, to read as follows:

PART 432—CORN CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

432.1 Availability of Corn Insurance.

432.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

432.3 Public notice of indemnities paid.

432.4 Creditors.

432.5 Good faith reliance on misrepresentation.

432.6 The contract.

432.7 The application and policy.

Authority.—Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

§ 432.1 Availability of Corn Insurance.

Insurance shall be offered under the provisions of this subpart on corn in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the

Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which corn insurance will be offered.

§ 432.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for corn which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 432.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 432.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 432.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the corn insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that

to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 432.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the corn crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 432.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the corn crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the *Federal Register* upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however*, That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a corn contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Corn Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Corn Insurance Policy are as follows:

U.S. Department of Agriculture—Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years: Corn

Crop Insurance Contract

Contract Number _____
Identification No. _____
Name and Address, ZIP Code _____
County and State _____
Type of Entity _____
Applicant is over 18 Yes ☐ No ☐

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the corn planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. **THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.**

Level Election _____
Price Election _____

Example: For the 19— Crop Year Only (100% Share)

Location/Farm No. _____
Guarantee Per Acre* _____
Premium Per Acre** _____
Practice _____

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed. AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following corn insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

Code No./Witness To Signature _____

Signature of Applicant _____

Address of Office for County: _____

* Your guarantee will be on a unit basis (acres × per acre guarantee × share).

** Your premium is subject to adjustment in accordance with section 5(c) of the policy.

Phone _____
Location of Farm Headquarters: _____

Phone _____

Corn Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be field corn which is planted for harvest as grain or silage and *silage-type* corn only where a silage guarantee is shown on the actuarial table and which is grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage planted to corn on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (3) which is destroyed and after such destruction it was practical to replant to corn and such acreage was not replanted, (4) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (5) of volunteer corn, (6) planted to a type or variety of corn not established as adapted to the area or shown as non-insurable on the actuarial table, or (7) planted with another crop, except as otherwise provided herein.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is planted for the development or production of hybrid seed or for experimental purposes.

3. *Responsibility of Insured To Report Acreage and Share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of corn planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. *Production Guarantees, Coverage Levels, and Prices For Computing Indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The grain production guarantee per acre shall be reduced by the lesser of 6 bushels or 20 percent for any unharvested acreage; where the insured crop is *silage-type* corn, the silage guarantee per acre shall be reduced by the lesser of 1 ton or 20 percent for any unharvested acreage.

5. *Annual Premium.* (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-31

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Percentage Adjustment Factor For Current Crop Year																
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Percentage Adjustment Factor For Current Crop Year																
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity: *however*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period*. Insurance on insured acreage shall attach at the time the corn is planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) harvest, (c) December 10 of the calendar year in which corn is normally harvested in all states except North Dakota (where insurance ceases October 31), or (d) total destruction of the insured corn crop: *Provided*, That where the actuarial table shows both a grain and a silage guarantee, insurance shall remain in effect no later than September 30 on any acreage of *silage-type* corn or any acreage of *field* corn harvested for silage, and any loss of production of such corn occurring thereafter shall be regarded as lost from an uninsured cause.

7. *Notice of Damage or Loss*. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the corn on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to corn. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if any acreage intended for harvest as silage has been damaged to the extent that a loss is probable, the insured shall give written notice to the Corporation as follows (1) where the

actuarial table shows only a grain guarantee, and the insured desires to harvest any acreage for silage, notice shall be given before the start of harvest of such acreage, or (2) where the actuarial table shows both a grain and a silage guarantee, notice shall be given prior to harvest if the harvested production will not be able to be determined, or by September 30 for unharvested acreage of *silage-type* corn or *field* corn intended for silage.

(d) In addition to the notices required in subsections (b) and (c) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 days after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire corn crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(e) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(f) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity*. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of corn on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of corn on the unit by the applicable guarantee per acre, and multiplying such result by the applicable price for computing indemnities, which product shall be the dollar amount of insurance for the unit, (2) subtracting therefrom the dollar amount obtained by multiplying the total production to be counted for the unit by the applicable price for computing indemnities, and (3) multiplying the result obtained in step (2) by the insured share. Where the actuarial table shows only a grain guarantee, all production and appraisals shall be determined in bushels. Where the actuarial table shows both a grain and a silage guarantee, the production and appraisals shall be determined in bushels or tons, depending upon whether the acreage is harvested for grain or silage, except that the production and appraisals of *silage-type* corn shall be in tons. Where a unit contains acreage to which both a grain and a silage guarantee apply, the dollar amount of insurance and dollar amount of the production to be counted shall be determined separately for each portion and then added together to determine the total amount for the unit: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported

acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature grain production shall be reduced .12 percent for each .1 percentage point of moisture in excess of 15.5 through 30.0 percent and .2 percent for each .1 percentage point of moisture from 30.1 through 40.0 percent. If the moisture is over 40 percent, or the test weight is below 40 pounds per bushel, the percent of the production to be counted shall be that agreed upon by the Corporation and the insured, or in the absence of agreement, as determined by the Corporation: *Provided, however*, That for harvested production, such percent shall not be less than 25.

(3) Appraised production to be counted shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is planted before corn harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of: the lesser of 6 bushels or 20 percent of the production guarantee for grain or the lesser of 1 ton or 20 percent of the production guarantee for silage, for all other unharvested acreage.

(d) If the insured intends to harvest any acreage for silage and gives notice pursuant to section 7 of this policy: (1) where the actuarial table shows only a grain guarantee, the Corporation will appraise the production in bushels of grain, (2) where the actuarial table shows both a grain and a silage guarantee, the Corporation will appraise the production in tons of silage only if the harvested production could not be determined and such appraisal of *field* corn will be used in computing the amount of loss only if such corn is actually harvested for silage. When an appraisal of production is required, the Corporation will make such appraisal before harvest starts; but, if unable to do so, the insured may harvest the acreage provided that representative areas are left unharvested for a Corporation appraisal.

(e) Where the actuarial table shows both a grain and a silage guarantee, the Corporation has the right to increase the silage production or tonnage appraisals of corn which is harvested for silage after the normal silage-harvesting period to reflect the normal moisture content of silage.

(f) The Corporation reserves the right to determine the amount of production of unharvested corn on the basis of field appraisals immediately after the end of the insurance period.

(g) The appraised potential production for acreage for which consent has been given to

be put to another use shall be counted as production in determining the amount of loss under the contract. However, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of corn becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of Insured Share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and Access to Farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all corn produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

County: All counties. Cancellation date: December 31. Termination date for indebtedness: March 31.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix—Additional Terms and Conditions

1. *Meaning of Terms.* For the purposes of corn crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding corn insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the corn crop is normally grown and shall be designated by the calendar year in which the corn crop is normally harvested.

(d) "Harvest" means removing the grain from the stalk either by hand or machine or cutting the corn for the purpose of livestock feed.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured corn crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Silage" means corn harvested by severing the stalk from the land and chopping the stalk and the ear for the purpose of livestock feed.

(k) "Tenant" means a person who rents land from another person for a share of the corn crop or proceeds therefrom.

(l) "Unit" means all insurable acreage of corn in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the corn crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable

guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured.* (a) The Corporation reserves the right to limit the insured acreage of corn to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of corn.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured corn acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the corn is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level and Price Election.* (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the

insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix "B"

Counties Designated for Corn Crop Insurance—7 CFR 432

In accordance with the provisions of 7 CFR 432.1, the following counties are designated for corn crop insurance:

Alabama			
DeKalb	Marshall	Monroe	Schuyler
Jackson	Pike	Montgomery	Scott
Lawrence		Morgan	Shelby
		Moultrie	Stark
Colorado		Ogle	Stephenson
Adams	Morgan	Peoria	Tazewell
Baca	Phillips	Piatt	Vermilion
Boulder	Powers	Perry	Warren
Cheyenne	Sedgwick	Pike	Washington
Kit Carson	Washington	Putnam	Wayne
Larimer	Weld	Randolph	White
Logan	Yuma	Richland	Whiteside
		Rock Island	Will
Delaware		St. Clair	Winnebago
Kent	Sussex	Sangamon	Woodford
New Castle			
Florida		Indiana	
Suwannee		Adams	Knox
		Allen	Kosciusko
Georgia		Bartholomew	Lagrange
Colquitt	Mitchell	Benton	Laporte
Houston		Blackford	Madison
		Boone	Marion
Illinois		Carroll	Marshall
Adams	Henderson	Cass	Miami
Bond	Henry	Clay	Montgomery
Boone	Iroquois	Clinton	Morgan
Brown	Jasper	Daviess	Newton
Bureau	Jefferson	Decatur	Noble
Carroll	Jersey	De Kalb	Parke
Cass	Jo Daviess	Delaware	Posey
Champaign	Kane	Elkhart	Pulaski
Christian	Kankakee	Fayette	Putnam
Clark	Kendall	Fountain	Randolph
Clay	Knox	Franklin	Ripley
Clinton	LaSalle	Fulton	Rush
Coles	Lawrence	Gibson	Shelby
Crawford	Lee	Grant	Sullivan
Cumberland	Livingston	Greene	Tippecanoe
De Kalb	Logan	Hamilton	Tipton
De Witt	McDonough	Hancock	Union
Douglas	McHenry	Hendricks	Vermillion
Edgar	McLean	Henry	Vigo
Effingham	Macon	Howard	Wabash
Fayette	Macoupin	Huntington	Warren
Ford	Madison	Jackson	Wayne
Fulton	Marion	Jasper	Wells
Greene	Marshall	Jay	White
Grundy	Mason	Johnson	Whitley
Hamilton	Menard		
Hancock	Mercer	Iowa	
		Adair	Franklin
		Adams	Fremont
		Allamakee	Greene
		Appanoose	Grundy
		Audubon	Guthrie
		Benton	Hamilton
		Black Hawk	Hancock
		Boone	Hardin
		Bremer	Harrison
		Buchanan	Henry
		Buena Vista	Howard
		Butler	Humboldt
		Calhoun	Ide
		Carroll	Iowa
		Cass	Jackson
		Cedar	Jasper
		Cerro Gordo	Jefferson
		Cherokee	Johnson
		Chickasaw	Jones
		Clarke	Keokuk
		Clay	Kossuth
		Clayton	Lee
		Clinton	Linn
		Crawford	Louisa
		Dallas	Lucas
		Davis	Lyon
		Decatur	Madison
		Delaware	Mahaska
		Des Moines	Marion
		Dickinson	Marshall
		Dubuque	Mills
		Emmet	Mitchell
		Fayette	Monroe
		Floyd	Monroe

Montgomery Muscatine O'Brien Osceola Page Palo Alto Plymouth Pocahontas Polk Pottawattamie Powashiek Ringgold Sac Scott Shelby Sioux Kansas Atchison Bourbon Brown Cheyenne Crawford Decatur Doniphan Douglas Edwards Finney Ford Franklin Gove Grant Gray Greeley Hamilton Haskell Hodgeman Jackson Jefferson Jewell Johnson Kearny Lane Leavenworth Kentucky Christian Davies Henderson Hopkins Louisiana Pointe Coupee Maryland Caroline Kent Michigan Branch Calhoun Cass Clinton Eaton Genesee Gratiot Hillsdale Ingham Ionia Jackson Minnesota Anoka Benton Big Stone Blue Earth Brown Carver Chippewa Chisago Cottonwood Dakota Dodge Douglas	Story Tama Taylor Union Van Buren Wapello Warren Washington Wayne Webster Winnebago Winneschiek Woodbury Worth Wright Linn Logan Lyon Marshall Meade Miami Morton Nemaha Osage Pawnee Pottawatomie Pratt Rawlins Republic Scott Seward Shawnee Sheridan Sherman Stanton Stevens Thomas Wallace Washington Wichita McLean Todd Union Queen Annes Talbot Kalamazoo Lenawee Livingston Monroe Saginaw St. Clair St. Joseph Shiawassee Tuscola Washtenaw Faribault Fillmore Freeborn Goodhue Dundy Fillmore Franklin Frontier Furnas Gage Gosper Hall Lincoln	Lyon McLeod Martin Meeker Mille Lacs Morrison Mower Murray Nicollet Nobles Olmsted Otter Tail Pipestone Pope Redwood Renville Rice Rock Mississippi Calhoun Missouri Adair Andrew Atchison Audrain Barton Bates Boone Buchanan Butler Caldwell Callaway Cape Girardeau Carroll Cass Chariton Clark Clay Clinton Conper Davies De Kalb Dunklin Franklin Gentry Grundy Harrison Henry Holt Howard Jackson Jasper Johnson Knox Nebraska Adams Antelope Boone Buffalo Burt Butler Cass Cedar Chase Clay Colfax Cuming Custer Dakota Dawson Dixon Dodge Douglas Dundy Fillmore Franklin Frontier Furnas Gage Gosper Hall Hamilton	Scott Sherburne Sibley Stearns Steele Stevens Swift Todd Traverse Wabasha Wadena Waseca Washington Watonswan Winona Wright Yellow Medicine Tippah Lafayette Lawrence Lewis Lincoln Linn Livingston Macon Marion Mercer Mississippi Monroe Montgomery New Madrid Nodaway Pemiscot Perry Pettis Pike Platte Putnam Ralls Randolph Ray St. Charles Saline Schuyler Scotland Scott Shelby Stoddard Sullivan Vernon Worth Harlan Hitchcock Holt Howard Johnson Kearney Knox Lancaster Lincoln Madison Merrick Nance Nemaha Nuckolls Otoe Pawnee Phelps Pierce Platte Polk Red Willow Richardson Saline Sarpy Saunders Scotts Bluff Seward	Sherman Stanton Thayer Thurston New York Chautauqua Niagara North Carolina Anson Beaufort Brunswick Columbus Hyde Nash Northampton North Dakota Cass Ransom Richland Ohio Allen Ashland Auglaize Butler Champaign Clark Clinton Crawford Darke Defiance Delaware Erie Fairfield Fayette Franklin Fulton Greene Hancock Hardin Henry Highland Huron Knox Licking Oklahoma Cimarron Pennsylvania Adams Chester Cumberland Dauphin Erie South Carolina Calhoun South Dakota Aurora Beadle Bon Homme Brookings Brule Charles Mix Clark Clay Codington Davison Day Deuel Douglas Grant Gregory Hamlin Tennessee Crockett Franklin	Washington Wayne York Ontario Yates Pamlico Robeson Rowan Scotland Union Washington Sargent Traill Logan Lucas Madison Marion Medina Mercer Miami Montgomery Morrow Ottawa Paulding Pickaway Preble Perry Richland Sandusky Seneca Shelby Union Van Wert Wayne Williams Wood Wyandot Texas Franklin Lancaster Lebanon Perry York Orangeburg Hanson Hutchinson Jerauld Kingsbury Lake Lincoln McCook Miner Minnehaha Moody Roberts Sanborn Turner Union Yankton Obion
---	--	--	---	--	---

Texas
Bailey
Castro
Dallam
Deaf Smith
Hale

Virginia

Southampton

Wisconsin

Barron
Brown
Buffalo
Calumet
Chippewa
Clark
Columbia
Crawford
Dane
Dodge
Dunn
Eau Claire
Fond du Lac
Grant
Green
Iowa
Jackson
Jefferson
Kenosha
Kewaunee
La Crosse

Wyoming

Goshen

These regulations have been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Dated: November 16, 1979.

James D. Deal,
Manager.

[FR Doc. 79-36142 Filed 11-23-79; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-SO-71; Amdt. No. 39-3619]

Airworthiness Directives; EMBRAER EMB-110P1 and EMB-110P2

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection for cracks in the flap supports on EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. The AD is needed to prevent failure of the flap supports which could result in loss of the flaps from the airplanes.

DATES: Effective November 21, 1979.

Compliance is required within the next 50 hours time in service, after the effective date of this AD, and thereafter at intervals not to exceed 250 hours time in service.

FOR FURTHER INFORMATION CONTACT: Jack Bentley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been reports of cracks in the flap supports on EMBRAER Models EMB-110P1 and EMB-110P2 airplanes which could result in loss of the flaps from the airplane. Since this condition is likely to exist or develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection for cracks in the flap supports and replacement as necessary on EMBRAER Models EMB-110P1 and EMB-110P2 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

EMBRAER: Models EMB-110P1 and EMB-110P2, certificated in all categories.

Compliance is required within the next 50 hours time in service, unless already accomplished, and thereafter at intervals not to exceed 250 hours time in service. To prevent failure of the flap supports and possible loss of the flaps, accomplish the following:

A. With the wing flaps extended, using a 10-power magnifying glass or dye-penetrant method, conduct an inspection of all the flap supports, part numbers listed below, installed on the wing and on the flaps, for cracks in the components near the attachment bolts.

Flap Support Part Numbers

4A-2611.46.01
4A-2621.46.01
4A-2611.47.01
4A-2611.48.01
4A-2621.48.01

4A-2116.01.01
4A-2116.02.01 or 4A-2116.02.01N
4A-2216.02.01 or 4A-2216.02.01N
4A-2116.03.01
4A-2216.03.01

If any cracks are found, replace the component before further flight.

B. Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, Southern Region, may adjust the inspection interval if the request contains substantiating data to justify the increase for that operator.

C. Compliance with the provisions of this AD may be accomplished in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, Southern Region. This amendment is effective November 21, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Ga., on November 9, 1979.

Louis J. Cardinali,
Director, Southern Region.

[FR Doc. 79-36315 Filed 11-23-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-NW-18-AD; Amend. 39-3613]

Airworthiness Directive; Bell Model 47G Series Helicopters, Soly Turbine Conversions

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: On August 21, 1979, an airmail letter Airworthiness Directive (AD) was issued and made effective upon receipt to all operators of Bell 47G series helicopters that have been converted to turbine power by Soly Conversions, LTD., under Supplemental Type Certificate (STC) SH657NW.

The AD required a one-time inspection of the turbine engine mount rod ends to determine if certain non-aircraft quality rod ends had been installed, replacement of the rod ends if necessary, and returning of the replaced rod ends to Soly Conversion, LTD., for accountability. Compliance with the AD will result in detection of the non-aircraft quality rod ends which are subject to unreliable strength and fatigue characteristics. Failure of these

rod ends would result in binding of the engine drive shaft and possible catastrophic structural damage. This condition still exists and the AD is hereby published in the Federal Register to make it effective as to all persons.

DATES: The effective date is November 26, 1979, except for recipients of the airmail letter of August 21, 1979, which contained this Amendment. Initial compliance required before 25 hours time-in-service after receipt of this AD.

FOR FURTHER INFORMATION, CONTACT: Mr. James R. Haynes, Airframe Section, ANW-212, Engineering and Manufacturing Branch, Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108. Telephone (206) 767-2518.

SUPPLEMENTARY INFORMATION: These suspect rod ends were discovered to have been installed on several Bell 47G series helicopters at the time of conversion to turbine power by Soloy Conversion, LTD., under Supplemental Type Certificate (STC) SH657NW. The manufacturer of these rod ends has indicated that they are not aircraft quality and have unreliable strength and fatigue characteristics. The rod ends are the primary mounting devices for the turbine engine. A failure of one of these rod ends could cause a shift in the engine alignment and binding of the engine drive shaft. In addition to possible loss of engine power, the engine drive shaft could fail and cause severe structural damage in the helicopter. A known number of these rod ends have been installed, but it is not known which particular helicopters they have been installed on.

Consequently, the AD requires a one-time inspection to determine if any of these type rod ends have been installed, replacement with approved rod ends, if necessary, and return of the suspect rod ends to Soloy Conversion, LTD., for accountability. Since a situation existed that required immediate adoption of this regulation, it was found that notice and public procedure thereon were impracticable and good cause existed at the time of issuance, and still exists, for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (13 CFR 39.13), is amended by adding the following new Airworthiness Directive:

Bell Helicopter Textron: Applies to Bell 47G series helicopters certificated in all categories that have been converted to turbine power by Soloy Conversions.

LTD., Supplemental Type Certificate SH657NW.

A. Within the next 25 hours time-in-service, after the effective date of this AD, inspect the turbine engine mount rod ends with a magnet to determine if the NMB Inc. P/N AH FTL5, or Soloy P/N 100-2205-2B rod ends are installed. These suspect stainless steel rod ends are identified by the fact that they are non-magnetic.

B. If the non-magnetic stainless steel rod ends are found to be installed, replace the rod ends with Heim P/N HFL-5M or Soloy P/N 100-2205-1B in accordance with Soloy Conversions, LTD., Service Bulletin 03-660 Dated July 18, 1979, within 25 hours time-in-service after the effective date of this AD.

C. Return the suspect stainless steel rod ends to Soloy Conversions, LTD., for disposal within 30 days after removal.

D. Alternate replacements which provide an equivalent level of safety may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Soloy Conversions, LTD., P.O. Box 60, Chehalis, Washington 98532. These documents may also be examined at FAA Northwest Region, 9010 East Marginal South, Seattle, Washington 98108.

"This Amendment is effective November 26, 1979 and was effective earlier, for all recipients of the airmail letter dated August 21, 1979, which contained this Amendment." (Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Wash., on November 6, 1979.

C. B. Walk, Jr.,
Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-36316 Filed 11-23-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-40]

Designation of Transition Area:
Danbury, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Danbury, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Garrett Ranch Airport. The circumstance which created the need for the action is the establishment of a special instrument approach procedure to the Garrett Ranch Airport using the Scholes VORTAC. Coincident with this action the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). This is a new airport as circularized under Study Number 79-ASW-26-NRA dated February 27, 1979.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On October 1, 1979, a notice of proposed rulemaking was published in the Federal Register (44 FR 56374) stating that the Federal Aviation Administration proposed to designate the Danbury, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Danbury, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Garrett Ranch Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 G.m.t., January 24, 1980, by adding the Danbury, Tex., transition area, as follows.

In Subpart G, § 71.181 (44 FR 442), the following transition area is added:

Danbury, Tex.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Garrett Ranch Airport, Danbury, Tex. (latitude 29°17'13" N., longitude 95°21'34" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 14, 1979.

C. R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 79-36317 Filed 11-23-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-41]

Designation of Transition Area:
Eastland, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Eastland, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Eastland Municipal Airport. The circumstance which created the need for the action is the establishment of a nondirectional radio beacon (NDB) 3,500 feet south of Runway 35. Coincident with this action, the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On October 1, 1979, a notice of proposed rule making was published in the Federal Register (44 FR 56374) stating that the Federal Aviation

Administration proposed to designate the Eastland, Tex., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received and one commentor objected to the proposal.

Discussion of Comments

The Department of the Air Force representative commented negatively to the proposed rule. The commentor objected because of the possible effect the proposal may have on the Military Training Route, IR153. The main concern is that the instrument approach procedure associated with the proposal could cause limitations or restrictions on use of the route. Additionally, the commentor recommended that the instrument approach procedure be made from the north to Runway 17 instead of Runway 35. The instrument approach procedure was developed to Runway 35 rather than Runway 17 due to high antenna structures north of the airport and a lower minimum descent altitude (MDA) could be obtained by developing the procedure to Runway 35. Instrument Flight Rules (IFR) traffic in controlled airspace will be separated by the appropriate air traffic control facility. The low volume of traffic that will be generated from the Eastland Municipal Airport and the IFR traffic on IR153 shall not conflict to any significant degree. Consequently, the Federal Aviation Administration has determined that any effect will be minimal. Except for editorial changes, this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Eastland, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Eastland Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 G.m.t., January 24, 1980, as follows.

In Subpart G, § 71.181 (44 FR 442), the following transition area is added:

Eastland, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile

radius of Eastland Municipal Airport (latitude 32°25'00" N., longitude 96°48'45" W.) and within 3.5 miles each side of the 180° bearing from the NDB (latitude 32°23'55" N., longitude 96°48'35.18" W.) extending from the 6.5-mile radius area to a point 8.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Note.—Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 14, 1979.

C. R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 79-36318 Filed 11-23-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-35]

Designation of Transition Area: Center, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Center, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Center Municipal Airport. The circumstance which created the need for the action is the establishment of a nondirectional radio beacon (NDB) located on the airport. Coincident with this action, the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On September 27, 1979, a notice of proposed rulemaking was published in the Federal Register (44 FR 55595) stating that the Federal Aviation

Administration proposed to designate the Center, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received and one commentor objected to the proposal.

Discussion of Comments

The Department of the Air Force representative commented negatively to the proposed rule. The commentor objected because of the possible effect the proposal might have on a Military Training Route, IR-127. The main concern is that the transition area and the instrument approach procedure associated with the proposal could infringe upon IR-127. The commentor stated that the Twelfth Air Force would have no objection if IR-127 was not impacted. Instrument Flight Rules (IFR) traffic in controlled airspace will be separated by the appropriate air traffic control facility. Since the anticipated IFR traffic operating to or from the Center Municipal Airport will not be of sufficient numbers to impact other IFR operations, the Federal Aviation Administration has determined that there will be no significant impact on IR-127. Except for editorial changes, this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Center, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Center Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 G.m.t., January 24, 1980, as follows:

In Subpart G, § 71.181 (44 FR 442), the following transition area is added:

Center, Tex.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Center Municipal Airport, Center, Tex. (latitude 31°50'00" N., longitude 94°09'00" W.), and within 3.5 miles each side of the 321° bearing from the NDB (latitude 31°50'10" N., longitude 94°08'59" W.), extending from the 6-mile radius area to 8.5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 9, 1979.

C. R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 79-38319 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-36]

Designation of Transition Area: Winters, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Winters, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Winters Municipal Airport. The circumstance which created the need for the action is the establishment of a nondirectional radio beacon (NDB) located on the airport. Coincident with this action, the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).
EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On September 27, 1979, a notice of proposed rule making was published in the Federal Register (44 FR 55595) stating that the Federal Aviation Administration proposed to designate a transition area at Winters, Tex. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments

were received without objections. Except for editorial changes this amendment is the proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Winters, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Winters Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 G.m.t., January 24, 1980, by adding the Winters, Tex., transition area as follows:

Winters, Tex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Winters Municipal Airport (latitude 31°56'45" N., longitude 99°59'08" W.) and within 3.5 miles each side of the 187° bearing from the NDB (latitude 31°57'12" N., longitude 99°59'00" W.) extending from the 7-mile radius area to 8.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 9, 1979.

C. R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 79-38320 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-EA-25]

Alteration of Transition Area: Tri-City, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This amendment alters the Tri-City, Tenn., transition area. A new

NDB-A instrument approach procedure at Virginia Highlands Airport, Abingdon, Va., is in development. To provide controlled airspace for this procedure will require alteration of the 700-foot floor transition area. This alteration will provide protection to aircraft executing the new and revised instrument approaches by increasing the controlled airspace. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 G.m.t. November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter a transition area. On page 38569 of the Federal Register for July 2, 1979, the FAA published a proposed amendment to alter the subject transition area. Interested parties were given time in which to submit comments. No objections were received.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. November 29, 1979, as published.

(Sec. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

Issued in Jamaica, New York, on November 8, 1979.

Martin J. White,
Acting Director, Eastern Region.

1. Amend § 71.181 of the Federal Aviation Regulations so as to amend the description of the Tri-City, Tenn., 700-foot floor transition area as follows:

In the text delete, "including the airspace within 2 miles each side of Virginia Highlands Airport Runway 6 extended centerline, extending from the arc of a 30-mile radius circle centered on Tri-City Airport to 7.5 miles northeast of Virginia Highlands Airport;" and substitute therefore, "including the airspace within 3 miles each side of the Abingdon, Va. NDB 36°42'35" N., 81°59'15" W., 059° bearing, extending from the arc of a 30-mile radius circle

centered on Tri-City Airport to 8.5 miles northeast of the Abingdon NDB;"

[FR Doc. 79-38321 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-32]

Alteration of Transition Area: Port Lavaca, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Port Lavaca, Tex. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Calhoun County Airport. The circumstance which created the need for the action is the establishment of a nondirectional radio beacon (NDB) on the airport.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On September 20, 1979, a notice of proposed rule making was published in the Federal Register (44 FR 54492) stating that the Federal Aviation Administration proposed to alter the Port Lavaca, Tex., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the Port Lavaca, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing established and proposed instrument approach procedures to Calhoun County Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal

Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 G.m.t., January 24, 1980, as follows.

In Subpart G, § 71.181 (44 FR 442), the Port Lavaca transition area is altered as follows:

Port Lavaca, Tex.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Calhoun County Airport (Latitude 28°39'12" N., Longitude 96°40'56" W.) and within 2.5 miles each side of the Palacios VORTAC 250° radial extending from the 5-mile radius area to 16 miles southwest of the VORTAC; within 3 miles each side of the 330° bearing from the NDB (Latitude 28°39'01" N., Longitude 96°40'52" W.), extending from the 5-mile radius area to 8.5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 9, 1979.

C. R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 79-38322 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ASW-34]

Alteration of Transition Area: Sulphur Springs, Tex.

AGENCY: Federal Aviation Administration (FAA) DOT.
ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Sulphur Springs, Tex. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Sulphur Springs Municipal Airport. The circumstance which created the need for the action is the establishment of a nondirectional radio beacon (NDB) located on the airport.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air

Traffic Division, Southwest Region,
Federal Aviation Administration, P.O.
Box 1689, Fort Worth, Texas 76101;
telephone 817-824-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On September 27, 1979, a notice of proposed rule making was published in the *Federal Register* (44 FR 55596) stating that the Federal Aviation Administration proposed to alter the Sulphur Springs, Tex., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the Sulphur Springs, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing established and proposed instrument approach procedures to the Sulphur Springs Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 G.m.t., January 24, 1980, as follows:

In Subpart G, § 71.181 (44 FR 442), the following transition area is altered by adding the following:

Sulphur Springs, Tex.

• • • and within 3 miles each side of the 002° bearing from the NDB (latitude 33°09'30"N., longitude 95°37'05"W.) extending from the 5-mile radius area to 8.5 miles north of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations; the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 9, 1979.

C. R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 79-36323 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-12-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Part 369

Restrictive Trade Practices or Boycotts; Interpretation

AGENCY: Industry and Trade Administration, Department of Commerce.

ACTION: Interpretation.

SUMMARY: This document sets forth the views of the Department of Commerce with respect to the application of the final regulations on restrictive trade practices or boycotts (15 CFR Part 369) to certain shipping and insurance certifications which some United States persons are being or may be asked to provide.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Howard Fenton, Antiboycott Compliance Staff, U.S. Department of Commerce, Telephone (202) 377-5914.

The following Appendix is added to Part 369 as Supplement 2.

Appendix—Interpretations

In the *Federal Register* of April 21, 1978 (43 FR 16969), the Department set forth its views on whether the furnishing of certain shipping and insurance certifications in compliance with boycotting country requirements violated the provisions of Title II of the Export Administration Amendments of 1977 (50 U.S.C. app. 2401-2413) (1976 & Supp. I 1977) and the regulations on restrictive trade practices or boycotts (15 CFR Part 369 (1979)). In that context, the Department stated its position that (i) "the owner, charterer or master of a vessel may certify that the vessel is 'eligible' or 'otherwise eligible' to enter into the ports of a boycotting country in conformity with its laws and regulations," and (ii) "the insurer, himself, may certify that he has a duly qualified and appointed agent or representative in the boycotting country and may furnish the name and address of his agent or representative."

Under its April 21, 1978 Interpretation, the Department also stated that furnishing such certifications by anyone other than (i) the owner, charterer or master of a vessel or (ii) the insurer would fall within the prohibition set forth in 15 CFR 369.2(d), "unless it is clear from all the facts and circumstances that these certifications are not required for a boycott reason." See 15 CFR 369.2(d) (3) and (4).

Since the publication of that Interpretation, the Department has received from the

Kingdom of Saudi Arabia a clarification that the shipping and insurance certifications are required by Saudi Arabia in order to (i) demonstrate that there are no applicable restrictions under Saudi laws or regulations pertaining to maritime matters such as the age of the ship, the condition of the ship, and similar matters that would bar entry of the vessel into Saudi ports; and (ii) facilitate dealings with insurers by Saudi Arabian importers whose ability to secure expeditious payments in the event of damage to insured goods may be adversely affected by the absence of a qualified agent or representative of the insurer in Saudi Arabia. In the Department's judgment, this clarification constitutes sufficient facts and circumstances to demonstrate that the certifications are not required by Saudi Arabia for boycott reasons.

On the basis of this clarification, it is the Department's position that any United States person may furnish such shipping insurance certifications required by Saudi Arabia without violating 15 CFR 369.2(d). Moreover, under these circumstances, receipt of requests for such shipping and insurance certifications from Saudi Arabia is not reportable.

It is still the Department's position that furnishing such a certificate pertaining to one's own eligibility offends no prohibition under Part 369. See 15 CFR 369.2(f), example (xiv). However, absent facts and circumstances clearly indicating that the certifications are required for ordinary commercial reasons as demonstrated by the Saudi clarification, furnishing certifications about the eligibility or blacklist status of any other person would fall within the prohibition set forth in § 369.2(d), and receipt of requests for such certifications is reportable.

It also remains the Department's position that where a United States person asks an insurer or carrier of the exporter's goods to self-certify, such request offends no prohibition under this Part. However, where a United States person asks anyone other than an insurer or carrier of the exporter's goods to self-certify, such requests will be considered by the Department as evidence of the requesting person's refusal to do business with those persons who cannot or will not furnish such a self-certification. For example, if an exporter-beneficiary of a letter of credit asks his component suppliers to self-certify, such a request will be considered as evidence of his refusal to do business with those component suppliers who cannot or will not furnish such a self-certification.

The Department wishes to emphasize that notwithstanding the fact that self-certifications are permissible, it will closely scrutinize the activities of all United States persons who provide such self-certifications, including insurers and carriers, to determine that such persons have not taken any prohibited actions or entered into any prohibited agreements in order to be able to furnish such certifications.

Dated: November 20, 1979.

Stanley J. Marcuas,
Acting Assistant Secretary for Industry and Trade.

[FR Doc. 79-36326 Filed 11-23-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Chapter II

Mortgage Insurance Sections; Identification of Incorporated by Reference Materials

Editorial Note: In response to an office of the Federal Register request to identify incorporated material, and to comply with current terminology and practice, the Department of Housing and Urban Development changes those section headings in 24 CFR Chapter II which now read "Incorporation by reference" to read "Cross reference."

BILLING CODE 4820-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1365-3]

Approval and Promulgation of Implementation Plans; Alabama: 1979 Plan Revisions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its approval of portions of the implementation plan revisions which the Alabama Air Pollution Control Commission submitted pursuant to the requirements of Part D of Title I of the Clean Air Act, as amended 1977, with regard to nonattainment areas.

Other portions of the State's 1979 revisions are given conditional approval. These portions contain minor deficiencies which the State has agreed to correct by February 15, 1980. After receipt of the supplementary submittal, they will be the subject of another notice of proposed rulemaking. The specific portions of the Alabama implementation plan revisions that EPA proposes to take final action on are described below in detail in the General Discussion.

DATE: These actions are effective November 26, 1979.

ADDRESSES: Copies of the materials submitted by Alabama and the comments received in response to the proposal notice of July 19, 1979 (44 FR 42242), may be examined during normal business hours at the following locations: Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Library, Environmental Protection

Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30308.

FOR FURTHER INFORMATION CONTACT: Raymond Gregory, Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia, 30308, 404/881-3286 (FTS 257-3286).

SUPPLEMENTAL INFORMATION:

Background

In the July 19, 1979, *Federal Register* (44 FR 42242), EPA proposed approval of the Alabama SIP revisions for the following designated nonattainment areas:

Total Suspended Particulate Matter (TSP) ((P) Primary, (S) Secondary Standards)

A. That portion of Jackson County surrounding the Tennessee Valley Authority's Widows Creek Plant (P)(S).

B. That portion of Mobile County within a section of downtown Mobile (P)(S).

C. A portion of Morgan County including portions of the City of Decatur (S).

Photochemical Oxidants (Ozone)

A. Jefferson County;
B. Mobile County;
C. Madison County;
D. Morgan County;
E. Russell County.

Implementation plan revisions under Part D of Title I of the Clean Air Act were developed by the State for all the foregoing areas. These revisions were submitted for EPA's approval on April 19, 1979; additional information requested by EPA was submitted on August 10, 1979. The materials submitted concerned clarification of issues addressed in the proposed conditional approval of July 19, 1979. In addition, the State requested in a separate letter on August 10, 1979, redesignation of the TSP nonattainment area in Morgan County to "unknown" (cannot be classified) based on four quarters of attainment data. This request will be dealt with in a separate *Federal Register* notice.

Receipt of the Alabama revisions was first announced in the *Federal Register* of May 9, 1979 (44 FR 27183). The Alabama revisions have been reviewed by EPA in light of the Clean Air Act of 1977, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the *Federal Register* on April 4, 1979 (44 FR 20372), and need not be repeated in detail here.

General Discussion

The notice of proposed rulemaking discussed each of the provisions of Section 172(b) of the Clean Air Act of 1977. This notice discusses the substantive issues addressed in the proposal notice of July 19, 1979, and the

public comments which were received as a result of that notice, and responses to comments made on a national basis.

A Reasonable Further Progress (RFP) demonstration for the Morgan County TSP nonattainment area was requested. The State has made a request for redesignation of this area to unclassifiable based on four quarters of attainment air quality data and the installation of more efficient controls under existing regulations on two sources of TSP influencing the monitor. This request is in accordance with EPA policy. The conditional approval proposed for this section of the State submittal is no longer appropriate. The change in the attainment status will be addressed in a separate *Federal Register* notice.

The State was requested to certify that the 1972 inventory for TSP sources in the Mobile nonattainment area was identical to the 1976 inventory. As an alternative, the State has submitted a 1977 inventory. With this submittal, the conditional approval concerning the control strategy demonstration for the Mobile TSP revision is changed to full approval.

A commitment to an annual updating of the inventories for the nonattainment area was requested. The commitment by the State to annual reports concerning RFP is in effect also a commitment to an annual updating of the emission inventories, since the annual reports concerning RFP must be based on annually updated emissions inventories. The conditional approval which required a commitment to an annual updating of the emission inventories is therefore being changed to full approval.

The State has submitted a written certification that the definition of LAER (Lowest Achievable Emission Rate) which contains the phrase "or can reasonably be expected to occur in practice" is not any less stringent than the definition contained in the Clean Air Act. With this certification the conditional approval of the definition of LAER is changed to full approval.

A suggestion was made that the State make their definitions of "source" and "facility" consistent with present EPA definitions. Because the State prefers their definitions of the terms "source" and "facility" rather than the EPA definitions, and because the EPA definitions are proposed to be changed in the same manner (see 44 FR 51931 September 5, 1979), no change will be required in the State definitions.

The State has agreed to revise the permitting requirements to include those sources significantly impacting the primary and secondary nonattainment areas. Conditional approval is given

with the stipulation that the State must revise the regulation accordingly.

The State has submitted a written concurrence with EPA's interpretation of the term "acceptable schedule" as being "intended to mean one which is consistent with the requirements of the Clean Air Act including Section 113(d)." With this concurrence by the State, EPA approves subparagraph 16.3.2(c)(2) of the State's plan.

EPA has determined that removal of the phrases "increase in" and "(or sources)" in subparagraph 16.3.2(d)(1)(i) is not required in order for this provision to be approvable. EPA has concluded that the State's definition of "source" and "major modification" eliminate the possibility that emission reductions at the source (as presently defined by EPA) would exempt new sources or modifications from substantive permitting requirements.

The State has used the phrase "maximum expected production rate", instead of the EPA phrase "maximum allowable production rate" in its regulation governing calculation of offsets. The State agency has certified that the phrase "maximum expected production rate" used in subparagraph 16.3.2(g)(5) of its regulations is not intended to allow credit for a calculated value greater than that which would be allowed under the applicable source emission limitation in the approved SIP. With the above certification by the State, the conditional approval concerning subparagraph 16.3.2(g)(5) is changed to full approval.

EPA has obtained assurances from the State that emission reduction offsets will be made legally enforceable under the SIP by means of requirements in the Part D permits for the sources providing the offsets. Since this mechanism is legally enforceable, EPA has determined that the State has satisfied the requirement concerning the specific mechanisms for implementing offsets.

The State permitting requirements intended to meet Clean Air Act Part D permitting requirements mandate offsets of "emissions" from proposed new or modified sources before construction of said sources can be approved.

"Emissions" are defined in section 1.2.1 of the State regulations to include "a release into the outdoor atmosphere of air contaminants". This of course includes the EPA concept of emissions referred to as "fugitive process emissions". This will necessitate the State requiring a quantification of the "fugitive process emissions" for each affected source and the source applying for construction approval to obtain appropriate offsets. Therefore, with this understanding, a State definition of

"fugitive process emissions" is not necessary. The conditional approval requiring adoption of a definition of "fugitive process" emissions is changed to full approval.

Upon reconsideration, EPA has determined that the control requirements specified in the document referenced in section 4.2.4 of the State regulations, for the Mobile TSP nonattainment area (Appendix E of the "Support Document, SIP Revision, Mobile TSP Nonattainment Area", November 14, 1978), do meet the requirements for emission limitations and legally enforceable procedures in that each individual "source" or "process" requiring Reasonably Available Control Technology (RACT) is identified and appropriate control measures are specified for each source in Mobile. The SIP revision process must be adhered to for any future revision of that Appendix. Based on this determination, the conditional approval for this section is changed to full approval.

The State regulations section 4.11.1(c) concerning control of cement plants indicates applicability to "new plants". The State regulation for Standards of Performance for New Stationary Sources (section 12.1(b)) states that "the regulations of Chapter 12 will take precedence for standards of performance for new stationary sources unless the existing regulations are more stringent." Since the Chapter 12 regulations represent full New Source Performance Standards for new cement plants, it takes precedence. The conditional approval for this section is changed to full approval based on the nonapplicability of section 4.11.1(c) to new cement plants, as confirmed by the State.

EPA has determined that the VOC Control Techniques Guideline concerning control of petroleum storage vessels prior to lease custody transfer supports an exemption of crude oil and condensate storage vessels smaller than 1,600,000 liters. Therefore, the conditional approval concerning the Alabama exemption is changed to full approval.

The conditional approval for the State Director-approved alternative VOC control (6.14.2) which uses a plantwide weekly weighted average is changed to full approval. It is EPA's interpretation of the Clean Air Act and relevant regulations that if alternative control strategies are allowed which were not part of the SIP approval process, then these individual alternative control strategies must undergo the full SIP revision process. EPA will soon place in

the Federal Register a general notice concerning this subject.

Public Comments

1. The following comments concerned Reasonably Available Control Technology (RACT) for sources of Volatile Organic Compounds (VOC).

Comment: The VOC RACT regulations should be limited to the designated nonattainment areas. The commenter doubts that EPA will allow (based on written EPA policy and regulations) exemptions from either pre-construction monitoring or emission offset requirements for new VOC sources when a State has adopted statewide RACT regulations for VOC sources.

Agency Response: Statewide RACT regulations for VOC sources are a necessary requirement for a Statewide "accommodative SIP" approach for new VOC sources. An accommodative SIP eliminates requirements for offsets for new VOC sources locating in or near nonattainment areas. In addition, under this approach, a new source locating in a rural area which is unclassifiable for ozone can assume nonattainment, install LAER control, and perform the required monitoring after the start of construction. Otherwise, monitoring would be required before issuance of the permit to start construction.

Comment: The compliance schedule deadline for the VOC RACT regulation should be extended as long as possible while still meeting reasonable further progress requirements. The commenter is concerned that the time frame for ordering, retrofitting or installing, and testing control equipment will exceed the time allowed on the compliance schedules.

Agency Response: The State has adopted regulations allowing alternative compliance schedules. EPA will allow alternative compliance schedules which are approved by states under regulations which meet EPA requirements.

2. The following comments addressed questions concerning the control strategy demonstration and adopted regulations.

Comment: (Ozone-Jefferson County and Mobile County) Air quality and emissions data for photochemical oxidants (ozone) and the compliance modeling (linear rollback technique) are based more on wishful thinking than factual information and reliable analysis.

Agency Response: The air quality data has been collected in accordance with approved reliable sampling methods. The emissions data were collected using standardized methods

and thus constitute reliable factual information. The use of the linear rollback method determining the level of control required to attain the national ambient air quality standards is acceptable. While EPA recognizes that other models exist which involve a more complex investigation of the ozone-hydrocarbon reaction cycle, the rollback method is still deemed reliable by EPA.

Comment: Without clearly stated authority and additional resources to effectively supervise local programs, Alabama will inevitably fail in its efforts to attain compliance in Birmingham and Mobile.

Agency Response: The local agencies in Jefferson and Mobile Counties have adequate resources to accomplish effective control of air pollution sources. The Alabama Air Pollution Control Commission (AAPCC) oversees work conducted by those programs by means of terms in the agreement delegating primary responsibility to the local programs. The resources committed by the AAPCC to work effectively in conjunction with the local agencies are adequate.

Comment: Alabama's "bubble" provision simply states that "approval * * * shall not be granted unless it is consistent with the requirements of Federal and State law." This general prohibition does not set forth important standards and guidelines with sufficient specificity.

Agency Response: The use of the "bubble" provision by the State will be under the source permitting regulations including Prevention of Significant Deterioration (PSD) and nonattainment area offset requirements. The specific requirements under the source permitting regulations require that there be no interference with the attainment and maintenance of primary and secondary ambient air quality standards, in addition to application of a specific degree of control technology.

Comment: The inventories should be updated on an annual basis. The inventories are unorganized and poorly cross-referenced. The Mobile TSP emission inventory should be updated.

Agency Response: An annual updating of the emission inventories has been addressed in the General Discussion portion of this notice. Alabama has submitted a table of contents for the emission inventories which is being made available for public inspection along with other additional information supplied. The State has submitted a 1977 TSP emission inventory for the Mobile nonattainment area, which is acceptable under EPA guidance.

Comment: The commenter has been unable to inspect all relevant documents relating to the proposed Alabama SIP as of August 16, 1979. Certain proposed or approved amendments to Alabama regulations were not available or were not identified as approval by Alabama. The complete "reorganized" regulations were not available for review.

Agency Response: The SIP revisions submitted by the Alabama Air Pollution Control Commission were forwarded to the library files at the locations listed in the proposal notice. Within the material forwarded to the library files was a section identified as "Chapter 8 Amendments to Rules and Regulations." This section contained the revised rules and regulations which the AAPCC adopted and submitted as necessary to meet the NAAQS for the TSP and ozone nonattainment areas. There is a statement in the revised regulations (Chapter 16, "Permits") which may have caused confusion concerning a "reorganization" of the regulations. This statement reads: "The requirements contained in Section 16.1.1 through Section 16.3.1 are a reorganization of existing regulations presently contained in Part 1.12 of the Alabama Air Pollution Control Commission Rules and Regulations." Part 1.12 contained the regulations governing permits. The "reorganization" consisted of a rearrangement and renumbering consistent with the numbering in Chapter 16. There have been no substantive changes in these regulations. There is no impact from the reorganization on the Part D (nonattainment) SIP revisions.

Comment: An extension of the public comment period to and including September 20, 1979, should be granted in order to allow review of all materials that should be on file.

Agency Response: Those revised portions of the SIP submitted by the State for approval have been on file during the public availability and comment periods (May 9, 1979 through August 20, 1979). The present version of the approved Alabama SIP, including past revisions, is maintained on file (EPA Washington Library and EPA Region IV Library). There is no reason for extending the public comment period.

3. National Comment Responses.

Comment and Response: One commenter submitted extensive comments which it requested be considered part of the record for each state plan. Each of the points raised by the commenter and EPA's response follow. Although some of the issues raised are not relevant to provisions in Alabama's submission, EPA is notifying

the public of its response to these comments at this time.

1. The commenter asked that comments it has previously submitted on the Emission Offset Interpretative Ruling as revised on January 16, 1979 (44 FR 3274), be incorporated by reference as part of their comments on each state plan. EPA will respond to those comments in its response to comments on the Offset Ruling.

2. The commenter objected to general policy guidance issued by EPA, on grounds that EPA's guidance is more stringent than required by the Act. Such a general comment concerning EPA's guidance is not relevant to EPA's decision to approve or disapprove a SIP revision since that decision rests on whether the revision satisfies the requirements of Section 110(a)(2). However, EPA has considered the comment and concluded that its guidance conforms to the statutory requirements.

3. The commenter noted that the recent court decision on EPA's regulations for prevention of significant deterioration (PSD) of air quality affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision is *Alabama Power Co. v. Costle*, 13 ERC 1225 (D.C. Cir., June 18, 1979). In the commenter's view, the court's rulings on the definition of "source," "modification," and "potential to emit" should apply to Part D as well as PSD programs. In addition, the commenter believes that the court decision precludes EPA from requiring Part D review of sources located in designated clean areas.

The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modification," and "potential to emit," and the areas in which NSR applies, govern State plans under Part D. (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979.) In proposed rules published in the Federal Register on September 5, 1979, (44 FR 51924), EPA explained its views on how the *Alabama Power* decision affects NSR requirements for State Part D plans. The September 5, 1979 proposal addressed some of the issues raised by the commenter. To the extent necessary, EPA will respond in greater detail to the commenters' concerns in its response to comments on the September 5, 1979, proposal and/or its response to comments on the Offset Ruling.

As part of the September 5, 1979 proposal, EPA proposed regulations for Part D plans in section 40 CFR 51.16(j). EPA also proposed, for now, to approve a SIP revision if it satisfies either

existing EPA requirements, or the proposed regulations. Prior to promulgation of final regulations, EPA proposed to approve State-submitted relaxations of previously-submitted SIPs, so long as the revised SIP meets all proposed EPA requirements. To the extent EPA's final regulations are more stringent than the existing or proposed requirements, States will have nine months, as provided in Section 406(d) of the Act, to submit revisions after EPA promulgates the final regulations. Since the Alabama NSR program satisfies existing requirements for Part D, it is now being approved.

In some instances, EPA's approval of a State's NSR provisions, as revised to be consistent with EPA's proposed or final regulations, may create the need for the State to revise its growth projections and provide for additional emission reductions. States will be allowed additional time for such revisions after the new NSR provisions are approved by EPA.

4. The commenter questioned EPA's alternative emission reduction options policy (the "bubble" policy). As the commenter noted, EPA has set forth its proposed bubble policy in a separate Federal Register publication, 44 FR 3720 (January 18, 1979). EPA will respond to the comments on the "bubble" approach in the final "bubble" policy statement.

5. The commenter questioned EPA's requirement for a demonstration that application of all reasonably available control measures (RACM) would not result in attainment any faster than application of less than all RACM. In EPA's view, the statutory deadline is that date by which attainment can be achieved as expeditiously as practicable. If application of all RACM results in attainment more expeditiously than application of less than all RACM, the statutory deadline is the earlier date. While there is no requirement to apply more RACM than is necessary for attainment, there is a requirement to apply controls which will ensure attainment as soon as possible. Consequently, the State must select the mix of control measures that will achieve the standards most expeditiously, as well as assure reasonable further progress.

The commenter also suggested that all RACM may not be "practicable." By definition, RACM are only those measures which are reasonable. If a measure is impracticable, it would not constitute a reasonably available control measure.

6. The commenter found the discussion in the General Preamble of reasonably available control technology (RACT) for VOC sources covered by

Control Technique Guidelines (CTGs) to be confusing in that it appeared to equate RACT with the guidance in the CTGs. EPA did not intend to equate RACT with the CTGs. The CTGs provide recommendations to the States for determining RACT, and serve as a "presumptive norm" for RACT, but are not intended to define RACT. Although EPA believes its earlier guidance was clear on this point, the Agency has issued a supplement to the General Preamble clarifying the role of the CTGs in plan development. See 44 FR 53761 (September 17, 1979).

7. The commenter suggested that the revision of the ozone standard justified an extension of the schedule for submission of Part D plans. This issue has been addressed in the General Preamble, 44 FR 20377 (April 4, 1979).

8. The commenter questioned EPA's authority to require States to consider transfers of technology from one source type to another as part of LAER determinations. EPA's response to this comment will be included in its response to comments on the revised Emission Offset Interpretative Ruling.

9. The commenter suggested that if a State fails to submit a Part D plan, or the submitted plan is disapproved, EPA must promulgate a plan under Section 110(c), which may include restrictions on construction as provided in Section 110(a)(2)(I). In the commenter's view, the Section 110(a)(2)(I) restrictions cannot be imposed without such a federal promulgation. EPA has promulgated regulations which impose restrictions on construction on any nonattainment area for which a State fails to submit an approvable Part D plan. See 44 FR 38583 (July 2, 1979). Section 110(a)(2)(I) does not require a complete federally-promulgated SIP before the restrictions may go into effect.

Comment: Another commenter, a national environmental group, stated that the requirements for an adequate permit fee system (Section 110(a)(2)(K) of the Act), and proper composition of State boards (Section 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commenters argued that EPA must secure a State commitment to satisfy the permit fee and State board requirements before conditionally approving a plan under Part D. In those States that fail to correct the omission within the required time, the commenters urged that restrictions on construction under Section 110(a)(2)(I) of the Act must apply.

Response: To be fully approved under Section 110(a)(2) of the Act, a State plan must satisfy the requirements for State boards and permit fees for all areas, including nonattainment areas. Several States have adopted provisions satisfying these requirements, and EPA is working with other States to assist them in developing the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee nor the State board provision in Part D. While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under Section 110(a)(2)(I) of the Act.

Attainment Dates

The 1978 edition of 40 CFR Part 52 lists in the subpart for Alabama the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by section 172(a) of the Act, the new deadlines are substituted on Alabama's attainment-date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 plan requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part

D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D.

(123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977

Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.*

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Conditional Approval

EPA is taking final action to conditionally approve certain elements of the Alabama plan. A discussion of conditional approval and its practical effect appears in a supplement to the General Preamble, 44 FR 38583 (July 2, 1979). The conditional approval requires the State to submit additional materials by the deadlines specified in today's notice. There will be no extensions of conditional approval deadlines which are being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the Federal Register announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the condition is fully met. After review is complete, a Federal Register notice will be published proposing or taking final action either to find the condition has been met and

approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the State fails to timely submit the required materials needed to meet a condition, EPA will publish a Federal Register notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect.

Certain deadlines for satisfying conditions are being promulgated today without prior notice and comment. EPA finds that, for good cause, notice and comment on these deadlines are unnecessary and contrary to the public interest. See 5 U.S.C. Section 553(b)(B) (The Administrative Procedures Act). The State is the party responsible for meeting the deadlines and the State has requested this extension of the deadlines from December 15, 1979, to February 15, 1980. This is because the State must have the additional time in the complete SIP revision process. In addition, the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions (44 FR 38583 (July 12, 1979), 44 FR 42242 (July 19, 1979)).

EPA finds good cause to make this conditional approval immediately effective, because the Clean Air Act restricts new construction where plans are not approved after June 30, 1979, and making the conditional approval immediately effective will terminate the restriction as soon as possible.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has reviewed these regulations and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: November 16, 1979.

Barbara Blum,
Acting Administrator.

This notice incorporates by reference provisions approved by the Director of the Federal Register on May 18, 1972.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart B—Alabama

1. In § 52.50 paragraph (c) is amended by adding subparagraph (20) as follows:

§ 52.50 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(20) 1979 implementation plan revisions for nonattainment areas (TSP and ozone), submitted on April 19, 1979, (as clarified by a letter of August 10, 1979), by the Alabama Air Pollution Control Commission. Conditional approval is given to the following portions of the revisions: Permitting requirements of Section 173 of the Clean Air Act.

2. Section 52.53 is revised to read as follows:

§ 52.53 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Alabama's plans for the attainment and maintenance of the national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds the plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977, except as noted below.

3. Section 52.54 is revised to read as follows:

§ 52.54 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained.*

*Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.24 (1978).

Air quality control region	Pollutant					
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide
	Primary	Secondary	Primary	Secondary		
Alabama and Tombigbee Rivers—Intrastate..	(*)	(*)	(*)	(*)	(*)	(*)
Columbus (Georgia)-Phenix City (Alabama) Interstate:						
a. Russell County.....	(*)	(*)	(*)	(*)	(*)	(*)
b. Rest of AQCR.....	(*)	(*)	(*)	(*)	(*)	(*)

* See General Preamble for Proposed Rulemaking, 44 FR 20373-74 (April 4, 1979).

Air quality control region	Pollutant					
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide
	Primary	Secondary	Primary	Secondary		
East Alabama Intrastate	(*)	(*)	(*)	(*)	(*)	(*)
Metropolitan Birmingham Intrastate:	(*)	(*)	(*)	(*)	(*)	(*)
a. Jefferson County*	(*)	(*)	(*)	(*)	(*)	May 31, 1975.
b. Rest of AQCR	(*)	(*)	(*)	(*)	(*)	May 31, 1975.
Mobile (Alabama)-Pensacola-Panama City (Florida)-Southern Mississippi Interstate:	(*)	(*)	(*)	(*)	(*)	(*)
a. Mobile County*	(*)	(*)	(*)	(*)	(*)	May 31, 1975.
b. Rest of AQCR	(*)	(*)	(*)	(*)	(*)	(*)
Southeast Alabama Intrastate	(*)	(*)	(*)	(*)	(*)	(*)
Tennessee River Valley (Alabama)-Cumberland Mountains (Tennessee) Interstate:	(*)	(*)	(*)	(*)	(*)	(*)
a. Colbert County*	(*)	(*)	(*)	(*)	(*)	(*)
b. Jackson County*	(*)	(*)	(*)	(*)	(*)	(*)
c. Lauderdale County*	(*)	(*)	(*)	(*)	(*)	(*)
d. Madison County*	(*)	(*)	(*)	(*)	(*)	(*)
e. Morgan County*	(*)	(*)	(*)	(*)	(*)	(*)
f. Rest of AQCR	(*)	(*)	(*)	(*)	(*)	(*)

* For more precise definition, see § 81.301 of this chapter.
 * July 1975.
 * 5 years from plan approval or promulgation.
 * Air quality levels presently below primary standards or area is unclassifiable.
 * Air quality levels presently below secondary standards or area is unclassifiable.
 * December 31, 1982.
 * June 1987.

4. A new § 52.58 is added as follows:

§ 52.58 Rules and regulations.

(a) Part D conditional approval. The permitting requirements submitted pursuant to Part D of Title I are approved on Condition that the State accomplish and submit to EPA the following by February 15, 1980:

- (1) The State will revise the applicability section of the permit requirements (16.3.2(c)) to apply to those sources significantly impacting a nonattainment area.
- (2) The State will remove the exemption under subparagraph 16.3.2(d)(5) which exempts those sources impacting a secondary nonattainment area from certain permitting requirements specified in Section 173 of the Clean Air Act.

[FR Doc. 79-38051 Filed 11-23-79; 8:45 am]
 BILLING CODE 6560-01-M

40 CFR Part 81

(FRL 1355-1)

Designation of Areas for Air Quality Planning Purposes; Section 107—Attainment Status Designations—Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rulemaking changes the attainment status of the El Paso (Colorado Springs), Larimer (Fort Collins) and Weld (Greeley) Counties. These counties are redesignated to "cannot be classified" for the primary and secondary ozone standard.

DATES: Effective November 28, 1979.

FOR FURTHER INFORMATION: Contact Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, (303) 837-3471.

SUPPLEMENTARY INFORMATION: These counties are presently designated as nonattainment for the ozone ambient air quality standard. This designation was

based on the old standard of 0.08 parts per million (ppm). On February 8, 1979, EPA revised the standard to 0.12 ppm. Review of the air quality monitoring data showed no violations of this revised standard.

The Colorado Air Pollution Control Commission redesignated these counties to "cannot be classified" rather than attainment for the following reasons: (1) The Fort Collins monitored data was just within the standard. (2) The Greeley monitored data showed an upward trend. (3) The Colorado Springs monitor was not located at the point of expected maximum concentration.

In the interim, the Colorado Air Pollution Control Division will: (1) install an additional monitor in Colorado Springs to record the downwind concentration of ozone; (2) continue operation of the Greeley and Fort Collins monitors; and (3) investigate downwind transport of ozone from Denver to Larimer and Weld counties.

On August 17, 1979, EPA proposed in the Federal Register this change in

attainment status and requested comments. One comment was received which suggested revising the boundaries of the El Paso County designated area so that the problem can be isolated to a specific area.

EPA's countywide designation is based on the fact that the geographic extent of ozone violations cannot be precisely defined. In addition, since ozone levels in excess of the standard have been shown to exist many miles downwind of urban areas, the areas designated as nonattainment should reflect this phenomenon through at least a countywide designation.

The August 17, 1979, proposal contained a statement regarding EPA's policy for redesignating areas under Section 107 of the Act which could be misconstrued. In general, EPA will support redesignation of an area from nonattainment under two circumstances. First, if sufficient data becomes available to demonstrate attainment, the area may be redesignated to attainment. Second, if the data used for the original designation is determined to be inadequate and the actual status of the area is unknown, the designation may be changed to "cannot be classified".

In this case, the original designations were based upon measured violations of the previous ozone standard of .08 ppm. However, since violations of the new standard of .12 ppm have not been measured in any of the areas in question, there is not adequate data to support the original nonattainment designation. Unfortunately, there is still uncertainty as to whether the areas should be designated as attainment. Thus, as discussed above, the State has elected to designate the areas to "cannot be classified" until more data is available.

This notice of final rulemaking is issued under the authority of Section 107 of the Clean Air Act as amended.

Dated: November 18, 1979.

Barbara Blum,
 Acting Administrator.

Title 40, Part 81 of the Code of Federal Regulations is amended as follows:

In Section 81.306 the designated areas in the attainment status designation table for ozone are revised to read as follows:

§ 81.306 Colorado.

Designated area	Colorado—0 ₁	
	Does not meet the primary standards	Cannot be classified or better than national standard
AQCR 2—L		X
AQCR 4—El Paso County		X

Colorado—0₁—Continued

Designated area	Does not meet the primary standards	
	Cannot be classified or better than national standard	
Remainder of AQCR 4		X
* * *		

[FR Doc. 79-38212 Filed 11-23-79; 8:45 am]
 BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Payment for Inpatient Services of Foreign Hospitals

AGENCY: Health Care Financing Administration, (HCFA), HEW.

ACTION: Final rule.

SUMMARY: These regulations provide for payment based on 100 percent of customary charges for covered inpatient hospital services furnished by foreign hospitals that elect to receive payment directly from the Medicare program. If the foreign hospital does not elect to receive payment directly, the Medicare beneficiary will be reimbursed based upon the hospital's reasonable charges, upon submitting an itemized bill to the program. The purpose of the amendments is to encourage foreign hospitals to bill the Medicare program directly for services furnished to Medicare beneficiaries. The amendments also will simplify the administrative requirements for processing claims for reimbursement from foreign hospitals.

EFFECTIVE DATE: These amendments shall be effective with admissions on or after January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Hugh McConville (301) 594-9682.

SUPPLEMENTARY INFORMATION:

Background

Section 1814(f) of the Social Security Act provides Medicare payment for covered care furnished by foreign hospitals in two specific instances:

1. Emergency inpatient hospital services, if the beneficiary is inside the United States (or the beneficiary is in Canada while traveling to or from Alaska, without unreasonable delay, by the most direct route) when the medical necessity occurs, and the foreign hospital is closer or substantially more accessible to the site of the emergency

than the nearest United States hospital which is adequately equipped and available to treat the emergency; and 2. Inpatient hospital services, if the foreign hospital is closer or substantially more accessible to the beneficiary's United States residence than the nearest United States hospital which is equipped and available to treat the beneficiary's illness or injury.

The restrictions imposed by section 1814(f) regarding the foreign hospital being closer to, or substantially more accessible than, the nearest hospital in the United States, mean that services furnished in any foreign country other than Canada or Mexico could not qualify for reimbursement.

The Medicare program presently pays foreign hospitals, subject to deductible and coinsurance amounts, the lesser of (1) 90 percent of the hospital's average inpatient per diem cost of services to all patients as determined by third-party nongovernmental payers, or (2) 85 percent of the hospital's customary charge for the services furnished to Medicare beneficiaries. (See Foreign Hospital Supplement HIM-37).

Canadian hospitals are reluctant to accept reimbursement from the Medicare program on less than 100 percent of their average per diem charges. Based on information furnished by officials of the Canadian Department of Health and Welfare, we determined that the average per diem rate charged by Canadian hospitals is, in fact, the same as their average per diem costs. We also determined that their per diem costs are less than the costs reimbursable by the Medicare program since their costs do not include certain items, such as mortgage interest and medical education salaries, which are included by Medicare in the determination of "reimbursable cost" for domestic providers. Canadian officials state that acceptance of payments based on less than 100 percent of their average per diem charges would constitute a Canadian subsidy of hospital services furnished to U.S. residents. The officials also object to the submission of cost reports in order to receive full reimbursement from the Medicare program for their costs, because the time and cost necessary to prepare these reports would not be justified for the relatively few services furnished to Medicare beneficiaries.

The two methods for reimbursing foreign hospitals provided by section 1814(f) are essentially the same as those applicable to payments for domestic emergency hospital services. If the foreign hospital elects to claim payment from the Medicare program for all covered services furnished during a

calendar year, and agrees to comply with certain payment procedures prescribed in section 1886(a) of the Act, it may be reimbursed on the basis of its reasonable cost or customary charges, whichever is less. If the foreign hospital does not elect to claim payment from the Medicare program directly, beneficiaries submitting an itemized bill are reimbursed based upon the hospital's reasonable charges.

A hospital's reasonable cost is determined in accordance with section 1861(v)(1)(A) of the Act, which authorizes the Secretary to develop regulations that "may provide for the use of charges or a percentage of charges where this method reasonably reflects the costs."

Notice of Proposed Rulemaking

A Notice of Proposed Rulemaking was published on January 12, 1979 (44 FR 2618). The proposed rule provided that "reasonable costs," as applied to foreign hospitals which qualify for payment under these provisions would be 100 percent of their customary charges. We based that proposal on the fact that the charges imposed by Canadian hospitals (which provide the vast majority of services described in section 1814(f) of the Act) and Mexican hospitals are, in fact, equal to their costs in the efficient delivery of needed health services. Further, costs as determined in Canadian hospitals are less than the costs reimbursable for the Medicare program to domestic providers and charges imposed and the costs incurred by Mexican hospitals are also less than those of domestic providers. (Medicare payments are rarely made for services furnished by Mexican hospitals because the criteria in the law for establishing the proximity of Mexican hospitals to the site of any emergency that occurred in the United States or to the Medicare beneficiary's residence are seldom met.)

The only comment received on the proposed rule supported its adoption. Accordingly, we have adopted the rule as proposed, except for some language and editorial changes intended only for clarification purposes.

Final Rule

Under the authority of section 1861(v)(1)(A), these amendments provide that, beginning with admissions after December 31, 1979, payment to foreign hospitals that elect to receive direct Medicare payments will be based on 100 percent of the hospitals' customary charges, subject to applicable deductible and coinsurance amounts, for covered hospital services furnished to Medicare beneficiaries. The hospital must establish its customary charges for

the services by submitting an itemized bill with each claim it files. This precludes the necessity of foreign hospitals filing cost reports to receive full reimbursement of their costs. If the foreign hospital does not elect to claim payment, beneficiaries submitting an itemized bill may be reimbursed based on the hospital's reasonable charges in accordance with 42 CFR 405.153(c)(2), of the regulations.

Since the objective of these amendments is to encourage foreign hospitals to elect to bill the Medicare program directly, we have also simplified the administrative requirements for processing claims for reimbursement from foreign hospitals. This is accomplished, for example, by the adoption of a single reimbursement procedure and the opportunity for HCFA to deal directly with each electing hospital.

Additionally, by encouraging foreign hospitals to bill the Medicare program directly, the regulation will be advantageous to Medicare beneficiaries in two ways: (1) The beneficiary will not have to submit a bill; and (2) the beneficiary will be liable only for the applicable deductible and coinsurance amounts. If the beneficiary submits a bill, the beneficiary is statutorily liable for the applicable deductible and coinsurance amounts and 40 percent of the hospital's reasonable charges for routine services and 20 percent of reasonable charges for ancillary services, if the hospital makes separate charges for these services. If the hospital does not make separate charges for routine or ancillary services, the beneficiary would be liable for one-third of the hospital's reasonable charges for all covered services. (See § 405.153(c)(2) of the amendments, and section 1814 (d)(3) and (f)(4) of the Act.)

42 CFR Part 405 is amended as set forth below:

1. The table of contents is amended by adding a new § 405.456 to Subpart D and by changing the titles of §§ 405.658 and 405.659 in Subpart F to read as follows:

Subpart D—Principles of Reimbursement for Provider Costs and for Services of Hospital-Based Physicians

Sec.
405.456 Payment to a foreign hospital.

Subpart F—Agreements, Elections, Contracts, Nominations, and Notices

405.658 Hospital election to receive health insurance payments.

Sec.
405.659 Reinstatement of hospital after notice of failure to continue to comply.

2. Section 405.153(c) is revised to read as follows:

§ 405.153 Payment for services; hospital outside the United States.

(c) *Payments.* (1) Payment to a Canadian or Mexican hospital for inpatient services specified in paragraphs (a) and (b) of this section and furnished either directly by the hospital, or under arrangements made by the hospital, shall be made in the amount specified in § 405.456, if:

(i) Payment would be made if a provider agreement were in effect with the hospital;

(ii) The hospital files a statement of election to claim payment for all covered services furnished during a calendar year (see § 405.658); and

(iii) The hospital agrees to comply with those terms of a provider agreement that relate to charges and refunds to patients, as specified in § 405.607.

(2) If the foreign hospital does not file an election to claim direct payment from the Medicare program for covered inpatient services furnished to a Medicare beneficiary, payment will be made to the beneficiary based on an itemized bill of the hospital. In accordance with sections 1814(d)(3) and 1814(f)(4) of the Act, the payment amount, which is subject to the applicable deductible and coinsurance amounts, shall be equal to the following:

(i) If the hospital makes separate charges for routine and ancillary services, 80 percent of the hospital's reasonable charges for routine services furnished in the accommodations occupied by the Medicare beneficiary or in semiprivate accommodations, whichever is less, and 80 percent of the reasonable charges for ancillary services for covered days in the benefit period.

(ii) If the hospital does not make separate charges for routine and ancillary services, two-thirds of the hospital's reasonable charges for all covered services furnished in the benefit period, but not to exceed charges based on semiprivate accommodations.

3. A new § 405.456 is added to read as follows:

§ 405.456 Payment to a foreign hospital.

(a) Section 1814(f) of the Act provides for the payment of emergency and nonemergency inpatient hospital services furnished by foreign hospitals to Medicare beneficiaries. Section 405.153, together with this section,

specifies the conditions for payment. These conditions can result in payments only to Canadian and Mexican hospitals.

(b) *Amount of payment.* Effective with admissions on or after January 1, 1980, the reasonable cost for services covered under the Medicare program furnished to beneficiaries by a foreign hospital shall be equal to 100 percent of the hospital's customary charges (as defined in § 405.455(b)) for the services.

(c) *Submission of claims.* The hospital must establish its customary charges for the services by submitting an itemized bill with each claim it files in accordance with its election under § 405.658.

(d) *Exchange rate.* Payment to the hospital will be subject to the official exchange rate on the date the patient is discharged and to the applicable deductible and co-insurance amounts described in §§ 405.113–405.115.

4. The title and content of § 405.658 are revised to read as follows:

§ 405.658 Hospital election to receive health insurance payments.

(a) *Applicability.* The provisions of this section apply to hospitals (both domestic and foreign) which qualify under § 405.152 and § 405.153 to elect to claim payment for all covered hospital services furnished either directly by the hospital or under arrangement with the hospital during a calendar year. To be eligible to file an election for a calendar year, the hospital must not have previously charged a beneficiary or any other person on his behalf for covered hospital services furnished in that calendar year. The hospital's statement of election must be filed on a form designated by the Health Care Financing Administration (HCFA).

(b) *Statement of election.* Under the provisions of the statement of election, the hospital agrees for the calendar year of election:

(1) To comply with the provisions of §§ 405.607–405.610 relating to charges for items and services the hospital may make to the beneficiary, or any other person on his behalf.

(2) To comply with the provisions of §§ 405.618–405.621 relating to proper disposition of monies incorrectly collected from, or on behalf of, a beneficiary; and

(3) To request payment under the Medicare program based on amounts specified in § 405.456.

(c) *Filing a statement of election.* (1) The hospital's statement of election must be signed by an authorized official of the hospital and must be submitted to HCFA before the close of the calendar year of election.

(2) An election is submitted to HCFA before the close of a calendar year only if postmarked or received by HCFA before the close of the calendar year of election.

(3) If accepted by HCFA, the effective date of the election shall be the earliest day in the calendar year of election for which HCFA determines that the hospital has been in continuous compliance with the requirements of section 1814(d) of the Act.

(d) *Notification of failure to continue to comply.* HCFA will give the hospital at least 5 days notice of its determination that the hospital does not qualify to claim reimbursement because of its failure to continue to be in compliance with the elements of its election, or of its failure to continue to be a hospital. The notice will: (1) State the calendar year to which the determination applies;

(2) State the effective date of the determination;

(3) State that the determination applies to claims filed by the hospital for services furnished in the applicable calendar year to beneficiaries who are accepted as patients (inpatients and outpatients) on or after the effective date of the determination; and

(4) Inform the hospital of its right to appeal the determination.

(e) *Appeal by hospital.* Any hospital dissatisfied with a determination that it does not qualify to claim reimbursement shall be entitled to appeal the determination as provided in Subpart O of this part.

5. The title and content of § 405.659 are revised to read as follows:

§ 405.659 Reinstatement of hospital after notice of failure to continue to comply.

If a hospital is notified by HCFA of its ineligibility to receive reimbursement for a calendar year (see § 405.658(d)), the hospital may not file another election to claim payment from the Medicare program until HCFA finds that:

(a) The reason for its ineligibility has been removed; and

(b) There is reasonable assurance that it will not recur.

(Secs. 1102, 1814 (b), (d), and (f), 1861(v), and 1871 of the Social Security Act; (42 U.S.C. 1302, 1395f (b), (d), and (f), 1395x(v), and 1395hh).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: September 28, 1979.

Leonard D. Schaeffer,
Administrator, Health Care Financing
Administration.

Approved: November 5, 1979.

Nathan J. Stark,
Acting Secretary.

[FR Doc. 79-38327 Filed 11-23-79; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Ch. II, Appendix

[Public Land Order 5687]

Restoration of Certain Lands To Navajo Tribe

AGENCY: Bureau of Land Management,
Department of the Interior.

ACTION: Public Land Order.

SUMMARY: Public Land Order 5687 concerns the restoration of lands to the Navajo Tribe under Pub. L. 93-493 which were previously transferred to the Bureau of Reclamation under Pub. L. 85-868 and which are no longer needed by the Bureau of Reclamation. The order restores certain former tribal lands that were used for the Glen Canyon Unit of the Colorado River Storage Project.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT: L. David Williamson, Senior Staff Assistant for Land Management, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20415, Telephone (202) 343-5204.

Transfer of Lands to the Navajo Tribe of Indians

By virtue of the authority vested in the Secretary of the Interior by the Act of October 27, 1974 (88 Stat. 1486), (the Reclamation Development Act of 1974), it is ordered as follows:

1. The following described reclamation-withdrawn public lands in Conconino County, State of Arizona, are hereby added to and made a part of the Navajo Indian Reservation and shall hereafter be held by the United States in trust for the Navajo Tribe of Indians, and shall be subject to all laws and regulations applicable to the Navajo Indian Reservation:

A tract of land situated in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 8, the Southwest Quarter (SW $\frac{1}{4}$) of Section 9, Section 16, the East Half of the Northeast Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$) of Section 17, Section 21, and the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 28, all in Township 41 North, Range 9 East, Gila

and Salt River Meridian, containing 808 acres, more or less, and more particularly described as follows:

Beginning at a point being the corner common to Sections 21, 22, 27, and 28, thence South 00°07'30" West, a distance of 1141.0 feet along the line common to Sections 27 and 28; thence North 52°37'00" West, a distance of 170.0 feet; thence North 67°29'00" West, a distance of 419.0 feet; thence North 44°49'00" East, a distance of 76.0 feet; thence North 78°52'00" East, a distance of 340.0 feet; thence North 42°01'00" East, a distance of 173.0 feet; thence North 22°14'00" West, a distance of 457.0 feet; thence North 16°37'00" East, a distance of 211.0 feet to a point on the section line common to Sections 21 and 28, being North 89°59'00" West, a distance of 132.0 feet from the corner common to Sections 21, 22, 27, and 28; thence North 40°44'00" West, a distance of 218.0 feet; thence North 16°19'00" West, a distance of 195.3 feet; thence North 40°46'00" West, a distance of 166.5 feet; thence North 31°45'00" East, a distance of 158.0 feet; thence North 72°54'00" West, a distance of 408.8 feet; thence North 17°35'00" West, a distance of 217.0 feet; thence North 10°51'00" East, a distance of 272.9 feet; thence South 79°35'00" West, a distance of 802.0 feet; thence North 22°13'00" West, a distance of 124.9 feet; thence North 41°28'00" East, a distance of 339.7 feet; thence North 80°06'00" West, a distance of 135.0 feet; thence North 30°39'00" East, a distance of 200.0 feet; thence North 75°11'00" West, a distance of 415.0 feet; thence North 04°55'30" West, a distance of 178.8 feet; thence South 82°17'00" West, a distance of 430.0 feet; thence North 83°14'00" West, a distance of 154.0 feet; thence North 19°16'00" West, a distance of 155.0 feet; thence South 89°44'30" West, a distance of 386.3 feet; thence North 04°17'00" West, a distance of 370.0 feet; thence North 18°30'00" East, a distance of 460.0 feet to a point on the Quarter line of Section 21, being North 89°55'00" West, a distance of 178.8 feet from the Center Quarter corner of Section 21; thence North 49°52'00" West, a distance of 615.8 feet; thence North 07°53'00" East, a distance of 87.0 feet; thence North 29°09'00" East, a distance of 261.0 feet; thence North 52°30'00" East, a distance of 247.0 feet; thence North 05°46'00" East, a distance of 141.0 feet; thence North 17°04'00" West, a distance of 369.6 feet; thence North 79°14'00" West, a distance of 290.5 feet; thence North 01°41'00" West, a distance of 409.8 feet; thence North 08°13'00" East, a distance of 197.7 feet; thence North 29°36'00" East, a distance of 242.0 feet; thence North 60°10'00" East, a distance of 128.0 feet; thence North 07°16'00" East, a distance of 350.9 feet; thence North 82°57'00" East, a distance of 121.0 feet to a point on the section line common to Sections 16 and 21, being North 89°51'00" West, a distance of 301.9 feet from the Quarter corner common to Sections 16 and 21; thence North 04°22'00" East, a distance of 358.2 feet; thence South 77°39'00" West, a distance of 138.7 feet; thence North 74°17'00" West, a distance of 240.0 feet; thence North 02°43'00" East, a distance of 270.8 feet; thence North 82°01'30" West, a distance of 165.5 feet; thence North 00°25'30" West, a distance of 160.3 feet; thence South 44°56'00" East, a distance of 138.2 feet; thence North 02°28'00" West, a

distance of 119.4 feet; thence North 20°51'00" East, a distance of 91.8 feet; thence North 81°26'30" East, a distance of 99.1 feet; thence North 06°53'30" West, a distance of 235.5 feet; thence North 27°48'00" East, a distance of 125.3 feet; thence North 87°20'00" East, a distance of 131.9 feet; thence North 05°28'00" East, a distance of 191.0 feet; thence North 13°50'00" West, a distance of 98.5 feet; thence North 47°39'00" West, a distance of 1,064.3 feet; thence South 70°14'00" West, a distance of 62.0 feet; thence North 37°44'00" West, a distance of 122.6 feet; thence North 05°44'00" West, a distance of 121.8 feet; thence North 15°40'00" East, a distance of 69.0 feet to a point on the Quarter line of Section 16, being North 89°54'00" West, a distance of 1,315.8 feet from the center Quarter corner of Section 16; thence North 36°03'00" West, a distance of 134.9 feet; thence North 84°49'30" West, a distance of 183.7 feet; thence North 42°35'30" West, a distance of 182.5 feet; thence South 80°33'00" West, a distance of 263.3 feet; thence South 37°27'30" West, a distance of 124.0 feet; thence North 42°02'00" West, a distance of 196.6 feet; thence South 52°51'00" West, a distance of 108.3 feet; thence North 53°50'00" West, a distance of 80.9 feet; thence South 50°37'00" West, a distance of 59.3 feet; thence South 20°07'00" East, a distance of 89.4 feet; thence South 23°11'00" West, a distance of 94.1 feet; thence South 69°20'00" West, a distance of 108.1 feet to a point on the Quarter line of Section 16, being South 89°54'00" East, a distance of 179.7 feet from the Quarter corner common to Sections 16 and 17; thence South 16°27'00" West, a distance of 154.3 feet; thence South 70°56'00" West, a distance of 45.4 feet; thence North 69°19'30" West, a distance of 77.0 feet; thence North 16°55'30" East, a distance of 78.6 feet; thence North 14°34'30" East, a distance of 143.9 feet; thence North 39°50'00" East, a distance of 96.6 feet; thence North 03°57'00" West, a distance of 230.2 feet; thence South 84°14'30" West, a distance of 53.9 feet; thence North 30°29'00" West, a distance of 88.2 feet; thence North 13°42'00" West, a distance of 113.7 feet to a point on the section line common to Sections 16 and 17, being North 00°07'00" East, a distance of 563.7 feet from the Quarter corner common to Sections 16 and 17; thence North 12°57'00" West, a distance of 142.1 feet; thence North 47°16'30" West, a distance of 155.8 feet; thence North 22°13'00" West, a distance of 173.2 feet; thence South 79°17'30" West, a distance of 55.6 feet; thence North 01°34'30" East, a distance of 70.0 feet; thence North 50°34'30" West, a distance of 102.4 feet; thence North 71°17'30" East, a distance of 95.7 feet; thence North 11°14'00" West, a distance of 209.8 feet; thence North 15°05'30" West, a distance of 76.6 feet; thence North 17°32'30" East, a distance of 127.6 feet; thence North 36°05'30" West, a distance of 160.9 feet; thence North 37°31'30" West, a distance of 112.9 feet; thence North 82°07'00" West, a distance of 86.6 feet; thence North 41°30'30" West, a distance of 116.2 feet; thence North 46°15'00" West, a distance of 156.3 feet; thence North 23°19'30" East, a distance of 284.0 feet; thence North 47°46'30" East, a distance of 342.4 feet; thence North 34°59'00" West, a distance of 122.8 feet; thence North 78°32'30" West, a distance of 110.4 feet; thence North 46°43'30"

West, a distance of 104.3 feet to a point on the section line common to Sections 6 and 17, being West a distance of 607.3 feet from the corner common to Sections 8, 9, 16, and 17; thence North 13°07'30" West, a distance of 85.2 feet; thence North 02°53'30" East, a distance of 326.2 feet; thence North 09°33'30" East, a distance of 194.1 feet; thence North 23°27'00" East, a distance of 229.7 feet; thence North 37°56'00" East, a distance of 248.8 feet; thence North 62°25'00" East, a distance of 103.8 feet; thence North 81°34'30" East, a distance of 174.5 feet; thence North 36°01'00" East, a distance of 119.7 feet to a point on the line common to Sections 8 and 9; said point being North 00°04'00" East, a distance of 1,177.1 feet from the corner common to Sections 8, 9, 16, and 17; thence North 36°01'00" East, a distance of 23.8 feet; thence North 55°29'00" East, a distance of 210.5 feet; thence North 70°56'00" East, a distance of 259.0 feet; thence South 86°28'00" East, a distance of 201.4 feet; thence North 81°15'30" East, a distance of 160.4 feet; thence South 72°36'30" East, a distance of 191.6 feet; thence North 77°14'00" East, a distance of 153.5 feet; thence South 65°09'00" East, a distance of 181.0 feet; thence South 42°50'00" East, a distance of 335.2 feet; thence South 21°57'00" West, a distance of 202.8 feet; thence South 06°22'00" East, a distance of 174.0 feet; thence South 15°38'00" West, a distance of 208.9 feet; thence South 66°14'00" West, a distance of 161.6 feet; thence South 60°44'00" East, a distance of 109.2 feet; thence South 16°51'00" West, a distance of 114.0 feet; thence South 41°05'00" West, a distance of 118.8 feet; thence South 78°34'00" East, a distance of 102.2 feet; thence North 81°39'00" East, a distance of 142.8 feet; thence South 58°47'00" East, a distance of 328.9 feet; thence North 76°04'00" East, a distance of 190.9 feet; thence South 46°52'00" East, a distance of 98.7 feet to a point on the section line common to Sections 9 and 16, being North 89°57'00" West, a distance of 833.8 feet from the Quarter corner common to Sections 9 and 16; thence South 13°01'30" East, a distance of 248.2 feet; thence South 04°18'30" East, a distance of 119.5 feet; thence South 78°53'00" East, a distance of 173.5 feet; thence South 52°11'00" East, a distance of 117.4 feet; thence South 04°04'30" East, a distance of 127.7 feet; thence South 19°31'30" West, a distance of 175.7 feet; thence South 38°47'30" East, a distance of 261.4 feet; thence South 17°49'00" East, a distance of 374.0 feet; thence South 06°09'00" East, a distance of 134.8 feet; thence South 40°30'30" West, a distance of 136.2 feet; thence South 06°53'00" East, a distance of 95.1 feet; thence South 44°14'30" East, a distance of 191.7 feet to a point on the Quarter line of Section 16, being North 00°07'00" East, a distance of 849.4 feet from the Center Quarter corner of Section 16; thence South 54°25'00" East, a distance of 168.5 feet; thence North 42°42'00" East, a distance of 105.6 feet; thence North 11°11'00" West, a distance of 281.0 feet; thence North 25°51'00" East, a distance of 180.7 feet; thence North 30°43'00" East, a distance of 273.4 feet; thence North 29°55'00" East, a distance of 369.4 feet; thence North 53°03'00" East, a distance of 200.4 feet; thence North 60°17'00" East, a distance of 200.2 feet; thence North 67°55'00" East, a distance of 123.3 feet; thence

North 23°46'00" East, a distance of 111.6 feet; thence North 67°15'00" East, a distance of 93.2 feet; thence South 84°48'00" East, a distance of 158.1 feet; thence South 53°31'00" East, a distance of 335.3 feet; thence South 07°37'00" West, a distance of 165.8 feet; thence South 46°13'00" East, a distance of 209.7 feet; thence South 12°17'00" East, a distance of 140.7 feet; thence South 63°42'00" East, a distance of 209.7 feet; thence South 79°57'00" East, a distance of 205.2 feet; thence North 88°50'00" East, a distance of 440.3 feet; thence South 54°12'30" East, a distance of 37.7 feet; thence North 42°14'00" East, a distance of 108.8 feet to a point on the section line common to Sections 15 and 16; thence South 00°07'30" West along the East lines of Sections 16 and 21, a distance of 9,480.7 feet, more or less, to the point of beginning.

The above-described lands comprise what is known as the Navajo Tribe Antelope Creek Recreation Development Area and are shown on Bureau of Reclamation drawing No. 557-431-38, dated May 22, 1969, entitled "Navajo Tribe—Antelope Creek Recreation Development Area Survey Traverse," on file and available for public inspection in the office of the Bureau of Reclamation, Department of the Interior.

2. This transfer of title to the above-described lands is made in consideration of Navajo Tribal Council Resolution numbered CJN-50-69, dated June 3, 1969, which more specifically provides that the Navajo Tribe agrees that of the 50,000 acre-feet of water per year allocated to the State of Arizona, pursuant to Article III(a) of the Upper Colorado River Basin Compact, 34,100 acre-feet shall be used for a coal-fired powerplant, to be located on the Navajo Reservation, for the lifetime of the proposed powerplant or for 50 years, whichever occurs first; and an estimated 3,000 acre-feet of water per year may be used for the Glen Canyon Unit of the Colorado River Storage Project along with its associated community and recreation developments in Arizona.

Dated: November 14, 1979.

Cecil D. Andrus,
Secretary of the Interior.

[FR Doc. 79-36214 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-09-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Part 185a

Emergency School Aid Act

AGENCY: Office of Education, HEW.

ACTION: Interim final regulations.

SUMMARY: The Assistant Secretary for Education adopts interim regulations for the purpose of governing planning grants and transitional grants under the Emergency School Aid Act. These interim final regulations are necessary because it is not possible to use proposed rulemaking procedures and still make awards on a timely basis. **EFFECTIVE DATE:** These interim final regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the *Federal Register*. The effective date is changed if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these interim final regulations, call or write the Office of Education contact person.

ADDRESSES: Any comments or questions concerning these interim final regulations should be addressed to Mr. Jesse J. Jordan, U.S. Office of Education, Room 2007, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. **FOR FURTHER INFORMATION CONTACT:** Mr. Jesse J. Jordan (202) 245-7965.

SUPPLEMENTARY INFORMATION: Waiver of Proposed Rulemaking Procedures

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), it has been the practice of the Office of Education to offer interested parties the opportunity to comment on proposed regulations. The Office of Education then reviews these comments and makes appropriate changes before republishing the regulations in final form. For the reasons described in the following paragraphs, the use of that practice in connection with these interim final regulations is impracticable and contrary to the public interest under 5 U.S.C. 553(b).

On June 29, 1979, the Office of Education published a notice in the *Federal Register* (44 FR 38364) proposing to amend the regulations governing awards under the Emergency School Aid Act (ESAA). This notice of proposed rulemaking (NPRM) included regulations that would govern planning and transitional grants as well as other awards authorized under the ESAA. The NPRM provided a period for public comment ending on August 28, 1979. Following the public comment period, a further period is required to review any comments received and to prepare revised regulations. The regulations will then be published in final form and will become effective following the period for congressional review (generally 45

days). As a result of this rulemaking process, regulations governing awards under ESAA for fiscal year (FY) 1980 will not be in effect until well after October 1, 1979, the date on which FY 1980 funds became available for obligation by the Office of Education.

In the case of most of the programs authorized under the ESAA, projects supported with FY 1980 funds would not commence before the summer of 1980 regardless of how early awards could be made. A delayed effective date is not a matter for concern for those programs. However, this is not the case with regard to planning and transitional grants. The ESAA NPRM proposed to permit awards under these two programs without regard to annual funding cycles, and therefore earlier in FY 1980, in order to ensure that awards are made on a timely basis as needs for assistance arise. Planning grants provide assistance to local educational agencies in the development of desegregation or other qualifying plans. The need for this assistance may arise from a court or agency order requiring immediate steps to develop a desegregation plan. Transitional grants provide three types of assistance—pre-implementation assistance, out-of-cycle assistance, and special discretionary assistance. Each of these types of assistance is designed to address needs that are not anticipated in advance and that require immediate attention.

In order to ensure that planning and transitional grants are available for as much of FY 1980 as possible, the Assistant Secretary has decided to publish regulations governing those grants as interim final regulations. These interim final regulations will govern awards under the planning grant and transitional grant programs only until the complete ESAA regulations published in proposed form on June 29, 1979 become effective. At that time, these interim final regulations will be replaced by provisions relating to planning and transitional grants in the complete ESAA regulations.

Relation of Interim Final Regulations to ESAA NPRM

The interim final regulations are based upon the provisions relating to planning and transitional grants in the ESAA NPRM. Because these interim final regulations are being published before it is possible to review comments from the public on the NPRM, no substantive changes are being made at this time. Comments on all provisions of the ESAA NPRM, including comments on the provisions relating to planning and transitional grants, will be

considered in preparing the ESAA regulations for publication in final form.

In addition to the provisions in the ESAA NPRM relating specifically to planning and transitional grants, these interim final regulations adopt certain generally applicable provisions of the NPRM. These provisions are listed in § 185a.2(a) of the interim final regulations.

Relation of Interim Final Regulations to EDGAR

The Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* in proposed form on May 4, 1979 (44 FR 26298). With certain exceptions, set out in § 185a.2(d) of these interim final regulations, the provisions of EDGAR as they appear in the May 4 notice of proposed rulemaking apply to awards under these regulations.

Submission of Applications Under Interim Final Regulations

Applicants for planning or transitional grants may submit applications at any time. Awards for fiscal year 1980 cannot be made under these programs until the effective date of these interim final regulations. Awards will be made under these interim final regulations only until the date on which the complete ESAA regulations, as published in final form, become effective.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of the interim final regulations. The first citation is usually the appropriate section of the Act (Title VI of the Elementary and Secondary Education Act of 1965, as amended). This is usually followed by a citation to the same provision in the United States Code.

Accordingly, the Assistant Secretary amends Title 45 of the Code of Federal Regulations to create a new part 185a as set forth below.

Dated: September 27, 1979.

Mary F. Berry,

Assistant Secretary for Education.

Approved: October 28, 1979.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.
(Catalog of Federal Domestic Assistance Program Nos. 13.685 Planning Grants; 13.686, Pre-implementation Assistance Grants; 13.687, Out-of-cycle Assistance Grants; and 13.688, Special Discretionary Grants)

Title 45 of the Code of Federal Regulations is amended by adding the following new part 185a:

PART 185a—EMERGENCY PLANNING AND TRANSITIONAL AID**Subpart A—General**

- Sec.
185a.1 Scope and purposes.
185a.2 Other applicable regulations.

Subpart B—Planning Grants

- 185a.10 Purpose.
185a.11 Eligible applicants.
185a.12 Authorized activities.
185a.13 Application procedures.
185a.14 Approval of projects.

Subpart C—Transitional Grants

- 185a.20 Purposes.
185a.21 Eligible applicants.
185a.22 Authorized activities.
185a.23 Application procedures.
185a.24 Approval of projects.

Appendix A to Part 185a—Reprint of Emergency School Aid Act Proposed Rule.

Appendix B to Part 185a—Reprint of Parts 100a and 100c of the Education Division General Administrative Regulations Proposed Rule.

Authority: Title VI of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (20 U.S.C. 3191 *et seq.*).

Subpart A—General**§ 185a.1 Scope and purposes.**

(a) *Scope.* The regulations in this part govern awards for planning and transitional grants under the Emergency School Aid Act.

(b) *Purposes.* (1) The purpose of a planning grant is to develop a qualifying plan described in § 185.32 of the Emergency School Aid Act regulations published in the Federal Register on June 29, 1979 (44 FR 38364) in a notice of proposed rulemaking (hereafter referred to as the ESAA NPRM).

(2) A transitional grant is for any of the following purposes:

(i) Pre-implementation assistance—to help a local educational agency (LEA) that has adopted but not yet implemented a required plan, described in § 185.32(a) of the ESAA NPRM, to prepare for the reassignment of children or faculty under the plan.

(ii) Out-of-cycle assistance—to help an LEA to meet educational needs that arise from the implementation of a plan described in § 185.32 of the ESAA NPRM that the LEA adopted too late to serve as the basis for a basic grant application in the most recent competition under 45 CFR Part 185.

(iii) Special discretionary assistance—to help an LEA meet an unexpected educational need that arose from the implementation of a plan described in § 185.32 of the ESAA NPRM after the deadline date for basic grant

applications in the most recent competition under 45 CFR Part 185.

(Sections 604(b)(2), 606(a)(1)(E), 608(a); 20 U.S.C. 3194(b)(2), 3196(a)(1)(E), 3198(a))

§ 185a.2 Other applicable regulations.

(a) Awards under this part are subject to the language contained in the provisions of the ESAA NPRM set out in this paragraph. The ESAA NPRM is attached as Appendix A.

(1) Section 185.1(b), relating to the purposes of the Emergency School Aid Act.

(2) Section 185.4, containing definitions.

(3) Sections 185.10 through 185.25d, relating to requirements for LEAs.

(4) Section 185.32, relating to qualifying plans.

(b) All references in this part to sections in part 185 refer to sections in the ESAA NPRM.

(c) Awards under this part are subject to the language contained in applicable provisions of parts 100a (Direct Grant Programs) and 100c (General) of the Education Division General Administrative Regulations (EDGAR) as published in the Federal Register on May 4, 1979 (44 FR 26298 *et seq.*) in a notice of proposed rulemaking. Parts 100a and 100c are attached as Appendix B. All references in this part to sections in 45 CFR parts 100a and 100c refer to sections in EDGAR as published in that notice.

(d) However, the provisions of EDGAR set out below do not apply to awards under this part.

(1) The provisions of 45 CFR 100a.200 through 100a.220, except for 45 CFR 100a.216 and 100a.219(b)(3), do not apply to awards under this part. These inapplicable provisions relate to the selection of projects.

(2) The provisions in 45 CFR 100a.250, relating to the length of a project period, do not apply to awards under this part.

(3) The following provisions do not apply to any award to an LEA under this part—

(i) 45 CFR 100a.118(c) and 100a.253, relating to the criteria for a continuation grant;

(ii) 45 CFR 100a.560 through 100a.568, relating to indirect cost rates; and

(iii) 45 CFR 100a.680, relating to the participation of children enrolled in private schools.

(4) The provisions of 45 CFR 100a.100 through 100a.102, 100a.116(a), and 100a.118(b)(1), relating to deadline dates for applications, do not apply to awards under this part.

(5) The provisions in 45 CFR 100a.232, relating to the basis for the grant amount, do not apply to transitional grants.

(6) Any other provision of the EDGAR that conflicts with any provision of this part.

(Sections 601–617; 20 U.S.C. 3191–3207; 20 U.S.C. 1221e–3(a)(1))

Subpart B—Planning Grants**§ 185a.10 Purpose.**

The purpose of a planning grant is to develop a qualifying plan (described in § 185.32).

(Sections 604(b)(2), 606(a)(1)(E), 608(a); 20 U.S.C. 3194(b)(2), 3196(a)(1)(E), 3198(a))

§ 185a.11 Eligible applicants.

(a) An LEA may apply for a planning grant.

(b) No LEA may apply for a planning grant if it has received such a grant before.

(c) An LEA that applies for assistance to develop a required plan described in § 185.32(a) need not meet the requirements of §§ 185.21c or 185.21d if it provides assurances in its application that the development of the plan for which it seeks assistance will address the conditions described in those sections.

(Sections 606(a)(1), 606(a)(1)(E), 606(c)(2), 608(a); 20 U.S.C. 3196(a)(1), 3196(a)(1)(E), 3196(c)(2), 3198(a))

§ 185a.12 Authorized activities.

An LEA may use funds under a planning grant for any activity that is reasonably related to developing a qualifying plan.

(Sections 606(a)(1)(E), 608(a); 20 U.S.C. 3196(a)(1)(E), 3198(a))

§ 185a.13 Application procedures.

(a) An LEA may apply for a planning grant at any time.

(b) The applicant shall meet the requirements in 45 CFR 100a.108 through 100a.118 and the requirements of this part.

(c) If the applicant applies for a grant to develop a required plan described in § 185.32(a), it shall include in its application—

(1) A copy of the final order of the court, agency, or official that requires a plan described in § 185.32(a)(1); or

(2) A copy of the Secretary's finding of illegal separation of minority group children or faculty that requires a plan described in § 185.32(a)(2).

(d) If the applicant applies for a grant to develop a nonrequired plan described in § 185.32(b), it shall include in its application—

(1) The names of the schools in which minority group isolation will be eliminated, reduced, or prevented—or, in the case of a plan described in § 185.32(b)(4), the school districts from

which nonresident children will come—under the plan; and

(2) Evidence that the plan will be implemented at the end of the proposed project.

(e) The applicant shall include in its application an assurance that it has met and will meet applicable requirements in the Act and in this part.

(Sections 606(a)(1)(E), 608(a), 610(a); 20 U.S.C. 3196(a)(1)(E), 3198(a), 3200(a); S. Rep. No. 856, 95th Cong., 2d Sess. 66 (1978))

§ 185a.14 Approval of projects.

(a) The Commissioner decides whether to approve a new project on the basis of the degree to which the proposed activities afford promise of achieving the purposes of the Act described in section 185.1(b), as indicated by—

(1) The information described in 45 CFR 100a.110 through 100a.115; and

(2) The extent to which the application contains convincing evidence that the plan will be implemented at the end of the proposed project.

(Section 610(d); 20 U.S.C. 3200(d))

(b)(1) the Commissioner may approve a project period of up to 24 months.

(Section 606(a)(1)(E); 20 U.S.C. 3196(a)(1)(E))

(2) the Commissioner decides the length of a project period on the basis of—

(i) The severity and likely duration of the problems to which the plan would be addressed; and

(ii) The nature of the applicant's proposed activities.

(3) When approving an award for the first budget period of a multi-year project, the Commissioner indicates his or her intention to make a continuation award for a second budget period.

(Section 610(e)(1); 20 U.S.C. 3200(e)(1))

(c) The Commissioner approves a continuation award for a second budget period on the basis of the standards in § 185.37(a).

(Section 610(e)(2); 20 U.S.C. 3200(e)(2))

Subpart C—Transitional Grants**§ 185a.20 Purposes.**

A transitional grant is for any one of the purposes set out in § 185a.1(b)(2).

(Sections 604(b)(2), 608(a); 20 U.S.C. 3194(b)(2), 3198(a))

§ 185a.21 Eligible applicants.

(a) LEAs, SEAs, other public agencies, and private nonprofit agencies and organizations are eligible to apply for transitional grants.

(b) However, an applicant that is not an LEA may apply for a transitional

grant only at the request of the LEA that it proposes to help.

(Section 608(a); 20 U.S.C. 3198(a))

§ 185a.22 Authorized activities.

(a) The recipient of a pre-implementation assistance grant described in § 185a.1(b)(2)(i) may use funds under the grant for any activity designed to meet an educational need that is reasonably related to the LEA's preparing for the reassignment of children or faculty under the plan.

(b) The recipient of an out-of-cycle assistance grant described in § 185a.1(b)(2)(ii) may use funds under the grant for any activity designed to meet an educational need that arises from the implementation of the plan.

(c) The recipient of a special discretionary assistance grant described in § 185a.1(b)(2)(iii) may use funds under the grant for any activity designed to meet the unexpected educational need described in that paragraph.

(Section 608(a); 20 U.S.C. 3198(a))

§ 185a.23 Application procedures.

(a) An applicant may apply for a transitional grant at any time.

(b) The applicant shall meet the requirements of 45 CFR 100a.108 through 100a.116 and the requirements of this part.

(c) An applicant shall include in its application—(1) Except in the case of an application for a grant described in § 185a.1(b)(2)(iii) from an LEA that has a basic grant, a copy of the LEA's qualifying plan;

(2) A needs assessment that shows the relationship of the educational needs addressed by the proposed activities to the LEA's plan;

(3) If the applicant is not an LEA, a copy of the LEA's request for the applicant's help; and

(4) An assurance that the applicant has met and will meet applicable requirements of the Act and this part.

(Sections 608(a), 610(a); 20 U.S.C. 3198(a), 3200(a))

§ 185a.24 Approval of projects.

(a) The Commissioner decides whether an award to the applicant is warranted on the basis of—

(1) The degree to which the proposed activities afford promise of achieving the purposes of the Act described in § 185.1(b), as indicated by—(i) The applicant's needs assessment;

(ii) The information described in 45 CFR 100a.110 through 100a.115; and

(iii) Whether another applicant has submitted, or is likely to submit, an application to meet the need addressed by the proposed activities; and

(2) The factors set out in section 610(d) (1), (2), (3), and (5) of the Act.

(b)(1) The Commissioner further reviews each application submitted by an applicant to which an award is warranted under paragraph (a) to ensure that each activity under the award is designed to achieve the purposes of the Act.

(2) Before making an award, the Commissioner may require the applicant to modify its proposed activities in order to meet more effectively the educational needs described in § 185a.1(b)(2). However, the amount of the award does not exceed the amount that would be required for activities that the applicant proposed to meet those needs.

(3) The Commissioner approves a project period of not more than 12 months for a transitional grant.

(4) The Commissioner does not set the amount of a grant described in § 185a.1(b)(2) (i) or (iii) above \$100,000.

(Sections 608(a), 610(d); 20 U.S.C. 3198(a), 3200(d))

Appendix A to Part 185a—Reprint of Emergency School Aid Act Proposed Rule

PART 185—EMERGENCY SCHOOLS AID**Subpart A—General Matters**

- 185.1 Emergency school aid.
185.2 Eligibility.
185.3 Other applicable regulations.
185.4 Definitions.

Subpart B—Requirements for Local Educational Agencies

- 185.10 Public and advisory committee participation.
185.11 State educational agency review.
185.12 Additional cost.
185.13 Supplementing non-Federal funds.
185.14 Coordination of Federal funds.
185.15 Services to educationally deprived children.
185.16 Evaluation.
185.17 Private school participation.
185.18 Freedom of choice desegregation plans.
185.19 Compliance with plan.
185.20 Maintenance of effort.
185.21a Limitation on eligibility—transfers to discriminatory nonpublic schools.
185.21b Limitation on eligibility—prohibited personnel practices.
185.21c Limitation on eligibility—classroom segregation.
185.21d Limitation on eligibility—discrimination against children.
185.22 Exception for planning grants.
185.23 Continuing conditions of eligibility.
185.24 Show cause conferences.
185.25 Waivers of ineligibility.
185.25a Waiver of ineligibility—transfers to discriminatory nonpublic schools.
185.25b Waiver of ineligibility—prohibited personnel practices.
185.25c Waiver of ineligibility—classroom segregation.
185.25d Waiver of ineligibility—discrimination against children.

Subpart C—Basic Grants

- 185.30 Purpose.
- 185.31 Eligible applicants.
- 185.32 Qualifying plans.
- 185.33 Authorized activities.
- 185.34 Application procedures.
- 185.35 Approval of new projects.
- 185.36 Length of project.
- 185.37 Approval of continuation awards.

Subpart D—Special Project Grants**Planning Grants**

- 185.40 Purpose.
- 185.41 Eligible applicants.
- 185.42 Authorized activities.
- 185.43 Application procedures.
- 185.44 Approval of projects.

Transitional Grants

- 185.50 Purpose.
- 185.51 Eligible applicants.
- 185.52 Authorized activities.
- 185.53 Application procedures.
- 185.54 Approval of projects.

Grants for the Arts

- 185.60 Purpose.
- 185.61 Eligible applicants.
- 185.62 Eligibility for services from a grantee.
- 185.63 Authorized activities.
- 185.64 Application procedures.
- 185.65 Approval of projects.

Metropolitan Area Grants

- 185.70 Purposes.
- 185.71 Eligible applicants.
- 185.72 Authorized activities.
- 185.73 Application procedures.
- 185.74 Approval of new projects.
- 185.75 Length of project.
- 185.76 Approval of continuation awards.

Other Special Projects

- 185.80 Use of discretionary funds.
- 185.81 Applicable requirements.

Subpart E—Magnet School, University/Business Cooperation, and Neutral Site Planning Grants

- 185.90 Purposes.
- 185.91 Eligible applicants.
- 185.92 Authorized activities.
- 185.93 Application procedures.
- 185.94 Approval of new projects—magnet schools and university/business cooperation.
- 185.95 Approval of new projects—neutral site planning.
- 185.96 Length of project.
- 185.97 Approval of continuation awards.

Subpart F—Compensatory Service Grants

- 185.100 Purpose.
- 185.101 Definitions.
- 185.102 Eligible applicants.
- 185.103 Authorized activities.
- 185.104 Application procedures.
- 185.105 Funding procedures.

Subpart G—Nonprofit Organization Grants

- 185.110 Purpose.
- 185.111 Eligible applicants.
- 185.112 Authorized activities.
- 185.113 Application procedures.
- 185.114 Approval of new projects.
- 185.115 Approval of projects to support the implementation of a plan.

- 185.116 Approval of projects to support the development of a plan.

Subpart H—State Agency Grants

- 185.120 Purpose.
- 185.121 Eligible applicants.
- 185.122 Authorized activities.
- 185.123 Application procedures.
- 185.124 Approval of projects.

Subpart I—Television and Radio Contracts

- 185.130 Purpose.
- 185.131 Eligible offerors.
- 185.132 Authorized activities.
- 185.133 Proposal procedures.
- 185.134 Selection of contractors.
- 185.135 Requirements for offerors.

Subpart A—General Matters**§ 185.1 Emergency school aid.**

(a) *Scope.* The regulations in this part govern awards under the Emergency school aid Act.

(Sections 601–617; 20 U.S.C. 3191–3207)

(b) *Purpose.* The purpose of the Emergency School Aid Act is to provide financial assistance—

(1) To meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools; and

(2) To encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students.

(Section 602(b); 20 U.S.C. 3192(b))

§ 185.2 Eligibility.

Eligible applicants for each type of award under this part are set out in the regulations that pertain to that type of award.

(Sections 601–617; 20 U.S.C. 3191–3207)

§ 185.3 Other applicable regulations.

(a) Awards under this part are subject to applicable provisions of the Education Division General Administrative Regulations (EDGAR) in 45 CFR part 100a (Direct Grant Programs) and 45 CFR part 100c (Definitions).

(b) However, the provisions of the EDGAR set out below do not apply to the types of awards described.

(1) The provisions in 45 CFR 100a.200 through 100a.220, except for 45 CFR 100a.216 and 100a.219(b)(3), do not apply to any award under this part. These inapplicable provisions relate to the selection of projects.

(2) The provisions in 45 CFR 100a.250, relating to the length of a project period, do not apply to any award under this part except for—

(i) Grants for the Arts, described in subpart D;

(ii) Grants to jurisdictions set out in § 185.80(b); and

(iii) Nonprofit Organization Grants, described in subpart G.

(3) The following provisions do not apply to any award to a local educational agency under this part—

(i) 45 CFR 100a.118(c) and 100a.253, relating to the criteria for a continuation grant;

(ii) 45 CFR 100a.560 through 100a.568, relating to indirect cost rates; and

(iii) 45 CFR 100.580, relating to the participation of children enrolled in private schools.

(4) The provisions in 45 CFR 100a.100 through 100a.102, 100a.116(a), and 100a.118(b)(1), relating to deadline dates for applications, do not apply to Planning Grants and Transitional described in subpart D.

(5) The provisions in 45 CFR 100a.232, relating to the basis for the grant amount, do not apply to any award under this part except for—

(i) Planning Grants, described in subpart D;

(ii) Neutral Site Planning Grants, described in subpart E;

(iii) Compensatory Service Grants, described in subpart F; and

(iv) State Agency Grants, described in subpart H.

(6) Any other provision of the EDGAR which would conflict with the provisions of this part if it were applied to the matters treated in this part does not apply to awards under this part.

(Sections 601–617; 20 U.S.C. 3191–3207; 20 U.S.C. 1221e–3(a)(1))

(c) The provisions of 45 CFR part 100e (Education Appeal Board) apply to awards of assistance but not procurement contracts, under this part.

(Sections 601–617; 20 U.S.C. 3191–3207; 20 U.S.C. 1234–1234c)

§ 185.4 Definitions.

(a) The definitions of the following terms in section 617 of the Emergency School Aid Act apply to those terms as used in this part.

Equipment.

Institution of higher education.

Integrated school.

Local educational agency (LEA).

Magnet school.

Minority group.

Minority group isolated school.

Minority group isolation.

Neutral site school.

Standard Metropolitan Statistical Area (SMSA).

State.

(Section 617; 20 U.S.C. 3207)

(b) The definitions of the following terms in section 1001 of the Elementary and Secondary Education Act of 1965, as amended, apply to those terms as used in this part:

Commissioner.

Construction.

Elementary school.

Nonprofit.

Secondary school.

Secretary.

State educational agency (SEA).

(ESSA, Section 1001; 20 U.S.C. 3381)

(c) The definitions of terms in 45 CFR Part 100c apply to those terms as used in this part, except where a term is defined differently under this part.

(d) "The Act" means the Emergency School Aid Act (Title VI of the Elementary and Secondary Education Act of 1965, as amended)

(e) "Desegregation", in reference to a plan, means the reassignment of children of faculty required by a court, agency, or official to

remedy the illegal separation of minority group children or faculty in the schools of an LEA.

(Sections 606(a)(1)–(A), 606(c)(1)–(A)–(C), 607(a)(10) and (11), 610(a)(5); 20 U.S.C. 3196(a)(1)(A), 3196(c)(1)(A)–(C), 3197(a)(10) and (11), 3200(a)(5); H.R. Rep. No. 576, 92nd Cong., 1st Sess. 3, 12 (1971); S. Rep. No. 61, 92nd Cong., 1st Sess. 6, 35 (1971); 42 FR 12085 (March 2, 1977))

Subpart B—Requirements for Local Educational Agencies**§ 185.10 Public and advisory committee participation.**

(a) An LEA shall develop any application for assistance in open consultation with parents, teachers, and, if the LEA operates a secondary school, secondary school students. At a minimum, the LEA shall—

(1) Meet the open meeting requirements of 45 CFR 100a.139 through 100a.141; and

(2) Consult with an advisory committee composed of parents of children enrolled in the LEA's schools, teachers, and, if the LEA operates a secondary school, secondary school students. At least half the members of the advisory committee must be parents. Also, at least half the members of the committee must be members of minority groups.

(b) The Commissioner does not approve an application without having received the written comments of a majority of each member of the advisory committee concerning the application. If a majority of the committee request an informal hearing concerning the application, the Commissioner does not approve the application without first affording the committee an opportunity for such a hearing.

(c) If the LEA receives an award, it shall periodically consult with the advisory committee, parents of children enrolled in its schools, and representatives of the area served regarding the services under the award.

(Section 610(a)(1) and (2), 610(c); 20 U.S.C. 3200(a)(1) and (2), 3200(c))

§ 185.11 State education agency review.

(a) An LEA that applies for assistance shall give the appropriate SEA a reasonable opportunity of offer recommendations to the LEA on the LEA's application.

(b) The LEA shall give the SEA a reasonable opportunity to submit comments to the Commissioner on the LEA's application, in accordance with 45 CFR 100a.156 through 100a.159.

(Section 610(a)(10); 20 U.S.C. 3200(a)(10))

§ 185.12 Additional cost.

(a) An LEA may include in its application for an award of assistance under the Act only activities that are authorized by the Act and are not normally carried out by the LEA.

(b) An LEA may not include an activity in its application if—

(1) The LEA supported the activity with funds from a source other than assistance under the Act in the fiscal year just prior to the fiscal year for which it seeks assistance for the activity; and

(2) Funds from sources other than assistance under the Act are available to

support the activity, or would have been available for that purpose in the absence of action by the LEA.

(c) The LEA shall use funds it receives under the Act solely to pay its additional cost in carrying out the activities included in its application.

(d) For the purpose of this section, "additional cost" means the actual, incremental cost of an activity. The term does not include any cost that is not related solely to that activity.

(e) The LEA shall include in its application policies, procedures, and information that ensure that it will meet the requirements of this section.

(Sections 606(b), 610(a)(3); 20 U.S.C. 3196(b), 3200(a)(3))

§ 185.13 Supplementing non-Federal funds.

(a) An LEA that applies for assistance under the Act shall use funds it receives from that source to supplement the level of funds—and in no case supplant funds—that would, in the absence of those funds, be made available from non-Federal sources for—

(1) The purposes of the project for which the LEA seeks assistance;

(2) Promoting the integration of the LEA's schools; and

(3) The education of children participating in the project.

(b) However, this section does not prohibit the use of funds under the Act for an otherwise authorized activity required under a court-ordered plan described in section 606(a)(1)(A)(i) of the Act.

(c) The LEA shall include in its application policies, procedures, and information that ensure that it will meet the requirements of this section.

(Section 610(a)(7); 20 U.S.C. 3200(a)(7))

§ 185.14 Coordination of Federal funds.

(a) An LEA that applies for assistance under the Act shall coordinate the use of funds it receives under any other law of the United States with funds it receives under the Act to the extent consistent with that other law.

(b) The LEA shall include in its application policies, procedures, and information that ensure that it will meet the requirements of this section.

(Section 610(a)(7)(B); 20 U.S.C. 3200(a)(7)(B))

§ 185.15 Services to educationally deprived children.

An LEA that applies for assistance shall include in its application an assurance that, in developing its proposed project, it considered the need for compensatory services for children who—

(a) Received those services under title I of the Elementary and Secondary Education Act of 1965, as amended; and

(b) Are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan (described in § 185.32).

(Section 610(a)(13); 20 U.S.C. 3200(a)(13))

§ 185.16 Evaluation.

(a) An LEA that receives assistance shall evaluate its approved project on a continuing basis to determine at least the following:

(1) The effectiveness of the project in achieving its goals;

(2) The impact of the project on related programs and on the community served; and

(3) The effectiveness of the project's structure and its means for the delivery of services.

(b) The LEA's evaluation shall include an objective measurement of change in educational achievement and other change that the LEA proposes to effect under the project.

(c) The LEA shall include in its application effective procedures for the evaluation described in this section.

(Section 610(a)(11); 20 U.S.C. 3200(a)(11))

§ 185.17 Private school participation.

(a)(1) An LEA that applies for assistance under the Act shall give children enrolled in private schools, and teachers and other educational staff employed in those schools, an opportunity to participate in its project on an equitable basis in accordance with this section.

(2) However, the Commissioner waives the requirement in this paragraph under section 612(c) of the Act if the LEA is prohibited by law from meeting it through reasonably feasible provisions.

(b)(1) In meeting the requirement in subsection (a), the LEA shall comply with the requirements of 45 CFR 100b.652 through 100b.663 for subgrantees.

(2) For the purpose of this section, the terms "subgrantee" and "subgrant" as used in those sections of part 100b mean "LEA" and "award", respectively. In addition, the terms "students" and "children" as used in those sections of part 100b include, for the purpose of this section, teachers and other educational staff.

(c) The requirement in subsection (a) relates only to a private nonprofit elementary or secondary school—

(1) That is located within the school district of the LEA; and

(2) That the LEA finds meets the requirements of § 185.21a (relating to nondiscrimination).

(d) A private school child, teacher, or other educational staff member may participate in the LEA's project only if his or her participation would assist in achieving the purposes of the Act (set out in § 185.1(b)). In meeting the requirements of 45 CFR 100b.657, the applicant shall include a description of how the participation of private school children, teachers, and other educational staff would assist in achieving those purposes.

(Sections 610(a)(8), 612(c); 20 U.S.C. 3200(a)(8), 3202(c))

§ 185.18 Freedom of choice desegregation plans.

If an LEA seeks assistance with respect to a desegregation plan described in section 606(a)(1)(A) of the Act, it shall identify in its application any elements of the plan that permit a child to select the school which he or she will attend.

(Section 610(a)(5); 20 U.S.C. 3200(a)(5))

§ 185.19 Compliance with plan.

If an LEA's eligibility for assistance is based on a plan described in section 606 of the Act, it shall include in its application an assurance that it will carry out, and comply with, all provisions, terms, and conditions of that plan.

(Section 610(a)(6); 20 U.S.C. 3200(a)(6))

§ 185.20 Maintenance of effort.

(a) An LEA that applies for assistance under the Act shall meet at least one of the following requirements:

(1) Its fiscal effort per student for the fiscal year for which it seeks assistance under the Act is not less than that for the second preceding fiscal year; or

(2) Its aggregate expenditure for the fiscal year for which it seeks assistance under the Act is not less than that for the second preceding fiscal year.

(b)(1) For the purposes of this section, "fiscal effort per student" means the expenditure for free public education—including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities—divided by the number of students in average daily attendance at the applicant's schools during the fiscal year for which the computation is made. Expenditures for free public education do not include expenditures for community services, capital outlay and debt service, or any expenditure from funds granted under any Federal program of assistance.

(2) "Aggregate expenditure" means the total expenditures used to compute "fiscal effort per student", as described in paragraph (b)(1).

(c) The LEA shall include in its application evidence that it meets the requirement of this section.

(Section 610(a)(9); 20 U.S.C. 3200(a)(9); H.R. Rep. No. 1701, 94th Cong., 2d Sess. 232 (1976); 122 CONG. REC. H4209 (daily ed. May 11, 1976))

§ 185.21a. Limitation on eligibility—Transfers to discriminatory nonpublic schools.

(a) No LEA is eligible for assistance under the Act if, after June 23, 1972, it has transferred—directly or indirectly by gift, lease, loan, sale, or any other means—any real or personal property, or made available any services to, a nonpublic school or school system, or any person or organization controlling, operating, or intending to establish a nonpublic school or school system, before determining that the school or school system—

(1) Is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated or integrated public schools; and

(2) Does not otherwise practice, or permit to be practiced—in admissions or in the operation of any school activity—discrimination on the basis of race, color, or national origin.

(b)(1) In order to determine whether a transferee under paragraph (a) is a nonpublic

school or school system—or a person or organization controlling, operating, or intending to establish a nonpublic school or school system—the applicant shall, at a minimum, obtain from the transferee, in writing, the following information:

(i)(A) The legal name and address of the transferee; and

(B) If the immediate transferee is acting in a representative capacity, the legal name and address of the party represented.

(ii) If the information in (i) does not clearly indicate the nature of the transferee or the party represented, a copy of the articles of incorporation, charter, bylaws, or other documents indicating the legal status and stated purposes of the transferee or the party represented.

(iii) A statement of the use to be made of the property or services to be transferred.

(2) In the case of a transfer occurring after June 23, 1972, but prior to February 6, 1973 (the date on which the regulations relating to this matter first became effective), the requirements in paragraph (b)(1) do not apply.

(c)(1) In making the prior determination required under paragraph (a) as to the nature and practices of a nonpublic school or school system, an LEA shall, at a minimum, obtain from that school or school system, in writing, the following information:

(i) Whether the school has publicized a policy of nondiscrimination in admissions, educational policies, scholarship programs, athletics, and extracurricular activities.

(ii) Whether the school has publicized this policy in a manner intended and reasonably likely to bring it to the attention of school-age minority group persons, and their families, without making other statements or taking actions that negate the effect of that publicity.

(iii) Whether applicants for admission have been treated on a non-discriminatory basis.

(iv) Whether the racial composition of faculty, staff, and student body is consistent with a policy of nondiscrimination.

(v) Whether scholarship assistance is made available without regard to race.

(vi) Whether students and scholarship recipients are recruited among all segments of the community.

(vii)(A) Whether the school's incorporators, founders, board members, or donors of its land and buildings are announced or generally known as having as a primary objective the maintenance of segregated education; or

(B) Are announced or identified as officers or active members of an organization with that objective.

(2) In the case of a transfer occurring after June 23, 1972, but prior to February 6, 1973, a determination required to be made by paragraph (a) shall be substantiated by credible evidence satisfactory to the Secretary.

(d)(1) For the purpose of paragraph (c)(1)(iii) and (iv), a nonpublic school that has no minority students, or nonpublic school system that has no minority students in one or more of its schools, is presumed by the Secretary to discriminate.

(2) If that school or school system has also failed to adopt and publish a policy of

nondiscrimination in accordance with paragraph (c)(1)(i) and (ii), the presumption of discrimination is conclusive.

(e) The fact that an LEA may have obtained an assurance or statement of nondiscrimination from a transferee—or included that assurance or statement in the transfer documents—does not excuse the LEA from making the determination required by paragraph (a).

(Section 606(c)(1)(A); 20 U.S.C. 3196(c)(1)(A); *Green v. Connally*, 330 F. Supp. 1150 (D.D.C. 1971), *aff'd sub nom. Coit v. Green*, 404 U.S. 997 (1971); *Wright v. City of Brighton, Alabama*, 441 F.2d 447 (5th Cir. 1971), cert. den. 404 U.S. 915 (1971))

§ 185.21b Limitation on eligibility—Prohibited personnel practices.

(a) No LEA is eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any practice, policy, or procedure that—

(1) Results in the disproportionate demotion or dismissal of instructional, administrative, or other personnel from minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in section 606 of the Act;

(2) Has resulted in the disproportionate demotion or dismissal of any of those personnel during the period in which the agency has been desegregating or eliminating or reducing isolation of minority group children under—

(i) An order of a Federal or State court;

(ii) A plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964; or

(iii) An order of a State agency or official of competent jurisdiction.

(b)(1) For the purpose of paragraph (a), a disproportionate demotion or dismissal of minority group personnel has occurred if the ratio of minority group elementary school teachers, secondary school teachers, principals, or other staff demoted or dismissed to the number of minority group personnel employed by the agency before those demotions or dismissals exceeds by more than 10 percentage points the ratio of nonminority group personnel demoted or dismissed over the same period of time to the number of nonminority group personnel employed by the agency prior to those demotions or dismissal. For example, the agency would be in violation of this paragraph (a) if it has demoted or dismissed 21 percent of its minority group principals and 10 percent of its nonminority group principals over the same period of time.

(2) For purposes of this section, a demotion includes any reassignment—

(i) Under which a faculty or staff member receives less pay or has less responsibility than under the assignment he or she held prior to the reassignment;

(ii) That requires a lesser degree of skill than did the assignment he or she held previously; or

(iii) Under which he or she is required to teach in a subject or grade other than one for which he or she is certified or in which he or she has substantial experience or qualifications.

(3) For the purpose of this section, a dismissal includes any termination of or failure to renew a contract, for cause or otherwise, including resignations impelled by threatened administrative or other sanctions.

(c)(1) The Secretary considers a practice, policy, or procedure resulting in the disproportionate demotion or dismissal of minority group personnel to be or remain in effect after June 23, 1972, if—at the time the LEA applies for assistance under the Act—the proportion of minority group personnel affected has not been restored at least to the proportion that existed prior to the demotions or dismissals.

(2) However, the Secretary does not make this finding if the LEA submits with its application information establishing that this practice, policy, or procedure has not been in effect since June 23, 1972. This information must include a description of corrective measures taken and progress achieved in eliminating the results of this practice, policy, or procedure.

(d) No LEA is eligible for assistance under the Act if—

(1) After June 23, 1972, the LEA, in selecting a staff member for demotion and dismissal, did not apply objective, nonracial, reasonable, and nondiscriminatory criteria to all staff members;

(2)(i) The LEA selected a staff member for demotion or dismissal on or before June 23, 1972, as described in paragraph (d)(1); and

(ii) At the time the LEA applies for assistance under the Act, the LEA has not offered this staff member reinstatement to his or her former position—or a comparable position—and offered him or her financial compensation for any loss caused by the demotion or dismissal; or

(3) The LEA fills a staff vacancy occurring after a demotion or dismissal in the process of desegregation with a person of a race, color, or national origin different from a qualified former staff member who was demoted or dismissed, unless this former staff member was offered employment in the vacancy and failed to accept the offer.

(e) No LEA is eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any other practice, policy, or procedure that results in discrimination on the basis of race, color, or national origin in the recruiting, hiring, promotion, payment, or assignment of any of its employees or other personnel for which the agency has any administrative responsibility. This includes the assignment of full-time classroom teachers to the schools of the LEA in a manner that identifies any of those schools as intended for students of a particular race, color, or national origin.

(Section 606(c)(1)(B); 20 U.S.C. 3196(c)(1)(B); S. Rep. No. 61, 92nd Cong. 1st Sess. 19 (1971), *Singleton v. Jackson Municipal Separate School District*, 419 F.2d 1211 (5th Cir. 1969))

§ 185.21c Limitation on eligibility—Classroom segregation.

(a) Except as provided in § 185.22, no LEA is eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any procedure for the assignment of children to or within classes—in conjunction with desegregation or the conduct of any

activity described in section 606 of the Act—that results in any separation of minority group from nonminority group children for more than 25 percent of the school day classroom periods.

(b) However, paragraph (a) does not prohibit, as a standard pedagogical practice, ability grouping that is—

(1) Based on nondiscriminatory, objective standards of measurement that—

(i) Are educationally relevant to the purposes of the grouping; and

(ii) In the case of national origin minority group children, do not essentially measure English language skills;

(2)(i) Determined by the nondiscriminatory application of the standards described in paragraph (b)(1); and

(ii) Maintained for only that portion of the school day classroom periods necessary to achieve the purposes of the grouping;

(3) Designed—(i) To meet the special needs of the students in each group; and

(ii) To improve the academic performance and achievement of students determined to be in the less academically advanced groups by means of—

(A) Specially developed curricula;

(B) Specially trained or certified instructional personnel; and

(C) Periodic retesting to determine academic progress and eligibility for promotion; and

(4) Validated by test scores or other reliable, objective evidence indicating the educational benefits of the grouping.

(Section 606(c)(1)(C); 20 U.S.C. 3196(c)(1)(C); S. Rep. No. 61, 92nd Cong., 1st Sess., 19 (1971))

§ 185.21d Limitation on eligibility—Discrimination against children.

Except as provided in § 185.22, no LEA is eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any practice, policy, or procedure that results or has resulted in discrimination against children on the basis of race, color, or national origin, including but not limited to—

(a) Limiting curricular or extracurricular activities or participation of children in those activities, to avoid the participation of minority group children;

(b) Denying equality of educational opportunity, or otherwise discriminating on the basis of language or cultural background, against national origin minority group children;

(c) Permitting the rental, use, or enjoyment of any of the LEA's facilities or services by a group or organization that—

(1) Discriminates against minority group children aged 5 through 17 in its admissions or membership policies; or

(2) Otherwise practices, or permits to be practiced, discrimination against these children on the basis of race, color, or national origin;

(d) Imposing disciplinary sanctions—including expulsion, suspension, or corporal or other punishment—in a manner that discriminates against minority group children on the basis of race, color, or national origin;

(e) Assigning students to ability groups, tracks, special education classes, classes for the mentally retarded, or other curricular or

extracurricular activities on the basis of race, color, or national origin. Racially or ethnically identifiable groups, tracks, or classes that cannot be justified educationally under the criteria set out in § 185.21c(b) are presumed by the Secretary to be assigned on the basis of race, color, or national origin; and

(f) Denying to minority group children, on the basis of race, color, or national origin facilities or instructional or other services comparable to those provided to nonminority group children.

(Section 606(c)(1)(D); 20 U.S.C. 3196(c)(1)(D))

§ 185.22 Exception for planning grants.

The provisions of §§ 185.21c and 185.21d do not apply to an LEA described in § 185.41 if the applicant LEA provides assurances in its application that the development of the plan for which it seeks assistance will address the conditions described in those sections.

(Section 606(c)(2); 20 U.S.C. 3196(c)(2))

§ 185.23 Continuing conditions of eligibility.

(a) The limitations on eligibility in §§ 185.21a through 185.21d are continuing conditions of eligibility during the entire grant period.

(b) The LEA's failure to comply with these conditions after the award of assistance is grounds for termination of assistance and for other sanctions that the Secretary may impose.

(c) The provisions of 45 CFR part 100e (Education Appeal Board) apply to a decision to terminate assistance or impose another sanction.

(Section 606(c); 20 U.S.C. 3196(c); S. Rep. No. 61, 92nd Cong., 1st Sess. 41-42 (1971))

§ 185.24 Show cause conferences.

(a)(1) If the Secretary determines that an applicant is not eligible for assistance under §§ 185.21a through 185.21d, the Secretary notifies the applicant in writing of that determination and the reasons for it.

(2) The notification includes an offer to show cause why the determination of ineligibility should be revoked and the applicant's application considered for funding.

(b) If the applicant requests an opportunity to show cause, the Secretary holds an informal conference for that purpose.

(c) After the conference has been held, the Secretary promptly notifies the applicant of the decision to continue or revoke the determination of ineligibility and the reasons for that decision.

(d) For the purpose of this section, "applicant" includes—

(1) An agency that is seeking an award for a new project; and

(2) An agency that is seeking a continuation award for a budget period after the first budget period of an approved multi-year project.

(e) The provisions of 45 CFR part 100e do not apply to a determination that an applicant is not eligible for assistance under §§ 185.21a through 185.21d.

(Section 606(c); 20 U.S.C. 3196(c))

§ 185.25 Waivers of ineligibility.

(a) In the event that an LEA prior to an award of assistance under the Act is determined to be ineligible under §§ 185.21a through 185.21d, the agency may apply to the Secretary for waiver of ineligibility.

(Section 606(c) (1) and (3); 20 U.S.C. 3196(c) (1) and (3))

(b) An application for waiver under paragraph (a) must contain—

(1) Information and assurances to ensure that any practice, policy, procedure, or other activity resulting in ineligibility has ceased to exist or occur; and

(2) Provisions to ensure that practice, policy, procedure, or activity will not reoccur after the agency submits its application for a waiver.

(c) If an applicant for assistance—except for assistance under section 606(a) of the Act—submits its application for waiver too late to permit the Secretary to consider it before the June 30 deadline in section 610(b) of the Act, the Commissioner disapproves the applicant's application for assistance.

(Sections 606(c) (1) and (3), 610 (a) and (b); 20 U.S.C. 3196(c) (1) and (3), 3200 (a) and (b))

§ 185.25a Waiver of ineligibility—Transfer to discriminatory nonpublic schools.

In the case of ineligibility under § 185.21a, an LEA shall include the following in its application for waiver:

(a) A list of all property transferred or services made available to nonpublic schools or school systems that—

(1) Are operated on a racially segregated basis; or

(2) Practice, or permit to be practiced, discrimination on the basis of race, color or national origin in admissions or the operation of any school activity.

(b) The names and addresses of these schools or school systems.

(c) The consideration received for these transfers.

(d) Evidence that—(1) The transfers have been rescinded; and

(2) To the extent possible under State law, all unearned consideration received for them has been repaid or returned; and

(e) A statement of steps taken by the agency to avoid or prevent these types of transfers in the future.

(Section 606(c); 20 U.S.C. 3196(c))

§ 185.25b Waiver of ineligibility—Prohibited personnel practices.

(a) In the case of ineligibility under § 185.21b resulting from the disproportionate demotion or dismissal of instructional, administrative, or other personnel from minority groups, an LEA shall include the following in its application for waiver:

(1) A plan of affirmative action to ensure that—within a reasonable time from the date of its application—the proportion of minority group personnel affected by these demotions or dismissals will be restored at least to the proportion that existed prior to the demotions or dismissals.

(2) A statement of steps taken by the LEA to prevent any future disproportionate demotion or dismissal of minority group personnel.

(b) In the case of ineligibility under § 185.21b resulting from discriminatory demotion or dismissal of instructional or other personnel from minority groups, an LEA shall include the following in its application for waiver:

(1) Evidence that all minority group personnel demoted or dismissed as a result of discrimination have been offered reinstatement to their former positions or comparable positions and afforded financial compensation for any loss caused by those demotions or dismissals; and

(2) A statement of steps taken by the LEA to prevent any future discriminatory demotion or dismissal of minority group personnel. This includes but is not limited to a statement of objective, nonracial, and reasonable criteria to be applied—

(i) In the event that reinstatement of minority group personnel as required by paragraph (b)(1) necessitates a reduction in the number of personnel; or

(ii) In the event of future demotions or dismissals for any reason.

(c)(1) In the case of ineligibility resulting from discriminatory assignment of teachers as prohibited by § 185.21b(e), an LEA shall include in its application for waiver evidence that the agency has assigned its full-time classroom teachers to its schools so that no school is identified as intended for students of a particular race, color, or national origin.

(2) In the case of an LEA implementing a required plan described in § 185.32(a), these nondiscriminatory assignments must conform to the requirements of that plan.

(3) In the case of an LEA not implementing that type of plan, or implementing a plan that contains no provision regarding assignment of faculty, the LEA shall make assignments so that the proportion of minority group full-time classroom teachers at each school is between 75 and 125 percent of the proportion of those teachers that exists on the LEA's faculty as a whole.

(d) In the case of ineligibility resulting from other discriminatory practices, policies, or procedures prohibited by § 185.21b(e), an LEA shall include the following in its application for waiver:

(1) Evidence that minority group personnel subjected to this type of discrimination have been—

(i) Reinstated or restored to the positions or status they held prior to, or would have held in the absence of, this discrimination; and

(ii) Given financial compensation for any loss caused by that discrimination.

(2) A statement of steps taken by the LEA to prevent this type of discrimination in the future.

(e) In the event that the corrective action required under this section includes the employment or promotion of minority group personnel, the LEA shall give preference—

(1) First to qualified minority group members of its own faculty or staff previously demoted or dismissed for any reason; and

(2) Second to qualified minority group faculty and staff members identified by the Department as previously demoted or dismissed by other LEA's in conjunction with desegregation or the conduct of any activity described in section 606 of the Act.

(Section 606(c); 20 U.S.C. 3196(c))

§ 185.25c Waiver of ineligibility—Classroom segregation.

In the case of ineligibility under § 185.21c, an LEA shall include in its application for waiver—

(a) Evidence that minority group children are not separated from nonminority group children by or within classes for more than 25 percent of the school day classroom periods, except in the case of ability grouping that meets the requirements of § 185.21c(b) (1) through (3) and is the only available method of achieving a specific educational objective.

(b) A statement of steps taken by the LEA to ensure that separation of minority and nonminority group children as prohibited by § 185.21c will not reoccur.

(Section 606(c); 20 U.S.C. 3196(c))

§ 185.25d Waiver of ineligibility—Discrimination against children.

In the case of ineligibility under § 185.21d, and LEA shall include in its application for waiver evidence that the practice, policy, or procedure prohibited by that section has ceased and that its effects have been remedied or eliminated. In particular—

(a) In the case of a denial of equal educational opportunity to national origin minority group children—as described in § 185.21(b)—the LEA shall submit an educational plan of sufficient comprehensiveness to remedy or eliminate the effects of the denial and to meet the special educational needs of all national origin minority group children for whose education the LEA is responsible.

(b) In the case of a violation under § 185.21d(c), the LEA shall include in its application for waiver evidence that—

(1) The discriminatory rental, use, or enjoyment of its facilities is no longer permitted; and

(2) Any agreement with respect to the discriminatory rental, use, or enjoyment has been rescinded and the unearned consideration from it has been returned or repaid, to the extent possible under the applicable State law.

(c)(1) In the case of the assignment of students to racially or ethnically identifiable groups, tracks, or classes that cannot be justified educationally—as described in § 185.21d(e)—the LEA shall include in its application for waiver the following information:

(i) If the assignment was to a grouping to provide special education or related services to handicapped students, evidence that the students have been evaluated and placed in accordance with requirements for evaluation and placement of handicapped students under Pub. L. 94-142, section 504 of Pub. L. 93-112, and any regulations under those statutes.

(ii) If the assignment was to other groupings, evidence that the students have been reassigned without discrimination to groupings that are not racially or ethnically identifiable, or evidence that the students have been reassigned to groupings in accordance with the criteria in § 185.21c(b) (1) through (3).

(2) If the agency reassigns any student to a new grouping under paragraph (c)(1), it shall

also include evidence that it has made provision for the transitional services necessary to enable the student to participate meaningfully in the educational program of the new grouping.

(Section 606(c); 20 U.S.C. 3196(c))

Subpart C—Basic Grants**§ 185.30 Purpose.**

The purpose of a basic grant is to meet educational needs that arise from a qualifying plan described in § 185.32.

(Sections 602(b), 604(b)(1), 606(a)(1), 607(a); 20 U.S.C. 3192(b), 3194(b)(1), 3196(a)(1), 3197(a))

§ 185.31 Eligible applicants.

An LEA may apply for a basic grant.

(Section 606(a)(1); 20 U.S.C. 3196(a)(1))

§ 185.32 Qualifying plans.

(a) *Required plans.* (1) An LEA may apply if it is implementing a plan—

(i) That has been undertaken under a final order issued by—

(A) A court of the United States;

(B) A court of any State; or

(C) Any other State agency or official of competent jurisdiction;

(ii) That requires the desegregation of minority group segregated children or faculty in the LEA's elementary and secondary schools, or otherwise requires the elimination or reduction of minority group isolation in those schools; and

(iii) That may, in addition, require educational activities in minority group isolated schools not affected by the reassignment of children or faculty under the plan in order to remedy the effects of illegal segregation.

(2) For the purpose of subparagraph (1), a State agency or official of competent jurisdiction means any State agency or official authorized pursuant to State law to issue such an order.

(Section 606(a)(1)(A)(i); 20 U.S.C. 3196(a)(1)(A)(i))

(3) An LEA may apply if it is implementing a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in the LEA's schools.

(Section 606(a)(1)(A)(ii); 20 U.S.C. 3196(a)(1)(A)(ii))

(b) *Nonrequired plans.* (1) An LEA may apply if, without having been required to do so, it has adopted and is implementing, or will, if assistance is made available to it under the Act, adopt and implement, a plan to—

(A) Eliminate or reduce minority group isolation in one or more of its minority group isolated schools.

(2)(i) An LEA may apply if it has adopted and is implementing, or will, if assistance is made available to it under the Act, adopt and implement, a plan to—

(A) Eliminate or reduce minority group isolation in one or more of its minority group isolated schools; or

(B) Reduce the total number of minority group children who are enrolled in its minority group isolated schools.

(ii) Elimination of minority group isolation is a change in a school's enrollment resulting in a reduction in the proportion of minority group children from greater than 50 percent to 50 percent or less.

(iii) Reduction of minority group isolation is a change in a school's enrollment after which the proportion of minority group children is reduced, but remains greater than 50 percent.

(Section 606(a)(1)(C) (i) and (ii); 20 U.S.C. 3196(a)(1)(C) (i) and (ii))

(3)(i) An LEA may apply if it has adopted and is implementing, or will, if assistance is made available to it under the Act, adopt and implement, a plan to prevent minority group isolation reasonably likely to occur (in the absence of assistance under the Act) in any of its schools in which at least 20 percent, but not more than 50 percent, of the enrollment consists of minority group children.

(ii) The Commissioner considers minority group isolation reasonably likely to occur (in the absence of assistance under the Act) in a school only if the LEA demonstrates by credible evidence that minority group children will comprise more than 50 percent of the enrollment of the school during the first fiscal year for which it seeks assistance or the next succeeding fiscal year. This evidence may include, but is not limited to—

(A) Enrollment figures for the school during previous fiscal years;

(B) Enrollment figures of schools from which the enrollment of the school is drawn;

(C) Demographic data concerning the attendance area served by the school; and

(D) School board resolutions or other evidence of final official action likely to affect the enrollment of the school during the first fiscal year for which assistance is sought or the next succeeding fiscal year.

(iii) If the LEA seeks assistance for more than one fiscal year, its plan to prevent minority group isolation must include provisions to accomplish the purpose of the plan by mandatory enrollment changes in the event other means fail.

(Section 606(a)(1)(C)(iii); 20 U.S.C. 3196(a)(1)(C)(iii))

(4) An LEA may apply if, without having been required to do so, it has adopted and is implementing, or will, if assistance is made available to it under the Act, adopt and implement, a plan to enroll and educate in its schools children who would not otherwise be eligible for enrollment because of nonresidence in its school district, where that enrollment would make a significant contribution toward reducing minority group isolation in one or more school districts. The Commissioner considers an LEA's plan to make a significant contribution toward reducing minority group isolation only if it involves the enrollment by the applicant of at least 100 children who would not otherwise be eligible for enrollment because of nonresidence in its school district. Reducing minority group isolation in one or more school districts, for the purpose of this subparagraph (4), refers to any of the changes in enrollment described in paragraph (b)(2) in any school district to which the plan relates.

(Section 606(a)(1)(D); 20 U.S.C. 3196(a)(1)(D))

(5) The Commissioner does not consider a plan described in paragraph (b) (2), (3), or (4)

to meet the requirements of this section where the elimination, reduction, or prevention of minority group isolation accomplished or to be accomplished in schools to which the plan relates results in an equal or greater degree of minority group isolation in other schools operated by the LEA or LEA's to which the plan relates.

(Sections 602(b), 606(a)(1) (C) and (D); 20 U.S.C. 3192(b), 3196(a)(1) (C) and (D))

(c) *Implementation of a plan.* (1) For purposes of determining an LEA's eligibility for assistance, the Commissioner considers the LEA to be implementing a plan if—

(i) It is operating its school system in accordance with the requirements of the plan; and

(ii) In the case of a required or nonrequired plan to eliminate, reduce, or prevent minority group isolation—or a plan to reduce the total number of minority group children who are enrolled in its minority group isolated schools—the degree of minority group isolation in its schools is less than the degree that would have existed in the absence of the plan.

(Section 606(a)(1); 20 U.S.C. 3196(a)(1))

(d) An LEA shall include in its application the following:

(i) A complete copy of the plan upon which it bases its application for assistance under this section (including all relevant legal documents);

(ii) A summary of the present requirements for that plan;

(iii) In the case of a plan described in paragraph (b), a copy of a school board resolution or other evidence of final official action adopting and implementing the plan, or agreeing to adopt and implement it upon the award of assistance; and

(iv) In the case of a plan to prevent minority group isolation described in paragraph (b)(3), where minority group children constitute more than 50 percent of the enrollment of all the schools operated by the LEA—

(A) A statement of the enrollment, by race, in any of its schools in which minority group children constitute more than 70 percent of the enrollment;

(B) A statement of the reasons for that disproportionate minority group enrollment in each school; and

(C) A statement of instructional and other services to be provided to children enrolled in each school that will ensure that services to those children are comparable to services to be provided to children enrolled in any school to which the plan described in paragraph (b)(3) relates.

(Sections 606(a)(1), 610(a); 20 U.S.C. 3196(a)(1), 3200(a))

§ 185.33 Authorized activities.

An LEA may use funds under a basic grant for any activity that is designed to meet an educational need that arises from a qualifying plan (described in § 185.32). Section 607(a) of the Act lists examples of authorized activities.

(Section 607(a); 20 U.S.C. 3197(a))

§ 185.34 Application procedures.

(a) An LEA that wants to apply shall meet the requirements in 45 CFR 100a.108 through 100a.116 and the requirements in this part.

(b) The LEA shall include in its application a needs assessment that shows the relationship of the educational needs addressed by the proposed activities to the implementation of the LEA's qualifying plan.

(c) The LEA shall include in its application an assurance that it has met and will meet applicable requirements of the Act and this part.

(Section 610(a); 20 U.S.C. 3200(a))

§ 185.35 Approval of new projects.

(a) The Commissioner decides whether to approve a new project on the basis of the procedures in this section.

(Sections 602(b), 610(d); 20 U.S.C. 3192(b), 3200(d))

(b) Applications for new projects submitted by LEA's in each State are considered separately.

(Section 605; 20 U.S.C. 3195)

(c)(1) Each application is assigned to one of the categories in this paragraph on the basis of the date when the LEA implemented the qualifying plan on which it bases its application.

(i) Category I contains applications relating to plans with implementation dates not more than three years before the July 1 that follows the deadline date for applications.

(ii) Category II contains applications relating to plans with implementation dates more than three, but not more than six, years before that date.

(iii) Category III contains applications relating to plans with implementation dates more than six years before that date.

(2)(i) The implementation date of a plan is the date of the first change in the enrollment of a school—or, in the case of a plan for the desegregation of minority group segregated faculty, the first reassignment of a faculty member—under the plan.

(ii) If an LEA is implementing more than one plan, or a plan that was implemented over a period of time, the implementation date is the date of the greatest change in the enrollments of schools, or the greatest number of reassignments of faculty members, as appropriate.

(3)(i) The Commissioner makes awards for all approvable applications contained in Category I before those in Category II.

(ii) The Commissioner makes awards for all approvable applications contained in Category II before those in Category III. (Sections 610(d) (1) and (3); 20 U.S.C. 3200(d) (1) and (3))

(d)(1) Within each category, applications are ranked on the basis of the net change in isolation in the applicant's schools between the fiscal year just prior to the implementation date of its plan ("base year") and the first fiscal year for which it seeks assistance ("project year"). The net change in isolation is computed on the basis of the procedures in this paragraph.

(2) The minority group percentage of the enrollment of each of the applicant's schools in the base year is computed. The number of

minority group students enrolled in schools within each percentage range in column A of table 1 is determined. The number of students in each percentage range is then multiplied by the corresponding weight in column B of table 1. The resulting weighted numbers are added. The sum is then divided by the total number of minority group students.

Table 1

Column A minority group percentage	Column B weight
95 or more	0.0
At least 90 but less than 95	.1
At least 85 but less than 90	.2
At least 80 but less than 85	.3
At least 75 but less than 80	.4
At least 70 but less than 75	.5
At least 65 but less than 70	.6
At least 60 but less than 65	.7
At least 55 but less than 60	.8
At least 50 but less than 55	.9
50 or less	1.0

(3) The computation described in subparagraph (2) is repeated using the number of minority group students to be enrolled in the applicant's schools in the project year.

(4) The result of the computation for the base year is subtracted from the result of the computation for the project year to determine the net change in isolation between the base year and the project year.

(Section 610(d) (1) and (2); 20 U.S.C. 3200(d) (1) and (2))

(e) With the concurrence of the Assistant Secretary for Education that compelling evidence of extraordinary difficulty by an applicant in effectively carrying out a desegregation plan exists, the Commissioner may revise the rank order of applications between and within categories under paragraph (c) and (d) to reflect the applicant's greater need for assistance.

(Section 610(d)(3); 20 U.S.C. 3200(d)(3))

(f)(1) The Commissioner reviews each application to determine if it contains activities that address educational needs that arise from the implementation of the LEA's qualifying plan.

(2)(i) If the application contains activities described in subparagraph (1), the Commissioner reviews those activities to determine the degree to which they afford promise of achieving the purposes of the Act described in § 185.1(b).

(ii) In making this determination, the Commissioner considers—

(A) The information described in 45 CFR 100a.110 through 100a.115 as it relates to those activities; and

(B) The degree to which the applicant's plan involves, to the fullest extent practicable, the total educational resources, both public and private, of the community to be served.

(iii) On the basis of this review, the Commissioner decides whether an award to the applicant is warranted.

(Sections 602(b), 605(b)(3), 607(a), 610(d) (1), (4) and (5); 20 U.S.C. 3192(b), 3195(b)(3), 3197(a), 3200(d) (1), (4) and (5))

(g)(1) The Commissioner further reviews each application submitted by an applicant to

which an award is warranted under paragraph (f) to ensure that each activity under the award is designed to achieve the purposes of the Act.

(2) Before making an award, the Commissioner may require the applicant to modify its proposed activities in order to meet more effectively the educational needs that arise from its plan. However, the amount of the award does not exceed the amount that would be required for activities that the applicant proposed to meet those needs.

(Sections 602(b), 607(a), 610(d)(4); 20 U.S.C. 3192(b), 3197(a), 3200(d)(4))

§ 185.36 Length of project.

(a) The Commissioner may approve a project period of up to 60 months.

(b) The Commissioner decides the length of a project period on the basis of the following factors:

(1) The severity and likely duration of the educational needs addressed by the applicant's proposed activities.

(2) The nature of those activities, or of activities to meet those needs most effectively.

(3) The recency of the LEA's implementation of the qualifying plan on which it bases its application.

(c) When approving an award for the first budget period of a multi-year project, the Commissioner indicates his or her intention to make one or more continuation awards for budget periods during the remainder of the project period.

(Section 610(e)(1); 20 U.S.C. 3200(e)(1))

§ 185.37 Approval of continuation awards.

The Commissioner approves a continuation award for a budget period after the first budget period of a multi-year project if—

(a) Sufficient appropriations are available for the budget period under section 610(e)(2)(A) of the Act;

(b) The applicant is not ineligible for assistance under §§ 185.21a through 185.21d; and

(c) The applicant is making satisfactory progress toward achieving the objectives of its project.

(Section 610(e)(2); 20 U.S.C. 3200(e)(2))

Subpart D—Special Project Grants**Planning Grants****§ 185.40 Purpose.**

The purpose of a planning grant is to develop a qualifying plan (described in § 185.32).

(Sections 604(b)(2), 606(a)(1)(E), 608(a); 20 U.S.C. 3194(b)(2), 3196(a)(1)(E), 3198(a))

§ 185.41 Eligible applicants.

(a) An LEA may apply for a planning grant.

(b) No LEA may apply for a planning grant if it has received such a grant before.

(c) An LEA that applies for assistance to develop a required plan described in § 185.32(a) need not meet the requirements of §§ 185.21c or 185.21d if it provides assurances in its application that the development of the plan for which it seeks assistance will address the conditions described in those sections.

(Sections 606(a)(1), 606(a)(1)(E), 606(c)(2), 608(a); 20 U.S.C. 3196(a)(1), 3196(a)(1)(E), 3196(c)(2), 3198(a))

§ 185.42 Authorized activities.

An LEA may use funds under a planning grant for any activity that is reasonably related to developing a qualifying plan.

(Sections 606(a)(1)(E), 608(a); 20 U.S.C. 3196(a)(1)(E), 3198(a))

§ 185.43 Application procedures.

(a) An LEA may apply for a planning grant at any time.

(b) The applicant shall meet the requirements in 45 CFR 100a.108 through 100a.116 and the requirements of this part.

(c) If the applicant applies for a grant to develop a required plan described in § 185.32(a), it shall include in its application—

(1) A copy of the final order of the court, agency, or official that requires a plan described in § 185.32(a)(1); or

(2) A copy of the Secretary's finding of illegal separation of minority group children or faculty that requires a plan described in § 185.32(a)(2).

(d) If the applicant applies for a grant to develop a nonrequired plan described in § 185.32(b), it shall include in its application—

(1) The names of the schools in which minority group isolation will be eliminated, reduced, or prevented—or, in the case of a plan described in § 185.32(b)(4), the school districts from which nonresident children will come—under the plan; and

(2) Evidence that the plan will be implemented at the end of the proposed project.

(e) The applicant shall include in its application an assurance that it has met and will meet applicable requirements in the Act and in this part.

(Sections 606(a)(1)(E), 608(a), 610(a) 20 U.S.C. 3196(a)(1)(E), 3198(a), 3200(a) S. Rep. No. 856, 95th Cong., 2d Sess. 66 (1978))

§ 185.44 Approval of projects.

(a) The Commissioner decides whether to approve a new project on the basis of the degree to which the proposed activities afford promise of achieving the purposes of the Act described in § 185.1(b), as indicated by—

(1) The information described in 45 CFR 100a.110 through 100a.115; and

(2) The extent to which the application contains convincing evidence that the plan will be implemented at the end of the proposed project.

(Section 610(d); 20 U.S.C. 3200(d))

(b)(1) The Commissioner may approve a project period of up to 24 months.

(Section 606(a)(1)(E); 20 U.S.C. 3196(a)(1)(E))

(2) The Commissioner decides the length of a project period on the basis of—

(i) The severity and likely duration of the problems to which the plan would be addressed; and

(ii) The nature of the applicant's proposed activities.

(3) When approving an award for the first budget period of a multi-year project, the Commissioner indicates his or her intention

to make a continuation award for a second budget period.

(Section 610(e)(1); 20 U.S.C. 3200(e)(1))

(c) The Commissioner approves a continuation award for a second budget period on the basis of the standards in § 185.37(a).

(Section 610(e)(2); 20 U.S.C. 3200(e)(2))

Transitional Grants**§ 185.50 Purposes.**

A transitional grant is for any one of the following purposes:

(a) *Pre-implementation assistance*—to help an LEA that has adopted but not yet implemented a required plan, described in § 185.32(a), to prepare for the reassignment of children or faculty under the plan.

(b) *Out-of-cycle assistance*—to help an LEA to meet educational needs that arise from the implementation of a plan described in § 185.32 that the LEA adopted too late to serve as the basis for a basic grant application in the most recent competition under subpart C.

(c) *Special discretionary assistance*—to help an LEA meet an unexpected educational need that arose from the implementation of a plan described in § 185.32 after the deadline date for basic grant applications in the most recent competition under subpart C.

(Sections 604(b)(2), 608(a); 20 U.S.C. 3194(b)(2), 3198(a))

§ 185.52 Eligible applicants.

(a) LEAs, SEAs, other public agencies, and private nonprofit agencies and organizations are eligible to apply for transitional grants.

(b) However, an applicant that is not an LEA may apply for a transitional grant only at the request of the LEA that it proposes to help.

(Section 608(a); 20 U.S.C. 3198(a))

§ 185.52 Authorized activities.

(a) The recipient of a pre-implementation assistance grant described in § 185.50(a) may use funds under the grant for any activity designed to meet an educational need that is reasonably related to the LEA's preparing for the reassignment of children or faculty under the plan.

(b) The recipient of an out-of-cycle assistance grant described in § 185.50(b) may use funds under the grant for any activity designed to meet an educational need that arises from the implementation of the plan.

(c) The recipient of a special discretionary assistance grant described in § 185.50(c) may use funds under the grant for any activity designed to meet the unexpected educational need described in that paragraph.

(Section 608(a); 20 U.S.C. 3198(a))

§ 185.53 Application procedures.

(a) An applicant may apply for a transitional grant at any time.

(b) The applicant shall meet the requirements of 45 CFR 100a.108 through 100a.116 and the requirements of this part.

(c) An applicant shall include in its application—

(1) Except in the case of an application for a grant described in § 185.50(c) from an LEA

that has a basic grant, a copy of the LEA's qualifying plan;

(2) A needs assessment that shows the relationship of the educational needs addressed by the proposed activities to the LEA's plan;

(3) If the applicant is not an LEA, a copy of the LEA's request for the applicant's help; and

(4) An assurance that the applicant has met and will meet applicable requirements of the Act and this part.

(Sections 608(a), 610(a); 20 U.S.C. 3198(a), 3200(a))

§ 185.54 Approval of projects.

(a) The Commissioner decides whether an award to the applicant is warranted on the basis of—

(1) The degree to which the proposed activities afford promise of achieving the purposes of the Act described in § 185.1(b), as indicated by—

(i) The applicant's needs assessment;

(ii) The information described in 45 CFR 100a.110 through 100a.115; and

(iii) Whether another applicant has submitted, or is likely to submit, an application to meet the need addressed by the proposed activities; and

(2) The factors set out in section 610(d) (1), (2), (3), and (5) of the Act.

(b)(1) The Commissioner further reviews each application submitted by an applicant to which an award is warranted under paragraph (a) to ensure that each activity under the award is designed to achieve the purposes of the Act.

(2) Before making an award, the Commissioner may require the applicant to modify its proposed activities in order to meet more effectively the educational needs described in § 185.50. However, the amount of the award does not exceed the amount that would be required for activities that the applicant proposed to meet those needs.

(3) The Commissioner approves a project period of not more than 12 months for a transitional grant.

(4) The Commissioner does not set the amount of a grant described in § 185.50 (a) or (c) above \$100,000.

(Sections 608(a), 610(d); 20 U.S.C. 3198(a), 3200(d))

Grants for the Arts**§ 185.60 Purpose.**

The purpose of a grant for the arts is to provide, through the arts, opportunities for interracial and intercultural communication and understanding to help meet the special needs incident to the implementation of a qualifying plan (described in § 185.32).

(Sections 604(b)(2), 608(a); 20 U.S.C. 3194(b)(2), 3198(a))

§ 185.61 Eligible applicants.

A public agency other than an LEA that is responsible for the administration of statewide public arts programs may apply for a grant for the arts at the request of the LEA or LEAs that it proposes to serve.

(Section 608(a); 20 U.S.C. 3198(a))

§ 185.62 Eligibility for services from a grantee.

A grantee shall conduct activities under the grant primarily with students who attend schools—

- (a) That are affected by a qualifying plan;
- (b) In which the minority group enrollment is between 20 and 80 percent; and
- (c) That are operated by LEAs that are in compliance with the requirements of §§ 185.21a through 185.21d.

(Section 608(a); 20 U.S.C. 3198(a))

§ 185.63 Authorized activities.

A grantee may use funds to carry out any activity that is reasonably related to the purpose of a grant for the arts (described in § 185.60).

(Section 608(a); 20 U.S.C. 3198(a))

§ 185.64 Application procedures.

(a) An applicant shall meet the requirements in 45 CFR 100a.108 through 100a.118 and the requirements of this part.

(b) An applicant shall include in its application—

(1) A copy of the qualifying plan for each LEA that the applicant proposes to serve, unless the LEA has submitted its plan to the Commissioner;

(2) A copy of the request for the applicant to serve the LEA, from each LEA that the applicant proposes to serve;

(3) An assurance, signed by an authorized official of each LEA that the applicant proposes to serve, that the LEA is in compliance with §§ 185.21a through 185.21d;

(4) Evidence, such as a copy of a State statutory provision or executive order, that the applicant is a public agency responsible for the administration of statewide public arts programs; and

(5) An assurance that the applicant has met and will meet applicable requirements of the Act and this part.

(Section 608(a); 20 U.S.C. 3198(a))

§ 185.65 Approval of projects.

(a) The Commissioner decides whether an award to the applicant is warranted on the basis of—

- (1) The degree to which the proposed activities afford promise of achieving the purposes of the Act described in § 185.1(b), as indicated by the information described in 45 CFR 100a.110 through 100a.115; and
- (2) The factors set out in section 610(d) (1), (2), (3) and (5) of the Act.

(b)(1) The Commissioner further reviews each application submitted by an applicant to which an award is warranted under paragraph (a) to ensure that each activity under the award is designed to achieve the purposes of the Act.

(2) Before making an award, the Commissioner may require the applicant to modify its proposed activities in order to carry out more effectively the purpose set out in § 185.60. However, the amount of the award does not exceed the amount that would be required for activities that the applicant proposed to carry out that purpose.

(3) The maximum assistance for any budget period for a grant for the arts is \$100,000.

(c) The Commissioner does not award more than one grant for activities in any State.

(Section 610(d); 20 U.S.C. 3200(d))

Metropolitan Area Grants**§ 185.70 Purposes.**

A metropolitan area grant is for either of the following purposes:

- (a) To establish or maintain one or more integrated schools.
- (b) To support the joint development of a plan or reduce or eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools within a Standard Metropolitan Statistical Area (SMSA).

(Sections 604(b)(2), 606(a)(2), 609(a); 20 U.S.C. 3194(b)(2), 3196(a)(2), 3199(a))

§ 185.71 Eligible applicants.

(a) *Integrated schools.* An LEA may apply for a grant if—

- (1) It is located within an SMSA or serves a school district adjacent to a school district that is located wholly within an SMSA;
- (2) The total student enrollment of the LEA includes a percentage of minority group students that is smaller than the percentage of minority group students enrolled in all schools in the SMSA; and

(3)(i) It has made a joint arrangement for the establishment or maintenance of one or more integrated schools with a cooperating LEA—

- (A) That is located within the same SMSA; and
- (B) That has a total student enrollment that includes a percentage of minority group students that is greater than the percentage of minority group students enrolled in all the schools in that SMSA.

(ii) A joint arrangement must consist of the enrollment in schools of the applicant LEA of students residing in the district served by, or attending the schools of, the cooperating LEA. The arrangement may not result in an increase in the degree of minority group isolation in any school operated by any LEA. The arrangement must involve the enrollment in the applicant's schools of only those students who in the absence of the arrangement would be enrolled in, or assigned to, a minority group isolated school.

(Sections 608(a)(2), 609(a)(1), 617(3); 20 U.S.C. 3196(a)(2), 3199(a)(1), 3207(3))

(b) *Area-wide plans.* (1) Two or more LEAs located within an SMSA may apply for a grant for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in that SMSA. The plan must, at a minimum, provide that by a certain date—no later than July 1, 1983—the percentage of minority group children enrolled in each public elementary and secondary school in the SMSA will be at least 50 percent of the percentage of minority group children enrolled in all those schools, and shall specify in detail the means by which that objective is to be achieved.

(2) The Commissioner does not make a grant under this paragraph unless—

- (i) Two-thirds or more of the LEAs in an SMSA have approved the application; and
- (ii) The number of students in the schools of those agencies that have approved the application constitutes two-thirds or more of

the number of students in the schools of all the LEAs in the SMSA.

(Sections 609(a)(2); 20 U.S.C. 3199(a)(2))

§ 185.72 Authorized activities.

(a) *Integrated schools.* (1) The recipient of a grant under § 185.70(a) may use funds under the grant for any activity that is designed to meet an educational need that arises from the joint arrangement described in § 185.71(a)(3).

(2) The recipient may also use these funds to pay the net cost, if any, to the recipient of enrolling and educating in its integrated schools students from the cooperating LEA.

(Section 609(a)(1); 20 U.S.C. 3199(a)(1))

(b) *Area-wide plans.* (1) The recipient of a grant under § 185.70(b) may use funds under the grant for any activity reasonably necessary to the joint development of a plan described in § 185.71(b).

(2) The recipient may not use these funds for construction or any repair or remodeling of facilities.

(Section 609(a)(2); 20 U.S.C. 3199(a)(2))

§ 185.73 Application procedures.

(a) An LEA that wants to apply for a metropolitan area grant shall meet the requirements in 45 CFR 100a.108 through 100a.118 and the requirements in this part.

(b) An LEA that wishes to apply for a metropolitan area grant shall meet the requirements in § 185.10, relating to public and advisory committee participation. However, references to an LEA in paragraph (a)(2) of that section include—

- (1) The cooperating LEA, in the case of an application for an integrated schools project, described in § 185.70(a); and
- (2) All the LEAs in the SMSA, in the case of an application for an area-wide plan project, described in § 185.70(b).

(c) An LEA shall include in its application an assurance that it has met and will meet applicable requirements of the Act and this part.

(Section 610(a); 20 U.S.C. 3200(a))

§ 185.74 Approval of new projects.

(a) The Commissioner decides whether an award to the applicant is warranted on the basis of—

- (1) The degree to which the proposed activities afford promise of achieving the purposes of the act described in § 185.1(b), as indicated by the information described in 45 CFR 100a.110 through 100a.115; and
- (2) The factors set out in section 610(d)(1), (2), (3) and (5) of the Act.

(b)(1) The Commissioner further reviews each application submitted by an applicant to which an award is warranted under paragraph (a) to ensure that each activity under the award is designed to achieve the purposes of the Act.

(2) Before making an award, the Commissioner may require the applicant to modify its proposed activities in order to carry out more effectively the purposes set out in § 185.70. However, the amount of the award does not exceed the amount that would be required for activities that the applicant proposed to carry out those purposes.

(Section 610(d); 20 U.S.C. 3200(d))

§ 185.75 Length of project.

Awards of metropolitan area grants are subject to the provisions of § 185.36(a) and (c), and section 610(e)(1)(A) through (C) of the Act, relating to the length of a project.

(b) However, the project period for a grant for an area-wide plan, described in § 185.71(b), may not extend beyond July 1, 1983.

(Sections 609(a)(2), 610(e)(1); 20 U.S.C. 3199(a)(2), 3200(e)(1))

§ 185.76 Approval of continuation awards.

Awards of metropolitan area grants are subject to the provisions of § 185.37, relating to the approval of continuation awards.

(Section 610(e)(2); 20 U.S.C. 3200(e)(2))

Other Special Projects**§ 185.80 Use of discretionary funds.**

The Commissioner may use funds appropriated under section 604(b)(2) of the Act for the following types of awards:

(a) The types of grants described in this subpart.

(b) Grants to Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands to achieve the purposes of the act described in § 185.1(b).

(c) Magnet school, university/business cooperation, and neutral site planning grants described in subpart E.

(d) State agency grants described in subpart H.

(e) Television and radio contracts described in subpart I.

(f) Evaluation contracts under section 613 of the Act.

(g) Any other type of award described in this part.

(h) Contracts, consistent with the requirements of the Act, for particular purposes designed to achieve the purposes of the act described in § 185.1(b).

(Sections 604(b)(2), 608(a), 617(10); 20 U.S.C. 3194(b)(2), 3198(a), 3207(10))

§ 185.81 Applicable requirements.

(a) The requirements of the act and this part that relate to a type of award apply to the use of any funds for that type of award.

(b) However, if the Commissioner uses funds appropriated under section 604(b)(2) for basic grants described in subpart C, he or she distributes these funds in the following way:

(1) He or she distributes to each State an amount which bears the same ratio to the amount available for basic grants as the number of minority group children aged five through seventeen, inclusive, in that State bears to the number of those children in all States.

(2) He or she uses the distributed funds for approvable applications contained in Categories I and II (as described in § 185.35(c)).

(3) If the amount distributed to a State exceeds the amount required for those applications in that State, he or she distributes the excess amount to other States in proportion to the need in those States for approvable applications contained in Categories I and II.

(4) If the amount available for basic grants exceeds the amount required for all

approvable applications contained in Categories I and II, he or she distributes the excess amount to States in the manner described in this paragraph for approvable applications contained in Category III (as described in § 185.35(c)).

(Sections 604(b)(2), 608(a); 20 U.S.C. 3194(b)(2), 3198(a))

Subpart E—Magnet School, University/ Business Cooperation and Neutral Site Planning Grants**§ 185.90 Purposes.**

(a) The purposes of magnet school grants are to plan, design, and conduct educational programs in magnet schools.

(b) The purpose of university/business cooperation grants is to conduct cooperative programs between LEAs and institutions of higher education or businesses.

(c) The purpose of neutral site planning grants is to develop plans for neutral site schools.

(Sections 604(b)(2), 608(a)(1)–(3), 617(5) and (8); 20 U.S.C. 3194(b)(2), 3190(a)(1)–(3), 3207(5) and (8))

§ 185.91 Eligible applicants.

(a) An LEA may apply for a grant under this subpart.

(Section 608(a)(1)–(3); 20 U.S.C. 3198(a)(1)–(3); H.R. Rep. No. 1701, 94th Cong., 2d Sess. 231 (1976))

(b) In the case of a grant to conduct educational programs in a magnet school, the Commissioner considers the curriculum of the magnet school to be capable of attracting substantial numbers of students of different racial backgrounds if—

(1) The LEA—

- (i) Does not compel any student to enroll in the magnet school for any part of the grant period; and
- (ii) Does not compel any student to enroll in another school after enrolling in the magnet school; and

(2) Sixty days after the beginning of the first school term, any part of which falls within the grant period, or 90 days after the effective date of the grant, whichever is later, the enrollment of the school meets the following requirements:

(i) Minority group students constitute no less than 20 and no more than 80 percent of the enrollment.

(ii) If the percentage of minority group students enrolled in all the applicant's schools is less than 20 percent, minority group students constitute between 20 percent and 50 percent, inclusive, of the enrollment in the school.

(iii) If the percentage of minority group students enrolled in all the applicant's schools is greater than 80 percent, minority group students constitute between 50 percent and 80 percent, inclusive, of the enrollment in the school.

(iv) The ratios of the number of students from each minority group to the total number of minority group students enrolled in the magnet school generally reflect the ratios among minority group students enrolled in all the LEA's schools.

(c)(1) An LEA's failure to meet the requirements of paragraph (b) is grounds for

terminating the grant, insofar as it relates to a school affected by the failure, as of—

- (i) The date of any compulsory enrollment referred to in paragraph (b)(1); or
- (ii) The applicable date referred to in paragraph (b)(2).

(2) However, the Commissioner, at the written request of the LEA, may forebear from terminating the grant if he or she determines that the LEA—

- (i) Has substantially complied with these requirements; and
- (ii) Is likely to attain full compliance in the near future.

(Sections 608(a)(1), 617(5); 20 U.S.C. 3198(a)(1), 3207(5))

§ 185.92 Authorized activities.

An LEA may use funds under the grant for the activities described in this section.

(a) *Magnet schools.* (1) Funds may be used for the following three activities:

- (i) The planning and design of one or more magnet schools.
- (ii) The conduct of educational programs in one or more magnet schools where these programs are a part of, or directly related and necessary to, the special curriculum of a magnet school.

(iii) The repair and minor remodeling or alteration of existing school facilities in connection with the conduct of educational programs described in this paragraph (a)(1).

(2) "Special curriculum", as used in the definition of "magnet school" in section 617(5) of the Act, means a course of study embracing subject matter or a teaching methodology that is not generally offered to students of the same age or grade level, and in the same LEA, as the students to whom the special curriculum is offered. This term does not include—

- (i) A course of study or a part of a course of study designed solely to provide basic educational services to handicapped students or to students of limited English-speaking ability;
- (ii) A course of study or a part of a course of study in which any student is unable to participate because of his or her limited English-speaking ability;

(iii) A course of study or a part of a course of study in which any student is unable to participate because of his or her limited financial resources; or

(iv) A course of study or a part of a course of study which fails to provide for a participating student's meeting the requirements for completion of elementary or secondary education in the same period as other students enrolled in the applicant's schools.

(3) The planning and design of a magnet school includes, but is not limited to, the following activities:

- (i) Planning and design of educational programs for the school.
- (ii) Architectural design of new or modified facilities to house the school.
- (iii) Surveys and studies relating to the establishment or improvement of the school.
- (iv) Recruitment of students and staff for the school.

(4)(i) The Commissioner awards funds for the conduct of educational programs in a magnet school only if the LEA's fiscal effort

per student for students enrolled at a magnet school is no less than its fiscal effort per student for students enrolled at all schools serving students of the same age or grade level operated by the applicant in the fiscal year for which it seeks assistance under this subpart.

(ii) For the purpose of this subparagraph (4), "fiscal effort per student" means the expenditure for free public education—including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities—divided by the number of students with respect to whom the computation is made. Expenditures for free public education do not include expenditures for community services, capital outlay and debt service, or any expenditure from funds granted under any Federal program of assistance.

(Sections 608(a)(1), 617(5); 20 U.S.C. 3198(a)(1), 3207(5))

(b) *University/business cooperation.* Funds may be used for—

(1) The conduct of educational programs by the applicant, in cooperation with one or more institutions of higher education or businesses, for the benefit of students enrolled, or staff employed, in—

(i) A magnet school assisted under this subpart; or

(ii) A school affected by a qualifying plan described in § 185.32; and

(2) The repair and minor remodeling or alteration of facilities in connection with the conduct of these educational programs.

(Section 608(a)(2); 20 U.S.C. 3198(a)(2))

(c) *Neutral site planning.* (1) Funds may be used for the development of plans for one or more neutral site schools, including but not limited to the following activities:

(i) Surveys and studies to determine the location of the school.

(ii) Planning educational programs for the school.

(iii) Architectural design of facilities to house the school.

(iv) The repair and minor remodeling or alteration of facilities in connection with the development of plans for the school.

(2) Funds may be used only in connection with a school planned to have the following characteristics:

(i) Minority group students will constitute no less than 20 percent and no more than 80 percent of the enrollment of the school.

(ii) The ratios of the number of students from each minority group to the total number of minority group students who will be enrolled in the school generally reflect the ratios among minority group students who will be enrolled in all the LEA's schools.

(iii) The school will be equally accessible to nonminority group students and students from each minority group who will be enrolled in it.

(3) Funds may not be used for—

(i) The acquisition or improvement of a site for the school;

(ii) The construction of facilities to house the school;

(iii) The acquisition of equipment for the school; or

(iv) Any activity related to the operation of the school.

(Sections 608(a)(3), 617(8); 20 U.S.C. 3198(a)(3), 3207(8))

§ 185.93 Application procedures.

(a) An LEA that wants to apply for a grant under this subpart shall meet the requirements in 45 CFR 100a.108 through 100a.118 and the requirements in this part.

(b) An LEA shall include in its application an assurance that it has met and will meet applicable requirements of the Act and this part.

(c) In the case of an application for a grant to carry out activities relating to magnet schools and university/business cooperation, respectively, the applicant shall also include in its application—

(1) The number of minority group students and the total number of students enrolled or to be enrolled in each of its schools in the following year;

(i) The "base year" (meaning the second fiscal year prior to the first fiscal year for which an applicant seeks assistance under this subpart); and

(ii) The "project year" (meaning the first fiscal year for which an applicant seeks assistance under this subpart); and

(2) A description of the basis for its enrollment projections for the project year.

(Section 610(a); 20 U.S.C. 3200(a))

§ 185.94 Approval of new projects—magnet schools and university/business cooperation.

(a) The Commissioner ranks applications to carry out activities relating to magnet schools and university/business cooperation on the basis of the net change in isolation in the applicant's schools between the base year and the project year. The net change in isolation is computed on the basis of the procedures in § 185.35 (d)(2) through (d)(4).

(b) If an application contains compelling evidence of extraordinary difficulty in effectively carrying out the project for which the applicant seeks assistance, the Commissioner may revise the rank order of applications under paragraph (a) to reflect the applicant's greater need for assistance.

(c) The Commissioner reviews each application to determine whether the activities that the applicant proposes to carry out afford promise of achieving the purposes of the Act described in § 185.1(b). In making this determination, the Commissioner considers—

(1) The information described in 45 CFR 100a.110 through 100a.115; and

(2) The extent to which the proposed activities are related to the elimination, reduction, or prevention of minority group isolation in all the applicant's schools.

(d) On the basis of this review, the Commissioner decides whether an award to the applicant is warranted.

(e)(1) The Commissioner further reviews each application submitted by an applicant to which an award is warranted under paragraph (d) to ensure that each activity under the award is designed to achieve the purposes of the Act.

(2) Before making an award, the Commissioner may require the applicant to

modify its proposed activities in order to carry out more effectively the purposes set out in § 185.90. However, the amount of the award does not exceed the amount that would be requested for activities that the applicant proposed to carry out those purposes.

(Section 610(d); 20 U.S.C. 3200(d))

§ 185.95 Approval of new projects—neutral site planning.

The Commissioner decides whether to approve a new project on the basis of the degree to which the proposed activities afford promise of achieving the purposes of the Act described in § 185.1(b), as indicated by—

(a) The information described in 45 CFR 100a.110 through 100a.115; and

(b) The extent to which the application contains convincing evidence that the plan will be implemented at the end of the proposed project.

(Section 610(d); 20 U.S.C. 3200(d))

§ 185.96 Length of project.

(a)(1) The Commissioner may approve a project period of up to 60 months for activities relating to magnet schools and university/business cooperation.

(2) The Commissioner may approve a project period of up to 24 months for activities relating to neutral site planning.

(b) The Commissioner sets the length of the project period on the basis of—

(1) The severity and likely duration of the problems addressed by the proposed activities; and

(2) The nature of those activities, or—except for natural site planning grants—of activities to address those problems effectively.

(c) When approving an award for the first budget period of a multi-year project, the Commissioner indicates his or her intention to make one or more continuation awards for budget periods during the remainder of the project period.

(Section 610(e)(1); 20 U.S.C. 3200(e)(1))

§ 185.97 Approval of continuation awards.

Section 185.97 applies to the approval of continuation awards under this subpart.

(Section 610(e)(2); 20 U.S.C. 3200(e)(2))

Subpart F—Compensatory Service Grants

§ 185.100 Purpose.

The purpose of a compensatory service grant is to continue compensatory services to students who would otherwise lose those services as a result of an attendance area or enrollment change under a qualifying plan described in § 185.32.

(Section 604(c); 20 U.S.C. 3194(c))

§ 185.101 Definitions.

The following definitions apply to terms used in this subpart:

"Attendance area or enrollment change" means any change in the policy of an LEA that results in a student's voluntary or mandatory enrollment at a school other than the school at which the student would normally have been enrolled in the absence of the change in policy.

"Compensatory services" means any educational services authorized under title I

to meet the special educational needs of educationally deprived children.

"Title I" means title I of the Elementary and Secondary Education Act of 1965, as amended.

(Section 604(c); 20 U.S.C. 3194(c))

§ 185.102 Eligible applicants.

An LEA may apply for a compensatory services grant if—

(a) It is implementing—

(1) A required plan described in § 185.32(a)(1) that was ordered after August 21, 1974;

(2) A required plan described in § 185.32(a)(2) that was approved after that date; or

(3) A nonrequired plan described in § 185.32(b) that was adopted after that date;

(b) Under the plan, there are attendance area or enrollment changes; and

(c) As a result of the attendance area or enrollment changes, students who received compensatory services funded in whole or in part under title I are no longer receiving those services.

(Section 604(c)(1); 20 U.S.C. 3194(c)(1); H.R. Rep. No. 1701, 94th Cong., 2d Sess. 231 (1976))

§ 185.103 Authorized activities.

(a) An LEA may use funds under the grant to—

(1) Provide compensatory services to students who—

(i) Received compensatory services funded in whole or in part under title I; and

(ii) In the project period, are no longer receiving compensatory services as a result of attendance area or enrollment changes under a plan described in § 185.102; and

(2) Provide services to other students as provided for in section 604(c)(2)(B)(ii) of the Act.

(b) The Commissioner considers a student eligible to receive compensatory services under paragraph (a)(1) if—

(1) The student received compensatory services funded under title I at any time prior to the implementation of a plan described in § 185.102;

(2) The student is not receiving any compensatory services funded under title I in the project period;

(3) The student is an educationally deprived child, for title I purposes, at the beginning of the project period; and

(4) In the absence of a plan described in § 185.102, the student would be enrolled at a different school, in which compensatory services funded under title I were provided during the last regular school term prior to the implementation of the plan, for the grade in which the student is enrolled in the project period.

(c) In addition, a student is eligible to receive compensatory services under paragraph (a)(1) if—

(1) The student meets the requirement in paragraph (b)(1); and

(2) The applicant shows by credible evidence that attendance area or enrollment changes under a plan described in § 185.102 alone caused the student to receive, in the project period, fewer—or no—compensatory services funded in whole or in part under title I.

(d)(1) The LEA shall ensure that at least 30 percent of the enrollment of a compensatory services project funded under the Act is comprised of students—

(i) Who are enrolled in the same school as students eligible under paragraph (a)(1); and

(ii) Whose enrollment in the school is not a result of attendance area or enrollment changes under a plan described in § 185.102.

(2) An LEA may not use funds under the grant in any manner that would result in the isolation of the students eligible under paragraph (a)(1) from other students enrolled in the same school.

(e)(1) An LEA shall use funds under the grant to provide to each student eligible under paragraph (a)(1) the level of compensatory services he or she failed to receive in the project period because of attendance area or enrollment changes under a plan described in § 185.102.

(2) However, if the Commissioner has reduced the grant amount under § 185.105, the LEA may use the grant funds to provide services to only some of those students, or to provide fewer services to those students, or both.

(Section 604(c); 20 U.S.C. 3194(c))

§ 185.104 Application procedures.

(a) An applicant shall meet the requirements in 45 CFR 100a.109 through 100a.116 and the requirements of this part.

(b) An applicant shall include in its application the following information:

(1) A copy of the plan on which the applicant bases its eligibility for assistance.

(2) A precise description of attendance area or enrollment changes under the plan.

(3) The number of students eligible to receive compensatory services under § 185.103(a)(1) and a description of how the applicant determined their eligibility.

(4) A description of the compensatory services for which the applicant seeks assistance.

(5) An assurance that it has met and will meet applicable requirements of the Act and this part.

(Section 610(a); 20 U.S.C. 3200(a))

§ 185.105 Funding procedures

(a) The Commissioner may approve a project period of up to 12 months.

(b) To the extent funds permit, the Commissioner sets the amount of each grant at a level sufficient to provide to each student eligible under § 185.103(a)(1) the level of compensatory services he or she will not receive in the project period because of attendance area or enrollment changes under a plan described in § 185.102, consistent with the requirements of section 604(c)(2) of the Act.

(c) If the amount needed to fund all approvable services exceeds the amount of funds available, the Commissioner reduces the amount for each grant by an equal proportion.

(Section 604(c); 20 U.S.C. 3194(c))

Subpart G—Nonprofit Organization Grants

§ 185.110 Purpose.

The purpose of a nonprofit organization grant is to support an LEA's development or

implementation of a qualifying plan (described in § 185.32).

(Sections 604(b)(3), 608(b); 20 U.S.C. 3194(b)(3), 3198(b))

§ 185.111 Eligible applicants.

(a) Any public or private nonprofit agency, institution or organization (NPO), other than an LEA, is eligible to apply for a grant under this subpart.

(b) An NPO may receive a grant under this subpart regardless of whether the LEA whose plan the NPO proposes to support applies for assistance under the Act.

(Section 608(b); 20 U.S.C. 3198(b))

§ 185.112 Authorized activities.

(a) Except as provided in paragraph (b), an NPO may apply for any activity that is designed to support the development or implementation of a qualifying plan. These activities include, but are not limited to—

(1) Encouraging parental and community involvement in matters relating to the development or implementation of the plan;

(2) Providing information to parents and community members on the contents of the plan;

(3) Monitoring the implementation of the plan;

(4) Carrying out activities designed to promote interracial and intercultural understanding among students who are affected by, or are reasonably likely to be affected by, the implementation of the plan;

(5) Carrying out activities designed to stimulate a desire to learn in those students;

(6) Addressing non-academic problems faced by those students—at home, in school, or in the community—that affect their adjustment to schools to which the plan relates; and

(7) Promoting student understanding of and support for the plan.

(b) An NPO may not use funds under this subpart in connection with the provision of compensatory education, the development of basic skills, or the training of LEA staff.

(c) An NPO that proposes to support the development of a qualifying plan must receive a written request for that assistance from the LEA, except in the case of plan described in § 185.32(a) that has been required but not yet adopted.

(Section 608(b); 20 U.S.C. 3198(b))

§ 185.113 Application procedures.

(a) An NPO that wants to apply for a grant shall meet the requirements in 45 CFR 100a.108 through 100a.118, and the requirements in this part.

(b) An NPO may include in an application activities in support of only one qualifying plan. However, an NPO may submit more than one application.

(c) An NPO shall include in its application a needs assessment that shows the severity of the needs addressed by the proposed activities and the relationship of those needs to the development or implementation of a qualifying plan.

(d) An NPO that proposes to support the implementation of a qualifying plan shall include in its application—

(1) A copy of the LEA's qualifying plan or a detailed description of that plan; and

(2) The date when the LEA adopted the plan.

(e) An NPO that proposes to support the development of a plan shall include a copy of the LEA's request for that assistance, if a request is required under § 185.112(c).

(f) An NPO shall include in its application an assurance that it has met and will meet the applicable requirements of the Act and this part.

(Section 608(b); 20 U.S.C. 3198(b))

§ 185.114 Approval of new projects.

(a) Applications for projects to support the development of qualifying plans and those support the implementation of plans are considered separately. The Commissioner states in the application notice published in the Federal Register the amount of funds available for each type of project.

(b) The Commissioner reviews each application according to the procedures described in § 185.115 or § 185.116, as appropriate, to decide whether an award to the applicant is warranted.

(c)(1) The Commissioner further reviews each application submitted by an applicant to which an award is warranted under paragraph (b) to ensure that each activity under the award is designed to achieve the purposes of the Act.

(2) Before making an award, the Commissioner may require the applicant to modify its proposed activities in order to carry out more effectively the purposes set out in § 185.110. However, the amount of the award does not exceed the amount that would be required for activities that the applicant proposed to carry out that purpose. (Section 608(b); 20 U.S.C. 3198(b))

§ 185.115 Approval of projects to support the implementation of a plan.

(a) The Commissioner reviews each application for a project to support the implementation of a qualifying plan and—

(1) Assigns it to a category, as described in § 185.35(c); and

(2) Ranks it within the category on the basis of an evaluation of the application under the criteria in paragraph (b).

(b) The Commissioner applies the following criteria in ranking applications within a category:

(1) The extent to which the applicant identifies needs that are clearly related to the plan.

(2) The severity of those needs.

(3) The extent to which the authorized activities proposed by the applicant are clearly related to the identified needs.

(4) The extent to which the applicant has experience working with other community organizations in the community affected by the qualifying plan.

(5) The quality of the key personnel the applicant plans to use on the project, as indicated by the factors in 45 CFR 100a.203.

(c) Except as provided in paragraph (d)—

(1) The Commissioner approves all projects contained in Category I before those in Category II;

(2) The Commissioner approves all projects contained in Category II before those in Category III; and

(3) The Commissioner approves within a category in the rank order of the applications established under paragraph (a).

(d) If more than one otherwise approvable project relates to the same qualifying plan, the Commissioner—

(1) Reviews the approvable activities to identify any duplication in the needs addressed by those activities; and

(2) In the case of duplication, approves only the activity contained in the highest ranking application.

(Section 608(b); 20 U.S.C. 3198(b))

§ 185.116 Approval of projects to support the development of a plan.

(a) The Commissioner ranks each application for a project to support the development of a qualifying plan on the basis of—

(1) An evaluation of the application under the criteria in § 185.115(b); and

(2) The extent to which the application contains convincing evidence that the plan will be adopted at the end of the proposed project.

(b) Except as provided in paragraph (c), the Commissioner approves projects in the rank order established under paragraph (a) until funds available for projects under this section are exhausted.

(c) If more than one otherwise approvable application relates to the same qualifying plan, the Commissioner follows the procedure described in § 185.115(d).

(Section 608(b); 20 U.S.C. 3198(b))

Subpart H—State Agency Grants

§ 185.120 Purpose.

The purpose of a State agency grant is to pay a portion of the cost to a State of the activities described in § 185.122.

(Sections 604(b)(2), 608(c); 20 U.S.C. 3194(b)(2), 3198(c))

§ 185.121 Eligible applicants.

(a) A State agency may apply for a grant under this subpart if—

(1) It is involved in or responsible for the desegregation of public elementary and secondary schools; and

(2) It obligated funds derived from State sources for the activities described in § 185.122 in the Federal fiscal year just prior to the Federal fiscal year for which funds for the grant are appropriated.

(b) The Commissioner does not make more than one grant for activities in any State. If more than one State agency in a State is eligible under paragraph (a), the Commissioner makes any grant under this subpart to the agency most directly responsible for carrying out the activities in § 185.122 in the State.

(Section 608(c); 20 U.S.C. 3198(c))

§ 185.122 Authorized activities.

(a) A State agency may use funds under the grant for the following activities:

(1) Planning for the implementation of voluntary plans to eliminate or reduce minority group isolation in public elementary and secondary schools.

(2) Assessing future needs for those plans, and developing strategies to meet those needs.

(3) Providing technical assistance to encourage LEAs or groups of LEAs to develop or implement those plans.

(4) Providing training for educational personnel involved in developing or carrying out those plans.

(b) A State agency may not use funds under the grant for grants to LEAs.

(c) The plans described in this section include—

(1) A plan described in § 185.32(b)(1), (2), and (4); and

(2) A plan described in § 185.32(a)(2), where the elimination or reduction of minority group isolation under the plan was voluntary within the meaning of section 602 of the Civil Rights Act of 1964.

(Section 608(c)(1); 20 U.S.C. 3198(c)(1); 42 U.S.C. 2000d-1)

§ 185.123 Application procedures.

(a) A State agency that wants to apply for a grant shall meet the requirements of 45 CFR 100a.109 through 100a.116 and the requirements of this part.

(b)(1) The applicant shall develop its application in consultation with teachers, educators, parents (including parents of minority group children) and representatives of the general public (including representatives of minority groups).

(2) At a minimum, the applicant shall consult with an advisory committee composed of the persons described in subparagraph (1). The proportion of the committee membership that is comprised of minority group members must be approximately the same as the proportion of children enrolled in the elementary and secondary schools in the State that is comprised of minority group children.

(3) The applicant shall include in its application the written comments of the advisory committee concerning the application.

(c) The applicant shall include in its application an assurance that it has met and will meet applicable requirements of the Act and this part.

(Section 608(c)(1) and (3); 20 U.S.C. 3198(c)(1) and (3))

§ 185.124 Approval of projects.

(a) The Commissioner approves a project if the proposed activities are authorized under § 185.122.

(b)(1) In setting the amount of a grant, the Commissioner first determines the amount of funds derived from State sources that was obligated by eligible applicants in a State for the activities described in § 185.122 in the Federal fiscal year just prior to the Federal fiscal year for which funds for the grant are appropriated. The Commissioner then sets the approvable amount of the grant at twice that amount.

(2) If the approvable amount of a grant under subparagraph (1) exceeds the amount justified by the applicant for authorized activities, the Commissioner reduces the approvable amount to the amount justified.

(3) If necessary, the Commissioner further reduces the approvable amount of a grant in any fiscal year to the greater of the following:

(i) Ten percent of the amount apportioned to the State for that fiscal year under section 605 of the Act; or

(ii) \$500,000.

(4) If, after the reductions described in subparagraphs (2) and (3), the amount needed for all approvable grants exceeds the amount of funds available, the Commissioner reduces the amount for each grant by an equal proportion.

(c) The Commissioner approves a project period of not more than 12 months for a State agency grant.

(Section 608(c), 610(d); 20 U.S.C. 3198(c), 3200(d))

Subpart I—Television and Radio Contracts

§ 185.130 Purpose.

The purpose of a contract under this subpart is to—

(a) Develop and produce a children's television or radio program that—

(1) Teaches academic skills or encourages interracial and intercultural understanding, or both; and

(2) Appeals to both minority and nonminority children; or

(b) Carry out ancillary activities designed to make these programs available for transmission and utilization.

(Sections 604(b)(2), 611; 20 U.S.C. 3194(b)(2), 3201)

§ 185.131 Eligible offerors.

Any public or private nonprofit agency, institution, or organization capable of providing expertise in the activities authorized under this subpart is eligible to submit a proposal for a contract.

(Section 611(a)(1); 20 U.S.C. 3201(a)(1))

§ 185.132 Authorized activities.

The Commissioner makes contracts for—

(a) *Development and production*—the development and production of children's television and radio programs described in § 185.130(a); and

(b) *Ancillary activities*—the following activities, where they are related to programs developed and produced under this subpart:

(1) Duplication of tapes and other materials to meet broadcaster and other user needs.

(2) Promotion of viewership or listenership.

(3) Promotion of carriage by commercial broadcasters.

(4) Promotion of use by schools and others. (Section 611(a)(1); 20 U.S.C. 3201(a)(1))

§ 185.133 Proposal procedures.

An offeror may submit a proposal for a contract in response to a Request for Proposals published by the Commissioner.

(Section 611; 20 U.S.C. 3201)

§ 185.134 Selection of contractors.

(a) The selection of contractors is subject to—

(1) The provisions of section 611 of the Act; and

(2) To the extent they are consistent with the regulations in this part:

(i) Applicable Requests for Proposals; and

(ii) The Federal Procurement Regulations in 41 CFR Chapters 1 and 3.

(b) *Development and production*. In establishing the competitive range for proposals for the development and production of programs, as provided for

under the Federal Procurement Regulations, the Commissioner considers each of the following for each proposal:

(1) The quality of the needs assessment, and the magnitude of the assessed needs.

(2) The relationship of the proposed program's objectives to the assessed needs.

(3) The relationship of the proposed program to the objectives and assessed needs.

(4) The attainability of the objectives through the proposed program.

(5) The likely artistic and educational significance of the proposed program.

(6) The appropriateness of proposed program format and content to the target age group.

(7) The research and production techniques that the offeror will use.

(8) The qualifications of the project staff.

(9) The offeror's employment of minority group members in—

(i) Responsible administrative positions; and

(ii) Responsible development and production positions on the project staff.

(10) The quality of supplementary materials, such as teachers' guides and student workbooks, where appropriate.

(11) The schedule of activities and deliverables.

(12) The effectiveness of procedures for evaluating the educational and other effects of the proposed program on children.

(13) The adequacy of the offeror's facilities.

(c) *Ancillary activities*. In establishing the competitive range for proposals for ancillary activities, as provided for under the Federal Procurement Regulations, the Commissioner applies criteria included in the Request for Proposals for a particular activity. (Section 611(a)(1) and (3); 20 U.S.C. 3201(a)(1) and (3))

§ 185.135 Requirements for offerors.

(a) *Usage*. An offeror to develop and produce a program shall include in its proposal an assurance that it will comply with each of the following requirements with respect to the program for which it seeks a contract.

(1) It will not charge users of the programs—whether broadcast or nonbroadcast—any cost beyond that of tape distribution and duplication.

(2) Any contract between a contractor and a talent union must allow at least the usages of the programs in this subparagraph (2) without charge to the user. However, the Commissioner may authorize lesser usages on a finding that the cost of these usages would be excessive.

(i) Six years of usage by public broadcasting stations starting with the first broadcast by such a station. A "year of usage" means unrestricted use during three separate weeks of any given 12 month period.

(ii) Twelve years of unrestricted use for in-school audiovisual purposes. For television programs, this includes transmission of the programs by education-dedicated, local origination, CATV channels and Instructional Television Fixed Services systems.

(iii) One broadcast over commercial stations in each of two 3-year periods, including broadcasts that result from network originations.

(iv) If the program is distributed by a public network and is not broadcast in a commercial station's coverage area, one additional broadcast by the commercial station in a 3-year period.

(3) The contractor will not permit the program to be made available for transmission under commercial sponsorship. If a commercial firm meets the costs of transmission, the Commissioner does not consider a brief statement to that effect at the beginning or end of the transmission commercial sponsorship. In the case of series programming, any commercial spot announcements must be demarcated by a station identification.

(4) A contractor that develops and produces a television program shall not give a station the exclusive right to broadcast any program in a coverage area until the thirteenth week after the first week in which it is broadcast in that area.

(5) The contractor will not permit the transmission or use of a program in any manner that results in a financial benefit to any person or organization.

(6) The contractor will cooperate with the Commissioner in making arrangements for the transmission of the programs. (Section 611(a)(2); 20 U.S.C. 3201(a)(2))

(b) *Disclaimer*. (1) Each television or radio program—except for radio materials of less than three minutes in length—must carry the following disclaimer: "This program was produced by [name of contractor] under a contract from the U.S. Department of Health, Education, and Welfare, Office of Education. The content of this program is the responsibility of the contractor and is not officially endorsed by the Department or the Office of Education."

(2) Radio materials of less than three minutes in length must conclude with the following statement: "Funded by the U.S. Office of Education, HEW."

(Section 611; 20 U.S.C. 3201)

Appendix B to Part 185a—Reprint of Parts 100a and 100c of the Education Division General Administrative Regulations Proposed Rule

Subchapter A—Education Division General Administrative Regulations

PART 100A—DIRECT GRANT PROGRAMS

Subpart A—General

Regulations That Apply to Direct Grant Programs

Sec.

100a.1 Programs to which Part 100a applies.

100a.2 Exceptions in program regulations to Part 100a.

100a.3 HEW general grant regulations apply to these programs.

100a.4 Education Division contracts.

Eligibility for a Grant

100a.50 How to find out whether you are eligible.

100a.51 How to prove nonprofit status.

Subpart B—(Reserved)**Subpart C—How To Apply for a Grant****The Application Notice**

- 100a.100 Publication of an application notice; content of the notice.
 100a.101 Information in the application notice that helps an applicant apply.
 100a.102 Deadline date for applications.
 100a.103 Deadline date for preapplications.
 100a.104 Applicants must meet procedural rules.

Application Contents

- 100a.107 Application content: Purpose of §§ 100a.108–100a.118.
 100a.108 Address each selection criterion.
 100a.109 Assure compliance with appropriate requirements of law.
 100a.110 Describe the project.
 100a.111 Include a timeline.
 100a.112 Describe key personnel.
 100a.113 Describe the resources.
 100a.114 Describe the evaluation plan.
 100a.115 Demonstrate capability; include evaluation of completed project.
 100a.116 Changes to application; number of copies.
 100a.117 Information needed if applicant proposes a multi-year project.
 100a.118 How to apply for funds to continue a project.

Separate Applications—Alternate Programs

- 100a.125 Submit a separate application to each program.
 100a.126 How to seek funding from more than one program.

More Than One Eligible Party Can Join in an Application

- 100a.127 Eligible parties may apply as a group.
 100a.128 Who acts as applicant; the group agreement.
 100a.129 Legal responsibilities of each member of the group.

Preapplications

- 100a.130 Consideration of a preapplication.
 100a.131 The effect of not submitting a preapplication.
 100a.132 Result of a preapplication.
 100a.133 The basis for the preapplication decision.

Open Meeting Certification Under Certain ESEA Programs

- 100a.138 Open meetings: Purpose of §§ 100a.139–100a.141.
 100a.139 The local educational agency shall hold an open meeting.
 100a.140 Give notice of the open meeting; make information available.
 100a.141 Certify that open meeting was held.

State Review Procedures

- 100a.150 Review procedure if State must approve applications: Purpose of §§ 100a.151–100a.153.
 100a.151 When an applicant must submit its application to the State; proof of submission.
 100a.152 The State reviews each application.

- 100a.153 Deadlines for State approval.
 100a.154 Effect of State approval; failure to approve.
 100a.155 Review procedure if State may comment on applications: Purpose of §§ 100a.156–100a.158.

- 100a.156 When an applicant must submit its application to the State; proof of submission.
 100a.157 The State reviews each application.

- 100a.158 Deadlines for State comments.
 100a.159 Effect of State comments or failure to comment.
 100a.160 Procedure for State approval of or comment on preapplications.

OMB Circular A-95 Clearinghouse Procedures

- 100a.170 Clearinghouse procedures: Purpose of §§ 100a.170–100a.173.
 100a.171 Notify the appropriate clearinghouses.
 100a.172 Applicant shall show compliance with A-95 procedures.
 100a.173 The effect of not complying with Part I of OMB Circular A-95.

Subpart D—How Grants Are Made**Selection of New Projects**

- 100a.200 How new projects are selected.
 100a.201 How to use the selection criteria.
 100a.202 Selection criterion—plan of operation.
 100a.203 Selection criterion—quality of key personnel.
 100a.204 Selection criterion—budget and cost effectiveness.
 100a.205 Selection criterion—evaluation plan.
 100a.206 Selection criterion—adequacy of resources.

Selection Procedures

- 100a.215 How the Education Division selects a new project: Purpose of §§ 100a.216–100a.221.
 100a.216 Returning an application to the applicant.
 100a.217 How the Education Division reviews an application.
 100a.218 How the Education Division selects new projects.
 100a.219 A project can be selected for funding without competition.
 100a.220 Procedures the Education Division uses under § 100a.219(a).
 100a.221 Procedures the Education Division uses under § 100a.219(b).

Procedures To Make a Grant

- 100a.230 How the Education Division makes a grant: Purpose of §§ 100a.231–100a.236.
 100a.231 Additional budget information.
 100a.232 The cost analysis; basis for grant amount.
 100a.233 Setting the amount of the grant.
 100a.234 The conditions of the grant.
 100a.235 The notification of grant award.
 100a.236 Effect of the grant.

Approval of Multi-Year Projects

- 100a.250 Project period can be longer than one year.
 100a.251 The budget period.

Continuation Awards and Extension of a Project

- 100a.253 Continuation of a multi-year project after the first budget period.
 100a.254 Extension of a project period.

Miscellaneous

- 100a.260 Allotments and reallocations.

Subpart E—What Conditions Must Be Met by a Grantee?**Nondiscrimination**

- 100a.500 Federal statutes and regulations on nondiscrimination.

Project Staff

- 100a.510 Use of a project director.
 100a.511 Waiver of requirement for a full-time project director.
 100a.515 Qualifications of project staff.
 100a.516 Inservice training for project staff.
 100a.517 Use of consultants.
 100a.518 Compensation of consultants—employees of institutions of higher education.
 100a.519 Changes in key staff members.
 100a.520 Minimum wage rates.
 100a.521 Dual compensation of staff.

Conflict of Interest

- 100a.524 Conflict of interest: Purpose of § 100a.525.
 100a.525 Conflict of interest—participation in a project.

Allowable Costs

- 100a.530 General cost principles.
 100a.531 Limit on total cost of a project.
 100a.532 Use of funds for religion prohibited.
 100a.533 Acquisition of real property; construction.
 100a.534 Foreign travel.
 100a.535 Training grants—automatic increases for additional dependents.

Indirect Cost Rates

- 100a.560 General indirect cost rates; exceptions.
 100a.561 Approval of indirect cost rates.
 100a.562 Indirect cost rates for educational training projects.
 100a.563 Restricted indirect cost rate—programs covered.
 100a.564 Restricted indirect cost rate—formula.
 100a.565 Administrative charge.
 100a.566 Fixed charges.
 100a.567 Other expenditures.
 100a.568 Using the restricted indirect cost rate.

Coordination

- 100a.580 Coordination with other activities.
 100a.581 Methods of coordination.

Evaluation

- 100a.590 Evaluation by the grantee.
 100a.591 Federal evaluation—cooperation by the grantee.
 100a.592 Federal evaluation—satisfying requirement for grantee evaluation.

Construction

- 100a.600 Use of a grant for construction: Purpose of §§ 100a.601–100a.615.

- 100a.601 Applicant's assessment of environmental impact.
 100a.602 Preservation of historic sites must be described in the application.
 100a.603 Grantee's title to site.
 100a.604 Availability of cost-sharing funds.
 100a.605 Beginning the construction.
 100a.606 Completing the construction.
 100a.607 General considerations in designing facilities and carrying out construction.
 100a.608 Areas in the facilities for cultural activities.
 100a.609 Comply with safety and health standards.
 100a.610 Access by the handicapped.
 100a.611 Avoidance of flood hazards.
 100a.612 Supervision and inspection by the grantee.
 100a.613 Relocation assistance by the grantee.
 100a.614 Grantee must have operational funds.
 100a.615 Operation and maintenance by the grantee.

Equipment and Supplies

- 100a.618 Charges for use of equipment or supplies.

Publications and Copyrights

- 100a.620 General conditions on publication.
 100a.621 Copyright policy for grantees and contractors.
 100a.622 Definition of "project materials."

Inventions and Patents

- 100a.625 Invention and patent policy.
 100a.626 Show Federal support; give papers to vest title.

Other Requirements for Certain Projects

- 100a.680 Participation of children enrolled in private schools.
 100a.681 Indian Self-Determination and Education Assistance Act.
 100a.682 Protection of human research subjects.
 100a.683 Treatment of animals.
 100a.684 Health or safety standards for facilities.
 100a.685 Day care services.
Subpart F—What Are the Administrative Responsibilities of a Grantee?
General Administrative Responsibilities
 100a.700 Compliance with statutes, regulations, and applications.
 100a.701 The grantee administers or supervises the project.
 100a.702 Fiscal control and fund accounting procedures.
 100a.703 Obligation of funds during the grant period.
 100a.707 When obligations are made.
 100a.708 Prohibition of subgrants.

Reports

- 100a.720 Financial and performance reports.

Records

- 100a.730 Records related to grant funds.
 100a.731 Records related to compliance.
 100a.732 Records related to performance.
 100a.733 Records related to State approval of applications.
 100a.734 Record retention period.

Privacy

- 100a.740 Protection of and accessibility to student records.
 100a.741 Protection of students' privacy in research and testing.

Data Collection by a Grantee

- 100a.750 Approval by the Education Division.
 100a.751 Procedures if approval is required.
 100a.752 Responsibility for data collection.
 100a.753 Confidentiality of response.
 100a.754 Exception from coverage.
 100a.755 Definitions used in §§ 100a.750–100a.753.

Subpart G—What Procedures Does the Education Division Use To Get Compliance?

- 100a.900 Waiver of regulations prohibited.
 100a.901 Suspension and termination.
 100a.902 Informal procedures.
 100a.903 Effective date of termination.
 Authority: Sec. 408(a)(1) of Pub. L. 90–247, as amended, 88 Stat. 559, 560 (20 U.S.C. 1221e–3(a)(1)), unless otherwise noted.

PART 100a—DIRECT GRANT PROGRAMS**Subpart A—General****Regulations That Apply to Direct Grant Programs****§ 100a.1 Programs to which Part 100a applies.**

The regulations in Part 100a apply to grants under the programs of the Education Division that are listed in the following table. In addition to the name of the program, the table gives the statute that authorizes the program, the regulations that implement the program, and the number that the Catalog of Federal Domestic Assistance (CFDA) gives to the program. (20 U.S.C. 1221e–3(a)(1))

Name of program*	Authorizing statute	Implementing regulations	CFDA number
I. OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION			
Fund for the Improvement of Postsecondary Education.....	Section 404 of the General Education Provisions Act (20 U.S.C. 1221d).	Part 1501	13 825.
Capacity Building for Statistical Activities in State Educational Agencies.....	Section 406 of the General Education Provisions Act (20 U.S.C. 1221–1).	Part 164	13 922.
II. NATIONAL INSTITUTE OF EDUCATION			
Programs of the National Institute of Education.....	Section 405 of the General Education Provisions Act (20 U.S.C. 1221e).	Parts 1430, 1450, 1451, 1480, 1470, 1460, and 1490.	13 950.
III. INSTITUTE OF MUSEUM SERVICES			
Museum Services Program.....	Section 206 of the Museum Services Act (20 U.S.C. 965).	Part 64	13 923.
IV. OFFICE OF EDUCATION			
A. GENERAL PROGRAMS			
Program Planning and Evaluation.....	Section 416 of the General Education Provisions Act (20 U.S.C. 1226b).	Part 107	None.
National Diffusion Network.....	Section 422(a) of the General Education Provisions Act (20 U.S.C. 1231a(a)).	Part 193	None.
Assistance for School Construction in Areas Affected by Federal Activities.....	Public Law 81–815, except section 16 (20 U.S.C. 631–645, 647).	Part 114	13 477.
Handicapped Children and Children with Specific Learning Disabilities.....	Section 3(d)(2)(C) of Public Law 81–874 (20 U.S.C. 238).	Part 115, Subpart H	13 478.
Entitlements Related to Low-Rent Public Housing.....	Section 5(e)(3) of Public Law 81–874 (20 U.S.C. 240).	Part 115, Subpart I	13 478.
School Construction Assistance in Cases of Certain Disasters.....	Section 16 of Public Law 81–815 (20 U.S.C. 646).	Part 112	13 477.
Assistance for Current School Expenditures in Cases of Certain Disasters.....	Section 7 of Public Law 81–874 (20 U.S.C. 241–1).	Part 113	13 478.
B. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS			
Coordination of Migrant Education.....	Section 143 of the Elementary and Secondary Education Act (20 U.S.C. 2763).	None	None.
Transition of Neglected or Delinquent Children.....	Section 153 of the Elementary and Secondary Education Act (20 U.S.C. 2783).	None	None.

Name of program*	Authorizing statute	Implementing regulations	CFDA number
B. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS—Continued			
Basic Skills Improvement—National Program	Title II-A of the Elementary and Secondary Education Act (20 U.S.C. 2881-2890)	None	None
Basic Skills Improvement—State Leadership Program	Section 224 of the Elementary and Secondary Education Act (20 U.S.C. 2904)	None	None
Special Programs for Improving Basic Skills	Title II-C of the Elementary and Secondary Education Act (20 U.S.C. 2911-2912)	None	None
Special Projects	Title III-A of the Elementary and Secondary Education Act (20 U.S.C. 2941-2943)	None	None
Metric Education	Title III-B of the Elementary and Secondary Education Act (20 U.S.C. 2951-2954)	None	None
Arts in Education	Title III-C of the Elementary and Secondary Education Act (20 U.S.C. 2961-2963)	None	None
Preschool Partnership	Title III-D of the Elementary and Secondary Education Act (20 U.S.C. 2971)	None	None
Consumer Education	Title III-E of the Elementary and Secondary Education Act (20 U.S.C. 2981-2986)	None	None
Youth Employment	Title III-F of the Elementary and Secondary Education Act (20 U.S.C. 2991-2992)	None	None
Law-related Education	Title III-G of the Elementary and Secondary Education Act (20 U.S.C. 3001-3003)	None	None
Environmental Education	Title III-H of the Elementary and Secondary Education Act (20 U.S.C. 3011-3018)	None	None
Health Education	Title III-I of the Elementary and Secondary Education Act (20 U.S.C. 3021-3024)	None	None
Correction Education	Title III-J of the Elementary and Secondary Education Act (20 U.S.C. 3031-3034)	None	None
Dissemination of Information	Title III-K of the Elementary and Secondary Education Act (20 U.S.C. 3041)	None	None
Biomedical Sciences	Title III-L of the Elementary and Secondary Education Act (20 U.S.C. 3051-3057)	None	None
Population Education	Title III-M of the Elementary and Secondary Education Act (20 U.S.C. 3061-3062)	None	None
Federal Financial Assistance for Strengthening State Departments of Education—Special Project Grants	Section 505 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978)	119	None
Comprehensive Educational Planning and Evaluation	Sections 531-534 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978)	Part 129	None
Bilingual Education	Title VII of the Elementary and Secondary Education Act (20 U.S.C. 3221-3261)	Part 123	13.403
Financial Assistance for Demonstration Projects for Reducing School Dropouts	Section 807 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978)	Part 124	None
Grants for Demonstration Projects to Improve School Health and Nutrition Services for Children from Low-Income Families	Section 808 of the Elementary and Secondary Education Act (as in effect Sept. 30, 1978)	Part 127	None
Community Education Programs	Sections 809-813 of the Elementary and Secondary Education Act (20 U.S.C. 3289-3293)	None	None
Gifted and Talented Children	Section 905 of the Elementary and Secondary Education Act (20 U.S.C. 3315)	None	None
Educational Proficiency Standards	Title IX-B of the Elementary and Secondary Education Act (20 U.S.C. 3331-3332)	None	None
Women's Educational Equity	Title IX-C of the Elementary and Secondary Education Act (20 U.S.C. 3341-3348)	None	None
Safe Schools	Title IX-D of the Elementary and Secondary Education Act (20 U.S.C. 3351-3354)	None	None
Follow Through Program	Sections 551-556 of the Community Services Act of 1974 (20 U.S.C. 2929-2929)	Part 158	13.433
Guidance and Counseling	Title III-D of the Education Amendments of 1976 (20 U.S.C. 2531-2534)	Part 191	13.577
C. EDUCATION OF THE HANDICAPPED PROGRAMS			
Regional Resource Centers	Section 621 of the Education of the Handicapped Act (20 U.S.C. 1421)	Part 121b	13.450
Centers and Services for Deaf-Blind Children	Section 622 of the Education of the Handicapped Act (20 U.S.C. 1422)	Part 121c	13.445
Early Education for Handicapped Children	Section 623 of the Education of the Handicapped Act (20 U.S.C. 1423)	Part 121d	13.444
Severely Handicapped Children	Section 624 of the Education of the Handicapped Act (20 U.S.C. 1424)	None	13.556
Auxiliary Activities	Section 624 of the Education of the Handicapped Act (20 U.S.C. 1424)	Part 121e	None
Training Personnel for the Education of the Handicapped	Sections 631, 632, and 634 of the Education of the Handicapped Act (20 U.S.C. 1431, 1432, 1434)	Part 121f	13.451
Recruitment of Personnel and Dissemination of Information	Section 633 of the Education of the Handicapped Act (20 U.S.C. 1433)	Part 121g	13.452
Research in the Education of the Handicapped	Part E of the Education of the Handicapped Act (20 U.S.C. 1441-1444)	Part 121h	13.443
Instructional Media for the Handicapped	Part F of the Education of the Handicapped Act (20 U.S.C. 1451-1454)	Part 121i	13.446
Regional Education Programs for Handicapped Persons	Sections 625-627 of the Education of the Handicapped Act (20 U.S.C. 1424a-1426)	Part 121k	13.560
Removal of Architectural Barriers to the Handicapped	Section 607 of the Education of the Handicapped Act (20 U.S.C. 1406)	None	None
D. OCCUPATIONAL AND ADULT EDUCATION PROGRAMS			
Commissioner's Discretionary Programs of Vocational Education	Title I-B and Section 103(a)(1)(B) of the Vocational Education Act (20 U.S.C. 2301-2461)	Part 105	13.496, 13.558, 13.586, 13.587, and 13.588
Career Education—Model Programs	Section 10 of the Career Education Incentive Act (20 U.S.C. 2609)	None	None
Career Education Information Program	Section 11 of the Career Education Incentive Act (20 U.S.C. 2610)	None	None
Adult Education Programs	Sections 309 and 316 of the Adult Education Act (20 U.S.C. 1207a and 1211c)	None	None

Name of program*	Authorizing statute	Implementing regulations	CFDA number
E. HIGHER EDUCATION PROGRAMS			
College Library Resources Program	Title II-A of the Higher Education Act (20 U.S.C. Part 131 1021-1028)		13.406
Grants for Training in Librarianship	Section 222 of the Higher Education Act (20 U.S.C. Part 132 1031-1033)		13.468
Library Research and Demonstration	Section 223 of the Higher Education Act (20 U.S.C. Part 133 1034)		13.475
Strengthening Research Library Resources	Title II-C of the Higher Education Act (20 U.S.C. Part 136 1041-1046)		13.576
Modern Foreign Language and Area Studies (except Foreign Language and Area Studies Fellowships—See Part 100c)	Title VI of the National Defense Education Act Part 146 (except Subpart D) (except sections 511(b) and 603)		13.435 and 13.438
Higher Education Programs in Modern Foreign Language Training and Area Studies	Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2452(b)(6))	Part 148	13.440
Citizen Education for Cultural Understanding Program	Section 603 of the National Defense Education Act (20 U.S.C. 512a)	Part 146a	None
Educational Opportunity Centers	Sections 417A and 417B of the Higher Education Act (20 U.S.C. 1070d and 1070d-1)	Part 154	13.543
Upward Bound Program	Sections 417A and 417B of the Higher Education Act (20 U.S.C. 1070d and 1070d-1)	Part 155	13.492
Special Services for Disadvantaged Students	Sections 417A and 417B of the Higher Education Act (20 U.S.C. 1070d and 1070d-1)	Part 157	13.482
Talent Search Program	Sections 417A and 417B of the Higher Education Act (20 U.S.C. 1070d and 1070d-1)	Part 159	13.488
Strengthening Developing Institutions Program	Title III of the Higher Education Act (20 U.S.C. 1051-1056)	Part 169	13.454
Training for Higher Education Personnel	Section 533 of the Higher Education Act (20 U.S.C. 1119e-1)	Part 198	13.417
Financial Assistance for Construction of Higher Education Facilities (except Loans for Construction of Academic Facilities and Annual Interest Grants for Construction of Academic Facilities)	Parts A and B of Title VII of the Higher Education Act (20 U.S.C. 1132b-1)	Part 170 (except Subparts D and E)	13.455
Instructional Equipment Grants for Institutions of Higher Education	Title VI of the Higher Education Act (20 U.S.C. 1121-1129)	Part 171	13.518
Financial Assistance for Community Service and Continuing Education Programs—Special Programs and Projects	Section 106 of the Higher Education Act (20 U.S.C. 1005a)	Part 173, Subpart C	13.557
Cooperative Education Programs	Title VIII of the Higher Education Act (20 U.S.C. 1133-1133b)	Part 182	13.610
Veteran's Cost-of-Instruction Payments to Institutions of Higher Education	Section 420 of the Higher Education Act (20 U.S.C. 1070e-1)	Part 189	13.540
Public Service Education Program—Public Service Institutional Grants	Sections 901-904 of the Higher Education Act (20 U.S.C. 1134-1134c)	Part 194, Subpart A	13.555
Graduate and Professional Study Institutional Grant	Sections 901-904 of the Higher Education Act (20 U.S.C. 1134-1134b)	Part 179 (except Subpart C)	13.580
State Postsecondary Education Commissions Program—Inter-state Planning	Section 1203(c) of the Higher Education Act (20 U.S.C. 1142b(c))	None	13.550
Community Colleges	Title X of the Higher Education Act (20 U.S.C. 1135 through 1135c-1)	None	None
Ethnic Heritage Studies Program	Title IX-E of the Elementary and Secondary Education Act (20 U.S.C. 3361-3367)	Part 184	13.549
F. OTHER PROGRAMS			
Special Projects	The Special Projects Act (20 U.S.C. 1851-1853, Part 160 1861-1867, 887d)		13.541
Metric Education Program	Section 403 of the Education Amendments of 1974 (20 U.S.C. 1862)	Part 160a	13.561
Program for the Gifted and Talented	Section 404 of the Education Amendments of 1974 (20 U.S.C. 1863)	Part 160b	13.562
Community Education Program	Section 405 of the Education Amendments of 1974 (20 U.S.C. 1864)	Part 160c	13.563
Career Education Program	Section 406 of the Education Amendments of 1974 (20 U.S.C. 1865)	Part 160d	13.554
Consumer's Education Program	Section 811 of the Elementary and Secondary Education Act (20 U.S.C. 887d)	Part 160e	13.564
Women's Educational Equity Act Program	Section 408 of the Education Amendments of 1974 (20 U.S.C. 1866)	Part 160f	13.565
Arts Education Program	Section 409 of the Education Amendments of 1974 (20 U.S.C. 1867)	Part 160g	13.566
National Reading Improvement Program (except State Reading Improvement Programs—See Part 100b)	Parts A and C of Title VII of the Education Amendments of 1974	Part 162 (except Subpart C)	13.533
National Alcohol and Drug Abuse Prevention Program	Public Law 93-422 (21 U.S.C. 1001-1007)	Part 182a	13.420
Financial Assistance for Environmental Education Projects	The Environmental Education Act (20 U.S.C. 1531-1536)	Part 183	13.522
Educational Broadcasting Facilities Program	Part IV of the Title III of the Communications Act of 1934 (47 U.S.C. 390-395 and 397-399)	Part 153	13.413
Television Program Assistance	Section 1527 of the Education Amendments of 1978 (20 U.S.C. 1221i)	None	None
Teacher Corps Program	Section V-A of the Higher Education Act (20 U.S.C. 1101-1107a)	Part 172	13.489
Teachers Centers Program	Section 532 of the Higher Education Act (20 U.S.C. 1119a)	Part 197	13.416
Territorial Teacher Training	Section 1525 of the Education Amendments of 1978	None	None
Education Information Management System	Section 400A (f) and (g) of the General Education Provisions Act (20 U.S.C. 1221-3 (f) and (g))	None	None
Indian Elementary and Secondary School Assistance (Part A)	Title III of Public Law 81-874 (20 U.S.C. 241aa-241ff)	Part 186	13.534 and 13.551

Name of program*	Authorizing statute	Implementing regulations	CFDA number
F. OTHER PROGRAMS—Continued			
Indian Education (Part B) (except the Indian Fellowship Program—See Part 100c)	Section 1005 of the Elementary and Secondary Education Act (20 U.S.C. 3885)	Part 187	13.535.
Indian Education (Part C)	Section 314 of the Adult Education Act (20 U.S.C. 1211a)	Part 188	13.536.
Desegregation of Public Education	Title IV of the Civil Rights Act (42 U.S.C. 2000c-9)	Part 180	13.405.
Emergency School Aid	Title VI of the Elementary and Secondary Education Act (20 U.S.C. 3191-3207)	Part 185	13.525, 13.526, 13.528, 13.529, 13.530, 13.532, 13.589, and 13.590.
Racially Isolated School Districts	Section 1522 of the Education Amendments of 1978	None	None.

*Some programs may not be funded. Check the application notices published under § 100a.100.

§ 100a.2 Exceptions in program regulations to Part 100a.

If a program has regulations that are not consistent with Part 100a, the implementing regulations for that program identify the sections of Part 100a that do not apply. (20 U.S.C. 1221e-3(a)(1))

§ 100a.3 HEW general grant regulations apply to these programs.

The HEW general grant regulations in Part 74 of this title apply to the programs covered by this part. To find subjects covered under Part 74, look in the table of contents at the beginning of Part 74.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.4 Education Division contracts.

(a) A contract of the Education Division is governed by:

- (1) Chapters 1 and 3 of Title 41 of the Code of Federal Regulations;
- (2) Any applicable program regulations; and

(3) The request for proposals for the procurement, if any, referenced in *Commerce Business Daily*.

(b) The regulations in Part 100a do not apply to a contract of the Education Division except where they specifically provide otherwise.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.5(b); 121h.1(b)(2d sent.); 123.62(b); 146 Appendix Chapter V, Sec 1.1(a); 160a.4; 160e.1(c)(2)(i); 160e.8(b)(1)(ii); 160f.1(c)(2); 160f.9(a)(2); 185.84(b); 191.25(b); 193.3; 193.15; 193.25; 1400.2(g))

Eligibility for a Grant

§ 100a.50 How to find out whether you are eligible.

Eligibility to apply for a grant under a program of the Education Division is governed by the authorizing statute and implementing regulations for that program. The table in § 100a.1 gives references to the statutes and regulations that apply to the direct grant programs of the Education Division.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.51 How to prove nonprofit status.

(a) Under some programs, an applicant must show that it is a nonprofit organization. (See the definition of "nonprofit" in § 100c.1)

(b) An applicant may show that it is a nonprofit organization by any of the following means:

(1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code;

(2) A statement from a State taxing body or the State attorney general certifying that—(i) the organization is a nonprofit organization operating within the State, and (ii) no part of its net earnings may lawfully benefit any private shareholder or individual;

(3) A certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or

(4) Any of the items described in subparagraphs (1) through (3) of this paragraph if that item applies to a State or national parent organization, together with a statement by the parent organization that the applicant is a local nonprofit affiliate.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 123.14(c)(2); 184.22(a); 185.61(b))

Subpart B—[Reserved]

Subpart C—How To Apply for a Grant

The Application Notice

§ 100a.100 Publication of an application notice; content of the notice.

(a) Each fiscal year each appropriate official of the Education Division publishes application notices in the *Federal Register* that explain what kind of assistance is available under the programs that he or she administers.

(b) The application notice for a program explains one or more of the following:

- (1) How to apply for a grant to start a new project.
- (2) How to apply for a grant to continue an existing project already being funded by the Education Division.

(3) How to preapply for a grant to start a new project, if preapplications are used under the program.

(c) The appropriate official of the Education Division publishes the application notice for each program together in a single notice in the *Federal Register* unless the official finds that it is necessary to publish a separate notice for a particular program.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.15(1st sent.); 114.2; 114 App. § 2.5; 148.12(a)(4th sent.); 148.22(a)(3rd sent.); 148.32(a)(2nd sent.); 148.42(d); 154.5(c); 169.26(b); 169.36(b); 172.137)

Note.—The term "appropriate official of the Education Division" is defined in § 100c.1 of this title to mean the official that has

overall administrative responsibility for an Education Division program. For each program, that official is one of the following—

- (a) The Assistant Secretary;
- (b) The Commissioner;
- (c) The Director of the National Institute of Education; or
- (d) The Director of the Institute of Museum Services.

§ 100a.101 Information in the application notice that helps an applicant apply.

(a) The application notice for each program gives important information that can help an applicant. The information usually includes—

- (1) How an applicant can get an information package that contains detailed information about the program and the application form that the applicant must use;
- (2) Where in the Education Division an applicant must send its application;
- (3) The amount of funds available to start new projects;
- (4) The number of new projects the Education Division expects to fund under the program;

(5) The average amount of funding that the Education Division expects to provide to a new project under the program;

(6) The average duration of a new project that the Education Division expects to approve under the program;

(7) The amount of funds available to continue existing projects already being funded under the program;

(8) The number of these existing projects the Education Division expects to fund under the program;

(9) The average amount of funding that the Education Division expects to provide to these existing projects; and

(10) A reference to the regulations that apply to the program.

(b) If the appropriate official of the Education Division either requires or permits preapplications under a program, an application notice for the program explains how an applicant can get the preapplication form.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.102 Deadline date for applications.

(a) An application notice for each program sets a deadline date for applications.

(b) If an applicant wants a grant for a new project, the applicant shall—

- (1) Mail the application to the Education Division on or before the deadline date; or

(2) Hand deliver the application to the Education Division before 4:30 p.m. (Washington, D.C. time) on or before the deadline date.

(c) If an applicant wants a grant to continue a project, the applicant, to be assured of consideration, shall—

- (1) Mail the application to the Education Division on or before the deadline date; or
- (2) Hand deliver the application to the Education Division before 4:30 p.m. (Washington, D.C. time) on or before the deadline date.

(d) The appropriate official of the Education Division accepts each of the following as proof of mailing:

- (1) A legible U.S. Postal Service dated postmark; or
- (2) A mail receipt with the date of mailing stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. An applicant should check with its local post office before relying on this method.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 115.12; 127.5(a)(3rd sent.); 148.15(a)(1st sent.); 148.25(a)(1st sent.); 146.53(a)(1st sent.); 155.7(a)(1st sent.); 157.5(a)(1st sent.); 159.6(a)(1st sent.); 160a.24(1st sent.))

§ 100a.103 Deadline date for preapplications.

(a) If the appropriate official of the Education Division invites or requires preapplications under a program, an application notice for the program sets a deadline date for preapplications.

(b) An applicant shall submit its preapplication in accordance with the procedures for applications in § 100a.102(b) and (d).

(20 U.S.C. 1221e-3(a)(1))

(Sources: 127.5(a)(3rd sent.); 160a.23(a)(1st sent., wds. 4-10); 160b.5(a)(wds. 31 to end); 160f.7(a)(1)(1st sent., wds. 28 to end))

§ 100a.104 Applicants must meet procedural rules.

The appropriate official of the Education Division may make a grant only to an eligible party that—

- (a) Submits an application; and
- (b) Complies with all procedural rules that govern the submission of the application.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 119.2(a)(2nd sent.); 160e.8(a); 160f(a); 160f.8(b)(1)(1st sent.); 179.4(c))

Application Contents

§ 100a.107 Application contents: Purpose of §§ 100a.108-100a.118.

(a) An applicant shall include in its application the information described in §§ 100a.108 through 100a.118.

(b) An applicant shall also include in its application any other information that is required under a particular program.

(c) If a program does not need some of the information required by these sections, the implementing regulations for the program identify the sections that do not apply.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.15; 100a.16(g); 105.605(a)(3); 105.615(a)(3); 105.625(c); 123.14(a)(Rejected);

123.24(a)(Rejected); 129.3(b); 142.5(j); 153.5(a)(3); (i) + (iii); 154.5(a); 155.7(a); 157.5(a); 159.6(a); 160a.24; 169.15(a); 169.34(a); 169.36(a); 170.17(a); 170.52; 170.73; 171.9(a); 183.41(b)(Rejected); 187.14(n); 187.24(o); 187.44(k); 187.55(m); 187.65(m); 188.7(g); 192.5(b))

§ 100a.108 Address each selection criterion.

If an applicant applies for a grant under a program that uses selection criteria, the application must include information that addresses each selection criterion that applies to the program.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.110; 105.605(a)(2); 105.615(a)(2); 105.626(b); 136.05(b); 146.15(a); 146.25(a); 146.34; 146.36(a)(1); 146.53(a); 160b.21(b)(4); 160c.14(b)(1); 160c.15(b)(1); 160d.7; 160c.8(c)(6); 160f.8(c); 162.12(d); 162.4(c)(2)(x); 172.134; 179.23(c); 187.14(b); 187.24(b); 187.34(b); 187.44(b); 187.55(b); 187.65(b); 188.7(g); 191.31(c)(3); 191.44(b)(2); 197.9(a)(5); 198.6(c))

§ 100a.109 Assure compliance with appropriate requirements of law.

An application must include an assurance that a grantee will comply with the requirements imposed by the appropriate official of the Education Division concerning—

- (a) Special requirements of law;
- (b) Program requirements; and
- (c) Administrative requirements.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.15; 105.605(a)(1); 105.614(b); 105.15(a)(1); 105.625(a); 153.53(b)(3); 157.5(c) + (d); 158.25(a); 160c.14(c); 160c.32(d)(4); 160c.33(d); 160e.8(c)(1); 160e.11(b); 160f.8(c)(1); 162.40(a)(1); 162.52(a)(5); 169.15(a)(3); 169.38(a)(8); 170.17(a)(3rd sent., 2nd clause); 170.53(b); 171.8(b); 171.9(a)(2nd sent., 2nd clause); 178a.6(a)(3rd sent.); 184.22(b); 185.13(c); 185.13(1) (5) + (m); 185.33; 185.53(c)(1); 185.93-2(b)(1); 186.33(b)(1); 189.21(b)(6); 192.5(b)(4); 193.13(b))

§ 100a.110 Describe the project.

An application must describe the project in detail. The description must include—

- (a) The purpose of the project;
- (b) Each objective of the project;
- (c) The methods the applicant proposes to use to meet these objectives;
- (d) How the applicant plans to use its resources and personnel to achieve each objective; and
- (e) An assessment of the effect, if any, of the project on persons who are members of groups that have been traditionally underrepresented; such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.16(a); 121d App. § 3.2(a)(4); 112.8(a); 114.62(c)(7); 123.14(a); 123.53(a)(3); 123.24(a)(1st sent.); 123.33(a); 124.5; 136.05(a)(2); 146.15(a); 146.25(a); 154.5(a)(3); 160a.22(a); 160b.3(b)(8); 160c.14(b)(1); 160c.15(b)(1); 160c.31(a)(1)(i) + (iii); 160f.8(c)(3) + (4)(i); 162.52(a)(1) + (3); 162.61(c)(1)(i) + (iii); 169.26(a)(10); 171 App.

§ 4.2(a); 171 guides § 5.1(a)-(c); 172.110(a)(1) + (7); 172.127; 178a.6(a); 185.73(e)(1); 187.14(d)(2); 187.24(d)(2); 187.34(d)(2); 187.44(d)(2); 187.55(d)(1) + (2); 187.65(d)(1) + (2); 188.7(a)-(c); 191.31(c)(1)(ii) + (iii); 191.44(b)(1)(ii) + (ii); 192.5(a)(1); 193.13(b); 194.5(a))

§ 100a.111 Include a timeline.

(a) An application must propose a project period for the project.

(b) An application must describe when, in each budget period of the project, the applicant plans to meet each objective of the project.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.16(a); 121d App. § 4.1; 121h App. § 3.2(a)(4); 160a.14(b)(7); 160a.15(e); 160c.31(a)(1)(ii); 160d.6(b)(5); 160e.8(c)(4)(ii)(D)(1); 162.12(a)(2); 162.52(a)(2); 162.61(c)(1)(i); 172.110(a)(2); 187.14(d)(3); 187.24(d)(3); 187.34(d)(3); 187.44(d)(3); 187.55(d)(3); 187.65(d)(3); 191.31(c)(1)(vi); 191.44(b)(1)(viii))

§ 100a.112 Describe the key personnel.

An application must include the name and qualifications of each key person in the proposed project. This information must include—

- (a) The name and qualifications of the project director (if any);
- (b) The name and qualifications of each of any other key personnel in the project; and
- (c) The time that each person referred to in paragraphs (a) and (b) of this section plans to commit to the proposed project.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.113 Describe the resources.

An application must describe the resources the applicant plans to devote to the project, including—

- (a) Facilities; and
- (b) Equipment and supplies.

§ 100a.114 Describe the evaluation plan.

An application must include a description of the plan to evaluate the project under § 100a.590 and the implementing regulations of the program.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.115 Demonstrate capability; include evaluation of completed project.

(a) An application must include information that demonstrates the applicant's capability to—

- (1) Conduct the project; and
- (2) Meet the needs of the persons (if any) that the applicant plans to serve with the project.

(b) If an applicant wants a grant for a new project that furthers the objectives of a project already completed by the applicant, the applicant shall include an evaluation of the completed project.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.604(e); 155.7(a)(3)(ii); 159.6(a)(3)(ii); 160c.14(b)(2)(i) + (3); 160c.15(b)(2)(i) + (3); 160e.8(c)(2)(i); 160f.8(c)(2)(v) + (5); 185.73(e); 185.73(e)(4); 185.74(f) (2nd sent.); 197.9(b)(1) - (3))

§ 100a.116 Changes to application; number of copies.

(a) An applicant may make changes to its application on or before the deadline date for submitting applications under the program.

(b) Each applicant shall submit an original and two copies of its application to the Education Division, including any information that the applicant supplies voluntarily.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 123.14(a); 153.5(a)(5); 160f.8(b)(3); 173 App A § 4.1; 183.41(b))

§ 100a.117 Information needed if applicant proposes a multi-year project.

An applicant that proposes a multi-year project shall include in its application—

(a) Information that shows why a multi-year project is needed;

(b) A budget for the first budget period of the project; and

(c) An estimate of the Federal funds needed for each budget period of the project after the first budget period.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.209; 123.04(c); 136.10(b)&(c); 160d.9(a); 160e.5(b)&(c); 160f.5(a)&(c); 162.17(b); 162.44(b)&(c); 162.55(b)&(c); 162.63(b)&(c); 197.7(c); 198.8(c))

§ 100a.118 How to apply for funds to continue a project.

(a) An applicant shall comply with paragraph (b) of this section if—

(1) The applicant wants funds to continue a project already approved on a multi-year basis;

(2) The applicant is about to complete one or more of the budget periods; and

(3) The budget period for which the applicant wants a continuation award is within the approved project period.

(b) An applicant for a continuation award shall—

(1) Comply with the deadline date for continuation applications (see § 100a.102(c)); and

(2) Submit the following:

(i) A revised face page (standard form 424) and revisions to any other affected pages.

(ii) A budget that covers the next budget period, and an estimate of the amount of funds that will remain unobligated at the end of the current budget period.

(iii) An estimate of the Federal funds needed for each budget period that comes after the next budget period.

(c) The criteria the appropriate official of the Education Division uses to decide whether to make a continuation grant are in § 100a.253.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 123.04(e); 123.14(a) (Rejected); 127.5(c); 173 App A § 4.1 (Rejected); 183.41(b))

Separate Applications—Alternate Programs**§ 100a.125 Submit a separate application to each program.**

An applicant shall submit a separate application to each program under which it wants a grant.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.126 How to seek funding from more than one program.

If an applicant wants to submit its application under more than one program, the applicant shall list in each application the other programs under which the applicant is applying.

(20 U.S.C. 1221e-3(a)(1))

More Than One Eligible Party Can Join in an Application.**§ 100a.127 Eligible parties may apply as a group.**

(a) Eligible parties may apply as a group for a grant.

(b) Depending on the program under which a group of eligible parties seeks assistance, the name used to refer to the group may vary. The list that follows contains some of the names used to identify a group of eligible parties:

(1) Combination of institutions of higher education;

(2) Consortium;

(3) Joint applicants;

(4) Cooperative arrangements.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.19(a); 100a.19(b); 121c.10(a); 158.43(1st sent. and 2nd sent., 3rd clause); 160a.15(b); 171 Guidelines § 2.2(b) 1st sent.; 172.32; 172.106)

§ 100a.128 Who acts as applicant; the group agreement.

(a) If a group of eligible parties applies for a grant, the members of the group shall either—

(1) Designate one member of the group to apply for the grant; or

(2) Establish a separate, eligible legal entity to apply for the grant.

(b) The members of the group shall enter into an agreement that—

(1) Details the activities that each member of the group plans to perform; and

(2) Binds each member of the group to every statement and assurance made by the applicant in the application.

(c) The applicant shall submit the agreement with its application.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 119.10(b); 121c.10(b); 123.11(b); 123.21(c); 123.31(b); 146.15(b); 146.25(b); 154.3(a)(2); 154.5(b); 155.8(b); 157.4(b); 159.5(b); 160a.15(d); 169.22(a)(2); 171 Guidelines § 2.2(b) (2nd sent.))

§ 100a.129 Legal responsibilities of each member of the group.

(a) If the appropriate official of the Education Division makes a grant to a group of eligible applicants, the applicant for the group is the grantee and is legally responsible for—

(1) The use of all grant funds; and

(2) Ensuring that the project is carried out by the group in accordance with Federal requirements.

(b) Each member of the group is legally responsible to—

(1) Carry out the activities it agrees to perform; and

(2) Use the funds that it receives under the agreement in accordance with Federal requirements that apply to the grant.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 119.10(b); 121c.10(b); 123.21(c); 123.31(b); 146.15(b); 146.25(b); 154.3(a)(2); 154.5(b); 155.8(b); 157.4(b); 159.5(b); 160a.15(d); 169.22(a)(2); 171 Guidelines § 2.2(b) (2nd sent.); 172.42)

Preapplications**§ 100a.130 Consideration of a preapplication.**

The appropriate official of the Education Division considers a preapplication if—

(a) The applicant complies with the procedural rules that govern submission of the preapplication; and

(b)(1) The preapplication is submitted in response to an application notice that invites or requires preapplications; or

(2) The preapplication is submitted by a government. (See Subpart N of Part 74 of this title.)

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.31; 160a.23(a) (1st sent.); 160b.5(a); 160f.7(a)(1) (1st sent.))

§ 100a.131 The effect of not submitting a preapplication.

(a) If the appropriate official of the Education Division invites but does not require preapplications under a program, an applicant may apply for a grant under the program even if the applicant did not preapply.

(b) If the appropriate official of the Education Division requires preapplications under a program and an applicant does not preapply, the applicant may not apply for a grant under the program.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.132 Result of a preapplication.

(a) If an applicant submits a preapplication under a program, the appropriate official of the Education Division—

(1) Informs the applicant that it is eligible and encourages it to apply for grant under the program;

(2) Informs the applicant that it is eligible but does not encourage it to apply for a grant under the program; or

(3) Informs the applicant that it is ineligible for assistance under the program.

(b) An applicant may apply under a program even if the official does not encourage it to apply.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 114 App. A § 2.6(b) + (c); 124.3 (last sent.); 127.5(a) (2nd sent.); 160b.5(b)(4); 160c.12(b)(2); 160f.7(a)(3) (2nd sent.))

§ 100a.133 The basis for the preapplication decision.

To decide whether to encourage a preapplicant to apply, the appropriate official of the Education Division uses the same criteria that the official uses to select an applicant for a grant. (See §§ 100a.200–100a.206 for a description of how selection criteria work.)

(20 U.S.C. 1221e-3(a)(1))

(Sources: 124.3 (last sent.); 160b.5(b)(3); 160c.12(b)(3); 160f.7(d) (separate criteria approach rejected))

Open Meeting Certification under Certain ESEA Programs**§ 100a.138 Open meetings: Purpose of §§ 100a.139–100a.141.**

(a) Sections 100a.139–100a.141 implement Section 1008 of the Elementary and Secondary Education Act of 1965, as amended (ESEA).

(b) Section 1008 requires a local educational agency that submits an application under certain ESEA programs to certify that it has held an open meeting regarding the contents of the application.

(c) Section 1008 applies to each ESEA program listed in § 100a.1.

(20 U.S.C. 887e)

(Source: 100d.1)

§ 100a.139 The local educational agency shall hold an open meeting.

(a) If a local educational agency applies for a grant under an ESEA program listed in § 100a.1, the agency shall hold at least one meeting.

(b) The agency shall make the meeting open to the public.

(c) The agency shall inform the people who attend the meeting of—

(1) The ESEA program under which the agency wants a grant;

(2) The kinds of activities that are authorized under the statute and program regulations; and

(3) The activities for which the agency wants the grant.

(d) The agency shall give each person who attends the meeting an opportunity to comment or make recommendations on the proposed activities.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.140 Give notice of the meeting; make information available.

(a) If a local educational agency must hold an open meeting under § 100a.139, the agency shall give notice of the time, place, and purpose of the meeting.

(b) The agency shall give notice that—

(1) Is likely to reach the general public in the area served by the project; and

(2) Gives the public time to prepare for the meeting.

(c) The agency shall take steps to ensure that persons who are members of groups that have been traditionally underrepresented receive the type of notice required by paragraph (b)(1) of this section and that these persons are encouraged to participate in the meeting. These persons include—

(1) Members of racial or ethnic minority groups;

(2) Women;

(3) Handicapped persons; and

(4) The elderly.

(d) The agency shall make the following material available for inspection by the public at least 24 hours before the open meeting begins.

(1) An outline of the information described in § 100a.139(c).

(2) A draft copy of the agency's application if the application has been prepared.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100d.2(b))

§ 100a.141 Certify that open meeting was held.

If a local educational agency must hold an open meeting under § 100a.139, the agency shall certify in its application that—

(a) The agency held at least one open meeting under § 100a.139;

(b) The agency gave notice of each open meeting in accordance with § 100a.140 (a) and (b);

(c) The agency made information available in accordance with § 100a.140(c);

(d) The agency gave meaningful consideration to any comments or recommendations that it received at each open meeting; and

(e) The agency has included the results of that consideration in its application.

(20 U.S.C. 887e)

(Source: 100d.3)

State Review Procedures**§ 100a.150 Review procedure if State must approve applications—purpose of §§ 100a.151–100a.153.**

If the authorizing statute for a program requires the State to approve each application, the State and the applicant shall use the procedures in §§ 100a.151–100a.153.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.151 When an applicant must submit its application to the State; proof of submission.

(a) Each applicant under a program covered by § 100a.150 shall submit a copy of its application to the State at least 15 days before the deadline date for submitting the application to the Education Division.

(b) The applicant shall attach to its application a copy of its letter that requests the State to approve the application.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 162.13(b); 162.39(a)(2))

§ 100a.152 The State reviews each application.

Each State that receives an application under § 100a.151 shall review the application to decide if the State wishes to approve or disapprove the application.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.153 Deadlines for State approval.

(a) The appropriate official of the Education Division may publish in the Federal Register a notice that establishes a deadline for receipt of State approvals of applications under a program covered by § 100a.150.

(b) If a State approves an application, the appropriate State official shall:

(1) Sign a statement that approves the application; and

(2) Submit the application and the statement by the deadline date for State approvals. The procedures in § 100a.102 (b) and (d) (how to meet a deadline) apply to this submission.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 162.13(c) (1st sent.) + (d)(1); 162.13(e) (Rejected); 162.39(a)(3) (1st sent.) + (a)(4))

§ 100a.154 Effect of State approval; failure to approve.

(a) If a State approves an application on or before the deadline for State approval, the appropriate official of the Education Division may select that project for a grant.

(b) If a State does not approve an application on or before the deadline for State approval, the appropriate official of the Education Division may not select that project for a grant.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 124.4; 162.13(c) (2nd sent.); 162.39(a)(3) (2nd sent.))

§ 100a.155 Review procedure if State may comment on applications—purpose of §§ 100a.156–100a.158.

If the authorizing statute or implementing regulations for a program require that a State be given an opportunity to comment on each application, the State and the applicant shall use the procedures in §§ 100a.156–100a.158.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.156 When an applicant must submit its application to the State; proof of submission.

(a) Each applicant under a program covered by § 100a.155 shall submit a copy of its application to the State on or before the deadline date for submitting its application to the Education Division.

(b) The applicant shall attach to its application a copy of its letter that requests the State to comment on the application.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.207; 105.604(a) (1st sent.); 123.24(b)(9); 129.4 (b)(2); 160a.28(b); 160b.23(c)(1) (1st sent.); 160c.13(b); 160d.10 (2nd + 3rd sents.); 160e.7(b); 160f.8(e)(2); 160g.15(b); 179.23(b); 182a.13(d) (1st sent.); 181.31(c); 185.13(j); 194.5(b))

§ 100a.157 The State reviews each application.

A State that receives an application under § 100a.156 may review and comment on the application.

(20 U.S.C. 1221e-3(a)(1))

((Sources: 129.4(b)(3); 170.73 (3rd sent.))

§ 100a.158 Deadlines for State comments.

(a) The appropriate official of the Education Division may publish in the Federal Register a notice that establishes a deadline for receipt of State comments on applications under a program covered under § 100a.155.

(b) The State shall make its comments in a written statement signed by an appropriate State official.

(c) The appropriate State official shall submit comments by the deadline date for State comments. The procedures in § 100a.102 (b) and (d) (how to meet a deadline) apply to this submission.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.604(a) (2nd sent.); 129.4(c); 160a.28(c) (1st sent.); 160b.23(c)(1) (2nd sent.); 160c.13(c) (1st sent.); 160e.7(c) (1st sent.); 160f.8(e)(3) (1st sent.); 160g.15(c) (1st sent.); 170.73 (4th–6th sents.); 182a.13(d) (2d sent.); 191.32(d) (1st sent.))

§ 100a.159 Effect of State comments or failure to comment.

(a) The appropriate official of the Education Division considers those comments of the State that relate to—

(1) Any selection criteria that apply under the program; or

(2) Any other matter that affects the selection of projects for funding under the program.

(b) If the State fails to comment on an application on or before the deadline date for the appropriate program, the State waives its right to comment.

(c) If the applicant does not give the State its opportunity to comment, the appropriate official of the Education Division may not select that project for a grant.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 129.4(a) (2nd sent.); 160a.13(b)(5); 160a.28(a) + (c) (2d sent.); 160c.13(c) (2d sent.); 160e.7(c) (2d sent.); 160f.8(e)(1) + (3) (2d sent.); 160g.15(a) + (c) (2d sent.); 185.13(j) (2nd sent.); 185.53(c)(2) (3rd sent.); 185.83(b)(3)(iii); 191.32(d) (2d sent.))

§ 100a.160 Procedure for State approval of or comment on preapplications.

(a) If the authorizing statute for a program requires that a State approve each preapplication, the State and the applicant shall use the approval procedures in §§ 100a.151-100a.153 for the preapplication.

(b) If the authorizing statute or implementing regulations for a program require that a State be given an opportunity to comment on each preapplication, the State and the applicant shall use the comment procedures in §§ 100a.156-100a.158 for the preapplication.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 124.3; 160c.12(b)(4); 160f.7(b))

OMB Circular A-95 Clearinghouse Procedures**§ 100a.170 Clearinghouse procedures—Purpose of §§ 100a.170-100a.173.**

(a) Sections 100a.170 through 100a.173 implement Part I of OMB Circular A-95.

(b) Part I of OMB Circular A-95 requires an applicant under certain Federal programs to notify the appropriate State and areawide clearinghouses of the applicant's intent to apply. The clearinghouses may comment on the application.

(c) The following programs listed in § 100a.1 are covered by Part I of OMB Circular A-95:

Name of program	Authorizing statute	Implementing regulations	CFDA number
Environmental education.	Title III-H of the Elementary and Secondary Education Act (20 U.S.C. 3011).	None.....	None
Follow through program.	Sections 551-554 of the Community Services Act of 1974 (42 U.S.C. 22929).	Part 158.....	13.433

Name of program

Model programs under the research in the education of the handicapped program.

Section 641 of the Education of the Handicapped Act (20 U.S.C. 1441).

Part 121h.....

13.443

Community service and continuing education programs—special programs and projects.

Section 106 of Title I of the Higher Education Act of 1965 (20 U.S.C. 1005a).

Subpart C of part 173.

13.557

(20 U.S.C. 1221e-3(a)(1))

(Source: Catalog of Federal Domestic Assistance)

§ 100a.171 Notify the appropriate clearinghouses.

(a) An applicant under a program listed in §§ 100.270 shall include in its notice to the clearinghouses a summary of the project. The summary must include—

(1) The identity of the applicant;

(2) The geographic location of the proposed project (include a map, if appropriate);

(3) A brief description of the proposed project that helps the clearinghouses identify any State and local agencies that have plans or projects that may be affected by the project. The description must include—

(i) The type of project;

(ii) The purpose of the project;

(iii) The general size of the project;

(iv) The estimated cost of the project;

(v) The beneficiaries of the project; and

(vi) Any other information that will help the clearinghouse identify affected agencies;

(4) A statement that shows whether the applicant must prepare an Environmental Impact Statement;

(5) The name of the program and the Catalog of Federal Domestic Assistance number for the program; and

(6) The date the applicant expects to submit its application to the Education Division.

(b) If an applicant uses the preapplication procedure in this subpart, the applicant shall submit a copy of the preapplication to the appropriate clearinghouses on the same date it submits the preapplication to the Education Division.

(20 U.S.C. 1221e-3(a)(1))

(Source: OMB Circular A-95)

§ 100a.172 Applicant shall show compliance with A-95 procedures.

An applicant under a program listed in §§ 100a.170 shall include the following in its application:

(a) The comments of each clearinghouse that commented on the application; or

(b) A statement that the applicant used the procedures of OMB Circular A-95 but did not receive any clearinghouse comments.

(20 U.S.C. 1221e-3(a)(1))

(Source: OMB Circular A-95)

§ 100a.173 The effect of not complying with Part I of OMB Circular A-95.

(a) OMB Circular A-95 gives a clearinghouse 30 days to—

(1) Review the applicant's notice;

(2) Notify affected agencies and governments; and

(3) Consult with the applicant about the application.

(b) The Circular also permits a clearinghouse to take an additional 30 days to review the application.

(c) The appropriate official of the Education Division may make a grant under a program listed in § 100a.170 only if the applicant has complied with Part I of OMB Circular A-95.

(20 U.S.C. 1221e-3(a)(1))

(Source: OMB Circular A-95)

Subpart D—How Grants Are Made Selection of New Projects**§ 100a.200 How new projects are selected.**

(a) The Education Division administers two different kinds of direct grant programs. A direct grant program is either a discretionary grant or a formula grant program.

(b) *Discretionary grant programs.* (1) A discretionary grant program is one that permits the appropriate official of the Education Division to select new projects on the basis of the quality of competing applications. To receive a grant under this kind of program, an applicant usually must compete with other applicants (but see § 100a.219).

(2) The appropriate official of the Education Division uses the selection criteria in EDGAR and the specific selection criteria for a program to evaluate each application submitted for a new project under a discretionary grant program.

(3) Sections 100a.202-100a.206 contain the EDGAR selection criteria.

(4) The specific selection criteria for a program are in the implementing regulations for that program. However, if a discretionary grant program does not have specific selection criteria, the program uses the EDGAR criteria alone to evaluate applications. If used alone, the EDGAR criteria are not weighted.

(5) If a discretionary grant program has criteria that are inconsistent with one or more of the EDGAR selection criteria, the implementing regulations for that program identify the EDGAR selection criteria that do not apply.

(c) *Formula grant programs.* (1) A formula grant program is one that entitles certain applicants to receive grants if they meet the requirements of the program. Applicants do not compete with each other for the funds, and each grant is either for a set amount or for an amount determined under a formula.

(2) The appropriate official of the Education Division uses the program statute and regulations to select new projects under a formula grant program. The EDGAR selection criteria in §§ 100a.202-100a.206 are not used to evaluate applications.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.201 How to use the selection criteria.

(a) If the selection criteria for a program are not weighted, the appropriate official of the Education Division evaluates each criterion equally.

(b) If the selection criteria for a program are weighted—

(1) The appropriate official of the Education Division assigns in the program regulations a total number of points that an applicant may receive under all of the criteria;

(2) The specific program selection criteria use 70 percent of the total points assigned to the program; and

(3) The EDGAR selection criteria use the remaining 30 percent of the total points assigned to the program.

(c) The last paragraph under each EDGAR selection criterion gives the weight assigned to that criterion under EDGAR. This weight is expressed as a percentage of the total points assigned to the program. To find the number of points assigned to an EDGAR selection criterion under a particular program, use the following steps:

(1) Find the percentage given in the last paragraph of the EDGAR selection criterion in which you are interested.

(2) Find the total number of points assigned to the program in which you are interested.

(3) Multiply the percentage you found under step (1) by the number you found under step (2).

Example: You are interested in finding out how many points the EDGAR selection criterion "Evaluation plan" gets under the bilingual vocational training program. The EDGAR criterion "Evaluation plan" is in § 100.205. Paragraph (c) of that section indicates that the criterion gets 5% of the total number of points used by a program. The bilingual vocational training program is in Subpart 5 of Part 105 of this title. Section 105.606 gives the selection criteria for this program. Section 105.606 indicates that the program has a maximum of 100 points for selection criteria. Multiply 100 by 5% (.05) the answer is 5 points. This is the number of points that § 100a.205 assigns to "Evaluation plan" under the bilingual vocational training program.

(d) If the selection criteria for a program are weighted, the program regulations may increase, but may not decrease, the weight of an EDGAR criterion. This is done by adding points to the EDGAR selection criterion. The appropriate official of the Education Division uses part of the 70% weight devoted to specific program selection criteria to add weight to an EDGAR criterion.

(20 U.S.C. 1221e-3(a)(1))

§§ 100a.202 Selection criterion—plan of operation.

(a) The appropriate official of the Education Division reviews each application for information that shows the quality of the plan of operation for the project.

(b) The official looks for information that shows:

(1) High quality in the design of the project;

(2) An effective plan of management that insures proper and efficient administration of the project;

(3) A clear description of how the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(c) Under a program using weighted selection criteria, this criterion is assigned 10 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.110(c) + (e); 105.211(c) + (d); 105.606(b)(c); 105.616(b) + (c); 105.626(c) + (d); 123.15(a)(2); 123.25(b); 123.26(b); 123.27(b); 123.349(a)(2); 132 App A(a)(3) + (5); 132 App A(b)(1) + (3); 133 App A(a)(3) + (4); 136.06(b)(1) + (3); 153.12(b)(8); 158.52(b) + (c); 160a.25(a)(9), (12) + (14); 160b.8(b)(2); 160b.46(a); 160c.17(b); 160c.18(b); 160c.35(a)(3); 160d.7(c); 160e.9(a); (3); 160f.10(a)(3)(i) + (iii); 162.14(a)(8); 162.14(c)(8); 162.41(a); 162.53(b)(1), (2) + (3); 172.151(a) + (b); 180.44; 185.14(b)(2); 185.24; 185.34(b)(1), (2) + (3); 185.35(b)(1); 185.54(b)(2); 185.64(b)(2); 184.91-2(b)(2); 185.92-3(a)(2); 185.94-3; 185.106(b); 185.107(b) + (d)(3); 187.12(c); 187.22(c); 187.32(c); 187.42(c); 187.53(c); 187.63(c); 191.33(b); 191.45(b) (2) + (3); 194.8(c); 198.7(f)(1))

§§ 100a.203 Selection criterion—quality of key personnel.

(a) The appropriate official of the Education Division reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(b) The official looks for information that shows—

(1) The qualifications of the project director (if any);

(2) The qualifications of each of the other key personnel used in the project;

(3) The qualifications of any of the following persons who are hired for the project—

(i) Any member of the immediate family of a person on the project staff;

(ii) Any member of the governing body of the grantee; or

(iii) Any member of the immediate family of a person on that governing body.

(4) The time that each person referred to in paragraphs (b)(1)–(3) of this section plans to commit to the project; and

(5) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(c) To determine the qualifications of a person, the official considers evidence of past experience in fields related to the objectives of the project, as well as other information that the applicant provides.

(d) Under a program using weighted selection criteria, this criterion is assigned 7 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.110(h); 105.211(g); 105.606(f); 105.616(f); 105.626(h); 123.15(a)(2); 123.25(b);

123.26(b); 123.27(b); 123.34(a)(3); 123.54(c); 132 App A(a) (6) + (7); 132 App A(b)(5); 132 App A(c)(6); 133 App A(a)(5); 138.06(b)(5); 153.12(b)(8); 154.6(c)(4); 155.8(c)(3); 155.8(h)(3); 157.6(c)(3); 157.6(f)(3); 158.42(b)(2); 158.52(g); 159.7(c)(3); 159.7(f)(3); 160b.8(b)(4); 160b.32(c); 160b.46(a)(9); 160c.17(b); 160c.18(b); 160c.35(a)(2); 160d.7(g); 160d.15(f); 160e.9(a)(1); 160f.10(a)(1) (iv) + (v); 162.14(a)(3); 162.14(c)(3); 162.41(d); 162.62(a)(2); 179.26(b)(6); 180.14(c); 180.24(c); 180.34(c); 182.14(a)(2); 182a.25(a)(2); 185.149(b)(3); 185.24; 185.34(b)(2); 185.35(b)(2); 185.54(b); 185.64(b); 185.91-2(b)(3) (ii); 185.92-3(a)(3)(ii); 185.94-3; 185.106(c)(2); 185.107(c)(2); 187.12(f); 187.22(e); 187.32(e); 187.42(f); 187.53(f); 187.63(f); 188.15(b)(6); 191.33(d); 191.45(b)(5); 193.14(d); 193.24(b)(3); 194.8(c); (2); 198.7(b))

§§ 100a.204 Selection criterion—budget and cost effectiveness.

(a) The appropriate official of the Education Division reviews each application for information that shows that the project has an adequate budget and is cost effective.

(b) The official looks for information that shows:

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(c) Under a program using weighted selection criteria, this criterion is assigned 5 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.110(i); 105.211(h); 105.505(b) (8) + (9); 105.606(g); 105.616(g); 105.626(i); 123.15(a)(3); 123.25(c); 123.26(c); 123.27(c); 123.34(a)(10); 123.54(f); 132 App A(a)(9); 132 App A(c)(6); 133 App A(a)(1); 136.06(b)(4); 148.14(a)(4); 148.24(a) (5); 153.12(b)(7); 154.6(c)(10); 155.8(c)(4); 157.8(c)(4); 159.7(c)(4); 160b.24(c)(1) (iii); 160c.35(a)(3)(iv); 160d.7(h); 160d.15(g); 160e.9(a)(3)(iv); 160f.10(a)(3)(v); 162.14(a)(5); 162.41(e); 162.62(a)(4); 179.26(b)(3); 180.14(d); 180.24(e); 180.34; 180.44; 185.14(b)(4)(ii) + (iv); 185.24; 185.34(b)(3); 185.35(b)(3); 185.54(b)(4); 185.64(b)(4); 185.91-2(b)(4); 185.92-3(a)(4); 185.94-3; 185.106(d)(1) + (2); 185.107(d)(1) + (2); 187.12(b)(8); 187.22(b)(5); 187.32(b)(5); 187.42(b)(2); 187.53(b)(6); 187.63(b)(6); 188.15(f)(3); 188.16; 191.33(e); 191.45(b)(6); 193.14(g); 193.24(b)(8); 194.8(c)(5); 198.7(d))

§ 100a.205 Selection criterion—evaluation plan.

(a) The appropriate official of the Education Division reviews each application for information that shows the quality of the evaluation plan for the project.

(b) The official looks for information that shows an objective, quantifiable method of evaluation under § 100a.590.

(c) Under a program using weighted selection criteria, this criterion is assigned 5 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.10(f); 105.211(f); 105.606(e); 105.616(e); 105.626(f); 121F.20(b), (e), (f), (h), (i)(1) + (j)(2) + (3); 123.15(a)(4); 123.25(d); 123.28(d); 123.27(d); 123.34(a)(8); 132 App A(a)(12) + (13); 132 App A(b)(2) + (12); 132

App A(c)(6); 133 App A(a)(6); 146.24(a)(2); 155.8(c)(2); 155.8(h)(2); 157.6(c)(2); 157.6(f)(2); 158.52(f); 159.7(c)(2); 159.7(f)(2); 160a.25(a)(11); 160b.6(b)(5); 160d.7(e); 160e.9(a)(3); 160f.10(a)(2)(iii); 160f.10(a)(3)(ii); 162.14(a)(8); 162.14(b)(3); 162.14(c)(3); 162.53(b)(4); 179.26(b)(2); 180.14(e); 180.24(d); 180.34; 180.44; 185.14(b)(5); 185.24; 185.34(b)(4); 185.35(b)(4); 185.54(b)(5); 185.64(b)(5); 185.91-2(b)(5); 185.92-3(a)(5); 185.94-3; 185.106(e); 185.107(e); 187.12(d); 187.22(d); 187.32(d); 187.42(d); 185.53(d); 187.63(d); 188.15(d); 188.16; 191.33(c); 191.45(b)(4); 193.14(b); 193.24(b)(2); 194.8(c)(7); 198.7(f)(2)]

§ 100a.206 Selection criterion—adequacy of resources.

(a) The appropriate official of the Education Division reviews each application for information that shows that the applicant plans to devote adequate resources to the project, including resources to meet the needs of persons to be served by the project who are members of groups that have been traditionally underrepresented, such as

- (1) Members of racial or ethnic minority groups;
- (2) Women;
- (3) Handicapped persons; and
- (4) The elderly.

(b) The official looks for information that shows:

- (1) The facilities that the applicant plans to use are adequate; and
- (2) The equipment and supplies that the applicant plans to use are adequate.

(c) Under a program using weighted selection criteria, this criterion is assigned 3 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.110(i)(2); 105.211(i)(2); 105.606(h)(2); 105.616(h)(2); 105.626(j)(2); 121f.20(c); 132 App A(a)(8); 132 App A(b)(6); 132 App A(c)(6); 133 App A(a)(5); 153.12(b)(8); 155.8(c)(3); 155.8(h)(3); 157.6(c)(3); 157.6(f); 159.7(c)(3); 159.7(f); 160b.6(b)(4); 160e.9(a)(1); 160f.10(a)(1)(vi); 162.14(a)(4); 162.62(a)(3); 185.91-2(b)(3)(iii); 185.92-2(b)(3)(iii); 185.92-3(a)(3)(iii); 185.106(d)(4); 185.107(d)(4); 187.12(g)(1); 187.22(f)(1); 187.32(f)(1); 187.42(e)(2); 188.15(b)(7); 193.14(e); 193.24(b)(4); 194.8(c)(8); 198.7(c))

Selection Procedures

§ 100a.215 How the Education Division selects a new project: Purpose of §§ 100a.216-100a.221.

Sections 100a.216-100a.221 describe the process the appropriate official of the Education Division uses to select new projects. All of these sections apply to a discretionary grant program. However, only § 100a.216 applies to a formula grant program (see § 100a.200 for a description of the difference between a discretionary grant program and a formula grant program).

(20 U.S.C. 1221e-3(a)(1))

§ 100a.216 Returning an application to the applicant.

(a) The appropriate official of the Education Division returns an application to an applicant if—

- (1) The applicant is not eligible;

(2) The application does not contain the information required under the program; or

(3) The proposed project cannot be funded under the authorized statute or implementing regulations for the program.

(b) If the appropriate official of the Education Division returns an application under this section, the official includes a statement that gives the reason that the application was returned.

(20 U.S.C. 1221e-3(a)(1))

(Sources: OE III-2.7.1C; 153.8(a)(1st sent.); 156.8(a)(1st sent.); 178a.7; 183.30(2nd sent.); 183.31)

§ 100a.217 How the Education Division reviews an application.

(a) The appropriate official of the Education Division uses a group of experts to review an application unless the circumstances under § 100a.219 exist.

(b)(1) The appropriate official of the Education Division may use one or more groups of experts to review the applications submitted under each program.

(2) Each group of experts consists of 3 or more persons who are well qualified to review the applications.

(3) In each group of experts, there is at least one person who is not an employee of the Federal Government.

(4) A person may not serve with a group of experts if—

- (i) The person is an employee of HEW who is involved in the administration of the program for which the group is reviewing applications; or
- (ii) The person was involved within the past year in the administration of the program for which the group is reviewing applications.

(5) If the appropriate official of the Education Division signs a waiver for a person covered by paragraph (b)(4) of this section, the person may serve on a group of experts.

(c) A group of experts uses the selection criteria that apply to the program to rate the quality of each application.

(d) After the groups of experts have completed their review and have rated the applications, the appropriate official of the Education Division prepares a rank ordering of the applications. The rank ordering of applications is based on the ratings of the applications by the groups of experts.

(e)(1) If the official has information that affects the rank ordering of applications, he or she attaches this information to the rank ordering.

(2) The official only attaches information to a rank ordering if the information is—

- (i) Relevant to a matter that affects selection of projects for funding under the program; and
- (ii) Gained through appropriate procedures such as site visits or recommendations of advisory groups.

(20 U.S.C. 1221e-3(a)(1))

(Sources: OE III-2.7.2A1; III-2.7.2D; III-2.8)

§ 100a.218 How the Education Division selects new projects.

(a) Under each program, the appropriate official of the Education Division selects the

projects of highest quality based on the selection criteria that apply to the program.

(b) In deciding which projects to select, the official considers the following:

- (1) The information in each application;
- (2) The rank ordering of the applications; and

(3) The information attached to the rank ordering of applications.

(c) In each competition under a program the official selects projects until the funds available for new projects are used up.

(d) If a project is not selected under the procedures of this section, the appropriate official of the Education Division—

- (1) Returns the application to the applicant; and

(2) Informs the applicant why the application was not selected.

(20 U.S.C. 1221e-3(a)(1))

(Source: OE III-2.4.1)

§ 100a.219 A project can be selected for funding without competition.

The appropriate official of the Education Division may select a project for funding without competition with other projects if—

- (a) The objectives of the project cannot be achieved unless the official makes the grant before the date grants can be made under the selection procedure in §§ 100a.217 and 100a.218; or

(b)(1) The project was reviewed by a group of experts under the preceding competition of the program;

(2) The group of experts rated the project high enough to deserve selection under § 100a.218; and

(3) The proposed project was not selected for a grant because the application was mishandled by the Education Division.

(20 U.S.C. 1221e-3(a)(1))

(Sources: OE III-2.13.1A; III-2.13.2A intro.)

§ 100a.220 Procedures the Education Division uses under § 100a.219(a).

If the special circumstances of § 100a.219(a) appear to exist for an application, the appropriate official of the Education Division uses the following procedures:

(a) The official assembles a board to review the application.

(b) The board consists of—

- (1) A program officer of the program under which the applicant wants a grant;
- (2) An HEW grants officer; and
- (3) An HEW employee who is not a program officer of the program but who is well qualified to review the application.

(c) The board reviews the application to decide if—

- (1) The special circumstances under § 100a.219(a) are satisfied;
- (2) The proposed project rates high enough, based on the selection criteria that apply to the program, to deserve selection; and
- (3) If the proposed project is selected, it will not have an adverse impact on the budget of the program.

(d) The board forwards the results of its review to the appropriate official of the Education Division.

(e) The appropriate official of the Education Division may select the proposed

project if each of the conditions in paragraph (c) of this section are satisfied.

(f) If the official does not select the project, the applicant may submit its application under the procedures in Subpart C.

(20 U.S.C. 1221e-3(a)(1))

(Source: OE III-2.13.1B-f)

§ 100a.221 Procedures the Education Division Uses Under § 100a.219(b).

If the special circumstances of § 100a.219(b) appear to exist for an application, the appropriate official of the Education Division may select the project if—

(a) The official has documentary evidence that the special circumstances of § 100a.219(b) exist;

(b) The official has a statement that explains the circumstances of the mishandling; and

(c) The appropriate program officer recommends that the project be selected.

(20 U.S.C. 1221e-3(a)(1))

(Source: OE III-213.2A1-4, B-D)

Procedures To Make a Grant

§ 100a.230 How the Education Division makes a grant: purpose of §§ 100a.231-100.236.

If the appropriate official of the Education Division selects a project under §§ 100a.218, 100a.220, or 100a.221, the official follows the procedures in §§ 100a.231-100a.236 to set the amount and determine the conditions of a grant.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.231 Additional budget information.

After selecting a project for funding, the appropriate official of the Education Division may ask the applicant to submit additional budget information.

(20 U.S.C. 1221e-3(a)(1))

(Source: 115.13)

§ 100a.232 The cost analysis; basis for grant amount.

(a) Before the appropriate official of the Education Division sets the amount of a grant, the official does a cost analysis of the project. The official—

(1) Verifies the cost data in the detailed budget for the project.

(2) Evaluates specific elements of costs; and

(3) Examines costs to determine if they are necessary, reasonable, and allowable under applicable statutes and regulations.

(b) The official uses the cost analysis as a basis for determining the amount of the grant to the applicant. The cost analysis shows whether the applicant can achieve the objectives of the project with reasonable efficiency and economy under the budget in the application.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.233 Setting the amount of the grant.

The appropriate official of the Education Division may fund up to 100 percent of the allowable costs in the budget. In deciding what percent of the allowable costs to fund, the official considers—

(a) Matching or cost sharing requirements that apply; and

(b) Any other financial resources available to the applicant.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.50; 158.65a(c))

§ 100a.234 The conditions of the grant.

The appropriate official of the Education Division makes a grant to an applicant only after determining—

- (a) The approved costs; and
- (b) Any special conditions.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.235 The notification of grant award.

(a) To make a grant, the appropriate official issues a notification of grant award and sends it to the grantee.

(b) The notification of grant award sets the amount of the grant and gives other information about the grant.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.236 Effect of the grant.

The grant obligates both the Federal Government and the grantee to the requirements that apply to the grant.

(20 U.S.C. 1221e-3(a)(1))

Approval of Multi-Year Projects

§ 100a.250 Project period can be longer than one year.

(a) The appropriate official of the Education Division generally approves a project period of not more than 12 months.

(b) If an applicant cannot achieve the objectives of the project in 12 months, the official may approve a project period of up to 60 months.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.209; 113.8(a); 121.5(b); 123.04(b); 136.10(a) + (c); 148.17(a); 148.27(a); 160a.17; 160c.5(a); 160d.9(a) + (b); 160d.17(a) + (b); 160e.5(b) + (c); 160f.5(a) + (c); 160g.4; 162.17(c); 162.44(c); 162.55(c); 162.63(c); 164.06 (1st sent.); 172.30; 179.27(a) + (b); 180.20(c); 180.39(b); 180.57(b); 180.65(b); 182.34(b) (3rd sent.) + (c)(1); 191.34; 191.46; 197.7(a) + (b); 198.8(a); 105.107; 105.302(b); 105.433; 113.2(b) (1st + 2nd sent.); 121.5(a) (1st sent.); 127.5(d); 132.13; 162.17(a); 162.44(a); 162.55(a); 162.63(a); 169.27; 182.34(a); 187.6(a) + (b); 187.76; 188.11(a) + (b); 187.7(a) (2nd clause))

§ 100a.251 The budget period.

(a) The appropriate official of the Education Division usually approves a budget period of not more than 12 months, even if the project has a multi-year project period.

(b) If the official approves a multi-year project period, the official—

(1) Makes a grant to the project for the initial budget period; and

(2) Indicates his or her intention to make continuation awards to fund the remainder of the project period.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 113.8(a); 121.5(b); 136.10(c) (2nd sent., 2nd clause); 148.17(b); 146.27(b); 160a.17; 160c.5(a); 160d.9(a) + (b); 169d.17(b); 160e.5(c); 160f.5(c) (2nd clause); 160g.4; 162.44(c); 162.55(c); 162.63(c); 172.30; 182.34(b)

(93rd sent.); 180.20(c); 180.39(b); 180.57(b); 180.65(b); 187.6(b); 191.29(a)(5); 191.46)

Continuation Awards and Extension of a Project

§ 100a.253 Continuation of a multi-year project after the first budget period.

(a) The appropriate official of the Education Division may make a continuation award for a budget period after the first budget period of an approved multi-year project if—

(1) The Congress has appropriated sufficient funds under the program;

(2) The official is satisfied that the grantee will satisfactorily complete the budget period that is about to end;

(3) The grantee has submitted every report that it must submit before the date of the continuation award; and

(4) Continuation of the project is in the best interest of the Federal Government.

(b) A grantee that is in the final budget period of a project period may seek continued assistance for the project under the procedures for selecting new projects. (See Subpart C.)

(20 U.S.C. 1221e-3(a)(1))

(Sources: 105.209; 105.308; 105.438; 113.8(a); 121.4(b); 121.89(b); 121.119(b); 123.04(d); 123.15(b); 136.10(c)(d) + (e); 157.6(a) + (b); 158.13(a); 158.52; 159.7(a) + (b); 160.4(c); 160a.17(b); 160c.5(a); 160d.9(a); 160d.17(b); 160e.5(c); 160f.5(c); 160g.4; 162.44 (c)(d) + (e); 162.55(c)(d) + (e); 162.63(c)(d) + (e); 172.30; 172.150(c); 180.20(c); 180.39(b); 180.57(b); 180.65(b); 182.34(b)(3rd sent.); 187.6(c); 188.11(c) + (d); 191.34; 191.46; 198.8(d))

§ 100a.254 Extension of a project period.

The appropriate official of the Education Division may extend a project period if:

(a) Special or unusual circumstances exist that delay completion of the project;

(b) The grantee provides the official with a written request or the extension;

(c) The grantee requests the extension at least 45 days before the end of the project period;

(d) The grantee states the reason that it needs the extension;

(e) The extension does not violate any statute or regulation; and

(f) The extension does not involve the obligation of additional Federal funds.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.54(a)(2nd sent.) and (b); 100-100d App. A para. 2(b); 164.06 (3rd + 4th sent.); 1405.9(a)(2nd sent.) + (b))

Miscellaneous

§ 100a.260 Allotments and reallocations.

(a) Under some of the programs listed in § 100a.1, the appropriate official of the Education Division allots funds under a statutory or regulatory formula.

(b) If the official determines that a grantee does not need all of the funds that are allotted under one of these programs, the official reallocates the unneeded funds among grantees in the same way that the official reallocates funds among states under §§ 100b.230-100b.235.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 119.9(a), (b); 129.20; 186.25(b); 192.3(b), (c), (d))

Subpart E—What Conditions Must Be Met by a Grantee?

Nondiscrimination

Subject	Statute	Regulations
Discrimination on the basis of race, color, or national origin.	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d through 2000d-4).	45 CFR Part 80.
Discrimination on the basis of sex.	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683).	45 CFR Part 86.
Discrimination on the basis of handicap.	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).	45 CFR Part 84.
Discrimination on the basis of age.	The Age Discrimination Act (42 U.S.C. 6101 et seq.).	45 CFR Part 90.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.160; 100a.262; 112.17; 113.19; 114.63(c)(1)(ix); 114.63(c)(2)(x); 115.16; 158.85; 160f.3(d)(3); 171 App. Sec. 2.2(a); 189.4)

Project Staff

§ 100a.510 Use of a project director.

(a) This section applies to each grantee that uses a project director to administer its project.

(b) The grantee shall insure that its project director has—

- (1) Appropriate professional qualifications, experience, and administrative skills; and
- (2) A clear commitment to the objectives of the project.

(c) The grantee shall give its project director sufficient authority to conduct the project effectively and to spend project funds.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 155.5(e)(3) + (4); 155.9(a)(3) + (4); 157.7(b)(6); 159.9(b)(6))

§ 100a.511 Waiver of requirement for a full-time project director.

(a) The appropriate official of the Education Division may waive a program regulation that requires a full-time project director if:

- (1) The project will not be adversely affected by the waiver; and
- (2)(i) The project director is needed to coordinate two or more related projects; or
- (ii) The project director must teach a minimum number of hours to retain faculty status.

(b) The waiver either permits the grantee—

- (1) To use a part-time project director; or
- (2) Not to use any project director.

(c)(1) An applicant grantee may request the waiver.

(2) The request must be in writing and must demonstrate that a waiver is appropriate under this section.

(3) The appropriate official of the Education Division gives a waiver of a program regulation in writing. The waiver is effective on the date the official signs the waiver.

(20 U.S.C. 1221e-3(a)(1))

(Cross reference: Changes in key people in a research project—See § 74.103(c) of this title)

(Sources: 155.9(a)(3); 157.7(b)(6); 159.9(b)(6))

§ 100a.500 Federal statutes and regulations on nondiscrimination.

Each grantee shall comply with the following statutes and regulations:

(Sources: 100a.260; 100-100d App. A para. 23)

§ 100a.520 Minimum wage rates.

The grantee shall pay a project staff member not less than any minimum wage required under Federal law.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 155.12(b); 157.12(b); 158.68; 159.12(b))

§ 100a.521 Dual compensation of staff.

A grantee may not use its grant to pay a project staff member for time or work for which that staff member is compensated from some other source of funds.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.261; 100-100d App. A para. 17; 1410.15)

Conflict of Interest

§ 100a.524 Conflict of interest: Purpose of § 100a.525.

(a) The conflict of interest regulations of the Education Division that apply to a grant are in § 100a.525.

(b) These conflict of interest regulations do not apply to a "government" as defined in § 74.3 of this title.

Note.—A government must provide a conflict of interest assurance under the standard application required by Subpart N of Part 74.

(c) The regulations in § 100a.525 do not apply to a grantee's procurement contracts. The conflict of interest regulations that cover those procurement contracts are in Part 74 of this title.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.525 Conflict of interest—participation in a project.

(a) A grantee may not permit a person to participate in an administrative decision regarding a project if:

- (1) The decision is likely to benefit that person or a member of his or her immediate family; and
- (2) The person—

- (i) Is a public official; or
- (ii) Has a family or business relationship with the grantee.

(b) A grantee may not permit any person participating in the project to use his or her position for a purpose that is—or gives the appearance of being—motivated by a desire for a private gain for that person or for others.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.250; 187.82(a); 1410.14)

Allowable Costs

§ 100a.530 General cost principles.

The general principles to be used in determining costs applicable to grants and cost-type contracts under grants are referenced in Subpart Q of Part 74 of this title.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.80-100a.84; 100-100d App. A para. 4b and 9; 100-100d Apps. B, C and D; 119.6; 136.08(b); 155.14; 157.14; 159.14; 160b.7(a)(1); 160c.36(a); 160f.15(a)(1); 162.18(b); 162.84; 164.05(a); 189.34(b); 191.35(a); 197.8(a)(6); 198.4(a)(2))

§ 100a.515 Qualifications of project staff.

A grantee shall operate its project with a staff that is adequate in education, experience, and number to achieve the objectives of the project.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 155.5(d)(4); 157.7(b)(7); 159.9(b)(7))

§ 100a.516 Inservice training for project staff.

A grantee shall provide any necessary preservice and inservice training for its project staff.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 157.7(b)(8); 159.9(b)(8))

§ 100a.517 Use of consultants.

(a) Subject to federal statutes and regulations, a grantee shall use its general policies and practices when it hires, uses, and pays a consultant as part of the project staff.

(b) The grantee may not use its grant to pay a consultant unless:

- (1) There is a need in the project for the services of that consultant; and
- (2) The grantee cannot meet that need by hiring an employee rather than a consultant.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.518 Compensation of consultants—employees of institutions of higher education.

If an institution of higher education receives a grant for research or for educational services, it may pay a consultant's fee to one of its employees only in unusual circumstances and only if—

- (a) The work performed by the consultant is in addition to his or her regular departmental load; and
- (b)(1) The consultation is across departmental lines; or

(2) The consultation involves a separate or remote operation.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100-100d App. A para. 20c; HEW GAM Ch. 1-45)

§ 100a.519 Changes in key staff members.

A grantee shall comply with § 74.103(c)(2) of this title (replacement or lesser involvement of any key project staff), whether or not the grant is for research.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.531 Limit on total cost of a project.

A grantee shall insure that the total cost to the Federal Government is not more than the amount set forth in the notification of grant award.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.51; 100-100d App. A para. 3a; 153.14(a)(1st sent.); 160c.10(b); 189.34)

§ 100a.532 Use of funds for religion prohibited.

(a) A grantee may not use its grant to pay for any of the following:

- (1) Religious worship, instruction, or proselytization;
- (2) Equipment or supplies to be used for any of those activities;
- (3) Construction, remodeling, repair, operation, or maintenance of any facility or part of a facility to be used for any of those activities; or
- (4) An activity of a school or department of divinity.

(b) As used in this section, "school or department of divinity" means an institution or a component of an institution whose program is specifically for the education of students to—

- (1) Prepare them to enter into a religious vocation; or
- (2) Prepare them to teach theological subjects.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 112.11; 113.14; 123.13(e); 131.4(a) + (b); 136.08(c); 158.68; 169.5; 171 App. Sec. 4.2(c); 173.18; 179.25(c); 182.18(b); 185.13(f); 187.4; 189.21(b)(3); 194.7(c))

§ 100a.533 Acquisition of real property; construction.

A grantee may not use its grant for acquisition of real property or for construction unless specifically permitted by the authorizing statute or implementing regulations for the program.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 184.23(b); 185.72(d); 185.92-1; 185.103(b)(3))

§ 100a.534 Foreign travel.

A grantee may not use its grant for foreign travel unless approved in advance by the appropriate official of the Education Division. The term "foreign travel" does not include travel between the United States, Puerto Rico, and the U.S. Virgin Islands.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100-100d App. A para. 13)

§ 100a.535 Training grants—automatic increases for additional dependents.

The appropriate official increases an educational training grant to cover the cost of additional dependents not specified in the notification of grant award if—

- (a) Allowances for those dependents are authorized by the program statute and are allowable under the grant; and
- (b) Appropriations are available to cover the cost.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100-100d App. A para. 3c)

Indirect Cost Rates

§ 100a.560 General indirect cost rates; exceptions.

(a) Appendices C-F to Part 74 of this title describe the differences between direct and indirect costs and include the principles for determining the general indirect cost rate that a grantee may use for grants under most programs.

(b) Sections 100a.562-100a.568 provide restrictions on indirect cost rates under certain programs.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.561 Approval of indirect cost rates.

(a) The appropriate official of the Education Division approves an indirect cost rate for a grantee other than a local educational agency.

(b) Each State educational agency, on the basis of a plan approved by the Commissioner, shall approve an indirect cost rate for each local educational agency that requests it to do so.

(c) Each indirect cost rate for a grantee must be approved annually.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100c.2(a) + (b))

§ 100a.562 Indirect cost rates for educational training projects.

(a) The appropriate official of the Education Division may approve an indirect cost rate for an educational training project at the lesser of—

- (1) The actual indirect cost rate of the grantee; or
- (2) Eight percent of the total direct costs of the project.

(b) This section does not apply to—

- (1) A State (as defined in § 74.3 of this title); or
- (2) A local government (as defined in § 74.3 of this title).

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100-100d App. A para. 4c; 155.11(c); 157.11(c); 159.11(c); 160c.36(a); 160f.15(d))

§ 100a.563 Restricted indirect cost rate—programs covered.

Sections 100a.564-100a.568 apply to each program that has a statutory requirement not to supplant Federal funds, including the following:

Program	Authorizing statute
Bilingual Education	Title VII of the Elementary and Secondary Education Act
Follow Through Program	Sections 551-554 of the Community Services Act of 1974
Indian Elementary and Secondary School Assistance (Part A)	Title III of Public Law 81-874
Strengthening Developing Institutions Program	Title III of the Higher Education Act
(20 U.S.C. 1221e-3(a)(1))	
(Source: 100c.1)	

§ 100a.564 Restricted indirect cost rate—formula.

(a) An indirect cost rate for a grant under a program covered by § 100a.563 is determined with the following formula:

Indirect cost rate = (Administrative charges + Fixed charges) ÷ (Other expenditures).

(b) Administrative charges, fixed charges, and other expenditures must be determined under §§ 100a.565-100a.567.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100c.2(c))

§ 100a.565 Administrative charge.

(a) As used in § 100a.564, "administrative charge" means the cost of an activity that is for the direction and control of the grantee's affairs that are organization-wide. An activity is not organization-wide if it is limited to one activity, component of the grantee, subject, phase of operations, or other single responsibility.

(b) The term includes a service function, such as accounting, payroll, or personnel, that is normally at the grantee's level even if the function is physically located elsewhere for convenience or better management.

(c) The term does not include expenditures for:

- (1) The governing body of the grantee;
- (2) Compensation of the chief administrative officer of the grantee;
- (3) Compensation of the chief administrative officer of each of the components of the grantee; and
- (4) Operation of the immediate offices of these officers.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100c.2(d))

§ 100a.566 Fixed charges.

As used in § 100a.564, "fixed charges" only include contributions of the grantee to:

- (a) Retirement, including State, county, or local retirement funds, social security, and pension payments; and
- (b) Property, employee, and liability insurance.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100c.2(e))

§ 100a.567 Other expenditures.

(a) As used in § 100a.564, "other expenditures" means the grantee's total expenditures for its Federal and non-Federal activities in the most recent year for which data are available.

- (b) The term does not include:
- (1) Administrative charges determined under § 100a.565;
 - (2) Fixed charges determined under § 100a.566;
 - (3) Capital outlay;
 - (4) Debt service;
 - (5) Fines and penalties;
 - (6) Contingencies; and
 - (7) Election expenses.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100c.2(c))

§ 100a.568 Using the restricted indirect cost rate.

(a) Under the programs referenced in § 100a.563, the maximum amount of indirect costs under a grant is determined under the following formula:

Indirect costs = (Indirect cost rate) × (Total direct costs of the grant minus any costs

for capital outlay, debt service, or election expenses).

(b) If a grantee uses an indirect cost rate, the administrative and fixed charges covered by that rate must be excluded from the direct costs it charges to the grant.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100c.2(f) + (g))

Coordination

§ 100a.580 Coordination with other activities.

(a) A grantee shall, to the extent possible, coordinate its project, with other activities that serve similar purposes.

(b) The grantee shall continue this coordination during the entire project period.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100a.275)

§ 100a.581 Methods of coordination.

Depending on the objectives and requirements of a project, coordination could include one or more of the following:

(a) Planning the project with organizations and individuals who have similar objectives or concerns.

(b) Sharing information, facilities, staff, services, or other resources.

(c) Using the grant funds so as not to duplicate or counteract the effects of funds made available under other programs.

(d) Using the grant funds to increase the impact of funds made available under other programs.

(20 U.S.C. 1221e-3(a)(1))

Evaluation

§ 100a.590 Evaluation by the grantee.

A grantee shall evaluate at least annually:

(a) The grantee's progress in achieving the objectives set forth in its approved application;

(b) The effectiveness of the project in meeting the purposes of the program; and

(c) The effect of the project on persons being served by the project, including persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.276; 121b.11(b) (2nd sent.); 121b.13(a); 121c.34(b); 121e.5; 123.23(a)(5); 127.8(d); 155.9(a)(5); 160b.53(f); 178a.4(c)(5); 187.81(d))

§ 100a.591 Federal evaluation—cooperation by a grantee.

A grantee shall cooperate in any evaluation of the program by the Secretary or the appropriate official of the Education Division.

(20 U.S.C. 1226c, 1231a)

(Sources: 123.14(b)(7)(i); 123.24(b)(7)(i); 123.53(b)(2)(i); 158.3(b); 160b.3(b)(7)(ii); 160c.14(g); 160c.15(g); 160c.31(d); 160f.8(g); 162.38(b); 162.40(a)(3); 185.13(d); 187.81(d)(2))

§ 100a.592 Federal evaluation—satisfying requirement for grantee evaluation.

If a grantee cooperates in a Federal evaluation of a program, the appropriate

official of the Education Division may determine that the grantee meets the evaluation requirements of the program, including § 100a.590.

(20 U.S.C. 1226c, 1231a)

Construction

§ 100a.600 Use of a grant for construction—purpose of §§ 100a.601-100a.615.

Sections 100a.601-100a.615 apply to:

(a) An applicant if it requests funds for construction; and

(b) A grantee if its grant includes funds for construction.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.155; 105.507; 1422.1(a) + (d))

§ 100a.601 Applicant's assessment of environmental impact.

The applicant shall provide the HEW regional office with its assessment of the impact of the project on the quality of the environment in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 and Executive Order No. 11514 (34 FR 4247).

(42 U.S.C. 4332(2)(c).)

(Sources: 100a.185; 1422.7)

§ 100a.602 Preservation of historic sites must be described in the application.

(a) The applicant shall describe in its application the project's relationship to and probable effect on any district, site, building, structure, or object that is included in the National Register of Historic Preservation of the National Park Service.

(b) In deciding whether to make a grant, the appropriate official of the Education Division considers:

(1) The information provided by the applicant under paragraph (a) of this section; and

(2) Any comments by the advisory council on historic preservation.

(16 U.S.C. 470f)

(Sources: 100a.188; 1422.41)

§ 100a.603 Grantee's title to site.

The grantee must have or get a full title or other interest in the site, including right of access, that is sufficient to insure the grantee's undisturbed use and possession of the facilities for not less than the useful life of the facilities or 50 years, whichever is longer.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.181; 170.53(a); 1422.3)

§ 100a.604 Availability of cost-sharing funds.

(a) The grantee shall insure that sufficient funds are available to meet any non-Federal share of the cost of constructing the facility.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.171; 1422.15)

§ 100a.605 Beginning the construction.

(a) The grantee shall begin work on the project within a reasonable time after the grant is made.

(b) The grantee shall get approval by the appropriate official of the Education Division of the final working drawings and

specifications before the construction is advertised or placed on the market for bidding.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.158; 100a.159(a); 1422.13; 1422.35)

§ 100a.606 Completing the construction.

(a) The grantee shall complete the project within a reasonable time.

(b) The grantee shall complete the construction in accordance with the application and approved drawings and specifications.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.158; 100a.159(b); 1422.13; 1422.35)

§ 100a.607 General considerations in designing facilities and carrying out construction.

(a) The grantee shall insure that the construction is—

(1) Functional;

(2) Economical; and

(3) Not elaborate in design or extravagant in the use of materials, compared with facilities of a similar type constructed in the State or other applicable geographic area.

(b) The grantee, shall, in developing plans for the facilities, consider excellence of architecture and design, and inclusion of works of art. The grantee may not spend more than 1 percent of the cost of the project on inclusion of works of art.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.157; 112.2(h); 1422.1(c); ESEA section 502(b)(c))

§ 100a.608 Areas in the facilities for cultural activities.

The grantee shall make reasonable provision, consistent with the other uses to be made of the facilities, for areas in the facilities which are adaptable for artistic and other cultural activities.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.173; 1422.11)

§ 100a.609 Comply with safety and health standards.

In planning for and designing facilities the grantee shall observe nationally recognized safety and health standards and codes, including:

(a) National Fire Protection Association standards;

(b) Standards under the Occupational Safety and Health Act of 1970 (Pub. L. 91-576); and

(c) State and local codes, to the extent that they are more stringent.

(29 U.S.C. 651)

(Sources: 100a.184; 1422.5)

§ 100a.610 Access by the handicapped.

Each grantee shall comply with the Federal regulations on access by the handicapped that apply to construction and alteration of facilities. These regulations are—

(a) For residential facilities—24 CFR Part 40; and

(b) For non-residential facilities—41 CFR Subpart 101-19.6.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.189; 105.503(e); 1422.33)

§ 100a.611 Avoidance of flood hazards.

In planning the construction, the grantee shall, in accordance with the provisions of Executive Order No. 11988 of February 10, 1978 (43 FR 6030) and such rules and regulations as may be issued by the Secretary to carry out those provisions—

(a) Evaluate flood hazards in connection with the construction; and

(b) As far as practicable, avoid uneconomic, hazardous, or unnecessary use of flood plains in connection with its construction.

(E.O. No. 11296.)

(Sources: 100a.190; 112.2(e)(2); 1422.37)

§ 100a.612 Supervision and inspection by the grantee.

The grantee shall maintain competent architectural engineering supervision and inspection at the construction site to insure that the work conforms to the approved drawings and specifications.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.172; 1422.25)

§ 100a.613 Relocation assistance by the grantee.

The grantee is subject to the regulations on relocation assistance and real property acquisition in part 15 of this title.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.191; 1422.39)

§ 100a.614 Grantee must have operational funds.

The grantee shall insure that sufficient funds will be available when construction is completed for effective operation and maintenance of the facility.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.171; 1422.15)

§ 100a.615 Operation and maintenance by the grantee.

The grantee shall operate and maintain the facilities in accordance with applicable Federal, State, and local requirements for the operation and maintenance of those facilities.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.170; 1422.31)

Equipment and Supplies

§ 100a.618 Charges for use of equipment or supplies.

A grantee may not charge students or school personnel for the ordinary use of equipment or supplies purchased with grant funds.

(20 U.S.C. 1221e-3(a)(1))

(Source: 134.82)

Publications and Copyrights

§ 100a.620 General conditions on publication.

(a) *Content of materials.* Subject to any specific requirements that apply to its grant, a grantee may decide the format and content of project materials that it publishes or arranges to have published. However, the grantee shall avoid race stereotype or sex bias in project materials, as used in this section—

(1) "Race stereotype" means an assumption that members of a racial group share common abilities, interests, values, or roles because they are members of that group; and

(2) "Sex bias" means an attitude that supports structuring the educational development of boys and girls differently on any basis other than physiological differences.

(b) *Required statement.* The grantee shall insure that any publication that contains project materials also contains the following statements:

"The contents of this (insert type of publication: e.g., book, report, film) were developed with financial assistance from the (insert name of agency in the Education Division that provided the grant). Department of Health, Education, and Welfare. However, those contents do not necessarily represent the position or policy of that agency and a reader should not infer endorsement by the Federal Government."

(20 U.S.C. 1221e-3(a)(1))

§ 100a.621 Copyright policy for grantees and contractors.

(a) A grantee may copyright project materials in accordance with Part 74 of this title.

(b) A contractor may not copyright any project materials developed under the contract unless specifically permitted in the contract.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.622 Definition of "project materials."

As used in § 100a.620 "project materials" means copyrightable work developed with funds from a grant or contract of the Education Division.

(20 U.S.C. 1221e-3(a)(1))

Inventions and Patents

§ 100a.625 Invention and patent policy.

Grantees and contractors are subject to the HEW policy regarding inventions and patents in 45 CFR Parts 6 and 8.

§ 100a.626 Show federal support; give papers to vest title.

(a) Any patent application filed by the grantee for an invention made under a grant shall include the following statement in the first paragraph:

"The invention described in this application was made under a grant from the (insert name of agency in the Education Division that gave the grant). Department of Health, Education, and Welfare."

(b) On request, the grantee shall furnish HEW with executed instruments prepared by the Federal Government, and other papers that may be necessary, to vest in the Federal Government the rights reserved to it in accordance with a determination made in accordance with Part 8 of this title. These instruments and papers enable the Government to apply for and prosecute a patent application, in any country, to cover each invention for which the Federal Government has the right to file an application.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100-100d App. A para. 12; 1409.5; 1415.17)

Other Requirements for Certain Projects

§ 100a.680 Participation of children enrolled in private schools.

If the authorizing statute for a program requires that a grantee must provide an opportunity for participation by children enrolled in private schools, the grantee shall provide that opportunity in accordance with the requirements that apply to subgrantees under §§ 100b.650-100b.663 of this title.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 123.18(d); 158.29; 158.30; 160b.25(b) + (c); 162.12(c)(2)(i)(C) + (c)(2)(ii)(B); 162.40(b)(2)(ix); 185.42(a) + (b)(2) + (e) - (h); 185.95-6)

§ 100a.681 Indian Self-Determination and Education Assistance Act.

The Indian preference provisions of Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) apply to the following programs:

(a) Vocational education—The contract program for Indian Tribes and Indian Organizations (see Subpart 2 of Part 105 of this title).

(b) The Indian Education Act (Part B) (See Part 187 of this title).

(c) The Indian Education Act (Part C) (See Part 188 of this title).

(25 U.S.C. 450e(b))

(Sources: 105.202; 187.3; 188.4)

§ 100a.682 Protection of human research subjects.

If a grantee uses a human subject in a research project, the grantee shall protect the person from physical, psychological, or sociological harm.

(20 U.S.C. 1221e-3(a)(1))

(Source: 1410.2)

§ 100a.683 Treatment of animals.

If a grantee uses an animal in a project, the grantee shall provide the animal with proper care and humane treatment in accordance with the Animal Welfare Act of 1970.

(Pub. L. 89-544, as amended).

(Sources: 100a.270; 100-100d App. A para. 24; 1410.3)

§ 100a.684 Health or safety standards for facilities.

A grantee shall comply with any Federal health or safety requirements that apply to the facilities that the grantee uses for the project.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100-11d App. A para. 16)

§ 100a.685 Day care services.

(a) If a grantee uses program funds to provide day care services, the grantee shall comply with the Federal Interagency Day Care Regulations in Part 71 of this title.

(b) The appropriate official of the Education Division may waive this requirement by publication of a notice in the Federal Register.

(20 U.S.C. 1221e-3(a)(1))

Subpart F—What are the Administrative Responsibilities of a Grantee?**General Administrative Responsibilities****§ 100a.700 Compliance with statutes, regulations, and applications.**

A grantee shall comply with applicable statutes, regulations, and approved applications, and shall use Federal funds in accordance with those statutes, regulations, and applications.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100-100d App. A para. 2a; 153.16(b)(2); 183.4(b)(3); 185.13(m); 1405.1)

§ 100a.701 The grantee administers or supervises the project.

(a) A grantee shall directly administer or supervise the administration of the project.

(b) The grantee may not transfer responsibility to others, in whole or in part, for using program funds or for carrying out of project activities.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.18(a); 100a.30; 100-100d App. A para. 15, 105.604(b); 105.624(a); 121c.10(b)(5)-(c); 123.14(b)(1); 123.24(b)(1); 123.33(b)(1); 132.7(c); 148.16(a); 148.26(a); 160a.21(a); 160b.22(e); 160c.11(d)(2); 162.11(b)(4)(i)-(iii); 162.61(d)(1)-(3); 183.4(b)(1); 185.13(b); 186.12(a); 1400.5; 1403.5(a); 1414.1(b))

§ 100a.702 Fiscal control and fund accounting procedures.

A grantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100-100d App. A para. 5a; 123.14(b)(3); 123.24(b)(3); 123.33(b)(3); 169.26(a)(15); 169.36(a)(12); 170.4; 171.7(a); 186.12(e); 192.4(i))

§ 100a.703 Obligation of funds during the grant period.

A grantee may only use grant funds for obligations it makes during the grant period.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.707 When obligations are made.

The following table shows when a grantee makes obligations for various kinds of property and services.

<i>If the obligation is for—</i>	<i>Then the obligation is made—</i>
(a) Acquisition of real or personal property	On the date the grantee makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the grantee	When the services are performed.
(c) Personal services by a contractor who is not an employee of the grantee	On the date the grantee makes a binding written commitment to get the personal services.
(d) Performance of work other than personal services	On the date the grantee makes a binding written commitment to get the work.
(e) Public utility services	When the grantee receives the services.

(f) Travel

(g) Rental of real or personal property
(h) A preaward cost that was properly approved by the appropriate official of the Education Division under the cost principles in Appendices C-F to Part 74 of this title.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100a.55)

§ 100a.708 Prohibition of subgrants.

A grantee may not make a subgrant under a program listed in 100a.1 unless specifically authorized by statute.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 160c.11(d)(1); 162.61(d)(2))

Reports**§ 100a.720 Financial and performance reports.**

(a) This section applies to the reports required under Subpart I (Financial reporting) and J (Performance reporting) or Part 74 of this title.

(b) A grantee shall submit these reports annually, unless the appropriate official of the Education Division allows less frequent reporting. However, a grantee of the National Institute of Education shall submit these reports quarterly.

(c) The appropriate official of the Education Division may, under § 74.7 (Special grant or subgrant conditions) or § 74.72(e) (Grantee accounting systems), require a grantee to report more frequently than annually.

(20 U.S.C. 1221e-3(a)(1))

Records**§ 100a.730 Records related to grant funds.****A GRANTEE SHALL KEEP RECORDS THAT FULLY SHOW—**

- The amount of funds under the grant;
- How the grantee uses the funds;
- The total cost of the project;
- The share of that cost provided from other sources; and
- Other records to facilitate an effective audit.

(20 U.S.C. 1232f)

(Sources: 100a.477; 100-100d App. A para. 5a-b; GEPA Section 437(a))

§ 100a.731 Records related to compliance.

A grantee shall keep records to show its compliance with Federal statutes and regulations that apply to the grant.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.732 Records related to performance.

(a) A grantee shall maintain records of significant project experiences and results.
(b) The grantee shall use the records under paragraph (a) to—

- Determine progress in accomplishing project objectives; and

(2) Revise those objectives, if necessary.
(20 U.S.C. 1221e-3(a)(1))

(Source: 172.52)

(Cross-reference: Procedures for revising objectives—See 45 CFR 74.103 (b) and (c))

§ 100a.733 Records related to State approval of applications.

(a) This section applies to programs that require State approval of applications.

(b) The State shall establish a complete case file on each application it receives.

(c) The State shall keep a full record of—
(1) Any hearing related to an application; and

(2) Any proceeding by which the State establishes relative priorities or recommends Federal shares for eligible projects.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 170.5; 171.9)

§ 100a.734 Record retention period.

A grantee is subject to the requirements in Subpart D of Part 74 of this title with respect to records that it must keep. However, Section 437(a) of the GEPA requires that a grantee must keep records for five years after the completion of the activity for which it uses grant funds.

(20 U.S.C. 1232c)

(Sources: 100a.477(a); 100-100d App. A para. 5e; 119.61; 170.5; 171.9; 192.12; GEPA Section 437(a))

Privacy**§ 100a.740 Protection of and accessibility to student records.**

Most records on present or past students are subject to the requirements of Section 438 of GEPA and its implementing regulations under Part 99 of this title. (Section 438 is the Family Educational Rights and Privacy Act of 1974.)

(20 U.S.C. 1231g)

(Sources: 185.91-3(c); GEPA Section 438)

§ 100a.741 Protection of students' privacy in research and testing.

(a) Section 439(a) of GEPA provides that parents or guardians of children who participate in a research or experimentation project funded by the Office of Education must be given access to instructional material used in that project; and

(b) A grantee shall comply with Section 439(b) of GEPA with respect to psychiatric or psychological examination, testing, or treatment of students as part of a project funded by the Office of Education.

(20 U.S.C. 1232h)

(Source: GEPA Section 439)

Data Collection by a Grantee**§ 100a.750 Approval by the Education Division.**

A grantee does not have to get approval from the Education Division for the use of a data collection instrument unless—

(a) Approval is specifically required under the grant; or

(b) Approval by OMB is required for some other reason under OMB Circular A-40.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.263(d)(1); 100-100d App. A para. 21)

Note.—The OMB review will be replaced by review by the Secretary under the "paperwork control" requirement in Pub. L. 95-561. Procedures for that review are being developed separately and may be incorporated in EDGAR at a later date. That review will cover activities of all Federal agencies whenever—

(a) The respondents are primarily educational agencies or institutions; and

(b) The purpose of these activities is to request information needed for the management of, or the formulation of policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

§ 100a.751 Procedures if approval is required.

If approval of a data collection instrument is specifically required under a grant, or if approval by the Office of Management and Budget is required under OMB Circular A-40 for some other reason, the grantee shall submit seven copies of each of the following to the appropriate official of the Education Division:

(a) The proposed data instrument.

(b) A completed Office of Management and Budget Standard Form 83.

(c) The supporting statement required in the "Instructions for Requesting OMB Approval under the Federal Reports Act," as set forth in Standard Form No. 83A.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100a.263(d)(2))

§ 100a.752 Responsibility for data collection.

Unless the Office of Management and Budget approves a data collection instrument, the grantee may not in any way represent or imply that the data is being collected by or for the Federal Government. This does not preclude the grantee from acknowledging the assistance it received under the grant.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100a.263(e))

§ 100a.753 Confidentiality of response.

In using data collection instruments, a grantee shall provide for anonymity and confidentiality of responses from individuals.

(20 U.S.C. 1221e-3(a)(1))

(Sources: 100a.263(c)(2); 1410.1)

§ 100a.754 Exception from coverage.

The regulations in §§ 100a.750-100a.753 do not apply to instruments that deal solely with—

(a) Functions of technical proficiency, such as scholastic aptitude, school achievement, and vocational proficiency;

(b) Routine demographic information; or

(c) Routine institutional information.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100a.263)

§ 100a.755 Definitions used in §§ 100a.750-100a.753.

As used in §§ 100a.750-100a.753:

"Data collection instrument" means a report form, application form, schedule, questionnaire, or similar instrument for getting answers to identical questions from ten or more respondents.

"Respondent" is an individual or organization from whom information is collected either directly or indirectly.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100a.263(a))

Subpart G—What Procedures Does the Education Division Use to Get Compliance?**§ 100a.900 Waiver of regulations prohibited.**

(a) No official, agent, or employee of HEW may waive any regulation that applies to an Education Division program, unless the regulation specifically provides that it may be waived.

(b) No act or failure to act by an official, agent, or employee of HEW can affect the right of the appropriate official of the Education Division to enforce a regulation.

(43 Dec. Comp. Gen. 31 (1963))

(Source: 100a.483)

§ 100a.901 Suspension and termination.

(a) The appropriate official of the Education Division uses the Department's Grant Appeals board to resolve disputes within the jurisdiction of that board. The regulations governing the Grant Appeals board are in Part 16 of this title (See 45 CFR 16.5 for jurisdiction of the board).

(b) The Commissioner may use the Education Appeals Board to resolve disputes that are not within the jurisdiction of the Grant Appeals Board.

(c) The following regulations in Part 74 of this title apply to suspension and termination of a grant:

(1) Section 74.113 (Violation of terms).

(2) Section 74.114 (Suspension).

(3) Section 74.115 (Termination).

(4) The last sentence of § 74.73(c) (Financial reporting after a termination).

(4) Section 74.112 (Amounts payable to the Federal Government).

(20 U.S.C. 1221e-3(a)(1))

(Sources: 111.1; 111.2(b)(c); 111.3; 111.4; 111.5; 111.6; 111.7; 111.8; 111.9; 111.10; 111.69(a) (third sent.) and (b)-(h))

§ 100a.902 Informal procedures.

Although either the appropriate official of the Education Division or the grantee may request an informal meeting regarding a proposed termination, the grantee is considered, for purposes of § 16.5(b)(2) of this title, to have exhausted Education Division informal procedures when the grantee receives the notice of termination.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100a.495(g)(2))

§ 100a.903 Effective date of termination.

Termination is effective—

(a) On delivery to the grantee of the notice of termination; or

(b) If the Grant Appeals Board takes jurisdiction of the termination proceeding, on final decision under § 16.10 of this title.

(20 U.S.C. 1221e-3(a)(1))

PART 100c—GENERAL**Sec.**

100c.1 Definitions that apply to all Education Division Programs.

100c.2 Records under the Freedom of Information Act.

Authority: Sec. 408(a)(1) of Pub. L. 90-247, as amended, 88 Stat. 559, 580 (20 U.S.C. 1221e-3(a)(1)), unless otherwise noted.

PART 100c—GENERAL**§ 100c.1 Definitions that apply to all Education Division programs.**

(a) Unless a statute or regulation provides otherwise, the definitions in this section apply to the regulations for—

(1) The Museum Services Program (Part 64 of this title);

(2) Programs of the Office of Education (Parts 100-199 of this title);

(3) Programs of the National Institute of Education (Parts 1400-1499 of this title); and

(4) Programs of the Office of the Assistant Secretary for Education (Parts 164 and 1501 of this title).

(b) The following definitions in Part 74 of this title apply to the regulations listed in paragraph (a) of this section. The section of Part 74 which contains the definition is given in the parentheses.

Budget (74.104)

Contract (includes definition of SUBCONTRACT) (74.3)

Equipment (74.132)

Federally recognized Indian tribal government (74.3)

Grant (74.3)

Grantee (74.3)

HEW (74.3)

Local government (74.3)

Personal property (74.132)

Real property (74.132)

Recipient (74.3)

Subgrant (74.3)

Subgrantee (74.3)

Supplies (74.132)

(c) The following definitions also apply to the regulations listed in paragraph (a) of this section:

"Acquisition" means taking ownership of property, receiving the property as a gift, entering into a lease-purchase arrangement, or leasing the property. The term includes processing, delivery, and installation of property.

(Sources: 134a.5; 117.20; 100.1; 131.2)

"Applicant" means a party requesting a grant or subgrant under a program of the Education Division.

(Sources: 100.1; 114.1(b); 115.3(b); 1400.1)

"Application" means a request for a grant or subgrant under a program of the Education Division.

(Sources: 100.1, 1400.1, 115.3(c), 114.4)

"Appropriate Official of the Education Division" means the official that has overall administrative responsibility for an Education Division program. For each program, that official is one of the following—

(a) The Assistant Secretary;

(b) The Commissioner;

(c) The Director of the National Institute of Education; or

(d) The Director of the Institute of Museum Services.

"Assistant Secretary" means the Assistant Secretary for Education of the Department of Health, Education, and Welfare or an official or employee of the Education Division to whom the Assistant Secretary has delegated authority.

(Source: 185.02(a))

"Award" means an amount of funds that the Education Division provides under a grant or contract.

(Source: 1400.1)

"Budget Period" means an interval of time into which a project period is divided for budgetary purposes.

(Source: HEW GAM 1-85; 100.1; 1400.1)

"Commissioner" means the U.S. Commissioner of Education or an official or employee of the Office of Education to whom the Commissioner has delegated authority.

(Sources: 100.1; 105 App A; 100-100d App A para. 1(2); 190.2(d); 116.2(b))

"Department" means the U.S. Department of Health, Education, and Welfare.

(Sources: 100-100d App A para. 1(b); 1400.1)

"EDGAR" means the Education Division General Administrative Regulations (parts 100a, 100b, and 100c of this title).

"Director of the Institute of Museum Services" means the Director of the Institute of Museum Services or an officer or employee of the Institute of Museum Services to whom the Director has delegated authority.

"Director of the National Institute of Education" means the Director of the National Institute of Education or an officer or employee of the National Institute of Education to whom the Director has delegated authority.

"Education Division" means the HEW agency, headed by the Assistant Secretary, that is composed of—

(a) The Office of the Assistant Secretary (which includes the National Center for Education Statistics);

(b) The Office of Education;

(c) The National Institute of Education; and

(d) The Institute of Museum Services.

(Source: GEPA Section 401)

"Elementary school" means a day or residential school that provides elementary education, as determined under State law.

(Sources: 160f.2; 191.12; 100.1; 116.2(b) App. sec. 403)

"Facilities" means one or more structures in one or more locations.

(Sources: 153.3; 1422.1(b); 100b.156)

"Fiscal year" means a period beginning on October 1 and ending on the following September 30.

(Source: 100.1; 1400.1; 1501.3)

"GEPA" means The General Education Provisions Act.

"Grant period" means the period for which funds have been awarded.

(Sources: HEW GAM 1-85; 100-100d App A para. 1(h); 1400.1; 100.1)

"Local educational agency" means:

(a) A public board of education or other public authority legally constituted within a State for either administrative control or

direction of, or to perform service functions for public elementary or secondary schools in—

(1) A city, county, township, school district, or other political subdivision of a State; or

(2) Such combination of school districts or counties as a State recognizes as an administrative agency for its public elementary or secondary schools; or

(b) Any other public institution or agency that has administrative control and direction of a public elementary or secondary schools.

(Sources: 129.1(f); 127.1(j); 121.2; 121a.8; 160f.2; 116.2(b); 181.2; 141.1; 104 App A; 197.2; 123.02(d); 196.12; 160.3; 123.02(d); 144.2; 166.73(a); 182.2; 160b.2; 124.2; 112.1; 160a.3; 185.02; 160g.2; 127.2; 113.1; 172.3; 134.2; 114.1(m); 158.2; 118.2; 117.2; 160.2; 160c.2; 186.2; 118.23)

"Minor remodeling" means minor alterations, in a previously completed building. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building. The term does not include building construction, structural alterations to buildings, building maintenance, or repair.

(Sources: 1400.1; 100.1; 134.2; 141.1; 142.3; 186.2)

"Nonprofit", as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

(Sources: 160f.2; 175.2; 190.2; 100.1; 1501.3)

"Nonpublic" as applied to elementary or secondary school means nonprofit elementary or secondary school that is operated or controlled by an organization that is not a public agency.

(Sources: 160.62; 191.12; 160b.2; 197.2)

"Preschool" means the educational level from a child's birth to the time at which the State provides elementary education.

(Source: 100.1)

"Private" as applied to an agency, organization, or institution, means that it is not under public supervision or control.

(Sources: 1401.1; 1501.3)

"Project" means the activity described in an application.

(Source: HEW GAM 1-85)

"Project period" means the period for which the appropriate official of the Education Division approves a project.

(Source: HEW GAM 1-85; 1400.1)

"Public", as applied to an agency, organization, or institution, means that the agency, organization, or institution as under the administrative supervision or control of a government other than the Federal Government.

(Source: 1400.1; 1501.3)

"Secondary school" means a day or residential school that provides secondary education, as determined under the State law. In the absence of State law, the Commissioner determines whether the term includes education beyond the twelfth grade.

(Sources: 155.4(f); 159.2; 160f.2; 100.1; 141.1; 191.12; 118.2(b))

"Secretary" means the Secretary of the Department of Health, Education, and Welfare, or an official or employee of the Department to whom the Secretary has delegated authority.

(Sources: 1400.1; 105 App A; 100.1)

"Service function", with respect to a local educational agency—

(a) Means an educational service that is performed by a legal entity, such as an intermediate agency—

(1)(i) Whose jurisdiction does not extend to the whole State; and

(ii) That is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools; or

(2) That has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools.

(b) The term does not include a service that is performed by a cultural or educational resource.

(Source: 100.1)

"State" includes each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(Sources: 107.1(h); 117.2; 119.1(n); 123.02(h); 129.1(n); 130.3; 141.1; 148.2; 154.2; 155.2; 157.2; 159.2; 160.3; 160c.2; 180.3; 189.1; 192.2; 121a.15; 105 App. A; 153.3; 158.2; 178a.2; 187.2; 193.2; 191.12; 175.2; 178.2; 190.2; 172.3)

"State educational agency" means the State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in a State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law.

(Sources: 197.1; 107.1(1); 121.2; 134.2; 160a.3; 160g.2; 185.02; 158.2; 197.2; 184.03; 117.1; 123.02(1); 141.1; 160b.2; 182.2; 168.2; 187.2; 116.2(b); 160f.2; 172.3; 166.73(a); 119.1(0); 129.1(1); 160.3; 160d.2; 191.12)

"Work of art" means an item that is incorporated into facilities primarily because of its aesthetic value.

(20 U.S.C. 1221e-3(a)(1))

(Source: 100.1)

§ 100c.2 Records under the Freedom of Information Act.

The Education Division makes records available in accordance with the Freedom of Information Act and the Department's regulations in part 5 of this title. The Education Division uses the fee schedule in § 5.1.

(5 U.S.C. 552)

(Sources: 100.5; 100.6; 100.7)

[FR Doc. 79-36203 Filed 11-23-79; 8:45 am]

BILLING CODE 4110-02-M

Social Security Administration

45 CFR Part 205

Aid to Families with Dependent Children; Increased Federal Financial Participation

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These regulations provide the rules we will use in the Aid to Families with Dependent Children (AFDC) program to increase our Federal matching payments to States with low error rates. Increased Federal Financial Participation (FFP) is available to States with a dollar error rate of less than 4 percent in any 8 month sample period. The "dollar error rate" includes the value of payments to ineligible families, overpayments and underpayments to eligible families, and estimated nonpayments to families incorrectly terminated or denied assistance. For each one-half percentage point below 4 percent in which a State's dollar error rate falls, we will give the State 10 percent of the Federal share of money saved, up to a maximum of 50 percent. The 50 percent maximum will apply if a State's dollar error rate is below 2 percent.

EFFECTIVE DATE: The regulations are effective November 26, 1979. However, in accordance with the law which these rules reflect, increased FFP for States with low error rates is available beginning January 1, 1978.

FOR FURTHER INFORMATION CONTACT: Sean Hurley, Division of AFDC Quality Control 202-245-8999.

SUPPLEMENTARY INFORMATION:

Introduction

We require the States to operate a quality control (QC) system for the AFDC program. The primary purpose of this system is threefold: (1) to supply State and Federal administrators with information concerning the correctness of eligibility determination and payment amounts; (2) to evaluate the correctness of actions taken to deny or terminate assistance; and (3) to provide information on the nature and cause of error so that corrective action and other administrative improvements may be made.

The AFDC quality control system is essential for promoting correct expenditures of public assistance funds. Since the inception of the current quality control program in AFDC, incorrect expenditure error rates have declined dramatically. The AFDC erroneous

payment error rate (payment to ineligible families and overpayments to eligible families) declined from 16.5 percent in 1973 to 8.6 percent in 1977. To encourage further improved State management of the program, Congress in the 1977 amendments to the Social Security Act, provided for an increase in Federal matching for States with error rates below 4 percent. In order to ensure that State error rate reduction would not result in underpayments or indiscriminate denial of applications or terminations of assistance, the 4 percent error rate includes incorrect denials and terminations as well as underpayments.

Response to Public Comments

The Notice of Proposed Rulemaking was published in the Federal Register on November 20, 1978 (43 FR 54105).

Comments were received from 33 State and local welfare departments, 3 legal aid organizations and 2 private individuals, and other public and private organizations. The significant comments and our responses follow:

Appropriateness of 4 Percent Standard

Comment: Most States were against use of a 4 percent dollar error rate as the standard below which increased FFP would be provided. Their reasons ranged from the belief that the 4 percent standard provided little incentive for error reduction because potential increased FFP would be offset by cost of reducing error rates below 4 percent, to the need for several standards to recognize variation in program complexity between States. Some States suggested that the 4 percent dollar error rate standard include only payments to ineligible families and overpayments to eligible families.

Response: The 4 percent standard and the component error rates that make it up are specified in section 403(j) of the Social Security Act. We have no discretion in the application or the amount of the incentive payment. We have proposed a statutory amendment (section 123 of H.R. 4321, "The Social Welfare Reform Amendments of 1979") to provide for a separate case error rate tolerance for incorrect negative case actions. States would be required to achieve both error rate standards to receive increased FFP. This proposed amendment would serve the purpose of retaining a review of negative case action and would make the 4 percent standard a more achievable goal since the negative case error rate would not be added to the payment error rate for active cases. The Congressional intent that error reduction would not be accomplished through incorrect denial

of applicants or termination of recipients would be retained.

Use of Average Payment

Comment: A number of States expressed concern about the proposed use of the average amount of payment to sampled cases receiving AFDC in a 6-month quality control period in calculating the dollar error value of negative case action errors. States view this proposed method as overstating the dollar error rate since erroneously denied and terminated cases would more likely have an average lower dollar entitlement than the average for all sampled active cases. Some commenters suggested that States close to the 4 percent standard determine the actual amount of payments erroneously denied or terminated.

Response: The Social Security Act (section 403(j)) requires that we provide increased FFP to States with error rates below 4 percent beginning with the January-June 1978 sample period. We recognize that use of an average payment may over or underestimate the actual amount of dollars that should have been paid. Any alternative short of re-creation of the data would be subject to the same bias. We do not believe that re-creation of the January-June 1978 sample data or the conduct of a full eligibility review for subsequent periods is a viable alternative since it would require considerable Federal and State staff resources.

Use of QC System

Comment: A number of States commented that the quality control system was developed as a State management tool and should not be used to adjust FFP. The system to be used for both purposes should be modified or redesigned. Several States suggested that any incentive payments should not be made until the QC system is modified.

Response: The quality control system is the only existing system that generates State and national error rates. Congress has determined that incentive payments would be based on State performance as indicated by the QC system. These payments are required to be made beginning with the January-June 1978 period.

Timely Notice Errors

Comment: States objected to calculating dollar amounts of error for error due to failure to comply with timely notice and hearing requirements since these were viewed as procedural omissions.

Response: The hearing regulations require that recipients receive timely

notice of intended State action to terminate assistance. Where a State does not comply with the timely notice or hearing requirements, the recipient is denied assistance which the agency is required to provide.

Alternative Methods for Calculating Incentive Payments

Comment: States and other commenters suggested a variety of different methods for determining the basis for and extent of increased FFP. These alternatives included excluding negative case action errors and underpayments from the calculation of the incentive amount; crediting an amount when assistance was correctly denied or terminated; and adding an assigned positive dollar value for underpayments and negative case action errors to the erroneous payment rate.

Response: The proposed alternatives would have the effect of increasing the amount of the incentive as well as eligibility of States for an incentive payment contrary to section 403(j) of the Social Security Act. As previously discussed, we have proposed a statutory amendment to provide for a separate case error rate tolerance for incorrect negative case actions.

Description of Incentive Calculation

Comment: Several States said that the final regulation should provide a detailed description of how we would calculate incentives.

Response: The final rule includes a detailed description.

Counting Procedural Eligibility

Comment: Some States objected to including procedural errors like the absence of Work Incentive (WIN) program registration or social security number in the calculation of the dollar error rate and the erroneous payment rate. They argue that since these errors do not result in a dollar loss when the error is corrected, they should not be included in the calculation of these error rates.

Response: The dollar error rate and the erroneous payment error rate will include these errors. These are basic statutory eligibility requirements and we must ensure that all eligibility requirements are met.

Agency Errors Only Should Be Counted

Comment: Some commenters suggested that only agency errors, not those caused by recipients, should be counted in determining the payment error rate.

Response: We believe that many recipient errors are controllable as

shown by the more than 50 percent reduction in these errors since 1973. If we do not include these errors in the dollar error rate, the States would not have as great an incentive to develop systems that are responsive to nonreporting and incorrect reporting errors. Moreover, the statute does not make any distinctions based on the cause of errors.

The \$5 Disregard

Comment: Several States objected to the \$5 disregard before we cite an incorrect payment as an error. The States contended that in disregarding incorrect payments of less than \$5, we overlook incorrect payments of more than 6 percent of the average payment in States with the smallest payment levels, while overlooking incorrect payments of only 1 percent of the average payment in States with the highest payment levels.

Response: While this ratio will always exist between the largest and smallest average payment States as long as there is an error dollar tolerance in individual cases, the impact of such a tolerance on the 4 percent dollar standard error rate will be negligible. We do not believe we should distort the analysis of case or payment error rates with insignificant error amounts. Therefore, we will retain the less than \$5 error disregard.

Recoupment

Comment: One State suggested that the amount of a State's recoupment of misspent monies from sample cases should be used to lower its payment error rate.

Response: The payment error rate in the QC sample measures the rate of error in the entire caseload. The adjustment of misspent dollars by the amount of recoupment of these sampled cases distorts the extent of influence such adjustments have on misspent dollars in the entire caseload. For example assume that 10 percent of the misspent dollars in the sample were recouped. By adjusting the error rate we assume that 10 percent of all misspent dollars are recouped.

The Final Rules

Section 403(j) of the Act provides for increased FFP to States for any 6-month period beginning January 1, 1978. In the Notice of Proposed Rulemaking we established the QC sample period on a calendar year basis, i.e., January-June, July-December. In these final regulations, we have shifted the QC sample period to the Federal fiscal year cycle, i.e., April-September, October-March beginning with April 1978. We are making this change so these

regulations will conform with the fiscal year cycle contained in the QC regulations published in the Federal Register on March 7, 1979 (44 FR 12579). Since FFP is paid on a quarterly basis, both the January-June 1978 and April-September 1978 dollar error rates apply to the April-June 1978 calendar quarter. The smaller of the two reporting period dollar error rates will be used in determining a State's eligibility for and amount of increased FFP for that quarter.

In addition, for greater clarity and easier reading we have provided an introductory paragraph, rearranged the rules in a more logical sequence and included an example of how States receive increased FFP for low error rates. Finally, we have renumbered the new section as 205.43, rather than 205.42 which was used in the NPRM. Accordingly, with these clarifying and editorial changes this regulation is adopted as set forth below.

(Sections 403, 407, and 1102 of the Social Security Act, as amended; 49 Stat. 828 as amended; 75 Stat. 75 as amended; 49 Stat. 647 as amended; 42 U.S.C. 603, 607, and 1302.) (Catalog of Federal Domestic Assistance Programs No. 13.761—Public Assistance—Maintenance Assistance (State Aid))

Dated: October 22, 1979

Stanford G. Ross,
Commissioner of Social Security.

Approved: November 7, 1979.

Patricia Roberts Harris,
Secretary of Health, Education, and Welfare.

45 CFR Part 205 is amended by adding a new § 205.43 to read as follows:

§ 205.43 Increase in Federal financial participation (FFP) for States with low error rates.

(a) *Purpose.* (1) This section provides the rules we will use to determine whether we will increase the amount of Federal matching funds (Federal financial participation or FFP) we give to a State and, if so, the amount of the increase. Basically, we will increase the amount of matching funds to States with low error rates in their AFDC program as allowed under rules in this section. These rules apply to all States which have an AFDC program.

(2) We will use the data from the quality control system (see § 205.40) in each State and the Federal monitoring system in determining the amount of incorrect payments and payments that should have been made. The quality control (QC) system provides data on incorrect payments and nonpayments for every 6-month period.

(b) *Definitions.* For purposes of this section—

"Assistance payment error rate" means the combined dollar amounts of a State's incorrect payments to ineligible families receiving assistance and overpayments and underpayments to eligible families receiving assistance, expressed as a percentage of the State's total payments.

"Dollar error rate" means the error rate obtained by combining the assistance payment error rate for ineligible, overpaid and underpaid cases with an estimated nonpayment error rate that results from incorrect terminations and denials.

"Erroneous excess payments" means the total of erroneous payments to ineligible families receiving assistance and overpayments to eligible families receiving assistance.

"Nonpayment error rate" means the estimated dollar amounts of a State's incorrect terminations and denials, expressed as a percentage of a State's total payments.

"Termination and denial error rate" means the number of a State's incorrect actions to terminate or deny assistance, expressed as a percentage of a State's total number of terminations and denials.

"We" means the Department or the Social Security Administration, as appropriate.

(c) *General.* In these rules we are establishing the basis under which States will receive increased FFP for dollar error rates below 4 percent. The increased FFP will be available beginning with the January-June 1978 quality control sample period and for subsequent periods. Beginning April 1978 the 6-month QC sampling periods will conform with the Federal fiscal year cycle, i.e., April-September, October-March. For each one-half percentage point below 4 percent, in which a State's dollar error rate falls, a State will receive an additional 10 percent of the Federal share of money saved, up to a maximum of 50 percent if the State's dollar error rate is below 2 percent. To figure the amount of increased FFP requires a two step computation. We first establish the dollar error rate. This rate determines a State's eligibility for increased FFP and, for eligible States, the percentage adjustment, between 10 and 50 percent, that will be applied in the 6-month period. The next step is to determine the State's erroneous excess payments and what those payments would have been at a rate of 4 percent. The percentage adjustment is applied to the difference. We describe this process in detail in the following paragraphs of this section.

(d) *How we establish a dollar error rate.*—(1) *Information we will use.* We will use the information provided by the Federal/State quality control system. This system measures the dollar amount of incorrect payments and the number of incorrect terminations and denials for every 6-month period.

(2) *How we use the information.* We will obtain a dollar error rate of incorrect payments and nonpayments in the following manner:

(i) We will figure the dollar amount of incorrect payments by multiplying the State assistance payment error rate for ineligibility, overpayments and underpayments by the total of State expenditures to AFDC families subject to sampling under the AFDC QC system in the 6-month period.

(ii) We will figure the dollar amount of incorrect nonpayments as follows:

(A) Obtain a total number of incorrect terminations and denials by multiplying the State's termination and denial error rate by the total number of terminations and denials subject to sampling under the AFDC QC system in the 6-month period; and

(B) Obtain a dollar amount for incorrect nonpayments by multiplying the total number of incorrect terminations and denials in step (A) by the average monthly cash payment made to AFDC QC sample cases in the 6-month period.

(iii) We will obtain the dollar error rate by dividing the sum of the dollar amounts of incorrect payments and nonpayments in steps (i) and (ii) by the total of State expenditures to AFDC families subject to sampling under the AFDC QC system in the 6-month period.

Example

The total State payments made to AFDC families subject to sampling under the AFDC QC system in a 6-month period are \$1,000,000. The assistance payment error rate for ineligibility (1 percent), overpayments (1.4 percent), and underpayments (0.1 percent) is 2.5 percent. This equates to incorrect payments of \$25,000 (2.5 percent × \$1,000,000). The termination and denial error rate is 0.5 percent. There were 4,000 terminations and denials subject to sampling in the 6-month period and the average monthly cash payment made to AFDC sample cases in the period was \$250. Therefore, the estimated incorrect nonpayment dollar amount would be \$5,000 (0.5 percent × 4,000 × \$250). The dollar error rate is the sum of \$25,000 and \$5,000 divided by \$1,000,000, or 3 percent.

(e) *How increased FFP will be determined.*—(1) *What percentage*

adjustment is applied. We will apply the following percentage adjustment:

If the dollar error rate is—	Percentage adjustment applied
4 percent or greater	0
at least 3.5 percent but less than 4 percent	10
at least 3 percent but less than 3.5 percent	20
at least 2.5 percent but less than 3 percent	30
at least 2 percent but less than 2.5 percent	40
Less than 2 percent	50

(2) *How the percentage adjustment is applied.* States with a dollar error rate of less than 4 percent will receive increased FFP. The adjustment percentage provided in paragraph (e)(1) of this section will be applied to the difference between a State's erroneous excess payments and what those payments would have been at a rate of 4 percent.

Example

Using the example in paragraph (d)(2) of this section, the amount of increased FFP would be determined as follows. The amount of erroneous excess payments is obtained by multiplying the combined payment error rate for ineligibility and overpayments (2.4 percent) by the total payments made to AFDC families (\$1,000,000). This equates to \$24,000. If the combined payment error rate for ineligibility and overpayments were 4 percent the erroneous excess payments would have been \$40,000, or \$16,000 more. Assuming the Federal share is 50 percent the Federal share of the \$16,000 difference would be \$8,000. Since the State has a 3 percent dollar error rate the percentage adjustment is 20 percent. The increase in FFP would therefore, by \$8,000 × 20 percent, or \$1,600.

[FR Doc. 79-35639 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-07-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1067

Revision Access to Publications: Federal Register and the Code of Federal Regulations

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: Since 1972 the Community Services Administration (CSA) has utilized a dual issuance system or all rules; publication of its rules in the Federal Register and distribution of these same rules as CSA Instruction. CSA is now moving towards using the Federal Register and the Code of Federal Regulations as its sole issuance

system for all rules and will discontinue issuing CSA Instructions early in 1980. CSA now requires that all grantees purchase copies of the Code of Federal Regulations in addition to subscribing to the Federal Register. Based on CSA's published rules, CSA has determined that this is not a significant rule.

EFFECTIVE DATE: This rule is effective December 26, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Rita C. Kane, 1200 19th Street, NW., Washington, D.C. 20506. Telephone: (202) 254-5047.

SUPPLEMENTARY INFORMATION: Prior to 1972 the Community Services Administration (CSA), formerly the Office of Economic Opportunity, was not required by statute to codify and publish its regulations in the Federal Register. Between 1964 and 1968 CSA issued its regulations in booklets known as Community Action Guides Volumes I and II and through Community Action Memos. Beginning in 1968 all directives were issued in the form of OEO/CSA Instructions.

In 1972 Section 623 [redesignated Section 622, November 2, 1978] of the Economic Opportunity Act of 1964, as amended, required that all new rules, regulations, guidelines, instructions and application forms be published in the Federal Register. Since 1972 CSA has utilized a duplicate issuance system for all rules: Publication of its rules in the Federal Register and distribution of these same rules as CSA Instructions to its grantees. CSA now is moving towards use of the Federal Register as the sole source of publication of its rules. As of October 1, 1979 all CSA Rules (except CSA Instruction 6710-1) have been published in the Federal Register.

The Code of Federal Regulations (CFR) is a codification of the general and permanent Rules published in the Federal Register by the Executive departments and agencies of the Federal Government. Each Volume of the Code is revised at least once each calendar year. The Code is kept up to date by the individual issues of the Federal Register. These two publications, used together, determine the latest version of any given Rule. Each annual volume of the Code contains amendments published in the Federal Register since the last publication.

Upon publication of the October 1, 1979 Volume of the Code of Federal Regulations (CFR), Title 45, Part 500 to end, which will be available for distribution (and purchase) in the Spring of 1980, CSA will use the CFR and the daily issues of the Federal Register as the systems for making available for

public use its rules and regulations. At that time CSA will discontinue the issuance of its Instructions.

Grantees will be required to purchase a copy of the CFR, Title 45, Part 500 to end in addition to subscribing to the Federal Register which they are already required to do.

Each grantee should assure that at least one copy of all Community Service Administration Rules are forwarded to the Director of each of its delegate agencies, CAA Board Members, and that CSA Rules are available to the general public.

Graciela (Grace) Olivarez,
Director.

45 CFR §§ 1067.6-1—1067.6-4 and the Subpart heading are revised as follows:

Subpart 1067.6—Access to Publications: Federal Register and the Code of Federal Regulations (CSA Instruction 7000-1a)

Sec.

1067.6-1 Applicability.

1067.6-2 Policy.

1067.6-3 Procedures.

1067.6-4 Allowable Cost.

Authority: Sec. 602, 78 Stat. 530, 42 U.S.C. 2974.

Subpart 1067.6—Access to Publications: Federal Register and the Code of Federal Regulations (CSA Instruction 7000-1a)

§ 1067.6-1 Applicability.

This subpart applies to all grants funded under Titles II, IV and VII of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1067.6-2 Policy.

(a) CSA publishes all proposed and final rules in the Federal Register (Monday and Thursday). CSA's General Conditions Governing Grants states that "Program funds expended under authority of this funding action are subject to the provisions of . . . Community Services Administration (CSA) directives." Therefore in order to have available these directives (rules and regulations) CSA requires grantees to subscribe to the Federal Register at \$50 a year. (This subscription includes the monthly publication list of CFR sections affected (LSA) and the index to the Federal Register.)

(b) Grantees are also required to purchase the Code of Federal Regulations (CFR), Title 45, Part 500 to end, (only) beginning with the October 1, 1979 edition which should be available in the spring of 1980. The price of this edition and the subscription form will be

published in the Federal Register. These two publications, the Federal Register and the Code of Federal Regulations will provide grantees with a complete and up-to-date set of all current CSA rules.

(c) In the interim period, between October 1, 1979 and publication of the 1979 edition of the Code of Federal Regulations (CFR) in the Spring of 1980, new grantees are required to purchase the October 1, 1978 edition of the CFR, Title 45, Part 500 to end, at \$8.25 per copy in addition to subscribing to the Federal Register.

(d) CSA will automatically forward to these new grantees the October 1, 1979 issue of the Federal Register and copies of all other rules published in the Federal Register since October 1, 1978 which, combined with the CFR will make up a complete set of CSA rules.

(e) Each grantee should assure that at least one copy of all CSA's Rules are forwarded to the Director of each of its delegate agencies, CAA Board Members, and that CSA Rules are available to the general public.

(f) CSA urges all grantees to purchase "The Federal Register: What It Is And How To Use It" at \$2.40 per copy. This Handbook is a guide for the user of the Federal Register and the Code Of Federal Regulations.

§ 1067.6-3 Procedures.

The Federal Register, the Code of Federal Regulations, and the "Federal Register: What It Is And How To Use It" (Stock No. 022-003-00953-1) can be purchased from: The Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 1067.6-4 Allowable cost.

Costs for these publications are an allowable cost charged to grant funds. They should be included under "Other Costs" on the budget form.

[FR Doc. 79-36383 Filed 11-23-79; 8:45 am]

BILLING CODE 6315-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1201

[No. 32153 (Sub-No. 7)]

Rebuilding Rule for Railroad Property Units¹

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission is revising its accounting

¹ This proceeding also embraces part of Docket No. 33145, Railroad Freight Car Per Diem Charges.

regulations for identifying railroad rebuilding expenditures (commonly referred to as the Rebuilding Rule, Instruction 2-11(b) of 49 CFR, Part 1201, Subpart A). The objective in revising the Rebuilding Rule is to provide more realistic guidelines for distinguishing railroad rebuilding expenditures from normal maintenance and repairs.

DATES: Effective January 1, 1979.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr. (202) 275-7448.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking and Order (NPR) served on April 24, 1979, and published in the Federal Register on April 30, 1979 (44 FR 25256), we made public that we had under consideration a revision to our accounting regulations for identifying railroad rebuilding expenditures. The existing Rebuilding Rule consists of quantitative criteria for use in distinguishing rebuilding expenditures for road and equipment property from ordinary repair and maintenance expenditures. Under this rule, a unit of road or equipment property is accounted for as rebuilt if the project costs exceed more than 50 percent of the current price of a comparable new unit of property. The current accounting regulation would lead to distortion of reported earnings by recognizing only the quantitative nature of repair expenditures and not the underlying benefits.

The revised Rebuilding Rule adopts the criteria required under generally accepted accounting principles (GAAP). GAAP differentiates between a repair and capital expenditure by analyzing the benefits of the expenditure. Restoration expenditures are capitalized if they appreciably extend the service life of the asset or expand its utility; otherwise, the expenditures are considered as merely maintaining or restoring the asset to normal operating condition and are accounted for as an expense. We received seven responses to the NPR. Five responses generally favored the new Rebuilding Rule and two opposed it.

The discussion which follows is arranged according to the subject matter of the various arguments raised by the respondents.

Need for the Accounting Change

Union Pacific (UP) and Southern Railway (Southern) oppose the accounting change because they believe the present regulations provide a sufficient accounting distinction between rebuilding expenditures and repair and maintenance expenditures. Southern believes the current regulations meet the requirements of

generally accepted accounting principles (GAAP).

We disagree. The present rule is based solely on a percentage criterion which does not always reflect the underlying benefits of an expenditure. Under the present rule, a rebuilding expenditure which extends the life of an asset will be accounted for as an expense if it does not exceed 50% of the current price of new comparable units of property. This is not the intent of GAAP. The proposed rule meets the intent of GAAP by distinguishing rebuilding expenditures from repair and maintenance expenditures by considering whether an expenditure substantially extends the life of an asset or merely maintains the asset. We believe this is an important distinction which is not provided for in the present rule.

Use of General Guidelines

UP and Southern believe the use of general guidelines leads to subjective judgments and different ledger values for similar equipment. UP and Southern believe using the general guidelines will make accounting control over these expenditures much more difficult.

We recognize that judgments are generally necessary in accounting processes. However, the life analysis techniques (Actuarial, Simulated Plant Record, etc.) currently used in determining the service lives of railroad properties would be helpful in assessing whether an expenditure substantially extended the life of a property. We do not believe this adopted GAAP would prove to be more difficult to audit than any other GAAP's adopted by the Commission previously on other subjects.

Association of American Railroads (AAR), Consolidated Rail Corporation (Conrail), Chessie System (Chessie), Richmond, Fredericksburg and Potomac (RF&P) believe the words "materially" and "substantially" cannot be quantified and should not be used in the proposed rule. Southern disagrees with their views and points out that deleting the materiality guideline would eliminate any remedy against flagrant abuses.

We agree with Southern on the need to maintain the references to materiality. The concept of materiality has long been considered a fundamental part of financial accounting. Numerous references to materiality may be found in accounting literature, including pronouncements of the Financial Accounting Standards Board, Securities and Exchange Commission and other institutions. The American Institute of Certified Public Accountants (AICPA)

stated in its Accounting Research Bulletin No. 1:

The committee contemplates that its pronouncements will have application only to items large enough to be material and significant in the relative circumstances. It considers that items of little or no consequence may be dealt with as expediency suggests.

It is in the same context that we have used the word "material" in our proposed rule.

On the other hand, examples of costs which would be expensed under the existing rule, but which will be capitalized under the new rule, include: (1) Rebuilding a boxcar by (a) reconditioning running gear, (b) strengthening underframe; and (c) replacing side panels, end panels and doors; (2) strengthening the undercarriage of flatcars to permit the carrying of additional weight; (3) rebuilding a diesel locomotive by replacing engines, generator, and traction motors; (4) increasing capacity of an open hopper car by inserting additional side and end panels; and (5) complete rehabilitation of draft and cushion underframe components of a boxcar.

Accounting Safeguards

AAR, Conrail, Chessie and RF&P believe the present Authority for Expenditure (AFE) procedures are adequate to account for capitalized rebuilding costs.

We agree that the AFE procedures are adequate to allow the necessary control over rebuilding expenditures. In keeping with our policy of minimizing the accounting and reporting burden, where they are unnecessary, we have deleted the additional accounting safeguards.

AAR Circular OT-37-B

AAR and the Chicago and Northwestern Transportation Company (C&NW) do not believe the proposed rebuilding rule would conflict with AAR Circular OT-37-B which provides guidelines for determining value and age of rebuilt, rehabilitated and secondhand cars for car-hire purposes. Chessie and Southern believe AAR should review the provisions of Circular OT-37-B. In light of these differences of opinion, we suggest that any differences be resolved to protect the intent of the circular for car-hire purposes.

Tax Consequences

AAR and UP have indicated that there may be tax consequences associated with the proposed accounting change. AAR believes the Internal Revenue Service may, because of our accounting change, revert to the use of the

extension of life test for use in distinguishing between capital and repair expenses which it used prior to 1971.

We have no evidence other than the statements made by AAR and UP to support this contention. We believe the accounting change will provide the Commission with improved information on accounting for rebuilding versus repair costs. We would not anticipate any major changes in present tax laws as a result of this accounting change.

Dismantling Costs

AAR and Conrail believe dismantling costs should be capitalized as a cost of the new unit. No reason was given.

We disagree. Dismantling costs are associated with the services of the old unit. Consequently, expenses associated with removal of the old unit should be expensed.

This rule does not significantly affect the quality of the human environment or energy consumption.

Accordingly, 49 CFR Part 1201, Subpart A, is revised as shown below.

This revision is issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553 and 559.

Decided: November 7, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis.

Agatha L. Mergenovich,
Secretary.

Appendix A

The text of instruction 2-11 "Units of Property rebuilt or converted" is revised as follows:

2-11 Units of Property rebuilt or converted.

(a) *Rebuilding expenditures.* Carriers shall be governed by the following provisions when determining and accounting for depreciable road and equipment property rebuilding expenditures:

(1) Rebuilding expenditures are those cost actually incurred which substantially extend the service life or substantially increase the utility of depreciable road and equipment property. The rebuilding expenditures shall be material in nature relative to the current replacement cost of a similar new unit of road or equipment property. Expenses resulting from delayed maintenance and repairs shall not be considered in determining materiality.

(2) The phrase "extend the service life" means to extend the life of a property unit past its estimated service life.

(3) The term "increased utility" means that the road or equipment property has

become more useful, more efficient, more durable, or has greater capacity.

(4) Rebuilt or converted road or equipment property shall be accounted for as an addition to the appropriate property accounts, with the old units accounted for as retired from service. The charge to the appropriate property accounts shall be composed of (i) the cost (estimated if necessary) less a fair allowance for depreciation, or salvage value, whichever is lower, of the parts reused, (ii) the cost of labor expended in rebuilding or in the conversion process, (iii) the cost of additional materials applied, and (iv) any other expenses incurred directly with the rebuilding or conversion. In no case shall the total amount charged to the property accounts for these units exceed the current replacement costs of similar new units that would be used for the same purpose. When a unit of road property or equipment is transferred from one class of service to another, with or without physical conversion, the unit shall be accounted for as retired from its original account and be recorded in a primary investment account appropriate to its new class of service.

(5) If it is necessary to repair the secondhand or reused parts remaining in a rebuilt unit, the repair cost may be added to the value assigned parts in determining the related cost to be capitalized. Associated dismantling costs shall be included in operating expenses.

(b) *Repair expenses.* Expenses pertaining to road and equipment property, which represent normal or delayed repairs and maintenance, shall be expensed in the year incurred.

(c) *File and Storage.* Carriers shall keep records of each rebuilding program readily available. These records shall be provided to representatives of the Commission when requested. The retention period shall be as required by 49 CFR Part 1220, Preservation of Records.

[FR Doc. 79-36313 Filed 11-23-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 44, No. 228

Monday, November 26, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1004

[Docket No. AO-160-A56]

Milk in the Middle Atlantic Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions based on industry proposals which were considered at a public hearing held July 10, 1979. The recommended amendments provide for changing the funding rate for the advertising and promotion program from a fixed level to a rate tied to the level of producers' pay prices in the market. The funding level would be increased from seven cents to an initial level of twelve cents per hundredweight. Producers who do not want to participate in the program would submit one refund request for the year's remaining calendar quarters. Refunds to producers would be made on a monthly basis rather than quarterly. A penalty charge of 1 percent on any overdue obligation of a handler would be due to the administrative expense fund. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

DATE: Comments are due on or before December 11, 1979.

ADDRESS: Comments (five copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing

Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing; issued June 20, 1979; published June 25, 1979 (44 FR 36985).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Middle Atlantic marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by December 11, 1979. Five copies of the exceptions should be filed. All written submissions made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing conducted at Philadelphia, Pennsylvania, on July 10, 1979. Notice of such hearing was issued June 20, 1979 (44 FR 36985).

The material issues on the record of the hearing relate to:

1. Funding rate for the advertising and promotion program.
2. Revision of administrative provisions of the advertising and promotion program.
3. Charges on overdue accounts.
4. Date payments are made from the producer settlement fund.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Funding rate for the advertising and promotion program.* The funding rate for the advertising and promotion program should be modified by changing the present 7-cent rate to a rate determined yearly by multiplying the simple average

of the monthly "weighted average prices" for the six-month period ending September 30 by one percent. The resulting figure would be the funding rate for the following calendar year.

Under the revised funding formula, a simple average of the "weighted average prices" for the six-month period ending September 30 would be computed by the market administrator as soon as possible after September 30. The average price would be multiplied by .01 and rounded to the nearest whole cent to determine the actual rate of assessment for the following calendar year (one percent of the producer pay price). As soon as possible after the rate of withholding is computed, the market administrator would notify in writing all producers currently on the market and any new producer that subsequently enters the market of the new withholding rate. This notification would be repeated annually thereafter only if there was any change in the rate from the previous period.

The advertising and promotion program was established under the Middle Atlantic order effective April 1, 1972. The program has been funded since its inception through a monthly assessment on milk delivered during the month by participating producers. The assessment rate was 5 cents per one hundred pounds of milk until January 1, 1977 when the rate was increased to 7 cents per hundredweight. The funds are deducted by the market administrator from the producer-settlement fund and turned over to an agency organized by producers and producers' cooperative associations. Certain reserves are withheld by the market administrator to cover refunds to producers and administrative costs.

The advertising and promotion agency is responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act. The scope of the agency's activities may include the establishment of research and development projects, advertising on a non-brand basis, sales promotion, and educational and other programs designed to improve or promote the domestic marketing and consumption of milk and its products.

The advertising and promotion program is a voluntary program. Accordingly, each producer, on a quarterly basis, is given an opportunity

to request a refund of the money withheld from his pool proceeds. About 11 percent of the producers in the market received a refund for the last quarter of 1978.

On behalf of four of its member-cooperatives that supply the majority of the milk regulated under Order 4, a federation of cooperative associations proposed that the funding rate for the advertising and promotion program be increased from 7 cents to one percent of the producer pay price. Another cooperative proposed that the deduction for advertising and promotion be increased to three-quarters of one percent of the average of the monthly weighted average prices for the twelve-month period ending September 30, rounded to the nearest whole cent (three-quarters of one percent of the producer pay price). The resulting figure would be the funding rate for the following calendar year. Proponents of both levels of increased funding contended that the program has contributed to an increase in Class I sales during various periods and has minimized declining sales during times of rising milk prices. It was their position, however, that the current funding rate is no longer adequate because inflation has caused the cost of the advertising and promotion activities to rise significantly faster than the program's resources. They also contended that inflation has caused a reduction in the amount of advertising and promotion and, thus, has reduced the effectiveness of the program.

The Order 4 advertising and promotion agency disburses the bulk of its available funds through Dairy Council, Incorporated (DCI) and the United Dairy Industry Association (UDIA). A spokesman for DCI presented information at the hearing regarding the Council's organizational structure, its activities and its need for additional funds to operate a more effective program.

During its 60 years of operation, DCI has provided nutritional education, including the support of milk and milk products, to consumers and professional leaders in medicine, education, nutrition, communications and the dairy industry. This has been accomplished through the use of films, radio, literature, personal contact and a staff of nutritionists.

In recent years DCI's primary source of support in the Middle Atlantic area has been Order 4 dairy farmers. The Council's witness stated that per capita funding has increased 13.6 percent since 1977. During this same period, however, inflation has eroded the buying power of these funds by 17 percent. While the

cost of films, literature, and labor have increased, the demand for DCI's services have not slackened. Over 600,000 people saw Dairy Council films in 1978. The distribution of National Dairy Council technical publications doubled between 1976 and 1978. In 1978, DCI distributed over a million pieces of this literature, 93 percent free of charge. The spokesman for DCI concluded his statement by noting that it has become more and more difficult to maintain a qualified staff unless wage levels and employee benefits progress at rates similar to competing organizations. He indicated that since people are the backbone of the Dairy Council program, increased funding is essential.

At the proponent's request, a representative of UDIA presented data in support of the federation's proposed funding rate. These data indicate that from 1972 to 1978 inflation has been rapid, with the Consumer Price Index (CPI) increasing 56 percent. The witness stated that in the Middle Atlantic area the cost of media advertising, particularly television advertising, has increased significantly faster than producer milk prices. It was estimated that by the end of 1979 television advertising costs will have increased 125 percent over 1974 costs. He further testified that while the cost of scientific research has been increasing, UDIA has been forced to decrease the actual dollars spent in this area. When adjusted by the CPI, only about half as many dollars are available for research in 1979 as were available when the program began in 1972.

Proponent of the funding rate equal to three-quarters of one percent of the producer pay price contended that the current rate is no longer generating revenues adequate to support advertising and promotion activities at the level contemplated by producers when the program was adopted. In April 1972, when the order's advertising and promotion provisions became effective, the five-cent rate was equal to 0.76 percent of the weighted average price for that month. At that time, the cooperative's proposed formula also would have generated a five-cent funding rate. The cooperative's witness stated that when the order was amended effective January 1, 1977 the rate adopted at that time, seven cents per hundredweight, equaled 0.68 percent of the simple average of the weighted average prices of the preceding months of October 1975 through September 1976. He contended that the formula proposed by his cooperative to determine the funding rate was in line with the rate at which producers originally funded the

program in 1972 and that this formula would provide adequate funding for the advertising and promotion program in the years to come.

The federation which proposed a funding rate of 1% of the producer pay prices contended that any rate less than 1% would not generate the funds necessary to carry out the intended advertising and promotion program in the Order 4 area. It is their position that basing the rate upon one percent of the weighted average price would allow the level of funds available for the agency to keep up to date on a continual basis.

An increase in the funding rate for the advertising and promotion program is warranted in view of the increased costs of the program's activities that have occurred over its duration. Inflation has impacted on every area of activity pursued by the program. The Consumer Price Index increased 56% between 1972 and 1978 and is expected to rise sharply again this year. The cost of labor, research, and printing has increased substantially over this period. In terms of a dollar's worth of advertising in 1974, radio advertising in the Middle Atlantic area currently costs about \$1.53. The greatest cost increase has occurred in local television advertising. One dollar's worth of television advertising in 1974 cost \$1.73 in 1978 and is expected to average \$2.26 during 1979.

In 1972, when the advertising and promotion program was adopted, the 5-cent rate was equal to 0.77 percent of the weighted average prices for the six-month period ending September 30, 1971. On January 1, 1977, when the order's funding rate was amended, the adopted 7-cent rate equaled 0.70 percent of the weighted average prices for the six months ending September 30, 1976. It can therefore be concluded that a funding rate equal to three-quarters of one percent of producer pay prices, as noted by its proponent, would be more in line with the rates Order 4 producers favored in 1972 and 1977 than a one percent funding rate. Cooperatives representing a large proportion of the Middle Atlantic producers, however, now favor expanding their support of the advertising and promotion program to one percent of producer pay prices. If this rate were now in effect, the assessment for 1979 and 1980 would be 11 cents and 12 cents per hundredweight, respectively. In view of the substantial producer support in the market for the higher funding rate, and in light of the voluntary nature of the program, it is reasonable that the rate of funding be increased to one percent of the producer pay prices.

Due to the voluntary nature of the program, a producer who wants to

participate at a lower funding level than provided in the order may do so by electing to participate only intermittently. For example, a producer could participate in the program for the first three quarters of a year and request that his money be refunded for the last quarter. By such means a producer could fund the program at whatever level he believes to be appropriate.

Conforming changes have been made in the order to recognize that the current references in some sections to "weighted average price plus 7 cents" will no longer be appropriate. In implementing the revised funding rate for the advertising and promotion program, the order has been modified so that the weighted average price would be computed without deducting the amount of money to be withheld for such program. Thus, the current references to "weighted average price plus 7 cents" are changed to read "weighted average price". Under the adopted changes, the computation of the uniform prices for base milk and excess milk will continue, however, to reflect the deduction applicable for funding the advertising and promotion program.

Because of the quarterly budgeting periods under the terms of the advertising and promotion provisions of the order, it would facilitate the budgeting process to change the funding rate at the beginning of a calendar quarter. It is anticipated that the change in the funding rate will become effective starting the 2nd quarter of 1980.

2. Revision of administrative provisions of the advertising and promotion program. A dairy farmer who does not want to participate in the Order 4 advertising and promotion program should have to submit to the market administrator only one request to obtain a refund for the year's calendar quarters that remain at the time of the request. Such requests should be submitted within the first 15 days of December, March, June or September. Also, the producer's deductions for advertising and promotion should be refunded by the market administrator on a monthly basis.

Under the current provisions of the order, the advertising and promotion Agency conducts its operation on a quarterly basis. Producers who participate in the program fund it for a calendar quarter. Those producers who do not want to participate in the program during a calendar quarter must submit a refund request to the market administrator during the first 15 days of the month preceding such quarter. The nonparticipating producers receive their refund from the market administrator

shortly after the quarter during which such deductions are made.

An Order 4 cooperative association proposed amendments that would allow a producer not wishing to participate in the advertising and promotion program to obtain a refund by filing a request with the market administrator during the first 15 days of any month. Unless rescinded by the producer, the refund request would apply from the first day of the month in which filed to the end of that calendar year. However, if a dairy farmer acquired producer status for the first time under Order 4 after the 15th day of the month, he would not be subject to the 15-day filing limit during that month. The cooperative also proposed that refunds be made by the market administrator on or before the 20th day of the second month after the milk is delivered. In its brief, another Order 4 cooperative association endorsed these procedures.

The proponent cooperative's witness stated that it was Congress' intention that producers not wishing to participate in the promotion program could get their money refunded without unnecessary impediments. He contended that because producers had to request a refund every 3 months some producers who had wanted refunds had forgotten to notify the market administrator at the proper time. Consequently, they had to participate in the program for an entire quarter. He also contended that his cooperative's proposal would simplify the method of obtaining refunds and make them more prompt.

On behalf of four of its member cooperatives, a federation of cooperative associations opposed any change in the order's procedure for requesting refunds. The federation's witness noted that the provisions of Order 4 require the advertising and promotion Agency to prepare and submit to the Secretary for approval, prior to each quarterly period, a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the agency. He contended that the proposed amendments would make it more difficult for the agency to predict the level of funding and thus make budgeting harder. The federation was also in opposition to the market administrator refunding advertising and promotion deductions on a monthly basis. It argued that monthly refunds would increase administrative costs. The witness stated that the present ask-out and refund procedures are necessary for the effective and efficient expenditure of the funds collected under Order 4 for advertising and promotion.

Proponent on the other hand, maintained that its amendments would not significantly increase budgeting problems. In fact, the cooperative claimed that over time these amendments would make participation in the program more stable and would therefore make it easier to estimate funding and plan a budget. It also contended that monthly refunds would not generate any undue expenses because producers who do not want to participate in the program should not have their funds withheld any longer than necessary.

The order should be amended to allow a producer to request a refund during the first 15 days of the month immediately preceding any calendar quarter, with such request applying for the remainder of the calendar year. This order modification would simplify the procedure for requesting refunds and decrease administrative costs. Producers would only have to submit and the market administrator would only have to process approximately one-fourth as many refund requests as is presently the case.

Producers should not, as proposed by an Order 4 cooperative association, be allowed to obtain a refund by filing a request with the market administrator during the first 15 days of any month. The refund request periods should be limited to the first 15 days of the month preceding each calendar quarter, as is presently the case. Allowing producers to request refunds during any month for the rest of the calendar year would make it more difficult for the advertising and promotion Agency to forecast its funding and plan its budgets, because producer participation could fluctuate after the budget had to be submitted to the Secretary for approval. By only requiring producers to request a refund once a year, while limiting the request periods to the first 15 days of the month preceding each calendar quarter, administrative costs and producer inconvenience could be minimized without increasing the Agency's budgeting problems.

A minor change should be made in the refund procedure with respect to new Order 4 producers. Presently, a dairy farmer who first acquires producer status under Order 4 after the 15th of December, March, June, or September and prior to the start of the next refund notification period may, upon application filed with the market administrator, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This

should be changed to allow a new producer who submits a request by the end of the month following the month in which producer status is first acquired to be eligible for a refund on all marketings against which an assessment is withheld during the current calendar year. If producer status is first acquired in December, such producer should be eligible for a refund on all marketings during December and the following calendar year. These changes will coordinate the procedure through which new Order 4 producers may request refunds with the refund procedure adopted herein for producers already on the Middle Atlantic market.

Compared to the present quarterly refunds, monthly refunds would increase administrative mailing costs. When the Order 4 advertising and promotion program was initiated, the cost of monthly refunds was high relative to its value to non-participating producers. Since then, however, monthly production per producer¹ and interest rates have increased significantly. Changing the rate of deduction to one percent of the producer pay price, as herein adopted, will substantially increase the amount of money to be refunded. For these reasons monthly refunds are more valuable to non-participating producers than ever before and should be provided.

3. *Changes on overdue accounts.* The order should provide for the application of a late-payment charge of 1 percent per month on handler obligations that are overdue. Such obligations to the market administrator would be those due the producer settlement fund, the administrative expense fund, and the marketing services fund. Any overdue payments by handlers due to producers and cooperative associations would be subject to the late-payment charge. Any such unpaid obligation should be assessed a charge of 1 percent on the first day after the due date of the obligation and on the same day of each succeeding month until the obligation is paid. Any such assessed charges shall be due to the administrative expense fund maintained by the market administrator.

The institution of a late-payment charge on all handler obligations under the order was proposed by cooperative associations representing over 80 percent of the producer supplying the market. The initial proposals by cooperatives, as included in the hearing notice, would provide a late-payment charge of 1 percent beginning the first

day the obligation is overdue. At the hearing and in briefs, the cooperatives supported a modification of the charge. As modified, the proposed charge would be at the rate of 1.5 percent per month prorated on a daily basis. No handlers, other than cooperatives, offered proposals, or testified, or filed briefs in this proceeding. One cooperative filed a brief in support of the proponent cooperatives.

Witnesses for proponents indicated that the institution of a charge on overdue obligations of handlers is necessary to encourage prompt payments by regulated handlers. They cited the collection problems being experienced by the market administrator and cooperatives and indicated that producers have an interest in timely payments by handlers. It was pointed out that if producers or their cooperative associations are not paid by the due date they are forced to draw upon their own equity or borrow from commercial sources in order to meet their money obligations. In addition, the spokesmen indicated that those handlers making late payments have a competitive advantage in their business operations relative to handlers making timely payments.

In support of the proposed late-payment charge, the witnesses for the proponent cooperatives contended that the should be related to current interest rates since delinquent handlers are, in effect, borrowing money from producers. Proponents indicated that most country banks now charge 11.5 to 12 percent interest per annum on well-protected, short-term borrowing. They noted that local Production Credit Associations in the Order 4 production area currently charge interest rates varying from 10.5 to 11.5 percent per annum for short-term operating capital. In addition, farm suppliers such as Agway and Southern States Cooperative, petroleum suppliers, farm equipment dealers, and truck companies in the production area assess finance charges or late-payment charges ranging from 1 to 1.5 percent per month.

In urging that the late-payment charge be 1.5 percent per month apportioned on a daily basis, proponents contended that it would be more equitable for handlers. Also, they believed there would be an incentive on the part of a delinquent handler to delay payment for a full month if the full monthly charge was assessed on the first day the payment was overdue.

It is essential to the effective operation of the order that handlers make their payments to the market administrator on time. Under the market-wide pooling arrangement, it is necessary that handlers with Class I

utilization higher than the market average pay part of their total use value of milk to the producer settlement fund. Through this means, money is made available to handlers with lower than average Class I utilization so that all handlers in the market, irrespective of the way they use the milk, can pay their producers the uniform prices for base milk and excess milk. The success of this arrangement depends on the solvency of the producer settlement fund. Also, the prompt payment of amounts due the administrative expense fund and the marketing service fund is essential to the performance by the market administrator of the various administrative functions prescribed by the order. Delinquent payments to these funds could impair the ability of the market administrator to carry out his duties in a timely and efficient manner. Payment delinquency also results in an inequity among handlers. Handlers who are late in paying any of the obligations required under the order are, in effect, borrowing money. In the absence of any late-payment charge that is comparable to the cost of borrowing from commercial sources, handlers who are delinquent in their payments have a financial advantage relative to those handlers making timely payments.

Data placed in the record by a representative of the market administrator's office indicate a late-payment experience of a serious and continuing nature on the part of handlers in the Middle Atlantic market. During those months from April 1978 through June 1979 when the payment date did not fall on a weekend or holiday, 67 percent of the moneys owed to the producer-settlement fund were received by the market administrator after the due date. Such delinquent payments ranged from a low of 57 percent of the amount owed by handlers in January 1979 to a high of 79 percent in February 1979. Even for those months in which the payment date fell on a weekend or holiday, nearly 43 percent of the moneys owed were not received by the first working day thereafter. Also, for the period April 1978 through June 1979, nearly 40 percent of the moneys owed to the producer-settlement fund were not received by the 17th of the month or the first working day thereafter when the market administrator must make payments from the fund. Moneys still not received by the prescribed pay-out date ranged from a low of 18 percent in March 1979 to a high of 50 percent in July 1978. The respective amounts involved were \$418,902 in March 1979 and \$1,202,603 in July 1978.

With respect to handler obligations due the administrative assessment fund, during the period June 1978 through February 1979, 24 percent of the handlers failed to make such payments by the due date. Such delinquent payments ranged up to 18 days late for December 1978 obligations and 68 days late for August 1978 obligations. (Assessments were waived during March through May 1978 and for the same months in 1979.)

For the period of June 1978 through May 1979, nearly 38 percent of the handlers who made marketing service deductions from payments to producers failed to remit the deductions to the market administrator by the due date. Such delinquencies ranged up to as many as 18 days late in June and December 1978 to 68 days late for August 1978.

In addition to this late-payment information on handler obligations to the market administrator, since October 1978 the market administrator has obtained reports from cooperative associations concerning the date by which cooperatives receive and deposit payments owed to them by handlers. A table based on such reports was placed in the record by a representative of the market administrator's office. The table demonstrates that handlers still have the use of a large proportion of the money owed to cooperatives beyond the due date for making such payments. For example, in April 1979 milk handlers owed cooperatives \$12.9 million in partial payments for milk received during the first fifteen days of the month and only \$7.3 million were deposited by cooperatives as of the due date. With respect to the final payment for April milk deliveries, handlers owed \$13.1 million to cooperatives and cooperatives had deposited only \$4.8 million as of the due date.

A further indication of a late-payment problem with respect to milk supplied by cooperatives was entered into the record by a cooperative association. During the eight-month period of October 1978 through May 1979, all partial payment moneys owed to the cooperative by Order 4 handlers were received late; nearly 89 percent were late by eight days or more. All but 0.3 percent of the final payments owed to the cooperative during that period were received after the due date; nearly 62 percent were late by eight days or more. The cooperatives witness stated that for the eight-month period, the value of the late-payments, at an interest cost of 12 percent per year, would total more than \$39,000.

On the basis of this payment experience, it is appropriate to institute

a late-payment charge on all handler obligations under the order that are overdue. In the absence of a late-payment charge, handlers have little incentive to make their payments on time. Enforcement action may be taken, of course, to seek strict handler compliance with the payment dates. However, this is a cumbersome administrative route, and the practicalness of such action become questionable in the case of handlers who are only several days late. While the charge adopted herein may not result in strict compliance by all handlers, it should provide handlers a substantial inducement to make their payments on time.

The late-payment charge should be established at the rate of 1 percent per month of the unpaid balance. If the charge is to have any impact on handlers in terms of encouraging prompt payments, it must be an amount that is at least comparable to what a delinquent handler would be charged by commercial banks for money borrowed for short-term purposes. If this is not so, handlers who may have financial problems would be encouraged to delay their payments, knowing that the charge under the order is cheaper than borrowing money commercially at a higher loan rate. Under the conditions indicated in the record, a monthly charge of 1 percent should provide reasonable assurance that order obligations do not represent a cheap source of money.

As noted earlier, the proponents modified their proposals to apply a higher charge to be apportioned on a daily basis so that handlers would be assessed for only the value of borrowed money for the number of days that the payment is late. These modifications of the proposal should not be adopted. If late-payment charges were treated strictly on a money market basis, the order would merely represent a banking service for handlers who desire to use order obligations as a source of borrowed funds. This is not the intended purpose of the late-payment charge. Rather, it is to be a penalty, in effect, that will induce handlers to pay their obligations under the order on time.

Experience under orders has demonstrated that a late-payment charge applied on the day after the obligation is due is effective in inducing handlers to pay on time. For example, a late-payment charge of 1 percent on the day after the due date was adopted under the neighboring New York-New Jersey order effective November 1, 1977. An exhibit placed in the hearing record contains information as to the timeliness

of payments to the producer-settlement fund and administrative fund before and after the late-payment charge was adopted. The exhibit shows that in March 1977—before the late-payment charge was in effect—only 8 of the 79 handlers having obligations to the producer-settlement fund and administrative fund made their payments on time and only 5.3 percent of the total handler obligations to the funds was paid by the due date. In March 1978—18 months after the late-payment charge was instituted—95.2 percent of the total handler obligations to the producer-settlement fund and the administrative fund had been paid to the market administrator on or before the due date.

Under the cooperative's proposals late-payment charges would accrue to the respective person or fund that was paid late. If a handler's payment obligation directly to a producer or cooperative was not paid on time, the late-payment charge would accrue to such producer or cooperative. If a handler is late in paying an obligation to the producer-settlement fund, administrative assessment fund or marketing service fund the late-payment charge assessed would accrue to the particular fund not paid on time.

As further inducement to make payments to producers and cooperatives on time, the late-payment charges should accrue to the order's administrative assessment fund, which is the market administrator's source of funds for activities involved with collections and noncompliance. If the late-payment charge were to be added to the amount owed by handlers to producers and cooperatives, it would likely result in such producers and cooperatives being less concerned whether they are paid on time. Thus, it could be counterproductive to the purpose sought to be achieved by the institution of the late-payment charge. Moreover, if a charge of 1 percent were made with respect to a payment that was only a few days late, it would represent a significantly higher value than the cost of money borrowed from commercial sources for such a short time span. Thus, cooperatives and producers would be placed in a position where they would prefer to be paid several days late and get the late-payment charge. In addition, in a circumstance where a handler buys milk from a cooperative handler on a classified use basis, the obligation on such milk would not be the same as its value at the uniform prices for base milk and excess milk, which is the value the cooperative is entitled to after

¹ Official notice is taken of Federal Order Market Statistics, Annual Summary for 1972, issued June 1973.

equalization with the producer-settlement fund. Thus, it would unduly complicate the terms of the order to construct order provisions that would return to producers and cooperatives an equitable late-payment value for their milk if, in fact, such value could be determined.

The late-payment charge on obligations due the producer-settlement fund, marketing services fund, and administrative assessment fund also should accrue to the order's administrative assessment fund. In the case of delinquent handlers, money is spent by the market administrator in determining the amount of the late-payment charges and in collecting such payments or inducing noncomplying handlers to pay on time. The money for expenditures of this type, of course, comes from the administrative assessment fund. Thus, the competitors of the noncomplying handlers who pay assessments to this fund are bearing the administrative costs of dealing with the delinquent handlers. Thus, it is reasonable that the late-payment charges assessed on noncomplying handlers be used to help defray these administrative costs.

The late-payment charge provisions as proposed by proponents provide that such charge be applied if payment is not received by the due date. Proponents stated that they consider the present payment dates in the order to be receipt dates and contended that if they were to be postmark dates that such dates should be advanced by two days. In view of the need to make timely payments to handlers from the producer settlement fund, it is essential that money due such fund be received by the due date. Also, since a payment cannot be converted to "good money" by the recipient until it is physically received, more uniform application of the payment schedules to handlers would be effected if the payment dates are applied as receipt dates. Additionally, it is desirable to give handlers all the time possible for submitting their payments and the flexibility of using whatever payment means they wish. This can be achieved best by merely specifying the date by which payment is to be received. Obviously, payment cannot be received on a non-business day. Thus, if a due date falls on a Saturday, Sunday, or national holiday, the due date of the payment should be the next day that the market administrator's office is open for business, for the purpose of applying a late-payment charge.

An additional exception in applying a late-payment charge with respect to any payment sent through the U.S. Postal

Service was proposed by a cooperative association. This exception would consider such payment to be made on time if the envelope has a postage cancellation date not later than the second day preceding the due date. Such a provision would enable a handler to have greater assurance that a payment is made on a timely basis. An exhibit in the record indicates that with respect to payments mailed to the market administrator, they are often received within two days of the postmark date. However, the exhibit indicates also that on occasion, such as around Christmas time, some payments are received more than two days after the postmark date.

It is a common practice in the market to send payments through the mail. Handlers would have greater control over knowing whether they are complying with the payment dates if postmark dates applied by the U.S. Postal Service can be used in determining whether a payment is made on time. Moreover, postmark dates would provide reliable evidence for the market administrator to use in verifying the timeliness of payments. Since it would be helpful to handlers and to the market administrator in the determination of when a late-payment charge is to be applied, the proposal relative to postmark dates should be adopted. A postage date applied by a handler's postage meter, however, would not be an acceptable indication of a timely payment, since a handler would be able to predate the envelope.

Under the provisions adopted herein, overdue handler obligations that are payable to the market administrator would be increased by 1 percent on the first day after the due date. Any remaining unpaid portion of the original obligation would be further increased by 1 percent on the same date of each succeeding month until the obligation is paid. The additional late payment charge would apply not only to the original obligation but to any unpaid late-payment charges previously assessed.

At the time the adopted provisions become effective, there may be handlers with obligations already overdue. In such cases, the newly adopted late-payment charge should apply even though the obligation was incurred prior to the institution of the charge under the order. For transitional purposes, obligations that are outstanding on the effective date of the amended order should not be increased until the day after such type of obligation would be overdue under the amended order.

The provision adopted herein would provide a late-payment charge in the case of an unpaid obligation that was

determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due. Such obligation should be considered to have been payable by the date it would have been due if the report had been filed when due.

Proponents recognized that it may be necessary for the market administrator to require handlers and cooperatives to maintain specific records or make special reports for the purpose of verification of the timeliness of payments made by handlers directly to producers and cooperatives. The attached amendments do not prescribe the specific means by which he shall verify such transactions. The need for such specification should be based on actual experience in the market.

Under the terms of the order, the market administrator has authority to make rules and regulations to effectuate the terms and provisions of the order. Should there be need for more specificity with respect to carrying out the provisions adopted herein, this may be accommodated through the promulgation of appropriate administrative rules with the approval of the Director of the Dairy Division and in consultation with the local industry.

If the purpose of the late-payment provisions adopted herein is to be fully accomplished, it is necessary that payments not only be made on time but must be deposited in the recipient's account as promptly as possible. The proposals considered at the hearing did not encompass new provisions that would assure the prompt deposit of payments received. If serious problems exist with respect to the timely deposit of payments, it may be necessary for the market administrator to promulgate appropriate rules with respect to the deposit of payments received by cooperative associations.

4. *Date payments are made from the producer-settlement fund.* The order should be amended to provide that payments to handlers from the producer-settlement fund should be made on or before the 16th day after the end of the month. However, if the 16th should fall on a Saturday, Sunday or national holiday, the market administrator may delay payments from the fund until the next day his office is officially open for business.

Currently, the order provides that payments from the producer-settlement fund be made on or before the 17th day after the end of the month. Cooperatives proposed that this payment date be advanced one day. In support of the proposal, cooperatives contended that with the adoption of a late-payment

charge, as provided herein, it can be expected that the payments to the producer-settlement fund will be received by the due date, the 15th, and therefore, the market administrator would be able to make payments from the fund by the next day.

As previously indicated, it can be expected that the adoption of a late-payment charge will be sufficient inducement for handlers to pay their producer-settlement fund obligations on time. In this circumstance, the market administrator would have sufficient funds to enable him to make the prescribed payments from the fund by the day after payments are due.

The market administrator makes it a practice to notify handlers by telephone on the date the uniform prices are announced of their producer-settlement fund obligation. Such announcement date has not been later than the 12th day after the end of the month. In some cases the postmark dates on envelopes containing handler payments to the producer-settlement fund are the same dates that handlers are notified by telephone of the amount of their obligation. Thus, it is apparent that handlers can make their payments to the producer-settlement fund on or before the due date if they are sufficiently induced to do so.

It is desirable that payments be made from the producer-settlement fund as promptly as possible so that those handlers who receive the funds can make their required payments to producers. Payments to producers are due on or before the 20th day after the end of the month. Thus, adoption of the earlier payment date for payments from the producer-settlement fund will tend to better assure that all producers are paid by the due date.

The order provides that if the balance in the producer-settlement fund is insufficient to make all the prescribed payments, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. This procedure would involve two series of payments and should be avoided when practicable. Advancing the pay-out date could involve the use of this procedure in the case where the date for payments from the fund falls on a Saturday, Sunday or national holiday when the market administrator's office is not open for public business. Therefore, the order should provide that the required pay-out date may be delayed until the next day the market administrator's office is open for business when the pay-out date falls on Saturday, Sunday or national holiday.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby

proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Middle Atlantic marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1004.61 is revised to read as follows:

§ 1004.61 Computation of weighted average price and uniform prices for base milk and excess milk.

(a) For each month the market administrator shall compute the "weighted average price" per hundredweight of milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1004.60 for all handlers who filed the reports prescribed by § 1004.30 for the month and who made the payments pursuant to § 1004.71 for the preceding month;

(2) Add an amount equal to the total value of the location differentials, computed pursuant to § 1004.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section; and

(ii) The total hundredweight for which a value is computed pursuant to § 1004.60(e); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

(b) Subject to paragraph (c) of this section, for each month the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(1) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to paragraph (a) of this section as follows:

(i) Multiply the quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II milk price;

(ii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iii) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and round to the nearest cent;

(3) Subtract the withholding rate for the advertising and promotion program

as computed in § 1004.121(e). The result shall be the uniform price for excess milk;

(4) From the amount resulting from the computations of paragraphs (a) (1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(5) Subtract the aggregate value of excess milk determined in paragraph (b)(1) of this section;

(6) Divide the result obtained in paragraph (b)(5) of this section by the total hundredweight of base milk for handlers included in the computations pursuant to paragraph (a) of this section and subtract not less than 4 cents nor more than 5 cents per hundredweight; and

(7) Subtract the withholding rate for the advertising and promotion program as computed in § 1004.121(e). The result shall be the uniform price for base milk.

(c) If the base milk price obtained in paragraph (b)(7) of this section should exceed the Class I price, the aggregate amount in excess thereof shall be included in the computation of the excess milk price pursuant to paragraph (b)(1) of this section, except that if by such addition the excess milk price should exceed the base milk price then the aggregate amount of the excess shall be prorated to the aggregate values of base milk and excess milk on the basis of the respective volumes of base and excess milk.

2. In § 1004.71, paragraph (b)(2) is revised to read as follows:

§ 1004.71 Payments to the producer settlement fund.

(b) * * *

(2) The value at the weighted average price, adjusted by the applicable location differential on nonpool milk pursuant to § 1004.75(b), with respect to other source milk for which a value was computed pursuant to § 1004.60(e).

3. Section 1004.72 is revised to read as follows:

§ 1004.72 Payments from the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1004.71(b) exceeds the amount computed pursuant to § 1004.71(a), subject to the following conditions:

(a) If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section,

the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(b) If the 16th day after the end of the month is a Saturday, Sunday, or national holiday, the market administrator may delay payments pursuant to this section until the next day his office is open for public business.

4. In § 1004.73, paragraph (a)(2) is revised to read as follows:

§ 1004.73 Payments to producer and to cooperative associations.

(a) * * *

(1) * * *

(2) On or before the 20th of the following month at not less than the uniform price for base milk computed pursuant to § 1004.61(b) with respect to base milk received from such producer and not less than the uniform price for excess milk computed pursuant to § 1004.61(b) for excess milk received from such producer, subject to the following adjustments:

(i) Proper deductions authorized in writing by such producer;

(ii) Partial payment made pursuant to paragraph (a)(1) of this section;

(iii) The butterfat differential computed pursuant to § 1004.74;

(iv) Less the location differential applicable pursuant to § 1004.75; and

(v) If by such date such handler has not received full payment from the market administrator pursuant to § 1004.72 for such month he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator.

5. In § 1004.75, paragraph (b) is revised to read as follows:

§ 1004.75 Location differentials to producers and on nonpool milk.

(b) For purposes of computations pursuant to §§ 1004.71 and 1004.72 the weighted average price shall be reduced at the rate set forth in paragraph (a) of this section applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class II price.

6. In § 1004.76, paragraph (b)(5) is revised to read as follows:

§ 1004.76 Payments by a handler operating a partially regulated distributing plant.

(b) * * *

(5) From the value of such milk at the Class I price, subtract its value at the weighted average price, and add for the quantity of reconstituted skim milk specified in paragraph (b)(3) of this section its value computed at the Class I price less the value of such milk at the Class II price (except that the Class I price and the weighted average price shall be adjusted for the location of the nonpool plant and shall not be less than the Class II price).

7. A new § 1004.78 is added to read as follows:

§ 1004.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1004.71, 1004.73, 1004.76, 1004.77, 1004.79, 1004.85, or 1004.86 shall be increased 1 percent beginning on the day after the due date, and on the same day of each succeeding month until such obligation is paid, subject to the following conditions:

(a) The amount payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously computed pursuant to this section and all such amounts shall be paid to the administrative assessment fund maintained by the market administrator;

(b) Any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due; and

(c) Payments shall be deemed not to have been made until such payments have been received, except:

(1) Any payment received after the due date in an envelope that is postmarked not later than the second day prior to the due date shall be considered to have been received by the due date; and

(2) If the date by which payments must be received falls on a Saturday or Sunday or on a national holiday, payments shall be considered to have been received by the due date if received not later than the next day on which the market administrator's office is open for public business.

8. In § 1004.120, paragraphs (b), (c) and (d) are revised to read as follows:

§ 1004.120 Procedure for requesting refunds.

* * *

(b) Except as provided in paragraph (c) of this section, the request must be submitted within the first 15 days of December for milk to be marketed during the following calendar year and during the first 15 days of March, June, or September for milk to be marketed from the first of the immediately following month through the remainder of the calendar year.

(c) Upon first acquiring producer status under this part, a dairy farmer shall, upon application filed with the market administrator pursuant to paragraph (a) of this section by the end of the month immediately following the month in which producer status is acquired, be eligible for refund on all marketings against which an assessment is withheld during the current calendar year and if producer status was first acquired in December such producer shall be eligible for a refund on all marketings during December and the following calendar year. This paragraph also shall be applicable to all producers during the period between the effective date of this paragraph and the beginning of the first quarterly period for which the opportunity exists for such producers to obtain a refund pursuant to paragraph (b) of this section.

(d) A producer, located in a State which has a State advertising and promotion program in which producers are required to participate unless they are participating in an advertising and promotion program under a Federal order, may (in lieu of a refund request) authorize the market administrator to pay to the State the amount of his required participation not in excess of the rate computed pursuant to § 1004.121(e).

9. In § 1004.121 the introductory text of paragraphs (b) (2), (3), and (4), and paragraph (c) are revised and new paragraphs (e) and (f) are added to read as follows:

§ 1004.121 Duties of the market administrator.

* * *

(b) Set aside into an advertising and promotion fund, separately accounted for, an amount equal to the withholding rate for the month as set forth in paragraph (e) of this section times the amount of producer milk included in the computation of uniform prices for such month. The amount set aside shall be disbursed as follows:

(2) To producers, a refund of the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in

amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producer for which deductions were made pursuant to this paragraph.

(3) To any State, a payment on behalf of any producer for which a specific authorization has been received pursuant to § 1004.120(d), but not in amounts that exceed the rate per hundredweight determined pursuant to paragraph (e) of this section on the volume of milk pooled by any such producers for which deductions were made pursuant to this paragraph.

(4) After the end of each month, make a refund to each producer who made application for such refund pursuant to § 1004.120. Such refund shall be computed by multiplying the rate specified in paragraph (e) of this section times the hundredweight of such producer's milk pooled for which deductions were made pursuant to this paragraph for such month, less the amount of any refund otherwise made to, or on behalf of, the producer pursuant to paragraph (b) (2) and (3) of this section.

(c) Promptly after the issuance of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1004.110 through 1004.122).

(e) In October of each year compute the rate of withholding as follows:

(1) Compute the simple average of the monthly weighted average prices for the six-month period ending September 30; and

(2) Multiply the price computed pursuant to paragraph (e)(1) of this section by one percent and round to the nearest full cent. This rate shall apply during the following calendar year.

(f) As soon as possible after the rate of withholding is computed, notify in writing each producer currently on the market and any new producer that subsequently enters the market of the withholding rate. This notification shall be repeated annually thereafter only if there is any change in the rate from the previous period.

Note.—This recommended decision has been reviewed under USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this decision should not be classified "significant" under those criteria. This decision constitutes the Department's Draft Impact Analysis Statement for this proceeding.

Signed at Washington, D.C., on November 19, 1979.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-36911 Filed 11-26-79; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-NE-15]

Airworthiness Directives; General Electric Co. CT58 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require an inspection for an undersized radius of certain stage one turbine wheels used in General Electric CT58 engines. The proposed AD is prompted by a report of an undersized radius which contributed to a stage one turbine wheel failure.

DATES: Comments must be received on or before January 28, 1980.

ADDRESSES:

Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket, 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable service bulletin may be obtained from: General Electric Company, 1000 Western Avenue, Lyon, Massachusetts 01910.

Copies of the service bulletin are contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Ralph S. Hawkins, Propulsion Section, ANE-214, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7347.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All

communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There has been a report of a stage one turbine wheel failure in a General Electric CT58 engine. The fatigue crack, which progressed to failure, originated in an undersized radius on the forward cooling plate locating ring rabbet groove on the front side of the turbine wheel. Since this condition is likely to exist on other stage one turbine wheels from the same manufacturing lot, the proposed AD would require inspection of certain serial numbered CT58 stage one turbine wheel rabbet groove radii in accordance with General Electric Alert Service Bulletin CT58 (A72-159) CEB-255. Turbine wheels with rabbet groove radii less than 0.010 inch shall be removed prior to further flight.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

General Electric Company: Applies to all General Electric CT58 turboshaft engines incorporating stage one turbine wheel, part number 4002T17P02, with the following wheel serial numbers: 7753, 7761, 7762, 7767, 7768, 7783, 7799, 7803, 7811, 7815, 7817, 7819, 7820, 7823, 7824, 7828, 7839, 7845, and 7848.

Compliance required as indicated, unless already accomplished.

To prevent failure of stage one turbine wheels due to cracks originating from undersize rabbet groove radii, inspect forward and aft radii in accordance with the procedures contained in the accomplishment instruction section of General Electric Alert Service Bulletin CT58 (A72-159) CEB-255, dated July 9, 1979, or later FAA approved revision, or equivalent means approved by the Chief, Engineering and Manufacturing Branch, New England Region.

Inspect in accordance with the following schedule:

1. Turbine wheels with 3,950 hours or 7,900 cycles, or more, in service on the effective date of this AD, must be inspected within the next 50 hours or 100 cycles.
2. Turbine wheels with less than 3,950 hours or 7,900 cycles in service, on the effective date of this AD, must be inspected prior to exceeding 4,000 hours or 8,000 cycles, whichever comes first.

Stage one turbine wheels with forward or aft rabbet groove radii of less than 0.010 inch must be removed and replaced with serviceable turbine wheels prior to further flight.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to General Electric Company, 1000 Western Avenue, Lynn, Massachusetts 01910. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C.

A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its Headquarters in Washington, D.C., and at FAA, New England Region Headquarters, Burlington, Massachusetts.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket.

Issued in Burlington, Mass., on November 15, 1979

Robert E. Whittington,
Director, New England Region.

Note.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-36314 Filed 11-23-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ANW-01]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking (NPRM).

SUMMARY: On Monday, March 26, 1979, an NPRM was published in the Federal Register (44 FR 18041) covering the establishment of airspace at Klamath Falls, Oregon. The proposal was to

lower airspace to provide for minimum holding at a fix and to lower minimum vector altitudes (MVA) for more efficient air traffic handling. Study subsequent to the issuance of the MPRM disclosed that lowering of MVA is all the airspace encompassed in the proposal would not be necessary. Therefore, the notice is being withdrawn. The withdrawal of this notice, however, does not preclude the future issuance of a similar notice by the FAA.

EFFECTIVE DATE: Airspace Docket Number 79-ANW-01 withdrawal is effective November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Operations, Procedures and Airspace Branch, Air Traffic Division, ANW-534, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington, 98108; telephone: (206) 767-2610. Accordingly, pursuant to the authority delegated to me by the Administrator, the NPRM published in Federal Register (44 FR 18041) is hereby withdrawn.

(Sec. 307(a) Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since the regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Seattle, Wash., on November 5, 1979.

C. B. Walk, Jr.,
Director, Northwest Region.

[FR Doc. 79-36324 Filed 11-23-79; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 792 3058]

Nolan's R.V. Center, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent

order, accepted subject to final Commission approval, among other things, would require a Denver, Colo. retailer of motor homes, campers, and travel trailers to cease failing to place inside each vehicle it offers for sale, all applicable written warranties; and a sign giving the location of such warranties, and stressing the importance of comparing warranty terms before making a purchase. The firm would be required to instruct its employees as to their specific obligations and duties under federal law, and to institute a surveillance program designed to detect violators of the order.

DATE: Comments must be received on or before January 25, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul C. Daw, Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Colo. 80202. (303) 637-2271.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

United States of America Before Federal Trade Commission

In the matter of Nolan's R.V. Center, Inc., a corporation, file No. 792 3058, Agreement Containing consent order to Cease and Desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Nolan's R.V. Center, Inc., and it now appearing that Nolan's R.V. Center, Inc., sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Nolan's R.V. Center, Inc. and counsel for the Federal Trade Commission that:

(1) Proposed respondent Nolan's R.V. Center, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the state of Colorado.

Its principal office and place of business is located at 6935 Federal Boulevard, Denver, Colorado 80221.

(2) Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

(3) Proposed respondent waives:

- (a) Any further procedural steps;
- (b) The requirements that the Commission's decision contain a statement of findings of fact and conclusions of law; and
- (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

(4) This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34 will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

(5) This agreement is for settlement proposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

(6) This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order of the agreement may be used to vary or contradict the terms of the order.

(7) Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount

provided by law for each violation of the order after it becomes final.

Order

I. Definitions

For the purpose of this order the definitions of the terms "consumer product," "warrantor," and "written warranty" as defined in Section 101 of the Warranty Act (15 U.S.C. § 2301 (1976)) shall apply. The definition of the term "binder" as defined in Section 702.1(g) of the Pre-Sale Rule (16 CFR 702 (1979)) shall apply.

II

It is ordered that respondent Nolan's R. V. Center, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or any other device, in connection with the advertising, offering for sale, and sale of motor homes, campers, recreational vehicles, travel trailers, or other consumer products, do forthwith cease and desist from:

(1) Failing to make available in respondent's display area for prospective buyers' review prior to sale, the text of any written warranties offered or granted by the manufacturers of motor homes, campers, recreational vehicles, travel trailers, and other consumer products sold by respondent. With respect to motor homes, campers, recreational vehicles and travel trailers "display area" means a prominent location inside each motor home, camper, recreational vehicle, and travel trailer.

(2) Maintaining a binder or series of binders to satisfy the requirements of Paragraph 1, above, unless such binder or binders are located in each motor home, camper, recreational vehicle, and travel trailer being displayed for sale by respondent, and such binder or binders include at least one copy of each written warranty applicable to the motor home, camper, recreational vehicle, travel trailer and the consumer products contained in such motor home, camper, recreational vehicle, and travel trailer.

In utilizing any such binder or binders respondent shall:

(a) provide prospective buyers with ready access thereto; and

(b)(1) display such binder(s) in a manner reasonably calculated to elicit the prospective buyers' attention; or

(2)(i) make such binder(s) available to prospective buyers' on request; and
(ii) place signs reasonably calculated to elicit the prospective buyers' attention in prominent locations within each motor home, camper, recreational vehicle or travel trailer advising such prospective buyers' of the availability of the binder(s), including instructions for obtaining access; and

(c) index such binder(s) according to product or warrantor; and

(d) clearly entitle such binder(s) as "Warranties" or other similar title.

III

It is further ordered that respondent shall post, in a prominent location in each motor home, camper, recreational vehicle, and

travel trailer being displayed for sale, a sign, eleven inches (length) by seventeen inches (width), reasonably calculated to elicit prospective buyers' attention, which contains a verbatim reproduction of the following language:

IMPORTANT!

NOT ALL WARRANTIES ARE THE SAME

We provide warranties for you to compare before you buy

- Please ask to see them
- Check: Full or limited?
- What costs are covered?
- What do you have to do?
- Are all parts covered?

How long does the warranty last?

Such sign shall be posted for a period of not less than three years from the effective date of this order. The language in such sign shall be unencumbered by other written or visual matter, shall be indented and punctuated as indicated in this paragraph, above, and shall be printed in black against a solid white background, as follows:

(a) The word "important!" shall serve as the title of the notice and shall be printed in capital letters in 60 point boldface type followed by an exclamation point.

(b) The next phrase shall be printed on a separate line in capital letters and in 42 point boldface type.

(c) The next two phrases shall be printed on separate lines and in 36 point medium face type.

(d) Each succeeding phrase shall be printed on a separate line and in 24 point medium face type.

IV

(1) It is further ordered that respondent shall deliver a copy of this order to cease and desist to all present and future employees, salespersons, agents, independent contractors, and other representatives of respondent engaged in the sale of motor homes, campers, recreational vehicles, travel trailers or other consumer products on behalf of respondent, and secure a signed statement acknowledging receipt of the order from each such person.

(2) It is further ordered that respondent shall instruct all present and future employees, salespersons, agents, independent contractors, and other representatives of respondent, engaged in the sale of motor homes, campers, recreational vehicles, travel trailers or other consumer products on behalf of respondent, as to their specific obligations and duties under the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (Public Law 93-637, 15 U.S.C. 2301 et seq.), all present and future implementing Rules promulgated under the Act, and this order.

(3) It is further ordered that respondent shall institute a program of continuing surveillance to reveal whether respondent's employees, salespersons, agents, independent contractors, or other representatives are engaged in practices which violate this order.

(4) It is further ordered that respondent shall maintain complete records for a period of not less than three (3) years from the date of the incident, of any written or oral information received which indicates the

possibility of a violation of this order by any of respondent's employees, salespersons, agents, independent contractors, or other representatives. Any oral information received indicating the possibility of a violation of this order shall be reduced to writing, and shall include the name, address, and telephone number of the informant, the name and address of the individual involved, the date of the communication and a brief summary of the information received. Such records shall be available upon request to representatives of the Federal Trade Commission during normal business hours upon reasonable advance notice.

(5) It is further ordered that respondent shall maintain, for a period of not less than three (3) years from the effective date of this order, complete business records to be furnished upon request to the staff of the Federal Trade Commission, relating to the manner and form of their continuing compliance with all terms and provisions of this order.

(6) It is further ordered that the respondent notify the Commission at least thirty (30) days prior to any proposed change such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries of any other change in obligations arising out of this order.

(7) It is further ordered that respondent shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Nolan's R.V. Center, Inc. of Denver, Colorado.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that Nolan's R.V. Center, Inc., a retailer of motor homes, campers, and travel trailers, has failed to make the text of written warranties available to prospective purchasers in violation of the Rule Concerning the Pre-Sale Availability of Written Warranty Terms, 16 CFR 702. Under this Rule, the seller of warranted consumer products may make the terms of written warranties available to prospective buyers prior to sale through one or more of the following methods.

(a) Clearly and conspicuously displaying the text of the warranty in close conjunction to each warranted product;

(b) Maintaining a binder system which is readily available to prospective buyers, along with conspicuous signs indicating the availability and identifying the location of such binders when the binders are not prominently displayed;

(c) Displaying the package containing the consumer product on which the text of the written warranty is disclosed in such a way that the warranty is clearly visible to prospective buyers at the point of sale; or

(d) Placing a sign which contains the text of the written warranty in close proximity to the product to which it applies.

According to the complaint allegations, Nolan's has not used any of these methods to make warranty texts available to consumers prior to sale.

The order in this matter requires the respondent to place copies of all written warranties applicable to the vehicles it sells inside those vehicles. In addition, the order requires the respondent to place a sign in each vehicle indicating where the applicable warranties may be found and stressing the importance of comparing warranty terms before making a purchase.

The order will benefit consumers by giving them an opportunity to examine and compare prior to purchase the texts of warranties applicable to the products respondent offers for sale. Since all warranties are not the same, this examination and comparison should aid prospective consumers in making a purchasing choice among alternative products.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,
Secretary.

[FR Doc. 79-36346 Filed 11-23-79; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Human Prescription Drugs in Oral Dosage Forms; Proposed Exemption of Pancrelipase Preparations in Tablet, Capsule, or Powder Form From Child-Protection Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes for public comment an exemption from child-protection packaging requirements for pancrelipase preparations in tablet, capsule, or powder form. Pancrelipase provides additional pancreatic enzymes, and is particularly used in the treatment of children with cystic fibrosis. Commission studies suggest that child-protection packaging for this drug may be unnecessary to protect children from serious illness or injury, because of the low toxicity of pancrelipase and the lack of adverse human experience associated with the drug. Johnson & Johnson Baby Products Company, manufacturer of a capsule form of pancrelipase, petitioned

the Commission to exempt its pancrelipase product.

DATE: Comments on this proposed exemption must be received by January 25, 1980. Comments received after this date will be considered to the extent practicable.

If the Commission issues a final regulation exempting this product, the Commission proposes that the exemption become effective on the date the final regulation is published in the Federal Register.

ADDRESSES: Comments, preferably in five copies, should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Third Floor, 1111 18th Street, NW., Washington, D.C. 20207. Comments received may be seen in the Office of the Secretary during working hours Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Fred Marozzi, Division of Safety Packaging and Scientific Coordination, Directorate for Engineering and Science, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301-492-6477.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 1979, the Commission received a petition (PP 79-3) from Johnson & Johnson Baby Products Company, of Raritan, N.J., requesting an exemption from child-protection (special) packaging requirements for pancrelipase in 100 and 250 capsule containers. A large amount of the drug is regularly used as replacement therapy for pancreatic enzyme insufficiency in children with cystic fibrosis. Such children are taught to self-administer the drug at an early age (5-8 years) because the medication must be taken at all meals and snacks.

The exemption was specifically requested for containers of 100 and 250 capsules. Pancrelipase is also prescribed in powder and tablet form and may be enteric coated to prevent destruction of a portion of the pancrelipase in the stomach. Regardless of the form of the product, however, it appears unlikely that a child would ingest a quantity of the drug sufficient to cause serious personal injury or serious illness.

Based upon the low toxicity of pancrelipase preparations, the Commission is considering an exemption for pancrelipase on a generic basis for all dosage forms (tablets, capsules, and powders).

Grounds for Exemption

The petitioner contends that an exemption for pancrelipase is justified based upon the low toxicity of the drug

as shown by the lack of adverse human experience data. Data from the National Clearinghouse for Poison Control Centers (NCPCC) indicate that only two ingestions of pancrelipase products occurred during the period from 1969 through 1976. These two ingestions occurred in 1974, and no symptoms of hospitalization were involved in either case. In addition, a medical literature search back to 1950 does not reveal any articles on the accidental ingestion of pancrelipase. Physicians' reports that are included in the petitioner's supporting material reveal that no adverse reactions occurred in patients taking the petitioner's pancrelipase preparation during clinical studies. Also, animal toxicity studies could not determine the Median Lethal Dosage of pancrelipase in rats and mice, as doses up to 9.336 grams per kilogram did not produce death in any of the animals tested. Another study cited by the petitioner demonstrates that the single dose ingestion of an entire container of 250 capsules by each of four beagle dogs did not produce any toxic effects.

An examination of the most current data sources available to the Commission staff reveals no reports of pancrelipase ingestion other than the two reports in 1974 (neither involving symptoms nor hospitalizations) which are cited in the petition and referenced above. The staff examined the data supplied by the petitioner, the statistics of the National Clearinghouse for Poison Control Centers from 1969 through 1976, the National Electronic Injury Surveillance System Comments for 1978, in-depth investigations, injury and potential injury information poison control statistics for 1975 and 1976, and the Commission's consumer complaint and death certificate files.

Johnson & Johnson also contends that an exemption for pancrelipase is justified because special packaging could adversely compromise the utility and stability of the drug. According to the petitioner, because the cystic fibrotic children who need access to the drug are not physically strong, opening the child-resistant closure is especially difficult, and special packaging could interfere with self-administration of the medication. In addition, if such difficulty causes the children to leave the closure loosened, then the capsules would be exposed to moisture in the air which could result in a loss of product potency.

The Commission solicited the opinion of its Technical Advisory Committee (TAC) on Poison Prevention Packaging. Of the 14 members who commented on the petition, 10 members recommended

granting the petition and 4 members recommended denial.

The 10 members who recommended granting the petition cited the need to make access to the medication less difficult for the cystic fibrotic children who constitute a majority of the product's users, and the unlikelihood that the drug would cause any serious toxic effects if accidentally ingested by young children.

One of the 4 members who recommended denial expressed concern "if there is any possibility of ingestion of the product harming a child" and noted that, in his opinion, child-resistant packaging on today's market is no more difficult to open than standard conventional closures. In response to this concern, the Commission observes that the pancrelipase product has a low toxicity, and that the accidental ingestion of such a product would be highly unlikely to result in serious illness to the children involved. With respect to the allegation that child-resistant closures are no more difficult to open than conventional closures, the Commission notes that the protocol test used to determine the child-resistance of special packaging stipulates that no more than 20 percent of children between the ages of 42 months and 51 months be able to open a package within a 10 minute test period (16 CFR 1700.15, 1700.20). Further, the adult protocol test allows up to 10 percent of adults to fail to gain entry to the special packaging. Thus, the Commission observes that a certain percentage of children who are slightly older than the test group is likely to encounter difficulties in opening such packaging as well, and this percentage is likely to be higher for cystic fibrotic children. Due to the physical weakness associated with the disease, the Commission notes that these children who are expected to self-administer pancrelipase are placed at a particular disadvantage when asked to use child-resistant packaging.

A second TAC member expressed concern about the warning on the pancrelipase package that high doses of pancreatic enzymes can cause hyperuricosuria (high levels of uric acid in the urine). In response to this concern, the Commission notes that although reports of hyperuricosuria involving cystic fibrotic children taking pancrelipase have been found in medical journals, the children involved were found to be taking larger than normal doses of medication at each meal, and the condition required several days or weeks to develop. In addition, the condition was completely reversed once normal doses of the medication

were administered. Thus, the Commission observes that it is highly unlikely that hyperuricosuria would occur in an accidental overdose situation. The Commission also notes that even if hyperuricosuria results in the formation of kidney stones, which would occur only if the uric acid level is quite high and of long duration, the stones would be medically treatable either through drug therapy or, if larger, by minor surgery.

A third TAC member suggested that an exemption was not necessary because under section 4(b) of the PPPA, 15 U.S.C. 1473(b), the prescribing physician may direct, or the consumer may request, that the drug be supplied in conventional packaging. In response to this suggestion, the Commission notes that the fact that the "non-complying provision" is available is not a sufficient reason to justify denial of such exemption requests. The evaluation of exemption petitions is based upon the toxicity of the product involved and the potential for serious injury or illness in cases of accidental overdose.

A fourth TAC member expressed concern that the amount of the product available per package was such that some risk of adverse effects might result in cases of accidental ingestion. In response to this concern, the Commission notes that the injury and ingestion data, as well as the animal toxicity studies, referenced above reveal that accidental ingestion is unlikely to result in serious injury or illness in children under 5 years of age.

The Commission also solicited the opinion of the Food and Drug Administration (FDA) on the exemption request. Based upon the low toxicity of pancrelipase and upon the absence of reported adverse symptoms from ingestions of the drug, FDA concludes that the exemption should be granted.

Findings

Based on currently available information showing the low toxicity of pancrelipase and the lack of adverse human experience reported from ingesting pancrelipase, the Commission preliminarily finds that pancrelipase preparations in tablet, capsule, or powder form do not pose a risk of serious personal illness or serious injury to children. Accordingly, the Commission is proposing to exempt pancrelipase preparations from the child-resistant packaging requirements. This action constitutes the granting of petition PP 79-3.

The Commission emphasizes that this proposed exemption is limited to pancrelipase preparations containing no other substances subject to the

requirements for special packaging under 16 CFR 1700.14(a)(10).

Environmental Considerations

The Commission's interim rules for carrying out its responsibilities under the National Environmental Policy Act (see 16 CFR Part 1021; 42 FR 25494) provide that exemptions to an existing standard that do not alter the principal purpose or effect of the standard normally have no potential for affecting the environment and that, therefore, environmental review of exemptions is generally not required (§ 1021.5(b)(1)). The rules also state that environmental review of rules requiring poison prevention packaging is generally not required (§ 1021.5(b)(3)).

With respect to this exemption of pancrelipase preparations in tablet, capsule, or powder form from poison prevention packaging, the Commission finds that the rule will have no significant effect on the environment and that no environmental review is necessary.

Conclusion

Having considered the petition, the human experience data and the animal toxicity studies submitted by the petitioner, the poison control statistics of the National Clearinghouse for Poison Controls Centers from 1969 through 1976, medical and scientific literature, and other Commission data sources, and having consulted, pursuant to section 3 of the Poison Prevention Packaging Act of 1970 (PPPA), with Technical Advisory Committee on Poison Prevention Packaging established in accordance with section 6 of the PPPA, the Commission concludes that an exemption from the special packaging requirements for pancrelipase preparations in tablet, capsule, or powder form should be proposed as set forth below. Accordingly, pursuant to the provisions of the PPPA (Pub. L. 91-601, sections 2, 3, 5; 84 Stat. 1670-72; 15 U.S.C. 1471, 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-572, sec. 30(a); 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes that 16 CFR 1700.14(a)(10) be amended by adding subparagraph (ix), as follows:

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner

licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

(ix) Pancrelipase preparations in tablet, capsule, or powder form and containing no other substances subject to this § 1700.14(a)(10).

(Secs. 2, 3, 5, Pub. L. 91-601, 84 Stat. 1670, 1671 (15 U.S.C. 1471, 1472, 1474))

Dated: November 19, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety
Commission.

[FR Doc. 79-36222 Filed 11-23-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for
Neighborhoods, Voluntary
Associations and Consumer
Protection

24 CFR Part 3282

[Docket No. R-79-743]

Mobile Home Procedural and Enforcement Regulations; Disqualification and Requalification of Primary Inspection Agencies

AGENCY: Assistant Secretary for
Neighborhoods, Voluntary Associations
and Consumer Protection, HUD.

ACTION: Proposed Rule.

SUMMARY: This proposed rule amends the Mobile Home Procedural and Enforcement Regulations to provide for automatic disqualification of any primary inspection agency [Production Inspection Primary Inspection Agency (IPIA) or Design Approval Primary Inspection Agency (DAPIA)] if such agency has been inactive for a period of one year. This disqualification is based upon the Department's belief that a primary inspection agency may lose expertise and may fail to keep abreast of changes in the regulations if it is not actively engaged in the performance of its functions. In addition, the required annual monitoring cannot be done for an agency which is not performing.

DATES: Comments must be received on or before January 25, 1980.

ADDRESSES: Comments must be sent to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: John Mason, Chief, Enforcement Branch,

Mobile Home Standards Division, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-7870.

SUPPLEMENTARY INFORMATION:

Regulations dealing with primary inspection agencies (both IPIA's and DAPIA's) were promulgated pursuant to the Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* In order for a primary inspection agency to provide services pursuant to the Mobile Home Procedural and Enforcement Regulations, it must be approved by the Department pursuant to these regulations.

The present rule 24 CFR 3282.356 deals with disqualification of a primary inspection agency where such agency is not adequately carrying out one or more of its functions. It does not address the issue of disqualification of an inactive primary inspection agency.

The Department believes that a primary inspection agency may lose expertise and may fail to keep abreast of changes in the regulations if it is not actively engaged in the performance of its functions. In addition, the performance of each primary inspection agency must be monitored at least once a year pursuant to 24 CFR 3282.453(b). It is, of course, impossible to monitor the performance of an agency which is not performing. In order to deal with these concerns this proposed rule has been prepared. The rule would automatically disqualify any primary inspection agency which has been inactive for a period of one year. The proposed rule also permits any agency which has been disqualified because of inactivity to resubmit an application in order to be requalified.

The Department has determined that an Environmental Impact Statement is not required with respect to this proposed rule. A copy of the Finding of Inapplicability is available for inspection and copying according to Department rules and regulations during business hours at the Office of the Rules Docket Clerk, whose address is stated above.

Accordingly, it is proposed that 24 CFR 3282.356(e) be added as follows:

§ 3282.356 Disqualification and requalification of primary inspection agencies.

(e) Both provisional and final acceptance of any IPIA (or DAPIA) automatically expires at the end of any period of one year during which it has not acted as an IPIA (or DAPIA). An IPIA (or DAPIA) has not acted as such unless it has actively performed its services as an IPIA (or DAPIA) for at

least one manufacturer by which it has been selected. An IPIA (or DAPIA) whose acceptance has expired pursuant to this provision (§ 3282.356(e)) may resubmit an application under § 3282.353 in order to again be qualified as an IPIA (or DAPIA), when it can show a bona fide prospect of performing IPIA (or DAPIA) services.

(Sec. 625, National Mobile Home Construction and Safety Standards Act of 1974, (42 U.S.C. 5424); sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)))

Issued at Washington, D.C., November 1, 1979.

Richard C. D. Fleming,
General Deputy Assistant Secretary for
Neighborhoods, Voluntary Associations, and
Consumer Protection.

[FR Doc. 79-36050 Filed 11-23-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 48 and 139

[LR-61-78]

Excise Tax on Coal; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service,
Treasury.

ACTION: Public hearing on proposed
regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to excise tax on coal.

DATES: The public hearing will be held on January 10, 1980, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by December 27, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-61-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4121 of the Internal Revenue Code of 1954, as added

by section 2 of the Black Lung Benefits Revenue Act of 1977. The proposed regulations appeared in the *Federal Register* for Monday, August 27, 1979, at page 50065 (44 FR 50065).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by December 27, 1979.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,
Director, Legislation and Regulations
Division.

[FR Doc. 79-36376 Filed 11-23-79; 6:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Gateway National Recreation Area; Use of Metal Detecting Device

AGENCY: National Park Service, Interior.
ACTION: Proposed rule.

SUMMARY: Regulations in effect at the Gateway National Recreation Area prohibit the possession or use of mineral or metal detecting devices. This rule will allow the possession or use of such a device on Jacob Riis Beach.

DATES: Written comments, suggestions or objections will be accepted on or before December 26, 1979.

ADDRESSES: Comments should be directed to: Superintendent, Gateway National Recreation Area, Building No. 69, Floyd Bennett Field, Brooklyn, N.Y. 11234.

FOR FURTHER INFORMATION CONTACT: Herbert S. Cables, Jr., Superintendent, Gateway National Recreation Area, Telephone: (212) 252-9150.

SUPPLEMENTARY INFORMATION:

Background

Present regulations (36 CFR 2.20(b)(6)) prohibit the possession or use of a mineral or metal detecting device in areas of the National Park System. The intent of this action is to allow the possession or use of mineral or metal detectors in one well defined area of public beach. The sand for this beach was hauled in by truck, and has been held in place by groins placed for that purpose. Thus, there is no possibility that historic or archeological resources are present to be disturbed by metal detecting activity.

Use of metal detectors was a recreational pursuit in this area until the National Park Service assumed ownership some time after 1972.

Authority: Section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. 3); P.L. 92-592 of October 27, 1972 (85 Stat. 1311, 16 U.S.C. 460cc.); Title 36 CFR 1.1(c).

In consideration of the foregoing, it is proposed to amend § 7.29 of Title 36, Code of Federal Regulations by addition of a new paragraph (d) as follows:

§ 7.29 Gateway National Recreation Area.

(d) *Possession or Use of Mineral or Metal Detecting Device.* Possession or use of a mineral or metal detecting device is allowed at Jacob Riis Park in the beach area between the boardwalk and the water line, from Beach 149th Street to Beach 169th Street, commonly known as Bays One through Fourteen. Possession or use of a mineral or metal detecting device at any other location is prohibited: *Provided*, That possession of such a device within a motor vehicle is permitted if the device is broken down or packed in such a way as to prevent its use while in the park areas: *Provided further*, That the provisions of this section shall not apply to (1) fathometers, radar equipment and electronic equipment used primarily for the navigation and safe operation of boats and aircraft, and (2) mineral or metal detecting devices used in pursuit of authorized mining activities.

Drafting Information

The following persons participated in the writing of this regulation: Leonard A.

Frank and Donald L. Jackson, North Atlantic Regional Office, and Robert Cunningham, Gateway National Recreation Area, all of the National Park Service.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044 and Part 14 of Title 43 of the Code of Federal Regulations; nor is it a major Federal action significantly affecting the quality of the human environment, which would require preparation of an Environmental Impact Statement.

L. J. Hovig,

Acting Regional Director, North Atlantic Region, National Park Service.

[FR Doc. 79-36256 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 120

[FRL 1365-6]

Water Quality Standards; Surface Waters of the State of Alabama

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules.

SUMMARY: This action proposes water quality standards to reestablish previously approved use classifications for segments of four navigable waterways, Five Mile Creek, Opossum Creek, Valley Creek, Village Creek, and upgrade the use designation of a segment of Village Creek from river mile 30 to its source, where available information indicate that alternative use designations consistent with the Clean Water Act are attainable. This action is separate from final EPA rulemaking relating to the State of Alabama, in which EPA proposed use classifications for 23 stream segments (43 FR 43741, September 27, 1978). Final action on these streams is expected soon.

DATES: All written comments received on or before January 25, 1979 will be considered in the preparation of the final rule. Public hearing will be held on January 17, 1980, at 7:00 p.m.

ADDRESSES: Written comments should be addressed to R. F. McGhee, Water Quality Standards Coordinator, EPA, 245 Courtland Street, NE., Atlanta, Georgia, 30308. The hearing will be held in the North Meeting Room D-J-, 1 Civic Center Plaza, Birmingham, Alabama.

FOR FURTHER INFORMATION CONTACT: R. F. McGhee at the above address, telephone (404) 881-3012.

SUPPLEMENTARY INFORMATION: Statutory requirement: Section 303(c) of the Clean Water Act, as amended (Pub. L. 95-217) (hereinafter the Act) provides that whenever a state revises its water quality standards, or adopts new standards, such standards must be submitted to EPA for approval. If EPA determines that the revised standards are not consistent with the requirements of the Act, it must notify the state within 90 days and specify the changes necessary to comply with the Act. If the state's water quality standards are not brought into compliance with the Act within 90 days after the date of notification, the EPA must promulgate water quality standards consistent with the Act after proposal and public comment.

The Agency's regulations for implementing Section 303(c) of the Act are codified at 40 CFR 35.1550. Guidance for these regulations has appeared in Chapter 5 of EPA's "Guidelines for State and Area-wide Water Quality Management Program Development" (November 5, 1976; 40 FR 43777; "Guidelines"), and in a Federal Register Notice (43 FR 29588—July 10, 1978).

Background

On October 15, 1976, and March 17, 1977, the Alabama Water Improvement Commission (AWIC) held public hearings to receive comments on Alabama's water quality standards relative to the requirements of the Act, the 40 CFR 35.1550 regulations and the Guidelines. Since these hearings, seven distinct actions have occurred, either by the State or EPA, leading to this proposed rulemaking.

First, on May 30, 1977, the AWIC adopted substantive revisions to the Alabama water quality standards including changes in the antidegradation policy, mixing zone criteria, waste treatment requirements, temperature criteria, use classifications and their associated criteria and 175 designated beneficial use classification assignments.

Second, on August 29, 1977, in accordance with Section 303(c)(3) of the Act, the EPA Regional Administrator, Region IV, approved the revised water quality standards adopted on May 30, 1977, except for specific use designations for 57 stream segments, and for Section V, Waste Treatment Requirements pending further evaluation.

Third, on September 17 and 20, 1977, EPA Region IV held public meetings to

provide information to interested persons on the Agency's action of August 29, 1977, and to receive public comments on the sections of the water quality standards which were excepted from EPA's approval.

Fourth, on September 28, 1977, the Regional Administrator disapproved 50 beneficial use designations which are the subject of another rulemaking (43 FR 43741; September 27, 1978). The Regional Administrator approved seven beneficial stream use designations for which he had previously withheld approval including the assignment of the Agricultural and Industrial Water Supply Use to segments of Five Mile, Opossum, Valley and Village Creeks in Jefferson County, Alabama.

Fifth, on December 19, 1977, among other actions, the AWIC adopted a revised beneficial use classification, Industrial Operations, for segments of Five Mile, Opossum, Valley and Village Creeks.

Sixth, on January 5, 1978, the AWIC submitted to the Regional Administrator the revised water quality standards adopted on December 19, 1977.

Finally, on April 13, 1978, the Regional Administrator disapproved the assignment of the Industrial Operations use to Opossum Creek and portions of Five Mile, Valley and Village Creeks. Because of this determination and because the State has failed to take appropriate action to justify the downgrading of beneficial use designations previously approved for the four stream segments listed herein, the Agency is proposing appropriate stream use designations in accordance with Section 303(c)(4) of the Act.

The State may: (a) Submit adequate justification as provided by 40 CFR 35.1550(c) for the use classifications disapproved by the Regional Administrator; or (b) adopt appropriate use classifications for the waters listed in this proposed rule. If the State fails to act in either manner (a or b), the Administrator in accordance with Section 303(c)(4) of the Act will promulgate the water quality standards proposed herein, or other standards which EPA determines are consistent with the requirements of the Act after considering public comment.

Statutory Basis and Purpose

Section 303(c) of the Act requires that State water quality standards "... protect the public health and welfare, enhance the quality of water and serve the purposes of this Act." The purpose of water quality standards, as with other sections of the Act, is to achieve the 1983 national goal, wherever attainable, "... of water quality

which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water * * * (Section 101(a)(2)).

A water quality standard for a particular water body basically consists of two parts: a designated "use" for which the water body is to be protected (such as "agriculture," "recreation," or "fish and wildlife") and a numerical or qualitative pollutant concentration limit (or "criterion") which will support that use. (A more detailed discussion of water quality standards is presented in EPA's policy statement, 43 FR 29588, July 10, 1978, and in regulations at 40 CFR 35.1550.)

As noted in EPA's July 10, 1978 statement, EPA's policy with respect to the designation of individual water segments for one or more uses is based on the goal set forth in Section 101(a)(2) of the Act. It is EPA's policy that uses consonant with the 1983 goal are the norm, and that less protective uses may be allowed only in carefully limited circumstances related to the determination of attainability. Thus EPA's regulations require that States establish water quality standards that will achieve the 1983 goals where attainable and maintain water uses currently being attained (40 CFR 35.1550(c) (1) and (2)). If the currently designated use cannot be attained, however, that use may be downgraded, but only upon a demonstration that the designated use is "unattainable" because:

- (1) Of natural background;
- (2) Of irretrievable man-induced conditions; or
- (3) Achievement of the designated use would require application of effluent limitations for existing sources more stringent than those required pursuant to section 301(b)(2) (A) and (B) of the Act (even assuming implementation of "best management practices" for nonpoint sources) and imposition of such extra controls would result in substantial and widespread adverse economic and social impact (40 CFR § 35.1550(c)(3)).

As explained below, EPA's action today follows these policies. Since the State has not submitted information to demonstrate that water quality consistent with the Agricultural and Industrial use classification is not attainable in these segments in accordance with 40 CFR 35.1550(c)(3), EPA is proposing to reinstate the former designated uses except for the segment of Village Creek from River Mile 30 to its source. For that segment of Village Creek, site specific studies indicate that the higher use classification of Fish and Wildlife is attainable, at no extra cost,

through the application of minimum technology-based treatment requirements and improved operation of existing treatment facilities. EPA is, therefore, proposing to upgrade that segment to a Fish and Wildlife classification. EPA will review all information that Alabama may submit in support of the downgradings, as well as all public comments, before promulgating a final rule.

The Agency's Proposed Rule

The proposed rule would reestablish designated use classifications downgraded by the State without adequate justification, and upgrade one segment which available scientific and technological data indicate can achieve the higher use with current treatment requirements.

Three water use classifications are of concern with respect to the four creeks evaluated: (1) Fish and Wildlife (2) Agricultural and Industrial Water Supply and (3) Industrial Operations. The Fish and Wildlife classification established in Alabama's standards requires that "the waters will be suitable for fish, aquatic life and wildlife propagation." With respect to toxic substances attributable to sewage, industrial wastes or other wastes, the requirements incorporated in Alabama's standards are that such substances be limited to "only such amounts, whether alone or in combination with other substances, as will not be injurious to fish and aquatic life including shrimp and crabs in estuarine or salt waters or the propagation thereof; not to exceed 1-10th of the 96-hour median tolerance limit for fish and aquatic life including shrimp and crabs in salt and estuarine waters, except that other limiting concentrations may be used when factually justified and approved by the Commission."

Requirements of the Agricultural and Industrial Water Supply classification provide that "the waters except for natural impurities which may be present therein, will be suitable for agricultural irrigation, livestock watering, industrial cooling waters, and fish survival." Toxic substances are limited to "only such amounts as will not render the waters unsuitable for agricultural irrigation, livestock watering, industrial cooling, and industrial process water supply purposes, and fish survival, nor interfere with downstream water uses."

The Industrial Operations classification applies to those waters used as "industrial cooling and process water supplies and any other usage, except fishing, bathing, recreational activities including water contact sports or as a source of water supply for

drinking, or food-processing purposes." Toxic substances are limited to "only such amounts as will not render the waters unsuitable for industrial cooling, and industrial process water supply purposes nor interfere with downstream water uses."

The most important differences between the three alternative designated uses are that concentrations of the toxic substances (1) cannot interfere with aquatic life or wildlife propagation in fish and wildlife streams; (2) cannot interfere with fish survival in agricultural and industrial water supply streams; (3) cannot interfere with downstream uses in industrial operation streams. The Fish and Wildlife designated use for a portion of Village Creek requires more stringent water quality criteria than the Agricultural and Industrial Water Supply use and both of these designated uses require more stringent water quality criteria than the Industrial Operations designated use.

From January 1978 through September 1978 the Surveillance and Analysis Division of EPA, Region IV conducted biological and chemical studies of the four streams subject to this rulemaking. The purpose of the studies was to characterize and test the quality of Five Mile, Opossum, Valley, Village creeks, and wastewater discharges they receive. EPA used the data from these studies to identify and quantify significant toxic compounds and to develop in-stream criteria concentrations which would reflect the degree of protection associated with the designated uses under consideration. Following the determination of maximum pollutant concentrations for critical parameters, allowable quantities and needed reductions in critical pollutants were determined for each point-source discharge. EPA then compared the treatment necessary to achieve these reductions and the costs involved, and determined that the designated uses proposed in this rule are attainable.

EPA's analysis indicates that water quality levels supporting Agricultural and Industrial uses in Opossum and Valley Creeks, plus Village Creek from Bayview Lake to River Mile 30 can be achieved with improved operation of existing facilities and the application of minimum technology-based controls. In Five Mile Creek, achievement of this water quality may also require installation of activated sludge processes by two discharges. Finally, EPA's review indicates that the Fish and Wildlife classification can be achieved in the segment of Village Creek from River Mile 30 to its source with minimum treatment requirements. No

information is available to refute this conclusion. Since the Fish and Wildlife classification can be achieved in this segment of Village Creek without placing additional restrictions on the dischargers, EPA is proposing that this segment of Village Creek be so designated.

Economic Impacts

Assessment of the estimated economic impact of projected point source abatement controls necessary to achieve the proposed designated uses was based on an analysis of projected reductions in pollutants for certain affected dischargers and the estimated costs of necessary controls. The state provided no economic justification for establishing the less stringent use that it adopted.

Based upon available information, EPA determined that two dischargers, located on Five Mile Creek where the Agency is proposing to reinstate the previous Agricultural and Industrial Water Supply use designation, may be affected by the proposed rulemaking. These point source dischargers may have to install additional wastewater treatment technology to meet the proposed water quality standards.

If additional treatment becomes necessary, it is estimated that costs for such improvements could amount to approximately \$600,000—\$1.4 million in construction costs and \$300,000 to \$900,000 per year in total annual costs.

Under Executive Order 12044 EPA is not required to perform a regulatory analysis (43 FR 12461; March 24 1978) on this proposed regulation.

Public Hearings

The Agency plans to hold a public hearing in Birmingham, Alabama.

The hearing will be held from 7:00 pm on January 17, 1979, in the North Meeting Room D-J, 1 Civic Center Plaza. Requests to make oral statements should be forwarded to: R. F. McGhee, Water Quality Standards Coordinator, EPA, 345 Courtland Street, NE, Atlanta, Georgia, 30308. Both oral and written comments will be accepted at the

hearing. The hearing officer reserves the right to fix reasonable limits on the time allowed for oral presentations.

Availability of the Record

The entire administrative record concerning the Alabama water quality standards described in this preamble is available for public inspection and copying at the Environmental Protection Agency, Region IV Office, Water Division, 345 Courtland Street, NE, Atlanta, Georgia, 30308, during normal business hours of 8:00 am to 4:30 pm. The water quality standards for Alabama, detailed analyses on each stream segment mentioned herein, the correspondence between the AWIC and Region IV, EPA, the proposed standards and other supporting technical information are available for inspection and copying at the U.S. EPA Public Information Reference Unit (Room 2922), 401 M Street, SW., Washington, D.C. 20460, during normal business hours of 8:00 am to 4:30 pm.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 101, 303, and 501 of the Clean Water Act, as amended (33 U.S.C. 1251, 1313, 1361)).

Dated: November 16, 1979.

Barbara Blum
Acting Administrator.

Part 120 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended by expanding § 120.10 as follows:

The beneficial uses identified in the water quality standards revisions adopted by the Alabama Water Improvement Commission on May 30, 1977, and revised on December 17, 1977, are amended as follows:

§ 120.10 Alabama.

(a) * * *

Basin	Stream	From	To	Classification
Warrior	Five Mile Creek	Coalburg	Ketone	Agricultural and Industrial.
	Opossum Creek	Valley Creek	Its Source	Agricultural and Industrial.
	Valley Creek	County Road, 1 1/2 miles NE of Johns (River Mile 33).	Opossum Creek	Agricultural and Industrial.
	Village Creek	Bayview Lake	River Mile 30 (Republic Steel).	Agricultural and Industrial.
		River Mile 30 (Republic Steel).	Its Source	Fish and Wildlife.

[FR Doc. 79-36360 Filed 11-20-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 250

[FRL 1363-7]

Hazardous Waste Guidelines and Regulations; Extension of Comment Period on and Clarification of Supplemental Proposed Rule

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Extension of comment period on and clarification of proposed rule.

SUMMARY: This notice further extends for sixty (60) days the deadline for commenting on EPA's August 22, 1979, proposal to list lead/phenolic sand casting waste from malleable iron foundries as a hazardous waste under Section 3001 of the Resource Conservation and Recovery Act, as amended. This notice also amends EPA's proposed listing for this waste to clarify the types of foundry wastes covered.

DATES: Comments on EPA's proposal to list lead/phenolic sand casting waste as a hazardous waste are now due no later than January 25, 1980.

ADDRESSES: Comments should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Communications should identify the regulatory docket "Section 3001".

The official record for this rulemaking and EPA's other hazardous waste regulations is available at: Room 2711, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Alan S. Corson, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9187.

SUPPLEMENTARY INFORMATION: On August 22, 1979 (44 FR 49402-49404), EPA proposed to add "lead/phenolic sand casting waste from malleable iron

foundries" to the proposed list of hazardous wastes which the Agency published on December 18, 1978 (44 FR 58946, 58967-58959). The original deadline for commenting on this proposed listing was October 12, 1979. On October 12, 1979, EPA extended this deadline for forty-five (45) days to give the public an opportunity to review certain supporting technical data which were not expected to be available until mid-October, 1979 (44 FR 58923). Because it now appears that these data will not be available until late November, EPA is extending the comment period on lead/phenolic foundry sand casting waste for an additional sixty (60) days.

Additionally, as a result of public comment on its proposed listing of "lead/phenolic sand casting waste from malleable iron foundries" and its review of its background data, EPA is making several changes in this listing. First, EPA has amended the listing description to make it clear that the waste stream which EPA is proposing to list as a hazardous waste is lead-bearing wastewater treatment sludges. Second, because the only data which EPA currently has suggesting that ferrous foundry treatment sludges contain high concentrations of lead is from gray iron foundries, the listing has been amended to include only gray iron foundry treatment sludges. Finally, because EPA has insufficient data on the phenol content of these sludges, the listing description has been amended to delete phenol.

Dated: November 16, 1979.

Barbara Blum,
Deputy Administrator.

It is proposed to further amend Title 40 CFR Part 250, Subpart A which was proposed at 43 FR 58946-58968 (December 18, 1978) and amended at 44 FR 49402-49404 (August 22, 1979) as follows:

1. In § 250.14(b)(2) delete "3322—Lead/phenolic sand casting waste from malleable iron foundries (T,O)" and insert in lieu thereof the following:

3321—Lead-bearing wastewater treatment sludges from gray iron foundries (T).

[FR Doc. 79-36200 Filed 11-23-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 61 and 63

[CC Docket No. 79-252; FCC 79-599]

Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry and Proposed Rulemaking.

SUMMARY: The FCC is proposing to reduce substantially the amount of information which certain non-dominant communications common carriers must include when they propose to change their charges or terms of service. It is also proposing to reduce the regulatory burdens on such carriers who seek to introduce new, or curtail existing, service. The Communications Act of 1934 requires that the charges and practices of communications carriers be just, reasonable, and not unduly discriminatory. Such charges and practices—or tariffs—are filed with the Commission and are accompanied by detailed support material to facilitate the Commission's analysis. Recently many new firms have begun to supply telecommunications services, making these markets competitive as between firms which do not have a dominant position. The FCC stated its belief that it can rely on marketplace forces to ensure that the rates and conditions of service by such firms are lawful, and therefore proposes to relieve these firms of the burdens of filing cost support material with tariff changes. In addition, the Commission would reduce the authorization procedures such firms must undergo to use new facilities or discontinue existing service. These proposed rules, when and if implemented, would free Commission resources to address questions raised by the filings of dominant carriers—such as AT&T and Western Union—and would relieve the non-dominant carriers of a burden which has delayed the introduction of innovative services. The Commission also is seeking comment on whether, and to what extent, it can and should free certain carriers from all regulation.

DATES: Comments on the specific deregulatory proposals must be received on or before February 1, 1980, and reply comments on or before March 14, 1980.

Comments on the further deregulatory proposals must be received on or before February 29, 1980, and reply comments on or before March 21, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ken Levy, Tariff Division, Common Carrier Bureau, (202/632-6917).

In the matter of Policy and Rules concerning rates for competitive common carrier services and facilities authorizations therefor [CC Docket No. 79-252]

Adopted: September 27, 1979.

Released: November 2, 1979.

By the Commission: Commissioners Ferris, Chairman; and Fogarty issuing Separate Statements; Commissioner Lee absent.

Table of Contents

	Para.
I. Introduction	1-5
II. Current Tariff and Section 214 Requirements	6-10
III. The Competitive Marketplace in General	11-16
IV. Industry Structure	17-28
V. Current Competition	29-37
A. Voice/Data Market	29-33
B. Video Relay Market	34-37
VI. Legal Considerations	38-43
VII. The Proposals	44-77
A. In General	44-45
B. Section 201(b)	46-50
C. Section 202(a)	51-54
D. Section 61.38 and Notice Periods	55-58
E. Presumption of Lawfulness	59-62
F. Section 214	63-73
G. Video Relay Carriers	74-77
VIII. Applicability	78-80
IX. Summary and Implementation	81-83
X. Disposition of Pending Dockets and Related Complaints	94-96
XI. Further Deregulatory Options	97-120
XII. Ordering Clauses	121-126

Appendices

- Appendix A—Proposed Rules
- Appendix B—Discussion of Video Relay Ratemaking Methodology
- Appendix C—Questions to be Addressed by Commenting Parties
- Appendix D—Reporting Requirements for Eligible Carriers

I. Introduction

1. Notice is hereby given of commencement of an inquiry into the ratemaking procedures and methods applied to competitive carriers providing domestic services and certain other aspects of our regulation of such carriers. Also, we are commencing a rulemaking proceeding pursuant to Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553, to consider amendment of our tariff filing requirements for such common carrier services as well as other rule changes relating to facilities and service authorizations. While the established carriers¹ provide competitive

¹ The term "established carriers" is used throughout this Notice to describe those interstate telephone and telegraph carriers which predominated in the industry prior to our

communications services in addition to those services which are essentially non-competitive, the primary focus of this proceeding will be on the so-called specialized common carriers (SCCs), domestic satellite carriers (Domsats), resale (including value-added) carriers, and miscellaneous common carriers (MCCs). For convenience sake, we shall often refer to these carriers throughout this proceeding as Other Common Carriers (OCCs). As will be discussed later, these carriers offer a variety of services and compete not only with each other but with the established carriers as well.

2. Commencement of this proceeding is deemed appropriate because of changes which have occurred in the domestic telecommunications industry in recent years. Primarily as a result of technological and regulatory developments, the telecommunications industry has evolved from one dominated by a few large entities where service was provided largely on a monopoly basis to one where a degree of competition now exists for the provision of some communications services. However, our efforts to assure just and reasonable and otherwise lawful rates in a competitive marketplace by applying the rules and procedures we established to regulate the rates charged by carriers operating in a monopoly market seem to have resulted in unnecessary regulatory burdens and retarded some of the cost and service benefits anticipated when we adopted our general policies favoring competition. In general, we propose the establishment of different regulatory rules, policies and practices to be applicable to carriers depending upon the extent of their market power, ability to cross-subsidize unlawfully among their services, and other relevant factors. We are also proposing certain changes in our Section 214 policies, practices and rules as applied to domestic competitive carriers which more accurately reflect the developing competitive realities.² Among our goals in this proceeding are to investigate and to deregulate so far as possible consistent with the public interest in the emerging competitive telecommunications market.

3. The first proposal would relieve the competitive carriers of the requirements of § 61.38 of the Rules which now mandates the submission of cost support data for all tariff filings. As explained more fully below, it appears that these requirements, as applied to non-

Specialized Common Carrier Services, 29 F.C.C. 2d 870 (1971), recon. 31 F.C.C. 2d 1106 (1971), *aff'd sub nom. Washington Utilities and Transportation Commission v. FCC*, 513 F.2d 1142 (9th Cir. 1975), cert. denied, 423 U.S. 836 (1975).

² See paras. 63-73, *infra*.

dominant carriers, are not only unnecessary but obstructive to our statutory responsibilities under the Act. Consistent with our tentative belief that competitive carrier rates are highly unlikely to contravene the Act, the second major proposal would create a presumption of lawfulness of these rates where a petition to suspend has been filed. The third principle change proposes to minimize the current burdens imposed on the non-dominant carriers under Section 214, and would permit these carriers to file for Commission certification for construction and circuit extensions in a single application. Burdens of discontinuance certification are also minimized. Fourth, questions are raised whether the current market structure of video relay carriage warrants different treatment of these carriers under these proposals. Finally, certain further options of a more fundamental deregulatory nature are opened for inquiry. These options raise issues of whether the Commission can and should forbear from regulation of the non-dominant carriers and (2) reconsider the definition of "common carrier" with the effect of excluding certain entities from the proscription of the Act.

4. Our First Report in Docket No. 20003, *Customer Interconnection*, 61 F.C.C. 2d 766 (1976),³ contains a detailed discussion of the emergence of competition in the domestic telecommunications industry. The record in that proceeding is incorporated by reference here, and we refer interested persons to it for background. Briefly, we note that prior to our recent policy of allowing competitive entry, the only significant entities providing domestic interstate telecommunications services had been the American Telephone and Telegraph Company (AT&T) which, through its Bell System companies in cooperation with the independent telephone companies, has provided interstate telephone service,⁴ the Western Union Telegraph Company (WU) which has provided public

³ Docket No. 20003 is an on-going inquiry into the effects of our policies favoring competition in various segments of the telecommunications industry, including interconnection of customer provided terminal equipment and provision of private line services.

⁴ In addition to providing virtually all interstate telephone service, AT&T and its associated operating companies remain the dominant communications entity providing most local and intrastate telephone service. However, approximately 1,600 non-Bell, independently owned telephone companies provide about 16% of the domestic telephone service in the U.S. They interconnect with the Bell System companies in providing toll telephone and other services on a non-competitive or cooperative basis. *Customer Interconnection*, supra, 61 F.C.C. 2d at 794-95.

message telegram service (PMS),⁵ and the MCCs which have provided video relay services primarily to CATV systems.⁶ In a series of decisions beginning with *Allocation of Frequencies in the Bands above 890 Mc*, 27 F.C.C. 359 (1959), recon. 29 F.C.C. 825 (1960), we have established a policy favoring alternatives to the services traditionally offered only by the telephone and telegraph companies. See *Microwave Communications Inc.*, 18 F.C.C. 2d 953 (1969), recon., 21 F.C.C. 2d 190 (1970); *Specialized Common Carrier Services*, supra; *Domestic Communications Satellite Facilities*, 35 F.C.C. 2d 844 (1972), recon., 38 F.C.C. 2d 685 (1972); *Packet Communications Inc.*, 43 F.C.C. 2d 922 (1973); *Graphnet Systems Inc.*, 44 F.C.C. 2d 800 (1974), *Resale and Shared Use*, 60 F.C.C. 2d 261 (1976), recon., 62 F.C.C. 2d 588 (1977), *aff'd sub nom. AT&T v. FCC*, 572 F.2d 17 (2d Cir. 1978), cert. denied, 99 S.Ct. 213 (1978).

5. In this Notice we set forth in some detail our observations, experience and analysis regarding the industry, the extent of competition, the problems which have occurred from application to competitive carriers of rules premised on monopoly conditions, and proposed changes in those rules and policies to reflect the emergence and developing nature of competition and the varying degrees of regulation needed within the present and reasonably foreseeable industry structure. We believe that the information received during the course of this proceeding will enable us to choose new approaches to rate, tariff and facilities regulation of carriers, offering services where competition exists and which will promote, rather than hinder, the evolution of a more

⁵ Western Union has provided telegram service on a monopoly basis since 1943 when the Communications Act was amended to enable WU to merge with Postal Telegraph Cable Company, then a competing provider of telegraph service. However, the Commission recently concluded a rulemaking proceeding in which it decided to allow open entry into the domestic public message telegram service (PMS). See CC Docket No. 78-96, *Graphnet Systems Inc.*, 67 F.C.C. 2d 1059 (1978), *Report and Order*, 71 FCC 2d 471 (1979); *Notice of Inquiry*, FCC 79-442 (released July 23, 1979). Also, WU has, since 1971, been the sole provider of domestic Telex and TWX services, having acquired AT&T's TWX service in addition to its own Telex service. The applicability of this proceeding to WU is discussed further at Part VIII, *infra*.

⁶ Aside from these carriers, the other major category of carriers whose rates have been subject to our regulation (prior to entry by the OCCs) are the international record carriers (IRCs) and the Communications Satellite Corporation (Comsat). Although international services may be, in some respects, competitive, their characteristics tend to be considerably different. Therefore, this proceeding will not address international policies (except to the extent that the domestic portion of international services may be affected).

competitive marketplace and related consumer benefits.

II. Current Tariff and Section 214 Requirements

6. Our authority to regulate the charges and services of communications common carriers is contained in Title II of the Communications Act of 1934 (hereinafter the Act). Section 201(b) of the Act, 47 U.S.C. § 201(b), provides that all charges, classifications, practices and regulations for such services shall be "just and reasonable." Section 202(a), 47 U.S.C. § 202(a), prohibits charges, classifications, and practices, that are unduly discriminatory or preferential.⁷ These sections contain the statutory standards by which we have judged the lawfulness of all carriers' rates and service regulations. Our current rules contain provisions which were adopted some time ago to assist us in our efforts to fulfill these statutory objectives.

7. For example § 61.38 of the Rules, 47 CFR § 61.38, "Material to be submitted with letters of transmittal by filing carriers," requires submission of certain support material and economic data. That rule was adopted in 1970, when very few services were offered on a competitive basis. See *Final Report and Order in Docket No. 18703, Tariffs-Evidence*, 25 F.C.C. 2d 957 (1970). As discussed in *Tariffs-Evidence*, § 61.38's cost support data requirements were enacted at that time to provide information to assist us in evaluating the lawfulness of tariff filings. 25 F.C.C. 2d at 965. The rule was, in part, a codification of existing informal policy or procedure whereby we would request cost information from certain carriers relative to their major tariff filings. At the time this rule was proposed (in 1969) the only carriers involved (except for the IRCs and the MCC video relay carriers) were the established carriers whose various services were offered essentially on a non-competitive basis. For those carriers, information with respect to revenue/cost relationships, as required

⁷ Section 201(b) states, in pertinent part: All charges, practices, classifications and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful.

⁸ Section 202(a) states that: It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.

by § 61.38, was essential in evaluating the justness and reasonableness of rate levels and rate structures. By the time that we finalized our decision in Docket No. 18703, our initial policy of competitive entry for the SCCs had been adopted but, of course, not significantly effectuated by interested carriers. On reconsideration, we noted that the necessity for cost support data also existed where a carrier sought to offer a competitive service. However, we were careful to point out in this regard the circumstances where 61.38 data might be most useful. Thus in *Tariffs-Evidence*, 40 F.C.C. 2d 149 (1973), we stated:

We have found that it is particularly important to obtain the data required by our rules where questions are raised as to whether a new or reduced rate competitive service is being cross-subsidized by other services and whether there is factual support for allegations of anti-competitive impact from such rates.

40 F.C.C. 2d at 153. We indicated in our orders adopting the rule we would either grant waivers or amend the rule based upon the experience gained with its application. See 25 FCC 2d at 966 and 40 FCC 2d at 154-155. In the several years since § 61.38's adoption and the emergence and continued development of competition, we have gained considerable experience with its application to the filings of the newly emerged SCC, Domsat, resale and MCC carriers, as well as its application to established carrier filings.

8. As set forth hereinafter,⁹ with respect to OCCs offering only competitive services, we have found that strict application of the requirements of § 61.38 has been of little use to the Commission in determining the lawfulness of their tariffs. This is due to the fact that for the competitive services offered by OCCs conditions in the marketplace usually play a determinative role in controlling the lawfulness of rate levels and rate structures within the meaning of Sections 201(b) and 202(a) of the Act. On the other hand, we have found § 61.38 data essential for holding accountable carriers offering both monopoly and competitive services.¹⁰ Because marketplace factors play such a large role in determining the rates that OCCs

⁹ See Parts III, IV and V, *infra*.

¹⁰ Throughout this discussion, we generally use the term "monopoly" to refer to markets or services where there is little or no effective competition or where a carrier has substantial market power. As a result of *MCI Telecommunications Corp. v. FCC*, 561 F.2d 365 (D.C. Cir. 1977), cert. denied, 434 U.S. 1040 (1978) (Execut. I), we recognize that, at this date, instances of legal monopoly, i.e. where entry into a market or initiation of a service is restricted by governmental authorities, are very limited.

can charge for competitive services, the of competitive harassment. In any even, these competitive market and the related

in these markets by allowing brokerage basis of successful product or service or significantly enhance this process

can charge for competitive services, the amount and type of information that the Commission needs to fulfill its statutory obligation to insure that OCC rates are lawful is different from that it must receive from a carrier which offers both monopoly and competitive services. Thus, we propose herein to relieve OCCs of the requirement to file § 61.38 data but to retain that requirement for dominant carriers.

9. We have also found that strict application of the requirements of § 61.38 to the tariff filings by the OCCs has had inhibiting effects on their service offerings. In addition to the costs such regulation itself imposes (see para. 97 *infra*), our recent experience has shown that the OCCs' efforts to implement innovative services and pricing often have been impeded by petitions to reject or suspend their tariff filings. These petitions usually are filed by carriers offering comparable or competitive services. Indeed, the records of our Common Carrier Bureau reveal that approximately three-quarters of the petitions to suspend or reject filings of OCCs come from competing carriers, and not customers. The arguments made to support these requests are usually premised upon technical deviation from the cost support requirements of § 61.38. In many, if not most, cases, it is apparent that these petitions are being used by competitors as a dilatory tactic to postpone commencement of service or rate changes by competing carriers.

Our concern about this plethora of apparently protection motivated challenges to tariff filings was articulated recently in *RCA American Communications, Inc.*, 69 F.C.C. 2d 426 (1978), a case in which we consolidated for investigation tariff offerings of several domestic satellite carriers. There, we stated:

Generally, these transmittals propose either new services or lower rates for existing services. It has long been Commission policy to allow competition among carriers of this sort, to stimulate innovative techniques and services and lower rates. We have also stated our policy of exercising regulatory flexibility for these carriers, to permit reasonable freedom to compete. We have not, however, specified in any consistent way the limits of that flexibility, or which practices may be accepted as just and reasonable within the context of an orderly competitive market. Largely for that reason, we have instituted a number of investigations of proposed tariffs in response to petitions by competing carriers, including the investigations of the six tariffs captioned above. Some of the carriers' petitions have addressed issues of genuine concern to customers and to the public generally, but many others have challenged the details in the cost support material. Some petitions seem also to be filed to some degree as a sort

of competitive harassment. In any event, these filings and petitions impose major and costly burdens upon the carriers and the Commission, burdens which could be reduced substantially if the proper scope and limits for our exercise of regulatory concern toward the tariffs of these carriers were more clearly defined. We could reduce the burdens of regulation and give greater effect to fair competition, while directing our attention to matters of more substantial importance.

69 F.C.C. 2d at 433. In our judgment, it is an incongruous situation where entrants into the competitive portion of a regulated industry attempt to interfere with each other's efforts to compete in the marketplace by resorting to rules and procedures which should be used to aid the Commission in protecting the public from unjust, unreasonable and unduly discriminatory pricing by carriers with market power in those segments of the industry where competition is largely absent.

We believe, however, that this proceeding may result in an approach to regulating the OCCs' tariffs whereby legitimate questions concerning their lawfulness can be adequately resolved while relieving these carriers from the burden of having to withstand even the most specious challenges to their service offerings. Although we focus here on challenges to the OCCs' tariffs, we are also concerned, of course, with any tariff challenges that may be purely dilatory. We are not unaware that one effect of the proposals herein may be to continue to subject dominant carriers to such spurious petitions, while relieving the non-dominant carriers of this problem, and thereby working some asymmetry. We hope that resolution of two recently instituted proceedings will serve to remedy this in large part. Notice of Inquiry in CC Docket No. 79-245, *Manual and Procedures for the Allocation of Costs*, FCC 79-562 (released September 28, 1979); Notice of Inquiry and Proposed Rulemaking in CC Docket No. 79-246, *Private Line Rate Structure and Volume Discount Practices*, FCC 79-565 (adopted September 20, 1979). Also see discussion at para. 85, *infra*.

10. In addition to addressing changes in § 61.38, we also intend to reduce the regulatory burdens related to Section 214 of the Act, 47 U.S.C. § 214, for competitive carriers.¹¹ To promote a

¹¹ Section 214 provides, in relevant part:

(a) No carrier shall undertake the construction of a new line or an extension of any line, or shall acquire or operate any line, or extension thereof, or shall engage in transmission over or by means of such additional or extended line, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or

competitive market and the related consumer benefits, such as service diversity, we believe the Commission has considerable flexibility to reduce or eliminate many of the application requirements and constraints flowing from its past interpretations of Section 214. As discussed below, we propose to do this through modified notice or reporting procedures or other less costly alternatives which take into account the dynamics of the competitive marketplace. The barriers to free exit from the market posed by the present interpretations could also be altered so as to end yet another deterrent to competition by potential entrants. More specifically, under this option we would propose to reduce the Section 214 filing requirements to include only the initial authorization of a carrier and a listing of the communities to be served. Additional channels could be added to those cities by filing reports but without additional authorization. Our detailed proposals in this regard are discussed at paras. 63-73 *infra*.

III. The Competitive Marketplace in General

11. Competition in the provision of telecommunications services and facilities has been steady growing as a result of Commission action.¹² In the past two decades, a number of telecommunications markets have been opened to competitive entry. In *Above 890* and in the *Specialized Common Carrier* decisions, *Supra*, firms have been authorized to enter certain intercity telecommunications markets by constructing terrestrial microwave facilities. The *Damsat* decision, *supra*, opened the way for satellite competition in voice, data and video markets. Our *Resale and Shared Use* decision, *supra*, and other prior decisions further broadened the possibility of competition

construction and operation of such addition or extended line. . . .

No carrier shall discontinue, reduce or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby. . . .

Basically, Part 63 of our Rules, which implements Section 214, requires carriers to obtain prior authorization from the Commission for the construction or lease of interstate lines and the initiation of service, or termination of service offerings. These requirements have been more or less applied uniformly to all carriers regardless of their industry position and competitive posture.

¹² For discussions of the concept of workable competition and its elements, see Clark, J.M., "Toward a Concept of Workable Competition," Vol. XXX, *American Economic Review*, June, 1940, pp. 241-256 and Scherer, F.M., *Industrial Market Structure and Economic Performance*, Rand McNally Publishing Co., Chicago, 1970, pp. 26-38.

in these markets by allowing brokerage and value-added communications services to be provided with a minimum of capital investment. Communications equipment competition has been fostered by the *Hush-a-Phone* and *Carterfone* decisions and the related equipment registration program. See *Hush-a-Phone v. U.S.*, 238 F. 2d 266 (D.C. Cir. 1956); *Carterfone*, 13 FCC 2d 420 (1968), *recon. denied*, 14 FCC 2d 571 (1969).

12. We expect this trend to continue. In *Computer Inquiry II*, 72 FCC 2d 358 (1979), among other proceedings, we hope to establish rules that will promote even more competition, diversity, and associated consumer benefits in the evolving market for data communications and equipment. MTS/WATS entry is an established fact (see the *Execunet* litigation, *supra*). Similarly, MTS/WATS Market Structure Inquiry, CC Docket No. 78-72, FCC 79-545, is an example of a proceeding where we may, among other things, determine MTS/WATS entry policy, and whether and to what extent MTS/WATS will be provided on a sole source or competitive basis, while proceeding to establish conditions necessary to ensure non-discriminatory access to local telephone exchanges by all intercity carriers.

13. In view of the dynamic nature of the industry and the changes it has caused we are addressing in this Notice the degree of regulation that is now needed to fulfill our statutory obligation to ensure that the rates charged by competitive carriers are just and reasonable and are not unduly discriminatory or preferential. Consequently, we are inclined to look at the market in terms of the existing market power of a carrier and the extent of actual and potential competition that exists. A carrier which provides a monopoly service has the ability in the absence of regulation, to set prices significantly above costs, limited primarily by the elasticities of demand for the service. Such carriers are not here being considered for deregulation.

14. On the other hand, carriers engaging only in the provision of competitive services do not normally possess market power, i.e., they do not have the ability to establish and maintain rates that are significantly above or below the marketplace price. If such a carrier attempts to sell at above the market price, it is likely to lose customers to its competitors. If a competitor's costs remain above the market price, which over the long run should be cost related, then that competitor will likely leave the market as an inefficient provider. Even on the

basis of successful product or service differentiation, such a firm's pricing is likely to be challenged by other competitors who attempt to match or surpass it in terms of product or service quality. Moreover, the competitive carrier has no incentive over the long run to price below its costs since it has (1) little expectation of achieving monopoly status and thus recoupling its losses through future monopoly rents and (2) no monopoly service from which to finance the necessary subsidization. Even where the competitive carrier is affiliated with a company having some market power in unregulated markets, cross-subsidization is not a costless strategy in the absence of effective rate base regulation. See discussion at ¶48, *infra*.

15. We recognize that there may be substantial differences among current and potential suppliers of interstate services in terms of market power, the ability to cross-subsidize unlawfully, and the range and characteristics of services offered. However, we believe we now have sufficient experience with competitive carriers and the markets in which they operate to draw meaningful distinctions such that we can initiate changes in rate and Section 214 regulation which more accurately reflect the emergence and developing nature of competition. We further believe these regulatory changes will result in greater competition, service diversity and related consumer benefits. To assist interested parties in framing comments we will first provide an analysis of the current and prospective industry structure (Part IV) and the extant and potential competition (Part V). Parties are to comment on this analysis and the proposals in Part VII, which we believe warrant prompt implementation. See Appendix C for details of the type of information we request. The deregulatory options in Part XI will be considered for longer term deregulation purposes. Based upon the record developed herein we will determine the maximum deregulation consistent with the public interest and our regulatory responsibilities set forth in the Communications Act of 1934.

16. Modern economic learning also affords us the opportunity to draw conclusions as to the need for continued regulation in this area. An examination of industry structure, based on our experience as well as relevant information expected to be received in the comments, should provide a sufficient basis upon which to make such judgments. We do not believe that complex performance analyses of each of the various markets would facilitate

or significantly enhance this process further. We also recognize that no matter how thorough an analysis is made that we are nonetheless dealing with a dynamic situation that is not susceptible to a precise, stable diagnosis. Despite such limitations, we believe that a sound decision, made in the public interest, can be reached based on our experience with the industry modern economic teachings, and the comments received in the course of this proceeding.

IV. Industry Structure

17. Any meaningful discussion of the domestic telecommunications industry must begin with the industry's dominant entity, AT&T. The Bell System, including its 23 associated telephone companies, Western Electric, Bell Laboratories and its Long Lines Department, had assets in 1978 totalling \$103.3 billion, operating revenues of \$41.0 billion, and net plant valued at \$90.4 billion.¹³ See our *Final Decision and Order* in Docket No. 19129, Phase II, *American Telephone and Telegraph Co.*, 64 F.C.C. 2d 1 (1977), for a description of the Bell System's corporate structure.

18. In addition to being the provider of local and toll telephone service, including interstate Message Telecommunications Service (MTS) and Wide Area Telecommunications Service (WATS) in conjunction with the independent telephone companies, it is by far the largest provider of private line telecommunications services, including point-to-point data transmission and transmission of television broadcast programming. Bell provides substitutes for virtually every service offered by the OCCs and dominates nearly every service market. Further, the Bell System Companies provide interconnection facilities used by the OCCs for delivery of many of their services. Hence, most OCCs who compete with AT&T also are reliant upon it for interconnection in order to originate and/or terminate their services. While the obligation of AT&T to provide the necessary interconnection facilities has been established, *Bell Telephone Company of Pennsylvania v. FCC*, 503 F.2d 1250 (3d Cir. 1974), *cert. denied*, 422 U.S. 1026, *reh. denied*, 423 U.S. 886 (1975); *MCI Telecommunications Corp. v. FCC* (*Execunet II*), 580 F.2d 590 (D.C. Cir.) *cert. denied*, 99 S.Ct. 733 (1978), the appropriate levels of charges and terms

¹³ *American Telephone and Telegraph Company (AT&T)*, 1978 Annual Report; *Statistics of Communications Common Carriers*, 1977, Federal Communications Commission. See also our discussions in Docket No. 20003, *Customer Interconnection*, *supra*.

of service for those facilities are often in dispute.

switched services and, in some cases, MTS/WATS equivalents. Non-telephone

23. Unlike the specialized common carriers which transport communications

of service for those facilities are often in dispute.

19. The only established carrier providing domestic telegraph communications services is the Western Union Telegraph Company (WU). WU has, until very recently (see note 5, *supra*) provided public message telegram service as a *de jure* monopoly. In addition, it has virtually no domestic competition in the provision of its switched record Telex-TWX services. Like A. T. & T., WU also offers various private line and video relay services¹⁴ in competition with the OCCs. Included among these are services provided over its Westar satellites and terrestrial microwave systems.

20. The OCC's are generally of four basic types. These are: (1) the SCC's (specialized common carriers, also referred to as terrestrial microwave carriers); (2) the Domsats (domestic satellite carriers); (3) resale (including value added) carriers; and (4) the MCC's (also known as miscellaneous common carriers or video relay carriers).¹⁵ For purposes of this discussion, we have chosen to describe these groups of carriers based primarily upon their methods of transmission. The nature of their services often overlap and often are competitive (to varying degrees) with one another and with the established carriers regardless of basic system characteristics. For example, the SCC's, Domsats and resale carriers all offer private line voice and data service. Both the Domsats and the MCC's provide transmission of video and audio signals. After discussing some of the entrants by facilities category, we shall discuss generally the services offered by the OCC's.

21. First, we shall consider the specialized common carriers. These carriers provide terrestrial point-to-point voice and data (analog and digital) communications primarily via their own microwave transmission facilities. Most of these carriers have also recently expanded their offerings to include

switched services and, in some cases, MTS/WATS equivalents. Non-telephone company common carriage by microwave transmission came into being in 1969 with our grant of the applications of Microwave Communications, Inc. (now MCI Telecommunications Corp.) to provide microwave transmission service between Chicago, Illinois and St. Louis, Missouri. *Microwave Communications, Inc., supra*. MCI has grown to offer coast-to-coast service as has Southern Pacific Communications Co. (SPC). In addition, several others, e.g., United States Transmission Systems, Inc., Western Telecommunications, Inc. and CPI Microwave (now owned by WU), provide service on a regional basis.

22. Currently, three entities provide domestic satellite services entirely via their own facilities including satellites and earth stations. These are RCA American Communications, Inc. (RCA Americom), Western Union, and the jointly provided system of A. T. & T. and GTE Corporation (A. T. & T./GSAT). Both RCA Americom and WU provide a full complement of voice, data and video private line communications services.¹⁶ In addition, other entities provide domestic satellite service by combining their own earth stations with resale of satellite capacity obtained from the underlying satellite carriers. Examples include American Satellite Corporation, which has its own transmit and receive earth stations but leases transponder space from WU, Southern Satellite Systems, Inc. and United Video, Inc., both of which transmit distant television signals to cable television systems via satellite facilities leased from RCA Americom. Also, there exist receive-only earth stations whose facilities are made available on a common carrier basis and general purpose earth station segments are available.¹⁷

¹⁴ In our *Domsat* proceeding, *supra*, we restricted A. T. & T./GTE service offerings to MTS, WATS and federal Government service until one of the following occurred: (a) transponder service on the other Domsat systems becomes substantially full, or (b) passage of 3 years from Comstar's commencement of operations. The restriction terminated on July 23, 1979. See *Establishment of Domestic Communications Satellite by Non-government Entities*, FCC 79-443 (released July 25, 1979).

¹⁵ Satellite Business Systems, Inc. (SBS), a partnership of subsidiaries of IBM Corp., Comsat General Corp., and Aetna Life and Casualty Company, was also authorized to develop a Domsat system. The Commission's order is presently under appeal before the U.S. Circuit Court of Appeals for the District of Columbia Circuit. However, SBS is now in a pre-operational stage leasing transponder space from RCA Americom for use by IBM, its only current customer. See *United States v. FCC*, No. 77-1249 (D.C. Cir., decided August 29, 1978), petition for rehearing granted January 12, 1979, directing rehearing before the court *en banc*.

23. Unlike the specialized common carriers which transmit communications via terrestrial microwave, Domsat systems transmit signals between earth stations and satellites in geostationary orbit. Because of the costliness of developing and launching satellites (in addition to earth station construction costs), initial or start-up costs for Domsat systems normally are considerably higher than those for terrestrial microwave systems and they cannot so easily be phased in as can a microwave system. However, unlike microwave transmission, costs of transmission via satellite are insensitive to distance, therefore generally giving Domsat carriers a cost advantage over terrestrial transmission for communications over longer distances.

24. The next category of OCCs we turn to is the resale or value-added carriers. These carriers lease quantities of circuits from other carriers, primarily AT&T, and use them to provide service to their customers.¹⁸ As we note below, these carriers generally use these lines to make available through the use of their own switches and computers a special purpose network that can transmit data and facsimile with special features that are often attractive for business use. One of these carriers, ITT-USTS, also provides a service equivalent to MTS/WATS in competition with MCI, SPC, and AT&T. Included among the resale carriers are those entities that lease Domsat capacity from underlying Domsat carriers and resell the transmission of television signals primarily to cable television (CATV) systems. As compared to the SCC and Domsat networks, investment and construction delays for resale carriers are relatively less, thus tending to lower the entry barriers for this type of carrier.

25. The final category of OCCs to be discussed is the miscellaneous common carriers. These carriers, like the specialized common carriers, own their own microwave relay facilities. Their main service is one-way terrestrial transmission of television signals to cable television systems, although they also provide some service to television

¹⁶ Presently, seven resale carriers' systems, other than Domsat video resale systems, have been authorized. These are ITT Corporate Communications Systems (now merged into ITT-USTS) and ITT Domestic Transmission Systems, wholly owned subsidiaries of ITT; Graphnet Systems, Inc., Telenet Systems, Inc., Tymnet, RCA Global Systems, Inc., and DHL Communications Inc. There are currently pending applications by several other entities for authorization to offer resale service. GTE Corporation was recently granted authorization to acquire Telenet. See *GTE Applications*, FCC 79-282 (released May 11, 1979), modified, FCC 79-380 (released June 13, 1979).

broadcast stations and a very limited amount of other point-to-point services including data, facsimile and voice transmission. These carriers, which usually are comparatively small entities, operate regionally, mostly in the western section of the United States. Typically, their trunk lines commence 20 to 50 miles from a major city, where they receive off-the-air television signals, and run to a number of smaller distant communities where they deliver the television signals. In 1978, fifty-five MCCs filed annual reports with the Commission. Although demand for the MCC's services, as reflected by their number of subscribers, increased throughout the 1960's and early 1970's, it appears that the market may now be rather stagnant or beginning to decline. Also we have noticed a general decline over the years in the number of operating MCCs which appears to be largely attributable to mergers.¹⁹ While MCCs do not usually compete with each other for customers since only one trunk line generally serves a community, the advent of transmission of television signals by domestic satellites is giving rise to competition between the MCCs and the Domsats for television signal transmission services. See paras. 34-37 *infra*, for a more complete discussion of the MCCs and their relationship to the satellite resale carriers in providing service to CATV systems.

26. As noted, the major private line service categories provided by common carriers (the established carriers as well as the OCCs) are voice, data, facsimile and video transmission. Although AT&T offerings in each category are extensive, the OCCs, as variously described above, provide essentially comparable services. In addition to the private line voice, facsimile and data services offered by the specialized common carriers, three carriers (MCI, SPC and ITT-USTS) now offer switched voice services which we have found to be functionally equivalent with the MTS and WATS offerings of AT&T.²⁰ Private line voice and data

¹⁹ Annual reports filed with the Commission indicate that in 1974 the eight largest MCCs controlled approximately 69% of the market as compared with 50% in 1970.

²⁰ These are MCI's EXECUNET service, Southern Pacific's SPRINT IV and V services and City-Call of ITT-USTS. These services generally utilize the intercity facilities owned by the specialized carriers and are then connected to the exchange facilities of the local telephone company. Thus where the interstate city-pair routes of the specialized carriers parallel those of AT&T, their switched voice services can be said to compete with the MTS/WATS services of the Bell System. Because of the alleged benefits and detriments ascribed to such competition we are, in another proceeding, examining MTS/WATS entry policy and whether and to what extent interstate MTS and WATS should be provided on a sole source or competitive

services also are provided by the Domsat carriers. To date, no Domsat carrier is providing a switched voice service comparable to the MTS/WATS equivalents of the specialized carriers. However, Domsats are becoming increasingly involved in transmission of video signals. As indicated, because of the special characteristics of video transmission and the potential competition between Domsats and MCCs, that service will be discussed separately.

27. Currently, the resale carriers provide relatively little voice transmission, although ITT-USTS does provide some voice private line service in connection with another ITT common carrier subsidiary. The resale carriers offer data communications systems utilizing such technology as packet switching²¹ and store and forward transmission.²² Because these carriers lease existing transmission facilities of an underlying carrier and often utilize computer technology to modify the underlying services offered by the established carriers, they have been referred to in the industry as "value-added" carriers. An example of adding value to service would be permitting terminals which are disparate in transmission speeds, codes, line disciplines or display formats to communicate with each other. Telenet's and Graphnet's systems, for example, possess such capability. Although AT&T currently has no directly comparable service to those of the value-added carriers, it has announced plans for a sophisticated service to be called Advanced Communications Service (ACS).

28. Basically, the OCCs have modified marketing approaches and service conditions offered by established carriers. Examples include part time or shared private line service, where a customer can procure use of a private line only during that part of a day when it is needed; metered use service where a customer pays only for its actual use of channels; flexible bandwidth service tailored to meet a customer's specific needs; and switched digital networks which enable a customer to interconnect with a number of different locations and

basis. *MTS/WATS Market Structure*, CC Docket No. 78-72, 87 F.C.C. 2d 757 (1978), *Further Notice* FCC 79-515 (released August 30, 1979).

²¹ In packet switching, a circuit is used to transmit small groups of digitized data (called "packets") over a network of lines to a designated recipient, usually a computer. These packets are stored and forwarded over the best available path to make more efficient use of the network. See *Packet Communications Inc.*, 43 F.C.C. 2d 922 (1973).

²² Store and forward capability enables data to be stored in a switch until the recipient is ready to receive the information.

terminals so as to use more efficiently its transmission and data processing facilities.²³

V. Current Competition

A. Voice-Data Market

29. Having discussed briefly the structure of the domestic telecommunications industry and competition in general, we now turn our attention to a more specific analysis of the state of current competition in the industry, both among the OCCs and between the OCCs and the established carriers. We first look at the voice/data market, which essentially encompasses all services except video transmission.²⁴ Reflecting a perhaps uniquely dynamic technology and expanding customer demand, the industry's competitive posture has been changing rapidly. What follows, however, are our observations and analysis as to the current and developing nature of competition. We expect that comments submitted in this proceeding will (a) address the accuracy of our observations and analysis, (b) provide us with additional information useful in evaluating more thoroughly the nature of current and prospective competition, both among the OCCs and between the OCCs and the established carriers, and (c) suggest appropriate regulatory actions in light of the actual and potential benefits and costs arising from such competition.

30. It is our observation that in order for the OCCs to attract and retain customers, particularly those with large communications needs, they must offer their services pursuant to terms as favorable to the customers as possible, taking into consideration numerous factors including customers' communications requirements. It appears that rates in some cases may be established by processes of negotiation between the carrier and the large potential customer with the negotiated terms being reflected in the carrier's tariffs. However, under our present rules and case precedents, the carrier must cost-justify those negotiated terms when it files its tariff containing those rates, or it must show that departure from cost

²³ For a more thorough discussion of services offered by the resale carriers, see *Report by the Federal Communications Commission on Domestic Telecommunications Policies*, September, 1978, Tab C, pp. 83-85.

²⁴ Because of the special nature of the video relay services, particularly as it relates to competition between the terrestrial MCCs and the resale satellite carriers, we are addressing such service separately.

based rates is reasonable.²⁵ Other service arrangements include bulk discounts and long term service commitments often coupled with termination liability provisions. Also, we have received tariff proposals containing preferential or promotional rates for new customers and rate differentiation based upon supposed differences in service quality. For example, a Domsat carrier's tariff may contain varied rates for transponder service dependent upon whether the service is preemptible or non-preemptible, or protected or unprotected.²⁶ The type of service terms described above have often attracted petitions to suspend or reject from both competing OCCs and established carriers. As noted earlier, the OCCs appear to have channeled considerable efforts toward delaying each other's attempts to implement price and service innovation rather than attempting primarily to improve upon their own performance in the marketplace.

31. In order for the OCCs to compete successfully with the established carriers, particularly AT&T, they must either offer services unavailable from the established carriers or, more likely, offer services with rates, conditions and practices more favorable than those offered by the established carriers. Further, we note that AT&T has responded to the OCCs service offerings, in part, by offering comparable service alternatives of its own. Hence, as a practical matter, the OCCs must, more often than not, underprice the established carriers to compete successfully. In other words, the prevailing market price is established by the dominant carrier (normally AT&T), with the OCCs having to undercut this price in order to attract customers. Such pricing practices by the OCCs generally have not yielded excessively high rates of return or rate levels. To the contrary, the OCCs generally report very small or negative

²⁵ In *American Satellite Corp.*, 55 F.C.C. 2d 1 (1975), we allowed a new Domsat carrier initially to depart from cost supported rates, stating as follows:

In fostering the development of satellite, as well as terrestrial, specialized common carriers we recognized that some might not be profitable initially and some might fail. We also decided to maintain regulatory flexibility at the outset to encourage such carriers to undertake "service and technical innovation and to provide an impetus for efforts to minimize costs and charges to the public." [Citations omitted] 55 F.C.C. 2d at 2.

²⁶ The term "preemptible" generally means that a user of service may lose his service if the facilities used therefor become necessary to continue service to another user with a higher priority. "Protected" means that there exists the guaranteed availability of a backup facility to restore service in case of failure or outage, under specified conditions.

rates of return.²⁷ Further, unlike the established carriers, the OCCs presently have no market power and thus, their ability and incentive to impose unjust or unreasonably low rates in order to drive out competition does not now appear to be a source of concern. See discussion at paras. 47-48, *infra*.

32. While a number of innovative services have been offered by the OCCs,²⁸ one of their primary innovations appears to have occurred in rate structures and pricing policies. Examples include rates based on fractions of a minute of use and distance insensitive rates. Thus rate and service innovation by the OCCs appears to be motivated by their desire to compete with each other as well as their efforts to undersell the established carriers. It is not surprising, therefore, that the OCCs' conduct has generated responsive activity by the established carriers. AT&T, for example, recently has increased its marketing efforts²⁹ and has begun offering new service packages to compete with those offered by the OCCs. Among what appears to be its competition-motivated recent service offerings are DDS/DSDS, data transmission services comparable to Datran's data service offering,³⁰ and Enhanced Private Switched Communications Service, designated to attract customers needing sophisticated switched private line networks. The most recent example of an AT&T service offering apparently responsive to OCC competition is its proposed ACS, which would compete more directly with the "value-added" services of the resale carriers. We discuss the data communications and resale market at length in our *Tentative Decision in Computer Inquiry II*, 72 F.C.C. 2d 358 (1979), where we note that this market may grow to be very competitive. See also the discussion of this market in *GTE Applications*, *supra*.

33. Based upon our experience with the OCCs thus far, we believe that their

²⁷ As to SCCs, MCI's rates of return in recent years have been reported as 6.5% (1978), 1% (1977), -3% (1976) and -30% (1975). SPC's rates of return reports -2.3% (1978), -12% (1977) -13% (1976) and -22% (1975). Domsat, resale and MCC carrier returns are reported similarly low. For example, Telenet shows its returns to have been -48.6% (1978) -68% (1977), and -94.9% (1976). Most MCC returns are reported either negative or well under 10% for 1978 (Taken from F.C.C.'s annual Report, Form P's and Annual Stockholders Reports.)

²⁸ See, *Customer Interconnection*, *supra*, 61 F.C.C. 2d at 892.

²⁹ See "Behind AT&T's Change at the Top," *Business Week*, November 6, 1978, p. 115 for a description of AT&T's corporate response to competition.

³⁰ Datran, one of the earliest OCCs, is now out of business. Its assets were assumed by Southern Pacific, which now offers a comparable data transmission service.

presence has had a beneficial effect on the variety of communications services available as well as upon the rates and conditions of service. With respect to service quality, we note that the research available indicates that performance by the OCCs generally has been considered to be as good as that of the established carriers.³¹ As indicated above, the variety of service apparently has increased both as a direct result of the OCC service offerings and as a result of the established carriers' responses to those offerings. Further, the OCC portion of the industry in recent years appears to have gone through a "shake down" period in which their numbers have diminished, primarily through mergers and acquisitions, but the survivors seem to be more financially sound and able competitors. Indeed, it appears to be now attracting more financially able firms (e.g., OCCs backed in whole or in part by RCA, IBM, ITT and Xerox).³² We recognize that this relatively infant segment of the telecommunications industry may lack the maturity that characterizes certain other regulated industries for which there is considerable public sentiment for deregulation, indeed for that reason we are not proposing deregulation of the established carriers.³³ However, we believe that increased reliance upon market forces can afford a higher degree of ratemaking flexibility for nondominant carriers which will serve the public interest by encouraging and rewarding service and rate innovation.

B. Video Relay Market

34. Until recently, the MCC's have had little competition in the relay of distant broadcast television signals to CATV systems. The only practical alternative such a system had to MCC service was to build its own private CARS system.³⁴

³¹ See *Computer World*, July 24, 1978, p. 27. The internal staff study of the Common Carrier Bureau, *Voice-Data Communications Users Survey*, April, 1978 also supports this conclusion.

³² The Commission has initiated a notice of inquiry and proposed rulemaking into Xerox's request for reallocation of certain frequencies for XTEN service. See Docket No. 79-186 (RM-3247), FCC 79-464 (released August 28, 1979).

³³ Recently, the Civil Aeronautics Board concluded a rulemaking proceeding whereby it has modified ratemaking requirements applicable to passenger airlines serving routes that are competitive. *Domestic Passenger-Fare Level Policies*, et al., 43 Fed. Reg. 39522 (September 5, 1978). That industry structure is significantly different from the communications industry in that it is not dominated by a single carrier.

³⁴ CARS is the generally accepted acronym for Cable Television Relay Station. The Commission's Rules applicable to CARS service can be found at 47 CFR § 78. Such a system also can be built on a cooperative basis with other cable systems. A CATV system could also obtain video relay service from the Bell System (or other telephone company).

Footnotes continued on next page

However, genuine competition seems to be commencing with the recent entry and expansion into this market of the satellite resale carriers. Because penetration of this market is typically dependent upon a large number of customers having suitable receiving earth stations, the cost of such earth stations has been critical. With the more recent authorization of small aperture earth stations, satellite signal reception has been brought within the financial means and technical capabilities of many CATV systems.³⁵ To date, over one thousand receive-only earth stations serving CATV systems are in operation and that number is constantly growing. In addition, we have already authorized seven resale satellite common carriers to provide television broadcast signals to CATV systems throughout the country³⁶ and other applications are currently pending. Thus, not only has competition between terrestrial microwave carriers and satellite carriers offering video relay services apparently become a reality, but competition among satellite carriers offering such service seems also to have been established.

35. Notwithstanding the rapidly developing competitive pressures described above, we are also aware that not all cable systems may currently have realistic alternative sources of supply for signals, particularly smaller systems, either because they lack the financial resources or inclination to acquire and operate an earth station or because the signal they most desire or need is not offered by a satellite carrier. For example, in the more sparsely populated regions of the country, cable systems, particularly those serving smaller communities, may be totally dependent upon a terrestrial carrier in order to receive a full complement of the major television network signals.³⁷

Footnotes continued from last page
Until recently, however, the rates for such service were so high that very few CATV systems considered this to be a feasible alternative.

³⁶ The approximate cost of such a receive-only earth station with a 4 1/2 meter antenna equipped for one channel operation is roughly \$25,000. Additional channels increase the cost by approximately \$4,000 each. In the past several years this cost has decreased drastically, with further reductions likely in the future.

³⁷ See *Southern Satellite System, Inc.*, 62 F.C.C. 2d 153 (1978); *United Video Inc., et al.*, 69 F.C.C. 2d 1629 (1978). Also, temporary authority to carry station KTVU-TV San Francisco was recently granted to Satellite Communications Systems, Inc. and ASN, Inc. has been granted authority to carry the signals of WGN-TV, Chicago, KTTV-TV, Los Angeles and WOR-TV, New York. Eastern Microwave, Inc. has been authorized to carry WSBK-TV, Boston, Massachusetts and the late night programming of WCBS-TV, New York.

³⁸ To date, satellite carriers relay only closed circuit pay TV signals and the broadcast signals of independent TV stations.

Simply because a satellite carrier exists that can relay the signal of a distant independent station at a lower rate than could a terrestrial carrier, it does not necessarily follow that a cable operator would opt to take the satellite signal in place of the network or closer independent signals provided by the terrestrial carrier. Such decisions are dependent on consumer demand. Thus, for some CATV systems, satellite service may not now be a fully effective substitute for terrestrial service. This appears to be especially true where the signals of the three major commercial networks are required. In addition, we need to examine further the extent that cable systems are willing to import more distant independent station signals via satellite in lieu of more closely located independents, and how satellite and terrestrial charges are weighed in such decisions. In this respect, see *Economic Relationships Between Television Broadcasting and Cable Television*, Docket No. 21284, 65 F.C.C. 2d 9 (1977), Report, 71 F.C.C. 2d 632 (1979). Any significant deregulatory result of this proceeding should be a further stimulus to competition in the common carrier areas related to CATV and broadcasting. Whether significant deregulation will eventuate, of course, cannot be determined until all comments are received and analyzed.

36. Another possible reason why the forces of competition may not yet freely operate in all respects in the marketplace for video relay signals is the technical relationship between satellites and earth stations. An earth station must be positioned to "look" at a particular satellite and cannot simultaneously receive signals transmitted over any other satellite. Therefore, when any potential user wishes to communicate simultaneously with a number of existing customer-owned earth stations, that user is practically forced to utilize the same satellite to which those existing earth stations "look". This is currently the case with anyone wishing to communicate with CATV systems.³⁸ By comparison, if a provider of video relay services decided to lease uplink and transponder capacity from a competing satellite carrier (or on another satellite of the same carrier) cable operators would have to make a substantial investment to install an additional earth station in order to receive the signal provided over the other satellite.

³⁸ Because Home Box Office, Inc. first provided its programming for cable television systems over one of RCA Americom's SATCOM satellites, virtually all of the cable systems' earth stations initially oriented their receive antennas to that satellite due to the popularity of the Home Box Office signal.

Accordingly, we must recognize that the satellite of the underlying carrier to which most of these earth stations are pointed will possess a distinct economic advantage over competing satellite carriers.

37. As to the relay of television signals to the broadcaster, AT&T has been the traditional supplier. However, in recent years, the major commercial television networks have concluded agreements with various competitive MCCs to provide this service on a regional basis, thus supplanting AT&T in part. Moreover, in many cases, individual broadcasters have themselves employed MCCs, in lieu of AT&T or a telephone company, to deliver the network signals.³⁹ It would seem, however, that satellites may ultimately become even a stronger competitive alternative to the terrestrial systems of the MCCs and AT&T. Currently, a number of broadcasting systems, including the Public Broadcasting System, employ or are investigating a nationwide system of earth stations for satellite relay of network signals.

VI. Legal Considerations

38. The provisions of the Communications Act relating directly to common carriers are contained primarily in Title II, 47 USC § 201 *et seq.* In addition to Section 201(b) which, *inter alia*, requires just and reasonable rates, and Section 202(a) which prohibits unjust and unreasonable discrimination, the Act requires that carriers' schedules of charges (tariffs) be filed with the Commission, 47 USC § 203(a); that where questions exist as to the lawfulness of a tariff, hearings may be held and that pending such hearings, a rate may be suspended for as long as five months, 47 USC § 204; and that after a hearing rates may be prescribed, 47 USC § 205. In addition, 47 USC § 214 imposes certain certification requirements as to construction and operation of facilities and provision of services. While we have historically interpreted the Act to apply with reasonable uniformity to all carriers subject to it, nothing in the Act appears to require that our statutory responsibilities be met in the same manner with respect to all carriers and services. On the contrary, review of the legislative history of the Act (and its predecessor, the Interstate Commerce Act), relevant interpretative court decisions and the dramatic changes in

³⁹ The television networks normally provide for the transmission of their signals to affiliated broadcast stations. However, the smaller, more remotely located stations are frequently responsible for the relay of the signal from a larger station on the network distribution system.

teh telecommunications industry since the Act's adoption in 1934 persuade us that flexibility and alteration of our regulatory efforts reflective of these changes is not only permissible but may be compelled by our overall obligation to regulate in the public interest. In previous paragraphs, we have discussed in some detail the development of the so-called specialized common carriers, domestic, miscellaneous (or video relay) carriers, and the resale carriers as well as the market characteristics within which they operate. Clearly, the current domestic telecommunications environment differs greatly from that of 1934 when there was no competition and telecommunications service was largely limited to telephone and telegraph. As well be discussed more fully in the following section (The Proposals), we propose that rates contained in tariff filings by non-dominant carriers will be considered presumptively lawful and will not have to be accompanied by detailed cost support data as now required by Section 61.38. Thus, their effectiveness will not be delayed by threatened suspension as readily as at present. Nonetheless, they will remain subject to our review and complaint processes, and should unlawful tariffs, or practices come before the Commission we will act appropriately. See 47 USC § 208. By doing so, we will be retaining jurisdiction over all of the tariff filings of the OCCs and fulfilling our statutory duties.

39. The statutory requirements of just and reasonable and non-discriminatory rates did not originate with the Communications Act, but rather with the Interstate Commerce Act of 1887. That Act, which was later made applicable to telephone and telegraph by the Mann-Elkin Act, of 1910, applied originally only to railroads. Under that Act, charges were required to be reasonable and just; unjust discriminations were prohibited and declared to be unlawful. The railroad industry in 1887 differed in many respects from the communications industry of 1934, and certainly from the communications industry of 1979. However, the influence of the railroads on the economic well-being of the country was so great that regulation was deemed essential. Review of the legislative history of that Act indicates strongly that effective regulation of the railroad industry was needed to protect against discriminatory and unreasonable rates in light of the railroads' extensive economic power. On numerous occasions subsequent to the Act's implementation, the Supreme Court has been presented with

situations which necessitated consideration of the purposes to be achieved by that Act. For example, in *Texas and Pacific Railway v. I.C.C.* 162 U.S. 197 (1896), the Court discussed the intended effect of the Act (and particularly the just and reasonable and non-discriminatory rate provisions) as follows:

"Even in construing the terms of a statute, courts must take notice of the history of the legislation, and out of different possible constructions, select and apply the one that best comports with the genius of our institutions and, therefore, most likely to have been the construction intended by the law-making power. Commerce, in its largest sense, must be deemed to be one of the most important subjects, of legislation, and an intention to promote and facilitate it and not to hamper or destroy it, is naturally to be attributed to Congress. 162 U.S. at 218-219.

In our judgment, our proposals contained in this Notice, by enabling the OCCs to compete with each other by innovation in service offerings and pricing free from the regulatory constraints deemed necessary for a dominant carrier will "promote and facilitate" commerce and, for economic reasons discussed elsewhere in this Notice, enable us to continue to assure rates that are just and reasonable and not unjustly discriminatory. Although both the Interstate Commerce Act and the Communications Act require rates that are not unjustly or unreasonably discriminatory, neither Act purports to dictate how the reasonableness or justness of discriminations are to be determined. Rather, the question of whether a preference, advantage or discrimination is unreasonable or unjust has been left by Congress to the judgment and discretion of the Commission. *Board of Trade v. United States*, 314 U.S. 534 (1942). In light of the similar language of the Interstate Commerce Act and the Communications Act, our knowledge that the relevant provisions of the Communications Act were adopted from the I.C.C. Act, and the absence of any contrary legislative history, we are convinced that this agency, like the I.C.C., charged by law with assuring just and reasonable non-discriminatory rates, has the same statutory authority to exercise judgment and discretion as does the I.C.C. In *Board of Trade v. U.S.*, *supra*, The Court stated as follows:

The process of ratemaking is essentially empiric. The stuff of the process is fluid and changing—the resultant of factors which must be valued as well as weighed. Congress has therefore delegated enforcement of transportation policy, to a permanent expert body and charged it with the duty of being responsive to the dynamic character of transportation problems, 314 U.S. at 546.

See, also *U.S. v. Southwestern Cable Co.* 392 U.S. 157, 192-93 (1968) where the Supreme Court recognized our authority under the Act to respond to a dynamic industry in a flexible manner. Similarly, we perceive our responsibilities as the expert body charged with enforcement of communications policy to be responsive to the dynamic nature of the communications industry. Included in that authority is rate regulation.

40. Our *Specialized Common Carrier* decision, *supra*, was a regulatory effort by us to "promote" commerce and to be responsive to the dynamics of the telecommunications industry. However, having had the benefit of several years' experience regulating the rates and services of the OCCs subsequent to that decision, we recognize that some of the potential public benefits which we had hoped would flow from freer entry have been frustrated, in part, by continued adherence to rules and procedures governing tariff filings and facility authorizations designed primarily for carriers with dominant market positions and monopoly services. In that decision, we quoted with approval from the staff analysis contained in the *Notice* in that proceeding, as follows:

In an industry the size and growing complexity of the communications common carrier industry, the entry of new carriers could provide a useful regulatory tool which would assist in achieving the statutory objective of adequate and efficient services at reasonable charges. Competition could afford some standard for comparing the performance of one carrier with another. 29 FCC 2d at 884.

That determination has been judicially affirmed, *Washington Utilities and Transportation Commission v. FCC*, *supra*, and is, in our judgment, a generally accepted and eminently correct proposition.

40a. Although competitive entry into the markets for provision of telecommunications services may be a relatively recent development, recognition of competition as a factor in rate regulatory responsibilities by federal agencies is not so new. In *I.C.C. v. Alabama Midland Railway*, 163 U.S. 144 (1897), it was held that

In construing statutory provisions forbidding railway companies from giving any undue or unreasonable preference or advantage to or in favor of any particular person or company, or any description of traffic in any respect whatever, the English courts have held, after full consideration, that competition between rival lines is a fact to be considered and that a preference or advantage thence arising is not necessarily undue or unreasonable. 163 U.S. at 1643 (citations omitted).

The Supreme Court approved of those English decisions. As we have noted throughout the earlier discussions in this Notice, the competitive climate within which the OCCs operate, their relatively insignificant share of the overall market and corresponding absence of market power, their lack of monopoly services and inability and/or disincentives to cross-subsidize their rates for competitive services all militate against the necessity of cost support requirements and facilities authorization procedures necessary to effectively regulate a dominant carrier. Hence, we believe that the proposals enunciated in this Notice are fully consistent with our statutory obligations to assure just and reasonable rates and to protect against unjustly discriminatory rates, as imposed by Sections 201(b) and 202(a) of the Act.

41. In proposing the removal of certain direct regulatory constraints, we believe that such changes would in no way be inconsistent with *Federal Power Commission v. Texaco*, 417 U.S. 380 (1974). In that case, the Court overturned an order of the FPC which would have exempted small producers of natural gas from rate regulation by allowing them to utilize the prevailing market price as the sole rate determinant. In vacating the FPC order, however, the Court expressly reaffirmed the agency's authority to ensure just and reasonable rates through indirect regulation. Further, it recognized that ratemaking agencies are not bound to the use of any single ratemaking formula but are permitted to make the pragmatic adjustments which may be called for by particular circumstances, citing *FPC v. Natural Gas Pipeline Company*, 315 U.S. 575 (1942). Moreover, the Court placed heavy reliance on the clear statements of congressional intent behind the Natural Gas Act. In enacting that Act, Congress had recognized that the natural gas industry was heavily concentrated and that oligopolistic forces were distorting the market price for natural gas, and in subjecting producers to regulation because of these conditions, Congress could not have intended that "just and reasonable" rates could be conclusively determined by reference to market price. Such clear intent is, of course, absent in the 1934 Communications Act and its legislative history, since multiple entry into the communications industry is a relatively recent occurrence. Thus, we believe that our proposals under the Communications Act are not impeded by *FPC v. Texaco* and the particular regulatory design confronted by that Court.

42. In addition, we are convinced that the ratemaking flexibility afforded the OCCs but not the dominant carriers is reasonable and legally sound. In Section 4(i) of the Act, Congress granted us broad authority to "perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of (our) functions." In light of these broad powers, we seek comment on whether we may promulgate rules the applicability of which depends on the classification of the carrier. We note in this regard that our ability to classify entities subject to our jurisdiction, e.g., radio stations, is expressly set forth elsewhere in the Act. See Section 303. Separate treatment of competitors in a regulated industry has been accomplished previously and with court approval. See, e.g., *FPC v. Texaco*, *supra*. In *Permian Basin Area Rate Cases*, 390 U.S. 747 (1968), the Court sustained a two-tiered rate system on the basis that it would stimulate the exploration and development of new sources of natural gas and thereby serve the regulatory purposes contemplated. Another example of differing regulation of competitors was approved in *American Airlines v. Civil Aeronautics Board*, 359 F. 2d 624 (D.C. Cir. 1966). There, the court approved CAB regulations which allowed "all cargo" carriers to sell blocked space at rates lower than it permitted the "combination" (i.e. passenger/cargo) carriers to offer. In so ruling, the court stated:

That competitors in a regulated industry should be treated similarly in rate rulings in order to preserve competition is not denied. But that is not to say, that reasonable distinctions between groups of competitors are impermissible, and that different services and rates may not then be authorized for different groups or classes, 359 F. 2d at 627.

Although our express statutory authority to classify carriers may not be as clear as that of the CAB, we are of the opinion that our proposed separate treatment of the OCCs constitutes the "reasonable distinction" upheld in *American Airlines*. The 1934 Act was adopted in an environment where there was no significant competition and telecommunications services were largely limited to telephone and telegraph. The contrast to the multiplicity of services offered on a competitive basis today could hardly be more striking. The Courts have generally held that the Congress intended the Commission to have considerable latitude under the Act so as to be able to regulate a dynamic industry with reasonable flexibility. See *United States*

v. Southwestern Cable Co., *supra* at 192-93 (1968). Therefore, we believe the Commission has the power to apply the Act in a way which enables us to react to changing circumstances. In particular, no court has yet declared that our powers under Title II of the Act are inflexibly mandatory. See *NARUC v. FCC*, 525 F. 2d 630, 640, n. 48 (D.C. 1976) (NARUC I). Nor indeed did the court which affirmed our earlier *Resale* decision, *supra*, deprive us of "broad discretion in choosing how to regulate" * * * *AT&T v. FCC*, 572 F. 2d 17, 26 (2d Cir. 1978). A purpose of this Notice is to examine the various provisions of Title II and rules promulgated thereunder to determine just where our discretion should and could be exercised in order to minimize or eliminate regulation not necessary to the public interest.

43. Further, we note that the approach proposed herein, utilization of rulemaking to achieve a single resolution of issues that would otherwise be made on an *ad hoc* basis, is one that has been recommended as a more efficient means of rate regulation and one that yields a greater degree of certainty for both the public and the carriers. This approach has been recommended by other bodies concerned about effective rate regulation in the public interest. See, e.g., Recommendation No. 78-1 of the Administrative Conference of the United States "Reduction of Delay in Ratemaking Cases" (adopted June 7-8 1978). The section of that Recommendation entitled "Use of Rulemaking for Generic Issues" states that an agency charged with responsibility for setting or approving rates should identify policy issues that may be raised repetitively and that may be appropriate for a generalized determination instead of individualized judgment. Also, see Appendix D of our *Resale* decision, *supra* for discussion of other cases supportive of rulemaking as a regulatory tool.

VII. The Proposals

A. In General

44. It is not our intention to cast these proposals and the resulting deregulation in concrete. As stated previously, they reflect our observations and experience to date and our view of future trends, are somewhat on the cautious side, and are not intended to be definitive statements of what will constitute the "best" regulatory approach in a competitive environment over the long run. Indeed, we invite comments as to the viability or reasonableness of the further deregulatory options described in Part XI. If parties believe our

proposals are either too restrictive, not restrictive enough, or are otherwise inappropriate then we request them to comment on the other options or to suggest specific alternatives. Of course, if parties propose alternative regulatory approaches to the several options discussed herein, we expect them to address the legal, policy, economic, public interest and other ramifications of their proposals.

45. Parties should address our proposals and observations made below and in the attached appendices. In the following paragraphs we will review several of our regulatory concerns and the ways in which they would be addressed under our proposals.

B. Section 201(b)

46. Section 201(b) prohibits "unjust and unreasonable" rates. It is generally accepted that economic regulation is intended to replace competition as the means of ensuring that prices are kept at cost (which includes a fair return on investment). See A. Kann, *I The Economics of Regulation*, ch. 2 (1970). We have generally held that the key criterion to a determination of just and reasonable is whether the rate is cost-related, see, e.g., *AT&T and Western Union Private Line Cases*, 34 F.C.C. 234, 297 (1963), and rates which depart from cost must be fully justified on a special showing, e.g., competitive necessity. The harms to be prohibited by § 201(b), then are rates which are above cost, i.e., supracompetitive prices, and rates below cost, i.e., predatory prices. Based on our knowledge of current market structures and their promise of continuing dynamism, as well as widely accepted economic principles, we believe that the rates of non-dominant carriers are unlikely to be either predatory or supracompetitive and thus are unlikely to contravene § 201(b) proscriptions.

47. It is widely held that predatory pricing generally involves selling a product or service below its average variable cost. Predatory pricing is likely to occur, if at all, only if the predator has "(1) greater financial staying power than his rivals, and (2) a very substantial prospect that the losses he incurs in the predatory campaign will be exceeded by the profits to be earned after his rivals have been destroyed." Areeda and Turner, *Predatory Pricing and Related Practices* under Section 2 of the Sherman Act, 88 Harvard Law Review 697, 698 (1975). See Williamson, *Predatory Pricing: A Strategic and Welfare Analysis*, 87 Yale Law Journal 284, 292 (1977). The competitive carriers, lacking any degree of market power, do not have the "substantial prospect" of

later recouping losses through monopoly profits. This is especially true where they face the dominant carrier in the same market—for example, we think it highly unlikely that a competitive carrier would attempt to drive its rivals out of the market by below-cost pricing if AT&T is among the group of actual or even potential rivals.

48. As noted earlier, we are not unaware that at least some of the competitive carriers are affiliates of non-communications entities which may possess a substantial degree of market power and financial strength. Thus, there may be some ability on the part of these affiliated entities which could be used to sustain a predatory pricing strategy. However, it is important to note that such subsidization is not a costless strategy in the absence of effective rate base regulation. Where an entity is subject to true rate base regulation, it may have strong incentives to suffer losses in some (competitive) services which can be subsidized by excessive earnings in other (monopoly) services since its overall rate of return is set by its regulator. These incentives are altogether absent where entities are not truly subject to such regulation, as is the case with the non-dominant carriers and their non-communications affiliates. Thus, in the absence of market power and effective rate base regulation, we believe that the rates of competitive carriers will generally not be predatory.

49. We also believe that these rates are unlikely to be excessive because some degree of market power must be present before supracompetitive profits can be achieved. If a non-dominant carrier sets its price above the market price, its customers will seek out the competitors' lower price. Also, the dominant carrier's rates often serve to set a ceiling above which OCC's can not price. However, we do recognize that in transitional periods, a non-dominant carrier might be able to price excessively, perhaps because it offers a new differentiated service or enters a new geographic market as the sole market entrant. Such instances would be isolated and of a transitional duration. It may well be that such temporary rates can be tolerated as a matter of law under Section 201(b) as reasonable. However, we do not reach this question since all rates of course remain subject to Section 201(b) inquiry, and we are free at any time to make statutory requests for cost support data. See Sections 218, 220.

50. We believe an improved carrier reporting system would also be effective in identifying carriers that may be earning excessive rates of return. Thus,

we believe that in the absence of Section 61.38 data (see para. 55, *infra*), we should be able to have and make public more precise information regarding carrier rates of return. With such information on a relatively current basis, we can take whatever corrective action may be warranted. Contained in Appendix D is a suggested format for submitting annual financial data to the Commission. This reporting requirement is primarily an updating and modification of existing reports now required of most of the competitive carriers. Therefore, it should entail no significant increased burden on them. This data will help us to evaluate each carrier's financial condition and the general results of the interplay of market forces. As noted, the general purpose of this rulemaking is to reduce unnecessary regulatory constraints where practical. We believe that this overall purpose can be furthered by instituting the periodic financial reporting procedure. Such a reporting procedure would not only enable us to monitor the implementation and appropriateness of the proposed rules, but on a longer term basis, also would provide useful information regarding trends in earnings and rate levels which can then be used to direct regulatory resources where they are needed. This latter function may lead to the formalization of such procedures in Part 43 of the Rules, Reports of Communication Common Carriers and Certain Affiliates.

C. Section 202(a)

51. Section 202(a) prohibits "unjust or unreasonable discrimination" in rates. As discussed previously, there is a "longstanding Commission policy which recognized the central role of costs in determining the lawfulness of rates. . . ." *AT&T (Docket No. 18128)*, 61 FCC 2d 587, 650 (1976). For reasons discussed above, we believe that rate differences in competitive carrier tariffs filings will tend to be cost-related; and therefore lawful under Sections 201(b) and 202(a). For reasons set forth below, we believe that foregoing detailed explanations of the costs underlying differences in a competitive carrier's rates will not and cannot generally result in harm to consumers of communications services.

52. Price discrimination according to modern economic teaching is "the sale (or purchase) of different units of a good or service at price differentials not directly corresponding to differences in supply costs." F. M. Scherer, *Industrial Market Structure and Economic Performance*, 253 (1971). Price discrimination is often considered harmful because it results in an undesirable wealth transfer (i.e., from

the ratepayer to the carrier) and may result in a misallocation of resources. *Id.* "In order to sustain a profitable price discrimination scheme, three essential elements must be present: (1) the entity must possess market power; (2) the entity must be able to segregate its customers into groups with differing demand-elasticities; and (3) arbitrage must be prevented. Where a dominant carrier's rates are in issue, non-cost-related differences may strongly indicate a price discrimination scheme, which, of course, Section 202(a) requires us to interdict. Notwithstanding our regulatory efforts, dominant carriers may well be able to engage in price discrimination to the detriment of their customers. They are able to meet the three requirements for successful price discrimination by virtue of their market power and, ironically, of the opportunities inherent in the tariffing process to set down terms and conditions of service which have the effect of segmenting markets and inhibiting arbitrage. "The requirement of Section 61.38 cost support information (as well as the policies articulated in the *Resale* decision, *supra*), is, of course, designed to prevent dominant carriers from exploiting their market power to the detriment of customers with inelastic demand for communications service. Thus, we have no intention of alleviating the requirement that such rate differentials be justified by the dominant carrier on the basis of cost as required by Section 61.38 of our rules and applicable decisions. "2

53. Section 202(a) requires that non-dominant or competing carriers, who are typically price followers, also refrain from pricing their offerings in an unreasonably discriminatory manner.

⁴⁰ Although a price discrimination scheme could include an element of predatory pricing, see paragraph 47, *supra*, neither the economist's nor Section 202(a)'s concept of it requires any below cost pricing.

⁴¹ For a succinct and thorough discussion of price discrimination see F. M. Scherer, *Industrial Market Structure and Economic Performance* (Chicago, Ill., Rand McNally) pp. 253-272. Also, see our discussion of market segmentation by AT&T through the use of its tariffs in *Docket 21402, MTS/WATS Like Services*, 70 FCC 2d 593, 605-06 (1978).

⁴² *AT&T Telpak, supra*; *WATS Rejection*, 66 FCC 2d 9 (1977), *recon.*, 69 FCC 2d 1872 (1978); *Series 7000 Rejection*, 67 FCC 2d 1134 (1978), *recon.*, 70 FCC 2d 2031 (1979). While the continued existence of the Telpak discount is subject to pending litigation, in the *WATS* and *Series 7000* rejection orders we recently indicated our serious concern about the apparent magnitude of the discounts given to larger users vis-a-vis smaller or moderate users. See *Series 7000 Rejection Recon.*, at para. 40, and *WATS Rejection Recon.*, at para. 33. We are currently exploring in another proceeding the question of whether and on what basis AT&T should be permitted to offer volume discounts. See *Private Line Rate Structure and Volume Discount Policies, supra*.

As we have noted, the OCC's, in their effort to obtain customers, naturally have attempted to offer their services so as to make them attractive to potential customers. While carriers have utilized varying plans, all have attempted to price within their services or between like services as favorably as possible. Typically, this involves the use of long term service commitments, service quality differences, volume or bulk discounts, etc., as a means of attracting subscribers by reduced rates. Often, these actions appear to be necessary primarily to compete with the dominant carrier and effective price leader. We consider this to be a normal response to the competitive forces in the marketplace in which these carriers operate. We recognize that the result of these practices in some cases has been differences in rates as between individual customers or customer classes apparently similarly situated. "3 We do not believe that these differences will generally constitute unreasonable discriminations under Section 202(a) of the Act, see para. 51, *supra*. As discussed above, the extent to which a carrier can "discriminate" between and among its various customers or classes of customers (and thus the potential for unreasonable discrimination violative of the Act) is related directly to the degree of market power it possesses. Absent market power, price differentials should generally reflect only competitive forces at work.

54. Thus, we believe that the marketplace will ensure that price differentials are not unreasonable—i.e., they will be cost-related and will benefit, rather than burden, both competition and the ratepayer. Just as competition and the absence of market power prevent the OCC's from establishing supracompetitive prices for their services, these same factors preclude these carriers from unjustly discriminating in favor of some customers at the expense of their other customers. The OCC's, to the extent they are competitive, are unable to charge any of their customers non-competitive prices because those charged the higher prices will seek out, and be sought out by, alternative suppliers. In other words, the lack of market power means that any lower OCC prices to some customers cannot

⁴³ We have in the past set some of these tariff practices for investigation. See, e.g., *RCA American Communications*, 63 FCC 2d 728 (1977); *RCA American Communications*, 67 FCC 2d 836 (1978). The likelihood that our current assessment of the competitive realities in the communications sector and of the nature of price discrimination would be dispositive of these outstanding investigations caused us to defer them pending our conclusions here. See para. 94, *infra*.

harm the other OCC customers, who cannot be charged above-competitive or unjust prices. Indeed, the selective lower prices often needed to attract additional customers may allow OCC's through expansion to achieve more efficient size, thereby resulting in lower costs and prices to original customers. Accordingly, we believe marketplace forces will be sufficient to ensure that non-dominant carrier tariff filings containing rate and other differences among customers are generally in compliance with Section 202(a) and thus can be considered presumptively lawful.

D. Section 61.38 and Notice Periods

55. Section 61.38. In view of the foregoing discussion of Sections 201(b) and 202(a) of the Act, we believe sufficient basis exists to treat tariff filings by eligible carriers "as presumptively lawful with respect to rates. As indicated in paragraphs 7-9, *supra*, where we reviewed the historical development of § 61.38, it has been of little, if any, aid in determining the lawfulness of OCC tariffs. The intended purpose, as originally promulgated, was to assist the Commission in making initial judgments as to a tariff's lawfulness under Sections 201(b) and 202(a) of the Act. These sections of the Act themselves, however, do not require the filing of such information. Indeed, a court has noted that § 61.38 is simply an agency-devised regulatory tool designed to facilitate initial Commission judgments as to the lawfulness of a filing; it "does not require submissions to establish a *prima facie* case for the lawfulness of the tariffs they support." *International Business Machines v. FCC*, 570 F. 2d 452, 456 (2d Cir. 1978). Thus, the pertinent question is whether and to what extent competitive marketplace forces can now be substituted for Section 61.38 so as to aid the Commission in making initial judgments of lawfulness regarding tariff filings by established carriers, SCC, Domsat, resale and MCC carriers. As discussed above we continue to believe cost support data, as required by Section 61.38, is necessary where the carrier involved has substantial market power. In addition, we still believe that where a single carrier provides both monopoly services and competitive services, cost support must be supplied so that we can detect if the carrier is unfairly cross/subsidizing the rates for its competitive services from its monopoly revenues. However, our experience with the existing and

⁴⁴ The term "eligible carriers" means those nondominant carriers to which our proposals apply. See Part VIII below.

developing competition now indicates that for non-dominant carriers possessing no market power or incentive for unlawful cross-subsidization, we can reasonably rely on marketplace forces as an effective substitute for Section 61.38 insofar as making initial judgments as to lawfulness, at least for the present and foreseeable future. Thus, no purpose would generally be served by the filing of, or the review of, costing and supporting material as now required by Section 61.38 in these instances. This will also ultimately serve to reduce the burden of regulation in general and the costs of compliance with rules, as well as minimizing the adverse impact such regulation may have on competitive entry and market actions. Therefore, under our proposals eligible carriers would be relieved from submission of data required by § 61.38 of the rules provided satisfactory financial reports are filed and other requirements specified herein are met. Amendments to § 61.38, and a new § 61.39, to accomplish this purpose are contained in Appendix A.

56. *Notice Periods.* In addition to the deletion of the § 61.38 cost data requirements for eligible carriers, we also propose to revise the related notice periods contained in § 61.58 of the Rules. 47 CFR § 61.58. Basically this rule requires that tariffs containing rate increases or rate structure changes be filed on 70 or 90 days notice to the public, as appropriate. In light of Section 203(a) of the Act, 47 U.S.C. § 203(a), which provides that all common carriers "shall" file with the Commission schedules showing charges, at this stage of the proceeding we will continue to require the filing of tariffs. It may be appropriate at the next stage to examine the requirements imposed by the term "schedule of charges" as well as the issue of whether other provisions of the Act may affect the requirements of § 203. For now, however, our study of the legislative history and the judicial discussion of Section 203 clearly indicates that we have great flexibility to contract the period of notice afforded by the filing requirement of Section 203(a) should we so elect. Although Section 203(b)(1) provides, as a maximum, 90-days' notice to the Commission and the public, subsection (2) of the same provision authorizes us to modify the period of notice. Recent court decisions recognize the Commission's power to alter the notice period. See *American Telephone and Telegraph Co. v. FCC*, 487 F.2d, 871 n. 10 (2d Cir. 1973) and *American Telephone and Telegraph Co. v. FCC*, 503 F.2d 612 (2d Cir. 1974). In light of this flexibility,

we believe that we may contract the applicable notice period in Rule Section 61.58 considerably, consistent with the procedural and substantive rights of all parties but responsive to the new competitive realities. Thus, we believe a maximum notice period of 10-15 days would not be unreasonable and this period might be contracted even further, say to 1 day, after further experience is obtained with non-dominant carrier competitive filings.

57. We do not view our proposed minimization of notice as eliminating any statutory rights of complainants. While the shorter period may make it more difficult for competitors or customers to mount a persuasive rejection or suspension argument in time, such complainants do not have any statutory right to such actions. Only if a tariff is "demonstrably unlawful on its face" might we have the "duty" to reject a tariff. *Associated Press v. FCC*, 448 F.2d 1095, 1103 (D.C. Cir. 1971). Even so, it is not clear that third parties can enforce that "duty" or, if they can, that our proposed rule will prevent them from convincing us to perform that duty where we might not otherwise do so. Nor does the statute give third parties a right to suspension or judicial review of a decision not to suspend. See, *Trans Alaska Pipeline Rate Cases*, 98 S. Ct. 2053, n. 17 (1978).

58. In light of these considerations, we propose a 14-day notice period for eligible carrier filings. An amendment to Rule 61.58 to effectuate the above change is contained in Appendix A. If a petitioner raises a substantial question that warrants more extensive consideration, this notice period can be extended as provided in Section 61.58 (d) (which permits the Chief, Common Carrier Bureau to defer the effective date of any tariff filing made in less than 90 days notice) so that action can be taken prior to the effective date.

E. Presumption of Lawfulness

59. We recognize that Section 204 of the Act, 47 U.S.C. § 204, entitles members of the public to petition to suspend and investigate tariff filings and that these petitions are provided for in Section 1.773 of our Rules. 47 C.F.R. § 1.773. Clearly, it is not within our authority to eliminate a statutory entitlement and we have no intention of doing so. However, since tariff filings by eligible carriers will now be considered *prima facie* lawful, we will not exercise our discretionary authority to suspend such filings except for the most compelling reasons. See *Trans Alaska Pipeline Rate Cases*, *supra*. We note that petitions to suspend tariffs which are presumptively lawful are in many

respects similar to petitions for injunctive relief. In order to warrant suspension of such a tariff filing, a petitioner would have to rebut the presumption of lawfulness of any tariff rate provision filed by an eligible carrier. In general, to make the showing necessary to warrant suspension and investigation of such tariff provisions a petitioner would have to meet the following four part test:

(1) That there is a high probability that the tariff would be found to be unlawful after an investigation (likelihood of success on the merits);

(2) That any harm alleged to competition (which we believe accomplishes public interest benefits) would be more substantial than that to the public arising from unavailability of the service pursuant to the rates and conditions proposed in the tariff filing (e.g., that the proposed rate is predatory); and

(3) That irreparable injury would be suffered if suspension does not issue;

(4) That the suspension would not otherwise be contrary to the public interest.⁴⁵

60. In addition to these general requirements, there are other factors that might determinative if a petitioner seeks to overcome the presumption of lawfulness. One important factor is whether petitioner is an end user or consumer or a competing carrier. We have observed that users do not usually file petitions merely as a form of competitive harassment as do competing carriers (para. 9, *supra*). Thus, petitions by users may be viewed from a different perspective. For example, where a non-dominant carrier denies a consumer request for service under particular rates or conditions of service which it gives another customer and no practical service alternative exists for the complaining consumer (e.g., resort to another carrier), we might then intervene as appropriate. In such circumstances, however, we believe the consumer must show it has first requested explanations and justifications from the carrier prior to the service denial. In this regard, the

⁴⁵ This four part test is nearly identical to that used by the CAB in its newly adopted rules allowing for increased fare flexibility in the commercial passenger airline industry. *Domestic Passenger-fare level Policies*, *supra*, 43 Fed. Reg. 39530. The CAB noted that the burden is similar to the one used by courts in considering whether to grant a stay or a preliminary injunction, citing *Fortune v. Molpus*, 431 F.2d 799 (5th Cir. 1970); *Virginia Petroleum Jobbers Association v. FCC*, 259 F.2d 821 (D.C. Cir. 1958); and *Resident Advisory Board v. Rizzo*, 429 F. Supp. 222 (E.D. Pa. 1977). We use a similar test in acting on requests for stays, see *Amendment to Subpart F of Part 76 of the Commission's Rules*, 64 FCC 2d 1306, (1978). In our independent judgment, we believe the showing necessary to rebut a presumption of lawfulness in the limited context of a determination to suspend should be similar to the standard necessary to support a stay.

size and sophistication of the consumer, the relative level of bargaining power existing between the consumer and carrier, evidence of fair and impartial dealing, and evidence of the carrier overreaching, etc., might also be relevant factors. Basically, these additional factors would address unique situations where a non-dominant carrier might possess a limited measure of market power *vis-a-vis* consumers such that our intervention is required. In the course of dealing with non-dominant carrier tariff filings and petitions relating thereto, we recognize that other factors might arise which could result in rebutting the presumption of lawfulness. As we gain further experience in this regard, we will provide more definitive guidance as appropriate.

61. If a substantial showing is made by a petitioner in rebutting the presumption, our staff is empowered to take appropriate action including an extension of the notice period for the tariff's effectiveness (as provided in Section 61.58(d)), ordering the filing of Section 61.38 data within an appropriate time period, or even rejecting tariff filings in cases where the tariff is clearly unduly discriminatory and unlawful under Section 202(a). Tariff filings could also be subject to suspension where the presumption is overcome. Where the presumption is not overcome by a petitioner, of course, we will delegate authority to the staff to routinely deny a petition to suspend and investigate.⁴⁶

62. We wish to emphasize that the above procedures would apply only in the limited context of petitions to suspend. Any tariff may still be challenged—without a presumption of lawfulness—by our complaint and investigation procedures. Moreover, it should be made clear to eligible non-dominant carriers that although the rates contained in their filings will be considered presumptively lawful so that are free of 61.38 requirements, they must nonetheless still comply with certain elemental tariff policies designed to promote reasonable consumer knowledge of their various options. Any eligible carrier filing a tariff in accordance with our policy and analysis enunciated herein would still be expected to submit with its tariff filing a concise information statement explaining its filing in terms of the actual service provided and the basic rates, terms and conditions of service.⁴⁷

⁴⁶ The grant of a suspension petition would continue to require Commission action. The staff now has authority to consider petitions to reject. There would be no change in this.

⁴⁷ Where a rate structure is not clear on its face, we may require the inclusion of sample calculations

Those filings not containing a reasonable description of the filing in this regard may be subject to deferral under 61.58(d) or requests for clarification from the Bureau staff. As indicated above, we shall require eligible carriers to continue to simplify and clarify their tariffs and the staff is directed to continue its efforts in this regard.⁴⁸

F. Section 214

63. As indicated above, we have over the past few years established in a number of proceedings policies favoring the competitive entry of new carriers. Accordingly, from policy standpoint the regulatory entry barrier has already been substantially lowered, and a large number of Section 214 applications have been, and continue to be, routinely granted without opposition. Therefore, as a matter of informal regulatory practice, the effects of Section 214 as a barrier to new entry may have been reduced already. Nonetheless, we believe it is appropriate to review our policies and rules in this regard to determine what can be done to further minimize the regulatory burden we have composed under this section and improve its effectiveness where necessary.

64. Conceptually, Section 214 may be conceived of as serving four primary functions. First, it is used as a device for certifying that entry of a company as a common carrier will serve the public interest, convenience and necessity. Secondly, it is used to determine what cities or geographic areas a carrier may serve. Third it serves as a control for the number of circuits or facilities a carrier may construct or lease to provide service to those cities or areas. Fourth, it serves as a control to prevent a carrier from unreasonably terminating or reducing service to a community or area. In the following paragraphs we will consider these functions in determining what changes we can or should make with respect to Section 214 regulation. First, we will summarize briefly the existing Part 63 rules that pertain to these functions.

65. Section 63.01 of the rules specifies the type of information now required to support all major Section 214 applications, whether for initial certification as a carrier or for the establishment of new lines (by either lease or construction) by an existing carrier. Although this rule requires that

of charges to eliminate any confusion or lack of clarity.

⁴⁸ See the concern for clarity and comparability of tariff terms which the Commission recently expressed in *Private Line Rate Structure and Volume Discount Practices*, *supra*.

extensive information be submitted, we normally focus primarily on the type of service involved, the public need for the service, the points to be served, the number and type of circuits to be provided, and the costs involved. In the case of an initial certification, we also generally review the qualifications of the entity and any particular public interest questions that may be raised with respect to the entity and the type of service to be provided. Once a carrier is authorized to serve specific communities additional circuits may be generally authorized upon the filing of simpler applications as specified in Section 63.02 and 63.03, provided that the facilities involved do not exceed certain dollar limits. Section 63.03 provides for automatic grant within 21 days after filing an application for supplemental facilities unless notified to the contrary by the Commission. That section also permits the Commission to authorize a carrier continuing authority for the construction or acquisition of small projects (limited to \$35,000 cost or \$7,000 annual rental) for which no specific prior authority is required. §§ 63.60 through 63.91 provide different requirements for authorization of discontinuance, reduction or impairment of service, depending on the type of service involved (e.g. telephone, telegraph, public cost).⁴⁹ One consistent theme, however, among all of these discontinuance rules is the requirement for customer notification and the service alternatives the customer may have.

66. We have above set forth in some detail why we believe a different approach is warranted in regulating the tariff filing of a dominant carrier as compared to a non-dominant carrier. Many of these same reasons would appear relevant to Section 214 regulation. For example, a rate base regulated dominant carrier's earnings are tied to its investment, i.e., its rate of return is based on its invested facilities and the more facilities it has, generally the greater its overall earning will be. Thus, rate base regulation carrier with it incentives to overbuild (the so-called Averch/Johnson effect). While in a rate case the Commission could disallow inclusion in the rate base of facilities representing excess capacity, such occurrences have been rare in the past and regulatory commissions have generally been reluctant to disallow unless it was shown that the excess capacity was intentional or resulted from gross mismanagement. To counter

⁴⁹ We are considering modifications to the rules pertaining to the discontinuance of telegraph service in another proceeding (see note 5 *supra*). Therefore, such changes are not considered here.

this incentive, public utility regulation has come to rely upon a prior approval mechanism which, in theory, assures that unnecessary or unnecessarily costly facilities will not be constructed by exclusive or dominant purveyors of service to the public (i.e., carriers which, because of market power vis-a-vis customers with inelastic demand, would be able to command prices calculated upon an inflated rate base). In contrast, a non-dominant carrier has no incentive to overbuild for two reasons. First, because such carriers have not been and are not now effectively rate regulated, the size of their respective rate bases is not relevant to the prices they can charge. Second, and the reason we have not imposed the full form and substance of rate regulation on the OCCs, such carriers do not possess sufficient control over price to recognize any reward from overbuilding even if they were subject to an overall rate of return constraint. See paragraphs 14, 30-31, *supra*. Their prices must reflect those of their competitors (including the dominant carrier) without regard to rate base. Therefore, we believe it appropriate to concentrate our Section 214 regulatory attention on the construction program of the dominant carrier and minimize it with respect to the non-dominant carriers.

67. Similarly, with respect to possible discontinuance of service, it would also seem that different treatment of the non-dominant carrier may be warranted. The dominant carrier in many areas, particularly the smaller communities, may be the only carrier offering a given service. Therefore, we believe continued positive control over the discontinuance of the service offered by a dominant carrier is warranted, and in fact, that is one of the primary reasons that Congress included Section 214 of the Act. On the other hand, competitive carriers, by definition, usually offer no service to any community for which there is no reasonable substitute. In such circumstances, there is not the same degree of "essentiality" to these services as there may be to certain of those provided by the dominant carriers. Accordingly, as long as the customer has advance notice so as to make arrangements for substitute service, there would not seem to be any major reason why discontinuance authority cannot be routinely granted to non-dominant carriers. In contrast to the dominant carriers, non-dominant carriers generally operate under relatively high risk conditions where failure to gain an adequate share of the market can result in a carrier's demise

or contraction of service offerings.⁶⁰ Consequently, in view of the general financial risk non-dominant carriers operate under, we do not believe it is necessary to impose any more "exit risk" than absolutely necessary to protect the interest of their subscribers.

68. In view of these considerations, we are proposing to amend the Part 63 rules in several ways. First, separate application requirements will be developed for dominant and non-dominant carriers. The rules for dominant carriers would be less concerned about circuit-by-circuit requirements, and more concerned with major additions to plant, a need disclosed by our recent five year Phase II investigation of AT&T, *Phase II Final Decision and Order* in Docket No. 19129, 64 FCC 2d 1, 50-52 (1977). To this end, we intend a fundamental reexamination of our Part 63 domestic regulatory program, a program based upon rules which have remained substantially unchanged since their adoption in 1944 to regulate the relatively simple domestic telephone and telegraph networks of that time. 9 Fed. Reg. 2092 (February 23, 1944). Networks then were more characterized by distinct lines which directly connected each city with the other cities on the network, rather than by the interconnection of indirect lines to build up a through connection. For example, during the 1930's, the bulk of long distance calls (e.g., 80% in 1936) were carried over dedicated long distance lines which directly connected cities in order to avoid the transmission losses and delays then associated with the manual toll board switching of lesser quality "short distance" toll lines. Because telephone lines were capable then of providing satisfactory transmission quality only individually, or in combinations of two, the General Toll Switching Plan's original goal was to limit the number of switches required for a toll connection, not to provide for alternate routing of calls. H. S. Osborne, *A General Switching Manual for Telephone Toll Service*, 9 BELL SYSTEM TECHNICAL J. 429 (July, 1930). This was changed in the early 1950's with the introduction of Direct Distance Dialing. The upgrading of transmission plant eliminated toll line distinctions. The maximum number of allowable switches in an end to end toll connection was increased from two to seven. Automatic electromechanical toll switches replaced the manual toll boards so as to make possible the automatic interconnection of indirect lines to create a through connection.

⁶⁰ See, e.g., *Dota Transmission Corp.*, 60 F.C.C. 2d 958 (1976).

Automatic alternate routing, once the exception, is now the rule, and long distance calls between any two points link a switching ladder in search of an idle circuit to permit their completion. For example, because of automatic alternate routing, it is quite possible, and indeed common, for a toll call intended between cities within a single state to be automatically routed to its destination through out of state lines at a higher level in the switching hierarchy.

69. All of this has resulted in a highly interdependent, complex switched telephone system which is not adequately reflected in our present rules. While relevant to the simple networks of the 1930's and 1940's, our present approach—to require individual applications for specific "lines"—does not appear to be either adequate, or material, to an evaluation of the needs of the modern switched telephone network. These problems appear to need addressing in a context much broader than that of an application for a specific piece of equipment.⁶¹ Consequently, we do not intend to simply continue the present approach, reviewing numerous equipment and "circuit" applications without regard to the impact on the overall network. Rather, we intend to approach our regulatory concerns with essentially a "clean slate" upon which we intend to develop new approaches designed to meet our goals. As indicated in paragraph 68 our primary goal in this regard is to insure against excessive addition to plant which will unduly expand the rate base, thus causing higher earnings requirements. This goal is, of course, easier to state than achieve. We recognize the complexity of the nationwide switched network and that much addition to plant has to be planned years in advance of the basis of forecasts which may or may not be accurate as to actual needs. Because of this long lead time, we have also felt the frustration, from time to time, under our current 214 procedures, of reviewing construction plans too late in the planning cycle to reasonably require significant changes.

70. Due to the complexities of modifying Section 214 procedures for

⁶¹ We recognize Section 214 speaks in terms of construction of "lines." In the past the rules have been written rather restrictively as to the meaning of what constituted a line. In view of the increasing complexity of communications networks and their necessary integration with switches and other support equipment, a question arises as to whether a more expansive definition of the term may be appropriate and necessary. We seek comment on whether Congress intended to include within the concept of "lines" of communications all facilities necessary to make those lines into effective communications offerings. Switches of all kinds are necessary to create the communications networks wherein alternate routing is a prime design goal.

dominant carriers, we are not now proposing any specific rule. Rather, we request interested persons to submit their ideas for possible approaches for Section 214 regulation for these carriers, keeping in mind our objectives and concerns as stated above. In particular we request comment on the following:

- (1) At what point in the planning cycle should commission authority be sought?
- (2) For major programs or plant additions should authorization be in two steps, say preliminary at the planning stage, and final before construction actually begins?
- (3) In what way can the Commission best focus on major construction while minimizing administrative effort on minor or routine supplemental facilities?
- (4) Should different types of facilities have different types of approval procedures? If so, what?
- (5) To what extent can or should the Commission review alternative facility options on major construction projects?
- (6) To what extent, if any, should the Commission review and/or approve management, engineering and financial procedures and guidelines under which major projects are planned?
- (7) How can the Commission best monitor the efficiency of use (e.g., the fill factor) of the overall switched network, and major segments thereof, and how the facility construction program affects this from year to year?
- (8) How can the accuracy of facility forecasts be best monitored and evaluated from year to year?
- (9) To what extent can or should the Commission make efficient use of existing facilities a condition precedent to the construction of new facilities?
- (10) Given the various certification system possibilities, what standard should the Commission employ in considering disallowances?

71. For non-dominant carriers, we propose to focus only on those aspects of Section 214 considered essential. Although under current policy we believe that it is appropriate to continue the initial certification of these carriers, we intend to lessen substantially their application requirements in accordance with our open entry policies and in recognition of the constraining influences of market forces noted above. Essentially we propose to reduce Section 214 facility authorization requirements for such carriers to include only initial certification to provide common carrier service and the points or geographic areas of service. In that authorization, we would grant blanket authority to the carrier for unlimited expansion of circuits, except video relay circuits,⁶² to the authorized service

⁶² We are excepting video relay circuits via satellite here because of the small number of applications involved and the substantial number of policy issues that have been raised in the past with respect to such service.

areas. Thus, where supplemental circuits are to be installed or leased, no additional authorization would be required. Instead we would require the reporting of such additions within 30 days after their service date.⁶³ As currently, carriers would be required to acquire prior facility authorizations for the underlying transmission facilities, i.e., for radio and for cable (or other non-radio transmission medium) over 10 miles in length. We believe such a regulatory program will substantially reduce the facility authorization burden on both the non-dominant carriers and on the Commission staff while fulfilling our obligations under Section 214 of the Act. Finally with respect to discontinuance of service, we propose to minimize the requirements for these non-dominant carriers to discontinue service to any point. Provided that 30 days prior notice is given to their customers and no showing is made that a reasonable substitute service is not available, such applications would be "automatically" granted 30 days after the filing date. If a petition to deny were filed, we would, of course, act on the petition prior to any discontinuance.

72. We note that Section 214 is written in imperative terms, and thus may not permit complete abandonment of the certification process. However, we believe the Act provides us sufficient flexibility so as to allow the blanket applications we here propose. Nothing in Section 214 sets a minimum time span in which the proposed construction, extension, augmentation, operation, transmission or discontinuance covered by the Section 214 application must take place, and thus appears to be an area left to our administrative discretion. We also note that we have in past rulemakings contracted the burdens that might otherwise be imposed under Section 214. See *Resale Decision*, *supra*.

73. The details of these proposed Part 63 rule changes are contained in Appendix A. We solicit comment not only on these particular changes, but on any other alternatives that interested parties believe to be more appropriate. However, such alternatives should be addressed in terms of meeting the requirements of the Act, the general public interest involved, and in terms of minimizing the regulatory burden on both the Commission staff and the regulated carriers.

⁶³ Such reporting will, among other things, enable us to monitor the extent of competitive services available and analyze, to a degree, the efficiency of use of the radio spectrum.

G. Video Relay Carriers

74. While the aforementioned proposals pertaining to Section 61.38, presumptions of lawfulness, Section 214, etc., would also be generally applicable to non-dominant common carriers providing video relay services whether those carriers are terrestrial microwave, satellite, or resale, we believe some different treatment in this area is warranted. In particular, we wish to address rate making methodology applicable to these carriers because of the different nature of competition we have observed in this market.

75. With a growing number of resale satellite carriers now providing video relay service to cable television systems and widespread installation of receive-only earth stations by cable television systems, we believe that we may permit, under appropriate conditions, video relay carriers to use diverse rate structuring principles. In Appendix B, we set forth our analysis of various ratemaking principles in the context of the current level of competition for these services. We basically conclude therein that the technical and cost characteristics of satellite video relay carriers, taken in conjunction with the unique nature of the markets they serve, may justify the use of cost allocation methodologies which give greater consideration to the ultimate user of the common carrier service than has previously been the case. Thus, in view of the above, we propose to allow competitive satellite video relay carriers broad latitude in their selection of a ratemaking methodology, including the use of population-sensitive rates. We have tentatively found that such ratemaking flexibility is likely to promote widespread availability of video relay service at reasonable rates while allowing for the continued development and expansion of competition in this specialized marketplace. We view this approach as serving the policies of Section 1 of the Act, 47 U.S.C. § 151.

76. Having determined that population-sensitive rate structures seem to be appropriate for satellite video relay carriers serving cable television systems, we also believe that since a terrestrial carrier competes with a satellite carrier in the provision of such services, then our general regulatory policy of full and fair competition should likewise permit the terrestrial video relay carriers to utilize population-sensitive rate structures similar to those of the satellite carriers. Accordingly, we propose to remove the requirement that terrestrial microwave carriers providing video relay service to

cable television systems justify population-sensitive rates under the complete burden specified in *American Television Relay*, 63 F.C.C. 2d 911, 929-30 (1977), provided that such rates are uniformly applied with respect to all customers on any given microwave system. However, we will entertain and address any issues pertaining to clearly unreasonable rate discrimination.

77. We noted above that due to the unique cost, demand and technical characteristics of video relay services provided, the forces of the competitive marketplace may not function as effectively as they might for other types of competitive carriers and services. Therefore, at least initially, our staff will monitor very closely systemwide rate increases and shall be directed to request relevant data from the carrier as is appropriate. Since, as noted in para. 35, *supra*, there may be no effective alternative for the cable systems being served with network television signals, because such signals are not currently being carried on satellites, we propose to continue requiring Section 61.38 support data where a terrestrial microwave carrier proposes to increase rates for the carriage of such signals. So long as this is the case, we would not, of course, apply a presumption of lawfulness to this service.

VIII. Applicability

78. The proposed guidelines and rules shall apply to the extent indicated herein to all carriers except those the Commission finds to have market power. As noted above, a carrier which is dominant usually is the effective price leader or has a substantial opportunity and incentive (i.e., effective rate base regulation) to subsidize the rates for its more competitive services with revenues obtained from its monopoly services. Such subsidization is unlawful to the extent it adversely impacts the less competitive or monopoly services and permits the dominant carrier to gain an anticompetitive advantage over other carriers.

79. The dominant carrier concept, however, necessarily raises the question of when and under what circumstances a carrier achieves "market power" or "dominance" such that it is excluded from the streamlined filing provisions under our proposed rules. Thus, an ultimate goal of this rulemaking proceeding is to establish a set of standards and procedures by which this Commission will be able to identify dominant firms (i.e. those with market power) on a continuing and consistent basis. Obviously, as the markets expand, varieties of service offerings increase, and new entry occurs,

reassessment of prior determinations will be required.⁵⁴ Therefore, we believe commenting parties should devote considerable attention to describing and discussing criteria useful to defining market power and defining the point at which a carrier becomes a dominant firm such that direct regulatory constraints more reliably insure just, reasonable, and not unduly discriminatory rates and practices than reliance on marketplace forces. In this respect, recent regulatory changes of the Interstate Commerce Commission (ICC) may provide a useful starting point for further study. For example, the ICC has found that invoking certain presumptions at the initial tariff filing stage can provide pragmatic guides in deciding whether to exercise rate jurisdiction over dominant carriers or to permit competition to operate more freely.⁵⁵ Thus, according to the ICC, a carrier with a 70 percent share of the market in a particular tariffed service is presumed to be the dominant carrier for that service.⁵⁶ Other tests utilized by the ICC in presuming market dominance are reported in *Special Procedures for Making Findings of Market Dominance as required by the Railroad Revitalization and Regulatory Reform Act of 1976*, 353 I.C.C. 784 (1976), *recon.*, 355 I.C.C. 12 (1976), *aff'd*, in *relevant part, Atchison, Topeka and Santa Fe Railway Company v. ICC*, 580 F. 2d 623 (D.C. Cir. 1978). (The case was remanded for the limited purpose of clarifying one of the presumptions selected by the ICC.)

80. Additional factors relating to the definition of market power and dominant firms might be considered: whether the carrier is effectively rate regulated; a required showing by the filing carrier that the market for the tariffed service is workably competitive; the ability of a carrier to be a price leader; the number of carriers involved in providing a particular service; the extent to which other carriers provide services that are practical marketplace

⁵⁴ Also, the resolution or initiation of other significant proceedings, particularly resolution of the pending *MTS/WATS Market Structure Inquiry*, *supra*, could have a bearing on the precision and finality of any standards or procedures considered or adopted herein.

⁵⁵ We are fully aware that in the absence of a finding of market dominance by the ICC, reliance on the marketplace was directed by an act of Congress. We mention the ICC's tests for findings of market dominance only as an aid for analysis in the context of the more limited approach directed to specific competitive carrier tariff filings which are the subject of these proposed rules.

⁵⁶ While a percentage market share criterion alone may not be sufficient for dominant carrier determinations, it appears to us to offer significant advantages in terms of relevance, certainty and ease of applications.

substitutes; and the relative size of the carriers as measured by customer base, plant investment, R&D capability, overall company revenues, corporate structures such as affiliation with other carriers, or with non-regulated corporate affiliates, and standing in financial markets.⁵⁷ With regard to affiliation, we may want to consider affiliation with a local exchange carrier as an indicium or rule of dominance. The degree to which affiliated entities are truly separate and deal at arms' length with each other should also be considered. Also, any acquisitions or mergers between carriers may be relevant in determining carrier market power and dominance,⁵⁸ as well as how all the above factors may change over time.

81. Our initial determinations of market power primarily reflect the industry as it stands today and for the reasonably foreseeable future. As indicated, the present industry structure is one which has long been dominated by relatively few large firms, providing a variety of private line and switched message services in generally well-defined markets based on historical industry practices. However, numerous firms have either recently entered the industry or propose entry, many with substantial financial resources and other significant backing. Moreover, the underlying technology is more diversely supplied, and capable of performing more new and innovative services than was the case in the past. In other words, we find ourselves very much at a crossroad where historic industry development and related policies and practices face the prospect of dynamic industry change brought on by new or proposed entrants offering many services through new types of facilities under varied pricing systems. While in the long run we recognize the necessity for clearly defined standards and procedures for dominant carrier determinations, we also believe that to settle on a limited number of criteria at

⁵⁷ Obviously, the financial wherewithal and market power of a parent or sister corporation may make entry and growth of an affiliated new carrier somewhat easier. However, it does not automatically follow that such a new carrier should be classified as a dominant carrier, either under our initial or more final determinations, merely because of its relationship with its financially stronger affiliate. See paragraph 48, *supra*.

⁵⁸ Where a dominant carrier acquires, either directly or indirectly, a non-dominant carrier, we will treat the acquired carrier as a dominant carrier unless it can show that it operates as a completely separate entity. Indicia of separate identity may include separate books of accounts, facilities, officers, directors, personnel, or such other conditions as the Commission may find warranted. Also, it must be demonstrated that the two entities deal with one another on an arms length basis in all respects. See e.g., *GTE Applications*, note 18, *supra*.

this stage would require us to speculate unduly on the public interest impact of the new and proposed entrants, many of which have not yet filed a tariff

providing services to the public or have achieved only limited success to date in competing with the established carriers. As noted above, the possible impact of such entrants is also being considered, in a broader context, in the *MTS/WATS Market Structure Inquiry*. Under these circumstances, we believe the most reasonable course of action in initially making tentative dominant carrier determinations is to focus primarily on the realities of the present industry structure and the proven experience with that structure. Recognizing the inevitability (and desirability) of change, we will retain the discretion to make appropriate changes in the future upon our own motion or upon the motion of a party demonstrating changed circumstances. We will develop the final criteria for dominant carrier determinations based upon our actual experience with the proposed regulatory reforms, the comments filed by the parties herein, and, of course, our observations of the development of the industry through the regulatory mechanisms presently or to become available. Furthermore, it is our current intention to make this an ongoing proceeding so that we may continually reevaluate the guidelines and any final rules and thus make any necessary modifications in the light of actual experience, or changes in operation, affiliation or structures of the firm in question.⁵⁹

82. Our initial market power and dominant carrier determinations for the purpose of implementing the proposals were made by reviewing relevant Commission files, reports, and orders and weighing many of the factors described above, rather than prematurely limiting ourselves to a few rigid rules. We recognize that the factors considered, as outlined below, could perhaps be applied during the course of this proceeding to other carriers which, by reason of new technology or early entry into new service or geographic markets, among other things, might acquire market power. We considered such possibilities, but do not see any present indications of this happening during this period. However, should other carriers emerge within this time frame that appear to be dominant, we certainly will make a determination as appropriate. Furthermore, if any carrier

⁵⁹ As noted in para. 31, *supra*, we may separately consider modified reporting procedures or other appropriate regulatory actions to examine those broad industry structure issues which are beyond the scope of this proceeding.

which we now find to possess a position of dominance should lose that position we would likewise reevaluate our present determinations.

83. In ascertaining market power and dominance for purposes of implementing this deregulatory program, it is obvious that we must first consider the Bell System.⁶⁰ We have noted previously Bell's total current assets of \$103.3 billion, total operating revenues of \$41.0 billion, and its net plant value at \$90.4 billion. (See para. 16 above.) Further, it has earned in excess of one billion dollars in profits for several consecutive quarters. In our Docket 20003 Inquiry, *Customer Interconnection*, *supra*, we further noted AT&T's dominant market position in virtually all service markets, including local service, MTS and WATS public switched services, and the various private line service markets. See also, Docket 19129, 64 F.C.C. 2d 1 (1977). Because AT&T remains by far the dominant supplier of basic interstate telephone service (in 1977 alone, AT&T obtained \$14.6 billion in MTS revenues compared to total SCC revenues in all services of approximately \$120 million) it has, unlike recent or proposed OCC entrants, a substantial opportunity and incentive (because of rate base regulation) to subsidize between and among services to the detriment of users not having realistic service alternatives, and particularly to subsidize those services which might be more susceptible to OCC competition with its monopoly service revenues.⁶¹ We have also noted AT&T's role as the effective price leader.

84. From the beginning of our expanded competitive entry policies, e.g., the *Specialized Common Carrier* and *Domsot* proceedings, we have been concerned that AT&T's historical market power, immense financial and technological base, its control over monopoly interconnection facilities, and its substantial cross-subsidization potential could afford it the opportunity to impact consumers adversely and effectively thwart or limit our competitive policies and any resulting reforms we might find consistent with those policies. Under these

⁶⁰ Since the independent telephone industry offers interstate services on essentially a non-competitive, cooperative basis with Bell, generally concurring in Bell tariffs, we shall also consider them as dominant carriers for purposes of these rules.

⁶¹ The entry of OCCs into MTS/WATS-like services as a result of the *Execunet* litigation and into the private line markets due to the *Specialized Common Carrier Decision* seems to have had only a minimal effect. Indeed, AT&T's yearly revenue growth alone in such markets exceeds any small inroads made by the OCCs. In the case of either MTS/WATS or private line, the OCC market share is far less than 1%.

circumstances, our Docket 18128 cost allocation guidelines and requirements, and the requirements we have recently imposed through other Commission orders, were developed so that we may prevent that from happening.⁶² Thus full and effective implementation of the Docket 18128 Decision and AT&T's compliance with other applicable orders are necessary for the furtherance of our policy of full and fair competition. Any current relaxation of our present tariff support requirements with respect to AT&T appears unwarranted.⁶³

85. In summary, we have noted the rather obvious circumstances which we believe foreclose any application of the proposals herein to AT&T and its associated companies.⁶⁴ We shall not readdress this determination until such time as we achieve full and effective Docket 18128 implementation, made any related changes necessary in the Uniform System of Accounts (USOA), see *Notice of Proposed Rulemaking, Accounts and Financial Reporting for Telephone Companies*, CC Docket No. 78-196, 43 Fed. Reg. 33560, July 31, 1978, and *Further Notice*, FCC 79-479 (released August 9, 1979), and are otherwise assured that a relaxation of our tariff support rules, policies and decisions applicable to Bell would be consistent with our statutory responsibilities and the public interest. We do not eliminate the possibility that USOA and the use of separate subsidiaries may at some time afford an AT&T affiliate the opportunity to offer some competitive services as a non-dominant carrier in the future.

86. Like AT&T, Western Union's long-established role in the telecommunications industry raises

⁶² Revised Fully Distributed Cost Method 7 (FDC-7) was the cost methodology required by the Commission to ensure, among other things, AT&T's accountability for rates for all of its service categories and to determine unlawful cross-subsidization between and among service categories. *AT&T (Docket 18128)*, 61 F.C.C. 2d 587 (1976), *recon.*, 64 F.C.C. 2d 971 (1977), *further recon.*, FCC 78-104, released February 24, 1978. See also, *WATS Rejection, Series 7000 Rejection*, *supra*, and *AT&T DDS Rejection*, 67 F.C.C. 2d 1195 (1978), *recon. denied*, FCC 78-879, (released January 5, 1979). See also *Bell Telephone Company of Pennsylvania*, *supra*, and related interconnection cases.

⁶³ As applied to the tariff filings of the OCCs, the scope of the proposals is not likely to impact adversely members of the public or our competitive policies in general. Such an impact is unlikely given their limited time in the market and limited customer bases, as well as the fact that AT&T functions as the effective price leader. On the other hand, AT&T's vast customer base and historical market position in all services could make even its minor tariff changes irreversibly detrimental to consumers at large and our competitive and other policies. See, e.g., *Series 7000 Rejection Recon.*, *supra*, at para. 16.

⁶⁴ See our discussion at paragraph 42.

problems different from those associated with the recent or potential OCC entrants to the industry. Of course, Western Union is vastly different from AT&T. Because of AT&T's immense size and substantial resources (e.g., AT&T revenues were \$41.0 billion in 1978 compared to Western Union's \$687.8 million), its dominance extends to virtually every service market and thus impacts U.S. consumers in general. Still, Western Union is much larger than most of the new OCC entrants and thus could use its market position to compete unfairly (e.g., Western Union's \$687.8 million revenues for 1978 can be compared to the longest established SCC, MCI, which had \$78.1 million for the same period). We do not intend to impose unnecessary regulatory constraints on Western Union and possibly frustrate its competitive efforts merely because it has existed longer than the OCCs, or because it has been around at least as long as AT&T. Indeed, we believe our recent and proposed actions in CC Docket 78-98, note 5, *supra*, permitting entry of other carriers into the public message telegraph service (PMS) domestic market may greatly facilitate Western Union's ability to compete more fully in all aspects of the domestic marketplace.

87. Notwithstanding our desire to facilitate maximum competitive freedom for Western Union, we see an apparent conflict with our intention regarding the application of our proposals to Western Union's tariff filings. Although Western Union no longer has a *de jure* monopoly in domestic PMS, it remains the sole provider (and thus dominant carrier) of domestic Telex and/or TWX services.⁶⁵

⁶⁵ Telex and TWX are the only significant domestic switched networks dedicated to teletypewriter, or written record service on an exchange basis. Thus, WU's market share for this type of service approaches 100%. These networks operate principally in the circuit switched mode (a form of real-time switching), but also offer the optional use of message switching so that additional features are available including multiple-addressed message service, store and forward service between Telex and/or TWX stations, and access to other services such as PMS. All Telex and TWX subscribers are issued combined Telex/TWX directories so that access to essentially all other subscriber stations is readily available on a direct-dial or store and forward basis. Although a substantial market comprised of point-to-point and switched teletypewriter requirements exists outside the realms of Telex and TWX (e.g., Autodin and Advanced Record Service (ARS), switched private line networks provided by Western Union to the government, Series 1000 and Low Speed Channel private line service provided by AT&T and Western Union respectively, and the very substantial amount of use of the nationwide telephone network for record type services), such alternative services may not be viewed as ready substitutes to Telex and TWX. Western Union's Telex and TWX domestic services also include a substantial amount of use associated with the domestic handling of international traffic, thus indicating an even more

These circumstances could afford Western Union, unlike the current OCCs, the opportunity to cross-subsidize its other offerings to the possible detriment of its Telex/TWX ratepayers.⁶⁶ This could also result in Western Union achieving an unfair competitive advantage over competing OCCs. On the other hand, we recognize that WU may be somewhat constrained in its pricing flexibility by AT&T's effective price leadership in most services. For example, Western Union must generally price many of its private line services under those of AT&T's. See Docket 20847, *infra*.

88. We also note several pending proceedings which could affect substantially Western Union's role in the marketplace, particularly its dominant posture in Telex/TWX services. For example, in our *Telex/TWX Investigation*, CC Docket 78-97, 67 F.C.C. 2d 1420 (1978), we are already examining the cross-subsidization problem in some depth. As noted in *Telex/TWX, supra*, at 1424, Western Union's projected 1981 earnings of 25.7% and 18.8% on Telex and TWX services, respectively, (as well as projections for 1979 and 1980) seem excessive when compared to either significantly low earnings or negative earnings on its other services. This factor, coupled with several Telex/TWX rate increases in recent years, *Telex/TWX, supra*, at 1422, causes us concern about the cross-subsidization problem. To get at the heart of the problem, we are thus considering the establishment of guidelines and principles similar to those promulgated in Docket No. 18128 for AT&T, to govern Western Union's cost allocations among its services. Hopefully, the Telex/TWX Investigation will provide sufficient basis for the development of cost allocation principles and guidelines, as well as addressing the rate of return for Telex and/or TWX services.⁶⁷

89. We are also mindful of the fact that changed circumstances in the domestic and international marketplaces (e.g., changes in the domestic Telex/TWX market) emanating from policy determinations

privileged position in the domestic market. Moreover, it is often essential for a domestic Telex/TWX user, particularly in the hinterland, to subscribe to Western Union's service in order to have ready access to the international Telex services of the IRCs.

⁶⁶ Also, until such time as the domestic PMS market becomes more competitive in reaction to our freer entry policy, existing PMS subscribers could possibly be disadvantaged by cross-subsidization.

⁶⁷ If we are unable to achieve our purposes in those proceedings, we may be forced to institute a separate inquiry as we indicated earlier. See *AT&T*, 67 F.C.C. 2d 1441, 1444 (1978).

by the Commission which emphasize maximum reliance on competitive marketplace forces to accomplish the statutory purposes of the Act could have a profound impact upon both Western Union's dominant posture in the provision of domestic Telex/TWX services, its concomitant ability to cross-subsidize, and thus the possible applicability to Western Union of the proposals herein. Thus, the eventual applicability of the proposals to Western Union is obviously a factor to be considered in any pending or new proceedings bearing on Western Union's competitive posture in domestic Telex/TWX. In this regard, relevant pending proceedings are Docket 19660, *International Gateway and Formula Inquiry*, 38 F.C.C. 2d 541 (1972), 54 F.C.C. 2d 804 (1975); Docket 21005, *Interface of International Telex and Domestic Telex/TWX Services*, 62 F.C.C. 2d 414 (1978); and the *Graphnet applications, supra*.⁶⁸

90. In summary, we have noted above the current circumstances which, in our judgment, at least initially require Western Union to be classified as a dominant carrier, thus foreclosing any immediate application of the proposals to Western Union. We, of course, invite Western Union's comments on its classification and thus will review our determination at the end of the comment process.

IX. Summary and Implementation

91. In conclusion, we believe that these proposals, as applied to the competitive services of the non-dominant carriers, will facilitate even more competition, diversity and associated consumer benefits, and are likely to reduce the regulatory burden for the industry as well as for the Commission. Moreover, the proposals should encourage carrier planning by decreasing the uncertainties that often surround tariff filings and the Section 214 process. Finally, we believe such rules, policies and proposals are consistent with our statutory obligations under the Act to ensure that the rates and terms of service of non-dominant competing carriers are just and reasonable and not unduly discriminatory.

92. The proposed rules are set forth in Appendix A.⁶⁹ Also, we have included

⁶⁸ We also recognize the possible emergence of more direct competition with Telex/TWX from advanced message switched network services such as AT&T's proposed ACS service and ITT's U.S. Domestic Transmission Systems, Inc. (USDTs) proposed system.

⁶⁹ Appendix A also includes several minor proposed changes to Section 61.38, including the

Footnotes continued on next page

in Appendix D a proposed financial report to be initially filed by all carriers intending to take advantage of the proposals. It is anticipated, however, that these reporting requirements may be consolidated with existing reports (e.g., Form P) now required under Part 43 of the Commission's Rules. Therefore, all parties are placed on notice that these reporting requirements may be made applicable to all carriers. We, of course, expect thorough comment on the proposals and the various analyses and assumptions contained in the discussion above. It is our current intention to implement the proposals in Part VII promptly after we have had the benefit of public comment. In this regard, we are including in Appendix C several questions, in addition to those already raised in the text, to facilitate more direct and complete comment. We will consider the further deregulatory options in Part XI as possible longer term forms of deregulation.

93. Until such time as comments are filed and we issue our further order regarding the implementation of the proposals in Part VII, we believe it would be useful to inform parties as to what requirements will govern tariff filings in the interim. As noted earlier, most rejection and suspension petitions against non-dominant competing carrier tariff filings are made by competing carriers and such petitions appear to be almost always of a dilatory nature. As noted, upon final implementation of the proposals the Common Carrier Bureau will be delegated authority to deny suspension petitions. Until that action is effectuated by a formal rule change, we believe the Commission's and parties' resources could be saved if we immediately grant the Bureau authority to act on denials of suspension petitions. Accordingly, our delegation of authority in rule 0.291 is hereby temporarily amended by this Order to permit that action.

X. Disposition of Pending Dockets and Related Complaints

94. We have held in abeyance several dockets, established to investigate particular OCC or competing tariff filings, until such time as we developed general policies to resolve recurring controversies as to permissible rate structures, rate levels, service features, etc. These are: Docket 20098, *Western Union and RCA Satellite Services*, 47 F.C.C. 2d 639 (1974); Docket 20198, *United Video*, 49 F.C.C. 2d 878 (1974);

Footnotes continued from last page raising of the gross revenue requirements of 61.38(f) to reflect the effects of inflation.

Separate orders and pleading cycles will apply to the further deregulatory proposals in Part XI.

Docket 20493, *Western Telecommunications, Inc.*, 55 F.C.C. 2d 203 (1976); Docket 21047, *American Television and Communications Corporation*, 62 F.C.C. 2d 171 (1976); Docket 21145, *United Wehco, Inc.*, 63 F.C.C. 2d 741 (1977); CC Docket 78-24, *American Television Relay (ATR II)*, 67 F.C.C. 2d 527 (1978); CC Docket 78-68, *RCA Americom*, 67 F.C.C. 2d 836 (1978); CC Docket 78-70, *American Satellite Corp.*, F.C.C. 78-128, (released March 10, 1978); and CC Docket 78-99, *Western Union*, 68 F.C.C. 2d 889 (1978). Another Docket (20801), *Midwestern Relay, supra*, remains in limited hearing. It is our intent to terminate or otherwise settle these dockets on the basis of the policies and rules adopted in this proceeding to the extent reasonably possible.

95. While some of these dockets (and any related formal complaints)⁷⁰ may involve questions of past unlawfulness and the possible remedies therefor, the parties may wish to reconsider the issues in light of the proceeding. We see considerable benefit to be derived from promptly resolving and implementing, to the extent appropriate, the matters set for inquiry herein so that the Commission, carriers, and their customers may channel their resources to more mutually productive ends.⁷¹

96. Accordingly, we request that all active parties to these pending dockets and any related complaints reexamine their positions and inform us on or before the date specified in para. 124 below as to their intentions in this regard. Thereafter, we will provide further guidance to the presiding Administrative Law Judges as to how they should proceed.

XI. Further Deregulatory Options

97. As noted above, not only may regulation of non-dominant competitive carriers be unnecessary due to their lack of market power, but such regulation can also be costly in several ways. There are direct costs of formulating, enforcing and complying with rules and regulation. These costs are ultimately borne by the taxpayers or the ratepayers. Moreover, the very presence of regulation can make competition less effective than it might otherwise be. Facilities authorization requests force

⁷⁰ See, e.g., *Las Cruces TV Cable v. ATR*; *El Paso Cablevision, Inc. v. ATR*; *North Platte and McCook Multi-View TV v. Mountain Microwave Corp.*; and *Micro-Cable Communications Corp. v. ATR* (two complaints).

⁷¹ We particularly note the efforts of the carrier, Trial Staff, and presiding Administrative Law Judge in Docket 20801, *Midwestern Relay, supra*, where recently a settlement of most issues was concluded. We encourage similar settlement efforts by parties to these other pending Dockets.

competitors to give their rivals advance notice of business strategies. This can, by itself, discourage the introduction of new, competitive services. Requiring adherence to tariffs where competitive pricing would flourish otherwise may make collusive pricing possible by both facilitating agreement and preventing the secret discounts that often lead to the breakdown of agreements that are attempted. Rate of return regulation, of the threat of its imposition, may discourage firms from entering risky ventures that, if successful, would result in temporary commensurate profits. Legitimate discounts to various classes of customers and introductory prices to attract new business may be viewed as unjust and unreasonable discrimination and therefore may be prohibited. The very presence of regulation may discourage some firms from entering. Also, competitors may use the regulatory forum to challenge and delay one another's service introductions. As a result of both our belief that marketplace forces may prevent competitive carriers from deviating from cost-based pricing, and our desire to reduce unnecessary regulatory costs and burdens, we are seeking to determine how far we can legally reduce or eliminate the unnecessary and costly regulation of these competitive firms. In the following paragraphs we discuss and invite comments on various possible ways of achieving this goal beyond the initial proposal described above, which we are confident is already within our statutory authority.

98. These further deregulatory options are based to some extent, on more modern interpretations of the Communications Act of 1934. Obviously that Act was passed at a time when there was little or no competition in telecommunications, services were generally limited to MTS and telegraph, and methods of transmission were generally accomplished through wire and cable. The industry we face today bears scant resemblance to that of 45 years ago. In recognition of the dynamic nature of communications, the courts have generally recognized the need of the Commission to interpret the language of the Act in context with the times and the needs of the public so that the goal of the Act, as stated in section 1, 47 USC § 151, "to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communications service" can be reasonably accomplished. See, *United States v. Southwestern Cable Co.*, 392 U.S. 157 (1968); *United States v. Midwest Video Corp.*, 406 U.S. 649 (1972)

(*Midwest Video I*). Therefore, in addition to comments specifically solicited, we request interested parties to comment generally on the following two regulatory scenarios in terms of: (a) the probable impact on the provision of service to the public as to rates, diversity, innovation, and availability; (b) any likely structural changes in the nature of the competitive marketplace; and (c) the legal sufficiency of these possible approaches under the 1934 Act.

A. Forbearance From Regulation

99. Under this option we explore the possibility that the Commission may have discretion to forbear from the exercise of its full regulatory authority under the Act. For purposes here, we assume that the competitive carriers are common carriers within the meaning of the Act. This option is not, of course, as far reaching as the one that follows (which would, in effect, examine anew under current conditions the term "common carriers") since it would allow the Commission some flexibility to exercise whatever regulatory authority is deemed necessary to insure that the general goal of the Act is achieved.

100. The most frequently cited case supporting the existence of discretion in the Commission is the D.C. Circuit's decision in *Philadelphia Television Broadcasting Co. v. FCC*, 359 F.2d 282 (D.C. Cir. 1966). In upholding the Commission's refusal to assert Title II jurisdiction over a cable system, the court pointed out that new technological developments require new regulatory responses and that the Commission therefore should have discretion in formulating its regulatory program. In a statement equally applicable to the issues we currently face, the court said:

Congress in passing the Communications Act of 1934 could not, of course, anticipate the variety and nature of methods of communications by wire or radio that would come into existence in the decades to come. In such a situation, the expert agency entrusted with administration of a dynamic industry is entitled to latitude in coping with developments in that industry. . . . In a statutory scheme in which Congress has given an agency various tools with which to protect the public interest, the agency is entitled to some leeway in choosing which jurisdictional base and which regulatory tools will be the most effective in advancing the Congressional objective.

101. We are, of course, aware of the division of authority on this issue. For example, in our *Resale Decision*, we made passing reference to *FPC v. Texaco, Inc.*, *supra*, in such a context as to suggest that we had concluded it removed the discretionary element we theretofore believed existed under the Act. However, it does not appear that

the case would preclude a Commission decision to exempt the OCCs from Title II regulation. In striking down an FPC plan to leave small producer prices to be determined by the marketplace, the Court explained that:

It is abundantly clear from the history of the Act and from the events that prompted its adoption that Congress considered that the natural gas industry was heavily concentrated and that monopolistic forces were distorting the market price for natural gas.

359 F.2d at 297-298. Thus, the essential basis of the Supreme Court's decision in *FPC v. Texaco* was that Congress had specifically addressed the market structure of the natural gas industry and the effect of monopoly market power on the prices at which producers sold their product.⁷² The drafters of the Communications Act, on the other hand, quite clearly did not address the completely different telecommunications market and carriers we have today, nor did they incorporate assumptions about the effect on market structure of competitive providers of service. Similarly, the "events" prompting the passage of the Communications Act obviously bear no resemblance to the events facing us today.

102. To the extent that the Supreme Court based its decision not on the elimination of direct regulation of the rates of small producers, but on its interpretation of the legislative history of the applicable statute, we seek comment on the applicability of that holding to the question of the regulation of competitive carriers generally. We also are considering its application on the question of the deregulation of resale and enhanced service providers as a subclass thereof. In that case, it may be said, we are continuing to regulate directly those carriers providing underlying facilities and thus satisfying the purposes of the framers of the Act.

103. In the appeal of our *Resale Decision*, the Second Circuit rejected an argument that the Commission had the discretion to refrain from regulation of resale firms. *AT&T v. FCC*, *supra*. The court seemed to place primary reliance on *FPC v. Texaco* and the "statutorily mandated" requirement that we have a duty to "execute and enforce the provisions" of the Act. 47 U.S.C. § 151. The question of discretion under the Act however, if answered affirmatively, may preempt any "duty" to enforce the terms of Title II. That is, if the Act provides the agency with the power to forbear from

⁷² "In concluding that the Commission lacked the authority to place exclusive reliance on market prices, we bow to our perception of legislative intent." *Id.*, at 400.

regulation, an exercise of that power would certainly excuse failure to ensure compliance by individual firms with the procedures constituting the mechanism by which Title II regulation is to be effected. If our previous discussion of the *Texaco* opinion has any validity, it may undermine the apparently broad holding of the *AT&T* opinion as well.⁷³

104. Moreover, in the *NARUC* cases cited *infra*, the question of the existence of an ability to forbear from regulating common carriers seems to have been left open. In *NARUC I*, the court said "we reject those parts of the orders which imply an unfettered discretion in the Commission to confer or not confer common carrier status on a given entity, depending on the regulatory goals it seeks to achieve." This statement, although sometimes cited in the context of the Commission's power to forbear from regulation, in fact, is only relevant to the process whereby the Commission evaluates the nature and offering of a particular firm to determine whether or not it is a common carrier. If common carriage is found to exist, then the question of discretion as to the extent of regulation, if any, arises. The court made clear that it recognized the distinction when it expressly said: "We do not here hold that the Commission is required to exercise its affirmative Title II powers wherever a common carrier within its jurisdiction is found to exist.

We . . . leave to a case presenting that issue the problem of whether Title II powers are mandatory or discretionary."⁷⁴

105. Furthermore, in *NARUC II*, the court recognized, in discussing *ACLU v. FCC*, 532 F.2d 1344, 1351 (9th Cir. 1975), that "there may be arguments for allowing the Commission to decline to exercise its statutory powers . . . for example, it may be contended and has elsewhere been held (citing *Philadelphia Television Broadcasting Co.*) that a part of the broad discretion allowed the Commission under the Act involves the power not to exercise particular authority which it has been granted."⁷⁵ We note that both *NARUC* opinions were rendered after the decision in *FPC v. Texaco*.

106. There is also particular language in Title II of the Act which arguably supports the proposition that the Commission has authority to forbear entirely from traditional tariffing

⁷³ The Second Circuit also appeared to believe that there was no authority supporting the argument that the Commission could forbear from regulation. As previously noted, we consider *Philadelphia Television Broadcasting Co.*, and the other cases cited *supra*, to be such authority.

⁷⁴ *NARUC I* at 48. See note 82 *infra*.

⁷⁵ *NARUC II* at 620, n. 113. See note 85 *infra*.

regulation. Section 203(c) says in pertinent part:

No carrier, unless otherwise provided by or under authority of this chapter [i.e., the Act], shall engage or participate in such communication unless [tariff] schedules have been filed and published in accordance with the provisions of this chapter and with the regulations made thereunder. . . . [emphasis added].

The emphasized language seems to contemplate carrier offerings other than by tariff if such offerings can be said to be "provided by" or "under authority" of the Act. Other sections of the Act clearly provide for the provision of common carrier communications services or facilities by one carrier to another carrier pursuant to contract. See Section 201(b) (between regulated and unregulated carriers), and 211(a) (between two or more regulated and unregulated carriers), 47 U.S.C. §§ 201(b) and 211(a). *Bell Telephone Co. of Pa. v. FCC*, 503 F.2d 1250, 1277 (3d Cir. 1974), *cert. denied*, 422 U.S. 1026 (1975). These intercarrier exceptions to Section 203(c)'s tariffing requirement appear to be contemplated by the "unless otherwise provided by . . . this chapter" language in Section 203(c). That is, such relationships are explicitly "provided by" Sections 201(b) and 211(a). If these relationships are "provided by" the Act, there is a question whether the Commission, though lacking an explicit statutory direction, might "under authority of" the Act have discretion to permit other relationships, e.g., carrier-customer, to be governed by contract rather than tariff. Section 203(c)'s "unless" clause arguably speaks of two categories of exceptions—unless "otherwise provided by or under authority of this chapter." In *Midwestern Relay Corp.*, 69 FCC 2d 409, 415-16 (1978), we implied that the "under authority" language does not have any independent significance when we said that any exception to Section 203(c) "must be clearly expressed" elsewhere in the Act. While we do not at this time depart from that construction,⁷⁶ we invite comments as to whether the "under authority" language might in proper circumstances support the adoption of a Commission rule exempting certain carrier-customer relationships in competitive markets from any tariffing requirements. Specifically we seek comments as to whether that discretionary "authority" might arise "under" our general

⁷⁶ We would note, however, the usual rule of statutory construction that no part of a statute should be presumed to be redundant or superfluous or otherwise be read out of the statute. See *United States v. Menasche*, 348 U.S. 528, 538-39 (1955); *Morkham v. Cabell*, 328 U.S. 404, 411 (1945).

rulemaking authority, Section 4(i), 47 U.S.C. § 154(i), or our conditioning authority in Section 214, 47 U.S.C. § 214.

B. Definitional Option

107. Under this option we consider the possibility of defining certain providers of communications services as not being actual common carriers under the Act and thus being subject to full and complete deregulation. As such, these entities, once defined as non-common carriers, would be subject to no Commission control, except where changes in the marketplace or the nature of their services could possibly result in their being re-classified as common carriers. They would, of course, be subject to some federal control, as are all businesses engaged in interstate commerce, under the antitrust laws. But in essence, they would be completely free to enter and exit the market and would be subject to no rate, tariff or facility regulation. A legal rationale for this approach is set forth in the following paragraphs in order to elicit public comment.

108. We note initially our authority and responsibility for resolving complex definitional issues. We have in the past been confronted with problematic constructions of statutory terms as new markets and services have developed. See, e.g., *Resale Decision* (resellers and shared use); *Computer Inquiry II* (data processing); *Naruc I* (SMRS). We have thus recognized that regulation appropriate in one context may be inappropriate in another.

109. We now consider the term "common carriers" as used in the Act. The plain meaning of the definition in the Act itself is not helpful: "common carrier" or "carrier" means any person engaged as a common carrier for hire. . . . 47 U.S.C. § 154(h). Our rules shed little additional light on the issue: "any person engaged in rendering communication service for hire to the public." 47 CFR § 21.1. Neither does a return to the legislative history: the term was not intended to include "any person if not a common carrier in the ordinary sense of the term."⁷⁷ The Supreme Court has recently agreed with at least one lower court's finding that these provisions are so indefinite as to warrant a return to common law and court and agency pronouncements in an attempt to define a common carrier.⁷⁸

110. Several factors emerge from a resort to common law and earlier cases.

⁷⁷ H. R. Conf. Rep. No. 1918, 73rd Cong., 2d Sess. 46 (1934).

⁷⁸ *FCC v. Midwest Video Corp.*, 99 S. Ct. 1435 (1979) (*Midwest II*); *NARUC v. FCC*, 525 F.2d 630, 640 (D.C. Cir. 1975), *cert. den.*, 425 U.S. 992 (1976) (*NARUC I*).

The critical element in the meaning of the term is itself somewhat ambiguous. It is often said that the activity in question must be of a "quasi-public" character.⁷⁹ Whether the activity is undertaken for profit, while perhaps being a "significant indicium" of common carriage,⁸⁰ is not determinative of this question.⁸¹

111. The early English basis for regulation was concerned with activities which were conducted in the public arena and with the exercise of monopoly power. For example, shippers, innkeepers, controllers of the sole wharf serving an area were held to show certain common traits. The fact that these enterprises are ones which prosper from providing service to the general public⁸² and that the customer has no control over his or her interest in the product when it is entrusted to the business, led to the development of liability for faulty performance of the promised service resting with the business. In essence, they became insurers.⁸³

112. Their business performance seems not to have been "regulated" in the modern sense of that term. Lord Ellenborough, in one of the earliest statements on the subject, illustrated that the untoward effects attendant to monopoly control of an essential facility required a change in the way the business was viewed by society:

If for a particular purpose, the public have to resort to his premises and make use of them and have a monopoly in them for that purpose, if he will take the benefit of his monopoly he must, as an equivalent, perform the duty attached to it on reasonable terms.⁸⁴

113. In these earliest treatments of common carriers there appears to be a distinct understanding that restriction on the way these entities conducted their business was the *quid pro quo* for the advantageous commercial position they had assumed. That is to say, having developed a business which affects the community at large, because of the exclusive control of a facility necessary to the continuance of commerce, the state exercised its power to protect the public's legitimate interest in the

⁷⁹ *NARUC I* at 641.

⁸⁰ *AT&T v. FCC*, 572 F.2d 17 at 26 (2nd Cir. 1978).

⁸¹ *NARUC I* at 641; *NARUC v. FCC*, 539 F.2d 601 (D.C. Cir. 1976) (*NARUC II*).

⁸² In the case of the innkeeper, travel conditions seem to have led to the imposition of such a condition of service to the general public.

⁸³ *NARUC I* at 640.

⁸⁴ F. Henrick, *The Power to Regulate Corporations and Commerce*, p. 326 (1906). See also note, "Affection with Public Interest," 39 Yale L.J. 1089, 1093, (1930); McAllister, "Lord Hale and Business Affected with a Public Interest," 43 Harvard L. Rev. 759 (1930).

operation of the roadways granted to certain persons by the Lords of England. Thus the grants carried with them not only the power to charge tolls, but also a responsibility to honor a right of passage and equal treatment of the travellers. Smaller roads and streams not essential to commercial and social intercourse were not viewed as common passages for the King's people and were considered private, having none of the characteristics of service on equal terms.

114. Thus, the "quasi-public" characteristic found to be the *sine qua non*⁸⁵ of common carriage may have been based on a social decision that those who exercise unfettered control of an access point essential to the commercial well being of the nation must be kept under control. If so, there may be an additional element to common carrier which is economic in nature. It seems to us that to the extent monopoly control of an essential facility may be a critical element of the meaning of the term common carrier that the other common carriers (OCCs) in general (and particularly resellers of enhanced services), who are participating in a multi-firm competitive market, may not satisfy either aspect of the test. Moreover, unlike the firms to which regulation was originally applied, these carriers receive no exclusive franchise or guarantee. They do not receive the power of eminent domain, tax benefits, the power to levy tolls or state funds, as the railroads did. It does not seem that any individual firm offering such service is "essential" in the way the "Kings Highways," railroads, or canals were essential to the development of commerce. There seem to be significant differences between what we expect to develop in these markets and such infrastructure services as basic power and transportation. It may be that any particular firm could enter, or leave, this market without causing an unacceptable amount of dislocation.

115. The question then is whether the common carrier concept may legitimately be understood to contain some element of essentiality or monopoly. If the fundamental characteristics of common carriage do involve some element of monopoly or essentiality with respect to the services provided, and if certain competitive carriers do not manifest those characteristics, then it may be that the only basis for considering them common carriers is an assumed practice on their part of providing access to the public on

⁸⁵ *NARUC II* at 608.

non-discriminatory terms.⁸⁶ It appears, however, that this factor is a characteristic of a wide variety of institutions which have been treated in differing ways. For example, with civil rights legislation and relevant case law, the duty to hold oneself open for service indiscriminately to those willing to pay the price applies far beyond the range of traditional common carriers. Grocery stores, restaurants, motels and other non-utility operations all function under a similar duty. Moreover, the nation's antitrust laws have long imposed a duty of access on reasonable conditions on the monopoly controller of an essential facility. See *United States v. Terminal R.R. Association*, 224 U.S. 383 (1912); *Associated Press v. U.S.*, 326 U.S. 1 (1945). If a non-discriminatory access responsibility, akin to that applied to common carriers, is characteristic of non-common carriers as well, then a finding of such "access," without more, may not be sufficient to require classification of the firm as a common carrier.⁸⁷ We wonder whether a requirement that a business serve all those willing to pay the price may be the result of a broad social decision different than the drafters of the Communications Act made in defining common carriers in 3(h).

116. Another point of consideration is whether some types of competitive carriers as a group are common carriers as contemplated by the Act. That is, are some segments of that group sufficiently different from other segments to be definitionally outside the scope of Title II of the Act? For example, it has been argued that resale, or enhanced service providers, are not common carriers since they do not own transmission facilities. It is argued they are, therefore, analogous to freight forwarders, which are regulated by the Interstate Commerce Commission only by virtue of an express amendment to the Interstate Commerce Act. We concluded in our *Resale Decision*, at 304-307, that freight forwarders were common carriers and the ICC's refusal to regulate them was a result of its particular statutory language. We did not address the issue of whether the Communications Act also presented a situation where entities thought to be common carriers were not

⁸⁶ A number of recent cases, including *NARUC I*, *NARUC II*, and *Midwest Video II*, *supra*, have emphasized that the concept of "holding oneself out indiscriminately" for service to the public, even where the service may be of use to only a fraction of the public, is a characteristic of common carriage.

⁸⁷ As previously discussed, competition is a recent development. It may be that the primary motivation for the construction of a communications common carrier regulatory system in 1934 was a fear of monopoly and its effects, rather than a recognition of any quasi-public nature.

included within the definition of communications common carriers. Our conclusion necessarily means, however, that we at least assumed it did not.

117. We are concerned, however, that this *sub silentio* assumption should be revisited given the oft-quoted statement by Senator Dill that:

In this bill many provisions are copied verbatim from the Interstate Commerce Act because they apply directly to communications companies doing a common carrier business, but in some paragraphs the language is simplified and clarified. These variances or departures from the text of the Interstate Commerce Act are made for the purpose of clarification in their application to communications, rather than as a manifestation of Congressional intent to obtain a different objective.⁸⁸ (emphasis supplied)

The legislative history of the Act may be read to indicate, therefore, an intention by the Congress to extend the jurisdiction of the FCC only over the extent of communications comparable to the jurisdiction of the ICC over transportation. Insofar as freight forwarders were admittedly not covered by the Interstate Commerce Act at the time the Communications Act was adopted by the Congress, it could be a further indication that our above referenced assumption in the *Resale Decision* may have been in error. In any event, it now seems to us that the assumption as to the scope of the Communications Act is such a significant one, and so inextricably intertwined with this proceeding, that a more exhaustive analysis is warranted.⁸⁹ In particular, we seek comment on whether the language in Sections 3 (a) and (b) of the Act should be defined as encompassing those who lease rather than own and operate transmission facilities. We also request comment on whether *MacKay Radio and Telegraph Co.*, 6 FCC 582 (1938), cited in our *Resale Decision*, *supra*, which exercised jurisdiction over lessors of common carrier facilities, is applicable in the case of the competitive resale market.

⁸⁸ Senate Rep. No. 2358, 73 Cong. 2d Sess. at 2 (1934).

⁸⁹ Although the Second Circuit Court of Appeals found firms engaged in forwarding messages to be common carriers (*AT&T v. FCC*, *supra*), it placed primary reliance on Sections 3 (a) and (b) of the Act which include among "communications" by wire, the "forwarding" of communications. The "forwarding" language traces back to the Hepburn Act of 1906 and was designed to make "direct or indirect agents" of the railroads subject to ICC rate jurisdiction (see remarks of Cong. Hinshaw, in B. Schwartz, *The Economic Regulation of Business and Industry*, Vol. 1 at 643). In the case of resale and enhanced communications carriers, we believe they are competitors of the underlying carrier rather than mere agents.

118. One final argument offered to support the possible proposition that enhanced or resale carriers are not common carriers involves their alleged failure to meet the definitional prerequisite "formulated by the FCC and with peculiar applicability to the communications filed, that the system be such that customers transmit intelligence of their own design and choosing."⁹⁰

119. In the recently decided *Midwest Video II* case the Supreme Court implicitly affirmed the legitimacy of this definition of common carrier. In fact, this particular aspect of the definition of common carriage seems to have been dispositive. In distinguishing that case from *Midwest Video I*, the court relied on its determination that the Commission's access regulations "abrogate the cable operators' control over the composition of their programming." Although we have treated this matter in great detail in our Tentative Decision in *Computer Inquiry II*, FCC 79-307, *supra*, we seek comment in this proceeding as well on whether the fact that firms providing resale of "enhanced services" will be changing the information submitted by their customers eliminates such firms from the scope of the definitions of common carrier as used in the Communications Act. We recognize that not all firms which may be resellers or enhanced service providers will necessarily alter the information transmitted. We hope that those addressing this issue will provide information on any differences among firms which would be important in light of this discussion.

120. Exploration of the issue of whether the OCCs are properly considered common carriers does not indicate disagreement with the courts' view that we are "not at liberty to manipulate the definition of 'common carrier' in such a way as to achieve predetermined regulatory goals." *AT&T v. FCC*, *supra*, at 26. But we also agree with those courts which have found both the statutory language and the legislative history on this subject less than illuminating. See, for example, *Midwest Video II*, note 82, *supra*, at n. 10, and cases cited therein. We have no desire to impose Title II regulation on markets or firms where such regulation is unnecessary to protect the public. Firms such as those affected by the Tentative Decision in *Computer Inquiry II* are clearly different from firms providing communications service

⁹⁰ *NARUC II* at 609, quoting *Industrial Radiolocation Service*, 5 F.C.C. 2d 187, 202 (1966) and *Frontier Broadcasting Co. v. FCC*, 24 F.C.C. 251, 254 (1958).

between 1912 (when the Secretary of Commerce was first empowered to license radio stations) and 1934 (when the Communications Act was adopted). We admit, however, that the extent of our jurisdiction with respect to these newly developed companies is less than clear. Therefore, public comment on the legal and public interest issues raised above will be particularly useful.

XII. Ordering Clauses

121. Accordingly, IT IS ORDERED, That pursuant to the provisions of Sections 4(i), 4(j), 201, 202, 203, 204, 205, 214 and 403 of the Communications Act, of 1934, as amended, and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553, there is hereby instituted an inquiry and Notice of proposed rulemaking into the foregoing matters. Members of the public are put on notice that any such policies which may be established in this proceeding may be embodied in the Rules and Regulations of the Commission.

122. It is further ordered, That all interested persons may file comments on the specific proposals included in Part VII of this Notice, the supporting analysis, and Appendices A-D on or before February 1, 1980. Reply comments shall be filed on or before March 14, 1980. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, 47 CFR § 1.419, an original and five (5) copies of all comments, shall be furnished to the Commission.

123. It is further ordered, That all interested persons may file comments on the matters included in Part XI on or before February 29, 1980. Reply comments shall be filed on or before March 21, 1980.

124. It is further ordered, That all active parties to the pending Dockets and related complaints named in paras. 94-96 inform us on or before February 15, 1980, as to their positions on the appropriate disposition of such dockets and complaints.

125. It is further ordered, That the Chief, Common Carrier Bureau, is delegated authority to act on denials of suspension petitions directed against tariff filings of non-dominant carriers consistent with the discussion in

paragraph 93, *supra*, pending further order.⁹¹

126. It is further ordered, That the Secretary shall cause this Notice of Proposed Rulemaking to be published in the Federal Register.

Federal Communications Commission.
William J. Tricarico,
Secretary.

*See attached Statements of Commissioners Ferris, Chairman; and Fogarty.

Appendix A

Proposed Rules

It is proposed to modify Part 61 of the Commission's Rules, 47 CFR 61, as follows:

1. Modify paras. (a) and (f) of § 61.38 to read:

§ 61.38 Material to be submitted with letters of transmittal by filing carriers.

(a) Explanation and data supporting changes and/or new tariff filings. Every tariff filing shall be submitted with a statement (preferably in the letter of transmittal) which shall briefly summarize the filing, its purpose, and whether any prior Commission facility authorization necessary to its implementation has been obtained. Each tariff filing, except those filed pursuant to § 61.39, shall also be accompanied by a full explanation and justification. Such support material, whether for a tariff change or for a service not previously offered, shall include: (1) *

(f) Exception. The requirements of this section shall not apply to any carrier with annual gross revenues of less than \$200,000. Annual gross revenues shall be calculated on the basis of gross revenues for the most recent 12-month period or on the basis of the average of three years estimated annual gross revenues, whichever is greater.

2. Add a new Section 61.39 to read:

§ 61.39 Tariff filings for service offerings by nondominant carriers.

(a) Except as provided in (e) below, tariff filings involving domestic service may be filed without the support material required by Section 61.38 (except as to explanatory material) provided that the filing carrier makes a showing that the following criteria under this section are satisfied:

(1) The filing carrier has not been found, for purposes of this section, by

⁹¹ Since this delegation of authority relates to rules of agency procedures, compliance with the notice and effective date provisions of the Administrative Procedure Act, 5 U.S.C. § 553, is not required.

the Commission to be a dominant carrier in the provision of any service.

It is proposed to modify Part O of the Commission's Rules, 47 CFR § O. 22

(1) Caption information—"Report under § 62.07(a).".

specifics of impact upon you or your

i.e., the rates it will charge any individual

unlink. Second, a reseller must lease a

the Commission to be a dominant carrier in the provision of any service;

(2) The filing carrier has filed and will file the financial reports as specified in (Appendix D of this Order).*

(3) Tariffs which offer video relay services shall also contain rates that are based on consistent ratemaking methodology for all customers of the transmission system involved (e.g., if any customer is charged on a distance sensitive basis, all customers shall be charged on a similar basis; or if any CATV system customer is charged on a population sensitive basis, all customers are charged on a similar basis).

(b) Any tariff filing complying in all respects with the requirements of this Section shall be considered to be *prima facie* lawful and will not be suspended unless a party requesting suspension is able to show each of the following:

- (1) That there is a high probability that the tariff would be found to be unlawful after an investigation;
- (2) That any harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;
- (3) That irreparable injury will result if suspension does not issue; and
- (4) That the suspension would not otherwise be contrary to the public interest.

(c) A tariff filing not meeting all of the requirements of this Section shall be required to submit full support data as required by Section 61.38.

(d) The Commission may, at any time, request of any carrier filing tariffs pursuant to this section to submit any information or data necessary to determine the lawfulness of any tariff filing. In such an event, the carrier shall be prepared to submit such information within seven (7) calendar days (or longer period established by the staff) of the date it is requested.

(e) This section does not apply to tariffs involving the provision of mobile radio service or Multipoint Distribution Service, or to any tariff filing where the effect of the filing is to initially establish or to increase rates to any customer for the relay of network television signals.

3. Add a new paragraph (f) to Section 61.58 to read:

§ 61.58 Notice requirements.

(f) Tariff filings complying with Section 61.39 may be filed on 14-day's notice to the public, notwithstanding the requirements of (b) and (c) above.

*This requirement will be deleted in the final version if such reporting requirements are made mandatory for all carriers in the finalized rules.

It is proposed to modify Part O of the Commission's Rules, 47 C.F.R. § O, as follows:

1. Add a new paragraph (j) to Section 0.291 to read:

§ 0.291 Authority delegated.

(j) The Chief, Common Carrier Bureau of delegated authority to deny requests for suspension and investigation of tariffs where the filing qualifies under Section 61.39 of the Commission's Rules, notwithstanding the requirements of (d) above.

It is proposed to modify Part 63 of the Commission's Rules, 47 CFR § 63, as follows:

1. A new section 63.07 is added to read as follows:

§ 63.07 Special procedures for nondominant domestic common carriers.

Where a domestic carrier has not been found by the Commission to be dominant in the provision of any service, the following procedures shall be applicable in lieu of those specified in § 63.01-63.06.

(a) Except as indicated in paragraph (b) below, applications for initial certification of an entity to become an interstate communications common carrier shall include the following:

(1) The name and address of the applicant;

(2) A completed copy of FCC Form 430 ("Common Carrier Radio License Qualification Report");

(3) A description of the type of service to be offered;

(4) The cities or geographic area where service is to be offered, including the initial number of circuits to be installed or leased;

(5) Construction and/or lease cost of facilities;

(6) Identity of lessor, if leased facilities are to be used.

(b) Except where service is provided via satellite, a separate certificate is not required for a carrier relaying only television signals (video and associated audio) over radio facilities authorized to such carrier. The radio authorization will constitute any necessary certification under Section 214 of the Communications Act.

(c) The installation or lease of additional circuits (exclusive of video circuits) over authorized radio or non-radio transmission medium (e.g., cable) to previously authorized service points or area does not require separate authorization provided that the following information is reported to the Commission within 30 days of the initiation of service over such additional facilities:

(1) Caption information—"Report under § 63.07(c)";

(2) Name and address of carrier;

(3) Type and number of circuits added, including terminal points;

(4) Construction or lease cost;

(5) If lease, the identity of lessor; and

(6) Commencement date of service to the public over added facilities.

(d) Applications of a previously certified carrier to add new points or areas of services or to construct an interstate non-radio transmission medium (e.g., cable) in excess of 10 miles in length shall contain the following information:

(1) Name and address of applicant;

(2) Points or geographic areas of service to be added, or points between which cable or other non-radio transmission medium is to be constructed (see Subpart I of Part 1 of this chapter for possible environmental impact statement that may be required);

(3) Type and number of initial circuits between terminal points;

(4) Construction and/or lease cost; and

(5) If lease, identify lessor.

2. Add a new Section 63.71 to read as follows:

§ 63.71 Special procedures for discontinuance, reduction or impairment of service by nondominant domestic carriers.

Where a domestic carrier has not been found by the Commission to be dominant in the provision of any service, an application to discontinue, reduce or impair service shall be filed and considered pursuant to the following procedures:

(a) The application shall contain the following information:

(1) Name and address of carrier;

(2) Description and date of planned discontinuance, reduction or impairment;

(3) Points or geographic areas of service affected;

(4) Dates and method of notice to affected customers;

(b) Notice to existing customers shall include the information required in paragraph (a) above and the following statement:

"The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service of a reasonable substitute from another carrier. If you wish to object, you should file your comments within 15 days after receipt of this notification. Address them to the Federal Communications Commission, Washington, D.C. 20554, referencing the Section 63.71 Application of (carrier's name). Comments should include

specifics of impact upon you or your company, including any inability to acquire reasonable substitute service."

(c) Such application shall be considered granted on the 31st day following its filing without further Commission notification provided that:

(1) Notification to all affected customers consistent with this section, is given on or before the date the application is filed; and

(2) The Commission staff has not notified the carrier that the grant will not be automatically effective.

Appendix B—Discussion of Video Relay Ratemaking Methodology

1. In considering proposed ratemaking principles for the video relay carriers, we have reviewed: whether the foundations of our current ratemaking policies for these competitive carriers continue to exist in this new environment; the different relevant cost characteristics between satellite and terrestrial microwave technologies; the general market forces which govern the demand for importation of distant signals (whether by satellite or terrestrial means); how that demand may be influenced by transmission technique, i.e., via satellite or terrestrial microwave; and what the current trends indicate the future will bring. Our initial observations which provide the basis for our proposals are set forth below. We solicit any additional comments or observations pertaining to how these or any other significant factors should be considered in constructing a final set of ratemaking principles for video relay carriers. Because of the unique nature of the market served and the fact that program material transmitted over single channels is shared by all subscribers, our analysis is limited to the video relay carriers.

2. Of course, the overriding purpose of any ratemaking calculus involves the ultimate recovery of the carrier's total costs in initiating and providing its services and determining how those costs are to be recovered and distributed through the rates charged to its customers. In these respects, satellite and terrestrial carriers possess very different cost characteristics which cannot be ignored if we are to devise a single set of ratemaking guidelines for all video relay carriers, whether terrestrial or satellite. It must also be remembered that the customers of these carriers are most often cable television systems, and thus whatever rates are charged to these customers are ultimately borne by the cable system's subscribers, whether in small or large communities.

3. The primary cost characteristic which differentiates a satellite carrier from a terrestrial carrier is a satellite's distance insensitive transmission cost characteristics. For example, the transmission costs to a satellite carrier of relaying a television signal from New York City to Los Angeles will be the same as its cost to relay that same signal from New York to Philadelphia. In contrast, a terrestrial carrier's costs are significantly influenced by the distance the signal must travel. Therefore, when a terrestrial microwave carrier develops its rate structure,

i.e., the rates it will charge any individual customer, a major component of that structure normally includes the distance of the customer from the signal source. In fact, failure to consider this element properly can result in a finding that a terrestrial video relay carrier's rate structure is unduly discriminatory. See *American Television Relay*, 63 F.C.C. 2d 911 (1977), *recon.*, 65 F.C.C. 2d 792 (1977) *appeal pending*, Case No. 77-1910 (D.C. Cir.).

4. A satellite carrier, however, would not normally be expected to utilize distance as a ratemaking factor since the costs of physically providing the service to any customer are essentially the same irrespective of distance. Therefore, if a satellite carrier were to consider distance in its rate design, the rates could be questioned as to whether they were reasonable and non-discriminatory. See *Communications Satellite Corp.*, 56 F.C.C. 2d 1101, 1180-81 (1975), *remanded on other grounds*, *Communications Satellite Corp. v. FCC*, No. 75-2193 (D.C. Cir. 1977). Obviously, if we are to adhere to our traditional ratemaking policies which generally stress costs in pricing particular services, it would seem that competing terrestrial and satellite video relay carriers offering almost the identical services would be required to allocate costs in very different manners. That alone does not cause us undue concern since those carriers' cost characteristics for the provision of video relay service are so different. However, we are concerned that requiring two competing types of video relay carriers with major differences in cost characteristics to abide by our current ratemaking policies for video relay service which were primarily developed for terrestrial carriers, may result in the possible loss of the inherent benefits of the transmission technologies used, or adversely impact some smaller CATV systems. Therefore, while we continue to believe that the costs of providing a service are the most reliable criterion in determining whether a carrier's rates are just and reasonable, the allocation of those costs by carriers offering only competitive services in this unique market deserves further examination.

5. The fixed costs of providing a video relay common carrier service via satellite are substantial and are incurred largely once at the outset of service. Aside from receive-only earth stations which are normally customer owned,¹ the system cannot be built incrementally, nor are costs normally incurred through frequent additions to plant, as is the usual case with a terrestrial microwave carrier.

6. The costs generally incurred by a resale satellite carrier in providing a video relay service involve two primary components. First, the reseller must lease from the underlying carrier a satellite uplink. This usually consists of an annual rental fee for the use of a transmit/receive earth station used in transmitting the signal to the satellite. Tariffs currently on file indicate that the underlying carrier's charges average approximately \$200,000 per year for the

¹For purposes of our analysis here, we assume the receive station earth station is provided by the customer, as is the current practice.

uplink. Second, a reseller must lease a satellite transponder which amplifies and relays the signal to receiving earth stations. Annual lease fees for use of a satellite transponder on a full-time basis generally run about \$1,000,000. Thus fixed annual revenue requirements and the rates charged must at least cover annual leasing expenses of some \$1,200,000 per channel if full service is to be provided.²

7. Under traditional cost of service ratemaking principles, which would view the cable systems as the carrier's primary customers, the most reasonable means of allocating these costs and setting customer rates would be to divide the amount of fixed costs by the number of cable systems subscribing to the service. If only a few cable systems were to subscribe initially to the carrier's service, those cable systems would theoretically be charged the full amount of at least the uplink and transponder leasing costs. Such a fee could be prohibitively expensive for even large cable systems, especially when weighed against the need to add an additional distant signal to their program offering. Moreover, unless a sufficient number of cable systems initially agreed to take the service so that the fixed costs could be apportioned at affordable rate levels, then no cable customer, particularly the small CATV system, would be likely to be in a financial position to subscribe to video relay service via satellite. Therefore, to make the importation of signals via satellite affordable to all cable television systems they serve and to stimulate use of what would otherwise be idle capacity, these resale carriers typically have developed rate structures which base rates on the number of cable system subscribers.³

8. Such rate structures, which are growing in number, recognize that a satellite carrier's total revenue requirement must be allocated in some fashion and that the end user of its services ultimately bears these requirements. Such rate structures enable cable systems serving all size communities better to afford the signal since their rates are directly proportional to their subscriber base.⁴ Furthermore, such a rate structure may enable more cable systems to take service via satellite⁵ than might otherwise occur if rates were based on another allocation method. It may also enable satellite resellers more easily to enter a market. Moreover,

²See *United Video*, 69 F.C.C. 2d 1629, 1632 (1978). Naturally, these carriers also have employee salaries, general and administrative expenses, and other operating costs to recover by way of rates.

³See *Southern Satellite Systems Tariff*, F.C.C. No. 1, Para. 4.1.1(A), which apparently applies a rate of 10 cents per cable system subscriber but with a maximum \$1,875 per month and a minimum of \$5. Southern Satellite indicates an intention to further reduce the maximum charge as its customer base increases.

⁴Although we have, in previous cases, sometimes characterized such rate structures as value of service ratemaking, they are perhaps more accurately described as variants of that concept and are merely another way of allocating costs.

⁵This assumes, of course, that the cable system already has an earth station positioned to receive a satellite signal, or that the signal offered is attractive enough to the cable operator for him to purchase an earth station.

additional television signals can be provided to communities of all sizes, thus expanding service to more of the population and furthering the efficient use of satellite capacity.⁴ While it can be argued that such rate structures are discriminatory in the sense that CATV systems are being asked to pay rates based on their subscriber base rather than the *pro rata* costs to bring them the service, it must be recognized that even the allocation of costs based upon the number of CATV systems served is essentially arbitrary.⁵ However, due to the unusual cost and revenue requirement characteristics of satellite systems as described above, and the unique nature of the CATV markets served, we do not now believe that discrimination, if any, is unreasonable in violation of Section 202(a) of the Act. Moreover, the cable system itself merely serves to further carry the signal to its subscribers, the ultimate "consumers" of the service. Viewed in this sense, there is no discrimination because the monthly fee assessed to a CATV's system's subscribers, part of which is designed to recover the system's signal importation costs, is the same for each and every subscriber. Therefore, we generally believe such rate structures, as presently applied by the video satellite relay carriers, can serve the public interest because they further the mandate of Section 1 of the Act, 47 U.S.C. § 151, "to make available, as far as possible, to all the people of the United States . . ." wire and radio communications at reasonable charges, and because such rates allow the recognized benefits of satellite service to be more widely realized. Such factors, particularly the impact on smaller communities, must not be ignored in performing our public interest obligations under the Act. *Cf. Corter Mountain Transmission Corp. v. FCC*, 321 F.2d 359, 362-63 (D.C. Cir. 1962), cert. denied, 375 U.S. 951 (1963).

9. Having arrived at our tentative conclusion that these population based rate designs may be acceptable for satellite video relay carriers in recovering their total cost of service, the question arises as to whether our general policy in competitive markets of full and fair competition dictates that terrestrial video relay carriers also be permitted to allocate costs in a manner similar to that of the satellite carriers. In *ATR*, *supra*, we held that *ATR*, a terrestrial microwave video relay carrier, had not met its burden of proof in justifying the reasonableness of its particular population-sensitive rate structure, which it asserted would make service more affordable for small CATV systems. We did not conclude that all such rate structures were unlawful *per se*. However, we did find that such rate structures tended to be inherently discriminatory and that rates which depart

⁴ Once an earth station is positioned to receive signals from a particular satellite, the earth station becomes increasingly cost effective because it can receive any additional signals put on the satellite at an extra cost of approximately \$4,000.

⁵ As pointed out, once a satellite distribution network has been established and where customers supply the earth stations, each additional customer imposes little or no direct additional cost other than administrative expenses, e.g., for billing and customer relations.

from costs generally require additional justification to ensure that any resulting discrimination is not unreasonable and that the rates would serve some other public interest objectives. Specifically, we stated:

This is not to say, however, that a population based value of service rate structure could never be found just and reasonable and not unreasonably discriminatory. We recognize our statutory obligation under Section 1 of the Act "to make available, as far as possible, to all the people of the United States . . ." wire and radio communications at reasonable charges. We also realize, as our past departures from strict cost of service rates indicate, "that ratemaking agencies are not bound to the service of any single regulatory formula; they are permitted, unless their statutory authority otherwise plainly indicates, to make the pragmatic adjustments which may be called for by particular circumstances." *FPC v. Texaco, Inc.*, 417 U.S. 380, 389 (1974), quoting from *FPC v. Natural Gas Pipeline Co.*, 315 U.S. 575, at 586 (1942).

63 F.C.C. 2d at 929. We now believe that the circumstances surrounding video relay common carriage have changed sufficiently to warrant pragmatic adjustment of our ratemaking policy statements for terrestrial video relay carriers made in *ATR* to account for these changed circumstances.

10. Before we proceed to discuss these changes, we have several additional observations regarding the *ATR* case. First, *ATR*'s particular population based rate structure was introduced and contested in 1972 when the threat of satellite competition to terrestrial microwave carriers for video relay service was virtually non-existent. Consequently, the parties to the hearings conducted in early 1973 did not focus sufficiently on this possibility or the particular cost characteristics of satellite service as a major justification for terrestrial carrier usage of population-sensitive rate structures. Because the Commission must generally rely on the record before it in arriving at a final decision in a tariff ratemaking case, we now believe that the result reached in the *ATR* case, which was based on a relatively limited record, should not continue to be overly stressed for broad policy precedential value in other cases. Second, as the statement quoted above indicates, we made a concerted effort in *ATR* to acknowledge that population-sensitive rate structures for terrestrial video relay carriers were reasonable under the Act with proper justification. We now believe the presence of satellite competition can provide that justification in many cases. Therefore, some modification to the population-sensitive justification burden established in *ATR* seems to be required.

11. Because we have tentatively found that the use of population-sensitive rate design is reasonable for satellite video relay carriers, we believe competing terrestrial video relay carriers also should be able to utilize similar ratemaking principles under our policy of full and fair competition. Accordingly, in recovering its total cost of service, we believe a terrestrial carrier should be allowed to use either population-sensitive or more traditional cost of service rate structures.

However, it is important to emphasize that whatever ratemaking design a video relay carrier chooses to employ, it must apply that rate structure consistently to all customers of a given microwave system. For example, we do not believe a carrier should normally be permitted to have a cost of service rate structure with individual customer exception rates founded on competitive necessity. That type of ratemaking practice would raise serious discrimination questions. However, if a population-sensitive rate structure is used to cover a carrier's total costs, we believe the terrestrial carrier should be required to demonstrate that the rates charged will provide revenues sufficient to meet its total costs within a reasonable time frame. Moreover, it should show that rates charged to each of its CATV system customers cover the direct costs of that customer's connection to the microwave carrier's main trunkline plus appropriate coverage of the joint or common trunkline and other network costs. This will ensure equitable treatment among all CATV system customers, e.g., that any added CATV system customer will not impose an undue cost burden on other customers.

12. We believe this proposal will permit terrestrial video relay carriers enough flexibility to apportion their costs so as to compete effectively with satellite carriers without being unreasonably discriminatory. See *ATR*, 63 F.C.C. 2d at 926.

13. Finally, our prohibition against charges for customer retransmission of a carrier's signal was founded upon our emphasis on more traditional cost of service ratemaking methods. We stated in *ATR* that a carrier able to justify a population-sensitive rate structure might be able to assess a retransmission fee. See, 63 F.C.C. 2d at 961. We hereby solicit comments on whether or not our retransmission policy should be revised in view of our suggested changes in ratemaking principles for competing carriers providing video relay service. During the pendency of this proceeding, however, we shall continue to adhere to the retransmission policy stated in *ATR*.

14. Although the foregoing discussion addresses video relay ratemaking policies only in terms of service of CATV systems, we believe the underlying rationale may also be appropriate to video relay to other users, e.g., broadcasters. There, some competition may also be developing between satellite and terrestrial transmission systems. A primary distinction would seem to be, in the case of a conventional broadcaster, that there are no fee-paying subscribers of the user. However, broadcasters do ultimately serve communities of varying populations, as do cable systems. Perhaps of more practical significance in the case of broadcasting is the fact that the customer, more often than not, is the television network. Due to this, tariffs generally offer such service on an overall basis. Therefore, questions concerning ratemaking methods applicable to video relay for broadcast use generally have not been

⁶ The retransmission fee then contemplated involved only adjustment of the population of a CATV system customer to reflect the number of subscribers of any other cable systems served through the drop to that customer.

directly raised. However, we solicit comments on whether such ratemaking methodology needs to be addressed at this time.

Appendix C—Questions to be Addressed by Commenting Parties

1. In order to develop concise comments regarding what carriers are dominant or nondominant and to examine the extent of entry barriers into the industry, we set forth in this appendix in outline form the subject matter we would like addressed. Although this outline is prepared primarily to elicit responses from the relevant domestic carriers and consumers choosing to participate in this proceeding, we solicit comments from any knowledgeable party. We request comments to be as thorough but as concise as possible.

2. In general, the questions are designed to test our initial observations and analysis concerning the extent to which various common carrier possess flexibility in their pricing decisions (i.e. the degree to which they possess market or monopoly power).¹ Carriers possessing no market power not only are unable to charge more than the price leader but will generally only be able to charge prices which will collectively earn the "going" industry rate of return. Further, such nondominant firms lack the cross-subsidization potential possessed by a firm providing both monopoly and competitive services. In light of those circumstances, the Commission proposes to free nondominant carriers from rules which were originally designed to prevent dominant firms from taking advantage of their substantial market power. Also we request comments addressing the degree of effective competition in telecommunications, the extent of entry barriers, and the nature of the market forces now existing examined in the terms of serving the public interest and indicating areas where, as well as how, improvements can be made to make entry freer and make competitive marketplace forces more effective in serving the public interest. An outline of these points and the type of information requested is set forth below.

3. In order for the Commission to gain further information regarding dominant and nondominant carriers and the markets in which these carriers operate or propose to operate, we request to the extent practical that commenting parties first place each tariffed service offered or proposed under one of the following market categories:²

¹ This should not be construed as relieving AT&T of its obligation to file a fully-justified Series 7000 (video transmission) tariff in compliance with the requirements of our applicable orders. See *Series 7000 Rejection Order*, *supra*. AT&T, of course, remains the dominant carrier in providing video transmission service to broadcasters.

² If any information is considered to be a trade secret, or commercial or financial information necessitating confidentiality, respondents may request non-disclosure consistent with the applicable provisions of our Rules.

³ Our main goal is, of course, to determine the extent to which firms exhibit market power. This service or market classification scheme based on the *Computer Inquiry II*, Tentative Decision, *supra*, is for convenience and analytical purposes only. Parties should feel free to present their comments in other formats. Responses should primarily pertain

Market Categories

- (1) Basic Voice
- (2) Basic non-voice
- (3) Enhanced non-voice
- (4) Video (plus associated Audio)
- Services—Broadcast and CATV
- (5) Others (specify)

4. For each class of service or market set forth above, participants are to address the subjects covered by the following headings, subheadings and questions. It would be useful if all parties organized their comments in the same manner as this outline so that the Commission and interested parties may conveniently catalogue and analyze the responses. Where appropriate, responses should be quantified and the basis and source of information indicated. In dependent studies providing similar information are welcome. Accordingly, for each service or market we request that the following information be provided to the greatest extent practicable:

I. Basic Market Conditions

A. Relevant Service(s) Provided

1. Given the possible incomplete overlap between the above market classification scheme and a specific tariffed service(s), the carrier should indicate the tariff and specific provisions applicable for each relevant service(s) or market(s), as well as the accepted industry name for such tariff offering. Description and quantification of the overlap with other service(s) or market(s) should be provided.

2. Geographical coverage of service(s) should be described.

B. User Characteristics

1. Indicate distribution of business, government and residential users as to a particular market(s) and indicate size and distribution (i.e., specify Fortune 500 ranking or other) by market(s).

2. To aid in determining market size provide revenues (1978 and three-year projections), market quantities (i.e., miles of IXC, number of terminals served and/or other appropriate units), and historical and expected growth rates.

3. Identify specific locational needs of customers (i.e., Nationwide, Regional, Local) and provide distributional requirements of users (i.e., point-to-point, multipoint, zones, selective or broadcast distribution, and/or other (specify)).

4. Detail possible substitute services (estimated values for elasticity and cross-elasticities of demand should be provided as appropriate).

to the various services or markets as they currently exist and the carriers perceived to possess market power and to be dominant and nondominant. Our questions and based on this assumption unless otherwise indicated. However, respondents are expected to comment on anticipated and proposed developments over the next 3-4 years. Where they do so, they should clearly indicate that is their intent. Because of the importance of the issues raised herein we particularly invite the comments of the newer and proposed OCC entrants and the using public to aid us in building a full record, particularly on such matters as the final criteria for making both nondominant and dominant carrier determinations, as contemplated in the proposed rules.

C. Technology

1. Describe in general the type(s) of technology employed and how employed, and provide expected consumer, industry or market technological requirements.

II. Market Structure

A. Service Suppliers

1. Number and identity of known suppliers of services in each relevant market(s).

2. Corporate structure of responding service supplier (i.e., parent corporation, affiliates, holding companies, board of directors, corporate officers, interlocking directorates, etc.)

B. Service Differentiation

1. Respondent should identify what it believes are the major options or service features offered within each relevant market(s).

2. Respondent should qualitatively assess the prevalence and significance of service differentiation within each relevant market(s) and identify the form of these service differences (i.e., technical, service features, pricing, bulk discounts, etc.)

C. Cost Structures

1. Respondent should indicate what it considers are the important cost characteristics of serving a particular market(s) (i.e., high initial costs, large overheads, significant lease or interconnect costs, marketing expenditures, etc.).

D. Entry Barriers

1. Respondent should discuss what it believes are the major barriers, if any, to entry into each relevant market(s). The discussion should include the following points, and relative importance of the perceived barriers should be indicated:

- a. Capital requirements
- b. Limit entry pricing
- c. Brand Loyalty (goodwill)
- d. Service differentiation
- e. Advertising
- f. Regulatory constraints and expense
- g. Pecuniary economies (financing)
- h. "Real" economies (marketing or marginal)
- i. Litigation expense
- j. Others (specify)

E. Interindustry Competition

1. Comments are invited concerning the influence of corporate familial relationships and arrangements on the actual structure of each relevant market(s) (consider *inter alia*, the potential for interindustry cross-subsidization and predatory pricing as a result of parent-subsidiary relationships where market power may reside in at least one "outside" industry).

III. Market Conduct

Pricing Behavior

1. An addition to AT&T and possible WU does any other carrier exhibit price leadership in each relevant market(s).

2. Respondents should discuss the existence and extent of price discriminations within each relevant market(s) and whether and to what extent they consider such practices violative of Section 202(a).

3. Respondents should identify their own general pricing strategies and set forth their views on what types of pricing behavior in

should be classified as dominant, explaining and providing justification for such determinations.

with the proposals and observe the interplay of market forces.¹

3. The data specified below would be

—accounts and wages payable to affiliated companies

The proposed changes would also remove the current requirement that competitive

answers to the questions posed in Appendix C are extremely important from the

3. Respondents should identify their own general pricing strategies and set forth their views on what types of pricing behavior in each relevant market(s) (i.e., negotiated rates, target rates, rates of return, administered pricing, etc.) should be acceptable to this Commission.

B. Service Strategies Within Each Relevant Market(s)

1. Respondents should discuss what they view as the present service strategies of their competitor(s) and identify what service strategies are "dictated" by each relevant market(s). By "dictated" we mean the actions that are required to effectively serve the demands of a particular market(s).

C. Research and Development (R + D) Activities

1. Respondents should review in general the major R + D activities in which they are presently engaged and the general sources of funds for these R + D activities (including parent company and/or affiliate contributions, if any).

D. Innovations

1. Respondents should discuss what major innovations they have introduced from a technical, service and marketing point of view, when (dates) they were introduced, and discuss how these innovations have affected and will affect the cost characteristics and pricing behavior in each relevant market(s).

E. Advertising and Marketing Activities

1. Respondents should indicate what level of advertising expenditures they believe is needed to enter a particular market(s) and how much is needed to sustain a positive earnings position.

2. Respondents should discuss the role of advertising as presently employed by existing carriers in producing service differentiation and creating possible entry barriers, as well as discussing how present marketing and advertising behavior affects the cost characteristics and pricing behavior in serving each relevant market(s).

F. Litigation and Regulatory Activities

1. Respondents should provide estimates of expenditures for litigation (tariffs and rates) and regulatory matters (tariffs and rates) separately, including a discussion of the extent to which such expenditures inhibit their own or other carriers' competitive offerings or filings for each relevant market(s). They should also describe how these expenses might vary under alternative regulatory schemes.

IV. Proposed Procedures and Rules for Dominant Carrier Determinations

A. Under the assumption that the proposal will be finally adopted, respondents should list and explain fully the procedures, rules, criteria, etc., which should be employed by the Commission to make dominant and nondominant carrier determinations to the extent necessary for each relevant service(s) or market(s), including appropriate definitions of terminology employed, cross-references to other portions of their comments, or other supporting information.

B. Using their proposals, respondents should identify those carriers they believe

should be classified as dominant, explaining and providing justification for such determinations.

V. Recommended Changes to the Proposals and Deregulatory Approach

A. Respondents should provide, if necessary, suggested additions or deletions to the proposals and approaches discussed for relevant carriers, service(s) or market(s), including suggested revisions to the text of the proposed rules in Appendix A.

VI. Conclusions and Summary

A. Respondents should provide a concise summary of their observations and experience with our freer entry policies (particularly commenting on any barriers to entry) and the resulting competition. They should also state their positions with respect to the several proposed regulatory reforms herein, including references to any recommended changes or alternatives thereto as presented elsewhere in their comments. This discussion should include comments on the extent to which current marketplace forces can be relied upon to serve the public interest or be made more effective, to aid the Commission in carrying out its statutory responsibilities under Sections 1 and 201-205 of the Act, 47 U.S.C. § 151, 201-205, as well as comments on the proposals in Part XI. In doing so, we expect participants to address the legal, policy, economic, public interest and other ramifications of their proposed alternatives.

Appendix D.—Reporting Requirements for Eligible Carriers

1. As stated in the text, the Commission would require the domestic carriers subject to the proposals, as adopted in final form, to submit specific periodic financial information. This appendix outlines the nature and form of this data. The OCCs should present this material as clearly and concisely as possible, providing definitions of terms where needed.

2. For the most part, the information requested is self-explanatory. The terms used are generally those commonly used in accounting and are consistent with general usage in the forms and reports required under Part 43 of the Rules. Nevertheless, a few additional comments are in order. In addition to providing the information on total company operating revenues, investments and expenses, such information should also be provided by each carrier for each tariffed service offering. Accounting policies followed by the carrier should be summarized (e.g., method of depreciation, etc.). The outline which should be followed is set forth below. We realize that one form may not be equally appropriate for all carriers, however, we solicit comment as to which format may be of more general applicability, particularly if these reporting requirements are incorporated into Part 43. Until such format is finally specified, any deviation should be explained. It should also be remembered that one of the purposes of this financial information is to draw a clearer picture of each company's operations so that we may better evaluate overall industry performance in conjunction

with the proposals and observe the interplay of market forces.¹

3. The data specified below would be required on an annual basis:

I. Income Data

Total Operating Revenues:
Total Operating Expenses:
Also disaggregate the following expenses:
—maintenance
—traffic
—general and administrative
Sales and marketing:
—advertising
—other
Interconnection:
—local
—interexchange
—other

Research and development:
Other expense
Income taxes
Other taxes
Depreciation and Amortization
Income from Communications Operations:
Other Income (Identify by source and amount)

Fixed Charges:
—interest on funded debt
—other
Net Income:

II. Rate Base Data

Communications Plant in Service:²
—gross plant
—depreciation and amortization
—net plant in service
Communications Plant Under Construction
—to be in service in one year or less
—to be in service in over one year

III. Assets and Liabilities

Assets:
Current assets:
—cash
—short-term investment (commercial paper, etc.)
—accounts receivable from affiliated companies
—accounts receivable from subscribers
—materials and supplies
—other
Total current assets
Investments
—investment in affiliated companies
—other investments
Total
Property and equipment:
—communications plant in service
—communications plant under construction
—earth stations
—other property
Subtotal:
Less: Depreciation and Amortization
Reserves
Total Property, net
Other assets and deferred charges
Total Assets:
Liabilities:
Current liabilities:

¹ We believe we have sufficient data before us, even without the financial data requested herein, that we can implement the proposals following the comment process outlined in para. 117 in the text.

² Include any plant leased from any affiliated companies.

—accounts and wages payable to affiliated companies
—other accounts payable
—accrued liabilities
—current portion of long-term debt
—other current liabilities
Total:

Long-term debt (after one year)
Deferred Federal Income tax and credits
Other liabilities
Stockholders' equity
—capital Stock outstanding or owner equity
—stock premium (or discount) and other capital surplus
—retained earnings
—Total:

September 27, 1979

Separate Statement of Charles D. Ferris, Chairman

On Competitive Common Carrier Rates and Facilities Authorizations

The Commission's action today is based on the continuing need to reexamine the regulatory regimes that have grown up over 45 years of accretion since the Communications Act of 1934 was enacted. Recently, such a reexamination has led to FCC to propose changes in our rules governing cable systems and radio stations. Such reviews should extend over the entire range of FCC regulations to insure that only efficient, effective and necessary regulations remain.

Unnecessary regulations are those that have been outdated by technological changes or whose purposes can be more efficiently achieved through the operation of a competitive marketplace. Unnecessary regulations often raise prices for consumers, skew the decisions of managers, and distort the functioning of the marketplace. In addition, they waste government resources that could otherwise be better employed.

If, for example, the FCC does eliminate the requirement that certain competitive carriers file the same tariff information required of a carrier which dominates the market, the FCC's entire tariff review procedure might be strengthened. Tariffs could be implemented more quickly and the opportunity for dilatory challenges reduced.

Perhaps most importantly, the FCC's staff might be able to engage in more effective regulation by focusing our limited resources on filings from carriers able to subsidize their competitive offerings from the proceeds of monopoly services or to engage in anticompetitive activities based on a position of market power. Of course, all rates, including those of competitive carriers, would still be subject to Section 201(b) inquiry, and the FCC could continue to obtain cost support data from any carrier under Section 220.

Establishing a presumption of lawfulness for rates filed by competitive carriers would serve similar functions. At present the FCC's rules allow carriers to delay new offerings by their competitors. Commission acceptance of the proposal put forward today might well accelerate the availability to the public of innovative common carrier services. Such a presumption of lawfulness could, of course, be overcome by the presentation of appropriate evidence.

The proposed changes would also remove the current requirement that competitive carriers obtain FCC certification for line extensions and service discontinuation. This should permit freer entry and exit from markets, facilitating competition and further reducing the need for regulation.

I look forward to reviewing the comments that come to the Commission in this proceeding. They should help us define necessary regulation and the most efficient ways to regulate when necessary. They should also assist us in determining whether further deregulatory steps are possible and desirable given our current legislative mandate.

We may never be able to say we know everything about our telecommunications markets. But we can say that we will try to gather all the information we can, that we will submit that information to rigorous analysis, and that we will use the expertise developed over 45 years to make our judgments. We can also demonstrate that time has not stood still in telecommunications nor should it be asked to do so in telecommunications regulation.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Thereof.

This Notice of Inquiry and Proposed Rulemaking proposes to relieve eligible competitive carriers from the filing of tariff cost support data now required by 61.38 of the Rules and also proposes to reduce the facilities authorization and service termination requirements imposed on them by our current rules implementing Section 214 of the Communications Act.

The Notice supports the first proposal with general economic theory which indicates that firms facing competition and having no market power are unlikely to have the ability to engage in effective predatory pricing and price discrimination or to earn supracompetitive profits. The Notice therefore proposes that tariff filings of nondominant competing carriers be given a presumption of lawfulness under Sections 210(b) and 202 (a) of the Act, a presumption rebuttable only upon meeting a stay-type standard.

Similarly, the Notice supports the proposal to treat Section 214 applications by OCCs for initial certification as also blanket applications for future extensions based on the observation that competitive carriers which are not rate-base regulated have no economic incentive toward wasteful or duplicative facilities. Interpreting Section 214 as embodying the concern that customers not be left without service, the Notice proposes to treat OCC discontinuances as not adversely affecting public convenience and necessity because there are other carriers to turn to.

I believe the Commission has a sound initial basis to pursue these deregulatory proposals.¹ However, I also believe that

¹ While I think it is also appropriate for the Commission to seek comment on more total deregulatory "forbearance" and "definitional"

answers to the questions posed in Appendix C are extremely important from the standpoint of providing a full factual, as well as theoretical record for the proposals. Such a record will help this expert agency to look and act like one at the conclusion of this proceeding.

In this connection, Congress in 1934 determined that telecommunications were essential to the welfare of our nation and created the Communications Act and this Commission to ensure nationwide service at reasonable, nondiscriminatory rates. While the nature and structure of the telecommunications industry has certainly changed in the ensuing 45 years, the importance of rapid, efficient communications remains critical to our society in 1979. Economic theory teaches that in a marketplace of numerous firms competitive forces will drive prices to costs and will prompt the efficacious meeting of supply and demand without the visible hand of government regulation. While I believe we should test this theory in the common carrier field with appropriate deregulation, I also believe that our existing statutory mandate requires us to make certain that deregulatory theory is matched by deregulatory reality. In a deregulated OCC environment, will there still be barriers to firm entry that may frustrate the desired competition that theory predicts? Will all OCC customers have fair and equal access to OCC services and pricing packages? Will OCC rates really be driven down to costs? These are some of the more critical questions that I hope the comments will focus on in building the record in this proceeding.

This Notice also raises a critical consideration with respect to the place and role of the established, dominant carriers, particularly AT&T, in the deregulated OCC environment that is here proposed. The availability of AT&T private line service offerings is a primary basis for allowing the OCCs complete freedom in structuring their rates and terms of service; AT&T rates, for example, will theoretically set the ceiling on what the OCCs can charge for their like or comparable services. While the Notice's proposals would effectively preclude obstructionist rejection petitions by OCCs *inter se*, AT&T competitive response tariffs will still be fair game for possible dilatory petitions by the OCCs. I recognize the dominant carrier/cross-subsidization/predatory pricing rationale for this disparate treatment; however, since we would be relying so heavily on AT&T responsive rates to keep the deregulated competition honest, it is all the more critical for this Commission and AT&T to reach a speedy and satisfactory conclusion in the pending proceedings on a Docket No. 18128 cost allocation manual, AT&T rate structures and volume discount

options. I have the initial feeling that these alternatives may go well beyond what our current experience would justify. Moreover, there is a fine line between creative, discretionary construction of our existing statute and a rewrite of the Act which only Congress can accomplish; these alternatives may cross it.

practices, and a revised Uniform System of Accounts.

[FR Doc. 79-36081 Filed 11-23-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1047

[No. MC-C-3437 (Sub-No. 7)]

Petition To Amend Interpretation of Operating Rights Authorizing Service at Designated Airports

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission is considering amending the regulation at 49 CFR 1041.22(a) so that carriers with authority to serve a named airport would have that authorization expanded to include all points within the air terminal zone of that airport. As that regulation now reads, an air freight motor carrier holding authority to perform line-haul operations between specific airports may perform that service only to and from the airports themselves or the particular air freight terminals utilized by the air carriers in connection with the movement of air freight to or from the specified airports.

DATES: Comments (an original and 11 copies) must be received on or before January 25, 1980.

ADDRESSES: Send comments to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423. **FOR FURTHER INFORMATION CONTACT:** Donald Shaw, 202-275-7292 or Joseph O'Malley, 202-275-7928.

SUPPLEMENTARY INFORMATION: By petition filed October 3, 1978, Pinto Trucking Service, Inc., a motor common carrier specializing in the transportation of air freight between airports, sought the institution of a rulemaking to amend the Commission's regulations in the manner described above. Notice of the filing of the petition was published in the Federal Register on October 24, 1978 at 43 FR 49601, and the Commission invited comments from all interested parties.

Although we are somewhat surprised at the low number of responses to our Federal Register notice, a number of comments were received, both in favor of, and in opposition to the proposed amendment. Generally speaking, the motor carriers now providing the airport-to-airport service involved favor the proposal; the airlines, the airport pickup and delivery carriers, and non-

air freight line-haul motor carriers oppose it.

Based on the comments we have received so far, it is possible that amendment of the regulation to allow line-haul air-freight carriers broader service opportunities could potentially stimulate intermodal freight movement, help ensure efficient allocation of traffic among carrier modes, and result in potential energy conservation. On the other hand, it is also possible that these potential benefits could be outweighed by harmful effects on services of those opposing the amendment. Before we make a final determination as to adopting the proposal and amending the regulation, we would like to have more input from the shipping public and the particular portion of the transportation industry involved.

Although parties should feel free to comment on any aspect of the proposed change which would affect them, from the comments already received we have identified several areas about which we would find additional information particularly useful. We would like to hear from present or potential air-freight shippers concerning how they believe amendment of the regulation would affect their own operations. Also helpful would be information from line-haul air-freight carriers and the pickup and delivery carriers concerning the type equipment they operate, the extent to which, if any, their traffic is containerized, and some data regarding the sizes of those containers. We would find useful information about the effect that recent expansion of air terminal zones has had on regulated and non-regulated pickup and delivery carriers. Specific data rather than general allegations is needed. Finally, an assessment of the impact this amendment would have on competition among small and medium air-freight motor carriers would be of assistance.

Because of its long-standing expertise on matters related to the transportation of air-freight, we specifically request that the Civil Aeronautics Board participate in this proceeding by filing comments on the proposal. Its views on the issues described above or any other matters related to this proceeding would be appreciated. Accordingly, a copy of this notice will be served on the Board.

§ 1041.22 [Amended]

The Interstate Commerce Commission is considering amending the regulation at 49 CFR 1041.22(a) to read as follows:

(a) A certificate or permit issued to a motor carrier of property pursuant to 49 U.S.C. 10521 et seq. (formerly Part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.)) authorizing service at a

named airport shall be construed as authorizing service in the transportation of freight having a prior or subsequent movement by air at all points or places located within the air terminal zone (as described in § 1047.40 of this chapter) of the airport authorized to be served by the motor carrier.

As that regulation now reads, an air freight motor carrier holding authority to perform line-haul operations between specific airports may perform that service only to and from the airports themselves or the particular air freight terminals utilized by the air carriers in connection with the movement of air freight to or from the specified airports. Airport-to-airport authority does not now permit the line-haul motor carrier to serve the shipper or the consignee in the air terminal zone. Instead, it may, in effect, serve only the air carriers. If the regulation were amended, carriers with authority to serve a named airport would have that authorization expanded to include all points within the air terminal zone of that airport.

Decided: October 26, 1979.

By the authority of 49 U.S.C. § 10321 and 5 U.S.C. § 553.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Tranter, Gaskins and Alexis. Vice Chairman Stafford dissenting. Agatha L. Mergenovich, Secretary.

[FR Doc. 79-36312 Filed 11-23-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173

[Docket No. HM-163D; Notice No. 79-15]

Withdrawal of Certain Bureau of Explosives Delegations of Authority

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) proposes to issue an amendment to the Department's Hazardous Materials Regulations withdrawing or cancelling the remaining delegations of authority to the Bureau of Explosives (B of E) in Part 173 of 49 CFR. However, the B of E would continue to play a role in the testing of explosives and other hazardous materials for MTB. This action is being taken to conform existing programs with the purposes of

the Hazardous Materials Transportation Act.

DATE: Comments must be received on or before January 15, 1980.

ADDRESS: Comments must be addressed to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Five copies of comments are requested.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Office of Hazardous Materials Regulation, 400 7th St. S.W., Washington, D.C. 20590, 202-472-2726. **SUPPLEMENTARY INFORMATION:** On August 17, 1978, the Materials Transportation Bureau published Docket No. HM-163; Amdt. Nos. 171-41, 173-119, 178-49 (43 FR 36445). These referenced amendments constituted the first action in an overall program to withdraw all of the delegations of authority to the B of E in 49 CFR Parts 100-199.

On March 26, 1979, the MTB published Docket No. HM-163A; Amdt. No. 171-45 (44 FR 18027) to recognize certain approvals and authorizations issued by the B of E.

On May 7, 1979, the MTB published Docket No. HM-163B; Notice 79-7 (44 FR 26772) proposing to withdraw or cancel certain delegations of authority to the B of E in Part 178 of 49 CFR. The final rule is expected to be published in the very near future.

Docket No. HM-163C; Amdt. Nos. 171-50, 173-132, 178-57 [44 FR 55577] was published on September 27, 1979, to transfer from the Transportation

Systems Center, Cambridge, Massachusetts, to the Bureau's Associate Director for Operations and Enforcement the responsibility for: (1) Approving cigarette lighters or other ignition devices; (2) registering container manufacturers' marks or symbols; and (3) receiving and maintaining reports required to be filed in connection with hazardous materials shipping containers and packagings.

The MTB plans to continue use of the service and expertise of the B of E laboratory for the testing of explosives and other hazardous materials. However, consideration will be given to the use of additional laboratories, such as the Bureau of Mines, when acceptable arrangements can be made. Results of tests performed by the B of E will be forwarded to the Associate Director for Operations and Enforcement, Materials Transportation Bureau, Washington, D.C. 20590 by the applicant for review and final disposition. The preamble to the August 17, 1978, amendment clearly stated the reasons for the action taken as well as those to be considered in future rulemaking. In view of the above referenced preamble, repeating it again in this notice is not deemed necessary.

These proposed changes should have little or no economic impact on the private sector, consumers, State or local governments since these proposals would merely require the final approval to be granted by the Associate Director for Operations and Enforcement instead of the B of E. In some instances the requirement for B of E examination and

approval by MTB would be deleted.

Primary drafters of this document are Darrell L. Raines, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, and George W. Tenley, Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, 49 CFR Parts 171 and 173 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. Section 171.20 would be added to read:

§ 171.20 Submission of Examination Reports.

(a) When it is required in this subchapter that the issuance of an approval by the Associate Director for OE be based on an examination by the Bureau of Explosives (or any other test facility recognized by MTB), it is the responsibility of the applicant to submit the results of the examination to the Associate Director for OE.

(b) Applications for approval submitted under paragraph (a) of this section, must be submitted to the Associate Director for Operations and Enforcement, Materials Transportation Bureau, Washington, D.C. 20590.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. Each section referenced in the first column would be amended to read as indicated in the third column:

Regulation affected	Present wording	Proposed amendment
§ 173.28(h)(1).....	(1) Single-trip containers inspected and tested prior to January 1, 1971, that have been approved for reuse by the Bureau of Explosives may be used until July 1, 1971, under the terms and conditions specified.	(1) [Deleted].
§ 173.31(d)(4) Retest Table 1 Footnote:	i. Tanks and safety relief devices in hydrocyanic acid service must be retested and inspected by a written procedure filed with and approved by the Bureau of Explosives.	i. Tanks and safety relief devices in hydrocyanic acid service must be retested and inspected by a written procedure filed with and approved by the Associate Director for OE.
§ 173.32(b)(3).....	(3) Tanks having capacities of between 750 pounds and 1,000 pounds of water shall be considered as portable tank containers for the purposes of this part. In lieu of using safety relief valves on such containers they may be equipped with fusible plugs only when the container is filled by weight. Size, number, and location, as well as character and physical properties of fusible plugs shall be approved by the Bureau of Explosives. These containers shall be marked "ICC Specification 51S".	(3) Tanks having capacities of between 750 pounds and 1,000 pounds of water shall be considered as portable tank containers for the purposes of this part. In lieu of using safety relief valves on such containers they may be equipped with fusible plugs only when the container is filled by weight. Size, number, and location, as well as character and physical properties of fusible plugs shall be examined by the Bureau of Explosives and approved by the Associate Director for OE. These containers shall be marked "DOT Specification 51S."
§ 173.34(c)(1).....	(1) Additional markings not affecting any of the prescribed markings may be made in accordance with marking requirements of the specification.	Note: This paragraph will be handled by a separate Docket in the very near future.
§ 173.34(c)(3)(i) First sentence.	(i) Marked service pressure may be changed only upon application to the Bureau of Explosives and receipt of written instructions as to the procedure to be followed.	(i) Marked service pressure may be changed only upon application to the Associate Director for OE and receipt of written instructions as to the procedure to be followed.
§ 173.34(c)(3)(ii).....	(ii) Changes may be made in serial numbers and in the identification symbols by the owners. Identification symbols must be registered and approved by the Bureau of Explosives. Serial numbers and identification symbols may be changed only by the owner upon his receipt of written approval from the Bureau of Explosives. The request for approval must identify the existing markings (including serial numbers) that correspond with the proposed new markings.	Note: This paragraph will be handled by a separate Docket in the very near future.
§ 173.34(d) First sentence.	(d) Safety relief devices. Each cylinder charged with compressed gas, unless excepted in this paragraph, must be equipped with one or more safety relief devices approved, as to type, location, and quantity, by the Bureau of Explosives and must be capable of preventing explosion of the normally charged cylinder when it is placed in a fire.	(d) Safety relief devices. Each cylinder charged with compressed gas, unless excepted in this paragraph, must be equipped with one or more safety relief devices, examined as to type, location, and quantity, by the Bureau of Explosives and approved by the Associate Director for OE. The safety relief devices must be capable of preventing explosion of the normally charged cylinder when it is placed in a fire.
§ 173.34(g)(4)(i).....	(i) The permanent expansion shall not be less than 3 percent nor more than 10 percent of the total expansion in the hydrostatic retest, in which case the flattening and physical tests are not required. For this alternative method the hydrostatic retest pressure shall not exceed 115 percent of the minimum prescribed test pressure except with specific approval of the Bureau of Explosives.	(i) The permanent expansion shall not be less than 3 percent nor more than 10 percent of the total expansion in the hydrostatic retest, in which case the flattening and physical tests are not required. For this alternative method the hydrostatic retest pressure may not exceed 115 percent of the minimum prescribed test pressure except with specific approval of the Associate Director for OE.

Regulation affected	Present wording	Proposed amendment
§ 173.34(e) Introductory text.	(f) Repair by welding or brazing of DOT-4 series, and DOT-8, welded or brazed cylinders. Repairs on DOT-4 series and DOT-8 series welded or brazed cylinders are authorized to be made by welding or brazing. Such repairs must be made by a manufacturer of these types of DOT cylinders or by a repair facility authorized by the Bureau of Explosives and by a process similar to that used in its manufacture and under the following specific requirements:	(f) Repair by welding or brazing of DOT-4 series and DOT-8, welded or brazed cylinders. Repairs on DOT-4 series and DOT-8 series welded or brazed cylinders are authorized to be made by welding or brazing. Such repairs must be made by a manufacturer of these types of DOT cylinders or by a repair facility approved by the Associate Director for OE and by a process similar to that used in its manufacture and under the following specific requirements:
§ 173.34(f)(4)(i) Introductory text.	(i) Must be done by a manufacturer of these types of DOT cylinders or by a repair facility authorized by the Bureau of Explosives.	(i) Must be done by a manufacturer of these types of DOT cylinders or by a repair facility approved by the Associate Director for OE.
§ 173.34(f) Introductory text.	(j) Rebuilding of DOT-4 series and DOT-8, welded or brazed cylinders. Rebuilding of DOT-4 series and DOT-8 series, welded or brazed cylinders is authorized. Such rebuilding must be done by a manufacturer of these types of DOT cylinders or by a repair facility authorized by the Bureau of Explosives and by a process similar to that used in its original manufacture and under the following specific requirements:	(j) Rebuilding of DOT-4 series and DOT-8, welded or brazed cylinders. Rebuilding of DOT-4 series and DOT-8 series, welded or brazed cylinders is authorized. Such rebuilding must be done by a manufacturer of these types of DOT cylinders or by a repair facility approved by the Associate Director for OE and by a process similar to that used in its original manufacture and under the following specific requirements:
§ 173.53(h) Introductory text.	(h) Type 8. Any solid or liquid compound, mixture or device which is not specifically included in any of the above types, and which under special conditions may be so designated and approved by the Bureau of Explosives. Example: Shaped charges, commercial.	(h) Type 8. Any solid or liquid compound, mixture or device which is not specifically included in any of the above types, and which under special conditions may be so designated and examined by the Bureau of Explosives and approved by the Associate Director for OE. Example: Shaped charges, commercial.
§ 173.53(i) Introductory text.	A shaped charge, commercial, consists of a plastic, paper, or other suitable container comprising a charge of not to exceed 8 ounces of a high explosive containing no liquid explosive ingredient and with a hollowed-out portion (cavity) lined with a rigid material. Detonators or other initiating elements shall not be assembled in the device unless approved by the Bureau of Explosives.	(i) A shaped charge, commercial, consists of a plastic, paper, or other suitable container comprising a charge of not to exceed 8 ounces of a high explosive containing no liquid explosive ingredient and with a hollowed-out portion (cavity) lined with a rigid material. Detonators or other initiating elements may not be assembled in the device unless examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.53(j) Introductory text.	(j) Ammunition for cannon with projectiles. Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles, or shell is fixed ammunition assembled in a unit consisting of the cartridge case containing the propelling charge and primer, and the projectiles, or shell, fused or unfused. Detonating fuzes, tracer fuzes, explosive or ignition devices, or fuze parts with explosives contained therein must not be assembled in ammunition or included in the same outside package unless shipped by, for, or to the Departments of the Army, Navy, and Air Force of the United States Government or unless of a type approved by the Bureau of Explosives.	(j) Ammunition for cannon with projectiles. Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles, or shell is fixed ammunition assembled in a unit consisting of the cartridge case containing the propelling charge and primer, and the projectiles, or shell, fused or unfused. Detonating fuzes, tracer fuzes, explosive or ignition devices, or fuze parts with explosives contained therein must not be assembled in ammunition or included in the same outside package unless shipped by or for the Department of Defense (DOD) and in accordance with established practices and procedures specified by DOD.
§ 173.56(a) Introductory text.	(a) Detonating fuzes, tracer fuzes, explosive or ignition devices, bouchons, or fuze parts with explosives contained therein, must not be assembled in explosive projectiles, grenades, explosive bombs, explosive mines, or explosive torpedoes, or included in the same outside package with them unless shipped by, for, or to the Departments of the Army, Navy, and Air Force of the United States Government, or unless of a type approved by the Bureau of Explosives.	(a) Detonating fuzes, tracer fuzes, explosive or ignition devices, bouchons, or fuze parts with explosives contained therein, must not be assembled in explosive projectiles, grenades, explosive bombs, explosive mines or explosive torpedoes, or included in the same outside package with them unless shipped by or for the Department of Defense (DOD) and in accordance with established practices and procedures specified by DOD.
§ 173.56(c) Introductory text.	(c) Explosive projectiles, explosive torpedoes, explosive mines, or explosive bombs, exceeding 90 pounds in weight, and explosive projectiles of not less than 4 1/4 inches in diameter, may be shipped without being boxed only by, for, or to the Departments of the Army, Navy, and Air Force of the United States Government when securely blocked and braced in accordance with methods approved by the Bureau of Explosives.	(c) Explosive projectiles, explosive torpedoes, explosive mines, or explosive bombs, exceeding 90 pounds in weight, and explosive projectiles of not less than 4 1/4 inches in diameter, may be shipped without being boxed only when shipped by or for the Department of Defense (DOD) and in accordance with established practices and procedures specified by DOD.
§ 173.56(c)(1) Introductory text.	(1) Explosive projectiles less than 4 1/4 inches in diameter may be shipped without being boxed, when palletized, only by, for, or to the Departments of the Army, Navy, and Air Force of the United States Government when securely blocked and braced in accordance with methods approved by the Bureau of Explosives.	(1) Explosive projectiles less than 4 1/4 inches in diameter may be shipped without being boxed, when palletized, and only when shipped by or for the Department of Defense (DOD) and in accordance with established practices and procedures specified by DOD.
§ 173.56(d) Introductory text.	(d) Gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles, gas bombs, smoke bombs, incendiary bombs, gas grenades, smoke grenades, incendiary grenades, and gas mines, explosive, containing a bursting charge must be packed and properly secured in strong wooden boxes. Detonating fuzes, boosters or bursters, bouchons or ignition elements must not be assembled in these articles or included in the same package with them unless shipped by, for, or to the Departments of the Army, Navy, or Air Force of the United States Government, or unless of a type approved by the Bureau of Explosives. (See §§ 173.190, 173.330, 173.350, and 173.383 for non-explosive chemical or poisonous ammunition.)	(d) Gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles, gas bombs, smoke bombs, incendiary bombs, gas grenades, smoke grenades, incendiary grenades, and gas mines, explosive, containing a bursting charge must be packed and properly secured in strong wooden boxes. Detonating fuzes, boosters or bursters, bouchons or ignition elements may not be assembled in these articles or included in the same package with them unless shipped by or for the Department of Defense (DOD) and in accordance with established practices and procedures specified by DOD.
§ 173.57(a) Introductory text.	(a) Rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, or illuminating projectiles, must be well packed and properly secured in strong wooden or metal containers or in preformed fiber glass resin impregnated containers approved by the Bureau of Explosives. Other methods of packaging for devices of which shaped charges are a component part may be employed when approved by the Bureau of Explosives.	(a) Rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, or illuminating projectiles, must be well packed and properly secured in strong wooden, metal, preformed fiber glass resin impregnated container, or other packagings of approved military specifications which comply with § 173.7(a). Other methods of packaging for devices of which shaped charges are a component part may be employed when examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.65(h) Third sentence.	(2) Wooden boxes, wooden crates, or other packagings of approved military specifications which comply with § 173.7(a), or other packagings approved by the Bureau of Explosives.	(2) Wooden boxes, wooden crates, or other packagings of approved military specifications which comply with § 173.7(a).
§ 173.79(a)(2) Introductory text.	(c) Jet thrust units Class A explosives or rocket motors, Class A explosives, may be packaged in the same outside packaging with their separately packaged igniters (or igniter components), Class A, B, or C explosives only in packagings approved by the Bureau of Explosives or of approved military specifications complying with § 173.7(a).	(c) Jet thrust units Class A explosives or rocket motors, Class A explosives, may be packaged in the same outside packaging with their separately packaged igniters (or igniter components), Class A, B, or C explosives only when shipped by or for the Department of Defense (DOD) and in accordance with established practices and procedures specified by DOD.
§ 173.86(b), (b)(1), (b)(2), and (b)(3) Introductory text.	(b) No person may offer a new explosive for transportation unless it has been examined, classed, and approved by one of the following agencies:	(b) No person may offer a new explosive for transportation unless it has been examined by one of the following agencies, and classed and approved by the Associate Director for OE.
§ 173.86(g) Last sentence.	(1) Bureau of Explosives;	(1) Bureau of Explosives;
§ 173.92(a)(4) Introductory text.	(2) The U.S. Energy Research and Development Administration (ERDA) for new explosives made by, or under the direction or supervision of ERDA when tested in accordance with the Explosives Hazard Classification Procedures contained in DOD TB 700-2 (May 19, 1967), or	(2) U.S. Department of Energy (DOE) for new explosives made by, or under the direction or supervision of DOE when tested in accordance with the Explosives Hazardous Classification procedures contained in DOD TB 700-2 (May 19, 1967), or
	(3) U.S. Army Material Development and Readiness Command (DRCFS), Naval Sea Systems Command (NAVSEA 04H), or HQUSAF (IGD/SEV) for new explosives made by, or under the direction or supervision of the Department of Defense when tested in accordance with the Explosives Hazard Classification procedures contained in DOD TB 700-2 (May 19, 1967), (NAVORDINST 8020.3 to 11A-47, DSAR 8220.1).	(3) U.S. Army Material Development and Readiness Command (DRCFS), Naval Sea Systems Command (NAVSEA 04H), or HQUSAF (IGD/SEV) for new explosives made by, or under the direction or supervision of the Department of Defense when tested in accordance with the Explosives Hazardous Classification procedures contained in DOD TB 700-2 (May 19, 1967), (NAVSEAINST 8020.6 AFTO 11A-47, DSAR 8220.1).
	The devices must not rupture on functioning and must be of a type approved by the Bureau of Explosives, except as otherwise provided in §§ 173.51(a) and 173.86(a).	The devices must not rupture on functioning and must be of a type examined by the Bureau of Explosives and approved by the Associate Director for OE, except as otherwise provided in § 173.51(a)(18) and § 173.86(a).
	(4) Wooden boxes, wooden crates, or other packagings of approved military specifications which comply with § 173.7(a), or other packagings approved by the Bureau of Explosives.	(4) Wooden boxes, wooden crates, or other packagings of approved military specifications which comply with § 173.7(a).

Regulation affected	Present wording	Proposed amendment
§ 173.92(c) Introductory text.	(c) Jet thrust units, Class B explosives, or rocket motors, Class B explosives, may be packaged in the same outside packaging with their separately packaged igniters (or igniter components), Class A, B, or C explosives, only in packagings approved by the Bureau of Explosives or of approved military specifications complying with § 173.7(a).	(c) Jet thrust units, Class B explosives, or rocket motors, Class B explosives, may be packaged in the same outside packaging with their separately packaged igniters (or igniter components), Class A, B, or C explosives, only when shipped by or for the Department of Defense (DOD) and in accordance with established practices and procedures specified by DOD.
§ 173.94(b) Introductory text.	(a) Explosive power devices, Class B, must not be shipped with igniters, assembled therein unless shipped by, for, or to the Departments of the Army, Navy, and Air Force of the United States Government or unless of a type approved by the Bureau of Explosives. Explosive power devices, Class B, must be packed in outside containers complying with the following specifications:	(a) Explosive power devices, Class B may not be shipped with igniters assembled therein unless shipped by or for the Department of Defense (DOD) and in accordance with established practices and procedures specified by DOD. Explosive power devices, Class B, must be packed in outside containers complying with the following specifications:
§ 173.95(a)(2) Introductory text.	(b) Explosive power devices, Class B, packed in any other manner must be in containers of a type approved by the Bureau of Explosives.	(b) Explosive power devices, Class B, packed in any other manner must be in containers of a type examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.95(b) Introductory text.	(2) Wooden boxes or metal packagings of approved military specification which comply with § 173.7(a), or other packagings approved by the Bureau of Explosives.	(2) Wooden boxes or metal packagings of approved military specification which comply with § 173.7(a).
§ 173.95(b) Introductory text.	(b) Rocket engines (liquid), Class B explosives, must not be shipped with igniters or initiators assembled therein unless shipped by, for, or to the Department of the Army, the Department of the Navy, or the Department of the Air Force, and only when authorized by the Department of Defense or by the Bureau of Explosives.	(b) Rocket engines (liquid), Class B explosives, may not be shipped with igniters or initiators assembled therein unless shipped by or for the Department of Defense (DOD) and in accordance with established practices and procedures specified by DOD.
§ 173.95(c) Introductory text.	(c) Rocket engines (liquid), Class B explosives, may be packed in the same outside packaging with separately packaged igniters, jet thrust, Class B explosives when authorized by the Department of Defense or when packagings are approved by the Bureau of Explosives.	(c) Rocket engines (liquid), Class B explosives, may be packed in the same outside packaging with separately packaged igniters, jet thrust, Class B explosives when shipped by or for the Department of Defense (DOD) and in accordance with established practices and procedures specified by DOD.
§ 173.100(p) Second sentence.	Unless greater weight of composition is approved by the Bureau of Explosives, the number of caps in these inside packages shall be limited so that not more than 10 grains of explosive composition shall be packed into one cubic inch of space and not exceeding 17.5 grains of the explosive composition of toy caps shall be packed in any inside container.	(p) The number of caps in these inside packages shall be limited so that not more than 10 grains of explosive composition shall be packed into one cubic inch of space and not exceeding 17.5 grains of the explosive composition of toy caps shall be packed in any inside container.
§ 173.100(r) Sixth sentence.	Any new device, not enumerated in this paragraph, must be approved by the Bureau of Explosives before being offered for transportation as Common Fireworks.	(r) Any new device, not enumerated in this paragraph, must be examined by the Bureau of Explosives and approved by the Associate Director for OE, before being offered for transportation as Common Fireworks.
§ 173.100(r)(11) Introductory text.	(11) Novelties consisting of two or more devices enumerated in this paragraph when approved by the Bureau of Explosives.	(11) Novelties consisting of two or more devices enumerated in this paragraph when examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.100(u) Introductory text.	(u) Toy propellant devices and toy smoke devices consist of small paper or composition tubes or containers containing a small charge of slow burning propellant powder or smoke producing powder. These devices must be so designed that they will neither burst nor produce external flame on functioning and ignition elements, if attached, must be of a design approved by the Bureau of Explosives.	(u) Toy propellant devices and toy smoke devices consist of small paper or composition tubes or containers containing a small charge of slow burning propellant powder or smoke producing powder. These devices must be so designed that they will neither burst nor produce external flame on functioning and ignition elements, if attached, must be of a design examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.100(x) Introductory text.	(x) Cigarette loads, trick matches, and trick noise makers, explosive, must be of a type approved by the Bureau of Explosives and are described as follows:	(x) Cigarette loads, trick matches, and trick noise makers, explosive, must be of a type examined by the Bureau of Explosives and approved by the Associate Director for OE and are described as follows:
§ 173.100(y) Introductory text.	(y) Smoke candles, smokepots, smoke grenades, smoke signals, signal flares, hand signal devices, and Very signal cartridges are devices designed to produce visible effects for signal purposes. These devices must contain no bursting charges and no more than 200 grams of pyrotechnic composition each (see Note 1), exclusive of smoke composition (see Note 2), unless greater weight of composition is approved by the Bureau of Explosives.	(y) Smoke candles, smokepots, smoke grenades, smoke signals, signal flares, hand signal devices, and Very signal cartridges are devices designed to produce visible effects for signal purposes. These devices must contain no bursting charges and no more than 200 grams of pyrotechnic composition each (see Note 1), exclusive of smoke composition (see Note 2), unless greater weight of composition is examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.100(aa) Introductory text.	(aa) Explosive power devices, Class C, are devices designed to drive generators or mechanical apparatus by means of propellant explosives, Class B. The devices consist of a housing with a contained propellant charge and an electric igniter or squib. The devices must be of a type examined by the Bureau of Explosives for this classification.	(aa) Explosive power devices, Class C, are devices designed to drive generators or mechanical apparatus by means of propellant explosives, Class B. The devices consist of a housing with a contained propellant charge and an electric igniter or squib. The devices must be of a type approved by the Bureau of Explosives and approved by the Associate Director for OE for this classification.
§ 173.100(ee) Second sentence.	(ee) The starter cartridge is used to activate a mechanical starter for jet engines and must be of a type approved by the Bureau of Explosives except as provided in § 173.51(d) and § 173.86(a).	(ee) The starter cartridge is used to activate a mechanical starter for jet engines and must be of a type examined by the Bureau of Explosives and approved by the Associate Director for OE, except as provided in § 173.51(a)(18) and § 173.86(a).
§ 173.102(a)(2) Introductory text.	(2) In addition to specification containers prescribed in this section, explosive cable cutters, explosive power devices, Class C, explosive release devices, or starter cartridges, jet engines, Class C may be shipped when packed in strong wooden or metal boxes, or other containers approved by the Bureau of Explosives. Starter cartridges, jet engine, must have igniter wires short-circuited when packed for shipment.	(2) In addition to specification containers prescribed in this section, explosive cable cutters, explosive power devices, Class C, explosive release devices, or starter cartridges, jet engines, Class C may be shipped in strong wooden or metal boxes. Starter cartridges, jet engine, must have igniter wires short-circuited when packed for shipment.
§ 173.120(c) Introductory text.	(c) Truck bodies or trailers on flat cars. Truck bodies or trailers with automatic heating or refrigerating equipment of the flammable liquid type may be shipped with fuel tanks filled and equipment operating or inoperating, when used for the transportation of other freight and loaded on flat cars as part of a joint rail highway movement, provided the equipment and fuel supply are of a type approved by the Bureau of Explosives. The heating or refrigerating units are not subject to any other requirements of this subchapter and are considered as carriers' equipment, not as shipments.	(c) Truck bodies or trailers on flat cars. Truck bodies or trailers with automatic heating or refrigerating equipment of the flammable liquid type may be shipped with fuel tanks filled and equipment operating or inoperating, when used for the transportation of other freight and loaded on flat cars as part of a joint rail highway movement, provided the equipment and fuel supply are of a type examined by the Bureau of Explosives and approved by the Associate Director for OE. The heating or refrigerating units are not subject to any other requirements of this subchapter and are considered as carriers' equipment, not as shipments.
§ 173.124(a)(1) Fifth sentence.	(1) Each inside container must be completely insulated, except for top closure, with two coats of heat-retardant paint, of a type approved by the Bureau of Explosives, applied over suitable primer and finished with suitable waterproof paint; or with other equally efficient insulation approved by the Bureau of Explosives. Not more than 12 inside containers nor more than one layer of containers may be packed in one outside container.	(1) Each inside container must be completely insulated, except for top closure, with two coats of heat-retardant paint, of type examined by the Bureau of Explosives and approved by the Associate Director for OE, applied over suitable primer and finished with suitable waterproof paint; or with other equally efficient insulation examined by the Bureau of Explosives and approved by the Associate Director for OE. Not more than 12 inside containers nor more than one layer of containers may be packed in one outside container.
§ 173.124(a)(2) Eighth sentence.	Cylinders having a water capacity in excess of 1 gallon must be insulated with at least three coats of heat-retardant paint, of a type approved by the Bureau of Explosives, applied over suitable primer and finished with suitable waterproof paint; or with other equally efficient insulation approved by the Bureau of Explosives.	(2) Cylinders having a water capacity in excess of 1 gallon must be insulated with at least three coats of heat-retardant paint, of a type examined by the Bureau of Explosives and approved by the Associate Director for OE, applied over suitable primer and finished with suitable waterproof paint; or with other equally efficient insulation examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.162(h) Last sentence.	(h) On recommendation of the Bureau of Explosives, other methods of loading shown to be at least equally efficient in securing the necessary ventilation will be authorized.	(h) [Delete last sentence].
§ 173.197a Introductory text.	Smokeless powder for small arms in quantities not exceeding 100 pounds net weight transported in one car or motor vehicle may be classed as a flammable solid when approved for this classification by the Bureau of Explosives. Maximum quantity in any inside packaging must not exceed 8 pounds and inside packagings must be arranged and protected to prevent simultaneous ignition of the contents. The complete package must be a type approved by the Bureau of Explosives. Each outside package must bear a flammable solid label.	Smokeless powder for small arms in quantities not exceeding 100 pounds net weight transported in one car or motor vehicle may be classed as a flammable solid when examined for this classification by the Bureau of Explosives and approved by the Associate Director for OE. Maximum quantity in any inside packaging must not exceed 8 pounds and inside packagings must be arranged and protected to prevent simultaneous ignition of the contents. The complete package must be a type examined by the Bureau of Explosives and approved by the Associate Director for OE. Each outside package must bear a flammable solid label.

Regulation affected	Present wording	Proposed amendment
§ 173.202(a)(1)	(1) Spec. 15A or 15B or 15C or 15D or 15E or 15F or 15G or 15H or 15I or 15J or 15K or 15L or 15M or 15N or 15O or 15P or 15Q or 15R or 15S or 15T or 15U or 15V or 15W or 15X or 15Y or 15Z or 16A or 16B or 16C or 16D or 16E or 16F or 16G or 16H or 16I or 16J or 16K or 16L or 16M or 16N or 16O or 16P or 16Q or 16R or 16S or 16T or 16U or 16V or 16W or 16X or 16Y or 16Z or 17A or 17B or 17C or 17D or 17E or 17F or 17G or 17H or 17I or 17J or 17K or 17L or 17M or 17N or 17O or 17P or 17Q or 17R or 17S or 17T or 17U or 17V or 17W or 17X or 17Y or 17Z or 18A or 18B or 18C or 18D or 18E or 18F or 18G or 18H or 18I or 18J or 18K or 18L or 18M or 18N or 18O or 18P or 18Q or 18R or 18S or 18T or 18U or 18V or 18W or 18X or 18Y or 18Z or 19A or 19B or 19C or 19D or 19E or 19F or 19G or 19H or 19I or 19J or 19K or 19L or 19M or 19N or 19O or 19P or 19Q or 19R or 19S or 19T or 19U or 19V or 19W or 19X or 19Y or 19Z or 20A or 20B or 20C or 20D or 20E or 20F or 20G or 20H or 20I or 20J or 20K or 20L or 20M or 20N or 20O or 20P or 20Q or 20R or 20S or 20T or 20U or 20V or 20W or 20X or 20Y or 20Z or 21A or 21B or 21C or 21D or 21E or 21F or 21G or 21H or 21I or 21J or 21K or 21L or 21M or 21N or 21O or 21P or 21Q or 21R or 21S or 21T or 21U or 21V or 21W or 21X or 21Y or 21Z or 22A or 22B or 22C or 22D or 22E or 22F or 22G or 22H or 22I or 22J or 22K or 22L or 22M or 22N or 22O or 22P or 22Q or 22R or 22S or 22T or 22U or 22V or 22W or 22X or 22Y or 22Z or 23A or 23B or 23C or 23D or 23E or 23F or 23G or 23H or 23I or 23J or 23K or 23L or 23M or 23N or 23O or 23P or 23Q or 23R or 23S or 23T or 23U or 23V or 23W or 23X or 23Y or 23Z or 24A or 24B or 24C or 24D or 24E or 24F or 24G or 24H or 24I or 24J or 24K or 24L or 24M or 24N or 24O or 24P or 24Q or 24R or 24S or 24T or 24U or 24V or 24W or 24X or 24Y or 24Z or 25A or 25B or 25C or 25D or 25E or 25F or 25G or 25H or 25I or 25J or 25K or 25L or 25M or 25N or 25O or 25P or 25Q or 25R or 25S or 25T or 25U or 25V or 25W or 25X or 25Y or 25Z or 26A or 26B or 26C or 26D or 26E or 26F or 26G or 26H or 26I or 26J or 26K or 26L or 26M or 26N or 26O or 26P or 26Q or 26R or 26S or 26T or 26U or 26V or 26W or 26X or 26Y or 26Z or 27A or 27B or 27C or 27D or 27E or 27F or 27G or 27H or 27I or 27J or 27K or 27L or 27M or 27N or 27O or 27P or 27Q or 27R or 27S or 27T or 27U or 27V or 27W or 27X or 27Y or 27Z or 28A or 28B or 28C or 28D or 28E or 28F or 28G or 28H or 28I or 28J or 28K or 28L or 28M or 28N or 28O or 28P or 28Q or 28R or 28S or 28T or 28U or 28V or 28W or 28X or 28Y or 28Z or 29A or 29B or 29C or 29D or 29E or 29F or 29G or 29H or 29I or 29J or 29K or 29L or 29M or 29N or 29O or 29P or 29Q or 29R or 29S or 29T or 29U or 29V or 29W or 29X or 29Y or 29Z or 30A or 30B or 30C or 30D or 30E or 30F or 30G or 30H or 30I or 30J or 30K or 30L or 30M or 30N or 30O or 30P or 30Q or 30R or 30S or 30T or 30U or 30V or 30W or 30X or 30Y or 30Z or 31A or 31B or 31C or 31D or 31E or 31F or 31G or 31H or 31I or 31J or 31K or 31L or 31M or 31N or 31O or 31P or 31Q or 31R or 31S or 31T or 31U or 31V or 31W or 31X or 31Y or 31Z or 32A or 32B or 32C or 32D or 32E or 32F or 32G or 32H or 32I or 32J or 32K or 32L or 32M or 32N or 32O or 32P or 32Q or 32R or 32S or 32T or 32U or 32V or 32W or 32X or 32Y or 32Z or 33A or 33B or 33C or 33D or 33E or 33F or 33G or 33H or 33I or 33J or 33K or 33L or 33M or 33N or 33O or 33P or 33Q or 33R or 33S or 33T or 33U or 33V or 33W or 33X or 33Y or 33Z or 34A or 34B or 34C or 34D or 34E or 34F or 34G or 34H or 34I or 34J or 34K or 34L or 34M or 34N or 34O or 34P or 34Q or 34R or 34S or 34T or 34U or 34V or 34W or 34X or 34Y or 34Z or 35A or 35B or 35C or 35D or 35E or 35F or 35G or 35H or 35I or 35J or 35K or 35L or 35M or 35N or 35O or 35P or 35Q or 35R or 35S or 35T or 35U or 35V or 35W or 35X or 35Y or 35Z or 36A or 36B or 36C or 36D or 36E or 36F or 36G or 36H or 36I or 36J or 36K or 36L or 36M or 36N or 36O or 36P or 36Q or 36R or 36S or 36T or 36U or 36V or 36W or 36X or 36Y or 36Z or 37A or 37B or 37C or 37D or 37E or 37F or 37G or 37H or 37I or 37J or 37K or 37L or 37M or 37N or 37O or 37P or 37Q or 37R or 37S or 37T or 37U or 37V or 37W or 37X or 37Y or 37Z or 38A or 38B or 38C or 38D or 38E or 38F or 38G or 38H or 38I or 38J or 38K or 38L or 38M or 38N or 38O or 38P or 38Q or 38R or 38S or 38T or 38U or 38V or 38W or 38X or 38Y or 38Z or 39A or 39B or 39C or 39D or 39E or 39F or 39G or 39H or 39I or 39J or 39K or 39L or 39M or 39N or 39O or 39P or 39Q or 39R or 39S or 39T or 39U or 39V or 39W or 39X or 39Y or 39Z or 40A or 40B or 40C or 40D or 40E or 40F or 40G or 40H or 40I or 40J or 40K or 40L or 40M or 40N or 40O or 40P or 40Q or 40R or 40S or 40T or 40U or 40V or 40W or 40X or 40Y or 40Z or 41A or 41B or 41C or 41D or 41E or 41F or 41G or 41H or 41I or 41J or 41K or 41L or 41M or 41N or 41O or 41P or 41Q or 41R or 41S or 41T or 41U or 41V or 41W or 41X or 41Y or 41Z or 42A or 42B or 42C or 42D or 42E or 42F or 42G or 42H or 42I or 42J or 42K or 42L or 42M or 42N or 42O or 42P or 42Q or 42R or 42S or 42T or 42U or 42V or 42W or 42X or 42Y or 42Z or 43A or 43B or 43C or 43D or 43E or 43F or 43G or 43H or 43I or 43J or 43K or 43L or 43M or 43N or 43O or 43P or 43Q or 43R or 43S or 43T or 43U or 43V or 43W or 43X or 43Y or 43Z or 44A or 44B or 44C or 44D or 44E or 44F or 44G or 44H or 44I or 44J or 44K or 44L or 44M or 44N or 44O or 44P or 44Q or 44R or 44S or 44T or 44U or 44V or 44W or 44X or 44Y or 44Z or 45A or 45B or 45C or 45D or 45E or 45F or 45G or 45H or 45I or 45J or 45K or 45L or 45M or 45N or 45O or 45P or 45Q or 45R or 45S or 45T or 45U or 45V or 45W or 45X or 45Y or 45Z or 46A or 46B or 46C or 46D or 46E or 46F or 46G or 46H or 46I or 46J or 46K or 46L or 46M or 46N or 46O or 46P or 46Q or 46R or 46S or 46T or 46U or 46V or 46W or 46X or 46Y or 46Z or 47A or 47B or 47C or 47D or 47E or 47F or 47G or 47H or 47I or 47J or 47K or 47L or 47M or 47N or 47O or 47P or 47Q or 47R or 47S or 47T or 47U or 47V or 47W or 47X or 47Y or 47Z or 48A or 48B or 48C or 48D or 48E or 48F or 48G or 48H or 48I or 48J or 48K or 48L or 48M or 48N or 48O or 48P or 48Q or 48R or 48S or 48T or 48U or 48V or 48W or 48X or 48Y or 48Z or 49A or 49B or 49C or 49D or 49E or 49F or 49G or 49H or 49I or 49J or 49K or 49L or 49M or 49N or 49O or 49P or 49Q or 49R or 49S or 49T or 49U or 49V or 49W or 49X or 49Y or 49Z or 50A or 50B or 50C or 50D or 50E or 50F or 50G or 50H or 50I or 50J or 50K or 50L or 50M or 50N or 50O or 50P or 50Q or 50R or 50S or 50T or 50U or 50V or 50W or 50X or 50Y or 50Z or 51A or 51B or 51C or 51D or 51E or 51F or 51G or 51H or 51I or 51J or 51K or 51L or 51M or 51N or 51O or 51P or 51Q or 51R or 51S or 51T or 51U or 51V or 51W or 51X or 51Y or 51Z or 52A or 52B or 52C or 52D or 52E or 52F or 52G or 52H or 52I or 52J or 52K or 52L or 52M or 52N or 52O or 52P or 52Q or 52R or 52S or 52T or 52U or 52V or 52W or 52X or 52Y or 52Z or 53A or 53B or 53C or 53D or 53E or 53F or 53G or 53H or 53I or 53J or 53K or 53L or 53M or 53N or 53O or 53P or 53Q or 53R or 53S or 53T or 53U or 53V or 53W or 53X or 53Y or 53Z or 54A or 54B or 54C or 54D or 54E or 54F or 54G or 54H or 54I or 54J or 54K or 54L or 54M or 54N or 54O or 54P or 54Q or 54R or 54S or 54T or 54U or 54V or 54W or 54X or 54Y or 54Z or 55A or 55B or 55C or 55D or 55E or 55F or 55G or 55H or 55I or 55J or 55K or 55L or 55M or 55N or 55O or 55P or 55Q or 55R or 55S or 55T or 55U or 55V or 55W or 55X or 55Y or 55Z or 56A or 56B or 56C or 56D or 56E or 56F or 56G or 56H or 56I or 56J or 56K or 56L or 56M or 56N or 56O or 56P or 56Q or 56R or 56S or 56T or 56U or 56V or 56W or 56X or 56Y or 56Z or 57A or 57B or 57C or 57D or 57E or 57F or 57G or 57H or 57I or 57J or 57K or 57L or 57M or 57N or 57O or 57P or 57Q or 57R or 57S or 57T or 57U or 57V or 57W or 57X or 57Y or 57Z or 58A or 58B or 58C or 58D or 58E or 58F or 58G or 58H or 58I or 58J or 58K or 58L or 58M or 58N or 58O or 58P or 58Q or 58R or 58S or 58T or 58U or 58V or 58W or 58X or 58Y or 58Z or 59A or 59B or 59C or 59D or 59E or 59F or 59G or 59H or 59I or 59J or 59K or 59L or 59M or 59N or 59O or 59P or 59Q or 59R or 59S or 59T or 59U or 59V or 59W or 59X or 59Y or 59Z or 60A or 60B or 60C or 60D or 60E or 60F or 60G or 60H or 60I or 60J or 60K or 60L or 60M or 60N or 60O or 60P or 60Q or 60R or 60S or 60T or 60U or 60V or 60W or 60X or 60Y or 60Z or 61A or 61B or 61C or 61D or 61E or 61F or 61G or 61H or 61I or 61J or 61K or 61L or 61M or 61N or 61O or 61P or 61Q or 61R or 61S or 61T or 61U or 61V or 61W or 61X or 61Y or 61Z or 62A or 62B or 62C or 62D or 62E or 62F or 62G or 62H or 62I or 62J or 62K or 62L or 62M or 62N or 62O or 62P or 62Q or 62R or 62S or 62T or 62U or 62V or 62W or 62X or 62Y or 62Z or 63A or 63B or 63C or 63D or 63E or 63F or 63G or 63H or 63I or 63J or 63K or 63L or 63M or 63N or 63O or 63P or 63Q or 63R or 63S or 63T or 63U or 63V or 63W or 63X or 63Y or 63Z or 64A or 64B or 64C or 64D or 64E or 64F or 64G or 64H or 64I or 64J or 64K or 64L or 64M or 64N or 64O or 64P or 64Q or 64R or 64S or 64T or 64U or 64V or 64W or 64X or 64Y or 64Z or 65A or 65B or 65C or 65D or 65E or 65F or 65G or 65H or 65I or 65J or 65K or 65L or 65M or 65N or 65O or 65P or 65Q or 65R or 65S or 65T or 65U or 65V or 65W or 65X or 65Y or 65Z or 66A or 66B or 66C or 66D or 66E or 66F or 66G or 66H or 66I or 66J or 66K or 66L or 66M or 66N or 66O or 66P or 66Q or 66R or 66S or 66T or 66U or 66V or 66W or 66X or 66Y or 66Z or 67A or 67B or 67C or 67D or 67E or 67F or 67G or 67H or 67I or 67J or 67K or 67L or 67M or 67N or 67O or 67P or 67Q or 67R or 67S or 67T or 67U or 67V or 67W or 67X or 67Y or 67Z or 68A or 68B or 68C or 68D or 68E or 68F or 68G or 68H or 68I or 68J or 68K or 68L or 68M or 68N or 68O or 68P or 68Q or 68R or 68S or 68T or 68U or 68V or 68W or 68X or 68Y or 68Z or 69A or 69B or 69C or 69D or 69E or 69F or 69G or 69H or 69I or 69J or 69K or 69L or 69M or 69N or 69O or 69P or 69Q or 69R or 69S or 69T or 69U or 69V or 69W or 69X or 69Y or 69Z or 70A or 70B or 70C or 70D or 70E or 70F or 70G or 70H or 70I or 70J or 70K or 70L or 70M or 70N or 70O or 70P or 70Q or 70R or 70S or 70T or 70U or 70V or 70W or 70X or 70Y or 70Z or 71A or 71B or 71C or 71D or 71E or 71F or 71G or 71H or 71I or 71J or 71K or 71L or 71M or 71N or 71O or 71P or 71Q or 71R or 71S or 71T or 71U or 71V or 71W or 71X or 71Y or 71Z or 72A or 72B or 72C or 72D or 72E or 72F or 72G or 72H or 72I or 72J or 72K or 72L or 72M or 72N or 72O or 72P or 72Q or 72R or 72S or 72T or 72U or 72V or 72W or 72X or 72Y or 72Z or 73A or 73B or 73C or 73D or 73E or 73F or 73G or 73H or 73I or 73J or 73K or 73L or 73M or 73N or 73O or 73P or 73Q or 73R or 73S or 73T or 73U or 73V or 73W or 73X or 73Y or 73Z or 74A or 74B or 74C or 74D or 74E or 74F or 74G or 74H or 74I or 74J or 74K or 74L or 74M or 74N or 74O or 74P or 74Q or 74R or 74S or 74T or 74U or 74V or 74W or 74X or 74Y or 74Z or 75A or 75B or 75C or 75D or 75E or 75F or 75G or 75H or 75I or 75J or 75K or 75L or 75M or 75N or 75O or 75P or 75Q or 75R or 75S or 75T or 75U or 75V or 75W or 75X or 75Y or 75Z or 76A or 76B or 76C or 76D or 76E or 76F or 76G or 76H or 76I or 76J or 76K or 76L or 76M or 76N or 76O or 76P or 76Q or 76R or 76S or 76T or 76U or 76V or 76W or 76X or 76Y or 76Z or 77A or 77B or 77C or 77D or 77E or 77F or 77G or 77H or 77I or 77J or 77K or 77L or 77M or 77N or 77O or 77P or 77Q or 77R or 77S or 77T or 77U or 77V or 77W or 77X or 77Y or 77Z or 78A or 78B or 78C or 78D or 78E or 78F or 78G or 78H or 78I or 78J or 78K or 78L or 78M or 78N or 78O or 78P or 78Q or 78R or 78S or 78T or 78U or 78V or 78W or 78X or 78Y or 78Z or 79A or 79B or 79C or 79D or 79E or 79F or 79G or 79H or 79I or 79J or 79K or 79L or 79M or 79N or 79O or 79P or 79Q or 79R or 79S or 79T or 79U or 79V or 79W or 79X or 79Y or 79Z or 80A or 80B or 80C or 80D or 80E or 80F or 80G or 80H or 80I or 80J or 80K or 80L or 80M or 80N or 80O or 80P or 80Q or 80R or 80S or 80T or 80U or 80V or 80W or 80X or 80Y or 80Z or 81A or 81B or 81C or 81D or 81E or 81F or 81G or 81H or 81I or 81J or 81K or 81L or 81M or 81N or 81O or 81P or 81Q or 81R or 81S or 81T or 81U or 81V or 81W or 81X or 81Y or 81Z or 82A or 82B or 82C or 82D or 82E or 82F or 82G or 82H or 82I or 82J or 82K or 82L or 82M or 82N or 82O or 82P or 82Q or 82R or 82S or 82T or 82U or 82V or 82W or 82X or 82Y or 82Z or 83A or 83B or 83C or 83D or 83E or 83F or 83G or 83H or 83I or 83J or 83K or 83L or 83M or 83N or 83O or 83P or 83Q or 83R or 83S or 83T or 83U or 83V or 83W or 83X or 83Y or 83Z or 84A or 84B or 84C or 84D or 84E or 84F or 84G or 84H or 84I or 84J or 84K or 84L or 84M or 84N or 84O or 84P or 84Q or 84R or 84S or 84T or 84U or 84V or 84W or 84X or 84Y or 84Z or 85A or 85B or 85C or 85D or 85E or 85F or 85G or 85H or 85I or 85J or 85K or 85L or 85M or 85N or 85O or 85P or 85Q or 85R or 85S or 85T or 85U or 85V or 85W or 85X or 85Y or 85Z or 86A or 86B or 86C or 86D or 86E or 86F or 86G or 86H or 86I or 86J or 86K or 86L or 86M or 86N or 86O or 86P or 86Q or 86R or 86S or 86T or 86U or 86V or 86W or 86X or 86Y or 86Z or 87A or 87B or 87C or 87D or 87E or 87F or 87G or 87H or 87I or 87J or 87K or 87L or 87M or 87N or 87O or 87P or 87Q or 87R or 87S or 87T or 87U or 87V or 87W or 87X or 87Y or 87Z or 88A or 88B or 88C or 88D or 88E or 88F or 88G or 88H or 88I or 88J or 88K or 88L or 88M or 88N or 88O or 88P or 88Q or 88R or 88S or 88T or 88U or 88V or 88W or 88X or 88Y or 88Z or 89A or 89B or 89C or 89D or 89E or 89F or 89G or 89H or 89I or 89J or 89K or 89L or 89M or 89N or 89O or 89P or 89Q or 89R or 89S or 89T or 89U or 89V or 89W or 89X or 89Y or 89Z or 90A or 90B or 90C or 90D or 90E or 90F or 90G or 90H or 90I or 90J or 90K or 90L or 90M or 90N or 90O or 90P or 90Q or 90R or 90S or 90T or 90U or 90V or 90W or 90X or 90Y or 90Z or 91A or 91B or 91C or 91D or 91E or 91F or 91G or 91H or 91I or 91J or 91K or 91L or 91M or 91N or 91O or 91P or 91Q or 91R or 91S or 91T or 91U or 91V or 91W or 91X or 91Y or 91Z or 92A or 92B or 92C or 92D or 92E or 92F or 92G or 92H or 92I or 92J or 92K or 92L or 92M or 92N or 92O or 92P or 92Q or 92R or 92S or 92T or 92U or 92V or 92W or 92X or 92Y or 92Z or 93A or 93B or 93C or 93D or 93E or 93F or 93G or 93H or 93I or 93J or 93K or 93L or 93M or 93N or 93O or 93P or 93Q or 93R or 93S or 93T or 93U or 93V or 93W or 93X or 93Y or 93Z or 94A or 94B or 94C or 94D or 94E or 94F or 94G or 94H or 94I or 94J or 94K or 94L or 94M or 94N or 94O or 94P or 94Q or 94R or 94S or 94T or 94U or 94V or 94W or 94X or 94Y or 94Z or 95A or 95B or 95C or 95D or 95E or 95F or 95G or 95H or 95I or 95J or 95K or 95L or 95M or 95N or 95O or 95P or 95Q or 95R or 95S or 95T or 95U or 95V or 95W or 95X or 95Y or 95Z or 96A or 96B or 96C or 96D or 96E or 96F or 96G or 96H or 96I or 96J or 96K or 96L or 96M or 96N or 96O or 96P or 96Q or 96R or 96S or 96T or 96U or 96V or 96W or 96X or 96Y or 96Z or 97A or 97B or 97C or 97D or 97E or 97F or 97G or 97H or 97I or 97J or 97K or 97L or 97M or 97N or 97O or 97P or 97Q or 97R or 97S or 97T or 97U or 97V or 97W or 97X or 97Y or 97Z or 98A or 98B or 98C or 98D or 98E or 98F or 98G or 98H or 98I or 98J or 98K or 98L or 98M or 98N or 98O or 98P or 98Q or 98R or 98S or 98T or 98U or 98V or 98W or 98X or 98Y or 98Z or 99A or 99B or 99C or 99D or 99E or 99F or 99G or 99H or 99I or 99J or 99K or 99L or 99M or 99N or 99O or 99P or 99Q or 99R or 99S or 99T or 99U or 99V or 99W or 99X or 99Y or 99Z or 100A or 100B or 100C or 100D or 100E or 100F or 100G or 100H or 100I or 100J or 100K or 100L or 100M or 100N or 100O or 100P or 100Q or 100R or 100S or 100T or 100U or 100V or 100W or 100X or 100Y or 100Z	(1) Spec. 15A or 15B or 15C or 15D or 15E or 15F or 15G or 15H or 15I or 15J or 15K or 15L or 15M or 15N or 15O or 15P or 15Q or 15R or 15S or 15T or 15U or 15V or 15W or 15X or 15Y or 15Z or 16A or 16B or 16C or 16D or 16E or 16F or 16G or 16H or 16I or 16J or 16K or 16L or 16M or 16N or 16O or 16P or 16Q or 16R or 16S or 16T or 16U or 16V or 16W or 16X or 16Y or 16Z or 17A or 17B or 17C or 17D or 17E or 17F or 17G or 17H or 17I or 17J or 17K or 17L or 17M or 17N or 17O or 17P or 17Q or 17R or 17S or 17T or 17U or 17V or 17W or 17X or 17Y or 17Z or 18A or 18B or 18C or 18D or 18E or 18F or 18G or 18H or 18I or 18J or 18K or 18L or 18M or 18N or 18O or 18P or 18Q or 18R or 18S or 18T or 18U or 18V or 18W or 18X or 18Y or 18Z or 19A or 19B or 19C or 19D or 19E or 19F or 19G or 19H or 19I or 19J or 19K or 19L or 19M or 19N or 19O or 19P or 19Q or 19R or 19S or 19T or 19U or 19V or 19W or 19X or 19Y or 19Z or 20A or 20B or 20C or 20D or 20E or 20F or 20G or 20H or 20I or 20J or 20K or 20L or 20M or 20N or 20O or 20P or 20Q or 20R or 20S or 20T or 20U or 20V or 20W or 20X or 20Y or 20Z or 21A or 21B or 21C or 21D or 21E or 21F or 21G or 21H or 21I or 21J or 21K or 21L or 21M or 21N or 21O or 21P or 21Q or 21R or 21S or 21T or 21U or 21V or 21W or 21X or 21Y or 21Z or 22A or 22B or 22C or 22D or 22E or 22F or 22G or 22H or 22I or 22J or 22K or 22L or 22M or 22N or 22O or 22P or 22Q or 22R or 22S or 22T or 22U or 22V or 22W or 22X or 22Y or 22Z or 23A or 23B or 23C or 23D or 23E or 23F or 23G or 23H or 23I or 23J or 23K or 23L or 23M or 23N or 23O or

Regulation affected	Present wording	Proposed amendment
§ 173.202(a)(1).....	(1) Spec. 15A or 15B (§ 178.168 or § 178.169 of this subchapter). Wooden boxes with inside metal containers of a type approved by the Bureau of Explosives cushioned with incombustible cushioning material. Each container must have been tested hydrostatically to a pressure of not less than 60 pounds per square inch. Closing devices must be protected from injury. Not more than 300 pounds of sodium or potassium liquid alloy may be shipped in one outside container.	(1) Spec. 15A or 15B (§ 178.168 or § 178.169 of this subchapter). Wooden boxes with inside metal containers of a type examined by the Bureau of Explosives and approved by the Associate Director for OE. Inside containers must be cushioned with incombustible cushioning material. Each container must have been tested hydrostatically to a pressure of not less than 60 pounds per square inch. Closing devices must be protected from injury. Not more than 300 pounds of sodium or potassium liquid alloy may be shipped in one outside container.
§ 173.218(a)(1).....	(1) Spec. 15A, 15B, 15C, 16A or 19A (§ 178.168, § 178.169, § 178.170, § 178.185 or § 178.190 of this subchapter). Wooden boxes, or other equally efficient container when approved by the Bureau of Explosives, with glass, metal, or earthenware inside containers of not over 2 gallons capacity each which must be maintained at a temperature below 0°F. Shipments are authorized for transportation by private or contract carrier by motor vehicle only.	(1) Spec. 15A, 15B, 15C, 16A or 19A (§ 178.168, § 178.169, § 178.170, § 178.185 or § 178.190 of this subchapter). Wooden boxes, with glass, metal, or earthenware inside containers of not over 2 gallons capacity each which must be maintained at a temperature below 0°F. Shipments are authorized for transportation by private or contract carrier by motor vehicle only.
§ 173.225(a)(1).....	(1) Spec. 15A or 15B (§ 178.168 or 178.169 of this subchapter). Wooden boxes with metal inside containers hermetically sealed (soldered) or watertight metal cans with screwtop closures. Other closures if approved by the Bureau of Explosives will be permitted.	(1) Spec. 15A or 15B (§ 178.168 or 178.169 of this subchapter). Wooden boxes with metal inside containers hermetically sealed (soldered) or watertight metal cans with screwtop closures.
§ 173.237(a)(2).....	(2) Containers and means of refrigeration providing equal efficiency, when approved by the Bureau of Explosives, are authorized for shipments by private carrier by motor vehicle.	(2) [Delete.]
§ 173.238(a).....	(a) Aircraft rocket engines (commercial) and their igniters may be offered for transportation when of a type approved by the Bureau of Explosives to be so described and classed, and when packaged as follows:	(a) Aircraft rocket engines (commercial) and their igniters may be offered for transportation when of a type examined by the Bureau of Explosives and approved by the Associate Director for OE to be so described and classed, and when packaged as follows:
§ 173.238(a)(1).....	(1) Spec. 15A, 15B, 15E or 16A (§ 178.168, 178.169, 178.172 or 178.185 of this subchapter). Wooden boxes. Igniters must be packaged in sealed metal containers approved by the Bureau of Explosives and packed in wooden boxes as specified above when shipped separately from the Aircraft rocket engines.	(1) Spec. 15A, 15B, 15E or 16A (§ 178.168, 178.169, 178.172 or 178.185 of this subchapter). Wooden boxes. Igniters must be packaged in sealed metal containers examined by the Bureau of Explosives and approved by the Associate Director for OE and packed in wooden boxes as specified above when shipped separately from the Aircraft rocket engines.
§ 173.238(a)(2).....	(2) Aircraft rocket engines (commercial), when approved by the Bureau of Explosives, may be packed in the same outside shipping container with their separately packaged igniters. Igniters must be packed in separate sealed metal containers in strong inside containers.	(2) Aircraft rocket engines (commercial), when examined by the Bureau of Explosives and approved by the Associate Director for OE, may be packed in the same outside shipping container with their separately packaged igniters. Igniters must be packed in separate sealed metal containers in strong inside containers.
§ 173.238(a)(3).....	(3) Aircraft rocket engines (commercial) and/or their igniters, packed in any other manner than specified in paragraphs (a) (1) and (2) of this section, must be in containers of a type approved by the Bureau of Explosives.	(3) Aircraft rocket engines (commercial) and/or their igniters, packed in any other manner than specified in paragraphs (a) (1) and (2) of this section, must be in containers of a type examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.245(a)(25).....	(25) Spec. 12A or 12B (§ 178.210 or 178.205 of this subchapter). Fiber board boxes with inside aluminum containers not over 5 pounds capacity each. Aluminum containers must be approved by the Bureau of Explosives.	(25) Spec. 12A or 12B (§ 178.210 or 178.205 of this subchapter). Fiber board boxes with inside aluminum containers. Aluminum containers must be examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.252(g)(1) Last sentence.	Each drum must be completely emptied and dried before reuse and must be equipped with gaskets of a material approved by the Bureau of Explosives.	Each drum must be completely emptied and dried before reuse and must be equipped with gaskets of a material examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.256(a)(3).....	(3) Spec. 22B (§ 178.197 of this subchapter). Plywood drums equipped with molded liner of type and material approved by the Bureau of Explosives.	(3) Spec. 22B (§ 178.197 of this subchapter). Plywood drums equipped with molded liner of type and material examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.260(g).....	(g) Electric storage batteries, containing electrolyte or corrosive battery fluid in a coil from which it is injected into the battery cells by a gas generator and initiator assembled with the battery, and which are nonspillable and leakproof, are exempt from Parts 170-189 of this title when approved by the Bureau of Explosives.	(g) Electric storage batteries, containing electrolyte or corrosive battery fluid in a coil from which it is injected into the battery cells by a gas generator and initiator assembled with the battery, and which are nonspillable and leakproof, are exempt from Parts 110-189 of this title when examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.266(f)(2) Last sentence.	Designs for venting and pressure relief devices must be approved by the Bureau of Explosives.	Designs for venting and pressure relief devices must be examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.268(f)(4).....	(4) Cushioning for carboys must be incombustible mineral material, elastic wooden strips, natural cork blocks or rubber blocks. Other materials may be used if approved by the Bureau of Explosives. The use of hay, excelsior, loose ground cork, or similar materials, whether treated or untreated, is prohibited.	(4) Cushioning for carboys must be incombustible mineral material, elastic wooden strips, natural cork blocks or rubber blocks. The use of hay, excelsior, loose ground cork, or similar materials, whether treated or untreated, is prohibited.
§ 173.269(b).....	(b) Cushioning for carboys must be incombustible mineral material, elastic wooden strips, natural cork blocks or rubber blocks. Other materials may be used if approved by the Bureau of Explosives. The use of hay, excelsior, loose ground cork, or similar materials, whether treated or untreated, is prohibited.	(b) Cushioning for carboys must be incombustible mineral material, elastic wooden strips, natural cork blocks or rubber blocks. The use of hay, excelsior, loose ground cork, or similar materials, whether treated or untreated, is prohibited.
§ 173.272(i)(18).....	(18) Specification 17F (§ 178.117 of this subchapter). Metal barrels or drums (single-trip only). Drums equipped with vented closures of an experimental type approved by the Bureau of Explosives are also authorized for export shipments. Authorized for sulfuric acid of 77.5 percent to 98 percent concentrations with or without an inhibitor, provided such acid has a corrosive effect on steel no greater than 93.2 percent sulfuric acid, measured at 100°F.	(18) Specification 17F (§ 178.117 of this subchapter). Metal barrels or drums (single-trip only). Drums equipped with vented closures of an experimental type examined by the Bureau of Explosives and approved by the Associate Director for OE are also authorized for export shipments. Authorized for sulfuric acid of 77.5 percent to 98 percent concentrations with or without an inhibitor, provided such acid has a corrosive effect on steel no greater than 93.2 percent sulfuric acid, measured at 100°F.
§ 173.300(b)(1).....	(1) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be acceptable to the Bureau of Explosives.	(1) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be acceptable to the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.302(a).....	(a) <i>Cylinder, filler and solvent requirements.</i> (Refer to applicable parts of Specs. DOT 8 and DOT 8AL.) Acetylene gas must be shipped in cylinders, Spec. 8 or 8AL (§ 178.59 or § 178.60 of this subchapter). The cylinders shall consist of metal shells filled with a porous material that has been tested with satisfactory results by the Bureau of Explosives, and this material must be charged with a suitable solvent.	(a) <i>Cylinder, filler and solvent requirements.</i> (Refer to applicable parts of Specs. DOT 8 and DOT 8AL.) Acetylene gas must be shipped in Spec. 8 or 8AL cylinders (§ 178.59 or § 178.60 of this subchapter). The cylinders shall consist of metal shells filled with a porous material that has been examined by the Bureau of Explosives and approved by the Associate Director for OE, and this material must be charged with a suitable solvent.
§ 173.305(c)(1).....	(1) Spec. 2P (§ 178.33 of this subchapter). Inside metal containers equipped with safety relief devices of a type approved by the Bureau of Explosives and packed in strong wooden or fiber boxes of such design as to protect valves from injury or accidental functioning under conditions incident to transportation. Pressure in the container must not exceed 85 psi absolute at 70°F. Each completed metal container filled for shipment must be heated until content reaches a minimum temperature of 130°F, without evidence of leakage, distortion or other defect. Each outside shipping container must be plainly marked "INSIDE CONTAINERS COMPLY WITH PRESCRIBED SPECIFICATIONS."	(1) Spec. 2P (§ 178.33 of this subchapter). Inside metal containers equipped with safety relief devices of a type examined by the Bureau of Explosives and approved by the Associate Director for OE, and packed in strong wooden or fiber boxes of such design as to protect valves from injury or accidental functioning under conditions incident to transportation. Pressure in the container may not exceed 85 psi absolute at 70°F. Each completed metal container filled for shipment must be heated until content reaches a minimum temperature of 130°F, without evidence of leakage, distortion or other defect. Each outside shipping container must be plainly marked "INSIDE CONTAINERS COMPLY WITH PRESCRIBED SPECIFICATIONS."
§ 173.306(d)(1).....	(d) <i>Truck bodies or trailers on flat cars; automobiles, motorcycles, tractors, or other self-propelled vehicles.</i> (1) Truck bodies or trailers with automatic heating or refrigerating equipment of the gas burning type may be shipped with fuel tanks filled and equipment operating or inoperative, when used for the transportation of other freight and loaded on flat cars as part of a joint rail-highway movement, provided the equipment and fuel supply are of a type approved by the Bureau of Explosives. The heating or refrigerating units are not subject to any other requirements of this subchapter and are to be considered as carriers equipment not as shipments.	(d) <i>Truck bodies or trailers on flat cars; automobiles, motorcycles, tractors, or other self-propelled vehicles.</i> (1) Truck bodies or trailers with automatic heating or refrigerating equipment of the gas burning type may be shipped with fuel tanks filled and equipment operating or inoperative, when used for the transportation of other freight and loaded on flat cars as part of a joint rail-highway movement, provided the equipment and fuel supply are of a type examined by the Bureau of Explosives and approved by the Associate Director for OE. The heating or refrigerating units are not subject to any other requirements of this subchapter and are to be considered as carriers equipment not as shipments.

Regulation affected	Present wording	Proposed amendment
§ 173.315(i)(12).....	(12) Subject to conditions of paragraph (a)(1) of this section for the methyl chloride and sulfur dioxide optional portable tanks, one or more fusible plugs approved by the Bureau of Explosives may be used on these tanks in place of safety relief valves of the spring-loaded type. The fusible plug or plugs must be in accordance with CGA Pamphlet S-1.2, to prevent a pressure rise in the tank of more than 120 percent of the design pressure. If the tank is over 30 inches long, each end must have the total specified safety discharge area.	(12) Subject to conditions of paragraph (a)(1) of this section for the methyl chloride and sulfur dioxide optional portable tanks, one or more fusible plugs examined by the Bureau of Explosives and approved by the Associate Director for OE may be used on these tanks in place of safety relief valves of the spring-loaded type. The fusible plug or plugs must be in accordance with CGA Pamphlet S-1.2, to prevent a pressure rise in the tank of more than 120 percent of the design pressure. If the tank is over 30 inches long, each end must have the total specified safety discharge area.
§ 173.332(d).....	(d) Spec. 105A500-W or 105A600-W (§ 179.100 and 179.101 of this subchapter). Tank cars. Tank must be restenciled 105A300-W and be equipped with safety valves of the type and size used on spec. 105A300-W (§ 179.100 and 179.101 of this subchapter) tank car. Tank car tank must be equipped with approved dome fittings and safety devices, and with cork insulation at least 4 inches in thickness. Each tank car must be marked "HYDROCYANIC ACID" in accordance with the requirements of § 172.330 of this subchapter. Written procedure covering details of tank car appurtenances, dome fittings and safety devices, and marking, loading, handling, inspection, and testing practices shall be filed with and approved by the Bureau of Explosives before any tank car is offered for transportation of hydrocyanic acid. The maximum permitted filling density is 63 percent of the water capacity of the tank.	(d) Spec. 105A500-W or 105A600-W (§ 179.100 and 179.101 of this subchapter). Tank cars. Tank must be restenciled 105A300-W and be equipped with safety valves of the type and size used on spec. 105A300-W (§ 179.100 and 179.101 of this subchapter) tank car. Tank car tank must be equipped with approved dome fittings and safety devices, and with cork insulation at least 4 inches in thickness. Each tank car must be marked "HYDROCYANIC ACID" in accordance with the requirements of § 172.330 of this subchapter. Written procedure covering details of tank car appurtenances, dome fittings and safety devices, and marking, loading, handling, inspection, and testing practices shall be examined by the Bureau of Explosives and approved by the Associate Director for OE before any tank car is offered for transportation of hydrocyanic acid. The maximum permitted filling density is 63 percent of the water capacity of the tank.
§ 173.333(a)(2).....	(2) Specification 106A500X (§ 179.300, 179.301 of this subchapter) tanks. Authorized only for phosgene. Each tank must be approved by the Bureau of Explosives. Tanks must not be equipped with safety devices of any type. Outage must be sufficient to prevent tanks from becoming liquid full at 130°F. (55°C.) (See §§ 174.200 and 177.834(m) of this subchapter for special requirements for rail and highway shipments.)	(2) Specification 106A500X (§ 179.300, 179.301 of this subchapter) tanks. Authorized only for phosgene. Tanks may not be equipped with safety devices of any type. Outage must be sufficient to prevent tanks from becoming liquid full at 130°F. (55°C.) (See §§ 174.200 and 177.834(m) of this subchapter for special requirements for rail and highway shipments.)
§ 173.336(a)(3).....	(3) Specification 106A500X or 110A500W (§ 179.300, 179.301 of this subchapter) tanks. Each tank must be equipped with gas tight valve protection caps which must be approved by the Bureau of Explosives. Tanks must not be equipped with safety devices of any type. Outage must be sufficient to prevent tanks from becoming liquid full at 130°F. (55°C.) (See §§ 174.600 and 177.834(m) of this subchapter for special requirements for rail and highway shipments.) Specification 110A500W tanks must be stainless steel.	(3) Specification 106A500X or 110A500W (§ 179.300, 179.301 of this subchapter) tanks. Each tank must be equipped with gas tight valve protection caps. Tanks must not be equipped with safety devices of any type. Outage must be sufficient to prevent tanks from becoming liquid full at 130°F. (55°C.) (See §§ 174.600 and 177.834(m) of this subchapter for special requirements for rail and highway shipments.) Specification 110A500W tanks must be stainless steel.
§ 173.336(a)(4) Last sentence.	(4) Written procedure covering details of tank car appurtenances, dome fittings and safety devices, and marking, loading, handling, inspection, and testing practices shall be filed with and approved by the Bureau of Explosives before any tank is offered for transportation of nitrogen tetroxide.	(4) Written procedure covering details of tank car appurtenances, dome fittings, safety devices, marking, loading, handling, inspection, and testing practices must be examined by the Bureau of Explosives and approved by the Associate Director for OE before any tank car is offered for transportation of nitrogen tetroxide.
§ 173.366(a)(3).....	(3) In addition to specification containers prescribed in this section, arsenic (arsenic trioxide) or arsenic acid (solid) may be shipped when packed in portable, collapsible, rubber containers, not over 70 cubic feet capacity, of a type approved by the Bureau of Explosives. Authorized for carload or truckload shipments only.	(3) In addition to specification containers prescribed in this section, arsenic (arsenic trioxide) or arsenic acid (solid) may be shipped when packed in portable, collapsible, rubber containers, not over 70 cubic feet capacity, of a type examined by the Bureau of Explosives and approved by the Associate Director for OE. Authorized for carload or truckload shipments only.
§ 173.370(a)(13).....	(13) Bulk in strong, water-tight, metal portable containers of not over 70 cubic feet capacity each approved by the Bureau of Explosives.	(13) Bulk in strong, water-tight, metal portable containers of not over 70 cubic feet capacity each and approved by the Associate Director for OE.
§ 173.385(b).....	(b) These articles must not be assembled with or packed in the same compartment with mechanically or manually operated firing, igniting, bursting, or other functioning elements, unless of a type or design approved by the Bureau of Explosives.	(b) These articles must not be assembled with or packed in the same compartment with mechanically or manually operated firing, igniting, bursting, or other functioning elements, unless of a type or design examined by the Bureau of Explosives and approved by the Associate Director for OE.
§ 173.385(c).....	(c) Pending approval by the Department of regulations classifying the numerous devices within the general descriptions of this section, and providing appropriate restrictions to be observed in the transportation thereof, no shipment of packages containing articles under this section shall be made until samples thereof have been examined by the Bureau of Explosives or by other competent testing laboratory in the presence of representative of the Bureau of Explosives, and the shipment is shown to possess such resistance to shocks of transportation and protection against leakage of contents as are afforded by standard types of packages described in Part 178 of this chapter, and the packages are labeled or marked to show compliance with this Part.	(c) No shipment of packages containing articles under this section may be made until samples thereof have been examined by the Bureau of Explosives, or examined under their supervision, and approved by the Associate Director for OE.

[49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106]

Note.—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued at Washington, D.C., on November 13, 1979.

Alan L. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-36377 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-60-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Informal Action; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Informal Action of the Administrative Conference of the United States, to be held in Hearing Room B of the Interstate Commerce Commission, between 12th and 13th Streets on Constitution Avenue, N.W., Washington, D.C. This meeting will be held at 10:30 a.m. on December 13, 1979.

The purpose of this meeting is to discuss proposed new projects on agency permit issuance procedures, and other new business.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance of the meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information, contact Jeffrey Lubbers (202-254-7065). Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.

November 19, 1979.
[FR Doc. 79-36208 Filed 11-23-79; 8:45 am]
BILLING CODE 6110-01-M

Committee on Judicial Review; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United

States, to be held at 10:30 a.m., Thursday, December 13, 1979, in the fourth floor Conference Room of Covington and Burling, 888 16th Street, N.W., Washington, D.C.

The Committee will meet to discuss future projects.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance of the meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information, contact Linda Sedivec (202-254-7065). Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.

November 19, 1979.
[FR Doc. 79-36209 Filed 11-23-79; 8:45 am]
BILLING CODE 6110-01-M

Public Meeting of Assembly

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in Plenary Session on Thursday, December 13, 1979 at 1:45 p.m. and on Friday, December 14, 1979 at 9:45 a.m. in Hearing Room B of the Interstate Commerce Commission, 12th Street and Constitution Avenue, N.W., Washington, D.C.

The Conference will consider proposed recommendations on the following matters:

1. Appropriate restrictions on participation by a former agency official in matters before the agency.
2. Elimination of the presumption of validity of agency rules and regulations in judicial review, as exemplified by the Bumpers Amendment.
3. Hybrid rulemaking of the Federal Trade Commission—administration of

Federal Register

Vol. 44, No. 228

Monday, November 26, 1979

the program to reimburse participants' expenses.

In addition the Conference will consider a proposed resolution advocating an enhanced role for the Administrative Conference in procedural reform, proposed bylaw amendment on member attendance, and any new business.

Plenary Sessions of the Conference are open to the public. Further information on the meeting, including copies of proposed recommendations, may be obtained from the Office of the Chairman, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037, telephone (202) 254-7020.

Dated: November 20, 1979.

Richard K. Berg,
Executive Secretary.

[FR Doc. 79-36210 Filed 11-23-79; 8:45 a.m.]
BILLING CODE 6110-01-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice is hereby given that, during the week ended November 16, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
Nov. 13, 1979	37064	United Air Lines, Inc., P.O. Box 66100, Chicago, Illinois 60666. Application of United Air Line, Inc. pursuant to Section 401(e)(7)(B) of the Act and Part 302 of the Board's Rules of Practice request amendment of its Certificate of Public Convenience and Necessity for Routes 1 and 57 so as to remove the city pairs below from the list of restricted markets in Appendix A attached to United's Certificate. This would allow United to operate round trip nonstop service in the following markets: Dayton—Denver Dayton—Los Angeles Denver—Columbus Los Angeles—Columbus Richmond—Chicago Conforming answers and applications are due November 27, 1979.
Nov. 14, 1979	37064	USAir, Inc., Washington National Airport, Washington, D.C. 20001. Application of USAir, Inc. pursuant to Section 401 of the Act and Part 201 and Subpart Q of Part 302 of the Economic Regulations requests an amendment of its certificate of public convenience and necessity for Route 97-F so as to authorize USAir to engage in scheduled nonstop air transportation of persons, property and mail between Bermuda, on the one hand, and Baltimore, Maryland, Boston, Massachusetts, New York, New York, and Newark, New Jersey, by amending USAir's certificate for Route 97-F to include a new segment as follows: "Between the terminal point Bermuda, and the alternate terminal points Baltimore, Maryland, Boston, Massachusetts, New York, New York, and Newark, New Jersey." Conforming answers and applications are due December 11, 1979.
Nov. 15, 1979	37093	United Air Lines, Inc., P.O. Box 66100, Chicago, Illinois 60666. Application of United Air Lines, Inc. pursuant to Section 401 of the Act, Part 201 of the Board's Economic Regulations, and Part 302 of the Board's Rules of Practice requests under Subpart Q an amendment of its Certificate of Public Convenience and Necessity for Route 1 so as to authorize it to perform round trip nonstop air transportation between Chicago, Illinois and Phoenix, Arizona. Conforming answers and applications are due December 13, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-36333 Filed 11-23-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-11-125; Docket 37109]

Limitation of Excess Baggage Allowance in Certain Caribbean Markets Proposed by Eastern Air Lines, Inc.; Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of November, 1979

By tariff revisions¹ filed September 18 and marked to become effective November 17, 1979, Eastern Air Lines, Inc. (Eastern) proposes to revise its excess baggage allowance rule to provide that no more than one piece of excess baggage over the three permitted "free" will be accepted between the U.S. and Caribbean points, except Bermuda and the Bahamas. Currently, Eastern will accept any number of excess bags upon payment of \$24 per piece. According to Eastern, the purpose of the proposed revision is to discourage the tender of inordinate amounts of baggage in these markets.

A complaint requesting rejection or

¹Revisions to Tariff C.A.B. No. 55, issued by Air Tariffs Corp., Agent.

suspension pending investigation of this proposal has been filed by DHL Corporation (DHL), an air courier service. DHL states that: Eastern gives no indication of the markets in which the problems are acute, the number of flights on which there are problems, and the frequency or seasonality of problems and, consequently, the proposed solution may be too severe and generalized; while Eastern alleges that it recently had to charter flights to transport abnormal amounts of excess baggage, it does not indicate when "recently" was the number of such flights, or the number of days delay in delivering excess baggage, nor does the proponent state whether freight or mail was transported on the combination flights which could not accommodate all baggage; as recently as August 13, Eastern was permitted to increase excess baggage charges to \$24 per bag for each item in excess of the free baggage allowance, and, with no more than 30 days' experience, the carrier has decided that this charge is insufficient to discourage this traffic and that this embargo-like rule for year-round effect

is required; instead of providing in its justification the data and statistics necessary to justify this rule, Eastern recites that it is having problems and that the proposal is the solution; American's rule that no excess baggage will be accepted to certain Caribbean points between December 1 and 25 does not support Eastern's proposal since that rule is limited geographically and is of short duration; Eastern has failed to state the extent of the problem: such failure of proof deprives the Board of the information essential to determine whether Eastern has demonstrated the need for a rationing system different from its recent price increase and whether its proposal is reasonable.

In support of its proposal and in answer to the complaint, Eastern asserts, among other things, that: the proposed limitation is designed to alleviate baggage problems that it has continued to experience in its U.S.-Caribbean service; on flights departing for the Caribbean tremendous volumes of excess baggage are being loaded, often with some items left behind; recently it has had to charter flights merely to transport excess baggage that, due to space limitations, could not be carried on its regularly scheduled service; these charters have resulted in delays of up to a week in delivering baggage to the passenger and have resulted in additional costs; excess baggage on southbound flights normally consists of large amounts of household and other commercial goods purchased in the U.S., and are in fact, freight; the proposed limit is designed to have such items shipped as freight since any additional baggage over the maximum of four pieces could be shipped as freight; although Eastern was permitted to increase its excess baggage charges recently, the rate increase has not alleviated the problem; the concept of limiting excess baggage was initiated by American with its recent embargo in certain Caribbean markets; and Eastern has followed American's strategy, but has extended its applicability to the entire year since it believes the problem is a continuing one.

The Board finds that the prohibition of excess baggage proposed by Eastern may be unlawful and should be investigated.

We have decided not to suspend Eastern's proposal because we are generally reluctant to interfere with management decisions on matters like this where, as here, the markets are competitive. As the Board stated in connection with the recent Pan American and TWA passenger fare filings, "our efforts to regulate even [international] fares are characterized more by our caution in making sure that we allow the airlines enough flexibility to provide good service and earn an adequate return than by our ability to eliminate all abuse of monopoly power." Order 79-9-75, p. 5.

We are, however, instituting an investigation because we are particularly concerned with the impact of the proposal on the traveling public and want to explore whether there are other alternatives which may meet Eastern's concerns but which will also alleviate the effect which this proposal would appear to have on the traveling public. In the meantime, we are concerned that this rule will disrupt the passengers' anticipated travel plans, particularly at this time of year. We direct Eastern to make every effort to inform passengers of this restriction at the time they make their reservations. It is our intent that these provisions be applied with the least amount of inconvenience as possible to the passenger.²

Accordingly,

1. We institute an investigation to determine whether the provisions set forth in Appendix A hereof, and rules and regulations or practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful; and if we find them to be unlawful, to act appropriately to prevent the use of such provisions or rules, regulations, or practices;

2. We shall defer dismissal of the complaint of DHL Corporation in Docket 36741 pending investigation; and

3. We shall serve copies of this order upon Eastern Air Lines, Inc. and DHL Corporation.

² We would hope that the various alternatives can be explored by our staff and the parties on an informal basis. We have asked our staff to complete this process in the next two weeks and to report back to us.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.³

Phyllis T. Kaylor,
Secretary.

Appendix A—Passenger Rules Tariff No. PR-3, C.A.B. No. 55, Issued by Air Tariffs Corporation, Agent

On 19th Revised Page 46-0, Rule No. 16(X)(1)(d).

[FR Doc. 79-36335 Filed 11-23-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 37109]

Limitation of Excess Baggage Allowance Proposed By Eastern Air Lines, Inc., In Certain Caribbean Markets; Conference

Pursuant to Board Order 79-11-125, notice is hereby given that a conference in the above-entitled proceeding will be held on November 28, 1979, at 10:00 a.m., in Room 1003C (North Building), 1875 Connecticut Avenue, N.W., Washington, D.C., for the purpose of exploring "alternatives which may meet Eastern's concerns but which will also alleviate the effect which" Eastern's "proposal would appear to have on the traveling public." Copies of this notice shall be served on the parties named in Order 79-11-125, November 18, 1979. All interested persons are invited to attend.

Phyllis T. Kaylor,
Secretary.

November 20, 1979.

[FR Doc. 79-36332 Filed 11-23-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 33363]

Former Large Irregular Air Service Investigation; Continuance of Hearings

The hearings heretofore set for 20 November 1979 on the application of Joseph S. Norman II and for 27 November 1979 on the application of Lone Star Airways, Inc., are continued at the same time and place as follows: Lone Star Airways, February 5, 1980, Joseph S. Norman II, February 11, 1980.

Dated at Washington, D.C., 19 November 1979.

Rudolf Sobernheim,
Administrative Law Judge.

[FR Doc. 79-36330 Filed 11-23-79; 8:45 am]

BILLING CODE 6320-01-M

³ All members concurred.

[Order 79-11-123; Docket 37106]

Oklahoma City/Tulsa Service Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-11-123, Oklahoma City/Tulsa Service Show-Cause Proceeding, Docket 37106.

SUMMARY: The Board is proposing to grant nonstop authority between the alternate terminal points Oklahoma City and Tulsa, on the one hand, and the alternate terminal points Atlanta, Chicago (O'Hare), Chicago (Midway), Rockford, Los Angeles, San Diego, San Francisco, Memphis, Phoenix, Tucson and St. Louis, on the other, to Continental Air Lines (Docket 36402), USAir (Docket 36583) and Ozark Air Lines (Docket 36610); nonstop authority between the alternate terminal points Oklahoma City and Tulsa, on the one hand, and the alternate terminal points Memphis, St. Louis, Kansas City, Chicago (O'Hare), Chicago (Midway), Rockford, Atlanta, Tucson, Phoenix, San Diego, Los Angeles, San Francisco, Houston, Denver, Salt Lake City and Las Vegas, on the other, to Western Air Lines (Docket 36584); and nonstop authority between the alternate terminal points Oklahoma City and Tulsa, on the one hand, and the alternate terminal points Chicago (O'Hare), Chicago (Midway), Rockford, Memphis, Phoenix, St. Louis and Tucson, on the other, to Southwest Airlines (Docket 36597), and any other fit, willing and able applicant whose fitness can be established by officially noticeable material. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by December 20, 1979, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon parties listed below.

ADDITIONAL DATA: All existing and further applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) estimates of fuel to be consumed in the first year and statements of fuel availability are directed to do so no later than December 5, 1979.

ADDRESSES: Objections to issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 37106, which we have entitled the *Oklahoma City/Tulsa Service Show-Cause Proceeding*.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5384.

SUPPLEMENTARY INFORMATION: Objections should be served upon: Continental Air Lines, Ozark Air Lines, Southwest Airlines, USAir and Western Air Lines; the governors and state commissioners or Departments of Transportation of the states of Georgia, Illinois, Colorado, Texas, Missouri, Nevada, California, Tennessee, Arizona, Utah and Oklahoma; and the mayors and airport managers of the cities of Atlanta, Chicago, Rockford, Denver, Houston, Kansas City, Las Vegas, Los Angeles, Memphis, Oklahoma City, Phoenix, St. Louis, Salt Lake City, San Diego, San Francisco, Tulsa and Tucson.

The complete text of Order 79-11-123 is available from our Distribution Section, Room 518, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a post-card request for Order 79-11-123 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Bureau of Domestic Aviation,
November 18, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-36334 Filed 11-23-79; 8:45 am]
BILLING CODE 6320-01-M

[Docket 37077]

United States-Peru Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter will be held on December 11, 1979, at 9:30 a.m. (local time) in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

Civil Aeronautics Board Order 79-11-89 served on November 19, 1979 contained as an appendix the Bureau of International Aviation's request for information and evidence in this proceeding. In accordance with the Board's order comments of the other parties on the Bureau's request shall be circulated on or before December 4, 1979. The submissions of the other parties shall be limited to points on which they differ with the Bureau of International Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., November 20, 1979.
 William A. Kane, Jr.,
Administrative Law Judge.
 [FR Doc. 79-36329 Filed 11-23-79; 8:45 am]
 BILLING CODE 6320-01-M

[Docket 37077]

United States-Peru Case; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., November 19, 1979.

Joseph J. Saunders,
Chief, Administrative Law Judge.

[FR Doc. 79-36331 Filed 11-23-79; 8:45 am]
 BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE Industry and Trade Administration

Duke University et al.; Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before December 17, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666-11th Street N.W., Washington, D.C.

Docket No. 79-00455. Applicant: Duke University, Durham, North Carolina 27706. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: The article is intended to be used for studies of primary spermatocytes of the grasshopper and chromatin isolated from sea urchin cells. Investigations will be conducted to determine whether kinetochore microtubules arise by nucleation or by binding. The

arrangement of kinetochore microtubules immediately after their appearance and during their earliest interactions with the rest of the spindle will also be investigated. Application received by Commissioner of Customs: October 15, 1979.

Docket No. 79-00456. Applicant: Sandia Laboratories, Sandia Corporation, P.O. Box 5800, Albuquerque, New Mexico 87185. Article: Thermoelectric Generator System. Manufacturer: Global Thermoelectric Power Systems Ltd., Canada. Intended use of article: The Article is intended to be used in a prototype National Seismic Station (NSS) an unmanned remote seismic station that collects seismic data and relays it through a satellite to a central control and receiving station. The article will provide the power necessary to operate the seismometers, transmitter and associated electronics. The primary intent of the program is to develop an extremely reliable station that can operate unmanned with only annual refueling and maintenance. Application received by Commissioner of Customs: October 18, 1979.

Docket No. 79-00457. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, Arizona 85705. Article: Two (2) each, Varian VAT-2002 B14 Water Cooled Heat Sink; and Varian VAB-2001 B13 Water Cooled Heat Sink. Manufacturer: Varian Associates Canada, Ltd. Canada. Intended use of article: The articles are accessories to existing klystron systems which are being used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver that is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: October 18, 1979.

Docket No. 79-00458. Applicant: National Radio Astronomy Observatory, Associated Universities Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, Arizona 85705. Article: Repair of Varian Klystron Type VRB-2112A) SN 70299. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article will be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver which is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: October 18, 1979.

Docket No. 79-00459. Applicant: National Radio Astronomy Observatory, Associated Universities Inc., 2010 N.

Forbes Blvd., Suite 100, Tucson, Arizona 85705. Article: Klystron, Model VRT-2124B and Accessories. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article will be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver which is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: October 18, 1979.

Docket No. 79-00460. Applicant: The University of Texas at Austin, Electric Engineering Research Laboratory, 10100 Burnet Road, Austin, Texas 78758. Article: Millimeter Reflex Klystron. Manufacturer: Varian Associates of Canada, Canada. Intended use of article: The article will be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver which is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: October 18, 1979.

Docket No. 79-00461. Applicant: University of California, Department of Chemistry, Santa Barbara, California 93106. Article: MMZAB 2F High Resolution Mass Spectrometer. Manufacturer: The Vacuum Generators Micromass Co., United Kingdom. Intended use of article: The article is intended to be used for a variety of purposes including (1) analytical applications to allow compound identification, (2) determination of ion structure, (3) measurement of kinetic energy release, (4) properties of reaction coordinates and structures of products of ion molecule reactions, (5) mixture analysis without prior separation, and (6) analytical application of chemical ionization. The experiments to be conducted will include the following projects: 1. Reaction mechanism and details of potential surfaces along the reaction path. 2. Determination of ion structures. 3. Ion Energy Distributions. 4. Production Identification. Application received by Commissioner of Customs: October 18, 1979.

Docket No. 79-00463. Applicant: Texas A & M University—Texas Veterinary Medical Diag. Lab., P.O. Drawer 3040, College Station, Texas 77840. Article: Electron Microscope, Model EM-109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of ultrastructure of viruses and cellular changes caused by animal viruses.

Experiments to be conducted which will involve obtaining specimens from animals suspected of being affected with a viral disease, identifying viruses directly by negative staining, and studying their pathogenesis at the cellular level in vivo as well as in vitro experiments. The article will also be used to instruct residents, staff and graduate students in electron microscopy. Application received by Commissioner of Customs: October 18, 1979.

Docket No. 79-00464. Applicant: Department of the Interior, U.S. Geological Survey, Topographic Division, 12201 Sunrise Valley Drive, National Center, (#528) Reston, Virginia 22092. Article: Stereoplotting Systems with Accessories, Model PG2. Manufacturer: Kern and Co., Ltd., Switzerland. Intended use of Article: The article is intended to be used for studies of aerial photographs of the earth's surface used in stereopairs which permit accurate measurement of the earth's features thus permitting compilation of data which may be combined to produce accurate topographic maps. Application received by Commissioner of Customs: October 18, 1979.

Docket No. 80-00002. Applicant: Harvard Medical School, Purchasing Department, 75 Mount Auburn Street, Cambridge, Massachusetts 02138. Manufacturer: Varian MAT, West Germany. Intended use of article: The article is intended to be used for biomedical research of the interplay of cells with their environment. In pursuing this research, it will be necessary to relate the pathophysiological consequences to known modifications of the interacting compound, i.e. the carbohydrate and glycoconjugate structures, on biosurfaces. Specific projects will include investigations of the following: 1. Heparin Structure 2. Metabolism and function of membrane derived oligosaccharides 3. Glycoconjugate studies 4. Structural studies of lipid-linked oligosaccharides 5. Development studies in Glycoconjugate Analysis. Application received by Commissioner of Customs: October 18, 1979.

Docket No. 80-00003. Applicant: University of Wisconsin-Madison Department of Physics, 1150 University Avenue, Madison, Wisconsin 53706. Article: ANAC Model 2976 Crossfield Spin Precessor and Accessories. Manufacturer: ANAC Incorporated, New Zealand. Intended use of article: The article is intended to be used for the study of the nuclei of atoms throughout the periodic table involving the effect of

proton or deuteron polarization on the scattering process. The experiments to be conducted will involve the acceleration of a beam of polarized hydrogen ions to the energies where nuclear phenomena are important. Observations will be concerned with the number and type of interactions that occur as a function of the polarization state and scattering angle. In addition, the article will be used in connection with Physics Department Course No. 990, Graduate Research. Application received by Commissioner of Customs: October 18, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)
 Richard M. Seppa,
Director, Statutory Import Programs Staff.
 [FR Doc. 79-36228 Filed 11-23-79; 8:45 am]
 BILLING CODE 3510-25-M

The George Washington University; Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301.).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79-00335. Applicant: The George Washington University, Washington, D.C. 20052. Article: Mobile Solar Test Facility. Manufacturer: Solarfin Products, Canada. Intended use of article: The article is intended to be used for educational purposes in the courses: ME 194—Energy Conversion, Undergraduate Mechanical Engineering—designed to provide the students engineering information on fundamentals and design of energy conversion systems including the solar energy applications. ME 259—Solar Heating and Cooling System; Graduate Mechanical Engineering—dealing with the application of solar energy for heating and cooling of buildings.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article permits demonstration of a variety of collector

principles (utilizing several different collectors with different absorption rates). The National Bureau of Standards advises in its memorandum dated October 19, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)
 Richard M. Seppa,
Director, Statutory Import Programs Staff.
 [FR Doc. 79-36224 Filed 11-23-79; 8:45 a.m.]
 BILLING CODE 3510-25-M

Moody College of Marine Sciences; Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, NW. (Room 735) Washington, D.C.

Docket Number: 79-00299. Applicant: Moody College of Marine Sciences of Texas A&M University, Pelican Island, Galveston, Texas 77553. Article: Nuclear Magnetic Resonance Spectrometer, Model PS-400 and Accessories. Manufacturer: Spin Tech Electronics Ltd., Canada. Intended use of article: The article is intended to be used in conjunction with a magnetic system to measure proton relaxation times T₁ and T₂ in a variety of samples including plant and animal tissues, marine sediments and hydrated minerals. The relaxation times will provide detailed information about the nature of the interactions between the protons of the water molecules and the molecular surfaces of the various samples, and in addition they will provide a measure of the restrictions imposed on the translation and rotational mobility of the water molecules themselves.

Temperature studies will be conducted on the depression of the

freezing point of water in the various samples. Polymerization and denaturation process in various protein solutions will also be studied with the apparatus since the relaxation times are quite sensitive to the conformational changes in the protein substrate accompanying these processes. In addition, the article will be used in at least two courses: Marine Science 485 (Special Research Problems in Marine Science) and Marine 489 (Special Topics in Electrical and Physical Measurements for the Marine Sciences).

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a portable 30 megahertz instrument that provides a wide multipulse capability (for example, for T_1 , T_2 , $T_1\rho$, $T_2\rho$, etc.). Comparable domestic instruments, such as the Praxis PR-103 manufactured by the Praxis Corporation, do not provide this capability. The National Bureau of Standards and the Department of Health, Education, and Welfare advises in their memoranda dated October 14, 1979 and September 18, 1979

respectively that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no comparable domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other comparable instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105 Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-36225 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-25-M

New Mexico Institute of Mining & Technology; Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897)

and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79-00354. Applicant: New Mexico Institute of Mining and Technology, Campus Station, Socorro, NM 87801. Article: TH 600 Fluid Inclusion Heating Stage and Control Unit. Manufacturer: Linkam Scientific Instruments, United Kingdom. Intended use of Article: The article will be used for microscopic study of fluid inclusions which may yield the temperature of the mineral depositing fluids, the pressure (or depth) at which deposition occurred and some knowledge of the chemistry of depositing fluids. Fluid inclusions studies will also be used to study hydrothermal ore deposits and metamorphic rocks to determine temperature and pressure during metamorphism. The foreign article will also be used for the education of graduate students in ore deposits in their thesis research.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article permits the study of a specimen at temperatures between -80 and 600 degrees centigrade with its combined heating and cooling capability. The National Bureau of Standards advises in its memorandum dated October 22, 1979 that (1) the capability of the foreign article described no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-36226 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-25-M

University of California; Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket Number: 79-00365.

APPLICANT: University of California, San Diego, Marine Life Research Group, Scripps Institution of Oceanography, T-6, SIO, A028, La Jolla, CA 92093. Article: 8 (each) Deep Ocean Command Releases, 30 (each) Pyro Technical Releases and Accessories. Manufacturer: Institute of Oceanographic Sciences, United Kingdom. Intended use of article: The article is intended to be used for the study of particulate sediment as an index to the chemical and biological conditions of the ocean. Experiments are conducted to achieve the objectives of seasonal collection of particles, the analysis of these particles in terms of their chemical and biologic constituents to more standard oceanographic measurement parameters such as temperature, nutrients, current flow, productivity and net filter samples.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a dual release system that provides for system release and sample closure functions by command of one acoustic system. The National Oceanic and Atmospheric Administration advises in its memorandum dated October 23, 1979 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-36227 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, December 18, 1979, at 9:30 a.m. in Room B841, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 18, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The subcommittee meeting agenda has four parts:

- (1) Opening remarks by the Subcommittee Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Pending items of business:
 - a. Swiss Blue Certificate
 - b. Technical Data rewrite
 - c. Qualified License concept
- (4) Pre-licensing evaluation of equipment; formulation of Subcommittee recommendation and
- (5) Discussion of improved method and format for submitting export license applications.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: November 19, 1979.

Kent Knowles,
Director, Office of Export Administration,
Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-36379 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-25-M

Maritime Administration

(Docket No. S-655)

Application

Notice is hereby given that Waterman Steamship Corporation (Waterman), by letter dated May 11, 1979, has advised that it continues to seek and desires the award of operating-differential subsidy (ODS) for service on Trade Routes (TRs) 5-7-8-9 (U.S. North Atlantic/United Kingdom and Continental Europe) as described in its application of June 18, 1975, for a twenty-year ODS Agreement pursuant to Title VI (48 USC 1171-1183) of the Merchant Marine Act, 1936, as amended (the Act). Waterman's June 18, 1975 application was previously noticed in the Federal Register on July 11, 1975 (40 FR 29315) under Docket No. S-455 and was consolidated for hearing with another Waterman application in Docket No. S-421. In a decision served

on September 5, 1978, the Maritime Subsidy Board concluded, *inter alia*, that section 605(c) of the Act was a bar to the award of ODS to Waterman for service on TRs 5-7-8-9.

On June 18, 1979, Waterman filed a motion for partial summary disposition of issues arising under section 605(c) of the Act in connection with its June 18, 1975 application for ODS for service on TRs 5-7-8-9. Waterman states that the inadequacy of U.S.-flag service on TRs 5-7-8-9 has recently been established in Docket No. S-610, relating to the application for ODS by Farrell Lines Incorporated, therefore no material factual issues exists with respect to the present and future inadequacy of U.S.-flag service on TRs 5-7-8-9 and no evidentiary hearing is required. Waterman requests that the Board make the necessary "adequacy" determination under section 605(c) of the Act with respect to Waterman's pending ODS application for service on TRs 5-7-8-9. On November 7, 1979, Waterman filed a request for expedited consideration of its motion for partial summary disposition.

Waterman's submissions will be considered as a new application for ODS on TRs 5-7-8-9. Interested parties may inspect Waterman's submissions in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th & E Streets, N.W., Washington, DC 20230.

Any person, firm or corporation having an interest in such application and who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit such views and comments in writing, with 15 copies, to the Secretary, Maritime Subsidy Board, by the close of business on December 20, 1979. The Maritime Subsidy Board will consider such views and comments and take such actions with respect thereto and with respect to Waterman's motion as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating Differential Subsidy (ODS)).

By Order of the Maritime Subsidy Board.

Dated: November 20, 1979.

Robert J. Patton, Jr.,
Secretary.

[FR Doc. 79-36378 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-15-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 12 month period beginning February 1, 1980 in the State of Delaware. The cost of the project is estimated to be \$35,000 and the Project Number is 03-10-55170-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to provide, at no cost to the public, direct general business services to minority individuals and firms seeking business information, counseling, financial packaging assistance, and assistance in identifying and exploiting business opportunities in new and/or expanded markets.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Washington Regional Office, 1730 K Street, N.W., Suite 402, Washington, D.C. 20006.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local Government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit.

If an application is approved, an initial award will be made for a period

specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of December 21, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: November 9, 1979.

Allan A. Stephenson,
Deputy Director.

[FR Doc. 79-36347 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 12 month period beginning February 1, 1980 in the State of Minnesota.

The cost of the project is estimated to be \$134,000 and the Project Number is 05-60-01056-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to establish a capability for the collection and dissemination of business information; establish a capability to promote increased investment and private sector participation in minority business enterprise development; promote the adoption and implementation of corporate policies that will encourage the purchase of goods and services from minority owned companies; and participate in and support programs that will increase the level of Federal, State and local Government purchases from minority companies.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may either be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency,

Chicago Regional Office, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian Tribal Unit, educational institution, hospital, other type of nonprofit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking.

The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit.

If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of December 21, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: November 20, 1979.

Allan A. Stephenson,
Deputy Director.

[FR Doc. 79-38348 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA) formerly the Office of Minority Business Enterprise (OMBE), announces that it is seeking applications under its program to operate one project for a 12 month period beginning February 1, 1980 in the State of Ohio. The cost of the project is estimated to be \$395,500 and the Project Number is 05-60-00816-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects

which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to establish a capability for the collection and dissemination of business information; establish a capability to promote increased investment and private sector participation in minority business enterprise development; promote the adoption and implementation of corporate policies that will encourage the purchase of goods and services from minority owned companies; and participate in and support programs that will increase the level of Federal, State, and local Government purchases from minority companies.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit. If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of December 21, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance)

Dated: November 20, 1979.

Allan A. Stephenson,
Deputy Director.

[FR Doc. 79-36349 Filed 11-23-79; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 12 month period beginning February 1, 1980 in the State of Ohio. The cost of the project is estimated to be \$395,500 and the Project is 05-60-00635-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to provide the collection and dissemination of business information; business packaging; management services and technical assistance; mobilization of private sector involvement; participation and support of programs that will increase the level of Federal, State, and local Government purchases from minority companies; promotion, adoption and implementation of corporate policies that will encourage the purchase of goods and services from minority-owned companies.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603. In requesting an application kit, the applicant must specify its profit status (i.e., a State or local Government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked

as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit. If an application kit is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of December 21, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: November 20, 1979.

Allan A. Stephenson,
Deputy Director.

[FR Doc. 79-36350 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one project for a 12 month period beginning February 1, 1980 in the City of Philadelphia, Pennsylvania.

The cost of the project is estimated to be \$675,000 and the Project Number is 03-10-55110-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to provide general business services, and other related business services, of a business development center to the private sector. Such services include loan packaging, management and technical assistance, marketing advice, procurement opportunities, and construction contractor's assistance.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may either be

requested by writing to the following address: U.S. Department of Commerce,

Program Description: Executive Order

Dated: November 20, 1979.

instructions in the application kit will be

Development Agency, Washington

management assistance to minority

requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Washington Regional Office, 1730 "K" Street, N.W., Suite 402, Washington, D.C. 20006.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local Government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit. If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of December 21, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)
Dated: November 20, 1979.

Allan A. Stephenson,
Deputy Director.

[FR Doc. 79-36351 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA) (formerly the Office of Minority Business Enterprise) announces that it is seeking applications under its program to operate one project for a 10 month period beginning February 1, 1980 in the city of Pittsburgh, Pennsylvania. The cost of the project is estimated to be \$356,889 and the Project Number is 03-10-55120-00.

Funding Instrument: It is anticipated that the funding instrument, as designed by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to provide the general business services, of a business development center to the private sector. Such services include loan packaging, management and technical assistance, marketing advice, procurement opportunities, and construction contractor's assistance.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may either be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Program Support Staff, Room 5713, Box FR 9, 14th & Constitution Avenue, N.W., Washington, D.C. 20230 or by calling (202) 377-1714.

In requesting an application kit, specify the profit status of the applicant (i.e., a State or local Government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach, and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit. If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of December 21, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)

Dated: November 20, 1979.
Allan A. Stephenson,
Deputy Director.
[FR Doc. 79-36352 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise (OMBE), announces that it is seeking application under its program to operate one project for a 12 month period beginning in February 1, 1980 in Region I and II in the States of New York, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, Connecticut, Vermont, Puerto Rico, and the Virgin Islands. The cost of the project is estimated to be \$300,000. The Project Number is 02-20-7000-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to provide feasibility studies in all disciplines on an as needed basis. The recipient will be required to evaluate clients so as to determine the feasibility of further in-depth studies and expenditures for specific projects as the need arises. Recipients must also demonstrate the ability to contract specialized projects with proper consultants for final studies of excellence.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may either be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, New York Regional Office, 26 Federal Plaza, Room 3707, New York, New York 10007 or by telephoning (212) 264-2097.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local Government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the

instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit.

If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of December 21, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)
Dated: November 19, 1979.

Allan A. Stephenson,
Deputy Director.

[FR Doc. 79-36353 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise (OMBE), announces that it is seeking applications under its program to operate one project for a 12 month period beginning February 1, 1980 in the State of West Virginia.

The cost of the project is estimated to be \$30,000. The Project Number is 03-10-55160-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to provide a Financial Services Component in the State of West Virginia.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Applications Materials: An application kit for each of the projects may be requested by writing to the following address: U.S. Department of Commerce, Minority Business

Development Agency, Washington Regional Office, Suite 420, 1730 K Street, N.W., Washington, D.C. 20006.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local Government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit.

If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of December 21, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)
Dated: November 20, 1979.

Allan A. Stephenson,
Deputy Director.

[FR Doc. 79-36354 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise (OMBE), announces that it is seeking applications under its program to operate one project for a 12-month period beginning February 1, 1980 in the State of Georgia. The cost of the project is estimated to be \$500,000. The Project Number is 04-60-30450-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and

management assistance to minority business enterprises. This proposed project is specifically designed to mobilize and apply educational and business information; develop procurement opportunities; develop financial, technical, management, and marketing resources of the private, federal, State, and local sectors on behalf of the minority business community, in general, and their client portfolio, specifically. Provide management services and technical assistance to upgrade the construction marketing and performance skills among minority contractors in the areas of cost accounting, estimating, bidding, bonding, and construction management.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may either be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Atlanta Regional Office, 1371 Peachtree Street, N.E., Suite 505, Atlanta, Georgia 30309.

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local Government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of non-profit organization, or if the applicant is a for-profit firm). This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit.

If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of December 21, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance)
Allan A. Stephenson,
Deputy Director.
[FR Doc. 79-36223 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Permit

On September 5, 1979, Notice was published in the Federal Register (44 FR 51836), that an application had been filed with the National Marine Fisheries Service by Dr. Jennifer Buchwald, Department of Physiology, University of California-Los Angeles, Los Angeles, California 90024 to take by marking sixty (60) Northern elephant seals (*Miroango angustirostris*) for the purpose of scientific research.

Notice is hereby given that on October 16, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to Dr. Jennifer Buchwald, subject to certain conditions set forth therein.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: October 16, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36358 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-22-M

New England Fishery Management Council's Scientific and Statistical Committee; Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), has established a Scientific and Statistical Committee (SSC), which will meet to discuss: Sea Scallop Fishery Management Plan (FMP), Logbooks, Icelandic Fishery Management, Lobster FMP development, and other Council business.

DATES: The meeting will convene on Wednesday, December 12, 1979, at 10 a.m. and adjourn at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Holiday Inn, Peabody, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts, Telephone: (617) 535-5450.

Dated: November 20, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36380 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-22-M

South Atlantic Fishery Management Council's Scientific and Statistical Committee; Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), has established a Scientific and Statistical Committee (SSC) which will meet to: (1) Review the Billfish Fishery Management Plan (FMP); (2) Review the Mackerel Fall Out Study; (3) Discuss the Optimum Yield (OY) concept; (4) Discuss performance monitoring; and (5) Discuss other management business.

DATES: The meeting will convene on Monday, December 17, 1979, at 2 p.m. and will adjourn on Tuesday, December 18, 1979, at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at Council Headquarters, 1 Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571-4366.

Dated: November 20, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36381 Filed 11-23-79; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-483, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, January 8, 1980; Tuesday, January 15, 1980; Tuesday, January 22, 1980; and Tuesday, January 29, 1980 at 10:00 a.m. in Room 3D-325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-483, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency." (5 U.S.C. 552, (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage

Committee, Room 3D-281, The Pentagon, Washington, D.C.

Dated: November 20, 1979.

H. B. Lofdahl,
Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

[FR Doc. 79-36265 Filed 11-23-79; 8:45 a.m.]
BILLING CODE 3810-70-M

Modification of Procedures Regarding Review of Decisional Documents Issued by the Army, Navy, and Air Force Discharge Review Boards; Correction

In FR Doc 79-33781 appearing on page 62929 in the issue for Thursday, November 1, 1979, third column, paragraph 7, line 13, insert the following after "....." by the JSRA: "No member may participate in any action" concerning a case with.....

The above line was inadvertently omitted from the manuscript.

H. E. Lofdahl,
Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

November 19, 1979.

[FR Doc. 79-36266 Filed 11-23-79; 8:45 a.m.]
BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

[DOE-EIS-0060]

Availability of Draft Environmental Statement for Proposed Fiscal Year 1981 Program

Notice is hereby given that the Bonneville Power Administration (BPA), Department of Energy (DOE), has issued a Draft Environmental Impact Statement (DEIS) on BPA's Proposed Fiscal Year 1981 Program (DOE/EIS 0060). This DEIS assesses the generic and cumulative impacts expected from the construction and maintenance programs proposed by BPA for FY 1981. Site specific impacts of major components of the program are discussed in facility location supplements, included in the DEIS as a facility evaluation appendix.

Copies of the DEIS are available for public inspection at designated Federal depositories (for location, contact the Environmental Manager, BPA, P.O. Box 3621, Portland, Oregon 97208) and at DOE public document rooms located at:

Library, FOI—Public Reading Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C.

BPA, Washington, D.C., Office, Federal Building, Room 3352, 12th & Pennsylvania Avenue NW., Washington, D.C.

Library, BPA Headquarters, 1002 NE Holladay Street, Portland, Oregon
And in the following BPA Area and District Offices:

Eugene District Office, U.S. Federal Building, 211 East 7th Street, Room 206, Eugene, Oregon

Idaho Falls District Office, 531 Lomax Street, Idaho Falls, Idaho

Kalispell District Office, Highway 2 (East of Kalispell), Kalispell, Montana

Portland Area Office, 919 NE 19th Avenue, Room 201, Portland, Oregon

Seattle Area Office, 415 First Avenue

North, Room 250, Seattle, Washington

Spokane Area Office, U.S. Court House, Room 561, W. 820 Riverside Avenue, Spokane, Washington

Walla Walla Area Office, West 101 Poplar, Walla Walla, Washington

Wenatchee District Office, U.S. Federal Building, Room 314, 301 Yakima Street, Wenatchee, Washington

This document is being furnished to various Federal, State, and local agencies with environmental expertise, or which are otherwise likely to be interested in, or affected by, the proposed program. Copies of the document are also being furnished to State and local clearinghouses and to other interested groups and individuals.

A limited number of single copies are available for distribution by contacting the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, or the BPA Area and District Offices mentioned above.

Dated at Portland, Oregon, this 19th day of October 1979.

Ray Foleen,

Acting Administrator.

[FR Doc. 79-36341 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Airport Texaco, Miami, Fla.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Airport Texaco, 2721 NW 42nd Avenue, Miami, Florida, 33142, on September 24, 1979.

This Proposed Remedial Order charges Airport Texaco with selling two grades of gasoline in excess of the maximum lawful selling price in violation of 10 CFR 212.93. It was determined that Airport Texaco violated the Federal Energy Pricing Guidelines by selling above the maximum lawful selling price in the amounts of 11.3¢ per gallon for Regular Leaded and 11.5¢ per gallon for Regular Unleaded. Additionally, Airport Texaco failed to

properly post the maximum lawful selling price for each grade of gasoline as required by 10 CFR 212.129.

Pursuant to 10 CFR 205.192, Airport Texaco is required by the Proposed Remedial Order to rollback its prices at the pump to effect a refund of \$1,178.40 in overcharges to its customers.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia, 30309, Phone: (404) 881-2661. On or before December 11, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C., 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Ga., on the 14th day of November 1979.

James C. Easterday,

District Manager.

[FR Doc. 79-36244 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

Ancora-Citronelle Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order (PRO) which was issued to Ancora-Citronelle Corporation, 332 Pine Street, Suite 508, San Francisco, California, on November 2, 1979. This PRO charges Ancora-Citronelle Corporation with pricing violations in the amount of \$861,497.13 connected with the sale of crude oil during the period September 1, 1973, through March 18, 1975, in the State of Mississippi.

A copy of the November 2, 1979, PRO, with confidential information deleted, may be obtained from James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia, 30309, Phone: (404) 881-2661. On or before December 11, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C., 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Ga., on the 14th day of November, 1979.

James C. Easterday,

District Manager of Enforcement, Southeast District.

[FR Doc. 79-36250 Filed 11-23-79; 8:45 a.m.]

BILLING CODE 6450-01-M

B. A. Wales, d.b.a. J&C Drilling Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: July 25, 1979.

COMMENTS BY: On or before December 26, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On July 25, 1979, the Office of Enforcement of the ERA executed a Consent Order B. A. Wales dba J&C Drilling Company of Corpus Christi, Texas. Under 10 CFR 205.199(j)(b), the Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

B. A. Wales, with its office located in Corpus Christi, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and B. A. Wales, entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through May 31, 1978, and it included all sales of crude oil which were made during that period.
2. B. A. Wales allegedly improperly applied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart

D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and B. A. Wales have agreed to a settlement in the amount of \$350,000. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and B. A. Wales.

4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, B. A. Wales agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of \$350,000 in accordance with the provisions set forth in Payment Schedule as outlined below:

Date	Lease	Minimum amount to be paid to the U.S. Treasury each quarter
Sept. 1, 1979...	H. M. Roark...	\$25,000
Dec. 1, 1979...	H. M. Roark...	25,000
March 1, 1980...	H. M. Roark...	25,000
June 1, 1980...	H. M. Roark...	55,000
Sept. 1, 1980...	H. M. Roark...	55,000
Dec. 1, 1980...	H. M. Roark...	55,000
March 1, 1981...	H. M. Roark...	55,000
June 1, 1981...	H. M. Roark...	55,000
Total.....		350,000

Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to

subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on B. A. Wales Consent Order." We will consider all comments we received by 4:30 p.m., local time, on December 26, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 15th day of November 1979.

Wayne I. Tucker,
District Manager, Southwest District
Enforcement, Economic Regulatory
Administration.

[FR Doc. 79-36252; Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

Chana's Auto Service Center; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Chana's Auto Service Center, 240 North Virgil Ave., Los Angeles, California 90004. This proposed Remedial Order charges Chana's Auto Service Center with pricing violations in the amount of \$1,811.02, connected with the resale of Motor gasoline during the period August 1, 1979 through September 29, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone (415) 556-7200. On or before December 11, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearing and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR § 205.193.

Issued in Washington, D.C. on the 16th day of November 1979.

Robert D. Gerring,
Director, Program Operation Division.

[FR Doc. 79-36248 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

Charles M. Bryant; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Charles M. Bryant, Chuck Bryant's Chevron Service, 11403 East Whittier Blvd., Whittier, CA 90601. This proposed Remedial Order Charges Charles Bryant, Chuck Bryant Chevron with pricing violations in the amount of \$1,027.36, connected with the resale of Motor gasoline during the period August 1, 1979 through September 27, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone (415) 556-7200. On or before December 11, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearing and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 16th day of November 1979.

Robert D. Gerring,
Director, Program Operation Division.
[FR Doc. 79-36245 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

Cosby Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: September 10, 1979. Comments by: December 26, 1979.

ADDRESS: Send comments to: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111. Phone: (415) 556-7200.

SUPPLEMENTARY INFORMATION: On September 10, 1979, the Office of Enforcement of the ERA executed a Consent Order with Cosby Oil Company of Whittier, California. Under 10 CFR 205.199(j)(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. Consent Order

Cosby Oil Company, with its home office in Whittier, California, is a firm engaged in the purchase and resale of motor gasoline and is subject to the Mandatory Petroleum Price and Allocation Regulation at 10 CFR, Parts 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and Cosby Oil Company entered into a Consent Order to resolve certain actions which could be brought by ERA as a result of its audit of the motor gasoline products sold by Cosby Oil Company. This Consent Order only settles those matters relative to DOE's audit of Cosby

Oil Company doing business as a reseller of motor gasoline.

The significant terms of the Consent Order with Cosby Oil Company are as follows:

1. The period covered by the audit was November 1, 1973 through April 30, 1974.

2. DOE alleges that Cosby Oil Company charges prices for motor gasoline liquid products in excess of the maximum allowable to its customers in violation of the DOE regulations in 10 CFR 212.93 and predecessor regulations.

3. Cosby Oil Company does not admit to any violation of the DOE regulations. Cosby Oil Company agrees to refund to the DOE the sum of \$47,616.73, including interest. This amount will be refunded on or before September 10, 1979.

4. The provision of 10 CFR 205.199] are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

1. Refunded overcharges as described in I. 3 above will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 C.F.R. 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 C.F.R. 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 C.F.R. 205.199(a).

2. Refunded overcharges as determined in accordance with I. 3c. above will be distributed either: (a) in the manner described in II.1. where DOE is unable to readily identify the persons entitled to the refund; or (b) by certified check directly to entitled parties readily identified by DOE.

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Jack Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 556-7200.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Cosby Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 26, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 C.F.R. 205.9(f).

Issued in Washington, D.C. on the 16th day of November, 1979.

Robert D. Gerring,
Director, Program Operations Division,
Economic Regulatory Administration.

[FR Doc. 79-38243 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

David Davidson, Corona Mall Service Center; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to David Davidson, Corona Mall Service Center, 309 S. Main Street, Corona California 91720. This proposed Remedial Order charges David Davidson, Corona Mall Service with pricing violations in the amount of

\$1,205.92, connected with the resale of Motor gasoline during the period August 1, 1979 through September 29, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone (415) 556-7200. On or before December 11, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearing and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 16th day of November 1979.

Robert D. Gerring,
Director, Program Operation Division.

[FR Doc. 79-38417 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

Delano & Arias Texaco Service Center; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Lupe Arias, Delano & Arias Texaco Service, Highway 126, Piru, California 93040. This proposed Remedial Order charges Lupe Arias, Delano & Texaco Service with pricing violations in the amount of \$3,740.36, connected with the resale of Motor gasoline during the period August 1, 1979 through October 2, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone (415) 556-7200. On or before December 11, 1979 any aggrieved person may file a Notice of Objection with the Office of Hearing and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 16th day of November 1979.

Robert D. Gerring,
Director, Program Operation Division.

[FR Doc. 79-38246 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

Energy Development of California, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the consent Order.

DATES: Effective date: October 19, 1979.

COMMENTS BY: December 26, 1979.

ADDRESS: Send comments to: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111; Phone: (415) 556-7200.

SUPPLEMENTARY INFORMATION: On October 19, 1979, the Office of Enforcement of the ERA executed a Consent Order with Energy Development of California, Inc. (EDOC). Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and EDOC wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with EDOC effective as of the date of its execution.

I. Consent Order

EDOC, with its home office in Los Angeles County, California, is engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and EDOC entered into a Consent Order to resolve certain actions which could be brought by ERA as a result of its audit of the EDOC's production and sale of crude oil, the significant terms of which are as follows:

1. The period covered by the audit was August 15, 1974 through November 30, 1977.
2. DOE alleges that EDOC charged prices for crude oil produced from certain properties in excess of the maximum allowable to its customers in violation of the ceiling prices prescribed by 10 CFR 212.73 and 10 CFR 212.74.
3. EDOC, without admitting to any violation of the DOE regulations, agrees

to refund to the DOE \$41,000.00 plus interest thereon. Interest through July 31, 1979 totals \$6,727.09.

4. The refund shall be made by EDOC as follows:

- a. \$20,500.00 plus interest thereon on October 19, 1980;
- b. \$10,250.00 plus interest thereon on April 19, 1981; and
- c. \$10,250.00 plus interest thereon on October 19, 1981.

5. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

Refunded overcharges in the total amount described in I.3 in the form of certified checks made payable to the United States Department of Energy will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical possibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within

the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Jack Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 556-7200.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Energy Development Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 26, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C., on the 16th day of November 1979.

Robert D. Gerring,
Director, Program Operations Division,
Economic Regulatory Administration.

[FR Doc. 79-38249 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

Estate of Gladys O'Donnell, d.b.a. O'Donnell Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: October 1, 1979. Comments by: December 26, 1979.

ADDRESS: Send comments to: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Jack L. Wood, District Manager of Enforcement Western District Office,

Department of Energy, 111 Pine Street, San Francisco, CA 94111. Phone: (415) 556-7200.

SUPPLEMENTARY INFORMATION: On October 1, 1979, the Office of Enforcement of the ERA executed a Consent Order with the Estate of Gladys O'Donnell, d.b.a. O'Donnell Oil Company (O'Donnell) of Los Angeles County, California. Under 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and O'Donnell wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with O'Donnell effective as of the date of its execution.

I. Consent Order

O'Donnell, with its home office in Los Angeles County, California, is firm engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulation at 10 CFR Parts 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and O'Donnell entered into a Consent Order to resolve certain actions which could be brought by ERA as a result of its audit of the O'Donnell production and sale of crude oil, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through May 31, 1979.
2. DOE alleges that O'Donnell charged prices for crude oil produced from a property during the period March 1, 1976 through May 31, 1979 in excess of the maximum allowable to its customers in violation of the ceiling prices prescribed by 10 CFR 212.73 and 10 CFR 212.74.
3. O'Donnell without admitting to any violation of the DOE regulations, agrees to refund to the DOE \$81,579.55 plus interest thereon. Interest through September 30, 1979 totals \$9,276.99.
4. The refund was paid in full by O'Donnell upon execution of the Consent Order.
5. O'Donnell paid \$8,500.00 upon execution of the Consent Order in settlement of potential civil penalties.
6. The provisions of 10 CFR 205.199], including the publication of this Notice, are applicable to the Consent Orders.

II. Disposition of Refunded Overcharges

1. Refunded overcharges in the total amount described in I.3 in the form of a certified check made payable to the U.S.

Department of Energy will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification of the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Jack Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 556-7200.

You should identify your comments or written notification of a claim on the

outside of your envelope and on the documents you submit with the designation, "Comments on O'Donnell Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 26, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 16th day of November 1979.

Robert D. Gering

Director, Program Operations Division,
Economic Regulatory Administration.

[FR Doc. 79-36241 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

N. C. Ginther; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: November 14, 1979.

COMMENTS BY: December 26, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On November 14, 1979, the Office of Enforcement of the ERA executed a Consent Order with N. C. Ginther of Houston, Texas. Under 10 CFR 205.199(b), the Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

N. C. Ginther, with its office located in Houston, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and

Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and N. C. Ginther, entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through December 31, 1977, and it included all sales of crude oil which were made during that period.

2. N. C. Ginther allegedly improperly applied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and N. C. Ginther have agreed to a settlement in the amount of \$40,000. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and N. C. Ginther.

4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, N. C. Ginther agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the total sum of \$40,000 to be paid in three (3) equal quarterly installments. The first payment will be due on January 1, 1980, or the first day of the month following the month in which the Consent Order becomes effective, and subsequent quarterly payments will be due on the first day of the next two subsequent quarters. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded

overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on N. C. Ginther Consent Order." We will consider all comments we received by 4:30 p.m., local time, on December 26, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 14th day of November 1979.

Wayne I. Tucker,

District Manager, Southwest District
Enforcement, Economic Regulatory
Administration.

[FR Doc. 79-36253 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

Reinhard Distributors, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action Taken and Opportunity for Comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the consent Order.

DATES: Effective date: September 14, 1979. Comments by: December 26, 1979.

ADDRESS: Send comments to: Jack L. Wood, District Manager, Office of Enforcement, 111 Pine Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Jack L. Wood, District Manager, Office of Enforcement, 111 Pine Street, San Francisco, CA 94111 (415) 556-7200.

SUPPLEMENTARY INFORMATION: On September 14, 1979, the Office of Enforcement of the ERA executed a Consent Order with Reinhard Distributors, Inc., a firm which includes Puget Oil Company.

Reinhard Distributors, Inc., is located in Kent, Washington. Order 10 CFR 205.199(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective on its execution.

I. The Consent Order

Reinhard Distributors, Inc., with its home office in Kent, Washington, is a firm engaged in the distribution of petroleum products and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Reinhard Distributors, Inc., the Office of Enforcement, ERA, and Reinhard Distributors, Inc., entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was all retail and wholesale sales from November 1973 through April 1974 of No. 1 heating oil and No. 2 diesel fuel; and November 1973 through May 15, 1974 for motor gasoline.

2. DOE alleges that Reinhard Distributors, Inc. improperly applied the provision of 6 CFR 150.355 and § 150.359 as amended, and 10 CFR 212.93 when determining the prices to be charged for No. 1 heating oil, No. 2 diesel fuel and motor gasoline. As a result, Reinhard's customers were overcharged on some of their purchases.

3. Reinhard Distributors, Inc., by entering into this Consent Order, does not otherwise concur in the DOE's allegations, nor does it admit any liability or violation of any statute or DOE regulations or rule.

Reinhard Distributors, Inc., however, agrees to refund \$89,530 as specified under II below and pay a \$1,000 penalty.

4. The provision of 10 CFR 205.199, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Reinhard Distributors, Inc., agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I-1 above, the sum of \$89,530.24, plus interest accruing after May 1, 1979. The \$89,530.24 shall be refunded as follows:

(a) Refunded overcharges related to purchases other than ultimate consumers, in the amount of \$20,583.97, will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition. Payment will be made on or before October 14, 1979.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the

overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(f)(a).

(b) Refunded overcharges in the amount of \$1,243.78 will be made by cash or check, on or before October 14, 1979, to Puget Power, Puget Power Building, Bellevue, WA 98060. This refund amount relates to No. 2 diesel oil purchased by Puget Power.

(c) Refunded overcharges in the amount of \$87,702.49 will be made by a reduction in selling prices, beginning on or before December 14, 1979, at retail service stations operated by Reinhard. The price reduction will be made at a rate of between \$0.01 and \$0.02 per gallon.

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount described in II(a) should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 556-7200.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Reinhard Distributors, Inc., Consent Order". We will consider all comments we receive by 4:30 p.m., local time, on December 26, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in

accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C., on the 16th day of November, 1979.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-36242 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

Smith's Exxon; Action Taken On Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Agreement.

SUMMARY: The Economic Regulatory Administration (ERA) Of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, and the firm listed below on November 7, 1979. The Consent Order represents an agreement between the DOE and the firm which involves a

Firm name and address	Settlement amount	Product	Audit period	Beneficiaries of price rollback
Smith's Exxon, Route 1, Box 408, Semmes, Ala. 36575.	Price rollback \$903.72, penalty \$2,500.00.	Motor gasoline.....	9/13/79-9/19/79	Product consumers.

Issued in Atlanta, Ga., on the 14th day of September 1979.

James C. Easterday,

District Manager of Enforcement Southeast District.

[FR Doc. 79-36251 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP80-39]

Arkansas Louisiana Gas Co.; Proposed Amendments To Purchased Gas Cost Adjustment Provisions

November 16, 1979.

Take notice that on November 1, 1979 Arkansas Louisiana Gas Company (Arkla) tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 3, Rate Schedule No. X-26, as follows:

Original Sheet No. 185A
3rd Revised Sheet No. 187
Original Sheet No. 187A
Original Sheet No. 187B
Original Sheet No. 187C
Original Sheet No. 187D
3rd Revised Sheet No. 188
2nd Revised Sheet No. 188A
2nd Revised Sheet No. 188B
2nd Revised Sheet No. 188C

reduction of the selling prices for gasoline to be in compliance with the Federal Energy pricing regulations. These Consent Orders are concerned exclusively with the consenting firm's current compliance with the Mandatory Petroleum Price Regulations and do not address the possible non-compliance with these regulations prior to September 13, 1979. This Consent Order requires the consenting firm to come into compliance with legal requirements by reducing selling prices to the established lawful level for each grade of gasoline sold, to properly post maximum lawful selling prices and to properly maintain required records. The consenting firm is a retailer of gasoline as defined in 10 CFR 212.31 of the Federal Energy guidelines.

A copy of the November 7, 1979, Consent Order, with confidential information deleted, may be obtained from James C. Easterday, District Manager, Southeast District, Office of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia, 30309, Telephone: (404) 881-2661.

These proposed changes, to be effective January 1, 1980, are being filed pursuant to Order No. 49, issued by the Federal Energy Regulatory Commission on September 28, 1979. These tariff sheets set forth the incremental pricing provisions as directed in Order No. 49.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-36158 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP72-142, RP76-135 (PGA79-3 and AP7-3)]

Cities Service Gas Co.; Proposed Changes in FERC Gas Tariff

November 15, 1979.

Take notice that Cities Service Gas Company (Cities Service) on November 6, 1979, tendered for filing Substitute First Revised Fourth Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1. Cities Service states that this filing is in compliance with the Commission's order of October 23, 1979, accepting Cities Service's September 26, 1979 filing and requiring that a substitute tariff sheet be filed which would eliminate such charges by suppliers which they were not authorized to charge Cities Service at October 23, 1979.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP72-142 and RP76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-36157 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-43]

Cities Services Gas Co.; Proposed Changes in FERC Gas Tariff

November 16, 1979.

Take notice that Cities Service Gas Company (Cities Service) on November

9, 1979, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following sheets:

Original sheet Nos. 72, 73, 74, 75, 76 and 77

First Revised Sheet Nos. 61, 63, 64, 65 and 66

Second Revised Sheet Nos. 59, 60 and 62

The above tariff sheets are being filed in compliance with Section 282.601 of the Commission's Regulations consisting of Cities Service's revised PGA provision and Incremental Pricing Surcharge provision. Cities Service also proposes with this filing to correctly reflect the rate and procedure for computing carrying charges on the PGA account balance pursuant to Commission revisions to Sections 154.38(d)(4)(iv)(c) and 154.67(d)(2)(iii)(B) of the Regulations as prescribed in Order No. 47 issued September 10, 1979 in Docket No. RM77-22.

Cities Service sells gas to Colorado Interstate Gas Company (CIG) under its Rate Schedule X-12 pursuant to a transportation agreement whereby CIG has the option to purchase up to 25 percent of the gas it transports for Cities Service in Wyoming. Cities Service states that its rate to CIG is based solely on costs related to this Wyoming gas supply and is not subject to or affected by the operation of Cities Service's PGA provisions. Cities Service also states that it does not sell any other gas to CIG. To prevent special hardship, inequity and unfair distribution of burdens, Cities Service requests a waiver of the Commission's Regulations to permit the exclusion of Cities Service's sale to CIG from Cities Service's Incremental Pricing Provision.

The proposed effective date of the above tariff sheets is December 1, 1979 as required by the Commission.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36158 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RE80-4]

Clark County Public Utility District No. 1; Application for Exemption

November 15, 1979.

Take notice that Clark County Public Utility District #1, on October 30, 1979, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations (Order 48, 44 FR 58687). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290 of the Commission's regulations issued pursuant to Section 133 of PURPA.

In its application for exemption, Clark County Public Utility District #1 states that it should not be required to file the specified data for the following reason: Clark County Public Utility District #1 "represents that its present cost, load, and study methods are in substantial compliance with the purpose of PURPA and do provide interested parties with timely high quality information on the costs of service, which applicant actively supports through its rate making processes."

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that a summary of the application be published in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 4, 1980.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36159 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-90]**Commonwealth Edison Co.; Proposed Tariff Change**

November 18, 1979.

The filing Company submits the following: Take notice that Commonwealth Edison Company on November 6, 1979 tendered for filing proposed changes in its FERC Electric Service Tariff No. 16, an Interconnection Agreement, dated March 1, 1975, between Commonwealth Edison Company and Wisconsin Power and Light Company.

The proposed changes, which the parties have agreed upon, modify certain compensation provisions in Service Schedule B and Service Schedule D.

Copies of the proposed rate schedule changes were served upon the Illinois Commerce Commission, Springfield, Illinois, the Public Service Commission of Wisconsin, Madison, Wisconsin and Wisconsin Power and Light Company, Madison, Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-38160 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M**[Docket No. ER80-79]****Consolidated Edison Co. of New York, Inc.; Filing of Rate Schedule**

November 15, 1979.

The filing Company submits the following: Take notice that on November 7, 1979, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing, as an initial rate schedule, copies of a sale agreement (the "Agreement") between Con Edison and three companies of the Northeast Utilities system (the "NU Companies"): The Connecticut Light and Power Company, The Hartford Electric Light Company and Western Massachusetts Electric Company.

The Agreement, dated as of April 23, 1979, provides for Con Edison to sell off-peak energy on an interruptible basis during April 28-May 31, 1979 (the "First Outage Period") and any subsequent periods of outage of the NU Companies' Northfield Mountain Pumped Storage Hydro Electric Project.

Under the Agreement, the NU Companies pay Con Edison \$0.02 per kWh during the First Outage Period, and an energy charge, to be separately agreed, during subsequent outages for any energy taken by them under the Agreement.

The Agreement has been executed by Con Edison and by the NU Companies and copies mailed to the NU Companies.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-38181 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M**[Project No. 785, et al.]****Consumers Power Co., et al.; Expiration**

November 16, 1979.

So that the Congress may have an adequate opportunity to decide whether upon the expiration of the licenses, to take over the projects under Section 14 of the Federal Power Act, as amended (16 U.S.C. 807), and that the Licensees for the projects and others may have adequate notice and opportunity to file timely application for new licenses under Section 15 of the Act, as amended (16 U.S.C. 808), public notice is hereby given that the license issued for the designated and described projects on the appended tables will expire on the dates specified.

Kenneth F. Plumb,
Secretary.

Table 1.—Projects for Which Licenses Will Expire Between Jan. 1, 1980, and Dec. 31, 1985, Inclusive, Which Are Subject To Relicensing or Takeover¹

License expiration date	Licensee	FERC project No.	State, county, and stream	Installation (kilowatts)	Period of license (years)	Facilities under license
Apr. 10, 1980	Consumers Power Co.	785	Michigan; Allegan; Kalamazoo River	2,550	50	Dam, reservoir, powerhouse and transmission line.
Apr. 21, 1980	Safe Harbor Water Power Corp.	1,025	Pennsylvania; York and Lancaster; Susquehanna River	196,000	50	Dam and powerhouse.
May 22, 1980	The Montana Power Co.	5	Montana; Flathead and Lake; Flathead Lake and River	168,000	50	Dam, reservoir, 2 penstocks, powerhouse and transmission lines.
June 30, 1980	Moon Lake Electric Association.	190	Utah; Duchesne; Pole Creek and Uinta River	1,200	50	Dam, canal, diversion dam, powerhouse and transmission line.
June 30, 1981	Appalachian Power Co.	739	Virginia; Pulaski; New River	77,400	50	Dam, reservoir, powerhouse and transmission line.
Sept. 30, 1982	Pacific Gas and Electric Co.	1,962	California; Butte and Plumas; North Fork of Feather River	180,900	35	Two dams, 2 reservoirs, 2 powerhouses and transmission lines.
Jan. 15, 1984	Kanawha Valley Power Co.	1,175	West Virginia; Kanawha and Fayette; Kanawha River	28,800	50	Two dams, 2 powerhouses and transmission lines.
Jan. 16, 1984	Kanawha Valley Power Co.	1,290	West Virginia; Kanawha and Putnam; Kanawha River	14,760	48	Powerhouse and transmission lines.
June 10, 1984	Idaho Power Co.	18	Idaho; Jerome and Twin Falls; Snake River	8,436	50	Dam, powerhouse and transmission line.
Feb. 10, 1985	Duke Power Co.	1,267	South Carolina; Greenwood, Laurens, and Newberry; Saluda River	15,000	50	Dam, reservoir and powerhouse.
Mar. 31, 1985	Pacific Gas and Electric Co.	1,988	California; Fresno; Kings River, N. Fork Kings River, Helms Creek	179,100	30	Six dams, 2 reservoirs, tunnel, 2 powerhouses and transmission lines.

¹Sec. 14 of the Federal Power Act (16 U.S.C. 807), reserves the right of the United States to take over the project works upon expiration of the license at a price to be determined under that section, but may be waived pursuant to Sec. 10(i) to the act (16 U.S.C. 803(i)). Sec. 14 is not applicable to any project owned by a State or municipality, pursuant to the act of Aug. 15, 1953 (67 Stat. 587).

Table 2.—Projects for Which Licenses Will Expire Between Jan. 1, 1980, and Dec. 31, 1980, Inclusive, Which Are Not Subject To Takeover¹

License expiration date	Licensee	FERC project No.	State, county, and stream	Installation (kilowatts)	Period of license (years)	Facilities under license
Jan. 20, 1980	Public Utility District No. 1 of Chelan County and Puget Sound Power & Light Co.	943	Washington; Chelan and Douglas; Columbia River	212,000	50	Dam, reservoir, 2 powerhouses, and transmission lines.
Apr. 10, 1980	City of Ottumwa	925	Iowa; Wapello; Des Moines River	3,000	50	Dams and powerhouse.
May 1, 1980	New England Fish Co.	1,299	Alaska; Kodiak Island; One Mile Creek ²	53	10	Diversion dam, pipeline and 2 turbines.
Aug. 23, 1983	City of Ephraim	1,212	Utah; Sanpete; City Creek ³	205	50	Pipeline and powerhouse.
Dec. 6, 1983	City of Radford	1,235	Virginia; Montgomery and Pulaski; Little Creek ³	800	50	Dam, reservoir and powerhouse.
Apr. 16, 1984	Loup River Public Power District	1,256	Nebraska; Platte, Nance, Madison, Stanton, Wayne, Dixon, Colfax, Dodge, Douglas, Butler, Saunders, and Lancaster; Loup River	47,738	50	Diversion dams, reservoirs, powerhouses and transmission lines.
May 30, 1984	City of Pasadena	1,250	California; Los Angeles; San Gabriel River	3,000	50	Diversion dam and powerhouse.
Oct. 31, 1985	Utah Power & Light Co.	703	Idaho; Bear Lake; Paris Creek	650	10	Diversion dam, canal, forslay and powerhouse.

¹Sec. 14 of the Federal Power Act (16 U.S.C. 807) reserves the right of the United States to take over the project works upon expiration of the license at a price to be determined under that section, but may be waived pursuant to Sec. 10(i) to the Act (16 U.S.C. 803(i)). Section 14 is not applicable to any project owned by a State or municipality, pursuant to the Act of Aug. 15, 1953 (67 Stat. 587).

²Minor license.³Includes equivalent kW for 60 hp (mechanical).⁴Does not include an additional 410 mW in second powerhouse currently under construction.

[FR Doc. 79-38182 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M**[Docket No. ER80-89]****The Connecticut Light and Power Co.; Amendment to Purchase Agreement**

November 16, 1979.

The filing company submits the following: Take notice that on November 9, 1979, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed Amendment to Purchase Agreement With Respect to Various Gas Turbine Units (Amendment) dated February 16, 1979 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO), and (2) Village of Ludlow Electric Light Department (Ludlow).

CL&P states that the Amendment provides for a change of percentage of capability available to Ludlow from Silver Lake Unit Nos. 10, 11, 12 and 13, due to the rerating of Silver Lake Unit No. 11 to zero capacity as of March 1, 1979.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and Ludlow, Ludlow, Vermont.

CL&P also states that no facilities are to be installed or modified in order to

supply the service to be furnished under the Amendment.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-38183 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M**[Docket No. ER80-82]****Duke Power Co.; Supplement to Electric Power Contract**

November 15, 1979.

The filing company submits the

following: Take notice that Duke Power Company (Duke Power) tendered for filing on November 9, 1979 a supplement to the Company's Electric Power Contract with Yadkin, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 11.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in contract demand: from 40,000 KW to 55,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of September 1, 1979.

According to Duke Power copies of this filing were mailed to the customer and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington,

D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36164 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-86]

Duke Power Co.; Supplement to Electric Power Contract

November 16, 1979.

The filing Company submits the following: Take notice that Duke Power Company (Duke Power) tendered for filing on November 10, 1979, supplement to the Company's Electric Power Contract with the Town of Dallas. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 254.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in contract demand: Delivery Point No. 1 from 8,000 KW to -0- KW and Delivery Point No. 2 from 3,000 KW to 10,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of January 18, 1980.

According to Duke Power copies of this filing were mailed to the Town of Dallas and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36165 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-87]

Duke Power Co.; Supplement to Electric Power Contract

November 16, 1979.

The filing company submits the following: Take notice that Duke Power Company (Duke Power) tendered for filing on November 10, 1979 a supplement to the Company's Electric Power Contract with the Town of Maiden. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 246.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in contract demand: Delivery Point No. 1 from 5,000 KW to 3,500 KW and Delivery Point No. 2 from 2,700 KW to 5,700.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of January 18, 1980.

According to Duke Power copies of this filing were mailed to the Town of Maiden and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36166 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-88]

Duke Power Co.; Supplement to Electric Power Contract

November 16, 1979.

The filing company submits the following: Take notice that Duke Power Company (Duke Power) tendered for filing on November 10, 1979 a supplement to the Company's Electric Power Contract with Laurens Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 244.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in contract demand: Delivery Point No. 28 from -0- KW to 10,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of January 18, 1980.

According to Duke Power copies of this filing were mailed to Laurens Electric Cooperative, Inc. and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36167 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES80-14]

El Paso Electric Co.; Application

November 16, 1979.

Take notice that on November 9, 1979, El Paso Electric Company (Applicant), filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue up to 1,500,000 shares of common stock, no par value, via competitive bidding. The Applicant is a Texas Corporation, with its principal business office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The proceeds from the sale of the New Commission Stock will be used to reduce outstanding short-term debt incurred for construction purposes. The short-term debt is expected to aggregate approximately \$57.8 million at the time of sale and prior to the application of the proceeds. The Company estimates that its cash construction expenditures for the period 1979-1982 will be approximately \$457.5 million.

Any persons desiring to be heard or to make any protest with reference to said application should, on or before December 4, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36168 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RE80-7]

Green River Electric Corp.; Application for Exemption

November 16, 1979.

Take notice that Green River Electric Corporation (Green River), on October 31, 1979, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations (Order 48, 44 FR 58687). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290 of the Commission's regulations issued pursuant to Section 133 of PURPA.

In its application for exemption, Green River states that it should not be required to file the specified data "because its gathering and reporting the information required by Section 133 of

PURPA are not likely to carry out the purposes of that section or the Act, and will be unduly burdensome upon Green River's tariff customers."

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that a summary of the application be published in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 11, 1980.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36169 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. PE80-6]

Henderson-Union Rural Electric Cooperative Corp.; Application for Exemption

November 15, 1979.

Take notice that Henderson-Union Rural Electric Cooperative Corporation (Henderson-Union), on October 31, 1979, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations (Order 48, 44 FR 58687). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290 of the Commission's regulations issued pursuant to Section 133 of PURPA.

In its application for exemption, Henderson-Union states that it should not be required to file the specified data "because its gathering and reporting the information required by Section 133 of PURPA are not likely to carry out the purposes of that section or the Act, and will be unduly burdensome upon Henderson-Union's tariff customers."

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official

State publication in which electric rate change applications are usually noticed, and that a summary of the application be published in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 4, 1980.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36170 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER77-578]

Kansas Gas & Electric Co.; Filing

November 16, 1979.

The filing Company submits the following: Take notice that on November 1, 1979, Kansas Gas and Electric Company tendered for filing a statement of compliance pursuant to the Commission's order of October 19, 1979.

Since this filing was under Section 206 of the Federal Power Act, no billings were rendered on rates subject to refund.

A copy of this filing has been sent to the Kansas State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before December 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36171 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. TC80-31]

Kansas Nebraska Natural Gas Co., Inc.; Substitute Tariff Filing Pursuant to Order No. 29

November 15, 1979.

Take notice that on November 9, 1979, Kansas Nebraska Natural Gas Company, Inc. (KN) tendered for filing substitute tariff sheets, in Docket No. TC80-31, to its FERC Gas Tariff, Third Revised Volume No. 1. The tendered

sheets, Substitute First Revised Sheet No. 24B and Substitute First Revised Sheet No. 24C, would replace First Revised Sheet No. 24B and First Revised Sheet No. 24C, respectively, which were filed on October 31, 1979 and publicly noticed on November 8, 1979.

KN states that it has now discovered that, in two cases, the wording or provisions of the existing sheets containing KN's plan for the allocation of delivery capability on its system was changed in ways not required by Section 401 of the Natural Gas Policy Act of 1978 (NGPA). The filed sheets eliminate the changes in wording not required by NGPA Section 401.

KN requests that the Commission grant such waivers as may be required to permit the substitute sheets to become effective on December 1, 1979, the same effective date requested for the revised tariff sheets filed October 31, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-36172- Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[No. 114]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 9, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kentucky Department of Mines and Minerals, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator

5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Date received at FERC.
10. Purchaser(s)

1. 80-04606/ERC-220
2. 16-195-00000-0000
3. 108 000 000
4. C D Jacobs
5. Varney No 2
6. Appalachian
7. Pike KY
8. 4.9 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04607/ERC-221
2. 16-195-00000-0000
3. 108 000 000
4. C D Jacobs
5. Varney No 1
6. Appalachian
7. Pike KY
8. 4.9 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04608/ERC-222
2. 16-195-00000-0000
3. 108 000 000
4. C D Jacobs
5. Varney No 3
6. Appalachian
7. Pike KY
8. 4.9 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04609/ERC-223
2. 16-195-00000-0000
3. 108 000 000
4. C D Jacobs
5. Sol Johnson No 1
6. Appalachian
7. Pike KY
8. 1.7 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04610/ERC-224
2. 16-195-00000-0000
3. 108 000 000
4. C D Jacobs
5. No 1 Weddington Lease
6. Appalachian
7. Pike KY
8. 18.2 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04611/ERC-225
2. 16-195-00000-0000
3. 108 000 000
4. Glen W Smith Agt/Succ to
5. William Steele-Well #1
- 6.
7. Pike KY
8. 1.9 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04612/ERC-226
2. 16-159-00000-0000
3. 108 000 000
4. Anna Lowe
5. Joseph James #1
6. Appalachian
7. Martin KY
8. 12.0 million cubic feet
9. October 29, 1979

10. Columbia Gas Trans Corp

1. 80-04613/ERC-227
2. 16-051-00000-0000
3. 108 000 000
4. Charles Gabbard
5. Gabbard #1
6. Oneeda
7. Clay KY
8. 8.4 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04614/ERC-228
2. 16-051-00000-0000
3. 108 000 000
4. Charles Gabbard
5. Gabbard #2
6. Onida
7. Clay KY
8. .0 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04615/ERC-229
2. 16-195-00000-0000
3. 108 000 000
4. W W Lindsey and W E Elliott
5. Laura Jackson Well #1
- 6.
7. Pike KY
8. 4.0 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04616/ERC-230
2. 16-195-00000-0000
3. 108 000 000
4. W W Lindsey and W E Elliott
5. Burgess Burchett Well #1
- 6.
7. Pike KY
8. .0 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04617/ERC-231
2. 16-195-00000-0000
3. 108 000 000
4. W W Lindsey and W E Elliott
5. Cline Burchett Well #2
- 6.
7. Pike KY
8. 7.5 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04618/ERC-232
2. 16-195-00000-0000
3. 108 000 000
4. W W Lindsey & W E Elliott
5. Cline Burchett Well #1
- 6.
7. Pike KY
8. 7.5 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

1. 80-04619/ERC-233
2. 16-159-00379-0000
3. 108 000 000
4. Columbia Gas Transmission Corp
5. 804579
- 6.
7. Martin KY
8. 17.0 million cubic feet
9. October 29, 1979
10. Columbia Gas Trans Corp

Michigan Department of Natural Resources

1. Control Number (FERC/State)
2. API well number

3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. Country, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 80-04603
2. 21-101-31422-0000
3. 102 000 000
4. Miller Brothers
5. Miller Brothers Miller 35
6. Bear Lake-35-23N-15W
7. Manistee MI
8. 1008.0 million cubic feet
9. October 26, 1979
10. Consumers Power Company

1. 80-04604
2. 21-035-00000-0000
3. 102 000 000
4. Dart Oil & Gas Corporation
5. Fox #2-32 N32 966)
6. Winterfield-29 Field
7. Clare MI
8. 20.0 million cubic feet
9. October 26, 1979
10. Consumers Power Company

Mississippi Oil and Gas Board

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. Country, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 80-04605/98-79-467
2. 23-091-20080-0000
3. 107 000 000
4. Tomlinson Interests Inc
5. H L Beacham No 1
6. East Morgantown
7. Marion MI
8. 3460.0 million cubic feet
9. October 23, 1979
10. Transcontinental Gas Pipeline Corp

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. Country, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 80-04620
2. 30-045-23481-0000
3. 103 000 000
4. Blackwood & Nicholas Co Ltd
5. NE Blanco Unit #201
6. South Los Pinos Pictured Cliffs SW
7. San Juan NM
8. 100.0 million cubic feet
9. October 30, 1979
10. El Paso Natural Gas Company

1. 80-04621
2. 30-045-23335-0000

3. 103 000 000
4. Southland Royalty Company
5. Hubbard #5
6. Blanco Pictured Cliffs
7. San Juan NM
8. 150.0 million cubic feet
9. October 30, 1979
10. Southern Union Gathering Company

1. 80-04622
2. 30-045-23367-0000
3. 103 000 000
4. Southland Royalty Company
5. Hedges #3
6. Undesignated Fruitland
7. San Juan NM
8. 100.0 million cubic feet
9. October 30, 1979
10. El Paso Natural Gas Company

1. 80-04623
2. 30-045-23351-0000
3. 103 000 000
4. Southland Royalty Company
5. Decker #5
6. Blanco Pictured Cliffs
7. San Juan NM
8. 100.0 million cubic feet
9. October 30, 1979
10. Southern Union Gathering Company

1. 80-04624
2. 30-005-00000-0000
3. 103 000 000
4. Stevens Oil Company
5. O'Brien K No 2
6. Twin Lakes-San Andres Assoc
7. Chaves NM
8. 163.0 million cubic feet
9. October 30, 1979
10. Transwestern Pipeline Co, Steven Oil Co

1. 79-20155 (Revised)
2. 30-025-00000
3. 108 Denied
4. Texaco Inc
5. L R Kershaw No 9
6. Skagg Drinkard
7. Lea NM
8. 9.5 million cubic feet
9. September 13, 1979
10. Warren Petroleum Co

1. 79-20156 (Revised)
2. 30-025-00000
3. 108 Denied
4. Texaco Inc
5. Ch Weir B No 4
6. Weir
7. Lea NM
8. 9.0 million cubic feet
9. September 13, 1979
10. Warren Petroleum Co

North Dakota Geological Survey

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-04625/166-NGPA
2. 33-007-00357-0000
3. 102 000 000
4. Gulf Oil Corporation
5. Joe Tachenko 2-9-4B

6. Little Knife
7. Billings ND
8. 79.0 million cubic feet
9. October 30, 1979
10. Montana-Dakota Utilities
1. 80-04626/167-NGPA
2. 33-007-00336-0000
3. 102 000 000
4. Gulf Oil Corporation
5. Anton Zabolotny 1-4-4C
6. Little Knife
7. Billings ND
8. 96.0 million cubic feet
9. October 30, 1979
10. Montana-Dakota Utilities

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-04520/03678
2. 34-105-21548-0014
3. 108 000 000
4. Cameron Brothers
5. Frank Herald #1
- 6.
7. Meigs OH
8. 6.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp

1. 80-04521/03677
2. 34-105-21640-0014
3. 108 000 000
4. Cameron Brothers
5. Glen Vance #6
- 6.
7. Meigs OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp

1. 80-04522/03676
2. 34-105-21639-0014
3. 108 000 000
4. Cameron Brothers
5. Glen Vance #7
- 6.
7. Meigs OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp

1. 80-04523/03675
2. 34-105-21638-0014
3. 108 000 000
4. Cameron Brothers
5. Glen Vance #5
- 6.
7. Meigs OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp

1. 80-04524/03674
2. 34-105-21653-0014
3. 108 000 000
4. Cameron Brothers
5. Glen Vance #8
- 6.
7. Meigs OH

8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04525/03673
2. 34-105-21554-0014
3. 108 000 000
4. Cameron Brothers
5. Frank Herald #2
6.
7. Meigs OH
8. 3.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04526/03671
2. 34-119-23552-0014
3. 108 000 000
4. Cameron Brothers
5. A Batteiger #1
6.
7. Muskingum OH
8. 8.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04527/03670
2. 34-119-22710-0014
3. 108 000 000
4. Cameron Brothers
5. Clarence Gadd #1
6.
7. Muskingum OH
8. 8.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04528/02311
2. 34-169-21565-0014
3. 108 000 000
4. John C. Mason
5. Louis C Gruver #2
6.
7. Wayne OH
8. 20.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04529/03698
2. 34-053-20211-0014
3. 108 000 000
4. Cameron Brothers
5. James Baird #2
6.
7. Gallia OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04530/03697
2. 34-053-20228-0014
3. 108 000 000
4. Cameron Brothers
5. James Baird #3
6.
7. Gallia OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04531/03696
2. 34-053-20230-0014
3. 108 000 000
4. Cameron Brothers
5. James Baird #4
6.
7. Gallia OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04532/03695

2. 34-053-20227-0014
3. 108 000 000
4. Cameron Brothers
5. James Baird #5
6.
7. Gallia OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04533/03694
2. 34-053-20226-0014
3. 108 000 000
4. Cameron Brothers
5. James Baird #6
6.
7. Gallia OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04534/03693
2. 34-119-23427-0014
3. 108 000 000
4. Cameron Brothers
5. Ross Johnston #1
6.
7. Muskingum OH
8. 2.5 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04535/03688
2. 34-119-22720-0014
3. 108 000 000
4. Cameron Brothers
5. Aloysius Schwalle #1
6.
7. Muskingum OH
8. 11.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04536/03687
2. 34-119-23115-0014
3. 108 000 000
4. Cameron Brothers
5. Aloysius Schwalle #2
6.
7. Muskingum OH
8. 11.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04537/03686
2. 34-119-22702-0014
3. 108 000 000
4. Cameron Brothers
5. Mary Swindler #2
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04538/03685
2. 34-119-22938-0014
3. 108 000 000
4. Cameron Brothers
5. Herald Bunting #1
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04539/03682
2. 34-105-21637-0014
3. 108 000 000
4. Cameron Brothers
5. Granvel Wamsey #4
6.

7. Meigs, OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04540/03681
2. 34-105-21570-0014
3. 108 000 000
4. Cameron Brothers
5. Granvel Wamsey #3
6.
7. Meigs, OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04541/03680
2. 34-105-21551-0014
3. 108 000 000
4. Cameron Brothers
5. Granvel Wamsey #2
6.
7. Meigs, OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04542/03679
2. 34-105-21555-0014
3. 108 000 000
4. Cameron Brothers
5. Granvel Wamsey #1
6.
7. Meigs, OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04543/03843
2. 34-105-21577-0014
3. 108 000 000
4. Cameron Brothers
5. Frank Herald #1
6.
7. Meigs, OH
8. 1.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04544/03842
2. 34-053-20173-0014
3. 108 000 000
4. Cameron Brothers
5. Harold & Lucille Brannon #1
6.
7. Gallia, OH
8. 6.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04545/03841
2. 34-053-20174-0014
3. 108 000 000
4. Cameron Brothers
5. Harold & Lucille Brannon #2
6.
7. Gallia, OH
8. 6.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04546/03839
2. 34-119-22719-0014
3. 108 000 000
4. Cameron Brothers
5. Raymond France #1
6.
7. Muskingum, OH
8. 2.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04547/03836

2. 34-119-22656-0014
3. 108 000 000
4. Cameron Brothers
5. Mary Swindler #1
6.
7. Muskingum, OH
8. 6.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04548/03705
2. 34-053-20164-0014
3. 108 000 000
4. Cameron Brothers
5. Henry Cameron #1
6.
7. Gallia, OH
8. 3.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04549/03704
2. 34-053-20163-0014
3. 108 000 000
4. Cameron Brothers
5. Henry Cameron #2
6.
7. Gallia, OH
8. 3.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04550/03703
2. 34-053-20162-0014
3. 108 000 000
4. Cameron Brothers
5. Henry Cameron #3
6.
7. Gallia, OH
8. 3.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04551/03702
2. 34-053-20172-0014
3. 108 000 000
4. Cameron Brothers
5. Henry Cameron #4
6.
7. Gallia, OH
8. 3.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04552/03699
2. 34-053-20208-0014
3. 108 000 000
4. Cameron Brothers
5. James Baird #1
6.
7. Gallia, OH
8. 5.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04553/03844
2. 34-119-23035-0014
3. 108 000 000
4. Cameron Brothers
5. K R Greiner #1
6.
7. Muskingum, OH
8. 6.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Trans Corp
1. 80-04555/07117
2. 34-059-22313-0014
3. 103 000 000
4. Oneal Productions Inc
5. Wilford Hill #2
6.

7. Guernsey, OH
8. .0 million cubic feet
9. October 26, 1979
10. Columbia Gas Transmission Corp
1. 80-04556/07175
2. 34-169-22202-0014
3. 103 000 000
4. Smith Shafer Smith
5. William Moore #3
6. Wooster
7. Wayne, OH
8. 26.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Transmission Corp
1. 80-04557/07192
2. 34-167-24782-0014
3. 103 000 000
4. The Oxford Oil Co
5. A. G. Sharitz et al. #1
6.
7. Washington, OH
8. 9.0 million cubic feet
9. October 26, 1979
10.
1. 80-04558/07193
2. 34-031-23483-0014
3. 103 000 000
4. The Oxford Oil Co
5. Wayne A. Waite #2
6.
7. Coshecton, OH
8. 9.0 million cubic feet
9. October 26, 1979
10.
1. 80-04559/07194
2. 34-121-22166-0014
3. 103 000 000
4. Guernsey Petroleum Corporation
5. Reed Unit 1MH
6.
7. Noble, OH
8. .0 million cubic feet
9. October 26, 1979
10. East Ohio Gas Company
1. 80-04560/07195
2. 34-121-22158-0014
3. 103 000 000
4. Guernsey Petroleum Corp
5. Hedge #1-MH
6.
7. Noble, OH
8. .0 million cubic feet
9. October 26, 1979
10. East Ohio Gas Company
1. 80-04561/07196
2. 34-121-22159-0014
3. 103 000 000
4. Guernsey Petroleum Corp
5. B. C. Farms Inc. #1-MH
6.
7. Noble, OH
8. .0 million cubic feet
9. October 26, 1979
10. East Ohio Gas Company
1. 80-04562/07197
2. 34-121-22155-0014
3. 103 000 000
4. Guernsey Petroleum Corp
5. Stiers 2-MH
6.
7. Noble, OH
8. .0 million cubic feet
9. October 26, 1979
10. East Ohio Gas Company
1. 80-04563/07198

2. 34-121-22514-0014
3. 103 000 000
4. Guernsey Petroleum Corp
5. Stiers #1-MH
6.
7. Noble, OH
8. .0 million cubic feet
9. October 26, 1979
10. East Ohio Gas Company
1. 80-04564/07199
2. 34-059-22565-0014
3. 103 000 000
4. Guernsey Petroleum Corp
5. Tobin #1-ME
6.
7. Guernsey, OH
8. 24.0 million cubic feet
9. October 26, 1979
10. East Ohio Gas Company
1. 80-04565/07200
2. 34-119-24702-0014
3. 103 000 000
4. Guernsey Petroleum Corp
5. Hans-Williston #4-ME
6.
7. Muskingum, OH
8. 1.0 million cubic feet
9. October 26, 1979
10. East Ohio Gas Company
1. 80-04566/07201
2. 34-119-24703-0014
3. 103 000 000
4. Guernsey Petroleum Corp
5. Hans-Williston #3-ME
6.
7. Muskingum, OH
8. 8.0 million cubic feet
9. October 26, 1979
10. East Ohio Gas Company
1. 80-04567/07202
2. 34-059-22335-0014
3. 103 000 000
4. Guernsey Petroleum Corp
5. Johnson Heirs #1-ME
6.
7. Guernsey, OH
8. 25.0 million cubic feet
9. October 26, 1979
10. Columbia Gas Transmission Corp
1. 80-04568/07204
2. 34-019-21292-0014
3. 103 000 000
4. Enterprise Gas & Oil Inc
5. Clark-Morrison #4-E
6.
7. Carroll, OH
8. 36.0 million cubic feet
9. October 26, 1979
10. East Ohio Gas Co
1. 80-04569/07216
2. 34-119-24271-0014
3. 103 000 000
4. The Oxford Oil Co
5. Robert E. Charey #4
6.
7. Muskingum, OH
8. 9.0 million cubic feet
9. October 26, 1979
10.
1. 80-04570/07217
2. 34-083-22637-0014
3. 103 000 000
4. Richard C Meyer
5. Jean M Potts et al No 1
6. Bladensburg-Northwest

1. 80-04516/COA-2617-79
2. 05-067-05045-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern Ute Block 7#4-14
6. Ignacio-Blanco
7. La Plata County Co
8. 9.9 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation
1. 80-04517/COA-2618-79
2. 05-067-05219-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern Ute Block 6#1-32
6. Ignacio-Blanco
7. La Plata County Co
8. 10.7 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04518/COA-2619-79
2. 05-067-05037-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern Ute Block 7#1-16
6. Ignacio-Blanco
7. La Plata County Co
8. 11.8 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation
1. 80-04519/COA-2620-79
2. 05-067-05009-0000-0
3. 108 000 000
4. Murchison Trusts
5. Southern Ute Block 7#3-14
6. Ignacio-Blanco
7. La Plata County Co
8. 6.5 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation
1. 80-04477/COA-3186-79
2. 05-067-06204-0000
3. 103 000 000
4. Arco Oil and Gas Company
5. Southern Ute 1-3 32-8
6. Ignacio Blanco
7. La Plata Co
8. 110.0 million cubic feet
9. October 26, 1979
10. Western Slope Gas Company
1. 80-04480/COA-3148-79
2. 05-067-06209-0000
3. 103 000 000
4. Arco Oil and Gas Company
5. Southern Ute 1-4 32-8
6. Ignacio Blanco-Mesaverde
7. La Plata Co
8. 110.0 million cubic feet
9. October 26, 1979
10. Western Slope Gas Company
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-04468A/NM-3325-79A
2. 30-039-21453-0000-1
3. 103 000 000
4. Amoco Production Company
5. San Juan Unit 29-4 #21 (MV)

6. Blanco MV & E Blanco PC
7. Rio Arriba NM
8. 180.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corp
1. 80-04488B/NM-3325-79B
2. 30-039-21453-0000-2
3. 103 000 000
4. Amoco Production Company
5. San Juan Unit 29-4 #21 (PC)
6. Blanco MV & E Blanco PC
7. Rio Arriba NM
8. 180.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corp
1. 80-04486/NM-3237-79
2. 30-045-10850-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. San Juan 32-6 Unit #5
6. Blanco
7. San Juan NM
8. 4.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Co
1. 80-04487/NM-3238-79
2. 30-039-06897-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. Jicarilla 92 #2
6. Blanco
7. Rio Arriba NM
8. 12.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation Jicarilla Apache Tribe
1. 80-04488/NM-3241-79
2. 30-039-82390-0000-0
3. 108 000 000
4. Northwest pipeline Corporation
5. S/J 31-6 Unit #23
6. Blanco
7. Rio Arriba NM
8. 11.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Co
1. 80-04489/NM-3242-79
2. 30-045-10715-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. S/J 32-7 Unit #8
6. Blanco
7. San Juan NM
8. 12.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation
1. 80-04490/NM-3244-79
2. 30-039-07514-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. Indian E #1
6. Choza Mesa
7. Rio Arriba NM
8. 3.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation Jicarilla Apache Tribe Phillips Petroleum Company
1. 80-04491/NM-3248-79
2. 30-045-11207-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. San Juan 32-7 Unit #22
6. Blanco

7. San Juan NM
8. 4.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Company
1. 80-04492/NM-3265-79
2. 30-039-07924-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. S/J 31-6 Unit #20
6. Blanco MV
7. Rio Arriba NM
8. 13.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Company
1. 80-04493/NM-3266-79
2. 30-039-07937-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. San Juan 31-6 Unit #11
6. Blanco
7. Rio Arriba NM
8. 14.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Co
1. 80-04494/NM-3267-79
2. 30-039-07955-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. Rosa Unit #19
6. Blanco MV
7. Rio Arriba NM
8. 15.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Company
1. 80-04495/NM-3268-79
2. 30-039-07975-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. Rosa Unit #9
6. Blanco MV
7. Rio Arriba NM
8. 10.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Company
1. 80-04496/NM-3269-79
2. 30-039-07942-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. Rosa Unit #23
6. Blanco
7. Rio Arriba NM
8. 6.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Company
1. 80-04497/NM-3270-79
2. 30-039-07761-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation
5. S/J 30-5 Unit #31
6. Blanco
7. Rio Arriba NM
8. 6.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Company
1. 80-04498/NM-3271-79
2. 30-039-00000-0000-0
3. 108 000 000
4. Northwest Pipeline Corporation

5. S/J 30-5 Unit #2 R
6. Blanco
7. Rio Arriba NM
8. 19.0 million cubic feet
9. October 26, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Company
1. 80-04499/NM-03311-79
2. 30-045-22662-0000-0
3. 103 000 000
4. Amoco Production Company
7. San Juan NM
5. Heath Gas Com E #1A
6. Blanco Mesaverde
8. 80.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04500/NM-03314-79
2. 30-045-22336-0000-0
3. 103 000 000
4. Amoco Production Company
5. A L Elliott A #1A
6. Blanco Mesaverde
7. San Juan NM
8. 145.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04501/NM-03315-79
2. 30-045-22663-0000-0
3. 103 000 000
4. Amoco Production Company
5. W D Heath A #1A
6. Blanco Mesaverde
7. San Juan NM
8. 193.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04502/NM-03317-79
2. 30-039-21475-0000-0
3. 103 000 000
4. Amoco Production Company
5. Valencia Canyon Unit #15
6. Choza Mesa
7. Rio Arriba NM
8. 35.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04503/NM-3321-79-3
2. 30-039-21476-0000-0
3. 103 000 000
4. Amoco Production Company
5. Valencia Canyon Unit #10
6. Choza Mesa
7. Rio Arriba NM
8. 17.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04504/NM-3321-79-8
2. 30-039-21476-0000-0
3. 108 000 000
4. Amoco Production Company
5. Valencia Canyon Unit #10
6. Choza Mesa-Pictured Cliffs
7. Rio Arriba NM
8. 21.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04505/NM-3322-79
2. 30-039-21473-0000-0
3. 103 000 000
4. Amoco Production Company
5. Valencia Canyon Unit #12
6. Choza Mesa
7. Rio Arriba NM
8. 300.0 million cubic feet

9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04506/NM-3323-79
2. 30-045-22739-0000-0
3. 103 000 000
4. Amoco Production Company
5. Ute Indians A #11
6. Ute Dome Paradox
7. San Juan NM
8. 237.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04508/NM-3331-79
2. 30-045-22667-0000-0
3. 103 000 000
4. Amoco Production Company
5. A L Elliott C #1A
6. Blanco Mesaverde
7. San Juan NM
8. 89.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04509/NM-3337-79
2. 30-039-21320-0000-0
3. 103 000 000
4. Amoco Production Company
5. Jicarilla Apache 102 #21
6. Tapacito Pictured Cliffs
7. Rio Arriba NM
8. 40.0 million cubic feet
9. October 26, 1979
10. Gas Company of New Mexico
1. 80-04510/NM-3338-79
2. 30-039-21321-0000-0
3. 103 000 000
4. Amoco Production Company
5. Jicarilla Apache 102 #22
6. Tapacito Pictured Cliffs
7. Rio Arriba NM
8. 75.0 million cubic feet
9. October 26, 1979
10. Gas Company of New Mexico
1. 80-04511/NM-3339-79
2. 30-039-21403-0000-0
3. 103 000 000
4. Amoco Production Company
5. Jicarilla Apache 102 #23
6. Tapacito Pictured Cliffs
7. Rio Arriba NM
8. 110.0 million cubic feet
9. October 26, 1979
10. Gas Company of New Mexico
1. 80-04512/NM-3340-79
2. 30-039-21319-0000-0
3. 103 000 000
4. Amoco Production Company
5. Jicarilla Apache 102 #24
6. Tapacito Pictured Cliffs
7. Rio Arriba NM
8. 110.0 million cubic feet
9. October 26, 1979
10. Gas Company of New Mexico
1. 80-04513/NM-3342-79
2. 30-039-21317-0000-0
3. 103 000 000
4. Amoco Production Company
5. Jicarilla Apache 102 #18
6. Tapacito Pictured Cliffs
7. Rio Arriba NM
8. 20.0 million cubic feet
9. October 26, 1979
10. Gas Company of New Mexico

U.S. Geological Survey Albuquerque, N. Mex.
1. Control Number (FERC/State)

2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80-04463A/UA-3222-79A
2. 43-037-30365-0000-1
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit I-19 (Desert Crk)
6. Greater Aneth
7. San Juan UT
8. 4.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04463B/UA-3222-79B
2. 43-037-30365-0000-2
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit I-19 (Isamay)
6. Greater Aneth
7. San Juan UT
8. 4.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04464A/UA-3228-79A
2. 43-037-30364-0000-1
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit H-18 (Desert Crk)
6. Greater Aneth
7. San Juan UT
8. 44.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04464B/UA-3228-79B
2. 43-037-30364-0000-2
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit H-18 (Isamay)
6. Greater Aneth
7. San Juan UT
8. 44.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04465A/UA-3227-79A
2. 43-037-30367-0000-1
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit I-17 (Desert Crk)
6. Greater Aneth
7. San Juan UT
8. 69.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04465B/UA-3227-79B
2. 43-037-30367-0000-2
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit I-17 (Isamay)
6. Greater Aneth
7. San Juan UT
8. 69.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04466A/UA-3233-79A
2. 43-037-30378-0000-1
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit G-17 (Desert Crk)
6. Greater Aneth

7. San Juan UT
8. 18.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04466B/UA-3233-79B
2. 43-037-30378-0000-2
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit G-17 (Ismay)
6. Greater Aneth
7. San Juan UT
8. 18.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04467A/UA-3235-79A
2. 43-037-30366-0000-1
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit H-16 (Desert Crk)
6. Greater Aneth
7. San Juan UT
8. 8.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Company
1. 80-04467B/UA-3235-79B
2. 43-037-30366-0000-2
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit H-16 (ISMAY)
6. Greater Aneth
7. San Juan UT
8. 8.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Co
1. 80-04469/UA-3223-79
2. 43-037-30415-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit H-17B
6. Greater Aneth
7. San Juan UT
8. 18.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Co
1. 80-04471/UA-3231-79
2. 43-037-30385-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit C-17
6. Greater Aneth
7. San Juan UT
8. 18.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Co
1. 80-04472/UA-3230-79
2. 43-037-30353-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit O-7
6. Greater Aneth
7. San Juan UT
8. 3.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Co
1. 80-04473/UA-3229-79
2. 43-037-30379-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit C-13
6. Greater Aneth
7. San Juan UT
8. 12.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Co
1. 80-04482/UA-3232-79

2. 43-037-30390-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit E-17
6. Greater Aneth
7. San Juan UT
8. 6.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Co
1. 80-04483/UA-3228-79
2. 43-037-30363-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit G-13
6. Greater Aneth
7. San Juan UT
8. 8.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Co
1. 80-04484/UA-3234-79
2. 43-037-30359-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit K-11
6. Greater Aneth
7. San Juan UT
8. 13.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Co
1. 80-04485/UA-3225-79
2. 43-037-30377-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit G-15
6. Greater Aneth
7. San Juan UT
8. 14.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Co
1. 80-04507/UA-3224-79
2. 43-037-30381-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit I-15
6. Greater Aneth
7. San Juan UT
8. 11.0 million cubic feet
9. October 26, 1979
10. El Paso Natural Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20428.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36173 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP76-93]

Kentucky West Virginia Gas Co.; Report of Refunds

November 15, 1979.

Take notice that on November 6, 1979, Kentucky West Virginia Gas Company (Kentucky West) in compliance with the Commission's ordering paragraph (C) of its Order issued May 31, 1977, at Docket No. RP76-93, tendered for filing a Report of Refunds Made on October 22, 1979.

Kentucky West states that the Report of Refunds Made encompasses its two pipeline customers for sales under Rate Schedule PLS-1: Equitable Gas Company and Columbia Gas Transmission Corporation. Of said refund totaling \$8,739,751.72, Kentucky West has distributed to Equitable Gas Company \$6,830,097.45 plus additional accrued interest thereon to the date of distribution aggregating \$870,121.87 for a total of \$7,500,219.32 and has distributed to Columbia Gas Transmission Corporation \$2,109,654.27 plus additional accrued interest thereon to the date of distribution aggregating \$274,096.29 for a total of \$2,383,750.56.

Kentucky West states that a copy of its filing has been served upon each party on the service list of Docket No. RP76-93.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20428, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36174 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-44]

Kentucky West Virginia Gas Co.; Proposed Changes in FERC Gas Tariff

November 16, 1979.

Take notice that Kentucky West Virginia Gas Company, on November 2, 1979, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The proposed changes establish an incremental pricing surcharge provision and a revised PGA provision in compliance with Part 282 of the Regulations of the Federal Energy Regulatory Commission.

The proposed changes are mandated by the Natural Gas Policy Act of 1978 and by the Commission's Regulations, and are now issued to comply with Order No. 49 of the Federal Energy Regulatory Commission, Docket No. RM79-14, dated September 28, 1979.

Kentucky West Virginia Gas Company states that a copy of the filing has been served upon each of the Company's jurisdictional customers, the West Virginia Public Service Commission, the Pennsylvania Public Utilities Commission and the Energy Regulatory Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20428, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36175 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-84]

Louisville Gas & Electric Co.; Proposed Tariff Change

November 16, 1979.

The filing Company submits the following:

Take notice that Louisville Gas and Electric Company (LG&E), on November 9, 1979, tendered for filing proposed changes in its Interconnection Agreement between LG&E and Tennessee Valley Authority (TVA),

designated Louisville Gas and Electric Company FERC Rate Schedule No. 28.

The purpose of this filing is to increase the demand charge for Short Term Power as set forth on Service Schedule C from 60¢ per kilowatt per week to 70¢ per kilowatt per week.

Copies of the filing were served upon TVA and the Energy Regulatory Commission of Kentucky.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20428, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36176 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RE80-3]

Madison Gas & Electric Co.; Application for Exemption

November 15, 1979.

Take notice that Madison Gas and Electric Company (MGE), on October 30, 1979, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations (Order 48, 44 FR 58887). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290 of the Commission's regulations issued pursuant to Section 133 of PURPA.

In its application for exemption, MGE states that it should not be required to file the specified data for the following reasons:

(1) On May 31, 1979, MGE filed an application with the Public Service Commission of Wisconsin (PSCW) for authority to increase its electric and natural gas rates. By virtue of Section 290.103 of the regulations, this filing may be considered an alternative method of fulfilling the filing requirements of Subparts B, C, D, and E of the regulations.

(2) To require MGE to file information in addition to that which is already available (MGE's filing with PSCW for authority to increase its electric and natural gas rates) and in line with the intent of Section 133 would not carry out the purposes of the section. The purposes of Section 133 will continue to be served by existing rules of PSCW.

(3) Regardless of whether the PSCW uses MGE's 1979 test year filing or a 1980 test year, providing the information required in Subparts B, C, D, and E would serve no useful purpose to anyone in MGE's current rate proceeding or any future proceeding.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that a summary of the application be published in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20428, on or before January 4, 1980.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36177 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-42]

Michigan Wisconsin Pipe Line Co.; Filing of Revised Tariff

November 16, 1979.

Take notice that Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) on November 7, 1979, tendered for filing Second Revised Sheet Nos. 39 through 44, Original Sheet Nos. 7a, 43a, 43b and 43c to its FERC Gas Tariff, Original Volume No. 1. The proposed Tariff Sheets reflect compliance with the incremental pricing provisions of the NGPA and Commission Regulations promulgated thereunder.

Copies of this filing have been mailed to each of Michigan Wisconsin's jurisdictional customers and to appropriate State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington,

D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36178 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP80-37]

Mid Louisiana Gas Co.; Proposed Change in Tariff

November 15, 1979.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on November 5, 1979 tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff the following tariff sheets:

Third Revised Sheet No. 26a
Fifth Revised Sheet No. 26b
Third Revised Sheet No. 26c
Third Revised Sheet No. 26d
Original Sheet No. 26d.1
Original Sheet No. 26d.2
Original Sheet No. 26d.3
Original Sheet No. 26d.4

Mid Louisiana states that the filing is to comply with Commission Order No. 49 issued at Docket No. RM79-14. Specifically, Section 19 of its tariff has been changed to include provisions for the calculation of incremental pricing adjustments in its PGA rate adjustments. In addition, Mid Louisiana revised Section 19.10 *Carrying Charges* to comply with the Commission's Regulations in Order No. 47 at Docket No. RM77-22.

Mid Louisiana has requested a waiver of notice requirements so as to permit the proposed tariff sheets to become effective December 1, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36179 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RE80-5]

Montana-Dakota Utilities Co.; Application for Exemption

November 15, 1979.

Take notice that Montana-Dakota Utilities Company, on October 30, 1979, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations (Order 48, 44 FR 58687). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Subparts C, D, and portions of Subpart E of Subchapter K, Part 290 of the Commission's regulations issued pursuant to Section 133 of PURPA, for only Montana-Dakota Utilities Company's Sheridan, Wyoming, electric system.

In its application for partial exemption, Montana-Dakota Utilities Company (MDU) states that it should not be required to file the specified data for the following reasons:

- (1) The Sheridan, Wyoming, electric system is completely isolated from MDU's interconnected electric system.
- (2) MDU purchases all power requirements for the Sheridan system from Pacific Power and Light Company.
- (3) Much of the data required relates to the facilities of Pacific Power and Light Company.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that a summary of the application be published in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, on or before January 4, 1980.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36180 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP78-78]

Natural Gas Pipeline Co. of America; Filing of Revised Tariff Sheets

November 15, 1979.

Take notice that on November 7, 1979 Natural Gas Pipeline Company of America (Natural) tendered for filing revised tariff sheets for Third Revised Volume No. 1 and Second Revised Volume No. 2 of its FERC Gas Tariff.

Natural states the revised tariff sheets, filed pursuant to the applicable provisions of the Stipulation and Agreement accepted and approved by Commission letter order issued October 4, 1979, at Docket No. RP78-78, set out the rates effective as of December 1, 1978, January 1, 1979, March 1, 1979, April 1, 1979, and September 1, 1979, along with the required amendment to Natural's PGA as provided for in Article XVII.

Copies of this filing were served upon the company's jurisdictional customers and interested parties to Docket No. RP78-78.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36181 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP79-71]

Natural Gas Pipeline Co. of America; Application To Withdraw Rate Increase Filing

November 15, 1979.

Take notice that on November 7, 1979, Natural Gas Pipeline Company of

America (Natural) filed an application to withdraw its suspended rate increase filing of May 31, 1979.

Natural states that its application for withdrawal has been made pursuant to Article XVI of the settlement agreement in Docket No. RP78-78 approved by Commission letter order dated October 4, 1979. Since no application for rehearing of the Commission's order approving the Docket No. RP78-78 settlement was filed by November 5, 1979, the Commission's Order is now final and nonappealable.

Copies of this filing were served upon the company's jurisdictional customers, interested state commissions, and interested parties to Docket No. RP79-71.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36182 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-91]

Northern Indiana Public Service Co.; Proposed Tariff Change

November 16, 1979.

The filing Company submits the following:

Take notice that Northern Indiana Public Service Company, on November 13, 1979, tendered for filing twelve (12) Assignment of Power Contracts from twelve (12) individual Rural Electric Membership Corporations to Wabash Valley Power Association, Inc., and twelve (12) Consent to Assignment executed on behalf of Northern Indiana Public Service Company.

Said twelve (12) Assignment of Power Contracts provide for the assignment and transfer to Wabash Valley Power Association, Inc., all of the rights, title and interest which each of the twelve (12) individual Rural Electric Membership Corporations have in the

Power Contracts (Agreement for Supply of Electric Energy for Resale) with Northern Indiana Public Service Company.

Copies of the filing were served upon Wabash Valley Power Association, Inc., and the Northern Indiana Public Service Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36183 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 1121]

Pacific Gas & Electric Co.; Application for Amendment of License

November 15, 1979.

Take notice that an application for an amendment of license was filed on July 10, 1979, under the Federal Power Act (16 U.S.C. §§ 791(a)-825(r)), by the Pacific Gas and Electric Company (applicant) for the Battle Creek Project No. 1121. The project is located on the Cross Country Canal in Shasta County near Manton, California.

Correspondence with applicant regarding the application should be sent to: Mr. W. M. Gallavan, Vice President—Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106.

The applicant seeks to amend the project license to authorize construction of the proposed Volta 2 Hydroelectric Plant, which would consist of: (1) a 4-foot-diameter, 492-foot-long steel penstock to be located parallel to and about 15 feet from a pipe section of the Cross Country Canal, and that would receive water from the canal; (2) a semi-indoor type powerhouse containing a 1,000-kW generating unit that would discharge water back into the canal; and (3) a 1,500-foot-long, 12-kV pole-type transmission line to be located within the penstock-pipeline right-of-way,

connecting the powerhouse with the non-project Manton Branch of the Volta 1101 distribution line.

The new unit would develop energy that is now being lost in an energy dissipation device within the conduct system. This energy would enter applicant's distribution system to serve existing and future customers. No land outside the existing project boundary would be occupied by the new facilities.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 31, 1979. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36184 Filed 11-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. SA-80-26]

Utah Gas Service Co.; Application for Adjustment

November 15, 1979.

On November 8, 1979 Utah Gas Service Company filed with the Federal Energy Regulatory Commission an Application for an Adjustment under Order Nos. 24 and 49 wherein Utah Gas Service Company seeks not to apply the incremental pricing provisions of the Natural Gas Policy Act of 1978. Utah Gas Service Company asserts that the implementation of these incremental pricing provisions will create a special hardship, inequity and unfair distribution of burdens to all of its customers. The application also requests temporary relief in the event the Commission is unable to complete final action by December 31, 1979.

The procedures applicable to the conduct of this adjustment proceeding are found in Sec. 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Sec. 1.41. All petitions to intervene must be filed on or before December 11, 1979.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36185 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 814]

Utah Power & Light Co.; Issuance of Annual License(s)

November 16, 1979.

On June 27, 1977, Utah Power and Light Company, Licensee for the Beaver Project No. 814, located on the Beaver River in Beaver County, Utah, filed an application for a new license pursuant to the Federal Power Act and Commission regulations thereunder.

The license for Project No. 814 was issued effective September 1, 1929, for a period ending August 31, 1979. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Utah Power and Light Company.

Take notice that an annual license has been issued to Utah Power and Light Company for the period September 1, 1979 to August 31, 1980, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Beaver Project No. 814, subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before August 31, 1980, a new annual license will be in effect each year thereafter, effective September 1 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36186 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RE80-9]

Public Utility District No. 1 of Snohomish County; Application for Exemption

November 16, 1979.

Take notice that Public Utility District No. 1 of Snohomish County, on October 31, 1979, filed an application for exemption from certain requirements of Part 290 of the Commission's regulations (Order 48, 44 FR 58687). Exemption is sought from the requirement to file, on or before November 1, 1980, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290 of the Commission's regulations issued pursuant to Section 133 of PURPA.

In its application for exemption, Public Utility District No. 1 of Snohomish County states that it should not be required to file the specified data for the following reason: "Compliance is unlikely to carry out the purposes of Section 133 to any greater degree than the applicant's present procedures which provide generally comparable information on costs of service on a timely basis which is readily available to everyone concerned."

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that a summary of the application be published in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 11, 1980.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36187 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-41]

South Georgia Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 16, 1979.

Take notice that South Georgia Natural Gas Company (South Georgia) on November 7, 1979, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, to become

effective December 1, 1979. South Georgia states that the proposed tariff sheets have been filed to establish an Incremental Pricing Surcharge provision, all in compliance with the Commission's Order No. 49.

Copies of the filing are being served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36188 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP77-62]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Tariff Filing in Compliance With Settlement Agreement

November 16, 1979.

Take notice that on November 13, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) tendered for filing revised tariff sheets to its FERC Gas Tariff, to be effective November 1, 1979, consisting of the following:

Ninth Revised Volume No. 1

Twenty-Seventh Revised Sheet Nos. 12A and 12B

Sixth Revised Volume No. 2

Third Revised Sheet No. 141A.

Fourth Revised Sheet Nos. 246D, 247D, 248D, 249H and 249I

Fifth Revised Sheet No. 245D

Sixth Revised Sheet Nos. 76 and 215

Seventh Revised Sheet Nos. 53, 54 and 77

Eighth Revised Sheet No. 141

Tenth Revised Sheet Nos. 11 and 12

Tennessee states that Article III of the Second Stipulation and Agreement (August 13, 1979) (Agreement) in this proceeding, which the Commission approved by its letter order dated November 6, 1979, provided for Tennessee to file a \$30 million rate

reduction. Under the terms of the Agreement, Tennessee states that the rate reduction would become effective January 1, 1980, if no applications for rehearing of the November 6, 1979 letter order are filed. However, Tennessee is proposing to make the tariff sheets listed above, which reflect the rate reduction, effective on November 1, 1979, on the condition that the November 6, 1979 letter order become final and nonappealable on December 7, 1979.

Tennessee states that copies of the filing have been mailed to all its jurisdictional customers, affected State regulatory commissions and parties to Docket No. RP77-62.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36189 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2830]

Town of Madison Electric Works Department; Granting Interventions

November 16, 1979.

On December 13, 1977 the Town of Madison Electric Works Department (Madison Electric) filed an application for preliminary permit for the proposed Kennebec River Hydroelectric Project. Public notice of the application was given setting October 31, 1978, as the last date for filing protests and petitions to intervene. Petitions to intervene were filed on October 31, 1978 by both The Natural Resources Council of Maine, *et al.* (NRCM, *et al.*) and Madison Paper Corporation.

NRCM, *et al.* is composed of: the Natural Resources Council of Maine, a group dedicated to natural resources conservation; North Kennebec Regional

Planning Commission, the regional planning commission for most of the municipalities that would be affected by the proposed project; the Sandy River Watershed Association, a non-profit membership corporation to encourage appropriate conservation, development and management of the Sandy River Watershed; and a number of individuals who own property in, make recreational use of, or reside in the Sandy or Carabassett River Watershed. NRCM, *et al.* asserts that the substantial interests it represents will be adversely affected by the proposed project. In its petition to intervene, NRCM, *et al.* also requested that the application of Madison Electric be denied with prejudice to the submission of a revised application reflecting "adequate coordination and consultation with all relevant State and regional commissions and agencies" and accompanied by "an initial or preliminary environmental assessment." This notice disposes only of NRCM, *et al.*'s request for status as an intervenor.

Madison Paper Corporation operates a pulp and paper mill at Madison, Maine and operates two licensed hydroelectric projects on the Kennebec River (FERC Nos. 2364 and 2365). The site of the Madison Hydroelectric Plant, one of the developments proposed in the Kennebec River Hydroelectric Project, would be within the boundaries of Madison Paper's Abenaki Project, FERC No. 2364. It is Madison Paper's position that, as the licensee for the Abenaki Project, it should have a first priority over all others to develop further its project so long as such priority does not prevent the prompt economical development of the resource. In an amendment to its petition to intervene filed March 13, 1978, Madison Paper moved that the Commission reject the application of the Town of Madison Electric Works Department for Project No. 2830 and rule that no applications for preliminary permits related to the Abenaki Project, FERC No. 2364, will be entertained so long as the licensee is actively pursuing further development of its project. Should the Commission decide not to so rule, Madison Paper seeks a preliminary permit as set forth in its "conditional" application for preliminary permit filed March 13, 1979.¹ This notice addresses only Madison Paper's request for intervention in this proceeding.

It appears that the public interest may be served by granting the The Natural Resources Council of Maine, *et al.* and

¹ On April 12, 1979, Madison Electric filed a response to Madison Paper's amendment of its petition to intervene. The substance of that response did not address the question of intervention, but was directed to the additional relief requested by Madison Paper.

Madison Paper Corporation intervention in this proceeding.

Pursuant to Section 3.5(a) of the Commission's Rules of Practice and Procedure (Rules), 18 CFR § 3.5(a) (1978), as promulgated by Federal Energy Regulatory Commission Rulemaking RM78-19 (issued August 14, 1978) amended in Docket No. RM79-59 (July 23, 1979), the above petitioners are permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act. Participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene. The admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36190 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-80]

Virginia Electric & Power Co.; Filing

November 15, 1979.

The filing company submits the following:

Take notice that on November 9, 1979, the Virginia Electric and Power Company (VEPCO) tendered for filing a request for a new delivery point in Albermarle County, Virginia which has been designated Schuyler Delivery Point. The projected connection date for this delivery point is a date in December, 1979.

VEPCO requests that the Commission allow the Schuyler Delivery Point Supplement to become effective on the date the facilities are connected with the understanding that they will notify the Commission of the effective date to be placed in each copy of the supplement. VEPCO states that there will be no significant increase in the unit cost of electricity to the Central Virginia Electric Cooperative as a result of the planned connection of facilities and therefore, request a waiver of the required billing data.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before December 4, 1979. Protests will be considered by the Commission in

determining the appropriate actions to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36191 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-81]

Virginia Electric Power Co.; Filing

November 15, 1979.

Take notice that on November 8, 1979, Virginia Electric Power Company (VEPCO) tendered for filing a supplement to the Company's FERC Rate Schedule No. 83-81 with Prince William Electric Cooperative (PWECC).

VEPCO states that it has installed and will own and maintain additional 69 kV substation bus-work at the Harrison Delivery Point as requested by PWECC. VEPCO further states that the excess substation facilities were requested to serve PWECC's 69 kV excess feeder circuit.

VEPCO requests an effective date of December 6, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36192 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-85]

Wisconsin Power & Light Co.; Filing Wholesale Power Agreement

November 16, 1979.

The filing Company submits the following:

Take notice that on November 9, 1979, Wisconsin Power and Light Company (WPL) tendered for filing a Wholesale Power Contract dated November 1, 1979,

between the City of Wisconsin Dells and Wisconsin Power and Light Company. WPL states that this contract will supersede an existing contract for wholesale electric service dated October 9, 1972.

WPL requests a proposed effective date of May 4, 1979.

WPL states that a copy of the Wholesale Power Contract and the filing have been sent to the City of Wisconsin Dells.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a part must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36193 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-83]

Wisconsin Public Service Corp.; Filing

November 15, 1979.

The filing Company submits the following:

Take notice that Wisconsin Public Service Corporation (WPSC) on November 9, 1979, tendered for filing Annual Contract Demand Quantities of Manitowoc, Wisconsin. This Agreement will revise the Contract Demand Quantities for peak load, intermediate load and base load in accordance with the Agreement including the renomination of demand as provided for in Article III of the Settlement Agreement of Docket No. ER78-506, Federal Energy Regulatory Commission Approval Letter Dated October 15, 1979.

Copies of this filing were served upon the City of Manitowoc.

The Agreement is to be effective immediately.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections

1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 1979. Protests will be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-36194 Filed 11-23-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1365-5]

Ambient Air Monitoring Reference and Equivalent Methods; Amendment to Equivalent Method for SO₂

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has approved an amendment to SO₂ equivalent method number EQSA-0877-024 [Federal Register, Vol. 42, page 44264, September 2, 1977]. While the designation number of the method remains the same, the method identification is amended as follows:

EQSA-0877-024, "ASARCO Model 500 Sulfur Dioxide Monitor", operated on a 0-0.5 ppm range; or "ASARCO Model 600 Sulfur Dioxide Monitor", operated on a 0-1.0 ppm range. (Both models are identical except the range).

This method is available from ASARCO Inc., 3422 South 700 West Salt Lake City, Utah 84119.

This change is made in accordance with 40 CFR 53.14, based on additional information submitted by the applicant subsequent to the original designation (42 FR 44264, September 2, 1977). As a designated equivalent method, this method is acceptable for use by States and other control agencies for purposes which require use of a reference or equivalent monitoring method.

Additional information concerning the use of this designated method may be obtained from the original Notice of Designation (42 FR 44264) or by writing to: Director, Environmental Monitoring Systems Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. Technical questions

concerning the method should be directed to the manufacturer.

November 14, 1979

Stephen J. Gaga,

Assistant Administrator for Research and Development.

[FR Doc. 79-36296 Filed 11-23-79; 8:45 am]

BILLING CODE 6560-01-M

[OTS-53007; FRL 1365-4]

Premanufacture Notices Status Report for October 1979

AGENCY: Environmental Protection Agency (EPA or the Agency).

ACTION: Monthly Summary of Premanufacture Notices.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the Federal Register at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for October 1979.

DATE: Any person who wishes to file written comments on a specific chemical substance should submit those comments no later than 30 days before the expiration of the applicable notice review period.

ADDRESS: Written comments should bear the PMN number of the particular substance and should be addressed to the Document Control Office (TS-793), Office of Toxic Substances, EPA, 401 M St., SW, Washington, DC 20460.

Nonconfidential portions of the PMN's and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Smith, Premanufacturing Review Division (TS-794), Office of Toxic Substances, EPA, Washington, DC 20460, 202/426-8816.

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA at least 90 days before he begins manufacture or import. A "new" chemical substance is any chemical substance that is not on the inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the inventory on June 1, 1979 (44 FR 28558, May 15, 1979). The section 5 requirements are effective for all new

chemical substances manufactured or imported for a commercial purpose after July 1, 1979. Once EPA receives a PMN, the Agency normally has 90 days to review it. However, under section 5(c) of TSCA, the Agency may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that such an extension is necessary, the Agency publishes the reasons for the extension in the Federal Register.

The monthly status report required under section 5(d)(3) will identify: (a) PMN's received during the month; (b)

PMN's received previously and still under review at the beginning of the month; (c) PMN's for which the notice review period has ended since the last monthly summary; and (d) chemical substances that EPA has added to the inventory since the last monthly summary.

(Sec. 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604).

Dated: November 15, 1979.

Marilyn C. Bracken,
Deputy Assistant Administrator for Program Integration and Information.

Premanufacture Notices

(Status Report for October 1979)

PMN No.	Identity/generic name	FR citation	Expiration date
I. Premanufacture Notices Received During the Month			
5AHQ-1079-0030	Magnesium dodecylbenzene sulfonate salt	44 FR 59953 (10/17/80)	Dec. 30, 1979.
5AHQ-1079-0035(S)	2-tert-butyl-4-sec butylphenol	44 FR 59954 (10/17/79)	Jan. 1, 1980.
5AHQ-1079-0019A	Benzene, ethenyl-, tribromo derivative, homopolymer.	In preparation	Jan. 23, 1980.
5AHQ-1079-0037(A)	Dodecenyl succinic acid mono alkylester	In preparation	Jan. 27, 1980.
II. Premanufacture Notices Received Previously and Still Under Review at the Beginning of the Month			
5AHQ-0979-0016	n-Methanesulfonyl-p-toluene sulfonamide	44 FR 54118 (9/18/79)	Dec. 4, 1979.
5AHQ-0979-0022	Potassium salt of polyfunctional aliphatic acid oligomer.	44 FR 55416 (9/26/79)	Dec. 17, 1979.
5AHQ-0979-0023	Ammonium salt of polyfunctional aliphatic acid oligomer.	do.	Do.
5AHQ-0979-0011(A)	Poly (vinyl acetate, acrylic acid, butylacrylate dioctyl maleate, 2 ethylhexyl acrylate).	44 FR 57488 (10/5/79)	Dec. 23, 1979.
5AHQ-0979-0024	2,2'-methylenebis (4-secbutyl-6-tert-butyl-phenol).	44 FR 58800 (10/11/79)	Dec. 25, 1979.
5AHQ-0979-0025	2,2'-ethyldenebis (4-secbutyl-6-tert-butyl-phenol).	do.	Do.
III. Premanufacture Notices for Which the Notice Review Period Has Ended Since the Last Monthly Summary			
5AHQ-0779-0004	Amine salts of dicarboxylic acids	44 FR 44931 (7/31/79)	Oct. 17, 1979.
IV. Chemical Substances That EPA has Added to the Inventory Since the Last Monthly Summary			
5AHQ-0779-0004	Amine salts of dicarboxylic acids	44 FR 44931 (7/31/79)	..

[FR Doc. 79-36299 Filed 11-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1365-1]

Science Advisory Board; Subcommittee on Energy-Related Health Effects Research; Meeting

Under Public Law 92-463, notice is hereby given that a two-day meeting of the Subcommittee on Energy-Related Health Effects Research of the Science Advisory Board will be held on December 18 and 19, 1979 in Conference Room 3906-08, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. The meeting will start at 9:00 a.m. on December 18, 1979.

The purpose of the meeting will be to review and comment on the Agency's tentative plans for redirecting certain portions of the Energy-Related Health Effects Research of EPA's Office of Air Quality Planning and Standards (OAQPS). Specifically, the portion of the Energy-Related Health Effects Research Program to be reviewed and discussed, addresses the health effects of

pollutants from fossil fuel combustion and complements research carried out under the Air Health Research Program (Base Program) of EPA's Office of Research and Development.

Pertinent background information follows. This is the second meeting of the Subcommittee. At an earlier meeting, on November 13 and 14, 1979, the Subcommittee was briefed on and discussed (1) programs and needs of EPA's Office of Air Quality Planning and Standards (OAQPS) as regards health effects of energy-related air pollutants, (2) relevant aspects of the Air Health Research Program (Base Program) of EPA's Office of Research and Development, and (3) research carried out or planned under the Energy-Related Health Effects Research Program. Further meetings of the Subcommittee will be scheduled if needed.

The meeting will be open to the

public. Any member of the public wishing to attend or submit a paper, or wishing further information, should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. December 13, 1979. Please ask for Mr. Kenneth B. Goggin. The telephone number is (202) 472-9444.

Richard M. Dowd,
Staff Director, Science Advisory Board.
November 20, 1979.

[FR Doc. 79-36301 Filed 11-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL-13658]

Science Advisory Board; Water Quality Criteria Subcommittee; Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the Water Quality Criteria Subcommittee of the Science Advisory Board will be held on December 13 and 14, 1979, beginning at 9:00 a.m., in the Shenandoah Conference Room/B and C, Ramada Inn Rosslyn, 1900 N. Fort Myers Dr., Arlington, Virginia.

This is the fourth meeting of the Water Quality Criteria Subcommittee. The Agenda includes consideration of the Subcommittee's revision of the draft report on the methodologies used in the development of water quality to protect aquatic life and human health for the 27 specified pollutants, listed in the Federal Register, Part V, pages 15926-15981, March 15, 1979, and for the 26 specified pollutants listed in the Federal Register, Part III, pages 43660-43697, July 25, 1979, and on selected criteria documents.

The meeting is open to the public. Because of the limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than December 7, 1979, and receive a confirmed reservation from Dr. J. Frances Allen, Staff Officer, Water Quality Criteria Subcommittee, or Ms. Anita Najera, (202) 472-9444.

Dated: November 19, 1979.

Richard M. Dowd,
Staff Director, Science Advisory Board.

[FR Doc. 79-36300 Filed 11-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1366-2]

Virginia Marine Sanitation Device Standard; Receipt of Petition

Notice is hereby given that a petition has been received from the Commonwealth of Virginia requesting a determination by the Administrator, Environmental Protection Agency,

pursuant to Section 312(f)(3) of Pub. L. 92-500, as amended by Pub. L. 95-217, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of certain portions of the Rappahannock River and its tributaries. The area covered by the petition includes the Rappahannock River from its mouth (determined by a line extending between Windmill Point and Stingray Point), upstream to the Thomas Downing Bridge at

Tappahannock, and including all creeks, coves, and estuaries within the specified area.

The Commonwealth of Virginia has certified that there are seven pumpout facilities within the area covered by the petition. In addition, the Commonwealth has identified an eighth pumpout facility which is on the north shore of the Piankatank River, and outside the area covered by the petition.

The eight pumpout facilities identified by the Commonwealth are as follows:

Table I

Name of marina	Geographic location	Nautical miles from mouth of river	Operating hours	Days per week
(1) Norview Marina	Broad Creek, in Middlesex County.	1.8	January 1 to December 31, 8 a.m. to 5 p.m.	7
(2) Regent Point Marina	Lockies Creek, in Middlesex County.	9.3	April 1 to October 31, 10 a.m. to 8 p.m.	7
(3) Tides Lodge Marina	Carter Creek, in Lancaster County.	11.0	March 15 to December 31, 8 a.m. to 8 p.m.	7
(4) Yankee Point Sailboat Marina	Myers Creek, in Lancaster County.	14.5	March 1 to October 31, 8 a.m. to 9 p.m.	7
(5) Urbanna Bridge Marina	Urbanna Creek, in Middlesex County.	15.8	January 1 to December 31, 8 a.m. to 5 p.m.	6 (closed Wed.)
(6) Urbanna Marine Corp. Marina	Urbanna Creek in Middlesex County.	15.8	January 15 to December 1, 8 a.m. to 5 p.m.	6 (closed Sun.)
(7) Garrett's Marina	On the south shore of the Rappahannock River, in Essex County.	29.3	April 1 to November 30, 8 a.m. to 5 p.m.	6 (closed Sun.)
(8) Ruark's Boat Yard and Marina	On the north shore of the Piankatank River, in Middlesex County.	9	April 15 to November 1, 9 a.m. to 4 p.m.	5 (closed Sat. and Sun.)

It should be noted that Ruark's Boat Yard and Marina is located on the Piankatank River, and is 9 nautical miles outside the mouth of the Rappahannock River. The Commonwealth acknowledges that Ruark's Boat Yard and Marina is outside the area covered by the petition; however, the marina is

in a location contiguous to the area covered by the petition, and can provide pumpout facilities for vessels moored in the lower reaches of the Rappahannock River.

The Commonwealth of Virginia has further certified the following information pertaining to the eight pumpout facilities:

Table II

Name of Marina	Available minimum water depth at mean low water (feet)	Method of disposal of collected sanitary waste	Number of vessels moored at marina	Number of transient vessels serviced per week
(1) Norview Marina	7	(*)	112	6
(2) Regent Point Marina	6	(*)	9	0
(3) Tides Lodge Marina	8	(*)	29	30
(4) Yankee Point Sailboat Marina	8	(*)	55	3
(5) Urbanna Bridge Marina	7	(*)	35	0
(6) Urbanna Marine Corp. Marina	8	(*)	80	30
(7) Garrett's Marina	7	(*)	40	25
(8) Ruark's Boat Yard and Marina	8	(*)	45	1

* Sanitary wastes pumped to an onshore holding tank; contents of tank removed by septic tank contractor.

* Sanitary wastes pumped to raw sewage pump station which discharges to Tides Golf Lodge sewage treatment plant; NPDES permit number VA0026343.

* Sanitary wastes pumped into town of Urbanna sewerage system; NPDES permit number VA0026263.

* Sanitary wastes pumped to onshore holding tank, which discharges to Town of Urbanna sewerage system; NPDES permit number VA0026263.

* Sanitary wastes pumped to septic tank; contents of tank removed by septic tank contractor.

In addition, the Commonwealth has certified that there are an estimated 2298 vessel slips at marinas and other places where vessels are moored in the area covered by the petition, and that all marina slips are filled to capacity, year-round. The Commonwealth has estimated that 50 percent of the vessels moored in the area covered by the

petition have marine sanitation devices installed.

Finally, the Commonwealth has certified that the cost of a pumpout at seven of the eight facilities identified is five dollars (\$5.00); the exception is the Norview Marina, where the charge is eight dollars (\$8.00).

Comments and views regarding this request for action may be filed within 45 days of the date of publication of this notice. Such communications, or requests for information or a copy of the applicant's petition, should be addressed to Joseph A. Krivak, Acting Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M Street, S.W. Washington, D.C. 20460.

Dated: November 15, 1979.

Sweep T. Davis,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 79-36303 Filed 11-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1366-4]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of November 13 to November 16, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from November 23, 1979 and will end on January 7, 1980. The 30-day review period for final EIS's as calculated from November 23, 1979 will end on December 24, 1979.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed on EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

For hard copy reproduction or microfiche: Information Resources Press, 2100 M Street, NW, Suite 316, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental

Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to § 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of November 13, 1979 to November 16, 1979 the 30-day review period will be calculated from November 23, 1979. The review period will end on December 24, 1979.

Appendix I sets forth a list of EIS's filed with EPA during the week of November 13, 1979 to November 16, 1979. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: November 20, 1979.

William N. Hedeman, Jr.,
Director, Office of Environmental Review (A-104).

Appendix I—EIS'S Filed With EPA During The Week of November 13 to 16, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture,

Room 412-A, Admin. Building, Washington, D.C. 20250, (202) 447-3965.

Forest Service

Final

Sullivan-Salmo Unit Plan, Colville NF, Boundary County, Idaho and Pend Oreille County, Wash., November 14: The proposed action is the development of a land management plan for the Sullivan-Salmo Planning Unit of the Colville National Forest located in Pend Oreille County, Washington and Boundary County, Idaho. The major issues identified include: (1) Determination of the planning units contribution toward renewable resource targets, (2) relationship of unit management and local industrial and domestic water uses, (3) recreational experiences associated with Sullivan Lake, (4) timber yield and economic stability, (5) maintenance of winter habitat, and (6) protection of scientific, educational, or recreational values. (USDA-FS-06-21-79-07). Comments made by: USDA, DOE, FERC, DOI, EPA, State and local agencies, groups, individuals, and businesses. (EIS Order No. 91160.)

Tuolumne River Wild and Scenic River Study, Yosemite NP, Tuolumne County, Calif., November 15: Proposed is the designation of certain segments of the Tuolumne River located in Tuolumne County, California, as units of the National Wild and Scenic River System. A 92-mile portion of the river, was identified as a possible candidate for wild and scenic designation. A 62-mile portion of the river, including an ineligible 8-mile reservoir, within Yosemite National Park is recommended for inclusion in the system and is currently managed as such. The remaining 30-mile portion, including an ineligible 1-mile segment within the Tuolumne National Forest, offer potential for a variety of future uses. The alternatives consider no action and inclusion of various portions of the river in the system. (FEIS-05-16-78-09). Comment made by: FERC, EPA, USA, COE, State and local agencies, groups, individuals and businesses. (EIS Order No. 91163.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Final

Ice Harbor Lock and Dam, O&M, Snake River, Franklin and Walla Walla Counties, Wash., November 13: Proposed is the operation and maintenance of the Ice Harbor Lock and Dam on the Snake River, Franklin and Walla Walla Counties, Washington. The project is essentially completed with the exception of some continued recreation development and provision for fish and wildlife compensation. The project includes a navigation lock, a six turbine generator unit hydroelectric spillway dam, and lake with associated recreation facilities. Project operation is tied to the system of water resources developments in the Pacific Northwest (Walla Walla District). Comments made by: DOI, FERC, DOT, DOC, EPA, USDA, and State agencies. (EIS Order No. 91154.)

Draft Supplement: Los Angeles Harbor Deepening Project, Los Angeles County, Calif., November 14: This statement supplements a final EIS, No. 61283, filed 8-31-76. Proposed is the deepening of navigation channels and turning basins in the Los Angeles Harbor, Los Angeles County, California. Dredged material will be used to create new land in the Harbor for Port development. The alternatives considered include: (1) No action, (2) lightering, (3) ocean disposal of dredged material, (4) land disposal of dredged material, and (5) size and location of landfill. (Los Angeles District). (EIS Order No. 91158).

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

National Oceanic and Atmospheric Administration

Draft

Jack Mackerel Fishery of the Pacific, FMP, Pacific Ocean, November 15: Proposed is a fishery management plan for the jack mackerel fishery of the Pacific. The objectives of the plan are: (1) To prevent overfishing, (2) to achieve optimum yield on a continuing basis, (3) development of cooperative international management, (4) reduce conflict between user groups, (5) to avoid interference with development of the Pacific whiting fishery, (6) to promote efficiency in the utilization of the jack mackerel, and (7) to explore the productivity of the resource through controlled expansion of the fishery. Optimum yield and the total allowable level for foreign fishing are examined. (EIS Order No. 91164.)

Channel Island Marine Sanctuary, Regulatory, Santa Barbara County, Calif., November 16: Proposed is the creation of a marine sanctuary in the waters around the northern Channel Islands and Santa Barbara Island in the northern portion of the Southern California Bight in Santa Barbara County, California. Through regulatory control the following activities would be restricted: (1) Oil and gas operations, (2) discharging, (3) alteration of construction of the seabed, (4) navigation and operation of vessels and aircraft overflights below 1000 feet, and (5) removal or otherwise deliberately harming cultural or historical resources. (EIS Order No. 91165.)

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, DC 20585 (202) 252-4600.

Final

Residential Conservation Service Program, Regulatory, Programmatic, November 13: Proposed is the establishment of the Residential Conservation Service Program to implement Part 1—Title II of the National Energy Conservation Policy Act. The program would require large regulated and nonregulated utilities with specified residential sales to prepare and administer programs for consumer information and

services, including home energy audits, designed to promote the installation of energy conservation and renewable measures in residential buildings. The range of alternatives considered for the program include the scope and duration of post-installation inspection; scope of installation standards for loose fill insulation; and a material standard for attic insulation. Comments made by: EPA, State agencies, groups and businesses. (EIS Order No. 91153.)

The Draft EIS for the above EIS was not filed with EPA. The Department of Energy published a notice of availability in the Federal Register of July 16, 1979 (44 FR 41206).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6306.

Final

Southborough 8 and Pinehurst Planned Developments, El Paso County, Colorado, November 14: Proposed is the issuance of HUD home mortgage insurance for the Southborough 8 and Pinehurst planned developments located in Colorado Springs, El Paso County, Colorado. Combined, the projects will encompass 905 single family lots and a maximum of 4,343 multi-family units on approximately 259 acres. (HUD-R08—EIS-79-XIVF.) Comments made by: DOC, HEW, COE, State and local agencies. (EIS Order No. 91161.)

Denver Metropolitan Area-wide Plan, several counties, Colo., November 14: Proposed is the approval of the Denver Regional Council of Governments (DRCOG) regional growth and development plan as the basis for evaluating future housing development applications of HUD assisted or insured housing in the Denver metropolitan area. The counties involved are: Denver, Boulder, Jefferson, Adams, and Arapahoe. Approval of the plan would allow HUD to discontinue its practice of preparing a full EIS for each project unless conditions are found which have not been dealt with adequately in this statement which examines the over all cumulative impacts of area-wide development. Comments made by: USDA, DOC, DOE, EPA, HEW, DOT, COE, State and local agencies, groups, individuals and businesses. (EIS Order No. 91099.)

Final Supplement

Shenandoah new community, grant, Coweta County, Ga., November 16: This statement supplements a final EIS, No. 25718, filed 12-6-72 concerning the awarding of a discretionary fund grant for the construction of a water treatment system for the Shenandoah new community, Coweta County, Georgia. This supplement discusses a different system than that examined in the final EIS. Proposed is the construction of a 2.5 million gallon per day water treatment system. The construction will involve additions and improvements to existing facilities including upgrading of supply, treatment and distribution facilities. Comments made by: GSA, EPA, USDA, DOE, COE. (EIS Order No. 91166.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202) 343-3891.

Bureau of Reclamation

Final

Salt-Gila Aqueduct and Transmission System, Maricopa and Pinal Counties, Ariz., November 13: Proposed is the construction and operation of the Salt-Gila Aqueduct and associated electrical transmission system in Maricopa and Pinal Counties, Arizona. The aqueduct would convey Colorado River water from the terminus of the Granite Reef Aqueduct to the beginning of the Tucson Aqueduct. Water would enter the aqueduct at the Salt-Gila Pumping Plant forebay, be raised 74 feet and would flow by gravity through the open, concrete-lined canal for 58 miles to service areas. (FES-79-60). Comments made by: DOE, STAT, USDA, DOE, FPC, DOT, HEW, DLAB, DOD, ICC, EPA, DOC, DJUS, AHP, COE, HUD, State and local agencies, groups, individuals and businesses. (EIS Order No. 91155.)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Harry G. Moore, Jr., Acting Director, Division of Environmental Planning, Tennessee Valley Authority, 268 401 Building, Chattanooga, Tennessee 37401 (615) 755-3161 FTS 854-3161.

Revised Draft

Mallard-Fox Creek Area Development and Use, Morgan and Lawrence Counties, Ala., November 13: Proposed is a development and use plan for the Mallard-Fox Creek area on Wheeler Reservoir in Morgan and Lawrence Counties, Alabama. The TVA owns approximately 1,950 acres of the area and has received two industrial requests for portions of the property which is currently being managed as a wildlife area. As a result, TVA proposes to make available 44 acres for the construction of a rail barge facility, up to 200 acres for the construction of a plastics manufacturing plant, and 206 acres for future industrial use. The remaining 1,500 acres would be committed to long-term, intensive wildlife management. The draft EIS No. 90284, filed 3-16-79 is replaced by revised draft No. 91157, filed 11-13-79. (EIS Order No. 91157.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-4357.

Federal Highway Administration

Final

I-691, Cheshire, Southington and Meriden, Hartford and New Haven Counties, Conn. November 14: The proposed action is the construction of a new section of Interstate Route 691, passing through the towns of Southington and Cheshire, Connecticut. This section is approximately 3.5 miles long and would link the existing I-691 in Meriden, Connecticut, with I-84 at the Southington-Cheshire town line, thus completing the I-691

facility between I-91 and I-84. The route would be a four lane, limited access highway on a new right-of-way. (FHWA-CONN-EIS-78-02-F.) Comments made by: USDA, DOC, FEA, EPA, HUD, DOI, DOT, State and local agencies. (EIS Order No. 91159.)

Final Supplement

Bridge over Missouri River, MT-236, Winifred FS-1, Chouteau and Fergus Counties, Mont., November 13: This statement supplements a final EIS filed with CEQ on September 17, 1974 (EIS No. 41452). The purpose of the supplement is to assess the environmental impacts the project may have regarding three recent decisions

involving the Wild and Scenic Rivers System, National Register of Historic Places and the feasibility of a recommended alternative. The proposed project is located in Chouteau and Fergus Counties, Montana, along the Missouri River. The proposed bridge will span the river on route 236 between Big Sandy and Winifred. (FHWA-MT-4(F)-79-01-FS.) Comments made by: DOI, AHP, COE, EPA, USDA, DOT, HEW, local agencies. (EIS Order No. 91156.)

U.S. Coast Guard

Final

Tanker safety and pollution prevention, regulatory, November 15: Proposed are amendments to certain pollution prevention regulations concerning tanker safety and pollution prevention. These amendments would implement ship/tanker construction and equipment requirements under the International Conference on Tanker Safety and Pollution Prevention, and the Port and Tanker Safety Act. These amendments will apply to both new and existing crude and product carriers. Comments made by: STAT, TREA, DOD, DOI, DOC, DOT, EPA, State agencies, groups. (EIS Order No. 91162.)

EIS's Filed During the Week of November 13 to 16, 1979

(Statement Title Index—By State and County)

State	County	Status	Statement Title	Accession No.	Date filed	Orig. agency No.
Alabama	Lawrence	Draft	Mallard-Fox Creek Area Development and Use	91157	11-13-79	TVA
	Morgan	Draft	Mallard-Fox Creek Area Development and Use	91157	11-13-79	TVA
Arizona	Maricopa	Final	Salt-Gila Aqueduct and Transmission System	91155	11-13-79	DOI
	Pinal	Final	Salt-Gila Aqueduct and Transmission System	91155	11-13-79	DOI
California	Santa Barbara	Draft	Channel Island Marine Sanctuary	91165	11-16-79	DOC
	Los Angeles	Suppl.	Los Angeles Harbor Deepening Project	91158	11-14-79	COE
	Tuolumne	Final	Tuolumne River Wild and Scenic Study, Yosemite NP, Tuolumne NF	91163	11-15-79	USDA
Colorado	El Paso	Final	Southborough 8 and Pinehurst Planned Developments	91161	11-14-79	HUD
	Several	Final	Denver Metropolitan Area-wide Plan	91099	11-14-79	HUD
Connecticut	Hartford	Final	I-691, Cheshire, Southington and Meriden	91159	11-14-79	DOT
	New Haven	Final	I-691, Cheshire, Southington and Meriden	91159	11-14-79	DOT
Georgia	Coweta	F Suppl	New Community, Grant	91166	11-16-79	HUD
Idaho	Boundary	Final	Sullivan-Salmo Unit Plan, Colville NF	91160	11-14-79	USDA
Montana	Chouteau	F Suppl	Bridge Over Missouri River, MT-236, Winifred FS-1	91156	11-13-79	DOT
	Fergus	F Suppl	Bridge Over Missouri River, MT-236, Winifred FS-1	91156	11-13-79	DOT
Pacific Ocean		Draft	Jack Mackerel Fishery of the Pacific, FMP	91164	11-15-79	DOC
Programmatic		Final	Residential Conservation Service Program	91153	11-13-79	DOE
Regulatory		Draft	Channel Island Marine Sanctuary	91165	11-16-79	DOC
		Final	Residential Conservation Service Program	91153	11-13-79	DOE
		Final	Tanker Safety and Pollution Prevention	91162	11-15-79	DOT
Washington	Pend Oreille	Final	Sullivan-Salmo Unit Plan, Colville NF	91160	11-14-79	USDA
	Franklin	Final	Ice Harbor Lock and Dam, O&M, Snake River	91154	11-13-79	COE
	Walla Walla	Final	Ice Harbor Lock and Dam, O&M, Snake River	91154	11-13-79	COE

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
DEPARTMENT OF THE INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Rm. 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202) 343-3891.	1980 OCS Sale Nos. 62A and 62 Gulf of Mexico.	Draft 91029	October 5, 1979	Extension	November 26, 1979.
DEPARTMENT OF COMMERCE					
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.	Jack Mackerel Fishery of the Pacific, Fishery Management Plan.	Draft 91164	November 23, 1979 (See Appendix I).	Extension	January 12, 1979.
	Channel Island Marine Sanctuary, Santa Barbara County, California.	Draft 91165	November 23, 1979 (See Appendix I).	Extension	January 23, 1979.

Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—Notice of Official Retraction				
Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
None				
Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed with EPA				
Federal agency contact	Title of report	Date made available to EPA	Accession No.	
None				
Appendix VI.—Official Correction				
Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
None				

FR Doc. 79-36384 Filed 11-23-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

(CC Docket No. 79-138)

American Telephone & Telegraph Co.; Revisions to Tariff F.C.C. No. 260, Increased Rates Relating to Common Control Switching Arrangements (CCSA): Memorandum Opinion and Order

Adopted: November 14, 1979.
Released: November 15, 1979.

1. Before the Chief, Common Carrier Bureau are motions filed October 17, 1979, and October 29, 1979; in the above proceeding by the Ad Hoc Telecommunications Committee ("Committee") and the General Services Administration (GSA) seeking to compel the American Telephone and Telegraph Company ("AT&T") to produce certain information and data within 14 days.¹ Should this motion be granted, the Committee further requests an extension of time in which to file its reply case until four weeks after the information has been provided by AT&T. For reasons to be discussed we find that some of the information requested will aid us in fully exploring the issues and accordingly will allow a number of the requests to be served upon AT&T. [See 44 FR 63573, November 5, 1979]

¹Also before the bureau are oppositions to both motions filed by AT&T and a reply to AT&T's opposition filed by the Committee.

Background

2. This proceeding has its genesis in tariff revisions filed by AT&T which purport to raise the earnings level of common control switching arrangements (CCSA) service from 4.44 percent to a level closer to the company's authorized rate of return. By Order FCC 79-330, 72 FCC 2d 313 (1979), the Commission allowed the filing to go into effect but initiated the present limited investigation into proposed investment shifts away from CCSA and certain of AT&T's support information. However, because of the limited nature of the questions involved, the Commission found no need to conduct its investigation as a formal evidentiary hearing. Rather, it found conduct of a "paper" proceeding would be the most efficient approach under the circumstances. *Id.* at 322-23. Moreover, the Commission delegated authority to the Chief, Common Carrier Bureau to "require the submission of additional information, make further inquiries, and modify dates and procedures, if necessary, to provide for a fuller record and more efficient proceeding." *Id.* at 324.

3. On September 27, 1979 and October 4, 1979, GSA and the Committee served their respective information requests upon AT&T. AT&T refused to respond, contending that the Commission had not contemplated the use of discovery type procedures in this investigation.

Accordingly, the Committee and GSA proceeded to file the motions before us.

Discussion

4. As a general matter, we agree with AT&T that the specific pleading cycle which the Commission fashioned here was not intended to include even limited discovery.² As such, it was unquestionably improper for the Committee and GSA to have tendered information requests to AT&T without first having moved the Bureau for an appropriate modification of procedures. Notwithstanding these infirmities, however, we have determined to treat them, on our own motion, as requests to engage in limited discovery and to modify procedures.

5. We have carefully reviewed the information requests and the justification provided by the parties to determine whether the modification sought will result in a fuller exploration of the issues without undue delay. In this regard, we are persuaded that a number of the questions may elicit information relevant to the central issues of this limited investigation.³

²See 72 FCC 2d at 324. The Commission also left open the possibility of oral cross-examination before an administrative law judge upon a showing of a substantial dispute over facts critical to the resolution of the issues involved. See 72 FCC 2d at 323, note 15. No such request or showing has been made by any party, however.

³The Commission has clearly stated that the focus of this proceeding will be primarily on determining the validity of the planned investment shifts and, secondarily, on analyzing the revenue/cost projections. 72 FCC 2d at 323.

Moreover, we find that circumstances warrant a brief delay in this proceeding to obtain this information. Accordingly, we have attached to this order, as Appendix A, references to those questions which we will permit GSA and the Committee to serve upon AT&T.

6. Accordingly, it is ordered that the General Services Administration, on behalf of the Executive Agencies of the United States, and the Ad Hoc Telecommunications Users Committee may serve information requests, consistent with the foregoing opinion, upon AT&T, within three (3) days of the release of this order.

7. It is further ordered that AT&T shall respond to the requests for additional information which are attached to this order as Appendix A and served upon it either by the General Services Administration or the Ad Hoc Telecommunications Users Committee, within thirty (30) days of the release of this order.

8. It is further ordered that the date for the filing of reply cases in this proceeding is extended until thirty (30) days after AT&T submits its response to the information requests.

Federal Communications Commission.

Thomas J. Casey,

Deputy Chief, Operations, Common Carrier Bureau.

Appendix A—Requests for Additional Information, Designated by the Number of the Questions as They Appear in the Respective Motions

- A. General Services Administration:
- (1) 2(a)
 - (2) 2(b), use percentage
 - (3) 3(a)
 - (4) 3(b), use percentage
 - (5) 4
 - (6) 7
- B. Ad Hoc Telecommunications Users Committee:
- (7) 1, page 2
 - (8) 3 (a), (b), (c), (d), (e), page 2
 - (9) 12(a), provide copies only of market studies submitted by ADL, page 6
 - (10) 13 (a), (b), page 7
 - (11) 14 (a), (b), (c), page 7
 - (12) 15 (a), (b), (c), pages 7-8
 - (13) 16(a), page 9
 - (14) 7(b), exclude internal documents, page 11
 - (15) 1 (a), (b), (IV), page 12
 - (16) 1 (a), (b), (V), pages 12-13
 - (17) 2 (a), (b), page 14
 - (18) 3(a), pages 14-15
 - (19) 2, page 16
 - (20) 3, page 16
 - (21) 4, page 16
 - (22) 5, page 16
 - (23) 8, page 17

[BC Dockets Nos. 79-291 and 79-292; Files Nos. BPH-10,442 and BPH-10,469]

Nevada County Broadcasters, Inc., and Mother Lode Broadcasting Co.; Applications for Construction Permits

In the matter of applications for construction permits of Nevada County Broadcasters, Inc., Grass Valley, California (BC Docket No. 79-291, File No. BPH-10,442); Req: 94.3 MHz; Channel No. 232A, 487 watts (H&V); 784 feet and Jack J. Lawson, d/b/a Mother Lode Broadcasting Company, Grass Valley, California (BC Docket No. 79-292, File No. BPH-10,469); Req: 94.3 MHz; Channel No. 232A, 560 watts (H&V); 680 feet; memorandum opinion and order designating applications for consolidated hearing on stated issues.

Adopted: October 31, 1979. Released: November 19, 1979.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications.

2. Analysis of the financial data submitted by Nevada County Broadcasters, Inc. (Nevada County) reveals that \$46,144 will be required to construct and operate the proposed station for three months, itemized as follows:

Equipment	\$20,575
Buildings	1,000
Loan curtailments	3,000
Loan interest	1,069
Miscellaneous	8,500
Operating costs (3 months)	12,000
Total	46,144

Nevada County plans to finance construction and operation with the following funds: loan from Gold Country Bank, \$30,000, and profits from the operation of station KNCO(AM), \$20,000. However, the balance sheet of Nevada County, as at June 30, 1979 shows that current and liquid assets (\$4,795) are exceeded by current liabilities (\$141,972). Although Nevada County states that net earnings for the six month period ending June 30, 1979 total \$26,309, Nevada's net loss in 1978 and negative net worth as of June 30, 1979 raise a substantial question as to whether funds to cover the costs of construction and operation will be available. Accordingly, a limited financial issue will be specified.

3. Jack J. Lawson, d/b/a Mother Lode Broadcasting Company (Mother Lode) has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). From the information before us, it appears that the applicant failed to provide a

description of the composition of Grass Valley, including such data as are necessary "to indicate the minority, racial or ethnic breakdown of the community, its economic activities, governmental activities, public service organizations, and any other factors or activities that make the particular community distinctive." (See Question and Answer 9 of the *Primer*.) It also appears that Mother Lode has failed to survey leaders of significant population groups, as required by Question and Answer 10 of the *Primer*. For example, the applicant has omitted leaders of the following community elements: agriculture; charities; civic, social and fraternal organizations; consumer services; labor; military; minorities and ethnics; women; youth and students; professionals; and recreation. In addition, the application fails to indicate whether other major communities are within the proposed service contours and include interviews with leaders who can be expected to have a broad overview of the problems and needs of these communities. Mother Lode has also failed to show that members of the general public were contacted by principals, employees or prospective employees of the applicant, or by a professional research or survey service, as required by Question and Answer 11(b) of the *Primer*. The statement of the methodology employed in the general public survey is insufficient to allow us to determine whether the required random sample was, in fact, achieved in compliance with Question and Answer 13(b) of the *Primer*. Moreover, Mother Lode has failed to state the dates on which the community leader and general public surveys were held, as required to assure compliance with Questions and Answers 2 and 15 of the *Primer*. Lastly, Mother Lode has omitted the anticipated time segment (e.g., 9:30 a.m.), duration (e.g., one hour) and frequency (e.g., daily) of the programs it proposes to broadcast to meet the needs of the community. (See Question and Answer 29 of the *Primer*.) Due to the extensive nature of these deficiencies in Mother Lode's ascertainment effort, a general ascertainment issue will be specified.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are

designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Nevada County:
 - a. The source and availability of additional funds above the \$30,000 indicated; and
 - b. Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.
 2. To determine the efforts made by Mother Lode to ascertain the community needs and problems of the area to be served and the means by which the applicant proposes to meet those needs and problems.
 3. To determine which of the proposals would, on a comparative basis, best serve the public interest.
 4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which application, if either, should be granted.
 6. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's Rules, and in person or by attorney, within 20 days of the mailing of this Order, shall file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.
 7. It is further ordered, that the applicants herein, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, shall give notice of the hearing (either individually or, if feasible, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.
- Federal Communications Commission.
Richard J. Shiben,
Chief, Broadcast Bureau.
[FR Doc. 79-38338 Filed 11-23-79; 8:45 am]
BILLING CODE 6712-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on November 19, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before December 14, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests clearance of the Tariff filing requirements contained in Part 221 of the Board's Economic Regulations, Construction, Publication, Filing and Posting of Tariffs of Air Carriers and Foreign Air Carriers. The CAB states that adherence to these requirements is mandatory under the Federal Aviation Act of 1958, as amended. The tariff reporting requirements are contained in §§ 221.160, 221.163, 221.164, 221.165, 221.166, 221.191, 221.211, 221.212, 221.220, 221.221, 221.222, 221.223, 221.224, 221.230, 221.231, 221.235 and 221.238. Most sections require an average reporting time of one hour except § 221.163 which requires approximately 3 hours; § 221.165 which requires approximately 16 hours; and § 221.223 which requires approximately 2 hours.

Norman F. Heyl,
Regulatory Reports, Review Officer.
[FR Doc. 79-38336 Filed 11-23-79; 8:45 am]
BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Institute of Museum Services

National Museum Services Board; Meeting

The National Museum Services Board (NMSB) will hold an open meeting November 30-December 1 in Washington, D.C. to discuss future policy directions of the Institute of Museum Services (IMS), including the Institute's Cornerstone Grants Program, reauthorization, budget request, and regulations pertaining to the FY 1980 grants program. The NMBS will also

consider IMS' placement within the newly created Department of Education.

The Board will meet from 8:30 a.m. to 4:45 p.m. November 30 in the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Room 303A; and from 9:00 a.m. to 1:00 p.m., December 1 in the Founder's Room of the Folger Shakespeare Library, 200 East Capital Street.

For further information, contact Sam Eskenazi or Loretta Ingraham, 202/472-3325.

Dated: November 20, 1979.

Lee Kimche,
Director.

[FR Doc. 79-38375 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-24-M

Office of the Assistant Secretary for Health

National Council on Health Care Technology; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463) notice is hereby given that the third meeting of the National Council on Health Care Technology, established pursuant to the Health Services Research, Health Statistics, and Health Care Technology Act of 1978 (Pub. L. 95-623) which advises the Secretary and the Director of the National Center for Health Care Technology on the activities of the Center will convene on Wednesday, December 12, 1979, at 9:30 a.m. and Thursday, December 13, 1979, at 8:30 a.m. in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. Principal consideration and discussion will be devoted to a report from the Subcommittee on Criteria and Research Agenda; a report from the Subcommittee on Legal Issues; and a discussion of Medicare Coverage issues.

These meetings are open for public observation and participation.

Further information regarding the Council may be obtained by contacting Sharon Paino, Acting Executive Secretary, National Council on Health Care Technology, Room 17A-19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, telephone (301) 443-4990.

Dated: November 19, 1979.

Marilyn McCarroll,
Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 79-38357 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-85-M

[Contract No. HEW-100-79-0130]

Office of the Assistant Secretary for Planning Evaluation

Contract Award

Pursuant to Section 606 of the Community Services Act of 1974, (PL 93-644) 42 USC 2946, this agency announces the award of Contract No. HEW-100-79-0130 to Survey Research Lab, University of Illinois for a research project entitled, Survey Development Research Center: Net-Worth.

The purpose of this project is to establish a research center, staffed with experts in relevant fields. They will conduct studies on a task order basis for the Income Survey Development Program. This research will increase the usefulness of the data already being collected and provide the ISDP with a greater capacity to respond rapidly to issues which emerge through time with empirical analysis of the results from ISDP survey and research efforts.

The estimated cost of this contract is \$78,566 and the intended completion date is September 30, 1980 with option to renew.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 79-38367 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

[Contract No. HEW-100-79-0129]

Contract Award

Pursuant to Section 606 of the Community Services Act of 1974, (PL 93-644) 42 USC 2946, this agency announces the award of Contract No. HEW-100-79-0129 to Mathematica Policy Research for a research project entitled, Survey Development Research Center: Income.

The purpose of this project is to establish a research center, staffed with experts in relevant fields. They will conduct studies on a task order basis for the Income Survey Development Program. This research will increase the usefulness of the data already being collected and provide the ISDP with a greater capacity to respond rapidly to issues which emerge through time with empirical analysis of the results from ISDP survey and research efforts.

The estimated cost of this contract is \$83,271 and the intended completion date is September 30, 1980 with option to renew.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 79-38368 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

[Contract No. HEW-100-79-0128]

Contract Award

Pursuant to Section 606 of the Community Services Act of 1974, (PL 93-644) 42 U.S.C. 2946, this agency announces the award of Contract No. HEW-100-79-0128 to Urban Institute for a research project entitled, Survey Development Research Center: Microsimulation.

The purpose of this project is to establish a research center, staffed with experts in relevant fields. They will conduct studies on a task order basis for the Income Survey Development Program. This research will increase the usefulness of the data already being collected and provide the ISDP with a greater capacity to respond rapidly to issues which emerge through time with empirical analysis of the results from ISDP survey and research efforts.

The estimated cost of this contract is \$80,420 and the intended completion date is September 30, 1980 with option to renew.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 79-38369 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

[Contract No. HEW-100-79-0127]

Contract Award

Pursuant to Section 606 of the Community Services Act of 1974, (PL 93-644) 42 USC 2946, this agency announces the award of Contract No. HEW-100-79-0127 to Survey Research Center University of Michigan for a research project entitled, Survey Development Research Center: Nonresponse.

The purpose of this project is to establish a research center, staffed with experts in relevant fields. They will conduct studies on a task order basis for the Income Survey Development Program. This research will increase the usefulness of the data already being collected and provide the ISDP with a greater capacity to respond rapidly to issues which emerge through time with empirical analysis of the results from ISDP survey and research efforts.

The estimated cost of this contract is \$145,713 and the intended completion

date is September 30, 1980 with option to renew.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 79-38370 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

Contract Award

Pursuant to Section 606 of the Community Services Act of 1974, (Pub. L. 93-644) 42 USC 2946, this agency announces the award of a contract to Telex Computer Products, Inc. for the procurement of Coax Cable Assemblies.

The purpose of this procurement is to provide reliable equipment used in supporting policy research projects.

The estimated cost of this contract is \$264.00 and the intended completion date was December 30, 1978

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 79-38371 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

[Contract No. HEW-100-79-0110]

Contract Award

Pursuant to Section 606 of the Community Services Act of 1974, (PL 93-644) 42 USC 2946, this agency announces the award of Contract No. HEW-100-79-0110 to the Blue Cross and Blue Shield Associations, Chicago, Illinois for a research project entitled, Study of Health Services Used and Costs Incurred During the Last 6 Months of a Terminal Illness. The purpose of this project is to collect claims information from Blue Cross and Blue Shield Plans that agree to participate in the study, and to analyze the resulting information to determine (1) what health services are used by persons in the last six months of a terminal illness and to identify the costs associated with those services; (2) how the services used by persons matched by age and disease vary; and, to the extent possible, (3) what the reasons are for those variations, and what the variations imply for health resources utilization and future costs.

The estimated cost of this contract is \$45,000 and the intended completion date for Phase I of the contract is February 15, 1980.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and
Evaluation.

[FR Doc. 79-36372 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

[Contract No. HEW-100-79-0180]

Contract Award

Pursuant to Section 806 of the Community Services Act of 1974, (PL 93-644) 42 USC 2946, this agency announces the award of Contract No. HEW-100-79-0180 to Berkeley Planning Associates for a research project entitled, Analysis of Policies of Private Employers Toward the Disabled. The purpose of this project is to design a national study of private employers to: (1) identify their practices with respect to hiring the handicapped, and to determine the reasons why these employers may be reluctant to hire the handicapped; (2) measure the extent of fringe benefits paid to handicapped workers, and the extent to which handicapped workers may be denied medical and income protection benefits because of their handicaps; and (3) compare the work performance of a sample of severely handicapped workers with a sample of non-handicapped workers.

This project will develop the methodology and test its feasibility. An advisory group composed of representatives of industry, the disabled, and Federal agencies will be involved throughout the study.

We anticipate that the full study will be funded with 1981 funds and initiated early in fiscal 1981.

The estimated cost of this contract is \$99,897.00 and the intended completion date is 9/27/1980.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and
Evaluation.

[FR Doc. 79-36373 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

[Contract No. HEW-100-79-0173]

Contract Award

Pursuant to Section 806 of the Community Services Act of 1974, (Public Law 93-644) USC 2946, this agency announces the award of Contract No. HEW-100-79-0173 to the Education Policy Research Institute, 1800 Massachusetts Avenue, N.W., Washington, D.C. 20036, for a research project entitled, "Postsecondary Education Experiment: Study Design." The purpose of this project is to assess the feasibility of conducting an

experimental test of policy alternatives for the Student Loan Program.

The estimated cost of this contract is \$70,518 and the intended completion date is June 1, 1980.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and
Evaluation.

[FR Doc. 79-36374 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

[Contract No. HEW-100-79-0098]

Contract Award

Pursuant to Section 806 of the Community Services Act of 1974, (Pub. L. 93-644) 42 USC 2946, this agency announces the award of Contract No. HEW-100-79-0098 to the University of California Institute for Social Science Research for a research project entitled, "Socio-Demographic, Geographic and Research Considerations Related to the Provision of Social Services to Disabled Populations".

The purpose of the project is to perform a number of secondary analyses of the data generated by the 1977-78 California Survey of the Work Disabled (CSWD) including:

Comparison of the incidence/types/severity of disabling conditions across ethnic groups to determine what ethnicity related differences exist in participation in the labor force and utilization of disability services;

Comparison of disability, program participation and family characteristics in rural and urban areas;

Comparison of CSWD data with previous national studies;

Examination of characteristics to isolate differences in labor force participation and determine the extent to which disability interferes with normal household activity; and

Exploration of the advantages/disadvantages of telephone vs. face-to-face interviewing techniques.

The estimated cost of this contract is \$74,998 and the intended completion date is September 27, 1980.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and
Evaluation.

[FR Doc. 79-36359 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

Contract Award

Pursuant to Section 806 of the Community Services Act of 1974, Pub. L. 93-644) 42 USC 2946, this agency announces the award of a contract to

Paul Howerton for a research project entitled, ASPE Risk Analysis Study.

The purpose of this project is to perform a risk analysis study for ASPE's mini computer which will categorize threats and counter measures to these threats. The project will result in a document cost effectiveness plan of action.

The estimated cost of this contract is \$4,568.00 and the intended completion date is March 31, 1980.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and
Evaluation.

[FR Doc. 79-36363 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

[Contract No. HEW-100-79-0197]

Contract Award

Pursuant to Section 806 of the Community Services Act of 1974 (P.L. 93-644), 42 U.S.C. 2946, this agency announces the award of Contract No. HEW-100-79-0197 to the University of Illinois Survey Research Lab for a research project entitled Net Worth Validation: Insurance.

The purpose of this project is to provide the Income Survey Development Program (ISDP) with comprehensive information on response error and accuracy of reporting by respondents of their equity in insurance, as well as their ability and willingness to provide information about disability and survivorship characteristics of their insurance coverage. The new field techniques developed under this contract will be incorporated into the Survey of Income & Program Participation (SIPP). In addition, techniques will be developed for collecting and valuing data on respondent's holdings in consumer durables and household furnishings. These variables are to be measured in the new SIPP to improve the DHEW's ability to determine eligibility and participation levels for various programs which have asset tests for determining program participation.

The estimated cost of this contract is \$198,235 and the intended completion date is September 30, 1980.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and
Evaluation.

[FR Doc. 79-36366 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

[Contract No. HEW-100-79-0175]

Contract Award

Pursuant to Section 806 of the Community Services Act of 1974, (Pub. L. 93-644) 42 USC 2946, this agency announces the award of Contract No. HEW-100-79-0175 to ISC Incorporated for a research project entitled, Inventory of ASPE's ADP Files.

The purpose of this project is to inventory and document various research data files.

The estimated cost of this contract is \$31,000.00 and the intended completion date is September 27, 1980.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and
Evaluation.

[FR Doc. 79-36365 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

[Contract No. HEW-100-79-0165]

Contract Award

Pursuant to Section 806 of the Community Services Act award of Contract No. HEW-100-79-0165 to A. L. Nellum and Associates for a research project entitled, "Symposium on Policy and Program Issues Related to Child and Family Services to Black Americans". The purposes of this symposium are (1) to discuss key program issues related to child and family services to Black Americans, and (2) to identify variables, characteristics, factors and other criteria against which to judge future program policies and delivery of such services to children and their families. A report of the symposium outcomes will be developed that will be used by policy decisionmakers and/or program managers in the development of future program policies, modifications to existing program policies and in the conduct of research and program evaluation. The estimated cost of this Contract is \$104,256 and the intended completion is June 1980.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and
Evaluation.

[FR Doc. 79-36361 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

Contract Award

Pursuant to Section 806 of the Community Services Act of 1974, (Pub. L. 93-644) 42 USC 2946, this agency announces the award of a contract to Management Systems Applications, Inc. for a research project entitled, ASPE Office System Documentation.

The purpose of this project is to perform an office management review to document a manual, to improve office efficiency, and to assist in the word processing conversion effort.

The estimated cost of this contract is \$9,976.50 and the intended completion date is March 31, 1980.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and
Evaluation.

[FR Doc. 79-36362 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

Contract Award

Pursuant to Section 806 of the Community Services Act of 1974, (Pub. L. 93-644) 42 USC 2946, this agency announces the award of a Contract to Tektronix Inc. for the procurement of ASPE's Computer Graphics System.

The purpose of this project is to better support Policy Research decisions thru the application of graphics Technology.

The estimated cost of this contract is \$28,186.00 and the intended completion date is December 30, 1979.

Dated: November 19, 1979.

John L. Palmer,
Acting Assistant Secretary for Planning and
Evaluation.

[FR Doc. 79-36364 Filed 11-23-79; 8:45 am]
BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6717-A through AA-6717-H]

Alaska Native Claims Selections

On March 5 and October 29, 1974, Ohgsenakale Corporation, for the Native village of Portage Creek, filed selection applications AA-6717-A through AA-6717-H under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the Portage Creek area.

On November 14, 1978, the State filed general purposes grant selection applications AA-21776, AA-21777, AA-21785, AA-21786, AA-21787, AA-21797 and AA-21798, all as amended, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)) for certain lands in the Portage Creek area.

The following described lands have been properly selected by Ohgsenakale Corporation. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select vacant,

unappropriated and unreserved public lands in Alaska. Therefore, the following State selection applications are hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA-21776

T. 13 S., R. 50 W.

Secs. 6 and 7, excluding the Keefer Cutoff;
Secs. 18 and 19, excluding the Keefer Cutoff;
Secs. 30 and 31, excluding the Keefer Cutoff.

Containing approximately 2,739 acres.

State Selection AA-21777

T. 13S., R. 51 W.

Sec. 1, excluding Keefer Cutoff;
Sec. 2, excluding the Nushagak River;
Sec. 3, excluding Native allotment AA-7593 Parcel A and the Nushagak River;
Secs. 10 and 11, excluding the Nushagak River;
Secs. 12 and 13, excluding Keefer Cutoff;
Secs. 14, 15 and 22, excluding the Nushagak River;

Sec. 23, excluding Native allotment AA-7685 Parcel B and the Nushagak River;
Sec. 24, excluding Native allotments AA-7710, AA-7685 Parcel B and the Keefer Cutoff;

Sec. 25, excluding the Keefer Cutoff;
Secs. 26 and 27, excluding the Nushagak River;
Sec. 35, excluding the Nushagak River;
Sec. 36, excluding the Keefer Cutoff.
Containing approximately 8,925 acres.

State Selection AA-21785

T. 14S., R. 50 W.

Sec. 5, excluding Native allotment AA-7181 and the Keefer Cutoff;
Secs. 6 and 7, excluding the Keefer Cutoff;
Sec. 18, excluding Native allotment AA-7187 and the Keefer Cutoff;
Sec. 19, excluding Native allotments AA-7794 Parcel A, AA-7187 and the Keefer Cutoff;

Sec. 30, excluding Native allotment AA-7186 and the Keefer Cutoff;
Sec. 31, excluding Native allotment AA-7186.

Containing approximately 3,106 acres.

State Selection AA-21786

T. 14 S., R. 51 W.

Sec. 1, excluding the Keefer Cutoff and the Nushagak River;
Secs. 2, 11 and 12, excluding the Nushagak River;

Sec. 13, excluding the Keefer Cutoff and the Nushagak River;
Secs. 14 and 23, excluding the Nushagak River;
Secs. 24 and 25, excluding the Keefer Cutoff;

Sec. 26, excluding the Nushagak River;
Sec. 27, all;
Sec. 31, excluding Scandinavian Slough;
Secs. 32 and 33, excluding the Scandinavian and Unnamed Sloughs;
Sec. 34, excluding the Scandinavian and Unnamed Sloughs and the Nushagak River;

Sec. 35, excluding the Nushagak River;
Sec. 36, excluding the Keefer Cutoff.
Containing approximately 9,545 acres.

State Selection AA-21787

T. 14 S., R. 52 W.
Secs. 26 and 27, excluding the Nushagak River and the Scandinavian Slough;
Sec. 28, excluding Native allotments AA-7182 Parcel B, AA-7183 and the Nushagak River;
Sec. 29, excluding the Nushagak River;
Secs. 31 to 35, inclusive, excluding the Nushagak River;
Sec. 36, excluding the Nushagak River and the Scandinavian Slough.
Containing approximately 5,135 acres.

State Selection AA-21797

T. 15 S., R. 50 W.
Sec. 6, all.
Containing approximately 622 acres.

State Selection AA-21798

T. 15 S., R. 52 W.
Sec. 1, excluding the Nushagak River;
Secs. 2 and 3, excluding Native allotment AA-7704 and the Nushagak River;
Secs. 4 to 9, inclusive, excluding the Nushagak River;
Secs. 10 and 11, excluding Native allotment AA-7704;
Sec. 12, excluding Native allotment AA-7184 and the Nushagak River;
Secs. 13, 14 and 15, all;
Sec. 16, excluding Native allotments AA-7703, AA-7982 and the Nushagak River;
Secs. 17, 18 and 19, excluding the Nushagak River;
Sec. 20, excluding Native allotment AA-8042 and the Nushagak River;
Sec. 21, excluding Native allotments AA-7968, AA-7982, AA-8042 and the Nushagak River;
Secs. 22 and 27, all;
Sec. 28, excluding Native allotments AA-7968 and AA-8042;
Sec. 29, excluding Native allotment AA-8042;
Sec. 30, all.
Containing approximately 13,384 acres.
Aggregating approximately 43,456 acres.

Further action on the above State selection applications as to those lands not rejected herein will be taken at a later date. The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 64,515 acres, is considered proper for acquisition by Ohgsenakale Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Unsurveyed)

T. 13 S., R. 50 W.,
Secs. 6 and 7, excluding the Keefer Cutoff;
Secs. 18 and 19, excluding the Keefer Cutoff;
Secs. 30 and 31, excluding the Keefer Cutoff.
Containing approximately 2,739 acres.
T. 14 S., R. 50 W.,
Sec. 5, excluding Native allotment AA-7181 and the Keefer Cutoff;
Secs. 6 and 7, excluding the Keefer Cutoff;
Sec. 18, excluding Native allotment AA-7187 and the Keefer Cutoff;
Sec. 19, excluding Native allotments AA-7794 Parcel A, AA-7187 and the Keefer Cutoff;
Sec. 30, excluding Native allotment AA-7188 and the Keefer Cutoff;
Sec. 31, excluding Native allotment AA-7188.
Containing approximately 3,106 acres.

T. 15 S., R. 50 W.,
Sec. 6, all.
Containing approximately 622 acres.

T. 13 S., R. 51 W.,
Sec. 1, excluding Keefer Cutoff;
Sec. 2, excluding the Nushagak River;
Sec. 3, excluding Native allotment AA-7593 Parcel A and the Nushagak River;
Secs. 10 and 11, excluding the Nushagak River;
Secs. 12 and 13, excluding Keefer Cutoff;
Secs. 14, 15 and 22, excluding the Nushagak River;
Sec. 23, excluding Native allotment AA-7685 Parcel B and the Nushagak River;
Sec. 24, excluding Native allotments AA-7710, AA-7685 Parcel B and the Keefer Cutoff;
Sec. 25, excluding the Keefer Cutoff;
Secs. 26 and 27, excluding the Nushagak River;
Sec. 35, excluding the Nushagak River;
Sec. 36, excluding the Keefer Cutoff.
Containing approximately 6,925 acres.

T. 14 S., R. 51 W.,
Sec. 1, excluding the Keefer Cutoff and the Nushagak River;
Secs. 2, 11 and 12, excluding the Nushagak River;
Sec. 13, excluding the Keefer Cutoff and the Nushagak River;
Secs. 14 and 23, excluding the Nushagak River;
Secs. 24 and 25, excluding the Keefer Cutoff;
Sec. 26, excluding the Nushagak River;
Sec. 27, all;
Sec. 31, excluding Scandinavian Slough;
Secs. 32 and 33, excluding the Scandinavian and Unnamed Sloughs;
Sec. 34, excluding the Scandinavian and Unnamed Sloughs and the Nushagak River;
Sec. 35, excluding the Nushagak River;
Sec. 36, excluding the Keefer Cutoff.
Containing approximately 9,545 acres.

T. 15 S., R. 51 W.,
Sec. 1, excluding Native allotments A-054453 Parcel C, AA-6076 and the Keefer Cutoff;
Secs. 2 and 3, excluding the Nushagak River;
Sec. 4, excluding Native allotment AA-7179 Parcel B, Unnamed Slough and the Nushagak River;
Secs. 5 and 6, excluding Unnamed Slough and the Nushagak River;

Sec. 7, excluding Native allotment AA-7184 and the Nushagak River;
Sec. 8, excluding Unnamed Slough and the Nushagak River;
Secs. 9 and 10, excluding Native allotment AA-7185 and the Nushagak River;
Secs. 11 to 15, inclusive, all;
Sec. 16, excluding the Nushagak River;
Sec. 17, excluding Native allotment AA-7180 and the Nushagak River;
Sec. 18, excluding the Nushagak River;
Secs. 19 to 36, inclusive, all.
Containing approximately 21,059 acres.

T. 14 S., R. 52 W.,
Secs. 26 and 27, excluding the Nushagak River and the Scandinavian Slough;
Sec. 28, excluding Native Allotments AA-7182 Parcel B, AA-7183 and the Nushagak River;
Sec. 29, excluding the Nushagak River;
Secs. 31 to 35, inclusive, excluding the Nushagak River;
Sec. 36, excluding the Nushagak River and the Scandinavian Slough.
Containing approximately 5,135 acres.

T. 15 S., R. 52 W.,
Sec. 1, excluding the Nushagak River;
Secs. 2 and 3, excluding Native allotment AA-7704 and the Nushagak River;
Secs. 4 to 9, inclusive, excluding the Nushagak River;
Secs. 10 and 11, excluding Native allotment AA-7704;
Sec. 12, excluding Native allotment AA-7184 and the Nushagak River;
Secs. 13, 14 and 15, all;
Sec. 16, excluding Native allotments AA-7703, AA-7982 and the Nushagak River;
Secs. 17, 18 and 19, excluding the Nushagak River;
Sec. 20, excluding Native allotment AA-8042 and the Nushagak River;
Sec. 21, excluding Native allotments AA-7968, AA-7982, AA-8042 and the Nushagak River;
Secs. 22 and 27, all;
Sec. 28, excluding Native allotments AA-7968 and AA-8042;
Sec. 29, excluding Native allotment AA-8042;
Sec. 30, all.
Containing approximately 13,384 acres.
Aggregating approximately 64,515 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and
2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-6717-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or

Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles; and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicles Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

One Acre Site—The uses allowed for a site easement are: Vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 2 D9) An easement for an existing access trail fifty (50) feet in width from the Nushagak River in Sec. 2, and the airport in Sec. 1, T. 15 S., R. 51 W., Seward Meridian, easterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 2a C5, E) An easement for a proposed winter access trail twenty-five (25) feet in width from Portage Creek in Sec. 2, T. 15 S., R. 51 S., Seward Meridian, paralleling the right bank of the Nushagak River, westerly to trail EIN 20 C5, D9 from Dillingham in Sec. 25, T. 14 S., R. 53 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 8a C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 14, T. 14 S., R. 51 W., Seward Meridian, on the right bank of the navigable Nushagak River. The uses allowed are those listed above for a one (1) acre site easement.

d. (EIN 8b C5) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 8a C5 in Sec. 14, T. 14 S., R. 51 W., Seward Meridian, on the Nushagak River westerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of lands shall be subject to: 1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease

issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease AA-8396, containing approximately 62 acres, located within the W½, Sec. 1, T. 15 S., R. 51 W., Seward Meridian, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Ohgsenakale Corporation is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 64,515 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 4,605 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Ohgsenakale Corporation for the surface estate and shall be subject to the same conditions as the surface conveyance.

Only the following inland water bodies within the described lands are considered to be navigable: Nushagak River; Keefer Cutoff; Scandinavian Slough; and Unnamed Slough.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the

Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until December 26, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501

Ohgsenakale Corporation, Portage Creek, Alaska 99576.

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Sue A. Wolf,

Chief, Branch of Adjudication

[FR Doc. 79-3623 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-84-M

[AA-6648-A Through AA-6648-J and AA-6648-L Through AA-6648-O]

Alaska Native Claims Selections

On May 2 and 19, 1961, the State of Alaska filed general purposes grant selection applications A-054314, A-054315, A-054323, A-054325, A-054332, A-054609, A-054813, AA-054615 and A-054617, all as amended, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)). These applications selected lands near the Native village of Aleknagik. Decisions granting tentative approval were issued on September 3 and 6, 1963, for applications A-054314 and A-054315 covering Tps. 8 S., Rs. 55 and 56 W., Seward Meridian.

On December 18, 1971, Sec. 11 of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601, 1610 (1976)) (ANCSA), withdrew the lands surrounding the Native village of Aleknagik, including lands in the subject State selection applications for Native

selection. On June 17 and October 15, 1974, Aleknagik Natives Limited filed village selection applications AA-6648-A through J, and AA-6648-L through O, as amended, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (1976)) (ANCSA), for the surface estate of lands located near the village of Aleknagik, including lands within the subject State selections.

Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 11(a)(2) withdrew for possible selection by the Native Corporation those lands that have been selected by, or tentatively approved to, but not yet patented to, the State under the Alaska Statehood Act. Section 12(a)(1) further provided that no village corporation may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

The following described lands, which are State selected, portions of which were tentatively approved, have been properly selected by Aleknagik Natives Limited under selection applications AA-6648-A through AA-6648-J.

Accordingly, the following State selection applications are hereby rejected in part and the tentative approvals given in the aforementioned decisions are hereby rescinded in part as to the following described lands:

Seward Meridian, Alaska (Surveyed)

State Selection A-054314

T. 8 S., R. 56 W.,
That portion of Tract A more particularly described as (protracted):
Sec. 36, excluding Lake Nerka.
Containing approximately 140 acres.

State Selection A-054315

T. 8 S., R. 55 W.,
Those portions of Tract A more particularly described as (protracted):
Sec. 26, all;
Secs. 27 and 28, excluding Lake Nerka;
Secs. 31, 32, 33 and 34, excluding Lake Nerka;
Sec. 35, excluding Native allotments AA-7270 Parcel C, AA-7278 Parcel A and Lake Nerka.
Containing approximately 2,015 acres.

State Selection A-054323

T. 9 S., R. 55 W.,
That portion of Tract A more particularly described as (protracted):
Secs. 4, 5, 7, and 8, excluding Lake Nerka;
Secs. 9 and 16, excluding Native allotment AA-7433 Parcel A and Lake Nerka;
Sec. 17, excluding Native allotment AA-7301 Parcel B and Lake Nerka;
Sec. 18, excluding Lake Nerka;
Secs. 21, 28 and 33, all.
Containing approximately 5,046 acres.

State Selection A-054325

T. 9 S., R. 56 W.,

Those portions of Tract A more particularly described as (protracted):
Secs. 1 and 2, excluding Lake Nerka;
Sec. 3, all;
Secs. 4, 5 and 8, excluding Lake Nerka;
Sec. 7, all;
Sec. 12, excluding Lake Nerka;
Sec. 30, excluding Native allotment AA-7288 Parcel B;
Sec. 31, excluding U.S. Survey 4930, Native allotments AA-7270 Parcel A, AA-7288 Parcel B, AA-7299 and Lake Aleknagik;
Sec. 32, excluding U.S. Survey 4930 and Lake Aleknagik.
Containing approximately 5,136 acres.

State Selection A-054332

T. 11 S., R. 56 W.,
Those portions of Tract A more particularly described as (protracted):
Sec. 1, excluding U.S. Survey 4923, Native allotments AA-7277 Parcel B, AA-7307 Parcel A and AA-7760 Parcel B;
Sec. 2, excluding U.S. Survey 4923 and Native allotment AA-7760 Parcel B;
Sec. 11, excluding U.S. Survey 4923;
Sec. 12, excluding U.S. Survey 4923 and Native allotment AA-7657 Parcel B.
Containing approximately 1,838 acres.

State Selection A-054609

U.S. Survey No. 4705, situated on the south shore of Lake Aleknagik, Aleknagik, Alaska.
Containing 5.00 acres.

T. 8 S., R. 57 W.,

Those portions of Tract A more particularly described as (protracted):
Sec. 28, all;
Sec. 27, excluding Native allotments AA-7285 Parcel B, AA-7301 Parcel A and Lake Aleknagik;
Sec. 34, excluding U.S. Survey 4706, Native allotment AA-7285 Parcel B and Lake Aleknagik;
Sec. 35, excluding U.S. Survey 4705, U.S. Survey 4706, Native allotments AA-7674 Parcel A and B and Lake Aleknagik.
Containing approximately 2,020 acres.

State Selection A-054613

T. 9 S., R. 57 W.,
Those portions of Tract A more particularly described as (protracted):
Sec. 1, excluding Lake Nerka;
Sec. 2, excluding U.S. Survey 4796, Native allotments AA-7289 Parcel C, AA-7759 Parcel A, Lake Nerka and the Agulowak River;
Sec. 3, excluding the Agulowak River;
Sec. 4, all;
Sec. 5, excluding Native allotment AA-7674 Parcel B and Lake Aleknagik;
Sec. 6, excluding Lake Aleknagik;
Sec. 8, excluding U.S. Survey 4932, Native allotment AA-7284, the Agulowak River and Lake Aleknagik;
Secs. 9 and 10, excluding the Agulowak River;
Secs. 11 and 12, all;
Sec. 25, excluding Native allotments AA-7275 Parcel A, AA-7288 Parcel B and Lake Aleknagik;
Sec. 28, excluding U.S. Survey 4931, Native allotment AA-7275 Parcel A and Lake Aleknagik;
Sec. 27, excluding Native allotment AA-7709 Parcel B and Lake Aleknagik;
Sec. 32, excluding Native allotment AA-6124 Parcel A and Lake Aleknagik;

Secs. 33 and 34, excluding Lake Aleknagik;
Sec. 35, excluding Native allotments AA-7275 Parcel A, AA-7279 Parcel A and Lake Aleknagik.
Sec. 36, excluding Native allotments AA-7275 Parcel A, AA-7279 Parcel A, AA-7288 Parcel B and Lake Aleknagik.
Containing approximately 6,867 acres.

State Selection A-054615

T. 9 S., R. 58 W.,
That portion of Tract A more particularly described as (protracted):
Sec. 1, excluding Lake Aleknagik.
Containing approximately 100 acres.

State Selection A-054817

T. 10 S., R. 57 W.,
Those portions of Tract A more particularly described as (protracted):
Sec. 2, excluding Native allotments A-056177 Parcel B, AA-7682 and Lake Aleknagik;
Sec. 3, excluding Lake Aleknagik;
Sec. 4, all;
Sec. 11, excluding Native allotments A-056177 Parcel B and AA-7682;
Sec. 12, excluding Native allotments AA-056177 Parcel B, AA-7288 Parcel A, AA-7682, AA-7668 Parcel B, AA-7672 Parcel B and Lake Aleknagik;
Sec. 13, excluding Native allotment AA-7672 Parcel B and Lake Aleknagik.
Containing approximately 2,767 acres.
Aggregating approximately 25,934 acres.
By virtue of a properly filed selection under Sec. 12(a) of the Alaska Native Claims Settlement Act, by Aleknagik Natives Limited, State selection application A-054328, as to lands in Tps. 10 S., Rs. 55 and 56 W., Seward Meridian, were rejected by decision dated September 25, 1974.

The total amount of State selected lands, including lands previously rejected to permit the conveyance hereafter given, totals 58,946 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of the Alaska Native Claims Settlement Act. Further action on the subject State selection applications, as to the lands not rejected herein, will be taken at a later date.

On November 14, 1978, the State of Alaska filed general purposes grant selection applications pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1978)), for certain lands in the Aleknagik area. Applications AA-21718, AA-21732, AA-21733 and AA-21751, all as amended, selected all available lands in Tps. 8 and 9 S., Rs. 53 W., and Tps. 9 and 10 S., Rs. 54 W., Seward Meridian, respectively. Aleknagik Natives Limited properly selected lands located within the above townships in village selection applications AA-6648-L through AA-6648-O on October 15, 1974. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select vacant, unappropriated and unreserved public lands in Alaska.

Therefore, in view of the above the following State selection applications are hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

State Selection AA-21718

T. 8 S., R. 53 W.,
Sec. 1, all;
Sec. 2, excluding Native allotment AA-7687 Parcel C;
Secs. 3 to 12, inclusive, all;
Secs. 14 to 23, inclusive, all;
Secs. 26 to 35, inclusive, all.
Containing approximately 20,411 acres.

State Selection AA-21732

T. 9 S., R. 53 W.,
Secs. 5 to 8, inclusive, all.
Containing approximately 2,486 acres.

State Selection AA-21733

T. 9 S., R. 54 W.,
Secs. 1 to 12, inclusive, all;
Secs. 17 to 20, inclusive, all;
Secs. 29 to 32, inclusive, all.
Containing approximately 12,596 acres.

State Selection AA-21751

T. 10 S., R. 54 W.,
Secs. 5 to 8, inclusive, all;
Secs. 17 to 20, inclusive, all;
Sec. 29, excluding Muklung River;
Sec. 30, all;
Secs. 31 and 32, excluding Muklung River.
Containing approximately 7,535 acres.
Aggregating approximately 43,028 acres.

Further action on the above State selection applications as to those lands not rejected herein, will be taken at a later date.

The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands.

As to the lands described below, the applications submitted by Aleknagik Natives Limited, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 102,161 acres, is considered proper for acquisition by the Aleknagik Natives Limited and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

U.S. Survey No. 3734, lots 1 and 4, situated on the south shore of Lake Aleknagik, near Aleknagik, Alaska.

Containing 2.39 acres.

U.S. Survey No. 4705, situated on the north-easterly shore of Lake Aleknagik, near Aleknagik, Alaska.

Containing 5.00 acres.
U.S. Survey No. 4925, lot 1, situated approximately seventeen miles north of Dillingham, Alaska.
Containing 239.85 acres.

Seward Meridian, Alaska (Surveyed)

T. 8 S., R. 55 W.,
Those portions of Tract A more particularly described as (protracted):
Sec. 26, all;
Secs. 27 and 28, excluding Lake Nerka;
Secs. 31, 32, 33, and 34, excluding Lake Nerka;
Sec. 35, excluding Native allotments AA-7270 Parcel C, AA-7278 Parcel A and Lake Nerka.
Containing approximately 2,015 acres.

T. 9 S., R. 55 W.,
Those portions of Tract A more particularly described as (protracted):
Secs. 4, 5, 7, and 8, excluding Lake Nerka;
Secs. 9 and 16, excluding Native allotment AA-7433 Parcel A and Lake Nerka;
Sec. 17, excluding Native allotment AA-7301 Parcel B and Lake Nerka;
Secs. 18, excluding Lake Nerka;
Secs. 21, 28 and 33, all.
Containing approximately 5,046 acres.

T. 10 S., R. 55 W.,
Those portions of Tract A more particularly described as (protracted):
Secs. 1 to 19, inclusive, all;
Sec. 20, excluding Native allotment AA-7278 Parcel A;
Secs. 21 to 25, inclusive, all;
Secs. 26 and 27, excluding Mineral Survey Application AA-12608;
Sec. 28, excluding Native allotment AA-7298;
Sec. 29, excluding U.S. Survey 4925 lot 1, Native allotment AA-2958, Lake Aleknagik and the Wood River;
Sec. 30, excluding U.S. Survey 3091, U.S. Survey 4873, U.S. Survey 4925 and Lake Aleknagik;
Sec. 31, excluding U.S. Survey 3734, Native allotments AA-7238, AA-7280 Parcel A and Lake Aleknagik;
Sec. 32, excluding U.S. Survey 4925 lot 2, Native allotments AA-2958, AA-7282, Mineral Survey Application AA-12608 and the Wood River;
Sec. 33, excluding Native allotments AA-7282, AA-7291, AA-7293 and AA-7305 Parcel B;
Secs. 34 and 35, excluding Mineral Survey Application AA-12608;
Sec. 36, all.
Containing approximately 20,837 acres.

T. 8 S., R. 56 W.,
That portion of Tract A more particularly described as (protracted):
Sec. 36, excluding Lake Nerka.
Containing approximately 140 acres.

T. 9 S., R. 56 W.,
Those portions of Tract A more particularly described as (protracted):
Secs. 1 and 2, excluding Lake Nerka;
Sec. 3, all;
Secs. 4, 5 and 6, excluding Lake Nerka;
Sec. 7, all;
Sec. 12, excluding Lake Nerka;
Sec. 30, excluding Native allotment AA-7288 Parcel B;
Sec. 31, excluding U.S. Survey 4930, Native allotments AA-7270 Parcel A, AA-7288 Parcel B, AA-7299 and Lake Aleknagik;

Sec. 32, excluding U.S. Survey 4930 and Lake Aleknagik.
Containing approximately 5,136 acres.

T. 10 S., R. 56 W.,
Those portions of Tract A more particularly described as (protracted):
Secs. 1, 2 and 3, all;
Sec. 4, excluding Lake Aleknagik;
Sec. 5, excluding U.S. Survey 4930, Native allotments AA-7285 Parcel D, AA-7286 Parcel B, AA-7303 and Lake Aleknagik;
Sec. 8, excluding Native allotments AA-7285 Parcel D, AA-7297 Parcel A and Lake Aleknagik;
Sec. 9, excluding Lake Aleknagik;
Sec. 10, excluding Native allotments A-054527 Parcel C, AA-7286 Parcel A and Lake Aleknagik;
Secs. 11, 12 and 13, all;
Sec. 14, excluding Native allotment AA-7289 Parcel B and Lake Aleknagik;
Sec. 15, excluding Native allotments AA-7286 Parcel A, AA-7294 Parcel A and Lake Aleknagik;
Sec. 17, excluding Lake Aleknagik;
Sec. 18, excluding Native allotments AA-7278 Parcel B, AA-7305 Parcel A and Lake Aleknagik;
Sec. 19, excluding Native allotments A-054494 Parcel C, AA-7285 Parcel C and Lake Aleknagik;
Sec. 20, excluding Native allotments AA-7281 Parcel A, AA-7285 Parcel C, AA-7297 Parcel B, AA-7363 Parcel B, AA-7902 and Lake Aleknagik;
Sec. 22, excluding U.S. Survey 4928, Native allotment AA-7294 Parcel A and Lake Aleknagik;
Sec. 23, excluding Native allotment AA-7281 Parcels C and D and Lake Aleknagik;
Sec. 24, excluding Native allotment AA-7289 Parcel A and Lake Aleknagik;
Sec. 25, excluding U.S. Survey 3091, U.S. Survey 4873, U.S. Survey 4927, Native allotment AA-7288 Parcel C and Lake Aleknagik;
Sec. 26, excluding U.S. Survey 4927, Native allotments AA-7281 Parcel D, AA-7288 Parcel C and Lake Aleknagik;
Sec. 28, excluding U.S. Survey 4929, Native allotments AA-5930, AA-7707 and Lake Aleknagik;
Sec. 29, excluding U.S. Survey 4929, Native allotment AA-7363 Parcel B and Lake Aleknagik;
Secs. 30, 31 and 32, all;
Sec. 33, excluding U.S. Survey 4929, Native allotments AA-5930 and AA-7707;
Sec. 34, excluding Native allotments AA-5930, AA-7276 Parcel B, AA-7281 Parcel B, AA-7707 and Lake Aleknagik;
Sec. 35, excluding Native allotments AA-7279 Parcel B, AA-7281 Parcel B and Lake Aleknagik;
Sec. 36, excluding U.S. Survey 3734, U.S. Survey 4922, Native allotments AA-6079, AA-6125 Parcel A, AA-6626, AA-7277 Parcel B, AA-7279 Parcel B, AA-7307 Parcel A and Lake Aleknagik.
Containing approximately 12,120 acres.

T. 11 S., R. 56 W.,
Those portions of Tract A more particularly described as (protracted):
Sec. 1, excluding U.S. Survey 4923, Native allotments AA-7277 Parcel B, AA-7307 Parcel A and AA-7760 Parcel B;
Sec. 2, excluding U.S. Survey 4923 and Native allotment AA-7760 Parcel B;

Sec. 11, excluding U.S. Survey 4923;
Sec. 12, excluding U.S. Survey 4923 and
Native allotment AA-7657 Parcel B.
Containing approximately 1,838 acres.

T. 8 S., R. 57 W.,

Those portions of Tract A more particularly
described as (protracted):

Sec. 26, all;

Sec. 27, excluding Native allotments AA-
7285 Parcel B and AA-7301 Parcel A and
Lake Aleknagik;

Sec. 34, excluding U.S. Survey 4706, Native
allotment AA-7285 Parcel B and Lake
Aleknagik;

Sec. 35, excluding U.S. Survey 4705, U.S.
Survey 4706, Native allotments AA-7674
Parcels A and B and Lake Aleknagik.

Containing approximately 2,020 acres.

T. 9 S., R. 57 W.,

Those portions of Tract A more particularly
described as (protracted):

Sec. 1, excluding Lake Nerka;

Sec. 2, excluding U.S. Survey 4796, Native
allotments AA-7289 Parcel C, AA-7759
Parcel A, Lake Nerka and the Agulowak
River;

Sec. 3, excluding the Agulowak River;

Sec. 4, all;

Sec. 5, excluding Native allotment AA-7674
Parcel B and Lake Aleknagik;

Sec. 6, excluding Lake Aleknagik;

Sec. 8, excluding U.S. Survey 4932, Native
allotment AA-7284, the Agulowak River
and Lake Aleknagik;

Secs. 9 and 10, excluding the Agulowak
River;

Secs. 11 and 12, all;

Sec. 25, excluding Native allotments AA-
7275 Parcel A, AA-7288 Parcel B and
Lake Aleknagik;

Sec. 26, excluding U.S. Survey 4931, Native
allotment AA-7275 Parcel A and Lake
Aleknagik;

Sec. 27, excluding Native allotment AA-
7709 Parcel B and Lake Aleknagik;

Sec. 32, excluding Native allotment AA-
6124 Parcel A and Lake Aleknagik;

Secs. 33 and 34, excluding Lake Aleknagik;

Sec. 35, excluding Native allotments AA-
7275 Parcel A, AA-7279 Parcel A and
Lake Aleknagik;

Sec. 36, excluding Native allotments AA-
7275 Parcel A, AA-7279 Parcel A, AA-
7288 Parcel B and Lake Aleknagik.

Containing approximately 6,887 acres.

T. 10 S., R. 57 W.,

Those portions of Tract A more particularly
described as (protracted):

Sec. 2, excluding Native allotments A-
056177 Parcel B, AA-7682 and Lake
Aleknagik;

Sec. 3, excluding Lake Aleknagik;

Sec. 4, all;

Sec. 11, excluding Native allotments A-
056177 Parcel B and AA-7682;

Sec. 12, excluding Native allotments A-
056177 Parcel B, AA-7288 Parcel A, AA-
7682, AA-7668 Parcel B, AA-7672 Parcel
B and Lake Aleknagik;

Sec. 13, excluding Native allotment AA-
7672 Parcel B and Lake Aleknagik.

Containing approximately 2,767 acres.

T. 9 S., R. 58 W.,

That portion of Tract A more particularly
described as (protracted):

Sec. 1, excluding Lake Aleknagik.

Containing approximately 100 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 8 S., R. 53 W.,

Sec. 1, all;

Sec. 2, excluding Native allotment AA-7687
Parcel C;

Secs. 3 to 12, inclusive, all;

Secs. 14 to 23, inclusive, all;

Secs. 26 to 35, inclusive, all.

Containing approximately 20,411 acres.

T. 9 S., R. 53 W.,

Secs. 5 to 8, inclusive, all.

Containing approximately 2,486 acres.

T. 9 S., R. 54 W.,

Secs. 1 to 12, inclusive, all;

Secs. 17 to 20, inclusive, all;

Secs. 29 to 32, inclusive, all.

Containing approximately 12,596 acres.

T. 10 S., R. 54 W.,

Secs. 5 to 8, inclusive, all;

Secs. 17 to 20, inclusive, all;

Sec. 29, excluding Muklung River;

Sec. 30, all;

Secs. 31 and 32, excluding Muklung River.

Containing approximately 7,535 acres.

Total aggregated acreage, approximately
102,161 acres.

The conveyance issued for the surface
estate of the lands described above
shall contain the following reservations
to the United States:

1. The subsurface estate therein, and
all rights, privileges, immunities and
appurtenances, of whatsoever nature,
accruing unto said estate pursuant to the
Alaska Native Claims Settlement Act of
December 18, 1971 (85 Stat. 688, 704; 43
U.S.C. 1601, 1613(f) (1976)); and

2. Pursuant to Sec. 17(b) of the Alaska
Native Claims Settlement Act of
December 18, 1971 (85 Stat. 688, 708; 43
U.S.C. 1601, 1616(b) (1976)), the
following public easements, referenced
by easement identification number (EIN)
on the easement maps attached to this
document, copies of which will be found
in case file AA-8648-EE, are reserved to
the United States. All easements are
subject to applicable Federal, State, or
Municipal corporation regulation. The
following is a listing of uses allowed for
each type of easement. Any uses which
are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a
twenty-five (25) foot wide trail easement
are: Travel by foot, dogsled, animals,
snowmobiles, two and three-wheel
vehicles, and small all-terrain vehicles
(less than 3,000 lbs. Gross Vehicle
Weight (GVW)).

60 Foot Road—The uses allowed on a
sixty (60) foot wide road easement are:
Travel by foot, dogsled, animals,
snowmobiles, two and three-wheel
vehicles, small and large all-terrain
vehicles, track vehicles, four-wheel
drive vehicles, automobiles, and trucks.

100 Foot Road—The uses allowed on a
one hundred (100) foot wide road
easement are: Travel by foot, dogsled,
animals, snowmobiles, two and three-
wheel vehicles, small and large all-

terrain vehicles, track vehicles, four-
wheel drive vehicles, automobiles, and
trucks.

One Acre Site—The uses allowed for
a site easement are: Vehicle parking
(e.g., aircraft, boats, ATVs,
snowmobiles, cars, trucks), temporary
camping, and loading or unloading.
Temporary camping, loading or
unloading shall be limited to 24 hours.

a. (EIN 5 C5) An easement for an
existing access trail twenty-five (25) feet
in width from Lake Aleknagik in Sec.
35., T. 8 S., R. 57 W., Seward Meridian,
northerly to public lands and waters.
The uses allowed are those listed above
for a twenty-five (25) foot wide trail
easement. The season of use will be
limited to winter use only.

b. (EIN 8 D9) An easement for a
proposed access trail twenty-five (25)
feet in width from site EIN 8a D9 in Sec.
1, T. 9 S., R. 57 W., Seward Meridian,
southerly to public lands. The uses
allowed are those listed above for a twenty-
five (25) foot wide trail easement.

c. (EIN 8a D9) A one (1) acre site
easement upland of the ordinary high
water mark in Sec. 1, T. 9 S., R. 57 W.,
Seward Meridian, on the south shore of
River Bay on Lake Nerka and east of the
mouth of Fenno Creek. The uses allowed
are those listed above for a one (1) acre
site.

d. (EIN 11 D9) An easement for a
proposed access trail twenty-five (25)
feet in width from site EIN 11a D9 on the
north shore of Lake Aleknagik in Sec. 5,
T. 10 S., R. 56 W., Seward Meridian,
northeasterly to public lands. The uses
allowed are those listed above for a twenty-
five (25) foot wide trail
easement.

e. (EIN 11a D9) A one (1) acre site
easement upland of the ordinary high
water mark in Sec. 5, T. 10 S., R. 56 W.,
Seward Meridian, on the north shore of
Lake Aleknagik. The uses allowed are
those listed above for a one (1) acre site.

f. (EIN 12e D9) An easement for a
proposed access trail twenty-five (25)
feet in width from site EIN 12h D9
located on the south shore of Lake
Aleknagik in Secs. 20 and 29, T. 10 S., R.
56 W., Seward Meridian, westerly to
public lands. The uses allowed are those
listed above for a twenty-five (25) foot
wide trail easement.

g. (EIN 12h D9) A one (1) acre site
easement upland of the ordinary high
water mark in Secs. 20 and 29, T. 10 S.,
R. 56 W., Seward Meridian, on the south
shore of Lake Aleknagik. The uses
allowed are those listed above for a one
(1) acre site.

h. (EIN 13 C5 D9) An easement for an
existing access trail twenty-five (25) feet
in width from the vicinity of the village
of Aleknagik in Sec. 30, T. 10 S., R. 55

W., Seward Meridian, northerly to
public lands. The uses allowed are those
listed above for a twenty-five (25) foot
wide trail easement. The season of use
will be limited to winter use.

i. (EIN 13a C5, D9) An easement for a
proposed access trail twenty-five (25)
feet in width from site EIN 42 E in Sec.
17, T. 9 S., R. 55 W., Seward Meridian,
southerly to Sec. 20, T. 9 S., R. 55 W.,
Seward Meridian thence easterly to trail
EIN 13-C5, D9 in Sec. 23, T. 9 S., R. 55
W., Seward Meridian. The uses allowed
are those listed above for a twenty-five
(25) foot wide trail easement. The
season of use will be limited to winter
use.

j. (EIN 14a D9) An easement for a
proposed access trail twenty-five (25)
feet in width from the left bank of the
Muklung River, in Sec. 29, T. 10 S., R. 54
W., Seward Meridian, easterly to public
lands. The uses allowed are those listed
above for a twenty-five (25) foot wide
trail easement.

k. (EIN 20a C5) An easement for an
existing access trail twenty-five (25) feet
in width from site EIN 21 D9 on the left
bank of the Wood River in Sec. 32, T. 10
S., R. 55 W., Seward Meridian,
southeasterly to public lands. The uses
allowed are those listed above for a
twenty-five (25) foot wide trail
easement. The season of use is limited
to winter use.

l. (EIN 21 D9) A one (1) acre site
easement upland of the mean high tide
line in Sec. 32, T. 10 S., R. 55 W., Seward
Meridian, on the left bank of Wood
River at an old mill site. The uses
allowed are those listed above for a one
(1) acre site.

m. (EIN 24 C5) An easement one
hundred (100) feet in width for an
existing road from the selection
boundary in Sec. 11, T. 11 S., R. 56 W.,
Seward Meridian, northerly to its
terminus south of the village of
Aleknagik in Sec. 31, T. 10 S., R. 55 W.,
Seward Meridian. The uses allowed are
those listed above for a one hundred
(100) foot wide road easement.

n. (EIN 40 M) An easement sixty (60)
feet in width for an existing road from
road EIN 24 C5 in Sec. 31, T. 10 S., R. 55
W., Seward Meridian, westerly to Sec.
36, T. 10 S., R. 56 W., Seward Meridian.
The uses allowed are those listed above
for a sixty (60) foot wide road easement.

o. (EIN 42 E) A one (1) acre site
easement upland of the ordinary high
water mark in Sec. 17, T. 9 S., R. 55 W.,
Seward Meridian, on the south shore of
Lake Nerka. The uses allowed are those
listed above for a one (1) acre site.

p. (EIN 43 E) An easement for a
proposed access trail twenty-five (25)
feet in width from navigable waters on
Lake Aleknagik in Sec. 32, T. 9 S., R. 57

W., Seward Meridian, southerly to
public lands. The uses allowed are those
listed above for a twenty-five (25) foot
wide trail easement.

q. (EIN 45 E) An easement for a
proposed access trail twenty-five (25)
feet in width from trail EIN 13 C5, D9 in
Sec. 23, T. 9 S., R. 55 W., Seward
Meridian, easterly to public lands. The
uses allowed are those listed above for
a twenty-five (25) foot wide trail
easement. The season of use will be
limited to winter use.

r. (EIN 48 C4) An easement fifty (50)
feet in width, twenty-five (25) feet on
each side of the centerline, for an
existing 7.2 KV power transmission line
from the Aleknagik selection boundary
in Sec. 11, T. 11 S., R. 56 W., Seward
Meridian, northerly to an island in Sec.
25, T. 10 S., R. 56 W., Seward Meridian.
The uses allowed are those activities
associated with the construction,
operation, and maintenance of the
powerline facility.

s. (EIN 49 L) An easement twenty-five
(25) feet in width, twelve and one-half
(12½) feet on each side of the centerline,
for an existing telephone line from the
Aleknagik selection boundary in Sec. 11,
T. 11 S., R. 56 W., Seward Meridian,
northerly to Lake Aleknagik. The uses
allowed are those activities associated
with the construction, operation, and
maintenance of the telephone line
facility.

t. (EIN 49a L) An easement twenty-five
(25) feet in width, twelve and one-half
(12½) feet on each side of the centerline,
for an existing telephone line from road
EIN 24 C5 in Sec. 36, T. 10 S., R. 56 W.,
Seward Meridian, westerly to a group of
private inholdings located on the south
shore of Lake Aleknagik. The uses
allowed are those activities associated
with the construction, operation, and
maintenance of the telephone line
facility.

u. (EIN 49b L) An easement twenty-
five (25) feet in width for an existing
telephone line located in Sec. 25, T. 10
S., R. 56 W., Seward Meridian. The uses
allowed are those activities associated
with the construction, operation, and
maintenance of the telephone line
facility.

The grant of lands shall be subject to:
1. Issuance of a patent confirming the
boundary description of the lands
hereinabove granted after approval and
filing by the Bureau of Land
Management of the official plat of
survey covering such lands;

2. Valid existing rights, therein, if any,
including but not limited to those
created by any lease (including a lease
issued under Sec. 6(g) of the Alaska
Statehood Act of July 7, 1958 (72 Stat.
339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))

(1976))), contract, permit, right-of-way or
easement and the right of the lessee,
contractee, permittee or grantee to the
complete enjoyment of all rights,
privileges and benefits thereby granted
to him. Further, pursuant to Sec. 17(b) (2)
of ANCSA, any valid existing right
recognized by ANCSA shall continue to
have whatever right of excess as is
now provided for under existing law;

3. Requirements of Sec. 14(c) of the
Alaska Native Claims Settlement Act of
December 18, 1971 (85 Stat. 688, 703; 43
U.S.C. 1601, 1613(c) (1976)), that the
grantee hereunder convey those
portions, if any, of the lands
hereinabove granted, as are prescribed
in said section.

Aleknagik Natives Limited is entitled
to conveyance of 115,200 acres of land
selected pursuant to Sec. 12(a) of the
Alaska Native Claims Settlement Act.
To date, approximately 102,161 acres of
this entitlement have been approved for
conveyance; the remaining entitlement
of approximately 13,039 acres will be
conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska
Native Claims Settlement Act,
conveyance to the subsurface estate of
the lands described above shall be
granted to Bristol Bay Native
Corporation when conveyance is
granted to Aleknagik Natives Limited,
for the surface estate and shall be
subject to the same conditions as the
surface conveyance.

Only the following inland water
bodies, within the described lands, are
considered to be navigable: Wood
River, Agulowak River, Lake Aleknagik;
Lake Nerka.

The Muklung River is considered to be
tidally influenced to the northern
boundary of Sec. 29, T. 10 S., R. 54 W.,
Seward Meridian.

In accordance with Departmental
regulation 43 CFR 2650.7(d), notice of
this decision is being published once in
the Federal Register and once a week,
for four (4) consecutive weeks, in the
Anchorage Times. Any party claiming a
property interest in lands affected by
this decision may appeal the decision to
the Alaska Native Claims Appeal Board,
P.O. Box 2433, Anchorage, Alaska 99510,
with a copy served upon both the
Bureau of Land Management, 701 C
Street, Box 13, Anchorage, Alaska 99513,
and the Regional Solicitor, Office of the
Solicitor, 510 L Street Suite 408,
Anchorage, Alaska 99501, also:

1. Any party receiving service of this
decision shall have 30 days from the
receipt of this decision to file an appeal.

2. Any unknown parties, any parties
unable to be located after reasonable
efforts have been expended to locate,
and any parties who failed or refused to

sign the return receipt shall have until December 26, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are: State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501. Aleknagik Natives Limited, Aleknagik, Alaska 99555. Bristol Bay Native Corporation, P.O. Box 237, Dillingham, Alaska 99576.

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-36234 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-84-M

[F-14943-A]

Alaska Native Claims Selection

This decision rejects the State selection of lands near Tanacross and approves the land for conveyance to Tanacross, Incorporated.

On May 25, 1961, the State of Alaska filed general purposes grant selection applications F-027784 and F-027785, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)). These applications, which selected lands near the Native village of Tanacross, were later combined, retaining F-027784 as the application covering T. 19 N., R. 11 E., Copper River Meridian.

On December 18, 1971, Sec. 11 of the Alaska Native Claims Settlement Act (85 Stat. 688, 696; 43 U.S.C. 1601, 1610 (1976)) (ANCSA), withdrew the lands surrounding the village of Tanacross, including the lands in the subject State selection, for possible Native selection. On September 5, 1974, Tanacross, Incorporated filed village selection application F-14943-A under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a)), for lands located near the village, including lands within the subject State selection.

Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that village selections shall be made from

lands withdrawn by Sec. 11(a). Section 11(a)(2) withdrew for possible selection by the Native corporation those lands that have been selected by, or tentatively approved to, but not yet patented to, the State under the Alaska Statehood Act. Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

The following described lands, which are State selected, have been properly selected under village selection application F-14943-A. Accordingly, the State selection application is rejected as to the following described lands:

State Selection F-027784

Lot 6, Block 5, U.S. Survey 3726, Alaska, Townsite of Tanacross, situated on the right bank of the Tanana River approximately 10 miles northeast of Tok Junction, Alaska.

Containing 1.30 acres.

T. 19 N., R. 11 E., Copper River Meridian, Alaska (Surveyed);

Those portions of Tract A more particularly described as (protracted):

Sec. 1, excluding U.S. Survey 4378;
Secs. 2 and 3, excluding Fish Lake;
Sec. 4 excluding U.S. Survey 4087, U.S. Survey 4087B, Native allotments F-14422 Parcel B and F-12549 Parcel A and Fish Lake;

Secs. 5 excluding U.S. Survey 4087B;
Secs. 6, excluding Native allotments F-12548 Parcel A and F-15029 Parcel B;
Secs. 7 and 8, all;
Sec. 9 excluding U.S. Survey 4087B;
Secs. 10 to 14, inclusive, all;
Secs. 15, 16 and 17, excluding the Little Tanana Slough;

Sec. 18, excluding Native allotment F-14422 Parcel A and the Little Tanana Slough;
Sec. 19, excluding Native allotment F-14445 Parcel B and the Little Tanana Slough;
Sec. 20, excluding the Little Tanana Slough;
Secs. 21 and 22, excluding the Tanana River and the Little Tanana Slough;
Sec. 23, excluding the Tanana River;
Sec. 24, all;
Secs. 25 to 28, inclusive, excluding the Tanana River;
Sec. 29, excluding the Little Tanana Slough, the Tanana River and its interconnecting sloughs;

Sec. 30, excluding Native allotment F-14445 Parcel B, the Little Tanana Slough, the Tanana River and its interconnecting slough;
Sec. 31, excluding U.S. Survey 5620 and the Tanana River;

Sec. 32, excluding U.S. Survey 2631, U.S. Survey 2659, U.S. Survey 3726, U.S. Survey 4088, U.S. Survey 5620, Native allotments F-14439 Parcel C and F-16422 Parcel A and the Tanana River and its interconnecting slough;
Sec. 33, excluding U.S. Survey 2631 and U.S. Survey 4088;

Sec. 34, 35 and 36, all.

Containing approximately 19,671 acres.

Aggregating approximately 19,672 acres.

Further action on the subject State selection application as to those lands not rejected herein will be taken at a later date.

The total amount of lands which have been properly selected by the State, including any selection applications previously rejected to permit conveyances to Tanacross, Incorporated is approximately 19,672 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

As to the lands described above, the application submitted by Tanacross, Incorporated is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with the laws leading to the acquisition of title.

In view of the foregoing, the surface estate of the above described lands, selected pursuant to Sec. 12(a), aggregating approximately 19,672 acres, is considered proper for acquisition by Tanacross, Incorporated, and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14943-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail.—The uses allowed on a twenty-five (25) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site.—The uses allowed for a site easement are: Vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 14 C1, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from the road on the left

bank of the Tanana River in Sec. 32, T. 19 N., R. 11 E., Copper River Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use is limited to winter.

b. (EIN 18a D9) A one (1) acre site easement upland of the ordinary high-water mark in Sec. 4, T. 19 N., R. 11 E., Copper River Meridian, on the northwest shore of Fish Lake. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 21 C1, D1) An easement for an existing access trail twenty-five (25) feet in width from trail EIN 14 C1, D1, D9 in Sec. 13, T. 19 N., R. 10 E., Copper River Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use is limited to winter.

d. (EIN 28 C5) A proposed easement varying from two hundred fifty (250) feet to one thousand two hundred fifty (1,250) feet in width and extending out one thousand (1,000) feet from the end of Runway 30 at Tanacross Airport in Sec. 32, T. 19 N., R. 11 E., Copper River Meridian. The allowed use of this airspace easement is for unobstructed air space and there will be no use allowed which might interfere with approaching or departing aircraft or might otherwise constitute a safety hazard because of its location or construction. No permanent fixture will be allowed in the safety area and no obstructions will be allowed to extend into the airspace. Uses which do not interfere with aircraft safety will be permitted. The uses of this airspace easement will be controlled by applicable Federal, State or municipal Corporation regulation.

The grant of the above described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid

existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

4. An easement and right-of-way to operate, maintain, repair and patrol an overhead open wire and underground communication line or lines, and appurtenances thereto, in, on, over and across a strip of land fifty (50) feet in width, lying twenty-five (25) feet on each side of the centerline of the Alaska Communication System's open wire or pole line and/or buried communication cableline, conveyed to RCA Alaska Communications, Inc. by Easement Deed dated January 10, 1971, (F-13508), pursuant to the Alaska Communications Disposal Act (81 Stat. 441; 40 U.S.C. 771, et seq.) located in: the east half of protracted section 32 of Tract A, T. 19 N., R. 11 E., Copper River Meridian, and that portion within U.S. Survey 3726.

The lands conveyed will include the Eagle to Valdez Telegraph Line which is located in Secs. 6, 18, 19, 29, 30 and 32, T. 19 N., R. 11 E., Copper River Meridian. This historic structure is identified on Bureau of Land Management plats as serial No. F-21631 and has been nominated to the National Register of Historic Places.

Tanacross, Incorporated is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 19,672 acres of this entitlement have been approved for conveyance; the remaining entitlement of 72,488 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Doyon, Limited when conveyance is granted to Tanacross, Incorporated for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following inland water bodies within the described lands are considered to be navigable:

The Tanana River and its interconnecting sloughs;
The Little Tanana Slough;
Fish Lake.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the

TUNDRA TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until December 26, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

Tanacross, Incorporated, Tanacross, Alaska 99776.

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-36235 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-84-M

Bakersfield District, Calif; Alteration of Existing Jawbone Canyon Management Agreement Boundary

A management agreement has existed between the U.S. Bureau of Land Management and the Rudnick Estate Trust since 1976. This agreement applies to the management of motorized vehicles on lands in the Jawbone Canyon Special Design Area.

The original boundary follows a ridge line which cannot be seen by the average user of the area. The original boundary was signed on the ridge line, but due to difficulty in reaching the ridge line, signs could not be maintained on a

regular schedule. The visitors using the area would then trespass across the boundary. Patrolling this area by 4-wheel drive vehicles is limited due to the steep terrain involved. The Jawbone well is located in Section 28 of T. 30S., R. 36E. The well is used by livestock and wildlife within the area, and is a valuable water source. However, due to the visitation near the well, the water tank has been vandalized and contaminated by swimmers, thus keeping the livestock and wildlife from using their water source.

The altered management agreement boundary will enable the use of Jawbone Canyon Road as a boundary line. The road can be easily patrolled and visitors to the area would have a definite visible boundary to follow. This will enable the local law enforcement agencies and Bureau of Land Management Rangers to enforce trespassing laws and regulations on lands west of the boundary. It will also prevent visitors from vandalizing the water tank and disturbing livestock and wildlife that utilize the water source. The altered boundary line is as follows:

Beginning at the point where the Harris Grade County Road intersects the U.S. Forest Service boundary in T. 28S., R. 35S., Section 30, east along Harris Grade Road to the intersection of Harris Grade Road and Kelso Valley County Road in T. 28S., R. 35E., Section 21. From that point north on Kelso Valley Road to the intersection of Kelso Valley Road and Dove Spring Canyon Road in T. 28S., R. 35E., Section 15. Thence southeast on Dove Spring Canyon Road to the intersection of Dove Spring Canyon Road and Gold Peak Road in T. 28S., R. 36E., Section 32. Thence west-southwest along Gold Peak Road, to the intersection of Gold Peak Road and Butterbread Canyon County Road in T. 29S., R. 35E., Section 2. Thence southeast along Butterbread Canyon Road to the intersection of Butterbread Canyon Road and Jawbone Canyon Road in T. 29S., R. 36E., Section 33. Thence south along Jawbone Canyon Road to where Jawbone Canyon Road turns northeast in T. 30S., R. 36E., Section 22. Thence due south to the southern boundary of T. 30S. Thence due east along the southern boundary of T. 30S., to the common southern corner of T. 30S., R. 34E., Section 35 and 36. Thence due north along the boundary between Section 36 and 36 to the common corner of T. 29S., R. 34E., Sections 25, 26, 36 and 36. Thence north

along U.S. Forest Service boundary to the point where Harris Grade County Road intersects the U.S. Forest Service boundary in T. 28S., R. 35E., Section 30.

Within the confines of the described boundary, vehicle use will be restricted to designated roads and trails by permit issued by the Bureau of Land Management. Jawbone Canyon Road, Butterbread Canyon Road, Kelso Valley Road, and Harris Grade Road will remain open to operators with valid State operator's licenses or learner's permits, and licensed motorized vehicles. The area to the east of this line the Trust agrees to allow vehicle use of its private lands on all designated roads and trails. Additional areas now exhibiting use as hill climb areas will be designated as open to this off road vehicle activity.

This notice is given under the authority to the Federal Land Policy and Management Act of 1976 (PL 94-579), Executive Order 11644 as amended by Executive Order 11989, and Bureau of Land Management Code and Regulations 43 CFR 8340.

Dated: November 15, 1979.

Kris Conquergood,
Acting District Manager.

[FR Doc. 79-36306 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38770]

New Mexico; Application

November 14, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), David Fasken has filed a right-of-way application for one 4-inch and three 3-inch pipelines across the following land:

New Mexico Principal Meridian, New Mexico

T. 21 S., R. 24 E.,

Sec. 4, lots 5 and 13;

Sec. 5, lots 7, 8, 9, 10, 14, 15, 16 and NE¼SW¼.

These pipelines will convey natural gas across 1.883 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 79-36308 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Cape Cod National Seashore, South Wellfleet, Mass.; Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with Pub. L. 92-464 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, December 14, 1979, at 10 am at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matter: Recommendations of the Oversand Vehicle Study Committee.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02863, Telephone 617-349-3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Dated: November 13, 1979.

Herbert Olsen,
Superintendent, Cape Cod National Seashore.

[FR Doc. 79-36257 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

[INT FEIS 79-61]

Grazing Management Program for the Bennett Hills, Timmerman Hills and Magic Planning Units in Gooding, Lincoln, Elmore, Blaine and Camas Counties, Idaho; Availability of the Shoshone Grazing Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for a proposed grazing management program for the Bennett Hills, Timmerman Hills and Magic Planning Units of the Shoshone District located in southcentral Idaho.

The proposal involves changes in initial stocking rates, implementing improved grazing systems and installation of certain range improvements. Five alternatives were also analyzed. Approximately 574,000 acres of public lands are involved.

No final decisions regarding this matter will be made for 30 days from the date of this notice.

Copies of the final environmental statement are available for inspection at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW, Washington, D.C. 20240. Telephone: (202) 343-5717.

Shoshone District Office, Bureau of Land Management, 400 West F Street, Shoshone, Idaho 83352, Telephone: (208) 886-2207. Idaho State Office, Bureau of Land Management, Federal Building, 500 West Fort Street, Boise, Idaho 83724, Telephone: (208) 384-1770.

A limited number of single copies may be obtained from the Idaho State Director, the Shoshone District Manager and the Office of Public Affairs, Bureau of Land Management at the above addresses.

Dated: October 29, 1979.

James W. Curlin,
Deputy Assistant Secretary of the Interior.

[FR Doc. 79-36303 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-84-M

Water and Power Resources Service

Municipal Water Service Contract Negotiations, Shoshone Project, Wyoming; Availability of the Proposed Contract

The Department of the Interior, through the Water and Power Resources Service, has completed the negotiation

for the form of a contract with the city of Cody and town of Lovell, Wyoming, for long-term municipal water service from Buffalo Bill Reservoir, the principal storage feature of the Shoshone Project. The proposed contract form was prepared pursuant to section 9(c)(2) of the Reclamation Project Act of August 4, 1939 (53 Stat. 1186).

Both municipalities have requested water service arrangements be consummated to provide supplemental water requirements for domestic, residential, light industrial, and commercial purposes. Both expect substantial population increases by year 2020. The United States would release up to 5,000 acre-feet of water annually for Cody and 1,000 acre-feet of water annually for Lovell.

The proposed contract form provides that delivery would be made at the outlet works of Buffalo Bill Dam, and all costs associated with delivering the water from the Shoshone River to the municipal system would be the responsibility of the individual municipality. The initial water service charge would be \$10 per acre-foot for water used plus \$1 per acre-foot for standby water service. The operation and maintenance charge would be \$0.10 per acre-foot, and contract administration costs would be \$100 annually. These charges are subject to adjustment at 5-year intervals throughout the 40-year contract term.

For further information and copies of the proposed contract form, please contact Mrs. Elaine Ellingson, Repayment Technician, Division of Water and Land, Water and Power Resources Service, P.O. Box 2553, Billings, Montana 59103, telephone (406) 657-6455.

The proposed contract will be available for public review and written comments for 30 days following the date of this notice. All written correspondence concerning the proposed contract will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: November 19, 1979.

Clifford L. Barrett,
Assistant Commissioner of Water and Power Resources Service.

[FR Doc. 79-36229 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Final Program Criteria for Screening of Applications for Grants Made by American Schools and Hospitals Abroad (ASHA) Program

AGENCY: Agency for International Development.

ACTION: Final Program Criteria.

SUMMARY: The Agency for International Development is issuing final program criteria for the screening of applications for grants made by the American Schools and Hospitals Abroad (ASHA) program, pursuant to section 214 of the Foreign Assistance Act of 1961, as amended. The program criteria serve as administrative guidance for considering the acceptability and relative merits of applicants.

DATE: Effective date November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. David A. Santos (703) 235-9190, ASHA, Agency for International Development, Washington, D.C. 20523.

SUPPLEMENTARY INFORMATION:

Background

On April 16, 1979, the Agency for International Development published for comment its Proposed Program Criteria for the American Schools and Hospitals Abroad program. A written comment was received from one individual.

That comment was directed at criteria 2 and 4 which require that educational and medical programs reflect American ideas and practices. It was suggested by the respondent that these criteria emphasized too heavily U.S. educational and medical practices and that the criteria should be modified to reflect that ASHA projects reflect conditions in the overseas countries. Since these criteria reiterate the statutory language of Section 214 of the Foreign Assistance Act, as amended, their inclusion is mandatory. Furthermore, since the educational and medical programs of institutions receiving ASHA assistance are adapted to local needs; U.S. ideas and practices are applied in a manner which takes these local needs and concerns into account.

Accordingly, the Agency for International Development issues the following Criteria for the American Schools and Hospitals Abroad Program.

Preamble

Pursuant to section 214 of the Foreign Assistance Act of 1961, as amended, grant assistance is made available to selected schools, libraries, and hospitals

overseas founded or sponsored by United States citizens and serving as

practices. An applicant for a new institution must demonstrate the ability

Development (BIFAD) on December 11 and 12, 1979.

Commission unanimously determines

or is prevented from being established,

58.3 million short tons in 1976 to 48.6

overseas founded or sponsored by United States citizens and serving as study and demonstration centers for ideas and practices of the United States and as centers for medical education and research. Grants made under this program help such institutions demonstrate to people overseas the achievements of the United States in education and medicine.

In evaluating requests for assistance AID will apply the following criteria:

Criterion 1. The applicant should be a nonprofit U.S. organization which either founded or sponsors the institution for which assistance is sought. Preferably, the applicant should be tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1954.

The applicant must demonstrate a continuing supportive relationship with the institution. Evidence of this would be the provision of financial and management support for the institution.

Criterion 2. An instruction program must serve the secondary or higher level and must reflect American educational ideas and practice (education at the elementary school level will not be supported).

A school offering a broad-based academic program must include instruction on the history, geography, political science, cultural institutions or economics of the United States. English should be used in instruction or taught as a second language. However, the foregoing subject matter and language requirements need not apply to a school offering a specialized course of study.

Criterion 3. Institutions are expected to reflect favorably upon and to increase understanding of the United States.

Criterion 4. A hospital center, in addition to being a treatment facility, must be involved in medical education and research.

Programs for post graduate training of staff in the United States and programs for the exchange of personnel with American institutions will be regarded as evidence of ability to demonstrate American ideas and practices in medicine.

Criterion 5. The faculty and staff of a school or a hospital center should include a significant number of U.S. citizens or other persons trained in U.S. institutions who are in residence and teaching at the school or hospital center on either a full time or part-time basis.

Criterion 6. The majority of the users of any institution, e.g., students or patients, must be citizens of countries other than the U.S.

Criterion 7. An existing institution must demonstrate competence in professional skills and must exhibit sound management and financial

practices. An applicant for a new institution must demonstrate the ability to achieve professional competence and to operate in accordance with sound management and financial practices.

Criterion 8. The institution must be open to all persons regardless of race, religion, sex, color or national origin. (The above shall not be construed to require enrollment of students of both sexes at an educational institution enrolling boys or girls only.) Assistance may not be used to train persons for religious pursuits or to construct building or other facilities intended for worship or religious instruction.

Criterion 9. The institution must be located outside the U.S. and should not be under the control or management of a government or any of its agencies. The receipt of financial or other assistance from a government or government agency or the observance of national educational or medical standards required by the country where the institution is located does not in itself mean that the institution is "under the control or management" of such government.

Criterion 10. An applicant requesting capital construction assistance must provide information sufficient to permit a firm estimate of the total cost to the U.S. Government of the construction for which assistance is requested. Such an applicant must also provide information and assurances with respect to rights to the land on which construction is planned.

Criterion 11. To help achieve the objectives of the Foreign Assistance Act and ensure that the American Schools and Hospitals Abroad program is as geographically balanced as possible, special consideration will be given to applications for institutions which increase the geographic distribution of the program and contribute to the economic and social progress of areas that are the focus of AID's development efforts.

Calvin H. Raulerson,
Assistant Administrator for Private and Development Cooperation.

[FR Doc. 79-36221 Filed 11-23-79; 8:45 am]
BILLING CODE 4710-02-M

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), P.L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-ninth meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural

Development (BIFAD) on December 11 and 12, 1979.

The purpose of the meeting is to review and discuss progress of Collaborative Research Support Programs (CRSPs) being planned and implemented, and to further consider changes in composition and roles of JRC to relate to the Institute for Scientific and Technological Cooperation upon its establishment. Planning CRSPs which will be discussed include Human Nutrition, Integrated Crop Protection, Peanuts, Soil Management, Fisheries and Aquaculture. Ongoing CRSPs which will be discussed include Small ruminants and Sorghum and Millet. Also, JRC will consider the possibility of exploratory studies on the role of Forestry in agriculture in the tropics and sub-tropics.

The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on December 11 and 12, 1979. The meeting will be held at the Holiday Inn, Dynasty Room, 1850 N. Ft. Myer Drive, Arlington, Virginia 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703)-235-8929.

Erven J. Long,
A.I.D. Advisory Committee Representative,
Joint Research Committee Board for
International Food and Agricultural
Development.

November 20, 1979.
[FR Doc. 79-36336 Filed 11-23-79; 8:45 am]
BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[AA1921 Inq. 29]

Coke From West Germany; Commission Determines "No Reasonable Indication of Injury"

On the basis of information developed during the course of inquiry No. AA1921-Inq.-29 undertaken by the United States International Trade Commission under section 201 of the Antidumping Act, 1921, as amended, the

Commission unanimously determines that there is no reasonable indication that an industry in the United States is being or is likely to be injured by reason of the importation of coke, provided for in item 521.31 of the Tariff Schedules of the United States (TSUS), from West Germany allegedly sold at less than fair value as indicated by the Department of the Treasury.

On October 17, 1979, the Commission received advice from the Department of the Treasury that, in accordance with section 201(c)(1) of the Antidumping Act, 1921, as amended, an antidumping investigation was being initiated with respect to coke from West Germany and that, pursuant to section 201(c)(2) of the act, information developed during Treasury's preliminary investigation led to the conclusion that there is substantial doubt that an industry in the United States is being or is likely to be injured by reason of the importation of coke from West Germany into the United States. Accordingly, the Commission, on October 22, 1979, instituted inquiry No. AA1921-Inq.-29, under section 201(c)(2) of the act to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on October 30, 1979, in Washington, D.C. Notice of the institution of the inquiry and the public hearing was duly given by posting copies of the notice at the Secretary's office in the Commission in Washington, D.C., and at the Commission's office in New York City, and by publishing the original notice in the Federal Register of October 25, 1979 (44 FR 61466).

The Treasury Department instituted its investigation after receiving a properly filed complaint on September 7, 1979, from counsel representing three U.S. producers of coking coal, one of which also produces coke. Treasury's notice of its antidumping proceeding was published in the Federal Register of October 22, 1979 (44 FR 60838).

Statement of Reasons for the Determination of Chairman Joseph O. Parker and Commissioners Bill Alberger, George M. Moore, Catherine Bedell, and Paula Stern

Determination.

On the basis of the information developed during this inquiry, we determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured,

or is prevented from being established, by reason of the importation of coke from West Germany allegedly sold at less than fair value as indicated by the Department of the Treasury.

Discussion

In this inquiry, counsel for the petitioners has claimed that the industry injured by LTFV imports of coke from West Germany is "the U.S. merchant coke industry (consisting of) all U.S. commercial producers of coke and coking coal that sell their products exclusively on the open market." The industry described by the petitioners does not include steel firms, which account for an estimated 93 percent of total U.S. coke production and which produce coke primarily for their own captive consumption. In addition, the industry described by the petitioners excludes the steel firms' captive production of coking coal, which supplies over half of the coking coal consumed by such firms in the manufacture of coke. It is our view that neither the industry described by the petitioner, nor the entire U.S. coke and coking coal industries, which include all facilities in the United States used in the production of coke and coking coal, whether for captive or noncaptive use, is being or is likely to be injured by reason of the alleged LTFV imports of coke from West Germany.

In recent years, U.S. coke producers witnessed a steady decline in capacity, which affected both coke and coking coal production. During the period January 1973 through July 1979, a period in which U.S. demand for coke increased as a result of an overall increase in domestic steel production, U.S. coke capacity declined by approximately 16 percent, while capacity utilization increased from an estimated 93 percent in 1976 to about 97 percent in January-June 1979. The decline in capacity is primarily attributable to stringent Federal pollution control standards and the advanced age of most domestic coke ovens. Steel firms, which own and operate the vast majority of coke ovens, have not undertaken the massive replacement and reconditioning programs needed to prevent further erosions in capacity.

Largely as a result of declining capacity, U.S. coke production fell from

¹ Prevention of establishment of an industry is not in question in this inquiry and will not be discussed further in these views.

² Commissioners Alberger and Stern do not believe that the industry described by the petitioner constitutes and "industry" within the meaning of the Antidumping Act. They would define the industry as comprising total U.S. coke production, both captive and noncaptive.

58.3 million short tons in 1976 to 48.8 million short tons in 1978. Production in 1978 was also suppressed—by over 3 million short tons—by the United Mine Workers strike during December 1977-March 1978, which prevented many producers from obtaining needed quantities of coking coal. Coke production during the first half of 1979 increased by 22 percent over its level during the corresponding period in 1978. Production losses during the period 1976-78 were shared relatively evenly by both captive and merchant plants, as were production gains during the first half of 1979.

Despite the steady decline in coke production, domestic shipments of coke were at approximately the same level in 1978 as they were in 1976, reflecting a rapid depletion of inventories. However, shipments and inventories of coke increased slightly during the first half of 1979.

As a result of declining coke capacity and the strike referred to above, domestic shipments of coking coal fell by 22 percent during 1976-78. The decline in domestic shipments was more than offset by increased exports of coking coal, however. During January-June 1979, U.S. coking coal producers' domestic and foreign shipments increased markedly.

While coke production dropped by 17 percent during 1976-78, the average number of production and related workers engaged in the production of coke declined by only 2 percent. Reflecting the sharp rise in production during the first half of 1979, the average number of such workers in that period increased by 13 percent over the average for January-June 1978. Employment data for the U.S. coking coal industry are unavailable; it is assumed, however, that industry employment remained relatively stable since total shipments of coking coal did not decline during the period January 1976 through June 1979, except for a brief lapse in early 1978 resulting from the United Mine Workers strike.

As U.S. demand for raw steel increased, particularly in 1978, and as domestic coke capacity and production declined, steel firms sought increased volumes of coke from foreign suppliers to fill the gap. During the period 1976-78, U.S. imports of coke from West Germany more than quadrupled, as did total imports from countries other than West Germany. During January-June 1979, however, imports from West Germany were 33 percent below their level during the corresponding period in 1978.

There is considerable information that domestic steel firms sought coke from West Germany primarily because of

insufficient domestic supplies and not because of price considerations. Of the

on a full-time basis in undergraduate or graduate degree programs who would

SUMMARY: This notice announces the furthering a meeting of the National

be in writing and be received by the Executive Office of the National

range planning, and an overview of

Type of meeting: Open.

insufficient domestic supplies and not because of price considerations. Of the seven firms known to have imported coke from West Germany during the period January 1976 through June 1979, four purchased the imported product at prices substantially higher than those paid for noncaptive domestic coke, two paid lower prices for the imported product, and one paid substantially similar prices for both. An analysis of average delivered prices paid by steel firms accounting for over 80 percent of domestic coke consumption reveals that while West German coke was slightly lower in price than domestic noncaptive coke in 1977, it was higher than such coke in 1978, the year in which imports surged, and in the first half of 1979.

Merchant coke producers have reported isolated instances where they were unable to sell coke at reasonable prices. It should be noted, however, that 10 steel firms reported that frequently during the period January 1977 through June 1979, there were insufficient quantities of blast furnace coke available from U.S. merchant producers. These firms indicated that in many instances merchant coke producers had abundant stocks of foundry coke, which is considered unsuitable for blast furnace use.

Conclusion

On the basis of the above, we conclude that there is no reasonable indication of injury or likelihood of injury to a domestic industry by reason of the alleged LTFV imports of coke from West Germany.

By the order or the Commission.

Issued: November 19, 1979.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-36385 Filed 11-23-79; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Office of Criminal Justice Education and Training; Internship Program

The Law Enforcement Assistance Administration fiscal year 1980 budget contains no provision for continuing the Internship Program, authorized by Section 406(f) of the Crime Control Act of 1976, as amended. All institutions of higher education should be advised that there will be no internship program operating for Academic Year 1980-81.

The LEAA Internship Program provided internships of not less than eight weeks, for those persons enrolled

on a full-time basis in undergraduate or graduate degree programs who would work full-time in law enforcement agencies. Interns earned a stipend of \$65.00 per week, which amount is intended to supplement a salary which the employing criminal justice agency pays the intern.

For further information call the Academic Assistance Division of the Office of Criminal Justice Education and Training at 301/492-9040.

Dated: November 9, 1979.

J. Price Foster,
Director, Office of Criminal Justice Education and Training.

[FR Doc. 79-36307 Filed 11-23-79; 8:45 am]
BILLING CODE 4410-11-M

METRIC BOARD

Public Forum

Notice is hereby given that the United States Metric Board will hold a Public Forum on Thursday, December 13, 1979, from 9 a.m. to 3 p.m. The Forum will be held in conjunction with the Metric Board's regular December meeting. Notice of the regular meeting appears in the Sunshine Meeting section of this issue. The Forum will be held at the Harley Hotel of Orlando, 151 East Washington Street, Orlando, Florida 32801 in the Eola Ballroom.

The purpose of the forum will be to allow Board Members to receive comments about increased metric usage and voluntary metric conversion from individuals and from representatives of groups or organizations. The public is invited and encouraged to provide oral or written comments and ask questions of the Board from 11 a.m. to 12:30 p.m. Those who wish to participate may also submit comments or questions in advance to Ms. Joanne Wills, Office Public Awareness and Education, United States Metric Board, The Magazine Building, 1815 North Lynn Street, Suite 600, Arlington, Virginia 22209.

Louis F. Polk,
Chairman, U.S. Metric Board.

[FR Doc. 79-36342 Filed 11-23-79; 8:45 am]
BILLING CODE 6820-94-M

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD, 1979

Meeting

AGENCY: National Commission on the International Year of the Child, 1979.

ACTION: Notice of meeting.

SUMMARY: This notice announces the forthcoming meeting of the National Commission on the International Year of the Child, 1979. The meeting is being held to discuss issues, leading to the development of recommendations to be included in the report to the President. This document is intended to notify the general public of its opportunity to attend.

DATES: December 5-6, 1979.

ADDRESSES: Department of State, Loy Henderson Room, 2201 C Street, N.W., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: James B. Roberts, Executive Officer, 600 "E" Street, N.W., Suite 505, Washington, D.C. 20471, (202) 376-2435.

Since conference facilities are in great demand, we must know the number of general public who plan to attend in order to allocate adequate space for the meeting. Notice of persons from the general public who plan to attend must be in writing and received by the Executive Officer of the National Commission (at the above address). 5 p.m. (E.S.T.) November 30, 1979. Such notice of intent should include the address and telephone number of the person.

James B. Roberts,
Executive Officer.

[FR Doc. 79-36304 Filed 11-23-79; 8:45 am]
BILLING CODE 6820-49-M

Meeting

AGENCY: National Commission on the International Year of the Child, 1979.

ACTION: Notice of Meeting.

SUMMARY: This notice announces the forthcoming meeting of the National Commission on the International Year of the Child, 1979, Children's Advisory Panel. The meeting is being held to discuss substantive issues, leading to the development of recommendations to be included in the report to the President. This document is intended to notify the general public of its opportunity to attend.

DATES: December 2-4, 1979.

ADDRESS: National 4H Council, 7100 Connecticut Avenue, Washington, D.C. 20015.

FOR FURTHER INFORMATION CONTACT: James B. Roberts, Executive Officer, 600 "E" Street, N.W., Suite 505, Washington, D.C. 20471, (202) 376-2435.

Since conference facilities are in great demand, we must know the number of general public who plan to attend in order to allocate adequate space for the meeting. Notice of persons from the general public who plan to attend must

be in writing and be received by the Executive Officer of the National Commission (at the above address) by 5 p.m. (E.S.T.) November 28, 1979. Such notice of intent to attend should include the address and telephone number of the person.

James B. Roberts,
Executive Officer.

[FR Doc. 79-36305 Filed 11-23-79; 8:45 am]
BILLING CODE 6820-49-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Artists-in-Schools Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Artists-in-Schools Panel to the National Council on the Arts will be held December 12, 1979, from 9:00 a.m.-7:00 p.m.; December 13, 1979, from 9:00 a.m.-6:00 p.m.; and December 14, 1979, from 9:00 a.m.-6:00 p.m. in Room 1426, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be Policy, present and future directions.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-36310 Filed 11-23-79; 8:45 am]
BILLING CODE 7537-01-M

Dance Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Dance Panel to the National Council on the Arts will be held December 13, 1979, from 11:00 a.m.-5:30 p.m.; December 14, 1979, from 9:00 a.m.-5:30 p.m.; December 15, 1979, from 9:00 a.m.-5:30 p.m.; and December 16, 1979, from 9:00 a.m.-4:00 p.m., in Room 1422, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on Dec. 13, 1979, from 11:00 a.m.-5:30 p.m.; Dec. 14, 1979, from 9:45 a.m.-5:30 p.m.; Dec. 15, 1979, from 9:00 a.m.-5:30 p.m.; and Dec. 16, 1979, from 9:00 a.m.-4:00 p.m. Topics for discussion will include policy, guidelines, long

range planning, and an overview of presentation and touring.

The remaining sessions of this meeting on December 14, 1979, from 9:00 a.m.-9:45 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-36309 Filed 11-23-79; 8:45 am]
BILLING CODE 7537-01-M

Theatre Panel; Cancelled Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Theatre Panel to the National Council on the Arts that was to be held on November 27, 1979 and November 28, 1979, in Los Angeles, California, (as announced in the Federal Register, Vol. 44, No. 215, Monday, November 5, 1979) has been cancelled.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-36386 Filed 11-23-79; 8:45 am]
BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Minority Programs in Science Education; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Minority Programs in Science Education.
Date and time: December 13, 1979—9 a.m. to 5 p.m. December 14, 1979—9 a.m. to Noon.
Place: Atlanta University, Atlanta, Georgia 30314.

Type of meeting: Open.

Contact person: Dr. Alphonse Buccino, Office of Program Integration, Directorate for Science Education, National Science Foundation, Washington, D.C. 20550, (202) 282-7947.

Summary minutes: May be obtained from the Contact Person, Dr. Alphonse Buccino, at the above stated address.

Purpose of Committee: To provide advice regarding NSF's minority programs in science education.

Agenda: Assessment of Resource Centers in Science and Engineering.

M. Rebecca Winkler,
Committee Management Coordinator.

November 20, 1979.
[FR Doc. 79-36344 Filed 11-23-79; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee for Physiology, Cellular, and Molecular Biology, Subcommittee on Human Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Human Cell Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.
Date and time: December 10, 1979 9:00 a.m. til 5:00 p.m.

Place: Cell Culture Center, Massachusetts Institute of Technology, Cambridge, MA 02139.

Type of meeting: Closed.

Contact person: Dr. Herman W. Lewis, Program Director, Human Cell Biology Program; Room 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4200.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Human Cell Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such

determinations by the Director, NSF, on July 6, 1979.

Advisory Committee Rotation—R. Dugdale.
Reason for Closing: The presentations will

an estimate of the number of forms that will be filled out

Off. of Federal Statistical Policy &

Health Centers and Mental Health

DEPARTMENT OF LABOR

determinations by the Director, NSF, on July 8, 1979.
M. Rebecca Winkler,
Committee Management Coordinator.
 November 20, 1979.
 [FR Doc. 79-36345 Filed 11-23-79; 8:45 am]
BILLING CODE 7555-01-M

Executive Committee of the Advisory Committee for Ocean Sciences; Amended Meeting Notice

The meeting notice for the Executive Committee is being amended to include a closed portion for the review of specific proposals. For the convenience of the reader, we are republishing the meeting notice.

Name: Executive Committee of the Advisory Committee for Ocean Sciences.
 Date and Time: November 28 and 29, 1979—9 a.m. to 5 p.m.; each day.
 Place: Room 642, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
 Type of Meeting: Part Open—Open 11/28—9 a.m. to 11 p.m. Closed 11/28—11 a.m. to 12 p.m. Open 11/28—1:30 p.m. to 5 p.m. Open 11/29—9 a.m. to 5 p.m.

Contact Person: Dr. Dirk Frankenberg, Director, Division of Ocean Sciences, Room 609, National Science Foundation, Washington, D.C. 20550. Telephone (202) 632-5913.

Summary Minutes: May be obtained from the Contact Person, Dr. Dirk Frankenberg, at the above address.

Purpose of Committee: To provide advice and recommendations concerning oceanographic research and its support by the NSF's Division of Ocean Sciences.

Agenda:

Open—Nov. 28—9 a.m.

Review of Division Budget—D. Frankenberg.
 Report on Post-IDOE program and project reviews—G. Gross.
 National Climate Program Development: Oceanographic Input—C. Collins.
 Other NSF programs: Integrated Basic Research; and Division of Applied Research.
 International Stance of OCE—D. Frankenberg.
 Facilities Operation and Construction—M. Jhrde.

Closed—Nov. 28—11 a.m. to 12 p.m.

Reassignment of RV *Alpha Helix*—M. Jhrde.

Open—Nov. 28—1:30 p.m. to 5 p.m.

Oceanography Section Oversight Review—J. Byrne.

Open—Nov. 29.

Plans for Oceanographic Facilities Section Oversight Review—R. Dugdale.
 Hydraulic Piston Coring Research Opportunities—J. Imbrie.
 Role of Executive Committee in Long Range Planning—D. Frankenberg.
 Recruitment of rotators to NSF positions: 1. Division Director; and 2. Program Manager for Facilities Operations.

Advisory Committee Rotation—R. Dugdale.
 Reason for Closing: The presentations will include discussion of specific proposals reviewed and include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NFS, on July 8, 1979.

This notice appeared in the **Federal Register** on November 9, 1979, Volume 44, Page 65225.

M. Rebecca Winkler,
Committee Management Coordinator.
 November 20, 1979.

[FR Doc. 79-36343 Filed 11-23-79; 8:45 am]
BILLING CODE 7555-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;
 the office of the agency issuing this form;
 the title of the form;
 the agency form number, if applicable;
 how often the form must be filled out;
 who will be required or asked to report;

an estimate of the number of forms that will be filled out;
 an estimate of the total number of hours needed to fill out the form; and
 the name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley F. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Bureau of the Census
 1979 Farm Energy Survey
 79-A35
 Single Time
 Sample of Farms From 1978 Census of Agriculture 30,000 Responses 30,000 Hours
 Off. of Federal Statistical Policy & Standard 673-7974
 Bureau of the Census
 Census of Agriculture Questionnaire for Commonwealth of the Northern Marianas 1980
 80-A1(NM)
 Single Time
 Farm Operators 500 Responses 250 Hours

Off. of Federal Statistical Policy & Standard 673-7974
 Bureau of the Census
 Survey of Builder Production Plans
 SCC-900B
 Single Time
 Builders of Residential Construction 600 responses 150 hours
 Off. of Federal Statistical Policy & Standard 673-7974
 Bureau of the Census
 Census of Agricultural Questionnaire for American Samoa 1980
 80-A1(AS)
 Single Time
 Farm Operators 2,000 Responses 1,000 Hours
 Off. of Federal Statistical Policy & Standard 673-7974

Revisions

Bureau of the Census
 *Steel Mill Shapes and Forms (Producers' Net Shipments and Inventories)
 M-33
 Monthly
 Manufacturers of Steel Mill Shapes and Forms 228 Responses 76 Hours
 Off. of Federal Statistical Policy & Standard 673-7974
 Industry and Trade Administration
 Titanium Metal
 ITA 991
 Monthly
 Titanium Melting and Processing Facilities 420 Responses 420 Hours
 Richard Sheppard 395-3211

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

Extensions

Department and Other
 Application Form, FOTC 4 Year Scholarship
 DD-1893
 On Occasion
 Individuals Students 40,000 Responses 30,000 Hours
 Richard Sheppard 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488

New Forms

Alcohol, Drug Abuse and Mental Health Administration
 Linkage Grant Questionnaires
 Single Time

*Use of this form has already been approved until December 1979 because of the need to obtain timely information on the impact of current economic conditions on the housing industry. Delay would impede the Government's ability to assess this impact and would not be in the public interest.

Health Centers and Mental Health Centers 171 Responses 85 Hours
 Richard Eisinger 395-3214

Reinstatements

Health Care Financing Administration
 *Request for Additional Medical Information
 HCFA-2081, HCFA-I-2081
 On Occasion
 Direct Dealing Hosp., Skilled Nurs. Fac., Home Hea. Agen. 43,052 Responses 10,763 Hours
 Richard Eisinger 395-3214
 Health Care Financing Administration
 *Request for Additional Medical Information
 HCFA-2081, HCFA-I-2081
 On Occasion
 Direct Dealing Hosp., Skilled Nurs. Fac., Home Hea. Agen. 43,052 Responses 10,763 Hours
 Richard Eisinger 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

New Forms

Community Planning and Development
 CDBG Accomplishment Survey
 Single Time
 Local CDBG Administrators 769 Responses 10,980 Hours
 Arnold Strasser 395-5080
 Policy Development and Research
 Condominium/Cooperative Conversion Questionnaire
 Single Time
 Households in 12 SMSA'S 1,500 Responses 1,500 Hours
 Arnold Strasser 395-5080
 Policy Development and Research
 Condominium/Cooperative Conversion: Chief Executive Questionnaire
 Single Time
 Local Officials in 300 Communities 600 Responses 170 Hours
 Arnold Strasser 395-5080
 Policy Development and Research
 Condominium/Cooperative Conversion: Chief Executive Questionnaire
 Single Time
 Local Officials in 300 Communities 600 Responses 170 Hours
 Arnold Strasser 395-5080

Revisions

Administration (Office of Ass't Sec'y)
 Multifamily Insurance Benefits Claims Forms
 FHA 2744A thru F
 On Occasion
 FHA Approved Mortgagees 300 Responses 900 Hours
 Arnold Strasser 395-5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

Revisions

Bureau of Labor Statistics
 *Retail Prices—Food Stores—Guam and Virgin Islands
 Food Pricing
 BLS 2911.05 & .06/2911.01/2911.10
 Quarterly
 Retail Grocery Stores, 440 responses, 73 hours
 Off. of Federal Statistical Policy and Standard, 673-7974
 Bureau of Labor Statistics
 Report on Occupational Employment
 BLS 2877, 100.0, 100.2
 Other (See SF-83)
 Non-agricultural Estab. plus State and local governments, 191,475 responses, 95,737 hours
 Off. of Federal Statistical Policy and Standard, 673-7974
 Bureau of Labor Statistics
 Report on Occupational Employment
 BLS 2877, 100.0, 100.2
 Other (See SF-83)
 Non-agricultural Estab. plus State and local governments, 191,475 responses, 95,737 hours
 Off. of Federal Statistical Policy and Standard, 673-7974

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—566-1164

New Forms

Uniform Tender of Rates and/or changes for transportation Services
 On occasion
 Transportation company 6,000 responses, 6,000 hours
 Laverne V. Collins, 395-3214

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—615-755-2915

New Forms

Questionnaire to identify women-owned businesses
 Single time
 Vendor recorded on TVA master file, 5,000 responses, 833 hours
 Charles A. Filett, 395-5080

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

New Forms

Assessment of Health Care Needs of Veterans in the Commonwealth of Puerto Rico and in the Virgin Islands
 10-2068 (NR)

Single time
Veterans in Puerto Rico and Virgin Islands, 50 responses, 25 hours
Richard Eisinger, 395-3214
Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.
(FR Doc. 79-36202 Filed 11-23-79; 8:45 am)
BILLING CODE 3110-01-M

Agency Forms Under Review

November 21, 1979

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of his notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 728 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

Extensions

Department of the Air Force Statellite Control Orbital Support Plan Documentation

On occasion
Aerospace Contracting
10 responses; 4,220 hours
Richard Sheppard, 395-3211

Departmental and Other Standard Integrated Support Management System—Reporting Requirements

On occasion
DOD contractors
2,000 responses; 80,000 hours
Richard Sheppard, 395-3211

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633-8558

New Forms

*National Survey of Fuel Purchases for Vehicles—Background Questionnaire EIA-429 (Formerly part of EIA-141)

On occasion
Sample of households, 3,000 responses, 500 hours

Jefferson B. Hill, 395-5867

Survey of the Consumption of Selected Hydrocarbon, Coal, and Coke Materials by Manufacturers—Blast Furnace Form

MA-452
Annually
Blast-furnaces, 300 responses, 750 hours

Jefferson B. Hill, 395-5867

Survey of the Consumption of Selected Hydrocarbon, Coal, and Coke Materials by Manufacturers—Petroleum, Refinery and Chemical Plant Form

MA-451
Annually
Petroleum refineries and chemical plants, 1,200 responses, 3,000 hours
Jefferson B. Hill, 395-5867

Revisions

*National Survey of Fuel Purchases for Vehicles—Purchase Log and Supplementary Questionnaire

EIA-141
Monthly
Sample of households, 52,200 responses, 14,400 hours

Jefferson B. Hill, 395-5867

Monthly Statement of Electric Operating Revenue and Income

FPC 5
Monthly
Public Utilities (hydro-electric class A and B), 2,880 responses, 11,808 hours
Jefferson B. Hill, 395-5867

Extensions

Supplemental Power Statement

FPC 12-E-2
Monthly
Electric utilities, 3,850 responses, 8,801 hours

Jefferson B. Hill, 395-5867

Natural Gas Pipeline Company Monthly Statement

FPC-11
Monthly
Major Interstate Natural Gas Companies, 408 responses, 9,833 hours
Jefferson B. Hill, 395-5867

Emergency Sales Deliveries of Natural Gas for Resale IC by Persons With Exemptions Under Natural Gas Act

FPC-R0328
On occasion
Companies exempt under the Natural Gas Act, 60 responses, 300 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488

Revisions

Social Security Administration Application for Mother's or Father's Insurance Benefits

SSA-5-F6
On occasion
Spouse of deceased workers with children in their care, 180,000 responses, 45,000 hours
Barbara F. Young, 395-6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masafsky—755-5184

New Forms

Community Planning and Development *Report on Program Utilization, Section 8 Housing

Assistant Payments
HUD 52685
Quarterly
PHA's That Administrate the MOD REHAB Program, 2,400 responses; 1,200 hours
Arnold Strasser, 395-5080

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd L. Sandlin—376-0436

Revisions

Bureau of Customs
*Bond Transcript
CF 53
On occasion
Importers/Beckers, 31,000 responses; 3,100 hours

Marsha D. Traynham, 395-6140

Bureau of Customs
*Invoice Details for Cotton Fabrics and Linens

CF 5519
on occasion
Importers/Beckers; 55,000 Responses; 4,582 hours
Marsha D. Traynham, 395-6140

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Clearance Officer—Linwood A. Rhodes—632-0084

New Forms

*[J-1] Status Certificate of Eligibility for Exchange
Visitors
IAP-66A
Other (see SF-83)
Students Applying for Visas; 7,000 responses; 1,190 hours
Laveene V. Collins, 395-3214

NATIONAL ENDOWMENT FOR THE ARTS

Agency Clearance Officer—Paul G. Zarbock—634-6160

New Forms

Challenge Grant Development Survey
Single time
Description Not Furnished by Agency, 181 responses; 181 hours
Laverne V. Collins, 395-3214

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523-0267

New Forms

Purchasers' Questionnaire for Investigation No.

AA1921-212
Single time
Purchasers of Spun Acrylic Piled Yarns, 35 responses; 560 hours
Office of Federal Statistical Policy and Standard, 673-7974

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

Revisions

*Statement of Purchaser or Owner Assuming Seller's Loan

26-6382
On occasion
Purchaser, 18,000 responses; 3,000 hours
Richard Eisinger, 395-3214
Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.
(FR Doc. 79-36508 Filed 11-23-79; 8:45 am)
BILLING CODE 3110-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flight Standards Function Transfer for Air Carrier Functions for State of Wisconsin

Notice is hereby given that on or about January 1, 1980, the air carrier functions for the State of Wisconsin (except the Counties of Douglas, Washburn, Burnett, Polk, Barron, St. Croix, Dunn, Pierce, Pepin, and Buffalo) will be transferred from the Minneapolis, Minnesota Air Carrier District Office (ACDO) to the Milwaukee, Wisconsin General Aviation District Office (GADO). The Milwaukee GADO will be redesignated as a Flight Standards District Office (FSDO) and will provide all services to general aviation and the air carrier industry in the Milwaukee district. Communications to the FSDO should be addressed as follows: Milwaukee Flight Standards District Office No. 81, Department of Transportation, Federal Aviation Administration, Weather Bureau Building, Milwaukee, Wisconsin 53207. (Sec. 313(a) of the Federal Aviation Act of 1958, 72 Stat. 752, (49 U.S.C. 1354)).

Issued in Des Plaines, Ill., on November 8, 1979.
William S. Dalton,
Acting Director, Great Lakes Region.
(FR Doc. 79-36237 Filed 11-23-79; 8:45 am)
BILLING CODE 4910-13-M

[Summary Notice No. PE-79-29]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 17, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. —, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 918, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 16, 1979.
Edward P. Faberman,
Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19710	Puerto Rico International Airlines, Inc.	14 CFR 135.175	To permit the petitioner to operate its 26 large transport category De-Havilland Heron aircraft without approved airborne weather radar installed in the aircraft. The petitioner currently operates those same aircraft as "small aircraft" of 12,500 pounds or less maximum takeoff weight but intends to increase the maximum takeoff weight to more than 12,500 pounds. (Comment period on this petition extended from Nov. 19, 1979 to Dec. 18, 1979.)
19278	Moody Aviation	14 CFR 135.115	The petitioner requests reconsideration of the denial of a petition for exemption to allow the operation of aircraft with a second in command who does not meet Section 135.115 qualification requirements.
19748	Ryan Aviation Corp.	14 CFR 135.261(d)	To permit the reduction of 16 hours of required crew rest to eight hours with adequate facilities to rest while flight crewmembers are on duty.
19750	Columbia Helicopters, Inc.	14 CFR 127.127	To allow the operation of a large helicopter without a cockpit voice recorder.
19755	C & M Airlines	14 CFR 135.243	To allow a pilot to serve as a Pilot in Command without having the prerequisite Airline Transport Pilot Certificate (ATPC). The pilot, although qualified in every other respect, is not 23 years of age.
19756	Britt Airways, Inc.	14 CFR 135.261(b)	To allow a minimum rest period of no less than 8 consecutive hours in the 24-hour period preceding the planned completion of the assignment.
19780	Trans World Airlines, Inc.	14 CFR 121.309(B)(4)	To allow the petitioner to omit the adding of the date of last inspection to first aid kits.
19781	Presidential Airways	14 CFR 135.261	To allow the petitioner to operate in accordance with FAR 121 Subpart S flight and duty time limitations, Air Carriers and Commercial Operators, until such time as FAR 135.261 is reviewed and amended.
19783	Terrell K. Moose	14 CFR 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19784	Henry E. Pratt, Jr.	14 CFR 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19785	H. E. Sargent	14 CFR 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19786	John F. Scott	14 CFR 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.
19787	Fred McLaughlin	14 CFR 121.383(c)	To permit the petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19379	American Telephone and Telegraph Company	14 CFR 77.17(b)	Petitioner requests an extension of an exemption granted March 2, 1977, to the extent necessary to permit construction of temporary microwave towers, in the southeastern United States, without giving notice at least 30 days before the date the proposed construction is to begin or the date an application for a construction permit is to be filed. GRANTED 11/1/79.
19277	Jet-Air Commuter Express Airlines, Inc.	14 CFR 135.99(b)	To exempt the petitioner from the requirement to have a second in command on aircraft configured with 10 or more passenger seats. DENIED 11/1/79.
19296	Wheeler Flying Service	14 CFR 121 & 135	To allow the operation of an F-27, an aircraft capable of carrying more than 30 passengers or more than 7,500 pounds maximum payload capacity, under the rules of Part 135 instead of Part 121. DENIED 11/8/79.
19426	Robert Kevin Flom	14 CFR 135.243(a)	To permit petitioner to serve as pilot-in-command for Commuter Airlines without holding an airline transport pilot certificate (ATPC). DENIED 11/2/79.
19475	Flight Safety International	14 CFR 61.63 and 61.157	To permit petitioner's trainees to accomplish the maneuvers required by FAR Part 61, Appendix A for an airline transport certificate or an associated class or type rating in a simulator. GRANTED 11/2/79.
19485	Utility Helicopters, Inc.	14 CFR 135.297(d)	To allow Mr. Dave Sanders to complete his instrument proficiency check in an aircraft other than the IFR S58T model used by his company. GRANTED 11/5/79.
19484	American Airlines	14 CFR 135.293, 135.297, and 135.299	To allow American Airlines Training Corp. to conduct required flight checks in their Cessna 500/501 aircraft simulator. DENIED 11/7/79.
19504	Lineas, Aereas Costarricenses, S.A.	14 CFR Parts 61, 63, and 91	To permit petitioner to operate and maintain two U.S.-registered B-727-2J1 leased aircraft. GRANTED 11/8/79.
19470	Airwest Helicopters, Inc.	14 CFR 135.136(b)	To permit the petitioner to provide standby pilots with a seven consecutive hour rest period while on duty in lieu of the required 10 consecutive hours during the twenty-four hour period preceding assignment. GRANTED 11/13/79.
19501	Aero America, Inc.	14 CFR 121.45(b)(6), 121.360, and 121.521	To permit petitioner to operate B-707 aircraft N705PA and N714FC on refugee flights from Kuala Lumpur, Malaysia, Bangkok, Thailand, and Hong Kong to U.S.A. West Coast airports. WITHDRAWN 10/31/79.
19588	Stanley D. Lindholm and Air Nebraska	14 CFR 135.243(a)	To allow Mr. Lindholm to serve as Captain for Air Nebraska until he reaches his 23rd birthday, without holding an Airline Transport Pilot Certificate (ATPC). DENIED 11/8/79.

Dispositions of Petitions for Exemptions—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19644	Transair Ltd.	14 CFR 91.169	To allow petitioner to inspect and maintain Douglas DC 4, N88887 under Section 91.217(b)(5) rather than Section 91.169 of the Federal Aviation Regulations. GRANTED 10/26/79.
18446	Air Cargo America, Inc.	14 CFR 121.357(a)	To extend Exemption No. 2642A from Section 121.357(a), to allow petitioner to continue operation of its DHC-4A Caribou aircraft N554Y without airborne weather radar installed. PARTIAL GRANT 11/13/79.

[FR Doc. 79-36238 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Separation Study Review Group, Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Separation Study Review Group to be held on December 11-12, 1979, in RTCA Conference Room 261, 1717 H Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Fifth Meeting held May 15-16, 1979; (3) Review and Discussion of the FAA Preliminary Report on the Results of the Data Collection to Determine Lateral Pathkeeping of Aircraft Flying CONUS VOR-Defined Jet Routes; (4) Review and Discussion of the FAA Preliminary Recommendations Concerning Improvements to the Current Methodology for Spacing Parallel Jet Routes in a Strictly Strategic Air Traffic Control Environment; (5) Review and Discussion of the FAA Interim Report on the Conflict Monitoring Model for Parallel Route Spacing in the High Altitude CONUS Airspace; (6) Discussion and Recommendation on the Continuation of SSRG Participation in the FAA Horizontal Study Program; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 298-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on November 14, 1979.

Karl F. Bierach,
Designated Officer.

[FR Doc. 79-36239 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-13-M

Washington National Airport; Proposed Draft Environmental Impact Statement for Enlarging a Runway Safety Overrun Area

AGENCY: Federal Aviation Administration.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement for Enlarging a Runway Safety Overrun Area at Washington National Airport.

SUMMARY: The purpose of this project is to enhance the safety of aircraft operations by enlarging the existing safety overrun area at the north end of Runway 18-36 at Washington National Airport. In order to do this; it is proposed to construct approximately eight (8) acres of turfed landfill adjoining existing airport land and within the confines of the airport boundaries. The landfill would occupy a portion of a tributary to the Potomac River known as Roaches Run. The safety overrun distance thus provided at the end of the runway would be 750 feet in contrast to the present 200 feet and would be more in line with recommended Federal Aviation Administration guidelines. Planes landing or taking off to the north would have an additional length of turfed land if needed in the event of a mishap. This proposed project would also include improvements, but not enlargement, to the existing 1,000 feet of safety overrun at the south end of this runway. Possible alternatives are listed below:

1. Move the runway thresholds to the south at each end of the runway in order to provide sufficient space to construct a safety overrun area at the north end without encroaching on Roaches Run. This would require constructing a landfill south into the Potomac River, relocating approach lights, relocating some taxiways, and relocating a portion of the runway.

2. Use only existing land area and divide the total 1,200 feet of existing safety overrun (200 feet on the north and 1,000 feet on the south) in half, by sliding the existing runway 400 feet to the south. This would then provide 600 feet of safety overrun on both the north and

south ends of the runway.

3. Reduce the length of Runway 18-36 approximately 800 feet to provide 1,000 feet of safety overrun area on the north end without extending construction in either direction. This would reduce the total runway length from its present length of 6,870 feet to 6,070 feet.

4. Leave conditions as they are.

SCOPING PROCESS: Organizations or persons interested in contributing information for consideration in the development of the Draft Environmental Impact Statement are invited to submit this information by letter to the Contact Person by January 15, 1980.

Pertinent issues identified to date include:

1. The design of the overrun area to accomplish its safety enhancement mission.

2. The effects on park and recreation areas, historic and archeological resources, water quality, biotic communities, dredging and spoil disposal, and the hydraulics of Roaches Run.

3. The assessment of community and agency response to the proposed project and its possible alternatives.

SUPPLEMENTARY INFORMATION: 1. The Draft Environmental Impact Statement will be issued and available to the public on or about March 15, 1980.

2. A public hearing on the Draft Environmental Impact Statement will be held on or about April 15, 1980. Public notices will be issued at a later date stating the date, time, and place.

3. Technical services for this project are being provided to the Federal Aviation Administration, Metropolitan Washington Airports by the Baltimore District, U.S. Army Corps of Engineers under an interdepartmental Memorandum of Agreement. These services include a concept study, the Environmental Impact Statement and construction plans, specifications, and cost estimates.

CONTACT PERSON: Questions and comments regarding the proposed action can be addressed to: Mr. Francis J. Conlon, Chief, Engineering Staff, Metropolitan Washington Airports, Hangar #9, Washington National

Airport, Washington, D.C. 20001.
Telephone (703) 557-1136.

Dated: November 2, 1979.

James A. Wilding,
Acting Director, Metropolitan Washington
Airports.

[FR Doc. 79-36240 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

Pig Iron From Brazil; Final Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury
Department.

ACTION: Final Countervailing Duty
Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Government of Brazil has provided benefits which constitute bounties or grants on the manufacture, production or exportation of pig iron. Because this merchandise enters the United States free of duty, this case is being referred to the U.S. International Trade Commission for a determination whether an industry in the United States is being, or is likely to be, injured by reason of the imports of such merchandise. Liquidation of entries of this merchandise will be suspended pending the Commission's injury determination.

EFFECTIVE DATE: NOVEMBER 26, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On June 4, 1979, a "Preliminary Countervailing Duty Determination" was published in the Federal Register 44 FR 32082. The notice stated that it had been preliminarily determined that benefits conferred by the Government of Brazil upon the manufacture, production, or exportation of pig iron constitute the payment or bestowal of bounties or grants, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as the "Act").

For purposes of this notice, "pig iron" includes merchant pig iron of basic, foundry, malleable, and low phosphorous grades, and is classified under item number 607.1500 of the Tariff Schedules of the United States Annotated (TSUSA).

The preliminary determination identified several programs administered by the Government of Brazil which it had been determined constitute a bounty or grant. Additional information has been received and analyzed concerning those programs, on which this final determination is based.

(1) *Excessive remission upon export of the Industrial Products Tax (IPI).* Under this program, an exporter receives on export not only the remission of the IPI tax a value-added tax, which would otherwise be paid on the product and its components, but also an additional credit which can be used to pay other taxes due or, subject to certain conditions, traded in for cash or transferred to other companies.

The remission of the IPI tax, as such, is not regarded as a bounty or grant. The extra credit, to the extent it exceeds indirect taxes borne by the product or its components is so regarded. The availability of IPI credits for all Brazilian exports is currently being phased out; the present rate applicable to benefits for pig iron is 15 percent of the value of the product involved. However, to the extent the credit includes a rebate for indirect taxes borne by components, in the exported product, the benefit of the subsidy is reduced by an equivalent amount. In this case, the benefit is reduced by the amount of indirect *ad valorem* taxes borne by wood used to make charcoal and on the charcoal itself, which is, in turn, used to supply the carbon component of the finished product. Most of the charcoal used in the production of pig iron is as an energy component or as a reducing agent. For neither of these functions would it be regarded as "physically incorporated" in the final product for purposes of the law. But for the portion used to supply carbon, calculated to be 5.8% of the total charcoal used, a reduction of 0.5% *ad valorem* of the subsidy is proper.

Moreover, the actual value of the IPI credit varies depending on whether it is based on the c.i.f. or f.o.b. value of the exported product. The *ad valorem* benefit is either 13.8 percent of the c.i.f. value or 15.8 percent of the f.o.b. value of the exported pig iron, with a weighted-average benefit of 15.2 percent.

In addition, the exporters claimed an offset for the depreciation of the value of the IPI credits received due to the delay in receiving their value in cash after the export of the goods on which the credits are based. Such an offset would be permissible only if the Government of Brazil mandated a specific waiting period for the receipt of the credits, which is not the case. Furthermore, no

offset was given for the portion of the IPI credit which may be lost by a company since IPI credits are treated as income for tax purposes. It is not appropriate, in the context of a countervailing duty investigation, to evaluate the tax status of a government subsidy.

(2) *Working capital financing available under Resolution 515 at rates lower than those commercially available (previously identified in the preliminary determination as benefits under Resolution 398).* Companies are declared eligible to receive loans under this program by CACEX (the Department of Foreign Commerce of the Banco de Brazil) and may then obtain low-interest loans from commercial banks at 8.7 percent yielding an effective rate of 13 percent. Companies using this program can obtain financing of up to 30 percent of the value of the firm's previous year's exports. The counter-vailable benefit is associated with the difference between the effective interest rate paid and that commercially available in Brazil, which is estimated at 26 percent which, with adjustments, is determined to be 41 percent.

In view of the inflation rate in Brazil that presently exceeds 50 percent and the fact that short-term Brazilian government securities bear interest rates of more than 40 percent, consideration was given to the propriety of continuing to use the 26.4 percent rate, applied in a number of other cases affecting Brazilian imports, as reflective of a "commercial" rate of interest. Based upon the investigation in this proceeding, it appears that this rate is generally available to industrial enterprises in Brazil who borrow funds from the Banco de Brazil. The latter bank is a hybrid private, commercial bank and an arm of the Central Bank of Brazil. One of its functions in its later role is to serve as the repository for the funds that the Central Bank's reserve requirements mandate. These reserves must be deposited by commercial banks on an interest-free basis. Therefore, they form a significant pool of money from which the Banco de Brazil can profitably lend funds at a rate of 26.4 percent. Since such loans are not restricted to export sales and are generally available to a broad spectrum of Brazilian industry, the rate does serve as a proper benchmark for the "commercially available" interest rate to industrial borrowers in Brazil. However, in addition to the interest rate of 26.4 percent, borrowers are required to maintain compensating balances with the Banco de Brazil and to pay a tax on

domestic banking transactions that increase the effective rate of interest to 41 percent. It is, therefore, the latter rate that has been used in calculating the amount of preferential interest rate received by pig iron producers receiving benefits under Resolution 515.

Benefits for individual companies investigated range from 1.0 percent to 14.7 percent, with a weighted-average benefit of 6.5 percent *ad valorem*.

(3) *Preferential export financing under Resolution 331.* This involves advances of Brazilian cruzeiros for up to 180 days against foreign exchange contracts and receivables, at varying interest rates all of which are less than those commercially available. As with the Resolution 515 financing program, the difference between the commercial rate and the one paid under the Resolution 331 program is regarded as a countervailable benefit. The benefits under this program for the companies investigated ranged from zero to 11.7 percent, with a weighted-average benefit of 2.5 percent *ad valorem*.

(4) *Reduction in taxable income by the percentage of total sales accounted for by export sales.* No countervailable benefit has been granted to producers of pig iron in view of the fact that the IPI credits, which, as noted above are treated as income, in the case of the pig iron producers account for their entire profits. Since the entire credit constituting an excessive rebate of taxes is regarded as countervailable, it would not be appropriate to add the same benefit under this program in calculating the total subsidy.

(5) *Benefits under the "Entrepoto Aduaneiro" system, which permits small producers of pig iron to receive a remission of both the IPI tax and tax credits.* Treasury has concluded that while one trading company is eligible for such benefits, the program has not been used. Therefore, no countervailable benefit is determined to exist.

It was also preliminarily determined that certain additional programs have not been utilized by Brazilian manufacturers of pig iron and therefore, did not constitute a countervailable benefit. Further information has corroborated this conclusion, and it is, therefore, finally determined that the following programs do not constitute bounties or grants:

(1) Excessive remission on export of indirect taxes other than IPI, including a transportation tax.

(2) Preferential export financing provided under Resolution 68.

(3) Preferential financing provided for the storage of goods under Resolution 330.

(4) Special tax credits available to firms located in Brazil's less developed regions.

(5) Accelerated depreciation for plant and equipment manufactured in Brazil.

(6) Exemption from payment of Customs duties and value-added taxes on plant and equipment imported for the production of pig iron for export.

As a result of the conclusions described above, it is hereby determined that the Government of Brazil has paid bounties or grants to producers and exporters of pig iron. In accordance with section 303 of the Act and until further notice, the net amount of such bounties or grants has been estimated to range from 18.1 percent to 37.5 percent *ad valorem* for the various companies investigated, with a weighted average benefit of 24.3 percent *ad valorem*. Should countervailing duties be assessed in this case, the amounts due are indicated on an individual company basis in the Appendix to this notice. Those firms not listed in the Appendix and exporting the subject merchandise would be assessed a countervailing duty equal to the overall weighted-average benefit of 24.3 percent *ad valorem*, until evidence is received in satisfactory form indicating some other rate is more appropriately applied.

The merchandise found to benefit from the bounty or grant enters the United States under item number 607.1500 of the Tariff Schedules of the United States Annotated. This merchandise is duty free. In accordance with section 303(a)(2) of the Act (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article or merchandise which is free of duty in the absence of a determination by the U.S. International Trade Commission that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States. Accordingly, the International Trade Commission is being advised of this determination, and the liquidation of entries, or of withdrawals from warehouse, for consumption of the duty-free pig iron in question will be suspended pending the determination of the Commission. Accordingly, effective on or after November 26, 1979, and until further notice, upon the entry, or withdrawal from warehouse, liquidation will be suspended pending the determination of the U.S. International Trade Commission. Security in the amounts indicated in the Appendix and in this Notice will be required of all further imports.

This determination is published pursuant to section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 101-5, May 1979, the provisions of Treasury Department Order 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing determination by the Commissioner of Customs, are hereby waived.

Robert H. Mundheim,
General Counsel of the Treasury.
November 19, 1979.

Appendix

Company and total

Sicafe—Productos siderurgicos; 24.4.
Siderurgica Sao Paulo Ltda.; 18.1.
Siderurgica Bandeirante Ltda.; 23.1.
Siderurgica Bondespachense; 25.3.
Siderurgica Itatiaia S.A.; 27.7.
Siderurgica Alterosa Ltda.; 24.3.
Cia Satalagoana De Siderurgia; 24.9.
Siderurgica Valinho S.A.; 22.0.
Siderurgica Sao Sebastiao De Itatiaia S.A.; 30.3.
Usina-Siderurgica Paraense S.A.; 21.8.
Siderurgica Camargos S.A.; 19.0.
Cimetal Siderurgica S.A.; 24.3.
Metalurgica N.S. Pemha S.A.; 28.2.
Cia Brasileira de Ferro; 29.5.
Siderurgica Santa Maria Ltda.; 21.3.
Cia Siderurgica Pitangui; 37.5.

[FR Doc. 79-36328 Filed 11-23-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 60 (Rev. 5); Chief
Counsel's Order No. 1031.1C]

Delegation of Authority

AGENCY: Internal Revenue Service,
Treasury.

ACTION: Delegation of Authority.

SUMMARY: In the matter of cases docketed in the United States Tax Court for which the Assistant Commissioner (Technical) and the Deputy Chief Counsel (Litigation) will have joint settlement jurisdiction, it is necessary to add Code section 7478 which was newly enacted by the Revenue Act of 1978. The text of the Delegation Order appears below.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Philip E. Bennet, Office of the Assistant Commissioner (Technical), 1111 Constitution Ave. NW, Room 3510, Washington, D.C. 20224, (202) 566-4066 (not toll free).

This document does not meet the criteria for significant Regulations set

forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

Phillip E. Bennet,

Technical Advisor to Assistant Commissioner (Technical).

[Delegation Order No. 60 (Rev. 5) Chief Counsel's Order No. 1031.1C]

Date of issue: November 16, 1979.

Effective Date: November 26, 1979.

26 CFR 601.106: Appeals Functions.
Settlement of Cases Docketed in the U.S. Tax Court

With respect to cases docketed in United States Tax Court, the authority vested in the Commissioner of Internal Revenue by 26 CFR 301.6020-1, 26 CFR 301.6201-1, 26 CFR 301.7701-9, and Treasury Department Order No. 150-37 is hereby delegated and pursuant to the authority vested in Chief Counsel for the Internal Revenue Service by General Counsel Legal Division Order No. 4 it is hereby delegated:

1. Chief Counsel's delegate (hereinafter Counsel) will have exclusive jurisdiction over any case docketed in the Tax Court if the notice of deficiency, liability or other determination was issued by Appeals officials; if the notice of deficiency, liability or other determination was issued after appeals consideration of all petitioned issues by the Employee Plans and Exempt Organizations function; if the notice of deficiency, liability or final adverse determination letter was issued by a district director and is based upon a National Office ruling or National Office Technical Advice in that case involving a qualification of an employee plan or tax exemption and/or foundation status of an organization (but only to the extent the case involves such issue); or, except as provided in paragraph 3, if the case was docketed under Code sections 6110, 7477, or 7478. Jurisdiction will vest with Counsel at the time such cases are docketed with the Court.

2. Regional Commissioners will have exclusive jurisdiction to settle in whole or part, for a period of four months (but no later than the receipt of the trial calendar in regular cases and no later than 15 days before the calendar call in S cases), cases docketed in the Tax Court, except cases described in above paragraph 1. The four-month period will commence at the time the Appeals officials (or the Examination officials under prior authority) receive the case from Counsel, which will be after the case is at issue. Counsel may extend the four-month period for an additional 60-day period. Any further extension (or retention during the trial calendar period) will be granted only by the Regional Counsel personally. At the conclusion of the four-month period or the period as extended, or at such earlier time as the Regional Commissioner concludes that the case is not susceptible of settlement, Counsel will have jurisdiction over the case.

3. Assistant Commissioner (Technical) and Deputy Chief Counsel (Litigation) will have joint settlement jurisdiction over any case docketed in the Tax Court under Code

sections 6110, 7477 or 7478 until the first day of the calendar on which the case is called for trial, or if earlier, the day on which the Court serves on Counsel an order setting brief due dates; thereafter, Counsel will have settlement jurisdiction.

4. The authority delegated herein to Regional Commissioners may be redelegated only by specific Commissioner's Delegation Orders. The authority of Chief Counsel's delegate to redelegate is contained in Chief Counsel's Order No. 1030.1B, issued July 2, 1978.

5. This Order supersedes Commissioner's Delegation Order No. 60 (Rev. 4), Chief Counsel's Order No. 1031.1B issued October 1, 1978.

Lester Stein,
Acting Chief Counsel.

Jerome Kurtz,
Commissioner.

[FR Doc. 79-36382 Filed 11-23-79; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Public Debt Series—No. 29-79]

Treasury Notes of May 15, 1985; Series C-1985

November 21, 1979.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$2,500,000,000 of United States securities, designated Treasury Notes of May 15, 1985, Series C-1985 (CUSIP No. 912827 KE 1). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated December 4, 1979, and will bear interest from that date, payable on a semiannual basis on May 15, 1980, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature May 15, 1985, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are

exempt from all taxation now or hereafter imposed on the principal or interest thereof any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, November 27, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, November 26, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers,

which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the

offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Tuesday, December 4, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, November 30, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, November 30, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be

made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make

delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary,
Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 79-36491 Filed 11-21-79; 8:45 am]
BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION [Notice No. 147]

Assignment of Hearings

November 19, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 124608 (Sub-6F), Ford Truck Line, Inc., now assigned for hearing on November 27, 1979 (9 days) at Jackson, MS is canceled and reassigned to November 27, 1979 (9 days) at Memphis, TN, will be held at the Admiral Bendow Airport Motel, 2201 Winchester Road.

MC 106120 (Sub-17F), Freightways Express, Inc., MC-C-10162, Dodds Truck Line, Inc. and Dodds Truck Line, Inc., Operator and Lessee of Bennett Truck Line, Inc., V. Freightways Express, Inc., now assigned for hearing on November 27, 1979 (9 days) at St. Louis, MO is postponed to January 24, 1980 (3 days) at Memphis, TN, in a hearing room to be later designated.

MC-C-10327, CRST, Inc. and the Kinnibon Trucking Company—Investigation and Revocation of Certificates and Certificate of Registration, now assigned for hearing on December 11, 1979 at Washington, DC, is postponed indefinitely.

MC 44735 (Sub-40F), Kissick Truck Lines, Inc., now assigned for hearing on December 11, 1979 at Dallas, TX, will be held in Room No. 5A15-17, Federal Building, 1100 Commerce Street, Dallas, TX.

MC 140033 (Sub-63F), Cox Refrigerated Express, Inc., now assigned for hearing on December 13, 1979 at Dallas, TX, will be held in Room No. 5A15-17, Federal Building, 1100 Commerce Street, Dallas, TX.

MC 134405 (Sub-56F), Bacon Transport Company, now assigned for hearing on December 17, 1979 at Dallas, TX, will be held in Room No. 5A15-17, Federal Building, 1100 Commerce Street, Dallas, TX.

MC 133916, O'Neil Transportation Company, Inc., Carrollton, Kentucky, now assigned for hearing on November 28, 1979 at Louisville, KY will be held in Room South B, Stouffer's Louisville Inn, 120 West Broadway, Louisville, KY.

MC 133932 (Sub-2F), Catawba Valley Motor Line, Inc., now assigned for hearing on November 28, 1979 at Charlotte, NC, will be held in Room CC-516, Mart Office Building, 800 Briar Creek Road, Charlotte, NC.

MC 136511 (Sub-28F), Virginia Appalachian Lumber Corp., now assigned for hearing on December 3, 1979 at Charlotte, NC will be held in Room CC-516, Mart Office Building, 800 Briar Creek Road, Charlotte, NC.

MC 14246 (Sub-1F), Royal Coach Tours, now assigned for hearing on December 4, 1979 at San Francisco, CA, will be held in Room No. 510, 5th Floor, 211 Main Street, San Francisco, CA.

MC 111545 (Sub-263F), Home Transportation Company, Inc., now assigned for hearing on December 10, 1979 at San Francisco, CA, will be held in Room No. 510, 5th Floor, 211 Main Street, San Francisco, CA.

MC 109533 (Sub-105F), Overnite Transportation Company, now assigned for continued hearing on February 11, 1980 (10 days) will be held at the Barclay Inn, 5303 W. Kennedy Blvd., Tampa, FL.

FD 29099, Petition of City of St. Louis, MO, for Order Requiring Grant of Trackage Rights and Authorizing Related Changes in Terminal Operations, now assigned for hearing on November 27, 1979 at St. Louis, MO, is postponed and reassigned December 17, 1979 for Prehearing Conference at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 56679 (Sub-109F), Brown Transport Corporation, now assigned for hearing on December 11, 1979 at Atlanta, GA, is postponed to January 22, 1980 (9 days), at Atlanta, GA in a hearing room to be designated later. The Rules in the order of October 2, 1979 shall remain in effect.

MC 115357 (Sub-10F), TAT, Inc., now assigned for hearing on December 12, 1979 at Kansas City, MO, will be held at the Crown Center Hotel, One Pershing Road, Kansas City, MO.

AB-111 (Sub-1F), Detroit, Toledo and Ironton Railroad Company Abandonment Near Napoleon And Wauseon In Henry And Fulton Counties, OH, now assigned for hearing on December 17, 1979 (5 Days) at Wauseon, OH, will be held at the

Community Room of Wauseon, Municipal Building, 230 Clinton Street.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36254 Filed 11-23-79; 8:45 am]
BILLING CODE 7035-01-M

Corpus Christi Cases; Port Equalization Orders

AGENCY: Interstate Commerce Commission.

ACTION: The Commission is reopening No. 31098, *Nueces County Nav. District No. 1 v. Abilene & S. Ry. Co.*, 291 I.C.C. 459 (1954), and No. 33447, *Nueces County Nav. District No. 1 v. Atchison, T. & S. F. Ry. Co.*, 315 I.C.C. 155 (1961).

CONTACT: Richard Felder, (202) 275-7693.

DATES: Briefs due 45 days from date of this publication. (January 5, 1980).

SUMMARY: The above-captioned cases (the Corpus Christi cases) are being reopened to determine if the port equalization orders entered in these proceedings should be modified. As the orders presently exist, the carriers are required to maintain equivalent rates to both the Houston area ports and Corpus Christi. The orders were entered partly on the basis of the railroads' ability to control the rates to the Gulf ports. Our reexamination of these cases will be limited to the issue of actual control of rates to the Gulf ports and how control of those rates influences the Commission's authority to order relief in cases arising under 49 U.S.C. 10741. We will focus on situations where carriers cannot agree on rate policies and, as a result, concurrences to joint rate changes cannot be secured. We will also explore the circumstances, if any, in which a violation of 49 U.S.C. 10741 might exist if common control of rates is not found when unequal rates are proposed to the Gulf ports. We believe this action is necessary to appropriate regulation in this area.

SUPPLEMENTAL INFORMATION: Our purpose in reopening the *Corpus Christi* cases is to determine whether these outstanding port equalization orders require modification to recognize current rate-making situations not contemplated when the outstanding orders were issued. Our prior decisions in the *Corpus Christi* cases found that reduced rail carload commodity export rates for various agricultural products to various Texas gulf ports but not to Corpus Christi, TX, were unduly preferential to the various Texas gulf ports and prejudicial in violation of section 3(1) of the Interstate Commerce

Act (now codified at 49 U.S.C. 10741). We issued alternative orders to correct the unlawfulness. Under an alternative order, the carriers may raise one rate, lower the other, or adjust both to remove the unlawfulness.

Alternative orders can be issued only when the carrier or carriers have common control of the rates to both the preferred and prejudiced ports. In the *Corpus Christi* cases, this Commission presumed common control because the carriers acted as a network, as indicated by both the carriers' joint participation in the rates and their points of track intersection.

We are considering moving from a conclusive presumption of network common control to an analysis of actual control over the joint rates. The principal test of actual control which we are considering is discussed in *Wheat, Oklahoma and Kansas to Texas Gulf Ports*, 357 ICC 382 (1977), 359 ICC 592 (1979), which is presently pending on court appeal.

An extended analysis of actual common control is a departure from past Commission decisions and directly affects the operation of the *Corpus Christi* orders. Accordingly, it is necessary to reopen these proceedings and receive comments. Participants should comment on the appropriate legal analysis of the issue of rate control in cases arising under 49 U.S.C. § 10741. Commentors should also address the question of, under what circumstances, if any, unequalized rate proposals should be found to violate § 10741 when there is no common control.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis. Vice Chairman Stafford absent and not participating. Commissioner Gresham concurred with a separate expression.

Agatha L. Mergenovich,
Secretary.

Commissioner Gresham, concurring:

I recognize the necessity of reopening the *Corpus Christi* cases. My preference, however, is that our reexamination of port equalization not be confined to the common control issue. Port equalization has always generated controversy, and a more fundamental and general look at the concept is long overdue.

[FR Doc. 79-36258 Filed 11-23-79; 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Application for Relief

November 19, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C. Protests are due at the I.C.C. by December 11, 1979.

FSA No. 43770, Southern Freight Association, Agent's No. A-6355, rates on industrial sand in bags or bulk, in carloads, between points in Southern Territory, in Supp. 133 to its tariff ICC SFA 2011-P, to become effective December 22, 1979. Grounds for relief—short-line distance formula and grouping.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36261 Filed 11-23-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-7 (Sub-85F)]

Intent To Discontinue Environmental Analysis of Pending Abandonment Applications; Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

In the matter of Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company; Abandonment—Green Bay, Wisconsin to Ontonagon, Michigan, In Brown, Oconto and Marinette Counties, Wisconsin and Dickinson, Iron, Baraga, Houghton and Ontonagon Counties, Michigan.

In the matter of Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Abandonment—Portions of Pacific Coast Extension in Montana, Idaho, Washington, and Oregon, and all other dockets pertaining to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

AGENCY: Interstate Commerce Commission, Office of Policy and Analysis, Energy and Environment Branch.

ACTION: Notice of intent to discontinue environmental analysis of pending abandonment applications filed in the above-entitled proceedings.

SUMMARY: On November 4, 1979 the President signed into law S. 1905, the "Milwaukee Railroad Restructuring Act." Since this bill deprives the Interstate Commerce Commission of jurisdiction over abandonments proposed by rail carriers presently in reorganization (including the abandonments which are the subject of the above-entitled proceedings), the Commission's Energy and Environment Branch (Branch) will discontinue its environmental analysis of the

proceedings noted above. The Branch will however forward to the judge of the bankruptcy court any comments received on the environmental analyses already prepared for Docket No. AB7 (Sub-No. 85F), Docket No. AB7 (Sub-No. 86F), and other Milwaukee Road abandonment proceedings.

FOR FURTHER INFORMATION CONTACT: Paul Mushovic or David Rector, Energy and Environment Branch, Interstate Commerce Commission, 12th and Constitution Ave., Washington, D.C. 20423, Tel: (202) 275-7916.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36264 Filed 11-23-79; 8:45 am]
BILLING CODE 7035-01-M

[Directed Service Order No. 1398; Authorization Order No. 13]

Kansas City Terminal Railway Co.; Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

November 15, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. § 11125 over the lines of Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979).

RI owns two vehicles which are in need of repair. One of the vehicles is a hi-rail truck (No. 73015) which is used for a maintenance of way gang. The repair costs will be \$1,625. The other vehicle is a rewheel truck (No. 78051) which is used to repair freight cars on line, handle minor derailments, and other emergency work. The repair cost will be \$3,042.81 for this vehicle.

Supplemental Order No. 4 to DSO No. 1398 required the DRC to obtain prior Commission approval for all rehabilitation for freight cars and other non-locomotive equipment which exceeds \$1,200 per unit. See Supplemental Order No. 4 (served October 15, 1979). [44 FR 61127, Oct. 23, 1979] Accordingly, the DRC submitted an urgent request for authority to repair these vehicles. See wire to Joel E. Burns, dated November 8, 1979.

The DRC seeks Commission authorization to repair truck No. 73015 on the grounds that this truck is the only hi-rail truck for a maintenance of way gang and is necessary for the efficient conduct of important maintenance of

way work. Authorization for repairs to truck No. 78051 is requested on the grounds that this is the only vehicle on the Illinois Division that is available to repair freight cars on line and in yards, handle minor derailments, and other emergency work.

We find:

1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

It is ordered:

1. The DRC is authorized to make repairs to RI vehicle No. 73015, at a maximum cost of \$1,625, and to vehicle No. 78051, at a maximum cost of \$3,042.81, as requested in a telegram from DRC to Joel E. Burns dated November 8, 1979.

2. The repairs authorized above shall be completed within the initial 60-day directed-service period.

3. This decision shall be effective on its service date.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36259 Filed 11-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398;
Authorization Order No. 12]

**Kansas City Terminal Railway Co.;
Directed To Operate Over Chicago,
Rock Island & Pacific Railroad Co.,
Debtor (William M. Gibbons, Trustee)**

November 14, 1979.

On September 28, 1979, the Commission directed Kansas City Terminal Railway Company, (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. § 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979) and 44 FR 56343 (October 1, 1979).

A question has come before the Commission relating to the compensation which the Fort Worth and Denver Railway Company (FWD) would receive for its service on transited grain shipments where the inbound movement to the transit station was performed by RI prior to KCT takeover, but on which FWD will, under currently applicable transit rules, accept rebilling and perform transportation from the transit station during the period of directed service. For the performance of the

service from the transit station to the destination, the FWD will collect the so-called "balance-out" charges. Such balance-out charges will generally be substantially less than the proportion of total through revenue which would, under existing division agreements, accrue to the FWD, or to the FWD and its connections, from the transit station to destination. The FWD requests the DRC to honor interline transit settlement claims on transit shipments received at transit stations prior to October 5, 1979.

Under DSO No. 1398, 360 I.C.C. at 303 [44 FR 56347, 3rd Column], the Commission said that "to prevent severe transportation and economic dislocations, we have decided to preserve RI transit rates and prepaid charges which were in effect immediately prior to this directed service order, by requiring the DRC to adopt applicable RI tariffs for at least 60 days."

Most of the transit grain coming into transit stations arrived at such stations prior to October 5, 1979. The inbound freight charges were collected by RI. The balance of charges due for movement from transit house to destination would not compensate the carrier for the costs incurred in providing this service. If the shipper were required to pay the local rate for such movement, he would be deprived of the lawful transit rate from origin to destination and be severely burdened economically.

Since severe transportation and economic dislocations and hardships would occur to shippers and the carrier if the transit rate structure and applicable divisions of revenue were disturbed on this traffic received at transit stations prior to October 5, 1979, the Commission authorizes KCT, as directed rail carrier, under normal accounting rules to reimburse the FWD, or any other carrier similarly involved in RI transit rates and traffic, for its rightful and agreed upon division of the earned revenue accruing from RI transit tonnage on revenue collected by RI for the movement to the transit station.

We find:

1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

It is ordered:

1. KCT is authorized and directed to honor interline transit settlement claims on transit shipments received at transit stations prior to October 5, 1979.

2. KCT will make a claim against the RI trustee for any amounts paid in such interline transit settlement claims.

3. KCT shall offset any amounts paid in such interline transit settlement claims against monies it owes the RI Trustee for rental of any locomotives, freight cars or other equipment.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Gresham, whom Commissioner Christian joins, dissenting. Commissioner Clapp dissenting. Vice Chairman Stafford not participating.

Agatha L. Mergenovich,
Secretary.

Commissioner Gresham, whom

Commissioner Christian joins, dissenting: Assumption of this obligation should not be considered a cost of directed service comprehended by Section 11125.

Commissioner Clapp, dissenting: In my view, neither the KCT nor the United States Government should be the insurer for FWD's (or any other railroad's) collections of "balance-out" charges. I do not see the majority's actions here as essential to the continuation of service. FWD has a common carrier duty to provide service with or without the governmental guarantee it seeks. I see no reason for the Commission to put FWD in a better position than it would have been in absent the fortuitous circumstances of directed service.

[FR Doc. 79-36263 Filed 11-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398;
Authorization Order No. 14]

**Kansas City Terminal Railway Co.;
Directed To Operate Over Chicago,
Rock Island & Pacific Railroad Co.,
Debtor (William M. Gibbons, Trustee)**

November 15, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. § 11125 over the lines of Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979).

RI owns numerous locomotives which are in need of repair. DSO No. 1398 required the DRC to obtain prior Commission approval for all rehabilitation of locomotives which exceeds \$3,000 per unit. See DSO No. 1398, 360 I.C.C. at 304 [44 FR 56348, 2nd column]. Accordingly, the DRC submitted a list of 14 locomotives requiring repairs costing more than \$3,000 per locomotive. See "DRC Report No. 12" (dated November 5, 1979).

The DRC sought Commission authorization to repair these locomotives on the grounds that: (1) The addition of these units will help alleviate the locomotive shortage; and (2) the DRC's operations are expanding each day to additional lines of railroad.

The cost of materials and labor for repairs to these locomotives varies from \$5,510 to \$17,767 per unit.

We find:

1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

It is ordered:

1. The DRC is authorized to make repairs to the following locomotives at the maximum cost listed for each locomotive:

Description	RI Loco No.	Labor	Material	Estimated cost
GP35-EMD-2500 HP	312	\$322	\$8,240	\$8,562
GP35-EMD-2500 HP	318	464	10,565	11,029
GP40-EMD-3000 HP	347	322	8,240	8,562
U28B-GE-2800 HP	246	387	17,380	17,767
GP40-EMD-3000 HP	361	322	8,240	8,562
GP38-2-EMD-2000 HP	4351	322	8,240	8,562
GP9-EMD-1750 HP	4486	322	8,240	8,562
GP7-EMD-1500 HP	4465	322	8,240	8,562
GP40-EMD-3000 HP	4700	322	8,240	8,562
SW1200-EMD-1200 HP	934	322	8,240	8,562
U33B-GE-3300 HP	296	1,610	4,201	5,811
U25B-GE-2500 HP	220	1,288	4,222	5,510
GP7-EMD-1500 HP	4521	827	8,000	8,927
GP38-2EMD-2000 HP	4320	1,546	4,600	6,146
		8,798	112,888	121,686
			19,031	19,031
Total		8,798	121,819	130,717

* Eight percent store expense.

2. The repairs authorized above must be completed within the initial 60-day directed-service period.

3. This decision shall be effective on its service date.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36280 Filed 11-23-79; 8:45 am]

BILLING CODE 7035-01-M

**North American Van Lines; Released
Rate Authority**

AGENCY: Interstate Commerce Commission.

ACTION: Notice, Released Rate Application No. MC-1502.

SUMMARY: North American Van Lines wants to expand the geographical scope of the released rate authority granted it in Released Rate Decision MC-958 on

commodities used in the manufacture of computers and computer equipment in mixed loads with third proviso household goods as defined by the Commission in 95 MCC 252 to include new operating authority sought in Docket MC-107012, Sub No. 407TA between points in AZ, CA, CO, CT, IL, IN, ME, MA, MN, NH, NJ, NY, NC, OK, OR, PA, RI, SC, TX, VT and WA.

ADDRESSES: Anyone seeking copies of this application should contact Mr. Gerald Burns, Attorney for North American Van Lines, Inc., P.O. Box 988, Fort Wayne, IN 46801, Telephone 219-429-2234.

FOR FURTHER INFORMATION CONTACT: Mr. Max Pieper, Unit Supervisor, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7553.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730, Formerly Section 20(11) of the Interstate Commerce Act.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36255 Filed 11-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Dockets Nos. 29171 and 28640
(Sub-No. 5)]

**Richard B. Ogilvie, Trustee of the
Property of Chicago, Milwaukee, St.
Paul & Pacific Railroad Co.—
Submissions Under Section 6 of the
Milwaukee Railroad Restructuring Act**

November 20, 1979.

This notice is to clarify the statement filing requirements in Finance Docket No. 28640 (Sub-No. 5) and Finance Docket No. 29171.

F. D. No. 28640 (Sub-No. 5). Previous notices in Finance Docket No. 28640 (Sub-No. 5) provided that any interested persons may participate in the proceeding by submitting a written statement indicating position (party in support or party in opposition) and including, if desired, a request for oral hearing. 44 FR 60898 (1979) (Trustee's plan), 44 FR 61724 (1979) (Association to Save Our Railroad Employment plan), and 44 FR 61724 (1979) (New Milwaukee Lines plan). Statements submitted with respect to the Trustee's plan were due on or before November 21, 1979. Statements submitted with respect to the Association to Save Our Railroad Employment plan and the New Milwaukee Lines plan were due no later than November 26, 1979.

Section 6 of the recently-enacted Milwaukee Railroad Restructuring Act,

Public Law No. 96-101, provides that no later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of these) may submit to the Commission a single plan to convert all or a substantial part of the Chicago, Milwaukee St. Paul and Pacific Railroad Company into an employee or employee-shipper owned company. The plan must include a comprehensive evaluation of the Milwaukee's prospects for financial self-sustainability. The legislation further provides that within 30 days of submission of such plan the Commission must approve the proposal if it finds the plan feasible.

If a plan contemplated by Public Law No. 96-101 is submitted to the Commission no later than December 1, 1979; is found feasible by the Commission; is found fair and equitable to the Milwaukee estate by the bankruptcy court; and is implemented no later than April 1, 1980, proceedings on the reorganization plans filed in Finance Docket No. 28640 (Sub-No. 5) may be unnecessary. The Commission is, therefore, holding in abeyance any decision regarding proceedings in Finance Docket No. 28640 (Sub-No. 5). If the described events do not occur, the Commission must consider the reorganization plans and other pleadings filed in Finance Docket No. 28640 (Sub-No. 5). Persons who wish to participate in any proceedings which might occur in Finance Docket No. 28640 (Sub-No. 5) should submit a statement as provided in the prior notices. The statement need not detail the reasons for support or opposition, but only indicate the submitting person's intention to participate in any proceedings held in Finance Docket No. 28640 (Sub-No. 5).

F. D. No. 29171. On November 7, 1979, the Commission established a procedure in Finance Docket No. 29171 to govern plans submitted under Public Law No. 96-101. 44 FR 65233 (1979). The procedure provides that initial statements in support of or in opposition to submitted plans shall be filed no later than December 14, 1979. These statements should address in full detail all substantive and procedural matters raised by plans submitted pursuant to Public Law No. 96-101.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36282 Filed 11-23-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Aeronautics Board.....	1, 2
Commodity Credit Corporation.....	3
Federal Communications Commission.....	4, 5, 6
Federal Home Loan Bank Board.....	7
Federal Mine Safety and Health Review Commission.....	8
Federal Reserve System.....	9
Metric Board.....	10
National Council on Educational Research.....	11
National Credit Union Administration.....	12
Securities and Exchange Commission.....	13

[M-256, Amdt. 1; Nov. 20, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of closure item from the November 21, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., November 21, 1979.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 15. Forthcoming Informal Consultations with Spain Scheduled for Late November. (Memo No. 9289, BIA)

STATUS: Open (Items 1-14), Closed (Item 15).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The staff believes the presentation of U.S. policy views in this item are non-controversial and do not require a Board meeting. It is recommended that the Board vote on this item by notation. Accordingly, the following Members have voted that Item 15 be deleted from the November 21, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2286-79 Filed 11-21-79; 2:54 pm]
BILLING CODE 6320-01-M

2

[M-256, Amdt. 2; Nov. 20, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the November 21, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., November 21, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 3. Dockets 36971 and 36811; Sixty Day Notice of Air New England for suspension of nonstop or single plane service in eight markets; application of Air New England for an exemption from the notice requirement. (BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 3 is being deleted because the staff person preparing this item has been called away on emergency leave. Accordingly, the following Members have voted that Item 3 be deleted from the November 21, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2289-79 Filed 11-21-79; 2:54 pm]
BILLING CODE 6320-01-M

3

COMMODITY CREDIT CORPORATION.

TIME AND DATE: 2 p.m., December 3, 1979.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC board meeting on September 13, 1979.
2. Docket VCP 72a (Upland) re: 1980-cotton loan and payment program (upland).
3. Docket VCP 137a re: 1980-crop barley, corn, oats, rye and sorghum loan, purchase and payment programs.
4. Docket VCP 24 re: 1980-crop wheat loan, purchase and payment programs.
5. Docket VCP 105 re: 1980-crops soybean loan and purchase program.
6. Docket UCP 31a, Amendment 1 re: 1979-crop peanut loan and purchase program.
7. Resolution re VCX 310(a) re: Commodities available for sale to foreign

Federal Register

Vol. 44, No. 228

Monday, November 26, 1979

governments or their agents and international organizations during fiscal year 1980.

8. Docket CX 308(a), Amendment 2 re: Assurance arrangements required by CCC under its non-commercial risk assurance program.

9. Resolution No. 17, Amendment 1, CZ 266 re: Commodities available for Public Law 480 during fiscal year 1980.

10. Docket CZ 157, Revision 4 re: Policy and procedure governing the submission of dockets to the Board of Directors, CCC, and the handling of dockets considered by the Board.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, Telephone (202) 447-7583.

[S-2281-79 Filed 11-21-79; 10:17 am]

BILLING CODE 3410-05-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, November 29, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Closed Commission Meeting following the Special Open Meeting which is scheduled to commence at 9:30 a.m.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—Title: Investigation into Utilization of COMSTAR Domestic Satellite System by American Telephone and Telegraph Company and GTE Satellite Corporation. (CC Docket No. 79-87.) Summary: A fact finding investigation has been conducted to determine the reasons for an alleged disparity between satellite use projections put forward in AT&T's application to lease and operate the COMSTAR domestic satellite system and the actual loading presently in existence. Among the issues presented is whether some or all of the lease costs should be disallowed for rate purposes.

Broadcast—1—Title: First Report concerning Preparation for a Region 2 Administrative Radio Conference for AM Broadcasting. (BC Docket 79-166.) Summary: The ITU has scheduled a Region 2 Conference for AM Broadcasting to be held in two sessions. The first session which will establish the technical bases for planning is to be convened on March 10, 1980. The First Report sets forth the initial FCC recommendations for the U.S. proposals to be submitted to the ITU for the first session of the Conference.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: November 21, 1979.

[S-2291-79 Filed 11-21-79; 3:20 pm]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., Tuesday, November 20, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission Open Meeting.

CHANGES IN THE MEETING: Deletion and addition of items.

The following items have been deleted:

Agenda, Item No., and Subject

General—1—Title: Application for Review of a ruling by the Chief, Broadcast Bureau, denying a Freedom of Information Act request by Alaskans for Better Media for inspection of the 1974-1978 annual financial reports of five broadcast stations licensed to Northern Television, Inc. Summary: At issue is whether the annual financial reports are exempt from mandatory disclosure under the FOIA and if so whether the annual financial reports should nevertheless be released on the basis that the licensee has placed its financial condition in issue in a Commission proceeding. (At the request of Commissioner Washburn.)

Television—2—Subject: Application of Wometco Blonder-Tongue Broadcasting Corp. for a construction permit for changes in the facilities of Station WWHT(TV), channel 68, Newark, N.J. (no file number assigned). Summary: Applicant seeks to locate the WWHT(TV) transmitter atop the World Trade Center Building in N.Y., N.Y. The proposed transmitter location does not comply with Commission mileage separation requirements for television facilities and applicant has, therefore, requested a waiver of these requirements. The issue before the Commission is whether applicant's waiver request is sufficient to justify acceptance of its application for filing. (At the request of Chief, Broadcast Bureau.) In addition, the Commission will consider the following item:

General—4—Title: Order denying motion for Stay filed at Atari. Summary: The Commission considers a Motion for Stay filed on November 8, 1979 by Atari, Inc. requesting the Commission to reconsider the effective date on the ORDER GRANTING WAIVER IN PART, adopted September 18, 1979 to permit Texas Instruments, Inc. to market a stand-alone RF modulator. The Order is scheduled to

become effective November 23, 1979. A vote to by-pass the seven days prior notice was taken so that action can be taken prior to November 23, 1979.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: November 20, 1979.

[S-2283-79 Filed 11-21-79; 10:49 am]

BILLING CODE 6712-01-M

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, November 29, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—Title: An Inquiry Into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems; and Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems. Summary: The FCC is proposing rules and procedures for the commercial operation of cellular communications systems. Among the issues to be considered are (1) What is the potential role for cellular systems in communications over the foreseeable period? (2) How should the cellular system market, for equipment and service, be structured?

Common Carrier—2—Title: Report and Order in CC Docket 78-219, Revision of the Processing Policies for Waivers of the Telephone Company-Cable Television "Cross Ownership Rules." Section 63.54 and 64.601 of the Commission's Rules and Regulations. Summary: The Commission will consider modifying its procedures for waiver of its telephone company-cable television cross ownership rules.

Common Carrier—3—Title: Application of FTC Communications, Inc. (FTCC) pursuant to Section 214 for consent to transfer control from Compagnie Francaise de Cables Telegraphiques (CFCT) to Societe de Banque et de Participations (SBP). Summary: The proposed change in ownership seeks to transfer control of FTCC from its present owner, CFCT, which is controlled by the French government, to SBP, which is a privately owned French corporation. FTCC's stock will immediately be placed in trust to be controlled by American interests and ultimately sold to American nationals within five years. This proposal seeks to alleviate the Commission's concerns in 71 F.C.C. 2d 393 regarding a lack of reciprocity being extended to U.S. international carriers by the French government.

Common Carrier—4—Title: American Telephone & Telegraph Company and the Hawaiian Telephone Company applications for authority to acquire and activate circuits in the Okinawa-Luzon-

Hong Kong (OLUHO) Cable System. Summary: The Commission will consider the applications of the American Telephone & Telegraph Company and the Hawaiian Telephone Company to acquire and activate circuits in the OLUHO Cable System to be used in conjunction with Hawaii-3/Transpac-2 circuitry for the provision of service to Hong Kong and Philippines. The issues to be considered are: (1) whether the acquisition and activation of circuits in the foreign-built OLUHO Cable System are in public interest; and (2) whether the contractual terms governing the acquisition of OLUHO cable circuits are consistent with Commission policy.

Broadcast—1—Report and Order/BC Doc. 78-101, Top-50 Policy. The Commission will consider a Report and Order in its Top-50 proceeding. The Top-50 Policy requires those seeking to acquire a fourth TV station (either VHF or UHF) or a third VHF station in the top fifty television markets to make a "compelling public interest showing" or face a hearing. The Commission had issued a Notice directed toward reexamining the policy, and it is now ready to consider what final action to take in this matter.

Broadcast—2—Title: Request by ABC for declaratory ruling concerning "Good Morning America" Summary: The Commission has before it a request by the American Broadcasting Companies Inc. (ABC) for a declaratory ruling that appearances by legally qualified candidates on the "Good Morning America" (GMA) program are exempt from the "equal opportunities" provision of Section 315. ABC alleges that the ruling is warranted since GMA is indistinguishable from the "Today" program which has previously been held to be exempt from Section 315 considerations. The Commission must decide whether to grant the requested ruling.

Broadcast—3—Pre-U.S. release of television programs in Canada, Docket No. 20649. The Commission will consider: (1) its jurisdiction, under Section 325(b) of the Communications Act, over the exportation of U.S. network television programs for release by Canadian border stations before they are broadcast within the United States; (2) pending industry proposals that the FCC prohibit program exportation for such "Canadian pre-release" and bar cable carriage of pre-released programs.

Cable Television—1—United Community Antenna Systems d/b/a Master Cable TV Systems (CAC-03722); Community Telecable of Seattle, Inc. (CAC-03723); Tele-Vue Systems, Inc. (CPCLD-184).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: November 21, 1979.

[S-2292-79 Filed 11-21-79; 3:20 pm]

BILLING CODE 6712-01-M

7

FEDERAL HOME LOAN BANK BOARD.**TIME AND DATE:** 9:30 a.m., November 29, 1979.**PLACE:** 1700 G Street, NW., Sixth Floor, Washington, D.C.**STATUS:** Open Meeting.**CONTACT PERSON FOR MORE****INFORMATION:** Franklin O. Bolling (202-377-6677).**MATTERS TO BE CONSIDERED:**

- Application for Branch Office—Enterprise Federal Savings and Loan Association of Lockland, Lockland, Ohio
- Application for Branch Office—Clearwater Federal Savings and Loan Association, Clearwater Florida
- Application for Branch Office—State Fidelity Federal Savings and Loan Association, Dayton, Ohio
- Application for Branch Office—First Federal Savings and Loan Association of Brevard County, Milbourne, Florida
- Application for Branch Office—Chase Federal Savings and Loan Association, Miami, Florida
- Application for Branch Office—First Federal Savings and Loan Association of Dyersburg, Dyersburg, Tennessee
- Application for Branch Office—Eureka Federal Savings and Loan Association, San Francisco, California
- Application for Branch Office—St. Paul Federal Savings and Loan Association of Chicago, Chicago, Illinois
- Application for Branch Office—First City Federal Savings and Loan Association, Bradenton, Florida
- Application for Branch Office—Valley Federal Savings and Loan Association, Van Nuys, California
- Branch Office Applications to be Considered Concurrently—Central Federal Savings and Loan Association, San Diego, California AND First Federal Savings and Loan Association of South Pasadena, South Pasadena, California
- Branch Office Application and Redesignation of Home Office—Suburban Federal Savings and Loan Association of Cincinnati, Cincinnati, Ohio
- Application for Satellite Office—Middletown Federal Savings and Loan Association, Middletown, Ohio
- Application for Limited Facility—Baltimore Federal Savings and Loan Association, Baltimore, Maryland
- Application for Merger and Maintenance of Branch Offices—First Federal Savings and Loan Association, Alexander City, Alabama INTO Phenix Federal Savings and Loan Association, Phenix City, Alabama
- Application for Merger—Homestead Savings and Loan Association—South, Sunland, California INTO Homestead Savings and Loan Association, San Francisco, California
- Application for Merger and Maintenance of Branch Office—Winthrop Building and Loan Association, Winthrop, Minnesota INTO First State Federal Savings and Loan Association, Hutchinson, Minnesota
- Preliminary Application for Conversion

into a Federal Mutual Association—Elysian Savings and Loan Association, Hoboken, New Jersey

Preliminary Application for Conversion into a Federal Mutual Association—Stacy Savings and Loan Association, Trenton, New Jersey

Preliminary Conversion to a Federal Mutual Charter—Home Savings and Loan Association, Salisbury, North Carolina

Preliminary Conversion to a Federal Mutual Charter—Home Savings and Loan Association, Statesville, North Carolina

Preliminary Conversion to a Federal Mutual Charter—Burke County Savings and Loan Association, Morganton, North Carolina

Preliminary Application for Conversion to Federal Mutual Charter—Clyde Savings and Loan Association, Riverside, Illinois

Request for Amendment to Branch Approval—Financial Federal Savings and Loan Association, Miami, Florida

Request for Commitment to Insure Accounts—First State Savings and Loan Association, Orlando, Florida

Bank Membership and Commitment to Insure Accounts—Progressive Savings and Loan Association, Jamestown, Tennessee

Application for Insurance of Accounts—Angelina Savings and Loan Association, Lufkin, Texas

Application for Insurance of Accounts—Uvalde Savings and Loan Association, Uvalde, Texas

Application for Change of Name—American Federal Savings and Loan Association of Pueblo, Pueblo, Colorado

Application for Change of Name—Anniston Federal Savings and Loan Association, Anniston, Alabama

Request for One Year Extension of Time to Acquire—Wabash Building and Loan Association, Louisville, Illinois BY Bass Financial Corporation, Chicago, Illinois

Proposed Acquisition of the—Newark Savings and Loan Company, Newark, Ohio

And Application for Authority to Incur Indebtedness—Transohio Financial Corporation, Cleveland, Ohio

Permission to Organize—Edwin S. Varner, et al., Milledgeville, Georgia

Assessments

Resolution to Amend Office of Neighborhood Reinvestment Financial Accounting and Oversight Requirements

Designation of Supervisory Agent

No. 294, November 21, 1979.

[S-2286-79 Filed 11-21-79; 2:54 pm]

BILLING CODE 6720-01-M

8

November 20, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, November 27, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Southern Ohio Coal Company, Docket No. VINC 79-110-P, and VINC 79-114-P (Petition for Discretionary Review)
2. Scotia Coal Company, BARB 78-308, etc. (Petition for Interlocutory Review)

CONTACT PERSON FOR MORE**INFORMATION:** Jean Ellen, 202-653-5632.

[S-2287-79 Filed 11-21-79; 2:54 pm]

BILLING CODE 6820-12-M

9

FEDERAL RESERVE SYSTEM (Board of Governors).**TIME AND DATE:** 10 a.m., Wednesday, November 28, 1979.**PLACE:** 20th Street and Constitution Avenue NW., Washington, D.C. 20661.**STATUS:** Open.**MATTERS TO BE CONSIDERED:****Summary Agenda**

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed amendments to the Board's Rules Regarding Delegation of Authority to redelegate the authority to release transfer agent, clearing agency, and municipal securities dealers reports of examination to the Securities and Exchange Commission.
2. Proposal to conduct a survey of overseas fiduciary activities of commercial banks and bank holding companies.
3. Clarification and revisions of several interpretations under Regulation K (International Banking Operations).
4. Proposed amendment to Regulation K (International Banking Operations) to simplify procedures for subsidiaries of U.S. banking organizations to establish branches in foreign countries.

Discussion Agenda

1. Request for an interpretation of Regulation T (Credit by Brokers and Dealers) with respect to the arranging of certain private placement.
2. Proposed Survey of Transactions Volume in the U.S. Foreign Exchange Markets.
3. Any agenda items carried forward from a previously announced meeting.

Nota.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3884 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE**INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: November 20, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-2284-79 Filed 11-12-79; 10:49 am]

BILLING CODE 6210-01-M

10

METRIC BOARD.**TIME AND DATE:** 3 p.m., December 13, 1979; 8:30 a.m., December 14, 1979.**PLACE:** The meeting on December 13 and 14 will be held in the Eola Ballroom of the Harley Hotel of Orlando, 151 E. Washington Street, Orlando, Florida 32801.

STATUS: Open to the public except from 4:15 p.m. to 5:30 p.m. on December 13 during which time the Board will meet to discuss internal budget matters. This portion of the meeting is closed under exemption section (c)(9)(B) of 5 U.S.C. 522b.

MATTERS TO BE CONSIDERED:**Thursday, December 13**

Approval of Agenda.

Review/Approval of Minutes—October, 1979.

Approval of Operating Plan. This is approval of the objectives and activity plan that the U.S. Metric Board will undertake during fiscal year 1980.

Friday, December 14

Approval of Rules of Order. This is a set of rules pertaining to parliamentary procedure which will govern the U.S. Metric Board at its meetings in which it disposes of government business.

Discussion of Fair Packaging and Labeling Act Status. This is a status report from the staff advising the Board of what progress has taken place concerning the recommendation by the National Conference on Weights and Measures for amendments to the Federal law dealing with packaging and labeling.

Discussion of retail sale of motor fuel by liter. This is a staff report on the current status and projections and is normal follow-on to the public hearings conducted by the Board in May of this year.

Discussion of Antitrust Guidelines. This is a staff report on the progress being made with regard to the Board's objective to publish a layman's manual regarding the antitrust implications of metrication planning.

Reports. Each of the committee chairpersons and senior staff will give a status report of activities within their jurisdiction.

Agenda items for future Board meetings.

SUPPLEMENTARY INFORMATION: Notice of a public forum to be held by the U.S. Metric Board on December 13, 1979 which will provide individuals and groups the opportunity to comment on metric conversion appears elsewhere in this issue.

CONTACT PERSON FOR MORE**INFORMATION:** Jane Conway, 703-235-1933.

Louis F. Polk,

Chairman, U.S. Metric Board.

[S-2280-79 Filed 11-20-79; 9:53 pm]

BILLING CODE 6820-04-M

11

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENTS:** S-1548, Filed July 26, 1978; 11:44 a.m.**DATED AND TIME:** November 30, 1979, 9:30 a.m., 3:30 p.m.**PLACE:** Room 823, National Institute of Education, 1800 19th Street, N.W., Washington, D.C.

STATUS: Certification has been received from the HEW Office of General Counsel, that in the opinion of that office, the NCER "would be authorized to close portions of its meeting on November 30, 1979, under 5 U.S.C. 522b (c)(9)(B) and 45 CFR 1440.2(a) (9) for the purposes of reviewing and discussing with the Acting Director of NIE, the proposed executive branch budget for fiscal 1981, in particular, the sections dealing with the proposed budget and funding priorities of NIE." Agenda item #5 will be closed, the rest of the agenda remains open to the public.

MATTERS TO BE CONSIDERED:**Friday, November 30, 1979**

1. Approve September 14, 1979 Minutes (9:30-9:35 a.m.)
2. Director's Report (9:35-10:15)
3. Dissemination (10:15-11:45)
4. Literacy (1:15-2:45 p.m.)
5. Closed: fiscal year 1981 budget (2:45-3:30 p.m.)

CONTACT PERSON FOR MORE**INFORMATION:** Ella L. Jones, Administrative Coordinator, Telephone: 202/254-7900.

Peter H. Gerber,

Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S-2282-79 Filed 11-21-79; 10:17 am]

BILLING CODE 4110-39-M

12

NATIONAL CREDIT UNION ADMINISTRATION.**TIME AND DATE:** 9:30 a.m., November 29, 1979.**PLACE:** 1776 G Street NW., Washington, D.C., 6th Floor Conference Room.**STATUS:** Open.**MATTERS TO BE CONSIDERED:**

1. Review of Central Liquidity Facility lending rates.
2. Federal credit unions' use of compensating balances.
3. Applications for charters, amendments to charters, bylaw amendments, mergers, conversions and insurance as may be pending at that time.

RECESS: 10:30 a.m.**TIME AND DATE:** 11 a.m., November 29, 1979.**PLACE:** 1776 G Street NW., Washington, D.C., 6th Floor Conference Room.**STATUS:** Closed.**MATTERS TO BE CONSIDERED:**

1. Review of Fiscal year 1980 operating plan (including budget and staffing). Closed pursuant to exemption (9)(B).
2. Contract for purchase of computer equipment. Closed pursuant to exemptions (4) and (9)(B).
3. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act in order to prevent their closing. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Administrative actions. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).

CONTACT PERSON FOR MORE**INFORMATION:** Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-2290-79 Filed 11-21-79; 3:20 pm]

BILLING CODE 7535-01-M

13

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 26, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, November 29, 1979, at 10 a.m., immediately followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, November 29, 1979, at 10 a.m., will be:

1. Consideration of whether to grant the application of Taylor Realty Enterprises, Inc. for relief pursuant to Rule 252(f) of Regulation A. For further information, please contact Thomas J. Baudhuin at (202) 272-2644.

2. Consideration of whether to affirm action taken by the duty officer, authorizing the transmission of a letter to Chairman John D. Dingell of the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce. For further information, please contact Benjamin Vandegrift at (202) 272-2436.

3. Consideration of whether to approve a proposed rule change submitted by the New York Stock Exchange, Inc. to amend its present rules on arbitration and adopt, in its entirety, a set of arbitration procedures drafted by the Securities Industry Conference on Arbitration. For further information, please contact Thomas C. Etter, Jr. at (202) 272-2398.

4. Consideration of whether to publish notice of a proposed amendment to the plan for allocating regulatory responsibilities filed under Rule 17d-2 by the National Association of Securities Dealers, Inc. and the Cincinnati Stock Exchange, Inc. For further information, please contact Katherine L. Hufnagel at (202) 272-2368.

The subject matter of the closed meeting scheduled for Thursday, November 29, 1979, following the 10 a.m. open meeting, will be:

Access to investive files by Federal, State, or Self-Regulatory Authorities.

Litigation matters.

Institution of injunctive actions.

Freedom of Information Act appeals.

Chapter XI proceeding.

Chapter X proceedings.

Administrative proceedings of an enforcement nature.

Personnel security matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 272-2091.

November 21, 1979.

[S-2285-79 Filed 11-21-79; 2:54 pm]

BILLING CODE 8010-01-M

Monday
November 26, 1979

Part II

Department of Transportation

Federal Highway Administration

Location and Hydraulic Design of
Encroachments on Flood Plains; Final
Rule

Federal Register

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

Location and Hydraulic Design of Encroachments on Flood Plains

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is revising its existing flood plain regulation. The revisions include criteria for flood-plain actions taken under programs administered by the FHWA and implement provisions of Executive Order 11988 of May 24, 1977, and DOT Order 5650.2 of April 26, 1979.

EFFECTIVE DATES: This rule is effective November 15, 1979. However, highway sections may be processed without the formal coordination and studies required by §§ 650.109 through 650.113, where the draft environmental impact statement (EIS) has been filed with the Environmental Protection Agency (EPA) prior to October 26, 1979, and the final EIS for this draft EIS is filed with EPA prior to April 26, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank L. Johnson or Mr. Philip L. Thompson, 202-472-7690, Office of Engineering, (HNG-31); Mr. Irwin L. Schroeder, 202-426-0800, Office of the Chief Counsel, (HCC-40), Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA is revising its existing flood plains regulation to include provisions required by Executive Order (E.O.) 11988—Floodplain Management, which are not addressed in other FHWA regulations. The existing regulation (23 CFR Part 650, Subpart A) was originally published at 39 FR 36331 on October 9, 1974. This revision will codify the policies and procedures contained in Volume 6, Chapter 7, Section 3, Subsection 2, of the Federal-Aid Highway Program Manual.¹

Pursuant to Executive Order 11988, the Department of Transportation (DOT) published at 44 FR 24678 on April 26, 1979, its policies and procedures on protection and management of flood plains (DOT Order 5650.2). This revision is consistent with those policies and procedures.

Since provisions of this regulation will be implemented by State highway agencies which receive Federal-aid highway funds, the provisions are in the form of general policy and requirements. Specific procedures to satisfy this regulation will be established by highway agencies within the framework of their environmental action plans (23 CFR Part 795, Process Guidelines for the Development of Environmental Action Plans) and design policy. Review for compliance with this regulation will be accomplished by FHWA division offices located in each State.

In preparing this regulation, the FHWA consulted with the U.S. Water Resources Council (WRC), the U.S. Council on Environmental Quality (CEQ), and the Federal Insurance Administration (FIA), now in the Federal Emergency Management Agency (FEMA).

Advisory material in the WRC Floodplain Management Guidelines for Implementing E.O. 11988 (43 FR 6030) was considered in drafting this regulation. The decisionmaking process set forth in the Guidelines, as an explanation of the Executive Order's provisions, is not the same as procedures normally applicable to programs administered by the FHWA. The Guidelines assume that the decisionmaking process involves a single large flood plain and a proposed action at a location on that large flood plain. With this premise, the following WRC decisionmaking process steps appear workable: (1) Determine if proposed action is in the base flood plain, (2) provide early public review, (3) identify and evaluate alternatives to locating in the base flood plain, (4) identify impacts of proposed action, (5) minimize impacts, restore and preserve flood plain values, (6) reevaluate alternatives, and (7) make findings and provide public explanation.

This WRC decisionmaking process is inappropriate for general application in making highway location and design decisions. Highway actions are processed and reviewed as sections or projects between logical termini and, as such, cross numerous flood plains of varying size and importance. Since flood plains can only be entirely avoided for those rare projects located on a watershed boundary, the "no-build" alternative is the only alternative to an encroachment of even minimal impact. If a specific flood plain or series of flood plains are avoided, encroachment at other locations or other flood plains by necessity become involved. Therefore, the avoidance of all base flood plains is not feasible for most highway actions.

Except for locations on a watershed boundary and the "no-build" solution, alternative locations under consideration will involve flood plains.

For proposed highway actions on flood plains, the decision process involves comparing various highway alternatives and their related significant impacts, choosing an alternative, minimizing the impacts of the chosen alternative, and restoring and preserving the impacted flood-plain values. This process includes the alternative of avoiding any action by withdrawing the proposed project. The decision generally is not whether the highway should be located in or out of the base flood plain, but rather which series of flood plains to impact if the "no-build" alternative is not a viable alternative. To support the resulting decision, § 650.111 of the revised regulation requires that base flood plain impacts be identified for all alternatives. If this identification reveals that an "action on the base flood plain" (encroachment) will cause unusually adverse impacts, the action will be termed a "significant encroachment" and require special attention. This includes a requirement in § 650.113 that such actions will not be approved unless the FHWA finds that the proposed significant encroachment is the "only practicable alternative."

A significant encroachment, as defined in this proposed regulation, contemplates construction- or flood-related impacts which involve significant risk, flood-plain environmental impact, or potential interruption or termination of a vital transportation facility. The application of this definition in highway location and design will avoid the significant adverse effects due to occupancy and alteration of flood plains and will allow for the thorough consideration of all relevant highway actions.

Disposition of Major Comments

A notice of proposed rulemaking for this regulation was published for comment in the Federal Register at 43 FR 60298 on December 27, 1978, and a docket was established with a closing date of February 26, 1979. Thirty-six parties submitted comments: 23 from State highway agencies, 4 from county agencies, 3 from State environmental agencies, 2 from other Federal agencies, 2 from consultants, 1 from a Senator, and 1 from the Federal agencies (WRC, CEQ and FIA) which were identified in E.O. 11988 for consultation with other Federal agencies in issuing or amending regulations to implement E.O. 11988.

Numerous commenters expressed concern that the regulation would increase redtape, project costs, and

staffing needs. The FHWA recognizes these implications of the regulation and has attempted, in this rulemaking, to be responsive to both E.O. 11988 and the DOT Order and to minimize the increase in redtape and costs by the use of thresholds and by merging requirements for early public involvement and NEPA-like requirements with the existing rules for public involvement and environmental review.

Changes to the regulation, major comments, and pertinent discussion are summarized below.

Policy (§ 650.103)

The statement "to avoid highway encroachments" has been replaced by two statements: § 650.103(b)—"to avoid longitudinal encroachments" and § 650.103(c)—"to avoid significant encroachments." Highway locations, except in rare instances of watershed boundary locations, will cross flood plains. Therefore, the amended statements more accurately reflect the FHWA policy of avoiding, where practicable, longitudinal encroachments and crossings which constitute significant encroachments. This is consistent with E.O. 11988 which requires avoidance of impacts associated with flood plain occupancy wherever there is a practicable alternative.

The limitation of § 650.103(g) to direct Federal highway projects has been removed. This change will provide for highway consistency with locally adopted flood-plain regulations and with the National Flood Insurance Program.

Definitions (§ 650.105)

Numerous commenters objected to the redefinition of "design flood." Therefore, the more traditional definition has been continued. The term "overtopping flood" has been added for referring to the flood used as an index to risk.

"Risk analysis" has been defined so that a clear distinction is made between "risk" as it relates to potential harm and "risk analysis" which is a study performed using the quantifiable costs associated with the encroachment. This change will resolve concern expressed by many commenters that a risk analysis would be required for all encroachments at both location and design stages.

"Significant" has been substituted for the modifiers used to define "significant encroachment," because commenters objected to the undefined modifiers. The term "significant" as used in environmental review procedures and this regulation is the same. No new thresholds are created and existing

environmental review processes are used to assure review of flood plain impacts on the same level as other impacts. In this manner, flood plain impacts will not be considered in isolation and the alternative selected will be the one which has the least overall impact on the area. Selecting an alternative based on flood-plain impacts alone could result in an alternative which, while avoiding flood plain impacts, causes some other much more serious impact.

Applicability (§ 650.107)

The effective dates of §§ 650.109 through 113 were made consistent with those of the DOT Order. Since the dates apply only to projects which will complete environmental review processing by April 26, 1980, this provision was deleted from the regulation.

Various thresholds in area, discharge, and category of action were recommended. None were adopted. The FHWA intends that all encroachments and actions be assessed. However, the level of review should be consistent with the risk and impact. Little or no risk or impact would only require discussion and hydraulic design studies which are commensurate with that risk or impact.

Various types of permanent repairs were recommended for addition to the exception allowed for repairs made with emergency funds. The FHWA intends that permanent repairs should be assessed as any other flood plain encroachment.

Various commenters noted that certification acceptance (23 U.S.C. 117) is applicable to the sections of this regulation which pertain to certain requirements of title 23, U.S.C. Therefore, the prohibition in the proposed rule was deleted. However, non-title 23 requirements, such as the additions to environmental processing, cannot be covered by the certification acceptance procedure.

Flood Plain Identification

This proposed section was deleted. The proposed requirement to establish base flood plain limits caused considerable comment. The FHWA has determined that the intent of the Executive Order can be satisfied for most actions without documenting the exact flood plain limits. Detailed studies, such as these, are normally not undertaken during highway location, because the various alternatives only have approximate locations. Encroachments can be determined, however, without detailed study and this is required in § 650.111(a).

Public Involvement (§ 650.109)

The majority of commenters favored either no additional requirements or limiting new provisions to significant encroachments. However, to be consistent with the DOT Order and E.O. 11988 emphasis on early public involvement, two requirements have been added. The intent is to draw attention to significant encroachments by including reference to them in public notices, and to encourage early public review and comment on encroachments by having them identified at public hearings.

Location Hydraulic Studies (§ 650.111)

Most commenters suggested that the requirements to assess the risk and investigate alternatives to encroachments be limited to significant encroachments. Further, these provisions would have required detailed studies early in project development. In view of these comments and for reasons stated previously, these provisions were revised to require an evaluation of the practicability of alternatives to all significant encroachments and longitudinal encroachments. The practicability evaluation is not required for encroachments which are not significant and which cross the flood plain.

Environmental processing requirements have been included in this section rather than as a separate section as in the proposed rules. These provisions require that flood plain impacts be assessed as a part of location studies, § 650.111(c), and be summarized in environmental review documents § 650.111(e).

Only Practicable Alternative Finding (§ 650.113)

Many commenters objected to requiring a finding for encroachments and to the proposed finding procedures. The FHWA has merged these new requirements with the environmental process. Further, a finding is required only for significant encroachments. In this way, the flood plain impacts of encroachments and alternatives to significant encroachment will be discussed in environmental review documents. If the selected alternative contains a significant encroachment, the final EIS or finding of no significant impact must contain the required finding that the alternative with the significant encroachment is the only practicable alternative. This finding must be supported by a discussion of alternatives considered and why they are not practicable.

¹ This document is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

When the highway project is designed, encroachments with less than significant impacts will receive appropriate attention to mitigate impacts.

Design Standards (§ 650.115)

The requirements of § 650.115(a) have been rewritten to reflect the changed definition of "design flood" and the added definition of "overtopping flood." Also, the concern of commenters that a risk analysis would be required for every encroachment has been resolved by including the option of a risk assessment in § 650.115(a)(1) for those encroachments where the risk or capital cost is insufficient to warrant a risk analysis.

Provision for "freeboard" has been required in § 650.115(a)(3). This requirement was not in the proposed rules, but is in keeping with designing encroachments consistent with the risk. Freeboard is also consistent with the philosophy incorporated in the definition of design flood in the proposed rules.

To clarify FHWA policy regarding the National Flood Insurance Program (NFIP), § 650.115(a)(5) has been added. This section brings together all NFIP consistency requirements.

Many commenters from State highway agencies opposed the portion of § 650.115(e) that would have required debris control structures upstream of safety grates on cross-drainage structures. Therefore, this section was deleted. However, the FHWA will continue to discourage the installation of grates on cross drainage structures as being inconsistent with cost-effective hydraulic design.

Content of Design Studies (§ 650.117)

The discussion required in design studies by § 650.117(b)(3) was a part of the finding in the proposed rules. The FHWA anticipates that the NFIP will be found to be demonstrably inappropriate for most direct Federal highway actions, because these highways are generally in rural locations with little associated risk. Therefore, the required discussion can best be handled by highway section, project or system rather than by a finding.

The proposed requirement to permanently retain design computations has been deleted from § 650.117(d).

This rule is effective upon issuance. A 30-day delay in effective date is not provided, because DOT Order 5650.2 and Executive Order 11988 which are being implemented by this regulation are in effect and are applicable to FHWA actions.

Note: The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to E.O. 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Messrs. Frank L. Johnson or Philip L. Thompson of the program office at the address specified above.

Issued on: November 15, 1979.

L. P. Lamm,

Acting Federal Highway Administrator.

In consideration of the foregoing, the Federal Highway Administration hereby amends Chapter I, Subchapter G, of Title 23, Code of Federal Regulations, by revising Part 650, Subpart A, to read as follows:

PART 650—BRIDGES, STRUCTURES AND HYDRAULICS

Subpart A—Location and Hydraulic Design of Encroachments on Flood Plains

Sec.	Purpose.
650.101	Purpose.
650.103	Policy.
650.105	Definitions.
650.107	Applicability.
650.109	Public involvement.
650.111	Location hydraulic studies.
650.113	Only practicable alternative finding.
650.115	Design standards.
650.117	Content of design studies.

Authority: 23 U.S.C. 109(a), 315; 23 CFR 1.32; 49 CFR 1.48(b); E.O. 11988—Floodplain Management, May 24, 1977 (42 FR 26951); Department of Transportation Order 5650.2, April 26, 1979 (44 FR 24678).

Subpart A—Location and Hydraulic Design of Encroachments on Flood Plains

§ 650.101 Purpose.

To prescribe Federal Highway Administration (FHWA) policies and procedures for the location and hydraulic design of highway encroachments on flood plains, including direct Federal highway projects administered by the FHWA.

§ 650.103 Policy.

It is the policy of the FHWA:

- To encourage a broad and unified effort to prevent uneconomic, hazardous or incompatible use and development of the Nation's flood plains,
- To avoid longitudinal encroachments, where practicable,
- To avoid significant encroachments, where practicable,
- To minimize impacts of highway agency actions which adversely affect base flood plains,
- To restore and preserve the natural and beneficial flood-plain values that

are adversely impacted by highway agency actions,

(f) To avoid support of incompatible flood-plain development.

(g) To be consistent with the intent of the Standards and Criteria of the National Flood Insurance Program, where appropriate, and

(h) To incorporate "A Unified National Program for Floodplain Management" of the Water Resources Council into FHWA procedures.

§ 650.105 Definitions.

(a) "Action" shall mean any highway construction, reconstruction, rehabilitation, repair, or improvement undertaken with Federal or Federal-aid highway funds or FHWA approval.

(b) "Base flood" shall mean the flood or tide having a 1-percent chance of being exceeded in any given year.

(c) "Base flood plain" shall mean the area subject to flooding by the base flood.

(d) "Design Flood" shall mean the peak discharge, volume if appropriate, stage or wave crest elevation of the flood associated with the probability of exceedance selected for the design of a highway encroachment. By definition, the highway will not be inundated from the stage of the design flood.

(e) "Encroachment" shall mean an action within the limits of the base flood plain.

(f) "Floodproof" shall mean to design and construct individual buildings, facilities, and their sites to protect against structural failure, to keep water out or to reduce the effects of water entry.

(g) "Freeboard" shall mean the vertical clearance of the lowest structural member of the bridge superstructure above the water surface elevation of the overtopping flood.

(h) "Minimize" shall mean to reduce to the smallest practicable amount or degree.

(i) "Natural and beneficial flood-plain values" shall include but are not limited to fish, wildlife, plants, open space, natural beauty, scientific study, outdoor recreation, agriculture, aquaculture, forestry, natural moderation of floods, water quality maintenance, and groundwater recharge.

(j) "Overtopping flood" shall mean the flood described by the probability of exceedance and water surface elevation at which flow occurs over the highway, over the watershed divide, or through structure(s) provided for emergency relief.

(k) "Practicable" shall mean capable of being done within reasonable natural, social, or economic constraints.

(l) "Preserve" shall mean to avoid modification to the functions of the natural flood-plain environment or to maintain it as closely as practicable in its natural state.

(m) "Regulatory floodway" shall mean the flood-plain area that is reserved in an open manner by Federal, State or local requirements, i.e., unconfined or unobstructed either horizontally or vertically, to provide for the discharge of the base flood so that the cumulative increase in water surface elevation is no more than a designated amount (not to exceed 1 foot as established by the Federal Emergency Management Agency (FEMA) for administering the National Flood Insurance Program).

(n) "Restore" shall mean to reestablish a setting or environment in which the functions of the natural and beneficial flood-plain values adversely impacted by the highway agency action can again operate.

(o) "Risk" shall mean the consequences associated with the probability of flooding attributable to an encroachment. It shall include the potential for property loss and hazard to life during the service life of the highway.

(p) "Risk analysis" shall mean an economic comparison of design alternatives using expected total costs (construction costs plus risk costs) to determine the alternative with the least total expected cost to the public. It shall include probable flood-related costs during the service life of the facility for highway operation, maintenance, and repair, for highway-aggravated flood damage to other property, and for additional or interrupted highway travel.

(q) "Significant encroachment" shall mean a highway encroachment and any direct support of likely base flood-plain development that would involve one or more of the following construction-or flood-related impacts:

- A significant potential for interruption or termination of a transportation facility which is needed for emergency vehicles or provides a community's only evacuation route.
- A significant risk, or
- A significant adverse impact on natural and beneficial flood-plain values.

(r) "Support base flood-plain development" shall mean to encourage, allow, serve, or otherwise facilitate additional base flood-plain development. Direct support results from an encroachment, while indirect support results from an action out of the base flood plain.

§ 650.107 Applicability.

(a) The provisions of this regulation shall apply to all encroachments and to all actions which affect base flood plains, except for repairs made with emergency funds (23 CFR Part 668) during or immediately following a disaster.

(b) The provisions of this regulation shall not apply to or alter approvals or authorizations which were given by FHWA pursuant to regulations or directives in effect before the effective date of this regulation.

§ 650.109 Public involvement.

Procedures which have been established to meet the public involvement requirements of 23 CFR Parts 771 and 795 or 790 shall be used to provide opportunity for early public review and comment on alternatives which contain encroachments.

(a) Public notices issued in accordance with the above procedures shall make reference to significant encroachments which are contained in alternatives under consideration.

(b) Public hearing presentations shall include identification of encroachments.

§ 650.111 Location hydraulic studies.

(a) National Flood Insurance Program (NFIP) maps or information developed by the highway agency, if NFIP maps are not available, shall be used to determine whether a highway location alternative will include an encroachment.

(b) Location studies shall include evaluation and discussion of the practicability of alternatives to any longitudinal encroachments.

(c) Location studies shall include discussion of the following items, commensurate with the significance of the risk or environmental impact, for all alternatives containing encroachments and for those actions which would support base flood-plain development:

- The risks associated with implementation of the action,
- The impacts on natural and beneficial flood-plain values,
- The support of probable incompatible flood-plain development,
- The measures to minimize flood-plain impacts associated with the action, and
- The measures to restore and preserve the natural and beneficial flood-plain values impacted by the action.

(d) Location studies shall include evaluation and discussion of the practicability of alternatives to any significant encroachments or any support of incompatible flood-plain development.

(e) The studies required by §§ 650.111 (c) and (d) shall be summarized in environmental review documents prepared pursuant to 23 CFR 771.

(f) Local, State, and Federal water resources and flood-plain management agencies should be consulted to determine if the proposed highway action is consistent with existing watershed and flood-plain management programs and to obtain current information on development and proposed actions in the affected watersheds.

650.113 Only practicable alternative finding.

(a) A proposed action which includes a significant encroachment shall not be approved unless the FHWA finds that the proposed significant encroachment is the only practicable alternative. This finding shall be included in the final environmental document (final environmental impact statement or finding of no significant impact) and shall be supported by the following information:

- The reasons why the proposed action must be located in the flood plain,
 - The alternatives considered and why they were not practicable, and
 - A statement indicating whether the action conforms to applicable State or local flood-plain protection standards.
- (b) A copy of the finding shall be made available to appropriate State and areawide clearinghouses following procedures established in accordance with 23 CFR Part 420, Subpart C.

§ 650.115 Design standards.

(a) The design selected for an encroachment shall be supported by analyses of design alternatives with consideration given to capital costs and risks, and to other economic, engineering, social and environmental concerns.

(1) Consideration of capital costs and risks shall include, as appropriate, a risk analysis or assessment which includes:

- The overtopping flood or the base flood, whichever is greater, or
- The greatest flood which must flow through the highway drainage structure(s), where overtopping is not practicable. The greatest flood used in the analysis is subject to state-of-the-art capability to estimate the exceedance probability.

(2) The design flood for encroachments by through lanes of Interstate highways shall not be less than the flood with a 2-percent chance of being exceeded in any given year. No minimum design flood is specified for Interstate highway ramps and frontage roads or for other highways.

(3) Freeboard shall be provided, where practicable, to protect bridge structures from debris- and scour-related failure.

(4) The effect of existing flood control channels, levees, and reservoirs shall be considered in estimating the peak discharge and stage for all floods considered in the design.

(5) The design of encroachments shall be consistent with standards established by the FEMA, State, and local governmental agencies for the administration of the National Flood Insurance Program for:

(i) All direct Federal highway actions, unless the standards are demonstrably inappropriate, and

(ii) Federal-aid highway actions where a regulatory floodway has been designated or where studies are underway to establish a regulatory floodway.

(b) Rest area buildings and related water supply and waste treatment facilities shall be located outside the base flood plain, where practicable. Rest area buildings which are located on the base flood plain shall be floodproofed against damage from the base flood.

(c) Where highway fills are to be used as dams to permanently impound water more than 50 acre-feet (6.17×10^4 cubic metres) in volume or 25 feet (7.6 metres) deep, the hydrologic, hydraulic, and structural design of the fill and appurtenant spillways shall have the approval of the State or Federal agency responsible for the safety of dams or like structures within the State, prior to authorization by the Division Administrator to advertise for bids for construction.

§ 650.117 Content of design studies.

(a) The detail of studies shall be commensurate with the risk associated with the encroachment and with other economic, engineering, social or environmental concerns.

(b) Studies by highway agencies shall contain:

(1) The hydrologic and hydraulic data and design computations,

(2) The analysis required by § 650.115(a), and

(3) For proposed direct Federal highway actions, the reasons, when applicable, why FEMA criteria (44 CFR 60.3, formerly 24 CFR 1910.3) are demonstrably inappropriate.

(c) For encroachment locations, project plans shall show:

(1) The magnitude, approximate probability of exceedance and, at appropriate locations, the water surface elevations associated with the overtopping flood or the flood of § 650.115(a)(1)(ii), and

(2) The magnitude and water surface elevation of the base flood, if larger than the overtopping flood.

[FR Doc. 79-36143 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-22-M

Monday
November 26, 1979

Part III

**Department of the
Interior**

Bureau of Indian Affairs

Guidelines for State Courts; Indian Child
Custody Proceedings

federal register

V
4
4
N
O
2
6
7
9
U
M
I

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Guidelines for State Courts; Indian Child Custody Proceedings

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

There was published in the Federal Register, Vol. 44, No. 79/Monday, April 23, 1979 a notice entitled Recommended Guidelines for State Courts—Indian Child Custody Proceedings. This notice pertained directly to implementation of the Indian Child Welfare Act of 1978, Pub. L. 95-608, 92 Stat. 3069, 25 U.S.C. 1901 *et seq.* A subsequent Federal Register notice which invited public comment concerning the above was published on June 5, 1979. As a result of comments received, the recommended guidelines were revised and are provided below in final form.

Introduction

Although the rulemaking procedures of the Administrative Procedures Act have been followed in developing these guidelines, they are not published as regulations because they are not intended to have binding legislative effect. Many of these guidelines represent the interpretation of the Interior Department of certain provisions of the Act. Other guidelines provide procedures which, if followed, will help assure that rights guaranteed by the Act are protected when state courts decide Indian child custody matters. To the extent that the Department's interpretations of the Act are correct, contrary interpretations by the courts would be violations of the Act. If procedures different from those recommended in these guidelines are adopted by a state, their adequacy to protect rights guaranteed by the Act will have to be judged on their own merits.

Where Congress expressly delegates to the Secretary the primary responsibility for interpreting a statutory term, regulations interpreting that term have legislative effect. Courts are not free to set aside those regulations simply because they would have interpreted that statute in a different manner. Where, however, primary responsibility for interpreting a statutory term rests with the courts, administrative interpretations of statutory terms are given important but not controlling significance. *Batterton v. Francis*, 432 U.S. 416, 424-425 (1977).

In other words, when the Department writes rules needed to carry out

responsibilities Congress has explicitly imposed on the Department, those rules are binding. A violation of those rules is a violation of the law. When, however, the Department writes rules or guidelines advising some other agency how it should carry out responsibilities explicitly assigned to it by Congress, those rules or guidelines are not, by themselves, binding. Courts will take what this Department has to say into account in such instances, but they are free to act contrary to what the Department has said if they are convinced that the Department's guidelines are not required by the statute itself.

Portions of the Indian Child Welfare Act do expressly delegate to the Secretary of the Interior responsibility for interpreting statutory language. For example, under 25 U.S.C. 1918, the Secretary is directed to determine whether a plan for reassignment of jurisdiction is "feasible" as that term is used in the statute. This and other areas where primary responsibility for implementing portions of the Act rest with this Department, are covered in regulations promulgated on July 31, 1979, at 44 FR 45092.

Primary responsibility for interpreting other language used in the Act, however, rests with the courts that decide Indian child custody cases. For example, the legislative history of the Act states explicitly that the use of the term "good cause" was designed to provide state courts with flexibility in determining the disposition of a placement proceeding involving an Indian child. S. Rep. No. 95-597, 95th Cong., 1st Sess. 17 (1977). The Department's interpretation of statutory language of this type is published in these guidelines.

Some commenters asserted that Congressional delegation to this Department of authority to promulgate regulations with binding legislative effect with respect to all provisions of the Act is found at 25 U.S.C. 1952, which states, "Within one hundred and eighty days after November 8, 1978, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter." Promulgation of regulations with legislative effect with respect to most of the responsibilities of state or tribal courts under the Act, however, is not necessary to carry out the Act. State and tribal courts are fully capable of carrying out the responsibilities imposed on them by Congress without being under the direct supervision of this Department.

Nothing in the legislative history indicates that Congress intended this Department to exercise supervisory

control over state or tribal courts or to legislate for them with respect to Indian child custody matters. For Congress to assign to an administrative agency such supervisory control over courts would be an extraordinary step.

Nothing in the language or legislative history of 25 U.S.C. 1952 compels the conclusion that Congress intended to vest this Department with such extraordinary power. Both the language and the legislative history indicate that the purpose of that section was simply to assure that the Department moved promptly to promulgate regulations to carry out the responsibilities Congress had assigned it under the Act. Assignment of supervisory authority over the courts to an administrative agency is a measure so at odds with concepts of both federalism and separation of powers that it should not be imputed to Congress in the absence of an express declaration of Congressional intent to that effect.

Some commenters also recommended that the guidelines be published as regulations and that the decision of whether the law permits such regulations to be binding be left to the court. That approach has not been adopted because the Department has an obligation not to assert authority that it concludes it does not have.

Each section of the revised guidelines is accompanied by commentary explaining why the Department believes states should adopt that section and to provide some guidance where the guidelines themselves may need to be interpreted in the light of specific circumstances.

The original guidelines used the word "should" instead of "shall" in most provisions. The term "should" was used to communicate the fact that the guidelines were the Department's interpretations of the Act and were not intended to have binding legislative effect. Many commenters, however, interpreted the use of "should" as an attempt by this Department to make statutory requirements themselves optional. That was not the intent. If a state adopts those guidelines, they should be stated in mandatory terms. For that reason the word "shall" has replaced "should" in the revised guidelines. The status of these guidelines as interpretative rather than legislative in nature is adequately set out in the introduction.

In some instances a state may wish to establish rules that provide even greater protection for rights guaranteed by the Act than those suggested by these guidelines. These guidelines are not intended to discourage such action. Care should be taken, however, that the

provision of additional protections to some parties to a child custody proceeding does not deprive other parties of rights guaranteed to them by the Act.

In some instances the guidelines do little more than restate the statutory language. This is done in order to make the guidelines more complete so that they can be followed without the need to refer to the statute in every instance. Omission of any statutory language, of course, does not in any way affect the applicability of the statute.

A number of commenters recommended that special definitions of residence and domicile be included in the guidelines. Such definitions were not included because these terms are well defined under existing state law. There is no indication that these state law definitions tend to undermine in any way the purposes of the Act. Recommending special definitions for the purpose of this Act alone would simply provide unnecessary complications in the law.

A number of commenters recommended that the guidelines include recommendations for tribal-state agreements under 25 U.S.C. 1919. A number of other commenters, however, criticized the one provision in the original guidelines addressing that subject as tending to impose on such agreements restrictions that Congress did not intend should be imposed. Because of the wide variation in the situations and attitudes of states and tribes, it is difficult to deal with that issue in the context of guidelines. The Department is currently developing materials to aid states and tribes with such agreements. The Department hopes to have those materials available later this year. For these reasons, the provision in the original guidelines concerning tribal-state agreements has been deleted from the guidelines.

The Department has also received many requests for assistance from tribal courts in carrying out the new responsibilities resulting from the passage of this Act. The Department intends to provide additional guidance and assistance in that area also in the future. Providing guidance to state courts was given a higher priority because the Act imposes many more procedures on state courts than it does on tribal courts.

Many commenters have urged the Department to discuss the effect of the Act on the financial responsibilities of states and tribes to provide services to Indian children. Many such services are funded in large part by the Department of Health, Education, and Welfare. The policies and regulations of that

Department will have a significant impact on the issue of financial responsibility. Officials of Interior and HEW will be discussing this issue with each other. It is anticipated that more detailed guidance on questions of financial responsibility will be provided as a result of those consultations.

One commenter recommended that the Department establish a monitoring procedure to exercise its right under 25 U.S.C. 1915(e) to review state court placement records. HEW currently reviews state placement records on a systematic basis as part of its responsibilities with respect to statutes it administers. Interior Department officials are discussing with HEW officials the establishment of a procedure for collecting data to review compliance with the Indian Child Welfare Act.

Inquiries concerning these recommended guidelines may be directed to the nearest of the following regional and field offices of the Solicitor for the Interior Department:

Office of the Regional Solicitor, Department of the Interior, 510 L Street, Suite 408, Anchorage, Alaska 99501, (907) 265-5301.
Office of the Regional Solicitor, Department of the Interior, Richard B. Russell Federal Building, 75 Spring St., SW., Suite 1328, Atlanta, Georgia 30303, (404) 221-4447.
Office of the Regional Solicitor, Department of the Interior, c/o U.S. Fish & Wildlife Service, Suite 306, 1 Gateway Center, Newton Corner, Massachusetts 02158, (617) 629-9258.

Office of the Field Solicitor, Department of the Interior, 686 Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, (612) 725-3540.

Office of the Regional Solicitor, Department of the Interior, P.O. Box 25007, Denver Federal Center, Denver, Colorado 80225, (303) 234-3175.

Office of the Field Solicitor, Department of the Interior, P.O. Box 548, Aberdeen, South Dakota 57401, (605) 225-7254.

Office of the Field Solicitor, Department of the Interior, P.O. Box 1538, Billings, Montana 59103, (406) 245-6711.

Office of the Regional Solicitor, Department of the Interior, Room E-2753, 2800 Cottage Way, Sacramento, California 95825, (916) 484-4331.

Office of the Field Solicitor, Department of the Interior, Valley Bank Center, Suite 280, 201 North Central Avenue, Phoenix, Arizona 85073, (602) 261-4758.

Office of the Field Solicitor, Department of the Interior, 3610 Central Avenue, Suite 104, Riverside, California 92506, (714) 787-1560.

Office of the Field Solicitor, Department of the Interior, Window Rock, Arizona 86515, (602) 871-5151.

Office of the Regional Solicitor, Department of the Interior, Room 3068, Page Belcher Federal Building, Tulsa, Oklahoma 74103, (918) 581-7501.

Office of the Field Solicitor, Department of the Interior, Room 7102, Federal Building & Courthouse, 800 Gold Avenue, S.W., Albuquerque, New Mexico 87101, (505) 766-2547.

Office of the Field Solicitor, Department of the Interior, P.O. Box 397, W.C.D. Office Building, Route 1, Anadarko, Oklahoma 73005, (405) 247-6673.

Office of the Field Solicitor, Department of the Interior, P.O. Box 1508, Room 319, Federal Building, 5th and Broadway, Muskogee, Oklahoma 74401, (918) 683-3111.

Office of the Field Solicitor, Department of the Interior, c/o Osage Agency, Grandview Avenue, Pawhuska, Oklahoma 74058, (918) 287-2431.

Office of the Regional Solicitor, Department of the Interior, Suite 6201, Federal Building, 125 South State Street, Salt Lake City, Utah 84138, (801) 524-5677.

Office of the Regional Solicitor, Department of the Interior, Lloyd 500 Building, Suite 607, 500 N.E. Multnomah Street, Portland, Oregon 97232, (503) 231-2125.

Guidelines for State Courts

A. Policy

B. Pre-trial requirements

1. Determination that child is an Indian
2. Determination of Indian child's tribe
3. Determination that placement is covered by the Act
4. Determination of jurisdiction
5. Notice requirements
6. Time limits and extensions
7. Emergency removal of an Indian child
8. Improper removal from custody

C. Requests for transfer to tribal court

1. Petitions under 25 U.S.C. § 1911(b) for transfer of proceeding
2. Criteria and procedures for ruling on 25 U.S.C. § 1911(b) transfer petitions
3. Determination of good cause to the contrary
4. Tribal court declaration of transfer

D. Adjudication of involuntary placements, adoptions or terminations of parental rights

1. Access to reports
2. Efforts to alleviate need to remove child from parents or Indian custodians
3. Standards of evidence
4. Qualified expert witnesses

E. Voluntary proceedings

1. Execution of consent
2. Content of consent document
3. Withdrawal of consent to placement
4. Withdrawal of consent to adoption

F. Dispositions

1. Adoptive placements
2. Foster care or pre-adoptive placements
3. Good cause to modify preferences
4. Post-trial rights
1. Petition to vacate adoption
2. Adult adoptee rights
3. Notice of change in child's status
4. Maintenance of records

A. Policy

(1) Congress through the Indian Child Welfare Act has expressed its clear preference for keeping Indian children with their families, deferring to tribal judgment on matters concerning the custody of tribal children, and placing Indian children who must be removed from their homes within their own

families or Indian tribes. Proceedings in state courts involving the custody of Indian children shall follow strict procedures and meet stringent requirements to justify any result in an individual case contrary to these preferences. The Indian Child Welfare Act, the federal regulations implementing the Act, the recommended guidelines and any state statutes, regulations or rules promulgated to implement the Act shall be liberally construed in favor of the result that is consistent with these preferences. Any ambiguities in any of such statutes, regulations, rules or guidelines shall be resolved in favor of the result that is most consistent with these preferences.

(2) In any child custody proceeding where applicable state or other federal law provides a higher standard of protection to the rights of the parent or Indian custodian than the protection accorded under the Indian Child Welfare Act, the state court shall apply the state or other federal law, provided that application of that law does not infringe any right accorded by the Indian Child Welfare Act to an Indian tribe or child.

A. Commentary

The purpose of this section is to apply to the Indian Child Welfare Act the canon of construction that remedial statutes are to be liberally construed to achieve their purpose. The three major purposes are derived from a reading to the Act itself. In order to fully implement the Congressional intent the rule shall be applied to all implementing rules and state legislation as well.

Subsection A.(2) applies to canon of statutory construction that specific language shall be given precedence over general language. Congress has given certain specific rights to tribes and Indian children. For example, the tribe has a right to intervene in involuntary custody proceedings. The child has a right to learn of tribal affiliation upon becoming 18 years old. Congress did not intend 25 U.S.C. 1921 to have the effect of eliminating those rights where a court concludes they are in derogation of a parental right provided under a state statute. Congress intended for this section to apply primarily in those instances where a state provides greater protection for a right accorded to parents under the Act. Examples of this include State laws which: impose a higher burden of proof than the Act for removing a child from a home, give the parents more time to prepare after receiving notice, require more effective notice, impose stricter emergency removal procedure requirements on those removing a child, give parents

greater access to documents, or contain additional safeguard to assure the voluntariness of consent.

B. Pretrial requirements

B.1. Determination That Child Is an Indian

(a) When a state court has reason to believe a child involved in a child custody proceeding is an Indian, the court shall seek verification of the child's status from either the Bureau of Indian Affairs or the child's tribe. In a voluntary placement proceeding where a consenting parent evidences a desire for anonymity, the court shall make its inquiry in a manner that will not cause the parent's identity to become publicly known.

(b)(i) The determination by a tribe that a child is or is not a member of that tribe, is or is not eligible for membership in that tribe, or that the biological parent is or is not a member of that tribe is conclusive.

(ii) Absent a contrary determination by the tribe that is alleged to be the Indian child's tribe, a determination by the Bureau of Indian Affairs that a child is or is not an Indian child is conclusive.

(c) Circumstances under which a state court has reason to believe a child involved in a child custody proceeding is an Indian include but are not limited to the following:

(i) Any party to the case, Indian tribe, Indian organization or public or private agency informs the court that the child is an Indian child.

(ii) Any public or state-licensed agency involved in child protection services or family support has discovered information which suggests that the child is an Indian child.

(iii) The child who is the subject of the proceeding gives the court reason to believe he or she is an Indian child.

(iv) The residence or the domicile of the child, his or her biological parents, or the Indian custodian is known by the court to be or is shown to be a predominantly Indian community.

(v) An officer of the court involved in the proceeding has knowledge that the child may be an Indian child.

B.1. Commentary

This guideline makes clear that the best source of information on whether a particular child is Indian is the tribe itself. It is the tribe's prerogative to determine membership criteria and to decide who meets those criteria. *Cohen, Handbook of Federal Indian Law* 133 (1942). Because of the Bureau of Indian Affairs' long experience in determining who is an Indian for a variety of purposes, its determinations are also

entitled to great deference. See, e.g., *United States v. Sandoval*, 231, U.S. 28, 27 (1913).

Although tribal verification is preferred, a court may want to seek verification from the BIA in those voluntary placement cases where the parent has requested anonymity and the tribe does not have a system for keeping child custody matters confidential.

Under the Act confidentiality is given a much higher priority in voluntary proceedings than in involuntary ones. The Act mandates a tribal right of notice and intervention in involuntary proceedings but not in voluntary ones. Cf. 25 U.S.C. § 1912 with 25 U.S.C. § 1913. For voluntary placements, however, the Act specifically directs state courts to respect parental requests for confidentiality. 25 U.S.C. § 1915(c). The most common voluntary placement involves a newborn infant.

Confidentiality has traditionally been a high priority in such placements. The Act reflects that traditional approach by requiring deference to requests for anonymity in voluntary placements but not in involuntary ones. This guideline specifically provides that anonymity not be compromised in seeking verification of Indian status. If anonymity were compromised at that point, the statutory requirement that requests for anonymity be respected in applying the preferences would be meaningless.

Enrollment is not always required in order to be a member of a tribe. Some tribes do not have written rolls. Others have rolls that list only persons that were members as of a certain date. Enrollment is the common evidentiary means of establishing Indian status, but it is not the only means nor is it necessarily determinative. *United States v. Broncheau*, 597 F.2d 1260, 1263 (9th Cir. 1979).

The guidelines also list several circumstances which shall trigger an inquiry by the court and petitioners to determine whether a child is an Indian for purposes of this Act. This listing is not intended to be complete, but it does list the most common circumstances giving rise to a reasonable belief that a child may be an Indian.

B.2. Determination of Indian Child's Tribe

(a) Where an Indian child is a member of more than one tribe or is eligible for membership in more than one tribe but is not a member of any of them, the court is called upon to determine with which tribe the child has more significant contacts.

(b) The court shall send the notice specified in recommended guideline B.4. to each such tribe. The notice shall

specify the other tribe or tribes that are being considered as the child's tribe and invite each tribe's views on which tribe shall be so designated.

(c) In determining which tribe shall be designated the Indian child's tribe, the court shall consider, among other things, the following factors:

(i) length of residence on or near the reservation of each tribe and frequency of contacts with each tribe;

(ii) child's participation in activities of each tribe;

(iii) child's fluency in the language of each tribe;

(iv) whether there has been a previous adjudication with respect to the child by a court of one of the tribes;

(v) residence on or near one of the tribes' reservation by the child's relatives;

(vi) tribal membership of custodial parent or Indian custodian;

(vii) interest asserted by each tribe in response to the notice specified in subsection B.2.(b) of these guidelines; and

(viii) the child's self identification.

(d) The court's determination together with the reasons for it shall be set out in a written document and made a part of the record of the proceeding. A copy of that document shall be sent to each party to the proceeding and to each person or governmental agency that received notice of the proceeding.

(e) If the child is a member of only one tribe, that tribe shall be designated the Indian child's tribe even though the child is eligible for membership in another tribe. If a child becomes a member of one tribe during or after the proceeding, that tribe shall be designated as the Indian child's tribe with respect to all subsequent actions related to the proceeding. If the child becomes a member of a tribe other than the one designated by the court as the Indian child's tribe, actions taken based on the court's determination prior to the child's becoming a tribal member continue to be valid.

B.2. Commentary

This guideline requires the court to notify all tribes that are potentially the Indian child's tribe so that each tribe may assert its claim to that status and the court may have the benefit of the views of each tribe. Notification of all the tribes is also necessary so the court can consider the comparative interest of each tribe in the child's welfare in making its decision. That factor has long been regarded an important consideration in making child custody decisions.

The significant factors listed in this section are based on recommendations

by tribal officials involved in child welfare matters. The Act itself and the legislative history make it clear that tribal rights are to be based on the existence of a political relationship between the family and the tribe. For that reason, the guidelines make actual tribal membership of the child conclusive on this issue.

The guidelines do provide, however, that previous decisions of a court made on its own determination of the Indian child's tribe are not invalidated simply because the child becomes a member of a different tribe. This provision is included because of the importance of stability and continuity to a child who has been placed outside the home by a court. If a child becomes a member before a placement is made or before a change of placement becomes necessary for other reasons, however, then that membership decision can be taken into account without harm to the child's need for stable relationships.

We have received several recommendations that "Indian child's tribe" status be accorded to all tribes in which a child is eligible for membership. The fact that Congress, in the definition of "Indian child's tribe," provided a criterion for determining which is the Indian child's tribe, is a clear indication of legislative intent that there be only one such tribe for each child. For purposes of transfer of jurisdiction, there obviously can be only one tribe to adjudicate the case. To give more than one tribe "Indian child's tribe" status for purposes of the placement preferences would dilute the preference accorded by Congress to the tribe with which the child has the more significant contacts.

A right of intervention could be accorded a tribe with which a child has less significant contacts without undermining the right of the other tribe. A state court can, if it wishes and state law permits, permit intervention by more than one tribe. It could also give a second tribe preference in placement after attempts to place a child with a member of the first tribe or in a home or institution designated by the first tribe had proved unsuccessful. So long as the special rights of the Indian child's tribe are respected, giving special status to the tribe with the less significant contacts is not prohibited by the Act and may, in many instances, be a good way to comply with the spirit of the Act.

Determinations of the Indian child's tribe for purposes of this Act shall not serve as any precedent for other situations. The standards in this statute and these guidelines are designed with child custody matters in mind. A different determination may be entirely appropriate in other legal contexts.

B.3. Determination That Placement Is Covered by the Act

(a) Although most juvenile delinquency proceedings are not covered by the Act, the Act does apply to status offenses, such as truancy and incorrigibility, which can only be committed by children, and to any juvenile delinquency proceeding that results in the termination of a parental relationship.

(b) Child custody disputes arising in the context of divorce or separation proceedings or similar domestic relations proceedings are not covered by the Act so long as custody is awarded to one of the parents.

(c) Voluntary placements which do not operate to prohibit the child's parent or Indian custodian from regaining custody of the child at any time are not covered by the Act. Where such placements are made pursuant to a written agreement, that agreement shall state explicitly the right of the parent or custodian to regain custody of the child upon demand.

B.3. Commentary

The purpose of this section is to deal with some of the questions the Department has been receiving concerning the coverage of the Act.

The entire legislative history makes it clear that the Act is directed primarily at attempts to place someone other than the parent or Indian custodian in charge of raising an Indian child—whether on a permanent or temporary basis. Although there is some overlap, juvenile delinquency proceedings are primarily designed for other purposes. Where the child is taken out of the home for committing a crime it is usually to protect society from further offenses by the child and to punish the child in order to persuade that child and others not to commit other offenses.

Placements based on status offenses (actions that are not a crime when committed by an adult), however, are usually premised on the conclusion that the present custodian of the child is not providing adequate care or supervision. To the extent that a status offense poses any immediate danger to society, it is usually also punishable as an offense which would be a crime if committed by an adult. For that reason status offenses are treated the same as dependency proceedings and are covered by the Act and these guidelines, while other juvenile delinquency placements are excluded.

While the Act excludes placements based on an act which would be a crime if committed by an adult, it does cover terminations of parental rights even

where they are based on an act which would be a crime if committed by an adult. Such terminations are not intended as punishment and do not prevent the child from committing further offenses. They are based on the conclusion that someone other than the present custodian of the child should be raising the child. Congress has concluded that courts shall make such judgments only on the basis of evidence that serious physical or emotional harm to the child is likely to result unless the child is removed.

The Act excludes from coverage an award of custody to one of the parents "in a divorce proceeding." If construed narrowly, this provision would leave custody awards resulting from proceedings between husband and wife for separate maintenance, but not for dissolution of the marriage bond within the coverage of the Act. Such a narrow interpretation would not be in accord with the intent of Congress. The legislative history indicates that the exemption for divorce proceedings, in part, was included in response to the views of this Department that the protections provided by this Act are not needed in proceedings between parents. In terms of the purposes of this Act, there is no reason to treat separate maintenance or similar domestic relations proceedings differently from divorce proceedings. For that reason the statutory term "divorce proceeding" is construed to include other domestic relations proceedings between spouses.

The Act also excludes from its coverage any placements that do not deprive the parents or Indian custodians of the right to regain custody of the child upon demand. Without this exception a court appearance would be required every time an Indian child left home to go to school. Court appearances would also be required for many informal caretaking arrangements that Indian parents and custodians sometimes make for their children. This statutory exemption is restated here in the hope that it will reduce the instances in which Indian parents are unnecessarily inconvenienced by being required to give consent in court to such informal arrangements.

Some private groups and some states enter into formal written agreements with parents for temporary custody (See e.g. Alaska Statutes § 47.10.230). The guidelines recommend that the parties to such agreements explicitly provide for return of the child upon demand if they do not wish the Act to apply to such placements. Inclusion of such a provision is advisable because courts frequently assume that when an

agreement is reduced to writing, the parties have only those rights specifically written into the agreement.

B.4. Determination of Jurisdiction

(a) In any Indian child custody proceeding in state court, the court shall determine the residence and domicile of the child. Except as provided in Section B.7. of these guidelines, if either the residence or domicile is on a reservation where the tribe exercises exclusive jurisdiction over child custody proceedings, the proceedings in state court shall be dismissed.

(b) If the Indian child has previously resided or been domiciled on the reservation, the state court shall contact the tribal court to determine whether the child is a ward of the tribal court. Except as provided in Section B.7. of these guidelines, if the child is a ward of a tribal court, the state court proceedings shall be dismissed.

B.4. Commentary

The purpose of this section is to remind the state court of the need to determine whether it has jurisdiction under the Act. The action is dismissed as soon as it is determined that the court lacks jurisdiction except in emergency situations. The procedures for emergency situations are set out in Section B.7.

B.5. Notice Requirements

(a) In any involuntary child custody proceeding, the state court shall make inquiries to determine if the child involved is a member of an Indian tribe or if a parent of the child is a member of an Indian tribe and the child is eligible for membership in an Indian tribe.

(b) In any involuntary Indian child custody proceeding, notice of the proceeding shall be sent to the parents and Indian custodians, if any, and to any tribes that may be the Indian child's tribe by registered mail with return receipt requested. The notice shall be written in clear and understandable language and include the following information:

- (i) The name of the Indian child.
- (ii) His or her tribal affiliation.
- (iii) A copy of the petition, complaint or other document by which the proceeding was initiated.
- (iv) The name of the petitioner and the name and address of the petitioner's attorney.

(v) A statement of the right of the biological parents or Indian custodians and the Indian child's tribe to intervene in the proceeding.

(vi) A statement that if the parents or Indian custodians are unable to afford

counsel, counsel will be appointed to represent them.

(vii) A statement of the right of the natural parents or Indian custodians and the Indian child's tribe to have, on request, twenty days (or such additional time as may be permitted under state law) to prepare for the proceedings.

(viii) The location, mailing address and telephone number of the court.

(ix) A statement of the right of the parents or Indian custodians or the Indian child's tribe to petition the court to transfer the proceeding to the Indian child's tribal court.

(x) The potential legal consequences of an adjudication on future custodial rights of the parents or Indian custodians.

(xi) A statement in the notice to the tribe that since child custody proceedings are usually conducted on a confidential basis, tribal officials should keep confidential the information contained in the notice concerning the particular proceeding and not reveal it to anyone who does not need the information in order to exercise the tribe's right under the Act.

(c) The tribe, parents or Indian custodians receiving notice from the petitioner of the pendency of a child custody proceeding has the right, upon request, to be granted twenty days (or such additional time as may be permitted under state law) from the date upon which the notice was received to prepare for the proceeding.

(d) The original or a copy of each notice sent pursuant to this section shall be filed with the court together with any return receipts or other proof of service.

(e) Notice may be personally served on any person entitled to receive notice in lieu of mail service.

(f) If a parent or Indian custodian appears in court without an attorney, the court shall inform him or her of the right to appointed counsel, the right to request that the proceeding be transferred to tribal court or to object to such transfer, the right to request additional time to prepare for the proceeding and the right (if the parent or Indian custodian is not already a party) to intervene in the proceedings.

(g) If the court or a petitioning party has reason to believe that a parent or Indian custodian is not likely to understand the contents of the notice because of lack of adequate comprehension of written English, a copy of the notice shall be sent to the Bureau of Indian Affairs agency nearest to the residence of that person requesting that Bureau of Indian Affairs personnel arrange to have the notice explained to that person in the language that he or she best understands.

B.5. Commentary

This section recommends that state courts routinely inquire of participants in child custody proceedings whether the child is an Indian. If anyone asserts that the child is an Indian or that there is reason to believe the child may be an Indian, then the court shall contact the tribe or the Bureau of Indian Affairs for verification. Refer to sections B.1 and B.2 of these guidelines.

This section specifies the information to be contained in the notice. This information is necessary so the persons who receive notice will be able to exercise their rights in a timely manner. Subparagraph (xi) provides that tribes shall be requested to assist in maintaining the confidentiality of the proceeding. Confidentiality may be difficult to maintain—especially where small tribes are involved and the likelihood that the family involved is well known by tribal officials is great. Although Congress was concerned with confidentiality, it concluded that the interest of tribes in the welfare of their children justified taking some risks with confidentiality—especially in involuntary proceedings. It is reasonable, however, to ask tribal officials to maintain as much confidentiality as possible consistent with the exercise of tribal rights under the Act.

The time limits are minimum ones required by the Act. In many instances, more time may be available under state court procedures or because of the circumstances of the particular case.

In such instances, the notice shall state that additional time is available.

The Act requires notice to the parent or Indian custodian. At a minimum, parents must be notified if termination of parental rights is a potential outcome since it is their relationship to the child that is at stake. Similarly, the Indian custodians must be notified of any action that could lead to the custodians' losing custody of the child. Even where only custody is an issue, noncustodial parents clearly have a legitimate interest in the matter. Although notice to both parents and Indian custodians may not be required in all instances by the Act or the Fourteenth Amendment to the U.S. Constitution, providing notice to both is in keeping with the spirit of the Act. For that reason, these guidelines recommend notice be sent to both.

Subsection (d) requires filing the notice with the court so there will be a complete record of efforts to comply with the Act.

Subsection (e) authorizes personal services since it is superior to mail services and provides greater protection

or rights as authorized by 25 U.S.C. 1921. Since serving the notice does not involve any assertion of jurisdiction over the person served, personal notice may be served without regard to state or reservation boundaries.

Subsections (f) and (g) provide procedures to increase the likelihood that rights are understood by parents and Indian custodians.

B.6. Time Limits and Extensions

(a) A tribe, parent or Indian custodian entitled to notice of the pendency of a child custody proceeding has a right, upon request, to be granted an additional twenty days from the date upon which notice was received to prepare for participation in the proceeding.

(b) The proceeding may not begin until all of the following dates have passed:

- (i) ten days after the parent or Indian custodian (or Secretary where the parent or Indian custodian is unknown to the petitioner) has received notice;
- (ii) ten days after the Indian child's tribe (or the Secretary if the Indian child's tribe is unknown to the petitioner) has received notice;
- (iii) thirty days after the parent or Indian custodian has received notice if the parent or Indian custodian has requested an additional twenty days to prepare for the proceeding; and

(iv) Thirty days after the Indian child's tribe has received notice if the Indian child's tribe has requested an additional twenty days to prepare for the proceeding.

(c) The time limits listed in this section are the minimum time periods required by the Act. The court may grant more time to prepare where state law permits.

B.6. Commentary

This section attempts to clarify the waiting periods required by the Act after notice has been received of an involuntary Indian child custody proceeding. Two independent rights are involved—the right of the parents or Indian custodians and the right of the Indian child's tribe. The proceeding may not begin until the waiting periods to which both are entitled have passed.

This section also makes clear that additional extensions of time may be granted beyond the minimum required by the Act.

B.7. Emergency Removal of an Indian Child

(a) Whenever an Indian child is removed from the physical custody of the child's parents or Indian custodians pursuant to the emergency removal or

custody provisions of state law, the agency responsible for the removal action shall immediately cause an inquiry to be made as to the residence and domicile of the child.

(b) When a court order authorizing continued emergency physical custody is sought, the petition for that order shall be accompanied by an affidavit containing the following information:

(i) The name, age and last known address of the Indian child.

(ii) The name and address of the child's parents and Indian custodians, if any. If such persons are unknown, a detailed explanation of what efforts have been made to locate them shall be included.

(iii) Facts necessary to determine the residence and the domicile of the Indian child and whether either the residence or domicile is on an Indian reservation. If either the residence or domicile is believed to be on an Indian reservation, the name of the reservation shall be stated.

(iv) The tribal affiliation of the child and of the parents and/or Indian custodians.

(v) A specific and detailed account of the circumstances that lead the agency responsible for the emergency removal of the child to take that action.

(vi) If the child is believed to reside or be domiciled on a reservation where the tribe exercises exclusive jurisdiction over child custody matters, a statement of efforts that have been made and are being made to transfer the child to the tribe's jurisdiction.

(vii) A statement of the specific actions that have been taken to assist the parents or Indian custodians so the child may safely be returned to their custody.

(c) If the Indian child is not restored to the parents or Indian custodians or jurisdiction is not transferred to the tribe, the agency responsible for the child's removal must promptly commence a state court proceeding for foster care placement. If the child resides or is domiciled on a reservation where the tribe exercises exclusive jurisdiction over child custody matters, such placement must terminate as soon as the imminent physical damage or harm to the child which resulted in the emergency removal no longer exists or as soon as the tribe exercises jurisdiction over the case—whichever is earlier.

(d) Absent extraordinary circumstances, temporary emergency custody shall not be continued for more than 90 days without a determination by the court, supported by clear and convincing evidence and the testimony of at least one qualified expert witness,

that custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

B.7. Commentary

Since jurisdiction under the Act is based on domicile and residence rather than simple physical presence, there may be instances in which action must be taken with respect to a child who is physically located off a reservation but is subject to exclusive tribal jurisdiction. In such instances the tribe will usually not be able to take swift action to exercise its jurisdiction. For that reason Congress authorized states to take temporary emergency action.

Since emergency action must be taken without the careful advance deliberation normally required, procedures must be established to assure that the emergency actions are quickly subjected to review. This section provides procedures for prompt review of such emergency actions. It presumes the state already has such review procedures and only prescribes additional procedures that shall be followed in cases involving Indian children.

The legislative history clearly states that placements under such emergency procedures are to be as short as possible. If the emergency ends, the placement shall end. State action shall also end as soon as the tribe is ready to take over the case.

Subsection (d) refers primarily to the period between when the petition is filed and when the trial court renders its decision. The Act requires that, except for emergencies, Indian children are not to be removed from their parents unless a court finds clear and convincing evidence that the child would be in serious danger unless removed from the home. Unless there is some kind of time limit on the length of an "emergency removal" (that is, any removal not made pursuant to a finding by the court that there is clear and convincing evidence that continued parental custody would make serious physical or emotional harm likely), the safeguards of the Act could be evaded by use of long-term emergency removals.

Subsection (d) recommends what is, in effect, a speedy trial requirement. The court shall be required to comply with the requirements of the Act and reach a decision within 90 days unless there are "extraordinary circumstances" that make additional delay unavoidable.

B.8. Improper Removal From Custody

(a) If, in the course of any Indian child custody proceeding, the court has reason to believe that the child who is the subject of the proceeding may have

been improperly removed from the custody of his or her parent or Indian custodian or that the child has been improperly retained after a visit or other temporary relinquishment of custody, and that the petitioner is responsible for such removal or retention, the court shall immediately stay the proceedings until a determination can be made on the question of improper removal or retention.

(b) If the court finds that the petitioner is responsible for an improper removal or retention, the child shall be immediately returned to his or her parents or Indian custodian.

B.8. Commentary

This section is designed to implement 25 U.S.C. § 1920. Since a finding of improper removal goes to the jurisdiction of the court to hear the case at all, this section provides that the court will decide the issue as soon as it arises before proceeding further on the merits.

C. Requests for Transfer to Tribal Court

C.1. Petitions under 25 U.S.C. § 1911(b) for transfer of proceeding

Either parent, the Indian custodian or the Indian child's tribe may, orally or in writing, request the court to transfer the Indian child custody proceeding to the tribal court of the child's tribe. The request shall be made promptly after receiving notice of the proceeding. If the request is made orally it shall be reduced to writing by the court and made a part of the record.

C.1. Commentary

Reference is made to 25 U.S.C. 1911(b) in the title of this section in order to clarify that this section deals only with transfers where the child is not domiciled or residing on an Indian reservation.

So that transfers can occur as quickly and simply as possible, requests can be made orally.

This section specifies that requests are to be made promptly after receiving notice of the proceeding. This is a modification of the timeliness requirement that appears in the earlier version of the guidelines. Although the statute permits proceedings to be commenced even before actual notice is received by parties entitled to notice, those parties do not lose their right to request a transfer simply because neither the petitioner nor the Secretary was able to locate them earlier.

Permitting late transfer requests by persons and tribes who were notified late may cause some disruption. It will also, however, provide an incentive to

the petitioners to make a diligent effort to give notice promptly in order to avoid such disruptions.

The Department received a number of comments objecting to any timeliness requirement at all. Commenters pointed out that the statute does not explicitly require transfer requests to be timely. Some commenters argued that imposing such a requirement violated tribal and parental rights to intervene at any point in the proceedings under 25 U.S.C. § 1911(c) of the Act.

While the Act permits intervention at any point in the proceeding, it does not explicitly authorize transfer requests at any time. Late interventions do not have nearly the disruptive effect on the proceeding that last minute transfers do. A case that is almost completed does not need to be retried when intervention is permitted. The problems resulting from late intervention are primarily those of the intervenor, who has lost the opportunity to influence the portion of the proceedings that was completed prior to intervention.

Although the Act does not explicitly require transfer petitions to be timely, it does authorize the court to refuse to transfer a case for good cause. When a party who could have petitioned earlier waits until the case is almost complete to ask that it be transferred to another court and retried, good cause exists to deny the request.

Timeliness is a proven weapon of the courts against disruption caused by negligence or obstructionist tactics on the part of counsel. If a transfer petition must be honored at any point before judgment, a party could wait to see how the trial is going in state court and then obtain another trial if it appears the other side will win. Delaying a transfer request could be used as a tactic to wear down the other side by requiring the case to be tried twice. The Act was not intended to authorize such tactics and the "good cause" provision is ample authority for the court to prevent them.

C.2. Criteria and Procedures for Ruling on 25 U.S.C. § 1911(b) Transfer Petitions

(a) Upon receipt of a petition to transfer by a parent, Indian custodian or the Indian child's tribe, the court must transfer unless either parent objects to such transfer, the tribal court declines jurisdiction, or the court determines that good cause to the contrary exists for denying the transfer.

(b) If the court believes or any party asserts that good cause to the contrary exists, the reasons for such belief or assertion shall be stated in writing and made available to the parties who are petitioning for transfer. The petitioners shall have the opportunity to provide the

court with their views on whether or not good cause to deny transfer exists. C.2. Commentary

Subsection (a) simply states the rule provided in 25 U.S.C. § 1911(b).

Since the Act gives the parents and the tribal court of the Indian child's tribe an absolute veto over transfers, there is no need for any adversary proceedings if the parents or the tribal court opposes transfer. Where it is proposed to deny transfer on the grounds of "good cause," however, all parties need an opportunity to present their views to the court.

C.3. Determination of Good Cause to the Contrary

(a) Good cause not to transfer the proceeding exists if the Indian child's tribe does not have a tribal court as defined by the Act to which the case can be transferred.

(b) Good cause not to transfer the proceeding may exist if any of the following circumstances exists:

(i) The proceeding was at an advanced stage when the petition to transfer was received and the petitioner did not file the petition promptly after receiving notice of the hearing.

(ii) The Indian child is over twelve years of age and objects to the transfer.

(iii) The evidence necessary to decide the case could not be adequately presented in the tribal court without undue hardship to the parties or the witnesses.

(iv) The parents of a child over five years of age are not available and the child has had little or no contact with the child's tribe or members of the child's tribe.

(c) Socio-economic conditions and the perceived adequacy of tribal or Bureau of Indian Affairs social services or judicial systems may not be considered in a determination that good cause exists.

(d) The burden of establishing good cause to the contrary shall be on the party opposing the transfer.

C.3. Commentary

All five criteria that were listed in the earlier version of the guidelines were highly controversial. Comments on the first two criteria were almost unanimously negative. The first criterion was whether the parents were still living. The second was whether an Indian custodian or guardian for the child had been appointed. These criteria were criticized as irrelevant and arbitrary. It was argued that children who are orphans or have no appointed Indian custodian or guardian are no more nor less in need of the Act's protections than other children. It was also pointed out that these criteria are

contrary to the decision in *Wisconsin Potawatomes of the Hannahville Indian Community v. Houston*, 397 F. Supp. 719 (W.D. Mich 1973), which was explicitly endorsed by the committee that drafted that Act. The court in that case found that tribal jurisdiction existed even through the children involved were orphans for whom no guardian had been appointed.

Although there was some support for the third and fourth criteria, the preponderance of the comment concerning them was critical. The third criteria was whether the child had little or no contact with his or her Indian tribe for a significant period of time. The fourth was whether the child had ever resided on the reservation for a significant period of time. These criteria were criticized, in part, because they would virtually exclude from transfers infants who were born off the reservation. Many argued that the tribe has a legitimate interest in the welfare of members who have not had significant previous contact with the tribe or the reservation. Some also argued that these criteria invited the state courts to be making the kind of cultural decisions that the Act contemplated should be made by tribes. Some argued that the use of vague words in these criteria accorded state courts too much discretion.

The fifth criteria was whether a child over the age of twelve objected to the transfer. Comment on this criteria was much more evenly divided and many of the critics were ambivalent. They worried that young teenagers could be too easily influenced by the judge or by social workers. They also argued that fear of the unknown would cause many teenagers to make an ill-considered decision against transfer.

The first four criteria in the earlier version were all directed toward the question of whether the child's connections with the reservation were so tenuous that transfer back to the tribe is not advised. The circumstances under which it may be proper for the state court to take such considerations into account are set out in the revised subsection (iv).

It is recommended that in most cases state court judges not be called upon to determine whether or not a child's contacts with a reservation are so limited that a case should not be transferred. This may be a valid consideration since the shock of changing cultures may, in some cases, be harmful to the child. This determination, however, can be made by the parent, who has a veto over transfer to tribal court.

This reasoning does not apply, however, where there is no parent available to make that decision. The guidelines recommend that state courts be authorized to make such determinations only in those cases where there is no parent available to make it.

State court authority to make such decisions is limited to those cases where the child is over five years of age. Most children younger than five years can be expected to adjust more readily to a change in cultural environment.

The fifth criterion has been retained. It is true that teenagers may make some unwise decisions, but it is also true that their judgment has developed to the extent that their views ought to be taken into account in making decisions about their lives.

The existence of a tribal court is made an absolute requirement for transfer of a case. Clearly, the absence of a tribal court is good cause not to ask the tribe to try the case.

Consideration of whether or not the case can be properly tried in tribal court without hardship to the parties or witnesses was included on the strength of the section-by-section analysis in the House Report on the Act, which stated with respect to the § 1911(b), "The subsection is intended to permit a State court to apply to apply a modified doctrine of *forum non conveniens*, in appropriate cases, to insure that the rights of the child as an Indian, the Indian parents or custodian, and the tribe are fully protected." Where a child is in fact living in a dangerous situation, he or she should not be forced to remain there simply because the witnesses cannot afford to travel long distances to court.

Application of this criterion will tend to limit transfers to cases involving Indian children who do not live very far from the reservation. This problem may be alleviated in some instances by having the court come to the witnesses. The Department is aware of one case under that Act where transfer was conditioned on having the tribal court meet in the city where the family lived. Some cities have substantial populations of members of tribes from distant reservations. In such situations some tribes may wish to appoint members who live in those cities as tribal judges.

The timeliness of the petition for transfer, discussed at length in the commentary to section C.1, is listed as a factor to be considered. Inclusion of this criterion is designed to encourage the prompt exercise of the right to petition for transfer in order to avoid unnecessary delays. Long periods of uncertainty concerning the future are

generally regarded as harmful to the well-being of children. For that reason, it is especially important to avoid unnecessary delays in child custody proceedings.

Almost all commenters favored retention of the paragraph stating that reservation socio-economic conditions and the perceived adequacy of tribal institutions are not to be taken into account in making good cause determinations. Some commenters did suggest, however, that a case not be transferred if it is clear that a particular disposition of the case that could only be made by the state court held especially great promise of benefiting the child.

Such considerations are important but they have not been listed because the Department believes such judgments are best made by tribal courts. Parties who believe that state court adjudication would be better for such reasons can present their reasons to the tribal court and urge it to decline jurisdiction. The Department is aware of one case under the Act where this approach is being used and believes it is more in keeping with the confidence Congress has expressed in tribal courts.

Since Congress has established a policy of preferring tribal control over custody decisions affecting tribal members, the burden of proving that an exception to that policy ought to be made in a particular case rests on the party urging that an exception be made. This rule is reflected in subsection (d).

C.4. Tribal Court Declination of Transfer

(a) A tribal court to which transfer is requested may decline to accept such transfer.

(b) Upon receipt of a transfer petition the state court shall notify the tribal court in writing of the proposed transfer. The notice shall state how long the tribal court has to make its decision. The tribal court shall have at least twenty days from the receipt of notice of a proposed transfer to decide whether to decline the transfer. The tribal court may inform the state court of its decision to decline either orally or in writing.

(c) Parties shall file with the tribal court any arguments they wish to make either for or against tribal declination of transfer. Such arguments shall be made orally in open court or in written pleadings that are served on all other parties.

(d) If the case is transferred the state court shall provide the tribal court with all available information on the case.

C.4. Commentary

The previous version of this section provided that the state court should presume the tribal court has declined to accept jurisdiction unless it hears otherwise. The comments on this issue were divided. This section has been revised to require the tribal court to decline the transfer affirmatively if it does not wish to take the case. This approach is in keeping with the apparent intent of Congress. The language in the Act providing that transfers are "subject to declination by the tribal court" indicates that affirmative action by the tribal court is required to decline a transfer.

The recommended time limit for a decision has been extended from ten to twenty days. The additional time is needed for the court to become apprised of factors it may want to consider in determining whether or not to decline the transfer.

A new paragraph has been added recommending that the parties assist the tribal court in making its decision on declination by giving the tribal court their views on the matter.

Transfers ought to be arranged as simply as possible consistent with due process. Transfer procedures are a good subject for tribal-state agreements under 25 U.S.C. § 1919.

D. Adjudication of Involuntary Placements, Adoptions, or Terminations or Terminations of Parental Rights

D.1. Access to Reports

Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child has the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based. No decision of the court shall be based on any report or other document not filed with the court.

D.1. Commentary

The first sentence merely restates the statutory language verbatim. The second sentence makes explicit the implicit assumption of Congress—that the court will limit its considerations to those documents and reports that have been filed with the court.

D.2. Efforts To Alleviate Need To Remove Child From Parents or Indian Custodians

Any party petitioning a state court for foster care placement or termination of parental rights to an Indian child must demonstrate to the court that prior to the commencement of the proceeding active efforts have been made to alleviate the

need to remove the Indian child from his or her parents or Indian custodians. These efforts shall take into account the prevailing social and cultural conditions and way of life of the Indian child's tribe. They shall also involve and use the available resources of the extended family, the tribe, Indian social service agencies and individual Indian care givers.

D.2. Commentary

This section elaborates on the meaning of "breakup of the Indian family" as used in the Act. "Family breakup" is sometimes used as a synonym for divorce. In the context of this statute, however, it is clear that Congress meant a situation in which the family is unable or unwilling to raise the child in a manner that is not likely to endanger the child's emotional or physical health.

This section also recommends that the petitioner take into account the culture of the Indian child's tribe and use the resources of the child's extended family and tribe in attempting to help the family function successfully as a home for the child. The term "individual Indian care givers" refers to medicine men and other individual tribal members who may have developed special skills that can be used to help the child's family succeed.

One commenter recommended that detailed procedures and criteria be established in order to determine whether family support efforts had been adequate. Establishing such procedures and requirements would involve the court in second-guessing the professional judgment of social service agencies. The Act does not contemplate such a role for the courts and they generally lack the expertise to make such judgments.

D.3. Standards of Evidence

(a) The court may not issue an order effecting a foster care placement of an Indian child unless clear and convincing evidence is presented, including the testimony of one or more qualified expert witnesses, demonstrating that the child's continued custody with the child's parents or Indian custodian is likely to result in serious emotional or physical damage to the child.

(b) The court may not order a termination of parental rights unless the court's order is supported by evidence beyond a reasonable doubt, including the testimony of one or more qualified expert witnesses, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(c) Evidence that only shows the existence of community or family poverty, crowded or inadequate housing, alcohol abuse, or non-conforming social behavior does not constitute clear and convincing evidence that continued custody is likely to result in serious emotional or physical damage to the child. To be clear and convincing, the evidence must show the existence of particular conditions in the home that are likely to result in serious emotional or physical damage to the particular child who is the subject of the proceeding. The evidence must show the causal relationship between the conditions that exist and the damage that is likely to result.

D.3. Commentary

The first two paragraphs are essentially restatement of the statutory language. By imposing these standards, Congress has changed the rules of law of many states with respect to the placement of Indian children. A child may not be removed simply because there is someone else willing to raise the child who is likely to do a better job or that it would be "in the best interests of the child" for him or her to live with someone else. Neither can a placement or termination of parental rights be ordered simply based on a determination that the parents or custodians are "unfit parents." It must be shown that it is shown that it is dangerous for the child to remain with his or her present custodians. Evidence of that must be "clear and convincing" for placements and "beyond a reasonable doubt" for terminations.

The legislative history of the Act makes it pervasively clear that Congress attributes many unwarranted removals of Indian children to cultural bias on the part of the courts and social workers making the decisions. In many cases children were removed merely because the family did not conform to the decision-maker's stereotype of what a proper family should be—without any testing of the implicit assumption that only a family that conformed to that stereotype could successfully raise children. Subsection (c) makes it clear that mere non-conformance with such stereotypes or the existence of other behavior or conditions that are considered bad does not justify a placement or termination under the standards imposed by Congress. The focus must be on whether the particular conditions are likely to cause serious damage.

D.4. Qualified Expert Witnesses

(a) Removal of an Indian child from his or her family must be based on

competent testimony from one or more experts qualified to speak specifically to the issue of whether continued custody by the parents or Indian custodians is likely to result in serious physical or emotional damage to the child.

(b) Persons with the following characteristics are most likely to meet the requirements for a qualified expert witness for purposes of Indian child custody proceedings:

(i) A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and childrearing practices.

(ii) A lay expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe.

(iii) A professional person having substantial education and experience in the area of his or her specialty.

(c) The court or any party may request the assistance of the Indian child's tribe or the Bureau of Indian Affairs agency serving the Indian child's tribe in locating persons qualified to serve as expert witnesses.

D.4. Commentary

The first subsection is intended to point out that the issue on which qualified expert testimony is required is the question of whether or not serious damage to the child is likely to occur if the child is not removed. Basically two questions are involved. First, is it likely that the conduct of the parents will result in serious physical or emotional harm to the child? Second, if such conduct will likely cause such harm, can the parents be persuaded to modify their conduct?

The party presenting an expert witness must demonstrate that the witness is qualified by reason of educational background and prior experience to make judgments on those questions that are substantially more reliable than judgments that would be made by nonexperts.

The second subsection makes clear that knowledge of tribal culture and childrearing practices will frequently be very valuable to the court. Determining the likelihood of future harm frequently involves predicting future behavior—which is influenced to a large degree by culture. Specific behavior patterns will often need to be placed in the context of the total culture to determine whether they are likely to cause serious emotional harm.

Indian tribes and Bureau of Indian Affairs personnel frequently know persons who are knowledgeable

concerning the customs and cultures of the tribes they serve. Their assistance is available in helping to locate such witnesses.

E. Voluntary Proceedings

E.1. Execution of Consent

To be valid, consent to a voluntary termination of parental rights or adoption must be executed in writing and recorded before a judge or magistrate of a court of competent jurisdiction. A certificate of the court must accompany any consent and must certify that the terms and consequences of the consent were explained in detail and in the language of the parent or Indian custodian, if English is not the primary language, and were fully understood by the parent or Indian custodian. Execution of consent need not be in open court where confidentiality is requested or indicated.

E.1. Commentary

This section provides that consent may be executed before either a judge or magistrate. The addition of magistrates was made in response to a suggestion from Alaska where magistrates are found in most small communities but "judges" are more widely scattered. The term "judge" as used in the statute is not a term of art and can certainly be construed to include judicial officers who are called magistrates in some states. The statement that consent need not be in open court where confidentiality is desired or indicated was taken directly from the House Report on the Act. A recommendation that the guideline list the consequences of consent that must be described to the parent or custodian has not been adopted because the consequences can vary widely depending on the nature of the proceeding, state law and the particular facts of individual cases.

E.2. Content of Consent Document

(a) The consent document shall contain the name and birthdate of the Indian child, the name of the Indian child's tribe, any identifying number or other indication of the child's membership in the tribe, if any, and the name and address of the consenting parent or Indian custodian.

(b) A consent to foster care placement shall contain, in addition to the information specified in (a), the name and address of the person or entity by or through whom the placement was arranged, if any, or the name and address of the prospective foster parents, if known at the time.

(c) A consent to termination of parental rights or adoption shall contain,

in addition to the information specified in (a), the name and address of the person or entity by or through whom any preadoptive or adoptive placement has been or is to be arranged.

E.2. Commentary

This section specifies the basic information about the placement or termination to which the parent or Indian custodian is consenting to assure that consent is knowing and also to document what took place.

E.3. Withdrawal of Consent to Placement

Where a parent or Indian custodian has consented to a foster care placement under state law, such consent may be withdrawn at any time by filing in the court where consent was executed and filed, an instrument executed by the parent or Indian custodian. When a parent or Indian custodian withdraws consent to foster care placement, the child shall as soon as is practicable be returned to that parent or Indian custodian.

E.3. Commentary

This section specifies that withdrawal of consent shall be filed in the same court where the consent document itself was executed.

E.4. Withdrawal of Consent to Adoption

A consent to termination of parental rights or adoption may be withdrawn by the parent at any time prior to entry of a final decree of voluntary termination or adoption by filing in the court where the consent is filed an instrument executed under oath by the parent stipulating his or her intention to withdraw such consent. The clerk of the court where the withdrawal of consent is filed shall promptly notify the party by or through whom any preadoptive or adoptive placement has been arranged of such filing and that party shall insure the return of the child to the parent as soon as practicable.

E.4. Commentary

This provision recommends that the clerk of the court be responsible for notifying the family with whom the child has been placed that consent has been withdrawn. The court's involvement frequently may be necessary since the biological parents are often not told who the adoptive parents are.

F. Dispositions

F.1. Adoptive Placements

(a) In any adoptive placement of an Indian child under state law, preference must be given (in the order listed below)

absent good cause to the contrary, to placement of the child with:

- (i) A member of the child's extended family;
 - (ii) Other members of the Indian child's tribe; or
 - (iii) Other Indian families, including families of single parents.
- (b) The Indian child's tribe may establish a different order of preference by resolution. That order of preference must be followed so long as placement is the least restrictive setting appropriate to the child's needs.

(c) Unless a consenting parent evidences a desire for anonymity, the court or agency shall notify the child's extended family and the Indian child's tribe that their members will be given preference in the adoption decision.

F.1. Commentary

This section makes clear that preference shall be given in the order listed in the Act. The Act clearly recognizes the role of the child's extended family in helping to raise children. The extended family should be looked to first when it becomes necessary to remove the child from the custody of his or her parents. Because of differences in cultures among tribes, placement within the same tribe is preferable.

This section also provides that single parent families shall be considered for placements. The legislative history of the Act makes it clear that Congress intended custody decisions to be made based on a consideration of the present or potential custodian's ability to provide the necessary care, supervision and support for the child rather than on preconceived notions of proper family composition.

The third subsection recommends that the court or agent make an active effort to find out if there are families entitled to preference who would be willing to adopt the child. This provision recognizes, however, that the consenting parent's request for anonymity takes precedence over efforts to find a home consistent with the Act's priorities.

F.2. Foster Care or Preadoptive Placements

In any foster care or preadoptive placement of an Indian child:

- (a) The child must be placed in the least restrictive setting which
- (i) most approximates a family;
- (ii) in which his or her special needs may be met; and
- (iii) which is in reasonable proximity to his or her home.

(b) Preference must be given in the following order, absent good cause to the contrary, to placement with:

- (i) A member of the Indian child's extended family;
 - (ii) A foster home, licensed, approved or specified by the Indian child's tribe, whether on or off the reservation;
 - (iii) An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - (iv) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the child's needs.
- (c) The Indian child's tribe may establish a different order of preference by resolution, and that order of preference shall be followed so long as the criteria enumerated in subsection (a) are met.

F.2. Commentary

This guideline simply restates the provisions of the Act.

F.3. Good Cause To Modify Preferences

(a) For purposes of foster care, preadoptive or adoptive placement, a determination of good cause not to follow the order of preference set out above shall be based on one or more of the following considerations:

- (i) The request of the biological parents or the child when the child is of sufficient age.
 - (ii) The extraordinary physical or emotional needs of the child as established by testimony of a qualified expert witness.
 - (iii) The unavailability of suitable families for placement after a diligent search has been completed for families meeting the preference criteria.
- (b) The burden of establishing the existence of good cause not to follow the order of preferences established in subsection (b) shall be on the party urging that the preferences not be followed.

F.3. Commentary

The Act indicates that the court is to give preference to confidentiality requests by parents in making placements. Paragraph (i) is intended to permit parents to ask that the order of preference not be followed because it would prejudice confidentiality or for other reasons. The wishes of an older child are important in making an effective placement.

In a few cases a child may need highly specialized treatment services that are unavailable in the community where the families who meet the preference criteria live. Paragraph (ii) recommends that such considerations be considered as good cause to the contrary.

Paragraph (iii) recommends that a diligent attempt to find a suitable family meeting the preference criteria be made before consideration of a non-preference placement be considered. A diligent attempt to find a suitable family includes at a minimum, contact with the child's tribal social service program, a search of all county or state listings of available Indian homes and contact with nationally known Indian programs with available placement resources.

Since Congress has established a clear preference for placements within the tribal culture, it is recommended in subsection (b) that the party urging an exception be made be required to bear the burden of proving and exception is necessary.

G. Post-Trial Rights

G.1. Petition To Vacate Adoption

(a) Within two years after a final decree of adoption of any Indian child by a state court, or within any longer period of time permitted by the law of the state, a parent who executed a consent to termination of paternal rights or adoption of that child may petition the court in which the final adoption decree was entered to vacate the decree and revoke the consent on the grounds that such consent was obtained by fraud or duress.

(b) Upon the filing of such petition, the court shall give notice to all parties to the adoption proceedings and shall proceed to hold a hearing on the petition. Where the court finds that the parent's consent was obtained through fraud or duress, it must vacate the decree of adoption and order the consent revoked and order the child returned to the parent.

G.1. Commentary

This section recommends that the petition to vacate an adoption be brought in the same court in which the decree was entered, since that court clearly has jurisdiction, and witnesses on the issue of fraud or duress are most likely to be within its jurisdiction.

G.2. Adult Adoptee Rights

(a) Upon application by an Indian individual who has reached age 18 who was the subject of an adoptive placement, the court which entered the final decree must inform such individual of the tribal affiliations, if any of the individual's biological parents and provide such other information necessary to protect any rights flowing from the individual's tribal relationship.

(b) The section applies regardless of whether or not the original adoption was subject to the provisions of the Act.

(c) Where state law prohibits revelation of the identity of the biological parent, assistance of the Bureau of Indian Affairs shall be sought where necessary to help an adoptee who is eligible for membership in a tribe establish that right without breaching the confidentiality of the record.

G.2. Commentary

Subsection (b) makes clear that adoptions completed prior to May 7, 1979, are covered by this provision. The Act states that most portions of Title I do not "affect a proceeding under State law" initiated or completed prior to May 7, 1979. Providing information to an adult adoptee, however, cannot be said to affect the proceeding by which the adoption was ordered.

The legislative history of the Act makes it clear that this Act was not intended to supersede the decision of state legislatures on whether adult adoptees may be told the names of their biological parents. The intent is simply to assure the protection of rights deriving from tribal membership. Where a state law prohibits disclosure of the identity of the biological parents, tribal rights can be protected by asking the BIA to check confidentially whether the adult adoptee meets the requirements for membership in an Indian tribe. If the adoptee does meet those requirements, the BIA can certify that fact to the appropriate tribe.

G.3. Notice of Change in Child's Status

(a) Whenever a final decree of adoption of an Indian child has been vacated or set aside, or the adoptive parent has voluntarily consented to the termination of his or her parental rights to the child, or whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive placement, or adoptive placement, notice by the court or an agency authorized by the court shall be given to the child's biological parents or prior Indian custodians. Such notice shall inform the recipient of his or her right to petition for return of custody of the child.

(b) A parent or Indian custodian may waive his or her right to such notice by executing a written waiver of notice filed with the court. Such waiver may be revoked at any time by filing with the court a written notice of revocation, but such revocation would not affect any proceeding which occurred before the filing of the notice of revocation.

G.3. Commentary

This section provides guidelines to aid courts in applying the provisions of Section 106 of the Act. Section 106 gives

legal standing to a biological parent or prior Indian custodian to petition for return of a child in cases of failed adoptions or changes in placement in situations where there has been a termination of parental rights. Section 106(b) provides the whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive placement, or adoptive placement, such placement is to be in accordance with the provisions of the Act—which requires notice to the biological parents.

The Act is silent on the question of whether a parent or Indian custodian can waive the right to further notice. Obviously, there will be cases in which the biological parents will prefer not to receive notice once their parental rights have been relinquished or terminated. This section provides for such waivers but, because the Act establishes an absolute right to participate in any future proceedings and to petition the court for return of the child, the waiver is revocable.

G.4. Maintenance of Records

The state shall establish a single location where all records of every foster care, preadoptive placement and adoptive placement of Indian children by courts of that state will be available within seven days of a request by an Indian child's tribe or the Secretary. The records shall contain, at a minimum, the petition or complaint, all substantive orders entered in the proceeding, and the complete record of the placement determination.

G.4. Commentary

This section of the guidelines provides a procedure for implementing the provisions of 25 U.S.C. § 1915(e). This section has been modified from the previous version which required that all records be maintained in a single location within the state. As revised this section provides only that the records be retrievable by a single office that would make them available to the requester within seven days of a request. For some states (especially Alaska) centralization of the records themselves would create major administrative burdens. So long as the records can be promptly made available at a single location, the intent of this section that the records be readily available will be satisfied.

Forrest J. Gerard,
Assistant Secretary, Indian Affairs,
November 18, 1979.
[FR Doc. 79-28231 Filed 11-23-79; 8:45 am]
BILLING CODE 4310-02-M

V
4
4

N
O

2
6

7
9
U M I

Federal Register

Monday
November 26, 1979

Part IV

Department of the Interior

Bureau of Land Management

Noncompetitive Geothermal Leases

DEPARTMENT OF THE INTERIOR authorizes DOE to issue regulations will retain their priority of filing as

date of filing shall be stamped on the 2 Subpart 3211 is revised to read as applications submitted by that applicant

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3210, 3211

Proposed Rulemaking Regarding Noncompetitive Geothermal Leases

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking is being issued pursuant to the provisions of the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) which authorizes the issuance of leases for the development and utilization of geothermal resources. To encourage geothermal exploration and development it is proposed to eliminate the "competitive interest" criteria for applications filed during a simultaneous filing period for leases which have expired or terminated, or been cancelled or relinquished. This would expedite leasing of these lands and development of potential geothermal resources. It is also proposed to reclassify certain lands which have been designated as Known Geothermal Resource Areas (KGRA's) because of overlapping noncompetitive applications, after competitive lease sale offerings have attracted no bids.

DATE: Written comments are due by January 25, 1980.

ADDRESS: Send comments to: Director (650), Bureau of Land Management, Department of the Interior, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public inspection in Room 5555 at the above address during regular business hours (7:45 a.m.-4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert C. Bruce (202) 343-8735.

SUPPLEMENTARY INFORMATION: The current regulations in 43 CFR 3200.0-5(k)(3) provide that lands included in two or more noncompetitive lease applications which overlap by at least 50 percent are automatically classified as a KGRA requiring competitive leasing. However, competitive lease sales for a number of tracts in such "competitive interest" KGRA's have attracted no bids. The result is that the geothermal potential of the lands will not be explored and developed. The Department of Interior (DOI) has consulted with the Department of Energy (DOE) in the preparation of these proposed regulations in view of the joint responsibility for geothermal leasing created by the Department of Energy Organization Act (DOE Act) which

authorizes DOE to issue regulations under the Geothermal Steam Act of 1970 which relate, in part, to the "fostering of competition" and "the implementation of alternative bidding systems." In light of these responsibilities, DOE is presently reviewing that portion of the definition of KGRA which relates to "competitive interest" to determine if any regulatory changes are appropriate.

Proposed Regulation

This proposed rulemaking amends 43 CFR 3211 by eliminating the requirement in § 3211.2(f) for a KGRA classification and competitive leasing when two or more applications are filed for the same leasing unit during the simultaneous filing period for (1) lands on which leases have been cancelled or relinquished; (2) lands on which leases expired at the end of their primary or extended terms; or (3) lands on which leases have been terminated for nonpayment of rent. In addition, the proposed regulations provide for issuance of leases for lands applied for noncompetitively and classified as KGRA's on the basis of competitive interest, but for which competitive lease sale offers have attracted no bids. To encourage development of geothermal resources and free these areas for development, it is proposed that these competitive interest KGRA's be reclassified and made available without competitive bidding.

Non-KGRA lands covered by noncompetitive applications filed prior to the effective date of this regulation which are classified as KGRA's solely because of the "competitive interest" standard shall be offered for lease under the simultaneous filing procedures in accordance with the provisions of 43 CFR 3211.2.

Applications filed on a noncompetitive basis after the effective date of this regulation for lands which receive a KGRA classification as a result of competitive interest, shall be leased in accordance with the proposed revision to § 3210.2-2. That is, they will be leased without competitive bidding to the original first applicant if they receive no bids when offered for competitive sale. If the original first applicant no longer wants the lease, it shall be offered to succeeding applicants in chronological order from the filing date of their applications. If none of the original applicants wants the lease, the lands would then become available for noncompetitive leasing under Subpart 3211. In order to implement this proposal, it is also proposed to amend 43 CFR 3210.2-2 to provide that all applications for land determined to be a KGRA because of competitive interest

will retain their priority of filing as shown by the date stamped on the envelope. This provision is incorporated in the proposed rulemaking and is the position advocated by the Department of Energy.

An alternative to this procedure advocated by the Department of the Interior is that all competitive interest KGRA's created after the effective date of this regulation be leased only through the simultaneous drawing procedure rather than first offering the lease to the original applicants who created the KGRA and then eventually offering such unleased lands under the simultaneous drawing procedure. Comments are specifically requested on these two proposed methods of awarding leases for these competitive interest KGRA lands and particularly how each of the methods would affect the timely availability of lands for leasing and development and the utilization of the geothermal resources.

The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and OMB Circular A-107.

It is hereby determined that publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 is required.

The principal author of this proposed rulemaking is Doris Koivula, Division of Onshore Energy Resources, Bureau of Land Management.

Under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025), it is proposed to amend Title 43, Chapter II, Subchapter C, Group 3200, Part 3200, by revising section 3210.2-2 of Subpart 3210 and Subpart 3211 of the Code of Federal Regulations as follows:

1. Section 3210.2-2 is revised to read as follows:

§ 3210.2-2 Filing and processing.

(a) *Filing period.* Applications for leases pursuant to this subpart shall be submitted only during application filing periods. An application filing period shall begin on the first working day of each calendar month and shall end at the close of business on the last working day of that month. During the same application filing period no applicant shall file a second application which overlaps any of the land covered by his first application.

(b) *Date of filing.* When an application is filed with the authorized officer, the

date of filing shall be stamped on the envelope.

(c) *Processing applications.* The envelope containing the application shall remain sealed until the end of the application filing period during which the application is filed. On the first working day following the end of the application filing period all applications shall be opened, and it will be determined which applications are for lands included in a KGRA. In determining whether land included in an application is a KGRA because of competitive interest, no application submitted during any subsequent application filing period will be considered. Applications for land determined to be a KGRA will be rejected, except those applications for land determined to be a KGRA because of competitive interest pursuant to § 3200.0-5(k)(3). Applications for land determined to be a KGRA because of competitive interest will retain their priority according to the date of filing. If any application covers both land within a KGRA and land outside a KGRA, the applicant will be granted the opportunity to amend his application to exclude the portion included in a KGRA, and his amended application will retain its priority according to the date of filing of his original application, but must comply with all other requirements of these regulations.

(d) *Competitive interest KGRA's.* Lands in competitive interest KGRA's will be offered for sale by competitive bidding in accordance with § 3220. These lands may be offered for sale more than once at the discretion of the authorized officer:

(1) Where a competitive interest KGRA was created by competitive applications filed prior to the effective date of these regulations and the competitive lease sale(s) did not result in the issuance of a lease, the lands will become available for leasing under the simultaneous procedure as provided in § 3211.

(2) Where the competitive interest KGRA was created by noncompetitive applications filed after the effective date of these regulations and the competitive lease sale(s) did not result in the issuance of a lease, the lands will be leased to the original applicant having the first priority. If the original applicant no longer wants the lease, it shall be offered to succeeding applicants in chronological order according to the date of filing of their applications. If none of the original applicants wants the lease, the lands will then become available for noncompetitive leasing in accordance with the provisions of Subpart 3211.

2. Subpart 3211 is revised to read as follows:

Subpart 3211—Bureau Motion—Simultaneous Applications

§ 3211.1 Lands available for noncompetitive leasing.

(a) Lands in noncompetitive leases which have been cancelled or relinquished or which expired at the end of their primary or extended terms or which terminated by operation of law for nonpayment of rental pursuant to 30 U.S.C. 1004 shall be subject to further leasing only in accordance with provisions of this subpart. Lands subject to applications filed prior to the effective date of this section and classified as "competitive interest" KGRA's under 43 CFR 3200.0-5(k)(3) which have received no bids after a competitive lease offering may be reclassified and made subject to further leasing in accordance with the provisions of this section. Such competitive interest KGRA tracts may be offered for competitive leasing more than once at the discretion of the authorized officer.

(b) From time to time the authorized officer of the appropriate Bureau of Land Management office will post and provide news coverage of:

- (1) a list of leasing units which are available for noncompetitive leasing under the provisions of this subpart;
- (2) a notice that applications for leases on such lands will be accepted during the filing period specified in the notice, which will begin at 10 a.m. on a Monday and end at 10 a.m. on the fourth Monday thereafter, or on the next working day if the fourth Monday falls on a non-working day. All applications received during such filing period will be treated as simultaneously filed; and
- (3) the address of the proper Bureau of Land Management office where applications must be filed and from which information as to the terms and conditions under which the leases will be issued can be obtained.

§ 3211.2 Applications.

(a) An application shall be submitted, in duplicate, on the form approved by the Director for noncompetitive leases.

(b) Only one complete leasing unit, identified by unit number, may be included in an application. Lands not on the posted list may not be included in the application.

(c) An applicant is permitted to file only one application for each numbered unit on the posted list. Submission of more than one application by or on behalf of the applicant for the same unit will result in the disqualification of all

applications submitted by that applicant for that particular unit.

(d) Each application filed during the simultaneous filing period must be submitted in a sealed envelope marked "Simultaneous Geothermal Application (43 CFR Part 3211)." The envelope will remain sealed until the end of the simultaneous filing period, at which time the application will be time-stamped and serialized.

(e) Each application must be accompanied by a nonrefundable service fee of \$50.

§ 3211.3 Drawing of applications for units on posted list.

(a) If more than one application is received during the simultaneous filing period for the same unit on the posted list, the priority of filing for such unit will be determined by a public drawing. All applications for each unit will be drawn, and the order in which they are drawn will determine their respective priorities and order of processing.

(b) A lease may be issued to the drawee having the highest priority for a particular unit. Payment of the first year's rental must be received in the proper Bureau of Land Management office within fifteen days from the date of receipt of notice that such rental is due. The drawee failing to submit the rental payment within the time allowed will be automatically disqualified to receive the lease. Consideration will then be given to the application having the next highest priority in the drawing for that particular unit.

(c) Prior to the issuance of any lease, a determination shall be made as to whether or not the lands are within a KGRA. Applications determined to be within a KGRA will be rejected.

(d) If no application is filed for a particular unit on the posted list, the lands in that unit will be available for leasing by the first qualified applicant filing an application for a lease as provided in subpart 3210.

(e) If no applicant filing for a particular unit is qualified to receive a lease therefor, the lands in that unit will also become available for leasing in accordance with the provisions of subpart 3210.

James W. Curlin,
Deputy Assistant Secretary of the Interior
November 20, 1979.

[FR Doc. 79-36337 Filed 11-23-79; 8:45 am]

BILLING CODE 4310-04-M

V
4
4

N
O

2
6

7
9
U M I

federal register

Monday
November 26, 1979

Part V

Department of Energy

Economic Regulatory Administration

Activation of Standby Mandatory Crude
Oil Allocation Program

DEPARTMENT OF ENERGY 4:30 p.m.; Hearing date: December 13, 1979. 9:30 a.m. importation of Iranian crude oil does not

supplies among all domestic refiners in an equitable manner as a means of Only 5 of the 19 refiners importing Iranian crude oil immediately prior to variation of it should indicate the extent

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 211 and 212

[Docket No. ERA-R-79-52]

Activation of Standby Mandatory Crude Oil Allocation Program

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing this notice in order to prepare for the possibility that the President's recent action to prohibit the importation of Iranian oil into the United States may cause significant losses of crude oil supplies to certain refiners and regions of the country. Since any such significant impacts as might occur would not likely become apparent before the latter part of December 1979, refiners dependent on Iranian supplies will have at least several weeks to find alternative supply sources. However, as prudent planning for the possibility of significant adverse impacts, we are proposing for public comment various alternative amendments which would provide for the partial or complete implementation of the Standby Mandatory Crude Oil Allocation Program in its present or amended form. The proposed amendments would permit the additional flexibility in allocating crude oil under the Buy/Sell Program which in view of the President's action may be necessary to insure the continued distribution of crude oil supplies among domestic refiners in an equitable manner.

We are also requesting comments on proposed changes to the current Buy/Sell and entitlements programs under which sales to small refiners would be at the weighted average price of all sellers' imported crude oil, with sellers selling below their own average costs being offset by entitlements program transfers from sellers selling above their own average costs. In addition, small refiners not currently eligible as buyers under the grandfather provisions of the present program would be allowed to receive allocations for capacity additions that provide for more sophisticated processing than simple crude distillation.

DATES: Proposed effective date: January 1, 1980; Comments by thirty days from publication of this notice; Requests to speak at hearing by December 10, 1979.

4:30 p.m.; Hearing date: December 13, 1979, 9:30 a.m.

ADDRESSES: Comments and requests to speak to Office of Public Hearings Management, Room 2313, Docket No. ERA-R-79-52, 2000 M Street, N.W., Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearings Management), Economic Regulatory Administration, Room 2222-A, 2000 M Street, N.W., Washington, D.C. 20461, 202-254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, 202-634-2170.

Mary B. Jones (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 8208, 2000 M Street, N.W., Washington, D.C. 20461, 202-632-5133.

Sue D. Sheridan (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, 202-252-6754.

SUPPLEMENTARY INFORMATION:

- I. Introduction
- II. Proposals
- III. Procedural Requirements
- IV. Other Matters
- V. Comment Procedures

I. Introduction

In response to the holding of American citizens in Iran as hostages for political purposes, the President has banned the importation into the United States of (1) any crude oil produced in Iran and loaded aboard vessels after November 12, 1979, or (2) any petroleum products refined in territorial possessions or free trade zones of the United States from such crude oil. The President has indicated that he is prepared to keep these import restrictions in effect indefinitely as a means of demonstrating that we will not allow any considerations regarding petroleum supplies to weaken our resolve to safeguard fundamental principles of international law, particularly those concerning the protection of American citizens serving our country abroad. In addition, the Iranian government has indicated that, independent of the President's action, it is imposing a unilateral embargo of its crude oil against all U.S. firms.

In recent months, the U.S. has imported approximately 700,000 barrels of Iranian crude oil per day, which represented about 8-10 percent of our total crude oil imports and 4-5 percent of total U.S. crude oil supplies. Since the President's decision to prohibit the

importation of Iranian crude oil does not apply to crude oil carried by tankers already loaded and on the high seas on November 12, 1979 and since steaming time between the Persian Gulf and the East Coast of the United States is about 45-50 days, the level of Iranian crude oil imports should not decline significantly before the latter part of December 1979. About that time it is possible that the United States will incur at least a temporary shortfall in crude oil supplies. This would be true even if the import restrictions on Iranian crude oil are lifted by both sides in the next few days, since we would not receive Iranian crude oil until 45 to 50 days after loading of tankers resumed.

While we cannot predict at this time the volume of the crude oil shortfall which may result from the President's proclamation, it is possible that no shortfall will occur at all if U.S. firms are successful in their efforts to replace Iranian crude oil with purchases from other markets. We expect those firms that have been dependent on Iranian oil to make every reasonable effort to replace those supplies with oil from other sources. However, as a matter of prudent planning, we must assume the possibility that by the end of December we will incur a reduction in crude oil supplies up to our level of imports of Iranian crude oil prior to November 12.

If such a shortfall does occur, it is likely that the impact on various refiners and different regions will be uneven. Over the past few months the bulk of our Iranian oil was lifted by about half a dozen refiners. Several of these refiners distribute products widely across the nation, and, therefore, the effects of reduced crude oil supplies to these firms should not be felt more severely by one region of the country than another. However, some of the largest domestic purchasers of Iranian crude oil concentrate their marketing activities in the East Coast or in the upper Midwest.

During the prolonged interruption of Iranian crude oil production in the first half of this year, domestic refiners heavily dependent upon Iranian crude oil ultimately managed to obtain replacement supplies without assistance from the DOE. We believe refiners which currently rely on Iranian crude oil supplies will again be able to obtain replacement supplies independently or through cooperation with other domestic refiners. However, we are issuing this notice to prepare for the possibility that such an orderly adjustment will not occur. Upon receipt and review of public comments, we intend to take any action appropriate and necessary to promote the continued distribution of crude oil

supplies among all domestic refiners in an equitable manner as a means of insuring that no region of the country will bear an unfair share of any burden which may result from a crude oil shortage.

The various actions we might take in the event of a significant crude oil shortage resulting from the President's proclamation are described in the proposals below. Our objective in proposing these alternative actions at this time, rather than waiting until late December when the full impact of Iranian supply curtailments will be more fully known, is to give the public a full opportunity to comment as to whether implementation of any of the proposals or any action on our part will be necessary and appropriate in the immediate future. We emphasize, however, that our decision to propose these alternative actions should not be viewed as an indication that we believe any of the proposed measures will be necessary. In making that determination, we intend to monitor the progress of various firms in obtaining supplies to replace their Iranian crude oil. In addition to comments on each of the proposals, we welcome general comments and information on whether and the extent to which the nation as a whole, particular regions and particular firms are likely to suffer significant shortfalls in crude oil or refined product supplies.

II. Proposals

A. Standby Crude Oil Allocation Program. The current Buy/Sell Program in 10 CFR section 211.65 can provide some assistance to small refiners which may experience difficulties in obtaining supplies as a result of events in Iran. Effective October 1, 1977, the Federal Energy Administration revised the Buy/Sell Program to limit purchases under the program to those small refiners ("refiner-buyers") with refineries which had a demonstrated need for allocations based on lack of access to adequate supplies of domestic and foreign crude oil. Small refiners that were initially determined to have access to sufficient supplies of crude oil, and that were therefore ineligible to participate in the program, were permitted to reenter the program in the event that they later experienced a significant reduction in crude oil supplies. In addition, provision was made for emergency allocations of crude oil to eligible refiners that experienced at least a 25 percent reduction in their supplies of crude oil. The 15 major refiners ("refiner-sellers") are required to supply, on a pro rata basis according to refining capacity, the volume of oil sold under the program.

Only 5 of the 19 refiners importing Iranian crude oil immediately prior to November 12, 1979, however, qualify as small refiners and could therefore potentially be recipients of crude oil under the current Buy/Sell Program. Moreover, imports by these 5 small refiners accounted for only 10 percent of the total amount of Iranian crude oil imported into the United States in recent months.

In recognition of the limitations of the current Buy/Sell Program to deal with a generalized crude oil supply shortage, we developed and adopted a Standby Mandatory Crude Oil Allocation Program (44 FR 3418, January 16, 1979). That standby program consists of three separate options. In the event of a crude oil supply disruption, the ERA Administrator may activate that option which in his discretion is most appropriate in view of the extent to which the nation's crude oil supplies may be interrupted. The notice adopting the standby program contains a full discussion of how each of the various aspects of the program would work if implemented.

We are hereby proposing to implement whichever aspects of the standby program, if any we find necessary and appropriate to mitigate the effects of any crude oil supply shortage that may result from the President's decision to prohibit the importation of Iranian crude oil. We are also proposing several amendments to the standby program which are intended to make it a more effective mechanism for dealing with any crude oil supply shortage that may result from the Iranian supply curtailment. The following sections discuss each of the three options of the standby allocation program and the pricing provisions and modifications to each option we believe might be appropriate in the event we activate that portion of the standby program. Commenters are requested to state their views as to which of the three options and possible amendments thereto would constitute the most appropriate response to the Iranian supply curtailment and their reasons for those views.

1. Option I. Option I would activate the standby program by continuing the current emergency allocation Buy/Sell Program, but modifying it to permit inclusion of the twenty-two large independent and major refiners as possible refiner-buyers of crude oil and relax the current criterion providing that crude oil will be allocated to a refinery only if the firm experiences a 25 percent reduction in crude oil supplies. Commenters supporting this option or a

variation of it should indicate the extent to which the current 25 percent reduction criterion should be relaxed.

a. Limitation of eligibility for emergency allocations. Adoption of this option would have the potential for qualifying many additional refiners, besides those which formerly imported from Iran, as refiner-buyers under the present emergency Buy/Sell Program. The potential increase in the number of applications for emergency allocations could create an administrative burden which would cripple the program's ability to meet its objectives. More importantly, since many of these additional refiners which did not import from Iran operate less efficient refineries, the operation of an expanded emergency allocation Buy/Sell Program could result in the utilization of crude oil supplies in a manner which would not best serve our national interests since crude oil supplies might be transferred from efficient to inefficient refineries.

In order to prevent this unintended expansion of the emergency allocation Buy/Sell Program, we are proposing that unless a refiner has significant downstream refining capability beyond simple crude distillation—as demonstrated by the capability, for example, to refine a significant amount of unleaded gasoline or to desulphurize crude oil—it would not be eligible for an emergency allocation unless it met the reduction criterion in effect on November 12, 1979 for emergency allocations. Accordingly, a refiner lacking the requisite refining capabilities would be eligible for an emergency allocation only if it could demonstrate a 25 percent reduction in supplies, even though we may determine after considering the comments in this proceeding that some lesser percentage would constitute a "significant reduction" in cases involving refiners possessing significant downstream refining capacity.

b. Inclusion of large independent refiners as refiner-sellers. While Option I of the standby regulations provides for the inclusion in the current emergency allocation Buy/Sell Program of both major and large independent refiners as refiner-buyers, the provisions of the standby regulations as originally adopted do not provide under this option for the expansion of the class of refiner-sellers (currently limited to the so-called "major" refiners) to include large independent refiners. Since revision of the current emergency allocation Buy/Sell Program to permit emergency allocations to all large refiners would likely increase greatly the amount of crude oil sold under the

program, we believe implementation of Option I might necessitate enlarging the universe of refiner-sellers to include all refiners with refining capacities in excess of 175,000 barrels per day. Therefore, we are proposing, for purposes of emergency allocations only, an amendment to add the seven large independent refiners to the current list of refiner-sellers in the event we activate Option I.

Under the current provisions of the emergency allocation Buy/Sell Program, a refiner-seller's sales obligation is determined by reference to its proportionate share of the total refining capacity of all refiner-sellers on January 1, 1973. Since large independent refiners' relative share of total refining capacity has greatly increased since January 1973, we believe it would be appropriate, in the event we add large independent refiners to the list of refiner-sellers, to update the reference period for determining a refiner seller's percentage share of emergency allocation sales obligations under the program currently in effect. Specifically, we are proposing that a major refiner's or a large independent refiner's percentage share of the total sales obligations arising from emergency allocations in any allocation period be based on the refiner's proportionate share, expressed as a percentage, of the total volume of crude oil runs to stills of all sellers during the period September 1978 through February 1979.

Since we recognize that large independent refiners generally do not possess the same ability as major refiners to locate and arrange for crude oil supplies, we are also proposing that a large independent refiner's sales obligation in any month not exceed that number of barrels which would result in such a refiner operating its refinery at a rate lower than the average refinery utilization rate of all sellers. In this regard, we are proposing that the average utilization rate of all sellers for any allocation period will be a percentage, the numerator of which would be the total of the estimated crude oil runs to stills (as currently defined in the standby regulations) of all sellers (i.e., all major and large independent refiners) and the denominator of which would be the average monthly crude oil runs to stills of all such sellers during the period September 1978 through February 1979.

2. *Option II.* Option II would activate the standby regulations to continue the existing Buy/Sell Program for the benefit of small refiners and establish a Special Buy/Sell Program for large independent and major refiners. Under the Special

Buy/Sell Program of Option II (and, as discussed below, under Option III) a refiner would be permitted to purchase sufficient crude oil to run its refinery at the national utilization rate (as defined in paragraph 4 of Special Rule No. 10). If a refiner had more than enough crude oil to run its refinery at this rate, it would be required to sell the amount of crude oil greater than the amount necessary to run its refinery at the national utilization rate to a refiner lacking access to volumes of crude oil sufficient to permit it to attain the permissible level.

As presently written, this option would limit the Special Buy/Sell Program to the 22 major and large independent refiners. As noted previously, this group of refiners imported ninety percent of the crude oil from Iran. Thus, this option appears to focus most directly on the possible effects of the President's decision to ban the importation of Iranian crude oil. However, there were also five small refiners which imported Iranian crude oil. Based on the amounts these firms were importing from Iran, only one would experience a 25 percent reduction in crude oil supply. The other four would not qualify for assistance under the emergency allocation Buy/Sell Program even if Option II were adopted. In the event we decide to implement Option II, we believe the appropriate course for those small refiners that were importing from Iran but would not be eligible under the current emergency allocation Buy/Sell Program for status as refiner-buyers would be to seek exception relief. However, we request comments on whether we should amend the present program to allow firms that were importing from Iran to be eligible for allocations notwithstanding their failure to meet the criteria applicable to other small refiners.

a. *Adjustments to amounts to be purchased and sold under the Special Buy/Sell Program.* Requiring a refiner to sell all crude oil in excess of the amount necessary to run its refinery at the national utilization rate could destroy any incentive on the part of refiners generally to seek additional crude oil on the world market or to seek secure sources of supply. Therefore, we believe it would be desirable to permit a refiner which makes an effort to obtain additional crude oil to retain some of the benefits resulting from such efforts, while insuring that all refiners would receive adequate crude oil supplies. This objective can be realized by structuring the program to allocate refiner-buyers volumes of oil sufficient to insure efficient operation of their refineries, but not enough to fully equalize their levels

of utilization with those of refiner-sellers. Therefore, we are proposing two alternative amendments, as discussed below.

First, we are proposing an amendment that only those refiners with projected utilization rates which are at least two (or three) percentage points lower than the national utilization rate would be eligible as refiner-buyers. Furthermore, since a refiner which has been successful in securing crude oil supplies sufficient to allow it to operate only slightly above the national utilization rate would be more likely to lose its incremental barrels if sales obligations were determined purely on a pro rata basis, this amendment would provide in effect that a refiner-seller will incur no sales obligation until all other refiner-sellers with projected utilization rates higher than that refiner's have incurred obligations sufficient to lower their utilization rates to the same level as that refiner's.

Second, in the alternative, we are proposing an amendment that, in the event we adopt Option II, a refiner-seller would only be required to sell three-fourths of the amount necessary to bring its supplies down to levels consistent with the national utilization rate. Concurrently, a refiner-buyer would only be allocated crude oil volumes equal to three-fourths of the amount which it would need to run its refinery at the national utilization rate.

We are proposing these alternative amendments with respect to both this Option II and Option III below. We request that comments regarding these alternatives suggest the percentages which you believe might be appropriate and necessary to provide an incentive to refiners to seek crude oil supplies.

b. *Proposed amendment to method of calculating national utilization rate.* As discussed above, in the event Option II of the standby program is activated, refiners' sales obligations are to be determined with reference to the national refinery utilization rate, defined in paragraph 4 of Special Rule No. 10. The national utilization rate is, in general terms, a percentage, the numerator of which is the estimated total crude oil runs to stills of all U.S. refiners for a particular allocation period, and the denominator of which is the average monthly crude oil runs to stills of all U.S. refiners during the base period, as defined in paragraph 4 of Special Rule No. 10.

The refinery utilization rates of large refiners are generally higher than those of small refiners. Therefore, the use of data reflecting the utilization rates of small refiners in calculating the national utilization rate for purposes of a Special

Buy/Sell Program including only major and large independent refiners would apparently result in the derivation of a utilization rate which would actually be lower than the average utilization rate of the large refiners. Consequently, in some instances the effect might be to require large refiners with relatively more efficient operations, as indicated by higher utilization rates, to sell more oil than they might be required to sell if only large refiner data were utilized in calculating the national utilization rate.

In view of the above considerations, we are proposing to amend Special Rule No. 10 to provide that the national utilization rate will be based entirely on data concerning the 22 major and large independent refiners in the event we decide during this proceeding to establish a separate Special Buy/Sell Program including only these firms pursuant to Option II of the standby program. We believe this proposal would be especially appropriate in light of our decision, as discussed in Section III of this Preamble, to propose that any Option of the standby program we activate in this proceeding should initially be made effective for only 90 days.

Specifically, we have tentatively concluded that in view of the limited time during which we believe the standby program will need to be in effect, if at all, the administrative burden on ourselves and small refiners in collecting the data necessary to base the national utilization rate on all U.S. refiners would be unjustified.

c. *Proposal to add large independent refiners to list of refiner-sellers for existing emergency allocation Buy/Sell Program.* The proposed implementation of Option II of the standby program could greatly increase the sales obligations of major refiners, because in addition to their existing obligations under the current Buy/Sell Program they would have additional obligations under the Special Buy/Sell Program. Therefore, we believe it might be appropriate to provide for the addition of large independent refiners to the list of refiner-sellers under the existing emergency allocation Buy/Sell Program. Accordingly, the amendments, discussed under Option I, relating to the designation of large independent refiners as refiners-sellers for purposes of emergency allocations under the currently existing Buy/Sell Program are also being proposed in conjunction with the proposed activation of Option II. Of course, if a large independent refiner were a buyer under the Special Buy/Sell Program it would not have any sales

obligations under the existing Buy/Sell Program.

3. *Option III.* Option III would activate the standby regulations to eliminate the current Buy/Sell Program and establish a Special Buy/Sell Program for all refiners (except those refiners with less than 50,000 B/D of refining capacity would be exempt from any obligation to sell under the Program). As such, Option III expands on Option II by providing that any refiner, whether categorized as large or small under the regulations, would be permitted to purchase sufficient crude oil to run its refinery at the national utilization rate. A desirable feature of this option would be its coverage of all refiners which imported Iranian crude oil, as well as all refiners that might be indirectly affected by being outbid for their present non-Iranian supplies by firms that previously purchased from Iran. However, it also would permit allocations of crude oil with respect to inefficient refining operations. Since inefficient refiners tend to operate at lower utilization rates than efficient refineries, this option could have the undesired effect of transferring crude oil from efficient refineries to inefficient refineries.

The refinery utilization rates of large refiners are generally higher than those of small refiners. Therefore, as discussed under Option II, the use of data reflecting the utilization rates of small refiners in calculating the national utilization rate would result in a lower average rate than would result if only large refiners data were used in calculating the national utilization rate. However, since the national utilization rate calculated in reliance on data concerning both large and small refiners will not vary greatly from that which would be obtained if only large refiner data were used in the calculation, we believe that relying solely on data on the 22 large refiners would provide an appropriate means of promoting the efficient operation of small refineries, while insuring the availability of adequate supplies to permit maintenance of their operations in any event.

4. *Pricing Provisions.* At the time we established the standby crude oil allocation program, we also adopted standby crude oil pricing rules to govern prices in crude oil sales in the event we activated one of the alternative allocation schemes set forth in the standby program. Briefly, the standby pricing rules provide for the establishment of prices in sales of allocated crude oil to major, large independent, and small refiners as follows.

Sales of Allocated Crude Oil to Major Refiners and Large Independent Refiners. Under each of the optional standby programs proposed to be activated, the price in any sale of allocated crude oil to a major refiner or a large independent refiner would under the current standby regulations be required to be established pursuant to paragraph 3(b)(2)(i) of Special Rule No. 1 set forth in the Appendix to Subpart L of 10 CFR Part 212. In general, paragraph 3(b)(2)(i) provides that the seller may charge a price based on its purchase cost, which is defined as the seller's actual acquisition cost.

Small refiners with 50,000-175,000 barrels per day refining capacity. If either Option I and II were adopted, under the current standby regulations prices in sales of crude oil to refiners with refining capacities between 50,000 and 175,000 barrels per day may be required, at the discretion of the Administrator of the EFA, to be established either on the basis of actual acquisition cost, in accordance with the provisions of paragraph 3(b)(2)(i) of Special Rule No. 1, or on the basis of weighted average acquisition cost of imported crude oil, in accordance with the provisions of section 212.94, which sets forth the pricing provisions for the current Buy/Sell Program. If Option III were adopted, under the current standby regulations sales to members of this group of small refiners would be required to be priced in the same manner as major and large independent refiners, i.e., on the basis of actual acquisition cost in accordance with paragraph 3(b)(2)(i) of Special Rule No. 1.

Small refiners with less than 50,000 barrels per day refining capacity. If either Option I and II were adopted, under the current standby regulations sales of allocated crude oil to refiners with less than 50,000 barrels per day refining capacity would be required to be made at the sellers' weighted average costs for imported crude oil, in accordance with section 212.94. If Option III were adopted, under the current standby regulations prices in sales of allocated crude oil would be required to be priced in accordance with paragraph 3(b)(2)(i) of Special Rule No. 1 which, similar to section 212.94, generally provides that the price in sales to refiners with less than 50,000 barrels per day capacity shall be the weighted average landed costs (as defined in section 212.82) of the sellers' imported crude oil of the same sulphur content.

a. *Alternative to Actual Acquisition Cost.* Basing the price for crude oil sold pursuant to the standby program on

actual acquisition cost of the same crude oil provides the maximum incentive for a refiner-seller to acquire incremental volumes of crude oil on the world market. However, it does not create any incentive for a refiner-seller to seek to pay the lowest possible price for that incremental supply of crude oil. This lack of incentive could be a source of upward pressure on spot market prices and could destroy the value of the standby program to refiner-buyers. Moreover, basing the selling price solely on the acquisition cost may create the opportunity for refiner-sellers to frustrate the program by arranging special purchases, for purposes of fulfilling their sales obligations, at prices in excess of what refiner-buyers will be willing to pay. Accordingly, while we may determine after reviewing the comments to adopt any pricing provision provided under Special Rule No. 1, we are proposing five alternatives to the use of actual acquisition costs for determining applicable prices in sales of allocated crude oil.

Under the first pricing alternative, a refiner-seller would in calculating its prices utilize the weighted average acquisition cost of that volume of crude oil for which the refiner-seller paid the highest prices and which is equal to three times the volume of allocated crude oil sold subject to this pricing provision. Under the second alternative, a refiner-seller would determine its prices by using the weighted average acquisition cost of all crude imported that month, excluding that 10 percent of crude oil imported that month for which the refiner-seller paid the highest prices relative to other purchases that month. Under the third alternative, a refiner-seller would determine its prices by utilizing the weighted average acquisition cost of crude oil imported that month. Under the fourth alternative, the DOE would establish a uniform sales price for all sellers based upon the weighted average acquisition cost of all crude oil imported by all refiners-sellers in that month, excluding that 5 percent of crude oil imported that month for which refiner-sellers paid the highest prices relative to other purchases that month. Finally, under the fifth alternative, prices for sales under the Buy/Sell Program would be uncontrolled except that the seller would be required to negotiate in good faith with the buyer to establish a sales price.

b. *Alternative Pricing Provisions for Sales to Small Refiners if Option III is Adopted.* As discussed below in a following section, we are proposing to amend the § 212.94 price rule applicable to sales under the current Buy/Sell

Program to establish uniform prices to small refiners. If Option I or II is implemented, sales to small refiners with 50,000 barrels per day or less refining capacity would be subject to such an amended pricing provision, while the Administrator of ERA would have the discretion to order sales to small refiners with refining capacity between 50,000 and 175,000 barrels per day to be priced subject to that provision. However, if Option III is implemented, under the current standby pricing provisions in Special Rule No. 1 to Subpart L, the price for allocated crude oil would be the actual cost of the particular crude oil sold, if the small refiner's capacity is between 50,000 and 175,000 barrels per day, and would be the seller's weighted average cost of imported crude oil, if the small refiner's capacity is 50,000 barrels per day or less. We are proposing that, if Option III is implemented, the Administrator be given the discretion to order that sales to either group of small refiners be priced subject to our proposal to establish uniform prices under § 212.94.

B. *Proposed Revisions to the Existing Buy/Sell Program.* Even before the President's action to prohibit imports of Iranian oil, many small refiners had raised questions regarding the effectiveness and fairness of the current Buy/Sell Program in light of today's highly unsettled crude oil market.

At the time the present form of the Buy/Sell Program was adopted in October 1977, there was a surplus of foreign crude oil available for importation into the United States, and the program was thus premised upon the belief that supplies of crude oil for most small refiners were and would continue to be adequate. The current international crude oil market, even without consideration of the present Iranian situation, exhibits market conditions vastly different from those prevalent in October 1977. During the past year, we have received numerous reports from small refiners that they have at times been unable to purchase adequate foreign crude oil supplies at any price. Other small refiners have been unable to pay the high premiums commanded by certain of the light, sweet foreign crude oils in the spot market. For these crude oils, spot market transactions involving large premiums over normal contract prices have been reported. In view of these considerations, revisions to the current Buy/Sell Program might be necessary—irrespective of the President's decision to ban Iranian imports—in order to make the program more responsive to recent market conditions which may

only be exacerbated by the current Iranian situation. Accordingly, we are proposing various amendments to section 211.65, any or all of which we may adopt in conjunction with or independent of any further action we may take in this rulemaking proceeding to activate the standby crude oil allocation program.

1. *Proposed amendments to establish uniform prices to refiner-buyers under the Buy/Sell Program.* Because of the two-tier pricing structure existing in the world crude oil market, in recent months the disparity in the average acquisition costs of refiner-sellers has increased significantly. As a result, the price paid by a particular small refiner for crude oil allocated under the program may be substantially greater than that by another refiner-buyer under the program. Furthermore, in many instances during recent months the average acquisition cost of crude oil imported by some refiner-sellers has been higher than those spot market prices which we have deemed are so excessive as to effectively deny a small refiner that source of supply. The situation described above has thus strained the orderly operation of the program.

At this moment it is impossible to predict whether the enormous disparities in selling prices that currently exist in the world market will continue to prevail. On the one hand, events in Iran might cause some escalation of spot market prices. On the other hand, spot market prices appear to have stabilized in recent weeks notwithstanding the Iranian situation, and future events may cause an equilibrium pricing level to be reached soon for all world market crude oil.

However, for purposes of planning we believe it is prudent to prepare for the possibility that the current price disparities and strain on the Buy/Sell Program will continue. Therefore, we are proposing amendments to the pricing provisions of the current program under which all refiner-buyers purchasing crude oil under the program would pay the same price for allocated crude oil. Specifically, we propose to amend section 212.94 to provide that in any month a refiner-seller may only charge in any sale of crude oil under the program the national weighted average cost of all crude oil imported by all refiner-sellers in that month (which weighted average price would be determined by DOE from information supplied by refiner-sellers), plus five cents per barrel, plus any adjustments for transportation, gravity and sulphur content.

We recognize that data from which we could calculate the national weighted average cost of all crude oil imported by all refiner-sellers in any given month would not be available until after that month. Therefore, we believe prices charged by refiner-sellers could vary significantly, even as between sellers making good faith efforts to discern average market prices, and thereby create market distortion.

In view of this consideration, we are proposing an alternative proposal to amend section 212.94 to provide that in any month a refiner seller would be permitted in any sale of Buy/Sell crude oil only that price announced by the ERA prior to the beginning of the month as the price at which all sales of oil allocated under the program shall be transacted during that month. Under this alternative, we are proposing three subalternatives as to the basis upon which ERA would set the price. First, the price could be set at the estimated average acquisition cost. Second, the price could be set at the estimated average acquisition cost plus \$X per barrel. Third, the price could be set at that level which we project will be above the price at which 80 percent or some other percentage of all transactions to import crude oil will be made. The justification for the last two alternatives would be to provide an incentive to both refiner-sellers and refiner-buyers to seek additional crude oil supplies.

In order to permit those refiners-sellers with average acquisition costs higher than the national average to recover their average costs and to prevent any undeserved enrichment of those refiners-sellers with average acquisition costs less than the national average, we are also proposing to revise the Entitlements Program to provide that a refiner-seller whose average acquisition cost was above the national average for refiner-sellers would be issued a number of supplemental entitlements equal in value to an amount calculated by determining the difference between the refiner's average acquisition cost for imported oil and the national average for all refiner-sellers and multiplying the amount of such difference by the number of barrels which it sold under the program in that month. Conversely, a refiner-seller whose average acquisition cost was below the national average would incur an obligation to buy a supplemental number of entitlements equal in value to an amount calculated by determining the difference between the refiner's average acquisition cost for imported crude oil and the national average for all

refiner-sellers and multiplying the amount of such difference by the number of barrels it sold under the program in that month.

2. *New or expanded refineries.* The current provisions of the regular Buy/Sell Program provide for "starter" allocations of crude oil equal to 25 percent of new or expanded refining capacity. However, the regulations provide that such starter allocations will be available only to those small refiners which can demonstrate that both completion of the process design for the new facilities and irrevocable commitment of 20 percent of the total cost of the project occurred prior to August 24, 1977, the date on which the current program was promulgated. This restriction also is applicable to the current emergency allocation Buy/Sell Program.

In the period following August 24, 1977 many small refiners have proceeded to construct or expand refineries even though they were not eligible for starter allocations. They did so because crude oil has been relatively obtainable during much of this period. Some of these new or expanded refineries have played important roles in meeting our nation's demand for petroleum products since they possess the capabilities of producing significant volumes of unleaded gasoline, low sulfur fuel oil and other products for which there is generally inadequate refining capacity. In some instances, their contribution currently is being hampered by an inability to obtain adequate amounts of crude oil due to unfavorable market conditions.

Accordingly, we are proposing that those new or expanded refineries which do not qualify under the existing provisions for a starter allocation be permitted a starter allocation of 25 percent of the new or expanded capacity, if the small refiner can demonstrate that the new or expanded capacity is downstream of the crude distillation process (such as reforming capacity to make unleaded or low-lead gasoline, desulphurization equipment to make low-sulfur fuel oil, or coking or cracking equipment to increase light end product recovery).

We are also proposing to include these same new or expanded refineries as eligible recipients in the current emergency allocation Buy/Sell program on the same basis as all other small refineries. However, in order to prevent undue burden on refiner-sellers which might result if landlocked or otherwise inaccessible refiners were allocated crude oil supplies, we are proposing an alternative that would provide that a new or expanded refinery would qualify

for emergency allocations only if such refining facilities were located at a port or on a navigable inland waterway providing access to imported crude oil or have direct access to a pipeline that routinely carries imported crude oil.

We specifically request comments on whether inclusion of these new or expanded small refineries is necessary or appropriate under both the regular and emergency allocation current Buy/Sell Program, on whether their inclusion only in the emergency allocation program is necessary or appropriate.

3. *Proposal to add large independent refiners to list of refiner-sellers for existing emergency allocation Buy/Sell Program.* As discussed above, large independent refiners have greatly increased their relative share of refining capacity since the inception of the Buy/Sell Program in 1973. Therefore, we believe it might be appropriate to provide for the addition of these refiners to the list of refiner-sellers under the existing emergency allocation Buy/Sell Program. Accordingly, the above discussed proposed amendments relating to the designation of large independent refiners as refiner-sellers under certain of the standby regulations options are hereby proposed with respect to the currently existing emergency allocation Buy/Sell Program, regardless of other action we may take in this proceeding to activate any aspects of the standby crude oil allocation program.

III. Termination

In the event that any of the proposals relating to the activation of the standby crude oil allocation program are adopted as final, we propose that they be made effective from the date of issuance through March 31, 1980. By that time, we expect that any shortfall resulting from the recent curtailment of Iranian crude oil imports will have subsided as U.S. firms affected by the cut off secure replacement supplies from other markets. While we therefore do not anticipate any need to extend beyond March 31, 1980 the effectiveness of any order we may issue to implement the standby program, we will be closely monitoring market conditions during the next several months in order to determine at the earliest possible time any action which may be necessary to insure the continued distribution of crude oil supplies among refiners in an equitable manner so as to prevent any firm or region from bearing an unfair share of any burden which may result due to a shortage or dislocation of crude oil supplies.

We are not proposing a termination date with respect to those proposals

which would amend the current Buy/Sell Program. However, it is our conclusion that the operation of these amendments would not be necessary beyond such time as stabilization of the international crude oil market occurs. Accordingly, we will also periodically review the need for the continued operation of any of these proposals which we may adopt in this proceeding.

IV. Other Matters

The Environmental Protection Agency has expressed its concern that under the current situation, adoption of the foregoing proposals might encourage refiners to purchase higher sulfur crude oil. Specifically, the EPA is concerned that the existing sulfur content differential in Part 212.94(b)(4) might create an incentive for refiners to purchase higher sulfur crude oil. We therefore are adopting the EPA's suggestion that we include as part of this notice a proposal to increase the price adjustment from 3 cents to 9 cents. We request comments on whether such an amendment is necessary to assure that enactment of this proposal will not result in any greater incentive to purchase higher sulfur crude oils. We also request comments as to whether, in the event that we do adopt an amendment increasing the price adjustment, an adjustment from 3 cents to 9 cents is appropriate, or whether a different level of increase would be preferable.

V. Procedural Requirements

A. Section 404 of the DOE Act. Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act, we are referring this rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The Commission has until the close of the public comment period to make that determination.

B. Section 7 of the FEA Act. Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. § 787 *et seq.*, Pub. L. 93-275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of

the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of this notice was sent to the EPA Administrator. The Administrator's comments regarding this notice are addressed in an earlier section of this preamble and are reflected in our proposal.

C. National Environmental Policy Act. ERA has determined and the Assistant Secretary for Environment has concurred that the proposed rule if adopted would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* This determination is based on the following reasons. First, the proposed rule is designed to even out disparate impacts on domestic refiners which may result from any loss of crude oil supplies due to the Iranian oil cutoff. Implementation of the proposed rule will neither increase nor decrease the available supply of crude oil. In addition, we are proposing to increase the price adjustment for sulfur content differentials to the extent necessary to avoid any change in the existing incentives to buy low-sulfur crude oil.

D. Executive Order 12044. Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all proposed "significant" regulations for public comment for a minimum of 60 days. In section 2(c), the Order recognizes that there are some instances where an agency may appropriately determine that it is necessary to provide for a shorter time period. In accordance with paragraph 12 of the DOE's implementing procedures, DOE Order 2030.1 (44 FR 1032, January 3, 1979), the sixty day public comment period has been waived by the Deputy Secretary for the following reason, which is discussed more fully in earlier sections of this preamble. The curtailment of Iranian crude oil imports raises the possibility of a significant reduction in crude oil supplies to some refiners on or about January 1, 1980. Such an occurrence may necessitate the immediate adoption of one or more of the proposed rules, in order to even out any disparate impacts of such a shortage on various refiners. Under these circumstances, the Deputy Secretary has determined that adherence to the normal 60 day advance public comment period is not possible because the proposed rule would not be able to be made effective by the time the reduction in supply would occur. Such an eventuality could be of emergency proportions. We are, however, providing

for a 30-day period for public comment, which period is consistent with the minimum public comment period required by section 501(b) of the Department of Energy Organization Act.

The Executive Order also requires that a regulatory analysis be prepared for all significant regulations which are likely to have a significant impact. For the reasons supporting the waiver of the sixty-day comment period, the Deputy Secretary has waived the requirement for a regulatory analysis under Executive Order 12044 and DOE's implementing procedures in DOE Order 2030.

VI. Written Comment and Public Hearing Procedures

A. Written Comments. You are invited to participate in this proceeding by submitting data, views or arguments with respect to the matters contained in this notice. Comments should be submitted by thirty days from publication of this notice to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Activation of Standby Crude Oil Allocation Program." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearing. 1. *Procedure for Requests to Make Oral Presentation.*—If you have any interest in the matters discussed in the notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., e.s.t., on December 10, 1979. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.s.t., December 11, 1979. You will be required to submit one hundred copies of your statement to the Department of Energy, Room 3000A, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., before 4:30 p.m., e.s.t., on the day before the hearing.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based

on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. It will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., local time, on the day before the hearing. If you wish to have a question asked at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcript of the hearing from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C., § 6201 *et seq.*, Pub. L. 94-163 as amended, Pub. L. 94-385, and Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91, Pub. L. 95-509, Pub. L. 95-619, Pub. L. 95-620, and Pub. L. 95-621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, we propose to amend Parts 211 and 212 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., November 23, 1979.

David J. Bardin,
Administrator, Economic Regulatory
Administration.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Subpart C Appendix (Amended)

1. The Appendix to Subpart C of Part 211 is amended immediately following Special Rule No. 10 by the addition of Standby Mandatory Crude Oil Allocation Program Activation Order No. 1 reading as follows:

Proposed Alternative To Implement Option I

Standby Mandatory Crude Oil Allocation Program Activation Order No. 1. This order activates, effective January 1, 1980, the Standby Mandatory Crude Oil Allocation Program set forth in Special Rule No. 10 to Subpart C of 10 CFR Part 211, for the period January 1, 1980 through March 31, 1980. Pursuant to paragraph 8 of Special Rule No. 10, paragraphs (c) and (i) of § 211.65 are ordered to be amended as provided in paragraph 8. Pursuant to paragraph (i) of § 211.65, as amended by this order, it is further ordered that the provisions of [Alternative 1: § 212.94] [Alternative 2: Special Rule No. 1 to Subpart L of Part 212] shall apply with respect to sales of crude oil pursuant to this section to refiners whose DOE certified crude oil refining capacity is greater than 50,000 barrels per day but less than 175,000 barrels per day.

Proposed Alternative To Implement Option II

Standby Mandatory Crude Oil Allocation Program Activation Order No. 1. This order activates, effective January 1, 1980, the Standby Mandatory Crude Oil Allocation Program set forth in Special Rule No. 10 to Subpart C of 10 CFR Part 211, for the period January 1, 1980 through March 31, 1980. Pursuant to paragraph 2(b) of Special Rule No. 1 to Subpart L of 10 CFR 212, it is ordered that the provisions of [Alternative 1: § 212.94] [Alternative 2: Special Rule No. 1] shall apply with respect to sales of crude oil pursuant to this section to refiners whose DOE certified crude oil refining capacity is not greater than 50,000 barrels per day.

Proposed Alternative To Implement Option III

Standby Mandatory Crude Oil Allocation Program Activation Order No. 1. This order activates, effective January 1, 1980, the Standby

Mandatory Crude Oil Allocation Program set forth in Special Rule No. 10 to Subpart C of 10 CFR Part 211 (the Special Rule), for the period January 1, 1980 through March 31, 1980. Pursuant to paragraph 3(a) of the Special Rule, it is ordered that the exemption for which that paragraph provides is not applicable. [Additional proposed provisions: Pursuant to paragraph 2(b) of Special Rule No. 1 to Subpart L of CFR 212, it is ordered that the provisions of [Alternative 1: § 212.94] [Alternative 2: Special Rule No. 1] shall apply with respect to sales of crude oil pursuant to this section to refiners whose DOE certified crude oil refining capacity is greater than 50,000 barrels per day but less than 175,000 barrels per day. [Additional proposed provisions: Pursuant to paragraph 2(b) of Special Rule No. 1 to Subpart L of 10 CFR 212, it is ordered that the provisions of [Alternative 1: § 212.94] [Alternative 2: Special Rule No. 1] shall apply with respect to sales of crude oil pursuant to this section to refiners whose DOE certified crude oil refining capacity is not greater than 50,000 barrels per day.

§ 211.62 (Amended)

2. Section 211.62 is amended by revising the definition of "National domestic crude oil supply ratio" to read as follows: "National domestic crude oil supply ratio" means, for a particular month, the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate adjusted crude oil receipts of all refiners, decreased by a number of barrels of deemed old oil equal to the number of entitlements issuable to small refiners under § 211.67(e) and the number of entitlements issuable under § 211.67(a)(4), § 211.67(a)(5), and § 211.67(a)(6), and increased or decreased by a number of barrels of deemed old oil equal to the increase or decrease in the number of entitlements issuable pursuant to the operation of § 211.67(a)(7), divided by the sum of the total volume of the crude oil run to stills for all refiners for the month and fifty percent (50%) of the total volume of imports of eligible products by eligible firms for that month. The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

§ 211.65 Method of allocation (Amended)

3. Section 211.65(a)(1) is amended to read as follows:

(a) *Eligibility for allocation.* (1) Any small refiner may apply to FEA for an

allocation for one or more of its refineries; *provided, that* the small refiner (i) purchased crude oil under the provisions of this section during the period September 1, 1976 through August 31, 1977 or (ii) was listed on the buy/sell notices during the period September 1, 1976 through August 31, 1977, with an allocation of zero (0) barrels in all four allocations quarters in that period, or (iii) as to any small refiner not shown on such buy/sell notices and any other small refiner with newly-constructed refining capacity or reactivated refineries or refining capacity, had completed the process design basis for the refining capacity concerned and had expended or was irrevocably committed to expend prior to August 24, 1977, an amount equal to at least twenty (20%) percent of the total cost of such refining capacity, or (iv) since August 24, 1977, had acquired capacity downstream of the crude distillation process through newly constructed refining capacity or reactivated refineries or refining capacity. In the case of a refiner described in (iii) or (iv), the ERA may assign such refining capacity a maximum allocation of twenty-five (25%) percent of the capacity. Such allocation will be in effect for a period not to exceed two allocation periods, following which the allocation for such refining capacity shall be calculated in accordance with the provisions of paragraph (b) of this section.

4. § 211.65(c)(2)(i) is revised to read as follows: (2)(i) Notwithstanding any provision of this section to the contrary, any small refiner (except a small refiner with newly-constructed refining capacity or reactivated refining capacity that does not satisfy the requirements of § 211.65(a)(1)(iii) of this Chapter) which is incurring, or will incur in the allocation period for which an allocation is sought, a reduction in its supply of crude oil equal to the lesser of twenty-five (25) of its DOE certified crude oil refining capacity, or twenty-five (25) percent of the volume of its crude oil runs to stills, as adjusted for increases or decreases in the refiner's crude oil refining capacity as certified by DOE, during the period January through October 1978, and which is not able or cannot reasonably be expected to replace such lost supplies through its own efforts, may apply at any time for ERA for an emergency allocation of crude oil. The ERA may determine that a small refiner cannot reasonably be expected to replace its lost supplies through its own efforts where the small refiner must pay a price for replacement supplies significantly in excess of the range of prices being paid for most

crude oil purchased on the world market, considering the quality of crude oil in question. [Alternative proposal: Any small refiner which has capacity downstream of the crude distillation process through newly-constructed refining capacity or reactivated refineries or refining capacity may apply to ERA for an emergency allocation of crude oil only if the refinery is located at a port or on a navigable inland waterway providing access to imported crude oil or has direct access to a pipeline that routinely carries imported crude oil.]

5. § 211.65 is amended by adding a new paragraph (k) to read as follows: (k) *Special Provisions for emergency allocations under paragraph (c)(2) of this section.*

[Additional proposed provision: This paragraph applies only when Special Rule No. 10 to Subpart C of Part 211 of this chapter is in effect.]

(1) *Definitions.* For purposes of allocations under subparagraph (2) of paragraph (c) of this section—
"Seller" means any refiner that is a refiner-seller as defined in § 211.62 of this chapter and any other refiner that is not a small refiner as defined in § 211.62 of this chapter.

[Additional proposed provision: "Sellers utilization rate" means the total of the "estimated crude oil runs to stills" (as defined in paragraph 4 of Special Rule No. 10 to Subpart C, Part 211 of this chapter) of all "sellers" (as defined in this paragraph (k)) divided by the average monthly crude oil runs to stills of all such sellers during the period September 1978 through February 1979, as reported to ERA pursuant to § 211.66(h) of this chapter.]

"Fixed percentage share" means a seller's proportionate share, expressed as a percentage, of the total volume of crude oil runs to stills of all sellers during the period September 1978 through February 1979, as reported to ERA pursuant to § 211.66(h) of this chapter.

(2) *Sales obligations.* (i) The sales obligation with respect to allocations assigned under paragraph (c)(2) of this section for a refiner-seller for an allocation period shall be in addition to any sales obligation for such refiner-seller under paragraph (f) of this section for such allocation period.

(ii) For each allocation period, sellers shall be required to offer for sale, directly or through exchange, to refineries assigned allocations under paragraph (c)(2) of this section a quantity of crude oil equal to the sum of the quantities of crude oil allocated. The sales obligation for each seller for an allocation period shall be equal to that seller's fixed

percentage share multiplied by the total of the allocations assigned under paragraph (c)(2), adjusted by any carryovers of unsold sales obligations in previous allocation periods. [Additional proposed provision: *provided, that*, any seller that is not a refiner-seller as defined in § 211.62 of this chapter shall be relieved of its sales obligation for the allocation period if the sales obligation would reduce such seller's estimated crude oil runs to stills below the sellers' utilization rate for the allocation period.]

§ 211.67 [Amended]

6. Section 211.67 is amended in paragraph (a) by adding a new subparagraph (7) to read as follows:

(7) For each month, commencing with the month of January 1980, (i) the number of entitlements issued under paragraph (a)(1) of this section to each refiner which sells crude oil pursuant to the provisions of § 211.65 of this subpart and has weighted average acquisition costs for imported high and low sulfur crude oil, respectively, in that month which is in excess of the national weighted average acquisition costs for imported high and low sulfur crude oil, respectively, (as defined in § 212.94 of this chapter), shall be increased by that number of entitlements equal in value to the difference between that refiner's weighted average acquisition costs for imported high and low sulfur crude oil, respectively, in that month and the national weighted average acquisition costs for imported high and low sulfur crude oil, respectively, times the number of barrels sold by that refiner and priced pursuant to the provisions of § 212.94 of this chapter; and (ii) the number of entitlements issued under paragraph (a)(1) of this section to each refiner which sells crude oil pursuant to the provisions of § 211.65 of this subpart and has weighted average acquisition costs for imported high and low sulfur crude oil, respectively, in that month which is less than the national weighted average acquisition costs for imported high and low sulfur crude oil (as defined in § 212.94 of this chapter) shall be reduced by that number of entitlements equal in value to the difference between that refiner's weighted average acquisition costs for high and low sulfur imported crude oil, respectively, in that month and the national weighted average acquisition costs for imported high and low sulfur crude oil, respectively, times the number of barrels sold by that refiner and priced pursuant to the provisions of § 212.94 of this chapter.

* * *

Subpart C Appendix IX [Amended]

7. The Appendix to Subpart C of Part 211 is amended by the revision of paragraph 5 of Special Rule No. 10 to read as follows:

Alternative 1

5. *Method of Allocation.* For purposes of this special rule, § 211.65 shall read as follows:

§ 211.65 Mandatory Crude Oil Allocation Program.

(a) General rule.

For each allocation period, a refiner shall be eligible to buy or be required to offer for sale an amount of crude oil calculated as follows:

(1) Each U.S. refiner shall submit to the ERA its estimate of crude oil runs to stills for the allocation period.

(2) For each allocation period, the ERA shall compute the national estimated crude oil runs to stills based on the total estimated crude oil runs to stills for all U.S. refineries for that allocation period.

(3) The ERA shall compute the average daily crude oil runs to stills during the base period for each domestic refiner by dividing the total volume of that refiner's crude oil runs to stills in the base period by the number of days in the base period (365 or 366).

(4) The ERA shall multiply this daily average volume of crude oil runs to stills for each refiner by the number of days in the allocation period, to determine the refiner's base period average monthly crude oil runs to stills for the allocation period.

(5) The ERA shall compute a national base period average monthly crude oil runs to stills by aggregating the base period average monthly crude oil runs to stills of all U.S. refineries for the allocation period.

(6) The ERA shall divide the national estimated crude oil runs to stills (clause (2)) for the allocation period by the national base period average monthly crude oil runs to stills (clause (5)) to determine the national utilization rate for the allocation period.

(7) The ERA shall multiply the national utilization rate by the refiner's base period average monthly crude oil runs to stills for the allocation period (clause (4)) to determine the refiner's allowable crude oil runs to stills during the allocation period.

(8) The ERA shall subtract the refiner's estimated crude oil runs to stills (clause (1)) from the refiner's allowable crude oil runs to stills during the allocation period (clause (7)) to determine the refiner's purchase or sale obligation, subject to any adjustments made pursuant to paragraph (d)(2) of this section or § 211.71(d) of this special rule.

(9) If the result of the calculation in clause (8) is positive, the refiner is entitled to purchase that quantity of crude oil which is equal to the difference between

(i) the national utilization rate minus [alternative a: two] [alternative b: three] percent multiplied by the refiner's base period average monthly crude oil runs to stills, and

(ii) the refiner's estimated crude oil runs to stills during the allocation period; provided that the amount in clause (i) is greater than the amount in clause (ii).

(10) If the result of the calculation in clause (8) is negative, the refiner is required to offer for sale that quantity of crude oil calculated pursuant to paragraph (c) of this section, unless the exemption provided for in section 3 of this special rule is applicable to that refiner.

(11) The first allocation period shall commence on the date ordered by the Administrator.

(b) Buyers. Each buyer shall:

(1) be entitled to purchase, either directly or through exchange, from a seller, a quantity of crude oil equal to the amount computed pursuant to paragraph (a) of this section; and
(2) be required to refine or have processed any crude oil purchased or exchanged for crude oil purchased pursuant to this special rule within 60 days following the date of execution of the sale/purchase agreement.

(c) *Sellers.* Except as provided in paragraph 3 of this special rule, each seller shall be required to offer for sale, directly or through exchange, to buyers a quantity of crude oil equal to the amount which ERA shall compute to be necessary to bring each seller to the extent practicable to the same utilization rate for the allocation period; *provided that* the sales obligations with respect to buyers that have a DOE certified crude oil refining capacity of 50,000 barrels per day or less shall be distributed on a pro-rata basis among all sellers, and each seller's pro-rata share of such sales obligations shall be equal to its percentage share of the total sales obligations, as specified in the buy/sell notice issued pursuant to § 211.65(g) of this special rule.

Alternative 2

5. *Method of Allocation.* For purposes of this special rule, § 211.65 shall read as follows:

§ 211.65 Mandatory Crude Oil Allocation Program.

(a) *General rule.* In each allocation period (i) a buyer shall be entitled to purchase an amount of crude oil equal to seventy-five (75) percent the difference between

(A) the national utilization rate multiplied by the refiner's base period average monthly crude oil runs to stills, and

(B) the refiner's estimated crude oil runs to stills during the allocation period, and
(ii) a seller shall be required to offer for sale that amount of crude oil calculated pursuant to paragraph (c) of this section.

(2) Definitions.

X = quantity of crude oil a buyer is entitled to purchase (if X is a positive number) or required to offer for sale (if X is a negative number) during the allocation period

A = refiner's Estimated Crude Oil Runs to Stills during the allocation period

B = refiner's Base period Average Monthly Crude Oil Runs to Stills

C = National Estimated Crude Oil Runs to Stills for all U.S. refineries for the allocation period

D = National Base Period Average Monthly Crude Oil Runs to Stills by all U.S. refineries

(3) *Formula.*

$$.75 \left(\frac{C}{D} \times B \right) - A = X$$

(4) *Calculation Procedure.* For each allocation period, the amount of crude oil a refiner is eligible to buy shall be calculated as follows:

(i) Each U.S. refiner shall submit to the ERA its estimate of crude oil runs to stills for the allocation period.

(ii) For each allocation period, the ERA shall compute the national estimated crude oil runs to stills based on the total estimated crude oil runs to stills for all U.S. refineries for that allocation period.

(iii) The ERA shall compute the average daily crude oil runs to stills during the base period for each domestic refiner by dividing the total volume of that refiner's crude oil runs to stills in the base period by the number of days in the base period (365 or 366).

(iv) The ERA shall multiply this daily average volume of crude oil runs to stills for each refiner by the number of days in the allocation period, to determine the refiner's base period average monthly crude oil runs to stills for the allocation period.

(v) The ERA shall compute a national base period average monthly crude oil runs to stills by aggregating the base period average monthly crude oil runs to stills of U.S. refineries for the allocation period.

(vi) The ERA shall divide the national estimated crude oil runs to stills (clause (ii)) for the allocation period by the national base period average monthly crude oil runs to stills (clause (v)) to determine the national utilization rate for the allocation period.

(vii) The ERA shall multiply the national utilization rate by the refiner's base period average monthly crude oil runs to stills for the allocation period (clause (iv)) to determine the refiner's allowable crude oil runs to stills during the allocation period.

(viii) The ERA shall subtract the refiner's estimated crude oil runs to stills (clause (i)) from the refiner's allowable crude oil runs to stills during the allocation period (clause (vii)).

(ix) If the result of the calculation in clause (viii) is positive, the refiner is entitled to purchase seventy-five percent of that quantity of crude oil.

(x) If the result of the calculation in clause (viii) is negative, the refiner is required to offer for sale that quantity of crude oil calculated pursuant to paragraph (c) of this section; unless the exemption provided for in section 3 of this special rule is applicable to that refiner.

(5) *First allocation period.* The first allocation period shall commence on the date ordered by the Administrator.

(b) Buyers. Each buyer shall:

(1) be entitled to purchase, either directly or through exchange, from a seller, a quantity of crude oil equal to the amount computed pursuant to paragraph (a) of this section; and

(2) be required to refine or have processed any crude oil purchased or exchanged for crude oil purchased pursuant to this special rule within 60 days following the date of execution of the sale/purchase agreement.

(c) *Sellers.* Except as provided in paragraph 3 of this special rule, each seller shall be required to offer for sale, directly or through exchange, to buyers a quantity of

crude oil equal to the amount computed pursuant to paragraph (a) of this section; *provided* that if the total sales obligations of all sellers do not equal or exceed the total buyer allocations of all buyers, then ERA shall adjust the sale obligation of each seller on a pro-rata basis so that total sales obligations equal total buyer allocations; further *provided* that the sales obligations with respect to buyers that have a DOE certified crude oil refining capacity of 50,000 barrels per day or less shall be distributed on a pro-rata basis among all sellers, and each seller's pro-rata share of such sales obligations shall be equal to its percentage share of the total sales obligations, as specified in the buy/sell notice issued pursuant to § 211.65(g) of this special rule.

Subpart C Appendix [Amended]

8. The Appendix to Subpart C of Part 211 is amended by the revision of the definitions of "National base period average monthly crude oil runs to stills" and "National estimated crude oil runs to stills" to read as follows:

"National base period average monthly crude oil runs to stills" means the total base period average monthly crude oil runs to stills of all U.S. refiners the refining capacity of which exceeds 175,000 barrels per day.

"National estimated crude oil runs to stills" means, for any allocation period, the total of the estimated crude oil runs to stills for all U.S. refiners the refining capacity of which exceeds 175,000 barrels per day, minus the quantity of crude oil directed to such refiners pursuant to § 211.65(d)(2) or § 211.71(d) of this special rule.

The Appendix to Subpart C of Part 211 is amended by the revision of paragraph 8 to read as follows:

8. *Special Allocation Procedures.* When the provisions of this special rule are in effect, the Administrator may order the following amendments to paragraph (c) and (i) of § 211.65 and, in that event, paragraphs 3, 4 (except the definitions of "Administrator," "DOE" and "ERA"), 5, 6 and 7 of this special rule shall not be in effect:

(a) Paragraph (c) may be amended by revising the heading and subparagraph (2) to read as follows:

(c) *Review of eligibility for allocations, adjustments to purchase opportunities, and emergency allocations.*

(2)(i) Notwithstanding any provision of § 211.62 or any other provision of this section, upon application at any time by any refiner, the ERA may grant that refiner an emergency allocation for one or more allocation periods, or for part of an allocation period, the effect of which shall be to maintain that refiner's crude oil supplies at a level equivalent to that

refiner's supply level for the corresponding period of the previous year; *provided, that*, such refiner shall be required to demonstrate that it is incurring, or will incur in the allocation period for which the allocation is sought, a significant reduction, due to circumstances over which such refiner reasonably had no control, in its supply of crude oil due directly or indirectly to shortages of crude oil in the world markets; *further provided, that*, unless such refiner has significant refining capacity downstream of the crude distillation process, it must be able to meet the criteria for emergency allocations under this paragraph that were in effect on November 12, 1979.

§ 212.94 [Amended]

10. Paragraphs (a)(2) and (b)(1) of § 212.94 are revised to read as follows:

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

(a) * * *

(2) *Definitions.* For the purposes of this section—

"High sulfur crude oil" means crude oil the sulfur content of which is equal to or greater than 0.6% (six-tenths of one percent) by weight.

"Low sulfur crude oil" means crude oil the sulfur content of which is less than 0.8% (six-tenths of one percent) by weight.

"Lower forty-eight states" means the forty-eight contiguous states of the United States.

[Alternative 1: "National average acquisition cost" means for low sulfur and high sulfur crude oil, respectively, the weighted average per barrel landed cost (as defined in § 212.82, but utilizing the volumes of imported crude oil at the time of importation thereof into the United States) of low sulfur and high sulfur crude oil, respectively, calculated for all refiners which sell crude oil pursuant to section 211.65.]

[Alternative 2: "National average acquisition cost", for a particular month, means, for low sulfur and high sulfur crude oil, respectively, the price which ERA designates at the beginning of that month to represent [alternative a: the estimated average acquisition cost.] [alternative b: the estimated average acquisition cost plus a fixed dollar amount.] [alternative c: the price which ERA projects will be above 60 percent of all prices paid in transactions to import crude oil.]]

(b) *Rule.* (1) Notwithstanding the general rules described in this subpart, the price at which low sulfur and high sulfur crude oil, respectively, shall be

sold when required pursuant to § 211.65 of Part 211 of this chapter shall not exceed the national average acquisition cost, less the average cost of domestic transportation to the refiner-seller's refinery(s), of all low sulfur or high sulfur imported crude oil, respectively (other than crude oil imported from Canada), delivered to the refiner-seller in the month in which the sale is made, plus a handling fee of five cents per barrel, and any transportation, gravity and sulfur content adjustments as specified in subparagraphs (2) through (4), respectively, of this paragraph (b). Each refiner-seller making such a sale shall maintain records, which shall be made available to the FEA upon request, listing the volumes and costs of all imported low sulfur and high sulfur crude oil delivered to it.

Subpart L Appendix [Amended]

11. Special Rule No. 1 in the Appendix to Subpart L of Part 212 is amended in section 2(b) to read as follows:

(b) During the time period this special rule is in effect, it supersedes § 212.94, Title 10, Chapter II, Subpart F (Allocated Crude Pricing); *provided, that*, if the exemption in paragraph 3(a) of Special Rule No. 10 to Part 211 Subpart C is applicable, the provisions shall apply to sales of crude oil pursuant to § 211.65 of this chapter to small refiners whose DOE certified crude oil refining capacity is 50,000 barrels per day or less and with respect to sales of crude oil pursuant to § 211.65 of this chapter to refiners whose DOE certified refining capacity is greater than 50,000 barrels per day but less than 175,000 barrels per day; the Administrator may determine that either the provisions in § 212.94 or the provisions in this special rule shall apply, *further provided, that*, if the exemption in paragraph 3(a) of Special Rule No. 10 to Part 211 Subpart C is not applicable, then, with respect to sales of crude oil pursuant to § 211.65 of this chapter to small refiners whose DOE certified crude oil refining capacity is 50,000 barrels per day or less and with respect to sales of crude oil pursuant to § 211.65 of this chapter to refiners whose DOE certified refining capacity is greater than 50,000 barrels per day but less than 175,000 barrels per day, the Administrator may determine that either the provisions in § 212.94 or the provisions in this special rule shall apply.

12. Special Rule No. 1 in the Appendix to Subpart L of Part 212 is amended in section 3(b)(2)(i) to read as follows:

(b) *Rule.*

(2) The purchase cost to sellers of crude oil offered for sale pursuant to Special Rule No. 10, Part 211, Subpart C shall be:

(i) when the buyer has a DOE certified refining capacity of more than 50,000 barrels per day,

[Alternative 1: the weighted average acquisition cost of that volume of crude oil for which the refiner-seller paid the highest price and which is equal to three times the volume of crude oil sold subject to this pricing provision.]

[Alternative 2: the weighted average acquisition cost of all crude oil imported that month, excluding that 10 percent of crude oil imported that month for which the refiner-seller paid the highest prices relative to other purchases that month.]

[Alternative 3: the weighted average acquisition cost of crude oil imported that month by that refiner-seller.]

[Alternative 4: the weighted average acquisition cost of all crude oil imported by all refiner-sellers in that month, excluding that five percent of crude oil imported that month for which refiner-sellers paid the highest prices relative to other purchases that month.]

[Alternative 5: that price which the seller negotiated in good faith with the buyer.]

13. Section 212.94 is amended in subsection (4) of paragraph (b) to read as follows:

§ 212.94 Allocated crude pricing.

(b) *Rule.*

(4) A further price adjustment shall be made for sulfur content differential of crude oil offered for sale under § 211.65 of Part 211 of this chapter by adding to or subtracting from the weighted costs as calculated under paragraph (B)(1) of this section nine cents per barrel per one-tenth percent that the sulfur content by weight of the crude oil being offered for sale under § 211.65 of Part 211 of this chapter is either below or above, respectively, the percentage representing the weighted average sulfur content of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the applicable period specified in paragraph (b)(1) of this section for the refiner-seller.

Subpart L Appendix [Amended]

14. Special Rule No. 1 in the Appendix to Subpart L of Part 212 is amended in section 3(b)(5) to read as follows:

(5) A price adjustment shall be made for sulfur content differential of crude

oil offered for sale under Special Rule No. 10, Part 211, Subpart C, that is priced under paragraph (b)(2)(ii) of this special rule, by adding to or subtracting from the price nine cents per barrel (or as otherwise determined by the Administrator in light of prevailing market conditions) for each one tenth of one percent that the sulfur content by weight of the crude oil being offered for sale is either below or above, respectively, the percentage representing the weighted average sulfur content of the seller's imported crude oil of the same sulfur content category.

[FR Doc. 79-38593 Filed 11-23-79; 11:48 am]

BILLING CODE 6450-01-M

V
4
4

N
O

2
6

7
9

U M I

federal register

Monday
November 26, 1979

Part VI

**Department of the
Treasury**

Office of Foreign Assets Control

**Iranian Assets Control Regulations; Final
Rule**

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the first amendment is to add new § 535.414 interpreting § 535.508, which concerns payments into blocked accounts. The purpose of the second amendment is to add new § 535.504 authorizing certain judicial proceedings with respect to blocked accounts, up to but not including entry of judgment. The purpose of the third amendment is to add a new interpretation stating that payments received under § 535.508 may be distributed to others. The need for the first amendment is to make clear that § 535.508 only permits payments into blocked accounts held by U.S. domestic banks. The need for the second amendment is to authorize judicial proceedings to deal with a large volume of cases which are anticipated, and which will meet the terms of the new section. The need for the third amendment is to make clear that § 535.904 was originally intended to allow distribution of the payments authorized under that section. The effect of the amendments is that the limitations on the scope of the general authorization in § 535.508 will be clear, all cases falling within the conditions in § 535.504 will be licensed without individual license applications in each case and the meaning of § 535.904 will be clarified.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Dennis M. O'Connell, Chief Council,
Office of Foreign Assets Control,
Department of the Treasury,
Washington, D.C. 20220, 202-376-0236.

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553 requiring notice of proposed rulemaking, the opportunity for public participation and a delay in effective date are inapplicable. 31 CFR, Part 535 is amended by the addition of §§ 535.414, 535.415 and 535.504 as follows:

§ 535.414 Payments to blocked accounts under § 535.508.

(a) Section 535.508 does not authorize any transfer from a blocked account

within the United States to an account held by any bank outside the United States or any other payment into a blocked account outside the United States.

(b) Section 535.508 only authorizes payment into a blocked account held by a domestic bank as defined by § 535.320.

§ 535.415 Payment by Iranian Entities of Obligations to Persons within the United States.

A person receiving payment under § 535.904 may distribute all or part of that payment to anyone: *Provided*, That any such payment to Iran or an Iranian entity must be to a blocked account in a domestic bank.

§ 535.504 Certain judicial proceedings with respect to property of Iran or Iranian entities.

(a) Subject to the limitations of paragraphs (b) and (c) of this section, judicial proceedings are authorized with respect to property in which on or since the effective date there has existed an interest of Iran or an Iranian entity.

(b) This section does not authorize or license:

(1) The entry of any judgment or of any decree or order of similar or analogous effect upon any judgment book, minute book, journal or otherwise, or the docketing of any judgment in any docket book, or the filing of any judgment roll or the taking of any other similar or analogous action.

(2) Any payment or delivery out of a blocked account based upon a judicial proceeding, nor does it authorize the enforcement or carrying out of any judgment or decree or order of similar or analogous effect with regard to any property in which Iran or an Iranian entity has an interest.

(c) A judicial proceeding is not authorized by this section if it is based on transactions which violated the prohibitions of this part.

(Secs. 201-207, 91 Stat. 1626; (50 U.S.C. 1701-1706); E.O. No. 12170, 44 FR 65729)

Dated: November 23, 1979.

Stanley L. Sommerfield,

Director, Office of Foreign Assets Control.

Approved: Richard J. Davis, Assistant Secretary.

[FR Doc. 79-36603 Filed 11-23-79; 1:47 pm]

BILLING CODE 4810-25-M

Reader Aids

Federal Register
Vol. 44, No. 228
Monday, November 26, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

- 202-783-3238 Subscription orders (GPO)
- 202-275-3054 Subscription problems (GPO)
- "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
 - 202-523-5022 Washington, D.C.
 - 312-663-0884 Chicago, Ill.
 - 213-688-6694 Los Angeles, Calif.
- 202-523-3187 Scheduling of documents for publication
- 523-5240 Photo copies of documents appearing in the Federal Register
 - 523-5237 Corrections
 - 523-5215 Public Inspection Desk
 - 523-5227 Finding Aids
 - 523-5235 Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

- 523-3419
- 523-3517
- 523-5227 Finding Aids

Presidential Documents:

- 523-5233 Executive Orders and Proclamations
- 523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
- 5282
- 275-3030 Slip Law Orders (GPO)

Other Publications and Services:

- 523-5239 TTY for the Deaf
- 523-5230 U.S. Government Manual
- 523-3408 Automation
- 523-4534 Special Projects
- 523-3517 Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

62879-63078.....	1
63077-63508.....	2
63509-64058.....	5
64059-64396.....	6
64397-64780.....	7
64781-65024.....	8
65025-65378.....	9
65379-65580.....	13
65581-65728.....	14
65729-65958.....	15
65959-66174.....	16
66175-66562.....	19
66563-66778.....	20
66779-67070.....	21
67071-67342.....	23
67343-67618.....	26

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR	423.....	67343
485.....	64063	67349
3 CFR	427.....	62879
Executive Orders:	428.....	67355
12170.....	429.....	62879
12171.....	431.....	64786, 66178
Administrative Orders:	432.....	67361
Presidential Determinations:	722.....	65962
No. 80-1 of	724.....	63081
October 15, 1979.....	905.....	65962, 66779
No. 80-2 of	907.....	64838, 65963, 66780
October 23, 1979.....	910.....	63081, 65049, 65963,
No. 80-3 of		67075
October 23, 1979.....	959.....	63082, 65379
No. 80-4 of	971.....	65964, 66178
October 24, 1979.....	981.....	67075
No. 80-5 of	989.....	64397, 66574
November 13,	1421.....	67077
1979.....	1423.....	67080
No. 80-6 of	1424.....	67081
November 13,	1427.....	67083, 67084
1979.....	1434.....	67081
Proclamations:	1464.....	65965-65967
3279 (Amended by	1701.....	64069
Proc. 4702).....	1942.....	62880
4698.....	1962.....	64794
4699.....	1980.....	64797
4700.....	2024.....	65968
4701.....	3100.....	66179
4702.....	Proposed Rules:	
4703.....	Subtitle A.....	65862
5 CFR	Ch. I.....	65862
177.....	Ch. II.....	65862
213.....	Ch. III.....	65862
63079, 64064-64067,	Ch. IV.....	65862
65025-65031, 65959-65961,	Ch. V.....	65862
66567-66571	Ch. VI.....	65862
293.....	Ch. VII.....	65862
297.....	Ch. IX.....	65862
302.....	Ch. X.....	65862
315.....	Ch. XI.....	65862
338.....	Ch. XII.....	65862
351.....	Ch. XIV.....	65862
733.....	Ch. XV.....	65862
1201.....	Ch. XVI.....	65862
1206.....	Ch. XVII.....	65862
1312.....	Ch. XVIII.....	65862
Proposed Rules:	Ch. XXI.....	65862
531.....	Ch. XXIV.....	65862
6 CFR	Ch. XXV.....	65862
705.....	Ch. XXVI.....	65862
706.....	Ch. XXVII.....	65862
707.....	Ch. XXVIII.....	65862
7 CFR	Ch. XXIX.....	65862
2.....	210.....	63107
272.....	225.....	66605
273.....	235.....	63107
401.....	271.....	63496, 65077
	272.....	63496, 65318
	273.....	63496, 65989
	274.....	65318
	276.....	65318

277.....65318	316.....67087	39.....62881, 62882, 63519-63521, 64797, 65387, 65732, 65733, 66188, 66189, 67101-67103, 67369	1700.....67438
278.....63496	Proposed Rules:		17 CFR
318.....65080	Ch. I.....65862		1.....65970
906.....67130	Ch. II.....65862		140.....65735
910.....64839	Ch. III.....65862	71.....62883, 62884, 65388-65391, 65734, 66190, 67104, 67106, 67370-67373	145.....65970
959.....65592	Ch. VI.....65862		147.....65970
971.....67131	318.....65403		200.....64069, 65736
982.....63547	381.....65403		210.....62888, 65738
989.....62901			240.....67107
1001.....65989	10 CFR		249.....65739
1002.....65989	0.....62880		230.....84070
1004.....65989, 67427	2.....65049, 67088		Proposed Rules:
1006.....65989	20.....63515		210.....65774
1007.....65989	21.....63515		229.....67143
1011.....65989	50.....66575		230.....67143
1012.....65989	71.....63083		239.....67143
1013.....65989	73.....63515, 65969, 67089		240.....66607, 67143
1030.....65989	211.....63515, 68183		249.....67143
1032.....65989	212.....65722, 66186		250.....62912
1033.....65989	436.....64776, 65700		259.....62912
1036.....65989	450.....63519, 64797		270.....66608, 66612, 67150, 67152
1040.....65989	455.....63519, 64797		
1044.....65989	456.....64602		18 CFR
1046.....65989	465.....66780		2.....65055
1049.....65594, 65989	1023.....64270		35.....65740
1050.....65989	Proposed Rules:		141.....65741
1062.....65989	Ch. II.....63108, 64094, 65274		154.....65740
1064.....65989	Ch. III.....63108, 64094, 65274		157.....65055
1065.....65989	Ch. X.....63108, 64094, 65274		260.....65741
1068.....65989	51.....65598		270.....66577
1071.....65989	205.....67338		271.....62889, 66783, 67108
1073.....65989	211.....67602		272.....66192, 66786
1075.....65989	212.....67602		273.....66786
1076.....65989	221.....63109		274.....67108
1079.....65989, 67132	470.....64839		275.....66786
1094.....65989			281.....65585
1096.....65989	11 CFR		284.....66789
1097.....65989	107.....63036		292.....63114, 65744
1098.....65989	114.....63036		Proposed Rules:
1099.....65989	9008.....63036		2.....66613
1102.....65989	9032.....63756		35.....67154, 67158
1104.....65989	9033.....63756		46.....66205
1106.....65989	9034.....63756		154.....66613
1108.....65989	9035.....63756		270.....66613
1120.....65989	Proposed Rules:		277.....66208
1124.....65989	100.....64773		280.....67166
1125.....65989	110.....64773		282.....67170
1126.....65989	114.....64773		284.....67166
1131.....65989	9033.....63753		292.....67176
1132.....65989			19 CFR
1133.....64087, 65989	12 CFR		Proposed Rules:
1134.....65989	4.....65379		4.....64434, 66835
1135.....65989	5.....65380		144.....64434, 66835
1136.....65989	27.....63084		151.....64434, 66835
1137.....65989	28.....65381		159.....64434, 66835
1138.....65989	225.....64398, 65051, 65731		
1139.....65989	262.....64398		20 CFR
1421.....67134	264b.....64399		416.....64402
1464.....63107	265.....64398		675.....64290, 64328
1924.....65991	329.....66575		684.....64290
1980.....67134	541.....67089		688.....64328
3100.....65768	545.....67089		Proposed Rules:
8 CFR	720.....65731		Ch. I.....65556
214.....65726, 65727	Proposed Rules:		Ch. IV.....65556
9 CFR	211.....62902, 62903		Ch. V.....65556
1.....63488	561.....64840		Ch. VI.....65556
2.....63488	563.....65599		Ch. VII.....65556
3.....63488			208.....62912
78.....65969	13 CFR		260.....63096
92.....63082	101.....64401		416.....66836
113.....63083, 67087	540.....67091		614.....65406
160.....63488	14 CFR		
161.....63488	13.....63720		

21 CFR	886.....64095	724.....66801	256.....66196
73.....65974	888.....67177	806b.....66816	409.....64078
431.....67112	3282.....67440	881.....64075	418.....64080
510.....65975, 67113		2600.....64077	424.....64082
514.....67112	25 CFR	Proposed Rules:	434.....64082
520.....63096, 65975, 65978, 67113	31a.....67040	169.....65601	Proposed Rules:
	31b.....67040	169a.....65601	Ch. I.....63552, 65601, 65612
	31g.....65008	169b.....65601	51.....65084
	32b.....67040	1900.....65780	52.....63114, 64439, 65084, 65408, 65613, 65614, 65781, 65790, 65791, 66214, 67182
	256.....65747		60.....62914
	700.....65750		65.....65410, 65411, 65615, 66624, 66849, 67183
	26 CFR	32A CFR	Proposed Rules:
	1.....64405, 65061	601-662.....66846	61.....65791, 66850
	5.....63522		81.....62915
	Proposed Rules:		85.....66850
	145.....65080		120.....67442
	331.....65992		180.....66216, 66217
	338.....65992		230.....63552
	340.....65992		250.....67445
	353.....63270		257.....65615
	864.....64095		713.....64844, 67183
	868.....63292-63426, 65081		774.....67183
	880.....65992		761.....66851
	1000.....66616		
22 CFR			41 CFR
506.....63098			14-1.....63529
Proposed Rules:			14-7.....63529
51.....65600			15-7.....65587
161.....66838			105-54.....65071
23 CFR			105-62.....64805
650.....67578			Proposed Rules:
658.....63680			Ch. 4.....65862
770.....66193			3-1.....63115, 67183, 67185
Proposed Rules:			3-7.....63115, 67185
659.....63682			9-1.....67330
771.....66213			9-3.....67330
24 CFR			9-16.....67330
Ch. II.....67375			9-50.....67330
Ch. XXV.....66582			101-6.....66852
201.....64072			101-39.....65411
203.....64073			
205.....64073, 64403			42 CFR
207.....64073, 65580			50.....65072
213.....64073			405.....67381
220.....64073			Proposed Rules:
221.....64073			4.....66852
232.....64073			34.....64095
234.....64073			59a.....66852
235.....64073			63.....66852
236.....64073			64.....66852
241.....64073			72.....66853
242.....64073			435.....66855
244.....64073			436.....66855
250.....64073			43 CFR
570.....65950			3100.....64085
805.....64204			Proposed Rules:
841.....64405			3210.....67598
868.....64196			3211.....67598
880.....65060			Public Land Orders:
882.....65061, 65360			4520 [Revoked by
888.....65924			PLO 5685].....66196
3280.....66194			5685.....66196
4103.....66587			5680 [Corrected by
Proposed Rules:			5686].....66816
115.....65775			5686.....66816
203.....65776			5687.....67383
204.....65776			
208.....65081, 66846			44 CFR
402.....65992			55.....64082
571.....65776			64.....63529, 64808, 65752
881.....67177			65.....63530, 66602, 67126, 67129
883.....65778			

67.....63531-63534, 64421
65074
205.....64809

Proposed Rules:

67.....63117-63120, 63553-
63557, 64096, 64444, 64451,
64460, 64466, 64472, 65093-
65104, 66857, 67186
205.....63058

45 CFR

185a.....67384
205.....67421
1067.....67423
2101.....67050
2102.....67050
2103.....67050

Proposed Rules:

Ch. X.....65412
86.....66626
405.....63120
1152.....63120
1210.....65999
1211.....66003
1501.....64097
1067.....64815
1069.....64836

46 CFR

30.....66500
32.....66500
34.....66500
401.....64836
402.....64836
502.....62898

Proposed Rules:

1.....64844
61.....62915, 66218
254.....65618
512.....65417
514.....65417

47 CFR

13.....66816
15.....66822
21.....63105
22.....63105
25.....65753
31.....65781
61.....66823
68.....66825
73.....64408, 65763, 66816
74.....65763, 66816
83.....64409, 66830
87.....64409
90.....67117, 67119
91.....66830
95.....67125

Proposed Rules:

2.....67191
21.....67191
31.....64440
33.....64440
42.....64440
43.....64440, 67192
61.....67445
63.....67445
64.....63558
73.....62917, 64441
81.....66857
87.....67191
90.....64442, 67191
95.....67191
97.....64442

49 CFR

7.....65765
178.....66197
571.....65766
601.....65765
1008.....66831
1033.....62899, 63105, 64410,
65075, 65400, 65767
1034.....65075
1047.....65588
1064.....65987
1201.....65401, 67424
1240.....65401
1241.....65401

Proposed Rules:

Ch. X.....64845, 65420
171.....67478
172.....65020, 66219
173.....67476
192.....65792
173.....65020
213.....64844
385.....67193
662.....66213
666.....62918
1001.....64848
1011.....64846
1047.....67476
1056.....63121
1100.....64846
1111.....66626
1131.....64846
1131a.....64846
1301.....63121, 64851

50 CFR

17.....64246, 64247, 64250,
64730, 64736, 64738, 64741,
64744, 65002
32.....63106
33.....62899
285.....62900
611.....64410, 64421, 65590
672.....64410, 64421
Proposed Rules:
Ch. VI.....63558, 65616
17.....63474
32.....63496
216.....67194
410.....64097
611.....66356
652.....65372
661.....64443
662.....67194
675.....66356
676.....66859

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today**List of Public Laws****Last Listing November 16, 1979**

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.J.Res. 440 / Pub. L. 96-123 Making further continuing appropriations for the fiscal year 1980, and for other purposes. (Nov. 20, 1979; 93 Stat. 923) Price \$.75.

H.R. 5811 / Pub. L. 96-124 To allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately. (Nov. 20, 1979; 93 Stat. 927) Price \$.75.

COMMUNITY SERVICES ADMINISTRATION

61348 10-25-79 / Changes in program account codes

61346 10-25-79 / Monitoring and reporting program performance provisions

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

61328 10-25-79 / Preliminary permit and licensing provisions

FEDERAL DEPOSIT INSURANCE CORPORATION

61587 10-26-79 / Public disclosure of bank Trust Department annual Report of Assets

INTERIOR DEPARTMENT

Fish and Wildlife Service—

61554 10-25-79 / Determination that *Coryphantha sneedii* var. *leei* is a threatened species

61556 10-25-79 / Determination that *Echinocereus triglochidiatus* var. *arizonicus* is an endangered species

61784 10-26-79 / Determination that *Pediocactus bradyi* is an endangered species

61786 10/26/79 / Determination that *Pediocactus sileri* is an endangered species

JUSTICE DEPARTMENT

Immigration and Naturalization Service—

61319 10-25-79 / Changes in fee schedule

NUCLEAR REGULATORY COMMISSION

61320 10-25-79 / Requirements for filing and processing of petitions for rulemaking

POSTAL SERVICE

61178 10-24-79 / Suspension of the private express statutes; extremely urgent letters

would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the LSA (List of CFR Sections Affected), the "Federal Register Index," or both.

LSA (List of CFR Sections Affected)
\$10.00
per year

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index \$8.00
per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the LSA (List of CFR Sections Affected) will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed \$_____ for _____ subscription(s) to the publications checked below:

..... LSA (LIST OF CFR SECTIONS AFFECTED) (\$10.00 a year domestic; \$12.50 foreign)
..... FEDERAL REGISTER INDEX (\$8.00 a year domestic; \$10.00 foreign)

Name _____

Street Address _____

City _____ State _____ ZIP _____

Make check payable to the Superintendent of Documents

Federal Register

Tuesday
November 27, 1979

Highlights

- 67736 Victim/Witness Programs** Justice invites preliminary proposals to evaluate Fiscal Year 1979 guidelines; comments by 1-11-80
- 76643 Research in Spain** State announces the availability of postdoctoral research grants; applications by 3-27-80
- 67728 Ground Paprika** HEW/FDA revises guidelines by establishing new action levels for insect and rodent filth
- 67906 Environmental Quality** HUD/CPD consolidates all HUD-wide review requirements; effective 12-27-79; comments by 1-28-80 (Part III of this issue)
- 67942 Surface Coal Mining** Interior/SMO suspends certain permanent program regulations; effective 11-27-79 (Part VII of this issue)
- 67849 Fuel costs** ICC issues a notice pertaining to expedited recovery procedures
- 67748 Imported Steel Mill Products** Treasury/Sec'y issues first-quarter 1980 revision of trigger prices
- 67660 Shipping** FMC repeals obsolete regulations and finalizes interim rules in order to implement amendments to the Act; effective 11-27-79

CONTINUED INSIDE



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202-523-5240

Highlights

- 67659 Medium and Heavy Trucks** EPA withdraws the regulatory warranty statement; effective 11-27-79
 - 67694 Certified Carriers** CAB proposes to cancel rule tariffs that permit refusal of transportation to certain passengers
 - 67626 Meat Inspection** USDA/FSQS clarifies criteria for denaturing; effective 12-27-79
 - 67675 State Implementation Plan** EPA clarifies established policy of submission; comments by 12-27-79
 - 67682 Fiscal Year 1980 Allocations** USDA/FmHA publishes a notice concerning the amounts and methods of determining the allocation by State and program
 - 67738 Three Mile Island Unit 2** NRC decides to prepare a programmatic environmental impact statement on decontamination and disposal of resultant radioactive waste
 - 67934 Clean Air** EPA defers decision on the need to revise the standards of performance for sewage treatment plant sludge incinerators; comments by 1-28-80 (Part V of this issue)
 - 67938 Clean Air** EPA announces intent to investigate establishment of a revised standard of performance for municipal incinerators; comments by 1-28-80 (Part VI of this issue)
 - 67644 Existing Dams** DOE/FERC revises rules governing applications for licenses for major water power projects; effective 1-1-80
 - 67739 Privacy Act** OMB issues report of agency systems of records
 - 67703 Privacy Act** DOD/Navy publishes documents affecting the systems of records
 - 67851 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 67902 Part II, Interior/FWS**
 - 67906 Part III, HUD/CPD**
 - 67926 Part IV, Committee for Purchase from the Blind and Other Severely Handicapped**
 - 67934 Part V, EPA**
 - 67938 Part VI, EPA**
 - 67942 Part VII, Interior/SMO**

Contents

Federal Register
Vol. 44, No. 229
Tuesday, November 27, 1979

- Agriculture Department**
See Farmers Home Administration; Food Safety and Quality Service; Soil Conservation Service.
- Air Force Department**
NOTICES
Environmental Statements; availability, etc.:
67702 M-X strategic weapon system
- Army Department**
See Engineers Corps.
- Blind and Other Severely Handicapped, Committee for Purchase From**
NOTICES
67926 Procurement list, 1980; establishment
- Civil Aeronautics Board**
NOTICES
Air carrier rules:
67694 Transportation of certain categories of passengers
67696 All-cargo air service certificate applications
- Civil Rights Commission**
NOTICES
Meetings; State advisory committees:
67696 Washington
- Commerce Department**
See also Industry and Trade Administration; Maritime Administration; National Oceanic and Atmospheric Administration.
NOTICES
Meetings:
67700 Economic Advisory Board
- Community Planning and Development, Office of Assistant Secretary**
RULES
Community development block grants:
67656 Editorial and technical changes; interim; republication
- Customs Service**
NOTICES
67747 Reimbursable services; excess cost of preclearance operations
Tariff-rate quotas:
67747 Potatoes, white or Irish; other than certified seed
- Defense Department**
See Air Force Department; Engineers Corps; Navy Department.
- Economic Regulatory Administration**
NOTICES
Consent orders:
67704 Bow Valley Coal Resources Inc.
67707 Cho Shell et al.
Industrial plants burning natural gas or petroleum products, prohibition orders, etc.:
- 67706** United Illuminating Co. of New Haven, Conn. Natural gas; fuel oil displacement certification applications:
- 67704** Allied Chemical Co.
- 67705** Jersey Central Power & Light Co. Remedial orders:
- 67705** Wilson's Hilltop Exxon
- Education Office**
NOTICES
Meetings:
67732 Extension and Continuing Education National Advisory Council
- Energy Department**
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department; Western Area Power Administration.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
67719 Australia and France
67719 Czechoslovakia
67719 Finland
- Engineers Corps**
RULES
Navigation regulations:
67657 Lake Washington Ship Canal, Wash.
- Environmental Protection Agency**
RULES
Air quality implementation plans; delayed compliance orders:
67658 Ohio
Noise abatement programs:
67659 Transportation equipment; trucks, medium and heavy; withdrawal
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
67938 Incinerators
67934 Sewage treatment plants
Air quality implementation plans; approval, adoption, and submittal:
67675 Discretionary authority
Air quality implementation plans; approval and promulgation; various States, etc.:
67674 Delaware
67675 Minnesota
NOTICES
Meetings:
67720 FIFRA Scientific Advisory Panel; correction
67722 Science Advisory Board
Noise pollution control:
67720 Air compressors, portable; non-compliance remedies
Water pollution control:
67723 Safe drinking water; review of exemptions granted by South Carolina

- 67723 Safe drinking water; review of variances and exemptions
- Environmental Quality Office, Housing and Urban Development Department**
NOTICES
Environmental statements; availability, etc.:
67732 Phoenix Hill Neighborhood Revitalization, Louisville, Ky., et al.
- Equal Employment Opportunity Commission**
NOTICES
67851 Meetings; Sunshine Act
- Farmers Home Administration**
NOTICES
67682 Loan and grant disbursement; Funds allocations; 1980 FY
- Federal Communications Commission**
RULES
Radio stations; table of assignments:
67664 California
67669 Michigan
67666 Nebraska
67665 Washington
67668 Wisconsin
Satellite communications:
67663 Licensing of domestic satellite receive-only earth stations; report and order; correction
Television stations; table of assignments:
67667 Michigan
67665 North Carolina
67664 Oklahoma
PROPOSED RULES
Radio stations; table of assignments:
67680 Michigan and Wisconsin
NOTICES
67723 FM broadcast applications ready and available for processing
Hearings, etc.:
67726 Edwards Industries et al.
67724 Pacific West Broadcasters et al.
67723 Southern Bell Telephone & Telegraph Co., et al.
- Federal Deposit Insurance Corporation**
RULES
Securities of insured State nonmember banks:
67627 Proxy statements and reports etc.
- Federal Energy Regulatory Commission**
RULES
Electric utilities:
67644 License applications for major water power projects—existing dams
Natural Gas Policy Act of 1978:
67655 Deregulated high-cost natural gas; definitions for gas produced from geopressured brine, coal seams, and Devonian shale; interim rule; hearing location change
NOTICES
Meetings:
67709 Revision of Rules of Practice and Procedure Advisory Committee
- Federal Maritime Commission**
RULES
67660 Civil penalties; compromise, assessment, settlement, and collection
- NOTICES**
67726, 67727 Agreements filed, etc. (2 documents)
- Federal Reserve System**
NOTICES
67851 Meetings; Sunshine Act
- Federal Trade Commission**
RULES
Prohibited trade practices; cease and desist orders:
67643 Atlantic Richfield Co.
67644 National Media Group, Inc.
- Fish and Wildlife Service**
RULES
Hunting:
67670 Noxubee National Wildlife Refuge, Miss.
PROPOSED RULES
Endangered and threatened species:
67902 Red Lechwe (*Kobus lechwe*), Bontebok (*Damaliscus dorcas dorcas*), and Argali (*Ovis ammon hodgesoni*)
- Food and Drug Administration**
RULES
Radiological health:
67655 Sunlamp products; performance standards; correction
PROPOSED RULES
Food for human consumption:
67673 Lead in food; advance notice and data request; extension of time
NOTICES
67729 Consumer protection in inspection programs of mutual obligation; memorandum of understanding with Virginia Department of Agriculture and Consumer Services
Food additives petition, filed or withdrawn:
67729 Eastman Chemical Products, Inc.
Food for human consumption:
67728 Capsicum pods, ground capsicums excluding paprika, and ground paprika; adulteration by insect and rodent filth; guideline availability
GRAS or prior-sanctioned ingredients:
67731 Cellulase enzyme derived from nonpathogenic strain of *Trichoderma reesei*
GRAS status, petitions:
67731 Ethyl alcohol containing ethyl acetate; correction
Radiological health:
67731 Laser Products Corp.; laser-aimed firearms variance approval
- Food Safety and Quality Service**
RULES
Meat and poultry inspection, mandatory:
67626 Transportation; meat denaturing standard
- General Accounting Office**
NOTICES
67728 Regulatory reports review; proposals, approvals, etc. (NRC)
- Health, Education, and Welfare Department**
See Education Office; Food and Drug Administration; National Institutes of Health.

- Hearings and Appeals Office, Energy Department**
NOTICES
Applications for exception:
67709 - Decisions and orders (5 documents)
67717 Remedial orders:
67718 Objections filed
- Heritage Conservation and Recreation Service**
NOTICES
Historic Places National Register; additions, deletions, etc.:
67733 Georgia, et al.
- Housing and Urban Development Department**
See also Community Planning and Development, Office of Assistant Secretary; Environmental Quality Office, Housing and Urban Development Department
RULES
67906 Environmental review procedures; interim rule and inquiry
Low income housing:
67656 Public housing program—development phase; prototype cost limits
- Industry and Trade Administration**
NOTICES
Scientific articles; duty free entry:
67698 Harvard University et al.
67696 University of Oklahoma
67698 University of Texas
- Interior Department**
See Fish and Wildlife Service; Heritage Conservation and Recreation Service; National Park Service; Surface Mining Office.
- Internal Revenue Service**
RULES
Income taxes:
67657 Grantors of options to buy or sell property; tax treatment; correction
- International Trade Commission**
NOTICES
Import investigations:
67736 Benzenoid chemicals; correction
67851 Meetings; Sunshine Act
- Interstate Commerce Commission**
NOTICES
Environmental statements; availability, etc.:
67850 Western coal investigation; guidelines for railroad rate structure; extension of time
Motor carriers:
67849 Fuel costs recovery, expedited procedures
67849 Household goods, used; transportation for DOD pack-and-crate operations
67801 Temporary authority applications
67850 Temporary authority applications; correction (2 documents)
67759, 67820, 67835 Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications (3 documents)
- 67850 Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications; correction
67848 Railroad services abandonment:
Wolfeboro Railroad Co.
- Justice Department**
See Law Enforcement Assistance Administration.
- Labor Department**
See also Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment assistance:
67737 Ada Manufacturing Co. et al.
- Law Enforcement Assistance Administration**
NOTICES
Discretionary grant programs guide, 1979 FY:
67736 National victim/witness strategy and integrated police/prosecution witness assistance programs
- Management and Budget Office**
NOTICES
67739 Privacy Act; reports of agency systems of records
- Maritime Administration**
NOTICES
Applications, etc.:
67700 American President Lines, Ltd.; correction
- National Institutes of Health**
NOTICES
Meetings:
67732 Arthritis National Advisory Board
67732 Cardiology Advisory Committee
- National Oceanic and Atmospheric Administration**
NOTICES
Marine mammal permit applications, etc.:
67700 Naval Ocean Systems Center
- National Park Service**
NOTICES
Concession permits, etc.:
67735 Katmai National Monument
- National Science Foundation**
NOTICES
Meetings:
67737 Social and Economic Science Advisory Committee
- Navy Department**
NOTICES
67703 Privacy Act; systems of records
- Nuclear Regulatory Commission**
NOTICES
Applications, etc.:
67739 Kansas Gas & Electric Co., et al.
67738 Metropolitan Edison Co. et al.
Environmental statements; availability, etc.:
67738 Three Mile Island radioactive waste water decontamination
67851 Meetings; Sunshine Act

- Parole Commission**
NOTICES
67851 Meetings; Sunshine Act (2 documents)
- Pension and Welfare Benefit Programs Office**
NOTICES
Employee benefit plans:
67736 Prohibition on transactions; exemption proceedings, applications, hearings, etc.; correction
- Pension Policy, President's Commission**
NOTICES
67740 Ownership and control of pension fund assets; hearing
- Personnel Management Office**
RULES
Excepted service:
67619 Administrative Office of the United States Courts
67619 Army Department
67622 Arts and Humanities, National Foundation (2 documents)
67623 Civil Rights Commission
67619 Commerce Department
67619 Defense Department (2 documents)
67620 Entire executive civil service
67620 Environmental Protection Agency
67621 Federal Emergency Management Agency
67621 General Services Administration
67621 Health, Education, and Welfare Department and U.S. International Trade Commission
67621 Housing and Urban Development Department
67622 Interstate Commerce Commission
67622 Labor Department
67623 Labor-Management Policy, President's Advisory Committee
67622 Merit Systems Protection Board
67622 National Credit Union Administration and Consumer Product Safety Commission
67623 Selective Service System
67623 Small Business Administration and Civil Rights Commission
67623 Smithsonian Institution
67624 State Department (4 documents)
67620 Trade Negotiations, Office of Special Representative
67624 Posting notices of new regulations in Federal agencies
- Securities and Exchange Commission**
PROPOSED RULES
67671 Securities; Form S-8 pre-effective and post-effective amendments
NOTICES
Hearings, etc.:
67742 Wyman, Bautzer, Rothman & Kuchel Self-Employed Retirement Plan
Self-regulatory organizations; proposed rule changes:
67740 New England Securities Depository Trust Co.
67741 Philadelphia Depository Trust Co.
- Soil Conservation Service**
NOTICES
67694 Environmental statements; availability, etc.: Arkansas River Watershed, Vineland Area Tributary, Col.

- 67693 Pennahatchee Creek Watershed, Ga.
67694 Pond Run Watershed, W. Va.
- State Department**
NOTICES
Grants; availability:
67743 U.S.-Spain Joint Committee for Scientific and Technical Cooperation; postdoctoral research and travel
International conferences:
67744 Private sector representatives on U.S. delegations, list
- Surface Mining Office**
RULES
Surface coal mining and reclamation enforcement operations:
67942 Permanent regulatory program
- Textile Agreements Implementation Committee**
NOTICES
Cotton and wool textiles:
67700 Singapore
Cotton, wool, and man-made textiles:
67701 Non-commercial personal shipments of textiles regardless of value; exemption
- Treasury Department**
See also Customs Service; Internal Revenue Service.
NOTICES
Antidumping:
67747 Rail passenger cars and parts from Japan and Italy
Steel mill products; imported:
67748 Trigger prices, 1980, first quarter
- Western Area Power Administration**
NOTICES
Environmental statements; availability, etc.:
67720 Fort Peck-Havre 161-kV electrical transmission line, Mont.

MEETINGS ANNOUNCED IN THIS ISSUE

- CIVIL RIGHTS COMMISSION**
67696 Washington Advisory Committee, 12-13-79
- COMMERCE DEPARTMENT**
Office of the Secretary—
67700 Economic Advisory Board, 12-18-79
- ENERGY DEPARTMENT**
Federal Energy Regulatory Commission—
67709 Subcommittee on Review of the Commission Decisional Process of the Advisory Committee on Revision of Rules of Practice and Procedure, 12-12-79
- ENVIRONMENTAL PROTECTION AGENCY**
67722 Subcommittee on Toxic Substances of the Science Advisory Board, 12-13-79

- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
National Institutes of Health—
67732 Cardiology Advisory Committee, 1-14 and 1-15-80
- NATIONAL SCIENCE FOUNDATION**
67737 Subcommittee on Measurement Methods and Data Resources of the Advisory Committee for Social and Economic Science, 12-7 and 12-8-79
- CANCELLED MEETINGS**
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
National Institutes of Health—
67732 Multipurpose Arthritis Centers Work Group, National Arthritis Advisory Board, 12-5-79
Office of Education—
67732 National Advisory Council on Extension and Continuing Education's Ad Hoc Committee on the Media in Continuing Education, 11-28 and 11-29-79
- CORRECTED MEETING**
- ENVIRONMENTAL PROTECTION AGENCY**
67720 Review of the Agency's proposed regulatory action to conclude the Rebuttable Presumption against Registration (RPAR) of products containing "dimethoate" not "pronamide", 11-29-79
- HEARING**
- PRESIDENT'S COMMISSION ON PENSION POLICY**
67740 Ownership and control of Pension Fund Assets, 12-10 and 12-11-79
- CHANGED HEARING**
- ENERGY DEPARTMENT**
Federal Energy Regulatory Commission—
67655 High Cost Natural Gas, 12-4-79

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
110.....67624
213 (27 documents).....67619-67624

9 CFR
325.....67626
12 CFR
335.....67627

16 CFR
13 (2 documents).....67643, 67644

17 CFR
Proposed Rules:
230.....67671
239.....67671

18 CFR
2.....67644
4.....67644
16.....67644
272.....67655

21 CFR
1002.....67655
1040.....67655

Proposed Rules:
Ch. I.....67673

24 CFR
50.....67906
570.....67656
841.....67656

26 CFR
1.....67657

30 CFR
Ch. VII.....67942

33 CFR
207.....67657

40 CFR
65.....67658
205.....67659

Proposed Rules:
51.....67675
52 (2 documents).....67674, 67675
60 (2 documents).....67934, 67938

46 CFR
504.....67660
505.....67660

47 CFR
25.....67663
73 (8 documents).....67664-67669

Proposed Rules:
73.....67680

50 CFR
32.....67670

Proposed Rules:
17.....67902

Rules and Regulations

Federal Register

Vol. 44, No. 229

Tuesday, November 27, 1979

67619

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Administrative Office of the U.S. Courts

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One additional position of Federal Probation system Administrator in the Division of Probation, U.S. Courts, is excepted under Schedule B since it is impracticable to examine competitively for this position.

EFFECTIVE DATE: October 16, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533

On position content: Raymond J. Mealy, Administrative Office of the U.S. Courts, 202-382-7984

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3272(a) is amended as set out below:

§ 213.3272 Administrative Office of the U.S. Courts.

(a) Not to exceed 14 positions of Federal Probation System Administrator in the Division of Probation, when filled by Federal Probation Officers and/or Pretrial Services Officers on active service in the U.S. Courts.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36268 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of the Army

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of one Staff Assistant to the Under Secretary of the Army, to one Staff Assistant to the Secretary to reflect an organizational redesignation.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533.

On position content: E. L. Zavilla, Department of the Army, (202) 697-4213.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3307(a)(3) is added and (b)(3) is revoked as set out below:

§ 213.3307 Department of the Army.

(a) Office of the Secretary. * * *

(3) One Staff Assistant to the Secretary.

* * * * *

(b) Office of the Under Secretary. * * *

(3) [Revoked].

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36269 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Commerce from Director, Office of Minority Enterprise Program Development, to Director, Office of Minority Economic Program Development, to more appropriately reflect the duties of the position.

EFFECTIVE DATE: May 23, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533

On position content: Judy Hilton, Department of Commerce, 377-3453

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3314(a)(3) is amended as set out below:

§ 213.3314 Department of Commerce.

(a) Office of the Secretary.

(3) One Confidential Assistant, one Special Assistant, one Director, Office of Minority Economic Program Development and two Private Secretaries to the Under Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36270 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; U.S. Commission on Civil Rights

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to change the title of the position Special Assistant to the Staff Director for Public Affairs, U.S. Commission on Civil Rights, to Public Affairs Officer, to more accurately describe the duties of the position and to reflect a new superior.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533

On position content: Virginia Berry, U.S. Commission on Civil Rights, (202) 254-6661

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3356(g) is amended as set out below:

§ 213.3356 U.S. Commission on Civil Rights.

* * * * *

(g) One Public Affairs Officer.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36294 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Deputy Secretary of Defense because it is confidential in nature. Appointments may be made to the position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533

On position content: Michael Sekol, Department of Defense, (202) 697-1703
Office of Personnel Management,
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3306(a)(11) is amended as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(11) One Personal Secretary and one Staff Assistant to the Deputy Secretary of Defense.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36271 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Defense

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position from Private Secretary to the Director of Policy Review to Private Secretary to the Deputy Under Secretary of Defense for Policy Review to reflect the current title of the superior.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533

On position content: Mike Sekol, Department of Defense, (202) 697-1703

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3306(a)(87) is amended as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(87) One Private Secretary to the Deputy Under Secretary of Defense for Policy Review.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36272 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Entire Executive Civil Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment extends the Schedule A exception on positions on the staff of the Council on Wage and Price Stability and positions in member agencies of the Council, which are needed to carry out those agencies' anti-inflation program responsibilities, until September 30, 1980. This amendment is granted because it continues to be impracticable to examine for the above positions.

EFFECTIVE DATE: August 15, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3102(kk) is amended as set out below:

§ 213.3102 Entire Executive civil service.

(kk) Until September 30, 1980, positions at grades GS-15 and below on the staff of the Council on Wage and Price Stability, and positions in agencies which are members of the Council, when such positions are needed to carry out the agencies' responsibilities under the anti-inflation program.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218)

[FR Doc. 79-36280 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Environmental Protection Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Director, Office of Civil Rights, Environmental Protection Agency, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533

On position content: Anne Maes, Environmental Protection Agency, (202) 755-0270

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3318(a)(2) is added as set out below:

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* * * *
(2) One Special Assistant to the Director, Office of Civil Rights.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36281 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Executive Office of the President

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Seventeen positions of economist at grades GS-12 through GS-15 on the staff of the Office of the Special Representative for Trade Negotiations, Executive Office of the President, are excepted under Schedule B because it is impracticable to hold competitive examination for them.

EFFECTIVE DATE: September 6, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533

On position content: John Giacomini, Office of the Special Representative for Trade Negotiations, 202-395-5123

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3203(b) is added as set out below:

§ 213.3203 Executive Office of the President.

(b) *Office of the Special Representative for Trade Negotiations.*
(1) Seventeen positions of economist at grades GS-12 through GS-15.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218)

[FR Doc. 79-36282 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Federal Emergency Management Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Executive Assistant (Steno) to the Director, Federal Emergency Management Agency, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533

On position content: Albert G. Maltz, Federal Emergency Management Agency, (202) 235-2473

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3395(a)(1) is added as set out below:

§ 213.3395 Federal Emergency Management Agency.

(a) *Office of the Director.*

(1) One Executive Assistant (Steno) to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36283 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; General Services Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant to the Commissioner, Federal Property Resources Services, General Services Administration, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 16, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533

On position content: Wally Neas, General Services Administration, (202) 566-1207
Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3337(g) is added as set out below:

§ 213.3337 General Services Administration.

(g) *Federal Property Resources Service.*

(1) One Confidential Assistant to the Commissioner, Federal Property Resources Service.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36284 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare; U.S. International Trade Commission

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Health, Education, and Welfare and the U.S. International Trade Commission because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATES: Assistant Director (HEW) & Staff Assistant (Economics) (ITC)—April 11, 1979; Staff Assistant (Legal)—May 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.
Accordingly, 5 CFR 213.3316(r)(3) and 213.3339(b) are amended as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

(r) *Office of the Assistant Secretary for Education.* * * *

(3) One Confidential Secretary and one Assistant Director for Programs to the Director, Institute of Museum Services.

* * *

§ 213.3339 U.S. International Trade Commission.

(b) One Staff Assistant (Legal), one Staff Assistant (Economics), and two Staff Assistants to a Commissioner.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-36273 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Housing and Urban Development

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Director, Legislative and Urban Policy Staff, Dept. of Housing and Urban Development, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533

On position content: Eleanor Coleman, Department of Housing and Urban Development, (202) 755-5479

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3384(d)(4) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

(d) *Office of the Assistant Secretary for Community Planning and Development.* * * *

(4) Director, Legislative and Urban Policy Staff.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)
[FR Doc. 79-36274 Filed 11-26-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Interstate Commerce Commission

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two Staff Advisors to each of eleven Commissioners, Interstate Commerce Commission, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 16, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533

On position content: Anne B. Scott, Interstate Commerce Commission, (202) 275-7414
Office of Personnel Management.

Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3322(c) is added as set out below:

§ 213.3322 Interstate Commerce Commission.

(c) Two Staff Advisors to each of eleven Commissioners.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36285 Filed 11-26-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Private Secretary to the Deputy Inspector General at the Department of Labor because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 20, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533

On position content: Joyce Goins, Department of Labor, (202) 523-6555

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3315(c)(2) is added as set out below:

§ 213.3315 Department of Labor.

(c) *Office of the Inspector General.*

(2) One Private Secretary to the Deputy Inspector General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36275 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Merit Systems Protection Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One position of Paralegal Specialist, GS-9, in the Office of Special Counsel, Merit Systems Protection Board, is excepted under Schedule A because examination for the position is impracticable.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533

On position content: Larry Bemby, Merit Systems Protection Board, 202-632-5370.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3191(a)(1) is added, as follows:

§ 213.3191 Merit Systems Protection Board.

(a) *Office of the Special Counsel.* (1) One Paralegal Specialist, GS-9. Service under this authority may not exceed 1 year.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36286 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; National Credit Union Administration, Consumer Product Safety Commission

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the National Credit Union Administration and Consumer Product Safety Commission because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATES: NCUA—April 11, 1979; CPSC—April 9, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-4533.

Accordingly, SCFR 213.3357(a) is added and 213.3360(c) is amended as set out below:

§ 213.3357 National Credit Union Administration.

(a) One Special Assistant.

§ 213.3360 Consumer Product Safety Commission.

(c) Two Special Assistants and one Staff Assistant to a Commissioner.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-36287 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; National Foundation on the Arts and the Humanities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Secretary (Typing) to the Special Counsel for Arts and Education, National Endowment on the Arts, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 11, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632-4533

On position content: Carole S. McNamee, National Foundation for the Arts and the Humanities, (202) 632-4853

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3382(j) is added as set out below:

§ 213.3382 National Foundation for the Arts and the Humanities.

(j) One Secretary (Typing) to the Special Counsel for Arts and Education.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36288 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; National Foundation on the Arts and Humanities

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: OPM excepted service regulations are amended to show that the title of the position of Assistant Director, Public Libraries Program, National Endowment for the Humanities, is changed to Assistant Director, Humanities Libraries Projects.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533

On position content: Alan L. Taylor, National Endowment for the Humanities, 202-724-0358.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3282(b)(26) is amended as set out below:

§ 213.3282 National Foundation on the Arts and the Humanities.

(b) *National Endowment for the Humanities.*

(26) Until September 30, 1980, one position of Assistant Director, Humanities Libraries Projects, Division of Public Programs.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36289 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; President's Advisory Committee on Labor-Management Policy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The amendment revokes the Schedule A authority for the position of Assistant Executive Director on the staff of the President's Advisory Committee on Labor-Management Policy because that organization no longer exists.

EFFECTIVE DATE: June 5, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: Peter N. Gaul, Office of Personnel Management, 202-632-3782

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3165 is revoked, as follows:

§ 213.3165 [Revoked]

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36290 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Selective Service System

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Director, Selective Service System, is excepted from the competitive service under Schedule C because it is confidential in nature. An appointment may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 29, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 632-4533

On position content: R. F. Wisniewski, Selective Service System, 724-0424

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3346(a) is amended as set out below:

§ 213.3346 Selective Service System.

(a) One Executive Staff Assistant and one Special Assistant to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36291 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Small Business Administration, Commission on Civil Rights

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment revokes one Congressional Relations Officer at the Small Business Administration and one Special Assistant to the Staff Director at the Commission for Civil Rights because they have been vacant for more than 60 days.

EFFECTIVE DATE: November 27, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202-632-4533

Office of Personnel management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3332(e) and 213.3356(e) are revoked as set out below:

§ 213.3332 Small Business Administration.

(e) [Revoked.]

§ 213.3356 Commission on Civil Rights.

(e) [Revoked.]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36292 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Smithsonian Institution

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The service limit for Veterinary Interns with the National Zoological Park, Smithsonian Institution, is extended from 24 to 36 months to allow enough time for interns to acquire the full knowledge and skills in exotic animal medicine needed by American zoos, and the grade level coverage has been extended to GS-11. Schedule B exception is still appropriate for the positions because it is still impracticable

to hold a competitive examination for them.

EFFECTIVE DATE: September 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling,
Office of Personnel Management, 202-632-4533

On position content: Janice Brambilla,
Smithsonian Institution, 202-381-4024.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3274(a)(1) is amended as set out below:

§ 213.3274 Smithsonian Institution.

(a) National Zoological Park.

(1) Four positions of Veterinary Intern, GS-8/9/11. Employment under this authority is not to exceed 36 months.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36293 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Executive Assistant, one Special Assistant, one Staff Assistant, one Motor Vehicle Operator and one Secretary (Steno) all reporting to the Personal Representative of the President to the Middle East Peace Negotiations, Department of State, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 16, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling,
Office of Personnel Management, (202) 632-4533

On position content: Frances Jones,
Department of State, (202) 632-5350

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(a)(6) is added as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(6) One Executive Assistant, one Special Assistant, one Staff Assistant, one Secretary (Steno), and one Motor Vehicle Operator to the Personal Representative of the President.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36276 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service one more position on the household staff of the President's Guest House (Blair and Blair-Lee Houses), Department of State, because it is impracticable to hold competitive examination for this position which is in addition to the six positions previously excepted under this schedule B authority.

EFFECTIVE DATE: September 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling,
Office of Personnel Management, 202-632-4533

On position content: James Pullig,
Department of State, 202-632-5350

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3204(d) is amended as set out below:

§ 213.3204 Department of State.

(d) Seven positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36277 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Chairman of the U.S. Section of the International Joint Commission because it is confidential in nature.

Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling,
Office of Personnel Management, (202) 632-4533

On position content: Frances Jones,
Department of State, (202) 632-5350

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(b)(1) is added as set out below:

§ 213.3304 Department of State.

(b) *International Joint Commission.*

(1) One Special Assistant to the Chairman, U.S. Section, International Joint Commission.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36278 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Member, Policy Planning Staff, Department of State, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: June 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling,
Office of Personnel Management, 202-632-4533

On position content: Frances Jones,
Department of State, 202-632-5350

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(a)(29) is amended as set out below:

§ 213.3304 Department of State

(a) *Office of the Secretary.* * * *

(29) Seven Members, Policy Planning Staff.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-36279 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 110

Posting OPM Regulations in Federal Agencies

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This regulation establishes procedures for implementing the requirement in the Civil Service Reform Act of 1978 that the Director of the Office of Personnel Management (OPM) take steps to ensure that new OPM rules and regulations are posted in Federal agencies to provide general notice of proposed changes.

EFFECTIVE DATE: December 27, 1979.

FOR FURTHER INFORMATION CONTACT: Frank A. Lanclone, Office of Planning and Evaluation, Telephone: (202) 632-6898.

SUPPLEMENTAL INFORMATION: This regulation replaces OPM's Special Transitional Regulation No. 1 which was published in the Federal Register as an interim regulation on January 16, 1979, (44 FR 3440) (effective date: January 11, 1979). The transition regulation explained OPM's procedures for establishing interim regulations in order to give immediate and timely effect to the Civil Service Reform Act of 1978 (CSRA, Pub. L. 95-454) which became effective on January 11, 1979. It also described OPM's proposals for ensuring that all new regulations were posted in Federal agencies as required by the Reform Act.

Interim Regulations

The need to use interim regulations continues in certain areas where Reform Act provisions are still in the initial implementation phase, for example, in connection with the startup of the Senior Executive Service. However, we view the use of interim regulations to implement the CSRA as a unique response to a unique situation—not a long-term strategy for carrying out OPM's rulemaking responsibilities. The general notice material on interim regulations in Special Transition Regulation No. 1 is not being incorporated into 5 CFR as a final regulation.

Posting Notice Requirements

We received a number of inquiries from agencies, primarily by telephone, regarding the requirement that agencies post notices of new OPM regulations. There were three main questions:

- Where must notices be posted?
- How long must notices be left up?
- Do notices have to be posted even if they are received at field offices after the deadline for comments has passed?

(a) *Location of Posting Notice.* The statutory requirement for the posting of OPM regulations appears at 5 U.S.C. 1103(b)(2)(a). The exact language of the statute requires the posting of regulations " * * * in offices of Federal

agencies maintaining copies of the Federal personnel regulations; * * * In practice, many agency field operations are widely geographically dispersed. Agencies have informed us that it would be prohibitively expensive for them to attempt to reprint and post notices in each and every "office" or location where they might have employees stationed. Outlying posts-of-duty may have only one or two individuals reporting there. Conversely, merely posting a single notice outside a regional headquarters does not fulfill the spirit of the requirement to give general notice.

Based upon our discussions with agency personnel directors in the field, we have determined that the regulation should provide maximum flexibility for agencies to choose posting locations that best fit their physical layout. In addition, the new Part 110 regulations encourage agencies to use employee newsletters and other communication devices in combination with the posting notice itself in order to provide the widest possible notice to managers and employees.

(b) *When to Remove the Notice.*

Because field installations vary, we did not mandate a maximum or minimum posting period. Several agencies, however, asked us to provide guidance on the length of the posting period. The new Part 110 regulations do not prescribe a posting period. However, the Federal Personnel Manual (FPM) bulletins which transmit posting notices to agencies have been amended to suggest that agencies post notices of new regulations for at least ten (10) working days.

(c) *Posting Notices after the Comment Date.* The advance public notice period required by statute and Executive Order before a regulation can be made effective begins when the regulation is published in the Federal Register as a proposed rule. Following publication of a proposed regulation, OPM publishes a special FPM bulletin which transmits: (1) A posting notice summarizing the changes proposed, and (2) a reprint of the regulation as it appeared in the Federal Register. Distribution of the FPM bulletin to the over 20,000 holders of the FPM nationwide is handled independently by each department for its field installations. We received several comments from agency field personnel directors that they sometimes did not receive the posting notice until the deadline for public comment which was published in the Federal Register had passed. They asked whether or not they were still required to post the notice. The answer is yes, the notice must be posted. The posting notice is a

means of alerting employees of changes and is not intended as the primary vehicle for getting public comment.

OPM interprets the statutory posting provision at 5 U.S.C. 1103(b)(2) as a notice requirement only. We believe the statutory language of 5 U.S.C. 1105 makes it clear that OPM is to observe normal public rulemaking comment periods in issuing regulations. The required public notice period commences with the publication of a regulation in the Federal Register, not with its posting at a field office. It would, in most cases, be against the public interest to delay the effective date of needed regulations beyond the time currently required in statute and Executive Order until it could be ascertained that all Federal field installations had received a notice and had had sufficient time to comment on it.

To eliminate confusion regarding the purpose of the posting notice, we are no longer reprinting the deadline for comments from the Notice of Proposed Rulemaking in the Federal Register on the posting notice which is sent to agencies. The name of an individual in OPM to contact for further information will, however, continue to be included in the agency posting notice. If we receive comments in response to the agency posting notice, we will consider them, if possible in the rulemaking process. However, we will not delay issuing final rules.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is adding a new Part 110 to Title 5, Code of Federal Regulations, as set out below:

PART 110—POSTING OPM REGULATIONS IN FEDERAL AGENCIES

Subpart A—Posting Notices of New Regulations

Sec.

110.101 OPM responsibilities.

110.102 Agency responsibilities.

Authority: 5 U.S.C. 1103.

Subpart A—Posting Notices of New Regulations

§ 110.101 OPM responsibilities.

OPM will issue special Federal Personnel Manual (FPM) bulletins to provide notice of its new regulations. Each special bulletin will transmit:

(a) A reprint of the notice of rulemaking which appears in the Federal Register.

(b) A posting notice which briefly explains the nature of the change, and provides a place for the receiving office to indicate where the full text of the Federal Register notice will be available for review locally.

§ 110.102 Agency responsibilities.

(a) *Making regulations available for review.* Offices receiving the reprints of notices of rulemaking described in § 110.101(a) will make them available for review upon request. Each office will complete the posting notice described in § 110.101(b) to indicate where and how requests to review these materials should be made.

(b) *Posting locations and supplemental announcements.* Once completed, posting notices will be displayed in a prominent place. Agencies should choose the posting location which best fits their physical layout. Agencies may, at their discretion, supplement these postings with announcements of new regulations in employee newsletters and use other communication methods to provide notice of regulatory changes. The basic requirement to post the notice continues, however, even if supplemental announcement methods are used.

(c) *Posting after the Federal Register comment date passes.* The public comment period on proposed regulations begins when a notice of proposed rulemaking is published in the Federal Register, not with the posting of the notice described in § 110.101(b). The purpose of the § 110.101(b) notice is solely to inform managers and employees of changes. Agencies are required to post the § 110.101(b) notice even if the formal deadline for comments shown in the preamble of the Federal Register notice of rulemaking has passed. Agencies should make every reasonable effort to minimize delays in distributing the special Federal Personnel Manual bulletins described in § 110.101 to their field offices.

(d) *No fixed posting period.* There are no minimum or maximum time limits on displaying the notice described in § 110.101(b) of this section. Each office receiving a notice for posting should choose the posting period which provides the best opportunity to inform managers and employees of regulatory changes based upon office layout, geographic dispersion of employees and other local factors.

[FR Doc. 79-30477 Filed 11-26-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

9 CFR Part 325

Meat Denaturing Standard

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations by establishing a minimum required darkness for carcasses (other than viscera), parts thereof, cuts of meat, and unground pieces of meat denatured by charcoal or other black dyes. This action resulted from an industry request to clarify criteria for denaturing such articles and is being taken in order to assure that such denatured articles will not be mistaken for articles intended for use as human food.

EFFECTIVE DATE: December 27, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. A. V. Giesemann, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202/447-3219).

SUPPLEMENTARY INFORMATION: On March 4, 1977, a Notice of Proposed Rulemaking was published in the Federal Register (42 FR 12435) proposing to establish that carcasses, parts thereof, or meat or meat food products (other than rendered animal fats) denatured by charcoal or other black dyes be darkened to at least that degree of darkness depicted by diagram 1 of the Meat Denaturing Guide (MP Form 91). Copies of MP Form 91 may be obtained, without charge, by writing to the Administrative Operations Branch, Food Safety and Quality Service, U.S. Department of Agriculture, 123 East Grant Street, Minneapolis, MN 55403.

The Administrator has determined that it is necessary to require that carcasses (other than viscera), parts thereof, cuts of meat, and unground pieces of meat denatured by charcoal or other black dyes be darkened at least to that degree of darkness depicted by diagram 1 of the Meat Denaturing Guide (MP Form 91) in order to assure that such denatured articles will not be mistaken for articles intended for use as human food.

The diagrams on the MP Form 91 depict only muscle tissue and therefore are not representative of the many different appearances of visceral organs. Similarly, the diagrams are not representative of the appearance of

ground and formulated products such as sausage and beef patties.

Therefore, the Administrator has concluded that the proposal was overly broad and that this rule should not apply to viscera, or meat or meat food products other than cuts of meat and unground pieces of meat because the diagram is not appropriate to represent the many appearances of these articles. Further, the alternative means of identification and denaturing provided in the Federal meat inspection regulations with respect to these other articles appear to be sufficient to deter their use as human food.

Five comments were received in response to the proposal. One comment expressed support for the proposed regulation, one comment indicated that the proposed requirement should not apply to poultry carcasses, and three comments suggested that maximum darkness requirements (darker than the minimum requirements) should also be imposed.

The final rule established by this document is not contrary to the comment concerning poultry carcasses in that the rule is inapplicable to and does not affect poultry carcasses.

Also the Administrator has determined not to establish a maximum darkness requirement for articles affected by this regulation. As noted above, it has been determined that a minimum darkness requirement is necessary in order to assure that such denatured articles will not be mistaken for articles intended for use as human food. However, if a processor desires to exceed the minimum darkness requirement, there is no valid reason under the provisions of the Federal Meat Inspection Act why he should not be permitted to do so.

Accordingly, § 325.13(a) of the Federal meat inspection regulations (9 CFR 325.13(a)) is amended by adding a new subparagraph (7) to read as follows:

§325.13 Denaturing procedures.

(a) * * *

(7) Carcasses (other than viscera), parts thereof, cuts of meat, and unground pieces of meat darkened by charcoal or other black dyes shall be deemed to be denatured pursuant to this section only if they contain at least that degree of darkness depicted by diagram 1 of the Meat Denaturing Guide (MP Form 91) ¹

* * *

¹ Copies of MP Form 91 may be obtained, without charge, by writing to the Administrative Operations Branch, Food Safety and Quality Service, U.S. Department of Agriculture, 123 East Grant Street, Minneapolis, Minnesota 55403. Diagrams 2 and 3 of

Footnotes continued on next page

(Sec. 21, 34 Stat. 1264, as amended; 21 U.S.C. 621; 42 FR 35625-35632)

It does not appear that additional relevant information would be available by further public participation in rulemaking proceedings on this amendment. Accordingly, it is found upon good cause under the administrative procedure provision of 5 U.S.C. 553, that further notice or other public procedure with respect to this amendment is impracticable and unnecessary.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Dr. A. V. Giesemann, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

Incorporation by reference provisions approved by the Director of the Federal Register, December 17, 1976.

Done at Washington, D.C., on November 21, 1979.

Donald L. Houston,
Administrator, Food Safety and Quality Service.

[FR Doc. 79-30451 Filed 11-26-79; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 335

Securities of Insured State Nonmember Banks; Proxy Statements, Reports and Other Matters

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The new rule amends the Federal Deposit Insurance Corporation's ("FDIC") securities disclosure regulations issued under the Securities Exchange Act of 1934 (15 U.S.C. 78(i)) ("Act") in order to bring them into substantial similarity with those of the Securities and Exchange Commission ("SEC"). Section 12(i) of the Act requires that the FDIC issue substantially similar

Footnotes continued from last page
the Meat Denaturing Guide are for comparison purposes only. The Meat Denaturing Guide has been approved for incorporation by reference by the Director, Office of the Federal Register, and is on file at the Federal Register library.

regulations to those of the SEC or publish its reasons for not doing so. This amendment is intended to comply with Section 12(i), to update the regulation, and to make the regulation more understandable. It covers the following: (1) Acquisition statements; (2) shareholder proposals; (3) stock appreciation rights; (4) Form S-K simplification; (5) corporate governance; (6) management remuneration; (7) management indebtedness; (8) changes in independent accountants; and (9) auditor fees.

DATES: Effective date: December 31, 1979, except for Item 6(i) of § 335.51 which will be effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Gerald J. Gervino, Attorney, or Louis E. Wright, Financial Analyst, Federal Deposit Insurance Corporation, 550 Seventeenth Street, NW., Washington, DC 20429 202/389-4422 or 389-4651.

SUPPLEMENTARY INFORMATION: On June 8, 1979, there was published in the Federal Register (44 FR 33077) a notice of proposed rulemaking which would amend the FDIC's securities disclosure regulations in order to make them more similar to SEC regulations and for other purposes. Interested persons were given the opportunity to submit, not later than August 7, 1979, data, views or arguments regarding the proposed amendments. All comments were given due consideration.

The following modifications were made:

A. Indebtedness of Management

1. *Comments received.* Although the proposal did not materially increase existing disclosure requirements in the area, several commentators objected to the disclosures required. Some felt that disclosure of insider indebtedness was no longer necessary in view of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. 95-630 (November 10, 1978) ("FIRA"). One stated that the requirements were in excess of those required by the SEC and therefore in violation of Section 12(i) of the Securities Exchange Act of 1934. Several commentators indicated that disclosure of loans to a director was an invasion of the director's privacy. One commentator indicated that the requirements of disclosure were different from those required by FIRA and therefore required double recordkeeping on the part of the bank.

2. *Discussion.* Basic requirements for disclosure of insider indebtedness in Part 335 were originally adopted as part of the new Part 335 in 1964. In the 15 years since that time, the FDIC has found disclosures pursuant to this provision to be of substantial interest to

security holders in connection with the election of directors. Since the provision was not deficient in terms of protecting security holders when viewed in relation to the rules of the SEC, the FDIC did not discuss its lack of similarity with SEC rules in 1975 when it revised its rules to conform with an amendment to Section 12(i) of the Act. The FDIC feels that its experience with its insider indebtedness rules has been satisfactory and decides not to make any substantive changes except with respect to the amount of detail required concerning "ordinary course of business" loans to a director, officer or principal security holder whose holdings exceed ten percent of the equity capital of the bank.

The FDIC is not amending Part 335 to conform with FIRA because FIRA imposes no lending limit restraint whatsoever upon directors and their related interests even though the bulk of insider indebtedness disclosure under Part 335 has historically been with respect to their "related interests" or associates of directors. Thus, FIRA would not proscribe most of the loans that have traditionally been disclosed under this provision. While FIRA requires that an annual report be filed with respect to insider indebtedness, that report is only filed with the FDIC and need not be sent to shareholders in connection with the solicitation of proxies for the election of directors or at other times. Neither the language of FIRA nor its legislative history indicates that it was intended to preempt the Securities Exchange Act of 1934 or the rules issued thereunder. Recordkeeping for Part 335 purposes generally provide a bank with the information necessary to meet FIRA reporting requirements, while the opposite would not be true.

The FDIC does not consider the requirement of limited insider indebtedness disclosure in proxy statements to be any greater invasion of privacy than disclosures with respect to transactions with management, involvement in legal proceedings with the bank, share ownership disclosure or background information disclosure required elsewhere in the proxy statement. We feel that persons who are to be involved in the management of the bank need to be candid with the owners of the bank. However, we agree with the commentator who stated that "ordinary course of business" loans disclosure is now too detailed.

3. *Modifications of the Proposal.* The "ordinary course of business" disclosure with respect to loans of insiders has been changed from the proposal (§ 335.51, Item 7(d)). It will only apply to

those principal shareholders who own beneficially more than ten percent of any class of the bank's voting securities. The five percent test contained in the proposal and applicable to other disclosures is liberalized. With respect to this type of indebtedness, the names of associates no longer need to be furnished. Also, the nature of the indebtedness and of the transaction in which it was incurred no longer need be listed. The rate of interest paid or charged will no longer need to be set forth.

B. Director Attendance

Several commentators opposed disclosure of director attendance as either immaterial or a hindrance to obtaining the service of qualified persons upon the board of directors. In view of the fact that disclosure of attendance of directors, while material to investors, relates to activity which was not required to be disclosed at the time it was performed, the FDIC has decided to provide for the disclosure of such attendance prospectively. Accordingly, this provision will not be effective with respect to the solicitation of proxies prior to January 1, 1981. (§ 335.51, Item 6(i)).

C. Services and Fees of Independent Auditors

Several commentators felt that the disclosure of the components of service and the fees of independent auditors should be internal only. In view of the fact that FDIC does not specifically require certification of financial statements of independent auditors, the FDIC has decided to modify its proposal to require such disclosure only when the fee for any non-audit service is greater than ten percent of the total fees. The proposal would have established a three percent test. (§ 335.51, Item 8(f)).

D. Principal Officers and Significant Employees

A commentator indicated that the proposal would require the identification of principal officers and certain significant employees in proxy statements even though SEC regulations did not. This was an unintended result of a simplification effort. It has been corrected in the final regulation. (§ 335.41, Item 6, § 335.42, Item 8; § 335.51, Item 6).

E. Technical Corrections

A number of technical errors have come to our attention throughout Part 335. These are corrected in the attached amendment.

F. Other Comments Not Acted Upon

Some commentators objected to a requirement that directors who are members of a law firm retained by the bank be identified along with the name of the law firm. An objection was made that this particular singling out of law firms should not be made since other kinds of relationships are not covered. The FDIC wishes to point out that other relationships such as underwriters are required to be disclosed regardless of the business done, while any relationship that exceeds a certain portion of the revenues of the bank must be disclosed. The proposal is adopted as proposed in this respect.

A commentator opined that disclosure of management remuneration is an invasion of privacy. The FDIC has required such disclosure since Part 335 was adopted in 1964 and feels disclosures of this nature are a necessary part of proxy statements and other filed documents.

One commentator indicated that the rise in the exemption from disclosure of individual remuneration from \$40,000 to \$50,000 was insufficient to meet inflation and that the exemption should be raised to \$75,000. The FDIC sees no reason to distinguish banks from other issuers and therefore follows the SEC increase to \$50,000 as proposed.

One commentator objected to the proposed S-K simplification on the grounds that it increased the number of cross-references in Part 335, thus increasing the margin of error and slowing the reporting procedure. The FDIC feels that the increased uniformity of the S-K system will outweigh this disadvantage.

G. Certain Findings

In publishing the proposal, the FDIC specifically invited comments with respect to: (1) Whether the cost of the proposal to a bank would outweigh benefits to its shareholders and the public; and (2) the impact of the proposal on competition.

The comment letters did not provide any significant basis for concluding that the benefits to the banks' shareholders and the public from the implementation of the FDIC's statutory mandate in the manner proposed would be outweighed by such possible additional costs. Accordingly, the FDIC finds that the costs imposed on banks by the amendments adopted are not unreasonable and are far outweighed by the benefits which will accrue to investors.

As required by Section 23(a)(2) of the Exchange Act, the FDIC has specifically considered the impact which the

amendments will have on competition. The FDIC finds that compliance by banks with these actions will not impose any significant burden on competition. In any event, the FDIC has determined that any possible competitive burden will be outweighed by, and is necessary and appropriate to achieve, the benefits of these actions to investors.

12 CFR Part 335 is amended as set forth below:

By Order of the Board of Directors,
November 19, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

12 CFR Part 335 is amended, as follows.

1. Section 335.4(h) is amended by revising paragraphs (h)(2), (h)(3), (h)(5), (h)(6), (h)(7) and (h)(8) as follows:

§ 335.4 Registration statements and reports.

(h) * * *

(2)(i) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a bank of a class which is registered pursuant to Section 12 of the Act (except non-voting securities), is directly or indirectly the beneficial owner of more than five (5) percent of such class shall, within 10 days after such acquisition, send to the bank at its principal office, by registered or certified mail, and to each exchange where the security is traded, and file with the Corporation, a statement containing the information required by Form F-11. Six copies of the statement, including all exhibits, shall be filed with the Corporation.

(ii)(A) A person who would otherwise be obligated under paragraph (i) of this § 335.4(h)(2) to file a statement on Form F-11 may, in lieu thereof, file with the Corporation, within 45 days after the end of the calendar year in which such person became so obligated, six copies, including all exhibits, of a short form ownership statement on Form F-11A and send one copy each of such form to the bank at its principal office, by registered or certified mail, and to the principal national securities exchange where the security is traded: *Provided*, That it shall not be necessary to file a Form F-11A unless the percentage of the class of equity security beneficially owned as of the end of the calendar year is more than five (5) percent: *And provided further*, That

(1) Such person has acquired such securities in the ordinary course of his business and not with the purpose nor with the effect of changing or influencing the control of the bank, nor

in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to § 335.4(h)(5)(ii); and

(2) Such person is

(i) A broker or dealer registered under Section 15 of the Act;

(ii) A bank as defined in Section 3(a)(6) of the Act;

(iii) An insurance company as defined in Section 3(a) (19) of the Act;

(iv) An investment company registered under Section 8 of the Investment Company Act of 1940;

(v) An investment adviser registered under Section 203 of the Investment Advisers Act of 1940;

(vi) An employee benefit plan, or pension fund which is subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") or an endowment fund;

(vii) A parent holding company: *Provided*, The aggregate amount held directly by the parent, and directly and indirectly by its subsidiaries which are not persons specified in paragraph (ii)(A)(2)(i) through (vi) of this § 335.4(h)(2), does not exceed one percent of the securities of the subject class;

(viii) A group, provided that all the members are persons specified in paragraph (ii)(A)(2)(i) through (vi) of this § 335.4(h)(2); and

(3) Such person has promptly notified any other person (or group within the meaning of Section 13(d)(3) of the Act) on whose behalf it holds, on a discretionary basis, securities exceeding five percent of the class, of any acquisition or transaction on behalf of such other person which might be reportable by the person under Section 13(d) of the Act. This paragraph only requires notice to the account owner of information which the filing person reasonably should be expected to know and which would advise the account owner of an obligation he may have to file a statement pursuant to Section 13(d) of the Act or an amendment thereto.

(B) Any person relying on § 335.4(h)(2)(ii)(A) and § 335.4(h)(3)(ii) shall, in addition to filing any statement required thereunder, file a statement on Form F-11A within ten days after the end of the first month in which such person's direct or indirect beneficial ownership exceeds ten percent of a class of equity securities specified in § 335.4(h)(2)(i) computed as of the last day of the month, and thereafter within ten days after the end of any month in which such person's beneficial ownership of securities of such class, computed as of the last day of the month, increased or decreased by more

than five percent of such class of equity securities. Six copies of such statement, including all exhibits, shall be filed with the Corporation and one each sent, by registered or certified mail, to the bank at its principal office and to the principal national securities exchange where the security is traded. Once an amendment has been filed reflecting beneficial ownership of five percent or less of the class of securities, no additional filings are required by this paragraph (ii)(B) unless the person thereafter becomes the beneficial owner of more than ten percent of the class and is required to file pursuant to this provision.

(C)(1) Notwithstanding paragraphs (ii)(A) to (ii)(B) of this § 335.4(h)(2) and § 335.4(h)(3)(ii), a person shall immediately become subject to § 335.4(h)(2)(i) and § 335.4(h)(3)(i) and shall promptly, but not more than 10 days later, file a statement on Form F-11 if such person:

(i) Has reported that the person is the beneficial owner of more than five percent of a class of equity securities in a statement on Form F-11A pursuant to paragraph (ii)(A) or (ii)(B) of this § 335.4(h)(2), or is required to report such acquisition but has not yet filed the form;

(ii) Determines that the person no longer has acquired or holds such securities in the ordinary course of business or not with the purpose nor with the effect of changing or influencing the control of the bank, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to § 335.4(h)(5)(ii); and

(iii) Is at that time the beneficial owner of more than five percent of a class of equity securities described in § 335.4(h)(2)(i).

(2) For the ten-day period immediately following the date of the filing of a Form F-11 pursuant to this paragraph (ii)(C), such person shall not (i) Vote or direct the voting of the securities described in § 335.4(h)(2)(ii)(C)(1)(i); nor, (ii) Acquire an additional beneficial ownership interest in any equity securities of the bank, nor of any person controlling the bank.

(D) Any person who has reported an acquisition of securities in a statement of Form F-11A pursuant to paragraph (ii)(A) or (ii)(B) of this § 335.4(h)(2) and thereafter ceases to be a person specified in paragraph (ii)(A)(2) of this § 335.4(h)(2) shall immediately become subject to § 335.4(h)(2)(i) and § 335.4(h)(3)(i) and shall file, within ten days thereafter, a statement on Form F-11 in the event such person is a beneficial owner at that time of more

than five percent of the class of equity securities.

(iii) Any person who, as of December 31, 1979, or as of the end of any calendar year thereafter, is directly or indirectly the beneficial owner of more than five percent of any equity security of a class specified in paragraph (h)(2)(iv) and who is not required to file a statement under paragraph (h)(2)(i) by virtue of the exemption provided by Section 13(d)(6)(A) or (B) of the Act, or because such beneficial ownership was acquired prior to December 22, 1970, or because such person otherwise (except for the exemption provided by Section 13(d)(6)(C) of the Act) is not required to file such statement, shall, within 45 days after the end of the calendar year in which such person became obligated to report under this paragraph, send to the bank at its principal office, by registered or certified mail, and file with the Corporation, a statement containing the information required by Form F-11A. Six copies of the statement, including all exhibits, shall be filed with the Corporation.

(iv) For the purposes of Section 13(d) and 13(g), any person, in determining the amount of outstanding securities of a class of equity securities, may rely upon information set forth in the bank's most recent quarterly or annual report, and any current report subsequent thereto, filed with the Corporation pursuant to the Act, unless the person knows or has reason to believe that the information contained therein is inaccurate.

(v)(A) Whenever two or more persons are required to file a statement containing the information required by Form F-11 or Form F-11A with respect to the same securities, only one statement need be filed; *Provided*, That (1) Each person on whose behalf the statement is filed is individually eligible to use the form on which the information is filed;

(2) Each person on whose behalf the statement is filed is responsible for the timely filing of such statement and any amendments thereto, and for the completeness and accuracy of the information concerning such person contained therein; such person is not responsible for the completeness or accuracy of the information concerning the other persons making the filing, unless such person knows or has reason to believe that such information is inaccurate; and

(3) Such statement identifies all such persons, contains the required information with regard to each such person, indicates that such statement is filed on behalf of all such persons, and includes, as an exhibit, their agreement

in writing that such statement is filed on behalf of each of them.

(B) A group's filing obligation may be satisfied either by a single joint filing or by each of the group's members making an individual filing. If the group's members elect to make their own filings, each filing should identify all members of the group but the information provided concerning the other persons making the filing need only reflect information which the filing person knows or has reason to know.

(3)(i) Form F-11—If any material change occurs in the facts set forth in the statement required by § 335.4(h)(2)(i) including, but not limited to, any material increase or decrease in the percentage of the class beneficially owned, the person or persons who were required to file such statement shall promptly file or cause to be filed with the Corporation and send or cause to be sent to the bank at its principal office, by registered or certified mail, and to each exchange on which the security is traded, an amendment disclosing such change. An acquisition or disposition of beneficial ownership of securities in an amount equal to one percent or more of the class of securities shall be deemed "material" for purposes of this § 335.4(h)(3); acquisitions or dispositions of less than such amounts may be material, depending upon the facts and circumstances. The requirement that an amendment be filed with respect to an acquisition which materially increases the percentage of the class beneficially owned shall not apply if the acquisition is exempted by Section 13(d)(6)(B) of the Act. Six copies of each amendment shall be filed with the Corporation.

(ii) Form F-11A—Notwithstanding paragraph (i) of this § 335.4(h)(3), and provided that the person or persons filing a statement pursuant to § 335.4(h)(2)(ii) continue to meet the requirements set forth therein, any person who has filed a short form statement on Form F-11A shall amend such statement within 45 days after the end of each calendar year to reflect, as of the end of the calendar year, any changes in the information reported in the previous filing on that form, or if there are no changes from the previous filing, a signed statement to that effect under cover of Form F-11A. Six copies of the amendment, including all exhibits, shall be filed with the Corporation and one each sent, by registered or certified mail, to the bank at its principal office and to the principal national securities exchange where the security is traded. Once an amendment has been filed reflecting beneficial ownership of five percent or less of the class of securities,

no additional filings are required unless the person thereafter becomes the beneficial owner of more than five percent of the class and is required to file pursuant to § 335.4(h)(2).

Note.—For persons filing a short form statement pursuant to § 335.4(h)(2)(ii), see also §§ 335.4(h)(2)(ii)(B), (C) and (D).

(5) * * *
(iv) * * *
(C) * * *
(1) * * *

(2) The pledgee is a person specified in § 335.4(h)(2)(ii)(A)(2), including persons meeting the conditions set forth in paragraph (vi) thereof; and

(6)(i) A person who becomes a beneficial owner of securities shall be deemed to have acquired such securities for purposes of Section 13(d)(1) of the Act, whether such acquisition was through purchase or otherwise. However, executors or administrators of a decedent's estate generally will be presumed not to have acquired beneficial ownership of the securities in the decedent's estate until such time as the executors or administrators are qualified under local law to perform their duties.

(ii)(A) When two or more persons agree to act together for the purpose of acquiring, holding, voting or disposing of equity securities of a bank, the group formed thereby shall be deemed to have acquired beneficial ownership, for purposes of Sections 13(d) and 13(g) of the Act, as of the date of such agreement, of all equity securities of that bank beneficially owned by any such person.

(B) Notwithstanding the previous paragraph, a group shall be deemed not to have acquired any equity securities beneficially owned by the other members of the group solely by virtue of their concerted actions relating to the purchase of equity securities directly from a bank in a transaction not involving a public offering; *Provided*, That (1) All the members of the group are persons specified in § 335.4(h)(2)(ii)(A)(2);

(2) The purchase is in the ordinary course of each member's business and not with the purpose nor with the effect of changing or influencing control of the bank, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to § 335.4(h)(5)(ii);

(3) There is no agreement among, or between any members of the group to act together with respect to the bank or its securities except for the purpose of facilitating the specific purpose involved; and

(4) The only actions among or between any members of the group with respect to the bank or its securities subsequent to the closing date of the non-public offering are those which are necessary to conclude ministerial matters directly related to the completion of the offer or sale of the securities.

(7) The acquisition of securities of a bank by a person who, prior to such acquisition, was a beneficial owner of more than five percent of the outstanding securities of the same class as those acquired shall be exempt from Section 13(d) of the Act: *Provided*, That (i) The acquisition is made pursuant to preemptive subscription rights in an offering made to all holders of securities of the class to which the preemptive subscription rights pertain;

(ii) Such person does not acquire additional securities except through the exercise of the person's pro rata share of the preemptive subscription rights; and (iii) The acquisition is duly reported, if required, pursuant to Section 16(a) of the Act and the rules and regulations thereunder.

(8) Each bank having securities registered pursuant to Section 12(g) of the Act, upon being notified by a national securities association registered pursuant to Section 15A of the Act that a class of the bank's securities is to be quoted on an interdealer quotation system, which is sponsored and governed by the rules of such association, shall thereafter notify such association promptly of (i) any increase or decrease in the amount of securities of such class outstanding which exceeds five percent of the amount of such class last reported to the association and (ii) any change in the name of the bank. The obligation to report pursuant to this paragraph (h)(8) of this section shall continue until notification is received from the association that all classes of securities are no longer quoted on such interdealer quotation system.

2. In § 335.5, paragraph (c)(1), Note 2 is amended by deleting the term "§ 335.7(d)." and inserting in its place the term "§ 335.7(f)."

3. In § 335.5, paragraph (k) is amended by adding a new Subparagraph (5) as follows:

§ 335.5 Proxy statements and other solicitations under Section 14 of the Act.

(k) * * *

(5) If the management intends to include in the proxy statement a statement in opposition to a proposal received from a proponent, it shall—not later than ten calendar days prior to the

date the preliminary copies of the proxy statement and form of proxy are filed pursuant to § 335.5(f), or, in the event that the proposal must be revised to be includable, not later than five calendar days after receipt by the bank of the revised proposal—promptly forward to the proponent a copy of the statement in opposition to the proposal. In the event the proponent believes that the statement in opposition contains materially false or misleading statements within the meaning of § 335.5(h) and the proponent wishes to bring this matter to the attention of the Corporation, the proponent should promptly provide the staff with a letter setting forth the reasons for this view and at the same time promptly provide management with a copy of such letter.

4. Section 335.6 is amended by revising paragraph (r) as follows:

§ 335.6 Reports of directors, officers, and principal stockholders.

(r) *Exemption from Section 16(b) of the acquisitions of shares of stock and stock options and stock appreciation rights under certain stock incentive, stock option or similar plans.* Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant or right) pursuant to a plan as defined in subparagraph (4)(i) hereof, or any acquisition, expiration, cancellation or surrender to the bank of a stock option or stock appreciation right pursuant to such a plan by a director or officer of the bank shall be exempt from the operation of Section 16(b) of the Act if the plan meets the following conditions:

(1) *Approval by security holders.* The plan has been approved, directly or indirectly

(i) By the affirmative votes of the holders of a majority of the securities of the bank present, or represented, and entitled to vote at a meeting duly held in accordance with the applicable laws of the State or other jurisdiction in which the bank was incorporated or

(ii) By the written consent of the holders of a majority of the securities of the bank entitled to vote: *Provided, however*, That if such vote or written consent was not solicited substantially in accordance with the rules and regulations, if any, in effect under Section 14(a) of the Act at the time of such vote or written consent, the issuer shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan which would be required by the rules and regulations in effect under Section 14(a) of the Act at the time such information

is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of

(A) The first registration of an equity security under Section 12 of the Act or

(B) The acquisition of an equity security for which exemption is claimed.

Such written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of the mailing. Six copies of such written information shall be filed with, or mailed for filing to, the Corporation not later than the date on which it is first sent or given to security holders of the bank. For the purposes of this paragraph, the term "bank" includes a predecessor corporation if the plan or obligations to participate thereunder were assumed by the bank in connection with the succession. In addition, any amendment to the plan shall be similarly approved if the amendment would

(1) Materially increase the benefits accruing to participants under the plan;

(2) Materially increase the number of securities which may be issued under the plan; or

(3) Materially modify the requirements as to eligibility for participation in the plan.

(2) *Disinterested administrators.* If the selection of any director or officer of the bank to whom stock may be allocated or to whom stock options or stock appreciation rights may be granted pursuant to the plan, or the determination of the number or maximum number of shares of stock which may be allocated to any such director or officer or which may be covered by stock option or stock appreciation rights granted to any such director or officer pursuant to the plan is subject to the discretion of any person, then such discretion shall be exercised only as follows:

(i) With respect to the participation of directors—

(A) By the board of directors of the bank, a majority of which board and a majority of the directors acting in the matter are disinterested persons;

(B) By, or only in accordance with the recommendation of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or

(C) Otherwise in accordance with the plan, if the plan

(1) Specifies the number or maximum number of shares of stock which

directors may acquire or which may be subject to stock options or stock appreciation rights granted to directors pursuant to the plan and the terms upon which and the times at which, or the periods within which, such stock may be acquired or such options or rights may be acquired and exercised; or

(2) Sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the bank, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time or similar factors.

(ii) With respect to the participation of officers who are not directors;

(A) By the board of directors of the bank or a committee of three or more directors—

(B) By, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or

(C) Otherwise in accordance with the plan, if the plan

(1) Specifies the number or maximum number of shares of stock which officers may acquire or which may be subject to stock options or stock appreciation rights granted to the officers pursuant to the plan and the terms upon which, and the times at which, or the period within which, such stock may be acquired or such options or rights may be acquired and exercised; or

(2) Sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the bank, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time or similar factors.

(iii) The provisions of this paragraph shall not apply with respect to any option or right granted, or other equity security acquired, prior to the date of the first registration of an equity security under Section 12 of the Act.

(3) *Plan limitations.* The plan effectively limits as to each participant or as to all participants the aggregate dollar amount of stock or the aggregate number of shares of stock which may be allocated, or which may be subject to stock options or stock appreciation rights issued pursuant to the plan. The limitations may be established on an annual basis or for the duration of the plan—whether or not the plan has a fixed termination date—and may be determined either by fixed or maximum dollar amounts; fixed or maximum

number of shares; or by formulas based upon earnings of the bank, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provision for adjustment of the plan, of stock allocable, or options outstanding thereunder to prevent dilution or enlargement of rights.

(4) *Definitions.* Unless the context otherwise requires, all terms used in this § 335.6(r) shall have the same meaning as in the Act or elsewhere in this Part 335. In addition the following definitions apply:

(i) The term "plan" shall mean an option, bonus, appreciation, profit sharing, retirement, incentive, thrift, savings, or similar plan which meets the following conditions:

(A) The plan must be set forth in a written document describing the means or basis for determining the eligibility of individuals to participate and either the price at which the securities may be offered or the method by which the price or the amount of the award is to be determined; and

(B) The plan must provide with respect to any option or similar right (including a stock appreciation right) offered pursuant to the plan that such option or right is not transferable other than by will or the laws of descent and distribution and that it is exercisable during the employee's lifetime only by the person or by the person's guardian or legal representative.

(ii) The term "exercise of an option, warrant or right" contained in the parenthetical clause of the first paragraph of this § 335.6(r) shall not include

(A) The making of an election to receive under any plan, compensation in the form of stock or credits therefor: *Provided*, That such election is made either prior to the making of the award or prior to the fulfillment of all conditions to the receipt of the compensation and provided further, that such election is irrevocable until at least six months after termination of employment;

(B) The subsequent crediting of such stock;

(C) The making of any election as to the time for delivery of such stock after termination of employment, provided that such election is made at least six months prior to any such delivery;

(D) The fulfillment of any condition to the absolute right to receive such stock; or

(E) The acceptance of certificates for shares of such stock.

(iii) The term "disinterested person" used in paragraphs (2) and (5) of this § 335.6(r) shall mean an administrator of a plan who is not at the time he exercises discretion in administering the plan eligible and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom stock options or stock appreciation rights may be granted pursuant to the plan or any other plan of the bank or any of its affiliates entitling the participants therein to acquire stock, stock options or stock appreciation rights of the bank or any of its affiliates.

(5) *Cash settlements of stock appreciation rights.* Any transaction involving the exercise and cancellation of a stock appreciation right issued pursuant to a plan (whether or not the transaction also involves the related surrender and cancellation of a stock option), and the receipt of cash in complete or partial settlement of that right, shall be exempt from the operation of Section 16(b) of the Act, as not comprehended within the purpose of that section, if all the following conditions are met:

(i) *Information about the bank.* (A) The issuer of the stock appreciation right has been subject to the reporting requirements of Section 13 of the Act for at least a year prior to the transaction and has filed all reports and statements required to be filed pursuant to that section during that year;

(B) The issuer of the stock appreciation right on a regular basis releases for publication quarterly and annual summary statements of operations. This condition shall be deemed satisfied if the specified financial data appears (1) on a wire service, (2) in a financial news service, (3) in a newspaper of general circulation, or (4) is otherwise made publicly available.

(ii) *Limitation on the right and any related option.* Neither the stock appreciation right nor any related stock option shall have been exercised during the first six months of their respective terms, except that this limitation shall not apply in the event death or disability of the grantee occurs prior to the expiration of the six-month period.

(iii) *Administration of the plan.* (A) The plan shall be administered by either the board of directors, a majority of which are disinterested persons and a majority of the directors acting on plan matters are disinterested persons, or by a committee of three or more persons, all of whom are disinterested persons;

(B) The board or committee shall have sole discretion either:

(1) To determine the form in which payment of the right will be made (i.e., cash, securities, or any combination thereof), or

(2) To consent to or disapprove the election of the participant to receive cash in full or partial settlement of the right. Such consent or disapproval may be given at any time after the election to which it relates;

(C) Any election by the participant to receive cash in full or partial settlement of the stock appreciation right, as well as any exercise by the participant of a stock appreciation right for such cash, shall be made during the period beginning on the third business day following the date of release of the financial data specified in paragraph (5)(i)(B) of this § 335.6(r) and ending on the twelfth business day following such date. This paragraph (5)(iii)(C), however, shall not apply to any exercise by the participant of a stock appreciation right for cash where the date of exercise:

(1) Is automatic or fixed in advance under the plan;

(2) Is at least six months beyond the date of grant of the stock appreciation right; and

(3) Is outside the control of the participant.

(iv) *Compliance with other conditions of § 335.6(r).* The plan under which the stock appreciation rights and any related options are granted shall meet the conditions specified above in §§ 335.6(r) (1), (2), (3), and (4).

(v) *Limit of the exemption.* Nothing in this paragraph (5) provides an exemption from Section 16(b) for the acquisition of stock upon the exercise of a stock appreciation right or a stock option.

5. In § 335.6 paragraphs (r), (s), (t), and (u) are redesignated as paragraphs (s), (t), (u), and (v).

6. In § 335.41, Items 5, 6, 7, 8, 9, and 10 are amended by revising to read as follows:

§ 335.41 Form for registration of securities of a bank pursuant to Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934 (Form F-1).

Item 5—Security Ownership of Certain Beneficial Owners and Management. Set forth the same information as is required to be furnished by Items 5 (d), (e) and (g) of Form F-5 at § 335.51.

Note.—The information required by Item 5(e) of Form F-5 need not be included for any nominee for election as a director.

Item 6—Directors and Principal Officers.

(a) *Directors.* Set forth the same information as is required to be furnished by

Item 6(a) of Form F-5 at § 335.51 except with respect to any nominee for election as a director.

(b) *Principal Officers.* List the names and ages of all principal officers of the bank and all persons chosen to become principal officers; indicate all positions and offices with the bank held by each such person; state the person's term of office as officer and the period during which the person has served as such and briefly describe any arrangement or understanding between the person and any other person pursuant to which the person was selected as an officer.

Instructions. 1. Do not include arrangements or understandings with directors or officers of the bank acting solely in their capacities as such.

2. No person chosen to become a principal officer who has not consented to act as such should be named in response to this item.

(c) *Significant employees.* Where the bank employs persons such as special consultants who are not principal officers, but who make or are expected to make significant contributions to the business of the bank, such persons should be identified and their background disclosed to the same extent as in the case of principal officers.

(d) *Business experience.* (1) Give a brief account of the business experience during the past five years of each director, person chosen to become a director or principal officer, and each person named in answer to paragraph (c), including the person's principal occupations and employment during that period and the name and principal business of any corporation or other organization in which such occupations and employment were carried on. When a principal officer or person named in response to paragraph (c) has been employed by the bank or a subsidiary of the bank for less than five years, a brief explanation should be included as to the nature of the responsibilities undertaken by the individual in prior positions to provide adequate disclosure of his prior business experience. The requirement is information relating to the level of the person's professional competence which may include, depending upon the circumstances, such specific information as the size of the operation supervised.

(2) *Directorships.* Indicate any other directorships held by each director or person nominated or chosen to become a director in any company with a class of securities registered pursuant to Section 12 of the Exchange Act.

(e) *Family relationships and involvement in certain legal proceedings.* Set forth the same information as is required to be furnished by Items 6(b) and (d) of Form F-5 at § 335.51 for each director, principal officer, person chosen to become a director or principal officer, and each person named in answer to paragraph (c).

Item 7—Remuneration of Directors and Officers. Set forth the same information as is required to be furnished by Items 7 (a) and (b) of Form F-5 at § 335.51.

Item 8—Management Options To Purchase Securities. Set forth the same information as is required to be furnished by Item 7(c) of Form F-5 at § 335.51.

Item 9—Interest of Management and Others in Certain Transactions. (a) Set forth

the same information, for the past three years, as is required to be furnished by Items 7 (d), (e) and (f) of Form F-5 at § 335.51.

Note.—The information required by Items 7 (d), (e) and (f) of Form F-5 need not be included for any nominee for election as a director.

(b) If the bank was organized within the past five years, furnish the following information:

(1) State the names of the promoters, the nature and amount of anything of value (including money, property, contracts, options or rights of any kind) received or to be received by each promoter directly or indirectly from the bank, and the nature and amount of any assets, services or other consideration therefor received or to be received by the bank.

(2) As to any assets acquired or to be acquired by the bank from a promoter, state the amount at which acquired or to be acquired and the principle followed, or to be followed in determining the amount. Identify the persons making the determination and state their relationship, if any, with the bank or any promoter. If the assets were acquired by the promoter within two years prior to their transfer to the bank, state the cost thereof to the promoter.

Item 10—Legal Proceedings. Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the bank or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions. 1. Notwithstanding Instruction 2 to this item, administrative or judicial proceedings arising under Section 8 of the Federal Deposit Insurance Act shall be deemed material and shall be described.

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the equity capital accounts of the bank and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Any material proceedings to which any director, officer or affiliate of the bank, any owner of record or beneficially of more than 5 percent of any class of voting securities of the bank, or any associate of any such director, officer or security holder is a party adverse to the bank or any of its subsidiaries or has a material interest adverse to the bank or any of its subsidiaries, also shall be described.

4. Notwithstanding the foregoing, if a receiver, fiscal agent or similar officer has been appointed for the bank or its parent, in a proceeding under the Bankruptcy Act or in any other proceeding under State or Federal

law in which a court or governmental agency has assumed jurisdiction over substantially all of the assets or business of the bank or its parent, or if such jurisdiction has been assumed by leaving the existing directors and officers in possession but subject to the supervision and orders of a court or governmental body, identify the proceeding, the court or governmental body, the date jurisdiction was assumed, the identity of the receiver, fiscal agency or similar officer and the date of the person's appointment.

5. Discuss the extent of insurance coverage if appropriate to the type of proceeding.

§ 335.42 Form for annual report of bank (Form F-2).

Item 5—Legal Proceedings. Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the bank or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions. 1. Notwithstanding Instruction 2 to this item, administrative or judicial proceedings arising under Section 8 of the Federal Deposit Insurance Act shall be deemed material and shall be described.

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the equity capital accounts of the bank and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Any material proceedings to which any director, officer or affiliate of the bank, any owner of record or beneficially of more than 5 percent of any class of voting securities of the bank, or any associate of any such director, officer or security holder is a party adverse to the bank or any of its subsidiaries or has a material interest adverse to the bank or any of its subsidiaries, also shall be described.

4. Notwithstanding the foregoing, if a receiver, fiscal agent or similar officer has been appointed for the bank or its parent, in a proceeding under the Bankruptcy Act or in any other proceeding under State or Federal law in which a court or governmental agency has assumed jurisdiction over substantially all of the assets or business of the bank or its parent, or if such jurisdiction has been assumed by leaving the existing directors and officers in possession but subject to the supervision and orders of a court or

governmental body, identify the proceeding, the court or governmental body, the date jurisdiction was assumed, the identity of the receiver, fiscal agent or similar officer and the date of the person's appointment.

5. Discuss the extent of insurance coverage if appropriate to the type of proceeding.

Item 8—Principal Officers of the Bank.

(a) *Principal officers.* List the names and ages of all principal officers of the bank and all persons chosen to become principal officers; indicate all positions and offices with the bank held by each such person; state the person's term of office as officer and the period during which the person has served as such and briefly describe any arrangement or understanding between the person and any other person pursuant to which the person was selected as an officer.

Instructions. 1. Do not include arrangements or understandings with directors or officers of the bank acting solely in their capacities as such.

2. No person chosen to become a principal officer who has not consented to act as such should be named in response to this item.

(b) *Significant employees.* Where the bank employs persons such as special consultants who are not principal officers, but who make or are expected to make significant contributions to the business of the bank, such persons should be identified and their background disclosed to the same extent as in the case of principal officers.

(c) *Business experience.* Give a brief account of the business experience during the past five years of each person chosen to become a principal officer, and each person named in answer to paragraph (b), including the person's principal occupations and employment during that period and the name and principal business of any corporation or other organization in which such occupations and employment were carried on. When a principal officer or person named in response to paragraph (b) has been employed by the bank or a subsidiary of the bank for less than five years, a brief explanation should be included as to the nature of the responsibilities undertaken by the individual in prior positions to provide adequate disclosure of his prior business experience. The requirement is information relating to the level of the person's professional competence which may include, depending upon the circumstances, such specific information as the size of the operation supervised.

(d) *Family relationships and involvement in certain legal proceedings.* Set forth the same information as is required to be furnished by Items 6 (b) and (d) of Form F-5 at § 335.51 for each principal officer, person chosen to become a principal officer, and each person named in answer to paragraph (b).

Item 12—Security Ownership of Certain Beneficial Owners and Management. Set forth the same information as is required to be furnished by Items 5 (d), (e) and (g) of Form F-5 at § 335.51.

Note.—The information required by Item 5(e) of Form F-5 need not be included for any nominee for election as a director.

Item 13—Directors of the Bank. Set forth the same information as is required to be

furnished by Items 6 (a), (b), (c) and (d) of Form F-5 at § 335.51.

Note.—The information required by Items 6 (a), (b), (c) and (d) of Form F-5 need not be included for any nominee for election as a director.

Item 14—Remuneration of Directors and Officers. Set forth the same information as is required to be furnished by Items 7 (a) and (b) of Form F-5 at § 335.51.

Item 15—Management Options to Purchase Securities. Set forth the same information as is required to be furnished by Item 7(c) of Form F-5 at § 335.51.

Item 16—Interest of Management and Others in Certain Transactions. Set forth the same information as is required to be furnished by Items 7 (d), (e) and (f) of Form F-5 at § 335.51.

Note.—The information required by Items 7 (d), (e) and (f) of Form F-5 need not be included for any nominee for election as a director.

8. In § 335.43, Instruction 8 of Item 2, Item 3, Item 9(d), Item 10(e), Item 11, Item 12, Item 13 and Exhibits 7, 8, 9, and 10 are amended by revising or adding as follows:

§ 335.43 Form for current report of a bank (Form F-3).

Item 2—

Instructions.

6. Attention is directed to the requirements at the end of this form with respect to the filing of financial statements for businesses acquired and to the filing of copies of the plans of acquisition or disposition as exhibits to the report.

Item 3—Legal Proceedings. Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the bank or any of its subsidiaries is a party or which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions. 1. Notwithstanding Instruction 2 to this item, administrative or judicial proceedings arising under Section 8 of the Federal Deposit Insurance Act shall be deemed material and shall be described.

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the equity capital accounts of the bank and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Any material proceedings to which any director, officer or affiliate of the bank, any owner of record or beneficially of more than 5 percent of any class of voting securities of

the bank, or any associate of any such director, officer or security holder is a party adverse to the bank or any of its subsidiaries or has a material interest adverse to the bank or any of its subsidiaries, also shall be described.

4. Notwithstanding the foregoing, if a receiver, fiscal agent or similar officer has been appointed for the bank or its parent, in a proceeding under the Bankruptcy Act or in any other proceeding under State or Federal law in which a court or governmental agency has assumed jurisdiction over substantially all of the assets or business of the bank or its parent, or if such jurisdiction has been assumed by leaving the existing directors and officers in possession but subject to the supervision and orders of a court or governmental body, identify the proceeding, the court or governmental body, the date jurisdiction was assumed, the identity of the receiver, fiscal agent or similar officer and the date of the person's appointment.

5. Discuss the extent of insurance coverage if appropriate to the type of proceeding.

Item 9—

(d) Describe the terms of any settlement between the bank and any other participant (as defined in § 335.4(i)) terminating any solicitation subject to § 335.5(i), including the cost or anticipated cost to the bank.

Instructions.

5. If the bank has furnished to its security holders proxy soliciting material containing the information called for by paragraph (d), the paragraph may be answered by reference to the information contained in such material.

6. If the bank has published a report containing all of the information called for by this item, the item may be answered by a reference to the information contained in such report, provided copies of such report are filed as an exhibit to the report on this form.

Item 10—

(e) State whether the decision to change accountants was recommended or approved by

(1) Any audit or similar committee of the board of directors, if the bank has such a committee; or

(2) The board of directors, if the bank has no such committee.

Item 11—Resignations of Bank's Directors.

(a) If a director has resigned or declined to stand for re-election to the board of directors since the date of the last annual meeting of shareholders because of a disagreement with the bank on any matter relating to the bank's operations, policies or practices, and if the director has furnished the bank with a letter describing such disagreement and requesting that the matter be disclosed, the bank shall state the date of such resignation or declination to stand for re-election and summarize the director's description of the disagreement.

(b) If the bank believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

(c) The bank shall file a copy of the director's letter as an exhibit with all copies of this Form F-3.

Item 12—Other Materially Important Events. The bank shall, at its option, report

under this item any events that it deems of material importance to security holders, even though information as to such events is not otherwise called for by this form.

Item 13—Financial Statements and Exhibits. List below the financial statements and exhibits, if any, filed as a part of this report:

- (a) Financial statements.
- (b) Exhibits.

Signatures

Exhibits

7. Copies of the text of any proposal described in answer to Item 9.

8. Copies of any published report furnished in response to Item 9. (See Item 9, Instruction 6.)

9. Letters from the bank and the independent accountants furnished pursuant to Item 10.

10. Letters from directors furnished pursuant to Item 11.

9. In § 335.44, paragraph H(e) is amended as follows:

§ 335.44 Form for quarterly report of bank (Form F-4) to be filed pursuant to section 335.4(i).

H. Financial statements.

(e) The financial information to be included in this report should be prepared in conformity with the accounting principles and practices reflected in the financial statement included in the annual report filed with the Corporation for the preceding fiscal year, except for any subsequent regulatory revisions and changes required to be reported by § 335.7(e)(8).

10. Section 335.47 is amended as follows:

Acquisition statement to be filed pursuant to § 335.4(h)(2)(i) and amendments thereto filed pursuant to § 335.4(h)(3)(i) of Part 335

Federal Deposit Insurance Corporation
Washington, D.C. 20429

Form F-11

Acquisition statement to be filed pursuant to § 335.4(h)(2)(i) and amendments thereto filed pursuant to § 335.4(h)(3)(i) of Part 335

(Amendment No. —)

(Name and address of issuing bank)

(Title of class of securities)

(CUSIP Number)

(Name, address and telephone number of person authorized to receive notices and communications)

(Date of event which requires filing of this statement)

If the filing person has previously filed a statement on Form F-11A to report the acquisition which is the subject of this Form F-11, and is filing this form because of § 335.4(h)(2)(ii)(C) or (D), check the following box []:

(Continuing on following pages)

Page 1 of — pages

Note.—Six copies of this form including all exhibits, should be filed with the Corporation. See § 335.4(h)(2)(i) for other parties to whom copies are to be sent.

Special Instructions for Complying With Form F-11

Under Sections 13(d) and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Corporation is authorized to solicit the information required to be supplied by this form by certain security holders of certain banks.

Disclosure of the information specified in this form is mandatory, except for Social Security or I.R.S. identification numbers, disclosure of which is voluntary. The information will be used for the primary purpose of determining and disclosing the holdings of certain beneficial owners of certain equity securities. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Because of the public nature of the information, the Corporation can utilize it for a variety of purposes, including referral to other governmental authorities or securities self-regulatory organizations for investigatory purposes or in connection with litigation involving the Federal securities laws or other civil, criminal or regulatory statements or provisions. Social Security or I.R.S. identification numbers, if furnished, will assist the Corporation in identifying security holders and, therefore, in promptly processing statements of beneficial ownership of securities.

Failure to disclose the information requested by this form, except for Social Security or I.R.S. identification numbers, may result in civil or criminal action against the persons involved for violation of the Federal securities laws and rules promulgated thereunder.

General Instructions

A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or subitem of the statement unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required.

C. If the statement is filed by a general or limited partnership, syndicate, or other group, the information called for by Items 2-6, inclusive, shall be given with respect to (i) each partner of such general partnership; (ii) each partner who is designated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a corporation or if a person referred to in (i), (ii), (iii) or (iv) of this instruction is a corporation, the information called for by the above mentioned items shall be given with respect to (a) each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation or other person ultimately in control of such corporation. Executive officer shall mean the president, secretary, treasurer, and any vice president in charge of a principal business function (such as sales, administration or finance) and any other person who performs or has the power to perform similar policy making functions for the corporation.

Item 1—Security and Bank. State the title of the class of equity securities to which this statement relates and the name and address of the principal office of the bank.

Item 2—Identity and Background. If the person filing this statement or any person enumerated in Instruction C of this statement is a corporation, general partnership, limited partnership, syndicate or other group of persons, state its name, the state or other place of its organization, its principal business, the address of its principal office and the information required by (d) and (e) of this item. If the person filing this statement or any person enumerated in Instruction C is a natural person, provide the information specified in (a) through (f) of this item with respect to such person(s).

(a) Name;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted;

(d) Whether or not, during the last five years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, any penalty imposed, or other disposition of the case;

(e) Whether or not, during the last five years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, Federal or State securities laws or finding any violation with respect to such laws; and, if so, identify and describe such proceedings and summarize the terms of such judgment, decree or final order; and

(f) Citizenship.

Item 3—Source and Amount of Funds or Other Consideration. State the source and

the amount of funds or other consideration used or to be used in making the purchases, and if any part of the purchase price is or will be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, trading or voting the securities, a description of the transaction and the names of the parties thereto. Where material, such information should also be provided with respect to prior acquisitions not previously reported pursuant to this regulation. If the source of all or any part of the funds is a loan made in the ordinary course of business by a bank, as defined in Section 3(a)(6) of the Act, the name of the bank shall not be made available to the public if the person at the time of filing the statement so requests in writing and files such request, naming such bank, with the Corporation. If the securities were acquired other than by purchase, describe the method of acquisition.

Item 4—Purpose of Transaction. State the purpose or purposes of the acquisition of securities of the bank. Describe any plans or proposals which the reporting persons may have which related or would result in:

(a) The acquisition by any person of additional securities of the bank, or the disposition of securities of the bank;

(b) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the bank or any of its subsidiaries;

(c) A sale or transfer of a material amount of assets of the bank or of any of its subsidiaries;

(d) Any change in the present board of directors or management of the bank, including any plans or proposals to change the number or term of directors or to fill any existing vacancies on the board;

(e) Any material change in the present capitalization or dividend policy of the bank;

(f) Any other material change in the bank's business or corporate structure;

(g) Changes in the bank's charter, bylaws or instruments corresponding thereto or other actions which may impede the acquisition of control of the bank by any person;

(h) Causing a class of securities of the bank to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association;

(i) A class of equity securities of the bank becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Act; or

(j) Any action similar to any of those enumerated above.

Item 5—Interest in Securities of the Bank.

(a) State the aggregate number and percentage of the class of securities identified pursuant to Item 1 (which may be based on the number of securities outstanding as contained in the most recently available filing with the Corporation by the bank unless the filing person has reason to believe such information is not current) beneficially owned (identifying those shares which there is a right to acquire) by each person named in Item 2. The above mentioned information should also be furnished with respect to persons who, together with any of the persons named in Item 2, comprise a group

within the meaning of Section 13(d)(3) of the Act.

(b) For each person named in response to Paragraph (a), indicate the number of shares as to which there is sole power to vote or to direct the vote, shared power to vote or to direct the vote, sole power to dispose or to direct the disposition, or shared power to dispose or to direct the disposition. Provide the applicable information required by Item 2 with respect to each person with whom the power to vote or to direct the vote or to dispose or direct the disposition is shared.

(c) Describe any transactions in the class of securities reported on that were effected during the past sixty days or since the most recent filing on Form F-11, whichever is less, by the persons named in response to paragraph (a).

Instruction. The description of a transaction required by Item 5(c) shall include, but not necessarily be limited to (1) the identity of the person covered by Item 5(c) who effected the transaction, (2) the date of the transaction, (3) the amount of securities involved, (4) the price per share or unit, and (5) where and how the transaction was effected.

(d) If any other person is known to have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities, a statement to that effect should be included in response to this item and, if such interest relates to more than five percent of the class, such person should be identified. A listing of the shareholders of an investment company registered under the Investment Company Act of 1940 or the beneficiaries of an employee benefit plan, pension fund or endowment fund is not required.

(e) If applicable, state the date on which the reporting person ceased to be the beneficial owner of more than five percent of the class of securities.

Instruction. For computations regarding securities which represent a right to acquire an underlying security, see § 335.4(h)(5)(iv)(A)(7).

Item 6—Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Bank. Describe any contracts, arrangements, understandings or relationships (legal or otherwise) among the persons named in Item 2 and between such persons and any person with respect to any securities of the bank, including but not limited to transfer or voting of any of the securities, finder's fees, joint ventures, loan or option arrangements, puts or calls, guarantees of profits, division of profits or losses, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, understandings or relationships have been entered into. Include such information for any of the securities that are pledged or otherwise subject to a contingency the occurrence of which would give another person voting power or investment power over such securities except that disclosure of standard default and similar provisions contained in loan agreements need not be included.

Item 7—Material to be Filed as Exhibits. The following shall be filed as exhibits: Copies of written agreements relating to the

filing of joint acquisition statements as required by § 335.4(h)(2)(v) and copies of all written agreements, contracts, arrangements, understandings, plans, or proposals relating to (1) The borrowing of funds to finance the acquisition as disclosed in Item 3; (2) the acquisition of bank control, liquidation, sale of assets, merger, or change in business or corporate structure, or any other matter as disclosed in Item 4; and (3) the transfer or voting of the securities, finder's fees, joint ventures, options, puts, calls, guarantees of loans, guarantees against loss or of profit, or the giving or withholding of any proxy as disclosed in Item 6.

Signature. After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete, and correct.

Date _____
Signature _____
Name/Title _____

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the filing person), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement, provided, however, that a power of attorney for this purpose which is already on file with the Corporation may be incorporated by reference. The name and any title of each person who signs the statement shall be typed or printed beneath the person's signature.

Attention: International misstatements or omissions of fact constitute Federal criminal violations (See 18 U.S.C. 1001).

11. A new § 335.48 is added to read as follows:

§ 335.48 Short form ownership statement to be filed pursuant to § 335.4(h)(2)(ii) and amendments thereto filed pursuant to § 335.4(h)(3)(ii) of Part 335 (Form F-11A).

Federal Deposit Insurance Corporation
Washington, D.C. 20429

Form F-11A

Short form ownership statement to be filed pursuant to § 335.4(h)(2)(ii) and amendments thereto filed pursuant to § 335.4(h)(3)(ii).

(Amendment No.) _____
(Name and address of issuing bank) _____
(Title of class of securities) _____
(CUSIP Number) _____

(Continued on following pages)

Page 1 of pages

Special Instructions for Complying With Form F-11A

Under Sections 13(d), 13(g) and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Corporation is authorized to solicit the information required to be supplied by this schedule by certain security holders of certain banks.

Disclosure of the information specified in this schedule is mandatory, except for Social Security or I.R.S. identification numbers, disclosure of which is voluntary. The information will be used for the primary purpose of determining and disclosing the holdings of certain beneficial owners of certain equity securities. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Because of the public nature of the information, the Corporation can utilize it for a variety of purposes, including referral to other governmental authorities or securities self-regulatory organizations for investigatory purposes or in connection with litigation involving the Federal securities laws or other civil, criminal or regulatory statutes or provisions. Social Security or I.R.S. identification numbers, if furnished, will assist the Corporation in identifying security holders and, therefore, in promptly processing statements of beneficial ownership of securities.

Failure to disclose the information requested by this schedule, except for Social Security or I.R.S. identification numbers, may result in civil or criminal action against the persons involved for violation of the Federal securities laws and rules promulgated thereunder.

General Instructions

A. Statements containing the information required by this form shall be filed not later than February 14 following the calendar year covered by the statement or within the time specified in § 335.4(h)(2)(ii)(B), if applicable.

B. Information contained in a form which is required to be filed by the Securities and Exchange Commission's rules under Section 13(f) of the Act (15 U.S.C. 78m(f)) for the same calendar year as that covered by a statement on this form may be incorporated by reference in response to any of the items of this form. If such information is incorporated by reference in this form, copies of the relevant pages of such form shall be filed as an exhibit to this form.

C. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

Item 1(a)—Name of the Bank Issuer:

Item 1(b)—Address of Bank's Principal Executive Offices:

Item 2(a)—Name of Person Filing:

Item 2(b)—Address of Principal Business Office, or if None, Residence:

Item 2(c)—Citizenship:

Item 2(d)—Title of Class of Securities:

Item 2(e)—CUSIP Number:

Item 3—If this statement is filed pursuant to § 335.4(h)(2)(ii), or § 335.4(h)(3)(ii), check whether the person filing is a:

(a) ☐ Broker or Dealer registered under Section 15 of the Act

(b) ☐ Bank as defined in Section 3(a)(6) of the Act

(c) ☐ Insurance Company as defined in Section 3(a)(19) of the Act

(d) ☐ Investment Company registered under Section 8 of the Investment Company Act

(e) ☐ Investment Adviser registered under Section 203 of the Investment Advisers Act of 1940

(f) ☐ Employee Benefit Plan, Pension Fund which is subject to the provisions of the Employee Retirement Income Security Act of 1974 or Endowment Fund; see § 335.4(h)(2)(ii)(A)(2)(v)

(g) ☐ Parent Holding Company, in accordance with § 335.4(h)(2)(ii)(A)(2)(vii) (Note: See Item 7)

(h) ☐ Group, in accordance with § 335.4(h)(2)(ii)(A)(2)(viii)

Item 4—Ownership.

If the percent of the class owned, as of December 31 of the year covered by the statement, or as of the last day of any month described in § 335.4(h)(2)(ii)(B), if applicable, exceeds five percent, provide the following information as of that date and identify those shares which there is a right to acquire.

(a) Amount Beneficially Owned:

(b) Percent of Class:

(c) Number of shares as to which such person has:

(i) sole power to vote or to direct the vote—

(ii) shared power to vote or to direct the vote—

(iii) sole power to dispose or to direct the disposition of—

(iv) shared power to dispose or to direct the disposition of—

Instruction: For computations regarding securities which represent a right to acquire an underlying security see § 335.4(h)(5)(iv)(A).

Item 5—Ownership of Five Percent or Less of a Class.

If this statement is being filed to report the fact that as of the date hereof the reporting person has ceased to be the beneficial owner of more than five percent of the class of securities, check the following ☐.

Instruction: Dissolution of a group requires a response to this item.

Item 6—Ownership of More Than Five Percent on Behalf of Another Person.

If any other person is known to have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities, a statement of that effect should be included in response to this item and, if such interest relates to more than five percent of the class, such person should be identified. A listing of the shareholders of an investment company registered under the Investment Company Act of 1940 or the beneficiaries of an employee benefit plan, pension fund or endowment fund is not required.

Item 7—Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on By the Parent Holding Company.

If a parent holding company has filed this schedule, pursuant to § 335.4(h)(2)(ii)(A)(2)(vii) so indicate under Item 3(g) and attach an exhibit stating the identity and the Item 3 classification of the relevant subsidiary. If a parent holding company has filed this schedule pursuant to § 335.4(h)(2)(iii), attach an exhibit stating the identification of the relevant subsidiary.

Item 8—Identification and Classification of Members of the Group.

If a group has filed this schedule, pursuant to § 335.4(h)(2)(ii)(A)(2)(viii), so indicate under Item 3(h) and attach an exhibit stating the identity and Item 3 classification of each member of the group. If a group has filed this schedule pursuant to § 335.5(h)(2)(iii), attach an exhibit stating the identity of each member of the group.

Item 9—Notice of Dissolution of Group.

Notice of dissolution of a group may be furnished as an exhibit stating the date of the dissolution and that all further filings with respect to transactions in the security reported on will be filed, if required, by members of the group, in their individual capacity. See Item 5.

Item 10—Certification.

The following certification shall be included if the statement is filed pursuant to § 335.4(h)(2)(ii):

By signing below I certify that, to the best of my knowledge and belief, the securities referred to above were acquired in the ordinary course of business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer of such securities and were not acquired in connection with or as a participant in any transactions having such purpose or effect.

Signature. After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete, and correct.

Date _____

Signature _____

Name/Title _____

The original statement shall be signed by each person on whose behalf the statement is filed or the person's authorized

representative. If the statement is signed on behalf of a person by the person's authorized representative (other than an executive officer or general partner of the filing person), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement, provided, however, that a power of attorney for this purpose which is already on file with the Corporation may be incorporated by reference. The name and any title of each person who signs the statement shall be typed or printed beneath the person's signature.

Note.—Six copies of this statement, including all exhibits, should be filed with the Corporation.

Attention: Intentional misstatements or omissions of fact constitute Federal criminal violations (See 18 U.S.C. 1001).

12. In § 335.51, Items 3(b), 5(d), 5(e), 5(f), 5(g), 6, 7, 8(e) and 8(f) are amended by revising and adding as follows:

§ 335.51 Form for proxy statement; statement where management does not solicit proxies (Form F-5).

Item 3
(b)

(6) If any such solicitation is terminated pursuant to a settlement between the bank and any other participant in such solicitation, describe the terms of such settlement, including the cost or anticipated cost thereof to the bank.

Instructions: 1. With respect to solicitations subject to § 335.5(i), costs and expenditures within the meaning of this Item 3 shall include fees for attorneys, accountants, public relations or financial advisers, solicitors, advertising, printing, transportation, litigation and other costs incidental to the solicitation, except that the bank may exclude the amount of such costs represented by the amount normally expended for a solicitation for an election of directors in the absence of a contest, and costs represented by salaries and wages of regular employees and officers, provided a statement to that effect is included in the proxy statement.

2. The information required pursuant to Paragraph (6) of Item 3(b) should be included in any amended or revised proxy statement or other soliciting materials relating to the same meeting or subject matter furnished to security holders by the bank subsequent to the date of settlement.

Item 5

(d) Furnish the following information to the extent known by the persons on whose behalf the solicitation is made, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in Section 13(d)(3) of the Securities Exchange Act of 1934) who is known to the bank to be the beneficial owner of more than five percent of any class of the bank's voting securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3),

indicate by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership, as specified in § 335.4(h)(5)(iv)(A).

(1)	(2)	(3)	(4)
Title of Class	Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percent of Class

(e) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the bank or any of its parents or subsidiaries other than directors qualifying shares, beneficially owned by all directors and nominees, naming them and directors and officers of the bank as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership as specified in § 335.4(h)(5)(iv)(A).

(1)	(2)	(3)
Title of Class	Amount and nature of beneficial ownership	Percent of class

(f) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the bank has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person or persons; the basis of the control, the date and a description of the transaction(s) which resulted in the change of control and the percentage of voting securities of the bank now beneficially owned directly or indirectly by the person(s) who acquired control; and the identity of the person(s) from whom control was assumed. If the source or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by Section 3(a)(6) of the Act, the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to Section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate that the identity of the bank has been so omitted and filed separately with the Corporation.

Instructions: 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters shall be described.

(g) Describe any arrangements, known to the bank including any pledge by any person of securities of the bank or any of its parents, the operation of which may at a subsequent date result in a change in control of the bank.

Instructions: 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities

held by or for the account of the bank or its subsidiaries, plus securities deemed outstanding pursuant to § 335.4(h)(5)(iv)(A).

2. For the purpose of this item, beneficial ownership shall be determined in accordance with § 335.4(h)(5). Include such additional subcolumns or other appropriate explanation of Column (3) necessary to reflect amounts as to which the beneficial owner has (1) sole voting power, (2) shared voting power, (3) sole investment power, (4) shared investment power.

3. The bank shall be deemed to know the contents of any statements filed with the Corporation pursuant to Section 13(d) of the Act. When applicable, a bank may rely upon information set forth in such statements unless the bank knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (a), the bank may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

6. Paragraph (g) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the bank.

Item 6—Directors and Principal Officers. If action is to be taken with respect to election of directors, furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each person whose term of office will continue after the meeting. However, if the solicitation is made on behalf of persons other than management, the information required need not be furnished only as to nominees of the persons making the solicitation.

(a) **Identification of directors.** List the names and ages of all directors of the bank, and all persons nominated or chosen to become directors; indicate all positions and offices with the bank held by each such person; state the term of office as director and any period(s) during which the person has served as such; briefly describe any arrangement or understanding between the person and any other person or persons (naming such person(s)) pursuant to which the person was or is to be selected as a director or nominee.

Instructions: 1. Do not include arrangements or understandings with directors or officers of the bank acting solely in their capacities as such.

2. No nominee or person chosen to become a director or who has not consented to act as such should be named in response to this item. In this regard, see § 335.5(d).

3. No information need be given respecting any director whose term of office as a director will not continue after the meeting to which the statement relates.

4. In connection with action to be taken concerning the election of directors, if fewer nominees are named than the number fixed by or pursuant to the governing instruments, state the reasons for this procedure and that

the proxies cannot be voted for a greater number of persons than the number of nominees named.

(b) **Family relationships.** State the nature of any family relationship between any director, principal officer, or person nominated or chosen by the bank to become a director or principal officer.

Instruction. The term "family relationship" means any relationship by blood, marriage, or adoption, not more remote than first cousin.

(c) **Business experience.** (1) Give a brief account of the business experience during the past five years of each director or person nominated or chosen to become a director including the person's principal occupations and employment during that period and the name and principal business of any corporation or other organization in which such occupations and employment were carried on.

(2) **Directorships.** Indicate any other directorships held by each director or person nominated or chosen to become a director in any company with a class of securities registered pursuant to Section 12 of the Act.

(d) **Involvement in certain legal proceedings.** Describe any of the following events which occurred during the past five years and which are material to an evaluation of the ability or integrity of any director or person nominated to become a director of the bank:

(1) A petition under the Bankruptcy Act or any State insolvency law was filed by or against, or a receiver, fiscal agent or similar officer was appointed by a court for the business or property of such person, or any partnership in which the person was a general partner at or within two years before the time of such filing, or any corporation or business association of which the person was a principal officer at or within two years before the time of such filing;

(2) The person was convicted in a criminal proceeding or is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses);

(3) The person was the subject of any order, judgment, or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction permanently or temporarily enjoining the person from, or otherwise limiting the following activities:

(i) Acting as an investment adviser, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank, savings and loan association or insurance company, or engaging in or continuing any conduct or practice in connection with such activity;

(ii) Engaging in any type of business practice; or

(iii) Engaging in any type of activity in connection with the purchase or sale of any security or in connection with any violation of Federal or State securities laws;

(4) Such person was the subject of any order, judgment or decree, not subsequently reversed, suspended or vacated, of any Federal or State authority barring, suspending or otherwise limiting for more than 60 days the right of such person to engage in any activity described in subparagraph (3), above, or to be associated with persons engaged in any such activity;

(5) Such person was found by a court of competent jurisdiction in a civil action or by a government authority to have violated any Federal or State securities law, and the judgment in such civil action or finding by the government authority has not been subsequently reversed, suspended, or vacated.

Instructions: 1. For purposes of computing the five-year period referred to in this paragraph, the date of a reportable event shall be deemed the date on which the final order, judgment or decree was entered, or the date on which any rights of appeal from preliminary orders, judgments, or decrees have lapsed. With respect to bankruptcy petitions, the computation date shall be the date of filing for uncontested petitions or the date upon which approval of a contested petition became final.

2. If any event specified in this Subparagraph (f) has occurred and information in regard thereto is omitted on the ground that it is not material, the bank may furnish to the Corporation, at the time preliminary materials are filed pursuant to § 335.5(f), as supplemental information and not as part of the proxy statement materials to which the omission relates, a description of the event and a statement of the reasons for the omission of information in regard thereto.

3. The bank is permitted to explain any mitigating circumstances associated with events reported pursuant to this paragraph.

4. No information need be given respecting any director whose term of office as a director will not continue after the meeting to which the statement relates.

(e) **Relationships with affiliates and others.** Describe any of the following relationships that exist:

(1) The nominee or director has during the past five years had a principal occupation or employment with any of the bank's parents, subsidiaries or other affiliates;

(2) The nominee or director is related to a principal officer of any of the bank's parents, subsidiaries or other affiliates by blood, marriage or adoption (except relationships more remote than first cousin);

(3) The nominee or director is, or has within the last two full fiscal years been, an officer, director or employee of, or owns, or has within the last two full fiscal years owned, directly or indirectly, in excess of one (1) percent equity interest in any firm, corporation or other business or professional entity;

(i) Which has made payments to the bank or its subsidiaries for property or services during the bank's last full fiscal year in excess of one (1) percent of the bank's consolidated gross revenues for its last full fiscal year;

(ii) Which proposes to make payments to the bank or its subsidiaries for property or services during the current fiscal year in excess of one (1) percent of the bank's consolidated gross revenues for its last full fiscal year;

(iii) To which the bank or its subsidiaries was indebted at any time during the bank's last fiscal year in an aggregate amount in excess of one (1) percent of the bank's total consolidated assets at the end of such fiscal year, or \$5,000,000, whichever is less;

(iv) To which the bank or its subsidiaries has made payments for property or services during such entity's last fiscal year in excess of one (1) percent of such entity's gross revenues for its last full fiscal year;

(v) To which the bank or its subsidiaries proposes to make payments for property or services during such entity's current fiscal year in excess of one (1) percent of such entity's consolidated gross revenues for its last full fiscal year;

(vi) In order to determine whether payments made or proposed to be made exceed one (1) percent of the consolidated gross revenues of any entity other than the bank for such entity's last full fiscal year, it is appropriate to rely on information provided by the nominee or director;

(vii) In calculating payments for property and services the following may be excluded: (A) Payments where the rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a public utility at rates or charges fixed in conformity with law or governmental authority;

(B) Payments which arise solely from the ownership of securities of the issuer and no extra or special benefit not shared on a pro rata basis by all holders of the class of securities is received;

(viii) In calculating indebtedness for purposes of Subparagraph (iii) above, debt securities which have been publicly offered, admitted to trading on a national securities exchange, or quoted on the automated quotation system of a registered securities association may be excluded;

(4) That the nominee or director is a member or employee of, or is associated with, a law firm which the issuer has retained in the last two full fiscal years or proposes to retain in the current fiscal year;

(5) That the nominee or director is a director, partner, officer or employee of any investment banking firm that has performed services for the bank other than as a participating underwriter in a syndicate in the last two full fiscal years or which the bank proposes to have perform services in the current year; or

(6) That the nominee or director is a control person of the bank other than solely as a director of the bank.

(7) In addition, the bank should disclose any other relationships it is aware of between the director or nominee and the bank or its management which are substantially similar in nature and scope to those relationships listed above.

Note.—In the Corporation's view, where significant business or personal relationships exist between the director or nominee and the bank or its management, including, but not limited to, those as to which disclosure would be required pursuant to this Item 6(g), characterization of a director or nominee by any "label" connoting a lack of relationship to the bank and its management may be materially misleading.

(f) **Committees.** (1) State whether or not the bank has standing audit, nominating and compensation committees of the board of directors, or committees performing similar functions. If the bank has such committees, however designated, identify each committee

member, state the number of committee meetings held by each such committee during the last fiscal year and describe briefly the functions performed by such committees.

(2) If the bank has a nominating or similar committee, state whether the Committee will consider nominees recommended by shareholders and, if so, describe the procedures to be followed by shareholders in submitting such recommendations.

(g) *Director attendance.* State the total number of meetings of the board of directors (including regularly scheduled and special meetings) which were held during the last full fiscal year. Name each incumbent director who during the last full fiscal year attended fewer than 75 percent of the aggregate of (1) the total number of meetings of the board of directors (held during the period for which he has been a director) and (2) the total number of meetings held by all committees of the board on which he served (during the periods that he served).

(h) *Director resignations.* If a director has resigned or declined to stand for re-election to the board of directors since the date of the last annual meeting of shareholders because

of a disagreement with the bank on any matter relating to the bank's operations, policies or practices, and if the director has furnished the bank with a letter describing such disagreement and requesting that the matter be disclosed, the bank shall state the date of resignation or declination to stand for re-election and summarize the director's description of the disagreement.

If the bank believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

Item 7—Remuneration and Other Transactions With Management and Others. Furnish the information called for by this item if action is to be taken with respect to (i) the election of directors, (ii) any bonus, profit sharing or other remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the bank will participate, (iii) any pension or retirement plan in which any such person will participate, or (iv) the granting or extension to any such person of any options, warrants or rights to purchase any securities, other than warrants or rights issued to

security holders, as such, on a pro rata basis. However, if the solicitation is made on behalf of persons other than the management, the information required need be furnished only as to nominees for election as directors and as to their associates.

(a) *Current remuneration.* Furnish the information required in the table below in substantially the tabular form specified, concerning all remuneration of the following persons and groups for services in all capacities to the bank during the bank's last fiscal year:

(1) *Five principal officers or directors.* Each of the five most highly compensated principal officers or directors of the bank as to whom the total remuneration required to be disclosed in Columns C1 and C2 below would exceed \$50,000, naming each such person; and

(2) *All principal officers and directors.* All principal officers and directors of the bank as a group, stating the number of persons in the group without naming them.

(3) *Specified tabular format:*
Remuneration table:

(A) Name of individual or number of persons in group	(B) Capacities in which served	(C) Cash and cash equivalent forms of remuneration		(D) Aggregate of contingent forms of remunerations
		(C1) Salaries, fees, directors' fees, commissions, and bonuses	(C2) Securities or property insurance benefits or reimbursement, personal benefits	

Instructions to Item 7(a). 1. Columns A and B. Persons subject to this item.

(a) This item applies to any person who was a principal officer, or director of the bank at any time during the fiscal year. However, information need not be given for any portion of the period during which such person was not a principal officer, or director of the bank, provided a statement to that effect is made.

(b) The terms "principal officer" and "officer" of a bank are defined in § 335.2(s).

(c) For the purposes of this Item 7, the term "bank" shall include the bank and all its subsidiaries.

2. *Column C (a) Column C1 shall include all cash remuneration distributed or accrued in the form of salaries, fees, directors' fees, commissions and bonuses.*

(b) *Column C2 shall include the following:*
(i) *Securities or property.* Where any of the specified persons or group (A) exercises any option, right or similar election in connection with any contract, agreement, plan or arrangement, or (B) becomes entitled without further contingencies to retain securities or property, state the spread between the acquisition price, if any, and the fair market price of all securities or property acquired under any contract, agreement, plan or arrangement. The fair market price of any such securities or property shall be determined as of the date during the fiscal year that either of the events in (A) or (B) of this paragraph occurs, or if both events are

contemplated, the date of the latter event.

(ii) *Personal benefits.* (A) The value of personal benefits which are not directly related to job performance, which are furnished by the bank directly or through third parties to each of the specified persons and group, or benefits furnished by the bank to other persons which directly benefit the specified persons. Such personal benefits shall include the cost of any premiums or benefits paid by the bank for any life or health insurance policy or health plan of which the bank is not the sole beneficiary. Such benefits shall be valued on the basis of the aggregate actual cost to the bank. Information need not be furnished for any such benefit provided by the bank which does not discriminate in favor of officers or directors and which is available generally to all salaried employees.

(B) No disclosure need be included as to any person named in the remuneration table if the aggregate amount of all personal benefits to such persons did not exceed \$5,000. If disclosure of such amounts is not made, a statement to that effect should be added in a footnote to the table.

(C) If the bank cannot determine the actual cost of personal benefits for a specified person without unreasonable effort or expense, include a reasonable estimate of the cost of the personal benefit to the bank. If the bank cannot reasonably allocate the extent to

which the benefit is personal, include the aggregate cost to the bank and estimate the percentage of cost attributable to personal use. If an estimate is made, disclose the factors upon which the estimate is based.

(D) Provide in a statement following the table a description of the bank's policies and practices with respect to providing personal benefits to officers, directors or principal shareholders. Describe the type of benefits provided and the basis for selection of the recipients.

3. *Column D.* Column D shall include remuneration of the specified persons and group in whole or in part for services rendered during the fiscal year (including the forms of remuneration described in paragraphs (a) through (c) below) if the distribution of such remuneration or the unconditional vesting or measurement of benefits thereunder is subject to future events.

(a) *Pension or retirement plans; annuities; employment contracts; deferred compensation plans.* (i) As to each of the specified persons and group, the amount expended for financial reporting purposes by the bank for the year which represents the contribution, payment or accrual for the account of any such person or group under any existing pension or retirement plans, annuity contracts, deferred compensation plans or any other similar arrangements.

Such amounts should be reflected as remuneration for the fiscal year under all such plans or arrangements, including plans qualified under the Internal Revenue Code, unless, in the case of a defined benefit or actuarial plan, the amount of the contribution, payment or accrual in respect of a specified person is not and cannot readily be separately or individually calculated by the regular actuaries for the plan.

(ii) If amounts are excluded from the table pursuant to the previous provision, include a footnote to the table (A) stating such fact; (B) disclosing the percentage which the aggregate contributions to the plan bears to the total remuneration of plan participants covered by such plan; and (C) briefly describing the remuneration covered by the plan.

(b) *Incentive and compensation plans and arrangements.* (i) With respect to stock options, stock appreciation rights plans, phantom stock plans and any other incentive or compensation plan or arrangement pursuant to which the measure of benefits is based on objective standards or on the value of securities of the bank or another person, granted, awarded or entered into at any time in connection with services to the bank, include as remuneration of each of the specified persons and group any attributable amount expended by the bank for financial reporting purposes for the fiscal year as remuneration for any such specified person or group.

(ii) Where amounts are expended and reported in the remuneration table, and amounts are credited in a subsequent year in connection with the same plan or arrangement for any proper reason, including a decline in the market price of the securities, such credit may be reflected as a reduction of the remuneration reported in Column D. If amounts credited are reflected in the table, include a footnote stating the amount of the credit and briefly describe such treatment.

(iii) The term "options" as used in this Item 7 includes all options, warrants or rights, other than those issued to security holders as such on a pro rata basis.

(c) *Stock purchase plans; profit sharing and thrift plans.* Include the amount of any contribution, payment or accrual for the account of each of the specified persons and group under any stock purchase, profit sharing, thrift or similar plan, which has been expended during the fiscal year by the bank for financial reporting purposes. Amounts reflecting contributions under plans qualified under the Internal Revenue Code may not be excluded.

4. *Other permitted disclosure.* The bank may provide additional disclosure through a footnote to the table, through additional columns, or otherwise, describing the components of aggregate remuneration in such greater detail as is appropriate.

5. *Definition of "plan".* The term "plan" as used in this Part 335 includes all plans, contracts, authorizations, or arrangements, whether or not set forth in any formal document.

[End of Instructions to Item 7(a)]

(b) *Proposed remuneration.* Briefly describe all remuneration payments proposed to be made in the future, pursuant to any existing plan or arrangement to the persons and group

specified in Item 7(a). As to defined benefit or actuarial plans, with respect to which amounts are not included in the table pursuant to Instruction 3(a) to Item 7(a), include a separate table showing the estimated annual benefits payable upon retirement to persons in specified remuneration and years-of-service classifications.

Instruction. Information need not be furnished with respect to any group life, health, hospitalization, or medical reimbursement plans which do not discriminate in favor of officers or directors of the bank and which are available generally to all salaried employees.

(c) *Options, warrants or rights.* Furnish the following information as to all options to purchase any securities from the bank which were granted to or exercised by the following persons since the beginning of the bank's last fiscal year, and as to all options held by such persons as of the latest practicable date (i) each director or officer named in answer to paragraph (a)(1), naming each such person; and (ii) all directors and officers of the bank as a group, without naming them:

(1) As to options granted during the period specified state (i) the title and aggregate amount of securities called for; (ii) the average option price per share; and (iii) if the option price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date shall be disclosed.

(2) As to the options exercised during the period specified, state (i) the title and aggregate amount of securities purchased; (ii) the aggregate purchase price; and (iii) the aggregate market value of the securities purchased on the date of purchase.

(3) As to all unexercised options held as of the latest practicable date (state date), regardless of when such options were granted, state (i) the title and aggregate amount of securities called for; and (ii) the average option price per share.

Instructions. 1. The term "options" as used in this paragraph (c) includes all options, warrants or rights, other than those issued to security holders as such on a pro rata basis. Where the average option price per share is called for, the weighted average price per share shall be given.

2. The extension, regranting or material amendment of options shall be deemed the granting of options within the meaning of this paragraph.

3. (i) Where the total market value on the granting dates of the securities called for by all options granted during the period specified does not exceed \$10,000 for any officer or director named in answer to paragraph (a)(1), or \$40,000 for all officers and directors as a group, this item need not be answered with respect to options granted to such person or group.

(ii) Where the total market value on the dates of purchases of all securities purchased through the exercise of options during the period specified does not exceed \$10,000 for any such person or \$40,000 for such group, this item need not be answered with respect to options exercised by such person or group.

(iii) Where the total market value as of the latest practicable date of the securities called

for by all options held at such time does not exceed \$10,000 for any such person or \$40,000 for such group, this item need not be answered with respect to options held as of the specified date by such person or group.

4. If the options relate to more than one class of securities the information shall be given separately for each such class.

5. The information called for by this Item 7(c) may be furnished in the form of the table set forth in the Option Disclosure Instruction at the end of § 335.51.

(d) *Indebtedness of management.* (1) State as to each of the following specified persons ("specified persons"), who was indebted to the bank at any time since the beginning of its last fiscal year: (i) The largest aggregate amount of indebtedness (in dollar amounts and as a percentage of total equity capital accounts at the time), including extensions of credit or overdrafts, endorsements and guarantees outstanding at any time during such period; (ii) the amount thereof outstanding as of the latest practicable date; (iii) the nature of the indebtedness and of the transaction in which it was incurred; and (iv) the rate of interest paid or charged thereon:

(A) Each director or principal officer of the bank;

(B) Each nominee for election as a director;

(C) Each security holder who is known to the bank to own of record or beneficially more than five percent of any class of the bank's voting securities ("principal security holder"); and

(D) Each associate of any such director, principal officer, nominee or principal security holder.

Instructions. 1. Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

2. Generally, no information need be given under this Item 7(d) unless any of the following are present:

(a) The extension(s) of credit were not made on substantially the same terms, including interest rates, collateral and repayment terms as those prevailing at the time for comparable transactions with other than the specified persons.

(b) The extension(s) of credit were not made in the ordinary course of business.

(c) The extension(s) of credit have involved or presently involve more than a normal risk of collectibility or other unfavorable features including the restructuring of an extension of credit, or a delinquency as to payment of interest or principal.

(d) The aggregate amount of extensions of credit outstanding at any time from the beginning of the last fiscal year to date to a person specified in (A), (B), and (C) of this paragraph (d)(1) together with the person's associates, exceeded 10% of the equity capital accounts of the bank at that time or \$5 million, whichever is less.

Note.—For purposes of this Instruction 2(d) only: (1) The information called for by paragraphs (d)(1)(iii) and (iv) of this Item 7 need not be furnished; (2) A principal security holder shall mean each security holder known to the bank to own of record or beneficially more than ten (10) percent of any class of the bank's voting securities; and (3) The name of any associate need not be furnished.

(2) If aggregate extensions of credit to the specified persons as a group, exceeded 20 percent of the equity capital accounts of the bank at any time since the beginning of the last fiscal year, (i) the aggregate amount of such extensions of credit shall be disclosed, and (ii) a statement shall be included, to the extent applicable, that the bank has had and expects to have in the future, banking transactions in the ordinary course of its business with directors, officers, principal stockholders, and their associates, on substantially the same terms, including interest rates and collateral on loans, as those prevailing at the same time for comparable transactions with others and did not involve more than the normal risk of collectibility or present other unfavorable features. For the purpose of determining "aggregate extensions of credit" in this paragraph, transactions which are exempted from disclosure pursuant to this item may be excluded.

(3) If any indebtedness required to be described arose under Section 16(b) of the Act and has not been discharged by payment, state the amount of any profit realized, that such profit will inure to the benefit of the bank and whether suit will be brought or other steps taken to recover such profit. If in the opinion of counsel a question reasonably exists as to the recoverability of such profit, it will suffice to state all facts necessary to describe the transaction, including the prices and number of shares involved.

(e) *Transactions with management.* Describe briefly any transactions since the beginning of the bank's last fiscal year or any presently proposed transactions, to which the bank was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the bank, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or principal officer of the bank;

(2) Any nominee for election as a director;

(3) Any security holder who is known to the bank to own of record or beneficially more than five percent of any class of the bank's voting securities; and

(4) Any associate of any of the foregoing persons.

Instructions. No information need be given in response to this Item 7(e) as to any remuneration or other transaction reported in response to Item 7(a), (b), (c), or (d), or as to any transaction with respect to which information may be omitted pursuant to Instruction 3(a)(i) to Item 7(a), the instruction to Item 7(b), Instruction 3 to Item 7(c) or Instruction 2 to Item 7(d).

2. No information need be given in answer to this item 7(e) as to any transaction where:

(a) The rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority;

(b) The transaction involves services as a bank depositary of funds, transfer agent,

registrar, trustee under a trust indenture, or similar services;

(c) The amount involved in the transaction or series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed \$40,000; or

(d) The interest of the specified person arises solely from the ownership of securities of the bank and the specified person receives no extra or special benefit not shared on a pro rata basis by all holders of securities of the class.

3. It should be noted that this item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the bank or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this Item 7(e) where:

(a) The interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in subparagraphs (1) through (4) above, in the aggregate, of less than a 10 percent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

(b) The interest arises only from such person's position as a limited partner in a partnership in which he and all other persons specified in (1) through (4) above had an interest of less than 10 percent; or

(c) The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest, but excluding a general partnership interest), or a creditor interest in another person which is a party to the transaction with the bank or any of its subsidiaries and the transaction is not material to such other person.

4. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

5. In describing any transaction involving the purchase or sale of assets by or to the bank or any of its subsidiaries, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof to the seller. Indicate the principle followed in determining the banks purchase or sale price and the name of the persons making such determination.

6. Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transactions shall be indicated.

7. Information shall be furnished in answer to this item with respect to transactions not excluded above which involve remuneration from the bank or its subsidiaries, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10 percent of any class of equity securities of another corporation furnishing the services to the bank.

8. The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering this item. There may be situations where, although the foregoing instructions do not expressly authorize nondisclosure, the interest of a specified person in the particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this item. The materiality of any interest or transaction, is to be determined on the basis of the significance of the information to investors in light of all of the circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction to each other and the amount involved in the transaction are among the factors to be considered in determining the significance of the information to investors.

(f) *Transactions with pension or similar plans.* Describe briefly any transactions since the beginning of the bank's last fiscal year or presently proposed transactions, to which any pension, retirement, savings or similar plan provided by the bank, or any of its parents or subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the bank, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or principal officer of the bank;

(2) Any nominee for election as a director;

(3) Any security holder who is known to the bank to own of record or beneficially more than five (5) percent of the outstanding voting securities of the bank;

(4) Any associate of any of the foregoing persons; and

(5) The bank or any of its subsidiaries.

Instructions. 1. Instructions 2, 3, 4 and 5 to Item 7(e) shall apply to this Item 7(f).

2. Without limiting the general meaning of the term "transaction" there shall be included in answer to this Item 7(f) any remuneration received or any loans received or outstanding during the period, or proposed to be received.

3. No information need be given in answer to paragraph (f) with respect to

(a) Payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

(b) Payment of remuneration for services not in excess of five (5) percent of the aggregate remuneration received by the specified person during the bank's last fiscal year from the bank; or

(c) Any interest of the bank which arises solely from its general interest in the success of the plan.

(g) *Legal proceedings.* Briefly describe any material legal proceeding to which any director, any nominee for election as a director, principal officer of the bank, any owner of record or beneficially of more than five (5) percent of any class of voting securities of the bank, or any associate of any such director, nominee, officer or security holder is a party adverse to the bank.

Item 8.

(e) If any change in accountants has taken place since the date of the proxy statement for the most recent annual meeting of shareholders, state whether such change was recommended or approved by

(1) Any audit or similar committee of the board of directors, if the bank has such a committee; or

(2) The board of directors, if the bank has no such committee.

(f) For the fiscal year most recently completed, describe each professional service provided by the principal accountant and state the percentage relationship which the aggregate of the fees for all non-audit services bear to the audit fees, and, except as provided below, state the percentage relationship which the fee for each non-audit service bears to the audit fees. Indicate whether, before each professional service provided by the principal accountant was rendered, it was approved by, and the possible effect on the independence of the accountant was considered by, (1) any audit or similar committee of the board of directors and (2) for any service not approved by an audit or similar committee, the board of directors.

Instructions. 1. For purposes of this subsection, all fees for services provided in connection with the audit function (e.g., reviews of quarterly reports, filings with the corporation, and annual reports) may be computed as part of the audit fees. Indicate which services are reflected in the audit fees computation.

2. If the fee for any non-audit service is less than ten (10) percent of the audit fees, the percentage relationship need not be disclosed.

3. Each service should be specifically described. Broad general categories such as "tax matters" or "management advisory services" are not sufficiently specific.

4. Describe the circumstances and give details of any services provided by the bank's independent accountant during the latest fiscal year that were furnished at rates or terms that were not customary.

5. Describe any existing direct or indirect understanding or agreement that places a limit on current or future years' audit fees, including fee arrangements that provide fixed limits on fees that are not subject to reconsideration if unexpected issues involving accounting or auditing are encountered. Disclosure of fee estimates is not required.

§ 335.2 [Amended]

13. Section 335.2(ii) is amended by deleting the term "§ 335.7(b)(2)" and inserting in its place the term "§ 335.7(d)(2)".

§ 335.4 [Amended]

14. Section 335.4(h)(5)(i) is amended by deleting the term "§ 335.4(h) or § 335.5(1)" and inserting in its place the term "Sections 13(d) and 13(g) of the Act".

15. Section 335.4(h)(5)(ii) is amended by deleting the term "Sections 13(d) or Section 14(d)" and inserting in its place the term "Sections 13(d) or 13(g)".

16. Section 335.4(h)(5)(v) is amended by deleting the term "Sections 13(d) or 14(d)," and inserting in its place the term "Sections 13(d) or 13(g) of the Act".

§ 335.5 [Amended]

17. Section 335.5(c)(1), Note 2 is amended by deleting the term "§ 335.7(d)" and inserting in its place the term "§ 335.7(f)".

18. Section 335.5(c)(1), Note 6 is amended by deleting the term "Item 1(e)" and inserting in its place the term "Item 1(c)".

§ 335.41 [Amended]

19. Section 335.41, General Instructions is amended by deleting the term "§ 335.4(t)" and inserting in its place the term "§ 335.4(u)".

§ 335.43 [Amended]

20. Section 335.43, General Instruction A is amended by deleting the term "§ 335.4(t)" and inserting in its place the term "§ 335.4(u)".

§ 335.46 [Amended]

21. Section 335.46, General Instruction 2 is amended by deleting the term "§ 335.4(t)" and inserting in its place the term "§ 335.4(u)".

(Sec. 12(l) of the Securities Exchange Act of 1934, as amended 15 U.S.C. 78l(i))

(FR Doc. 79-36526 Filed 11-29-79; 8:45 am)

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

(Docket 9089)

Atlantic Richfield Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.
ACTION: Final order.

SUMMARY: This consent order, among other things, requires a Los Angeles, Calif. integrated energy company, engaged in various other activities

including those related to copper, to timely divest its interest in the Heddleston copper and molybdenum mineral property and Bear copper mineral property, located in Lyon County, Nevada; its entire voting stock interest in the Inspiration Consolidated Copper Company; and its joint venture interest in the Anamax Mining Company, a Pima County, Arizona integrated copper company. Each of the divestitures would have to be to an "Eligible Person," and upon company's failure to divest these interests within specified time periods, divestiture authority must be transferred to a trustee who will be charged to attempt diligently to effect divestiture at fair value within three years from the date of his appointment. Should the trustee not have divested the property within such three-year period, he would be required to divest it within one year at the best price he is reasonably able to obtain. The order additionally provides for arbitration should any dispute regarding the terms of the order arise between respondent and the Commission or trustee.

DATES: Complaint issued Oct. 13, 1976. Final Order issued Oct. 29, 1979.

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Wednesday, Aug. 1, 1979, there was published in the Federal Register, 44 FR 45181, a proposed consent agreement with analysis in the Matter of Atlantic Richfield Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; § 13.5-20 Federal Trade Commission Act; § 13.7 Joint ventures. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-5

* Copies of the Complaint, Modification To Agreement Containing Consent Order, and Decision and Order filed with the original document.

Arbitration; § 13.533-35 Employment of independent agencies.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Carol M. Thomas,
Secretary.

[FR Doc. 79-36488 Filed 11-26-79; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-2995]

The National Media Group, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a King of Prussia, Pa. firm and a corporate officer, engaged in the advertising and sale of "Acne-Statin," an acne "treatment," to cease disseminating or causing the dissemination of advertisements that represent that Acne-Statin cures acne, eliminates or reduces the bacteria and fatty acids responsible for acne blemishes, and is superior to all other acne preparations and soap for the antibacterial treatment of acne. The firm and its corporate officer are required to have a reasonable basis at the time of dissemination for representations relating to the efficacy, performance, characteristics, properties or the result of use of any drug, cosmetic, device or food; and prohibited from misrepresenting the extent to which a product has been tested or the results of such tests. Additionally, they are required to establish an independent, irrevocable trust account, containing sixty thousand dollars (\$60,000) to be used to pay half of all requests for restitution by Acne-Statin purchasers; and obligated to conduct and be totally responsible for the administration of the restitution program.

DATES: Complaint and order issued Oct. 29, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/PP, Thomas J. Donegan, Washington, D.C. 20580. (202) 724-1511.

SUPPLEMENTARY INFORMATION: On Monday, July 16, 1979, there was published in the Federal Register, 44 FR 41214, a proposed consent agreement

* Copies of the Complaint and Decision and Order filed with the original document.

with analysis in the Matter of The National Media Group, Inc., a corporation, and Robert J. Marsh, Sr., individually and as president and chief executive officer of the National Media Group, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.20 Comparative data or merits; § 13.20-20 Competitors' products; § 13.70 Fictitious or misleading guarantees; § 13.180 Promotional sales plans; § 13.170 Qualities or properties of product or service; § 13.170-16 Cleansing, purifying; § 13.170-70 Preventive or protective; § 13.190 Results; § 13.195 Safety; § 13.195-60 Product; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.250 Success, use or standing; § 13.265 Tests and investigations; § 13.280 Unique nature or advantages. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records; § 13.533-55 Refunds, rebates and/or credits. Subpart—Disseminating Advertisements: § 13.1043 Disseminating advertisements, etc. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1575 Comparative data or merits; § 13.1585 Competitive inferiority; § 13.1647 Guarantees; § 13.1710 Qualities or properties; § 13.1725 Refunds; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1755 Success, use or standing; § 13.1762 Tests, purported; § 13.1770 Unique nature or advantages.—Promotional Sales Plans: § 13.1830 Promotional sales plans. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper and Deceptive Inducement To Purchase or Deal: § 13.1980 Guarantee, in general; § 13.2010 Money back guarantee; § 13.2063 Scientific or other relevant facts. Subpart—Using

Deceptive Techniques in Advertising: § 13.2275 Using deceptive techniques in advertising; § 13.2275-70 Television depictions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 48. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,
Secretary.

[FR Doc. 79-36487 Filed 11-26-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 4, 16

[Docket No. RM79-36; Order No. 59]

Regulations Governing Applications for License for Major Projects—Existing Dams

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) revises its regulations under Part I of the Federal Power Act that govern applications for licenses for major water power projects located at existing dams. Major projects are those with an installed capacity greater than 2000 horsepower or 1.5 MW. Such projects are governed by this rule if they utilize, or are proposed to utilize, the water power potential of a completely constructed dam, provided that the normal maximum surface area or elevation of the impoundment would not significantly change or that a significant environmental impact would not otherwise result. The final rule applies both to initial licenses and new licenses.

Under section 405 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2705, the Commission is charged with establishing simplified and expeditious licensing procedures for "small" hydroelectric projects (15 MW or less) at existing dams. The Commission has decided to reform all its licensing procedures in the interest of acting more promptly on applications. This rulemaking covers all the projects within the mandate of section 405 of PURPA, except for hydroelectric projects under 1.5 MW of capacity. Applicants for these "minor" projects are permitted the use of "short-form" license procedures.

The final rule reorganizes the license application requirements for major projects—existing dams and consolidates the provisions and exhibits

into two sections. The Environmental Report required by the National Environmental Policy Act of 1969, together with related consultation and reporting requirements under other environmental and preservation statutes, is presented in Exhibit E, rather than in five separate exhibits and portions of Part 2 under the existing regulations.

The overall effect of the new regulations will be to reduce the amount of information requested from applicants, to make the regulations clearer and better organized, and thereby to ease the burdens of compliance and improve the Commission processing of applications.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT:

James Stout, Director, Division of Licensed Projects, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, 202-275-4968.
Howard Jack, Assistant General Counsel, Hydroelectric Licensing, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, 202-357-8448.

or
James Hoecker, Commission Staff Counsel, Regulatory Development, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, 202-357-8033.

November 19, 1979.

Notice is hereby given that the Federal Energy Regulatory Commission (Commission) revises its regulations concerning applications for licenses for water power projects under Part I of the Federal Power Act (Act). The new regulations pertain to applications for licenses for major projects (capacity greater than 2000 horsepower, or 1.5 MW) which utilize, or would utilize, the water power potential of existing dams only. The regulations govern applications which seek: (1) An initial license¹ for an existing water power project with total installed and proposed capacity greater than 2000 horsepower, or 1.5 MW; (2) a new license² for an existing water power project with total installed and proposed capacity greater than 1.5 MW; or (3) an initial license for a proposed water power project at an existing dam or dams, with proposed

¹ "Initial license" is defined as the first license issued for a water power project under either the Federal Water Power Act of 1920 or the Federal Power Act.

² "New license" is defined as any license for a water power project that is issued under the Federal Power Act after the initial license for that project, except an annual license issued under section 15(a) of that Act, 16 U.S.C. 808(a).

capacity greater than 1.5 MW. The projects in these categories are referred to generically as "major projects—existing dams."

I. Background

Congress provided in Title IV of the Public Utility Regulatory Policies Act (PURPA), a component of the National Energy Act, a program whereby the Secretary of Energy will grant loans for feasibility studies and for construction of "small" hydroelectric projects (capacity of 1.5 MW or less) located at existing dams. The Commission is charged under section 405 of PURPA, 16 U.S.C. 2705, with establishing simple licensing procedures for projects eligible under the PURPA provisions.

In the interest of acting more promptly on all license applications, and in anticipation of the enactment of PURPA, the Commission determined in 1978 to reform its requirements and procedures for all license applications. The first phase of this reform was instituted in September 1978, with issuance of a rulemaking on the "short-form" license procedures applicable to all minor projects (capacity of 1.5 MW or less).³ On April 19, 1979, the Commission continued its licensing reforms by issuing a Notice of Proposed Rulemaking in this docket (44 FR 24095, April 24, 1979).

The Commission also has issued final regulations that prescribe general filing requirements and evaluation procedures applicable to both preliminary permit and license applications, and which simplify the regulations relating specifically to applications for preliminary permits, amendments to permits, and cancellation of permits.⁴ The regulations in this order subsume the remainder of the projects which fit the criteria of the PURPA provisions and which were not embraced by the "short-form" license procedures. Since the equities which warrant streamlined requirements and procedures for proposed water power projects at existing dams are applicable to existing water power projects as well, the scope of this rulemaking has been made as

³ Order No. 11, Docket No. RM78-9, 43 FR 40215 (September 11, 1978). The 1.5 MW (2000 horsepower) capacity criterion was based on the fact that the Commission is authorized under section 10(j) of the Act, 16 U.S.C. 803(j) to waive many of the requirements of Part I of the Act for such minor projects. Since the capacity limitation prescribed in PURPA is 1.5 MW, the first phase of the reform covered only a portion of the projects that would be eligible under the PURPA program.

⁴ Final regulations in Docket No. RM79-23 were issued by the Commission on October 22, 1979 (44 FR 61328, October 25, 1979). The regulations in this rulemaking refer to, and may be read in conjunction with, the regulations in Docket No. RM79-23.

inclusive as possible in order to maximize its benefits.

The existing requirements for the types of license applications which fall within the scope of this rulemaking are found in various parts of Title 18 of the Code of Federal Regulations. Substantive requirements applicable to one or all of these applications may be found in §§ 2.80 and 2.81, Appendix A to Part 2,⁵ §§ 4.40-4.51, 16.6, and 131.2 of Title 18. In following those regulations, a potential applicant faced the prospect of meeting information requirements embodied in at least 12 itemized paragraphs and up to 23 exhibits.

The new regulations set forth in this order in several ways ease the burden of compliance. First, the Commission has reduced the requested information to the minimum that is needed for the Commission to carry out its duties under existing law,⁶ in an informed and responsible manner. For example, among other unnecessary requests for information, the provisions requiring extensive documentation of the nature of the applicant and its authority to file the application, have been eliminated,⁷ and requirements relating to evidence of compliance with state laws simplified. Of course, this in no way relieves the obligation to comply with any state law not preempted by Part I of the Act.

Second, the Commission has consolidated the requests for information according to related subject matter. All paragraphs and exhibits requesting information on environmental matters,⁸ for instance, have been consolidated into Exhibit E (Environmental Report) required under § 4.51(f). Rational organization of the

⁵ Sections 2.80 and 2.81, constituting most of the Commission's existing environmental review regulations, would be revoked and replaced under the rulemaking implementing the National Environmental Policy Act of 1969 (NEPA) in Docket No. RM79-69 which has been proposed to render the Commission's regulations consistent with the guidelines of the Council on Environmental Quality. Appendix A would be amended and transferred to new Part 3d under the same rulemaking. 44 FR 50052, August 27, 1979.

⁶ Section 405 of PURPA provides that the Commission's simplified licensing procedures must be "consistent with the applicable provisions of law," and that no project covered by the procedures will be exempted from "any requirement applicable to any such project under the National Environmental Policy Act of 1969, the Fish and Wildlife Coordination Act, the Endangered Species Act, or any other provision of Federal law."

⁷ See existing §§ 4.40(b) and 4.41—Exhibits A-F. These requirements have been distilled to simple statements in the initial portion of the application under § 4.51(a). Since the entire application is subscribed and verified under § 1.16 of our rules, the statements themselves will suffice as evidence. Additional information will be requested in cases where it is needed.

⁸ See existing § 2.80, Appendix A to Part 2, § 4.40 (k) and (l), and § 4.41—Exhibits H, R, S, V, and W.

requirements should reduce confusion and redundancy in the materials submitted.

Finally, the regulation minimizes the element of subjective interpretation in our requirements by reducing the requests for information, where possible, to simple, objective descriptions of what is desired. The Commission believes that clearer, simpler requirements and a cooperative effort will help avoid the application deficiencies that have plagued the licensing program in the past.

II. Analysis of Comments

Most commenters expressed overall approval of the Commission's efforts to simplify licensing requirements pursuant to section 405 of PURPA. However, there were a variety of comments declaring that the Commission's proposed license application requirements are still too burdensome, and others arguing that more information should be required.

This analysis will first examine the volume of comments which focused on environmental and other reporting requirements. Particular concern was expressed with respect to the amount of information requested about projects at existing dams where the environmental consequences of a project are presumed normally to be minimal. Allegheny Power Service Corporation (APS) stated that Exhibit E is the equivalent of a full Environmental Impact Statement and is too lengthy and subject to interpretation as proposed.⁹ The cost of preparing the exhibit will inhibit development of small projects, according to APS. Therefore, a mere statement of a project's impact should suffice. The American Electric Power Service Corporation (AEP) likewise stated that adherence to all the specifications in Exhibit E may not be feasible in all cases, pointing specifically to requirements that all communications with other agencies consulted be submitted, that the applicant specify what measures the agencies recommended, and how the applicant plans to implement those recommendations or why it does not plan to comply.

In the Notice of Proposed Rulemaking, the Commission recognized that, since most significant impacts associated with projects at existing dams have already occurred, a less extensive environmental analysis is appropriate. The licensing reforms proposed in this docket and those issued in Docket No.

⁹ Exhibit E is an Environmental Report (ER) required of applicants under the Commission's NEPA processes. (§ 3d.12(c)(1)(iii)) Under the proposed revision of those processes (see footnote 5), an ER must meet much less stringent standards than an EIS.

RM79-23 (see footnote 4) were drafted with the idea that an applicant's submittals to the Commission should always be commensurate with the scope of the particular project. The environmental report in Exhibit E will cover the temporary and permanent impacts of new construction, as well as the continuing impacts of operation of the proposed project; it would not include the impacts that occurred during construction of the existing dam. Much of the information required by the Exhibit should be readily available. The nature of the project determines the extent of the information necessary for an acceptable application. If the applicant's own analyses, in light of consultation with state or Federal agencies, indicate that the effect on resources within their jurisdiction (e.g., historical and archaeological resources or water quality) would be minimal, the report to the Commission would likewise be minimal. It is nevertheless important that each application be sufficiently self-explanatory regarding the existing state of the project works in order to enable the Commission to evaluate the existing and prospective impacts of the project works on such things as water quality and to understand the design of all related portions of the project. Moreover, the Commission also needs the information required in Exhibit E to fulfill its responsibilities under the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act and other Federal laws—all expressly saved in section 405(b) of PURPA—as well as its mandate under the comprehensive development standard in section 10(a) of the Act.

Southern California Edison Company (SCE) suggests that the reports on consultations with various resource agencies (§ 4.51(f)(5)) should not require accompanying documentation in the form of all written communications, but only "final agreements" with the agencies. Other commenters questioned the need for including all communications. The Commission desires only that pre-application consultation be complete and verifiable. The Commission nevertheless agrees with SCE that copies of all communications would make Exhibit E unnecessarily cumbersome. The language of § 4.51(f)(5) is therefore amended from that which was proposed to require the applicant to submit letters from the resource agencies consulted showing the nature and extent of the

consultations.¹⁰ In accordance with the suggestion of the Power Authority of the State of New York (PASNY), § 4.51(f) has also been altered to state explicitly that the informational requirement related to agency recommendations applies only to "agencies consulted." This makes it clearer that the responsibility to report extends only to consultation with agencies that have jurisdiction over particular resources.

Montana Power Company (MPA) asserts that § 4.51(f)(6)(iii), which requires analysis of cost and constraints involved in providing a buffer zone around any impoundment for public access and protection of recreational resource values, virtually requires an applicant to prove that it cannot provide a buffer around an impoundment. It is claimed that a buffer zone is not appropriate in sparsely populated areas such as Montana.

The buffer zone requirement is not new. It was established by the Commission in Order No. 313,¹¹ pursuant to the Commission's responsibilities under section 10(a) of the Act and the policy on outdoor recreation and resources declared in Pub. L. 88-29.¹² Order No. 313 states that applicants are expected to provide such buffer zones within the project boundary. Whether there are factors that make such buffer zones uneconomical or unneeded for a particular project must be determined on the basis of the information submitted by the applicant. The new regulation does not change the policy of Order No. 313, but simply requires that the matter be addressed at the outset in a licensing proceeding in preparation of the application. No new burden of proof is thereby imposed on applicants.

Idaho Power Company (IPC) and Pacific Gas and Electric Company (PG&E) inquire whether a buffer zone is within the project boundary. Section 2.7(a) of the Commission's regulations makes clear that it is. Finally, PG&E suggests that § 4.51(f)(6)(iii) should pertain only to "reasonable" public access. The standard articles which accompany issuance of a project

¹⁰ Although consultation is required at an early stage, while an applicant's plans are still being shaped, an agency may not use consultation as a device to obstruct a project. The prefatory paragraph of Exhibit E (§ 4.51(f)) has been amended by providing that an applicant may submit its own summary of the consultations, but only if the agency fails to supply such documentation in timely fashion. The Commission believes that this should allay the fears of companies such as Niagara Mohawk Power Corporation that undue delays in the agency consultation process might arrest progress on a project.

¹¹ 30 FR 16198, December 22, 1965, 34 F.P.C. 1546 (1965).

¹² Section 1, Outdoor Recreation Programs, Act of May 28, 1963, 16 U.S.C. 460.

license¹³ condition approval of the project on provision of public access to a reasonable extent and consistent with the protection of life, health, and property. Such conditions need not be specified in the application regulations.

PG&E believes that the Report on Land Management and Aesthetics (§ 4.51(f)(6)) expands the reporting requirements in existing Exhibit V. In fact, as other commenters recognized, the information required in that report and other portions of Exhibit E is substantially less than what is required under the existing regulations. Existing Exhibits V and W require far more information and analysis on land use and aesthetics than this rule. In some respects, the new regulation is more specific in its data requests, in order that delays resulting from deficient applications or requests for additional information may be avoided. But the overall level of information and analysis is substantially reduced. The same observation is appropriate with respect to the comment of MPC that the new regulation, as a whole, represents an expansion of reporting requirements for applicants.

The Commission received several comments of an environmental nature from the U.S. Environmental Protection Agency (EPA). While EPA

acknowledges that the impact of projects at existing dams would be less than those involving construction of dams and reservoirs, it also appears to believe that the regulations might not adequately assure assessment of the lesser impact of projects at existing dams, particularly "peak load production projects which cause major fluctuations in the impoundment level and downstream flow." The Commission believes that Exhibit B and Exhibit F, specifically the reports on water use and quality, recreation resources, and fish, wildlife and botanical resources, will provide sufficient information to assess impacts of those kinds.¹⁴ Exhibit B (§ 4.51(c)) has, however, been clarified in response to the suggestions of EPA and other commenters, to require information on "minimum, mean, and maximum recorded flows" (§ 4.51(c)(2)(i)) and on

¹³ Form L-1, Articles 17 and 18, Order No. 540, 40 FR 51998, November 7, 1975.

¹⁴ The regulations recognize that changes in project works which do not raise normal impoundment areas or levels may still have a significant impact. If a peak load production project entails a major change in project operations resulting in a significant impact, it would not be within the scope of the definition of a major project—existing dam as defined in § 4.50(b)(5) and therefore these regulations would not govern that project. Also see proposed § 3d.10(b)(7) in Docket No. RM79-69, cited in footnote 5.

project operation during "adverse, mean, and high water years" (§ 4.51(c)(1)).

EPA further requests that an applicant show how it will ensure stream flows sufficient for maintenance of approved water quality standards and wastewater treatment facilities. Section 4.51(f)(2), the "report on water use and quality," will provide information in conjunction with Exhibit B sufficient to assess the project's water quality implications. EPA also proposes additional language for § 4.51(f)(2)(iv) concerning evidence of water quality certification or state waiver. We believe that section as proposed is sufficiently clear and detailed and that EPA's suggested change need not be made.

Certain changes have been made at the suggestion of EPA, however. Language requesting identification of applicable water quality standards and stream segment classifications is added to Exhibit E (§ 4.51(f)(2)(ii)). The final rule makes reference, where appropriate, to the "Clean Water Act," as the familiar designation for the Federal Water Pollution Control Act. Finally, a cross-reference to EPA guidelines and Army Corps of Engineers regulations relating to dredging and filling is also added to Exhibit E (§ 4.51(f)(2)(iii)).

The U.S. Department of Agriculture requested that the Commission obtain from the Fish and Wildlife Service a list of endangered species in the area of proposed projects and that this be specified in § 4.51(f)(3)(i). One purpose of the consultation process on natural resources provided by this section is to ensure that the applicant obtain such information from the relevant agencies and supply it to the Commission in its Environmental Report. In any event, the Commission believes it is not necessary to specify in its regulations on application requirements that it will comply with procedures required by section 7 of the Endangered Species Act in acting on applications.

The U.S. Department of the Interior (DOI) submitted several comments relating to the Environmental Report requirements under Exhibit E. At the suggestion of DOI, § 4.51(f)(5) is amended to include a description of any area within or near the project boundary that is designated as part of, or is being considered for inclusion in, the National Wild and Scenic Rivers System or the National Wilderness Preservation System. Related proposals that the new regulations include a description of trade-offs between conservation and other project objectives involve issues and conclusions to be developed in the course of environmental evaluations

under the Commission's NEPA regulations. The information already required in Exhibit E will be sufficient for the data-gathering purposes of these regulations. Assessment of habitat losses and methods of compensation losses are encompassed in the final rule.

Under proposed § 4.51(f)(2)(v), an applicant would have had to provide a description of the "new impact" on water quality caused by project operations. Niagara Mohawk Power Corporation (NMP) believes "new impact" to be too imprecise and that an indication of "incremental" impact would be preferable. The clause has been revised to require a showing of the continuing impact of project operations on water quality, as well as the incremental impact that would occur as a result of new development or changes in project operation. Similar changes have been made in other relevant portions of Exhibit E.

Harza Engineering Company (Harza) and PG&E appeared to find § 2.81(a) unclear. Harza advocates that we broaden application of this regulation to include proposed dams. While § 2.81, as the predecessor to the Commission's revised NEPA regulations (see footnote 5), applies to different types of water power projects, the Commission is concerned in this docket only with revising environmental reporting for projects at existing dams. Revised rules on applications for major unconstructed projects are being developed and will be forthcoming.

PG&E requests clarification of what is meant by a project that would result in a "significant increase in normal surface area or normal surface elevation of an existing impoundment." As § 2.81(a) implies, projects with such consequences would not be considered projects at "existing dams" for the purpose of this licensing regulation. The issue of whether such area or surface elevation increases are significant resists the imposition of specific criteria. The significance of the increased area or surface elevation of an impoundment will depend on the surrounding topography and land uses. For example, a relatively small increase in impoundment elevation near flat land may have dramatic consequences for the surface area and consequently for the surrounding land uses or ecosystems. The effect of the project may therefore necessitate the filing of an application conforming to the more stringent requirements for a major unconstructed project (see the definition of major project—existing dam,

§ 4.50(b)(5)).¹⁵ For this reason, applicants are encouraged to consult with staff under § 4.50(c) to determine the probable significance of any new development at an existing dam site and thereby ascertain the proper application type at the outset.

The City of Colorado Springs Department of Utilities (CSDU) suggests that facilities operated primarily as a water supply system, even if related to generation and transmission facilities, should be exempted from licensing requirements. The Commission is authorized to make such exemptions only for certain small conduit hydroelectric facilities under section 213 of PURPA (section 30 of the Act) and has proposed a rulemaking to accomplish this.¹⁶ Such exemptions are beyond the scope of this rulemaking. With respect to the comment of CSDU that less detailed reporting requirements are appropriate for the relicensing of existing facilities, the Commission is adapting this and related water power project rulemakings to obtain less specific information for existing dams and reservoirs and more extensive technical data for unconstructed projects. Nevertheless, there are important environmental, structural and other considerations that the Commission must review to meet its responsibilities under the Act and other Federal laws prior to issuance of even a new license for a previously licensed project.

AEP and Allegheny Electric Cooperative suggest that an applicant for a major project at an existing dam should not be required to provide various information required by the proposed rule insofar as that information would pertain to portions of a project that are owned by the Army Corps of Engineers or a state. In response to those comments, a provision has been added to Exhibit A (§ 4.51(b)) to eliminate from the reporting requirements information on project works (which includes dams and reservoirs) maintained or operated by the Corps, the Bureau of Reclamation, or other Federal agency or department.¹⁷ This provision will also have the effect

¹⁵ Similarly, the importance of site-specific conditions leads the Commission to reject suggestions of EPA and other commenters that we establish an *a priori* definition of "significant environmental impact."

¹⁶ Notice of Proposed Rulemaking, Docket No. RM79-35, 44 FR 24580, April 26, 1979.

¹⁷ Project works owned and operated by a state, however, are subject to licensing under section 23(b) of the Act and would have to be covered by an application for license, whether the state filed as a joint applicant or as a separate applicant for only its part of the "complete unit of development," as defined in section 3(11) of the Act.

of eliminating information that would otherwise have been required for those project works by references to Exhibit A in Exhibits C and D. It also reduces the extent of the project boundary and the report on land use and aesthetics in Exhibit E.

The Department of the Interior desires that no license or permit be granted for a project which is Federally funded or is being considered for Federal construction. The Commission will not accept an application for a project that is authorized by law for Federal development (see § 4.30 (b) and (c) in the final regulation issued in Docket No. RM 79-23).¹⁸ However, it is beyond the scope of this rulemaking to include, as DOI also requests, provisions which make applicants aware of the many Federal programs or limitations emanating from other agencies that may or may not apply to particular projects. Compliance with applicable Federal laws is the responsibility of a licensee.

The Power Authority of New York (PANY) suggested, as it did in Docket No. RM-79-23, that the Commission retain reference to "minor part" licenses. This suggestion is rejected for the reason stated in that docket, namely that such licenses were issued under erroneous conclusions of law and are also inappropriate under the new licensing provisions.

Exhibit D is a statement of costs and financing for the new development. PG&E contends that some aspects of the statement require too much detail (§ 4.51(e)(3)(ii)), such as the submission of quantity and unit costs. PG&E also argues that cost estimates of that detail may put the applicant at a disadvantage with prospective suppliers if the expected price of those items has already been made a matter of public record. The relevant phrases in § 4.51(e)(3)(ii) have consequently been modified to require only the total costs of the various components of the new development. If quantity and unit costs are needed in assessing a particular project at existing dams, however, they may be required as additional information according to the facts of the case.

Idaho Power Company states that the information requested in paragraphs (3), (4), and (5) of § 4.51 is also supplied on a continuing basis on Forms 6 and 1. It should be pointed out that those forms

¹⁸ For projects merely being studied for Federal development, the Commission is not precluded from issuing a preliminary permit if an applicant wishes to study the project concurrently. With respect to an application for a license, the Commission will consider whether to recommend Federal development under section 7(b) of the Act instead of issuing a license.

are submitted only after a license is granted, not before. Furthermore, the Commission prefers that each application be a self-contained document so that not only Commission staff but other Federal agencies and intervenors may fully understand the proposed project. With respect to licensed projects being relicensed, there should be no significant burden on the applicant in providing this information in the application, where it may be readily reviewed by interested persons and agencies other than the Commission itself.

AEP expresses uncertainty about how the new regulations will apply to applications filed under the existing requirements. Any application filed before the effective date of these regulations will not need to be refilled in accordance with the new regulations, if it is satisfactory under the existing regulations. If additional information is required for proper review, it will be requested under § 4.31(f). AEP also proposes language to be added to § 4.51(e)(5), Exhibit D, which is a statement of the estimated annual value of project power. AEP argues that in computing true value, it is important to take cognizance of the rising cost over time of energy from alternative sources. Since the Commission agrees with this point, the following phrase is added to the subparagraph: " * * * specifying any projected changes in the cost of power from that source over the estimated financing or licensing period if the applicant takes such changes into account * * *." To make a valid comparison, however, § 4.31(e)(4) is being modified similarly, with respect to the annual cost of project power. The language of § 4.51(e)(5) is also clarified to indicate that "annual" values of power and cost of the "lowest cost" alternative sources is what the statement requires.

AEP points out that proposed § 4.51(a)(5) may be construed to be inconsistent with the *First Iowa* decision.¹⁹ In that case, the Supreme Court held that state permit requirements or other laws inconsistent with the Federal water power project licensing scheme were preempted by the Federal Power Act. The Court also declared that under section 9(b) of the Act, the Commission need not require an applicant to show that it has complied with state laws governing stream bed and banks and appropriation, diversion, or use of water for power purposes and the right to

¹⁹ *First Iowa Hydro-Electric Cooperative v. F.P.C.*, 328 U.S. 152 (1946). See also 51 F.P.C. 581, 1797, 1939, and 1970 (1974).

engage in the business of developing, transmitting, and distributing power and in other businesses necessary to effect the purposes of a license. Instead, the Court interpreted section 9(b) as calling for satisfactory evidence of any steps taken or progress made by the applicant toward meeting local requirements insofar as those laws were not superseded by the Act. 328 U.S. at 177-178. To clarify this matter, the final regulation contains a new § 4.51(a)(5), requiring that the applicant cite and briefly describe the state laws of the types set forth in section 9(b) of the Act that are relevant to the development of this project and briefly state what measures it has taken or plans to take with respect to compliance with such statutory or regulatory requirements.

Finally, APS requests that the distinction between minor (not more than 1.5 MW installed capacity) and major water power projects be revised upward to encourage development of small projects. The distinction is found in section 10(i) of the Act and reclassification of major projects to include those with capacities over 5, 10, or 15 MW must therefore be left to Congress.

III. Section-by-Section Analysis

§ 2.81(a) Compliance with the National Environmental Policy Act of 1969 under Part I of the Federal Power Act

The existing § 2.81(a) relies on Appendix A as the standard environmental report provision for all major water power projects. This section is revised to direct applicants for major projects at existing dams to submit an Environmental Report under § 4.51(f), the new Exhibit E.

§ 4.50 Applicability and definitions.

This section states that §§ 4.50 and 4.51 pertain to any application for an initial license, or a new license for a major project-existing dam. The section also provides definitions of certain key terms which appear in §§ 4.50 and 4.51. The definition of "major project-existing dam" makes clear that proposed construction or repair with certain environmental consequences places an application outside the scope of this subpart. Finally, the section offers the assistance of the Commission staff in determining whether §§ 4.50 and 4.51 apply to a given project.

§ 4.51 Contents of application.

This section contains the specific requirements governing the contents of an application for a license for a major project-existing dam. The requirements

are embodied in an initial statement and seven lettered exhibits.

Initial statement. Under paragraph (a), an applicant must submit an initial statement. The initial statement provides certain basic information necessary for identification and orientation purposes, including the nature of the application, the names and business addresses of the applicants, and the name and location of the project. The applicant must also inform the Commission of any state law of the kinds listed in Section 9(b) of the Act to which the proposed project is subject and steps it will take in compliance.

Exhibit A. This exhibit is described in paragraph (b) and provides a description of the physical structures and features of the project. If the project includes more than one dam and associated facilities, each such discrete development must be described. The exhibit also includes a tabulation of any lands of the United States that are enclosed within the project boundary. This tabulation is necessary in order to record accurately the lands which have been reserved from entry, location, or other disposal pursuant to section 24 of the Act, 16 U.S.C. 816.

Exhibit B. Paragraph (c) describes a statement of project operation and resource utilization. This exhibit calls for a description of the available resource (flow and head) and technical documentation of the manner in which the applicant proposes to utilize that resource for the generation of power. The applicant must also explain how it intends to dispose of the power. Finally, the applicant must describe any plans for future hydroelectric development on the affected stream.

Exhibit C. This exhibit, described in paragraph (d), is a construction history and a proposed construction schedule for the project. The construction history, which is required to be filed only if the applicant is seeking an initial license, calls for a tabulated chronology of construction for the existing project structures and facilities, including the dates of commencement and completion of construction or installation, and the dates of commencement of commercial operation. An applicant seeking a license for a proposed project at an existing dam would only be expected to give its best available information, if precise dates for the dam and any other existing structures are not available.

The proposed construction schedule is required only if new development at the project is proposed.

Exhibit D. This exhibit is a statement of costs and financing and is described in paragraph (e). If the applicant seeks a new license for a constructed project,

and is not a municipality or a state, it must provide an estimate of the amount that would be payable if the United States exercised its right to take over the project upon expiration of the current license, pursuant to section 14 of the Act, 16 U.S.C. 807.

If the applicant seeks an initial license, information concerning the original cost of land or water rights and existing project works must be provided. Estimated costs of any proposed new development and estimated annual costs must also be provided, as well as information concerning the value of project power to the applicant and the sources and extent of financing and annual revenues available to meet the estimated costs.

Exhibit E. This exhibit is a report on the environmental resources of the project, the impacts of the project on those resources, and the proposed measures to mitigate the impacts or to protect and enhance the resources. It is described in paragraph (f).²⁰

The Commission has given notice in a related rulemaking²¹ that the Environmental Report for a major project at an existing dam must also include an evaluation of a project's impact on wetlands and floodplains. Accordingly Exhibit E requires description of such areas in the vicinity of the project (§ 4.51(f) (1) and (6)), as specified in the preamble of that proposed rulemaking. Each applicant must report the project's short-term and long-term impacts on these areas and any mitigative measures to be taken in the construction or operation of the project if the project is approved. Any changes made in the final version of the rulemaking in Docket No. RM79-70 that would affect the Commission's treatment of floodplains and wetlands may result in further modification of the provisions in this docket.

The exhibit requires applicants to consult with local, state, and Federal agencies with expertise in environmental matters prior to filing their applications. An applicant must document the consultation by appending to its report a letter from each agency consulted summarizing the nature and extent of the consultation.²²

²⁰ The exhibit must include reports on water use and quality; fish, wildlife, and botanical resources; historical and archeological resources; recreation resources; and land management and aesthetics.

²¹ Notice of Proposed Rulemaking, Floodplain Management and Protection of Wetlands, issued August 20, 1979, 44 FR 49468, Docket No. RM79-70.

²² Several statutes, including PURPA, require the Commission to consult with other agencies. Section 405 of PURPA provides that, prior to issuing a license for a project which fits the PURPA criteria, the Commission must "provide an opportunity for

Footnotes continued on next page

Exhibit F. Paragraph (g) describes the general design drawings of the principal project works to be included in Exhibit F. The drawings must show plans, elevations, profiles, and sections for each structure, and must be accompanied by sufficient information concerning structural strength and stability and other controlling factors to demonstrate that the structures are safe and adequate for their stated functions. See section 10(c) of the Act, 16 U.S.C. 803(c).

Detailed working drawings showing the precise plans and specifications for proposed project structures are not to be filed with the application, but should be prepared for the purposes of construction and retained after construction is completed as permanent project records.

Exhibit G. As described in paragraph (h), the final exhibit is a map of the project. The map must show the geographical location of the project, the physical interrelationships of project works and other features, a project boundary enclosing the project works and all lands and waters necessary for project purposes, and any lands of the United States that are within the project boundary.

The following table illustrates how the information required under the former regulations has been eliminated or transferred to the new regulations:

Former Regulations for Major Projects and New Regulations for Only Major Projects—Existing Dams

§§ 4.50–4.51—§§ 4.50–4.51
4.40(a)—4.51(a)(1), (3)
4.40(b)—4.51(a)(3), (4)
4.40(c)—
4.40(d)—
4.40(e)—4.51(b)—Exhibit A
4.40(f)—4.51(b)(2)
4.40(g)—4.51(b)(6)
4.40(h)—4.51(c)—Exhibit B
4.40(i)—4.51(c)—Exhibit B
4.40(j)—
4.40(k), (l)—4.51(f)—Exhibit E
4.40(m)—
§ 4.41 Exhibits:
A—
B—
C—
D—4.51(a)(5)

Footnotes continued from last page
consultation with the Council on Environmental Quality and the Environmental Protection Agency with respect to the environmental effects of such project." This duty will be carried out in accordance with our established procedures for consultation during the license application review process. Moreover, in certain circumstances, other agencies may have concurrent jurisdiction with respect to authorization of a project. Prior consultation by applicants will facilitate coordination with these other agencies.

* No equivalent applies to major projects—existing dams.

E—4.51(a)(5)
F—
G—4.51(e)—Exhibit D(6)
H—4.51(c)—Exhibit B
I—4.51(f)—Exhibit E
J—4.51(c)—Exhibit B
K—4.51(h)—Exhibit G
L—4.51(g)—Exhibit F
M—4.51(b)—Exhibit A
N—4.51(e)—Exhibit D
O—4.51(d)—Exhibit C
P (§ 4.51)—
Q (§ 4.51)—4.51(d)—Exhibit C
R—4.51(f)(5)—Exhibit E
S—4.51(f)(3)—Exhibit E(3)
T—
U—4.51(c)—Exhibit B
V—4.51(f)(4)—Exhibit E and (6)
W—4.51(f)—Exhibit E

Appendix A to Part 2—4.51(f)—Exhibits E

An applicant or licensee may have an obligation to file exhibits under the old regulations pursuant to a Commission order, even after the effective date of these regulations. Requests to waive or amend any requirement to submit an exhibit under the old regulations, and to be permitted to file under the new regulations, may be submitted to the Director of the Office of Electric Power Regulation.

Other provisions amended or revoked. Besides the revisions to §§ 4.50 and 4.51, the Commission is changing certain other existing rules and regulations.

Section 16.6 of the regulations governing applications for new licenses has been revoked. Most of the provisions of § 16.6 have been incorporated in the amended § 4.51. The provisions of § 16.6(e) have been eliminated, however. They formerly required a licensee-applicant who is not a municipality or a state to file a statement on the effect that takeover by the United States or issuance of a license to another applicant would have upon the supply of electric energy to the system with which it is interconnected, the rates charged its customers, its financial condition, and taxes collected by local, state, and Federal governments. In a situation where there is a competing application, or a recommendation for Federal takeover, this information may be desirable and could be requested as a supplemental filing. If such situations became commonplace, the requirement could be reinstated in the regulations.

IV. Effective Date

These revisions in Part 2, 4 and 16 of the Commission's regulations will be effective January 1, 1980.

(Federal Power Act, as amended, 16 U.S.C. 792–828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645; Department of Energy Organization Act, 42 U.S.C. 7101–7352; Executive Order No. 12009, 42 FR 46267)

In consideration of the foregoing, the Commission amends Part 2 of Subchapter A and Parts 4 and 16 of Subchapter B, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.
Kenneth F. Plumb,
Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. Section 2.81 is revised in paragraph (a) to read as follows:

§ 2.81 Compliance with the National Environmental Policy Act of 1969 under Part I of the Federal Power Act.

(a)(1) Any application under Part I of the Federal Power Act for a license—
(i) For a major hydroelectric project (capacity greater than 2,000 hp or 1.5 MW) that is completely unconstructed, or that includes a proposed change in the existing state of project works or project operation which would result in a significant change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment or in a significant environmental impact, must include an environmental report which conforms to the requirements of § 2.81, Appendix A of Part 2 of this chapter, and § 4.41—Exhibit W; or
(ii) For a major project—existing dam, as defined in § 4.50(b), must include an environmental report which conforms to the requirements of § 4.51(f) (Exhibit E).

(2) Any application for surrender or amendment of a license that proposes a change in the existing state of project works or project operation—
(i) Which would result in a significant change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment, or in a significant environmental impact, must include an environmental report which conforms to the requirements of § 2.80 and Appendix A of Part 2 of this chapter; or
(ii) Which would not have any of the effects described in paragraph (a)(2)(i) of this section, must include an environmental report which conforms to the requirements of § 4.51(f).

(3) A prospective applicant may seek advice from the Commission staff concerning whether any proposed change in the existing state of project works or project operation would result in a significant change in the normal maximum surface area or normal maximum surface elevation of an existing impoundment, or in a significant environmental impact (see § 4.31(g)).

* * * * *

PART 4—LICENSES, PERMITS, AND DETERMINATIONS OF PROJECT COSTS

2. Subpart F (§§ 4.50 and 4.51) is revised to read as follows:

Subpart F—Application for License for Major Project—Existing Dam

§ 4.50 Applicability and definitions.

(a) *Applicability.* The provisions of §§ 4.50 and 4.51 apply to any application for either an initial license or a new license for a major project—existing dam.

(b) *Definitions.* For the purposes of this subpart:

(1) "Dam" means any structure for impounding or diverting water;
(2) "Existing dam" means any dam that has been completely constructed;
(3) "Existing impoundment" means any body of water that an existing dam impounds;
(4) "Initial license" means the first license issued for a water power project under either the Federal Water Power Act of 1920 or the Federal Power Act;
(5) "Major project—existing dam" means a licensed or unlicensed, existing or proposed water power project that, as proposed to be licensed:

(i) Would have a total installed generating capacity of more than 2,000 hp (1.5 MW);

(ii) Would not use the water power potential provided by any dam except an existing dam;

(iii) Does not include any proposed repair or reconstruction of an existing dam that would result in a significant change in the normal maximum surface area or the normal maximum surface elevation of an existing impoundment; and

(iv) Does not include any proposed new development or change in project operation that would result in a significant environmental impact;

(6) "New development" means any construction, installation, repair, reconstruction, or other change in the existing state of project works or appurtenant facilities, including any dredging and filling in project waters; and

(7) "New license" means any license for a water power project that is issued under the Federal Power Act after the initial license for that project, except an annual license issued under section 15 of the Federal Power Act.

(c) *Guidance from Commission staff.* A prospective applicant for a major license—existing dam may seek advice from the Commission staff regarding the applicability of these sections to its project (see § 4.31(g)), including the

determinations whether any proposed repair or reconstruction of an existing dam would result in a significant change in the normal maximum surface area or the normal maximum surface elevation of an existing impoundment, or whether any proposed new development or change in project operation would result in a significant environmental impact.

§ 4.51 Contents of application.

Each application for a license for a major project—existing dam must be prepared after consultation with the appropriate state public service commission or board and the other Federal, State, and local agencies specified in this section. The applicant may obtain a list of agencies to be consulted from the Director of the Commission's Division of Licensed Projects. Each application must include an initial statement and lettered exhibits containing the following information and documents:

(a) Initial statement.

Before the Federal Energy Regulatory Commission

Application for License for Major Project—Existing Dam

(1) (Name of applicant) applies to the Federal Energy Regulatory Commission for a (license or new license, as appropriate) for the (name of project) water power project, as described in the attached exhibits. (Specify any previous FERC project number designation.)

(2) The location of the project is:

State or territory: _____
County: _____
Township or nearby town: _____
Stream or other body of water: _____

(3) The exact name and business address of the applicant are:

The exact name and business address of each person authorized to act as agent for the applicant in this application are:

(4) The applicant is a (citizen of the United States, association of citizens of the United States, domestic corporation, municipality, or state, as appropriate, see 16 U.S.C. 796).

(5)(i) The statutory or regulatory requirements of the state(s) in which the project would be located and that affect the project as proposed with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power and in any other business necessary to

accomplish the purposes of the license under the Federal Power Act are: (provide citation and brief identification of the nature of each requirement).

(ii) The steps which the applicant has taken or plans to take to comply with each of the laws cited above are: (provide brief description for each law).

(b) *Exhibit A* is a description of the project. This exhibit need not include information on project works maintained and operated by the U.S. Army Corps of Engineers, the Bureau of Reclamation, or any other department or agency of the United States, except for any project works that are proposed to be altered or modified. If the project includes more than one dam with associated facilities, each dam and the associated component parts must be described together as a discrete development. The description for each development must contain:

(1) The physical composition, dimensions, and general configuration of any dams, spillways, penstocks, powerhouses, tailraces, or other structures, whether existing or proposed, to be included as part of the project;

(2) The normal maximum surface area and normal maximum surface elevation (mean sea level), gross storage capacity, and usable storage capacity of any impoundments to be included as part of the project;

(3) The number, type, and rated capacity of any turbines or generators, whether existing or proposed, to be included as part of the project;

(4) The number, length, voltage, and interconnections of any primary transmission lines, whether existing or proposed, to be included as part of the project (see 16 U.S.C. 796(11));

(5) The specifications of any additional mechanical, electrical, and transmission equipment appurtenant to the project; and

(6) All lands of the United States that are enclosed within the project boundary described under paragraph (h) of this section (Exhibit G), identified and tabulated by legal subdivisions of a public land survey of the affected area or, in the absence of a public land survey, by the best available legal description. The tabulation must show the total acreage of the lands of the United States within the project boundary.

(c) *Exhibit B* is a statement of project operation and resource utilization. If the project includes more than one dam with associated facilities, the information must be provided separately for each such discrete development. The exhibit must contain:

(1) A statement whether operation of the powerplant will be manual or

automatic, an estimate of the annual (ii) Commencement of commercial amount of power (capacity and energy)

(ii) A description of existing water and its vicinity, and of downstream (3) Environmental impact

automatic, an estimate of the annual plant factor, and a statement of how the project will be operated during adverse, mean, and high water years;

(2) An estimate of the dependable capacity and average annual energy production in kilowatt-hours (or a mechanical equivalent), supported by the following data:

(i) The minimum, mean, and maximum recorded flows in cubic feet per second of the stream or other body of water at the powerplant intake or point of diversion, with a specification of any adjustments made for evaporation, leakage, minimum flow releases (including duration of releases), or other reductions in available flow; a flow duration curve indicating the period of record and the gauging stations used in deriving the curve; and a specification of the period of critical streamflow used to determine the dependable capacity;

(ii) An area-capacity curve showing the gross storage capacity and usable storage capacity of the impoundment, with a rule curve showing the proposed operation of the impoundment and how the usable storage capacity is to be utilized;

(iii) The estimated hydraulic capacity of the powerplant (maximum flow through the powerplant) in cubic feet per second;

(iv) A tailwater rating curve; and

(v) A curve showing powerplant capability versus head and specifying maximum, normal, and minimum heads;

(3) A statement, with load curves and tabular data, if necessary, of the manner in which the power generated at the project is to be utilized, including the amount of power to be used on-site, if any, the amount of power to be sold, and the identity of any proposed purchasers; and

(4) A statement of the applicant's plans, if any, for future development of the project or of any other existing or proposed water power project on the stream or other body of water, indicating the approximate location and estimated installed capacity of the proposed developments.

(d) *Exhibit C* is a construction history and proposed construction schedule for the project. The construction history and schedules must contain:

(1) If the application is for an initial license, a tabulated chronology of construction for the existing projects structures and facilities described under paragraph (b) of this section (*Exhibit A*), specifying for each structure or facility, to the extent possible, the actual or approximate dates (approximate dates must be identified as such) of:

(i) Commencement and completion of construction or installation;

(ii) Commencement of commercial operation; and

(iii) Any additions or modifications other than routine maintenance; and

(2) If any new development is proposed, a proposed schedule describing the necessary work and specifying the intervals following issuance of a license when the work would be commenced and completed.

(e) *Exhibit D* is a statement of costs and financing. The statement must contain:

(1) If the application is for an initial license, a tabulated statement providing the actual or approximate original cost (approximate costs must be identified as such) of:

(i) Any land or water right necessary to the existing project; and

(ii) Each existing structure and facility described under paragraph (b) of this section (*Exhibit A*).

(2) If the applicant is a licensee applying for a new license, and is not a municipality or a state, an estimate of the amount which would be payable if the project were to be taken over pursuant to section 14 of the Federal Power Act upon expiration of the license in effect [see 16 U.S.C. 807], including:

(i) Fair value;

(ii) Net investment; and

(iii) Severance damages.

(3) If the application includes proposals for any new development, a statement of estimated costs, including:

(i) The cost of any land or water rights necessary to the new development; and

(ii) The cost of the new development work, with a specification of:

(A) Total cost of each major item;

(B) Indirect construction costs such as costs of construction equipment, camps, and commissaries;

(C) Interest during construction; and

(D) Overhead, construction, legal expenses, taxes, administrative and general expenses, and contingencies.

(4) A statement of the estimated average annual cost of the total project as proposed, specifying any projected changes in the costs over the estimated financing or licensing period if the applicant takes such changes into account, including:

(i) Cost of capital (equity and debt);

(ii) Local, state, and Federal taxes;

(iii) Depreciation or amortization, and

(iv) Operation and maintenance expenses, including interim replacements, insurance, administrative and general expenses, and contingencies.

(5) A statement of the estimated annual value of project power, based on a showing of the contract price for sale of power or the estimated average annual cost of obtaining an equivalent

amount of power (capacity and energy) from the lowest cost alternative source, specifying any projected changes in the cost of power from that source over the estimated financing or licensing period if the applicant takes such changes into account.

(6) A statement specifying the sources and extent of financing and annual revenues available to the applicant to meet the costs identified in paragraphs (e) (3) and (4) of this section.

(f) *Exhibit E* is an environmental report. The report must be prepared in consultation with local, state, and Federal agencies with expertise in environmental matters. The names and addresses of these agencies may be obtained from the Director, Division of Licensed Projects. If any agency that an applicant is required to consult fails to provide to the applicant timely documentation of the consultation process as set forth in this paragraph, the applicant may submit a summary of the consultation and the recommendations of the agency. Information provided in the report must be organized and referenced according to the provisions of this paragraph. If a request for information is not applicable, the application must explain briefly why it does not apply. The environmental report must contain the following elements:

(1) *General description of the locale.* The applicant must provide a general description of the environment of the project and its immediate vicinity. The description must include general information concerning climate, topography, wetlands, vegetative cover, land development, population size and density, the presence of any floodplain and the occurrence of flood events in the vicinity of the project, and any other factors important to an understanding of the setting.

(2) *Report on water use and quality.* The report must discuss the consumptive use of project waters and the impact of the project on water quality. The report must be prepared in consultation with the state and Federal agencies with responsibility for management of water quality in the affected stream or other body of water. Consultation must be documented by appending to the report a letter from each agency consulted that indicates the nature, extent, and results of the consultation. The report must include:

(i) A description (including specified volume over time) of existing and proposed uses of project waters for irrigation, domestic water supply, steam-electric plant, industrial, and other consumptive purposes;

(ii) A description of existing water quality in the project impoundment and downstream water affected by the project and the applicable water quality standards and stream segment classifications;

(iii) A description of any minimum flow releases specifying the rate of flow in cubic feet per second (cfs) and duration, changes in the design of project works or in project operation, or other measures recommended by the agencies consulted for the purposes of protecting or improving water quality, including measures to minimize the short-term impacts on water quality of any proposed new development of project works (for any dredging or filling, refer to 40 CFR Part 230 and 33 CFR §§ 320.3(f) and 323.3(e));

(iv) A statement of the existing measures to be continued and new measures proposed by the applicant for the purpose of protecting or improving water quality, including an explanation of why the applicant has rejected any measures recommended by an agency and described under paragraph (f)(2)(iii) of this section.

(v) A description of the continuing impact on water quality of continued operation of the project and the incremental impact of proposed new development of project works or changes in project operation; and

(vi) As an appendix, either:
(A) A copy of a water quality certificate (or agency statement that such certification is waived) as described in section 401 of the Federal Water Pollution Control Act (also known as the Clean Water Act) (see 33 U.S.C. 1341); or

(B) A copy of a dated letter from the applicant to the appropriate agency requesting that certification.

(3) *Report on fish, wildlife, and botanical resources.* The report must discuss fish, wildlife, and botanical resources in the vicinity of the project and the impact of the project on those resources. The report must be prepared in consultation with any state agency with responsibility for fish, wildlife, and botanical resources, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service (if the project may affect anadromous fish resources subject to that agency's jurisdiction), and any other state or Federal agency with managerial authority over any part of the project lands. Consultation must be documented by appending to the report a letter from each agency consulted that indicates the nature, extent, and results of the consultation. The report must include:

(i) A description of the fish, wildlife, and botanical resources of the project

and its vicinity, and of downstream areas affected by the project, including identification of any species listed as threatened or endangered by the U.S. Fish and Wildlife Service (See 50 CFR 17.11 and 17.12);

(ii) A description of any measures or facilities recommended by the agencies consulted for the mitigation of impacts on fish, wildlife, and botanical resources, or for the protection or improvement of those resources;

(iii) A statement of any existing measures or facilities to be continued or maintained and any measures or facilities proposed by the applicant for the mitigation of impacts on fish, wildlife, and botanical resources, or for the protection or improvement of such resources, including an explanation of why the applicant has rejected any measures or facilities recommended by an agency and described under paragraph (f)(3)(ii) of this section.

(iv) A description of any anticipated continuing impact on fish, wildlife, and botanical resources of continued operation of the project, and the incremental impact of proposed new development of project works or changes in project operation; and

(v) The following materials and information regarding the measures and facilities identified under paragraph (f)(3)(iii) of this section:

(A) Functional design drawings of any fish passage and collection facilities, indicating whether the facilities depicted are existing or proposed (these drawings must conform to the specifications of § 4.32 regarding dimensions of full-sized prints, scale, and legibility);

(B) A description of operation and maintenance procedures for any existing or proposed measures or facilities;

(C) An implementation or construction schedule for any proposed measures or facilities, showing the intervals following issuance of a license when implementation of the measures or construction of the facilities would be commenced and completed;

(D) An estimate of the costs of construction, operation, and maintenance, of any proposed facilities, and of implementation of any proposed measures, including a statement of the sources and extent of financing; and

(E) A map or drawing that conforms to the size, scale, and legibility requirements of § 4.32 showing by the use of shading, cross-hatching, or other symbols the identity and location of any measures or facilities, and indicating whether each measure or facility is existing or proposed (the map or drawings in this exhibit may be consolidated).

(4) *Report on historical and archeological resources.* The report must discuss the historical and archeological resources in the project area and the impact of the project on those resources. The report must be prepared in consultation with the State Historic Preservation Officer and the U.S. Heritage Conservation and Recreation Service. Consultation must be documented by appending to the report a letter from each agency consulted that indicates the nature, extent, and results of the consultation. The report must contain:

(i) Identification of any sites either listed or determined to be eligible for inclusion in the National Register of Historic Places that are located in the project area, or that would be affected by operation of the project or by new development of project facilities (including facilities proposed in this exhibit);

(ii) A description of any measures recommended by the agencies consulted for the purpose of locating, identifying, and salvaging historical or archaeological resources that would be affected by operation of the project, or by new development of project facilities (including facilities proposed in this exhibit), together with a statement of what measures the applicant proposes to implement and an explanation of why the applicant rejects any measures recommended by an agency.

(iii) The following materials and information regarding the survey and salvage activities described under paragraph (f)(4)(ii) of this section:

(A) A schedule for the activities, showing the intervals following issuance of a license when the activities would be commenced and completed; and

(B) An estimate of the costs of the activities, including a statement of the sources and extent of financing.

(5) *Report on recreational resources.* The report must discuss existing and proposed recreational facilities and opportunities at the project. The report must be prepared in consultation with local, state, and regional recreation agencies and planning commissions, the U.S. Heritage Conservation and Recreation Service, and any other state or Federal agency with managerial authority over any part of the project lands. Consultation must be documented by appending to the report a letter from each agency consulted indicating the nature, extent, and results of the consultation. The report must contain:

(i) A description of any existing recreational facilities at the project, indicating whether the facilities are available for public use;

- (ii) An estimate of existing and potential recreational use of the project area, in daytime and overnight visits;
- (iii) A description of any measures or facilities recommended by the agencies consulted for the purpose of creating, preserving, or enhancing recreational opportunities at the project and in its vicinity (including opportunities for the handicapped), and for the purpose of ensuring the safety of the public in its use of project lands and waters;
- (iv) A statement of the existing measures or facilities to be continued or maintained and the new measures or facilities proposed by the applicant for the purpose of creating, preserving, or enhancing recreational opportunities at the project and in its vicinity, and for the purpose of ensuring the safety of the public in its use of project lands and waters, including an explanation of why the applicant has rejected any measures or facilities recommended by an agency and described under paragraph (f)(5)(iii) of this section; and
- (v) The following materials and information regarding the measures and facilities identified under paragraphs (f)(5)(i) and (iv) of this section:
- (A) Identification of the entities responsible for implementing, constructing, operating, or maintaining any existing or proposed measures or facilities;
- (B) A schedule showing the intervals following issuance of a license at which implementation of the measures or construction of the facilities would be commenced and completed;
- (C) An estimate of the costs of construction, operation, and maintenance of any proposed facilities, including a statement of the sources and extent of financing;
- (D) A map or drawing that conforms to the size, scale, and legibility requirements of § 4.32 showing by the use of shading, cross-hatching, or other symbols the identity and location of any facilities, and indicating whether each facility is existing or proposed (the maps or drawings in this exhibit may be consolidated); and
- (vi) A description of any areas within or in the vicinity of the proposed project boundary that are included in, or have been designated for study for inclusion in, the National Wild and Scenic Rivers System, or that have been designated as wilderness area, recommended for such designation, or designated as a wilderness study area under the Wilderness Act.
- (6) *Report on land management and aesthetics.* The report must discuss the management of land within the proposed project boundary, including wetlands and floodplains, and the

protection of the recreational and scenic values of the project. The report must be prepared following consultation with local and state zoning and land management authorities and any Federal or state agency with managerial authority over any part of the project lands. Consultation must be documented by appending to the report a letter from each agency consulted indicating the nature, extent, and results of the consultation. The report must contain:

(i) A description of existing development and use of project lands and all other lands abutting the project impoundment;

(ii) A description of the measures proposed by the applicant to ensure that any proposed project works, rights-of-way, access roads, and other topographic alterations blend, to the extent possible, with the surrounding environment; *see, e.g., 44 CFR Parts 1496, et seq.*;

(iii) A description of wetlands or floodplains within, or adjacent to, the project boundary, any short-term or long-term impacts of the project on those wetlands or floodplains, and any mitigative measures in the construction or operation of the project that minimize any adverse impacts on the wetlands or floodplains;

(iv) A statement, including an analysis of costs and other constraints, of the applicant's ability to provide a buffer zone around all or any part of the impoundment, for the purpose of ensuring public access to project lands and waters and protecting the recreational and aesthetic values of the impoundment and its shoreline;

(v) A description of the applicant's policy, if any, with regard to permitting development of piers, docks, boat landings, bulkheads, and other shoreline facilities on project lands and waters; and

(vi) Maps or drawings that conform to the size, scale, and legibility requirements of § 4.32, or photographs, sufficient to show the location and nature of the measures proposed under paragraph (f)(5)(ii) of this section (maps or drawings in this exhibit may be consolidated).

(7) *List of literature.* The report must include a list of all publications, reports, and other literature which were cited or otherwise utilized in the preparation of any part of the environmental report.

(g) *Exhibit A* consists of general design drawings of the principal project works described under paragraph (b) of this section (Exhibit A).

(1) The drawings must conform to the specifications of § 4.32 and must indicate whether each structure depicted is existing or proposed.

(2) Detailed working drawings that show the precise plans and specifications for proposed structures should not be filed with the application, but must be prepared for the purposes of construction and, if a license is issued and construction ensues, retained as permanent project records.

(3) The general design drawings required under this paragraph must show plans (overhead view), elevations (front view), profiles (side view), and sections for each principal project work. The drawings must be accompanied by a description of the physical condition or state of maintenance and repair of any structures or equipment and by sufficient information relating to composition and competency of foundations and other structures, gradation of filter and riprap material, design strength and ultimate strength of concrete and steel, stress and stability analyses, the project design flood (and Standard Project Flood or Probable Maximum Flood, if different from the design flood) used for stability analysis, spillway rating curves, water levels, and other controlling factors to demonstrate that the structures are safe and adequate to fulfill their stated functions.

(h) *Exhibit G* is a map of the project. The map must conform to the specifications of § 4.32. If more than one sheet is used, the sheets must be numbered consecutively and each sheet must bear a small inset sketch showing the entire project (or development) and indicating the portion depicted on the sheet. The map must show:

(1) *Location of the project and principal features.* The map must show the location of the project as a whole with reference to the affected stream or other body of water and, if possible, to a nearby town or any permanent monuments or objects, such as roads, transmission lines or other structures, that can be noted on the map and recognized in the field. The map must also show the relative locations and physical interrelationships of the principal project works and other features described under paragraph (b) of this section (Exhibit A).

(2) *Project boundary.* The map must show a project boundary enclosing all of the principal project works and other features described under paragraph (b) of this section (Exhibit A). The boundary must enclose only those lands necessary for operation and maintenance of the project and for other project purposes, such as recreation, shoreline control, or protection of environmental resources (*see* paragraph (f) of this section (Exhibit E)). Existing residential, commercial, or other structures may be included within the boundary only to the

extent that underlying lands are needed for project purposes (*e.g., for flowage, public recreation, shoreline control, or protection of environmental resources*). If the boundary is on land covered by a public land survey, ties must be shown on the map at sufficient points to permit accurate platting of the position of the boundary relative to the lines of the public land survey. If the lands are not covered by a public land survey the best available legal description of the position of the boundary must be provided, including distances and directions from fixed monuments or physical features. The boundary must be described as follows:

(i) *Impoundments.* (A) The boundary around a project impoundment may be described by any of the following:

(1) Contour lines, including the contour elevation (preferred method);

(2) Specified courses and distances (metes and bounds);

(3) If the project lands are covered by a public land survey, lines upon or parallel to the lines of the survey; or

(4) Any combination of the above methods.

(B) The boundary must be located no more than 200 feet (horizontal measurement) from the exterior margin of the reservoir, defined by the normal maximum surface elevation, except where deviations may be necessary in describing the boundary according to the above methods, or where additional lands are necessary for project purposes, such as public recreation, shoreline control, or protection of environmental resources.

(ii) *Continuous features.* The boundary around linear ("continuous") project features such as access roads, transmission lines, and conduits may be described by specified distances from center lines or offset lines of survey. The width of such corridors must not exceed 200 feet, unless good cause is shown for a greater width. Several sections of a continuous feature may be shown on a single sheet, with information showing the sequence of contiguous sections.

(iii) *Noncontinuous features.* (A) the boundary around noncontinuous project works such as dams, spillways, and powerhouses may be described by:

(1) Contour lines;

(2) Specified courses and distances;

(3) If the project lands are covered by a public land survey, lines upon or parallel to the lines of the survey; or

(4) Any combination of the above methods.

(B) The boundary must enclose only those lands that are necessary for safe and efficient operation and maintenance of the project, or for other specified project purposes, such as public

recreation or protection of environmental resources.

(3) *Federal lands.* Any public lands and reservations of the United States (*see* 16 U.S.C. 790(1) and (2)) ("Federal lands") that are within the project boundary, *e.g.,* lands administered by the U.S. Forest Service, Bureau of Land Management, National Park Service, or Indian tribal lands, and the boundaries of those Federal lands, must be identified on the map:

(i) By legal subdivisions of a public land survey of the affected area (a protraction of identified township and section lines is sufficient for this purpose);

(ii) By the Federal agency, identified by symbol or legend if desired, that maintains or manages each identified subdivision of the public land survey within the project boundary; and

(iii) In the absence of a public land survey, by the location of the Federal lands according to the distances and directions from fixed monuments or physical features. When a Federal survey monument or a Federal bench mark will be destroyed or rendered unusable by the construction of project works, at least two permanent, marked, witness monuments or bench marks must be established at accessible points. The maps must show the location (and elevation, for bench marks) of the survey monument or bench mark which will be destroyed or rendered unusable, as well as of the witness monuments or bench marks. Connecting courses and distances from the witness monuments or bench marks to the original must also be shown.

(4) *Non-Federal lands.* For those lands within the project boundary not identified under paragraph (h)(3) of this section, the map must identify by legal subdivision:

(i) Lands owned in fee by the applicant and lands that the applicant plans to acquire in fee; and

(ii) Lands over which the applicant has acquired or plans to acquire rights to occupancy and use other than fee title, including rights acquired or to be required by easement or lease.

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

§ 16.6 [Revoked]

3. Section 16.6 is revoked.

[FR Doc. 79-36407 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 272

[Docket No. RM79-44]

Change in Location of Public Hearings on Interim Rules Involving High-Cost Natural Gas

November 20, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Change in Location of Public Hearing.

SUMMARY: On November 14, 1979 (44 FR 66192, November 19, 1979), the Federal Energy Regulatory Commission (Commission) announced that an informal hearing would be held at 10:00 a.m. on Tuesday, December 4, 1979, at 825 North Capitol Street, N.E., Washington, D.C. 20426 on the interim rules involving high-cost natural gas described in section 107(c) (1), (2), (3), and (4) of the Natural Gas Policy Act (NGPA) in docket No. RM79-44 (44 FR 61950, October 29, 1979).

DATES: The date and time of the hearing will remain the same.

ADDRESS: That hearing will be moved to Hearing Room E, Interstate Commerce Commission, Constitution Avenue and 12th Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, 202-357-8151.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-36485 Filed 11-26-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 1002 and 1040

[Docket No. 75N-0047]

Sunlamp Products; Performance Standard

Correction

In FR Doc. 79-34635, published on page 65352, on Friday, November 9, 1979, in the first column, under "SUMMARY", in the tenth line, "necessary and pose unreasonable risk," should be corrected to read "unnecessary and pose unreasonable risk".

BILLING CODE 1606-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-79-704]

Community Development Block Grants, Technical Amendments

AGENCY: Office of the Assistant Secretary for Community Planning and Development, (HUD).

ACTION: Republication of § 570.200(f) of the community development block grant program.

SUMMARY: Paragraph (f) of § 570.200 in FR Doc. 79-26953 appearing on page 50248 in the issue for Monday, August 27, 1979, and corrected on Monday, September 19, 1979, at 44 FR 54294 is being republished to show the corrections as incorporated within the full paragraph. This republication of § 570.200(f) of the regulations governing the community development block grant program is being made in response to requests from the public.

EFFECTIVE DATE: September 26, 1979. The effective date will remain the same as was given in the August 27, 1979 edition of the Federal Register at 44 FR 50248.

SUPPLEMENTARY INFORMATION: Section 570.200(f) is republished to read as follows:

§ 570.200 [Amended]

(f) *Special assessments under the block grant program.* The following policies relate to the use of special assessment under the block grant program:

(1) *Definition of special assessment.* The term "special assessment" means a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefitting properties. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes.

(2) *Special assessments to recover capital costs funded in whole or in part with block grant funds.* (i) The general rule is that special assessments shall not be used to recover any of the capital costs of public improvements funded in

whole or in part with block grant funds. Applicants may request an exception to this rule where the use of special assessments as a means to leverage private investment is necessary and appropriate to implement the applicant's strategy for economic development or neighborhood revitalization. HUD will not grant exceptions for any special assessments that will recover the capital costs of public improvements funded in whole or in part with block grant funds from properties owned and occupied by low- and moderate-income persons.

(ii) Where the capital cost of a public improvement is funded entirely with block grant funds, and the applicant with HUD authorization levies a special assessment, the applicant shall credit the entire amount collected to program income under § 570.506. Where the capital cost of a public improvement is funded with both block grant and local funds, and the applicant with HUD authorization levies a special assessment in an amount not exceeding its local investment, the applicant may retain the entire amount collected. Where the capital cost of a public improvement is funded with both block grant and local funds, and the applicant with HUD authorization levies a special assessment in an amount exceeding its local investment, the applicant may retain up to the entire amount of the local investment and credit the remainder of the special assessment to program income under § 570.506. However, the applicant shall apportion the special assessment, as collected, so that the portion retained as the local investment is in the ratio of the total local investment to the total amount of the special assessment. For example, if the capital cost of a public improvement is \$100,000, financed with \$30,000 of local funds and \$70,000 of block grant funds, and a special assessment is levied for \$80,000, the apportionment of the special assessment, as collected, would be 3/8 to local funds and 5/8 to program income so that when the entire special assessment has been collected, \$30,000 will have been retained as the local investment and \$50,000 credited to program income.

(iii) The total amount of any special assessment and the amount of funds, as collected, shall be recorded as part of the grant program transactions in accordance with Attachment G of OMB Circular No. A-102.

(3) *Special assessments paid with block grant funds.* Block grant funds may be used to pay special assessments levied against properties owned and occupied by low- and moderate-income

persons for the capital costs of eligible public facilities and improvements financed from local revenue sources, other than block grant funds, which (i) are described in the Community Development Program; (ii) are initiated after March 1, 1978; and (iii) represent the pro rata share of the capital cost of the eligible facility or improvement to the benefitting property. Applicants that propose to pay special assessments with block grant funds must carry out the appropriate environmental reviews and clearances for the public improvements under 24 CFR Part 58.

[Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).]

Note.—The legislative review provisions of Section 7(o) of the Department of Housing and Urban Development Act have been complied with.

Issued at Washington, D.C., November 1, 1979.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 79-36405 Filed 11-26-79; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 841

[Docket No. R-79-548]

Public Housing Program; Development Phase; Appendix A—Prototype Cost Limits for Low-Income Public Housing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of Prototype Cost Determination Under 24 CFR, Part 841, Appendix A.

SUMMARY: On June 6, 1979, the Department published a revised schedule of "Prototype Cost Limits for Low-Income Public Housing." After consideration of additional factual data, revisions are necessary to increase per unit prototype cost limits for one area in the State of Pennsylvania.

DATES: Effective November 27, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing, Room 6248, 451 7th Street, SW., Washington, D.C., 20410, 202-755-4956 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The United States Housing Act of 1937 requires determination by HUD of the costs in different areas for construction and equipment (prototype costs) of new dwelling units suitable for occupancy by low-income families. The prototype costs constitute a limit on development cost for construction and equipment of new public housing projects including Indian projects.

The schedules in this Notice establish revised per unit prototype cost limits for development of public housing under 24 CFR Part 841 (see § 841.115(b)(2)), and of Indian Housing under 24 CFR Part 805 (see §§ 805.213 and 805.214(b)).

The prototype cost determinations are based on data supplied by the HUD Philadelphia Area Office and by the public.

Where prototype schedules are established for special Indian prototype cost areas in accordance with 24 CFR 805.213, the prototype cost limits apply only for development of Indian Housing (these special areas are identified by an asterisk (*) on the schedules).

Section 8(b) of the U.S. Housing Act of 1937 provides that the prototype costs shall become effective on publication in the Federal Register, and this Notice is, therefore, made effective November 27, 1979.

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5128, 451 7th Street, SW., Washington, D.C. 20410.

At 44 FR 32527, revise the per unit cost schedules for detached and semidetached, row, walk-up and elevator dwellings, as shown on the prototype per unit costs schedules, Region III, Philadelphia, Pennsylvania.

(Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)); sec. 8(b) U.S. Housing Act of 1937, (42 U.S.C. 1437(d)))

Issued at Washington, D.C., on November 21, 1979.

Morton A. Baruch,
Deputy Assistant Secretary for Housing—
Federal Housing Commissioner.

Region III

	Bedrooms					
	0	1	2	3	4	5
Philadelphia:						
Detached and semi-detached	23,250	26,150	30,500	37,100	44,450	49,850
Row dwellings	22,250	26,800	29,650	35,250	42,350	49,100
Walk-up	19,200	23,800	27,000	31,900	37,000	40,850
Elevator-structure	30,150	35,050	44,400			

[FR Doc. 79-36403 Filed 11-26-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7652]

Income Tax; Taxable Years Beginning After December 31, 1953; Tax Treatment of Grantors of Certain Options to Buy or Sell

Correction

In FR 79-33552 appearing at page 62281 in the issue for Tuesday, October

30, 1979, make the following corrections:

1. On page 62282, in the second column, the second line of paragraph (1) of § 1.1234-2(e) now reading "section, relating to special rules or" should be corrected to read "section, relating to special rules for".

2. Also on page 62282, in the third column, the fourth line of paragraph (4) of § 1.1234-3(b) now reading "the means quantity of property at the" should be corrected to read "the same quantity of property at the".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 207

Navigation Regulations; Lake Washington Ship Canal, Washington

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final Rule.

SUMMARY: The regulation governing the use, administration and navigation of the lock located at the mouth of the Chicago River, Chicago Harbor Illinois is hereby amended. The Metropolitan Sanitary District of Greater Chicago has requested the amendment to make corrections for changed conditions at the lock and to simplify procedures for navigation interests.

DATE: Effective on 15 December 1979.

ADDRESS: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, Telephone No. (202) 272-0200.

SUPPLEMENTARY INFORMATION: The Corps of Engineers published this proposed amendment in the Notice of Proposed Rulemaking section of the Federal Register (41 FR 4299) dated 29 January 1976. Objections to the proposal were received from the City of Chicago, Department of Environmental Control and from Mr. C. Fred Gurnham. Both objected to the use of audible signals by the lock and by vessels approaching the lock due to the close proximity to a nearby residential area. The requirement for audible signals is not a change in the existing regulation but rather the retention of the previously established system for signaling between vessels and the lock. We have determined that audible signals are essential for safe navigation in this area. Accordingly, we are amending 33 CFR 207.420, paragraph (b) as set forth below:

§ 207.420 Chicago River, Illinois; Sanitary District Controlling Works and the use, administration and navigation of the lock at the mouth of river, Chicago Harbor.

(b) Lock—(1) *Operation.* The lock shall be operated by the Metropolitan Sanitary District of Chicago under the general supervision of the U.S. District Engineer, Chicago, Illinois. The lock gates shall be kept in the closed position at all times except for the passage of navigation.

(4) *Signals.* (i) Signals from vessels for lockage shall be by whistle, horn or by idling or standing near the ends of the lock guide walls. Signals from the lockmaster shall be by the traffic light and horn and/or by voice with or without electrical amplification. In case of emergency, the lockmaster may signal the vessel by wave of hand or lantern, and the signals thus given shall have the same weight as though given by visual or sound devices at the lock. Vessels must approach the lock with caution and shall not enter or leave the lock until signaled to do so by the lockmaster. The following lockage signals and duration of sound signals are prescribed. A long blast shall be of 4 second duration; a short blast shall be of 1 second duration.

(a) *Vessel signals.* Inbound vessels at a distance of not more than 4,000 feet from the lock and outbound vessels immediately after crossing under the Lake Shore Drive bridge shall signal for lockage by 2 long and 2 short blasts of a whistle or horn.

(b) * * *

(10) *Mooring.* (i) Vessels shall be moored in the lock or along its approach walls in such manner as may be directed by the lockmaster. Tying to lock ladders, lamp standards, or railings is strictly prohibited. Commercial vessels and tows of 500 gross tons or more shall, in general, have at least one line out when entering the lock and shall be moored in the lock with two bow and two stern lines, which shall lead forward and aft at each end of the vessel or tow. When the gates are closed, commercial vessels shall not be permitted to work their wheels. Said vessels shall have at least two seamen ashore to handle the mooring lines while they are in the lock.

(ii) * * *
(11) [Revoked]

(17) *Commercial statistics.* Upon each passage through the lock the master or member of the crew of each vessel shall furnish the lockmaster such statistical information as may be required.

(18) *Vessels to carry regulations.* A copy of the regulations in this section shall be kept at all times on board each vessel regularly engaged in navigating this lock. Copies may be obtained without charge from the lockmaster.

Dated: October 17, 1979.
(40 Stat. 286; 33 U.S.C. 1)

Approved:
Michael Blumenfeld,
Assistant Secretary of the Army (Civil Works).

[FR Doc. 79-36499 Filed 11-26-79; 8:45 am]
BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1361-4]

Delayed Compliance Order for Columbus Products Co., a Division of White Consolidated Industries, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Columbus Products Company, a Division of White Consolidated Industries, Inc. (Columbus Products Company). The Order requires the company to bring air emissions from its boilers at Columbus, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Columbus Products Company's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect November 27, 1979.

FOR FURTHER INFORMATION CONTACT: Peter Kelly, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On August 10, 1979, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (44 FR 47111) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Columbus Products Company. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Columbus Products Company by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Columbus Products Company on

a schedule to bring its boilers at Columbus, Ohio, into compliance as expeditiously as practicable with Regulation OAC-3745-17-10, a part of the federally approved Ohio State Implementation Plan. Columbus Products Company is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Columbus Products Company to delay compliance with the SIP regulation covered by the Order until April 15, 1980.

Compliance with the Order by Columbus Products Company will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Columbus Products Company is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Columbus Products Company on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: November 16, 1979.

Barbara Blum,
Acting Administrator.

1-In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.400:

§ 65.400 Federal Delayed Compliance Orders Issued Under Section 113(d)(1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Columbus Products Company, a Division of White Consolidated Industries, Inc.	Columbus, Ohio	EPA-5-80-A-1	8/10/79	OAC-3745-17-10	4/15/80

[FR Doc. 79-36475 Filed 11-26-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 205

[FRL 1366-4]

Withdrawal of Warranty Statement and Extension of Alternate Warranty Statement

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal Noise Emissions Warranty Statement for Medium and Heavy Trucks and Extension of Alternate Warranty Statement.

SUMMARY: This notice withdraws the regulatory warranty statement for new medium and heavy trucks, recently invalidated by the U.S. Court of Appeals for the District of Columbia Circuit. The notice also advises that manufacturers of new medium and heavy trucks may continue to offer an alternate warranty statement pending amendment of the regulation in response to a remand from the Court.

EFFECTIVE DATE: November 27, 1979.

FOR FURTHER INFORMATION CONTACT: John S. Winder, Jr., Acting Director, Noise Enforcement Division (EN-387), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (703) 557-7470.

SUPPLEMENTARY INFORMATION: On April 13, 1976, EPA published noise emission standards for new medium and heavy trucks, 40 CFR Part 205, Subparts A and B. That regulation required a noise emissions warranty statement, 40 CFR 205.58-1(a), to be included by the first manufacturer of the completed vehicle (as defined in the regulation) in the owner's manual or other consumer literature. The provision required the first manufacturer to warrant against noise defects in existence at the time of sale to the ultimate purchaser, notwithstanding modifications by subsequent manufacturers.

Subsequent to promulgation of the truck regulation, four truck manufacturers petitioned the U.S. Court

of Appeals for the District of Columbia Circuit, on June 28, 1976, to review various aspects of the regulation, including the warranty provision. *Chrysler Corp. et al. v. EPA*, 600 F.2d 904 (D.C. Cir. 1979).

In response to a proposal from petitioners in the *Chrysler* case, EPA published a revised warranty statement on November 29, 1977, 42 FR 80741, which could be used in lieu of the warranty statement found in § 205.58-1 of the truck regulation. On December 1, 1977 letters explaining this "alternate warranty statement" also were mailed by EPA to manufacturers of vehicles subject to the regulation. The alternate warranty statement, which provides that the manufacturer warrants the condition of the vehicle only up to the time it leaves that manufacturer's control, was to be used on an interim basis, pending judicial resolution of the warranty issue raised in the *Chrysler* case.

The Court decided the *Chrysler* case on April 9, 1979, and held in part that the warranty provision in the regulation was invalid because it would hold the primary manufacturer of the vehicle responsible in a warranty action, despite the potential of noise defects being caused by subsequent manufacturers.

In response to the Court's remand, EPA will propose, in the Federal Register in the near future, an amendment to 40 CFR 205.58-1, in an effort to satisfy the *Chrysler* decision and the mandate of the Noise Control Act. This notice withdraws the warranty statement in the present regulation; it announces the Agency's intention to propose and promulgate an amendment to the regulation with a new warranty statement, and it describes the course the Agency will follow prior to final promulgation of that amendment.

Although the existing warranty statement found in 40 CFR 205.58-1(a) is hereby withdrawn, Section 6(d)(1) of the Noise Control Act of 1972, 42 U.S.C. 4905(d)(1), clearly requires the

manufacturers of products, to whom the truck regulation applies, to warrant the products' compliance with the noise standard. Accordingly, the Agency will continue to require that first manufacturers provide to consumers notice of the Noise Control Act warranty. First manufacturers are still required to submit advance copies of warranty provisions to the Agency, and EPA will continue its review of proposed warranty provisions. The Agency hereby notifies manufacturers that it will accept the alternate warranty statement as meeting the manufacturers' requirement to warrant compliance, pending final Agency action on a revised warranty provision.

The alternate warranty statement was originally intended only for vehicles which would be subjected to further manufacturing operations. That warranty may now be used for all vehicles subject to the regulation. Also, the alternate warranty statement required inclusion of a footnote stating that the warranty might be revised after resolution of pending litigation; that footnote now may be omitted.

The *Chrysler* decision held in part that the warranty provision in the Noise Control Act requires not only the primary manufacturer of the vehicle, but also the subsequent manufacturer, to warrant compliance with the noise standard. Although there is currently no provision in the regulation requiring a written warranty from subsequent manufacturers, these manufacturers are put on notice of their warranty obligation, including the obligation to honor warranty claims under the Noise Control Act to the extent required by law.

Dated: November 16, 1979.

Jeffrey G. Miller,
Acting Assistant Administrator for Enforcement.

§ 205.58-1 [Amended]

1. Section 205.58-1(a) is amended by deleting the "Noise Emission Warranty" statement in its entirety.

2. A copy of the alternate warranty statement, with the footnote omitted, appears below.

Noise Emissions Warranty

(Name of vehicle manufacturer) warrants to the first person who purchases this vehicle for purposes other than resale and to each subsequent purchaser that this vehicle, as manufactured by (name of vehicle manufacturer), was designed, built and equipped to conform at the time it left (name of vehicle manufacturer)'s control with all applicable U.S. EPA Noise Control Regulations.

This warranty covers this vehicle as designed, built and equipped by (name of

vehicle manufacturer, and is not limited to any particular part, component or system of the vehicle manufactured by (name of vehicle manufacturer). Defects in design, assembly or in any part, component or system of the vehicle as manufactured by (name of vehicle manufacturer), which, at the time it left (name of vehicle manufacturer's control, caused noise emissions to exceed Federal standards, are covered by this warranty for the life of the vehicle.

[FR Doc. 79-36523 Filed 11-26-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 504, 505

[General Orders Nos. 25 and 30, Revised; Docket No. 79-66]

Compromise, Assessment, Settlement and Collection of Civil Penalties Under the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933 (Amended)

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This repeals obsolete regulations (Part 504) and amends and finalizes interim regulations (Part 505) which are enacted to implement recent amendments to the Shipping Act, 1916 which authorize the Federal Maritime Commission to assess or compromise all civil penalties provided in the Act.

EFFECTIVE DATE: November 27, 1979.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTAL INFORMATION: This proceeding was instituted by publication of Interim Regulations made immediately effective on July 5, 1979 (44 FR 39176), to amend 46 CFR Part 505 (General Order 30) which, as amended, implements the assessment of civil penalty authorization provisions of Pub. L. 96-25.

Comments to the Interim Regulations were invited and were received from eleven parties in four submissions. Commentators consist of one attorney, one steamship company and nine conferences/agreements.

J. Alton Boyer, Esquire (Boyer) suggests clarification that both the finding of violations and assessment of penalties therefore be encompassed in a single proceeding, and clarification of the role of Hearing Counsel, the differences between compromise and settlement, if any exists, who makes the determination that a violation may have occurred, and the opportunity for judicial review. Boyer further raises

questions concerning due process, the desirability of maximizing opportunity for settlement, the necessity for approval of settlement at three levels, too much formality in the compromise procedure, the desirability of using confess-judgment notes, and the public availability of internal settlement guidelines. Finally, Boyer suggests that the rules make clear that they are not intended to impose a harsher outcome than the previous rules.

Lykes-Brothers Steamship Co., Inc., supports the interim regulations *in toto* and urges expedited approval.

Agreements 10107 and 10108, Japan/Korea-Atlantic and Gulf Freight Conference, Philippines North America Conference, Straits New York Conference, Thailand/Pacific Freight Conference, Thailand/U.S. Atlantic and Gulf Conference and Trans-Pacific Freight Conference of Japan/Korea (Conferences) suggest clarification of the presiding officer's authority to modify a settlement in an assessment proceeding, insist that compromise procedures be available to all on an equal basis, and agree that obsolete 46 CFR Part 504 (General Order 25) need not be retained.

Inter-American Freight Conference (IAFC) suggests changes to clarify the role of Hearing Counsel and two other minor sections.

Each of the specific proposals advanced by the comments will now be discussed:

1. *Repeal of General Order 25 as Obsolete.* In the preamble of the Interim Regulations, the Commission indicated that it "perceives no probable regulatory need for the retention of General Order 25 (46 CFR Part 504) Collection, Compromise and Termination of Enforcement Claims which implemented the Federal Claims Collection Act of 1966. The need to retain such General Order will be considered by the Commission in connection with comments invited to these interim regulations." The only comment received on this point was from the Conferences, which agree that General Order 25 need not be retained. Accordingly, 46 CFR Part 504 will be revoked.

2. *Finding of Violations and Assessment of Penalties in the Same Proceeding.* As raised by Boyer, it is contemplated that both the issue of whether violations have been committed as well as the assessment of penalties for such violations may be encompassed in a single proceeding. Such a specific provision, however, is not necessary in view of the Commission's need for flexibility in structuring proceedings

under section 22 of the Shipping Act and the Administrative Procedure Act.

3. *The Role of Hearing Counsel.* IAFC suggests there is no need to define the role of Hearing Counsel because the duties of this Bureau are already defined in 46 CFR Part 502. Boyer, on the other hand, refers to the "newly assigned role of prosecutor" and the seeming inconsistency with the duty of Hearing Counsel "to act as he deems is required by the public interest" * * * under 46 CFR 502.42."

The pertinent part of 46 CFR 502.42 reads "Hearing Counsel shall actively participate * * * to the extent required in the public interest * * *." Whatever this may mean in other types of proceedings, Hearing Counsel have always been the staff attorney in Commission instituted cases to establish violations. The "prosecutorial" role was always there; the only "newly assigned" role under Pub. L. 96-25 is the ability to request assessment of civil penalties in such a proceeding.

In an assessment proceeding, as in violations cases before the enactment of Pub. L. 96-25, Hearing Counsel are subject to the direction of the Commission only as set forth in the order(s) instituting the case and are otherwise fully subject to the separation of functions as in all other adjudicatory proceedings. Also, as in previous violations cases, it is clear that Hearing Counsel have the burden of proof to establish such violations.

To clarify this provision somewhat, we will delete the phrase: "shall participate as attorney for the Commission" and related language in section 505.3. The remaining language will be retained to specifically provide that all negotiations for settlement will be with Hearing Counsel in assessment proceedings, and not with General Counsel as in compromise cases where no formal proceeding has been instituted.

4. *Settlement Procedures in Formal Proceedings.* The difference between "compromise" and "settlement" was questioned by Boyer. Of course, in addition to the traditional legal connotation, a "compromise" proceeding as defined in § 505.2(c) is the informal process, while the "assessment" proceeding is a formal docket. (See § 505.2(a).) Settlements can be reached in either process with General Counsel or Hearing Counsel, as the case may be.

Boyer suggests that it is desirable to maximize opportunity for settlement ("compromise") in a formal proceeding but the rules "seem to tend in the opposite direction." He questions the necessity of having such settlements

"approved" by three levels of officials, i.e., Hearing Counsel, the Administrative Law Judge (where referred) and the Commission itself.

The Commission intends no extraordinary impediment to settlements, keeping in mind that most formal proceedings will be the result of unsuccessful compromise efforts with the General Counsel. Hearing Counsel, as a party to the stipulation or settlement, will not be approving agreements but rather will be joining with respondents in submitting agreements for approval. The inclusion of the settlement agreement in the Initial Decision and final decision replaces findings of violations and assessment of penalties, and the Commission deems such limited formality necessary to its regulatory responsibilities.

The Conferences submit that the rules do not specify whether the presiding officer can amend, modify or simply reject a settlement. Such powers are implied in the requirement that the presiding officer approve such a settlement.

Accordingly, no other changes to § 505.3 are necessary.

5. *Compromise Procedures—Institution and Notice.* Section 505.4 provides for institution of compromise procedures in certain instances "whenever the Commission has reason to believe that there has occurred a violation * * *." Boyer questions the participation by the Commission in this determination as compromising its integrity as a quasi-judicial body. It is well settled, however, that an administrative agency's participation in the institution of a proceeding does not disqualify it from making an informed decision on the record as to whether violations are established.

On the other hand, the Conferences would urge the absolute right of any respondent to first utilize the compromise procedures before (or instead of) going to a formal proceeding, with the only possible exception being the case where the statute of limitations period is about to run. While such a procedure is intended to be used in the normal case, we do not interpret Pub. L. 96-25 or its legislative history as establishing it as a right and no such amendment will be added. (See § 505.5.)

IAFC suggests that the first demand letter inform respondents of the identity of the attorney in General Counsel who will negotiate the compromise. This is neither practical nor necessary.

Boyer suggests that the language "making a final determination" with respect to that stage when the compromise procedure is terminated may be too formalistic. The language is

not intended to imply a determination similar to a final order of the Commission, but rather to specifically set a reasonable cut-off date beyond which the compromise procedures cannot continue. Since we can think of no more palliative language with the necessary import, no change will be made.

6. *Mutual Exclusiveness of Proceedings.* IAFC suggests clarification of § 505.6(b) to remove ambiguity. Accordingly, we will insert the words "under § 505.4" to accomplish this clarification.

7. *Confession of Judgment Note Provisions.* Boyer questions the desirability of requiring a confession of judgment provision in a promissory note in § 505.7(b) and in Appendix B. Where circumstances allow a promissory note instead of immediate payment of the penalty in the first place, such a provision is necessary to protect the government from delays in collection of debts and is common practice. It was provided for in both the original General Order 30 and General Order 25 which is being repealed.

8. *Opportunity for Judicial Review.* Boyer suggests the rules should provide for judicial review and for protection during that review from "assessment proceedings or collection efforts." Where a final Commission order has been issued, however, the Hobbs Act (28 U.S.C. 2341 *et seq.*) provides for judicial review and the Courts of Appeals have the power to stay further agency action with respect to such orders. Since assessment proceedings will ordinarily result in a final order on both the existence of violations and the amount of penalties, and since compromise procedures are voluntary, we cannot understand the basis for Boyer's suggestion and do not see the need for any amendment.

9. *Guidelines for Compromise and Settlement.* Boyer suggests that guidelines for compromise and settlement be published. Such an endeavor, however, if feasible after further experience, belongs in a policy statement rather than in the procedural regulations involved here.

10. *Protection Against a Harsher Outcome.* Boyer urges that the "Commission should make it clear that nothing in these rules or in the Commission's administration of Pub. L. No. 96-25 is intended to or will be permitted to impose a harsher outcome with respect to penalties for violations or alleged violations occurring prior to the adoption of Pub. L. No. 96-25 and these rules than would have been the case without their adoption." Again, we have difficulty in understanding this

suggestion, especially since the new statute substantially increased the penalties in sections 16 and 18 and provides for new penalties for operating under a suspended tariff. Thus, without some further definition of "harsher outcome" (if such is possible), no such amendment to these procedural rules appears feasible.

Therefore, pursuant to the provisions of Pub. L. 96-25 (93 Stat. 71), section 4 of the Administrative Procedure Act (5 U.S.C. 553) and sections 32 and 43 of the Shipping Act, 1916 (46 U.S.C. 831 and 841a), Title 46 CFR Part 504 is hereby revoked and the interim revision of 46 CFR Part 505, published at 44 FR 39176, is amended by the revision of §§ 505.3 and 505.6, is adopted as final, and shall read as follows:

PART 504—COLLECTION, COMPROMISE AND TERMINATION OF ENFORCEMENT CLAIMS—[REVOKED]

PART 505—COMPROMISE, ASSESSMENT, SETTLEMENT AND COLLECTION OF CIVIL PENALTIES UNDER THE SHIPPING ACT, 1916, AND THE INTERCOASTAL SHIPPING ACT, 1933

Sec.
505.1 Purpose and scope.
505.2 Definitions.
505.3 Assessment.
505.4 Compromise procedures.
505.5 Assessment procedures.
505.6 Mutual exclusiveness of procedures.
505.7 Method of payment of penalty.
Appendix A—One Example of Compromise Agreement Use —, and the Federal Maritime Commission.
Appendix B—Promissory Note Containing Agreement for Judgment.
Authority.—Sec. 3, 86 Stat. 653, sec. 10(e), 93 Stat. 71, and secs. 32 and 43 of the Shipping Act, 1916 (46 U.S.C. 831 and 841a).

§ 505.1 Purpose and scope.

The purpose of this part is to implement the statutory provisions of section 3 of Pub. L. 92-416 (86 Stat. 653) and section 10(e) of Pub. L. 96-25 (93 Stat. 71) by establishing rules and regulations governing the compromise, assessment, settlement and collection of civil penalties arising under certain designated provisions of the Shipping Act, 1916, the Intercoastal Shipping Act, 1933, and/or any order, rule or regulation (except for procedural rules and regulations contained in Part 502 of this chapter) issued or made by the Commission in the exercise of its powers, duties and functions under those statutes. Also, for the purpose of this part, the criteria for compromise, settlement, or assessment may include, but need not be limited to, those which are set forth in 4 CFR Part 101-105.

§ 505.2 Definitions.

For the purposes of this part:

(a) "Assessment" means the imposition of a civil penalty by Order of the Commission.

(b) "Commission" means the Federal Maritime Commission.

(c) "Compromise" means the process whereby a civil penalty for a violation is agreed upon by the respondent and the Commission's General Counsel.

(d) "Person" includes individuals, corporations, partnerships, associations, and other legal entities.

(e) "Violation" includes any violation of sections 14b through 21 (except 16 first and third) and section 44 of the Shipping Act, 1916; section 2 of the Intercoastal Shipping Act, 1933; and/or any order, rule or regulation (except for procedural rules and regulations contained in Part 502 of this chapter) issued or made by the Commission in the exercise of its powers, duties, and functions under the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

(f) "Respondent" includes any person charged with a violation.

§ 505.3 Assessment.

Assessment of civil penalties may be made only in a formal proceeding instituted by the Commission under section 22 of the Shipping Act, 1916 for the purpose of such assessment. Such proceeding shall be governed by the Commission's Rules of Practice and Procedure, 46 CFR Part 502. In such a proceeding, the Commission's Bureau of Hearing Counsel shall have full authority to enter into stipulations and settlements. Any such proposed settlement of penalties for violations which are the subject of a pending proceeding under this section must be negotiated with Hearing Counsel, shall be submitted to the presiding officer for approval, and the full text of every such settlement must be included in the final Order of the Commission in the proceeding.

§ 505.4 Compromise procedures.

(a) *Institution and Notice.* Except in pending assessment proceedings as provided for in section 505.3 above, whenever the Commission has reason to believe that there has occurred a violation for which a civil penalty is authorized and it is appropriate to invoke the procedures looking toward compromise of the statutory penalties, the General Counsel's Office will send a registered letter to the respondent informing him of the nature of the violation, the statutory and factual basis of the penalty, the amount of the penalty and the availability of Commission personnel for discussion of the penalty

claim should the respondent so desire. Two written demands, at 30-day intervals, will normally be made unless a response to the first demand indicates that further demand would be futile or unless contrary action is indicated by the circumstances.

(b) *Request for Compromise.* (1) Whenever a person is advised in writing that the Commission has reason to believe that he has committed a violation, such person may submit any oral or written answer to the notification letter explaining, mitigating, showing extenuating circumstances, or, where there has been no formal proceeding on the merits, denying the violation. Material or information so presented will be considered in making a final determination as to whether to terminate the compromise procedure or whether to compromise the penalty, and if so, the amount for which it will be compromised.

(2) All correspondence, petitions, forms, or other instruments regarding the collection, compromise, or termination of any penalty under this section should be addressed to the General Counsel, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

(c) *Disposition of Claims in Compromise Procedures.* (1) When the penalty is compromised, such compromise will be made conditional upon the full payment of the compromise within 30 days or such longer period, and upon such terms and conditions as may be allowed by the General Counsel.

(2) When a statutory penalty is compromised and the respondent agrees to settle for that amount, a compromise agreement shall be executed. (One type of settlement agreement is set forth in Appendix A.) This agreement, after reciting the nature of the claim, will include a statement evidencing the respondent's agreement to the settlement of the Commission's penalty claim for the amount set forth in the agreement and will also embody an approval and acceptance provision which is to be signed by the General Counsel. Upon settlement of the penalty in the agreed amount, a copy of the executed agreement shall be furnished to the respondent.

(3) Any offer of compromise submitted by the respondent pursuant to § 505.4(b) shall be deemed to have been furnished by the respondent without prejudice and shall not be used against the respondent in any proceeding.

(d) *Delegation of Compromise Authority.* The compromise authority set forth above is delegated to the General Counsel.

§ 505.5 Assessment procedures.

In addition to its discretion to institute an assessment proceeding or civil penalty action without need to resort to the compromise procedures, the Commission may, after initiation of compromise procedures, institute an assessment proceeding or civil penalty action when:

(a) The respondent, within the prescribed time, does not explain the violation, petition for compromise, or otherwise respond to letters or inquiries; or

(b) The respondent, having responded to such letters or inquiries, fails or refuses to pay the statutory or the compromised penalty.

§ 505.6 Mutual exclusiveness of procedures.

(a) No assessment of penalties for violations shall be made by Order of the Commission, nor shall any assessment proceeding be instituted after a settlement agreement for the same violations under the compromise procedures has become effective.

(b) No compromise procedure for penalties under § 505.4 for violations shall be initiated after institution of a Commission assessment proceeding for the purpose of assessing penalties for the same violations.

§ 505.7 Method of payment of penalty.

Payment of penalties by the respondent shall be made by:

(a) A bank cashier's check or other instrument acceptable to the Commission.

(b) Regular installments by check after the execution of a promissory note containing a confess-judgment agreement (Appendix B).

(c) A combination of the above alternatives.

All checks or other instruments submitted in payment of claims shall be made payable to the Federal Maritime Commission.

Effective date. The provisions of this Part 505 will become effective November 27, 1979.

Appendix A.—One Example of Compromise Agreement Used by and the Federal Maritime Commission

This Agreement is entered into between: (1) The Federal Maritime Commission and, (2) _____, hereinafter referred to as respondent.

Whereas, the Commission is considering the institution of an assessment proceeding against respondent for the recovery of civil penalties provided under the Act for violations of Section _____;

Whereas, this course of action is the result of practices believed by the Commission to have been engaged in by respondent to wit;

Appendix B.—Promissory Note Containing Agreement for Judgment

For value received, _____ promises to pay to the Federal Maritime Commission (the Commission) the principal sum of _____ Dollars (\$ _____) to be paid at the offices of the Commission in Washington, D.C., by bank cashier's or certified check in the following installments:

In addition to the principal amount payable hereunder, interest on the unpaid balance thereof shall be paid with each installment. Such interest shall accrue from the date of this Promissory Note and be computed at the rate of _____ percent (____%) per annum.

If any payment of principal or interest shall remain unpaid for a period of 10 days after becoming due and payable, the entire unpaid principal amount of this Promissory Note, together with interest thereon, shall become immediately due and payable at the option of the Commission without demand or notice being hereby expressly waived.

If a default shall occur in the payment of principal or interest under this Promissory Note, _____ does hereby authorize and empower any U.S. Attorney, any of his assistants or any attorney of any court of record, Federal or State, to appear for it, and to enter and confess judgment against for the entire unpaid principal amount of this Promissory Note, together with interest, in any court of record, Federal or State; to waive the issuance and service of process upon _____ in any suit on this Promissory Note; to waive any venue requirement in such suit, to release all errors which may intervene in entering up such judgment or in issuing any execution thereon; and to consent to immediate execution on said judgment.

_____ hereby ratifies and confirm all that said attorney may do by virtue hereof.

This Promissory Note may be prepaid in whole or in part by _____ by bank cashier's or certified check at any time, provided that accrued interest on the principal amount prepaid shall be paid at the time of the prepayment.

Name of Company _____
By _____
Date _____

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-36406 Filed 11-26-79; 8:45 am]

BILLING CODE 8730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[CC Docket No. 78-374]

Regulation of Domestic Receive-Only Satellite Earth Stations; Correction

AGENCY: Federal Communications Commission, DOE.

ACTION: Errata to First Report and Order in CC Docket No. 78-374, Regulation of Receive-Only Satellite Earth Stations.

SUMMARY: The FCC published a First Report and Order in the Federal Register on November 15, 1979 (44 FR 65753) regarding regulation of domestic receive-only satellite earth stations. This document corrects two typographical errors in that document.

EFFECTIVE DATE: October 16, 1979, for adoption of policies and conditions set forth therein.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jane E. Mago, International and Satellite Branch, Common Carrier Bureau, (202) 632-7265.

Released: November 19, 1979.

In the matter of regulation of domestic receive-only satellite earth stations, CC Docket No. 78-374.

1. Footnote 20 (at 65757) and paragraph 41 (at 65759) of the First Report and Order in CC Docket No. 78-374, released November 7, 1979 (44 FR 65753) are hereby amended to read as follows:

(a) ²⁰ See also, *KMLA v. 20th Century Cigarette Vendors*, 284 F. Supp. 35 (D.C. Cal. 1967) and *Home Box Office, Inc. v. Pay TV of Greater New York, Inc.* 467 F. Supp. 525 (E.D.N.Y. 1979). Another recent case, *Ortho-O-Vision, Inc. v. Home Box Office*, 474 F. Supp. 672 (S.D.N.Y. 1979) appears to reach a contrary result with regard to the significance of the intended audience as a determinant of the applicability of Section 605. There the court stated that there is very little to distinguish MDS transmissions from pay TV. (Section 605 is not applicable to broadcast pay TV). That case does not affect our decision here since the language is clearly dicta, is not of decisional significance and is limited to the facts before the court at that time.

(b) 41. Accordingly, we hereby grant an immediate waiver of the requirement of a construction permit for all domestic satellite receive-only earth stations pursuant to Section 319(d) of the Communications Act.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-36391 Filed 11-26-79; 8:45 am]

BILLING CODE 8712-01-M

47 CFR Part 73

[BC Docket No. 79-181; RM-3190]

FM Broadcast Station in Tahoe City Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class B FM channel to Tahoe City, California, as its first FM assignment, in response to a petition filed by Robert L. Fox, Ira E. Laufer and David A. Loe. The channel could be used to serve a substantial seasonal population as well as to provide a first local outlet for Tahoe City, and the northern Lake Tahoe region.

EFFECTIVE DATE: December 31, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: November 14, 1979.

Released: November 26, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Tahoe City, California), BC Docket No. 79-181, RM-3190.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, adopted July 23, 1979, 44 FR 44575, proposing the assignment of Class B FM Channel 243 to Tahoe City, California, as its first FM assignment. The *Notice* was issued in response to a petition filed by Robert L. Fox, Ira E. Laufer and David A. Loe ("petitioners"). Supporting comments were filed by petitioners in which they reaffirmed their intention to file for the channel, if assigned. No other responses to the proposal were received.

2. Tahoe City (pop. 1,394),¹ is an unincorporated community located adjacent to Lake Tahoe, on the California-Nevada border near Reno.

3. Petitioners state that although Tahoe City has a small year-round population, summer tourists increase the North Shore population to an estimated 75,000. They point out that neither Tahoe City nor any of the other North Shore communities bordering on Lake Tahoe has a locally-assigned AM or FM station. They assert that the proposed

channel would provide a local outlet not only for Tahoe City but also for other North Shore Communities. Petitioners add that aural service could also be provided to the South Shore, which includes the community of South Lake Tahoe whose population is 12,921.

4. Channel 243 can be assigned to Tahoe City in conformity with the minimum distance separation requirements. One community (Lovelock, Nevada) is the only community of over 1,000 population without an FM assignment or AM station that would sustain preclusion as a result of the proposed assignment. Petitioners inform us that alternate channels are available for assignment to Lovelock, should a need arise.

5. We believe that the public interest would be served by assigning Channel 243 to Tahoe City, California. Although a community of this size is not normally assigned a Class B channel, the substantial seasonal population attracted to this area provides a justification for a wide coverage channel. Cf. *Monte Rio, Cal.*, 50 F.C.C. 2d 759 (1975); *Ocean City, Md.*, 35 F.C.C. 2d 473, 474 (1972). The proposed assignment would also provide a first local outlet for Tahoe City, and a first local aural service to the entire northern Lake Tahoe area.

6. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

7. In view of the foregoing, it is ordered, that effective December 31, 1979, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended as follows:

City	Channel No.
Tahoe City, California	243

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 79-36482 Filed 11-26-79; 8:45 am]

BILLING CODE 6712-01-M

¹ Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 79-136; RM-3170]

Television Broadcast Station in Oklahoma City, Okla.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns an eighth commercial television channel to Oklahoma City, Oklahoma, in response to a petition filed by Satellite Outreach Ministries, Inc. This channel could bring additional television service to Oklahoma City or could be used to provide local service to nearby Edmond, Oklahoma.

EFFECTIVE DATE: December 31, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—(Proceeding Terminated)

Adopted: November 14, 1979.

Released: November 26, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations, (Oklahoma City, Oklahoma), BC Docket No. 79-136, RM-3170.

1. On May 31, 1979, the Commission adopted a *Notice of Proposed Rule Making*, 44 FR 34170, proposing the assignment of UHF television Channel 52 to Oklahoma City, Oklahoma. Satellite Outreach Ministries, Inc. ("petitioner") had requested the assignment of the above channel to Edmond, Oklahoma, a small community adjacent to Oklahoma City. It was determined that petitioner offered no real showing of need for a television channel at Edmond. However, there appeared to be a possible need for an additional channel at Oklahoma City, so Channel 52 was proposed for assignment to that city. The *Notice* stated that if the channel were assigned, petitioner could apply for its use at Edmond under the "15-mile" rule (§ 73.607(b)). Petitioner filed supporting comments in which it stated it would apply for the Oklahoma City channel, if assigned. No oppositions to the proposal were filed.

2. Oklahoma City (pop. 359,671), in Oklahoma County (pop. 526,805), is located approximately 161 kilometers (100 miles) southwest of Tulsa, Oklahoma. The eight television channels now assigned to Oklahoma include the

five operating stations (4, 5, 9 (commercial), and 13 and 25¹ (noncommercial educational)), one on which applications are pending (Channel 14), and two for which construction permits have been granted (Channels 34 and 43). Channel 52 can be assigned to Oklahoma City in compliance with the minimum mileage separation requirements and other technical criteria.

3. We have given careful consideration to the proposal and believe it would be in the public interest to assign Channel 52 to Oklahoma City, Oklahoma, so as to provide for additional television service to Oklahoma City. It could also be applied for to provide local service to Edmond, under the 15-mile rule.

4. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

5. In view of the foregoing, it is ordered, that effective December 31, 1979, § 73.606(b) of the Commission's Rules, the Television Table of Assignments, is amended to read as follows:

City	Channel No.
Oklahoma City, Oklahoma	4-, 5, 9-, 13+, 14-, 25-, 34-, 43+, 52.

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Federal Communications Commission.
Henry L. Baumann,
Acting Chief, Policy and Rules Division,
Broadcast Bureau.

[FR Doc. 79-36483 Filed 11-26-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-134; RM-3184]

FM Broadcast Station in East Wenatchee, Wash.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

¹ Channel 25 is presently operating noncommercially but has an application on file to operate commercially on this unreserved channel.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to East Wenatchee, Washington, as its first FM assignment in response to a petition filed by Wenatchee Wireless Works. The proposed channel could be used to provide a first local aural broadcast service to the community.

EFFECTIVE DATE: December 31, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: November 14, 1979.

Released: November 26, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (East Wenatchee, Washington), BC Docket No. 79-134, RM-3184.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 44 FR 33439, in response to a petition filed by Wenatchee Wireless Works ("petitioner"), licensee of daytime-only AM Station KUEN, Wenatchee, Washington, proposing the assignment of FM Channel 249A to East Wenatchee, Washington. Supporting comments were filed by petitioner and Read Broadcasting, licensee of AM Station KQIN, Burien, Washington. No oppositions to the proposal were received. Both petitioner and Read Broadcasting stated that they would apply for the channel, if assigned.

2. East Wenatchee (pop. 913),¹ in Douglas County (pop. 16,787), is located in the center of Washington State approximately 161 kilometers (100 miles) east of Seattle. There is no local aural broadcast service in East Wenatchee. It receives services from nearby AM Stations KPQ, KUEN and KWWW, and FM Stations KPQ (Channel 271), and KIAM-FM (Channel 285A), Wenatchee, Washington, and AM Station KSLE and Station KCLE-FM (Channel 237A), Ellensburg, Washington.

3. Petitioner states that East Wenatchee is the commercial core of a much larger area locally referred to as "Greater East Wenatchee," which will comprise 75 percent of the total population of Douglas County by 1980. It indicates that East Wenatchee has assumed an identity uniquely its own and independent of its sister city,

¹ Population figures are taken from the 1970 U.S. Census.

Wenatchee, located across the Columbia River. Petitioner asserts that the proposed channel would serve an important public need by providing a first local aural broadcast service in East Wenatchee and Douglas County.

4. Petitioner has indicated that alternate FM channels are available to the communities which would be precluded as a result of the proposed assignment.

5. The Canadian Government has given its concurrence to the proposed assignment of Channel 249A to East Wenatchee, Washington.

6. We believe that the public interest would be served by assigning FM Channel 249A to East Wenatchee, Washington. A station on the proposed channel would provide the community and Douglas County with a first local aural broadcast service.

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective December 31, 1979, the FM Table of Assignments (§ 73.202(b) of the Commission's rules) is amended with regard to the community listed below:

City	Channel No.
East Wenatchee, Washington	249A

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,
Acting Chief, Policy and Rules Division,
Broadcast Bureau.

[FR Doc. 79-36484 Filed 11-26-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-127; RM-3112]

Television Broadcast Station in High Point, N.C.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a UHF television channel to High Point, North Carolina, in response to a petition filed by Clyde Parker. The channel could be used to bring a second commercial

television station to High Point which could provide a first independent television service to the community.

EFFECTIVE DATE: December 31, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: November 14, 1979.
Released: November 28, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations, (High Point, North Carolina), BC Docket No. 79-127, RM-3112.

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted May 23, 1979, 44 FR 33121, proposing the assignment of UHF television Channel 67 to High Point, North Carolina, issued in response to a petition filed by Clyde Parker ("petitioner"). Supporting comments were filed by petitioner and Public Broadcasting Service ("PBS"). Comments were also filed by WFMY Television Corporation ("WFMY"), Greensboro, North Carolina. An opposition was filed by James Thrash ("Thrash"), applicant for Channel 48, Greensboro, North Carolina, to which petitioner responded.

2. High Point (pop. 63,259), in Guilford County (pop. 288,645),¹ is located in central North Carolina, and is part of the Greensboro-Winston-Salem-High Point television market. High Point is currently assigned Channel 8 (WGHP-TV), and Channel *32 (presently unoccupied and unapplied for); Greensboro is assigned Channel 2 (WFMY-TV), and Channels 48 and 61 (both unoccupied although both have applications on file); and Winston-Salem is assigned Channel 12 (WXII), Channel *26 (WUNL-TV), and Channel 45 (CP granted for WGNN-TV).

3. Petitioner states that the commercial facilities in the Greensboro-Winston-Salem-High Point market only provide viewers with network programming from the three major networks. He asserts that the proposed channel would provide for a station which could render a new and diversified source of television programming to a large area and population which is not now receiving such service. PBS indicates that it supports the Channel 67 proposal since

¹Population figures are taken from the 1970 U.S. Census.

it does not involve deleting the reservation for Channel *32 at High Point.

4. WFMY states that it neither directly supports nor opposes the proposed channel for High Point. However, it suggests that, from an economic standpoint, the proposed assignment of still another UHF channel should be deferred until such time as the pending applications for the three channels in Greensboro and Winston-Salem have had an opportunity to commence operation and become financially established.

5. Thrash argues that High Point is not a separate market but a part of the Greensboro-Winston-Salem-High Point market and the need for an additional channel must be evaluated in terms of the whole television market. He claims that this market cannot support seven commercial stations and, if added, would likely lessen the development of viable new independent television broadcasting in the market.

6. In response, petitioner asserts that its proposal would bring a first independent television service to High Point. It argues that the economic impact question raised by WFMY and Thrash is not appropriate at the rule making stage.

7. We have carefully considered the proposal herein and believe that the public interest would be served by assigning UHF Channel 67 to High Point, North Carolina. The arguments raised by WFMY and Thrash are of an economic nature and are more appropriately considered when raised at the application stage. We generally hold that economic issues are not an obstacle to making an assignment. Even though there are three stations which would potentially provide independent television service (two in Greensboro, and one in Winston-Salem), their first obligation is to their community of license and they cannot be expected to serve the local needs of High Point as well as a High Point station. The assignment of Channel 67 to High Point would represent a first independent television service to that community and would also provide it with a second commercial television service.

8. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

9. In view of the foregoing, it is ordered, that effective December 31, 1979, § 73.606(b) of the Commission's rules, the *Table of Assignments* is amended for the community listed below as follows:

City	Channel No.
High Point, North Carolina	8-; *32+, 67+.

10. It is further ordered, that this proceeding is terminated.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,
Acting Chief, Policy and Rules Division,
Broadcast Bureau.

[FR Doc. 79-36495 Filed 11-26-79; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-114; RM-3169]

FM Broadcast Station in North Platte, Nebr.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a third FM channel to North Platte, Nebraska, in response to a petition filed by Tri-State Broadcasting Association, Inc. A third FM channel could be used to bring North Platte and the surrounding area needed additional broadcast service.

EFFECTIVE DATE: December 31, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations, (North Platte, Nebraska), BC Docket No. 79-114, RM-3169.

Report and order—Proceeding Terminated

Adopted: November 14, 1979.
Released: November 28, 1979.

1. On May 9, 1979, at the request of Tri-State Broadcasting Association, Inc. ("petitioner"), the Commission adopted a *Notice of Proposed Rule Making*, 44 FR 29126, proposing the assignment of Class C FM Channel 278 to North Platte, Nebraska, as its third FM assignment. Supporting comments were filed by petitioner in which it reaffirmed its intent to file for the channel, if assigned.

No oppositions to the proposal were received.

2. North Platte (pop. 21,200),¹ seat of Lincoln County (pop. 29,538), is located in west central Nebraska, approximately 400 kilometers (250 miles) west of Omaha, Nebraska, and 384 kilometers (240 miles) northeast of Denver, Colorado. Local service is provided by two fulltime AM stations (KAHL and KODY) and two Class C FM stations, KELN, Channel 246, and KODY, Channel 235 (construction permit granted November 29, 1978).

3. A preclusion study indicates that twelve communities with populations greater than 1,000 and without FM assignments would be precluded as a result of the proposed assignment.² However, as petitioner indicates, alternate FM channels are available for assignment to these communities.

4. Petitioner asserts that North Platte is the largest city in western Nebraska, and is the business and cultural center for the surrounding area. It states that the area has a strong agricultural base provided mostly by cattle ranching and the production of grains.

5. In the *Notice*, we requested petitioner to provide documentation as to its claim that North Platte's population has increased. In this regard, petitioner has provided data from the North Platte Chamber of Commerce and the Nebraska Department of Economic Development which estimate the 1979 population of North Platte to be 26,000 as compared to its 1970 population of 19,447.³

6. Petitioner was also asked to provide additional information as to the apparent relative scarcity of radio services in the area. In response, it stated that service is received from numerous daytime operations, both AM and FM, but at nighttime the only service received within its proposed service contour is from the North Platte stations and from Stations KRVN and KRVN-FM, Lexington, Nebraska. On this basis, it asserts that there is a need for additional nighttime aural service in the area.

¹Population figures are taken from the 1970 U.S. Census.

²Nebraska: Grant (pop. 1,204), Ainsworth (2,073), Rushville (1,137), Cheppell (1,204), Oakkosh (1,067); Cambridge (1,145), Curtis (1,166), Cozad (4,219); South Dakota: Martin (1,248), Pine Ridge (2,768); Colorado: Holyoke (1,840); Kansas: Oakley (2,327).

³This additional information was filed after the comment deadline along with a Motion for Leave for its acceptance. Since this material would be helpful in reaching a decision in this matter, and since no other parties would be prejudiced by its acceptance, we have considered it herein.

7. We have carefully considered the record in this proceeding and find it would be in the public interest to assign Channel 278 to North Platte, Nebraska. Normally, the Commission's FM assignment criteria would limit the number of assignments to a community the size of North Platte to one or two channels. However, on occasion this limit in the number of assignments has been relaxed. As stated in *Fresno, California*, 38 F.C.C. 2d 525, 526 (1972), the population criteria "are a guide and not an immutable standard." The assignment of the proposed channel would allow for the provision of an additional local service to North Platte, a growing community, and its surrounding area. Since there are few population centers in this area, North Platte would appear to be the logical place to assign the channel. Also, petitioner has shown that other FM channels are available to the precluded communities which have no commercial FM assignments. Thus, the proposed assignment can be made to North Platte without depriving any other community of an FM channel. With these facts in mind, we believe an additional assignment to this community is warranted.

8. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective December 31, 1979, the FM *Table of Assignments*, (§ 73.202(b) of the rules) is amended with respect to the community listed below:

City	Channel No.
North Platte, Nebraska	235, 246, 278.

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))
Federal Communication Committee.

Henry L. Baumann,
Acting Chief, Policy and Rules Division,
Broadcast Bureau.

[FR Doc. 79-36496 Filed 11-26-79; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-170; RM-3321]

Television Broadcast Station in Kalamazoo, Mich.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns UHF television Channel 64 to Kalamazoo, Michigan, in response to a petition filed by Thomas E. Pace. The channel would provide for a station which could render a second local commercial television service to Kalamazoo.

EFFECTIVE DATE: December 31, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and order—Proceeding Terminated

Adopted: November 14, 1979.
Released: November 28, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations, (Kalamazoo, Michigan), BC Docket No. 79-170, RM-3321.

1. The Commission has before it a *Notice of Proposed Rule Making*, adopted July 9, 1979, 44 FR 42731, in response to a petition filed by Thomas E. Pace ("petitioner"). The petition originally requested that the reservation for Channel *52 at Kalamazoo, Michigan, be removed to permit its use as a commercial station. However, in view of the availability of a different channel for assignment to Kalamazoo (Channel 64), it was decided to propose this channel instead so as to retain the noncommercial reservation on Channel *52 for future use. Supporting comments were filed by petitioner in which he stated he would apply for Channel 64, if assigned to Kalamazoo. No oppositions to the proposal were received.

2. Kalamazoo (pop. 85,555),¹ seat of Kalamazoo County (pop. 201,550), is located in southwest Michigan, approximately 210 kilometers (130 miles) west of Detroit, Michigan. Kalamazoo is currently assigned Channel 3 (WKZO-TV) and Channel *52 (unoccupied and unapplied for). Channel 64 can be assigned to Kalamazoo in conformity with the minimum distance separation

¹Population figures are taken from the 1970 U.S. Census.

requirements provided a transmitter site filed by Dennis and Terrol Freund and Mosinee and Neopit) have no local aural

47 CFR Part 73 demonstrated that it could be used to area while itself providing a first service

requirements provided a transmitter site is located at least 0.8 kilometers (0.5 miles) northwest of the city.

3. Petitioner states that Kalamazoo has had an 18.8% population increase between 1960-1970. He adds that the channel could be used to provide a new and diversified source of television programming to a large area and population which is not now receiving such service.

4. We believe that the public interest would be served by assigning television Channel 64 to Kalamazoo, Michigan. A station on the proposed channel would provide the Kalamazoo area with a second commercial television service.

5. The Canadian Government has given its concurrence to the assignment of UHF television Channel 64 to Kalamazoo, Michigan.

6. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. Accordingly, it is ordered, that effective December 31, 1979, the Television Table of Assignments (§ 73.606(b) of the Commission's rules) is amended as follows for the community listed below:

City	Channel No.
Kalamazoo, Michigan	3-1, *52+, 64.

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Acting Chief, Policy and Rules Division
Broadcast Bureau.

[FR Doc. 79-36497 Filed 11-26-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-111; RM-3156]

FM Broadcast Stations in Stevens Point, Wis.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission

ACTION: Report and Order.

SUMMARY: Action taken herein assigns a Class A FM channel to Stevens Point, Wisconsin, in response to a petition

filed by Dennis and Terrol Freund and Philip Murphy. The proposed assignment would provide for a station which could bring a second local FM broadcast service to Stevens Point.

EFFECTIVE DATE: December 31, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and order—Proceeding Terminated

Adopted: November 14, 1979.

Released: November 26, 1979.

In the matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Stevens Point, Wisconsin).

BC Docket No. 79-111, RM-3156.

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted May 2, 1979, 44 FR 38025, proposing the assignment of Channel 244A to Stevens Point, Wisconsin, as its second FM assignment. The proceeding was instituted on the basis of a petition filed by Dennis and Terrol Freund and Philip Murphy ("petitioners"). Supporting comments were filed by petitioners reaffirming their intention to file an application for the channel, if assigned. No oppositions to the proposal were received.

2. Stevens Point (pop. 23,479), seat of Portage County (pop. 47,541),¹ is located in the center of the State of Wisconsin, approximately 120 kilometers (75 miles) west of Green Bay, Wisconsin. It presently receives local service from daytime-only AM Station WXYQ, FM Station WSPT (Channel 250), and noncommercial educational FM Station WWSP (Channel 210A).

3. Petitioners have submitted sufficient justification with respect to the need for an additional FM assignment to Stevens Point, Wisconsin.

4. As a result of the proposed Channel 244A assignment to Stevens Point, preclusion would occur only on the co-channel. All adjacent channels are precluded by existing assignments. Fifteen communities² with a population greater than 1,000 are located in the precluded area. Of these fifteen, ten (Owen, Abbotsford, Colby, Marathon, Stratford, Schofield, Weston, Rothschild,

¹ Population figures are taken from the 1970 U.S. Census.

² Wisconsin: Medford (pop. 3,454); Tomahawk (3,419); Merrill (9,502); Antigo (9,005); Owen (1,031); Abbotsford (1,375); Colby (1,178); Marathon (1,214); Stratford (1,239); Wausau (32,806); Schofield (2,577); Weston (6,351); Rothschild (3,141); Mosinee (2,395); Neopit (1,122).

Mosinee and Neopit) have no local aural broadcast service. However, Channel 221A could be assigned to any of the precluded communities.

5. While the proposed assignment would involve an intermixture of classes of channels at Stevens Point, the Commission generally approves the assignment of a Class A with an already existing Class C when there is no other Class C channel available for assignment and there is a willingness by the party interested in a Class A station to compete under such circumstances. *Yakima, Washington*, 42 F.C.C. 2d 548, 550 (1973); *Key West, Florida*, 45 F.C.C. 2d 142, 145 (1974). Petitioners state that there is no Class C channel which could be assigned to Stevens Point, and have expressed a desire to apply for Channel 244A at Stevens Point in spite of the intermixture situation. Therefore, we believe it is in the public interest to make the assignment which would provide for a needed second local FM service to the community.

6. The Canadian Government has given concurrence to the assignment of Channel 244A to Stevens Point, Wisconsin.

7. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

8. In view of the foregoing, it is ordered, that effective December 31, 1979, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows for the community listed below:

City	Channel No.
Stevens Point, Wisconsin	244A, 250

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Acting Chief, Policy and Rules Division,
Broadcast Bureau.

[FR Doc. 79-36498 Filed 11-26-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-133; RM-2693; RM-3135]

Radio Broadcast Services; Channel Assignment (FM) to Iron Mountain, Mich.

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Class A FM Channel 280 at Iron Mountain, Michigan, is replaced by Class C FM Channels 226 and 268, providing substantial first and second aural service there. (A separate document considers a related proposal affecting Crandon, Wisconsin.)

DATE: Effective January 3, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley P. Wiggins, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

First Report and Order

Adopted: November 14, 1979.

Released: November 20, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Iron Mountain, Michigan, and Crandon, Wisconsin), BC Docket No. 78-133, RM-2693, RM-3135.

1. By *Notice of Proposed Rule Making and Order to Show Cause*, 43 FR 16203, the Commission proposed the assignment of two Class C FM channels, 226 and 268, to Iron Mountain, Michigan, and the related deletion of the existing Class A channel (280A) at Iron Mountain. The action was taken in response to a petition from Iron Mountain-Kingsford Broadcasting Company ("IMK"). For the reasons set forth below, we have decided to adopt the proposed assignments and, in a *Further Notice*, explore the assignment of a Class A FM Channel to Crandon, Wisconsin.

2. Comments were filed by IMK and J & R Electronics, licensee of FM Station WJNR (Channel 280A), Iron Mountain, Michigan. A conflicting proposal to assign FM Channel 224A to Crandon, Wisconsin, was submitted by J. Schaefer Enterprises ("Schaefer"). Because the Crandon proposal and the assignment of Channel 226 at Iron Mountain, cannot both be implemented under the Commission's mileage separation requirements, IMK in its reply comments has suggested the alternative of assigning Channel 280A to Crandon after its deletion from Iron Mountain.

3. In support of its proposal for a Class C assignment at Iron Mountain, IMK

demonstrated that it could be used to bring a first FM service to 10,839 persons in an area of over 3,900 square kilometers (1,500 square miles) and a second FM service to 31,077 persons in a 3,200 square kilometer (1,230 square mile) area. These potential service gains supported our consideration of the assignment of a Class C channel in a community whose size (1970 population 8,702) would otherwise not ordinarily qualify it for such an assignment. The Commission also indicated in the *Notice* that if the community did warrant a Class C channel, it would be appropriate to consider assigning a second Class C channel as a substitute for the present Class A assignment. This led the Commission to include in the *Notice and Order to Show Cause* directing the licensee occupying Station WJNR (Channel 280A), to demonstrate why its license should be modified to specify Class C operation on Channel 268. The *Notice* also requested IMK to supplement its preclusion showing by indicating the availability of alternate channels for six affected communities, and to clearly state its willingness to reimburse J & R for the frequency changeover costs if IMK were ultimately licensed to operate on Channel 226.

4. In initial comments, IMK lists alternative assignments available for the six precluded communities listed in the *Notice*. IMK also states its willingness to reimburse J & R for the cost of changing frequency to Class C Channel 268. J & R indicates it will not oppose such modification of its license if reimbursed and allowed to postpone such modification until the other Class channel in Iron Mountain is activated. It is clear that the proposed Class C assignments could be used to bring needed aural service to an underserved area. Thus, the sole remaining issue is the conflict posed by the Crandon counterproposal's specification of Channel 224A.

5. Schaefer points out there are presently no FM assignments at Crandon, Wisconsin (pop. 1,582), or within ten miles of that community, and briefly describes the community to support its contention that broadcast service is needed there. However, there is no showing of first or second aural service to support an assignment which would approach on balance the substantial gains of the Iron Mountain proposal. In contrast, IMK's reply comments assert, with supporting engineering exhibits, that the assignment of Channel 224A to Crandon would, in effect, preclude the provision of first nighttime aural service to some 10,839 residents in the Iron Mountain

area while itself providing a first service to only 667 persons in the Crandon area. IMK urges us to reject the Crandon proposal and issue a separate *Notice* proposing the assignment of Channel 280A there instead.

6. Based on the showings made, we find that the public interest would be best served by assigning two Class C channels to Iron Mountain. In addition we shall modify the license of Iron Mountain Station WJNR from Channel 280A to Channel 268. We agree that Station WJNR is entitled to reimbursement from the eventual licensee of Channel 226 (also assigned here) but only to the extent involved in converting frequencies. It would not be compensated for expanding its facilities to comply with minimum requirements for a Class C station. See *Mitchell, S.D.*, 62 F.C.C. 2d 70 (1976). Station WJNR would be given an adequate time to convert to the new frequency until its next renewal date October 1, 1982, and to postpone its increased facilities until the following renewal date, October 1, 1985.¹ Both of these changes are premised on the expectation that there will be an eventual licensee on Channel 226 so that Station WJNR would be reimbursed for the frequency change.

7. We have also decided to issue a separate *Further Notice* concerning a Class A channel assignment to Crandon. While channel 280A could be assigned there once it is deleted from Iron Mountain, the use of that channel is dependent upon its relinquishment by Station WJNR. We believe a separate *Notice* would be necessary in order to solicit comments on another possible Class A channel assignment at Crandon which, unlike Channel 280A, could be immediately available. The other alternative involves a channel change at another community not previously mentioned.

8. Accordingly, it is ordered, that effective January 3, 1980, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read as follows for the community listed below:

City	Channel No.
Iron Mountain, Michigan	226, *268

¹Effective 3 A.M. local time October 1, 1982 (concurrently with the expiration of the outstanding license for FM Station WJNR on Channel 280A at Iron Mountain, Michigan) or such earlier date as FM Station WJNR may, upon its request, cease operation on Channel 280A.

9. It is further ordered, that the licensee of FM Station WJNR, Iron

¹Of course, if Station WJNR chose before then to construct a Class C channel conforming to our minimum requirements for Class C power and height, it could do so and apply the reimbursement that it later receives to that end.

Mountain, Michigan, may specify operation on Channel 268 instead of Channel 280A in its next renewal application for the period commencing October 1, 1982. The licensee shall inform the Commission in writing no later than January 3, 1980, of its acceptance of this modification. Station WJNR(FM) may continue to operate on Channel 280A until October 1, 1982, or it may obtain modification of its license prior thereto subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 268 the licensee of WJNR(FM) shall submit to the Commission the technical information normally requested of an applicant for Channel 268.

(b) At least 10 days prior to commencing operation on Channel 268 the licensee of Station WJNR(FM) shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station WJNR(FM) shall not commence operation on Channel 268 without prior Commission authorization.

If Station WJNR(FM) requests and is granted authorization to operate on Channel 268 prior to termination of its present license authorization, the Commission will view such request as a relinquishment of Channel 280A and a waiver of any rights it may have with regard to that channel.

10. Authority for the adoption of the amendment is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.
Henry L. Baumann,
Acting Chief, Policy and Rules Division,
Broadcast Bureau.

[FR Doc. 79-36489 Filed 11-26-79; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

National Wildlife Refuges in Alabama, Arkansas, Louisiana, and Mississippi

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Amendment of Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of certain

national wildlife refuges in Alabama, Arkansas, Louisiana, and Mississippi is compatible with the objectives for which the areas were established, will utilize a renewable natural resources, and will provide additional recreation opportunity to the public. In addition, managed big game hunts are designed to keep population levels compatible with habitat capabilities. This document amends special regulations previously established under § 32.32 Special regulations: big game hunting for individual wildlife refuges.

DATES: January 14 and 15, 1980.

FOR FURTHER INFORMATION CONTACT:
Area Manager, U.S. Fish and Wildlife Service, 200 East Pascagoula Street, Suite 300, Jackson, Mississippi 39201, Telephone (601) 980-4800

Refuge Manager, Noxubee National Wildlife Refuge, Route 1, Box 84, Brooksville, Mississippi 39739, Telephone (601) 323-5548.

SUPPLEMENTARY INFORMATION:

General Conditions

All general conditions previously submitted by the Area Manager on August 29, 1979, remain unchanged. The following special regulations are added to establish a two-day either-sex hunt for white-tailed deer on the Noxubee National Wildlife Refuge.

§ 32.32 Special regulations: big game hunting for individual wildlife refuges.

Mississippi

Noxubee National Wildlife Refuge

(1) Gun deer hunt: January 14 and 15, 1980, either sex.

(2) Limited number of permits available. Participants to be determined by a drawing.

(3) Special regulations applicable for other deer hunts are applicable to this hunt.

The provisions of these special regulations supplement the regulations which generally govern hunting on wildlife refuge areas and which are set forth in Title 50, *Code of Federal Regulations*, Part 32. The public is invited to offer suggestions and comments any time.

Dated: November 8, 1979.

James H. Stewart,
Acting Area Manager.

[FR Doc. 79-36501 Filed 11-26-79; 8:45 am]
BILLING CODE 4310-55-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33-6151; File No. S7-811]

Proposed Amendments to Form S-8 and Proposed Related Rules Under the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Securities and Exchange Commission today authorized the publication for comment of several specific and general amendments to Form S-8 and related new rules under the Securities Act of 1933. The purpose of the specific form amendments and the new rules is to provide a means whereby all filings on Form S-8 (both pre-effective and post-effective, with certain limited exceptions) will become effective automatically, without affirmative action on the part of the Commission or its staff pursuant to delegated authority. The Commission believes that most filings on Form S-8 comply in all material respects with the disclosure requirements of the form and related rules, that the review process results in only minimal disclosure improvement on such forms, and that the public interest would generally best be served by prompt effectiveness of such filings without the delays necessitated by the low priority accorded such filings. The Commission is also requesting comments on a series of general proposals which, if adopted, would make the Form S-16 type of disclosure available to issuers with employee stock plans, either by incorporating Form S-16 disclosure and updating features into Form S-8 or by adopting a new form. Additionally, comments are requested with respect to the feasibility of incorporating one or more ERISA filings to register or update the registration of securities issued under ERISA qualified plans.

DATE: Comments must be received on or before December 31, 1979.

ADDRESS: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-811. All comments received will be available for public inspection and copying in the Commission's Public Reference Room 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: William H. Carter, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202/272-2604).

SUPPLEMENTARY INFORMATION: The Commission today authorized the publication for comment of specific and general amendments to Form S-8 (17 CFR 239.16b) and related new rules under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.). The specific new amendments and rules would allow for the elimination of routine staff review of and comment on all filings, both pre-effective and post-effective, on Form S-8 except for those filings containing resale prospectuses on Form S-1 and those accompanied by a request for confidential treatment pursuant to Rule 485 under the Securities Act. However, it is contemplated that unusual circumstances may warrant examination prior to effectiveness, and the Division will do some "after the fact" monitoring of Form S-8 filings on an audit basis to insure that disclosure quality remains at its present high level. Under the proposals pre-effective filings on Form S-8 would become effective automatically on the twentieth day after filing through lapse of time and post-effective amendments on Form S-8 (with certain limited exceptions) would become effective, by rule, upon filing with the Commission.

In addition to the specific proposals the Commission is considering and is requesting comments with respect to the following additional amendments:

(A) Amendments to Form S-8 to allow updating to be accomplished by means of filings made under the Securities Exchange Act of 1934;

(B) Amendments to Form S-8 to conform plan disclosure and description

Federal Register

Vol. 44, No. 229

Tuesday, November 27, 1979

requirements to similar requirements under the Employee Retirement Income Security Act ("ERISA") (29 U.S.C. 1001 et seq.);

(C) Amendments to Form S-8 to allow updating to be accomplished by means of filings or other documents or reports made pursuant to ERISA; and/or

(D) The adoption of one or more new forms covering some but not all of the securities which may be registered presently pursuant to Form S-8 and which would include some or all of the features referred to in (A), (B) and (C) above, as well as the other specific amendments referred to in this release. For example, such a form might be available for the registration of securities only if the plan pursuant to which the securities are issued is subject to and in full compliance with ERISA.

The Commission is also seeking comments as to specific means of implementing any one or more of the general proposals and as to the possible impact of such an implementation upon employee purchasers. Additionally, interested parties may wish to suggest or comment on other alternative registration methods designed to simplify and reduce the cost of the registration of securities issued pursuant to employee plans.

The Commission believes that the specific amendments, if adopted, would result in significant cost savings to registrants as well as in a reduction in paperwork for the Commission staff. The Commission also is of the view that possible additional savings could accrue through the implementation of one or more of the general proposals, and it is hoped that the commentators will be able to confirm and to provide finite estimates of these savings.

General Background

Over the years the Commission has implemented and explored a number of procedures designed to cope with the problems caused by an increasing number of filings without a commensurate increase in staff size.

On November 21, 1968 the Commission issued Securities Act Release No. 4934, "Expediting Registration Statements Filed Under the Securities Act of 1933." In that release the Commission noted the substantial increase in the Division's workload and announced that until such time as

¹ 33 FR 17900.

normal procedures may be resumed a Division officer will make a cursory review of every registration statement and will decide whether: (1) The registration statement is poorly prepared or otherwise presents problems so serious that no further review will be made; (2) no further review will be made but based on the cursory review the Division would recommend clearance of the registration statement upon request not earlier than 20 days after the date of original filings; or (3) the filing will be subject to the regular review process. In Securities Act Release No. 5231, "The Division of Corporation Finance's Procedures Designed to Curtail Time in Registration Under the Securities Act of 1933," issued on February 3, 1972,² the Commission announced for different review procedures employed by the Division in reviewing registration statements—(1) deferred review, (2) cursory review, (3) summary review, and (4) customary review. These procedures have significantly reduced the amount of staff time utilized in processing 1933 Act filings.

On November 22, 1976 the Commission issued for comment proposed new Rule 480 under the Securities Act.³ The purpose of the new rule was to provide a means whereby certain post-effective amendments filed to registration statements on Form S-8 might become effective automatically, without affirmative action on the part of the Commission or its staff. Under the proposed rule, registrants, if they chose and if they met certain conditions, could specify any automatic effective date they wanted provided it was later than twenty days after filing. Although the staff of the Commission would continue to review post-effective amendments filed pursuant to the new rule, registrants filing amendments under the rule would have some added assurance that their filings would become effective on the schedule which they established. The proposed new Rule 480 was subsequently withdrawn⁴ when it appeared that it would not provide any significant advantage over current practice and would not be utilized by a significant number of issuers. The Commission believed that if the staff is to review the amendment, communicate to the issuer that it has no comments, and prepare an order confirming that the amendment has become effective pursuant to Rule 480, there would be

little substantive difference between Rule 480 and the existing procedure for making post-effective amendments on Form S-8 effective. Moreover, the issuer's ability to determine the date of effectiveness of the post-effective amendments to registration statements on Form S-8 was considered by certain commentators to be of marginal benefit because of the minimum waiting period of twenty days. The view was also expressed that issuers would not utilize proposed Rule 480 unless assurance could be obtained prior to the scheduled effective date that the staff had reviewed the amendment and had no comments.

The total number of filings made in the Division of Corporation Finance under the Securities Act and the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq. (1976)) has continued to increase while staff size has remained stable. This has created a need for further changes in staff review procedures which is increased even more by the greater emphasis the Division is placing on review of Exchange Act filings. Upon consideration the Commission has determined that the specific proposals contained herein eliminating routine staff review of filings on Form S-8 would appear to have little impact on the quality of disclosure in such filings, and accordingly reallocation of such resources elsewhere would appear to be in the public interest. Moreover, as pointed out above, it is contemplated that there would be monitoring of disclosure requirements. In addition, the new system would mandate compliance with the form requirements, including the existing condition precedent that the issuer be current in its previous twelve months Exchange Act reports.

Specific Proposed Amendment to Form S-8 and New Rules—General Discussion

The Commission hereby proposes that there no longer be routine staff review of any filings on Form S-8, pre-effective or post-effective, including related Form S-16 resale prospectuses. The only exceptions will be those Form S-8 filings containing Form S-1 resale prospectuses, which will be reviewed, and those containing confidential treatment requests, in which only the confidential treatment aspects will be reviewed. In order to maximize the savings of staff time all processing of the filings will be done by the Office of Reports and Information Services (ORIS) and such notifications of effectiveness as are necessary will be prepared by ORIS.

The effective date of new filings on Form S-8 will no longer be accelerated

but will become effective on the twentieth day after filing through lapse of time (pursuant to Section 8(a) of the Securities Act). The Commission is aware, however, that events could occur which would require an amendment to a registration statement prior to the date of effectiveness. Accordingly, the Commission is proposing a new Rule 475a which provides that the filing of any pre-effective amendment to a registration statement on Form S-8, other than a delaying amendment, shall be deemed to have been filed with the consent of the Commission for the purposes of Section 8(a) of the Securities Act. This will prevent the twenty day period from beginning again and will permit registrants to amend their filings to include last minute revisions and updated financial statements. Registrants should note that filings containing delaying amendments cannot become effective until after such amendments have been expressly removed.

Under proposed new Rule 464 all post-effective amendments on Form S-8 (other than those which contain a statement that the issuer does not meet all of the requirements for filing on Form S-8, or contain a confidential treatment request or a Form S-1 resale prospectus) will become effective upon filing with the Commission. Moreover, Rule 464, as proposed, would incorporate into the General Rules and Regulations under the Securities Act the concept now contained in the standard undertaking in Form S-8 which deems the effective date of a registration statement to be the effective date of each post-effective amendment with respect to any securities sold pursuant to the related prospectus after the post-effective amendment has become effective.

In order to give ORIS a means of determining whether or not an issuer meets all of the requirements for filing on Form S-8 or the filing contains a request for confidential treatment or a resale prospectus on Form S-1, it is proposed to insert a series of boxes on the Form S-8 facing page on which registrants will indicate such matters. It should be noted that filings by issuers which do not meet all of the requirements for filing on Form S-8, as indicated by a checked box, will not be accepted for filing.

Registrants occasionally include in Form S-8 registration statements only the financial statements from their latest annual report even though they have, since the date such report was issued, succeeded to or disposed of businesses which are significant in comparison to the registrant's former size. When such

events were so significant that the financial statements in the latest annual report no longer represented a registrant's financial condition and/or operating results or characteristics, the staff in the past has requested additional financial information through the comment process in order to obtain compliance with Rule 408. Since it is now proposed that there be no routine staff review of filings on Form S-8, the Commission believes it is essential to codify past administrative practice by amending Item 17 of Form S-8 to indicate that additional financial information (which may include updated financial statements of the registrant as well as pro forma financial statements) will be required in the prospectus if there have occurred since the date of the latest balance sheet required by Form 10-K, or if there are about to occur: (1) One or more (a) successions to businesses, whether accounted for as purchases, poolings of interests or in some other manner, (b) acquisitions of investments in businesses the investment in which is to be accounted for by the equity method, or (c) dispositions of businesses or of assets other than in the normal course of business, which would constitute the succession, acquisition, or disposition of a significant subsidiary as defined in Article 1 of Regulation S-X (17 CFR 210.1-02); or (2) changes in accounting principles which require a substantial retroactive restatement of financial statements.

As a further reminder to registrants of a problem area often the subject of comments under the review process, the Commission proposes that the instruction to the SIGNATURE section of Form S-8 be revised to specifically make reference to the power of attorney and resolution of the board of director provisions of Rule 402(c).

Text of the Proposed Amendments to Form S-8 and Proposed New Rules

Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. A new § 230.464 is proposed to be added as follows:

§ 230.464 Effective date of post-effective amendments on Form S-8.

(a) Except as is provided in paragraph (b) of this section, upon the filing of each post-effective amendment on Form S-8 with the Commission:

(1) The post effective amendment shall become effective; and

(2) With respect to securities sold on or after the filing date pursuant to the prospectus which forms a part of the S-8 registration statement, as amended, the effective date of the registration statement shall be deemed to be the filing date of the post-effective amendment.

(b) Paragraph (a) of this section shall not apply to post-effective amendments on Form S-8 which: (1) Do not contain a representation that the issuer meets all of the requirements for filing on Form S-8; (2) are accompanied by a request for confidential treatment pursuant to Rule 485; or (3) contain a resale prospectus on Form S-1.

2. A new § 230.475a is proposed to be added as follows:

§ 230.475a Pre-effective amendments on Form S-8 deemed filed with consent of Commission.

Amendments to a registration statement on Form S-8 filed prior to the effectiveness of such registration statement, except for delaying amendments filed pursuant to Rule 473, shall be deemed to have been filed with the consent of the Commission and shall accordingly be treated as part of the registration statement.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Section 239.16b is proposed to be amended as follows:

§ 239.16b Form S-8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans [Amended]

1. The facing page is proposed to be amended by inserting the following after the "Telephone number, including area code, of the agent for service . . .":

- ☐ Check box if the issuer does not meet all of the requirements for filing on Form S-8.
- ☐ Check box if the filing contains a resale prospectus on Form S-1.
- ☐ Check box if this filing is accompanied by a request for confidential treatment pursuant to Rule 485.

2. The Instruction to Item 17, Financial Statement of the Issuer, is amended by adding the following statement at the end:

Additional financial information (which may include updated financial statements of the registrant as well as pro forma financial statements) is required in the prospectus if there has occurred since the date of the latest balance sheet required by Form 10-K, or if there is about to occur: (1) One or more (a) successions to businesses whether accounted for as purchases, poolings of interests or in some other manner, (b) acquisitions of investments in businesses the investment of which is to be accounted for by the equity

method, or (c) dispositions of businesses or of assets other than in the normal course of business, which would constitute the succession, acquisition, or disposition of a significant subsidiary as defined in Article 1 of Regulation S-X (17 CFR 210.1-02); or (2) changes in accounting principles which require a substantial retroactive restatement of financial statements.

3. The Instructions to the SIGNATURES are amended by adding the following:

Note.—Reference is made to the provisions concerning powers of attorney and resolutions of the board of directors contained in Rule 402(c) of Regulation C.

Comments

Any interested person wishing to submit written comments on the proposed Form S-8 amendments or the proposed new rules, as well as on the general proposals or on other matters which might have an impact upon the proposals contained herein, is invited to do so. Mindful of its responsibilities to weigh with care the costs and benefits which result from its rules and form requirements, the Commission specifically invites comments on the cost to registrants and others of these proposals.

Statutory Authority

The Commission hereby publishes for comment proposed Rules 464 and 475a as well as proposed amendments to Form S-8, pursuant to the Securities Act of 1933, particularly Sections 7, 10, and 19 thereof.

(Secs. 7, 10, 19, 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; (15 U.S.C. 77g, 77j, 77s))

By the Commission,
George A. Fitzsimmons,
Secretary.

November 19, 1979.

[FR Doc. 79-36404 Filed 11-26-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Chapter I

(Docket No. 79N-0200)

Lead in Food; Advance Notice of Proposed Rulemaking; Extension of Comment Period

AGENCY: Food and Drug Administration
ACTION: Extension of Comment Period.

SUMMARY: The agency extends the comment period on its advance notice of

² 37 FR 4327.

³ Securities Act of 1933 Release No. 5768 (November 22, 1976) (41 FR 52701).

⁴ Securities Act of 1933 Release No. 5978 (September 18, 1978) (43 FR 43725).

proposed rulemaking concerning lead in food. This action is taken in response to a request for an extension of the comment period.

DATE: Comments and information by February 29, 1980.

ADDRESS: Written comments and information to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Carl L. Giannetta, Bureau of Foods (HEF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW, Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 31, 1979 (44 FR 51233), the Food and Drug Administration published an advance notice of proposed rulemaking requesting information concerning lead in food. Interested persons were requested to submit comments, information, and data by November 29, 1979.

On October 31, 1979, a letter (on file with the Hearing Clerk) was received from the National Food Processors Association, Washington, DC, requesting an additional 90 days, to February 29, 1980, to allow sufficient time to obtain information and prepare comments on the advance notice of proposed rulemaking.

The agency believes that the extension of the comment period is appropriate and that the additional time should be extended to all interested persons. Therefore, the comment period for the advance notice of proposed rulemaking concerning lead in food is extended to February 29, 1980.

Interested persons may, on or before February 29, 1980, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20867, written comments, information, and data regarding the advance notice of proposed rulemaking. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 16, 1979.

Joseph P. Hille,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-36230 Filed 11-21-79; 9:05 pm]
BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1366-8]

Revision of the State of Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Delaware has submitted a proposed revision which is intended to eliminate certain outdated requirements relating to Regulations V and XVIII and correction of typographical errors relating to Regulations III, VIII, X, and XV. The Regional Administrator, Region III, proposes to approve these revisions.

DATE: Comments must be received on or before December 27, 1979.

ADDRESSES: Copies of the proposed SIP revision and accompanying support documents are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, 6th and Walnut Sts., Philadelphia, PA 19106. ATTN: Patricia Sheridan.
Delaware Department of Natural Resources, Division of Environmental Control, Edward Tatnall Building, 150 East Water Street, Dover, Delaware 19901. ATTN: John E. Wilson III, Acting Secretary.
Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be directed to:

Mr. Howard Helm, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, PA 19106. ATTN: AH008aDE.

FOR FURTHER INFORMATION CONTACT: Patricia Sheridan (3AH10), U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597-8176.

SUPPLEMENTARY INFORMATION: On October 5, 1978, the State of Delaware submitted to the Regional

Administrator, EPA, a revision of the State of Delaware's State Implementation Plan (SIP).

The State requested approval of amendments which were adopted on September 26, 1978 pursuant to Order No. 78-A-2, issued by Austin P. Olney, Secretary, and which eliminate certain outdated requirements relating to Regulation V, Particulate Emissions from Industrial Process Operations. In Section 5.1 of that regulation, Delaware deleted a clause referring to requirements that applied during dates that have passed since the regulation was adopted. Also deleted was Section 5.2 which currently reads as follows:

"If between July 1, 1973, and October 1, 1974, the national secondary ambient air quality standard for suspended particulate is exceeded in the Metropolitan Philadelphia Interstate Air Quality Control Region due to a catalytic cracking operation located in New Castle County, then after January 1, 1975, no person shall cause or allow particulate emissions from catalytic cracking operations into the atmosphere in excess of the quantities as indicated in Table 4." Section 5.3 was renumbered to 5.2. Delaware also deleted Table 4, Allowable Mass Emission Rate from Catalytic Cracking Operations.

In section 6.1 of Regulation V, Delaware deleted a clause referring to requirements that applied during dates that have passed since the regulation was adopted. Also deleted was Section 6.2 which reads as follows:

"If, between July 1, 1973, and October 1, 1974, the national secondary ambient air quality standard for suspended particulate is exceeded in the Metropolitan Philadelphia Interstate Air Quality Control Region due to a prilling operation located in New Castle County then after January 1, 1975, no person shall cause or allow particulate emissions from prilling operations into the atmosphere in excess of the quantities as indicated in Table 7." Delaware also deleted Table 7, "Allowable Mass Emission Rate from Prilling Operations."

For Regulation XVIII, Particulate Emissions from Grain Handling Operations, Delaware deleted Sections 1.2 and 2.3 which were valid only until September 1, 1974. Also deleted was Section 3.1 which referred to a regulation effective date of 45 days for compliance by sources—a requirement no longer necessary. The remaining paragraphs were renumbered. Minor typographical errors which appear in Regulations III, VIII, X and XV were corrected.

The public is invited to submit to the addresses stated above comments on

whether the above listed modifications should be approved as a revision of the State of Delaware's State Implementation Plan.

The State of Delaware has certified that a public hearing was held July 6, 1978 in accordance with the requirements of 40 CFR Section 51.4.

The Administrator's decision to approve or disapprove this proposed SIP revision will be further based on a final determination as to whether it meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR 51, Requirement for Preparation, Adoption, and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044. (42 U.S.C. 7401-7642).

Dated: November 9, 1979.

A. R. Morris,
Acting Regional Administrator.

[FR Doc. 79-36450 Filed 11-26-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 51

[FRL 1360-8]

Discretionary Authority

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: This action clarifies the established policy which requires submission of plan revisions when provisions of a State Implementation Plan (SIP) are being modified. Specifically, it clarifies that this requirement applies to those cases in which the SIP provisions stipulate that a director of a State or local agency may use discretionary authority in approving alternative methods or approaches for carrying out the provisions of the SIP.

The public is invited to submit written comments on this proposal.

DATES: To be considered, comments must be submitted on or before December 27, 1979.

ADDRESS: Written comment should be sent to Robert M. Schell, Chief, Plans Analysis Section, Control Programs Operations Branch (MD-15), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-5365.

FOR FURTHER INFORMATION: See address above.

SUPPLEMENTARY INFORMATION: There are several SIPs which provide the director of a State or local agency discretionary authority to approve alternative methods or approaches for carrying out the provisions of the SIP. This "director's discretion" to modify the SIP is provided in those portions of the SIP such as sampling and test methods, compliance schedules, emission limitations, and others. The exercise of this discretionary authority, however, is regarded as a SIP revision and must be submitted in accordance with the established revision procedures.

There is no intention by this amendment to limit the discretionary authority of any State official provided for in any approved SIP. Rather, this action is taken to provide an opportunity for the public and those affected by the modification of the SIP to become aware of the modification and have the opportunity to comment on its appropriateness through the SIP revision process. The provisions apply only to substantive modifications including, but not limited to, compliance schedules, sampling and testing methods, and emission limitations.

This action implements a well established requirement regarding plan revisions as required by the provisions of the Clean Air Act.

Dated: November 19, 1979.

Douglas M. Costle,
Administrator.

Part 51 of Title 40, *Code of Federal Regulations*, is amended as follows:
Section 51.9 is added as follows:

§ 51.9 Discretionary authority.

If the director of a State or local agency decides to exercise discretionary authority to substantially modify the State Implementation Plan, a plan revision must be submitted by the State for approval in accordance with the requirements of Section 51.6. Such substantial modifications include, but are not limited to, any revisions of compliance schedules, sampling and testing methods, and emission limitations.

[FR Doc. 79-36472 Filed 11-26-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1366-5]

Approval and Promulgation of Implementation Plans: Minnesota

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to announce the receipt of Minnesota State Implementation Plan (SIP) revision for the Metropolitan Areas of Minneapolis-St. Paul, Rochester, and Duluth, to discuss the results of the United States Environmental Protection Agency's (USEPA) review of the revisions, and to invite public comment.

From July 3, 1979 through July 27, 1979, the State of Minnesota submitted to USEPA proposed revision of its SIP pursuant to Part D of the Clean Air Act. The revision consists of transportation control plans (plan) for the Minneapolis-St. Paul seven county Metropolitan area (Air Quality Control Region 131) and for the cities of Rochester and Duluth.

The purpose of this revision is to implement measures designed to attain and maintain the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO) in each of these cities and for ozone (O₃) in the Minneapolis-St. Paul Metropolitan area as expeditiously as practicable but no later than December 31, 1982. The requirements for an approval SIP are described in a Federal Register Notice published on April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 Notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), and September 17, 1979 (44 FR 53761) discussing, among other things, additional criteria for SIP approval. These criteria are not reiterated in this Notice.

DATE: Comments on this revision and on the proposed USEPA action on the revisions are due by January 28, 1980.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

United States Environmental Protection Agency, Region V Air Programs Branch, 230 South Dearborn, Chicago, Illinois 60604.
United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.
Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113.

WRITTEN COMMENTS SHOULD BE SENT TO: Ms. Maxine Borcharding, SIP Coordinator, Air Programs Branch, USEPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Borcharding, SIP Coordinator, Air Programs Branch, USEPA Region V, 230 South Dearborn Street, Chicago, Illinois 60604. FTS-353-2205; (312) 353-2205.

SUMMARY INFORMATION: On March 3, 1978 (43 FR 8962), pursuant to the

requirements of section 107 of the Clean Air Act (Act), as amended in 1977, USEPA designated the cities of Rochester and Duluth and AQCR 131 which includes the seven county Minneapolis-St. Paul Metropolitan Area as nonattainment areas with respect to meeting the National Ambient Air Quality Standards for carbon monoxide (CO). USEPA also designated Olmstead County (in which Rochester is located) St. Louis County (in which Duluth is located) and AQCR 131 as nonattainment with respect to meeting the NAAQS for ozone.

Part D of the Act requires that each state revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982. Under certain conditions, the date may be extended to December 31, 1987 for ozone carbon monoxide.

In response to these requirements, the State of Minnesota submitted a revision to the Minnesota SIP containing the transportation plans for Rochester, Duluth, and AQCR 131 on July 3, 1979. From July 3, 1979 to July 27, 1979, the State submitted necessary supplemental information pertaining to the proposed revisions. The Minneapolis-St. Paul transportation control plan was developed by the Metropolitan Council of the Twin Cities Area (Metro Council); the Rochester transportation control plan was developed by the Rochester Olmstead Council of Governments (ROCOG); and the Duluth transportation control plan was developed by the Metropolitan Interstate Committee of the Arrowhead Regional Development Commission (Arrowhead-MIC). Each of these agencies has been designated pursuant to section 174 of the Clean Air Act as the lead local agency for coordinating, developing, and implementing control measures in the plan.

The local plans were adopted on June 14, 1979 in the Twin Cities; on May 11, 1979 in Rochester, and on May 16, 1979 in Duluth. The Minnesota Pollution Control Agency (MPCA) formally adopted these plans on June 28, 1979.

Each of the transportation control plans contains measures designed to attain and maintain the NAAQS for carbon monoxide. All three transportation control plans demonstrate attainment of the carbon monoxide standards by December 31, 1982. Therefore, no extensions of the statutory attainment deadline are requested. The Duluth and Rochester transportation control plans do not address the ozone problem because

these areas have populations of less than 200,000 and are considered rural for the purpose of ozone standard attainment. Transportation controls are not required in rural nonattainment counties since controls on major stationary sources and the development of transportation plans in urban centers should assure reasonable further progress and attainment in rural locations by minimizing the transport of the pollutant from urban to rural areas. The Minneapolis-St. Paul Metropolitan Area plan contains transportation measures designed to contribute to the attainment and maintenance of the NAAQS for ozone.

This notice discusses USEPA's review of the proposed revisions to the Minnesota SIP.

Interested persons are invited to comment on these revisions to the Minnesota SIP and on USEPA's proposed action. Comments should be submitted to the address listed in the front of this notice. Public comments received within sixty days of publication of this notice will be considered in USEPA's final rulemaking on the revision. All comments received will be available for inspection at the USEPA's Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Transportation Control Plan Discussion

All three Metropolitan Area plans identify transportation strategies that will reduce emissions of carbon monoxide and demonstrate attainment of the carbon monoxide standard by December 31, 1982. The Minneapolis-St. Paul plan includes transportation measures to reduce mobile source hydrocarbon emissions. In addition, each plan outlines a program of continued study to identify additional control programs that will ensure attainment and maintenance of the standards.

USEPA has evaluated the transportation plan using the requirements for an approvable nonattainment area SIP which appeared in the April 4, 1979 Federal Register (44 FR 20372), the "USEPA-USDOT Guideline for Air Quality-Transportation Plans" and the Office of Transportation and Land Use Policy "Checklist for Transportation SIPs." In order to assist the public in preparing comments on the proposed SIP revisions a summary of the principal requirements and the strategies adopted in the plans to satisfy these requirements is discussed below.

1. Technical Assessments, Demonstrations of Attainment, and Reasonable Further Progress. Pursuant

to section 172(b)(3) of the Act, the SIP must include a program for selecting transportation measures to attain the emission reduction targets of the SIP. This program must include schedules for the expeditious implementation of adopted transportation measures and schedules for the analysis and adoption of additional transportation measures.

2. Interagency Agreements and Assignments of Tasks. Pursuant to section 174 of the Act, the State and elected officials of affected local governments must determine respective responsibilities of the state air pollution control agency, other state agencies, the lead local agencies, and local units of government. This determination must identify the responsibilities for strategy evaluation, adoption, implementation, and enforcement.

3. Analysis of Alternatives. Pursuant to section 172(b)(2) of the Act, all reasonably available transportation measures must be evaluated and considered for implementation. At a minimum, the strategies listed in section 108(f) of the Act must be considered for each nonattainment area needing transportation related emission reductions.

4. Implementor Commitments. Pursuant to section 172(b)(10) of the Act, the SIP must include written evidence that the State and other units of government have adopted the necessary requirements in legally enforceable form. Further, the SIP must contain commitments to implement and enforce the SIP strategies.

5. Financial and Manpower Resources. Pursuant to section 172(b)(7) of the Act, the SIP must identify the fiscal and manpower resources necessary to carry out the plan provisions.

6. Reporting of Progress. Pursuant to section 172(b)(5) of the Act, the SIP must contain procedures and schedules for periodic monitoring of progress in implementing strategies and in achieving annual emission reductions. Section 178(c) of the Act requires that the lead local agency determine the conformity of its transportation control plan and programs with the SIP.

7. Impacts of Plan Provisions. Pursuant to section 172(b)(9)(A) of the Act, the SIP must identify and analyze the air quality, health, welfare, economic, energy, and social effects of the plan provisions and the alternatives considered.

8. Public Participation. Pursuant to section 172(b)(9) of the Act, the SIP must contain evidence of public, local government, and State legislative involvement and consultation regarding the planning process and proposed

strategies. Additional guidance material requires the documentation of a continuous public education program in each nonattainment area.

9. Strategies. Each State Implementation Plan must include strategies which will be used to demonstrate attainment of the NAAQS.

USEPA reviewed each of the three transportation control plans to determine if they satisfied these requirements. A discussion of the review for each metropolitan area follows.

USEPA proposes to approve the transportation control plans for the Rochester and Duluth Metropolitan Areas if the deficiencies cited below are corrected during the sixty day comment period announced in this Notice. USEPA also proposes to approve the carbon monoxide component of the transportation control plan for the Minneapolis-St. Paul seven county Metropolitan Area if the deficiencies cited below are corrected during the sixty day comment period announced in this Notice. USEPA, however, is not proposing rulemaking on the ozone component of the transportation control plan for the Minneapolis-St. Paul seven county Metropolitan Area because the State of Minnesota has not yet submitted regulations for the control of volatile organic compounds (VOC) emissions from stationary sources. Without such regulations, USEPA can neither assess the adequacy of the plan's attainment demonstration of the ozone NAAQS nor evaluate the reasonable further progress schedule for the area. An attainment demonstration is necessary for evaluating the adequacy of the proposed emission reductions to be obtained from transportation control measures. Upon submission of the regulations controlling emissions of VOC from stationary sources, USEPA will evaluate the adequacy of the transportation component of the Minneapolis-St. Paul Metropolitan Area ozone plan and propose rulemaking. Plan approval is a prerequisite for the construction or modification of any major source of volatile organic compounds in a nonattainment area.

Rochester Metropolitan Area

1. Technical Assessments, Demonstration of Attainment, and Reasonable Further Progress. The Rochester submittal identifies a transportation-air quality planning process and contains firm commitments to implement specific measures. The transportation control plan for Rochester demonstrates that the carbon monoxide NAAQS will be attained by December 31, 1982. A micro scale

hotspot analysis, however, indicates that attainment will be achieved by a small margin. The size of the margin was confirmed using an areawide transportation emission screening model. Consequently, if the emission reduction for any year is not achieved, the Rochester Olmstead Council of Governments has made a commitment to re-evaluate the SIP and to consider adopting alternative or additional transportation measures or schedules to attain and maintain the standards. The submittal also details additional strategies which would increase the margin by which attainment is achieved. USEPA believes that the Rochester transportation portion of the Minnesota submittal satisfies the statutory and regulatory requirements for technical assessments and for a demonstration of attainment.

2. Interagency Agreements and Assignment of Tasks. To satisfy this requirement, ROCOG and the Minnesota Pollution Control Agency (MPCA) have developed an interagency agreement outlining their respective responsibilities for strategy evaluation, adoption, implementation and enforcement. The specific responsibilities of each agency are further identified in the submittal with a description of agency rules contained in support material.

3. Analysis of Alternatives. The Rochester transportation portion of the Minnesota SIP adequately describes the process by which all reasonably available transportation measures will be evaluated and considered for implementation. The plan also identifies sources of funding which will allow the analyses to be performed. All analyses will be completed by July 1, 1980.

4. Implementor Commitments. The Rochester transportation portion of the Minnesota SIP contains policy resolutions from the City of Rochester's Common Council making a commitment to implement the plan strategies. The SIP submittal also contains a resolution passed by ROCOG making a commitment to administer the transportation planning process. These resolutions satisfy the requirement that a SIP contain commitments to implement and enforce SIP strategies.

5. Financial and Manpower Resources. The Rochester transportation control plan identifies sources of funding for the control strategies necessary to attain the carbon monoxide NAAQS; and documents that its unified work programs for calendar years 1979 and 1980 have appropriate Federal and local commitments for funding continuous planning and future studies. Further, a USEPA grant to ROCOG

under section 175 of the Clean Air Act has been approved.

As documentation of ROCOG's efforts to secure funding for the implementation of strategies contained in the plan, the State submitted copies of the local Transit Service Improvement Program (TSIP), the Capital Improvements Program (CIP), and the Transportation System Management Plan (TSM). Only specified air quality strategies in these three documents are part of the SIP. Only those transportation control measures will have a beneficial impact on air quality are part of the SIP.

6. Reporting of Progress. The Rochester transportation portion of the Minnesota SIP contains provisions for including an air quality element in the ROCOG annual planning report. ROCOG has not described, however, the local procedures for performing an annual evaluation of the consistency and conformity of the transportation plan with the SIP. In order to satisfy the requirements of section 176(c) of the Clean Air Act and 23 U.S.C. 109(j) relating to Federal Highway Administration. The State must submit a procedure for making this determination during the sixty day comment period announced in this notice. If the State submits this information to USEPA during the specified time, USEPA proposes to approve this portion of the Rochester plan.

7. Impacts of Plan Provision. The Rochester transportation plan contains qualified assessments of the air quality, health, welfare, economic, energy, and social effects of the plan provisions and the alternatives considered. No public comments were received on the impacts of the plan provisions. USEPA believes that these assessments satisfy the requirements of section 172(b)(9) of the Clean Air Act.

8. Public Participation. The Rochester transportation plan outlines both a continuous and a periodic education and consultation program. USEPA believes that these programs satisfy the statutory requirements for public participation.

9. Strategies Demonstrating Attainment. The strategies which demonstrate attainment of the carbon monoxide ambient air quality standard at modeled "hot spots" and monitored locations are as follows:

Description and Implementation Schedule

1. Improved public transit, car-pool and van-pool strategies including new routes and schedules, marketing campaign, continued local operating assistance and new buses and bus shelters as funding schedules permit—1980-1982
2. Parking controls including: implementation of 1977 parking study; parking removals where necessary during peak hours,

- including 4th St. South from the Zumbro River to the alley west of 1st Ave. West; review of loading zones and additional enforcement of double parking ban—1979-1982
3. Improved traffic signalization including: elimination of traffic signals at 3rd St. and S. Broadway; installation of fully actuated signals at 2nd Ave. NE and 7th St. NE; synchronize signals on 2nd St. SW from Broadway to 4th Ave. SW and on 1st Ave. SW from W. Center St. to 2nd St. SW; removal of signals at N. Broadway and 9th St.; replace fixed time signals with actuated on 11th Ave. NE at E. Center St., 7th St., 10th St. and 14th St. NE—1979-1982
4. Traffic flow improvements including: restriction of left turn movements into private accesses during all times in the downtown area; reconstruction of W. Silver Lake Drive; place the CBD one-way pair on the required referendum for an election date in 1980—1979-1980
5. Construction of bikeway facilities—1979-1982
6. Review feasibility of plug-in heaters for public parking structures to reduce cold starts—1979-1980
7. Preparation and implementation of a plan of special measures for controlling peak carbon monoxide situations—1979
8. Implementation of additional transportation system strategies as needed to achieve compliance with air quality standards by December 31, 1982. Including, the consideration of—1980-1982
- Removal of parking during shift changes on unmeted streets on the periphery of the downtown.
- Prohibit double parking in downtown.
- Ordinances prohibiting extended vehicle idling.
- Ordinances prohibiting drive-in facilities in the downtown.
- Detour truck traffic off of Broadway and on to 3rd Avenue East between 7th Street North and 9th Street South.
- Construction of pedestrian skyways in downtown.

Duluth Metropolitan Area

Technical Assessments, Demonstrations of Attainment, and Reasonable Further Progress. The Duluth submittal includes an adopted transportation-air quality planning process and contains commitments from most of the key implementors to implement specific measures. These specific measures are designed to reduce carbon monoxide emissions from transportation sources so that the carbon monoxide NAAQS are attained by December 31, 1982. The primary focus of the Duluth transportation control plan is the achievement of a 24 to 33 percent reduction of vehicle traffic on Superior Street in the central business district. If the necessary emission reduction for any year is not achieved, Arrowhead-Metropolitan Interstate Commission will re-evaluate the SIP and consider adopting

alternative or additional transportation measures or schedules to attain and maintain the standards. USEPA believes that the Duluth transportation portion of the Minnesota submittal satisfies the requirements for technical assessments and for a demonstration of attainment.

2. *Interagency Agreements and Assignments of Tasks.* Arrowhead Regional Planning Commission, Metropolitan Interstate Committee, and the Minnesota Pollution Control Agency have developed adequate interagency agreements outlining their respective responsibilities for strategy, evaluation, adoption, implementation, and enforcement. The specific responsibilities of each agency are further identified in the submittal with a description of agency roles contained in support material.

3. *Analysis of Alternatives.* The Duluth plan describes the process by which all reasonably available transportation measures will be evaluated and considered for implementation. The plan also identifies sources of funding which will allow the analyses to be performed. All analyses will be completed by July 1, 1980. USEPA believes that the Duluth plan satisfies the requirements of the Clean Air Act for analyzing all reasonably available transportation measures.

4. *Implementor Commitments.* The Duluth transportation portion of the Minnesota SIP contains resolutions from the Duluth Transit Authority and the City Council of Duluth making a commitment to implement the strategies in the plan.

The submittal does not contain a commitment from the Minnesota Department of Transportation to implement a strategy for which it is responsible. This strategy is the interconnection of 3rd Street Traffic signals to maintain a progressive flow of traffic. USEPA proposes to approve the Duluth transportation control plan as containing adequate implementor commitments if, during the sixty day comment period announced in this Notice, the State submits adequate commitments from the Minnesota Department of Transportation.

5. *Financial and Manpower Resources.* The Duluth transportation plan identifies sources of funding for control strategies necessary to attain the carbon monoxide NAAQS; and documents that its unified work programs for calendar year 1979 and 1980 have appropriate Federal and local fund commitments for continuous planning and future studies. A USEPA grant to Arrowhead-Metropolitan 175 of the Clean Air Act has been approved.

6. *Reporting of Progress.* The Duluth plan contains provisions for including a discussion of air quality in the Arrowhead-MIC annual planning report. Additionally, travel and parking performance measures will be developed to assess the impacts of SIP transportation strategies. These measures will then be compared with standard performance values to determine if the anticipated reductions in travel, parking, and other parameters have been achieved.

Arrowhead-MIC has not described, however, the local procedures for performing an annual evaluation of the consistency and conformity of the transportation plan with the SIP. In order to satisfy the requirements of section 176(c) of the Clean Air Act and 23 U.S.C. 109(j) relating to Federal Highway Administration. The State must submit a procedure for making this determination during the sixty day comment period announced in this Notice. If the State submits this information to USEPA during the specified time, USEPA proposes to approve this portion of the Duluth plan.

7. *Impacts of Plan Provisions.* The Duluth transportation plan contains qualified assessments of the air quality, health, welfare, economic, energy, and social effects of the plan provisions and the alternatives considered. The submittal also contains a summary of the public comments on the proposed strategies. USEPA believes that the Duluth transportation portion of the Minnesota SIP satisfies the requirements of section 172(b)(9) of the Act.

8. *Public Participation.* The Duluth plan outlines a program for both continuous education and consultation with the public and elected officials. The involvement of the Downtown Business and Professional Association in the development of the plan is evidence of the effectiveness of this program.

9. *Strategies Demonstrating Attainment.* The strategies which demonstrate attainment of the carbon monoxide ambient air quality standard at the modelled "hot spots" and monitored locations are as follows:

Strategy, Responsible Agency and Implementation Date

1. Encourage Use of TH61
 - a. Mesaba & 2nd St. Temporary Channelization. City of Duluth, Summer, 1979
 - b. Improve Enforcement of On-Street Parking (4th to 7th Avenues East). City of Duluth, Summer, 1979
 - c. Improve Signal Phasing at 6th Ave. E. & 3rd-4th Streets. Maintain Upbound progressive flow, MN/DOT, Spring, 1979 (done)

- d. Improve Turning Radius at 3rd Street & 14th Avenue East, City of Duluth, Summer 1980
- e. Interconnect 3rd St. Signals, Maintain Progressive Flow, MN/DOT, Summer, 1980
- f. Evaluate Right-Turn-On-Red Restrictions, MIC, Summer, 1979
2. Improve Enforcement of Loading Zones, Bus Stops and Turn Lanes in CBD Area, City of Duluth, Spring, 1979
3. Improve Signing of Parking Facility Access Routes, City of Duluth, Summer, 1979
- a. Short term parking access loop (Michigan & 1st Streets and 1st, 2nd & 5th Avenues West)
- b. Long term parking—Arena-Auditorium access routes
4. Encourage Voluntary Ban on Peak Hour Goods Deliveries in CBD Area, Downtown Business & Professional Assoc., Summer, 1979

The submittal also details the following additional strategies which would increase the margin by which attainment is achieved.

- Expanded car-van pool program to 73 pools
- Expanded staggered feasible work hours
- Bus-monthly flash pass
- Employer-Employee tax incentive for bus use
- Peak hour parking removal on TH61
- Mandatory ban on CBD peak hour goods deliveries
- 1—35 related transit-pedestrian mall on Superior Street in CBD
- Street canyon ventilation study

Minneapolis-St. Paul Metropolitan Area

1. *Technical Assessments, Demonstrations of Attainment, and Reasonable Further Progress.* The Minneapolis-St. Paul submittal identifies a transportation air-quality planning process and contains some of the necessary commitments from key implementors to implement specific measures. The transportation control plan for this metropolitan area demonstrates that the carbon monoxide NAAQS will be attained by December 31, 1982. If, however, the necessary emission reductions for any year are not achieved, the Metropolitan Council of the Twin Cities Area has made a commitment to re-evaluate the SIP and to consider adopting alternative or additional transportation measures or schedules to attain and maintain the standards.

Although the submittal indicates that only a small percentage of the total carbon monoxide emissions is attributable to stationary sources, the transportation plan must include these sources in its emission inventory so that the plan can be fully evaluated. USEPA proposes to approve this portion of the Minneapolis-St. Paul plan if, during the sixty day comment period announced in

this Notice, the State submits this missing information.

2. *Interagency Agreements and Assignment of Tasks.* To satisfy the requirement for interagency agreements, Metro Council has developed agreements with the Minnesota Department of Transportation and the Minnesota Pollution Control Agency outlining respective responsibilities for strategy evaluation, adoption, implementation, and enforcement. In addition, Metro Council has entered into contracts with the Cities of Minneapolis and St. Paul. These contracts require each city to develop strategies and to implement changes in traffic flow.

3. *Analysis of Alternatives.* The Minneapolis-St. Paul portion of the Minnesota SIP describes the process by which all reasonably available transportation measures will be evaluated and considered for implementation. The plan also identifies sources of funding which will allow the analyses to be performed. All analyses will be completed by July 1, 1980. USEPA believes that the plan for the Minneapolis-St. Paul Metropolitan Area satisfies the requirements of the Clean Air Act for analyzing all reasonably available transportation measures.

4. *Implementor Commitments.* The Minneapolis-St. Paul transportation portion of the Minnesota SIP contains a policy resolution from the Metropolitan Council of the Twin Cities Area committing itself to advance necessary land use and transportation strategies through planning, programming and implementation. In addition, the submittal contains a commitment from the City of St. Paul not only to implement the strategies contained in the SIP but also to seek improvement of air quality beyond the level necessary to attain the standards to provide a margin for growth.

The submittal does not contain necessary commitments to implement specific strategies from the City of Minneapolis or from the Metropolitan Transit Commission. Therefore, USEPA proposes to approve this portion of the Minnesota submittal as containing adequate implementor commitments if, during the sixty day comment period announced in this Notice, the State submits adequate commitments from the City of Minneapolis and the Metropolitan Transit Commission.

5. *Financial and Manpower Resources.* The Minneapolis-St. Paul transportation control plan identifies sources of funding for the control strategies necessary to attain the carbon monoxide NAAQS; and documents that its unified work programs for calendar year 1979 and 1980 has appropriate

Federal and local commitments for funding continuous planning and future studies. Further, a USEPA grant to Metro Council under section 175 of the Clean Air Act has been approved. USEPA believes that this portion of the Minneapolis-St. Paul transportation plan satisfies the statutory requirements.

6. *Reporting of Progress.* The Minneapolis-St. Paul transportation portion of the Minnesota SIP contains provisions for including an air quality element in the METRO Council annual planning report. The SIP submittal, however, does not include provisions addressing the requirements of section 176(c) of the Clean Air Act and 23 U.S.C. section 109(j) relating to Federal Highway Administration. These sections require a lead local agency determination of the conformity and consistency of its plans and programs with the SIP. USEPA proposes to approve this portion of the Minneapolis-St. Paul transportation plan if the State submits within the sixty day comment period announced in this Notice procedures for satisfying these requirements.

7. *Impacts of Plan Provisions.* The Minneapolis-St. Paul transportation plan contains qualified assessments of the air quality, health, welfare, economic, energy, and social effects of the plan provisions and the alternatives considered. USEPA believes that these assessments satisfy the requirements of section 172(b)(9) of the Clean Air Act.

8. *Public Participation.* This plan outlines both a continuous and a periodic education and consultation program. USEPA believes that these programs satisfy the statutory requirements for public participation.

9. *Strategies Demonstrating Attainment.* The strategies which demonstrate attainment of the carbon monoxide National Ambient Air Quality Standard are as follows:

Alternative Strategies to Reduce Carbon Monoxide Emissions in Minneapolis CBD

Strategies	Reductions by 1982 (by kg/day)
I-35W bus/freeway project	172
Minneapolis computerized traffic management	567
Fringe parking programs	152
Stricter enforcement of traffic ordinances	117
Transit strategies	412
1st and Hennepin Aves. one-way street pair	160

Interested persons are invited to submit comments on these proposed revisions to the Minnesota State Implementation Plan at the address in the front of this Notice.

Under Executive Order 12044, USEPA is required to judge whether a regulation

is "significant" and therefore subject to the procedure requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110(a), 172, Clean Air Act, as amended (42 U.S.C. 7410(a), 7502))

Dated: November 2, 1979.

John McGuire,
Regional Administrator.

[FR Doc. 79-36476 Filed 11-26-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 78-133; RM-2693; RM-3135]

FM Broadcast Stations; FM Assignment to Crandon, Wis., and Iron River, Mich.

AGENCY: Federal Communications Commission.

ACTION: Further Notice of Proposed Rule Making.

SUMMARY: This document solicits comments on the assignment of Class A FM Channel 244 at Crandon, Wisconsin, on the ground that the channel could be more expeditiously activated than the originally requested Channel 280. (A separate document resolves the Iron Mountain, Michigan, proceeding which generated this proposal.)

DATES: Comments due January 21, 1980; reply comments due 2-11-80.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley P. Wiggins, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Further Notice of Proposed Rulemaking

Adopted: November 14, 1979.

Released: November 27, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Iron Mountain, Michigan, and Crandon, Wisconsin), BC Docket No. 78-133, RM-2693, RM-3135.

1. In a *First Report and Order* adopted today, the Commission approved the assignment of two Class C FM channels to Iron Mountain, Michigan, and the related removal from that community of Class A FM Channel 280. A counterproposal filed in the Iron

Mountain proceeding had urged assignment of FM Channel 244A to Crandon, Wisconsin. (pop. 1,582).¹ That proposed assignment is the subject of this *Further Notice*.

2. The Crandon proposal was filed on June 5, 1978, by J. Schaefer Enterprises. Since the Commission in the *First Report and Order* preferred the assignment of Class C Channel 226 to Iron Mountain, Channel 244A is precluded from use at Crandon.² The Iron Mountain proponent has suggested as an alternative that the deletion of Channel 280A from Iron Mountain would make that channel available to Crandon.

3. The activation of Channel 280A at Crandon, however, must await termination of operations at Iron Mountain, which is itself contingent on selection of a permittee for Channel 226 and construction of that facility. This contingency is necessary because we have provided that the Iron Mountain licensee shall be reimbursed for the channel change by the eventual licensee of Channel 226 at Iron Mountain. As a result, both Crandon and prospective applicants might be more expeditiously served by the assignment of another channel to Crandon. The Commission's staff has determined that Channel 244A could be assigned there if Channel 257A were substituted for Channel 244A at Iron River, Michigan. The Iron River assignment is presently unoccupied and unapplied for, so no expense would be incurred by a successful Crandon applicant under that approach.

4. Sufficient data concerning the community's need for a first FM channel assignment has been provided. Nevertheless, the solicitation of additional comments is necessary before a Crandon assignment can be made since we have also proposed a channel change at a new community, Iron River.

5. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, concerning the listed cities:

City	Channel No.	
	Present	Proposed
Crandon, Wis.		244A
Iron River, Mich.	244A	257A

6. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in

¹ 1970 U.S. Census.

² The required mileage separation between these two frequencies is 65 miles. Iron Mountain is 44 miles from Crandon.

the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by Paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before January 21, 1980, and reply comments on or before February 11, 1980.

8. For further information concerning this proceeding, contact Stanley P. Wiggins, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involves channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,
Acting Chief, Policy and Rules Division,
Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended; and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than

that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-36500 Filed 11-26-79; 8:45 am]

BILLING CODE 6712-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Fiscal Year 1980 Allocation

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration is publishing a notice concerning the amounts and methods of determining the allocation, by State and program, of appropriated funds for Fiscal Year 1980.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration is publishing its "Administrative Notice" regarding "Fiscal Year 1980 Allocations" as a part of its ongoing attempt to keep the public informed of its actions. This notice provides the amount of funds which the Agency has available for rural development in various programs and outlines the methods used in determining how the funds are to be allocated. The Agency is attempting to support, within its limited resources, local development efforts and provide the residents of small towns and rural areas an equitable share of the public and private resources. The Farmers Home Administration normally makes minor changes to this notice in the course of the year to maximize the use of its resources. Any amendments to the funding levels during the final year may be obtained from any FmHA State Office. The funds available and the formula used for their distribution within the four major program areas of Community Programs, Business and Industrial Program, Housing Programs and Farmer Programs are as prescribed in the following Administrative Notice No. 376 (1940) dated November 13, 1979.

Dated: November 19, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home
Administration.

[FmHA AN No. 376 (1940)]

November 13, 1979.

Fiscal Year 1980 Allocation

To: All State Directors, FmHA

The Appropriation Act for fiscal year 1980 has been approved. Your programs will be monitored to determine that full consideration is given to the equal opportunity objectives of this Agency. FmHA targeting policies are to support local development efforts and provide to the residents of small towns and rural areas an equitable share of public and private resources.

The allocation formulas have been designed to target funds to States in relation to rural population, households in poverty, per capita income, etc. Every effort should be made to target funds to distressed communities and rural areas which have significant populations of poor and disadvantaged persons in accordance with regulations and this AN.

Funds are allocated to States in accordance with the following attachments.

Attachment A—Community Programs
Attachment B—Business and Industrial Loan
Program

Attachment C—Single Family Housing

Programs
Attachment D—Multiple Family Housing

Programs
Attachment E—Farmer Programs

Gordon Cavanaugh,
Administrator.

Attachment A—Community Programs

The Community Programs allocation formula has been designed to target funds to States in relation to rural population and households in poverty.

State Directors will make every effort to target funds to those communities with the greatest financial need having a large portion of their population with low incomes. Due consideration will be given to State development strategies and plans of substate planning districts in selecting projects for funding.

Attachment A-1 shows allocations of loan and grant authority for fiscal year 1980 for community programs. In order that funds may be obligated as they become available, you should plan to have obligating documents for all

Federal Register

Vol. 44, No. 229

Tuesday, November 27, 1979

projects in the Finance Office as soon as orderly work schedules will permit.

You may submit obligating documents for community facility and water and waste disposal projects in excess of your allocation. However, requests above your allocation will be honored only if they can be absorbed within the total amount of funds available later in the fiscal year. In accordance with our targeting objectives, requests for obligations in excess of your allocation should include the name of the applicant, the purpose of the project, the median family income of those in the area, the number and percentage of minorities in the area and the amount of assistance requested from FmHA and other sources. In addition, a request should list any other relevant issues, such as the project is needed to comply with the Safe Drinking Water Act, assistance will be for a water and waste disposal system for a public body in a rural community of 5,500 or less population, the project is for a distressed community, or the project is for a construction cost overrun.

If the allocation shown on Attachment A-1 exceeds the demand in your State, please advise the National Office immediately so that any funds not needed can be transferred to another State with an immediate need. The formula for distribution of funds has not changed for fiscal year 1980. The National Office reserve for all funds is approximately 10 percent for loans and 10 percent for grants. In addition, the National Office has retained control of \$25 million in CF loan funds for Community Health Centers (CHC) projects approved under the Memorandum of Understanding between HEW and USDA. These CHC funds will be allocated on a case by case basis upon request by the State Director. The National Office will also retain control of \$10 million in CF funds for possible transfer to the Rural Electrification Administration (REA) to fund rural cable television transmission systems. For additional information on the method of allocation see Attachment A-2.

1980 Budget

The budget for fiscal year 1980 is based on the following levels of authority:

Water and Waste Disposal Loans—\$700 million

Community Facility Loans—\$250 million
Water and Waste Disposal Development
Grants—\$300 million
Industrial Development Grants—\$10 million
Watershed Loans—\$25.6 million
Flood Prevention Loans—\$0.4 million
Resource Conservation and Development
Loans—\$4.0 million

I Water and Waste Disposal Loans and Development Grants, Community Facility Loans and Industrial Development Grants. The allocations are shown in Attachment A-1. Written request which were received for additional fiscal year 1979 funds will not be given further consideration. However, if additional funds are needed in fiscal year 1980 the request should be made in writing.

II Watershed. Funds for watersheds will be allocated on an individual-case basis. Request funds for watershed applications as soon as you determine that a loan may be made. Applicants must be advised that their applications will be processed subject to the availability of funds. Obligating requests may be submitted to the Finance Office when the loan is ready for approval.

III Flood Prevention Loans (Pub. L. 534) and Resource Conservation and Development Loans. States that are authorized to process Pub. L. 534, flood prevention loans and RC&D loans may submit obligating requests to the Finance Office when the loan is ready to be approved.

IV Pooling of Unobligated Funds. Tentative Plans for pooling are as follows:

1. On March 31, 1980, all funds from the first half of your fiscal year 1980 allocation that are not obligated will be pooled. You should plan to have obligating documents in the Finance Office for at least one-half (you may send more) of your fiscal year 1980 allocation by March 31, 1980.

You will not lose fiscal year 1980 funds provided you have obligating documents in the Finance Office for at least one-half of your annual allocation by the end of the second quarter. Pooled funds will revert to National Office control.

2. On August 8, 1980, all funds remaining unobligated on that date will be pooled. Pooled funds will revert to National Office control.

3. Water and Waste Disposal Loan and Grant, Community Facility Loan, and Industrial Development Grant funds under control of the National Office will be allocated to the States on a priority basis. Requests for these funds may be made by forwarding a completed copy of Attachment A, page 9-10 to the National Office. Generally a request for additional funds will not be honored

unless the State has insufficient funds to obligate the loan and/or grant requested.

Allocations for the programs to which Attachment A pertains are on an annual basis; however, FmHA receives its apportionment of loan and grant funds quarterly for community programs. Therefore, funds will continue to be allotted to the Finance Office on a quarterly basis to continue total obligations. Obligations will be made in the order of requests. If States collectively request obligations greater than one-fourth of the National allocations, there may not be sufficient funds to honor all obligating documents submitted in a particular quarter. In such cases, funds will be obligated when available, ordinarily soon after the start of the next quarter.

Community Programs Allocations for Fiscal Year 1980

State	Water and waste disposal		Community industrial facility development	
	Loans	Grants	loans	ment grants
Alabama	\$21,095	\$9,030	\$6,350	\$275
Alaska	1,040	455	325	35
Arizona	3,680	1,585	1,120	75
Arkansas	16,090	6,890	4,845	210
California	20,715	8,870	6,235	235
Colorado	5,320	2,285	1,610	85
Delaware	1,455	635	450	35
Maryland	7,285	3,125	2,200	95
Florida	19,505	8,350	5,870	205
Georgia	23,070	9,875	6,945	315
Hawaii	875	385	275	40
Guam	760	335	245	35
Pacific Trust Territories	2,185	945	670	50
American Samoa	450	205	150	25
Idaho	3,485	1,500	1,060	80
Illinois	19,790	8,475	5,960	250
Indiana	15,750	6,745	4,745	225
Iowa	13,360	5,730	4,030	200
Kansas	8,900	3,815	2,685	150
Kentucky	21,955	9,400	6,610	295
Louisiana	19,055	8,160	5,740	255
Maine	5,315	2,285	1,610	100
Massachusetts	6,310	2,710	1,910	95
Connecticut	4,145	1,785	1,260	75
Rhode Island	895	395	285	30
Michigan	19,485	8,345	5,865	245
Minnesota	13,300	5,700	4,010	210
Mississippi	20,045	8,580	6,035	285
Missouri	19,360	8,290	5,830	235
Montana	3,415	1,470	1,040	75
Nebraska	8,735	2,890	2,035	115
New Mexico	4,025	1,735	1,225	95
New Jersey	5,875	2,525	1,760	80
New York	21,685	9,265	6,530	255
Virgin Islands	710	315	230	25
North Carolina	30,690	13,135	9,230	420
North Dakota	3,310	1,425	1,010	80
Ohio	21,590	9,245	6,500	310
Oklahoma	13,340	5,715	4,020	170
Oregon	6,970	2,990	2,105	110
Pennsylvania	30,155	12,905	9,070	380
Puerto Rico	23,265	9,960	7,000	335
South Carolina	16,895	7,280	5,120	250
South Dakota	4,265	1,835	1,295	85
Tennessee	22,045	9,435	6,635	295
Texas	36,435	15,590	10,855	415
Utah	2,065	895	635	55
Nevada	830	365	265	30
Vermont	2,775	1,200	845	65
New Hampshire	2,760	1,180	845	60
Virginia	18,140	7,785	5,460	260
Washington	8,380	3,595	2,530	115
West Virginia	13,385	5,735	4,035	195
Wisconsin	13,965	5,980	4,210	230

Community Programs Allocations for Fiscal Year 1980—Continued

State	Water and waste disposal		Community industrial facility development	
	Loans	Grants	loans	ment grants
Wyoming	1,510	655	470	50
Subtotal	630,000	270,000	190,000	8,000
Reserve	70,000	30,000	25,000	1,000
HEW set aside			25,000	
REA transfer			10,000	
Grand total	700,000	300,000	250,000	10,000

Explanation of Allocation

Loan funds for community facilities and water and waste disposal and funds for water and waste disposal development grants and industrial development grants have been allocated among the 50 States, Puerto Rico, Guam, American Samoa, Trust Territories of the Pacific and the Virgin Islands.

1. The Administrator has withheld a reserve of the funds appropriated or authorized to allow for subsequent allocations or adjustments, emergencies and otherwise as he may deem appropriate.

2. For each appropriation or authorization, \$20,000 has been allocated to each State as a base.

3. The National Office has retained control of \$25 million in CF loan funds for projects approved under the Memorandum of Understanding between HEW and USDA. An additional \$10 million will be retained for possible transfer to REA for cable television projects.

4. The remainder has been allocated by formula.

a. The formula for allocating industrial development grants considers (1) each State's portion of the Nation's nonmetropolitan population outside cities of 25,000 or more, plus half of the population of cities more than 25,000 located outside metropolitan areas, and (2) the rural per capita income of the State as compared to the rural per capita income of the Nation. The two elements, rural population and per capita income, are weighted two to one respectively.

b. Grants for water and waste disposal and loans for water and waste disposal and community facilities have been allocated in accordance with a formula which considers each State's proportion of the U.S. population in open country and towns of less than 10,000 outside urban areas and the number of households in poverty in rural areas and cities located outside urban areas with populations of 2,500 to 10,000 persons. The two elements, rural population and

households in poverty, were weighted one to two respectively.

Factors Used in Allocating Funds—Community Programs

State	Water and waste disposal loans and grants and community facility loans	Industrial development grants
Alabama	0.03351	0.0325
Alaska	.00162	.0019
Arizona	.00582	.0072
Arkansas	.02554	.0239
California	.03291	.0271
Colorado	.00843	.0083
Delaware	.00226	.0020
Maryland	.01155	.0095
Florida	.03098	.0236
Georgia	.03665	.0375
Hawaii	.00136	.0027
Guam	.00118	.0017
Pacific Trust Territories	.00344	.0036
American Samoa	.00058	.0009
Idaho	.00551	.0075
Illinois	.03144	.0294
Indiana	.02501	.0257
Iowa	.02124	.0226
Kansas	.01412	.0166
Kentucky	.03488	.0345
Louisiana	.03027	.0295
Maine	.00842	.0104
Massachusetts	.01000	.0098
Connecticut	.00656	.0067
Rhode Island	.00139	.0012
Michigan	.03095	.0283
Minnesota	.02112	.0242
Mississippi	.03184	.0334
Missouri	.03075	.0272
Montana	.00540	.0069
Nebraska	.01068	.0122
New Jersey	.00931	.0077
New Mexico	.00637	.0095
New York	.03445	.0300
Virgin Islands	.00112	.0009
North Carolina	.04877	.0506
North Dakota	.00523	.0074
Ohio	.03430	.0368
Oklahoma	.02118	.0192
Oregon	.01105	.0113
Pennsylvania	.04792	.0456
Puerto Rico	.03696	.0396
South Carolina	.02699	.0288
South Dakota	.00675	.0084
Tennessee	.03502	.0348
Texas	.05790	.0499
Utah	.00325	.0043
Nevada	.00129	.0012
Vermont	.00436	.0055
New Hampshire	.00436	.0051
Virginia	.02881	.0305
Washington	.01329	.0123
West Virginia	.02125	.0220
Wisconsin	.02217	.0265
Wyoming	.00237	.0038
Totals	1.00000	1.0000

To: Administrator, FmHA, Washington, D.C.

Attention:
☐ Water and Waste Disposal Loan Division
☐ Community Facilities Loan Division
☐ Community Facility Loan
☐ Industrial Development Grant

Name of applicant: _____
 Purpose: _____
 Amount of additional funding requested: _____
 Loan \$ _____ Grant \$ _____
 Number of users (WWD only): Residential _____ Commercial _____

Criteria

Criteria selection ☐ check

(a) The application is a subsequent request for a previously approved project that has

cost overruns due to high bids or unexpected construction problems. ☐

Reason: _____

(b) A large low-income population is being served. ☐

Median Income _____

Comments: _____

(c) A large minority population being served. Percent served _____ % (est.) ☐

(d) The facility being financed is an emergency situation to correct health or safety problems.

(e) A large leveraging factor is involved. Estimated amount of other funds \$ _____ ☐

Comments: _____

(f) Area served under 5,500 population (WWD only) ☐

(g) Project involves merger of two or more systems. (WWD only) ☐

Describe: _____

(h) The Project is in connection with the White House Rural Initiatives for Health, Energy, Transportation, and Water and Sewer. ☐

Identity: _____

(i) The applicant is a public body. ☐

State Director _____

Date _____

Section 111 Area Development Assistance Planning Grants

\$7 million has been appropriated for Section 111 in FY 80. Of this amount, \$1 million is reserved for the implementation of Rural Information Centers; the rest will be available for planning grants.

As in previous years, final approval of grants will be made in the National Office; therefore, the Administrator will not allocate specific amounts to the State Offices. An administrative determination of the approximate amount to be obligated in each state will soon be made; after this determination is made, State Directors will be expected to indicate the highest priority Area Development Assistance Planning Grant applications within their states. State Offices will also retain their other responsibilities under this program.

Decentralization of program responsibility for Area Development Assistance Planning Grants is currently being considered by the Administrator.

Attachment B—Business and Industrial Loan Program

The 1980 Fiscal Year budget for the Business and Industrial loan program is based on \$1.1 billion which has been allocated as shown on page 3 of Attachment B. Loans for Guam, American Samoa, and the Trust Territories of the Pacific Islands and any insured loans will be allocated as needed from the National Office reserve.

Funds have been allocated in the following manner:

1. For the Administrator, REA, \$24 million guaranteed authority has been allocated for CATV projects.

2. For the Administrator, FmHA, \$10 million in insured funds and \$160,230,000 in guaranteed authority is being withheld in a reserve to allow for subsequent allocations, emergencies, funding of backlog of applications, the Boundary Water Canoe Area and for other uses as the Administrator may deem appropriate. An additional allocation of \$5,770,000 has been distributed out of the reserve for Alaska.

3. For each appropriation or authorization, \$20,000 has been allocated to each State as a base.

4. The remainder has been allocated by formula.

a. Population (weight 66.7%): Each state's population of the nation's nonmetropolitan population outside cities of 25,000 or more, plus half of the metropolitan population outside urbanized areas, plus half of the population of cities more than 25,000 located outside metropolitan areas. (Data Source: 1970 Census of Population—General Population and Characteristic Report)

b. Rural Income (weight 33.3%): Each state's proportion of rural per capita income which is below the National rural per capita income. (Data Source: 1970 Census of Population—General Social and Economic Characteristics, Tables 68 and 105; 1970 Census of Population—General Population and Characteristic Report, Table 20)

5. The factors are applied to the remaining fund and the result is then rounded to the nearest \$5,000.

Our tentative plans for pooling are:

March 31, 1980—All funds remaining unobligated as of March 31, 1980, from one-half of your total allocation for the year will be pooled. You should plan to have obligating documents in the Finance Office for at least one-half (you may send more) of your F.Y. 1980 allocation prior to March 31, 1980. Pooled funds will revert to National Office control.

You should keep in mind that even though these allocations of guarantee authority are on an annual basis, we receive the apportionment of guarantee authority quarterly. If many states obligate more than one-fourth of their annual allocation in a quarter, it follows that there may not be sufficient guarantee authority to honor all obligating documents in that quarter. In this instance, the Finance Office holds the obligating documents until the next quarter's allocation is made.

On August 8, 1980, all funds remaining unobligated will be pooled. Pooled funds will revert to National Office control.

For F.Y. 1980, we will be obligating only the guaranteed authority.

Therefore, when you telephone the Finance Office, you will need to provide them with a two digit percentage of guarantee (e.g., 87%) together with the rest of the obligation data.

The Finance Office will automatically compute the amount of guarantee authority and charge this against the state allocation.

Business and Industrial Loan Allocations for Fiscal Year 1980

	[In thousands]
Alabama	\$29,415
Alaska	7,500
Arizona	6,580
Arkansas	21,595
California	24,560
Colorado	7,570
Delaware	1,820
District of Columbia-Maryland	8,590
Florida	21,415
Georgia	33,910
Hawaii	2,445
Guam	
American Samoa	
Commonwealth of the Northern Mariana Islands	
Trust Territories of the Pacific Islands	
Idaho	6,760
Illinois	26,540
Indiana	23,215
Iowa	20,425
Kansas	15,030
Kentucky	31,305
Louisiana	26,720
Maine	9,460
Massachusetts	8,020
Connecticut	6,045
Rhode Island	1,100
Michigan	25,640
Minnesota	8,590
Mississippi	21,865
Missouri	30,315
Montana	24,560
Nebraska	6,310
New Jersey	10,990
New Mexico	6,940
New York	8,560
Virgin Islands	27,080
North Carolina	830
North Dakota	45,780
Ohio	6,670
Oklahoma	33,100
Oregon	17,370
Pennsylvania	10,270
Puerto Rico	41,190
South Carolina	35,980
South Dakota	26,090
Tennessee	7,570
Texas	31,575
Utah	45,150
Nevada	3,885
Vermont	1,100
New Hampshire	4,965
Virginia	4,695
Washington	27,890
West Virginia	11,165
Wisconsin	19,980
Wyoming	23,930
Rural Electrification Administration	3,435
National Reserve	24,000
Total	170,230
Total	1,100,000

*Funding will be made from the National Reserve.

Attachment C—Single Family Housing Programs

Rural housing loan and grant making will be continued for the fiscal year beginning October 1, 1979, in strict compliance with applicable procedures and the following:

I. General

A. The interest rate for all rural housing loan programs for fiscal year 1980 will be as shown in Exhibit B of FmHA Instruction 440.1.

B. Funds are allocated to each State on the basis of housing needs. The criteria considered and the formulas by which allocations were determined are outlined in Attachment C-1 to this AN. Funds available for each program are indicated in the following paragraphs and attachments.

C. State Directors are to carry out balanced loan making and servicing programs. In some States more emphasis must be placed on loan servicing of single family housing accounts.

D. Dockets should not be processed for any program unless funds will likely be available for the loan or grant. The National Office will maintain only a small reserve of funds, therefore, the Administrator will consider requests for additional funds only on a hardship case basis. To assure that funds are utilized, all funds available but not obligated will be pooled as of COB August 8, 1980.

E. The cumulative amounts to be submitted in each category for obligation each quarter will not exceed the following percentage of the State's annual allocation as shown in attachments as appropriate.

	In percentage	
	Sec. 502 loans and grants	Sec. 504 loans and grants
1st quarter.....	30	25
2d quarter.....	55	50
3d quarter.....	80	75
4th quarter.....	100	100

State Directors will take actions necessary to ensure these allocations are not exceeded.

II. Section 502 Insured RH Loans

A. To facilitate targeting and to plan the use of funds to the extent possible to those most in need, State Directors will allocate Section 502 funds to County Offices areas. However, prior to the date RH loan funds were allocated within the states on a need basis, FmHA, in some areas, had approved conditional commitments and/or subdivisions with large numbers of lots that likely would have been financed with Section 502 RH funds. Many developers, because of a shortage of funds and high interest rates through other sources, are unable to build or sell the property and are experiencing financial difficulty because of the large investment required to buy and develop the property to FmHA standards. In

those areas where the approved subdivisions were developed because of FmHA encouragement, a 4-year transition adjustment will be followed in order to make an orderly de-emphasis of the housing program from the areas with less need. In all other areas, priority will be given to providing assistance to serve areas having the greatest housing needs and to reach lower-income applicants.

B. Transfer of existing Section 502 loans by assumption (465.1 Paragraph XVIII) will be used in all practical cases in order to conserve loan funds and assist the greatest number of applicants. Subsequent loans should be made to pay for equity and finance needed repairs or improvements and State Directors should maintain an adequate reserve to fund subsequent loans in conjunction with transfers.

C. Conditional commitments must be honored within the funds available for each State and will not be issued unless the county office can reasonably expect to approve and fund loans for those conditional commitments within 3 months after the dwellings are completed. New commitments must be restricted in areas that will receive a low allocation level.

D. Action should be taken to ensure that funds will be available for loans for hardship cases and to those participating in self-help projects to prevent delays in the construction of homes. Priority processing will be provided for self-help housing applications.

E. State Directors may not switch funds between subsidized and nonsubsidized categories. Also, State Directors serving more than one State may not shift allocations between States within their jurisdiction.

F. Weatherization loans made by public utilities will be obligated from the National Office reserve established for this purpose and not from the State's allocation.

III. Section 502 Guaranteed Above Moderate RH Loans

Action should be taken to ensure that lenders are familiarized with and encouraged to participate in the guaranteed RH loan program. Training sessions should be held, as appropriate, with lenders. All applicants who appear to be eligible for a guaranteed loan should be referred to lenders willing to participate in the program.

IV. Section 504 RH Loans and Grants

Overall use of Section 504 loan and grant funds increased significantly last fiscal year. However, some States are still not showing enough activity in this program area. FmHA offices should

especially strive to cooperate with organizations operating federally financed rehabilitation projects.

Attachment C-1

Allocation of RH Program Funds—FY 1980

The following criteria identifies essential elements that are considered necessary to allocate rural housing funds to various States on the basis of housing needs.

Factor A: State's percentage of national rural population

Factor B: State's percentage of national rural population living in dwellings which lack complete plumbing and/or are crowded (substandard)

Factor C: State's percentage of national rural population below poverty level

Factor D: Cost indicator (average cost of new dwelling and site, factored by population)

Factor E: State's percentage of national rural population 62 years of age and over

Factor F: State's percentage of national rural households with incomes between \$15,000 and \$20,000

Basic Formula Allocation:

Section 502 rural housing loans.

$$(A \times .30 + B \times .30 + C \times .30 + D \times .10) \times \text{funds}$$

available = State allocation.

Section 504 loans.

$$(B \times .50 + C \times .50) \times \text{funds}$$

available = State allocation.

Section 504 grants.

$$(B \times .33 + C \times .33 + E \times .33) \times \text{funds}$$

available = State allocation.

Section 502 guaranteed above moderate loans.

$$(A \times .30 + B \times .30 + F \times .30 + D \times .10) \times \text{funds}$$

available = State allocation.

Transition adjustment is necessary to temper large differences between previous program levels and a basic formula allocation. A 3-year transition period for 504 loans and grants and a 4-year transition period for insured 502 subsidized and nonsubsidized loans is used to allow individual States to adjust programs accordingly.

$$\text{Allocation for 504 loans and grants} = \frac{2(b-a)}{3}$$

$$\text{Allocation for insured 502 loans} = \frac{2(b-a)}{4}$$

Where:

a = FY 78 funds obligated factored by FY 80 funds available.

b = Basic formula allocation.

Minimum allocations have been established for each loan and grant category.

Section 502 RH Loan Authorizations (Insured); for Fiscal Year 1980

(In millions)

State	Subsidized	Nonsubsidized	Total
Alabama	\$57	\$25	\$82
Alaska	12	8	20
Arizona	20	7	27
Arkansas	60	21	81
California	52	21	73
Colorado	24	10	34
Connecticut	13	5	18
Delaware	6	3	9
Florida	55	18	73
Georgia	66	30	96
Hawaii and Am. Samoa	10	5	15
Idaho	29	8	37
Illinois	58	22	80
Indiana	60	20	80
Iowa	51	24	75
Kansas	30	17	47
Kentucky	70	27	97
Louisiana	73	24	97
Maine	39	8	47
Maryland	24	10	34
Massachusetts	26	8	32
Michigan	60	28	88
Minnesota	43	20	63
Mississippi	75	26	101
Missouri	61	22	83
Montana	18	6	22
Nebraska	26	9	35
Nevada	8	3	9
New Hampshire	14	5	19
New Jersey	30	9	39
New Mexico	17	7	24
New York	74	27	101
North Carolina	109	50	159
North Dakota	19	6	25
Ohio	49	20	69
Oklahoma	54	19	73
Oregon	43	12	55
Pennsylvania	55	27	82
Rhode Island	6	3	9
South Carolina	51	22	73
South Dakota	23	7	30
Tennessee	68	33	101
Texas	78	33	111
Utah	21	6	27
Vermont	22	5	27
Virginia	64	23	87
Washington	24	10	34
West Virginia	35	15	50
Wisconsin	51	17	68
Wyoming	8	4	12
Guam and Trust Terr.	14	5	19
Puerto Rico	100	15	115
Virgin Islands	8	3	9
Subtotal	2,167	818	2,985
HUD-USDA Demo	10		10
Weighted		5	5
Reserve	43	39	82
Total	2,220	860	3,080

Section 502 Guaranteed RH Loans, 504 RH Loan, 504 RH Grant; Authorizations for Fiscal Year 1980

State	502 Guaranteed RH loans (thousands)	504 RH loans (thousands)	504 RH grants (thousands)
Alabama	\$11	\$970	\$680
Alaska	9	100	100
Arizona	5	160	180
Arkansas	8	920	720

Section 502 Guaranteed RH Loans, 504 RH Loan, 504 RH Grant; Authorizations for Fiscal Year 1980—Continued

State	502 Guaranteed RH loans (thousands)	504 RH loans (thousands)	504 RH grants (thousands)
California	12	460	590
Colorado	5	130	270
Connecticut	5	100	110
Delaware	5	100	100
Florida	11	470	540
Georgia	16	820	950
Hawaii and American Samoa	10	330	110
Idaho	5	100	110
Illinois	14	380	720
Indiana	12	330	410
Iowa	9	340	360
Kansas	6	150	240
Kentucky	13	1,070	830
Louisiana	10	770	700
Maine	5	460	380
Maryland	5	100	480
Massachusetts	5	100	180
Michigan	14	430	530
Minnesota	10	290	400
Mississippi	11	1,470	1,100
Missouri	10	600	750
Montana	5	100	100
Nebraska	5	120	190
Nevada	5	100	100
New Hampshire	5	100	130
New Jersey	8	110	210
New Mexico	5	330	490
New York	14	390	590
North Carolina	20	1,080	1,050
North Dakota	5	100	210
Ohio	17	540	660
Oklahoma	8	340	470
Oregon	5	240	310
Pennsylvania	18	690	840
Rhode Island	5	100	100
South Carolina	10	570	560
South Dakota	5	100	150
Tennessee	13	580	590
Texas	18	1,310	1,290
Utah	5	100	100
Vermont	5	100	120
Virginia	11	470	520
Washington	7	180	220
West Virginia	8	440	410
Wisconsin	10	320	470
Wyoming	5	100	100
Guam and Trust Territories	5	770	190
Puerto Rico	12	1,660	1,340
Virgin Islands	5	100	100
Subtotal	468	22,490	23,050
HUD-USDA Demo		760	337
Reserve	32	730	613
Total	500	24,000	24,000

Attachment D—Multiple Family Housing Programs

Rural Housing Loan and grant making will be continued for the fiscal year beginning October 1, 1979, in strict compliance with the following:

I. General

A. The interest rate for all multiple family housing loan programs for FY 1980 will be in accordance with revised (11-1-79) Exhibit B of FmHA Instruction 440.1.

B. Funds are allocated to each State on the basis of housing needs. The criteria considered and the formulas by which allocations were determined are

outlined in Attachment D-1 to this AN. Funds available for each program are indicated in the following paragraphs and attachments.

C. Priority will be given to providing assistance to serve Districts having the greatest housing needs and to reach lower-income tenants and applicants. Each State Director was provided with information by county, on population, substandard housing, and income. This information was intended to assist in identifying those Districts where increased emphasis must be placed on assisting lower-income families.

D. State Directors are to carry out balanced loan making and servicing programs. In some States more emphasis should be placed on borrower records and accounting procedures for RRH and LH loans especially where rent increases, interest credit or rental assistance is involved.

E. State Directors may not switch funds between subsidized and non-subsidized categories. Also, State Directors serving more than one State may not shift allocations between States within their jurisdiction.

F. State Directors are responsible for administering the Multiple Family housing programs within their State in strict compliance with applicable procedures and this AN. Dockets should not be processed for any program unless funds will likely be available for the loan or grant. The National Office will maintain a small reserve of funds for the Section 515 program; therefore, the Administrator will consider requests for additional funds only on a hardship case basis. To assure that funds are utilized, all funds available but not obligated during FY 1980 will be pooled as of COB August 8, 1980.

G. State Directors will not exceed 50 percent of their funds for Section 515 as shown in Attachment D-2 prior to March 31, 1980, without prior written approval of the National Office. State Directors will take actions necessary to ensure these allocations are not exceeded.

H. The Section 523 and 524 RHS programs should be used to provide subdivisions so that housing sites can be developed at lower cost for use in the Section 502 RH loan program or for self-help housing programs. With the proper use of this program a portion of the problem of acquiring housing sites could be eliminated in many areas of the U.S.

The Section 525 Technical Assistance program can be used to counsel with families that are having problems with their present housing loans and can be a tool to reduce delinquencies and foreclosures in the areas that have large incidents of unemployment and poverty.

The Section 514 and 516 Labor Housing loans and grants programs should be used in those areas of intensified farmer programs to meet the domestic farm labor housing needs. During FY 1980 each State Director should emphasize seasonal labor housing (projects planned for less than 6 months occupancy) and ask the District Directors to contact those public bodies and non-profit groups that can utilize this type of housing in their areas.

II. Section 515 RRH Loans

A. Attachment D-2 of this AN indicates the annual allocation of subsidized and nonsubsidized RRH funds for fiscal year 1980. The funding level for FY 80 is the same as in FY 79.

B. *Allocations within States:* State Directors may allocate funds to the Districts based on the same formula used nationally to allocate funds to each State. Applications within the District or on a State basis, if District allocations are not made, must be taken on a "first-come first-served basis" until FmHA Instruction 444.5 is revised to provide the authority to do otherwise. State Directors should phase in allocations to Districts so that applications that are on hand are handled in an equitable way.

C. The objective of the RRH program is to provide rental housing to persons with low and moderate incomes and for senior citizens. In recent years, an extremely large percentage of RRH projects have been developed to meet the housing needs of senior citizens and very small families. Most are comprised of one- and two-bedroom units. In many areas there is also a need for family-type units which is not being met. In the past very little effort has been made to serve the housing needs of large families although market data indicated such a need. Therefore, a priority will be extended to projects containing units for large families, particularly those serving very low income people. *State Directors shall see that this policy is implemented.*

D. Any RRH project that will receive interest credit or rental assistance from FmHA, shall be identified as a subsidized loan. This includes single track and dual track loans involving Section 8 deep subsidy when an interest reduction is given in accordance with Exhibit O to FmHA Instruction 444.5. You should be sure that Form FmHA 444-5, "Multiple Housing Fund Analysis," is properly completed to assure correct identification of funds by type and, until the form is revised, indicate the approval date on the bottom of the form. Also show the following at the bottom of the form for projects involving Section 8:

Number of Section 8 Units
From HUD Set-Aside For FY
Single Track
Dual Track

III. Units for the HUD Section 8 Set-Aside Program

A. We anticipate receiving a set-aside from HUD of 10,000 Section 8 units for use in FY 1980 under the single track processing. Attachment D-3 of this AN is a tentative distribution of Section 8 units by Region and State. As of the date of this AN, we have not received written approval of the distribution from HUD, therefore, it is subject to change.

B. The National Office is continuing to negotiate with HUD to obtain more flexibility in the type of units and location of Projects obtaining Section 8 assistance. You should, to the extent possible, assist HUD in meeting the objective of utilizing the Section 8 program to provide more family units rather than units for the elderly.

IV. Rental Assistance (RA) Units for RRH and LH Programs

A. Requests for the obligation of rental assistance units for five and 20-year contracts which were submitted to the Finance Office prior to October 1, 1979, but not obligated from each State's RA allocation or from the pool of RA units will be deducted from the respective States' FY 80 RA allocation.

B. FmHA has been allocated 20,000 units for rental assistance for FY 1979. Attachment D-4 is the distribution of RA units for five-year and 20-year units by State for FY 80. The distribution of RA units has been made in accordance with the same formula used in allocating Section 515 funds to the States. A National Office reserve of 1,000 five-year and 500 20-year RA units have been maintained. States that have obligated all of their units (either five- or 20-year) may request additional units from the National reserve only on a hardship case basis.

C. A National Office reserve of 1,000 five-year RA units has been maintained for farm labor housing projects. Units to be allocated to LH projects are to be requested from the National Office reserve. If 20-year units are desired, the State must provide them from their respective allocation for this type of unit.

D. State Directors may neither switch RA units between states under their jurisdiction nor switch five- and 20-year RA units without the written consent of the National Office. In addition, State Directors must give first priority on the use of five-year RA units to existing projects. This need must be determined before committing the State's units so

that this need can be met within the State's RA allocation.

V. Section 514 Labor Housing Loans

A total of \$30 million is available. Each State Director should use the labor housing authority to its fullest extent. Funds will not be allocated to individual States at this time, and loans within your approval authority may be submitted to the Finance Office for funding.

VI. Section 516 LH Grants

A. Grant making activities may resume in accordance with revised FmHA Instruction 1944-D. A total of \$25 million is available for LH grants nationally. Last year 10 States used the LH grant program. We ask that State Directors examine the need for this type of assistance within their States and utilize these funds to complement the farm areas with adequate housing for domestic farm labor. We feel greater emphasis should be placed on areas with seasonal labor housing needs in FY 80. County Supervisors and District Directors should be advised of this increased emphasis and requested to promote this type of assistance by contacting applicants and prospective applicants. Because of increased program demand applicants should be informed that any cost involved in developing a preapplication will be at their own expense, without assurance that a project will be funded by FmHA.

B. Labor housing grant funds will be divided up this FY 80 into two funds. These will be:

- (1) Projects planned for more than 6 months occupancy—\$15,000,000.
- (2) Projects planned for less than 6 months occupancy—\$10,000,000.

C. The National Office will authorize 50 percent of the funds from requests submitted through December 31, 1979, and authorize the remaining grant funds from requests submitted through March 1, 1980.

D. State Directors should review each application and make a preliminary determination as to eligibility. Priority for funding shall be determined by each State Director in accordance with revised FmHA Instruction 1944.164(b). Attachment D-5 of this AN should be completed for each loan application determined to be eligible, to assist the National Office in determining the priority for funding. The completed exhibits should be submitted to the National Office along with a list showing the order in which funding is recommended prior to authorization dates indicated above. Applications meeting all applicable eligibility requirements contained in FmHA

Instruction 1944-D should be submitted to assure consideration for FY 80 funding. In addition, State Directors must indicate the ability of developing and obligating any grant funds awarded by the National Office within 120 days after receiving authority to develop the grant. Requests received after December 1, 1979, will be considered for the March 1, 1980 funding.

E. To avoid oversubscription by any one State, the National Office will reserve the right to delay authorization from a State that exceeds 10 percent of any of the two funds established in paragraph B of this section prior to March 1, 1980.

F. Funds not obligated or set-aside in either of the two funds after considering the March 1, 1980, requests will be combined into one fund. All pending and new grant requests will be evaluated against targeting objectives and authorization until funds are exhausted.

G. When a grant allocation is authorized the State Director will be advised not to obligate the project until a complete AD-625 is secured, the applicant obtains a suitable site with the necessary public hearing and/or zoning changes completed, and the State Office architectural review of the plans and specifications is complete. If this cannot be achieved within 120 days, the National Office must be advised of the status of the project in order to retain the allocation.

H. Before telephone obligation of the project is made, the State Director will contact the Special Authorities Division (Tel. 447-7207), confirm that the requirements in part G of this section have been met, and that quarterly allocations are sufficient to obligate the grant.

VII. Section 523 TA Grants

A total of \$27.4 million is available for Self-Help TA grants nationally. You may continue processing and approving Section 523 TA grants in accordance with FmHA Instruction 1933-I. We request that State Directors ask the District Directors to contact non-profit groups, both public and private and discuss with them the need to provide assistance for mutual and self-help housing in rural areas and small towns. State Directors should emphasize the Self-Help TA Grant Program, and encourage the submission of grant applications. This program can provide new housing at a lower cost than by contract methods and should be utilized to reduce loan costs to low-income families.

VIII. Section 523 Land Development Funds

The Section 523 Land Development funds are established as a revolving account for the acquisition and development of land as building sites. The National Office has been authorized to use up to \$1,000,000 for FY 80 from this revolving account. This fund is dependent on the sale of these sites before additional projects can be funded. It will be necessary for the National Office to retain complete control of all funds. At the time the loan docket is approved, the State Director should request funding authority from the National Office.

IX. Section 524 Rural Housing Site Loans

Due to limited funding, it will be necessary for the National Office to retain complete control of all funds. This fiscal year \$1 million has been made available. At the time the loan docket is approved, the State Director should request funding authority from the National Office.

X. Section 525 Technical Supervisory Assistance Grants

During FY 80 \$1.5 million will be available. \$1.2 million of the Section 525 TSA funds will be limited to preoccupation and delinquency counselling programs. \$300,000 will be made available for combined outreach and counselling programs.

State Directors should contact non-profit groups or public bodies and solicit applications from those organizations which serve priority areas. State Directors are reminded that all potential applicants are to be advised of the State's priority areas which should be those areas with a high delinquency rate and those areas with a concentration of low-income and low-income minority families needing housing assistance.

Only one preapplication per State will be accepted by the National Office for review and consideration for funding. Due to limited funds, the Administrator will not allocate funds to specific States.

The term of the TSA grants is two years with the grant request not to exceed \$75,000 (\$37,500 per year) for counselling only programs and \$100,000 (\$50,000 per year) for combined counselling and outreach programs. Approximately 20 projects will be selected for funding under the project selection criteria.

Deadline for submission of preapplications to the appropriate FmHA District Office is January 15, 1980. The State Directors are to forward

their selected preapplication to the National Office by February 15, 1980.

Attachment D-1—Allocation of RRH Program Funds—Fiscal Year 1980

The following criteria identifies essential elements that are considered necessary to allocate rural rental housing Section 515 funds to various States on the basis of housing needs.

Factor A: State's percentage of national rural population.

Factor B: State's percentage of national rural population living in dwellings which lack compete plumbing and/or are crowded (substandard).

Factor C: State's percentage of national rural population below poverty level.

Factor D: Cost indicator (average cost of new dwelling and site, factored by population).

Basic Formula Allocation:

$(A \times .30 + B \times .30 + C \times .30 + D \times .10) \times \text{funds available} = \text{State allocation.}$

Transition adjustment is necessary to temper large differences between previous program levels and a basic formula allocation. A 3-year transition period is used to allow individual States to adjust programs accordingly. FY 80 will be the second year of the transition period. Therefore, the adjusted allocation will be:

$$\text{Adjusted allocation} = \frac{(a-b)}{2} + b$$

where:

a = FY 79 allocation

b = FY 80 State allocation by formula

Sec. 515—Rural Rental Housing, Fiscal Year 1980 Allocations—Continued

State	Unsubsidized	Subsidized	Total
Alabama	1,450	24,770	26,220
Alaska	205	3,450	3,655
Arizona	385	6,530	6,915
Arkansas	845	14,385	15,230
California	1,685	28,725	30,410
Colorado	310	5,245	5,555
Delaware	110	1,835	1,945
Maryland	475	8,115	8,590
Florida	1,330	22,690	24,020
Georgia	1,430	24,375	25,805
Hawaii	165	2,810	2,975
American Samoa	35	525	560
Guam, Trust Territories	235	3,970	4,205
Idaho	375	8,345	8,720
Illinois	1,455	24,805	26,260
Indiana	1,200	20,510	21,710
Iowa	1,100	18,745	19,845
Kansas	615	10,470	11,085
Kentucky	1,190	20,285	21,475
Louisiana	1,005	17,115	18,120
Maine	575	9,790	10,365
Massachusetts	395	6,720	7,115
Connecticut	275	4,680	4,955
Rhode Island	70	1,200	1,270
Michigan	1,550	26,495	28,045
Minnesota	1,085	18,545	19,630
Mississippi	1,275	21,775	23,050
Missouri	1,225	20,915	22,140
Montana	280	4,745	5,025
Nebraska	455	7,710	8,165
New Jersey	455	7,755	8,210
New Mexico	410	8,950	9,360
New York	1,415	24,110	25,525
Virgin Islands	75	1,230	1,305

Sec. 515—Rural Rental Housing, Fiscal Year 1980 Allocations—Continued

State	Unsubsidized	Subsidized	Total
North Carolina	2,180	37,180	39,360
North Dakota	390	6,620	7,010
Ohio	1,500	25,590	27,090
Oklahoma	800	10,260	10,860
Oregon	540	9,165	9,705
Pennsylvania	1,700	29,005	30,705
Puerto Rico	900	14,100	15,000
South Carolina	1,160	19,745	20,905
South Dakota	515	8,775	9,290
Tennessee	1,060	18,110	19,170
Texas	2,045	34,915	36,960
Utah	170	2,840	3,010
Nevada	145	2,415	2,560
Vermont	205	3,500	3,705
New Hampshire	285	4,880	5,165
Virginia	965	18,490	19,455
Washington	715	12,205	12,920
West Virginia	775	13,245	14,020
Wisconsin	1,205	20,535	21,740
Wyoming	215	3,680	3,895
HUD-FmHA Demo.	0	10,000	10,000
National Office Reserve	5,590	88,415	94,005
Total	48,000	820,000	868,000

Tentative Sec. 8/515 Allocations for the Farmers Home Administration (FmHA) for Fiscal Year 1980

State	5-yr units	20-yr units
Alabama	419	151
Alaska	58	21
Arizona	111	40
Arkansas	244	88
California	486	175
Colorado	89	32
Delaware	32	11
Maryland	137	49
Florida	384	138
Georgia	413	149
Hawaii	48	17
American Samoa	9	3
Guam, Trust Territory	67	24
Idaho	107	39
Illinois	420	151
Indiana	347	125
Iowa	317	114
Kansas	117	64
Kentucky	343	124
Louisiana	290	104
Maine	166	60
Massachusetts	114	41
Connecticut	79	29
Rhode Island	20	8
Michigan	449	162
Minnesota	314	113
Mississippi	369	133
Missouri	354	127
Montana	80	29
Nebraska	190	47
New Jersey	131	47
New Mexico	118	42
New York	408	147
Virgin Islands	21	7
North Carolina	690	227
North Dakota	112	40
Ohio	433	158
Oklahoma	174	63
Oregon	155	56
Pennsylvania	491	177
Puerto Rico	522	188
South Carolina	334	120
South Dakota	149	53
Tennessee	397	110
Texas	591	213
Utah	48	17
Nevada	41	15
Vermont	59	21
New Hampshire	83	30
Virginia	279	101

Tentative Sec. 8/515 Allocations for the Farmers Home Administration (FmHA) for Fiscal Year 1980—Continued

Region VII (Kansas City):	
Iowa	254
Kansas	142
Missouri	283
Nebraska	104
Total	783
Region VIII (Denver):	
Colorado	71
Montana	64
North Dakota	80
South Dakota	119
Utah	38
Wyoming	50
Total	432
Region IX (San Francisco):	
Arizona	88
California	389
Hawaii and Samoa	38
Guam and Trust Territory	61
Nevada	33
Total	609
Region X (Seattle):	
Idaho	86
Alaska	47
Oregon	124
Washington	165
Total	422

Rental Assistance (RA) Unit Allocation for Fiscal Year 1980

State	5-yr units	20-yr units
Alabama	419	151
Alaska	58	21
Arizona	111	40
Arkansas	244	88
California	486	175
Colorado	89	32
Delaware	32	11
Maryland	137	49
Florida	384	138
Georgia	413	149
Hawaii	48	17
American Samoa	9	3
Guam, Trust Territory	67	24
Idaho	107	39
Illinois	420	151
Indiana	347	125
Iowa	317	114
Kansas	117	64
Kentucky	343	124
Louisiana	290	104
Maine	166	60
Massachusetts	114	41
Connecticut	79	29
Rhode Island	20	8
Michigan	449	162
Minnesota	314	113
Mississippi	369	133
Missouri	354	127
Montana	80	29
Nebraska	190	47
New Jersey	131	47
New Mexico	118	42
New York	408	147
Virgin Islands	21	7
North Carolina	690	227
North Dakota	112	40
Ohio	433	158
Oklahoma	174	63
Oregon	155	56
Pennsylvania	491	177
Puerto Rico	522	188
South Carolina	334	120
South Dakota	149	53
Tennessee	397	110
Texas	591	213
Utah	48	17
Nevada	41	15
Vermont	59	21
New Hampshire	83	30
Virginia	279	101

Rental Assistance (RA) Unit Allocation for Fiscal Year 1980—Continued

State	5-yr units	20-yr units
Washington	207	74
West Virginia	224	81
Wisconsin	348	125
Wyoming	62	22
National Office Reserve	2,500	500
Total	15,000	5,000

Attachment D-5—To Be Completed for All LH Applicants Determined Eligible

State: _____
 Date application received: _____
 Name of Applicant: _____
 Type of Applicant: _____
 County or Area to be served: _____

Amount of loan requested \$ _____ % of total _____

Amount of grant requested \$ _____ % of total _____

Amount Loan Recommended by S/O \$ _____ % of total _____

Amount Grant recommended by S/O \$ _____ % of total _____

Total No. of units to be built: _____

Cost per unit: _____

Estimated rental rates: _____

Comparable rents in the area: _____

Number of months the project will be occupied: _____

Estimated No. of farmworkers in the area: _____

Income level of farmworkers in the area: _____

If authorized can this proposal be developed in 120 days: _____

What priority do you place on this project compared to others previously submitted and not yet authorized? _____

Comments regarding condition and availability of labor housing in the area: _____
 Comments and documentation regarding long-term need for the proposed project: _____
 Comments regarding management experience of the applicant: _____

Does this applicant have a LH Loan or Grant that is obligated but not closed? If yes, indicate status on the reverse of this sheet.

Other comments and S/O recommendation: _____

Note.—If proposal involves rehabilitation of existing units, provide a general description of the rehabilitation planned along with an estimated cost breakdown.

Attachment E

Farmer Programs

Based upon the Appropriation Act for Fiscal Year 1980, Farmer Program loan levels are as follows:

(Dollars in thousands)

Program	Quarters				
	Total	First	Second	Third	Fourth
OL ¹	\$875,000	\$225,000	\$425,000	\$175,000	\$50,000
FO ²	870,000	340,000	215,000	215,000	100,000
SW- ³	53,100	21,000	15,100	11,000	6,100
Recreation	2,400	1,000	1,000	400	0
Grazing	4,800	4,800	0	0	0
Indian land acquisition	11,900	5,500	3,400	2,000	1,000
Irrigation and drainage	7,400	4,400	3,000	0	0

¹ \$25 million of OL total amount is allocated for guaranteed loans.

² \$50 million of FO total amount is allocated for guaranteed loans.

³ \$6 million of SW total amount is allocated for guaranteed loans.

Attached are insured and guaranteed Farm Ownership loan State allocations on a total and quarterly basis. Also attached are insured Farm Operating loan State allocations on a total and quarterly basis and guaranteed Farm Operating loan quotas for FY 1980. Each State Director is responsible for staying within the indicated quarterly allocation for each loan category. The Finance Office will exercise control over each State's total fiscal year allocation only and U.S. total quarterly allocations.

State allocations are based on important factors which reflect the needs for credit. The factors include:
 Number of Farms
 Number of Small Farms

Farm Tenancy
 Farm Population
 Net Farm Income
 Participation Credit (considered for FO loan allocations only)

These factors have been given the same consideration for each State and the resulting calculations provide a measure of each State's funding needs in relation to other States.

Guaranteed FO loan State allocations were calculated on the basis of the amount of each State's guaranteed FO loan obligations in FY 1979.

Priorities on Loan Funding

Applications for Farm Ownership and Operating Loans will be funded in the following order of priority:

1. Applications from low-income farmowners or farm operators who are identified as limited-resource applicants.

2. Applications from operators who qualify for guarantee loans.

3. Applications from operators who qualify for insured loans at the cost of money interest rate and (for FO) with a portion of loan obtained from a participating lender. OL loan applicants are *not* required to obtain participation.

4. Applications from FO applicants who qualify for insured loans at the cost of money interest rate who are unable to obtain a participating lender.

State Directors are expected to place strong emphasis on utilizing funds to assist minority farmers, including women, disadvantaged families, low-income farmers and those with limited resources. State Directors are expected to maintain sufficient control and monitoring of funds and perform outreach functions necessary to achieve these purposes.

States which have developed or are planning Small Farm Assistance Projects (SFAP), will need to consider FO and OL funding needs for these projects during FY 1980. Necessary controls should be established to assure that these projects receive full funding support from FmHA.

Each State Director is expected to establish a goal from each quarterly allocation of at least 25 percent of the FO and OL funds for loans to limited resource applicants, at least 2 percent for loans to women and at least an amount needed to meet the established targets for loans to minorities.

The Appropriations Act designated at least \$50 million of FO funds, \$25 million of OL funds and \$6 million of SW funds for making guaranteed loans. Therefore, each State Director will take immediate steps to assure that the guaranteed loan program is fully implemented in his or her State.

We expect to closely monitor each State's obligation of funds to determine progress in making guaranteed loans, and loans to limited resource applicants and meeting other targeting goals.

At the end of the second quarter, March 31, we expect to review the obligations of FO and OL funds to determine compliance with funding priorities. Pooling of funds and reallocation to States will be considered at that time, if necessary, to accomplish priorities and targeting goals and to make full use of guaranteed loan authority.

We expect to pool unobligated FO and OL funds by August 1, 1980.

Farm Operating Loans

The obligational authority for operating loans has been increased by \$50 million for FY 1980. It is essential that each State Office Farmer Program Staff keep within its

quarterly funding allocations. In order to do this, we are requiring, as a minimum, that a copy of the Form FmHA 440-1 be sent to and tabulated in the State Office as loans are approved by the counties. It may be necessary to have all obligation documents routed through the State Office to assure that your State does not exceed the funds available.

We are again establishing a quota for guaranteed operating loans for each State. States may exceed their quota by advising the National Office Production Loan Division of guaranteed loans approved in excess of the quota amount. The amount of each State's quota not utilized in the current quarter will be carried into the next quarter until it has been spent.

A National Office reserve of \$50 million insured OL funds has been established to assist States that may have inadequate allocations. We will closely monitor the use of OL funds by States and make necessary adjustments in allocations.

Operating loans may be made for energy saving equipment and projects such as energy efficient machinery, solar water heating equipment, windmills, etc. The Farmer Program Staff should develop information on such equipment and projects considered feasible and successful in the State. We will expect that such enterprises will be financed with operating loan funds in FY 1980.

Farm Ownership Loans

Farm ownership loan obligations, insured and guaranteed may be made in accordance with the quarterly allocations indicated.

Each State Director is responsible for maintaining a reserve for hardship cases. A National Office reserve of \$20 million for insured loans and \$10 million for guaranteed loans has been established. Insured loan funds will be available on an individual case basis for extreme hardship cases with emphasis on minorities and women. Guaranteed loan funds may be requested when a State has obligated its quarterly allocation.

Each State Director will maintain strict control over loan obligations to assure staying within the State's quarterly and yearly allocation for each category. State Directors may have to prohibit loan approval officials from sending loan dockets directly to the Finance Office without prior consent of the State Director or Farmer Program Staff in the State Office.

State Directors will take the necessary steps to assure that a portion of the FO funds are used to finance energy conserving measures including the development of energy producing facilities. Each State Director is requested to set a goal of at least one FO/NFE loan to finance a gasohol plant (if legally permissible within the State) and one bio-mass methane gas generator this fiscal year.

We are continuing our same participation policy for insured loans as in 1979 Fiscal Year. Our goal is that each State obtain at least one dollar of other lender funds for each dollar of Farm Ownership funds.

Each State Director is requested to establish a goal of at least three guaranteed FO loans per state.

Individual Soil and Water and Recreation Loans

Individual Soil and Water and Recreation funds are not allocated on a State basis. Obligor documents may be submitted to Finance Office as the loans are approved.

State Directors will give priority to making guaranteed SW loans. Also, SW loans may be made for authorized SW purposes simultaneously with limited resource FO loans.

State Directors will emphasize use of SW funds to finance energy conserving measures including the development of energy producing facilities related to soil and water conservation and/or pollution abatement. This includes bio-mass methane gas generators.

Irrigation and Drainage, Grazing Associations and Indian Land Acquisition Loans

Funds for Irrigation and Drainage (group), Grazing Associations and Indian Land Acquisition loans are retained under National Office control and will be allocated on an individual case basis. Funds for these loan types may be requested from the National Office when it is determined the loan can be approved.

Priority should be considered for Irrigation and Drainage loan applications for water conservation projects in water-short areas.

Emergency and Economic Emergency Loans

State allocations for EM and EE loans will not be made. Obligations will be handled directly by the Finance Office as in the past.

Insured Farm Ownership Loan Funds—1980 Fiscal Year Allocations
 (In thousands of dollars)

State	Total	1st quarter	2d quarter	3d quarter	4th quarter
Alabama	\$17,200	\$6,712	\$4,251	\$4,251	\$1,986
Arizona	6,000	2,341	1,483	1,483	693
Arkansas	23,100	9,014	5,709	5,709	2,668
California	11,300	4,409	2,793	2,793	1,305
Colorado	11,700	4,555	2,891	2,891	1,353
Delaware	2,500	975	617	617	291
Maryland	6,500	2,536	1,606	1,606	752
Florida	9,100	3,551	2,249	2,249	1,051
Georgia	18,000	7,024	4,449	4,449	2,078
Idaho	19,500	7,609	4,819	4,819	2,253
Illinois	32,000	12,488	7,909	7,909	3,694
Indiana	22,000	8,585	5,437	5,437	2,541
Iowa	37,000	14,439	9,145	9,145	4,271
Kansas	30,300	11,824	7,489	7,489	3,498
Kentucky	26,000	10,146	6,426	6,426	3,002
Louisiana	13,300	5,190	3,287	3,287	1,536
Maine	8,200	3,200	2,026	2,026	948
Massachusetts	2,500	975	617	617	291
Connecticut	1,800	741	469	469	221
Rhode Island	1,000	390	247	247	116
Michigan	17,300	6,751	4,276	4,276	1,997
Minnesota	31,600	12,331	7,810	7,810	3,649
Mississippi	22,300	8,702	5,511	5,511	2,578
Missouri	37,000	14,439	9,145	9,145	4,271
Montana	13,000	5,073	3,213	3,213	1,501
Nebraska	30,100	11,746	7,439	7,439	3,476
New Jersey	3,500	1,365	865	865	405
New Mexico	7,500	2,926	1,853	1,853	868
New York	15,000	5,853	3,707	3,707	1,733
Virgin Islands	300	117	74	74	35
North Carolina	24,500	9,561	6,055	6,055	2,829
North Dakota	27,000	10,536	6,673	6,673	3,118
Ohio	17,000	6,634	4,201	4,201	1,964
Oklahoma	31,500	12,292	7,786	7,786	3,636
Oregon	10,000	3,902	2,471	2,471	1,156
Pennsylvania	13,700	5,346	3,386	3,386	1,582
South Carolina	12,500	4,878	3,089	3,089	1,444
South Dakota	28,000	10,927	6,920	6,920	3,233
Tennessee	23,000	8,875	5,685	5,685	2,655
Texas	37,000	14,439	9,145	9,145	4,271
Utah	6,100	2,380	1,507	1,507	706
Nevada	2,000	780	494	494	232
Vermont	7,000	2,731	1,730	1,730	809
New Hampshire	1,800	624	395	395	186
Virginia	12,800	4,985	3,163	3,163	1,479
Washington	11,900	4,643	2,941	2,941	1,375
West Virginia	7,100	2,770	1,754	1,754	822
Wisconsin	30,000	11,707	7,415	7,415	3,463
Wyoming	8,500	2,536	1,606	1,606	752
Alaska	1,800	741	469	469	221
Hawaii	2,500	975	617	617	291
Puerto Rico	8,700	3,785	2,387	2,387	1,121
Reserve—N.O.	20,000	7,826	4,929	4,929	2,316
Total insured	820,000	320,000	202,640	202,640	94,720

Guaranteed Farm Ownership Loan Funds—1980 Fiscal Year Allocations

State	Total	1st quarter	2d quarter	3d quarter	4th quarter
Alabama	\$310	\$147	\$75	\$88	
Arizona	300	143	72	85	
Arkansas	300	143	72	85	
California	300	143	72	85	
Colorado	1,200	570	289	341	
Delaware	300	143	72	85	
Maryland	600	286	144	170	
Florida	800	286	144	170	
Georgia	1,350	641	325	384	
Idaho	310	147	75	88	
Illinois	980	466	236	278	
Indiana	300	143	72	85	
Iowa	300	143	72	85	
Kansas	340	162	82	96	
Kentucky	300	143	72	85	
Louisiana	300	143	72	85	
Maine	300	143	72	85	
Massachusetts	630	299	152	179	
Connecticut	590	280	142	168	
Rhode Island	300	143	72	85	
Michigan	1,500	713	361	426	
Minnesota	1,300	618	313	369	
Mississippi	740	352	178	210	
Missouri	3,400	1,615	819	966	
Montana	560	266	135	159	
Nebraska	2,200	1,045	530	625	
New Jersey	300	143	72	85	
New Mexico	300	143	72	85	
New York	1,300	618	313	369	
Virgin Islands	300	143	72	85	
North Carolina	1,760	836	424	500	
North Dakota	1,500	713	361	426	
Ohio	760	361	183	216	
Oklahoma	180	86	43	51	
Oregon	300	143	72	85	
Pennsylvania	1,240	589	299	352	
South Carolina	300	143	72	85	
South Dakota	300	143	72	85	
Tennessee	750	356	181	213	
Texas	680	318	159	192	
Utah	300	143	72	85	
Nevada	300	143	72	85	
Vermont	300	143	72	85	
New Hampshire	300	143	72	85	
Virginia	300	143	72	85	
Washington	300	143	72	85	
West Virginia	650	309	157	184	
Wisconsin	2,940	1,397	709	834	
Wyoming	300	143	72	85	
Alaska	300	143	72	85	
Hawaii	3,300	1,568	795	937	
Puerto Rico	300	143	72	85	
Reserve—N.O.	10,000	982	2,731	1,007	\$5,280
Total guaranteed	50,000	20,000	12,360	12,360	5,280

Farm Operating Funds—1980 Fiscal Year Quarterly Allocations

(In thousands of dollars)

State	Total	1st quarter	2d quarter	3d quarter	4th quarter
		Guaranteed	Insured		
Alabama	\$19,000	\$580	\$3,497	\$1,124	\$1,582
Arizona	4,100	888	2,072	876	144
Arkansas	22,000	670	3,591	14,274	2,901
California	12,000	360	2,321	5,886	2,660
Colorado	9,000	270	1,494	5,092	2,144
Delaware	1,200	40	227	549	313
Maryland	5,300	160	970	2,197	1,533
Florida	13,100	400	3,966	6,282	502
Georgia	29,000	880	11,206	16,194	720
Idaho	18,900	570	3,980	5,176	4,428
Illinois	28,000	850	5,234	13,796	8,929
Indiana	21,000	640	3,232	6,448	5,574
Iowa	36,300	1,100	7,978	17,657	7,952
Kansas	22,000	670	4,308	6,509	5,915
Kentucky	23,000	700	5,160	6,899	5,579
Louisiana	35,500	1,080	7,006	24,017	3,397
Maine	11,000	330	1,578	2,699	5,945
Massachusetts	1,600	50	256	406	472
Connecticut	1,100	30	285	273	382
Rhode Island	200	30	50	111	9
Michigan	19,600	590	4,102	6,813	8,373
Minnesota	30,300	920	5,839	12,951	8,877
Mississippi	28,900	880	4,763	16,396	5,600
Missouri	33,000	1,000	5,949	17,752	7,454
Montana	9,000	270	1,665	4,877	1,960

Farm Operating Funds—1980 Fiscal Year Quarterly Allocations—Continued

(In thousands of dollars)

State	Total	1st quarter	2d quarter	3d quarter	4th quarter
		Guaranteed	Insured		
Nebraska	22,500	680	3,306	12,796	5,718
New Jersey	3,800	120	622	1,984	1,010
New Mexico	5,400	160	964	3,310	864
New York	18,900	570	4,468	5,413	5,675
Virgin Islands	200	30	52	14	87
North Carolina	40,000	1,210	17,101	18,297	1,999
North Dakota	21,800	660	4,667	9,326	6,266
Ohio	12,000	360	2,284	3,889	4,387
Oklahoma	27,000	820	7,188	10,701	4,738
Oregon	9,000	270	2,417	4,442	1,608
Pennsylvania	18,800	570	3,870	5,655	6,237
South Carolina	17,000	520	3,858	11,309	843
South Dakota	23,000	700	5,118	10,229	5,627
Tennessee	20,000	610	3,501	10,596	4,217
Texas	70,000	2,040	18,329	38,468	5,242
Utah	4,000	120	1,057	1,718	886
Nevada	1,000	30	139	572	250
Vermont	4,000	120	993	1,006	1,233
New Hampshire	1,000	30	277	258	245
Virginia	15,000	450	3,217	7,116	3,469
Washington	10,000	300	2,002	5,617	1,794
West Virginia	8,000	180	1,551	2,046	1,484
Wisconsin	29,000	880	7,776	9,852	7,156
Wyoming	4,500	140	1,152	2,605	603
Alaska	300	30	66	131	73
Hawaii	300	30	160	263	95
Puerto Rico	6,000	160	1,306	1,814	1,626
Reserve—N.O.	50,000		12,834	24,311	10,363
U.S. totals	\$75,000	25,000	200,000	425,000	175,000

(FR Doc. 79-38430 Filed 11-26-79; 8:45 am)

BILLING CODE 3410-07-M

Soil Conservation Service

Pennahatchee Creek Watershed, Ga.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue, P.O. Box 832, Athens, Georgia 30603, telephone 404-546-2275.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Pennahatchee Creek Watershed, Dooly County, Georgia.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Treadway,

State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The watershed was planned in 1962 and 1963 and approved for operations in 1964. None of the planned structural measures, consisting of 62 miles of channel modification, have been installed. The sponsoring local organizations made the decision not to implement the project.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue, P.O. Box 832, Athens, Georgia 30603, telephone 404-546-2275. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementations of the proposal will be taken until January 28, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: November 13, 1979.

Victor H. Barry, Jr.,

Deputy Administrator for Programs.

[FR Doc. 79-36465 Filed 11-26-79; 8:45 am]

BILLING CODE 3410-16-M

Pond Run Watershed, West Virginia

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Availability of a Record of Decision.

FOR FURTHER INFORMATION CONTACT:

Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, P.O. Box 865, Morgantown, West Virginia 26505; telephone number (304) 923-7151.

NOTICE: Mr. Craig M. Right, responsible Federal official for projects administered under the provisions of Public Law 83-566, 16 U.S.C. 1001-1008, in the State of West Virginia, is hereby providing notification that a record of decision is available for the Pond Run Watershed. Single copies of this record as decision may be obtained from Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, P.O. Box 865, Morgantown, West Virginia 26505; telephone number (304) 923-7151.

Dated: November 13, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008)

Victor H. Barry, Jr.,

Deputy Administrator for Programs.

[FR Doc. 79-36466 Filed 11-26-79; 8:45 am]

BILLING CODE 3410-16-M

Vineland Area Tributary to Arkansas River Watershed, Colorado

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Deauthorization of Federal Funding.

FOR FURTHER INFORMATION CONTACT:

James W. Mitchell, Director, Watersheds Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202-447-3527).

NOTICE: Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Vineland Area Tributary

to Arkansas River Watershed project, Pueblo County, Colorado, effective on October 25, 1979.

Dated: November 9, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008)

Verne M. Bathurst,

Deputy Administrator for Administration.

[FR Doc. 79-36467 Filed 11-26-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket No. 34435; Order 79-11-148]

Air Carrier Rules Pertaining to Transportation of Certain Categories of Passengers

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C., on the 21st day of November 1979.

Order

By Order 79-1-70, January 11, 1979, the Board proposed to cancel rules tariffs of U.S. certificated carriers that permit them to refuse to transport passengers "whose conduct, status, age, or mental or physical condition" makes them unable to care for themselves without assistance, makes refusal "necessary for the reasonable safety or comfort of other passengers," or presents "any unusual hazard or risk to himself or to other persons (including, in the case of pregnant passengers, unborn children) or to property." We tentatively concluded that the rules are unlawful because they employ extremely vague standards and are capable of overbroad and unjustly discriminatory application. In particular, we noted, the rules might permit refusal to carry pregnant women at any stage of pregnancy, elderly people on the basis of age alone, rather than physical condition, and others whose "status" might be thought to offend other passengers in some way. While the Board acknowledged that carriers must be able to refuse to carry those who might endanger others, such as intoxicated or abusive passengers, we stated our belief that carriers can protect these legitimate interests through narrower, more carefully defined tariff rules that do not authorize unnecessary and unjust discrimination on the basis of factors unrelated to flight

¹ Since issuance of Order 79-1-70, there have been several changes in location and numbering of the tariff rules in question. The affected rules, as they are now designated, include: CAB No. 352, Rules 30(A)(2), 31 (A), 31(B)(1)(b), and 35(F); CAB No. 294, Rule 16(F), and CAB No. 55, Rules 15(A)(1)(c) and 15(B)(1)(c).

safety. For reasons discussed more fully below, we are now making final our tentative conclusions.

Responses to the Board's order presented various views on the proposed action. Trans World Airlines generally agreed with the Board's tentative conclusions and proposed a new, more specific tariff rule to replace its existing rule.² Continental and Frontier Airlines did not object to the order as such, but raised technical points. Continental requested a period for the filing of new rules before cancellation of the existing rules, and we have provided 30 days. Frontier pointed out that a tariff rule containing different language from that at issue here, Rule 15A(3)(a) of CAB No. 55, had been listed, apparently by mistake, in the show cause order. Frontier is correct, and we will not cancel this rule, now designated Rule 15B(1)(a) of CAB No. 55.

Two types of objections were raised. The Institute for Public Representation, on behalf of itself and several groups of handicapped people,³ did not disagree with the Board's tentative conclusions, but objected that the order did not also challenge the rules insofar as they apply to physically and mentally handicapped passengers. According to the Institute, the rules are as vague and discriminatory with respect to those passengers as they are with respect to elderly or pregnant passengers, and disabled people are more likely to be actual victims of unfair discrimination than are those other groups.

The Board recognizes that handicapped people are often fully capable of air travel, and that discretion to refuse service on the basis of physical or mental disability has a potential for abuse. As we explained in Order 79-1-70, however, the issues involved in serving handicapped passengers are more complex and difficult than the narrow ones we are considering in this proceeding, and their resolution requires a lengthier examination based on a more extensive record. Since the adoption of Order 79-1-70, we have issued both an industry letter asking carriers to file tariff rules setting forth in detail their practices with respect to handicapped passengers (June 25, 1979)

² The Board also received correspondence supporting the proposal from the Urban Elderly Coalition, Washington, D.C., the City of Chicago Mayor's Office for Senior Citizens and Handicapped, and Dr. Jack E. Orwant.

³ The parties represented are Michael Angel, Disability Rights Center, Paralyzed Veterans of America, American Council of the Blind, and American Coalition of Citizens with Disabilities. The Board also received correspondence to the same effect directly from Disability Rights Center and Paralyzed Veterans of America.

and a notice of proposed rulemaking proposing comprehensive regulations on carriage of handicapped passengers (SPDR-70, 44 FR 32401, June 6, 1979). We believe these approaches are better suited to resolving those complex problems than is the show cause procedure employed here.

The other objecting parties, United Airlines and R. W. Baker, defend the existing tariff rules and the discretion they provide. United contends that determining such things as whether particular passengers who appear to be intoxicated should be permitted to board is a difficult and delicate matter that requires the exercise of judgment and discretion. The carrier also asserts that it has seldom abused the discretion afforded by these rules, noting that it has received an extremely small number of consumer complaints about application of the rules. Similarly, Mr. Baker states that, in his experience as a frequent passenger, he has seen no evidence of abuse of discretion by the airlines, and he believes that the airlines should retain full authority to protect him from discomfort or annoyance caused by other passengers.

We appreciate the commenters' concerns and we agree that carriers must retain reasonable discretion to deal with situations such as those in which travelers may be intoxicated or unruly. But our action here is not intended to eliminate that discretion nor to require the filing of tariff rules that set out the exact details of each individual situation in which a passenger may be refused boarding. We merely seek to establish reasonable outside limits on the carriers' discretion—to require that the rule be tailored to deal only with those broad categories of situations in which the carriers' discretion might justifiably be exercised. We do not see the need, for example, for a carrier to preserve unfettered discretion to refuse to carry women in any stage of pregnancy, and no commenter in this proceeding has advanced an argument that this discretion is necessary. Similarly, there is no reason for an airline to retain unrestrained authority to refuse service to any elderly traveler, even one in perfect health, on the basis of an agent's opinion that the passenger's age alone might present some hazard.

Since issuance of the show cause order, several carriers have filed new rules designed to avoid overbroad discretion concerning matters like pregnancy and age while preserving the flexibility necessary to make decisions with respect to disorderly or intoxicated passengers, as well as others who may

legitimately present significant risks to flight safety. TWA, for example, has chosen to delete references to speculative hazards to the health of unborn children in its rules covering problems of physical condition, and it has replaced vague standards like "status or conduct" that might interfere with the "reasonable comfort" of other passengers with references to apparent intoxication and abusive or violent conduct. It has not, however, attempted to include in its tariffs specific criteria for determining whether and when an apparently intoxicated or violent person should be refused service, and we do not expect carriers to be that specific. A rule filed by American Airlines and certain other carriers also limits, without eliminating, the carriers' discretion to refuse service. We invite carriers to file for reasonable substitute rules of this type.

We do not agree that a demonstration of extensive abuse by carriers of the overbroad discretion provided by these rules is necessary to justify our action here. A tariff rule that permits unreasonable or unfair conduct is dangerous and unlawful even if carriers do not frequently avail themselves of the opportunity to act unreasonably. The existence of the tariff rule, and the implied Board approval that accompanies it, might be asserted as an absolute shield against challenge to any instance of unfair conduct that does occur. Moreover, the consequences to an individual who is the object of such unfair conduct may be very great. We believe that prevention of such an occurrence is sufficiently important to warrant our action even if the situation does not arise very frequently.

Similar concerns lead us to reject United's contention that cancellation of these tariff rules will serve no useful purpose. United reasons that the purpose of tariffs is to provide passengers with notice of the terms and conditions of service. Since passengers are unlikely to anticipate that their conduct may be considered unacceptable, United asserts, they will not benefit from more precise notice of the circumstances under which unacceptable conduct will justify a refusal of service. But we do not agree that affording notice to passengers of the terms of service is the primary purpose of tariffs; in fact, those publications are not well suited for that purpose. The tariff provisions do, however, comprise elements of the contract between airline and passenger, and they serve as a standard against which the legitimacy of an airline's actions in particular cases is measured.

Even if it is true, as United claims, that carriers do not often abuse the overbroad discretion afforded them by this rule, the mere possibility that existence of the rule could shield such unlawful abuse justifies its cancellation.

In addition, United asserts that the Board cannot find the tariff rules at issue here unlawful because they reflect established legal precedents. We believe United's position may be based on an overbroad interpretation of our proposed action. In any case, we do not believe our action is inconsistent with the laws cited by United. *Pearson v. Duane*, 71 U.S. 605 (1866), and *Meyer v. St. Louis I.M. & S. Ry.*, 54 F. 116 (8th Cir. 1893), stand for the principle that common carriers may properly refuse to carry intoxicated or dangerously insane travelers in order to protect their other passengers. The Board has not disputed this principle. We believe, however, that carriers can, and should, accomplish this purpose through more narrowly drafted tariff rules that include those categories of people the carrier may legitimately refuse, without also encompassing large categories of travelers the carrier could not reasonably turn away. Moreover, § 1111 of the Federal Aviation Act, preserving carriers' right to refuse to carry passengers or property when transportation "would or might be inimical to the safety of flight," cannot protect a tariff rule broad enough on its face to permit refusal of service on grounds that cannot possibly endanger flight safety, such as the early stages of pregnancy, advanced age regardless of physical or mental condition, or even race or physical appearance.

Nor do we agree with United that the specific tariff language at issue here was approved in *Williams v. Trans World Airlines*, 369 F. Supp. 797 (S.D.N.Y. 1974), *aff'd*, 500 F.2d 942 (2d Cir. 1975). In *Williams*, a court considering a tort claim for refusal to carry a passenger, allegedly on the basis of his race and political beliefs, quoted the tariff rule and stated that such a rule did not permit discrimination made unlawful by § 404 of the Federal Aviation Act—in short, that the language of the tariff rule to the extent the two were inconsistent. But the court did not make any determination as to the legality and reasonableness of the tariff language, since those questions were not at issue in the case.

Finally, United raises procedural objections, contending that the Board must hold an oral evidentiary hearing. We acknowledge that § 1002(d) of the Act provides for cancellation of tariff rules after notice and hearing. The

statute does not, however, specify an "on-the-record" oral evidentiary hearing. Statutorily required hearings may assume many forms, depending on the statutory scheme and on the nature of the individual circumstances. When, as in this instance, an administrative agency's action is essentially legislative and prospective in nature, rather than adjudicatory, we believe the law is clear that a notice-and-comment type hearing, rather than an oral evidentiary proceeding, is adequate to meet the statutory requirements. *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council*, 435 U.S. 519 (1978); *United States v. Florida East Coast Railway Co.*, 410 U.S. 224 (1973); *United States v. Allegheny Ludlum Steel Corp.*, 406 U.S. 742 (1972). Our earlier order gave clear notice of the Board's proposed action and explicitly asked interested persons to present any arguments or data in support of their objections to that action in written form. United has, in fact, already presented legal and policy arguments. Yet neither it nor any other party has identified any disputed factual issues to be explored at an adjudicatory hearing. We decline to hold such a hearing when it is neither required by law nor potentially useful in developing and resolving important factual issues.

In summary, we conclude that the tariff rules at issue in this proceeding are overbroad, discriminatory, and unlawful and should be cancelled. We do not intend, however, to eliminate carriers' discretion to deal with legitimate problems of passenger conduct and condition on a case-by-case basis. We invite the filing of new rules on this subject that avoid the inclusion of categories as broad or as vague as those we have objected to in this order, but that need not describe in detail each situation in which refusal of service will occur.

Accordingly:

1. Insofar as they apply to the operations of U.S. certificated air carriers, the following tariff rules are found to be unlawful and we order that they be cancelled effective 30 days from the date of service of this order: Airline Tariff Publishing Company, Rules 30(a)(2), 31(A), 31(B)(1)(b) and 35(F) of CAB No. 352, and Rule 16(F) of CAB No. 294; and Air Tariff Corp., Rules 15(A)(1)(c) and 15(B)(1)(c) of CAB No. 55; and

2. Except as otherwise stated in this order, all objections and requests are denied.

This order shall be served on all U.S. certificated air carriers and on all parties who have filed comments or

correspondence in this docket and shall be published in the **Federal Register**.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-30470 Filed 11-26-79; 8:45 am]
BILLING CODE 6320-01-M

Application for an All-Cargo Air Service Certificate

November 19, 1979.

In accordance with Part 291 (14 CFR Part 391) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 36840, from Overseas National Airways, Inc., JFK International Airport, Jamaica, New York 11430 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before December 19, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-30469 Filed 11-26-79; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Washington Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference of the Washington Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 12 p.m., on December 13, 1979, at the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2868, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

*All Members concurred.

The purpose of this meeting is a news conference to release a SAC report on Minority Business Enterprises in the State of Washington.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 21, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-30468 Filed 11-26-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

University of Oklahoma; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 78-00447. Applicant: University of Oklahoma, Purchasing Office, 660 Parrington Oval, Room 321, Norman, Oklahoma 73019. Article: Micromass 602 Double Collector Mass Spectrometer and Accessories. Manufacturer: VC Micromass, United Kingdom. Intended use of article: The article is intended to be used for measuring the isotopic composition of biogenic carbonate cements, lipid material, and dissolved carbon gases in sediments. It allows examination and measurement of the carbon-13 to carbon-12 ratios of these various materials in order to determine their origins and fates. Sediment samples will be collected from the Gulf of Mexico and Enewetak Island as opportunities arise to be processed for analysis. Specific compounds of interest will be extracted or separated for inlet into the mass spectrometer and subsequent analysis. The objectives of these studies include an attempt to establish the origins and fates of these specific components of natural organic matter, and moreover, to assess the petroleum source rock potential of various sediments and rocks. The article will also be used for educational purposes in an Isotope Geochemistry course to expose advanced students to the

tremendous research potential of stable isotope mass spectrometry.

Comments: No comments have been received with respect to this application. A letter dated December 15, 1978 was received from the Nuclide Corporation (Nuclide) after expiration of the comment period. This letter is being treated as an offer to provide additional information in accordance with Subsection 301.10(a) of the regulations.

Decision: Application approved. No domestic manufacturer was both able and willing to manufacture an instrument or apparatus of equivalent scientific value to the foreign article for such purposes as the foreign article is intended to be used, and have it available to the applicant without unreasonable delay in accordance with Subsection 301.11(c) of the regulations, at the time the foreign article was ordered (August 30, 1978). Reasons: The foreign article provides an accessory with a guaranteed small sample capability of 0.01 atmosphere cubic centimeters (atm cm³). The National Bureau of Standards (NBS) advises in its memorandum dated August 10, 1979, that the small sample capability described above is pertinent to the applicant's intended purposes. NBS also advised that the Nuclide Corporation was able, at the time of order of the foreign article, to provide instruments capable of satisfying this specification (Nuclide Models 3-60-RMS and 6-60-RMS). Mass Spectrometers fall in the category of instruments that are produced on order. With respect to this class of instruments, the Department's regulations provide that in determining whether such instruments shall be considered as being manufactured in the United States, the Deputy Assistant Secretary shall take into account whether a U.S. manufacturer is able and willing (Emphasis added) to produce

and have it available without unreasonable delay * * * (15 CFR 301.11(b)). The applicant issued a formal Invitation To Bid to Nuclide on June 23, 1978, requesting one isotope ratio mass spectrometer comparable to the Micromass Model 602C. With respect to the small sample capability deemed pertinent by NBS, the Nuclide quotation Q-7-75-78 dated July 6, 1978, specified for the offered Nuclide Type 3-60-RMS "Modification of Gas Handling System for small sample (0.1cc STP) [i.e., less than 0.1 atm cm³] analysis." In the applicant's bid analysis for the "Purchase of Mass Spectrometer for Geology," supplied to the Department under cover of a letter dated June 22, 1979, (also treated as an offer to provide additional information) the reasons for

not accepting the Nuclide bid were as follows:

1. Company Performance. A survey of eight Nuclide customers revealed that Nuclide was delinquent in delivery for periods ranging from five months to two years. Six of the eight customers also indicated that the performance of the Nuclide spectrometer was not up to their expectations.

2. The Nuclide spectrometer does not meet the small sample requirement of less than 0.01cc. Their bid specified less than 0.1cc.

3. A larger percentage of the parts in the Nuclide system would be classified as demonstrator or reconditioned.

The Department does not consider Points 1. and 3. of the analysis as legitimate bases for the duty-free entry of the foreign article. However, point 2 is, in the Department's judgment, a valid consideration. Despite evidence showing that Nuclide could meet the applicant's small sample requirements (and the Department's acceptance of the company's ability to supply an instrument with this capability on prior applications involving a comparison of the foreign article and the Nuclide instrument, but applications which differ from the present case in that formal requests for bid were not involved), Nuclide's failure to offer an instrument with a guaranteed small sample capability of 0.01 atm cm³ is viewed by the Department as the unwillingness of Nuclide, in this instance, to offer an instrument with a scientifically equivalent small sample capability to the foreign article.

Nuclide, in its letter of 15 December 1978, treated as noted above as an offer to provide additional information, claims that its letter of 14 June 1978 (a copy of which was enclosed) "elaborated" upon the Nuclide's offer of small sample capability of "less than" 0.1cc STP contained in the official Nuclide quotation. Among other things, the June 14 letter stated that "A number of users of Nuclide RMS's have run small CO₂ samples down to 0.01 ml or less successfully, with full precision." It is noted that the description of this capability is incomplete in that pressure is not given and that Nuclide did not claim that it had guaranteed this capability to the users in question. It is the Department's judgment that the binding document in this case is the official Nuclide quotation. Notwithstanding the statement that users of the RMS have run small samples down to 0.01 ml, the Department does not believe this June 14 letter, taken in conjunction with the quotation, constitutes a guaranteed specification as defined in the

Department's regulations (15 CFR 301.2(o)).

In this regard, it is noted that in making the requisite determination of a scientific equivalency, the Department typically has not accepted claims regarding the capabilities of either foreign or domestic instruments superior to "guaranteed specifications". However, the Department recognizes that mass spectrometer manufacturers frequently can and do modify specifications and offer optional equipment to meet the specific requirements of an invitation to bid and, when there is no invitation to bid that elicits "guaranteed specifications" for such produced on order instruments, the Department takes into account "the production experiences of the domestic manufacturer with respect to the types and complexity of products, the extent of the technological gap between the instrument, apparatus or accessory to which the application relates and the manufacturer's customary products * * *". Indeed, based on this type of analysis the Department has previously held that Nuclide is capable of supplying a small sample capability equivalent to that of the foreign article. But in failing to offer, (in response to the formal Invitation to Bid), an instrument meeting either the specifications in the Invitation to Bid or the guaranteed specifications of the foreign article found pertinent by NBS, Nuclide did not satisfy the willing aspect of the "able and willing" criterion applicable to produced on order instruments. The Department recognizes as at least a possibility that if Nuclide's bid had been accepted, its letter of 14 June, 1978, taken in conjunction with its bid and other surrounding circumstances, might be regarded under the law of some jurisdictions as an enforceable contractual promise of delivery of an instrument possessing a small sample capability as described. We are not, however, in a position to make such determinations. Rather, as previously noted, we generally rely in determining the performance characteristics of an instrument on the manufacturer's "guaranteed specification" within the meaning of our regulations. While it might be possible in some cases for the Department to recognize other forms of "guarantee," it would be inappropriate to do so on the basis of communications or behavior, as in this case, whose meaning, intent and legal effect are unclear. Based on the foregoing, the Department of Commerce finds that no domestic manufacturer was both "able and willing" to manufacture an instrument of equivalent scientific value

to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-36448 Filed 11-26-79; 8:45 am]
BILLING CODE 3510-25-M

University of Texas Health Science Center at San Antonio; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79-00213. Applicant: The University of Texas Health Science Center at San Antonio, 7703 Floyd Curl Drive, San Antonio, Texas 78284. Article: Scanning Electron Microscope, Model PSEM 500A and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of biologic tissues from the heart, blood vessels, kidney, lung, red cells, bone marrow cells and blood cells. Some nonbiologic materials, which are used biologically in prostheses—artificial joints, artificial heart valves, artificial blood vessels, and artificial skin—may be studied in this article. The experiments to be conducted are:

- (a) Tissue culture of primate vascular endothelium and smooth muscle cells.
- (b) To conduct an educational training program for resident physicians, graduate students and for young investigators entering into the field of scanning electron microscopy.
- (c) Identification and localization of specific elements in sections of tissue utilizing the scanning-transmission mode of operation coupled with X-ray analysis.

Comments: Comments postmarked

May 17, 1979 have been received from AMRAY Inc. (AMRAY) which state, among other things, that its Models 1000 and 1000A can provide those features cited in response to Question 8.c(2)(i) relative to the specimen environment of 10^{-7} , 10^{-8} , vacuum and provides plug-in solid state modules.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Among the features the applicant claims are pertinent for intended experiments is an automatic eucentric goniometer specimen stage with the exact positioning reproducibility of the foreign article (listed by the applicant as 0.1 microns). The foreign article provides an automatic eucentric goniometer specimen stage with a guaranteed positioning reproducibility 0.2 microns. In the above cited comments on this application AMRAY did not claim that its models 1000 and 1000A could match the positioning capability of the foreign article or that the feature was not pertinent to the applicant's intended purposes (see format for comments contained in 15 CFR 301.9(c)(4)). Moreover, the performance and design specifications for the Models 1000 and 1000A, supplied by AMRAY with its comments, do not list an automatic eucentric goniometer specimen stage with the positioning reproducibility of the foreign article.

The Department of Health, Education, and Welfare advises in its memorandum dated September 27, 1979, that (1) a specimen stage providing 0.2 micron positioning precision is pertinent to the applicant's intended uses and (2) domestic instruments do not provide a stage with equivalent positioning reproducibility.

Based on the above information and the specifications on the respective instruments, we find that neither the Model 1000 nor Model 1000A is scientifically equivalent to the foreign article for its intended purposes. Moreover, the Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.
(Catalog of Federal Domestic Assistance

Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-36447 Filed 11-26-79; 8:45 am]
BILLING CODE 3510-25-M

Harvard University, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, by December 17, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666-11th Street N.W. Washington, D.C.

Docket No. 79-00446. Applicant: Harvard University Purchasing Department, 75 Mount Auburn Street, Cambridge, Massachusetts 02138. Article: MS 50L High Performance Mass Spectrometer and Accessories. Manufacturer: Kratos Scientific Instruments, United Kingdom. Intended use of article: The foreign article is to be used in the following studies:

- (1) Branched-chain fatty acids which occur naturally in relatively few places, notably in *Mycobacterium tuberculosis*;
- (2) The primary control mechanism on fatty acid biosynthesis in *Mycobacterium smegmatis* which involves the complexation of long chain acyl coenzyme A thioesters by polysaccharides from the same organism;
- (3) The elucidation of the structure and function of biological membranes through investigation of membrane-associated molecules, such as, phospholipids;
- (4) Synthetic organotransition metal chemistry involving the synthesis of transition metal clusters with hydrocarbon ligands;

(5) The mechanism of thermal rearrangements: (a) determine activation parameters for the degenerate cope rearrangements of 1,4-bis(dideuteriomethylene)-cyclohexane and cycloheptane (b) determine how well internal vibrational excitation can pass through an acetylenic linkage from one side of a molecule to another;

(6) Activation of Small Molecules with Binuclear Macrocyclic Metal Complexes;

(7) Multi-stage to the synthesis of complex natural products of high biological activity, examples are, salinomycin, maresin, ansamycin antibiotics, neurotoxins (tetrodotoxin and saxitoxin analogs) etc.;

(8) Nature of a variety of enzyme-catalyzed reactions using heavy isotopes as probes etc.;

(9) Measurements of Nitrate in seawater and the origin of oceanic nutrients;

(10) Analysis of rare nucleotides in DNA and RNA;

(11) Characterization and detection of chemical pollutants in the aquatic environment;

(12) Sequencing proteins by gas chromatographic-mass spectrometric methods and several other studies are cited as proposed uses.

Applications received by Commissioner of Customs: October 1, 1979.

Docket No. 79-00452. Applicant: Lehigh University, Department of Metallurgy & Materials Engineering, Whitaker Laboratory #5, Bethlehem, Pennsylvania 18015. Article: Electron Microscope, Model EM-400 TLC and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to carry out the following materials research:

- (1) Study of grain boundary segregation accompanying discontinuous precipitation reactions.
- (2) Controlled variation of interpenetrating polymer network morphology and behavior.
- (3) Fatigue crack propagation in crystalline and multicomponent polymers.
- (4) Interface motion and stress state during solid state joining in ternary systems.
- (5) The effect of long time stress relieving on the structures and properties of pressure vessel steel weld metals.
- (6) Phase growth in the FeNi and FeNiC system—application to extraterrestrial materials.
- (7) Shock and thermal history of metallic phases in lunar glassy materials.

(8) Study of Ni concentration distribution in FeNi meteorites.

(9) Methanol and methyl fuel catalysts.

(10) Catalysts and photocatalysis of symmetry controlled reactions.

(11) Model system studies of conduction mechanisms in thick film resistors.

(12) Study of solute segregation in hot pressed oxide ceramics.

(13) Grain boundary segregation in ceramic materials.

(14) Grain boundary segregation in solid state device substrates.

The article will also be used limitedly in the course Met. 423 Advanced TEM to provide hands on experience for postgraduate level students.

Application received by Commissioner of Customs: October 5, 1979.

Docket No. 79-00454. Applicant: University of Illinois/Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Illinois 61801. Article: Isotope Ratio Mass Spectrometer, Model 250 and Accessories. Manufacturer: Varian MAT, West Germany. Intended use of article: The article is intended to be used to analyze a variety of naturally-occurring materials, including rocks, minerals, inorganic sediments and sedimentary organic matter, plant and animal tissue and metabolic products, water, ice, etc., products and reactants in several types of inorganic and biochemical reactions. The isotopic abundance ratios of hydrogen, carbon, nitrogen, oxygen, and sulfur will be investigated. In addition to the analysis of natural materials, the instrument will be used to investigate the kinetics, mechanisms, and equilibrium of a number of chemical and isotopic exchange reactions in inorganic and biochemical systems. The article will also be used for instructional purposes in the courses Geology 433V, Isotope Geology and Geology 493 Analytical Methods in Stable Isotope Measurements. Application received by Commissioner of Customs: October 9, 1979.

Docket No. 80-00005. Applicant: National Institutes of Health, Building 10, Room 7B-15, Bethesda, Maryland 20014. Article: 2 (Two) each 18 Gruntzig Dilation Catheters. Manufacturer: Schneider Medintag Ag, Switzerland. Intended use of article: The article is intended to be used to increase the blood flow to the heart of patients with coronary artery disease by dilating obstructions in the coronary arteries. Application received by Commissioner of Customs: November 1, 1979.

Docket No. 80-00006. Applicant: National Institutes of Health, Building 10, Room 7B-15, Bethesda, Maryland 20014. Article: Balloon Inflation Device complete with Accessories. Manufacturer: Schneider Medintag AG, Switzerland. Intended use of article: The article is intended to be used to increase the blood flow to the heart of patients with coronary artery disease by dilating obstructions in the coronary arteries. Application Received by Commissioner of Customs: November 1, 1979.

Docket No. 80-00026. Applicant: University of Southern California, University Park, Los Angeles, CA 90007. Article: J-500C Automatic Recording Spectropolarimeter. Manufacturer: Japan Spectroscopic Co. Ltd., Japan. Intended use of article: The article is intended to be used for investigations of the circular dichroism and magnetic circular dichroism spectra of various chemical and biochemical solutions at various temperatures. Experiments will be conducted to (1) develop quantitative methods of assessing the structure of molecules under study, (2) study subtle changes of the structure with temperature, and (3) compare predicted and experimental structures. Application Received by Commissioner of Customs: November 8, 1979.

Docket No. 80-00027. Applicant: University of Oregon, Institute of Molecular Biology, Eugene, Oregon 97403. Article: J-500C Automatic Recording Spectropolarimeter. Manufacturer: Japan Spectroscopic Co. Ltd., Japan. Intended use of article: The article is intended to be used to monitor the circular dichroism of protein, nucleic acids and other biochemical systems. Circular dichroism is outstandingly sensitive to conformational changes in micromolecular systems and the article will be mainly used to determine conformation and detect changes. Principal investigations will include the following:

- (1) Study of mutant T4 phage lysozymes and the flexibility of DNA and the nature of condensed state of DNA.
- (2) Analysis of protein-nucleic acid interactions, studying extent of binding, kinetics and associated conformational changes in both the nucleic acid.
- (3) Raman spectroscopic studies on proteins and nucleic acids.
- (4) Study lipid-protein interactions and to characterize the excited states of polyenes.

Postdoctoral fellows and graduate students in the above projects will also be trained in use of this equipment. Application received by Commissioner of Customs: November 8, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa.

Director, Statutory Import Programs Staff.

[FR Doc. 79-38448 Filed 11-26-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Modification of Permit

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 195 issued to the Naval Ocean Systems Center, Department of the Navy, San Diego, California, on July 26, 1977, is modified as follows:

Section A is modified by adding new sections A-2 and A-3 as follows:

2. Beached/stranded marine mammals of any species not listed pursuant to the Endangered Species Act of 1973 may be taken for rehabilitation purposes, and as appropriate, may be released or maintained in captivity. The size restrictions specified in B-4 and B-5 of this permit shall not apply.

3. Any marine mammals found dead may be collected and retained for scientific purposes.

This modification is effective on November 27, 1979.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington 98109;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: November 21, 1979.

Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 79-38428 Filed 11-26-79; 8:45 am]

BILLING CODE 3510-22-M

Maritime Administration

[Docket No. S-651]

American President Lines, Ltd.; Application

Correction.

In FR Doc. 79-34973, published at page 65427, on Tuesday, November 13, 1979, on page 65428, in the first column, the seventh paragraph beginning "The requested deletion * * *" should be corrected to read:

"The requested deletion of restrictions on breakbulk ships has the effect of requesting the addition of the services formerly restricted by the deleted language for breakbulk ships: The addition of the privilege of providing service with breakbulk ships between California and all Trade Route 29 ports described in APL's Line B service description and the privilege of providing service with breakbulk ships from California to Indonesia."

BILLING CODE 1505-01-M

Office of the Secretary

Economic Advisory Board; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee act, as amended, 5 U.S.C. App. 1976, notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Tuesday, December 18, 1979, from 9:30 a.m. to 4:00 p.m. in Room 4830 Main Commerce Building, 14th Street and Constitution Avenue N.W., Washington, D.C.

The Board was established by the Secretary of Commerce on January 13, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

A review of the economic outlook by major sector.

A discussion of the outlook for prices and employment and of strategies for sustaining economic growth and dealing with inflation.

A limited number of seats will be available to the public on a first-come, first-served basis. Public participation will be limited to request for

clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Ms. Virginia R. Marketti, Office of the Chief Economist for the Department of Commerce, Room 4848, Department of Commerce, Washington, D.C. 20230 (202) 377-3523.

Dated: November 21, 1979.

Courtenay M. Slater,
Chief Economist for the Department of
Commerce.

[FR Doc. 79-38490 Filed 11/26/79; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending Import Restraint Levels for Certain Cotton and Wool Textile Products From the Republic of Singapore

November 21, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Applying swing and carryforward to the sub-level established for Category 347 within the overall level for Category 347/348 (men's and boys', women's, girls' and infants' cotton trousers) and charging 1978 overshipments to that level and the levels established for Category 320 (other woven cotton fabrics), 341 (women's, girls' and infants' woven cotton blouses), and 445/446 (men's and boys', women's, girls' and infants' wool sweaters) during the twelve-month period which began on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore, 1978 overshipments of cotton and wool textile products in Categories 320, 341, 347/348 and 445/446 are being charged to the levels established for those categories during the agreement year

which began on January 1, 1979. Overshipments charged to Category 347/348 account for only part of the total. The remainder will be charged to the 1980 level. In addition, swing and carryforward in the amount of 58,780 dozen are being applied to the sublimit for Category 347 within Category 347/348.

EFFECTIVE DATE: November 27, 1979.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 3, 1979, there was published in the Federal Register (44 FR 932) a letter dated December 28, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established ceilings for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. Overshipments in Categories 320, 341, 347/348 and 445/446 are being charged to the corresponding category ceilings for the twelve-month period which began on January 1, 1979. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the twelve-month levels previously established for the following categories to account for the designated overshipments:

Category	Over-shipment charge (dozen)	Adjusted 12-mo. level of restraint
320	166,480	7,833,520 yds.
341	1,795	58,377 doz.
347/348	26,162	567,088 doz.
347	0	510,996 doz.
348	12,656	217,971 doz.
445/446	5,101	14,899 doz.

¹ The overshipments being charged to Category 347/348 represent part of the total amount. The remainder will be charged to the 1980 level.

Paul T. O'Day,

Acting Chairman, Committee for the
Implementation of Textile Agreements.

November 21, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington,
D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 28, 1978 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1972, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 8, 1977, you are directed to prohibit, effective on November 27, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 320, 341, 347/348 and 445/446, produced or manufactured in Singapore, in excess of the following adjusted levels of restraint:

Category	Adjusted 12-mo level of restraint ¹
320	7,833,520 square yards.
341	58,377 dozen.
347/348	567,088 dozen of which not more than 510,996 dozen shall be in Category 347 and not more than 217,971 dozen shall be in Cat. 348.
445/446	14,899 dozen.

¹ The levels of restraint have not been adjusted to reflect any imports after December 31, 1978.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton and wool textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementations of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the
Implementation of Textile Agreements.

[FR Doc. 79-38438 Filed 11-26-79; 8:45 am]

BILLING CODE 3510-25-M

Excluding From Coverage of Bilateral Agreements Certain Cotton Wool and Man-Made Fiber Textile Products, Imported for Non-Commercial, Personal Use of Importer, Regardless of Value

November 21, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Excluding from the quantitative limitations of the bilateral cotton, wool and man-made fiber textile agreements, textile products entered into the United States for consumption, or withdrawn from warehouse for consumption, regardless of value, which are imported for the non-commercial, personal use of the individual importing the merchandise.

EFFECTIVE DATE: November 27, 1979.

FOR FURTHER INFORMATION CONTACT: Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 7, 1972 and July 13, 1978, there were published in the Federal Register (37 FR 26056 and 43 FR 30090) letters dated November 30, 1972 and July 10, 1978 from the Chairman, Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which provided for the exclusion from the textile program of certain specified cotton, wool and man-made fiber textile products, valued at \$250 or less, which were imported for the non-commercial, personal use of the individual importing the merchandise. The letter published below from the Chairman for the Committee for the Implementation of Textile Agreements cancels and supersedes the two directives of November 30, 1972 and July 10, 1978 and provides for the exclusion from the quantitative limitations of the bilateral agreements of cotton, wool and man-made fiber textile products, regardless of value, which are imported for the non-commercial, personal use of the importer, with the exception of directives relating to Hong Kong which provide for the exclusion from agreement coverage only of those shipments "accompanying a traveler for personal use" and those which are entered as "exempt from duty as bonafide gifts."

Paul T. O'Day,

Acting Chairman, Committee for the
Implementation of Textile Agreements.

November 21, 1979

Committee for the Implementation of Textile AgreementsCommissioner of Customs,
Department of the Treasury, Washington,
D.C.

Dear Mr. Commissioner: This directive cancels and supersedes the directives issued to you on November 30, 1972 and July 10, 1978 by the Chairman, Committee for the Implementation of Textile Agreements concerning the exclusion from coverage of any directives establishing quantitative limitations on cotton, wool and/or man-made fiber textiles and textile products, of shipments, valued at \$250 or less, which are imported for the non-commercial, personal use of the individual importing the merchandise.

Pursuant to Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. § 1854), and in accordance with the procedures of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on November 27, 1979, and until further notice, to exclude from the coverage of any directives now, or hereafter put into effect, of cotton, wool and man-made fiber textiles and textile products satisfying the following requirements: Cotton textiles and cotton textile products in Categories 300-369, wool textile products in Categories 400-469, man-made fiber textile products in Categories 600-669 and any additional cotton, wool and man-made fiber textile categories hereafter incorporated into the textile category system, entered into the United States for consumption or withdrawn from warehouse for consumption, which are imported for the non-commercial, personal use of the individual importing the merchandise, regardless of value. The exception is Hong Kong in which case only those shipments "accompanying a traveler for personal use" and those which are entered as "exempt from duty as bonafide gifts" have excluded from agreement coverage.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8826), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the administration of controls on imports of cotton textiles and cotton textile products, wool textile products, and man-made fiber textile products, produced or manufactured abroad, have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs

exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,
Paul T. O'Day,
Acting Chairman, Committee for the
Implementation of Textile Agreements.

[FR Doc. 79-36440 Filed 11-26-79; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE**Department of the Air Force****Intent To Prepare Environmental Impact Statement**

The United States Air Force, Department of Defense, will prepare an environmental impact statement (EIS) for use in decision making regarding the selection of a basing area or areas, segregating or restricting Federal lands from the operation of specified general land and mineral laws, and the withdrawal from the public domain of the initial land areas and sites for the proposed deployment and operation of the proposed M-X strategic weapon system which is an advanced land based, intercontinental ballistic missile.

This notice of intent is published as required by the regulations of the Council on Environmental Quality in Title 40, Code of Federal Regulations, § 1501.7 on implementation of the provisions of the National Environmental Policy Act of 1969 (NEPA).

The Department of Air Force will serve as the lead agency and will supervise the preparation of the EIS. The Bureau of Land Management, U.S. Department of the Interior, will be a cooperating agency in development and preparation of the EIS and will participate in the scoping process for preparation of the EIS. Other Federal agencies may also agree to serve as cooperating agencies in the EIS scoping process and will be specified in subsequent notices to be issued by the Department of Air Force.

This EIS will be the third in a series prepared on the M-X program. The first, was issued January, 1978, and covered a testing program for the M-X missile system. The second, issued in October, 1978, covered the engineering development of the system.

The EIS covered by this notice will describe the nature, range, degree and extent of impacts which may be associated with the location and siting of the M-X missile system and its initial support facilities.

The draft EIS is scheduled to be completed in the spring of 1980 (June). Upon issuance of the draft statement, a public comment period and public

hearings will be scheduled to obtain comments. The final environmental statement is scheduled to be released in the fall of 1980 (October-November). Decisions on site selections, segregation or restriction of uses of the Federal lands and withdrawal or acquisition of land areas required for the initial increment of the system would follow during late 1980 or early 1981.

The Department of Air Force, with the cooperating agency or agencies, will conduct a series of meetings at various locations to determine the nature, extent, and scope of the issues and concerns that should be addressed in the environmental impact statement related to the proposed action. This scoping process will begin at the national level with affected Federal agencies, then to regional, State and local agencies, organizations, interest groups, and the general public in the geographic areas potentially affected by the proposed M-X missile system. During the meetings, and subsequent to the meetings, individuals, organizations and government agencies will be invited to submit views on issues to be included in the environmental statement and on the Department of the Air Force's plan and approach on analyzing and evaluating the identified issues. Information packages of materials containing lists of issues, problem areas, and proposed studies will be mailed or made available to any organization or individual requesting them. Notice of the time and place of scoping meetings will be made available to public officials and announced in the news media in the areas where the meetings will be held.

The Department of Air Force will prepare a report on the results of the scoping effort and comments received. This report should be published in January 1980 and in so far as possible will be made available to organizations and individuals who commented during scoping. Additionally, the Air Force will mail copies to those requesting them. (To assure that the Department of Air Force will have sufficient time to consider public inputs on issues which are to be included in the development of an environmental impact statement, comments should be forwarded to the addressee listed below by 15 January 1980.)

For further information concerning the M-X program and the environmental impact statement activities, contact the following: Ballistic Missile Office, Civil Engineering Division, Norton Air Force

Base, California 92409, Telephone (714) 382-6891.

Carol M. Rose,
Air Force Federal Register Liaison Officer.
[FR Doc. 79-36388 Filed 11-26-79; 8:45 am]
BILLING CODE 3910-01-M

Department of the Navy**Addition of New System of Records****AGENCY:** Department of the Navy (DON).**ACTION:** Notice of a new system of records.

SUMMARY: The Department of the Navy proposes to add one new system of records subject to the Privacy Act of 1974.

DATES: The system shall be effective as proposed without further notice on December 27, 1979 unless comments are received on or before December 27, 1979, which would result in a contrary determination.

ADDRESS: Any comments, including written data, views or arguments concerning the action proposed should be addressed to the systems manager identified in the particular records system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1P), Department of the Navy, The Pentagon, Washington, DC 20350, telephone 202-694-2004.

SUPPLEMENTARY INFORMATION: The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5 U.S.C. Section 552a (Pub. L. 93-579) have been published in the *Federal Register* as follows:

FR Doc. 77-28255 (42 FR 51229) September 28, 1977.

FR Doc. 78-23953 (43 FR 42379) September 20, 1978.

FR Doc. 78-32596 (43 FR 54124) November 20, 1978.

FR Doc. 79-20457 (44 FR 38961) July 3, 1979.
FR Doc. 79-24619 (44 FR 46912) August 9, 1979.

FR Doc. 79-27188 (44 FR 50884) August 30, 1979.

FR Doc. 79-29285 (44 FR 54750) September 21, 1979.

FR Doc. 79-30035 (44 FR 55623) September 27, 1979.

FR Doc. 79-30744 (44 FR 57146) October 4, 1979.

The Navy has submitted a new system report dated October 17, 1979, for this new system report and in accordance with Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975, and May 17, 1976, respectively, which provide

supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records under the Privacy Act of 1974. This OMB guidance was set forth in the *Federal Register* (40 FR 45877) on October 3, 1975.

H. E. Lofdahl,
Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.
November 19, 1979.

N68510

SYSTEM NAME:

System for Command Accounting and Monitoring of Projects (SCAMP), Project #91H1002.

SYSTEM LOCATION:

Navy Regional Data Automation Center (NARDAC), Washington Navy Yard, Building 196, Washington, D.C. 20374.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees, assigned military personnel, contractor personnel and those separated within the current five fiscal years.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's social security number, date of birth, home address, home telephone number, education level, sex, race or ethnic group. Other types of records integrated with personnel records include: (a) status of travel orders during the previous fiscal year; (b) vehicle identification for parking control purposes; (c) privacy log containing a history of accesses made to any of the privacy protected data; (d) record of personnel actions issued; (e) training data extracted from the Individual Development Plan (IDP); (f) history of all promotions associated with employment at NARDAC; (g) listing of security accesses; (h) manpower costs for all personnel distributed by project and task, and (i) data relating to projects or endeavors that individuals have work on. This data deals with costs and milestone monitoring.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 42 U.S.C. 2000e et seq., 44 U.S.C. 3101, Federal Personnel Manuals 293, 294, 295, 713.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal uses: Officials and employees of the Naval Data Automation Command (NAVDAC) and NARDAC in the performance of their duties relating

to personnel management, project monitoring, and financial management.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained on magnetic disk and on magnetic tape.

RETRIEVABILITY:

SCAMP users obtain information by means of either a query or a request for a standard report. Personnel data may be indexed by any data item although the primary search key is the badge number.

SAFEGUARDS:

Access to building is protected by uniformed guards requiring positive identification for admission. The computer room where data is physically stored is protected by a cypher lock. The system is protected by user account number and password sign-on, data base authority, set and item authority for list, add, delete and update.

RETENTION AND DISPOSAL:

An individual's Personnel Master Data Set record is retained in the data base as long as they are actively employed with the Command. The on-line personnel data set is purged of all records of separated personnel at the end of each fiscal year. Historical data may be kept for five years on separate tape files.

SYSTEM MANAGER(S) AND ADDRESSES:

Department Head, Management Information Analysis Department (Code 20B) NARDAC, Building 157, Washington Navy Yard, Washington, D.C. 20374.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the system manager. Written requests should contain the full name and signature of the individual concerned and his/her social security number indicated on the letter. For personal visits, the individual should be able to provide some acceptable form of identification, i.e., driver's license, etc.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes from

arguments either against or in support of this application may be requested by

Consent Order, the ERA may, after consideration of the comments received

Enforcement, ERA, arising out of the transactions specified in 1. above, the

Enforcement, P.O. Box 26247—Belmar, New Jersey 07718-0247.

circumstances, we are inviting any

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual to whom it applies, from security agencies to which application for clearances have been made, and from agencies' various administrative departments.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-36400 Filed 11-26-79; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 79-CERT-101]

Allied Chemical Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on October 4, 1979, Allied Chemical Corporation (Allied), Agricultural Division, P.O. Box 2120, Houston, Texas 77001, filed an application for certification of an eligible use of natural gas to displace fuel oil at its ammonia plant in Omaha, Nebraska, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126-A, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.-4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Allied states that the volume of natural gas for which it requests certification is 7,600 Mcf per day which is estimated to displace the use of 49,450 barrels of No. 5 fuel oil (1.8-2.3% sulfur) per year and 45,050 barrels of No. 2 fuel oil (0.5-0.6% sulfur) per year at Allied's Omaha Plant.

The eligible seller is Peoples Natural Gas Division of Northern Natural Gas Company, 29 South Main Street, Council Bluffs, Iowa 51501. The gas will be transported by the Northern Natural Gas Company, 2223 Dodge Street, Omaha, Nebraska 68102.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126-A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before December 7, 1979.

An opportunity to make an oral presentation of data, views, and

arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Allied and any persons filing comments, and published in the Federal Register.

Issued in Washington, D.C., on November 19, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-36518 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

Bow Valley Coal Resources, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Comments are to be received by December 27, 1979.

ADDRESS: Send comments to: Kenneth E. Merica, District Manager of Enforcement, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226; 303-234-3195.

SUPPLEMENTARY INFORMATION: On November 14, 1979, the Office of Enforcement of the ERA executed a proposed Consent Order with Bow Valley Coal Resources Inc. of Denver, Colorado. Under 10 CFR 205.199(b), a proposed Consent Order which involves a sum of \$500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed

Consent Order, the ERA may, after consideration of the comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Bow Valley Coal Resources Inc. (Bow Valley) with its home office located in Denver, Colorado, is the successor in interest by statutory merger to Flying Diamond Oil Corporation (Flying Diamond), a firm previously engaged in the production and sale of domestic crude oil and which was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period addressed by the Consent Order. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Flying Diamond, the Office of Enforcement, ERA, and Bow Valley entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order relates to sales of domestic crude oil by Flying Diamond to Husky Oil Corporation during the period January 1, 1974, to May 31, 1975.
2. The Consent Order recites that Flying Diamond sold an excessive amount of crude oil at the higher prices allowed for "new" and "released" crude oil rather than at the lower ceiling prices allowed under 10 CFR 212.73. The total overcharge to Husky Oil Corporation during the period in question was \$502,445.04.

3. The Consent Order provides that Bow Valley will refund that amount, plus interest, by payment to the United States Department of Energy for deposit in an escrow account pending determination of proper distribution of the refund.

4. The Consent Order also recites that Flying Diamond charged \$237,617.59 in excess of the lawful selling price in connection with sales of crude oil to Major Oil Corporation during the same time period. However, the right of Major Oil Corporation to refunds resulting from such an overcharge is a question now involved in litigation, and the DOE is not requiring, at this time, refunds by Bow Valley in connection with such overcharge.

5. The provisions of 10 CFR 205.199, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Bow Valley agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of

Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of \$502,445.04, plus interest through the date of the refund, within 30 days following the effective date of this Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. Potential Claimants. Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments. The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Kenneth E. Merica, District Manager of

Enforcement, P.O. Box 26247—Belmar Branch, Lakewood, Colorado 80226. You may obtain a free copy of this Consent Order, with proprietary information deleted, by writing to the same address or by calling 303-234-3195.

You should identify you comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Bow Valley Consent Order." We shall consider all comments we receive by 4:30 p.m., local time, on December 27, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Lakewood, Colorado, on the 15th day of November 1979.

Kenneth E. Merica,

District Manager of Enforcement.

[FR Doc. 79-36517 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-103]

Jersey Central Power & Light Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on October 9, 1979, Jersey Central Power & Light Company (JCP&L), Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, filed an application for certification of an eligible use of natural gas to displace fuel oil at its Sayreville Station facility in Middlesex County, New Jersey, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126-A, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.-4:30 p.m., Monday through Friday, except Federal holidays.

In its application, JCP&L states that the volume of natural gas for which it requests certification is approximately 25,000 Mcf of natural gas per day which is estimated to displace the use of approximately 550,000 barrels of No. 6 fuel oil (0.3% sulfur) for the period from November 1, 1979 to May 31, 1980.

The eligible seller is the Delhi Gas Pipeline Corporation, Fidelity Union Tower, Dallas, Texas. The gas will be transported by Panhandle Eastern, Columbia Gas System, Transcontinental Gas Pipeline Company, Texas Eastern Transmission Corporation, and the New Jersey Natural Gas Company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the

circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126-A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before December 7, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to JCP&L and any persons filing comments, and published in the Federal Register.

Issued in Washington, D.C., on November 19, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-36519 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

Wilson's Hilltop Exxon; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Wilson's Hilltop Exxon, 6400 Central Avenue, Seat Pleasant, MD 20027. This Proposed Remedial Order charges Wilson's Hilltop Exxon with pricing violations in the amount of \$2,555.54, connected with retail sales of motor gasoline during the time period August 1, 1979, through October 29, 1979, in the State of Maryland.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Leon Snead, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/254-5907. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 14th day of November 1979.

of Energy hereby gives notice pursuant

Proposed Prohibition Order Under Title

made by ERA prior to issuance of a final

finding, but may include a discussion of

C. Randall G. Smith, 105

Issued in Washington, D.C. on the 14th day of November 1979.

Robert D. Gering,
Director, Enforcement Program Operations
Division, Economic Regulatory
Administration.

[FR Doc. 79-36520 Filed 11-28-79; 8:45 am]
BILLING CODE 6450-01-M

[ERA Case No. 53003-0568-03-82]

United Illuminating Co.; Proposed Prohibition Order

The Economic Regulatory Administration (ERA) of the Department

ERA No.	Generating station	Powerplant No.	MW	Location
53003-0568-03-82	Bridgeport Harbor	3	400	Bridgeport Harbor, Conn.

Statement of Basis and Rationale for Proposed Prohibition Order

ERA has issued regulations applicable to existing facilities (Regulations), 10 CFR Part 504, to implement the prohibitions contained in Section 301(b) of Title III of FUA. Section 504.5 of the regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a powerplant where ERA finds that the powerplant has or previously had the technical capability to use an alternate fuel as a primary energy source.

United Illuminating reported to the Federal Energy Regulatory Commission (FPC Form 67), for the year ending December 31, 1978, that Bridgeport Harbor No. 3 burned 9,512 barrels of oil per day (3,472,000 barrels annually). The potential oil displacement in converting Bridgeport Harbor Powerplant No. 3 to an alternate fuel (coal) based on a capacity factor of 70 percent is 11,380 barrels of oil per day (4,153,000 barrels annually).

Finding of Technical Capability

In accordance with Section 301(b) of Title III of FUA, this proposed order is based on a finding by ERA that United Illuminating's Bridgeport Harbor Powerplant No. 3 has or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. The fact that Bridgeport Harbor Powerplant No. 3 was designed and constructed to burn coal as a primary energy source was confirmed by United

of Energy hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, of the following proposed prohibition order which would prohibit the powerplant named below from burning natural gas or petroleum as its primary energy source.

Proposed Prohibition Order

Pursuant to the authority granted it by Section 301(b) of FUA, ERA issues this proposed prohibition order to the following powerplant owned by United Illuminating Company of New Haven, Connecticut (United Illuminating).

illuminating in its letter dated July 10, 1975. In addition, Gilbert Associates, Reading, Pennsylvania, (a consulting engineering firm retained by the Federal Energy Administration) confirmed the coal capability of Powerplant No. 3 in its report "Assessment of the Feasibility of Converting to Coal", dated October 9, 1975.

The technical capability finding is made in accordance with the requirements of § 504.5(d) of the Regulations, taking into consideration the ability of the unit, from the point of fuel intake, to physically sustain combustion of coal and maintain heat transfer as evidenced by the existing equipment. This finding recognizes, in accordance with § 504.5(d), that the Bridgeport Harbor Powerplant No. 3 is capable of burning coal, notwithstanding minor refurbishment of plant equipment in order to burn coal as a primary energy source or any required installation of air pollution control equipment to meet air quality standards.

Other Required Findings

Section 301(b) of FUA states that prior to the issuance of a final prohibition order ERA must also find that (1) the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have capability without (A) substantial modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) it is financially feasible for the powerplant to use coal or another alternate fuel as the primary energy source in such powerplant.

Proposed Prohibition Order Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit United Illuminating's Bridgeport Harbor Powerplant No. 3 from burning petroleum or natural gas as its primary energy source.

Description of Prohibition Order Proceedings

Pursuant to Section 301 of FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuels (coal) and has informed United Illuminating that it is considering issuance of a proposed prohibition order. ERA has also had informal discussions with United Illuminating concerning the issuance of a proposed prohibition order.

(2) ERA has made a finding that United Illuminating's Bridgeport Harbor Powerplant No. 3 has or previously had the technical capability of using coal as its primary energy source. ERA is publishing this finding and proposed prohibition order in the Federal Register as required by Section 701(b) of FUA. In accordance with Section 301(b) of FUA, the proposed prohibition order is not required to contain, at this point in the proceeding, the other pertinent findings that ERA must make before a final prohibition order can be issued. These are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant, or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for United Illuminating to use coal or another alternate fuel as a primary energy source in such powerplant.

(3) In accordance with Section 501.51(b)(3) of the Regulations, a three-month public comment period is to commence, during which period United Illuminating will be given an opportunity to challenge ERA's initial finding of technical capability contained in this proposed prohibition order.

During this 90 day comment period, under § 501.51(b)(3) of the Regulations, United Illuminating is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be

made by ERA prior to issuance of a final prohibition order. United Illuminating will also be required, during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the Bridgeport Harbor Powerplant No. 3 may qualify.

(4) Subsequent to the end of the three-month comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition order proceeding. Within three months of the issuance of the notice of intention to proceed with the prohibition order, an owner or operator of a powerplant that may be subject to an order may demonstrate prior to issuance of a final prohibition order that the powerplant would qualify for an exemption if the prohibition had been established by rule.

(5) Subsequent to the end of second three-month period, ERA will, if it intends to issue a final prohibition order, prepare and publish notice of availability of a tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must request a hearing within 45 days after publication of the notice of availability of the tentative staff decision. If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed order and tentative staff decision, United Illuminating's showing on exemptions and rebuttal of ERA's proposed order, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and comment period, ERA shall determine whether a final prohibition order will be issued based upon a review of the entire administrative record. A final prohibition order, if issued, will be published in the Federal Register. Final orders become effective sixty days after publication.

Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding this proposed prohibition order. Comments need not be limited to ERA's technical capability

finding, but may include a discussion of all three statutory findings.

The initial comment period shall remain open for a period of 90 days after publication of this proposed order in the Federal Register, unless reduced at the request of the recipient of the proposed prohibition order pursuant to 10 CFR Part 501.51(b)(8). Notice of any such change during the time for public comment will be published in the Federal Register. Comments should make reference to the docket number set forth in this notice and proposed order. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed prohibition order believed to be relevant. Written comments on the proposed prohibition order should be directed to Public Hearing Management (Case No. 53146-3809-01-82), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, and should be received before 4:30 p.m. on February 25, 1980.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed order. The request must include a description of the person's interest in the proposed prohibition order, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Bridgeport Harbor Powerplant No. 3." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

FOR FURTHER INFORMATION CONTACT: William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, (202) 634-2170.

Robert L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128L, Washington, D.C. 20461, (202) 634-6557.

G. Randolph Comstock (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6C-087, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C., November 21, 1979.

Robert L. Davies,
Acting Assistant Administrator, Office of
Fuels Conversion, Economic Regulatory
Administration.

[FR Doc. 79-36502 Filed 11-28-79; 8:45 am]
BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA and the firms listed below during the month of October. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Allocation and Price Regulations and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;
2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height; and
3. Properly maintain records required under the aforementioned regulations.

For further information regarding these Consent Orders, please contact Jack Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, telephone number (415) 556-7200.

Issued in Washington D.C., on the 20th day of November, 1979.

Robert D. Gering,
Director, Enforcement Program Operations
Division, Economic Regulatory
Administration.

Firm Name, Address, and Audit Date
Cho Shell, 8767 Firestone, Downey, CA. 8/31/
79.

Willie Brown, 10009 So. Central, Los Angeles, CA 90022, 9/28/79.
 Al Moore, 105 W. Century, Los Angeles, CA, 9/28/79.
 Chin Shell Service, 11255 S. Normandie Ave., Los Angeles, CA, 9/28/79.
 Tae Ahn Pyo, 2706 N. Central, Compton, CA, 9/28/79.
 Cha Sik An Mobil, 1400 E. Rosecrans, Compton, CA, 9/28/79.
 Oshun Arco, 3770 S. Western Ave., Los Angeles, CA, 9/26/79.
 Isa Igarash Chevron, 384 S. Arlington, Los Angeles, CA, 9/26/79.
 Attn's Service Center, 3909 W. Olympic, Los Angeles, CA, 9/27/79.
 Adrian Ruiz Exxon, 11007 South Street, Cerritos, CA, 9/27/79.
 Fontenot Shell, 1712 E. Alondra, Compton, CA, 9/28/79.
 Fontenot Shell Service, 106 N. Long Beach, Compton, CA, 9/28/79.
 George Chevron, 6219 S. Vermont, Los Angeles, CA, 9/28/79.
 Nielzer Lopez Chevron, 1009 Crenshaw, Los Angeles, CA, 9/28/79.
 Fernando Morales Chevron Service, 1278 N. Western Ave., Los Angeles, CA 90029, 9/28/79.
 Willy Peniche, Chevron Dealer, 8105 Beverly Blvd., Los Angeles, CA 90048, 9/28/79.
 Jack's Chevron Service, 21633 So. Wilmington Ave., Carson, CA, 9/28/79.
 Al Rauber Chevron Service, 2442 So. Peck Road, Whittier, CA, 9/28/79.
 MacCaskey & Son Service Center, 2055 W. Glenoaks Blvd., Glendale, CA 91201, 9/28/79.
 Wally's Union 76, 367 North Chevy Chase Drive, Glendale, CA 91206, 9/28/79.
 Gene's Auto Service Center, 1700 W. Glenoaks Blvd., Glendale, CA 91201, 9/28/79.
 Endo Repair Shop, 2917 W. Jefferson, Los Angeles, CA, 10/1/79.
 A & T Shell, 3203 W. Jefferson, Los Angeles, CA, 10/1/79.
 Louis Chevron, 3511 Homeland, Los Angeles, CA, 10/1/79.
 Jose Bazan Chevron, 3063 Crenshaw, Los Angeles, CA, 10/1/79.
 Chan's Shell Service, 6061 Hollywood Blvd., Hollywood, CA 90028, 10/1/79.
 Ruben Chevron Service, 5700 Melrose Ave., Los Angeles, CA 90038, 10/1/79.
 E. Bastarrachea Chevron Service, 2548 S. La Brea Ave., Los Angeles, CA 90016, 10/1/79.
 Bob Truss Super Chevron, 8981 Westminster, Westminster, CA 92683, 10/1/79.
 Jay's Shell Service, 4530 Angeles Crest, La Canada, CA 91011, 10/1/79.
 Greg's Mobil, 900 W. Glenoaks Blvd., Glendale, CA 91202, 10/1/79.
 Richard Lee/Lee's Texaco, 4200 S. Crenshaw, Los Angeles, CA, 10/2/79.
 Winslow Cervantes, 850 Washington, Los Angeles, CA, 10/2/79.
 Eduardo H. Orfegon, 2538 Crenshaw, Los Angeles, CA, 10/2/79.
 Heydoh's Union Service, 1900 Hillhurst Ave., Los Angeles, CA, 90027, 10/2/79.
 Bill's Mobil, 10701 East South, Cerritos, CA, 90701, 10/2/79.
 Mack's Service Center, 3328 W. Carson Street, Torrance, CA, 10/2/79.

Tom's Automotive Center, 1400 and 1402 Glenoaks Blvd., San Fernando, CA 91340, 10/2/79.
 Tujunga Shell, 7671 Foothill Blvd., Tujunga, CA 91042, 10/2/79.
 Luis Hernandez Chevron, 634 W. Pico, Los Angeles, CA, 10/3/79.
 Bennie Casap/B & E Service, 6129 Avalon, Los Angeles, CA, 10/3/79.
 Alfredo Rosado Chevron Service, 7909 Santa Monica Blvd., Los Angeles, CA 90046, 10/3/79.
 Brian Tansey Tire, Co. (Arco), 1000 E. Pacific Coast Highway, Seal Beach, CA, 10/3/79.
 Mike's Shell, 4285 W. El Segundo Blvd., Torrance, CA, 90250, 10/3/79.
 Plaza Exxon, 2589 Moreno, Montclair, CA 91763, 10/3/79.
 Roy Reed Chevron Service, 1105 N. Mountain, Ontario, CA 91762, 10/3/79.
 Allen's Service, 807 W. Vernon Ave., Los Angeles, CA, 10/3/79.
 Freeway Mobil, 12800 E. Rosecrans, Norwalk, CA, 10/3/79.
 Jesse's Texaco, 4275 Avalon, Los Angeles, CA, 10/3/79.
 Eli's Texaco, 5810 Avalon Blvd., Los Angeles, CA, 10/3/79.
 Bob Stebbins Chevron, 3997 Ball Rd., Los Alamitos, CA 90720, 10/4/79.
 Abel's Chevron Service, 7020 W. Beverly Blvd., Los Angeles, CA 90038, 10/5/79.
 George's Harbor Exxon, 17222 Pacific Coast Highway, Huntington Beach, CA 92649, 10/5/79.
 Tony's Exxons, 15991 Magnolia, Westminster, CA 92683, 10/9/79.
 Tsang Exxon, 601 S. Beach Blvd., Anaheim, CA 92804, 10/9/79.
 Cervantes Shell Station, 101 W. Pacific Coast Highway, Wilmington, CA 90744, 10/9/79.
 Lanzarotta Texaco, 3402 Atlantic Avenue, Long Beach, CA, 10/9/79.
 Marina Tire Company, 12970 W. Washington Blvd., Los Angeles, CA, 10/9/79.
 Tate's Service Center, 11122 Washington Blvd., Whittier, CA, 10/9/79.
 Mario Camaragual, 4201 Washington, Los Angeles, CA 90018, 10/9/79.
 Gary's Chevron Service, 1570 S. Western, Los Angeles, CA 90006, 10/9/79.
 Sal Patron Chevron, 4004 S. Vermont, Los Angeles, CA, 10/9/79.
 Temple Chevron Service, 501 Glendale Blvd., Los Angeles, CA 90026, 10/10/79.
 Mand M. Texaco, 1603 W. Pacific Coast Highway, Long Beach, CA 90810, 10/10/79.
 Century City Chevron Service, 9801 W. Pico Blvd., Los Angeles, CA 90035, 10/10/79.
 Ray Henderson Texaco, 548 S. Central, Compton, CA 90220, 10/10/79.
 Jim Dunbar, 7907 Santa Fe Ave., Huntington Park, CA, 10/10/79.
 Turner's Texaco, 10000 Figueroa, Los Angeles, CA, 10/10/79.
 Ike's Auto Repair, 1940 Hoover Street, Los Angeles, CA, 10/10/79.
 Dick & Bob's Chevron, 5900 Pacific Blvd., Huntington Park, CA, 10/10/79.
 B. S. Chevron Service, 7861 Melrose Ave., Los Angeles, CA 90046, 10/11/79.
 Roy's Chevron, 2606 So. Western, Los Angeles, CA, 10/11/79.
 Dale Winger Chevron, 6340 E. Spring Street, Long Beach, CA 90815, 10/11/79.
 Bragg & Sons, 3100 W. Manchester, Inglewood, CA 90305, 10/11/79.

Isaac's Gas Service, 8555 Foothill Blvd., Sunland, CA 91040, 10/11/79.
 Taghi's Service Center, 2700 Hyperiod, Los Angeles, CA 90027, 10/12/79.
 Badie's Chevron, 403 N. Alverado, Los Angeles, CA 90026, 10/12/79.
 Choi's Exxon Station, 2995 Long Beach Blvd., Long Beach, CA 90806, 10/12/79.
 Gary's Exxon, 9001 Adams, Huntington Beach, CA 92646, 10/12/79.
 Bob's Exxon, 18020 Magnolia, Fountain Valley, CA 92708, 10/12/79.
 Sam's Service Center, 700 South Sunset Ave., West Covina, CA, 10/12/79.
 Robert Hodges Union, 2598 S. Figueroa, Los Angeles, CA, 10/12/79.
 Chun's Service, 1355 W. Santa Barbara, Los Angeles, CA, 10/12/79.
 Han's Service, 505 W. Olympic Blvd., Los Angeles, CA, 10/12/79.
 Jackson Service, 9111 So. San Pedro, Los Angeles, CA, 10/12/79.
 Willie Arco, 2050 Manchester, Los Angeles, CA, 10/15/79.
 Ken Stephen's Chevron Service, 1405 Echo Park Ave., Los Angeles, CA 90028, 10/16/79.
 Aram's Texaco, 1900 S. Pacific Coast Hwy., Redondo Beach, CA 90277, 10/16/79.
 Yoo Exxon Service, 5100 West Pico Blvd., Los Angeles, CA 90019, 10/16/79.
 Martins Arco, 13480 E. Firestone, Santa Fe Springs, CA, 10/16/79.
 Ray's Chevron Service, 17175 E. Colima Rd., Hacienda Heights, CA, 10/16/79.
 Toni's Freeway Service Center, 13440 E. Firestone, Santa Fe Springs, CA, 10/16/79.
 Ron Abel Shell, 21924 Devonshire, Chatsworth, CA, 10/16/79.
 Chaim Shamam Chevron Station, 9098 Santa Monica Blvd., Los Angeles, CA 90028, 10/17/79.
 L & S Texaco Frank Lee, 20460 Sherman Way, Canoga Park, CA 91306, 10/17/79.
 Ross Shell, 6108 Palos Verdes Drive, Rancho Palos Verdes, CA 90274, 10/17/79.
 DBA Marquez's Shell Service, 2603 So. Central, Los Angeles, CA 90011, 10/17/79.
 DBA Gary Service Center (Mobil), 2403 E. Slauson, Huntington Park, CA 90255, 10/17/79.
 DBA Moon's Texaco, 9915 S. Broadway, Los Angeles, CA, 10/17/79.
 Nelingers Chevron Service #1, 8900 Corbin Ave At Nordhoff, Northridge, CA 91324, 10/18/79.
 Anzsa & Sepulveda Shell, 4437 Sepulveda Blvd., Torrance, CA 90505, 10/18/79.
 DBA Mike's Shell Service, 14705 Praire Ave., Lawndale, CA 90260, 10/18/79.
 Century City Service, 10281 W. Pico Blvd., Los Angeles, CA 90064, 10/18/79.
 Silva Arco, 608 Slauson, Los Angeles, CA, 10/19/79.
 McHenry Chevron, 4410 Figueroa Street, Los Angeles, CA, 10/19/79.
 Ahn's Mobil, 254 Slauson, Los Angeles, CA, 10/19/79.
 George's Exxon, 15471 Golden West, Huntington Beach, CA 92647, 10/22/79.
 Arco Golden West, 17502 Golden West, Huntington Beach, CA 92647, 10/22/79.
 S & F Texaco Service, 102 E. Arrow Hwy., San Dimas, CA 91773, 10/22/79.
 Los Altos Car Wash, 5470 Stearns Street, Long Beach, CA 90815, 10/22/79.

Joseph Dell Ollo's Shell Service, 9030 National Blvd., Los Angeles, CA, 10/22/79.
 Ven-Cino Car Wash, 17432 Ventura Blvd., Northridge, CA 91324, 10/22/79.
 Beri Texaco, 17301 Saticoy Street, Northridge, CA 91324, 10/22/79.
 Lee Shell, 1553 Manchester, Los Angeles, CA, 10/22/79.
 Pat Ivins Chevron Service, 870 E. Arrow Hwy., Covina, CA 91722, 10/23/79.
 Alvarez Shell Service, 15106 Hawthorne, Lawndale, CA, 10/23/79.
 John Farris Chevron, 301 S. Lincoln, Venice, CA, 10/23/79.
 John's Super Shell, 1518 North Garvey Ave., Pomona CA 91760, 10/23/79.
 Fakhoury Service Center, 222 S. Vincent Ave., West Covina, CA, 10/23/79.
 Ron's Texaco, 5706 Washington, Commerce, CA, 10/23/79.
 Aguilar's Exxon Service, 330 N. Alverado, Los Angeles, CA, 10/24/79.
 McGivney Exxon, 18515 E. Arrow Hwy., Covina, CA 91722, 10/24/79.
 Harry's Union Station, 5552 West Century Blvd., Los Angeles, CA 90045, 10/24/79.
 Len's R. Dhuyvetter, 201 S. Azusa Ave., West Covina, CA, 10/24/79.
 Ron's Exxon Service Center, 1201 E. Orange Thorpe, Fullerton, CA, 10/24/79.
 Frank Ingram Chevron, 7214 Whittsett Ave., No. Hollywood, CA 91605, 10/24/79.
 Ron and Bill's Texaco, 18968 Ventura Blvd., Tarzana, CA 91358, 10/24/79.
 Willowbrook Chevron, 2810 Wilmington, Compton, CA, 10/24/79.
 Doshi Texaco, 1248 Wilmington, Compton, CA, 10/24/79.
 Gene Stewart Chevron, 2702 E. Firestone, South Gate, CA, 10/24/79.

Retailer Violation—Federal Register

Station Name, Location, and Audit Date
 Marysville Shell, 3320 62nd, Marysville, WA 98270, 9/19/79.
 Midway Exxon Products, 2450 SE 122nd Ave., Portland, OR 97233, 10/2/79.
 Husky Sport Shop, 1006 Pullman Rd., Moscow, ID 83843, 10/2/79.
 Lackman's Exxon, 5638 NE Sandy Blvd., Portland, OR 97213, 10/4/79.
 Ron Carter Chevron, 10216 NE Halsey, Portland, OR 97220, 10/24/79.
 Emmett Wesley Chevron, 18010 NE Glisan, Portland, OR 97230, 10/24/79.
 Han H. Lee Exxon, 4111 SE Woodstock, Portland, OR 97202, 10/24/79.
 J B Service, 12025 Des Moines Way, Seattle, WA 98148, 10/23/79.
 Verdi's Exxon, 16402 Military Rd., Seattle, WA 98188, 10/23/79.
 Tim Gilbert Exxon, 2450 SE 122nd, Portland, OR 97233, 9/18/79.
 Bill Little Shell, 12214 SE Powell, Portland, OR 97236, 9/18/79.
 Sandy Oil Company, P.O. Box 88, Sandy, OR 97055, 10/24/79.
 Smith Motor Co., 39191 Procter, Sandy, OR 97055, 10/24/79.
 Triboals and Nelson Union, 868 El Camino Real, San Carlos, CA, 9/10/79.
 Clarence Shell, 8830 Bancroft Avenue, Oakland, CA, 9/13/79.
 Telegraph Shell, 500 40th Street, Oakland, CA, 10/17/79.
 Golden Gate Texaco, 6818 Bancroft Avenue, Oakland, CA, 10/17/79/

Garabedian's Exxon, 771 El Camino, San Bruno, CA, 10/17/79.
 Garabedian's Exxon, 2880 W. San Bruno Ave., San Bruno, CA, 10/17/79.
 Dan Atovilar's Chevron, 804 E. El Camino Real, Mt. View, CA, 10/18/79.
 Americana Shell, 790 E. El Camino Real, Mt. View, CA, 10/18/79.
 South City Quick Tune, 45 Chestnut Avenue, South San Francisco, CA, 10/18/79.
 Ray's Shell Service, 5817 Bancroft Avenue, Oakland, CA, 10/22/79.
 Whipple Avenue Chevron, 600 Whipple Avenue, Redwood City, CA, 10/22/79.
 Fremont Union Service, 36979 Fremont Blvd., Fremont, CA, 10/23/79.
 AAA Shell Diagnostic, 2090 The Alameda, San Jose, CA, 10/24/79.
 Vacaville Sav-A-Lot #5, 401 Merchant Street, Vacaville, CA, 10/25/79.
 John Malone Texaco, 334 San Antonio, Mt. View, CA, 10/2/79.
 Johnny's Shell Service, 248 South Airport Blvd., S. San Francisco, CA, 10/28/79.
 [FR Doc. 79-36340 Filed 11-26-79; 8:45 am]
 BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure, Subcommittee on Review of Commission Decisional Process; Meeting

November 20, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Subcommittee on Review of the Commission Decisional Process of the Advisory Committee on Revision of Rules of Practice and Procedure will meet Wednesday, December 12, 1979, from 2:00 p.m. to 5:00 p.m., at the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE, Room 2005, Washington, D.C.

The purpose of the meeting is to discuss the Subcommittee's work on the hydroelectric decisional process. The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Division of Public Information, Room 1000, 825 N. Capitol Street, NE., between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday except Federal holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,
 Secretary.

[FR Doc. 79-36390 Filed 11-26-79; 8:45 am]
 BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of June 4 Through June 8, 1979

Notice is hereby given that during the week of June 4 through June 8, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Butler, Binion, Rice, Cook & Knapp,
 Washington, D.C. DFA-0380 Freedom of information

The law firm of Butler, Binion, Rice, Cook & Knapp filed an Appeal from an Order which was issued to it by the Director of the DOE Division of Freedom of Information and Privacy Act Activities. In its initial request, Butler sought access to attachments to a Proposed Remedial Order which the Department of Energy issued to Coastal States Gas Corporation on September 6, 1978. The Director had determined to withhold the attachments pursuant to Exemption 4 of the Freedom of Information Act. In considering the Butler Appeal, the DOE concluded that the Director's determination was correct. The DOE found that the attachments to the September 6 Proposed Remedial Order consisted solely of commercial and financial information which, if released to the public, could cause substantial damage to Coastal States' competitive position. On the basis of these considerations, the Butler Appeal was denied.

Petition for Special Redress

Tresler Oil Co., Cincinnati, Ohio, DSG-0050
 motor gasoline

The Tresler Oil Company filed a Petition for Special Redress in which it requested that the Office of Special Counsel of the Department of Energy be directed to issue an Interim Remedial Order for Immediate Compliance to the Champlin Petroleum Company, pending the issuance of a final Decision and Order on a Champlin Appeal of a 1977 Remedial Order. While the Tresler Petition was pending, the DOE issued a final Decision and Order on the merits of the Champlin Appeal. Consequently, the Tresler Petition was found to be moot and the DOE dismissed it.

Appeals

Atlantic Richfield Co., Los Angeles, Calif.,
 DRA-0107, diesel fuel

The Atlantic Richfield Company (Arco) filed an Appeal from a Remedial Order which was issued to the firm by DOE Region IX. In the Remedial Order, Region IX found that Arco had placed Fleet Supplies, Inc. (Fleet) in an incorrect class of purchaser, and that Arco had as a consequence sold diesel fuel to Fleet at prices which exceeded the maximum allowable ceiling price. On the basis of this

finding, Region IX directed Arco to refund the amount of its overcharges to Fleet, with interest. In considering the Arco Appeal, the DOE rejected Arco's contention that Fleet was a member of Arco's commercial consumer class of purchaser. The DOE found that Fleet had provided Arco with unique cost advantages which were not provided by typical commercial consumers, and that these advantages were reflected in the unique price which Arco had historically charged Fleet. The DOE also found that despite the brevity of the NOPV which had been issued to Arco and the fact that the Remedial Order contained charges which had not been set forth in the NOPV, the Remedial Order was not procedurally deficient. Accordingly, Arco's Appeal was denied.

Exxon Co., U.S.A., Houston, Tex., DFA-0403, freedom of information

Exxon Company, U.S.A. (Exxon) appealed from a partial denial by the Director of the Division of Freedom of Information and Privacy Act Activities of a request for information that Exxon had filed under the Freedom of Information Act (FOIA). Exxon had sought copies of all records in the DOE's files concerning a compliance case involving the application of certain DOE regulations to the operation of the firm's Hawkins Field Unit in Wood County, Texas. In its Appeal, Exxon requested that the DOE direct the Information Access Officer to release 61 documents which were withheld from the firm pursuant to the provisions of 5 U.S.C. 552(b)(2), 552(b)(4), 552(b)(5) and 552(b)(7)(E). During the course of this proceeding, the Office of Special Counsel submitted comments in which it contended that Exxon was using the FOIA as a discovery tool in litigation with the DOE, and that the processing of the firm's request and the release of information pursuant to it would interfere with the DOE's ongoing enforcement proceeding against the firm in the United States District Court for the District of Columbia. In considering the Appeal, the DOE concluded that all of the documents sought by Exxon were "investigatory records compiled for law enforcement purposes" the production of which would be so burdensome that it would "interfere with enforcement proceedings," and that they were therefore exempt in their entirety from mandatory public disclosure under Section 552(b)(7)(A) of the FOIA. Finally, the DOE determined that the disclosure of these documents would not be in the public interest. Accordingly, the Exxon Appeal was denied.

Requests for Exception

L. W. Babcock, Montecito, Calif., DXE-2137

L. W. Babcock filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a portion of the crude oil which it produces from the Union Avenue Field at upper tier ceiling prices. L. W. Babcock, 2 DOE Par. 81,071 (1978). In considering the exception application, the DOE found that L. W. Babcock continued to incur increased operating expenses at the Union Avenue

Field and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at that field. In view of this determination and on the basis of the operating data which L. W. Babcock had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit L. W. Babcock to sell at upper tier ceiling prices 82.63 percent of the crude oil produced from the Union Avenue Field for the benefit of the working interest owners for a six-month period.

Kern County Refinery, Inc., Bakersfield, Calif., DXE-1076, crude oil

Kern County Refinery, Inc., filed an Application for Exception from the provisions of the Entitlements Program. On June 22, 1978, the DOE issued a Proposed Decision and Order that tentatively granted the firm's exception request in part. On July 25, 1978, Kern filed a Statement of Objections to the proposed determination. In considering the Statement of Objections, the DOE rejected the firm's contention that the DOE had imposed a ceiling upon the level of exception relief granted to Kern but had failed to specify the circumstances in which a ceiling would be applied. The DOE noted that Kern's other contentions regarding the 1975 ceiling limitation had previously been rejected in *Kern County Refinery, Inc.*, 3 DOE Par. —, Case No. DXE-0088 (February 5, 1979). Kern also objected to the exclusion from the calculation of its profits of all salaries paid to its owner-officers. The DOE declined to consider this issue because it was irrelevant to the amount of exception relief granted to the firm. The firm's application was therefore granted, subject to the ceiling limitation referred to above. However, the amount of relief granted was reduced as a result of corrections to certain base period crude oil receipts.

Perrault Production Co., Tulsa, Okla., DXE-6035, crude oil

Perrault Production Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which if granted would result in an extension of exception relief previously granted and would permit the firm to sell at exempt prices the crude oil that it produced from the Cudjo lease, located in Seminole County, Oklahoma. *Perrault Production Co.*, 2 DOE Par. 81,021 (1978). In considering the firm's exception request, the DOE found that Perrault had no economic incentive to continue to produce crude oil from the Cudjo lease, and that it was unlikely that the crude oil in the reservoir underlying the lease could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Perrault and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE determined an exception should be granted so that Perrault could sell at upper tier ceiling prices 78.02 percent of the crude oil produced from the Cudjo lease for the benefit of the working

interest owners during the period June 1, 1979 through November 30, 1979.

Monsanto Co., Houston, Tex., DXE-2122, and DXE-2123

Monsanto Company filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would result in an extension of exception relief previously granted and would permit the firm to continue to sell a portion of the crude oil which it produces from the Milo No. 1 Well and the State 18-1 Well at upper tier ceiling prices. *Monsanto Company*, 2 DOE Par. 31,072 (1978). In considering the exception applications, the DOE found that Monsanto Company continued to incur increased operating expenses at the Milo No. 1 Well and the State 18-1 Well and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil at those wells. In view of this determination and on the basis of the operating data which Monsanto Company had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Monsanto Company to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Milo No. 1 Well and 33.69 percent of the crude oil produced from the State 18-1 Well for the benefit of the working interest owners for a six-month period.

Premier Resources, Ltd., Denver, Colo., DEE-2153, DEE-2154, and DEE-2155

Premier Resources, Ltd. (Premier) filed three Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Jablonsky #1 Well, Jablonsky #2 Well and the Tuhy Well located in the Zenith Field in Stark County, North Dakota. In considering the exception request for the Tuhy Well, the DOE found that, as result of a recent substantial reduction in operating expenses for that well, the applicant would be able to operate the well on a profitable basis even if the crude oil is sold at the applicable lower tier ceiling price. Accordingly, the DOE determined that exception relief should be denied for the Tuhy Well. With respect to the Jablonsky #1 and Jablonsky #2 Wells, the DOE found that Premier had no economic incentive to continue to produce crude oil from those two wells, and that it was unlikely that the crude oil in the reservoir underlying the Jablonsky #1 and Jablonsky #2 Wells would be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Premier and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Premier to sell at upper tier ceiling prices 65.45 and 100 percent of the crude oil produced from the Jablonsky #1 Well and Jablonsky #2 Well, respectively, for the benefit of the working interest owners for the period February 7, 1979 through July 31, 1979.

Bultman, Inc., Elkhart, Kans., DEO-0098, propane

Bultman, Inc. filed an Application for Exception from the provisions of 10 CFR 212.93 in which the firm sought relief from its obligation to refund overcharges which may have occurred with respect to propane sales during the period October 1973 through December 1978. In considering the Bultman Application, the DOE found that the firm had not submitted the financial material necessary to evaluate its request. Accordingly, exception relief was denied.

Special Counsel, Washington, D.C., DRR-0051, fuel oil

The Office of Special Counsel of the Department of Energy filed a Motion to Vacate a Decision and Order that was issued to the Gulf Oil Corporation in 1977. The 1977 Decision denied Gulf's Appeal of a Remedial Order. In its Motion, the Special Counsel noted that in view of the issuance of DOE Ruling 1979-1, 44 Fed. Reg. 24046 (1979), there was no longer a legal basis for upholding the Remedial Order and that the Order had therefore been rescinded. Since the Remedial Order had been rescinded, the Office of Hearings and Appeals determined that the 1977 Decision and Order should be vacated for mootness.

Request for Modification and/or Rescission

Commonwealth Oil Refining Co., Inc., Penuelas, Puerto Rico, DMR-0045, unfinished oils

The Commonwealth Oil Refining Co., Inc. (Corco) filed an Application for Modification in which it requested that the terms of a Decision and Order issued to Corco on October 17, 1978 be modified. In that Decision, the DOE granted Corco exception relief which permitted the firm to import crude oil and naphtha for use as feedstocks on a fee-exempt basis, during the allocation period which ended on April 30, 1979. In its Application for Modification, Corco observed that it initially requested fee-exempt authority for crude and unfinished oils, and not just for crude oil and naphtha. The firm also observed that during a more recent allocation period, it had imported significant volumes of Xylene, an unfinished oil, for which it had not been granted fee-exempt authority in the October 17 Decision. Corco requested that the terms of the October 17 Decision be modified to include all unfinished oils which the firm had imported for use as feedstocks. After reviewing the Corco request, the DOE concluded that the October 17 Decision was intended to apply to all feedstocks imported by the firm and should not have been limited to crude oil and naphtha. Accordingly, the Corco modification request was approved.

Requests for Stay

Crown Central Petroleum Corp., Baltimore, Md., Office of Special Counsel, Washington, D.C., DES-0211, distillates and motor gasoline

Crown Central Petroleum Corporation (Crown) and the Office of Special Counsel jointly filed an Application for Stay of enforcement proceedings initiated by a

Proposed Remedial Order which was issued to Crown on October 23, 1978 by the Office of Special Counsel. In considering the application, the DOE determined that further administrative action with respect to the October 23 PRO should be stayed in order to create an atmosphere which would be conducive to a resolution by the parties themselves of some of the issues involved. The Crown stay request was therefore granted.

Motions for Evidentiary Hearing and Discovery

Glenn Martin Heller, Boston, Mass., DRH-0184, DRD-0184, motor gasoline

Glenn Martin Heller filed a Motion for Evidentiary Hearing and a Motion for Discovery in connection with his Statement of Objections to a Proposed Remedial order which was issued to him on March 6, 1979. In his Motion for Evidentiary Hearing, Heller identified several issues which he contended should be the subject of an evidentiary hearing. In considering the Motion, the DOE determined that Heller had failed to show that an evidentiary hearing would substantially assist the DOE in making findings of fact in the enforcement proceeding. With respect to Heller's Motion for Discovery the DOE concluded that: (i) Heller's request that certain documents be produced was moot since the ERA had already furnished Heller with the material he sought; (ii) Heller's request that the ERA admit the genuineness of various documents and the truth of various facts failed to specify with particularity the precise documents or facts whose veracity the ERA was requested to affirm; (iii) Heller failed to show that ERA responses to certain specified written interrogatories was necessary to obtain relevant and material evidence; and (iv) Heller failed to make a convincing showing that he could only obtain certain specified material by taking the depositions of certain named parties. Accordingly, Heller's Motion for Evidentiary Hearing and Motion for Discovery were denied.

Johnson Oil Co., Inc., Washington, D.C., DES-0206, crude oil

Johnson Oil Company, Inc. filed an Application for Stay from the requirement that it purchase entitlements (10 CFR 211.67). In considering the Application, the DOE determined that the financial material which the firm had submitted was incomplete and that the firm had failed to satisfy any of the criteria for the approval of a stay. Johnson's stay request was therefore denied.

R. H. Engelke, San Antonio, Tex., DRA-0146, DRO-0070, crude oil

R. H. Engelke filed an Appeal of a Remedial Order and a Statement of Objections to the issuance of a Proposed Remedial Order in final form. The RO and PRO concluded that Engelke had sold some of its crude oil at prices in excess of applicable ceiling prices. In its Appeal, Engelke contended that the RO and PRO erroneously found that the firm should have based its prices on Texaco posted price bulletin which specified prices for the fields on which the firm's properties were located. Engelke argued that although the Texaco

bulletins contained the only specific price posting for those fields, the bulletins were inapplicable to the crude oil which Engelke produced because they did not specify the grade of crude oil to which they applied. However, the DOE found that the Texaco bulletins applied to all of the crude oil produced from those fields. The DOE also rejected Engelke's argument that the posted prices upon which Engelke should have based its prices were set forth in bulletins which specifically pertained to fields other than those in which the firm's properties were located. Finally, the DOE rejected Engelke's contention that a price posting was inapplicable unless a transaction pursuant thereto had occurred on May 15, 1973 or September 30, 1975. The DOE noted that the applicable regulations stated that a posting had to be "applicable" to transactions rather than actually used in transactions. Accordingly, Engelke's Appeal and Statement of Objections were denied.

Interlocutory Order

Belcher Oil Co., and Florida Power & Light Co., Miami, Fla., DRZ-0192, fuel oil

The Belcher Oil Company filed a Motion to Remand a Proposed Remedial Order which had been issued to the firm on March 19, 1979. In its Motion Belcher asserted that the PRO disregarded the DOE's policy on separate inventory cost accounting, and placed transaction in one of the eight facilities operated by Belcher which were involved in this proceeding in an incorrect class of purchaser. The DOE dismissed the Belcher Motion because it found that the separate inventory cost accounting issue affected only one of the firm's eight facilities and was a dispute properly subject to adjudication before the Office of Hearings and Appeals.

In the same Decision and Order, the DOE also considered a Motion for Release of Supplemental Information which was filed by the Florida Power & Light Company, the firm entitled to a refund of overcharges under the terms of the March 19, PRO. In considering the Motion, the DOE determined that Statements of Objections had not yet been filed in the proceeding and that the request for documents was therefore premature.

Exxon Co., USA, Houston, Tex., DST-0426 through DST-0434, DES-0426 through DES-0434, motor gasoline

Exxon Company, USA requested a temporary stay and stay of nine Orders for the Redirection of Product which the ERA issued to the firm pursuant to 10 CFR 211.107(c). In rejecting the temporary stay request, the DOE concluded that Exxon had failed to demonstrate that its compliance with the Redirection Orders would reduce to any measurable extent the supplies of motor gasoline available to its customers or, in the alternative, that the firm would experience any financial hardship if it were to purchase additional quantities of motor gasoline at the price levels which currently pertain to surplus product. However, the DOE concluded that the firm had made a showing that there was a very strong likelihood that it would succeed on the merits of its Appeals of the Redirection Orders and that a stay was

therefore appropriate. In this regard, the DOE pointed out that the nine Orders failed

Decision and Order that further exception relief was not warranted and that Newhall

Jim's Service Station, DEE-5021. Ion's Mobil, DEE-5037.

commercially published loose leaf reporter system.

Mid-Continent Systems, Inc., Little Rock, Ark., DRA-0178, fuel oil

from the sale of the crude oil at the lower tier ceiling price. The DOE found that Amnail

therefore appropriate. In this regard, the DOE pointed out that the nine Orders failed to contain findings as to the availability of supplies of motor gasoline within the market areas of the nine firms which Exxon had been required to supply or the ability of these nine firms to obtain motor gasoline from sources other than their normal base period supplier. Accordingly, Exxon's Application for Temporary Stay was denied and its Application for Stay was granted.

General Motors Corp., Detroit, Mich., DEN-2569, DES-2569, motor gasoline

General Motors Corporation filed an Application for Stay in which it requested that it be permitted to purchase its current requirements of "certification quality" unleaded gasoline from Chevron U.S.A., Inc., pending a final decision on the merits of an Application for Exception which the firm had also filed. On June 4, 1979, the DOE issued a Proposed Decision and Order in which it tentatively concluded that GM should be permitted to purchase "certification quality" unleaded gasoline from Chevron fuels for use in the testing of automobiles and components for compliance with the regulatory requirements of the Environmental Protection Agency, the National Highway Transportation Safety Administration, and the California Air Resources Board. After considering the stay submission, the DOE concluded that the firm had satisfied the criteria for the granting of exception relief on an interim basis. In this regard, the DOE noted that GM was likely to obtain exception relief for the reasons stated in the Proposed Decision and Order and that the failure to implement that relief immediately would lead the firm to incur considerable harm. The DOE found that GM may be forced to delay the manufacture of new model year vehicles in the absence of the exception relief that it had requested. The DOE also found that the implementation of the exception relief on an immediate basis was not likely to have an adverse effect on any other party. Accordingly, the DOE issued an Order implementing the exception relief specified in the Proposed Decision on an interim basis. Since this relief enabled GM to immediately obtain the required amount of "certification quality" unleaded gasoline, the firm's request for stay was dismissed.

Newhall Refining Co., Inc., Dallas, Tex., DXE-1322, crude oil

On June 2, 1978, the Newhall Refining Company, Inc. (Newhall) filed an Application for Exception from its regulatory obligations under the Old Oil Entitlements Program (10 CFR 211.67). The Newhall request, if granted, would have excused the firm from fulfilling its obligation to purchase entitlements for the period August 1976 through January 1979. On June 4, 1979 the DOE issued a Proposed Decision and Order in which it determined that, due to entitlements relief accorded Newhall in an earlier proceeding, the firm had been a seller of entitlements during the period December 1977 through August 1978. In view of the fact that it had consistently declined to grant exception relief which exceeded the value of a firm's net entitlement purchase obligation for a particular fiscal year, the DOE concluded in the Proposed

Decision and Order that further exception relief was not warranted and that Newhall should be required to purchase entitlements to offset the \$2,639,921 of excessive exception relief benefits which the firm received during its 1978 fiscal year. In its Statement of Objections to the Proposed Decision, Newhall contended that it had become a seller of entitlements as a result of DOE regulatory provisions which authorized the issuance of additional entitlements to refiners of low gravity California crude oil. The firm therefore claimed that it should be permitted to retain the benefits which it received pursuant to these provisions. In considering the firm's Statement of Objections, the DOE determined that the policy of not approving entitlement exception relief with respect to net sellers of entitlements is applicable to those refiners of low gravity California crude oil who had received additional entitlements benefits. In addition, the DOE determined that Newhall would experience neither a gross inequity nor a serious hardship in the absence of exception relief. Accordingly, the DOE did, however, find that the refund which Newhall was required to make should be reduced from \$2,639,921 to \$2,215,274.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Stay, Temporary Stay, Interim Order, and/or Exception of the provisions of Standby Regulation Activation Order No. 1. The stay requests, if granted, would result in an increase in the base period allocation of motor gasoline pending determination of the Applications for Exception. The DOE issued Decisions and Orders which determined that the requests be granted:

Company Name, Location, and Case No.

Dupont Arco, Bristol, RI, DEN-5357.
Castro Valley Enter., Castro Valley, CA, DEN-3049.
Marblehead Services, Marblehead, MA, DEN-2471.
Chevron USA, Inc., San Francisco, CA, DEE-2135.
Fisca Oil Co., Kansas City, Mo, DEE-2505.
H. L. Mills Pet., Washington, D.C., DEN-2997.
James Tidwell Chevron, Mipomo, CA, DEE-2398.
Citadel Corps., Washington, D.C., DEX-0181.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Appleby's Service, Inc., DEE-5475.
Carlos Diaz-Moundoz, DEE-5015.
Carl's Gulf Service, DEE-5796.
Chestnut Hill Gulf, DEE-5634.
Jack Tottenham, DEE-5654.
Ramsey's Gulf, DEE-3065.
Theresa Garnett, DEE-5666.
Watson Jim, DEE-5068.
Rnetschler's Truck Plaza, DEE-4952.
A & J Amoco, DEE-5824.
Amerson Bowman Co., DEE-3086.
B & B Chevron, DEE-3242.
B & D Shell, DEE-4100.
Go-Cal Service, DEE-5250.

Jim's Service Station, DEE-5621.
Jon's Mobil, DEE-5637.
Marv's Mobil Service, DEE-5693.
Master Auto Ser. Corp., DEE-5044.
Stadium Service Station, DEE-5081.
Exeter Co., DEE-5082.
Ghost Town Mini-Mart, DEE-3258.
Independent Petroleum Assoc. of Mountain States, DEE-5804.
J & L Oil Co., DEE-3267.
Mini-Mart Corp., DEE-3104; DES-3104.
Mutual Oil Co., Inc., DEE-4720.
Sleeper, Kenneth H., DEE-4381.
Western Pet. Co., DST-3484; DES-3484; DEE-3484.
Bethalto Zephyr, DEE-5638.
Davis Getty, DEE-4440.
Kerr Oil Company, DEE-2822; DES-2822; DST-2822.
Weaver Oil Company, DEE-3506.
Marblehead, DES-2471.
A-1 auto Service, DEE-5631.
American Auto Wash, Inc., DEE-3674.
Arco Mini Market, DEE-5078; DES-5078.
Boachert, Daniel S., DEE-3588.
Bradshaw Mini Market, DEE-5218.
Brown's Service Center, DEE-5256.
C. N. Brown & Co., DEE-3918.
Clemmons Exxon, DEE-3432.
Crossroads Corner Store, DEE-3693.
Dick's Texaco Service, DEE-4142.
El Telcolote Gas, DEE-5279.
Fairgrove Service Center, DEE-4536.
Frankenberger Y Son Auto, DEE-5291.
Gas Garden, DEE-3312.
Gregg Self-Serv #1, DEE-3000; DES-3000.
Griffith, Duane, DEE-4448.
Joseph Longo Parish Texaco, DEE-4014.
Main Street Amoco, DEE-3368; DES-3368; DST-3368.
McPhillips Exxon, DEE-3121.
Meredith & Tate, Inc., DEE-2565; DES-2565; DST-2565.
Mitchell, Walter, DEE-3584.
Moss-Dennis Oil Co., Inc., DEE-4656; DEE-4656.
Nuccio S. & W. Gebhardt, DEE-3559.
O. L. "Shorty" Fought Exxon Service, DEE-5094.
Parker Energy & Pet. Co., DEE-4071.
Rite-Way, Inc., DEE-2780.
Ron's Service, DEE-5286.
Super Arco, DEE-5063.
Tony's Shell Service, DEE-5097.
Woodson Terrace Mobil, DEE-5225.
Webb & Sons, DEE-4216.
A-1 Gulf Service, DEE-5655.
Burns Service Center, DEE-4430.
Forward Corporation, DEE-2329.
R & M Pet. Co., DEE-5209; DES-5209.
Western Pet. Co., DEE-3137.
M.F.A. Oil Company, DEE-4969.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a

commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

November 20, 1979.

[FR Doc. 79-38508 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of July 23 Through July 27, 1979

Notice is hereby given that during the week of July 23 through July 27, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Cities Service Co., Tulsa, Okla., DEA-0501, motor gasoline

Cities Service Company filed an Appeal of an Order issued on May 18, 1979 by ERA Region I. In that Order, the ERA terminated the base period relationship between Shell Oil Company and Mr. Bruce Righi and assigned Champlin Oil Company as Righi's new base period supplier of motor gasoline. Cities appealed because it is Champlin's supplier and the order would cause it to incur increased supply obligations, to the detriment of its other customers.

In considering the Appeal, the DOE found that the ERA failed to adequately consider possible alternatives to the automatic assignment of Champlin as Righi's base period supplier. Accordingly, the Cities Appeal was granted and the matter was remanded to ERA Region I for further consideration. Important issues that were discussed in this Decision and Order included downward certifications by suppliers whose supply obligations have been terminated pursuant to three-party agreements and greater consideration of the comments of prime suppliers prior to the issuance of orders based on three-party agreements.

Covington & Burlington, Washinton, D.C., DFA-0472, freedom of information

Covington & Burlington filed an Appeal of a partial denial by the Director of Freedom of Information and Privacy Act Activities of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain of the documents which were initially withheld under exemptions 2, 5, and 7A should be released to the public. The DOE determined that the remaining documents were properly withheld under exemptions 4, 5, 7A and 7C. An important issue that was considered in the Decision and Order was whether drafts or preliminary versions which are substantially identical to documents in the public domain must be released.

Mid-Continent Systems, Inc., Little Rock, Ark., DRA-0179, fuel oil

Mid-Continent Systems, Inc. filed an Appeal from a Supplemental Remedial Order which the Office of Enforcement, DOE Region IV, issued to the firm on April 5, 1979. In the Supplemental Remedial Order, the Regional Office found that Mid-Continent's refund obligations under a prior Remedial Order should not be reduced by alleged restitution which Mid-Continent claimed to have made voluntarily to the Customer involved. In considering the firm's Appeal, the DOE found that Mid-Continent had failed to establish that it made voluntary restitution to the customer involved. The DOE therefore concluded that Mid-Continent's Appeal should be denied.

Payne, Inc., Oklahoma City, Okla., DRA-0094, crude oil

Payne, Inc. filed an Appeal from a Remedial Order which the Acting Director of Enforcement of DOE Region VI issued to the firm on December 20, 1977. In the Remedial Order, DOE Region VI determined that during the period from December 1973 through January 1978, Payne sold domestic crude oil from six properties at prices in excess of the ceiling price levels permitted by 10 CFR 212.73. After considering the Payne Appeal the DOE concluded that those provisions of the Remedial Order which directed Payne to refund overcharges to purchasers of crude oil from one of the six properties should be rescinded. In all other respects, Payne's Appeal was denied. The Decision and Order contains full discussion of (1) the statutory and regulatory history of the DOE's efforts to establish tests for determining whether the liquid hydrocarbon production from a well consists of crude oil or nonassociated gas condensate; (2) the presumptions that are created as a consequence of the application of the tests; and (3) the evidentiary showing that must be made in order to overcome the presumptions. Other issues discussed in the Decision and Order include: (1) whether instruments which were executed after 1972 and which subdivide a single right to produce into several rights to produce can create new "properties"; (2) whether the existence of two or more distinct reservoirs on a premises subject to a single right to produce can create two or more separate "properties"; and (3) whether it is inequitable to assess interest on overcharges which have resulted from allegedly inadvertent violations of DOE Regulations.

Requests for Exception

Aminoil USA, Inc., Houston, Tex., DEE-4213, crude oil

Aminoil USA, Inc. (Aminoil) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the California State Lease #425, Jones Zone located in the Huntington Beach Field in Orange County, California. In considering the Application, the DOE found that the cost of producing crude oil from the California State Lease #425, Jones Zone had increased to a level where it now exceeds the revenues the firm can obtain

from the sale of the crude oil at the lower tier ceiling price. The DOE found that Aminoil had no economic incentive to continue to produce crude oil from the lease, and that it was unlikely that the crude oil in the reservoir underlying the California State Lease #425, Jones Zone could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Aminoil and the other working interest owners. In order to provide the working interest owners with an incentive to produce, the DOE granted an exception which permits Aminoil to recover its increased costs by selling at upper tier ceiling prices 77.02 percent of the crude oil produced from the California State Lease #425, Jones Zone for the benefit of the working interest owners for the period April 13, 1979 through September 30, 1979.

Charter Oil Co., Jacksonville, Fla., DXE-1398, Crude Oil

On June 30, 1978, the Charter Oil Company filed an Application for Exception from its regulatory obligations under the Old Oil Entitlements Program (10 CFR 211.67). The Charter exception request, if granted, would excuse the firm from fulfilling its obligation to purchase entitlements during the period September 1, 1978 through February 28, 1979. On June 27, 1979 the DOE issued a Decision and Order to Charter in which it determined that the firm's obligation to purchase entitlements during this period should be reduced by approximately \$3,842,826 per month. Despite Exxon's objections, the DOE determined in that decision that it had the regulatory and statutory authority to afford Charter relief of this nature. However, in the July 27 Order the DOE also determined that Charter's financial and operating position had been enhanced by its receipt of entitlements relief. Since entitlements exception relief was not designed to enable a firm to expand or enhance its business activities, the DOE determined that Charter's *Delta/Beacon* type exception relief should be phased out during the last six months of 1979.

Energy Consumers and Producers Association, Seminole, Okla., DEE-1856, Crude Oil

Energy Consumers and Producers Association (the Association) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit crude oil produced from wells to be drilled in certain producing formations in the State of Texas to be sold at market prices. In its analysis of the Association's petition, the DOE determined that as a result of a regulatory amendment effective June 1, 1979, "newly discovered crude oil" is eligible for sale at market price levels and the requested exception is unnecessary. Consequently, the Association's exception application was dismissed.

Oregon State Board of Bor Examiners, Eugene, Oreg., DEE-7396, temperature restrictions

The Oregon State Board of Examiners filed an Application for Exception which, if granted, would permit the Board to lower the temperature below 76°F during the

administration of the Oregon Bar Examination on July 25 and 26, 1979. In denying the Board's request, the DOE found that the Board had failed to establish that the temperature restrictions would prevent bar applicants from performing adequately on the Oregon Bar Examination.

Texaco Inc., Denver, Colo., DXE-6728, DXE-6727, crude oil

Texaco Inc. filed Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would result in the extension of exception relief previously granted. The extension would permit Texaco to continue selling certain quantities of crude oil produced from the State of Wyoming G Lease and the J. Sweeney lease at upper tier ceiling prices. In considering the exception requests, the DOE found that Texaco continued to incur increased operating costs in connection with both properties and that, in the absence of continued exception relief, Texaco would lack an economic incentive to maintain its production operations. On the basis of the financial data which Texaco had provided from the most recent six month period, the DOE concluded that the requested relief should be granted.

Requests for Modification and/or Rescission
Crown Central Petroleum Corp., Baltimore, Md., DMR-0056, motor gasoline

Crown Central Petroleum Corporation filed an Application for Modification or Rescission of a Decision and Order of May 25, 1979 issued by the DOE to Petroleum Combustion International, Inc. (PCI). The May 25 determination approved PCI's stay application and allocated additional amounts of motor gasoline to PCI for the months of May, June and July 1979. In considering Crown Central's present request for modification, the DOE found that the information presented by Crown raises the possibility that the factual basis underlying the May 25 stay order was incomplete. Accordingly, the Crown Central request for modification was granted and the May 25 Order was rescinded.

Howell Corp., San Antonio, Tex., DMR-0052, crude oil

The Howell Corporation filed an Application for Rescission of a Decision and Order issued to the Monsanto Company on August 21, 1979. *Monsanto Company*, 2 DOE Par. 81,056 (1978). In that Order, the DOE granted an exception to Monsanto, which was permitted to pay a premium above applicable ceiling prices for domestic lease condensate. In its Application for Rescission, Howell stated that it also operates a refinery which utilizes lease condensate as feedstock and that it is a competitor of Monsanto. The firm argued that it has been seriously injured by the exception granted to Monsanto and that the exception should therefore be rescinded.

In considering the Howell request, the DOE found that Howell had failed to provide any factual material whatsoever in support of its claim of serious injury. The DOE also found that Howell would in all likelihood be unable to document such a claim in view of the fact that Monsanto has not as yet paid the

premium permitted by the August 21 Order to any producer of lease condensate. In addition, the DOE noted that the August 21 Order specifically required Monsanto to obtain written permission from the historic purchasers of the crude oil from a given field before it entered into a new supply contract for condensate which embodied the premium permitted by the August 21 Order. As a result, the DOE rejected Howell's claim that the August 21 Order failed to adequately protect the right of other condensate purchasers such as Howell. On the basis of these considerations, the DOE concluded that the Howell request should be denied.

Requests for Stay

Dean Miller Sunoco, Pittsburg, Pa., motor gasoline; DRT-0256, DRS-0256

Dean Miller Sunoco filed Applications for Stay and Temporary Stay of an Interim Remedial Order for Immediate Compliance (IROIC) issued to it by the DOE Office of Enforcement, Northeast District. The DOE observed that subsequent to the issuance of the IROIC, the price regulations upon which it was based were substantially amended and no longer conformed to the analysis in the IROIC. The stay request was therefore granted.

Koch Industries, Inc., Wichita, Kans., DRS-0261, motor gasoline

Koch Industries, Inc. filed an Application for Stay from the provisions of an Interim Remedial Order for Immediate Compliance (IROIC) which required it to immediately supply motor gasoline to the Saturn Petroleum Company. In considering the Application, the DOE determined that the IROIC was procedurally defective and that Koch was very likely to succeed on the merits of its objections to that Order. The Koch stay request was therefore granted.

Vickers Petroleum Corp., Washington, D.C., DES-0480 DST-0480, motor gasoline

Vickers Petroleum Corporation filed an Application for Stay and Temporary Stay with the Office of Hearings and Appeals of the Department of Energy. Those Applications, if granted, would stay the provisions of an Order for the Redirection of Product which was issued to the firm by DOE Region VI requiring Vickers to supply 1.9 million gallons of motor gasoline to Gible Oil Company during June 1979. In considering the stay requests, the DOE found that Vickers had not demonstrated that compliance with the order would irreparably harm the firm. However, the DOE determined that the order lacked sufficient factual findings to support the conclusion that a Redirection Order was appropriate. Consequently, the DOE denied the firm's request for a Temporary Stay but granted the firm's Application for Stay.

Supplemental Orders

Gulf Oil Corp., Houston, Tex., DRX-0196, fuel oil

Gulf Oil Corporation filed a Motion in which it requested the return of funds held in an escrow account pursuant to a DOE Order. In considering the Application, the DOE noted that the Remedial Order issued to Gulf, which was the basis for establishing the escrow account, had been rescinded and that

no basis existed for maintaining the Gulf escrow account. The request was therefore granted.

The Shell Co. (Puerto Rico) Limited, Washington, D.C., DEX-0198, motor gasoline

On May 18, 1979, the DOE issued a Proposed Decision and Order to the Commonwealth Oil Refining Co., Inc. (Corco). In that Proposed Decision, the DOE tentatively determined that an exception from the motor gasoline price regulations should be granted to Corco. On June 18, 1979, the Shell Company (Puerto Rico) Limited (Shell) filed a Statement of Objections to that determination. In conjunction with its Statement of Objections, Shell also filed a Motion for Discovery and Evidentiary Hearing. In that Motion, Shell requested that the DOE order Corco to furnish Shell with a number of confidential documents. On the basis of their informal negotiations, Shell and Corco agreed that certain confidential information be disclosed by Corco to Shell pursuant to a Protective Order to safeguard the confidentiality of the information. Accordingly, the DOE issued the Protective Order which the parties sought.

U.S. Oil Co., Combined Locks, Wis., DEX-0193, motor gasoline

On July 13, 1979 U.S. Oil Company filed a request for a Supplemental Order with the Office of Hearings and Appeals of the Department of Energy. U.S. Oil's request, if granted, would result in the issuance of an Order to the Marathon Oil Company requiring that firm to supply motor gasoline to U.S. Oil at either its Milwaukee or Madison, Wisconsin pipeline terminals instead of its Robinson, Illinois refinery. In considering the request, the DOE found that U.S. Oil would incur substantial and prohibitive transportation costs in hauling the product from the Robinson refinery and that these costs could be avoided if Marathon offered the product to U.S. Oil at either of the Wisconsin terminals. Since Marathon admitted that it could accommodate U.S. Oil's needs, the DOE granted U.S. Oil's request.

Request for Temporary Stay

The following Application for Temporary Stay was granted on the grounds that the applicant had made a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Company Name, Case Number, and Location
Standard Oil Co., (Ind.) DRT-0065 Chicago, Ill.

Harvey J. Bean DRT-0274 Washington, D.C.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception and/or Interim Order with respect to the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which granted the requests:

Company Name, Location, and Case Number

Jerry Porter Oil Co., Beaumont, Tex., DEN-5315.

Chevron Island Car Wash, Albuquerque, N. Mex., DEN-3018.

L. H. Bonnaffons, New Orleans, La., DEE-3721.

Martin Pet. Corp., Port Everglades, Fla., DEN-2935.

Stechschulte Gas & Oil Co., Alexandria, Va., DEE-3621.

Peter H. Clark, Inc., Pawtucket, R.I., DEE-5927.

Ron L. Decker, Powell, Wyo., DEN-5881.

Dumfries Texaco, Dumfries, Va., DEN-6331.

Thermon Duvall, Jr., McLain, Mass., DEN-5825.

Paul Mayo, Monroe, La., DEN-4486.

Westwood Mohawk, Westwood, Calif., DEN-6089.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception of the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which denied the requests:

Company Name, Location, and Case Number
I-257 Shell, Plymouth, Mich., DEE-3124.

Lahser & 11 Mile Shell Service, Southfield, Mich., DEE-2438.

Magnolia Exxon, Charleston, S.C., DEE-2861.

Pea Soup Anderson, Buellton, Calif., DEE-3251.

Dismissals

The following submissions are dismissed without prejudice to refiling at a later date:

Name and Case Number

Bolte Oil & Supply, DEE-2452.

C & J Self Serve, DEE-1974.

Cato Fuel Co., Inc., DEE-7252.

Esalen Institute, DEE-7218.

Fairlaw Mobil Self Serve, DEE-4890.

Gabbert Oil Co., DEE-6422.

Green Belt Fuel Delivery, Inc., DEE-3779.

Jack Feltz, DEE-4473.

Isanti Independent Oil, DST-4493.

Kimwill Oil Assoc., DEE-2075.

Larry Slinkard, DEE-4476.

Midland Coop., Inc., DEE-3928.

U.S. Courier Corp., DEE-5154.

Wallace B. Jayred, DXE-5529.

Laney Oil Co., Inc., DEE-4918.

Branford Repair & Service, DEE-7097.

Bretton Shell, DEE-7210.

Harris Service, DEE-6043.

Ray May's Arco, DEE-7088.

Ron's Amoco Service, DEE-7355.

Tarpy's, Inc., DEE-6818.

Ted's Service Station, DEE-4441.

Waterlick Texaco, DEE-7045.

Beach Gulf Service, DEE-6838.

J-W Operating Co., DRO-0130.

Jamison Oil Co., DEE-3545.

Martin Pet. Corp., DST-2935.

Norco Delivery Service, DEE-6628.

Page Mill Chevron, DEE-4387.

Rocket Rent-A-Car, DEE-6505.

Sims Oil Co., Inc., DEE-6927.

Weeks & Frazier Oil, DEE-3268.

Cundiff Oil Co., DEE-7375.

L & M Oil Co., DEE-3732.

Lauria's Exxon, DEE-5804.

Mobil Oil Corp., DST-0067.

Park Avenue Mobil, Inc., DEE-5695.

Pay-Lo Gas, DEE-5282.

Randolph's Kerr McGee Service Station, DEE-4462.

Rex's Casa Blanca Exxon, DEE-4615.

Richmond Chevron, DEE-4829.

Scottsdale Tire Co., Inc., DEE-4863.

Southern Union Ref. Co., DEE-1406.

Standard Oil Co. (Indiana), DES-0497, DST-0497.

Standard Oil Co. (Indiana), DST-0528, DES-0528, DEA-0528.

Westside Chevron, DEE-4865.

Lavaughn's Mobil, DEE-6584.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

November 20, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

[FR Doc. 79-36510 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 3 Through September 7, 1979

Notice is hereby given that during the week of September 3 through September 7, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Jones, Day, Reavis and Pogue, Washington, D.C., DFA-0470 freedom of information

Jones, Day, Reavis & Pogue filed an Appeal from a partial denial by the Director of the DOE Division of Freedom of Information and Privacy Acts Activities of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that certain of the documents which were initially withheld under Exemptions 2, 4, 5, 6, 7(A), and 7(B) of the FOIA should be released to the public.

Peerless Petrochemicals, Inc., Roslyn, N.Y., DEA-0584 crude oil

Peerless Petrochemicals, Inc., filed an Appeal from an Order issued by the Office of Petroleum Operations which denied the firm's

Application for an Emergency Allocation of Crude Oil under the provisions of 10 CFR 211.65(c)(2) (The Buy/Sell Program). In considering the Appeal the Office of Hearings and Appeals determined that the price for crude oil made available to Peerless was in excess of the range of prices paid for similar crude oil by its competitors. The DOE therefore granted the firm's request for an emergency allocation.

Requests for Exception

Chevron, U.S.A., Inc., San Francisco, Calif., DEE-1953, crude oil

Chevron, U.S.A., Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the working interest owners to sell at upper tier ceiling prices the crude oil produced from the Tognazzini lease located in the Gato Ridge Field in Santa Barbara County, California. The DOE found that the operating costs incurred by Chevron had increased to the point where the firm no longer had an economic incentive to continue crude oil production from the Tognazzini lease. The DOE determined that if Chevron abandoned its operation at the lease, a substantial quantity of domestic crude oil would not be recovered. The DOE therefore concluded that Chevron should be permitted to sell at upper tier ceiling prices 61.73 percent of the crude oil produced from the Tognazzini lease for the benefit of the working interest owners.

Crystal Oil Co., Shreveport, La., DEE-2206, crude oil

Crystal Oil Company (Crystal) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Shongaloo (West Segment) Pettit Sand Unit (the Shongaloo Unit) located in the Shongaloo Field in Webster Parish, Louisiana. The DOE found that the cost of producing crude oil from the Shongaloo Unit had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Crystal had no economic incentive to continue to produce crude oil from the Shongaloo Unit and that it was unlikely that the crude oil in the reservoir underlying the Shongaloo Unit could be recovered by any other firm in the absence of exception relief. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Crystal to sell at upper tier ceiling prices 44.73 percent of the crude oil produced from the Shongaloo Unit for the benefit of the working interest owners for the period February 22, 1979 through August 31, 1979.

Heil-Quaker Corp., Nashville, Tenn., DEE-5955, consumer product

Heil-Quaker Corporation filed an Application for Exception from the provisions of 10 CFR, Part 430. The firm requested that it be permitted to modify in the energy efficiency and fuel utilization test procedures prescribed in 10 CFR 430, Appendix N,

applicable to the induced draft gas furnace which the firm manufactures. In considering the request, the DOE determined that the applicable test procedures did not accurately and fairly measure the energy efficiency of Heil-Quaker's induced draft gas furnace. Accordingly, exception relief was granted which specified the manner in which Heil-Quaker should test the energy efficiency and fuel utilization of its product.

Peerless Petrochemicals, Inc., Roslyn, N.Y., DEE-1422, entitlements

Peerless Petrochemicals, Inc., filed an Application for Exception from the provisions of 10 CFR 211.67(i)(4). The Peerless exception request, if granted, would result in the issuance of an Order increasing the entitlement benefits received by the firm. When the Peerless request was filed, Section 211.67(i)(4) imposed an economic penalty on refiners which process imported crude oil as compared to refiners which process price controlled domestic crude oil. The purpose of this provision was to discourage the use of imported crude oil. In evaluating the Peerless request, the DOE found that Peerless, which began refinery operations in November 1978, is the owner of the only petroleum refinery located in Puerto Rico that had not received exception relief from the provisions of Section 211.67(i)(4). The DOE also found that prior to August 1, 1979, when the penalty was eliminated, Peerless and other similarly situated Puerto Rican refineries had no economic alternative to the continued use of imported crude oil and therefore the general purpose of Section 211.67(i)(4) was not served by its application to Puerto Rican refineries. Consequently, the DOE determined that Peerless should be granted exception relief from that provision for the period from November 1, 1979 through July 31, 1979.

Joseph F. Troy, Los Angeles, Calif., DEE-7890, temperature restrictions

Joseph F. Troy filed an Application for Exception which, if granted, would permit his employer to lower the temperature below 78°F in its offices. In approving exception relief, the DOE found that Mr. Troy suffers from optic neuritis which would be exacerbated by the maintenance of a 78°F temperature level. However, exception relief was limited to Mr. Troy's personal office rather than the entire space occupied by his employer.

Requests for Stay

Crown Central Petroleum Corp., Baltimore, Md., DES-0587, motor gasoline

Crown Central Petroleum Corporation filed an Application for Stay of two Orders issued to it which required the firm to supply J&B Automotive with 85 percent of its base period use of motor gasoline for the months of June through September 1979. In considering the Application, the DOE determined that Crown Central did not receive adequate notice or a fair opportunity to comment on the Orders prior to their issuance. The stay request was therefore granted.

Henry Petroleum Corp., Midland, Tex., DRS-0276, crude oil

Henry Petroleum Corporation filed an Application for Stay of further enforcement proceedings against the firm, pursuant to a Proposed Remedial Order issued to it on May 29, 1979. Henry sought the stay pending a final DOE determination on an Application for Exception which it had filed. In considering the Application, the DOE determined that Henry had not met any of the regulatory criteria necessary to the approval of Applications for stay. The DOE also noted the public interest in the expeditious consideration of enforcement proceedings and its general policy of declining to delay enforcement proceedings by linking them to other proceedings. Henry's Application of Stay was therefore denied.

Total Petroleum, Inc., Oklahoma City, Okla., DES-0561, motor gasoline

Total Petroleum, Inc., filed an Application for Stay of a DOE regional Order which required that the firm supply certain quantities of motor gasoline to Midland Energy Corporation. The regional Order had been issued pursuant to a Proposed Decision and Order and an Interim Decision and Order of the Office of Hearings and Appeals granting exception relief to Midland. In considering the application, the DOE determined that the record failed to show that Total had received sufficient notice of the nature of the regional Order to provide the firm with a meaningful opportunity to comment prior to the issuance of the Order. The Order was therefore stayed for a period sufficient to provide Total with an opportunity to comment prior to reissuance, modification, or rescission of the Order by the Region.

Total Petroleum, Inc., Detroit, Mich., DES-0538, motor gasoline

Total Petroleum, Inc., filed an Application for Stay of an assignment order which directed the firm to supply U.S. Oil with 350,000 gallons of motor gasoline. Total contended that it would experience an irreparable injury if the assignment order was not stayed. In addition, Total contended that there was a substantial likelihood that the firm would succeed on the merits of its Appeal. In considering the Total Application, the DOE first noted that Total had failed to comply with the provisions of the assignment order, despite the fact that the time period for compliance had lapsed prior to the date on which Total filed its Application. With respect to the merits of Total's Application, the DOE first found that neither Total nor its customers would experience a serious adverse impact if Total complied with the provisions of the order. In addition, the DOE found that the assignment order conformed with the requirements of due process of law. The Total Application for Stay was therefore denied.

Vickers Petroleum Corp., Wichita, Kans., DES-0573, motor gasoline

Vickers Petroleum Corporation filed an Application for Stay of an Order issued by Region VII of the Economic Regulatory Administration on July 20, 1979. In that Order, the firm was directed to supply Midland Energy Corporation of Liberty, Missouri, with motor gasoline during the months of August

and September 1979. The DOE determined that Vickers had not been afforded a meaningful opportunity to interpose any objection or comments prior to the issuance of the Order. The stay request was therefore granted and the matter remanded to the Region for further action.

Request for Temporary Stay

Southern California Service Station Association, Newport Beach, Calif., DST-0071, motor gasoline

Southern California Service Station Association filed an Application for Temporary Stay from the provisions of the motor gasoline price regulations adopted on July 15, 1979. The Association requested that its full-service members be permitted to realize margins in excess of 15.4 cents per gallon. In considering the Application, the DOE determined that the factual material in the record did not support the Association's contention that a higher margin was justified by higher operating costs experienced by gasoline retailers in Southern California. The temporary stay request was therefore denied.

Motion for Discovery

Union Oil Co. of California, Schaumburg, Ill., DED-4252, motor gasoline

On June 19, 1979, the Union Oil Company of California filed a Motion for Discovery and Protective Order in which the firm sought access to all of the financial material submitted by Wright Industries, Inc., in connection with an Application for Exception submitted by Wright (Case No. DEE-4252). In considering the request, the DOE found that the provisions of 10 CFR 205.88 which govern the filing of such requests generally permit the filing of a Motion for Discovery and Protective Order only after the issuance of a Proposed Decision and Order in a proceeding. Accordingly, Union's Motion was dismissed.

Interlocutory Orders

Barnosky Oils, Inc., Washington, D.C., DEZ-7777, motor gasoline

Barnosky Oils, Inc., filed a request for the issuance of a Protective Order with respect to certain information that the firm agreed to disclose to Union Oil Company of California in connection with pending Applications for Exception, Stay and Temporary Stay filed with the Office of Hearings and Appeals. In considering the request, the DOE found that certain information should be disclosed to Union Oil subject to the condition that this material would remain confidential. Accordingly, a Protective Order was issued.

Texaco, Inc., Louisiana Land & Exploration Co., Atlantic Richfield Co., Gulf Oil Corp., Marathon Oil Co., Inc., Standard Oil Co. of California, Standard Oil Co. of Ohio and Standard Oil Co. of Indiana, Washington, D.C., DRZ-0004 through DRZ-0011, crude oil

The petitioners in this proceeding had filed Statements of Objections to Proposed Remedial Orders which directed seven major integrated oil companies to refund \$1.7 billion in alleged crude oil overcharges to the United States Treasury. The Office of Hearings and

Appeals determined that it would be appropriate to issue an interlocutory order to set forth the manner of further proceeding with respect to numerous discovery issues that have arisen in the proceedings and to restate the filing schedules that have been established in the individual cases.

Accordingly, the Office of Hearings and Appeals issued an Interlocutory Order to set forth the issues involved and manner of briefing discovery questions in these proceedings.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception and/or Interim Order from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company Name, Location and Case No.

Ballance Oil Co., Russellville, KY, DEN-2571
Beaver Lake Camp, Quincy, FL, DEE-3272

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception, Stay and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied:

Company Name, Location and Case No.

Pete's Gulf, Findlay, OH, DST-7187
Maplewood Conoco, Arvada, CO, DEE-5448, DST-5448
Beer World, Washington, DC, DES-4371, DST-4371
Farmland Industries, Kansas City, MO, DEL-7731

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Mitchell's Exxon, DEE-7788
Nu-Way Oil Co., DEE-2796; DEE-4881; DES-4881; DST-4881
River House Trading Post, DEE-4953
Total Petroleum, Inc., DEA-0561
Dean Dart, DEE-2220
Vernon B. Horr, DEE-7058
Cities Service, DES-0590; DST-0590
Oklahoma Refining, DRO-0205
Zitro Utilities, Inc., DEE-2884; DST-2884
LBM Distributors, Inc., DEE-3622; DEE-3623
Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through

Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.
November 20, 1979.

[FR Doc. 79-36503 Filed 11-28-79; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; October 9 Through October 12, 1979

Notice is hereby given that during the period October 9 through October 12, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of

1:00 p.m. and 5:00 p.m. e.s.t., except federal holidays.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
November 20, 1979.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Bill McCord's Texaco; DEE-6431; Portland, Oreg.
Gill's Amoco; DEE-3648; Herndon, Va.
Mutual Gas-A-Rama, Inc.; DEE-6490; Springfield, Mass.
Pucino, Edw. F.; DEE-5627; N. Kingston, R.I.
Sam S. Nuccio and Walter H. Gebhardt; DEE-7408; Chicago, Ill.
Secondi Bros. Service; DEE-5643; Milford, Conn.
Wright Industries; DEE-4252; Washington, D.C.
Coleman Oil Co., Inc.; DEE-7089; Newington, N.H.
Jim McMahon Texaco; DEE-4143; Tucson, Ariz.
Rawji's Texaco; DEE-8007; Studio City, Calif.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

California Dept. of Transportation; DEE-6527; Sacramento, Calif.
Duane's Chevron; DEE-7011; Hattiesburg, Miss.
Hinson's Crossroads General Store; DEE-5602; Caryville, Fla.
Nick Quintana; DEE-7122; Miami, Fla.
Saint George Oil Corp; DEE-3489; W. Los Angeles, Calif.
Monk's Shoppette; DEE-7514; Carrollton, Ga.

[FR Doc. 79-36509 Filed 11-28-79; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; October 15 Through October 19, 1979

Notice is hereby given that during the period October 15 through October 19, 1979, the Proposed Decisions and Orders which are summarized below were

issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusions contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.s.t., except federal holidays.

November 20, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Proposed Decisions and Orders

Amerada Hess Corp., New York, N.Y., DEE-8318, motor gasoline allocation

The Amerada Hess Corporation filed an Application for Exception from the provisions of 10 CFR 211.106. The exception request, if granted, would permit Amerada Hess to reallocate a portion of the motor gasoline which one of the retail outlets it supplies is entitled to receive to another retail outlet in the same market area. On October 9, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Equipment, Inc., Lafayette, La., crude oil, DXE-6154

Equipment, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if

granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Hayes No. 1 and the Hayes A-1 Wells for the benefit of the working interest owners at prices in excess of the applicable ceiling price levels. On October 18, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Kansas-Nebraska Natural Gas Co., Washington, D.C., DEE-4485, liquids

On April 24, 1979, the Kansas-Nebraska Natural Gas Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart K. The exception request, if granted, would permit Kansas-Nebraska to calculate its increased costs of natural gas shrinkage on the basis of reductions in the BTU content of its residue gas, notwithstanding the "per MCF" price terms of applicable contracts. On October 17, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the firm should be required to continue to calculate its natural gas shrinkage on an MCF basis, but that it should also be permitted to include in these calculations the volumetric reductions in its natural gas that are attributable to nitrogen removal and air injection operations.

Frederick P. Lyte, Los Angeles, Calif., DEE-8031, crude oil

Frederick P. Lyte filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Sketer Slaughter No. 2 lease located in Garza County, Texas, at market prices. On October 18, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Sketer Slaughter No. 2 lease.

McCall Marketing Co., Portland, Oreg., DEE-7887, gasohol

The McCall Marketing Company (McCall) filed an Application for Exception from the provisions of 10 CFR, Part 211, Subpart F. The exception request, if granted, would permit McCall to receive a separate allocation of unleaded motor gasoline for the express purpose of blending gasohol. On October 18, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

R. W. Tyson Producing Co., Inc., Jackson, Miss., DXE-6554-6557, crude oil

On June 14, 1979, R. W. Tyson Producing Company, Inc. (Tyson) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Tyson to sell certain quantities of the crude oil which it produces from four properties on the Overt Field at prices in excess of the applicable ceiling price levels. On October 18, 1979, the Department of Energy issued a Proposed Decision and

Order which determined that the exception request be granted in part.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Little Tub Car Wash; DEE-5919; Danville, CA.
Long Creek Exxon; DEE-7182; Albemarle, NC.
Timberlake Brothers; DEE-4853; Richmond, VA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

S.O.K.'s Service Stat. and Grocery, Inc.; DEE-4657; Baltimore, MD.
Economy Amoco; DEE-7448; S. Attleboro, MA.

Frank Decarlo Auto; DEE-7098; Pittsfield, MA.

Georgetown Chevron; DEE-6503; Chamblee, GA.

Long Island Gasoline Retailers Association; DEE-5858; Jericho, NY.

Marshall's American; DEE-6368; Natronia Hgts., PA.

Falmouth Exxon; DEE-7719; Falmouth, ME.

Gene's Mini-Market; DEE-4652; Milford, CT.

Jack Russell Oil Co.; DEE-6470; Clearwater, FL.

Lantern Lane Shell; DEE-7192; Houston, TX.

Len's Self Service; DEE-7490; Palos Hill, IL.

B&B Gasland; DEE-7115; Augusta, ME.

Darcy Auto Service; DEE-7349; Roslindale, MA.

Dwyer's Motor Inc.; DEE-7617; New Orleans, LA.

Mission Center Texaco; DEE-6967; San Diego, CA.

[FR Doc. 79-36511 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of October 15 Through October 19, 1979

Notice is hereby given that during the week of October 15 through October 19, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy

On or before December 17, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before December 27, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C., November 20, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Proposed Remedial Orders

Company Name, Location, and Case No.

Ernest E. Allerkamp, San Antonio, Tex., BRO-0020, crude oil

On October 10, 1979, Ernest E. Allerkamp of San Antonio, Texas filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on September 21, 1979. In the PRO the Southwest District found that during the period from September 1973 to December 1975, Allerkamp violated 10 CFR 210.32 by improperly charging stripper prices for crude oil which it produced and sold. According to the PRO the Allerkamp violation resulted in \$230,583.78 of overcharges.

General Development Utilities, Inc., Miami, Fla., BRO-0029, propane

On October 17, 1979, General Development Utilities, Inc., 1111 South Bayshore Drive, Miami, Florida, 33131 filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on September 6, 1979. In the PRO the Southeast District found that during the period November 1, 1973 through December 31, 1978 GDU sold propane at prices which exceeded the maximum lawful selling prices permitted by 10 CFR 212.93. According to the PRO the GDU violations resulted in overcharges of \$376,292.05.

[FR Doc. 79-36515 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement Under Agreement for Cooperation Between Government of United States and Government of Finland

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Finland.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

S-FI-10, sale to University of Helsinki, Helsinki, Finland of 1 gram of uranium enriched to 2.038% U-235, 1 gram of uranium enriched to 5.010% U-235, and 1 gram of uranium enriched to 49.696% U-235, to be used as alpha-gamma and mass spectrometric standards.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than December 12, 1979.

For the Department of Energy.

Dated: November 21, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-36516 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Australia.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following sales:

S-EU-622, United States to France, 890.4 grams of normal uranium, to be used as standards for plotting element impurities.

S-AU-97, United States to Australia, 15.9 grams of normal uranium, 0.2 grams of thorium, and 75 grams of depleted uranium, to be used for measurements of radioactivity.

S-AU-98, United States to Australia, 260 grams of normal uranium, to be used for calibration of equipment.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than December 12, 1979.

For the Department of Energy.

Dated: November 21, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-36513 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 216), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA).

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

S-IA-104, United States to Czechoslovakia, 1 gram of depleted uranium, 1 gram of uranium enriched to 3.046 percent in U-235, and 1 gram of uranium enriched to 85.137 percent in U-235, to be used for measurement of IAEA samples, calibration of instruments, and for other safeguards purposes.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than December 12, 1979.

For the Department of Energy.

Dated: November 21, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-36514 Filed 11-26-79; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Fort Peck-Havre 161-kV, Electrical Transmission Line, Montana; Intent to Conduct Public Scoping Meetings

Notice is hereby given that in accordance with the National Environmental Policy Act of 1969 (NEPA), the Western Area Power Administration (Western) intends to conduct public scoping meetings to gather information and obtain assistance in defining the range of issues and concerns for the preparation of an environmental impact statement (EIS) of a proposed Western action to reconstruct the Fort Peck-Havre 161 kV electrical transmission line.

The public scoping meetings will be held as follows: November 28, 1979—7:30 p.m., Valley County—Glasgow, Montana, Elks Lodge (downstairs); November 27, 1979—7:30 p.m., Phillips County—Malta, Montana, Phillips County Library; November 28, 1979—7:30 p.m., Blaine County—Chinook, Montana, Blaine County Library Meeting Room; November 29, 1979—7:30 p.m., Hill County—Havre, Montana, Northern Montana College, Math-Science Building, Room 101.

All interested agencies, organizations and individuals are invited to attend the public scoping meetings and submit suggestions on the proposed scope of the EIS including significant issues and alternatives to be analyzed in depth. Written as well as oral statements will be accepted. Persons will be called on in the order they sign in expressing their desire to speak.

Issued in Golden, Colorado, November 19, 1979.

For the Department of Energy, Western Area Power Administration.
Robert L. McPhail,
Administrator.

[FR Doc. 79-36512 Filed 11-26-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00108A; FRL 1367-2]

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel: Open Meeting; Correction

In FR Doc. 79-35018 appearing at page 65672 in the issue of November 14, 1979, item 1 of the agenda should read: "Review of the Agency's proposed regulatory action to conclude the Rebuttable Presumption against Registration (RPAR) of products containing dimethoate."

Dated: November 19, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-36434 Filed 11-26-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1367-3]

Noise Emission Standards for Portable Air Compressors

AGENCY: Environmental Protection Agency.

ACTION: Notice: Denial of petition for emergency relief.

SUMMARY: On July 13, 1979 Atlas Copco, Inc.; Chicago Pneumatic Tool Company; Dresser Industries, Inc., LeRoI Division; Gardner-Denver Company; Grimmer Schmidt Corporation; Ingersoll-Rand Company; Joy Manufacturing Company; Quincy Compressor Division, Colt Industries Operating Corporation; Schramm, Inc.; Gordon Smith & Company, Inc.; and Worthington Compressors, Inc. (petitioners) petitioned the Administrator of the Environmental Protection Agency (EPA) requesting that EPA terminate its use of recall and cease-to-distribute orders to remedy alleged non-compliance with the noise emission standards for portable air compressors and that EPA halt all press releases charging portable air compressor manufacturers with violation of the Noise Control Act of 1972 or stating that recall and/or cease-to-distribute orders have been issued or are sanctioned by the Act. Petitioners also requested that EPA cease contact with distributors and dealers handling portable air compressors manufactured by companies under investigation for compliance with the Act which express or imply that compressors are being recalled or are being withdrawn from the market. Petitioners also request that EPA stay any and all press releases and communications to which petitioners refer in their petition. This notice publishes the decision of the Agency on the petition.

FOR FURTHER INFORMATION CONTACT: John S. Winder, Jr., Acting Director, Noise Enforcement Division (EN-387), U.S. Environmental Protection Agency, Washington, D.C. 20460 (703) 557-7406.

BACKGROUND: Petitioners request relief from certain actions taken by the Agency's Noise Enforcement Division in enforcing an EPA regulation setting noise emission standards for portable air compressors, 40 CFR Part 204. This regulation was promulgated pursuant to the Noise Control Act of 1972, 42 U.S.C. 4901 et seq., on January 14, 1976 [41 FR

2162 et seq.]. The regulation (40 CFR Part 204, Subpart B) provides that newly manufactured portable air compressors may not produce a noise level in excess of 76 dB(A) when measured and calculated according to the methodology prescribed in the regulation. (40 CFR 204.52.) Specifically, manufacturers are required to conduct Production Verification Tests (40 CFR 204.55) and, upon request of the Administrator or his designee, to conduct Selective Enforcement Audits (40 CFR 204.57) to ensure that portable air compressors are manufactured to comply with the standards.

The enforcement procedures complained of here are found at 40 CFR 204.55-11 and 204.59. The regulation provides that when a category or configuration is not properly production verified in accordance with the regulation, a cease-to-distribute order may be issued. (40 CFR 204.55-11.) A recall order may be issued when a determination is made that nonconforming products have been distributed into commerce. (40 CFR 204.59) Such orders would be issued only after notice and opportunity for a hearing.

By letter dated January 2, 1979, the EPA's Deputy Assistant Administrator for Mobile Source and Noise Enforcement requested petitioner Worthington Compressors, Inc. (Worthington) to test its newly manufactured 165D2 portable air compressors in accordance with the Selective Enforcement Auditing (SEA) provisions of the regulation, 40 CFR 204.57. The request was based on the fact that Worthington's 165D2 model was determined to be "at risk" on the basis of its Production Verification Test noise level and the noise levels of 165D2 units already in-use. (EPA classifies a category or configuration of compressors "at risk" when the PV noise emission level of that category or configuration is within 1 dB(A) of the standard.) The in-use levels were obtained by a testing firm under contract to EPA. In response to this SEA test request, Worthington employees prepared the products for testing and tested them at Worthington's own facilities. Employees of EPA observed the testing on one occasion. The test results which were submitted to EPA by Worthington on February 9 and February 28, 1979 indicated that five (5) of six (6) batches had failed the tests and as a result the batch sequence was rejected in accordance with the regulation. (40 CFR 204.57-7.) The EPA, in accordance with 40 CFR 204.59 determined on the basis of the SEA test

data that Worthington had distributed in commerce since March 8, 1978 approximately 250 Model 165D2 portable air compressors which may exceed the applicable noise emission standard.

The Assistant Administrator for Enforcement issued a complaint on April 11, 1979 containing an order for recalling and remedying those compressors built by Worthington and distributed into commerce in violation of the Act. The complaint was issued in accordance with the Interim Rules of Practice Governing Proceedings under the Noise Control Act, 40 CFR Part 209. Pursuant to Section 11(e) of the Act, Worthington was informed that the order would be effective twenty (20) days after service of the complaint unless a hearing was requested.

On May 1, 1979 EPA issued a press release stating that an enforcement order had been issued to Worthington. It also stated that a recall order and a cease-to-distribute order were issued to the General Supply and Leasing Company (General Supply and Leasing). The press release stated specifically that these orders would become effective only if hearings were not requested within twenty (20) days of service. The orders are of general public interest in that they were significant enforcement actions under the Noise Control Act.

After receiving EPA approval for more time in which to decide its course of action, Worthington answered the complaint on May 4, 1979, and requested a hearing. The hearing been postponed at Worthington's request pending completion of ongoing discussions with EPA regarding settlement.

General Supply and Leasing, not a party to this petition, has also requested a hearing, which, at its request, has also been postponed pending completion of current settlement discussions.

On April 9, 1979, the U.S. Court of Appeals for the District of Columbia Circuit entered judgment in two cases referred to by Petitioners, *Atlas Copco, Inc., et al. v. EPA*, No. 76-1354 and *Chrysler Corporation v. EPA*, No. 76-1569. Three relevant issues were raised in these cases: recall authority, cease-to-distribute authority, and the validity of the SEA provision of the regulation. In these decisions the Court held that it lacked jurisdiction to review similar provisions for both recall orders and cease-to-distribute orders for non-complying products in the portable air compressor regulation and the medium and heavy truck regulation. Exclusive review in that Court, under section 16 of the Act, was held to apply only to sections of the regulation prescribing noise emission standards, test

procedures, and manufacturers' instructions pursuant to section 6 of the Act. The Court held that the recall provision and the cease-to-distribute provision were not promulgated under authority of section 6 and therefore should be more appropriately reviewed in the District Courts.

In *Atlas Copco*, the Court upheld the validity of the Selective Enforcement Audit provisions of the regulation. In this case the manufacturers of portable air compressors challenged the SEA program as arbitrary because it failed to give notice of the circumstances under which an SEA would be requested by EPA. The Court held that while there exists a potential for abuse in their application, the SEA provisions of the regulation were on their face valid.

The petitioners request the following relief:

1. That the Administrator direct his staff to halt all pursuit of recall and cease-to-distribute orders as petitioners claim such orders are not authorized by the Noise Control Act of 1972;
2. That the Administrator halt all press releases concerning recall and cease-to-distribute orders;
3. That the Administrator direct his staff to cease contact with distributors of compressors which are manufactured by companies under active investigation for compliance with the Act, (communications in which the staff may infer that compressors are being recalled or may not be distributed in commerce);
4. That the Administrator establish a procedure which will eliminate alleged "trial by press" tactics;
5. That the Administrator advise the petitioners of whether EPA will continue to use its present enforcement procedures;
6. That the Administrator stay any press releases until EPA responds to the petition; and,
7. That the Administrator grant this petition emergency priority.

Decision

Having carefully analyzed the Petition for Emergency Relief, I deny items 1, 2, and 4 of the relief requested for the reasons discussed below.

In response to item 3 of the requested relief (communication with dealers and distributors), I believe that there is no need to issue any such direction. It is not the EPA's policy or procedure to have its Enforcement Officers communicate with distributors or dealers who handle portable air compressors which are manufactured by companies under active investigation for compliance with the Noise Control Act

of 1972 and regulations promulgated under it.

With respect to item 5 of the requested relief (continuation of enforcement procedures), I advise the Petitioners that, absent any court decision to the contrary, EPA will continue to require compliance with 40 CFR Part 204 by manufacturers of portable air compressors in accordance with EPA's determination of its authority under the Noise Control Act.

On items 6 and 7 of the requested relief (issuance of press releases), I understand that timely action on the issues raised in the petition would satisfy the petitioners' request for a stay of press releases pending EPA's decision. This understanding was communicated in a letter dated August 7, 1979 from the Environmental Protection Agency's Office of General Counsel, to Mr. Richard H. Gimer, counsel for petitioners.

With reference to items 1, 2, and 4, I believe that the issuance of complaints and proposed recall orders (request for relief, item 1) to Worthington and to General Supply and Leasing Company and the attendant press release (request for relief, items 2 and 4) were proper for the following reasons:

Recall Orders

1. The authority to issue recall orders is based upon Section 11(d) of the Noise Control Act, 42 U.S.C. 4910(d) (the Act). That section provides broad authority to issue administrative orders upon violation of Section 10(a) of the Act, 42 U.S.C. 4909(a); Section 10(a) provides that manufacturers may not distribute new distribute new products into commerce unless they comply with regulations promulgated pursuant to Sections 6 and 13(a) of the Act.

A. The Agency does not agree with petitioners' contention that the legislative history of the Act suggests Congress intended to deny recall authority. Petitioners base their view on the fact that the final version section 11(d) does not expressly provide for recall of non-complying products, as had been provided in an earlier bill passed by the Senate. See S. 3343, section 412(d)(1), 92nd Cong. 2d Sess. (1972). I believe Petitioners are misinterpreting legislative silence. EPA does not have the benefit of a conference report to explain the manner of reconciling the Senate Bill (expressly authorizing recall, notice to purchasers and the public, and orders to cease violations) with the House Bill which did not provide for administrative orders at all. See H.R. 11021 section 11(a)(1)(A), 92nd Congress. EPA believes the proper reading of the legislative history indicates the change

was made to grant only a broad authority, avoiding limitations on the remedies to be ordered by the Administrator.

B. The broad authority provided by the Act is not to be limited by the fact that other legislation contains express statutory provisions for recall orders. Petitioners cite several statutes which explicitly authorize recall orders. However, these statutes fail to provide the discretionary authority to issue administrative orders as granted by section 11(d) of the Act. EPA believes recall orders are but one of a number of approaches authorized by section 11(d) to remedy violations of the Act.

C. The Act does not require a case-by-case determination that each recall order is necessary to protect the public health and welfare. EPA believes the intent of Congress would not be served by engaging in analysis of individual impacts for each instance of non-compliance. The distribution into commerce of portable air compressors that fail to comply with the EPA regulation is prohibited by the Act and is therefore the proper subject of administrative orders. Congress was concerned with compliance by each individual product. EPA's recall policies reflect that concern. Determinations of the noise limits necessary to protect the public health and welfare were made when the noise emission standard for portable air compressors was promulgated, as required by section 6(c)(1) of the Act, 42 U.S.C. 4905(c)(1). Petitioners have not sought judicial review of those determinations.

2. Petitioners' allegations regarding EPA's enforcement policy and the infeasibility of 100% compliance are matters still before the U.S. Court of Appeals for the District of Columbia Circuit in the Petition of Rehearing in *Atlas Copco, Inc. et al. v. EPA*, No. 76-1354. The Agency maintains its position in that case that compliance by all non-exempt portable air compressors is both feasible and required by law and that the enforcement provisions of the regulation are proper.

3. Petitioners allege impropriety in EPA's exercise of its authority to remedy violations of the Act prior to a review of that authority in court. The Administrator must interpret and enforce the provisions of the Act based upon his determination of the statutory authority. Those determinations are made after careful consideration and public participation in the rulemaking process. In *Atlas Copco, Inc., et al. v. EPA*, No. 76-1354 and *Chrysler Corp. v.*

EPA, No. 76-1575, the Court of U.S. Appeals for the District of Columbia Circuit held that Section 16 of the Act, 42 U.S.C. 4915, did not provide exclusive review in that court of EPA's authority to issue recall and cease-to-distribute orders. The Court held it had not jurisdiction to review the regulatory provision for recall and cease-to-distribute orders. In the absence of a court's invalidation of EPA's determination of its statutory authority, EPA will carry out its mandate utilizing the available enforcement tools.

Press Release

1. The press release issued on May 1, 1979, was a proper means of effectuating the Agency's duty to inform the public.

The press release stated facts that are in the public record. The fact that enforcement actions have been initiated with respect to portable air compressors distributed into commerce is information to which the general public has ready access under EPA regulations. Unless matters are found exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552 et seq., all EPA records are available to the public. 40 CFR 2.10(b). The Interim Rules of Practice, 40 CFR Part 209, specifically provide that records of hearings held prior to issuance of final section 11(d) orders are available to the public for inspection and copying.

2. The press release issued on May 1, 1979, did not amount to a prejudgment of issues to be raised at the hearing nor a denial of due process.

A. Statements contained in the press release do not indicate EPA had adjudged issues in advance, violating Worthington's right to be heard. The press release stated that EPA ordered Worthington to recall approximately 250 portable air compressors of Model 165D2 which failed a Selective Enforcement Audit. The determination that Model 165D2 failed the Selective Enforcement Audit was the basis for the complaint which initiated the enforcement proceedings. Petitioners have not contested the determination that Worthington failed an SEA but challenge the manner in which it is used. The U.S. Supreme Court has repeatedly held that due process is not denied where hearings are not afforded prior to preliminary determinations that initiate administrative proceedings as long as hearings are afforded before the final administrative order becomes effective. See *Inland Empire District Council v. Millis*, 325 U.S. 697, 65 S.Ct. 1316 (1945).

B. The press release further stated that the orders to Worthington and General Supply and Leasing would be effective twenty (20) days after service unless Worthington or General Supply and Leasing requested a hearing. (Both have requested a hearing.) This is consistent with the Interim Rules of Practice Governing Proceedings Under the Noise Control Act of 1972, 43 CFR 209.7(a). However, in the future the Agency will indicate in press releases that complaints have been issued and that recall orders will become effective on a certain date unless a hearing is requested within twenty (20) days.

C. Issuance of the press release did not violate Worthington's right to due process by creating an appearance of prejudgment. Due process requires a fair hearing before an impartial decisionmaker, as will be provided in the hearing to be held prior to issuance of a final determination. The decisionmaker, an administrative law judge, is free from outside influences while performing the judicial functions of the Agency. Courts have upheld the exercise of investigative, prosecutorial and judicial functions by the same Agency. The U.S. Court of Appeals for the District of Columbia Circuit has held that the issuance of press releases by an agency on the initiation of enforcement proceedings does not necessarily preclude that same agency from providing a fair adjudicative hearing. See *F.T.C. v. Cinderella Career & Finishing Schools, Inc.* 404 F.2d 1308 (D.C. Cir. 1968).

D. In summary, the press release of May 1, 1979, factually reported as a newsworthy item the EPA's first substantial enforcement activity under the Noise Control Act of 1972. The purpose of the press release was to inform the public of the initiation of enforcement proceedings rather than to embarrass or intimidate Worthington or the industry. The release stated that an opportunity for a hearing is available to the manufacturers prior to the effective date of the orders. The press release contained only facts which are indisputably in the public domain.

Dated: November 2, 1979.

Jeffrey G. Miller,
Acting Assistant Administrator for Enforcement.

[FR Doc. 79-36491 Filed 11-26-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1367-1]

Science Advisory Board Executive Committee, Subcommittee on Toxic Substances; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a one-day meeting of the Subcommittee on Toxic Substances of the Science Advisory Board will be held on Thursday, December 13, 1979 in Room 1101 (West Tower), Waterside Mall, 401 M Street, S.W., Washington, D.C. The meeting will start at 10:00 a.m.

The Subcommittee will be meeting for the sixth time, the purpose being to review, with representatives of the Offices of Toxic Substances and General Counsel, some of the ramifications of various constructions that might be applied to the provisions of section 5 of the Toxic Substances Control Act with respect to the content, and consequent utility to the Environmental Protection Agency, of premanufacture notices.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. December 10, 1979. Please ask for Dr. Helene Guttman. The telephone number is (202) 472-9444.

Richard M. Dowd,
Staff Director, Science Advisory Board.

November 14, 1979.

[FR Doc. 79-36433 Filed 11-26-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1366-7]

South Carolina Department of Environmental Regulation; Results of Review of Exemptions Granted From June 24, 1977 to June 24, 1978.

This public notice is issued under Section 1416 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and § 142.22(b) of the National Interim Primary Drinking Water Regulations, published in *Federal Register* on January 20, 1976. The notice of review of these exemptions was published in the *Federal Register* on November 7, 1978.

We have reviewed and found the exemptions to the fluoride Maximum Contaminant Level have been correctly issued by the South Carolina Department of Health and Environmental Control. Compliance schedules for these exemptions will be reviewed by the Administrator and the results published in the *Federal Register* at a later date. The review of these

compliance schedules will be announced in the *Federal Register* in order to provide interested parties with an opportunity to submit written comment.

John C. White,
Regional Administrator.

[FR Doc. 79-36432 Filed 11-26-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1366-6]

Safe Drinking Water Act; Impending Review of Variances and Exemptions

Notice is hereby given that pursuant to Sections 1415(a)(1)(F) and 1416(d) of the Safe Drinking Water Act, and in accordance with 40 CFR 142.22(b), the Environmental Protection Agency (EPA) Regional Offices will conduct a comprehensive nationwide review of all variances and exemptions (including all schedules prescribed pursuant thereto) issued during the period June 24, 1977 to September 30, 1979.

The EPA Regional Offices will determine if all State-issued variances and exemptions were granted under conditions and in a manner which are not less stringent than the conditions under which variances and exemptions may be granted in Sections 1415 and 1416 of the Safe Drinking Water Act. The EPA Regional Offices will also determine whether or not a State with primary enforcement responsibility has abused its discretion when issuing variances and exemptions.

The data and other information on variances and exemptions will be available for public inspection during normal business hours from December 1, 1979 to January 15, 1980 at the EPA Regional Offices. Table A contains names, addresses and telephone numbers of the Regional Water Supply representatives.

All interested parties are invited to submit written comments on the variances and exemptions being reviewed, including the need to continue specific variances and exemptions. Comments will be sent to the appropriate EPA Regional Office by January 31, 1980. Questions or comments on the process should be directed to the Regional Water Supply representatives or to Jim Manwaring, Office of Drinking Water, at (202) 472-4152.

Dated: November 20, 1979.

Alan Levin,
Acting Deputy Assistant Administrator,
Office of Drinking Water.

[FR Doc. 79-36431 Filed 11-26-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Rpt. No. A-8]

FM Broadcast Application Accepted for Filing and Notification of Cut-Off Date

Released: November 21, 1979.

Cut-Off Date: December 31, 1979.

Notice is hereby given that the following application is hereby accepted for filing. It will be considered ready and available for processing after December 31, 1979. An application, in order to be considered with this application or with any other application on file by the close of business on December 31, 1979 which involves a conflict necessitating a hearing with this application, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. not later than the close of business on December 31, 1979. Petitions to deny this application must be on file with the Commission not later than the close of business on December 31, 1979.

The Commission is expediting the processing of this application in response to the applicant's showing that the Tupper Lake, New York area needs additional broadcast service to provide adequate public information during the 1980 Winter Olympic Games, which will be held in nearby Lake Placid, New York.

BPH-790822AB NEW, Tupper Lake, New York, R D Broadcasting Corporation, Req: 102.3 MHz, Channel No. 272A, ERP: 0.075 kW; HAAT: 1450 ft.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 79-36396 Filed 11-26-79; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 78-242]

Inquiry Into Alleged Improper Activities by Southern Bell Telephone & Telegraph Co. and Southwestern Bell Telephone Co.

Released: November 26, 1979.

Adopted: November 15, 1979.

By Order, FCC 79-566, released October 1, 1979, (see 44 FR 59960, October 17, 1979) the Commission directed that the Report of Investigation and the underlying record in this proceeding be released to the public. The Commission also provided that interested persons could file comments on the report and the record on or before November 15, 1979. Reply comments are due on or before November 30, 1979. By

a separate Public Notice, FCC 79-587, released the same day, the Commission indicated that the record would be made available for public inspection after resolution of certain confidentiality requests.

The ruling on the confidentiality requests are the subject of a separate Order also being released today. The record in this proceeding will be available for public inspection in accordance with that order, if no appeal of that order is filed by Southern Bell Telephone and Telegraph Company or Southwestern Bell Telephone Company.

A request for extension of time of the filing dates for comments and replies was filed by Arthur Blooston, Esq. on October 19, 1979. Mr. Blooston requests that the time periods be extended six weeks from the date the record is available for public inspection.

We will grant an extension of time to allow interested persons a reasonable period to review the record before filing comments.

Accordingly, it is ordered, that the time for filing comments is extended from November 15, 1979 to 30 days after release of a public notice of the availability of the record. Replies shall be filed within 14 days, thereafter.

Philip L. Verwee,
Chief, Common Carrier Bureau.
[FR Doc. 79-36480 Filed 11-26-79; 8:45 am]
BILLING CODE 6712-01-M

Carpinteria Broadcasting Co., et al.; Applications Designated for Consolidated Hearing

Adopted: October 31, 1979.
Released: November 19, 1979.

In the matter of applications of Israel Sinofsky and Peter E. Baird d/b/a Pacific West Broadcasters Carpinteria, California (BC Docket No. 79-293, File No. BPH-10,468) Req: 101.7 MHz, Channel 269A 220 watts, 920 feet.

In the matter of Edward G. Atsinger, Jr., Henry F. Craig and Edward G. Atsinger, III, d/b/a Carpinteria Broadcasting Co. Carpinteria, California (BC Docket No. 79-294, File No. BPH-10,765) Req: 101.7 MHz, Channel 269A 3 kW (H&V), minus 1010 feet.

In the matter of Carpinteria Broadcasting Company Carpinteria, California (BC Docket No. 79-295, File No. BPH-10,767) Req: 101.7 MHz, Channel 269A 224 watts (H&V), 920 feet.

In the matter of Raymond F. Wilson and Lorna C. Wilson, d/b/a Wilson Communications Company Carpinteria, California (BC Docket No. 79-296, File No. BPH-10,897) Req: 101.7 MHz, Channel 269A 215 watts (H&V), 934 feet.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications.

2. Analysis of the financial data submitted by Israel Sinofsky and Peter E. Baird, d/b/a Pacific West Broadcasters (Pacific West) reveals that \$13,565 will be required to construct and operate the proposed station for three months, itemized as follows:

Equipment lease down payment.....	\$500
Equipment lease payments (three months).....	750
Building remodeling.....	1,100
Miscellaneous.....	1,825
Operating costs (three months).....	9,390
Total.....	13,565

Pacific West plans to finance construction and operation with the following funds: loan to Peter E. Baird from Michael and W. Aline Sekulich of \$25,000, and funds to be provided by Israel Sinofsky and Peter E. Baird. However, the balance sheet of Michael and Aline Sekulich, dated February 24, 1977, does not segregate current and long-term liabilities, and indicates that current and liquid assets exceed liabilities by only \$5,700. While the financial statement of Peter E. Baird, dated June 30, 1979, likewise does not segregate liabilities, it shows current and liquid assets exceed all liabilities by \$12,200. However, the July 12, 1979 amendment to the Pacific West application, which states that Mr. Baird is a party to an application for construction permit (File No. BPH-790214AG) for a new FM station at Tehachapi, California, does not indicate the extent of any financial commitment to that application, and the effect, if any, of that commitment on his ability to fulfill his commitment to Pacific West. The financial statement of Israel Sinofsky, dated December 31, 1976, discloses that unsegregated liabilities exceed current and liquid assets. Finally, Pacific West has made no allotment for legal fees incident to the comparative hearing on its application. An estimate of those legal costs must be submitted by amendment to the application, and the financial portion of the application must show sufficient sources of funds to cover these miscellaneous construction costs. The foregoing matters raise a substantial question as to whether funds to cover the costs of construction and operation will be available. Therefore, a limited financial issue will be specified.

3. Analysis of the financial data submitted by Edward G. Atsinger, Jr., Henry F. Craig and Edward G. Atsinger III, d/b/a Carpinteria Broadcasting Co. (Carpinteria) reveals that \$58,950 will be required to construct and operate the proposed station for three months, itemized as follows:

Equipment.....	\$35,200
Buildings.....	5,000
Miscellaneous.....	4,500
Operating costs (three months).....	14,250
Total.....	58,950

Carpinteria plans to finance construction and operation with the following funds: loan from Commercial and Farmers National Bank in the sum of \$100,000, and new capital from stockholders of \$24,000. However, the bank loan commitment letter lacks terms of interest and repayment, and expired on September 18, 1978. Moreover, Carpinteria has made no allotment for legal fees incident to the comparative hearings on its application. An estimate of those legal costs must be submitted by amendment to the application, and the financial portion of the application must show sufficient sources of funds to cover these miscellaneous construction costs. Therefore, a limited financial issue will be specified.

4. Analysis of the financial data submitted by Carpinteria Broadcasting Company (CBC) reveals that \$54,121 will be required to construct and operate the proposed station for three months, itemized as follows:

Equipment lease down payment.....	\$1,427
Equipment lease payments (three months).....	4,281
Buildings.....	5,000
Miscellaneous.....	10,000
Operating costs (three months).....	33,413
Total.....	54,121

CBC plans to finance construction and operation with the following funds: \$2,500, cash on hand and in banks, and \$215,000 in stockholder loans. However, the financial statements submitted by CBC's principals fail to show sufficient current and liquid assets above current liabilities to meet any of the individual commitments. Finally, CBC has allotted only \$5,000 for legal costs. An estimate of legal fees incident to the comparative hearing on its application must be submitted by amendment to the application, and the financial portion of the application must show sufficient sources of funds to cover these miscellaneous costs. Therefore, a limited financial issue will be specified.

5. Pacific West has failed to comply with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). From the information before us, it appears that the applicant failed to provide a description of the composition of Carpinteria, including such data as are necessary "to indicate the minority, racial or ethnic breakdown of the community, its economic activities,

governmental activities, public service organizations, and any other factors or activities that make the particular community distinctive." (See Question and Answer 9 of the *Primer*). In addition, the application fails to indicate whether other major communities are within the proposed service contours and include interviews with leaders who can be expected to have a broad overview of the problems and needs of these communities or, in the alternative, state that Pacific West does not intend to serve them. Although Pacific West lists 12 "individuals" contacted by its principals, the statement of the methodology employed in the general public survey is insufficient to allow us to determine whether the required random sample was, in fact, achieved in compliance with Question and Answer 13(b) of the *Primer*. Accordingly, a limited ascertainment issue will be specified.

6. We are unable to determine whether CBC's community leader interviews were conducted by principals or management-level employees of the proposed station, as required by Question and Answer 11(a) of the *Primer*. In addition, the application fails to indicate whether other major communities are within the proposed service contours and include interviews with leaders who can be expected to have a broad overview of the problems and needs of these communities or, in the alternative, state that CBC does not intend to serve them. Finally, the statement of the methodology employed in its general public survey is insufficient to allow us to determine whether the required random sample was, in fact, achieved in compliance with Question and Answer 13(b) of the *Primer*. Accordingly, a limited ascertainment issue will be specified.

7. From the information before us, it appears that Wilson has failed to survey leaders of significant population groups set forth in its demographic survey, as required by Question and Answer 10 of the *Primer*. For example, Wilson has not interviewed any leaders of cultural or professional groups or interests. In addition, we are unable to determine whether community leader interviews were conducted by principals or management-level employees of the proposed station, as required by Question and Answer 11(a) of the *Primer*. The application also fails to indicate whether other major communities are within the proposed service contours and include interviews with leaders who can be expected to have a broad overview of the problems and needs of these communities or, in

the alternative, state that Wilson does not intend to serve them. Wilson has also failed to state the dates on which the community leader and general public surveys were held, in order to assure compliance with Questions and Answers 2 and 15 of the *Primer*. We are unable to determine whether the general public survey was conducted by principals, employees, prospective employees or a professional research or survey service, in compliance with Question and Answer 11(b) of the *Primer*. Lastly, the statement of the methodology employed in the general public survey is insufficient to allow us to determine whether the required random sample was, in fact, achieved pursuant to Question and Answer 13(b) of the *Primer*. Accordingly, a limited ascertainment issue will be specified.

8. Although all four mutually exclusive applicants state that the population of Carpinteria is 30% or more Hispanic, and CBC proposes approximately 38.8% Spanish language programming whereas the other applicants propose predominantly general market programming, no showing has been submitted by CBC that its proposed format is not available in the particular market in a substantial amount. Therefore, in accord with the Commission's Memorandum Opinion and Order in *George E. Cameron, Jr. Communications (KROQ)*, FCC 79-206, 45 RR 2d 689, 71 FCC 2d 460 (1979), the relative need for the different types of programming proposed by the applicants will not be considered under the standard comparative issue.

9. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals, as follows:

Applicant	Proposed 1 mV/m contour	
	Area (sq. mi)	Population
Pacific West.....	340	215,340
Carpinteria.....	180.5	132,000
CBC.....	356	233,714
Wilson.....	410	231,120

Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

10. In reliance upon letters of intent to lease issued to Pacific West and Wilson

by Hoffman, Vance and Worthington, a land management firm, with respect to the availability of a transmitter site on Mt. Rincon, CBC has also specified a Mt. Rincon site in its application, despite an indication by Hoffman, Vance and Worthington that a similar letter of intent would not be forthcoming because "there were a sufficient number of applicants for the FM channel." The land management firm's refusal to provide a letter of intent to lease to CBC is obviously premised upon confusion or misinformation regarding the mutual exclusivity of the Carpinteria FM proposals. Just as an applicant challenging a renewal application may reasonably assume, in the absence of specific information to the contrary, that a licensee whose renewal application is denied will not object to future negotiations for the transfer of its facilities, *West Jersey Broadcasting Co.*, 37 RR 2d 1259 (Rev. Bd., 1976), an applicant specifying the same transmitter site as other competing applicants should be able to reasonably rely upon the owner's assurances of the availability of the site to other competing applicants. Under the circumstances, the failure of the land management firm to respond to CBC's appeal of termination of lease negotiations may properly be interpreted by CBC as reasonable assurance of availability of the site to it as well. Accordingly, an inquiry into the availability of CBC's proposed transmitter site is unwarranted.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

12. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Pacific West:

(a) The source and availability of additional funds above the \$5,700 indicated;

(b) The amount of estimated legal fees incident to a hearing on the Pacific West application, and in the light thereof, the source and availability of sufficient funds to cover these expenditures; and

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

2. To determine with respect to Carpinteria:

(a) The source and availability of additional funds above the \$24,000 indicated;

(b) The amount of estimated legal fees incident to a hearing on the Carpinteria application, and in the light thereof, the source and availability of sufficient funds to cover these expenditures; and

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

3. To determine with respect to CBC: (a) The source and availability of additional funds over and above the \$2,500 indicated;

(b) The amount of estimated legal fees incident to a hearing on the CBC application; and in the light thereof, the source and availability of sufficient funds to cover these expenditures; and

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is financially qualified.

4. To determine with respect to the efforts of Pacific West to ascertain the needs of its proposed service area:

(a) Whether the applicant has submitted a description of the composition of the community it proposes to primarily serve;

(b) Whether the applicant adequately ascertained community problems outside of its proposed community of license;

(c) Whether the applicant's general public survey achieved the required random sample.

5. To determine with respect to the efforts of CBC to ascertain the needs of its proposed service area:

(a) Whether the applicant's community leader survey was conducted by principals or management-level employees of the station;

(b) Whether the applicant adequately ascertained community problems outside of its proposed community of license;

(c) Whether the applicant's general public survey achieved the required random sample.

6. To determine with respect to the efforts of Wilson to ascertain the needs of its proposed service area:

(a) Whether the applicant interviewed leaders of cultural or professional groups or interests in Carpinteria;

(b) Whether the applicant's community leader survey was conducted by principals or management-level employees of the station;

(c) Whether the applicant adequately ascertained community problems outside of its proposed community of license;

(d) Whether the applicant's general public survey was conducted by principals, employees, prospective

employees, or a professional research or survey service.

(e) Whether the applicant's community leader and general public surveys were conducted on dates in compliance with Questions and Answers 2 and 15 of the *Primer*.

(f) Whether the applicant's general public survey achieved the required random sample.

7. To determine which of the proposals would, on a comparative basis, best serve the public interest.

8. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which application, if any, should be granted.

13. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's Rules and in person or by attorney within 20 days of the mailing of this Order, shall file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, that the applicants herein, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, shall give notice of the hearing (either individually or, if feasible, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-36481 Filed 11-26-79; 8:46 am]
BILLING CODE 6712-01-M

Edwards Industries v. Bell Telephone Co. of Nevada et al.; Correction

Released: November 20, 1979.

In the matter of Mark Edwards, dba Edwards Industries, and Edwards Industries, Inc., Complainants (CC Docket No. 79-284) v. Bell Telephone Company of Nevada, The Pacific Telephone and Telegraph Company, and American Telephone and Telegraph Company, Defendants (File No. TS 7-78). See 44 FR 63573, November 5, 1979.

The Memorandum Opinion and Order and Notice of Apparent Liability, F.C.C. 2d, FCC 79-628, Mimeo No. 14893, adopted October 10, 1979 and released October 26, 1979, in the above entitled matter, is corrected to change "47 C.F.R. § 1.80(f)" to "47 U.S.C. 202(c) and 203(e)," in paragraph 28, first sentence.

Paragraph 14, second sentence, is corrected to change "§§ 2.6.8 and 2.7.4" to "§ 2.6.1."

Footnote 10 is corrected to change,

"10 AT&T Tariff F.C.C. No. 283, Section 2.6.8 reads in pertinent part, 'Connection of Customer-Provided Terminal Equipment Attested by a Manufacturer or Supplier'

(1) Customer-provided terminal equipment, listed in (3) below and defined in 2.5 preceding, which meets the standards and procedures set forth by the Telephone Company in Technical References may be connected to facilities furnished by the Telephone Company for Long Distance Message Telecommunications Service in accordance with provisions of (a) through (e) following."

AT&T Tariff F.C.C. No. 283, Section 2.7.4 reads in pertinent part, 'Connection of Customer-Provided Communications Systems'

Customer-provided communications systems (including channels derived from such systems), not exceeding voice grade, may be connected with Long Distance Message Telecommunications Service at the premises of the Customer. . . ."

to, "AT&T Tariff F.C.C. No. 283, Section 2.6.1 reads in pertinent part, '(A) Connections of Customer-Provided Registered Protective Circuitry or Registered Terminal Equipment under Part 68 of the Federal Communications Commission's Rules and Regulations'

(1) Customer-Provided Protective Circuitry or Terminal Equipment may be connected at the customer's premises to services furnished by the Telephone Company for use with Long Distance Message Telecommunications Service subject to the provisions of Part 68 of the Federal Communications Commission's Rules and Regulations and this 2.6.1(A) and 2.6.4(D) following. . . ."

Paragraph 28 is corrected to change "§§ 2.6.8 and 2.7.4" to "§ 2.6.1."

Federal Communication Commission.

William J. Tricarico,
Secretary.

[FR Doc. 79-36482 Filed 11-26-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 7, 1979. Any person desiring a hearing on

the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: 93-20.

Filing Party: David C. Nolan, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111.

Summary: Agreement No. 93-20, among the member lines of the North Europe-United States Pacific Freight Conference, would amend the basic agreement to extend the independent action provisions to March 31, 1980, and the joint service voting provision to December 31, 1980, beyond the present termination dates of December 31, 1979.

Dated: November 20, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 79-36387 Filed 11-26-79; 8:45 am]
BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by December 17, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the

United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-2480-2.

Filing Party: John E. Nolan, Assistant Port Attorney, Port of Oakland, P.O. Box 2064, 64 Jack London Square, Oakland, California 94604.

Summary: Agreement No. T-2480-2, between Port of Oakland (Port) and American President Lines, Ltd. (APL) affects the basic agreements between the Port and APL covering the lease/assignment to APL of certain premises and improvements at the Middle Harbor Terminal (Agreements Nos. T-2480 and T-2605), which were assigned to APL by Seatrain Terminals of California, Inc., in Agreement No. T-3038, by providing for the Port's acquisition, design and construction of an additional access roadway to the premises leased/assigned to APL under the basic agreements.

Agreement No. T-2480-2 also provides for the method of compensation or reimbursement by APL to the Port for the cost of acquisition of the roadway easement and the cost of design and construction of the access roadway granting to APL certain options to either initially reimburse the Port for the total project cost or to pay an additional monthly compensation for the remainder of the term of the basic agreements or extensions thereof, determined by a factor as described therein. Agreement No. T-2480-2 also contains additional provisions relating to APL's maintenance of the access roadway and APL's liability insurance requirements with respect to its use and maintenance of the roadway.

Agreement No. T-3155-4.

Filing Party: John C. Barnett, Principal Attorney, Leases and Operating Agreements Division, Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Summary: Agreement No. T-3155-4 between the Port Authority of New York and New Jersey (Port) and Maersk Container Services Company, Inc., assignee of Moller Steamship Company, Inc., modifies the basic agreement between the Port and Moller Steamship Company, Inc., providing for the 25-year lease of a marine terminal at Port Newark, New Jersey. The purpose of the modification is to provide for an increase in the maximum amount of the Port Authority's obligation for certain construction.

Agreement No.: T-3207-2.

Filing Party: Carl S. Parker, Jr., Traffic Manager, Board of Trustees of the Galveston Wharves, Port of Galveston, P.O. Box 328, Galveston, Texas 77553.

Summary: Agreement No. T-3207-2, between the Board of Trustees of the Galveston Wharves (Galveston) and Southern Stevedoring Co., Inc., (Southern) modifies the basic agreement between the parties which provides for the preferential lease by Galveston of certain premises to be used and occupied by Southern as a public terminal solely to carry on the business of handling bananas, other tropical fruit and general cargo. The purpose of the modification is to add (in Paragraph 7) an additional procedure to be followed on future repairs or maintenance upon or to the leased premises and appurtenances thereto.

Agreement No.: T-3872.

Filing Party: W. H. Black, Jr., Chief Administrative Officer, Alabama State Docks Department, P.O. Box 1588, Mobile, Alabama 36601.

Summary: Agreement No. T-3872, between Alabama State Docks Department (ASD) and Zapata Haynie Corporation (Zapata), provides for the 1-year lease by ASD to Zapata of certain premises which form part of ASD's Inland Dock Facility known as the Tuscaloosa-Northport State Dock, located at Tuscaloosa, Alabama. Zapata will use the premises to operate a warehouse facility for the purpose of handling, storing, receiving, and distributing fishmeal and other feed ingredients, and for no other purpose.

Agreement No.: T-3877.

Filing Party: Leslie E. Still, Jr., Senior Deputy City Attorney, Harbor Branch Office, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T-3877, between Long Beach (City) and Crescent Terminals, Inc. (Crescent) provides for the assignment to Crescent of berths 206 and 207, Pier F, open areas and transit shed located thereon for initial term of 10 years with options for two additional terms of 5 years each. All accrued tariff charges are to be paid to the City, except "Apportionable Tariff Charges," which will be split 50-50 between assignee and City. Compensation provisions, through payment of such tariff charges, provides for the stated guaranteed annual minimum compensation figures and provides for payment of deficiencies, if any. Agreement No. T-2800, between the parties, will be cancelled upon approval of Agreement No. T-3877.

Agreement No.: 9648-A-14.

Filing Party: Wade S. Hooker, Jr.,
Burlingham Underwood & Lord, One
Battery Park Plaza, New York, New
York 10004.

Summary: Agreement No. 9648-A-14
modifies the Inter-American Freight
Conference basic agreement (1) to
permit joint meetings between different
sections and committees of the
conference, (2) to authorize the
appointment of subcommittees to study
and make reports, and (3) to establish
voting requirements of inter-section
meetings. By Order of the Federal
Maritime Commission.

Dated: November 21, 1979.

Francis C. Hurmey,
Secretary.

[FR Doc. 79-36494 Filed 11-26-79; 8:45 am]
BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of
a report intended for use in collecting
information from the public was
received by the Regulatory Reports
Review Staff, GAO, on November 20,
1979. See 44 U.S.C. 3512 (c) and (d). The
purpose of publishing this notice in the
Federal Register is to inform the public
of such receipt.

The notice includes the title of the
request received; the name of the agency
sponsoring the proposed collection of
information; the agency form number, if
applicable; and the frequency with
which the information is proposed to be
collected.

Written comments on the proposed
NRC request are invited from all
interested persons, organizations, public
interest groups, and affected businesses.
Because of the limited amount of time
GAO has to review the proposed
request, comments (in triplicate) must be
received on or before December 17,
1979, and should be addressed to Mr.
John M. Lovelady, Assistant Director,
Regulatory Reports Review, United
States General Accounting Office, Room
5106, 441 G Street, NW, Washington, DC
20548.

Further information may be obtained
from Patsy J. Stuart of the Regulatory
Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance of
revisions to 10 CFR Part 73, Physical
Protection of Plants and Materials.
Specifically, amendments to the
application, recordkeeping and reporting
requirements which would require
strengthened physical protection

safeguards systems for fuel cycle
facilities and transportation activities
involving formula quantities of strategic
special nuclear material. This
"Safeguards Upgrade Rule" is consistent
with the previous Commission decision
that emergency action to increase
protection for the licensed activities
involved through the application of
upgraded physical security measures
was not required. It is also consistent
with the stated intention of the
Commission to initiate a program of
upgrading the protection of special
nuclear material against theft and
nuclear plants against sabotage. It
responds to the recommendation by the
Joint ERDA-NRC Task Force on
Safeguards to provide certain quantities
of SNM with a higher level of protection.
Section 73.20(c)(1) requires licensees to
submit revised Protection Plans. Section
73.46(b)(1) requires that if a contractor
guard force is used, the licensees'
written agreement will show that the
NRC may inspect and take away the
copies of documents required to be kept.
Section 73.46(b)(3)(i) requires that there
shall be written security procedures
which document the structure of the
security organization which detail duties
of guards, watchmen and other
individuals responsible for security.
Section 73.46(b)(4) requires that annual
requalification of each guard,
watchman, or armed response person in
accordance with Appendix B be
documented. Section 73.46(d)(13)
requires that individuals not permitted
by the licensee to enter a protected area
without escort shall be required to
register name, date, time, purpose of
visit, employment affiliation, citizenship,
and name of the individual to be visited.
Section 73.46(g)(6) requires that
licensees maintain records of annual
security program audits and reviews
along with recommendations. Section
73.46(h)(2) requires that fixed site
licensees maintain records of response
arrangements with local law
enforcement authorities. Section
73.55(g)(1) requires that nuclear power
reactor licensees maintain records of the
annual security program review and
audit along with recommendations. The
NRC estimates these requirements will
affect approximately 74 licensees and
the recordkeeping and reporting times
for each section will average as follows:
Section 73.20(c)(1) 400 hours (one time
only submission), § 73.46(b)(1) 1 hour,
§ 73.46(b)(3)(i) 6 hours, § 73.46(b)(4) 50
hours, § 73.46(d)(13) 5 minutes,

§ 73.46(g)(6) 2 hours, § 73.46(h)(2) 3
hours, and § 73.55(g)(4) 1 hour.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-36426 Filed 11-26-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79D-0167]

Capsicum Pods, Ground Capsicums Excluding Paprika, and Ground Paprika; Availability of Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the
availability of a revised administrative
guideline (Administrative Guideline
7409.03) containing the defect action
levels for capsicum pods, ground
capsicums excluding paprika, and
ground paprika when adulterated with
insect and rodent filth, mold, and
mammalian excreta. The revised
guideline establishes new action levels
for insect and rodent filth in ground
paprika and a requirement that a check
analysis be performed for insect or
rodent filth in ground capsicums
excluding paprika. The revisions are
made because of the new, more
sensitive analytical methods prescribed
for each.

ADDRESS: Written comments to the
Hearing Clerk (HFA-305), Food and
Drug Administration, Rm. 4-65, 5600
Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Elizabeth J. Campbell, Bureau of Foods
(HFF-312), Food and Drug
Administration, Department of Health,
Education, and Welfare, 200 C St. SW.,
Washington, DC 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION:
Administrative Guidelines developed by
the Food and Drug Administration
(FDA) set forth regulatory policies that
are used as a basis for legal actions.
Food-defect action levels are
established in administrative guidelines
by FDA and represent the levels of
natural or unavoidable defects
permitted in foods produced under good
manufacturing practices. These action
levels may be revised as necessary to
reflect technological advances or
changes in problems related to specific
commodities.

Ground Paprika

The revised administrative guideline
now specifies Association of Official

Analytical Chemists (AOAC) method
44.C01-03 as the method of analysis for
insect and rodent filth in samples of
ground paprika and revises the action
levels for insect and rodent filth in
ground paprika to "more than 75 insect
fragments per 25 grams" and "an
average of more than 11 rodent hairs per
25 grams." The revised action level is
based on studies completed by FDA and
by the spice industry, which show that
the newly adopted analytical method
results in better filth recoveries than
does the old method. To avoid causing
an increase in the seizure and detention
rates as a result of changing analytical
methods, FDA has revised the action
levels. The revised action levels will
maintain the existing compliance rate
and will not allow more filth in paprika.
Future revision of the action levels for
insect and rodent filth in ground paprika
may result from an FDA survey using
the current analytical method.

Ground Capsicums Excluding Paprika

The revised administrative guideline
specifies AOAC 44.D04-06 as the
method of analysis for insect and rodent
filth in ground capsicums excluding
paprika and also requires use of the old
analytical method (AOAC 44.123(b)) as
a check analysis for regulatory actions.

The results of the AOAC collaborative
study conducted before its adoption of
the current method of analysis indicate
this method may detect greater amounts
of filth than the old method. The purpose
of the check analysis is to avoid
inadvertently imposing more stringent
filth criteria until a survey can be
completed to determine whether further
revision of the action levels is
warranted. The survey is tentatively
planned for fiscal year 1980.

The action levels in the revised
administrative guideline do not apply to
food products containing both ground
capsicums and noncapsicum
ingredients, such as chili powder.
Products containing noncapsicum
ingredients are not covered by the
guideline because different
manufacturers may include various
amounts of a number of different
noncapsicum ingredients, each of which
would have a different potential for
contributing insect or rodent filth to the
finished product. Of course, regulatory
action may still be taken against ground
capsicum products containing
noncapsicum ingredients that are
adulterated.

The action levels for moldy or insect-
infested capsicum pods, adulteration of
capsicum pods by mammalian excreta,
mold in ground paprika, and mold in
ground capsicums excluding paprika
remain unchanged.

A copy of this guideline is available
for public examination between 9 a.m.
and 4 p.m., Monday through Friday, in
the office of the Hearing Clerk, Food and
Drug Administration, (address above).
Requests for single copies of the
guideline may be made in writing to the
office of the Hearing Clerk.

Interested persons may submit written
comments on the guideline to the
Hearing Clerk (preferably four copies
identified with the Hearing Clerk docket
number in brackets in the heading of
this document). Received comments will
be incorporated into the public file on
the guideline and may be seen in the
above named office between 9 a.m. and
4 p.m., Monday through Friday, except
holidays.

Dated: November 19, 1978.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-36219 Filed 11-26-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79F-0397]

Eastman Chemical Products, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Eastman Chemical
Products, Inc., has filed a petition
proposing that the food additive
regulations be amended to provide for
the safe use of copoly (ethylene/1,4-
cyclohexylene dimethylene)
terephthalate in plastics intended for
food-contact.

FOR FURTHER INFORMATION CONTACT:
Gerard L. McCowin, Bureau of Foods
(HFF-334), Food and Drug
Administration, Department of Health,
Education, and Welfare, 200 C St. SW.,
Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under
the Federal Food, Drug, and Cosmetic
Act (sec. 409(b)(5), 72 Stat. 1786 (21
U.S.C. 348(b)(5))), notice is given that a
petition (FAP 9B3436) has been filed by
the Eastman Chemical Products, Inc.,
Kingsport, TN 37662, proposing that food
additive regulations be amended to
provide for the safe use of copoly
(ethylene/1,4-cyclohexylene
dimethylene) terephthalate in plastics
intended for food-contact.

The environmental impact analysis
report and other relevant material have
been reviewed, and it has been
determined that the proposed use of the
additive will not have a significant
environmental impact. Copies of the
environmental impact analysis report
may be seen at the Office of the Hearing

Clerk (HFA-305), Food and Drug
Administration, Rm. 4-65, 5600 Fishers
Lane, Rockville, MD 20857, between 9
a.m. and 4 p.m., Monday through Friday.

Dated: November 19, 1979.

Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 79-36393 Filed 11-26-79; 8:45 am]
BILLING CODE 4110-03-M

[FDA-225-76-4004]

Effective Consumer Protection; Memorandum of Understanding With the Virginia Department of Agriculture and Consumer Services

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug
Administration has executed a
memorandum of understanding with the
Food Inspection Section, Division of
Product and Industry Regulation,
Virginia Department of Agriculture and
Consumer Services. The purpose of this
understanding is to provide more
effective consumer protection in
inspection programs of mutual
obligation.

FOR FURTHER INFORMATION CONTACT:
Gary Dykstra, Regulatory Operations
Section (HFC-22), Food and Drug
Administration, Department of Health,
Education, and Welfare, 5600 Fishers
Lane, Rockville, MD 20857, 301-443-
3470.

SUPPLEMENTARY INFORMATION: Pursuant
to the notice published in the Federal
Register of October 3, 1974 (39 FR
35697), stating that future memoranda of
understanding and agreements between
FDA and others would be published in
the Federal Register, the Commissioner
of Food and Drugs is issuing the
following memorandum of
understanding:

**Memorandum of Understanding
Between the Food Inspection Section,
Division of Product and Industry
Regulation, Virginia Department of
Agriculture and Consumer Services and
the Baltimore District Food and Drug
Administration**

I. Purpose. It is the purpose of this
understanding to provide more effective
consumer protection through more
efficient coverage of the Virginia food
industry to maximize federal and state
manpower utilization by the complete
elimination of duplication.

II. Work-sharing program. A. Goals
and responsibilities: The Virginia
Department of Agriculture and
Consumer Services (VDACS) Food
Inspection Section and the Food and

Drug Administration (FDA) Baltimore Investigations Branch will share the responsibility for the inspection of all Virginia food establishments of mutual obligation. Close coordination and communication must be maintained and joint planning and work scheduling will be performed to assure that manpower is efficiently utilized and regulatory efforts are properly meshed to achieve a high level of industry compliance.

B. Inspection inventory: An inventory of firms covered by this understanding, hereinafter referred to as the cooperative establishment inventory (CEI) will be maintained by FDA's data processing unit (DPU) and updated continuously as data is received from both agencies.

III. General provisions. A. Information exchange: There will be a complete interchange of information between the agencies with respect to the CEI.

1. CEI inspections: All inspection reports, assay reports and correspondence pertaining to firms in the CEI will be exchanged in a timely fashion.

a. VDACS inspection reports: The complete inspection report will be submitted with an FDA computer generated coversheet. A narrative endorsement will be prepared and submitted with reports of contract inspections. VDACS inspection classification, follow-up inspection date, and inspection priority will be included on all reports with the date and initials of the endorser.

b. FDA inspection reports: Completed FDA inspection reports will be sent to VDACS in a timely fashion. The list of observations will be mailed to VDACS as soon after inspection as possible.

2. Samples: Copies of reports of analysis of violative out-of-State food products sampled by VDACS under its surveillance programs will be forwarded to FDA for appropriate follow-up. In addition, each agency's assay reports of CEI firms' products will be exchanged for informational purposes. Violative reports will be appropriately flagged.

3. Complaints: Consumer complaints involving CEI firms will be investigated by the agency receiving the complaint. The exception to this procedure would involve consumer complaints concerning CEI firms which are scheduled for inspectional coverage by the other agency. In such instances the complaint will be forwarded immediately to the supervisor of the inspector/investigator scheduled for that firm. This will allow the inspector/investigator to handle the complaint during his routine inspection.

B. Work planning: 1. Planning: DPU will prepare a printout of the CEI by August 31 each year.

2. Scheduling: DPU will prepare a printout of firms scheduled for inspection during a particular month by the 15th of the preceeding month and will return assignment printouts to VDACS by the 25th. Between the 15th and 25th of each month work will be scheduled by the Richmond Supervisory Investigator and Food Section Assistant Supervisor for the following month.

C. Compliance follow-up: 1. Responsibility: Compliance problems will be handled on a case-by-case basis. It will be the responsibility of the agency which discovers a violation to determine the impact required for achieving compliance and to follow through.

2. Impact actions: The responsible agency may elect to use one of several types of impact—reinspection, sample collection, seizure, product recall, warning letter, joint inspection, hearing, prosecution, referral to the other agency, etc. The partner agency will cooperate within its authority with the responsible agency if compliance follow-up is requested. If referral is selected for impact, it will then become the responsibility of the agency to which referred to pursue the violation to achieve compliance.

3. Seizure: The following procedure will be used when personnel of the VDACS Food Inspection Section are requested to seize products for the FDA/Baltimore District.

a. The FDA Supervisory Investigator will notify a VDACS Supervisor and request the seizure. The FDA Supervisory Investigator will furnish all pertinent information on the seizure including the type and extent of alleged visual contamination, the inspectional evidence relative to the sanitary condition of the firm involved, and an opinion regarding the success or failure of seizure accomplishment.

b. After the FDA information is evaluated a decision will be made by VDACS whether or not to send an Inspector to the firm.

c. If the decision is made to send a VDACS Inspector he or she will visit the firm with the FDA Investigator. The VDACS Inspector will examine the lot and determine if a seizure is justified. The FDA Investigator will furnish whatever on site information is requested by the VDACS Inspector.

d. If it is determined that seizure is required, the VDACS Inspector will seize the lot. The VDACS Inspector will include on the seizure document the actual reason for seizure, e.g., rodent contamination, and a statement that the lot is not to be released except by an authorized representative of the Department of Agriculture and

Consumer Services. The VDACS Inspector will make clear to management that only VDACS may release the lot.

e. After the successful completion of the FDA seizure action FDA will notify VDACS prior to seizure by the U.S. Marshall so that the lot may be released to the custody of the Marshall as required by State statute.

f. In the event the FDA seizure action is unsuccessful FDA will notify VDACS of this fact and arrangements will be made for an FDA official to accompany the VDACS Inspector to the firm to make final appropriate disposition of the lot. It will be the responsibility of the FDA official to make the necessary arrangements for the final disposition of the lot.

D. Recall and emergency: The agencies will cooperate to the fullest extent possible in handling emergency public health problems and in checking effectiveness of product recalls.

1. Disaster work: Problems involving food contamination caused by such disasters as flood, fire, hurricane, carrier wreck, etc. will be handled jointly with VDACS in command. The food section supervisor will promptly notify the FDA investigations branch director or Richmond Supervisory investigator of the situation and request help as needed.

2. Recall: Each agency will cooperate with the other in checking the effectiveness of product recalls. The recall initiator will request the assistance of the partner agency if necessary.

3. Foodborne disease outbreaks: Each agency will notify the other about foodborne disease outbreaks brought to its attention involving foods of mutual obligation. Investigations of such foodborne disease outbreaks will be a cooperative effort.

E. Program review: Joint planning sessions will be held within the first two weeks of March and September each year to review this agreement, discuss the cooperative program, evaluate accomplishments and plan future cooperative work.

F. Training: Training is considered essential for the maintenance of effective inspectional units. It will be discussed and planned for at each planning session.

1. Formal: Formal training courses sponsored by either agency will be available whenever possible for the other's personnel.

2. On-the-job: Joint inspections will be used for training inspectors of both agencies. It will be the responsibility of the inspection unit head to recognize

inspectional weakness and request joint inspection when indicated.

3. Joint inspection techniques courses will be conducted to achieve a uniform approach to inspectional coverage of CEI firms.

G. Term of understanding: This understanding will expire on September 30, 1980, unless renewed and signed by both agencies to continue it in effect until the following September 30.

Both agencies must meet in September of each year to review the understanding and to plan their cooperative programs for the following year.

This understanding, in its entirety, or in part, may be revised by mutual consent or terminated upon thirty days written notice by either agency.

Approved and accepted for the Virginia Department of Agriculture and Consumer Services:

Billy W. Douthall,
Director, Division of Product & Industry Regulation, Virginia Department of Agriculture & Consumer Services.

Dated: October 2, 1979.

Approved and accepted for the Food and Drug Administration:

Thomas L. Hooker,
Director, Food and Drug Administration, Baltimore District.

Dated: October 4, 1979.

Effective date. This memorandum of understanding became effective October 4, 1979.

Dated: November 16, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-36218 Filed 11-26-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79P-0342]

Laser Products Corp.; Approval of Variance for Laser-Aimed Firearms

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The agency announces that a variance from the performance standard for laser products has been approved for a laser-aimed firearm product by the Bureau of Radiological Health. The product is designed to produce a narrow laser light beam that is aligned parallel to a firearm bore and that projects a visible spot of light that serves as a means for improving aiming speed and accuracy. The product is used only for law enforcement and military purposes. **DATES:** The variance became effective September 20, 1979, and ends September 20, 1984.

ADDRESS: Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Laser Products Corp. 18286 Mt. Baldy Circle, Fountain Valley, CA, applied for a variance from the performance standard for laser products, (21 CFR 1040.10 and 1040.11) for their laser-aimed firearm product line. The specific requirements of the standard for which a variance has been requested are the performance features of a remote control connector (§ 1040.10(f)(3)), key control (§ 1040.10(f)(4)), emission indicator (§ 104.10(f)(5)(ii)), and beam attenuator (§ 1040.10(f)(6)). The product shall bear the Variance Number 79P-0342.

By letter of September 20, 1979, the Director, Bureau of Radiological Health, approved the requested variance, which will terminate September 20, 1984.

In accordance with § 1010.4 (21 CFR 1010.4), the application and all correspondence (including the written notice of approval) on this application, except for information regarded as confidential under section 360A(e) of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 2631(e)), have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration. This material may be seen from 9 a.m. to 4 p.m., Monday through Friday.

Dated: November 16, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-36217 Filed 11-26-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79G-0382]

Talbot-Carlson, Inc.; Filing of Petition for Affirmation of GRAS Status

Correction

In Federal Register Doc 79-34480, published at page 65189, in the issue for Friday, November 9, 1979, the date by which comments are due, in "DATES" and in the second line of the third paragraph of the "SUPPLEMENTARY INFORMATION", was incorrectly published as "January 8, 1979" and

should be corrected to read "January 8, 1980".

BILLING CODE 1505-01-M

[Docket No. 79G-0372]

Novo Laboratories, Inc.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Arthur A. Checci, Inc., on behalf of Novo Laboratories, Inc. has filed a petition proposing affirmation that a cellulase enzyme, derived from a nonpathogenic strain of *Trichoderma reesei*, is generally recognized as safe (GRAS) for use in processing food.

DATE: Comments by January 28, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C. St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 9G0260) has been filed by Arthur A. Checci, Inc., 1730 Rhode Island Ave. NW., Washington, DC 20036, on behalf of Novo Laboratories, Inc. and placed on public display at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, proposing affirmation that a cellulase enzyme derived from a nonpathogenic strain of *Trichoderma reesei* used for processing food is GRAS.

Any petition that meets the format requirements outlined in § 170.35 is filed by the agency. There is no pre-filing review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested person may, on or before January 28, 1980 review the petition and/or file comments (four copies, identified with the Hearing Clerk docket number found in brackets in the heading of this document) with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Comments

should include any available information that would be helpful in determining whether the substance is, or is not, GRAS. A copy of the petition and received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 19, 1979.

Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 79-36392 Filed 11-26-79; 8:45 am]
BILLING CODE 4110-03-M

National Institutes of Health

Meeting of the Cardiology Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, January 14-15, 1980, in Conference Room 9, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 A.M. to 5:00 P.M. each day. Attendance by the public will be limited to space available. Topics for discussion will include a review of the programs in the Cardiology area and consideration of reports.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara Packard, M.D., Ph.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Federal Building, Room 320, Bethesda, Maryland 20205, phone (301) 496-5421, will furnish substantive program information upon request.

Dated November 15, 1979.

Suzanne L. Fremeau,
Committee Management Officer, NIH.

[FR Doc. 79-36409 Filed 11-26-79; 8:45 am]
BILLING CODE 4110-08-M

National Arthritis Advisory Board; Amended Notice of Meeting

Notice is hereby given of cancellation of the Multipurpose Arthritis Centers Work Group meeting, National Arthritis Advisory Board, which was to have met on December 5, as published in the Federal Register on October 18, 1979, 44 FR 59653.

The full Board meeting on December 6, and the previously published Work Groups meeting on December 5 remain the same; that is, 9:00 a.m. to 5:00 p.m. on December 6, the Board meets at the National Institutes of Health, Building 31, Conference Room 7, Bethesda, Maryland. The times and meeting locations of the Work Groups may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20014, (301-496-1991).

The entire meeting remains open to the public. Attendance is limited to space available.

(Catalog of Federal Domestic Assistance Program No. 13.844, National Institutes of Health)

Dated: November 15, 1979.

Suzanne L. Fremeau,
Committee Management Officer, NIH.

[FR Doc. 79-36408 Filed 11-26-79; 8:45 am]
BILLING CODE 4110-03-M

Office of Education

National Advisory Council on Extension and Continuing Education; Cancellation of Meeting

The Federal Register Notice on Wednesday, November 7, 1979 (Vol. 44, No. 217, page 64572) of the meeting of the National Advisory Council on Extension and Continuing Education's Ad Hoc Committee on the Media in Continuing Education indicates that the said Committee will hold a meeting on November 28-29, 1979, in the Council's office: 425 Thirteenth Street, N.W., Suite 529, Washington, D.C. 20004.

Due to unanticipated changes in the schedules of Committee members, the meeting of the Ad Hoc Committee on the Media in Continuing Education has been cancelled.

Dated: November 22, 1979.

Richard F. McCarthy,
Associate Director

[FR Doc. 79-36521 Filed 11-26-79; 8:45 am]
BILLING CODE 4110-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-5]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of

certain projects under various HUD programs as described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information that reports other environmental studies planned or completed in the project area; issues and data which the EIS should consider; recommended mitigating measures and alternatives if one identifies a major issue associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., November 19, 1979.

Richard H. Brown,
Director, Office of Environmental Quality.

EIS on Phoenix Hill Neighborhood Revitalization, Louisville, Ky.

The City of Louisville, Kentucky intends to prepare an EIS on the project described below and therefore solicits information and comments for consideration in the EIS.

Description. The proposal calls for comprehensive revitalization activities in a 58 block area of the Phoenix Hill neighborhood in Louisville, Jefferson County, Kentucky. Physical activities include: rehabilitation of 626 structures, 468 of which are residential structures containing a total of 508 residential units and 156 of which are commercial and industrial structures; the construction of 203 new residential units; acquisition and demolition of 194 structures including 133 occupied residential structures which now house 204 families; construction of new sidewalks, curbs and gutters as required; resurfacing of all streets; minor modifications to utilities; modification of existing traffic patterns; and construction of a new 7 acre park.

The project boundaries are East Main Street (north), Baxter Avenue and the L&N Railroad (east), East Broadway (south), and South Preston Street (west).

It is now anticipated that funding for this project will be sought from HUD (CDBG and UDAG), DOE, DOT, EDA and the Department of the Interior and that the project will begin in the summer of 1980 and be completed within three to five years.

Need. An EIS is proposed because the project will make a substantial impact on the physical and social character of a 58 block area which is 334 acres in size and contains 5,100 people in a central area of the City. Also, the project will require the demolition of 194 structures which will displace 204 families, changes in traffic circulation, and work within the 100 year floodplain area.

Alternatives perceived. At this time the city's alternatives are: to carry out the project as planned; to reduce planned acquisition and demolition by reducing the scope of the project; to modify the proposed traffic circulation changes; to modify the proposed land uses in the project area; or to delete the proposed project from the city's community development activities.

Scoping. The city plans to hold a scoping meeting with Federal, State and local agencies for the purpose of deciding significant issues and selecting data which the EIS should address. The meeting will be held at 10:00 A.M. on November 27, 1979 in the Louisville Community Development Offices at 727 W. Main Street, Louisville, Kentucky.

Comments. Comments should be forwarded by November 27, 1979 to Cherry Davenport, Environmental Review Officer, Community Development Cabinet, 727 W. Main Street, Louisville, Kentucky 40202 (or call 502/587-3081).

EIS on Wellington Hill Housing, Manchester, N.H.

The Manchester Service Office of HUD intends to prepare an Environmental Impact Statement (EIS) on the project described below and solicits comments and information for consideration in the EIS.

Description. The proposed action is the issuance of mortgage insurance on Phase I (199 units) for an apartment project located in 10-12 structures. The project will be assisted under Section 221d(4).

Phase I is proposed to be initiated during Spring, 1980, with construction to occupancy spanning a 24 month period. The Phase I development occupies 26 acres of a 250 acre site. The site is located immediately northerly of Wellington Road and easterly of I-93, and is entirely within the corporate limits of the City of Manchester.

Need. The need for the EIS relates to the aggregation requirements of HUD's Environmental Clearance Procedures. The applicant's control of the site through ownership indicates a total development that may ultimately exceed the threshold requirement of 700 units in

the Manchester SMSA. Moreover, site design and off-site improvements required for Phase I are such that the balance of the land in the sponsor's ownership could be more readily developed upon completion of this initial Phase. Environmental concerns identified include increases in surface run-off, loss of vegetation of forest cover, increase in localized traffic, increased loading of municipal sanitary sewers, and siting of the project in the vicinity of an abandoned granite quarry.

Alternatives. Alternatives to the proposed project include development at lesser residential densities, non-residential development on a portion of the sponsor's ownership, and the no-development alternative.

Scoping. This notice is part of the process used for scoping the EIS. Responses will aid in determining significant environmental issues, identifying data for use in the EIS, and to identify co-operating agencies. A scoping meeting will be held in the Manchester Service Office on January 8, 1980.

Comments. Comments regarding this project should be sent to Stanley J. Caren, Service Office Supervisor, 275 Chestnut Street, Manchester, New Hampshire 03103. Telephone commercial (603) 666-7681, 82, 83, or FTS 834-7681, 82, 83. Comments should be forwarded on or before December 18, 1979.

[FR Doc. 79-36394 Filed 11-26-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before November 18, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be

submitted by December 7, 1979.
Carol Shull,
Acting Chief, Registration Branch.

GEORGIA

Carroll County

Hickory Level vicinity, *Dorough Round Barn and Farm*, N of Hickory Level on Villa Rica Rd.

Fulton County

Atlanta, *Atlanta Biltmore Hotel and Biltmore Apartments*, 817 W. Peachtree St., Atlanta, *Yonge Street School*, 89 Yonge St.

Spalding County

Griffin vicinity, *Mills House and Smokehouse*, S of Griffin at 1590 Carver Rd.

IOWA

Prairie School Architecture in Mason City Thematic Resources. Reference—see individual listings under Cerro Gordo County.

Cerro Gordo County

Mason City, *Andrus, A. J., Duplex (Prairie School Architecture in Mason City Thematic Resources)* 687—691 E. State St. Mason City, *Franke, C. F., House (Prairie School Architecture in Mason City Thematic Resources)* 320 1st. St. SE. Mason City, *Gibson, E. R., House (Prairie School Architecture in Mason City Thematic Resources)* 114 4th St. NW. Mason City, *Jewell Apartments (Prairie School Architecture in Mason City Thematic Resources)* 404—412 1st St. NW. Mason City, *Lippert House (Prairie School Architecture in Mason City Thematic Resources)* 122—124 N. Madison Ave. Mason City, *Norris, F. M., House (Prairie School Architecture in Mason City Thematic Resources)* 108 4th St. NE. Mason City, *Romey, George, House (Prairie School Architecture in Mason City Thematic Resources)* 428 1st. St. SE. Mason City, *Rye, Chris, House (Prairie School Architecture in Mason City Thematic Resources)* 630 E. State St. Mason City, *Seney, Charles, House (Prairie School Architecture in Mason City Thematic Resources)* 109 7th St. NW, and 122 N. Washington St. Mason City, *Shipley, C. P., House (Prairie School Architecture in Mason City Thematic Resources)* 114 3rd St. NW. Mason City, *Stockman, Dr. G. C., House (Prairie School Architecture in Mason City Thematic Resources)* 311 1st. St. SE. Mason City, *Wolf, Mier, House (Prairie School Architecture in Mason City Thematic Resources)* 811 N. Adams St. Mason City, *Youngblood, Tessa, House (Prairie School Architecture in Mason City Thematic Resources)* 36 Oak Dr. Mason City, *Yelland, Curtis, House (Prairie School Architecture in Mason City Thematic Resources)* 37 River Heights Dr.

LOUISIANA

Natchitoches Parish

Natchitoches, *Natchitoches Historic District* Off LA 6 (boundary increase)

MAINE

Stratford County

Dexter, Balthasar Society of Friends

Cincinnati, *Cox House (Samuel Hannaford and Sons Thematic Resources in Hamilton County)*

Thematic Resources in Hamilton County)

Wyoming, *Wyoming Presbyterian Church*

MAINE

Androscoggin County
Lewiston, Dominican Block, 141-145 Lincoln St.
Aroostook County
Houlton, White Memorial Building, 109 Main St.
Cumberland County
Portland, How Family Historic District, Danforth and Pleasant Sts.
Franklin County
Farmington, Merrill Hall, Maine and Academy Sts.
Stratton, Blanchard, Ora, House, Main St.
Hancock County
Bar Harbor, Eegonos, 145 Eden St.
Knox County
Camden, Bowdoin (schooner).
Lincoln County
Boothbay, Knight-Corey House, Corey Lane.
Oxford County
Parkertown vicinity, Vail Site.
Penobscot County
Mattawamkeag, Smith, George W., Homestead, Main St.
Newport, Hexagon Barn, Spring and Railroad Sts.

Sagadahoc County

Bowdoinham, Cornish House, Main St.
York County
Kennebunk, Bourne Mansion, 8 Bourne St.

MINNESOTA

Goodhue County
Red Wing, Minnesota Stoneware Company, 1997 W. Main St.
Red Wing, Red Wing Historic Mall District, Roughly bounded by Levee Park, 7th S. Dakota and Bush Sts.

MISSISSIPPI

Lowndes County
Columbus, South Columbus Historic District, U. S. 82.
Newton County
Newton, Newton Main Street Historic District, MS 15.
Newton, Newton West Church Street Historic District, W. Church St.

NEBRASKA

Saline County
Western vicinity, Witt, Michael, Fochwerkbau.

NEW HAMPSHIRE

Cheshire County
West Swanzey, West Swanzey Covered Bridge, Main St.
Hillsborough County
Greenfield vicinity, Hancock-Greenfield Bridge, Forest Rd.

Strafford County

Dover, Religious Society of Friends Meetinghouse, 141 Central Ave.

NEW JERSEY

Mercer County

Trenton, House at 379 West State Street.

NEW YORK

Albany County

Albany, Downtown Albany Historic District, Broadway, State, Pine, Lodge and Columbia Sts.

Jefferson County

Watertown, Watertown Masonic Temple, 240 Washington, St.

OHIO

Samuel Hannaford and Sons Thematic Resources in Hamilton County.
Reference—see individual listings under Hamilton County.

Ashland County

Ashland, Ashland County Courthouse, W. 2nd St.

Gallia County

Gallipolis, Gallipolis Public Square and Garden Lots Historic District, Court and State Sts., 1st and 2nd Aves.

Hamilton County

Cincinnati, Alms and Doepe Dry Goods Company (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 222 E. Central Pkwy.

Cincinnati, Balch House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 267 Greendale Ave.

Cincinnati, Brittany Apartment Building (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 100-104 W. 9th St.

Cincinnati, Burckhardt, A. E., House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 400 Forest Ave.

Cincinnati, Burroughs, C. H., House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1010 Chapel St.

Cincinnati, Calvary Episcopal Church Sunday School (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 3770 Clifton Ave.

Cincinnati, Capt. Stone House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 405 Oak St.

Cincinnati, Cincinnati City Hall (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 801 Plum St.

Cincinnati, Cincinnati Music Hall and Exposition Hall (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1243 Elm St.

Cincinnati, Cincinnati Observatory Building (Samuel Hannaford and Sons Thematic Resources in Hamilton County) Observatory Pl.

Cincinnati, Cincinnati Work House and Hospital (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 3208 Colerain Ave.

Cincinnati, College Hill Town Hall (Samuel Hannaford and Sons Thematic Resources in Hamilton County) Belmont and Larch Sts.

Cincinnati, Cox House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 3400 Brookline Ave.

Cincinnati, Derby, H. W., Building (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 300 W. 4th St.

Cincinnati, Detmer, A. M., House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1520 Chapel St.

Cincinnati, Eden Park Stand Pipe (Samuel Hannaford and Sons Thematic Resources in Hamilton County) Eden Park Dr.

Cincinnati, Eden Park Station No. 7 (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1430 Martin Dr.

Cincinnati, Edgecliff (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 2220 Victory Pkwy.

Cincinnati, Eighteenth District School (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1328 Hopple St.

Cincinnati, Elsinore Arch (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1700 Gilbert Ave.

Cincinnati, Episcopal Church of the Resurrection (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 7348-7348 Kirkwood Lane.

Cincinnati, Feckheimer House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 22 Garfield Pl.

Cincinnati, Field, Walter, House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 3725 Reading Rd.

Cincinnati, First German Methodist Episcopal Church (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1310 Race St.

Cincinnati, First Universalist Church (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 2800 Essex Pl.

Cincinnati, Hannaford, Samuel, House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 768 Derby Ave.

Cincinnati, Hewson-Gutting House, 515 Lafayette Ave.

Cincinnati, Hooper Building (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 139-151 W. 4th St.

Cincinnati, Hummel, George, House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 3423 Whitfield Ave.

Cincinnati, Krippendorf-Dittman Company (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 828 Sycamore St.

Cincinnati, Lombardy Apartment Building (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 318-328 W. 4th St.

Cincinnati, Mayer, S. C., House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1614 Main St.

Cincinnati, Miller, Charles A., House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1817 Chase St.

Cincinnati, Mitchell, Richard H., House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 3 Burton Woods Lane

Cincinnati, Morrison House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 750 Old Ludlow Ave.

Cincinnati, Northside United Methodist Church (Samuel Hannaford and Sons

Thematic Resources in Hamilton County) Chase and Delaney Sts.

Cincinnati, Ohio National Armory (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1437-1439 Western Ave.

Cincinnati, Our Lady of Mercy High School (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1409 Western Ave.

Cincinnati, Palace Hotel (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 8th and Vine Sts.

Cincinnati, Phoenix Club (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 9th and Race Sts.

Cincinnati, Police Station No. 5 (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 1024-1026 York St.

Hamilton County

Cincinnati, Powell, Henry House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 2209 Auburn Ave.

Cincinnati, Probasco Fountain (Samuel Hannaford and Sons Thematic Resources in Hamilton County) Clifton Ave.

Cincinnati, Ransley Apartment Building (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 2390 Kemper Lane.

Cincinnati, Russell, Charles B., House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 3416 Brookline Ave.

Cincinnati, Sacred Heart Academy Chapel (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 525 Lafayette Ave.

Cincinnati, St. George Parish and Newman Center (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 42 Calhoun St.

Cincinnati, Salway, William, House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) Gray and Winton Rds.

Cincinnati, Saxony Apartment Building (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 105-111 W. 9th St.

Cincinnati, Scott, George, House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 565 Purcell Ave.

Cincinnati, Spring Grove Cemetery Chapel (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 4521 Spring Grove Ave.

Cincinnati, Walnut Hills United Presbyterian Church (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 2601 Gilbert Ave.

Cincinnati, Westwood United Methodist Church (Samuel Hannaford and Sons Thematic Resources in Hamilton County) Epworth and Erwiler Sts.

Cincinnati, Winton Place Methodist Episcopal Church (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 700 E. Epworth Ave.

Cincinnati, Wolfe, Mary., House (Samuel Hannaford and Sons Thematic Resources in Hamilton County) 965 Burton Ave.

Wyoming, Wyoming Presbyterian Church (Samuel Hannaford and Sons Thematic Resources in Hamilton County) Wyoming and Burns Aves.

Licking County

Granville, Avery-Hunter House, 221 E. Broadway St.

Newark, Hull Place, 686 W. Main St.

Wood County

Grand Rapids, Kerr, Benjamin F., House, 17605 Beaver St.

PENNSYLVANIA

Bucks County

Langhorne vicinity, Harewood and Beechwood, E of Langhorne off PA 213.

TEXAS

Victoria County

Victoria vicinity, Presidio Nuestra Senora de Loreto Site, NW of Victoria.

WISCONSIN

Bayfield County

Washburn, Bank of Washburn, Bayfield St. and Central Ave.

Columbia County

Pardeeville, Pardeeville Presbyterian Church, 105 S. Main St.

Dane County

Madison, Stoner, Joseph J., House, 321 S. Hamilton St.

Fond du Lac County

Pipe, Club Harbor, Jct. of WI 151 and WI W.

Green County

Monroe, Freitag's Pure Oil Service Station, 1323 9th St.

Monroe, Regez, Jacob, Sr., House, 2121

Jefferson County

Jefferson, Jefferson Public Library, 305 S. Main St.

La Crosse County

La Crosse, Ott, Will, House, 1532 Madison St.

Oconto County

Oconto, Campbell, John G., House, 916 Park Ave.

Racine County

Rochester, Whitman-Belden House, 108 N. State St.

Rock County

Beloit, Hanchett Block, 307 State St.

Janesville, Janesville Cotton Mill, 220 No. Franklin St.

Janesville, Lovejoy and Merrill-Nowlan Houses, 220 and 202 St. Lawrence Ave.

Rusk County

Ladysmith, State Bank of Ladysmith, 102 W. 2nd St.

Walworth County

Lake Geneva vicinity, Loramoor, S of Lake Geneva at 774 S. Lake Shore Dr.

Waukesha County

Big Bend vicinity, Haseltine Cobblestone House, N of Big Bend on Big Bend Dr.

Waupaca County

Waupaca, Danes Hall, 303 N. Main St.

[FR Doc. 79-36220 Filed 11-26-79; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

Intention To Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (70 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice (December 27, 1979), the Department of the Interior, through the Director of the National Park Service, Proposes to extend the concession contract with Wien Air Alaska, authorizing it to continue to provide accommodations, facilities and services for the public at Katmai National Monument for a period of one (1) year from January 1, 1980, through December 31, 1980.

It has been determined that the proposed extension of this contract does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1979, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Wien Air Alaska, as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Wien Air Alaska is substantially equal to others received. In the event a responsive proposal superior to that of Wien Air Alaska (as determined by the Secretary) is submitted, Wien Air Alaska, will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be

negotiated with Wien Air Alaska. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be post marked or hand delivered on or before the thirtieth (30th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Superintendent, Katmai National Monument, P.O. Box 7, King Salmon, Alaska 99613, for information as to the requirements of the proposed contract.

Dated: November 15, 1979.

Daniel J. Tobin, Jr.,

Associate Director, National Park Service.

[FR Doc. 79-36446 Filed 11/26/79; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[225-1]

Competitive Status of Certain Benzenoid Chemical Imports From Switzerland and the European Community

AGENCY: International Trade Commission.

Annex

Chemicals or products which were not valued on the basis of American selling price and for which a more appropriate and representative rate of duty exists in section 223 of the Trade Agreements Act of 1979—Continued

Chemical name/product	Representative period (month/year)	TSUS item number and column 1 rate of duty in section 223			
		Existing rate		More appropriate rate	
		TSUS item	Rate	TSUS item	Rate
2-hydroxybenzoxazole (benzoxazole).	2/77-2/78	406.40	1.7¢/lb + 16.2%	406.36	1.7¢/lb + 12.4%
o-((3-(hydroxymethyl)-2-methoxypropyl)carbamoyl) phenoxycetic acid (methyl acid).	8/77-8/78	405.32	1.7¢/lb + 18.1%	405.28	1.7¢/lb + 12.4%
3-Methyl-1-(p-tolyl)-2-pyrazolone-5-one (p-tolyl methyl pyrazolone).	11/77-11/78	406.40	1.7¢/lb + 16.2%	406.36	1.7¢/lb + 12.4%
Naphthalene trisulfonic acid (1,3,6 and 1,3,7).	7/76-7/78	403.12	1.7¢/lb + 15.9%	403.09	1.7¢/lb + 12.5%
4-Phenylmorpholine	11/77-11/78	406.40	1.7¢/lb + 16.2%	406.36	1.7¢/lb + 12.4%
Propenolol hydrochloride	11/77-11/78	412.02	1.7¢/lb + 19.9%	411.98	1.7¢/lb + 13.0%
beta-Resorcylic acid	3/77-3/78	405.32	1.7¢/lb + 18.1%	405.28	1.7¢/lb + 12.4%
Toluene-2,5-diamine sulfate	9/77-9/78	404.88	1.7¢/lb + 16.8%	404.84	1.7¢/lb + 12.4%

[FR Doc. 79-36395 Filed 11-26-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Announcement of Intent To Evaluate Victim/Witness Programs

AGENCY: Law Enforcement Assistance Administration, Department of Justice.

ACTION: Publication of invitation for preliminary proposals to evaluate the Integrated Police/Prosecution Witness Assistance Program and the National Victim/Witness Strategy Program.

SUMMARY: The proposed announcement invites interested organizations to submit preliminary proposals to evaluate the Integrated Police/Prosecution Witness Assistance Program and to evaluate the National Victim/Witness Strategy Program. The

announcement will not in any way impact upon the programs or regulations presently set out in the current edition of M 4500.1, nor will it affect the eligibility of those individuals applying for previously announced programs.

FOR FURTHER INFORMATION CONTACT: Phillip Windell, Evaluator, Program Development and Evaluation Staff, Office of Criminal Justice Programs, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531; phone 202-724-7663.

SUPPLEMENTARY INFORMATION: The Law Enforcement Assistance Administration (LEAA) stated its intention to evaluate these two programs in the respective Fiscal Year 1979 program guidelines, published in the *Guide for Discretionary Grant Programs*, M 4500.1G. The purpose of this announcement is to

invite interested organizations to submit preliminary proposals for a grant to conduct an evaluation of the Integrated Police/Prosecution Witness Assistance Program or for a grant to conduct an evaluation of the National Victim/Witness Strategy Program. The text of the announcement follows:

INVITATION TO EVALUATE VICTIM/WITNESS PROGRAMS: The Office of Criminal Justice Programs, Law Enforcement Assistance Administration will accept preliminary proposals from qualified organizations for two separate grants to evaluate the Integrated Police/Prosecution Witness Assistance Program and to evaluate the National Victim/Witness Strategy. Responses for each of these evaluations must be received no later than close-of-business, January 11, 1980. More detailed information and descriptions of the programs and issues of concern for evaluators are available upon request.

Henry S. Dogin,

Administrator, Law Enforcement Assistance Administration.

[FR Doc. 79-36388 Filed 11-26-79; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[Application No. L-1249]

Proposed Exemption for Certain Transactions Involving Southern Illinois Division Chapter, NECA-IBEW Local 702 Joint Apprenticeship and Training Fund; Correction

In the Notice of Proposed Exemption with respect to Exemption Application No. L-1249 appearing at page 64157 in the issue of Tuesday, November 6, 1979, on page 64157, in the section entitled "Dates", "December 7, 1979" in the third line should read "January 3, 1980". In addition, on page 64158, in paragraph number 2 of the section entitled "Summary of Facts and Representations," "at 106 North Monroe Street," in the fourteenth and fifteenth lines should read "on Route 3, Country Club Road."

Signed at Washington, D.C., this 21st day of November 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-36411 Filed 11-26-79; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Ada Manufacturing Co., et al., Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision

thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request

a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 7, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 7, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 19th day of November 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ada Manufacturing Company (workers)	East Flat Rock, N.C.	11/12/79	11/8/79	TA-W-6,388	Women's sportswear manufacturer.
Andmore Sportswear Corp. (ILGWU)	Port Jervis, N.Y.	11/5/79	10/30/79	TA-W-6,389	Ladies' and men's swimwear and ladies' sportswear.
After Six, Inc. (workers)	Philadelphia, Pa.	11/8/79	11/5/79	TA-W-6,390	Men's formal clothing.
Babcock & Wilcox, Beaver Falls Works (USWA)	Beaver Falls, Pa.	11/2/79	10/25/79	TA-W-6,391	Steel, seamless tubes, and fittings.
Babcock & Wilcox, Beaver Falls Works (USWA)	Ambridge, Pa.	11/2/79	10/25/79	TA-W-6,392	Tubing.
Babcock & Wilcox, Beaver Falls Works (USWA)	Koppel, Pa.	11/2/79	10/25/79	TA-W-6,393	Stainless steel, carbon steel, tubes, pipes, slab, ingots, and fittings.
Braemore Garment Co. (company)	Pleasanton, Kans.	11/12/79	10/11/79	TA-W-6,394	Ladies' coats, blazers, and jackets.
Brown Shoe Co., Factory H (workers)	Savannah, Tenn.	11/6/79	10/29/79	TA-W-6,395	Ladies' dress and casual shoes.
Holston Manufacturing Company (ACTWU)	Knoxville, Tenn.	11/9/79	11/1/79	TA-W-6,396	Men's and ladies' hosiery.
Jacqueline Coat Company, Inc. (ILGWU)	New York, N.Y.	11/2/79	10/17/79	TA-W-6,397	Ladies' coats.
Jumping Jacks (workers)	Ponce, P.R.	11/12/79	11/6/79	TA-W-6,398	Infants shoes and school shoes.
Kenosha Auto Transport (Teamsters)	Kenosha, Wis.	11/12/79	10/29/79	TA-W-6,399	Transports domestic automobiles.
L & D Outerwear Company, Inc. (ACTWU)	New York, N.Y.	11/12/79	11/7/79	TA-W-6,400	Men's tailored clothing.
Louis Cantor & Son (ILGWU)	Egg Harbor, N.J.	11/8/79	11/7/79	TA-W-6,401	Contractor of ladies' coats.
Republic Steel Corporation, Enduro Division, Massillon Plant (USWA)	Massillon, Ohio	11/2/79	10/25/79	TA-W-6,402	Stainless steel.
Republic Steel Corp., Central Alloy District (USWA)	Massillon, Ohio	11/2/79	10/25/79	TA-W-6,403	Carbon and stainless steel.
Republic Steel Corp., Enduro Division, South Plant (USWA)	Canton, Ohio	11/8/79	11/5/79	TA-W-6,404	Carbon and stainless steel products.
Stern-Siegmund-Prins Co. (company)	Kansas City, Mo.	11/12/79	10/11/79	TA-W-6,405	Ladies' coats, blazers, and jackets.
Wilson Sporting Goods Company (Amalgamated Meat Cutters Union)	Edison, N.J.	11/2/79	10/30/79	TA-W-6,406	Distributors for sporting equipment.

[FR Doc. 79-36505 Filed 11-26-79; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL SCIENCE FOUNDATION

Subcommittee for Measurement Methods and Data Resources of the Advisory Committee for Social and Economic Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Measurement Methods and Data Resources of the Advisory Committee for Social and Economic Science.

Date and time: December 7 and 8, 1979, 1:30 pm to 5:30 pm, December 7; 9:00 am to 3:00 pm, December 8.

Place: Room 338, National Science Foundation, 1800 G Street NW, Washington, DC 20550.

Type of meeting: Part open: 1:30 pm to 3:30 pm, December 7, 1979. Closed: 3:30 pm to

5:30 pm, December 7, 1979, and 9:00 am to 3:00 pm, December 8, 1979.

Contact person: Dr. Murray Aborn, Program Director, Measurement Methods and Data Resources, Room 312, National Science Foundation, Washington, DC 20550, Telephone (202) 632-4216.

Summary of minutes: May be obtained from the contact person, Dr. Murray Aborn at the above stated address.

Purpose of subcommittee: To provide advice and recommendations concerning support for research and research-related projects

in Measurement Methods and Data Resources.

Agenda: Open: 1:30 pm to 3:30 pm, December 7—Policy guidelines and Sub-committee presentation. General discussion of program scope and criteria. Closed: 3:30 pm to 5:30 pm, December 7; and 9:00 am to 3:00 pm, December 8—to review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b)(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.

Reason for late notice: Due to administrative oversight on the Committee Management Coordinator's office.

November 23, 1979.
[FR Doc. 79-36598 Filed 11-26-79; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-320; EPICOR II]

Metropolitan Edison Co., et al. (Three Mile Island, Unit 2); Supplement to Notice of Special Prehearing Conference

November 20, 1979.

Pursuant to the Board's Notice of November 15, 1979, a special prehearing conference on the petition to intervene and request for hearing filed by the Susquehanna Valley Alliance was scheduled for December 6 and possibly December 7, 1979. This conference will commence on Thursday, December 6, 1979, at 10:00 a.m., local time, in Hearing Room #1 of the State North Office Building, located at Commonwealth and North Streets, Harrisburg, Pennsylvania 17101. The balance of the Notice of Special Prehearing Conference, entered on November 15, 1979, is incorporated herein by reference.

It is so ordered.

Dated at Bethesda, Maryland this 20th day of November 1979.

For the Atomic Safety and Licensing Board.
Marshall E. Miller,
Chairman.

[FR Doc. 79-36436 Filed 11-26-79; 8:45 am]
BILLING CODE 7590-01-M

Statement of Policy and Notice of Intent To Prepare a Programmatic Environmental Impact Statement

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Statement of Policy.

SUMMARY: The Nuclear Regulatory Commission has decided to prepare a programmatic environmental impact statement on the decontamination and disposal of radioactive wastes resulting from the March 28, 1979 accident at Three Mile Island Unit 2. For some time the Commission's staff has been moving in this direction. In the Commission's judgment an overall study of the decontamination and disposal process will assist the Commission in carrying out its regulatory responsibilities under the Atomic Energy Act to protect the public health and safety as decontamination progresses. It will also be in keeping with the purposes of the National Environmental Policy Act to engage the public in the Commission's decision-making process, and to focus on environmental issues and alternatives before commitments to specific clean-up choices are made. Additionally, in light of the extraordinary nature of this action and the expressed interest of the President's Council on Environmental Quality in the TMI-2 clean-up, the Commission intends to co-ordinate its action with CEQ. In particular, before determining the scope of the programmatic environmental impact statement the Commission will consult with CEQ.

The Commission recognizes that there are still areas of uncertainty regarding the clean-up operation. For example, the precise condition of the reactor core is not known at this time and cannot be known until the containment has been entered and the reactor vessel has been opened. For this reason, it is unrealistic to expect that the programmatic impact statement will serve as a blueprint, detailing each and every step to be taken over the coming months and years with their likely impacts. That the planned programmatic statement inevitably will have gaps and will not be a complete guide for all future actions does not invalidate its usefulness as a planning tool. As more information becomes available it will be incorporated into the decision-making process, and where appropriate

supplements to the programmatic environmental impact statement will be issued. As the decontamination of TMI-2 progresses the Commission will make any new information available to the public and to the extent necessary will also prepare separate environmental statements or assessments for individual portions of the overall clean-up effort.

The development of a programmatic impact statement will not preclude prompt Commission action when needed. The Commission does recognize, however, that as with its Epicor-II approval action, any action taken in the absence of an overall impact statement will lead to arguments that there has been an inadequate environmental analysis, even where the Commission's action itself is supported by an environmental assessment. As in settling upon the scope of the programmatic impact statement, CEQ can lend assistance here. For example should the Commission before completing its programmatic statement decide that it is in the best interest of the public health and safety to decontaminate the high level waste water now in the containment building, or to purge that building of its radioactive gases, the Commission will consider CEQ's advice as to the Commission's NEPA responsibilities. Moreover, as stated in the Commission's May 25 statement, any action of this kind will not be taken until it has undergone an environmental review, and furthermore with opportunity for public comment provided.

However, consistent with our May 25 Statement, we recognize that there may be emergency situations, not now foreseen, which should they occur would require rapid action. To the extent practicable the Commission will consult with CEQ in these situations as well.

With the help of the public's comments on our proposals we intend to assure, pursuant to NEPA and the Atomic Energy Act, that the clean-up of TMI-2 is done consistently with the public health and safety, and with awareness of the choices ahead. We are directing our staff to include in the programmatic environmental impact statement on the decontamination and disposal of TMI-2 wastes an overall description of the planned activities and a schedule for their completion along with a discussion of alternatives considered and the rationale for choices made. We are also directing our staff to keep us advised of their progress in these matters.

Dated at Washington, D.C. this 21st day of November 1979.

For the Commission.
Samuel J. Chilk,
Secretary of the Commission.
[FR Doc. 79-36478 Filed 11-26-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. STN 50-482A]

Kansas Gas & Electric Co., et al.; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Note.—This document was originally published in the issue of November 13, 1979 (44 FR 65495). It is reprinted here at the request of the Nuclear Regulatory Commission.

Kansas Gas and Electric Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on September 11, 1979, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns the addition of Kansas Electric Power Cooperative, Inc. as an owner of the Wolf Creek Generating Station, Unit No. 1 located in Coffey County, Kansas.

The information was filed in connection with Kansas Gas and Electric Company and Kansas City Power and Light Company's application for an amendment to Construction Permit No. CPPR-147 to the Wolf Creek Generating Station, Unit No. 1. Construction Permit No. CPPR-147 was issued on May 17, 1977 and construction of the plant is underway.

The original notice of receipt of application for construction permit and operating license included the antitrust aspects of the application and was published in the Federal Register on August 30, 1974 (39 FR 31684).

A copy of the Kansas Gas and Electric Company letter, dated September 11, 1979 and above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room, located at 1717 H Street, N.W., Washington, D.C., 20555 and at the Coffey County Courthouse, Burlington, Kansas, 66839.

Information in connection with antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to Kansas Electric Power Cooperative, Inc. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention:

Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation on or before January 11, 1980.

Dated at Bethesda, Maryland, this 2nd day of November, 1979.

For the Nuclear Regulatory Commission.

Olan D. Parr,
Chief, Light Water Reactors, Branch No. 3,
Division of Project Management.
[FR Doc. 79-34706 Filed 11-6-79; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act; New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effects on such proposal on the privacy and other personal or property rights of individuals . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between October 29, 1979 and November 9, 1979. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

Department of Defense

System Name:

Automated Claims Information System

Report Date:

October 25, 1979

Point-of-Contact:

Mr. William Cavaney, Executive Secretary, Defense Privacy Board, 1735 N Lynn Street, Arlington, VA 22209.

Summary:

The Navy is establishing this new system of records in order to maintain a data base of claims filed against or by the Navy and permit the Judge Advocate General to monitor the claims program in accordance with GAO policies and procedures. The system will include records of the names, social security number, amounts of claims and claims paid, and dates of proceedings for all individuals who file claims or against whom claims are filed.

System Name:

Equal Opportunity Information and Support System.

Report Date:

October 26, 1979.

Point-of-Contact:

Mr. William Cavaney, Executive Secretary, Defense Privacy Board, 1735 N. Lynn Street, Arlington, VA 22209.

Summary:

This new system of records is proposed by the Marine Corps as a means to documenting and tracking complaints of discrimination. It will include records on both those who file complaints and those whom complaints are filed.

Department of Justice

System Name:

Training Files.

Report Date:

November 6, 1979.

Point-of-Contact:

Mr. Robert L. Saloschin, Director, Office of Information Law and Policy, Department of Justice, Washington, D.C. 20530.

Summary:

This report reflects the intention of the Drug Enforcement Administration to automate its files containing records on its narcotics law enforcement training courses. The records are now maintained manually. By automating the records, DEA officials will be able more readily to retrieve information about students and answer requests from students, DEA management, other agencies, colleges, and universities.

Waiver Requests

OMB procedures permit a waiver of the advance notice requirement when

the agency can show that the delay caused by the 60 day advance notice would not be in the public interest. It should be noted that a waiver of the 60 day advance notice period does not relieve an agency of the obligation to publish notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60 day advance notice provision was requested by agencies for the following reports received between October 29, 1979 and November 9, 1979. Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be direct to OMB.

U.S. Postal Service

System Names:

Office of Administration-Localized Employee Administration Records; Personnel Records—Grievance and Appeals Records for Bargaining Unit Employees; Property Management—Possible Infringement of USPS Intellectual Property Rights.

Report Date:

October 30, 1979.

Point-of-Contact:

A. Scott Hamel, USPS Records Office, U.S. Postal Service, Washington, D.C. 20260.

Summary:

The first system is a revision and expansion of information currently maintained in a Postal Service payroll system. It will provide information to be used in contacting employees in an emergency situation. The second system is new, and will be used for processing employee grievance-arbitration cases; it will include claims and related correspondence, investigatory reports, and other records. The last system includes information on possible infringers of copyrights and trademarks held by the Postal Service and will be used in litigation brought to protect those rights.

Waiver Status:

No action as of November 13, 1979. Note a waiver has been requested only for the third system, Intellectual Property Rights.

Department of Justice

System Name:

Office of Legal Counsel Central File.

Report Date:

November 6, 1979.

Point-of-Contact:

Mr. Robert L. Saloschin, Director, Office of Information Law and Policy, Department of Justice, Washington, D.C. 20530.

Summary:

This system represents the computerization of the correspondence, opinion, and memorandum files of the Office of Legal Counsel within the Justice Department. This information, formerly, retrieved from file cards by subject matter, will now be retrievable by individual name. This capability will, according to the agency, seldom be used, except in doing research in Freedom of Information Act/Privacy Act requests.

Waiver Status:

No action as of November 13, 1979.

David R. Leuthold,

Budget and Management.

[FR Doc. 79-36401 Filed 11-26-79; 8:45 am]

BILLING CODE 3110-01-M

PRESIDENT'S COMMISSION ON PENSION POLICY

Public Hearing; Study Group 3; Ownership and Control of Pension Fund Assets

A two-day public hearing of Study Group 3 of the President's Commission on Pension Policy has been scheduled for December 10-11, 1979, in Room 2010 of the New Executive Office Building, 726 Jackson Place, N.W.; Washington, D.C.

Study Group 3 is analyzing issues of tax policy, capital formation, and economic growth as they relate to pension policy. This hearing is on ownership and control of pension fund assets, and will conclude more than a dozen public sessions held by the Commission since its first meeting in the spring of this year. The Commission was established by Executive Order 12071 on July 12, 1978, and was continued by P.L. 96-14 on May 24, 1979.

The agenda for this hearing is as follows:

December 10

9:30-11:00 Panel discussion on the role of non-management participants (active and retired) in establishing pension fund investment policy
11:00-11:15 Coffee Break
11:15-12:15 Individual Witnesses
12:15-1:30 Lunch

1:30-3:00 Panel discussion on the legal environments for nontraditional investments
3:00-4:30 Panel discussion on proxy voting issues

December 11

9:00-10:30 Panel discussion on portfolio impacts of nontraditional investment criteria
10:30-10:45 Coffee break
10:45-12:15 Panel discussion on targeting pension capital to regional economic development needs
12:15-1:30 Lunch
1:30-3:00 Panel discussion on the use of pension assets to promote union interests.
3:00-4:00 Individual witnesses

The meeting will be open for observation by the general public to the extent space is available. Requests for additional information should be directed to the Office of Public Affairs, President's Commission on Pension Policy, 736 Jackson Place, N.W.; Washington, D.C. 20006. The Commission's telephone number is (202) 395-5132.

Signed at Washington, D.C. this 21st day of November 1979.

Thomas C. Woodruff,
Executive Director.

[FR Doc. 79-36427 Filed 11-26-79; 8:45 am]

BILLING CODE 6620-99-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 16346; SR-NESDTC-79-1]

New England Securities Depository Trust Co.; Order Approving Proposed Rule Change

November 16, 1979.

On April 26, 1979, the New England Securities Depository Trust Company, P.O. Box 6100, Boston, Massachusetts 02209, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to authorize NESDTC to retain for use in its own business income or gain resulting from the investment of cash contributions to its Participants' Fund. On July 16, 1979, NESDTC filed a technical amendment to its submission.

Notice of the proposed rule change as amended together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16048, July 27, 1979) and by publication in the Federal Register (44 FR 45506, August 2, 1979). All written statements with respect to the proposed rule change which were

filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and are available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-36397 Filed 11-26-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16352; File No. SR-PDTC-79-3]

Philadelphia Depository Trust Co.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 19, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

The attached Participant's Agreement (Exhibit 1) is an amended form of Philadelphia Depository Trust Company's (PHILADEP) Participant's Agreement which was approved as part of PHILADEP's CA-1 application for registration as a clearing agency. The amended form will be signed by Depository Trust Company (DTC) as part of the interface between PHILADEP and DTC.

Basis and Purpose of Proposed Rule Change

The purpose of the proposed agreement is to facilitate the interface between PHILADEP and DTC.

The proposed agreement will increase PHILADEP's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible. The proposed interface will allow participants with security positions in PHILADEP or DTC

to deliver securities from PHILADEP to DTC, or vice versa, by book entry instead of the more expensive and less-efficient physical delivery.

No formal comments have been solicited or received regarding the proposed agreement.

No burden on competition will be imposed by the proposed agreement.

The foregoing Rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed Rule change, the Commission may summarily abrogate such Rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by December 18, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.
November 19, 1979.

Exhibit 1

Philadelphia Depository Trust Co.—Participant's Agreement

The undersigned hereby makes application to become a Participant of Philadelphia Depository Trust Company (hereinafter called the "Corporation"), and agrees as follows:

1. The undersigned while a Participant will abide by the By-Laws, Rules and procedures of the Corporation and shall be bound by all of the provisions thereof. The Corporation shall have all the rights and remedies contemplated by the By-Laws and Rules of the Corporation, and including the provisions of Rule 4 relating to the Participant's Fund and the use thereof by the Corporation for the purposes of the Corporation's business. If the undersigned shall cease to be a Participant, the undersigned shall nonetheless continue to be bound by the Rules and procedures of the

Corporation as to all matters and transactions occurring while the undersigned was a Participant.

2. The undersigned will be bound by any amendment to the By-Laws, Rules or procedures of the Corporation with respect to any transaction occurring subsequent to the time such amendment takes effect as fully as though such amendment were a part of the By-Laws, Rules and procedures of the Corporation on the date hereof; provided, however, that no such amendment shall affect the right of the undersigned to cease to be a Participant unless before such amendment becomes effective the undersigned is given an opportunity to give written notice to the Corporation of its election that the Corporation shall definitively cease to act for the undersigned.

3. The By-Laws, Rules and procedures of the Corporation shall be a part of the terms and conditions of every contract or transaction which the undersigned while a Participant may make or have with the Corporation.

4. The undersigned will pay to the Corporation the compensation provided for by the Rules and procedures of the Corporation for all services rendered to the undersigned while a Participant and such fees as may be imposed in accordance with the By-Laws and Rules of the Corporation for the failure of the undersigned while a Participant to comply therewith.

5. The undersigned will promptly pay to the Corporation such other amounts as may become payable by the undersigned to the Corporation under the Rules and procedures of the Corporation, including, without limitation, Rules 4, 9 and 19.

6. The books and records of the undersigned to the extent that relate to the dealings of the undersigned with the Corporation shall at all times be open to the inspection of the duly authorized representatives of the Corporation and the Corporation shall be furnished with all such information in respect of the business and transactions of the undersigned as it may require, provided that if the undersigned shall cease to be a Participant the Corporation shall have no right to inspect the books and records of the undersigned with respect to, or to require information relating to, transactions wholly subsequent to the time when the undersigned ceases to be a Participant; and provided further that the Corporation's right to inspect the books and records of the undersigned and to be furnished with information as provided in this Paragraph 6 shall be subject to any applicable laws, rules and regulations of regulatory bodies having jurisdiction over the undersigned, which relate to confidentiality of records.

7. The undersigned hereby authorizes the Corporation, in its own capacity or as agent and attorney in fact for the undersigned:

(a) To maintain any and all securities from time to time held by the Corporation for the account of the undersigned on deposit, subject to the instructions of the Corporation, with custodian banks or with trust companies or with nominees (including appropriate other clearing corporations);

(b) To cause such securities to be registered in the name of the Corporation or a custodian bank or a nominee of either;

(c) To enter into such agreements with the depositories referred to in subsection (a), relating to the custody of securities deposited therewith by the Corporation and to related matters, as the Corporation may in its sole discretion approve; and

(d) To agree to comply with the rules, regulations and other requirements of such depositories.

8. Except as otherwise permitted by the Corporation, the undersigned will give all instructions concerning securities held by or subject to the instructions of the Corporation through the Corporation and not otherwise; and custodians holding securities subject to the instructions of the Corporation shall in all respects be entitled to rely upon the instructions of the Corporation with respect to any such securities (which instructions shall be binding as between the undersigned and such custodians).

9. The undersigned represents and warrants to the Corporation that neither the execution and delivery of this Agreement nor any act to be performed pursuant to this Agreement by the Corporation or by or on behalf of the undersigned will violate the partnership agreement or the charter of by-laws, as the case may be, of the undersigned or any other agreement which is binding upon the undersigned or any law or regulation of New York or federal governmental authority.

10. The undersigned acknowledges receipt from the Corporation of a copy of the By-Laws of the Corporation and a copy of the Rules of the Corporation, each as in effect at the time of the submission of this Agreement to the undersigned by the Corporation. Notwithstanding any provision in the Rules of the Corporation to the contrary, the Corporation shall immediately notify the undersigned of any proposal it has made to change or revise the Rules of the Corporation and of any proposal it has made to add or repeal any Rule, and of the text of any such proposal.

11. The undersigned will be bound by all the provisions of this Agreement immediately upon the effective date (as defined below). This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

12. Subject to the provisions of the Securities Exchange Act of 1934, this Agreement shall not be effective until, and shall become effective upon, the date when (1) it is both executed by the Participant and approved by the Corporation, and (2) the transfer of the business and assets of the Depository division of Stock Clearing Corporation of Philadelphia to the Corporation has been consummated (the "effective date").

13. Each security delivered for deposit with the Corporation may be transferred into the name of any nominee designated by the Corporation or by such custodian as the Corporation may select, if it is delivered to such custodian, and retained by the Corporation or delivered to such custodian as the Corporation may select and the undersigned will indemnify the

Corporation and any nominee of the Corporation in the name of which securities credited to the undersigned's account are registered against all loss, liability and expense which they may sustain, without fault on the Corporation's part, as a result of securities credited to the undersigned's account being registered in the name of any such nominee, including (a) assessments, (b) losses, liabilities and expenses arising from claims of third parties and from taxes and other governmental charges, and (c) related expenses in respect of any such securities.

14. This Agreement and all transactions effected by the undersigned with any other party, or to which the undersigned is a party, under the By-Laws and the Rules of the Corporation or through the facilities of the Corporation shall be governed by and construed in accordance with the laws of the State of Pennsylvania.

Date _____

Form of Execution by Corporation

By _____ (Name of Corporation)

Chairman of the Board

(Corporate seal)

Attest: _____ Secretary

Accepted as of the Date Shown Above:
Philadelphia Depository Trust Company

By _____ (Signature) (Title)

Corporate Acknowledgment

State of _____
County of _____

On the _____ day of _____, 19____, before me came _____, to me known and known to me to be the Chairman of the Board of _____, and _____, to me known and known to me to be the Secretary of said corporation, and severally acknowledged that as such Chairman of the Board and Secretary they signed the foregoing Agreement in the name and on behalf of said corporation, and caused the corporate seal of said corporation to be affixed thereto.

Notary Public.

[FR Doc. 79-36398 Filed 11-26-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 6150; 18-55]

Wyman, Bautzer, Rothman & Kuchel, Self-Employed Retirement Plan; Application

November 18, 1979.

Notice is hereby given that Wyman, Bautzer, Rothman & Kuchel (hereinafter referred to as the "Applicant" or the "Firm"), Two Century Plaza, Fourteenth Floor, 2049 Century Park East, Los Angeles, CA 90067, a law firm organized as a partnership under the laws of the State of California, on June 18, 1979 filed

an application (supplemented by letters dated September 28 and October 22, 1979) for exemption from the registration requirements of the Securities Act of 1933 (the "Act") for interests or participations issued in connection with the Wyman, Bautzer, Rothman & Kuchel Self-Employed Retirement Plan (the "Plan"). All interested persons are referred to those documents, which are on file with the Commission for the facts and representations contained therein, which are summarized below.

I. Introduction

The Plan covers the Firm's partners and other employees who have completed at least three years of service with the Firm. As of October 31, 1978, 20 partners, nine associates and 20 non-legal personnel were participants in the Plan. Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code") and, therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Plan was adopted October 18, 1976, effective as of October 1, 1976. The Plan was amended on October 7, 1977 in order to bring the Plan into compliance with the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"). The Plan, as so amended, is a qualified plan under Section 401 of the Code. The Plan is subject to the fiduciary standards and the full reporting and disclosure requirements of ERISA.

II. Description and Administration of the Plan

Applicant states that it makes annual contributions to the Plan on behalf of all participants in amounts based on a percentage of their compensation, with certain limitations and adjusted for Social Security benefits. Participants

may also make voluntary contributions to the Plan of not more than 10 percent of their annual compensation.

Applicant states that the Plan is modeled after a prototype plan sponsored by the Washington National Trust Company, which serves as Trustee for the Plan. Applicant contends that even though the Plan is modeled after this prototype plan, the Plan has been tailored by Applicant to reflect the needs of Applicant and the participants in the Plan. The Trust and Adoption Agreements, and modified by Applicant, allow participants to exercise control over assets in their accounts and to provide the Trustee with investment instruction. Applicant represents, however, that in actual practice only a few partners have chosen to exercise individual investment discretion as to their accounts. Most participants allow the Firm, advised by an investment banker, to make the investment decisions.

The Plan is administered by two partners of Applicant assisted by a third partner. The two partners have the power, among others, to interpret the Plan.

III. Discussion

Applicant states that the exemption from registration provided by Section 3(a)(2) of the Act is not available because of the participation in the Plan of Applicant's partners, who are "employees" within the meaning of Section 401(c)(1) of the Code. Applicant contends that if its business were organized in corporate form, interests and participations in the Plan would be exempt from registration pursuant to Section 3(a)(2) of the Act. The mere fact of Applicant's being unincorporated, it submits, is no ground for requiring that such interests and participations be registered under the Act.

Applicant further states that the purpose of Congress' exclusion from the Section 3(a)(2) exemption of plans in which self-employed persons are participants was to prevent the sale, without registration, of interests in plans to self-employed persons lacking the sophistication to protect themselves and their employees. Applicant states that it is engaged in furnishing legal services of a type which necessarily involves financially sophisticated and complex matters. It further submits that the administrative control exercised by Applicant over the Plan, further insures that Applicant's interests and the participants' interests are adequately represented.

Applicant states that the Plan covers partners and employees of a single firm, and that assets of the Plan have not

been and will not be commingled in any collective investment fund with the assets of any other plan. Furthermore, Applicant states that it has not distributed, and does not intend to distribute, any promotional material in regard to the Plan, except for such material as Applicant is required by ERISA to distribute.

Applicant argues that the fact that the Plan is modeled after a prototype plan is no basis for requiring the Plan to register under the Act. Applicant states that it has not simply bought from the Trustee a prototype plan, but has amended it to such an extent that the Plan bears the handicraft of Applicant and meets the unique situation of Applicant. Additionally, Applicant states, it has specialized in corporate securities matters and has represented clients in all manner of securities matters for over twenty years. Consequently, applicant argues it is well able to represent its interests and those of its employees.

Applicant concludes that, under the circumstances, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 11, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by Affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following December 11, 1979 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-36398 Filed 11-26-79; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 692]

United States-Spain Joint Committee for Scientific and Technological Cooperation—Postdoctoral Research and Short Term Travel Grants

The United States-Spain Joint Committee for Scientific and Technological Cooperation, established under the Treaty of Friendship and Cooperation with Spain (TIAS 8360; signed at Madrid January 24, 1976), announces the availability of postdoctoral research grants for U.S. scientific research personnel for the purpose of carrying out research in Spain. The term of the grant will be from six to twelve months. Preference will be given to recent doctorate degree recipients. In addition, short term travel grants will be awarded to qualified U.S. scientists in order that they may travel to Spain to exchange information on specific research topics or to learn special techniques. This type of grant will have a maximum term of three months and a minimum of one month (30 days).

1. Scope of Grants

Grants are available in the following areas of research:

- (a) Agriculture.
- (b) Natural resources.
- (c) Oceanography.
- (d) Environment.
- (e) Urban and regional planning.
- (f) Industrial technology.
- (g) Energy.
- (h) Biomedical sciences.
- (i) Basic sciences.

For postdoctoral research grants, the grant period will begin between September 1, 1980 and January 31, 1981; in special circumstances, the Joint Committee may authorize a grant period to begin at an earlier or later date.

Short term travel grants may begin any time between September 1, 1980 and April 1, 1981.

2. Requirements

Applicants must meet the following requirements:

- (a) Be a U.S. citizen or be a regular member of the U.S. scientific community.
- (b) Possess a Doctoral degree, or have equivalent experience.

(c) Have knowledge of written and spoken Spanish.

(d) Submit proof of acceptance by the Spanish University or research center where the applicant wishes to carry out his/her work.

(e) Not be the recipient of any other financial aid or grant for the same purpose.

3. Amount and Nature of Grants

The grant award will include:

(a) Round-trip airfare (economy class) between the grantee's usual residence and his/her final destination in Spain by the most direct route.

(b) Health and accident insurance in Spain during the grantee's stay on the grant (for postdoctoral grants only).

(c) Subsistence at the rate of \$1,000 per month, prorated for shorter periods.

Outbound travel will not be paid for those persons who, upon initiating the grant activity, are already in Spain.

When two grantees are married and reside in the same city in Spain during the period of their grants, the monthly stipend of one of them will be reduced by 50 percent.

4. Presentation of Applications

Application forms may be obtained from the Executive Secretariat of the United States-Spanish Joint Committee for Scientific and Technological Cooperation (Calle Cartagena, 83-85, third floor, Madrid 28, telephone 256.0408), or from Mr. Morris H. Crawford, Bureau of Oceans and International Environmental and Scientific Affairs, Room 4330, Department of State, Washington, D.C. 20520. Three copies of the form and any accompanying documents (with the exception of reference 5—see 5(g) below) must be submitted to the Executive Secretariat within three months of the date of publication of this Notice in the Federal Register.

5. Documents to be presented.

(a) Application form completed and signed.

(b) Professional resume.

(c) Description of the planned research.

(d) Written evidence of acceptance as referenced in paragraph 2(d).

(e) Certification of knowledge of Spanish as referenced in paragraph 2(c).

(f) Proof of possession of doctorate degree (or academic transcripts for non-doctorate holders).

(g) Two letters of reference from professors or researchers who have supervised or directed research done by applicant in his/her field. These letters should be submitted directly to the Executive Secretariat by the authors at the same time the grant application is submitted.

6. Selection

Applications will be evaluated by a joint United States-Spanish panel appointed by the co-chairmen of the United States-Spain Joint Committee for Scientific and Technological Cooperation.

The Spanish side of the panel may consult with the Comisión Asesora de Investigación Científica y Técnica of the Presidencia del Gobierno.

The panel may request additional information concerning any application and conduct personal interviews with the applicant.

The panel will send to the Joint Committee a list of applicants which it recommends for grants. On the basis of this recommendation, the Joint Committee will make the final award of grants.

7. Certain Obligations of Grantees

(a) To conduct his/her activity on the research project in accordance with the practices of the host institution.

(b) To submit to the Executive Secretariat of the Joint Committee on a quarterly basis (or at the end of the stay if the grant period is shorter) a report of the work carried out and the results obtained. This report should be signed by the department head or supervising scientist at the host institution.

8. Payment Schedule

The grant stipend will be paid before the start of each quarter after the quarterly report referenced in paragraph 7 is approved. This rule will not apply to the first quarter payment.

9. Early Termination of Grant

If a grantee terminates his/her research before expiration of the grant, he/she should immediately notify the Executive Secretariat in writing. The Joint Committee will examine the reasons for the early termination and if it finds the reasons unjustifiable it may require the grantee to reimburse the Joint Committee for the amounts paid to him/her (including the cost of air fare).

10. Renewal of Grant.

The postdoctoral research grants may be considered for renewal for a maximum period of one year provided a proper application for extension is submitted by the grantee and his/her quarterly reports receive a favorable review.

Dated: November 4, 1979.

Thomas R. Pickering,

Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

[FR Doc. 79-36464 Filed 11-28-79; 8:45 am]

BILLING CODE 4710-09-M

[Public Notice 691]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 623 (43 FR 37782) August 24, 1978, the Department is submitting its October 1979 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article IV (c) (4) of the guidelines published in the Federal Register on August 24, 1978.

Dated: November 8, 1979.

Paul J. Byrnes,

Director, Office of International Conferences.

U.S. Delegation to the Fourth Session of the United Nations Conference on Natural Rubber of the United Nations Conference on Trade and Development (UNCTAD); Geneva, September 24-October 5, 1979

Representative

Richard M. Ogden, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State.

Alternate Representative

Gordon Streeb, United States Mission, Geneva.

Advisers

Judith Bello, Attorney Adviser, Department of State.

Robert R. Blake, Office of Raw Materials and Oceans Policy, Department of the Treasury.
Thomas H. Martin, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State.
Fred Siesseger, Resources Policy Division, Department of Commerce.

Private Sector Advisers

A. J. Ashe, B. F. Goodrich Company, Akron, Ohio—October 1-5.
E. Peter Bierre, United Baltic Corporation, New York, New York—September 24-28.
J. J. Reidl, Goodyear Tire and Rubber Company, Akron, Ohio—October 1-5.
Robert Sanders, ACLI Corporation, White Plains, New York—October 1-5.
A. F. Scheuer, Internatio Incorporated, New York, New York—September 24-28.
Clinton Warne, National Consumers League, Cleveland, Ohio.

U.S. Delegation to the Fourth Meeting of the Panel on Establishment of International Fares and Rates, International Civil Aviation Organization (ICAO); Montreal, September 24-October 12, 1979

Representative

Douglas V. Leister, Assistant Director, Negotiations, Bureau of International Aviation, Civil Aeronautics Board.

Advisers

John A. Driscoll, Bureau of International Aviation, Civil Aeronautics Board.
Julie L. Moll, Office of Air Transportation, Department of Transportation.

Private Sector Advisers

Ralph Ditano, National Air Carrier Association, Washington, D.C.
Thomas V. Lydon, Air Transport of America, Washington, D.C.

U.S. Delegation to the Sixteenth Meeting of the North Atlantic Systems Planning Group, International Civil Aviation Organization (ICAO); Paris, October 1-10, 1979

Representatives

John Matt, North Atlantic Systems Planning Officer, Federal Aviation Administration, Department of Transportation.

Advisers

Allen C. Busch, Chief, Analysis Branch, Simulation and Analysis Division, National Aviation Facilities Experimental Center, Federal Aviation Administration, Department of Transportation.

Jerald M. Davis, Training and Technical Standards Section, Office of Flight Operations, Federal Aviation Administration, Department of Transportation.

Wilfred C. Hamann, Lt. Colonel, Air Traffic Service and Airspace Management Division, Directorate of Operations and Readiness, Headquarters, United States Air Force.

Frederick A. Moore, Chief, International Operations and Procedures Branch, Air Traffic Service, Federal Aviation Administration, Department of Transportation.

Howard Rubenstein, New York ARTCC, Air Traffic Service, Federal Aviation Administration, Department of Transportation.

Private Sector Adviser

Peter Dupret, Manager, Operations, Regulations and Standards, Air Transport Association of America, Washington, D.C.

U.S. Delegation to the Twelfth Session of the Chemical Industry Committee Economic Commission for Europe; Geneva, October 1-5, 1979

Representative

Harry F. Pfann, Program Manager, Chemicals and Rubber Program Industry and Trade Administration, Department of Commerce.

Private Sector Adviser

Myron T. Foveaux, Manufacturing Chemist Association, Washington, D.C.

U.S. Delegation to the Forty-First Session of the Maritime Safety Committee (MSC) of the Intergovernmental Maritime Consultative Organization (IMCO); London, October 8-12, 1979

Representative

Robert H. Scarborough, Vice Admiral, USG, Vice Commandant, United States Coast Guard, Department of Transportation.

Congressional Staff Adviser

Sidney A. Wallace, Rear Admiral, USCG (Ret.), Counsel, Merchant Marine and Fisheries Committee, United States House of Representatives.

Alternate Representative

Henry H. Bell, Rear Admiral, USCG, Chief, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Advisers

H. Clay Black, Shipping Attache, U.S. Embassy, London.

Edward H. Middleton, Technical Adviser, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

John J. Nachtsheim, Assistant Administrator for Operations, Maritime Administration, Department of Commerce.

Gerard P. Yoeast, International Affairs Division, Office of Public and International Affairs, United States Coast Guard, Department of Transportation.

Private Sector Advisers

John F. Fay, Port Agent, Seafarers International Union, AFL-CIO, New York, New York.

William H. Hannan, Vice President, American Bureau of Shipping, New York, New York.

Donald C. Hintze, Captain, USCG (Ret.), National Oceans Industry Association, Washington, D.C.

Julian H. Singman, Counsel, International Organization of Masters, Mates and Pilots, AFL-CIO, New York, New York

U.S. Delegation to the Third Preparatory Meeting on Vegetable Oils and Oilseeds, United Nations Conference on Trade and Development (UNCTAD); Geneva, October 8-12, 1979

Representative

Gordon L. Streeb, United States Mission, Geneva.

Advisers

James V. Ledesma, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State.
George E. Wanamaker, Oilseeds and Products Division, Department of Agriculture.

Private Sector Adviser

Carl C. Campbell, National Cotton Council of America, Washington, D.C.

U.S. Delegation to the Third Working Party of the Steel Committee, Organization for Economic Cooperation and Development (OECD); Paris, October 9-10, 1979

Representative

A. L. Brueckman, Director, Iron and Steel Division, Department of Commerce.

Advisers

Henry Berghoef, Office of International Trade, Department of the Treasury.
Charles H. Blum, Special Trade Activities Division, Bureau of Economic and Business Affairs, Department of State.
Joseph S. Papovich, Office of Foreign Economic Policy, Department of Labor.

Private Sector Advisers

Jerald Brownstein, President, Delaware Steel Company, Bala Cynwyd, Pennsylvania.

Frank Fenton, Director—Corporate Strategic Planning, United States Steel Corporation, Pittsburgh, Pennsylvania.
Edward Florkoski, Vice President, American Iron and Steel Institute, Washington, D.C.
John Sheehan, Director of Legislative Affairs, United Steelworkers of America, Washington, D.C.

U.S. Delegation to the Thirty-Seventh Session of the Timber Committee, Economic Commission for Europe (ECE); Geneva, October 15-19, 1979

Representative

Dwight Hair, Forest Economist, U.S. Forest Service, Department of Agriculture.

Adviser

Joseph Saltsman, U.S. Mission, Geneva.

Private Sector Adviser

William Franklin, Vice President, Weyerhaeuser Corporation, Tacoma, Washington.

U.S. Delegation to the International Rubber Study Group (IRSG); London, October 15-19, 1979

Representative

Paul Pilkasuskas, United States Embassy, London.

Alternate Advisers

Thomas H. Martin, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State.
Fred Siesseger, Resources Policy Division, Department of Commerce.

Private Sector Advisers

E. Peter Bierre, United Baltic Corporation, New York, New York.
Thomas Cole, Rubber Manufacturers Association, Washington, D.C.
Robert Sanders, ACLI Corporation, White Plains, New York.
A. F. Scheuer, Internatio Incorporated, New York, New York.
William Walker, B. F. Goodrich Company, Akron, Ohio.

U.S. Delegation to the Third Meeting of the Panel on the Regulation of Air Transport Services of the International Civil Aviation Organization (ICAO); Montreal, October 15-26, 1979

Member

Joseph R. Chesen, Senior Program Analyst, Bureau of International Aviation, Civil Aeronautics Board.

Advisers

Edward A. Corboy, Bureau of International Aviation, Civil Aeronautics Board.
Sanford Rederer, Director, Bureau of International Aviation, Civil Aeronautics Board.

S. Edward Robinson, Transportation Specialist, Office of Air Transportation, Department of Transportation.

Private Sector Advisers

Ralph Ditano, National Air Carrier Association, Washington, D.C.
Thomas V. Lydon, Air Transportation Association, Washington, D.C.

U.S. Delegation to the Group B Preparatory Meeting on Code of Conduct for Transfer of Technology, Committee for Scientific and Technological Policy, Organization for Economic Cooperation and Development; Paris, October 16-17, 1979

Representative

William R. Brew, Office of Business Practices, Bureau of Economic and Business Affairs, Department of State.

Alternate Representative

George Lehner, Office of the Legal Adviser, Department of State.

Advisers

Joel Davidow, Antitrust Division, Department of Justice.
Dieter Hoinkes, Patent and Trademark Office, Department of Commerce.

Private Sector Advisers

Lawrence Pearson, Council of the Americas, New York, New York.
Richard Schepard, Coudert Freres, Paris.

U.S. Delegation to the 37th Meeting of the Inter-American Tropical Tuna Commission (IATTC); Panama, October 22-24, 1979

Commissioners

Jack Gorby, United States Commissioner, Inter-American Tropical Tuna Commission.
Gerald Howard, United States Commissioner, Inter-American Tropical Tuna Commission.
Robert Macdonald, United States Commissioner, Inter-American Tropical Tuna Commission.

Advisers

Izadore Barrett, Director, Southwest Fisheries Center, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.
James Drewry, Office of the General Council, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.
Charles Finan, Fisheries Attache, United States Embassy, Mexico City.
Brian Hallman, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.
Mary McLeod, Office of the Legal Adviser, Department of State.
John D. Negroponte, Deputy Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.
Barbara Rothschild, Office of International Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.
Gary Sakagawa, Southwest Fisheries Center, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

Private Sector Adviser

Milton Kaufman, President, Monitor International, Washington, D.C.

U.S. Delegation to the Tenth Anniversary Plenary, Committee on the Challenges of Modern Society (CCMS), North Atlantic Treaty Organization (NATO); Washington, D.C., October 22-24, 1979

Representative

The Honorable Douglas M. Costle, Administrator of the Environmental Protection Agency and the President's Representative to the Committee.

Alternate Representative

The Honorable W. Tapley Bennett, Jr., Permanent Representative to the North Atlantic Treaty Organization.

Congressional Advisers

The Honorable Joseph R. Biden, Jr., United States Senate.
The Honorable Daniel Patrick Moynihan, United States Senate.

Advisers

William J. Beckham, Jr., Deputy Secretary, Designate, Department of Transportation.
Kenneth Biglane, Director, Oil and Special Materials Control Division, Water Program Operations, Environmental Protection Agency.
Harry Blaney, United States Mission to NATO, Brussels.
Edwina S. Campbell, Special Consultant, Environmental Protection Agency.
Gary E. Chafin, United States Coordinator for NATO/CCMS Activities, Environmental Protection Agency.
Charles R. Corbett, Captain, USCG, Chief, Environmental Protection Division, United States Coast Guard, United States Coast Guard Headquarters.
Melvin Cotner, Director, Natural Resource Economics Division, Department of Agriculture.
Richard Dowd, Science Adviser to the Administrator, Environmental Protection Agency.
Gary Foley, Office of Research and Development, Environmental Protection Agency.
Stephen J. Gage, Assistant Administrator for Research and Development, Environmental Protection Agency.
Jeffrey C. Gallup, CCMS Officer, Department of State.
Lee Kimche, Director, Institute of Museum Service, Department of Health, Education and Welfare.
John Lehman, Director, Hazardous Wastes Management Division, Environmental Protection Agency.
Ralph McCracken, Associate Director of Science and Education, Department of Agriculture.
J. B. Penn, Deputy Administrator for Economics, Department of Agriculture.
Steffen W. Plehn, Deputy Assistant Administrator for Solid Waste, Environmental Protection Agency.
David Sussman, Office of Solid Waste, Environmental Protection Agency.
Russell Vollmers, Systems Technology Division, Office of Research and Development, United States Coast Guard Headquarters.

Richard F. Walsh, Director, Office of Transportation and Economic Analysis, Department of Transportation.
The Honorable Mitzi M. Wertheim, Deputy Under Secretary, United States Navy.

Private Sector Advisers

John W. Barnum, Attorney, Washington, D.C.
Peter Lusk, President and Managing Director, Lusk Corporation, New Canaan, Connecticut.

U.S. Delegation to the Fourth Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters, Intergovernmental Maritime Consultative Organization (IMCO); London, October 22-28, 1979

Representative

William N. Hedeman, Jr., Director, Office of Environmental Review, Environmental Protection Agency.

Alternate Representatives

Edward A. Mainland, Office of Environmental Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.
Alan B. Sielen, Acting Director, Oceans and Regulatory Division, Office of International Activities, Environmental Protection Agency.

Advisers

H. Clay Black, Shipping Attache, American Embassy, London.
Robert M. Engler, Corps of Engineers, United States Army.
Alice Brandeis Popkin, Consultant, Office of the Administrator, Environmental Protection Agency.
Thaddeus A. Wastler, Chief, Marine Protection Branch, Office of Water and Waste Management, Environmental Protection Agency.
Russell H. Wyer, Deputy Director, Oil and Special Materials Control Division, Office of Water and Waste Management, Environmental Protection Agency.

Private Sector Adviser

Kenneth S. Kamlet, Counsel, National Wildlife Federation, Washington, D.C.

U.S. Delegation to the Insurance Committee Organization for Economic Cooperation and Development (OECD); Paris, October 23-24, 1979

Representative

Stephen Althelm, United States Mission to the OECD, Paris.

Alternate Representative

Albert Alexander, Director, International Services Division, Department of Commerce.

Private Sector Adviser

Ronald K. Shelp, American International Group, Inc., New York, New York.

U.S. Delegation to the First Assembly of Parties, International Maritime Satellite System (INMARSAT); London, October 24-26, 1979

Representative

Arthur L. Freeman, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State.

Advisers

Melvin Barbat, National Telecommunications and Information Administration.
H. Clay Black, Shipping Attache, American Embassy, London.
Robert Greenburg, Federal communications Commission.

Private Sector Adviser

Robert Bourne, Communications Satellite Corporation, Washington, D.C.

U.S. Delegation to the Annual Meeting of the North Pacific Fisheries Convention (INPFC); Tokyo, October 29-November 2, 1979

Commissioners

The Honorable Elmer Rasmuson, United States Commissioner, Chairman, U.S. Section.
The Honorable Harry Rietze, United States Commissioner.
The Honorable Robert R. Thorstenson, United States Commissioner.
Harold Lokken, United States Commissioner Designate.

Advisers

Joan L. Bergy, Director, Consumer product Safety Commission, Department of Commerce, Seattle, Washington.
William MacKenzie, Foreign Affairs Officer, Office of International Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.
Herman McDevitt, Pacific Regional Fishery Management Council, Pocatello, Idaho.
Charles Meacham, Director, Office of the Governor, Office of International Fisheries and External Affairs, Juneau, Alaska.
J. Carlton Price, Fisheries Affairs Officer, Office of Fisheries Affairs, Department of State.
Clement Tillion, State Senator, Alaska State Senate, Juneau, Alaska.

Private Sector Advisers

Truman C. Emberg, Business Manager, Western Alaska Cooperative Market, Dillingham, Alaska.
Jessie Foster, Chairman, Native Fishermen's Cooperative, Quinhagak, Alaska.
John Gilbert, Vice President, Bumble Bee Seafoods, Inc., Seattle, Washington.

[FR Doc. 79-36403 Filed 11/26/79; 8:45 am]

BILLING CODE 4710-19-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 79-298]

White or Irish Potatoes, Other Than Certified Seed; Tariff-Rate Quota for the Quota Year Beginning September 15, 1979, for White or Irish Potatoes, Other Than Certified Seed

November 18, 1979.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for white or Irish potatoes, other than certified seed, for the 12-month period beginning September 15, 1979.

SUMMARY: The tariff-rate quota for white or Irish potatoes, other than certified seed, pursuant to item 137.25, Tariff Schedules of the United States, for the 12-month period beginning September 15, 1979, is 45 million pounds.

EFFECTIVE DATES: The 1979 tariff-rate quota is applicable to white or Irish potatoes described in item 137.25, TSUS, entered, or withdrawn from warehouse, for consumption during the 12-month period beginning September 15, 1979.

FOR FURTHER INFORMATION CONTACT: Helen C. Rohrbach, Head, Quota Section, Duty Assessment Division, Office of Commercial Operations, U.S. Customs Service, Washington, D.C. 20229 (202-566-8592).

SUPPLEMENTARY INFORMATION: Each year the tariff-rate quota for potatoes described in item 137.25, Tariff Schedules of the United States (TSUS), is based on the estimate by the Department of Agriculture of potatoes produced during the calendar year.

The estimate of the production of white or Irish potatoes, including seed potatoes, in the United States for the calendar year 1979, made by the United States Department of Agriculture as of September 1, 1979, was in excess of 21 billion pounds.

In accordance with headnote 2, part 8A, of schedule 1, Tariff Schedules of the United States, the quota quantity is not increased because the estimated production is greater than 21 billion pounds.

R. E. Chasen,
Commissioner of Customs.

[FR Doc. 79-36445 Filed 11-26-79; 8:45 am]

BILLING CODE 4810-22-M

[T.D. 79-297]

Reimbursable Services—Excess Cost of Preclearance Operations

November 15, 1979.

Notice is hereby given that pursuant to section 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess cost for the new preclearance installation is estimated to be as set forth below, effective October 28, 1979.

Installation and Biweekly Excess Cost

Edmonton, Canada, \$4,315.00

Mitchell A. Levine,
Director, Office of Financial Management and Programs.

[FR Doc. 79-36444 Filed 11-26-79; 8:45 am]

BILLING CODE 4810-22-M

Office of the Secretary

Rail Passenger Cars and Parts Thereof Intended for Use as Original Equipment in the United States From Japan and Italy; Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of rail passenger cars and parts thereof which are intended for use as original equipment in the United States from Japan and Italy are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices of such or similar merchandise in the home market.

EFFECTIVE DATE: November 27, 1979.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On October 18, 1979, a petition was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel for the Budd Company (Railway Division), Philadelphia, Pennsylvania, alleging that rail passenger cars and parts thereof which are intended for use as original equipment in the United States from Japan and Italy are being, or are likely to be, sold at less than fair

value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (hereinafter referred to as "the Act").

The investigation is limited to rail passenger cars and parts intended for use as original equipment. Replacement parts are not included due to the petition's lack of price and injury information regarding imports of these items. Most rail passenger cars and original equipment parts enter under the following numbers of the Tariff Schedules of the United States: 690.10, 690.15, 690.25, 690.30, 690.35, 690.40. On occasion merchandise covered by this investigation enters under other TSUS numbers, therefore the above numbers are to be viewed as a guide rather than a limiting definition.

Based upon information supplied by the petitioner and derived from Custom's summary investigation, it appears that margins of dumping may be as much as 87 percent for this merchandise imported from Japan and 9 percent for this merchandise imported from Italy.

The petition includes evidence concerning injury, or likelihood of injury, to U.S. producers of rail passenger cars and parts intended for use as original equipment in the U.S. Four of the five major U.S. manufacturers have ceased or have announced plans to cease production of this merchandise since 1975. Also cited in the petition as evidence of injury are the following factors: increased Japanese and Italian penetration of the U.S. market during the period of January 1976 through August 1979, declining capacity utilization in the U.S. and declining profits in U.S. manufacturers.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for doing so, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30, Customs Regulations (19 CFR 153.30).

Robert H. Mundheim,
General Counsel of the Treasury.
November 20, 1979.
[FR Doc. 79-36471 Filed 11-26-79; 8:45 am]
BILLING CODE 4810-22-M

Imported Steel Mill Products Trigger Price Mechanism: First Quarter 1980 Revision of Trigger Prices

The Treasury Department hereby announces steel mill product trigger prices for the first quarter of 1980. These trigger prices are part of the Treasury Department's steel trigger price mechanism (TPM) and are used by the Department to monitor the prices of steel mill product imports for possible initiation of dumping investigations under the Antidumping Act. Each quarter Treasury reviews the cost of Japanese steel production and revises trigger prices accordingly.

First quarter 1980 trigger prices of the major steel mill products will increase, on average, approximately 5 percent from their fourth-quarter 1979 levels. This 5 percent increase includes a 3.1 percent increase in trigger price bases and extras, a \$1 to \$3 increase in TPM freight rates, and, on average, about a \$6 increase in the interest component of the TPM delivery charges. First-quarter trigger prices will apply to imports shipped on or after January 1, 1980.

The trigger base prices and extras of those steel mill products manufactured principally by electric furnace producers will remain at their fourth-quarter levels. The trigger price bases for stainless steel wire products will decrease slightly, while most stainless steel wire extras will increase slightly. The landed trigger price of these products will include the \$1 to \$3 increase in TPM freight rates and the substantial increase in the interest component of delivery charges.

The TPM includes a "flexibility band" for quarterly adjustments which allows trigger prices to differ by as much as 5 percent from Treasury's quarterly estimates of Japanese steel production costs. The flexibility band has been used in each of the past four quarters to moderate the effect of sharp changes in the yen/dollar exchange rate. First-quarter 1980 trigger price bases and extras are 4 percent higher than Treasury's estimate of production costs.

I. Production Costs

A. Integrated Producers

Treasury's first-quarter 1980 estimates of Japanese steel production costs reflect the results of an extensive review of the costs performed by Treasury's TPM task force in September 1979. The task force obtained a substantial quantity of new data on the Japanese steel industry from discussions with Japanese government and industry officials and from tours of Japanese steel plants.

The information obtained by the task force has allowed Treasury to make reliable estimates of quarterly Japanese steel effective capacity utilization. These estimates were used to move the five-year average of effective capacity utilization forward three quarters from a January 1974 through December 1978 average to an October 1974 through September 1979 average. The new five-year average capacity utilization for the total Japanese steel industry is 75.2 percent, down from the previous five-year average of 77.6 percent. The new five-year average is within one-percent of the average rate at which the Japanese steel industry has utilized its effective capacity in 1979.

The movement of the five-year average effective capacity utilization rate increases Treasury's estimate of the average production costs of the six-major integrated Japanese steel producers by over \$3 per metric ton. Other data gathered on the task forces' trip resulted in Treasury's increasing the "other expenses" category of integrated producers' costs by about \$1 per metric ton, and the basic raw materials category by nearly \$5 per metric ton. Energy costs also increased, adding another \$1.5 per metric ton to basic raw materials costs.

These cost increases were substantially offset by the effect on Treasury's dollar-valued estimate of production costs of the yen's depreciation relative to the dollar. First quarter 1980 trigger prices are based on a 227 yen/dollar exchange rate, the average rate for the period September 4 through November 2, 1979. This compares to the 217 yen/dollar exchange rate (the average for the period June 8 through August 7) upon which Treasury's fourth-quarter production cost estimates were based.

See Table 1 below for a comparison by cost component of fourth-quarter 1979 and first-quarter 1980 steel production cost estimates.

To the \$344 per net ton production cost estimate, Treasury applied 4 percent of the flexibility band, bringing the first quarter trigger price level to \$358 per net ton.

Table 1.—Japanese Production cost Estimate: Integrated Steel Producers 4th Quarter 1979 and 1st Quarter 1980

[U.S. dollars per metric ton of finished product]		
	4th quarter 1979	1st quarter 1980
Basic raw materials.....	\$132.99	\$139.23
Other raw materials.....	65.55	62.66
Labor.....	99.68	87.19
Other expenses.....	26.01	26.75
Depreciation.....	26.98	26.58
Interest.....	23.58	23.10
Profit ¹	25.14	25.27

Table 1.—Japanese Production cost Estimate: Integrated Steel Producers 4th Quarter 1979 and 1st Quarter 1980—Continued

[U.S. dollars per metric ton of finished product]		
	4th quarter 1979	1st quarter 1980
Yield credit.....	(11.05)	(11.15)
Total cost dollars per metric ton.....	378.86	379.63
Total cost dollars per metric ton.....	343.70	344.40

¹ Profit = .08 (raw materials + labor + other expenses).

The resulting base prices for products produced by integrated producers are shown in Table 3.

B. Electric Furnace Production Costs

Treasury's dollar-valued estimate of the current production costs of Japan's electric furnace producers is about 4 percent lower than the fourth-quarter 1979 estimate. An increase in energy costs was more than offset by the depressing effect on costs of the yen's depreciation relative to the dollar. See Table 2 below for a comparison of fourth-quarter 1979 and first-quarter 1980 production costs by component for each of the three electric furnace production groups.

In deriving base trigger prices for electric furnace products, Treasury used 4 percent of the flexibility band, the same amount of flexibility as was used for the major steel mill products, and kept electric furnace product base trigger prices at their fourth-quarter levels. The resulting base prices for products manufactured by electric furnace producers are as shown in Table 3. Of course, freight and interest charge increase must be applied to derive the applicable landed trigger price for these products.

C. Stainless Steel Wire Production Costs

Treasury's dollar-valued estimate of the current production costs of Japan's stainless steel wire producers varied by base product and type of extra, but generally decreased significantly as a result of the yen's depreciation relative to the dollar. These production cost estimates do, however, incorporate various cost increases including increases in raw materials, energy, and labor costs.

The first-quarter 1980 trigger prices for stainless steel wire are 4 percent higher than the estimated production costs for these products as a result of Treasury's use of the flexibility band. The resulting stainless steel base prices and extras

are shown in the revised pages of the Trigger Price Manual, which follows Table 4 of this notice.

II. Freight and Interest Charges

MITI submitted current data concerning freight cost from Japan to the United States to reflect increases in the

price of fuel oil. As a result, all TMP freight rates will increase for steel mill product imports entering the West Coast \$1 per metric ton, for those entering Gulf or East Coast ports by \$2 per metric ton, and for those entering Great Lakes ports by \$3 per metric ton.

Table 2.—Japanese Steel Production Cost Estimates: Electric Furnace Products, Fourth Quarter 1979 and First Quarter 1980

[U.S. dollars per metric ton of finished product]						
	Group A ¹		Group B ²		Group C ³	
	4th quarter 1979	1st quarter 1980	4th quarter 1979	1st quarter 1980	4th quarter 1979	1st quarter 1980
Basic Raw Materials.....	\$170.78	\$166.11	\$186.18	\$181.34	\$171.29	\$166.49
Other Raw Materials.....	33.33	32.60	35.91	35.12	32.74	32.02
Labor.....	27.52	26.31	30.03	28.71	21.74	20.81
Other Expenses.....	10.94	10.46	18.83	16.09	13.24	12.66
Depreciation.....	6.83	6.53	9.43	9.01	6.20	5.93
Interest.....	8.18	5.91	7.08	6.77	6.21	5.94
Profit ⁴	19.41	18.84	21.52	20.90	19.12	18.56
Scrap Credit.....	(2.95)	(2.82)	(2.53)	(2.42)	(2.70)	(2.58)
Total \$/MT.....	272.04	263.94	304.45	295.52	267.84	259.84
Total \$/NT.....	246.79	239.44	276.19	268.09	242.96	235.72

¹ Group A products are equal angles, unequal angles, channels, and I-beams.

² Group B products are hot rolled strip from bar mills; merchant quality flat bars, hot rolled round bars, squares, and round cornered squares; and bar size channels.

³ Group C products are concrete reinforcing bars, plain and deformed.

⁴ Profit = .08 (Raw materials + labor + other expenses).

The interest charge component of TPM delivery charges will increase by an average of \$6 per metric ton. This increase reflects the current level of US interest rates since shipments of Japanese steel to the United States are financed by borrowing from banks located in the United States.

III. Changes in Trigger Prices for Specific Product Categories

A. Product Additions and Adjustments

Based on data submitted by the Japanese Ministry of International Trade and Industry and additional data collected by the TPM task force on its recent tours of Japanese steel plants, Treasury is revising the base trigger price for continuous butt-weld pipe, electric resistance weld standard pipe, oil well casing and line pipe, and galvanized sheet. Several other changes to extras for selected products are also being published.

Revised pages to the trigger price manual containing these additions and adjustments to previously published pages follow Table 4. All trigger prices on these pages are published in terms of the first quarter, 1980.

B. Theoretical Minimum Weight Billing

Treasury's May 15, 1979 news release,

announcing third-quarter 1979 trigger prices, deleted the theoretical minimum weight (TMW) extra from the trigger prices for hot rolled sheet, cold rolled sheet and galvanized sheet. By deleting the TMW extra from the Trigger Price Manual, Treasury does not intend to discourage exporters from selling steel on a TMW basis. Treasury deleted the TMW extra because the Customs Service computes the selling price of all imports on an actual weight basis and compares this price to the applicable trigger price, which is also based on actual weight. However, when comparing a selling price based on TMW to the trigger price, the Customs Service will accept an apparent sale below the applicable trigger price if the weight tolerance is within ranges consistent with standard industry practice. In cases where the weight is in excess of the usual tolerance, an exporter will be required to justify, based on usual manufacturing experience, the variance between the TMW and the actual weight.

In all cases, when steel is sold on a TMW basis, both the actual weight and the theoretical weight must be reported on the Special Summary Steel Invoice.

BILLING CODE 3410-07-M

Table 3
PRODUCT BASE PRICES FOR SHIPMENTS EXPORTED DURING
FIRST QUARTER 1980 (All Figures in \$/Metric Ton)

Page- */ Product	First Quarter 1980 Base Prices	First Quarter Ocean Freight			First Quarter Interest		
		W.	G.	A. L.	W.	G.	A. L.
2-1 Wire Rods Commercial Quality AISI 1008	321	31	36	41	54	10	13
2-2 Wire Rods Welding Quality AISI 1008	322	31	36	41	54	10	13
2-3 Wire Rods High Carbon AISI 1065	372	31	36	41	54	12	15
2-5 Wire Rods Cold Heading Quality AISI 1038	385	31	36	41	54	12	15
2-7 Wire Rods Cold Finished Bar Quality	385	31	36	41	54	12	16
2-9 Spheroidized Annealed Mo Alloy Steel Wire Rod							
AISI 4037	561	64	79	82	90	18	23
2-13 Spheroidized Annealed Si-Mn-Cr High Carbon Steel							
Wire Rod AISI 9254	538	64	79	82	90	17	22
2-15 Spheroidized Annealed High Carbon Cr Steel Wire							
Rod AISI 52100	618	64	79	82	90	20	25
3-1 Wide Flange Beams and Bearing Piling ASTM A-36							
12" x 12"	311	33	40	44	58	10	13
3-4 Standard Carbon Steel Channels ASTM A-36 **	283	29	36	39	46	9	11
3-6 Unequal Leg Carbon Steel Angles ASTM A-36 **	297	29	36	39	46	9	12
3-8 Equal Leg Carbon Steel Angles ASTM A-36 **	267	29	36	39	46	8	11
3-10 Standard Carbon Steel "I" Beams ASTM A-36 **	325	29	36	39	46	10	13
4-1 Sheet Piling ASTM A-328 Arch Web PDA-27	352	33	40	44	58	11	14
5-1 Steel Plates ASTM A-36 1/2" x 80" x 240"	322	31	35	41	42	10	13
6-1 Heavy Carbon Steel Rails AREA 115, 132 or 136 (40')	358	32	37	45	58	11	15
6-3 Light Rails 60 lbs./yd.	352	39	45	48	55	11	14
6-5 Tie Plates	359	45	49	59	65	11	15
8-1 Plain and Deformed Carbon Steel Concrete							
Reinforcing Bars ASTM A-615 ***	261	29	36	39	46	8	11
9-1 Hot Rolled Carbon Steel Bar Size Channel ASTM A-36 ***	393	29	36	39	46	12	16

*/ Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury
**/ April, 1979. The first figure of each page reference corresponds to the AISI product category of that product.

*** Electric Furnace, Group A.

**** Electric Furnace, Group B.

----- Electric Furnace, Group C.

Table 3 (Continued)

Page- */ Product	First Quarter 1980 Base Price	First Quarter Ocean Freight			First Quarter Interest		
		W.	G.	A. L.	W.	G.	A. L.
10-1 Rolled Carbon Bars Special Quality AISI 1045	408	30	36	39	46	13	17
10-3 Merchant Quality Hot Rolled Carbon Steel Squares and Round Cornered Squares ASTM-36 or AISI 1020 ***	329	29	36	39	46	10	13
10-5 Merchant Quality Hot Rolled Carbon Steel Round Bar ASTM A-36 or AISI 1020 ***	329	29	36	39	46	10	13
10-7 Merchant Quality Carbon Steel Flat Bars ASTM A-36 or AISI 1020 ***	298	29	36	39	46	9	12
11-1 Hot Rolled Ni-Cr-Mo Alloy Steel Round Bar AISI 8620	471	55	61	73	90	15	19
11-6 Spheroidize Annealed High Carbon Cr Steel Round Bar AISI 52100	526	55	61	73	90	17	21
12-1 Cold Finished Carbon Steel Round Bar AISI 1008 through 1029	472	36	45	50	69	15	19
12-2 Cold Finished Round Steel Bar AISI 1212 through 1215	533	36	45	50	69	17	22
12-3 Cold Finished Round Steel Bar AISI 12L14 and 12L15	559	36	45	50	69	18	23
12-5 Cold Finished, Ni-Cr-Mo Alloy Steel Round Bar AISI 8620	471	55	61	73	90	15	19
12-7 Cold Finished Spheroidized Annealed, High Carbon Cr Steel Round Bar, AISI 52100, 50100, 51100	526	55	61	73	90	17	21
14-1 ERW Carbon Steel Pressure Tubing for use in Boilers, Heat Exchangers, Condensers, Etc.	526	See Freight Table				17	21
14-6 Continuous Butt Welded Standard Pipe	400	" "	" "	" "	" "	11	14
14-8 ERW Pipe, Excluding Oil Well Casing, Without Coupling	419	" "	" "	" "	" "	12	15
14-13 Submerged Arc Welded Pipe	454	" "	" "	" "	" "	14	18
14-16 ERW Structural Tubing to ASTM A-500 Grades A, B & C	392	" "	" "	" "	" "	12	16
14-22 ERW Standard Pipe	406	" "	" "	" "	" "	11	15

*/ Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury
**/ April, 1979. The first figure of each page reference corresponds to the AISI product category of that product.

--- Electric Furnace, Group B.

Table 3 (Continued)

Page- *	Product	First Quarter 1980 Base Price	First Quarter Ocean Freight W. G. A. L.	First Quarter Interest W. G. A. L.
14-24	Electric Resistance Welded Standard Pipe ASTM A-120 (Larger Sizes)	Deleted, see Rev. 14-22	See Freight Table	11 14 14 18
14-26	Piling Pipe ASTM A-252	353	"	"
14-30	Electric Resistance Welded Hot Dipped Galvanized Fence Pipe and Tubing in Plain Ends	Deleted, see Rev. 14-22	"	15 19 19 23
14-32	ERM Mechanical Tubing ASTM A-513	472	"	14 18 18 22
15-1	Seamless Carbon Steel Oil Well Casing, Not Threaded, up to 7" in Outside Diameter	442	"	14 18 18 22
15-4	Seamless Carbon Steel Oil Well Casing, Not Threaded 7 inches and over in Outside Diameter	438	"	14 18 18 22
15-7	Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, 7 inches and over in Outside Diameter	497	"	16 20 20 25
15-10	Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, up to 7 inches in Outside Diameter	502	"	16 20 20 25
15-13	Electric Resistance Welded Carbon Steel Oil Well Casing, Not Threaded	439	"	12 16 16 20
15-15	Electric Resistance Welded Carbon Steel Oil Well Casing, Threaded	Deleted, see Rev. 15-13	"	"
15-17	Seamless Carbon Steel Pressure Tubing Suitable for use in Boilers, Superheaters, Heat Exchangers, Condensers, Refining Furnaces, Feed Water Heaters, Cold Finish	844	"	27 34 34 42
15-43	Seamless Carbon Steel Oil Well Tubing EUE With Threading and Coupling	662	"	21 27 27 33
15-45	Seamless Carbon Steel Line Pipe	451	"	14 18 18 22
15-48	Hot Rolled High Carbon Cr Steel Tube Suitable for Use in Manufacture of Ball or Roller Bearings	641	"	20 26 26 32
15-49	Cold Rolled High Carbon Cr Steel Tube Suitable for Use in Manufacture of Ball or Roller Bearings	954	"	30 39 39 47
15-50	Seamless Stainless Steel Round Ornamental Tube	2163	"	68 88 88 107
	AISI TP 304, 1 1/4 x 0.049"			

* Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury April, 1979. The first figure of each page reference corresponds to the AISI product category of that product.

Table 3 (Continued)

Page- *	Product	First Quarter 1980 Base Price	First Quarter Ocean Freight W. G. A. L.	First Quarter Interest W. G. A. L.
15-52	Seamless Stainless Steel Square Ornamental Tube	235A	See Freight Table	74 96 96 117
16-1	AISI TP 304, 1 1/2 x 1 1/2 x 0.065"	481	47 54 56 71	15 20 20 24
	Hard Drawn	546	47 54 56 71	17 22 22 27
16-1	Cold Heading Drawn from Annealed Rods	559	47 54 56 71	18 23 23 28
16-1	Cold Heading Drawn from Spheroidized Annealed Rods	563	47 54 56 71	18 23 23 28
16-1	Cold Heading Anneal in Process	573	47 54 56 71	18 23 23 28
16-1	Cold Heading Spheroidize Anneal in Process	607	47 54 56 71	19 25 25 30
16-1	Cold Heading Anneal in Process and Drawn from	618	47 54 56 71	20 25 25 31
16-1	Annealed Rods	546	47 54 56 71	17 22 22 27
16-1	Cold Heading Spheroidize Anneal in Process and Drawn from Annealed Rods	559	47 54 56 71	18 23 23 28
16-1	Cold Heading Anneal at Finish Size	590	47 54 56 71	19 24 24 29
16-1	Cold Heading Spheroidize Anneal at Finish Size from Annealed Rods	603	47 54 56 71	19 24 24 30
16-4	Bright Basic Round Wire AISI 1008 #8 Gauge Rimmed	396	46 52 55 71	13 16 16 20
16-5	Galvanized Iron Round Wire AISI Type 1 Coating #8 Gauge	498	46 51 55 71	16 20 20 25
16-8	Round Baling Wire 14.50	553	46 51 55 71	17 22 22 27
16-9	Cold Finished Spheroidized Annealed, Si-Mn-Cr High Carbon Steel Wire AISI 9254	538	64 79 82 90	17 22 22 27
16-11	Cold Finished Spheroidized Annealed Mo Alloy Steel Wire AISI 4037	561	64 79 82 90	18 23 23 28
16-13	High Carbon Cr Steel Wire in Coil AISI 52100, 50100, 51100, Suitable for use in manufacture of ball or roller bearings	839	64 79 82 90	27 34 34 42
16-15	Upholstery Spring Wire Automatic Coiling and Knotting Type	495	44 57 59 73	16 20 20 25
16-16	Mechanical Spring Wire ASTM A-227 and A-648	522	44 57 59 73	16 21 21 26

* Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury April, 1979. The first figure of each page reference corresponds to the AISI product category of that product.

Table 3 (Continued)

Page- *	Product	First Quarter 1980 Base Price	First Quarter Ocean Freight W. G. A. L.	First Quarter Interest W. G. A. L.
16-17	Oil Tempered Steel Spring Wire ASTM A-229	525	44	57
16-18	Carbon Steel Valve Spring Quality ASTM A-230	873	94	110
16-19	Automobile Tire Bead Wire	612	97	111
16-20	Galvanized Core Wire for A.C.S.R. ASTM B 498	653	56	63
16-21	Class "A" Stainless Steel Wire	See attached pages 16-21 through 16-33	48	60
19-1	Field Fence	597	48	60
20-1	Wire Nails Bright Common 20d #6 13/12 x 4"	462	48	60
21-1	Barbed Wire 2 Ply, 12.50	628	48	60
22-1	Black Plate ASTM A625-76 0.0083" x 34" x Coil	413	29	33
23-1	Electrolytic Tin Plate SR-25/25 75L x 34" x C	560	32	37
25-1	Hot Rolled Steel Sheets ASTM A-569	285	29	33
25-2	0.121" x 48" x Coil	272	29	33
26-1	Hot Rolled Steel Band ASTM 569 0.121" x 48" x Coil	1164	32	37
26-1	Electrical Steel Sheets Grain Oriented M-4	648	32	37
26-3	0.012" x 33" x C	357	29	33
26-3	Electrical Steel Sheets Non-Oriented M-45	422	30	33
26-5	0.018" x 36" x C	424	29	33
27-1	Cold Rolled Sheets ASTM A-366 1.0 m/m x 48" x C	334	29	36
27-1	Electro Galvanized Sheets EGC 10g/M ² 1.0 m/m x 48" x C	278	29	36
27-4	Galvanized Sheet ASTM A525G90	479	32	37
29-1	Hot Rolled Carbon Steel Strip Produced on Bar Mills			
29-3	Cut Lengths ***			
29-3	Hot Rolled Carbon Steel Strip Produced on Sheet Mills, Coils Only			
32-1	Tin Free Steel Sheets SR 75L x 34" x C			

*// Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury April, 1979. The first figure of each page reference corresponds to the AISI product category of that product.

*** Electric Furnace, Group B.

BILLING CODE 3410-07-C

Table 4.—Revised Pages to Trigger Price Manual

AISI category and TP manual page No.	Product description	Revised
5-10	Steel plates	Revised pickled and oiled extra.
14-2	Freight rate charges on pipe and tube products.	Increased freight rate charges to all coasts.
14-6 and 14-7	CBW pipe	Revised base price and extras.
14-8, 14-9, 14-10, 14-11, and 14-12	ERW pipe excluding oil well casing.	Revised base price and extras.
14-22 and 14-23	ERW standard pipe (formerly ERW-A120 pipe, fence tubing and sprinkler pipe).	Revised base price and extras.
15-13 and 15-14	ERW Oil well casing, plain end and threaded and coupled (includes former pages 15-15 and 15-16).	Revised base price and extras.
16-21 and 16-33	Stainless steel wire	Revised base price and extras.
25-12	Hot rolled sheets	Revised pickled and oiled extra.
27-4 and 27-5	Galvanized sheets	Revised thickness/width/coating extra.

3—Other Extras

Description	Dollars per metric ton
Killed	\$25
Fine grain	7
Charpy:	
+40°F and up:	
L	19
T	25
L and T	30
Under +40°F:	
L	25
T	30
L and T	36
Normalize	84
Quench and temper	144
Normalize and temper	144
U.S.T.:	
A578 L2, A435, A578 L1 (over 1/2")	47
(9" or higher grid) (over 1/4")	19
(under 9" grid or 100% scanning) (over 1/4")	30
Checker	25
Pickled and oiled	16
Others	(1)

¹ To be specified on SSSI.

Base Price Including Outside Diameter and Wall Thickness

[Continuous butt weld pipe, dollars per metric ton—first quarter, 1980]

Description:	Nom. (inches)					Outside diameter (inches)				
	½	¾	1	1¼	1½	2½	2¾	3½	4	4½
Std. Weight, Black, Plain End.....	426	417	410	408	408	400	400	400	408	408
Ex Strong Black Plain End.....	428	426	420	417	417	410	410	410	417	417
Galvanizing Extra: 25% of base price for specific outside diameter and wall thickness.										
Threading and Coupling Extra: 10% of base price for specific outside diameter and wall thickness.										
Galvanizing plus Threading and Coupling: 35% of base price for specific outside diameter and wall thickness.										

Freight Charges on Pipe and Tube Products

[Dollars per metric ton—applies to all products in category 14 and 15]

	Freight	Pacific	Gulf	Atlantic	Great Lakes
Pipe (up to 40") outside diameter up to:					
4 inches	33	45	47	61	
5 inches	35	45	47	61	
6 inches	37	46	47	63	
8 inches	38	47	49	65	
10 inches	39	48	49	67	
12 inches	40	49	51	69	
14 inches	41	51	51	71	
16 inches	41	52	54	72	
18 inches	42	53	54	74	
20 inches	43	55	57	76	
22 inches	44	56	60	77	
24 inches	45	57	60	79	
26 inches	46	58	63	81	
28 inches	48	59	63	83	
30 inches	49	60	63	85	
32 inches	51	61	65	87	
34 inches	52	62	65	89	
36 inches	54	64	67	92	
38 inches	57	67	70	94	
40 inches	59	71	74	98	
42 inches	62	74	76	102	
44 inches	65	76	79	106	
46 inches	69	80	83	110	
48 inches	72	83	86	114	

Continuous Butt weld Pipe—2 1/2" BPE Base

Category AISI 14:
Tariff Schedule Number(s)..... 610.32 0.3c per lb.

	1st quarter 1980
Base Price per Metric Ton	\$400
Ocean freight	
Handling Interest	
Charges to CIF:	
West Coast	See Freight Rate.
Gulf Coast	5
Atlantic Coast	4
Great Lakes	20
Insurance 1% of Base Price + Extras + Ocean Freight.	
Extras:	
A. Outside Diameter/Wall Thickness.	
B. Threading and Coupling.	

Electric Resistance Welded Pipe, Excluding Oil Well Casing, Without Coupling

Category AISI number(s)	14: Tariff schedule	610.32	0.3c/lb.
			1st quarter
Base price per metric ton			\$419
	Ocean freight	Handling	Interest
Charges to CIF:			
West coast	(1)	\$9	\$13
Gulf coast		5	17
Atlantic coast		4	17
Great Lakes		4	21
Insurance 1 percent of base price + extras + ocean freight.			
See freight.			
Extras:			
A. Outside diameter and wall thickness by grade.			
B. Galvanizing, threading and coupling.			
Electric Resistance Weld Pipe, Excluding Oil Well Casing, Without Coupling			
[Base prices including outside diameter and wall thickness and grade extras (dollars per metric ton)]			
Outside diameter and wall thickness	A53 and API 5L grades A and B	X42	X46
		SLX	Grades
		X52	X56
			X60

2 1/2":	.154	\$463	\$475	\$487	\$501	\$512	\$525
	.218	474	486	500	612	501	538
3 1/2":	.203	452	463	475	488	501	512
	.276	473	475	487	501	512	525
4 1/2":	.216	440	453	464	476	488	501
	.300	452	463	475	488	501	512
5 1/2":	.226	440	453	464	476	488	501
	.318	452	463	475	488	501	512
6 1/2":	.125	444	463	476	488	501	512
	.141	440	453	464	476	488	501
	.158	440	453	464	476	488	501
	.172	440	453	464	476	488	501
	.188	440	453	464	476	488	501
	.203	440	453	464	476	488	501
	.219	440	453	464	476	488	501
	.237	440	453	464	476	488	501
	.337	452	463	475	465	501	512
7 1/2":	.156	436	445	458	470	481	494
	.186	436	445	458	470	481	494
	.219	436	445	458	470	481	494
	.258	436	445	458	470	481	494
	.375	445	458	470	483	495	506
8 1/2":	.125	448	458	470	483	495	506
	.141	445	458	470	483	495	506
	.156	436	445	458	470	481	494
	.172	436	445	458	470	481	494
	.188	436	445	458	470	481	494
	.203	436	445	458	470	481	494
	.219	436	445	458	470	481	494
	.250	436	445	458	470	481	494
	.280	436	445	458	470	481	494
	.375	436	445	458	470	481	494
	.432	445	458	470	483	495	506
9 1/2":	.125	430	440	453	464	475	487
	.156	430	440	453	464	475	487
	.172	430	440	453	464	475	487
	.188	419	430	440	453	463	474
	.203	419	430	440	453	463	474
	.219	419	430	440	453	463	474
	.258	419	430	440	453	463	474
	.277	419	430	440	453	463	474
	.312	419	430	440	453	463	474
	.322	419	430	440	453	463	474

Outside diameter and wall thickness	API 5L X42	API 5L X48	5LX X52	Grades X56	X60
.344.....	419	430	440	453	463
.500.....	430	440	453	464	475
10%:					
.158.....	430	440	453	464	475
.172.....	430	440	453	464	475
.188.....	430	440	453	464	475
.203.....	430	440	453	464	475
.219.....	430	440	453	463	474
.250.....	419	430	440	453	463
.279.....	419	430	440	453	463
.307.....	419	430	440	453	463
.344.....	419	430	440	453	463
.365.....	419	430	440	453	463
.375.....	419	430	440	453	463
.500.....	430	440	453	464	475
12%:					
.172.....	430	440	453	464	475
.188.....	430	440	453	464	475
.203.....	419	430	440	453	463
.219.....	419	430	440	453	463
.250.....	419	430	440	453	463
.281.....	419	430	440	453	463
.312.....	419	430	440	453	463
.330.....	419	430	440	453	463
.344.....	419	430	440	453	463
.375.....	419	430	440	453	463
.406.....	419	430	440	453	463
.500.....	430	440	453	464	475
14%:					
.188.....	430	440	453	464	475
.203.....	430	440	453	464	475
15%:					
.219.....	419	430	440	453	463
.250.....	419	430	440	453	463
.281.....	419	430	440	453	463
.312.....	419	430	440	453	463
.344.....	419	430	440	453	463
.375.....	419	430	440	453	463
.438.....	419	430	440	453	463
.500.....	430	440	453	464	475
16%:					
.188.....	430	440	453	463	475
.203.....	430	440	453	463	475
.219.....	419	430	440	452	463
.250.....	419	430	440	452	463
.281.....	419	430	440	452	463
.312.....	419	430	440	452	463
.344.....	419	430	440	452	463
.375.....	419	430	440	452	463
.438.....	419	430	440	452	463
.500.....	430	440	453	463	475

Electric Resistance Welded Pipe, Excluding Oil Well Casing, Without Coupling

AISI 14 TSUSA 810.32

Galvanizing extra: 25 percent of base price for specific outside diameter and wall thickness.

Threading and coupling: 20 percent of base price for specific outside diameter and wall thickness.

Galvanizing plus threading and coupling: 45 percent of base price for specific outside diameter and wall thickness.

Electric Resistance Welded Standard Pipe 2% in BPE Base

Category AISI 14: Tariff schedule number(s) 810.32 0.3¢/lb.

1st quarter 1980

Base price per metric ton \$406

Electric Resistance Welded Carbon Steel Oil Well Casing, Plain End

Category AISI 15: Tariff schedule number 810.39 0.1¢/lb.

1st quarter 1980

Base price per metric ton \$439

Ocean freight Handling Interest

Charges to CIF:

West coast..... (1) \$9 14

Gulf coast..... 5 18

Atlantic coast..... 4 18

Great Lakes..... 4 22

Insurance 1 pct of base price + extras + ocean freight.

See freight table.

Extras:

A. Outside diameter and wall thickness.

B. Grade.

C. Threading and coupling.

NOTE.—Revised page 15-14 incorporates Rev. July 1979 pages 15-15 and 15-16.

Electric Resistance Welded Carbon Steel Oil Well Casing: Plain End and Threaded and Coupled

(Base Prices including Outside Diameter and Wall Thickness (dollars per metric ton) First Quarter 1980)

Outside diameter and wall thickness Plain end Threaded and coupled

4: 205 \$463 \$545

290 483 545

5: 220 483 545

253 483 545

296 483 545

362 456 537

5 1/2: 244 456 535

275 456 535

305 456 535

8%: 288 456 535

352 456 535

7: 272 456 535

317 456 535

362 456 535

408 487 548

Outside diameter and wall thickness	Plain end	Threaded and coupled	317	3486
.312.....	439	519	317-L	3,658
.304.....	439	519	304-L	2,177
.352.....	439	519	17-4PH	2,326
.400.....	439	519	308	2,152
.450.....	439	519	308-L	2,326
.500.....	451	532	309	2,696
.557.....	451	532	309-L	2,870
.312.....	439	519	321	2,326
.352.....	439	519	312	(?)
.395.....	439	519	302 HQ(18-19LW)	2,128
.435.....	439	519	347	2,848
.472.....	439	519	364	2,587
.545.....	451	532	15-5PH	(?)
.279.....	439	519	409	1,473
.495.....	439	519	410	1,177
.333.....	439	519	416	1,148
.375.....	439	519	420	1,227
.330.....	439	519	430	1,227
.380.....	439	519	430-F	1,424
.430.....	439	519	434	1,522
.480.....	439	519	434-A	1,325
.514.....	451	532	448	1,770
.375.....	439	519	1st quarter 1980 dollar per metric ton size extras	
.438.....	439	519	300 series	
.495.....	439	519	400 series	
.333.....	439	519	17-4PH	
.375.....	439	519	17-7PH	
.330.....	439	519	15-5PH	
.380.....	439	519	308-L	2,152
.430.....	439	519	309	2,326
.480.....	439	519	309-L	2,696
.514.....	451	532	312	(?)
.375.....	439	519	302 HQ(18-19LW)	2,128
.438.....	439	519	347	2,848
.495.....	439	519	384	2,597
.333.....	439	519	15-5PH	(?)
.375.....	439	519	409	1,473
.330.....	439	519	410	1,177
.380.....	439	519	416	1,148
.430.....	439	519	420	1,227
.480.....	439	519	430	1,227
.514.....	451	532	430-F	1,424
.375.....	439	519	434	1,522
.438.....	439	519	434-A	1,325
.495.....	439	519	448	1,770

Stainless Steel Wire T.P. Schedules

Category AISI 18: Tariff Schedule

Numbers—609.4510 and 609.4540, 10 1/2% +

Additional Duties (See Headnote 4, T.S.U.S.).

Sequence Guide

1. Annealed Wire—Group I:

A. Grade and Base.

B. Size Extras by Grade Group.

2. Hard/Spring Wire—Group II:

A. Grades and Base.

B. Size Extras by Grade Group.

3. Soft/Intermediate Wire—Group III:

A. Grades and Base.

B. Size Extras by Grade Group.

4. Coating Extras.

5. Finish Extras:

A. Centerless Ground.

B. Centerless Ground and Polished.

6. Tolerance Extras.

7. Straightening and Cut to Length Extras.

8. Packaging Extras.

9. Schedule for ocean freight, handling, interest, and insurance.

Group I—Annealed Wire

Annealed: The condition of soft wire in which there is no further cold drawing after the last annealing treatment. Wire of this temper is made by annealing in open fired furnaces or molten salt followed by pickling, which produces a clean gray matte finish. It is also made with a bright finish by annealing wet, oil or grease drawn wire in a protective atmosphere, and is sometimes described as bright annealed wire.

Grade:

301 \$2,005

302 1,956

303 2,054

304 2,006

305 2,177

316 3,782

316-L 4,471

Price

\$2,005

1,956

2,054

2,006

2,177

3,782

4,471

2,991

3,164

All intermediate sizes to take next higher price.

Not available.

Deduction to allow for absence of annealing and pickling (cold drawn "bar" in wire gauges):

Size range (inches): Amount

.703 through .375 74

.374 through .216 78

.215 through .187 101

Deduction (dollars per metric ton).

Group II—Hard/Spring Wire

Hard/Spring: A condition of wire drawn several drafts as required to produce the high tensile strengths required for such products as spring wire.

Grade:

301 \$2,005

302 1,956

303 2,054

304 2,006

305 2,177

310 3,782

314 4,471

316 2,991

316-L 3,164

317 3,486

317-L 3,658

321 2,326

17-4PH 2,326

17-7PH 2,990

330 (1)

308-L 2,152

309 2,326

309-L 2,696

312 (1)

302 HQ(18-19LW) 2,128

347 2,848

384 2,597

15-5PH (1)

409 1,473

410 1,177

416 1,148

420 1,227

430 1,227

430-F 1,424

434 1,522

434-A 1,325

448 1,770

1st quarter, 1980 dollar per metric ton wire base price.

May also be designated as type 630 or as UNS 17400.

May also be designated as type 631 or as UNS-17700.

Not available.

May also be designated as type 302 CU and as 306.

May also be designated as type XM-12 and UNS 15500.

Size (inches): 300 series and 17-7PH

Over .375 \$645

.3125 to .374 645

.250 to .312 645

.234 to .249 645

.216 to .233 645

.200 to .215 645

.185 to .199 645

.170 to .184 645

.155 to .169 645

.142 to .154 623

.128 to .141 623

.113 to .127 623

.099 to .112 656

.086 to .098 725

.078 to .085 778

.067 to .075 841

.058 to .066 932

.044 to .050 1,120

.038 to .043 1,264

.033 to .037 1,350

.030 to .032 1,480

.027 to .029 1,549

.024 to .026 1,865

.021 to .023 2,035

.019 to .020 2,238

.018 2,504

.017 3,028

.016 3,284

.015 3,375

.014 3,456

.013 3,618

.012 3,752

.011 4,020

5,144

3—Other Extras—Continued

Size range (inches):	Amount
.010.....	5,279
.009.....	5,493
.008.....	5,675
.007.....	(1)
.0065.....	(1)
.006.....	(1)
.00575.....	(1)
.0055.....	(1)
.00525.....	(1)
.005.....	(1)
.00475.....	(1)
.0045.....	(1)
.00425.....	(1)
.004.....	(1)
.00375.....	(1)
.0035.....	(1)
.00325.....	(1)
.003.....	(1)
.0027.....	NA
.0025.....	NA
.002.....	NA

1400 Series not available.

1st quarter, 1980 dollar per metric ton size extra.

2 All intermediate sizes to take next higher price.

3 Under review.

Group III—Soft/Intermediate Wire

Soft/Intermediate: A condition of wire drawn one or more drafts after annealing as required to produce minimum strength or hardness. The properties of such wire can be varied between those of soft temper and those approaching spring temper wire. Wire in this temper is usually produced in a variety of dry drawn tempers. Cold heading wire, by example, belongs in this group.

Grades:	Price ¹
301.....	\$2,005
302.....	1,958
302 (302HQ, 18-9LW).....	2,128
303.....	2,054
304.....	2,005
305.....	2,177
310.....	3,782
314.....	4,471
316.....	2,991
316-L.....	3,164
317.....	3,486
317-L.....	3,658
321.....	2,326
17-4PH ²	2,326
330.....	NA
308.....	2,152
308-L.....	2,326
309.....	2,696
309-L.....	2,870
312.....	NA
347.....	2,648
384.....	2,597
15-5PH ³	NA
409.....	1,473
410.....	1,177
416.....	1,148
420.....	1,227
430.....	1,227
430-F.....	1,424
434.....	1,522
434-A.....	1,325
446.....	1,770

1st quarter, 1980 dollar per metric ton wire base price.

2 May also be designated as type 630 or as UNS 17400.

3 May also be designated as type XM-12 and UNS 15500.

Size (inches): ¹	1st quarter, 1980 dollar per metric ton size extra	300 series and 17-7PH	400 series	17-4PH and 15-5PH
Over .375.....	\$432	\$303	\$432	
.3125 to .374.....	432	303	432	
.250 to .312.....	432	314	432	
.234 to .249.....	432	336	432	
.216 to .233.....	432	358	432	
.200 to .215.....	432	386	432	

1st quarter, 1980 dollar per metric ton size extra

Size range (inches):	300 series and 17-7PH	400 series	17-4PH and 15-5PH
.185 to .199.....	535	413	535
.170 to .184.....	562	436	562
.155 to .169.....	590	473	590
.142 to .154.....	610	534	610
.128 to .141.....	659	637	659
.113 to .127.....	790	709	790
.099 to .112.....	867	807	867
.086 to .098.....	917	833	917
.076 to .085.....	1,022	832	1,022
.067 to .075.....	1,128	963	1,128
.058 to .066.....	1,229	1,167	1,229
.051 to .057.....	1,273	1,379	1,273
.044 to .050.....	1,322	1,419	1,322
.038 to .043.....	1,436	1,471	1,436
.033 to .037.....	1,525	1,645	1,525
.030 to .032.....	1,628	1,752	1,628
.027 to .029.....	1,775	NA	1,775
.024 to .026.....	1,918	NA	1,918
.021 to .023.....	2,064	NA	2,064
.019 to .020.....	2,202	NA	2,202

1 Intermediate sizes to take next higher price.

Coating Extras (Dollars per Metric Ton)—1st Quarter 1980

Material provided uncoated or coated with lime (or equivalent to lime) and/or soap will carry no extra. Other coatings require an appropriate extra where additional costs are involved.

Metallic coatings include copper, nickel, and lead. Non-metallic coatings include plastics, molybdenum disulfide, etc.

Size range	Oxide	Metallic			Non-metallic
		Copper	Nickel	Lead	
Over .155.....		113	35	24	
.154 to .099.....		170	35	24	
.098 to .063.....		226	47	32	
.062 to .041.....			73	49	
.040 to .030.....			100	63	
.029 to .025.....			100	63	
.024 to .020.....			135	91	
.019 to .015.....			171	121	
.014 to .010.....			211	147	

1 None. 2 Not available.

Finish Extras—1st quarter, 1980

Size range (inches): ¹	Centerless ground ¹	Centerless ground and polished ¹
.703 to .595.....	\$487	\$613
.594 to .501.....	487	613
.500.....	536	681
.499 to .375.....	550	703
.374 to .3125.....	550	703
.3124 to .250.....	550	703
.249 to .234.....	846	1,027
.233 to .216.....	846	1,027
.215 to .200.....	935	1,141
.199 to .185.....	1,093	1,322
.184 to .170.....	1,288	1,531
.169 to .155.....	1,543	1,804
.154 to .142.....	1,797	2,059
.141 to .128.....	2,118	2,378
.127 to .113.....	2,649	2,933
.112 to .093.....	5,394	5,938

Straightening and cut to length extras are already included in the above finish extras in case of centerless ground and polished.

1 300 series, 17-4PH, 400 series, 17-4PH, and 15-5PH.

2 All intermediate sizes to take next higher price.

NOTE.—17-4PH to be included in 400 series.

Tolerance Extras—1st Quarter 1980

(Standard: AISI or JIS Specification)

Diameter tolerance:	Dollar per metric ton
Standard.....	0
Not less than 1/2 standard.....	\$105
Closer than 1/2 to 1/4 standard (percent of size extra).....	25
Closer than 1/4 standard (percent of size extra).....	50
Straightening and cut to length extra (inches):	
Size range:	
.703 to .595.....	\$102
.594 to .501.....	102
.500.....	102
.499 to .375.....	128
.374 to .3125.....	128
.3124 to .170.....	231
.169 to .099.....	576
.098 to .051.....	1,667
.050 to .032.....	1,923
Length (inches):	
Under 12.....	\$90
12 to under 18.....	58
18 to under 24.....	58
24 to under 30.....	38
30 to under 36.....	38
36 to under 48.....	38
48 to under 60.....	38
60 to under 72.....	38
72 to under 120.....	32
120 to under 168.....	32
168 to under 192.....	32
192 to under 216.....	32
216 to under 240.....	32
240 to under 264.....	25
264 to under 288.....	25
288 to 316.....	25
Packaging extras:	
Type:	
Bundle.....	\$28
Wooden Boxes.....	94
Fibre Drums.....	86
Coil Carriers.....	28
Spools: Sizes under .020".....	167
Both Spools and Wooden Boxes:	
Sizes .020" and greater.....	94
Sizes under .020".....	261

Category 16—Tariff Schedule Nos. 609.4510 and 609.4540

	Ocean Freight	Handling	Interest Factor (percent)
West Coast.....	\$99	\$9	3.2
Gulf Coast.....	119	5	4.1
East Coast.....	119	4	4.1
Great Lakes.....	153	4	5.0

Interest charge equals F.O.B. trigger base price including size extra times interest factor.

Insurance at 1 pct of base plus extras plus ocean freight.

3—Other Extras

Description	Dollars per metric ton
Killed.....	\$25
Fine Grain.....	7
Charpy:	
+ 40 F and up:	
L.....	19
T.....	25
L & T.....	30
Under + 40 F:	
L.....	25
T.....	30
L & T.....	38
Normalize.....	84
Quench and temper.....	144
Normalize and temper.....	144
Checker.....	25
Picked and oiled.....	16
Others.....	(1)

1 To be specified on SSSI.

Galvanized Sheet—ASTM A525G90

Category AISI 27:Tariff schedule number(s).	608.9430—9 pct. 608.9530—0.1¢/lb. + 8 pct.	Ocean freight	Handling	Interest
Charges to CIF:				
West coast.....		\$29	\$9	\$13
Gulf coast.....		33	6	17
Atlantic coast.....		37	4	17
Great Lakes.....		47	4	21
1st quarter				
Base price per metric ton.....	\$424			
1 Insurance 1 pct. of base price + extras + ocean freight.				

Extras for Galvanized Steel Sheet

[(1) Thickness/width/coating (G90) extra unit: dollars per metric ton]

Thickness (inches)	Width (inches)					Coating
	24 ≤ W < 30	30 ≤ W < 36	36 ≤ W < 42	42 ≤ W < 48	48 ≤ W < 60	
0.6 oz/ft ²						
G60						
.130 and thicker.....	—82	—82	—82	—82	—85	
.129 to .116.....	—67	—67	—67	—67	—67	
.115 to .101.....	—64	—64	—64	—64	—64	
.100 to .086.....	—61	—59	—63	—63	—59	
.085 to .075.....	—45	—45	—47	—47	—45	
.074 to .067.....	—42	—42	—45	—45	—42	
.066 to .061.....	—40	—40	—42	—42	—40	
.060 to .055.....	—9	—9	—11	—11	—9	
.054 to .049.....	—7	—7	—9	—9	—7	
.048 to .043.....	—5	—5	—7	—7	—5	
.042 to .038.....	0	0	—2	—2	0	
.037 to .035.....	4	4	2	2	6	
.034 to .032.....	3	3	5	5	6	
Under .032 through .029.....	9	9	7	7	12	
.028 to .026.....	36	36	34	34	42	
.025 to .023.....	38	38	37	41	49	
.022 to .021.....	73	73	73	77	87	
.020 to .019.....	73	73	73	82	—	
.018 to .017.....	93	93	93	112	—	
.016.....	99	99	109	122	—	
.015.....	100	100	115	126	—	
.014.....	121	117	122	135	—	
.013.....	134	128	128	140	—	

Culvert Stock Coating Extra Use in Conjunction With Width/Thickness Extra From the Above Chart

Thickness (inches):	
0.159 and thicker.....	\$14
0.158 to 0.129.....	15
0.128 to 0.101.....	20
0.100 to 0.072.....	26
0.071 to 0.057.....	31
0.056 to 0.046.....	39

Dated: November 20, 1979.

Robert H. Mundheim

General Counsel.

[FR Doc. 79-38403 Filed 11-28-79; 8:45 am]

BILLING CODE 4810-25-M

INTERSTATE COMMERCE COMMISSION

[Vol. No. 39]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate

Dated: October 25, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority; Notice

The following petitions seek modification or interpretation of existing

supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 58885 (Sub-18 M1F), filed June 1, 1979. Petitioner: ATLANTA MOTOR LINES, INC., 1622 Cedar Grove Road Southeast, P.O. Box 345, Conley, GA 30027. Representative: Paul M. Daniell, P.O. Box 56387, Atlanta, GA 30343. Petitioner holds motor common carrier Certificate in MC-58885 Sub 18 issued February 7, 1958. MC-58885 Sub 18

motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a petition to intervene either with or without leave must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority, permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those

authorizes transportation, over regular routes, of *general commodities*, (1) between Chattanooga, Tenn., and Copperhill, Tenn., serving the intermediate and off-route points of Ocoee, Parksville, Isabella, Postelle, Ducktown, and Benton, Tenn.; From Chattanooga over U.S. Highway 11 to Cleveland, Tenn., thence over unnumbered highway to junction U.S. Highway 411, thence over U.S. Highway 411 to junction Tennessee Highway 30, thence over Tennessee Highway 30 to junction U.S. Highway 64, thence over U.S. Highway 64 to Ducktown, Tenn., thence over Tennessee Highway 68 to Copperhill, and return over the same route. From Chattanooga to Cleveland, Tenn., as specified above, thence over U.S. Highway 64, to Ducktown, Tenn., thence over Tennessee Highway 68 to Copperhill, and return over the same route. By the instant petition, petitioner seeks to modify the authority to include serving all intermediate routes.

Republications of Grants of Operating Rights Authority Prior to Certification; Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 111231 (Sub-221F) (Republication) filed October 31, 1977, previously noticed in the Federal Register issue of December 15, 1977. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. By the Commission Review Board Number 3, decided September 12, 1979, and served September 19, 1979, finds on reconsideration, that the present and future public convenience and necessity

require operation by applicant, in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber, lumber products and composition building board* (except commodities in bulk and commodities requiring special equipment) (1) from the facilities of (a) Joseph G. Baldwin Company at Poplar Bluff, MO, (b) Raines Lumber Co., at Alton, MO, (c) Raines Notching Plant, Inc., at Poplar Bluff, MO, (d) Welsh Southwest Plywood, at Camden, AR, (e) T&R Woodline Corporation, at Springdale, AR, and (f) Weyerhaeuser Corporation, at Memphis, TN and West Memphis, AR, to points in AR, IA, KS, KY, LA, MS, MO, NE, OH, OK, TN, and TX (except points in Ellis County, TX), restricted in (1) to the transportation of traffic originating at the named shipper's facilities, (2) from points in LA, and TX (except points in Ellis County, TX), to the facilities of National Lumber Company at Springdale, West Fork, and Fort Smith, AR, restricted in (2) to the transportation of traffic destined to the named shipper's facilities, and (3) from Galveston and Houston, TX, and New Orleans, LA, to points in AR, IA, KS, KY, LA, MS, MO, NE, OH, OK, TN, and TX (except points in Ellis County, TX), restricted in (3) to the transportation of traffic having a prior movement by water. The purpose of this republication is to add Arkansas as a destination State.

MC 121060 (Sub-65F) (Republication) filed June 7, 1978, previously noticed in the Federal Register issue of November 24, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington, Boulevard, P.O. Box 1240, Arlington, VA 22210. By the Commission, Review Board Number 1, decided September 6, 1979, and served September 12, 1979, finds that the present and future public convenience and necessity require operation by applicant, as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in or used by wholesale and retail chain and grocery houses and foodstuff manufacturers* (except in bulk) between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this

republication is to indicate the broadening of the territorial description.

MC 140820 (Sub-7F) (Republication) filed August 15, 1978, previously noticed in the Federal Register issue of September 14, 1978. Applicant: A & R TRANSPORT, INC., 2996 North Illinois 71, Rural Route No. 3, Ottawa, IL 61350. Representative: James R. Madler, 120 West Madison Street, suite 718, Chicago, IL 60602. By the Commission, Review Board Number 2, decided May 18, 1979, and served June 27, 1979, finds that the present and future public convenience and necessity require operation by applicant, as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dicalcium phosphate*, in bulk, from Marseilles, IL, to points in IA, IN, KS, KY, MN, MO, NE, OH, and WI. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is deleting service to points in IL, and MI, and adding service to points in MO.

MC 143140 (Republication) filed April 7, 1977, previously noticed in the Federal Register issue of May 12, 1977. Applicant: SEYMOUR BUS LINES, INC., Route 3, Maynardville, TN 37807. Representative: Billy Joe White, P.O. Box 254, Tazewell, TN 37879. A Decision of the Commission, decided June 27, 1979, and served July 9, 1979, finds that the future public convenience and necessity authorizes applicant to operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, in the transportation of *passengers and their baggage* in the same vehicle with passengers, in round trip charter operations, beginning and ending at points in Union, Jefferson, Blount, Anderson, Campbell, Claiborne, and Knox Counties, TN, and extending to those points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada. The purpose of this republication is to indicate applicant's actual grant of authority.

Broker, Water Carrier and Freight Forwarder Operating Rights Applications; Notice

The following applications are governed by Special Rule 247 of the

Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

Permanent Authority Decisions; Decision-Notice

Decided: October 23, 1979.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all

or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy or the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. §10101. Each applicant is fit willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

Brokers

MC 12453 Sub 1F, filed September 11, 1979. Applicant: THE MOORE TOURS, INC., 2500 East Independence Blvd., Charlotte, NC 28205. Representative: S. Harrison Kahn, Suite 733 Investment Bldg., Washington, DC 20005. To engage in operations, in interstate or foreign commerce, as a *broker*, at Charlotte, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in one-way and round-trip special and charter operations, between points in the United States (including AK and HI). (Hearing site: Charlotte, NC.)

MC 13060F, filed October 3, 1979. Applicant: CARL STELLATO AND RAE LOUISE LEWIS, a Partnership, dba HOLIDAY MOTOR COACH TOURS, 4001 West 26th St., Erie, PA 16506. Representative: Dennis V. Williams, 506 Baldwin Bldg., Erie, PA 16501. To engage in operations, in interstate or foreign commerce, as a *broker*, at Erie, PA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in roundtrip special and charter operations, beginning and ending at Erie, PA, and extending to points in the United States (except AK and HI). NOTE: Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, N.Y.*, 54 M.C.C. 291 (1952). (Hearing site: Pittsburgh or Erie, PA.)

Water

W-675 Sub 4F, filed August 13, 1979. Applicant: BULTEMA MARINE TRANSPORTATION INC., P.O. Box 728, 559 East Western Ave., Muskegon, MI 49443. Representative: Stanley Andrie (same address as applicant). To operate as a *common carrier*, by water, in interstate or foreign commerce, (1) by non-self-propelled vessels with the use of separate towing vessels, during the season of navigation, in the transportation of *general commodities*

and (2) general towage by towing vessels, between ports and points along the Niagara River, and on Lake Michigan, Lake Superior, Lake Huron, Lake Erie, Lake Ontario, and interconnecting and tributary waterways. **CONDITION:** (A) Carrier must submit additional information on energy conservation and energy efficiency as provided in 49 CFR § 1106.5(c)(1-3) and (5-6). See The Energy Policy and Conservation Act of 1975, 357 I.C.C. 599, 604(1978). This additional information must (1) be direct, (2) include a general statement of conclusions, (3) provide a brief description of the basis for any conclusions reached, including the methodology employed, (4) include pertinent statistics where appropriate, and (5) where conclusions cannot be reached explain the reasons for failing to reach conclusions; and (B) issuance of a certificate is subject to prior or coincidental cancellation of Certificate No. W-675 Sub 4 at applicant's written request. (Hearing site: Lansing, MI, or Chicago, IL.)

Permanent Authority Decisions; Decision-Notice

Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: October 23, 1979.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms,

conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

MC 8771 (Sub-52F), filed May 25, 1979. Applicant: SAW MILL SUPPLY, INC., 101 Saw Mill River Road, Yonkers, NY 10710. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery, machinery parts, contractors' equipment, commodities which because of size and weight require the use of special equipment, and self-propelled vehicles* weighing more than 15,000 pounds each, from points in CT, DE, MA, ME, MD, NH, NJ, NY, PA, RI, VA, VT, and DC, to points in AL, AR, AZ, CA, FL, GA, IL, IN, KS, KY, LA, MI, MO, MS, NC, MN, OH, OK, SC, TN, TX, WI, and WV. (Hearing site: Washington, DC.)

Note.—The sole purpose of this application is to substitute single-line for joint-line service.

MC 75840 (Sub-122F), filed May 14, 1979. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals, plastics, and plastic materials*, from the facilities of Diamond Shamrock Corporation, at or near Houston, TX, to points in AR, AL, FL, GA, KY, LA, MS, MA, NY, NJ, NC, OH, PA, SC, TN, and

VA. (Hearing site: Birmingham, AL, or Atlanta, GA.)

Note.—The sole purpose of this application is to substitute single-line for joint-line service.

MC 108119 (Sub-139F), filed April 5, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a Corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *commodities*, the transportation of which because of size or weight requires the use of special equipment, and *related parts, materials, and supplies* when their transportation is incidental to the transportation of commodities which by reason of size or weight require special handling or the use of special equipment, and (2) *self propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith between points in KS, MO, OK, and TX, on the one hand, and on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic on trailers.

Note.—The sole purpose of this application is to substitute single-line for joint-line service.

MC 109124 (Sub-81F), filed May 21, 1979. Applicant: SENTRY TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, OH 43215. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (A) *iron and steel articles*, from Chicago, IL, and Detroit, MI, to points in OH, points in PA on and west of U.S. 219, and those in Allegany, Cattaraugus, Chautauque, Erie, Genesee, Monroe, Orleans, Niagara and Wyoming Counties, NY, (B) *iron and steel articles, building materials, and glass*, from points in Ashtabula, Columbiana, Cuyahoga, Geauga, Lake, Lorain, Mahoning, Portage, Stark, Summit, Trumbull, Lucas and Ottawa Counties, OH, to Detroit, MI, points in IL, those in PA on and west of U.S. Highway 219, those in Allegany, Berrien, Kalamazoo, Kent, Muskegon, Ottawa and Van Buren Counties, MI, and those in Lake and Portage Counties, IN, (C) *iron and steel articles*, from N. Tonawanda and Buffalo, NY, to points in OH, MI, IN and IL, and (D) *refractories*, from Maple Grove, OH, to Buffalo, NY. (Hearing site: Columbus, OH.)

Note.—The sole purpose of this application is to substitute single-line for joint-line service.

Permanent Ex-Water Authority Decisions; Decision-Notice

Decided: October 23, 1979.

The following applications are governed by 49 CFR 1062.3. Applicants seek to obtain motor common carrier authority to perform service within the commercial zone of port cities where the shipment has a prior or subsequent movement by maritime carrier. The full text and explanation of the rules are contained at 44 FR 7965, as corrected at 44 FR 37230.

The sole issue upon which these applications can be protested in the applicant's fitness to perform the service. Protests (an original and one copy) must be filed with the Commission within 30 days of the Federal Register publication. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant had demonstrated that its proposed service is required by the present and future public convenience and necessity.

Each applicant is fit, willing, and able to properly perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major

regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

Ex-Water

MC 147923F, filed July 13, 1979.

Applicant: MARINE TRANSPORTATION INTERMODAL, INC., d/b/a M T I INC., 300 Milk Street, Carteret, NJ 07008. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), between points in the commercial zone of New York, NY, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Newark, NJ.)

Finance Applications; Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through

ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

Transferee: C & E TRUCKING CO., INC., a California corporation, 11910 Greenstone Avenue, Santa Fe Springs, CA 90607. Transferor: WHEELER FREIGHTWAYS, a California corporation, 3375 South Polaris Avenue, Las Vegas, NV 89102. Representative: Robert Fuller, 13215 E. Penn Street, Suite 310, Whittier, CA 90602. Authority sought for purchase by transferee of a portion of the operating rights of transferor as a motor common carrier over irregular routes authorized in certificates of public convenience and necessity as follows: MC 106679, *building and construction materials, equipment and supplies, and mining equipment and supplies*, between points in Los Angeles County, CA, on the one hand, and, on the other, points in Clark and Lincoln Counties, NV and *lime, lime rock, and limestone* not included in the commodities specified next above, from Sloan, NV to points in Los Angeles County, CA; and MC 106679 Sub 9, *gypsum plaster, gypsum wallboard, and gypsum lath*, from points in Clark County, NV, to points in Santa Barbara, Ventura, Mono, Inyo, San Diego, Imperial, Kern and Fresno Counties, CA. Transferee presently holds authority from this Commission with lead docket No. MC 142335. Application has not been filed for temporary authority under 49 U.S.C. 11349. This application is filed simultaneously with companion application wherein authority is sought by transferor herein to purchase concurrently a portion of the operating rights in MC 142335 held by transferee herein.

Authority sought for purchase by System 99, a corporation, 820 Edgewater Drive, Oakland, CA 94621 of a portion of

the operating rights of Strickland Transportation Co., Inc., 11353 Reed Hartman Hwy, Cincinnati, OH 45241, and for acquisition of control of such rights by M. D. Gildard, L. A. Dore, Jr., and E. R. Preston, all of 8201 Edgewater Drive, Oakland, CA 94621. Transferee's Attorney, William E. Gore, Jr., 8201 Edgewater Drive, Oakland, CA 94621. Transferor's attorney, Milton H. Bortz of 11353 Reed Hartman Hwy, Cincinnati, OH 45241. Operating rights sought to be purchased: General commodities, with exceptions, over regular routes (1) between Ft. Worth, TX and Amarillo, TX, serving all intermediate points, (2) between Fort Sill, OK, and Wichita Falls, TX, (3) between Wichita Falls, TX and San Antonio, TX, (4) between Wichita Falls, TX and Sheppard Field, TX (5) between Wichita Falls, TX and Wichita Falls Airport, TX, and (6) between Paris, TX and Lawton, OK, as an alternate route serving Lawton for the purpose of combining or tacking only, with no service at intermediate points on routes (2) through (6). Transferee is authorized to operate pursuant to Certificate No. MC-98327 and Subs as a common carrier of general commodities in the states of NM, TX, WA, OR, ID, CA, NV, and AZ. Application has been filed for temporary authority under Section 11349 of the Act. (Hearing site: Dallas, TX.)

MC F-14189F. Authority sought for purchase by Karl B. Hertz doing business as Karl B. Hertz Transportation, 4791 Arrow Highway, P.O. Box 67, Montclair, CA 91763, of the operating rights of Southwest Bulk Transport, 287 Industrial, P.O. Box 1059, San Marcos, CA 92069, and for control of the rights sought to be purchased by Karl B. Hertz, 4791 Arrow Highway, P.O. Box 67, Montclair, CA 91763. Applicants' representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Operating rights sought to be purchased and controlled: Docket MC 141362 Sub 3—(1) *Animal feed supplements*, dry, in bulk, from points in Los Angeles, Riverside, San Bernardino, and San Diego Counties, CA to points in Maricopa, Pinal and Yuma Counties, AZ and (2) *Animal and poultry feed and feed supplements*, dry, in bulk, from points in Maricopa, Pinal and Yuma Counties, AZ to points in Imperial, Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties, CA; docket MC 141362 Sub 5—(1) *Animal feed supplements*, dry, in bulk, from points in San Diego County, CA to points in Pima County, AZ and (2) *Poultry waste*, dry in ocean containers, from San Marcos, CA to Long Beach, Los Angeles, and San Diego, CA, the operations in (2) being

restricted to the transportation of traffic having an immediately subsequent movement by water; docket MC 141362 Sub 8—*Feed supplements*, dry, in bulk, or in bags, when moving in mixed loads with feed supplements, dry, in bulk, from points in Orange County, CA to points in Maricopa, Pinal and Yuma Counties, AZ and *feed supplements*, dry, in bulk, from points in Santa Barbara, San Joaquin, and Ventura Counties, CA to points in Maricopa, Pima, Pinal and Yuma Counties, AZ and *feed and feed supplements*, dry, in bulk, from points in Maricopa and Pinal Counties, AZ to points in Ventura County, CA and *feed supplements*, in bags from San Marcos, CA to points in Yuma County, AZ; and in docket MC 141362 Sub 10—*Animal and poultry feed and feed supplements*, dry, in bulk, from points in Pima County, AZ to points in Imperial County, CA. Authority is also sought to purchase and control the operating rights to be issued in MC 141362 Sub 12F and for Karl B. Hertz doing business as Karl B. Hertz Transportation to be substituted as the applicant in MC 141362 Sub 11TA (the corresponding temporary authority for MC 141362 Sub 12F) if the temporary authority is still in effect at the time of approval of this transaction. MC 141362 Sub 12F will authorize the transportation of (1)(a) *Dry feed supplements*, in bulk and (b) *Dry feed supplements*, in bags, when moving in mixed loads with dry feed supplements, in bulk, from points in Orange County, CA to points in Pima County, AZ and (2) *Dry feed supplements*, from points in Orange County, CA to points in Cochise County, AZ. Transferee is authorized to operate pursuant to certificates of public convenience and necessity No. MC-129633 and Subs 1, 2, and 5 thereto which generally authorize the transportation as a common carrier by motor vehicle over irregular routes of sawdust, wood shavings, and sawdust soil conditioners between points in CA, NV, and AZ and the transportation, in bulk, of sulfur, cottonseed meal, crushed stone, meat and bone scraps, metallic ore, sewer sludge, scrap metal, dried blood, and cullet in the states of AZ, CA, MT, NV, MN, and UT; as more fully described in said certificates. Transferee has signed an Agreement to purchase the stock of Base Transportation, Inc., owner of a permit, MC 141368, which authorizes the transportation of paint and paint thinner and solvents from Los Angeles, CA to points in AZ, ID, NV, NM, and UT, under a contract with Pervo Paint Co. and a separate application is being filed to request approval of the common control and dual operations. Approval of the

transaction will result in some duplicating authority depending on end use of product. Applications has been filed for temporary authority under 49 USC 11349 (formerly Section 210a(b)) of the Interstate Commerce Act). (Hearing site: Los Angeles, CA.)

MC F-14191F. Authority sought for purchase by TRANSTATES, INC., 3216 Westminster Avenue, Santa Ana, California 92704, of a portion of the operating rights of COX REFRIGERATED EXPRESS, INC., to operate as a *common carrier* over irregular routes. Applicant's representative: David P. Christianson of KNAPP, GROSSMAN & MARSH, 707 Wilshire boulevard, Suite 1800, Los Angeles, California 90017. Operating rights sought to be purchased: *Transformers and transformer parts* (except commodities, the transportation of which because of size or weight requires the use of special equipment, from Arcadia, FL, to points in Arizona, Arkansas, California, Colorado, Louisiana, Missouri, New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. (Hearing site requested: Los Angeles, California.)

MC-F-14192F. Authority sought for purchase by Kujak Transport, Inc., 6366 West 6th Street, Winona, MN 55987 of a portion of the operating rights of LTL Perishables, Inc., 550 E. 5th Street, St. Paul, MN 55075, and for acquisition by Hubert Kujak and Martin Kujak of 6366 West 6th Street, Winona, MN 55987 of control of such rights through the purchase. Transferee's representative: Gary Huntbatch, 6366 West 6th Street, Winona, MN 55987. Transferor's Attorney: Donald Stern, Suite 610, 7171 Mercey Road, Omaha, NE 68106. Rights sought to be purchased are those contained in MC-135874 (Sub No's 19 and 112F) authorizing transportation as a *common carrier* over irregular routes of: Sub No. 19, *Foodstuffs and nonedible food products*, in vehicles equipped with mechanical refrigeration, from Bettendorf, IA to points in NE, MN, SD, KS, WI, IL and MO, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the facilities of Terminal Ice & Cold Storage Company at or near Bettendorf, IA, and destined to the named destinations. Sub No. 112F, *Such merchandise as is dealt in by wholesale, retail, and chain grocery stores, department stores, and hardware stores* (except commodities in bulk), in vehicles equipped with mechanical

refrigeration, from the facilities of Couzens Warehouse and Distributors, Inc., at Hodgkins, IL, to points in MN, ND, SD, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. Application has been filed for temporary authority under former Section 210a(b) (49 U.S.C. 11349).

MC F-14193. Authority sought for acquisition by NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517 of a portion of the operating authority of BAIR TRANSPORT, INC., North Creek Road, Delanco, NJ 08075. Applicant's representative: John M. Musselman, 410 North Third Street, Harrisburg, PA 17108. Operating rights sought to be acquired: *General commodities* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Sussex County, NJ, on the one hand, and, on the other, Providence, RI, Corning, NY, points in that part of Pennsylvania east of the Susquehanna River, points in that part of NY within 150 miles of Newark, NJ, points in that part of MA on and east of U.S. Hwy. 5, points in that part of CT on and east of U.S. Hwy. 5 and those on U.S. Hwy. 1 between the NY-CT state line and New Haven, CT. As a portion of authority in Certificate No. 116810. No duplicating authority. Application has not been filed for temporary authority under Section 210a(b).

MC F-14194F. Authority sought by KILE TRANSFER, INC., 4600 78th Street, Urbandale, Iowa 50322 to purchase a portion of the operating rights of Gale R. Kaldenberg, d/b/a/ ABC CARTAGE, 129 Southeast 18th Street, Des Moines, Iowa 50317. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority involved concerns the transportation of *general commodities*, except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Des Moines, Iowa and Bedford, Iowa serving the intermediate and off-route points of Lorimor, Afton, Tingley, Mt. Ayr, Diagonal, Clearfield, and Lennox, Iowa, over regular routes of Interstate Highway 35 to Junction Highway 2 and return and alternate route over Interstate Highway 92, to U.S. Highway 169 to Iowa Highway 2 and return. And between Mt. Ayr, Iowa and Leon, Iowa,

serving the intermediate point of Kellerton, Iowa, over Iowa Highway 2. Application has been filed for temporary authority under Section 11349 (formerly Section 210a(b)). (Hearing site: Des Moines, Iowa; Omaha, Nebraska.)

MC F-14195F. Authority sought for purchase by COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220, of a portion of the operating rights of Refrigerated Foods, Inc., 1420 33rd Street, P.O. Box 1018, Denver, CO 80201, and for acquisition by Billy D. Cox Truck Leasing, Inc., and Billy D. Cox, also of Dallas, TX, of control of the rights through the purchase. Applicant's Attorney: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Operating rights sought to be purchased: *Malt beverages*, from Ft. Worth, TX, to Denver, CO, with no transportation for compensation on return except as otherwise authorized as more fully described in Certificate No. MC 138018 (Sub-32). Vendee is authorized to operate pursuant to Certificate No. MC 140033 and subs thereunder, as a *common carrier*, transporting specific commodities, over irregular routes, between points in the states of Texas, California, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, District of Columbia, Arizona, Colorado, Florida, New Mexico, Louisiana, Idaho, Nevada, Oregon, Utah, Washington, Georgia, Alabama, Illinois, Missouri, Kansas, and Ohio, and pursuant to Permit No. MC 142296 as a *contract carrier* of clothing and wearing apparel between Memphis, Tennessee, and Los Angeles and San Francisco, California. Approval of the proposed transaction will result in dual operations. Approval of the proposed transaction will not result in duplicating authority. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC F-14196F. Authority sought for purchase by McCARTY TRUCK LINE, INC., 17th & Harris Avenue, Trenton, Missouri 64683, to purchase all of the operating rights of DeWAYNE MARLAY d.b.a. as PIKE TRUCK LINE, 1000 Tinsman, Trenton, Missouri 64683, and for the acquisition of control of such rights through the purchase by McCarty Truck Line, Inc. Applicants representative: James M. McCarty, 17th & Harris Avenue, Trenton, Missouri 64683. Operating rights sought to be purchased: The Transferor's general commodity irregular route between Des Moines, Iowa, on the one hand, and, on the other, Cainsville, Mercer, and South Lineville, Missouri. Application has

been filed for temporary authority under section 210a(b). (Hearing site: Kansas City, Missouri.)

MC F14197F. Authority sought by CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077, for purchase of a portion of the operating rights of COOPER-JARRETT, INC., Hanover Plaza, Morristown, NJ 07960, and control of such rights through the purchase by Central, Inc. and T. J. Maroun and M. J. Maroun, 34200 Mound Road, Sterling Heights, MI 48077. Applicants' attorneys: Irving Klein, Southgate Tower, 371 Seventh Avenue, New York, NY 10001, and Jack Goodman, Axelrod, Goodman, Steiner & Bazelon, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred are contained in Certificate of Public Convenience And Necessity No. MC 35334 (Sub-65), authorizing the transportation, over regular routes, by motor vehicle, as a common carrier, general commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Cincinnati, OH, Manchester, OH, serving the intermediate points between Manchester and Aberdeen, OH: from Cincinnati over U.S. Hwy. 52 to Manchester and return over the same route. Between Cincinnati, OH, and Vanceburg, KY, serving the intermediate points between Sandy Springs and Aberdeen, OH: from Cincinnati over U.S. Hwy. 52 to Sandy Springs, OH, and then across the Ohio River to Vanceburg, KY, and return over the same route. Between Vanceburg, KY, and Cincinnati, OH, serving the intermediate points between Vanceburg and Maysville, KY: from Vanceburg over KY Hwy. 10 to Maysville, KY, then across the Ohio River to junction U.S. Hwy. 52, then over U.S. Hwy. 52 to Cincinnati, and return over the same route, and over irregular routes, by motor vehicle, as a common carrier, (a) general commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Amelia, OH, and points in OH within 10 miles of Amelia, OH, on the one hand, and, on the other, Cincinnati, OH, and points in that part of OH south of a line beginning at junction U.S. Hwy. 68 and OH Hwy. 32 and extending along OH Hwy. 32 to junction unnumbered

highway (formerly portion OH Hwy. 74), then along unnumbered highway through Glen Este and Mt. Carmel, OH, to junction OH Hwy. 32, then long OH Hwy. 32 to Cincinnati, OH, and west of U.S. Hwy. 68, including points on the indicated portions of the highways specified, and (b) general commodities, except, livestock, Classes A and B explosives, articles of unusual value, household goods as defined by the Commission, and commodities requiring special equipment, between Sardinia, OH, and points within 5 miles thereof, on the one hand, and, on the other, points in KY. Vendee proposes to tack the separate irregular-route authorities sought to be purchased to the end that a single-line service may be rendered to points in KY, on the one hand, and, on the other, Amelia, OH and points in OH within 10 miles thereof, and to tack at Cincinnati the combined irregular-route authorities proposed to be purchased so as to render a single-line service between points in KY, on the one hand, and, on the other, points on the irregular and regular routes of transferee so as to permit the rendition of a single-line service between points in KY, on the one hand, and, on the other, points authorized to be served by transferee in IL, IN, WI, MI, PA, NY, WV, KY, and OH. A gateway elimination application will be filed. No temporary authority application will be filed.

MCF 14198F. Authority sought for purchase by Kujak Transport, Inc., 6366 W. 6th Street, Winona, MN 55987 of a portion of the operating rights of Nationwide Carriers, Inc., P.O. Box 104, Maple Plain, MN 55359, and for acquisition by Hubert Kujak and Martin Kujak of 6366 W. 6th Street, Winona, MN 55987 of control of such rights through the purchase. Transferee's representative: Cary Huntbatch, 6366 W. 6th Street, Winona, MN. Transferor's Attorney: Donald Stern, Suite 610, 7171 Mercey Road, Omaha, NE 68106. Rights sought to be acquired are those contained in Docket MC-117940 (Sub No's 48 and 89). Sub No. 48. Mattresses, box springs, hide-a-beds, studio couches, bed frames, headboards, and roll-away cots, crated from the plant site or storage facilities of Simmons Company at Kansas City, KS to Omaha, NE and Minneapolis, MN. Sub No. 89. Mattresses, box springs, hide-a-beds, studio couches, bed frames, headboards, and roll-away cots, crated from plant site and storage facilities of Simmons Company at Kansas City, KS to Fargo and Grand Forks, ND and to points in MN. Application has not been filed under 49 U.S.C. 11349 (Formerly 210a(b) Motor Carrier Act).

Operating Rights Application(s) Directly Related to Finance Proceedings; Notice

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act; or seek tacking and/or gateway elimination in connection with transfer applications under Section 10928 (formerly Section 212(b)) of the Interstate Commerce Act.

On applications filed before March 1, 1979, an original and one copy of protests to the granting of authorities must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall conform with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities.

Applications filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice also but are subject to petitions to intervene either with or without leave. An original and one copy of the petition must be filed with the Commission within 30 days after date of publication. A petition for intervention must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points. Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Verified statements in opposition should not be tendered at this time. A copy of the protest or petition to intervene shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 1515 (Sub-276F), filed August 17, 1979. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. C. Major, Jr., Suite 400 Overlook Bldg., 6121 Lincoln Road, Alexandria, VA 22312. Authority sought to operate as a common carrier, by motor vehicle, over the following described regular route, transporting passengers and their baggage, express and newspapers in the same vehicle, with passengers: Between Washington, DC and Waldorf, MD, serving no intermediate points: From Washington, DC over city streets to the DC-MD State Line, then over MD Hwy 5 to Waldorf, MD, and return over the same route. Subject to the following restriction—Service over the above-described route is restricted against the transportation of traffic moving solely between Washington, DC and Waldorf, MD, and all points intermediate thereto. This application is being filed as one directly related to an OP-FC-1 application whereby applicant is seeking authority and approval under Section 212(b) of the Act to purchase all of Greyhound's local service routes between Washington, DC and Leonardtown and Patuxent River, MD and is necessary because of applicant's need for this route in order to continue to be able to provide service between Washington, DC and Norfolk, VA as it is now doing. (Hearing site: Washington, DC.)

Note.—This matter is directly related to MC-FC 78284.

MC 62254 (Sub-4F), filed August 13, 1979. Applicant: C M R TRANSPORTATION, INC., P.O. Box 267, Bound Brook, NJ 08805. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, classes A and B explosives, liquor, silk, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, from Philadelphia, PA, to points in the New York, NY Commercial Zone as defined in Ex Parte MC 37 (Sub No. 28) Commercial Zones and Terminal Areas (1976). (Hearing site: New York, NY.)

Note.—This application is filed as a directly related application to finance proceeding Docket MC-FC 78277, published in a previous section of this FR Notice. The

purpose of this application is to eliminate the gateway of Bound Brook, NJ.

MC 120472 (Sub-5), filed December 8, 1979. GOLLOTT & SONS TRANSFER & STORAGE, INC., P.O. Box 468, Biloxi, Mississippi 39522. Representative: Robert J. Gallagher, Esq., Suite 1200, 1000 Connecticut Avenue, NW., Washington, DC 20036. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, in the transportation of Household Goods, as defined by the Commission: Between points in MO, on and east of U.S. Hwy 71 to Kansas City, MO and thence on and west of U.S. Hwy 69 to the MO-IA State line, on the one hand, and, on the other, points in AL, FL, GA, and MS. The gateway to be eliminated: Points in MS on and north of U.S. Hwy 90. Between points in AR on and west of U.S. Hwy 71 on the one hand, and, on the other, points in AL, FL, GA, MS and TN. The gateway to be eliminated: Points in MS on and south of U.S. Hwy 90. Between points in KS on and west of KS Hwy 83, on the one hand, and, on the other, points in AL, FL, GA, and MS. The gateway to be eliminated: Points in MS on and north of U.S. Hwy 90. Between points in OK, on the one hand, and, on the other, points in TN, MS, AL, GA, and FL. Gateway to be eliminated: Points in MS on and south of U.S. Hwy 90. Combination of the two carriers—Gollott's Sub 2 and Gray's E-24 authorizing operations between points in OK on the one hand, and, on the other, points in MS on and south of U.S. Hwy 90. Between points in TX on and north of U.S. Hwy 68 on the one hand, and, on the other, points in MS, TN, AL, FL, and GA. Gateway to be eliminated: Points in MS on and east of Interstate Hwy 59 to Junction of U.S. Hwy 98, thence all points south and west of U.S. Hwy 98. Combination of authority—Gollott Sub 2 and Gray's E-25. Between points in MO on and east of U.S. Hwy 71 to Kansas City, MO and thence on and west of U.S. Hwy 69 to MO-IA state line on the one hand, and, on the other, points in MS, TN, FL, GA, and AL. Gateway to be eliminated: Points in MS, on and north of U.S. Hwy 90. Joinder—Gollott's Sub 2 and Gray's E-34. (Hearing site: Biloxi, MS.)

Note.—This application is directly related to Purchase Application by Gollott & Sons Transfer & Storage, Inc. of the operating authority of Gray Van Lines, Inc., Docket No. MC-FC-77492. Basically, this is a gateway elimination application.

Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211,

312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77850 (republishing) filed September 5, 1978. By decision of September, 1979, the Motor Carrier Board approved the transfer of operating rights to Geo. W. Noffs Moving & Storage, Inc., 1735 E. Davis St., Arlington Heights, IL 60005 from Amodio Moving, Inc., 1199 Whitney Ave., Hamden, CT 06517. Operating rights approved for transfer are found in Certificate No. MC 107229 and No. MC 107229 (Sub-No. E-1), as follows: Household goods, as defined by the Commission, between Chicago, IL, on the one hand, and on the other, points in IL, MO, IN, OH, WI, MN, GA, FL, MI, KY, and NC; between Chicago, IL, and points in IL, IN, MI, and WI within 100 miles of Chicago, on the one hand, and, on the other, points in KS, MO, IA, MN, WI, MI, IL, IN, KY, TN, AL, FL, GA, SC, NC, VA, WV, OH, PA, DE, NJ, NY, CT, RI, MA, VT, NH, and ME; between points in FL, on the one hand, and, on the other, points in WI, MI, MN, and IA; between points in GA, on the one hand, and, on the other, points in IA, WI, MN, and MI; between points in AL, on the one hand, and, on the other, points in WI, MN, and MI; between points in KY, on the one hand,

and, on the other, points in WI and MN; between points in MI, on the one hand, and, on the other, points in AL on and south of Interstate Hwy. 20, and those points in SC on and east of U.S. Hwy. 1; between points in MN, on the one hand, and, on the other, points in IN, OH, WV, VA, MD, DE, AL, SC, and points in MI on and south of MI Hwy. 48; and between points in WI, on the one hand, and, on the other, points in IN, OH, WV, VA, MD, DE, AL, and SC, and points in MI on south of MI Hwy. 21.

Representative: Robert J. Gallagher, Suite 1200, 1000 Conn. Ave., N.W., Washington, DC 20036.

MC-FC-78070, filed March 8, 1979. Transferee: SHER-TEX, INC., P.O. Box 219, Sheridan, TX 77475. Transferor: ROBERT FOWLKES, d.b.a. Fowlkes Motor Freight Lines, 602 South Main, Schulenburg, TX 78956. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. Authority sought for purchase by transferee of operating rights held by transferor in Certificate of Registration No. MC 85916 (Sub-No. 1), authorizing generally the transportation of oilfield equipment, pipe, and named commodities over 4,000 pounds or requiring special equipment, between points within 200 miles of Victoria, TX with U.S. Hwy 75 as the eastern boundary. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed.

MC-FC-78107, filed April 20, 1979. Transferee: WARBERG MOVING & STORAGE, INC., P.O. Box 45, Twin Falls, ID 83301. Transferor: WARBERG BROTHERS COMPANY, a corporation, 156 4th Ave., S., Twin Falls, ID 83301. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought for the purchase by transferee of the operating rights of Transferor, as set forth in Certificate of Registration No. MC-120495, issued July 8, 1965, as follows: *Heavy Hauling*, between points in ID. *General commodities*, except explosives, bulk petroleum or other bulk liquids, livestock or articles of unusual value, between points within 125 miles of Twin Falls, ID and between points within 125 miles of Twin Falls, ID, on the one hand, and, on the other, points in ID. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78262, filed July 27, 1979. Transferee: ACTION FREIGHT LINE, INC., Box 73, Humansville, MO 65674. Transferor: DODDS TRUCK LINE, INC., 623 Lincoln, West Plains, MO 65775. Representatives: John A. Parks, Box 73,

Humansville, MO 65674. Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. Authority sought for purchase by transferee of operating rights held by transferor in Certificates No. MC-99798 Subs 17 and 18. The operating rights sought for purchase authorize generally the transportation of general commodities, with the usual exceptions, over regular and irregular routes, between named points in MO; also authorizing service to Kansas City, KS. A restriction is to be imposed on the authority to be purchased to the effect that no service may be provided between Kansas City, MO, and Springfield, MO, and their commercial zones. Transferee holds no authority from the Commission. An application seeking temporary lease has been filed.

MC-FC-78283, filed August 16, 1979. Transferee: H. ANDERSON TRUCKING COMPANY, INC., P.O. Box 858, Wellsboro, PA 16901. Transferor: HOWARD ANDERSON, d.b.a. Anderson's Trucking Company (same address as Transferee) (Pearl R. Anderson, Administratrix). Representative: S. Michael Richards, 44 North Ave., P.O. Box 225, Webster, NY 14580. Authority sought for purchase by transferee of all operating rights held by transferor. The operating rights sought to be transferred are contained in certificates No. MC 123099 Subs 1, 2, and 6, and generally authorize the transportation of malt beverages from and to named points in NY, PA, and MD. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC-FC-78286, filed August 13, 1979. Transferee: CITIZENS TRANSPORTATION OF CALIFORNIA, INC., 1670 East Holt Blvd., Ontario, CA 91761. Transferor: CITIZENS TRANSPORTATION CO. OF RIVERSIDE, 2750 Mulberry St., Riverside, CA 92501. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Authority sought for purchase by transferee of operating rights held by transferor in Certificates No. MC-8758 and Sub 1, and a portion of Certificate of Registration No. MC-8758 Sub 4, authorizing generally the transportation of *citrus fruits, fertilizer, coke, cast iron pipe, newsprint, nails and car strips, cement, and general commodities*, from and to named points and territories in California. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed.

MC-FC-78290, filed August 9, 1979. Transferee: ROBERT C. BOLTZ, d.b.a.

TRI-COUNTY SERVICE COMPANY, Box 33, Ten Sleep, WY 82442. Transferor: KEITH E. HARDING, d.b.a. TRI-COUNTY SERVICE COMPANY, Box 165, Ten Sleep, WY 82442. Authority sought for purchase by transferee of operating rights held by transferor in Certificate No. MC-109449, acquired in No. MC-FC-77645, which authorizes the transportation of *general commodities*, over regular routes, with the usual exceptions, between Worland, WY, and Ten Sleep, WY, serving all intermediate points; and between Ten Sleep, WY, and Buffalo, WY, serving all intermediate points and specified off-route points. Transferee holds no authority from the Commission. An application for temporary lease has not been filed.

MC-FC-78292, filed September 12, 1979. Transferee: ERVIN TRANSPORT COMPANY, INC., 451 Radium Springs Rd., Albany, GA 31705. Transferor: FLORIDA ROCK & TANK LINES, INC., 155 E. 21st St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought for purchase by transferee of portions of the operating rights held by transferor in Certificates No. MC-128736 Subs 42, 74, 85, and 90. The operating rights sought to be transferred authorize generally the transportation of road building and construction aggregates, *dolomite, bauxite ore, ground dolomitic limestone and ground calcium limestone, and phosphate byproduct gypsum*, from and to named points in AL, FL, and GA. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed.

MC-FC-78327, filed September 24, 1979. Transferee: J. POSA, INC., R-2 North First St., Fulton, NY 13069. Transferor: JACKSON & JOHNSON, INC., Box 327, Route #31, Savannah, NY 13146. Representative: Roy D. Pinsky, Suite 1020, State Tower Bldg., Syracuse, NY 13202. Authority sought for purchase by transferee of operating rights held by transferor in Certificate No. MC-134197 (Sub-No. 2). Those rights authorize malt beverages, from Radisson, NY (Lysander Township), to points in CT, ME, MA, NH, NJ, RI, VT, and PA, and malt beverage containers on return. Transferee holds no authority from the Commission. An application seeking temporary lease has not been filed.

MC-FC-78330, filed October 8, 1979. Transferee: COMMONWEALTH CREWS SERVICE, INC., 175-01 Rockaway Boulevard, Jamaica, NY. Transferor: OVERLAND TRAILWAYS, INC., 100 Edison Avenue Mt. Vernon, NY 10550. Representative: Sidney J.

Leshin 575 Madison Avenue New York, NY 10022 Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC-95751 issued March 27, 1973, as follows: *Passengers and their baggage*, restricted to traffic originating at the points indicated, in round-trip charter operations, from New York NY, to points in NJ, and those in Orange and Rockland Counties, NY, and return. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78332, filed October 15, 1979. Transferee: LENTZ TRANSFER & STORAGE CO., a corporation, 200 Brookstown Avenue, Winston-Salem, NC 27108. Transferor: YARBROUGH TRANSFER CO., 1500 Doune Street, Winston-Salem, NC 27107. Representative: Sam H. Dorsett, P.O. Box 3199, Winston-Salem, NC 27102. Authority sought for the purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC-112288, (Sub-No. 5), issued February 17, 1972, as follows: *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in Forsyth County, NC, on the one hand, and, on the other, points in Rockingham County, NC. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78334, filed October 4, 1979. Transferee: NATIONWIDE VAN LINES, INC., 124 Seventh Street, Ashland, KY 41101. Transferor: MATHEWS STORAGE CO., a corporation, d.b.a., NATIONWIDE VAN LINES, P.O. Box 3524, Charleston, WV 25334. Representative: Paul F. Sullivan, suite 711 Washington, Building 15th and New York Ave. NW, Washington, DC 20005. Authority sought for the purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate MC-2659 issued June 21, 1943, as follows: *Household goods*, as defined by the Commission, between points in that part of WV on and southwest of a line beginning at Parkersburg and extending southeasterly through Grantsville, Sutton, and Marlinton, to the WV-VA State line, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, MD, MA, MI, MS, MO, NJ, NY, NC, RI, SC, TN, WI, and DC. Transferee presently holds no authority from this Commission. Application has not been

filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78336, filed October 15, 1979. Transferee: MEDLEY'S MOVING & STORAGE, INC., 251 East 95th Street, Chicago, IL 60619. Transferor: VIM TRANSPORT, LTD., 130 South Wareham, Schaumburg, IL 60172. Representative: Gregory A. Stayart, 10 South LaSalle Street, suite 1600, Chicago, IL 60603. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC-78528, issued February 7, 1975, as follows: *Household goods* between points in the Chicago, IL Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in MI, IN, OH, and WI. *Household goods* as defined by the Commission, between points in Cook County, IL, on the one hand, and, on the other, points in KY, IA, and MO. Transferee presently holds no authority from this Commission. Application has not been filed for Temporary authority under 49 U.S.C. 11349.

MC-FC-78337, filed October 10, 1979. Transferee: T. WILLIAM TRUESDELL, d.b.a. T. W. TRUESDELL TRUCKING, R.D. No. 3, Box 1657, Ashtabula, OH 44004. Transferor: T. W. TRUESDELL, d.b.a. T. W. TRUESDELL TRUCKING, R.D. No. 3, Box 1657, Ashtabula, OH 44004. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. Authority sought for transfer to Transferee of operating rights held by Transferor in Certificate No. MC-71608, issued March 10, 1950; in Certificate MC-71608 (Sub 6), issued November 10, 1954; and in Certificate MC-71608 (Sub 8), issued July 7, 1966, authorizing: Irregular routes: *Canned fruits and vegetables*, from Ashtabula and Conneaut, Ohio, and Albion, Pa., to Covington, Ky., points and places in Michigan on and south of U.S. Highway 16, those in New York on and west of U.S. Highway 14, and those in Pennsylvania on and west of U.S. Highway 219. *Fish*, from Ashtabula and Conneaut, Ohio, to Covington, Ky., points and places in Michigan on and south of U.S. Highway 16, those in New York on and west of U.S. Highway 14; and those in Pennsylvania on and west of U.S. Highway 219. *Petroleum products*, from Warren, Pa., to Ashtabula, Ohio. *Fresh vegetables*, from points and places in Ashtabula County, Ohio, to Chicago, Ill., Boston and Springfield, Mass., Newark, N.J., and Buffalo and New York, NY. *Fertilizer, feed, and flour mill products*, from points and places in Ashtabula County, Ohio, to points and places in Erie County, Pa. *Battery boxes* and

reclaimed rubber, from Ashtabula, Ohio, to points and places in New York. *Reclaimed rubber and wood flour*, from points and places in New York to Ashtabula, Ohio. *Meats and packing-house products*, from Painesville, Ohio, and Erie, Pa., to points and places in Ashtabula County, Ohio. *Flour, feed, groceries, milk, soap, fresh fruits, and vegetables*, from Ashtabula, Ohio, to points and places in Lake and Geauga Counties, Ohio. Return, with no transportation for compensation except as otherwise authorized, to the above-specified origin points. *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points and places in Ashtabula County, Ohio. *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between points and places in Ashtabula County, Ohio, on the one hand, and, on the other, points and places in Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, New York, New Jersey, Pennsylvania, West Virginia, and Wisconsin. Irregular routes: *Household goods* as defined by the Commission, between points in Cuyahoga County, Ohio, on the one and, and, on the other, points in Illinois, Indiana, Michigan, New Jersey, New York, and Pennsylvania. Irregular routes: *Battery boxes* and *reclaimed rubber*, from Ashtabula, Ohio, to points in New York; and *Reclaimed rubber and wood flour*, from points in New York to Ashtabula, Ohio. *Canned fruits and vegetables*, from Ashtabula and Conneaut, Ohio, and Albion, Pa., to Covington, Ky., points in Michigan on and south of U.S. Highway 16, those in New York on and west of New York Highway 14, and those in Pennsylvania on and west of U.S. Highway 219, with no transportation for compensation on return except as otherwise authorized. *Fertilizer, feed, and flour mill products*, from points in Ashtabula County, Ohio, to points in Erie County, Pa., with no transportation for compensation on return except as otherwise authorized. *Fish*, from Ashtabula and Conneaut, Ohio, to Covington, Ky., points in Michigan on and south of U.S. Highway 16, those in New York on and west of New York Highway 14, and those in Pennsylvania on and west of U.S. Highway 219, with no transportation for compensation on return except as

otherwise authorized. *Flour, feed, groceries, milk, soap, fresh fruits, and vegetables*, from Ashtabula, Ohio, to points in Geauga and Lake Counties, Ohio with no transportation for compensation on return except as otherwise authorized. *Fresh vegetables*, from points in Ashtabula County, Ohio, to Chicago, Ill., Boston and Springfield, Mass., Newark, N.J., and Buffalo and New York, N.Y., with no transportation for compensation on return except as otherwise authorized. *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Ashtabula County, Ohio. *Household goods* as defined by the Commission, between points in Ashtabula County, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, New York, New Jersey, Pennsylvania, West Virginia, and Wisconsin. *Meats and packing-house products*, from Painesville, Ohio, and Erie, Pa., to points in Ashtabula County, Ohio, with no transportation for compensation on return except as otherwise authorized. *Petroleum products*, from Warren, Pa., to Ashtabula, Ohio, with no transportation for compensation on return except as otherwise authorized. Transferee holds no authority from this Commission. An application for temporary lease authority has not been filed.

MC-FC-78338, filed October 8, 1979. Transferee: ALPINE TRUCKING, INC., P.O. Box 548, Eagar, AZ 85925. Transferor: IRA HOLLIDAY LOGGING, INC., P.O. Box 136, Eagar, AZ 85925. Representative: William Jess Valentic, 525 W. Southern—Suite 5, Mesa, AZ 85202. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate MC-136414, issued June 7, 1972, as follows: *Wood chips*, from points in NM, to points in Navajo County, AZ. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78339, filed October 12, 1979. Transferee: MILTON TRADING CORPORATION, P.O. Box 87, 480 Adams Street, Milton, MA 02186. Transferor: Seaboard Freight Lines, Inc., 400 E. Street, South Boston, MA 02127. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought for purchase by

transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC-57412 (Sub No. 2), issued February 11, 1976 authorizing the transportation of general commodities anywhere in the Commonwealth of Massachusetts. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

Motor Carrier Alternate Route Deviations; Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and from provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be not significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 2229 (Deviation 34), RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247, filed October 1, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Mobile, AL over US Hwy 98 to junction US Hwy 49, then over US Hwy 49 to junction Interstate Hwy 55, then over Interstate Hwy 55 to Memphis, TN and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Mobile, AL over US Hwy 90 to junction US Hwy 190, then over US Hwy 190 to junction US Hwy 61, then over US Hwy 61 to Natchez, MS, then over US Hwy 65 to Ferriday, LA, then over Louisiana Hwy 15 to Monroe, LA, then over US Hwy 165 to Bastrop, LA, then over Louisiana Hwy 139 to junction Louisiana Hwy 142, then over Louisiana Hwy 142 to Louisiana Hwy 142, then over Louisiana-Arkansas State line, then over Arkansas Hwy 133 to Crossett, AR, then over US Hwy 82 to Hamburg, AR, then over Arkansas Hwy 81 to Pine Bluff, AR, then over US Hwy 65 to Little Rock, AR, then over US Hwy 70 to Memphis, TN and return over the same route.

MC 11220 (Deviation 54) GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101, filed October 23, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Findlay, OH over OH Hwy 12 to Fostoria, OH and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Findlay, OH over US Hwy 25 to Perrysburg, OH, then over US Hwy 23 to Fostoria, OH and return over the same route.

MC 29910 (Deviation 43), ARKANSAS-BEST FREIGHT SYSTEM, INC., P.O. Box 48, Fort Smith, AR 72902, filed October 1, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Amarillo, TX over US Hwy 287 to Wichita Falls, TX, then over US Hwy 287 to junction US Hwy 82, then over US Hwy 82 to Texarkana, TX-AR and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Amarillo, TX over Interstate Hwy 40 to Oklahoma City, OK, then over US Hwy 270 to McAlester, OK, then over US Hwy 69 to junction US Hwy 64, then over US Hwy 64 to Fort Smith, AR, then over US Hwy 71 to Texarkana, AR-TX, and return over the same route.

MC 35628 (Deviation 37), INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Ionia Avenue, N.W., Grand Rapids, MI 49503, filed October 1, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: (1) from Kansas City, KS-MO over Interstate Hwy 35 (using US Hwy 69 to junction US Hwy 136, then over US Hwy 136 to Bethany, MO where Interstate Hwy 35 is incomplete) then over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Highway 35E (when completed) to junction US Hwy 12 in St. Paul, MN, and (2) From Kansas City, KS-MO over the route described above to junction Interstate Hwy 35 and Interstate Hwy 35E, then over Interstate Hwy 35 to junction Interstate Hwy 35W, then over Interstate Hwy 35W to junction MN Hwy 5, then over MN Hwy 5 to junction US Hwy 12, then over US Hwy 12 to St. Paul, MN and return over

the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: (1) From Kansas City, MO over US Hwy 40 to Wentzville, MO, then over Interstate Hwy 70 to St. Charles, MO, then over US Hwy 70.

MC 35628 (Deviation 37) to junction MO Hwy 180, then over MO Hwy 180 to St. Louis, MO, (2) From St. Louis, MO over US Hwy 67 to Rushville, IL, then over US Hwy 24 to Peoria, IL, then over IL Hwy 29 to junction US Hwy 6, then over US Hwy 6, to Joliet, IL, then over Alternate US Hwy 66, to junction US Hwy 66, then over US Hwy 66, to Chicago, IL, and (3) From Chicago, IL, over US Hwy 41 to Milwaukee, WI, then over US Hwy 18 to Madison, WI, then over US Hwy 12 to Minneapolis-St. Paul, MN.

Motor Carrier Intrastate Application(s); Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Michigan Docket C 239 (Case 18), Filed August 1, 1979. Applicant: INTERCITY TRUCKING SERVICE, INC., 14333 Goddard Street, Detroit, MI 48212. Representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield, Hills, MI, 48013. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, between Flint, MI, and Lansing, MI, via I-69, serving the commercial zones of Flint and Lansing but serving no intermediate points. Intrastate, interstate and foreign commerce authority sought. HEARING: November 6, 7, and 8, 1979, 9:30 a.m., offices of the Commission, Mercantile building, 6545 Mercantile Way, Lansing, MI 48910. Requests for procedural

information should be addressed to State of Michigan Department of Commerce, Public Service Commission, P.O. Box 30221, Lansing, MI 48909, and should not be directed to the Interstate Commerce Commission.

New York Docket T-2718, filed October 10, 1979. Applicant: LAKE SHORE TRANSPORTATION LINES, INC., 195 E. Seneca St., P.O. Box 1040, Oswego, NY 13126. Representative: Herbert M. Canter, Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York: Between all points in a territory comprised of the Counties of: Albany, Broome, Cattaraugus, Cayuga, Chemung, Cortland, Erie, Genesee, Herkimer, Jefferson, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Schenectady, Seneca, Wayne, Wyoming, and Yates and the City of New York. Applicant seeks so-called reverse direction or back-haul authority as to all of its present one-way authorities under the so-called *Jungermann* theory and a simultaneous "conversion" of all of its present radial and non-radial irregular route authority into a cohesive non-radial irregular route authority under the so-called *National Freight* doctrine. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to S. G. Duckor, Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the

date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successfully filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 65941 (Sub-E8) (Correction), filed April 21, 1974, published in the Federal Register, May 13, 1974. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, WV 26003. Representative: James R. Stevick (same address as above). *Oil, grease, paper, roofing, metal and clay products, and materials, equipment, and supplies used or useful in the production and packing of metal and clay products or building stone, structural steel, and heavy machinery and equipment*, (a) between points in Monongalia, Tyler, Marion and Barbour Counties, WV, on the one hand, and, on the other, points in Erie and Crawford Counties, PA; (b) between points in Harrison, Doddridge, Lewis and Gelmer Counties, WV, on the one hand, and, on the other, points in Erie, Crawford, Mercer, Venango, Forest, Warren, McKean, Clarion, Lawrence, Butler and Beaver Counties, PA; (c) between points in Wetzel, Tyler, Pleasant, Wood, Ritchie, Wirt, Calhoun, Loane, Jackson, Mason, Kanawha, Putnam and Cabell Counties, WV, on the one hand, and, on the other, points in PA and west of U.S. Hwy 219, (d) between points in Monongalia, Taylor, Marion; Barbour and Upshur Counties, WV, on the one hand, and, on the other, points in OH on, north and west of a line beginning at the OH-WV State line extending east along OH Hwy 78 to junction OH Hwy 60, then along OH Hwy 60 to Zanesville, then along OH Hwy 93 to the OH-KY State line except points in OH south and east of a line beginning at the OH-PA State line extending east along OH Hwy 88 to junction OH Hwy 45, then along OH Hwy 45 to the OH-WV State line; (e) between points in Harrison, Doddridge, Lewis and Gilmer Counties, WV, on the one hand, and, on the other, points in OH on, north, and east of a line beginning at the OH-KY State line extending along U.S. Hwy 22 to junction OH Hwy 37, then along OH Hwy 37 to junction OH Hwy 78, then along OH Hwy 78 to the OH-WV State line, (f) between points in Tyler, Pleasant, Ritchie, Calhoun, Wirt and Wood

Counties, WV, on the one hand, and, on the other, points in Ashtabula Lake, Geauga, Irumbull, Mahoning, Belmont, Calumbiana, Portage, Carroll, Jefferson and Harrison Counties, OH; (g) between points in Kanawha, Putnam, Roane and Jackson Counties, WV, on the one hand, and, on the other, points in Ashtabula Lake, Geauga, Irumbull, Mahoning, Belmont, Wayne, Medina, Lorain, Portage, Carroll, Jefferson, Harrison, Summitt, Cuyahoga, Erie, Huron, Sandersky and Wood Counties, OH; (h) between points in Cabell and Mason Counties, WV, on the one hand, and, on the other, points in Ashtabula Lake, Geauga, Irumbull, Mahoning, Belmont, Wayne, Medina, Lorain, Portage, Carroll, Jefferson, Harrison, Summitt, Cuyahoga, Erie and Huron Counties, OH; and (i) between points in Wetzel County, WV on the one hand, and, on the other, points in OH. (Gateway eliminated: Dallas, WV, and points within 15 miles of Dallas). Purpose of correction—includes OH territories which were previously omitted.

MC 65941 (Sub-E24), filed January, 1975. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, WV 26003. Representative: James R. Stevick (same as above). *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (a) between points in PA bounded by a line beginning at the OH-PA State line extending southeast along US Hwy 422 to junction PA Hwy 66, then south along PA Hwy 66 to junction US Hwy 119, then southwest along US Hwy 119 to the PA-WV State line, then along PA-WV State line and the PA-OH State line to point of beginning, on the one hand, and, on the other, points in OH on and south of a line beginning at the OH-WV State line extending along I Hwy 70 to junction OH Hwy 29, then along OH Hwy 29 to the OH-IN State line; (b) between points in Allegheny, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland Counties, PA, on the one hand, and, on the other, points in OH on, west and south of US Hwy 250; (c) between points in WV on, north and west of a line beginning at Kenova extending along U.S. Hwy 60 to junction US Hwy 119 then along US Hwy 119 to the WV-PA State line, on the one hand, and, on the other, points OH on, east and north of a line beginning at the OH-WV State line extending along OH Hwy 43 to junction US Hwy 30, then along US Hwy 30 to junction OH Hwy 83, then along OH

Hwy 83 to Lake Erie and (a) between points in Watzel, Monongolia, Marion, Harrison, Doddridge and Tyler Counties, WV, on the one hand, and, on the other, points in OH on and north of a line beginning at the WV-OH State line extending along I Hwy 70 to junction I Hwy 71, then along I Hwy 71 to junction US Hwy 35, then along US Hwy 35 to the OH-IN State line. (Gateway eliminated: Martins Ferry, OH)

MC 104896 (Sub-E1) filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Ralph C. Wilgus (same as above). *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, in connection therewith, equipment, materials and supplies used in the conduct of such business when moving to or from warehouses, plants or other facilities of food retail stores, (a) from Baltimore, MD, to points in MD, PA and WV bounded by a line beginning at Cumberland, MD, extending along US Hwy 220 to junction US Hwy 50 at New Creek, WV, then along US Hwy 19 to junction US Hwy 79, then along US Hwy 79 to junction PA Hwy 60, then along PA Hwy 60 to junction PA Hwy 68, then along PA Hwy 68 to junction PA Hwy 65, then along PA Hwy 65 to junction PA Hwy 18, then along PA Hwy 18 to junction PA Hwy 108, then along PA Hwy 108 to junction US Hwy 79, then along US Hwy 79 to junction PA Hwy 208, then along PA Hwy 208 to junction PA Hwy 8, then along PA Hwy 8 to junction PA Hwy 257, then along PA Hwy 257 to junction US Hwy 322, then along US Hwy 322 to junction PA Hwy 854, then along PA Hwy 854 to junction PA Hwy 861, then along PA Hwy 861 to junction PA Hwy 28, then along PA Hwy 28 to junction PA Hwy 536, then along PA Hwy 536 to junction PA Hwy 36, then along PA Hwy 36 to junction US Hwy 119, then along US Hwy 119 to junction PA Hwy 56, then along PA Hwy 56 to junction PA Hwy 160, then along PA Hwy 160 to junction MD Hwy 47, then along MD Hwy 47 to junction MD Hwy 35, then along MD Hwy 35 to point of beginning, including all points located on the described highways, and (b) from Philadelphia, PA, to points in MD, PA and WV bounded by a line beginning at Cumberland, MD, extending along US Hwy 220 to junction US Hwy 50 at New Creek, WV, then along US Hwy 50 to junction US Hwy 19, then along US Hwy 19 to junction US Hwy 79, then along US Hwy 79 to junction PA Hwy 980, then along PA Hwy 980 to junction US Hwy 22, then along US Hwy 22 to junction PA Hwy 60, then along PA Hwy 60 to junction PA Hwy 68, then along PA Hwy*

68 to junction PA Hwy 65, then along PA Hwy 65 to junction US Hwy 18, then along PA Hwy 18 to junction PA Hwy 108, then along PA Hwy 108 to junction US Hwy 79, then along US Hwy 79 to junction PA Hwy 208, then along PA Hwy 208 to junction PA Hwy 8, then along PA Hwy 8 to junction US Hwy 422, then along US Hwy 422 to junction US Hwy 119, then along US Hwy 119 to junction PA Hwy 56, then along PA Hwy 56 to junction US Hwy 220, then along US Hwy 220 to point of beginning, including all points located on the described highways (Gateway eliminated: Cumberland, MD).

MC 104896 (Sub-E4), filed June 4, 1974. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: Ralph C. Wilgus (same as above). *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, when moving to or from warehouses, plants, or other facilities of food retail stores (a) from Buffalo, Niagara Falls, and Lockport, NY, to points in MD, PA, VA and WV bounded by a line beginning at Cumberland, MD, extending along MD Hwy 51 to junction WV Hwy 9, then along WV Hwy 9 to junction WV Hwy 29, then along WV Hwy 29 to junction WV Hwy 45, then along WV Hwy 45 to junction VA Hwy 127, then along VA Hwy 127 to junction US Hwy 522, then along US Hwy 522 to junction US Hwy 50, then along US Hwy 50 to junctions US Hwy 19, then along US Hwy 19 to junction US Hwy 79, then along US Hwy 79 to junction PA Hwy 980, then along PA Hwy 980 to junction US Hwy 22, then along US Hwy 22 to junction PA Hwy 978, then along PA Hwy 978 to junction PA Hwy 60, then along PA Hwy 60 to junction PA Hwy 861, then along PA Hwy 861 to junction PA Hwy 28, then along PA Hwy 28 to junction PA Hwy 536, then along PA Hwy 536 to junction US Hwy 119, then along US Hwy 119 to junction US Hwy 422, then along US Hwy 422 to junction PA Hwy 53, then along PA Hwy 53 to junction PA Hwy 38, then along PA Hwy 38 to junction US Hwy 220, then along US Hwy 220 to point of beginning; (b) from points in Monroe County, NY, to points in MD, PA, VA, and WV bounded by a line beginning at Cumberland, MD, extending along MD Hwy 51 to junction WV Hwy 9, then along WV Hwy 9 to junction WV Hwy 29, then along WV Hwy 29 to junction WV Hwy 45, then along WV Hwy 45 to junction VA Hwy 127, then along VA Hwy 127 to junction US Hwy 522, then along US Hwy 522 to junction US Hwy 50, then along US Hwy*

50 to junction US Hwy 19, then along US Hwy 19 to junction US Hwy 79, then along US Hwy 79 to junction PA Hwy 980, then along PA Hwy 980 to junction US Hwy 22, then along US Hwy 22 to junction PA Hwy 978, then along PA Hwy 978 to junction PA Hwy 60, then along PA Hwy 60 to junction PA Hwy 68, then along PA Hwy 68 to junction PA Hwy 861, then along PA Hwy 861 to junction PA Hwy 28, then along PA Hwy 28 to junction PA Hwy 85, then along PA Hwy 85 to junction US Hwy 119, then along US Hwy 119 to junction US Hwy 422, then along US Hwy 422 to junction US Hwy 219, then along US Hwy 219 to junction PA Hwy 869, then along PA Hwy 869 to junction US Hwy 220, then along US Hwy 220 to point of beginning, (c) from points in NY east and north of a line beginning at Oswego extending along NY Hwy 57 to junction US Hwy 90, then along US Hwy 90 to junction NY Hwy 7, then along NY Hwy 7 to the NY-VT State line, to points in MD, PA, VA, and WV bounded by a line beginning at Cumberland, MD, extending along MD Hwy 51 to junction WV Hwy 9, then along WV Hwy 9 to junction WV Hwy 29, then along WV Hwy 29 to junction WV Hwy 45, then along WV Hwy 45 to junction VA Hwy 127, then along VA Hwy 127 to junction US Hwy 522, then along US Hwy 50, then along US Hwy 50 to junction US Hwy 19, then along US Hwy 19 to junction US Hwy 79, then along US Hwy 79 to junction PA Hwy 980, then along PA Hwy 980 to junction US Hwy 22, then along US Hwy 22 to junction PA Hwy 978, then along PA Hwy 978 to junction PA Hwy 60, then along PA Hwy 60 to junction PA Hwy 861, then along PA Hwy 861 to junction PA Hwy 28, then along PA Hwy 28 to junction PA Hwy 536, then along PA Hwy 536 to junction US Hwy 119, then along US Hwy 119 to junction US Hwy 422, then along US Hwy 422 to junction PA Hwy 56, then along PA Hwy 56 to junction US Hwy 219, then along US Hwy 219 to junction PA Hwy 160, then along PA Hwy 160 to junction MD Hwy 47, then along MD Hwy 47 to junction MD Hwy 36, then along MD Hwy 36 to point of beginning, and (d) from points in NY south and east of a line beginning at the NY-PA State line extending along US Hwy 81 to junction US Hwy 90, then along US Hwy 90 to junction NY Hwy 7, then along NY Hwy 7 to the NY-VT State line, to points in PA and WV bounded by a line beginning at Clarksburg extending, along US Hwy 19 to junction US Hwy 79, then along US Hwy 79 to junction PA Hwy 980, then along PA Hwy 980 to junction US Hwy

22, then along US Hwy 22 to junction PA Hwy 60, then along PA Hwy 60 to junction PA Hwy 68, then along PA Hwy 68 to junction PA Hwy 861, then along PA Hwy 861 to junction PA Hwy 28, then along PA Hwy 28 to junction PA Hwy 839, then along PA Hwy 839 to junction PA Hwy 85, then along PA Hwy 85 to junction US Hwy 119, then along US Hwy 119 to point of beginning. (Gateway eliminated: Kittanning, PA)

MC 107012 (Sub-E218) filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*, (1) From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendocino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington and Wilson Counties, NC; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford and Westmoreland Counties and Independent Cities of: Alexandria, Fairfax, Falls Church and Fredericksburg; Accomack, Gloucester, Greenville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg; Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties and Independent Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, VA. (2) From points in Inyo, Fresno, Kings and Tulare Counties, CA to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash,

Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington and Wilson Counties, NC; Accomack, Gloucester, Greenville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg Counties, VA. (Gateway eliminated: Waterbury, CT.)

MC 107012 (Sub-E219), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Commercial & Institutional Equipment, Uncrated* (1) From points in Oregon to points in AR, CT, DE, DC, IL, IN, ME, MD, MA, MI, MO, NH, NJ, NY, OH, OK, PA, RI, VT, WV and WI. (2) From Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR to points in Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers, Pueblo, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Colfax, Harding, Mora, Taos and Union Counties, NM; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray,

Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. (3) From points in Harney, Klamath, Lake, Malheur Counties, OR to points in Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers, Pueblo, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; Colfax, Harding, Mora, Taos and Union Counties, NM; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman,

Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. (4) From points in Coos, Curry, Douglas, Jackson and Josephine Counties, OR to points in Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers, Pueblo, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; Colfax, Harding, Mora, Taos, and Union Counties, NM; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey,

Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. (4) Gateway eliminated: Points in NE)

MC 107012 (Sub-E220), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Used Institutional Fixtures, and Used Commercial Fixtures when moving in mixed loads and on the same bill of lading with Used Institutional Fixtures, uncrated.* (1) From points in AZ to points in ID ("Salt Lake City, UT) (2) From points in Cochise, Gila, Graham and Greenlee Counties, AZ to points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT ("Salt Lake City, UT); Elko and Whitepine Counties, NV ("Salt Lake City, UT); Benton,

Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR ("Salt Lake City, UT); points in WA ("Salt Lake City, UT); Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY ("Salt Lake City, UT). (3) From points in Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ to points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tascas, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahanomen, Marshall, Norman, Pennington, Polk, Red Lake and Roseau Counties, MN ("Salt Lake City, UT and points in CO); points in MT ("Salt Lake City, UT); Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV ("Salt Lake City, UT); points in ND ("Salt Lake City, UT and points in CO); Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR ("Salt Lake City, UT); Campbell, Corson, Dewey, Edmunds, Faulk, Harding, McPherson, Perkins, Potter and Walworth Counties, SD ("Salt Lake City, UT and points in CO); points in WA ("Salt Lake City, UT); Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY ("Salt Lake City, UT). (4) From points in Maricopa, Pima, Pinal and Santa Cruz, AZ to points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tascas, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahanomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin and Yellow Medicine Counties, MN ("Salt Lake City, UT and points in CO); points in MT ("Salt Lake City, UT); Elko and Whitepine Counties, NV ("Salt Lake City, UT); points in ND ("Salt Lake City, UT and points in CO); Benton, Clackamas, Clatsop, Columbia, Lane,

Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR ("Salt Lake City, UT); Campbell, Corson, Dewey, Edmunds, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Beadle, Brookings, Brown, Clark, Codrington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts and Spink Counties, SD ("Salt Lake City, UT and points in CO); points in WA ("Salt Lake City, UT); Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY ("Salt Lake City, UT). (5) From points in Yuma County, AZ, to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA ("Salt Lake City, UT and points in CO); points in MT ("Salt Lake City, UT); points in ND ("Salt Lake City, UT and points in CO); Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR ("Salt Lake City, UT); Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla, Whitman, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA ("Salt Lake City, UT); points in SD ("Salt Lake City, UT and points in CO); points in WY ("Salt Lake City, UT). (Gateways eliminated: asterisked.)

MC 107012 (Sub-E221), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet, Uncranted.* (1) From Atmore, AL to points in CO & KS ("Vinita or Oklahoma City, OK). (2) From Atmore, AL to points in CA, ID, MT, NE, NV, ND, OR, SD, UT, WA & WY ("Vinita or Oklahoma City, OK and points in MO).

(3) From Atmore, AL to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT and WV ("points in TN). (4) From Mobile, AL to points in CO & KS ("Vinita or Oklahoma City, OK). (5) From Mobile, AL to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT & WV ("points in TN). (6) From Mobile, AL to points in ID, MT, NE, NV, ND, OR, SD, UT, WA & WY ("Vinita or Oklahoma City, OK and points in Missouri). (7) From Atmore, AL to points in Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ ("Vinita or Oklahoma City, OK and points in MO); Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Medicine, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN ("Vinita or Oklahoma City, OK and points in MO); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro, Colfax, Harding, Mora, Taos and Union Counties, NM ("Vinita or Oklahoma City, OK). (8) From Mobile, AL to points in Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ ("Vinita or Oklahoma City, OK and points in MO); Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendocino, Tehama, Trinity, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA ("Vinita or Oklahoma City, OK and points in MO); Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury

Counties, IA ("Vinita or Oklahoma City,

Lake, LaPorte, Marshall, Miami,

Steele and Trail Counties, ND ("Salt

and points in CO); Columbia, Dane,

Benton, Buchanan, Caldwell, Camell,

Counties, IA (*Vinita or Oklahoma City, OK and points in MO); Aitkin, Carlton, Cook, Lake, Saint Louis, Tascas, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahanomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Medicine, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*Vinita or Oklahoma City, OK and points in MO); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierro, Socorro, Colfax, Harding, Mora, Taos and Union Counties, NM (*Vinita or Oklahoma City, OK). (*Gateways eliminated).

MC 107012 (Sub-E232), filed October 22, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). *Used Institutional Fixtures, and Used Commercial Fixtures when moving in mixed loads and on the same bill of lading with Used Institutional Fixtures, uncrated*, (1) From points in CA to points in MN and SD (*Salt Lake City, UT and points in CO); (2) From points in CA to points in WY (*Salt Lake City, UT); (3) From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou and Yuba Counties, CA to points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper,

Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); points in IA (*Salt Lake City, UT and points in CO); points in KS (*Salt Lake City, UT); points in LA (*Salt Lake City, UT and Sedgewick County, KS, or Salt Lake City, UT and points in CO); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Clare, Cheboygan, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Trause, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph and Van Buren Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Veron, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*Salt Lake City, UT and points in CO); Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (*Salt Lake City, UT); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chavez, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Colfax, Harding, Mora, Taos and Union Counties, NM (*Salt Lake City, UT); Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson,

Steele and Traill Counties, ND (*Salt Lake City, UT and points in CO); Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); points in OK (*Salt Lake City, UT and points in CO); Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Salt Lake City, UT

and points in CO); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Sauk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI (*Salt Lake City, UT and Sedgewick County, KS). (4) From points in Inyo, Fresno, Kings and Tulare Counties, CA to points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); points in IA (*Salt Lake City, UT and points in CO); points in KS (*Salt Lake City, UT); points in LA (*Salt Lake City, UT and Sedgewick County, KS or Salt Lake City, UT and points in CO); Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Trause, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Chippewa, Luce and Mackinac Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Sauk, Trempealeau and Vernon Counties, WI (*Salt Lake City, UT and Sedgewick County, KS). (5) From points in Glenn, Humboldt, Lake, Mendocino, Tehama and Trinity Counties, CA to points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Bannock, Bear Lake, Bingham,

Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*Salt Lake City, UT and points in CO); points in MT (*Salt Lake City, UT); McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM (*Salt Lake City, UT); point in ND (*Salt Lake City, UT and point in CO); Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, Pushmataha, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK (*Salt Lake City, UT and points in CO); Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Salt Lake City, UT and points in CO); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Sauk, Trempealeau and Vernon Counties, WI (*Salt Lake City, UT and Sedgewick County, KS). (5) From points in Glenn, Humboldt, Lake, Mendocino, Tehama and Trinity Counties, CA to points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Bannock, Bear Lake, Bingham,

Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); points in IA (*Salt Lake City, UT and points in CO); points in KS (*Salt Lake City, UT); points in LA (*Salt Lake City, UT and Sedgewick County, KS or Salt Lake City, UT and points in CO); Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Trause, Iosco, Isabella, Kalkaska, Lake, Leelanau, Mainstee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce and Mackinac Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*Salt Lake City, UT and points in CO); Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow,

Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (*Salt Lake City, UT); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Colfax, Harding, Mora, Taos and Union Counties, NM (*Salt Lake City, UT); Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville and Ward Counties, ND (*Salt Lake City, UT and points in CO); points in OK (*Salt Lake City, UT and points in CO); Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt,

Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Salt Lake City, UT and points in CO); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI (*Salt Lake City, UT and Sedgewick County, KS). (6) From points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara and Ventura Counties, CA to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgewick, Washington, Weld and Yuma Counties, CO (*Salt Lake City, UT); Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*Salt Lake City, UT); Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont,

Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, ID (*Salt Lake City, UT and points in CO); Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgewick, Smith, Stafford, Sumner and Washington Counties, KS (*Salt Lake City, UT); Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*Salt Lake City, UT and points in CO); points in MT (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and points in CO). (7) From points in San Bernardino Counties, CA to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boudler, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgewick, Washington, Weld and Yuma Counties, CO (*Salt Lake City, UT); points in ID (*Salt Lake City, UT); points in IA (*Salt Lake City, UT and points in CO); Atchinson, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS (*Salt Lake City, UT); points in MT (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and points in CO). (8) From points in Imperial, Riverside and San Diego Counties, CA to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson,

Logan, Morgan, Phillips, Sedgewick, Washington, Weld and Yuma Counties, CO (*Salt Lake City, UT); points in ID (*Salt Lake City, UT); Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA (*Salt Lake City, UT and points in CO); Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS (*Salt Lake City, UT); Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*Salt Lake City, UT and points in CO); points in MT (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and points in CO). (9) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA to points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren,

Woodford, Boone, Bureau, Carroll, DeKalb, Henry, Jo Daviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); points in IA (*Salt Lake City, UT and points in CO); points in KS (*Salt Lake City, UT); points in LA (*Salt Lake City, UT and Sedgewick County, KS or Salt Lake City, UT and points in CO); Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Chippewa, Luce, Mackinac Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*Salt Lake City, UT and points in CO); Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (*Salt Lake City, UT); McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and points in CO); points in OK (*Salt Lake City, UT and points in CO); Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays,

Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Salt Lake City, UT and points in CO); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI (*Salt Lake City, UT and Sedgewick County, KS. Gateways eliminated: asterisked).

MC 107012 (Sub-E224), filed October 22, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above), *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of lading with new institutional fixtures, uncartoned*. (1) From points in AZ to points in ID (*Salt Lake City, UT). (2) From points in Cochise, Gila, Graham and Greenlee Counties, AZ, to points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Tolle, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT (*Salt Lake City, UT); Elko and Whitepine Counties, NV (*Salt Lake City, UT); Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler,

Harney, Klamath, Lake, Malheur, Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR (*Salt Lake City, UT); points in WA (*Salt Lake City, UT); Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY (*Salt Lake City, UT). (3) From points in Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ to points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tascas, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahanomen, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin and Yellow Medicine Counties, MN (*Salt Lake City, UT and Laramie, WY); points in MT (Salt Lake City, UT); Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV (*Salt Lake City, UT), points in ND (*Salt Lake City, UT and Laramie, WY); Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR (*Salt Lake City, UT); Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Campbell, Corson, Dewey, Edmunds, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Douglas, Gregory, Hanson, Hutchinson, Jerould, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*Salt Lake City, UT and Laramie, WY); points in WA (*Salt Lake City, UT); Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY (*Salt Lake City, UT). (4) From points in Maricopa, Pima, Pinal and Santa Cruz Counties, AZ to points in Aitkin, Carlton, Cook, Lake, Saint Louis, Tascas, Beltrami, Clearwater, Kittson, Koochiching, Lake of the Woods, Mahanomen, Marshall, Norman, Pennington, Polk, Red Lake, and Roseau Counties, MN (*Salt Lake City, UT and Laramie, WY); points in MT (*Salt Lake City, UT); Elko and

Whitepine Counties, NV (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and Laramie, WY); Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR (*Salt Lake City, UT); points in SD (*Salt Lake City, UT and Laramie, WY); points in WA (*Salt Lake City, UT); Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs, Natrona, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY (*Salt Lake City, UT). (5) From points in Yuma County, AZ to points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Buena, Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury, Counties, IA (*Salt Lake City, UT and Laramie, WY); points in MN (*Salt Lake City, UT and Laramie, WY); points in MT (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and Laramie, WY); Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR (*Salt Lake City, UT); points in SD (*Salt Lake City, UT and Laramie, WY); Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla, Whitman, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA (*Salt Lake City, UT); points in WY (*Salt Lake City, UT 106A). (Gateways eliminated—Asterisked)

MC 107012 (Sub-E225), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Commercial and Institutional Fixtures, Uncartoned* (1) From Benson, AZ to points in Alaska, (2) From Albuquerque, NM to points in Alaska, (3) From Clovis,

NM to points in Alaska. (Gateway eliminated: Sedgewick County, KS.)

MC 107012 (Sub-E228), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Uncartoned* (1) From points in AZ to points in ID, (2) From points in Cochise, Gila, Graham, Greenlee, Maricopa, Pima, Pinal and Santa Cruz Counties, AZ to points in Elko and Whitepine Counties, NV, (3) From points in Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ to points in Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV. (Gateway eliminated: Salt Lake City, UT.)

MC 107012 (Sub-E227), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Uncartoned*, (1) From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou and Yuba Counties, CA to points in Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward, Divide, McKenzie and Williams Counties, ND, (2) From points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA to points in Divide, McKenzie and Williams Counties, ND. (Gateway eliminated: Points in OR)

MC 107012 (Sub-E228), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Aluminum Windows, Aluminum Doors, and Aluminum Extrusions, Uncartoned*. From Hamden, CT, Miami, FL, Chicago, IL, Indianapolis, IN. From the facilities of Aluminum Plastic Products Corporation at Beltsville, MD, Dayton, Ohio and Richmond, VA, to points in AK. (Gateway eliminated: Kentland, IN.)

NC 107012 (Sub-E229), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Cartoned*, (1) From points in

OR to points in IA & KS (*points in UT and Laramie, WY). (2) From points in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill Counties, OR to points in Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*points in UT); Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, Wright, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Medicine, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*points in UT and Laramie, WY); Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Zieback, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerould, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*points in UT and Laramie, WY); Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*points in UT). (3) From points in Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco and Wheeler Counties, OR to points in MN (*points in UT and Laramie, WY); Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent and Stutsman Counties, ND (*points in UT and Laramie, WY); points in SD (*points in UT). (4) From points in Harney, Klamath, Lake and Malheur Counties, OR to points in MN (*points in UT and Laramie, WY); Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent and Stutsman Counties, ND (*points in UT and Laramie, WY); Bennett, Butte, Custer, Fall River, Haakon, Jackson,

Lawrence, Meade, Pennington, Shannon, Washabaugh, Zieback, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerould, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*points in UT and Laramie, WY); Albany, Carbon,

Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*points in UT). (*Gateways eliminated.)

MC 107012 (Sub-E230), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Cartoned* (1) From points in UT to points in AR and OK (*Albuquerque, NM). (2) From points in UT to points in IA, MN and SD (*Laramie, WY). (3) From points in UT to points in LA (*Mexico, TX). (4) From points in Beaver, Iron and Washington Counties, UT to points in KS (*Albuquerque, NM or Laramie, WY) points in ND (*Laramie, WY). (5) From points in Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah Wasatch and Weber Counties, UT to points in KS (*Laramie, WY); Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville and Ward Counties, ND (*Laramie, WY). (6) From points in Carbon, Daggett, Duchesne, Emery, Grand, San Juan and Uintah Counties, UT to points in KS (*Laramie, WY or Albuquerque, NM); points in ND (*Laramie, WY). (7) From points in Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT to points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner and Washington Counties, KS (*Laramie, WY); Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearney, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS (*Albuquerque,

NM); points in ND (*Laramie, WY). (*Gateways eliminated)

MC 107012 (Sub-E231), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Carpet, Uncartoned*. From El Segundo, CA to points in AR; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, Pushmataha, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Nobel, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK. (Gateway eliminated: Dallas, TX)

MC 7012 (Sub-E232), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Institutional Fixtures, and New Commercial Fixtures when moving in mixed loads and on the same bill of lading with new institutional fixtures, uncartoned*—(1) From points in CA, to points in IA, MN & SD (*Salt Lake City, UT and Laramie, WY). (2) From points in CA, to points in WY (*Salt Lake City, UT). (3) From points in Butte, Lassen Modoc, Nevada, Plumas, Sasta, Sierra, Siskiyou and Yuba Counties, CA, to points in AR (*Salt Lake City, UT and points in CO; points in CO (*Salt Lake City, UT); points in KS (*Salt Lake City, UT); points in LA (Salt Lake City, UT and points in CO or Salt Lake City, UT and points in CO and points in TX); points in MS (*Salt Lake City, UT and points in CO and points in TX); Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (*Salt Lake City, UT); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chavez, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Colfax, Harding, Mora, Taos and Union Counties, NM (*Salt Lake City, UT); Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson,

Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh and Wells Counties, ND (*Salt Lake City, UT and Laramie, WY); points in OK (*Salt Lake City, UT and points in CO); Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexas, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (Salt Lake City, UT and points in CO). (4) From points in Inyo, Fresno, Kings and Tulare Counties, CA, to points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt

Lake City, UT); Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*Salt Lake City, UT); points in KS (*Salt Lake City, UT); points in LA (*Salt Lake City, UT and points in CO or Salt Lake City, UT and points in CO and points in TX); points in MS (*Salt Lake City, UT and points in CO and points in TX); points in MT (*Salt Lake City, UT), McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and Laramie, WY); Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, Pushmataha, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfushee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK (*Salt Lake City, UT and points in CO); Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Salt Lake City, UT and points in CO). (5) From points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA, to points in AR (Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*Salt Lake City, UT); points in KS (*Salt Lake City, UT); points in LA (*Salt Lake City, UT); points in CO or Salt Lake City, UT and points in CO and

points in TX); points in MS (*Salt Lake City, UT and points in CO and points in TX); Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (*Salt Lake City, UT); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chavez, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Colfax, Harding, Mora, Taos and Union Counties, NM (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and Laramie, WY); points in OK (*Salt Lake City, UT and points in CO; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk,

Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Salt Lake City, UT and points in CO) (6) From points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara and Ventura Counties, CA, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO (*Salt Lake City, UT); Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*Salt Lake City, UT); Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabauunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS (*Salt Lake City, UT); points in MT (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and Laramie, WY). (9) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA, to points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*Salt Lake City, UT); points in KS (*Salt Lake City, UT); points in LA (*Salt Lake City, UT and points in CO or Salt Lake City, UT and points in CO and points in TX); points in MS (*Salt Lake City, UT and points in CO and points in TX); Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (*Salt Lake City, UT); McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union

Osage, Pottawatomie, Shawnee, Wabauunsee and Wyandotte, KS (*Salt Lake City, UT); points in MT (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and Laramie, WY). (8) From points in Imperial, Riverside and San Diego Counties, CA, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO (*Salt Lake City, UT); points in ID (*Salt Lake City, UT); Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabauunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS (*Salt Lake City, UT); points in MT (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and Laramie, WY). (9) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA, to points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*Salt Lake City, UT); points in KS (*Salt Lake City, UT); points in LA (*Salt Lake City, UT and points in CO or Salt Lake City, UT and points in CO and points in TX); points in MS (*Salt Lake City, UT and points in CO and points in TX); Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (*Salt Lake City, UT); McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union

Counties, NM (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and Laramie, WY); points in OK (*Salt Lake City, UT and points in CO); Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Salt Lake City, UT and points in CO). (Gateways eliminated: Asterisked)

MC 107012 (Sub-E233), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Cartoned* (1) From points in WA to points in KS (*points in UT and Laramie, WY); (2) From points in Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum and Yakima Counties, WA to points in IA (*points in UT and Laramie, WY); Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, Wright, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*points in UT and Laramie, WY); Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*points in UT and Laramie, WY); Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*points in UT); (4) From points in Clallam, Grays Harbor, Jefferson, Kitsap, Mason and San Juan Counties, WA to points in Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*points in UT); points in IA (*points in UT and Laramie, WY); Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, Wright, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*points in UT and Laramie, WY); Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*points in UT and Laramie, WY); Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*points in UT); (6) From points in Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA to points in IA (*points in UT and Laramie, WY); Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*points in UT and Laramie, WY); Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*points in UT). (*Gateways eliminated)

Uinat, Fremont, Hot Springs and Natrona Counties, WY (*points in UT). (5) From points in Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla and Whitman Counties, WA to points in IA (*points in UT and Laramie, WY); Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, Wright, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*points in UT and Laramie, WY); Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*points in UT and Laramie, WY); Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*points in UT). (6) From points in Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA to points in IA (*points in UT and Laramie, WY); Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*points in UT and Laramie, WY); Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*points in UT). (*Gateways eliminated)

MC 107012 (Sub-E235), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *New Pianos, Cartoned*. From points in Salt Lake City, UT to points in AL; points in AR; points in FL; points in GA; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and

Williamson Counties, IL; Crawford, Clay, Davies, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo, Warrick, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington and Wayne Counties, IN; points in KY; points in LA; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Miami, Montgomery, Preble, Shelby, Warren, Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland, Union, Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; points in TN; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llano, Lubbock, Lynn, McCulloch, McLennan, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller,

Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collins, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. (Gateway eliminated: Vinita, Oklahoma City, or Beckham County, OK.)

MC 107012 (Sub E237), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *Carpet Padding, Uncartoned*. From El Segundo, CA to points in AR; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Alfoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg, Pushmataha, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole and Stephens Counties, OK. (Gateway eliminated: Dallas, TX)

MC 107012 (Sub-E706), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Pianos, Uncartoned*. (1) From points in Autauga, Bibb, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair,

Shelby, Talladega and Tallapoosa Counties, AL to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou and Yuba Counties, CA. (2) From points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike and Russell Counties, AL to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou and Yuba Counties, CA. (3) From points in De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendocino, Tehama and Trinity Counties, CA. (Gateway eliminated: Grand Haven, MI)

MC 107012 (Sub E707), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Pianos, Uncartoned*. From points in Salt Lake City, UT to points in AR; points in LA; points in MS; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller,

Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. (Gateways eliminated: Vinta, Oklahoma City or Beckham County, OK)

MC 107012 (Sub-E708) filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). Use *Institutional Fixtures, and Used*

Commercial Fixtures when moving in mixed loads and on the same bill of lading with Used Institutional Fixtures.

uncrated, (1) From points in ID to points in AR, OK & TX. (*Salt Lake City, UT and points in Co.) (2) From points in ID to points in AZ, CO, KS & NM. (*Salt Lake City, UT) (3) From points in ID to points in LA. (*Salt Lake City, UT and Sedgewick County, KS) (4) From points in Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley and Washington Counties, ID to points in Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion and Wabash Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent,

Montcalm, Muskegon, Ottawa, Saint Joseph and Van Buren Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Molt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*Salt Lake City, UT and Sedgewick County, KS); Allegany, Cattaraugus, Chatouqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben and Wyoming Counties, NY (*Salt Lake City, UT and Sedgewick County, KS); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Salt Lake City, UT and Sedgewick County, KS) (5) From points in Benewah, Bonner, Boudry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties, ID to points in Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO (*Salt Lake City, UT and Sedgewick County, KS). (6) From points in Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID to points in Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt,

Richland, Vermilion and Wabash Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington and Wayne Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Yates, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO (*Salt Lake City, UT and Sedgewick County, KS); Clark, Lincoln, Esmeralda, Eureka, Lander and Nye Counties, NV (*Salt Lake City, UT); Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chataqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego and St. Lawrence Counties, NY (*Salt Lake City, UT and Sedgewick County, KS); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland and Union Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Salt Lake City, UT and Sedgewick County, KS) (Gateway eliminated: Asterisked)

MC 107012 (Sub-E709), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). Use *Institutional Fixtures, and Used Commercial Fixtures when moving in mixed loads and on the same bill of lading with Used Institutional Fixtures.*

uncrated (1) From points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater and Sweet Grass Counties, MT to points in AZ (*Salt Lake City, UT), points in AR (*Salt Lake City, UT and Sedgewick County, KS); Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendocino, Tehama, Trinity, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Imperial, Riverside, San Diego, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA (*Salt Lake City, UT); Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Ouray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO (*Salt Lake City, UT); Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS (*Salt Lake City, UT); Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO (*Salt Lake City, UT and points in CO); Clark, Lincoln, Esmeralda, Eureka, Lander and Nye Counties, NV (*Salt Lake City, UT); points in NM (*Salt Lake City, UT); points in OK (*Salt Lake City, UT and points in CO); points in TX (*Salt Lake City, UT and points in CO).

(2) From points in Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan and Valley Counties, MT to points in AZ (*Salt Lake City, UT); Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendocino, Tehama, Trinity, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Imperial, Riverside, San Diego, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA (*Salt Lake City, UT); Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Ouray, Rio Grande, Saguache, San Juan and San Miguel Counties, CO (*Salt Lake City, UT); points in NV (*Salt Lake City, UT); McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra, Socorro Counties, NM (*Salt Lake City, UT). (3) From points in Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole and Wheatland Counties, MT to points in AZ (*Salt Lake City, UT); Inyo, Fresno, Kings and Tulare Counties, CA (*Salt Lake City, UT); Garfield, Mesa, Moffat, Rio Blanco, Routt, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Ouray, Rio Grande, Saguache, San Juan and San Miguel Counties, CO (*Salt Lake City, UT); Clark, Lincoln, Esmeralda, Eureka, Lander, Nye, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV (*Salt Lake City, UT); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra and Socorro Counties, NM (*Salt Lake City, UT); Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties, OK (*Salt Lake City, UT and points in CO); Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland,

Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Salt Lake City, UT and points in CO); Lincoln, Sublette, Sweetwater and Uinta Counties, WY (*Salt Lake City, UT). (4) From points in Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT to points in AZ (*Salt Lake City, UT); points in AR (*Salt Lake City, UT and Sedgewick Counties, KS); Inyo, Fresno, Kings, Tulare, Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Imperial, Riverside and San Diego Counties, CA (*Salt Lake City, UT); points in CO (*Salt Lake City, UT); points in KS (*Salt Lake City, UT); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln,

Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint, Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*Salt Lake City, UT and points in CO); Clark, Lincoln, Esmeralda, Eureka, Lander and Nye Counties, NV (*Salt Lake City, UT); points in NM (*Salt Lake City, UT); points in OK (*Salt Lake City, UT and points in CO); points in TX (*Salt Lake City, UT and points in CO); Albany, Carbon, Converse, Goshen, Laramie, Niobrara and Platte Counties, WY (*Salt Lake City, UT). (5) From points in Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT to points in Apache, Conconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz, Yuma Counties, AZ (*Salt Lake City, UT); points in CA (*Salt Lake City, UT); points in NV (*Salt Lake City, UT). (Gateways eliminated; Asterisked.)

MC 107012 (Sub-E710), filed October 22, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Used Institutional Fixtures, and Used Commercial Fixtures when moving in mixed loads and on the same bill of lading with Used Institutional Fixtures, uncrated.* (1) From points in NV to points in IA, MN & SD (*Salt Lake City, UT and points in CO). (2) From points in NV to points in WY (*Salt Lake City, UT). (3) From points in Clark and Lincoln Counties, NV to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO (*Salt Lake City, UT); points in ID (*Salt Lake City, UT); Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabauensee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen,

Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner and Washington Counties, KS (*Salt Lake City, UT); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*Salt Lake City, UT and points in CO); points in MT (*Salt Lake City, UT), points in ND (*Salt Lake City, UT and points in CO). (4) From points in Esmeralda, Eureka, Lander and Nye Counties, NV to points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); points in KS (*Salt Lake City, UT); points in LA (*Salt Lake City, UT and points in CO or Greene County, AR); Alcona, Alpena,

Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Nawaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce and Mackinac Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); points in MO (*Salt Lake City, UT); McKinley Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, NM (*Salt Lake City, UT); points in ND (*Salt Lake City, UT and points in CO); points in OK (*Salt Lake City, UT and points in CO); Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Gollin, Dallas, Delta, Ellis, Fannin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Salt Lake City, UT and points in CO); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto and Oneida Counties, WI (*Salt Lake City, UT and Sedgewick County, KS). (5) From points in Elko and Whitepine Counties, NV to points in Apache, Coconino, Mohave, Navajo, Yavapai, Cochise, Gila, Graham, Greenlee, Maricopa, Pima, Pinal and Santa Cruz Counties, AZ (*Salt Lake City, UT); points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Cook, DuPage, Kane, Kendall, Lake, Will, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence,

Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); points in KS (*Salt Lake City, UT); points in LA (*Salt Lake City, UT and points in CO or Greene County, AR); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lanawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Nawaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce and Mackinac Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); points in MO (*Salt Lake City, UT and points in CO); Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (*Salt Lake City, UT); points in NM (*Salt Lake City, UT); Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville and Ward Counties, ND (*Salt Lake City, UT and points in CO); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); points in OK (*Salt Lake City, UT and points in CO); points in TX (*Salt Lake City, UT and points in CO); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, and Waukesha Counties, WI (*Salt Lake City, UT and Sedgewick County, KS). (Gateways eliminated; Asterisked)

Rolette, Sheridan, Towner, Walsh and Wells Counties, ND (*Salt Lake City, UT and points in CO); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); points in OK (*Salt Lake City, UT and points in CO); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Salt Lake City, UT and Sedgewick County, KS); points in TX (*Salt Lake City, UT and points in CO); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington and Waukesha Counties, WI (*Salt Lake City, UT and Sedgewick County, KS). (8) From points in Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV to points in Apache, Coconino, Mohave, Navajo and Yavapai Counties, AZ (*Salt Lake City, UT); points in AR (*Salt Lake City, UT and points in CO); points in CO (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey,

Greene County, AR); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lanawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Nawaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce and Mackinac Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); points in MO (*Salt Lake City, UT and points in CO); Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT (*Salt Lake City, UT); points in NM (*Salt Lake City, UT); Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele, Traill, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville and Ward Counties, ND (*Salt Lake City, UT and points in CO); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); points in OK (*Salt Lake City, UT and points in CO); points in TX (*Salt Lake City, UT and points in CO); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, and Waukesha Counties, WI (*Salt Lake City, UT and Sedgewick County, KS). (Gateways eliminated; Asterisked)

MC 107012 (Sub-E711), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801.

Representatives: David D. Bishop and Gary M. Crist (same as above). *Used Institutional Fixtures, and Used Commercial Fixtures when moving in mixed loads and on the bill of lading with Used Institutional Fixtures, uncrated.* (1) From points in NM to points in ID and WA. (2) From points in Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance and Valencia Counties, NM to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in OR; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (3) From points in McKinley, Rio Arriba and San Juan Counties, NM to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in OR; Park, Teton and Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY.

(4) From points in Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay and Roosevelt Counties, NM to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in OR; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (5) From points in Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra and Socorro Counties, NM to points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill Counties, OR; Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY. (6) From points in Colfax, Harding, Mora, Taos and Union Counties, NM to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow,

Stillwater, Sweet Grass, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in OR. (Gateway eliminated: Salt Lake City, UT.)

MC 1070 (Sub-E712), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Used Institutional Fixtures, and Used Commercial Fixtures when moving in mixed loads and on the same bill of lading with Used Institutional Fixtures, uncrated.* (1) From points in OR to points in AR, IA, KS, MO, OK and TX (*Salt Lake City, UT and points in CO). (2) From points in OR to points in CO (*Salt Lake City, UT). (3) From points in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill Counties, OR to points in Cochise, Gila, Graham, Greenlee, Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal and Santa Cruz Counties, AZ (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph and Van Buren Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, Wright, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Medicine, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*Salt Lake City, UT and points in CO); points in NM (*Salt Lake City, UT); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*Salt Lake City, UT and points in CO); Albany, Carbon, Converse, Coshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*Salt Lake City, UT). (4) From points in Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco and Wheeler Counties, OR to points in Cochise, Gila, Graham, Greenlee, Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal and Santa Cruz Counties, AZ (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, De Kalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush,

Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, Wright, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*Salt Lake City, UT and points in CO); points in NM (*Salt Lake City, UT); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*Salt Lake City, UT and points in CO); Albany, Carbon, Converse, Coshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*Salt Lake City, UT). (4) From points in Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco and Wheeler Counties, OR to points in Cochise, Gila, Graham, Greenlee, Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal and Santa Cruz Counties, AZ (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, De Kalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush,

Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph and Van Buren Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, Wright, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Medicine, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*Salt Lake City, UT and points in CO); points in NM (*Salt Lake City, UT); Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Brule, Buffalo, Hand, Hughes, Hyde, Jones Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*Salt Lake City, UT and points in CO); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington and Waukesha Counties, WI (*Salt Lake City, UT and Sedgewick County, KS); points in WY (*Salt Lake City, UT). (5) From points in Harney, Klamath, Lake and Malheur Counties,

OR to points in Cochise, Gila, Graham, Greenlee, Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal and Santa Cruz Counties, AZ (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph and Van Buren Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Wasela, Washington, Winona, Wright, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Medicine, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*Salt Lake City, UT and points in CO); points in NM (*Salt Lake City, UT); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark,

Summit, Trumbull, Tuscarawas, Wayne, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Aurora, Bon Homme, Charles Mix, Clay, Davison Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*Salt Lake City, UT and points in CO); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Salt Lake City, UT and Sedgewick County, KS); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington and Waukesha Counties, WI (*Salt Lake City, UT and Sedgewick County, KS); points in WY (*Salt Lake City, UT). (6) From points in Coos, Curry, Douglas, Jackson and Josephine Counties, OR to points in Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph and Van Buren Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Aitkin, Carlton, Cook, Lake, Saint Louis, Tazewell, Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele,

Wabasha, Waseca, Washington, Winona, Wright, Becker, Benton, Big Stone, Cass, Chippewa, Clay, Crow Wing, Douglas, Grant, Hubbard, Kandiyohi, Lac Qui Parle, Meeker, Morrison, Otter Tail, Pope, Renville, Stearns, Stevens, Swift, Todd, Traverse, Wadena, Wilkin, Yellow Medicine, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*Salt Lake City, UT and points in CO); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Colfax, Harding, Mora, Taos and Union Counties, NM (*Salt Lake City, UT); Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*Salt Lake City, UT and points in CO); Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Sauk, Trempealeau and Vernon Counties, WI (*Salt Lake City, UT and Sedgewick County, KS); points in WY (*Salt Lake City, UT). (7) From points in Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR to points in AZ (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stock, Tazewell, Warren and Woodford Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph,

Steuben, Walbath, Wells, Whitley, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph and Van Buren Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); points in NM (*Salt Lake City, UT); Allegany, Cattaraugus, Chautauque, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, and Wyoming Counties, NY (*Salt Lake City, UT and Sedgewick County, KS); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Salt Lake City, UT and Sedgewick County, KS); Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*Salt Lake City, UT and points in CO); Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*Salt Lake City, UT). (Gateways eliminated: Asterisks.)

MC 107012 (Sub-E713), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Used Institutional Fixtures, and Used Commercial Fixtures when moving in mixed loads and on the bill of lading with Used Institutional Fixtures.*

uncrated, (1) From points in TX to points in ID, OR, and WA. (2) From points in Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum and Young Counties, TX to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (3) From points in Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita and Wilbarger Counties, TX to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV. (4) From points in Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg,

LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata and Zavala Counties, TX to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (5) From points in Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, TX to points in Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (6) From points in Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, and Williamson Counties, TX to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Elko and Whitepine Counties, NV; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (Gateway eliminated: Salt Lake City, UT.)

Ravalli, Silver Bow, Stillwater, Sweet Grass, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole and Wheatland Counties, MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (7) From points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Elko and Whitepine Counties, NV; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (Gateway eliminated: Salt Lake City, UT.)

MC 107012 (Sub-E 714), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Used Institutional Fixtures, and Used Commercial Fixtures when moving in mixed loads and on the same bill of lading with Used Institutional Fixtures, uncrated.* (1) From points in UT to points in AR, IA, KS, MN & OK (*points in CO) (2) From points in Beaver, Iron and Washington Counties, UT to points in Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren, Woodford, Boone, Bureau, Carroll, DeKalb, Henry, JoDaviess, LaSalle, Lee, McHenry, Mercer, Ogle, Putnam, Rock Island, Stephenson, Whiteside and Winnebago Counties, IL (*points in CO and Sedgewick County, KS); Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton,

Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*points in CO and Sedgewick County, KS); Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*points in CO); points in MI (*points in CO and Sedgewick County, KS); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*points in CO); Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele and Traill Counties, ND (*points in CO); Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codrington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*points in CO). (4) From points in Carbon, Daggett, Duchesne, Emery, Grand, San Juan and Uintah Counties, UT to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*points in CO); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*points in CO); points in ND (*points in CO). (5) From points in Carbon, Daggett, Duchesne, Emery, Grand, San Juan and Uintah Counties, UT to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*points in CO); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*points in CO); points in ND (*points in CO). (6) From points in Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla and Whitman Counties, WA to points in AZ (*Salt Lake City, UT); Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iroquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington and Wayne Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor and Union Counties, IA (*Salt Lake City, UT and points in CO); Berkshire, Franklin, Hampden and Hampshire Counties, MA (*Salt Lake City, UT and Sedgewick Counties, KS); Clark and Lincoln Counties, NV (*Salt Lake City, UT); Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chataqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego and St. Lawrence Counties, NY (*Salt Lake City, UT and Sedgewick County, KS); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Salt Lake City, UT and Sedgewick County, KS); Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*Salt Lake City, UT and points in CO); Albany, Carbon, Converse, Goshen, Laramie, Niobrara and Platte Counties, WY (*Salt Lake City, UT); (4) From points in Ferry, Lincoln, Okanogan, Pend Oreille, Spokane and Stevens Counties, WA to points in AZ (*Salt Lake City, UT); San Bernardino, Imperial, Riverside and San Diego

Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington, Wayne, Benton, Carroll, Cass, Fountain, Fulton, Howard, Jasper, Lake, LaPorte, Marshall, Miami, Montgomery, Newton, Porter, Pulaski, Saint Joseph, Starke, Tippecanoe, Warren and White Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); points in IA (*Salt Lake City, UT and points in CO); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph and Van Buren Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Anoka, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Kanabec, LeSueur, McLeod, Mille Lacs, Mower, Nicollet, Olmstead, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, Wright, Brown, Cottonwood, Jackson, Lincoln, Lyon, Martin, Murray, Nobles, Pipestone, Redwood, Rock and Watonwan Counties, MN (*Salt Lake City, UT and points in CO); Clark and Lincoln Counties, NV (*Salt Lake City, UT); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Salt Lake City, UT and Sedgewick County, KS); Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*Salt Lake City, UT and points in CO); Albany, Carbon, Converse, Goshen, Laramie, Niobrara and Platte Counties, WY (*Salt Lake City, UT); (4) From points in Ferry, Lincoln, Okanogan, Pend Oreille, Spokane and Stevens Counties, WA to points in AZ (*Salt Lake City, UT); San Bernardino, Imperial, Riverside and San Diego

points in Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT to points in Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*points in CO); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*points in CO); Barnes, Cass, Dickey, Kidder, LaMoure, Logan, McIntosh, Ransom, Richland, Sargent, Stutsman, Eddy, Foster, Grand Forks, Griggs, Nelson, Steele and Traill Counties, ND (*points in CO); Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd, Tripp, Beadle, Brookings, Brown, Clark, Codrington, Day, Deuel, Grant, Hamlin, Kingsbury, Marshall, Roberts, Spink, Aurora, Bon Homme, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union and Yankton Counties, SD (*points in CO). (4) From points in Carbon, Daggett, Duchesne, Emery, Grand, San Juan and Uintah Counties, UT to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*points in CO); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*points in CO); points in ND (*points in CO). (5) From points in Carbon, Daggett, Duchesne, Emery, Grand, San Juan and Uintah Counties, UT to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*points in CO); Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO (*points in CO); points in ND (*points in CO). (6) From points in Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla and Whitman Counties, WA to points in AZ (*Salt Lake City, UT); Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iroquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington and Wayne Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor and Union Counties, IA (*Salt Lake City, UT and points in CO); Berkshire, Franklin, Hampden and Hampshire Counties, MA (*Salt Lake City, UT and Sedgewick Counties, KS); Clark and Lincoln Counties, NV (*Salt Lake City, UT); Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chataqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego and St. Lawrence Counties, NY (*Salt Lake City, UT and Sedgewick County, KS); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Coshocton,

MC 1070 (Sub. E715), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Used Institutional Fixtures, and Used Commercial Fixtures when moving in mixed loads and on the same bill of lading with Used Institutional Fixtures, uncrated.* (1) From points in WA to points in CO and NM (*Salt Lake City, UT) (2) From points in WA to points in AR, KS, MO, OK, and TX (*Salt Lake City, UT and points in CO). (3) From points in Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum and Yakima Counties, WA to points in Cochise, Gila, Graham, Greenlee, Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal and Santa Cruz Counties, AZ (*Salt Lake City, UT); San Bernardino County, CA (*Salt Lake City, UT); Cook, DuPage, Kane, Kendall, Lake, Will, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley,

Counties, CA (*Salt Lake City, UT); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Salt Lake City, UT and points in CO); Clark and Lincoln Counties, NV (*Salt Lake City, UT); Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater and Uinta Counties, WY (*Salt Lake City, UT). (5) From points in Clallam, Grays Harbor, Jefferson, Kitsap, Mason and San Juan Counties, WA to points in AZ (*Salt Lake City, UT); San Bernardino County, CA (*Salt Lake City, UT); Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iroquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion and Wabash Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington and Wayne Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor and Union Counties, IA (*Salt Lake City, UT and points in CO); Berkshire, Franklin, Hampden and Hampshire Counties, MA (*Salt Lake City, UT and Sedgewick Counties, KS); Clark and Lincoln Counties, NV (*Salt Lake City, UT); Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chataqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego and St. Lawrence Counties, NY (*Salt Lake City, UT and Sedgewick County, KS); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Coshocton,

Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland and Union Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Salt Lake City, UT and Sedgewick County, KS); Bennington, Rutland, Windham and Windsor Counties, VT (*Salt Lake City, UT and Sedgewick County, KS); Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*Salt Lake City, UT). (6) From points in Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla and Whitman Counties, WA to points in AZ (*Salt Lake City, UT); Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iroquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington and Wayne Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA (*Salt Lake City, UT and points in CO); Berkshire, Franklin,

Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland and Union Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Salt Lake City, UT and Sedgewick County, KS); Bennington, Rutland, Windham and Windsor Counties, VT (*Salt Lake City, UT and Sedgewick County, KS); Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*Salt Lake City, UT). (6) From points in Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla and Whitman Counties, WA to points in AZ (*Salt Lake City, UT); Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iroquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion, Wabash, Adams, Brown, Cass, Fulton, Hancock, Henderson, Knox, Logan, Marshall, Mason, McDonough, Menard, Peoria, Schuyler, Stark, Tazewell, Warren and Woodford Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington and Wayne Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA (*Salt Lake City, UT and points in CO); Berkshire, Franklin,

Hampden and Hampshire Counties, MA (*Salt Lake City, UT and Sedgewick County, KS); Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw and Wayne Counties, MI (*Salt Lake City, UT and Sedgewick County, KS); Clark and Lincoln Counties, NV (*Salt Lake City, UT); Cheshire, Hillsboro and Sullivan Counties, NH (*Salt Lake City, UT and Sedgewick County, KS); Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chataqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Salt Lake City, UT and Sedgewick County, KS); Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland, Union, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH (*Salt Lake City, UT and Sedgewick County, KS); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Salt Lake City, UT and Sedgewick County, KS); Bennington, Rutland, Windham, Windsor, Chittenden, Franklin, Grand Isle, Lamoille, Addison, Orange and Washington Counties, VT (*Salt Lake City, UT and Sedgewick County, KS); Brooke, Hancock, Marshall and Ohio Counties, WV (*Salt Lake City, UT and Sedgewick County, KS); Albany, Carbon, Converse, Goshen, Laramie,

Niobrara, Platte, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY (*Salt Lake City, UT). (7) From points in Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA to points in AZ (*Salt Lake City, UT); Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, San Bernardino, Imperial, Riverside and San Diego Counties, CA (*Salt Lake City, UT); Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iroquois, Jasper, Kanakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion and Wabash Counties, IL (*Salt Lake City, UT and Sedgewick County, KS); Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby, Tipton, Bartholomew, Brown, Clark, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Ohio, Ripley, Rush, Scott, Switzerland, Union, Washington and Wayne Counties, IN (*Salt Lake City, UT and Sedgewick County, KS); Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor and Union Counties, IA (*Salt Lake City, UT and points in CO); Androscoggin, Cumberland, Franklin, Kennebec, Lincoln, Oxford, Sagadahoc and York Counties, ME (*Salt Lake City, UT and Sedgewick County, KS); Allegany, Garrett and Washington Counties, MD (*Salt Lake City, UT and Sedgewick County, KS); Essex, Middlesex, Norfolk, Suffolk, Berkshire, Franklin, Hampden, Hampshire and Worcester Counties, MA (*Salt Lake City, UT and Sedgewick County, KS); Clark and Lincoln Counties, NV (*Salt Lake City, UT); points in NH (*Salt Lake City, UT and Sedgewick County, KS); Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Salt Lake City, UT and

Sedgewick County, KS); Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone and Woodruff Counties, AR (*Salt Lake City, UT and points in CO); Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quarry, Rio Grande, Saguache, San Juan and San Miguel Counties, CO (*Salt Lake City, UT); Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS (*Salt Lake City, UT); Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Salt Lake City, UT and points in CO); Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO (*Salt Lake City, UT and points in CO); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra and Socorro Counties, NM (*Salt Lake City, UT); Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties, OK (*Salt Lake City, UT and points in CO); points in OR (*Salt Lake City, UT); Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo,

MC 10712 (Sub-E716), filed October 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Used Institutional Fixtures, and Used Commercial Fixtures when moving in mixed loads and on the same bill of lading with Used Institutional Fixtures, uncrated*—(1) From points in WY to points in CA & NV (*Salt Lake City, UT). (2) From points in WY to points in Yuma County, AZ (*Salt Lake City, UT); points in ID (*Salt Lake City, UT); Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT (*Salt Lake City, UT); points in OR (*Salt Lake City, UT); points in WA (*Salt Lake City, UT). (3) From points in Park Teton and Yellowstone National Park Counties, WY to points in AZ (*Salt Lake City, UT); Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley and Washington Counties, ID (*Salt Lake City, UT); Crook, Deschutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Cops, Curry, Douglas, Jackson and Josephine Counties, OR (*Salt Lake City, UT). (4) From points in Lincoln, Sublette, Sweetwater and Uinta Counties, WY to points in AZ (*Salt Lake City, UT); Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott,

Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, Washington, Baxter, Clay, Craighead, Greene, Crittendon, Cross, Fulton, Independence, Izard, Jackson, Lawrence, Mississippi, Poinsett, Randolph, Saint Francis, Sharp, Stone and Woodruff Counties, AR (*Salt Lake City, UT and points in CO); Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quarry, Rio Grande, Saguache, San Juan and San Miguel Counties, CO (*Salt Lake City, UT); Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS (*Salt Lake City, UT); Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Salt Lake City, UT and points in CO); Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO (*Salt Lake City, UT and points in CO); Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay, Roosevelt, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero, Sierra and Socorro Counties, NM (*Salt Lake City, UT); Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties, OK (*Salt Lake City, UT and points in CO); points in OR (*Salt Lake City, UT); Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo,

Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, Winkler, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton and Williamson Counties, TX (*Salt Lake City, UT and points in CO); points in WA (*Salt Lake City, UT). (5) From points in Freemont, Hot Springs and Natrona Counties, WY to points in AZ (*Salt Lake City, UT); Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley and Washington Counties, ID (*Salt Lake City, UT); points in OR (*Salt Lake City, UT); Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla, Whitman, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA (*Salt Lake City, UT). (6) From points in Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie, and Weston Counties, WY to points in AZ (*Salt Lake City, UT); Crook, Deschutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Harney, Klamath, Lake, Malheur, Coos, Curry, Douglas, Jackson and Josephine Counties, OR (*Salt Lake City, UT). (Gateways Eliminated: Asterisked.)

MC 107403 (Sub-E788), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Plastic granules*, in bulk, from the facilities of Dow Chemical Co., at Hanging Rock, OH, to points in MT, WA, OR, CA, NV, UT, NM, and ID. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E789), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid petrochemicals* (except anhydrous ammonia, aqua ammonia, and liquid fertilizer), in bulk, in tank vehicles, from

points in OR to points in ME, NH, VT, MA, NY, NJ, RI and CT. (Gateway eliminated: Contra Costa County, CA, and Muscatine, IA.)

MC 107403 (Sub-E795), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals, resin plasticizers and liquid synthetic resins*, in bulk, in tank vehicles, from Long Beach and Santa Clara, CA, to points in VA. (Gateway eliminated: Akron, OH.)

MC 118831 (Sub-E72), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heasley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, from points in SC to points in ML. (Gateway eliminated: Charlotte, NC.)

MC 118831 (Sub-E73), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heasley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, from points in SC on and east of a line beginning at the NC-SC State line extending along US Hwy 221 to Chesnee, then along SC Hwy 11 to junction SC Hwy 9, then along SC Hwy 9 to junction SC Hwy 292, then along SC Hwy 292 through Inman to junction SC Hwy 290, then along SC Hwy 290 to junction US Hwy 221, then along US Hwy 221 through Woodruff and Laurens to junction SC Hwy 39, then along SC Hwy 39 to Saluda, then along SC Hwy 121 to Trenton, then along SC Hwy 199 to junction US Hwy 78, then along US Hwy 78 to junction SC Hwy 125, then along SC Hwy 125 to Allendale then along US Hwy 301 to the SC-CA State line, to points in IL (except the East St. Louis, IL, Commercial Zone). (Gateway eliminated: Charlotte, NC.)

MC 118831 (Sub-E74), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heasley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, from points in SC on and east of a line beginning at the NC-SC State line extending along SC Hwy 9 to junction SC Hwy 292, then along SC Hwy 292 to junction SC Hwy 290, then along SC Hwy 290 to junction US Hwy 221, then along US Hwy 221 to junction SC Hwy 39, then along SC Hwy 39 to Saluda,

then along SC Hwy 121 to Trenton, then along SC Hwy 19 to Aiken, then along US Hwy 78 to junction SC Hwy 125, then along SC Hwy 125 to junction US Hwy 301, then along US Hwy 301 to the SC-GA State line, to points in MO (except the St. Louis, MO, Commercial Zone). (Gateway eliminated: Charlotte, NC.)

MC 118831 (Sub-E75), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid chemicals*, in bulk, from points in Richmond County, GA, to points in TN on and east of a line beginning at the NC-TN State line extending along US Hwy 19E to Bluff City, then along TN Hwy 37 to junction TN Hwy 75, then along TN Hwy 75 to the TN-VA State line; points in KY on and north of a line beginning at the KY-VA State line extending along US Hwy 421 to Lexington, then along Bluegrass Parkway to Elizabethtown, then along KY Hwy 86 to junction US Hwy 60, then along US Hwy 60 to Hawesville; points in IN on and north of a line beginning at Connelton extending along IN Hwy 66 to junction IN Hwy 70, then along IN Hwy 70 to junction US Hwy 460, then along US Hwy 460 to junction IN Hwy 61, then along IN Hwy 61 to junction IN Hwy 68, then along IN Hwy 68 to junction US Hwy 41, then along US Hwy 41 to junction IN Hwy 64, then along IN Hwy 64 to the IN-IL State line; points in IL on and north of a line beginning at Mount Carmel extending along IL Hwy 15 to junction US Hwy 45, then along US Hwy 45 to junction US Hwy 460, then along US Hwy 460 to the IL-MO State line (except points in the East St. Louis, IL, Commercial Zone), and points in MO on, north and west of a line beginning at St. Louis, extending along I Hwy 55 to junction MO Hwy 21-A, then along MO Hwy 21-A to junction MO Hwy 21, then along MO Hwy 21 to junction MO Hwy 72, then along MO Hwy 72 to junction MO Hwy 32, then along MO Hwy 32 to junction US Hwy 63, then along US Hwy 63 to junction MO Hwy 38, then along MO Hwy 38 to junction MO Hwy 5, then along MO Hwy 5 to junction US Hwy 60, then along US Hwy 60 to junction US Hwy 71, then along US Hwy 71 to junction MO Hwy 59, then along MO Hwy 59 to the MO-AR State line. (Gateway eliminated: Charlotte, NC.)

MC 118831 (Sub-E76), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW.,

Washington, DC 20001. *Liquid chemicals* (except fertilizer and vegetable oils), in bulk, from Lanett, AL, to points in OH on and east of a line beginning at Kanauga extending along OH Hwy 7 to junction OH Hwy 144, then along OH Hwy 144 to junction OH Hwy 329, then along OH Hwy 329 to junction OH Hwy 284, then along OH Hwy 284 to junction OH Hwy 313, then along OH Hwy 313 to junction OH Hwy 83, then along OH Hwy 83 to Holmesville, then along unnumbered highway through Fredericksburg to junction US Hwy 30, then along US Hwy 30 to junction OH Hwy 57, then along OH Hwy 57 to junction I Hwy 71, then along I Hwy 71 to junction OH Hwy 82, then along OH Hwy 82 to junction OH Hwy 237, then along OH Hwy 237 to Lake Erie. (Gateway eliminated: Augusta, GA, and Charlotte, NC.)

MC 118831 (Sub-E115) (correction), April 19, 1976, published in the Federal Register, September 11, 1979. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC (except Moncure, Conway, Rocky Mount, Plymouth, Raleigh, Sanford, Kinston, and Goldsboro) on and east of a line. . . . Purpose of correction—correct sub no. previously published as E113.

MC 22254 (Sub-E-2) (correction), filed May 14, 1974, published in the Federal Register, August 29, 1979. Applicant: TRANS-AMERICAN VAN SERVICE, INC., P.O. Box 12608, Ft. Worth, TX 76116. Representative: Elliott Beence, Suite 618 Perpetual Building, Washington, DC 20004. *Pianos*, uncrated, (A) between points in CT, ID, ME, MA, MI, MT, NH, NY, ND, OR, RI, VT, WA, WI, and points in NJ on and north of a line beginning at the Atlantic Ocean extending along NJ Hwy 33 to junction NJ Hwy 571, then along NJ Hwy 571 to junction U.S. Hwy 206, then along U.S. Hwy 206 to junction NJ Hwy 546, then along NJ Hwy 546 to Washingtons Crossing, then along NJ Hwy 29 to the NJ-PA State line; points in PA on and north of a line beginning at the PA-NJ State line extending along U.S. Hwy 202 to junction PA Turnpike, then along PA Turnpike to junction U.S. Hwy 322, then along U.S. Hwy 322 through Harrisburg to Lewistown, then along U.S. Hwy 22 to junction PA Turnpike, then along the PA Turnpike to the OH-PA State line extending along OH Hwy 170 to junction U.S. Hwy 30, then along U.S. Hwy 30 to

junction U.S. Hwy 224, then along U.S. Hwy 224 to the OH-IN State line, points in IN on and north of a line beginning at the OH-IN State line extending along U.S. Hwy 224 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the IN-IL State line; points in IL on and north of a line beginning at the IN-IL State line extending along U.S. Hwy 24 to junction IL Hwy 88, then along IL Hwy 88 to junction I Hwy 80 to the IL-IA State line, points in IA on and north of a line beginning at the IA-IL State line extending along I Hwy 80 to junction IA Hwy 38, then along IA Hwy 38 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction IA Hwy 21, then along IA Hwy 21 to Waterloo, then along U.S. Hwy 20 to Fort Dodge, then along U.S. Hwy 169 to junction IA Hwy 9, then along IA Hwy 9 to junction U.S. Hwy 59, then along U.S. Hwy 59 to the IA-MN State line; points in MN on and east of a line beginning at the IA-MN State line extending along U.S. Hwy 59 to junction U.S. Hwy 14, then along U.S. Hwy 14 to the MN-SD State line, points in SD on and north of a line beginning at the SD-MN State line extending along U.S. Hwy 13 to junction SD Hwy 34, then along SD Hwy 34 to junction SD Hwy 47, then along SD Hwy 47 to Chamberlain, then along U.S. Hwy 16 to junction SD Hwy 73, then along SD Hwy 73 to junction U.S. Hwy 18, then along U.S. Hwy 18 to the SD-WY State line; points in WY and north of a line beginning at the WY-SD State line extending along U.S. Hwy 18 to Douglas, then along U.S. Hwy 20 to Casper, then along WY Hwy 220 to Rawlins, then along I Hwy 80 to the WY-UT line; points in UT on and north of a line beginning at the UT-NV State line extending along I Hwy 80 to Ogden, then along U.S. Hwy 89 to Salt Lake City, then along I Hwy 16 to the UT-NV State line; points in NV on and north of a line beginning at the UT-NV State line, extending along U.S. Hwy Alternate 50 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the NV-CA State line, points in CA on and north of a line beginning at the CA-NV State line extending along U.S. Hwy 6 to junction CA Hwy 120, then along CA Hwy 120 to Manteca, then along CA Hwy 99 to Lodi, then along CA Hwy 12 to junction CA Hwy 160, then along CA Hwy 160 to Pittsburg, then along CA Hwy 24 to Oakland, then along U.S. Hwy 40 to San Francisco, on the one hand, and, on the other points in CA on and south of a line beginning at the Pacific Ocean extending CA Hwy 1 to junction CA Hwy 101, then along CA Hwy 101 to junction CA Hwy 37, then along CA Hwy 37 to junction I Hwy 80, then along I Hwy 80 to junction CA Hwy 16, then

along CA Hwy 16 to junction CA Hwy 49, then along CA Hwy 49 to junction CA Hwy 120, then along U.S. Hwy 6 to the CA-NV State line extending along U.S. Hwy 6 to junction NV Hwy 25, then along NV Hwy 25 to the NV-UT State line, points in AZ on and south of a line beginning at the AZ-UT State line extending along AZ Hwy 389 to junction U.S. Hwy Alternate 89, then along U.S. Hwy Alternate 89 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 160, then along U.S. Hwy 160 to Teec Nos Pos, then along Arizona Hwy 504 to the AZ-NM State line, points in NM on and south of a line beginning at the AZ-NM State line extending along NM Hwy 504 to junction U.S. Hwy 550, then along U.S. Hwy 550 to Farmington, then along NM Hwy 17 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction NM Hwy 110, then along NM Hwy 110 to junction NM Hwy 111, then along NM Hwy 111 to Taos, then along U.S. Hwy 84 to the TX-NM State line extending along U.S. Hwy 87 to Hartley, then along TX Hwy 152 to the TX-OK State line; points in OK on and south of a line beginning at the OK-TX State line extending along OK Hwy 6 to junction I Hwy 40, then along I Hwy 40 to junction U.S. Hwy 59 to the OK-AR State line, points in AR on and south of a line beginning at the OK-AR State line extending along AR Hwy 16 to Shirley, then along AR Hwy 9 to Brockwell, then along AR Hwy 56 to Ash Flat, then along U.S. Hwy 62 to the AR-MO State line; points in TN on and south of a line beginning at the MO-TN State line extending along TN Hwy 20 to junction U.S. Hwy 43, then along U.S. Hwy 43 to Lawrenceburg, then along U.S. Hwy 64 to junction I Hwy 65, then along I Hwy 65 to the TN-AL State line; points in AL on and south of a line beginning at the AL-TN State line extending along AL Hwy 53 to Huntsville, then along U.S. Hwy 231 to Gadsden, then along U.S. Hwy 431 to Lafayette, then along AL Hwy 50 to the AL-GA State line, points in GA on and south of a line beginning at the AL-GA State line extending along GA Hwy 18 to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction U.S. Hwy 280, then along U.S. Hwy 280 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the Atlantic Ocean, and points in CA, LA, MS, and FL. (Gateway eliminated: Chicago, IL or Memphis, TN.)

(B) between points in CA on and south of a line beginning at Bolinas extending along CA Hwy 1 to junction U.S. Hwy 101, then along U.S. Hwy 101 to junction CA Hwy 37, then along CA Hwy 37 to Vallejo, then along I Hwy 80 to Sacramento, then along CA Hwy 16 to

junction CA Hwy 49, then along CA Hwy 49 to junction CA Hwy 120, then along CA Hwy 120 to Benton Station, then along U.S. Hwy 6 to the CA-NV State line; points in NV on and south of a line beginning at the CA-NV State line extending along U.S. Hwy 6 to Tonopah, then along NV Hwy 25 to Panaca, then along NV Hwy 25-56 to the NV-UT State line; points in AZ on and south of a line beginning at the AZ-UT State line extending along AZ Hwy 389 to Fredonia, then along U.S. Hwy Alt 89 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 160, then along U.S. Hwy 160 to Teec Nos Pos, then along AZ Hwy 504 to the AZ-NM State line; points in NM on and south of a line beginning at the AZ-NM State line extending along NM Hwy 504 to junction U.S. Hwy 550, then along U.S. Hwy 550 to Farmington, then along NM Hwy 17 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction NM Hwy 110, then along NM Hwy 110 to junction NM Hwy 111, then along NM Hwy 111 to Taos, then along U.S. Hwy 84 to the NM-TX State line; points in TX on and south of a line beginning at the TX-NM State line extending along U.S. Hwy 87 to Hartley, then along TX Hwy 152 to the TX-OK State line; points in OK on and south of a line beginning at the OK-TX State line extending along OK Hwy 6 to junction I Hwy 40, then along I Hwy 40 to junction U.S. Hwy 59, then along U.S. Hwy 59 to the OK-AR State line; points in AR on and south of a line beginning at the AR-OK State line extending along AR Hwy 16 to Shirley, then along AR Hwy 9 to Brockwell, then along AR Hwy 56 to Ash Flat, then along U.S. Hwy 62 to the AR-MO State line; points in TN on and south of a line beginning at the MO-TN State line extending along TN Hwy 20 to junction of U.S. Hwy 43, then along U.S. Hwy 43 to Lawrenceburg, then along U.S. Hwy 64 to junction I Hwy 65, then along I Hwy 65 to the TN-AL State line; points in AL on and south of a line beginning at the AL-TN State line extending along AL Hwy 53 to Huntsville, then along U.S. Hwy 231 to junction U.S. Hwy 278, then along U.S. Hwy 278 to Gadsden, then along U.S. Hwy 431 to Lafayette, then along AL Hwy 50 to the AL-GA State line; points in GA on and south of a line beginning at the GA-AL State line extending along GA Hwy 18 to junction U.S. Hwy 23, then along U.S. Hwy 23 to Macon, then along I Hwy 75 to Cordele, then along U.S. Hwy 280 to junction U.S. Hwy 80, then along U.S. Hwy 80 to Savannah Beach, points in LA, MS, and FL, on the one hand, and, on the other, points in CA, ID, NV, OR, and WA. (Gateways eliminated: Logan, UT and

Memphis, TN); and (C) between points in ME, NH, VT, MA, CT, RI, NJ, MD, DC, DE, VA, KY, TN, NC, SC, GA, FL, AL, MS, points in LA on and south of a line beginning at the Logansport extending along U.S. Hwy 84 to junction U.S. Hwy 71, then along U.S. Hwy 71 to Shreveport, then along U.S. Hwy 79 to the LA-AR State line; points in AR beginning at the LA-AR State line extending along U.S. Hwy 79 to the LA-AR State line extending along U.S. Hwy 79 to junction AR Hwy 19, then along AR Hwy 19 to junction AR Hwy 67, then along U.S. Hwy 67 to junction AR Hwy 7, then along AR Hwy 7 to Harrison, then along U.S. Hwy 62 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the AR-MO State line; points in IN on and south of a line beginning at the IL-IN State line extending along IN Hwy 64 to junction IN Hwy 135, then along IN Hwy 135 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the IN-OH State line, points in OH on and south of a line beginning at the IN-OH State line extending along OH Hwy 129 to Hamilton, then along OH Hwy 4 to Middletown, then along OH Hwy 73 to junction U.S. Hwy 22, then along U.S. Hwy 22 to Washington Court House, then along U.S. Hwy 62 to Columbus, then along U.S. Hwy 40 to Cambridge, then along U.S. Hwy 22 to the OH-WV State line; points in WV on and south of U.S. Hwy 22, points in PA on the south of a line beginning at the WV-PA State line extending along U.S. Hwy 22 to junction U.S. Hwy 219, then along U.S. Hwy 219 to junction I Hwy 80, then along I Hwy 80 to junction U.S. Hwy 220, then along U.S. Hwy 220 to the PA-NY State line; points in NY on and east of a line beginning at the PA-NY State line extending along NY Hwy 17 to Oswego, then along NY Hwy 38 to Dryden, then along NY Hwy 13 to Chittenango, then along NY Hwy 5 to junction NY 10, then along NY Hwy 10 to junction NY Hwy 8, then along NY Hwy 8 to junction NY Hwy 30, then along NY Hwy 30 to Tupper Lake, then along NY Hwy 3 to junction NY Hwy 58, then along NY Hwy 58 to the US-CD International Boundary line, on the one hand, and, on the other, points in CA on and north of a line beginning at Santa Barbara extending along U.S. Hwy 101 to Ventura, then along CA Hwy 33 to junction CA Hwy 119, then along CA Hwy 119 to junction CA Hwy 99, then along CA Hwy 99 to junction CA Hwy 63, then along CA Hwy 63 to junction CA Hwy 180, then along CA Hwy 180 to junction U.S. Hwy 395, then along U.S. Hwy 395 to Olancho, then along CA Hwy 190 to Amargosa, then along CA Hwy 127 to the CA-NV State line; points in NV on

and north of a line extending along NV Hwy 29 to junction U.S. Hwy 95 to Las Vegas, then along U.S. Hwy 95 to Las Vegas, then along U.S. Hwy 91 to the NV-AZ State line; points in UT on and north of a line beginning at the AZ-UT State line extending along U.S. Hwy 91 to junction UT Hwy 15, then along UT Hwy 15 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction I Hwy 70, then along I Hwy 70 to junction U.S. Hwy 6-50, then along U.S. Hwy 6-50 to junction UT Hwy 53, then along UT Hwy 40 to Vernal, then along UT Hwy 44 to the UT-WY State line, points in MT on and west of a line beginning at the WY-MT State line extending along U.S. Hwy 212 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction U.S. Hwy 191, then along U.S. 191 to Lewistown, then along MT Hwy 236 to junction U.S. Hwy 87, then along U.S. Hwy 87 to Havre, then along MT Hwy 23 to the US-CD International Boundary line; and points in IN, OR, and WA. (Gateways eliminated: Logan, UT, and Memphis, TN.) Purpose of correction—correct typographical errors.

MC 107022 (Sub-E351) (Correction), filed May 12, 1974, published in the *Federal Register* July 22, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Antol, cymene, esterified tall oil liquid soap, nalcene, paracymene, paramethane, hydro peroxide, penene, pine oil, pine pitch, pine tar, resin, resin liquor, resin sizing, resin solution, synthetic gums and resins, tall oil, tall oil fatty acid, tall oil pitch, terpineol, turentine, and zinc resinsates*, in bulk, in tank vehicles, from Port St. Joe, FL, to points in AR. (Gateways eliminated: Pensacola, FL, Delta, CA (a point within Vicksburg, MS, Commercial Zone), and Memphis, TN.) Purpose of correction—clarify sub-number.

MC 118831 (Sub-E77), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. *Liquid chemicals*, in bulk, from the facilities of Gowen Chemical Company at Chesapeake, VA, to points in KY and west of a line beginning at the KY-VA State line extending along KY Hwy 80 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction KY Hwy 172, then along KY Hwy 172 to junction KY Hwy 469, then along KY Hwy 469 to junction KY Hwy 32, then along KY Hwy 32 to junction KY Hwy 7, then along Hwy 7 to junction U.S. Hwy 460, then along U.S. Hwy 460 to junction KY Hwy 77, then

along KY Hwy 77 to junction KY Hwy 15, then along KY Hwy 15 to Winchester, then along KY Hwy 227 to Cynthiana, then along U.S. Hwy 27, to Covington, points in OH on and west of U.S. Hwy 52, points in IN on, and south and west of a line beginning at the IN-OH State line extending along U.S. Hwy 52 to junction I Hwy 465, then along I Hwy 465 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction IN Hwy 29, then along IN Hwy 29 to junction U.S. Hwy 35, then along U.S. Hwy 35 to junction IN Hwy 14, then along IN Hwy 14 to junction U.S. Hwy 421, then along U.S. Hwy 421 to junction IN Hwy 8, then along IN Hwy 8 to junction U.S. Hwy 231, then along U.S. Hwy 231 to Crown Point, then along U.S. Hwy 41 northward to Lake Michigan, points in MI on and south of a line beginning at Wells, MI, extending northward along unnumbered highway through Cornell, Arnold, Northland, and Ralph to junction MI Hwy 95, then along MI Hwy 95 to junction U.S. Hwy 41, then along U.S. Hwy 41 to North Lake, then due north to Lake Superior, points in IL (except the East St. Louis, IL, Commercial Zone); MO (except the St. Louis, MO, Commercial Zone); TN and WI. (Gateways eliminated: portions of Charlotte, NC east of U.S. Hwy 21 and north of U.S. Hwy 74.)

MC 118831 (Sub-E78), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. *Liquid chemicals*, in bulk, in tank vehicles, from the facilities of Gowen Chemical Company, at Chesapeake, VA, to St. Louis, MO, and points in AR. (Gateways eliminated: portion of Charlotte, NC, east of U.S. Hwy 21 and north of U.S. Hwy 74.)

MC 118831 (Sub-E79), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. *Liquid chemicals*, petrochemicals, anhydrous, ammonia, fertilizer and fertilizer materials), in bulk, in tank vehicles, from points in NC on and east of a line beginning at the NC-SC State line extending along U.S. Hwy 178 to junction NC Hwy 108, then along NC Hwy 108 to junction U.S. Hwy 64, then along U.S. Hwy 64 to junction NC Hwy 18, then along NC Hwy 18 to junction NC Hwy 268, then along NC Hwy 268 to junction U.S. Hwy 601, then along U.S. Hwy 601 to junction U.S. Hwy 52, then

along U.S. Hwy 52 to the NC-VA State line, to St. Louis, MO, and East St. Louis, IL. (Gateway eliminated: Charlotte, NC, and points in SC and Robertson County, TN.)

MC 118831 (Sub-E80), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid chemicals*, petrochemicals, anhydrous ammonia, fertilizer and fertilizer materials), in bulk, in tank vehicles, from points in NC on and east of a line beginning at the NC-SC State line extending along U.S. Hwy 321 through Gastonia to junction NC Hwy 275, then along NC Hwy 275 to junction NC Hwy 16, then along NC Hwy 16 to junction NC Hwy 150, then along NC Hwy 150 to junction U.S. Hwy 21, then along U.S. Hwy 21 to junction NC Hwy 268, then along NC Hwy 268 to junction U.S. Hwy 601, then along U.S. Hwy 601 to junction U.S. Hwy 52, then along NC Hwy 52 to the NC-VA State line, to points in AR. (Gateways eliminated: Charlotte, NC, points in SC and Robertson County, TN.)

MC 118831 (Sub-E81), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid chemicals*, petrochemicals, anhydrous ammonia, fertilizer and fertilizer materials), in bulk, in tank vehicles, from points in NC on and east of a line beginning at the NC-SC State line extending along U.S. Hwy 321 through Gastonia to junction NC Hwy 275, then along NC Hwy 221 northward to junction NC Hwy 150, then along NC Hwy 150 to Shelby, then along NC Hwy 18 to junction unnumbered highway through Connelly Springs and Whitnel to junction Alt U.S. Hwy 321, then along Alt U.S. Hwy 321 to Lenoir, then along NC Hwy 90 to Hiddenite, then along unnumbered highway to junction NC Hwy 901, then along NC Hwy 901, to junction U.S. Hwy 21, then along U.S. Hwy 21 to Elkin, then along NC Hwy 268 to junction U.S. Hwy 601, then along U.S. Hwy 601 to junction U.S. Hwy 52, then along U.S. Hwy 52 to the NC-VA State line, to points in AR on and west of a line beginning at the Mississippi River and extending along the River southward to Memphis, then along I Hwy 40 to junction U.S. Hwy 70, then along U.S. Hwy 70 to junction U.S. Hwy 79, then along U.S. Hwy 79 to Marianna, then along AR Hwy 1 to junction AR Hwy 54, then along AR Hwy 54 to

junction AR Hwy 83, then along AR Hwy 83, to Monticello, then along AR Hwy 4 to Hampton, then along U.S. Hwy 167 to the AR-LA State line. (Gateways eliminated: Charlotte, NC, points in SC and Robertson County, TN.)

MC 118831 (Sub-E86), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid chemicals*, in bulk, from Charlotte, NC, to St. Louis, MO, East St. Louis, IL, and points in AR. (Gateway eliminated: Robertson County, TN.)

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC-115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission *within 20 days* from the date of this publication. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the *Federal Register*, subject to its tariff publication effective date.

HC-27-79 (Special certificate—Used household goods), filed October 16, 1979. Applicant: LINCOLN LAND MOVING & STORAGE, INC., P.O. Box 1190, Number 1 Lincoln Land Way, Champaign, IL 61820. Representative: J. W. Anderson (same address as applicant). Authority sought: Between points in Champaign, Clark, Coles, Cumberland, Douglas, Edgar, Ford, Iroquois, Vermillion, Kankakee, Livingston, Marshall, Greene, McDonough, Morgan, Pike, Schuyler, Logan, Macon, Menard, Moultrie, Piatt,

Sangamon, Shelby, Adams, Calhoun, Cass, Fulton, McLean, Peoria, Stark, Tazwell, Woodford, Christian, DeWitt, Mason, Hancock, Brown counties, IL, serving Chanute Air Force Base, IL, By the Commission.

Agatha L. Mergenovich,

(FR Doc. 79-36455 Filed 11-23-79; 8:45 am)

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the *Federal Register* publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the *Federal Register*. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 196

October 30, 1979.

MC 25798 (Sub-388TA), filed October 1, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as

applicant). *General commodities* (except commodities in bulk, those which because of size or weight require the use of special equipment, household goods as defined by the Commission, articles of unusual value, and Classes A and B explosives) from the facilities of 3M Corporation at St. Paul, MN to Miami, FL for 180 days. Supporting shipper(s): 3M Corporation, 3M Center, St. Paul, MN 55101. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 52579 (Sub-193TA), filed September 21, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, Traffic Manager, One Gilbert Drive, Secaucus, NJ 07094. Wearing apparel hanging loose and in cartons from plantsites of Marlene Industries Corp. at Loris, SC and Decaturville and Hartsville, TN to facilities of K-Mart Apparel Corp. at Alsip, IL; Carson, CA; Forest Park, GA; and North Bergen, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Marlene Industries Corp., 1372 Broadway, New York, NY 10018. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 52579 (Sub-194TA), filed September 21, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, One Gilbert Drive, Secaucus, NJ 07094. Wearing apparel on hangers and in packages, along with uncut material and wearing apparel accessories, supplies and equipment used in the conduct of manufacturing and selling of wearing apparel between Crystal Springs, MS and New York, NY commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stanley Michael, Inc., 114 West 26th Street, New York, NY 10001. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 52579 (Sub-195TA), filed September 24, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Herbert Burstein, Esq., Suite 2373, One World Trade Center, New York, NY 10048. Such merchandise as is dealt in by retail department stores from New York, NY commercial zone to the facilities of Rich's, a Division of Federated Stores, Inc. located at Stone Mountain, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rich's, 4401 Jarr Parkway, Stone Mountain, GA 30083. Send protests to: Robert E. Johnston, DS,

ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 52709 (Sub-373TA), filed September 17, 1979. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). *Wine and brandy* (except in bulk), from points in CA to points in CO for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Ledo-Dionysus, Inc., 5757 East 42nd Ave., Denver, CO 80216. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 52709 (Sub-376TA), filed September 11, 1979. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). *Petroleum products and lubricating oils (except in bulk), in containers* from the facilities of Mobil Oil Corp. at or near Omaha, NE to all points in WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobil Oil Corp., Suite 522, Campbell Centre, 8350 N. Central Expressway, Dallas, TX 75206. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 56879 (Sub-144TA), filed September 12, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave. SW., Atlanta, GA 30310. Representative: David L. Capps (same address as applicant). *Crude silicon carbide* from Niagara and Erie Counties, NY to points in Elbert County, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bicknell Mfg. Co., Elberton, GA 30635. House of Pfaff, Elberton, GA 30635; Olegethrope Tool & Supply, Elberton, GA 30635; Granite Sales & Supply Co., Elberton, GA 30635. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peach tree St., NW, Rm. 300, Atlanta, GA 30309.

MC 59668 (Sub-15TA), filed September 21, 1979. Applicant: HAROLD G. CLINE, INC., Harding Highway & DuPont Road, Penns Grove, NJ 08069. Representative: M. Bruce Morgan, Esquire, 104 Azar Bldg., Glen Burnie, MD 21061. Contract, irregular, chemicals, dyes, dyestuffs and colors, motor fuel antiknock compound, solidified carbon (dry ice), eductors, eductor parts, mixing charts, drums, cylinders, carboys, barrels, and other empty containers and such materials, equipment and supplies as are used in conjunction with the manufacture, sale, or distribution of chemicals, dyes, motor fuel antiknock compound, or material sold by such manufacturers in the ordinary course of their business.

Between E.I. DuPont's Chambers Workplant at Deepwater, NJ and New Castle, DE and three miles thereof on the one hand, and on the other, all points in MD, PA, CT, MA, DE, NY, RI and VA, for 180 days. Supporting shipper(s): E.I. DuPont de Nemours & Co., Inc., 1007 Market Street, Wilmington, DE 19898. Send protests to: Joel Morris, D/S, ICC, 744, Broad St., Room 522, Newark, NJ 07102.

MC 78228 (Sub-146TA), filed September 10, 1979. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Iron and steel articles* from the facilities of Eastern Stainless Steel Co., Div. of Eastmet Corp., at Baltimore, MD to points in AR, DE, IA, MO, NJ, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eastern Stainless Steel Co., Div. of Eastmet Corp., P.O. Box 1975, Baltimore, MD 21203.

MC 88368 (Sub-39TA), filed September 21, 1979. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, MO 64030. Representative: C. Max Stewart (same as applicant). *Recreational park, restaurant, playground and show furniture, fixtures and equipment, materials and supplies used with the foregoing commodities*. From the facilities of Miracle Recreation Equipment Company at or near Grinnell (Poweshiek County) IA to points in AL, CO and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miracle Recreation Equipment Company, P.O. Box 275, Grinnell, IA 50112. Send protests to: Vernon Coble, D/S, 600 Federal Bldg., 911 Walnut St., Kansas City, 64106.

MC 91568 (Sub-2TA), filed September 24, 1979. Applicant: PHIL WAGNER TRUCK SERVICE, INC., Box 768, Great Bend, KS 67530. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Machinery, equipment, materials and supplies used in or in connection with, the discovery, development, production refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products (except complete drilling rigs moving by one or more vehicles) and Machinery, materials, equipment and supplies use in or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof*, between points in KS on the one hand, and points in CO, east

of the Continental Divide and points in NE west of U.S. Hwy 281, on the other hand, for 180 days, common, irregular; Supporting shippers: Jomax Construction Co., P.O. Box 701, Great Bend, KS 67530, N.L. Acme Tool Co., P.O. Box 196, Great Bend, KS 67530, National Supply Co., 5215 West 10th, Great Bend, KS 67530, Central Oilfield Supply, 3501 West 10th Great Bend, KS 67530, Midwestern Supply Co., 310 Petroleum Bldg., Wichita, KS 67202, Oil Specialty Warehouse, 910 Kennedy, Great Bend, KS 67530, Inter-Continental Pipe and Steel Inc., 8340 Meadow Rd, Suite 134, Dallas, TX 75231, Republic Supply Co., P.O. Box 451, Garden City, KS 67846, Bovaird Supply Co., P.O. Box 48 Great Bend, KS 67530; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 103798 (Sub-47TA), filed September 24, 1979. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Meat, meat products, meat by-products, articles distributed by meat packinghouses and such commodities as are used by meat packers (except hides and commodities in bulk)* between the facilities of Lauridsen Foods, Inc. at or near Britt, IA and the facilities of Armour and Company at or near Mason City, IA, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, MN, MT, NE, NV, NM, OR, UT, WA and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 105269 (Sub-82TA), filed September 20, 1979. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake Street, P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. *Wire Baskets and Plastic Milk Cartons* having subsequent rail transportation; from Battle Creek, MI and its commercial zone, to Chicago, IL and its commercial zone. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Wire Company, 27 Fonda Street, Battle Creek, MI 49016. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Building, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 106119 (Sub-194TA), filed September 19, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O.

Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Rotary biological contractor treatment plants*, from the facilities of Clow Corporation, at or near Richwood, KY, to points in CA, LA, MI, NY, OH, OK, PA, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clow Corporation, Manager Rates and Services, 1211 West 22nd Street, Oak Brook, IL 60521. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 109478 (Sub-152TA), filed September 19, 1979. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110, Gay Road, North East, PA 16428. Representative: Robert D. Gunderman, Esq., 710 Statler Building, Buffalo, New York 14202. *Frozen meat*, from Folcroft, PA to Greensboro, N.C., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Equity Meat Corporation, Pennsylvania Division, 600 Kaiser Drive, Folcroft, PA 19032. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th Street, Philadelphia, PA 19106, Room 620.

MC 190689 (Sub-362TA), filed September 12, 1979. Applicant: W. S. HATCH CO., 843 South 800 West, Salt Lake City, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101. *Fish oil*, in bulk from Blaine, WA to Buhl, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilbur-Ellis, P.O. Box 332, Ogden, UT 84402. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 110659 (Sub-29TA), filed September 10, 1979. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia St. West, Charleston, WV 25302. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. (1) *Malt beverages in containers*, (2) *automobile bumpers and (3) used empty shipping devices and containers upon return* from (1) Milwaukee, WI to Huntington, WV; in (2) from Huntington, WV to Marysville, MI and in (3) from Huntington, WV to Milwaukee, WI and from Marysville, MI to Huntington, WV for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Atomic Distributing Co., 417 Second Ave., Rear, Huntington, WV 25701, Houdaille Industries, Inc., P.O. Box 2086, Huntington, WV 25721. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101

North 7th Street, Room 620, Philadelphia, PA 19106.

MC 110988 (Sub-403TA), filed September 17, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Neil Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Molasses, animal feeds, and blends thereof*, in bulk, between Chicago, IL and points in its commercial zone and points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Knappen Molasses Co., 13550 S. Indiana, Chicago, IL 60627. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 111548 (Sub-23TA), filed September 28, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28837. Representative: Edward G. Villalon, 1032 Penn. Bldg., Penn. Ave. and 13th St., NW, Washington, DC 20004. *Parts, materials and supplies for the manufacture of power transmission chains, chains belting or sprocket between Indianapolis, IN and Morganton, NC*, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): FMC Corporation Chain Division, 220 S. Belmont, Box 346B, Indianapolis, IN 46206. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd, Rm CC516, Charlotte, NC 28205.

MC 112989 (Sub-109TA), filed September 20, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, Oregon 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, Oregon 97405, 503-747-1283. *Lumber, lumber mill products, wood products and particleboard* from plantsites of Willamette Industries, Inc. located at Ben, Albany, Dallas, Foster, Griggs, Lebanon, Millersburg, Springfield, Sweet Home, and Waterloo, Oregon to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Michigan, Nebraska, and Wisconsin, for 180 days. Supporting Shipper(s): Willamette Industries, Inc., P.O. Box 907, Albany, OR 97321. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 113678 (Sub-842TA), filed Sept. 14, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Foodstuffs (except commodities in bulk)* from facilities of Idaho Frozen Foods, at or near Twin Falls, ID to points in CA, FL, AL, NC, SC, TN, KY, and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Idaho Frozen Foods, P.O. Box 128, Twin Falls,

ID 83301. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-843TA), filed October 1, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner, (same as above). *Foodstuffs*, from CA, OR, WA, to points in AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Topco Associates Incorporated, 7711 Cross Point Road, Skokie, IL 60076. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113908 (Sub-478TA), filed September 24, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same as applicant). *Cider stock*, in bulk, from Golden Eagle, IL and its commercial zone, to Kansas City, MO and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Speas—Div. of Pillsbury Company, 608 Second Avenue South, Main Station 929, Minneapolis, MN 55402. Send protests to: Vernon Coble D/S, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-479TA), filed September 24, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same as applicant). *Fruit juice and fruit juice concentrates, in bulk*, from Mission, TX and its commercial zone to Kansas City, MO and its commercial zone. For 180 days. Supporting Shipper(s): Speas, Division of Pillsbury Company, 608 Second Avenue South, Main Station 929, Minneapolis, MN 55402. Send protests to: Vernon Coble D/S, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 114818 (Sub-20TA), filed September 13, 1979. Applicant: MOTOR CARGO, P.O. BOX 2351, Salt Lake City, UT 84110. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. *Common carrier: Regular Routes: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, (1) between Las Vegas, NV and Los Angeles, CA, serving no intermediate points, from Las Vegas, NV, over Interstate Highway 15 to junction Interstate Highway 10, and then over Interstate Highway 10 to Los Angeles, CA and return over the same route, (2) Between Reno, NV and Los Angeles, CA, serving no intermediate points, over U.S. Highway 395 to junction Interstate Highway 15, then over Interstate Highway 15 to junction

Interstate Highway 10, then over Interstate Highway 10 to Los Angeles, CA, and return over the same route. (3) Between Las Vegas, NV and Nogales, AZ, serving all intermediate points, over U.S. Highway 93 to junction Interstate Highway 10, over Interstate Highway 10 to junction Interstate Highway 19, and over Interstate Highway 19 to Nogales, AZ, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are approximately 92 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 117119 (Sub-777TA), filed September 14, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McClean (same address as applicant). *Fungicides* (except commodities in bulk), from (a) Gastonia and Charlotte, NC to Caldwell, ID; Minneapolis, MN; Lubbock, TX; Phoenix, AZ; Memphis, TN; Fresno, CA; Portland, OR; Carmel, IN; and Fargo, ND; (b) Marsing, ID to Carmel, IN; Memphis, TN; Minneapolis, MN; Fargo, ND; Lubbock, Bryan and Weslaco, TX; Phoenix, AZ; Scott and Stoneville, MS; Bakersfield, CA; Des Moines, Ames, and Bryant, IA; Alexandria, LA; and Madison, WI; (c) Maryland Heights, MO to Marsing, ID and Portland, OR; (d) Dayton, NJ; Philadelphia, PA and Detroit, MI to Marsing, ID; and (e) Niagara Falls, NY to Yakima, WA, for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Gustafson, Inc., 6350 LBJ Freeway, Suite 180, Dallas, TX 75240. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-778 TA), filed September 20, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Dennis D. Shaw, (same address as applicant). *Frozen foods* from facilities of Pet, Inc., Frozen Foods Division, Chickasha, OK and Public Storage used by Pet at Tulsa, OK, to points in GA, IL, IN, KY, MD, MI, MN, MO, NJ, NY, NC, OK, PA, SC, TN, VA, WV, WI and DC, for 180 days. Supporting shipper(s): Pet, Incorporated, Frozen Foods Division, 400 S. Fourth St., St. Louis, MO 63102. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 118989 (Sub-230 TA), filed September 20, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 S.

9th St., Milwaukee, WI 53221. Representative: Rolland K. Draves, (same address as applicant). *Plastic containers* from New Berlin, WI to Lithonia, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schoeneck Containers, Inc., 2160 S. 170th St., New Berlin, WI 53151. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 119349 (Sub-32 TA), filed September 24, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. *Foodstuffs*, from the facilities of Foodways National, Inc. at or near Wethersfield and Hartford, CT, and New Paltz, NY to Burley, ID, Dallas, TX, Chicago, IL, Bonner Springs, KS, Syracuse and New York, NY, Allentown, PA, Landover, MD, Philadelphia, PA, Atlanta, GA, Massillon, OH, Clover, WI, Greenville, MI, Anaheim, CA, Williamsburg, VA, and points in FL, NJ, and DE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foodways National, Inc., 1000 Silas Ave, Dean Hwy., Wethersfield, CT 06109. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 119388 (Sub-19 TA), filed September 20, 1979. Applicant: Glen R. Ellis, Inc., 3911 Jermone Ave., Chattanooga, TN 37407. Representative: Blaine Buchanan, 1024 James Bldg., Chattanooga, TN 37402. *Paper and paper products*, from the facilities of Bowater Southern Paper Corp. at or near Calhoun, TN to points in KY on and West of Interstate 65, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bowater Southern Pier Corp., Calhoun, TN 37309. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 119988 (Sub-217 TA), filed September 20, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Electric storage batteries, spent batteries, spent batteries, and materials and supplies* used in the manufacture and distribution of electric storage batteries, including lead pigs and ingots (except in bulk) between the facilities of General Battery Corporation at or near Dallas, TX; Hefflin, LA; City of Industry, DA; Clearfield, UT; Frankfort, IN; Greer, SC; Saline, KS; and Selma, AL, for 180

days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Battery Corporation, P.O. Box 1262, Reading, PA. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 119988 (Sub-223TA), filed September 26, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Plastic articles and plastic materials* (except in bulk) from the facilities of St. Regis Paper Co. in Dallas, TX, to Atlanta, GA; Birmingham, AL; West Hazelton, PA; and Seattle, WA, and points in IN, IL, MO, KS, WI, IA, OK, and AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Regis Paper Company, 150 East 42nd St., New York, NY 10017. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. No. 8610, Houston, TX 77002.

MC 120028 (Sub-17TA), filed September 21, 1979. Applicant: CRAW CARTING, INC., 160 Despatch Drive, P.O. Box 267, East Rochester, NY 14445. Representative: Herbert M. Canter, Esq., and Benjamin D. Levine, Esq., 305 Montgomery St., Syracuse, NY 13202. *Electrical household appliances accessories and parts therefor, and materials, equipment, supplies and parts used in the manufacture, packaging, sale and distribution thereof*, between Buffalo, Castile, Perry, and Rochester, NY; Girard and McKees Rocks, PA; Lancaster, OH; Muskogee, OK; Swainsboro, GA; and Woodville, WI, for 180 days. Supporting shipper(s): Van Wyck International Corporation, 49 Windsor Avenue, Mineola, NY 11501. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 121568 (Sub-19TA), filed Sept. 17, 1979. Applicant: HUMBOLDT EXPRESS, INC., Hill Ave., P.O. Box 100906, Nashville, TN 37210. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. *General Commodities, except Classes A and B explosives, household goods, commodities in bulk, and articles requiring special equipment*, (1)

Between Memphis, TN and Harrison, AR, from Memphis via I-55 to junction U.S. Hwy 64, then via U.S. Hwy 64, then via U.S. Hwy 67 to junction AR Hwy 36, then via AR Hwy 36 to junction AR Hwy 124, then via AR Hwy 124 to junction U.S. Hwy 65, then via U.S. Hwy 65 to Harrison, and return over the same route, serving the junction of U.S. Hwy 65 and 62 for purposes of joinder only. (2) Between junction U.S. Hwy 65 and

62, and Mountain Home, AR, from junction U.S. Hwy 65 and 62, via U.S. Hwy 62 to Mountain Home, AR, and return over the same route, serving all intermediate points, for 180 days. NOTE: Applicant seeks authority to tack the above authority with its existing authority at Memphis, TN, to interline traffic with other carriers at all authorized points, and to serve the commercial zones of all authorized points. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 67 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 121608 (Sub-5TA), filed October 1, 1979. Applicant: ACME DELIVERY SERVICE, INC., 4250 Oneida Street, Denver, CO 80218. Representative: Joseph F. Nigro, 400 Denver Hilton Office Building, Denver, CO 80202. *Contract-irregular—Copying and duplicating equipment and office and business machines including parts, accessories and supplies* used in the manufacture and installation of such commodities, crated or uncrated, requiring specialized handling in the installation, between the Acme warehouse in Denver, Adams, Arapahoe, Jefferson, and/or Boulder counties and points in WY, for 180 days. Supporting shipper(s): Xerox Corporation, 3000 Des Plaines Ave., Des Plaines, IL 60018. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 124679 (Sub-106TA), filed September 18, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). *Plumbing materials and supplies, and materials used in the manufacture and distribution of plumbing materials* supplies, from Ford City, PA and Salem, OH, to points in AZ, CA, ID, NV, UT, OR, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eljer Plumbingware, Wallace Murray Corporation, No. 3 Gateway Center, Pittsburg, PA 15222. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 126118 (Sub-197TA), filed September 17, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Such commodities as are dealt in by manufacturers and distributors of*

nutrition supplements and health foods between Orange County, CA, on the one hand, and points in an east of the states of CO, MT, NM, and WY, on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Plus Products, Wayne J. Rodeman, Traffic Manager, 2681 Kelvin Avenue, Irvine, CA 92714. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-198TA), filed September 18, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Such articles as are dealt in by manufacturers, retailers and distributors of carpets* between points in Los Angeles and Orange Counties, CA on the one hand, and on the other, points in the United States in and east of CO, MT, NM, and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Hollytex Carpet Mills, Curt A. Rigney, Shipping Supervisor, 525 South Seventh Street, City of Industry, CA. (2) Customweave Carpet, Inc., Vincent A. Bick, Traffic Manager, 7499 Hazard, Westminster, CA. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126118 (Sub-199TA), filed September 20, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Decorative stone, in bags*. From Whitestone and Rockmart, GA to points in AR, IA, KS, MN, MO, NE, ND, OK, SD, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crown Stone Company, Robert J. McLeod, President, 817 Sante Fe, Kansas City, MO 64101. Send protests to: D/S Carroll Russell ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 126679 (Sub-17TA), filed September 28, 1979. Applicant: DENNIS TRUCK LINE, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Iron and steel articles, steel roof deck and bar joist*, from Columbia and Florence, SC to points in AL, FL, GA, MS, and TN for 180 days. Supporting shipper(s): Cowart Iron Works, Inc., P.O. Box 237, Midville, GA 30441. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 129908 (Sub-16TA), filed September 14, 1979. Applicant: AMERICAN FARM LINES, INC., 8125 Southwest 15th Street, P.O. Box 75410, Oklahoma City, OK 73107.

Representative: T. J. Blaylock (same address as applicant). *Canned goods*, from the facilities of Musco Olive Products, Orland, CA, to IL, IN, MI, OH, PA, CO, TX, NY, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Musco Olive Products, Inc., Swift & 5th Steets, Orland, CA 95963. Send protests to: Connie Stanley, ICC, Rm. 240, 215 NW 3rd, Oklahoma City, OK 73102.

MC 133189 (Sub-32TA), filed September 19, 1979. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., c/o Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. (1) *Iron and steel articles*, from the facilities of Maxson Corporation located at St. Paul, MN, and Cudahy, WI, to points in MN, IL, IN, MI, IA, NE, ND, and SD; and (2) *Material, equipment and supplies used in the manufacture and distribution of iron and steel articles*, from the destination points in (1) above to the facilities of Maxson Corporation located in St. Paul, MN, and Cudahy, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Maxson Corporation, Traffic Manager, 500 Como Avenue, St. Paul, MN. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 134599 (Sub-176TA), filed September 17, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2158 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Contract carrier: Irregular route: Carpet cushion* from the facilities of Steiner-Lift Textile Products Co., at or near Nashville, TN, to points in the United States (except AK, HI, and TN), under continuing contract or contracts with Dayco Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dayco Corporation, P.O. Box 1004, Dayton, OH 45401. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 135678 (Sub-7TA), filed September 25, 1979. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 246, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Auto floor coverings, (carpeting; combined with carpet cushioning, or lining in pre-formed set contour conforming shapes other than flat)*, from the facilities of Collins & Aikman Corporation, Clinton, OK, to the General Motors Assembly

Plant, Fremont, CA and the Ford Motor Assembly Plants, located at Milpitas

MC 139349 (Sub-19TA), filed October 2, 1979. Applicant: E Z FREIGHT LINES,

Descriptions of Motor Carrier Certificates, 61 M.C.C. 209 & 766 (except bid and commodity in bulk) in

points in IA and NE for 180 days. An

SC 29673. Representative: Brian S. Stern, 06902. Send protests to: Marie E. Koier

Plant, Fremont, CA and the Ford Motor Assembly Plants, located at Milpitas and Pico Rivera, CA, for 180 days. Supporting shipper: Collins & Aikman Corporation, P.O. Box 580, Albermarle, NC 28001. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136258 (Sub-7TA), filed September 21, 1979. Applicant: HARDING TRUCKING, INC., P.O. Box 306, Whiting, IA 51063. Representative: D. Douglas Titus, Titus, Holman, Myers & Teichgraber, Suite 510 Benson Building, Sioux City, IA 51101. Contract carrier: irregular routes: *Hides and pelts* from LeMars, IA to Omaha, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dubuque Packing Company LeMars Iowa, P.O. Box 340, LeMars, IA 51031. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 136308 (Sub-91TA), filed September 14, 1979. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Such commodities as are dealt in, sold or distributed by department stores, and equipment, materials and supplies (except commodities in bulk) used in the conduct of such businesses* from North Bergen, NJ and points in its commercial zone and New York, NY and points in its commercial zone to Jackson, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: McRae's, P.O. Box 20040, Jackson, MS 39209. Send protests to: Alan Tarrant, D/S, ICC, Federal Building, Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 138469 (Sub-184TA), filed September 19, 1979. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60066. *Frozen foods*, (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Pet, Incorporated, located at or near Chickasha, OK, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NV, NM, NY, NC, OH, OR, PA, SC, TN, TX, UT, VA, WA, WV, & WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Pet Incorporated, Frozen Foods Division, P.O. Box 392, St. Louis, MO 63166. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 139349 (Sub-19TA), filed October 2, 1979. Applicant: E Z FREIGHT LINES, Gould & E. 46th Streets, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Contract carrier, irregular routes for 180 days. Outdoor grills, games and toys, playgrounds and gym apparatus, and chair and scooters from DuQuion, IL to points in CT, DE, MD, ME, MA, NH, NJ, NY, OH, PA, VA, VT and WV. Supporting shipper: Turco Manufacturing Co., 501 South Line Street, DuQuion, IL 62832. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 140389 (Sub-75TA), filed September 14, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Highway 77, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, 125 Milton Avenue, SE, Atlanta, GA 30315. *Meat, meat products, and meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)*. From the facilities of Swift & Company at Clovis NM, Guymon, OK, and Cactus, TX, to points in AL, FL, GA, NC, SC, and TN, for 180 days. Supporting shipper: Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Mabel E. Holston, T/A, ICC, Room 1618, 2121 Building, Birmingham, AL 35203.

MC 141138 (Sub-17TA), filed September 13, 1979. Applicant: STEVE SCHRANZ TRUCKING, INC., 350 Honeysuckle Lane, Belleville, IL 62221. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Roofing granules, in bulk*, from Annapolis, MD to the facilities of Celotex Corporation at Memphis, TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Celotex Corporation, a Subsidiary of Jim Walter Corp., 1500 North Dale Mabry Highway, Tampa, FL 33607. Send protests to: Annie Booker ICC—Room 1386, 219 South Dearborn, Chicago, IL 60604.

MC 142429 (Sub-4TA), filed September 20, 1979. Applicant: HORACE G. STROUD, d.b.a. STROUD TRUCK SERVICE, 11030 Weayer Street, South El Monte, California 91733. Representative: R.Y. Schureman, 1345 Wilshire Boulevard, Los Angeles, California 90017. *Contract; Irregular; Meat, meat products and meat by-products, and articles distributed by meat packing houses, as described in Sections A & B of Appendix I to the report in*

Descriptions of Motor Carrier Certificates, 61 M.C.C. 209 & 766 (except hides and commodities in bulk), in mechanically refrigerated equipment, from points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Texas and Wisconsin to points in California, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Foster Farms, Dir. of So. Cal. Sales & Distribution, 1000 Davis St., Livingston, California 93544. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 142559 (Sub-124TA), filed September 10, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. (1) *Automobile accessories and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk)* (a) between Waterville, MN, on the one hand, and, on the other, points in MA, MI, RI, NY, NJ, and PA and (b) between Boston and Chelsea, MA, on the one hand, and, on the other, points in NY and PA for 180 days. Supporting shipper(s): Mark fore/Vatco, Div of Beatrice Foods, 109 Brookline Ave., Boston, MA 02215. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 142958 (Sub-4TA), filed September 24, 1979. Applicant: EMERGENCY MEDICAL DELIVERIES, INC., 3613 Marine Rd, Toledo, OH 43609. Representative: Michael M. Briley, 300 Madison Ave., P.O. Box 2088, Toledo, OH 43603. (1) *Medicinal intravenous solutions, dialysis patient treatment kits, mineral water and liquid formaldehyde (except commodities in bulk in tank vehicles)*, and (2) *materials and supplies used in the administration of the commodities in (1) above (except commodities in bulk in tank vehicles)*, between Cincinnati, OH on the one hand, and on the other points in KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Travenol Laboratories, Inc., 1 Baxter Pkwy, Deerfield, IL 60015. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 143179 (Sub-21TA), filed September 24, 1979. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent, (same address as applicant). *Sponge Rubber, prime urethane and rebanded urethane carpet underlay padding* from Morris, IL to

points in IA and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sponge Cushion, Inc., Frank Raus, President, 900 Armstrong St., Morris, IL 60450. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 143739 (Sub-37TA), filed September 27, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter, (same address as applicant). *Fire retardant chemicals* from Phoenix, AZ, Boron and Carson, CA, Chicago, IL, Tulsa, OK and Seattle, WA and their respective commercial zones to Winnebago, MN, for 180 days. Supporting shipper(s): Patten Building Supply, Inc., P.O. Box 969, Winnebago, MN 56098. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144069 (Sub-13TA), filed September 17, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge, P.O. Box 5204, Charlotte, NC 28225. *Iron steel and plastic articles (1) between the facilities of Greensboro Pipe Co., at or near Greensboro, NC, on the one hand, and, on the other points in SC, GA, FL, AL, TN, KY, WV, OH, PA, MD, VA and DC (2) between the Ports at Baltimore, MD., Norfolk, VA, Wilmington, NC, Charleston, SC and Savannah, GA, on the one hand and, on the other, points in NC, SC, GA, FL, AL, TN, KY, WV, OH, PA, MD, VA and DC, for 1280 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Greensboro Pipe Co., P.O. Box 16168, Greensboro, NC 27406. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd, Rm CC518, Charlotte, NC 28205.*

MC 144688 (Sub-39TA), filed September 10, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 S. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Household cleaning products, water purifying compounds and dry acids (except in bulk)* from Jacksonville, FL and points in its commercial zone to the facilities of Purex Corp. at or near Atlanta, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Purex Corporation, 24600 S. Main Street, Carson, CA 90749. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peach tree St. NW., Room 300, Atlanta, GA 30309.

MC 144929 (Sub-3TA), filed September 17, 1979. Applicant: B & J TRUCKING, INC., Frontage Road, Route 3, Piedmont,

SC 29873. Representative: Brian S. Stern, 2425 Wilson Boulevard, Arlington, VA 22201. *Contract carrier, irregular routes: (1) Textiles* from the facilities of Monsanto Company at Decatur and Sand Mountain (near Guntersville), AL; Greenwood and Blacksburg, SC and Gonzalez, FL to points in OK. From facilities of Monsanto, NC, Inc., a wholly owned subsidiary of Monsanto Company, at Fayetteville, NC to points in OK. From the facilities of Fovil Manufacturing Company, Inc., a wholly owned subsidiary of Monsanto Company, at Foley, AL and Abbeville, SC to points in OK. From facilities used by Monsanto Company at Huntsville, AL to points in OK. (2) *Chemicals, feed supplements (not frozen), rubber preservatives, rubber accelerators, (except commodities in bulk)* from the facilities of Monsanto Company at Nitro and Dunbar, WV to points in CA. (3) *Plastic Granules (except in bulk)*, from the facilities of Monsanto Company, Gonzalez and Olive, FL to points in CA. (4) *Heat transfer agents or media* from Anniston, AL to points in CA. Supporting shipper(s): Monsanto Company, 800 North Lindergh Boulevard, St. Louis, MO 63168. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 145108 (Sub-11TA), filed September 28, 1979. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, POB 357, Gladstone, NJ 07934. *Contract carrier, irregular routes: Toilet preparations (except in bulk)*, from Totowa, NJ, to Los Angeles, CA, and Houston, TX; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chesebrough-Pond's Inc., John Street, Clinton, CT 06413. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 145108 (Sub-12TA), filed September 28, 1979. Applicant: BULLET EXPRESS, INC., 5600 First Avenue, Brooklyn, NY 11220. Representative: George A. Olsen, POB 357, Gladstone, NJ 07934. *Contract carrier, irregular routes: Toilet preparations (except in bulk)*, (1) from Pittsburgh, PA, to Chicago, IL; Atlanta, GA, Stamford, CT, Dallas, TX, and La Mirada, CA; (2) from La Mirada, CA, to Atlanta, GA, Dallas, TX, Chicago, IL, Detroit and Grand Rapids, MI, Portland, OR, and Stamford, CT; and (3) from New Haven, CT, to Jerome, ID; under a continuing contract or contracts with Clairol, Inc.; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clairol, Inc., One Blachely Road, Stamford, CT

06902. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 145738 (Sub-14TA), filed September 24, 1979. Applicant: East-West Motor Freight, Inc., P.O. Box 525, Selmer, TN 38375. Representative: Marc A. Pearl, Fifth Floor, 3390 Peachtree Rd. NE., Atlanta, GA 30328. *Chemicals (except in bulk) and such commodities as are used in the manufacture, production, distribution and sale of such chemicals*, from the facilities of Thiokol/Dynachem Corp. at or near Orange, Tustin and Irvine, Orange County, CA, to points in WI, IL, MS, AL, TN, KY, IN, MI, OH, GA, FL, SC, NC, VA, WV, MD, DE, NJ, PA, NY, CT, RI, MA, VT, NH and ME, and (2) from MS to the facilities of Thiokol/Dynachem at or near Orange County, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thiokol/Dynachem Corp., 2631 Michelle Dr., Tustin, CA 92680. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 145829 (Sub-11TA), filed September 20, 1979. Applicant: ETI CORP., P.O. Box 549, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier, irregular routes for 180 days. Zinc, zinc oxide, zinc dust, lead sheet, metallic cadmium, zinc dross, zinc residue, zinc skimmings, and materials, equipment and supplies used in the production of the foregoing commodities*, between the facilities of St. Joe Zinc Company located at Josephstown (Potter Township, Beaver County), PA on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper(s): St. Joe Zinc Company, Two Oliver Plaza, Pittsburgh, PA 15222. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145978 (Sub-4TA), filed September 19, 1979. Applicant: R & S TRUCKING, INC., RR 1, Box 123, Garretson, SD 57030. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. *Woodburning stoves, firebrick and attachments and parts*, from Grantsburg, WI; Eugene, OR; and Dover, OH and points in their respective commercial zones to points in SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dakota Energy Systems, Ltd., 1101 Blackhawk Street, Sioux Falls, SD 57104. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 146299 (Sub-5TA), filed September 10, 1979. Applicant: D. Q. SERVICE,

INC., 802 East Irving Park Road, Bldg., 1400 Pickens St., Columbia, SC

commodities (excepting commodities in bulk) between the facilities of Beatrice

INC., 802 East Irving Park Road, Bldg., 1400 Pickens St., Columbia, SC

City, IN 47348. Representative: Charles T. Cox (same address as applicant).

IN, and extending to points located throughout the United States for 180

Louis, MO—East St. Louis, IL commercial zone to the facilities of Beatrice

INC., 802 East Irving Park Road, Bensenville, IL 60106. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Industrial paint finishing equipment and materials, equipment and supplies (except commodities in bulk) used in the installation thereof* from Plymouth, MI to Kansas City, KS and Wagoner, OK for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Otto Durr, Inc., 40600 Plymouth Road, Plymouth, MI 48170. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146319 (Sub-2TA), filed September 13, 1979. Applicant: ELLIOTT LAKE FREIGHT LINES LIMITED, P.O. Box 70, Spragge, Ontario, Canada P0R 1K0. Representative: Robert D. Gunderman, Esq., 710 Statler Bldg., Buffalo, NY 14202. *Magnesium Hydroxide*, in bulk, in insulated tank vehicles equipped with mechanical temperature control devices; from Ludington, MI to ports of entry on the International Boundary line between the United States and Canada located in the upper peninsula of MI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rio Algom Limited, 120 Adelaide Street, W., Toronto, Ontario, Canada, M5H 1W5. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Bldg., 300 E. Michigan Avenue, Lansing, MI 48933.

MC 146578 (Sub-10TA), filed September 14, 1979. Applicant: PALMETTO MOTOR LINES, INC., 7153 Lone Oak Road, Spartanburg, SC 29303. Representative: Nina G. Shults, P.O. Box 6445, Spartanburg, SC 29304. *Textiles and textile products; cotton and synthetic fiber waster; synthetic fiber yarn and synthetic staple fiber*, between Spartanburg and Cherokee Counties, SC, on the one hand, and, on the other, points in GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armstrong Textiles, P.O. Box 395, Fairforest, SC 29336. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 146578 (Sub-11TA), filed October 2, 1979. Applicant: PALMETTO MOTOR LINES, INC., 7153 Lone Oak Road, Spartanburg, SC 29303. Representative: Nana G. Shults (same as above). *Can ends or tops, containers, S.U.*, between the facilities of Crown Cork and Seal, Cheraw, SC, on the one hand, and on the other, points in NC, GA, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crown Cork & Seal Co., Inc., 9300 Ashton Rd., Philadelphia, PA 19136. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400

Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 146648 (Sub-2TA), filed September 13, 1979. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Such commodities as are dealt in by retail and department stores (except commodities in bulk)*, from points in CA to the facilities of or used by Wal-Mart Stores, Inc. in AL, AR, IL, KS, KY, LA, MS, MO, OK, TN, and TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 146668 (Sub-4TA), filed September 19, 1979. Applicant: MICHAEL BENNETT TRUCKING, INC., 16 E. Amador, Seneca, KS 66538. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Dry soybean meal* from facilities of Farmland Industries, Inc., at or near St. Joseph, MO, to points in KS; for 180 days, common, irregular; SUPPORTING SHIPPER: Farmland Industries, Inc., 3315 N. Oak, Kansas City, MO 64116; SEND PROTESTS TO: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 146688 (Sub-7TA), filed September 21, 1979. Applicant: ROAD WEST, INC., 1315 E. Holt Blvd., P.O. Box 3637, Ontario, California 91761. Representative: Peter R. Atchison, 1315 E. Holt Blvd., P.O. Box 3637, Ontario, California 91761. *Contract; Irregular; paint, paint materials, supplies and related articles*, from Detroit and Ecorse, Michigan, to Los Angeles, Cerritos and Anaheim, California, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Inmont Corporation, Central Region Traffic Manager, 5935 Milford Avenue, Detroit, MI 48210. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 146798 (Sub-3TA), filed October 1, 1979. Applicant: SULLIVAN TRUCKING, INC., 1340 Umatilla Street, Denver, CO 80204. Representative: Richard P. Kissinger, 50 S. Steele St., Suite 330, Denver, CO 80209. (1) *Foodstuffs*; (2) *Pharmaceutical materials, supplies and products*; (3) *Chemicals*; (4) *Dairy products*; (5) *Such commodities as are dealt in by distribution or consolidation warehouses for use in connection with the commodities described in (1), (2), (3), and (4), and (6) Exempt commodities when moving with regulated*

commodities (excepting commodities in bulk), between the facilities of Beatrice Cold Storage Warehouse at or near Denver, CO, on the one hand, and, on the other, points in CA, ID, MT, OR, UT, WA and WY for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Beatrice Cold Storage Warehouse, 1801 Wynkoop, Denver, CO 80202. Send protest to: District Supervisor, R.L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 146819 (Sub-2TA), filed September 1979. Applicant: TRANS WEST CARRIERS, INC., 14416 Slover Avenue, Fontana, California 92355. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, California 91791. *General commodities (except those of unusual value; classes A and B explosives; ammunition; parts of ammunition; household goods as defined by the Commission; commodities in bulk; and those requiring special equipment)*, between points in Los Angeles, Ventura, Orange, Riverside, and San Bernardino Counties, California and points in Arizona (restricted to the traffic originating from or destined to LAWI/CSA CONSOLIDATORS, INC.) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): LAWI/CSA Consolidators, Inc., Manager of Traffic, 805 North Brand Blvd., Glendale, California 91203. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 146949 (Sub-10TA), filed September 21, 1979. Applicant: MCINVALE TRUCK LINES, INC., 5964 Hwy. 18 W., Jackson, MS 39209. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. (1) *Household appliances (a) from the facilities of National Presto Industries, Inc. at or near Canton, MS on the one hand, and on the other, Alamogordo, NM; (b) from the facilities of National Presto Industries, Inc. at or near Canton, MS to points in CA; and (2) Equipment, materials and supplies (except in bulk, in tank vehicles) used in the manufacture of household appliances in the reverse direction in (a) and (b) above*, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Presto Industries, Inc., 3925 North Hastings Way, Eau Claire, Wisconsin 54701. Send protests to: Alan Tarrant, D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 146978 (Sub-2TA), filed September 17, 1979. Applicant: CAMERON TRUCKING COMPANY, INC., 602 North Walnut Street, P.O. Box 24, Hartford

City, IN 47348. Representative: Charles T. Cox (same address as applicant). *Glass containers and fibreboard materials* between Dunkirk, IN and points in MI, OH, IL, KY, MO and WI for 180 days. Supporting shipper: Kerr Glass Manufacturing Corp., Dunkirk, IN 47336. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 146989 (Sub-4TA), filed September 20, 1979. Applicant: GOLDEN-HAMMONS CARTAGE CO., d.b.a. G & H CARTAGE, 1749 Florida, Memphis, TN 38109. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *General commodities, moving on freight forwarders bills of lading*, between Memphis, TN; St. Louis, MO; Kansas City, MO; Cincinnati, OH and Cleveland, OH, for 180 days. Supporting shipper(s): Burlington Northern Air Freight, Inc., 2785 Rudder Rd., Memphis, TN. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 147639 (Sub-1TA), filed September 17, 1979. Applicant: SUNDOWN FARMS, INC., 683 Eastland Drive South, Twin Falls, ID 83301. Representative: John J. Heizer, 1001 Shoshone Street North, Twin Falls, ID 83301. *Pipe*, from Twin Falls, ID to points in MT, UT, WY, CA, AZ and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alumax Irrigation Prod's, Box 1425, Twin Falls, ID 83301. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 147789 (Sub-1TA), filed September 19, 1979. Applicant: CLIFFORD N. BELEW and ANITA L. BELEW d.b.a. BELEW WESTERN, 107 East Ravalli, Hamilton, MT 59840. Representative: Anita L. Belew (same address as applicant). *Precut lathed end-notched logs and component parts for log homes* from Ravalli County, MT to points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rocky Mountain Log Homes, P.O. Box 1255, Hamilton, MT 59840. Send protests to: Paul J. Labane, DS, ICC, 2802 First Avenue North, Billings, MT 59101.

MC 147848 (Sub-1TA), filed September 14, 1979. Applicant: A-1 EXPRESS CHARTERED BUS SERVICE, INC., 5910 E. 45th Street, Indianapolis, IN 46226. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Passengers and their baggage, in charter operations* beginning and ending in Indianapolis,

IN, and extending to points located throughout the United States for 180 days. Supporting shippers: 10. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 148038 (Sub-1TA), filed September 25, 1979. Applicant: BRUCE WILLEY, 2200 N. 18th St., Enid, OK 73701. Representative: C. L. Phillips, Rm. 248- Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Animal, fish, or poultry feed and feed ingredients*, in bulk or in bags, between points and places in the states of AR, KS, MO, NE, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034. The Pillsbury Company, Feed Ingredients Div., Box 1388 Enid, OK 73701. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 148189 (Sub-1TA), filed September 17, 1979. Applicant: ALFRED R. HENRY, Route 1, Box 247, Loneoke, AR 72086. Representative: Faber D. Jenkins, 300 Spring Building, Suite 910, Little Rock, AR 72201. *Steel and hot rolled steel items*, between Newport, AR and Houston, TX, and Arkadelphia, AR and its commercial zone, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Interstate Steel Supply, Inc., P.O. Box 323, Arkadelphia, AR 71923. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148178 (Sub-1TA), filed September 21, 1979. Applicant: Forrest D. Belvin d.b.a. BELVIN TRUCKING, 277 W. Sierra, Clovis, CA 93612. Representative: Forrest D. Belvin (same address as above). *Contract carrier; irregular routes: Air conditioning and heating units, related parts, materials and supplies*, from Medina, OH to NV and CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westinghouse Electric Corp., 5005 Itesstah Dr., Norman, OK 73069. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 148179 (Sub-2TA), filed September 21, 1979. Applicant: V S ENTERPRISES, INC., 1717 N. Broadway, St. Louis, MO 63107. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Glass containers* from the facilities of Midland Glass Company, Inc., Terre Haute, IN to St. Louis, MO and materials and supplies used in the manufacture and distribution of glass containers, except in bulk, from the St.

Louis, MO-East St. Louis, IL commercial zone to Terre Haute, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 148189 (Sub-1TA), filed September 21, 1979. Applicant: THE OVERLAND COURIER CORP., 238 West St., Annapolis, MD 21401. Representative: Edward F. Schiff, 133 New Hampshire Ave., NW, Washington, DC 20036. *Automotive parts (truck)* between points in the Counties of Anne Arundel, Baltimore, Calvert, Charles, Howard, Montgomery, Prince Georges and Saint Marys and the City of Baltimore on the one hand, and, on the other, (1) points in the following counties: Arlington, Fairfax and Loudoun and the City of Alexandria, all in the Commonwealth of VA; and (2) Washington, DC for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sanitation Specialists Co., Inc., 207 Chinquapin Road, Annapolis, MD 21401. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 148208 (Sub-2TA), filed September 28, 1979. Applicant: FUR BREEDERS AGRICULTURAL COOPERATIVE, P.O. Box 295, Midvale, UT 84078. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Motor vehicle parts and accessories and materials and supplies used in the manufacture, packaging and distribution thereof* (1) from the facilities of Fram Corporation, a Bendix Company, at Clearfield, UT to CA, OR & WA and (2) Between the facilities of Fram Corporation at Greenville, OH, Fostoria, OH, Clearfield, UT, Providence, RI and Nevada, MO., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fram Corporation, Clearfield Plant, Building C-13, Freeport Center, Clearfield, UT 84018. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 148229 (Sub-1TA), filed September 27, 1979. Applicant: ANTHONY & DAUNER, INC., Star Route, Pratt, KS 67124. Representative: Paul V. Dugan, 2707 W. Douglas, Wichita, KS 67213. *Animal, fish or poultry feed and/or feed ingredients in bulk or in bags* from facilities of Ralston Purina Company at or near Oklahoma City, OK, Ft. Worth, TX, Wichita, KS, Liberal, KS & Kansas City, MO, on the one hand, and all other points in the states of OK, NE, TX, AR, KS, MO, CO & IA on the other; for 180 days, common, irregular; Supporting

shipper: Ralston Purina Co., 13700 N. Lincoln, Blvd., Edmond, OK 73034; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS. 67202. An underlying ETA seeks 90 days authority.

MC 148329 (Sub-1TA), filed September 25, 1979. Applicant: AOL EXPRESS, INC., 6441 C Street, Anchorage, AK 99502. Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101. *General commodities*, except class A & B explosives and household goods as defined by the Commission, between Seattle and Tacoma, WA and their commercial zones on the one hand, and Anchorage, AK and its commercial zone, on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: J. B. Gottstein & Company, Inc., 1011 No. 6th Ave., Kent, WA 98031. Send protests to: D/S Roy S. Ehrhart II, ICC, 701 C Street, Box 7, Anchorage, AK 99513.

MC 148339 (Sub-1TA), filed, September 24, 1979. Applicant: WILLIAM POTT & SON, INC., 5547 Cheviot, Cincinnati, OH 45239. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are used, manufactured, or dealt in by manufacturers of bedding or upholstery, except commodities in bulk between Mason, OH, on the one hand, and on the other, points in IN, IL, KY, MI, MO, OH, PA, TN, VA, and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Leggett & Platt, Inc., State Rt. 741 and Bethany Rd., Mason, OH 45040. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.*

MC 147318 (Sub-1TA), filed October 1, 1979. Applicant: DEEP SOUTH TRUCKING, INC., P.O. Box 304, Purvis, MS 39475. Representative: Kent F. Hudson, 202 Main St., Purvis, MS 39475. *Titanium dioxide*, except in bulk, in tank vehicles, from the plant site of E. I. du Pont de Nemours and Co. in Hancock County, MS, to points in MS, for export, IL, IN, and WI, for 180 days. Supporting shipper: E. I. du Pont de Nemours & Company, 1007 Market Street, Wilmington, Delaware 19898. Send protests to: Alan Tarrant, D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

Notice No. 197

October 30, 1979.

MC 1494 (Sub-27TA), filed October 9, 1979. Applicant: GROSS COMMON CARRIER, INC., 660 W. Grand Ave., Wisconsin Rapids, WI 54494. Representative: Rolfe E. Hanson, 121 W. Doty St., Madison, WI 53703. *General*

commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) (1) Between Milwaukee, WI and Portage, WI: From Milwaukee over WI Hwy 190 to its junction with U.S. Hwy 16, thence over U.S. 16 to Portage, WI and return over the same route. Service is authorized to & from all intermediate points. (2) Between Milwaukee, WI & Madison, WI: From Milwaukee over U.S. I-94 to Madison, WI, and return over the same route. Service is authorized at Madison and Milwaukee but at no intermediate points. (3) Between Madison, WI and Portage, WI: From Madison over U.S. I-90 & I-94 to junction with WI Hwy 78 & thence over Hwy 78 to Portage, WI. Return over the same route. Service is authorized at Portage & Madison but not at intermediate points. Service is authorized between points on the above routes paragraphs 1 through 3, on the one hand, and on the other hand, all points authorized to be served under Certificate MC 1494, interlining with other carriers at Milwaukee, Twin Cities, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 48 supporting shippers. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 1515 (Sub-278TA), filed October 9, 1979. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: Lat J. Celmins (same address as applicant). Regular Route, *Passengers and their baggage and express and newspapers in the same vehicle with passengers*, between Columbus, GA and Tallahassee, FL, serving the intermediate points of Albany, GA and Thomasville, GA: From Columbus over U.S. Hwy 280 to Richland, GA, then over GA Hwy 55 to Dawson, GA, then over U.S. Hwy 82 to Albany, GA, then over GA Hwy 133 to junction U.S. Hwy 19 southeast of Albany, then over U.S. Hwy 19 to junction GA Hwy 202, then over GA Hwy 202 to junction U.S. Hwy 319 at or near Thomasville, GA, then over U.S. Hwy 319 to Tallahassee, FL, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant does intends to tack this authority with authority it presently holds in MC 1515. Supporting shipper(s): There are ten (10) supporting shippers. Their statements may be reviewed at the below listed field office or at Washington, D.C. Send protests to: Ronald R. Mat, District Supervisor, 2020

Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 1824 (Sub-107TA), filed September 6, 1979. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, MD 21655. Representative: Charles S. Perry (same as applicant). *Flat glass, in containers*, from Keibert Park, PA, to Baltimore, MD. Philadelphia, PA, New York, NY, and marine terminal facilities in their respective commercial zones, restricted to shipments having a prior or subsequent movement by water; (2) Empty containers from Baltimore, MD, Philadelphia, PA, New York, NY, and marine terminal facilities in their respective commercial zones, to Keibert Park, PA; (3) Empty containers from Cleveland, OH and Pittsburgh, PA to Keibert Park, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PPG Industries Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 1824 (Sub-108TA), filed September 20, 1979. Applicant: PRESTON TRUCKING CO., INC., 1515 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry (same as applicant). *Foodstuffs, in vehicles equipped with mechanical refrigeration* between the plantsite or storage facilities of Equity Meat in Folcroft, PA and points in the state of NC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Equity Meat Corp., 600 Kaiser Dr., Folcroft, PA 19032. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 2095 (Sub-26TA), filed September 26, 1979. Applicant: KEIM TRANSPORTATION, INC., R.F.D. #2, Box 10, 420 No. 6th, Sabetha, KS 66534. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Part 1: (1) Gypsum, gypsum products, building materials and (2) Materials and supplies used in the installation and distribution of commodities in 1 above from facilities of Georgia-Pacific Corp., Marshall County, KS to points in AL, CT, DE, FL, GA, IA, MA, MD, ME, MI, MO, MN, NC, ND, NH, NJ, NY, OH, PA, RI, SC, SD, VA, VT, WI & WV: Part 2. Gypsum and gypsum products, in bulk from facilities of Georgia-Pacific Corp., Marshall County, KS to points and places in NE; Part 3. (1) Gypsum, gypsum products, building materials and (2) Materials and supplies used in the installation and distribution of the commodities in above from facilities of*

Georgia-Pacific Corporation, Marshall County, KS to Ashland, LaPlatte, Murray, Mynard, Nebraska City, Offutt AFB, Pickrell, Plattsmouth, Princeton, Ralston, Union, Waverly, Weco, Wymore and Wyoming, NE; *Part 4. Materials, equipment and supplies used in the manufacture, installation and distribution of Gypsum, gypsum products, and building materials from points in the US (except AK & HI) to the facilities of Georgia-Pacific Corporation in Marshall county, KS., for 180 days, common, irregular; SUPPORTING SHIPPER: Georgia-Pacific Corporation, 1062 Lancaster Ave., Rosemont, PA 19010; SEND PROTESTS TO: M. E. Taylor, 101 Litwin Bldg., Wichita, KS 67202.*

MC 4024 (Sub-10TA), filed August 27, 1979. Applicant: HORN TRUCKING CO., 300 Schmetter Rd., Highland, IL 62249. Representative: Edward McNamara, 907 S. 4th St., Springfield, IL 62703. *Steel line pipe*, from the facilities of Maverick Tube Corp. in Union, MO to points in TX, LA, and OK for 180 days. Supporting shipper(s): Maverick Tube Corp., P.O. Box 696, Union, MO 63084. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 8535 (Sub-100TA), filed September 17, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INC., P.O. Box 500, Parkton, MD 21120. Representative: Charles J. McLaughlin (same as applicant). *Iron or steel articles (except in dump vehicles)*, between the facilities of Bliss & Laughlin Steel Co., at Medina, OH, on the one hand, and, on the other, points in IL and IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bliss & Laughlin Steel Co., 900 W. Smith Rd., Medina, OH 44256. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 13134 (Sub-74TA), filed September 10, 1979. Applicant: GRANT TRUCKING, INC., P.O. Box 258, Oak Hill, OH 45658. Representative: James M. Burch, 100 E. Broad St., Columbus, OH 43215. *Roofing, building and insulating materials (except iron and steel articles and commodities in bulk)* between the plantsite and warehouse facilities of CertainTeed Corporation in Granville County, North Carolina on the one hand, and on the other, points in Kentucky, Tennessee and West Virginia. *Materials, equipment and supplies (except iron and steel articles and commodities in bulk) used in the manufacture, installation and distribution of roofing and building materials from points in the above described territory to the plantsite and*

warehouse facilities of CertainTeed Corporation in Granville County, North Carolina for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): CertainTeed Corp., P.O. Box 860, Valley Forge, PA 19482. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 30045 (Sub-6TA), filed October 11, 1979. Applicant: KITCHELL TRUCK LINES, INC., Ipswich, SD 57541. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Agricultural machinery, agricultural implements and attachments for agricultural machinery and agricultural implements from Canton, Rock Island and East Moline, IL to all points in MN, ND, and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): International Harvester Co., 401 N. Michigan Ave., Chicago, IL 60611. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.*

MC 30045 (SUB-7TA), filed September 21, 1979. Applicant: KITCHELL TRUCK LINE, INCORPORATED, Ipswich, SD 57451. Representative: James T. Flescher, 1745 University Avenue, St. Paul, MN 55104. *Petroleum products and lubrication oils, except in bulk, in containers from the plant site and facilities of Mobil Oil Corp. located at or near Omaha, NE to all points in IA and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Mobil Oil Corp., 8350 N. Central Expressway, Suite 522—Cambell Centre, Dallas, TX 75206. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 5750.*

MC 31024 (Sub-38TA), filed October 1, 1979. Applicant: NEPTUNE WORLD WIDE MOVING, INC., 55 Weyman Avenue, New Rochelle, NY 10805. Representative: S.S. Eisen, 370 Lexington Avenue, New York, N.Y. 10017. *Commodities used in the manufacture of computers and computer equipment, in mixed loads with household goods*, between all points and places in AL, AR, CT, FL, GA, LA, ME, MA, MS, NH, NC, RI, SC, TN, TX, VT and VA; for 180 days. Supporting Shipper(s): Digital Equipment Corporation, 444 Whitney St., Northboro, MA 01532. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 45764 (Sub-33TA), filed September 13, 1979. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., Industrial Highway and Saville Ave., Eddystone, PA 19013. Representative: Edward Kells

(same as applicant), *Fabricated structural steel* from Allentown, PA to Escondido, CA and Merrill, OR for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Lehigh Structural Steel Co., One Allen St., Allentown, PA 18105. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA, 19106.

MC 52574 (Sub-58TA), filed October 15, 1979. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th Street, Irvington, NJ 07111. Representative: Edward F. Bowes, Esq., 167 Fairfield Road, Fairfield, NJ 07006. Contract carrier, irregular routes for 180 days. Bakery products from Frederick, MD to all points in MI on and south of MI Hwy. 55, except Pontiac, Farmington, Inkster, Mt. Clemens, Detroit, Ann Arbor and Ypsilanti, MI. And underlying ETA seeks 90 days authority. Supporting Shipper(s): S. B. Thomas, Inc., 930 North Riverview Drive, Totowa, NJ 07511. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 52704 (Sub-245TA), filed September 24, 1979. Applicant: GLENN MCLENDON TRUCKING CO., INC., P.O. Drawer "h", LaFayette, AL 36862. Representative: Archie B. Culbreth and John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Plastic containers, preforms and base cups for plastic containers and (2) materials, equipment and supplies used in the manufacture or distribution of commodities listed in (1) above (except commodities in bulk)*. Between the facilities of INCON (a Division of the Glass Container Group of Indian Head, Inc.) located in Richland County, SC, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA and WV., for 180 days. Supporting shipper(s): Incon, a Division of the Glass Container, Group of Indian Head, Inc., P.O. Box 968, Laurens, SC 29380. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 59655 (Sub-32TA), filed October 10, 1979. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: George A. Olsen, POB 357; Gladstone, NJ 07934. *Glassware*, from Huntington, WV, to Dayton, NJ; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Julius Wile Sons & Co., Inc., Docks Corner Road, Dayton, NJ 08810. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 66124 (Sub-10TA), filed August 21, 1979. Applicant: PACIFIC NORTHWEST

Flex Products, Inc., at or near Baltic, OH to points in AL, FL, GA, MS, NC

53703. Contract; irregular: (1) Fabricated metal products and related parts and

continuing contract(s) with Hawkeye

Bank Tower, Tulsa, OK 74103; Amiane,

wholesale, retail and chain grocery and

MC 68124 (Sub-10TA), filed August 21, 1979. Applicant: PACIFIC NORTHWEST MOTOR FREIGHT LINES, INC., 600 South Edmunds Street, Seattle, WA 98108. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. *General commodities (except classes A & B explosives and household goods as defined by the Commission) in containers or trailers having an immediately prior or subsequent movement by water, and empty trailers used in the transportation of containers, between Longview, WA, Seattle, WA and Portland, OR, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Kerr Steamship Co., Inc., 3801 Seattle First National Bank Bldg., Seattle, WA 98154. Morflot Freightliners, Inc., 1505 Norton Bldg., Seattle, WA 98104. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 69224 (Sub-44TA), filed October 15, 1979. Applicant: H & W MOTOR EXPRESS COMPANY 3000 Elm St., Dubuque, IA 52001. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. *Polyethylene film from Manchester, IA, to points in Racine, Waukesha, Milwaukee, Washington, and Ozaukee Counties, WI, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Ethyl Corp., Visqueen Div., Old Highway 13 South, Manchester, IA 52057. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 140104 (Sub-11TA), filed September 10, 1979. Applicant: TOLEDO FRIGID LINES, INC., 4060 Fitch Rd., Toledo, OH 43613. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. *Contract; irregular: Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, except commodities in bulk between Cincinnati, OH on the one hand, and on the other, points in AR, CA, GA, IL, KY, MI, MO, PA on and west of Hwy. 219, TN, VA, IN, TX, and WV for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): The Kroger Co., 1014 Vine St., Cincinnati, OH 45201. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 140484 (Sub-59TA), filed October 15, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Ave., P.O. Box 69 Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). *Plastic granules in bags or packages from the facilities of*

Flex Products, Inc., at or near Baltic, OH, to points in AL, FL, GA, MS, NC, SC, TN, and TX for 180 days. Supporting shipper(s): Flex Products, Inc., P.O. Box 300, Baltic, OH 43804. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 NW 53rd Ter., Miami, FL 33166.

MC 140615 (Sub-53TA), filed September 24, 1979. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence D. Jones, 2033 K St., N.W., Washington, D.C. 20006. *Lighting fixtures and parts and accessories of lighting fixtures from the facilities of Keystone Lighting Corporation at Bristol, PA to points in IL, IN, KS, MI, MN, MO, NE, OH, and WI and from the commercial zones of Chicago, IL to the facilities of Keystone Lighting Corporation at Bristol, PA, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Keystone Lighting Corporation, Beaver Street and Route 13, Bristol, PA 19007. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 140755 (Sub-69TA), filed September 28, 1979. Applicant: BRAY TRANSPORTS, INC., P.O. Box 270, 1401 N. Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). *Petroleum products, in bulk, including liquid wax, from Tulsa, OK, to points in the state of MO, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Sun Petroleum Products Company, P.O. Box 2039, Tulsa, OK 74102. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141124 (Sub-50TA), filed September 28, 1979. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers or distributors of optical products and supplies, except in bulk, from Harrodsburg, KY to points in CA and NJ for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Optics, Inc., 216 Midland Ave., Saddlebrook, NJ 07862. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 141404 (Sub-1TA), filed September 19, 1979. Applicant: HARTWIG-WAUSAU TRANSPORTATION, INC., 3528 W. Sherman St., Wausau, WI 54401. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI

53703. *Contract; irregular: (1) Fabricated metal products and related parts and accessories thereto from facilities of Hartwig Manufacturing Corporation at or near Wausau, WI to points in MN and MO. (2) Iron, steel or aluminum articles used in the manufacture or distribution of fabricated metal products from points in MN and MO to the facilities of Hartwig Manufacturing Corporation at or near Wausau, WI, for 180 days. Restricted to a transportation service to be performed under a continuing contract(s) with Hartwig Manufacturing Corporation, Wausau, WI. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Hartwig Manufacturing Corporation, 3528 W. Sherman St., Wausau, WI 54401. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 141655 (Sub-5TA), filed September 25, 1979. Applicant: TRANS-PHOS, INC., P.O. Box 2026, Bartow FL 33830. Representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. *Phosphate rock, in bulk, in dump vehicles, from Agricola, Polk County, FL to Port Manatee, Manatee County, FL for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Estech General Chemicals Corp., P.O. Box 208, Bartow, FL 33830. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 141804 (Sub-275TA), filed September 25, 1979. Applicant: WESTERN EXPRESS, P.O. Box 3488, Ontario, California 91761. Representative: Frederick J. Coffman (same address as above). *Moulding, mill work, wood products, building materials, and supplies, from points in Oregon, Albuquerque, New Mexico, Waco & Amarillo, Texas, and the respective commercial zones of the named cities to points in GA, ME, MA, RI, and VT, for 180 days. An underlying ETA seeks up to 90 days operating authority.* Supporting shipper(s): Winter Company, Assistant Purchasing Agent, P.O. Box 1595, Annex Station, Providence, RI 02901. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 142145 (Sub-8TA), filed September 18, 1979. Applicant: LINDSAY TRANSPORTATION, INC., P.O. Box 156, Lindsay, NE 68544. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Contract carrier; irregular routes: Such commodities as are dealt in by building materials dealers from points in WA and OR to the facilities of Hawkeye Building Supply Co. at Sioux City, IA under a*

continuing contract(s) with Hawkeye Building Supply Co. of Sioux City, IA for 180 days. Supporting shipper(s): Hawkeye Building Supply Co., Thomas M. Burke, President, 204 Iowa St., Sioux City, IA 51102. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142204 (Sub-9TA), filed September 24, 1979. Applicant: ROBERT R. GUNVILLE, JR., Star Route 2, Lot 27, Bob's Mobile, Iron Mountain, MI 49801. Representative: Michael S. Varda, 121 S. Pinckney, Madison, WI 53703. *Resin-coated sand, in bulk, from Aurora, Chicago, Oregon and Troy Grove, IL, Mishawaka, IN, Bridgman, MI and Fairwater and Menominee Falls, WI to Kingsford, MI. For 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Grede Foundries, Inc., P.O. Box 26499, Milwaukee, WI 53226. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Building, 300 East Michigan Avenue, Lansing, MI 48933.

MC 142305 (Sub-5TA), filed September 11, 1979. Applicant: WISCONSIN EXPRESS LINES, INC., Route 2, Green Bay, WI 54301. Representative: Daniel Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract carrier; irregular routes: Cheese and cheese products from the facilities of Topco Associates, Inc., at Green Bay, WI, to the facilities of members of Topco Associates, Inc., at Mobile, AL; Phoenix, AZ; Savannah, GA; Brockton, and Holyoke, MA; Grand Rapids, MI; Jackson, MS; Springfield, MO; Wood-Ridge, NJ; Jamestown, Norwich and Rochester, NY; Akron, Columbus, Dayton, and Youngstown, OH; Carlisle, Harrisburg, Philadelphia, Pittsburgh, Scranton, and Shiremanstown, PA; and Dallas, TX, under a continuing contract with Topco Associates, Inc., of Skokie, IL, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Topco Associates, Inc., 7711 Gross Point Rd., Skokie, IL 60076. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 142905 (Sub-11TA), filed September 11, 1979. Applicant: PETROLEUM TRANSPORTATION CORPORATION, 9717 East 42nd Street, Tulsa, OK 74145. Representative: Thomas N. Willess, 1000 Sixteenth Street, NW., Washington DC 20036. *Liquefied petroleum gas, natural gasolines and butane, from points in OK, to Conway, Hutchinson, and Little River, KS; and from Conway and Hutchinson, KS, to points in OK, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Johnson Petroleum Co., 2625 1st Nat'l

Bank Tower, Tulsa, OK 74103; Amtane, Inc., 9717 E. 42nd St., Suite 100, Tulsa, OK 74145. Send protests to: Connie Stanley, ICC, Rm. 240, 215 NW., 3rd, Oklahoma City, OK 73102.

MC 142935 (Sub-10 TA), filed August 30, 1979. Applicant: PLASTIC EXPRESS, 2999 La Jolla Street, Anaheim, California 92806. Representative: Richard C. Celio 1415 West Garvey Ave., Suite 102, West Covina, California 91790. *Roofing and building materials, from points at, or near, Dallas, Texas to points at, or near, Denver, Colorado, for 180 days. An underlying ETA seeks up to 90 days operating authority.* Supporting shipper(s): GAF Corporation, Building Materials Division, General Traffic Manager, Building Materials Group, 1361 Alps Road, Wayne, New Jersey 07470. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 142954 (Sub-9 TA), filed September 21, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Givold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Contract carrier, over irregular routes: Meat, Meat products, meat by-products and articles distributed by meat packing houses (except hides and commodities in bulk) between all points in the U.S. (except AK and HI) for 180 days. Underlying ETA seeks 90 days authority.* Supporting shipper(s): Glenn Bros. Meat Company, Inc., 558 So. Central Expressway, Suite 308, Richardson, TX 75080. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 143995 (Sub-22 TA), filed September 18, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 West River Drive, Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Ctr. Des Moines, IA 50309. *contract Carrier, irregular routes: Malt beverages from the facilities of Anheuser-Busch, Inc. at Columbus, OH, To Clinton and Dubuque, IA, under continuing contract(s) with Kirchhoff Distributing Co., for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Kirchhoff Distributing Co., U.S. Highway 52 and 3 North, Dubuque, IA 52001. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 143995 (Sub-23 TA), filed October 15, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 West River Dr., Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Ctr. Des Moines, IA 50309. *Contract carrier, irregular routes: (1) Such merchandise as is dealt in by*

wholesale, retail and chain grocery and food business houses and agricultural feed business houses; soy products; paste and flour products; and dairy based products, (2) materials, ingredients, equipment and supplies used in the development, manufacture, distribution and sale of the commodities named in (1) above (except commodities in bulk), between points in AL, AR, CA, IA, IL, IN, KY, LA, MI, MN, MO, MS, NJ, NY, OH, PA, TN, and WI, under continuing contract(s) with Ralston Purina Company of St. Louis, MO for 180 days. An underlying ETA seeks 90 days authority. Restriction: Restricted to traffic originating at or destined to the facilities used by Ralston Purina Company. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 144115 (Sub-1 TA), filed September 20, 1979. Applicant: DIVERSIFIED CARRIERS, INC., 903 6th Street Northwest, Rochester, MN 55901. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the plantsite and storage facilities of Lauridsen Foods, Inc., at or near Britt, IA, and Armour & Company at or near Mason City, IA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to traffic originating at or destined to the plant site and storage facilities of Lauridsen Foods, Inc., at or near Britt, IA, and Armour and Company at or near Mason City, IA, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Armour and Company, Manager of Transportation, Greyhound towers, Phoenix, AZ 85077. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building 110 South 4th Street, Minneapolis, MN 55401.

MC 144484 (Sub-7TA), filed Sept. 14, 1979. Applicant: FREIGHTWAYS, INC., 412 East Second Street, Eldon, MO 65028. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *(1) Wood products, plastic products, rough lumber, glue, furniture parts, cedar closet linings, wood shavings, sawdust, and (2) equipment, materials and supplies used in the manufacture, distribution and sale of the commodities in (1), between the facilities of Osage Products Company at*

or near Eldon, MO, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Osage Products Company, Inc., East 5th Street, P.O. Box 314, Eldon, MO 65028. Send protests to: District supervisor, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 144635 (Sub-2TA), filed September 17, 1979. Applicant: H AND S TRANSFER, INC., 710 Stony Hollow Blvd., Steubenville, OH 43952. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215. *Iron and steel and iron and steel articles and equipment, materials and supplies used in the manufacture of iron and steel and iron and steel articles between Weirton, WV and Steubenville, OH, on the one hand, and, on the other, points in IN and KY, for 180 days. Supporting shipper(s): Weirton Steel (a div. of National Steel Corp.), 3 Springs Rd., Weirton, WV 26062. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.*

MC 144645 (Sub-5TA), filed September 6, 1979. Applicant: ROBERT C. HANSEN, d.b.a. ROBERT HANSEN TRUCKING, Rt. 2, Box 125, Delavan, WI 53115. Representative: Daniel Dineen, 710 N. Plankton Ave., Milwaukee, WI 53203. Contract carrier, irregular routes; *Liquid cleaning compounds, except in bulk, from facilities of Magee Industries, Inc. at Des Plaines, IL to points in CA, IN, IA, KS, KY, MI, MN, MO, ND, OH, OR, PA, SD, WA & WI, for the account of Magee Industries, Inc., at Des Plaines, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Magee Industries, Inc., 415 W. Touhy Ave., Des Plaines, IL 60018. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.*

MC 144675 (Sub-5TA), filed September 25, 1979. Applicant: LINCOLN FREIGHT FORWARDING CORP., 537 N. Long Beach Road, Rockville Centre, NY 11570. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, N.Y. 10048. *General commodities, except articles of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between Atlanta, GA and Charlotte, NC, on the one hand, and, on the other, Los Angeles and San Francisco, CA, restricted to traffic moving on freight forwarder bills of lading for 180 days. An underlying ETA seeks 90 days*

authority. Supporting shipper(s): Universal Carloading and Distributing Co., 345 Hudson St., New York, N.Y. 10014. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 144855 (Sub-16TA), filed September 28, 1979. Applicant: TRANS CONTINENTAL CARRIERS, 2781 East White Star, Anaheim, California 92806. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, California 90017. *Household and commercial laundry and kitchen appliances and related repair parts, from Newton, Iowa, to points in Arizona, California, Colorado, Florida, Georgia, Idaho, Montana, Nevada, Oregon, Utah, Washington and Wyoming, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The Maytag Company, Traffic Manager, 403 West 4th Street North, Newton, Iowa 50208. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.*

MC 14504 (Sub-29TA), filed September 21, 1979. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, Denver, CO 80264. *Petroleum products in packages from Maryland Heights, MO and Vernon, CA to points in CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pennzoil Company, P.O. Box 808, Oil City, PA 16301. Send protest to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.*

MC 145054 (Sub-30TA), filed September 25, 1979. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1660 Lincoln Street, Denver, CO 80216. *General commodities (except commodities in bulk, Classes A & B explosives, household goods and commodities, which because of size or weight, require the use of special equipment), from facilities of Shaklee Corporation in Hayward, CA to Denver, CO and Salt Lake City, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shaklee Corporation, 1900 Powell Street, Emeryville, CA 94608. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.*

MC 145064 (Sub-11TA), filed October 3, 1979. Applicant: HUNTER TRUCKING, INC., 805-32nd Avenue, Council Bluffs, IA 51501. Representative: Bradford E. Kisler, P.O. Box 82028, Lincoln, NE 68501. Contract carrier,

irregular routes: *Lumber from Valley City, ND and its commercial zone to Chester, NY and its commercial zone under a continuing contract(s) with McGuffin Lumber, Inc. of Evanston, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McGuffin Lumber, Inc., James P. McGuffin, Jr., Assistant Secretary, 3142 Central St., Evanston, IL 60201. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.*

MC 145125 (Sub-9TA), filed October 3, 1979. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., 109 Electric Ave., Lewistown, PA 17044. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Ctr., New York, NY 10048. *Brass, bronze, and copper, and brass, bronze, and copper products, from the facilities of Revere Copper & Brass, Inc., at or near Rome, NY to Los Angeles, San Francisco, and Oakland, CA, and points in the commercial zones thereof, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Revere Copper & Brass, Inc., P.O. Box 191, Rome, NY 13440. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm., 620, Phila., PA 19106.*

MC 145175 (Sub-2TA), filed September 4, 1979. Applicant: FRED M. CHARLES, SR., Rural Route 2, Mitchell, NE 69357. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, 521 S. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Mobile homes, in primary and secondary movements, from the facilities of Winterer Modulars, Inc. at or near Scottsbluff, NE to points in WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Winterer Modulars, Inc., 807 West 27th Street, Scottsbluff, NE 69361. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.*

MC 145384 (Sub-42TA), filed September 27, 1979. Applicant: ROSEWAY, INC., 1914 East Euclid Ave., Des Moines, IA 50313. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Construction forms and parts and accessories for construction forms, and materials, equipment and supplies used in the manufacture of construction forms, and parts for construction forms, (1) Between the facilities of Economy Forms Corporation at Des Moines, IA, on the one hand, and, on the other, points in the United States (except AK, CT, HI, IA, IL, IN, KS, MA, ME, MI, MN, MO, NE, ND, NH, OK, RI, SD, VT and WI) and (2) Between the facilities of Economy Forms Corporation at Columbus, OH; Metchen, NJ; Atlanta,*

Ga; Dallas, TX; Fresno, CA; and Kent, WA, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Economy Forms Corporation, 4301 N. E. 14th St., Des Moines, IA 50316. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145465 (Sub-3TA), filed September 24, 1979. Applicant: GURN ENTERPRISES, INC., Route 8, Box 8, Allegan, MI 49010. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract Carrier—Irregular Routes. Drugs and toilet articles and materials and supplies used in the manufacture, sale and distribution thereof; between Allegan, MI and points in its commercial zone, on the one hand, and on the other, points in MO, KS, CO, UT, WY, NE, IA, ID, OR, NM and CA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): L. Perrigo Company, 117 Water Street, Allegan, MI 49010. Send protests to: C. R. Flemming, D/S, ICC, 201 Corr Building, 300 East Michigan Avenue, Lansing, MI 48933.*

MC 145715 (Sub-10TA), filed September 24, 1979. Applicant: BELL TRUCKING, INC., 2504 Industrial Park Road, Van Buren, AR 72965. Representative: Elaine M. Conway, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. *Meats and meat products, from Dakota City, NE; Wichita and Emporia, KS; and Plainview and Amarillo, TX to the facilities of Griffin Grocery Company at Van Buren, AR, restricted to traffic originating at the above named origins and destined to the above-named destination points for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Grocery Corporation, P.O. Box 625, Van Buren, AR 72958. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.*

MC 145875 (Sub-4TA), filed September 26, 1979. Applicant: SWAIN & SONS TRANSPORTS, INC., 208 Poplar Ave., Memphis, TN 38103. Representative: William R. Swain, Jr., 208 Poplar Ave., Memphis, TN 38103. *Petroleum products, lubricating oils, Noibn, except in bulk, auto accessories dealt in by service stations and other articles used and/or consumed in service station operations, between Exxon Corp., Baton Rouge, LA on the one hand, and on the other, points in the state of TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Exxon Company, U.S.A., P.O. Box 2180, Houston, TX 77001. Send protests to:*

Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 145904 (Sub-16TA), filed September 10, 1979. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. *Salad dressing from Grundy Center, IA, to Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Dressing, Inc., 7th St. and A Ave., Grundy Center, IA 50638. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 145904 (Sub-17TA), filed September 13, 1979. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. *Iron and steel bars from the facilities of Wisconsin Steel Corporation at Chicago, IL, to Waterloo, IA, and points in its commercial zone, for 180 days, restricted to the transportation of traffic originating at the named origin and destined to the named destination. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wisconsin Steel Corporation, 2800 East 106th St., Chicago, IL 60617. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 146044 (Sub-3TA), filed July 26, 1979. Applicant: JOE COSTA TRUCKING, Highway 299, West End Road (POB 748), Arcata, CA 95521. Representative: Marvin Handler, Handler, Baker & Greene, PC, PH (415) 988-1414, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Wood residuals from Illinois Valley (Josephine County) OR to Fairhaven (Humboldt County) adjacent to Eureka, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crown Simpson Pulp Company, P.O. Box 4718, Eureka, CA 95501. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.*

MC 146494 (Sub-1TA), filed September 27, 1979. Applicant: BILL JACKSON RIG CO., INC., 1813 S.E. 25th Street, Oklahoma City, OK 73143. Representative: Paul Ross Jackson (same address as applicant). *Oilfield equipment and supplies, iron and/or steel articles and heavy and cumbersome materials, between OK and TX, for 180 days. Supporting shipper(s): There are approximately 7 supporting shipper statements. They may be examined at Headquarters or the field office listed below. Send protests to: Connie Stanley, ICC, Rm.*

240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 146644 (Sub-1TA), filed September 17, 1979. Applicant: GERALD KILFOYL, d.b.a. J. KILFOYL TRUCKING, Argusville, ND 58005. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo ND 58107. *(1) Steel buildings, knocked down or in sections, parts and attachments therefor, from Taylorville, IL, to Rosholt, SD and points in ND on and east of U.S. Hwy 83; and (2) Steel grain bins, knocked down or in sections, parts and attachments therefor from Falls City, NE, to Rosholt, SD and points in ND on and east of U.S. Hwy 83, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): EEE, Inc., Page, ND 58064. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.*

MC 146674 (Sub-2TA), filed October 3, 1979. Applicant: K.I.T. MOTOR EXPRESS, INC., 1228 Highland Ave., Louisville, KY 40204. Representative: Edward J. Kiley, 1730 M Street N.W., Washington, DC 20036. *Foodstuffs (except in bulk), from the facilities of Green Giant Brand Foods, at or near Belvedere, IL, to all points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wm. H. Teegarden, Green Giant Foods Co., LeSueur, MN. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.*

MC 146794 (Sub-3TA), filed September 17, 1979. Applicant: PACIFIC NORTHWEST CONTRACT CARRIERS, INC., P.O. Box 197, U.S. Highway 231 North, Wetumpka, AL 36092. Representative: Ronald L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203. *Trailer axles, and parts, suspensions, landing gears, fifth wheels, hitches, and parts thereof, and mechanical refrigeration units (transported in conjunction with trailer parts) from Montgomery and Hamilton, AL; Siloam Springs, AR; Denmark, SC; Louisville, GA; and Chicago and Joliet, IL; Lebanon, Winamac, and South Bend, IN; Muskegon, Wyandotte, Lansing, and Grand Rapids, MI; Mansfield and Marshfield, MO; Kenton, Akron and Troy, OH; and New Johnsonville, TN, to Los Angeles, CA; Billings, MT; Portland, OR; and Spokane, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Parts & Equipment Co., 5251 SE McLoughlin Boulevard, Portland, OR 97202. Send protests to: Mabel E. Holston, T/A, ICC, Room 1818, 2121 Building, Birmingham, AL 35203.*

MC 146795 (Sub-2TA), filed August 31, 1979. Applicant: Norfolk, VA 23501. Send protests to: For 180 days. An underlying ETA seeks

744 Broad Street, Room 522, Newark, NJ 07102.

Williams, Transportation Assistant, ICC, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

lying North of the Northern boundary of

MC 146795 (Sub-2TA), filed August 31, 1979. Applicant: M.E.P. DISTRIBUTORS, INCORPORATED, Box 3044 CRS West Side Industrial Park No. 2, Johnson City, TN 37601. Representative: Eckener Pandzic (same address as applicant). *General Commodities having a prior or subsequent movement by rail, between points in Hawkins, Sullivan, Johnson, Carter, Washington, Unicol, and Greene Counties, TN and Washington, Scott, Lee and Smith Counties, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PB & S Chemical Co., Box 897, Westside Park 2, Johnson City, TN 37601. TPI Corp., 135 Wesley, Johnson City, TN 37601. Pharmasel Laboratories, 2301 Buffalo Rd., Johnston City, TN 37601. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.*

MC 146824 (Sub-2TA), filed June 18, 1979. Applicant: BEARCLAW INDUSTRIES, INC., P.O. Box 10211, Amarillo, TX 79106. Representative: Weldon Reed Jr., 201 Rio Trail, Amarillo, TX 79108. *Foodstuffs, fresh and frozen poultry from AR, LA, and GA to CO, AZ, UT, ID and NV for 180 days. Applicant does intend to tack this authority with authority it presently holds in No. MC 146824. Supporting Shipper(s): Country Pride Food Ltd., P.O. Box 1758, El Dorado, AR 71730. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.*

MC 146865 (Sub-2TA), filed August 29, 1979. Applicant: M. T. SERVICES, INC., P.O. Box 18402, 6513 Landay Ave., Baltimore, MD 21237. Representative: James W. Dawson, Suite 843, 1511 K St., N.W., Washington, DC 20095. *Forgings of iron or steel, rough or finished, from Baltimore, MD to Winchester, KY and Detroit, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Verrazano Shipping Co., Inc., 22 Cortlandt St., New York, NY 10007. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.*

MC 146875 (Sub-4TA), filed July 6, 1979. Applicant: K & L GRAIN, INC., RR2, Box 32-A, Franklin, IN 46131. Representative: Richard E. Aikman Jr., 300 Merchants Bank Bldg., Indianapolis, IN 46204. *Contract Carrier. Irregular Routes: dry fertilizer (pelleted dry fertilizer—bulk and bags), from the facilities of Smith-Douglas, a Division of Borden Chemical, Borden, Inc., Streator, IL to points in IN for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Smith-Douglass Division of Borden Chemical, Borden, Inc., PO Box 419, 5100 Virginia Beach*

Blvd., Norfolk, VA 23501. *Send Protests To: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.*

MC 146885 (Sub-4TA), filed September 7, 1979. Applicant: BEN CAOBIANCO TRUCKING, INC., 5275 Talawanda Dr., Fairfield, OH 45014. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. *Office furniture, knocked down, in boxes, from Fairfield, OH to points in CA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hamilton Sorter Co., Inc., 3158 Production Dr., Fairfield, OH 45014. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.*

MC 146974 (Sub-5TA), filed September 25, 1979. Applicant: WILLIAM V. THOMAS, P.O. Box 10238, Albuquerque, NM 87184. Representative: William V. Thomas (same address as applicant). *Roofing, roofing products and insulation, (1) from OK and TX to NM and CO, (2) from CA to NM and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sagebrush Sales, P.O. Box 25606, Albuquerque, NM 87125. Wholesale Roofing of New Mexico, 1024 1st Street NW, Albuquerque, NM. Send protests to: DS/ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.*

MC 146985 (Sub-2TA), filed September 17, 1979. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main Street, P.O. Box 1614, Elkhart, IN 46615. Representative: Phillip A. Renz, Grotian & Boxberger, Suite 200—Metro Building, Fort Wayne, IN 46802. *Contract carrier. Curtain rods, wooden and metal, with and without fixtures, between Sturgis, MI and its commercial zone, on the one hand, and, on the other, Baltimore and Beltsville, MD and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kirsch Company, 309 North Prospect, Sturgis, MI 49091. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.*

MC 146994 (Sub-2TA), filed August 31, 1979. Applicant: MOTOR RAIL DELIVERY, INC., 600 Fern Street, Ferndale, MI 48220. Representative: William R. Ralls, 427 S. Capitol Avenue, Lansing, MI 48933. *Railroad piggyback trailers loaded with freight, all kinds; between the plant site of Chrysler Corporation at Marysville, MI and Detroit, MI. Restricted to traffic having prior or subsequent movement by rail.*

For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chrysler Corporation, Box 950, Centerline, MI 48015. *Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.*

MC 147145 (Sub-1TA), filed September 5, 1979. Applicant: JAMES R. ANDERSON, d.b.a. ANDERSON & SONS TRUCKING CO., 3395 Indian Lane, Reno, NV 89506. Representative: James R. Anderson (same as applicant). *General commodities, except commodities of unusual value, household goods, commodities in bulk, commodities requiring special equipment, and Classes A and B explosives, between points and places in Carson City, Lyon, Storey, and Washoe Counties, NV, and the city of Fallon, NV, for 180 days. An underlying ETA seeks 90 days authority. Applicant requests authority to interline at Carson City, Fallon, Reno and Sparks, NV. Supporting shipper(s): Milne Truck Lines, 100 Giroux St., Reno, NV 89502. Republic Freight System, P.O. Box 11740, Reno, NV 89510. Wells Cargo, Inc., 1175 E. 4th St., Reno, NV 89512. Grandma's Fudge, P.O. Box 541, Virginia City, NV 89440. Ponderosa Saloon, P.O. Box 45, Virginia City, NV 89440. Send protests to: DS W. J. Huetig, ICC, 705 N. Plaza, Carson City, NV 89701.*

MC 147235 (Sub-3TA), filed September 19, 1979. Applicant: CST, INC., 1 Scout Avenue, South Kearney, NJ 07032. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier, irregular routes for 180 days. Department store merchandise, and commodities used in the operations of department stores (1) From New York, NY and its commercial zone to the facilities of S. E. Nichols at Elmira, Painted Post, Hornell, Canandigua, Watertown, Auburn, Marcy, New Hartford, Herkimer, Gloversville and Amsterdam, NY; Newton, Gastonia, Lumberton, Goldsboro, New Bern, and Wilson, NC; Chambersburg, Hanover, Lancaster, Williamsport, Bloomsburg, Annville, Reading, Shillington, and Ephrata, PA; Maple Shade, Bricktown, and Matawan, NJ; Saybrook, New Philadelphia and Wooster, OH; Charleston and Greenville, SC; Martinsburg, WV; Winchester, Harrisonburg, Colonial Heights and Fredericksburg, VA; Dover, DE and Fruitland, MD. (2) Between South Kearney, NJ on the one hand, and, on the other, Charlotte, NC. An underlying ETA seeks 90 days authority. Supporting shipper(s): S. E. Nichols, 500 8th Avenue, New York, NY. Send protests to: Robert E. Johnston, DS, ICC,*

744 Broad Street, Room 522, Newark, NJ 07102.

MC 147235 (Sub-4TA), filed September 21, 1979. Applicant: C.S.T., INC., One Scout Avenue, South Kearney, NJ 07032. Representative: Thomas J. Beener, One State Street Plaza, New York, NY 10004. *Fertilizing compounds (manufactured fertilizer), NOI, dry, in bags, barrels or boxes from Maumee, Holland and Toledo, OH to points in MN, IL, IA, NE, KS, NY, NJ, MA, CT, ME, NH and PA for 180 days. Supporting shipper(s): The Andersons, P.O. Box 119, Maumee, OH 43537. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.*

MC 147284 (Sub-1TA), filed September 21, 1979. Applicant: JAT EXPRESS, INC., Rt. 1, Box 405, Muncie, IN 47302. Representative: Jack W. Tapy (same address as applicant). *Bananas and agricultural commodities otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6) when moving in mixed loads with bananas from Gulfport, MS to points in OH, IN, MI, IL, WI, KY, KS, and MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Castle & Cooke Foods, 2900 Veterans Highway, Metairie, LA 70002. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.*

MC 147374 (Sub-1TA), filed June 14, 1979. Applicant: TRACY D. OLSON, d.b.a., TOI TRUCKING, 315 W. McBryde, Montesano, WA 98563. Representative: Tracy D. Olson (same as above). *Contract carrier: irregular routes: Block ice, from Portland, OR to the facilities of Associated Sand & Gravel Co., Inc., at or near Satsop, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Associated Sand & Gravel Co., Inc., P.O. Box 1225, Elma, WA 98541. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.*

MC 147404 (Sub-1TA), filed June 22, 1979. Applicant: DONALD J. GETTELFINGER d.b.a., GETTELFINGER FARMS, R.R. 2, Box 241, Palmyra, IN 47164. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Meats, meat products and meat by-products (except hides and commodities in bulk, from the facilities of Armour and Company, Louisville, KY, to AL, AR, FL, GA, LA, MS, NC, PA, SC, TN, VA and WV, for 180 days. Restricted to traffic originating at or destined to named points. Supporting shipper: Armour and Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Beverly J.*

Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 147495 (Sub-4TA), filed October 1, 1979. Applicant: PRESTWOOD TRUCKING & LEASING, INC., P.O. Box 789, Hartsville, SC 29550. Representative: Peter A. Greene, 900 17th St., N.W., Washington, DC 20006. *Lumber and lumber mill products, from facilities of Darlington Veneer Co., Inc., Darlington, SC to points and places in FL, GA, NC, VA, MD, DE, NJ, NY, PA, CT, MA, OH, IN, IL and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Darlington Veneer Co., Inc., P.O. Box 492, Darlington, SC 29532. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.*

MC 147645 (Sub-1TA), filed August 16, 1979. Applicant: DOTY TRUCKING, INC., R.R. #2, Box 310, Columbus, IN 47201. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. *Contract Carrier: Irregular Routes: Air conditioners, furnaces and heating equipment, and (2) parts, materials and supplies used in the manufacture, assembly and distribution of those commodities named in (1) above (A) from points in IL, IN, OH, WI, Hartsville, TN and Cory, PA to the facilities of Carrier Corporation and its divisions and subsidiaries Carlyle Compressor Company, Carrier Air Conditioning Company, Carrier International Corp., and Carrier Transicold Co., at or near Syracuse, NY; and; (B) from the facilities of Carrier Corporation and its divisions and subsidiaries Carlyle Compressor Company, Carrier Air Conditioning Company, Carrier International Corp., and Carrier Transicold Co., at or near Syracuse, NY to Melrose Park, IL, Indianapolis, IN, Jeffersonton, KY and St. Louis, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carrier Corporation, Carrier Tower, P.O. Box 4800, Syracuse, NY 13221. Protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.*

MC 147645 (Sub-1TA), filed July 27, 1979. Applicant: R. J. CHRISTENSEN, d.b.a. R. J. CHRISTENSEN TRUCKING, P.O. Box 794, Warden, WA 98057. Representative: Boyd Hartman, Attorney at Law, 10655 N.E. 4th St., P.O. Box 3641, Bellevue, WA 98009. *Farm machinery, equipment and supplies and commodities moving to or from farm implement dealers, between points in Grant, Adams, Franklin, Benton and Lincoln Counties, WA on the one hand, and, points in ID, OR, that portion of CA*

lying North of the Northern boundary of San Louis Obispo, Kern & San Bernardino Counties, CA, and that part of MT lying on and West of Interstate Highway 15, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grant County Tractor, Inc., 910 E. Broadway, Moses Lake, WA 98837; Snead Tractor & Implement, 1450 E. Wheeler Rd, Moses Lake, WA 98837; Circle Farms, Inc., 2908 W. Broadway, Moses Lake, WA 98837. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 147955 (Sub-1TA), filed August 31, 1979. Applicant: DELBERT G. HAMBLETON, d.b.a. JERRY HAMBLETON, P.O. Box 213, Tonkawa, OK 74653. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Portable horse stalls, between points in KS, OK, NM, AZ, OH, CA, OR, CO, MD, FL, NE, TX, AR, TN, AL, LA, MS, GA, KY, VA, NC, & SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Maverick Stall Corporation, P.O. Box 2817, Wichita, KS 67201. Send protests to: Connie Stanley, ICC, Rm. 240, 215 NW. 3rd, Oklahoma City, OK 73102.*

MC 148014 (Sub-1TA), filed September 18, 1979. Applicant: DARELL L. WALLBERG d.b.a. D & D TRUCKING, 1545 West 7525 South, West Jordan, UT 84084. Representative: Macoy A. McMurray, 800 Beneficial Life Tower, 36 South State Street, Salt Lake City, UT 84111. *Contract carrier; Irregular route: Lumber, from the lumber mills of Boise Cascade Corporation in Emmett, and Gem Counties, ID to the facilities of Economy Builders Supply Co., in Salt Lake County, UT, under a continuing contract or contracts with Economy Builder Supply Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Economy Builders Supply Co., 3232 South 400 East, Salt Lake City, UT 84115. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.*

MC 148025 (Sub-1TA), filed September 7, 1979. Applicant: TRENOAK TRUCKING COMPANY, INC., 735 Commercial Ave., Carlstadt, NJ 07072. Representative: Michael Kanas, 2633 Trenton Ave., Phila., PA 19125. *Contract carrier: Irregular routes: Alcoholic and non-alcoholic beverages in cases and bottles and related promotional materials, from Carlstadt, NJ to various locations within NY, and NJ and from various port of entry locations in NY and NJ to Carlstadt, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to interline with another carrier in Albany, N.Y. Supporting shipper(s): Gotham Beer*

Company, Inc., 735 Commercial Ave., Carlstadt, NJ 07072; Charles Jacquin ET CIE, Inc., 2633 Trenton Ave., Phila., PA 19125; Jacquin-New York, Inc., 735 Commercial Ave., Carlstadt, NJ 07072. Send protests to: I.C.C., 744 Broad St., Rm. 522, Newark, NJ 07102.

MC 148035 (Sub-1TA), filed September 17, 1979. Applicant: A. J. NINNEMAN TRUCKING, Rural Route 1, Denton, NE 68339. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. (1) *Self-propelled vehicles under 5,000 pounds, mowers, turf spikers, chemical injectors, rakes, seeders, spreaders, sod cutters, trailers, accessories, attachments and parts from the facilities of Outboard Marine Corporation at Lincoln, NE to points in the United States (except AK, HI and NE); (2) Materials, equipment, supplies and parts used in the manufacture of the commodities in (1) above from points in the United States (except AK, HI and NE) to Lincoln, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Outboard Marine Corporation, J. A. Illes, Vice President & Dir. of Trans., 100 Seahorse Drive, Waukegan, IL 60085. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.*

MC 148045 (Sub-1TA), filed August 30, 1979. Applicant: QUAD CITY SPOTTING SERVICE, INC., P.O. Box 390, Bettendorf, IA 52722. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *General commodities (except those of unusual value, classes A and B explosives, household goods and commodities in bulk), having a prior or subsequent movement in rail trailer-on-flatcar service. Between points in the Moline, IL commercial zone, on the one hand, and, on the other, points in Bureau, Henry, Knox, Mercer, Peoria, Rock Island, Stark, Warren and Whiteside Counties, IL and Cedar, Clinton, Des Moines, Johnson, Jackson, Jones, Lee, Louisa, Linn, Muscatine, Scott and Washington Counties, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midwest Shippers Agents, Inc., 407 Cleveland Bldg., Rock Island, IL 61201. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 148185 (Sub-2TA), filed September 4, 1979. Applicant: WINFRIED P. BARTZ, d.b.a. WINN BARTZ TRUCKING, RFD, LaValle, WI 53941. Representative: Winfried P. Bartz (same address as applicant). *Contract carrier; irregular routes; Recyclable foundry waste products between Reedsburg, Sauk County, WI and Chicago, IL, for*

180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Grede Foundries, Inc., 9898 W. Bluemound Rd., Milwaukee, WI 53226. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 148195 (Sub-1TA), filed September 7, 1979. Applicant: LEON FUCHS, Templeton, IA 51463. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Iron and steel articles (1) from Chicago, IL and points in its commercial zone and St. Louis, MO and points in its commercial zone to the facilities of Colorado Forge Corp. at or near Colorado Springs, CO and (2) from the facilities of Colorado Forge Corp. at or near Colorado Springs, CO to Scott County, IA and Tazewell, Peoria, Macon, Will, Kane and Dupage Counties, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Colorado Forge Corp., 1400 E. Las Vegas, Colorado Springs, CO 80906. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.*

MC 148205 (Sub-1TA), filed September 17, 1979. Applicant: JOHN S. ESTES, d.b.a. ESTES TRUCKING, 5505 W. Tulare, Space 75, Visalia, CA 93277. Representative: John S. Estes (same address as above). *Insulating materials and items and materials used in manufacture of same, from Willows, CA to points in AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johns-Manville Sales Corp., 2600 Campus Dr., San Mateo, CA 94403. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.*

MC 148214 (Sub-1TA), filed September 28, 1979. Applicant: SERVICE SYSTEMS, 510 East Cota Street, Santa Barbara, CA 93103. Representative: Earl N. Miles, Jr., 3704 Candlewood Drive, Bakersfield, CA 93306. *Contract; irregular; general commodities (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Los Angeles International Airport and points and places in San Luis Obispo, Santa Barbara and Ventura Counties, California, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Airborne Freight Corporation, Regional Manager, Far West, 5651 W. 96th Street, Los Angeles, CA. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.*

MC 148224 (Sub-1TA) filed September 12, 1979. Applicant: DALT AUTO LEASING CORPORATION, 360 Sylvan

Avenue, Englewood Cliffs, NJ. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08094. *Contract, irregular. Candy and confectionary and on return materials, equipment and supplies used in the manufacturing, packaging and sale thereof, except in bulk. From Avenel and Northvale, NJ and Champlain and Poughkeepsie, NY to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, MA, MN, MS, MO, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dalt International Inc., 360 Sylvan Avenue, Englewood, Cliffs, NJ 07632. Send protests to: Joel Morricks, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.*

MC 148325 (Sub-1TA) filed September 20, 1979. Applicant: ROBERT K. FARR, d.b.a. FARR'S TRUCKING, Box 33A, RFD 1, Underhill, VT 05489. Representative: Robert K. Farr (same address). *Contract carrier, irregular routes: Bakery products (bread, rolls, cokes, pies, coffeecakes, pastries), and supplies used in the manufacture of bakery products, between Burlington, VT, on the one hand, and, on the other, Manchester, Concord, Dover, Keene and Portsmouth, NH, Plattsburgh and Albany, NY, Portland, ME and Boston, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fassetts Bakery, Inc., 294 North Winoski Avenue, Burlington, VT 05401. Send protests to: Carol A. Perry, TA, ICC, PO Box 548, Montpelier, VT 05602.*

MC 148344 (Sub-1TA) filed September 26, 1979. Applicant: TRAVIOLI AND SONS TRUCKING, INC., RR No. 31, Box 169A, Terre Haute, IN 47803. Representative: Robert W. Loser II, 1101 Chamber of Commerce Building, Indianapolis, IN 46204. *Contract Carrier: Irregular Routes: Printed matter from Morton, IL to Terre Haute, IN, for 180 days. Restricted to service performed under contracts or a continuing contract with Messenger Publishing Company, d/b/a The Weekly, Terre Haute, IN. An underlying ETA seeks 90 days authority. Supporting shipper(s): Messenger Publishing Company, d/b/a The Weekly, 822 Ohio Street, Terre Haute, IN 47808. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.*

MC 148544TA, filed September 5, 1979. Applicant: TOMAHAWK TRUCKING, INC., Rt. 4, Tomahawk, WI 54487. Representative: Nancy Johnson, 103 E. Washington St., Crandon, WI 54520. (1) *Pulpboard and materials, equipment and supplies used in the manufacture*

and/or distribution of pulpboard between facilities of Owens-Illinois Corp. at Minneapolis, MN; Chicago, Streator & Elton, IL; North Kansas City, MO; Gas City, IN; Tomahawk, WI; and Milan, MI (including their respective commercial zones) restricted to traffic originating at or destined to said facilities; (2) Pulpboard from the Twp. of Bradley, Lincoln Co., WI to points in MN and those in IL on and north of US Hwy. 24; and materials, equipment and supplies used in the manufacture and/or distribution of pulpboard from points in MN and those in IL on and north of US Hwy. 24 to the Twp. of Bradley, Lincoln Co., WI, restricted to traffic originating at or destined to facilities of Owens-Illinois Corp., for 180 days. Supporting shipper(s): Owens-Illinois Corp., Tomahawk, WI 54487. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 148545 (Sub-1TA), filed September 27, 1979. Applicant: BEST LINE, INC., P.O. Box 785, Hopkins, MN 55343. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Such commodities as are dealt in by general mail order houses between the facilities of Fingerhut Corporation at St. Cloud, MN and Atlanta, GA, Charlotte, NC, Chicago, IL, Cleveland, OH, Dallas, TX, Denver, CO, Des Moines, IA, Detroit, MI, Houston, TX, Jacksonville, FL, Kansas City, MO, Lexington, KY, Little Rock, AR, Los Angeles, CA, Milwaukee, WI, Nashville, TN, New Orleans, LA, Philadelphia, PA, Pittsburgh, PA, St. Louis, MO, San Francisco, CA, Seattle, WA, Shreveport, LA, Syracuse, NY, Worcester, MA and Memphis, TN, for 180 days. Supporting shipper(s): Fingerhut Corporation, 11 McLelland Road, St. Cloud, MN 56301. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.*

MC 148574TA, filed October 16, 1979. Applicant: B & J TRUCKING CO., INC., OF HAMPTON, R.F.D. 1, Box 169, Hampton, SC 29924. Representative: Robert H. Lawrence, Jr. (same as applicant's). *Housewares and kitchen utensils, non-electrical, (1) From Yemassee, SC to Los Angeles, CA; Chicago, IL and Moonachie, NJ, (2) From Los Angeles, CA to Chicago, IL and (3) Between Chicago, IL on the one hand, and, on the other, Moonachie, NJ, for 180 days. Supporting shipper(s): Le Creuset of America, Inc., P.O. Box 575, Yemassee, SC 29945. Send protests to: E. E. Strotheid, D/S, ICC, Room 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.*

Notice No. 210

MC 134922 (Sub-303TA), filed June 11, 1979, published in the Federal Register August 6, 1979 and republished this issue. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same as applicant). By decision entered November 9, 1979, the Motor Carrier Board granted applicant 180 days temporary authority to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, Containers and pulp board not corrugated and (2) materials and supplies used in the manufacture of (1) above, between the facilities of Green Bay Packaging, Inc., located in the United States (except AK and HI), on the one hand, and on the other, points in the United States (except AK and HI), restricted against the transportation of pulp board not corrugated from Opeelo, AR to Kalamazoo, MI, Fremont, OH and Cedarburg, Green Bay and Wausau, WI. An underlying ETA seeks 90 days authority. Supporting Shipper: Green Bay Packaging, Inc., 1700 North Webster, Green Bay, WI 54305. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto. The purpose of this republication is to reflect the removal of the restriction which appeared in the August 6, 1979 issue of the Federal Register.*

MC 145702 (Sub-3TA), filed August 27, 1979. Published in the Federal Register issue of October 31, 1979, and republished as corrected this issue. Applicant: TRANSURFACE CARRIERS, INC., 8 Thayer Street, Northboro, MA 01532. Representative: Bernard P. Rome, Esq., 31 Milk Street, Boston, MA 02109. *Irregular routes: (1)(a) Such commodities as are used or dealt in by wholesale and retail chain stores (except in bulk); (b) such commodities as are used in the manufacture of food and beverage products (except in bulk); (c) such commodities as are used in the manufacture of industrial, agricultural, pharmaceutical, and household products (except in bulk); and (d) medical products, (except in bulk), from Brooklyn, NY to points in AL, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NV, NH, NJ, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI, and DC. (2)(a) Such commodities as are used or dealt in by wholesale and retail chain stores (except in bulk), and (b) health care products (except in bulk),*

from Sanford, NC to points in the United States, (excluding AK AND HI). (3)(a) *Such commodities as are used in the manufacture of food and beverage products (except in bulk); and (b) such commodities as are used in the manufacture of industrial, agricultural, pharmaceutical and household products (except in bulk), from Southport, NC to points in AR, CA, CO, CT, DE, FL, GA, IL, IN, KY, LA, MD, MI, NJ, NY, NC, OH, PA, SC, TN, TX, WV, and VA. (4)(a) Such commodities as are used in the manufacture of food and beverage products (except in bulk); (b) such commodities as are used in the manufacture of industrial, agricultural and household products (except in bulk); (c) medical products (except in bulk); and (d) pharmaceuticals (except in bulk), from Terre Haute, IN to points in CA, CT, DE, FL, GA, ID, IL, IN, IA, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OH, OK, OR, PA, SC, TN, TX, UT, WA, WI, and DC. (5) Lime, limestone, and calcium metallic (except in bulk); from Canaan, CT to points in DE, FL, IN, KS, MD, MI, OH, PA, VA, WV, and WI. (6) Pyrophyllite, talc, and clay (except in bulk); from Victorville, CA to points in CT, GA, IL, IN, MA, NY, OH, PA, TX, and WI. (7) Lime and limestone (except in bulk); from Lucerne Valley, CA to points in CT, GA, IL, IN, MA, NY, OH, PA, TX, and WI. (8) Iron oxide, earth pigment, and chromium oxide (except in bulk); from Emeryville, CA to points in CT, GA, IL, IN, MA, NY, OH, PA, TX, and WI. Restriction: Restricted to a transportation service to be performed under a continuing contract with Pfizer, Inc. of New York, NY. (9) Bonding mortar and fire brick shapes (except in bulk); from Old Bridge, NJ to points in AL, CO, FL, GA, IL, IN, IA, KY, MD, MI, NC, NY, OH, PA, SC, TN, TX, VA, and WV. Restriction: Restricted to a transportation service to be performed under a continuing contract with Quigley Company, Inc. of New York, NY. Supporting shipper(s): Pfizer, Inc., 235 East 42nd Street, New York, NY 10017; Quigley Company, Inc., 235 East 42nd Street, New York, NY 10017. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114. The purpose of this republication is to show the complete request of the authority.*

MC 146742 (Sub-1TA), filed March 30, 1979. Applicant: H & F TRUCKING COMPANY, INC., RR 4, Mattoon, IL 61938. Representative: Robert W. Gardier, Jr., 100 East Broad St., Columbus, OH 43215. *General commodities between points in Champaign, Clark, Clay, Coles,*

Crawford, Cumberland, Douglas, Edgar, Effingham, Fayette, Jasper, Lawrence, Macon, Moultrie, Piatt, Richland, Shelby and Vermilion Counties, IL on the one hand, and, on the other, points in the state of IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): R. R. Donnelly & Sons, P.O. Box 189, Mattoon, IL 61938; Wareco Home Products P.O. Box 429, Paris, IL 61944 and World Color Press, P.O. Box 1248, Effingham, IL 62401. Send protests to: Charles D. Little, DS, ICC, 414 Leland Office Bldg., 527 East Capitol Ave., Springfield, IL 62701.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36453 Filed 11-26-79; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 41]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate

Dated: November 8, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority; Notice

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities

of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50906, as modified at 43 Fed. Reg. 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 129645 (M-1F), filed June 6, 1979.

Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER d.b.a. SMEESTER BROTHERS TRUCKING, P.O. Box 707, Iron Mountain, MI 49801. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Petitioner holds motor common carrier Certificate in MC 129645, issued April 10, 1970. MC 129645 authorizes transportation, over irregular routes, of wood fibreboard, between the warehouse sites of the Masonite Corporation, at Chicago, IL, to points in IN, IA, MI, MO, OH, PA, and WI. By the instant petition, petitioner seeks to modify the Certificate by adding "lumber" as an authorized commodity.

Broker, Water Carrier and Freight Forwarder Operating Rights Applications; Notice

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of

the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

Permanent Authority Decisions; Decision-Notice

Decided: November 2, 1979.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below, and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and

shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carlton Joyce, and Jones.

Brokers

MC 130589F, filed July 20, 1979.
Applicant: CALVIN KEY AND BETTY R. KEY, d.b.a. SUNSHINE TOURS, 100 D South Magnolia Street, Albany, GA 31707. Representative: Donald E. Strickland, Suite 504, Albany Towers, 235 Roosevelt Avenue, P.O. Box 750, Albany, GA 31702. To engage in operations, in interstate or foreign commerce, as a broker, at Albany, GA, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in special and charter operations between points in the United States, including AK and HI. (Hearing site: Albany or Atlanta, GA.)

MC 130612F, filed September 24, 1979.
Applicant: CHARLES B. BENTON AND WAYNE D. ANTON, a partnership, d.b.a. ODYSSEY TOURS, 1650 Oregon St., Redding, CA 96001. Representative: Charles B. Benton (same address as applicant). To engage in operations, in interstate or foreign commerce, as a broker, at Redding, CA, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in special operations, beginning and ending at points in Glenn, Humboldt, Lassen, Shasta, Siskiyou, Sutter, Tehama, and Trinity Counties, CA, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Redding or Sacramento, CA.)

Freight Forwarder

FF 252 (Sub-5F), filed June 4, 1979.
Applicant: CHI-CAN FREIGHT FORWARDING, LTD., 3600 S. Western Ave., Chicago, IL 60609. Representative: H. Barney Firestone, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. To operate, in interstate commerce, as a freight forwarder, of general commodities (except commodities in bulk, motor vehicles, used household goods, and unaccompanied baggage), between ports of entry on the international boundary line between the United States and Canada, at points in MN, MT, ND, ID, and WA, on the one hand, and, on the other, points in NY, NJ, PA, TN, GA, SC, MN, and TX, restricted to the use of facilities of common carriers, by rail and motor vehicle. (Hearing site: Chicago, IL.)

Permanent Authority Decisions; Decision-Notice

Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: November 2, 1979.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and further public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the commission, which is expressly reserved, to impose such terms conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1. Members Carlton, Joyce, and Jones.

MC 10875 (Sub-51F), filed April 25, 1979. Applicant: BRANCH MOTOR EXPRESS COMPANY, a corporation, 114 Fifth Ave., New York, NY 10011. Representative: G. G. Heller (same address as applicant). To operate as a common carrier, by motor vehicle, in

interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Mt. Vernon, IN, all points in York and Adams Counties, PA, and those in Cumberland, Dauphin, Franklin, and Lebanon Counties, PA, on east, and south of Interstate Hwy 81 as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC, or New York, NY.)

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 112070 (Sub-20F), filed May 25, 1979. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl St., Denver, CO 80210. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Washington, DC 20036. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods* as defined by the Commission, (1) between points in AL, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY, and DC, on the one hand, and, on the other, points in AZ, ID, ND, OR, and WA, and (2) between points in AZ, WA, OR, ID, and ND. (Hearing site: Denver, CO.)

Note.—The purpose of this application is to substitute single-line for joint/line service.

MC 112304 (Sub-193F), filed June 5, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *commodities*, the transportation of which because of size or weight requires the use of special equipment, (2) *metal articles*, (3)(a) *self-propelled articles*, each weighing 15,000 pounds or more, and (b) *related machinery, tools, parts and supplies* moving in connection therewith, (1) between points in CT, IL, IN, KY, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, TX, VT, VA, WV, WI, and DC, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, DE, FL, GA, ID, IA, KS, LA, ME, MN, MS, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, UT, WA, and WY, and (2) between points in CT, IL, IN, KY, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, TX, VT,

VA, WV, WI, and DC. (Hearing site: Washington, DC.)

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

Finance Applications; Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MCF 11821F (Sub-1). Petitioner: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Petitioner holds numerous grants of common carrier authority under Certificate No. MC-50069 and Subs thereunder which authorize the transportation, over irregular routes, of petroleum and petroleum products, chemicals, acids, and other liquid bulk commodities, between origin points located principally in the midwestern United States and with destination areas located throughout the United States, except AK and HI. The involved authorities are identified as follows: Certificate MC-50069 and Sub Nos. 2, 4, 7, 80, 82, 83, 89, 90, 91, 94, 95, 97, 104, 106, 107, 108, 109, 110, 111, 112, 117, 118, 119, 122, 123, 124, 128, 130, 131, 133, 136, 137, 138, 141, 147, 149, 150, 152, 154, 157, 159, 163, 164, 166, 170, 173, 181, 184, 187, 188, 190, 192, 193, 195, 196, 201, 205, 210, 211, 218, 221, 222, 226, 227, 228, 232, 237, 238, 243, 247, 249, 250, 251, 252, 256, 257, 259, 260, 262, 263, 267, 268, 273, 275, 276, 277, 278, 282, 284, 285, 287, 288, 292, 293, 297, 299, 300, 302, 303, 304, 306, 307, 308, 309, 310, 311, 312, 314, 316, 317, 319, 321, 323,

324, 329, 331, 333, 334, 337, 339, 341, 344, 345, 346, 352, 355, 358, 359, 360, 362, 363, 365, 366, 367, 368, 369, 370, 371, 372, 373, 375, 376, 379, 380, 382, 385, 386, 387, 388, 389, 390, 391, 392, 400, 405, 408, 409, 412, 413, 414, 416, 419, 421, 424, 425, 426, 429, 430, 433, 435, 436, 437, 439, 443, 446, 447, 453, 466, 471, 478, 479, 482, 489, 491, 492, 498, 501, 502, 506, 508, 515, 517, 518, 523, 527, 528, 530, 531, 535, 537, 540. By order of the Commission in Docket No. MC-F-11821, *Leaseway Transportation Corp.—Control—Gypsum Haulage, Inc.*, served May 11, 1972, all of these interstate operating rights were restricted against service at the plant sites or facilities of National Gypsum Company. A copy of a summary of the operating rights of Petitioner can be obtained by requesting the same form Petitioner's Representatives. By the instant Petition Petitioner seeks to modify all of its authority by eliminating the restriction now imposed upon it by the MC-F-11821 Decision.

MC-F-13963F. Transferee: AMERICAN HOLIDAY VAN LINES, INC., 2323 Chipman Street NW., Knoxville, Tennessee 37917. Transferor: KINGS VAN & STORAGE, INC., 918 Broadway, Oklahoma City, Oklahoma. Representative: Robert J. Gallagher, Esq., Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to purchase by transferee of the operating rights of transferor as set forth in Certificate of Public Convenience and Necessity MC 2929 (Sub-17) and MC 292 (Sub-18G) described as follows: MC 292 (Sub-17). Between Chicago, Illinois and points within 50 miles thereof, on the one hand, and, on the other, points in IL, IN, OH, WI, MI, and IA., between Chicago, Illinois, on the one hand, and, on the other, points in MI, IL, WI, IA, IN, KY, OH, TN, PA, NY, MD and the D.C. Between Decatur, Illinois, and points within 50 miles thereof, on the one hand, and, on the other, points in AR, CO, IL, PA, IN, KY, MA, MI, MN, MO, NY, OH, PA, TN, WI, OK, NE, FL, TX, AL and the D.C. Between Philadelphia, Pennsylvania, on the one hand, and, on the other, points in DE, VA, NJ, MD and the D.C. Between Marshalltown, IA and points within 60 miles thereof, on the one hand, and, on the other, points in IA, MO, KS, MN, IL, NE, and CO. Between points in Milwaukee County, WI, on the one hand, and, on the other, points in IL, IN, IA, MN and OH.

MC 292 (Sub-18G). (a) Between points in OH and NM, on the one hand, and, on the other, points in FL., (b) Between points in MA, on the one hand, and, on the other, points in CO. (c) Between points in NM, on the one hand, and, on

the other, points in AL, and (d) Between points in CO., on the one hand, and, on the other, points in AR.

Appendix A

MC 292 (Sub-17). Between Chicago, Illinois and points within 50 miles thereof, on the one hand, and, on the other, points in IL, IN, OH, WI, MI, and IA. Between Chicago, Illinois, on the one hand, and, on the other, points in MI, IL, WI, IA, IN, KY, OH, TN, PA, NY, MD and the D.C. Between Decatur, Illinois, and points within 50 miles thereof, on the one hand, and, on the other, points in AR, CO, IL, PA, IN, KY, MA, MI, MN, MO, NY, OH, PA, TN, WI, OK, NE, FL, TX, AL and the D.C. Between Philadelphia, Pennsylvania, on the one hand, and, on the other, points in DE, VA, NJ, MD and the D.C. Between Marshalltown, IA and points within 60 miles thereof, on the one hand, and, on the other, points in IA, MO, KS, MN, IL, NE, and CO. Between points in Milwaukee County, WI, on the one hand, and, on the other, points in IL, IN, IA, MN and OH.

MC 292 (Sub-18G). (a) Between points in OH and NM, on the one hand, and, on the other, points in FL., (b) Between points in MA, on the one hand, and, on the other, points in CO. (c) Between points in MN, on the one hand, and, on the other, points in AL, and (d) Between points in CO., on the one hand, and, on the other, points in AR.

MCF 14209F. MISSIE, INC., P.O. Box 13101, 3400 McIntosh Road, Fort Lauderdale, Florida 33316. BROWARD AIR FREIGHT TERMINAL, INC., P.O. Box 22816, 3400 McIntosh Road, Fort Lauderdale, Florida 33316; Joint Applicants: Richard M. Davis, Esq., Suite 710, Barnett Bank Building, Tallahassee, Florida 32301. Representative of Applicant.

Missie, Inc., seeks to lease from Broward Air Freight Terminal, Inc., common carrier authority to transport general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), transported over irregular routes between points in Broward, Dade, and Palm Beach Counties, Florida, restricted to traffic having a prior or subsequent movement by air or water.

MC-F-14210F. Transferee: UTAH-WYOMING FREIGHT LINE, INC., 2818 West 2700 South, Salt Lake City, Utah 84119. Transferor: ZUECK TRANSPORTATION COMPANY, 110 M Street, P.O. Box 1995, Rock Springs, Wyoming 82901. Representative: William S. Richards, P.O. Box 2465, Salt

Lake City, Utah 84110. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 54514 (Sub-1), issued June 25, 1970, as follows: *General commodities*, between Rock Springs, WY, and Kemmerer, WY, via Opal, WY over U.S. Hwy Nos. 30 and 30N. No intermediate service except Opal, WY and with service to the off route point of Elkol, WY and a two mile radius thereof. Transferee is authorized to transport general commodities between Salt Lake City, UT and Rock Springs, WY over specified highways serving specified intermediate and off-route points pursuant to docket No. MC 40971. Application has been filed for temporary authority under 49 U.S.C. 11349.

Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-F-78121 filed May 7, 1979. Transferee: PACIFIC TRANSPORT CO., Rt. 2, Box 71-F, Moses Lake, WA 98837.

Transferor: HARMS PACIFIC TRANSPORT, INC., P.O. Box 113, Pasco, WA. Representative: Charles C. Flower, 303 East "D" St., Suite 2, Yakima, WA 98901. Authority sought for the purchase by transferee of a portion of the operating rights in transferor's Certificate MC 89893, issued March 16, 1961, as follows: Lignin liquor, in tank vehicles, from Shelton, Tacoma, Seattle, Everett, Bellingham, and Gray's Harbor, WA, to points in WA, OR, and ID, and points in MT on an west of US Hwy 91. An application for temporary lease has not been filed. Transferee holds no authority from the Commission.

MC-FC-78122 filed May 8, 1979. Transferee: N & N CHARTER TOURS, INC. d.b.a. CAREFREE BUS SERVICE, P.O. Box 8152, Haledon, NJ 07508. Transferor: DE CAMP BUS LINES, INC., 101 Greenwood Ave., Montclair, NJ 07042. Representative: Robert E. Goldstein, 8 West 40th St., New York, NY 10019. Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Authority sought for purchase by transferee of a portion of transferor's operating rights in Certificate MC 109312 as follows: Passengers and their baggage, between Bloomfield, NJ, and Lyndhurst, NJ, over a specified regular route, serving named intermediate points. Transferee holds no authority from the Commission. An application seeking temporary lease authority has been filed.

MC-FC-78124 filed May 4, 1979. Transferee: CAROL BOWMAN, Rural Delivery 2, Box 75, Milford, DE 19963. Transferor: KENT/SUSSEX TOURS, INC., Rural Delivery 2, Box 114C, Greenwood, DE 19950. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030-15th St., NW, Washington, DC 20005. Authority sought for purchase by transferee of transferor's Broker's License MC 12969, issued November 29, 1974, authorizing operations as a broker at Greenwood, DE, in arranging for the transportation of passengers and their baggage, in special and charter operations, beginning and ending at points in Kent and Sussex Counties, DE, and those in New Castle, DE, south of the Chesapeake and Delaware Canal, and Caroline and Queen Anne Counties, MD, and extending to points in the United States, including the ports of entry on the U.S.-Canada Boundary line and the U.S.-Mexico Boundary line. Transferee holds no authority from the Commission.

MC-FC-78125 filed May 4, 1979. Transferee: GERALD L. BETTS, d.b.a. BETTS TRUCKING, 2229-17th Avenue, Central City, NE 68826. Transferor: HARVEY WULF d.b.a. WULF'S Inc.,

Salem, SD 57058. Representative: M. Mark Menard, 6301 No. Cliff, Box 480, Sioux Falls, SD 57101. Authority sought by transferee to purchase a portion of operating rights held by transferor in Permit MC 133750 (Sub-2), issued November 12, 1973, authorizing prefabricated products, from Central City, NE, to points in CO, KS, OK, IA, MO, and SD, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the facilities of F & W Concrete Products Co. The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with F & W Concrete Products Co., of Salem, SD. Transferee holds no authority from the Commission. An application for temporary lease has not been filed.

MC-FC-78126 filed May 4, 1979. Transferee: LOUIE JOHNSON d.b.a. LOUIE'S MOVING, Rural Route No. 1, Centerville, IA 52544. Transferor: BERLON BRENAMAN d.b.a. BRENAMAN AND SON, P.O. Box 9, Chariton, IA 50049. Representative: Kenneth F. Dudley, 811 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought for purchase by transferee of operating rights held by transferor in Certificate MC 17867, authorizing livestock, from Chariton, IA, and points within 30 miles of Chariton to Omaha, NE, Chicago, Peoria, and National Stock Yards, IL, South St. Paul, MN, Sioux Falls, SD, Kansas City, KS, and Kansas City, St. Louis, and St. Joseph, MO; feed, from Omaha, NE, Kansas City, St. Louis, and St. Joseph, MO, Sioux Falls, SD, and Chicago, IL, to Chariton, IA, and points within 30 miles of Chariton; *twine*, from Chicago and Peoria, IL, to Burlington and Creston, IA, points in IA within 30 miles of Burlington and Creston, and those in IA on and within 30 miles of U.S. Highway 34 between Burlington and Creston; *farm implements*, from Chicago and Peoria, IL, to Chariton, IA, to points within 30 miles of Chariton; *flour*, *petroleum products*, *hay*, *sugar*, *tankage* and *seed*, from Omaha, NE, to Chariton, IA, and points within 30 miles of Chariton; *seed*, from Chicago, IL, to Chariton, IA, and points within 30 miles to Chariton; *tile*, and *cement blocks*, from Sheffield, IL, to Chariton, IA; broom corn, from Stonington, and Springfield, CO to Chariton, IA; and household goods, and emigrant movables, between Chariton, IA, and points within 30 miles of Chariton and points in IA, NE, MO, KS, IL, MN and

SD. Transferee holds no authority from the Commission. An application for temporary lease has not been filed.

MC-FC-78128 filed May 7, 1979. Transferee: YUMA COUNTY TRANSPORTATION CO., 310 East Second Ave., Yuma, CO 80759. Transferor: WILLIAM H. HAHN AND CLAUS GRELL, a partnership, d.b.a. SPRINGFIELD TRANSFER, Box 352, Springfield, NE 68059. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Authority sought for purchase by transferee of operating rights held by transferor in Certificate MC 11827, issued July 23, 1953, authorizing over regular routes, general commodities, with the usual exceptions, between Springfield, NE, and Omaha, NE, serving named off-route and intermediate points; hay and prepared feed, between Springfield, NE, and Council Bluffs, IA, serving points within ten miles of Springfield; coal, from Clarinda, IA, to Springfield, NE, serving points within ten miles of Springfield; and over irregular routes, household goods, emigrant movables, livestock, road building equipment, grain and seed, between Springfield, NE, and points in NE within 20 miles of Springfield, on the one hand, and, on the other, points in IA. Transferee holds no authority from the Commission and temporary lease is not sought.

MC-FC-78129 filed May 8, 1979. Transferee: WILLIAM G. CUTLER, 15 Liberty Street, Concord, NH 03301. Transferor: NORTHERN TRANSPORTATION SERVICES, INC., Ripley Road, Rutland, VT 05701. Representative: James M. Burns, Johnson's Bookstore Bldg., 1383 Main Street, Suite 413, Springfield, MA 01103. Authority sought for purchase by transferee of operating rights held by transferor in License MC 130286, issued January 5, 1978, authorizing commodities and related machinery parts and related contractors' equipment, materials and supplies, between points in VT, NH, and MA, and points in the U.S. (except AK and HI). Transferee holds no authority from the Commission. An application for temporary lease has not been filed. Transferor is authorized to operate as a broker at Rutland, VT.

MC-FC-78130, filed May 4, 1979. Transferee: JON PESCHKE, Rural Route 1, Box 73A, Hampshire, IL 60140. Transferor: MERLON BRENAMAN, d.b.a. BRENAMAN AND SON, P.O. Box 9, Chariton, IA 50049. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Authority sought for the purchase by transferee of that portion of the operating rights of

transferor as set forth in certificate MC 17867 (Sub-5), issued May 1, 1970, as follows: *sewage disposal equipment*, from Chariton, IA, to points in CO, CT, DE, KS, ME, MD, MA, MT, NH, NJ, NM, NY, ND, OK, PA, RI, SD, TX, VT, WV, WY, DC, and the upper Peninsula of MI, restricted to the transportation of traffic originating at the facilities of Johnson Machine Works, at Chariton, IA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78132, filed May 4, 1979. Transferee: GARLEN TURNER d.b.a. TURNER MOVERS, 300 Hawker St., Dayton, OH 45410. Transferor: CALVIN S. TAWNEY MOVERS, INC., 1857 Wayne Ave., Dayton, OH 45410. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC 2736, issued August 30, 1958, as follows: *Household goods*, as defined by the Commission, between Dayton, OH and points within 25 miles thereof, on the one hand, and, on the other, points in CT, IL, IN, KY, MA, MI, MN, MO, NY, OH, PA, TN, WV, and WI. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78135, filed May 2, 1979. Transferee: KIRKWOOD TERMINALS, INC., 3162 Washington Street, Jamaica Plain, MA 02130. Transferor: GEORGE E. TAYLOR d.b.a. PIERCE'S BOSTON EXPRESS, 152 Hovendon Avenue, Brockton, MA 02402. Representative: George C. O'Brien, 12 Vernon Street, Norwood, MA 02062. Authority sought for purchase by the transferee of the operating rights of transferor in Certificate of Registration MC 120476 (Sub-2) authorizing the transportation of general commodities: Anywhere within the Commonwealth of Massachusetts. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78136 filed April 12, 1979. Transferee: CITY DELIVERY SERVICE, INC., P.O. Box 722, Boise, ID 83701. Transferor: JAMES JACKSON, 920 E. 5th St., Route 2, Weiser, ID 83672. Representative: Kenneth G. Bergquist, P.O. Box 1775, Boise, ID 83701. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration MC 120643 (Sub-3), issued July 8, 1965, as follows: *General commodities* moving in express service, over regular routes

between Weiser and New Meadows, over U.S. Hwy 95 serving all intermediate points. Transferee holds authority from this Commission under MC 121044 (Sub-4 and 5). Application for temporary authority has been filed under 49 U.S.C. 11349.

MC-FC-78139 filed May 9, 1979. Transferee: BRAYMAN'S AUTOMOTIVE SERVICE, INC., 877 S. Washington St., North Attleboro, MA 02760. Transferor: JOHN D. ANTONELLI, d.b.a. FRANKIE'S TOWING SERVICE, 240 Old Colony Ave., South Boston, MA. Representative: William Humphrey Tucker, One State St., Boston, MA 02109. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC 129717, issued May 25, 1978, as follows: *Wrecked or disabled motor vehicles*, by the use of wrecker equipment only, between Boston, MA, on the one hand, and, on the other, points in CT, ME, NH, RI, and points in that part of NY on and east of Interstate Hwy 87. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78150, filed May 8, 1979. Transferee: ACADIAN CROWN, INC., P.O. Box 976, Manotick, Ontario, Canada, K0A 2N0. Transferor: WILLIAM CHILDS LIMITED, 1774 Athens Ave., Ottawa, Ontario, Canada, K1T 1L3. Representative: William J. Hirsch, 43 Court St., Suite 1125, Buffalo, NY 14202. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate MC 127822, issued May 27, 1970, as follows: *Brick*, from ports of entry on the United States-Canada Boundary line on the St. Lawrence River, to points in NY (except points in Sullivan, Ulster, Greene, Columbia, Dutchess, Orange, Putnam, Westchester, Rockland, Suffolk and Nassau Counties, and New York, NY) and returned shipments in the reverse direction. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78158, filed May 29, 1979. Transferee: JOHN ALLEN NELSEN, d.b.a. CRANDIC MOTOR EXPRESS, 1201-9th St., SW, Cedar Rapids, IA 52404. Transferor: CEDAR RAPIDS TRANSFER AND STORAGE, CO. a corporation, 3700 J St. SW, Cedar Rapids, IA 52404. Representative: John A. Nelson, 219 1/2-3rd Ave. SW, Cedar Rapids, IA 52404. Authority sought for the purchase by transferee of the operating rights of transferor as set forth

in Certificate MC 5895, issued July 18, 1977, as follows: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring the use of special equipment, between Cedar Rapids, IA and Iowa City, IA, over U.S. Hwy 218, serving all intermediate points. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78169 filed June 4, 1979. Transferee: DENNIS LAUREL McCLAIN, d.b.a. ROSIE MOBILE HOME TOWING, 96 Cavalier Way, O'Fallon, MO 63368. Transferor: HAROLD ROSEMAN, d.b.a. ROSIE MOBILE HOME TOWING, 12212 Poeggmoeller, St. Louis, MO 63138. Authority sought for purchase by transferee of operating rights held by transferor in Certificate MC 112844, issued May 27, 1952, authorizing house trailers, in truck-away service in secondary movements, over irregular routes, between points within 50 miles of St. Louis, MO, including St. Louis. Transferee holds no authority from the Commission. An application for temporary lease has not been filed.

MC-FC-78175, filed May 22, 1979. Transferee: B & J TULELAKE, INC., 474 E. St., Tulelake, CA 96134. Transferor: WILLIAM L. GUNDERSON, d.b.a., Towne Garage, 474 East West Road, Tulelake, CA 96134. Representative: Donald Sillings, 474 E. St., Tulelake, CA 96134. Authority sought for purchase by transferee of operating rights held by transferor in Certificate No. MC 123629, issued September 18, 1974, authorizing wrecked or disabled automobiles, by wrecker-type equipment, between points in Deschutes, Douglas, Jackson, Josephine, Klamath, and Lake Counties, OR, on the one hand, and, on the other, points in Modoc and Siskiyou Counties, CA. Transferee holds no authority from the Commission. An application for temporary lease has not been filed.

MC-FC-78177, filed June 5, 1979. Transferee: STEEL DELIVERY, INC., P.O. Box 310, South Main Street, Niles, Ohio 44448. Transferors: OHIO FAST FREIGHT, INC., 1544 North Main Street, P.O. Box 808, Niles, Ohio 44482. SUN EXPRESS, INC., P.O. Box 1831, Warren, Ohio 44482. Representative: Michael L. Moushey, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, Ohio 43215. Authority sought for purchase by Transferee of a portion of the operating rights of Transferor, Ohio Fast Freight, as set forth in Certificate No. MC-14702 (Sub 17)*, as issued May 21, 1968, as follows: *Iron, steel, manufactured iron*

and steel articles, motors, machinery, and machinery part, between points in Cuyahoga (except Cleveland, OH), Summit, Stark, Tuscarawas, Portage, Mahoning, and Trumbull Counties, OH, on the one hand, and, on the other, points in Illinois in the Chicago, Illinois Commercial Zone as defined by the Commission. Authority sought for purchase by Transferee of a portion of the operating rights of the Transferor, Ohio Fast Freight, as set forth in Certificate No. MC-14702 (Sub 27), issued October 28, 1970, as follows: *Iron and steel electrical conduit pipe*, from the plant sites of Jones and Laughlin Steel Corporation at Niles, OH, and New Kensington, PA, the plant sites of Triangle Conduit and Cable Company, Inc., at Glendale, WV, and the plant site of H. K. Porter Company, Inc., at Cambridge, PA, to Chicago, IL and its Commercial Zone. Authority sought for purchase by Transferee of a portion of the operating rights of Transferor, Ohio Fast Freight, as set forth in Certificate No. MC-14702 (Sub 59C), issued January 7, 1976, as follows: *Iron, steel, manufactured iron and steel articles, motors, machinery, and machinery parts (except commodities requiring special equipment)*, between Chicago, IL, on the one hand, and, on the other, points in West Virginia, points in Ohio east of a line beginning at the Maumee River and extending along U.S. Highway 23 to the Ohio-Kentucky state line, points in Pennsylvania, New Jersey, Virginia, Maryland, and the District of Columbia. Authority sought for purchase by Transferee of a portion of the operating rights of Transferor, Ohio Fast Freight, as set forth in "E" Letter Notice No. MC-14702 (Sub E-5), as published in the Federal Register on June 14, 1974, as follows: *Iron, steel, manufactured iron and steel articles, motors, machinery, and machinery parts (except commodities requiring special equipment and commodities in bulk)*, between points in that part of Pennsylvania on and east of U.S. Highway 219, the District of Columbia, New Jersey, and Maryland, on the one hand, and, on the other, points in Illinois, in the Chicago, IL, Commercial Zone as defined by the Commission. Authority sought for purchase by Transferee of a portion of the operating rights of Transferor, Ohio Fast Freight, as set forth in "E" Letter Notice No. MC-14702 (Sub E-8), as published in the Federal Register on June 14, 1974, as follows: *Iron, steel, manufactured iron and steel articles, motors, machinery, and machinery parts (except commodities requiring special equipment and commodities in bulk)*,

between points in Virginia on and east of a line beginning at the Virginia-West Virginia state line, thence south along U.S. Highway 522 to its intersection with U.S. Highway 29, thence along U.S. Highway 29 to its intersection with Virginia Highway 20, thence along Virginia Highway 20 to its intersection with U.S. Highway 460, thence south along U.S. Highway 460 to its intersection with Virginia Highway 46, thence along Virginia Highway 46 to the Virginia-North Carolina state line, on the one hand, and, on the other, points in Illinois, in the Chicago, IL, Commercial Zone as defined by the Commission. Authority sought for purchase by the Transferee of a portion of the operating rights of Transferor, Ohio Fast Freight, as set forth in "E" Letter Notice No. MC-14702 (E-7), as published in the Federal Register on June 14, 1974, as follows: *Iron, steel, manufactured iron and steel articles, motors, machinery, and machinery parts (except commodities requiring special equipment and commodities in bulk)*, between points in Pennsylvania on and west of U.S. Highway 219 (except points in Greene and Washington Counties), on the one hand, and, on the other, points in Illinois in the Chicago, IL, Commercial Zone as defined by the Commission. Authority sought for purchase by the Transferee of a portion of the operating rights of Transferor, Ohio Fast Freight, as set forth in "E" Letter Notice No. MC-14702 (E-9), as published in the Federal Register on June 14, 1974, as follows: *Iron, steel, manufactured iron and steel articles, motors, machinery, and machinery parts (except commodities requiring special equipment and commodities in bulk)*, between points in West Virginia east and north of a line beginning at the Ohio-West Virginia state line, thence along West Virginia Highway 20 to its intersection with U.S. Highway 19, thence along U.S. Highway 19 to its intersection with U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia state line, on the one hand, and, on the other, points in Illinois, in the Chicago, IL, Commercial Zone as defined by the Commission. Authority sought for purchase by the Transferee of a portion of the operating rights of Transferor, Ohio Fast Freight, as set forth in "E" Letter Notice No. MC-14702 (E-19), as published in the Federal Register on June 14, 1974, as follows: *Iron, steel, manufactured iron and steel articles, motors, machinery, and machinery parts (except commodities in bulk)*, between points in Illinois, in the Chicago, IL, Commercial Zone as defined by the Commission, on the one hand, and, on the other, points

Ashtabula, Geauga, Lake, Trumbull, Carroll, Jefferson, Harrison, and Belmont Counties, Ohio. Also sought for purchase is authority in MC-14702 (E-8) authorizing the same commodities as in E-7, between points in Greene and Washington Counties, PA, on the one hand, and, on the other, points in IL in the Chicago, IL, Commercial Zone as defined by the Commission. Authority sought for purchase by the Transferee of a portion of the operating rights of Transferor, Ohio Fast Freight, as set forth in "E" Letter Notice No. MC-14702 (E-21), as published in the Federal Register on June 19, 1974, as follows: *Iron, steel, iron and steel articles, which because of size or weight or nature require the use of flat bottom vehicles, or vehicles with sides not in excess of 36 inches in height*, from points in Illinois, in the Chicago, IL, Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in Armstrong, Clarion, Fayette, Forest, Warren and Westmoreland Counties, Pennsylvania. Authority sought for purchase by the Transferee of the operating rights of Transferor, Ohio Fast Freight, as set forth in "E" Letter Notice No. MC-14702 (E-42), as published in the Federal Register on July 18, 1974, as follows: *Road machinery*, from points in Illinois, in the Chicago, IL, Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in Pennsylvania. Authority sought for purchase by the Transferee of a portion of the operating rights of Transferor, Sun Express, Inc., as set forth in Certificate No. MC-119531 (Sub 7), as issued on November 3, 1961, as follows: *Machinery*, between Cleveland, OH, on the one hand, and, on the other, points in New Jersey, Pennsylvania, and points in New York within a two hundred (200) mile radius of Newark, New Jersey.

Note.—Transferee holds no other operating authority, either interstate or intrastate. If a hearing is deemed necessary, applicants respectfully request that it be held in either Cleveland or Columbus, Ohio. Application for temporary lease has not been filed.

MC-FC-78192, filed June 13, 1979. Transferee: MINNESOTA AIR EXPRESS, INC., 1208 W. Center Street, Rochester, MN 55901. Transferor: ROCHESTER ARMORED CAR CO., INC., 509 17th Avenue N.W., Rochester, MN 55901. Representative: James F. Finley, 301 Midwest Federal Bldg., St. Paul, MN 55101. Authority sought for purchase by transferee of operating rights held by transferor in Certificate No. MC 141928 (Sub-No. 1), issued November 28, 1977, authorizing laboratory animals, live mink, electronic equipments, gear reducing and speed

increasing machines, and machine parts, between Minneapolis-St. Paul International Airport, MN, and points in Waseca, Rochester, and Owatonna, MN, restricted to the transportation of traffic having a prior or subsequent movement by air. Transferee holds authority under MC 144481. An application for temporary lease has been filed.

MC-FC-78202, filed June 12, 1979. Transferee: BRUCE W. TRENT, R.D. 1, Friedens, PA 15541. Transferor: WARD MAUST, DONALD MAUST and DWIGHT MAUST, a Partnership, d.b.a. MAUST BROTHERS, R.D. 4, Merlin, PA 15530. Representative: Jeremy Kahn, 733 Investment Bldg., 1511 K St. NW, Washington, DC 20005. Authority sought for the purchase by transferee of the operating rights held by transferor, as set forth in Certificates MC-110365 (Sub-Nos. 1, 2, 4, and 5), issued August 31, 1960, May 12, 1961, August 19, 1966, and May 9, 1975, respectively, as follows: *Potato chips*, from Berlin, PA, to Barberton, Alliance, Canton, and Marietta, OH, Parkersburg, Sistersville, and Moundsville, WV, and Ashland, KY, and *empty containers, and materials and supplies used in the manufacture of potato chips*, in the reverse direction; *such equipment, materials and supplies* as are used in the conduct of the painting and decorating business, between points in MD, PA, VA, and WV, restricted to shipment moving from or to the places of business or other facilities of painting and decorating firms. *Sugar*, from Baltimore, MD, to Johnstown, PA, over a specified regular route, serving the intermediate and off-route points of Berlin and Somerset, PA for delivery only; *Cans, canned goods and tor paper*, from Baltimore, MD to Somerset, PA, over a specified regular route, serving no intermediate points; *fertilizer*, from Baltimore, MD to Somerset, PA, over a specified regular route, serving no intermediate points but serving the off-route point of Berlin, PA, for delivery only; *food*, from Hagerstown, MD, to Manns Choice, PA, over a specified route, serving no intermediate points; *Hay*, from Somerset, PA, to Berkeley Springs, WV, over a specified route, serving no intermediate points; and from Somerset, PA, to Cumberland, MD, over a specified route, serving no intermediate points. *Fertilizer in bags*, from Baltimore, MD, to points in Somerset County, PA, and *damaged shipments of fertilizer in the reverse direction*. *Candy and Confectionery*, from Berlin, PA to Cumberland, MD. *Sugar* (except in bulk in tank vehicles), from Baltimore, MD, to Friedens, PA. *Mine supplies and mining equipment*, from Berlin PA, to points in

Randolph County, WV. *Potato chips, cheese curls, popcorn and pretzels*, from Berlin, PA, to Ashland, KY, and points in MD, NJ, NY, OH, VA, WV, and DC, and *materials and supplies used in the manufacture of the commodities immediately above, in the reverse direction*. *Fertilizer and fertilizer ingredients and feed and feed ingredients*, (except in bulk in tank vehicles) between points in Somerset County, PA, on the one hand, and, on the other, points in MD, NJ, (except Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem Counties, NY, OH, VA, and WV. Transferee presently holds no authority from this Commission. An application has not been filed for temporary authority under 49 U.S.C. 1134c.

MC-FC-7831, filed July 17, 1979. Transferee: WESLEY A. BRYAN, d.b.a. BRYAN MOVING & STORAGE, P.O. Box 95, Beltsville, MD 20705. Transferors: ACADEMY VAN LINES, INC., P.O. Box 3247, Annapolis, MD 21403. CAPITOL MOVING & STORAGE COMPANY, INC., P.O. Box 3247, Annapolis, MD 21403. Representative: Paul F. Sullivan, 711 Washington Bldg., 15th and New York Ave. NW., Washington, DC 20005. Authority sought for the purchase by transferee of the operating rights of transferors as set forth in Certificates MC-147715, MC-135225, and MC-135225 (Sub-No. 1) as follows: *Household goods*, between points in MD and DC, on the one hand, and, on the other, points in ME, NH, VT, RI, DE, MD, VA, WV, KY, OH, IN, MI, IL, WI, MO, IA, MN, NC, SC, GA, FL, AL, and DC. *Used household goods*, between points in Baltimore City, Anne Arundel, Baltimore, Calvert, Carroll, Hartford, Howard and Prince Georges Counties, MD; between Annapolis, MD and Washington, DC; subject to restrictions. And *Household goods*, between Washington, DC, on the one hand, and, on the other, points in NY, NJ, PA, DE, WV, MD, and VA; between points in the New York, NY Commercial Zone, on the one hand, and, on the other, points in NY, CT, MD, MA, NJ, PA, and RI. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78242, filed July 17, 1979. Authority sought by NATIONAL RETAIL TRANSPORTATION, INC., Building A, 10 E. Oregon Avenue, Philadelphia, PA, 19148, to purchase a portion of the operating rights of DRAKE MOTOR LINES, INC., bankrupt, 20 Olney Avenue, Cherry Hill, NJ, 08002. Representative: Richard Rueda, Esquire,

133 N. 4th Street, Philadelphia, PA 19106. Attorney for Transferor: James F. Maher, Esquire, Bank, Rome, Comisky & McCauley, 1100 Four Penn Center Plaza, Philadelphia, PA 19103. Operating rights sought to be transferred as set forth in MC-70083, and subs thereunder, as follows: (1) *Such commodities as are dealt in by retail department stores, except grocery store supplies*, over regular routes, between Philadelphia, PA and New York, NY, servicing all intermediate points and off-route points within 25 miles of the described route, from Philadelphia over US Hwy 1 to NY and return over the same route, between Philadelphia, PA, and junction US Hwys 130 and 1, serving all intermediate points and off-route points within 15 miles of the described route, from Philadelphia over US Hwy 130 to junction US Hwy 1, and return over the same route; between Philadelphia, PA and Vineland, NJ serving all intermediate points and off-route points within 25 miles of the described route, from Philadelphia over city streets across the Delaware river to Camden, thence over NJ Hwy 42 to junction NJ Hwy 41, thence over NJ Hwy 41 to Glassboro, thence over NJ Hwy 47 to junction unnumbered Hwy near Vineland, thence over unnumbered Hwy to Vineland, and return over the same route, between Trenton, NJ and junction US Hwys 206 and 130, serving all intermediate points and off-route points within 15 miles of the described route, from Trenton over US Hwy 206 to junction US Hwy 130, and return over the same route, between Burlington, NJ and Philadelphia, PA serving all intermediate points and off-route points within 15 miles of the described route, from Burlington over NJ Hwy 413 across the Burlington-Bristol Bridge to junction PA Hwy 413, thence over PA Hwy 413 to junction US Hwy 13 at or near Bristol, PA, thence over US Hwy 13 to Philadelphia, and return over the same route, between Philadelphia, PA and Ocean City, NJ, serving all intermediate points and off-route points within 15 miles of the described route, from Philadelphia over US Hwy 30 to junction US Hwy 9, thence over US Hwy 9 to junction NJ Hwy 52, thence over NJ Hwy 52 to Ocean City, and return over the same route, between Philadelphia, PA and Wilmington, DE serving all intermediate points and off-route points within 15 miles of the described route, from Philadelphia over US Hwy 1 to junction US Hwy 202, thence over US Hwy 202 to Wilmington and return over the same route, from Philadelphia over city streets across the Delaware River to Camden, NJ, thence over NJ Hwy 42 to

junction US Hwy 130, thence over US Hwy 130 to junction US Hwy 40, thence over US Hwy 40 across the Delaware Memorial Bridge to junction US Hwy 13, thence over US Hwy 13 to Wilmington, DE and return over the same route. Restriction: the regular-route operations authorized above are subject to the following conditions: Said operations shall not be severable by sale or otherwise from the underlying irregular-route authority contained under the first commodity description herein below. Said operations are restricted to the transportation of traffic moving between Philadelphia, Ardmore, Jenkintown, and Upper Darby, PA and Camden, NJ, on the one hand, and on the other, points in NJ, DE, MD, points in that part of PA east of a line beginning at the PA-NY State line, and extending along US Hwy 11 to Lemoyne, PA and thence along Interstate Hwy 83 to the PA-MD State line, and points in that part of NY south and east of a line beginning at the NY-MA State line, and extending along NY Hwy 2 to Troy, NY and thence along NY Hwy 7 to the NY-PA State line, including points on the indicated portions of the Hwy specified. Said operations are restricted against shipments from the facilities of B. Altman Company, St. Davids, PA to points in NJ and DE; (2) *Such commodities as are dealt in by retail department stores, except grocery store supplies*, over irregular routes, between Philadelphia, Ardmore, Jenkintown, and Upper Darby, PA, and Camden, NJ, on the one hand, and, on the other, Washington, DC, points in NJ, DE and MD, points in that part of PA east of a line beginning at the PA-NY State line, and extending along US Hwy 11 to Lemoyne, PA, thence along Interstate Hwy 83 (formerly portion US Hwy 111) to York, PA, thence along unnumbered Hwy (formerly portion US Hwy 111) through Jacobus, Loganville, and Shrewsbury, PA to the PA-MD State line, and points in that part of NY south and east of a line beginning at the NY-MA State line, and extending along NY Hwy 2 to Troy, NY and thence along NY Hwy 7 to the NY-PA State line, including points on the indicated portions of the Hwys specified. Restriction: Carrier shall not, pursuant to the irregular-route authority described above, transport shipments moving between any points authorized hereinabove to be served by it in regular-route operations. Said operations are restricted against shipments from the facilities of B. Altman Company, St. Davids, PA to points in NJ and DE. (3) *Such items as are dealt in by retail department stores, except grocery store supplies* over irregular routes between points in PA

east of a line beginning at the PA-NY State line, and extending along US Hwy 11 to Lemoyne, thence along Interstate Hwy 83 to York, thence along unnumbered Hwy through Jacobus, Loganville, and Shrewsbury, PA to the PA-MD State line, on the one hand, and, on the other, points in the New York, NY commercial zone. Restriction: The authority granted above is restricted against shipments from the facilities of B. Altman Company, St. Davids, PA to points in NJ, the authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. (4) *Pianos, and Piano benches, Seats and Stools, new and used, uncrated, other than those transported as a part of a household goods movement, as defined by the Commission*, over irregular routes, Between points in the Philadelphia, PA, Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NJ, (except points in the New York, NY Commercial Zone as defined by the Commission in 1 M.C.C. 665 and 2 M.C.C. 191), DE, MD, PA, OH, MO, KS, AR, TX, LA, MS, AL, FL, GA, SC, NC, TN, KY, WV, VA, and DC, (5) *Pianos, and Piano Benches, Seats and Stools, other than those transported as a part of a household goods movement, as defined by the Commission*, over irregular routes, From points in the Philadelphia, PA Commercial Zone, as defined by the Commission, to points in IL, IN, MI, and NY, and points in that part of NJ in the New York, NY Commercial Zone, as defined by the Commission in 1 M.C.C. 665 and 2 M.C.C. 191, and *Damaged or Rejected Shipments of pianos, and piano benches, seats and stools*, From the destination points specified immediately above, to points in the Philadelphia, PA, Commercial Zone, as defined by the Commission, (6) *Such commodities, as are dealt in by retail department stores (except commodities in bulk, in tank vehicles)*, over irregular routes, Between the site of the Cherry Hill Industrial Park, NJ, on the one hand, and, on the other, Camden, NJ. Restriction: The operations authorized herein are restricted against the transportation of traffic originating at or destined to the Cherry Hill Industrial Park, NJ. (7) *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment)*, over irregular routes, Between the site of the Cherry Hill

Industrial Park, NJ and Camden, NJ. Restriction: The authority granted herein is restricted against the transportation of traffic originating at or destined to the site of the Cherry Hill Industrial Park, NJ. (8) *General Commodities, except those of unusual value, Classes A and B explosives, commodities in bulk, and commodities the transportation of which by reason of size or weight requires the use of special equipment*, over irregular routes, Between Boston, MA, on the one hand, and, on the other, points in MA, CT, RI, and points in that part of NY, east of the Hudson River and south of a line beginning at Newburgh, NY, and extending east through Patterson, NY to the NY-CT State line, including New York, NY and points in Nassau County, NY. (9) *General Commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities the transportation of which by reason of size or weight require the use of special equipment*, over irregular routes, Between points in MA within 15 miles of Boston, MA, on the one hand, and, on the other, points in MA, CT, RI, and those in NY east of the Hudson River and south of a line beginning at Newburgh, NY and extending east through Patterson, NY to the NY-CT State line, including New York, NY and points in Nassau County, NY. (10) *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, over irregular routes, (a) From points in MA to points in CT; (b) From points in NY east of the Hudson River and south of Interstate HWY 84 to points in MA; (c) Between points in NY east of the Hudson River and south of Interstate HWY 84, on the one hand, and, on the other, points in RI; (d) From points in MA to points in RI; and (e) Between points in CT, except points in the commercial zone of New York, NY, as defined by the Commission, on the one hand, and, on the other, points in NY east of the Hudson River and south of a line beginning at Newburgh, NY and extending east through Patterson, NY, to the NY-CT State line, including New York, NY and points in Nassau County, NY. Any duplication of authority granted herein or to the extent that such authority duplicates any heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. (11) *General Commodities, except such commodities as are dealt in by retail department stores, Grocery store supplies, those of*

unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over irregular routes, Between Philadelphia, PA, on the one hand, and, on the other, points in New York, NY Commercial Zone, as defined by the Commission. Restriction: The authority granted above is restricted against shipments originating from the facilities of B. Altman Company, St. Davids, PA and destined to points in NJ. (12) *Grocery Store Supplies*, over irregular routes, From Philadelphia, PA to points in NJ, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted above is restricted against shipments originating from the facilities of B. Altman Company, St. Davids, PA., the authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. Vendee is authorized to transport as a common carrier under MC-146386 R-1, and has pending before the Commission an application in MC-146386 Sub-No. 1TA, to named points in PA, GA, FL, TX, IL, CO, and CA. Application has been filed for temporary authority under section 11349 (formerly 210a(b) of the Act).

MC-FC-78282, filed August 20, 1979. Transferee: PENSKE TRANSPORTATION, INC., P.O. Box 301, 111 Penske Plaza, Reading, PA 19603. Transferor: EDWARD F. MADEIRA, INC., 514 Island Street, Hamburg, PA 19526. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincoln Road, Alexandria, VA 22312. Authority sought for purchase by transferee of the portion of the operating rights of transferor set forth in Permit MC 144331 (Sub-Nos. 1F, 2F, 3F, and 4F), as follows: (1) *foundry sand additives, foundry core, compounds, and foundry sand*, from the facilities of International Minerals and Chemical Corporation, Foundry Products Division, at or near Wadsworth, OH to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV, and DC; (2) *clay and clay products*, from the facilities of the Bond Clay Ohio Plant of International Minerals and Chemicals Corporation, Foundry Products Division, at or near Superior, OH, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV, and DC; (3) *high temperature bonding mortar and sand mixed with clay*, from the facilities of International Minerals and Chemical Corporation, Foundry

Products Division, at or near Jackson, Oh, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV, and DC; (4) *personal safety equipment*, from the facilities of Willson Products Division of E.S.B., Inc., at Reading, PA, to the facilities of Willson Products Division of E.S.B., Inc., located at or near Oklahoma City, OK and Porterville, CA; (5) *pumps, pump parts, and pump accessories*, from the facilities of A.S.H. Pump, Division of Envirotech, Inc., at Hamburg, PA, to points in the United States (except AK, HI, and PA); (6) *steel castings*, from the facilities of Beloit Corporation at or near Beloit, WI, to the facilities of A.S.H. Pump, Division of Envirotech, Inc., at Hamburg, PA; and (7) *foundry sand additives and foundry sand*, in bulk, from the facilities of American Colloid Company, at or near Columbus, OH to DC and points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and WV. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78341, filed October 15, 1979. Transferee: OLSON TRAVELWORLD, LTD., 5865 Green Valley Circle, Culver City, CA 90230. Transferor: GENERAL MILLS, INC., 9200 Wayzata Blvd., Minneapolis, MN 55440. Representative: Gilbert B. Lessenro, 2021 L St. NW., Washington, DC 20036. Authority sought for purchase by transferee of transferor's broker's license in MC 130511 (Sub-1F), issued October 9, 1979, authorizing operations as a broker at Los Angeles and Culver City, CA, for the transportation of passengers and their baggage, in special and charter operations, between points in the United States, including AK and HI. Transferee holds no authority from this Commission.

MC-FC-78344, filed October 15, 1979. Transferee: K. A. TOWNSEND CO., INC., P.O. Box 483, Mills, WY 82644. Transferor: J & TRUCKING, INC. (same address as transferee). Representative: Vincent J. Horn, Jr., Suite 200, City Center Bldg., Casper, WY 82601. Authority sought for purchase by transferee of a portion of transferor's operating rights in Certificate MC-128674 (Sub-1), authorizing generally oilfield equipment, between points in a portion of NE, CO, and WY, on the one hand, and, on the other, points in a portion of ND and SD. Transferee holds no authority from the Commission. An application for temporary lease authority has been filed.

MC-FC-78346, filed October 18, 1979. Transferee: A & E GLOBAL, d.b.a. A-1 TOURS, INC., 4056 Fairmount Ave., San Diego, CA 92105. Transferor: A-1

TOURS, INC. (same address as transferee). Representative: Donald B. Rosen, P.O. Box 5489, San Diego, CA 92105. Authority sought for purchase by transferee of transferor's broker's license in MC 130126 (Sub-1), issued July 3, 1978, authorizing operations at San Diego, CA, for the transportation of passengers and their baggage, in special or charter operations, between points in the United States, including AK and HI. Transferee holds no authority from the Commission.

MC-FC-78347, filed October 3, 1979. Transferee: R H TRUCKING, INC., Route 2, Box 103, Nichols, SC 29581. Transferor: BATTLE ENTERPRISES, INC., Nichols, SC 29581. Representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, SC 29201. Authority sought for purchase by transferee of operating rights held by transferor in Certificate MC 134562 (Sub-2), issued December 8, 1975, authorizing dry fertilizer, in bags, from Wilmington, Acme, and Navassa, NC, to points in SC. Transferee holds authority from the Commission in Certificate MC 139608 (Sub-1). An application for temporary lease authority has not been filed.

MC-FC-78348, filed August 7, 1979. Transferee: R. C. TRANSPORT SYSTEM, INC., 6377-A Skyline Drive, Houston, TX 77057. Transferor: ARCHIE LACY, 2401 Bleker St., Houston, TX 77026. Representative: Dan Felts, P.O. Box 2207, Austin, TX 78768. Authority sought for purchase by transferee of operating rights held by transferor in Certificate of Registration MC 50372 (Sub-1), issued June 15, 1964, authorizing oilfield equipment and pipe, and various kinds of machinery, when that machinery weighs 4,000 pounds or more, or requires special equipment, between points in TX. An application for temporary lease has not been filed. Transferee holds no authority from the Commission.

Motor Carrier Alternate Route Deviations; Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 10343 (Deviation No. 27), CHURCHILL TRUCK LINES, INC., P.O. Box 250, Highway 36 West, Chillicothe, MO 64601, filed September 11, 1979, as amended. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From McKinney, TX over US Hwy 380 to junction Interstate Hwy 35, (2) From Sherman, TX over US Hwy 82 to junction Interstate Hwy 35, (3) From Durant, OK over US Hwy 70 to junction Interstate Hwy 35, (4) From Atoka, OK, over US Hwy 75 to junction OK Hwy 3, then over OK Hwy 3 to junction OK Hwy 19, then over OK Hwy 19 to junction Interstate Hwy 35, (5) From Atoka, OK, over US Hwy 75 to junction OK Hwy 3, then over OK Hwy 3 to junction OK Hwy 3W, then over OK Hwy 3W to junction US Hwy 177, then over US Hwy 177 to junction OK Hwy 51, then over OK Hwy 51 to junction Interstate Hwy 35, (6) From Wichita, KS, over KS Hwy 96 to Hutchinson, KS, and (7) From Wichita, KS, over Interstate Hwy 135 to junction US Hwy 50, then over US Hwy 50 to Hutchinson, KS, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From McKinney, TX over U.S. Hwy 75 to Dallas, TX, then over Interstate Hwy 35E to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction US Hwy 380, (2) From Sherman, TX over US Hwy 75 to Dallas, TX, then over Interstate Hwy 35E to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction US Hwy 70, (4) and (5) From Atoka, OK, over US Hwy 75 to Dallas, TX, then over Interstate Hwy 35E to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction OK Hwy 51, (6) and (7) From Wichita, KS over US Hwy 15 to Hillsboro, KS, then over US Hwy 56 to McPherson, KS, then over unnumbered hwy (formerly KS Hwy 17) via Inman and Buhler, KS, to junction KS Hwy 61, then over KS Hwy 61 to Hutchinson, KS and return over the same routes.

MC 35320 (Deviation No. 25), T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX

79408, filed October 21, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Memphis, TN over Interstate Hwy 40 to Little Rock, AR, then over Interstate Hwy 30 to Texarkana, TX, then over US Hwy 59 to Marshall, TX, then over Texas Hwy 43 to junction US Hwy 79 near Henderson, TX, then over US Hwy 79 to junction Interstate Hwy 35 near Round Rock, TX, then over Interstate Hwy 35 to San Antonio, TX and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Memphis, TN over US Hwy 70 to Little Rock, AR, then over US Hwy 65 to Conway, AR, then over US Hwy 64 to Russellville, AR, then over AR Hwy 7 to Dardanelle, AR, then over AR Hwy 22 to Fort Smith, AR, then over US Hwy 64 to Warner, OK, then over US Hwy 266 to Checotah, OK, then over US Hwy 89 to junction US Hwy 75 near Atoka, OK, then over US Hwy 69/75 to Durant, OK, then over US Hwy 75 to Dallas, TX, then over US Hwy 77 to Hillsboro, TX, then over US Hwy 81 to San Antonio, TX.

MC 35628 (Deviation No. 38), INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Lonia Avenue, N.W., Grand Rapids, MI 49503, filed October 26, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Evansville, IN over US Hwy 41 to the Kentucky, Pennyrile Parkway, then over the Kentucky Pennyrile Parkway to junction US Hwy 41, then over US Hwy 41 to the Kentucky Pennyrile Parkway, then over the Kentucky Pennyrile Parkway to junction US Hwy 41 near Hopkinsville, KY, then US Hwy 41 to junction US Hwy 79, then over US Hwy 79 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction US Hwy 31 in Nashville, TN and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Evansville, IN over US Hwy 41 to Vincennes, IN, then over US Hwy 150 to Louisville, KY, then over US Hwys 31E or 31W to Nashville, TN.

MC 59858 (Deviation No. 8), SALT CREEK FREIGHTWAYS, 3333 W. Yellowstone, Casper, WY 82601, filed October 29, 1979. Carrier's representative: John R. Davidson, Suite 805, Midland Bank Bldg., Billings, MT

59101. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Moorcroft, WY, over combined Interstate Hwy 90 and US Hwy 14 to Rapid City, SD and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Moorcroft, WY over US Hwy 16 to Rapid City, SD and return over the same route.

MC 69833 (Deviation No. 34), ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW-8th Floor, Grand Rapids, MI 49503, filed October 29, 1979. Carrier proposes to operate as a *common carrier* by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Danville, IL over Interstate Hwy 74 to junction US Hwy 41, then over US Hwy 41 to junction IN Hwy 28, then over IN Hwy 28 to junction IN Hwy 25, then over IN Hwy 25 to Lafayette, IN and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Danville, IL over IL Hwy 1 to junction US Hwy 30, then over US Hwy 30 to junction US Hwy 41, then over US Hwy 41 to junction US Hwy 52, then over US Hwy 52 to Lafayette, IN.

Georgia Docket No. 9658-M, filed October 19, 1979. Applicant: NORTH ATLANTA COACH & TRANSPORTATION, INC., d.b.a. NORTHSIDE AIRPORT EXPRESS, 1454 Willingham Drive, Atlanta, GA 30344. Representative: Patricia J. Neri, 1454 Willingham Drive, Atlanta, GA 30344. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Passengers, baggage and package express, mail and newspapers, between Gainesville and Atlanta, GA via State Route 13 (US Hwy 23), with the right to operate between the intersection of State Route 13 (US Hwy 23) and Oakcliff Road, then Oakcliff Road and Northcrest Road to Chamblee-Tucker Road, then Chamblee-Tucker Road to Buckeye Road, then Buckeye Road to Presidential Drive, then Presidential Drive, to Interstate 85 Access Road, then Interstate 85 Access Road to Chamblee-Tucker Road, then Chamblee-Tucker Road to State Route 13 (US Hwy 23), then State Route 13 (US Hwy 23) as an alternate route, serving all intermediate points; also with the right to operate via

State Hwy 365 and Interstate 85 for operating convenience only; also with the right to conduct charter operations as authorized in Commission's Transportation Rule 1-9-1-.05. Intrastate, interstate, and foreign commerce authority sought. Hearing: December 11, 1979, Georgia Public Service Commission, 177 State Office Building, 244 Washington Street, S.W., Atlanta, GA. Requests for procedural information should be addressed to Georgia Public Service Commission, 244 Washington Street, S.W., Atlanta, GA 30334, and should not be directed to the Interstate Commerce Commission.

Irregular-Route Motor Common Carriers of Property Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065); and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not operate to stay commencement of the proposed operation*.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 107012 (Sub-E717), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *Carpet Padding, Uncartoned*. From Lyerly, GA to points in Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay and Roosevelt Counties, NM. (Gateway eliminated: Temple, TX.)

MC 107012 (Sub-E718), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Carpet*

Padding, Uncartoned. From Russellville, KY to points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (*Lyerly, GA); points in ND (*Dyersburg, TN); points in SD (*Dyersburg, TN). (Gateway eliminated: Asterisked.)

MC 107012 (Sub-E719), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Carpet Padding, Uncartoned*. From the facilities of Allen Industries, Inc., at Richmond, VA to points in ME. (Gateway eliminated: Waterbury CT.)

MC 107012 (Sub-E720), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: (1) From points in Hartford, New London, Fairfield, Middlesex, New Haven, and Litchfield Counties, CT to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. (2) From points in Tolland and Windham Counties, CT to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa

Rosa, Walton and Washington Counties, FL; Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. (Gateway eliminated: Russellville, KY.)

MC 1070 (Sub-E721), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: (A) From points in DE to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL. (B) From points in DC to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker and Winston, Counties, AL. (Gateway eliminated: Russellville, KY.)

MC 107012 (Sub-E722), filed November 22, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: (A) From points in Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Benewah, Bonner, Boundry, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties, ID to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington and Wilson Counties, NC; Accomack, Gloucester, Greenville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg, VA. (Gateway eliminated: Waterbury, CT.)

MC 107012 (Sub-E723), filed November 26, 1976. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: (1) From points in Aroostook, Penobscot, Piscataquis, Somerset, Hancock, Knox, Waldo and Washington Counties, ME to points in AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa

Rosa, Walton and Washington Counties, FL; Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. (2) From points in Androscoggin, Cumberland, Franklin, Kennebec, Lincoln, Oxford, Sagadahoc and York Counties, ME to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. [Gateway eliminated: Russellville, KY.]

MC 107012 (Sub-E724), filed November 26, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned:* (1) From points in Anne Arundel, Calvert, Caroline, Charles, Montgomery, Prince Georges, Queen Annes, St. Marys, Talbot, Baltimore, Baltimore City, Carroll, Cecil, Frederick, Hartford, Howard and Kent Counties, MD to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker and Winston Counties, AL. (2) From points in Allegany, Garrett and Washington Counties, MD to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL. (3) From points in Dorchester, Somerset, Wicomico and Worcester Counties, MD to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL. (Gateway eliminated: Russellville, KY.)

MC 107012 (Sub-E725), filed November 26, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and

Gary M. Crist (same as above). *New Carpet Padding, Uncartoned:* From points in MA to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. [Gateway eliminated: Russellville, KY.]

MC 107012 (Sub-E720), filed November 26, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned:* From points in Esmeralda, Eureka, Lander, Nye, Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington and Wilson Counties, NC; Accomack, Gloucester, Greenville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg, VA. (Gateway eliminated: Waterbury, CT.)

MC 1070 (Sub-E727), filed November 26, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned:* 1. From points in Coos, Carroll and Grafton Counties, NH to points in AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL; Bartow, Chattanooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. 2. From points in Cheshire, Hillsboro, Sullivan, Belknap, Merrimack, Rockingham and Strafford Counties, NH to Autauga,

Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Cossa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. (Gateway eliminated: Russellville, KY.)

MC 107012 (Sub-E728), filed November 22, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned:* 1. From points in Atlantic, Burlington, Cape May, Monmouth and Ocean Counties, NJ to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker and Winston Counties, AL. 2. From points in Camden, Cumberland, Gloucester, Salem, Hunterdon, Mercer, Middlesex, Somerset and Union Counties, NJ to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL. 3. From points in Morris, Sussex, Warren, Bergen, Essex, Hudson and Passaic, NJ to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. (Gateway eliminated: Russellville, KY.)

MC 107012 (Sub-E729), filed November 22, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned:* 1. From points in Broome, Cayuga, Chemung, Chenango, Courtland, Delaware,

Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne and Yates Counties, NY to points in AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL; Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. 2. From points in Allegany, Cattaraugus, Chautauque, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben and Wyoming Counties, NY to points in AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. 3. From points in Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Sullivan, Ulster, Westchester and Suffolk Counties, NY to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes,

Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. 4. From points in Herkimer, Jefferson, Lewis, Oneida, Oswego and St. Lawrence Counties, NY to points in AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. 5. From points in Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY to points in AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL; Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. (Gateway Eliminated: Russellville, KY.)

MC 107012 (Sub-E730), filed November 26, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned:* 1. From

points in Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, Yamhill, Crook, DeSchutes, Gilliam, Hood River, Jefferson, Sherman, Wasco, Wheeler, Coos, Curry, Douglas, Jackson and Josephine Counties, OR to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington and Wilson Counties, NC; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King, George, Orange, Prince William, Spotsylvania, Stafford and Westmoreland Counties and Independent Cities of: Alexandria, Fairfax, Falls Church and Fredericksburg; Accomack, Gloucester, Greenville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg; Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties and Independent Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, VA. 2. From points in Harney, Klamath, Lake, Malheur, Baker, Grant, Morrow, Umatilla, Union and Wallowa Counties, OR to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington and Wilson Counties, NC; Accomack, Gloucester, Greenville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg, VA. (Gateway eliminated: Waterbury, CT.)

MC 107012 (Sub-E731), filed November 22, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned:* 1. From points in Cameron, Clarion, Crawford,

Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA to points in AL; Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Brevard, Citrus, Hernando, Hillsborough, Indian River, Lake, Orange, Osceola, Pasco, Pinellas, Polk, Seminole, Sumter, Volusia, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla, Counties, FL; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. 2. From points in Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne and Wyoming Counties, PA to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. (Gateway eliminated: Russellville, Ky.)

Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. 3. From points in Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Schuylkill and York Counties, PA to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, AL. 4. From points in Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA to points in AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla, Counties, FL; Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. (Gateway eliminated: Russellville, Ky.)

MC 107012 (Sub-E732), filed November 26, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: From points in RI to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. (Gateway eliminated: Russellville, Ky.)

MC 107012 (Sub-E733), filed November 26, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: 1. From points in VT to points in AL. 2. From points in Bennington, Rutland, Windham and Windsor Counties, VT to points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. 3. From points in Chittenden, Franklin, Grand

Isle, Lamoille, Addison, Orange, Washington, Caledonia, Essex and Orleans Counties, VT to points in Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL; Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. (Gateway eliminated: Russellville, Ky.)

MC 107012 (Sub-E734), filed November 26, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: 1. From points in Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington and Wilson Counties, NC; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King, George, Orange, Prince William, Spotsylvania, Stafford and Westmoreland Counties and Independent Cities of: Alexandria, Fairfax, Falls Church and Fredericksburg; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg; Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties and Independent Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, VA. 2. From points in Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Adams, Asotin, Benton, Columbia, Franklin, Garfield, Walla Walla and Whitman Counties, WA to points in Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington and Wilson

Counties, NC; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg; Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties and Independent Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, VA. (Gateway eliminated: Waterbury, CT.)

MC 107012 (Sub-E735), filed November 22, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: 1. From points in Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzell, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt and Wood Counties, WV to points in AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. 2. From points in Brooke, Hancock, Marshall and Ohio Counties, WV to points in AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsen, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madison, Suwannee, Taylor and Wakulla Counties, FL; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Bartow,

Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker and Whitfield Counties, GA. 3. From points in Boone, Cabell, Lincoln, Logan, Mingo, Putman and Wayne Counties, WV to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker, Winston, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton and Washington Counties, FL. (Gateway eliminated: Russellville, KY.)

MC 107012 (Sub-E736), filed November 22, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: From El Segundo, CA to points in AL (*Dallas, TX and Oklahoma City, OK); Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Adair, Adams, Audobon, Cass, Freemont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor and Union Counties, IA (*Dallas, TX, Vinita, OK and Points in MO); Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS (*Dallas, TX, Vinita, OK and points in MO); points in KY (*Dallas, TX and Vinita, OK); Bolivar, Carol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahaatchie, Warren, Washington, Yazoo, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunica, Union, Webster and Yalobusha Counties, MS (*Dallas, TX and Vinita or Oklahoma City, OK);

points in NC (*Dallas, TX, Vinita, OK and points in MO); points in TN (*Dallas, TX and Vinita, OK); points in VA (*Dallas, TX, Vinita, OK and points in MO). (Gateways eliminated asterisked.)

MC 107012 (Sub-E737), filed November 26, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: From Columbus, MS to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; points in ID; points in MT; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in ND; points in OR; points in SD; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Uintah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT; points in WA; points in WY. (Gateway eliminated, Davenport, IA.)

MC 107012 (Sub-E738), filed November 22, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Carpet Padding, Uncartoned*: From the facilities of Allen Industries, Inc., at Richmond, VA to points in AZ, AR, CA, CO, ID, IA, KS, KY, LA, MN, MS, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA and WY. (Gateway eliminated points in WV.)

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36454 Filed 11-26-79; 8:45 am]
BILLING CODE 7035-01-M

[Vol. No. 40]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

October 31, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a petition to intervene either with or without leave must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 116668 (Sub-2(M1F)), petition to modify, filed May 4, 1979. Petitioner: GAVIN TRAVEL SERVICE, INC., 1111 Walnut Avenue, Niagara Falls, NY 14301. Representative: Alfonse S. Gavin (same address as applicant). Petitioner holds motor common carrier certificate, issued May 19, 1969, authorizing the transportation of over irregular routes, of passengers and their baggage, in special operations, in round-trip sightseeing or pleasure tours, limited to the transportation of not more than eight passengers in any one vehicle, but not including children under 10 years of age who do not occupy a seat or seats, in seasonal operations, between May 1 and October 31, both inclusive of each year, beginning and ending at Niagara Falls, NY, and points in Niagara County, NY, within 6 miles thereof, and extending to ports of entry on the United States-Canada Boundary line at Niagara Falls and Lewiston, NY. This petition seeks to modify this authority to read, "limited to the transportation of not more than 14 passengers in any one year but not including the driver thereof and not including children under 10 years of age who do not occupy a seat or seats, in seasonal operations, between May 1 and October 31, both inclusive of each year".

MC 117119 (Sub-600 (M1F)). (Notice of filing of Petition for Modification of Certificate), filed December 12, 1978. Petitioner: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Representative: L. M. McLean (same address as above). Petitioner holds a motor common carrier certificate in MC 117119 (Sub-600), issued January 24, 1978 authorizing transportation over irregular routes of: *Frozen foods* and *foods not frozen* in mixed shipments with frozen foods (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Foodmaker, Inc. at Houston, Texas to the facilities of Foodmaker, Inc. at or near St. Louis, MO., Chicago, IL., Detroit, MI., Boston, MA., Norristown, PA., Denver, CO., Beltsville, MD., Richmond, VA., and Orlando, FL., with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein

is restricted to the transportation of shipments originating at and destined to the named destinations. By the instant petition, the petitioner seeks to modify the commodity description to substitute *Such merchandise as is used or dealt in by restaurants in lieu of frozen foods and foods not frozen in mixed shipments with frozen foods*. The certificate otherwise would remain the same.

MC 120679 (Sub-2(M1F)), petition for modification, filed February 8, 1979. Petitioner: JOHN A. JUNGEMAN AND SON, INC., 888 7th Ave., New York, NY 10019. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Petitioner holds motor common carrier certificate in MC 120679 (Sub-2), issued May 2, 1979 authorizing the transportation, over irregular routes, of (1) *general commodities* (except those of unusual value, classes A and B explosives, liquor, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Passaic, Bergen, Essex, Union, and Hudson Counties, NJ, on the one hand, and, on the other New York, NY. Restriction: The authority granted in (1) is restricted against the transportation of used clutch cores, from New York, NY, to Wallington, NJ, and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between New York, NY, on the one hand, and, on the other points in Nassau and Suffolk Counties, NY, (b) between points in Nassau and Suffolk Counties, NY, and (c) between points in Nassau and Suffolk Counties, NY, on the one hand, and, on the other, points in Passaic, Bergen, Essex, Union, and Hudson Counties, NJ. This petition seeks to modify the authority as follows: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, NY and points in Suffolk County, NY, on the one hand, and, on the other, points in NJ in and north of Camden, Burlington and Ocean Counties, points in Fairfield County, CT, and points in Westchester, Rockland, Orange, Putnam, Ulster, and Dutchess Counties, NY.

MC 125479 (Sub-9) (M1F)), petition to modify, filed May 21, 1979. Petitioner: P-N-J KORNACKER, INC., 3030 W 10th St., Waukegan, IL 60085. Representative: Albert A. Andrian, Suite 3520, 180 North LaSalle St., Chicago, IL 60601. Petitioner holds motor contract carrier, permit, issued March 21, 1978, authorizing the

transportation, over irregular routes, of *malt beverages*, from the plant site and storage facilities of Stroh's Beer Co., at Detroit, MI, to the plant site and storage facilities of Hoggstrom Distributors, Inc., at Highland Park, IL, under continuing contract(s) with Hoggstrom Distributors, Inc., of Highland Park, IL. This petition seeks to change the territorial description to read, from the facilities of Stroh's Beer Co., at Detroit MI, to the facilities of Metropolitan Distributors-North Inc., at Palatine, IL, under continuing contract(s) with Metropolitan Distributors-North, Inc., of Palatine, IL.

MC 139349 (Sub-2)(M3F)), petition for modification, filed May 8, 1979. Petitioner: E Z FREIGHT LINES, Gould Street & 46th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Petitioner holds motor contract carrier permit in MC 139349 (Sub-2), issued August 8, 1978, authorizing the transportation, over irregular routes, as pertinent, of *lighting fixtures and lamps, and equipment, materials and supplies* used in their manufacture and sale (except commodities in bulk), between Fall River, MA, on the one hand, and, on the other, points in LA, MN, TX and points in that part of the United States on and east of a line beginning at the mouth of the Mississippi River to its junction with the western boundary of Itasca and Koochiching Counties, MN, to the United States-Canada Boundary line. Restriction: The operations authorized in the route description next above are limited to a transportation service to be performed under a continuing contract(s) with Aluminum Processing Corporation, of Fall River, MA. This petition seeks to modify this portion of the authority to read, authorizing transportation, over irregular routes, of *lighting fixtures, and lamps, and equipments, materials, and supplies* used in their manufacture and sale, (except commodities in bulk), between Fall River, MA, Central Falls, RI, Danville, KY, and Wellsboro, PA, on the one hand, and, on the other, points in LA, MN, TX, and points in that part of the United States on and east of a line beginning at the mouth of the Mississippi River to its junction with the western boundary of Itasca and Koochiching Counties, MN, to the United States-Canada boundary line, under continuing contract(s) with Aluminum Processing Corporation, of Fall River, MA, and North American Philips Lighting Corp., of Hightstown, NJ.

MC 142545 (M1E), notice of filing of petition to add a contracting shipper, filed June 5, 1979. Petitioner: DICK TAZER TRUCKING, INC., 1635 NW.,

Mall, Issaquah, WA 98055. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98005. Petitioner holds a motor contract carrier permit in MC 142545 issued May 7, 1979, authorizing transportation over irregular routes, of *dairy products and equipment, materials, and supplies* used in the production and distribution of dairy products, between points in CA, OR and WA, under continuing contract(s) with Consolidated Dairy Products company, of Seattle, WA. By the instant petition, petitioner seeks to be authorized to serve an additional supporting shipper, namely, Carnation Company of Los Angeles, CA. (Hearing site: Seattle, WA.)

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission by December 27, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

Federal Register Summary

MC-F-14025F. Transferee: MALLINGER TRUCK LINE, INC., R.R. 4, Fort Dodge, IA 50501. Transferor: FARRIS TRUCK LINE, Box 224, Faucett, MO 64448. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to purchase the operation rights described below and for the acquisition of control thereof by Dennis Mallinger, R.R. 4, Ft. Dodge, IA 50501; authority to operate as contract carrier, over irregular routes transporting: *Fertilizer*, (except liquids in bulk), from the plant site of Illinois Nitrogen Company, at Marseilles, Ill., to points in Indiana, Michigan, Wisconsin, Minnesota, Ohio, Iowa, Missouri (except points in the St. Louis, MO, East St. Louis, Ill., Commercial Zone as defined

by the Commission), Kansas, Nebraska, South Dakota, and Kentucky. The application is filed in connection with the related proceeding dealing with the conversion of the authority from contract to common. Vendee is authorized to operate as a common carrier in and west of the States of MI, OH, KY, AR, LA. An application under 210 (a)(b) has not been filed. MC-100449 Sub-No. is a directly related matter.

MC-F-14031F. Authority sought for the purchase by McAllister Trucking Company, d.b.a. MATCO, 2041 S. Treadaway Blvd., Abilene, TX 79604, of a portion of Q. B. Mitchell, An Individual, Box 192, Carmi, IL 62821, and for acquisition by Paul D. Graham, 2041 S. Treadaway Blvd., Abilene, TX 79604, of control of such rights through the purchase. Applicant's Attorney: D. Paul Stafford, Suite 1125, Exchange Park, Dallas, TX 75245. Operating rights sought to be purchased: *machinery, materials, equipment, and supplies, incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum between the states of IL, IN, KY, MO, and MI*. Vendee is authorized to operate as a common carrier in all states in the United States (except AK and HI). Vendee intends to tack the authority to be purchased with existing authority at Miami, Oklahoma, and Joplin, Missouri. Application has been made for temporary authority under Section 210 a(b).

Note.—MC 23618 (Sub.—F) is a directly related matter.

MC-F-14038 F. Authority sought for purchase by DAN'S TRANSIT, INC., 239 Woodmont Road, Milford, CT 06460, of a portion of the operating rights of MILLER TRANSFER & RIGGING CO., 3911 State Route 183, Edinburg, OH 44722, and for acquisition by The Kaplan Trucking Company, 2900 Chester Avenue, Cleveland, OH 44114 and The Kaplan-Halpert Foundation, Inc., Suite 1800, 100 East Broad Street, Columbus, OH 43215, of control of such rights through the transaction. Applicants' attorney: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be purchased authorize service as a common carrier, over irregular routes, transporting: *Machinery, and contractors' equipment and supplies*, between points in Clarion County, PA on the one hand, and, on the other, points in OH and NY; and *articles*, which because of size or weight require special equipment, between Clarion, PA and points within 40 miles of Clarion on the one hand, and, on the

other, points in OH and NY. Vendee is authorized to operate as a common carrier in the states of CT, MA, NH, NJ, NY, PA, RI, and VT. Application has not been filed for temporary authority under Section 11349.

Note.—MC 135306 (Sub—F) is a directly related matter.

Caption Summary for Federal Register

MC-F-14058F. Authority sought for purchase by ORSCHELN BROS. TRUCK LINES, INC., U.S. Hwy 24 East, P.O. Box 658, Moberly, Mo 65270, of the operating rights of JACKSONVILLE SPRINGFIELD TRANSPORTATION CO., 303 West Lafayette Avenue, Jacksonville, IL 62651, of control of such rights through the purchase by George A. Vitt, Geraldine G. Vitt, E. Gene Orscheln, Norma J. Orscheln, Harold W. Orscheln, Lucille Orscheln, Elmer A. Orscheln, Margaret Orscheln, Francis J. Orscheln, and Ann P. Orscheln. Applicants' representatives: Paul Wagner, P.O. Box 1008, Jacksonville, IL 62651, and Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Operating rights sought to be purchased: The vendor's general commodity authority within a 50-mile radius of 235 N. Main St., Jacksonville, IL, and to transport such property to or from any point outside of such authorized area of operation for a shipper or shippers within such area; also household goods, furniture and office equipment to or from any point or points within the State of IL pursuant to Certificate of Registration in Docket No. MC 54497 (Sub-2). Vendee proposes to tack or join the irregular route authority sought to be purchased with its existing regular route authority. Application has been filed for temporary authority under Section 210a(b). (Hearing site: St. Louis, MO.)

MC-F-14059F (filed May 29, 1979). Applicant: H. C. GABLER, INC., R.D. #3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101 and David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. Authority sought for purchase by H. C. GABLER, INC., R.D. #3, P.O. Box 220, Chambersburg, PA 17201, of a portion of the operating rights of SPECIALTY TRANSPORT, INC., P.O. Box 127, Mountaintop, PA 18707, and for acquisition by HAROLD C. GABLER, Montgomery Avenue Extended, Chambersburg, PA 17201, of control of such rights through the purchase. Operating rights sought to be transferred: *Fruits, berries, juices, fruit and berry products and supplies and materials* used in the manufacture, sale and distribution of juices and fruit and

berry products, except commodities in bulk, between the facilities of The New England Apple Productions Co., Inc., at Littleton, MA, on the one hand, and, on the other, points in CT, DE, IN, KY, MD, MA, MI, NJ, NY, OH, PA, RI, VA, WV, WI, and DC. Restriction: The operations authorized immediately above are limited to transportation service to be performed, under a continuing contract, or contracts, with The New England Apple Productions Co., Inc., of Littleton, MA. Vendee is authorized to operate as a common carrier in all States east of the Mississippi River, plus IA, MN, MO and LA. No duplication of operating authority will result to Vendee. Application has not been filed for temporary authority under section 210a(b). Concurrently filed herewith, as a directly related matter, is an application for the conversion of the portion of the authority sought to be acquired from contract carrier permit to a common carrier certificate.

MC-F-14064F. Authority sought for purchase by MASILIN TRANSPORT OF DELAWARE, INC., 7401 Newman Boulevard, LaSalle, Quebec, H8N 1X4, Canada, of the operating rights of PITTSBURGH-GREENSBURG EXPRESS, INC., P.O. 1064, Jamison Street South, Greensburg, PA 15601, and for acquisition by MAISLIN INDUSTRIES, LTD., also of 7401 Newman Boulevard, LaSalle, Quebec, H8N 1X4, Canada, of control of such rights through the purchase. Applicants' attorneys: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006 and John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219. Operating rights sought to be transferred: Certificate MC 121192 (Sub-1), authorizing the transportation of general commodities, with exceptions, as a common carrier, over regular and irregular routes between Jeannette, Greensburg and Pittsburgh, PA, serving intermediate and off-route points. Transferee is authorized to operate as a common carrier in Canada, CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, and VT. Application has not been filed for temporary authority under 49 USC 10922 (formerly Section 207 of the Interstate Commerce Act).

MC-F-14077F. Authority sought for purchase by INLAND FREIGHTWAYS, INC., Foot of John Hay Avenue, Kearny, NJ 07032 of the operating rights of GLT TRANSPORTATION LINES, INC. (Robert S. Solomon, Receiver in Bankruptcy), 400 Sip Hill, Jersey City, NJ, and for acquisition by Alexander Brownstein, of Short Hills, NJ of control of the rights through purchase. Applicant's attorney: Morton E. Kiel,

Suite 1832, 2 World Trade Center, New York, NY 10048. Operating rights sought to be purchased: General commodities, with exceptions, as a common carrier, over irregular routes, between Elizabeth, NJ and points within 30 miles of Elizabeth, NJ, on the one hand, and, on the other, Philadelphia, PA, New York, NY and points in New Jersey, and those in Nassau and Westchester Counties, NY as more particularly described in certificate MC 142746. Vendee is authorized to operate pursuant to certificate MC 1768 as a common carrier in New York and New Jersey. Vendee proposes to join the authority to be acquired with that presently held.

MC-F-14106F. Transferee: GRAVES TRUCK LINE, INC., P.O. Drawer 1387, Salina, Kansas 67401. Transferor: THE LUPER TRANSPORTATION COMPANY (same address as transferee). Attorney: Bruce A. Bullock (same address as transferee). Authority sought to merge the operating rights of The Luper Transportation Company into Graves Truck Line, Inc. Operating rights sought to be merged: (1) *Tea and coffee beans*, from Houston, TX, to Oklahoma City, OK; (2) *Coffee Beans*, from New Orleans, LA, to Wichita, KS; (3) *Bananas*, from Galveston, TX and New Orleans, LA, to Wichita, KS. Authority in (1), (2), and (3) restricted against service to facilities of Safeway Stores. (4)(a) *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk). Between Wichita, KS, on the one hand, and, on the other, Memphis, TN and points in southern MO, eastern NM, and points in AR, LA, OK, and TX; (b) Between Arkansas City, KS, on the one hand, and, on the other, Memphis, TX, and points in AZ, AR, NM, OK, and TX. (c) from facilities of John Morrell and Co. at Amarillo, TX, to Memphis, TX, and points in AR, CA, KS, MO, NE, NM, and OK; (d) from the facilities of MBPXL at Wichita, KS, to points in CA, ID, MT, OR, and WA. (5) *Such commodities as are used by meat packers* as described in Sections A, of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, butter, cheese and oleomargarine, from Memphis, TN, points in southern MO, and points in AR, LA, OK, TX, to Wichita, KS. Transferee is authorized to operate as a common carrier of general commodities in States of KS, NE, CO, IA, MO, OK, and TX and of meat and packinghouse

products in that part of the United States west of and including MI, OH, KY, NC, SC, and GA. Transferee has permanent control of Transferor pursuant to MC-F-12516 and no authority has been filed for temporary authority under section 11349 of the Act. Directly related to MC 53965 (Sub).

MC-F-14110F. Authority sought for common control by NORMAN TUCHMAN, 48 River Street, New Haven, CT 06513, of BECHAM TRANSPORT, INC., 48 River Street, New Haven, CT 06513, and of BEAVER TRANSPORT, INC., 48 River Street, New Haven, CT 06513, through the ownership of stock and the control of operating rights. Applicants' attorney: J. Curtis Bradley III, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. The operating rights to be controlled are as follows:

MC 140498, BECHEM TRANSPORT, INC. To transport colloidal silica, sulfuric acid, and methanol, in bulk, in tank vehicles, from the facilities of E. I. DuPont de Nemours & Company, Inc., at or near New Haven, CT, to points in Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont, under a continuing contract or contracts with E. I. DuPont de Nemours & Company, Inc., of Wilmington, DE.

MC-121279, BEAVER TRANSPORT, INC. General commodities (other than household goods and office furniture and equipment and other than commodities which necessitate the use of dump trucks, tank trucks or special equipment) for hire as a motor common carrier from its headquarters in New Haven and upon call received at its headquarters between any points within this state, over such routes and highways within this state as may be necessary in the performance of its common carrier service, subject to such regulations and conditions as the Commission may from time to time prescribe with respect to the conduct of its business.

MC-F-14190F. Transferee: FRANCIS E. REAVER, 3585 Harney Road, Taneytown, MD 21787. Transferor: WESTERN MARYLAND TRANSFER, INC., 3225 Tate Street, Baltimore, MD 21226. Transferee's Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. Transferor's Representative: Milton E. Biemiller, 3225 Tate Street, Baltimore, MD 21226. Authority sought for purchase by Francis E. Reaver, an individual, 3585 Harney Road, Taneytown, MD 21787, of a portion of the operating rights as more specifically described in Certificate No. MC 87285, and MC 87285 (Sub-3), of Western Maryland Transfer, Inc., at

3225 Tate Street, Baltimore, MD 21226. Operating rights sought to be transferred: *Lumber and Millwork*. From Baltimore, MD to points in PA, DE, and NJ, and those in MD, VA, except points on U.S. Highway 1 between Baltimore and Alexandria, VA, and points within ten (10) miles of Washington, DC, with no transportation for compensation on return except as otherwise authorized; and operating rights sought to be transferred from MC 87285 (Sub-3): *Lumber and Millwork*, from Annapolis Junction (Howard County), MD, to Lancaster, PA, Wilmington, DE, and Alexandria and Manassas, VA with no transportation for compensation on return except as otherwise authorized. Application has been filed for temporary authority under § 210a(b). (Hearing site: Baltimore, MD.)

MC-F-14199F. Authority sought for control by COOK MOVING SYSTEMS, INC., 1845 Dale Road, Buffalo, New York 14225, of TAMPA BAY MOVING SYSTEMS, INC., 5100 Tampa West Boulevard, Tampa, Florida 33614, of control of such rights through the transaction. Applicants' representative: ROBERT J. GALLAGHER, Esq., 1000 Connecticut Avenue, NW., Suite 1200, Washington, D.C. 20036. Operating rights sought to be controlled: Under Certificate MC 147133F, Household goods, as defined by the Commission, between points in FL, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, and TX. Cook Moving Systems, Inc., holds authority in MC 128427, Household Goods, as defined by the Commission, between points in New York, on the one hand, and, on the other, points in NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, WV, OH, MI, IN, IL, WI, MO, and DC. Between points in CT, NJ, PA, DE, MD, OH, KY, IN, IL, MI, and DC. Between points in RI, CT, and DE, on the one hand, and, on the other, the boundary between U. S. and Canada adjacent to CT, NH, and ME. Application has not been filed for temporary authority under section 210a(b).

MC-F-14201F. Authority sought for purchase by BARRIEAU EXPRESS, INC., 301 Murphy Road, Hartford, Connecticut 06114 of a portion of the operating rights of PLYMOUTH VAN LINES, INC., 4433-41 Howley Street, Pittsburgh, Pennsylvania 15224. Applicant's representative: ROBERT J. GALLAGHER, Esq., 1000 Connecticut Avenue, NW., Suite 1200, Washington, D.C. 20036. Operating rights sought to be purchased: Household Goods, as defined by the Commission, over irregular routes, between points in CT,

on the one hand, and, on the other, points in AZ, CA, CO, NE, and UT. (Hearing site: Hartford, CT.)

Note.—Vendee is authorized to operate as a common carrier pursuant to Certificate No. MC-8028 and Subs in the States of AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MA, MI, MN, MS, MO, NV, NH, NJ, NY, ND, OH, OK, PA, RI, SD, TN, TX, VT, WV, WI, MD, VA, NC, SC, and the DC. Application has been filed for temporary authority under Section 210a(b).

MC-F-14202F. Transferee: C.O.D.E., INC., 4800 N. Colorado Blvd., Denver, CO 80216. Transferor: OGALLALA TRANSFER, INC., P.O. Box 16412, Denver, CO 80216. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought for merger of Ogallala Transfer, Inc. into C.O.D.E., Inc. Operating rights sought to be merged are set out in Docket No. MC-138228 and subs thereunder authorizing the transportation of meats, meat products, mean by-products and articles distributed by meat packinghouses, as described in sections A and C of Appendix I in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (a) from Denver, CO, to points in IL, IN, IA, MI, MN, NE, OH, WI, and Louisville and Covington, KY, and (b) from Sterling, CO, to Algona and Fort Dodge, IA, Columbus, OH, Jefferson, WI, and Kankakee, IL, restricted to the transportation of shipments originating at the named origins and destined to the named destination points; general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission.

MC-F-14 204F. Authority sought for purchase by MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL, 60438, of the operating rights of BABBITT BROS., INC., 623 17th Avenue, Bloomer, WI, 54724, and for acquisition by ELTON BABBITT, 509 Nolton, Willow Springs, IL, 60480, of control of such rights through the purchase. Applicant's attorney, William H. Towle, 180 North LaSalle Street, Chicago, IL, 60601. Operating rights sought to be transferred are as a common carrier, over irregular routes, all in bulk, in tank vehicles, as follows: (1) *Milk and milk products*, from Bloomer, WI, to points in AL, AR, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, SD, TN, TX and WV and from points in WI within 75 miles of Bloomer, WI to specified points in TX, NE, OK, PA, CO, KS, IA, MN, IL, and MO; (2) *Wine*, from Canandaigua and Yonkers, NY to Minneapolis, MN and from Fredonia, NY to St. Paul, MN; (3)

Water, from Chippewa Falls, WI to Chicago, IL and Minneapolis, MN; (4) *Vinegar stock*, from Fremont, MI to St. Paul, MN; and (5) *Liquid cleaning compounds*, including derivatives thereof, and *bubble bath ingredients*, from Lemont, IL to Stanley WI, and *returned defective shipments* from Stanley, WI to Lemont, IL. Montgomery Tank Lines, Inc. is authorized to operate within all states in the U.S. (except AK and HI). Application has been filed for Temporary Authority under Section 210a(b).

MC-F-14205F. Applicant: GLOVER TRUCKING CORP., P.O. Box 7206, Holland Station, Suffolk, VA 23437. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW, Washington, DC 20036. Authority is sought by Glover Trucking Corp. to purchase all of the operating authority of Lane Truck Lines, Inc., and for Morris H. Glover, Sr. to acquire control of said operating rights through the purchase. Operating rights sought to be transferred: *Lumber*, from Sunbury, NC, and points in NC within 100 miles thereof, and points in Nansemond County, VA to points in VA, MD, PA, DE, WV, NJ, DC, and points in the New York, NY commercial zone; *Damaged shipments of lumber*, from points in WV to Sunbury, NC, and points within 100 miles thereof, and points in Nansemond County, VA; *Lumber* (except veneer, plywood and other laminated wood), from points in Nansemond County, VA and Sunbury, NC, and points in NC within 100 miles thereof, to points in CT and OH; *Wooden boxes, box shooks, and wooden pallets*, from points in Chowan and Hertford Counties, NC to points in VA, MD, DE, NJ, PA, NY, CT, OH, WV, and DC, and *damaged, refused and returned shipments* in the reverse direction; *Fiberglass swimming pools*, from Edenton, NC to points in ME, VT, NH, MA, RI, CT, NY, NJ, DE, MD, PA, VA, NC, SC, GA, FL, AL, WV, MS, OH, IL, TX, MN, MI, KY, TN, LA, and DC, and *damaged shipments* in the reverse direction; *Lumber*, from New York, NY, Jersey City, NJ, and Baltimore, MD to Edenton, NC and Norfolk, VA; *Lumber* (except plywood and veneer), from Snell, Laurel, Richmond, Cologne, DeWitt, Pendleton, and Bukner, VA to Edenton, NC, and *damaged shipments* in the reverse direction; *Pickle products*, from Ahoskie, NC to points in NY, NJ, CT, VA (except Richmond, Fredericksburg and that portion of the commercial zone of Washington, DC lying in VA), MD (except Baltimore, MD and its commercial zone and that portion of the commercial zone of Washington, DC lying in MD), and PA

(except Philadelphia, PA and its commercial zone); *Glass jars and jar caps*, from points in NY, NJ, PA, and MD to Ahoskie, NC; *Cans*, from points in MD to Ahoskie, NC; *Barrels and spices*, from points in NY to Ahoskie, NC; *Sugar*, in containers, from points in NY, PA, and MD to Ahoskie, NC; *Pickles*, from Ahoskie, NC to points in MA, RI, VT, NH, and ME; *Wooden boxes, box shooks and pallets*, from points in Chowan and Hertford Counties, NC to points in GA, SC, and TN; *Wooden fencing and fencing materials*, from points in Halifax County, NC to points in VA, WV, OH, MD, DE, PA, NJ, NY, CT, MA, SC, GA, and FL. A temporary authority application and a directly related gateway elimination application were simultaneously filed. (Hearing site: Washington, DC.)

Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission with 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-78320, filed September 17, 1979. Transferee: ORVILLE E.

VAUGHAN and KATHLEEN V. VAUGHAN d.b.a. SUN VALLEY TANK LINES, 84 Laporte Drive, Route 3, Mars, Pa. 16046. Transferor: CEL TRUCKING COMPANY, P.O. Box 447, Latrobe, Pa. 15650. Transferee's representative: William A. Gray, Esq., Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Transferor's representative: David R. Gold, Esq., Law & Finance Building, Greensburg, Pa. 15601. Authority sought for the purchase of the operating rights set forth in Permit MC 126375 (Sub-1), MC 126375 (Sub-2), MC 126375 (Sub-4), MC 126375 (Sub-5), MC 126375 (Sub-6), MC 126375 (Sub-7), MC 126375 (Sub-10), MC 126375 (Sub-12), MC 126375 (Sub-13), MC 126375 (Sub-15), and MC 126375 (Sub-16). Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349. Commodities authorized include inedible animal fats, inedible animal tallow, inedible animal grease lubricating oil, and the involved territory includes numerous named States.

MC-FC-78340, filed: October 12, 1979. Transferee: MELROSE TRANSPORT SYSTEMS, INC., 1412 Main Street, Melrose Park, IL 60160. Transferor: David J. Ariola and Albert J. Ariola, d.b.a. McHenry's Motor Service, 155 Bohland, Bellwood, IL 60104. Representative: Bernard J. Kompare, Esq., Suite 1600, 10 South LaSalle Street, Chicago, IL 60603. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration MC 100694 (Sub-3) issued September 18, 1972, as follows: *General commodities* (except commodities in bulk or dump vehicles, articles of unusual value, commercial papers, documents or written instruments used in the conduct and operation of banks and banking institutions, radioactive pharmaceuticals, isotopes, auditing and accounting media and business papers used as input or output of computers) within a thirty (30) mile radius of Chicago, IL, and to transport such property to or from any point outside of such area of operation for a shipper within such area. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78342, filed October 5, 1979. Transferee: THEDA REDA TRAVEL SERVICE, LTD, 906 Third Avenue, New Brighton, PA 15066. Transferor: Theda I. Reda, Rudolph Reda, and Denise Reda Sempf, d.b.a. THEDA REDA TRAVEL SERVICE, a partnership, 906 Third Avenue, New Brighton, PA 15066.

Representative: JOHN A. PILLAR, ESQ., 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Authority sought for purchase by Transferee of the license of Transferor, as set forth in License No. MC-130280, as follows: Passengers and their baggage, in round-trip and in one-way group tours, in special and charter operations, between points in the United States, including AK and HI. Restriction: The operations authorized herein are restricted to tours beginning at points in Beaver County, PA. Applicant is authorized to engage in the above specified operations in New Brighton, PA, as a broker. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority.

MC-FC-78345, filed October 17, 1979. Transferee: W. C. KLINE, INC., d.b.a. AIRPORT EXPRESS, 3200 South Tenth Avenue, Altoona, PA, 16603. Transferor: M. S. MAWHINNEY, JR., d.b.a. AIRPORT EXPRESS, 540 Third Avenue, P.O. Box 41, Duncansville, PA, 16835. Representatives: Thomas M. Mulroy, Esq., Pillar and Mulroy, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA, 15222. Attorney for transferee: James S. Rutch, Esq., 401-03 Allegheny Street, Hollidaysburg, PA, 16648. Attorney for transferor: Authority sought to purchase by transferee operating rights of transferor as set forth in Certificates Nos. MC 129296 and MC 129396 (Sub-1) issued February 15, 1966, and July 14, 1972, respectively as follows: General commodities, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between the Greater Pittsburgh Airport (Moon Township, Allegheny County, PA), on the one hand, on the other, points in Clearfield, Bedford, Blair, Cambria, Centre, Huntingdon, Somerset, and Mifflin Counties, PA. Transferee holds authority from the Commission in docket number MC 123914. An application seeking temporary lease authority has been filed.

MC-FC-78349 filed October 1, 1979. Transferee: Richard Herr, d.b.a. Herr Trucking Company, 1600 Emmett Drive, Fremont, Ohio 43420. Transferor: Estate of Joseph Herr, d.b.a. Herr Trucking Company, 160 Emmett Drive, Fremont, Ohio 43420. Representatives: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, Ohio 43215; C. Wesley Bristley, Attorney at Law, 323 High Street, Fremont, Ohio 43420. Authority sought for purchase by Transferee of the operating rights of Transferor, as set forth in Permit No. MC

110468, as follows: *Lime and limestone products*, over irregular routes, from points in Wood Co., OH, to points in Boone, Boyd, Bracken, Campbell, Greenup, Kenton, Lewis, Mason, and Pendleton Counties, KY, Brooke, Cabell, Hancock, Jackson, Marshall, Mason, OH, Pleasants, Tyler, Wayne, Wood, and Wetzel Counties, WV, that part of MI on and south of Michigan Highway 55, that part of IN on and north of a line extending along U.S. Highway 52 and the Ohio-Indiana State line to junction Indiana Highway 46, thence along Indiana Highway 46 to Terre Haute, IN, thence along U.S. Highway 40 to the Indiana-Illinois State line. *Materials, supplies, equipment and machinery* used in the quarrying, refining, preparation and shipment of lime and limestone products, over irregular routes, from points in the above specified destination territory to points in Wood County, OH, and Permit No. MC 110468 (Sub. 3), as follows: *lime*, and *limestone products*, (except commodities in bulk), from the plant site of National Gypsum Co., located at or near Gibsonburg, OH to points in KY, WV, PA, MI, and IN; and *materials, supplies, equipment and machinery* used in the manufacture of lime and limestone products (except commodities in bulk) from points in KY, WV, PA, MI, and IN to the plant site of National Gypsum Co., located at or near Gibsonburg, OH. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with National Gypsum Co. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed.

Operating Rights Application(s) Directly Related to Finance Proceedings; Notice

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

On applications filed before March 1, 1979, an original and one copy of protests to the granting of authorities must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall conform with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's

interest in the proceeding and copies of its conflicting authorities.

Applications filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *General Rules of Practice* also but are subject to petitions to intervene either with or without leave. An original and one copy of the petition must be filed with the Commission within 30 days after date of publication. A petition for intervention must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points. Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Verified statements in opposition should not be tendered at this time. A copy of the protest or petition to intervene shall be served concurrently upon applicant's representative or applicant if no representative is named. Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC 1002 (Sub-24F), filed June 4, 1979. Applicant: ASBURY PARK-NEW YORK TRANSIT CORP., 401 Lake Avenue, Asbury Park, NJ 07712. Representative: Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate and foreign commerce, over regular routes, transporting passengers and their baggage and express and newspapers, in the same vehicle with passengers, (1) between Interchange 127 of the Garden State Parkway in Woodbridge, NJ, and Interchange 11 of the New Jersey Turnpike, also in Woodbridge, and Interchange 127 and Junction of NJ

Highway 440 and U.S. Highway 9 in Woodbridge. The purpose for routes sought is primarily for connecting routes to authority now held by Asbury Park. This application is directly related to an application filed June 1, 1979 under Section 5(2) of the Interstate Commerce Act, whereby Asbury Park seeks to sell a portion of its authority to Blue & Grey Transit, Inc. (Hearing site: New York, NY.) (Directly related to MC-F-14044F.)

MC 1768 (Sub-2F), filed June 11, 1979. Applicant: INLAND FREIGHTWAYS, INC., Foot of John Hay Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Authority to operate as a common carrier, by motor vehicle, over regular routes, transporting: general commodities, except those of unusual value, Class A and B explosives, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between New York, NY, Elizabeth, NJ and points in New Jersey within 30 miles of Elizabeth, NJ and points in New Jersey within 30 miles of New York, NY, on the one hand, and, on the other, points in New Jersey and Philadelphia, PA.

NOTE.—This application is directly related to docket Number MC-F-14077, published in a previous section of this FR. The purpose of this application is to permit joinder and eliminate the gateway points in the New York, NY commercial zone and points in NJ within 30 miles of New York, NY.

MC 23618 (Sub-58F), filed May 16, 1979. Applicant: MCALISTER TRUCKING COMPANY, d.b.a. MATCO, 2041 S. Treadway Blvd., Abilene, TX, 79604. Representative: D. Paul Stafford, P.O. Box 45536, Dallas, TX, 75245. To operate as a common carrier, by motor vehicle, over irregular routes transporting: machinery, materials, equipment, and supplies, incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum between Miami, Oklahoma, and Joplin, Missouri. (Hearing site: Dallas, TX.)

Note.—This is a matter directly related to a Section 5 finance proceeding in MC-F-14031F published in a previous section of this Federal Register issue. Applicant intends to tack this authority to its existing authority and the authority sought to be purchased in MC-F-14031F.

MC 27817 (Sub-163F), filed May 29, 1979. Applicant: H. C. GABLER, INC., R.D. #3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a common carrier, by motor vehicle,

over irregular routes, transporting: *Fruits, berries, juices, fruit and berry products and supplies and materials* used in the manufacture, sale and distribution of juices and fruit and berry products, except commodities in bulk, between the facilities of The New England Apple Products Co., Inc., at Littleton, MA, on the one hand, and, on the other, points in CT, DE, IN, KY, MD, MA, MI, NJ, NY, OH, PA, RI, VA, WV, WI, and DC. (Hearing site: Washington, DC or Harrisburg, PA.)

Note.—The purpose of this application is to convert a portion of a Permit to a Certificate of Public Convenience and Necessity. This is a matter directly related to a section 5(2) finance proceeding in MC-F-14059 published in a previous section of this Federal Register issue.

MC 32752 (Sub-4F), filed July 23, 1979. Applicant: LEROY K. TRUCKING COMPANY, INC., 130 Third Street, Brooklyn, New York 11231. Attorney: Herbert Burstein, Esq., Suite 2373, One World Trade Center, New York, New York 10048. Authority sought to operate as a common carrier by motor vehicle over irregular routes, transporting general commodities, (except those of unusual value, and except dangerous explosives and household goods as defined by the Commission:) between New York, NY on the one hand and on the other, points and places in Bergen, Hudson, Essex, Union, Passaic, Morris, Somerset, Middlesex and Monmouth Counties, NJ and points and places in CT, west of the Connecticut River. (Hearing site: New York, New York or Newark, New Jersey.)

Note.—This application is filed as a directly related application to finance proceeding Docket No. MC-F-12854. The purpose of this application is to eliminate the gateway of Essex County, NJ.

MC 49367 (Sub-57F), filed May 30, 1979. Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Hwy 24 East, P.O. Box 658, Moberly, MO 65270. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to engage in operation, in interstate or foreign Commerce, as a common carrier by motor vehicle over irregular routes, in the transportation of general commodities, (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading,) (1) between points in Adams, Brown, Cass, Christian, Fulton, Greene, Hancock, Jersey, Logan Macoupin, Mason, Menard, Montgomery, Morgan, McDonough, Pike, Sangamon, Schuyler,

Scott Counties, IL; and (2) between the counties listed in (1) above, on the one hand, and, on the other, points in IL. The applicant proposes to track the proposed irregular route authority with its existing regular route authority at Springfield and Jacksonville, IL.

Note.—The purpose of filing this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to MC-F-14058, published in a previous section of this Federal Register.

MC 53965 (Sub-166F), filed July 24, 1979. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Post Office Drawer 1387, Salina, Kansas 67401. Representative: Bruce A. Bullock, (same address as applicant). To operate as a common carrier, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk, and hides and skins). Between points in CO east of the Continental Divide, NE and KS; and Sioux City and Council Bluffs, IA, and St. Joseph and Kansas City, MO, on the one hand, and, on the other, points in that part of MO on and south of a line beginning at the Mississippi River on the east and extending along U.S. Hwy 60 to junction Missouri Hwy 5 near Mansfield, MO then along Missouri Hwy 5 to junction U.S. Hwy 54 near Camdenton, MO, then along U.S. Hwy 54 to the Kansas-Missouri State Line, and points in AR, LA, OK, TX, AZ, NM, and Memphis, TN. (Hearing site: Wichita, KS.)

Note.—This is a matter directly related to a finance proceeding in (MC-F-1-14106F), published in a previous section of this FR Notice. The purpose of this application involves operations which Graves has been conducting in conjunction with the Luper Transportation Company through equipment interchange at Wichita and Arkansas City, KS. This application will enable Graves to provide a more direct service.

Docket No. MC 60066 (Sub-14F), filed July 22, 1979. Applicant: BEE LINE MOTOR FREIGHT, INC., 1804 Paul St., Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a common carrier by motor vehicle in interstate or foreign commerce, over irregular routes, transporting general commodities (except commodities in bulk, house trailers, mobile homes and prefabricated buildings by truckaway method), between points within a 20-mile radius

of Lincoln, NE, and between points in said radial area on the one hand, and, on the other, all points in NE. (Hearing site: Omaha, NE.)

Note.—The purpose of filing this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to MC-F-14104, published in the September 7, 1979, issue of the Federal Register.

MC 60580 (Sub-41F), filed June 5, 1979. Applicant: MAISLIN TRANSPORT OF DELAWARE, INC., 7401 Newman Blvd., LaSalle, P.Q. H8N 1X4. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, New Jersey 07006. Authority to operate as a motor common carrier in the transportation of general commodities, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over regular routes: (1) Between Greensburg, Pa. and Pittsburgh, Pa., serving all intermediate points and points in Allegheny County, Pa., and those within five (5) miles of the Village of Herminie, Westmoreland County, Pa., as off-route points. From Greensburg over Pennsylvania Highway 130 to Jeannette, Pa., then over unnumbered highway to Grapeville, Pa., then over U.S. Highway 30 to Pittsburgh, and return over the same route. (2) Between Jeannette, Pa., and Pittsburgh, Pa., serving all intermediate points and points in Pennsylvania within ten (10 miles) of Jeannette, Pa., and within five (5) miles of the Village of Herminie, Westmoreland County, Pa., and points in Allegheny County, Pa., as off-route points. From Jeannette over unnumbered highway to Grapeville, Pa., then over U.S. Highway 30 to Pittsburgh, Pa., and return over the same route. (Hearing Site: Pittsburgh, PA.)

Note.—This proceeding is directly related to applicant's transfer application under Docket No. MC-F-14064 wherein it seeks to purchase the registered certificate, MC-121192 (sub-No. 1), of Pittsburgh-Greensburg Express, Inc. The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity.

MC 94636 (Sub-1F), filed May 9, 1979. Applicant: WARSAW MOVING & STORAGE, INC., Route 15, North, P.O. Box 256, Warsaw, Indiana 46580. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, N.W., Suite 1200. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household Goods, as defined by the Commission, between points in IN, OH, IL, and MI. Between points in IN, OH, IL,

and MI, on the one hand, and, on the other, points in CT, MD, PA, DE, NJ, NY, MA, NH, RI, VT, ME, and DC. This application is related to MC-F-13946, published October 11, 1979. Warsaw Moving & Storage, Inc., -Purchase-Frank Amodio Moving & Storage Co., Inc., although the two authorities do not actually combine. However, as a result of this application, utilization of both authorities can be achieved by the applicant. It is requested that this application be set for hearing at the same time that MC-F-13946 is set for hearing. (Hearing site: Fort Wayne, Indiana.)

MC 99888 (Sub-5F), filed August 20, 1979. Applicant: MAYFIELD TRANSFER CO., INC., 3200 West Lake Street, Melrose Park, Illinois 60160. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, Illinois 60603. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment): Between Chicago, IL, and Dixon, IL: From Chicago over IL Hwy 38 (formerly Alternate U.S. Hwy 30) via Geneva, IL, to Dixon, IL, and return over the same route, serving all intermediate points. **NOTE:** This application is directly related to MC-F-14081F, *Mayfield Transfer Co., Inc.—Purchase (Portion)—Western Transportation Company*. Applicant proposes to tack the requested authority with its existing authority. (Hearing site: Chicago, IL.)

Note.—In Docket MC-F-14162F, McCarty Truck Lines, Inc. seeks to purchase from Western Transportation Company regular route authority between Chicago, IL, and Des Moines and Ft. Dodge, IA, which route in part duplicates the route described above. In Docket MC-1263 Sub 33F, which is directly related to Docket MC-F-14162F, McCarty Truck Lines, Inc. seeks a certificate authorizing operations over the above described route.

MC 100449 (Sub 114F), filed May 9, 1979. Applicant: MALLINGER TRUCK LINE, INC., R.R. 4, Fort Dodge, IA 50595. Representative: Thomas E. Leahy, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as common carrier, over irregular routes transporting: *Fertilizer*, (except liquids in bulk), from the plant site of Illinois Nitrogen Company, at Marseilles, Ill., to points in IN, MI, WI, MN, OH, IA, MO, (except points in the St. Louis, MO, East St. Louis, IL, Commercial Zone as defined by the Commission), KS, NE, SD, and KY. Restricted to traffic originating at the named origin and

destined to points in the named destination states. (Hearing Site: Memphis, TN or Washington, DC.)

Note.—The purpose of this application is to convert that contract authority to common carrier authority. This matter is directly related to MC-F-14025, published in a previous section of this Federal Register Notice.

MC 102298 (Sub No. 18F), filed October 23, 1979. Applicant: MOHAWK VAN LINES, INC., 28 Marietta Drive, Westbury, NY 11590. Representative: Edward M. Alfano, Esq., 550 Mamaroneck Avenue, Harrison, NY 10528. Authority sought to operate as a common carrier, over irregular routes, transporting Household Goods as defined by the Commission between the states of AL, CT, DE, DC, FL, GA, KY, ME, MD, MA, NH, NJ, NC, OH, PA, RI, SC, TN, VT, VA, and WV, on the one hand, and, on the other, AZ, CA, CO, IL, IN, IA, KS, MI, MN, MS, MO, NE, NV, UT, and WI. (Hearing Site: New York, NY.)

Note.—This application is directly related to purchase application filed in Docket No. MC-F-14051, *Mohawk Van Lines, Inc.—Purchase (Portion)—Plymouth Van Lines, Inc.*, published in the August 8, 1979, issue, of the Federal Register. The purpose of filing this application is to eliminate the gateway of New York.

MC 109478 (Sub-153F), filed May 4, 1979. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110, Gay Road, North East, PA 16428. Representative: Robert D. Gunderman, Esq., Suite 710 Statler Building, Buffalo, N.Y. 14202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *A. Animal Foods*, (1) Between Allentown and Scranton, PA, on the one hand, and, on the other, points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC; and (2) From Mount Clemens and Taylor, MI, and Springfield, MO, to points in CO, CT, GA, FL, IL, IN, IA, KS, ME, MA, MN, MO, NB, NJ, NY, ND, OK, PA, SD, VA, WV, and WI. *B. Building Materials and Contractors' Supplies*, (1) Between points in NJ, on the one hand, and, on the other, points in PA, NY and NJ. (2) From points in Erie, Niagara and Chautauqua Counties, NY, to points in PA and OH. (3) From Cuyahoga County, OH, to points in PA. (4) From North East, PA to points in NY and OH. (5) Between points in Erie, Crawford, Warren, Mercer, Venango, Clarion and Forest Counties, PA, on the one hand, and, on the other, points in Erie, Niagara, Chautauqua Counties, NY, and Cuyahoga County, OH. *C. Coal*, From points in PA to points in MD, D.

Cleaning Compounds, (1) From Mt. Clemens and Taylor, MI to points in CO, CT, GA, IL, IN, IA, KS, ME, MA, MN, MO, NB, NJ, NY, NC, OK, PA, VA, WV and WI. (2) From Springfield, MO, to points in FL, IL, IA, KS, MN, MO, NB, ND, SD, and WI. (3) From Brockport, Buffalo and Horseheads, NY to points in IN, IL, OH, PA and WV. (4) From Emlenton, Farmers Valley and Warren, PA to points in IN, IL, CT, ME, NJ, NH, NY, RI, VT and MA. E. *Containers, Caps, Covers, Ends, Related Capping and Sealing Attachments, and Materials and Supplies* used in the manufacture or production of such commodities, (1) Between Springdale, AR, on the one hand, and, on the other, points in NY, MI, PA, IA and NB. (2) From Springdale, AR to points in NJ, MA, CT, NH, RI and VT. (3) From points in CT to Farmers Valley, PA, points in McKean County, PA, and points in NY on and west of US Highway 15. (4) From Streeter and Chicago, IL to points in PA, NY, NJ, MA, CT, NH, RI and VT. (5) Between points in IA, on the one hand, and, on the other, Springdale, AR. (6) From Syracuse, Lapel, Lawrenceville, and Marion, IN, to points in PA, NY, MI and AR. (7) From Kansas City, KS to points in PA, NY, NJ, MA, CT, NH, RI, VT and WV. (8) From Louisville, KY to points in MI, PA, NY, CT, MA, NH, OH, RI, VT, WV and NJ. (9) From points in ME to points in PA and NY. (10) From Baltimore, MD to points in PA, NY, MI, OH, IN, IL and AR. (11) From points in MA to points in PA, NY, MI, OH, IN, IL, WI, WV and AR. (12) From points in MI to points in PA, NY, NJ, MA, CT, NH, RI, VT, WI, WV and AR. (13) From points in MN to Beloit, WI. (14) From Kansas City and St. Louis, MO to points in PA, NY, NJ, MA, CT, NH, RI, VT, MI and WV. (15) Between points in NB, on the one hand, and, on the other, Springdale, AR. (16) From points in NH to points in IL, IN, NY, OH and PA. (17) From points in NJ to points in PA, NY, MI, OH, WI, AR, IL and IN. (18) From points in NY to points in PA, NY, NJ, MA, CT, NH, RI, VT, MI, OH, IN, IL, WI, WV and AR. (19) From points in OH to points in PA, NY, NJ, MA, CT, NH, RI, VT and MI. (20) From points in PA to points in PA, NY, NJ, MA, CT, NH, RI, VT, MI, OH, IN, IL and WI. (21) From points in RI to Connellsville, PA. (22) From points in VT to points in NY and PA. (23) From Clarksburg, Wheeling and Fairmont, WV, to points in PA, NY, NJ, MA, CT, NH, RI, VT, MI and AR. (24) From points in WI to points in PA, NY, NJ, MA, CT, NH, RI, VT and MI. F. *Farm Implements, Machinery, Machine Parts, and Oil Field Supplies and Equipment*, (1) From Bradford, PA and points within 10 miles

of Bradford, to points in NY, Cuyahoga County, OH and points in PA. (2) Between Erie, Crawford, Warren, Mercer, Venango, Clarion and Forest Counties, PA, on the one hand, and, on the other, points in Erie, Niagara and Chautauqua Counties, NY and Cuyahoga County, OH. (3) From Bradford, PA and points within 10 miles of Bradford, on the one hand, and, on the other, points in NY. G. *Feed, Feed Ingredients, Grain and Seed Flower*, (1) From points in Erie County to points in PA; and (2) Between points in PA, on the one hand, and, on the other, points in NY and OH. H. *Fertilizer and Insecticide, Fertilizer and Insecticide Materials and Compounds*, Between points in NY, MD, OH and PA. I. *Foods, Foodstuffs and Food Products*, (1) Between Springdale, Arkansas, on the one hand, and, on the other, points in IA, NE, PA and NY. (2) From Springdale, AR to points in CT, DE, DC, IA, MD, MA, ME, MI, NB, NH, NJ, NY, PA, RI, VT, VA and WV. (3) From points in CT to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NB, ND, NY, OH, PA, SD, WV and WI. (4) From points in DE to points in AR, CT, DC, IN, IL, IA, KS, KY, ME, MD, MA, MI, MN, MO, NB, ND, NH, NJ, NY, OH, OK, PA, RI, SD, VT, WV and WI. (5) From DC to points in AR, CT, DE, DC, IN, IL, IA, KS, KY, ME, MD, MA, MI, MN, MO, NB, ND, NH, NJ, NY, OH, OK, PA, RI, SD, VT, WV and WI. (6) From points in IL to points in AL, AR, CT, DC, DE, FL, GA, IN, KY, MD, MA, ME, MI, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VT, VA, and WV. (7) From points in IN to points in AL, AR, CT, DC, DE, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NB, ND, NH, NJ, NY, OH, PA, RI, SC, SD, TN, VT, VA, WV and WI. (8) From points in IA to points in CT, DC, DE, FL, MD, MA, ME, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV and WI. (9) From points in KS to points in AR. (10) From points in KY to points in AR, CT, DE, IA, ME, MD, MA, MO, MI, NB, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI and DC. (11) From points in ME to points in AR, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NB, ND, NJ, NY, OH, PA, SD, WV and WI. (12) From points in MD to points in AR, CO, CT, IL, IN, IA, KS, KY, MA, ME, MI, MN, MO, NB, NH, ND, NJ, NY, OH, OK, PA, RI, SD, VT, and WI. (13) From points in MA to points in AR, CO, DC, DE, IL, IN, IA, KS, KY, MD, ME, MI, MN, MO, NB, ND, NJ, NY, OH, OK, PA, SD, VA, WV and WI. (14) From points in MI to points in AL, AR, CO, CT, DC, DE, FL, GA, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NB, ND, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV and WI. (15) From points in MN to points in CT, DC, DE,

IN, KY, MD, MA, ME, MI, MO, NH, NJ, NY, OH, PA, RI, VT, WV and WI. (16) From points in MO to points in AR, CT, DC, DE, FL, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, NB, ND, NH, NJ, NY, OH, PA, RI, SD, VT, VA, WV and WI. (17) From points in NC to points in FL. (18) From points in ND to points in CT, FL, IA, MD, MA, MI, NB, NH, NY, NJ, OH, PA, RI, VT, VA, WV and DC. (19) From points in NH to points in AR, CO, DC, DE, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NB, ND, NY, OH, OK, PA, RI, SD, TN, VT, VA, WV and WI. (20) From points in NJ to points in AR, CO, DC, DE, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NB, ND, NY, OH, OK, PA, RI, SD, TN, VT, VA, WV and WI. (21) From points in NY to points in AL, AR, CO, CT, DC, DE, FL, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NB, ND, NH, NJ, OH, OK, PA, RI, SD, TN, VT, VA, WV and WI. (22) From points in OH to points in AL, AR, CO, CT, DC, DE, FL, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NB, ND, NH, NJ, OH, OK, PA, RI, SD, TN, VT, VA, WV and WI. (23) From points in PA to points in AL, AR, CO, CT, DC, DE, FL, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NB, ND, NH, NJ, NY, OH, OK, PA, RI, SD, TN, VT, VA, WV and WI. (24) From points in RI to points in AR, CO, DC, DE, IL, IN, IA, KS, KY, MI, MN, MO, NB, ND, NJ, NY, OH, OK, PA, RI, SD, TN, VT, VA, WV and WI. (25) From points in VT to points in AR, CO, CT, DE, DC, IL, IN, IA, KS, KY, MI, MN, MO, NB, ND, NJ, NY, OH, OK, PA, RI, SD, VA, WV and WI. (26) From points in VA to points in AR, CO, CT, DE, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NB, ND, NJ, NY, OH, OK, PA, RI, SD, TN, VT, VA, WV and WI. (27) From points in WV to points in CT, DC, DE, MA, ME, NH, NJ, NY, PA, RI and VT. (28) From points in MN to points in CT, DC, DE, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VA, VT, WV and WI. (29) From points in WI to points in CT, DC, DE, MD, MA, ME, MI, MN, NH, NJ, NY, OH, PA, RI, VT and VA. J. *Infants' Wear, Infants' Toys, and Incidental Infant Supplies and Nursery Accessories*, (1) From Rochester, NY to points in MA, RI, NY, ME, NH, VT, PA, OH, NJ and WV; and (2) From Freemont, MI to points in MN, WI and MO. K. *Insulators, Steel Chests, Scrap Metal, Wire and Cable*, Between Le Roy, NY and points within 50 miles of Le Roy, on the one hand, and, on the other, points in NY. L. *Lumber and Composition Board*, (1) From points in NY and MD to points in VT, NH, MA, CT, RI, NY, NJ, PA, DE, MD, WV, OH, IN, IL, MI, DC, ME and VT. (2) Between points in Erie, Crawford, Warren, Mercer, Venango, Clarion and Forest Counties, PA, on the one hand, and, on the other, points in

Erie, Chautauqua, and Niagara Counties, NY and Cuyahoga Counties, OH. M. *Malt Beverages*, (1) From Newark and Trenton, NJ, and New York, NY, to points in NY and PA; and (2) Between McKean County, PA, on the one hand, and, on the other, points in NY. N. *Matches*, From Toledo, OH to points in PA. O. *Meats, Meat Products and Meat By-Products, and Articles* distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (1) From Monmouth, IL, to points in CT, DE, IN, ME, MD, MA, MI, NH, NY, NJ, OH, PA, RI, VT, VA, WV and DC, including all ports of entry on the International Boundary lines between the U.S. and Canada in the involved states. (2) From Logansport and Lafayette, IN to points in CT, DE, ME, MD, MA, MI, NH, NY, NJ, OH, PA, RI, VT, VA, WV and DC, including ports of entry on the International Boundary lines between the U.S. and Canada in the involved states. (3) From points in IA to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NY, NJ, OH, PA, RI, VT, VA, WV, WI and DC, including ports of entry on the International Boundary lines between the U.S. and Canada in the involved states. (4) From Emporia, KS to ports of entry on the International Boundary lines between the U.S. and Canada in MI and NY. (5) From points in MI to points in CT, DE, ME, MD, MA, NH, NY, OH, PA, RI, VA, WV, WI, and DC, including ports of entry on the International Boundary lines between the U.S. and Canada in the involved states. (6) From points in MN to points in CT, DE, IN, ME, MD, MA, MI, NH, NY, NJ, OH, PA, RI, VT, VA, WV, WI and DC, including ports of entry on the International Boundary lines between the U.S. and Canada in the involved states. (7) From Phelps City, MO to points in CT, DE, IA, ME, MD, MA, MI, MN, NH, NY, NJ, OH, PA, RI, VT, VA, WV, WI and DC, including ports of entry on the International Boundary lines between the U.S. and Canada in the involved states. (8) From Madison, Schuyler, Dakota City and West Point, NB, to points in CT, DE, IA, ME, MD, MA, MI, MO, NH, NY, NJ, OH, PA, RI, VT, VA, WV, WI and DC, including ports of entry on the International Boundary lines between the U.S. and Canada in the involved states. (9) From points in NJ to Beloit, WI. (10) From points in NY to Beloit, WI, including ports of entry on the International Boundary lines between the U.S. and Canada in NY. (11) From points in PA to Beloit, WI. (12) From Sioux City, SD to points in CT, DE, ME, MD, MA, MI, NH,

NY, NJ, OH, PA, RI, VT, VA, WV and DC, including ports of entry on the International Boundary line between the U.S. and Canada in the involved states. P. *Paper and Paper Products*, (1) From points in MI to points in WI, CO, CT, GA, IL, IN, IA, KS, ME, MA, MI, MO, NB, NJ, NY, NC, OK, PA, VA, WV, WI, DE, MD, NH, RI and VT. (2) Between points in NY, on the one hand, and, on the other, points in OH, WV, PA, IN, IL, MI and MA. (3) Between points in MA. Q. *Petroleum and Petroleum Products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 219, except in bulk in tank vehicles, (1) From points in PA to points in CT, IL, IN, ME, MA, NH, NJ, NY, the port of Erie, PA, RI and VT; (2) Between points in Erie, Crawford, Warren, Mercer, Venango, Clarion, and Forest Counties, PA, on the one hand, and, on the other, points in Erie, Niagara and Chautauqua Counties, NY, and Cuyahoga County, OH; (3) Between points in PA within a 10 mile radius of Bradford, PA, including Bradford, PA, on the one hand, and, on the other, points in NY. R. *Pharmaceuticals, Drugs and Druggist Supplies*, From Allegan, MI, to points in CA, FL, and LA, Atlanta, GA, Phoenix, AZ, and Salt Lake City, UT. S. *Shoe Last Blocks, and Plastic Scraps*, (1) Between Ellicottville and Salamanca, NY, on the one hand, and, on the other, points in PA, ME, and MA; and (2) From Galeton, PA to Ellicottville and Salamanca, NY. T. *Soybean Oil, Corn Oil, Cooking Oil and Shortening*, (1) From Decatur, IL, to Lockport, NY; (2) From Montezuma, NY to all points in the U.S., except Alaska and Hawaii; and (3) From Toledo, OH to points in NY. U. *Wine*, (1) From points in NY to points in CT, DE, IL, IN, MD, MA, MI, MN, NY, NJ, ND, OH, PA, RI, SD, WV and DC. (2) From Erie, North East and Philadelphia, and Crawford County, PA to points in CT, DE, IL, IN, MD, MA, MI, MN, NY, NJ, OH, RI, WV, and DC. (3) From Geneva and Toledo, OH to points in CT, DE, MD, MA, MN, NY, NJ, PA, RI and DC. (4) From Jersey City, NJ and points in NJ within 25 miles of Jersey City to points in IL, IN, MI, MN and OH. (5) From Lawton and Mattawan, MI to points in CT, DE, MD, MA, NY, NJ, PA, RI and DC. (6) From Boston and Woburn, MA to points in IL, IN, MI, MN and OH. (7) From Chicago, IL to points in CT, DE, MD, MA, NY, NJ, PA, RI and DC. (a) Parts, Materials, Ingredients, Supplies and Equipment used in the manufacture, production, sale or distribution of the commodities named herein; (b) returned shipments of the commodities named herein; and (c) pallets, containers and other dunnage

used in the transportation of the commodities named herein, from, to or between the points authorized above. (Hearing site: Erie, PA or Buffalo, NY.)

Note.—This application is directly related to MC-F-14008F under § 5 to merge the authorities of Worster-Michigan, Inc. and Worster-Iowa, Inc. with the authorities of Worster Motor Lines, Inc. Collectively, these affiliated carriers hold substantial portions of the authority sought herein. The purpose of this application is to round out the authorities to be held by applicant following approval of the merger application.

MC 115122 (Sub-7F), filed August 8, 1979. Applicant: MARIANO BROTHERS, INC., Shelter Rock Road, Danbury, Connecticut 06810. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Ave. NW., Suite 1200, Washington, DC. 20036. Authority sought to operate as a common carrier over irregular routes in the transportation of Household Goods, as defined by the Commission, Between points in CT, MA, NJ, NY, RI, PA, ME, NH, and VT. (2) Between the above named states on the one hand, and, on the other, points in CT, PA, NJ, NU, OH, MI, IL, IN, NC, MD, MO, VA, WV, WI, RI, and DC. (Hearing site: Danbury, CT.)

Note.—This application is directly related to MC-F-14050F published in the August 8, 1979, issue of the Federal Register. The purpose of this application is to join this authority with the authority to be purchased of Four Winds Van Lines, Inc., with the exception that the State of IL. would be added to this application. The tacking point will be the state of CT.

MC 119400 (Sub-17F), filed: August 7, 1979. Applicant: SIMANEK, INC., 2222 N. 11th St., Omaha, NE 68110. Representative: Donald L. Stern, Suite 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting commodities in bulk, between points within a 20-mile radius of Lincoln, NE, and between points in said radial area, on the one hand, and, on the other, all points in NE. (Hearing site: Omaha, NE.)

Note.—Tacking is requested so as to provide through service to and from points in KS, MO, IA, and SD via tacking at Lincoln, NE, or at other NE points. The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to MC-F-14118, published in the September 7, 1979, issue of the Federal Register.

MC 121279 (Sub-2F), filed July 6, 1979. Applicant: BEAVER TRANSPORT, INC., 46 River Street, New Haven, CT 06513. Applicant's attorney: J. Curtis Bradley III, Suite 1301, 1600 Wilson Boulevard,

Arlington, VA 22209. Authority sought to operate as a *common carrier* by motor vehicle in interstate or foreign commerce, over irregular routes transporting general commodities (other than household goods and office furniture and equipment and other than commodities which necessitate the use of dump trucks, tank trucks or special equipment) for hire as a motor common carrier from its headquarters in New Haven, and upon call received at its headquarters between any points within CT over such routes and highways within CT. (Hearing site: New Haven, CT, or Washington, DC.)

Note.—The purpose of filing this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a finance proceeding, docketed MC-F-14110F, published in a previous section of this Federal Register.

MC 121644 (Sub-4F), filed July 30, 1979. Applicant: S & W FREIGHT LINES, INC. 1136 Haley Road, Murfreesboro, TN 37130. Representative: A. O. Buck, 618 United American Bank Bldg., Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, in the transportation of general commodities, (except those of unusual value, household goods as defined by the Commission, Classes A & B, explosives) from Nashville, TN over 70S to Woodbury, TN, thence over Hwy. 145 to its junction with Hwy. 96, then over Hwy. 96 to its junction with Hwy. 70S returning to Nashville over Hwy. 70S, with service between Nashville, TN and its commercial zone and all points on this route in Cannon County, TN; and service between Nashville, TN and its commercial zone and all other points in Cannon County, TN as off-route points. I-24 from Nashville, TN to Murfreesboro, TN as alternate route for operating convenience only. (Hearing site: Nashville, TN or Washington, DC.)

Note.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. (This matter is directly related to MC-F-14095, published in a section of this Federal Register Notice, the Vendee is authorized to serve between points in TN. The applicant has requested authority to tack its existing authority with the authority being acquired at Nashville, TN.)

MC 135306 (Sub-4F), filed May 25, 1979. Applicant: DAN'S TRANSIT, INC., 239 Woodmont Road, Milford, Connecticut 06460. Representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size

or weight require the use of special equipment, and *related machinery, parts, and contractors' materials and supplies*, when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special equipment, between points in that part of CT west of the Connecticut River on the one hand, and, on the other, points in OH; and (2) *machinery, contractors' equipment and supplies*, which by reason of size or weight require the use of special equipment, between points in OH on the one hand, and, on the other, points in NY.

Note.—The purpose of filing this application is to eliminate the gateway points in PA within 40 miles of Clarion, PA. This matter is directly related to docket number MC-F-14038F, published in a previous section of this Federal Register.

MC 146918, filed May 8, 1979. Applicant: N & N CHARTER TOURS, INC., d.b.a. CAREFREE BUS TOURS, INC., P.O. Box 8152, Haledon, NJ 07508. Representative: Edward F. Bowes, Esq., P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *common carrier* by motor vehicle, over regular routes, in the transportation of passengers and their baggage in the same vehicle with passengers between Lyndhurst, NJ and New York, NY from Lake Ave. and Orient Way in Lyndhurst, over Orient Way to Rutherford Ave., then over Rutherford Ave. and ramps to Lincoln Tunnel, then via the Lincoln Tunnel to New York, NY and return over the same routes, serving no intermediate points and serving Lyndhurst, NJ for the purpose of joinder only at Lake Ave. and Orient Way.

Note.—The purpose of this application is to enable applicant to operate to New York, NY from regular route passenger authority between Bloomfield, NJ and Lyndhurst, NJ. This matter is directly related to MC-FC-78122.

MC 140797 (Sub-2F), filed June 4, 1979. Applicant: BLUE & GREY TRANSIT, INC., Route 35, South Amboy, NJ 08879. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate and foreign commerce, over regular routes, transporting passengers and their baggage and express and newspapers, in the same vehicle with passengers, (1) between Interchange 114 of the Garden State Parkway at the Holmdel-Middletown, NJ township boundary line and New York, NY, (2) between Sayreville, NJ and New York, NY, and (3) between Elizabeth, NJ and New York, NY. These routes are for purpose

of joinder only and are directly related to routes sought to be acquired by Blue & Grey Transit, Inc., from Asbury Park—New York Transit Corp. in a concurrently filed application under Section 5(2) of the Interstate Commerce Act. (Hearing site: Washington, DC or Newark, NJ.) (Directly related to MC-F-14044F.)

MC 141135 (Sub-5F), filed June 7, 1979. Applicant: VARRA COMPANIES, INC., 2130 South 96th Street, Broomfield, CO 80020. Representative: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1680 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities, except Classes A and B explosives and household goods*, between points in Boulder County, CO, and between points in Boulder County, CO, on the one hand, and on the other hand, points in the State of CO. (Hearing site: Denver, CO.)

Note.—The purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to MC-FC 78185.

Motor Carrier Alternate Route Deviations; Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 110325 (Deviation No. 37), filed October 24, 1979. TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Carrier proposes to operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over a deviation route as follows: from the junction of Interstate Hwy 40 and U.S. Hwy 77 over Interstate Hwy 40 to the

junction of Interstate Hwy 240, then over Interstate Hwy 240 to the junction of Interstate Hwy 40, then over Interstate Hwy 40 to the junction of Interstate Hwy 81, then over Interstate Hwy 81 to the junction of Interstate Hwy 64, then over Interstate Hwy 64 to the junction of Interstate Hwy 360, and return over the same route for operating convenience only. The notice indicates the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from the junction of Interstate Hwy 40 and U.S. Hwy 77 over U.S. Hwy 77 to the junction of U.S. Hwy 68, then over U.S. Hwy 66 to the junction of U.S. Hwy 75, then over U.S. Hwy 75 to the junction of U.S. Hwy 166, then over U.S. Hwy 166 to the junction of U.S. Hwy 66, then over U.S. Hwy 66 to the junction of U.S. Hwy 40, then over U.S. Hwy 40 to the junction of U.S. Hwy 35, then over U.S. Hwy 35 to the junction of U.S. Hwy 60, then over U.S. Hwy 60 to the junction of U.S. Hwy 360, then over U.S. Hwy 360 to the junction of Interstate Hwy 64, and return over the same route.

MC 110325 (Deviation No. 38), TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009, filed October 24, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of Interstate Hwy 30 and US Hwy 77, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 240, then over Interstate Hwy 240 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 81, then over Interstate Hwy 81 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction US Hwy 360 and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From the junction of Interstate Hwy 30 and US Hwy 77, then over US Hwy 77 to junction US Hwy 66, then over US Hwy 66 to junction US Hwy 75, then over US Hwy 75 to the junction of US Hwy 166, then over US Hwy 166 to junction US Hwy 66, then over US Hwy 66 to the junction of US Hwy 40, then over US Hwy 40 to the junction of US Hwy 35, then over US Hwy 35 to junction US Hwy 60, then over US Hwy 60 to Richmond, VA.

MC 110325 (Deviation Route No. 39), filed October 25, 1979. TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Carrier proposes to operate as a *common carrier* by motor vehicle in

interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), over a deviation route as follows: from the junction of U.S. Hwys 31 and 40 over U.S. Hwy 31 to junction IN Hwy 37, then over IN Hwy 37 to junction Interstate Hwy 69, then over Interstate Hwy 69 to junction U.S. Hwy 24, then over U.S. Hwy 24 to junction OH Hwy 2, and return over the same route, for operating convenience only. The notice indicates the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from the junction of U.S. Hwys 31 and 40 over U.S. Hwy 40 to junction U.S. Hwy 68, then over U.S. Hwy 68 to junction U.S. Hwy 25, then over U.S. Hwy 25 to junction OH Hwy 2, and return over the same route.

MC 112713 (Deviation No. 61), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Overland Park, KS 66207, filed October 25, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Chicago, IL over Interstate Hwy 90 to Madison, WI, then over Interstate Hwys 90 and 94 to Minneapolis, MN and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Chicago, IL over U.S. Hwy 34 to Princeton, IL, then over U.S. Hwy 6 to Davenport, IA, then over U.S. Hwy 61 to Grandview, IA, then over IA Hwy 92 to Oskaloosa, IA, then over IA Hwy 163 to Des Moines, IA, then over U.S. Hwy 69 to Ames, IA, then over U.S. Hwy 30 U.S. Hwy 30 to Colo, IA, then over U.S. Hwy 65 to junction unnumbered Hwy, then over unnumbered Hwy to junction MN Hwy 3, then over MN Hwy 3 to Farmington, MN, then over MN Hwy 50 to junction U.S. Hwy 65, then over U.S. Hwy 65 to Minneapolis, MN and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seeks concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by

Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Montana Docket No. T-4530, filed September 26, 1979. Applicant: MOLERWAY FREIGHT LINES, INC., 2707 Beartooth Drive, Billings, MT 59102. Representative: John L. Mohr, 111 West Main Street, P.O. Box 217, Laurel, MT 59044. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows:

Transportation of: General commodities, except those of unusual value, dangerous explosives, commodities in bulk and those injurious or contaminating to other lading from and to or between the following points or areas: Serving all points and places along U.S. Highway No. 90 between Bozeman, Montana, and Billings, Montana, excluding all points and places between Livingston, Montana, and the junction of U.S. Highway No. 90 and U.S. Highway No. 89; all points and places along U.S. Highway No. 89 between the junction of U.S. Highway No. 89 and U.S. Highway No. 12, excluding all points and places between the junction of U.S. Highway No. 90 and U.S. Highway No. 89 and Wilsall, Montana; all points and places along U.S. Highway No. 12 between the junction of U.S. Highway No. 89 and U.S. Highway No. 12 and Roundup, Montana; all places and points along U.S. Highway No. 191 between Big Timber, Montana, and Moore, Montana; all points and places along U.S. Highway No. 87 and State Highway No. 200 between Moore, Montana, and Roundup, Montana; all points and places along U.S. Highway No. 3 between Lavina, Montana, and Billings, Montana; all points and places along U.S. Highway No. 90 between Billings, Montana, and Hardin, Montana; all points and places along U.S. Highway No. 90 from Hardin, Montana, to the Montana and Wyoming border. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Montana Public Service Commission, Administrator Transportation Division, 1227 11th

Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 41925 (Sub-No. 1), filed October 25, 1979. Applicant: OUACHITA MOUNTAIN EXPRESS, INC., Route 4, Box 280 B, Guthrie, OK 73044. Representative: A. David Necco, Suite 128, 4801 Classen Blvd., Oklahoma City, OK 73118. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as a regular route common carrier over the following routes: From the intersection of Interstate Highway 49 and State Highway 99 on Interstate Highway 40 to Sallisaw serving off line points of Warner, Webber Falls, Porum, Gore, Vian, and Sallisaw; from the intersection of US Hwy 59 and Interstate Hwy 40 on US Hwy 59 to Poteau serving all intermediate points; from McAlester on US Hwy 69 to Wagoner serving all intermediate points including Muskogee; and from Wagoner on State Hwy 51 to Tahlequah; from Tahlequah on US Hwy 62 and State Hwy 10 to Muskogee serving all intermediary and off-line points including Ft. Gibson and the Port of Muskogee. Intrastate, interstate and foreign commerce authority sought. Hearing: December 19, 1979, Oklahoma Corporation Commission, 2nd Floor Jim Thorpe Bldg., Oklahoma City, OK. Requests for procedural information should be addressed to Oklahoma Corporation Commission, 2nd Floor Jim Thorpe Bldg., Oklahoma City, OK 73105, and should not be directed to the Interstate Commerce Commission.

Transportation of "Waste" Products for Reuse or Recycling—Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse of recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission by December 17, 1979. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate

to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the Federal Register, subject to its tariff publication effective date.

P-12-79 (Special Certificate—Waste Products), filed September 30, 1979. Applicant: B & C TRUCKING, INC., 77 East Wilson Bridge Rd., Worthington, OH 43085. Representative: Stephen J. Habash, George, Greek, King, McMahon, & McConnaughey, 100 E. Broad St., Columbus, OH 43215. Commodity: Waste Paper. Sponsors: Container Corporation of America, of Carol Stream, IL. St. Regis Paper Company, of Coshocton, OH. Battlecreek, MI and York, PA.

P-13-79 (Special Certificate—Waste Products), filed October 11, 1979. Applicant: SHARKEY TRANSPORTATION INC., 3803 Dye Rd., Quincy, IL 62301. Representative: James R. Ponsot (address same as applicant). Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. Sponsor: Quad County Recyclers, Inc., RR #4 Box 306D, West Burlington, IA 52655. Commodities: Waste Products.

P-14-79 (Special Certificate—Waste Products), filed October 2, 1979. Applicant: CAUSTIC SODA TRANSPORTATION CO., 792 1/2 Haywood Rd., Asheville, NC 28806. Representative: Henry E. Seaton, 425-13th St. NW., Washington, DC 20004. Sponsor: The Mead Corporation of Dayton, OH. Champion International, of Hamilton, OH. Olin Corporation of Pisgah Forest, NC. Commodities: Waste Products.

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense—Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC-115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning

applicant's fitness) may be filed with the Interstate Commerce Commission by December 17, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the Federal Register, subject to its tariff publication effective date.

HC-32-79 (SPECIAL CERTIFICATE—USED HOUSEHOLD GOODS), filed October 22, 1979. Applicant: Interstate Moving & Storage Co., 701-703 West 17th St., P.O. Box 334, Cheyenne, WY 82001. Representative: Hugh F. Cooper, P.O. Box 334, Cheyenne, WY 82001. Authority sought: Between points in the State of Wyoming serving Warren Air Force Base, Cheyenne, WY.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36460 Filed 11-26-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-204F]

Wolfeboro Rail Road Co., Inc.; Entire Line Abandonment Near Sanbornville at Wolfeboro, in Carroll County, N.H.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided September 24, 1979, a finding, which is administratively final, was made by the Commission, Division 2, acting as an Appellate Division, stating that, the present and future public convenience and necessity permit abandonment by the Wolfeboro Rail Road Co., Inc. of its entire line of railroad, subject to the condition that the carrier, for a period of 60 days following the effective date of the certificate and decision, shall not sell, lease, exchange or otherwise dispose of the track, right-of-way underlying the track, all bridges, and all culverts on the line unless said property has first been offered, upon reasonable terms, to responsible public authorities or other responsible persons interested in acquiring the property for continued operation or public use; and further that, the applicant shall include in its contract of sale of any building(s) that are eligible for inclusion in the *National Register of Historic Places*, a requirement that the purchaser and any subsequent purchaser shall present plans for future use of the building(s) to the advisory Council on Historic Preservation; and that, in the event that

the building(s) are to be demolished, the owner will, prior to demolition, ensure that appropriate measures are taken to adequately record the structures according to standards prescribed by the Historic American Engineering Record and Historic American Building Survey. A certificate of public convenience and necessity permitting abandonment was issued to the Wolfeboro Rail Road Co., Inc. After completion of the investigation, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective January 11, 1980.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36457 Filed 11-26-79; 8:45 am]
BILLING CODE 7035-01-M

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC 115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the

Interstate Commerce Commission by December 17, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence within 30 days of the date of its notice in the Federal Register, subject to its tariff publication effective date.

HC-34-79 (Special Certificate—Used Household Goods), filed November 5, 1979. Applicant: MAC TRANSFER AND STORAGE COMPANY, P.O. Box 1878, Corpus Christi, TX 78403. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Authority sought: Between points in Aransas, Bee, Brooks, Cameron, Calhoun, Goliad, Hidalgo, Jim Wells, Kenedy, Kleberg, Live Oak, Nueces, San Patricio, Starr, Refugio, Victoria, and Willacy Counties, TX and Matagorda Island, TX, serving Corpus Christi Naval Air Station, Corpus Christi, TX.

HC-35-79 (Special Certificate—Used Household Goods), filed November 20, 1979. Applicant: ALLIANCE TRANSPORTATION, INC., 4410 Wendell Dr., Atlanta, GA 30336. Representative: Robert W. Gerson, 1400 Candler Bldg., 127 Peachtree St., Atlanta, GA 30303. Authority sought: Between points in Clayton, Gwinnett, Fulton, DeKalb, and Cobb Counties, GA, serving Fort McPherson Army Base, Fulton County, GA.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-36456 Filed 11-26-79; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: November 20, 1979.

In our decision of November 13, 1979, a 10-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

Although the weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 10.1 percent, we are authorizing that the 10-percent surcharge on this traffic remain in effect. All owner-operators are to continue to receive compensation at the 10-percent level. In addition, no change will be made in the existing authorization of a

1.7-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, nor in the authorization of a 3.7-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday, 12:01 a.m., November 23, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Chairman O'Neal, Vice Chairman Stafford, and Commissioner Clapp absent and not participating. Commissioner Trantum also directed the staff to comment on the following questions regarding the equitableness of the fuel surcharge and its impact on regular route common carriers. The questions are:

- (1) Is the TL surcharge being fully applied to owner-operators?
- (2) Is TL freight being diverted away from regular route general freight carriers as a direct result of the surcharge?
- (3) Should the TL/LTL revenue split of 32%/68% be revised?
- (4) Are there potentially more equitable ways in which to recover fuel cost increases?

Agatha L. Mergenovich,
Secretary.

Appendix—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax) January 1, 1979, 63.5¢.
Date of Current Price Measurement and Price Per Gallon (Including Tax) November 19, 1979, 101.3.

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue
(1) From Transportation Performed by Owner Operators (Apply to All Truckload Rated Traffic), 16.9%.

(2) Other (Including Less-Truckload Traffic), 2.9%.

(3) Bus Carriers, 6.3%.
Percent Surcharge Developed 10.1%; 1.7%; and 3.7%.

Percent Surcharge Allowed 10%; 1.7%; and 3.7%.

[FR Doc. 79-36450 Filed 11-26-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 79-33250 appearing at page 62117 in the issue for Monday, October 29, 1979, on page 62117, in the third column, under "Motor Carriers of Property," "Notice No. 187" should be corrected to read "Notice No. 181".

BILLING CODE 1505-01-M

[Notice No. 188]

Motor Carrier Temporary Authority Applications

Correction

In FR 79-33827 appearing at page 64580 in the issue for Wednesday, November 7, 1979, on page 64590, in the second column, before the paragraph "MC 13509 (Sub-55TA)" insert the heading "Notice No. 194".

BILLING CODE 1505-01-M

[Volume No. 34]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Correction

In FR 79-30568 appearing at page 57014 in the issue for Wednesday, October 3, 1979, on page 57022, in the third column, paragraph "MC-F 10163F", should be corrected to read "MC-F 14163F".

BILLING CODE 1505-01-M

[Ex Parte No. 347]

Western Coal Investigation; Guidelines for Railroad Rate Structure; Extension of Commenting Period on the Draft Environmental Impact Statement

The Environmental Protection Agency (EPA) placed a notice of availability for the Draft Environmental Impact Statement (DEIS) on Ex Parte No. 347 on October 26, 1979 [44 FR 61638]. Consequently, the commenting due date for this DEIS is extended to December 10, 1979.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-38458 Filed 11-26-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 229

Tuesday, November 27, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Reserve System	2
International Trade Commission	3
Nuclear Regulatory Commission	4
Parole Commission	5, 6

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, November 27, 1979.

PLACE: Commission Conference Room 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

MATTERS TO BE CONSIDERED:

1. Proposed sole source contract for expert witness services in connection with a court case.
2. Freedom of Information Act Appeal No. 79-8-FOIA-290, concerning a request from an attorney for evaluational materials in a charge file.
3. Report on Commission operations by the Executive Director.

Closed to the Public

Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson,
Executive Officer, Executive Secretariat,
at (202) 634-6748.

This Notice Issued November 20, 1979.

[S-2293-79 Filed 11-23-79; 10:09 am]

BILLING CODE 6570-06-M

2

FEDERAL RESERVE SYSTEM: Board of Governors.

TIME AND DATE: 11 a.m., Monday, December 3, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne,
Assistant to the Board; (202) 452-3204.

Dated: November 23, 1979.

Theodore E. Allison,
Secretary of the Board.

[S-2297-79 Filed 11-23-79; 3:17 pm]

BILLING CODE 6210-01-M

3

[USITC SE-79-45]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, December 4, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: OPEN TO THE PUBLIC.

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary: a. Food slicers (Docket No. 606).
5. Automatic crankpin grinders (Inv. 337-TA-60)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason,
Secretary, (202) 523-0161.

[S-2298-79 Filed 11-23-79; 3:30 pm]

BILLING CODE 7020-02-M

4

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: November 29, 1979.

PLACE: Commissioners' Conference Room 1717 H St., NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Thursday, November 29, 9:30 a.m.

1. Affirmation or Discussion and Vote Session (approximately one-half hour, public meeting):
 - a. Disposal of High-Level Radioactive Wastes
 - b. Plans for Coping with Emergencies at Production and Utilization Facilities
2. Discussion of Personnel Matter (approximately 2 hours, closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, (202) 634-1410.

Roger M. Tweed,
Office of the Secretary,
November 21, 1979.

[S-2294-79 Filed 11-23-79; 11:22 am]

BILLING CODE 7500-01-M

5

PAROLE COMMISSION.

TIME AND DATE: Monday, December 3, 1979—9 a.m. to 5:30 p.m.

PLACE: Room 135, Pension Building, 440 G Street NW., Washington, D.C.

STATUS: Closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

1. Appeals to the Commission of approximately 19 cases decided by the National Commissioners pursuant to a reference under 28 C.F.R. § 2.17 and appealed pursuant to 28 C.F.R. § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.
2. An application for a Certificate of Exemption under the Labor-Management Reporting and Disclosure Act of 1959.

CONTACT PERSON FOR MORE INFORMATION:

A. Ronald Peterson,
Analyst, (202) 724-3094, 320 First Street, N.W., Washington, D.C.

[S-2295-79 Filed 11-23-79; 3:17 pm]

BILLING CODE 4410-01-M

6

PAROLE COMMISSION.

TIME AND DATE: Tuesday, December 4, 1979—9 a.m. to 5:30 p.m..

PLACE: Room 135, Pension Building, 440 G Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Minutes of previous meeting.
2. Reports from the Chairman, Vice-Chairman, Regional and National Commissioners.
3. Voting Quorums:
 - a. Appeals to Regional Commissioners and National Appeals Board.
 - b. Original Jurisdiction Cases.
4. Dispositional Revocation Hearings.
5. Procedures Manual changes:
 - a. Increasing previous decision on appeal
 - b. Multiple offenses
 - c. Clarification of "proprietary interest"
6. National Appeals Board *en banc* procedure.

7. Legislative proposal on "street time" credit.

8. Applications for reduction of minimum sentences by District of Columbia Code violators.

9. Proposal to establish contact with courts concerning Parole Commission interest in restitution or community service.

10. Proposal to contact probation service concerning provision of information from victims of offenses.

11. Proposal to establish contact with courts to make presentence reports permanently available to offenders.

12. Tribal court convictions.

13. Providing reasons for effective parole dates on notices of action.

14. Legal Report.

15. Research report.

a. Report 21 (Revitalizing the Salient Factor Score: a Research Note)

b. Report 22 (The Salient Factor Score: A Non-Technical Overview)

c. Report on Pending Projects

16. The following Consent Agenda items if specifically requested to be opened for discussion at the meeting:

a. Tapes of continuances

b. Decisions at statutory interim hearings

c. Procedure Manual: Appendix 4.22 (corrected page)

d. Telephone contacts outside of routine channels

e. Transfer of inmate's file from region to region.

CONTACT PERSON FOR MORE

INFORMATION: Peter B. Hoffman; 320 First Street, N.W., Washington, D.C. 20537; (202) 724-3095.

(S-2298-79 Filed 11-28-79; 8:45 am)

BILLING CODE 4410-01-M

Tuesday
November 27, 1979

Part II

Department of the
Interior

Fish and Wildlife Service

Proposed Reclassification of the Red
Lechwe "Kobus leche", and Notice on
the Status of the Bontebok "Damaliscus
dorcas dorcus" and Argali "Ovis ammon
hodgesoni"

federal register

V
4
4
N
O
2
7
7
9
U
M
I

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Reclassification of the Red Lechwe "Kobus leche", and Notice on the Status of the Bontebok "Damaliscus dorcas dorcas" and Argali "Ovis ammon hodgesoni"

AGENCY: U.S. Fish and Wildlife Service, USDA.

ACTION: Proposed rule and notice.

SUMMARY: The Service has reviewed the status of the red lechwe (*Kobus leche*), the bontebok (*Damaliscus dorcas dorcas*) and the argali (*Ovis ammon hodgesoni*). These species are currently classified as Endangered under the Endangered Species Act of 1973. The review discloses new information indicating that the red lechwe should be reclassified as Threatened, and the present document proposes such a reclassification. With regard to the bontebok and argali, however, no new information has been uncovered which would indicate any change in either's status. Therefore, the Service is now notifying the public that it is not considering any action to reclassify these two species.

DATES: Comments from the public must be received by February 25, 1980.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and other material relating to this proposed rule and notice are available for public inspection during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703-235-2771).

SUPPLEMENTARY INFORMATION:

Background.

On December 29, 1977, Safari Club International petitioned the Secretary of the Interior to remove the red lechwe (*Kobus leche*) from the Endangered species list; on February 1, 1978, the same organization petitioned for the removal of the argali (*Ovis ammon hodgesoni*). Both the red lechwe and the argali were listed as Endangered under the Endangered Species Act of 1973 (hereinafter the Act) on June 14, 1976.

The Fish and Wildlife Service (hereinafter the Service) accepted the petitions on behalf of the Secretary of the Interior, and on April 19, 1978, published in the Federal Register (43 FR 16527) a notice that it was reviewing the status of these two species as well as that of the bontebok (*Damaliscus dorcas dorcas*) and 62 other listed species for which it was seeking additional information. The review of the status of the red lechwe, argali and bontebok has now been completed and the Service feels that sufficient data are available to warrant a reclassification of the red lechwe to Threatened status, but for the argali and bontebok, available data do not indicate that any reclassification is justified.

Summary of Data on the Status of the Red Lechwe. The red lechwe (*Kobus leche*) has been separated by systematists into three subspecies—the red lechwe proper, *K. l. leche* Gray, 1850; the black lechwe, *K. l. smithemani* Lydekker, 1900; and the Kafue lechwe, *K. l. kafuensis* Haltenorth, 1963. The species formerly ranged from northern South West Africa and Botswana across the Caprivi Strip of South West Africa, throughout southeastern Angola and Zambia into southern Zaire, perhaps as far as Lake Mweru. Within this extensive area, the black subspecies (*smithemani*) was confined to the vicinity of Bangweulu Lake and the Chambesi River in Zambia, and the Kafue subspecies (*kafuensis*) was found only along the flats of the Kafue (and perhaps the Lukanga) River in Zambia.

The nominate race has always had the most extensive distribution and is now generally common and widespread. It is well-managed and abundant in the Okavango Swamp, including the Moremi Game Reserve and along the Chobe River flats and the Chobe National Park in Botswana, and in the Busanga Swamp north of Kafue National Park in Zambia. It is common along the Cuito, Cubango and Longa Rivers in Angola which flow into the Okavango Swamp, but rare in both the Okavango and Chobe areas of the Caprivi Strip of South West Africa. North of there, it is thinly scattered in Angola to the Luando Reserve, the Canguadala National Park and eastward into Zaire. The black race is currently largely confined to the Bangweulu Lake region of Zambia; and the Kafue race is now found along the Kafue River flats in Zambia.

Since early in this century, all subspecies have undergone marked declines in number, attributed in part to uncontrolled market and subsistence hunting and in part to a decrease in habitat. The red subspecies is still

reasonably abundant in the Okavango and Chobe areas, except along the Caprivi Strip in South West Africa. It has been reported that 250 lechwe occur in the Busanga and Masozhi areas; 150 on the Luswishi River; 500 on Chisenga Island; 1,000 on the Simaraba flats and unknown numbers elsewhere in Zambia. In 1966, however, no lechwe were seen on Chisenga Island, but 600 were observed in the Lukanga Swamp. By 1971, the Busanga flats populations had increased to 1,500 and to 3,000 in 1976. Other population estimates based on aerial surveys in 1976 were: Okavango Delta (Botswana), 30-40,000; Chobe River areas (Botswana), 10-15,000; and several thousand in the Okavango areas in Angola. The black subspecies was probably at its population low in the early 1950's, and since 1954, the count had not exceeded 15,000 until 1975 when Grunsdel and Bell of the Serengeti Institute reported an estimated 30,000 black lechwe in the Bangweulu Basin of Zambia (the estimate based on aerial surveys in 1976 was 20,000). The numbers of Kafue lechwe have stayed relatively stable since 1971 until the 1976 census—90-100,000 on the Kafue flats in Zambia.

Lechwes live along the fringes of swamps or rivers, or on inundated floodplains, spending much of their day in the shallow water. Their long, narrow hooves are a special adaptation to their marshland habitat, and they are also strong swimmers. During the period of seasonal flooding, they move out onto the adjoining dry floodplains but return to the swamplands as soon as the waters recede. Much of the once extensive habitat of the lechwe has been destroyed by inundation from the construction of dams and reservoirs, or has been damaged by prolonged drought or the disappearance of permanent streams as a result of improper land-use practices. However, there are thousands of square miles of original habitat remaining, which is adequate to support existing and future increased populations of all three races of the red lechwe.

The species is classed as a game animal and is protected from unrestricted hunting throughout its range. In practice, however, this protection has been difficult to enforce. The black subspecies has had total protection since 1945. The nominate subspecies, the red, is well protected in Chobe National Park and the Moremi Game Reserve of Botswana, and in the Busanga area of the Kafue National Park which also provides sanctuary for the Kafue race. Botswana and Zambia presently issue hunting licenses for

lechwes, and both the red and the Kafue subspecies may be taken legally.

Until recently, the species received the protection given an Appendix I species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora. At the Second Meeting of the Conference of the Parties to the Convention, held on March 19-20, 1979, in San Jose, Costa Rica, the lechwe was transferred, at the request of the Republic of Botswana, from Appendix I to Appendix II. This transferral reflected the Convention's view, based on data provided by Botswana, that the species was not now an endangered species and more properly belonged in the less severely restricted trade category of an Appendix II species.

Given the fact that red lechwe populations are stable or increasing over much of their range and that total population numbers are well in excess of 150,000 animals that are protected by national laws where they occur, the Service does not feel that the species as a whole is in danger of extinction which is a requisite for Endangered classification.

The above information was derived primarily from a report prepared by Harry A. Goodwin, Consultant for Safari Club International, titled "A Report on the Status of the Lechwe," September, 1977. In preparing the report, Mr. Goodwin relied on the following sources:

- Ansell, W. F. H. (1960), *Mammals of Northern Rhodesia*. Lusaka, Government Printer. 24 pp.
- Bell, R. H. V., et al (1973), *Census of Kafue lechwe by aerial stratified samplings*. East African Wildlife Journal (11) 55-74.
- Bothma, J. du P. (1975), *Conservation Status of the Larger Mammals of Southern Africa*. Biological Conservation (7) 87-95.
- Decker, Eugene (28 July 1977), *Status of lechwe in southern Africa*. Memo to Safari Club International, Unpubl.
- Dorst, Jean & Dandelot, P. (1970), *A field guide to the larger mammals of Africa*. London: Collins.
- Estes, R. D. & R. K. Estes (1971), *The giant sable antelope (Hippotragus niger variani)*. Thomas, 1916. Unpubl. Manuscript.
- Goodwin, H. A. & C. W. Holloway (1972), *Red Data Book* (revised edn.) Vol. I Mammalia. Heliographia, Lausanne.
- Grimsdell, J. J. R. & R. H. V. Bell (1972), *Population growth of red lechwe in the Busanga Plain, Zambia*. East African Wildlife Journal (10) 117-122.
- Hill John E. & T. D. Carter (1941), *The mammals of Angola, Africa*. Bull. Amer. Mus. Natural History. 78 (1): 1-211.
- Smithers, Reay H. N. (1968), *The mammals of Rhodesia, Zambia and Malawi*. London: Collins.
- Smithers, Reay H. N. (1971), *The mammals of Botswana*. Museum Memori 4, Salisbury: Trustees, National Museums of Rhodesia.

Tinley, K. L. (1966), *An ecological reconnaissance of the Moremi Wildlife Reserve, Botswana*. Okavango Wildlife Society, Cape Town.

Vesey-Fitzgerald, D. F. (1966), *Black lechwe census* (Dec. 1956) and *Ecology of the black lechwe* (May 1959). Black Lechwe 5 (4) 6-10, 21-22.

In addition to Mr. Goodwin's report, the Service has utilized the information presented by the Republic of Botswana to the Convention in International Trade in Endangered Species of Wild Fauna and Flora in support of its position that the lechwe should be moved from Appendix I to Appendix II of that Convention.

Reason for Threatened Status of the Red Lechwe. Despite the fact that the red lechwe does not appear to be Endangered throughout a significant portion of its range, the Service feels that it is a Threatened species. Section 4(a) of the Act states:

General—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

- (1) the present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) overutilization for commercial, sporting, scientific, or educational purposes;
- (3) disease or predation;
- (4) the inadequacy of existing regulatory mechanisms; or
- (5) other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

In the case of the red lechwe, factors (1) and (4) are still operational.

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.*

As stated earlier, lechwes live along fringes of swamps or rivers, or on inundated floodplains, spending much of their day in shallow water. Africa is a rapidly developing continent, and many thousands of square miles of the extensive wetland habitat favored by the red lechwe have been destroyed by inundation due to the construction of dams and reservoirs, or have been damaged through drought caused by improper land use. Although there are still thousands of square miles of wetland habitat remaining, the continuing development of the African nations over the next decade will undoubtedly result in the loss of much that remains and constitutes a threat to the species.

(4) *The inadequacy of existing regulatory mechanisms.* Although the red lechwe receives "protection" in all countries where it occurs, and is listed on Appendix II of the Convention on

International Trade in Endangered Species of Wild Fauna and Flora, this "protection" is nominal at best. Wherever it occurs, the red lechwe has been hunted by the local people; in fact, such subsistence hunting has been a major factor in the decline of the species. Distances are vast, and agents to patrol are few. Enforcement of laws is virtually impossible and uncontrolled local hunting constitutes a threat to the surviving populations.

Effect of the rule

Section 9(c)(2) of the Endangered Species Act of 1973 states in part:

Any importation into the United States of fish or wildlife shall, if such fish or wildlife is not an endangered species listed pursuant to Section 4 of this Act but is listed in Appendix II of the Convention be presumed to be an importation not in violation of any provision of this Act or any regulation issued pursuant to this Act.

Since the red lechwe is on Appendix II of the Convention, the present proposal, if made final, would allow for the importation of live animals, and parts and products (including sport hunted trophies) without a permit issued specifically under the Act. However, Convention permits would still be required and the importation could not occur in the course of a commercial activity. There would be no other effects of the rulemaking.

Notice on the Bontebok and Argali

The Service has carefully appraised all data available on the bontebok and argali, including those submitted by Safari Club International in support of their petition to remove the bontebok from classification under the Act. There are insufficient data available to justify such a move, or to warrant their reclassification as threatened.

With regard to the bontebok, reports indicate that no more than 1,000 animals remain. While these are strictly protected on game reserves and on farms, the fact that only such a tiny remnant survives is cause for extreme concern and Endangered classification. Any disease or human disturbance in the areas where these few animals occur could result in the complete extirpation of the species virtually overnight.

In the case of the argali, absolutely no evidence could be found from any source that would indicate an improvement anywhere in the status of this sheep from when it was listed as Endangered in 1976.

Because of the above facts, the Service does not propose a reclassification of either the bontebok or argali.

Public Comments Solicited

The Director intends that the rules finally adopted will be accurate, and as effective as possible in the conservation of any Endangered or Threatened species. Therefore, any data, comments, or suggestions from the public, other governmental agencies, the scientific community, industry, private interest, or any other interested party concerning any aspect of this proposed action and on the notice, will be welcomed. Final promulgation of the regulations on the red lechwe will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from the proposal.

Pursuant to Section 4(b) of the Act, the Director will cooperate with the Secretary of State and with the countries which will be affected by this proposed rulemaking. Airgrams will be sent to each of the affected countries informing them of the proposed action, and requesting their advice in the matter.

An Environmental Impact Assessment has been prepared in conjunction with

this proposal (in compliance with Executive Order 12114). It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia 22201, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884), and was prepared by John L. Paradiso, Office of Endangered Species (703/235-1975).

Note: The Department of the Interior has determined that this document does not contain a significant proposal requiring preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, it is hereby proposed to amend Part 17, Subparts B and D, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.11 as follows:

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion endangered			
<i>Kobus lechwe</i>	Lechwe, red	Namibia, Angola, Zambia, Botswana, Zaire.	Entire	T		None

Dated: November 19, 1979.
Lynn A. Greenwalt,
Director, Fish and Wildlife Service.
[FR Doc. 79-38402 Filed 11-26-79; 8:45 am]
BILLING CODE 4310-55-M

federal register

Tuesday
November 27, 1979

Part III

Department of
Housing and Urban
Development

Office of the Secretary

Protection and Enhancement of
Environmental Quality; Department-Wide
Procedures; Interim Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 1310-3]

Standards of Performance for New Stationary Sources: Sewage Treatment Plants; Review of Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Review of standards.

SUMMARY: EPA has reviewed the standards of performance for sewage treatment plant sludge incinerators (40 CFR 60.150). The review is required under the Clean Air Act, as amended August 1977. The purpose of this notice is to announce EPA's plan to defer decision on the need to revise the standards and to undertake a program to further assess emission rates, control technology, and the current standard.

DATES: Comments must be received by January 28, 1980.

ADDRESS: Comments should be submitted to the Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. A-79-17.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Ajax, telephone: (919) 541-5271. The document "A Review of Standards of Performance for New Stationary Sources—Sewage Sludge Incinerators" (EPA-450/3-79-010) is available upon request from Mr. Robert Ajax (MD-13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Background

Prior to the promulgation of the NSPS in 1974, most sewage sludge incinerators utilized low pressure scrubbers (2 to 8 in. WG) to reduce emissions to the atmosphere. These scrubbers were designed to meet State and local standards that were on the order of 0.2 to 0.9 grams/dry standard cubic meter (dscm) or 0.1 to 0.4 grains/dry standard cubic foot (dscf) at 50 percent excess air. Incineration standards, for the most part, reflected general incineration of all types with emphasis on municipal solid waste. A separate standard for sewage sludge incineration emissions was unusual. Control efficiencies, based on an uncontrolled rate of 0.9 grains/dscf, were between 50 and 90 percent.

In June of 1973, the Environmental Protection Agency proposed a standard

under Section 111 of the Clean Air Act to control particulate matter emissions from sewage sludge incinerators. The standard, promulgated in March 1974 and amended in November 1977, applies to any incinerator constructed or modified after June 11, 1973, that burns wastes containing more than 10 percent sewage sludge (dry basis) produced by municipal sewage treatment plants, or charges more than 1000 kg (2205 lb/day) municipal sewage sludge (dry basis). The standard prohibits the discharge of particulate matter at a rate greater than 0.65 grams/kg of dry sludge input (1.30 lb/ton) and prohibits the discharge of any gases exhibiting 20 percent opacity or greater.

The Clean Air Act Amendments of 1977 require that the Administrator of the EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years [Section 111(b)(1)(B)]. This notice announces that EPA has undertaken a review of the standard of performance for sewage sludge incinerators and sets forth initial findings based on this review. EPA is however, deferring a final decision on the need to revise the standard until further data can be obtained and analyzed pertaining to the form of the standard, parameters affecting emission rates, and coincineration. Comments on these findings and this action are invited.

Findings

Status of Sewage Sludge Incinerators

It is estimated that approximately 240 municipal sludge incinerator units are presently in operation. A large number of incinerators were built in the 1967-1972 period and this growth has continued, although at a somewhat slower rate since 1972. A compilation of incinerator units subject to the construction grants program indicated that 92 new units were either in the construction or planning stages in mid-1977. A total of 23 sludge incinerators have been identified which are subject to the standard and which have been tested for compliance.

Emission Rates and Control Technology

Particulate matter from the inert material in sludge is present in the flue gas of sewage sludge incinerators. Uncontrolled emissions may vary from as low as 4 g/kg (8 lb/ton) dry sludge input to as high as 110 g/kg (220 lb/ton) dry sludge input depending upon the incinerator type and the sludge composition (e.g., percent volatile solids, percent moisture, and source treatment). Since adoption of the standard, wet

scrubbers operating with pressure drops in the range of 7 to 32 in. WG and a mean of 20 in. WG have been employed exclusively and have been successful for controlling emissions to the level required by the standard. The average emission from tests of 26 facilities since 1974 was 0.55 g/kg with a standard deviation of 0.35 g/kg (1.1 ± 0.7 lb/ton) dry sludge input. When tests from one obviously underdesigned facility and three facilities not subject to the standard were deleted, the average emission was 0.45 g/kg with a standard deviation of 0.17 g/kg (0.91 ± 0.33 lb/ton) dry sludge input or about 30 percent below the standard. The scrubber configurations which were employed included three-stage perforated plate impingement scrubbers operating at 7 to 9 in WG and venturi scrubbers, or venturi scrubbers in series with various impingement plate scrubbers operating in the 9 to 32 in. WG range.

While these test results are consistent with the standard, an analysis of the test results shows an inconsistent relationship between scrubber pressure drop and emissions as expressed in units of the standard. This appears to be due to both the facility type and input sludge composition, particularly solids content. Moreover, experimental data from some of the tested units suggest that incinerators burning sludge below 20 percent solids may have difficulty complying with the NSPS. Because combustion air requirements per unit of dry sludge increase with increasing sludge moisture, actual stack volume concentrations of 0.01 grains/dry standard cubic meter or less are needed to meet the standard when high moisture sludges are incinerated. For example, two incinerators burning sludges of 16 percent solids achieved only marginal compliance and low volume concentrations of 0.009 and 0.010 grains/acf.

An additional finding based on an analysis of the test data which are now available concerns the relationship between emissions expressed in terms of grain loading on a dry basis and emissions per weight of dry sludge burned. As initially proposed, the standard was expressed as a volume concentration standard equal to 0.031 grains/dscf. Due to comments received relative to the use of dilution air and the difficulties involved in measuring and correcting to dry volume, the promulgated standard was established at 1.3 lb/dry ton sludge input. This was based on data available at the time of promulgation showing that the promulgated and proposed standards were equivalent. However, an analysis

of the data which are now available indicate a nominal equivalence between 1.8 lb/ton dry sludge and 0.031 grains/dscf for typical sludges.

One factor at least partially responsible for the difference in equivalent emission factors, in addition to affecting the relationship between pressure drop and mass emissions, is the moisture content in the input sludge. The average solids content of the sludge associated with the data cited above is 24 percent. However, tests of two other facilities with input sludge having a relatively high solids content of between 27 and 33 percent showed an equivalence similar to that found by EPA in 1973 (e.g., 0.03 grains/dscf equivalent to 1.3 lb/ton dry sludge input).

Opacity levels from successful emissions tests never exceeded 15 percent and were most often either 0 or 5 percent. These results are similar to those found when the standard was first proposed as a 10 percent value with exceptions allowed during 2 minutes of a 60 minute test cycle. This standard was changed to 20 percent with no exemptions except during startup, shut down, or malfunctions. The current data indicate that the rationale used to arrive at the 20 percent opacity level still applies. This rationale, in addition to field observations obtained with Method 9, involved instrumental data and theoretical projections of the opacity which could, under extreme conditions, occur at a facility complying with the particulate matter standard. A reevaluation of this standard was undertaken and reaffirmation was announced in the Federal Register on February 18, 1976.

Application of the Standard to Coincineration

The coincineration of municipal solid waste and sewage sludge has been practiced in Europe for several years, and on a limited scale in the U.S. However, as energy resources become scarce and more costly, and where land disposal is economically or technically unfeasible, the recovery of the heat content of dewatered sludge as an energy source will become more desirable. Due to this and the institutional commonality of these wastes and advances in the preincineration processing of municipal refuse to a waste fuel, many communities may find joint incineration in energy recovery incinerators an economically attractive alternative to their waste disposal problems.

Coincineration of municipal solid waste and sewage sludge, as described above, is not explicitly covered in 40

CFR 60. The particulate standard for municipal solid waste described in Subpart E (0.18 g/dscm or 0.08 g/dscf at 12 percent CO₂) applies to the incineration of municipal solid waste in furnaces with a capacity of at least 45 Mg/day (50 tons/day). Subpart O, the particulate standard for sewage sludge incineration (0.65 g/kg dry sludge input or 1.3 lb/ton dry sludge), applies to any incinerator that burns sewage sludge, with the exception of small communities practicing coincineration.

To clarify the situation when coincineration is involved, EPA adopted the policy that when an incinerator with a capacity of at least 45 Mg/day (50 tons/day) burns at least 50 percent municipal solid waste, then the Subpart E applies regardless of the amount of sewage sludge burned. When more than 50 percent sewage sludge and more than 45 Mg/day (50 tons) is incinerated, the standard is based upon Subpart O or, alternatively, a proration between Subparts O and E. The proration scheme, however, has a discontinuity when a municipal incinerator burns 50 percent solid waste.

The alternative of prorating the Subparts E and O is not straightforward, since the two standards are stated in different units. The proration scheme requires a transformation of the municipal incineration standard (Subpart E) from grams per dry standard cubic meter (grains per dry standard cubic foot) at 12 percent CO₂ to grams per kilograms (pounds per dry ton) refuse input, or a transformation of the sewage sludge standard (Subpart O) from grams per dry kilograms (pounds per dry ton) input to grams per dry standard cubic meter at 12 percent CO₂. Such transformations are dependent on the percent CO₂ in the flue gas stream, the stoichiometric air requirements, excess air, the volume of combustion products to require air, and percent moisture in refuse or sludge, and the heat content of the sludge and solid waste.

Other Pollutants

Incineration of sewage sludge results in the emission to the atmosphere of trace elements and compounds, some of which are hazardous or potentially hazardous. Substances of concern include mercury, lead, cadmium, pesticides, and organic matter. Among these, mercury emissions from sewage sludge incinerators are specifically limited under the National Emission Standards for Hazardous Air Pollutants (40 CFR 61.50 et seq.).

The emission of other trace compounds and elements, while not subject to specific limitations is

controlled by particulate matter control equipment or directly by the high temperatures in the combustion process and with the exception of cadmium, no data were obtained during this review to indicate a need for specific limitations on emissions of these materials resulting from incineration of typical sludges. Tests have shown high destruction efficiencies for pesticides, and organics in sewage sludge incinerators. Similarly, test data suggest that high pressure scrubbers of the type normally employed to meet the particulate standards also reduce lead emissions to below the level required to meet ambient standards. In contrast, data suggest that cadmium emissions may not be adequately controlled. A separate program is underway in EPA to independently assess the need to regulate cadmium. Final decisions on this will be announced in a separate action. In the event that the need to limit cadmium emissions from sewage sludge incinerators is indicated, appropriate action will be taken.

Conclusions

The available test data support the validity of the standard. However, the marginal compliance of several facilities operating with high pressure drops, the apparent relationship between sludge moisture content and emission rates, and the inconsistent relationship between pressure drop and scrubber performance as measured in terms of the standard are matters which require further study. Such a study will be undertaken later and will include further analysis of data regarding sludge dewatering, incinerator types, control technology, and the relationship between control device operating parameters, sludge solids content, emission rates, and alternative forms for expression of emission rates. This will also include an analysis of alternative means for establishment of standards applicable to coincineration. A final conclusion on the need for revision of the standard will not be made until this study is complete.

Dated: November 16, 1979.

Barbara Blum,
Acting Administrator.

[FR Doc. 79-36473 Filed 11-26-79; 8:45 am]

BILLING CODE 5560-01-M

Tuesday
November 27, 1979

Part VI

Environmental Protection Agency

Standards of Performance for New
Stationary Sources: Incinerators; Review
of Standards

Environmental Protection Agency

for: Kirkpatrick Park; Administration Bldg.
No. 31 and Gate No. 1; Missile Park;
Dispensary Area; Skiff Creek Area;
Officer's Club Bldg. 58; Bldg. 380A, Bldg.
380B, Credit Union; and Industrial Areas
(SH)
Naval Ordnance Station, Nonindustrial
Quarters "A", Indian Head, Maryland (SH)

Fore Mountain and Centennial Areas, Forest
Service, Laramie, Wyoming (SH)
Janitorial/Custodial
Bergstrom Air Force Base, Texas, Buildings:
713, 734, 2004, 2108 and 2600 (Chapel) (SH)
Bridge of the Americas, Paso Del Norte, Good
Neighbor Bridge Border Stations; Cotton
Classing Buildings, El Paso, Texas (SH)

U.S. Federal Building & Courthouse, 436
Dwight, Springfield, Massachusetts (SH)
Janitorial/Elevator Operator
Federal Building, 201 Varick Street, New
York, New York (SH)
Veterans Administration Building, 252
Seventh Avenue, New York, New York
(SH)

Clipboard, Pilot's (SH) 8465-01-012-9174
Clothes Stop (IB) 8465-00-377-5701
Club, Policeman's (IB) 8465-00-641-8551
Cover, Water Canteen (IB) 8465-00-118-4956
Cover, Water Canteen, Nylon (IB) 8465-00-
860-0256 30% Gvt rqmt
Hood, Sleeping Bag (IB) 8465-00-518-2769

Ash Receiver, Tobacco (IB) 9920-00-682-6757
Military Resale Commodities
Procedures for ordering military resale
commodities are contained in § 51-5.6,
Code of Federal Regulations, Title 41.

928 Mop, stick, cotton yarn, wet (IB)
932 Refill, applicator, wax, foam block, for 922 (IB)
933 Refill, mop, automatic, block sponge, for 923 (IB)
934 Refill, mop, block sponge, for 924 (IB)
935 Mophead, orlon rayon yarn, wet (IB)
937 Mophead, cotton yarn, wet (IB)
941 Cloth, dish, knitted cotton (IB)
945 Towel, kitchen, cotton (IB)
946 Potholder, quilted cotton (IB)
949 Mitt, oven, quilted cotton (IB)

Veterans Administration Clinic Building, 17 Court Street, Boston, Massachusetts (SH)

SIC 7369

Food Service Attendant

Seneca Army Depot, Romulus, New York (SH)

SIC 7374

Keypunch and Verification

GSA Region 2, Automated Telecommunication Service, Data Services Division overflow requirements (SH)

SIC 7395

Film Developing

Photographic Processing for the GSA Self-Service Store No. 60, Denver Federal Center, Denver, Colorado (IB)

SIC 7399

Affix Labels—U.S. Patent Documents

U.S. Department of Commerce, Patent and Trademark Office, Crystal City, Arlington, Virginia (SH)

Assembly

Belt, Trousers (IB)

Food Packet, Isolated Site (8 menus) (IB)

Food Packet, Survival, Abandon Ship (8970-00-299-1395) (IB)

Food Packet, Survival, General-Purpose, Individual (8970-00-082-5665) (IB)

General Mechanic's Tool Kit (5180-00-177-7033), GSA, Kansas City, Missouri (SH)

Bursting and Packaging of Commemorative Stamps U.S. Postal Service, Washington, D.C. (SH)

Microfilming Contract Files

Department of the Navy, OICC Trident, Bremerton, Washington (SH)

Microfilm Reproduction

Naval Submarine Base Bangor, Silverdale, Washington (SH)

Packaging

Canteen, Water, Disposable (8465-01-062-5654) General Services Administration, Region 8, Denver, Colorado (IB)

Sewing

Redstone Arsenal, Alabama (Provides specified end items produced through use of customized, heavy-duty sewing service) (SH)

Shrink Wrapping gift Packages

U.S. Postal Service, Washington, D.C. (SH)

SIC 7538

Rebuilding Automotive Components

GSA Interagency Motor Pool, New York, New York (SH)

SIC 7641

Furniture Rehabilitation

Etelson Air Force Base, Alaska (SH)

Fairbanks, Alaska, plus 30-mile radius (SH) Monterey, California, plus 10-mile radius, including Fort Ord (SH)

Sacramento, California, plus 60-mile radius, excluding San Joaquin County (SH)

San Antonio, Texas, plus 40-mile radius (SH)

San Francisco, California, and the counties of Alameda, Contra Costa, San Mateo, and Santa Clara (SH)

Seattle, Washington, plus 30-mile radius (SH) Spokane, Washington, plus 30-mile radius (SH)

Tacoma-Auburn, Washington, plus 30-mile radius, including McChord Air Force Base and Fort Lewis (SH)

Metal Furniture Rehabilitation

Cleveland, Ohio, plus 25-mile radius (SH)

Bremerton, Washington, plus 13-mile radius (SH)

Olympia, Washington, plus 13-mile radius (SH)

Seattle, Washington, plus 13-mile radius (SH)

Tacoma, Washington plus 13-mile radius (including McChord Air Force Base and Fort Lewis) (SH)

SIC 7899

Mattress and Box Spring Rehabilitation (IB)

Orders for renovated mattresses may be arranged through GSA regional offices. IB will provide requirements for mattress and box spring renovation for GSA Regions C, 2, 3, 4, 5, 6, 7, and 8 only.

Repair and Maintenance of Electric Typewriters Only

HEW, 300 S. Wacker Drive, Chicago, Illinois (SH)

Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois (SH)

Social Security Administration, Chicago, Illinois (SH)

Syracuse, New York (including Onondaga County) (SH)

Repair and Maintenance of Manual Typewriters Only

Federal Court House Building, Syracuse, New York (SH)

Repair and Maintenance of Electric and Manual Typewriters

Rochester, New York (including Monroe County) (SH)

U.S. Customs, 8 World Trade Center, New York, New York (SH)

U.S. Customs, Milwaukee, Wisconsin (SH)

U.S. Federal Office Building, Milwaukee, Wisconsin (SH)

Veterans Administration Center and Hospital, Wood, Wisconsin (SH)

Veterans Administration Regional Office, Milwaukee, Wisconsin (SH)

26 Federal Plaza, New York, New York (SH)

32 Old Slip, New York, New York (SH)

1515 Broadway, New York, New York (SH)

[FR Doc. 79-36429 Filed 11-26-79; 8:45 am]

BILLING CODE 6820-33-M

Tuesday
November 27, 1979

Part V

Environmental Protection Agency

Standards of Performance for New
Stationary Sources: Sewage Treatment
Plants; Review of Standards

ENVIRONMENTAL PROTECTION
AGENCY

40 CFR Part 60

(FRL 1310-3)

Standards of Performance for New
Stationary Sources: Sewage
Treatment Plants; Review of StandardsAGENCY: Environmental Protection
Agency (EPA).

ACTION: Review of standards.

SUMMARY: EPA has reviewed the standards of performance for sewage treatment plant sludge incinerators (40 CFR 60.150). The review is required under the Clean Air Act, as amended August 1977. The purpose of this notice is to announce EPA's plan to defer decision on the need to revise the standards and to undertake a program to further assess emission rates, control technology, and the current standard.

DATES: Comments must be received by January 28, 1980.

ADDRESS: Comments should be submitted to the Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. A-79-17.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Ajax, telephone: (919) 541-5271. The document "A Review of Standards of Performance for New Stationary Sources—Sewage Sludge Incinerators" (EPA-450/3-79-010) is available upon request from Mr. Robert Ajax (MD-13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Background

Prior to the promulgation of the NSPS in 1974, most sewage sludge incinerators utilized low pressure scrubbers (2 to 8 in. WG) to reduce emissions to the atmosphere. These scrubbers were designed to meet State and local standards that were on the order of 0.2 to 0.9 grams/dry standard cubic meter (dscm) or 0.1 to 0.4 grains/dry standard cubic foot (dscf) at 50 percent excess air. Incineration standards, for the most part, reflected general incineration of all types with emphasis on municipal solid waste. A separate standard for sewage sludge incineration emissions was unusual. Control efficiencies, based on an uncontrolled rate of 0.9 grains/dscf, were between 50 and 90 percent.

In June of 1973, the Environmental Protection Agency proposed a standard

under Section 111 of the Clean Air Act to control particulate matter emissions from sewage sludge incinerators. The standard, promulgated in March 1974 and amended in November 1977, applies to any incinerator constructed or modified after June 11, 1973, that burns wastes containing more than 10 percent sewage sludge (dry basis) produced by municipal sewage treatment plants, or charges more than 1000 kg (2205 lb/day) municipal sewage sludge (dry basis). The standard prohibits the discharge of particulate matter at a rate greater than 0.65 grams/kg of dry sludge input (1.30 lb/ton) and prohibits the discharge of any gases exhibiting 20 percent opacity or greater.

The Clean Air Act Amendments of 1977 require that the Administrator of the EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years [Section 111(b)(1)(B)]. This notice announces that EPA has undertaken a review of the standard of performance for sewage sludge incinerators and sets forth initial findings based on this review. EPA is, however, deferring a final decision on the need to revise the standard until further data can be obtained and analyzed pertaining to the form of the standard, parameters affecting emission rates, and coincineration. Comments on these findings and this action are invited.

Findings

Status of Sewage Sludge Incinerators

It is estimated that approximately 240 municipal sludge incinerator units are presently in operation. A large number of incinerators were built in the 1967-1972 period and this growth has continued, although at a somewhat slower rate since 1972. A compilation of incinerator units subject to the construction grants program indicated that 92 new units were either in the construction or planning stages in mid-1977. A total of 23 sludge incinerators have been identified which are subject to the standard and which have been tested for compliance.

Emission Rates and Control Technology

Particulate matter from the inert material in sludge is present in the flue gas of sewage sludge incinerators. Uncontrolled emissions may vary from as low as 4 g/kg (8 lb/ton) dry sludge input to as high as 110 g/kg (220 lb/ton) dry sludge input depending upon the incinerator type and the sludge composition (e.g., percent volatile solids, percent moisture, and source treatment). Since adoption of the standard, wet

scrubbers operating with pressure drops in the range of 7 to 32 in. WG and a mean of 20 in. WG have been employed exclusively and have been successful for controlling emissions to the level required by the standard. The average emission from tests of 26 facilities since 1974 was 0.55 g/kg with a standard deviation of 0.35 g/kg (1.1 ± 0.7 lb/ton) dry sludge input. When tests from one obviously underdesigned facility and three facilities not subject to the standard were deleted, the average emission was 0.45 g/kg with a standard deviation of 0.17 g/kg (0.91 ± 0.33 lb/ton) dry sludge input or about 30 percent below the standard. The scrubber configurations which were employed included three-stage perforated plate impingement scrubbers operating at 7 to 9 in WG and venturi scrubbers, or venturi scrubbers in series with various impingement plate scrubbers operating in the 9 to 32 in. WG range.

While these test results are consistent with the standard, an analysis of the test results shows an inconsistent relationship between scrubber pressure drop and emissions as expressed in units of the standard. This appears to be due to both the facility type and input sludge composition, particularly solids content. Moreover, experimental data from some of the tested units suggest that incinerators burning sludge below 20 percent solids may have difficulty complying with the NSPS. Because combustion air requirements per unit of dry sludge increase with increasing sludge moisture, actual stack volume concentrations of 0.01 grains/dry standard cubic meter or less are needed to meet the standard when high moisture sludges are incinerated. For example, two incinerators burning sludges of 16 percent solids achieved only marginal compliance and low volume concentrations of 0.009 and 0.010 grains/acf.

An additional finding based on an analysis of the test data which are now available concerns the relationship between emissions expressed in terms of grain loading on a dry basis and emissions per weight of dry sludge burned. As initially proposed, the standard was expressed as a volume concentration standard equal to 0.031 grains/dscf. Due to comments received relative to the use of dilution air and the difficulties involved in measuring and correcting to dry volume, the promulgated standard was established at 1.3 lb/dry ton sludge input. This was based on data available at the time of promulgation showing that the promulgated and proposed standards were equivalent. However, an analysis

of the data which are now available indicate a nominal equivalence between 1.8 lb/ton dry sludge and 0.031 grains/dscf for typical sludges.

One factor at least partially responsible for the difference in equivalent emission factors, in addition to affecting the relationship between pressure drop and mass emissions, is the moisture content in the input sludge. The average solids content of the sludge associated with the data cited above is 24 percent. However, tests of two other facilities with input sludge having a relatively high solids content of between 27 and 33 percent showed an equivalence similar to that found by EPA in 1973 (e.g., 0.03 grains/dscf equivalent to 1.3 lb/ton dry sludge input).

Opacity levels from successful emissions tests never exceeded 15 percent and were most often either 0 or 5 percent. These results are similar to those found when the standard was first proposed as a 10 percent value with exceptions allowed during 2 minutes of a 60 minute test cycle. This standard was changed to 20 percent with no exemptions except during startup, shut down, or malfunctions. The current data indicate that the rationale used to arrive at the 20 percent opacity level still applies. This rationale, in addition to field observations obtained with Method 9, involved instrumental data and theoretical projections of the opacity which could, under extreme conditions, occur at a facility complying with the particulate matter standard. A reevaluation of this standard was undertaken and reaffirmation was announced in the Federal Register on February 18, 1976.

Application of the Standard to
Coincineration

The coincineration of municipal solid waste and sewage sludge has been practiced in Europe for several years, and on a limited scale in the U.S. However, as energy resources become scarce and more costly, and where land disposal is economically or technically unfeasible, the recovery of the heat content of dewatered sludge as an energy source will become more desirable. Due to this and the institutional commonality of these wastes and advances in the preincineration processing of municipal refuse to a waste fuel, many communities may find joint incineration in energy recovery incinerators an economically attractive alternative to their waste disposal problems.

Coincineration of municipal solid waste and sewage sludge, as described above, is not explicitly covered in 40

CFR 60. The particulate standard for municipal solid waste described in Subpart E (0.18 g/dscm or 0.08 g/dscf at 12 percent CO₂) applies to the incineration of municipal solid waste in furnaces with a capacity of at least 45 Mg/day (50 tons/day). Subpart O, the particulate standard for sewage sludge incineration (0.65 g/kg dry sludge input or 1.3 lb/ton dry sludge), applies to any incinerator that burns sewage sludge, with the exception of small communities practicing coincineration.

To clarify the situation when coincineration is involved, EPA adopted the policy that when an incinerator with a capacity of at least 45 Mg/day (50 tons/day) burns at least 50 percent municipal solid waste, then the Subpart E applies regardless of the amount of sewage sludge burned. When more than 50 percent sewage sludge and more than 45 Mg/day (50 tons) is incinerated, the standard is based upon Subpart O or, alternatively, a proration between Subparts O and E. The proration scheme, however, has a discontinuity when a municipal incinerator burns 50 percent solid waste.

The alternative of prorating the Subparts E and O is not straightforward, since the two standards are stated in different units. The proration scheme requires a transformation of the municipal incineration standard (Subpart E) from grams per dry standard cubic meter (grains per dry standard cubic foot) at 12 percent CO₂ to grams per kilograms (pounds per dry ton) refuse input, or a transformation of the sewage sludge standard (Subpart O) from grams per dry kilograms (pounds per dry ton) input to grams per dry standard cubic meter at 12 percent CO₂. Such transformations are dependent on the percent CO₂ in the flue gas stream, the stoichiometric air requirements, excess air, the volume of combustion products to require air, and percent moisture in refuse or sludge, and the heat content of the sludge and solid waste.

Other Pollutants

Incineration of sewage sludge results in the emission to the atmosphere of trace elements and compounds, some of which are hazardous or potentially hazardous. Substances of concern include mercury, lead, cadmium, pesticides, and organic matter. Among these, mercury emissions from sewage sludge incinerators are specifically limited under the National Emission Standards for Hazardous Air Pollutants (40 CFR 61.50 et seq.).

The emission of other trace compounds and elements, while not subject to specific limitations is

controlled by particulate matter control equipment or directly by the high temperatures in the combustion process and with the exception of cadmium, no data were obtained during this review to indicate a need for specific limitations on emissions of these materials resulting from incineration of typical sludges. Tests have shown high destruction efficiencies for pesticides, and organics in sewage sludge incinerators. Similarly, test data suggest that high pressure scrubbers of the type normally employed to meet the particulate standards also reduce lead emissions to below the level required to meet ambient standards. In contrast, data suggest that cadmium emissions may not be adequately controlled. A separate program is underway in EPA to independently assess the need to regulate cadmium. Final decisions on this will be announced in a separate action. In the event that the need to limit cadmium emissions from sewage sludge incinerators is indicated, appropriate action will be taken.

Conclusions

The available test data support the validity of the standard. However, the marginal compliance of several facilities operating with high pressure drops, the apparent relationship between sludge moisture content and emission rates, and the inconsistent relationship between pressure drop and scrubber performance as measured in terms of the standard are matters which require further study. Such a study will be undertaken later and will include further analysis of data regarding sludge dewatering, incinerator types, control technology, and the relationship between control device operating parameters, sludge solids content, emission rates, and alternative forms for expression of emission rates. This will also include an analysis of alternative means for establishment of standards applicable to coincineration. A final conclusion on the need for revision of the standard will not be made until this study is complete.

Dated: November 16, 1979.

Barbara Blum,
Acting Administrator.

(FR Doc. 79-36473 Filed 11-26-79; 8:45 am)

BILLING CODE 6560-01-M

V
4
4

N
O

2
7

7
9
U M I

Federal Register

Tuesday
November 27, 1979

Part VI

Environmental Protection Agency

Standards of Performance for New
Stationary Sources: Incinerators; Review
of Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

(FRL 1310-2)

Standards of Performance for New Stationary Sources: Incinerators; Review of Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Review of standards.

SUMMARY: EPA has reviewed its standard of performance for municipal incinerators (40 CFR 60.50, Subpart E). The review is required under the Clean Air Act, as amended August 1977. The purpose of this notice is to announce EPA's intent to investigate the establishment of a revised standard which would be consistent with the performance capabilities of demonstrated best available control technology and which would include a limitation on the opacity of emissions.

DATES: Comments must be received by January 28, 1980.

ADDRESS: Send comments to: Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Attention: Docket A-79-18. Comments should be submitted in duplicate if possible.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Ajax, Telephone: (919) 541-5271. The document "A Review of Standards of Performance for New Stationary Sources—Incinerators" (EPA-450/3-79-009) is available upon request from Mr. Robert Ajax (MD-13), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

SUPPLEMENTARY INFORMATION:

Background

New Source Performance Standards (NSPS) for incinerators were promulgated by the Environmental Protection Agency on December 23, 1971 (40 CFR 60.50, Subpart E). These standards regulate the emission of particulate matter to the atmosphere from municipal solid waste incinerators having charging rates greater than 45 Mg (50 tons) per day. These regulations apply to any affected facility which commenced construction or modification after August 17, 1971.

The Clean Air Act Amendments of 1977 require that the Administrator of the EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years [Section 111(b)(1)(B)]. Following adoption of the

Amendments, EPA contracted with the MITRE Corporation to undertake a review of the municipal incinerator industry and the current standard. The MITRE review was completed in March 1979. This notice announces EPA's decision regarding the need for revision of the standard. Comments on the results of this review and on EPA's decision are invited.

Findings

Industry Status: In 1972 there were 193 incinerator plants operating in the U.S. By 1977 this number had decreased to 103 plants which include a total of 252 furnaces and a total solid waste disposal capacity of about 36,000 Mg/day (40,000 tons/day). The estimated national particulate emissions from municipal incineration in 1975 were between 60,000 and 100,000 tons or between 0.4 and 0.6 percent of all particulate emissions in the U.S.

Since 1971 five new incinerator facilities involving a total of eight new furnaces with a combined capacity of 2,700 Mg/day (2,970 tons/day) have become operational. In 1978, 17 cities were identified where new incinerators are planned or under construction. Both existing units and the units which are planned or under construction are concentrated primarily in the Northeast and Midwest.

Coincineration: A factor having an increasingly important impact on the use of incineration as a waste disposal process is the increasing cost of energy and the relatively new concept of resource recovery not only for recycling of material but also for utilization of the energy content of solid waste as a processed fuel source. A recent survey indicates that there are at least 28 resource recovery systems in operation, under construction, or in the final contract stage. Total capacity of these operations will be about 27,000 Mg/day (30,000 tons/day), or about three-fourths of the current installed incinerator capacity. For the most part, these systems are characterized by substantial processing of solid waste into usable recycled material and a homogenous fuel.

The processing of solid waste prior to combustion is a growing trend that has implications in the definition of incineration and the applicability of the standard. Refuse derived fuel (RDF) may be used in an industrial or utility boiler which may or may not be located at the new solid waste processing center. Similarly, RDF may be used to provide fuel for incinerating sewage sludge in a fluidized bed reactor. Such coincineration of municipal solid waste and sewage sludge has been practiced

in Europe for several years and on a limited scale in the U.S. Where energy resources are scarce and land disposal is economically or technically unfeasible, the recovery of the heat content of dewatered sludge as an energy source will become more desirable. Due to the institutional commonality of these wastes and advances in the preincineration processing of municipal refuse to a waste fuel, many communities may find joint incineration in energy recovery incinerators an economically attractive alternative to their waste disposal problems.

Coincineration of municipal solid waste and sewage sludge as described above is not explicitly covered in 40 CFR 60. The particulate standard for municipal solid waste described in Subpart E (0.18 grams/dscm or 0.08 grains/dscf at 12 percent CO₂) applies to the incineration of municipal solid waste in furnaces with a capacity of at least 45 Mg/day (50 tons/day). Subpart O, the particulate standard for sewage sludge incineration (0.65 grams/kg dry sludge input or 1.3 lb/ton dry sludge), applies to any incinerator that burns sewage sludge with the exception of small communities practicing coincineration. When coincineration is practiced, determination of the applicability of the two standards is made by EPA's Office of Enforcement according to policies which are described in the information document identified at the beginning of this notice. Such determinations are not straight forward, however, due to the differing form of the two standards and the relative stringency which, in terms of particulate matter concentration or grain loading, differs by a factor of more than two.

Particulate Matter Emissions and Control Technology

Control systems on municipal incinerators have evolved from the use of simple settling chambers which remove large particles, to the use of electrostatic precipitators (ESPs) that remove up to 99 percent of all particulate matter. Many of the incinerators constructed prior to 1971 utilized mechanical cyclone collectors with removal efficiencies in the range of 60 to 80 percent. Various scrubber techniques including the submerged entry of gases, the spray wetted-wall cyclone, and the venturi scrubber were also employed. High efficiency electrostatic precipitators were utilized in a limited number of cases.

Since the adoption in 1971 of the new source performance standard, the control device which has been most widely used and which has been most

effective is the electrostatic precipitator. A limited number of venturi scrubbers and, in one case, a fabric filter have also been employed.

In this review of the standard, a total of 19 emission tests were identified which had been performed on 14 incinerators. The control equipment on these incinerators was designed to

comply with the Federal new source performance standard for particulate matter or State or local standards which are as stringent or more stringent than the NSPS. The emission tests in each case were performed with EPA Method 5. A summary of the test results is provided in Table 1.

Table 1.—Municipal Incinerator Test Results

State	City/name	(Tons/day)	Control	Test results	
				(Gr/dscf at 12 pct CO ₂)	Year
Massachusetts	E. Bridgewater	150	F.F.	0.024	1975
Massachusetts	Saugus	600	ESP	0.049	1976
Tennessee	Nashville	380	ESP	0.018	1976
Virginia	Norfolk (Navy)	280	ESP	0.05	1976
Utah	Ogden-3	150	ESP	0.045	1974
District of Columbia	Washington	200	ESP	0.040/0.06	1973
Illinois	Chicago NW	400	ESP	0.030/0.050	1971/75
Maryland	Baltimore No. 4	300	ESP	0.025	1976
Pennsylvania	EC Philadelphia	300	ESP	0.047	1977
Pennsylvania	NW Philadelphia	300	ESP	0.048	1976
Illinois	Calumet	200	VS (15)	0.046/0.049	1974
Kentucky	Louisville	200	VS (15-18)	0.05/0.06	1976
Wisconsin	Sheboygan Falls	30-90	S (7-8)	0.11	1977
Rhode Island	Pawtucket	200	VS (35-40)	0.0775	1976
				0.0775	1978

The results shown in Table 1 indicate that ESP control technology is capable of limiting emissions to the values well below the 0.18 g/dscm (0.08 gr/dscf) level at 12 percent CO₂. Specifically, the results from 11 tests performed at 9 facilities employing electrostatic precipitators showed results ranging from 0.041 to 0.14 g/dscm (0.018 to 0.06 gr/dscf) at 12 percent CO₂. 10 of the 11 were below 0.114 g/dscm (0.05 gr/dscf). The Baltimore Number 4 incinerator emission control system meets the strict Maryland standard for incinerators of 0.07 g/dscm (0.03 gr/dscf) at 12 percent CO₂. Similarly, the Saugus, Massachusetts, facility was designed for the State standard of 0.11 g/dscm (0.05 gr/dscf) at 12 percent CO₂ and was successfully tested at this level of compliance.

The use of scrubbers on municipal incinerators has met with mixed results and an overall difficulty in complying with the particulate emission standard. Although the data obtained from five tests at three venturi scrubber-controlled sources ranged from 0.015 to 0.166 g/dscm (0.046 to 0.0775 gr/dscf), the scrubber performance results, which are discussed in more detail in the information document, indicate that venturi scrubbers for control of municipal waste particulate emissions may involve considerable risk of nonattainment of the current NSPS. The

Pawtucket facility venturi scrubber, for example, operates at pressure drops higher than the original design to barely meet the standard of 0.18 g/dscm (0.08 gr/dscf) at 12 percent CO₂.

The Sheboygan Falls, Wisconsin, incinerator utilizes a spray chamber with baffles. Although reportedly designed to meet a 0.08 gr/dscf standard, this type of control technology would not normally be expected to exhibit the control efficiency necessary to obtain the standard.

Since 1971, only the East Bridgewater, Massachusetts, facility has been tested with a fabric filter control device. In 1975, that facility tested at 0.054 g/dscm (0.024 gr/dscf) at 12 percent CO₂, well below the Massachusetts standard of 0.11 g/dscm (0.05 gr/dscf) at 12 percent CO₂. However, problems of bag and baghouse corrosion and periodic high opacity observations have persisted.

Currently, Framingham, Massachusetts, is the only other municipal incinerator facility with a fabric filter control system. The specially coated bags are designed to prevent deterioration and to achieve 0.07 g/dscm (0.03 gr/dscf) at 12 percent CO₂.

Gaseous and Trace Metal Emissions

Gaseous and trace metal emissions are not specifically controlled under the present NSPS although the incinerator

and the particulate matter control equipment do limit such emissions. Among possible gaseous emissions, the potential for high levels of hydrochloric acid (HCL) from the increased incineration of polyvinyl chlorides has received particular attention. Similarly, lead and cadmium have been subject to several studies. Cadmium emissions are reported to represent approximately 0.2 percent of all particulate emissions and about 0.4 percent of emissions less than 2 microns. Lead concentrations are reported to represent about 4 percent of all particulate matter and 11 percent of respirable particulates emitted from the scrubber. Emission factors are 9×10^{-1} kg/Mg (18×10^{-1} lb/ton) refuse for cadmium and 1.9×10^{-1} kg/Mg (3.8×10^{-1} lb/ton) refuse for lead.

In this review of the current NSPS no new findings were identified which indicate the need for a specific, nationally applicable limitation on the gaseous or trace metal emissions. There is, however, currently a program underway within EPA to independently look at the need to regulate cadmium from incinerators and other sources. Separate documents have been prepared which examine emissions, resulting atmospheric concentrations, and population exposure. These documents are part of an overall EPA program to satisfy requirements of the 1977 Clean Air Act to evaluate the need to regulate emissions of cadmium to the air.

Opacity

The current NSPS does not contain a standard for opacity because testing of a limited number of incinerators prior to promulgation of the standard in 1971 did not indicate a consistent relationship between emission opacity and particulate mass concentrations. However, a survey of current State regulations shows that every State has an opacity standard for new incinerators of 20 percent or stricter except Illinois (30 percent), Indiana (40 percent), and Delaware (no standard). Maryland has a "no visible emissions" standard and the District of Columbia has a new source ban on the incineration of municipal waste. However, data were not found in this review of the NSPS to determine whether sources are consistently in compliance with these limits.

Conclusions

Based upon a review of the current NSPS and other available information as summarized above, EPA concludes that there is a need to undertake a program to revise the standard. This program, which is expected to begin in FY 1980, will be directed toward:

(1) Investigation of a more restrictive particulate matter limitation consistent with the capabilities of the best available technology. This is based upon the available data which indicate that the capability of electrostatic precipitators applied to incinerators has improved measurably since the standard was developed in 1971. This investigation will include analysis of the costs associated with a more restrictive standard.

(2) Establishment of an opacity standard. Such a standard is considered important by EPA as a means for assessing proper operation and maintenance of particulate matter control equipment and is included in most of the Agency's particulate matter NSPS. Although a relationship between particulate mass and opacity was not established when the standard was adopted in 1971, the additional number of well controlled plants which are now in operation and the widespread existence of State opacity limits are expected to provide a basis for establishment of an opacity standard. Consistent with EPA policy, such a standard would not be more restrictive than the particulate mass standard.

(3) Establishment of a consistent basis for the limitation of particulate emissions from differing combustion devices independent of the fuel or waste material being fired. While a single standard is probably not possible, there is a need to investigate the possibility of expressing standards for sludge incinerators, and municipal incinerators on a common basis, and of making the standards more uniform. To do so, EPA plans to closely coordinate the development of the industrial and waste-fired boiler standards which are now underway, and the planned revision of the sewage sludge incinerator standard and the municipal incinerator standard.

(4) In addition, if the need to reduce cadmium emissions is indicated as a result of the EPA program noted above, appropriate action will be taken to limit cadmium emissions.

Public Participation

All interested persons are invited to comment on this review, the conclusions and EPA's planned action.

Dated: November 16, 1979.

Barbara Blum,
Acting Administrator.

[FR Doc. 79-36474 Filed 11-26-79; 8:45 am]

BILLING CODE 6560-01-M

Tuesday
November 27, 1979

Part VII

Department of the Interior

Office of Surface Mining Reclamation
and Enforcement

Surface Coal Mining and Reclamation
Operations: Permanent Regulatory
Program; Suspension of Certain Rules

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Surface Coal Mining and Reclamation Operations: Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of suspension of certain rules in 30 CFR Chapter VII.

SUMMARY: Notice is given that certain rules are suspended pending the outcome of rulemaking to consider modifications of those rules. This action is being taken as a result of certain issues raised during litigation on the permanent program regulations. The specific regulations affected by this action are listed below.

EFFECTIVE DATE: November 27, 1979.

FOR FURTHER INFORMATION CONTACT: Paul L. Reeves, Deputy Director, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240 (202) 343-4222.

SUPPLEMENTARY INFORMATION: On March 13, 1979, OSM published its permanent program regulations (44 FR 15312 *et seq.*) implementing the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

As a result of certain issues raised during litigation on the permanent program regulations (*In re Permanent Surface Mining Regulation Litigation*), Civil Action No. 79-1144, Consolidated (D.D.C. filed May, 1979), OSM has recognized the need to propose changes to certain sections of those regulations. Notices proposing revisions to the rules will be published in the Federal Register in the foreseeable future.

Effect on State Programs

OSM is concerned that the submission and approval of State regulatory programs proceed expeditiously without imposing an undue burden on the States and associated parties that may be affected by those areas where rulemaking is to be proposed. This general guidance is offered to assist States in preparing their programs for submission. Where the suspended regulations have explicit underpinnings in SMCRA, States must still include corresponding statutory provisions in their program applications. For instance, although the definition of "public road" in 30 CFR 761.5 is being suspended, State statutes must, nevertheless, contain a statutory provision

corresponding to section 522(e)(4) of the SMCRA. 30 U.S.C. 1272(e)(4). Where a regulation has been suspended, the State program can have any regulatory provision or no regulatory provision at all, so long as the State program is in accordance with the requirements of the Act and is not inconsistent with regulations which were not suspended. OSM will provide States an opportunity to amend or modify State programs or State program proposals should the Federal regulations not be amended in sufficient time for States to include corresponding regulations in their State programs in their initial submission. Authorities for such adjustments include the provisions for modifications of proposals during the initial stage of program review in accordance with 30 CFR 732.11; for conditional approval under 30 CFR 732.13; or program amendment under 30 CFR 732.17.

Justification for Immediate Effective Date of Suspension

Pending the outcome of the upcoming rulemakings, certain of the rules must be suspended immediately so as not to prejudice the interests of the plaintiffs in the lawsuit. In addition, maintaining regulations in effect which OSM has determined should be proposed for amendment would be unfair to the States which have submitted or are preparing State program applications for filing by March 3, 1980. As these regulations have no direct impact upon existing or new coal mining operations at this time, except § 700.11 and those in Subchapter F which implement Section 522(e) of SMCRA, their temporary suspension will have little adverse affect upon achieving the Act's purposes pending completion of the rulemaking process. The suspension of portions of § 700.11(b) and Part 761 will not materially affect the administration of the existing structures provisions or the designation program.

Dated: November 23, 1979.

Charles P. Eddy,
Acting Assistant Secretary, Energy and Minerals.

Notice of Suspended Regulations:

Portions of the following regulations are suspended, or will be amended, as listed below:

A. 30 CFR 700.11(b).

The following language is suspended: "any such operation conducted by a person who affects or intends to affect more than two acres at physically unrelated sites within one year."

B. 30 CFR 701.11(e) (i) and (ii).

These two paragraphs are suspended insofar as they may be read to retain discretion in the regulatory authority to grant an exemption from reconstruction of existing structures after making the findings in 30 CFR 786.21.

C. Subchapter D.

OSM has agreed to amend the subchapter by adding a time table for processing permits on Federal lands. At present, however, no regulation exists to be suspended.

D. 30 CFR 761.5.

The definition of *public road* is suspended. OSM will rely on Section 522(e)(4), of the SMCRA, to interpret this definition pending the outcome of rulemaking.

E. 30 CFR 761.5(c).

OSM has agreed that as an alternative to the present regulatory language, existing State law may be applied to interpret whether the document relied upon establishes valid existing rights. Furthermore, no plaintiff has taken issue with what is contained in this subsection as far as it goes. Therefore, suspension is not necessary and would be inappropriate because Part 761, implementing 30 U.S.C. 1172(e), is applicable to operations under the initial program.

F. 30 CFR 761.12(e).

OSM has agreed to interpret Section 522(e)(5) of SMCRA as authorizing valid pre-Act waivers and binding subsequent owners to valid waivers of prior owners. However, no plaintiff has taken issue with what is now contained in this subsection as far as it goes. Therefore, its suspension is not necessary to protect plaintiffs' interests and would likewise be inappropriate because Part 761 is applicable to operations under the initial program.

G. 30 CFR 761.11(c) and 761.12(f)(1).

The words "or eligible for listing on" in these paragraphs of the regulations are suspended.

H. 30 CFR 761.11(c) and 761.12(f)(1).

The words "or a statutory or regulatory responsibility for" in 30 CFR 761.12(f)(1) are suspended and both these regulations are suspended insofar as they would apply to privately owned places listed on the *National Register of Historic Places* in addition to publicly owned places.

I. 30 CFR 786.5.

The words "or has not been" are suspended from the definition of *irreparable harm to the environment*.

J. 30 CFR 805.13(d).

The regulation is suspended insofar as it grants an exception from revegetation requirements for a long term intensive agricultural land use, which requirements are specified as those "of 30 CFR Part 816."

K. 30 CFR 806.12(e)(6)(iii) and (g)(7)(iii).

The following language is suspended: "and shall discontinue surface coal mining operations until new performance bond coverage is approved."

L. 30 CFR 808.12(c).

The following language is suspended: "with respect to protection of the hydrologic balance."

M. 30 CFR 816.103(a)(1) and 817.103(a)(1).

These regulations are suspended. OSM will apply Sections 515(b)(14) and 516(b)(10), SMCRA, and 30 CFR 816.48 and 817.48 pending the outcome of rulemaking.

[FR Doc. 79-36452 Filed 11-26-79; 8:45 am]

BILLING CODE 4310-05-M

Reader Aids

Federal Register

Vol. 44, No. 229

Tuesday, November 27, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

- 202-783-3238 Subscription orders (GPO)
202-275-3054 Subscription problems (GPO)
"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022 Washington, D.C.
312-663-0884 Chicago, Ill.
213-688-6694 Los Angeles, Calif.
202-523-3187 Scheduling of documents for publication
523-5240 Photo copies of documents appearing in the Federal Register
523-5237 Corrections
523-5215 Public Inspection Desk
523-5227 Finding Aids
523-5235 Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

- 523-3419
523-3517
523-5227 Finding Aids

Presidential Documents:

- 523-5233 Executive Orders and Proclamations
523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S.
-5282 Statutes at Large, and Index
275-3030 Slip Law Orders (GPO)

Other Publications and Services:

- 523-5239 TTY for the Deaf
523-5230 U.S. Government Manual
523-3408 Automation
523-4534 Special Projects
523-3517 Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

62879-63076	1
63077-63508	2
63509-64058	5
64059-64396	6
64397-64780	7
64781-65024	8
65025-65378	9
65379-65580	13
65581-65728	14
65729-65958	15
65959-66174	16
66175-66582	19
66583-66778	20
66779-67070	21
67071-67342	23
67343-67618	28
67619-67944	27

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR	401	64786, 67343, 67349, 67355, 67361
485	64063	423
3 CFR	424	67343
Executive Orders:	427	67349
12170	65729	428
12171	66565	67355
Administrative Orders:	429	62879
Presidential Determinations:	431	62879
No. 80-1 of	432	64786, 66178
October 15, 1979	722	67361
No. 80-2 of	724	65962
October 23, 1979	905	63081
No. 80-3 of	907	65962, 66779
October 23, 1979	910	64838, 65963, 66780
No. 80-4 of	959	63081, 65049, 65963, 67075
October 24, 1979	971	63082, 65379
No. 80-5 of	981	65964, 66178
November 13,	989	67075
1979	1421	64397, 66574
No. 80-6 of	1423	67077
November 13,	1424	67080
1979	1427	67081
Proclamations:	1434	67083, 67084
3279 (Amended by	1464	67081
Proc. 4702)	1701	65965-65967
4698	1942	64069
4699	1962	62880
4700	1980	64794
4701	2024	64797
4702	3100	65968
4703		66179
5 CFR	Proposed Rules:	
110	Subtitle A	65862
177	Ch. I	65862
213	Ch. II	65862
63078, 64064-64067,	Ch. III	65862
65025-65031, 65959-65961,	Ch. IV	65862
66567-66571, 67619-67624	Ch. V	65862
293	Ch. VI	65862
297	Ch. VII	65862
302	Ch. IX	65862
315	Ch. X	65862
338	Ch. XI	65862
351	Ch. XII	65862
733	Ch. XIV	65862
1201	Ch. XV	65862
1206	Ch. XVII	65862
1312	Ch. XVIII	65862
Proposed Rules:	Ch. XXI	65862
531	Ch. XXIV	65862
6 CFR	Ch. XXV	65862
705	Ch. XXVI	65862
706	Ch. XXVII	65862
707	Ch. XXVIII	65862
7 CFR	Ch. XXIX	65862
2	210	63107
272	225	66605
273	235	63107
	271	63496, 65077
	272	63496, 65318
	273	63496, 65989

274.....	65318	160.....	63488	540.....	67091	64434, 67436
276.....	65318	161.....	63488	433.....	65771	65771
277.....	65318	316.....	67087	451.....	65599	65599
278.....	63496	325.....	67626	454.....	62911	62911
318.....	65080	Proposed Rules:		1700.....	67438	67438
906.....	67130	Ch. I.....	65862	17 CFR		
910.....	64839	Ch. II.....	65862	1.....	65970	65970
959.....	65592	Ch. III.....	65862	140.....	65735	65735
971.....	67131	Ch. VI.....	65862	145.....	65970	65970
982.....	63547	318.....	65403	147.....	65970	65970
989.....	62901	381.....	65403	200.....	64069, 65736	65736
1001.....	65989	10 CFR		210.....	62888, 65738	65738
1002.....	65989	0.....	62880	230.....	64070	64070
1004.....	65989, 67427	2.....	65049, 67088	240.....	67107	67107
1006.....	65989	20.....	63515	249.....	65739	65739
1007.....	65989	21.....	63515	Proposed Rules:		
1011.....	65989	50.....	66575	210.....	65774	65774
1012.....	65989	71.....	63083	229.....	67143	67143
1013.....	65989	73.....	63515, 65969, 67089	230.....	67143, 67671	67671
1030.....	65989	211.....	63515, 66183	239.....	67143, 67671	67671
1032.....	65989	212.....	65722, 66186	240.....	66607, 67143	67143
1033.....	65989	436.....	64776, 65700	249.....	67143	67143
1036.....	65989	450.....	63519, 64797	250.....	65992	65992
1040.....	65989	455.....	63519, 64797	259.....	62912	62912
1044.....	65989	456.....	64602	270.....	66508, 66612, 67150, 67152	67152
1046.....	65989	465.....	66780	18 CFR		
1049.....	65594, 65989	1023.....	64270	2.....	65055, 67644	67644
1050.....	65989	Proposed Rules:		4.....	67644	67644
1062.....	65989	Ch. II.....	63108, 64094, 65274	16.....	67644	67644
1064.....	65989	Ch. III.....	63108, 64094, 65274	35.....	65740	65740
1065.....	65989	Ch. X.....	63108, 64094, 65274	141.....	65741	65741
1068.....	65989	51.....	65598	154.....	65740	65740
1071.....	65989	205.....	67338	157.....	65055	65055
1073.....	65989	211.....	67602	260.....	65741	65741
1075.....	65989	212.....	67602	270.....	66577	66577
1076.....	65989	221.....	63109	271.....	62889, 66783, 67108	67108
1079.....	65989, 67132	470.....	64839	272.....	66192, 66786, 67655	67655
1094.....	65989	11 CFR		273.....	66786	66786
1096.....	65989	107.....	63036	274.....	67108	67108
1097.....	65989	114.....	63036	275.....	66786	66786
1098.....	65989	9008.....	63036	281.....	65585	65585
1099.....	65989	9032.....	63756	284.....	66789	66789
1102.....	65989	9033.....	63756	292.....	63114, 65744	65744
1104.....	65989	9034.....	63756	Proposed Rules:		
1106.....	65989	9035.....	63756	2.....	66613	66613
1108.....	65989	Proposed Rules:		35.....	67154, 67158	67158
1120.....	65989	100.....	64773	46.....	66205	66205
1124.....	65989	110.....	64773	154.....	66613	66613
1125.....	65989	114.....	64773	270.....	66613	66613
1126.....	65989	9033.....	63753	277.....	66208	66208
1131.....	65989	12 CFR		280.....	67166	67166
1132.....	65989	4.....	65379	282.....	67170	67170
1133.....	64087, 65989	5.....	65380	284.....	67166	67166
1134.....	65989	27.....	63084	292.....	67176	67176
1135.....	65989	28.....	65381	19 CFR		
1136.....	65989	225.....	64398, 65051, 65731	Proposed Rules:		
1137.....	65989	262.....	64398	4.....	64434, 66835	66835
1138.....	65989	264b.....	64399	144.....	64434, 66835	66835
1139.....	65989	265.....	64398	151.....	64434, 66835	66835
1421.....	67134	329.....	66575	159.....	64434, 66835	66835
1464.....	63107	335.....	67627	20 CFR		
1924.....	65991	541.....	67089	416.....	64402	64402
1980.....	67134	545.....	67089	675.....	64290, 64326	64326
3100.....	65768	720.....	65731	684.....	64290	64290
8 CFR		Proposed Rules:		688.....	64326	64326
214.....	65726, 65727	211.....	62902, 62903	Proposed Rules:		
9 CFR		561.....	64840	Ch. I.....	65556	65556
1.....	63488	563.....	65599	Ch. IV.....	65556	65556
2.....	63488	13 CFR		Ch. V.....	65556	65556
3.....	63488	101.....	64401	Ch. VI.....	65556	65556
78.....	65969					
92.....	63082					
113.....	63083, 67087					

Ch. VII.....	65556	203.....	65776	31 CFR	80.....	62897
208.....	62912	204.....	65776	535.....	65956, 65988, 66590, 66832, 67617	63102, 64078, 65751, 65986, 67380
260.....	62912, 63096	208.....	65081, 66846			64266
416.....	66836	402.....	65992	32 CFR	87.....	64266
614.....	65406	571.....	65776	Ch. XXVIII.....	116.....	65400, 66602
21 CFR		881.....	67177	625.....	117.....	65401, 66602
73.....	65974	883.....	65776	706.....	162.....	65749
431.....	67112	886.....	64095	724.....	180.....	67115-67117
510.....	65975, 67113	888.....	67177	806b.....	205.....	67659
514.....	67112	3282.....	67440	81.....	227.....	65751
520.....	63096, 65975, 65976, 67113	25 CFR		256.....	256.....	66196
522.....	63097, 65975, 67113	31a.....	67040	2600.....	409.....	64078
526.....	67113	31b.....	67040	Proposed Rules:	418.....	64080
540.....	65976	31g.....	65008	169.....	424.....	64082
558.....	65976, 66581, 67113	32b.....	67040	169a.....	434.....	64082
1002.....	65352, 67655	256.....	65747	169b.....	Proposed Rules:	
1040.....	65352, 67655	700.....	65750	1900.....	Ch. I.....	63552, 65601, 65612
Proposed Rules:		26 CFR			51.....	65084, 67675
Ch. I.....	67673	1.....	64405, 65061, 67657	32A CFR	52.....	63114, 64439, 65084, 65408, 65613, 65614, 65781, 65790, 65791, 66214, 67182, 67674, 67675
145.....	65080	5.....	63522	Proposed Rules:	60.....	62914, 67934, 67938
331.....	65992	Proposed Rules:		33 CFR	65.....	65410, 65411, 65615, 66624, 66849, 67183
338.....	65992	1.....	65777, 67178	117.....	81.....	65791, 66850
340.....	65992	31.....	65777, 65995	124.....	85.....	62915
353.....	63270	48.....	67441	126.....	87.....	66850
864.....	64095	139.....	67441	157.....	120.....	67442
868.....	63292-63426, 65081	28 CFR		160.....	120.....	67442
880.....	65992	Proposed Rules:		161.....	180.....	66216, 66217
1000.....	66616	42.....	67179	164.....	230.....	63552
22 CFR		29 CFR		183.....	250.....	67445
506.....	63098	1625.....	66791	206.....	257.....	65615
Proposed Rules:		1627.....	66791	207.....	713.....	64844, 67183
51.....	65600	Proposed Rules:		82.....	761.....	66851
161.....	66838	Subtitle A.....	65556	36 CFR	41 CFR	
23 CFR		Ch. II.....	65566	Ch. VI.....	14-1.....	63529
650.....	67578	Ch. IV.....	65566	51.....	14-7.....	63529
658.....	63680	Ch. V.....	65566	60.....	15-7.....	65587
770.....	66193	Ch. XVII.....	65566	219.....	105-54.....	65071
Proposed Rules:		Ch. XXV.....	65566	222.....	105-62.....	64805
659.....	63682	1440.....	65407	1202.....	Proposed Rules:	
771.....	66213	1601.....	65082	1212.....	Ch. 4.....	65862
24 CFR		1904.....	65082	Proposed Rules:	3-1.....	63115, 67183, 67185
Ch. II.....	67375	1910.....	64095, 66621	Ch. II.....	3-7.....	67185
Ch. XXV.....	66582	30 CFR		7.....	9-1.....	67330
50.....	67906	Ch. VII.....	67942	37 CFR	9-3.....	67330
201.....	64072	788.....	66195	Proposed Rules:	9-16.....	67330
203.....	64073	872.....	67057	202.....	9-50.....	67330
205.....	64073, 64403	Proposed Rules:		38 CFR	101-6.....	66852
207.....	64073, 65580	Ch. I.....	65566	Proposed Rules:	101-39.....	65411
213.....	64073	Ch. VII.....	65601	8.....	42 CFR	
220.....	64073	870.....	63737, 65407	21.....	50.....	65072
221.....	64073	871.....	63737, 65407	8.....	405.....	67381
232.....	64073	872.....	63737, 65407	Proposed Rules:	Proposed Rules:	
234.....	64073	873.....	63737, 65407	4.....	4.....	66852
235.....	64073	874.....	63737, 65407	59a.....	34.....	64095
236.....	64073	875.....	63737, 65407	63.....	64.....	66852
241.....	64073	876.....	63737, 65407	72.....	72.....	66853
242.....	64073	877.....	63737, 65407	435.....	436.....	66855
244.....	64073	878.....	63737, 65407	40 CFR	43 CFR	
250.....	64073	879.....	63737, 65407	6.....	3100.....	64085
570.....	65950, 67656	880.....	63737, 65407	51.....	Proposed Rules:	
605.....	64204	881.....	63737, 65407	52.....	3210.....	67598
841.....	64405, 67656	882.....	63737, 65407	53.....	3211.....	67598
868.....	64196	883.....	63737, 65407	58.....	Public Land Orders:	
880.....	65060	884.....	63737, 65407	60.....	4520 [Revoked by	
882.....	65061, 65360	885.....	63737, 65407	61.....	PLO 5685]	66196
888.....	65924	886.....	63737, 65407	65.....		
3280.....	66194	887.....	63737, 65407			
4103.....	66587	888.....	63737, 65407			
Proposed Rules:						
115.....	65775					

5685.....	66196	31.....	64440
5680 [Corrected by		33.....	64440
5686].....	66816	42.....	64440
5686.....	66816	43.....	64440, 67192
5687.....	67383	61.....	67445
		63.....	67445
44 CFR		64.....	63558
55.....	64082	73.....	62917, 64441, 67680
64.....	63529, 64808, 65752	81.....	66857
65.....	63530, 66602, 67126,	87.....	67191
	67129	90.....	64442, 67191
67.....	63531-63534, 64421	95.....	67191
	65074	97.....	64442
205.....	64809		
Proposed Rules:		49 CFR	
67.....	63117-63120, 63553-	7.....	65765
	63557, 64096, 64444, 64451,	178.....	66197
	64460, 64466, 64472, 65033-	571.....	65766
	65104, 66857, 67186	601.....	65765
205.....	63058	1008.....	66831
45 CFR		1033.....	62899, 63105, 64410,
185a.....	67384		65075, 65400, 65767
205.....	67421	1034.....	65075
1067.....	67423	1047.....	65588
2101.....	67050	1064.....	65987
2102.....	67050	1201.....	65401, 67424
2103.....	67050	1240.....	65401
Proposed Rules:		1241.....	65401
Ch. X.....	65412	Proposed Rules:	
86.....	66626	Ch. X.....	64845, 65420
405.....	63120	171.....	67476
1152.....	63120	172.....	65020, 66219
1210.....	65999	173.....	67476
1211.....	66003	192.....	65792
1501.....	64097	173.....	65020
1067.....	64815	213.....	64844
1069.....	64836	385.....	67193
46 CFR		662.....	66213
30.....	66500	666.....	62918
32.....	66500	1001.....	64846
34.....	66500	1011.....	64846
401.....	64836	1047.....	67476
402.....	64836	1056.....	63121
502.....	62898	1100.....	64846
504.....	67660	1111.....	66626
505.....	67660	1131.....	64846
Proposed Rules:		1131a.....	64846
1.....	64844	1301.....	63121, 64851
61.....	62915, 66218	50 CFR	
254.....	65616	17.....	64246, 64247, 64250,
512.....	65417		64730, 64736, 64738, 64741,
514.....	65417		64744, 65002
47 CFR		32.....	63106, 67670
13.....	66816	33.....	62899
15.....	66822	285.....	62900
21.....	63105	611.....	64410, 64421, 65590
22.....	63105	672.....	64410, 64421
25.....	65753, 67663	Proposed Rules:	
31.....	65761	Ch. VI.....	63558, 65616
61.....	66823	17.....	63474, 67902
68.....	66825	32.....	63496
73.....	64408, 65763, 66816,	216.....	67194
	67664-67669	410.....	64097
74.....	65763, 66816	611.....	66356
83.....	64409, 66830	652.....	65372
87.....	64409	661.....	64443
90.....	67117, 67119	662.....	67194
91.....	66830	675.....	66356
95.....	67125	676.....	66859
Proposed Rules:			
2.....	67191		
21.....	67191		

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

ENERGY DEPARTMENT

50788 8-29-79 / Final rule on State developed list of weatherization measures

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing November 26, 1979

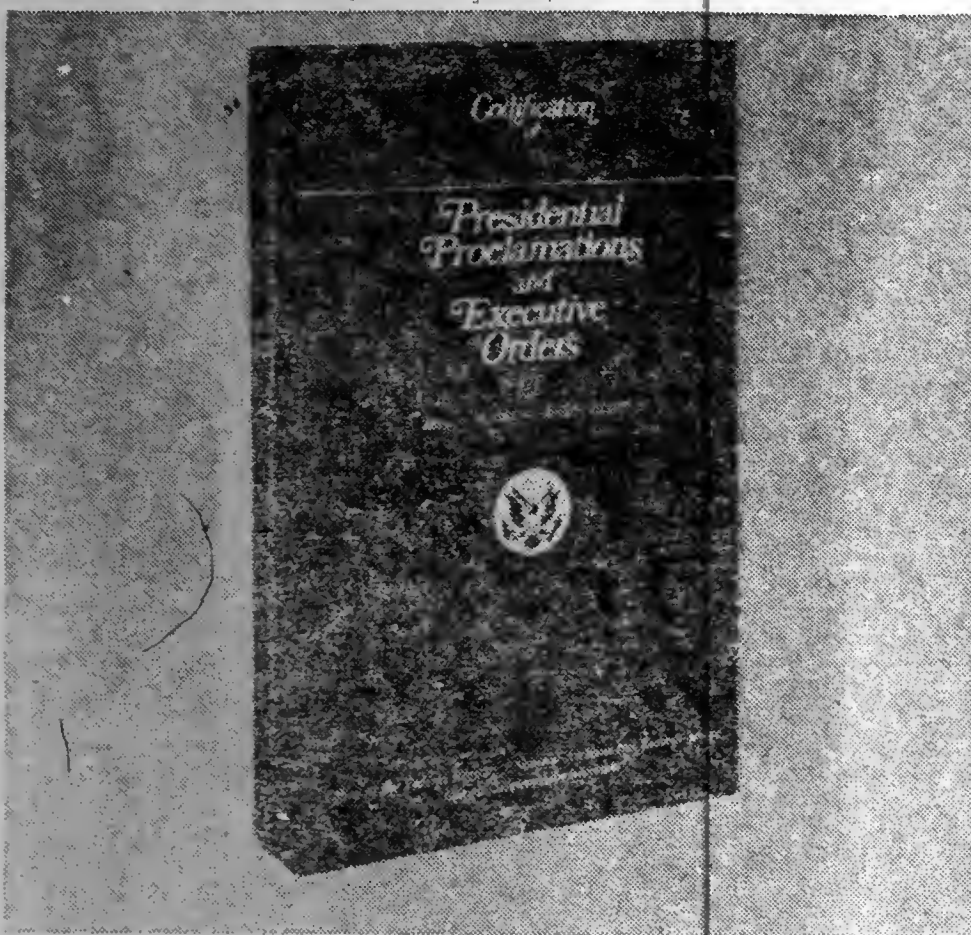
V
4
4

N
O

2
7

7
9
UMI

NEW PUBLICATION NOW AVAILABLE



For those of you who must keep informed about Presidential proclamations and Executive orders, there is now a convenient reference source that will make researching certain of these documents much easier.

Arranged by subject matter, this first edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20, 1977, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1961-1977 period, along with any amendments, an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register,
National Archives and Records Service,
General Services Administration

Order from Superintendent of Documents,
U.S. Government Printing Office,
Washington, D.C. 20402

MAIL ORDER FORM To:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is \$ ☐ check, ☐ money order, or charge to my

Deposit Account No. ☐ Order No. ☐



Credit Card Orders Only

Total charges \$ ☐ Fill in the boxes below:

Credit

Card No. ☐

Expiration Date

Month/Year ☐

Master Charge

Interbank No. ☐



Please send me ☐ copies of the *Codification of Presidential Proclamations and Executive Orders* at \$6.50 per copy. Stock No. 022-002-00060-1

FOR OFFICE USE ONLY

Quantity	Charges
..... Enclosed	
..... To be mailed	
..... Subscriptions	
Postage	
Foreign handling	
MMOB	
OPNR	
..... UPNS	
..... Discount	
..... Refund	

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY

STATE

ZIP CODE

(or) COUNTRY

PLEASE PRINT OR TYPE